TRIBUTE TO BHARATRATNA DR. B.R. AMBEDKAR

ALL THE 17 VOLUMES OF HIS WRITINGS AND SPEECHES

COMPILED IN A SINGLE VOLUME

ON THE OCCASION OF HIS 125 TH BIRTH ANNIVERSARY

APRIL 14, 2016

FOR NON PROFIT, NON COMMERCIAL USE AND UNIVERSAL SPREAD OF HIS THOUGHTS

Babasaheb Dr. B.R. Ambedkar

(14th April 1891 - 6th December 1956)

An ideal society should be mobile, should be full of channels for conveying a change taking place in one part to other parts. In an ideal society there should be many interests consciously communicated and shared. There should be varied and free points of contact with other modes of association. In other words there should be social endosmosis. This is fraternity, which is only another name for democracy. Democracy is not merely a form of Government. It is primarily a mode of associated living, of conjoint communicated experience. It is essentially an attitude of respect and reverence towards fellowmen.

- Dr. B. R. Ambedkar
in 'Annihilation of Caste'

DR. BABASAHEB AMBEDKAR
WRITINGS AND SPEECHES
VOL. 1

Compiled
by
Vasant Moon

Dr. Babasaheb Ambedkar : Writings and Speeches

Vol. 1

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Kumari Selja

सत्यमेव जयते

Minister for Social Justice and Empowerment
& Chairperson, Dr. Ambedkar Foundation

MESSAGE

Babasaheb Dr. B.R. Ambedkar, the Chief Architect of Indian Constitution was a scholar par excellence, a philosopher, a visionary, an emancipator and a true nationalist. He led a number of social movements to secure human rights to the oppressed and depressed sections of the society. He stands as a symbol of struggle for social justice.

The Government of Maharashtra has done a highly commendable work of publication of volumes of unpublished works of Dr. Ambedkar, which have brought out his ideology and philosophy before the Nation and the world.

In pursuance of the recommendations of the Centenary Celebrations Committee of Dr. Ambedkar, constituted under the chairmanship of the then Prime Minister of India, the Dr. Ambedkar Foundation (DAF) was set up for implementation of different schemes, projects and activities for furthering the ideology and message of Dr. Ambedkar among the masses in India as well as abroad.

The DAF took up the work of translation and publication of the Collected Works of Babasaheb Dr. B.R. Ambedkar published by the Government of Maharashtra in English and Marathi into Hindi and other regional languages. I am extremely thankful to the Government of Maharashtra's consent for bringing out the works of Dr. Ambedkar in English also by the Dr. Ambedkar Foundation.

Dr. Ambedkar's writings are as relevant today as were at the time when these were penned. He firmly believed that our political democracy must stand on the base of social democracy which means a way of life which recognizes liberty, equality and fraternity as the principles of life. He emphasized on measuring the progress of a community by the degree of progress which women have achieved. According to him if we want to maintain democracy not merely in form, but also in fact, we must hold fast to constitutional methods of achieving our social and economic objectives. He advocated that in our political, social and economic life, we must have the principle of one man, one vote, one value.

There is a great deal that we can learn from Dr. Ambedkar's ideology and philosophy which would be beneficial to our Nation building endeavor. I am glad that the DAF is taking steps to spread Dr. Ambedkar's ideology and philosophy to an even wider readership.

I would be grateful for any suggestions on publication of works of Babasaheb Dr. Ambedkar.

Selja

(Kumari Selja)

Collected Works of Babasaheb Dr. Ambedkar (CWBA)

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FOREWORD

Maharashtra is a land of saints and sages, philosophers and political savants, social thinkers, social reformers and leaders of national eminence, who have not only moulded and enriched all facets of life of Maharashtra but have also made singular contribution to the growth and development of India.

Maharashtra, an ancient land in the Deccan, has witnessed the flowering, growth and spread of the Buddhist thought and culture and Sanskrit Scholarship. We have saints like Namdeo, Eknath, Chokhamela, Sawata Maharaj, Gora, Dnyaneshwar, Sena and others. We also see the rise of Indian Nationalism in the form of Shivaji the Great. In Mahatma Phuley, a contemporary of Karl Marx, we have the 'patria protestas of the Indian social revolution and the first leader of the peasants. Lokmanya Tilak has been accredited as the Father of Indian unrest, Ranade as the Father of Indian socio-economic thought, Gokhale as the thinker whom no less a person than Mahatma Gandhi acclaimed as his political Guru and Savarkar as an ardent revolutionary. In Shahu Chhatrapati, we had a unique king who was a relentless fighter for social equality. Maharshi Shinde was a great social reformer who combined revolutionary fervour with a liberal attitude. Thus, there has been a galaxy of great men in different fields in Maharashtra. It may not be too much to say that there was a time in pre-independent India when Maharashtra had virtually become the centre of all activities, whether social, economic or political. The period from Phuley to Ambedkar can, therefore, be aptly described as the dawn of social revolution in the history not only of Maharashtra but of the country as a whole.

In Dr. Babasaheb Ambedkar, we have not only a crusader against the caste system, a valiant fighter for the cause of the downtrodden in India but also an elder statesman and national leader whose contribution in the form of the Constitution of India will be cherished forever by posterity. In fact his fight for human rights and as an emancipator of all those enslaved in the world gave him international recognition as a liberator of humanity from injustice, social and economic. Pandit Jawaharlal Nehru paid a glowing tribute to Dr. Ambedkar while moving a condolence resolution in the Parliament as follows:

> "Dr. Babasaheb Ambedkar was a symbol of revolt against all oppressive features of the Hindu Society."

There is, therefore, a vital need to preserve the thoughts of this great son of India as expressed by him in his writings and speeches. While some efforts are being made in that direction by some institutions and research scholars, there is an urgent need to bring together all the material available and publish it in a series of volumes.

The Government of Maharashtra has, under its various schemes, so far published the works of Mahatma Phuley, Mahatma Gandhi and saints such as Tukaram, Dnyaneshwar, Namdeo, Eknath and others. The Government had set up an Advisory Committee in 1976, with the Education Minister as the Chairman and comprising political followers of Dr. Ambedkar, scholars and noted writers, to compile the thoughts and writings of Dr. Ambedkar and have them published. The Committee set up the following Editorial Board :

(1) Prof. M. B. Chitnis, *Chairman*

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The Government of Maharashtra desires to bring a series of volumes comprising all the available writings and speeches of

Dr. Babasaheb Ambedkar. The present publication is the result of sustained work done by the Advisory Committee and particularly by the Editorial Board. I thank all the members of the Editorial Board, Mrs. Savita w/o Dr. Babasaheb Ambedkar, Mrs. Meerabai Yeshwant Ambedkar and Shri Prakash Ambedkar, for their willing co-operation. I am particularly glad that this long awaited commitment is being fulfilled. I sincerely hope that people in general and the youth in particular, in Maharashtra and all over the country, will derive inspiration and guidance from the thoughts of Dr. Babasaheb Ambedkar and come forward to contribute their mite for the social reconstruction of the country.

(SHARAD PAWAR)
Chief Minister
Maharashtra State

PREFACE TO THE SECOND EDITION

It is almost ten years since the first edition of the first volume of the Writings and Speeches of Dr. B.R. alias Babasaheb Ambedkar was published. During these ten years the Government could publish six volumes of Writings and Speeches of Dr. Ambedkar who has emerged from these pages as a constructive social reformer and legal philosopher who in the originality of his analysis and profundity of his convictions and conceptions compels comparison with the best minds of the East and the West and who still shapes our thinking. It is not difficult to discern the reasons for the Second Edition against this background. We have availed of this opportunity to correct obvious printing errors in the Second Edition of the first volume which contains Dr. Ambedkar's contributions such as Castes in India; Annihilation of Caste; Maharashtra as a Linguistic Province; Need for checks and balances; Thoughts on Linguistic States; Ranade, Gandhi and Jinnah; Evidence before the Southborough Committee; Federation Vs. Freedom; Communal Deadlock and a Way to solve it; States and Minorities; Small Holdings in India; and Mr. Russell and the Reconstruction of Society. In all these apparently diverse topics, it is not difficult to discern the silver strands of fundamental reflections on the value of equality as the comer stone of the constitutional polity in democracy. It is interesting to refer to what Dr. Ambedkar writes apropos of Mr. Russell and the reconstruction of society which is a review of Bertrand Russell's 'Principles of Social Reconstruction.' Writes Dr. Ambedkar :

> "Of the many reasons urged in support of the Indian view of life one is that it is chiefly owing to its influence that India alone of all the oldest countries has survived to this day. This is a statement often heard and even from persons whose opinions cannot be too easily set aside. With the proof or disproof, however, of this statement, I do not wish to concern myself. Granting the fact of survival I mean to make a statement yet more important. It is this: there are many modes of survival and not all are equally commendable. For instance, mobility to beat timely retreat may allow weaker varieties of people to survive. So the capacity to grovel or lie low may equally as the power of rising to the occasion be the condition of the survival of a people."

Dr. Ambedkar drawing copiously on his vast erudition, eloquently citing Burke, depicts the ideal society in Annihilation of Caste. He says: "If you ask me, my ideal would be a society based on liberty, equality and fraternity.... an ideal society should be mobile, should be full of channels for conveying a change taking place in one part to other parts." Dr. Ambedkar incorporated these values of liberty, equality and fraternity in the Constitution of free India. It is a living tribute to his juristic genius and social conscience that over the years, the High Courts and the Supreme Court have shaped the law to serve the social ends of Governmental efforts to improve the lot of the poor.

Dr. Ambedkar was a supreme social architect who looked upon law as the instrument of creating a sane social order in which the development of individual would be in harmony with the growth of society. His approach finds a responsive chord in the writings of Roscoe Pound- an eminent American jurist of our century. Writes Roscoe Pound:

> "Law in the sense of the legal order has for its subject matter relations of individual human beings with each other and the conduct of individual so far as they affect other or affect the social or economic order. Law in the sense of the body of authoritative grounds of or guides to judicial decisions and administrative action has for its subject matter, the expectations of claims or wants held or asserted by individual human beings or groups of human beings which affect their relations or determine their conduct."

Law embodies the civilisational values of the time and place. Civilisation in this sense is the development of human faculties to their most complete possibilities. Civilisation has two sides viz. control over external or physical nature and control over internal or human nature. The Writings and Speeches of Dr. Ambedkar show what values Indians should develop and how they should modernise their social and political institutions. They provide the rich source of the civilising influences in our society. The range of his topics, the width of his vision, the depth of his analysis, the rationality of his outlook and the essential humanity of his suggestions for action evoke ready responses. Such was Dr. Ambedkar-a man whose talents, acquirements and virtues were so extraordinary that the more his character is considered, the more he will be regarded by the present age and by posterity with admiration and reverence, to paraphrase the words of James Bosewell who spoke about his mentor Dr. Johnson in his inimitable classical biography. We shall feel rewarded in our efforts if we are compelled to bring out the third edition of the Writings and Speeches in the centenary year of his birth, as that would be the best way to cherish his memory and honour his precepts in practice.

(Kamalkishor Kadam)
Education Minister
Maharashtra State

INTRODUCTION

Dr. Ambedkar's thoughts as reflected in his writings and speeches have significant importance in tracing the history and growth of social thought in India. In the course of time so many of his publications are not even available in the market. In some cases the authentic editions are getting out of print. Besides, as time passes, many of his observations in matters social, economic and political are coming true. Social tensions and caste conflicts are continuously on the increase. Dr. Ambedkar's thoughts have therefore, assumed more relevance today. If his solutions and remedies on various socio-economic problems are understood and followed, it may help us to steer through the present turmoil and guide us for the future. It was therefore very apt on the part of the Government of Maharashtra to have appointed an Advisory Committee to compile all the material available on Dr. Ambedkar for publishing the same in a suitable form. All efforts are therefore being made to collect what the learned Doctor wrote and spoke.

In the present volume, besides Castes in India. Annihilation of Caste, his address on Justice Ranade. Federation *versus* Freedom and other publications, some of his articles not easily available such as Small Holdings in India, Review on Russell's book etc. ; have also been included.

The salient features of the contents of this volume are presented below :

Castes in India

Dr. Ambedkar read this paper, before the Anthropology Seminar of Dr. Goldenweizer during his stay at the Columbia University

for the Doctoral studies. Naturally he deals with the subject of Caste system from the Anthropological point of view. He observes that the population of India is mixture of Aryans, Dravidians, Mongolians and Scythians. Ethrically all people are heterogeneous. According to him, it is the unity of culture that binds the people of Indian Peninsula from one end to the other. After evaluating the theories of various authorities on Caste, Dr. Ambedkar observes that the superimposition of endogamy over exogamy is the main cause of formation of caste groups. Regarding endogamy, he states that the customs of 'Sati', enforced widow-hood for life and child-marriage are the outcome of endogamy. To Dr. Ambedkar, sub-division of a society is a natural phenomenon and these groups become castes through ex-communication and imitation.

Annihilation of Caste

This famous address invited attention of no less a person than Mahatma Gandhi. Dr. Ambedkar observes that the reformers among the high-caste Hindus were enlightened intellectuals who confined their activities to abolish the enforced widow-hood, child-marriage, etc., but they did not feel the necessity for agitating for the abolition of castes nor did they have courage to agitate against it. According to him, the political revolutions in India were preceded by the social and religious reforms led by saints. But during the British rule, issue of political independence got precedence over the social reform and therefore social reform continued to remain neglected. Pointing to the. Socialists, he remarked that the Socialists will have to fight against the monster of caste either before or after the revolution. He asserts that caste is not based on division of labour. It is a division of labourers. As an economic organisation also, caste is a harmful institution. He calls upon the Hindus to annihilate the caste which is a great hindrance to social solidarity and to set up a new social order based on the ideals of liberty, equality and fraternity in consonance with the principles of Democracy. He advocates inter-caste marriage as one of the solutions to the problem. But he stresses that the belief in the 'Shastras' is the root cause of maintaining castes. He therefore suggests, "Make every man and woman free from the thraldom of the

'Shastras', cleanse their minds of the pernicious notions founded on the 'Shastras' and he or she will interdine and intermarry". According to him, the society must be bused on reason and not on atrocious traditions of caste system.

Maharashtra as a Linguistic Province

Part II includes Dr. Ambedkar's major writings on linguistic States. Maharashtra as a Linguistic Province is his first statement on the creation of linguistic provinces. It is a memorandum submitted in 1948 to the Linguistic Provinces Commission. While acknowledging the danger to the Unity of India inherent in the creation of linguistic provinces with their pride in race, language and literature developing into mentalities of being separate nations, Dr. Ambedkar sees certain definite political advantages in the reconstitution of provinces on linguistic basis. With the proviso that the official language of the State shall be the official language of the Central Government, Dr. Ambedkar maintains that a linguistic province with a homogeneous population is more suitable for the working of democracy than a heterogeneous population can ever be. Since six provinces in India exist as linguistic provinces the question of the reconstitution of Bombay, Madras and Central Provinces as unilingual provinces cannot be postponed in view of the new democratic constitution of free India.

Dr. Ambedkar next pleads for the creation of ***an unilingual*** *Maharashtra as a province with a single legislature and single executive by merging with it all the contiguous Marathi-speaking districts of the Central Province and Berar with the City of Bombay as its capital. Dr. Ambedkar refutes on historical, geographical, demographical, commercial, economic and other grounds with solid documentary proof, the arguments which are advanced in support of the separation of the city of Bombay from Maharashtra and its constitution into a separate province. Spurning the proposal of settling the problem of Bombay by arbitration he asserts that Maharashtra and Bombay are not merely inter-dependent but that they are really one and integral.*

Need for Checks and Balances

In this article published in the 'Times of India' after tracing the history and growth of the concept of linguistic States Dr. Ambedkar

examines their viability and communal set-up. The State of Andhra, according to him will not be viable if the other Telugu-speaking area from the State of Hyderabad remains excluded from it. The caste set up, he observes, within the linguistic areas like PEPSU, Andhra and Maharashtra will be of one or two major castes large in number and a few minor castes living in subordinate dependence on the major castes. He questions the propriety of consolidating in one huge State all people who speak the same language. Consolidation which creates separate consciousness may lead to animosity between State and State. Accepting however the fact that there is a case for linguistic provinces he advocates that there should be checks and balances to ensure that caste majority does not abuse its power under the garb of linguistic State.

Thoughts on Linguistic States

'Thoughts on Linguistic States' is Dr. Ambedkar's final statement on the formation of linguistic States that came as a critique of the report of the States Reorganization Commission. What the Commission has created, according to him, is not a mere disparity between the States by leaving U.P. and Bihar as they are, but by adding to them a new and bigger Madhya Pradesh with Rajasthan. It creates a new political problem of the consolidated Hindi-speaking North versus *the balkanized South. Considering the vast cultural differences between the two sectors and the apprehensions of dominance of the North articulated by the leaders of the South Dr. Ambedkar predicts the danger of a conflict between the two in course of time. He observes that the Commission should have followed the principle of "one State one language" and not "one language one State"*

He favours formation of unilingual States as against multi-lingual States for the very sound reasons that the former fosters the fellow-feeling which is the foundation of a stable and democratic State, while the latter with its enforced juxtaposition of two different linguistic groups leads to faction fights for leadership and discrimination in administration — factors which are incompatible with democracy. His support for unilingual States is however qualified by the condition that its official language

shall be Hindi and until India becomes fit for this purpose, English shall continue. He foresees the danger of a unilingual Stale developing an independent nationality if its regional language is raised to the status of official language.

To remove the disparity between the large States of the North and the small States of the South which has been accentuated by the absence of the provision for equal representation of the States in the central legislature irrespective of their areas and populations, Dr. Ambedkar's remedy is to divide the larger States into units with a population not exceeding two crores. He suggests tentatively division of Bihar and Madhya Pradesh into two States each and of United Provinces into three States. Each of these States being unilingual the division will not affect the concept of a linguistic State. His proposal for Maharashtra is to divide it, as in ancient times, into three States of Western, Central and Eastern Maharashtra with Bombay City as a separate city State of Maharashtra. Such smaller States, in his opinion, will meet the requirements of efficient administration and the special needs of different areas. It will also satisfy their sentiments.

In a smaller State the proportion of majority to minority which in India is not political but communal and unchangeable, decreases and the danger of the majority practising tyranny over the minority is also minimised. To give further protection to minorities against such tyranny, Dr. Ambedkar suggests amendment of the constitution that will provide a system of plural-member constituencies (two or three) with cumulative voting.

Dr. Ambedkar advocate's also the creation of a second capital for India and locating it in the South preferably in the city of Hyderabad to ease the tension and political polarization of the North and the South.

Ranade, Gandhi and Jinnah

Dr. Ambedkar delivered this important address on the 101st birth anniversary of Justice Ranade, one of India's foremost political and social thinkers. At the beginning of his address, Dr. Ambedkar discusses the role of man as a maker of history. According to him,

the theory of Buckle that the history is created by Geography and Physics, and that of Marx that it is the result of economic forces, both speak the half truth. They do not give any place to man. But Dr. Ambedkar asserts that man is a factor in the making of history and that environmental forces alone are not the makers of history.

Dr. Ambedkar further proceeds to discuss the tests of a great man as propounded by Carlyle the apostle of Hero Worship, and also of other political thinkers. After exhaustive discussion, he observes that sincerity and intellect the combination of which are necessary to make a man great. But these qualifications are not alone sufficient. A man possessed of these two qualities must be motivated by the dynamics of a social purpose and must act as a scavenger of society.

According to Dr. Ambedkar, Ranade was a great man by any standard. He wanted to vitalize the Hindu society to create social democracy. Ranade lived in times when social and religious customs, however unmoral, were regarded as sacrosanct. What appeared to Ranade to be shames and wrongs of the Hindu society, were considered by the people to be most sacred injunctions of their religion. Ranade wanted to vitalize the conscience of the Hindu society which became moribund as well as morbid. Ranade aimed to create a real social democracy. without which there could be no sure and stable politics. Dr. Ambedkar points out that Ranade's aim was to cleanse the old order and improve the moral tone of the Hindu society.

Concluding his address, Dr. Ambedkar cautions against despotism. He says, " Despotism does not cease to be despotism because it is elective. Nor does despotism become agreeable because the Despots belong to our own kindred ..... The real guarantee against despotism is to confront it with the possibility of its dethronement ..... of its being superseded by a rival party."

Evidence before the Southborough Committee

Dr. Ambedkar's evidence before the Southborough Committee was his first assay in political writings. The evidence comprises of a written statement submitted to the Franchise Committee

under the Chairmanship of Rt. Hon'ble Lord Southborough and also of the oral evidence before the same Committee on January 27, 1919.

After arguing theoretically that any scheme of franchise and constituency that fails to bring about representation of opinions as well as representation of persons falls short of creating a popular Government. He shows how very relevant the two factors are in the context of the Indian society which is ridden into castes and religious communities. Each caste group tends to create its own distinctive type of like-mindedness which depends upon the extent of communication, participation or endosmosis. Absence of this endosmosis is most pronounced between touchable and untouchable Hindus, more than between the religious communities such as Hindus, Muslims, Parsees etc. These communities have on secular plane common material interests. There will be in such groups landlords, labourers and capitalists. The untouchables are, however, isolated by the Hindus from any kind of social participation. They have been dehumanised by socio-religious disabilities almost to the status of slaves. They are denied the universally accepted rights of citizenship. Their interests are distinctively their own interests and none else can truly voice them.

On the population basis, Dr. Ambedkar demands for the untouchables of the Presidency of Bombay, eight to nine representatives in the Bombay Legislative Council with franchise pitched as low for them as to muster a sizable electorate. While reviewing the various schemes proposed by different organizations he criticises the Congress scheme which offers communal representation only to the Muslims and leaves untouchables to seek representation in general electorate as typical of the ideology of its leaders who are political radicals and social tories. He does not agree with the proposals of moderates to reserve only one or two seats for the untouchables in plural constituencies as this does not give them effective representation. He brushes aside the proposal of the Depressed Class Mission for nomination by co-option by the elected members of the Council as an attempt to dictate to the untouchables what their good shall be, instead of an endeavour to agree with them so that they may seek

to find the good of their own choice. The communal representation with reserved seats for the most depressed community, he holds out, will not perpetuate social divisions, but will act as a potent solvent for dissolving them by providing opportunities for contact, co-operation and re-socialisation of fossilised attitudes. Moreover it was the demand of the untouchables for self-determination which the major communities too were claiming from the British bureaucracy.

Federation versus Freedom

Dr. Ambedkar's two addresses, "Federation vs. *Freedom" and "Communal Deadlock and a Way to solve It" were delivered by him before the Gokhale Institute of Economics. Pune on January 29, 1939 and at the session of the All India Scheduled Castes Federation held in Bombay on May 6, 1945 respectively. They are in the nature of tracts of the time. In 1939 all major political parties of India had accepted and some were even implementing that part of the Government of India Act, 1935 which related to provincial autonomy. The question of accepting the Federal structure at the Centre was however, looming large on the political horizon of India. Dr. Ambedkar who till then had not expressed in public his views on the subject took the opportunity to do so before the learned body of the Gokhale Institute of Economics.*

In the address he sets out briefly the outline of the scheme of Federation and examines it in the light of accepted tests of democratic federations in operation. The examination reveals that the scheme granted only a limited responsibility at the centre; it has the potentiality to evolve into a dominion status. There is inequality of status between the two sets of federating units viz. the Provinces and the Princely States. Federation is a natural corollary of autonomous provinces. They join the Federation as a natural course, while accession of the princely States is governed by the various conditions of their historical treaties with the British crown and the instrument of accession they would sign. Accession of the States and not only of the autonomous provinces, is the precondition for the implementation of the Federation. The representation of the provinces to the two Federal Houses is by election but the State representatives

are the nominees of their autocratic rulers and owe their allegiance to the rulers. These representatives will always be at the beck and call of the British bureaucracy which yields paramountcy over the rulers. Instead of fostering one all India nationalism, the Indian Princely States being treated under the Federation as foreign territories will encourage separatist tendencies. The scheme also does not permit the Federal Legislature to discuss the conduct of the ruler nor the administration of his State, though his nominees can participate in the debate pertaining to a province and vote on the issue. As in the matter of representation so too in that of taxation, administration, legislation etc, there is, in the scheme discrimination in favour of the princes. The princes thus become arbiters of the destiny of the British India.

On these and several other counts Dr. Ambedkar rejects the Federal structure as envisaged by the Government of India Act of 1935. His solution of the problem of the States is, to regard it not as a political one but as an administrative one. To tackle it legally is to pension off princes and annexe their territories as is done under the Land Acquisition Act which allows private rights and properties to be acquired for political purposes.

According to Dr. Ambedkar, excepting the Princes, and the Hindu Mahasabha which felt that the accession of the Princes was an accretion to the Hindu strength, no major political party was happy with the scheme of the Federation. The view of the freeman and of the poor man of whom the Federation does not seem to take any account says Dr. Ambedkar, will be a similar one. If the Federation comes the autocracy of the Princes will be a menace to the freedom of a freeman and obstacle to the poor man who wants constitution to enable him to have old values revalued and to have vested rights devastated.

Communal Deadlock and a Way to solve It

"Communal Deadlock and a Way to solve It" is yet another tract of the time included in this volume. It purports to be a constructive proposal put forth on behalf of the Scheduled Castes for the future constitution of India. This plan was one of the many advanced by Dr. Ambedkar's contemporaries to explore the possibility of solving the communal problem in the

eventful year of 1945. Earlier, in 1941. Dr. Ambedkar had advocated creation of Pakistan on the principle of self-determination' and also as a historical necessity. The present tract sets out an alternative plan which in his opinion would ensure a United India, where with proper checks and balances interests of all minorities would be safeguarded.

He is wholly opposed to the setting of a Constituent Assembly before the communal problem is solved. Moreover India has already constitutional ideas and constitutional forms ready at hand in the Government of India Act of 1935. All that is necessary is to delete those sections of the Act, which are inconsistent with Dominion status. If at all there is to be a Constituent Assembly, says Dr. Ambedkar. the communal question should not form a part of it.

After examining the two schemes for Constituent Assembly one each by Sir Stafford Cripps and Sir Tej Bahadur Sapru, Dr. Ambedkar concludes that both the schemes leave the communal question unsolved. In his opinion all such schemes and plans advocated so far fail because of their wrong approach. They proceed by a method instead of by a principle. The ultimate result is constant appeasement of ever-growing demands of communal minorities.

The principle he enunciates is that in India majority being communal majority and not a convertible political majority, the majority rule is untenable in theory and unjustifiable in practice. The major community should be content with relative majority. Even this should not be so large as to enable it to secure an absolute majority by coalition with a smaller minority to establish its rule. In the same way the major minority should also not have the possibility to secure a majority by similar combination. The combination of all minorities should however have an absolute majority in the legislature. Dr. Ambedkar has set out in detail how the application of these principles would reflect community-wise in the central and provincial legislatures.

Dr. Ambedkar's proposal is mainly for a United India; but even if the partition of India eventuates, he expects, the Muslims of Pakistan not to deny the benefit of these principles to

non-Muslim residents of their country. Their co-religionists, who otherwise would be a helpless minority in India, will have their interests safeguarded by the acceptance of these principles. Abandonment of the principle of majority rule in politics cannot, in the opinion of Dr. Ambedkar, affect the Hindus in other walks of life such as social and economic.

States and Minorities

States and minorities is a memorandum on the safeguards for the minorities in general and the Scheduled Castes in particular drafted by Dr. Ambedkar and submitted to the Constituent Assembly on behalf of the All-India Scheduled Castes Federation in the year 1946. It is in the form of draft articles of a constitution, followed by explanatory notes and other statistics.

The memorandum sets out in specific terms fundamental rights of citizens, safeguards of the rights of minorities and Scheduled Castes to representation in the legislatures, local bodies, executive and services. It also provides for special provisions for education and new settlement of the Scheduled Castes in separate villages. The very first article is allotted to the admission of Indian States into the Union which are here classified as Qualified and Unqualified on admission to the Union. The qualified State has an obligation to have an internal government which is in consonance with the principles Underlying the Constitution of the Union. The territory of the Unqualified states will be treated as the territory of the Union.

The memorandum not only prescribes the rights and privileges of the Scheduled Castes but also lays down the remedies in the event of encroachment upon them. For this the author draws heavily from his own memorandum submitted to the minorities of the Round Table Conference in 1931. They are derived from the United States statutes and amendments passed in the interest of the Negroes after their emancipation and from the Burma Anti-boycott Act. One of the novel features of the memorandum is the provision for the election of the Prime Minister — Union and provincial — by the whole house of the legislature, of the representatives of the different minorities in

the cabinet by members of each minority in the house and of the representatives of the majority community in the executive again by the whole house.

Another unique feature is the provision of remedies against invasion of the fundamental rights of citizens of freedom from economic exploitation and from want and fear. This is sought to be accomplished by constitutional provision enforceable within ten years of the passing of the constitution for alteration of the economic structure of the country. In short by adopting state socialism, it envisages state ownership and management of all key and basic industries and insurance. Agriculture which is included in the key industries is to be organised on collectivised method. Owners of the nationalised industries and land are to be compensated in the form of debentures. The debenture-holders are entitled to receive interest at such rates as defined by the law.

Small Holdings in India

The subjects of Dr. Ambedkar's Doctoral thesis were in the disciplines of economics only. The present paper was one of his articles dealing with the problem of agricultural economy of the Country. Amongst several problems of agricultural economy dealing with agricultural production, Dr. Ambedkar chose the subject of the size of holdings as it affects the productivity of agriculture.

Dr. Ambedkar in his paper points out that the holdings of land in India are not small but they are also scattered. This feature of Indian agriculture has caused great anxiety regarding agriculture which Dr. Ambedkar designates as an industry. The problems of these holdings are two-fold—(1) How to consolidate the holdings and (2) after consolidation, how to perpetuate the said consolidation. The heirs of deceased in India desire to secure share from each survey number of the deceased rather than distributing complete holdings amongst themselves. This has resulted into rendering the farming most inefficient and causing several problems. Dr. Ambedkar discusses methods for consolidation e.g., restripping, restricted sale of the occupancy of the fragmented land to the contagious holder and the right of

pre-emption. In this connection Dr. Ambedkar discusses the report of the Baroda Committee and the proposals of Prof. Jevons and Mr. Keatinge, and points out that the consolidation may obviate the evils of scattered holdings, but it will not obviate the evils of small holdings unless the consolidated holding becomes an economic holdings.

While discussing the terms of economic holding, Dr. Ambedkar observes, "Mere size of land is empty of all economic connotation……. It is the right or wrong proportion of other factors of production to a suit of land that renders the latter economic or uneconomic". Thus a small farm may be economic as well as a large farm. Verifying the statistics at length, he concludes that "the existing holdings are uneconomic, not, however, in the sense that they are too small but that they are too large" as against the inadequacy of other factors of production. He therefore suggests that the remedy lies in not enlarging the holding but in the matter of increasing capital and capital goods.

According to Dr. Ambedkar, the evil of small holding is the product of mal-adjustment of the Indian social economy. A large part of population of superfluous and idle labour exerts high pressure on agriculture. He tries to analyse how to remedy the ills of agriculture and suggests that industrialization of India is the soundest remedy for the agricultural problems of India.

Mr. Russell and the Reconstruction of Society

While reviewing the book "Principles of Social Reconstruction" by the Honourable Mr. Bertrand Russell, Dr. Ambedkar deals only with the analysis of the institution of Property and the modifications it is alleged to produce in human nature. Commenting on the observations of Mr. Russell on the philosophy of war, Dr. Ambedkar opines that Mr. Russell is against war but is not for quieticism. Quieticism is another name of death. Activity leads to growth. He suggests that to achieve anything we must use force ; only we must use it constructively as energy and not destructively as violence. The pacifist Mr. Russell, according to Dr. Ambedkar, thinks that even war is an activity leading to the growth

of the individual and condemns it only because it results in death and destruction. He therefore thinks that Russell would welcome milder forms of war.

Dr. Ambedkar further discusses the analysis of effects of property as propounded by Mr. Russell. Regarding the mental effects of property, he finds that Russell's discussion on this aspect is marked by certain misconceptions. Criticising the statement about "love of money" as interpreted by Mr. Russell, Dr. Ambedkar points out that there is genuine difference in the outlook of the 'haves' and 'have nots'. Hence their attitude about money will be different. According to him, Mr. Russell failed to inquire into the purpose of the love of money which has given rise to wrong conception. Dr. Ambedkar feels that this thesis is shaky from the production side of our life.

He further proceeds to discuss and prove how the above proposition is also untenable from the consumption side of life. Here the learned Doctor enters into a psychological discussion of the desires and pleasures. We leave this interesting discussion to be read by the readers in original without taking their much time.

The editors do not claim to have covered all the main features of the closely reasoned arguments of the learned Doctor in the present volume.

Members of the Editorial Board are deeply indebted to the Hon'ble Chief Minister of Maharashtra State, Shri Sharad Pawar and Hon'ble Minister for Education, Shri Sadanand Varde, for their valuable help, guidance and co-operation in bringing out this volume. We are also grateful to Shri Sapre, the Director of Government Printing and Stationery, and his staff for having helped us in bringing out this book in record time.

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PART I

ON CASTE

1

CASTES IN INDIA

Their Mechanism, Genesis and Development

Paper read before
the Anthropology Seminar
of
Dr. A. A. Goldenweizer
at
The Columbia University, New York, U.S.A.
on
9th May 1916

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CASTES IN INDIA

Many of us, I dare say, have witnessed local, national or international expositions of material objects that make up the sum total of human civilization. But few can entertain the idea of there being such a thing as an exposition of human institutions. Exhibition of human institutions is a strange idea ; some might call it the wildest of ideas. But as students of Ethnology I hope you will not be hard on this innovation, for it is not so, and to you at least it should not be strange.

You all have visited, I believe, some historic place like the ruins of Pompeii, and listened with curiosity to the history of the remains as it flowed from the glib tongue of the guide. In my opinion a student of Ethnology, in one sense at least, is much like the guide. Like his prototype, he holds up (perhaps with more seriousness and desire of self-instruction) the social institutions to view, with all the objectiveness humanly possible, and inquires into their origin and function.

Most of our fellow students in this Seminar, which concerns itself with primitive *versus* modern society, have ably acquitted themselves along these lines by giving lucid expositions of the various institutions, modern or primitive, in which they are interested. It is my turn now, this evening, to entertain you, as best I can, with a paper on "*Castes in India* : Their mechanism, genesis and development"

I need hardly remind you of the complexity of the subject I intend to handle. Subtler minds and abler pens than mine have been brought to the task of unravelling the mysteries of Caste ; but unfortunately it still remains in the domain of the "unexplained", not to say of the "un-understood" I am quite alive to the complex intricacies of a hoary institution like Caste, but I am not so pessimistic as to relegate it to the region of the unknowable, for I believe it can be known. The caste problem is a vast one, both theoretically and practically. Practically, it is an institution that portends tremendous consequences. It is a local problem, but one capable of much wider mischief,

for "as long as caste in India does exist, Hindus will hardly intermarry or have any social intercourse with outsiders ; and if Hindus migrate to other regions on earth, Indian caste would become a world problem."[1] Theoretically, it has defied a great many scholars who have taken upon themselves, as a labour of love, to dig into its origin. Such being the case, I cannot treat the problem in its entirety. Time, space and acumen, I am afraid, would all fail me, if I attempted to do otherwise than limit myself to a phase of it, namely, the genesis, mechanism and spread of the caste system. I will strictly observe this rule, and will dwell on extraneous matters only when it is necessary to clarify or support a point in my thesis.

To proceed with the subject. According to well-known ethnologists, the population of India is a mixture of Aryans, Dravidians, Mongolians and Scythians. All these stocks of people came into India from various directions and with various cultures, centuries ago, when they were in a tribal state. They all in turn elbowed their entry into the country by fighting with their predecessors, and after a stomachful of it settled down as peaceful neighbours. Through constant contact and mutual intercourse they evolved a common culture that superseded their distinctive cultures. It may be granted that there has not been a thorough amalgamation of the various stocks that make up the peoples of India, and to a traveller from within the boundaries of India the East presents a marked contrast in physique and even in colour to the West, as does the South to the North. But amalgamation can never be the sole criterion of homogeneity as predicated of any people. Ethnically all people are heterogeneous. It is the unity of culture that is the basis of homogeneity. Taking this for granted, I venture to say that there is no country that can rival the Indian Peninsula with respect to the unity of its culture. It has not only a geographic unity, but it has over and above all a deeper and a much more fundamental unity—the indubitable cultural unity that covers the land from end to end. But it is because of this homogeneity that Caste becomes a problem so difficult to be explained. If the Hindu Society were a mere federation of mutually exclusive units, the matter would be simple enough. But Caste is a parcelling of an already homogeneous unit, and the explanation of the genesis of Caste is the explanation of this process of parcelling.

Before launching into our field of enquiry, it is better to advise ourselves regarding the nature of a caste I will therefore draw upon a few of the best students of caste for their definitions of it:

(1) Mr. Senart, a French authority, defines a caste as "a close corporation, in theory at any rate rigorously hereditary : equipped with a certain traditional and independent organisation, including a chief and a council, meeting on occasion in assemblies of more or less plenary

1. Ketkar, *Caste,* p. 4.

authority and joining together at certain festivals : bound together by common occupations, which relate more particularly to marriage and to food and to questions of ceremonial pollution, and ruling its members by the exercise of jurisdiction, the extent of which varies, but which succeeds in making the authority of the community more felt by the sanction of certain penalties and, above all, by final irrevocable exclusion from the group".

(2) Mr. Nesfield defines a caste as "a class of the community which disowns any connection with any other class and can neither intermarry nor eat nor drink with any but persons of their own community".

(3) According to Sir H. Risley, "a caste may be defined as a collection of families or groups of families bearing a common name which usually denotes or is associated with specific occupation, claiming common descent from a mythical ancestor, human or divine, professing to follow the same professional callings and are regarded by those who are competent to give an opinion as forming a single homogeneous community".

(4) Dr. Ketkar defines caste as "a social group having two characteristics : (i) membership is confined to those who are born of members and includes all persons so born ; (ii) the members are forbidden by an inexorable social law to marry outside the group".

To review these definitions is of great importance for our purpose. It will be noticed that taken individually the definitions of three of the writers include too much or too little : none is complete or correct by itself and all have missed the central point in the mechanism of the Caste system. Their mistake lies in trying to define caste as an isolated unit by itself, and not as a group within, and with definite relations to, the system of caste as a whole. Yet collectively all of them are complementary to one another, each one emphasising what has been obscured in the other. By way of criticism, therefore, I will take only those points common to all Castes in each of the above definitions which are regarded as peculiarities of Caste and evaluate them as such.

To start with Mr. Senart. He draws attention to the "idea of pollution" as a characteristic of Caste. With regard to this point it may be safely said that it is by no means a peculiarity of Caste as such. It usually originates in priestly ceremonialism and is a particular case of the general belief in purity. Consequently its necessary connection with Caste may be completely denied without damaging the working of Caste. The "idea of pollution" has been attached to the institution of Caste, only because the Caste that enjoys the highest rank is the priestly Caste : while we know that priest and purity are old associates. We may therefore conclude that the "idea of pollution" is a characteristic of Caste only in so far as Caste has a religious flavour.

Mr. Nesfield in his way dwells on the absence of messing with those outside the Caste as one of its characteristics. In spite of the newness of the point we must say that Mr. Nesfield has mistaken the effect for the cause. Caste, being a self-enclosed unit naturally limits social intercourse, including messing etc. to members within it. Consequently this absence of messing with outsiders is not due to positive prohibition, but is a natural result of Caste, *i.e.* exclusiveness. No doubt this absence of messing originally due to exclusiveness, acquired the prohibitory character of a religious injunction, but it may be regarded as a later growth. Sir H. Risley, makes no new point deserving of special attention.

We now pass on to the definition of Dr. Ketkar who has done much for the elucidation of the subject. Not only is he a native, but he has also brought a critical acumen and an open mind to bear on his study of Caste. His definition merits consideration, for he has defined Caste in its relation to a system of Castes, and has concentrated his attention only on those characteristics which are absolutely necessary for the existence of a Caste within a system, rightly excluding all others as being secondary or derivative in character. With respect to his definition it must, however, be said that in it there is a slight confusion of thought, lucid and clear as otherwise it is. He speaks of *Prohibition of Intermarriage* and *Membership by Autogeny* as the two characteristics of Caste. I submit that these are but two aspects of one and the same thing, and not two different things as Dr. Ketkar supposes them to be. If you prohibit intermarriage the result is that you limit membership to those born within the group. Thus the two are the obverse and the reverse sides of the same medal.

This critical evaluation of the various characteristics of Caste leave no doubt that prohibition, or rather the absence of intermarriage—endogamy, to be concise—is the only one that can be called the essence of Caste when rightly understood. But some may deny this on abstract anthropological grounds, for there exist endogamous groups without giving rise to the problem of Caste. In a general way this may be true, as endogamous societies, culturally different, making their abode in localities more or less removed, and having little to do with each other are a physical reality. The Negroes and the Whites and the various tribal groups that go by name of American Indians in the United States may be cited as more or less appropriate illustrations in support of this view. But we must not confuse matters, for in India the situation is different. As pointed out before, the peoples of India form a homogeneous whole. The various races of India occupying definite territories have more or less fused into one another and do possess cultural unity, which is the only criterion of a homogeneous population. Given this homogeneity as a basis, Caste becomes a problem altogether new in character and wholly absent in the situation constituted by the mere propinquity of endogamous social or

tribal groups. Caste in India means an artificial chopping off of the population into fixed and definite units, each one prevented from fusing into another through the custom of endogamy. Thus the conclusion is inevitable that *Endogamy is the only characteristic that is peculiar to caste,* and if we succeed in showing how endogamy is maintained, we shall practically have proved the genesis and also the mechanism of Caste.

It may not be quite easy for you to anticipate why I regard endogamy as a key to the mystery of the Caste system. Not to strain your imagination too much, I will proceed to give you my reasons for it.

It may not also be out of place to emphasize at this moment that no civilized society of today presents more survivals of primitive times than does the Indian society. Its religion is essentially primitive and its tribal code, in spite of the advance of time and civilization, operates in all its pristine vigour even today. One of these primitive survivals, to which I wish particularly to draw your attention is the *Custom of Exogamy*. The prevalence of exogamy in the primitive worlds is a fact too wellknown to need any explanation. With the growth of history, however, exogamy has lost its efficacy, and excepting the nearest blood-kins, there is usually no social bar restricting the field of marriage. But regarding the peoples of India the law of exogamy is a positive injunction even today. Indian society still savours of the clan system, even though there are no clans ; and this can be easily seen from the law of matrimony which centres round the principle of exogamy, for it is not that *Sapindas* (blood-kins) cannot marry, but a marriage even between *Sagotras* (of the same class) is regarded as a sacrilege.

Nothing is therefore more important for you to remember than the fact that endogamy is foreign to the people of India. The various *Gotras* of India are and have been exogamous : so are the other groups with totemic organization. It is no exaggeration to say that with the people of India exogamy is a creed and none dare infringe it, so much so that, in spite of the endogamy of the Castes within them, exogamy is strictly observed and that there are more rigorous penalties for violating exogamy than there are for violating endogamy. You will, therefore, readily see that with exogamy as the rule there could be no Caste, for exogamy means fusion. But we have castes ; consequently in the final analysis creation of Castes, so far as India is concerned, means the superposition of endogamy on exogamy. However, in an originally exogamous population an easy working out of endogamy (which is equivalent to the creation of Caste) is a grave problem, and it is in the consideration of the means utilized for the preservation of endogamy against exogamy that we may hope to find the solution of our problem.

Thus the superposition of endogamy on exogamy means the creation of caste. But this is not an easy affair. Let us take an imaginary group that desires to make itself into a Caste and analyse what means it will have to adopt to

make itself endogamous. If a group desires to make itself endogamous a formal injunction against intermarriage with outside groups will be of no avail, especially if prior to the introduction of endogamy, exogamy had been the rule in all matrimonial relations. Again, there is a tendency in all groups lying in close contact with one another to assimilate and amalgamate, and thus consolidate into a homogeneous society. If this tendency is to be strongly counteracted in the interest of Caste formation, it is absolutely necessary to circumscribe a circle outside which people should not contract marriages.

Nevertheless, this encircling to prevent marriages from without creates problems from within which are not very easy of solution. Roughly speaking, in a normal group the two sexes are more or less evenly distributed, and generally speaking there is an equality between those of the same age. The equality is, however, never quite realized in actual societies. At the same time to the group that is desirous of making itself into a caste the maintenance of equality between the sexes becomes the ultimate goal, for without it. endogamy can no longer subsist. In other words, if endogamy is to be preserved conjugal rights from within have to be provided for, otherwise members of the group will be driven out of the circle to take care of themselves in any way they can. But in order that the conjugal rights be provided for from within, it is absolutely necessary to maintain a numerical equality between the marriageable units of the two sexes within the group desirous of making itself into a Caste. It is only through the maintenance of such an equality that the necessary endogamy of the group can be kept intact, and a very large disparity is sure to break it.

The problem of Caste, then, ultimately resolves itself into one of repairing the disparity between the marriageable units of the two sexes within it. Left to nature, the much needed parity between the units can be realized only when a couple dies simultaneously. But this is a rare contingency. The husband may die before the wife and create a *surplus woman,* who must be disposed of, else through intermarriage she will violate the endogamy of the group. In like manner the husband may survive his wife and be *surplus man,* whom the group, while it may sympathise with him for the sad bereavement, has to dispose of, else he will marry outside the Caste and will break the endogamy. Thus both the *surplus man* and the *surplus woman* constitute a menace to the Caste if not taken care of, for not finding suitable partners inside their prescribed circle (and left to themselves they cannot find any, for if the matter be not regulated there can only be just enough pairs to go round) very likely they will transgress the boundary, marry outside and import offspring that is foreign to the Caste.

Let us see what our imaginary group is likely to do with this *surplus man* and *surplus woman.* We will first take up the case of the *surplus woman.*

She can be disposed of in two different ways so as to preserve the endogamy of the Caste.

First: burn her on the funeral pyre of her deceased husband and get rid of her. This, however, is rather an impracticable way of solving the problem of sex disparity. In some cases it may work, in others it may not. Consequently every surplus woman cannot thus be disposed of, because it is an easy solution but a hard realization. And so the *surplus woman* (= widow), if not disposed of, remains in the group : but in her very existence lies a double danger. She may marry outside the Caste and violate endogamy, or she may marry within the Caste and through competition encroach upon the chances of marriage that must be reserved for the potential brides in the Caste. She is therefore a menance in any case, and something must be done to her if she cannot be burned along with her deceased husband.

The second remedy is to enforce widowhood on her for the rest of her life. So far as the objective results are concerned, burning is a better solution than enforcing widowhood. Burning the widow eliminates all the three evils that a *surplus woman* is fraught with. Being dead and gone she creates no problem of remarriage either inside or outside the Caste. But compulsory widowhood is superior to burning because it is more practicable. Besides being comparatively humane it also guards against the evils of remarriage as does burning; but it fails to guard the morals of the group. No doubt under compulsory widowhood the woman remains, and just because she is deprived of her natural right of being a legitimate wife in future, the incentive to immoral conduct is increased. But this is by no means an insuperable difficulty. She can be degraded to a condition in which she is no longer a source of allurement.

The problem of *surplus man* (= widower) is much more important and much more difficult than that of the *surplus woman* in a group that desires to make itself into a Caste. From time immemorial man as compared with woman has had the upper hand. He is a dominant figure in every group and of the two sexes has greater prestige. With this traditional superiority of man over woman his wishes have always been consulted. Woman, on the other hand, has been an easy prey to all kinds of iniquitous injunctions, religious, social or economic. But man as a maker of injunctions is most often above them all. Such being the case, you cannot accord the same kind of treatment to a *surplus man* as you can to a *surplus woman* in a Caste.

The project of burning him with his deceased wife is hazardous in two ways : first of all it cannot be done, simply because he is a man. Secondly, if done, a sturdy soul is lost to the Caste. There remain then only two solutions which can conveniently dispose of him. I say conveniently, because he is an asset to the group.

Important as he is to the group, endogamy is still more important, and the solution must assure both these ends. Under these circumstances he may be forced or I should say induced, after the manner of the widow, to remain a widower for the rest of his life. This solution is not altogether difficult, for without any compulsion some are so disposed as to enjoy self-imposed celibacy, or even to take a further step of their own accord and renounce the world and its joys. But, given human nature as it is, this solution can hardly be expected to be realized. On the other hand, as is very likely to be the case, if the *surplus man* remains in the group as an active participator in group activities, he is a danger to the morals of the group. Looked at from a different point of view celibacy, though easy in cases where it succeeds, is not so advantageous even then to the material prospects of the Caste. If he observes genuine celibacy and renounces the world, he would not be a menace to the preservation of Caste endogamy or Caste morals as he undoubtedly would be if he remained a secular person. But as an ascetic celibate he is as good as burned, so far as the material well-being of his Caste is concerned. A Caste, in order that it may be large enough to afford a vigorous communal life, must be maintained at a certain numerical strength. But to hope for this and to proclaim celibacy is the same as trying to cure atrophy by bleeding.

Imposing celibacy on the *surplus man* in the group, therefore, fails both theoretically and practically. It is in the interest of the Caste to keep him as a *Grahastha* (one who raises a family), to use a Sanskrit technical term. But the problem is to provide him with a wife from within the Caste. At the outset this is not possible, for the ruling ratio in a caste has to be one man to one woman and none can have two chances of marriage, for in a Caste thoroughly self-enclosed there are always just enough marriageable women to go round for the marriageable men. Under these circumstances the *surplus man* can be provided with a wife only by recruiting a bride from the ranks of those not yet marriageable in order to tie him down to the group. This is certainly the best of the possible solutions in the case of the *surplus man*. By this, he is kept within the Caste. By this means numerical depletion through constant outflow is guarded against, and by this endogamy morals are preserved.

It will now be seen that the four means by which numerical disparity between the two sexes is conveniently maintained are : (1) burning the widow with her deceased husband ; (2) compulsory widowhood—a milder form of burning ; (3) imposing celibacy on the widower and (4) wedding him to a girl not yet marriageable. Though, as I said above, burning the widow and imposing celibacy on the widower are of doubtful service to the group in its endeavour to preserve its endogamy, all of them operate as *means*. But means, as forces, when liberated or set in motion create an end. What then is the end that these means create ? They create and perpetuate endogamy, while caste and

endogamy, according to our analysis of the various definitions of caste, are one and the same thing. Thus the existence of these means is identical with caste and caste involves these means.

This, in my opinion, is the general mechanism of a caste in a system of castes. Let us now turn from these high generalities to the castes in Hindu Society and inquire into their mechanism. I need hardly premise that there are a great many pitfalls in the path of those who try to unfold the past, and caste in India to be sure is a very ancient institution. This is especially true where there exist no authentic or written records or where the people, like the Hindus, are so constituted that to them writing history is a folly, for the world is an illusion. But institutions do live, though for a long time they may remain unrecorded and as often as not customs and morals are like fossils that tell their own history. If this is true, our task will be amply rewarded if we scrutinize the solution the Hindus arrived at to meet the problems of the *surplus man* and *surplus woman.*

Complex though it be in its general working the Hindu Society, even to a superficial observer, presents three singular uxorial customs, namely :

(i) *Sati* or the burning of the widow on the funeral pyre of her deceased husband.

(ii) Enforced widowhood by which a widow is not allowed to remarry.

(iii) Girl marriage.

In addition, one also notes a great hankering after *Sannyasa* (renunciation) on the part of the widower, but this may in some cases be due purely to psychic disposition.

So far as I know, no scientific explanation of the origin of these customs is forthcoming even today. We have plenty of philosophy to tell us why these customs were honoured, but nothing to tell us the causes of their origin and existence. *Sati* has been honoured (C*f.* A. K. Coomaraswamy, *Sati:* A Defence of the Eastern Woman in the British Sociological Review, Vol. VI, 1913) because it is a "proof of the perfect unity of body and soul" between husband and wife and of "devotion beyond the grave", because it embodied the ideal of wifehood, which is well expressed by Uma when she said, "Devotion to her Lord is woman's honour, it is her eternal heaven : and O Maheshvara", she adds with a most touching human cry, "I desire not paradise itself if thou are not satisfied with me !" Why compulsory widowhood is honoured I know not, nor have I yet met with any one who sang in praise of it, though there are a great many who adhere to it. The eulogy in honour of girl marriage is reported by Dr. Ketkar to be as follows : "A really faithful man or woman ought not to feel affection for a woman or a man other than the one with whom he or she is united. Such purity is compulsory not only after marriage, but even before marriage, for that is the only correct ideal of chastity. No maiden could be considered pure if she feels love for a man other than the one

to whom she might be married. As she does not know to whom she is going to be married, she must not feel affection for any man at all before marriage. If she does so, it is a sin. So it is better for a girl to know whom she has to love before any sexual consciousness has been awakened in her."[2] Hence girl marriage.

This high-flown and ingenious sophistry indicates why these institutions were honoured, but does not tell us why they were practised. My own interpretation is that they were honoured because they were practised. Any one slightly acquainted with rise of individualism in the 18th century will appreciate my remark. At all times, it is the movement that is most important; and the philosophies grow around it long afterwards to justify it and give it a moral support. In like manner I urge that the very fact that these customs were so highly eulogized proves that they needed eulogy for their prevalence. Regarding the question as to why they arose, I submit that they were needed to create the structure of caste and the philosophies in honour of them were intended to popularize them, or to gild the pill, as we might say, for they must have been so abominable and shocking to the moral sense of the unsophisticated that they needed a great deal of sweetening. These customs are essentially of the nature of *means,* though they are represented as ideals. But this should not blind us from understanding the *results* that flow from them. One might safely say that idealization of means is necessary and in this particular case was perhaps motivated to endow them with greater efficacy. Calling a means an end does no harm, except that it disguises its real character ; but it does not deprive it of its real nature, that of a means. You may pass a law that all cats are dogs, just as you can call a means an end. But you can no more change the nature of means thereby than you can turn cats into dogs; consequently I am justified in holding that, whether regarded as ends or as means, *Sati, enforced widowhood* and *girl marriage* are customs that were primarily intended to solve the problem of the *surplus man* and *surplus woman* in a caste and to maintain its endogamy. Strict endogamy could not be preserved without these customs, while caste without endogamy is a fake.

Having explained the mechanism of the creation and preservation of Caste in India, the further question as to its genesis naturally arises. The question or origin is always an annoying question and in the study of Caste it is sadly neglected ; some have connived at it, while others have dodged it. Some are puzzled as to whether there could be such a thing as the origin of caste and suggest that "if we cannot control our fondness for the word 'origin', we should better use the plural form, viz. 'origins of caste' ". As for myself I do not feel puzzled by the Origin of Caste in India for, as I have established before, endogamy is the only characteristic of Caste and when I say *Origin of Caste* I mean *The Origin of the Mechanism for Endogamy.*

2. *History of Caste in India,* 1909, pp. 2-33.

The atomistic conception of individuals in a Society so greatly popularised—I was about to say vulgarized—in political orations is the greatest humbug. To say that individuals make up society is trivial; society is always composed of classes. It may be an exaggeration to assert the theory of class-conflict, but the existence of definite classes in a society is a fact. Their basis may differ. They may be economic or intellectual or social, but an individual in a society is always a member of a class. This is a universal fact and early Hindu society could not have been an exception to this rule, and, as a matter of fact, we know it was not. If we bear this generalization in mind, our study of the genesis of caste would be very much facilitated, for we have only to determine what was the class that first made itself into a caste, for class and caste, so to say, are next door neighbours, and it is only a span that separates the two. *A Caste is an Enclosed Class.*

The study of the origin of caste must furnish us with an answer to the question—what is the class that raised this "enclosure" around itself ? The question may seem too inquisitorial, but it is pertinent, and an answer to this will serve us to elucidate the mystery of the growth and development of castes all over India. Unfortunately a direct answer to this question is not within my power. I can answer it only indirectly. I said just above that the customs in question were current in the Hindu society. To be true to facts it is necessary to qualify the statement, as it connotes universality of their prevalence. These customs in all their strictness are obtainable only in one caste, namely the Brahmins, who occupy the highest place in the social hierarchy of the Hindu society ; and as their prevalence in non-Brahmin castes is derivative of their observance is neither strict nor complete. This important fact can serve as a basis of an important observation. If the prevalence of these customs in the non-Brahmin Castes is derivative, as can be shown very easily, then it needs no argument to prove what class is the father of the institution of caste. Why the Brahmin class should have enclosed itself into a caste is a different question, which may be left as an employment for another occasion. But the strict observance of these customs and the social superiority arrogated by the priestly class in all ancient civilizations are sufficient to prove that they were the originators of this "unnatural institution" founded and maintained through these unnatural means.

I now come to the third part of my paper regarding the question of the growth and spread of the caste system all over India. The question I have to answer is : How did the institution of caste spread among the rest of the non-Brahmin population of the country ? The question of the spread of the castes all over India has suffered a worse fate than the question of genesis. And the main cause, as it seems to me, is that the two questions of spread and of origin are not separated. This is because of the common belief among scholars that the caste system has either been imposed upon the docile

population of India by a law-giver as a divine dispensation, or that it has grown according to some law of social growth peculiar to the Indian people.

I first propose to handle the law-giver of India. Every country has its law-giver, who arises as an incarnation *(avatar)* in times of emergency to set right a sinning humanity and give it the laws of justice and morality. Manu, the law-giver of India, if he did exist, was certainly an audacious person. If the story that he gave the law of caste be credited, then Manu must have been a dare-devil fellow and the humanity that accepted his dispensation must be a humanity quite different from the one we are acquainted with. It is unimaginable that the law of caste was *given*. It is hardly an exaggeration to say that Manu could not have outlived his law, for what is that class that can submit to be degraded to the status of brutes by the pen of a man, and suffer him to raise another class to the pinnacle ? Unless he was a tyrant who held all the population in subjection it cannot be imagined that he could have been allowed to dispense his patronage in this grossly unjust manner, as may be easily seen by a mere glance at his "Institutes". I may seem hard on Manu. but I am sure my force is not strong enough to kill his ghost. He lives, like a disembodied spirit and is appealed to, and I am afraid will yet live long. One thing I want to impress upon you is that Manu did not *give the law* of Caste and that he could not do so. Caste existed long before Manu. He was an upholder of it and therefore philosophised about it, but certainly he did not and could not ordain the present order of Hindu Society. His work ended with the codification of existing caste rules and the preaching of Caste *Dharma*. The spread and growth of the Caste system is too gigantic a task to be achieved by the power or cunning of an individual or of a class. Similar in argument is the theory that the Brahmins created the Caste. After what I have said regarding Manu, I need hardly say anything more, except to point out that it is incorrect in thought and malicious in intent. The Brahmins may have been guilty of many things, and I dare say they were, but the imposing of the caste system on the non-Brahmin population was beyond their mettle. They may have helped the process by their glib philosophy, but they certainly could not have pushed their scheme beyond their own confines. To fashion society after one's own pattern ! How glorious ! How hard ! One can take pleasure and eulogize its furtherance, but cannot further it very far. The vehemence of my attack may seem to be unnecessary ; but I can assure you that it is not uncalled for. There is a strong belief in the mind of orthodox Hindus that the Hindu Society was somehow moulded into the framework of the Caste System and that it is an organization consciously created by the *Shastras*. Not only does this belief exist, but it is being justified on the ground that it cannot but be good, because it is ordained by the *Shastras* and the *Shastras* cannot be wrong. I have urged so much on the adverse side of this attitude, not because the religious sanctity is grounded on scientific basis, nor to help those reformers who are preaching against it. Preaching did not make

the caste system neither will it unmake it. My aim is to show the falsity of the attitude that has exalted religious sanction to the position of a scientific explanation.

Thus the great man theory does not help us very far in solving the spread of castes in India. Western scholars, probably not much given to hero-worship, have attempted other explanations. The nuclei, round which have "formed" the various castes in India, are, according to them : (1) occupation; (2) survivals of tribal organizations etc. ; (3) the rise of new belief; (4) cross-breeding and (5) migration.

The question may be asked whether these nuclei do not exist in other societies and whether they are peculiar to India. If they are not peculiar to India, but are common to the world, why is it that they did not "form" caste on other parts of this planet ? Is it because those parts are holier than the land of the *Vedas,* or that the professors are mistaken ? I am afraid that the latter is the truth.

In spite of the high theoretic value claimed by the several authors for their respective theories based on one or other of the above nuclei, one regrets to say that on close examination they are nothing more than filling illustrations— what Matthew Arnold means by "the grand name without the grand thing in it". Such are the various theories of caste advanced by Sir Denzil Ibbetson, Mr. Nesfield, Mr. Senart and Sir H. Risley. To criticise them in a lump would be to say that they are a disguised form of the *Petitio Principii* of formal logic. To illustrate : Mr. Nesfield says that "function and function only. .. was the foundation upon which the whole system of Castes in India was built up". But he may rightly be reminded that he does not very much advance our thought by making the above statement, which practically amounts to saying that castes in India are functional or occupational, which is a very poor discovery ! We have yet to know from Mr. Nesfield why is it that an occupational group turned into an occupational caste ? I would very cheerfully have undertaken the task of dwelling on the theories of other ethnologists, had it not been for the fact that Mr. Nesfield's is a typical one.

Without stopping to criticize those theories that explain the caste system as a natural phenomenon occurring in obedience to the law of disintegration, as explained by Herbert Spencer in his formula of evolution, or as natural as "the structural differentiation within an organism"—to employ the phraseology of orthodox apologists—, or as an early attempt to test the laws of eugenics—as all belonging to the same class of fallacy which regards the caste system as inevitable, or as being consciously imposed in anticipation of these laws on a helpless and humble population, I will now lay before you my own view on the subject.

We shall be well advised to recall at the outset that the Hindu society, in common with other societies, was composed of classes and the earliest known

are the (1) Brahmins or the priestly class ; (2) the Kshatriya, or the military class ; (3) the Vaishya, or the merchant class and (4) the Shudra, or the artisan and menial class. Particular attention has to be paid to the fact that this was essentially a class system, in which individuals, when qualified, could change their class, and therefore classes did change their personnel. At some time in the history of the Hindus, the priestly class socially detached itself from the rest of the body of people and through a closed-door policy became a caste by itself. The other classes being subject to the law of social division of labour underwent differentiation, some into large, others into very minute groups. The Vaishya and Shudra classes were the original inchoate plasm, which formed the sources of the numerous castes of today. As the military occupation does not very easily lend itself to very minute sub-division, the Kshatriya class could have differentiated into soldiers and administrators.

This sub-division of a society is quite natural. But the unnatural thing about these sub-divisions is that they have lost the open-door character of the class system and have become self-enclosed units called castes. The question is : were they compelled to close their doors and become endogamous, or did they close them of their own accord ? I submit that there is a double line of answer : *Some closed the door : Others found it closed against them*. The one is a psychological interpretation and the other is mechanistic, but they are complementary and both are necessary to explain the phenomena of caste-formation in its entirety.

I will first take up the psychological interpretation. The question we have to answer in this connection is : Why did these sub-divisions or classes, if you please, industrial, religious or otherwise, become self-enclosed or endogamous ? My answer is because the Brahmins were so. Endogamy or the closed-door system, was a fashion in the Hindu society, and as it had originated from the Brahmin caste it was whole-heartedly imitated by all the non-Brahmin sub-divisions or classes, who, in their turn, became endogamous castes. It is "the infection of imitation" that caught all these sub-divisions on their onward march of differentiation and has turned them into castes. The propensity to imitate is a deep-seated one in the human mind and need not be deemed an inadequate explanation for the formation of the various castes in India. It is so deep-seated that Walter Bagehot argues that, "We must not think of . . . imitation as voluntary, or even conscious. On the contrary it has its seat mainly in very obscure parts of the mind, whose notions, so far from being consciously produced, are hardly felt to exist; so far from being conceived beforehand, are not even felt at the time. The main seat of the imitative part of our nature is our belief, and the causes predisposing us to believe this or disinclining us to believe that are among the obscurest parts of our nature. But as to the imitative nature

of credulity there can be no doubt."[3] This propensity to imitate has been made the subject of a scientific study by Gabriel Tarde, who lays down three laws of imitation. One of his three laws is that imitation flows from the higher to the lower or, to quote his own words, "Given the opportunity, a nobility will always and everywhere imitate its leaders, its kings or sovereigns, and the people likewise, given the opportunity, its nobility."[4] Another of Tarde's laws of imitation is : that the extent or intensity of imitation varies inversely in proportion to distance, or in his own words "The thing that is most imitated is the most superior one of those that are nearest. In fact, the influence of the model's example is efficacious inversely to its *distance* as well as directly to its superiority. Distance is understood here in its sociological meaning. However distant in space a stranger may be, he is close by, from this point of view, if we have numerous and daily relations with him and if we have every facility to satisfy our desire to imitate him. This law of the imitation of the nearest, of the least distant, explains the gradual and consecutive character of the spread of an example that has been set by the higher social ranks."[5]

In order to prove my thesis—which really needs no proof—that some castes were formed by imitation, the best way, it seems to me, is to find out whether or not the vital conditions for the formation of castes by imitation exist in the Hindu Society. The conditions for imitation, according to this standard authority are : (1) that the source of imitation must enjoy prestige in the group and (2) that there must be "numerous and daily relations" among members of a group. That these conditions were present in India there is little reason to doubt. The Brahmin is a semi-god and very nearly a demi-god. He sets up a mode and moulds the rest. His prestige is unquestionable and is the fountain-head of bliss and good. Can such a being, idolised by scriptures and venerated by the priest-ridden multitude, fail to project his personality on the suppliant humanity ? Why, if the story be true, he is believed to be the very end of creation. Such a creature is worthy of more than mere imitation, but at least of imitation ; and if he lives in an endogamous enclosure, should not the rest follow his example ? Frail humanity! Be it embodied in a grave philosopher or a frivolous housemaid, it succumbs. It cannot be otherwise. Imitation is easy and invention is difficult.

Yet another way of demonstrating the play of imitation in the formation of castes is to understand the attitude of non-Brahmin classes towards those customs which supported the structure of caste in its nascent days until, in the course of history, it became embedded in the Hindu mind and hangs there to this day without any support—for now it needs no prop but belief—like

3. *Physics and Politics,* 1915, p. 60.
4. *Laws of Imitation,* Tr. by E.C. Parsons, 2nd edition, p. 217.
5. *Ibid.,* p. 224.

a weed on the surface of a pond. In a way, but only in a way, the status of a caste in the Hindu Society varies directly with the extent of the observance of the customs of *Sati,* enforced widowhood, and girl marriage. But observance of these customs varies directly with the *distance* (I am using the word in the Tardian sense) that separates the caste. Those castes that are nearest to the Brahmins have imitated all the three customs and insist on the strict observance thereof. Those that are less near have imitated enforced widowhood and girl marriage ; others, a little further off, have only girl marriage and those furthest off have imitated only the belief in the caste principle. This imperfect imitation, I dare say, is due partly to what Tarde calls "distance" and partly to the barbarous character of these customs. This phenomenon is a complete illustration of Tarde's law and leaves no doubt that the whole process of caste-formation in India is a process of imitation of the higher by the lower. At this juncture I will turn back to support a former conclusion of mine, which might have appeared to you as too sudden or unsupported. I said that the Brahmin class first raised the structure of caste by the help of those three customs in question. My reason for that conclusion was that their existence in other classes was derivative. After what I have said regarding the role of imitation in the spread of these customs among the non-Brahmin castes, as means or as ideals, though the imitators have not been aware of it, they exist among them as derivatives ; and, if they are derived, there must have been prevalent one original caste that was high enough to have served as a pattern for the rest. But in a theocratic society, who could be the pattern but the servant of God ?

This completes the story of those that were weak enough to close their doors. Let us now see how others were closed in as a result of being closed out. This I call the mechanistic process of the formation of caste. It is mechanistic because it is inevitable. That this line of approach, as well as the psychological one, to the explanation of the subject has escaped my predecessors is entirely due to the fact that they have conceived caste as a unit by itself and not as one within a System of Caste. The result of this oversight or lack of sight has been very detrimental to the proper understanding of the subject matter and therefore its correct explanation. I will proceed to offer my own explanation by making one remark which I will urge you to bear constantly in mind. It is this : that *caste in the singular number is an unreality. Castes exist only in the plural number.* There is no such thing as a caste : There are always castes. To illustrate my meaning : while making themselves into a caste, the Brahmins, by virtue of this, created non-Brahmin caste; or, to express it in my own way, while closing themselves in they closed others out. I will clear my point by taking another illustration. Take India as a whole with its various communities designated by the various creeds to which they owe allegiance, to wit, the Hindus, Mohammedans, Jews, Christians and Parsis. Now, barring the Hindus, the rest within themselves are non-caste communities.

But with respect to each other they are castes. Again, if the first four enclose themselves, the Parsis are directly closed out, but are indirectly closed in. Symbolically, if Group A wants to be endogamous, Group B has to be so by sheer force of circumstances.

Now apply the same logic to the Hindu society and you have another explanation of the "fissiparous" character of caste, as a consequence of the virtue of self-duplication that is inherent in it. Any innovation that seriously antagonises the ethical, religious and social code of the Caste is not likely to be tolerated by the Caste, and the recalcitrant members of a Caste are in danger of being thrown out of the Caste, and left to their own fate without having the alternative of being admitted into or absorbed by other Castes. Caste rules are inexorable and they do not wait to make nice distinctions between kinds of offence. Innovation may be of any kind, but all kinds will suffer the same penalty. A novel way of thinking will create a new Caste for the old ones will not tolerate it. The noxious thinker respectfully called Guru (Prophet) suffers the same fate as the sinners in illegitimate love. The former creates a caste of the nature of a religious sect and the latter a type of mixed caste. Castes have no mercy for a sinner who has the courage to violate the code. The penalty is excommunication and the result is a new caste. It is not peculiar Hindu psychology that induces the excommunicated to form themselves into a caste ; far from it. On the contrary, very often they have been quite willing to be humble members of some caste (higher by preference) if they could be admitted within its fold. But castes are enclosed units and it is their conspiracy with clear conscience that compels the excommunicated to make themselves into a caste. The logic of this obdurate circumstance is merciless, and it is in obedience to its force that some unfortunate groups find themselves enclosed, because others in enclosing, themselves have closed them out, with the result that new groups (formed on any basis obnoxious to the caste rules) by a mechanical law are constantly being converted into castes to a bewildering multiplicity. Thus is told the second tale in the process of Caste formation in India.

Now to summarise the main points of my thesis. In my opinion there have been several mistakes committed by the students of Caste, which have misled them in their investigations. European students of Caste have unduly emphasised the role of colour in the Caste system. Themselves impregnated by colour prejudices, they very readily imagined it to be the chief factor in the Caste problem. But nothing can be farther from the truth, and Dr. Ketkar is correct when he insists that "All the princes whether they belonged to the so-called Aryan race, or the so-called Dravidian race, were Aryas. Whether a tribe or a family was racially Aryan or Dravidian was a question which never troubled the people of India, until foreign scholars came in and began to draw the line. The colour of the skin had long ceased to be a matter of

importance."[6] Again, they have mistaken mere descriptions for explanation and fought over them as though they were theories of origin. There are occupational, religious etc., castes, it is true, but it is by no means an explanation of the origin of Caste. We have yet to find out why occupational groups are castes ; but this question has never even been raised. Lastly they have taken Caste very lightly as though a breath had made it. On the contrary, Caste, as I have explained it, is almost impossible to be sustained : for the difficulties that it involves are tremendous. It is true that Caste rests on belief, but before belief comes to be the foundation of an institution, the institution itself needs to be perpetuated and fortified. My study of the Caste problem involves four main points : (1) that in spite of the composite make-up of the Hindu population, there is a deep cultural unity; (2) that caste is a parcelling into bits of a larger cultural unit; (3) that there was one caste to start with and (4) that classes have become Castes through imitation and excommunication.

Peculiar interest attaches to the problem of Caste in India today; as persistent attempts are being made to do away with this unnatural institution. Such attempts at reform, however, have aroused a great deal of controversy regarding its origin, as to whether it is due to the conscious command of a Supreme Authority, or is an unconscious growth in the life of a human society under peculiar circumstances. Those who hold the latter view will, I hope, find some food for thought in the standpoint adopted in this paper. Apart from its practical importance the subject of Caste is an all absorbing problem and the interest aroused in me regarding its theoretic foundations has moved me to put before you some of the conclusions, which seem to me well founded, and the grounds upon which they may be supported. I am not, however, so presumptuous as to think them in any way final, or anything more than a contribution to a discussion of the subject. It seems to me that the car has been shunted on wrong lines, and the primary object of the paper is to indicate what I regard to be the right path of investigation, with a view to arrive at a serviceable truth. We must, however, guard against approaching the subject with a bias. Sentiment must be outlawed from the domain of science and things should be judged from an objective standpoint. For myself I shall find as much pleasure in a positive destruction of my own idealogy, as in a rational disagreement on a topic, which, notwithstanding many learned disquisitions is likely to remain controversial forever. To conclude, while I am ambitious to advance a Theory of Caste, if it can be shown to be untenable I shall be equally willing to give it up.

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6. *History of Caste,* p. 82.

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ANNIHILATION OF CASTE
WITH
A Reply to Mahatma Gandhi

"Know Truth as Truth and Untruth as Untruth"
—Buddha

"He that WILL NOT reason is a bigot
He that CANNOT reason is a fool
He that DARE NOT reason is a slave"
—H. Drummond

Printed from the third edition of 1944

ANNIHILATION OF CASTE

PREFACE TO THE SECOND EDITION

The speech prepared by me for the Jat-Pat-Todak Mandal of Lahore has had an astonishingly warm reception from the Hindu public for whom it was primarily intended. The English edition of one thousand five hundred was exhausted within two months of its publication. It is translated into Gujarati and Tamil. It is being translated in Marathi, Hindi, Punjabi and Malayalam. The demand for the English text still continues unabated. To satisfy this demand it has become necessary to issue a Second Edition. Considerations of history and effectiveness of appeal have led me to retain the original form of the essay—namely the speech form—although I was asked to recast it in the form of a direct narrative. To this edition I have added two appendices. I have collected in Appendix I the two articles written by Mr. Gandhi by way of review of my speech in the *Harijan,* and his letter to Mr. Sant Ram, a member of the Jat-Pat-Todak Mandal. In Appendix II, I have printed my views in reply to the articles of Mr. Gandhi collected in Appendix I. Besides Mr. Gandhi many others have adversely criticised my views as expressed in my speech. But I have felt that in taking notice of such adverse comments I should limit myself to Mr. Gandhi. This I have done not because what he has said is so weighty as to deserve a reply but because to many a Hindu he is an oracle, so great that when he opens his lips it is expected that the argument must close and no dog must bark. But the world owes much to rebels who would dare to argue in the face of the pontiff and insist that he is not infallible. I do not care for the credit which every progressive society

must give to its rebels. I shall be satisfied if I make the Hindus realize that they are the sick men of India and that their sickness is causing danger to the health and happiness of other Indians.

B. R. AMBEDKAR

PREFACE TO THE THIRD EDITION

The Second edition of this Essay appeared in 1937, and was exhausted within a very short period. A new edition has been in demand for a long time. It was my intention to recast the essay so as to incorporate into it another essay of mine called "*Castes in India, their Origin and their Mechanism*", which appeared in the issue of the Indian Antiquary Journal for May 1917. But as I could not find time, and as there is very little prospect of my being able to do so and as the demand for it from the public is very insistent, I am content to let this be a mere reprint of the Second edition.

I am glad to find that this essay has become so popular, and I hope that it will serve the purpose for which it was intended.

22, Prithwiraj Road
New Delhi
1st December 1944

B. R. AMBEDKAR

PROLOGUE

On December 12, 1935, I received the following letter from Mr. Sant Ram, the Secretary of the Jat-Pat-Todak Mandal :

My dear Doctor Saheb,

Many thanks for your kind letter of the 5th December. I have released it for press without your permission for which I beg your pardon, as I saw no harm in giving it publicity. You are a great thinker, and it is my well-considered opinion that none else has studied the problem of Caste so deeply as you have. I have always benefited myself and our Mandal from your ideas. I have explained and preached it in the *Kranti* many times and I have even lectured on it in many Conferences. I am now very anxious to read the exposition of your new formula—"It is not possible to break Caste without annihilating the religious notions on which it, the Caste system, is founded." Please do explain it at length at your earliest convenience, so that we may take up the idea and emphasise it from press and platform. At present, it is not fully clear to me.

* * * * *

Our Executive Committee persists in having you as our President for our Annual Conference. We can change our dates to accommodate your convenience. Independent Harijans of Punjab are very much desirous to meet you and discuss with you their plans. So if you kindly accept our request and come to Lahore to preside over the Conference it will serve double purpose. We will invite Harijan leaders of all shades of opinion and you will get an opportunity of giving your ideas to them.

The Mandal has deputed our Assistant Secretary, Mr. Indra Singh, to meet you at Bombay in Xmas and discuss with you the whole situation with a view to persuade you to please accept our request.

* * * * *

The Jat-Pat-Todak Mandal, I was given to understand, to be an organization of Caste Hindu Social Reformers, with the one and only aim, namely to eradicate the Caste System from amongst the Hindus. As a rule, I do not like to take any part in a movement which is carried on by the Caste Hindus. Their attitude towards social reform is so different from mine that I have found it difficult to pull on with them. Indeed, I find their company quite

uncongenial to me on account of our differences of opinion. Therefore when the Mandal first approached me I declined their invitation to preside. The Mandal, however, would not take a refusal from me and sent down one of its members to Bombay to press me to accept the invitation. In the end I agreed to preside. The Annual Conference was to be held at Lahore, the headquarters of the Mandal. The Conference was to meet in Easter but was subsequently postponed to the middle of May 1936. The Reception Committee of the Mandal has now cancelled the Conference. The notice of cancellation came long after my Presidential address had been printed. The copies of this address are now lying with me. As I did not get an opportunity to deliver the address from the presidential chair the public has not had an opportunity to know my views on the problems created by the Caste System. To let the public know them and also to dispose of the printed copies which are lying on my hand, I have decided to put the printed copies of the address in the market. The accompanying pages contain the text of that address.

The public will be curious to know what led to the cancellation of my appointment as the President of the Conference. At the start, a dispute arose over the printing of the address. I desired that the address should be printed in Bombay. The Mandal wished that it should be printed in Lahore on the ground of economy. I did not agree and insisted upon having it printed in Bombay. Instead of agreeing to my proposition I received a letter signed by several members of the Mandal from which I give the following extract :

27-3-36

Revered Dr. Ji,

Your letter of the 24th instant addressed to Sjt. Sant Ram has been shown to us. We were a little disappointed to read it. Perhaps you are not fully aware of the situation that has arisen here. Almost all the Hindus in the Punjab are against your being invited to this province. The Jat-Pat-Todak Mandal has been subjected to the bitterest criticism and has received censorious rebuke from all quarters. All the Hindu leaders among whom being Bhai Parmanand, ML.A. (Ex-President, Hindu Maha Sabha), Mahatma Hans Raj, Dr. Gokal Chand Narang, Minister for Local Self-Government, Raja Narendra Nath, M.L.C. etc., have dissociated themselves from this step of the Mandal.

Despite all this the runners of the Jat-Pat-Todak Mandal (the leading figure being Sjt. Sant Ram) are determined to wade through thick and thin but

would not give up the idea of your presidentship. The Mandal has earned a bad name.

* * * * *

Under the circumstances it becomes your duty to co-operate with the Mandal. On the one hand, they are being put to so much trouble and hardship by the Hindus and if on the other hand you too augment their difficulties it will be a most sad coincidence of bad luck for them.

We hope you will think over the matter and do what is good for us all.

* * * * *

This letter puzzled me greatly. I could not understand why the Mandal should displease me for the sake of a few rupees in the matter of printing the address. Secondly, I could not believe that men like Sir Gokal Chand Narang had really resigned as a protest against my selection as President because I had received the following letter from Sir Gokal Chand himself :

5 Montgomery Road
Lahore, 7-2-36

Dear Doctor Ambedkar,

I am glad to learn from the workers of the Jat-Pat-Todak Mandal that you have agreed to preside at their next anniversary to be held at Lahore during the Easter holidays. It will give me much pleasure if you stay with me while you are at Lahore. More when we meet.

Yours sincerely,
G. C. Narang

Whatever be the truth I did not yield to this pressure. But even when the Mandal found that I was insisting upon having my address printed in Bombay instead of agreeing to my proposal the Mandal sent me a wire that they were sending Mr. Har Bhagwan to Bombay to "talk over matters personally" Mr. Har Bhagwan came to Bombay on the 9th of April. When I met Mr. Har Bhagwan I found that he had nothing to say regarding the issue. Indeed, he was so unconcerned regarding the printing of the address, whether it should be printed in Bombay or in Lahore, that he did not even mention it in the course of our conversation. All that he was anxious for was to know the contents of the address. I was then convinced that in getting the address printed in Lahore the main object of the Mandal was not to save money but to get at the contents of the address. I gave him a copy. He did not feel very happy with some parts of it. He returned to Lahore. From Lahore, he wrote to me the following letter :

Lahore, dated April 14, 1936

My dear Doctor Sahib,

Since my arrival from Bombay, on the 12th, I have been indisposed owing to my having not slept continuously for 5 or 6 nights, which were spent in the

train. Reaching here I came to know that you had come to Amritsar. I would have seen you there if I were well enough to go about. I have made over your address to Mr. Sant Ram for translation and he has liked it very much, but he is not sure whether it could be translated by him for printing before the 25th. In any case, it woud have a wide publicity and we are sure it would wake the Hindus up from their slumber.

The passage I pointed out to you at Bombay has been read by some of our friends with a little misgiving, and those of us who would like to see the Conference terminate without any untoward incident would prefer that at least the word "Veda" be left out for the time being. I leave this to your good sense. I hope, however, in your concluding paragraphs you will make it clear that the views expressed in the address are your own and that the responsibility does not lie on the Mandal. I hope, you will not mind this statement of mine and would let us have 1,000 copies of the address, for which we shall, of course, pay. To this effect I have sent you a telegram today. A cheque of Rs. 100 is enclosed herewith which kindly acknowledge, and send us your bills in due time.

I have called a meeting of the Reception Committee and shall communicate their decision to you immediately. In the meantime kindly accept my heartfelt thanks for the kindness shown to me and the great pains taken by you in the preparation of your address. You have really put us under a heavy debt of gratitude.

Yours sincerely,
HAR BHAGWAN

P.S.—Kindly send the copies of the address by passenger train as soon as it is printed, so that copies may be sent to the Press for publication.

Accordingly I handed over my manuscript to the printer with an order to print 1,000 copies. Eight days later, I received another letter from Mr. Har Bhagwan which I reproduce below :

Lahore, 22-4-36

Dear Dr. Ambedkar,

We are in receipt of your telegram and letter, for which kindly accept our thanks. In accordance with your desire, we have again postponed our Conference, but feel that it would have been much better to have it on the 25th and 26th, as the weather is growing warmer and warmer every day in the Punjab. In the middle of May it would be fairly hot, and the sittings in the day time would not be very pleasant and comfortable. However, we shall try our best to do all we can to make things as comfortable as possible, if it is held in the middle of May.

There is, however, one thing that we have been compelled to bring to your kind attention. You will remember that when I pointed out to you the misgivings entertained by some of our people regarding your declaration on the subject of change of religion, you told me that it was undoubtedly outside the scope of the Mandal and that you had no intention to say anything from our platform in that connection. At the same time when the manuscript of your address was handed to me you assured me that that was the main portion of your address and that there were only two or three concluding paragraphs that you wanted to add. On receipt of the second instalment of your address we have been taken by surprise, as that would make it so lengthy, that we are afraid, very few people would read the whole of it. Besides that you have more than once stated in your address that you had decided to walk out of the fold of the Hindus and that that was your last address as a Hindu. You have also unnecessarily attacked the morality and reasonableness of the *Vedas* and other religious books of the Hindus, and have at length dwelt upon the technical side of Hindu religion, which has absolutely no connection with the problem at issue, so much so that some of the passages have become irrelevant and off the point. We would have been very pleased if you had confined your address to that portion given to me, or if an addition was necessary, it would have been limited to what you had written on Brahminism etc. The last portion which deals with the complete annihilation of Hindu religion and doubts the morality of the sacred books of the Hindus as well as a hint about your intention to leave the Hindu fold does not seem to me to be relevant.

I would therefore most humbly request you on behalf of the people responsible for the Conference to leave out the passages referred to above, and close the address with what was given to me or add a few paragraphs on Brahminism. We doubt the wisdom of making the address unnecessarily provocative and pinching. There are several of us who subscribe to your feelings and would very much want to be under your banner for remodelling of the Hindu religion. If you had decided to get together persons of your cult I can assure you a large number would have joined your army of reformers from the Punjab.

In fact, we thought you would give us a lead in the destruction of the evil of caste system, especially when you have studied the subject so thoroughly, and strengthen our hands by bringing about a revolution and making yourself as a nucleus in the gigantic effort, but declaration of the nature made by you when repeated loses its power, and becomes a hackneyed term. Under the circumstances, I would request you to consider the whole matter and make your address more effective by saying that you would be glad to take a leading part in the destruction of the caste system if the Hindus are willing to work in right earnest toward that end, even if they had to forsake their kith and kin and the religious notions. In case you do so, I am sanguine that you would find a ready response from the Punjab in such an endeavour.

I shall be grateful if you will help us at this juncture as we have already undergone much expenditure and have been put to suspence, and let us know by the return of post that you have condescended to limit your address as above. In case, you still insist upon the printing of the address *in toto,* we very much regret it would not be possible—rather advisable for us to hold the Conference, and would prefer to postpone it *sine die,* although by doing so we shall be losing the goodwill of the people because of the repeated postponements. We should, however, like to point out that you have carved a niche in our hearts by writing such a wonderful treatise on the caste system, which excels all other treatises so far written and will prove to be a valuable heritage, so to say. We shall be ever indebted to you for the pains taken by you in its preparation.

Thanking you very much for your kindness and with best wishes.

I am, yours sincerely,
HAR BHAGWAN

To this letter I sent the following reply :

27th April 1936

Dear Mr. Har Bhagwan,

I am in receipt of your letter of the 22nd April. I note with regret that the Reception Committee of the Jat-Pat-Todak Mandal "would prefer to postpone the Conference *sine die*" if I insisted upon printing the address *in toto*. In reply I have to inform you that I also would prefer to have the Conference cancelled—I do not like to use vague terms—if the Mandal insisted upon having my address pruned to suit its circumstances. You may not like my decision. But I cannot give up, for the sake of the honour of presiding over the Conference, the liberty which every President must have in the preparation of the address. I cannot give up for the sake of pleasing the Mandal the duty which every President owes to the Conference over which he presides to give it a lead which he thinks right and proper. The issue is one of principle and I feel I must do nothing to compromise it in any way.

I would not have entered into any controversy as regards the propriety of the decision taken by the Reception Committee. But as you have given certain reasons which appear to throw the blame on me. I am bound to answer them. In the first place, I must dispel the notion that the views contained in that part of the address to which objection has been taken by the Committee have come to the Mandal as a surprise. Mr. Sant Ram, I am sure, will bear me out when I say that in reply to one of his letters I had said that the real method of breaking up the Caste System was not to bring about inter-caste dinners and inter-caste marriages but to destroy the religious notions on which Caste was founded and that Mr. Sant Ram in return asked me to explain what he said was a novel point of view. It was in response to

this invitation from Mr. Sant Ram that I thought I ought to elaborate in my address what I had stated in a sentence in my letter to him. You cannot, therefore, say that the views expressed are new. At any rate, they are not new to Mr. Sant Ram who is the moving spirit and the leading light of your Mandal. But I go further and say that I wrote this part of my address not merely because I felt it desirable to do so. I wrote it because I thought that it was absolutely necessary to complete the argument. I am amazed to read that you characterize the portion of the speech to which your Committee objects as "irrelevant and off the point". You will allow me to say that I am a lawyer and I know the rules of relevancy as well as any member of your Committee. I most emphatically maintain that the portion objected to is not only most relevant but is also important. It is in that part of the address that I have discussed the ways and means of breaking up the Caste System. It may be that the conclusion I have arrived at as to the best method of destroying Caste is startling and painful. You are entitled to say that my analysis is wrong. But you cannot say that in an address which deals with the problem of Caste it is not open to me to discuss how Caste can be destroyed.

Your other complaint relates to the length of the address. I have pleaded guilty to the charge in the address itself. But, who is really responsible for this ? I fear you have come rather late on the scene. Otherwise you would have known that originally I had planned to write a short address for my own convenience as I had neither the time nor the energy to engage myself in the preparation of an elaborate thesis. It was the Mandal who asked me to deal with the subject exhaustively and it was the Mandal which sent down to me a list of questions relating to the Caste System and asked me to answer them in the body of my address as they were questions which were often raised in the controversy between the Mandal and its opponents and which the Mandal found difficult to answer satisfactorily. It was in trying to meet the wishes of the Mandal in this respect that the address has grown to the length to which it has. In view of what I have said I am sure you will agree that the fault respecting length of the address is not mine.

I did not expect that your Mandal would be so upset because I have spoken of the destruction of Hindu Religion. I thought it was only fools who were afraid of words. But lest there should be any misapprehension in the minds of the people I have taken great pains to explain what I mean by religion and destruction of religion. I am sure that nobody on reading my address could possibly misunderstand me. That your Mandal should have taken a fright at mere words as "destruction of religion etc." notwithstanding the explanation that accompanies, them does not raise the Mandal in my estimation. One cannot have any respect or regard for men who take the position of the Reformer and then refuse even to see the logical consequences of that position, let alone following them out in action.

You will agree that I have never accepted to be limited in any way in the preparation of my address and the question as to what the address should or

should not contain was never even discussed between myself and the Mandal. I had always taken for granted that I was free to express in the address such views as I held on the subject. Indeed until, you came to Bombay on the 9th April the Mandal did not know what sort of an address I was preparing. It was when you came to Bombay that I voluntarily told you that I had no desire to use your platform from which to advocate my views regarding change of religion by the Depressed Classes. I think I have scrupulously kept that promise in the preparation of the address. Beyond a passing reference of an indirect character where I say that "I am sorry I will not be here. . . etc." I have said nothing about the subject in my address. When I see you object even to such a passing and so indirect a reference, I feel bound to ask ; did you think that in agreeing to preside over your Conference I would be agreeing to suspend or to give up my views regarding change of faith by the Depressed Classes ? If you did think so I must tell you that I am in no way responsible for such a mistake on your part. If any of you had even hinted to me that in exchange for the honour you were doing me by electing as President, I was to abjure my faith in my programme of conversion, I would have told you in quite plain terms that I cared more for my faith than for any honour from you.

After your letter of the 14th, this letter of yours comes as a surprize to me. I am sure that any one who reads them will feel the same. I cannot account for this sudden *volte face* on the part of the Reception Committee. There is no difference in substance between the rough draft which was before the Committee when you wrote your letter of the 14th and the final draft on which the decision of the Committee communicated to me in your letter under reply was taken. You cannot point out a single new idea in the final draft which is not contained in the earlier draft. The ideas are the same. The only difference is that they have been worked out in greater detail in the final draft. If there was anything to object to in the address you could have said so on the 14th. But you did not. On the contrary you asked me to print off 1,000 copies leaving me the liberty to accept or not the verbal changes which you suggested. Accordingly I got 1,000 copies printed which are now lying with me. Eight days later you write to say that you object to the address and that if it is not amended the Conference will be cancelled. You ought to have known that there was no hope of any alteration being made in the address. I told you when you were in Bombay that I would not alter a comma, that I would not allow any censorship over my address and that you would have to accept the address as it came from me. I also told you that the responsibility for the views expressed in the address was entirely mine and if they were not liked by the Conference I would not mind at all if the Conference passed a resolution condemning them. So anxious was I to relieve your Mandal from having to assume responsibility for my views and also with the object of not getting myself entangled by too intimate

an association with your Conference, I suggested to you that I desired to have my address treated as a sort of an inaugural address and not as a Presidential address and that the Mandal should find some one else to preside over the Conference, and deal with the resolutions. Nobody could have been better placed to take a decision on the 14th than your Committee. The Committee failed to do that and in the meantime cost of printing has been incurred which, I am sure, with a little more firmness on the part of your Committee could have been saved.

I feel sure that the views expressed in my address have little to do with the decision of your Committee. I have reasons to believe that my presence at the Sikh Prachar Conference held at Amritsar has had a good deal to do with the decision of the Committee. Nothing else can satisfactorily explain the sudden *volte face* shown by the Committee between the 14th and the 22nd April. I must not however prolong this controversy and must request you to announce immediately that the Session of the Conference which was to meet under my Presidentship is cancelled. All the grace has by now run out and I shall not consent to preside even if your Committee agreed to accept my address as it is *in toto*. I thank you for your appreciation of the pains I have taken in the preparation of the address. I certainly have profited by the labour if no one else does. My only regret is that I was put to such hard labour at a time when my health was not equal to the strain it has caused.

Yours sincerely,
B. R. AMBEDKAR

This correspondence will disclose the reasons which have led to the cancellation by the Mandal of my appointment as President and the reader will be in a position to lay the blame where it ought properly to belong. This is I believe the first time when the appointment of a President is cancelled by the Reception Committee because it does not approve of the views of the President. But whether that is so or not, this is certainly the first time in my life to have been invited to preside over a Conference of Caste Hindus. I am sorry that it has ended in a tragedy. But what can any one expect from a relationship so tragic as the relationship between the reforming sect of Caste Hindus and the self-respecting sect of Untouchables where the former have no desire to alienate their orthodox fellows and the latter have no alternative but to insist upon reform being carried out ?

Rajgriha, Dadar, Bombay 14
15th May 1936 **B. R. AMBEDKAR**

SPEECH PREPARED

BY

Dr. B.R. AMBEDKAR

FOR

The 1936 Annual Conference of the Jat-Pat-Todak Mandal of Lahore

BUT

NOT DELIVERED

Owing to the cancellation of the Conference by the Reception Committee on the ground that the views expressed in the Speech would be unbearable to the Conference

Friends,

I am really sorry for the members of the Jat-Pat-Todak Mandal who have so very kindly invited me to preside over this Conference. I am sure they will be asked many questions for having selected me as the President. The Mandal will be asked to explain as to why it has imported a man from Bombay to preside over a function which is held in Lahore. I believe the Mandal could easily have found some one better qualified than myself to preside on the occasion. I have criticised the Hindus. I have questioned the authority of the Mahatma whom they revere. They hate me. To them I am a snake in their garden. The Mandal will no doubt be asked by the politically-minded Hindus to explain why it has called me to fill this place of honour. It is an act of great daring. I shall not be surprised if some political Hindus regard it as an insult. This selection of mine cannot certainly please the ordinary religiously-minded Hindus. The Mandal may be asked to explain why it has disobeyed the *Shastric* injunction in selecting the President. Accoding to the *Shastras* the Brahmin is appointed to be the Guru for the three *Varnas,* वर्णानाम ब्राह्मणो गुरु, is a direction of the *Shastras*. The Mandal therefore knows from whom a Hindu should take his lessons and from whom he should not. The *Shastras* do not permit a Hindu to accept any one as his Guru merely because he is well-versed. This is made very clear by Ramdas, a Brahmin saint from Maharashtra, who is alleged to have inspired Shivaji to establish a Hindu Raj. In his *Dasbodh,* a socio-politico-religious treatise in Marathi verse *Ramdas* asks, addressing the Hindus, can we accept an Antyaja to be our Guru because he is a Pandit (i.e. *learned)* and gives an answer in the negative. What replies to give to these questions is a matter which I must leave to the Mandal. The Mandal knows best the reasons which led it to travel to Bombay to select a president, to fix upon a man so repugnant to the Hindus and to descend so low in the scale as to select an Antyaja— an untouchable—to address an audience of the *Savarnas*. As for myself you will allow me to say that I have accepted the invitation much against my will and also against the will of many of my fellow untouchables. I know that the Hindus are sick of me. I know that I am not a *persona grata* with them. Knowing all this I have deliberately kept myself away from them. I have no desire to inflict myself upon them. I have been giving expression to my views from my own platform. This has already caused a great deal of heartburning and irritation. I have no desire to ascend the platform of the Hindus to do within their sight what I have been doing within their hearing. If I am here it is because of your choice and not because of my wish. Yours is a cause of social reform. That cause has always made an appeal to me and it is because of this that I felt I ought not to refuse an opportunity of helping the cause especially when you think that I can help it. Whether what I am

going to say today will help you in any way to solve the problem you are grappling with is for you to judge. All I hope to do is to place before you my views on the problem.

II

The path of social reform like the path to heaven at any rate in India, is strewn with many difficulties. Social reform in India has few friends and many critics. The critics fall into two distinct classes. One class consists of political reformers and the other of the socialists.

It was at one time recognized that without social efficiency no permanent progress in the other fields of activity was possible, that owing to mischief wrought by the evil customs, Hindu Society was not in a state of efficiency and that ceaseless efforts must be made to eradicate these evils. It was due to the recognition of this fact that the birth of the National Congress was accompanied by the foundation of the Social Conference. While the Congress was concerned with defining the weak points in the political organisation of the country, the Social Conference was engaged in removing the weak points in the social organisation of the Hindu Society. For some time the Congress and the Conference worked as two wings of one common activity and they held their annual sessions in the same pandal. But soon the two wings developed into two parties, a Political Reform Party and a Social Reform Party, between whom there raged a fierce controversy. The Political Reform Party supported the National Congress and Social Reform Party supported the Social Conference. The two bodies thus became two hostile camps. The point at issue was whether social reform should precede political reform. For a decade the forces were evenly balanced and the battle was fought without victory to either side. It was however evident that the fortunes of the Social Conference were ebbing fast. The gentlemen who presided over the sessions of the Social Conference lamented that the majority of the educated Hindus were for political advancement and indifferent to social reform and that while the number of those who attended the Congress was very large and the number who did not attend but who sympathized with it even larger, the number of those who attended the Social Conference was very much smaller. This indifference, this thinning of its ranks was soon followed by active hostility from the politicians. Under the leadership of the late Mr. Tilak, the courtesy with which the Congress allowed the Social Conference the use of its pandal was withdrawn and the spirit of enmity went to such a pitch that when the Social Conference desired to erect its own pandal a threat to burn the pandal was held out by its opponents. Thus in course of time the party in favour of political reform won and the Social Conference vanished and was forgotten. The speech, delivered by Mr. W.C. Bonnerji in 1892 at Allahabad as President of the eighth session of the Congress, sounds like a funeral oration at the death of the Social Conference

and is so typical of the Congress attitude that I venture to quote from it the following extract. Mr. Bonnerji said :

> "I for one have no patience with those who say we shall not be fit for political reform until we reform our social system. I fail to see any connection between the two. . .Are we not fit (for political reform) because our widows remain unmarried and our girls are given in marriage earlier than in other countries ? because our wives and daughters do not drive about with us visiting our friends ? because we do not send our daughters to Oxford and Cambridge ?" (Cheers)

I have stated the case for political reform as put by Mr. Bonnerji. There were many who are happy that the victory went to the Congress. But those who believe in the importance of social reform may ask, is the argument such as that of Mr. Bonnerji final ? Does it prove that the victory went to those who were in the right ? Does it prove conclusively that social reform has no bearing on political reform ? It will help us to understand the matter if I state the other side of the case. I will draw upon the treatment of the untouchables for my facts.

Under the rule of the Peshwas in the Maratha country the untouchable was not allowed to use the public streets if a Hindu was coming along lest he should pollute the Hindu by his shadow. The untouchable was required to have a black thread either on his wrist or in his neck as a sign or a mark to prevent the Hindus from getting themselves polluted by his touch through mistake. In Poona, the capital of the Peshwa, the untouchable was required to carry, strung from his waist, a broom to sweep away from behind the dust he treaded on lest a Hindu walking on the same should be polluted. In Poona, the untouchable was required to carry an earthen pot, hung in his neck wherever he went, for holding his spit lest his spit falling on earth should pollute a Hindu who might unknowingly happen to tread on it. Let me take more recent facts. The tyranny practised by the Hindus upon the Balais, an untouchable community in Central India, will serve my purpose. You will find a report of this in the *Times of India* of 4th January 1928. The correspondent of the *Times of India* reported that high caste Hindus, viz. Kalotas, Rajputs and Brahmins including the Patels and Patwaris of villages of Kanaria, Bicholi-Hafsi, Bicholi-Mardana and of about 15 other villages in the Indore district (of the Indore State) informed the Balais of their respective villages that if they wished to live among them they must conform to the following rules :

(1) Balais must not wear gold-lace-bordered pugrees.

(2) They must not wear dhotis with coloured or fancy borders.

(3) They must convey intimation of the death of any Hindu to relatives of the deceased—no matter how far away these relatives may be living.

(4) In all Hindu marriages, Balais must play music before the processions and during the marriage.

(5) Balai women must not wear gold or silver ornaments; they must not wear fancy gowns or jackets.

(6) Balai women must attend all cases of confinement of Hindu women.

(7) Balais must render services without demanding remuneration and must accept whatever a Hindu is pleased to give.

(8) If the Balais do not agree to abide by these terms they must clear out of the villages. The Balais refused to comply ; and the Hindu element proceeded against them. Balais were not allowed to get water from the village wells; they were not allowed to let go their cattle to graze. Balais were prohibited from passing through land owned by a Hindu, so that if the field of a Balai was surrounded by fields owned by Hindus, the Balai could have no access to his own field. The Hindus also let their cattle graze down the fields of Balais. The Balais submitted petitions to the Darbar against these persecutions ; but as they could get no timely relief, and the oppression continued, hundreds of Balais with their wives and children were obliged to abandon their homes in which their ancestors lived for generations and to migrate to adjoining States, viz. to villages in Dhar, Dewas, Bagli, Bhopal, Gwalior and other States. What happened to them in their new homes may for the present be left out of our consideration. The incident at Kavitha in Gujarat happened only last year. The Hindus of Kavitha ordered the untouchables not to insist upon sending their children to the common village school maintained by Government. What sufferings the untouchables of Kavitha had to undergo for daring to exercise a civic right against the wishes of the Hindus is too well known to need detailed description. Another instance occurred in the village of Zanu in the Ahmedabad district of Gujarat. In November 1935 some untouchable women of well-to-do families started fetching water in metal pots. The Hindus looked upon the use of metal pots by untouchables as an affront to their dignity and assaulted the untouchable women for their impudence. A most recent event is reported from the village Chakwara in Jaipur State. It seems from the reports that have appeared in the newspapers that an untouchable of Chakwara who had returned from a pilgrimage had arranged to give a dinner to his fellow untouchables of the village as an act of religious piety. The host desired to treat the guests to a sumptuous meal and the items served included *ghee* (butter) also. But while the assembly of untouchables was engaged in partaking of the food, the Hindus in their hundreds, armed with lathis, rushed to the scene, despoiled the food and belaboured the untouchables who

> left the food they were served with and ran away for their lives. And why was this murderous assault committed on defenceless untouchables ? The reason given is that the untouchable host was impudent enough to serve ghee and his untouchable guests were foolish enough to taste it. Ghee is undoubtedly a luxury for the rich. But no one would think that consumption of ghee was a mark of high social status. The Hindus of Chakwara thought otherwise and in righteous indignation avenged themselves for the wrong done to them by the untouchables, who insulted them by treating ghee as an item of their food which they ought to have known could not be theirs, consistently with the dignity of the Hindus. This means that an untouchable must not use ghee even if he can afford to buy it, since it is an act of arrogance towards the Hindus. This happened on or about the 1st of April 1936 !

Having stated the facts, let me now state the case for social reform. In doing this, I will follow Mr. Bonnerji, as nearly as I can and ask the political-minded Hindus "Are you fit for political power even though you do not allow a large class of your own countrymen like the untouchables to use public school ? Are you fit for political power even though you do not allow them the use of public wells ? Are you fit for political power even though you do not allow them the use of public streets ? Are you fit for political power even though you do not allow them to wear what apparel or ornaments they like ? Are you fit for political power even though you do not allow them to eat any food they like ?" I can ask a string of such questions. But these will suffice. I wonder what would have been the reply of Mr. Bonnerji. I am sure no sensible man will have the courage to give an affirmative answer. Every Congressman who repeats the dogma of Mill that one country is not fit to rule another country must admit that one class is not fit to rule another class.

How is it then that the Social Reform Party lost the battle ? To understand this correctly it is necessary, to take note of the kind of social reform which the reformers were agitating for. In this connection it is necessary to make a distinction between social reform in the sense of the reform of the Hindu Family and social reform in the sense of the reorganization and reconstruction of the Hindu Society. The former has relation to widow remarriage, child marriage etc., while the latter relates to the abolition of the Caste System. The Social Conference was a body which mainly concerned itself with the reform of the high caste Hindu Family. It consisted mostly of enlightened high caste Hindus who did not feel the necessity for agitating for the abolition of caste or had not the courage to agitate for it. They felt quite naturally a greater urge to remove such evils as enforced widowhood, child marriages etc., evils which prevailed among them and which were

personally felt by them. They did not stand up for the reform of the *Hindu* society. The battle that was fought centered round the question of the reform of the family. It did not relate to the social reform in the sense of the break-up of the caste system. It was never put in issue by the reformers. That is the reason why the Social Reform Party lost.

I am aware that this argument cannot alter the fact that political reform did in fact gain precedence over social reform. But the argument has this much value if not more. It explains why social reformers lost the battle. It also helps us to understand how limited was the victory which the Political Reform Party obtained over the Social Reform Party and that the view that social reform need not precede political reform is a view which may stand only when by social reform is meant the reform of the family. That political reform cannot with impunity take precedence over social reform in the sense of reconstruction of society is a thesis which, I am sure, cannot be controverted. That the makers of political constitutions must take account of social forces is a fact which is recognized by no less a person than Ferdinand Lassalle, the friend and co-worker of Karl Marx. In addressing a Prussian audience in 1862 Lassalle said :

> *"The constitutional questions are in the first instance not questions of right but questions of might. The actual constitution of a country has its existence only in the actual condition of force which exists in the country : hence political constitutions have value and permanence only when they accurately express those conditions of forces which exist in practice within a society."*

But it is not necessary to go to Prussia. There is evidence at home. What is the significance of the Communal Award with its allocation of political power in defined proportions to diverse classes and communities ? In my view, its significance lies in this that political constitution must take note of social organisation. It shows that the politicians who denied that the social problem in India had any bearing on the political problem were forced to reckon with the social problem in devising the constitution. The Communal Award is so to say the nemesis following upon the indifference and neglect of social reform. It is a victory for the Social Reform Party which shows that though defeated they were in the right in insisting upon the importance of social reform. Many, I know, will not accept this finding. The view is current, and it is pleasant to believe in it, that the Communal Award is unnatural and that it is the result of an unholy alliance between the minorities and the bureaucracy. I do not wish to rely on the Communal Award as a piece of evidence to support my contention if it is said that it is not good evidence. Let us turn to Ireland. What does the history of Irish Home Rule show ? It is well-known that in the course of the negotiations between the representatives of Ulster and Southern Ireland, Mr. Redmond, the representative Ireland, in order to bring Ulster in a Home Rule Constitution

common to the whole of Ireland said to the representatives of Ulster : "Ask any political safeguards you like and you shall have them" What was the reply that Ulstermen gave ? Their reply was "Damn your safeguards, we don't want to be ruled by you on any terms." People who blame the minorities in India ought to consider what would have happened to the political aspirations of the majority if the minorities had taken the attitude which. Ulster took. Judged by the attitude of Ulster to Irish Home Rule, is it nothing that the minorities agreed to be ruled by the majority which has not shown much sense of statesmanship, provided some safeguards were devised for them ? But this is only incidental. The main question is why did Ulster take this attitude? The only answer I can give is that there was a social problem between Ulster and Southern Ireland the problem between Catholics and Protestants, essentially a problem of Caste. That Home Rule in Ireland would be Rome Rule was the way in which the Ulstermen had framed their answer. But that is only another way of stating that it was the social problem of Caste between the Catholics and Protestants, which prevented the solution of the political problem. This evidence again is sure to be challenged. It will be urged that here too the hand of the Imperialist was at work. But my resources are not exhausted. I will give evidence from the History of Rome. Here no one can say that any evil genius was at work. Any one who has studied the History of Rome will know that the Republican Constitution of Rome bore marks having strong resemblance to the Communal Award. When the kingship in Rome was abolished, the Kingly power or the *Imperium* was divided between the Consuls and the Pontifex Maximus. In the Consuls was vested the secular authority of the King, while the latter took over the religious authority of King. This Republican Constitution had provided that, of the two Consuls one was to be Patrician and the other Plebian. The same constitution had also provided that, of the Priests under the Pontifex Maximus, half were to be Plebians and the other half Patricians. Why is it that the Republican Constitution of Rome had these provisions which, as I said, resemble so strongly the provisions of the Communal Award ? The only answer one can get is that the Constitution of Republican Rome had to take account of the social division between the Patricians and the Plebians, who formed two distinct castes. To sum up, let political reformers turn to any direction they like, they will find that in the making of a constitution, they cannot ignore the problem arising out of the prevailing social order.

The illustrations which I have taken in support of the proposition that social and religious problems have a bearing on political constitutions seem to be too particular. Perhaps they are. But it should not be supposed that the bearing of the one on the other is limited. On the other hand one can say that generally speaking History bears out the proposition that political revolutions have always been preceded by social and religious revolutions.

The religious Reformation started by Luther was the precursor of the political emancipation of the European people. In England Puritanism led to the establishment of political liberty. Puritanism founded the new world. It was Puritanism which won the war of American Independence and Puritanism was a religious movement. The same is true of the Muslim Empire. Before the Arabs became a political power they had undergone a thorough religious revolution started by the Prophet Mohammad. Even Indian History supports the same conclusion. The political revolution led by Chandragupta was preceded by the religious and social revolution of Buddha. The political revolution led by Shivaji was preceded by the religious and social reform brought about by the saints of Maharashtra. The political revolution of the Sikhs was preceded by the religious and social revolution led by Guru Nanak. It is unnecessary to add more illustrations. These will suffice to show that the emancipation of the mind and the soul is a necessary preliminary for the political expansion of the people.

III

Let me now turn to the Socialists. Can the Socialists ignore the problem arising out of the social order ? The Socialists of India following their fellows in Europe are seeking to apply the economic interpretation of history to the facts of India. They propound that man is an economic creature, that his activities and aspirations are bound by economic facts, that property is the only source of power. They, therefore, preach that political and social reforms are but gigantic illusions and that economic reform by equalization of property must have precedence over every other kind of reform. One may join issue on every one of these premises on which rests the Socialists' case for economic reform having priority over every other kind of reform. One may contend that economic motive is not the only motive by which man is actuated. That economic power is the only kind of power no student of human society can accept. That the social status of an individual by itself often becomes a source of power and authority is made clear by the sway which the Mahatmas have held over the common man. Why do millionaires in India obey penniless Sadhus and Fakirs ? Why do millions of paupers in India sell their trifling trinckets which constitute their only wealth and go to Benares and Mecca ? That, religion is the source of power is illustrated by the history of India where the priest holds a sway over the common man often greater than the magistrate and where everything, even such things as strikes and elections, so easily take a religious turn and can so easily be given a religious twist. Take the case of the Plebians of Rome as a further illustration of the power of religion over man. It throws great light on this point. The Plebs had fought for a share in the supreme executive under the Roman Republic and had secured the appointment of a Plebian Consul elected by a separate electorate constituted by the *Commitia Centuriata,* which was an assembly of Plebians. They wanted a Consul of their own

because they felt that the Patrician Consuls used to discriminate against the Plebians in carrying on the administration. They had apparently obtained a great gain because under the Republican Constitution of Rome one Consul had the power of vetoing an act of the other Consul. But did they in fact gain anything ? The answer to this question must be in the negative. The Plebians never could get a Plebian Consul who could be said to be a strong man and who could act independently of the Patrician Consul. In the ordinary course of things the Plebians should have got a strong Plebian Consul in view of the fact that his election was to be by a separate electorate of Plebians. The question is why did they fail in getting a strong Plebian to officiate as their Consul ? The answer to this question reveals the dominion which religion exercises over the minds of men. It was an accepted creed of the whole Roman *populus* that no official could enter upon the duties of his office unless the Oracle of Delphi declared that he was acceptable to the Goddess. The priests who were in charge of the temple of the Goddess of Delphi were all Patricians. Whenever therefore the Plebians elected a Consul who was known to be a strong party man opposed to the Patricians or "communal" to use the term that is current in India, the Oracle invariably declared that he was not acceptable to the Goddess. This is how the Plebians were cheated out of their rights. But what is worthy of note is that the Plebians permitted themselves to be thus cheated because they too like the Patricians, held firmly the belief that the approval of the Goddess was a condition precedent to the taking charge by an official of his duties and that election by the people was not enough. If the Plebians had contended that election was enough and that the approval by the Goddess was not necessary they would have derived the fullest benefit from the political right which they had obtained. But they did not. They agreed to elect another, less suitable to themselves but more suitable to the Goddess which in fact meant more amenable to the Patricians. Rather than give up religion, the Plebians give up material gain for which they had fought so hard. Does this not show that religion can be a source of power as great as money if not greater ? The fallacy of the Socialists lies in supposing that because in the present stage of European Society property as a source of power is predominant, that the same is true of India or that the same was true of Europe in the past. Religion, social status and property are all sources of power and authority, which one man has, to control the liberty of another. One is predominant at one stage, the other is predominant at another stage. That is the only difference. If liberty is the ideal, if liberty means the destruction of the dominion which one man holds over another then obviously it cannot be insisted upon that economic reform must be the one kind of reform worthy of pursuit. If the source of power and dominion is at any given time or in any given society social and religious then social reform and religious reform must be accepted as the necessary sort of reform.

One can thus attack the doctrine of Economic Interpretation of History adopted by the Socialists of India. But I recognize that economic interpretation of history is not necessary for the validity of the Socialist contention that equalization of property is the only real reform and that it must precede everything else. However, what I like to ask the Socialists is this : Can you have economic reform without first bringing about a reform of the social order ? The Socialists of India do not seem to have considered this question. I do not wish to do them an injustice. I give below a quotation from a letter which a prominent Socialist wrote a few days ago to a friend of mine in which he said, "I do not believe that we can build up a free society in India so long as there is a trace of this ill-treatment and suppression of one class by another. Believing as I do in a socialist ideal, inevitably I believe in perfect equality in the treatment of various classes and groups. I think that Socialism offers the only true remedy for this as well as other problems." Now the question that I like to ask is : Is it enough for a Socialist to say, "I believe in perfect equality in the treatment of the various classes ?" To say that such a belief is enough is to disclose a complete lack of understanding of what is involved in Socialism. If Socialism is a practical programme and is not merely an ideal, distant and far off, the question for a Socialist is not whether he believes in equality. The question for him is whether he *minds* one class ill-treating and suppressing another class as a matter of system, as a matter of principle and thus allow tyranny and oppression to continue to divide one class from another. Let me analyse the factors that are involved in the realization of Socialism in order to explain fully my point. Now it is obvious that the economic reform contemplated by the Socialists cannot come about unless there is a revolution resulting in the seizure of power. That seizure of power must be by a proletariat. The first question I ask is : Will the proletariat of India combine to bring about this revolution ? What will move men to such an action ? It seems to me that other things being equal the only thing that will move one man to take such an action is the feeling that other man with whom he is acting are actuated by feeling of equality and fraternity and above all of justice. Men will not join in a revolution for the equalization of property unless they know that after the revolution is achieved they will be treated equally and that there will be no discrimination of caste and creed. The assurance of a socialist leading the revolution that he does not believe in caste, I am sure, will not suffice. The assurance must be the assurance proceeding from much deeper foundation, namely, the mental attitude of the compatriots towards one another in their spirit of personal equality and fraternity. Can it be said that the proletariat of India, poor as it is, recognise no distinctions except that of the rich and the poor ? Can it be said that the poor in India recognize no such distinctions of caste or creed, high or low ? If the fact is that they do, what unity of front can be expected from such a proletariat in its action against the rich ? How

can there be a revolution if the proletariat cannot present a united front? Suppose for the sake of argument that by some freak of fortune a revolution does take place and the Socialists come in power, will they not have to deal with the problems created by the particular social order prevalent in India ? I can't see how a Socialist State in India can function for a second without having to grapple with the problems created by the prejudices which make Indian people observe the distinctions of high and low, clean and unclean. If Socialists are not to be content with the mouthing of fine phrases, if the Socialists wish to make Socialism a definite reality then they must recognize that the problem of social reform is fundamental and that for them there is no escape from it. That, the social order prevalent in India is a matter which a Socialist must deal with, that unless he does so he cannot achieve his revolution and that if he does achieve it as a result of good fortune he will have to grapple with it if he wishes to realize his ideal, is a proposition which in my opinion is incontrovertible. He will be compelled to take account of caste after revolution if he does not take account of it before revolution. This is only another way of saying that, turn in any direction you like, caste is the monster that crosses your path. You cannot have political reform, you cannot have economic reform, unless you kill this monster.

IV

It is a pity that Caste even today has its defenders. The defences are many. It is defended on the ground that the Caste System is but another name for division of labour and if division of labour is a necessary feature of every civilized society then it is argued that there is nothing wrong in the Caste System. Now the first thing is to be urged against this view is that Caste System is not merely division of labour. *It is also a division of labourers*. Civilized society undoubtedly needs division of labour. But in no civilized society is division of labour accompanied by this unnatural division of labourers into water-tight compartments. Caste System is not merely a division of labourers which is quite different from division of labour—it is an heirarchy in which the divisions of labourers are graded one above the other. In no other country is the division of labour accompanied by this gradation of labourers. There is also a third point of criticism against this view of the Caste System. This division of labour is not spontaneous, it is not based on natural aptitudes. Social and individual efficiency requires us to develop the capacity of an individual to the point of competency to choose and to make his own career. This principle is violated in the Caste System in so far as it involves an attempt to appoint tasks to individuals in advance, selected not on the basis of trained original capacities, but on that of the social status of the parents. Looked at from another point of view this stratification of occupations which is the result of the Caste System is positively pernicious. Industry is never static. It undergoes rapid and abrupt changes. With such changes an individual must

be free to change his occupation. Without such freedom to adjust himself to changing circumstances it would be impossible for him to gain his livelihood. Now the Caste System will not allow Hindus to take to occupations where they are wanted if they do not belong to them by heredity. If a Hindu is seen to starve rather than take to new occupations not assigned to his Caste, the reason is to be found in the Caste System. By not permitting readjustment of occupations, caste becomes a direct cause of much of the unemployment we see in the country. As a form of division of labour the Caste system suffers from another serious defect. The division of labour brought about by the Caste System is not a division based on choice. Individual sentiment, individual preference has no place in it. It is based on the dogma of predestination. Considerations of social efficiency would compel us to recognize that the greatest evil in the industrial system is not so much poverty and the suffering that it involves as the fact that so many persons have callings which make no appeal to those who are engaged in them. Such callings constantly provoke one to aversion, ill-will and the desire to evade. There are many occupations in India which on account of the fact that they are regarded as degraded by the Hindus provoke those who are engaged in them to aversion. There is a constant desire to evade and escape from such occupations which arises solely because of the blighting effect which they produce upon those who follow them owing to the slight and stigma cast upon them by the Hindu religion. What efficiency can there be in a system under which neither men's hearts nor their minds are in their work ? As an economic organization Caste is therefore a harmful institution, inasmuch as, it involves the subordination of man's natural powers and inclinations to the exigencies of social rules

V

Some have dug a biological trench in defence of the Caste System. It is said that the object of Caste was to preserve purity of race and purity of blood. Now ethnologists are of opinion that men of pure race exist nowhere and that there has been a mixture of all races in all parts of the world. Especially is this the case with the people of India. Mr. D. R. Bhandarkar in his paper on *Foreign Elements in the Hindu Population* has stated that "There is hardly a class, or Caste in India which has not a foreign strain in it. There is an admixture of alien blood not only among the warrior classes—the Rajputs and the Marathas—but also among the Brahmins who are under the happy delusion that they are free from all foreign elements." The Caste system cannot be said to have grown as a means of preventing the admixture of races or as a means of maintaining purity of blood. As a matter of fact Caste system came into being long after the different races of India had commingled in blood and culture. To hold that distinctions of Castes or really distinctions of race and to treat different Castes as though they were so many different races is a gross perversion of facts. What racial affinity

is there between the Brahmin of the Punjab and the Brahmin of Madras ? What racial affinity is there between the untouchable of Bengal and the untouchable of Madras? What racial difference is there between the Brahmin of the Punjab and the Chamar of the Punjab ? What racial difference is there between the Brahmin of Madras and the Pariah of Madras ? The Brahmin of the Punjab is racially of the same stock as the Chamar of the Punjab and the Brahmin of Madras is of the same race as the Pariah of Madras. Caste system does not demarcate racial division. Caste system is a social division of people of the same race. Assuming it, however, to be a case of racial divisions one may ask : What harm could there be if a mixture of races and of blood was permitted to take place in India by intermarriages between different Castes ? Men are no doubt divided from animals by so deep a distinction that science recognizes men and animals as two distinct species. But even scientists who believe in purity of races do not assert that the different races constitute different species of men. They are only varieties of one and the same species. As such they can interbreed and produce an offspring which is capable of breeding and which is not sterile. An immense lot of nonsense is talked about heredity and eugenics in defence of the Caste System. Few would object to the Caste System if it was in accord with the basic principle of eugenics because few can object to the improvement of the race by judicious mating. But one fails to understand how the Caste System secures judicious mating. Caste System is a negative thing. It merely prohibits persons belonging to different Castes from intermarrying. It is not a positive method of selecting which two among a given Caste should marry. If Caste is eugenic in origin then the origin of sub-Castes must also be eugenic. But can any one seriously maintain that the origin of sub-Castes is eugenic ? I think it would be absurd to contend for such a proposition and for a very obvious reason. If Caste means race then differences of sub-Castes cannot mean differences of race because sub-Castes become *ex hypothesia* sub-divisions of one and the same race. Consequently the bar against intermarrying and interdining between sub-Castes cannot be for the purpose of maintaining purity of race or of blood. If sub-Castes cannot be eugenic in origin there cannot be any substance in the contention that Caste is eugenic in origin. Again if Caste is eugenic in origin one can understand the bar against intermarriage. But what is the purpose of the interdict placed on interdining between Castes and sub-Castes alike ? Interdining cannot infect blood and therefore cannot be the cause either of the improvement or of deterioration of the race. This shows that Caste has no scientific origin and that those who are attempting to give it an eugenic basis are trying to support by science what is grossly unscientific. Even today eugenics cannot become a practical possibility unless we have definite knowledge regarding the laws of heredity. Prof. Batcson in his *Mendel's Principles of Heredity* says, "There is nothing in the descent of the higher mental qualities to suggest that they follow any single system of

transmission. It is likely that both they and the more marked developments of physical powers result rather from the coincidence of numerous factors than from the possession of any one genetic element." To argue that the Caste System was eugenic in its conception is to attribute to the forefathers of present-day Hindus a knowledge of heredity which even the modern scientists do not possess. A tree should be judged by the fruits it yields. If caste is eugenic what sort of a race of men it should have produced ? Physically speaking the Hindus are a C_3 people. They are a race of Pygmies and dwarfs stunted in stature and wanting in stamina. It is a nation 9/10ths of which is declared to be unfit for military service. This shows that the Caste System does not embody the eugenics of modern scientists. It is a social system which embodies the arrogance and selfishness of a perverse section of the Hindus who were superior enough in social status to set it in fashion and who had authority to force it on their inferiors.

VI

Caste does not result in economic efficiency. Caste cannot and has not improved the race. Caste has however done one thing. It has completely disorganized and demoralized the Hindus.

The first and foremost thing that must be recognized is that Hindu Society is a myth. The name Hindu is itself a foreign name. It was given by the Mohammedans to the natives for the purpose of distinguishing themselves. It does not occur in any Sanskrit work prior to the Mohammedan invasion. They did not feel the necessity of a common name because they had no conception of their having constituted a community. Hindu society as such does not exist. It is only a collection of castes. Each caste is conscious of its existence. Its survival is the be all and end all of its existence. Castes do not even form a federation. A caste has no feeling that it is affiliated to other castes except when there is a Hindu-Muslim riot. On all other occasions each caste endeavours to segregate itself and to distinguish itself from other castes. Each caste not only dines among itself and marries among itself but each caste prescribes its own distinctive dress. What other explanation can there be of the innumerable styles of dress worn by the men and women of India which so amuse the tourists ? Indeed the ideal Hindu must be like a rat living in his own hole refusing to have any contact with others. There is an utter lack among the Hindus of what the sociologists call "consciousness of kind". There is no Hindu consciousness of kind. In every Hindu the consciousness that exists is the consciousness of his caste. That is the reason why the Hindus cannot be said to form a society or a nation. There are however many Indians whose patriotism does not permit them to admit that Indians are not a nation, that they are only an amorphous mass of people. They have insisted that underlying the apparent diversity there is a fundamental unity which marks the life of the Hindus in as much as there is a similarity of

habits and customs, beliefs and thoughts which obtain all over the continent of India. Similarity in habits and customs, beliefs and thoughts there is. But one cannot accept the conclusion that therefore, the Hindus constitute a society. To do so is to misunderstand the essentials which go to make up a society. Men do not become a society by living in physical proximity any more than a man ceases to be a member of his society by living so many miles away from other men. Secondly similarity in habits and customs, beliefs and thoughts is not enough to constitute men into society. Things may be passed physically from one to another like bricks. In the same way habits and customs, beliefs and thoughts of one group may be taken over by another group and there may thus appear a similarity between the two. Culture spreads by diffusion and that is why one finds similarity between various primitive tribes in the matter of their habits and customs, beliefs and thoughts, although they do not live in proximity. But no one could say that because there was this similarity the primitive tribes constituted one society. This is because similarly in certain things is not enough to constitute a society. Men constitute a society because they have things which they possess in common. To have similar thing is totally different from possessing things in common. And the only way by which men can come to possess things in common with one another is by being in communication with one another. This is merely another way of saying that Society continues to exist by communication indeed in communication. To make it concrete, it is not enough if men act in a way which agrees with the acts of others. Parallel activity, even if similar, is not sufficient to bind men into a society. This is proved by the fact that the festivals observed by the different Castes amongst the Hindus are the same. Yet these parallel performances of similar festivals by the different castes have not bound them into one integral whole. For that purpose what is necessary is for a man to share and participate in a common activity so that the same emotions are aroused in him that animate the others. Making the individual a sharer or partner in the associated activity so that he feels its success as his success, its failure as his failure is the real thing that binds men and makes a society of them. The Caste System prevents common activity and by preventing common activity it has prevented the Hindus from becoming a society with a unified life and a consciousness of its own being.

VII

The Hindus often complain of the isolation and exclusiveness of a gang or a clique and blame them for anti-social spirit. But they conveniently forget that this anti-social spirit is the worst feature of their own Caste System. One caste enjoys singing a hymn of hate against another caste as much as the Germans did in singing their hymn of hate against the English during the last war. The literature of the Hindus is full of caste genealogies in which

an attempt is made to give a noble origin to one caste and an ignoble origin to other castes. The *Sahyadrikhand* is a notorious instance of this class of literature. This anti-social spirit is not confined to caste alone. It has gone deeper and has poisoned the mutual relations of the sub-castes as well. In my province the Golak Brahmins, Deorukha Brahmins, Karada Brahmins, Palshe Brahmins and Chitpavan Brahmins, all claim to be sub-divisions of the Brahmin Caste. But the anti-social spirit that prevails between them is quite as marked and quite as virulent as the anti-social spirit that prevails between them and other non-Brahmin castes. There is nothing strange in this. An anti-social spirit is found wherever one group has "interests of its own" which shut it out from full interaction with other groups, so that its prevailing purpose is protection of what it has got. This anti-social spirit, this spirit of protecting its own interests is as much a marked feature of the different castes in their isolation from one another as it is of nations in their isolation. The Brahmin's primary concern is to protect "his interest" against those of the non-Brahmins and the non-Brahmin's primary concern is to protect their interests against those of the Brahmins. The Hindus, therefore, are not merely an assortment of castes but they are so many warring groups each living for itself and for its selfish ideal. There is another feature of caste which is deplorable. The ancestors of the present-day English fought on one side or the other in the wars of the Roses and the Cromwellian War. But the decendents of those who fought on the one side do not bear any animosity—any grudge against the descendents of those who fought on the other side. The feud is forgotten. But the present-day non-Brahmins cannot forgive the present-day Brahmins for the insult their ancestors gave to Shivaji. The present-day Kayasthas will not forgive the present-day Brahmins for the infamy cast upon their forefathers by the forefathers of the latter. To what is this difference due ? Obviously to the Caste System. The existence of Caste and Caste Consciousness has served to keep the memory of past feuds between castes green and has prevented solidarity.

VIII

The recent discussion about the excluded and partially included areas has served to draw attention to the position of what are called the aboriginal tribes in India. They number about 13 millions if not more. Apart from the questions whether their exclusion from the new Constitution is proper or improper, the fact still remains that these aborigines have remained in their primitive uncivilized State in a land which boasts of a civilization thousands of years old. Not only are they not civilized but some of them follow pursuits which have led to their being classified as criminals. Thirteen millions of people living in the midst of civilization are still in a savage state and are leading the life of hereditary criminals ! ! But the Hindus have never felt ashamed of it. This is a phenomenon which in my view is quite unparalleled.

What is the cause of this shameful state of affairs ? Why has no attempt been made to civilize these aborigines and to lead them to take to a more honourable way of making a living ? The Hindus will probably seek to account for this savage state of the aborigines by attributing to them congenital stupidity. They will probably not admit that the aborigines have remained savages because they had made no effort to civilize them, to give them medical aid, to reform them, to make them good citizens. But supposing a Hindu wished to do what the Christian missionary is doing for these aborigines, could he have done it ? I submit not. Civilizing the aborigines means adopting them as your own, living in their midst, and cultivating fellow-feeling, in short loving them. How is it possible for a Hindu to do this ? His whole life is one anxious effort to preserve his caste. Caste is his precious possession which he must save at any cost. He cannot consent to lose it by establishing contact with the aborigines the remnants of the hateful Anaryas of the *Vedic* days. Not that a Hindu could not be taught the sense of duty to fallen humanity, but the trouble is that no amount of sense of duty can enable him to overcome his duty to preserve his caste. Caste is, therefore, the real explanation as to why the Hindu has let the savage remain a savage in the midst of his civilization without blushing or without feeling any sense of remorse or repentance. The Hindu has not realized that these aborigines are a source of potential danger. If these savages remain savages they may not do any harm to the Hindus. But if they are reclaimed by non-Hindus and converted to their faiths they will swell the ranks of the enemies of the Hindus. If this happens the Hindu will have to thank himself and his Caste System.

IX

Not only has the Hindu made no effort for the humanitarian cause of civilizing the savages but the higher-caste Hindus have deliberately prevented the lower castes who are within the pale of Hinduism from rising to the cultural level of the higher castes. I will give two instances, one of the Sonars and the other of the Pathare Prabhus. Both are communities quite well-known in Maharashtra. Like the rest of the communities desiring to raise their status these two communities were at one time endeavouring to adopt some of the ways and habits of the Brahmins. The Sonars were styling themselves Daivadnya Brahmins and were wearing their "dhotis" with folds on and using the word *namaskar* for salutation. Both, the folded way of wearing the "dhoti" and the *namaskar* were special to the Brahmins. The Brahmins did not like this imitation and this attempt by Sonars to pass off as Brahmins. Under the authority of the Peshwas the Brahmins successfully put down this attempt on the part of the Sonars to adopt the ways of the Brahmins. They even got the President of the Councils of the East India Company's settlement in Bombay to issue a prohibitory order against the Sonars residing in Bombay. At one time the Pathare Prabhus had widow-remarriage as a custom of their

caste. This custom of widow-remarriage was later on looked upon as a mark of social inferiority by some members of the caste especially because it was contrary to the custom prevalent among the Brahmins. With the object of raising the status of their community some Pathare Prabhus sought to stop this practice of widow-remarriage that was prevalent in their caste. The community was divided into two camps, one for and the other against the innovation. The Peshwas took the side of those in favour of widow-remarriage and thus virtually prohibited the Pathare Prabhus from following the ways of the Brahmins. The Hindus criticise the Mohammedans for having spread their religion by the use of the sword. They also ridicule Christianity on the score of the inquisition. But really speaking who is better and more worthy of our respect—the Mohammedans and Christians who attempted to thrust down the throats of unwilling persons what they regarded as necessary for their salvation or the Hindu who would not spread the light, who would endeavour to keep others in darkness, who would not consent to share his intellectual and social inheritance with those who are ready and willing to make it a part of their own make-up ? I have no hesitation in saying that if the Mohammedan has been cruel the Hindu has been mean and meanness is worse than cruelty.

X

Whether the Hindu religion was or was not a missionary religion has been a controversial issue. Some hold the view that it was never a missionary religion. Others hold that it was. That the Hindu religion was once a missionary religion must be admitted. It could not have spread over the face of India, if it was not a missionary religion. That today it is not a missionary religion is also a fact which must be accepted. The question therefore is not whether or not the Hindu religion was a missionary religion. The real question is why did the Hindu religion cease to be a missionary religion ? My answer is this. Hindu religion ceased to be a missionary religion when the Caste System grew up among the Hindus. Caste is inconsistent with conversion. Inculcation of beliefs and dogmas is not the only problem that is involved in conversion. To find a place for the convert in the social life of the community is another and a much more important problem that arises in connection with conversion. That problem is where to place the convert, in what caste ? It is a problem which must baffle every Hindu wishing to make aliens converts to his religion. Unlike the club the membership of a caste is not open to all and sundry. The law of caste confines its membership to person bom in the caste. Castes are autonomous and there is no authority anywhere to compel a caste to admit a new-comer to its social life. Hindu Society being a collection of castes and each caste being a close corporation there is no place for a convert. Thus it is the caste which has prevented the Hindus from expanding and from absorbing other religious communities. So long as caste

remain, Hindu religion cannot be made a missionary religion and *Shudhi* will be both a folly and a futility.

XI

The reasons which have made *Shudhi* impossible for Hindus are also responsible for making *Sanghatan* impossible. The idea underlying *Sanghatan* is to remove from the mind of the Hindu that timidity and cowardice which so painfully make him off from the Mohammedan and the Sikh and which have led him to adopt the low ways of treachery and cunning for protecting himself. The question naturally arises : From where does the Sikh or the Mohammedan derive his strength which makes him brave and fearless ? I am sure it is not due to relative superiority of physical strength, diet or drill. It is due to the strength arising out of the feeling that all Sikhs will come to the rescue of a Sikh when he is in danger and that all Mohammedans will rush to save a Muslim if he is attacked. The Hindu can derive no such strength. He cannot feel assured that his fellows will come to his help. Being one and fated to be alone he remains powerless, develops timidity and cowardice and in a fight surrenders or runs away. The Sikh as well as the Muslim stands fearless and gives battle because he knows that though one he will not be alone. The presence of this belief in the one helps him to hold out and the absence of it in the other makes him to give way. If you pursue this matter further and ask what is it that enables the Sikh and the Mohammedan to feel so assured and why is the Hindu filled with such despair in the matter of help and assistance you will find that the reasons for this difference lie in the difference in their associated mode of living. The associated mode of life practised by the Sikhs and the Mohammedans produces fellow-feeling. The associated mode of life of the Hindus does not. Among Sikhs and Muslims there is a social cement which makes them *Bhais*. Among Hindus there is no such cement and one Hindu does not regard another Hindu as his *Bhai*. This explains why a Sikh says and feels that one Sikh, or one Khalsa is equal to *Sava Lakh* men. This explains why one Mohammedan is equal to a crowd of Hindus. This difference is undoubtedly a difference due to caste. So long as caste remains, there will be no *Sanghatan* and so long as there is no *Sanghatan* the Hindu will remain weak and meek. The Hindus claim to be a very tolerant people. In my opinion this is a mistake. On many occasions they can be intolerant and if on some occasions they are tolerant that is because they are too weak to oppose or too indifferent to oppose. This indifference of the Hindus has become so much a part of their nature that a Hindu will quite meekly tolerate an insult as well as a wrong. You see amongst them, to use the words of Morris, "*The great reading down the little, the strong heating down the weak, cruel men fearing not, kind men daring not and wise men caring not.*" With the Hindu Gods all forbearing, it is not difficult to imagine the pitiable condition of the wronged and the

oppressed among the Hindus. Indifferentism is the worst kind of disease that can infect a people. Why is the Hindu so indifferent ? In my opinion this indifferentism is the result of Caste System which has made *Sanghatan* and co-operation even for a good cause impossible.

XII

The assertion by the individual of his own opinions and beliefs, his own independence and interest as over against group standards, group authority and group interests is the beginning of all reform. But whether the reform will continue depends upon what scope the group affords for such individual assertion. If the group is tolerant and fair-minded in dealing with such individuals they will continue to assert and in the end succeed in converting their fellows. On the other hand if the group is intolerant and does not bother about the means it adopts to stifle such individuals they will perish and the reform will die out. New a caste has an unquestioned right to excommunicate any man who is guilty of breaking the rules of the caste and when it is realized that excommunication involves a complete cesser of social intercourse it will be agreed that as a form of punishment there is really little to choose between excommunication and death. No wonder individual Hindus have not had the courage to assert their independence by breaking the barriers of caste. It is true that man cannot get on with his fellows. But it is also true that he cannot do without them. He would like to have the society of his fellows on his terms. If he cannot get it on his terms then he will be ready to have it on any terms even amounting to complete surrender. This is because he cannot do without society. A caste is ever ready to take advantage of the helplessness of a man and insist upon complete conformity to its code in letter and in spirit. A caste can easily organize itself into a conspiracy to make the life of a reformer a hell and if a conspiracy is a crime I do not understand why such a nefarious act as an attempt to excommunicate a person for daring to act contrary to the rules of caste should not be made an offence punishable in law. But as it is, even law gives each caste an autonomy to regulate its membership and punish dissenters with excommunication. Caste in the hands of the orthodox has been a powerful weapon for persecuting the reforms and for killing all reform.

XIII

The effect of caste on the ethics of the Hindus is simply deplorable. Caste has killed public spirit. Caste has destroyed the sense of public charity. Caste has made public opinion impossible. A Hindu's public is his caste. His responsibility is only to his caste. His loyalty is restricted only to his caste. Virtue has become caste-ridden and morality has become caste-bound. There is no sympathy to the deserving. There is no appreciation of the meritorious. There is no charity to the needy. Suffering as such calls for no response. There is charity but it begins with the caste and ends with the caste. There

is sympathy but not for men of other caste. Would a Hindu acknowledge and follow the leadership of a great and good man? The case of a Mahatma apart, the answer must be that he will follow a leader if he is a man of his caste. A Brahmin will follow a leader only if he is a Brahmin, a Kayastha if he is a Kayastha and so on. The capacity to appreciate merits in a man apart from his caste does not exist in a Hindu. There is appreciation of virtue but only when the man is a fellow caste-man. The whole morality is as bad as tribal morality. My caste-man, right or wrong; my caste-man, good or bad. It is not a case of standing by virtue and not standing by vice. It is a case of standing or not standing by the caste. Have not Hindus committed treason against their country in the interests of their caste ?

XIV

I would not be surprised if some of you have grown weary listening to this tiresome tale of the sad effects which caste has produced. There is nothing new in it. I will therefore turn to the constructive side of the problem. What is your ideal society if you do not want caste is a question that is bound to be asked of you. If you ask me, my ideal would be a society based on *Liberty, Equality* and *Fraternity*. And why not ? What objection can there be to Fraternity ? I cannot imagine any. An ideal society should be mobile, should be full of channels for conveying a change taking place in one part to other parts. In an ideal society there should be many interests consciously communicated and shared. There should be varied and free points of contact with other modes of association. In other words there must be social endosmosis. This is fraternity, which is only another name for democracy. Democracy is not merely a form of Government. It is primarily a mode of associated living, of conjoint communicated experience. It is essentially an attitude of respect and reverence towards fellowmen. Any objection to Liberty ? Few object to liberty in the sense of a right to free movement, in the sense of a right to life and limb. There is no objection to liberty in the sense of a right to property, tools and materials as being necessary for earning a living to keep the body in due state of health. Why not allow liberty to benefit by an effective and competent use of a person's powers ? The supporters of caste who would allow liberty in the sense of a right to life, limb and property, would not readily consent to liberty in this sense, inasmuch as it involves liberty to choose one's profession. But to object to this kind of liberty is to perpetuate slavery. For slavery does not merely mean a legalized form of subjection. It means a state of society in which some men are forced to accept from other the purposes which control their conduct. This condition obtains even where mere is no slavery in the legal sense. It is found where, as in the Caste System, some persons are compelled to carry on certain prescribed callings which are not of their choice. Any objection to equality ? This has obviously been the most contentious part of the slogan of the French

Revolution. The objections to equality may be sound and one may have to admit that all men are not equal. But what of that ? Equality may be a fiction but nonetheless one must accept it as the governing principle. A man's power is dependent upon (1) physical heredity, (2) social inheritance or endowment in the form of parental care, education, accumulation of scientific knowledge, everything which enables him to be more efficient than the savage, and finally, (3) on his own efforts. In all these three respects men are undoubtedly unequal. But the question is, shall we treat them as unequal because they are unequal ? This is a question which the opponents of equality must answer. From the standpoint of the individualist it may be just to treat men unequally so far as their efforts are unequal. It may be desirable to give as much incentive as possible to the full development of every one's powers. But what would happen if men were treated unequally as they are, in the first two respects ? It is obvious that those individuals also in whose favour there is birth, education, family name, business connections and inherited wealth would be selected in the race. But selection under such circumstances would not be a selection of the able. It would be the selection of the privileged. The reason therefore, which forces that in the third respect we should treat men unequally demands that in the first two respects we should treat men as equally as possible. On the other hand it can be urged that if it is good for the social body to get the most out of its members, it can get most out of them only by making them equal as far as possible at the very start of the race. That is one reason why we cannot escape equality. But there is another reason why we must accept equality. A Statesman is concerned with vast numbers of people. He has neither the time nor the knowledge to draw fine distinctions and to treat each equitably *i.e.* according to need or according to capacity. However desirable or reasonable an equitable treatment of men may be, humanity is not capable of assortment and classification. The statesman, therefore, must follow some rough and ready rule and that rough and ready rule is to treat all men alike not because they are alike but because classification and assortment is impossible. The doctrine of equality is glaringly fallacious but taking all in all it is the only way a statesman can proceed in politics which is a severely practical affair and which demands a severely practical test.

XV

But there is a set of reformers who hold out a different ideal. They go by the name of the Arya Samajists and their ideal of social organization is what is called Chaturvarnya or the division of society into four classes instead of the four thousand castes that we have in India. To make it more attractive and to disarm opposition the protagonists of Chaturvarnya take great care to point out that their Chaturvarnya is based not on birth but on *guna* (worth). At the outset, I must confess that notwithstanding the worth-basis of this

Chaturvarnya, it is an ideal to which I cannot reconcile myself. In the first place, if under the Chaturvarnya of the Arya Samajists an individual is to take his place in the Hindu Society according to his worth. I do not understand why the Arya Samajists insist upon labelling men as Brahmin, Kshatriya, Vaishya and Shudra. A learned man would be honoured without his being labelled a Brahmin. A soldier would be respected without his being designated a Kshatriya. If European society honours its soldiers and its servants without giving them permanent labels, why should Hindu Society find it difficult to do so is a question, which Arya Samajists have not cared to consider. There is another objection to the continuance of these labels. All reform consists in a change in the notions, sentiment and mental attitudes of the people towards men and things. It is common experience that certain names become associated with certain notions and sentiments, which determine a person's attitude towards men and things. The names, Brahmin, Kshatriya, Vaishya and Shudra, are names which are associated with a definite and fixed notion in the mind of every Hindu. That notion is that of a hierarchy based on birth. So long as these names continue, Hindus will continue to think of the Brahmin, Kshatriya, Vaishya and Shudra as hierarchical divisions of high and low, based on birth, and act accordingly. The Hindu must be made to unlearn all this. But how can this happen if the old labels remain and continue to recall to his mind old notions. If new notions are to be inculcated in the minds of people it is necessary to give them new names. To continue the old name is to make the reform futile. To allow this Chaturvarnya, based on worth to be designated by such stinking labels of Brahmin, Kshatriya, Vaishya, Shudra, indicative of social divisions based on birth, is a snare.

XVI

To me this Chaturvarnya with its old labels is utterly repellent and my whole being rebels against it. But I do not wish to rest my objection to Chaturvarnya on mere grounds of sentiments. There are more solid grounds on which I rely for my opposition to it. A close examination of this ideal has convinced me that as a system of social organization, Chaturvarnya is impracticable, harmful and has turned out to be a miserable failure. From a practical point of view, the system of Chaturvarnya raises several difficulties which its protagonists do not seem to have taken into account. The principle underlying caste is fundamentally different from the principle underlying *Varna*. Not only are they fundamentally different but they are also fundamentally opposed. The former is based on worth. How are you going to compel people who have acquired a higher status based on birth without reference to their worth to vacate that status ? How are you going to compel people to recognize the status due to a man in accordance with his worth, who is occupying a lower status based on his birth ? For this you must first break up the Caste System, in order to be able to establish the *Varna* system. How are you going

to reduce the four thousand castes, based on birth, to the four *Varnas,* based on worth ? This is the first difficulty which the protagonists of the Chaturvarnya must grapple with. There is a second difficulty which the protagonists of Chaturvarnya must grapple with, if they wish to make the establishment of Chaturvarnya a success.

Chaturvarnya pre-supposes that you can classify people into four definite classes. Is this possible ? In this respect, the ideal of Chaturvarnya has, as you will see, a close affinity to the Platonic ideal. To Plato, men fell by nature into three classes. In some individuals, he believed mere appetites dominated. He assigned them to the labouring and trading classes. Others revealed to him that over and above appetites, they have a courageous disposition. He classed them as defenders in war and guardians of internal peace. Others showed a capacity to grasp the universal reason underlying things. He made them the law-givers of the people. The criticism to which Plato's Republic is subject, is also the criticism which must apply to the system of Chaturvarnya, in so far as it proceeds upon the possibility of an accurate classification of men into four distinct classes. The chief criticism against Plato is that his idea of lumping of individuals into a few sharply marked-off classes is a very superficial view of man and his powers. Plato had no perception of the uniqueness of every individual, of his incommensurability with others, of each individual forming a class of his own. He had no recognition of the infinite diversity of active tendencies and combination of tendencies of which an individual is capable. To him, there were types of faculties or powers in the individual constitution. All this is demonstrably wrong. Modern science has shown that lumping together of individuals into a few sharply marked-off classes is a superficial view of man not worthy of serious consideration. Consequently, the utilization of the qualities of individuals is incompitable with their startification by classes, since the qualities of individuals are so variable. Chaturvarnya must fail for the very reason for which Plato's Republic must fail, namely that it is not possible to pigeon men into holes, according as he belongs to one class or the other. That it is impossible to accurately classify people into four definite classes is proved by the fact that the original four classes have now become four thousand castes.

There is a third difficulty in the way of the establishment of the system of Chaturvarnya. How are you going to maintain the system of Chaturvarnya, supposing it was established ? One important requirement for the successful working of Chaturvarnya is the maintenance of the penal system which could maintain it by its sanction. The system of Chaturvarnya must perpetually face the problem of the transgressor. Unless there is a penalty attached to the act of transgression, men will not keep to their respective classes. The whole system will break down, being contrary to human nature. Chaturvarnya cannot subsist by its own inherent goodness. It must be enforced by law.

That, without penal sanction the ideal of Chaturvarnya cannot be realized, is proved by the story in the Ramayana of Rama killing Shambuka. Some people seem to blame Rama because he want only and without reason killed Shambuka. But to blame Rama for killing Shambuka is to misunderstand the whole situation. Ram Raj was a Raj based on Chaturvarnya. As a king, Rama was bound to maintain Chaturvarnya. It was his duty therefore to kill Shambuka, the Shudra, who had transgressed his class and wanted to be a Brahmin. This is the reason why Rama killed Shambuka. But this also shows that penal sanction is necessary for the maintenance of Chaturvarnya. Not only penal sanction is necessary, but penalty of death is necessary. That is why Rama did not inflict on Shambuka a lesser punishment. That is why Manu-Smriti prescribes such heavy sentences as cutting off the tongue or pouring of molten lead in the ears of the Shudra, who recites or hears the *Veda*. The supporters of Chaturvarnya must give an assurance that they could successfully classify men and they could induce modern society in the twentieth century to reforge the penal sanctions of Manu-Smriti.

The protagonists of Chaturvarnya do not seem to have considered what is to happen to women in their system. Are they also to be divided into four classes, Brahmin, Kshatriya, Vaishya and Shudra? Or are they to be allowed to take the status of their husbands. If the status of the woman is to be the consequence of marriage what becomes of the underlying principle of Chaturvarnya, namely, that the status of a person should be based upon the worth of that person ? If they are to be classified according to their worth is their classification to be nominal or real ? If it is to be nominal then it is useless and then the protagonists of Chaturvarnya must admit that their system does not apply to women. If it is real, are the protagonists of Chaturvarnya prepared to follow the logical consequences of applying it to women ? They must be prepared to have women priests and women soldiers. Hindu society has grown accustomed to women teachers and women barristers. It may grow accustomed to women brewers and women butchers. But he would be a bold person, who would say that it will allow women priests and women soldiers. But that will be the logical outcome of applying Chaturvarnya to women. Given these difficulties, I think no one except a congenital idiot could hope and believe in a successful regeneration of the Chaturvarnya.

XVII

Assuming that Chaturvarnya is practicable, I contend that it is the most vicious system. That the Brahmins should cultivate knowledge, that the Kshatriya should bear arms, that the Vaishya should trade and that the Shudra should serve sounds as though it was a system of division of labour. Whether the theory was intended to state that the Shudra *need not* or that whether it was intended to lay down that he *must not,* is an interesting question. The defenders of Chaturvarnya give it the first meaning. They say,

why should the Shudra need trouble to acquire wealth, when the three *Varnas* are there to support him ? Why need the Shudra bother to take to education, when there is the Brahmin to whom he can go when the occasion for reading or writing arises ? Why need the Shudra worry to arm himself because there is the Kshatriya to protect him ? The theory of Chaturvarnya, understood in this sense, may be said to look upon the Shudra as the ward and the three *Varnas* as his guardians. Thus interpreted, it is a simple, elevating and alluring theory. Assuming this to be the correct view of the underlying conception of Chaturvarnya, it seems to me that the system is neither fool-proof nor knave-proof. What is to happen, if the Brahmins, Vaishyas and Kshatriyas fail to pursue knowledge, to engage in economic enterprise and to be efficient soldiers which are their respective functions ? Contrary-wise, suppose that they discharge their functions but flout their duty to the Shudra or to one another, what is to happen to the Shudra if the three classes refuse to support him on fair terms or combine to keep him down ? Who is to safeguard the interests of the Shudra or for the matter of that of the Vaishya and Kshatriya when the person, who is trying to take advantage of his ignorance is the Brahmin ? Who is to defend the liberty of the Shudra and for the matter of that, of the Brahmin and the Vaishya when the person who is robbing him of it is the Kshatriya ? Inter-dependence of one class on another class is inevitable. Even dependence of one class upon another may sometimes become allowable. But why make one person depend upon another in the matter of his vital needs ? Education everyone must have. Means of defence everyone must have. These are the paramount requirements of every man for his self-preservation. How can the fact that his neighbour is educated and armed help a man who is uneducated and disarmed. The whole theory is absurd. These are the questions, which the defenders of Chaturvarnya do not seem to be troubled about. But they are very pertinent questions. Assuming their conception of Chaturvarnya that the relationship between the different classes is that of ward and guardian is the real conception underlying Chaturvarnya, it must be admitted that it makes no provision to safeguard the interests of the ward from the misdeeds of the guardian. Whether the relationship of guardian and ward was the real underlying conception, on which Chaturvarnya was based, there is no doubt that in practice the relation was that of master and servants. The three classes, Brahmins, Kshatriyas and Vaishyas although not very happy in their mutual relationship managed to work by compromise. The Brahmin flattered the Kshatriya and both let the Vaishya live in order to be able to live upon him. But the three agreed to beat down the Shudra. He was not allowed to acquire wealth lest he should be independent of the three *Varnas*. He was prohibited from acquiring knowledge lest he should keep a steady vigil regarding his interests. He was prohibited from bearing arms lest he should have the means to rebel against their authority. That this is how the Shudras were treated by the Tryavarnikas is evidenced by the Laws

of Manu. There is no code of laws more in famous regarding social rights than the Laws of Manu. Any instance from anywhere of social injustice must pale before it. Why have the mass of people tolerated the social evils to which they have been subjected ? There have been social revolutions in other countries of the world. Why have there not been social revolutions in India, is a question which has incessantly troubled me. There is only one answer, which I can give and it is that the lower classes of Hindus have been completely disabled for direct action on account of this wretched system of Chaturvarnya. They could not bear arms and without arms they could not rebel. They were all ploughmen or rather condemned to be ploughmen and they never were allowed to convert their ploughshare into swords. They had no bayonets and therefore everyone who chose could and did sit upon them. On account of the Chaturvarnya, they could receive no education. They could not think out or know the way to their salvation. They were condemned to be lowly and not knowing the way of escape and not having the means of escape, they became reconciled to eternal servitude, which they accepted as their inescapable fate. It is true that even in Europe the strong has not shrunk from the exploitation, nay the spoliation of the weak. But in Europe, the strong have never contrived to make the weak helpless against exploitation so shamelessly as was the case in India among the Hindus. Social war has been raging between the strong and the weak far more violently in Europe than it has ever been in India. Yet, the weak in Europe has had in his freedom of military service his *physical weapon,* in suffering his *political weapon* and in education his *moral weapon*. These three weapons for emancipation were never withheld by the strong from the weak in Europe. All these weapons were, however, denied to the masses in India by Chaturvarnya. There cannot be a more degrading system of social organization than the Chaturvarnya. It is the system which deadens, paralyses and cripples the people from helpful activity. This is no exaggeration. History bears ample evidence. There is only one period in Indian history which is a period of freedom, greatness and glory. That is the period of the Mourya Empire. At all other times the country suffered from defeat and darkness. But the Mourya period was a period when Chaturvarnya was completely annihilated, when the Shudras, who constituted the mass of the people, came into their own and became the rulers of the country. The period of defeat and darkness is the period when Chaturvarnya flourished to the damnation of the greater part of the people of the country.

XVIII

Chaturvarnya is not new. It is as old as the *Vedas*. That is one of the reasons why we are asked by the Arya Samajists to consider its claims. Judging from the past as a system of social organization, it has been tried and it has failed. How many times have the Brahmins annihilated the seed

of the Kshatriyas ! How many times have the Kshatriyas annihilated the Brahmins! The Mahabharata and the Puranas are full of incidents of the strife between the Brahmins and the Kshatriyas. They even quarreled over such petty questions as to who should salute first, as to who should give way first, the Brahmins or the Kshatriyas, when the two met in the street. Not only was the Brahmin an eyesore to the Kshatriya and the Kshatriya an eyesore to the Brahmin, it seems that the Kshatriyas had become tyrannical and the masses, disarmed as they were under the system of Chaturvarnya, were praying Almighty God for relief from their tyranny. The Bhagwat tells us very definitely that Krishna had taken Avtar for one sacred purpose and that was to annihilate the Kshatriyas. With these instances of rivalry and enmity between the different *Varnas* before us, I do not understand how any one can hold out Chaturvarnya as an ideal to be aimed at or as a pattern, on which the Hindu Society should be remodelled,

XIX

I have dealt with those, who are without you and whose hostility to your ideal is quite open. There appear to be others, who are neither without you not with you. I was hesitating whether I should deal with their point of view. But on further consideration I have come to the conclusion that I must and that for two reasons. Firstly, their attitude to the problem of caste is not merely an attitude of neutrality, but is an attitude of armed neutrality. Secondly, they probably represent a considerable body of people. Of these, there is one set which finds nothing peculiar nor odious in the Caste System of the Hindus. Such Hindus cite the case of Muslims, Sikhs and Christians and find comfort in the fact that they too have castes amongst them. In considering, this question you must at the outset bear in mind that nowhere is human society one single whole. It is always plural. In the world of action, the individual is one limit and society the other. Between them lie all sorts of associative arrangements of lesser and larger scope, families, friendship, co-operative associations, business combines, political parties, bands of thieves and robbers. These small groups are usually firmly welded together and are often as exclusive as castes. They have a narrow and intensive code, which is often anti-social. This is true of every society, in Europe as well as in Asia. The question to be asked in determining whether a given society is an ideal society; is not whether there are groups in it, because groups exist in all societies. The questions to be asked in determining what is an ideal society are : How numerous and varied are the interests which are consciously shared by the groups ? How full and free is the interplay with other forms of associations ? Are the forces that separate groups and classes more numerous than the forces that unite ? What social significance is attached to this group life ? Is its exclusiveness a matter of custom and convenience or is it a matter of religion ? It is in the light of these questions that one must

decide whether caste among Non-Hindus is the same as caste among Hindus. If we apply these considerations to castes among Mohammedans, Sikhs and Christians on the one hand and to castes among Hindus on the other, you will find that caste among Non-Hindus is fundamentally different from caste among Hindus. First, the ties, which consciously make the Hindus hold together, are non-existent, while among Non-Hindus there are many that hold them together. The strength of a society depends upon the presence of points of contact, possibilities of interaction between different groups which exist in it. These are what Carlyle calls "organic filaments" *i.e.* the elastic threads which help to bring the disintegrating elements together and to reunite them. There is no integrating force among the Hindus to counteract the disintegration caused by caste. While among the Non-Hindus there are plenty of these organic filaments which bind them together. Again it must be borne in mind that although there are castes among Non-Hindus, as there are among Hindus, caste has not the same social significance for Non-Hindus as it has for Hindus. Ask Mohammedan or a Sikh, who he is ? He tells you that he is a Mohammedan or a Sikh as the case may be. He does not tell you his caste although he has one and you are satisfied with his answer. When he tells you that he is a Muslim, you do not proceed to ask him whether he is a Shiya or a Sunni; Sheikh or Saiyad; Khatik or Pinjari. When he tells you he is a Sikh, you do not ask him whether he is Jat or Roda; Mazbi or Ramdasi. But you are not satisfied, if a person tells you that he is a Hindu. You feel bound to inquire into his caste. Why ? Because so essential is caste in the case of a Hindu that without knowing it you do not feel sure what sort of a being he is. That caste has not the same social significance among Non-Hindus as it has among Hindus is clear if you take into consideration the consequences which follow breach of caste. There may be castes among Sikhs and Mohammedans but the Sikhs and the Mohammedans will not outcast a Sikh or a Mohammedan if he broke his caste. Indeed, the very idea of excommunication is foreign to the Sikhs and the Mohammedans. But with the Hindus the case is entirely different. He is sure to be outcasted if he broke caste. This shows the difference in the social significance of caste to Hindus and Non-Hindus. This is the second point of difference. But there is also a third and a more important one. Caste among the non-Hindus has no religious consecration ; but among the Hindus most decidedly it has. Among the Non-Hindus, caste is only a practice, not a sacred institution. They, did not originate it. With them it is only a survival. They do not regard caste as a religious dogma. Religion compels the Hindus to treat isolation and segregation of castes as a virtue. Religion does not compel the Non-Hindus to take the same attitude towards caste. If Hindus wish to break caste, their religion will come in their way. But it will not be so in the case of Non-Hindus. It is, therefore, a dangerous delusion to take comfort in the mere existence of caste among Non-Hindus, without caring to know what place caste occupies in their life and whether there are other

"organic filaments", which subordinate the feeling of caste to the feeling of community. The sooner the Hindus are cured of this delusion the better.

The other set denies that caste presents any problem at all for the Hindus to consider. Such Hindus seek comfort in the view that the Hindus have survived and take this as a proof of their fitness to survive. This point of view is well expressed by Prof. S. Radhakrishnan in his *Hindu view of Life*. Referring to Hinduism he says, "The civilization itself has not been a shortlived one. Its historic records date back for over four thousand years and even then it had reached a stage of civilization which has continued its unbroken, though at times slow and static, course until the present day. It has stood the stress and strain of more than four or five millenniums of spiritual thought and experience. Though peoples of different races and cultures have been pouring into India from the dawn of History, Hinduism has been able to maintain its supremacy and even the proselytising creeds backed by political power have not been able to coerce the large majority of Hindus to their views. The Hindu culture possesses some vitality which seems to be denied to some other more forceful currents. It is no more necessary to dissect Hinduism than to open a tree to see whether the sap still runs." The name of Prof. Radhakrishnan is big enough to invest with profundity whatever he says and impress the minds of his readers. But I must not hesitate to speak out my mind. For, I fear that, his statement may become the basis of a vicious argument that the fact of survival is proof of fitness to survive. It seems to me that the question is not whether a community lives or dies ; the question is on what plane does it live. There are different modes of survival. But all are not equally honourable. For an individual as well as for a society, there is a gulf between merely living and living worthily. To fight in a battle and to live in glory is one mode. To beat a retreat, to surrender and to live the life of a captive is also a mode of survival. It is useless for a Hindu to take comfort in the fact that he and his people have survived. What he must consider is what is the quality of their survival. If he does that, I am sure he will cease to take pride in the mere fact of survival. A Hindu's life has been a life of continuous defeat and what appears to him to be life everlasting is not living everlastingly but is really a life which is perishing everlastingly. It is a mode of survival of which every right-minded Hindu, who is not afraid to own up the truth, will feel ashamed.

XX

There is no doubt, in my opinion, that unless you change your social order you can achieve little by way of progress. You cannot mobilize the community either for defence or for offence. You cannot build anything on the foundations of caste. You cannot build up a nation, you cannot build up a morality. Anything that you will build on the foundations of caste will crack and will never be a whole.

The only question that remains to be considered is—*How to bring about the reform of the Hindu social order ? How to abolish caste ?* This is a question of supreme importance. There is a view that in the reform of caste, the first step to take, is to abolish sub-castes. This view is based upon the supposition that there is a greater similarity in manners and status between sub-castes than there is between castes. I think, this is an erroneous supposition. The Brahmins of Northern and Central India are socially of lower grade, as compared with the Brahmins of the Deccan and Southern India. The former are only cooks and water-carriers while the latter occupy a high social position. On the other hand, in Northern India, the Vaishyas and Kayasthas are intellectually and socially on a par with the Brahmins of the Deccan and Southern India. Again, in the matter of food there is no similarity between the Brahmins of the Deccan and Southern India, who are vegetarians and the Brahmins of Kashmir and Bengal who are non-vegetarians. On the other hand, the Brahmins of the Deccan and Southern India have more in common so far as food is concerned with such non-Brahmins as the Gujaratis, Marwaris, Banias and Jains. There is no doubt that from the standpoint of making the transit from one caste to another easy, the fusion of the Kayasthas of Northern India and the other Non-Brahmins of Southern India with the Non-Brahmins of the Deccan and the Dravid country is more practicable than the fusion of the Brahmins of the South with the Brahmins of the North. But assuming that the fusion of sub-Castes is possible, what guarantee is there that the abolition of sub-Castes will necessarily lead to the abolition of Castes ? On the contrary, it may happen that the process may stop with the abolition of sub-Castes. In that case, the abolition of sub-Castes will only help to strengthen the Castes and make them more powerful and therefore more mischievous. This remedy is therefore neither practicable nor effective and may easily prove to be a wrong remedy. Another plan of action for the abolition of Caste is to begin with inter-caste dinners. This also, in my opinion, is an inadequate remedy. There are many Castes which allow inter-dining. But it is a common experience that inter-dining has not succeeded in killing the spirit of Caste and the consciousness of Caste. I am convinced that the real remedy is inter-marriage. Fusion of blood can alone create the feeling of being kith and kin and unless this feeling of kinship, of being kindred, becomes paramount the separatist feeling—the feeling of being aliens—created by Caste will not vanish. Among the Hindus inter-marriage must necessarily be a factor of greater force in social life than it need be in the life of the non-Hindus. Where society is already well-knit by other ties, marriage is an ordinary incident of life. But where society cut asunder, marriage as a binding force becomes a matter of urgent necessity. *The real remedy for breaking Caste is inter-marriage. Nothing else will serve as the solvent of Caste.* Your Jat-Pat-Todak Mandal has adopted this line of attack

It is a direct, and frontal attack, and I congratulate you upon a correct diagnosis and more upon your having shown the courage to tell the Hindus what is really wrong with them. Political tyranny is nothing compared to social tyranny and a reformer, who defies society, is a much more courageous man than a politician, who defies Government. You are right in holding that Caste will cease to be an operative force only when inter-dining and inter-marriage have become matters of common course. You have located the source of the disease. But is your prescription the right prescription for the disease ? Ask yourselves this question; Why is it that a large majority of Hindus do not inter-dine and do not inter-marry? Why is it that your cause is not popular ? There can be only one answer to this question and it is that inter-dining and inter-marriage are repugnant to the beliefs and dogmas which the Hindus regard as sacred. Caste is not a physical object like a wall of bricks or a line of barbed wire which prevents the Hindus from co-mingling and which has, therefore, to be pulled down. Caste is a notion, it is a state of the mind. The destruction of Caste does not therefore mean the destruction of a physical barrier. It means a *notional* change. Caste may be bad. Caste may lead to conduct so gross as to be called man's inhumanity to man. All the same, it must be recognized that the Hindus observe Caste not because they are inhuman or wrong headed. They observe Caste because they are deeply religious. People are not wrong in observing Caste. In my view, what is wrong is their religion, which has inculcated this notion of Caste. If this is correct, then obviously the enemy, you must grapple with, is not the people who observe Caste, but the *Shastras* which teach them this religion of Caste. Criticising and ridiculing people for not inter-dining or inter-marrying or occasionally holding inter-caste dinners and celebrating inter-caste marriages, is a futile method of achieving the desired end. The real remedy is to destroy the belief in the sanctity of the *Shastras*. How do you expect to succeed, if you allow the *Shastras* to continue to mould the beliefs and opinions of the people ? Not to question the authority of the *Shastras,* to permit the people to believe in their sanctity and their sanctions and to blame them and to criticise them for their acts as being irrational and inhuman is a incongruous way of carrying on social reform. Reformers working for the removal of untouchability including Mahatma Gandhi, do not seem to realize that the acts of the people are merely the results of their beliefs inculcated upon their minds by the *Shastras* and that people will not change their conduct until they cease to believe in the sanctity of the *Shastras* on which their conduct is founded. No wonder that such efforts have not produced any results. You also seem to be erring in the same way as the reformers working in the cause of removing untouchability. To agitate for and to organise inter-caste dinners and inter-caste marriages is like forced feeding brought about by artificial means. Make every man and woman free from the thraldom of the *Shastras,* cleanse their minds of the pernicious

notions founded on the *Shastras,* and he or she will inter-dine and inter-marry, without your telling him or her to do so.

It is no use seeking refuge in quibbles. It is no use telling people that the *Shastras* do not say what they are believed to say, grammatically read or logically interpreted. What matters is how the *Shastras* have been understood by the people. You must take the stand that Buddha took. You must take the stand which Guru Nanak took. You must not only discard the *Shastras,* you must deny their authority, as did Buddha and Nanak. You must have courage to tell the Hindus, that what is wrong with them is their religion—the religion which has produced in them this notion of the sacredness of Caste. Will you show that courage ?

XXI

What are your chances of success ? Social reforms fall into different species. There is a species of reform, which does not relate to the religious notion of people but is purely secular in character. There is also a species of reform, which relates to the religious notions of people. Of such a species of reform, there are two varieties. In one, the reform accords with the principles of the religion and merely invites people, who have departed from it, to revert to them and to follow them. The second is a reform which not only touches the religious principles but is diametrically opposed to those principles and invites people to depart from and to discard their authority and to act contrary to those principles. Caste is the natural outcome of certain religious beliefs which have the sanction of the *Shastras,* which are believed to contain the command of divinely inspired sages who were endowed with a supernatural wisdom and whose commands, therefore, cannot be disobeyed without committing sin. The destruction of Caste is a reform which falls under the third category. To ask people to give up Caste is to ask them to go contrary to their fundamental religious notions. It is obvious that the first and second species of reform are easy. But the third is a stupendous task, well-nigh impossible. The Hindus hold to the sacredness of the social order. Caste has a divine basis. You must therefore destroy the sacredness and divinity with which Caste has become invested. In the last analysis, this means you must destroy the authority of the *Shastras* and the *Vedas*.

I have emphasized this question of the ways and means of destroying Caste, because I think that knowing the proper ways and means is more important than knowing the ideal. If you do not know the real ways and means, all your shots are sure to be misfires. If my analysis is correct then your task is herculean. You alone can say whether you are capable of achieving it.

Speaking for myself, I see the task to be well-nigh impossible. Perhaps you would like to know why I think so. Out of the many reasons, which have led me to take this view, I will mention some, which I regard much important.

One of these reasons is the attitude of hostility, which the Brahmins have shown towards this question. The Brahmins form the vanguard of the movement for political reform and in some cases also of economic reform. But they are not to be found even as camp-followers in the army raised to break down the barricades of Caste. Is there any hope of the Brahmins ever taking up a lead in the future in this matter ? I say no. You may ask why ? You may argue that there is no reason why Brahmins should continue to shun social reform. You may argue that the Brahmins know that the bane of Hindu Society is Caste and as an enlightened class could not be expected to be indifferent to its consequences. You may argue that there are secular Brahmins and priestly Brahmins and if the latter do not take up the cudgels on behalf of those who want to break Caste, the former will. All this of course sounds very plausible. But in all this it is forgotten that the break up of the Caste system is bound to affect adversely the Brahmin Caste. Having regard to this, is it reasonable to expect that the Brahmins will ever consent to lead a movement the ultimate result of which is to destroy the power and prestige of the Brahmin Caste ? Is it reasonable to expect the secular Brahmins to take part in a movement directed against the priestly Brahmins ? In my judgment, it is useless to make a distinction between the secular Brahmins and priestly Brahmins. Both are kith and kin. They are two arms of the same body and one bound to fight for the existence of the other. In this connection, I am reminded of some very pregnant remarks made by Prof. Dicey in his *English Constitution*. Speaking of the actual limitation on the legislative supremacy of Parliament, Dicey says : "The actual exercise of authority by any sovereign whatever, and notably by Parliament, is bounded or controlled by two limitations. Of these the one is an external, and the other is an internal limitation. The external limit to the real power of a sovereign consists in the possibility or certainty that his subjects or a large number of them will disobey or resist his laws. . . The internal limit to the exercise of sovereignty arises from the nature of the sovereign power itself. Even a despot exercises his powers in accordance with his character, which is itself moulded by the circumstance under which he lives, including under that head the moral feelings of the time and the society to which he belongs. The Sultan could not, if he would, change the religion of the Mohammedan world, but even if he could do so, it is in the very highest degree improbable that the head of Mohammedanism should wish to overthrow the religion of Mohammed ; the internal check on the exercise of the Sultan's power is at least as strong as the external limitation. People sometimes ask the idle question, why the Pope does not introduce this or that reform ? The true answer is that a revolutionist is not the kind of man who becomes a Pope and that a man who becomes a Pope has no wish to be a revolutionist." I think, these remarks apply equally to the Brahmins of India and one can say with equal truth that if a man who becomes a Pope has no wish to become a revolutionary, a man who is born a Brahmin

has much less desire to become a revolutionary. Indeed, to expect a Brahmin to be a revolutionary in matters of social reform is as idle as to expect the British Parliament, as was said by Leslie Stephen, to pass an Act requiring all blue-eyed babies to be murdered.

Some of you will say that it is a matter of small concern whether the Brahmins come forward to lead the movement against Caste or whether they do not. To take this view is in my judgment to ignore the part played by the intellectual class in the community. Whether you accept the theory of the great man as the maker of history or whether you do not, this much you will have to concede that in every country the intellectual class is the most influential class, if not the governing class. The intellectual class is the class which can foresee, it is the class which can advise and give lead. In no country does the mass of the people live the life of intelligent thought and action. It is largely imitative and follows the intellectual class. There is no exaggeration in saying that the entire destiny of a country depends upon its intellectual class. If the intellectual class is honest, independent and disinterested it can be trusted to take the initiative and give a proper lead when a crisis arises. It is true that intellect by itself is no virtue. It is only a means and the use of means depends upon the ends which an intellectual person pursues. An intellectual man can be a good man but he can easily be a rogue. Similarly an intellectual class may be a band of high-souled persons, ready to help, ready to emancipate erring humanity or it may easily be a gang of crooks or a body of advocates of a narrow clique from which it draws its support. You may think it a pity that the intellectual class in India is simply another name for the Brahmin caste. You may regret that the two are one ; that the existence of the intellectual class should be bound with one single caste, that this intellectual class should share the interest and the aspirations of that Brahmin caste, which has regarded itself the custodian of the interest of that caste, rather than of the interests of the country. All this may be very regrettable. But the fact remains, that the Brahmins form the intellectual class of the Hindus. It is not only an intellectual class but it is a class which is held in great reverence by the rest of the Hindus. The Hindus are taught that the Brahmins are *Bhudevas* (Gods on earth) वर्णानाम् ब्राह्मण । गुरु; The Hindus are taught that Brahmins alone can be their teachers. Manu says, "If it be asked how it should be with respect to points of the Dharma which have not been specially mentioned, the answer is that which Brahmins who are Shishthas propound shall doubtless have legal force." :

अनाम्नातेषु धर्मेषु कथं स्यादिति चेद्भवेत् ।
यं शिष्टा ब्राह्मणा ब्रूयुः स धर्मः स्यादशङ्कितः ।

When such an intellectual class, which holds the rest of the community in its grip, is opposed to the reform of Caste, the chances of success in a movement for the break-up of the Caste system appear to me very, very remote.

The second reason, why I say the task is impossible, will be clear if you will bear in mind that the Caste system has two aspects. In one of its aspects, it divides men into separate communities. In its second aspect, it places these communities in a graded order one above the other in social status. Each caste takes its pride and its consolation in the fact that in the scale of castes it is above some other caste. As an outward mark of this gradation, there is also a gradation of social and religious rights technically spoken of an *Ashta-dhikaras* and *Sanskaras*. The higher the grade of a caste, the greater the number of these rights and the lower the grade, the lesser their number. Now this gradation, this scaling of castes, makes it impossible to organise a common front against the Caste System. If a caste claims the right to inter-dine and inter-marry with another caste placed above it, it is frozen, instantly it is told by mischief-mongers, and there are many Brahmins amongst such mischief-mongers, that it will have to concede inter-dining and inter-marriage with castes below it! All are slaves of the Caste System. But all the slaves are not equal in status. To excite the proletariat to bring about an economic revolution, Karl Marx told them : "You have nothing to lose except your chains." But the artful way in which the social and religious rights are distributed among the different castes whereby some have more and some have less, makes the slogan of Karl Marx quite useless to excite the Hindus against the Caste System. Castes form a graded system of sovereignties, high and low, which are jealous of their status and which know that if a general dissolution came, some of them stand to lose more of their prestige and power than others do. You cannot, therefore, have a general mobilization of the Hindus, to use a military expression, for an attack on the Caste System.

XXII

Can you appeal to reason and ask the Hindus to discard Caste as being contrary to reason ? That raises the question : Is a Hindu free to follow his reason ? Manu has laid down three sanctions to which every Hindu must conform in the matter of his behaviour वेदः स्मृतिः सदाचारः स्वस्य च प्रियमात्मनः Here there is no place for reason to play its part. A Hindu must follow either *Veda, Smriti* or *Sadachar*. He cannot follow anything else. In the first place how are the texts of the *Vedas* and *Smritis* to be interpreted whenever any doubt arises regarding their meaning ? On this important question the view of Manu is quite definite. He says :

योऽवमन्येत ते मूले हेतुशास्त्राश्रयात् द्विजः ।
स साधुभिर्बहिष्कार्यो नास्तिको वेदनिन्दकः ।।

According to this rule, rationalism as a canon of interpreting the *Vedas* and *Smritis,* is absolutely condemned. It is regarded to be as wicked as atheism and the punishment provided for it is ex-communication. Thus, where a matter is covered by the *Veda* or the *Smriti,* a Hindu cannot resort to rational thinking. Even when there is a conflict between *Vedas* and *Smritis* on matters on which

they have given a positive injunction, the solution is not left to reason. When there is a conflict between two *Shrutis,* both are to be regarded as of equal authority. Either of them may be followed. No attempt is to be made to find out which of the two accords with reason. This is made clear by *Manu* :

श्रुतिद्वैधं तु यत्र स्याप्तत्र धर्मावुभौ स्मृतौ ।

"When there is a conflict between *Shruti* and *Smriti,* the *Shruti* must prevail." But here too, no attempt must be made to find out which of the two accords with reason. This is laid down by Manu in the following Shloka :

या वेदबाह्याः स्मृतयो याश्च काश्च कुदृष्टः ।
सर्वास्ता निष्फलाः प्रेत्य तमोनिष्ठा हि तः स्मृताः ।।

Again, when there is a conflict between two *Smritis,* the Manu-Smriti must prevail, but no attempt is to be made to find out which of the two accords with reason. This is the ruling given by Brihaspati:

वेदायत्वोपनिबंधृत्वत् प्रमाण्यं हि मनोः स्मृतं ।
मन्वर्थविपरीता तु या स्मृतिः सा न शस्यते ।।

It is, therefore, clear that in any matter on which the *Shrutis* and *Smritis* have given a positive direction, a Hindu is not free to use his reasoning faculty. The same rule is laid down in the Mahabharat:

पुराणं मानवो धर्मः सांगो वेदश्चिकित्सितं ।
आज्ञासिद्धानि चत्वारि न हन्तव्यानि हेतुभिः ।।

He must abide by their directions. The Caste and *Varna* are matters, which are dealt with by the *Vedas* and the *Smritis* and consequently, appeal to reason can have no effect on a Hindu. So far as Caste and *Varna* are concerned, not only the *Shastras* do not permit the Hindu to use his reason in the decision of the question, but they have taken care to see that no occasion is left to examine in a rational way the foundations of his belief in Caste and *Varna.* It must be a source of silent amusement to many a Non-Hindu to find hundreds and thousands of Hindus breaking Caste on certain occasions, such as railway journey and foreign travel and yet endeavouring to maintain Caste for the rest of their lives! The explanation of this phenomenon discloses another fetter on the reasoning faculties of the Hindus. Man's life is generally habitual and unreflective. Reflective thought, in the sense of active, persistent and careful consideration of any belief or supposed form or knowledge in the light of the grounds that support it and further conclusions to which it tends, is quite rare and arises only in a situation which presents a dilemma—a crisis. Railway journeys and foreign travels are really occasions of crisis in the life of a Hindu and it is natural to expect a Hindu to ask himself why he should maintain Caste at all, if he cannot maintain it at all times. But he does not. He breaks Caste at one step and proceeds to observe it at the next without raising any question. The reason for this astonishing conduct is to be found in the rule of the *Shastras,* which directs him to maintain Caste as far as

possible and to undergo *prayaschitta* when he cannot. By this theory of *prayaschitta,* the *Shastras* by following a spirit of compromise have given caste a perpetual lease of life and have smothered reflective thought which would have otherwise led to the destruction of the notion of Caste.

There have been many who have worked in the cause of the abolition of Caste and Untouchability. Of those, who can be mentioned, Ramanuja, Kabir and others stand out prominently. Can you appeal to the acts of these reformers and exhort the Hindus to follow them ? It is true that Manu has included *Sadachar* (सदाचार) as one of the sanctions along with *Shruti* and *Smriti.* Indeed, *Sadachar* has been given a higher place than *Shastras :*

यद्यद्दाचर्यते येन धर्म्यं वाऽधर्म्यमेव वा ।
देशस्याचरणं नित्यं चरित्रं तद्धिकीर्तितम् ।।

According to this, *Sadachar,* whether, it is धर्म्य or अधर्म्य in accordance with *Shastras* or contrary to *Shastras,* must be followed. But what is the meaning of *Sadachar* ? If any one were to suppose that *Sadachar* means right or good acts *i.e.* acts of good and righteous men he would find himself greatly mistaken. *Sadachar* does not means good acts or acts of good men. It means ancient custom *good* or *bad.* The following verse makes this clear :

यस्मिन् देशे य आचारः पारंपर्यक्रमागतः ।
वर्णानां किल सर्वेषां स सदाचार उच्यते ।।

As though to warn people against the view that *Sadachar* means good acts or acts of good men and fearing that people might understand it that way and follow the acts of good men, the *Smritis* have commanded the Hindus in unmistakable terms not to follow even Gods in their good deeds, if they are contrary to *Shruti, Smriti* and *Sadachar.* This may sound to be most extraordinary, most perverse, but the fact remains that न देवचरितं चरेत् is an injunction, issued to the Hindus by their *Shastras.* Reason and morality are the two most powerful weapons in the armoury of a Reformer. To deprive him of the use of these weapons is to disable him for action. How are you going to break up Caste, if people are not free to consider whether it accords with reason ? How are you going to break up Caste it people are not free to consider whether it accords with morality ? The wall built around Caste is impregnable and the material, of which it is built, contains none of the combustible stuff of reason and morality. Add to this the fact that inside this wall stands the army of Brahmins who form the intellectual class, Brahmins who are the natural leaders of the Hindus, Brahmins who are there not as mere mercenary soldiers but as an army fighting for its homeland and you will get an idea why I think that breaking-up of Caste amongst the Hindus is well-nigh impossible. At any rate, it would take ages before a breach is made. But whether the doing of the deed takes time or whether it can be done quickly, you must not forget that if you wish to bring about a breach

in the system then you have got to apply the dynamite to the *Vedas* and the *Shastras,* which deny any part to reason, to *Vedas* and *Shastras,* which deny any part to morality. You must destroy the Religion of the *Shrutis* and the *Smritis*. Nothing else will avail. This is my considered view of the matter.

XXIII

Some may not understand what I mean by destruction of Religion ; some may find the idea revolting to them and some may find it revolutionary. Let me therefore explain my position. I do not know whether you draw a distinction between principles and rules. But I do. Not only I make a distinction but I say that this distinction is real and important. Rules are practical; they are habitual ways of doing things according to prescription. But principles are intellectual; they are useful methods of judging things. Rules seek to tell an agent just what course of action to pursue. Principles do not prescribe a specific course of action. Rules, like cooking recipes, do tell just what to do and how to do it. A principle, such as that of justice, supplies a main head by reference to which he is to consider the bearings of his desires and purposes, it guides him in his thinking by suggesting to him the important consideration which he should bear in mind. This difference between rules and principles makes the acts done in pursuit of them different in quality and in content. Doing what is said to be good by virtue of a rule and doing good in the light of a principle are two different things. The principle may be wrong but the act is conscious and responsible. The rule may be right but the act is mechanical. A religious act may not be a correct act but must at least be a responsible act. To permit of this responsibility, Religion must mainly be a matter of principles only. It cannot be a matter of rules. The moment it degenerates into rules it ceases to be Religion, as it kills responsibility which is the essence of a truly religious act. What is this Hindu Religion ? Is it a set of principles or is it a code of rules ? Now the Hindu Religion, as contained in the *Vedas* and the *Smritis,* is nothing but a mass of sacrificial, social, political and sanitary rules and regulations, all mixed up. What is called Religion by the Hindus is nothing but a multitude of commands and prohibitions. Religion, in the sense of spiritual principles, truly universal, applicable to all races, to all countries, to all times, is not to be found in them, and if it is, it does not form the governing part of a Hindu's life. That for a Hindu, Dharma means commands and prohibitions is clear from the way the word Dharma is used in *Vedas* and the *Smritis* and understood by the commentators. The word Dharma as used in the *Vedas* in most cases means religious ordinances or rites. Even Jaimini in his Purva-Mimansa defines Dharma as "a desirable goal or result that is indicated by injunctive (*Vedic*) passages". To put it in plain language, what the Hindus call Religion is really Law or at best legalized class-ethics. Frankly, I refuse to call this code of ordinances, as Religion. The first evil of such a code of ordinances, misrepresented to the

people as Religion, is that it tends to deprive moral life of freedom and spontaneity and to reduce it (for the conscientious at any rate) to a more or less anxious and servile conformity to externally imposed rules. Under it, there is no loyalty to ideals, there is only conformity to commands. But the worst evil of this code of ordinances is that the laws it contains must be the same yesterday, today and forever. They are iniquitous in that they are not the same for one class as for another. But this iniquity is made perpetual in that they are prescribed to be the same for all generations. The objectionable part of such a scheme is not that they are made by certain persons called Prophets or Law-givers. The objectionable part is that this code has been invested with the character of finality and fixity. Happiness notoriously varies with the conditions and circumstances of a person, as well as with the conditions of different people and epochs. That being the case, how can humanity endure this code of eternal laws, without being cramped and without being crippled ? I have, therefore, no hesitation in saying that such a religion must be destroyed and I say, there is nothing irreligious in working for the destruction of such a religion. Indeed I hold that it is your bounden duty to tear the mask, to remove the misrepresentation that as caused by misnaming this Law as Religion. This is an essential step for you. Once you clear the minds of the people of this misconception and enable them to realize that what they are told as Religion is not Religion but that it is really Law, you will be in a position to urge for its amendment or abolition. So long as people look upon it as Religion they will not be ready for a change, because the idea of Religion is generally speaking not associated with the idea of change. But the idea of law is associated with the idea of change and when people come to know that what is called Religion is really Law, old and archaic, they will be ready for a change, for people know and accept that law can be changed.

XXIV

While I condemn a Religion of Rules, I must not be understood to hold the opinion that there is no necessity for a religion. On the contrary, I agree with Burke when he says that, "True religion is the foundation of society, the basis on which all true Civil Government rests, and both their sanction." Consequently, when I urge that these ancient rules of life be annulled, I am anxious that its place shall be taken by a Religion of Principles, which alone can lay claim to being a true Religion. Indeed, I am so convinced of the necessity of Religion that I feel I ought to tell you in outline what I regard as necessary items in this religious reform. The following in my opinion should be the cardinal items in this reform : (1) There should be one and only one standard book of Hindu Religion, acceptable to all Hindus and recognized by all Hindus. This of course means that all other books of Hindu religion such as *Vedas, Shastras* and *Puranas,* which are treated as sacred and authoritative, must by law cease to be so and the preaching of any doctrine, religious or

social contained in these books should be penalized. (2) It should be better if priesthood among Hindus was abolished. But as this seems to be impossible, the priesthood must at least cease to be hereditary. Every person who professes to be a Hindu must be eligible for being a priest. It should be provided by law that no Hindu shall be entitled to be a priest unless he has passed an examination prescribed by the State and holds a *sanad* from the State permitting him to practise. (3) No ceremony performed by a priest who does not hold a *sanad* shall be deemed to be valid in law and it should be made penal for a person who has no *sanad* to officiate as a priest. (4) A priest should be the servant of the State and should be subject to the disciplinary action by the State in the matter of his morals, beliefs and worship, in addition to his being subject along with other citizens to the ordinary law of the land. (5) The number of priests should be limited by law according to the requirements of the State as is done in the case of the I.C.S. To some, this may sound radical. But to my mind there is nothing revolutionary in this. Every profession in India is regulated. Engineers must show proficiency, Doctor must show proficiency, Lawyers must show proficiency, before they are allowed to practise their professions. During the whole of their career, they must not only obey the law of the land, civil as well as criminal, but they must also obey the special code of morals prescribed by their respective professions. The priest's is the only profession where proficiency is not required. The profession of a Hindu priest is the only profession which is not subject to any code. Mentally a priest may be an idiot, physically a priest may be suffering from a foul disease, such as syphilis or gonorrhea, morally he may be a wreck. But he is fit to officiate at solemn ceremonies, to enter the *sanctum sanctorum* of a Hindu temple and worship the Hindu God. All this becomes possible among the Hindus because for a priest it is enough to be born in a priestly caste. The whole thing is abominable and is due to the fact that the priestly class among Hindus is subject neither to law nor to morality. It recognizes no duties. It knows only of rights and privileges. It is a pest which divinity seems to have let loose on the masses for their mental and moral degradation. The priestly class must be brought under control by some such legislation as I have outlined above. It will prevent it from doing mischief and from misguiding people. It will democratise it by throwing it open to every one. It will certainly help to kill the Brahminism and will also help to kill Caste, which is nothing but Brahminism incarnate. Brahminism is the poison which has spoiled Hinduism. You will succeed in saving Hinduism if you will kill Brahminism. There should be no opposition to this reform from any quarter. It should be welcomed even by the Arya Samajists, because this is merely an application of their own doctrine of *guna-karma*.

Whether you do that or you do not, you must give a new doctrinal basis to your Religion—a basis that will be in consonance with Liberty, Equality and Fraternity, in short, with Democracy. I am no authority on the subject.

But I am told that for such religious principles as will be in consonance with Liberty, Equality and Fraternity it may not be necessary for you to borrow from foreign sources and that you could draw for such principles on the *Upanishads*. Whether you could do so without a complete remoulding, a considerable scraping and chipping off the ore they contain, is more than I can say. This means a complete change in the fundamental notions of life. It means a complete change in the values of life. It means a complete change in outlook and in attitude towards men and things. It means conversion ; but if you do not like the word, I will say, it means new life. But a new life cannot enter a body that is dead. New life can enter only in a new body. The old body must die before a new body can come into existence and a new life can enter into it. To put it simply, the old must cease to be operative before the new can begin to enliven and to pulsate. This is what I meant when I said you must discard the authority of the *Shastras* and destroy the religion of the *Shastras*.

XXV

I have kept you too long. It is time I brought this address to a close. This would have been a convenient point for me to have stopped. But this would probably be my last address to a Hindu audience on a subject vitally concerning the Hindus. I would therefore like, before I close, to place before the Hindus, if they will allow me, some questions which I regard as vital and invite them seriously to consider the same.

In the first place, the Hindus must consider whether it is sufficient to take the placid view of the anthropologist that there is nothing to be said about the beliefs, habits, morals and outlooks on life, which obtain among the different peoples of the world except that they often differ ; or whether it is not necessary to make an attempt to find out what kind of morality, beliefs, habits and outlook have worked best and have enabled those who possessed them to flourish, to go strong, to people the earth and to have dominion over it. As is observed by Prof. Carver, "Morality and religion, as the organised expression of moral approval and disapproval, must be regarded as factors in the struggle for existence as truly as are weapons for offence and defence, teeth and claws, horns and hoofs, furs and feathers. The social group, community, tribe or nation, which develops an unworkable scheme of morality or within which those social acts which weaken it and unfit it for survival, habitually create the sentiment of approval, while those which would strengthen and enable it to be expanded habitually create the sentiment of disapproval, will eventually be eliminated. It is its habits of approval or disapproval (these are the results of religion and morality) that handicap it, as really as the possession of two wings on one side with none on the other will handicap the colony of flies. It would be as futile in the one case as in the other to argue, that one system is just as good as another." Morality

and religion, therefore, are not mere matters of likes and dislikes. You may dislike exceedingly a scheme of morality, which, if universally practised within a nation, would make that nation the strongest nation on the face of the earth. Yet in spite of your dislike such a nation will become strong. You may like exceedingly a scheme of morality and an ideal of justice, which if universally practised within a nation, would make it unable to hold its own in the struggle with other nations. Yet in spite of your admiration this nation will eventually disappear. The Hindus must, therefore, examine their religion and their morality in terms of their survival value.

Secondly, the Hindus must consider whether they should conserve the whole of their social heritage or select what is helpful and transmit to future generations only that much and no more. Prof. John Dewey, who was my teacher and to whom I owe so much, has said : "Every society gets encumbered with what is trivial, with dead wood from the past, and with what is positively perverse... As a society becomes more enlightened, it realizes that it is responsible *not* to conserve and transmit the whole of its existing achievements, but only such as make for a better future society." Even Burke, in spite of the vehemence with which he opposed the principle of change embodied in the French Revolution, was compelled to admit that "a State without the means of some change is without the means of its conservation. Without such means it might even risk the loss of that part of the constitution which it wished the most religiously to preserve." What Burke said of a State applies equally to a society.

Thirdly, the Hindus must consider whether they must not cease to worship the past as supplying its ideals. The beneful effect of this worship of the past are best summed up by Prof. Dewey when he says : "An individual can live only in the present. The present is not just something which comes after the past; much less something produced by it. It is what life is in leaving the past behind it. The study of past products will not help us to understand the present. A knowledge of the past and its heritage is of great significance when it enters into the present, but not otherwise. And the mistake of making the records and remains of the past the main material of education is that it tends to make the past a rival of the present and the present a more or less futile imitation of the past." The principle, which makes little of the present act of living and growing, naturally looks upon the present as empty and upon the future as remote. Such a principle is inimical to progress and is an hindrance to a strong and a steady current of life.

Fourthly, the Hindus must consider whether the time has not come for them to recognize that there is nothing fixed, nothing eternal, nothing *sanatan;* that everything is changing, that change is the law of life for individuals as well as for society. In a changing society, there must be a constant revolution of old values and the Hindus must realize that if there

must be standards to measure the acts of men there must also be a readiness to revise those standards.

XXVI

I have to confess that this address has become too lengthy. Whether this fault is compensated to any extent by breadth or depth is a matter for you to judge. All I claim is to have told you candidly my views. I have little to recommend them but some study and a deep concern in your destiny. If you will allow me to say, these views are the views of a man, who has been no tool of power, no flatterer of greatness. They come from one, almost the whole of whose public exertion has been one continuous struggle for liberty for the poor and for the oppressed and whose only reward has been a continuous shower of calumny and abuse from national journals and national leaders, for no other reason except that I refuse to join with them in performing the miracle—I will not say trick—of liberating the oppressed with the gold of the tyrant and raising the poor with the cash of the rich. All this may not be enough to commend my views. I think they are not likely to alter yours. But whether they do or do not, the responsibility is entirely yours. You must make your efforts to uproot Caste, if not in my way, then in your way. I am sorry, I will not be with you. I have decided to change. This is not the place for giving reasons. But even when I am gone out of your fold, I will watch your movement with active sympathy and you will have my assistance for what it may be worth. Yours is a national cause. Caste is no doubt primarily the breath of the Hindus. But the Hindus have fouled the air all over and everybody is infected, Sikh, Muslim and Christian. You, therefore, deserve the support of all those who are suffering from this infection, Sikh, Muslim and Christian. Yours is more difficult than the other national cause, namely Swaraj. In the fight for Swaraj you fight with the whole nation on your side. In this, you have to fight against the whole nation and that too, your own. But it is more important than Swaraj. There is no use having Swaraj, if you cannot defend it. More important than the question of defending Swaraj is the question of defending the Hindus under the Swaraj. In my opinion only when the Hindu Society becomes a casteless society that it can hope to have strength enough to defend itself. Without such internal strength, Swaraj for Hindus may turn out to be only a step towards slavery. Good-bye and good wishes for your success.

APPENDIX I

A VINDICATION OF CASTE BY MAHATMA GANDHI

(*A Reprint of his Articles in the "Harijan"*)

Dr. Ambedkar's Indictment

I

The readers will recall the fact that Dr. Ambedkar was to have presided last May at the annual conference of the Jat-Pat-Todak Mandal of Lahore. But the conference itself was cancelled because Dr. Ambedkar's address was found by the Reception Committee to be unacceptable. How far a Reception Committee is justified in rejecting a President of its choice because of his address that may be objectionable to it is open to question. The Committee knew Dr. Ambedkar's views on casts; and the Hindu scriptures. They knew also that he had in unequivocal terms decided to give up Hinduism. Nothing less than the address that Dr. Ambedkar had prepared was to be expected from him. The committee appears to have deprived the public of an opportunity of listening to the original views of a man, who has carved out for himself a unique position in society. Whatever label he wears in future, Dr. Ambedkar is not the man to allow himself to be forgotten.

Dr. Ambedkar was not going to be beaten by the Reception Committee. He has answered their rejection of him by publishing the address at his own expense. He has priced it at 8 annas, I would suggest a reduction to 2 annas or at least 4 annas.

No reformer can ignore the address. The orthodox will gain by reading it. This is not to say that the address is not open to objection. It has to be read only because it is open to serious objection. Dr. Ambedkar is a challenge to Hinduism. Brought up as a Hindu, educated by a Hindu potentate, he has become so disgusted with the so-called Savarna Hindus for the treatment that he and his people have received at their hands that he proposes to leave not only them but the very religion that is his and their common heritage. He has transferred to that religion, his disgust against a part of its professors.

But this is not to be wondered at. After all, one can only judge a system or an institution by the conduct of its representatives. What is more. Dr. Ambedkar found that the vast majority of Savarna Hindus had not only conducted themselves inhumanly against those of their fellow religionists, whom they classed as untouchables, but they had based their conduct on the authority of their scriptures, and when he began to search them he had found ample warrant for their beliefs in untouchability and all its implications. The author of the address has quoted chapter and verse in proof of his three-fold indictment—inhuman conduct itself, the unabashed justification for it on the part of the perpetrators, and the subsequent discovery that the justification was warranted by their scriptures.

No Hindu who prizes his faith above life itself can afford to underrate the importance of this indictment. Dr. Ambedkar is not alone in his disgust He is its most uncompromising exponent and one of the ablest among them. He is certainly the most irreconcilable among them. Thank God, in the front rank of the leaders, he is singularly alone and as yet but a representative of a very small minority. But what he says is voiced with more or less vehemence by many leaders belonging to the depressed classes. Only the latter, for instance Rao Bahadur M. C. Rajah and Dewan Bahadur Srinivasan, not only do not threaten to give up Hinduism but find enough warmth in it to compensate for the shameful persecution to which the vast mass of Harijans are exposed.

But the fact of many leaders remaining in the Hindu fold is no warrant for disregarding what Dr. Ambedkar has to say. The Savarnas have to correct their belief and their conduct. Above all those who are by their learning and influence among the Savarnas have to give an authoritative interpretation of the scriptures. The questions that Dr. Ambedkar's indictment suggest are :

(1) What are the scriptures ?

(2) Are all the printed texts to be regarded as an integral part of them or is any part of them to be rejected as unauthorised interpolations ?

(3) What is the answer of such accepted and expurgated scriptures on the question of untouchability, caste, equality of status, inter-dining and intermarriages ?

(These have been all examined by Dr. Ambedkar in his address.)

I must reserve for the next issue my own answer to these questions and a statement of the (at least some) manifest flaws in Dr. Ambedkar's thesis,

(*Harijan,* July 11, 1936)

II

The *Vedas, Upanishads, Smritis* and *Puranas* including Ramayana and Mahabharata are the Hindu Scriptures. Nor is this a finite list. Every age or even generation has added to the list. It follows, therefore, that everything printed or even found handwritten is not scripture. The *Smritis* for instance contain much that can never be accepted as the word of God. Thus, many of the texts that Dr. Ambedkar quotes from the *Smritis* cannot be accepted as authentic. The scriptures, properly so-called, can only be concerned with eternal varieties and must appeal to any conscience *i.e.* any heart whose eyes of understanding are opened. Nothing can be accepted as the word of God which cannot be tested by reason or be capable of being spiritually experienced. And even when you have an expurgated edition of the scriptures, you will need their interpretation. Who is the best interpreter? Not learned men surely. Learning there must be. But religion does not live by it. It lives in the experiences of its saints and seers, in their lives and sayings. When all the

most learned commentators of the scriptures are utterly forgotten, the accumulated experience of the sages and saints will abide and be an inspiration for ages to come.

Caste has nothing to do with religion. It is a custom whose origin I do not know and do not need to know for the satisfaction of my spiritual hunger. But I do know that it is harmful both to spiritual and national growth. *Varna* and *Ashrama* are institutions which have nothing to do with castes. The law of *Varna* teaches us that we have each one of us to earn our bread by following the ancestral calling. It defines not our rights but our duties. It necessarily has reference to callings that are conducive to the welfare of humanity and to no other. It also follows that there is no calling too low and none too high. All are good, lawful and absolutely equal in status. The callings of a Brahmin—spiritual teacher—and a scavenger are equal, and their due performance carries equal merit before God and at one time seems to have carried identical reward before man. Both were entitled to their livelihood and no more. Indeed one traces even now in the villages the faint lines of this healthy operation of the law. Living in Segaon with its population of 600, I do not find a great disparity between the earnings of different tradesmen including Brahmins. I find too that real Brahmins are to be found even in these degenerate days who are living on alms freely given to them and are giving freely of what they have of spiritual treasures. It would be wrong and improper to judge the law of *Varna* by its caricature in the lives of men who profess to belong to a *Varna,* whilst they openly commit a breach of its only operative rule. Arrogation of a superior status by and of the *Varna* over another is a denial of the law. And there is nothing in the law of *Varna* to warrant a belief in untouchability. (The essence of Hinduism is contained in its enunciation of one and only God as Truth and its bold acceptance of Ahimsa as the law of the human family.)

I am aware that my interpretation of Hinduism will be disputed by many besides Dr. Ambedkar. That does not affect my position. It is an interpretation by which I have lived for nearly half a century and according to which I have endeavoured to the best of my ability to regulate my life.

In my opinion the profound mistake that Dr. Ambedkar has made in his address is to pick out the texts of doubtful authenticity and value and the state of degraded Hindus who are no fit specimens of the faith they so woefully misrepresent. Judged by the standard applied by Dr. Ambedkar, every known living faith will probably fail.

In his able address, the learned Doctor has overproved his case- Can a religion that was professed by Chaitanya, Jnyandeo, Tukaram, Tiruvalluvar, Ramkrishna Paramahansa, Raja Rain Mohan Roy, Maharshi Devendranath Tagore, Vivekanand and host of others who might be easily mentioned, so utterly devoid of merit as is made out in Dr. Ambedkar's address ? A religion

has to be judged not by its worst specimens but by the best it might have produced. For that and that alone can be used as the standard to aspire to, if not to improve upon.

(*Harijan,* July 18, 1936)

III

VARNA VERSUS CASTE

Shri Sant Ramji of the Jat-Pat-Todak Mandal of Lahore wants me to publish the following :

"I have read your remarks about Dr. Ambedkar and the Jat-Pat-Todak Mandal, Lahore. In that connection I beg to submit as follows :

"We did not invite Dr. Ambedkar to preside over our conference because he belonged to the Depressed Classes, for we do not distinguish between a touchable and an untouchable Hindu. On the contrary our choice fell on him simply because his diagnosis of the fatal disease of the Hindu community was the same as ours, *i.e.* he too was of the opinion that caste system was the root cause of the disruption and downfall of the Hindus. The subject of the Doctor's thesis for Doctorate being caste system, he has studied the subject thoroughly. Now the object of our conference was to pursuade the Hindus to annihilate castes but the advice of a non-Hindu in social and religious matters can have no effect on them. The Doctor in the supplementary portion of his address insisted on saying that that was his last speech as a Hindu, which was irrelevant as well as pernicious to the interests of the conference. So we requested him to expunge that sentence for he could easily say the same thing on any other occasion. But he refused and we saw no utility in making merely a show of our function. In spite of all this, I cannot help praising his address which is, as far as I know, the most learned thesis on the subject and worth translating into every vernacular of India.

Moreover, I want to bring to your notice that your philosophical difference between Caste and *Varna* is too subtle to be grasped by people in general, because for all practical purposes in the Hindu society Caste and *Varna* are one and the same thing, for the function of both of them is one and the same *i.e.* to restrict inter-caste marriages and inter-dining. Your theory of *Varnavyavastha* is impracticable in this age and there is no hope of its revival in the near future. But Hindus are slaves of caste and do not want to destroy it. So when you advocate your ideal of imaginary *Varnavyavastha* they find justification for clinging to caste. Thus you are doing a great disservice to social reform by advocating your imaginary utility of division of *Varnas,* for it creates hindrance in our way. To try to remove untouchability without striking at the root of *Varnavyavastha* is simply to treat the outward symptoms of a disease or to draw a line on the surface of water. As in the heart of their hearts

dvijas do not want to give social equality to the so-called touchable and untouchable Shudras, so they refuse to break caste, and give liberal donations for the removal of untouchability, simply to evade the issue. To seek the help of the *Shastras* for the removal of untouchability and caste is simply to wash mud with mud."

The last paragraph of the letter surely cancels the first. If the Mandal rejects the help of the *Shastras,* they do exactly what Dr. Ambedkar does, *i.e.* cease to be Hindus. How then can they object to Dr. Ambedkar's address merely because he said that that was his last speech as a Hindu ? The position appears to be wholly untenable especially when the Mandal, for which , Shri Sant Ram claims to speak, applauds the whole argument of Dr. Ambedkar's address.

But it is pertinent to ask what the Mandal believes if it rejects the *Shastras*. How can a Muslim remain one if he rejects the Quran, or a Christian remain Christian if he rejects the Bible ? If Caste and *Varna* are convertible terms and if *Varna* is an integral part of the *Shastras* which define Hinduism, I do not know how a person who rejects Caste *i.e. Varna* can call himself a Hindu.

Shri Sant Ram likens the *Shastras* to mud. Dr. Ambedkar has not, so far as I remember, given any such pictures que name to the *Shastras*. I have certainly meant when I have said that if *Shastras* support the existing untouchability I should cease to call myself a Hindu. Similarly, if the *Shastras* support caste as we know it today in all its hideousness, I may not call myself or remain a Hindu since I have no scruples about interdining or intermarriage. I need not repeat my position regarding *Shastras* and their interpretation. I venture to suggest to Shri Sant Ram that it is the only rational and correct and morally defensible position and it has ample warrant in Hindu tradition.

(Harijan, August 15, 1936)

APPENDIX II

A REPLY TO THE MAHATMA BY DR. B.R. AMBEDKAR

I

I appreciate greatly the honour done me by the Mahatma in taking notice in his Harijan of the speech on Caste which I had prepared for the Jat Pat Todak Mandal. From a perusal of his review of my speech it is clear that the Mahatma completely dissents from the views I have expressed on the subject of Caste. I am not in the habit of entering into controversy with my opponents unless there are special reasons which compel me to act otherwise. Had my opponent been some mean and obscure person I would not have pursued him. But my opponent being the Mahatma himself I feel I must attempt to meet the case to the contrary which he has sought to put forth. While I appreciate the honour he has done me, I must confess to a sense of surprize on finding that of all the persons the Mahatma should accuse me of a desire to seek publicity as he seems to do when he suggests that in publishing the undelivered speech my object was to see that I was not "forgotten". Whatever the Mahatma may choose to say my object in publishing the speech was to provoke the Hindus to think and take stock of their position. I have never hankered for publicity and if I may say so, I have more of it than I wish or need. But supposing it was out of the motive of gaining publicity that I printed the speech who could cast a stone at me ? Surely not those, who like the Mahatma live in glass houses.

II

Motive apart, what has the Mahatma to say on the question raised by me in the speech ? First of all any one who reads my speech will realize that the Mahatma has entirely missed the issues raised by me and that the issues be has raised are not the issues that arise out of what he is pleased to call my indictment of the Hindus. The principal points which I have tried to make out in my speech may be catalogued as follows : (1) That caste has ruined the Hindus ; (2) That the reorganization of the Hindu society on the basis of Chaturvarnya is impossible because the *Varnavyavastha* is like a leaky pot or like a man running at the nose. It is incapable of sustaining itself by its own virtue and has an inherent tendency to degenerate into a caste system unless there is a legal sanction behind it which can be enforced against every one transgressing his *Varna ;* (3) That the reorganization of the Hindu Society on the basis of Chaturvarnya is harmful because the effect of the *Varnavyavastha* is to degrade the masses by denying them opportunity to acquire knowledge and to emasculate them by denying them the right to be armed ; (4) That the Hindu society must be reorganized on a religious basis which would recognise the principles of Liberty, Equality and Fraternity; (5) That in order to achieve this object the sense of religious sanctity behind

Caste and *Varna* must be destroyed ; (6) That the sanctity of Caste and *Varna* can be destroyed only by discarding the divine authority of the *Shastras*. It will be noticed that the questions raised by the Mahatma are absolutely beside the point and show that the main argument of the speech was lost upon him.

III

Let me examine the substance of the points made by the Mahatma. The first point made by the Mahatma is that the texts cited by me are not authentic. I confess I am no authority on this matter. But I should like to state that the texts cited by me are all taken from the writings of the late Mr. Tilak who was a recognised authority on the Sanskrit language and on the Hindu *Shastras*. His second point is that these *Shastras* should be interpreted not by the learned but the saints and that, as the saints have understood them, the *Shastras* do not support Caste and Untouchability. As regards the first point what I like to ask the Mahatma is what does it avail to any one if the texts are interpolations and if they have been differently interpreted by the saints ? The masses do not make any distinction between texts which are genuine and texts which are interpolations. The masses do not know what the texts are. They are too illiterate to know the contents of the *Shastras*. They have believed what they have been told and what they have been told is that the *Shastras* do enjoin as a religious duty the observance of Caste and Untouchability.

With regard to the saints, one must admit that howsoever different and elevating their teachings may have been as compared to those of the merely learned they have been lamentably ineffective. They have been ineffective for two reasons. Firstly, none of the saints ever attacked the Caste System. On the contrary, they were staunch believers in the System of Castes. Most of them lived and died as members of the castes which they respectively belonged. So passionately attached was Jnyandeo to his status as a Brahmin that when the Brahmins of Paithan would not admit him to their fold he moved heaven and earth to get his status as a Brahmin recognized by the Brahmin fraternity. And even the saint Eknath who now figures in the film "Dharmatma" as a hero for having shown courage to touch the untouchables and dine with them, did so not because he was opposed to Caste and Untouchability but because he felt that the pollution caused thereby could be washed away by a bath in the sacred waters of the river Ganges.* The saints have never according to my study carried on a campaign against Caste and Untouchability. They were not concerned with the struggle between men. They were concerned with the relation between man and God. They did not preach that all men were equal. They preached that all men were equal in the eyes of God—

*अंत्यजाचा विटाळ ज्यासी । गंगास्नाने शुद्धत्व त्यासी ।।—**एकनाथी भागवत,** अ. २८, ओ.१९१.

a very different and a very innocuous proposition which nobody can find difficult to preach or dangerous to believe in. The second reason why the teachings of the saints proved ineffective was because the masses have been taught that a saint might break Caste but the common man must not. A saint therefore never became an example to follow. He always remained a pious man to be honoured. That the masses have remained staunch believers in Caste and Untouchability shows that the pious lives and noble sermons of the saints have had no effect on their life and conduct as against the teachings of the *Shastras*. Thus it can be a matter of no consolation that there were saints or that there is a Mahatma who understands the *Shastras* differently from the learned few or ignorant many. That the masses hold different view of the *Shastras* is fact which should and must be reckoned with. How is that to be dealt with except by denouncing the authority of the *Shastras,* which continue to govern their conduct, is a question which the Mahatma has not considered. But whatever the plan the Mahatma puts forth as an effective means to free the masses from the teachings of the *Shastras,* he must accept that the pious life led by one good Samaritan may be very elevating to himself but in India, with the attitude the common man has to saints and to Mahatmas—to honour but not to follow—one cannot make much out of it.

IV

The third point made by the Mahatma is that a religion professed by Chaitanya, Jnyandeo, Tukaram, Tiruvalluvar, Ramkrishna Paramahansa etc. cannot be devoid of merit as is made out by me and that a religion has to be judged not by its worst specimens but by the best it might have produced. I agree with every word of this statement. But I do not quite understand what the Mahatma wishes to prove thereby. That religion should be judged not by its worst specimens but by its best is true enough but does it dispose of the matter ? I say it does not. The question still remains—why the worst number so many and the best so few ? To my mind there are two conceivable answers to this question : (1) That the worst by reason of some original perversity of theirs are morally uneducable and are therefore incapable of making the remotest approach to the religious ideal. Or (2) That the religious ideal is a wholly wrong ideal which has given a wrong moral twist to the lives of the many and that the best have become best in spite of the wrong ideal—in fact by giving to the wrong twist a turn in the right direction. Of these two explanations I am not prepared to accept the first and I am sure that even the Mahatma will not insist upon the contrary. To my mind the second is the only logical and reasonable explanation unless the Mahatma has a third alternative to explain why the worst are so many and the best so few. If the second is the only explanation then obviously the argument of the Mahatma that a religion should be judged by its best followers carries us nowhere except to pity the lot of the many who have gone wrong because they have been made to worship wrong ideals.

V

The argument of the Mahatma that Hinduism would be tolerable if only many were to follow the example of the saints is fallacious for another reason.* By citing the names of such illustrious persons as Chaitanya etc. what the Mahatma seems to me to suggest in its broadest and simplest form is that Hindu society can be made tolerable and even happy without any fundamental change in its structure if all the high caste Hindus can be persuaded to follow a high standard of morality in their dealings with the low caste Hindus. I am totally opposed to this kind of ideology. I can respect those of the caste Hindus who try to realize a high social ideal in their life. Without such men India would be an uglier and a less happy place to live in than it is. But nonetheless anyone who relies on an attempt to turn the members of the caste Hindus into better men by improving their personal character is in my judgment wasting his energy and hugging an illusion. Can personal character make the maker of armaments a good man, *i.e.* a man who will sell shells that will not burst and gas that will not poison ? If it cannot, how can you accept personal character to make a man loaded with the consciousness of Caste, a good man, *i.e.* a man who would treat his fellows as his friends and equals ? To be true to himself he must deal with his fellows either as a superior or inferior according as the case may be; at any rate, differently from his own caste fellows. He can never be expected to deal with his fellows as his kinsmen and equals. As a matter of fact, a Hindu does treat all those who are not of his Caste as though they were aliens, who could be discriminated against with impunity and against whom any fraud or trick may be practised without shame. *This is to say that there can be a better or a worse Hindu. But a good Hindu there cannot be.* This is so not because there is anything wrong with his personal character. In fact what is wrong is the entire basis of his relationship to his fellows. The best of men cannot be moral if the basis of relationship between them and their fellows is fundamentally a wrong relationship. To a slave his master may be better or worse. But there cannot be a good master. A good man cannot be a master and a master cannot be a good man. The same applies to the relationship between high caste and low caste. To a low caste man a high caste man can be better or worse as compared to other high caste men. A high caste man cannot be a good man in so far as he must have a low caste man to distinguish him as high caste man. It cannot be good to a low caste man to be conscious that there is a high caste man above him. I have argued in my speech that a society based on *Varna* or Caste is a society which is based on a wrong relationship. I had hoped that the Mahatma would attempt to demolish my argument. But instead of doing that he has merely reiterated his belief in Chaturvarnya without disclosing the ground on which it is based

* In this connection see illuminating article on *Morality and the Social Structure* by Mr. H. N. Brailsford in the Aryan Path for April 1936.

VI

Does the Mahatma practise what he preaches ? One does not like to make personal reference in an argument which is general in its application. But when one preaches a doctrine and holds it as a dogma there is a curiosity to know how far he practises what he preaches. It may be that his failure to practise is due to the ideal being too high to be attainable ; it may be that his failure to practise is due to the innate hypocracy of the man. In any case he exposes his conduct to examination and I must not be blamed if I asked how far has the Mahatma attempted to realize his ideal in his own case. The Mahatma is a Bania by birth. His ancestors had abandoned trading in favour of ministership which is a calling of the Brahmins. In his own life, before he became a Mahatma, when occasion came for him to choose his career he preferred law to scales. On abandoning law he became half saint and half politician. He has never touched trading which is his ancestral calling. His youngest son—I take one who is a faithful follower of his father—born a Vaishya has married a Brahmin's daughter and has chosen to serve a newspaper magnate. The Mahatma is not known to have condemned him for not following his ancestral calling. It may be wrong and uncharitable to judge an ideal by its worst specimens. But surely the Mahatma as a specimen has no better and if he even fails to realize the ideal then the ideal must be an impossible ideal quite opposed to the practical instincts of man. Students of Carlyle know that he often spoke on a subject before he thought about it. I wonder whether such has not been the case with the Mahatma in regard to the subject matter of Caste. Otherwise certain questions which occur to me would not have escaped him. When can a calling be deemed to have become an ancestral calling so as to make it binding on a man ? Must man follow his ancestral calling even if it does not suit his capacities, even when it has ceased to be profitable ? Must a man live by his ancestral calling even if he finds it to be immoral ? If every one must pursue his ancestral calling then it must follow that a man must continue to be a pimp because his grandfather was a pimp and a woman must continue to be a prostitute because her grandmother was a prostitute. Is the Mahatma prepared to accept the logical conclusion of his doctrine ? To me his ideal of following one's ancestral calling is not only an impossible and impractical ideal, but it is also morally an indefensible ideal.

VII

The Mahatma sees great virtue in a Brahmin remaining a Brahmin all his life. Leaving aside the fact there are many Brahmins who do not like to remain Brahmins all their lives. What can we say about those Brahmins who have clung to their ancestral calling of priesthood ? Do they do so from any faith in the virtue of the principle of ancestral calling or do they do so from motives of filthy lucre ? The Mahatma does not seem to concern himself with such queries. He is satisfied that these are "real Brahmins who are living on alms

freely given to them and giving freely what they have of spiritual treasures". This is how a hereditary Brahmin priest appears to the Mahatma—a carrier of spiritual treasures. But another portrait of the hereditary Brahmin can also be drawn. A Brahmin can be a priest to Vishnu—the God of Love. He can be a priest to Shankar—the God of Destruction. He can be a priest at Buddha Gaya worshipping Buddha—the greatest teacher of mankind who taught the noblest doctrine of Love. He also can be a priest to Kali, the Goddess, who must have a daily sacrifice of an animal to satisfy her thirst for blood ; He will be a priest of the temple of Rama—the Kshatriya God! He will also be a priest of the Temple of Parshuram, the God who took Avatar to destroy the Kshatriyas ! He can be a priest to Bramha, the Creator of the world. He can be a priest to a Pir whose God Allah will not brook the claim of Bramha to share his spiritual dominion over the world! No one can say that this is a picture which is not true to life. If this is a true picture one does not know what to say of this capacity to bear loyalties to Gods and Goddesses whose attributes are so antagonistic that no honest man can be a devotee to all of them. The Hindus rely upon this extraordinary phenomenon as evidence of the greatest virtue of their religion—namely its catholicity, its spirit of toleration. As against this facile view, it can be urged that what is toleration and catholicity may be really nothing more creditable than indifference or flaccid latitudinarianism. These two attitudes are hard to distinguish in their outer seeming. But they are so vitally unlike in their real quality that no one who examines them closely can mistake one for the other. That a man is ready to render homage to many Gods and Goddesses may be cited as evidence of his tolerant spirit. But can it not also be evidence of insincerity born of a desire to serve the times ? I am sure that this toleration is merely insincerity. If this view is well founded, one may ask what spiritual treasure can there be with a person who is ready to be a priest and a devotee to any deity which it serves his purpose to worship and to adore ? Not only must such a person be deemed to be bankrupt of all spiritual treasures but for him to practice so elevating a profession as that of a priest simply because it is ancestral, without faith, without belief, merely as a mechanical process handed down from father to son, is not a conservation of virtue; it is really the prostitution of a noble profession which is no other than the service of religion.

VIII

Why does the Mahatma cling to the theory of every one following his or her ancestral calling ? He gives his reasons nowhere. But there must be some reason although he does not care to avow it. Years ago writing on "Caste *versus* Class" in his *Young India* he argued that Caste System was better than Class System on the ground that caste was the best possible adjustment of social stability. If that be the reason why the Mahatma clings to the theory of every

one following his or her ancestral calling, then he is clinging to a false view of social life. Everybody wants social stability and some adjustment must be made in the relationship between individuals and classes in order that stability may be had. But two things, I am sure nobody wants. One thing nobody wants is static relationship, something that is unalterable, something that is fixed for all times. Stability is wanted but not at the cost of change when change is imperative. Second thing nobody wants is mere adjustment. Adjustment is wanted but not at the sacrifice of social justice. Can it be said that the adjustment of social relationship on the basis of caste *i.e.* on the basis of each to his hereditary calling avoids these two evils ? I am convinced that it does not. Far from being the best possible adjustment I have no doubt that it is of the worst possible kind inasmuch as it offends against both the canons of social adjustment—namely fluidity and equity.

IX

Some might think that the Mahatma has made much progress inasmuch as he now only believes in *Varna* and does not believe in Caste. It is true that there was a time when the Mahatma was a full-blooded and a blue-blooded Sanatani Hindu. He believed in the *Vedas,* the *Upanishads,* the *Puranas* and all that goes by the name of Hindu scriptures and therefore in *avatars* and rebirth. He believed in Caste and defended it with the vigour of the orthodox. He condemned the cry for inter-dining, inter-drinking and inter-marrying and argued that restraints about inter-dining to a great extent "helped the cultivation of will-power and the conservation of certain social virtue". It is good that he has repudiated this sanctimonious nonsense and admitted that caste "is harmful both to spiritual and national growth," and may be, his son's marriage outside his caste has had something to do with this change of view. But has the Mahatma really progressed ? What is the nature of the *Varna* for which the Mahatma stands ? Is it the *Vedic* conception as commonly understood and preached by Swami Dayanand Saraswati and his followers, the Arya Samajists ? The essence of the *Vedic* conception of *Varna* is the pursuit of a calling which is appropriate to one's natural aptitude. The essence of the Mahatma's conception of *Varna* is the pursuit of ancestral calling irrespective of natural aptitude. What is the difference between Caste and *Varna* as understood by the Mahatma ? I find none. As defined by the Mahatma, *Varna* becomes merely a different name for Caste for the simple reason that it is the same in essence—namely pursuit of ancestral calling. Far from making progress the Mahatma has suffered retrogression. By putting this interpretation upon the *Vedic* conception of *Varna* he has really made ridiculous what was sublime. While I reject the *Vedic Varnavyavastha* for reasons given in the speech I must admit that the *Vedic* theory of *Varna* as interpreted by Swami Dayanand and some others is a sensible and an inoffensive thing. It did not admit birth as a determining factor in fixing

the place of an individual in society. It only recognized worth. The Mahatma's view of *Varna* not only makes nonsense of the *Vedic Varna* but it makes it an abominable thing. *Varna* and Caste are two very different concepts. *Varna* is based on the principle of each according to his worth-while Caste is based on the principle of each according to his birth. The two are as distinct as chalk is from cheese. In fact there is an antithesis between the two. If the Mahatma believes as he does in every one following his or her ancestral calling, then most certainly he is advocating the Caste System and that in calling it the *Varna* System he is not only guilty of terminological inexactitude, but he is causing confusion worse confounded. I am sure that all his confusion is due to the fact that the Mahatma has no definite and clear conception as to what is *Varna* and what is Caste and as to the necessity of either for the conservation of Hinduism. He has said and one hopes that he will not find some mystic reason to change his view that caste is not the essence of Hinduism. Does he regard *Varna* as the essence of Hinduism ? One cannot as yet give any categorical answer. Readers of his article on "Dr. Ambedkar's Indictment" will answer "No". In that article he does not say that the dogma of *Varna* is an essential part of the creed of Hinduism. Far from making *Varna* the essence of Hinduism he says "the essence of Hinduism is contained in its enunciation of one and only God as Truth and its bold acceptance of Ahimsa as the law of the human family" But the readers of his article in reply to Mr. Sant Ram will say "Yes". In that article he says "How can a Muslim remain one if he rejects the Quran, or a Christian remain as Christian if he rejects the Bible ? If Caste and *Varna* are convertible terms and if *Varna* is an integral part of the *Shastras* which define Hinduism I do not know how a person who rejects Caste, *i.e. Varna* can call himself a Hindu ?" Why this prevarication ? Why does the Mahatma hedge ? Whom does he want to please ? Has the saint failed to sense the truth ? Or does the politician stand in the way of the Saint ? The real reason why the Mahatma is suffering from this confusion is probably to be traced to two sources. The first is the temperament of the Mahatma. He has almost in everything the simplicity of the child with the child's capacity for self-deception. Like a child he can believe in anything he wants to believe. We must therefore wait till such time as it pleases the Mahatma to abandon his faith in *Varna* as it has pleased him to abandon his faith in Caste. The second source of confusion is the double role which the Mahatma wants to play—of a Mahatma and a Politician. As a Mahatma he may be trying to spiritualize Politics. Whether he has succeeded in it or not Politics have certainly commercialized him. A politician must knew that Society cannot bear the whole truth and that he must not speak the whole truth; if he is speaking the whole truth it is bad for his politics. The reason why the Mahatma is always supporting Caste and *Varna* is because he is afraid that if he opposed them he will lose his place in politics. Whatever may be the source of this confusion the

Mahatma must be told that he is deceiving himself and also deceiving the people by preaching Caste under the name of *Varna*.

X

The Mahatma says that the standards I have applied to test Hindus and Hinduism are too severe and that judged by those standards every known living faith will probably fail. The complaint that my standards are high may be true. But the question is not whether they are high or whether they are low. The question is whether they are the right standards to apply. A People and their Religion must be judged by social standards based on social ethics. No other standard would have any meaning if religion is held to be a necessary good for the well-being of the people. Now I maintain that the standards I have applied to test Hindus and Hinduism are the most appropriate standards and that I know of none that are better. The conclusion that every known religion would fail if tested by my standards may be true. But this fact should not give the Mahatma as the champion of Hindus and Hinduism a ground for comfort any more than the existence of one madman should give comfort to another madman or the existence of one criminal should give comfort to another criminal. I like to assure the Mahatma that it is not the mere failure of the Hindus and Hinduism which has produced in me the feelings of disgust and contempt with which I am charged. I realize that the world is a very imperfect world and any one who wants to live in it must bear with its imperfections. But while I am prepared to bear with the imperfections and shortcomings of the society in which I may be destined to labour, I feel I should not consent to live in a society which cherishes wrong ideals or a society which having right ideals will not consent to bring its social life in conformity with those ideals. If I am disgusted with Hindus and Hinduism it is because I am convinced that they cherish wrong ideals and live a wrong social life. My quarrel with Hindus and Hinduism is not over the imperfections of their social conduct. It is much more fundamental. It is over their ideals.

XI

Hindu society seems to me to stand in need of a moral regeneration which it is dangerous to postpone. And the question is who can determine and control this moral regeneration ? Obviously only those who have undergone an intellectual regeneration and those who are honest enough to have the courage of their convictions born of intellectual emancipation. Judged by this standard the Hindu leaders who count are in my opinion quite unfit for the task. It is impossible to say that they have undergone the preliminary intellectual regeneration. If they had undergone an intellectual regeneration they would neither delude themselves in the simple way of the untaught multitude nor would they take advantage of the primitive ignorance of others as one sees them doing. Notwithstanding the crumbling state of Hindu society these

leaders, will nevertheless unblushingly appeal to ideals of the past which have in every way ceased to have any connection with the present; which however suitable they might have been in the days of their origin have now become a warning rather than a guide. They still have a mystic respect for the earlier forms which make them disinclined—nay opposed to any examination of the foundations of their Society. The Hindu masses are of course incredibly heedless in the formation of their beliefs. But so are the Hindu leaders. And what is worse is that these Hindu leaders become filled with an illicit passion for their beliefs when any one proposes to rob them of their companionship. The Mahatma is no exception. The Mahatma appears not to believe in thinking. He prefers to follow the saints. Like a conservative with his reverence for consecrated notions he is afraid that if he once starts thinking, many ideals and institutions to which he clings wilt be doomed. One must sympathize with him. For every act of independent thinking puts some portion of apparently stable world in peril. But it is equally true that dependence on saints cannot lead us to knew the truth. The saints are after all only human beings and, as Lord Balfour said, "the human mind is no more a truth finding apparatus than the snout of a pig". In so far as he does think, to me he really appears to be prostituting his intelligence to find reasons for supporting this archaic social structure of the Hindus. He is the most influential apologist of it and therefore the worst enemy of the Hindus.

Unlike the Mahatma there are Hindu leaders who arc not content merely to believe and follow. They dare to think, and act in accordance with the result of their thinking. But unfortunately they are cither a dishonest lot or an indifferent lot when it comes to the question of giving right guidance to the mass of the people. Almost every Brahmin has transgressed the rule of Caste. The number of Brahmins who sell shoes is far greater than those who practise priesthood. Not only have the Brahmins given up their ancestral calling of priesthood for trading but they have entered trades which are prohibited to them by the *Shastras*. Yet how many Brahmins who break Caste every day will preach against Caste and against the *Shastras* ? For one honest Brahmin preaching against Caste and *Shastras* because his practical instinct and moral conscience cannot support a conviction in them, there are hundreds who break Caste and trample upon the *Shastras* every day but who are the most fanatic upholders of the theory of Caste and the sanctity of the *Shastras*. Why this duplicity ? Because they feel that if the masses are emancipated from the yoke of Caste they would be a menace to the power and prestige of the Brahmins as a class. The dishonesty of this intellectual class who would deny the masses the fruits of their thinking is a most disgraceful phenomenon.

The Hindus in the words of Mathew Arnold are "wandering between two worlds, one dead, the other powerless to be born". What are they to do ? The

Mahatma to whom they appeal for guidance does not believe in thinking and can therefore give no guidance which can be said to stand the test of experience. The intellectual classes to whom the masses look for guidance are either too dishonest or too indifferent to educate them in the right direction. We are indeed witnesses to a great tragedy. In the face of this tragedy all one can do is to lament and say—such be thy Leaders, O! Hindus.

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PART II

ON LINGUISTIC STATES

3

MAHARASHTRA AS A LINGUISTIC PROVINCE

Statement submitted
to
the Linguistic Provinces Commission

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NOTE

The figures quoted in this memorandum have been taken from various books and pamphlets written by various writers on the subject of reconstituting Maharashtra on a linguistic basis. I rely upon the writers for their accuracy. Similarly, the map of Maharashtra attached to this Memorandum need not be taken as accurate or complete. The idea is merely to give a picture of how the Province when reconstituted will look like.

B. R. A.
14-10-48

MAHARASHTRA AS A LINGUISTIC PROVINCE

PART I

THE PROBLEM OF LINGUISTIC PROVINCES

The question of Linguistic Provinces has not only led to a great deal of controversy born out of party prejudices and party interests but it has led to a difference of opinion as to the merits thereof. The points of controversy relate to claims and counter-claims as between contiguous Provinces to territories as well as to the terms of their inclusion. I shall deal with them at a later stage in so far as they relate to the creation of the Maharashtra Province. I shall first take up the question of the merits of the proposal for Linguistic Provinces.

Purposes behind the demand for Linguistic Provinces

2. What is the purpose which lies behind the demand for Linguistic Provinces ? The generality of those who advocate the creation of Linguistic Provinces do so because they believe that the Provinces have different languages and cultures. They should therefore have the fullest scope to develop their languages and their cultures. In other words, the Provinces have all the elements of a distinct nationality and they should be allowed the freedom to grow to their fullest in nationhood.

Difficulties arising out of Linguistic Provinces

3. In discussing the question of creating such Linguistic Provinces it would be very short-sighted to omit from one's consideration the fact that the structure of Government of India of the future is to be cast in a dual form : (*a*) a Central Government and (*b*) a number of Provincial Governments inextricably inter-linked and inter-woven in the discharge of their respective Legislative, Executive and Administrative functions. Before one could agree to the creation of Linguistic Provinces, one must, therefore, consider the effects which Linguistic Provinces would have on the working of the Central Government.

4. Among the many effects that may be envisaged, the following are obvious :

(1) Linguistic Provinces will result in creating as many nations as there are groups with pride in their race, language and literature. The Central Legislature will be a League of Nations and the Central Executive may become a meeting of separate and solidified nations filled with the consciousness of their being separate in culture and therefore in interests. They may develop the mentality of political insubordination, i.e., refusal to obey the majority or of staging walk-outs. The development of such a mentality is not to be altogether discounted. If such a mentality grows it may easily make the working of the Central Government impossible.

(2) The creation of Linguistic Provinces would be fatal to the maintenance of the necessary administrative relations between the Centre and the Provinces. If each Province adopts its own language as its official language the Central Government will have to correspond in as many official languages as there are Linguistic Provinces. This must be accepted as an impossible task. How great a deadlock Linguistic Provinces will create in the working of the Governmental machine can be better understood by studying the effects of Linguistic Provinces on the Judiciary. In the new set-up, each Province will have a High Court with a series of subordinate courts below it. At the apex of these High Courts will be the Supreme Court with the right to hear appeals against the decisions of the High Courts. On the basis of Linguistic Provinces, Courts of each Province including its High Court will conduct their proceedings in the language of the Province. What is the Supreme Court to do when its jurisdiction is invoked for rectifying a wrong done by the High Court ? The Supreme Court will have to close down. For, if it is to function — every judge of the Supreme Court — I am omitting for the moment the lawyers practising therein — must know the language of every Province — which it is impossible to provide for.

No one can contemplate such a situation with equanimity. It may lead to a break-up of India. Instead of remaining united, India may end in becoming Europe — faced with the prospect of chaos and disorder.

Advantages from Linguistic Provinces

5. While it is true that the proposal of Linguistic Provinces creates a problem which goes to the very root of the matter — inasmuch as it affects the unity of India — there can be no doubt that the reconstruction of Provinces on linguistic basis has certain definite political advantages.

6. The main advantage of the scheme of Linguistic Provinces which appeals to me quite strongly is that Linguistic Provinces would make

democracy work better than it would in mixed Provinces. A Linguistic Province produces what democracy needs, namely, social homogeneity. Now the homogeneity of a people depends upon their having a belief in a common origin, in the possession of a common language and literature, in their pride in a common historic tradition, community of social customs, etc. is a proposition which no student of sociology can dispute. The absence of a social homogeneity in a State creates a dangerous situation especially where such a State is raised on a democratic structure. History shows that democracy cannot work in a State where the population is not homogeneous. In a heterogeneous population divided into groups which are hostile and anti-social towards one another the working of democracy is bound to give rise to cases of discrimination, neglect, partiality, suppression of the interests of one group at the hands of another group which happens to capture political power. The reason why in an heterogeneous society, democracy cannot succeed is because power instead of being used *impartially* and *on merits* and for the benefit of all is used for the aggrandisement of one group and to the detriment of another. On the other hand, a State which is homogeneous in its population can work for the true ends of democracy, for there are no artificial barriers or social antipathies which lead to the misuse of political power.

7. It follows that if democracy is to function properly the subjects of the State must be so distributed as to form a single homogeneous group. The constitution for the Provinces of India which is on the anvil is designed for a democratic form of Government. It follows that each Province must be homogeneous in its population if democracy in the Province is to be successful. This is simply another way of saying that each Province must be a linguistic unit if it is to be fitted to work a democratic constitution. Herein lies the justification for Linguistic Provinces.

Can the creation of Linguistic Provinces be postponed ?

8. Can the solution of this problem be postponed ? In this connection, I would like to place before the Commission the following considerations :

(i) There is nothing new in the demand for Linguistic Provinces. Six Provinces (1) East Punjab, (2) United Provinces, (3) Bihar, (4) West Bengal, (5) Assam and (6) Orissa already exist as Linguistic Provinces. The Provinces which are clamouring for being reconstituted on linguistic basis are : (1) Bombay, (2) Madras and (3) Central Provinces. When the principle of Linguistic Provinces is accepted in the case of six Provinces, the other Provinces which are asking the same principle to be applied to them, cannot be asked to wait indefinitely:

(ii) The situation in the Non-Linguistic Provinces has become exasperating if not dangerous and is in no way different from the

situation as it existed in the old Turkish Empire or in the old Austro-Hungarian Empire.

(iii) The demand for Linguistic Provinces is an explosive force of the same character which was responsible for blowing up the old Turkish Empire or Austro-Hungarian Empire. It is better not to allow it to get too hot when it may become difficult to prevent an explosion.

(iv) So long as the Provinces were not democratic in their constitutions and so long as they did not possess the widest sovereign powers which the new constitution gives them the urgency of Linguistic Provinces was not very great. But with the new constitution, the problem has become very urgent.

The solution of the difficulties

9. If the problem must be dealt with immediately what is to be the solution ? As has already been pointed out, the solution must satisfy two conditions. While accepting the principle of Linguistic Provinces it must provide against the break-up of India's unity. My solution of the problem therefore is that, while accepting the demand for the re-constitution of Provinces on linguistic basis, the constitution should provide that the official language of every Province shall be the same as the official language of the Central Government. It is only on that footing that I am prepared to accept the demand for Linguistic Provinces.

10. I am aware of the fact that my suggestion runs counter to the conception of Linguistic Provinces which is in vogue. It is that the language of the Province shall be its official language. I have no objection to Linguistic Provinces. But I have the strongest objection to the language of the Province being made its official language where it happens to be different from the official language of the Centre. My objection is based on the following considerations :

(1) The idea of having a Linguistic Province has nothing to do with the question of what should be its official language. By a Linguistic Province, I mean a Province which by the social composition of its population is homogeneous and therefore more suited for the realization of those social ends which a democratic Government must fulfil. In my view, a Linguistic Province has nothing to do with the language of the Province. In the scheme of Linguistic Provinces, language has necessarily to play its part. But its part can be limited to the creation of the Province, i.e., for demarcation of the boundaries of the Province. There is no categorical imperative in the scheme of Linguistic Provinces which compels us to make the language of the Province its official language. Nor is it necessary, for sustaining the cultural unity of the Province, to make the language of the

Province its official language. For, the cultural unity of the Province, which already exists, is capable of being sustained by factors other than language such as common historic tradition, community of social customs, etc. To sustain Provincial cultural unity which already exists it does not require the use of the Provincial language for official purposes. Fortunately for the Provincialists there is no fear of a Maharashtrian not remaining a Maharashtrian because he spoke any other language. So also there is no fear of a Tamilian or an Andhra or a Bengali ceasing to be a Tamilian, Andhra or Bengali if he spoke any other language than his own mother-tongue.

(2) The out-and-out advocates of Linguistic Provinces would no doubt protest that they have no intention of converting the Provinces into separate nations. Their *bona fides* need not be doubted. At the same time, it often happens that things do take a shape which their authors never intended. It is therefore absolutely necessary to take from the very beginning every step to prevent things taking an evil shape in course of time. There is therefore nothing wrong if the loc ening of the ties in one direction is accompanied by their being tightened up in another direction.

(3) We must not allow the Provincial language to become its official language even if it was natural that the Provincial language should be the official language of the Province. There is no danger in creating Linguistic Provinces. Danger lies in creating Linguistic Provinces with the language of each Province as its official language. The latter would lead to the creation of Provincial nationalities. For the use of the Provincial languages as official languages would lead Provincial cultures to be isolated crystalized, hardened and solidified. It would be fatal to allow this to happen. To allow this is to allow the Provinces to become independent nations, separate in everything and thus open the road to the ruination of United India. In Linguistic Provinces without the language of the Province being made its official language the Provincial culture would remain fluid with a channel open for give and take. Under no circumstances, we must allow the Linguistic Provinces to make their Provincial languages their official languages.

11. The imposition of an All-India official language on a Linguistic Province which may happen to be different from the language of the Province cannot come in the way of maintaining Provincial culture. Official language will be used only in the field occupied by Government. The non-official field or what may be the purely cultural field will still remain open to the Provincial language to play its part. There may be a healthy competition between the official and non-official language. One may try to

oust the other. If the official language succeeds in ousting the non-official language from the cultural field, nothing like it. If it fails, there cannot be much harm. Such a position cannot be said to be intolerable. It is no more intolerable than the present position in which we have English as the official language and the Provincial language as its non-official language. The only difference is that the official language will not be English but some other.

The requirements of a satisfactory solution

12. I am aware of the fact that my solution is not an ideal solution. It makes working of the constitution in the Provinces on democratic lines possible. But it does not make possible the democratic working of the constitution at the Centre. That is because mere linguistic unity, i.e., the facility to speak a common language does not ensure homogeneity which is the result of many other factors. As stated before, the representatives selected by the Provinces to the Central Legislature will remain what they are, namely, Bengalis, Tamilians, Andhras, Maharashtrians, etc., even though they may be speaking the official language of the Centre and not their mother-tongue. But an ideal solution which can be put into effect immediately, I cannot see. We must be content with the next best. The only thing we must be sure about is that the solution we adopt immediately must satisfy two conditions :

(i) It must be the very next best to the ideal; and

(ii) It must be capable of developing itself into the ideal.

Judged in the light of these considerations, I venture to say that the solution which I have suggested satisfies these two conditions.

PART II

WILL MAHARASHTRA BE A VIABLE PROVINCE ?

Tests of Viability

13. Coming to the specific question of Maharashtra Province it is necessary to be satisfied that it will be a viable Province. For being declared a viable Province, a Province must satisfy certain tests. It must be of a certain size, it must have a certain volume of population and a commensurate amount of revenue. A Province must not only be self-supporting — which any Province can be by choosing to live on a lower plane — but it must have sufficient revenue to provide for a minimum standard of administration required by efficiency and the needs of social welfare.

Is Maharashtra Viable ?

14. Does the Province of Maharashtra satisfy these tests ? The following are the figures which show the size and population of the Maharashtra Province as constituted on a linguistic basis :

Territory	Area in square miles	Total population of the territory	Total Marathi-speaking population of the territory	Percentage of Marathi-speaking population to total population
Twelve Districts of the Bombay Presidency	47,284	1,29,13,544	1,00,45,100	77.8
Eight Districts of C. P. and Berar	36,865	70,20,694	53,88,300	76.7
Total ..	84,151	1,99,34,238	1,54,33,400	77.4
States within Bombay Presidency	11,314	27,20,207	21,20,700	77.9
Marathi-speaking Districts of Hyderabad State ..	22,766	42,49,272	32,99,300	77.6
Goa	1,534	5,80,000	5,20,000	89.6
State of Bastar	13,701	6,33,888	2,12,300	33.5
Total ..	49,315	81,83,367	61,42,300	....
Grand Total ..	1,33,466	2,81,17,605	2,15,85,700	76.8

Area and population of Maharashtra

15. The above table gives figures for the Maharashtra Province in its two forms (1) abridged and (2) unabridged. In its unabridged form which means if all the area occupied by the Marathi-speaking people was constituted in one single Province the area and the population of Maharashtra will be 1,33,466 square miles with a population of 2,15,85,700. In its abridged form which means that if the area and population of the Marathi-speaking people comprised within the States was for the moment omitted, even then the proposed Maharashtra Province would comprise an area of 84,151 square miles with a population of 1,54,33,400.

Revenue of Maharashtra

16. Turning to the revenue side of the Province, it has been estimated that the total annual revenue at the existing rate of taxation which will accrue to the abridged Maharashtra Province will be approximately Rs. 25,61,51,000.

Comparison of Maharashtra with other Provinces

17. Some comparisons are necessary to get an idea if a Province of this size, with this population and with so much revenue will be viable. For this, I give below figures of the first or the biggest and the forty-seventh or the smallest states within the U.S.A. in order of their size and population :

States					Area in square miles
1st Texas	..	..	..	..	2,67,339
47th Delaware	..	..	..	..	2,057

States					Population
1st New York	..	..	..	..	1,26,32,890
47th Wyoming	..	..	..	..	2,57,108

18. It is obvious that Maharashtra whether one takes its abridged edition or the unabridged edition of it will be several times bigger than Delaware which is the smallest State in U.S.A. in point of area and also several times bigger than New York which is the biggest state in U.S.A. in point of population.

19. Comparison of Maharashtra with the existing and prospective Linguistic Provinces of India may also be useful. Their position in point of area, population and revenue is as follows :

Province	Area in sq. miles	Population	Annual Revenue
			Rs.
Existing Linguistic Province—			
United Provinces ..	106,247	5,50,20,617	32,65,08,000
Bihar	69,745	3,63,40,151	16,26,78,000
Orissa	32,198	82,28,544	4,60,62,000
New Linguistic Provinces—			
Andhra	70,000	1,90,00,000	....
Karnatak	25,000	45,00,000	....
Kerala	6,000	35,00,000	....

These figures when compared with the figures for Maharashtra leave no doubt that Maharashtra will not merely be a viable Province but a strong Province in point of area, population and revenue.

PART III

SHOULD THE MAHARASHTRA PROVINCE BE FEDERAL OR UNITARY ?

20. I will now turn to what are known to be points on which there is controversy. There is no controversy regarding the unification of Maharashtra into one Province. The controversy relates to the way it should be brought about. One view is that the new Maharashtra Province should be a unitary Province, with a single legislature and a single executive. The other view is that Maharashtra should be a Federation of two sub-Provinces, one sub-Province to consist of the Marathi-speaking districts of the Bombay Presidency and the other of the Marathi-speaking districts of the present Province of the Central Provinces and Berar. The idea of creating sub-Provinces has originated from the spokesmen of the Marathi-speaking districts of Central Provinces and Berar. I am satisfied that it is only the wish of a few high-caste politicians who feel that in a unified Maharashtra their political careers will come to an end. It has no backing from the people of Central Provinces and Berar. I would not have referred to this point but for the fact that it gives me an opportunity to enunciate what I regard as a very vital principal. When it is decided to create a Linguistic Province, I am definitely of opinion that all areas which are contiguous and which speak the same language should be forced to come into it. There should be no room for choice nor for self-determination. Every attempt must be

made to create larger provincial units. Smaller provincial units will be a perpetual burden in normal times and a source of weakness in an emergency. Such a situation must be avoided. That is why I insist that all parts of Maharashtra should be merged together in a single province.

PART IV

MAHARASHTRA AND THE CITY OF BOMBAY

Controversy over Bombay

21. Should the City of Bombay be included in Maharashtra or not is another point over which there has been a controversy. A meeting was held in Bombay in the building of the Indian Merchants Chamber. The meeting was attended by no more than sixty. With the exception of one Indian-Christian it was attended by only Gujarathi-speaking merchants and industrialists. Although it was small and sectional meeting, its proceedings were flashed on the front page of every important newspaper in India and the *Times of India* was so impressed by its importance that it wrote an editorial which while mildly castigating the vituperative tone which the speakers at the meeting adopted against the Maharashtrians, supported the resolutions passed at the meeting regarding the future of Bombay. This proves what truth there is in the reply given by Lord Birkenhead to the Irish Leader, Mr. Redmond, in the course of the Irish controversy when he said that there are cases where a minority is a majority.

My memorandum would be woefully incomplete if I omitted to deal with the *pros* and *cons* of this controversy. This is because of two reasons : In the first place, the meeting has been recognized to be very important and secondly because the resolutions of the meeting have been supported by eminent University Professors.

Proposals regarding Bombay

22. The meeting passed the following resolutions :

(1) That the question of the creation of Linguistic Provinces should be postponed ; or

(2) That if it is not postponed, Bombay City should be constituted into a separate Province.

There is a third suggestion, namely, that Konkan should be constituted into a separate Province with Bombay as its capital. There is hardly any support to this plan. There is therefore no necessity to discuss it.

Decision regarding Bombay must be made now

23. I have no complaint against that part of the Resolution which says the question of Linguistic Provinces be postponed provided the main question namely whether Bombay should or should not be included in Maharashtra is settled. If this question was settled it did not matter if it

took five or ten years to give effect to the Settlement. But the resolution is only an escapism. It does not settle the issue. It only adjourns the controversy. The main question must therefore be tackled right now.

Ground for the exclusion of Bombay from Maharashtra

24. The arguments urged in favour of separating Bombay from Maharashtra are set out below :

(1) Bombay was never a part of Maharashtra.[1]

(2) Bombay was never a part of the Maratha Empire.[2]

(3) The Marathi-speaking people do not form a majority of the population of the City of Bombay.[3]

(4) Gujarathis have been old residents of Bombay.[4]

(5) Bombay is a trade centre for vast areas outside Maharashtra. Therefore, Bombay cannot be claimed by Maharashtra. It belongs to the whole of India.[5]

(6) It is the Gujarathi-speaking people of Bombay who have built up the trade and industry of Bombay. The Maharashtrians have been only clerks and coolies. It would be wrong to place the owners of trade and industry under the political dominance of the working classes who form the bulk of Maharashtrians.[6]

(7) Maharashtra wants Bombay to be included in Maharashtra because it wants to live on the surplus of Bombay.[7]

(8) A multi-lingual State is better. It is not so fatal to the liberty of smaller people.[8]

(9) Regrouping of Provinces should be on rational lines and not on national lines.[9]

Burden of Proof

25. On an examination of these points it is obvious that points (1) and (2) are preliminary in the sense that they help us to decide on whom rests the burden of proof. If it is proved that Bombay is part of Maharashtra, then the burden of proof for separating it from Maharashtra must fall upon those who urge that it should be separated and not upon those who claim that it should remain part of Maharashtra. I will therefore deal with these two points first.

1. Prof. Gheewala—*Free Press Journal*, September 6, 1948, and Prof. Moraes—*Free Press Journal*, September 18, 1948.
2. *Ibid*.
3. Prof. C. N. Vakil, *Free Press Journal*, September 21, 1948.
4. Prof. Gheewala, *Free Free Press Journal*, September 6, 1948.
5. Prof. C. N. Vakil, *Free Press Journal*, September 11, 1948.
6. Prof. C. N. Vakil, *Bombay Chronicle*.
7. Prof. C. N. Vakil, at the meeting of India Merchants Chamber.
8. Prof. Dantwala, *Free Press Journal*, September 1, 1948.
9. Prof. Gheewala, *Free Press Journal*, September 11, 1948.

POINTS (1) AND (2)

Verdict of History

26. These points can be considered both in the light of history as well as of geography. I am, however, convinced that history cannot help us to decide the issue. In the first place, how far back must we go to find the data on which to base our conclusion. It is obvious that the history of the ancient past would be of no use to us in this connection. What could be of use to us is the past of the present. One may go further and question any reliance being placed upon such a past of the present for drawing any conclusion that can have a bearing on the issue before us. Most of the contacts between people during historical times have been between conquerors and conquered. This is true of India as well as of Europe. But the results of such contacts have been quite different in Europe and in India. In Europe such contacts have produced assimilation of the conflicting social elements. Frequent inter-marriages have confounded the original stocks. One language, either the most useful or the most commonly spoken, has tended to supplant the other. If one civilization is superior to the others in the same country it has automatically supplanted them. This natural tendency towards assimilation which we see in Europe is so strong that steps have to be taken to counteract it. What is the tendency in India ? It is definitely against assimilation. The Musalmans conquered Hindus. But the Musalmans remained Musalmans and the Hindus remained Hindus. The Gujarathis were conquered by Maharashtrians and were ruled by them for some years. What effect has it produced upon the Gujarathis ? Nothing. Gujarathis have remained Gujarathis and Maharashtrians have remained Maharashtrians. The Chalukyas conquered Maharashtrians and so did the Shilahars. But there was no assimilation between them. The Shilahars and Chalukyas remained what they were and so did the Maharashtrians. This being the case, what help can Indian History give in the decision of the issue ? The history of internal upheavals as well as of external aggressions has been nothing more than a passing show. Conquest means nothing and proves nothing.

Verdict of Geography

27. Let us now turn to geography and ask for its verdict. It seems to be a better witness than history. For this purpose one must consider the location of Bombay in relation to the Province of Maharashtra. The Province of Maharashtra once it is created will be triangular in shape. One side of this triangle is formed by the Western Coast Line of India between Daman in the North and Karwar in the South. The City of Bombay lies in between Daman and Karwar. The Province of Gujarat starts from Daman and spreads northwards. The Kanada Province starts from Karwar and spreads southwards. It is about 85 miles South of Daman which is the starting point of Gujarat, and 250 miles North of Karwar, which is the starting point of

Karnatak Province. If the unbroken territory between Daman and Karwar is geographically part of Maharashtra, how could Bombay be held not to be a part of Maharashtra ? This is an incontrovertible fact of nature. Geography has made Bombay part of Maharashtra. Let those who want to challenge the fact of nature do so. To an unbiassed mind it is conclusive proof that Bombay belongs to Maharashtra.

Bombay and the Maratha Empire

28. That the Marathas did not care to make it a part of their Empire does in no way affect the validity of the conclusion drawn from geography. That the Marathas did not care to conquer it does not prove that Bombay is not a part of Maharashtra. It only means that the Maratha power was a land power and did not therefore care to spend its energy in the conquest of a seaport.

29. With the decision on Points (1) and (2), the burden must now shift on those who contended that Bombay should not be included in Maharashtra. Have they discharged the burden ? This leads to the consideration of other points.

POINT (3)

Marathi-speaking population—majority or minority

30. There is no unanimity on this question. Prof. Gadgil speaking for the inclusion of Bombay in Maharashtra asserts that the Marathi-speaking population of Bombay according to the census of 1941 is 51 per cent. Speaking against the inclusion of Bombay, Prof. Gheewala says that the Marathi-speaking population of Bombay is 41 per cent. Prof. Vakil has brought it down to 39 per cent, which he regards as a very liberal estimate. I have not had time to check up these figures and I understand that the Census of Bombay does not render much help in arriving at a precise figure. However, if one reads the reasons assigned by Prof. Vakil, one would find his conclusion to be speculative if not wishful thinking. But assuming that the figures given by Prof. Vakil are correct, what of it ? What conclusion can be drawn from it ? Does it defeat the claim of Maharashtra to include Bombay ? Ever since the British became the masters of India, India has been one country with a right to free movement from place to place. If people from all parts of India were allowed to come to Bombay and settle there, why should the Maharashtrians suffer ? It is not their fault. The present state of the population cannot therefore be a ground for excluding Bombay from Maharashtra.

POINT (4)

Are Gujarathis Natives of Bombay ?

31. Let us however fully consider the question. Are the Gujarathis natives of Bombay ? If they are not, how did they come to Bombay ? What

is the source of their wealth ? No Gujarathi would claim that the Gujarathis are the natives of Bombay. If they are not the natives of Bombay, how did they come to Bombay ? Like the Portuguese, the French, the Dutch and the English on adventures to fight their way through and willing to take any risks? The answers which history gives to these questions are quite clear. The Gujarathis did not come to Bombay voluntarily. They were brought to Bombay by the officers of the East India Company to serve as commercial *Adatias* or go-betweens. They were brought because the East India Company's officers who had their first factory in Surat had got used to Surti Banias as their go-betweens in carrying on their trade. This explains the entry of Gujarathis in Bombay. Secondly, the Gujarathis did not come to Bombay to trade on the basis of free and equal competition with other traders. They came as privileged persons with certain trading rights given to them exclusively by the East India Company. Their importation into Bombay was considered for the first time in the year 1671 by Governor Aungier. This fact is referred to in the *Gazetteer of Bombay Town and Island*, Vol. I in the following terms :[10]

> "Another scheme for the advantage of Bombay in which Governor Aungier interested himself was the settlement of Surat Banias in Bombay. It appears that the Mahajan or committee of the Surat Bania community desired the assurance of certain privileges before risking the move to Bombay and that the company had given a general approval to the Mahajan's proposal. On the 10th January the Surat Council wrote to the Company. The Mahajan or Chief Council of the Banias have been much satisfied with the answer which you were pleased to give to their petition sent you by the ship *Samson* touching their privileges in Bombay. It seems they have determined once more to trouble Your Honours with a letter which they have ordered your broker Bhimji Parakh to write, representing their desires that the said privileges may be confirmed to them under your great seal, for which their request they give you their reason and ground in their own letter which they have sent us to be transmitted to you and now goes in your packet by ship *Falcon*. The argument they use to strengthen their request seems to have some weight. They say the Honourable Company are perpetual and their ordinances always of force, but their Presidents and Councils are mutable, and the succeeding Presidents and Councils, do alter often what their predecessors have granted on which score they hope your Honours will be pleased to grant their petition. As to our judgments hereon, we humbly offer that we cannot see any detriment can accrue to you thereby, rather a considerable advantage may follow; and as to the latitude and extent of what privileges you shall afford them, it must be totally referred to your own wisdoms howsoever you shall please to determine in this matter. We judge

10. *Bombay Gazetteer*, I, pp. 46-47.

if your Honours would please to favour them with a line in answer to their letter, it would be a great comfort to them and no disadvantage to your interest."

32. What were the privileges which the Gujarathi Banias had asked for from the East India Company ? The following petition by one Nima Parakh, an eminent Bania belonging to the City of Diu, gives some idea of what they were :[11]

"That the Honourable Company shall allot him so much ground in or near the present, town free of rent as shall be judged necessary to build a house or warehouse thereon.

"2. That he with the Brahmans of Vers (Gors or priests) of his caste shall enjoy the free exercise of their religion within their own houses without the molestation of any person whatsoever ; that no Englishman, Portuguese, or other Christian nor Muhammadan shall be permitted to live within their compound or offer to kill any living creature there, or do the least injury or indignity to them, and if any shall presume to offend them within the limits of their said compound, upon their complaint to the Governor (at Surat), or Deputy Governor (at Bombay), the offenders shall be exemplarily punished ; that they shall have liberty to burn their dead according to their custom, also to use their ceremonies at their weddings ; and that none of their profession of what age, sex or condition whatever they be, shall be forced to turn Christians, nor to carry burthens against their wills.

"3. That he and his family shall be free from all duties of watch and ward, or any charge and duty depending thereon ; that neither the Company nor the Governor, Deputy Governor or Council, or any other person, shall on any pretence whatsoever force them to lend money for public or private account or use any indirect.

"4. That in case there falls out any difference or suit in law between him or his vakil or attorneys or the Banias of his caste, and any other persons remaining on the island, the Governor or Deputy Governor shall not suffer him or them to be publicly arrested dishonoured or carried to prison, without first giving him due notice of the cause depending, that he or they may cause justice to be done in an honest and amicable way and in case any difference happen between him or his attorney and any Bania of their own caste, they may have liberty to decide it among themselves without being forced to go to law."

"5. That he shall have liberty of trade in his own ships and vessels to what port he pleases, and come in and go out when he thinks good, without paying anchorage, having first given the Governor or Deputy Governor or customer notice and taken their consent thereunto.

11. *Bombay Gazetteer*, Vol. I, pp. 74-76.

"6. That in case he brings any goods on shore more than he can sell on the island within the space of 12 months, he shall have liberty to transport them to what port he pleases, without paying custom for exportation.

"7. That in case any person be indebted to him, and also to other Banias, and be not able to pay all his debts, his right may be preferred before other Banias.

"8. That in case of war or any other danger which may succeed, he shall have a warehouse in the castle to secure his goods, treasure, and family therein.

"9. That he or any of his family shall have liberty of egress and regress to and from the fort or residence of the Governor or Deputy Governor; that they shall be received with civil respect and be permitted to sit down according to their qualities; that they shall freely use coaches, horses or palanquins and quitasols (that is barsums or umbrellas) for their convenience without any disturbances ; that their servants may wear swords and daggers, shall not be abused, beaten or imprisoned except they offend, and that in case of any of his kindred or friends shall come to visit him or them from any other ports, they shall be used with civility and respect.

"10. That he and his assigns shall have liberty to sell and buy coconuts, betelnuts, pan or betel-leaves, and any other commodity not rented out without any molestation on the island."

33. How this petition of Nima Parakh was disposed of can be seen from the reply of the Deputy Governor of Bombay dated 3rd April, 1677, which was in the following terms :

"According to order we have considered the articles of Nima Parakh Bania, which if we rightly understand we do not apprehend any prejudice in their concession the most of them being what the meanest enjoy.

"The first is very easy, the Company having vast ground enough, and we daily do the same to Banias and others who come to inhabit here. As to the second, the free exercise of religion is permitted to all with the use of their ceremonies at weddings and feast, the Banias always burning their dead without molestation. Neither do we permit any person to kill anything near the Banias who all live by themselves, much less can any person presume to enter into anybody's house or compound without the owner's license ; and, for forcing people to turn Christian against their wills, the whole world will vindicate us ; neither are any persons forced to carry burdens against their wills. No Bania, Brahman, Moor, or such man is obliged to watch or ward or other duty, but if any person buys an oart or warge (vada) he is bound on every alarm to send a musquiter. But if he possesses no land no duty is exacted, so the articles may be

granted to Nima, and when he goes about to buy any land he may be acquainted with that small incumbrance thereon.

"The 4th article is indeed a privilege but no more than Girdhar, the Moody and some others have, which does not in the least exempt them from the hands of the law or justice, but does only ask that justice be done respectfully, which he need not doubt of, and for matter of differences among themselves there is already his Honour's patent authorising them to decide such things.

"As to the 5th, the great anchorage of a rupee per ton is wholly taken off. There remains only a small one of a rupee for every 100 tons, which is so inconsiderable a matter that we do not believe we will stick at it. If he does, it will amount but to a small matter being only for his own vessels that the Company may easily allow it.

"The 6th if we rightly apprehend it, is no more than what all people enjoy, who are so far from paying custom at exportation of their own goods that they pay none for what goods they buy. But if he intends his goods must pay no custom at landing nor none at exportation of what he cannot sell, it will be so great a loss to the Company, they having farmed out the customs for two years, that the benefit of his settling here, will, we believe, not countervail it, till it comes into the Company's hands again.

"As to the 7th, our law is such that if a person be indebted to several men, whosoever gets a judgment first in Court will be paid his full debt, but no man can be aggrieved at that, nor can any creditor have any pretence to what is once paid, and when judgment is given it is already paid in law, so that he is no longer proprietor of it. But when a person is indebted to two men and the first sues him and upon that the second comes in and sues him too, with what justice can we pay all the debtor's estate to the second creditor. Only of this he may be assured that all justice shall be done him with speed according to our law and the party forced to pay the full debt, if able, and lie in prison for the rest till he pleases to release him, which we suppose may well content him.

"As to the 8th, in case of war all persons of quality have liberty to repair to the castle and secure their money and other things of value. Nor that I suppose he intends to fill up the castle with gurf (coarse) goods ; but for money, jewels household stuff, cloth goods of value, that take up small room, he may bring what he pleases and may have a warehouse apart allotted for himself and family.

"The 9th and 10th we may join together, they being only to fill up the number. They are plain optics to show the nature of those they live under which, when they have experimented our Government, themselves will laugh at us, enjoying more freedom than the very articles demand, for

the meanest person is never denied egress and regress upon respectful notice given and for horses and coaches and the like he may keep as many as he pleases and his servants be permitted to wear what arms they please, a thing common to all. Nothing is more promoted by us than the free liberty for buying and selling which is the load-stone of trade.

"That last thing he asked of having 10 *mans* of tobacco free of all duties is the most difficult thing of all, for the farmers will ask a vast deal to grant such a licence, it being a very great profit they make in the sale of 10 *mans*, so that we know not which way this article can be condescended to, but in this your Honours can judge better than us."[12]

34. In reply on the 26th April, the Surat Council wrote :[13] "We observe your answer touching the articles proposed by Nima Parakh Bania in order to his settlement on Bombay. When we come again to treat with him thereon, we hope so to moderate the affair that the island shall not receive any the least prejudice thereby and we do not question but wholly to put him by his request to 10 *mans* of tobacco which he would annually receive or bring on the island free of all duties."

POINT (5)

Bombay—an Emporium of India

35. That Bombay is an emporium for the whole of India may be admitted. But it is difficult to understand how it can be said that because of this, Maharashtra cannot claim Bombay. Every port serves a much larger area than the country to which it belongs. No one, on that account, can say the country in which the port is situated cannot claim it as a part of its territory. Switzerland has no port. It uses either German, Italian or French Ports. Can the Swiss therefore deny the right of Germany, Italy or France, the territorial rights of their ports. Why then should Maharashtrians be denied the right to claim Bombay merely because it serves as a port for Provinces other than Maharashtra ? It would be different if the Province of Maharashtra were to get a right to close the Port to Non-Maharashtrians. Under the constitution, it will not have that right. Consequently, the inclusion of Bombay in Maharashtra will not affect the right of non-Maharashtrians to use the port as before.

POINT (6)

Gujarathis—owners of Trade and Industry of Bombay

36. It may be granted that the Gujarathis have a monopoly of trade. But, as has already been pointed out, this monopoly, they have been able to establish because of the profits they were able to make which were the result of the privileges given to them by the East India Company on their

12. This is probably new demand made by Nima Parakh.
13. *Bombay Gazetteer*, Vol. I, p. 77.

settlement in Bombay. Who built up the trade and industry of Bombay is a matter for which no very great research is necessary. There is no foundation in fact for the statement that the trade and industry of Bombay was built up by Gujarathis. It was built up by Europeans and not by Gujarathis. Those who assert that it is the Gujarathis who did it should consult the *Times of India Directory* before making such a claim. The Gujarathis have been just merchants which is quite a different thing from being industrialists.

37. Once it is established that Bombay belonged to Maharashtra the claim of Maharashtra to include Bombay cannot be defeated by the argument that the trade and industry of Bombay is owned by the Gujarathis. The claim of mortgagor to his land cannot be defeated by the mortgagee on the ground that the mortgagee has built up permanent structures on the land. The Gujarathis assuming they have built up the trade and industry of Bombay are in no better position than a mortgagee is.

38. But who have built up the trade and industry of Bombay seems to me quite irrelevant to the decision of the issue whether Bombay should or should not be included in Maharashtra. This argument based on monopoly of trade and industry is really a political argument. It means that the owners may rule the workers but the workers must not be allowed to rule the owners. Those who use this argument do not seem to know what they are up against. The one thing they are up against is whether this argument is to be confined only to the City of Bombay or whether it is to have a general application.

39. There is no reason why it should not have a general application. For just as in Bombay City society is divided into owners and workers or into capitalists and wage-earners, such also is the case of society in Gujarat or for the matter of that in every province of India. If the owners and capitalists of Bombay are to be protected by the exclusion of Bombay from Maharashtra because Maharashtrians belong to the working classes, what is the method they suggest for protecting the capitalists of Gujarat from the working classes of Gujarat. Those Gujarathi Professors like Vakils and Dantwalas who are searching their brains to supply arguments to the Gujarathi capitalists of Bombay have not thought of finding ways and means for protecting the Gujarathi capitalists of Gujarat against the working classes of Gujarat. The only remedy they can suggest is the abandonment of adult suffrage. That is the only way by which they can protect the capitalists if they are out to protect capitalists in general and not the Gujarathi capitalists of Bombay in particular.

40. There is however one argument which the Professors could urge. It is that the Maharashtrians being in a majority would discriminate against the Gujarathi capitalists of Bombay if Bombay was included in Maharashtra.

One could appreciate such an argument. But those who like to use this argument must remember two things :

(i) That Maharashtra is not the only place in which such a situation can arise. It may arise in any province. I like to refer to Bihar. In Bihar the land in which coal is found belongs to the people of Bihar. But the coal-owners are Gujarathis, Kathiawaris or Europeans. Is there no possibility of Biharis making a discrimination against Gujarathi and Kathiawari coal-owners ? Are the coalfields of Bihar to be excluded from the Province of Bihar and constituted into a separate Province in the interest of Kathiawari and Gujarathi coal-owners ?

(ii) The constitution of India has noted the possibility of discrimination being made against a minority and has made more than ample provision for preventing it. There are the fundamental rights. There are the provisions against discrimination; there are the provisions of payment of compensation, and there are the High Courts with the inherent rights to issue high prerogative writs both against individuals and Governments to stop any harm, injustice or harassment being done to any citizen. What more protection do the Gujarathi traders and industrialists of Bombay want against the possibility of discrimination ?

POINT (7)

Maharashtra's eye on Bombay's surplus

41. Before accusing Maharashtrians of having an eye on the surplus of Bombay it must be proved that Bombay has a surplus. What appears as surplus is due really to bad accounting. It is bad accounting where expenditure on overhead charges such as (1) the Governor and his establishment, (2) the Ministers and their establishments, (3) the Legislature and the expenditure thereon, (4) Judiciary, (5) Police and (6) Provincial establishments such as those of the Commissioners of Police and Directors of Public Instruction is not being taken into account. I doubt very much if on the existing basis of taxation, Bombay will have any surplus if expenditure on these items is charged to Bombay. It is a fallacy to charge all such expenditure to Maharashtra and exempt Bombay from it and then argue that Bombay has a surplus.

42. The statement that the Maharashtrians want Bombay because they want to live on the surplus revenue of Bombay, besides being wrong in fact raises a question of motive. I do not know if the Maharashtrians are actuated by any such motive. They are not a commercial community. Unlike other communities, the Maharashtrians have no nose for money, and I am one of these who believe that it is one of their greatest virtues. Money has never been their god. It is no part of their culture. That is why they have

allowed all other communities coming from outside Maharashtra to monopolize the trade and industry of Maharashtra. But as I have shown there is no surplus and no question of Maharashtrians casting their eyes on it.

43. But supposing such a motive in the minds of the Maharashtrians, what is wrong in it ? It is quite open to Maharashtrians to contend that they have a greater claim on Bombay's surplus because they have played and they will continue to play a greater part in supplying labour for the building up of the trade and industry of Bombay more than the people from other Provinces have done or likely to do. It would be difficult for any economist with any reputation to save who could deny that labour has as much claim on the wealth produced as capital if not more.

44. Secondly, the surplus from Bombay is not consumed by Maharashtra alone but is consumed by the whole of India. The proceeds of the Income-tax, Super-tax, etc. which Bombay pays to the Central Government are all spent by the Central Government for all-India purposes and is shared by all other Provinces. **To Prof. Vakil** it does not matter if the surplus of Bombay is eaten up by United Provinces, Bihar, Assam, Orissa, West Bengal, East Punjab and Madras. What he objects to is Maharashtra getting any part of it. This is not an argument. It is only an exhibition of his hatred for Maharashtrians.

45. Granting that Bombay was made into a separate Province, what I don't understand is how Prof. Vakil is going to prevent Maharashtra from getting share of Bombay surplus revenue. Even if Bombay is made separate Province, Bombay will have to pay income-tax, super-tax, etc. and surely Maharashtra will get a part of the revenue paid by Bombay to the Centre either directly or indirectly. As I have said the argument has in it more malice than substance.

POINTS (8) AND (9)

General arguments against the inclusion of Bombay in Maharashtra

46. I will now turn to the Points (8) and (9) which have been urged by Professors Dantwala and Gheewala. Their arguments strike at the very root of the principle of Linguistic Provinces. As such I should have dealt with them in Part I of this Memorandum. But as the aim of their argument is to exclude Bombay from being included in Maharashtra, I have thought it proper to deal with them in this Part of the Memorandum as they are really arguments against the inclusion of Bombay in Maharashtra.

47. The sum total of the arguments of the two Professors is that Linguistic Provinces are bad. This cry against Linguistic Provinces is too late. Since when two Professors having been holding these views is not known. Are they opposed to Gujarat being reconstituted on Linguistic

Provinces also has not been made clear by them. Or, is it that they believed in the principle of Linguistic Provinces but hurried to disavow it when they realized that the admission of the principle involves the surrender of Bombay to Maharashtra. It is perhaps one of these cases where a person not finding argument limited to his purpose is forced to resort to an argument which proves more than he is anxious to allow. I am, however, prepared to examine the substance of their argument.

48. Prof. Dantwala relies upon Lord Acton and quotes the following passage from his Essay on Nationality printed in his well-known book *The History of Freedom and Other Essays* in support of his own view against Linguistic Provinces. The quotation reads as follows :

> "The combination of various nations in one State is a necessary condition of civilized life as the combination of men in society."

49. I am sorry to say that this quotation completely misrepresents Lord Acton. The quotation is only a few opening lines of a big passage. The full passage reads as follows :

> "The combination of different nations in one State is as necessary a condition of civilized life as the combination of men in society. Inferior races are raised by living in political union with races intellectually superior. Exhausting and decaying nations are revived by the contact of younger vitality. Nations in which the elements of organization and the capacity for Government have been lost, either through the demoralizing influence of despotism or the disintegrating action of democracy, are restored and educated a new under the discipline of a stronger and less corrupted race. This fertilizing and regenerating process can only be obtained by living under one Government. It is in the cauldron of the State that the fusion takes place by which the vigour, the knowledge and the capacity of one portion of mankind may be communicated to another."

50. Why Prof. Dantwala left out the rest of the passage, it is difficult to understand. I am not suggesting that it is a deliberate case of *suppresio veri* and *suggestio falsi*. The fact is that it does misrepresent Lord Acton. Why has the Professor relied upon this passage, I do not understand. It is quite obvious that if the inferior races are placed in common with the superior races, the inferior races may improve. But the question is, who is inferior or who is superior. Are the Gujarathis inferior to Maharashtrians? Or are the Maharashtrians inferior to Gujarathis ? Secondly, what is the channel of cummunion between Gujarathis and Maharashtrians which can assure the fusion of the two ? Prof. Dantwala has not considered the question. He found a sentence in Lord Acton's Essay and jumped at it for he could find nothing else to support his case. The point is that there is nothing in the passage which has any relevance to the principle involved in the question of Linguistic Province.

51. So much for Prof. Dantwala's arguments. I will now examine Prof. Gheewala's arguments. Prof. Gheewala also relies on Lord Acton. He quotes a portion of a passage from Lord Acton's Essay on Nationality. I reproduce below the passage in full :

> "The greatest adversary of the rights of nationality is the modern theory of nationality. By making the State and the nation commensurate with each other in theory, it reduces practically to a subject condition all other nationalities that may be within the boundary. It cannot admit them to an equality with the ruling nation which constitutes the State, because the State would then cease to be national, which would be a contradiction of the principle of its existence. According, therefore, to the degree of humanity and civilization in that dominant body which claims all the rights of the community, the inferior races are exterminated, or reduced to servitude, or outlawed, or put in a condition of dependence."

52. I do not understand why the learned Professor has dragged in the name of Lord Acton. The passage does not really help him. There is one thing which seems to be uppermost in his mind. He thinks that if Bombay is included in Maharashtra the Province of Maharashtra will consist of two nationalities—one consisting of the Marathi-speaking people and the other of the Gujarathi-speaking people and the Marathi-speaking people who would be the dominant class will reduce the Gujarathi-speaking people to a subject condition. It is in support of this he thought of citing Lord Acton. Such a possibility is always there. There is no objection to the way in which he has presented the problem. But there are great objections to the conclusions he draws.

53. In the first place, in a country like India in which society is throughout communally organized it is obvious that in whatever way it is divided into areas for administrative purposes, in every area there will always be one community which by its numbers happens to be a dominant community. As a dominant community it becomes a sole heir to all political power, which the area gets. If Marathi-speaking people in a unified Maharashtra with Bombay thrown into it will become dominant over the Gujarathi-speaking people, will this prospect be confined to Maharashtra only ? Will such a phenomena not occur within the Marathi-speaking people ? Will it not be found in Gujarat if Gujarat became a separate Province ? I am quite certain that within the Marathi-speaking people who are sharply divided between the Marathas and the non-Marathas, the Marathas being a dominant class will reduce both Gujarathi-speaking and the non-Marathas to a subject condition. In the same way in Gujarat in some parts the Anavil Brahmins from a dominant class. In other parts it is the Patidars who form a dominant class. It is quite likely that the Anavils and the Patidars will reduce the condition of the other communities to

subjection. The problem therefore is not a problem peculiar to Maharashtra. It is a general problem.

54. What is the remedy for this problem ? Prof. Gheewala believes that the remedy lies in having a mixed State. So far as this remedy is concerned it is not his own. He has adopted it from Lord Acton. But I have no doubt that so far as Lord Acton advocates this remedy he is quite wrong. Lord Acton cites the case of Austria in support of his view. Unfortunately, Lord Acton did not live to see the fate of Austria. It was a mixed State. But far from providing for the safety of nationalities the clash of nationalities blew up Austria to bits. The real remedy is not a mixed State but an absolute State with no power to the people which is generally captured by a communal majority and exercised in the name of the people. Is Prof. Gheewala prepared for this remedy ? One need have no doubt to what his answer would be.

55. In the second place, Prof. Gheewala has confounded nationality in the social sense of the term with Nationality in its legal and political sense. People often speak of nationality in speaking about Linguistic Provinces. Such use of the term can be only in the non-legal and non-political sense of the term. In my scheme there is no room even for the growth of separate provincial nationality. My proposal nips it in the bud. But even if the commonly suggested pattern of Linguistic Provinces with the language of the Province as the official language were adopted, Provinces cannot have that attribute of sovereignty which independent nations have.

56. It is very difficult to understand what exactly what Prof. Gheewala wants. Broadly he wants two things : He wants a mixed State and he also wants that a dominant section should not be in a position to reduce the smaller sections to subjection. I cannot see how Linguistic Provinces can come in the way of achieving it. For even after Provinces have been re-constituted on linguistic basis,—

(1) Provinces will continue to be a conglomeration of communities which will give Prof. Gheewala the mixed State that he wants ;

(2) If Prof. Gheewala wants a more pronounced form of a mixed State to protect smaller communities or nationalities, he will certainly have it at the Centre.

As I have said, I do not think a mixed State is either a good State or stable State. But if Prof. Gheewala prefers it, he will have it in one form or another, both in the Provinces as well as at the Centre, in the former in the form of different communities and in the latter in the form of the representatives of different Provinces.

57. With regard to his second objective, there will be double protection. In the first place, the citizen will have such protection as a mixed State he thinks can give. Secondly, citizenship will be common throughout India.

There is no provincial citizenship. A Gujarathi in Maharashtra will have the same rights of citizenship in Maharashtra as Maharashtrian will have.

Given these facts, I fail to understand what objection Prof. Gheewala can have to Linguistic Provinces ?

58. Prof. Gheewala has made two other recommendations. He says, (1) if Provinces have to be reconstituted, constitute them on rational basis rather than on linguistic basis and (2) make nationality a personal thing.

59. To reconstitute Provinces on economic basis—which is what is meant by rational basis—appears more scientific than reconstituting them on linguistic basis. However, unscientific linguistic reorganization of Provinces I cannot see how they can come in the way of rational utilization of economic resources of India. Provincial boundaries are only administrative boundaries. They do not raise economic barriers for the proper utilization of economic resources. If the position was that the resources contained within a Linguistic Province must only be explained by the people of the Province and no other than it could no doubt be said that the scheme of Linguistic Provinces was mischievous. But such is not the case. So long as Linguistic Provinces are not allowed to put a ban on the exploitation of the resources of the people by any body capably of wishing to exploit them a Linguistic Province will yield all the advantages of a rationally planned Province.

60. The proposal of making nationality as a personal thing and put it on the same footing as religion may be dismissed as being to Utopian. It would raise many administrative problems. It will come when the world is one and all nationals are its citizens. Nationality will automatically vanish as being quite useless.

61. So far I have dealt with the arguments advanced by those who are opposed to the inclusion of Bombay in Maharashtra. I have taken pains to do so not because I felt that they were very weighty. I did so because I felt it desirable to prevent the common man from being misled. The possibility of this happening was there and for two reasons. In the first place, those who have come forward with these arguments are not ordinary men. They are University Professors. Secondly, these Professors came out with their arguments after Prof. Gadgil had put forth the case for the inclusion of Bombay in Maharashtra. Unfortunately, no attempt has so far been made to refute the arguments of the adversaries of Prof. Gadgil. The result has been the creation of an impression that Prof. Gadgil's adversaries have carried the day. It was absolutely essential to remove this impression.

The other side

62. There are however arguments which the adversaries of Prof. Gadgil have not thought of hut which may be advanced with justice as well as force,

in favour of the claim of Maharashtrians for the inclusion of Bombay in Maharashtra. It is quite possible that these arguments may suggest themselves to the Commission. But I don't like to leave it to chance. I therefore propose to set them out below even though the Commission might think that it was unnecessary.

Calcutta and Bombay

63. In deciding upon the issue of exclusion of Bombay from Maharashtra the Commission will have to take into account the position of Calcutta. Like Bombay it is the chief emporium of the whole of eastern part of India. Like the Maharashtrians in Bombay the Bengalis in Calcutta are in a minority. Like the Maharashtrians in Bombay, the Bengalis do not own the trade and industry of Calcutta. The position of the Bengalis *vis-a-vis* Calcutta is worse than the position of the Maharashtrians *vis-a-vis* Bombay. For, the Maharashtrians can at least claim that they have supplied labour if not capital for the trade and industry of Bombay. The Bengalis cannot even say this. If the Commission can accept the arguments urged for the separation of Bombay from Maharashtra, it must be equally prepared to recommend the separation of Calcutta from West Bengal. For it is a very pertinent question to ask that if for the reasons given Bombay can be separated from Maharashtra why when the same reasons exist Calcutta be not separated from West Bengal.

Is Bombay Viable

64. Before Bombay can be separated it must be proved that financially Bombay is a viable Province. As I have already said if proper accounting of revenue and expenditure was made Bombay on the basis of present level of taxation may not be a self-sufficient Province. If that be so, the proposal for creating Bombay a separate Province must fall to the ground. It is no use comparing Bombay with Provinces like Orissa and Assam. The standard of administration, the standard of living and consequently the level of wages in Bombay are all so high that I doubt that even with a crashing rate of taxation Bombay will be able to raise the necessary amount of revenue to meet the expenditure.

The aim behind Greater Bombay

65. This doubt regarding viability of Bombay Province is heightened by the indecent haste shown by the Government of Bombay in creating Greater Bombay by including within the limits of Bombay the adjoining parts of Maharashtra. It seems that the object of including such area cannot but be to make Bombay viable. What else can it be? So long as Bombay remained part of Maharashtra it did not matter to Maharashtrians in which administrative area a portion of Maharashtra was included. But when Bombay is to be a separate Province it will take a long time to make

Maharashtrians part with their territory to make Bombay greater and viable. What is more important is the scheme of greater Bombay casts responsibility upon the Linguistic Provinces Commission to decide whether they could, with justice force Maharashtrians not only to submit to the demand of the Gujarathis to give up Bombay but also to submit to their further demand to hand over a part of territory of Maharashtra to make Bombay a viable Province. The Commission cannot escape this responsibility.

66. Maharashtra and Bombay are not merely inter-dependent, they are really one and integral. Severance between the two would be fatal to both. The sources of water and electricity for Bombay lie in Maharashtra. The intelligentsia of Maharashtra lives in Bombay. To sever Bombay from Maharashtra would be to make the economic life of Bombay precarious and to dissociate the masses of Maharashtra from its intelligentsia without whose lead the masses of Maharashtra will be nowhere.

Arbitration as a Solution

67. I have seen a suggestion made in some quarters that problem of Bombay should be settled by arbitration. I have never heard of a more absurd suggestion than this. It is as absurd as the suggestion to refer matrimonial cause to arbitration. The matrimonial tie is too personal, to be severed by a third party. Bombay and Maharashtra are tied together by God to use a Biblical phrase. No arbitrator can put them as under. The only agency which is authorized to do so is the Commission. Let it decide.

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BURMA
ASSAM
EAST BENGAL
WEST BENGAL
MANIPUR
ORISSA
NEPAL
HINDI REGION
ANDHRA
CEYLON
TAMIL
KERALA
KARNATAKA
GOA
KATHIAWAR
MAHARASHTRA
MARATHA WADA
BOMBAY
DAMAN
GUJARAT
RAJASTHAN
EAST PUNJAB
WEST PUNJAB
KASHMIR
SINDH
BALUCHISTAN

4

NEED FOR CHECKS AND BALANCES

Article on Linguistic States

From : The Times of India, dated 23rd April 1953

NEED FOR CHECKS AND BALANCES

The British who ruled India for more than 150 years never thought of creating linguistic States although the problem was always there. They were more interested in creating a stable administration and maintaining law and order throughout the country than in catering to the cultural craving of people in multi-lingual areas. It is quite true that towards the end of their career they did realise that the administrative set-up which they had built required some adjustment from the point of view of linguistic considerations, at any rate in cases where the conglomeration was very glaring. For instance, they did create Bengal, Bihar and Orissa as linguistic States before they left. It is difficult to say whether if they had continued to rule, they would have followed the path of forming linguistic States to its logical conclusion.

But long before the British thought of creating linguistic provinces the Congress under the aegis of Mr. Gandhi had already in the year 1920 framed a constitution for itself on the basis of linguistic provinces. Whether the ideology underlying the constitution of the Congress as framed in 1920 was a well thoughtout ideology or whether it was a sop to draw people inside the Congress fold, one need not now stop to speculate. There is, however, no doubt about it that the British did realise that linguistic considerations were important and they did give effect to them to a limited extent.

Opposition

Upto the year 1945, the Congress was, of course, not called upon to face the responsibility which it had created for itself by its constitution of 1920. It was only in the year 1945 when it assumed office that this responsibility dawned upon the Congress. Looking into the recent history of the subject the necessary momentum to the issue was given by a member of Parliament by moving a resolution for the creation of linguistic provinces in India.

The duty of answering on behalf of the Government to the debate fell on me. Naturally I took the matter to the higher authorities in order to ascertain what exactly their point of view was. Strange as it may appear, it became clear to me that the High Command was totally opposed to the creation of linguistic provinces. In these circumstances, the solution that was found was that the responsibility to answer the debate had better be taken over by the Prime Minister. The Prime Minister in reply to the debate made statement promising the creation of an Andhra State immediately. On the basis of the statement made by the Prime Minister, the resolution was withdrawn. The matter rested there.

Second Time

As Chairman of the Drafting Committee, I had to deal with the matter a second time. When the draft Constitution was completed, I wrote a letter to the Prime Minister asking him whether I could include Andhra as a separate State in Part A States of the Constitution in view of what he had said in the course of the debate on the Resolution. I have nothing with me here to refresh my memory as to what exactly happened. But the President of the Constituent Assembly, Dr. Rajendra Prasad, appointed a Committee to investigate into the formation of linguistic States, under the Chairmanship of Mr. Dhar, a lawyer from U.P.

People will remember the Dhar Committee for one thing if not for any other. The Committee said that under no circumstances should Bombay City be included in Maharashtra if Maharashtra was made a linguistic State. That report was then considered by the Jaipur session of the Congress. The Jaipur Congress appointed a Three-Man Committee consisting of the Prime Minister, Mr. Vallabhbhai Patel and Dr. Pattabhi Sitaramayya. They produced a report, the gist of which was that an Andhra province should be created immediately but the city of Madras should remain with the Tamils. A committee was appointed to go into the details. It produced a more or less unanimous report. But the report was opposed by substantial elements among the Andhras including Mr. Prakasam who were not prepared to relinquish their claim to Madras, and the thing lay dormant there.

After that comes the incident of Shri Potti Sriramulu who had to sacrifice his life for the sake of an Andhra province. It is a sad commentary on the ruling party that Mr. Sriramulu should have had to die for a cause the validity of which was accepted by all Congressmen. The creation of a new Andhra province now being thought of is only a pindadan to the departed soul of Mr. Sriramulu by the Prime Minister. Whether such action on the part of the Government would have been tolerated in any other country is a matter on which there is no use speculating.

There are, in my opinion, three conditions which must be satisfied before a linguistic State is brought into being. The first condition is that it must be a viable State. This rule was accepted as absolute when the question of

the merger of the Indian States was under consideration during the making of the Constitution. Only those Indian States which were viable were allowed to remain as independent States. All others were merged into the neighbouring States.

A Sahara ?

Is the proposed Andhra State a viable State ? Mr. Justice Wanchoo had very candidly admitted that the annual revenue deficit of the proposed Andhra State will be of the magnitude of Rs. 5 crores. It is possible for the proposed Andhra State to reduce this gap either by increase of taxation or decrease in expenditure ? The Andhras must face this question. Is the Centre going to take the responsibility of meeting this deficit ? If so, will this responsibility be confined to the proposed Andhra State or will it be extended to all similar cases ? These are questions which are to be considered.

The new Andhra State has no fixed capital. I might incidently say that I have never heard of the creation of a State without a capital. Mr. Rajagopalachari (the staunchest Tamilian tribesman) will not show the Government of the proposed Andhra State the courtesy of allowing it to stay in Madras city even for one night—courtesy which is prescribed by the Hindu Dharma on all Hindus for an *atithi*. The new Government is left to choose its own habitat and construct thereon its own hutments to transact its business. What place can it choose ? With what can it construct its hutments ? Andhra is Sahara and there are no oases in it. If it chooses some place in this Sahara it is bound to shift its quarters to a more salubrious place, and the money spent on this temporary headquarters would be all a waste. Has the Government considered this aspect of the case ? Why not right now give them a place which has the possibility of becoming their permanent capital.

It seems to me that Warangal is best suited from this point of view. It is the ancient capital of the Andhras. It is a railway junction. It has got quite a large number of buildings. It is true that it lies within that part of Andhra which is part of Hyderabad State. As a matter of principle Hyderabad State which is a monstrocity should have been broken up and a complete Andhra State might have been created. But if the Prime Minister has some conscientious objection to the proposal, can he not create an enclave in the Andhra part of Hyderabad and join it to the new Andhra State and make a way to Warangal ? An enclave is not a new thing in India. But the Prime Minister wants to work against the will of God in Hyderabad as well as in Kashmir. I am sure he will very soon learn the consequences of it.

First Condition

This is just incidental. My main point is that a linguistic State must be viable. This is the first consideration in the creation of a linguistic State. The second consideration is to note what is likely to happen within

a linguistic State. Unfortunately no student has devoted himself to a demographic survey of the population of India. We only know from our census reports how many are Hindus, how many are Muslims, how many Jews, how many Christians and how many untouchables. Except for the knowledge we get as to how many religions there are this information is of no value. What we want to know is the distribution of castes in different linguistic areas. On this we have very little information. One has to depend on one's own knowledge and information. I don't think it would be contradicted if it is said that the caste set-up within the linguistic area is generally such that it contains one or two major castes large in number and a few minor castes living in subordinate dependence on the major castes.

Communal Set-up

Let me give a few illustrations. Take the Punjab of PEPSU. The Jats dominate the whole area. The untouchables live in subordinate dependence on them. Take Andhra—there are two or three major communities spread over the linguistic area. They are either the Reddis or the Kammas and the Kappus. They hold all the land, all the offices, all the business. The untouchables live in subordinate dependence on them. Take Maharashtra. The Marathas are a huge majority in every village in Maharashtra. The Brahmins, the Gujars, the Kolis and the untouchables live in subordinate co-operation. There was a time when the Brahmins and the banias lived without fear. But times have changed. After the murder of Mr. Gandhi, the Brahmins and the banias got such a hiding from the Marathas that they have run away to the towns as safety centres. Only the wretched untouchables, the Kolis and the Malis have remained in the villages to bear the tyranny of the Maratha communal majority. Anyone who forgets this communal set-up will do so at his peril.

In a linguistic State what would remain for the smaller communities to look to ? Can they hope to be elected to the Legislature ? Can they hope to maintain a place in the State service ? Can they expect any attention to their economic betterment ? In these circumstances, the creation of a linguistic State means the handing over of Swaraj to a communal majority. What an end to Mr. Gandhi's Swaraj ! Those who cannot understand this aspect of the problem would understand it better if instead of speaking in terms of linguistic State we spoke of a Jat State, a Reddy State or a Maratha State.

Third Issue

The third problem which calls for consideration is whether the creation of linguistic States should take the form of consolidation of the people speaking one language into one State. Should all Maharashtrians be collected together into one Maharashtra State ? Should all Andhra area be put into one Andhra State ? This question of consolidation does not merely relate to new units. It relates also to the existing linguistic provinces such as

U.P., Bihar and West Bengal. Why should all Hindi-speaking people be consolidated into one State as has happened in U.P. ? Those who ask for consolidation must be asked whether they want to go to war against other States. If consolidation creates a separate consciousness we will have in course of time an India very much like what it was after the break-up of Maurya Empire. Is destiny moving us towards it ?

This does not mean that there is no case for linguistic provinces. What it means is that there must be definite checks and balances to see that a communal majority does not abuse its power under the garb of a linguistic State.

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THOUGHTS ON LINGUISTIC STATES

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THOUGHTS ON LINGUISTIC STATES

PREFACE

The creation of Linguistic States is a burning question of the day. I regret that owing to my illness I was not able to take part in the debate that took place in Parliament much less in the campaign that is carried on in the country by partisans in favour of their views. The question is too important for me to sleep over in silence. Many have accused me for remaining quiet not knowing what the cause was.

I have therefore taken the other alternative i.e. to set out my views in writing.

Readers may find certain inconsistencies in my views as expressed in this brochure and as expressed formerly in certain public statements. Such changes in my view are, I am sure, very few. The former statements were made on the basis of fragmentary data. The whole picture was then not present to the mind. For the first time it met my eye when the report of the S.R.C. came out. This is sufficient justification for any change in my views which a critic may find.

To a critic who is a hostile and malicious person and who wants to make capital out of my inconsistencies my reply is straight. Emerson has said that consistency is the virtue of an ass and I don't wish to make an ass of myself. No thinking human being can be tied down to a view once expressed in the name of consistency. More important than consistency is responsibility. A responsible person must learn to unlearn what he has learned. A responsible person must have the courage to rethink and change his thoughts. Of course there must be good and sufficient reasons for unlearning what he has learned and for recasting his thoughts. There can be no finality in thinking.

The formation of Linguistic States, although essential, cannot be decided by any sort of hooliganism. Nor must it be solved in a manner that will serve party interest. It must be solved by cold blooded reasoning. This is what I have done and this is what I appeal to my readers to do.

B. R. AMBEDKAR

23rd December 1955
Milind Mahavidyalaya
Nagsen Vana, College Road
Aurangabad (Dn.)

PART I

THE WORK OF THE COMMISSION

CHAPTER 1

LINGUISM AND NOTHING ELSE

The present Constitution of India recognizes the following States which are enumerated in the Schedule :

Part 'A' States	Part 'B' States	Part 'C' States
1. Andhra	1. Hyderabad	1. Ajmer
2. Assam	2. Jammu and Kashmir	2. Bhopal
3. Bihar	3. Madhya Bharat	3. Coorg
4. Bombay	4. Mysore	4. Delhi
5. Madhya Pradesh	5. Patiala	5. Himachal Pradesh
6. Madras	6. Rajasthan	6. Kutch
7. Orissa	7. Saurashtra	7. Manipur
8. Punjab	8. Travancore-Cochin	8. Tripura
9. Uttar Pradesh		9. Vindhya Pradesh

Article 3 of the Constitution gives power to Parliament to create new States. This was done because there was no time to reorganize the States on linguistic basis for which there was a great demand.

In pursuance of this incessant demand the Prime Minister appointed the States Reorganization Commission to examine the question. In its report the States Reorganization Commission has recommended the creation of the following States :

Proposed New States

Name of the State	Area (in sq. miles)	Population (in crores)	Language
1. Madras	50,170	3.00	Tamil
2. Kerala	14,980	1.36	Malyalam
3. Karnatak	72,730	1.90	Kanarese
4. Hyderabad	45,300	1.13	Telugu
5. Andhra	64,950	2.09	Telugu
6. Bombay	151,360	4.02	Mixed
7. Vidarbha	36,880	0.76	Marathi

Proposed New States—contd.

Name of the State	Area (in sq. miles)	Population (in crores)	Language
8. Madhya Pradesh	171,200	2.61	Hindi
9. Rajasthan	132,300	1.60	Rajasthani
10. Punjab	58,140	1.72	Punjabi
11. Uttar Pradesh	113,410	6.32	Hindi
12. Bihar	66,520	3.82	Hindi
13. West Bengal	34,590	2.65	Bengali
14. Assam	89,040	0.97	Assamese
15. Orissa	60,140	1.46	Oria
16. Jammu and Kashmir	92,780	0.14	Kashmiri

The important thing is to compare the size of the States—

Taking population as the measuring red the result may be presented as follows :

There are 8 States with a population between 1 and 2 crores each.

There are 4 States with a population between 2 and 4 crores.

There is one State above 4 crores.

There is one State above 6 crores.

The result, to say the least, is fantastic. The Commission evidently thinks that the size of a State is a matter of no consequence and that the equality in the size of the States constituting a Federation is a matter of no moment.

This is the first and the most terrible error which the Commission has committed. If not rectified in time, it will cost India a great deal.

CHAPTER 2

LINGUISM IN EXCELSIS

In the first chapter it has been pointed out that one result of the recommendations of the States Reorganization Commission is the disparity in the size of the different States the Commission has suggested for creation.

But there is another fault in the recommendations of the Commission which perhaps is hidden but which is nonetheless real.

It lies in not considering the North in relation to the South. This will be clear from the following table :

Southern States		Central States		Northern States*	
Name ..	Population (in crores)	Name	Population (in crores)	Name ..	Population (in crores)
Madras ..	3.00	Maharashtra	3.31	Uttar Pradesh ..	6.32
Kerala ..	1.36	Gujarat	1.13	Bihar ..	3.85
Karnataka ..	1.90	Saurashtra	0.4	Madhya Pradesh ..	2.61
Andhra ..	1.09	Kutch	0.5	Rajasthan ..	1.60
Hyderabad ..	1.13			Punjab ..	1.72

* I have included certain centrally situated States because by language they are affiliated to one another.

This scheme of dividing India in the name of Linguistic States cannot be overlooked. It is not so innocuous as the Commission thinks. It is full of poison. The poison must be emptied right now.

The nature of Union of India expresses only an idea. It does not indicate an achievement. Bryce in his "*American Commonwealth"* relates the following incident which is very instructive. This is what he says :

> "A few years ago the American Protestant Episcopal Church was occupied at its annual conference in revising liturgy. It was thought desirable to introduce among the short sentence prayers a prayer for the whole people ; and an eminent New England Divine proposed the words 'O Lord, bless our Nation'. Accepted one afternoon on the spur of the moment, the sentence was brought up next day for reconsideration, when so many objections were raised by the laity to the word, 'Nation', as importing too definite recognition of national unity, that it was dropped, and instead there were adopted the words, 'O Lord, bless these United States.' "

India is not even mentally and morally fit to call itself the United States of India. We have to go a long way to become the United States of India. The Union of India is far, far away, from the United States of India. But this consolidation of the North and balkanisation of the South is not the way to reach it.

PART II

THE LIMITATIONS OF LINGUISM

CHAPTER 3

THE PROS AND CONS OF A LINGUISTIC STATE

"One State, one language" is a universal feature of almost every State. Examine the constitution of Germany, examine the constitution of France, examine the constitution of Italy, examine the constitution of England, and examine the constitution of the U.S.A. "One State, one language" is the rule.

Wherever there has been a departure from this rule there has been a danger to the State. The illustration of the mixed States are to be found in the old Austrian Empire and the old Turkish Empire. They were blown up because they were multi-lingual States with all that a multi-lingual State means. India cannot escape this fate if it continues to be a congery of mixed States.

The reasons why a unilingual State is stable and a multi-lingual State unstable are quite obvious. A State is built on fellow-feeling. What is this fellow-feeling ? To state briefly it is a feeling of a corporate sentiment of oneness which makes those who are charged with it feel that they are kith and kin. This feeling is a double-edged feeling. It is at once a feeling of

fellowship for one's own kith and kin and anti-fellowship for those who are not one's own kith and kin. It is a feeling of "consciousness of kind " which on the one hand, binds together those who have it so strongly that it over-rides all differences arising out of economic conflicts or social gradations and, on the other, severs them from those who are not of their kind. It is a longing not to belong to any other group.

The existence of this fellow-feeling is the foundation of a stable and democratic State.

This is one reason why a linguistic State is so essential. But there are other reasons why a State should be unilingual. There are two other reasons why the rule "one State, one language " is necessary.

One reason is that democracy cannot work without friction unless there is fellow-feeling among those who constitute the State. Faction fights for leadership and discrimination in administration are factors ever present in a mixed State and are incompatible with democracy.

The present State of Bombay is the best illustration of the failure of democracy in a mixed State. I am amazed at the suggestion made by the States Reorganization Commission that the present Bombay State should be continued as it is to enable us to gain experience of how a mixed State flourishes. With Bombay as a mixed State for the last 20 years, with the intense enmity between the Maharashtrians and Gujaratis, only a thoughtless or an absent-minded person could put forth such a senseless proposal. The former State of Madras is another illustration of the failure of democracy in a mixed State. The formation of a mixed State of United India and the compulsory division of India into India and Pakistan are other illustrations of the impossibility of having democracy in a mixed State.

Another reason why it is necessary to adopt the rule of "one State, one language" is that it is the only solvent to racial and cultural conflicts.

Why do Tamils hate Andhras and Andhras hate Tamils ? Why do Andhras in Hyderabad hate Maharashtrians and Maharashtrians hate Andhras ? Why do Gujaratis hate Maharashtrians and Maharashtrians hate Gujaratis ? The answer is very simple. It is not because there is any natural antipathy between the two. The hatred is due to the fact that they are put in juxtaposition and forced to take part in a common cycle of participation, such as Government. There is no other answer.

So long as this enforced juxtaposition remains, there will be no peace between the two.

There will be people who would cite the cases of Canada, Switzerland and South Africa. It is true that these cases of bilingual States exist. But it must not be forgotten that the genius of India is quite different from the genius of Canada, Switzerland and South Africa. The genius of India is to divide—the genius of Switzerland, South Africa and Canada is to unite.

The fact that they have been held together uptil now is not in the natural course of things. It is due to the fact that both of them are bound by the Congress discipline. But how long is the Congress going to last ? The Congress is Pandit Nehru and Pandit Nehru is Congress. But is Pandit Nehru immortal ? Any one who applies his mind to these questions will realize that the Congress will not last till the sun and the moon. It must one day come to an end. It might come to an end even before the next election. When this happens the State of Bombay will find itself engaged in civil war and not in carrying on administration.

We therefore want linguistic States for two reasons. To make easy the way to democracy and to remove racial and cultural tension.

In seeking to create linguistic States India is treading the right road. It is the road which all States have followed. In the case of other linguistic States they have been so, from the very beginning. In the case of India she has to put herself in the reverse gear to reach the goal. But the road she proposes to travel is well-tried road. It is a road which is followed by other States.

Having stated the advantages of a linguistic State I must also set out the dangers of a linguistic State.

A linguistic State with its regional language as its official language may easily develop into an independent nationality. The road between an independent nationality and an independent State is very narrow. If this happens, India will cease to be Modern India we have and will become the medieval India consisting of a variety of States indulging in rivalry and warfare.

This danger is of course inherent in the creation of linguistic States. There is equal danger in not having linguistic States. The former danger a wise and firm statesman can avert. But the dangers of a mixed State are greater and beyond the control of a statesman however eminent.

How can this danger be met ? The only way I can think of meeting the danger is to provide in the Constitution that the regional language shall not be the official language of the State. The official language of the State shall be Hindi and until India becomes fit for this purpose English. Will Indians accept this ? If they do not, linguistic States may easily become a peril.

One language can unite people. Two languages are sure to divide people. This is an inexorable law. Culture is conserved by language. Since Indians wish to unite and develop a common culture it is the bounden duty of all Indians to own up Hindi as their language.

Any Indian who does not accept this proposal as part and parcel of a linguistic State has no right to be an Indian. He may be a hundred per cent Maharashtrian, a hundred per cent Tamil or a hundred per cent Gujarathi,

but he cannot be an Indian in the real sense of the word except in a geographical sense. If my suggestion is not accepted India will then cease to be India. It will be a collection of different nationalities engaged in rivalries and wars against one another.

God seems to have laid a heavy curse on India and Indians, saying 'Ye Indians shall always remain divided and ye shall always be slaves !'

I was glad that India was separated from Pakistan. I was the philosopher, so to say, of Pakistan. I advocated partition because I felt that it was only by partition that Hindus would not only be independent but free. If India and Pakistan had remained united in one State Hindus though independent would have been at the mercy of the Muslims. A merely independent India would not have been a free India from the point of view of the Hindus. It would have been a Government of one country by two nations and of these two the Muslims without question would have been the ruling race notwithstanding Hindu Mahasabha and Jana Sangh. When the partition took place I felt that God was willing to lift his curse and let India be one, great and prosperous. But I fear that the curse may fall again. For I find that those who are advocating linguistic States have at heart the ideal of making the regional language their official language.

This will be a death knell to the idea of a United India. With regional languages as official languages the ideal to make India one United country and to make Indians, Indians first and Indians last, will vanish. I can do no more than to suggest a way out. It is for Indians to consider it.

CHAPTER 4

MUST THERE BE ONE STATE FOR ONE LANGUAGE ?

What does a linguistic State mean ?

It can mean one of two things. It can mean that all people speaking one language must be brought under the jurisdiction of one State. It can also mean that people speaking one language may be grouped under many States provided each State has under its jurisdiction people who are speaking one language. Which is the correct interpretation ?

The Commission took the view that the creation of one single State for all people speaking one and the same language was the only rule to be observed.

Let the reader have a look at map No. 1. He will at once note the disparity between the Northern and Southern States. This disparity is tremendous. It will be impossible for the small States to bear the weight of the big States.

How dangerous this disparity is, the Commission has not realized. Such disparity no doubt exists in the United States. But the mischief it might

cause has been prevented by the provisions in the Constitution of the United States.

One such safeguard in the Constitution of the United States has been referred to by Mr. Pannikar in his dissenting minute to the Report (*See* Table No. 2).

I give below the following extract from his minute :

> "I consider it essential for the successful working of a federation that the units should be fairly evenly balanced. Too great a disparity is likely to create not only suspicion and resentment but generate forces likely to undermine the federal structure itself and thereby be a danger to the unity of the country. This is clearly recognised everywhere. In most federal constitutions, though wide variation exists in respect of the population and resources of the unit, care is taken to limit the influence and authority of the larger States. Thus in the United States of America, for example, though the States are of varying population and resources and the State of New York has many times the population, say of Nevada, the constitution provides for equal representation of every State in the Senate."

On this point Mr. Pannikar also refers to the Soviet Union and old Germany. This is what he says:

> "In the Soviet Union also, in which great Russia has a larger population than most other units of the Federation taken together, representation in the House of Nationalities is weighed against her so that the other units of the Federation may not be dominated by the larger unit. In the Bismarckian Reich again, though Prussia had a dominant position from the point of view of population, she was given less representation in the *Reichsrat* or the house representing the states than she was entitled to (less than one-third) and the permanent presidency of that body was vested in Bavaria, clearly demonstrating that even here—where there was concentration of political, military and economic power in one State—it was considered necessary, in the interest of the union, to give weightage to the smaller units and also to reduce Prussia to the position of minority in the *Reichsrat,* States Council, which enjoyed greater powers than the *Reichstag* or the House of the People."

Mr. Pannikar has however not mentioned one other safeguard in the Constitution of the United States against the evils of disparity. In our Constitution the two Houses are not co-equal in authority. But the position in the Constitution of the United States is quite different. In the U.S.A. the two Houses are co-equal in authority. Even for money bills the consent of the Senate is necessary. This is not so in India. This makes a great difference to the disparity in the population.

This disparity in the population and power between the States is sure to plague the country. To provide a remedy against it is most essential.

CHAPTER 5

THE NORTH VERSUS THE SOUTH

What the Commission has created is not a mere disparity between the States by leaving U.P. and Bihar as they are, by adding to them a new and a bigger Madhya Pradesh with Rajasthan it creates a new problem of North *versus* South.

The North is Hindi speaking. The South is non-Hindi speaking. Most people do not know what is the size of the Hindi-speaking population. It is as much as 48 per cent of the total population of India. Fixing one's eye on this fact one cannot fail to say that the Commission's effort will result in the consolidation of the North and the balkanization of the South.

Can the South tolerate the dominance of the North?

It may now not be a breach of a secret if I revealed to the public what happened in the Congress Party meeting when the Draft Constitution of India was being considered, on the issue of adopting Hindi as the national language. There was no article which proved more controversial than Article 115 which deals with the question. No article produced more opposition. No article, more heat. After a prolonged discussion when the question was put, the vote was 78 against 78. The tie could not be resolved. After a long time when the question was put to the Party meeting the result was 77 against 78 for Hindi. Hindi won its place as a national language by one vote. I am stating these facts from my personal knowledge. As Chairman of the Drafting Committee I had naturally entry to the Congress Party enclosure.

These facts reveal how much the South dislikes the North. This dislike may grow into hatred if the North remains consolidated and the South becomes disintegrated and if the North continues to exercise a disproportionate influence on the politics of India (*See* Map 1).

To allow one State to have such preponderating influence in the Centre is a dangerous thing.

Mr. Pannikar has referred to this aspect of the case. In his dissenting minute he says :

> "The consequence of the present imbalance, caused by the denial of the federal principal of equality of units, has been to create feelings of distrust and resentment in all the States outside Uttar Pradesh. Not only in the Southern States but also in the Punjab, Bengal and elsewhere the view was generally expressed before the Commission that the present structure of government led to the dominance of Uttar Pradesh in all-India matters. The existence of this feeling will hardly be denied by anyone. That it will be a danger to our unity, if such feelings are allowed to exist and remedies are not sought and found now, will also not be denied."

There is a vast difference between the North and the South. The North is conservative. The South is progressive. The North is superstitious, the South is rational. The South is educationally forward, the North is educationally backward. The culture of the South is modern. The culture of the North is ancient.

Did not Prime Minister Nehru on the 15th of August 1947 sit at the Yajna performed by the Brahmins of Benares to celebrate the event of a Brahmin becoming the first Prime Minister of free and independent India and wear the Raja Danda given to him by these Brahmins and drink the water of the Ganges brought by them ?

How many women have been forced to go Sati in recent days and immolate themselves on the funeral pyre of their dead husbands. Did not the President recently go to Benares and worship the Brahmins, washed their toes and drank the water ?

The North still has its Satis, its Nanga Sadhus. What havoc the Nanga Sadhus made at the last Hardwar Fair ! Did anyone in U.P. protest against it ?

How can the rule of the North be tolerated by the South ? Already there signs of the South wanting to break away from the North.

Mr. Rajagopalachari has made a statement on the recommendations of the States Reorganization Commission which has appeared in the *Times of India* of the 27th November, 1955. This is what he says :

> "If it is impossible to put the States Reorganization Schemes in cold storage for the next 15 years, the only alternative is for the Centre to govern India as a unitary state and deal with district officers and district boards directly, with regional commissioners' supervision.
>
> "It would be utterly wrong to fritter away national energy in dispute over boundaries and divisions conceived in the drawing room and not on the background of conditions that have resulted historically.
>
> "Apart from the general convictions of mine, I feel that a large southern State is absolutely essential for preserving the political significance of that part of the country. To cut the South up into Tamil, Malayalam and other small States will result only in complete insignificance of everybody and, in the net result, India as a whole will be the poorer."

Mr. Rajagopalachari has not expressed himself fully. He did do so fully and openly to me when he was the Head of the State and I was the Law Minister in charge of drafting the constitution. I went to Mr. Rajagopalachari for my usual interview which was the practice of the day. At one such interview Mr. Rajagopalachari, referring to the sort of constitution which the Constituent Assembly was making, said to me, "You are committing a great mistake. One federation for the whole of India with equal

representation for all areas will not work. In such a federation the Prime Minister and President of India will always be from the Hindi speaking area. You should have two Federations, one Federation of the North and one Federation of the South and a Confederation of the North and the South with three subjects for the Confederation to legislate upon and equal representation for both the federations."

These are the real thoughts of Mr. Rajagopalachari. They came to me as a revelation coming as they did from the innermost heart of a Congressman. I now regard Mr. Rajagopalachari as a prophet predicting the break-up of India into the North and the South. We must do everything to falsify Mr. Rajagopalachari's prophecy.

It must not be forgotten that there was a civil war in the U.S.A. between the North and the South. There may also be a civil war between the North and the South in India. Time will supply many grounds for such a conflict. It must not be forgotten that there is a vast cultural difference between the North and the South and cultural differences are very combustible.

In creating this consolidation of the North and balkanization of the South the Commission did not realize that they were dealing with a political and not a merely linguistic problem.

It would be most unstatesmanlike not to take steps right now to prevent such a thing happening. What is the remedy ?

PART III

SOLUTION

CHAPTER 6

THE DIVISION OF THE NORTH

The problem having been realized we must now search for a solution.

The solution lies obviously in adopting some standard for determining the size of a State. It is not easy to fix such a standard. If two crores of population be adopted as a standard measure most of the Southern States will become mixed States. The enlargement of the Southern States to meet the menace of the Northern States is therefore impossible. The only remedy is to break up the Nothern States of U.P., Bihar and Madhya Pradesh.

How did this solution not strike the Congress Working Committee I am unable to understand. It is so obvious.

Division of the Northern States

As I have said the Commission in designing linguistic States has created a consolidation of the North and balkanization of the South. The Commission has not I am sure done this intentionally. But intentionally or unintentionally the fact is there. Its evil consequences are also clear.

It is therefore necessary that this situation must be rectified. The only way to do this is to divide the three States of (1) Uttar Pradesh, (2) Bihar and (3) Madhya Pradesh into smaller units.

In this behalf I make bold to offer certain tentative proposals.

This division does not conflict with the underlying principles of a linguistic State. For, if these States are divided in the way suggested, each resulting State will be a linguistic State.

I am happy to find Mr. Pant saying in the recent debate in Parliament on the subject that he has no objection to the cutting up of the U.P. What he said for U.P. may well be taken as applicable to Bihar and Madhya Pradesh.

Division of Uttar Pradesh.—My proposal with regard to the Uttar Pradesh is to divide it into three States (*See* Map 2). Each of these three States should have a population of approximately two crores which should be regarded as the standard size of population for a State to administer effectively. Where the boundary lines of these three States should be drawn I have shown in the accompanying Map No. 2.

The three States of the Uttar Pradesh could have as their capitals (1) Meerut (2) Cawnpore and (3) Allahabad. They are situated quite in the centre of each of these three States.

Division of Bihar—My proposal with regard to Bihar is to divide it into two States *(See* Map 3). Each of these two States will have a population of a little over one and half crores. It is not a small population for one Government to administer.

Where the boundary lines should be drawn I have shown in the accompanying Map No. 3.

The two States of Bihar could have as their capitals (1) Patna and (2) Ranchi. They are situated quite in the centre of the two States.

Division of Madhya Pradesh.—Madhya Pradesh stands before us in two forms. The old Madhya Pradesh and the new Madhya Pradesh.

The old Madhya Pradesh consisted of :

(1) the Province at one time known as C. P. and Berar, and

(2) some Indian States out of the States known as the Eastern States.

This old State of Madhya Pradesh had a population of 2½ crores. It consisted of 22 districts. Its legislature had 223 members.

The new Madhya Pradesh as planned by the Commission will consist of:

(1) the 14 districts of the old Madhya Pradesh,

(2) the whole of Bhopal,

(3) the whole of Vindhya Pradesh,

(4) Madhya Bharat except : Sunel enclave of Mandasaur district, and

(5) the Sironj sub-division of Kota district of Rajasthan.

The total population of this new Madhya Pradesh will be 26.1 million and its area will be about 171.200 square miles.

I suggest that it should be divided into two States : (1) Northern Madhya Pradesh, (2) Southern Madhya Pradesh (*See* Map 4).

The State of New Madhya Pradesh should consist of the following areas :

(1) The whole of Vindhya Pradesh.

(2) The whole State of Bhopal.

The State of Southern Madhya Pradesh should consist of—

(1) the whole State of Indore, and

(2) the 14 districts of Mahakosal.

The population of this Indore State will be about 2 crores and the population of this Vindhya Pradesh will be about 1.30 crores. (*See* Map No. 4).

Why the Commission created this monster State it is no way to know. Even Prime Minister Nehru was surprised at its creation.

All that one can think of is that the Commission has been under the impression that one language, one State is a categorical imperative from which there is no escape. As I have shown one language, one State can never be categorical imperative. In fact one State, one language should be the rule. And therefore people forming one language can divide themselves into many States.

CHAPTER 7

THE PROBLEMS OF MAHARASHTRA

1

THE PROPOSALS TO DEAL WITH MAHARASHTRA

Maharashtra is another area which is a subject of controversy.

There are four proposals in the field :

(1) To retain the Bombay State as it is i.e. to retain it as a mixed State consisting of Maharashtra, Gujarat and Bombay.

(2) To disrupt the existing State and to separate Maharashtra and Gujarat and make them into two separate States.

(3) To make united Maharashtra with Bombay as one State.

(4) To separate Bombay from Maharashtra and make it a separate City State.

I would like to state what my proposals are. They are as follows :

Bombay as a mixed State should be done away with.

I would divide Maharashtra into four States (*See* Map 5) : (1) Maharashtra City State (Bombay), (2) Western Maharashtra, (3) Central Maharashtra and (4) Eastern Maharashtra.

Maharashtra City State.—The City of Bombay *plus* such area of Maharashtra as would enable it to be a good and strong City State.

Western Maharashtra.—(1) Thana, (2) Kolaba, (3) Ratnagiri, (4) Poona, (5) North Satara, (6) South Satara, (7) Kolhapur and (8) the Marathi-speaking territories given over to Karnataka.

Central Maharashtra—(1) Dang, (2) East Khandesh, (3) West Khandesh, (4) Nasik, (5) Ahmednagar, (6) Aurangabad, (7) Nanded, (8) Parbhani, (9) Beed, (10) Usmanabad, (11) Sholapur City and the Marathi-speaking area of Sholapur District and (12) the Marathi-speaking territories given over to Telangana.

Eastern Maharashtra.—(1) Buldhana, (2) Yeotmal, (3) Akola, (4) Amraoti, (5) Wardha, (6) Chanda, (7) Nagpur, (8) Bhandara and (9) the Marahi-speaking territories given to Hindi States.

I will next proceed to examine the merits of these proposals.

II

MAHARASHTRIANS UNDER THE MIXED STATE

Should Bombay remain a mixed State ? It is a most unusual procedure. The City of Calcutta is not a separate City State. Madras is not a separate City State. Why Bombay alone be made the exception ?

Secondly, it is already a mixed State. What is the experience of the Maharashtrians under this mixed State ? The Maharashtrians have suffered terribly under this mixed State.

What is the position of the Maharashtrians in the Bombay Cabinet ?

Let us consider the distribution of Ministership :

Gujarathi Ministers	...	...	...	4
Marathi Ministers	...	...	...	4
Kannada Ministers	...	...	...	1
		Total	...	9

Gujarathi members in the Assembly are only 106, Marathi members are 149 and yet the number of Gujarathi Ministers is equal to that of Maharashtrian Ministers.

Let us come to Deputy Ministers :

Marathi speaking	...	...	...	5
Gujarathi speaking	...	...	...	2
Kannada speaking	...	...	...	2
		Total	...	9

Only among Deputy Ministers do the Maharashtrians have a majority of one.

But how the power and subjects are distributed among the Ministers and Deputy Ministers is the most important matter. It shows what power and authority the Maharashtrian Ministers possess in this mixed Cabinet of the Bombay State.

Allocation of Subjects among Ministers

Gujarathi Ministers				Maharashtrian Ministers			
1.	Morarji Desai	..	105 Subs.	Hirey	..	49	Subs.
2.	Dinkerrao Desai	..	26 Subs.	Nimbalkar	..	20	Subs.
3.	Jivaraj Mehta	..	43 Subs.	Tapase	..	15	Subs.
4.	Shantilal Shah	..	28 Subs.	Chavan	..	4	Subs.
	Total	..	202			88	

The allocation of subjects among Deputy Ministers is also done on the same pattern.

Allocation of Subjects among Deputy Ministers

Gujarathi Deputy Ministers				Maharashtrian Deputy Ministers			
1.	Indumati Sheth	..	12 Subs.	1.	Wandrekar	..	12 Subs.
2.	Babubhai J. Patel		3 Subs.	2.	Deshmukh	..	4 Subs.
				3.	Naravane	..	5 Subs.
				4.	Sathe	..	5 Subs.
				5.	Faki	..	3 Subs.
	Total	..	15				29

Let us now consider how much money is spent on development in Maharashtra and in Gujarath. The following figures will give an idea of the Per Capita Expenditure for the three years on Maharashtra and Gujarath :

Per Capita Expenditure on Development in Rupees

			Population	Years 1950-51	1951-52	1952-53
1.	Maharashtra	..	2,17,20,091	1.7	2.3	1.8
2.	Gujarath	..	1,18,96,789	2.9	3.1	3.2

What a differential treatment ? What a discrimination ? What an injustice ? Can anybody blame the Maharashtrians if they felt disgusted with the mixed State of Bombay ?

Such a position of subordination no Maharashtrian can tolerate. The idea of a mixed State must be blown off once for all.

III

THE POSITION OF THE CITY OF BOMBAY

The Bombay City is an area which is a subject matter of controversy. The controversy has become very acute.

Maharashtrians want the City to be part of Maharashtra, Gujarathis want the City to be a separate State. Heads have been broken over the controversy. But there has been no agreement. It is therefore necessary to go to the root of the matter.

The Gujarathis do not claim Bombay City as their own. But will not let go their hold on it. They claim a sort of easement over it by reason of the fact that they control the trade and industry of the City. The issue is : should it become part of Maharashtra or should it be constituted into a separate State ? The Gujarathis and Maharashtrians are sharply divided on the issue. The Maharashtrians want that Bombay should become exclusively a part of the new Maharashtra State. The Gujarathis are stoutly opposed to it. They have presented two alternatives. One alternative is not to break up the existing bi-lingual State of Bombay into two linguistic units of Gujarath and Maharashtra. The Congress Working Committee's decision is to make the city of Bombay into a separate State.

The Gujarathis are happy. The Maharashtrians are naturally angry.

The resentment of the Maharashtrians is well justified. The arguments urged against the claim of the Maharashtrians have no force at all.

The first argument that is urged is that the Marathi-speaking population of Bombay City does not form a majority of the total population of the City. The total population of Bombay City is very large (*See* Statistical Appendix). Marathi-speaking population is 48 per cent.

Those who use this kind of argument do not seem to realize the weakness of it

The total Marathi population of Bombay City is no doubt less than 50 per cent but it has to be valued against two factors. One is that geographically no one can deny that Bombay is part of Maharashtra even if the Maharashtrians are in a minority in the City. Even Mr. Morarji Desai admitted in the course of his speech in the meeting of the Gujarath Pradesh Congress Committee that Bombay is part of Maharashtra.

The second point to be taken into consideration in valuing the population factor is the continued influx of population from the rest of India who come to Bombay either for making profits or for earning their bread. None of them regard Bombay as their home ; they should not therefore be counted as permanent residents of Bombay City. Many come for a few months and go back.

Bombay is a home only to the Maharashtrians and none else. It is not therefore logical or fair to count the non-Maharashtrians for the purpose of coming to the conclusion as to who form the majority of population in the Bombay City.

Again it is not realized that the increase in the non-Marathi-speaking people in the Bombay City is due to the absence of a local law restricting citizenship. If Bombay State had such a law all this influx into Bombay from all parts of India could have been shut out and the Maharashtrian majority retained.

It is also not realized that the influx of the non-Maharashtrians in Bombay is due to the fact that Bombay is a port, and it is a port on the Western Coast. The route from Europe to Bombay is much shorter than the route from Europe to Calcutta or Europe to Madras. That is why large number of poor people from other parts of India leave their homes and come to Bombay as temporary residents. It is easier to find a job in Bombay than elsewhere.

Really speaking the matter has to be looked at from a different point of view. People have been coming to Bombay for the last two hundred years or so. Yet this influx has not reduced the Maharashtrian population in the city below 48 per cent. After two hundred years, the bedrock of its population remains Maharashtrian in its composition. This is due to the migratory character of City (*See* Appendix 3). The Gujarathis are migratory population.

There are also other arguments which could be urged in favour of allowing Bombay to remain as part of Maharashtra.

Bombay is not the only composite city in India. Calcutta and Madras are also composite cities. If Calcutta can be part of Western Bengal and Madras can be part of Madras State what objection can there be to Bombay being made part of Maharashtra ? This is the question that every Maharashtrian will ask. I see no answer to this question. The only answer that comes to one's mind is that the Congress High Command thinks that Maharashtrians are unfit to rule others. This is a slur on the Maharashtrian character and they will not tolerate it.

It is said that Bombay has been built up by the capital belonging to non-Maharashtrians. That may be so. But has Madras been built by the capital of Madrasees ? Has Calcutta been built by the capital of Bengalees? Without the capital of Europeans Madras and Calcutta would have been villages. Then why urge this point against the Maharashtrians when they claim Bombay to themselves ? Maharashtrians have at least contributed labour without which Bombay could not have been what it is. It must always be remembered that the life lines of Bombay lie in Maharashtra. The sources of its electricity lie in Maharashtra. Sources of its water supply lie in Maharashtra. The sources of its labour lie in Maharashtra. Maharashtra can at any time make the city of Bombay '*Mohenjodaro*' a City of the Dead.

The Gujarathi population is filled with fear that Maharashtrians will practise discrimination against them. But under our Constitution discrimination is not possible for the reason that the Constitution contains a list of fundamental rights and remedies by way of writs from the High Court and the Supreme Court which can immediately provide redress for a wrong. For every wrong of a discriminative character there is a remedy provided by the Constitution. Why should the Gujarathis have any fear ?

Let us now consider what benefit the Gujarathis are going to get from Bombay being made a separate City State. Their population in the Bombay State is only ten per cent. How many seats can they get in the Bombay City State Legislature ? Not even ten per cent. How can ten per cent protect their clients against 90 per cent ?

It must be remembered that the feelings between the Maharashtrians and the Gujarathis would hereafter be running high as never before. A Maharashtrian will not vote for a Gujarathi candidate and a Gujarathi voter will not vote for a Maharashtrian candidate. Hitherto the Gujarathis have been able to plough the sands of Maharashtra with their money. But money may not succeed once self-respect is aroused. The Gujarathis must consider whether goodwill is not a better protection than a paltry share in the Government of the City.

While the case of Maharashtra is as strong as steel there are some points on the other side which they must not fail to consider in their anger.

They want Bombay to be within Maharashtra. But the question which they must consider is : What do they want ? Do they want prosperous Bombay or do they want decadent Bombay ? Can Bombay be prosperous under Maharashtra ? This in other words means : can Maharashtra provide the capital necessary for the growing trade and industry of the City ? No Maharashtrian can answer this question in the affirmative. The Maharashtrians may be able to supply the need for capital after a course of years. But certainly not now.

The second point is : what would be the effect on the standard of living of Maharashtrians living in Bombay if the City's prosperity declines either by flight of capital or removal of business houses. The Maharashtrians must not forget, however it may hurt their pride, that they are a nation of clerks and coolies. What employment can they get in a declining city ?

The Maharashtrian should consider the question of Bombay from this point of view. There is a saying which says :

सर्वनाशे समुत्पन्ने अर्ध त्यजति पंडितः ।

There is also another reason why Bombay City should be made a separate state. The minorities and the Scheduled Castes who are living in the villages are constantly subjected to tyranny, oppression, and even murders by the members of the majority communities. The minorities need an asylum,

a place of refuge where they can be free from the tyranny of the majority. If there was a United Maharashtra with Bombay included in it where they can go to for safety ? The same tyranny was practised over the Brahmins, Marwaris and Gujarathis living in the villages when Godse killed Mr. Gandhi. All the Brahmins, Marwaris and Gujarathis who were once living in villages ran away and are now living in towns and forgetting their experiences are shouting for United Maharashtra, after having reached a safe harbour.

It seems to me that Maharashtrians will do well to accept the decision of the Congress High Command for the time being.

The Maharashtrians need have no fear of losing Bombay. Nobody can dispossess Maharashtrians of Bombay. Much less can there be any custer of them by anybody.

The real objection to the creation of Bombay as a separate State arises from the fact that the name Bombay does not carry within it the sense that it is part of Maharashtra. It is to remove this objection that I propose that the new State of Bombay should be renamed by another name which will carry on its face the word Maharashtra.

Supposing in terms of this suggestion instead of saying that Bombay be made a separate State it is said that Maharashtra be divided into four States, (1) Maharashtra City State (which is Bombay City), (2) Western Maharashtra, (3) Central Maharashtra, (4) Eastern Maharashtra; what objection can there be to the creation of a separate State of Bombay ?

This also involves the separation of Bombay. With this change in the name of the City I like to know which Maharashtrian can raise objection to the creation of Bombay as a separate City State on the ground that this scheme separates Bombay from Maharashtra ? To say that Bombay be made a separate State is merely stating that Maharashtra be divided into four States. If there is no objection to Maharashtra being divided into *two* or *three* States what objection can there be to Maharashtra being divided into four? I can see none. For the sake of similarity in language I propose that Calcutta be called Bengal City State and Madras be called Tamil City State.

This is one proposal which I make to ease the tension between Maharashtrians and Gujarathis.

The Maharashtra City State will be a surplus State. Those who are wanting United Maharashtra with Bombay are hoping to get the benefit of this surplus for Maharashtra.

The surplus revenue of the City State arises because of (1) The Property Tax and (2) The Electricity Tax. Can the revenue from these two sources be appropriated by Maharashtra if Bombay becomes a separate City State ?

Nothing can be done to take away the yield of the Property Tax from the Bombay City State Property Tax. It is a local tax, on local situated

property. The State within which the property is situated is entitled to the yield of the Tax.

With regard to the Electricity Tax the situation is different.

When Gujarath and Maharashtra are separated—and they must be—Gujarath will claim the revenue derived from electricity produced and consumed within Gujarath. Maharashtra will claim the revenue derived from electricity produced and consumed within Maharashtra. Bombay City as a State will do the same. Can Bombay be allowed to do so and appropriate the revenue to itself ? Is it just ? Bombay City does not produce electricity. It is produced outside Bombay City in Maharashtra. Therefore the new Bombay City State has no right to appropriate to itself the whole revenue derived from electricity. The proper thing to do is to apply the principle of the segregation of the sources and division of the yield well known to all students of State Finance.

To put it in concrete shape let the Centre take over the taxation of Electricity and divide the yield among the four States of Maharashtra—(1) Bombay, (2) Western Maharashtra, (3) Central Maharashtra, (4) Eastern Maharashtra according to their needs.

It will also ease the financial strain that the three Maharashtras are likely to suffer on account of the separation of Bombay.

IV

UNITED OR DIVIDED ?

I have said that Bombay be given a new area and made into a separate City State.

There now remains the question of how to deal with the rest of the Maharashtra. I have suggested that the rest of the Maharashtra should be divided into three States.

From very ancient times Maharashtra has been divided into three States.

Maharashtra first comes to be known in history during the time of Ashok. It is mentioned in *Mahavansa* in connection with reference to the missionaries sent by Ashok to different parts of India for the purpose of propagating Buddhism. But thereafter the Pali literature speaks of *Trai Maharashtrika* or three Maharashtras. It means that from very ancient times there have been three Maharashtras. My proposal is not therefore new.

The distribution of population, area and revenue would be as shown in Table (on page 160).

The accompanying map No. 5 will show the area and boundaries of each of the three divisions.

For the present, from the point of view of area and population there is nothing to complain against the three divisions.

From the earliest times they have always been spoken of as *Trai Maharashtras*.

The division does no wrong to the language principle. In fact if all the three Maharashtras have the same language it can help to develop the Marathi language if it is worth their while to do so.

The question of viability I will consider later on. I propose to deal with it separately in a special chapter.

Bombay was then unknown. Otherwise it would have been the fourth part of Maharashtra.

Of the remaining three parts what I call Eastern Maharashtra is already a separate State. All that required is that it should be allowed to remain separate. It has got a well-established administration system, a well-established revenue system and a well-established judicial system. It has been separated from the trammels of the Hindi-speaking people.

The only problem that remains is how to divide the area covered by the Maharashtra which is part of the present Bombay State and the Marathwada of the Hyderabad State.

Instead of forming a merger of the two into one and joining it to the third which I call Eastern Maharashtra, why not divide the Maharashtra part of Bombay and Marathwada into two equal States ? This is my scheme. I transfer six districts of Maharashtra part of the Bombay State and make them part of Marathwada. (*See* Map No. 5). The distribution of the area and population of the three Maharashtras are shown below :

The Population Area and Revenue of the Three Maharashtra States will be approximately as follows

Name of State	Total Population (in crores)	Total Area (in sq. miles)	Total Revenue	Total Expenditure
WESTERN MAHARASHTRA	1,26,77,316	30,028	26,24,20,441	not known
CENTRAL MAHARASHTRA	1,24,09,044	55,482	21,63,80,095	not known
EASTERN MAHARASHTRA	80,27,130	39,004	9,41,11,012	not known
Total ..	3,31,13,490	1,24,514	57,29,11,548	

I will now proceed to state my reasons in support of my plan.

I have said that Maharashtra has always been divided into three. This is a historical argument. It at least shows that the tradition, the way of life and the social and economic condition of what is called United Maharashtra is not one. Those who are in a hurry to have United Maharashtra

may not take it seriously. But there are other arguments which arise out of the present condition and which cannot be ignored. I mention a few.

My first argument is that a single Government cannot administer such a huge State as United Maharashtra.

The total population of the Marathi-speaking area is 3,30,83,490. The total area occupied by the Marathi-speaking people is 1,74,514 sq. miles. It is a vast area and it is impossible to have efficient administration by a single State. Maharashtrians who talk about Samyukta Maharashtra have no conception of the vastness as to the area and population of their Maharashtra. But why there should be one single Maharashtrian State. I am quite unable to understand. To have a separate Maharashtra State is one thing. To have a single. Maharashtra State is quite a different thing. I am in favour of a separate Maharashtra, separate from Gujarathis and separate from Hindi-speaking people. But I am unable to understand why a free Maharashtra should be made into one single State. The Maharashtrians are not planning to declare war on U.P. and therefore they need not have a common front.

Even from the point of view of Marathas why should there be this consolidation ? What affiliation has a Maratha of Satara got with the Maratha of Aurangabad ? What affiliation has a Maratha of Nasik got with the Maratha of Ratnagiri? What care and interest a Maratha of Satara is going to bestow upon the problems of the Maratha of Aurangabad ? What care and interest a Maratha of Nasik is going to bestow upon the problems of the Maratha of Ratnagiri ? The consolidation has no meaning and can serve no purpose.

All Maratha Ministers in the present Bombay Cabinet come from Satara District or Nasik District. There is none from Konkan.

The second consideration is the economic inequality between the three parts of Maharashtra. Marathwada has been solely neglected by the Nizam. What guarantee is there that the other two Maharashtras will look after the interests of what I call the Central Maharashtra ?

The third consideration is industrial inequality between the three parts of Maharashtra. Western Maharashtra and Eastern Maharashtra are industrially well developed. What about the Central Maharashtra ? What guarantee is there of its industrial development ? Will Western Maharashtra and Eastern Maharashtra take interest in the industrial development of Central Maharashtra ?

The fourth consideration is the inequality of education between Eastern and Western Maharashtra on the one hand and Central Maharashtra on the other. The inequality between them is marked. If the Central Maharashtra goes under the Poona University its destiny is doomed.

I am greatly worried about Marathwada. It was hitherto part of the Nizam's Territory for the last 200 years. The Nizam had criminally neglected this area. He took no interest in it. There is not a mile of canal irrigation in Marathwada. There is hardly a high school in taluka places in Marathwada. There is hardly a youth in Nizam's public service from Marathwada. I speak from knowledge and experience. People are not only down and out they are ignorant. They are being grabbed by highly advanced people on both sides. When their avenues of employment are closed there will be further degradation in their position.

I shudder to think what would happen when Marathwada goes under the Poona University. The standard of education in the schools and colleges under the Poona University is so high that hardly any boy from Marathwada can hope to pass the examination. It is quite possible that with the madness for united Maharashtra there will develop a madness for a single and common University.

The creation of United Maharashtra will be followed by the onrush of Poona and Nagpur Brahmins in Marathwada to pick up the jobs.

There is a further reason why Maharashtra should be divided into three.

The total strength of the Bombay Legislative Assembly is 315. Out of them 149 members are Marathi-speaking. The total strength of the Bombay Legislative Council is 72 ; out of them 34 are Marathi-speaking. Obviously some Marathi-speaking person should have been the Chief Minister of the Bombay State. Mr. Hirey stood up as a candidate for the Chief Ministership. But he was made to sit down by the Congress High Command. Not only was Mr. Hirey made to sit down but he was forced to move that Mr. Morarji Desai be made the Chief Minister. What a humiliation for a Maharashtrian leader ! And what value does the Congress High Command attach to the political intelligence of Maharashtrians ?

The same incapacity of the Maratha Ministers is clear from the division of subjects referred earlier.

It is obvious from the facts given above that the Marathas are lacking in political talent. There is no man of eminence among them such as Tilak, or Gokhale or Ranade. The Maharashtrian today counts for nothing. The Congress Maharashtrian counts for much less in the Congress. The non-Congress Maharashtrian also counts for nothing. It is therefore absolutely essential to train up Maharashtrians in political life. This political training has become fundamental because of the transfer of power to the masses. The word Marathas is used in two senses. In one sense it means all those who speak the Marathi language. In another sense it means all those who are Marathas by caste. They are all spoken of as Marathas. But they all fail to make the distinction between Marathas i.e. those who speak the Marathi language and Marathas i.e. those who are Marathas by caste.

Those who are going to rule Maharashtra are not Marathas by speech but Marathas by caste, notwithstanding the hopes of the Brahmins. Now it cannot be denied that Marathas are politically the most backward community. It is fundamental that they should receive political training. If there is only one Maharashtra only one Maratha can be trained as Chief Minister and five or six as Ministers. On the other hand if there are three Maharashtra States, three Marathas can find training as Chief Ministers and thirty Marathas can get training as Ministers. We can do real service to ourselves by helping to educate our Masters.

The only way of educating the Marathas is to give them more field for developing their abilities and exercising their abilities. Only the creation of three Maharashtras can do this.

There is a story which is very appropriate to the occasion. The father of a young girl had taken her for an outing in a jungle. She found that under big trees there stood small shrubs. Finding this to be uniformly so, she asked her father why these small shrubs under the big trees do not grow. The father not being a botanist could not give an answer. So he said : Oh ! I do not know. He, however, felt that the question was very significant. He was a Professor in a college. Next day he went to the college and put the question to his Botanist colleague. The Botanist replied : Why ! The answer is simple. The big trees use up all the sun's rays to themselves. The shrubs do not get any rays. That is why they do not grow. The Marathwada people must not forget the moral of this story.

The only argument in favour of United Maharashtra is that it is like a meeting of the two brothers Rama and Bharat in Ramayana after a long separation. It is a silly argument, not worth consideration.

There are some Maharashtrians who are satisfied with some kind of Political Treaty with Western Maharashtra guaranteeing some concessions. Treaties are like scraps of paper. They cannot be enforced. Instead of political treaties which nobody can enforce is it not better to have power in one's own hands ?

What a poor and wretched show by Maharashtrians in the Government of Bombay ! If this is the show that the most advanced and educated part of Maharashtrians can make, what can be expected from the people of Marathwada ?

I advise the people of Marathwada or Central Maharashtra to have a State of their own so that they have power in their own hands to improve their own lot.

V

RECLAMATION OF LOST TERRITORY

Should all the Marathi-speaking people be huddled up under one State ? Or should they be divided into two or more States.

How to dispose of the remainder when Bombay is separated is the next question. The remainder consists of two parts : (1) Gujarath, (2) Maharashtra.

I am concerned with Maharashtra.

While creating Linguistic Provinces the Commission has given over Marathi-speaking areas to non-Marathi-speaking areas. The number of such excluded areas are as follows :

1. Belgaum Taluka with the City of Belgaum.
2. Khanapur Taluka.
3. Chikori Taluka including Nipani.
4. Supa Taluka.
5. Karwar Taluka.
6. Nilanga Taluka in Bidar.
7. Ahamadpur Taluka in Bidar.
8. Udgir Taluka in Bidar.
9. Rajgir Taluka in Adilabad.
10. Some portion from Vidarbha given to the neighbouring Hindi-speaking State.

The Maharashtrians excluded from Maharashtra come to 13,89,648 in terms of population.

The Commission in retaining the mixed State of Bombay had to secure two most important objects. One is not to allow Bombay to go into the hands of Maharashtrians. This the Commission did by creating a mixed State. The second thing they had to do was to secure equality between Maharashtrians and the Gujarathis. The necessity of equality between the two in the future Legislature of the Bombay State as planned by the Commission had become urgent as the members of Karnatak in the old Assembly on whom the Gujarathis depended for their majority were to disappear in the new Karnatak State. This the Commission did by clipping the wings of Maharashtra by handing over Marathi-speaking people to non-Marathi-speaking States. There seems to be no other reason for this political vandalism.

This wrong done by the Commission to Maharashtra must now be remedied and fortunately it can be undone. The proposal of a mixed State is gone and there is no necessity for equality between Maharashtrians and Gujarathis.

CHAPTER 8

SUMMARY OF PRINCIPLES GOVERNING THE ISSUE

For the sake of the reader I summarize below the principles which should underly the creation of Linguistic States which are already enunciated in

the foregoing pages but which lie about scattered. These principles may be stated as below :

(1) The idea of having a mixed State must be completely abandoned.

(2) Every State must be an unilingual State. One State, one language.

(3) The formula one State, one language must not be confused with the formula of one language, one State.

(4) The formula one language, one State means that all people speaking one language should be brought under one Government irrespective of area, population and dissimilarity of conditions among the people speaking the language. This is the idea that underlies the agitation for a united Maharashtra with Bombay. This is an absurd formula and has no precedent for it. It must be abandoned. A people speaking one language may be cut up into many States as is done in other parts of the world.

(5) Into how many States a people speaking one language should be cut up, should depend upon (1) the requirements of efficient administration, (2) the needs of the different areas, (3) the sentiments of the different areas, and (4) the proportion between the majority and minority.

(6) As the area of the State increases the proportion of the minority to the majority decreases and the position of the minority becomes precarious and the opportunities for the majority to practise tyranny over the minority become greater. The States must therefore be small.

(7) The minorities must be given protection to prevent the tyranny of the majority. To do this the Constitution must be amended and provisions must be made for a system on plural member constituencies (two or three) with cumulative voting.

PART IV

THE PROBLEMS OF LINGUISTIC STATES

CHAPTER 9

VIABILITY

Will the three Maharashtrian States be viable ? Will their Revenue be sufficient to meet their expenditure ? Such a question is bound to be asked.

It is not that such a question can be asked about Maharashtra alone. It can be asked about many other States in India.

I give four statements relating to Part A States, Part B States and the Central Government from Part III of the Report of the Taxation Inquiry Committee presided over by Dr. John Mathai (*See* Tables 4, 5, 6 and 7).

From these statements the following propositions stand out :

(1) That upto a certain year in the life of the States there was no deficit. They were all viable. It is only after Congress came into office that States ceased to be viable.

(2) That since the Congress came into office the Excise Revenue has begun to dwindle. It has gone down to a vanishing point.

(3) That Income Tax and Sales Tax have increased enormously.

These are the causes which explain why States have ceased to be viable.

The Excise Revenue is being sacrificed for a false idealogy which has no meaning, no sense and no reality.

In regard to the Policy of Prohibition followed by the Congress, the following conclusions can be drawn without fear of challenge :

(1) An enormous amount of revenue is sacrificed for nothing.

(2) People have not ceased to drink. There is enormous amount of illicit manufacture of liquor which is being sold to the public clandestinely.

(3) The money lost by Government is picked up by the illicit manufacturer.

(4) Prohibition has demoralized Society. Formerly only male members of the family drank because they alone could go to the liquor shop. Now illicit liquor manufacture has become a Home Industry. Liquor being now made at home both men and women drink.

(5) In addition to the loss of revenue on account of Prohibition Government has to undertake increased expenditure on Police to enforce Prohibition which, however, they never do.

What good is this Prohibition which does not prohibit ? The Congress threatens to extend this Prohibition to the whole of India. God bless the Congress! It is said that God first makes them mad whom. He wishes to destroy. God is doing the same with Congressmen.

It is enough for me to say that Congress cannot have both viability and Prohibition.

Coming to the Land Revenue it could certainly be increased. But the Congress is afraid to touch the agriculturist for fear of losing votes. It is therefore raising money from the Sales Tax and the Income Tax both of which fall so heavily on the urban classes as is apparent from Table No. 6.

It is therefore clear that viability is no problem. Only the Congress has to revise its Taxation Policy.

Viability is a question of capacity to bear taxation and will to tax. There is enough capacity. What is wanted is will.

The whole of the Indian Taxation system requires to be changed. It is a question of altering the Constitution. I cannot deal with it now. I must reserve it for another occasion.

CHAPTER 10

MAJORITIES AND MINORITIES

Politics is nothing if not realistic. There is very little in it that is academic. It is therefore follows that before passing any judgement on any scheme of politics it is essential that one must consider the ground plan.

Someone may ask what do I mean by "Ground Plan". To me the ground plan means the social structure of a community to which the political plan is sought to be applied.

It needs no argument to show that the political structure rests on the social structure. Indeed the social structure has a profound effect on the political structure. It may modify it in its working. It may nullify it or it may even make a mockery of it.

In the case of India the social structure is built up on the caste system, the special product of Hindu civilization and culture.

The caste system is so well known that one need not wait to explain its nature. One can straight proceed to show what effect it is likely to have on Linguistic States.

There are some peculiar features of the caste system which must however be noted—

(1) Castes are so distributed that in any given area there is one caste which is major and there are others which are small and are subservient to the major caste owing to their comparative smallness and their economic dependence upon the major caste which owns most of the land in the village.

(2) The caste system is marked not merely by inequality but is affected by the system of graded inequality. All castes are not on a par. They are one above the other. There is a kind of ascending scale of hatred and a descending scale of contempt.

(3) A caste has all the exclusiveness and pride which a nation has. It is therefore not improper to speak of collection of castes as a collection of major and minor nations.

I am sorry, I cannot illustrate these points by reference to facts and figures. The census which is the only source of information on these points fails to help me. The last census omits altogether the caste tables which had been the feature of the Indian census ever since its birth. The Home Minister of the Government of India who is responsible for this omission was of the opinion that if a word does not exist in a dictionary it can be proved that the fact for which the word stands does not exist. One can only pity the petty intelligence of the author.

The consequences of the caste system on politics are quite obvious. The interesting part is to see what effect it has upon elections which is the foundation of Representative Government which is reared up on a system of single member constituencies.

The effects may be summarized as follows :

(1) Voting is always communal. The voter votes for the candidate of his community and not for the best candidate.

(2) The majority community carries the seat by sheer communal majority.

(3) The minority community is forced to vote for the candidate of the majority community.

(4) The votes of the minority community are not enough to enable the candidate to win the seat against the candidate put up by the majority community.

(5) As consequence of social system of graded inequality the voter of the higher (major) communities can never condescend to give his vote to a candidate of a minority community. On the other hand the voter of the minority community who is socially on a lower level takes pride in giving his vote to the candidate of the majority community. That is another reason why a candidate of a minority community loses in election.

The Congress always wins, so it is found. But no one asks why does the Congress win ? The answer is that Congress is very popular. But why is the Congress popular ? The true answer is that Congress always puts up candidates which belong to castes which are in the majority in the constituencies. Caste and Congress are closely linked. It is by exploiting the caste system that the Congress wins.

These evil consequences of the caste system are sure to be sharpened by creation of Linguistic States. Minority communities may be crushed. If not crushed they may be tyrannized and oppressed. They are sure to be discriminated against and denied equality before law and equal opportunity in public life.

The history of nations and the changes in their idealogies have been well traced by Lord Action :

> "In the old European system, the rights of nationalities were neither recognized by governments nor asserted by the people. The interest of the reigning families, not those of the nations, regulated the frontiers, and the administration was conducted generally without any reference to popular desires. Where all liberties were suppressed, the claims of national independence were necessarily ignored, and a princess, in the words of Fenelon, carried a monarchy in her wedding portion."

Nationalities were at first listless. When they became conscious :

> "They first rose against their conquerors in defence of their legitimate rulers. They refused to be governed by usurpers. Next came a time when they revolted because of the wrongs inflicted upon them by their rulers. The insurrections were provoked by particular grievances justified by definite complaints. Then came the French Revolution which effected

a complete change. It taught the people to regard their wishes and wants as the supreme criterion of their right to do what they like to do with themselves. It proclaimed the idea of the sovereignty of the people uncontrolled by the past and uncontrolled by the existing state."

The caste is a nation but the rule of one caste over another may not be admitted to be the same as the rule of one nation over another. But supposing the case is not carried so far but is limited to majority and minority even then the question remains : What right has the majority to rule the minority?

The answer is that whatever the majority does it is right. What complain the minorities can haye ?

People who rely upon majority rule forget the fact that majorities are of two sorts : (1) Communal majority and (2) Political majority.

A political majority is changeable in its class composition. A political majority grows. A communal majority is born. The admission to a political majority is open. The door to a communal majority is closed. The politics of a political majority are free to all to make and unmake. The politics of a communal majority are made by its own members born in it.

How can a communal majority run away with the title deeds given to a political majority to rule ? To give such title deeds to a communal majority is to establish a hereditary Government and make the way open to the tyranny of that majority. This tyranny of the communal majority is not an idle dream. It is an experience of many minorities. This experience to Maharashtrian Brahmins being every recent it is unnecessary to dilate upon it.

What is the remedy ? No doubt some safeguards against this communal tyranny are essential. The question is : What can they be ? The first safeguard is not to have too large a State. The consequences of too large a State on the minority living within it are not understood by many. The larger the State the smaller the proportion of the minority to the majority. To give one illustration—If Mahavidarbha remained separate, the proportion of Hindus to Muslims would be four to one. In the United Maharashtra the proportion will be fourteen to one. The same would be the case of the Untouchables. A small stone of a consolidated majority placed on the chest of the minority may be borne. But the weight of a huge mountain it cannot bear. It will crush the minorities. Therefore creation of smaller States is a safeguard to the minorities.

The second safeguard is some provision for representation in the Legislature. The old type of remedy provided in the Constitution were (1) certain number of reserved seats and (2) separate electorates. Both these safeguards have been given up in the new Constitution. The lambs are shorn of the wool. They are feeling the intensity of the cold. Some tempering of the wool is necessary.

Separate electorates or reservation of seats must not be restored to. It would be enough to have plural member constituencies (of two or three) with cumulative voting in place of the system of single-member constituency embodied in the present Constitution. This will allay the fears which the minorities have about Linguistic States.

PART V

THE NEED FOR A SECOND CAPITAL

CHAPTER 11

INDIA AND THE NECESSITY OF A SECOND CAPITAL

A WAY TO REMOVE TENSION BETWEEN THE NORTH AND THE SOUTH

Can India afford to have one Capital ? That India has now one capital does not close the question. If the Capital of India is not satisfactorily located, now is the time for considering the question.

Since the departure of the British, India has only one capital and that is Delhi. Before the British, India has always had two capitals. During the Moghal period, India had Delhi as one Capital and Shrinagar in Kashmir as another Capital. When the British came they too had two capitals, one was Calcutta and another was Simla. Even when they left Calcutta for Delhi, they retained Simla as their summer Capital. The two capitals maintained by the Moghuls and by the British were the results of climatic conditions. Neither the British nor the Moghuls were able to live in Delhi or in Calcutta continuously for 12 months. The summer months in Delhi were unbearable to the Moghuls. They made Shrinagar their second capital for summer months. The summer months in Calcutta were equally unbearable to the British. They, therefore, established a second capital. To these climatic conditions must now be added three other conditions. There was no popular Government when the Moghuls ruled or when the British ruled. Now we have popular Government and the convenience of the people is an important factor. Delhi is most inconvenient to the people of the South. They suffer the most from cold as well as distance. Even the Northern people suffer in the summer months. They do not complain because they are nearer home and they are nearer the seat of power. Second is the feeling of the Southern people and the third is the consideration of Defence. The feeling of the Southern people is that the Capital of their Country is far away from them and that they are being ruled by the people of Northern India. The third consideration is of course more important. It is that Delhi is a vulnerable place. It is within bombing distance of the neighbouring countries. Although India is trying to live in peace with its neighbours it cannot be assumed that India will not have to face war sometime or other and if war comes, the Government of India will have to leave Delhi and find another place for

its location. Which is the place to which the Government of India can migrate ? A place that one can think of is Calcutta. But Calcutta is also within bombing distance from Tibet. Although India and China today are friends, how long the friendship would last no one can definitely say. The possibility of conflict between India and China remains. In that event Calcutta would be useless. The next town that could be considered as a refuge for the Central Government is Bombay. But Bombay is a port and our Indian Navy is too poor to protect the Central Government if it came down to Bombay. Is there a fourth place one could think of ? I find Hyderabad to be such a place. Hyderabad. Secunderabad and Bolarum should be constituted into a Chief Commissioner's Province and made a second capital of India. Hyderabad fulfils all the requirements of a capital for India. Hyderabad is equidistant to all States. Anyone who looks at the table of distances given below will realize it :

	From Delhi Miles	From Hyderabad Miles
To Bombay	798	440
To Calcutta	868	715
To Madras	1,198	330
To Karnul	957	275
To Trivendrum	1,521	660
To Patiala	124	990
To Chandigarh	180	1,045
To Lucknow	275	770

From the defence point of view it would give safety to the Central Government. It is equidistant from all parts of India. It would give satisfaction to the South Indian people that their Government is sometimes with them. The Government may remain in Delhi during winter months and during other months it can stay in Hyderabad. Hyderabad has all the amenities which Delhi has and it is a far better City than Delhi. It has all the grandeur which Delhi has. Buildings are going cheap and they are really beautiful buildings, far superior to those in Delhi. They are all on sale. The only thing that is wanting is a Parliament House which the Government of India can easily build. It is a place in which Parliament can sit all the year round and work, which it cannot do in Delhi. I do not see what objection there can be in making Hyderabad a second capital of India. It should be done right now while we are reorganising the States.

Hyderabad, Secunderabad and Bolarum should be constituted into a second capital of India. Fortunately, it can be very easily done with satisfaction to the whole of South India, to Maharashtra and to the Andhras.

This is another remedy for easing the tension between the North and the South.

PART VI

MAPS

MAP NO. 1

INDIA

NORTH VS. SOUTH

MAP No. 2

DIVISION OF UTTAR PRADESH
DEHRA DUN
GARHWAL
ALMORA
WESTERN UTTAR PRADESH
MEERUT
CENTRAL UTTAR PRADESH
ALIGARH
SHAJAHANPUR
ETAH
AGRA
LUCKNOW
GORAKHPUR
CAWNPORE
RAI BARELI
FYZABAD
ALLAHABAD
BANDA
BENARES
JHANSI
EASTERN UTTAR PRADESH

MAP No. 3

DIVISION OF BIHAR
NORTH BIHAR
CHAMPARAN
DARBHANGA
PURNEA
PATNA
SHAHABAD
GAYA
SANTAL PARGANAS
HAZARIBAGH
RANCHI
SOUTH BIHAR

MAP No. 4

DIVISION OF MADHYA PRADESH

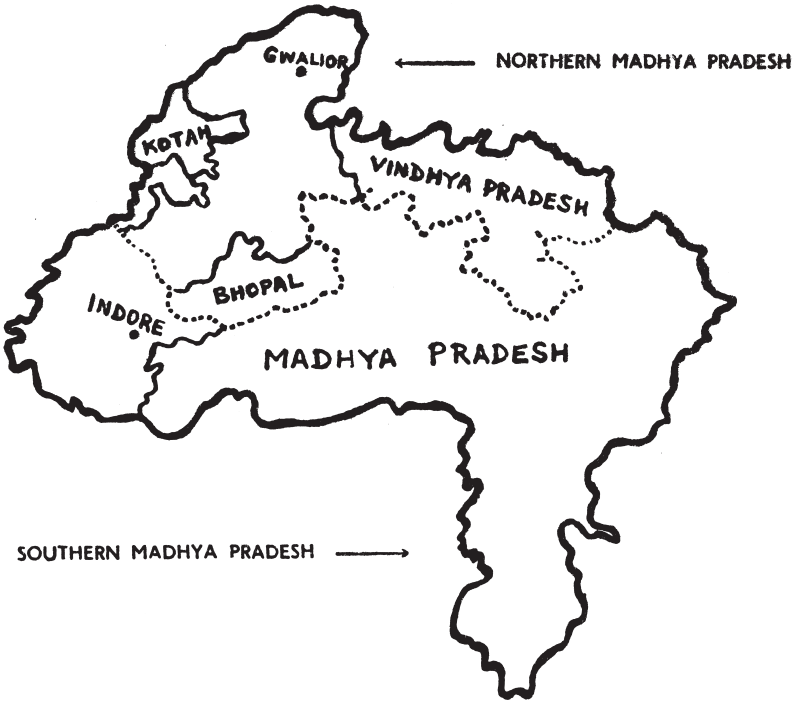

MAP No. 5

DIVISION OF MAHARASHTRA

PART VII

STATISTICAL APPENDICES

APPENDIX 1

Population by Linguistic Families

Language groups	No. of languages spoken	No. of speakers as mother-tongue and subsidiary 1931 (bilinguals shown twice)	No. of speakers 1931	No. of speakers mother-tongue only 1931	Difference between columns 4 and 5 (increase in 1931 + decrease in 1931 –)	Difference between columns 4 and 3 (increase + decrease –)
1	2	3	4	5	6	7
A—Language of India and Burma ..	225	366,430,537	315,525,177	349,887,527	+ 94,362,350	+ 50,905,360
(i) Austric Languages—						
1. Indonesian languages ..	2	6,542	5,561	6,542	+ 981	+981
2. Mon-Khmer languages ..	10	734,204	549,917	726,578	+ 176,661	+ 184,287
3. Munda languages* ..	7	4,710,685	3,973,873	4,609,588	+ 635,715	+ 736,812
(ii) Tibeto-Chinese languages—						
1. Tibeto-Burman languages ..	128	14,167,611	11,959,011	12,982,840	+ 1,023,829	+ 2,208,600
2. Tai-Chinese languages ..	11	1,150,220	926,335	1,027,656	+ 101,321	+ 223,885
3. Man and Karen languages* ..	17	1,351,291	1,114,617	1,342,278	+ 227,661	+ 236,674
(iii) Dravidian languages—						
1. Dravida languages . ..	7	47,032,874	37,285,594	41,454,593	+ 4,168,999	+ 9,747,280
2. Intermediate languages ..	5	3,661,277	3,056,598	3,609,418	+ 552,820	+ 604,679
3. Andhra language ..	1	28,195,824	23,601,492	26,373,727	+ 2,772,235	+ 4,594,332
4. N.W. language ..	1	231,581	184,368	207,049	+ 22,681	+ 47,213

APPENDIX 1—*contd.*

1		2	3	4	5	6	7
(iv) Indo-European languages—							
1. Eranian languages	..	3	2,457,134	1,981,675	2,270,466	+ 288,791	+ 475,459
2. Dardic languages	..	5	1,354,031	1,304,319	1,522,936	+ 218,617	+ 238,712
3. Indo-Aryan languages	..	19	261,105,909	229,560,555	253,699,403	+ 24,138,848	+ 31,545,354
(v) Unclassed languages—							
1. Andamanese	..	2	466	580	466	+114	–114
2. Burushaski	..	1	26,076	....	26,076	+ 26,076	+ 26,076
3. Gipsy dialects †	..	6	25,999	15,018	25,999	+ 10,981	+ 10,981
4. Languages not returned and unspecified.		....	‡ 29,813	5,664	2,912	+ 3,752	+ 24,149
B—Languages of other Asiatic countries and Africa.		17	305,386	211,894	302,324	+ 90,430	+ 93,492
C—Languages of Europe	..	10	452,099	319,112	339,706	+ 20,594	+ 132,987

*The correct classification of these two languages is doubtful. Pizyluski treats them as Tai (Meillet and Cohen, *langues du Monde* 380), but it is probable they have Austric affinities.

†These dialects are drawn from various Indian languages and contain such diverse elements that they cannot fairly be allotted to one family rather than another.

‡Includes Hill and aboriginal subsidiary languages (27,841).

APPENDIX 2

Area and Population of States of United States of America

	Name of State	Area sq. miles	Population Est. 1944
	1	2	3
1.	Alabama	51,609	2,818,083
2.	Arirona	113,909	638,412
3.	Arkansas	53,102	1,776,446
4.	California	158,693	8,746,989
5.	Colorado	104,247	1,147,269
6.	Connecticut	5,009	1,176,807
7.	Delaware	2,057	283,802
8.	Florida	58,560	3,367,217
9.	Georgia	58,876	3,223,727
10	Idaho	83,557	531,573
11.	Illinois	56,400	7,729,720
12.	Indiana	36,291	3,419,707
13.	Jowa	56,280	2,269,759
14.	Kansas	82,276	1,774,447
15.	Kentucky	40,395	2,630,194
16.	Louisiana	48,523	2,535,385
17.	Maine	33,215	793,600
18.	Maryland	10,577	2,127,874
19.	Massachusetts	8,257	4,162,815
20.	Michigan	58,216	5,429,641
21.	Minnesota	84,008	2,508,663
22.	Mississippi	47,716	2,175,877
23.	Missouri	69,674	3,589,538
24.	Montana	147,138	464,999
25.	Nebraska	77,237	1,213,792
26.	Nevada	110,540	156,445
27.	New Hampshire	9,304	457,231
28.	New Jersey	7,836	4,167,840
29.	New Mexico	121,666	532,212
30.	New York	49,576	12,632,890
31.	North Caroline	52,712	3,534,545
32.	North Dakota	70,665	528,071
33.	Ohio	41,222	638,667

APPENDIX 2—*contd.*

Name of State	Area sq. miles	Population Est. 1944
1	2	3
34. Oklahoma	69,919	2,064,679
35. Oregon	96,981	1,214,226
36. Pennsylvania	45,332	9,247,088
37. Rhode-Island	1,214	778,972
38. South Carolina	31,055	1,923,354
39. South Dakota	77,047	558,629
40. Tennessee	42,246	2,870,158
41. Texas	267,339	6,876,248
42. Utah	84,916	606,994
43. Vermont	9,609	310,941
44. Virginia	40,815	3,119,115
45. Washington	68,192	2,055,378
46. West Virginia	24,181	1,715,984
47. Wisconsin	56,154	2,975,910
48. Wyoming	97,914	257,108

APPENDIX 3

The population of the Bombay City according to the Communities given in the Census of 1941 is as follows:

Hindu	8,99,398
Scheduled Castes	1,21,352
Muslims	2,51,518
Indian Christians	1,22,683
Anglo-Indians	8,787
Parsees	58,813
Sikhs	2,418
Jains	33,281
Buddhists	912
Tribes	4,606
Others	29,847
Total ..	1,489,883

The area of the Bombay City according to the Census of 1941 was 30 sq. miles.

APPENDIX 3A

Inter-Provincial Immigration And Emigration In India

Variation As Compared With 1921 In The Volume Of Migration Within India

Province or State	Net gain + or loss –	1931		Net gain + or loss –	1921		Variation 1921-31	
		Immigrants	Emigrants		Immigrants	Emigrants	Immigrants	Emigrants
1	2	3	4	5	6	7	8	9
Provinces or States which gain								
Assam ..	+ 1,241,011	1,314,047	73,036	+ 1,140,752	1,216,661	75,909	+ 97,386	– 2,873
Bengal ..	+ 771,936	1,726,370	954,434	1,132,192	1,817,775	685,581	– 91,405	+ 268,853
Burma ..	+ 593,324	617,521	24,197	+ 553,471	572,530	19,059	+ 44,991	+ 5,138
Bombay ..	+ 596,707	1,188,901	592,194	+ 472,023*	1,039,622	567,599*	+ 256,074	+ 318,280*
Central Provinces and Berar.	+ 27,003	649,064	422,061	+ 197,323	603.924	406,601	+ 45,140	+ 15,460
Mysore ..	+ 215,462	340,700	125,238	+ 210,064	309,850	99,786	+ 30,850	+ 25,452
Delhi ..	+ 189,736	259,163	69,427	+ 113,158	182,485	69,327	+ 76,678	+ 100
Baroda ..	+ 127,907	333,077	105,176	+ 10,674	231,880	221,206	+ 101,197	– 16,030
Central India Agency	+ 115,566	598,102	482,536	+ 58,056	544,688	486,632	+ 53,414	– 4,096
Travancore ..	+ 83,919	133,852	49,933	+ 49,732	71,973	22,241	+ 61,879	+ 27,692
Ajmer-Merwara ..	+ 44,029	104,938	60,909	+ 66,033	108,452	42,419	– 3,514	+ 18,490
Cochin ..	+ 41,424	87,214	45,790	+ 15,792	39,689	23,897	+ 47,525	+ 21,893

APPENDIX 3A—*contd.*

1		2	3	4	5	6	7	8	9
Coorg	..	+ 35,388	38,619	3,231	+ 30,988	33,838	2,850	+ 4,781	+ 381
Baluchistan	..	+ 23,779	66,542	42,763	+ 5,924	66,166	60,242	+ 376	– 17,479
North West Frontier Province.		+ 21,187	111,868	90,681	+ 50,835	118,395	67,560	– 6,527	+ 23,121
Andamans and Nicobars.		+ 13,703	14,255	582	+ 14,080	14,396	316	– 141	+ 236
Provinces or States which Lose									
Sikkim	..	– 4,782	2,403	7,212	– 2,297	1,836	4,133	+ 594	+ 3,079
Gwalior	..	– 14,471	281,350	296,821	+ 632	289,657	289,025	– 8,307	+ 7,796
Jammu and Kashmir		– 33,266	61,189	94,445	– 22,685	61,561	84,246	– 372	+ 10,029
Punjab	..	– 67,792	635,025	702,817	+ 60,940	591,885	530,942	+ 43,140	+ 171,875
Hyderabad	..	– 19,788	312,814	332,602	– 166,326	197,127	363,453	+ 115,687	– 30,851
Western India States Agency.		– 186,890	106,795	293,685		Included against Bombay			
Rajputana	..	– 516,898	329,913	864,811	– 625,650	242,234	8,67,893	+ 87,670	– 21,082
Madras	..	– 888,339	246,892	1,135,231	– 718,183	196,609	914,792	+ 50,283	+ 220,439
United Provinces	..	– 1,063,143	494,308	1,557,451	– 974,642	425,152	1,399,794	+ 69,156	+ 157,657
Bihar and Orisa	..	– 1,291,567	466,563	1,758,130	– 1,567,968	387,068	1,955,036	+ 79,495	– 196,906

*Includes Western India Agency. Includes Punjab States Agency

Note—The figures for provinces include those for the States attached to them except in the case of Madras, where they exclude Cochin and Travancore. Migration figures to and from countries outside British India are excluded.

APPENDIX 4

Provincial/State Revenue

	Yield (Crores of Rupees)					Share in total revenue (per cent)				
	1921-22	1936-37	1938-39	1944-45	1953-54 (R. E.)	1921-22	1936-37	1938-39	1944-45	1953-54 (R. E.)
	1	2	3	4	5	6	7	8	9	10
Total Revenue	58.48	74.86	76.78	193.87	462.04	100.0	100.0	100.0	100.0	100.0
Land Revenue	29.08	25.96	25.40	30.21	69.20	49.7	34.7	33.1	15.6	15.0
State excise	15.67	13.63	13.08	43.42	44.81	26.8	18.2	17.0	22.4	9.7
Stamps	10.14	10.80	9.53	15.20	23.50	17.3	14.4	12.4	7.8	5.1
Registration	1.07	1.11	1.09	2.39	3.91	1.8	1.5	1.4	1.2	0.9
General Sales Tax ..	....	....	....	7.91	57.25	....	....	....	4.1	12.4
Forests (net)	0.66	0.71	0.63	4.58	10.82	1.1	0.9	0.8	2.4	2.3
Irrigation works for which capital accounts are kept (net).	5.55	7.53	7.57	10.14	8.09	9.5	10.0	9.9	5.2	1.8
Devolution of revenue and grants from the Centre. (—)	9.02	2.67	6.45	36.89	117.92	....	3.6	8.4	19.1	25.6
Share of income-tax assigned to States.	3.09	0.04	1.47	25.75	56.90	5.3	0.1	1.9	13.3	12.3
Share of jute duty assigned to States.	....	2.13	2.51	1.48	....	....	2.8	3.3	0.8	....

APPENDIX 4—*contd.*

	1	2	3	4	5	6	7	8	9	10
Share of Central excise duties assigned to State.	....	....	....	....	15.94	....	....	....	....	3.5
Grants in aid, etc., from the Centre.	12.11	0.50	2.47	9.66	45.08	..	0.7	3.2	5.0	9.8

Figures for 1921-22 exclude those for Burma but include Sind as part of Bombay. Figures for 1936-37 exclude those for Burma, Sind and N.W.F.P. Figures for 1938-39 and 1944-45 are for nine Provinces excluding Sind and N.W.F.P..

Figures for 1953-54 relate to all Part A, Part B and Six Part C States.

Transfers from funds are excluded, receipts under forests are taken net after deducting entire expenditure from gross receipts, for other public utilities and State undertaking net receipts (after deducting working expenses) are included.

APPENDIX 5

Budgetary Position of the States on Revenue Account

PART 'A' STATES

	1950-51	1951-52	1952-53	1953-54* (R.E.)	1954-55 (B.E.)
Revenue	214.37	315.60	229.32	357.49	367.17
Expenditure	293.08	309.10	329.37	371.64	400.89
Surplus (+) or deficit (–)	(+) 1.29	(+) 6.50	(–) 0.15	(–) 14.15	(–) 33.72
Surplus (+) or deficit (–) (excluding transfers from and to Revenue Reserve Funds).	(–) 3.15	(–) 2.25	(–) 12.01	(–) 20.82	(–) 39.86

APPENDIX 6

Budgetary Position of the States on Revenue Account

PART 'B' STATES

(Crores of Rupees)

	1950-51	1951-52	1952-53	1953-54 †(R.E.)	1954-55 (B.E.)
Revenue	93 33	106.70	108.12	112.21	121.76
Expenditure	81.93	100.53	105.88	115.85	127.65
Surplus (+) or deficit (–)	(+) 1.45	(+) 6.17	(+) 3.24	(–) 3.64	(–) 5.89
Surplus (+) or deficit (–) (excluding transfers from and to Revenue Reserve Funds).	(+) 1.45	(+) 5.97	(+) 3.24	(–) 3.64	(–) 5.89

† Figures for 1953-54 include budget estimates for the composite State of Madras and revised estimates are available for later six months only.

APPENDIX 7

Central Revenues (Selected Years)

	1921-22		1936-37		1938-39		1944-45		1953-54 (R.E.)	
Total Revenue*	80.00	100	81.45	100	82.90	100	334.40	100	394.34	100
Customs (net)	31.61	39.5	38.11	46.8	40.51	48.9	39.77	11.9	160.00	40.6
Taxes on income (net)	18.74	23.4	15.33	18.8	13.74	16.6	80.52	24.1	69.31	17.6
Corporation tax	.....	....	....	....	2.04	2.5	84.22	25.2	38.40	9.7
Central excise duties (net)	2.80	3.5	13.35	16.4	8.66	10.5	38.14	11.4	78.00	19.8
Salt duty	6.34	7.9	8.81	10.8	8.12	9.8	9.29	2.8	....	....
Commercial Departments—										
Railways (net contribution) ..	(–)9.09	.....	....	....	1.37	1.7	32.00	9.6	7.50	1.9
Posts & Telegraphs (net)	....	.....	0.14	0.2	0.19	0.2	10.25	3.1	2.02	0.5

* Total revenue includes net receipts under opium, irrigation, forests, electricity and road transport schemes.

Figures for 1921-22 and 1936-37 are inclusive of those for Burma. Figures for 1938-39 and 1944-45 relate to undivided India.

APPENDIX 8

Population of the Indian Union by Communities

	Hindus									Muslims		
	Population			Scheduled Castes			Others					
	Persons	Males	Females	Persons	Males	Females	Persons	Males	Females	Persons	Males	Females
	1	2	3	4	5	6	7	8	9	10	11	12
Madras ..	49,841	24,800	25,040	8,152	4,064	4,088	35,095	17,466	17,630	3,927	1,939	1,987
Bombay ..	29,384	15,184	14,200	2,526	1,217	1,256	20,691	10,680	10,011	2,463	1,321	1,142
West Bengal ..	21,837	11,834	10,003	3,520	1,847	1,673	11,206	6,160	5,046	5,544	3,011	2,533
United Provinces ..	56,346	29,542	26,804	11,931	6,128	5,803	34,923	18,411	16,512	8,692	4,574	4,117
East Punjab ..	12,697	6,853	5,844	1,028	540	487	4,489	2,435	2,053	4,427	2,380	2,047
Bihar ..	36,546	18,325	18,220	4,344	2,135	2,209	22,263	11,252	11,010	4,719	2,340	2,379
C.P. & Berar ..	19,948	9,845	9,802	3,310	1,639	1,671	10,920	5,491	5,428	811	425	387
Assam ..	7,685	4,068	3,617	377	203	174	2,885	1,564	1,321	1.754	939	815
Orissa ..	13,768	6,706	7,062	1,865	906	956	8,187	3,963	4,224	166	81	85
Ajmer ..	589	310	279	1	0.5	0.5	380	198	182	90	49	41
Andaman & Nicobar Islands.	34	21	12	....	....	....	8	6	3	8	6	2
Bilaspur ..	110	57	53	16	8	7	93	48	45	1	0.8	0.6

APPENDIX 8—*contd.*

		1	2	3	4	5	6	7	8	9	10	11	12
Bhopal	..	785	410	375	187	96	91	410	215	195	110	59	51
Coorg	..	169	92	76	26	15	11	105	56	49	14	9	6
Cutch	..	501	239	262	39	19	20	279	135	144	117	57	60
Delhi	..	918	535	383	123	69	53	445	262	182	305	176	128
Himachal Pradesh	..	935	495	441	229	120	109	672	356	316	29	16	13
Manipur	..	512	249	263	...	...	...	304	148	156	30	15	15
Tripura	..	513	272	241	12	6	6	336	178	158	124	66	57
Vindya Pradesh	..	3,569	1,819	1,750	399	202	197	2,851	1,455	1,397	95	49	46
Madhya Bharat	..	7,141	3,734	3,407	437	221	216	5,025	2,648	2,377	475	251	224
P.E.P.S.U.	..	3,424	1,868	1,557	214	112	102	978	530	448	899	483	416
Rajasthan	..	13,085	6,868	6,217	...	...	...	9,878	5,196	4,682	1,256	663	593
Saurashtra	..	3,556	1,809	1,747	242	122	120	2,737	1,402	1,336	436	220	226
Travancore Cochin	..	7,493	3,742	3,751	537	269	268	3,902	1,931	1,971	543	276	268
Hyderabad	..	16,339	8,347	7,992	2,928	1,487	1,442	10,382	5,303	5,073	2,097	1,080	1,017
Kashmir	..	4,022	2,130	1,892	113	61	53	694	369	325	3,074	1,627	1,446
Mysore	..	7,329	3,763	3,566	1,405	723	682	5,282	2,702	2,580	485	258	227

APPENDIX 9

Statistics of Chief Castes

Caste	Strength	Where chiefly found
Agri	265,285	Bombay.
Ahar, Ahir, Gopi, Goshi, Goala, Golla, Gowari, Gaura, Kavundan Idaiyan.	14,170,032	Most Provinces.
Ahom	249,434	Assam
Arain, Kunjra, Koeri, Kachhi, Murao.	5,048,849	Most Provinces.
Arora, Bhansali, Lohana ..	1,499,407	Baluchistan, Bombay, N.W.F.P. Punjab, Jammu and Kashmir, W. I. States.
Babhan, Bhuinhar ..	1,113,541	Bihar and Orissa, U.P.C.P.
Baidya	110,739	Bengal.
Baiga, Bhaina, Binjwar, Bharia, Kadar, Bhumia, Bhunjia, Bhuiya,Ghatwar,Naiya, Pao.	1,050,760	Bengal, Bihar and Orissa, C.P., C.I., Rajputana, Sikkim.
Bairagi	838,285	Most Provinces.
Baloch	1,333,215	Baluchistan, Bombay, Punjab, N.W.F.P.
Baniya, Bhatia, Chetti, Khatri, Kamati (Vaishya).	5,176,383	Most Provinces.
Banjara, Lumbadi, Labana, Lamani.	951,022	Bombay, C.P., C.I., Gwalior-Hyderabad, Mysore, Raj putana.
Baria, Bhalia, Chodhra, Gedia, Khant, Koli, Kotwal, Naikda, Patclia, Patanwadia, Thakarda, Talabda, Valvi.	3,418,643	Most Provinces.
Bauri, Bagdi	1,671,481	Bengal, Bihar and Orissa, Rajputana.
Bawaria, Bavuri, Baori, Bagari, Vagri, Badhik.	309,720	Most Provinces.
Bayar, Barmanu, Dhangar, Musahar.	811,746	Bengal, Bihar and Orissa, U.P., Central India.
Bedar, Boya ..	991,536	Bombay, Madras, Hyderabad, C. P.

APPENDIX 9—*contd.*

Caste	Strength	Where chiefly found
Bhandari. Idiga, Iruvan, Siyal ..	1,253,403	Bihar and Orissa, Cochin, Mysore, Madras, Travancore, Rajputana, Baroda.
Bhangi	797,599	Ajmer-Merwara, Bombay, U.P., Baroda, Gwalior, Rajputana, W. I. States.
Bharwad, Dhangar, Gadariya Kuruba.	1,816,283	Most Provinces.
Bhat, Barhmabhatt, Charan Jasondhi.	397,274	Most Provinces.
Bhatra, Pardhana, Parja ..	353,183	Madras, C.P. and Berar.
Bhil, Barela Bhilala. Dhanka, Mankar, Mavchi, Pathia, Rathia, Tadvi.	1,454,144	Most Provinces.
Bhisti, Bhoi, Dhimar, Jhinwar, Kahar, Machhi, Tiyar.	3,575,941	Most Provinces.
Bohra	212,752	Bombay, Baroda, C.I.,Gwalior, C.P., Rajputana, W.I. States Travancore.
Brahman	15,207,277	Most Provinces.
Brahui	224,415	Baluchistan, Bombay.
Chamar, Khalpa, Samagara ..	12,195,516	Most Provinces.
Chasa, Raju ..	835,236	Bengal, Bihar and Orissa.
Chasi, Kajbartta (Mahisya) ..	2,381,266	Bengal.
Chuhra	721,981	N.W.F. Prov. Punjab, Delhi.
Dhanuk, Kandra ..	758,671	Bihar and Orissa, Bengal, C.P., C.I., Ajmer-Merwara, Rajputana, Delhi, Gwalior.
Dhobi, Parit, Vanran, Velutte-dan.	3,161,428	Most Provinces.
Dom, Dombar, Bansphor Dharkar, Dholi.	907,776	Most Provinces.
Dhor, Chakkliyan ..	671,926	Bombay, C.P., Madras, Cochin, Travancore, W.I. States.
Dusadh	1,400,878	Bengal, Bihar and Orissa, U.P.

APPENDIX 9—*contd.*

Caste	Strength	Where chiefly found
Fakir	820,577	Punjab, U.P., C.P., Rajputana C.I., Agency Gwalior.
Garo, Hajong, Kachari, Mech, Rabha.	695,648	Assam, Bengal.
Gond, Dhanwar, Kalota, Kamar, Karwar, Kolam, Kondh, Konda, Dora, Koya, Maria, Muria Nagarchi.	4,719,222	Andamans and Nicobars, Bengal, Bihar and Orissa, Bombay, C.P., and Berar, Madras, U.P. C.I. Hyderabad, Gwalior, Rajputana.
Gujar	2,430,669	Ajmer-Merwara, Bombay, C.P. and Berar, Delhi, N.W. Frontier, Punjab, U.P., C.I., Rajputana.
Guria, Halwai ..	246,583	Bihar and Orissa, U.P., C.I., Rajaputana, Gwalior.
Hajjam, Ambattan, Bhandari, Kelashi, Mhali, Nadig, Nai "Naibrahman", Napit, Nhavi, Pandithar, Vellakat-talavan.	3,725,860	Most Provinces.
Hari	418,830	Assam, Bengal, Bihar and Orissa Madras.
Jat	8,377,819	N.W. Frontier, Punjab, U.P. Kashmir, Rajputana.
Jogi	111,586	Gwalior, C.I., Agency, Rajputana, Jammu and Kashmir.
Kaikolan	419,078	Madras, Cochin, Travancore.
Kalar	1,017,179	Ajmer-Merwara, Bengal, C.P. and Berar, U.P., Baroda, C.I., Gwalior, Hyderabad, Rajputana, Sikkim.
Kallavan, Maravan ..	948,630	Madras, Cochin, Travancore.
Kamalan, "Viswabrahman", Panchal.	7,735,393	Most Provinces.
Karen	1,367,673	Burma.
Kayastha, Karan, Prabhu ..	2,946,228	Most Provinces.

APPENDIX 9—*contd.*

Caste	Strength	Where chiefly found
Kewat, Kaibartta ..	1,813,278	Assam, Bengal, Bihar and Orissa, C.P. and Berar, U.P.
Kolita	109,250	Bihar and Orissa, C.P. and Berar.
Koshti, Devang	921,201	Bengal, Bombay, C. P. and Berar, Madras, C.I., Hyderabad, Mysore, Gwalior, Cochin.
Khandayat, Paik ..	1,060,587	Bihar and Orissa, Bengal, Madras.
Kisan	431,044	Bengal, Bihar and Orissa, U.P.
Khasi, Synteng	232,595	Assam, Andamans and Nicobars.
Khatik, Chick	412,520	U.P., C.P., Bengal, Delhi, Ajmer-Merwara, Baluchistan Hyderabad, Rajputana Gwalior.
Kori, Katia, Balai, Chaupal, Jugi.	2,165,953	Most Provinces.
Korku, Korwa	246,765	Bihar and Orissa, C.P., C.I., U.P.
Kumhar, Kusavan ..	3,580,143	Most Provinces.
Kunbi, Karbi, Kurmi, Kshatriya, Kapu, Kapewar, Raddi, Vakkaliga, Vellala.	11,082,108	Most Provinces.
Labbai	374,829	Coorg, Madras, Mysore, Travancore.
Lodhi	1,742,470	C.P. and Berar, U.P., C.I., Bengal, Delhi, Rajputana, Hyderabad, Gwalior.
Lushei, Sokte, Thado ..	192,520	Assam, Bengal, Burma.
Mahar, Mehra, Dhed, Vankar, Holiya, Pulayan, Cheruman.	4,729,405	Most Provinces.
Mala	852,050	C.P. and Berar, Madras.
Mali, Phulmali, Saini, Malakar	2,332,143	Most Provinces.

APPENDIX 9—*contd.*

Caste	Strength	Where chiefly found
Mallah, Goriya, Gonrhi ..	894,951	Bengal, Bihar and Orissa, U.P., N.W. Frontier, C.I., Gwalior, Rajputana,
Mang, Megh, Meghwal, Madgi, Madiga.	2,556,765	Most Provinces.
Mapilla	139,621	Travancore, Cochin, Coorg, Burma.
Maratha	6,113,061	Bombay, C.P. and Berar, Gwalior, Hyderabad, Baroda, Mysore, C.I.
Meithei	330,545	Assam, Burma.
Mina, Meo	1,110,479	Most Provinces.
Mirasi	283,637	Punjab, N.W. Frontier, Rajputana, Ajmer-Merwara, Jammu and Kashmir, C.I., Gwalior.
Mochi, Jingar, Dabgar ..	1,026,405	Most Provinces.
Momin	3,122,100	Most Provinces.
Munda, Mawasi, Ho, Kol, Kharwar, Kharia, Bhogia, Bhumji, Kora.	2,315,276	Bihar and Orissa, Bengal, C.P. and Berar, C.I., U.P., Rajputana.
Naga	272,529	Assam, Burma, Gwalior.
Namasudra	2,265,476	Assam, Bengal.
Nayar	1,550,641	Madras, Travancore, Cochin.
Nepali	371,906	Most Provinces.
Nuniya, Od, Beldar, Bind, Rehgar.	561,926	Most Provinces.
Oraon	1,021,334	Bengal, Bihar and Orissa, C.P. and Berar.
Pallan	825,224	Madras.
Pan, Panka, Ganda, Paidi, Baraik.	1,241,322	Bengal, Bihar and Orissa, C.P. and Berar, Madras, C.I.
Paraiyan, Turi	1,277,365	Madras, Bombay, Baroda, Cochin, W.I. States, Coorg.

APPENDIX 9—*concld.*

Caste	Strength	Where chiefly found
Pasi, Arakh	1,743,166	Bihar and Orissa, U.P., Bengal, C. I.
Oinjara, Sarahira, Dhunia ..	565,254	U. P., Bombay, Rajputana Gwalior, N.W. Frontier, Punjab, C.I., Mysore, W.I. States, Jammu and Kashmir.
Rajbhar, Rajjhar, Rajwar Bhar.	630,708	U. P., Bihar and Orissa, Bengal, C.P. and Berar.
Rajput	10,743,001	Most Provinces.
Santal, Saunta, Karmali ..	2,524,472	Bengal, Bihar and Orissa, C.I.
Saun	480,131	U.P., C.I.
Sawara, Saonr, Savar, Saharia	675,628	Bihar and Orissa, C.P., Madras, U. P., C. I., Rajputana, Gwalior.
Shaha, Sunri	533,825	Bengal, Madras, Sikkim.
Shan	900,204	Burma.
Silpkar	333,036	U.P.
Singpho, Kachin ..	156,253	Burma, Assam.
Talavla, Dubla	229,190	Bombay, Baroda, W.I. States.
Tamboli, Barai	452,423	Bengal, U.P., C.I., Rajputana, Gwalior, Baroda.
Tankkshatriya	926,274	Most Provinces.
Tanti, Tatwa, Bhulia, Chadar, Sali.	1,132,563	Bengal, Bihar and Orissa, Bombay, C.P. and Berar.
Telaga	1,669,559	C.I.
Teli, Tili, Chakkan, Ganig, Chanchi, Vaniyan.	5,024,496	Madras, Hyderabad, Coorg.
Thakkar, Rathi, Rawat, Kanet, Ghirath.	714,503	Bombay, Punjab, C.I., Gwalior, Jammu and Kashmir, Rajputana.

APPENDIX 10

Relative Population of Different Communities

Distribution by Religion of 10,000 persons in India, in the Provinces and in the States, 1921 and 1931

Province etc.		Year	Hindu	Muslim	Buddhist	Tribal	Christian	Sikh	Jain	Others
1		2	3	4	5	6	7	8	9	10
India	..	1921	6,856	2,174	366	309	150	103	37	5
		1931	6,824	2,216	365	236	179	124	36	20
Provinces	..	1921	6,606	2,407	465	280	123	96	18	5
		1931	6,548	2,469	468	213	142	118	17	25
Ajmer-Merwara	..	1921	7,356	2,055	....	96	112	4	372	5
		1931	7,755	1,734	....	27	124	6	348	6
Andamans and Nicobars	..	1921	3,278	1,515	979	3,387	586	144	....	111
		1931	2,586	2,280	988	3,379	496	220	....	51
Assam	..	1921	5,434	2,896	17	1,479	168	1	5	..
		1931	5,720	3,196	17	825	235	3	3	1
Baluchistan	..	1921	920	8,731	4	....	159	182	....	4
		1931	894	8,744	1	1	174	181	1	4
Bengal	..	1921	4,327	5,399	57	181	31	....	3	2
		1931	4,304	5,487	63	105	36	2	2	1
Bihar and Orissa	..	1921	8,284	1,085	....	553	76	1	1	....
		1931	8,231	1,132	....	544	91	1	1	....

APPENDIX 10—*contd.*

1		2	3	4	5	6	7	8	9	10
Bombay	..	1921	7,658	1,974	1	64	137	4	111	51
		1931	7,605	2,039	1	59	145	10	92	49
Burma	.. ..	1921	368	380	8,506	534	195	4	1	12
		1931	390	399	8,430	444	226	7	1	103
C.P. and Berar	..	1921	8,354	405	...	1,160	30	1	49	1
		1931	8,601	440	...	872	33	3	50	1
Coorg	.. ..	1921	7,733	795	1	1,265	194	...	12	...
		1931	8,939	844	...	...	210	...	5	2
Delhi	.. ..	1921	6,569	2,904	...	...	273	57	96	1
		1931	6,285	3,253	1	...	267	101	84	9
Madras	..	1921	8,864	671	...	137	322	...	6	...
		1931	8,831	707	...	75	380	...	7	...
N.W.F.P.	.. ..	1921	666	9,162	...	...	47	125	...	...
		1931	590	9,184	...	...	51	175	...	...
Punjab	.. ..	1921	3,181	5,533	1	...	159	1,109	17	...
		1931	2,684	5,655	2	...	176	1,299	15	169
United Provinces	..	1921	8,509	1,428	...	...	44	3	15	1
		1931	8,440	1,484	...	...	42	10	14	...
States	.. ..	1921	7,748	1,343	12	415	250	126	104	2
		1931	7,771	1,347	12	316	307	141	101	5

N.B.—A blank indicates that the number per 10,000 is fractional ; 0 indicates that none at all were returned.

In the case of Assam the Khasi States are included in the 1921 figures; Otherwise all States are excluded from Provinces.

PART III

ON HERO AND HERO-WORSHIP

6

RANADE, GANDHI AND JINNAH

Address delivered on the 101st Birthday Celebration
of
MAHADEO GOVIND RANADE
held on
the 18th January 1943
in
the Gokhale Memorial Hall, Poona

First Published : 1943

Reprinted from the first edition of 1943

6.4.43

My dear Manohar,

Pray excuse me for not replying to your letter of the 19th March earlier than to-day. I am glad you liked my address on Ranade. I share your regret over the omission of the part dealing with Phule. I am however far from losing sight of its importance. I will take some occasion to enlarge it and publish it. I don't know what Thackers have done with Ranade. I have not had any news from them. I am busy now with the new edition of Pakistan. I am writing three more chapters. They will be very short. I propose to set out in those chapters my conclusions. I thank you

Facsimile of Dr. Ambedkar's handwriting from a letter addressed to Prof. M. B. Chitnis

RANADE, GANDHI AND JINNAH

PREFACE

The Deccan Sabha of Poona invited me to deliver an address on the 101st birthday of the late Justice Mahadev Govind Ranade which it proposed to celebrate and which fell on the 18th January 1940. I was not very willing to accept the invitation. For I knew that my views on social and political problems, a discussion of which could not be avoided in a discourse on Ranade, would not be very pleasing to the audience and even perhaps to the members of the Deccan Sabha. In the end I accepted their invitation. At the time when I delivered the address I had no intention of publishing it. Addresses delivered on anniversaries of great men are generally occasional pieces. They do not have much permanent value. I did not think that my address was an exception to this. But I have some troublesome friends who have been keen on seeing the whole of it in print and have been insisting upon it. I am indifferent to the idea. I am quite content with the publicity it has received and I have no desire to seek more. At the same time if there are people who think that it is worthy of being rescued from falling into oblivion, I do not see any reason for disappointing them.

The address as printed differs from the address as delivered in two respects. Section X of the address was omitted from the address as delivered to prevent the performance going beyond reasonable time. Even without it, it took one hour and a half to deliver the address. This is one difference. The other difference lies in the omission of a large portion of Section VIII which was devoted to a comparison of Ranade with Phule. For the omission there are

two reasons. In the first place, the comparison was not sufficiently full and detailed to do justice to the two men ; in the second place, when the difficulties of finding enough paper compelled me to sacrifice some portion of the address this appeared to be best offering.

The publication of the address is taking place under peculiar circumstances. Ordinarily reviews follow publication. In this case the situation is reversed. What is worse is that the reviews have condemned the address in scathing terms. This is a matter primarily for the publishers to worry about. I am happy that the publisher knows the risk and he takes it. Nothing more need be said about it except that it supports the view taken by my friends that the address contains matter which is of more than ephemeral value. As for myself I am not in the least perturbed by the condemnation of this address by the Press. What is the ground for its condemnation ? And who has come forward to condemn it ?

I am condemned because I criticized Mr. Gandhi and Mr. Jinnah for the mess they have made of Indian politics, and that in doing so I am alleged to have shown towards them hatred and disrespect. In reply to this charge what I have to say is that I have been a critic and I must continue to be such. It may be I am making mistakes but I have always felt that it is better to make mistakes than to accept guidance and direction from others or to sit silent and allow things to deteriorate. Those who have accused me of having been actuated by feelings of hatred forget two things. In the first place this alleged hatred is not born of anything that can be called personal. If I am against them it is because I want a settlement. I want a settlement of some sort and I am not prepared to wait for an ideal settlement. Nor can I tolerate anyone on whose will and consent settlement depends to stand on dignity and play the Grand Moghul. In the second place, no one can hope to make any effective mark upon his time and bring the aid that is worth bringing to great principles and struggling causes if he is not strong in his love and his hatred. I hate injustice, tyranny, pompousness and humbug, and my hatred embraces all those who are guilty of them. I want to tell my critics that I regard my feelings of hatred as a real force. They are only the reflex of the love I bear for the causes I believe

in and I am in no wise ashamed of it. For these reasons I tender no apology for my criticism of Mr. Gandhi and Mr. Jinnah, the two men who have brought India's political progress to a standstill.

The condemnation is by the Congress Press. I know the Congress Press well. I attach no value to its criticism. It has never refuted my arguments. It knows only to criticise, rebuke and revile me for everything I do and to misreport, misrepresent and pervert everything I say. Nothing, that I do, pleases the Congress Press. This animosity of the Congress Press towards me can to my mind not unfairly, be explained as a reflex of the hatred of the Hindus for the Untouchables. That their animosity has become personal is clear from the fact that the Congress Press feels offended for my having criticised Mr. Jinnah who has been the butt and the target of the Congress for the last several years.

However strong and however filthy be the abuses which the Congress Press chooses to shower on me I must do my duty. I am no worshipper of idols. I believe in breaking them. I insist that if I hate Mr. Gandhi and Mr. Jinnah—I dislike them, I do not hate them—it is because I love India more. That is the true faith of a nationalist. I have hopes that my countrymen, will some day learn that the country is greater than the men, that the worship of Mr. Gandhi or Mr. Jinnah and service to India are two very different things and may even be contradictory of each other.

B. R. AMBEDKAR

22 Prithviraj Road
New Delhi
15th March 1943

RANADE, GANDHI AND JINNAH

I

I must tell you that I am not very happy over this invitation. My fear is that I may not be able to do justice to the occasion. When a year ago the Centenary of Ranade's Birthday was celebrated in Bombay, the Rt. Hon'ble Srinivas Shastri was chosen to speak. For very many reasons he was well-qualified for performing the duty. He can claim to be a contemporary of Ranade for a part of his life. He had seen him at close range and was an eye witness of the work to which Ranade devoted his life. He had opportunity to judge him and compare him with his co-workers. He could therefore expound his views about Ranade with a sense of confidence and with intimacy born out of personal touch. He could cite an anecdote and illuminate the figure of Ranade before his audience. None of these qualifications are available to me. My connection with Ranade is of the thinnest. I had not even seen him. There are only two incidents about Ranade which I can recall. First relates to his death. I was a student in the first standard in the Satara High School. On the 16th January 1901 the High School was closed and we boys had a holiday. We asked why it was closed and we were told that because Ranade was dead. I was then about 9 years old. I knew nothing about Ranade, who he was, what he had done ; like other boys I was happy over the holiday and did not care to know who died. The second incident which reminds me of Ranade is dated much later than the first. Once I was examining some bundles of old papers belonging to my father when I found in them a paper which purported to be a petition sent by the Commissioned and non-Commissioned officers of the Mahar Community to the Government of India against the orders issued in 1892 banning the recruitment of the Mahars in the Army. On inquiry I was told that this was a copy of a petition which was drafted by Ranade to help the aggrieved Mahars to obtain redress. Beyond these two incidents I have nothing to recall of Ranade. My knowledge about him is wholly impersonal. It is derived from what I have read about

his work and what others have said about him. You must not expect me to say anything of a personal character which will either interest, you or instruct you. I propose to say what I think of him as a public-man in his days and his place in Indian politics today.

II

As you are well aware, there are friends of Ranade who do not hesitate to describe him as a great man and there are others who with equal insistance deny him that place. Where does the truth lie? But this question must, I think, wait upon another, namely, is history the biography of great men ? The question is both relevant as well as important. For, if great men were not the makers of history, there is no reason why we should take more notice of them than we do of cinema stars. Views differ. There are those who assert that however great a man may be, he is a creature of Time—Time called him forth, Time did everything, he did nothing. Those who hold this view, in my judgment, wrongly interpret history. There have been three different views on the causes of historical changes. We have had the Augustinian theory of history, according to which history is only an unfolding of a divine plan in which mankind is to continue through war and suffering until that divine plan is completed at the day of judgment. There is the view of Buckle who held that history was made by Geography and Physics. Karl Marx propounded a third view. According to him history was the result of economic forces. None of these three would admit that history is the biography of great men. Indeed they deny man any place in the making of history. No one except theologians accepts the Augustinian theory of history. As to Buckle and Marx, while there is truth in what they say, their views do not represent the whole truth. They are quite wrong in holding that impersonal forces are everything and that man is no factor in the making of history. That impersonal forces are a determining factor cannot be denied. But that the effect of impersonal forces depends on man must also be admitted. Flint may not exist everywhere. But where it does exist, it needs man to strike flint against flint to make fire. Seeds may not be found everywhere. But where they do exist, it needs man to ground it to powder and make it a delectable and nutritious paste and thereby lay the foundation of agriculture. There are many areas devoid of metals. But where they do exist, it needs a man to make instruments and machines which are the basis of civilization and culture.

Take the case of social forces. Various tragic situations arise. One such situation is of the type described by Thayer in his biography of Theodore Roosevelt when he says :

> "There comes a time in every sect, party or institution when it stops growing, its arteries harden, its young men see no visions, its old men dream no dreams ; it lives on the past and desperately tries to perpetuate

the past. In politics when this process of petrifaction is reached we call it Bourbonism and the sure sign of the Bourbon is that, being unconscious that he is the victim of sclerosis, he sees no reason for seeking a cure. Unable to adjust himself to changed and new conditions he falls back into the past as an old man drops into his worm-out arm-chair."

The other kind of situation is not one of decay but of destruction. The possibilities of it are always present whenever there is a crisis. The old ways, old habits and old thoughts fail to lift society and lead it on. Unless new ones are found there is no possibility of survival. No society has a smooth sailing. There are periods of decay and possibilities of destruction through which every society has to pass. Some survive, some are destroyed, and some undergo stagnation and decay. Why does this happen? What is the reason that some survive ? Carlyle has furnished an answer. He puts in his characteristic way:

"No time need have gone to ruin, could it have found a great enough, a man wise and good enough; Wisdom to discern truly what the Time wanted, valour to lead it on to the right road thither, these are the salvation of any Time."

This seems to me to be quite a conclusive answer to those who deny man any place in the making of history. The crisis can be met by the discovery of a new way. Where there is no new way found, society goes under. Time may suggest possible new ways. But to step on the right one is not the work of Time. It is the work of man. Man therefore is a factor in the making of history and that environmental forces whether impersonal or social if they are the first are not the last things.

III

Who can be called a great man ? If asked of military heroes such as Alexander, Attila, Caesar and Tamerlane, the question is not difficult to answer. The militarymen make epochs and effect vast transitions. They appal and dazzle their contemporaries by their resounding victories. They become great without waiting to be called great. As the lion is among the deer, so they are among men. But it is equally true that their permanent effect on the history of mankind is very small. Their conquests shrink, and even so great a General as Napoleon after all his conquests left France smaller than he found it. When viewed from a distance they are seen to be only periodical, if necessary, incidents in the world's movement, leaving no permanent mark on the character of the society in which they live The details of their career and their moral may be interesting, but they do not affect society and form no leaven to transform or temper the whole.

The answer becomes difficult when the question is asked about a person who is not a military general. For, it then becomes a question of tests, and different people have different tests.

Carlyle the apostle of Hero Worship had a test of his own. He laid it down in the following terms :

> "But of great man especially, of him I will venture to assert that it is incredible he should have been other than true. It seems to me the primary foundation of him, this... No man adequate to do anything, but is first of all in right earnest about it; what I call a sincere man. I should say *sincerity,* a deep, great genuine sincerity, is the first characteristic of all men in any way heroic."

Carlyle was of course particular in defining his test of sincerity in precise terms, and in doing so he warned his readers by defining what his idea of sincerity was—

> "Not the sincerity that calls itself sincere : Ah no," he said, "that is a very poor matter indeed ; — a shallow, braggart, conscious sincerity ; oftenest self-conceit mainly. The great man's sincerity is of the kind he cannot speak of, is not conscious of : Nay, I suppose, he is conscious rather of *insincerity* ; for what man can walk accurately by the law of truth for one day ? No, the great man does not boast himself sincere, far from that; perhaps does not ask himself if he is so : I would say rather, his sincerity does not depend on himself ; he cannot help being sincere!"

Lord Rosebery proposed another test when dealing with Napoleon—who was as great an Administrator as a General. In answering the question, Was Napoleon Great ? Rosebery used the following language :

> "If by 'great' be intended the combination of moral qualities with those of intellect, great be certainly was not. But that he was great in the sense of being extraordinary and supreme we can have no doubt. If greatness stands for natural power, for predominance, for something human beyond humanity, then Napoleon was assuredly great. Besides that indefinable spark which we call genius, he represents a combination of intellect and energy which has never perhaps been equalled, never certainly surpassed."

There is a third test, suggested by the philosophers or, to be more accurate, by those who believe in divine guidance of human affairs. They have a different conception of what is a great man. To summarise the summary of their view, as given by Rosebery, a great man is launched into the world, as a great natural or supernatural force, as a scourge and a scavenger boon to cleanse society and lead it on to the right path who is engaged in a vast operation, partly positive, mainly negative, but all relating to social regeneration.

Which of these is the true test ? In my judgment all are partial and none is complete. Sincerity must be the test of a great man. Clemenceau once said that most statesmen are rogues. Statesmen are not necessarily great men,

and obviously those on whose experience he founded his opinion must have been those wanting in sincerity. Nonetheless no one can accept that sincerity is the primary or the sole test. For sincerity is not enough. A great man must have sincerity. For it is the sum of all moral qualities without which no man can be called great. But there must be something more than mere sincerity in a man to make him great. A man may be sincere and yet he may be a fool, and a fool is the very antithesis of a great man. A man is great because he finds a way to save society in its hours of crisis. But what can help him to find the way ? He can do so only with the help of intellect. Intellect is the light. Nothing else can be of any avail. It is quite obvious that without the combination of sincerity and intellect no man can be great. Is this enough to constitute a great man? At this stage we, must, I think, make a distinction between an eminent individual and a great man. For I am certain that a great man is something very different from an eminent individual. Sincerity and intellect are enough to mark out an individual as being eminent as compared to his fellows. But they arc not enough to rake him to the dignity of a great man. A great man must have something more than what a merely eminent individual has. What must be that thing ? Here comes the importance of the philosopher's definition of a great man. A great man must be motivated by the dynamics of a social purpose and must act as the scourge and the scavenger of society. These axe the elements which distinguish an ominent individual from a great man and constitute his title-deeds to respect and reverence.

IV

Was Ranade a great man ? He was of course great in his person. Vast in physique—he could have been called "Your Immense" as the Irish servant who could not pronounce Your Eminence used respectfully to call Cardinal Wiseman—his master. He was a man of sanguine temperament, of genial disposition and versatile in his capacity. He had sincerity which is the sum of all moral qualities and his sincerity was of the sort which was prescribed by Carlyle. It was not a conscious "braggart sincerity". It was the natural sincerity, a constitutional trait and not an assumed air. He was not only big in his physique and in his sincerity, he was also big in intellect. Nobody can question that Ranade had intellect of a high calibre. He was not merely a lawyer and a judge of the High Court, he was a first class economist, a first class historian, a first class educationist and a first class divine. He was not a politician. Perhaps it is good that he was not. For if he had been, he might not have been a great man. As Abraham Lincoln said, "Politicians are a set of men who have interests aside from the interests of the people and who, to say the most of them are taken as a mass, at least one long step removed from honest men." Ranade though not a politician was a profound student of politics. Indeed it would be difficult to find in the history of India any man who could come up to Ranade in the width of his

learning, the breadth of his wisdom and the length of his vision. There was no subject which he did not touch and in which he did not acquire profundity. His reading was on the scale of the colossal and every inch he was a scholar. He was great not merely by the standard of his Time, but he was great— measured by any standard. As I have said no claim for being a great man can rest on the foundation of sincerity and intellect either singly or in combination. Ranade could not be called great if he had these two qualities and no more. His title to being a great man must rest upon the social purposes he served and on the way he served them. On that there can be no doubt. Ranade is known more as a social reformer than as a historian, economist or educationist. His whole life is nothing but a relentless campaign for social reform. It is on his role as a social reformer that this title to being a great man rests. Ranade had both the vision and the courage which the reformer needs, and in the circumstances in which he was born his vision was no small a virtue than his courage. That he developed a vision of the Prophet—I am using the word in the Jewish sense—cannot but be regarded as a matter of surprise if the time in which he was born is taken into account. Ranade was born in 1842 some 24 years after the battle of Kirkee which brought the Maratha Empire to an end. The downfall of the Maratha Empire evoked different feelings among different people. There were men like Natu who served as accessories before the fact. There were some who played the part of accessories after the fact, inasmuch as they were happy that the cursed rule of the Brahmin Peshwa was brought to an end. But there can be no doubt that a large majority of the people of Maharashtra were stunned by the event. When the whole of India was enveloped by the advancing foreign horde and its people being subjugated piece by piece, here in this little corner of Maharashtra lived a sturdy race who knew what liberty was, who had fought for it inch by inch and established it over miles and miles. By the British conquest they had lost what was to them a most precious possession. One can quite imagine how the best intellect of Maharashtra had its mind utterly confounded and its horizon fully and completely darkened. What could be the natural reaction to so great a catastrophe? Can it be other than resignation, defeatism and surrender to the inevitable? How did Ranade react? Very differently. He held out the hope that the fallen shall rise. Indeed he developed a new faith on which this hope was founded. Let me quote his own words. He said :

> "I profess implicit faith in two articles of my creed. This country of ours is the true land of promise. This race of ours is the chosen race."

He did not rest quiet by merely enunciating this new Mosaic Gospel of hope and confidence. He applied his mind to the question of the realization of this hope. The first requisite was of course a dispassionate analysis of the causes of this downfall. Ranade realized that the downfall was due to certain weaknesses in the Hindu social system and unless these weaknesses were

removed the hope could not be realized. The new gospel was therefore followed by a call to duty. That duty was no other than the duty to reform Hindu society. Social reform became therefore the one dominant purpose of his life. He developed a passion for social reform and there was nothing he did not do to promote it. His methods included meetings, missions, lectures, sermons, articles, interviews, letters—all carried, on with an unrelenting zeal. He established many societies. He founded many journals. But he was not content with this. He wanted something more permanent, something more systematic for promoting the cause of social reform. So he founded the Social Conference, an All-India Organization which ran as an adjunct to the Indian National Congress. Year after year the Conference met to discuss the social ills and to find the ways of remedying them, and year after year Ranade attended its annual sessions as though it was a pilgrimage and fostered the cause of social reform.

In fostering the cause of social reform Ranade showed great courage. Many people of this generation will perhaps laugh at such a claim. Courting prison has become an act of martyrdom in India. It is regarded both as a patriotic act and also as an act of courage. Most people who would otherwise be beneath notice and in whose case it could rightly be said that they were scoundrels who had taken to politics as their last refuge, have by going to prison become martyrs and have acquired a name and fame which, to say the least, is quite astounding. There would be some substance in this view, if prison life involved the rigours to which men like Tilak and those of his generation had been subjected. Prison life today has lost all its terrors. It has become a mere matter of detention. Political prisoners are no longer treated as criminals. They are placed in a separate class. There are no hardships to suffer, there is no reputation to lose and there is no privation to undergo. It calls for no courage. But even when prison life had, as in the time of Mr. Tilak, its rigours the political prisoners could make no claim to greater courage than a social reformer. Most people do not realize that society can practise tyranny and oppression against an individual in a far greater degree than a Government can. The means and scope that are open to society for oppression are more extensive than those that are open to Government, also they are far more effective. What punishment in the penal code is comparable in its magnitude and its severity to excommunication ? Who has greater courage—the social reformer who challenges society and invites upon himself excommunication or the political prisoner who challenges Government and incurs sentence of a few months or a few years imprisonment ? There is also another difference which is often lost sight of inestimating the courage shown by the social reformer and the political patriot. When the social reformer challenges society there is nobody to hail him a martyr. There is nobody even to befriend him. He is loathed and shunned. But when

the political patriot challenges Government he has whole society to support him. He is praised, admired and elevated as the saviour. Who shows more courage—The social reformer who fights alone or the political patriot who fights under the cover of vast mass of supporters ? It would be idle to deny that Ranade showed courage in taking up the cause of social reform. Indeed he showed a high degree of courage. For let it be remembered that he lived in times when social and religious customs however gross and unmoral were regarded as sacrosanct and when any doubt questioning their divine and moral basis was regarded not merely as heterodoxy but as intolerable blasphemy and sacrilege.

V

His path as a reformer was not smooth. It was blocked from many sides. The sentiments of the people whom he wanted to reform were deeply rooted in the ancient past. They held the belief that their ancestors were the wisest and the noblest of men, and the social system which they had devised was of the most ideal character. What appeared to Ranade to be the shames and wrongs of the Hindu society were to them the most sacred injunctions of their religion. This was the attitude of the common man. The intelligentsia was divided into two schools—a school which was orthodox in its belief but unpolitical in its outlook, and a school which was modern in its beliefs but primarily political in its aims and objects. The former was led by Mr. Chiplunkar and the latter by Mr. Tilak. Both combined against Ranade and created as many difficulties for him as they could. They not only did the greatest harm to the cause of social reform, but as experience shows they have done the greatest harm to the cause of political reform in India. The unpolitical or the orthodox school believed in the Hegelian view—it is a puzzle to me—namely to realize the ideal and idealize the real. In this it was egregiously wrong. The Hindu religious and social system is such that you cannot go forward to give its ideal form a reality because the ideal is bad ; nor can you attempt to elevate the real to the status of the ideal because the real, i.e., the existing state of affairs, is worse than worse could be. This is no exaggeration. Take the Hindu religious system or take the Hindu social system, and examine it from the point of social utility and social justice. It is said that religion is good when it is fresh from the mint. But Hindu religion has been a bad coin to start with. The Hindu ideal of society as prescribed by Hindu religion has acted as a most demoralizing and degrading influence on Hindu society. It is Nietzschean in its form and essence. Long before Nietzsche was born Manu had proclaimed the gospel which Nietzsche sought to preach. It is a religion which is not intended to establish liberty, equality and fraternity. It is a gospel which proclaims the worship of the superman—the Brahmin by the rest of the Hindu society. It propounds that the superman and his class alone are born to live and to rule. Others are born to serve

them, and to nothing more. They have no life of their own to live, and no right to develop their own personality. This has been the gospel of the Hindu Religion. Hindu philosophy, whether it is Vedanta, Sankhya, Nyaya, Vaishashika, has moved in its own circle without in anyway affecting the Hindu religion. It has never had the courage to challenge this gospel. That Hindu philosophy that everything is Brahma remained only a matter of intellect. It never became a social philosophy. The Hindu philosophers had both their philosophy and their Manu held apart in two hands, the right not knowing what the left had. The Hindu is never troubled by their inconsistency. As to their social system, can things be worst ? The Caste system is in itself a degenerate form of the Chaturvarnya which is the ideal of the Hindu. How can anybody who is not a congenital idiot accept Chaturvarnya as the ideal form of society ? Individually and socially it is a folly and a crime. One class and one class alone to be entitled to education and learning! One class and one class alone to be entitled to arms! One class and one class alone to trade! One class and one class alone to serve! For the individual the consequences are obvious. Where can you find a learned man who has no means of livelihood who will not degrade his education? Where can you find a soldier with no education and culture who will use his arms to conserve and not to destroy ? Where can you find a merchant with nothing but the acquisitive instinct to follow who will not descend to the level of the brute ? Where can you find the servant who is not to acquire education, who is not to own arms and who is not to possess other means of livelihood to be a man as his maker intended him to be ? If baneful to the individual it makes society vulnerable. It is not enough for a social structure to be good for a fair weather. It must be able to weather the storm. Can the Hindu caste system stand the gale and the wind of an aggression ? It is obvious that it cannot. Either for defence or for offence a society must be able to mobilize its forces. With functions and duties exclusively distributed and immutably assigned, what way is there for mobilization ? Ninety per cent of the Hindus— Brahmins, Vaishyas and Shudras—could not bear arms under the Hindu social system. How can a country be defended if its army cannot be increased in the hour of its peril. It is not Buddha who, as is often alleged, weakened Hindu society by his gospel of non-violence. It is the Brahminic theory of Chaturvarnya that has been responsible not only for the defeat but for the decay of Hindu society. Some of you will take offence at what I have said about the demoralizing effect of the Hindu socio-religious ideal on Hindu society. But what is the truth ? Can the charge be denied ? Is there any society in the world which has unapproachables, unshadowables and unseeables ? Is there any society which has got a population of Criminal Tribes ? Is there a society in which there exists today primitive people, who live in jungles, who do not know even to clothe themselves ? How many do they count in numbers ? Is it a matter of hundreds, is it a matter of thousands ? I wish they numbered

a paltry few. The tragedy is that they have to be counted in millions, millions of Untouchables, millions of Criminal Tribes, millions of Primitive Tribes!! One wonders whether the Hindu civilization, is civilization or infamy? This is about the ideal. Turn now to the state of things as it existed when Ranade came on the scene. It is impossible to realize now the state of degradation they had reached when the British came on the scene and with which the reformers like Ranade were faced. Let me begin with the condition of the intellectual class. The rearing and guiding of a civilization must depend upon its intellectual class—upon the lead given by the Brahmins. Under the old Hindu Law the Brahmin enjoyed the benefit of the clergy and not be hanged even if he was guilty of murder, and the East India Company allowed him the privilege till 1817. That is no doubt because he was the salt of the Earth. Was there any salt left in him ? His profession had lost all its nobility. He had become a pest. The Brahmin systematically preyed on society and profiteered in religion. The *Puranas* and *Shastras* which he manufactured in tons are treasure trove of sharp practices which the Brahmins employed to befool, beguile and swindle the common mass of poor, illiterate and superstitious Hindus. It is impossible in this address to give references to them. I can only refer to the coercive measures which the Brahmins had sanctified as proper to be employed against the Hindus to the encashment of their rights and privileges. Let those who want to know read the preamble to Regulation XXI of 1795. According to it whenever a Brahmin wanted to get anything which could not be willingly got from his victim, he resorted to various coercive practices—lacerating his own body with knives and razors or threatening to swallows some poison were the usual tricks he practised to carry out his selfish purposes. There were other ways employed by the Brahmin to coerce the Hindus which were as extraordinary as they were shameless. A common practice was the erection in front of the house of his victim of the *koorh*—a circular enclosure in which a pile of wood was placed—within the enclosure an old woman was placed ready to be burnt in the *koorh* if his object was not granted. The second devise of such a kind was the placing of his women and children in the sight of his victim and threaten to behead them. The third was the Dhurna—starving on the doorstep of the victim. This is nothing. Brahmins had started making claims for a right to deflower the women of non-Brahmins. The practice prevailed in the family of the Zamorin of Calicut and among the Vallabhachari sect of Vaishnavas. What depths of degradation the Brahmins had fallen to ! If, as the Bible says, the salt has lost its flavour wherewith shall it be salted ? No wonder the Hindu Society had its moral bonds loosened to a dangerous point. The East India Company had in 1819 to pass a Regulation (VII of 1819) to put a stop to this moral degeneracy. The preamble to the Regulation says that women were employed wholesale to entice and take away the wives or female children for purposes of prostitution, and it was common practice

among husbands and fathers to desert their families and children. Public conscience there was none, and in the absence of conscience it was futile to expect moral indignation against the social wrongs. Indeed the Brahmins were engaged in defending every wrong for the simple reason that they lived on them. They defended Untouchability which condemned millions to the lot of the helot. They defended caste, they defended female child marriage and they defended enforced widowhood—the two great props of the Caste system. They defended the burning of widows, and they defended the social system of graded inequality with its rule of hypergamy which led the Rajputs to kill in their thousands the daughters that were born to them. What shames! What wrongs! Can such a society show its face before civilized nations ? Can such a society hope to survive ? Such were the questions which Ranade asked. He concluded that on only one condition it could be saved—namely, rigorous social reform.

VI

His greatest opponents however came from the political school of the intelligentsia. These politicals developed a new thesis. According to that thesis political reform was to have precedence over social reform. The thesis was argued from platform to platform and was defended by eminent people like Mr. Justice Telang, a Judge of the Bombay High Court, with the consummate skill of an acute lawyer. The thesis caught the imagination of the people. If there was one single cause to which the blocking of the Social Reform movement could be attributed, it was this cry of political reform. The thesis is unsupportable, and I have no doubt that the opponents of Ranade were wrong and in pursuing it did not serve the best interests of the country. The grounds on which Mr. Justice Telang defended the Politicians' thesis were of course logical. But he totally forgot that logic is not reason, and analogy is not argument. Neither did he have a correct understanding of the inter-relation between the "social" and the "political" which Ranade had. Let us examine the reasons for the thesis. Those that were advanced were not very impressive. But I am prepared to meet the most impressive arguments that could be advanced. Even then the thesis will not stand. The following strike me as being the most impressive. In the first place, it could be said that we want political power first because we want to protect the rights of the people. This answer proceeds from a very frugal theory of Government as was propounded by the American statesman Jefferson according to whom politics was only an affair of policing by the State so that that the rights of people were maintained without disturbance. Assume that the theory is a sound one. The question is, what is there for the State to police if there are no rights ? Rights must exist before policing becomes a serious matter of substance. The thesis that political reform should precede social reform becomes on the face of it an absurd proposition, unless the idea is that the Government is to protect those who have vested rights and to penalize those

who have none. The second ground that could be urged in support of the thesis is that they wanted political power because they wanted to confer on each individual certain fundamental rights by law and that such conferring of the political rights could not take place unless there was political power first obtained. This of course sounds very plausible. But is there any substance in it ? The idea of fundamental rights has become a familiar one since their enactment in the American Constitution and in the Constitution, framed by Revolutionary France. The idea of making a gift of fundamental rights to every individual is no doubt very laudable. The question is how to make them effective ? The prevalent view is that once rights are enacted in a law then they are safeguarded. This again is an unwarranted assumption. As experience proves, rights are protected not by law but by the social and moral conscience of society. If social conscience is such that it is prepared to recognize the rights which law chooses to enact, rights will be safe and secure. But if the fundamental rights are opposed by the community, no Law, no Parliament, no Judiciary can guarantee them in the real sense of the word. What is the use of the fundamental rights to the Negroes in America, to the Jews in Germany and to the Untouchables in India? As Burke said, there is no method found for punishing the multitude. Law can punish a single solitary recalcitrant criminal. It can never operate against a whole body of people who are determined to defy it. Social conscience—to use the language of Coleridge—that calm incorruptible legislator of the soul without whom all other powers would "meet in mere oppugnancy—is the only safeguard of all rights fundamental or non-fundamental."

The third argument of the politicals could be based on the right to self-Government. That self-Government is better than good Government is a well-known cry. One cannot give it more value than one can give to a slogan, and all would like to be assured that self-Government would also be a good Government. There is no doubt that the politicals wanted good Government and their aim was to establish a democratic form of Government. But they never stopped to consider whether a democratic form of Government was possible. Their contention was founded on a series of fallacies. A democratic form of Government presupposes a democratic form of society. The formal framework of democracy is of no value and would indeed be a misfit if there was no social democracy. The politicals never realized that democracy was not a form of Government : it was essentially a form of society. It may not be necessary for a democratic society to be marked by unity, by community of purpose, by loyalty to public ends and by mutuality of sympathy. But it does unmistakably involve two things. The first is an attitude of mind, an attitude of respect and equality towards their fellows. The second is a social organization free from rigid social barriers. Democracy is incompatible and inconsistent with isolation and exclusiveness, resulting in the distinction

between the privileged and the unprivileged. Unfortunately, the opponents of Ranade were never able to realize the truth of this fact.

One may judge it by any test and it will be found that the stand that Ranade took in this controversy and his plan of work were correct and fundamental to if they were not the pre-requisites of political reform. Ranade argued that there were no rights in the Hindu society which the moral sense of man could recognize. There were privileges and disabilities, privileges for a few and disabilities for a vast majority. Ranade struggled to create rights. Ranade wanted to vitalize the conscience of the Hindu society which had become moribund as well morbid. Ranade aimed to create a real social democracy, without which there could be no sure and stable politics. The conflict was between two opposing points of view and it centred round the question which is more important for the survival of a nation, political freedom or. strong moral fiber. Ranade took the view that moral stamina was more important than political freedom. This was also the view of Lecky the great historian who after a careful and comparative study of history came to the conclusion that :

> "The foundation of a Nation's strength and prosperity is laid in pure domestic life, in commercial integrity, in a high standard of moral worth, and of public spirit, in simple habits, in courage, uprightness, and a certain soundness and moderation of judgment which springs quite as much from character as from intellect. If you would form a wise judgment of the future of a nation, observe carefully whether these qualities are increasing or decaying. Observe carefully what qualities count for most in public life. Is character becoming of greater or less importance ? Are the men who obtain the highest posts in the nation men of whom, in private life, irrespective of party competent judges speak with genuine respect ? Are they of sincere convictions, consistent lives and indisputable integrity ? It is by observing this current that you can best cast the horoscope of a nation."

Ranade was not only wise but he was also logical. He told his opponents against playing the part of Political Radicals and Social Tories. In clear and unmistakable terms he warned them saying :

> "You cannot be liberal by halves. You cannot be liberal in politics and conservative in religion. The heart and the head must go together. You cannot cultivate your intellect, enrich your mind, enlarge the sphere of your political rights and privileges, and at the same time keep your hearts closed and cramped. It is an idle dream to expect men to remain enchained and enshackled in their own superstition and social evils, while they are struggling hard to win rights and privileges from their rulers. Before long these vain dreamers will find their dreams lost."

Experience has shown that these words of Ranade have been true, even prophetic. Let those who deny this consider : Where are we today in politics

and why are we where we are ? It is now 50 years since the National Congress was born. Its stewardship has passed hands, I won't say from the sane to the insane, or from realists to idealists, but from moderates to radicals. Where does the country stand today at the end of 50 years of political marching ? What is the cause of this deadlock ? The answer is simple. The cause of deadlock is the absence of Communal settlement. Ask why is communal settlement necessary for political settlement and you realize the fundamental importance of the stand that Ranade took. For the answer to this question is to be found in the wrong social system, which is too undemocratic, too over-weighed in favour of the classes and against the masses, too class conscious and too communally minded. Political democracy would become a complete travesty if it were built upon its foundations. That is why nobody except the high caste Hindus will agree to make it the case of a political Democracy without serious adjustments. Well may some people argue to their satisfaction that the deadlock is the creation of the British Government. People like to entertain thoughts which sooth them and which throw responsibility on others. This is the psychology of escapism. But it cannot alter the fact that it is the defects of social system which has given rise to the communal problem and which has stood in the way of India getting political power.

Ranade's aim was to cleanse the old order if not to build a new one. He insisted on improving the moral tone of Hindu society. If he had been heard and followed, the system would have at least lost its rigours and its rigidity. If it could not have avoided Communal settlement it would have made it easy. For his attempts, limited as they were, would have opened the way to mutual trust. But the politicals had developed a passion for political power which had so completely blinded them that they refused to see virtue in anything else. Ranade has had his revenge. Is not the grant of political safeguard a penalty for denying the necessity of social reform ?

How much did Ranade achieve in the field in which he played so dominant a part ? In a certain sense the question is not very important. Achievement is never the true measure of greatness. "Alas", as Carlyle said, "we know very well that ideals can never be completely embodied in practice. Ideals must ever lie a very great way off; and we will right thankfully content ourselves with any not intolerable approximation thereto!" Let no man, as Schillar says, too querulously "measure by a scale of perfection the meagre product of reality" in this poor world of ours. We will esteem him no wise man ; we will esteem him a sickly discontented foolish man. And yet Ranade's record of achievement was not altogether bare. The problems facing the then social reformers contained in the statement on social reform prepared by Rai Bahadur P. Anandcharly were five : (1) early marriage ; (2) remarriages of widows ; (3) liberty for our countrymen to travel—or

sojourn in foreign lands ; (4) women's rights of property and (5) education of women. Of this programme he achieved a great part. If he did not achieve all, there were the odds against him, which should never be forgotten. A clever, determined and an insincere intelligentsia came forward to defend orthodoxy and give battle to Ranade. The scenes were exciting, as exciting as those of a dread grim of battle. And battle it was. One cannot recall the spirit of the time when this controversy over social reform was raging in this country. It is not possible for decency to enter into the abuses that were hurled, the calumnies that were uttered, the strategies that were employed by the orthodox section against the Social Reformers. It is impossible to read the writing of those who supported orthodoxy in their opposition to the Age of Consent Bill without realizing the depth of the degradation to which the so-called leaders of the peoples had fallen. The Bill aimed to punish a husband who would have sexual intercourse with his wife if she had not attained the age of 12. Could any sane man, could any man with a sense of shame oppose so simple a measure ? But it was opposed, and Ranade had to bear the brunt of the mad orthodoxy. Assuming that Ranade's achievements were small; who could take pride or exultation in his failure to achieve more ? There was no cause for exultation. The decline of social reform was quite natural. The odium of social reform was too great. The appeal of political power too alluring. The result was that social reform found fewer and fewer adherents. In course of time the platform of the Social Reform Conference was deserted and men flocked to the Indian National Congress. The politicians triumphed over the social reformers. I am sure that nobody will now allow that their triumph was a matter for pride. It is certainly a matter of sorrow. Ranade may not have been altogether on the winning side, but he was not on the wrong side and certainly never on the side of the wrong as some of his opponents were.

VIII

How does Ranade compare with others ? Comparisons are always odious and unpleasant. At the same time it is true that there is nothing more illuminating than comparisons. Of course in making them one must bear in mind that to be interesting and instructive comparisons must be between those that are alike. Fortunately there is field for comparison. Ranade was a social reformer and as a social reformer he could be usefully compared with other social reformers. Particularly illuminating will be the comparison between Ranade and Jotiba Phule. Phule was born in 1827 and died in 1890. Ranade was born in 1842 and died in 1901. Thus Phule and Ranade were contemporaries and both were foremost social reformers. Some may perhaps demur to the wisdom of comparing Ranade with other politicians. This can only be on the ground that Ranade was not a politician. To say that Ranade was not a politician is to impose a very narrow and very restricted meaning upon the term politician. A politician does not merely trade in politics but he also represents particular faith covering both—the method

as well as the metaphysics of politics. Ranade was the founder of a school of politics which was distinctive for its method as well as for metaphysics. Used in this sense Ranade was a politician and could be usefully compared with other politicians. Comparisons of Ranade with social reformers and with politicians cannot but be illuminating and there is enough material for such comparisons. The question really is one of time and taste. Time will not permit any extensive comparison of Ranade being made both with social reformers as well as with politicians. I must really choose between comparing Ranade with social reformers or with politicians. This is a matter of taste. Left to myself I would have preferred to use my available time to compare Ranade with Phule. For I regard social Reform more fundamental than political reform. Unfortunately my taste is different from the taste of the audience and I feel that in detaining the audience I must be guided more by its likes and dislikes than my own. The ardour for social reform has cooled down. The craze for politics has held the Indian public in its grip. Politics has become an appetiser—a mastic the more one tastes it the more one craves it. The task I am undertaking is a very unpleasant one and if I venture upon it, it is only because it is my duty to expound fully and the desire of the public to know truly the value of Ranade's political philosophy and his place among politicians of today.

Who are the present day politicians with whom Ranade is to be compared ? Ranade was a great politician of his day. He must therefore be compared with the greatest of today. We have on the horizon of India two great men, so big that they could be identified without being named—Gandhi and Jinnah, What sort of a history they will make may be a matter for posterity to tell. For us it is enough that they do indisputably make headlines for the Press. They hold leading strings. One leads the Hindus, the other leads the Muslims. They are the idols and heroes of the hour. I propose to compare them with Ranade. How do they compare with Ranade ? It is necessary to make some observations upon their temperaments and methods with which they have now familiarized us. I can give only my impressions of them, for what they are worth. The first thing that strikes me is that it would be difficult to find two persons who would rival them for their colossal egotism, to whom personal ascendency is everything and the cause of the country a mere counter on the table. They have made Indian politics a matter of personal feud. Consequences have no terror for them ; indeed they do not occur to them until they happen. When they do happen they either forget the cause, or if they remember it, they overlook it with a complacency which saves them from any remorse. They choose to stand on a pedestal of splendid isolation. They will themselves off from their equals. They prefer to open themselves to their inferiors. They are very unhappy at and impatient of criticism, but are very happy to be fawned upon by flunkeys. Both have developed a wonderful stagecraft and arrange things in such a way that they

are always in the limelight wherever they go. Each of course claims to be supreme. If supremacy was their only claim, it would be a small wonder. In addition to supremacy each claims infallibility for himself. Pius IX during whose sacred regime as Pope the issue of infallibility was raging said—"Before I was Pope I *believed* in Papal infallibility, now I *feel* it." This is exactly the attitude of the two leaders whom Providence—may I say in his unguarded moments—has appointed to lead us. This feeling of supremacy and infallibility is strengthened by the Press. One cannot help saying that. The language used by Gardiner to describe the Northcliffe brand of journalism, in my opinion, quite appropriately describes the present state of journalism in India. Journalism in India was once a profession. It has now become a trade. It has no more moral function than the manufacture of soap. It does not regard itself as the responsible adviser of the Public. To give the news uncoloured by any motive, to present a certain view of public policy which it believes to be for the good of the community, to correct and chastise without fear all those, no matter how high, who have chosen a wrong or a barren path, is not regarded by journalism in India its first or foremost duty. To accept a hero and worship him has become its principal duty. Under it, news gives place to sensation, reasoned opinion to unreasoning passion, appeal to the minds of responsible people to appeal to the emotions of the irresponsible. Lord Salisbury spoke of the Northcliffe journalism as written by office-boys for office-boys. Indian journalism is all that plus something more. It is written by drum-boys to glorify their heroes. Never has the interest of country been sacrificed so senselessly for the propagation of hero-worship. Never has hero-worship become so blind as we see it in India today. There are, I am glad to say, honourable exceptions. But they are too few and their voice is never heard. Entrenched behind the plaudits of the Press, the spirit of domination exhibited by these two great men has transgressed all limits. By their domination they have demoralised their followers and demoralized politics. By their domination they have made half their followers fools and the other half hypocrites. In estabhshing their supremacy they have taken the aid of "big business" and money magnates. For the first time in our country money is taking the field as an organised power. The questions which President Roosevelt propounded for American Public to consider will arise here, if they have not already arisen : Who shall rule—wealth or man ? Which shall lead, money or intellect ? Who shall fill public stations, educated and patriotic free men or the feudal serfs of corporate Capital ? For the present, Indian politics, at any rate the Hindu part of it, instead of being spiritualized has become grossly commercialized, so much so that it has become a byword for corruption. Many men of culture are refusing to concern themselves in this cesspool. Politics has become a kind of sewage system intolerably unsavoury and insanitary. To become a politician is like going to work in the drain.

Politics in the hands of these two great men have become a competition in extravaganza. If Mr. Gandhi is known as Mahatma, Mr. Jinnah must be known as Qaid-i-Azim. If Gandhi has the Congress, Mr. Jinnah must have the Muslim League. If the Congress has a Working Committee and the All-India Congress Committee, the Muslim League must have its Working Committee and its Council. The session of the Congress must be followed by a session of the League. II the Congress issues a statement the League must also follow suit. If the Congress passes a Resolution of 17,000 words, the Muslim League's Resolution must exceed it by at least a thousand words. If the Congress President has a Press Conference, the Muslim League President must have his. If the Congress must address an appeal to the United Nations, the Muslim League must not allow itself to be outbidden. When is all this to end ? When is there to be a settlement ? There are no near prospects. They will not meet, except on preposterous conditions. Jinnah insists that Gandhi should admit that he is a Hindu. Gandhi insists that Jinnah should admit that he is one of the leaders of the Muslims. Never has there been such a deplorable state of bankruptcy of statesmanship as one sees in these two leaders of India. They are making long and interminable speeches, like lawyers whose trade it is to contest everything, concede nothing and talk by the hour. Suggest anything by way of solution for the deadlock to either of them, and it is met by an everlasting "Nay". Neither will consider a solution of the problems which is not eternal. Between them Indian politics has become "frozen" to use a well-known Banking phrase and no political action is possible.

How does Ranade strike as compared to these two ? I have no personal impression to give. But reading what others have said I think I can say what he must have been like. He had not a tinge of egotism in him. His intellectual attainments could have justified any amount of pride, nay even insolence. But he was the most modest of men. Serious youths were captivated by his learning and geniality. Many, feeling completely under his sway, responded to his ennobling influence and moulded their whole lives with the passionate reverence for their adored master. He refused to be satisfied with the praises of fools, and was never afraid of moving in the company of equals and of the give and take it involves, He never claimed to be a mystic relying on the inner voice. He was a rationalist prepared to have his views tested in the light of reason and experience. His greatness was natural. He needed no aid of the stage nor the technique of an assumed eccentricity nor the means of a subsidized press. As I said, Ranade was principally a social reformer. He was not a politician in the sense of one who trades in politics. But he has played an important part in the political advancement of India. To some of the politicians he acted as the teacher who secured such signal successes and who dazzled their critics by their brilliance. To some he acted as the guide, but to all he acted as the philosopher.

What was the political philosophy of Ranade ? It may be summed up in three propositions :

(1) We must not set up as our ideal something which is purely imaginary. An ideal must be such that it must carry the assurance that it is a practicable one.

(2) In politics, sentiment and temperament of the people are more important than intellect and theory. This is particularly so in the matter of framing a Constitution. A constitution is as much a matter of taste as clothes are. Both must fit, both must please.

(3) In political negotiations the rule must be what is possible. That does not mean that we should be content with what is offered. No. It means that you must not refuse what is offered when you know that your sanctions are inadequate to compel your opponent to concede more.

These are the three main doctrines of Ranade's political philosophy. It would be quite easy to illustrate them by appropriate quotations from his writings and his speeches. There is no time for that nor is there any necessity, for they must be clear to every student of Ranade's speeches and writings. Who could quarrel with Ranade on these three propositions and if there be one, on which ? On the first only a visionary will quarrel. We need not take any notice of him. The second proposition is so evident that we could only ignore it at our peril. The third proposition is something on which a difference of opinion is possible. Indeed it is this which divided the Liberals from the Congressmen. I am not a liberal, but I am sure the view Ranade held was the right one. There can be no compromise on principle, and there should not be. But once the principle is agreed upon, there can be no objection to realize it by instalments. Graduation in politics is inevitable, and when the principle is accepted it is not harmful and indeed it may in certain circumstances be quite advantageous. On this third proposition there was really no difference between him and Tilak, except this : Tilak would have the possible maximised by the application of sanctions ; Ranade would look askance at sanctions. This is all. On the rest they were agreed. The absence of sanctions in Ranade's political philosophy need not detract much from its worth. We all know what sanctions are available to us. We have tried all, old as well as new, with what effect I need not stop to describe.

IX

In celebrating the birthday of Ranade we must not overlook what the critics and opponents are likely to say. The critics will ask what is the point in celebrating the birthday of Ranade. That the days of hero-worship are gone long past will be the line of their argument. The oppenents will say if I condemn idolatry when it pertains to Mr. Gandhi and to Mr. Jinnah how do I join in idolizing Mr. Ranade ? These are very pertinent questions. True

hero-worship is dying. Of that there is no doubt. It was dying even in the days of Carlyle who indignantly complained against his age saying—

> "This is an age that as it were denies the existence of great men : denies the inevitableness of great men."
>
> "Show our critics a great man", he said and "They begin to what they call 'account for him'; not to worship him but take the dimensions of him."

But hero-worship is certainly not dead in India. India is still *par excellence* the land of idolatry. There is idolatry in religion, there is idolatry in politics. Heroes and hero-worship is a hard if unfortunate, fact in India's political life. I agree that hero-worship is demoralizing for the devotee and dangerous to the country. I welcome the criticism in so far as it conveys a caution that you must know that your man is really great before you start worshipping him. This unfortunately is not an easy task. For in these days, with the Press in hand, it is easy to manufacture great men. Carlyle used a happy phrase when he described the great men of history as so many Bank Notes. Like Bank Notes they represent gold. What we have to see is that they are not forged notes. I admit that we ought to be more cautious in our worship of great men. For in this country we have perhaps arrived at such a stage when alongside the notice boards saying "beware of pickpockets" we need to have notice boards saying "beware of great men". Even Carlyle who defended the worship of great men warned his readers how :

> "Multitudes of men have figured in history as great men who were false and selfish." He regretted deeply that "The World's wages (of homage) are pocketed (by these so-called great men), the World's work is not done. Heroes have gone out; quacks have come in."

Ranade never received the honours of apotheosis as these great men of India today are destined to receive. How could he ? He did not come with a message hot from Senai. He performed no miracles and promised no speedy deliverance and splendour. He was not a genius and he had no superhuman qualities. But there are compensations. If Ranade did not show splendour and dominance he brought us no catastrophe. If he had no superhuman qualities to use in the service of India, India was saved from ruin by its abuse. If he was not a genius, he did not display that perverse supersubtlety of intellect and a temper of mind which is fundamentally dishonest and which has sown the seeds of distrust and which has made settlement so difficult of achievement. There is nothing exuberant and extravagant in Ranade. He refused to reap cheap notoriety by playing the part of an extremist. He refused to mislead people by playing upon and exploiting the patriotic sentiments of the people. He refused to be a party to methods which are

crude which have volume but no effect and which are neither fool-proof nor knave-proof and which break the back even of the most earnest and sincere servants of the country and disable them from further effort. In short Ranade was like the wise Captain who knows that his duty is not to play with his ship clever and masterful tricks, just for effect and show in the midst of the ocean but to take it safely to its appointed port. In short Ranade was not a forged bank note and in worshipping him we have no feeling of kneeling before anything that is false.

In the second place this celebration of Ranade's birthday is not all an act of hero-worship. Hero-worship in the sense of expressing our unbounded admiration is one thing. To obey the hero is a totally different kind of hero-worship. There is nothing wrong in the former while the latter is no doubt a most pernicious thing. The former is only man's respect for everything which is noble and of which the great man is only an embodiment. The latter is the villain's fealty to his lord. The former is consistent with respect, but the latter is a sign of debasement. The former does not take away one's intelligence to think and independence to act. The latter makes one a perfect fool. The former involves no disaster to the State. The latter is the source of positive danger to it. In short in celebrating Ranade's birthday we are not worshipping a boss who is elected by no one, accountable to no one and removable by no one, but paying our tribute of admiration to a leader who led and did not drive people, who sought to give effect to their deliberate judgment and did not try to impose his own will upon them by trickery or by violence.

In the third place it is not for hero-worship for which this gathering has assembled. This is an occasion to remind ourselves of the political philosophy of Ranade. To my mind it has become necessary to remind ourselves of it from time to time. For his is a philosophy which is safe and sound, sure if slow. Even if it does not glitter it is nonetheless gold. Do any have doubt ? If they have let them ponder over the following utterances of Bismark, Balfour and Morley. Bismark the great German Statesman said :

> "Politics is the game of the possible."

Balfour in his Introduction to Walter Bagehot's well-known book on the English Constitution says :

> "If we would find the true basis of the long drawn process which has gradually converted medieval monarchy into a modern democracy the process by which so much has been changed and so little destroyed, we must study temperament and character rather than intellect and theory. This is a truth which those who recommend the wholesale adoption of British Institutions in strange lands might remember with advantage. Such an experiment can hardly be without its dangers. Constitutions are easily copied ; temperaments are not ; and if it should happen that the borrowed constitution and the native temperament fail to correspond, the misfit may

have serious results. It matters little what other gifts a people may possess if they are wanting in these which, from this point of view, are of most importance. If, for example, they have no capacity for grading their loyalties as well as for being moved by them ; If they have no natural inclination to liberty and no natural respect for law ; If they lack good humour and tolerate foul play ; If they know not how to compromise or when ; If they have not that distrust of extreme conclusions which is sometimes misdescribed as want of logic ; If corruption does not repel them ; and if their divisions tend to be either too numerous or too profound, the successful working of British Institutions may be difficult or impossible. It may indeed be least possible where the arts of Parliamentary persuasion and the dexterities of party management are brought to their highest perfection."

Morley has observed :

"To hurry on after logical perfection is to show one's self-ignorant of the material of that social structure with which the politician has to deal. To disdain anything short of an organic change in thought or institution is infatuation. To be willing to make such changes too frequently, even when they are possible, is fool-hardiness. That fatal French saying about small reforms being the worst enemies of great reforms, is, in the sense in which it is commonly used, a formula of social ruin."

These are the principles on which success in Politics depends. Are they different from those which Ranade enunciated ? It bespeaks greatness in Ranade that he should have propounded them years before Bismark, Balfour and Morley.

The generation which Ranade served was wise in taking him as its political guide, friend and philosopher. His greatness lies in the fact that he can be a guide, friend and philosopher to this present, nay even to future generations.

There is one charge against Ranade which is frequently made and which I think must be met. It is said of Ranade that he believed that the conquest of India by the British was Providential, that it was in the best interest of India, that she should remain within the British Empire and that therein lay her final destiny. In short Ranade is accused of being opposed to India's Independence.

The charge is founded on the following utterances of Ranade :

"It cannot be easily assumed that in God's Providence, such vast multitudes as those who inhabit India were placed centuries together under influences and restraints of alien domination, unless such influences and restraints were calculated to do lasting service in the building up of the strength and character of the people in directions in which the Indian races

were most deficient. Of one thing we are certain, that after lasting over five hundred years, the Mohammedan Empire gave way, and made room for the re-establishment of the old native races in the Punjab, and throughout Central Hindusthan and Southern India, on foundations of a much more solid character than those which yielded so easily before the assaults of the early Mohammedan conquerors."

"Both Hindus and Mohammedans lack many of those virtues represented by the love of order and regulated authority. Both are wanting in the love of municipal freedom, in the exercise of virtues necessary for civic life, and in aptitudes for mechanical skill, in the love of science and research in the love and daring of adventurous discovery, the resolution to master difficulties, and in chivalrous respect for womankind. Neither the old Hindus nor the old Mohammedan civilization was in a condition to train these virtues in a way to bring up the races of India on a level with those of Western Europe, and so the work of education had to be renewed, and it has been now going on for the past century and more under the *Pax Brittanica* with results—which all of us are witnesses to in ourselves."

A mere glance at these statements is enough to show that the charge is based on a misunderstanding if not on a misreading of the statements. The statements are plain and simple and they cannot even by inference be said to lead to the conclusion that Ranade was opposed to India's independence. In that sense the charge is false and without foundation.

These statements of Ranade far from casting any reflection upon his self-respect testify to his wisdom and to his sagacity. What did Ranade want to convey by these statements ? As I understand them, I think, Ranade wanted to convey two things. The first thing he wanted to convey was that the conquest of India by Britain has given India the time, the opportunity and the necessary shelter for rebuilding, renovating and repairing her economic and social structure, to refit herself for bearing the strain of any foreign aggression when she does become free. The second thing Ranade wanted to convey was that going out of the British Empire by India before she had satisfied and solidified herself into a single nation, unified in thought, in feeling, and charged with a sense of a common destiny, was to invite chaos and disruption in the name of independence.

How very important these truths are ? People do not realize the part that shelter plays in the smooth working out of social, economic and political conflicts which are inevitable in every society which desires to advance. The late Prof. Maitland was once asked to explain why Parliamentary Institutions flourished in England but failed to take roots in Europe. His answer reveals the importance of shelter. He said the difference was due to the English channel. By this answer what he meant to convey was that by

reason of the English channel England was immune from foreign aggression while she was repairing her own body politic and therefore it became safe for people to fight against their King for Liberty and also safe for the King to allow it to his people. This importance of shelter was also emphasized by Abraham Lincoln. In a speech devoted to showing why American Political Institutions were destined to remain perpetual, Lincoln said :

> "All the armies of Europe, Asia and Africa combined. . . with a Bonaparte for a Commander, could not by force take a drink from Ohio, or make a track on the Blue Ridge in a trial of a thousand years."

In this Lincoln was also emphasizing the importance and the necessity for shelter for social reconstruction. India is not a sheltered country as England and America are. She lies across and on the roads, whether the roads are land routes, sea routes or air routes. As she has no shelter the fear is that she will be broken up if she is attacked from outside while she is engaged in refitting herself. India needs a dry dock as a shelter for the period of her refitting and the British Empire is a dry dock for her. Who can say that Ranade was not wise in asking his countrymen to bear in mind the importance of a shelter which the British Empire can give and which India needs so much?

A servient nation is always eager to cut the knot and declare its independence of the dominant nation. But it seldom stops to consider the effect of independence on itself. Such a consideration is however very important. It is not often realized that the knot which binds the servient nation to the dominant nation is more necessary to the servient nation than to the dominant nation. It depends upon the conditions inside the servient nation. The servient nation may be one whole. The servient nation may consist of parts. The parts may be such that they will never become one whole. Or the parts may be such that they are not yet one whole but if held together longer they will become one whole. The effect which the cutting of the knot will have on the servient nation will depend upon the internal condition of the servient nation. There may be every good in cutting the knot by a servient nation which is one whole. Nothing good or nothing worse can happen—depends upon how one looks at it—by the cutting of the knot by a nation in which the parts can never become one whole. But there is positive danger in the third case. The premature cutting of the knot is sure to lead to disintegration where integration is desirable and possible. It would be a wanton act. This is the second danger which Ranade wanted to caution his countrymen against.

Who can say that Ranade was not wise in giving this caution ? Those who are inclined to question its necessity have only to look to China. It is 30 years since the Chinese Revolution took place. Have the Chinese settled down ? No. People are still asking "when will the Chinese revolution stop revolving ?"

and those who know the conditions in China cannot do better than say "Perhaps in another hundred years." Has China found a stable Government having the allegiance of all Chinese ? Far from it. Indeed if truth be told, China after the revolution has been a land of disunity and disruption far more than she was ever before. The Revolution has produced a chaos of such magnitude that her very independence has been put in peril. Few Indians are aware of the fact that if China has not lost her independence as a result of the chaos caused by the Revolution it is only because she had too many enemies who could not agree as to which of them should devour her. The Chinese Revolution was a great mistake. That was the opinion of Yuan Shih-k'ai who said :

> "I doubt whether the people of China are at present ripe for a Republic or whether under present conditions a Republic is adapted to the Chinese people... The adoption of a limited monarchy would bring conditions back to the normal and would bring stability much more rapidly than that end could be attained through any experimental form of Government unsuited to the genius of the people or to the present conditions in China... My only reason for favouring the retention of the present Emperor is that I believe in a constitutional monarchy. If we are to have that form of Government, there is nobody else whom the people would agree upon for his place... My sole aim in this crisis is to save China from dissolution and the many evils that would follow."

Those who think that China should be rather a warning to Indians than an example will, far from accusing Ranade for opposing India's independence will be happy that he had the wisdom to foresee the evils of a premature revolution and warn his countrymen against taking a similar step.

X

Posterity is always interested in the last words and last regrets of great men. The last words of great men are not always significant of their experience of this world or their vision of the next. For instance the last thoughts of Socrates were to call Crito and say, "We owe a cock to Aesculapius; discharge the debt, and by no means omit it." But their last regrets are always significant and worth pondering over. Take the case of Napoleon. Napoleon before his death at St. Helena showed evidence of being uneasy over three capital points which constituted his last regrets. They were: that he could not have died at some supreme moment of his career ; that he left Egypt and gave up his Eastern ambitions ; and last but by no means the least his defeat at Waterloo. Had Ranade any supreme regrets ? One thing is certain that Ranade if he had any, could not have the same regrets such as those which disturbed the peace of mind of Napoleon. Ranade lived for service and not for glory. It mattered very little to him whether the moment of his death was glorious or inglorious or whether he died as a hero, as a conqueror or

a master or whether he died as a common man sometimes does of common cold. As a matter of fact Ranade was not troubled by any regrets. So far as record goes Ranade does not seem to be conscious of any act or event about which he had any regrets. He died a happy and a peaceful death. But it is worth-while asking could Ranade have any regrets if he came to life today ? I am sure there is one matter over which he will feel extremely grieved—namely the present condition of the Liberal Party in India.

What is the present position of the Liberal Party in India ? The Liberal Party is a casualty. Indeed this is a very mild expression. The Liberals are "the contemptibles" of Indian politics. To use the language of Norton used in another connection they are disowned by the people, unowned by the Government, having the virtues of neither, but possessing the vices of both. There was a time when the Liberal Party was the rival of the Congress. Today the relation of the Liberal Party to the Congress is that of a dog to his master. Occasionally the dog barks at his master but for the most part of his life he is content to follow him. What is the Liberal Party if not the tail of the Congress ? Many are asking, why do not the Liberals merge in the Congress—so useless has their existence become. How can Ranade help not regretting the collapse of the Liberal Party ? How can any Indian help regretting it ?

The collapse of the Liberal Party is a tragedy to the Liberals. But it is really a disaster to the country. The existence of a party is so essential to a popular Government that it is impossible to conceive the possibility of getting on without it. As an eminent American historian says :

> "It is easier to imagine the demolition of any part of our constitutional organization, the submersion of a large part of what the constitution describes, than to imagine our getting on without political combinations : they are our vital institutions."

Indeed to attempt to govern a country by the mass of voters without the control and discipline of a Party is, to use the language of James Bryce :

> "Like attempting to manage a rail-board by the votes of uniformed share holders, or to lay the course of a sailing ship by the votes of the passengers."

It is undeniable that a party is an essential adjunct to Popular Government. But it is equally undeniable that the rule of a single party is fatal to Popular Government. In fact it is a negation of Popular Government. The case of Germany and Italy furnish the most cogent evidence on this point. Instead of taking a warning from the totalitarian States we are taking them as models to copy. The one party system is being hailed in this country in the name of national solidarity. Those who are doing so are failing to take note of the possibilities of tyranny as well as the possibilities of misdirection of public affairs which is inherent in the one party Government. To have Popular

Government run by a single party is to let democracy become a mere form for despotism to play its part from behind it. How under one party Government the tyranny of the majority ceases to be an empty phrase and becomes a menacing fact has been our experience, in India, under the Congress Regime. Were we not told by Mr. Rajgopalachariar that the separation of the Executive and the Judiciary which was necessary under the British is no longer necessary ? Does it not show the Despot's taste for blood ? Despotism does not cease to be despotism because it is elective. Nor does despotism become agreeable because the Despots belong to our own kindred. To make it subject to election is no guarantee against despotism. The real guarantee against despotism is to confront it with the possibility of its dethronement, of its being laid low, of its being superseded by a rival party. Every Government is liable to error of judgment, great many liable to bad administration and not a few to corruption, injustice and acts of oppression and bad faith. No Government ought to be free from criticism. But who can criticize a Government ? Left to individuals it can never be done. Sir Toby has left behind advice as to how one should deal with one's enemy. He said : "soon, so soon as ever thou seest him, draw, and as thou drawest, swear horrible" But this is not possible for an individual who wants to stand up against a Government. There are various things against individuals successfully playing that part. There is in the first place what Bryce calls the fatalism of the multitude, that tendency to acquiesce and submit due to the sense of insignificance of individual effort, the sense of helplessness arising from the belief that the affairs of men are swayed by large forces whose movements cannot be turned by individual effort. In the second place there is possibility of the tyranny of the majority which often manifests in suppressing and subjecting to penalties and other social disabilities persons who do not follow the majority, of which some of us have good experience during the Congress regime. In the third place there is the fear of the C.I.D. The Gestapo and all the other instrumentalities which are at the disposal of the Government to shadow its critics and to silence them.

The secret of freedom is courage, and courage is born in combination of individuals into a party. A party is necessary to run Government. But two parties are necessary to keep Government from being a despotism. A democratic Government can remain democratic only if it is worked by two parties—a party in power and a party in opposition. As Jennings puts it :

> "If there is no opposition there is no democracy. 'His Majesty's Opposition' is no idle phrase. His Majesty needs an opposition as well as a Government."

In the light of these considerations who could deny that the collapse of the Liberal Party in India is not a major disaster ? Without the resusciation of the Liberal Party or the formation of another party the fight for freedom

will result in loss of freedom for despotism is antithetical of freedom whether the despotism is native or foreign. It is a pity Indians have lost sight of this fact. But I have no doubt those who are shouting that the Congress is the only party and that the Congress is the nation will live to rue their decision.

Why has the Liberal Party collapsed? Is there something wrong in the Philosophy of Ranade ? Is there anything wrong with the men in the Liberal Party ? Or is the working of the Liberal Party at fault ? I for one hold that there is nothing fundamentally wrong with the philosophy of Ranade. Nor can it be said that of the two the Congress has the best cause and the Liberal Party the best men. The Liberal Party has both. To my mind what has brought about the collapse of the Liberal Party is the complete lack of organization.

It may not be without interest to expose the weaknesses in the organization of the Liberal Party.

As pointed out by Pendleton Herring in his volume on *Politics of Democracy* the organization of a party is spread over three concentric rings. The centre ring represents the oligarchy in control of the party organization—what is called the High Command. There are associated with it, its workers who are primarily concerned with securing their livelihood through the party organization whether as party officials or through public office. They are called professional politicians and constitute the party machine. Surrounding this inner group—the High Command and the machine—there is a large circle of persons bound to the party by ties of tradition and emotional loyalty. They think of the principles professed by the party. They are more concerned with its ideals and symbols than with the acts of the professional party workers and leaders. They vote for the party ideal rather than for the party record. Outside this second ring lies that vast body of people who are not attached to any party. It is a floating population. The reason for their being unattached is either because they are aimless, thoughtless or because they have particular interests which are not included in the platform of any party. Those outside the second ring constitute the most vital field of action for a political party. They are the prize which a party must capture. To capture this prize it is not enough to enunciate principles and formulate policies. Men are not interested in principles and policies. But they are interested in accomplishing things. What is necessary for a party is to bring about concerted action. For in the words of President Woodrow Wilson, given self-Government with a majority rule, things can be accomplished not by individual voice but by concerted action. Now for concerted action what is necessary is the crystallization of individual opinions into public opinion. This crystallization or building up of public opinion as a sanction behind a particular principle becomes the main functions of a party. Theoretically, political parties are agencies for the expression and execution of public opinion but in practice parties create, direct, influence and often control

public opinion. Indeed this is the chief function of a party. For this, a party must do two things. In the first place it must establish contact with the masses. It must go out among the masses with its wares—its principles, policies, ideas and candidates. In the second place it must carry on propaganda among the masses in favour of its wares. It must animate them and enlighten them, to quote Bryce again "Give the voters some knowledge of the political issues they have to decide, to inform them of their leaders, and the crimes of their opponents". These are the basic factors from which concerted action can arise. A party which fails to forge concerted action has no right to call itself a party.

Which of these things the Liberal Party has done as an organization? The Liberal Party has only the High Command. It has no machine. Not having any machine the high command is only a shadow. Its following is confined to that second concentric ring consisting of persons who are bound by ties of tradition. The leaders have nothing to evoke emotional loyalty. They have no war-cry to gather a crowd. The Liberal Party does not believe in mass contact. It would be difficult to imagine a party so completely isolated and insulated from the main mass of people. It does not believe in conversion. Not that it has no Gospel to preach ; but like the Hindu religion it is a non-proselytising creed. It believes in the formulation of principles and policies. But it does not work for giving effect to them. Propaganda and concerted action are anathema to the Liberal Party. Individual voices and annual meetings and clamour for invitation when a Cripps arrives or when the Viceroy decides to invite important individuals have become the limits of its political activity.

Is there any wonder if the Liberal Party has fallen into disrepute ? The Liberal Party has forgotten the most elementary fact that organization is essential for the accomplishment of any purpose and particularly in politics where the harnessing of so many divergent elements in a working unity is so great.

Who is responsible for this collapse of the Liberal Party in India ? However much we may regret to have to say it, I think it will have to be admitted that the responsibility for this catastrophe does to some extent fall on Ranade. Ranade belonged to the Classes. He was born and bred among them. He never became a man of masses. The Liberal Party has no machine and the reason why it did not forge a machine is because it did not believe in mass contact. This aversion to mass contact is the legacy of Ranade. In avoiding mass contact the party is following the tradition left by Ranade. There is another legacy of Ranade to the Liberal Party and that relates to the false faith in the driving force of principles and policies. Mazzini once said : "You may kill men, you cannot kill a great idea." To me it appears to be a most mistaken view. Men are mortal. So are ideas. It is wrong to hold that an idea will take roots *pro prio-vigore*. An idea needs propagation

as much as a plant needs watering. Both will otherwise wither and die. Ranade agreed with Mazzini and did not believe that the fructification of an idea needed the resources of strenuous husbandry. If the Liberal Party is content with mere formulation of principles and policies it is also because of this tradition of Ranade.

What is the duty of the Liberals. All Liberals I know will say our duty is to follow the master. What else could be the attitude of a devout band of disciples ? But can anything be more mistaken or more uncritical ? Such an attitude implies two things. It means that a great man works by imposing his maxims on his disciples. It means that the disciples should not be wiser than the master. Both these conclusions are wrong. They do injustice to the master. No great man really does his work by crippling his disciple by forcing on them his maxims or his conclusions. What a great man does is not to impose his maxims on his disciples. What he does is to evoke them, to awaken them to a vigorous and various exertion of their faculties. Again the pupil only takes his guidance from his master. He is not bound to accept his master's conclusions. There is no ingratitude in the disciple not accepting the maxims or the conclusions of his master. For even when he rejects them he is bound to acknowledge to his master in deep reverence "You awakened me to be myself : for that I thank you." The master is not entitled to less. The disciple is not bound to give more.

It is therefore wrong to the master as well as to himself for the disciple to bind himself to the maxims and conclusions of his Master. His duty is to know the principles and if he is convinced of their value and their worth, to spread them. That is the wish of every Master. Jesus wished it, Buddha wished it. I am sure the same must be the wish of Ranade. It follows that if the Liberals have faith in, and love and respect for Ranade their supreme duty lies not merely in assembling together to sing his praises but in organising themselves for spreading the Gospel of Ranade.

What hope is there of the Liberals coming forward to fulfil this duty? Signs are very depressing. In the last election the Liberals did not even contest the seats. That of course is in itself a matter of some surprise. But this pales into nothing when one recalls the announcement made by the Rt. Hon'ble Srinivas Shastri—the Leading Light of the Liberal Party— that he wished the Congress to succeed ! ! There is no parallel to this except in the treacherous and treasonous conduct of Bhishma who lived on the bounty of the Kauravas but wished and worked for success to their enemies the Pandavas. This shows even the Liberals had lost faith in the gospel of Ranade. If this is the general condition of health of the Liberal Party it is better if the party died. It would clear the way for a new orientation and spare us the tedium of idle clatter of liberals and liberalism. For such an event even Ranade may express satisfaction from his grave.

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PART IV

ON CONSTITUTIONAL REFORMS

7

EVIDENCE BEFORE THE SOUTHBOROUGH COMMITTEE ON FRANCHISE

Examined on : 27th January 1919

From the Report of the Reforms Committee (Franchise)

Vol. II, 1919

EVIDENCE BEFORE THE SOUTHBOROUGH COMMITTEE

The Committee was constituted as under :

The Rt. Hon. Lord Southborough, G.C.B., G.C.V.O., G.C.M.C. *(Chairman)*.

Sir Frank G. Sly, K.C.S.I., I.C.S.

Sahibzada Aftab Ahmed Khan.

The Hon'ble Babu Surendranath Banerjea.

The Hon'ble Mr. M. N. Hogg.

W. M. Hailey, Esq., C.S.I., C.I.E., I.C.S.

The Hon'ble Mr. Srinivasa Sastri (Not present on 25-1-1919 and 27-1-1919).

And the following added members :

L. C. Crump, Esq., I.C.S.

K. Natarajan, Esq.

P. C. Tallents, Esq., I.C.S. (*Secretary*).

EVIDENCE BEFORE THE SOUTHBOROUGH COMMITTEE

WRITTEN STATEMENT

"The most difficult and the most momentous question of Government (is) how to transmit the force of individual opinion and preference into public action. This is the crux of popular institutions." So says Professor A.B. Hart. But this is only half the definition of popular Government. It is therefore necessary to emphasize the other half which is equal if not more in importance. As the Government is the most important field for the exercise of individual capacities, it is in the interest of the people that no person as such should be denied the opportunity of actively participating in the process of Government. That is to say popular Government is not only Government for the people but by the people. To express the same in a different way, representation of opinions by itself is not sufficient to constitute popular Government. To cover its true meaning it requires personal representation as well. It is because the former is often found without the latter that the Franchise Committee has to see in devising the franchises and constituencies for a popular Government in India, it provides for both, i.e., representation of opinions and representation of persons. Any scheme of franchise and constituency that fails to bring this about fails to create a popular Government.

2. Success in this task will ultimately depend upon the accuracy of the *de facto* conception of the society which is to be given the popular form of Government. *De facto* India was well portrayed by Lord Dufferin when he described it as a ...

> "Population . . . composed of a large number of distinct nationalities, professing various religions, practising diverse rites, speaking different languages, while many of them ... still further separated from one another by discordant prejudices, by conflicting sources of usages, and even antagonistic material interests. But perhaps the most patent characteristic

of our Indian cosmos is its division into two mighty political communities as distant from each other as the poles apart—On the one hand the Hindus—with their elaborate caste distinctions—on the other hand, the Mohammedans—with their social equality. To these must be added a host of minor nationalities most of them numbering millions—almost as widely differentiated from one another by ethnological or political distinctions as are the Hindus from the Mohammedans, such as Sikhs, with their warlike habits and traditions and their enthusiastic religious beliefs, the Rohillas, the Pathans, the Assamese, the Baluchis and other wild and martial tribes on our frontiers, the hillmen dwelling in the folds of the Himalayas, our subjects in Burma, Mongol in race and Buddhist in religion, the Gonds, Mhars, Bheels and other non-Aryan people in the centre and south of India, and the enterprising Parsees, with their rapidly developing manufactures and commercial interests. Again, amongst these numerous communities may be found, at one and the same moment, all the various stages of civilization through which mankind has passed from the pre-historic ages to the present days."

3. Englishmen have all along insisted that India is unfit for representative Government because of the division of her population into castes and creeds. This does not carry conviction with the advanced wing of Indian politicians. When they say that there are also social divisions in Europe as there are in India they are amply supported by facts. The social divisions of India are equalled, if not outdone, in a country like the United States of America. Corresponding to those in the former, we have in the latter men bonded together in a criminal conspiracy and trust or combinations that prey upon the public. Not only are there political sub-divisions but also industrial, scientific, and religious associations, differing in their aims and their attitudes towards each other. Apart from political parties with diverse ends, social sets, cliques and gangs we find in the United States of America more permanent divisions of the population such as the Poles, Dutch, Swedes, Germans, Russians, etc., each with its own language, religious and moral codes and traditions. If social divisions unfit a country for representative Government, it should unfit the United States of America as much as India. But if with all the social divisions, the United States of America is fit for representative Government, why not India ? Ask the Indian politicians, so entrenched, it is difficult to dislodge them, and show that the social divisions of India are of a different kind or grant them their contention. Without these two there is no third alternative possible.

4. In my opinion their contention cannot be granted for the social divisions of India do matter in politics. How they matter can be best shown by understanding when they don't matter. Men live in a community by virtue of the things they have in common. What they must have in common in order to form a community are aims, beliefs, aspirations, knowledge,

a common understanding; or to use the language of the Sociologists, they must be like-minded. But how do they come to have these things in common or how do they become like-minded? Certainly, not by sharing with another as one would do in the case of a piece of cake. To cultivate an attitude similar to others or to be like-minded with others is to be in communication with them or to participate in their activity. Persons do not become like-minded by merely living in physical proximity, any more than they cease to be like-minded by being distant from each other. Participation in a group is the only way of being like-minded with the group. Each group tends to create its own distinctive type of like-mindedness, but where there are more groups than one to be brought into political union, there would be conflict among the differently like-minded. And so long as the groups remain isolated the conflict is bound to continue and prevent the harmony of action. It is the isolation of the groups that is the chief evil. Where the groups allow of endosmosis they cease to be evil. For endosmosis among the groups makes possible a resocialization of once socialized attitudes. In place of the old, it creates a new like-mindedness, which is representative of the interests, aims, and aspirations of all the various groups concerned. Like-mindedness is essential for an harmonious life, social or political and, as has just been shown, it depends upon the extent of communication, participation or endosmosis. Applying this test to the divisions in India, we must pronounce upon them as constituting an obstacle in the path of realizing an harmonious political life.

5. The groups or divisions each with its set like-mindedness that are sure to be in conflict may be given as follows :

(1) Hindus;

(2) Mohammedans ;

(3) Christians ;

(4) Parsees;

(5) Jews, etc.

Except the Hindus the rest of the divisions are marked by such complete freedom of communication from within that we may expect their members to be perfectly like-minded with respect to one another. Regarding the Hindus, however, the analysis must be carried on a little farther. The significant fact about the Hindus is that before they are Hindus they are members of some caste. The castes are so exclusive and isolated that the consciousness of being a Hindu would be the chief guide of a Hindu's activity towards non-Hindu. But as against a Hindu of a different caste his caste-consciousness would be the chief guide of activity. From this, it is plain that as between two Hindus, caste-like-mindedness is more powerful than the like-mindedness due to their both being Hindus. Thus from within the Hindus, as from without, there is likely to be a conflict of like-minded persons. There are some who argue that this conflict runs through the whole

gamut of the caste system. But this is protesting too much. From the point of view of communication the Hindus, in spite of castes, divide themselves into two significant groups—the touchables and the untouchables. The touchables have enough communication between them to enable us to say that the conflict of like-mindedness so far as they are concerned is not much to be dreaded. But there is a real difference and consequent conflict between the like-mindedness of the touchables and the untouchables. Untouchability is the strongest ban on the endosmosis between them. Their complete isolation accounts for the acuteness of the difference of like-mindedness.

The real social divisions of India then are :

(1) Touchable Hindus.

(2) Untouchable Hindus.

(3) Mohammedans.

(4) Christians.

(5) Parsees.

(6) Jews.

6. It will not do good to ignore these real divisions in devising a system of policy, if the policy is to take the form of popular Government. But if the success of popular Government depends upon how well the constituencies and franchises transmit the social forces and how well they secure personal representation ; we must first study the form which the conflict between these groups will assume in an election.

7. In a territorial constituency, which will group together voters belonging to the above groups, a majority of votes will declare a candidate to be a representative for the constituency in question. Now the question arises : is such a candidate, a true representative of the groups, covered by the territorial constituency ? Is he a true mirror of the mind of the constituency ? Is he a representative of all the interests in the constituency ? To be concrete, will a Hindu candidate represent Mohammedan interests ? At this stage it must be recalled that the various divisions described above are held together by a community of interests which are non-secular or purely religious. We cannot say that each division is held together by a community of interests which are secular or material. If so, then for secular purposes the groups will be broken up. From the point of view of material interests, there are no such people as Mohammedans, Parsees, Hindus, etc. There will be in each of these groups landlords, labourers, capitalists, free traders, protectionists, etc., each of the groups having community of interests which are material will be composed of Hindus, Mohammedans, Parsees, etc. Consequently, a Hindu candidate can very well represent the material interests of the Mohammedans and *vice versa*. There is thus no conflict of material interest in the main among the communities as such. If we suppose that religious interests in future will occupy a subordinate place in the

affairs of men, the secular interests of a group can be well represented by a candidate from another group.

8. From this point of view a territorial constituency will be sufficient for a popular Government. A little more consideration will show that it will be sufficient for only one-half the definition of popular Government. How true it is, will be shown presently. In an electoral fight between the various groups in a territorial constituency the voters will discriminate in favour of a candidate with whom they are in sympathy. But with whom they will be in sympathy is determined for them in advance. Given two candidates belonging to different groups but purporting to represent the same interest, the voters will mark their votes on the person belonging to the same community. Any group yielding a large number of electors will have its own candidate elected. This discrimination on the part of the voters, though it may not leave unrepresented the interests of the members of the minor groups, leaves them without any chance of personal representation.

9. To those who are busy in devising schemes for the proper and adequate representation of interests and opinions dilating on the importance of personal representation is likely to seem idle. But personal representation is not therefore unimportant. In recent times "Government for the people" has claimed more attention than "Government by the people". In fact there are instances to show that "Government for the people" can exist in the best sense of the phrase without there being a "Government by the people." Yet all political theorists will unanimously condemn such a form of Government. And the why of it is important to know. It will be granted that each kind of association, as it is an educative environment, exercises a formative influence on the active dispositions of its members. Consequently, what one is as a person is what one is as associated with others. A Government for the people, but not by the people, is sure to educate some into masters and others into subjects; because it is by the reflex effects of association that one can feel and measure the growth of personality. The growth of personality is the highest aim of society. Social arrangement must secure free initiative and opportunity to every individual to assume any role he is capable of assuming provided it is socially desirable. A new rule is a renewal and growth of personality. But when an association—and a Government is after all an association—is such that in it every role cannot be assumed by all, it tends to develop the personality of the few at the cost of the many—a result scrupulously to be avoided in the interest of Democracy. To be specific, it is not enough to be electors only. It is necessary to be law-makers ; otherwise who can be law-makers will be masters of those who can only be electors.

10. Territorial constituencies are therefore objected to, and rightly, on the ground that they do nothing to prevent this absurd outcome. They erroneously suppose that electors will vote on the programmes of the

candidates without any regard for their persona. As a matter of fact, the electors before they are electors are primarily members of a group. The persona of the candidates does matter with them. Naturally, therefore, as members of a group they prefer the candidate who belongs to their group to another candidate who does not belong to their group though both of them claim to represent the same interest. As a result of this preference the electors of a large group are destined to rise to a higher position of becoming eventual law-makers, while the electors of a smaller group for no fault of theirs are doomed to a lower position of remaining electors. One crux of popular Government is the representation of interests and opinions. The other crux is personal representation. Territorial constituencies fail to create popular Government because they fail to secure personal representation to members of minor groups.

11. If this is a correct analysis as to how the social divisions operate to the prejudice of the political life of some communities, never was a more improper remedy advocated to meet the situation than proportional representation. Proportional representation is intended to give proportionate representation to views. It presupposes that voters vote for a candidate because of his views and not because of his persona. Proportional representation is ill-suited for the purpose in hand.

12. We have therefore two possible methods of meeting the situation : either to reserve seats in plural constituencies for those minorities that cannot otherwise secure personal representation or grant communal electorates. Both have their usefulness. So far as the representation of the Mohammedans is concerned, it is highly desirable that they should participate in a general election with seats reserved for them in plural constituencies. The angularity of the division that separates the Hindus and Mohammedans is already sharp and communal representation, it may be urged, sharpens it the more. Communal election, however, seems to be a settled fact, so far as the Mohammedans are concerned and nothing is likely to alter it, even though alteration is likely to be beneficial.

13. But this argument is mainly intended to concern itself with the representation of the Hindus in general, and of the untouchable Hindus in particular. The discussion of the representation of the Hindus may be best introduced by a quotation which expresses the newer consciousness that has arisen in the various Hindu groups. It is said :

> "A community may claim representation only on the ground of separate interests which require protection. In India, such interests are of three kinds only : either they arise out of religious antipathies which are pretty strong in India, or out of the backward state of a community in educational matters, or out of the socio-religious disabilities to which a community may be subject. Confining ourselves to the Hindu communities there are certain communities who, besides being very

backward, are suffering under a great social tyranny. The untouchable classes must have their own men in the Council Hall to fight for the redress of their grievances. The non-Brahmins as a class are subjected to the social and intellectual domination of the Brahmin priesthood and may therefore rightly advocate separate representation."

14. From this it will be seen that the new consciousness among the Hindus while acknowledging the separate interests of the untouchables does not accept the position that the touchable Hindus form a group by themselves. The new consciousness insists on dividing the touchable group into Brahmins and non-Brahmins each with its own separate interests. Separate electorates or reserved seats in mixed electorates are demanded for the three groups in which the Hindus are divided. Before dealing with the problems of the representation of the untouchables something will be said on the question of the Brahmins and non-Brahmins.

15. That the non-Brahmins are "backward in educational matters" cannot be said in any way to be their special interest. It is the general interest of all even of those Brahmins who are educationally backward. "The intellectual and social domination of the Brahmins" is not a matter that affects the non-Brahmins alone. It affects all and it is therefore the interest of all. What remains then as a special interest for the non-Brahmins to require their protection ?

The case for separate representation for non-Brahmins fails because they cannot prove to have a common non-Brahmin interest.

16. But do they fail to secure personal representation ?

This can be best shown by reference to figures—

Group I			Group II		
Caste of Local Board voters		No. of voters for the Local Boards of the districts of Belgaum, Bijapur and Dharwar 2	Total population of the three districts	No. of voters for the Local Boards of the districts of Ratnagiri and Kolaba	Total population of the two districts
1		2	3	4	5
Brahmins	. .	4,600	85,739	4,477	89,786
Lingayats	. .	12,730	933,123	. . . .	. . . .
Marathas	. .	1,074	255,526	3,667	446,077
Mahars	. .	22	196,751	33	138,738
Mohammedans	. .	661	295,838	1,169	106,273
Others	. .	4,241	1,065,821	2,837	1,016,930
Total	. .	23,328	2,832,798	12,183	1,797,804

Reducing the above figures to the basis of a thousand we have the following interesting result :

	Group I			Group II		
Names of Castes	Proportion of population of a caste to every thousand of the population covered	Proportion of voters of a caste to every thousand of the population of the same caste	Proportion of voters of a caste to every thousand of voters	Proportion of population of a caste to every thousand of the population covered	Proportion of voters of a caste to every thousand of the population of the same caste	Proportion of voters of a caste to every thousand of voters
1	2	3	4	5	6	7
Brahmins ..	30.2	53.7	197.2	50.8	49.8	367.4
Lingayats ..	329.4	13.6	545.7	....	....	....
Marathas ..	90.2	4.2	46.0	248.8	8.2	300.9
Mahars ..	69.5	0.1	0.9	74.5	0.2	2.7
Mohammedans ..	104.4	2.2	28.3	59.2	10.9	95.9
Others ..	376.2	3.9	181.3	562.2	2.8	232.8

So arranged, the conclusions to be drawn from these figures are highly important.

(1) The Brahmins, given a uniform franchise for all, though a small minority so far as numbers are concerned becomes a majority so far as the total of voters is concerned as is the case in Group II.

(2) Though with an uniform franchise the non-Brahmin communities like the Lingayats and Marathas do not fail to figure on the voters' list, the proportion of their voters to their population is insignificant as compared with the proportion which the Brahmin voters bear to the Brahmin population.

17. The proportion of the Brahmins to their voters is really extravagant. It is justified neither by faith in them nor by their own numbers. The Lingayats though they can legitimately complain that the proportion of their voters is small will succeed in securing personal representation. The Marathas though larger in numbers than the Brahmins, besides the very small proportion of their voters suffer on the voters' list and very likely will fail to secure personal representation for themselves.

So argued, the case for special provision of the Marathas can be sustained and should be admitted.

18. The question is in what form the provision should take. In my opinion such provision instead of taking the form of separate electorates of reserved seats should take the form of a low pitched franchise. The franchise for the non-Brahmin should be lower than that for the Brahmin. By this arrangement the Marathas would improve their position on the voters' list and the altogether favoured position of the Brahmin would be equalized. It is in the interest of all that the Brahmin should not play such a preponderant part in politics as he has been doing hitherto. He has exerted a pernicious influence on the social life of the country and it is in the interest of all that his pernicious influence should be kept at a minimum in politics. As he is the most exclusive he is most anti-social.

19. Even the authors of the report on constitutional reforms are not in favour of a limited or uniform franchise. They say, "We consider that the limitations of the franchise, which it is obviously desirable to make as broad as possible, should be determined rather with reference to practical difficulties than to any prior considerations as to the degree of education or amount of income which may be held to constitute a qualification. It is possible that owing to unequal distribution of population and wealth it may be necessary to differentiate the qualifications for a vote not merely between provinces, but between different parts of the same province" (P. 147) To this I should like to add that we should differentiate the qualifications for a vote not merely between provinces or parts thereof but between communities of the same province. Without this differentiation some communities with a small but wealthy or educated population will secure more votes than a large community consisting of poor and uneducated members. Uniformity in franchise should be dispensed with. An important result will be that communal representation or reservation of seats for some non-Brahmin communities who are now clamouring for it would be avoided.

20. The untouchables are usually regarded as objects of pity but they are ignored in any political scheme on the score that they have no interests to protect. And yet their interests are the greatest. Not that they have large property to protect from confiscation. But they have their very *persona* confiscated. The socio religious disabilities have dehumanized the untouchables and their interests at stake are therefore the interests of humanity. The interests of property are nothing before such primary interests.

21. If one agrees with the definition of slave as given by Plato, who defines him as one who accepts from another the purposes which control his conduct, the untouchables are really slaves. The untouchables are so socialized as never to complain of their low estate. Still less do they ever dream of trying to improve their lot, by forcing the other classes to treat

them with that common respect which one man owes to another. The idea that they have been born to their lot is so ingrained in their mind that it never occurs to them to think that their fate is anything but irrevocable. Nothing will ever persuade them that men are all made of the same clay, or that they have the right to insist on better treatment than that meted out to them.

22. The exact description of the treatment cannot be attempted. The word untouchable is an epitome of their ills and sufferings. Not only has untouchability arrested the growth of their personality but also it comes in the way of their material well-being. It has also deprived them of certain civil rights. For instance, in Konkan the untouchables are prohibited from using the public road. If some high caste man happens to cross him, he has to be out of the way and stand at such a distance that his shadow will not fall on the high caste man. The untouchable is not even a citizen. Citizen ship is a bundle of rights such as (1) personal liberty, (2) personal security, (3) rights to hold private property, (4) equality before law, (5) liberty of conscience, (6) freedom of opinion and speech, (7) right of assembly, (8) right of representation in a country's Government and (9) right to hold office under the State. The British Government by gradual growth may be said to have conceded these rights at least in theory to its Indian subjects. The right of representation and the right to hold office under the State are the two most important rights that make up citizenship. But the untouchability of the untouchables puts these rights far beyond their reach. In a few places they do not even possess such insignificant rights as personal liberty and personal security, and equality before law is not always assured to them. These are the interests of the untouchables. And as can be easily seen they can be represented by the untouchables alone. They are distinctively their own interests and none else can truly voice them. A free trade interest can be voiced by a Brahmin, a Mohammedan or a Maratha equally well. But none of these can speak for the interests of the untouchables because they are not untouchables. Untouchability constitutes a definite set of interests which the untouchables alone can speak for. Hence it is evident that we must find the untouchables to represent their grievances which are their interests and, secondly, we must find them in such numbers as will constitute a force sufficient to claim redress.

23. Now, will a general territorial electorate provided for the adequate return of the untouchables to the law-making body ? Referring back to the figures we find that the untouchables (represented in the table by the Mahars), though they formed 69.4 in every thousand of the population, did not claim even a voter from their class. Under such circumstances it is impossible for them to elect their own man in a general electorate. On the other hand they must despair of any votes being cast by the touchable Hindus for an untouchable candidate. The gradation of castes produces a certain

theological basis which cuts the untouchables both ways : in the minds of the lower orders it creates a preference for the higher orders while it creates a contempt for the lower orders in the minds of the higher orders. Thus the ascending scale of preference and the descending scale of hatred and contempt beggars the untouchables both ways. Without giving a single vote to the untouchables the touchables are sure to make a large draft on the already meagre voting strength of the untouchables.

24. So situated, the untouchables with the largest interests at stake will be the greatest sufferers in a general territorial electorate. To give them an opening, special provision shall have to be made for their adequate representation. But before a scheme can be outlined it is necessary to see how much is the untouchable population in the Bombay Presidency. The Census Report for the Bombay Presidency for the year 1911 gives the following figures for castes which "cause pollution" :

Bhungis	93,691
Chamars, Mochis, Machigars	306,478
Sochis, Mhars, Holiyas, Dheds	1,470,992
Mangs, Madigs	274,037
Total	2,145,193
To this must be added the Dhors amounting to	13,506
Total Untouchables	2,158,699

The following figures give the distribution of the untouchables by districts :

District	Total population 1911	Total Hindu population	Total untouchable Population	Percentage of untouchables to the total population	Percentage of untouchables to the Hindu population
1	2	3	4	5	6
British Districts (excluding Aden).	19,628,477	14,920,267	1,627,980	8	10.9
1. Bombay City	979,445	664,042	89,052	9	11.6
Northern Division	3,685,383	3,117,263	245,050	6.6	7.8
2. Ahmedabad	827,809	693,155	78,869	10	11.4
3. Broach	306,717	192,935	22,390	7	11.6

1		2	3	4	5	6
4. Kaira	. .	691,744	598,164	41,497	5.9	6.9
5. Panch Mahals	. .	332,695	274,339	14,410	4	5
6. Surat	. .	654,109	571,745	36,509	5.6	6
7. Thana	. .	882,309	786,925	50,010	5.6	6
Central Division	. .	6,387,064	5,993,828	7,73,184	12	13
8. Ahmednagar	. .	945,305	855,676	116,929	12	13.6
9. Khandesh (East)	. .	1,034,886	902,131	112,391	10.8	12
10. Khandesh (West)	. .	580,723	474,200	36,809	6	7.7
11. Nasik	. .	905,030	843,705	97,740	10.7	11
12. Poona	. .	1,071,512	991,725	113.118	12.4	13.3
13. Satara	. .	1,081,278	1,028,176	144,688	13	14
14. Sholapur	. .	768,330	703,215	129,063	16.7	18
Southern Division	. .	5,061,150	4,502,708	385,470	7.6	8.5
15. Belgaum	. .	943,820	817,797	83,199	8.8	10.1
16. Bijapur	. .	862,973	757,542	80,501	9	10.6
17. Dharwar	. .	1,026,005	872,885	52,540	5	6
18. Kanara	. .	430,548	383,624	10,767	2.4	2.9
19. Kolaba	. .	594,156	560,266	51,108	8.5	9.1
20. Ratnagiri	. .	1,203,638	1,110,594	107,354	8.9	9.7
Sind (British Districts)	. .	3,513,435	837,426	135,224	3.8	16

25. The total population of the Bombay Presidency by the Census of 1911 (British districts only) is 19,626,477. Of this the untouchable population is 1,627,980 or 8 per cent of the total. Assuming for the present the Bombay Legislative Council to consist of 100 elected members, the untouchables should have 8 representatives to represent them in the Council. If we distribute one representative to every 200,000 of the people (which is just the ratio of 100 representatives to the 20 millions of the population), then the untouchables can by right claim 8 representatives to themselves. But the untouchables of the Bombay Presidency may be allowed to elect 9 members in all. The election of one additional member will be justified later on.

26. Allowing them to elect 9 members, the constituencies which are to elect them should be as follows:

1. The various districts of the Presidency except the City of Bombay and the Province of Sind should be grouped together on a linguistic basis as follows:

I. Gujarathi-speaking districts		II. Marathi-speaking districts		III. Kanarese-speaking districts	
1. Ahmedabad	78,969	1. Thana	50,010	1. Dharwar	52,540
2. Broach	22,390	2. Kolaba	51,108	2. Bijapur	80,503
3. Kaira	41,497	3. Ratnagiri	107,354	3. Belgaum	83,199
4. Panch Mahals ..	14,410	4. Ahmednagar	116,929	4. Kanara	10,758
5. Surat	36,509	5. Khandesh West	36,809		
		6. Khandesh East.	112,391		
		7. Satara	144,738		
		8. Poona	148,118		
		9. Nasik	96,740		
		10. Sholapur	129,063		

27. The following should be the constituencies of the untouchables and the number of representatives which each constituency should elect:

Language	District		Population in each district	Population in each constituency	Number of the constituency	Number of representatives to be elected by the constituency
1	2		3	4	5	6
	Bombay City	..	89,052	89,052	I	1
I. Gujarathi	1. Ahmedabad	..	78,869	193,675	II	1
	2. Broach	..	22,390			
	3. Kaira	..	41,497			
	4. Panch Mahals	..	14,410			
	5. Surat	..	36,509			
II. Marathi	1. Thana	..	50,010	208,472	III	1
	2. Kolaba	..	51,108			
	3. Ratnagiri	..	107,354			
	4. Ahmednagar	..	116,929	363,869	IV	2
	5. Khandesh East	..	112.391			
	6. Khandesh West	..	36,809			
	7. Nasik	..	97,740			
	8. Satara	..	144,688	406,869	V	2
	9. Poona	..	133,118			
	10. Sholapur	..	129,063			
III. Kanarese	1. Belgaum	..	83,199	227,007	VI	
	2. Bijapur	..	80,501			
	3. Dharwar	..	52,540			
	4. Kanara	..	10,767			
	Sind	..	135,224	135,224	VII	1

Total number of representatives to be elected by the untouchables of the Presidency.

These 9 elected members should form a constituency to elect one member from among themselves to represent the untouchables of this Presidency in the Imperial Legislative Council.

28. It may be objected that though 8 representatives are not in excess to the untouchable population it may be in excess to the voting strength of untouchables. That the untouchables are a poor community and that under the same franchise they yield per thousand a smaller proportion of voters than other communities is a fact. But if the grave position of the untouchables is admitted instead of restricting their number of representatives, the aim should be to increase the number of their voters, i.e., we must aim at lowering the franchise so far as the untouchables are concerned.

29. What the franchise should be is a very important question. There is a line of argument which urges that franchise should be given to those only who can be expected to make an intelligent use of it. As against this view it can be said in the words of Prof. L. T. Hobhouse that it is true that "the success of democracy depends on the response of voters to the opportunities given them. But conversely the opportunities must be given in order to call forth the response. The exercise of popular Government is itself all education ... enfranchisement itself may precisely be the stimulus needed to awaken interest. The ballot alone effectively liberates the quiet citizen from the tyranny of the shouter and the wire-puller. An impression of existing inertness alone is not a sufficient reason for with-holding responsible Government or restricting the area of sufferage." Taking into consideration that sufferage is an education and that there are groups with unequal distribution of wealth and education among them and that these groups are not sympathetically like-minded, the authors of the reports rightly argue that the case for uniformity of franchise cannot be sustained.

30. But in the case of the untouchables there are as few reasons for curtailing the number of their representatives as the reasons for widening their electorate are many. If under a given franchise the untouchables do not muster strong as electors, it is not their fault. The very untouchability attached to their person is a bar to their moral and material progress. The principal modes of acquiring wealth are trade, industry or service. The untouchables can engage in none of these because of their untouchability. From an untouchable trader no Hindu will buy. An untouchable cannot be engaged in lucrative service. Military service had been the monopoly of the untouchables since the days of the East India Company. They had joined the Army in such large numbers that the Marquis Tweedledale in his note which he submitted to the Indian Army Commission of 1859 wrote, "It should never be forgotten that India was conquered with the help of the low-caste men.". But after the mutiny when the British were able to secure soldiers from the ranks of the Marathas, the position of the low-caste men who had been the prop of the Bombay Army became precarious, not

because the Marathas were better soldiers but because their theological bias prevented them from serving under low-caste officers. The prejudice was so strong that even the non-caste British had to stop recruitment from the untouchable classes. In like manner, the untouchables are refused service in the Police Force. In a great many of the Government offices it is impossible for an untouchable to get a place. Even in the mills a distinction is observed. The untouchables are not admitted in Weaving Departments of the Cotton Mills though many of them are professional weavers. An instance at hand may be cited from the school system of the Bombay Municipality. This most cosmopolitan city ruled by a Corporation with a greater freedom than any other Corporation in India has two different sets of schools ... one for the children of touchables and the other for those of the untouchables., This in itself is a point worthy of note. But there is something yet more noteworthy. Following the division of schools it has divided its teaching staff into untouchables and touchables. As the untouchable teachers are short of the demand, some of the untouchable schools are manned by teachers from the touchable class. The heart-killing fun of it is that if there is a higher grade open in untouchable school service, as there is bound to be because of a few untouchable trained teachers, a touchable teacher can be thrust into the grade. But if a higher grade is open in the touchable school service, no untouchable teacher can be thrust into that grade. He must wait till a vacancy occurs in the untouchable service ! ! ! Such is the ethics of the Hindu social life. Under it if the untouchables are poor, the committee, it may be hoped, will not deny them representation because of their small electoral roll but will see its way to grant them adequate representation to enable the untouchables to remove the evil conditions that bring about their poverty. At present when all the avenues of acquiring wealth are closed, it is unwise to require from the untouchables a high property qualification. To deny them the opportunities of acquiring wealth and then to ask from them a property qualification is to add insult to injury. Just what sort of franchise and just what pitch are required to produce sufficient voting strength from the untouchables ? In absence of data, I leave it to the Committee to decide. It would be better to pitch the franchise so low as to educate into political life as many untouchables as possible. They are too degraded to be conscious of themselves. I only wish to emphasize that in deciding upon the representation of the untouchables the Committee looking to their interests at stake will not let the extent of the electorate govern the number of representatives, but will rather let the number of representatives govern the extension of the electorate.

31. In this connection it would not be improper to remind the Committee of Lord Morley who is reported to have said that "the object of Government was that the Legislative Councils should represent truly and effectively with reasonable approach to the balance of real social forces, the wishes and needs of the communities concerned. This could not be done by Algebra,

Arithmetic, Geometry or Logic, but by a wide outlook. He saw no harm as to a compromise that while numbers should be the main factor in determining the extent of representation modifying causes might influence the number of representatives." It is therefore proposed that the untouchables of the Bombay Presidency should be allowed to elect 9 members through the constituencies made up as above. These 9 members will further form a constituency to elect one member from among themselves to represent the untouchables in the Imperial Legislative Council leaving 8 members to represent the untouchables in the Bombay Legislative Council.

32. Besides communal electorates there are other schemes in the field for the representation of the untouchables. It would not be proper to close this statement without a word of comment on those Schemes.

33. The Congress has denied communal representation except in the case of Mohammedans and it also denies the extensive use of nomination ; the only way then left, open to the untouchables is to fight in a general electorate. Now this is as it should be if all were equally free to fight. To educate the untouchables by Shahtras into pro-touchables and the touchables into anti-untouchables and then to propose that the two should fight out at an open poll is to betray signs of mental aberration or a mentality fed on cunning. But it must never be forgotten that the Congress is largely composed of men who are by design political Radicals and social Tories. Their chant is that the social and the political are two distinct things having no bearing on each other. To them the social and the political are two suits and can be worn one at a time as the season demands. Such a psychology has to be laughed at because it is too interested to be seriously taken into consideration either for acceptance or for rejection. As it pays to believe in it, it will die a hard death. Starting from this unnatural premise the Congress activities have been quite natural. Those who attend the Congress do not care to attend the National Social Conference held in the same pandal. In fact those who attend the Congress had once started a campaign to refuse the use of the pandal to the Conference which was once refused the pandal in the city of Poona, the roosting place of the intelligentia of our Presidency, As the Congress is a non-national or anti-national body, its views on communal electorates are worthy of no serious consideration.

34. The moderates in their separate meeting have been more kindly than just. They proposed the reservation of seats for backward communities in plural constituencies. They have not specified the number of seats for the untouchables. But the general sense of many enlightened moderates and others kindly inclined is that one or two representatives of the untouchables in the Legislative Council would suffice. It is impossible to agree with these gentlemen though they are entitled to gratitude for this much sympathy. One or two representatives of the untouchables are as good as having none.

A Legislative Council is not an old curiosity shop. It will be a Council with powers to make or mar the fortunes of society. How can one or two untouchables carry a legislative measure to improve their condition or prevent a legislative measure worsening their state ? To be frank, the untouchables cannot expect much good from the political power to be given over to the high caste Hindus. Though the power may not be used against the untouchables and one cannot be altogether sure of this, it may not be used for their betterment. A Legislative Council may be sovereign to do anything it likes, but what it will like to do depends upon its own character. The English Parliament, we may be certain, though it is sovereign to do anything, will not make the preservation of blue-eyed babies illegal. The Sultan will not, though he can, change the religion of Mohammed just as the Pope will not, though he can, overthrow the religion of Christ. In the same way legislature, mainly composed of high caste men, will not pass a law removing untouchability, sanctioning inter-marriages, removing the ban on the use of public streets, public temples, public schools ; in short, cleansing the person of the untouchables. This is not because they cannot, but chiefly because they will not. A legislature is the product of a certain social condition and its power is determined by whatever determines society. This is too obvious to be denied. What may happen in future can be guessed from what has happened in the past. The high caste men in the Council do not like any social question being brought before the legislature, as may be seen from the fact of the Resolution introduced by the Honourable Mr. Dadabhoy in 1916 in the Imperial Legislative Council. That it was adversely criticized by many who claimed to evince some interest in the untouchables is too well known to need repetition. But what is not well known is that though the resolution was lost the mover was not pardoned ; for the very moving of such a nasty resolution was regarded as a sin. At a subsequent election the mover had to make room for the Honourable Mr. Khaparde, who once wrote in an article : " Those who work for the elevation of the untouchables are themselves degraded."

Isn't this sympathy of the higher castes for the untouchables, sympathy with a vengeance ?

35. Those who tell that one or two members would suffice for the untouchables fail to grasp the true import of political right. The chief import of a political right though technically summed up in the power to vote does lie either in voting upon for laws or for those who make laws ; neither does it consist in the right to speak for or against a certain measure nor in being able to say "yea or nay" upon roll-call; to be able to put into a ballot-box a piece of paper with a number of names written thereon is an act which, like those mentioned above, of itself possesses no value which stamps it as inherently superior to many of the most ordinary transactions of daily life. They are educative but as much as any transaction

is. The chief significance of sufferage or a political right consists in a chance for active and direct participation in the regulation of the terms upon which associated life shall be sustained. Now the terms upon which the associated life between the touchables and untouchables is carried on today are the most ignominious to the former and highly detrimental to the latter. To make effective the capacities of a people there must be the power to fix the social conditions of their exercise. If the conditions are too obdurate, it is in the interest of the untouchables as well as of the touchables that the conditions should be revised. The untouchables must be in a position to influence the revision. Looking to the gravity of their interests, they should get their representation as proposed in proportion to their population. One or two is only kind but neither just nor sufficient. As Lord Morley says in an earlier quotation, needs not numbers should govern the extent of representations.'

36. Recently there is brought into the forefront a rival scheme for the representation of the untouchables by the Depressed Class Mission. The scheme is known as co-option. The scheme proposes that the representatives of the untouchables should be nominated by the co-option of the elected members of the Council. Whether one should laugh or cry at the solicitude of the Mission for the untouchables it is rather difficult to decide. To cry is to believe that such a silly scheme would ever be adopted. The best way is to laugh it out. From the scheme can be easily seen that what is some times called benevolent interest in others may be an unwilling mask for an attempt to dictate to them what their good shall be, instead of an endeavour to agree with them so that they may seek and find the good of their own choice. The Mission, it must be said, was started with the intention of improving the condition of the Depressed Classes by emancipating them from the social tyranny of their high caste masters. But the Mission has fallen on such bad times that it is forced to advocate a scheme by which its wards or their representatives will be bounden slaves of their past masters. The masters and the mission have thus met and evolved a scheme which will keep the Depressed classes eternally depressed without any hope of deliverance. Such tactics do not deceive the untouchables ignorant as they are ; much less will they deceive the Franchise Committee. From another point of view the scheme of the Mission is unacceptable. It is aggravating to see the Mission proposing a scheme for the representation of the untouchables while persistently refusing to admit an untouchable in its governing council. Interested and officious as it is, its scheme must be rejected.

37. Nomination even though by Government in itself to be preferred to the former kind of nomination, is to be objected to from the stand-point of the untouchables. Apart from restricting the freedom of the representatives it fails to give political education which is the urgent need of all communities, much more of the untouchables.

38. At this stage we must consider the argument against communal representation. The first argument raised by the authors of the report is to the effect "that the history of self-government among the nations who have developed it is decisively against" communal representation. But on an earlier page the authors say that the difference of caste and creeds must be taken "into account as presenting a feature of Indian Society which is out of harmony with the ideas on which elsewhere in the world representative institutions rest" (page 97). In writing the former the later analysis of the situation must have vanished from their minds, else we must say that the authors could hold two opposing views at the same time. Presented in juxtaposition, the authors must be expected to agree to communal representation on the score of an exceptional remedy required to meet an exceptional situation.

39. Another and chief argument against communal representation is that it will perpetuate social divisions. The fun of it is that those who uphold the social divisions are the loudest in their expression of this adverse argument. The committee will please note that those who are the opponents of communal representation on this score are also the staunchest opponents of Mr. Patel's Inter-Caste Marriage Bill as a caste-breaking bill. The sincerity of those who bring forward this argument is seriously to be doubted. But as even the authors of the report have put it as a second count against communal representation, this particular argument must be met if possible.

Does communal representation perpetuate social divisions ? If you look upon communal representation as making electoral Colleges of social divisions, the criticism may be said to be valid. This is true only if it is presupposed that the divisions are no real divisions and that they don't matter. This is as false a pre-supposition as that of inviting India which is made when it is said that Englishmen are unsocial. Communal Representation is a device to ward off the evil effects of the divisions. To those who, while agreeing to this particular benefit of communal representation, object to it on the score that it perpetuates the divisions it can be shown that there is another perspective from which it can be said that communal representation instead of perpetuating the social divisions is one of the ways of dissolving them.

40. While communal electorates will be co-terminous with social divisions their chief effect will be to bring together men from diverse castes who would not otherwise mix together into the Legislative Council. The Legislative Council will thus become a new cycle of participation in which the representatives of various castes who were erstwhile isolated and therefore anti-social will be thrown into an associated life. An active participation in an associated life, in its turn, will not leave unaffected the dispositions and attitudes of those who participate. A caste or a religious group to-day is a certain attitude. So long as each caste or a group remains isolated its attitude remains fossilized. But the moment the several castes and groups

begin to have contact and co-operation with one another the resocialization of the fossilized attitude is bound to be the result. If the Hindus become resocialized with regard to their attitude towards Mohammedans, Christians, etc., and the Mohammedans, Christians, etc., become resocialized with regard to their attitudes towards the Hindus, or the touchable Hindus with regard to the untouchables, caste and divisions will vanish. If caste is an attitude and it is nothing else, it must be said to be dissolved when that particular attitude symbolizing the caste is dissolved. But the existing set attitude representing the diverse castes and groups will be dissolved only if the diverse groups meet together and take part in a common activity. Such changes of disposition and attitudes will not be ephemeral but will, in their turn influence associated life outside the Council Hall. The more opportunities are created for such conjoint activities the better. The resocialization will then be on a larger scale and bring about a speedier end of caste and groups. Thus those who condemn communal representation on the score of perpetuating the existing divisions will welcome it, on reflection, as a potent solvent for dissolving them.

41. The importance and necessity of communal and adequate representation of untouchables is beyond question. The depth of emotion with which the untouchables speak on this topic must have been easily gauged when the untouchables of the Madras Presidency told Mr. Montagu that there would be bloodshed if Home Rule for India was not accompanied by communal representation to the untouchables. The authors of the Report however are actuated by a faith in the intelligentsia to effect all reforms fox the elevation of the untouchables from permanent degradation and ostracism. They say "they find the educated Indian organizing effort not for political ends alone but for various forms of public and social service.". As the authors have connived at the demands of the untouchables on this score it is but proper to investigate whether their faith is well grounded. On education and its social value the words of Joseph Addison are not too stale to be recalled. He said, "There can be no greater injury to human society than that good Talents among men should be held Honourable to those who are endowed with them without any regard how they are applied. The Gifts of Nature and the Accomplishments of Art are valuable but as they are exerted in the interest of virtue or governed by the Rules of Honour, we ought to abstract our minds from the observation of an excellence in those we converse with, till we have taken some notice or received some good information of the Disposition of their Minds, otherwise they make us fond of those whom our reason and judgment will tell us we ought to abhor."

42. Statistics will show that the intelligentia and the Brahmin caste are exchangeable terms. The disposition of the intelligentsia is a Brahmin disposition. Its outlook is a Brahmin outlook. Though he has learned to speak in the name of all, the Brahmin leader is in no sense a leader of the

people. He is a leader of his caste at best, for he feels them as he does for no other people. It is not intended to say that there are no Brahmins who feel for the untouchables. To be just, there are a few more moderate and rational Brahmins who admit the frightful nature of the institution of untouchability in the abstract and perceive the dangers to society with which it is fraught. But the great majority of the Brahmins are those who doggedly deny the horrors of the system in the teeth of such a mass of evidence as never was brought to bear on any other subject and to which the experience of every day contributes its immense amount; who, when they speak of freedom, mean the freedom to oppress their kind and to be savage, merciless and cruel, and whose inalienable rights can only have their growth in the wrongs of the untouchables. Their delicate gentility will neither bear the Englishmen as superior nor will it brook the untouchables as equal. "I will not tolerate a man above me, and of those below none must approach too near" sums up the true spirit of their social as well as political creed. Those who speak against the anti-social spirit of the Brahmin leaders are often cautioned that in their denunciation they do not pay sufficient regard to the existence of the first class of Brahmin leaders. This is no doubt the case. Noble but very rare instances of personal and pecuniary sacrifice may be found among them just as may be found to be tender in the exercise of their unnatural power. Still it is to be feared that this injustice is inseparable from the state of things with which humanity and truth are invoked to deal. The miserable state of the untouchables is not a bit more tolerable because some tender hearts are bound to show sympathy, nor can the indignant tide of honest wrath stand still because in its course it overwhelms a few who are comparatively innocent among a host of guilty.

43. The trend of nationalism in India does not warrant us to believe that the few who are sympathetic will grow in volume. On the other hand it is the host of guilty that time is sure to multiply. With the growth of political agitation, the agitation for social reform has subsided and has even vanished The Prarthana Samaj, the Brahmo Samaj with their elevating influence have become things of the past. The future has few things like these in store. The growth of education if it is confined to one class, will not necessarily lead to liberalism. It may lead to the justification and conservation of class interest; and instead of creating the liberators of the down-trodden, it may create champions of the past and the supporters of the *status quo*. Isn't, this the effect of education so far ? That it will take a new course in future *ceteris paribus,* there is no ground to believe. Therefore, instead of leaving the untouchables to the mercy of the higher castes, the wiser policy would be to give power to the untouchables themselves who are anxious, not like others, to usurp power but only to assert their natural place in society.

44. This gigantic world war, however motivated, has yielded what is known as the principle of self-determination which is to govern international

relations of the future. It is happy to note that the pronouncement of the 20th August 1917 declared the application of the principle to India — a principle which enunciates the rule that every people must be free to determine the conditions under which it is to live. It would be a sign of imperfect realization of the significance of this principle if its application were restricted to international relations, because discord does not exist between nations alone, but there is also discord between classes from within a nation. Wittingly our Indian politicians in their political speeches and harangues hold to the *de jure* conception of the Indian people. By the *de jure* conception they conceive of the Indian people as by nature one and emphasize the qualities such as praiseworthy community of purpose and welfare, loyalty to public ends and mutuality of sympathy which accompany this unity. How the *de jure* and *de facto* conceptions conflict, it is hoped, the committee will not fail to realize. As an instance the following may be noted. The moral evil to the Indian people of their conquest and subjugation by the British is a theme which is very attractive to the Brahmin politicians, who never fail to make capital out of it. The moral evils were once portrayed by John Shore in his "Notes on Indian Affairs" written in 1832. The late Honourable Mr. Gokhale once voiced the same feeling when speaking about the "excessive costliness of the foreign agency". He said :

> "There is a moral evil which, if anything, is even greater. A kind of dwarfing or stunting of the Indian race is going on under the present system. We must live all the days of our life in an atmosphere of inferiority and the tallest of us must bend, in order that the exigencies of the existing system may be satisfied. The upward impulse, if I may use such an expression, which every schoolboy at Eton and Harrow may feel, that he may one day be a Gladstone or Napoleon or a Wellington, and which may draw forth the best efforts of which he is capable, is denied to us. The full height to which our manhood is capable of rising can never be reached by us under the present system. The moral elevation which every self-governing people feel cannot be felt by us. Our administrative and military talents must gradually disappear, owing to sheer disuse till at last our lot as hewers of wood and drawers of water in our own country, is stereotyped.".

45. I beg to invite the attention of the Committee whether these sentiments which have been voiced by a Brahmin (a noble Brahmin to be sure) to the disgrace of the British bureaucracy cannot be more fittingly voiced by the untouchables to the disgrace of the Brahmin oligarchy? May it be said to the credit of the bureaucracy, that it has disproved the charge of being wooden and shown itself susceptible to feeling by proposing changes in the system of the Government which has dwarfed the personality of those for whom it was devised. But can the oligarchy claim anything half as noble? Their belief is that the Hindu social system has been perfected for all time

by their ancestors who had the superhuman vision of all eternity and supernatural power for making infinite provision for future ages. This deep ingrained ethnocentrism has prevented a reconstruction of Hindu Society and stood in the way of a revision of vested rights for the common good. A farce of a conference for the removal of untouchability was enacted in March 1918 in Bombay. Doctor Kurtakoti, the Shankaracharya of Karvir fame, though promised to attend, left for Northern India just a day or two before the conference met, on some urgent business. Mr. Tilak is credited with a short speech at the conference which has for the good luck of Mr. Tilak remained unreported. But this was only lip sympathy shown to hoodwink the untouchables for when the draft of the proclamation removing untouchabilily was presented to Mr. Tilak, it is known on creditable evidence that he refused to honour it with his signature.

46. Here is disclosed a patent disharmony within a nation and therefore a proper field for the application of the principle of self-determination. If the advanced classes are clamouring for its application to India and if the powers that be have sanctioned it, however partially, to ward off the future stunting and dwarfing of the Indian people, may not the untouchables with justice claim its benefit in their own interest ? Admitting the necessity of self-determination for the untouchables communal representation cannot be withheld from them, for communal representation and self-determination are but two different phrases which express the same notion.

Supplementary Written Statement of Mr. Bhimrao R. Ambedkar

1. The object of this supplement is primarily, to show how the scheme of representation which I have recommended for the untouchables of the Bombay Presidency in my previous statement can be fitted into the scheme of representation proposed by the Government of Bombay for the composition of the Legislative Council.

2. First I wish to propose certain changes in number of seats assigned by the Government to the various main constituencies. The several changes proposed are indicated in the following table :

Distribution of Seats among			By Govt.	By me
(1) Zamindars and Jahagirdas of Sind		...	1	1
(2) Sardars of Gujarat	...	...	1	1
(3) Sardars of Deccan	...	...	1	1
(4) Bombay University	...	...	2	2
(5) Europeans	...	...	4	4
(6) Sindh Hindus	...	...	3	4
(7) Mohammedans	...	...	18	10
(8) Six cities	...	...	18	.17
(9) Twenty-six Districts of the Presidency		...	52	60
	Total	...	100	100

3. As regards the method of election proposed for I, II, III, IV & V of the above constituencies, I agree with the Government.

4. The Government has reserved 3 seats for the Sindh Hindus. I have proposed 4 of them, one of which should be earmarked for the untouchables of Sind to be filled by a communal electorate.

5. For the 6 cities I have reserved 17 seats. Of this I propose that Bombay should be given 10. Of the 10 seats the untouchables of the city should be given 1 seat, also to be filled by a communal electorate.

6. So far it is shown how the Sind untouchables and their fellows in Bombay can be provided for. In addition to these two seats the untouchables of the Presidency proper, excluding the city of Bombay, should be given 7 seats. The constituencies among which these 7 seats are to be distributed, I have indicated on page 7 of my previous statement. It is in this fashion that the 9 seats for the untouchables of the Presidency should be carved out. The Government of Bombay finds difficulty in defining the Depressed Classes.

The difficulty is not a real difficulty, for, for all practical purposes the untouchables and the Depressed classes are the same. Knowing full well the degradation of the untouchables, the callousness of the Bombay Government is appalling. By refusing to make provision for the representation of the Depressed classes the Government have deliberately thrown the gravest of interests into the greatest of perils—a calamity which I am sure the Committee will avert.

7. Having taken out 7 seats from the 60, I propose to distribute the remaining 53 among the touchable population of the 26 districts as follows :

I allow, though cannot quite agree with the Government, that the 7 districts of Sind should elect 14 members on the basis of 2 per district. But in the case of the 19 districts which are outside Sind I feel that a two-member constituency will not suffice, principally because the touchable Hindu population is not homogeneous. In order to satisfy the aspirations of the subdivisions of the touchable Hindus we must at least in some cases give up the principle of a two-member constituency. [91 (2)] To distribute the 39 seats among the 19 districts in question I should first group the districts on linguistic basis as follows :

Districts				Touchable Hindu Population
	I Gujarathi			
(1) Ahmedabad	...	...	...	614, 286
(2) Broach	...	...	...	170, 545
(3) Kaira	...	...	...	556, 667
(4) Panch Mahals	...	...	...	259, 929
(5) Surat	...	...	...	535, 236
			Total	21, 36, 663
	II Marathi			
(1) Thana	...	...	...	736, 915
(2) Kolaba	...	...	...	509, 158
(3) Ratnagiri	...	...	...	1, 003, 240
(4) Ahmednagar	...	...	...	738, 747

	Districts				Touchable Hindu Population
(5)	Khandesh East	...	...	...	789, 740
(6)	Khandesh West	...	...	...	437, 391
(7)	Nasik	...	...	...	745, 965
(8)	Satara	...	...	...	883, 488
(9)	Poona	...	...	...	858, 607
(10)	Sholapur	...	...	...	574,152
			Total	...	72, 77, 403
		III Kanarese			
(1)	Belgaum	...	...	...	734, 598
(2)	Bijapur	...	...	...	677, 041
(3)	Dharwar	...	...	...	820, 345
(4)	Kanara	...	...	...	372, 857
			Total	...	26, 04, 841

Grand total of touchable Hindus in the 19 Districts concerned 12,018,907.

Of the 39 seats to be distributed I should give 8 seats to the Gujarati. 23 to the Marathi and 8 to the Kanarese districts.

The actual constituencies may be as under :

Language Districts	Population in each constituency	Number of the Constituency	Number of Representatives to be elected by the Constituency
1	2	3	4
	I GUJARATHI		
(1) Ahmednagar	.. 614, 286	I	2
(2) Broach	.. 727, 212	II	3
(3) Kaira	..		
(4) Panch Mahais	.. 795, 165	III	3
(5) Surat	..		
	II Marathi		
(1) Thana	.. 1, 246, 073	IV	4
(2) Kolaba	..		
(3) Ratnagiri	.. 1, 003, 240	V	2
(4) Ahmednagar	.. 1, 484, 712	VI	3
(5) Nasik	..		
(6) Khandesh East	.. 1, 227, 131	VII	3
(7) Khandesh West	..		
(8) Satara	.. 883, 488	VIII	*
(9) Poona	.. 858, 607	IX	3
(10) Sholapur	.. 574, 152	X	3

*No Figure is shown against the Satara district in the original.

1	2	3	4
	III KANARESE		
(1) Belgaum }	.. 1,411,639	IX	4
(2) Bijapur }			
(3) Dharwar }			
(4) Kanara }	.. 1,193,202	XII	4
Total number of representatives for the 19 districts 39.			

The Principal advantage of such a grouping is that the demand of the Marathas and the Lingayats can be satisfied without resorting to communal representation. There is no sacredness about a district that can plead against transcending its boundaries for political purposes when such a transcending enables us to minimise the field for communal representation.

8. I have differed from the Government of Bombay on the number of representatives to be given to the Mohamedans. Of the two bases, population and the Congress Scheme, the Government of Bombay have preferred the latter without even making a show of reasoning. In doing so they have contravened the most considered opinion of the authors of the Reforms Scheme who say that there is no basis other than that of negotiation for the proportion of Mohammedan representation fixed in the Congress League Scheme. It must be urged that looking to its composition the Congress is a body whose vicarious promises can never be binding on the vast population who have played no part in its deliberations.

9. The Mohammedans of this presidency form 20 per cent of the total population. On the basis of population therefore, they are entitled only to 20 seats out of the 100 elective seats. But tempering population by need I think 24 seats ought to satisfy them. Any excess over this cannot be tolerated as it will be at the cost of the other communities. Of these 24, the 7 districts of Sind on the basis of 2 per district will return 14 Mohammedans. The other 10 seats may be distributed as follows :

	Population	No. of Representatives
(1) Bombay City	... 179, 246	2
(2) Northern Division	... 342, 696	2
(3) Central Division	... 367, 509	3
(4) Southern Division	... 457, 997	3
	Total ...	10

I should prefer linguistic grouping to divisional grouping even in the case of the Mohammedans. I fail to see how a Mohammedan from Thana can have any affiliation with a Mohammedan of Surat though both the districts come under the same division. To group together for political purposes people who are ethnically different is absurd.

Mr. Bhimrao R. Ambedkar called and examined

Sir Frank Sly: He was a professor in the Sydenham College of Commerce. He graduated from the Elphinstone College, Bombay and was an M.A. of the Columbia University, New York. He was a Mahar by caste and his statement dealt largely with the depressed classes.

So far as the Hindu community was concerned, he divided them into two classes, touchables and untouchables; a distinction which was unmistakable in practice and more convenient than a division by castes. He recognised also a distinction between Brahmins and non-Brahmins, but this was of less importance. The distinction between Brahmin and non-Brahmin would not make much difference as regards the attitude of voter to a candidate, but the distinction between touchable and untouchable would make a very great difference.

He did not think there was any necessity for communal electorates for non-Brahmins as, if three-member constituencies were granted according to his supplementary statement, non-Brahmins would get some seats. From the figures in para 16 of his written statement he intended to show that on a uniform property qualification, a community which might be in a minority with regard to population might be in a majority in respect of voting strength ; some of the communities that he had mentioned might be minorities in the whole province, but majorities in particular districts. They should try to reduce the fever for communal representation as much as possible, and he therefore recommended three-member constituencies.

He wanted a variation of the franchise for the untouchables ; but, if constituencies with more than two members were adopted, the lowering of the franchise became a matter of less importance. In the case of a small constituency, for instance, the Marathas, it might be desirable to group them.

If a particular community had a majority of votes in a constituency, there was no need for that community to have separate communal representation. If the untouchables had a majority of votes in a particular constituency, he would not ask for communal representation. It was because they were in a minority and would always remain so on a uniform franchise that he asked for separate representation. His justification for asking for a low franchise was that as a result of being untouchable, the untouchables had no property ; they could not trade because they could not find customers. He remembered a case in which a Mahar woman was taken to the police court for selling water-melons. He was not aware of the conditions outside the Bombay Presidency. In the mills in the Bombay Presidency the untouchables were not yet allowed to work in the weaving department ; in one case an untouchable did work in the weaving department of a mill saying that he was a Mohammedan, and when found out, he was severely beaten.

The definition of an "untouchable" as a person who would cause pollution by his touch, was a satisfactory one for electoral purposes. It was not the case that some castes were considered to be untouchable in some districts and touchable in others.

According to his classification the untouchables amounted to about 8 per cent of the population, but he had proposed 9 seats which would make about 9 per cent. These seats should be filled by separate communal election.

He was aware that the untouchable in his present state of development was in no way qualified to give a responsible vote. In the whole Bombay Presidency there were one B.A. and 6 or 7 matriculates among the depressed classes. The proportion of those who were literate in English was very small, but not much smaller than in the case of the backward classes. The depressed classes, especially the Mahars and the Chamars, were fit to exercise the vote. He would also give them the votes by way of education. He could find at least 25 or more men amongst them who had passed the 6th or the 7th Standards of a High School, and, although the number was not large, the 9 seats which he suggested for the depressed classes could be filled from amongst them. Such a candidate in practical matters would be as good as a graduate although, the latter might be able to express himself better.

He was opposed to any system under which the representatives of the depressed classes were drawn from other classes. Representation by missionaries, for instance, would not be representation in any real sense of the word.

He suggested large constituencies for the depressed classes; if such large constituencies had been accepted for the Mohammedans he did not see why they were not practicable in the case of the depressed classes.

In order to obtain the required number of seats for the depressed classes he would reduce the number of seats suggested by Government for the Mohammedans, from 18 to 10. This reduction was justifiable, as on the population basis the Mohammedans were only entitled to 20 per cent of the seats. He did not consider the Congress League Pact as binding on all.

Mr. Hailey : Untouchables were persons to whom certain rights of citizenship had been denied. For instance, it was the right of every citizen to walk down the street, and if a man were prevented from doing so, even temporarily, it was an infringement of his right. Whether a man was prevented from exercising his rights by law or social custom, made very little difference to him. Government had recognised custom and persons belonging to the untouchable classes were not employed in Government service.

He suggested the lowering of the franchise qualification in the case of the depressed classes, as it should be the object of the Government to improve the lot of the community.

From an examination of the Census Report he would say that the problem of touchable and non-touchable existed in Sind, as although the greater proportion of the population there were Mohammedans, there were also Hindus. If special provision was going to be made for the Hindus in Sind, he did not see why special provision should not be made for the depressed classes also.

Mr. Banerjee: The depressed classes would be able to find 9 men who were able to speak English and who could represent their cause in the Council. The 6th standard was the class below the matriculation, and a man who had passed the 6th standard would be able to follow the debates in the Council. They had about 25 persons who had passed that standard.

For political purposes there would be no difficulty in defining the depressed classes, who were the same as the untouchables. No one who was not a member of a depressed class would think of trying to make himself out to be such, though such a thing might occur in the case of the backward classes.

He would accept 8 representatives as the minimum for the depressed classes, and they should be elected. Nominated representative would not be in a position adequately to represent their interests.

Mr. Crump: He had no experience of the problem and conditions of the untouchable classes in Sind, and could not say anything with regard to the statement that there was only one such class, viz., the Bhangis, there- His information was that the total Hindu population in Sind was 837,426 and the total of the untouchable classes was 135,224.

Mr. Natarajan: His view was that British rule in India was meant to provide equal opportunities for all, and that in transferring a large share of the power to popular assemblies, arrangements should be made whereby the hardships and disabilities entailed by the social system should not be reproduced and perpetuated in political institutions. As regards the exact position at present, he admitted that, for instance, at the Parel school which was meant for the depressed classes, there were many higher-caste pupils, who came there because it was a good school. Similarly as a professor he, being a member of a depressed class, had pupils of all classes and found no difficulty in dealing with his higher caste pupils. If the untouchable classes were recognized by Government by the grant of seats, their status would be raised and their powers would be stimulated. He was not very particular about the number of their seats; all he wanted was something adequate.

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The following persons were called and examined at Bombay between 24 January 1919 and 31 January 1919:

(1) L. C. Cramp, Esq., I.C.S. representing the Government of Bombay (24 January 1919).
(2) The Hon'ble Major C. Fernandez, M. D. I. M. S. (Temporary) (24 January 1919).
(3) The Rev. Cannon D. L. Joshi, representing the Bombay Indian Christian (Protestant) Association (24 January 1919).
(4) Lieut. Colonel H.A.J. Gidney, I.M.S. (Retired), representing the Anglo-Indian Empire League (Bombay Branch) (25 January 1919).
(5) Sir Jamsetjee Jejeebhoy, BART (25 January 1919).
(6) W. A. Haig Brown, Esq., representing the Bombay Branch of the European Association (25 January 1919).
(7) Mr. D. D. Sathaye, representing the Bombay National Union (25 January 1919).
(8) The Hon'ble Mr. M. A. Jinnah (25 January 1919).
(9) Mr. C. N. Wadia, representing the Bombay Millowners Association (27 January 1919).
(10) Mr. V. R. Shinde (27 January 1919).
(11) Mr. K. R. Koregawkar, representing the Maratha Aikyecchu Sabha (27 January 1919).
(12) The Hon'ble Mr. M.A. Jinnah (27 January 1919).
(13) Mirza Ali Muhamad Khan (27 January 1919).
(14) Bhimrao R. Ambedkar Esq. (27 January 1919).
(15) The Hon'ble Mr. V. J. Patel (28) January 1919).
(16) The Hon'ble Sahib Hiralal Desaibhai Desai (28 January 1919).
(17) The Hon'ble Mr. Chunilal V. Mehta (28 January 1919).
(18) A. B. Latthe, Esq. (28 January 1919).
(19) The Hon'ble Mr. R. P. Paranjpye (28 January 1919).
(20) Mr. V. R. Kothari, representing the Deccan Ryots' Association (28 January 1919).
(21) Messrs. Umar Sobhani and S. G. Banker, representing the Bombay Home Rule League (29 January 1919).
(22) H. N. Apte Esq., representing the Deccan Sabha, Poona (23 January 1919).
(23) N. C. Kelkar Esq. (29 January 1919).
(24) The Hon'ble Mr. D. V. Belvi (29 January 1919).
(25) Rao Bahadur Thakorram Kapilram (29 January 1919).
(26) N. M- Joshi Esq., Member of the Servants of India Society (30 January 1919).
(27) The Hon'ble Rao Bahadur Venkatesh Srinivas Naik (30 January 1919).
(28) Pandit R. Chikodi (30 January 1919).

(29) The Hon'ble Mr. S. J. Gillum and Sir Thomas Birkett, Kt., representing the Bombay Chamber of Commerce (30 January 1919).

(30) Mr. Ambalal Sarabhai with Mr. Kasturbhai Lalbhai, Dalpatbhai representing the Ahmadabad Miliowners' Association (30 January 1919).

(31) Devidas Madhavji Thakersey, Esq., representing the Bombay Native Piece-goods Merchants Association (30 January 1919).

(32) The Hon'ble Mr. Ghulam Hussain Hidayatulla (31 January 1919).

(33) Mr. B. V. Jadhav (31 January 1919).

(34) The Hon'ble Sir Pazulbhoy Currimbhoy, Kt., C.I.E. (31 January 1919).

(35) H. P. Mody Esq. (31 January 1919).

(36) Sardar V. N. Mutalik representing the Inamdars' Central Association, Satara (31 January 1919).

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TRACTS FOR THE TIMES: No. 3.

FEDERATION VERSUS FREEDOM

(Kale Memorial Lecture)

Address delivered on 29th January 1939
at
the Annual Function
of
the Gokhale Institute of Politics and Economics
held in
the Gokhale Hall, Poona

"The distance you have gone is less important than the direction in which you are going today."

—Tolstoy

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FEDERATION VERSUS FREEDOM

PREFACE

A word or two as regards the origin of this tract and the motive which has led me to publish it at this time will, I think, not be out of place.

Many in this country must be aware that there exists in Poona an institution which is called the Gokhale Institute of Politics and Economics, working under the direction of Dr. D. R. Gadgil. The Institute holds a function annually to celebrate what is called the Founder's Day and invites some one to deliver an address on some subject connected with politics or economics. This year, I was asked by Dr. Gadgil to deliver an address. I accepted the invitation and chose the Federal Scheme as the subject of my address. The address covered both (1) the structure of the Federation and (2) a critique of that structure. The address was delivered on 29th January 1939 at the Gokhale Hall in Poona. The address as prepared had become too lengthy for the time allotted to me and although I kept the audience for two hours when usually the time allotted for such address is one hour I had to omit from the address the whole of the part relating to the Federal structure and some portion from the part relating to the criticism of the structure. This tract, however, contains the whole of the original address prepared by me for the occasion.

So much for the origin of this tract. Now as to the reasons for publishing it. All addresses delivered at the Gokhale Institute are published. It is in the course of things that this also should be published. But there are other reasons besides this, which have prevailed with me to publish it. So far as the Federation

is concerned, the generality of the Indian public seems to be living in a fog. Beyond the fact that there is to be a Federation and that the Federation is a bad thing the general public has no clear conception of what is the nature of this Federation and is, therefore, unable to form an intelligent opinion about it. It is necessary that the general public should have in its hand a leaflet containing an outline of the Federal structure and a criticism of that structure in small compass sufficient to convey a workable understanding of the Scheme. I feel this Tract will supply this need.

I also think that the publication of this tract will be regarded as timely. Federation is a very live issue and it is also a very urgent one. Soon the people of British India will be called upon to decide whether they should accept the Federal Scheme or they should not. The premier political organization in this Country, namely, the Congress seems to be willing to accept this Federation as it has accepted Provincial Autonomy. The negotiations that are going on with the Muslim League and the manoeuvres that are being carried on with the Indian States give me at any rate the impression that the Congress is prepared to accept the Federation and that these negotiations and manoeuvres are designed to bring about a working arrangement with other parties so that with their help the Congress may be in the saddle at the Centre as it has been in the Provinces. Mr. Subhas Chandra Bose has even gone to the length of suggesting that the right wing of the Congress has committed itself to this Federation so far that it has already selected its cabinet. It matters not whether all this is true or not. I hope all this is untrue. Be that as it may, the matter is both grave and urgent, and I think all those who have anything to say on the subject should speak it out. Indeed I feel that silence at such a time will be criminal. That is why I have hastened to publish my address. I believe that I have views on the subject of Federation which even if they do not convince others will at least provoke them to think

1-3-39 B. R. AMBEDKAR
Rajgraha
Dadar, Bombay 14

I

INTRODUCTORY

Dr. Gadgil and students of the Gokhale Institute,

I feel greatly honoured by your invitation to address you this evening You have met today to celebrate a day which is set out as your Founder's Day. I had the privilege of personally knowing the late Rao Bahadur R. R. Kale the founder of your Institute. He was my colleague in the old Bombay Legislative Council. I know how much care and study he used to bestow upon every subject which he handled. I am sure he deserves the gratitude of all those who care for knowledge and study for helping to 'establish this Institute, whose main function as I understand is to dig for knowledge and make it ready for those who care to use it. For, first knowledge is power as nothing else is, and secondly, not all those who wish and care for knowledge have the leisure and the patience to dig for it. As one who believes in the necessity of knowledge and appreciates the difficulties in its acquisition I am glad to be associated in this way with him and with the Institute he has founded.

The theme I have chosen for the subject matter of my address is the Federal Scheme embodied in the Government of India Act, 1935. The title of the subject might give you the impression that I am going to explain the Federal Constitution. That would be an impossible task in itself. The Federal Scheme is a vast thing. Its provisions are contained, first in 321 sections of the Government of India Act, 1935, secondly in the 9 Schedules which are part of the Act, thirdly in 31 Orders-in-Council issued under the Act and fourthly the hundreds of Instruments of Accession to be passed by the Indian States. Very few can claim mastery over so vast a subject and if any did he would take years to expound it in all its details.

I have set to myself a very limited task. It is to examine the scheme in the light of certain accepted tests and to place before you the results of this examination so that you may be in a position to form your own judgment regarding the merits of the scheme. It is true that I cannot altogether avoid setting out the outlines of the scheme. In fact, I am going to give an outline of the scheme. I realize that it is an essential preliminary without which my criticism might remain high up in the air. But the outline I am going to draw for my purpose will be the briefest and just enough to enable you to follow what I shall be saying regarding the merits of the scheme.

II

BIRTH AND GROWTH OF INDIAN FEDERATION

There are five countries which are known in modern times to have adopted the federal form of Government. They are : (1) U.S.A., (2) Switzerland, (3) Imperial Germany, (4) Canada and (5) Australia. To these five it is now proposed to add the sixth which is the All-India Federation.

What are the constituent units of this Federation ? For an answer to this question refer to section 5. It says:

Proclamation of Federation of India

"5. (1) It shall be lawful for His Majesty, if an address in that behalf has been presented to him by each House of Parliament and if the condition hereinafter mentioned is satisfied, to declare by Proclamation that as from the day therein appointed there shall be united in a Federation under the Crown, by the name of the Federation of India,—

(*a*) The Provinces hereinafter called Governors' Provinces ; and

(*b*) the Indian States which have acceded or may thereafter accede to the Federation ; and in the Federation so established there shall be included the Provinces hereinafter called Chief Commissioners' Provinces.

(2) The condition referred to is that, States—

(*a*) the Rulers whereof will, in accordance with the provision contained in Part II of the First Schedule to this Act be entitled to choose not less than fifty-two members of the Council of State ; and

(*b*) the aggregate population whereof, as ascertained in accordance with the said provisions, amounts to at least one-half of the total population of States, as so ascertained, have acceded to the Federation."

Leaving aside the conditions prescribed by this Section for the inauguration of the Federation it is clear that the Units of the Federation are (1) The Governors' Provinces, (2) Chief Commissioners' Provinces and (3) The Indian States.

What is the size of this Indian Federation ?

Many people when they speak of the Indian Federation do not seem to realize what an enormous entity it is going to be—

	Population	Area	Units
U.S.A.	122,775,040	2,973,773	48 States plus 1 Federal Dist.
Germany	67,000,000	208,780	25
Switzerland	466,400	15,976	22
Canada	10,376,786	3,729,665	9
Australia	6,629,839	2,974,581	6
India	352,837,778	1,808,679	162

The Indian Federation in point of area is 3/5th of U.S.A. and of Australia and half of Canada. It is 9 times of Germany and 120 times of Switzerland. In point of population it is 3 times of U.S.A., 5 times of Germany, 35 times of Canada, 58 times of Australia and 88 times of Switzerland. Measured by the Units which compose it, it is 3 times larger than U.S.A., 6½ times larger than Germany, 8 times larger than Switzerland, 18 times larger than Canada and 27 times larger than Australia. Thus the Indian Federation is not merely a big federation. It is really a monster among federations.

What is the source from which the Federation derives its Governmental Powers and Authority ?

Section 7 says that the executive authority of the Federation shall be exercised on behalf of His Majesty by the Governor-General. That means that the Authority of the Federation is derived from the Crown. In this respect the Indian Federation differs from the Federation in the U.S.A. In the U.S.A., the powers of the Federation are derived from the people. The people of the United States are the fountain from which the authority is derived. While it differs from the Federation in the U.S.A. the Indian Federation resembles the Federations in Australia and Canada. In Australia and Canada the source of the Authority for the Federal Government is also the Crown and Section 7 of the Government of India Act is analogous to section 61 of the Australian Act and section 9 of the Canadian Act. That the Indian Federation should differ in this respect from the American Federation and agree with the Canadian and Australian Federation is perfectly understandable. The United States is a republic while Canada and India are dominions of the Crown. In the former the source of all authority are the people. In the latter the source of all authority is the Crown.

From where does the Crown derive its authority ?

Such a question is unnecessary in the case of Canada and Australia, because the Crown is the ultimate source of all authority and

there is nothing beyond or behind, to which his authority is referable. Can this be said of the Indian Federation ? Is the Crown the ultimate source of authority exercised by the Federation ? Is there nothing beyond or behind the Crown to which this authority needs to be referred ? The answer to this question is that only for a part of the authority of the Federation the Crown is the ultimate source and that for remaining part the Crown is not the ultimate source.

That this is the true state of affairs is clear from the terms of the Instrument of Accession. I quote the following from the draft Instruments :—

> "Whereas proposals for the establishment of a Federation of India comprising such Indian States as may accede thereto and the Provinces of British India constituted as Autonomous Provinces have been discussed between representatives of His Majesty's Government of the Parliament of the United Kingdom, of British India and of the Rulers of the Indian States;
>
> And Whereas those proposals contemplated that the Federation of India should be constituted by an Act of the Parliament of the United Kingdom and by the accession of Indian States ;
>
> And Whereas provision for the constitution of a Federation of India has now been made in the Government of India Act, 1935 ;
>
> And Whereas that Act provided that the Federation shall not be established until such date as His Majesty may, by proclamation, declare, and such declaration cannot be made until the requisite number of Indian States have acceded to the Federation ;
>
> And Whereas the said Act cannot apply to any of my territories save by virtue of my consent and concurrence signified by my accession to the Federation;
>
> Now, therefore, I (insert full name and title), Ruler of (insert name of State), in the exercise of my sovereignty in and over my said State for the purpose of co-operating in the furtherance of the interests and welfare of India by uniting in a Federation under the Crown by the name of the Federation of India with Provinces called Governors' Provinces and with the Provinces called Chief Commissioners' Provinces and with the Rulers of other Indian States do hereby execute this my Instrument of Accession, and hereby declare that subject to His Majesty's acceptance of this Instrument, I accede to the Federation of India as established under the Government of India Act, 1935."

This is a very important feature of the Indian Federation. What has brought about this difference between the Indian Federation and the Canadian and Australian Federation ? For what part is the Crown the ultimate source and for what part is it not? To understand these questions you must take

note of two things. First, the Indian Federation comprises two distinct areas : British India and Indian States. This will be clear if you refer to section 5. Second, the relationship of these two areas with the Crown is not the same. The area known as British India is vested in the Crown while the area comprised in an Indian State is not vested in the Crown but is vested in the Ruler. This is clear if you refer to sections 2 and 311. The territory of British India being vested in the Crown the sovereignty over it belongs to the Crown and the territory of an Indian State being vested in the Ruler of the State the sovereignty over the State belongs to the Ruler of the State.

You will now understand why I said that in the Indian Federation the Crown is the ultimate source for a part of its authority and for the remaining part the Crown is the ultimate source of authority of the Indian Federation in so far as British India is part of the Federation. The Indian Ruler is the ultimate source of authority in so far as his State is part of this Federation. When therefore section 7 says that the Executive Authority of the Federation shall be exercised by the Governor-General on behalf of the Crown it must be understood that Crown's authority which is delegated by him to the Governor-General in the working out of the Indian Federation is partly its own and partly derived from the Rulers of the Indian States.

What is the process by which the Crown acquires the authority which belongs to the Ruler of an Indian State ? The process is known under the Indian Act as Accession. This Accession is effected by what is called an Instrument of Accession executed by the Ruler of a State. The provisions relating to the Instrument of Accession are contained in section 6(1). That section reads as follows :-

> "6. A State shall be deemed to have acceded to the Federation if His Majesty has signified his acceptance of an Instrument of Accession executed by the Ruler for himself, his heirs and successors—
>
> (*a*) declares that he accedes to the Federation as established under this Act, with the intent that His Majesty the King, the Governor-General of India, the Federal Legislature, the Federal Court and any other Federal Authority established for the purposes of the Federation shall by virtue of his Instrument of Accession, but subject always to the terms thereof, and for the purposes only of the Federation, exercise in relation to his State such functions as may be vested in him by or under this Act; and
>
> (*b*) assumes the obligation of ensuring that due effect is given within his State to the provisions of this Act so far as they are applicable therein by virtue of his Instrument of Accession."

It is this Instrument of Accession which confers authority upon the Crown in the first instance so far as an Indian State is part of the Federation and

it is because of this that the Crown's Authority in and over this Federation is derivative in part.

This is the law as to the birth of the Federation. What is the law as to the growth of this Federation ? In other words what is the law as to change? The law as to change is contained in section 6(*1*)(*a*), Schedule II and section 6(*5*).

Section 6(1)(a) makes it clear that the accession by a Prince, effected through his Instrument of Accession, is "to the Federation as established by this Act." Schedule II deals with future amendment of the Constitution. It declares what are the provisions in the Government of India Act an amendment of which will be deemed to affect the Instrument of Accession and what are the provisions an amendment of which will not affect the Instrument of Accession by the States.

Section 6(*5*) does two things. In the first place it provides that the Instrument of Accession shall be deemed to confer upon Parliament the right to amend these provisions which are declared by Schedule II as open to amendment without affecting the Instrument of Accession. In the second place it provides that although Parliament may amend a provision of the Act which is declared by Schedule II as open to amendment without affecting the Instrument of Accession such an amendment shall not bind the States unless it is accepted as binding by the State by a supplementary Instrument of Accession.

To sum up, the units of this Federation do not form one single whole with a common spring of action. The units are separate. They are just held together. For some purposes the position of the units cannot be altered at all. For some purposes alteration is permissible but such alteration cannot bind all the units alike. Some will be bound by it but some will not be unless they consent to be bound. In other words in this Federation there is no provision for growth. It is fixed. It cannot move. A change by evolution is not possible and where it is possible it is not binding unless it is accepted.

III

THE STRUCTURE OF THE FEDERATION

(a) The Federal Legislature

The Federal Legislature is a bicameral legislature. There is a Lower House which is spoken of as the Legislative Assembly and there is an Upper House which is called the Council of State. The composition of the two Chambers is a noteworthy feature. They are very small Chambers compared with other legislatures having regard to the population and the area as the total membership of the Federal Assembly is 375 and of the Council of State 260. These seats are divided in a certain proportion between British India and the Indian States. Of the 375 seats in the Federal Assembly 250

are allotted to British India and 125 to the Indian States. In the Council of State, out of the 260 seats, 156 are allotted to British India and 104 to the Indian States. It may be noticed that distribution between British India and the Indian States is not based upon an equalitarian principle. It is possible to take the population as the basis of representation. It is also possible to take the revenue as the basis of representation. But neither of these has been taken as the basis of distribution of seats. Whether you take population as the basis or whether you take revenue as the basis, you will find that British India has been under-represented, while the Indian States have been over-represented in the two Chambers. The method of filling the seats is also noteworthy. The representatives of the British India in both the Chambers will be elected. The representatives of the Indian States, on the other hand, are to be appointed i.e., nominated, by the Rulers of the States. It is open to a Ruler to provide that the representatives of his State, though appointed by him, may be chosen by his subjects but this is a matter which is left to his discretion. He may appoint a person who is chosen by his people or he may, if he pleases, do both, choose and appoint. In the final result a State's representative is to be appointed by the Ruler as distinguished from being elected by the people. In the case of British India, the representatives are to be elected, but here again there is a peculiarity which may be noticed. In the case of all bi-cameral Legislatures the Lower House being a popular house is always elected directly by the people, while the Upper House being a revising Chamber is elected by indirect election. In the case of the Indian Federation this process is reversed. The Upper Chamber will be elected by direct election by the people and it is the Lower Chamber which is going to be elected indirectly by the Provincial Legislatures. The life of the Federal Assembly is fixed for a term of five years, although it may be dissolved sooner. The Council of State on the other hand is a permanent body not liable to dissolution. It is a body which lives by renewal of a third part of its membership every three years.

Now the authority of the two Chambers to pass laws and to sanction expenditure may be noted. With regard to the authority to pass laws some constitutions make a distinction between money bills and other bills and provide that with regard to money bills the Upper Chamber shall not have the power to initiate such a bill, and also that the Upper Chamber shall not have the authority to reject it. It is given the power only to suspend the passing of the bill for a stated period. The Indian constitution makes no such distinction at all. The money bills and other bills are treated on the same footing and require the assent of both the Chambers before they can become law. The only distinction is that while according to section 30(*1*) a bill which is not a money bill may originate in either Chamber, a money bill, according to section 37, shall not originate in the Upper Chamber. But according to section 3(*2*) a money bill needs the assent of the Upper Chamber as much as any other bill.

With regard to the authority to sanction expenditure : here again there is a departure made in the accepted principles of distributing authority between the two Chambers when a Legislature is bi-cameral.

According to section 31(*1*) the Annual Financial Statement of estimated receipts and expenditure shall be laid before both Chambers of the Federal Legislature and shall, of course, be open to discussion in both the Chambers. Not only are they open to discussion in both the Chambers, they are also subject to the vote of both the Chambers. Section 34(*2*) requires that the expenditure shall be submitted in the form of demands for grants to the Federal Assembly and thereafter to the Council of State and either Chamber shall have the power to assent to or refuse any demand, or to assent to any demand subject to a reduction of the amount specified therein.

It will thus be seen that the two Chambers are co-equal in authority, both in the matter of their authority to pass laws and in the matter of sanctioning expenditure. A conflict between the two Chambers cannot end by one Chamber yielding to the other if that Chamber does not wish so to yield. The procedure adopted for the resolving of differences between the two Chambers is the method of joint sessions. Section 31(*1*) deals with the procedure with regard to joint sessions where the conflict relates to a bill. Section 34(*3*) relates to the procedure where the conflict relates to the differences with regard to sanctioning of expenditure.

(b) The Federal Executive

The constitution of the Federal Executive is described in section 7(*1*). According to this section the executive Authority of the Federation is handed over to the Governor-General. It is he who is the Executive Authority for the Federation. The first thing to note about this Federal Executive is that it is a unitary executive and not a corporate body. In India ever since the British took up the civil and military government of the country, the executive has never been unitary in composition. The executive was a composite executive. In the Provinces it was known as the Governor-in-Council. At the Centre it was known as the Governor-General-in-Council. The civil and military government of the Provinces as well as of India was not vested either in the Governor or in the Governor-General. The body in which it was vested was the Governor with his Councillors. The Councillors were appointed by the King and did not derive their authority from the Governor-General. They derived their authority from the Crown and possessed co-equal authority with the Governor and the Governor-General and, barring questions where the peace and tranquillity of the territory was concerned, the Governor and the Governor-General were bound by the decision of the majority. The constitution, therefore, makes a departure from the established system. I am not saying that this departure is unsound in principle or it is not justified by precedent or by the circumstances

arising out of the necessities of a federal constitution. All I want you to note is that this is a very significant change.

The next thing to note about the Federal Executive is that although the Governor-General is the Executive Authority for the Federation, there are conditions laid down for the exercise of his powers as the Federal Executive. The constitution divides the matters falling within his executive authority into four classes and prescribes how he is to exercise his executive authority in respect of each of these four classes. In certain matters the Governor-General (1) is to act in his own discretion ; (2) In certain matters he is to act on the advice of his Ministers ; (3) in certain matters he is to act after consultation with his Ministers, and (4) in certain matters he is to act according to his individual judgment. A word may be said as to the *de jure* connotation that underlies these four cases of the exercise of the executive authority by the Governor-General. The best way to begin to explain this *de jure* connotation is to begin by explaining what is meant by "acting on the advice of his ministers." This means, in those matters the government is really carried on, on the authority of the Ministers and only in the name of the Governor-General. To put the same thing differently, the advice of the Ministers is binding on the Governor-General and he cannot differ from their advice. With regard to the matters where the Governor-General is allowed "to act in his discretion" what is meant is that the Government is not only carried on in the name of the Governor-General, but is also carried on the authority of the Governor-General. That means that there can be no intervention or interference by the Ministers at any stage. The Ministers have no right to tender any advice and the Governor-General is not bound to seek their advice ; or to make it concrete, the files with regard to these matters need not go to the Ministers at all. "Acting in his individual judgment" means that while the matter is within the advisory jurisdiction of the Minister, the Minister has no final authority to decide. The final authority to decide is the Governor-General. The distinction between "in his discretion" and "in his individual judgment" is this that while in regard to matters falling "in his discretion" the Ministers have no right to tender advice to the Governor-General, the Ministers have a right to tender advice when the matter is one which falls under "his individual judgment". To put it differently in regard to matters which are subject to his individual judgment the Governor-General is bound to receive advice from his ministers but is not bound to follow their advice. He may consider their advice, but may act otherwise and differently from the advice given by the Ministers. But in respect of matters which are subject to his discretion he is not bound even to receive the advice of his Ministers. The phrase "after consultation" is a mere matter of procedure. The authority in such matter vests in the Governor-General. All that is required is that he should take into account the wishes of the Ministers. Cases relating to

"acting after consultation" may be distinguished from cases relating to "individual judgment" in this way. In cases relating to "individual judgment" the authority vests in the Ministers. The Governor-General has the power to superintend and, if necessary, overrule. In the cases falling under "after consultation", the authority belongs to the Governor-General and the Ministers have the liberty to say what they wish should be done.

(c) The Federal Judiciary

The Government of India Act provides for the constitution of a Federal Court as part of the Federal Constitution. The Federal Court is to consist of a Chief Justice and such Puisne Judges as His Majesty thinks necessary, their number not to exceed six until an address is presented by the Legislature asking for an increase. The Federal Judiciary has original as well as appellate jurisdiction. Section 204, which speaks of the Original Jurisdiction of the Federal Court, prescribes that, that Court shall have exclusive Original Jurisdiction in any dispute between the Federation, the Provinces and the federated States which involves any question of law or fact on which the existence or extent of a legal right depends. This section, however, provides that if a State is party then the dispute must concern the interpretation of the Act or an Order in Council thereunder, or the extent of the legislative or executive authority vested in the Federation by the Instrument of Accession or arise under an Agreement under Part VI of the Act for the administration of a federal law in the States, or otherwise concern some matter in which the Federal Legislature has power to legislate for the States or arise under an agreement made after federation with the approval of the Representative of the Crown between the States and the Federation or a Province, and includes provision for such jurisdiction. Even this limited jurisdiction of the Federal Court over the States is further limited by the proviso that no dispute is justiciable if it arises under an agreement expressly excluding such jurisdiction.

The appellate jurisdiction of the Federal Court is regulated by section 205 and section 207. Section 205 says that an appeal shall lie to the Federal Court from any judgment, decree or final order of a High Court in British India if the High Court certified that the case involves a substantial question of law as to the interpretation of this Act or an Order in Council made thereunder. Section 207 relates to appeal from decision of Courts of the Federated States. It says that an appeal shall be to the Federal Court from a Court in a federated State on the ground that a question of law has been wrongly decided, being a question which concerns the interpretation of this Act or of any Order in Council made thereunder or the extent of the legislative or executive authority vested in the Federation by virtue of the Instrument of Accession of that State or arises under an Agreement made under Part VI of this Act in relation to the administration in that State of a law of the Federal Legislature ; but sub-section (2) to section 207 provides

that an appeal under this section shall be by way of a special case to be stated for the opinion of the Federal Court by a High Court, and the Federal Court may require a case to be so stated.

Two further points with regard to the Federal Judiciary may be noted. The first is the power of the Federal Court to execute its own orders. The Federal Court has no machinery of its own to enforce its orders. Section 210 provides that the orders of the Federal Court shall be enforceable by all courts and authorities in every part of British India or of any Federated State as if they were orders duly made by the highest court exercising civil or criminal jurisdiction as the case may be in that part. The instrumentality, therefore, which the Federal Court can use for the enforcement of its own orders consists of the administrative machinery of the units of the Federation. The units of the Federation are bound to act in aid of the Federal Court. This is different to what prevails for instance, in the United States of America, where the Supreme Court has its own machinery for enforcing its own orders.

The second point to note with regard to the Federal Court is the question of the powers of the Executive to remove the judges and the power of the Legislature to discuss their conduct. In this respect also the Federal Court stands on a different footing from the Federal Courts in other Federations. The Constitution does not give the Governor-General the power to suspend a Judge of the Federal Court. It forbids any discussion of a judge's judicial conduct by the Legislature. This, no doubt, gives the judge of the Federal Court the greatest fixity of tenure and immunity from interference by the Executive or by the Legislature. To remove the Judiciary from the control of the Executive it has been found necessary that the tenure of a judge must not be subject to the pleasure of the Executive. All constitutions, therefore, provide that the tenure of a judge shall be during good behaviour and that a judge shall be removeable only if address is presented by the Legislature pronouncing that he is not of good behaviour. Some such authority must be vested in somebody which should have the power to pronounce upon the good behaviour of a judge. This provision is absent in the Federal Constitution, so that a Judge of the Federal Court once appointed is irremoveable from his place till retirement, no matter what his conduct during that period may be. Instead of this, power is given to His Majesty under section 200(*2*)(*b*) to remove a Judge of the Federal Court on the ground of misbehaviour or infirmity of body or mind if the Judicial Committee of the Privy Council reports that he may be removed on any such ground.

IV

POWERS OF THE FEDERATION

Before I describe the powers of the Federal Government it might be desirable to explain what is the essence of a Federal Form of Government,

There is no simpler way of explaining it than by contrasting it with the Unitary Form of Government.

Although the Federal Form of Government is distinct from the Unitary form, it is not easy to see distinction. On the other hand, there is, outwardly at any rate, a great deal of similarity between the two. The Government of almost every country in these days is carried on by an inter-related group of Administrative Units operating in specific areas and discharging specific public functions. This is true of a country with a Federal Form of Government and also of a country with a Unitary form of Government. In a Federal Constitution there is a Central Government and there are inter-related to it several Local Governments. In the same way in an Unitary Constitution there is a Central Government and there are inter-related to it several Local Governments. On the surface, therefore, there appears to be no difference between the two.

There is, however, a real difference between them although it is not obvious. That difference lies in the nature of the inter-relationship between the Central and the Local Administrative Units. This difference may be summed up in this way. In the Unitary Form of Government, the powers of the local bodies are derived from an Act of the Central Government. That being so the powers of the Local Government can always be withdrawn by the Central Government. In the Federal form of Government the powers of the Central Government as well as of the Local Government are derived by the law of the Constitution which neither the Local Government nor the Central Government can alter by its own Act. Both derive their powers from the law of the Constitution and each is required by the Constitution to confine itself to the powers given to it. Not only does the Constitution fix the powers of each but the constitution establishes a judiciary to declare any Act whether of the Local or the Central Government as void if it transgresses the limits fixed for it by the Constitution. This is well stated by Clement in his volume on the Canadian Constitution in the following passage :

> "Apart from detail, the term federal union in these modern times implies an agreement ..... to commit ..... people to the control of one common government in relation to such matters as are agreed upon as of common concern, leaving each local government still independent and autonomous in all other matters, as a necessary corollary the whole-arrangement constitutes a fundamental law to be recognised in and enforced through the agency of the Courts.
>
> "The exact position of the line which is to divide matters of common concern to the whole federation from matters of local concern in each unit is not of the essence of federalism. Where it is to be drawn in any proposed scheme depends upon the view adopted by the federating communities as to what, in their actual circumstances, geographical, com-

mercial, racial or otherwise, are really matters of common concern and as such proper to be assigned to a common government. But the maintenance of the line, as fixed by the federating agreement, is of the essence of modern federalism; at least, as exhibited in the three great Anglo Saxon federations today, the United States of America, the Commonwealth of Australia, and the Dominion of Canada. Hence the importance and gravity of the duty thrown upon the Courts as the only constitutional interpreter of the organic instrument which contains the fundamental law of the land.".

Thus to draw a line for the purpose of dividing the powers of Government between the Central and Local Governments by the law of the Constitution and to maintain that line through the judiciary are the two essential features of the Federal Form of Government. It is these two features which distinguish it from the Unitary Form of Government. In short every federation involves two things : (1) Division of Powers by metes and bounds between the Central Government and the Units which compose it by the law of the Constitution, which is beyond the power of either to change and to limit the action of each to the powers given and (2) a Tribunal beyond the control of either to decide when the issue arises as to whether any particular act of the Centre or of the Unit, Legislative, Executive, Administrative or Financial is beyond the powers given to it by the Constitution.

Having explained what is meant by Federal Government, I will now proceed to give you some idea of the Powers which are assigned by the constitution to the Federal Government.

(a) Legislative Powers of the Federation

For the purposes of distributing the Legislative Powers the possible subjects of Legislation are listed into three categories. The first category includes subjects, the exclusive right to legislate upon which is given to the Federal Legislature. This list is called the Federal List. The second category includes subjects, the exclusive right to legislate upon which is given to the Provincial Legislature. The list is called the Provincial List. The third category includes subjects over which both the Federal as well as the Provincial Legislature have a right to legislate. This list is called the Concurrent list. The scope and contents of these lists are given in Schedule VII to the Government of India Act.

In accordance with the fundamental principles of Federation a law made by the Federal Legislature if it relates to a matter which is included in the Provincial List, would be *ultra vires* and a nullity. Similarly, if the Provincial Legislature were to make a law relating to a matter falling in the Federal List such a Provincial Law would be *ultra vires* and therefore a nullity. This is, however declared by statute and section 107 is

now the law on the point. Cases of conflict of legislation touching the Federal List and the Provincial List are not likely to occur often. But cases of conflict between the two are sure to arise in the concurrent field of legislation. The law as to that you will find in section 107. Sub-section (*1*) lays down when a Federal Law shall prevail over a Provincial Law. Sub-section (*2*) lays down as to when a Provincial Law shall prevail over the Federal Law. Reading the sub-sections together the position in law is this. As a rule a Federal Law shall prevail over a Provincial Law if the two are in conflict. But in cases where the Provincial Law, having been reserved for the consideration of the Governor-General or for the signification of His Majesty's pleasure, has received the assent of the Governor-General or His Majesty, the Provincial Law shall prevail until the Federal Legislature enacts further legislation with respect to the same matter.

With regard to the question of this distribution of powers of legislation every Federation is faced with a problem. That problem arises because there can be no guarantee that enumeration of the subjects of legislation is exhaustive and includes every possible subject of legislation. However complete and exhaustive the listing may be there is always the possibility of some subject remaining unenumerated. Every Federation has to provide for such a contingency and lay down to whom the powers to legislate regarding these residuary subjects shall belong. Should they be given to the Central Government or should they be given to the Units ? Hitherto there has been only one way of dealing with them. In some Federations, these residuary powers are given to the Central Government, as in Canada. In some Federations they are given to the Units, as in Australia. The Indian Federation has adopted a new way of dealing with them. In the Indian Federation they are neither assigned to the Central Government nor to the Provinces. They are in a way vested in the Governor-General by virtue of section 104. When a Legislation is proposed on a subject which is not enumerated in any of the three lists it is the Governor-General, who is to decide whether the powers shall be exercised by the Federal Legislature or by the Provincial Legislature.

(b) Executive Powers of the Federation

The first question is, what is the extent of the executive powers of the Federation ? Is it co-extensive with the legislative powers ? In some of the Federations this was not made clear by statute. It was left to judicial decision. Such is the case in Canada. The Indian Constitution does not leave this matter to courts to decide. It is defined expressly in the Act itself. The relevant section is section 8(*1*). It says that the executive authority of the Federation extends—

(*a*) to matters with respect to which the Federal Legislature has powers to make laws ;

(*b*) to raising in British India on behalf of His Majesty of naval, military and air forces and to the governance of His Majesty's forces borne on the Indian establishment;

(*c*) to the exercise of such rights, authority and jurisdiction as are exercisable by His Majesty by treaty, grant, usage, sufference, or otherwise in and in relation to the tribal areas.

There is no difficulty in following the provisions of this sub-section. There might perhaps be some difficulty in understanding sub-clause (*a*). It says that the executive powers must be co-extensive with the legislative powers of the Federation. Now the legislative power of the Federation extends not only to the Federal List but also to the Concurrent List. Does the executive power of the Federation extend to subjects included in the Concurrent List ? Two points must be borne in mind before answering this question. First, the Concurrent List is also subject to the legislative authority of the Province. Second, according to section 49(*2*) that the executive authority of each Province extends to the matters with respect to which the Legislature of the Province has power to make laws. The answer to the question whether the executive authority of the Federation extends also to the Concurrent list is that the Executive Authority in respect of the Concurrent List belongs to the Federal Government as well as to the Provincial Government. This is clear from the terms of section 126(*2*). It belongs to Provincial Government except in so far as the Federal Legislature has covered the field. It belongs to the Federal Government except in so far as the Provincial Legislature has covered the field.

The Concurrent List is not the only list which is subject to Legislation by the Federal Legislature. The Federal Legislature has the right to legislate even on Provincial subjects under Section 102 in cases of emergency and under Section 106 to give effect to international agreements. Does the Executive Authority of the Federation extend to such matters also ? The answer is that when a field is covered by Federal Legislation that field also becomes the field of Executive Authority of the Federation.

(c) Administrative Powers of the Federation

The Administrative Powers of the Federation follow upon the Executive Powers of the Federation just as the Executive Powers of the Federation follow upon the Legislative Powers of the Federation.

To this there is one exception. That exception relates to the administration of subjects included in the Concurrent List. The Concurrent List is a list to which the Legislative Authority of the Federation extends by virtue of Section 100. As has already been pointed out the executive authority of the Federation extends in so far as Federal Legislation has covered the field. But the administrative powers for subjects falling in the Concurrent List do not belong to the Federation. They belong to the Provinces.

(d) Financial Powers of the Federation

The revenues of the Federal Government are derived from four different sources : (1) Revenue from Commercial Enterprise, (2) Revenue from

Sovereign Functions; (3) Revenue from Tributes ; and (4) Revenue from Taxes.

Under the first head fall all revenues from Posts and Telegraphs. Federal Railways, banking profits and other commercial operations. Under the second head come revenues from currency and coinage, from *bona vacantia* and territories administered directly by the Federal Government. Under the third head are included Contributions and Tributes from the Indian States.

The classification of Revenue from taxes follows upon the Powers of Taxation given to the Federal Government by the Constitution. The Powers of Taxation given to the Federal Government fall into three main categories. In the first category fall those powers of taxation which is wholly appropriable by the Federal Government. In the second category, fall those powers of taxation which are exercisable for raising revenue which is divisible between the Federal Government and the Provincial Governments.

The heads of revenue which fall under the first category of Taxing Powers cover those which are specifically mentioned in the Federal List—

1. Duties of customs, including export duties.
2. Duties of excise on tobacco and other goods manufactured or produced in India except—
   (*a*) alcoholic liquors for human consumption ;
   (*b*) opium, Indian hemp and other narcotic drugs and narcotics, non-narcotic drugs ;
   (*c*) medical and toilet preparations containing alcoholic, or any substance included in sub-paragraph (*b*) of this entry.
3. Corporation tax.
4. Salt.
5. State lotteries.
6. Taxes on income other than agricultural income.
7. Taxes on the capital value of the assets, exclusive of agricultural land of individuals and companies ; taxes, on the capital of companies.
8. Duties in respect of succession to property other than agricultural land.
9. The rates of stamp duty in respect of bills of exchange, cheques, promissory notes, bills of lading, letters of credit, policies of insurance proxies and receipts.
10. Terminal taxes on goods or passengers carried by railway or air ; taxes on railway fares and freights.
11. Fees in respect of any of the matters in this list but not including fees taken in any court.

In connection with this, attention might be drawn to the following items in the Concurrent List :

1. Marriage and divorce.
2. Wills, intestacy and succession.
3. Transfer of Property and other agricultural lands.

Being in the Concurrent list, the Federal Legislature has power to legislate upon with respect to these. Can the Federal Legislature also while legislating upon them raise revenue from them ? The Act does not seem to furnish any answer to this question. It may however be suggested that the rules contained in section 104 regarding the exercise of Residuary Powers will also apply here.

The sources of revenue which are made divisible by the Constitution are : (1) Income Tax other than Corporation Tax and (2) Jute Export duty. Those which are made divisible according to the Federal Law are : (1) Duty on Salt, (2) Excise duty on Tobacco and other goods and (3) Duties of Export.

In respect of the financial powers of the Federation there is one feature which by reason of its pecularity is deserving of attention. The Act in giving the Federal Government the right to tax, makes a distinction between power to levy the tax and the right to collect it and even where it gives the power to levy the tax it does not give it the right to collect it. This is so in the case of surcharge on Income tax and the Corporation tax. The Income tax is only leviable in the Provinces and not in the States although it is a tax for Federal purposes. The State subjects are liable to pay only a Federal surcharge on Income Tax because such a surcharge is leviable both within the Provinces as well as the States. But under section 138(*3*) the Federal Government has no right to collect it within the States. The collection is left to the Ruler of the State. The Ruler, instead of collecting the surcharge from his subjects, may agree to pay the Federation a lump sum and the Federation is bound to accept the same. Similar is the case with regard to the Corporation tax. The Federation can levy it on State subjects but cannot collect it directly by its own agency. Section 139 provides that the collection of the Corporation tax shall as of right be the function of the Ruler.

V

CHARACTER OF THE FEDERATION

(1) The Nature of the Union

How does the Indian Federation compare with other Federations ? This is not only a natural inquiry but it is also a necessary inquiry. The method of comparison and contrast is the best way to understand the nature of a thing. This comparison can be instituted from points of view. There is no time for a comparison on so vast a scale. I must confine this comparison to some very moderate dimensions. Therefore I propose to raise only four questions : (1) Is this Federation a perpetual Union ? (2) What is the relationship of the Units to the Federal Government ? (3) What is the relationship of the Units as between themselves ? (4) What is the relationship of the people under the Units ?

There is no doubt that the accession of the Indian States to the Federation is to be perpetual so long as the Federation created by the Act is in

existence. While the Federation exists there is no right to secede. But that is not the real question. The real question is, will the federation continue even when the Act is changed ? In other words the question is, is this a perpetual Union with no right to secede or, is this a mere alliance with a right to break away? In my opinion the Indian Federation is not a perpetual union and that the Indian States have a right to secede. In this respect the constitution of the United States and this Indian Federation stand in clear contrast. The constitution of the United States says nothing as to the right of secession. This omission was interpreted in two different ways. Some said that it was not granted because it was copy recognized. Others said it was not excluded because it was not negatived. It was this controversy over the question namely whether the right of secession was excluded because it was not recognized which led to the Civil War of 1861. The Civil War settled two important principles : (1) No State has a right to declare an Act of the Federal Government invalid ; (2) No State has a right to secede from the Union. In the Indian Federation it would be unnecessary to go to war for establishing the right to secession because the Constitution recognizes the right of the Indian States to secede from the Indian Federation if certain eventualities occur. What is a perpetual Union and what is only a compact is made nowhere so clear as by Blackstone in his analysis of the nature of the Union between England and Scotland. To use his language the Indian Federation is not an incorporate Union because in a Union the two contracting States are totally annihilated without any power of revival. The Indian Federation is an alliance between two contracting parties, the Crown and the Indian States, in which neither is annihilated but each reserves a right to original Status if a breach of condition occurs. The Constitution of the United States originated in a compact but resulted in a union. The Indian Federation originates in a compact and continues as a compact. That the Indian Federation has none of the marks of a Union but on the other hand it has all the marks of a compact is beyond dispute. The distinguishing marks of a Union were well described by Daniel Webster, when in one of his speeches on the American Constitution he said—

> " ...The constitution speaks of that political system which is established as 'the Government of the United States'. Is it not doing a strange violence to languages to call a league or a compact between sovereign powers a *Government* ? The Government of a State is that organisation in which political power resides".

> " ...The broad and clear difference between a government and a league or a compact is that a government is a body politic ; it has a will of its own ; and it possesses powers and faculties to execute its own purposes Every compact looks to some power to enforce its stipulations. Even in a compact between sovereign communities, there always exists this ultimate reference to a power to ensure its execution ; although in such

a case, this power is but the force of one party against the force of another; that is to say, the power of war. But a Government executes its decisions by its own supreme authority. Its use of force in compelling obedience to its own enactments is not war. It contemplates no opposing party having a right of resistance. It rests on its power to enforce its own will; and when it ceases to possess this power it is no longer a Government".

In the light of this the following facts should be noted. The Act does not ordain and establish a Federal Government for British India and the Indian States. The Act ordains and establishes a Federal Government for British India only. The Federal Government will become a Government for the States only when each State adopts it by its Instrument of Accession. Again note that the subjection of the States to the Federal Government is not to be for all times. It is to continue only under certain circumstances. It is to continue so long as certain provisions of the Act are continued without a change. Thirdly, where change in the provisions is permissible such change shall not bind the State unless it agrees to be bound by it.

All these are unmistakable signs which show that the Indian Federation is a compact and not a perpetual Union. The essence of a compact is that it reserves the right to break away and to return to the original position.

In this respect therefore the Indian Federation differs from the Federations in U.S.A., Canada and Australia. It differs from the U.S.A., because the right to secede is recognized by the Indian Constitution if the constitution is altered, while it is not recognized by the Constitution of the U.S.A., even if the constitution is altered against the wishes of a particular State. In regard to Australia and Canada such a question cannot really arise and if it did, a civil war would be quite unnecessary to decide the issue. In these federations the sovereignty, whether it is exercised by the Federal Governments or the Units belongs to the Crown and the maintenance of the Federation or its breakup remains with the King and Parliament. Neither the Federation nor the Units could decide the issue otherwise than with the consent of Parliament. If a break-up came, it would be a mere withdrawal of the sovereignty of the Crown and its re-distribution which the Crown is always free to do. The break up could be legal and even if it was perpetrated by non-legal means it could give sovereignty to the rebellious units because it belongs to the Crown. The same would have been the case, if the Indian Federation had been the Federation of British Indian Provinces only. No question of secession could have arisen. The Provinces would have been required to remain in the position in which the Crown might think it best to place them. The Indian Federation has become different because of the entry of the Indian States. The entry of the Indian States is not for all times and under all circumstances. Their entry is upon terms and conditions. That being so the Indian Federation

could not be a perpetual union. Indeed, the Indian States would not enter into matrimony with the Indian Provinces unless the terms of divorce were settled before-hand. And so they are. That is why the Indian Federation is a compact and not a union.

(2) Relationship of the Units to the Federal Government

That each separate unit should have approximately equal political rights is a general feature of federations. Equality of status among the different units is a necessity. To make them unequal in status is to give units the power to become dominant partners. The existence of dominant partners in a federation, as observed by Dicey is fraught with two dangers. Firstly, the dominant partners may exercise an authority almost inconsistent with federal equality. Secondly, it may create combinations inside the Federation of dominant units and subordinate units and *vice versa*. To prevent such an unhealthy state of affairs, all federations proceed upon the principle of equality of status. How far does this principle obtain in the Indian Federation?

(a) In the matter of Legislation

As you know for purposes of Legislation the field is divided into three parts and there are three lists prepared which are called the Federal List, the Concurrent List and the Provincial List.

The Federal List contains 59 items as subjects of legislation. The Concurrent List contains 36 items.

The first thing to note is that both these lists are binding upon the Provinces. They cannot pick and choose as to the matters in these two lists in respect of which they will subject themselves to the authority of the Federation. The Provinces have no liberty to contract out of these two lists. The position of a Federating State is quite different. A Federating State can wholly keep itself out of the Concurrent List. Under section 6(*2*) there is no objection to the Ruler of any Indian State to agree to federate in respect of matters included in the Concurrent List. But there is no obligation upon them to do so. Such an agreement is not a condition precedent to their admission into the Federation.

With regard to the Federal List, there is no doubt an obligation on the Ruler of a State to subject himself to the legislative authority of the Federation in respect of the Federal List, but his subjection to the Federation will be confined to matters specified by him in his Instrument of Accession. There are as I stated altogether 59 items in the Federal List. There is no obligation upon the Prince to accept all subjects in the Federal List as a condition precedent for his entry into Federation. He may accept some only or he may accept all. Again one Ruler may accept one item and another Ruler may accept another. There is no rule laid down in the constitution that some items must be accepted by every Ruler who chooses

to enter the Federation. The Federation, therefore, while it affects British India and the Provinces uniformly and completely so far as the legislative authority of the Federation is concerned, it touches different States in different degrees. A Ruler may federate in respect of one subject yet he is as good a member of the Federation as a Ruler who accepts all the fifty-nine items in the Federal List.

The Provincial List is a list which is subject to the exclusive Legislative authority of the Provinces. There is no corresponding State List given in the Act for the Federated States. It cannot be given. But it can be said that it includes all these subjects which are not surrendered by the State to the Federation. Now with regard to the exclusive authority of the Provincial Legislature, still in the event of emergency it is open to the Federal Legislature to make laws for a Province or any part thereof with respect to any of the matters enumerated in the Provincial List, it the Governor-General has in his discretion declared under section 102 by proclamation that a grave emergency exists whereby the security of India is threatened whether by way of war or by internal disturbances. There is no such provision in respect of the Indian States. A grave emergency which threatens India may quite well arise within a State as it may within the territories of a Province. It is thus clear that while the Federal Legislature can intervene and make laws for a Province when there is emergency, it cannot intervene and make laws for the Federated States under similar circumstances.

(b) In the matter of the Executive

Again in the matter of the Executive, the States and the Provinces do not stand on the same footing. Section 8 defines the scope of the executive authority of the Federation which according to section 7 is exercisable by the Governor-General on behalf of His Majesty. According to sub-section (*1*) to sub-clause (a) the authority of the Federal Executive extends to matters with respect to which the Federal Legislature has power to make laws, but this clause has not the same application with respect to the States as it has with respect to the provinces. With regard to the provinces it has authority in all matters which are included in the Federal Legislative List. It has also exclusive authority with respect to certain matters included in the Concurrent List subject to certain limitations ; but with regard to the States the case is very different. With regard to the States the Federation can have no executive authority in respect of subjects in the Concurrent List, but also the Federation is not entitled to have exclusive authority with respect to matters included in the Federal Legislative List. Sub-clause 2 of section 8 is very important. It says :

> "The executive authority of the Ruler of a Federated State shall, notwithstanding anything in this section, continue to be exercisable in that State with respect to matters with respect to which the Federal Legislature

has power to make laws for that State except in so far as the executive authority of the Federation becomes exercisable in the State to the exclusion of the executive authority of the Ruler by virtue of a federal law.".

In plain language what the sub-section means is this—With regard to a province the executive authority of the Federation extends to all matters over which the Federation has legislative authority. With regard to the State the position is different. The mere fact that the federal legislature has authority to legislate in respect of a subject does not give the Federation any executive authority over the State in respect of that subject. Such executive authority can be conferred only as a result of a law passed by the Federation. Whether it is possible to pass such a law is problematic in view of the large representation which the States have in Federal Legislature. Whatever may be the eventuality, in theory the executive authority of the Federation does not extend to a Federated State. The position is that while with regard to the provinces the Federation can legislate as well as execute, in the case of the Federated States, the Federation can legislate, but cannot execute. The execution may be with the State.

(c) In the matter of administration

When you begin to examine the constitution from the point of view of administration you will find certain sections in the Act which lay down rules for the guidance of the Federal Government, of the Provincial Governments and of the State Governments. The purpose of the sections is to tell them how they should exercise the executive authority belonging to them respectively. These sections are 122, 126 and 128.

Section 122 is addressed to the Federal Government. It reads as follows :

"122. (*1*) The executive authority of every Province and Federated State shall be so exercised as to secure respect for the laws of the Federal Legislature which apply in that Province or State.

(*2*) The reference in sub-section (*1*) of this section to laws of the Federal Legislature shall, in relation to any Province, include a reference to any existing Indian Law applying in that Province.

(*3*) Without prejudice to any of the other provisions of this part of this Act, in the exercise of the executive authority of the Federation in any Province or Federated State regard shall be had to the interests of that Province or State.".

Section 126 is addressed to the Provincial Governments. It provides that—

"126 (*1*) The executive (authority of every Province shall be so exercised as not to impede or prejudice the exercise of the executive authority of the Federation, and the executive authority of the Federation shall extend to the giving of such directions to a Province as may appear to the Federal Government to be necessary for that purpose.".

Section 128 is addressed to the States. It runs as follows :

"128. (*1*) The executive authority of every Federated State shall be so exercised as not to impede or prejudice the exercise of the executive authority of the Federation so far as it is exercisable in the State by virtue of the law of the Federal Legislature which applies therein.

(*2*) If it appears to the Governor-General that the Ruler of any Federated State has in any way failed to fulfil his obligations under the preceding sub-section, the Governor-General, acting in his discretion, may after considering any representations made to him by the Ruler, issue such directions to the Ruler as he thinks fit :

Provided that if any question arises under this section as to whether the executive authority of the Federation is exercisable in a State with respect to which it is so exercisable, the question may, at the instance either of the Federation or the Ruler, be referred to the Federal Court for determination by that Court in the exercise of its original jurisdiction under this Act.'

All these sections would have been very useful if there was any possibility of conflict in the exercise of their executive authority by these agencies. But these will be quite unnecessary because there would be as a matter of fact no conflict of executive authority which can arise only when such executive authority is followed by administrative act. When administration is divorced from Executive Authority there is no possibility of conflict and the admonitions contained in such sections are quite unnecessary.

Now it is possible that in the Federal Constitution the Federal Government may be altogether denuded of its powers of administration and may be made just as a frame without any spring of action in it. The constitution provides that the Governor-General of the Federal Legislature may provide that the administration of a certain law passed by it instead of being carried on by the Federal Executive might be entrusted to Units i.e. to the Provincial Governments and the Indian States. This is clear from the terms of section 124 :

"124. (*1*) Notwithstanding anything in this Act, the Governor-General may, with the consent of the Government of a Province or the Ruler of a Federated State, entrust either conditionally to the Government or Ruler or to their respective Officers, functions in relation to any matter to which the executive authority of the Federation extends.

(*2*) An Act of the Federal Legislature may, notwithstanding that it relates to a matter with respect to which a Provincial Legislature has no power to make laws, confer powers and impose duties upon a Province or officers and authorities thereof.

(*3*) An Act of the Federal Legislature which extends to a Federated State may confer powers and impose duties upon the State or officers and authorities thereof to be designated for the purpose by the Ruler.

(*4*) Where by virtue of this section powers and duties have been conferred or imposed upon a Province or a Federated State or officers or authorities thereof, there shall be paid by the Federation to the Province or State such sum as may be agreed, or, in default of agreement, as may be determined by an arbitrator appointed by the Chief Justice of India, in respect of any extra cost of administration incurred by the Province or State in connection with the exercise of those powers and duties."

It is quite possible for States and Provinces to combine to rob the Federation of all administrative powers and make it only a law making body.

A more staggering situation however is created by section 125. It is in the following terms:

"125. (*1*) Notwithstanding anything in this Act, agreements may, and, if provision has been made in that behalf by the Instrument of Accession of the State, shall be made between the Governor-General and the Ruler of a Federated State for the exercise by the Ruler or his officers of functions in relation to the administration in his State of any law of the Federal Legislature which applies therein.

(*2*) An agreement made under this section shall contain provisions enabling the Governor-General in his discretion to satisfy himself, by inspection or otherwise that the administration of the law to which the agreement relates is carried out in accordance with the policy of the Federal Government and, if he is not so satisfied, the Governor-General, acting in his discretion, may issue such directions to the Ruler as he thinks fit.

(*3*) All courts shall take judicial notice of any agreement made under this section.".

This section means that a State by its Instrument of Accession may stipulate that the administration of Federal laws in the State shall be carried out by the State agency and not by the agency of the Federation and if it does so stipulate then the Federation shall have no administrative power inside the State. The benefit of a law depends upon its administration. A law may turn out to be of no avail because the administration is either inefficient or corrupt. To deprive the Federal Government of its administrative powers is really to cripple the Federal Government. There is no Federation in which some units of the Federation are permitted to say that the Federal Government shall have no administrative powers in their territory. The Indian Federation is an exception. Not only is there a difference between the Provinces and the States in this matter but they also differ in their liability to supervision and direction by the Federal

Government in the matter of the exercise of their executive authority. That difference will be clear if you will compare section 126 with section 128.

Section 126 enacts that the executive authority of every province shall be exercised as not to impede or prejudice the exercise of the executive authority of the Federation and the executive authority of the Federation shall extend to the giving of such directions to a Province as may appear to the Federal Government to be necessary for that purpose. Section 128 is a section which enacts a similar rule with respect to a Federated State, but there is a significant difference between the two sections. Section 126 says that the executive authority of the Federation extends to the giving of such directions to a province as may appear to the Federal Government to be necessary for that purpose, while section 128 does not give such a power. That means that the Federation does not possess the inherent executive authority to give a direction to the Ruler of a Federated State to prevent him from so exercising the executive authority of the State as to impede or prejudice the exercise of the executive authority of the Federation. That is one very significant difference. Such authority, instead of being given to the Federation, is given to the Governor-General, who, of course, under the law is distinct from the Federal Government and it is the Governor-General who is empowered to issue such directions to the Ruler as he thinks fit. A further distinction is also noticeable. When directions are issued to the Governor of a province under section 126 he is bound to carry them out. He has no right to question the necessity of the directions nor can he question the capacity of the Governor-General to issue such directions. With regard to the Ruler of a State, however, the position is entirely different. He can question such a direction, and have the matter adjudicated in the Federal Court, because the proviso to sub-section 2 of section 128 says that if any question arises under this section as to whether the executive authority under this section of the Federation is exercisable in a State with respect to any matter or as to the extent to which it is so exercisable, the question may at the instance either of the Federation or the Ruler be referred to the Federal Court for determination by that Court.

(3) In the matter of Finance

Coming to the question of Finance, the disparity between the Provinces and the States is a glaring disparity. Take the case of the taxing authority of the Federation over the Provinces and the States. It may be noted that the revenues of the Federation are derivable from sources which fall under two main heads—those derived from taxation and those not derived from taxation. Those not derived from taxation fall under six heads—

(1) Fees in respect of matters included in the Federal List.

(2) Profits, if any, on the work of the Postal Services, including Postal Savings Banks.

(3) Profits, if any, on the operation of Federal Railways.

(4) Profits, if any, from Mint and Currency operations.

(5) Profits, if any, from any other Federal enterprise, such as Reserve Bank, and

(6) Direct contribution to the Crown from Federated or non-Federated States.

As regards the revenues derived from taxation under the Government of India Act, they fall under two heads; Ordinary taxation and Extraordinary taxation. Ordinary taxation includes levy from following sources :

(1) Customs duties;

(2) Export duties;

(3) Excise duties;

(4) Salt;

(5) Corporation tax;

(6) Tax on income, other than agricultural; and

(7) Property Taxes i.e., taxes on Capital value of the individual assets or a property.

The extraordinary revenue falls under following heads :

(1) Surcharges on Income-tax.

(2) Surcharges on succession duties.

(3) Surcharges on terminal taxes on goods or passengers carried by rail or air and all taxes on railway freights.

(4) Surcharges on Stamp duties, etc.

Now, while the provinces are liable to bear taxation under any of these heads whether the taxation is of an ordinary character or is of an extraordinary character, the same is not true of the States. For instance, the States are not liable in ordinary time to ordinary taxes falling under heads 6 and 7, while the Provinces are liable,

With regard to extraordinary taxation, the States are not liable to contribute even in times of financial stringency the taxes levied under items 2, 3 and 4 and even where they are liable to contribute under head 1 of the extraordinary sources of revenue, it must be certified that all other economies have been made.

There is another difference from the financial point of view between the States and the Provinces. The field of taxation for provincial Governments has been defined in the Act. A provincial Government cannot raise revenue from any source other than those mentioned in the Act. Such is not the case with the State. There is nothing in the Government of India Act, which defines the powers of a Federated State with regard to its system of taxation. It may select any source of taxation to raise revenue for the purpose of internal administration and may even levy customs duties upon articles entering its territory from a neighbouring province although that neighbouring province is a unit of the Federal Government of which the

Federated State is also a unit. This is a most extraordinary feature of this Indian Federation and also one of its worst features. One of the results of a Federation, if not its primary object, has been the freedom of trade and commerce inside the territory of the Federation. There is no federation known to history which has permitted one unit of the Federation to levy customs duties or raise other barriers with a view to prevent inter-State commerce. The Indian Federation is an exception to that rule and this is a feature of the Indian Federation which makes it stand out in glaring contrast with other federations with which people are familiar today.

One of the characteristics of a Federal Constitution is that although the territory comprised in the Federation is distributed or held by different units, still they constitute one single territory. At any rate for customs purposes the territory is treated as a single unit. Every Federal Constitution contains powers and prohibitions to prevent trade and customs barriers being erected by one unit against another.

The American constitution by Section 9 of Article II prohibits a State from preventing the import or export of goods or from levying import or export duties upon goods passing in or out of the State boundary. Section 8(*3*) of Article II gives the Federal Government the power of regulating trade or commerce between the States of the Union.

In Australia by virtue of Section 92 of its Constitution both the States and the Federal Government are bound so to exercise their power of regulation as not to transgress the fundamental guarantee of the Constitution embodied in Section 92 that "trade and commerce among the States whether by means of internal carriage or ocean navigation shall be absolutely free".

In Canada section 121 enacts that "all articles of the growth, produce or manufacture of any one Province shall, from and after the Union, be admitted free into each of the other Provinces."

In the Indian Constitution the provision relating to freedom of trade and commerce within the Federation is contained in Section 297. It reads as follows :

"297. (1) No Provincial Legislature or Government shall—

(*a*) by virtue of the entry in the Provincial Legislative List relating to trade and commerce within the Province, or the entry in that list relating to the production, supply, and distribution of commodities, have power to pass any law or take any executive action prohibiting or restricting the entry into, or export from, the Province of goods of any class or description ; or

(*b*) by virtue of anything in this Act have power to impose any tax, cess, toll, or due which, as between goods manufactured or produced in the Province and similar goods not so manufactured or produced, discriminates in favour of the former, or which, in the case of goods manufactured or produced outside the Province, discriminates between

goods manufactured or produced in one locality and similar goods manufactured or produced in another locality.

(2) Any law passed in contravention of this shall, to the extent of the contravention, be invalid."

Now it will be clear from the terms of this section that the freedom of trade and commerce is confined only to the provinces. That means the Indian States are free to prohibit the entry of goods from the Provinces absolutely or subject them to duty. This is quite contrary to the fundamental idea underlying a federal union. To allow one unit of the Federation to carry on commercial warfare against another unit is nothing but negation of federation.

(4) Relationship of the People under the Federation

Before I enter into this question it is necessary to clear the ground by pointing out certain distinctions. The words 'State' and 'Society' are often presented as though there was a contrast between the two. But there is no distinction of a fundamental character between a State and a society. It is true that the plenary powers of the State operate through the sanction of law while society depends upon religious and social sanctions for the enforcement of its plenary powers. The fact, however, remains that both have plenary powers to coerce. As such, there is no contrast between state and society. Secondly, the persons composing society are persons who are also members of the State. Here again, there is no difference between State and Society.

There is, however, one difference, but it is of another kind. Every person, who is a member of society and dwells in it, is not necessarily a member of the State. Only those who dwell within the boundary of the State do not necessarily belong to the State. This distinction between those, who belong to the State and those who do not, is very crucial and should not be forgotten because it has important consequences. Those who belong to State are members and have the benefits of membership which consists of the totality rights and duties which they possess over against the State. From the side of duty the relation is best indicated by the word subject, from the side of rights it is best designated by the word citizen. This difference involves the consequence that those who dwell in the State without belonging to it have no benefit of membership which means that they are foreigners and not citizens.

Theoretically, the task of differentiating the foreigners from the citizens of a State would seem to be an easy task, in fact, almost a mechanical task. This is particularly true of an Unitary State. Here there is a simple question : What is the relation of this State as against any and all foreign States ? In a Federal State the matter is complicated by the fact that every individual stands in a dual relationship. On the one hand, he sustains certain relations to the Federal State as a whole ; and on the other he sustains certain relations to the State in which he may reside. The moment an attempt is

made to define the status of a person in a Federal State, therefore, not one question, but several must be answered : What is the relation of this person to the Federal State, as against any and all foreign States ? What is the relation of this person to the State in which he resides ? Further is it possible to be a citizen of one State and not a citizen of Federal State ?

Such questions did not arise in Canada and Australia when they became federations. The reason was that persons residing in their respective units were natural born British subjects—a status which remained with them when the Federation came. After the Federation the powers of naturalization was given to the Federation and consequently every one who is naturalized by the Federation is a citizen of the Federation and therefore of every unit in it.

Such questions however did arise in the U.S.A., Switzerland and Germany, because before the Federation their units were all foreign States and their subjects were foreign subjects. But it is noteworthy that in all these cases a common citizenship was established as a part of the federation. A rule was established whereby it was accepted that a citizenship of one unit carried with it a citizenship of the Federation.

The case of the Indian Federation is similar to that of the U.S.A., Germany and Switzerland. The subject of an Indian State is a foreigner in British India as well as in another Indian State. The subject of a British Indian Province is a foreigner in every Indian State.

What does the Indian Federation do with regard to this matter ? Does it forge a common Citizenship for all Units which become members of the Federation ? The answer is no. A British Indian will continue to be a foreigner in every Indian State even though it is a Federal State after the Federation, as he was before the Federation. Similarly a subject of a Federated Indian State will be a foreigner in every British Indian Province after the Federation as he was before Federation. There is no common nationality. The whole principle of the Federation is that the ruler of a Federated State shall remain the ruler of the State and his subjects shall remain his subjects and the Crown as the ruler of the Federated Provinces shall remain the ruler of the Provinces and his subjects shall remain his subjects.

This difference in citizenship manifests itself in two specific ways.

Firstly, it manifests itself in the matter of right to serve. Federation being established under the Crown, only persons who are subjects of the Crown are entitled to serve under it. This is recognized by Section 262. This of course is an injustice to the subjects of the States. To prevent this injustice which of course is a logical consequence of difference of citizenship, power is given to the Secretary of State to declare the subjects of the Indian States eligible for service under the Federation. This is an anomalous state of affairs and although the injustice to Indian State subjects is mitigated, the injustice

against British Indians in the matter of right to employment in Indian States continues. For, Indian States are not required to declare that British Indians shall be deemed to be eligible for service under them. That notwithstanding Federation such an anomaly should exist shows that this Federation is a freak.

Secondly, this difference in citizenship shows itself in the terms of the oath prescribed for members of the Legislature by Schedule IV.

In the case of a member who is a British subject the form of the oath is as under :

> "I, A.B., having been elected (or nominated or appointed) a member of this Council (or Assembly), do solemnly swear (or affirm) that I will be faithful and bear true allegiance to His Majesty the King, Emperor of India, His heirs and successors, and that I will faithfully discharge the duty upon which I am about to enter."

In the case of a person who is a subject of a Ruler of an Indian State the form of the oath is as follows :

> "I, A.B., having been elected (or nominated or appointed) a member of this Council (or Assembly), do solemnly swear (or affirm) that saving the faith and allegiance which I owe to C.D., his heirs and successors, I will be faithful and bear true allegiance in any capacity as Member of this Council (or Assembly) to His Majesty the King, Emperor of India, His heirs and successors, and that I will faithfully discharge the duty upon which I am about to enter."

The subject of an Indian State, it is obvious from the terms of the oath, owes a double allegiance. He owes allegiance to the ruler of his State and also to the King. Superficially the position seems not very different from what one find in the United States. In the United States the individual is a citizen of the Union as well as of the State and owes allegiance to both powers. Each power has a right to Command his obedience. But ask the question, to which, in case of conflict, is obedience due and you will see the difference between the two. On this question this is what Bryce has to say :

> "The right of the State to obedience is wider in the area of matters which it covers. *Prima facie* every State-law, every order of a competent State authority binds the citizen, whereas the National government has but a limited power; it can legislate or command only for certain purposes or on certain subjects. But within the limits of its power, its authority is higher than that of the State, must be obeyed even at the risk of disobeying the State.
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> "Any act of a State Legislature or a State Executive conflicting with the Constitution, or with an act of the National Government, done under the Constitution, is really an act not of the State Government, which

cannot legally act against the Constitution, but of persons falsely assuming to act as such government, and is therefore ipso jure void. Those who disobey Federal authority on the ground of the commands of a State authority are therefore insurgents against the Union who must be coerced by its power. The coercion of such insurgents is directed not against the State but against them as individuals though combined wrongdoers. A State cannot secede and cannot rebel. Similarly, it cannot be coerced.".

Can the Federal Government in India take the stand which the Union Government can when there is a conflict of allegiance ? There can be no doubt that it cannot, for the simple reason that the allegiance to the King saves the allegiance to the Ruler. This is a very unhappy if not a dangerous situation.

(5) Strength of the Federal Frame

The existence in the country of one Government which can speak and act in the name of and with the unified will of the whole nation is no doubt the strongest Government that can be had and only a strong Government can be depended upon to act in an emergency. The efficiency of a Governmental system must be very weak where there exists within a country a number of Governments which are distinct centres of force, which constitute separately organized political bodies into which different parts of the nation's strength flows and whose resistance to the will of the Central Government is likely to be more effective than could be the resistance of individuals, because such bodies are each of them endowed with a government, a revenue, a militia, a local patriotism to unite them. The former is the case where the unitary system of Government prevails. The latter is the case where the Federal form of Government prevails.

The Indian Federation by reason of the fact that it is a Federation has all the weaknesses of a Federal form of Government. But the Indian Federation has its own added weaknesses which are not to be found in other Federations and which are likely to devitalize it altogether. Compare the Indian Federation with the Federation of the United States. As Bryce says, "the authority of the national Government over the citizens of every State is direct and immediate, not exerted through the State organization, and not requiring the co-operation of the State Government. For most purposes the National Government ignores the States, and it treats the citizens equally bound by its laws. The Federal Courts, Revenue Officers and Post Office draw no help from any State Officials, but depend directly on Washington ..... There is no local self-Government in Federal Matters ..... the Federal authority, be it executive or judicial, acts upon the citizens of a State directly by means of its own officers who are quite distinct from and independent of State Officials. Federal indirect taxes, for instance, are levied all along the coast and over the country by Federal custom-house collectors and excisemen acting under the orders

of the treasury department at Washington. The judgments of Federal Courts are carried out by U.S. Marshals, likewise dispersed over the country and supplied with a staff of assistants. This is a provision of the utmost importance, for it enables the central, national Government to keep its fingers upon the people everywhere, and make its laws and the commands of its duly constituted authorities respected whether the State within whose territory it acts be heartily loyal or not, and whether the law which is being enforced be popular or abnoxious. The machinery of the national Government ramifies over the whole union as the nerves do over the whole body, placing every point in direct connection with the Central executive.".

Not one of these things can be predicated of the Indian Federation. It is a dependent Government and its relation with the people is not direct.

In the United States, the States as States have no place in the Central Government and although the States elect representatives to the Federal Legislature, political action at the centre does not run in State channels. There is no combination of States into groups and it is not the fashion for States to combine in an official way through their State organizations. How different is the Indian Federation! States, as such, have been given *de jure* recognition, they have been given *de jure* exemptions, and immunities from law. There are great possibilities of combined action and counteraction by States and Provinces over these exemptions and immunities. This is another reason which leads to the feeling that the Indian Federation will have very little vitality.

VI

BENEFITS OF THE FEDERAL SCHEME

The protagonists of the Federal Scheme have urged three grounds in favour of the acceptance of the Scheme. The first ground is that it helps to unite India. The second ground is that it enables British India to influence Indian India and to gradually transform the autocracy that is prevalent in Indian India into the democracy that exists in British India. The third ground is that the Federal Scheme is a scheme which embodies what is called Responsible Government.

These three arguments in favour of the Federal Scheme are urged in such seriousness and the authority of those who urge them is so high that it becomes necessary to examine the substance that underlies them.

1. Federation and the Unity of India

The advantages of common system of Government are indeed very real. To have a common system of law, a common system of administration and a feeling of oneness are some of the essentials of good life. But they are all the results which follow from a common life led under a common system of Government. Other things being equal, a federation as a common system of Government for the whole of India should be welcome. But does this Federation unite under one governmental system the whole territory called India in the Government of India Act, 1935 ? Is this an All India Federation ?

That this fededation includes British India is of course true; when Provinces are declared to be the units of the Federation it means that British India is included in the Federation. Because the Provinces which are declared to be the units of the Federation compromise what is called Indian India. Indian India is no small tract. The following figures of area and population will give a comparative idea of the extent of British India and this Indian India:

	Area in square miles (1931)	Population (1931)
British India excluding Burma and Aden.	8,62,630	2,56,859,787
Indian States	7,12,508	81,310,845

It will be seen that Indian India comprises 39 per cent of the population and 31 per cent of India as a whole.

How much of this Indian India is going to be brought under this Federation?

Many will be inclined to say that as this is spoken of as an All India Federation every inch of this area will be included in the Federation and will be subject to the authority of the Federal Government Such an impression is no doubt created by the wording of Section 6(*1*) which relates to the accession of the states. This section speaks of a Ruler declaring his desire to join the Federation and thereby suggesting that every State is entitled to join the Federation. If this is true, then no doubt the Federation can in course of time be an All India Federation. But this impression is wrong. Such an impression cannot arise if Section 6(*1*) is read with Schedule I of the Act Schedule I is merely thought of as a schedule which contains a Table of Seats for the Rulers. This is a very incomplete reading of the Schedule. The Schedule does more than that. It not only gives a table of seats, but also enumerates the States which are entitled to join the Federation and thereby fixes the maximum number of States which can come within the Federation if they wish to do so. In other words it is not open to every State to join the Federation. Only those enumerated can join. This is the significance of the Table of Seats given in Schedule I.

What is the total number of the states which can join the Federation ? Schedule I limits the number to 147. A number of questions crop up by reason of this limit fixed by the Schedule. According to official figures there are in all 627 States in India. That means 480 States will remain outside the Federation and can never become part of the Federation. Can this be called an All India Federation? If it is to be an All India Federation, why are these States excluded? What is the position of these excluded

States ? If they are not States with sovereignty why are they allowed to join the federation ? If they are not States with sovereignty and if the sovereignty is with the Crown, why has the Crown not transferred its sovereignty to the Federation in respect of these territories ? What will be the ultimate destiny of such excluded States? Will these be merged in some Indian States or will these be merged in some Indian Provinces? I mention all this, firstly because I want to show that this Federation is not an All India Federation and secondly because I want to draw attention to the move of some Indian States to get these excluded States to merge into them.

A second question may be raised. Will this Federation help to unite the people of British India and the Indian States into one nation ?

A Federation is necessarily a composite body. Within it are units which are smaller political communities. Above the units is a larger political community called the Federation. Whether these different political communities will remain merely political associations or whether they will develop a common social fabric leading ultimately to the formation of a nation will depend upon what form their association takes. As Bryce points out—

> "When within a large political community smaller communities are found existing, the relation of the smaller to the larger usually appears in one or other of the two following forms. One form is that of the League, in which a number of political bodies, be they monarchies or republics are bound together so as to constitute for certain purposes, and especially for the purpose of common defence, a single body. The members of such a composite body or league are not individual men but communities. It exists only as an aggregate of communities, and will therefore vanish so soon as the communities which compose it separate themselves from one another. Moreover it deals with and acts upon these communities only. With the individual citizen it has nothing to do, no right of taxing him, or judging him, or making laws for him, for in all these matters it is to his own community that his allegiance is due.
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> "In the second form, the smaller communities are mere sub-divisions of that greater one which we call a nation. They have been created, or at any rate they exist, for administrative purposes only. Such powers as they possess are powers delegated by the nation, and can be overridden by its will. The nation acts directly by its own officers, not merely on the communities, but upon every single citizen and the nation, because it is independent of these communities, would continue to exist were they all to disappear .....".

The former is the case where the form of Government is a confederation. The latter is the case where there exists a unitary form of Government. A Federal Government is between the two. It must not however be assumed that nationalism is compatible only with a Unitary Government and

incompatible with a Federal form of Government. It must be borne in mind that as a nation may be found in being, so also a nation, may be brought into being. In a Federal Government there may be at the start no nation, it may be a collection of heterogeneous communities. But it is possible to have in the end a nation even under a Federal Government. The most striking case is that of the United States of America. Mr. Bryce relates a story which is both interesting as well as instructive. This is the story and I give it in his own words. "Some years ago the American Protestant Episcopal Church was occupied at its triennial Convention in revising its liturgy. It was thought desirable to introduce among the short sentence a prayer for the whole people; and an eminent New England Divine proposed the words, 'O Lord, bless our nation'. Accepted one afternoon on the spur of the moment, the sentence was brought up next day for reconsideration, when so many objections were raised by the laity to the word 'nation', as importing too definite a recognition of national unity, that it was dropped, and instead there were adopted the words, 'O Lord, bless these United States.' Notwithstanding this prayer to the Lord, notwithstanding the reluctance to encourage the idea of a nation over against the idea of the states and notwithstanding the federal form oi Government the United States is a nation. That it is a nation in the social sense of the word is incontrovertible."

How has this happened in the United States ? Can we hope to see this happen in India under the Federal Scheme ? Bryce explains how this happened in America. He points out that in America "The Central or National Government is not a mere league, for it does not wholly depend on the component Communities which we call the States. It is itself a Commonwealth as well as a Union of Commonwealths, because it claims directly the obedience of every citizen, and acts immediately upon him through its Courts and executive officers". It can tax him, make law for him and judge him. In short it is the process of Government which is responsible largely if not wholly for moulding the Americans into a nation and that this was possible because in the Federal Form of Government of the United States there is a direct contact between the National Government and the individual.

Is this possible under the Indian Federal Scheme ? My answer is that such a thing is not possible. The people in the Indian States remain the subjects of the States. The Federal Government cannot deal with them directly. Everything has to be done through the State. There is no contact between the two, not even for purposes of taxation. How can a feeling that they belong to the national Government grow in the subject of the Indian States if they are excluded from any and every influence and are not even made to feel the existence of the National Government ? I am afraid this United States of India will not be more than a mere body

of United States. It has no potentiality of forging a nation out of these States and probably the framers of the Scheme have had no such intention at all.

2. Democratization of Autocracies

The other advantage of the Federal Scheme which is claimed by its protagonists is that it brings beneath the dome of a single political edifice the new democracies of British India and the ancient autocracies of the Indian States and that by bringing the two under one edifice it provides contact between democracy and autocracy and thus enables the democracy in British India to democratize the autocracies in the Indian States. To examine this argument and to see how much force there is behind it, it is well to note that the Indian States and the British Indian Provinces are geographically contiguous. There is regular intercourse between them. The people of British India and those of the Indian States racially, linguistically and culturally form parts of one whole. With all these contacts and with all the unity of race, religion, language and culture British India has not been able to influence at all the forms of government which are prevalent in the Indian States. On the contrary while British India has advanced from autocracy to democracy, the Indian States have remained what they were with their fixed form of government. Unless therefore there is something special in the Act itself which enables British India to exercise its influence on the Indian States through the legislature and through the executive, this argument can have no substance at all. Is there anything in the Act which gives British India power to influence the States ? In this connection reference may be made to section 34(*1*) which deals with the procedure in the legislature with respect to the discussion and voting of the Budget estimates.

From an examination of this Section it will be clear that the estimates relating to para (*a*) and para (*f*) of sub-section (*3*) of section 33 cannot even be discussed by the Federal legislature. Para (*a*) of sub-section (*3*) refers to the salary and allowances of the Governor-General and other expenditure relating to his office for which estimate is required to be made by Orders in Council, and para (*f*) relates to the sums payable to His Majesty under this Act out of the revenue of the Federation in respect of the expenses incurred in discharging the functions of the Crown in its relations with the Indian States. Another section which has a bearing upon this point is Section 38. Section 33 is a section which deals with the making of the rules by the Federal legislature for regulating its procedure in the conduct of its business. While this section permits the Federal legislature to make its own rules it allows the Governor-General to make rules —

(*c*) or prohibiting the discussion of, or the asking of questions on, any matter connected with any Indian State, other than a matter with

respect to which the Federal legislature has power to make laws for the State, unless the Governor-General in his discretion is satisfied that the matter affects Federal interest or affects a British subject and has given his consent to the matter being discussed or the question being asked ;

(*d*) For prohibiting —

(*i*) the discussion of, or the asking of questions on, any matter connected with relations between His Majesty or the Governor-General and any foreign State or Prince ; or

(*ii*) the discussion, except in relation to estimates of expenditure of, or the asking of questions on, any matter connected with the tribal area or the administration of any excluded area; or

(*iii*) the discussion of, or the asking of questions on, the personal conduct of the ruler of any Indian State, or of a member of the ruling family thereof;

and the section further provides that if and so far as any rule so made by the Governor-General is inconsistent with any rules made by the Chamber, the rules made by the Governor-General shall prevail.

Another section having a bearing on this point is section 40. It says: "No discussion shall take place in the Federal legislature with respect to the conduct of any judge of the Federal Court or a High Court in the discharge of his duties and provides that in this sub-section the reference to a High Court shall be construed as including a reference to any court in a Federated State which is a High Court for any of the purposes of Part 9 of this Act." Similar provisions are contained in that part of the Act which relates to the constitution of the provincial legislatures. Section 84 is a counterpart of section 38 and prevents any member of a Provincial legislature from asking any question with regard to the personal conduct of the ruler of any Indian State or the affairs of a State. Section 86 is a counterpart of section 40.

Now it is obvious that the two most important ways open to a Legislature for influencing the conduct of the administration is by discussion of the Budget and by asking questions. The discussions on the budget had its origin in the theory which postulates that there can be no supply given to the executive unless the grievances of the people were redressed. The slogan of democracy has been : Redress of grievances before supplies of moneys. The discussion on the budget is the one opportunity of placing the grievances of a people before the executive. It is therefore a very valid privilege, as will be seen from section 34, the legislature is prevented but from placing the grievances of the subjects of the States before the executive on the floor of the House. Similarly, the right to interrogate and ask questions

is also valid privilege, but that also is denied. The right to criticise on a proper motion the conduct of the judiciary is always open to the legislature, but that also has been excluded. It is difficult to see exactly in what way the Federal legislature could influence the internal administration of the Indian States. Not only the representatives of British India are prevented from asking any question or moving any resolution with regard to the internal administration of the States, but the same disability is imposed upon the representatives of the States themselves who are the victims of this maladministration.

Compare with this the influence which the Federated States are in a position to exercise over British India.

In the first place there is no restriction on the representatives of the Federated States in the matter of asking any question or raising any matter in the Federal Legislature. The fact that the question or matter touches British India and relates to internal administration of British India is not a bar against the representatives of the Federated States from raising such an issue.

Secondly, there is no restraint upon the representatives of the Federated States in the matter of discussing and voting upon the financial proposals of the Federal Government. The fact that any such proposal affects British India only and does not affect the States can cause no legal impediment in their way.

Thirdly, in the matter of Legislation the Representatives of the Federated States are free to vote upon any measure brought before the Federal Legislature. There are two lists over which the legislative authority of the Federation extends—The Federal list and the Concurrent list. The provinces are wholly bound by the Federal List. A Federated State is not wholly bound by it. The provinces are wholly bound by the concurrent list. A Federated State may not be bound at all. Yet the State represenatives have a right to vote upon any measure falling under either of the two lists. In other words the Federal Scheme gives the States the right to legislate for British India, while British India gets no such right to legislate for the States except to the extent to which the States choose to subject themselves to these two legislative lists.

The scope of this Legislative influence by the States over British India is by no means small nor is it inconsequential. To Confine to the Concurrent list only, it includes 36 subjects. Among the 36 are such subjects as, Criminal Law, Criminal and Civil Procedure, Professions, Newspapers, Books and Printing Press etc. It is clear that these subjects are vital subjects. They affect the liberties of the people in the Provinces. Now as the States have a right to participate and vote upon all legislation within the Concurrent list, the Indian States will have the right and the authority to pass legislation affecting the rights, privileges and liberties of British Indians in the Provinces.

Further in the Legislative sphere, so far as it relates to the Concurrent List the States have obtained authority without any obligation. They are free to legislate and need not consider their own case in doing so because they are not bound, by the laws they make. Their conduct can be as irresponsible as they may choose to make it.

It is however an understatement to say that the States have only a right to influence administration and Legislation in British India. The truth is that the States can dominate British India because they can maintain in office a ministry in the Federal Government although it is defeated by a majority of the representatives of British India on a matter purely affecting India. This is because they have a right to vote upon any motion including a non-confidence motion irrespective of the question whether the motion relates to a matter which affects them or not If this does not vest control over British India in Indian States I wonder what will.

The injustice and anomaly of the States taking part in the discussions of the internal affairs of British India while the representatives of British India having no corresponding right to discuss the affairs of the States was sought to be remedied by limiting the rights of the States to discuss and vote upon such questions as did not relate to internal affairs of British India, but the Princes and their representatives have always been against such distinction being drawn and they insisted that on any matter on which the fate of the Ministry depended they must have the right to decide upon the future of that Government. The constitution has given effect to the point of view of the Princes and set aside the point of view of British India.

This comparison shows that the States are placed by law in a position to control the affairs of British India and by the same law British India is disabled from exercising any influence over the States. That this is the true state of facts must be admitted by all. In other words the Federal Scheme does not help, indeed hinders British India from setting up in motion processes which would result in the democratisation of the Indian States. On the other hand it helps the Indian States to destroy democracy in British India.

3. Federation and Responsibility

Let us examine the plea of Responsibility. From the stand-point of British India it is of more decisive importance than the two other pleas and must be scrutinized more carefully.

It cannot be denied that the Federation has some degree of responsibility. The question is what is the degree of that responsibility and whether within its sphere it is a responsibility which can be called real.

Let us ask, how much responsibility is there in this Federation ? To be able to answer this question, you should read sections 9 and 11 together,

By reading them together you will get an idea of the extent of this responsibility. According to these two sections the field of Governmental Authority is divided into two categories. In one category are put four subjects (1) Defence, (2) Ecclesiastical affairs, (3) External affairs, and (4) the Administration of Tribal Areas. The rest of the subjects within the executive authority of the Federation are put in another and a separate category. The executive authority for both these categories is vested in the Governor-General. But a distinction is made between them in the matter of Governmental Authority. The Governmental Authority in respect of the four subjects falling in the first category is under the Act the Governor-General in his discretion. The Governmental Authority in respect of the rest of the subjects put in the second category is under the Act, the Governor-General acting on the advice of the Minister. In the case of the first four subjects the Government is not responsible to the Legislature, because the Governor-General in whom the Governmental Authority in respect of these four subjects is vested is not removable by the legislature. In the case of the rest of the subjects the Government is responsible to the Legislature, because the ministers on whose advice the Governmental Authority is exercisable are removable by the Legislature. The responsiblity in the Federal scheme is therefore a case of limited responsibility. The responsibility does not extend to Defence and Foreign Affairs which after all are the most important subjects from social, political and financial point of view. The scheme has a close resemblance to dyarchy with the division of subjects into Reserved and Transferred such as was the basis of the Montagu-Chelmsford Reforms, which was embodied in the Provincial Constitution under the Government of India Act of 1919. The scheme of resposibility in the Federal Constitution under the Act of 1935 is an exact replica of the scheme of responsibility in the Provincial Constitution under the Act of 1919.

Is this responsibility real ? My answer is in the negative. I will give you my reasons. Firstly the field of responsibility besides being limited is not a free field of activity for ministers. To realize how fettered this limited field of responsibility is, we must note certain restraints which have been imposed upon the powers of the Ministers when acting in the field of responsibility.

The first set of restraints imposed upon the authority of the Ministers when acting in the field of responsibility arises from what are called the special responsibilities of the Governor-General.

There exist another set of restraints on the authority of the Ministers while exercising the Governmental Authority in respect of transferred subjects. To understand this you must understand one special feature of this Federal constitution. The constitution classifies subjects from the stand-point of

Governmental Authority and that this classification has resulted in that division of subjects which for brevity's sake may be designated as Transferred and Reserved. The Constitution does not stop here. It goes further and proceeds to divide the category of Transferred subjects into two classes. (1) subjects over which the Ministers' Governmental Authority carries with it administrative control and (2) subjects over which the Governmental Authority of Ministers does not carry with it administrative control. As an illustration of this classification may be mentioned the case of Railways. Railways are a transferred subject. The Governmental Authority of the Ministers extends to Railways. But the Ministers have no right to exercise any administrative control over the Railways. The administrative control over Railways is vested in what is called the Railway Authority. The distinction between Governmental Authority with Administrative Control and Governmental Authority without administrative control is not a distinction without difference. On the other hand the difference between the two positions is very real. That difference is made clear in sub-clause (2) of section 181 in the matter of Railways. That distinction is the distinction between authority to lay down a policy and competency to act. It is for those who plead for this Federation to say whether there is reality of responsibility in a Scheme of Government where there is a divorce between competence to act and authority to lay down policy.

Two things are clear in regard to this Responsibility in the Federal Scheme. First is that this responsibility is limited in its ambit. Secondly it is not real because it is fettered by the restraints arising from the special responsibilities of the Governor-General and from the withdrawal from the Ministers Governmental Authority of their competence to act in certain subjects such as the Railways, although they are Transferred subjects.

I have stated that the system of responsibility in the Federal Scheme resembles the system of dyarchy introduced into the provinces under the Act of 1919. But if the Scheme of responsibility in the Federation was compared with the system of dyarchy introduced into the Provinces it will be found that the former is designed to yield less responsibility than the latter. There are two things introduced in the Federal Scheme which were not to be found in the dyarchy in the Provinces and there existed one thing in the dyarchy which is absent in the Federation. The presence of the two and the absence of one makes this dyarchy in the Federation worse than the dyarchy in the Provinces.

Of the two things that are new in the Federal Scheme one is the principle of special responsibilities of the Governor-General in respect of the Transferred field and the other is the separation between Governmental Authority from administrative control in respect of matters falling within the Transferred field. These two are new things and did not exist in the dyarchical constitution in the provinces.

It may be said that the special responsibilities of the Governor-General is simply another name for the Veto power, that is the power to overrule the Ministers and that even in the English Constitution the King has such a Veto power. On the face of it, this view of special responsibilities of the Governor-General appears to be correct. But in reality it involves a misconception of the conditions and circumstances under which the King's Veto power can be exercised.

To my knowledge no one has explained the relationship of the King and his Ministers in a system of responsible Government better than Macaulay. To use his language—

> "In England the King cannot exercise his Veto power unless there is some Minister to take responsibility for the King's act. If there is no Minister to take responsibility the King must yield, fight, or abdicate." The Governor-General stands in a different position. He need not yield. He can act even if there is no Minister to take responsibility for his act. That is the difference between the King's Veto and the Veto of the Governor-General. What is however more important to note is that this Veto power exists in respect of the Transferred field. In the dyarchical constitution in the Provinces the Transferred field was not subject to such a Veto power of the Governor. In other words there were no special responsibilities of the Governor. If the Governor-General can overrule Ministers even in the Transferred field, question is what substance is there in Ministerial responsibility. I see very little.
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> The second thing which is new is the separation between Governmental Authority and administrative control. Such a provision did not exist in the dyarchical constitution in the Provinces. In the dyarchical constitution of the Provinces when a subject was transferred both Governmental Authority as well as Administrative control was transferred to the Minister. You will ask yourself what substance is there in Ministerial responsibility if a Minister can only issue directions and cannot control the action taken thereunder ? I see very little.

The provision which existed in the dyarchical constitution of the Provinces and which has been omitted from the Federal Constitution relates to the financing of the Reserved subjects. Section 72D of the old Act of 1919 and sections 33 and 34 of the present Act may be usefully compared in this connection. Section 72D, sub-section (*2*) reads as follows:

> "The estimates of annual expenditure and revenue of the Province shall be laid in the form of a statement before the Council in each year, and the proposals of the local Government for the appropriation of provincial revenues and other moneys in any year shall be submitted to the vote of the Council in the form of demands for grants. The Council may assent, or refuse its assent, to a demand, or may reduce the amount therein referred to, either by a reduction of any of the items of expenditure

of which the grant is composed." Compare with this section 34 of the present Act of 1935 ; sub-section (*1*) of section 34 reads as follows:

> "So much of the estimates of expenditure as relates to expenditure charged upon the revenues of the Federation shall not be submitted to the vote of the Legislature, but nothing in this sub-section shall be construed as preventing the discussion in either chamber of the Legislature of any of these estimates other than estimates relating to expenditure referred to in paragraph (*a*) or paragraph (*f*) of sub-section (*3*) of section 33."

According to section 33 expenditure charged on the revenues of the Federation includes expenditure on the reserved subjects. On a comparison between the provisions of the two Acts, it is clear that under the old Act no distinctions were made by section 72D between Transferred and Reserved subjects, so far as the powers of the Legislature in regard to the granting of supply were concerned and the expenditure on Reserved subjects was not only open to discussion but was also subject to the vote of the Legislature. Under the provisions of section 34, of the new Act the Federal Legislature can only discuss the expenditure on the reserved subjects but cannot vote upon it. This is a very important distinction. Under the old constitution even the reserved subjects were amenable to the financial powers of the Legislature. Under the present constitution they arc independent of the financial powers of the Federal Legislature. It is true that in the provincial Constitution the vote of the Legislature with regard to expenditure on reserved subjects was not final. That under a proviso to section 72D the Governor was given the power "in relation to any such demand to act as if it had been assented to, notwithstanding the withholding of such assent or the reduction of the amount (by the Legislature) if the demand relates to reserved subject, and the Governor certifies that the expenditure provided for by the demand is essential to the discharge of his responsibility for the subject". It is also true that in the Government of India Act, 1935 the amount of expenditure on reserved subjects is fixed to 42 crores. But the same difference exists, namely that under the old constitution the reserved subjects were amenable to the financial control of the Legislature while in the new constitution they are not. This difference is not a small difference. The power to grant supplies is the most effective mode of enforcing the responsibility of the executive. The power of certification might have deprived the Legislature of control of the reserved subjects. But it did not altogether destroy its influence. Under the present constitution the Legislature has not only no control over reserved subjects but also it cannot have any influence over them. There can therefore be no doubt that there was more responsibility in the dyarchy in the old Provincial Constitution than there is in this dyarchy in the Federation.

The fact that the Executive is not responsible to the Legislature is simply another way of stating that in the Federal Scheme the Executive

is supreme. This supremacy of the Executive may be maintained in various ways. It may be maintained by curtailing the powers of the Legislature or it may be maintained by planning the composition of the Legislature in such a way that the Legislature will always be at the beck and call of the Executive.

The Federal Scheme adopts both these means. In the first place, it limits the powers of the Federal Legislature. I have already described how greatly the Federal Scheme curtails the financial powers of the Federal Legislature. The Federal Legislature has no right to refuse supplies to any expenditure which is declared to be a charge on the revenues.

The Federal Scheme also curtails the Legislative powers of the Federal Legislature. These restraints are specified in section 108 which reads as follows :

"108. (*1*) Unless the Governor-General in his discretion thinks fit to give his previous sanction, there shall not be introduced into, or moved in, either Chamber of the Federal Legislature, any Bill or amendment which—

(*a*) repeals, amends or is repugnant to any provisions of any Act of Parliament extending to British India ; or

(*b*) repeals, amends or is repugnant to any Governor-General's or Governor's Act, or any ordinance promulgated in his discretion by the Governor-General or a Governor; or

(*c*) affects matters as respects which the Governor-General is, by or under this Act, required to act in his discretion; or

(*d*) repeals, amends or affects any Act relating to any police force ; or

(*e*) affects the procedure for criminal proceedings in which European British subjects are concerned ; or

(*f*) subjects-persons not resident in British India to greater taxation than persons resident in British India or subjects companies not wholly controlled and managed in British India to greater taxation than companies wholly controlled and managed therein ; or

(*g*) affects the grant of relief from any Federal tax on income in respect of income taxed or taxable in the United Kingdom.

(2) Unless the Governor-General in his discretion thinks fit to give his previous sanction, there shall not be introduced into, or moved in a Chamber of a Provincial Legislature any Bill or amendment which—

(*a*) repeals, amends or is repugnant to any provisions of any Act of Parliament extending to British India ; or

(*b*) repeals, amends or is repugnant to any Governor-General's Act, or any ordinance promulgated in his discretion by the Governor-General; or

(*c*) affects matters as respects which the Governor-General is by or under this Act, required to act in his discretion ; or

(*d*) affects the procedure for criminal proceedings in which European British subjects are concerned ;

and unless the Governor of Province in his discretion thinks fit to give his previous sanction, there shall not be introduced or moved any Bill or amendment which—

(i) repeals, amends or is repugnant to any Governor's Act, or any ordinance promulgated in his discretion by the Governor; or

(ii) repeals, amends or affects any Act relating to any police force.

(3) Nothing in this section affects the operation of any other provision in this Act which requires the previous sanction of the Governor-General or of a Governor to the introduction of any Bill or the moving of any amendment."

The Federal Scheme does not stop with merely curtailing the power of the Federal Legislature as a means of maintaining the supremacy of the Executive. Under it the composition of the Federal Legislature is so arranged that the Legislature will always be at the beck and call of the Executive. In this connection it is necessary to bear in mind what the actual composition of the Federal Legislature is. As has already been pointed out there are 375 members in the Legislative Assembly and of them 125 have been assigned to the Indian States and 250 to British India. In the Council of State the total is 260 and of them 104 are assigned to the States and 156 are alloted to British India. The seals assigned to the States are to be filled by the Princes by nomination. The scats assigned to British India are to be filled by election. The Federal Legislature is therefore an heterogeneous legislature partly elected and partly nominated.

The first question to be considered is how the Princes' nominees in the Federal Legislature will behave. Will they be independent of the Federal Executive or will they be subservient to it ? It is difficult to prophesy. But certain influences which are likely to play a part in the making of these nominations may be noted- It is an indisputable fact that the British Government claims what are called rights of paramountcy over the States "Paramountcy" is an omnibus term to denote the rights which the Crown can exercise through the Political Department of the Government of India over the States. Among these rights is the right claimed by the Political Department to advise the Indian Princes in the matter of making certain appointments. It is well known that what is called "advice" is a diplomatic term for dictation. There is no doubt that the Political Department will claim the right to advise the Princes in the matter of filling up these places. Should this happen, what would be the result ? The result would be this that the Princes' representatives would be simply another name for an official block owing allegiance, not to the people and not even to the Princes, but to the Political Department of the Government of India. Two things must be further noted. First is that Paramountcy is outside the Federal Government.

That means that the Ministers, will have no right to give any advice in the matter of the nomination of the Princes' Representatives and the Legislature will have no right to criticise it. They will be under the control of the Viceroy as distinct from the Governor-General. Secondly, this official block of the Princes is not a small block. In the Lower House a party which has 187 seats can command a majority. In the Upper Chamber a party which has 130 seats can command a majority. In the Lower House the Princes have 125 seats. All that they need is a group of 62 to make a majority. In the Upper Chamber they have 104 ; all that they need is 26. All this vast strength the Executive can command. How can such a Legislature be independent ? The Reserved half can control the Transferred half with this strength in its possession.

How will the representatives of British India behave ? I cannot make any positive statement. But I like it to be borne in mind that in some States there is no such thing as a regular budget and there is no such thing as independent audit and accounts. It would not be difficult for the Princes to purchase support from British India representatives. Politics is a dirty game and British India politicians cannot all be presumed to be beyond corruption and when purchases can be made without discovery the danger is very real.

Look at the Federal Scheme any way you like and analyze it as you may its provisions relating to responsibility, you will see that of real responsibility there is none.

VII

THE BANE OF THE FEDERAL SCHEME

There is no one who does not recognize that this Scheme for an All Indian Federation is full of defects. A difference of opinion arises only when the question is asked what shall we do about it. The answers given to this question by prominent Indians from time to time disclose that broadly speaking, there are two quite different attitudes to this Federation. There is the attitude of those who think that bad as it is, we should accept the Federation and work it so as to derive whatever good it can yield. On the other hand, there is the attitude of those who think that certain changes must be made in the Constitution of the Federation before it can be accepted and worked. It is agreeable to find that both the Congress as well as the Liberal Federation are one on this issue. Both have declared that certain changes must be made before they will accept to work the Federation.

That this Federation is not acceptable to a large majority of the Indian people is beyond question. The question is in what respects should we require the Constitution to be amended ? What are the changes which we should demand ? We may take as our starting point the resolutions passed by the Congress and the Liberal Federation relating to this question.

The Congress at its session held at Haripura in 1938 passed the following resolution:

> "The Congress has rejected the new Constitution and declared that a Constitution for India, which can be accepted by the people, must be based on independence and can only be framed by the people themselves by means of a Constituent Assembly, without interference by any foreign authority. Adhering to this policy of rejection, the Congress has, however, permitted the formation in provinces of Congress Ministries with a view to strengthen the nation in its struggle for independence. In regard to the proposed Federation, no such considerations apply even provisionally or for a period, and the imposition of this Federation will do grave injury to India and tighten the bonds which hold her in subjection to imperialist domination. This scheme of Federation excludes from the sphere of responsibility vital functions of Government.
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> The Congress is not opposed to the idea of Federation ; but a real Federation must, even apart from the question of responsibility consist of free units enjoying more or less the same measure of freedom and civil liberty, and representation by the democratic process of election. The Indian States participating in the Federation should approximate to the provinces in the establishment of representative institutions and responsible Government, civil liberties and method of election to the Federal Houses. Otherwise the Federation as it is now contemplated, will, instead of building up Indian unity, encourage separatist tendencies and involve the States in internal and external conflicts.
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> The Congress therefore reiterates its condemnation of the proposed Federal Scheme and calls upon the Provincial and Local Congress Committees and the people generally, as well as the Provincial Governments and Ministries, to prevent its inauguration. In the event of an attempt being made to impose it, despite the declared will of the people, such an attempt must be combated in every way and the Provincial Governments and Ministries must refuse to co-operate with it. In case such a contingenncy arises, the All India Congress Committee is authorised and directed to determine the line of action to be pursued in this regard.".

The resolution passed by the National Liberal Federation at its last session held in Bombay was in the following terms:

> "The National Liberal Federation reiterates its opinion that the Constitution, especially as regards the Centre as embodied in the Government of India Act, 1935, is utterly unsatisfactory and in several respects retrogade. While the National Liberal Federation accepts a federal form of Government for India as the only natural ideal for our country, the Federation considers that vital changes are required in the form of the Federation as laid down in the Act

especially in the direction of (*a*) clearing up the position of the Princes and securing the subjects of States the right of election of States' representatives, (*b*) doing away with the safeguards regarding the monetary policy and commercial discrimination, (*c*) introducing direct elections for the members of the Federal Assembly by the Provinces and (*d*) making Constitution sufficiently elastic so as to enable India to attain Dominion Status within a reasonable period of time.

The National Liberal Federation considers that the present position when there is an irresponsible Government in the Centre coupled with responsible Governments in the Provinces is altogether untenable and earnestly urges on Parliament to make immediate changes in the Federal part of the Constitution so as to make it generally acceptable.

The Federation is further of opinion that these modifications are essential for the successful working of the Federal Constitution."

Should these changes demanded by the Congress or by the Liberal Federation suffice to alter the present attitude of rejection into one of acceptance of Federation? Speaking for myself I have no hesitation in saying that the changes asked for in these Resolutions even if they are made will not convert me. To my mind whether the British Parliament is prepared to alter this, that or the other detail of the Federal Scheme immediately is a very unimportant consideration. In the view I take of the matter the objections to the Federal Scheme will not be removed in the least even if the British Parliament will be ready to grant every one of the demands contained in these Resolutions. To me the fundamental question is whether this Federal Scheme is capable of so evolving that in the end India will reach her goal and it is from this point of view that I want you and every one interested to examine the Federal Scheme.

What is the goal of India's political evolution? There does not seem to any fixity or definiteness about it. The Congress which claims to voice the political aspirations of the Indian people began with good Government as its goal. It moved from good Government to Self-Government or Responsible Government ; from Responsible Government to Dominion Status and from Dominion Status it advanced to Independence. There the Congress stopped for some time in a mood of self-examination. Then there was period of vaccilation. Now it seems to have come back to Dominion Status and we shall not be very wrong if we take that to be the goal of India according to the Congress. Now the question is, can the Federal Scheme blossom in due course into Dominion Status ?

Many Indians seem to think that the question of Dominion Status is a matter of gift which lies in the hands of the British Parliament. If the British Parliament were to make up its mind to grant it, nothing can stand

in the way. They contend that if India has no hope of Dominion Status, it is because the British Parliament refused to grant it. In support of their opinion they refer to the refusal of The British Parliament to add a Preamble to the Act of 1935 declaring Dominion Status as the goal for India.

It must be granted that the demand for such a preamble was a very proper one. In 1929 Lord Irwin with the consent of all the political parties in the British Parliament declared that the goal of India's political evolution was Dominion Status. What the Indians therefore wanted was not new. It had already been so stated authoritatively by the Governor-General and Viceroy, but the British Government refused to put such a preamble. The refusal was therefore a strange piece of conduct on the part of the British Government. But the grounds urged in support of the refusal were stranger still. The British Government sought to justify their conduct in not having a preamble in those terms on various grounds.

The first ground was that a preamble was a futility and that it had no operative force, but that argument was easily met. All Acts of Parliament have had Preambles expressing the purpose and the intention of Parliament. It is true that it has no legal effect, but all the same Courts have not held that a preamble is a futile thing. On the other hand, wherever there is any doubt with regard to the wording of a section, Courts have always resorted to the preamble as a key to understand the purpose of the enactment and made use of it for resolving any doubtful construction. Driven from this position, the British Government took another position and that was to repeal the Act of 1919 but to retain the Preamble to that Act. This again is a very queer thing. In the first place if the Preamble is a futility, there is no necessity to save the Preamble enacted as part of the Act of 1919. Secondly if the Preamble to the Act of 1919 was a necessity, it should have been enacted afresh as a part of this Act of 1935, which the British Government would not do. Instead it preferred to present the strange spectacle of the head separated from the trunk. The head is now to be found in the repealed Act of 1919 and the trunk is to be found in the present enactment of 1935. In the third place, what the Indian people wanted was a preamble promising Dominion Status and that is what the declaration of Lord Irwin contained. The preamble to the Act of 1919 speaks only of Responsible Government. It does not speak of Dominion Status and the retention of the Preamble to the Act of 1919 was to say the least the silliest business possible.

Why did the British Parliament refuse to enact a Preamble defining Dominion Status as the goal ? Why did the British Parliament run from pillar to post rather than grant the demand ? The explanation offered is of course the usual one namely, the perfidy of the Albion ! My own view is different. The British Parliament did not promise Dominion Status by

enacting a preamble because it realized that it would be beyond its power to fulfil such a promise. What the British Parliament lacked was not honesty. Indeed it was its honesty which led it to refuse to enact such a preamble because it knew that it could not give effect to such a preamble. What it lacked was courage to tell the Indians that the Federal Scheme left no way for Dominion Status.

Why is Dominion Status impossible under the Federal Scheme? It is impossible because it is not possible to have Responsible Government. It must be borne in mind that to reach Dominion Status, India must first attain Responsible Government. To attain Responsible Government the subjects which are reserved must become transferred. That is the first stage in the process of evolution towards Dominion Status.

Some of you will want to know the reasons why I say that the reserved subjects cannot become transferred. They are sure to recall that there were Reserved subjects in the Provincial Scheme as they are in the Federal Scheme and will ask that if the reserved subjects have become transferred in the course of say 20 years what difficulty can there be in the similar things happening in the Federation. As the question is important, I proceed to give my reason. In the first place, the analogy of the Provinces is false. It is important to note why the analogy is false. It is false because in the Provincial Scheme the distinction between the reserved and the transferred subjects was based upon the requirements of administrative efficiency. That the distinction between the reserved and the transferred subjects in the Federal Scheme is based upon legal necessity and not upon administrative efficiency needs no proof. One of the reasons why the Simon Commission did not recommend dyarchy at the Centre was that it felt that administratively it was not possible to divide subjects into two water-tight compartments, one reserved and the other transferred, without affecting the efficiency of all ; and the Government of India's despatch on the Simon Commission entirely agreed with the view. The division, therefore, is not administrative in its basis. It is the result of a legal necessity. This is a fundamental distinction and ought never to be lost sight of.

How does this legal necessity arise? I say the legal necessity for treating certain subjects as reserved arises because of the Indian States. I go further and say that there would be necessity for treating certain subjects as reserved if the Federation was confined to the British India Provinces only. The reservation of certain subjects is a direct consequence of the entry of the Indian States into the Federation.

What is it, in the position of the Indian States which compels certain subjects to be treated as reserved ? To be able to answer this question I must first draw your attention to section 180 of the Government of India Act. Section 180 says —

> "Any contact made before the commencement of Part III of this Act by or on behalf of the Secretary of State in Council solely in

connection with the exercise of the functions of the Crown in its relations with Indian States, shall, as from the commencement of Part III of this Act. have effect as if it had been made on behalf of His Majesty and references in any such contract to the Secretary of State in Council shall be construed accordingly."

This section gives statutory form to the contention put forward by the Princes before the Butler Committee and accepted by them, that the treaties of the Indian States were with the Crown of England as such and not with the Government of India.

The next step is to note what follows from this theory. Now what follows from this theory is very crucial, but has been unfortunately allowed to pass without due care and attention. The Princes have contended that as treaty relations of the Indian States are with the Crown of England, the duty and responsibility of fulfilling the obligations arising under those treaties lay solely upon the Crown of England and the Crown of England must at all times maintain itself in a position to fulfil those obligations.

What is the obligation which the treaties with the Princes impose upon the Crown of England ? The Principle of obligation imposed upon the Crown of England and which the Crown of England has undertaken by the treaties is to protect the Princes from internal commotion and external aggression.

How can the Crown fulfil this obligation ? The only way, it is argued, that the Crown can fulfil this obligation is to reserve external affairs and the Army under its exclusive control.

You can now understand why I say that the necessity of reserved subjects is due to a legal necessity. That legal necessity flows from the treaty obligations of the Crown and so long as the basis of the treaty relations remains what Section 180 says it is, the reserved subjects cannot become transferred subjects. And as the reserved subjects cannot become transferred, there is no scope even for Responsible Government much less for Dominion Status.

From the analysis I have made of the Constitution, from the stand-point of the ultimate goal, few, I believe, will have any hesitation to say that this Constitution is a fixed and rigid constitution. It cannot change and therefore it cannot progress. It is a constitution which is striken at the very base and it is for the people of India to consider whether they will accept it.

I have examined the Constitution from the stand-point of our goal at so considerable a length that I feel I owe you an apology for tiring you. But the attitude of some people towards this question must be my excuse

for entering into this subject at such great length. I realize that no Constitution is a perfect constitution. Imperfections there are bound to be. But I think a distinction must be drawn between imperfections and inherent and congenital deficiencies. Imperfections can be removed. But congenital deficiencies cannot be supplied. The demands made in the resolutions of the Congress or of the Liberal Federation, even if granted, will remove the imperfections. But will they remove the deficiencies ? I would not mind the imperfections if I was assured that there are no deficiencies. The greatest deficiency in the Constitution is that it will not lead to Dominion Status. Neither the Congress nor the Liberal Federation seems to be aware that this deficiency exists. Their demands have no relation to the goal of India's political evolution. They do not even mention it. It is surprising that Congressmen should have become so enamoured of the prospect of seizing political power that their demands against the British Government should not even contain a declaration from the British Government in this behalf. But if Congress forget, the people of India cannot and should not. To do so would be fatal. It would be fatal as much for an individual as for a people to forget that a stage on the way is not the home and to follow the way without knowing whether it leads homewards or not is to misdirect one-self and fall into a ditch.

You must not misunderstand me. I am not an impatient idealist. I am not condemning the gradualist, who is prepared to wait and take thing by instalments, although the gradualist, who has a valid claim for a rupee, demands an anna and proclaims a great victory when he gets a pie, must become an object of pity. All I want is that if circumstances force us to be gradualists we must not fail to be realists. Before accepting an instalment we should examine it carefully and satisfy ourselves that it contains an acknowledgement of the whole claim. Otherwise, as often happens what is good for the moment turns out to be the enemy of the better.

Some of you will ask, how can India secure Dominion Status. My answer is India will get Dominion Status only if the Princes who join the Federation, consent to its being granted. If the Princes object to the grant of Dominion Status to India, then India cannot get Dominion Status. The Federation places the strings of India's political evolution in the hands of the Princes. The destiny of India will be controlled by the Princes.

This view of the future will strike as very strange to a great many of you. We are all saturated with Dicey's dictum regarding the Sovereignty of Parliament. We all have learned from him that Parliament is supreme, that it is so supreme that it can do anything except make man a woman and woman a man. It would not be unnatural if some of you ask how can the Princes stand in the way when the British Parliament is supreme. It will take some effort on your part to accept the proposition that the British Parliament has no supremacy over the Indian Federation. Its authority to change the Federal Constitution now embodied in the government of India Act is strictly limited.

Indian politicians have expressed their sense of sorrow and resentment over the fact that the Indian Legislatures have not been given by the Act any constituent powers.

Under the Government of India Act neither the Federal Legislature, nor the Provincial Legislature have any powers of altering or amending the constitution. The only thing, which the Act by virtue of section 308 does. is to permit the Federal Legislature and Provincial Legislature to pass a resolution recommending any change in the constitution, and make it obligatory upon the Secretary of State to place it before both Houses of Parliament. This is contrary to the provisions contained in the Constitutions of the United States, Australia, the German Federation and Switzerland. There is no reason why constituent power should not have been given within certain defined limits to the Legislatures in India when they were fully representative of all sections and of all interests. Be that as it may, the fact remains that the Indian Legislatures cannot make any changes in constitution, not even in the franchise, much less in making the reserved subjects transferred. The only authority which can change the Constitution is of course the British Parliament. But very few seem to be aware of the fact that even Parliament has no powers to alter the Federal Constitution. This, however, is the truth and the sooner we all realize it the better.

From this point of view the importance of Schedule II cannot be overestimated. I am sorry, it has not received the attention which it deserves. Schedule II is not only a charter but is also a chart along which the Constitution can move. The whole Schedule is worth careful study. What does Schedule II say ? Schedule II says that certain provisions of the Government of India Act may be amended by Parliament and that certain other provisions of the Act shall not be amended by Parliament. That is simply another way of saying that Parliament is not supreme and that its right to alter the Constitution is limited.

What would happen if Parliament did amend those provisions of the Act which Schedule II says shall not be amended by Parliament ? The answer, which Schedule II gives, is that such an Act will have the effect of 'affecting' the accession of the States to the Federation, which means it will have the effect of destroying the binding character of the Instrument of Accession. In other words, if Parliament amended any of the provisions of the Act, which Schedule II says shall not be amended, the Princes would get the right to secede from the Federation. I am aware that some eminent lawyers have taken a different view. They hold that the Princes, once they come into the Federation, cannot go out of it. I have mentioned my view for what it is worth and I will say that my view is not altogether baseless.

At any rate the Solicitor-General and Secretary of State gave the same interpretation, as I am giving, in the House of Commons, when the Government of India Bill was being discussed.

The Solicitor-General said:

"The States will not agree to federate in a structure which within limits, is definite and certain and obviously we could not completely alter the structure afterwards. The purpose of this clause is to lay down those matters which can be altered without being regarded as fundamental or as impinging on the Instrument of Accession." ..... "If the structure were to be altered in fundamental respects, of course the States would clearly have the right to say "This is not the Federation to which we have acceded."

The Secretary of State said :

"If you amend the parts of the Bill which affect the States, obviously you would be altering the conditions on which they have acceded and that would certainly create a situation in which the Princes could rightly claim that their Instrument of Accession had been altered. It certainly means that we cannot amend any part of the Bill which affects what is virtually the treaties under which the Princes come in. If we make a change in the Bill as to strike at the basis of their Instrument of Accession then obviously, the agreement has been broken between the Princes and Parliament and the Princes are free."

"It will be accepted by every one that under the general scheme of the Bill the States, when they are asked to federate are entitled to know with certainty certain aspects at any rate, of the Federation to which they are to accede. It would be an absurd position if having said to a State this month, "Will you accede to a Federation," it was possible next month for this House to alter in some fundamental respects the provisions of the Federation to which the State was held to have acceded. Therefore, some schedule of this kind is necessary. It is a sorting out of the various parts of the Bill which should be capable of amendment without in any sense altering from the point of view of the States the constitutional machinery to which they have acceded. The scheme of the Schedule is to set out the provisions of the Act, the amendment whereof is not to affect the validity of the Instrument of Accession of a State."

"One sees set out those parts of the Bill the amendment of which is not to affect the validity of the Instrument of Accession of a State, and on the opposite side there are set out those subjects the amendment of which, would affect the validity of accession. In drawing up a schedule of this kind one has to proceed with great care in defining what are the legitimate matters on which the Rulers of a State are entitled to ask that there shall be no amendment without their consent. Of course there will be border-line cases. There could be minor amendments, which would not really make any great difference to the existing position, and it would be very unreasonable

if the States took objection to such amendments and said, "We are going to stand on our rights on this point as affecting the validity of our Instrument of Accession." It is right that any matter which really affects what I may call the general balance of powers, the questions of the reservation of subjects of executive control and of matters which can be dealt with by the Governor-General in his discretion, matters which are vital to the architecture of the Federation to which the States are asked to accede, should not be amended without their assent.

"The whole area of the special powers vested in the Governor-General is one of the essential features of the Federation. That is one part where the States are entitled to say 'That is a change' or 'That is altered'. But this does not in any way check for all time the development of India. These are to be the subject-matter of negotiations with the States, because, in effect, they will produce a Federation of a different kind from that to which the State has acceded."

Therefore to the question what would happen if Parliament did make such changes which by virtue of Schedule II are treated as changes which will affect the Instrument of Accession the answer is that the Princes will get a right to walk out of the Federation. In other words, the consequence of any such change would be to break up the Federation.

What are the changes which cannot be made without affecting the Instrument of Accession ? I will draw your attention to some of the provisions which Schedule II says cannot be amended by Parliament without affecting the Instrument of Accession. According to Schedule II no changes in the Constitution can be made which relate to (1) the exercise by the Governor-General of the executive authority of the Federation ; (2) the definition of the functions of the Governor-General ; (3) the executive authority of the Federation ; (4) the functions of the Council of Ministers and the choosing and summoning of ministers and their tenure of office ; (5) the power of the Governor-General to decide whether he is entitled to act in his discretion or exercise his individual judgment ; (6) the functions of the Governor-General with respect to external affairs and defence ; (7) the special responsibilities of the Governor-General relating to the peace and tranquility of India or any part thereof ; (8) the financial stability and credit of the Federal Government; (9) the rights of the Indian States and the rights and dignity of their Rulers; (10) the discharge of his functions by or under the Act in his discretion or in the exercise of his individual judgment ; (11) His Majesty's Instrument of Instructions to the Governor-General ; and (12) the superintendence of the Secretary of State in the making of the rules for the Governor-General in his discretion for the transaction of and the securing of transmission to him of information with respect to, the business of the Federal Government.

Schedule II is a very extensive collection of constitutional don'ts. I have given just a few of them. They will however be sufficient to show how limited is the authority of Parliament to make changes in the Constitution.

Why is the authority of Parliament limited ? To understand this it is necessary to note the exact limits of the authority of Parliament. According to law the authority of the Parliament to legislate extends only to countries which are the Dominions of the King. The States did not form part of the Dominions of the King and none of them not even the finest of them was subject to the legislative authority of Parliament. The Government of India Act makes no change in this status of the States. The States remain foreign territories inspite of the Federation, and as they were before Federation. This is the most extraordinary state about the Indian Federation, namely that the different units are as between themselves foreign states. As the Act does not make the States Dominions of the King, Parliament gets no right to legislate about them. Parliament derives its authority over the States from the Instrument of Accession. That being so, the authority of Parliament cannot but be limited to what is transferred to it by the States through their instruments. To use the language of the Privy Council itself, as the stream can rise no higher than its source, similarly, Parliament cannot have powers over the States greater than those given to them by the Instrument of Accession. This explains why the authority of Parliament to amend the Constitution is limited.

The analysis made so far shows that the authority of Parliament 10 change is limited by the Instrument of Accession and that for any excess of authority, there must be prior consent given by the Princes. As a legal effect of the provisions of the Act it may not be shocking. But consider the fact that the provisions in regard to which Parliament has no power to change include those that relate to the transposition of such subjects as Defence and External affairs from the category of Reserved to that of the Transferred and that it will not have that power unless the Princes consent expressly to confer that authority on Parliament and permit it to do so. You will be in a position to realize how grave are going to be the consequences of this Federation. The establishment of the Federation means that the mastery has gone from the hands of Parliament into the hands of Princes. This Federation makes the Princes the arbiters of destiny. Without their consent India cannot politically advance.

Other consequences of this Federation might also be noted. I will just refer to one. It is that this federation, if accepted will weaken the position of British Indians in their struggle for change. Hitherto, in the struggle between the Indian people and the British Parliament the latter was always the weaker party. It had nothing to oppose the right of the people to change except its will. After the Federation the position is bound to be reversed. The Indian people would be in a weaker position and Parliament

would be in a stronger position. After the Federation, Parliament would be in a position to say that it is willing to grant the demand for change but that its authority to change is limited and that before making any demand for change. Indians should obtain the consent of the Princes. There is nothing to prevent Parliament from taking this stand.

What reply would Indians be able to give if they once accept the Federation and thereby admit the implications underlying it ?

VIII

THE FATALITY OF FEDERATION

What shall we do with the Indian States ? That is a question that is often asked. Some people with Republican faith in them desire their total abolition. Those who do not care for forms of Government will reject this view. But even they must abide by the consideration that what works best is best. Can the Indian States be said to work best ? I do not know that there is anybody, who will be prepared to give an affirmative answer, at any rate an affirmative answer which will apply to all States. The internal administration of the States is a bye-word for mismanagement and mal-administration. Very few States will escape this charge.

The people are always asking as to why there should be this mismanagement and maladministration in the States. The usual answer is that it is the consequence of Personal Rule. Everywhere the demand made is that Personal Rule should be replaced by Popular Government. I have grave doubts about the efficacy of this demand. I do not think that in a large majority of cases the substitution of Popular Government will be any cure for the ills of the State subjects. For, I am sure that the evils arise as much from the misrule of the Ruler as they arise from want of resources. Few have any idea as to how scanty are the resources of the Indian States.

Let me give you a few facts. Out of the total of 627 States there are only ten with an annual revenue above 1 crore. Of these ten, five have just about a crore, three have between 2 and 2¼ crores. One has just about 3¼ crores and only one has a revenue just about 8 crores. There are nine with a revenue ranging between 1 crore and 50 lakhs. About twelve have a revenue ranging between 50 to 25 lakhs. Thirty have a revenue varying between 25 lakhs and 10 lakhs. The rest of the 566 have an annual revenue which is less than 10 lakhs. This does not, however, give an idea of how small are some of the States which fall below 10 lakhs. A few illustrations may therefore be given. Among these 565 States there is one with a revenue of Rs. 500 and a population of 206 souls. Another with a revenue of Rs. 165 and a population of 125 : another with a revenue of Rs. 136 and a population of 239, another with a revenue of 128 and a population of 147 and another

with a revenue of Rs. 80 and a population of 27. Each one of these is an Autonomous State, even the one with a revenue of Rs. 80 and a population of 27 !

The Autonomy of these States means that each one must take upon itself the responsibility to supply to its subjects all the services which relate to matters falling under law and order such as revenue, executive and judicial and all the services which affect public welfare such as education, sanitation, roads etc. We in Bombay with our 12 crores of revenue are finding it difficult to maintain a civilized standard of administration. Other Provinces with equally large revenue are finding the same difficulty. How then can these small tiny states with a revenue of few hundreds and a population of few thousands cater to any of the wants which a civilized man must have his Government satisfy in full measure ? With the best of motives and given an ideal Prince the task is hopeless.

The only way out is to reorganize the whole area occupied by the Indian States. The proper solution would be to fix an area of a certain size and of certain revenue and to constitute it into a New Province and to pension off the rulers now holding any territory in that area. Only such States should be retained in whose case by measure of area and revenue it can be said that they by reason of their resources are in a position to provide a decent standard of administration. Those which cannot satisfy the test must go. There is no other way. This is not merely what might be done. I say, to do this is our duty and a sacred duty.

I know some will think of the hereditary right of the Prince to rule over his territory. But I ask, what is more important, the right of the Prince or the welfare of the people ? I am sure that even the best friends of the States will not say that the rights of the Prince are more important than the welfare of the people. Which should give way, if the two are in conflict ? There again, I am sure that even the best friends of the States will not say that the welfare of the people should be sacrificed for the sake of maintaining the rights of the Prince.

The question of the reorganization of the Indian States is not a political question. As I look at it, is a purely administrative question. It is also an inevitable question. Because, not to tackle it is to condemn the people of the States—and there are millions of them—perpetually to a life of misery and security. The way I suggest is not a revolutionary way. To pension off a Prince and to annex his territory is a legal way and can fall under the principles with which we are familiar under the Land Acquisition Act which allows private rights and properties to be acquired for public purposes.

Unfortunately, the question of the Indian States has not been tackled from this point of view so far. The question that I want to place before

you is, and it is a very important question, "Will it be open to you to tackle this question after the Federation is established ?" I say no. You will perhaps ask why. How does this conclusion follow ?

I have already pointed out that with regard to the entry into the Federation, the Provinces and the States stand on a different footing. The Provinces have no choice. They must agree to be the units of the Federation. The States have a choice. They may join the Federation or they may refuse to join the Federation. That is so from the standpoint of the Provinces and from the standpoint of the States. What is the position from the standpoint of the Federation ? Has the Federation any choice in the matter of the admission of the States ? Can the Federation refuse to admit a State into the Federation ? The answer is no. The Federation has no right to refuse. The State has a right to enter the Federation. But the Federation has no right to refuse admission at any rate for the first 20 years. That is the position. Now what does the admission of a State into the Federation mean ? In my view the admission of a State into the Federation means recognition of the sovereign status of the State. Recognition of its sovereign status means the recognition of its indestructibility which means its right to the integrity of its territory and to guaranteeing of its powers of internal administration. This would apply even to the State with a population of 27 and revenue of Rs. 80. These being the implications of the admission of a State in the Federation, I am perfectly justified in suggesting that the territorial reorganisation of the Indian States will not be possible after the establishment of the Federation and the people of the Indian States will be forever doomed to misrule and mal-administration.

Can British India do anything in the matter now ? I think British India is not in a position to do anything in the matter. If British India could have secured Responsible Government for itself, it might have been in a position to dictate which State should be admitted and on what terms. It would have been in a position to make the reorganization of the States territory into tolerably big units as a condition precedent for their entry into the Federation. Unfortunately British India has no Responsible Government. Indeed its right to Responsible Government at the Centre is denied and is made dependent upon the entry of the States. "No States, no responsibility" has now become the fate of British India. That being the position of British India, British India is not in a position to make terms with the States as she would have been able to do if she had Responsible Government. That is why I have said and that is why I have always maintained that British Indians should first ask for a Federation and Responsibility confined to British India. Once that is obtained, the path for an All India Federation on the basis of freedom and good government all round will become possible. That possibility will be gone if this Federation comes into being.

I have already drawn your attention to some of the deformities of the Federal Scheme. What I have now drawn attention to is more than a deformity. It is a fatality of the Federation. So far as the States' people are concerned, it is a decree of fate. It is something which they will never be able to escape once it is executed.

The State's problem is one which, I believe could be solved by the Paramount Power along the lines I have suggested or along any other line consistently with the welfare of the people, if it wishes to do so. Paramountcy is like the Trimurti of Hindu Theology. It is Brahma because it has created the States. It is Vishnu because it preserves them. It is Shiva because it can destroy them. Paramountcy has played all these parts in different times in relation to the States. At one time, it played the part of Shiva. It has now been playing the part of Vishnu. To play the part of Vishnu with regard to the States is from the point of view of the good of the people the crudest act. Should British India be a party to it ? It is for you to consider.

IX

FEDERATION WITHOUT THE STATES

There is another point of view from which the case for Federation is argued. I must now proceed to examine that argument.

It is argued that the constitution creates Autonomous Provinces. The Autonomy of the Provinces means independence and therefore disruption of the Unity of British India. This must be counteracted. Some binding force must be provided so that the Provinces may be held together and unity and uniformity built up for the last hundred years as a result of British administration is preserved intact in fundamentals if not in details.

The argument is quite sound, if it only means that the creation of Autonomous Provinces makes the creation of a Central Government a necessity. This proposition I am sure will command universal assent. In all the Round Table Conferences the late Sir Mahomad Iqbal was the only delegate who was against the establishment of a Central Government. Every other delegate irrespective of caste or creed differed from him. They asserted that with the creation of Autonomous Provinces the establishment of a Central Government was a categorial imperative and that without it autonomy would result in anarchy.

But the argument goes beyond its legitimate scope. It seeks to justify the establishment of a Central Government for All India. The argument which can justify the establishment of a Central Government for British India is used to justify a Central Government for the whole of India. And the question that you have to consider is whether the creation of Autonomous Provinces in British India can justify a Central Government for the whole

of India including the Indian States. My contention is that the creation of Autonomous Provinces does not require the creation of a Central Government for the whole of India.

The establishment of Autonomous Provinces in British India will call for two things; (1) That there shall be a Central Government for British India and (2) that the form of that Central Government must be federal and not unitary. The essence of Federation lies in the division or allocation of Legislative and Executive Powers between the Central Government and the Units by law. The powers of the Units and the Centre are defined and demarcated and the one is not entitled to invade the domain of the other. Autonomy of the Provinces means that their powers are defined and vested in them. To make Provincial Autonomy real the Powers of the Central Government must also be limited, otherwise it would be in a position to invade the domain of the Provinces. To put it simply, autonomy means definition and delimitation of Powers by law and wherever there is definition and delimitation of powers between two Political Bodies there is and there must be Federation. You will now understand why I said that all that Provincial Autonomy demands is that the Central Government for British India shall be Federal in form. It does not justify all India Federation. Why is it necessary to bring in the States still remains to be answered and those who plead for this All-India Federation as distinct from British India Federation must answer this question.

As I said all that is necessary is that Central Government for British India shall be Federal in form and this fact has been recognized by the Constitution.

Many seemed to have failed to notice that the Government of India Act, 1935 establishes two distinct Federations. One is a federation which is a federation of the Provinces of British India another which is a Federation of British Indian Provinces and the Indian States. It is surprising that so many should have missed so important a fact. That the Government of India Act establishes two federations is beyond dispute. To those who have any doubt they should read Parts III and XIII together and Part II and Part III together. Part II and Part III reveal that there is an All-India Federation and lay down the constitution of that Federation. Part III and Part XIII reveal that there is a Federation of British India Provinces apart from the States and lay down the Constitution of that Federation. That Part XIII relates to provisions which are called transitional does not make the British India Scheme any the less a Federation, because the law is law whether it is for a limited period or for all times.

That the Act establishes a Federation for British India Provinces and also an All-India Federation cannot be denied. What is the difference between these two Federations ? Is there any difference in the Legislative

Powers of the Federation ? The answer is no. The Federal Legislative List remains the same whether the Federation that is in operation is British India Federation or the All-India Federation. The Concurrent list also remains the same whether the Federation in operation is one or the other.

Is there any difference in Financial Powers ? The answer again is no.

The Powers of taxation remain the same whether it is an All-India Federation or British India Federation.

Is there any change in the Judicial organization of the Federation ? There is none. Federal Court is as much necessary for the All-India Federation as for British India Federation.

How do these two Federations differ ? The two differ in one respect only. To find out this difference you should compare section 313 with section 8. The comparison will show that if the Federation is a British India Federation the Executive Authority of the Federation will be the Governor-General in Council and if the federation is an All-India Federation the Executive Authority in transferred matters to be the Governor-General acting on the advice of Ministers responsible to the Legislature. In other words while there is British India Federation only there is no responsibility at the Centre so long as there is no All-India Federation.

This means that the entry of the States is a condition precedent for the grant of responsibility to British India. You will therefore ask, why is the entry of the States so essential ?

All Federations have come into existence as a result of some danger from outside affecting the safety and integrity of the Units. The States of North America federated because of the fear of subjugation of the States by British Imperialism. The Provinces of Canada federated because of the danger of invasion or absorption by the United States. The Australian Colonies federated because of the danger of invasion by Japan. It is obvious that the Indian Federation is not the result of any such circumstance. There is no new invader on the border of India waiting to pounce upon both British India and the Indian States. Nor is this Federation necessary for bringing about peace between British India and the Indian States. It matters not that British India is under the sovereignty of the Crown and the Indian States are under the suzerainty of the Crown. So far as foreign relations are concerned, and they include peace and war, the two are subordinate to one and the same authority namely the crown. That is the reason why the two have been at peace. That is the reason why they will not be and cannot be at war. Prevention of external aggression or the maintenance of internal peace cannot be the motive for this All India Federation. What then can be the motive of this Federation ? Why are the States invited to enter into this Federation ? Why is their entry made a condition precedent for responsibility at the Centre ? To put it bluntly,

the motive is to use the Princes to support imperial interests and to curb the rising tide of democracy in British India. I should like to have another explanation, if there is any. I see none. That the Princes are wanted in the Federation to serve ends of the British Imperialism is beyond question. The Secretary of State for India speaking in Parliament during the course of the debate on the Government of India Bill admitted that "we should all welcome the entry into the Central Government of India of a great force of stability and imperial feeling represented by the Princes". While the suppression of democracy in British India may not be the motive I am sure that that will be the consequence of the entry of the Princes in the Federation.

What a price has been paid for the entry of the Federation ! I do not wish to repeat what I have said. If you will re-call what I have said regarding the discrimination which has been made in favour of the Princes in the matter of representation, taxation, administration, legislation etc., you will know what benefits have been conferred, what rights have been surrendered and what immunities have been granted by British India to induce the Princes to come into the Federation. And what has British India got in return ?

If the Federal Constitution had provided full responsible Government, there would have been some compensation to British India for the price it has paid to the Princes for their joining the Federation. But British India has not got any responsibility worth the name. What British India has got is a system of responsibility halved in part and mutilated in substance by conditions and restraints. Not only British India has not been able to secure responsibility at the Centre commensurate with the sacrifices it has made for making the Federation easy for the Princes, but it has lost its claim for Dominion Status in its own right and independently of the Princes. Many people do not know what British India has lost and stands to lose in this business of an All India Federation. The new Constitution is the result of the struggle of the people of British India. It is the agitation and the sufferings of the people of British India which was the compelling force behind this constitution. What was the right which the people of British India were claiming for themselves ? As I have said, their first claim was good government in British India. Next they claimed self-government, that is responsible government for British India. Lastly, they claimed Dominion Status for British India. Each one of these claims have been accepted by the British Parliament. In 1917 the British Parliament accepted the goal of Responsible Government. In 1929 the English Nation accepted the goal of Dominion Status, Now it must be emphasised that each time the claim was made, it was made in the name of the people of British India. Each time it was accepted in relation to the people of British India. What is going to be the position of British India as a result of the Federation ?

The position of British India is that they can never get any responsibility at the Centre unless the Princes come into the Scheme. That means that British India has lost its right to claim Responsible Government for itself in its own name and independently of the Princes. This right was a vested right because it was the result of a claim made and accepted. That right has been lost because British India is made dependent for the realization of its destiny upon the wishes of the States. Of the two parts of this Federation. British India is the progressive part and the States form the unprogressive part. That the progressive part should be tied up to the chariot of the unprogressive and its path and destiny should be made dependent upon the unprogressive part constitutes the most tragic side of this Federation.

For this tragedy you have to blame your own national leaders. Fortunately for me I am not one of your national leaders. The utmost rank to which I have risen is that of a leader of the Untouchables. I find even that rank has been denied to me. Thakkar Bapa, the left hand man of Mahatma Gandhi. I call him left hand man only because Vallabhbhai Patel is the right hand man—very recently said that I was only the leader of the Mahars. He would not even allow me the leadership of the Untouchables of the Bombay Presidency. Whether what Thakkar Bapa said was said by him out of malice or out of love of truth does not worry me. For politics is not my first love nor is national leaderhip the goal of my life. On the other hand, when I see what disasters your national leaders have brought upon this country I feel relieved to know that I am not included in that august crowd. Believe me when I say that some of your national leaders were thoroughly unprepared for the job of constitution-making. They went to the Round Table Conference without any comparative study of constitutions and could propound no solutions to problems with which they were presented. Others who were undoubtedly competent to tackle the problem were like little children so charged with the ideal of Federation that they never cared to see whether what they were shaping was a real federation or a fraud in the name of Federation. This tragedy is entirely due to wrong leadership. I do not know if the steps taken can be retraced and whether the lost ground can be regained. But I think it is a right thing that the people of British India should know what they have lost. They have a federation of their own and they have right to demand responsibility for their federation.

There is another reason why it would be desirable to have a Federation of British India only. A Federation of British India and of the Indian States cannot work harmoniously. There are two elements which I am sure will produce a conflict between British India and the Indian States. The first element arises out of the difference in the position of the representatives of British India and those of the Indian States. The representatives of British India will be free men. The representatives of the Indian States

will be bondmen of the Political Department. The sources of mandate of those two sets of representatives in the Federal Legislature will be different. The British India representatives will be engaged in extending the authority of the Ministers. The States representatives are sure to act and will be made to act so as to lend support to the authority of the Governor-General as against the Ministers. This conflict is inevitable and it is sure to embitter the feelings of British India towards the Indian States. This was precisely what happened in the last regime in the Provinces. The feelings of the elected members towards the nominated members in the old Provincial Councils were certainly unfriendly. This experience I am sure will be repeated in the Federal Legislature. That it should be so is very natural when one section of the House feels that the other section has been brought in to thwart its wishes and is acting as the tool of some power outside the control of the Legislature. This is one element of disharmony. The other element of disharmony is the disparity in the position of British Indian States under the Federation. Equality before law is a precious thing. But not all people value it for the same reason. Most cherish it an ideal. Few realize why it is crucial. Equality before the law compels men to make common cause with all others similarly affected. Whereas if there is no equality, if some are favoured and others are burdened, those specially favoured not only refuse to join those who are burdened in the struggle for equality but actually take sides against them. A Dictator might, as the kings did in the olden times, pull out one by one the teeth of a few without necessarily exciting the resentment of the other people. On the contrary, the others will join in the raid. But suppose a law was made that all must contribute as much money as the dictators ask for under penalty of their teeth being drawn out all would rise in opposition. There is no equality between British India and the Indian States under the Federation. Indian States enjoy many benefits and many exemptions which are denied to British India. This is particularly so in the matter of taxation. There is bound to be great acrimony between the representatives of British India and those of the Indian States as to who should bear the load of taxation first. Patriotism vanishes when you touch a man's pocket and I am sure that the States representatives will prefer their own financial interest to the necessities of a common front to make the executive responsible to the Legislature.

What is the use of housing British India and the Indian States under one edifice if the result is to make them quarrel with each other ?

There is a complete dissimilarity between the forms of Government prevalent in British India and the Indian States and the principles underlying the two. These dissimilarities need not produce any antagonism between the Indian States and British India if the two continue to evolve in their separate spheres. So long as the form of Government in the Indian States does not become a factor in the decision of affairs which affects British India, British

India can tolerate those forms of Government however antiquated they may be. But the Federation makes them a factor and a powerful factor and British India cannot remain indifferent to them. Indeed the forging of the Federation will compel British India to launch a compaign in sheer self-interest for revolutionising the forms of Government prevalent in the Indian States.

This will be the inevitable result of this Federation. Is this a consummation which the States devoutly wish for ? This is a question they will have to consider.

Does British India welcome this prospect ? Speaking for myself I will not. It would be impossible to wage war on so vast a front. The States are too numerous to allow concentrated attack. The States being a part of the structure, you cannot attack them and justify your attack as a Constitutional Act. Secondly, why put yourself in this difficulty ? Sometimes it turns out that a man thinks that he is buying property when as a matter of fact he is buying litigation. For British India to accept this Federation is like buying trouble. Thirdly, this Constitution is a settlement from which Dominion Status is most rigidly excluded not only for the present but also for the future as well.

Looked at from any point of view, the wisest course seems to me that leaving the States where they are, British India should proceed on its own evolution and Federation for itself.

X

FEDERATION FROM DIFFERENT POINTS OF VIEW

Different people are looking at this Federation from different points of view. There is the point of view of the Princes. There is the point of view of the Hindus and the Muslims and the Congress. There is also the point of view of the Merchant and the Trader. The point of view of each one of these is of course the result of their particular interests.

What is the interest of the Princes in this Federation? To understand the motives of the Princes you must go back to the Butler Committee. The Princes had been complaining of the encroachment of the Political Department of the Government of India upon their treaty rights under the Doctrine of Paramountcy. The Princes were insisting that the Political Department had no greater right against the States except those that were given by the treaties subsisting between them and the British Government. The Political Department on the other hand claimed that in addition to the rights referable to the treaties, the Crown had also rights which were referable to political usages and customs. To adjudicate upon this dispute, the Secretary of State agreed to appoint the Butler Committee. The Princes had hoped that the Butler Committee would accept their contentions and limit the scope of

Paramountcy to the rights referable to the treaties. Unfortunately for the Princes they were disappointed, because the Butler Committee reported that the Paramountcy was paramount and that there could be no definition or delimitation of it. This decision of the Butler Committee meant a complete subordination of the Princes to the Political Department of the Government of India and the Princes were in search of an escape from this unfortunate position in which they were placed and they found, and quite rightly, that the only solution which can enable them to esape the tyranny of the Political Department was the Federation; because to the extent to which the Federal authority prevailed, the authority of the Political Department would vanish and as the Federal authority could only be exercised by a Federal Legislature and a Federal Executive and as they would have sufficient voice in the Federal Legislature and the Federal Executive they thought of federation. The federal solution of their problem offered two advantages to the Princes. The first was that it would secure to the States internal autonomy which they were very anxious to have, for it is of the essence of federating units to remain in their own hands all powers save those which they themselves have willingly delegated to a common centre and over which they themselves possess a share in the control. The second advantage of the Federation was that Paramountcy would disappear to the extent of the Federal authority. The motive of the Princes, therefore, was selfish and their primary aim was to get rid as much as possible of the authority of the Political Department of the Government of India. This was one of the primary interests of the Princes. The Princes had another interests to safeguard. That was to preserve their powers of civil and military government as much as possible. They wanted to make the Federation as thin as possible so that it might not impinge upon them very hard. The interest of the Princes is two-fold. They wanted to escape Paramountcy. Secondly, they did not want to subject themselves too much to the authority of the Federation. In looking at the Federation, the Princes keep two questions before them. How far will this Federation enable them to escape the tyranny of Paramountcy ? Secondly, how far does this scheme of Federation take away their sovereignty and their powers of internal government ? They want to draw more under the former and give less under the latter.

The Muslims had an interest which not only coloured their whole vision but made it so limited that they did not care to look at anything else. That interest was their interest as a minority. They knew only one means of protecting themselves against the Hindu majority. That was to ask for reservation of seats with separate electorates and weightage in representation. In 1930 they discovered that there was another and a more efficacious method of protecting the Muslim minorities. That was to carve out new Provinces in which Muslims would be in a majority and Hindus in a minority as a counterblast to Provinces with Hindus as a majority and Muslims as

a minority. They hit upon this system because they felt such as a system of balance of Provinces would permit the Muslims in the Muslim majority Provinces to hold the Hindu minorities in their Provinces as hostage for the good behaviour of the Hindu Majorities in the Provinces in which the Muslims were in minority. The creation of Muslim majority Provinces and to make them strong and powerful was their dominant interest. To accomplish this they demanded the separation of Sindh and the grant of responsible government to the North West Frontier Provinces so that the Muslims could have a command of four Provinces. To make the Provinces strong they insisted on making the Centre weak. As a means to this end the Muslims demanded that residuary powers should be given to the Provinces and the Hindu representation in the Centre should be reduced by giving the Muslims not only 1/3 of seats from the total fixed for British India but also 1/3 from the total assigned to the Princes.

The Hindus as represented by the Hindu Mahasabha were concerned with only one thing. How to meet what they called the menace of the Musalmans ? The Hindu Mahasabha felt that the accession of the Princes was an accretion to the Hindu strength. Everything else was to them of no consequence. Its point of view was Federation at any cost.

The next class whose point of view is worthy of consideration is the Indian Commercial Community. The commercial community is no doubt a small community in a vast country like India, but there can be no doubt about it that the point of view of this community is really more decisive than the point of view of any other community. This community has been behind the Congress. It is this community which has supplied the Congress the sinews of war and it knows that having paid the piper it can call for the tune. The commercial community is primarily interested in what is called commercial discrimination and the lowering of the exchange Ratio. It was a very narrow and limited point of view. The Indian Commercial Community is out to displace Europeans from Trade and Commerce and take their place. This it claims to do in the name of nationalism. It wants the right to lower the exchange rate and make profit in its foreign trade. This also it claims to do in the name of nationalism. Beyond getting profits to themselves the Merchants and Traders have no other consideration.

What shall I say about the Congress? What was its point of view? I am sure I am not exaggerating or misrepresenting facts when I say that the Congress point of view at the Round Table Conference was that the Congress was the only party in India and that no body else counted and that the British should settle with the Congress only. This was the burden of Mr. Gandhi's song at the Round Table Conference, He was so busy in establishing his own claim to recognition by the British as the dictator of India that he forgot altogether that the important question was not, with

whom the settlement should be made but what were to be the terms of that settlement. As to the terms of the settlement, Mr. Gandhi was quite unequal to the task. When he went to London he had forgotten that he would have before him not those who go to him to obtain his advice and return with his blessings but persons who would treat him as a lawyer treats a witness in the box. Mr. Gandhi also forgot that he was going to a political conference. He went there as though he was going to a Vaishnava Shrine singing the Narsi Mehta's Songs. When I think of the whole affair I am wondering if any nation had ever sent a representative to negotiate the terms of a national settlement who was more unfit than Mr. Gandhi. How unfit Mr. Gandhi was to negotiate a settlement becomes evident when one realizes that this Ambassador of India was ready to return to India with only Provincial Autonomy when as a matter of fact he was sent to negotiate on the basis of Independence. No man has brought greater disasters to the, interests of India than did Mr. Gandhi at the Round Table Conference. Less one speaks of him the better.

How far each of these interests feel satisfied with the Federal Scheme such as it is, it is not for me to say. The question one may however ask is, are these the only points of view that must be taken into consideration in deciding as to what we shall do with this Federation ? I protest that there are other points of view besides those mentioned above which-must receive attention. There is the point of view of the Free man. There is also the point of view of the Poor man. What have they to say of Federation ? The Federation does not seem to take any account of them. Yet they are the people who are most deeply concerned. Can the free man hope that the Federal Constitution will not be a menace to his freedom? Can the poor man feel that the constitution will enable him to have old values revalued, to have vested rights devested? I have no doubt that this Federation if it comes into being will be a standing menace to the free man and an obstacle in the way of the poor man. What freedom can there be when you are made subject to the autocracy of the Princes? What economic betterment can there be when you get Second Chambers with vested rights entrenched in Ml and when legislation affecting property is subject to sanction by the Government both before introducing and after it has passed ?

XI

CONCLUSION

I have perhaps detained you longer than I should have done. You will allow that it is not altogether my fault. The vastness of the subject is one reason for the length of this address.

I must, however, confess that there is also another reason which has persuaded me not to cut too short. We are standing today at the point of

time where the old age ends and the new begins. The old age was the age of Ranade, Agarkar, Tilak, Gokhale, Wachha, Sic Pherozeshah Mehta, Surendranath Bannerjee. The new age is the age of Mr. Gandhi and this generation is said to be Gandhi generation. As one who knows something of the old age and also something of the new I see some very definite marks of difference between the two. The type of leadership has undergone a profound change. In the age of Ranade the leaders struggled to modernize India. In the age of Gandhi the leaders are making her a living specimen of antiquity. In the age of Ranade leaders depended upon experience as a corrective method of their thoughts and their deeds. The leaders of the present age depend upon their inner voice as their guide. Not only is there a difference in their mental make up there is a difference even in their view point regarding external appearance. The leaders of the old age took care to be well clad while the leaders of the present age take pride in being half clad. The leaders of the Gandhi age are of course aware of these differences. But far from blushing for their views and their appearance they claim that the India of Gandhi is superior to India of Ranade. They say that the age of Mr. Gandhi is an agitated and an expectant age, which the age of Mr. Ranade was not.

Those who have lived both in the age of Ranade and the age of Gandhi will admit that there is this difference between the two. At the same time they will be able to insist that if the India of Ranade was less agitated it was more honest and that if it was less expectant it was more enlightened. The age of Ranade was an age in which men and women did engage themselves seriously in studying and examining the facts of their life, and what is more important is that in the face of the opposition of the orthodox mass they tried to mould their lives and their character in accordance with the light they found as a result of their research. In the age of Ranade there was not the same divorce between a politician and a student which one sees in the Gandhi age. In the age of Ranade a politician, who was not a student, was treated as an intolerable nuisance, if not a danger. In the age of Mr. Gandhi learning, if it is not despised, is certainly not deemed to be a necessary qualification of a politician.

To my mind there is no doubt that this Gandhi age is the dark age of India. It is an age in which people instead of looking for their ideals in the future are returning to antiquity. It is an age in which people have ceased to think for themselves and as they have ceased to think they have ceased to read and examine the facts of their lives. The fate of an ignorant democracy which refuses to follow the way shown by learning and experience and chooses to grope in the dark paths of the mystics and the megalomaniacs is a sad thing to contemplate. Such an age I thought needed something more than a mere descriptive sketch of the Federal Scheme, It needed a treatment which was complete though not exhaustive

and pointed without being dogmatic in order to make it alive to the dangers arising from the inauguration of the Federal Scheme. This is the task I had set before myself in preparing this address. Whether I have failed or succeeded, it is for you to say. If this address has length which is not compensated by depth, all I can say is that I have tried to do my duty according to my lights.

I am not opposed to a Federal Form of Government. I confess I have a partiality for a Unitary form of Government. I think India needs it. But I also realize that a Federal Form of Government is inevitable if there is to be Provincial Autonomy, But I am in dead horror the Federal Scheme contained in the Government of India Act. I think I have justified my antipathy by giving adequate reasons, I want all to examine them and come to their owe conclusions. Let us however realize that the case of Provincial Autonomy is very different from that of the Federal Scheme. To those who think that the Federation should become acceptable if the Governor-General gave an assurance along the same lines as was supposed to be done by the Governors that he will not exercise his powers under his special responsibilities I want to say two things. First I am sure the Governor-General cannot give such an assurance because he is exercising these powers not merely in the interest of the Crown but also in the interest of the States. Secondly, even if he did, that cannot alter the nature of the Federal Scheme. To those who think that a change in the system of State representation from nomination to election will make the Federation less objectionable, I want to say that they are treating a matter of detail as though it was a matter of fundamental. Let us note what is fundamental and what is not. Let there be no mistake, let there be no fooling as to this. We have had enough of both. The real question is the extension and the growth of responsibility. Is that possible ? That is the crux. Let us also realize that there is no use hugging to Provincial Autonomy and leaving responsibility in the Centre hanging in the air. I am convinced that without real responsibility at the Centre, Provincial Autonomy is an empty shell.

What we should do to force our point of view, this is no place to discuss. It is enough if I have succeeded in giving you an adequate idea of what are the dangers of this Federal Scheme.

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COMMUNAL DEADLOCK AND A WAY TO SOLVE IT

Address delivered at the Session
of
the All India Scheduled Castes Federation
held in
Bombay on May 6,1945

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COMMUNAL DEADLOCK AND A WAY TO SOLVE IT

Mr. President,

I am indeed very grateful for your kind invitation to address the Annual Session of the All-India Scheduled Castes Federation. I am happy to see this great gathering of the Scheduled Castes. Having regard to the very short time which has elapsed since its establishment, the growth of the Federation appears by all evidence to be phenomenal. That the Scheduled Castes all over India have rallied round the Federation and are determined to make the Federation their only representative organization is beyond question. The growth of the Federation within so short a time will not be fully appreciated unless the tremendous difficulties in the way of our organization have been fully appreciated. There are agents of other political organizations which decoy our people by false blandishments, by false promises and by false propaganda. There is the ignorance of our own people, who do not know the critical nature of the times we are living in and who do not know the value of organization for achieving our political objects. There is a lamentable lack of resources at our command. We have no money. We have no press. The cruelest of tyrannies and oppressions, to which our people are subjected, day in and day out all over India, are never reported by the Press. Even our views on social and political questions are systematically suppressed by an organized conspiracy on the part of the Press. We have no funds to maintain a machinery, to render help to our people and to educate, agitate and organize them.

These are the odds we have to contend against. That the Federation, notwithstanding these difficulties, should have grown to this dimension is entirely due to our men who have been ceaselessly and unselfishly devoting themselves to the building up of this organization. I am sure you would like me to pay Mr. Ganpat Mahadev Jadhav, the President of the Bombay City Scheduled Castes Federation, our tribute for the work he has done. As everyone knows, he possesses remarkable degree of organizing capacity and I am sure the success of this Session is due to a great extent to his efforts and to those who have been his co-workers.

Ordinarily, at a gathering such as this I would have spoken—and our people would expect me to speak—on any one of the social and political problems of the Scheduled Castes. But I do not propose to engage myself in a discourse on so sectarian a subject. Instead, I propose to speak on a topic, which is general and has a wider appeal, namely the shape and form of the future Constitution of India.

It may be as well for me to explain the reasons for my decision. For the moment, the responsibility for leading the movement of the Scheduled Castes and facing its day-to-day problems does not lie on my shoulders. On account of my office I am out of it and I have no desire to take it up. That is one reason why I do not propose to take up a sectarian subject which is related only to the Scheduled Castes.

The Scheduled Castes are often charged as being selfish, interested only in themselves ; that they have no constructive suggestions to make for the solution of the country's political problem. The charge is entirely untrue ; and if it is true, the Untouchables will not be the only ones who will be found guilty of it. Most people in India do not make constructive suggestions. The reason is not that there are not people capable of constructive thought. The reason why all constructive thought remains bottled up is because a long and continuous propaganda has inculcated upon the minds of the generality of the people that nothing should be respected and nothing should be accepted unless it emanates from the Congress. It is this which has killed all constructive thought in this country. At the same time, I believe this charge against the Scheduled Castes should be repelled in a positive way by showing that the Scheduled Castes are capable of putting forth constructive proposals for the general political advancement of the country which the country, if it cares to, may consider. This is the second reason why I have on this occasion chosen this subject of general interest.

II

RESPONSIBILITY FOR FRAMING THE CONSTITUTION

Before I set out in concrete terms the constitutional proposals I have in mind, I wish to raise two preliminary issues. First is : Who should frame a Constitution for India ? It is necessary to raise this question because there are quite a lot of people in India who are hoping, if not asking, the British Government to resolve the deadlock and to frame a Constitution for India. I think there is a gross fallacy in such a view which needs to be exposed. A Constitution, framed by the British Government and imposed upon Indians, sufficed in the past. But if the nature of the future Constitution Indians are clamouring for, is borne in mind it will be clear that an imposed Constitution will not do.

The difference between the past Constitutions and the future Constitution of India is fundamental, and those, who still rely on the British for framing

a Constitution for India, do not seem to have realized this difference. The difference lies in this that the past Constitutions contained a breakdown clause. But the future Constitution of India cannot contain such a breakdown clause. People in India decry the breakdown clause—by now the notorious section 93 of the Government of India Act, 1935. That is because they do not know the why and the how of its place in the Act. Its importance will become apparent if two important considerations governing the political life of a community are borne in mind. First of these considerations is that Law and Order is the medicine of the body politic, and when the body politic goes sick this medicine must be administered. Indeed, so important is this consideration that failure to administer it must be deemed to be a crime against society and civilization. The second consideration is that though it is true that no government has a vested right to govern, it is equally true that there must always be a government to govern—which I mean maintain Law and Order—until it is displaced by a better government. The breakdown clause serves these two purposes. As such, it is of the highest value for the peace and tranquillity of the people. It is the one and only means which can save the country from anarchy. For, when Constitutional Government fails, the breakdown clause has at least the merit of maintaining Government.

In the past this distinction between Constitutional Government and Government with the provision for Government stepping in when Constitutional Government failed, was a feasible proposition. It was feasible because while the British Government gave Indians the right to a Constitutional Government, it kept to itself the right to govern, should Constitutional Government fail. In the future Constitution of India, it would not be possible to maintain this distinction. It would not be possible for the British Government to give the Indians the right to Constitutional Government and also to keep to itself the right to govern in case there was a breakdown in the Constitutional Government. The reason is quite obvious. The past Constitutions of India did not treat India as a Dominion. The future Constitution will proceed on the assumption that India will be a Dominion. The breakdown clause or the possibility of Government stepping in, when Constitutional Government has failed, can be reconciled in the case of a country, which has no Dominion Status. But the two are irreconcilable in the case of a Dominion. In the case of a Dominion or for the matter of that in the case of any free country, there is either a Constitutional Government or a Rebellion.

What does this mean ? It means that it is impossible to frame a Constitution for an Indian Dominion with a possibility of a breakdown. To put the same thing in a different language the Constitution must be so made that it will not only command the obedience but also the respect of all ; and all or if not all, at any rate, all important elements in the national life of India shall be prepared to uphold it and to give it their support. This can happen only

if the Constitution is framed by Indians for Indians and with the voluntary consent of Indians. If the Constitution is imposed by the British Government and is not accepted by one section and is opposed by another, there will arise in the country an element, hostile to the Constitution, and which will devote its energies not to working the Constitution but to breaking it. The anti-Constitution party may look upon destroying the Constitution as its only duty and may engage itself in "pronouncing" against a party working the Constitution in the real Latin American fashion.

It is useless for the British to frame a Constitution for India which they will not remain to enforce. The same result will ensue if the Constitution is imposed by one powerful section or a combination of such sections on other sections. I am, therefore, firmly of opinion that if Indians want Dominion Status, they cannot escape the responsibility of framing their own Constitution. The position is thus inescapable.

III

CONSTITUENT ASSEMBLY

The second question that I wish to raise is : Should there be a Constituent Assembly, charged with the function of making a Constitution ? Constituent Assembly is on the lips of everybody. The Congress parties in their resolutions, passed before the Congress ministries resigned, demanded that the Constitution for India should be made by a Constituent Assembly composed of Indians. A Constituent Assembly was included in the Cripps proposals. The Sapru Committee has followed suit.

I must state that I am wholly opposed to the proposals of a Constituent Assembly. It is absolutely superfluous. I regard it as a most dangerous project, which may involve this country in a Civil War. In the first place, I do not see why a Constituent Assembly is at all necessary. Indians are not in the same position as the Fathers of the American Constitution were, when they framed the Constitution of the United States. They had to evolve ideas, suitable for the constitution for a free people. They had no constitutional patterns before them to draw upon. This cannot however be the case for Indians. Constitutional ideas and constitutional forms are ready at hand. Again, room for variety is very small. There are not more than two or three constitutional patterns to choose from. Thirdly, there are hardly any big and purely constitutional questions about which there can be said to be much dispute among Indians. It is agreed that the future Indian Constitution should be Federal. It is also more or less settled what subjects should go to the Centre and what to the Provinces. There is no quarrel over the division of Revenues between the Centre and the Provinces, none on Franchise and none on the relation of the Judiciary to the Legislature and the Executive. The only point of dispute, which is outstanding, centres round the question of the residuary powers—whether they should be with the Centre or with the Provinces. But that is hardly a matter worth

bothering about Indeed, the provision contained in the present Government of India Act could be adopted as the best compromise.

Having regard to this I cannot see why a Constituent Assembly is necessary to incubate a constitution. So much of the Constitution of India has already been written out in the Government of India Act, 1935, that it seems to be an act of supererogation to appoint a Constituent Assembly to do the thing ever again. All that is necessary is to delete those sections of the Government of India Act, 1935, which are inconsistent with Dominion Status.

The only function which could be left to a Constituent Assembly is to find a solution of the Communal Problem. I am quite positive that whatever be the terms of reference of the Constituent Assembly, the Communal Question should not form a part of them. Consider the composition of the Constituent Assembly as suggested by the Sapru Committee. The total membership is fixed at 160. The election is by joint electorates by members of the Provincial Legislative Assemblies under a system of proportional representation and the decision is to be by three-fourths of the members present and voting. Can a minority accept this Constituent Assembly as a safe body, in the impartiality of which it can place implicit confidence ? The answer to this question must depend upon what answers one can give to two other questions : Does it guarantee that the representatives of a minority elected to the Assembly will be its true representatives ? Secondly, does it guarantee that the decision of the Assembly with regard to the claims of any particular minority will not in fact be an imposition on the minority ? On neither of these two questions can I confidently say that a minority need have no cause for fear.

Before taking up these questions, let me point out what differences there are between the Cripps Constituent Assembly and the Sapru Constituent Assembly. They may be stated as follows :

(i) The total number for the Constituent Assembly fixed by the Sapru Committee is 160. Sir Stafford Cripps had not fixed any number. But the provision contained in his proposal that the Constituent Assembly shall consist of ten per cent of the total number of members of the Provincial Legislatures virtually fixed the number to about 158—a difference of only 2.

(ii) The method of election to the Constituent Assembly by the Sapru Committee is by joint electorate under the system of proportional representation. In this there is no difference between the Cripps plan and the Sapru plan for the composition of the Constituent Assembly.

(iii) Under the Cripps plan, there was no communal reservation. The Sapru plan departs from the Cripps plan in this respect, in as much as it reserves seats for particular communities in prescribed

proportions. This difference is only normal. For, though the Cripps plan did not in terms fix the number, the scheme of proportional representation would have in fact resulted in such reservation. The difference in the quota of representation under the two schemes will be seen from the following table :

Communities and Interests	Quota of seats in the Constituent Assembly	
	Under Cripps'	Under Sapru's
Hindus	77	51
Muslims	50	51
Scheduled Castes	15	20
Sikhs	3	8
Indian Christians	2	7
Anglo-Indians	1	2
Europeans	6	1
Aboriginal Tribes	2	3
Special Interests	....	16
Others	2	1
	158	160

The Sapru Committee has not only fixed the numbers for each Community in the composition of the Constituent Assembly but it has offered the Muslims equality with the Hindus. For this departure the Committee's plea is that in consideration for this offer it has demanded joint electorate as a basis for election to the Constituent Assembly. In this, the Committee must be said to have entirely misunderstood the Cripps proposals. Joint-Electorates were already provided for in the Cripps proposals one clause of which reads—"The members of the Lower Houses of the Provincial Legislatures are to form a single Electoral College". This is simply another way of saying that the election shall be by joint-electorate. It has given something for nothing to one element and thereby put the other Communities in a hazard.

(iv) Under the Cripps proposal the decision of the Assembly was to be by majority of those present and voting, Under the Sapru proposal the decision is to be by a majority of 3/4th of those present and voting.

Now to revert to the two questions. How does the position stands with regard to the first question ? To give one's opinion on it, it is first necessary

to know the communal distribution of the membership of the Provincial Legislative Assemblies. The following table sums up the position :

Distribution of Seats by Communities in the Provincial Legislative Assemblies*

Communities		General	Women	University	Trade Unions	Com-merce	Land lords	Total
1		2	3	4	5	6	7	8
1. Hindus	..	651	26	7	33	31	22	770
2. Muslims	..	482	10	1	5	6	13	517
3. Scheduled Castes.		151	..	..	..	..	..	151
4. Indian Christians.		20	1	..	..	..	..	21
5. Anglo-Indians	..	11	1	..	..	..	..	12
6. Sikhs	..	34	1	..	..	..	1	36
7. Europeans	..	26	..	..	..	19	1	46
8. Aboriginals	..	24	..	..	..	..	..	24
Total	..	1,399	39	8	38	56	37	1,577

Has the communal reservation made by the Sapru proposal, and which is not to be found in the Cripps proposal, any value ? That depends upon how far one community will be able to influence the election of the members of the other communities ? What are the prospects in this regard ? Let me give another table :

Voting strength in relation to seats

Communities		Voters for Constituent Assembly	Quota of seats in the Constituent Assembly	Number of votes required for electing the quota	(+)Excess of voters over (–)Deficiency of voters below requirement
1. Hindus	..	778	51	561	+ 217
2. Muslims	..	561	51	517	+ 44
3. Scheduled Castes	..	151	20	220	– 69
4. Indian Christians	..	21	7	77	– 56
5. Sikhs	..	36	8	88	– 52
6. Europeans	..	46	1	11	+ 35

From this table the following conclusions emerge :

(i) Taking the total votes to be 1577 and the total number to be elected 160, the quota under the proportional system of representation would roughly come to 10 + 1 = 11.

*The distribution of seats for (1) Universities; (2) Trade Unions, (3) Commerce and (4) Landlords among the communities does not stand for an exact figure. It is based on guess as to how they may be divided among the communities having regard to the relative position.

(ii) Taking 11 as the quota, the Hindus will have 217, the Muslims 44 and the Europeans 35 votes to spare, while the Scheduled Castes will be short by 69, the Indian Christians by 56 and the Sikhs by 52 votes.

To put the same thing in a different way :

(i) The Hindus with their excess of 217 votes can elect 20 non-Hindus, who would be dependent upon them ; the Muslims with their excess of 44 votes can elect 4 non-Muslims, who would be dependent upon them and the Europeans with their excess of 35 votes would be able to elect 3 non-Europeans, who would be dependent upon them.

(ii) The Scheduled Castes with a shortage of 69 votes will be able to elect only 13 members on the stock of their own votes and for 7 seats they will have to depend upon Hindu, Muslim or European voters. The Indian Christians with a shortage of 56 votes will be able to elect only 2 seats on the stock of their own voters. For the rest of the 5 seats they will have to depend upon Hindu, Muslim or European voters. Similarly the Sikhs with a shortage of 52 will be able to elect only 3 seats on the stock of their own voters. For the rest of the 5 seats they will have to depend upon Hindu, Muslim or European voters

Such is the position. It is evident that the excess representation granted to the smaller minorities is only an eye-wash. Their representation is made so dependent that in no sense can it be called a real representation.

Let me now take the second question. Is the rule of decision adopted by the Sapru Committee for the Constituent Assembly a safe rule ? The Cripps proposal had adopted the rule of bare majority. This was an absurd proposition which no sensible man could have proposed. I know of no case where questions relating to the constitution were left to be decided by a simple majority.

The Cripps proposals sought to excuse the adoption of the majority rule on the ground that there was to be a further provision for safeguarding the interest of the minorities. The provision was to take the form of a Treaty between the British Crown and the Indian Constituent Assembly, before Parliament was to relinquish its sovereignty and make India free. The proposal of a Treaty would have had some sense, if the Treaty was to override the constitution. But the proposal was impossible as under the Cripps scheme India was free to become a Dominion or an Independent country as she pleased. For once India became a Dominion it would *ipso facto* acquire all the legal power necessary to pass an enactment declaring that the Treaty shall not override the constitution. In that case the Treaty would have been no better than a calendar which members of the minorities might, if they wished, hang on the walls of their houses. This

was exactly what happened to the Irish Treaty. The Irish Treaty continued to override the Irish Constitution so long as Ireland was not a Dominion. But the moment Ireland became a Dominion the over riding power of the Treaty was taken away by a short and simple enactment of the Parliament of the Irish Free State and the British Parliament did nothing, for it knew that Ireland was a Dominion and therefore it could do nothing. How so absurd a provision came to be put forth by so eminent a person to assure the minorities, I am unable to understand.

The provisions contained in the Sapru proposals appear to be an improvement. But are they really an improvement ? I am sure they are not. A three-fourths majority of 160 means that a view to prevail must have the support of 120 members. Before accepting this as an improvement, one has to have some idea as to how this group of 120 is likely to be formed. If the Hindus and the Muslims combine they will together make up 102 and will need only 18 more to make up 120. Most of the special seats and a few more from others may easily fall into the hands of this combine. If this happens the decision of the Assembly will obviously be an imposition upon the Scheduled Castes, the Sikhs, the Indian Christians etc. Similarly, if the Muslims are isolated the decision will not be a joint decision but an imposition upon the Muslims by non-Muslims. These possibilities of permutation and combination for the purpose of check-mating or out-manouvering of some communities by others, I am sorry to say, have not been taken into consideration by the Sapru Committee. There would have been some safety, if the Sapru Committee had provided that the three-fourths majority shall at least include 50 per cent of each element.

Following upon the procedure adopted in the making of the constitution of the United States, the Sapru Committee could have added a further provision for the ratification at any rate of the communal part of the decision of the Assembly by the representatives of the minorities outside the Assembly. None of these provisions finds a place in the plan of the Constituent Assembly as designed by the Sapru Committee. Consequently the Constituent Assembly has become a snare.

There are many other arguments against the plan of a Constituent Assembly. I may mention one, which I confess has influenced me greatly. When I read the history of the Union between Scotland and England, I was shocked at the corruption and bribery that was practised to win the consent of the Scottish Parliament. The whole of the Scottish Parliament was bought. The chances of corruption and bribery being used in the Indian Constituent Assembly to buy over members to support decisions desired by interested groups are very real. Their effects, I am sure, cannot be overlooked. If this happens, it will not only make mockery of the Constituent Assembly but I feel quite certain that any attempt made to enforce its decisions will result in a civil war. It is my considered opinion that the proposal of Constituent Assembly is more dangerous than profitable and should not be entertained.

IV

NECESSITY OF A NEW APPROACH

I shall be asked that if the Constituent Assembly is not the correct approach, what is the alternative ? I know I shall be confronted with such a question. But I am confident in my view that if the Communal Question has become difficult of solution it is not because it is insoluble, nor because we had not yet employed the machinery of Constituent Assembly. It has become insoluble because the approach to it is fundamentally wrong. The defect in the present approach is that it proceeds by methods instead of by principles. The principle is that there is no principle. There is only a series of methods. If one method fails another is tried. It is this swing from one method to another which has made the Communal Problem a jig-saw puzzle. There being no principle there is no guide to tell why a particular method has failed. There being no principle there is no assurance that the new method will succeed.

The attempts at the solution of the Communal Problem are either in the nature of a coward's plan to cow tow to the bully or of bully's plan to dictate to the weak. Whenever a community grows powerful and demands certain political advantages, concessions are made to it to win its goodwill. There is no judicial examination of its claim ; no judgement on merits. The result is that there are no limits to demands and there are no limits to concessions. A start is made with a demand for separate electorate for a minority. It is granted. It is followed by a demand for a separate electorate for a community irrespective of the fact whether it is a minority or majority. That is granted. A demand is made for separate representation on a population basis. That is conceded. Next, a claim is made for weightage in representation. That is granted. It is followed by a demand for statutory majority over other minorities with the right for the majority to retain separate electorates. This is granted. This is followed by a demand that the majority rule of another community is intolerable, and therefore without prejudice to its rights to maintain majority rule over other minorities, the majority of the offending community should be reduced to equality. Nothing can be more absurd than this policy of eternal appeasement, it is a policy of limitless demand followed by endless appeasement.

Frankly, I don't blame the community that indulges in this strategy. It indulges in it because it has found that it pays, it pursues it because there are no principles to fix the limits and it believes that more could be legitimately asked and would be easily given. On the other hand, there is a community economically poor, socially degraded, educationally backward and which is exploited, oppressed and tyrannized without shame and without remorse, disowned by society, unowned by Government and which has no security for protection and no guarantee for justice, fair play and equal opportunity. Such a community is told that it can have no safeguards, not

because it has no case for safeguards but only because the bully on whom the bill of rights is presented thinks that because the community is not politically organized to have sanctions behind its demand he can successfully bluff.

All this differential treatment is due to the fact, that there are no principles, which are accepted as authoritative and binding on those who are parties to the Communal Question. The absence of principles has another deleterious effect. It has made impossible for public opinion to play its part. The public only knows methods and notes that one method has failed another is being suggested. It does not know why one method has failed and why another is said to be likely to succeed. The result is that the public, instead of being mobilized to force obstinate and recalcitrant parties to see sense and reason, are only witnessing the discussions of Communal Questions whenever they take place is mere shows.

The approach I am making for the solution of the Communal Problem is therefore based upon two considerations :

(1) That in proceeding to solve the Communal Problem it is essential to define the governing principles which should be invoked for determining the final solution, and

(2) That whatever the governing principles they must be applied to all parties equally without fear or favour.

V

PROPOSALS FOR SOLUTION OF THE COMMUNAL PROBLEM

Having made my position clear on certain preliminary points, I will now proceed to deal with the subject.

The Communal Problem raises three questions :

(A) The question of representation in the Legislature ;

(B) The question of representation in the Executive; and

(C) The question of representation in the Services.

A. Representation in Public Services

To take the last question first. This can hardly be said to be a subject of controversy. The principle that all communities should be represented in the Public Services in a prescribed proportion and no single community should be allowed to have a monopoly has been accepted by the Government of India. This principle has been embodied in the Government of India Resolutions of 1934 and 1943 and rules to carry it out have been laid down. It has even prescribed that any appointment made contrary to the rules shall be deemed to be null and void. All that is necessary is to convert administrative practice into statutory obligation. This can be done by adding a Schedule to the Government of India Act, which will include the provisions contained in these Resolutions and similar provisions for the different provinces and make the Schedule a part of the Law of the Constitution.

B. Representation in the Executive

This question raises three points :

(i) The quantum of representation in the Executive;

(ii) The nature of the Executive ;

(iii) The method of filling the places in the Executive.

(i) *Quantum of Representation*

For the solution of this question, the principle which should be adopted is that the representation of the Hindus, the Muslims and the Scheduled Castes should be equal to the quantum of their representation in the Legislature.

With regard to the other minorities such as the Sikhs, Indian Christians and Anglo-Indians, it is difficult to give them representation in the Executive in strict proportion to their representation in the Legislature. This difficulty arises largely from the smallness of their numbers. If they are to get representation in the Executive in exact proportion to their numbers, the Executive would have to be enlarged to a fantastic degree. All that can be done, therefore, is to reserve a seat or two for them in the Cabinet for their representation and to establish a convention that they will get a fail portion of representation in the corps of Parliamentary Secretaries that will have to be raised, when the new Constitution comes into existence.

(ii) *Nature of the Executive*

In the Constitution of the Executive, I would propose the adoption of following principles :

(1) It must be recognised that in a country like India where there is a perpetual antipathy between the majority and the minorities and on which account the danger of communal discrimination by majority against minorities forms an ever-present menace to the minorities, the executive power assumes far greater importance than the legislative power.

(2) In view of (1) above, the system under which a party which has secured a majority at the poll is deemed entitled to form a Government on the presumption that it has the confidence of the majority is untenable in Indian conditions. The majority in India is a communal majority and not a political majority. That being the difference, the presumption that arises in England cannot be regarded as a valid presumption in the conditions of India.

(3) The Executive should cease to be a Committee of the majority party in the Legislature. It should be so constituted that it will have its mandate not only from the majority but also from the minorities in the Legislature.

(4) The Executive should be non-Parliamentary in the sense that it shall not be removeable before the term of the Legislature.

(5) The Executive should be Parliamentary in the sense that the members of the Executive shall be chosen from the members of the

Legislature and shall have the right to sit in the House, speak, vote and answer questions.

(iii) *Method of Filling Places*

In this connection, I would propose the adoption of the following principles :

(*a*) The Prime Minister as the executive head of the Government should have the confidence of the whole House.

(*b*) The person representating a particular minority in the Cabinet should have the confidence of the members of his community in the Legislature.

(*c*) A member of the Cabinet shall not be liable to be removed except on ; impeachment by the House on the ground of corruption or treason.

Following those principles, my proposal is that the Prime Minister and the members of the Cabinet from the majority community should be elected by the whole House by a single transferable vote and that the representatives of the different Minorities in the Cabinet should be elected by a single transferable vote of the members of each minority community in the Legislature.

C. Representation in the Legislature

This is the most difficult question. All other questions depend upon the solution of this question. It raises two points :

(i) The quantum of representation; and

(ii) The nature of the electorate.

(i) *Quantum of Representation*

I would first put forth my proposals and then explain the principles on which they are based. The proposals are worked out in the following tables, which show the scale of representation for the different communities in British India in the Central Legislature as well as in the Provincial Legislature :

Proposed Ratio of Representation in the Legislatures

N.B.—The percentages of population in the following Tables differ from the census figures as they have been taken after deducting the population of Aboriginal Tribes :

1. CENTRAL ASSEMBLY

Community				Percentage of population to total	Percentage of Representation
Hindus	..	..	..	54.68	40
Muslims	..	..	..	28.50	32
Scheduled Castes	..	..	..	14.30	20
Indian Christians	..	..	..	1.16	3
Sikhs	..	..	..	1.49	4
Anglo-Indians	..	..	..	0.05	1

2. BOMBAY

Community	Percentage of population to total	Percentage of Representation
Hindus	76.42	40
Muslims	9.98	28
Scheduled Castes	9.64	28
Indian Christians	1.75	2
Anglo-Indians	0.07	1
Parsees	0.44	1

3. MADRAS

Community	Percentage of population to total	Percentage of Representation
Hindus	71.20	40
Scheduled Castes	16.53	30
Muslims	7.98	24
Indian Christians	4.10	5
Anglo-Indians	0.06	1

4. BENGAL

Community	Percentage of population to total	Percentage of Representation
Muslims	56.50	40
Hindus	30.03	33
Scheduled Castes	12.63	25
Indian Christians	0.19	1
Anglo-Indians	0.05	1

5. UNITED PROVINCES

Community	Percentage of population to total	Percentage of Representation
Hindus	62.29	40
Scheduled Castes	21.40	29
Muslims	15.30	29
Indian Christians	0.24	1
Anglo-Indians	0.03	1

6. PUNJAB

Community	Percentage of population to total	Percentage of Representation
Muslims	57.06	40
Hindus	22.17	28
Sikhs	13.22	21
Scheduled Castes	4.39	9
Indian Christians	1.71	2

7. C.P. & BERAR

Community	Percentage of population to total	Percentage of Representation
Hindus	72.20	40
Scheduled Castes	20.23	34
Muslims	5.70	25
Indian Christians	0.36	1

8. BIHAR

Community	Percentage of population to total	Percentage of Representation
Hindus	70.76	40
Muslims	15.05	30
Scheduled Castes	13.80	28
Indian Christians	1.71	2

9. ASSAM

Community	Percentage of population to total	Percentage of Representation
Hindus	45.60	40
Muslims	44.59	39
Scheduled Castes	8.76	19
Indian Christians	0.48	2

10. ORISSA

Community	Percentage of population to total	Percentage of Representation
Hindus	70.80	40
Scheduled Castes	17.66	36
Muslims	2.07	22
Indian Christians	0.37	2

11. SIND

Community	Percentage of population to total	Percentage of Representation
Hindus	23.08	40
Muslims	71.30	40
Scheduled Castes	4.26	19
Indian Christians	0.29	1

VI

EFFECT ON MINORITIES

It may be desirable to set out in a tabular form the changes in the representation of the different minorities as prescribed in the Government of India Act, 1935, and as laid down in the proposals—

EFFECT ON MUSLIMS

Legislature	Population Ratio	Ratio of Representation	
		Under the Government of India Act, 1935	Under the proposed scheme
Central	28.50	32.00	32
Madras	8.00	13.49	24
Bombay	10.00	17.40	28
U.P.	15.30	28.95	29
C.P.	5.70	12.50	25
Bihar	15.00	26.32	28
Assam	44.60	31.48	38
Orissa	2.00	6.66	22

EFFECT ON SCHEDULED CASTES

Legislature	Population Ratio	Ratio of Representation	
		Under the Government of India Act, 1935	Under the proposed scheme
Central	14.30	7.60	20
Madras	16.50	13.90	30
Bombay	9.60	8.50	28
Bengal	12.60	12.00	25
U.P.	21.40	8.70	29
Punjab	4.40	4.50	9
C.P.	20.20	17.80	34
Bihar	13.80	9.80	28
Assam	8.70	6.50	20
Orissa	17.60	10.00	36
Sind	4.20	Nil.	19

EFFECT ON INDIAN CHRISTIANS

Legislature	Population Ratio	Ratio of Representation	
		Under the Government of India Act, 1935	Under the proposed scheme
Central	1.16	3.00	3
Madras	4.10	4.20	5
Bombay	1.70	1.70	2
Bengal	0.19	0.80	1
U.P.	0.24	0.90	1
Punjab	1.70	1.14	2
C.P.	0.35	Nil	1
Bihar	1.70	0.66	2
Assam	0.48	0.90	2
Orissa	0.37	0.16	2
Sind	0.29	Nil	1

EFFECT ON SIKHS

Legislature	Population Ratio	Ratio of Representation	
		Under the Government of India Act, 1935	Under the proposed scheme
Centre	1.50	2.40	4
Punjab	13.20	18.29	21

EFFECT ON HINDUS

Legislature	Population Ratio	Ratio of Representation	
		Under the Government of India Act, 1935	Under the proposed scheme
Bengal	30.00	20.00	33
Punjab	22.10	20.00	28
Sind	23.80	31.60	40

VII

PRINCIPLES UNDERLYING THE PROPOSALS

I may now proceed to state the principles on which this distribution has been made. They are :

(1) Majority Rule is untenable in theory and unjustifiable in practice. A majority community may be conceded a relative majority of representation but it can never claim an absolute majority.*

*I have not framed any scheme of representation for the North-West Frontier province as the minority is so small that even the Principle of relative majority cannot help it.

(2) The relative majority of representation given to a majority community in the legislature should not be so large as to enable the majority to establish its rule with the help of the smallest minorities.

(3) The distribution of seats should be so made that a combination of the majority and one of the major minorities should not give the combine such a majority as to make them impervious to the interest of the minorities.

(4) The distribution should be so made that if all the minorities combine they could, without depending on the majority, form a government of their own.

(5) The weightage taken from the majority should be distributed among the minorities in inverse proportion to their social standing, economic position and educational condition so that a minority which is large and which has a better social, educational and economic standing gets a lesser amount of weightage than a minority whose numbers are less and whose educational, economic and social position is inferior to that of the others.

If I may say so, the representation is a balanced representation. No one community is placed in a position to dominate others by reason of its numbers. The Muslim objection to the Hindu majority and the Hindu and Sikh objections to the Muslim majority are completely eliminated, both in the Central as well as in the Provinces.

VIII

NATURE OF THE ELECTORATE

With regard to the question of electorates the following propositions should be accepted :

(1) Joint electorate or separate electorate is a matter of machinery for achieving a given purpose. It is not a matter of principle.

(2) The purpose is to enable a minority to select candidates to the Legislature who will be real and not nominal representatives of the minority.

(3) While separate electorate gives an absolute guarantee to the minority, that its representatives will be no others except those who enjoy its confidence, a system of joint electorates which will give equal protection to the minorities should not be overlooked.

(4) A Four-member constituency, with a right to the minorities to have a double vote and requiring a minimum percentage of minority votes, may be considered as a possible substitute.

IX

MATTERS NOT COVERED

(i) Question of Special Safeguards

There are other demands made on behalf of particular minorities such as :

(1) Provision of a Statutory Officer to report on the condition of minorities.

(2) Statutory provision of State aid for education, and

(3) Statutory provision for land settlement. But they are not of a communal character, I do not therefore wish to enlarge upon them here.

(ii) Aboriginal Tribes

It will be obvious that my proposals do not cover the Aboriginal Tribes although they are larger in number than the Sikhs, Anglo Indians, Indian Christians and Parsees. I may state the reasons why I have omitted them from my scheme. The Aboriginal Tribes have not as yet developed any political sense to make the best use of their political opportunities and they may easily become mere instruments in the hands either of a majority or a minority and thereby disturb the balance without doing any good to themselves. In the present stage of their development it seems to me that the proper thing to do for these backward communities is to establish a Statutory Commission to administer what are now called the 'excluded areas' on the same basis as was done in the case of the South African Constitution. Every Province in which these excluded areas are situated should be compelled to make an annual contribution of a prescribed amount for the administration of these areas.

(iii) Indian States

It will also be noticed that my proposals do not include the Indian States. I am not opposed to the inclusion of the Indian States, provided the terms and conditions of inclusion are such—

(1) that the dichotomy of divided sovereignty between British India and Indian States is completely done away with,

(2) that the judicial and political boundaries which separate British India from Indian States will disappear, that there will be no such entities as British India or Indian States and in their place there will be only one entity namely India, and

(3) that the terms and conditions of inclusion do not prevent India from having full and plenary powers of a Dominion. I have worked out a scheme for the fusion of the Indian States and British India, which will permit the realization of these objects. I do not wish to overburden this address with the details of the plan. For the moment, it is better if British India marches to her goal without complicating its progress by an entanglement with the Indian States.

X

PAKISTAN IN THE LIGHT OF PROPOSALS

My proposals are for an United India. They are made in the hope that the Muslims will accept them in preference to Pakistan as providing better security than Pakistan does. I am not against Pakistan, I believe it is founded on principle of self-determination, which it is now too late to question. I am prepared to give them the benefit of the principle, on condition that the Muslims do not deny the benefit of the principles to the Non-Muslim residents of the Area. But I believe, I am entitled to draw the attention of the Muslims to another and a better plan of security. I claim that my plan is better than the plan of Pakistan. Let me state the points which tell in favour of my plan. They are :

(i) Under my proposal the danger of a communal majority, which is the basis of Pakistan is removed,

(ii) Under my proposal the weightage at present enjoyed by the Muslims is not disturbed.

(iii) The position of Muslims in the Non-Pakistan Provinces is greatly strengthened by an increase in their representation, which they may not get if Pakistan comes and which will leave them in a more helpless condition than they are in at present.

XI

A WORD TO HINDUS

Much of the difficulty over the Communal Question is due to the insistance of the Hindus that the rule of majority is sacrosanct and that it must be maintained at all costs. The Hindu does not seem to be aware of the fact that there is another rule, which is also operative in fields where important disputes between individual and nations arise and that rule is a rule of unanimity. If he will take the trouble to examine the position he will realise that such a rule is not a fiction, but it does exist. Let him take the Jury System. In the jury trial the principle is unanimity. The decision is binding upon the judge only if the verdict of the jury is unanimous. Let him take another illustration that of the League of Nations. What was the rule for decisions in the League of Nations ? The rule was a rule of unanimity. It is obvious that if the principle of unanimity was accepted by the Hindus as a rule of decision in the Legislature and in the Executive there would be no such thing as a Communal Problem in India.

One may well ask the Hindu that if he is not prepared to concede constitutional safeguards to the minorities, is he prepared to agree to the rule of unanimity ? Unfortunately he is not prepared to accept either.

About the rule of majority the Hindu is not prepared to admit any limitations. The majority he wants is an absolute majority. He will not be satisfied with relative majority. He should consider whether his insistance on absolute majority is fair proposition, which political philosophers can accept. He is not aware that even the constitution of the United States does

not lend support to the absolutistic rule of majority rule on which the Hindu has been insisting upon.

Let me illustrate the point from the constitution of the United States. Take the clause embodying Fundamental Rights. What does that clause mean ? It means that, matters included in Fundamental Rights are of such supreme concern that a mere majority rule is not enough to interfere with them. Take another illustration also from the Constitution of the United States. The Constitution says that no part of the Constitution shall be altered unless the proposition is carried by three-fourths majority and ratified by the States. What does this show ? It shows that the United States Constitution recognizes for certain purposes mere majority rule is not competent.

All these cases are of course familiar to many a Hindu. The pity of it is, he does not read from them the correct lesson. If he did, he would realize that the rule of the majority rule is not as sacrosanct a principle as he thinks it is. The majority rule is not accepted as a principle but is tolerated as a rule. I might also state why it is tolerated. It is tolerated for two reasons; (1) because the majority is always a political majority and (2) because the decision of a political majority accepts and absorbs so much of the point of view of the minority that the minority does not care to rebel against the decision.

In India, the majority is not a political majority. In India the majority is born ; it is not made. That is the difference between a communal majority and a political majority. A political majority is not a fixed or a permanent majority. It is a majority which is always made, unmade and remade. A communal majority is a permanent majority fixed in its attitude. One can destroy it, but one cannot transform it. If there is so much objection to a political majority, how very fatal must be the objection to a communal majority ?

It may be open to the Hindus to ask Mr. Jinnah, why in 1930 when he formulated his fourteen points he insisted upon the principle of majority rule to such an extent that one of the fourteen points stipulated that in granting weightage, limits should be placed whereby a majority shall not be reduced to a minority or equality. It may be open to the Hindus to ask Mr. Jinnah, if he is in favour of a Muslim majority in Muslim Provinces, why he is opposed to a Hindu Majority in the Centre ? The Hindu must however realize that these posers may lead to the conclusion, that Mr. Jinnah's position is inconsistent. They cannot lead to the affirmation of the principle of majority rule.

The abandonment of the principle of majority rule in politics cannot affect the Hindus very much in other walks of life. As an element in social life they will remain a majority. They will have the monopoly of trade and business which they enjoy. They will have the monopoly of the property which they

have. My proposals do not ask the Hindus to accept the principle of unanimity. My proposals do not ask the Hindus to abandon the principle of majority rule. All I am asking them is to be satisfied with a relative majority. Is it too much for them to concede this ?

Without marking any such sacrifice the Hindu majority is not justified in representing to the outside world that the minorities are holding up India's Freedom. This false propaganda will not pay. For the minorities are doing nothing of the kind. They are prepared to accept freedom and the dangers in which they likely to be involved; provided they granted satisfactory safeguards. This gesture of the minorities is not to be treated as a matter for which Hindus need not be grateful. It may well be contrasted with what happened in Ireland. Mr. Redmond, the leader of the Irish Nationalists once told Carson, the leader of Ulster; "Consent to United Ireland, Ask for any safeguard and they shall be granted to you". He is reported to have turned round and said : "Damn your safeguards ; we don't want to be ruled by you". The minorities in India have not said that. They are ready to be satisfied with safeguards. I ask the Hindus Is this not worth a mass ? I am sure it is.

XII

CONCLUSION

These are some of the proposals I have had in mind for the solution of the Communal Problem. They do not commit the All-India Scheduled Castes Federation. They do not even commit me. In putting them forth, I am doing nothing more than exploring a new way. My emphasis is more on the principle, I have enunciated, than on the actual proposals. If the principles are accepted then I am sure the solution of the Communal Question will not be as baffling as it has been in the past.

The problem of solving the Indian deadlock is not easy. I remember reading a historian describing the condition of Germany before the Confederation of 1867 as one of ' Divinely Ordained Confusion'. Whether that was true of Germany or not, it seems to me that they form a very accurate description of the present conditions of India. Germany did get out of this confusion, if not at one stroke at least by successive stages until just before the war she became a unified people, unified in mind, unified in outlook and unified by belief in a common destiny. India has not so far succeeded in evolving order out of her confusion. It is not that she had no opportunities to do so. In fact, there have been quite a number. The first opportunity came in 1927, when Lord Birkenhead gave a challenge to Indians asking them to produce a constitution for India. That challenge was taken up. A committee was formed to frame a constitution. A constitution was produced and was known as '*The Nehru Constitution'*. It was, however, not accepted by Indians and was buried without remorse. A second opportunity presented itself to *Indians in 1930,* when they assembled at the Round Table Conference. There again, Indians failed to play their part and write out their own

Constitution. A third attempt is the one recently made by the Sapru Committee. The proposals of this committee too have fallen flat.

There is neither enthusiasm nor optimism left to indulge in another attempt. One is persued by a sense of fatality, which suggests that as every attempt is doomed to failure, none need be made. At the same time I feel that no Indian ought to be so down hearted or so callous as to let the deadlock stink, as though it was a dead dog, and say that he is prepared to do nothing more than be a mere witness to the political dog-fight that is going on in this country. The failures of the past need not daunt any body. They do not daunt me. For, I have a feeling that though it is true that all attempts to reach an agreement on the communal question have failed, the failure have been due not so much to any inherent fault of the Indians as they have been due to a wrong approach. I feel confident that my proposals, if considered dispassionately, should be found acceptable. They constitute a new approach and as such I commend them to my countrymen.

Before I conclude, I must, however, warn my critics that they may be able to amend my proposals in some respects ; but it will not be easy to reject them. If they do reject them, the first thing they shall have to do is to controvert the principles on which they are based.

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10

STATES AND MINORITIES

What are Their Rights and How to Secure Them in the Constitution of Free India

Memorandum on the Safeguards for the Scheduled Castes submitted to the Constituent Assembly on behalf of the All India Scheduled Castes Federation

Published: 1947

STATES AND MINORITIES

PREFACE

Soon after it became definite that the framing of the future Constitution of India was to be entrusted to a Constituent Assembly, the Working Committee of the All-India Scheduled Castes Federation asked me to prepare a Memorandum on the Safeguards for the Scheduled Castes for being submitted to the Constituent Assembly, on behalf of the Federation. I very gladly undertook the task. The results of my labour are contained in this brochure.

The Memorandum defines Fundamental Rights, Minority Rights and Safeguards for the Scheduled Castes. Those who hold the view that the Scheduled Castes are not a minority might say that in this matter I have gone beyond prescribed bounds. The view that the Scheduled Castes are not a minority is a new dispensation issued on behalf of the High and Mighty Hindu Majority which the Scheduled Castes are asked to submit to. The spokesmen of the Majority have not cared to define its scope and its meaning. Anyone with a fresh and free mind, reading it as a general proposition, would be justified in saying that it is capable of double interpretation. I interpret it to mean that the Scheduled Castes are more than a minority and that any protection given to the citizens and to the minorities will not be adequate for the Scheduled Castes. In other words it means that their social, economic and educational condition is so much worse than that of the citizens and other minorities that in addition to protection they would get as citizens and as minorities the Scheduled Castes would require special safeguards against

the tyranny and discrimination of the majority. The other interpretation is that the Scheduled Castes differ from a minority and therefore they are not entitled to the protection which can be claimed by a minority. This interpretation appears to be such unmitigated nonsense that no sane man need pay any attention to it. The Scheduled Castes must be excused if they ignore it. Those who accept my interpretation of the view that the Scheduled Castes are not a minority will, I am sure, agree with me that I am justified in demanding for the Scheduled Castes, all the benefit of the Fundamental Rights of citizens, all the benefit of the Provisions for the Protection of the minorities and in addition special Safeguards.

The memorandum was intended to be submitted to the Constituent Assembly. There was no intention to issue it to the public. But my caste Hindu friends who have had the opportunity to read the typescript have pressed me to give it a wider circulation. Although it is meant for members of the Constituent Assembly, I do not see any breach of decorum in making it available to the general public. I have therefore agreed to fall in line with their wishes.

Instead of setting out my ideas in general terms, I have drafted the Memorandum in the form of Articles of the Constitution. I am sure that for the sake of giving point and precision this method will be found to be more helpful. For the benefit of the Working Committee of the Scheduled Castes Federation, I had prepared certain explanatory notes and other statistical material. As the notes and the statistical material are likely to be useful to the general reader, I have thought it better to print them along with the Memorandum rather than keep them back.

Among the many problems the Constituent Assembly has to face, there are two which are admittedly most difficult. One is the problem of the Minorities and the other is the problem of the Indian States. I have been a student of the problem of the Indian States and I hold some very definite and distinct views on the subject. It was my hope that the Constituent Assembly would elect me to the States Committee Evidently, it has found men of superior calibre for the work. It may also be because I am one of those who are outside the tabernacle and therefore undesirable. I am not sorry to find myself left out. My only regret is that I have lost an opportunity to which I was looking forward

for placing my views for the consideration of the Committee. I have therefore chosen to do the next best thing—namely, to incorporate them in this brochure along with the Rights of Citizens, of Minorities and of the Scheduled Castes so that a wider public may know what they are, may value them for what they are worth and may make such use of them as it may deem fit.

"Raja Graha" B. R. AMBEDKAR
Dadar, Bombay-14
15-3-47

CONSTITUTION OF THE UNITED STATES OF INDIA

PROPOSED PREAMBLE

We the people of the territories of British India distributed into administrative units called Provinces and Centrally Administered Areas and of the territories of the Indian States with a view to form a more perfect union of these territories do—

(For explanation, see page 405)

ordain that the Provinces and the Centrally Administered Areas (to be hereafter designated as States) and the Indian States shall be joined together into a Body Politic for Legislative, Executive and Administrative purposes under the style *The United States of India* and that the union so formed shall be indissoluble

and that with a view :

(i) to secure the blessings both of self-government and good government throughout the united States of India to ourselves and to our posterity,

(ii) to maintain the right of every subject to life, liberty and pursuit of happiness and to free speech and free exercise of religion,

(iii) to remove social, political and economic inequality by providing better opportunities to the submerged classes,

(iv) to make it possible for every subject to enjoy freedom from want and freedom from fear, and

(v) to provide against internal disorder and external aggression,

establish this Constitution for the United States of India.

PROPOSED ARTICLE I

DETAILED ANALYSIS

Article I, Section I—*Admission of Indian States into the Union :*

Clause 1. Qualified Indian States and their admission into the Union.

Clause 2. Relation of Qualified Indian States which have not entered the Union and of the Disqualified Indian States to the United States of India.

Clause 3. Power of the United States of India to reorganise the territory of the Disqualified Indian States into suitable Administrative Units with a view to qualify them for admission into the Union as States of the Union.

Clause 4. Formation of new States within the Union.

Article I, Section II—*United States of India and New Territory :*

Clause 1. Incorporation of Foreign States into the Union.

Clause 2. Acquisition of new territory by the United States of India and its retention as unincorporated territory of the Union.

ARTICLE I—Section I

ADMISSION OF INDIAN STATES INTO THE UNION

Clause 1

For explanation, see page 405

The United States of India may, on application and on fulfilment of the terms prescribed by an Enabling Act of the Union Legislature laying down the form of the Constitution admit an Indian State into the Union provided the Indian State seeking admission is a Qualified State.

For the purposes of this clause a list of Qualified Indian States shall be drawn up. A State shall not be deemed to be a Qualified State unless it is proved that it is of a standard size prescribed by the Union Legislature and is endowed with natural resources capable of supporting a descent standard of living for its people and can, by reason of its revenues and population function as an autonomous State, protect itself against external aggression, maintain Law and Order against internal disturbance and guarantee to its subjects minimum standards of administration and welfare which are expected from a modern State.

Clause 2

The territory of an Indian State which is a Qualified State but which has not entered the Union and the territory of the Indian States which are disqualified shall be treated as incorporated territories of the United States of India and shall at all times form integral parts thereof and shall be subject to such parts of the Constitution of the United States of India as may be prescribed by the Union Legislature.

Clause 3

The United States of India shall have power to reform, rearrange, redistribute and amalgamate the territories of Disqualified Indian States into suitable Administrative Units for admission into the Union as States of the Union.

Clause 4

After a State has been admitted into the Union as a State no new State shall be formed or created within its jurisdiction nor any new State shall be formed by the junction of two or more States or parts of States without the consent of the Legislatures of the States concerned as well as of the Union Legislature.

ARTICLE I—Section II

Clause 1

The United States of India may admit into the Union any territory which forms a natural part of India or which is on the border of India on terms

and conditions mutually agreed upon. Provided that the terms shall not be inconsistent with the Constitution of the United States of India and the admission is recommended by the Legislatures of one half of the States comprising the United States of India in the form of a resolution.

(For explanation, see page 406)

Clause 2

The United States of India may acquire territory and may treat it as unincorporated territory. The provisions of the Constitution of the United States of India shall not apply to the unincorporated territory unless a provision to the contrary is made by the Legislature of the United States of India.

PROPOSED ARTICLE II

DETAILED ANALYSIS

Article II, Section I—*Fundamental Rights of Citizens.*

Article II, Section II—*Remedies against Invasion of Fundamental Rights:*

Clause 1. Judicial Protection.

Clause 2. Protection against Unequal Treatment.

Clause 3 Protection against Discrimination.

Clause 4. Protection against Economic Exploitation.

Article II, Section III—*Provisions for the Protection of Minorities:*

Clause 1. Protection against Communal Executive.

Clause 2. Protection against Social and Official Tyranny.

Clause 3. Protection against Social Boycott.

Clause 4. Authority and obligation of the Union and State Governments to spend money for public purposes including purposes beneficial to Minorities.

Article II, Section IV—*Safeguards for the Scheduled Castes.*

Part I—Guarantees:

Clause 1. Right to Representation in the Legislature and in the Local Bodies,

Clause 2. Right to Representation in the Executive.

Clause 3. Right to Representation in Services.

Part II—Special Responsibilities;

Clause 1. For Higher Education.

Clause 2. For Separate Settlements.

Part III—Sanction for Safeguards and Amendment of Safeguards :

Clause 1. Safeguards to be embodied in the Constitution.

Clause 2. Amendment of Safeguards.

Part IV—Protection of Scheduled Castes in Indian States.

Part V—Interpretation.

ARTICLE II—Section I

FUNDAMENTAL RIGHTS OF CITIZENS

The Constitution of the United States of India shall recognize the following as Fundamental Rights of citizenship :

Fundamental Rights. (For explanation, see page 406)

1. All persons born or naturalized within its territories are citizens of the United States of India and of the State wherein they reside. Any privilege or disability arising out of rank, birth, person, family, religion or religious usage and custom is abolished.

2. No State shall make or enforce any law or custom which shall abridge the privileges or immunities of citizens ; nor shall any State deprive any person of life, liberty and property without due process of law; nor deny to any person within its jurisdiction equal protection of law.

3. All citizens are equal before the law and possess equal civic rights. Any existing enactment, regulation, order, custom or interpretation of law by which any penalty, disadvantage or disability is imposed upon or any discrimination is made against any citizen shall, as from the day on which this Constitution comes into operation, cease to have any effect.

4. Whoever denies to any person, except for reasons by law applicable to persons of all classes and regardless of their social status, the full enjoyment of any of the accommodations, advantages, facilities, privileges of inns, educational institutions, roads, paths, streets, tanks, wells and other watering places, public conveyances on land, air or water, theatres or other places of public amusement, resort or convenience, whether they are dedicated to or maintained or licensed for the use of the public, shall be guilty of an offence.

5. All citizens shall have equal access to all institutions, conveniences and amenities maintained by or for the public.

6. No citizen shall be disqualified to hold any public office or exercise any trade or calling by reason of his or her religion, caste, creed, sex or social status.

7. (i) Every citizen has the right to reside in any part of India. No law shall be made abridging the right of a citizen to reside except for consideration of public order and morality.

(ii) Every citizen has the right to settle in any part of India, subject to the production of a certificate of citizenship from the State of his origin. The permission to settle shall not be refused or withdrawn except on grounds specified in sub-clause (iv) of this clause.

(iii) The State in which a citizen wishes to settle may not impose any special charge upon him in respect of such settlement other than the charge imposed upon its own inhabitants. The maximum fees chargeable in respect of permits for settlement shall be determined by laws made by the Union Legislature.

(iv) The permission to settle may be refused or withdrawn by a State from persons—

(*a*) who have been habitual criminals ;

(*b*) whose intention to settle is to alter the communal balance of the State ;

(*c*) who cannot prove to the satisfaction of the State in which they wish to settle that they have an assured means of subsistence and who are likely to become or have become a permanent burden upon public charity;

(*d*) whose State of origin refuses to provide adequate assistance for them when requested to do so,

(v) Permission to settle may be made conditional upon the applicant being capable of work and not having been a permanent charge upon public charity in the place of his origin, and able to give security against unemployment.

(vi) Every expulsion must be confirmed by the Union Government.

(vii) Union Legislature shall define the difference between settlement and residence and at the same time, prescribe regulations governing the political and civil rights of persons during their residence.

8. The Union Government shall guarantee protection against persecution of a community as well as against internal disorder or violence arising in any part of India.

9. Subjecting a person to forced labour or to involuntary servitude shall be an offence.

10. The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

11. The right of a citizen to vote shall not be denied or abridged on any account other than immaturity, imprisonment and insanity.

12. No law shall be made abridging the freedom of Speech, of the Press, of Association and of Assembly except for consideration of public order and morality.

13. No Bill of attainder or *ex post facto* law shall be passed.

14. The State shall guarantee to every Indian citizen liberty of conscience and the free exercise of his religion including the right to profess, to preach and to convert within limits compatible with public order and morality.

15. No person shall be compelled to become a member of any religious association, submit to any religious instruction or perform any act of religion. Subject to the foregoing provision, parents and guardians shall be entitled to determine the religious education of children up to the age of 16 years.

16. No person shall incur any penalties of any kind whatsoever by reason of his caste, creed or religion nor shall any person be permitted to refuse to fulfil any obligation of citizenship on the ground of caste, creed or religion.

17. The State shall not recognise any religion as State religion.

18. Persons following a religion shall be guaranteed freedom of association and shall have, if they so desire, the right to call upon the State to pass legislation in terms approved by them making them into a body corporate.

19. Every religious association shall be free to regulate and administer its affairs, within the limits of the laws applicable to all.

20. Religious associations shall be entitled to levy contributions on their members who are willing to pay them if their law of incorporation permits them to do so. No person may be compelled to pay taxes the proceeds of which are specifically appropriated for the use of any religious community of which he is not a member.

21. All offences under this section shall be deemed to be cognizable offences. The Union Legislature shall make laws to give effect to such provisions as require legislation for that purpose and to prescribe punishment for those acts which are declared to be offences.

ARTICLE II—Section II

REMEDIES AGAINST INVASION OF FUNDAMENTAL RIGHTS

The United States of India shall provide :

Clause 1

(1) That the Judicial Power of India shall be vested in a Supreme Court.

Judicial Protection against Executive Tyranny.
(For explanation, see page 406)

(2) The Supreme Court shall have the power of superintendence over all other Courts or officers exercising the powers of a Court, whether or not such Courts or officers are subject to its appellate or revisional jurisdiction.

(3) The Supreme Court shall have the power on the application of an aggrieved party to issue what are called prerogative writs such as *Hebeas Corpus, Quo Warranto Prohibition, Certiorari* and *Mandamus,* etc. For purposes of such writs the Supreme Court shall be a Court of general jurisdiction throughout India.

(4) The right to apply for a writ shall not be abridged or suspended unless when in cases of rebellion or invasion the public safety may require it.

Clause 2

Protection against Unequal Treatment.
(For explanation, see pages 406-8)

That the Authority of the Legislature and the Executive of the Union as well as of every State throughout India shall be subject to the following limitations :

It shall not be competent for any Legislature or Executive in India to pass a law or issue an order, rule or regulation so as to violate the following rights of the subjects of the State :

(1) to make and enforce contracts, to sue, be parties, and give evidence, to inherit, purchase, lease, sell, hold and convey real and personal property.

(2) to be eligible for entry into the civil and military employ and to all educational institutions except for such conditions and limitations as may be necessary to provide for the due and adequate representation of all classes of the subjects of the State.

(3) to be entitled to the full and equal enjoyment of the accommodations, advantages, facilities, educational institutions, privileges of inns, rivers, streams, wells, tanks, roads, paths, streets, public conveyances on land, air and water, theatres and other places of public resort or amusement except for such conditions and limitations applicable alike to all subjects of every race, class, caste, colour *or* creed.

(4) to be deemed fit for and capable of sharing without distinction the benefits of any religious or charitable trust dedicated to or created, maintained or licensed for the general public or for persons of the same faith and religion.

(5) to claim full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by other subjects regardless of any usage or custom or usage or custom based on religion and be subject to like punishment, pains and penalties and to none other.

Clause 3

Protection against Discrimination. (For explanation, see page 408)

(1) Discrimination against citizens by Government officers in Public administration or by private employers in factories and commercial concerns on the ground of race or creed or social status shall be treated as an offence. The jurisdiction to try such cases shall be vested in a tribunal to be created for the purpose.

(2) The Union Legislature shall have the right as well as the obligation to give effect to this provision by appropriate legislation.

Clause 4

The United States of India shall declare as a part of the law of its constitution—

Protection against Economic Exploitation. (For explanation, see pages 408-12)

(1) That industries which are key industries or which may be declared to be key industries shall be owned and run by the State ;

(2) That industries which are not key industries but which are basic industries shall be owned by the State and shall be run by the State or by Corporations established by the State ;

(3) That Insurance shall be a monopoly of the State and that the State shall compel every adult citizen to take out a life insurance policy commensurate with his wages as may be prescribed by the Legislature ;

(4) That agriculture shall be State Industry;

(5) That State shall acquire the subsisting rights in such industries, insurance and agricultural land held by private individuals, whether as owners, tenants or mortgagees and pay them compensation in the form of debenture equal to the value of his or her right in the land. Provided that in reckoning the value of land, plant or security no account shall be taken of any rise therein due to emergency, of any potential or unearned value or any value for compulsory acquisition;

(6) The State shall determine how and when the debenture holder shall be entitled to claim cash payment;

(7) The debenture shall be transferable and inheritable property but neither the debenture holder nor the transferee from the original holder nor his heir shall be entitled to claim the return of the land or interest in any industrial concern acquired by the State or be entitled to deal with it in any way ;

(8) The debenture-holder shall be entitled to interest on his debenture at such rate as may be defined by law, to be paid by the State in cash or in kind as the State may deem fit;

(9) Agricultural industry shall be organized on the following basis :

(i) The State shall divide the land acquired into farms of standard size and let out the farms for cultivation to residents of the village as tenants (made up of group of families) to cultivate on the following conditions :

(*a*) The farm shall be cultivated as a collective farm ;

(*b*) The farm shall be cultivated in accordance with rules and directions issued by Government;

(*c*) The tenants shall share among themselves in the manner prescribed the produce of the farm left after the payment of charges properly leviable on the farm ;

(ii) The land shall be let out to villagers without distinction of caste or creed and in such manner that there will be no landlord, no tenant and no landless labourer ;

(iii) It shall be the obligation of the State to finance the cultivation of the collective farms by the supply of water, draft animals, implements, manure, seeds, etc.;

(iv) The State shall be entitled to—

(*a*) to levy the following charges on the produce of the farm :

(i) a portion for land revenue ;

(ii) a portion to pay the debenture-holders ; and

(iii) a portion to pay for the use of capital goods supplied ; and

(*b*) to prescribe penalties against tenants who break the conditions of tenancy or wilfully neglect to make the best use of the means of cultivation offered by the State or otherwise act prejudicially to the scheme of collective farming ;

(10) The scheme shall be brought into operation as early as possible but in no case shall the period extend beyond the tenth year from the date of the Constitution coming into operation.

ARTICLE II—Section III

PROVISIONS FOR THE PROTECTION OF MINORITIES

The Constitution of the United States of India shall provide :

Clause 1

Protection against Communal Executive. (For explanation, see pages 412-15)

(1) That the Executive—Union or State—shall be non-Parliamentary in the sense that it shall not be removable before the term of the Legislature.

(2) Members of the Executive if they are not members of the Legislature shall have the right to sit in the Legislature, speak, vote and answer questions.

(3) The Prime Minister shall be elected by the whole House by single transferable vote.

(4) The representatives of the different minorities in the Cabinet shall be elected by members of each minority community in the Legislature by single transferable vote.

(5) The representatives of the majority community in the Executive shall be elected by the whole House by single transferable vote.

(6) A member of the Cabinet may resign his post on a censure motion or otherwise but shall not be liable to be removed except on impeachment by the House on the ground of corruption or treason.

Clause 2

Protection against social and official tyranny. (For explanation, see page 416)

(1) That there shall be appointed an Officer to be called the Superintendent of Minority Affairs.

(2) His status shall be similar to that of the Auditor-General appointed under section 166 of the Government of India Act of 1935 and removable in like manner and on the like grounds as a Judge of the Supreme Court,

(3) It shall be the duty of the Superintendent to prepare an annual report on the treatment of minorities by the public, as well as by the Governments, Union and State and of any transgressions of safeguards or any miscarriage of justice due to communal bias by Governments or their Officers.

(4) The Annual Report of the Superintendent shall be placed on the Table of the Legislatures—Union and State, and the Governments—Union and State, shall be bound to provide time for the discussion of the Report.

Clause 3

Protection against social boycott. (For explanation, see pages 416-18)

That Social Boycott, Promoting or Instigating a Social Boycott or Threatening a Social Boycott as defined below shall be declared to be an offence :

(i) *Boycott Defined.*—A person shall be deemed to boycott another who—

(*a*) refuses to let or use or occupy any house or land, or to deal with, work for hire, or do business with another person, or to render to him or receive from him any service, or refuses to do any of the said things on the terms on which such things should commonly be done in the ordinary course of business, or

(*b*) abstains from such social, professional or business relations as he would, having regard to such existing customs in the community which are not inconsistent with any fundamental right or other rights of citizenship declared in the Constitution, ordinarily maintain with such person, or

(*c*) in any way injures, annoys or interferes with such other person in the exercise of his lawful rights.

(ii) *Offence of Boycotting.*—Whoever, in consequence of any person having done any act which he was legally entitled to do or of his having omitted to do any act which he was legally entitled to omit to do, or with intent to cause any person to do any act which he is not legally bound to do or to omit to do any act which be is legally entitled to do, or with intent to cause harm to such person in body, mind, reputation or property, or in his business or means of living, boycotts such person or any person in whom such person is interested, shall be guilty of offence of boycotting.

Provided that no offence shall be deemed to have been committed under this Section, if the Court is satisfied that the accused person has not acted at the instigation of or in collusion with any other person or in pursuance of any conspiracy or of any agreement or combination to boycott.

(iii) *Offence of Instigating or Promoting a Boycott*—

Whoever—

(*a*) publicly makes or publishes or circulates a proposal for, or

(*b*) makes, publishes or circulates any statement, rumour or report with intent to, or which he has reason to believe to be likely to cause, or

(*c*) in any other way instigates or promotes the boycotting of any person or class of persons, shall be guilty of the offence of instigating or promoting a boycott.

Explanation—An offence under this clause shall be deemed to have been committed although the person affected or likely to be affected by any action of the nature referred to herein is not designated by name or class but only by his acting or abstaining from acting in some specified manner.

(iv) *Offence of Threatening a Boycott.*—Whoever, in consequence of any person having done any act which he was legally entitled to do or of his having omitted to do any act which he was legally entitled to omit to do, or with intent to cause any person to do any act which he is not legally bound to do, or to omit to do any act which he is legally entitled to do,

threatens to cause such person or any person in whom such person is interested, to be boycotted shall be guilty of the offence threatening a boycott.

Exception.—It is not boycott—

(i) to do any act in furtherance of a *bona fide* labour dispute ;

(ii) to do any act in the ordinary course of business competition.

(2) All these offences shall be deemed to be cognizable offences. The Union Legislature shall make laws prescribing punishment for these offences.

Clause 4

Power of Governments to spend money for any purposes connected with the Government of India including purposes beneficial to the Minorities.
(For explanation, see page 418)

That the Power of the Central and Provincial Governments to make grants for any purpose, notwithstanding that the purpose is not one for which the Union or State Legislature as the case may be may make laws, shall not be abridged or taken away.

ARTICLE II—Section IV

SAFEGUARDS FOR THE SCHEDULED CASTES

PART I—Guarantees

Right to Representation in the Legislature. (For explanation, see pages 419-24)

The Constitution of the United States of India shall guarantee to the Scheduled Castes the following Rights:

Clause 1

Right to Representation in the Legislature

(1) *Quantum of Representation.*—(*a*) (i) The Scheduled Castes shall have minimum representation in the Legislature—Union and State—and if there be a group Constitution then in the group Legislature equal to the ratio of their population to the total population. Provided that no other minority is allowed to claim more representation than what is due to it on the basis of its population.

(ii) The Scheduled Castes of Sind and N.W.F. Provinces shall be given their due share of representation.

(iii) Weightage where it becomes necessary to reduce a huge communal majority to reasonable dimensions shall come out of the share of the majority. In no case shall it be at the cost of another minority community.

(iv) Weightage carved out from the share of majority shall not be assigned to one community only. But the same shall be divided among all minority communities equally or in inverse proportion to their—

(1) economic position,

(2) social status, and

(3) educational advance.

(*b*) There should be no representation to special interests. But if the same is allowed it must be taken out of the share of representation given to that community to which the special interest belongs.

(2) *Method of Election*—

(*A*) *For Legislative Bodies*

(*a*) The system of election introduced by the Poona Pact shall be abolished.

(*b*) In its place, the system of *Separate Electorates* shall be substituted.

(*c*) Franchise shall be adult franchise.

(*d*) The system of voting shall be cumulative.

(*B*) *For Local Bodies*

The principles for determining the quantum of representation and the Method of election for Municipalities and Local Boards shall be the same as that adopted for the Union and State Legislatures.

Clause 2

Right to Representation in the Executive. (For explanation, see pages 424-25)

(1) The Scheduled Castes shall have minimum representation in the Executive—Union and State—and if there be a group Constitution then in the group Executive equal to the ratio of their population to the total population. Provided that no minority community is allowed to claim more than its population ratio.

(2) Weightage where it becomes necessary to reduce a huge majority to reasonable dimensions shall come out of the share of the majority community. In no case shall it be at the cost of another minority community,

(3) Weightage carved out from the share of the majority shall not be assigned to one community only But the same shall be divided among all minorities equally or in inverse proportion to :

(i) their economic position.
(ii) social status, and
(iii) educational advance.

Clause 3

Right to Representation in the Services

Right to Representation in services. (For explanation, see page 425)

(*a*) The quantum of representation of the Scheduled Castes in the Services shall be as follows :

(i) *In the Union Services.*—In proportion to the ratio of their population to the total population in India or British India as the case may be.

(ii) *In the State and Group Services.*—In proportion to their population in the State or Union.

(iii) *In the Municipal and Local Board Services.*—In proportion to their population in the Municipal and Local Boards areas :

Provided that no minority community is allowed to claim more than its population ratio of representation in the Services.

(*b*) Their right to representation in the Services shall not be curtailed except by conditions relating to minimum qualifications, education, age, etc.

(*c*) The conditions prescribed for entry in Services shall not abrogate any of the concessions given to the Scheduled Castes by the Government of India in their Resolutions of 1942 and 1945.

(*d*) The method of filling up the vacancies shall conform to the rules prescribed in the Government of India Resolutions of 1942 and 1946.

(*e*) On every Public Services Commission or a Committee constituted for filling vacancies, the Scheduled Castes shall have at least one representative.

PART II—SPECIAL RESPONSIBILITIES

Provisions for Higher Education (For explanation, see page 425)

That the United States of India shall undertake the following special responsibilities for the betterment of the Scheduled Castes :

Clause 1

(1) Governments—Union and State—shall be required to assume financial responsibility for the higher education of the Scheduled Castes and shall be required to make adequate provisions in their budgets. Such Provisions shall form the first charge on the Education Budget of the Union and State Government.

(2) The responsibility for finding money for secondary and college education of the Scheduled Castes in India shall be upon the State Governments and the different States shall make a provision in their annual budgets for the said purpose in proportion to the population of the Scheduled Castes to the total budget of the States.

(3) The responsibility for finding money for foreign education of the Scheduled Castes shall be the responsibility of the Union Government and the Union Government shall make a provision of rupees 10 lakhs per year in its annual budget in that behalf.

(4) These special grants shall be without prejudice to the right of the Scheduled Castes to share in the expenditure incurred by the State Government for the advancement of primary education for the people of the State.

Clause 2

Provision for New Settlements. (For explanation. see pages 425-26)

1. The following provision shall be made in the Constitution of the Union Government :

(i) There shall be a Settlement Commission under the new Constitution to hold uncultivated lands belonging to the State in trust for Settlement of the Scheduled Castes in separate villages.

(ii) The Union Government shall set apart annually a fund of Rs. 5 crores for the purpose of promoting the scheme of settlement.

(iii) That the Commission shall have the power to purchase any land offered for sale and use it for the said purpose.

2. The Union Government shall from time to time pass such legislation as may be necessary for the Commission to carry out its functions.

PART III—Sanction for Safeguards and Amendment of Safeguards

Clause 1

The Constitution of the United States shall provide that—

Sanction for safeguards. (For explanation, see pages 426-28)

The United States of India undertakes to give the safeguards contained in Article II Section IV a place in the Constitution and make them a part of the Constitutional Law of India.

Clause 2

Mode of Amendment of safeguards. (For explanation, see page 428).

The provisions for the Scheduled Castes shall not be altered, amended or abrogated except in the following manner :

Any amendment or abrogation of Section IV of Article II or any part thereof relating to the Scheduled Castes shall only be made by a Resolution passed in the manner prescribed below by the more Popular Chamber of the Union Legislature :

(i) Any proposal for amendment or abrogation shall be initiated in the form of a Resolution in the more Popular Chamber of the Union Legislature.

(ii) No such Resolution shall be moved—

(*a*) unless 25 years have elapsed after the Constitution has come into operation and has been worked ; and

(*b*) unless six months' notice has been given to the House by the mover of his intention to move such a Resolution.

(iii) On the passing of such a Resolution, the Legislature shall be dissolved and a new election held.

(iv) The original Resolution in the form in which it was passed by the previous Legislature shall be moved afresh in the same House of the newly elected Union Legislature.

(v) The Resolution shall not be deemed to have been carried unless it is passed by a majority of two-thirds of the members of the House and also two-thirds of members of the Scheduled Castes who have been returned through separate electorates.

PART IV—PROTECTION OF SCHEDULED CASTES IN THE INDIAN STATES

Safeguards for Scheduled Castes in Indian States. (For explanation, see page 428)

The Constitution of the United States shall provide that the admission of the Indian States into the Union shall be subject to the following condition :

"All provisions relating to the Scheduled Castes contained in Section IV of Article II of the Constitution of the United States of India shall be extended to the Scheduled Castes in the Indian States. Such a provision in the Constitution of an Indian States shall be a condition precedent for its admission into the Union."

PART V—INTERPRETATION

Scheduled Castes a Minority. (For explanation, see page 428)

I. For the purposes of Article II the Scheduled Castes, as defined in the Government of India Scheduled Caste Order, 1936, issued under the Government of India Act, 1935, shall be deemed to be a minority.

Scheduled Castes and change of Domicile. (For explanation, see page 428)

II. For the purposes of Article II a Caste which is a Scheduled Caste in one State shall be treated as Scheduled Caste in all States of the Union.

Appendix I

EXPLANATORY NOTES

Preamble

The Preamble gives constitutional shape and form to the Resolution on objectives passed by the Constituent Assembly on Wednesday the 22nd January 1947.

ARTICLE I—Section I

Clauses 1 to 4

The admission of the six hundred and odd Indian States into the Union raises many difficult questions. The most difficult of them is the one which relates to their admission into the Union. Every Indian State is claiming to be a Sovereign State and is demanding to be admitted into the Union in its own right. The Indian States fall into different classes from the view of size, population, revenue and resources. It is obvious that every State admitted into the Union as a State must have the capacity to bear the burden of modern administration to maintain peace within its own borders and to possess the resources necessary for the economic advancement of its people. Otherwise, the United States of India is likely to be encumbered with a large number of weak States which, instead of being a help to the Central Government, will be a burden upon it. The Union Government with such small and weak States as its units will never be able to pull its full weight in an emergency. It is therefore obvious that it would be a grave danger to the future safety of India if every Indian State were admitted into the Union without any scrutiny of its capacity to bear the burden of modern administration and maintaining internal peace. To avoid this danger, the Article proceeds to divide the Indian States into two classes: (1) Qualified Indian States and (2) Unqualified Indian States. It proposes that a list of Qualified Indian States should be drawn up as a first step in the procedure to be followed for the admission of the Indian States into the Union. A Qualified Indian State will be admitted into the Union on an application for admission and the fulfilment of the provisions of the Enabling Act which the Union Legislature is authorized to pass for the purpose of requiring an appropriate form of internal Government set up within the State which will be in consonance to the principles underlying the Constitution of the United States of India. The territory in the occupation of the Unqualified Indian States will be treated as the territory of the United States of India and will be reorganized into States of suitable sizes by the United States of India. In the meantime those who are rulers of the territory shall continue to administer the territory under the supervision of the United States of India. The Act also declares that the Indian territory whether in the occupation of British Indian Provinces or of the Indian States is one and integral and will be so even though an Indian State has not entered into the Union.

Clause 4 provides that once a State is admitted into the Union, its integrity shall be maintained and it shall not be liable to sub-division except in accordance with the provisions contained in the clause.

ARTICLE I—Section II

Clauses 1 and 2

Clause 1 permits the United States of India to incorporate States which are independent but which are on the border and which desire to join the Union.

Clause 2 enables the United States of India to acquire territory and to incorporate it or to treat it as separate territory.

ARTICLE II—Section I

The inclusion of Fundamental Rights in the Constitution requires no justification. The necessity of Fundamental Rights is recognized in all Constitutions old and new. The Fundamental Rights included in the Article are borrowed from the Constitutions of various countries particularly from those wherein the conditions are more or less analogous to those existing in India.

ARTICLE II—Section II

Clause 1

Rights are real only if they are accompanied by remedies. It is no use giving rights if the aggrieved person has no legal remedy to which he can resort when his rights are invaded. Consequently when the Constitution guarantees rights it also becomes necessary to make provision to prevent the Legislature and the Executive from overriding them. This function has been usually assigned to the judiciary and the Courts have been made the special guardians of the rights guaranteed by the Constitution. The clause does no more than this. The clause proposes to give protection to the citizen against Executive tyranny by investing the Judiciary with certain powers of inquisition against the abuse of authority by the Executive. This power takes the form of issue of writs. The High Courts in India possess these powers under the Government of India and under their letters patent. These powers are however subject to two limitations. In the first place the powers given by the Letters Patent are available only to the High Courts in the Presidency Towns and not to all. Secondly these powers are subject to laws made by the Indian Legislature. Thirdly the powers given by the Government of India Act, 1935 are restricted and may prove insufficient for the protection of the aggrieved person. The clause achieves two objectives : (1) to give the fullest power to the Judiciary to issue what under the English Law are called Prerogative Writs and (2) to prevent the Legislature from curtailing these powers in any manner whatsoever.

Clause 2

It is difficult to expect that in a country like India where most persons are communally minded those in authority will give equal treatment to those

who do not belong to their community. Unequal treatment has been the inescapable fate of the Untouchables in India. The following extract from the Proceedings of the Board of Revenue of the Government of Madras No. 723 dated 5th November, 1892. illustrates the sort of unequal treatment which is meted out to the Scheduled Castes by Hindu Officers. Says the report :

"134. There are forms of oppression only hitherto hinted at which must be at least cursorily mentioned. To punish disobedience of Pariahs, their masters—

(*a*) bring false cases in the village Court or in the criminal Courts;

(*b*) obtain, on application, from Government, waste lands lying all round the paracheri, so as to impound the Pariahs' cattle or obstruct the way to their temple;

(*c*) have mirasi names fraudulently entered in the Government account against the paracheri;

(*d*) pull down the huts and destroy the growth in the backyards;

(*e*) deny occupancy right in immemorial sub-tenancies;

(*f*) forcibly cut the Pariahs' crops, and on being resisted charge them with theft and rioting;

(*g*) under misrepresentations, get them to execute documents by which they are afterwards ruined;

(*h*) cut off the flow of water from their fields;

(*i*) without legal notice, have the property of sub-tenants attached for the landlords' arrears of revenue."

"135. It will be said there are civil and criminal Courts for the redress of any of these injuries. There are the Courts indeed; but India does not breed village Hampdens. One must have courage to go to the Courts; money to employ legal knowledge, and meet legal expenses; and means to live during the case and the appeals. Further most cases depend upon the decision of the first Court; and these Courts are presided over by officials who are sometimes corrupt and who generally for other reasons, sympathize with the wealthy and landed classes to which they belong.".

"136. The influence of these classes with the official world can hardly be exaggerated. It is extreme with natives and great even with Europeans. Every office, from the highest to the lowest, is stocked with their representatives, and there is no proposal affecting their interests but they can bring a score of influence to bear upon it in its course from inception to execution."

The Punjab Land Alienation Act is another illustration of unequal treatment of the Untouchables by the Legislature.

Many other minority communities may be suffering from similar treatment at the hands of the majority community. It is therefore necessary to have

such a provision to ensure that all citizens shall have equal benefit of Laws, Rules and Regulations.

The provisions of Clause 2 are borrowed from Civil Rights Protection Act, 1866, and of March 1st, 1875 passed by the Congress of the United States of America to protect the Negroes against unequal treatment.

Clause 3

Discrimination is another menace which must be guarded against if the Fundamental Rights are to be real rights. In a country like India where it is possible for discrimination to be practised on a vast scale and in a relentless manner Fundamental Rights can have no meaning. The Remedy follows the lines adopted in the Bill which was recently introduced in the Congress of the U.S.A. the aim of which is to prevent discrimination being practised against the Negroes.

Clause 4

The main purpose behind the clause is to put an obligation on the State to plan the economic life of the people on lines which would lead to highest point of productivity without closing every avenue to private enterprise, and also provide for the equitable distribution of wealth. The plan set out in the clause proposes State ownership in agriculture with a collectivised method of cultivation and a modified form of State Socialism in the field of industry. It places squarely on the shoulders of the State the obligation to supply capital necessary for agriculture as well as for industry. Without the supply of capital by the State neither land nor industry can be made to yield better results. It also proposes to nationalize insurance with a double objective. Nationalized Insurance gives the individual greater security than a private Insurance Firm does inasmuch as it pledges the resources of the State as a security for the ultimate payment of his insurance money. It also gives the State the resources necessary for financing its economic planning in the absence of which it would have to resort to borrowing from the money market at a high rate of interest. State Socialism is essential for the rapid industrialization of India. Private enterprize cannot do it and if it did it would produce those inequalities of wealth which private capitalism has produced in Europe and which should be a warning to Indians. Consolidation of Holdings and Tenancy Legislation are worse than useless. They cannot bring about prosperity in agriculture. Neither Consolidation nor Tenancy Legislation can be of any help to the 60 millions of Untouchables who are just landless labourers. Neither Consolidation nor Tenancy Legislation can solve their problem. Only collective farms on the lines set out in the proposal can help them. There is no expropriation of the interests concerned. Consequently there ought to be no objection to the proposal on that account.

The plan has two special features. One is that it proposes State Socialism in important fields of economic life. The second special feature of the

plan is that it does not leave the establishment of State Socialism to the will of the Legislature. It establishes State Socialism by the Law of the Constitution and thus makes it unalterable by any act of the Legislature and the Executive.

Students of Constitutional Law will at once raise a protest. They are sure to ask : Does not the proposal go beyond the scope of the usual type of Fundamental Rights ? My answer is that it does not. If it appears to go beyond it is only because the conception of Fundamental Rights on which such criticism is based is a narrow conception. One may go further and say that even from the narrow conception of the scope of the Constitutional Law as comprising no more than Fundamental Rights the proposal can find ample justification. For what is the purpose of prescribing by law the shape and form of the economic structure of society ? The purpose is to protect the liberty of the individual from invasion by other individuals which is the object of enacting Fundamental Rights. The connection between individual liberty and the shape and form of the economic structure of society may not be apparent to everyone. None the less the connection between the two is real. It will be apparent if the following considerations are borne in mind.

Political Democracy rests on four premises which may be set out in the following terms :

(i) The individual is an end in himself.

(ii) That the individual has certain inalienable rights which must be guaranteed to him by the Constitution.

(iii) That the individual shall not be required to relinquish any of his constitutional rights as a condition precedent to the receipt of a privilege.

(iv) That the State shall not delegate powers to private persons to govern others.

Anyone who studies the working of the system of social economy based on private enterprise and pursuit of personal gain will realize how it undermines, if it does not actually violate, the last two premises on which Democracy rests. How many have to relinquish their constitutional rights in order to gain their living ? How many have to subject themselves to be governed by private employers?

Ask those who are unemployed whether what are called Fundamental Rights are of any value to them. If a person who is unemployed is offered a choice between a job of some sort, with some sort of wages, with no fixed hours of labour and with an interdict on joining a union and the exercise of his right to freedom of speech, association, religion, etc., can there be any doubt as to what his choice will be. How can it be otherwise ? The fear of starvation, the fear of losing a house, the fear of losing savings if any, the fear of being compelled to take children away from school, the fear

of having to be a burden on public charity, the fear of having to be burned or buried at public cost are factors too strong to permit a man to stand out for his Fundamental Rights. The unemployed are thus compelled to relinquish their Fundamental Rights for the sake of securing the privilege to work and to subsist.

What about those who are employed? Constitutional Lawyers assume that the enactment of Fundamental Rights is enough to safeguard their liberty and that nothing more is called for. They argue that where the State refrains from intervention in private affairs—economic and social—the residue is liberty. What is necessary is to make the residue as large as possible and State intervention as small as possible. It is true that where the State refrains from intervention what remains is liberty. But this does not dispose of the matter. One more question remains to be answered. To whom and for whom is this liberty ? Obviously this liberty is liberty to the landlords to increase rents, for capitalists to increase hours of work and reduce rate of wages. This must be so. It cannot be otherwise. For in an economic system employing armies of workers, producing goods *en masse* at regular intervals some one must make rules so that workers will work and the wheels of industry run on. If the State does not do it the private employer will. Life otherwise will become impossible. In other words what is called liberty from the control of the State is another name for the dictatorship of the private employer.

How to prevent such a thing happening ? How to protect the unemployed as well as the employed from being cheated out of their Fundamental Rights to life, liberty and pursuit of happiness ? The useful remedy adopted by Democratic countries is to *limit* the power of Government to impose arbitrary restraints in political domain and to *invoke* the ordinary power of the Legislature to restrain the more powerful individual from imposing arbitrary restraints on the less powerful in the economic field. The inadequacy may the futility of the plan has been well-established. The successful invocation by the less powerful of the authority of the Legislature is a doubtful proposition. Having regard to the fact that even under adult suffrage all Legislatures and Governments are controlled by the more powerful an appeal to the Legislature to intervene is a very precarious safeguard against the invasion of the liberty of the less powerful. The plan follows quite a different method. It seeks to limit not only the power of Government to impose arbitrary restraints but also of the more powerful individuals or to be more precise to eliminate the possibility of the more powerful having the power to impose arbitrary restraints on the less powerful by withdrawing from the control he has over the economic life of people. There cannot be slightest doubt that of the two remedies against the invasion by the more powerful of the rights and liberties of the less powerful the one contained in the proposal is undoubtedly the more effective. Considered

in the light of these observations the proposal is essentially a proposal for safeguarding the liberty of the individual. No Constitutional Lawyer can therefore object to it on the ground that it goes beyond the usual scope of Constitutional Law.

So far as the plan has been considered purely as a means of safeguarding individual liberty. But there is also another aspect of the plan which is worthy of note. It is an attempt to establish State Socialism without abrogating Parliamentary Democracy and without leaving its establishment to the will of a Parliamentary Democracy. Critics of State Socialism even its friends are bound to ask why make it a part of the Constitutional Law of the land? Why not leave it to the Legislature to bring it into being by the ordinary process of Law. The reason why it cannot be left to the ordinary Law is not difficult to understand. One essential condition for the success of a planned economy is that it must not be liable to suspension or abadonment. It must be permanent. The question is how this permanence can be secured. Obviously it cannot be secured under the form of Government called Parliamentary Democracy under the system of Parliamentary Democracy, the policy of the Legislature and of the Executive is the policy of the majority for the time being. Under the system of Parliamentary Democracy the majority in one election may be in favour of State Socialism in Industry and in Agriculture. At the next election the majority may be against it. The anti-State Socialism majority will use its Law-making power to undoing the work of the pro-State Socialism majority and the pro-State Socialism majority will use its Law-making power to doing over again what has been undone by their opponents. Those who want the economic structure of society to be modelled on State Socialism must realize that they cannot leave the fulfilment of so fundamental a purpose to the exigencies of ordinary Law which simple majorities—whose political fortunes are never determined by rational causes—have a right to make and unmake. For these reasons Political Democracy seems to be unsuited for the purpose.

What is the alternative ? The alternative is Dictatorship. There is no doubt that Dictatorship can give the permanence which State Socialism requires as an essential condition for its fructification. There is however one fact against Dictatorship which must be faced. Those who believe in individual freedom strongly object to Dictatorship and insists upon Parliamentary Democracy as a proper form of Government for a Free Society. For they feel that freedom of the individual is possible only under Parliamentary Democracy and not under Dictatorship. Consequently those who want freedom are not prepared to give up Parliamentary Democracy as a form of Government. However, much they may be anxious to have State Socialism they will not be ready to exchange Parliamentary Democracy for Dictatorship eventhough the gain by such an exchange is the achievement of State Socialism. The problem therefore is to have State Socialism

without Dictatorship, to have State Socialism with Parliamentary Democracy. The way out seems to be to retain Parliamentary Democracy and to prescribe State Socialism by the Law of the Constitution so that it will be beyond the reach of a Parliamentary majority to suspend, amend or abrogate it. It is only by this that one can achieve the triple object, namely, to establish socialism, retain Parliamentary Democracy and avoid Dictatorship.

The proposal marks a departure from the existing Constitutions whose aim is merely to prescribe the form of the political structure of society leaving the economic structure untouched. The result is that the political structure is completely set at naught by the forces which emerge from the economic structure which is at variance with the political structure. Those who want socialism with Parliamentary Democracy and without Dictatorship should welcome the proposal.

The soul of Democracy is the doctrine of one man, one value. Unfortunately, Democracy has attempted to give effect to this doctrine only so far as the political structure is concerned by adopting the rule of one man, one vote which is supposed to translate into fact the doctrine of one man, one value. It has left the economic structure to take the shape given to it by those who are in a position to mould it. This has happened because Constitutional Laywers have been dominated by the antiquated conception that all that is necessary for a perfect Constitution for Democracy was to frame a Constitutional Law which would make Government responsible to the people and to prevent tyranny of the people by the Government. Consequently, almost all Laws of Constitution which relate to countries which are called Democratic stop with Adult Suffrage and Fundamental Right. They have never advanced to the conception that the Constitutional Law of Democracy must go beyond Adult Suffrage and Fundamental Rights. In other words, old time Constitutional Lawyers believed that the scope and function of Constitutional Law was to prescribe the shape and form of the political structure of society. They never realized that it was equally essential to prescribe the shape and form of the economic structure of society, if Democracy is to live up to its principle of one man, one value. Time has come to take a bold step and define both the economic structure as well as the political structure of society by the Law of the Constitution. All countries like India which are late-comers in the field of Constitution-making should not copy the faults of other countries. They should profit by the experience of their predecessors.

ARTICLE II—Section III

Clause 1

In the Government of India Acts of 1919 and 1935 the model that was adopted for framing the structure of the Executive in the Provinces and

in the Centre was of the British type or what is called by Constitutional Lawyers Parliamentary Executive as opposed to the American type of Executive which in contradistinction of the British type is called Non-Parliamentary Executive. The question is whether the pattern for the Executive adopted in the two Acts should be retained or whether it should be abandoned and if so what model should be adopted in its place. Before giving final opinion on this issue it would be desirable to set out the special features of the British type of the Executive and the consequences that are likely to follow if it was applied to India.

The following may be taken to be the special features of British or the Parliamentary Executive :

(1) It gives a party which has secured a majority in the Legislature the right to form a Government.

(2) It gives the majority party the right to exclude from Government persons who do not belong to the Party.

(3) The Government so formed continues in office only so long as it can command a majority in the Legislature. If it ceases to command a majority it is bound to resign either in favour of another Government formed out of the existing Legislature or in favour of a new Government formed out of a newly elected Legislature.

As to the consequences that would follow if the British System was applied to India the situation can be summed up in the following proposition :

(1) The British System of Government by a Cabinet of the majority party rests on the premise that the majority is a political majority. In India the majority is a communal majority. No matter what social and political programme it may have the majority will retain its character of being a communal majority. Nothing can alter this fact. Given this fact it is clear that if the British System was copied it would result in permanently vesting Executive power in a Communal majority.

(2) The British System of Government imposes no obligation upon the Majority Party to include in its cabinet the representatives of Minority Party. If applied to India the consequence will be obvious. It would make the majority community a governing class and the minority community a subject race. It would mean that a communal majority will be free to run the administration according to its own ideas of what is good for the minorities. Such a state of affairs could not be called democracy. It will have to be called imperialism.

In the light of these consequences it is obvious that the introduction of British type of the Executive will be full of menace to the life, liberty and pursuit of happiness of the minorities in general and of the Untouchables in particular.

The problem of the Untouchables is a formidable one for the Untouchables to face. The Untouchables are surrounded by a vast mass of Hindu population which is hostile to them and which is not ashamed of committing any inequity or atrocity against them. For a redress of these wrongs which are matters of daily occurrence, the Untouchables have to call in the aid of the administration. What is the character and composition of this administration ? To be brief, the administration in India is completely in the bauds of the Hindus. It is their monopoly. From top to bottom it is controlled by them. There is no Department which is not dominated by them. They dominate the Police, the Magistracy and the Revenue Services, indeed any and every branch of the administration. The next point to remember is that the Hindus in the administration have the same positive anti-social and inimical attitude to the Untouchables which the Hindus outside the administration have. Their one aim is to discriminate against the Untouchables and to deny and deprive them not only of the benefits of Law, but also of the protection of the Law against tyranny and oppression. The result is that the Untouchables are placed between the Hindu population and the Hindu-ridden administration, the one committing wrong against them and the other protecting the wrong-doer, instead of helping the victims.

Against this background, what can Swaraj mean to the Untouchables ? It can only mean one thing, namely, that while today it is only the administration that is in the hands of the Hindus, under Swaraj the Legislature and Executive will also be in the hands of the Hindus. It goes without, saying that such a Swaraj would aggravate the sufferings of the Untouchables. For, in addition to an hostile administration, there will be an indifferent Legislature and a callous Executive. The result will be that the administration unbridled in venom and in harshness, uncontrolled by the Legislature and the Executive, may pursue its policy of inequity towards the Untouchables without any curb. To put it differently, under Swaraj the Untouchables will have no way of escape from the destiny of degradation which Hindus and Hinduism have fixed for them.

These are special considerations against the introduction of the British System of Executive which have their origin in the interests of the minorities and the Scheduled Castes. But there is one general consideration which can be urged against the introduction of the British Cabinet System in India. The British Cabinet System has undoubtedly given the British people a very stable system of Government. Question is will it produce a stable Government in India ? The chances are very slender. In view of the clashes of castes and creeds there is bound to be a plethora of parties and groups in the Legislature in India. If this happens it is possible, nay certain, that under the system of Parliamentary Executive like the one that prevails in England under which the Executive is bound to resign upon an

adverse vote in the Legislature, India may suffer from instability of the Executive. For it is the easiest thing for groups to align and realign themselves at frequent intervals and for petty purposes and bring about the downfall of Government. The present solidarity of what are called the Major Parties cannot be expected to continue. Indeed as soon as the Problem of the British in India is solved the cement that holds these parties together will fall away. Constant overthrow of Government is nothing short of anarchy. The present Constitution has in it Section 93 which provides a remedy against it. But Section 93 would be out of place in the Constitution of a free India, Some substitute must therefore be found for Section 93.

Taking all these considerations together there is no doubt that the British type of the Executive is entirely unsuited to India.

The form of the Executive proposed in the clause is intended to serve the following purposes :

(i) To prevent the majority from forming a Government without giving any opportunity to the minorities to have a say in the matter.

(ii) To prevent the majority from having exclusive control over administration and thereby make the tyranny of the minority by the majority possible.

(iii) To prevent the inclusion by the Majority Party in the Executive representatives of the minorities who have no confidence of the minorities.

(iv) To provide a stable Executive necessary for good and efficient administration.

The clause takes the American form of Executive as a model and adapts it to Indian conditions especially to the requirements of minorities. The form of the Executive suggested in the proposal cannot be objected to on the ground that it is against the principle of responsible government. Indians who are used to the English form of Executive forget that this is not the only form of democratic and responsible Government. The American form of Executive is an equally good type of democratic and responsible form of Government. There is also nothing objectionable in the proposal that a person should not be qualified to become a Minister merely because he is elected to the Legislature. The principle that a member of the Legislature before he is made a Minister should be chosen by his constituents was fully recognized by the British Constitution for over hundred years. A member of Parliament who was appointed a Minister had to submit himself for election before taking up his appointment. It was only lately given up. There ought therefore to be no objection to it on the ground that the proposals are not compatible with responsible Governments. The actual proposal is an improved edition of the American form of Government, for the reason that under it members of the Executive can sit in the Legislature and have a right to speak and answer questions.

Clause 2

The proposal cannot be controversial. The best remedy against tyranny and oppression by a majority against the minority is inquiry, publicity and discussion. This is what the safeguard provides for. A similar proposal was also recommended by the Sapru Committee.

Clause 3

Social boycott is always held over the heads of the Untouchables by the Caste Hindus as a sword of Democles. Only the Untouchables know what a terrible weapon it is in the hands of the Hindus. Its effects and forms are well described in the Report made by a Committee appointed by the Government of Bombay in 1928 to investigate the grievances of the Depressed Classes and from which the following extracts are made. It illuminates the situation in a manner so simple that everybody can understand what tyranny the Hindus are able to practise upon the Untouchables. The Committee said:

> "Although we have recommended various remedies to secure to the Depressed Classes their rights to all public utilities we fear that there will be difficulties in the way of their exercising them for a long time to come. The first difficulty is the fear of open violence against them by the orthodox classes. It must be noted that the Depressed Classes form a small minority in every village, oppose to which is a great majority of the orthodox who are bent on protecting their interests and dignity from any supposed invasion by the Depressed Classes at any cost. The danger of prosecution by the Police has put a limitation upon the use of violence by the orthodox classes and consequently such cases are rare.
>
> The second difficulty arises from the economic position in which the Depressed Classes are found today. The Depressed Classes have no economic independence in most parts of the Presidency. Some cultivate the lands of the orthodox classes as their tenants at will. Others live on their earnings as farm labourers employed by the orthodox classes and the rest subsist on the food or grain given to them by the orthodox classes in lieu of service rendered to them as village servants. We have heard of numerous instances where the orthodox classes have used their economic power as a weapon against those Depressed Classes in their villages, when the latter have dared to exercise their rights, and have evicted them from their land, and stopped their employment and discontinued their remuneration as village servants. This boycott is often planned on such an extensive scale as to include the prevention of the Depressed Classes from using the commonly used paths and the stoppage of sale of the necessaries of life by the village Bania. According to the evidence,

sometimes small causes suffice for the proclamation of a social boycott against the Depressed Classes. Frequently it follows on the exercise by the Depressed Classes of their right to use the common well, but cases have been by no mean rare where a stringent boycott has been proclaimed simply because a Depressed Class man has put on the sacred thread, has bought a piece of land, has put on good clothes or ornaments, or has carried a marriage procession with a bridegroom on the horse through the public street".

This was said in 1928. Lest it should be regarded as a phase which has now ended I reproduce below a copy of a petition by the Untouchables of the village Kheri Jessore in the Punjab addressed to the Deputy Commissioner of the Rohtak District in February 1947 and a copy of which was sent to me. It reads as follows :

"From

The Scheduled Caste People (Chamars),

Village Kheri Jessore, Tehsil and District Rohtak.

To

The Deputy Commissioner,

Rohtak District, Rohtak.

Sir,

We, the following Scheduled Caste (Chamars) of the Village Kheri Jessore, beg to invite your kind attention to the hard plight, we are put to, due to the undue pressure and merciless treatment by the Caste Hindu Jats of this village.

It was about four months back that the Jats of the village assembled in the Chopal and told us to work in the fields on a wage in kind of one bundle of crops, containing only about one seer of grains per day per man instead of food at both times and a load of crops, and annas 8 in addition which we used to get before above announcement was made. As it was too little and insufficient to meet both ends, we refused to go to work. At this they were enraged and declared a Social Boycott on us. They made a rule that our cattle would not be allowed to graze in the jungle unless we would agree to pay a tax not leviable under Government for the animals, which they call as "Poochhi" They even do not allow our cattle to drink water in the village pool and have prevented the sweepers from cleaning the streets where we live so that heaps of dust and dirt are lying there which may cause some disease if left unattended to. We are forced to lead a shameful life and they are always ready to beat us and to tear down our honour by behaving indecently towards our wives, sisters and daughters. We are experiencing a lot of trouble of the worst type. While going to the

school, the children were even beaten severely and in a merciless manner.

We submitted an application detailing the above facts to yourself but we are sorry that no action has been taken as yet.

It is also for your kind consideration that the Inspector of Police and Tehsildar of Rohtak, whom we approached in this connection, made a careless investigation and in our opinion, no attention was paid to redress the difficulties of the poor and innocent persons.

We, therefore, request your good self to consider over the matter and make some arrangement to stop the merciless treatment and threats which the Jats give us in different ways. We have no other approach except to knock at your kind door and hope your honour will take immediate steps to enable us to lead an honourable and peaceful life which is humanity's birth-right.

We beg to remain,
Sir,
Your most obedient servants,
Scheduled Caste People
(Chamars),
of Village Kheri Jessore,
Tehsil and District Rohtak.
Thumb Impressions.

* * * * *

Copy forwarded to the Hon'ble Dr. B. R. Ambedkar,

Western Court, New Delhi.

Received on 1st February 1947."

This shows that what was true in 1928 is true even today. What is true of Bombay is true of the whole of India. For evidence of the general use of boycott by the Hindus against the Untouchables one has only to refer to the events that occurred all over India in the last elections to the Provincial Legislatures. Only when boycott is made criminal will the Untouchables be free from being the slaves of the Hindus.

The weapon of boycott is nowadays used against other communities besides the Scheduled Castes. It is therefore in the interests of all minor communities to have this protection.

The provisions relating to boycott are taken bodily from the Burma Anti-Boycott Act, 1922.

Clause 4

Such a provision already exists in Section 150 of the Government of India Act, 1935.

ARTICLE II—Section IV

PART I—Clause I

There is nothing new in this clause. The right to representation in the Legislature is conceded by the Poona Pact. The only points that require to be reconsidered relate to (1) Quantum of Representation, (2) Weightage and (3) The System of Electorates.

(1) *Quantum*

The quantum of representation allowed to the Scheduled Castes by the Poona Pact is set out in Clause I of the Pact. The proportion set out in the Pact was fixed out of the balance of seats which remained after (i) the share of the other communities had been taken out; (ii) after weightage to other communities had been allotted, and (iii) after seats had been allocated to special interests. This allotment of seats to the Scheduled Castes has resulted in great injustice. The loss due to seats taken out as weightage and seats given to special interests ought not to have been thrown upon the Scheduled Castes. The allotment of those seats had already been made by the Communal Award long before the Poona Pact. It was therefore not possible then to rectify this injustice.

(2) *Weightage*

There is another injustice from which the Scheduled Castes have been suffering. It relates to their right to a share in weightage.

As one can see the right to weightage has become a matter of double controversy. One controversy is between the majority and the minorities, the other is a matter of controversy between the different minorities.

The first controversy relates to the principle of weightage. The majority insists that the minority has no right to representation in excess of the ratio of its population to the total population. Why this rule is insisted upon by the majority it is difficult to understand. Is it because the majority wants to establish its own claim to population ratio so that it may always remain as a majority and act as a majority ? Or is it because of the fact that a minority no matter how much weightage was given to it must remain a minority and cannot alter the fact that the majority will always be able to impose its will upon it. The first ground leads to a complete negation of the basic conception of majority rule which if rightly understood means nothing more than a decision of the majority to which the minority has reconciled itself. This cannot be the intention of the majority. One must put a more charitable construction and assume that the argument on which the contention of the majority rests is the second and not the first. That a minority even with weightage will remain a minority has to be accepted in view of the insistence of a Communal Majority to remain a majority

and to claim the privileges of a political majority which it is not. But surely there is a difference between a defeat which is a complete rout and a defeat which is almost victory though not a victory. Cricketers know what difference there is between the defeat of a team by a few runs, a defeat by a few wickets and a defeat by one whole innings. The defeat by one whole innings is a complete frustration which a defeat by a few runs is not. Such a frustration when it comes about in the political life of a minority depresses and demoralizes and crushes the spirit of the minority. This must be avoided at any price. Looked at from this point of view there is no doubt that the rule of population—ratio—representation insisted upon by the majority is wrong. What a minority needs is not more representation but effective representation.

And what is effective representation? Obviously the effectiveness of representation depends upon its being large enough to give the minority the sense of not being entirely overwhelmed by the majority. Representation according to population to a minority or to the minorities combined may be effective by reason of the fact that the population of a minority where there is only one or of the combined minorities where there are many is large enough to secure effective minority representation. But there may be cases where the population of a minority or of the minorities combined is too small to secure such effective representation if the population ratio of a minority is taken as an inflexible standard to determine its quantum of representation. To insist upon such a standard is to make mockery of the protection to the minority which is the purpose behind the right to representation which is accepted as the legitimate claim of a minority. In such cases weightage which is another name for deduction from the quantum of representation which is due to the majority on the basis of its population becomes essential and the majority if it wishes to be fair and honest must concede it. There can therefore be no quarrel over the principle of weightage. On this footing the controversy becomes restricted to the question, how is the magnitude of weightage to be determined ? This obviously is a question of adjustment and not of principle.

There can therefore be no manner of objection to the principle of weightage. The demand for weightage is however a general demand of all the minorities and the Scheduled Castes must join them in it where the majority is too big. What is however wrong with the existing weightage is unequal distribution among the various minorities. At present, some minorities have secured a lion's share and some like the Untouchables have none. This wrong must be rectified by a distribution of the weightage on some intelligible principles.

(3) *Electorates*

1. The method of election to the seals allotted to the Scheduled Castes is set out in clauses (2) to (4) of the Poona Pact. It provides for two

elections : (1) Primary election and (2) Final election. The Primary election is by a separate electorate of the Scheduled Castes. It is only a qualifying election and determines who is entitled to stand in the Final election on behalf of the Scheduled Castes for the seats reserved to them. The Final election is by a joint electorate in which both caste Hindus and the Scheduled Castes can vote and the final result is determined by their joint vote.

2. Clause 5 of the Poona Pact has limited the system of Primary election to ten years which means that any election taking place after 1947 will be by a system of joint electorates and reserved seats pure and simple.

3. Even if the Hindus agreed to extend the system of double election for a further period it will not satisfy the Scheduled Castes. There are two objections to the retention of the Primary election. Firstly, it does not help the Scheduled Castes to elect a man who is their best choice. As will be seen from Appendix III, the Scheduled Caste candidate who tops the poll in the Primary election fails to succeed in the Final election and the Scheduled Caste candidate who fails in the Primary election tops the poll in the Final election. Secondly, the Primary election is for the most part a fiction and not a fact. In the last election, out of 151 seats reserved for the Scheduled Castes there were Primary elections only in 43. This is because it is impossible for the Scheduled Castes to bear the expenses of two elections—Primary and Final. To retain such a system is worse than useless.

4. Things will be much worse under the system of joint electorates and reserved seats which will hereafter become operative under the terms of the Poona Pact. This is no mere speculation. The last election has conclusively proved that the Scheduled Castes can be completely disfranchised in a joint electorate. As will be seen from the figures given in Appendix III, the Scheduled Caste candidates have not only been elected by Hindu votes when the intention was that they should be elected by Scheduled Caste votes but what is more the Hindus have elected those Scheduled Caste candidates who had failed in the Primary election. This is a complete disfranchisement of the Scheduled Castes. The main reason is to be found in the enormous disparity between the voting strength of the Scheduled Castes and the caste Hindus in most of the constituencies as may be seen from figures given in Appendix III. As the Simon Commission has observed, the device of the reserved seats ceases to be workable where the protected community constitutes an exceedingly small fraction of any manageable constituency. This is exactly the case of the Scheduled Castes. This disparity cannot be ignored. It will remain even under adult suffrage. That being the case, a fool-proof and a knave-proof method must be found to ensure real representation to the Scheduled Castes. Such a method must involve the abolition of—

(i) the Primary election as a needless and heavy encumbrance; and

(ii) the substitution of separate electorates.

5. One of the issues which has embittered the relations between the Hindus and the Scheduled Castes in the political field is the issue of electorate. The Scheduled Castes are insisting upon separate electorates. The Hindus are equally insistent on opposing the demand. To arrive at a settlement on this issue—without which there can be no peace and amity between the Hindus and the Scheduled Castes—it is necessary to determine who is right and who is wrong and whether the opposition is based on rational grounds or is based on mere prejudice.

6. The grounds which are generally urged against the demand of the Scheduled Castes for separate electorates are :

(i) that the Scheduled Castes are not a minority;

(ii) that the Scheduled Castes are Hindus and therefore they cannot have separate electorates;

(iii) that separate electorates will perpetuate untouchability;

(iv) that separate electorates are anti-national; and

(v) that separate electorates enables British Imperialism to influence the communities having separate electorates to act against the interests of the country.

7. Are these arguments valid ?

(i) To say that the Scheduled Castes are not a minority is to misunderstand the meaning of the word 'minority'. Separation in religion is not the only test of a minority. Nor is it a good and efficient test. Social discrimination constitutes the real test for determining whether a social group is or is not a minority. Even Mr. Gandhi thought it logical and practical to adopt this test in preference to that of religious separation. Following this test, Mr. Gandhi in an editorial under the heading. 'The Fiction of Majority' in the *Harijan* dated 21st October 1939 has given his opinion that the Scheduled Castes are the only real minority in India.

(ii) To argue that the Scheduled Castes are Hindus and therefore cannot demand separate electorates is to put the same argument in a different form. To make religious affiliation the determining factor for constitutional safeguards is to overlook the fact that the religious affiliation may be accompanied by an intense degree of social separation and discrimination. The belief that separate electorates go with separation in religion arises from the fact that those minorities who have been given separate electorates happen to be religious minorities. This, however, is not correct. Muslims are given separate electorates not because they are different from Hindus in point of religion. They are given separate electorates because—and this is the fundamental fact—the social relations between the Hindus and the

Musalmans are marked by social discrimination. To put the point in a somewhat different manner, the nature of the electorates is determined not by reference to religion but by reference to social considerations. That it is social considerations and not religious affiliation or disaffiliation which is accepted as the basis of determining the nature of the electorates is best illustrated by the arrangements made under the Government of India Act (1935) for the Christian community in India. The Christian community is divided into three sections—Europeans, Anglo-Indians and Indian Christians. In spite of the fact that they all belong to the same religion, each section has a separate electorate. This shows that what is decisive is not religious affiliation but social separation.

(iii) To urge that separate electorates prevent solidarity between the Untouchables and the Caste Hindus is the result of confused thinking. Elections take place once in five years. Assuming there were joint electorates, it is difficult to understand how social solidarity between the Hindus and the Untouchables can be promoted by their devoting one day for voting together when out of the rest of the five years they are leading severally separate lives ? Similarly, assuming that there were separate electorates it is difficult to understand how one day devoted to separate voting in the course of five years can make for greater separation than what already exist ? Or contrarywise, how can one day in five years devoted to separate voting prevent those who wish to work for their union from carrying out heir purposes. To make it concrete, how can separate electorate for the Untouchables prevent inter-marriage or inter-dining being introduced between them and the Hindus ? It is therefore futile to say that separate electorates for the Untouchables will perpetuate separation between them and the Hindus.

(iv) To insist that separate electorates create anti-national spirit is contrary to experience. The Sikh have separate electorates. But no one can say that the Sikhs are anti-national. The Muslims have had separate electorates right from 1909. Mr. Jinnah had been elected by separate electorates. Yet, Mr. Jinnah was the apostle of Indian Nationalism up to 1935. The Indian Christians have separate electorates. Nonetheless a good lot of them have shown their partiality to the Congress if they have not been actually returned on the Congress ticket. Obviously, nationalism and anti-nationalism have nothing to do with the electoral system. They are the result of extra electoral forces.

(v) This argument has no force. It is nothing but escapism. Be that as it may, with free India any objection to separate electorates on such a ground must vanish.

8. The reason why the arguments advanced by the opponents of separate electorates do not stand the scrutiny of logic and experience is due entirely to the fact that their approach to the subject is fundamentally wrong. It is wrong in two respects :

(i) They fail to realize that the system of electorates has nothing to do with the religious nexus or communal nexus. It is nothing but a mechanism to enable a minority to return its true representative to the Legislature. Being a mechanism for the protection of a minority it follows that whether the electorate should be joint or separate must be left to be determined by the minority.

(ii) They fail to make any distinction between the demand for separate electorates by a majority community and a similar demand made by a minority community. A majority community has no right to demand separate electorates. The reason is simple. A right by a majority community to demand separate electorates is tantamount to a right to establish the Government of the majority community over the minority community without the consent of the minority. This is contrary to the well-established doctrine of democracy that government must be with the consent of the governed. No such evil consequence follows from the opposite principle namely that a minority community is entitled to determine the nature of the electorates suited to its interests, because there is no possibility of the minority being placed in a position to govern the majority.

9. A correct attitude towards the whole question rests on the following axioms :

(i) The system of electorates being a devise for the protection of the minority, the issue whether the electoral system should be the joint electorate or separate electorate must be left to the wishes of the minority. If it is large enough to influence the majority it will choose joint electorates. If it is too small for the purpose, it will prefer separate electorates for fear of being submerged.

(ii) The majority, being in a position to rule can have no voice in the determination of the system of electorates. If the minority wants joint electorates, the majority must submit itself to joint electorates. If the minority decides to have separate electorates for itself the majority cannot refuse to grant them. In other words, the majority must look to the decision of the minority and abide by it.

PART I—Clause 2

This demand may appear to be outside the Poona Pact in as much as the Poona Pact made no provision for it. This would not be correct. As a matter of fact, if no provision was made, it was because there was no need to make such a provision. This was due to two reasons : *Firstly,* it

was due to the fact that at the time when the Poona Pact was made no community was guaranteed by Law a specific quantum of representation in Executive, *Secondly,* the representation of the communities in the Executive was left to a convention which the Governor by his instrument of instructions was required to see observed. Experience has shown that the quantum of representation of the Scheduled Castes in the Executive should now be fixed.

PART I—CLAUSE 3

This is not a new demand. Clause 8 of the Poona Pact guarantees to the Scheduled Castes fair representation in Public Services. It does not, however, define the quantum of representation. The demand has been admitted by the Government of India as legitimate and even the quantum of representation has been defined. All that remains is to give it a statutory basis.

PART II—CLAUSE 1

This is not a new demand. Clause 9 of Poona Pact guarantees that an adequate sum shall be earmarked for the education of the Scheduled Castes. It does not define the quantum. All that the demand does is to define the quantum of liability the State should take. In this connection reference may be made to Section 83 of the Government of India Act, 1935, which relates to the education of the Anglo-Indians and Europeans and to the grants made to the Aligarh and Benaras Hindu Universities by the Central Government.

PART II—CLAUSE 2

This a new demand but is justified by circumstances. At present, the Hindus live in the village and the Untouchables live in the Ghettoes. The object is to free the Untouchables from the thraldom of the Hindus. So long as the present arrangement continues it is impossible for the Untouchables either to free themselves from the yoke of the Hindus or to get rid of their Untouchability. It is the close knit association of the Untouchables with the Hindus living in the same villages which marks them out as Untouchables and which enables the Hindus to identify them as being Untouchables. India is admittedly a land of villages and so long as the village system provides an easy method of marking out and identifying the Untouchables, the Untouchable has no escape from Untouchability. It is the system of the Village plus the Ghetto which perpetuates Untouchability and the Untouchables therefore demand that the nexus should be broken and the Untouchables who are as a matter of fact socially separate should be made separate geographically and territorially also, and be settled into separate villages exclusively of Untouchables in which the distinction of the high and the low and of Touchable and Untouchable will find no place.

The second reason for demanding separate settlements arises out of the economic position of the Untouchables in the villages. That their condition is most pitiable no one will deny. They are a body of landless labourers

who are entirely dependent upon such employment as the Hindus may choose to give them and on such wages as the Hindus may find it profitable to pay. In the villages in which they five they cannot engage in any trade or occupation, for owing to Untouchability no Hindu will deal with them. It is therefore obvious that there is no way of earning a living which is open to the Untouchables so long as they live in a Ghetto as a dependent part of the Hindu village.

This economic dependence has also other consequences besides the condition of poverty and degradation which proceeds from it. The Hindu has a Code of life, which is part of his religion. This Code of life gives him many privileges and heaps upon the Untouchable many indignities which are incompatible with the dignity and sanctity of human life. The Untouchables all over India are fighting against the indignities and injustices which the Hindus in the name of their religion have heaped upon them. A perpetual war is going on every day in every village between the Hindus and the Untouchables. It does not see the light of the day. The Hindu Press is not prepared to give it publicity lest it should injure the cause of their freedom in the eyes of the world. The existence of a grim struggle between the Touchables and the Untouchables is however a fact. Under the village system the Untouchables has found himself greatly handicapped in his struggle for free and honourable life. It is a contest between the Hindus who are economically and socially strong and the Untouchables who are economically poor and numerically small. That the Hindus most often succeed in suppressing the Untouchables is due to many causes. The Hindus have the Police and the Magistracy on their side. In a quarrel between the Untouchables and the Hindus the Untouchables will never get protection from the Police and justice from the Magistrate. The Police and the Magistracy naturally love their class more than their duty. But the chief weapon in the armoury of the Hindus is economic power which they possess over the poor Untouchables living in the village. The proposal may be dubbed escapism. But the only alternative is perpetual slavery.

PART III—Clause 1

No country which has the problem of Communal majority and Communal minority is without some kind of an arrangement whereby they agree to share political power. South Africa has such an understanding. So has Canada. The arrangement for sharing political power between the English and the French in Canada is carried to the minutes office. In referring to this fact Mr. Porritt in his book on the *Evolution of the Dominion of Canada* says :

> "Conditions at Ottawa, partly due to race and language, and partly to long-prevailing ideas as to the distribution of all government patronage, have militated against the Westminster precedent of continuing a member in the chair for two or three parliaments, regardless of the fortunes of political parties at general elections. There is a new speaker at Ottawa

for each new House of Commons; and it has long been a custom that when one political party continues in power for two or three parliaments, if the speaker in one parliament is of British extraction the next one shall be a French-Canadian.

"It is a rule also that the offices of speaker and of deputy speaker can at no time be held by men of the same race. If the speaker is a French-Canadian, the deputy speaker, who is also Chairman of committees, must be an English-speaking Canadian ; for the rule of the House is that the member elected to serve as deputy speaker shall be required to possess the full and practical knowledge of the language which is not that of the speaker for the time being.

The clerkship and the assistant clerkship of the House, and the offices of sergeant-at-arms and deputy sergeant-at-arms—all appointive as distinct from elective offices—are, by usage, also similarly divided between the two races.

Nearly all the offices, important and unimportant, connected with parliament, with the Senate as well as with the House, are distributed in accordance with these rules or usages. A roll call of the staffs of the two Houses, including even the boys in knicker-bockers who act as pages, would contain the names of almost as many French-Canadians as Canadians of British ancestry.

The rules and usages by virtue of which this distribution of offices is made are older than Confederation. They date back to the early years of the United Provinces, when Quebec and Ontario elected exactly the same number of members to the Legislature, and when these were the only provinces in the union.

Quebec today elects only 65 of the 234 members of the House of Commons. Its population is not one-fourth of the population of the Dominion. Its contribution to Dominion revenues does not exceed one-sixth. But an equal division of the offices of the House of Commons is regarded by Quebec as necessary to the preservation of its rights and privileges ; and so long as each political party, when it is in power, is dependent on support from French-Canada, it will be nearly as difficult to ignore the claim of Quebec to these parliamentary honours and offices as it would be to repeal the clause in the British North America Act that safeguards the separate schools system.".

Unfortunately for the minorities in India, Indian Nationalism has developed a new doctrine which may be called the Divine Right of the Majority to rule the minorities according to the wishes of the majority. Any claim for the sharing of power by the minority is called communalism while the monopolizing of the whole power by the majority is called Nationalism. Guided by such a political philosophy the majority is not prepared to

allow the minorities to share political power nor is it willing to respect any convention made in that behalf as is evident from their repudiation of the obligation (to include representatives of the minorities in the cabinet) contained in the Instrument of Instructions issued to the Governors in the Government of India Act of 1935. Under these circumstances there is no way left but to have the rights of the Scheduled Castes embodied in the Constitution.

PART III—Clause 2

This is not a new demand. It replaces Clause 6 of the Poona Pact which provides that the system of representation for the Scheduled Castes by reserved seats shall continue until determined by mutual consent between the communities concerned in the settlement. Since there is no safe method of ascertaining the will of the Scheduled Castes as to how to amend and alter the safeguards provided for them it is necessary to formulate a plan which will take the place of Clause 6 of the Pact. Provisions having similar objectives to those contained in the proposal exist in the Constitution of Australia, America and South Africa.

In dealing with a matter of this sort two considerations have to be borne in mind. One is that it is not desirable to rule out the possibility of a change in the safeguards being made in the future by the parties concerned. On the other hand it is by no means desirable to incessant struggle over their revision. If the new Union and State Legislatures are to address themselves successfully to their responsibilities set out in the preamble it is desirable that they should not be distracted by the acute contentions between religions and classes which questions of change in the safeguards are bound to raise. Hence a period of twenty-five years has been laid down before any change could be considered.

PART IV

The object of this prevision is to see that whatever safeguards are provided for the Scheduled Castes in British India are also provided for the Scheduled Castes in the Indian States. The provision lays down that an Indian State seeking admission to the Union shall have to satisfy that its Constitution contains these safeguards.

PART V—Interpretation

Whether the Scheduled Castes are a minority or not has become a matter of controversy. The purpose of First Provision to set this controversy at rest. The Scheduled Castes are in a worst position as compared to any other minority in India. As such they required and deserve much more protection than any other minority does. The least one can do is to treat them as a minority.

The purpose of Second Provision is to remove the provincial bar. There is no reason why a person who belongs to Scheduled Castes in one Province should lose the benefit of political privileges given by the Constitution merely because he happens to change his domicile.

Appendix II

TEXT OF THE POONA PACT

(1) There shall be seats reserved for the Depressed Classes out of the general electorates seats in the Provincial Legislatures as follows :

Madras	..	..	..	30
Bombay with Sind	..	..	..	15
Punjab	..	..	..	8
Bihar and Orissa	..	..	..	18
Central Provinces	..	..	..	20
Assam	..	..	..	7
Bengal	..	..	..	30
United Provinces	..	..	..	20
			Total	148

These figures are based on total strength of the Provincial councils announced in the Prime Minister's decision.

(2) Election to these seats shall be by joint electorates, subject however, to the following procedure :

> All the members of the Depressed Classes registered in the general electoral roll in a constituency will form an electoral college, which will elect a panel of four candidates belonging to the Depressed Classes for each of such reserved seats, by the method of the single vote ; the four getting the highest number of votes in such Primary election, shall be candidates for election by the general electorate.

(3) Representation of the Depressed Classes in the Central Legislature shall likewise be on the principle of joint electorates and reserved seats by the method of Primary election in the manner provided for in clause (2) above, for their representation in the Provincial Legislatures.

(4) In the Central Legislature, eighteen per cent of seats allotted to the general electorate for British India in the said Legislature shall be reserved for the Depressed Classes.

(5) The system of Primary election to a pannel of Candidates for election to the Central and Provincial Legislature, as hereinbefore mentioned, shall come to an end after the first ten years, unless terminated sooner by mutual agreement under the provision of clause (6) below.

(6) The system of representation of the Depressed Classes by reserved seats in the Provincial and Central Legislatures as provided for in clauses (1) and (4) shall continue until determined by mutual agreement between the communities concerned in the settlement.

(7) Franchise for the Central and Provincial Legislatures, for the Depressed Classes shall be as indicated in the Lothian Committee Report.

(8) There shall be no disabilities attaching to anyone on the ground of his being a member of the Depressed Class in regard to any elections to local bodies or appointment to the Public Services. Every endeavour shall be made to secure fair representation of the Depressed Classes in these respects, subject to such educational qualifications as may be laid down for appointment to the Public Service.

(9) In every Province out of the educational grant an adequate sum shall be earmarked for providing educational facilities to the Members of the Depressed Classes.

Appendix III

DISADVANTAGES OF THE POONA PACT

1. The Poona Pact was intended to devise a method whereby the Scheduled Castes would be able to return to the Legislature representatives of their choice. This intention has been completely nullified as will be seen from the following series of statistics. The series have been constructed from the results of the last elections which took place in February 1946.

2. The statistical data is arranged in four series of tables :

First series show the votes secured by the successful Caste Hindu candidate and the successful Scheduled Caste candidate in the Final election.

Second series show in how many cases did reliance on reservation clause become necessary for the success of the Scheduled Caste candidate in the Final election and in how many he succeeded without the benefit of reservation.

Third series show the relative voting strength of the Caste Hindus and the Scheduled Castes in constituencies in which seats are reserved for the Scheduled Castes.

Fourth series show the position in the Primary election of the Scheduled Caste Candidates who became successful in the Final elections.

3. The conclusions that follow from these figures will not escape those who care to examine them. The figures prove the following propositions :

(i) That every of the Scheduled Caste candidate who became successful in the Final election owed his success to the votes of the caste Hindus and not of the Scheduled Castes. A great many of them came to the top of the poll and secured votes equal to and in some cases larger than those obtained by Caste Hindu candidates (*See* Tables in the First Series). Secondly, in very few constituencies was the successful Scheduled Caste candidate required to rely on reservation (*See* Tables in the Second Series). This is a most unexpected phenomenon. Anyone who compares the voting strength of the Scheduled Castes with the voting strength of the Caste Hindus in the different constituencies (*See* Tables in the Third Series) would realize that the voting strength of the Scheduled Castes is so small that such a phenomenon could never have occurred if only the Scheduled Castes voters had voted for the Scheduled Caste candidates. That they have occurred is proof positive that the success of the Scheduled Caste candidate in the Final election is conditioned by the Caste Hindu votes.

(ii) That comparing the results of the Primary election with those of the Final election (*See* Tables in the Fourth series) the Scheduled Caste candidate who was elected in the Final election was one

who had failed in the Primary election (if the Primary election be treated as a Final election and the constituency be treated as a single-member constituency).

(iii) Owing to the extreme disparity between the voting strength of the Hindus and the Scheduled Castes—disparity which will not disappear even under adult suffrage—a system of joint electorates will not succeed in giving the Scheduled Castes the chance of returning their true representatives.

(iv) The Poona Pact has completely disfranchised the Scheduled Castes inasmuch as candidates whom they rejected in the Primary elections—which is a true index of their will—have been returned in the Final election by the votes of the Caste Hindus.

The Poona Pact is thus fraught with mischief. It was accepted because of the coercive fast of Mr. Gandhi and because of the assurance given at the time that the Hindus will not interfere in the election of the Scheduled Castes.

FIRST SERIES

Votes obtained by the successful Scheduled Caste candidates as compared with the votes secured by the successful Caste Hindu candidates.

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First Series

I. MADRAS

Name of the Constituency	Seats	Votes polled by successful Hindu candidates	Votes polled by successful Scheduled Caste candidates
1	2	3	4
1. Coconada	2	32,607	28,544
2. Ellore	2	37,618	38,195
3. Bandar	2	69,319	70,931
4. Ongole	2	50,906	49,992
5. Penukonda	2	17,406	18,125
6. Kurnool	2	32,756	32,294
7. Chingleput	2	13,865	15,129
8. Thiruvalur	2	17,225	17,818
9. Ranipet	2	21,249	21,059
10. Tiruvannamalai	2	31,476	32,132
11. Tindivanam	2	25,626	25,442
12. Chidambaram	2	15,272	14,874
13. Tanjore	2	26,904	16,133
14. Mannargudi	2	29,932	30,116
15. Ariyalur	2	22,656	20,520
16. Sattur	2	30,988	29,530
17. Malapuram	2	28,229	28,085
18. Namakkal	2	15,433	15,085

II. BENGAL

Name of the Constituency	Seats	Votes polled by successful Hindu candidates	Votes polled by successful Scheduled Caste candidates	
1	2	3	4	5
1. Burdwan Central ..	2	42,858	33,903	. . . .
2. Burdwan, North-West ..	2	32,270	25,723	. . . .
3. Birbhum	2	24,629	20,252	. . . .
4. Bankura, West ..	2	30,388	21,266	. . . .
5. Thurgram-cum-Ghatal ..	2	40,900	19,060	. . . .
6. Hooghly, North-East ..	2	26,132	18,768	. . . .
7. Howrah	2	40,608	36,099	. . . .
8. 24 Parganas, South-East ..	2	50,345	38,459	. . . .
9. 24 Parganas, North-West ..	2	45,339	48,272	. . . .
10. Nadia	2	30,489	28,054	. . . .
11. Murshidabad	2	32,386	26,958	. . . .
12. Jessore	2	38,665	41,434	. . . .

II. BENGAL

Name of the Constituency	Seats	Votes polled by successful Hindu candidates	Votes polled by successful Scheduled Caste candidates	
1	2	3	4	5
13. Khulna	3	79,218	57,724	44,043
14. Malda	2	32,728	12,796	. . . .
15. Dinajpur	3	46,146	35,127	30,839
16. Jalpaiguri-*cum*-Siliguri ..	3	30,950	26,109	13,829
17. Rangpur	3	46,869	29,657	23,237
18. Bogra-*cum*-Pabna ..	2	43,249	31,515	. . . .
19. Dacca, East	2	51,808	31,392	. . . .
20. Mymensingh, West ..	2	37,983	32,782	. . . .
21. Mymensingh, East ..	2	43,678	32,207	. . . .
22. Faridpur	2	70,115	51,450	29,503
23. Bakargunj	2	48,560	28,560	. . . .
24. Tippera	2	60,146	59,051	. . . .

III. BOMBAY

Name of the Constituency	Seats	Votes secured by successful Hindu candidates			Votes secured by successful Scheduled Caste candidates
1	2	3	4	5	6
1. Bombay City (Suburban)	3	57,182	47,835	. . . .	59,646
2. Bombay City (Byculla) ..	3	42,143	41,795	. . . .	43,251
3. Kaira District	4	68,044	63,422	57,394	69,807
4. Surat District	4	40,232	39,985	39,610	39,849
5. Thana, South	3	30,581	27,587	. . . .	11,630
6. Ahmednagar, South ..	3	25,747	20,948	. . . .	20,908
7. East Khandesh, East ..	4	38,721	34,349	33,960	36,136
8. Nasik, West	4	37,218	36,794	36,555	42,604
9. Poona, West	3	23,758	23,454	. . . .	24,709
10. Satara, North ..	4	44,315	42,727	41,474	43,961
11. Sholapur, North-East ..	3	19,380	16,705	. . . .	18,264
12. Belgaum, North ..	4	55,787	50,759	49,867	27,682
13. Bijapur, North ..	3	23,083	20,838	. . . .	16,059
14. Kolaba District ..	4	41,012	38,864	35,633	17,676
15. Ratnagiri, North ..	4	13,640	10,985	10,372	11,734

IV. UNITED PROVINCES

Name of the Constituency		Seats	Votes polled by successful Hindu candidates	Votes polled by successful Scheduled Caste candidates
1		2	3	4
1. Lucknow City	..	2	24,614	14,110
2. Cawnpore City	..	2	34,550	34,782
3. Agra City	..	2	17,446	16,343
4. Allahabad City	..	2	19,870	10,308
5. Badaun District	..	2	6,716	14,037
6. Jalaun District	..	2	21,692	15,363
7. Basti District	..	2	14,450	15,447
8. Almora District	..	2	36,371	20,605
9. Rai Bareilli	..	2	15,917	1,889
10. Sitapur District	..	2	28,665	20,204
11. Gonda District	..	2	17,949	13,447

V. CENTRAL PROVINCES

Name of the Constituency		Seats	Votes polled by successful Hindu candidates	Votes polled by successful Scheduled Caste candidates
1		2	3	4
1. Nagpur City	..	2	21,905	23,595
2. Nagpur-Umred	..	2	8,330	7,847
3. Hinganghat-Wardha	..	2	11,677	10,781
4. Chanda-Brahmapuri	..	2	10,208	8,144
5. Chindwara-Sansad	..	2	16,365	6,190
6. Saugor-Khurai	..	2	7,829	5,162
7. Raipur	..	2	8,183	6,112
8. Baloda Bazar	..	2	21,861	9,659
9. Bilaspur	..	2	13,109	6,030
10. Mungeli	..	2	9,600	6,418
11. Tanjgir	..	2	11,914	7,419
12. Drug	..	2	5,975	5,593
13. Bhandara-Sakoli	..	2	16,824	10,491
14. Yeotmal-Daresha	..	2	10,915	4,719
15. Ellichpur	..	2	16,298	4,592
16. Chikhli-Mehkar	..	2	16,397	2,748
17. Akola-Balapur	..	2	6,455	5,567

VI. ASSAM

Name of the Constituency		Seat	Votes polled by successful Hindu candidates		Votes polled by successful Scheduled Caste candidates
1		2	3	4	5
1. Kamrup-Saor, South	..	3	15,890	14,971	13,693
2. Nowgong	..	1	....	....	14,560
3. Jorhat, North	..	2	17,429	....	5,809
4. Habibganj	..	2	10,985	....	9,770
5. Karimganj	..	2	12,562	....	11,676
6. Silchar	..	3	17,340	....	7,081

VII. ORISSA

Name of the Constituency		Seats	Votes obtained by successful Hindu candidates	Votes obtained by successful Scheduled Caste candidates
1		2	3	4
1. East Tajpur	..	2	8,427	8,712
2. East Burgarh	..	2	4,195	937

Second Series

NUMBER OR CONSTITUENCIES IN WHICH RESERVATION BECAME NECESSARY FOR THE SCHEDULED CASTE CANDIDATES TO SUCCEED IN ELECTION

Province		Number of Constituencies in which seats are reserved for the Scheduled Castes	Number of Constituencies in which there was a conflict	Number of Constituencies in which the contest was due to excess of Hindu candidates	Number of Constituencies in which the contest was due to excess of Scheduled Caste candidates	Number of Constituencies in which the contest was due to excess of both	Number of Constituencies in which reliance on reservation became necessary for the Scheduled Caste candidates to succeed
1		2	3	6	5	6	7
1. Madras	..	30	18	14	17	....	None
2. Bengal	..	30	24	19	24	19	None
3. Bombay	..	15	15	15	15	15	2
4. C.P.	..	22	17	14	17	14	2
5. U.P.	..	15	11	5	11	6	None
6. Assam	..	....	....	....	....	....	2
7. Orissa	..	....	2	....	2	....	None
8. Punjab	..	8	....	....	....	....	....

Third Series

RELATIVE VOTING STRENGTH OF CASTE HINDUS AND SCHEDULED CASTES

I. MADRAS

	Constituency		Total number of voters in the Constituency	Total number of Scheduled Caste voters in the Constituency	Relative proportion of columns 2 and 3
	1		2	3	4
1.	Madras City, South-Central		26,922	4,082	1 : 6.6
2.	Chicacole	..	90,496	8,070	1 :11.2
3.	Amalapuram	..	95,954	28,282	1 : 3.4
4.	Cocanada	..	86,932	17,616	1 : 4.9
5.	Ellore	..	88,249	16,835	1 : 5.24
6.	Ongole	..	1,10,152	11,233	1 : 9.8
7.	Gudur	..	52,415	10,263	1 : 5.1
8.	Cuddapah	..	92,572	10,842	1 : 8.5
9.	Penukonda	..	74,952	11,896	1 : 6.3
10.	Bellary	..	85,928	10,146	1 : 8.5
11.	Kurnool	..	72,753	11,679	1 : 6.2
12.	Tirutanni	..	77,337	15,243	1 : 5.07
13.	Chingleput	..	73,554	22.182	1 : 3.3
14.	Tiruvallur	..	81,814	21,287	1 : 3.8
15.	Ranipet	..	24,403	11,271	1 : 2.1
16.	Tiruvannamalai	..	97,259	15,536	1 : 6.2
17.	Tindivanam	..	85,514	19,221	1 : 4.4
18.	Chidambaram	..	96,086	16,762	1 : 5.7
19.	Tirukoyilur	..	1,02,482	21,733	1 : 4.7
20.	Tanjore	..	99,496	13,198	1 : 7.5
21.	Manaargudi	..	69,579	11,547	1 : 5.8
22.	Ariyalur	..	1,13,630	16,772	1 : 6.7
23.	Palani	..	92,655	13,521	1 : 6.8
24.	Sattur	..	84,169	8,033	1 :10.5
25.	Koilpatti	..	1,00,521	20,907	1 : 4.8
26.	Pollachi	..	63,821	12,808	1 : 4.9
27.	Namakkal	..	51,860	11,407	1 : 4.5
28.	Coondapur	..	46,032	8,030	1 : 5.7
29.	Malapuram	..	70,346	10,808	1 : 6.5

II. BOMBAY

	Constituency	Total number of voters in the Constituency	Total number of Scheduled Caste voters in the Constituency	Relative proportion of columns 2 and 3
	1	2	3	4
	General Urban			
1.	Bombay City North and Bombay Suburban District ..	1,67,002	34,266	1 : 4.8
2.	Bombay City—Byculla and Parel ..	1,52,991	28,520	1 : 5.3
	General Rural			
3.	Kaira District ..	1,39,508	7,318	1 : 19.06
4.	Surat District ..	85,670	4,765	1 : 18.8
5.	Thana, South ..	67,749	4,668	1 : 14.5
6.	Ahmednagar, South	73,162	7,382	1 : 9.9
7.	East Khandesh, East	91,377	10,109	1 : 9.35
8.	Nasik, West ..	99,274	12,698	1 : 7.7
9.	Poona, West ..	73,551	13,055	1 : 5.6
10.	Satara, North ..	95,459	11,152	1 : 8.5
11.	Sholapur, North-East ..	64,583	9,713	1 : 6.6
12.	Belgaum, North ..	79,422	18,303	1 : 4.3
13.	Bijapur, North ..	60,655	8,993	1 : 6.7
14.	Kolaba District ..	1,03,828	5,001	1 : 20.7
15.	Ratnagiri, North	32,606	3,529	1 : 9.2

III. BENGAL

	Constituency	Total number of voters in the Constituency	Total number of Scheduled Caste voters in the Constituency	Relative proportion of columns 2 and 3
	1	2	3	4
	General Rural			
1.	Burdwan, Central	74,306	24,610	1 : 3.01
2.	Burdwan, North-West ..	80,035	16,830	1 : 4.8
3.	Birbhum ..	1,03,231	37,637	1 : 2.7
4.	Bankura, West ..	84,128	25,487	1 : 3.3
5.	Midnapore, Central	99,961	20,167	1 : 4.95
6.	Jhargam-*cum*-Ghatal	64,031	13,091	1 : 4.85
7.	Hooghly, North-East.	67,697	20,318	1 : 3.33
8.	Howrah ..	1,03,346	22,990	1 : 4.5
9.	24 Parganas, South-West.	82,366	47,378	1 : 1.7

III. BENGAL—*contd.*

Constituency	Total number of voters in the Constituency	Total number of Scheduled Caste voters in the Constituency	Relative proportion of columns 2 and 3
1	2	3	4
10. 24 Parganas, North-East	85,477	30,607	1 : 2.78
11. Nadia ..	90,092	25,605	1 : 3.5
12. Murshidabad ..	81,083	17,176	1 : 4.8
13. Jessore ..	1,21,760	55,052	1 : 2.2
14. Khulna ..	1,45,335	76,848	1 : 1.87
15. Malda ..	73,664	29,010	1 : 2.54
16. Dinajpur ..	1,48,804	1,18,454	1 : 1.25
17. Jalpaiguri-cum-Siliguri	78,552	65,679	1 : 1.2
18. Rangpur ..	29,437	65,679	1 : 0.44
19. Bogra-*cum*-Patna ..	87,704	33,873	1 : 2.58
20. Dacca, East ..	94,858	40,238	1 : 2.35
21. Myroensingh, West	98,795	38,046	1 : 2.59
22. Mymensingh, East	68,360	29,588	1 : 2.3
23. Faridpur ..	1,72,683	96,319	1 : 1.7
24. Bakarganj, South-West.	78,796	49,014	1 : 1.6
25. Tippera ..	1,27,097	34,813	1 : 3.61

IV. UNITED PROVINCES

Constituency	Total number of voters in the Constituency	Total number of Scheduled Caste voters in the Constituency	Relative proportion of columns 2 and 3
1	2	3	4
General Urban			
1. Lucknow City ..	89,412	9,079	1 : 9.8
2. Cawnpore City ..	1,31,599	22,515	1 : 5.8
3. Agra City ..	47,505	10,105	1 : 4.7
4. Allahabad City ..	55,379	6,854	1 : 8.07
General Rural			
5. Charanpur District, South-East.	47,773	7,256	1 : 6.5
6. Bulandshah District, South-East.	49,699	7,506	1 : 6.6
7. Agra District, North-East.	61,515	8,290	1 : 7.4
8. Manipuri District North-East.	51,406	5,878	1 : 8.7

IV. UNITED PROVINCES—*Contd.*

Constituency	Total number of voters in the Constituency	Total number of Scheduled Caste voters in the Constituency	Relative proportion of columns 2 and 3
1	2	3	4
9. Budaun District, East	46,966	7,087	1 : 6.6
10. Jalaun District . .	68,815	14,611	1 : 4.7
11. Mirzapur District, North.	43,648	4,045	1 : 10.7
12. Gorakhpur District, North.	43,441	5,626	1 : 7.7
13. Basti District, South	37,084	4,194	1 : 8.8
14. Azamgarh District, West.	51,194	8,127	1 : 6.2
15. Almora District . .	1,39,217	20,671	1 : 6.7
16. Rai Bareilli District, North-East.	48,697	10,488	1 : 4.6
17. Sitapur District, North-East.	76,682	22,913	1 : 3.3
18. Fyzabad District, East.	57,154	9,988	1 : 5.7
19. Gonda District, North-East.	64,225	8,274	1 : 7.7
20. Bara Banki District, North.	68,285	16,303	1 : 4.18

V. CENTRAL PROVINCES

Constituency	Total number of voters in the Constituency	Total number of Scheduled Caste voters in the Constituency	Relative proportion of columns 2 and 3
1	2	3	4
General Urban			
1. Nagpur City ..	72,329	14,388	1 :5.02
General Rural			
2. Nagpur-Umrer ..	29,267	6,037	1 :4.8
3. Hinghanghat-Wardha	35,201	4,011	1 :9.02
4. Chanda-Brahmapuri	30,132	5,229	1 :5.7
5. Chindwara-Sausar	37,942	3,914	1 :9.7
6. Jubulpure-Patan ..	20,587	1,186	1 :17.5
7. Saugor-Khurai ..	30,660	5,224	1 :5.8
8. Damoh-Hatta ..	33,284	3,608	1 :9.2
9. Narsinghpur-Gadarwara.	35,781	2,019	1 :17.6
10. Raipur ..	33,053	11,041	1 :2.9

V. CENTRAL PROVINCES—*contd.*

Constituency	Total number of voters in the Constituency	Total number of Scheduled Caste voters in the Constituency	Relative proportion of columns 2 and 3
1	2	3	4
11. Baloda Bazar ..	46,943	15,636	1 : 3.06
12. Bilaspur . .	33,260	10,547	1 : 3.1
13. Mungeli . .	28,028	10,067	1 : 2.7
14. Janjgir . .	42,763	13,558	1 : 3.15
15. Drug . .	34,883	8,942	1 : 3.19
16. Bhandara-Sakoli . .	47,047	10,399	1 : 4.5
17. Ellichpur-Dartapur-Nelghat	30,094	2,885	1 :13.8
18. Akola-Belapur . .	25,912	3,233	1 : 9.81
19. Yeotmal-Darwha . .	20,327	2,020	1 :10.06
20. Chikhli-Mehkar . .	37,936	3,468	1 : 1.09

VI. BIHAR

Constituency	Total number of voters in the Constituency	Total number of Scheduled Caste voters in the Constituency	Relative proportion of columns 2 and 3
1	2	3	4
1. East Bihar ..	35,631	4,618	1 :7.7
2. South Gaya ..	49,363	10,360	1 :4.7
3. Nawada ..	41,432	7,684	1 :5.3
4. East Central Shahabad. ..	41,707	5,984	1 :6.9
5. West Gopalganj ..	33,395	3,415	1 :9.7
6. North Bettiah ..	25,760	2,831	1 :9.09
7. East Muzaffarpur-Sadr.	27,271	3,133	1 :8.7
8. Darbhanga Sadr ..	26,864	2,116	1 :12.6
9. South-East Samastipur	37,291	2,672	1 :13.9
10. South Sadr-Monghyr	54,229	6,465	1 :8.5
11. Madhipura ..	26,523	1,284	1 :20.6
12. South-West Purnea	44,232	2,938	1 :15.05
13. Giridih-cum-Ghatra	55,246	4,667	1 :11.8
14. North-East Palamnu	23,072	4,237	1 :5.3
15. Central Manbhum	39,626	5,617	1 :7.05

VII. ASSAM

	Constituency	Total number of voters in the Constituency	Total number of Scheduled Caste voters in the Constituency	Relative proportion of columns 2 and 3
	1	2	3	4
1.	Nowgong, North-East	26,618	3,569	1 : 7.2
2.	Kamrup Sadr, South	33,234	2,117	1 : 15.6
3.	Silchar ..	38,647	4,201	1 : 9.2
4.	Karimganj, East ..	25,701	10,132	1 : 2.5
5.	Jorhat, North ..	26,733	1,360	1 : 19.6
6.	Jonamganj ..	39,045	11,603	1 : 3.3
7.	Habibganj, North	31,511	9,996	1 : 3.1

VIII. PUNJAB

	Constituency	Total number of voters in the Constituency	Total number of Scheduled Caste voters in the Constituency	Relative proportion of columns 2 and 3
	1	2	3	4
1.	South-East Gurgaon	37,815	6,049	1 : 6.2
2.	Karnal, North	31,967	5,120	1 : 6.2
3.	Ambala and Simla	47,403	17,507	1 : 3.27
4.	Hoshiarpur, West	51,084	7,281	1 : 7.0
5.	Jullundur	36,570	20,521	1 : 1.8
6.	Ludhiana and Ferozepur	52,009	27,354	1 : 1.8
7.	Amritsar and Sialkot	38,046	10,328	1 : 3.68
8.	Lyallpur and Jhang	32,703	7,602	1 : 4.2

Fourth Series

COMPARISON OF PRIMARY ELECTION AND FINAL ELECTION

I. MADRAS

Constituency	Scheduled Caste candidate who was successful in Final election			His rank among candidates who fought the general election	His position in the Primary election treating the Constituency as a single member Constituency	Votes obtained in the Primary election	What his success in Primary election due to bare or absolute majority or split vote
	His name	His party affiliation	Number of votes secured				
1	2	3	4	5	6	7	8
1. Amalapuram ..	Pandu Lakshmana-swami.	Congress	48,524	1st among 3	3rd (failed)	2,683	....
2. Cocanada ..	B. S. Murthy	Congress	28,544	2nd among 4 (beating 2 Hindus)	4th (failed)	1,411	....
3. Bandar ..	Vemula Kurmayya	Congress	70,931	1st among 6 (beating 4 Hindus)	2nd (failed)	4,914	....
4. Cuddapah ..	Swarna Nagayya	Congress	....	....	1st	3,482	Absolute majority.
5. Penukonda ..	D. Kadrippa	Congress	18,125	1st among 4 (beating 1 Hindu and 2 Sch. Caste)	1st	2,564	Bare majority.
6. Tiruvannamali	R. Thangavelu	Congress	32,132	1st among 5 (beating 2 Hindus and 2 Sch. Caste)	1st	1,960	Bare majority.
7. Tindivanam ..	K. Kulashekhardas	Congress	25,442	2nd among 4 (beating 2 Hindus)	1st	2,785	Split vote.
8. Mannargudi	Thiagoo Voikarar	Congress	30,116	1st among 5 (beating 5 Hindus)	1st	2,895	Split vote.
9. Pollachi ..	C. Krishna Kudumban	Congress	....	....	1st	2,430	Absolute majority.
10. Namakkal ..	M. P. Periyaswami	Congress	15,085	2nd among 5 (beating 2 Hindus and 1 Sch. Caste)	1st	2,355	Bare majority.

II. BOMBAY

	Constituency	Scheduled Caste candidate who was successful in Final election			His rank among candidates who fought the general election	His position in the Primary election treating the Constituency as a single member Constituency	Votes obtained in the Primary election	Was his success in Primary election due to bare or absolute majority or split vote
		His name	His party affiliation	Number of votes secured				
	1	2	3	4	5	6	7	8
1.	Bombay City, North.	Savlaram Gundaji Songaoker.	Congress	59,646	1st among 3 (standing above 2 Hindus)	2nd (failed)	2,038	....
2.	Bombay City, Byculla and Parel.	N. S. Kajrolkar	Congress	43,251	1st among 3 (standing above 2 general candidates)	2nd (failed)	2,098	....
3.	East Khandesh, East.	Hiralal Kalyani	Congress	36,136	2nd among 4 (beating 2)	2nd (failed)	1,147	....

III. CENTRAL PROVINCES

	Constituency	Scheduled Caste candidate who was successful in Final election			His rank among candidates who fought the general election	His position in the Primary election treating the Constituency as a single member Constituency	Votes obtained in the Primary election	Was his success in Primary election due to bare or absolute majority or split vote
		His name	His party affiliation	Number of votes secured				
	1	2	3	4	5	6	7	8
1.	Nagpur-Umrer	Lelendra Ram-chandra.	Congress	7,847	2nd	3rd (failed)	112	....
2.	Hinghanghat-Wardha.	Shanker Vithal	Congress	10,781	2nd	4th (failed)	56	....
3.	Bhandra-Sakoli	Harnuji Isram	Congress	10,491	2nd	3rd (failed)	471	....
4.	Yeotmal-Darwha	Daulat-Luxman	Congress	4,719	2nd	3rd (failed)	126	....

IV. UNITED PROVINCES

Constituency	Scheduled Caste candidate who was successful in Final election			His rank among candidates who fought the general election	His position in the Primary election treating the Constituency as a single member Constituency	Votes obtained in the Primary election	Was his success in Primary election due to hare or absolute majority or split vote
	His name	His party affiliation	Number of votes secured				
1	2	3	4	5	6	7	8
1. Agra City ..	Ram Chand	Congress	16,343	2nd	1st	836	Bare majority and split vote.
2. Allahabad City	Masuria Din	Congress	10,308	2nd	1st	1,701	Bare majority and split vote.
3. Almora ..	Khushi Ram	Congress	20,605	2nd	2nd (failed)	937	....

V. PUNJAB

Constituency	Scheduled Caste candidate who was successful in Final election			His rank among candidates who fought the general election	His position in the Primary election treating the Constituency as a single member Constituency	Votes obtained in the Primary election	Was his success in Primary election due to bare or absolute majority or split vote
	His name	His party affiliation	Number of votes secured				
1	2	3	4	5	6	7	8
1. South-East Gurgaon.	Prem Singh	Unionist	7,706	2nd	1st	1,353	Split vote
2. Karnal, North	Sunder	Congress	3,136	2nd	1st	519	Bare majority
3. Ambala-Simla ..	Prithivi Singh Azad	Congress	10,503	2nd	3rd (failed)	1,392	. . . .
4. Hoshiarpur, West	Mehr Chand	Congress	16,307	2nd	3rd (failed)	641	. . . .
5. Jullundur ..	Gurbanta Singh	Congress	21,476	1st	1st	. . . .	. . . .
6. Ludhiana-Ferozepur.	Matu Ram	Congress	24,352	1st	4th (failed)	812	. . . .
7. Lyallpur and Jhang	Harbhaj Ram	. . . .	8,312	2nd	2nd (failed)	1,166	. . . .

Appendix IV

STATISTICS OF POPULATION

The population of the Scheduled Caste in 1941 is estimated at 48,793,180. Can this figure be accepted as accurate ?

In coming to a definite conclusion on this issue the following points must be borne in mind : —

(i) The population of the Scheduled Castes in 1941 as compared with their population in 1931 shows a decline.

(ii) The population of all other communities during the same period shows an increase of 15 per cent.

The question is whether there is any special reason why the population of the Scheduled Castes should have declined.

Was the basis for computation of the population of the Scheduled Castes in 1931 the same as in 1941 ? The answer is in the affirmative. The figures given for 1931 are the result of recasting of the Census of 1931 in the light of the definition of "Untouchables" given by the Lothian Committee. The same basis was adopted in 1941. It cannot therefore be said that the decline in the population of the Scheduled Castes in 1941 was due to an over-estimate made in 1931.

It is true that the Census for 1941 does not give any figures for the Scheduled Castes for Ajmer-Merwara and Gwalior State. But even adding to the total for 1941 the figures for these two areas as they stood in 1931 the population comes to only 49,538,145 which still shows a comparative decline.

The want of any proper explanation for the decline of the Scheduled Caste population and an increase in the population of all other communities during the same decade only reinforces the impression which every honest student of Indian census has formed namely that the Census of India has over a number of decades ceased to be an operation in demography. It has become a political affair. Every community seems to be attempting to artificially augment its numbers at the cost of some other community for the sake of capturing greater and greater degree of political power in its own hands. The Scheduled Castes seem to have been made a common victim for the satisfaction of the combined greed of the other communities who through their propagandists or enumerators are able to control the operation and the results of the Census.

In the light of these circumstances it is fair to demand that an accurate figure for the population of the Scheduled Castes would be the Census figure as corrected by the inclusion of the population for Ajmer-Merwara and Gwalior State *plus* an increase of 15 per cent to give them the benefit of the general rise in the population.

Appendix IV

POPULATION FIGURES

Table 1

POPULATION OF DIFFERENT COMMUNITIES ACCORDING TO THE CENSUS OF 1941

	Hindus	Scheduled Castes	Muslims	Sikhs	Indian Christians	Anglo-Indians	Parsis
	1	2	3	4	5	6	7
Provinces	150,890,146	39,920,807	79,398,503	4,165,097	3,245,706	1,13,936	1,01,968
Ajmer-Merwara	376,481	?	89,899	867	3,895	1,005	. . . .
Assam*	3,586,932	676,291	3,442,479	3,464	37,750	634	2
Baluchistan	39,521	5,102	438,930	11,918	2,633	263	75
Bengal	17,680,054	7,378,970	33,005,434	16,281	110,923	31,619	86,270
Bihar	22,173,890	4,340,379	4,716,314	13,213	24,693	5,963	547
Orissa	5,594,535	1,238,171	146,301	232	26,584	789	13
Bombay	14,700,242	1,855,148	1,920,368	6,044	338,812	14,034	43,467
Sind	1,038,292	191,634	3,208,325	31,011	13,232	2,731	1,936
Central Provinces and Berar ..	9.880,583	3,051,413	783,697	14,996	48,260	4,538	2,014
Coorg	105,013	25,740	14,730	*Nil*	3,309	80	12
Delhi	444,532	122,693	304,971	16,157	10,494	3,408	284
Madras	34,731,330	8,068,492	8,896,452	418	2,001,032	28,661	369
N.W.F.P.	180,321	?	2,788,797	57,939	5,426	837	24
Punjab	6,301,737	1,248,635	16,217,242	3,757,401	486,038	5,891	4,327
United States ..	34,094,511	11,717,158	8,416,308	232,445	131,327	13 383	1,375
States and Agencies ..	55,227,180	8,892,373	12,659,593	1,526,350	2,794,959	26,468	12,922
INDIA	206,117,326	48,813,180	92,058,096	5,691,447	6,040,665	140,422	114,490

* Tribes 6,484,996.

TRIBES

Provinces	..	..	16,713,256
States and Agencies	..	..	8,728,233
INDIA	..	..	25,441,489

Table II

VARIATION IN POPULATION BY COMMUNITIES, 1931-1941

Increase (+)
Decrease (–)

		Provinces	States and agencies	Total India	Provinces	States and agencies	Total India	Total percentage
		1	2	3	4	5	6	7
Hindus	..	139,319,979	50,335,391	189,654,370	150,890,146	55,227,180	206,117,326	+ 26,462,956
Scheduled Castes	..	38,409,009	11,131,761	49,540,770	39,920,807	8,892,373	48,793,180	– 747,590
Muslims	..	67,020,443	10,657,102	77,677,545	79,398,503	12,659,598	92,058,096	+ 14,381,551
Sikhs	..	3,220,997	1,114,774	4,335,771	4,165,097	1,526,350	5,691,447	+ 1,355,676
Christians	..	3,860,660	2,430,103	6,296,763	3,471,430	2,834,119	6,316,119	+ 19,786
Parsis	..	96,549	13,203	109,752	101,968	12,922	114,890	+ 5,138

■■

PART V

ON ECONOMIC PROBLEMS

11

SMALL HOLDINGS IN INDIA AND THEIR REMEDIES

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SMALL HOLDINGS IN INDIA AND THEIR REMEDIES

I

IMPORTANCE OF AGRICULTURE

A study of the economic ways of getting a living will ever remain important. These ways generally take the form of industries or services. Confining ourselves to industries, they may be divided into primary and secondary. The primary industries are concerned with extracting useful material from the earth, the soil or water and take the form of hunting, fishing, stock-raising, lumbering and mining. These primary or extractive industries are fundamental in two ways : (1) They extract from the physical world useful materials which become the original sources of man's subsistence. (2) They provide raw materials for the secondary or manufacturing industries, for, manufactures, in the language of Dr. Franklin, are simply, "substance metamorphosed". From a national point of view as well, the importance of primary industries is beyond question. But important as are the primary industries, farming is by far the most important of them all. It is most ancient and abiding of all industries, primary or secondary : while the fact that it is concerned with the production of food is enough to make its problems demand our most serious thought. But when a country, like India, depends almost wholly upon farming its importance cannot be exaggerated. The problems of agricultural economy dealing directly with agricultural production are what to produce, the proper proportion of the factors of production, the size of holdings, the tenures of land etc. In this paper it is attempted to deal only with the problem of the size of holdings as it affects the productivity of agriculture.

II

SMALL HOLDINGS IN INDIA

It may be said that some countries are predominantly countries of small holdings while in others it is the large holdings that prevail. According to

Adam Smith it is the adoption of the law of primogeniture chiefly due to the exigencies of a military life that leads to the creation and preservation of large holdings. While it is the adoption of the law of equal sub-division necessitated by the comparatively peaceful career of a nation that gives rise to small holdings. He says : —

> "When land like moveables is considered as the means only of subsistence and enjoyment, the natural law of succession divides it like them among all the children of the family ; of all of whom the subsistence and enjoyment may be aupposed equally dear to the father, [thus tending to have small holdings]. But when land was considered as the means, not of subsistence merely, but of power and protection it was thought better that it should descend undivided to one. In those disorderly times..... to divide it was to ruin it, and to expose every part of it to be opposed and swallowed up by its neighbours. The law of primogeniture, therefore came to take place in the succession of landed estates [thus tending to preserve large holdings]"[1]

England is, therefore, a country of large holdings. Post-Revolutionary France is a country of small holdings. So are Holland and Denmark. Turning to India, we find holdings of the following size held separate and direct for the years 1896-97 and 1900-01 :

Average area of holdings in acres

Years		Assam	Bombay	Central Provinces	Madras
1896-97	..	3.37	24.07	17	7
1900-01	..	3.02	23.9	48	7

Data, more recent, more exact, though from more restricted area, is available from the Baroda State.[2] Statistics of land holdings in the State are summarised in bighas in the following table :[3]

Name of the District		Total Agricul-tural land	Survey No. into which it is divided	Number of Khatedars	Average under Khatedar	Average area per Survey No.
Baroda	..	17,17,319	4,30,601	107,638	15—19—2	4
Kadi	..	25,13,982	5,89,687	141,145	17—16—5	4¼
Naosari	..	10,46,176	2,16,748	52,652	19—17—8	4
Amveli	..	9,72,040	55,635	17,214	36—9—7	3¼
Total	..	82,49,517	12,92,671	318,649	17—10—10	$3^{7}/_{8}$

(8 bighas = 5 acres)

1.Wealth of Nations. Bk. III Ch. 11.
2.Report of the Committee appointed to make proposals on the Consolidation of Small and Scattered holdings in the Baroda State, 1917. This will be throughout referred to as R.B.C.
3. *ibid.,* p. 3

Another investigation conducted by Dr. H. S. Mann and his colleagues indicates more specifically the fact of small holdings in the village of Pimpala Saudagar near Poona. The size of holdings in that village is indicated by the table below[4] :

	Over 20 acres	10 to 20 acres	5 to 10 acres	3 to 5 acres	2 to 3 acres	1 to 2 acres	30 to 40 gunthas	20 to 30 gunthas	15 to 20 gunthas	10 to 15 gunthas	5 to 10 gunthas	Below 5 gunthas
Number of plots of each size.	1	7	21	25	67	164	75	116	71	57	59	25

(40 Gunthas = 1 acre)

In this table the model holding is between 1 and 2 acres. A mode is a statistical average indicating the point of largest frequency in an array of instances.

From these tables it can be easily seen that the average size of holdings varies from 25.9 acres in the Bombay Presidency to an acre or two in Pimpala Saudagar.

This diminutive size of holdings is said to be greatly harmful to Indian Agriculture. The evils of small holdings no doubt, are many. But it would have been no slight mitigation of them if the small holdings were *compact* holdings. Unfortunately they are not. A holding of a farmer though compact for purposes of revenue is for purposes of tillage composed of various small strips of land scattered all over the village and interspersed by those belonging to others. How the fields are scattered can only be shown graphically by a map. Herein we shall have to remain content, since we cannot give a map, with knowing how many separate plots are contained in a holding. The number of separate plots in each holding will show how greatly fragmented it is. We have no figures at all for the whole of India bearing on this aspect of the question. But the Hon'ble Mr. G. F. Keatinge in his note[5] submitted to Government in 1916 has collected figures of typical

4. Land and Labour in a Deccan Village 1927, p. 48.

5. The author is thankful to him for a copy of this valuable note.

cases from all the districts of the Bombay Presidency. The following table is constructed to present his data in an intelligible form :

Case II V. Shirgaon T. Ratnagiri D. Ratnagiri		Case V V. Badlapur T. Kalyan D. Thana		Case VI V. Kara T. Mawal D. Poona		Case VII V. Althan T. Ghorssi D. Surat		Case IX Surat District		Case X Kairs District		Case XII V. Lhasurna T. Koregaon D. Satara	
Area of a holding	No. of separate plots	Area of a holding	No. of separate plots	Area of a holding	No. of separate plots	Area of a holding	No. of separate plots	Area of a holding	No. of separate plots	Area of a holding	No. of separate plots	Area of a holding	No. of separate plots
A. g.		A g.		A. g.		A. g.		A. g.		A. g.		A. g.	
34½	3	48 6	53	60 0	27	0	9	1 0	14	62 13	27	38	6
33	2	67 0	38	2 27	8	85 0	8	13 0	18.	65 34	23	23	7
20	3	1 9	6	2 31	5	26 9	8	22 0	20	36 16	16	36	3
1 14	5	6 30	8	16 6	7	..	..	3 6	4	7 9	5	22	10
1 30	5	24 0	17	2 35	6	..	..	5 0	7	5 26	5	..	..
1 10¾	4	..	..	..	..	..	..	1 26	9	13 16	6	..	..
6 33	9	..	..	..	..	..	..	0 26	9	28 4	15	..	..
3 29¾	7	..	..	..	..	..	..	..	..	12 10	8	..	..
2 20½	2	..	..	..	..	..	..	..	..	12 7	3	..	..
35¾	3	..	..	..	..	..	..	..	..	5 26	5	..	..
..	..	..	..	..	..	..	..	..	..	5 34	5	..	..
..	..	..	..	..	..	..	..	..	..	3 39	3	..	..

(A = acre g = guntha V = village T = taluka D = district)

These small and scattered holdings have given a real cause for anxiety regarding our great national industry. Comparative Statistics go to swell this feeling by laying bare two very noteworthy but equally sad facts regarding economic life in India; (1) that it is largely an agricultural country ;* and (2) that its agricultural productivity is the lowest†—

* (1) Occupational Statistics

	England and Wales	Ireland	Austria	Belgium	Bulgaria	Denmark	France	Germany	Holland	Hungary	Italy	Russia	Switzerland	India	U.S.A
Percentage of Agricultural Population.	15.3	44.7	60.9	20.7	82.6	48.2	42.7	35.2	30.7	69.7	59.4	58.3	30.9	71.5	33.3

†(2) Produce in Lbs. per acre

	U.K	Canada	New Zealand	Austria	Egypt	France	Germany	Hungary	Japan	U.S. A.	Turkey	Indian Provinces				
												UP.	N.WP.	Punjab	Bombay	U Burma
Wheat ..	1973	1054	1723	1150	1634	1172	1796	1056	1176	..	1318	850	555	555	510	322
Maize ..	..	3487	3191	1135	2059	1097	..	1489	1525	..	1372	1100	735	766	..	..

Both these truths are painful enough to have startled many people into inquiring the causes of this low productivity. As a result, attention has now been concentrated on the excessive sub-division and fragmentation of agricultural holdings. Enlarge and consolidate the holdings, it is confidently argued, and the increase in agricultural productivity will follow in its wake!!

III

CONSOLIDATION

Consolidation of holdings is a practical problem while the enlargement of them is a theoretical one, demanding a discussion of the principle which can be said to govern their size. Postponing the consideration of the theoretical question of enlargement, we find that the problem of consolidation raises the following two issues:—(1) how to unite such small and scattered holdings as the existing ones, and (2) once consolidated how to perpetuate them at that size. Let us consider them each in turn. Sub-division of land need not involve what is called the fragmentation of land. But unfortunately it does, for, every heir desires to secure a share from each of the survey numbers composing the entire lands of the deceased instead of so arranging the distribution that each may get as many whole numbers as possible, i.e. the heirs instead of sharing the lands *by* survey numbers, claim to share *in* each survey number, thus causing fragmentation. Though fragmentation does subserve the ends of distributive justice it renders farming in India considerably inefficient as it once did in Europe. It involves waste of labour and cattle power, waste in hedges and boundary marks, and waste of manure. It renders impracticable the watching of crops, sinking of wells and the use of labour saving implements. It makes difficult changes in cultivation, the making of roads, water channels, etc., and it increases the cost of production. These disadvantages of fragmentation arc to be recounted only to lend their support to the process of restripping or consolidation. The methods of "restripping" are many, though all are not equally efficacious. Voluntary exchanges can hardly be relied upon for much. But a restricted sale of the right of occupancy may be expected to go a good deal. For, under it, when survey numbers are put to auction on account of their being relinquished by the holders or taken in attachment for arrears of assessments, only those may be allowed to bid in the auction for the sale of the right of occupancy whose lands are contiguous to the *land* hammered out. Again as further helping the process of reunion, the right of pre-emption may be given to farmers whose neighbour wishes to sell his land. These methods, it must be admitted, can achieve the desired result in a very small measure. The evils of fragmentation are very great and must be met by a comprehensive scheme of consolidation. It is, therefore, advocated* that if two-thirds of the Khiatedars, dealing more than half of

*RBC, p. 38.

the village lands, apply, Government, should undertake compulsorily to restrip the scattered fields of the village. This compulsory restripping is to be executed on two principles, (1) of "Economic Unit" and (2) of "Original Ownership". Regarding the merits of these two principles the Baroda Committee observes.[6]

> "In the first the value of each holding is ascertained, then the original boundaries are removed, roads are marked out, lands required for public purposes are set apart, and the rest of the land is parcelled out into new plots. Each of these new plots must be of such a size as, having regard to the local conditions of soil, tillage etc. to form an economic field, i.e., a parcel of land necessary to keep fully engaged and support one family. These new plots may be sold by auction among the old occupants, restriction being placed on purchase so as to prevent a large number of cultivators from being ousted. The purchase, money may then be divided in a certain proportion among the original owners of pieces, a portion being reserved for expenses, in which Government would also contribute a share. Another mode would be to acquire all the land of the village then to sell it in newly constituted plots by auction as is done by City Improvement Trusts or by Government when laying out new roads in Cities or when extending a town. But we do not recommend its adoption in the improvement of agricultural land. It may result in land speculation and the small holders may be ousted in such numbers as to cause a real hardship."
>
> "According to the second method when the restripping has been decided, a list of Khatedars and their holdings is made and the latter are valued at their market price by Panchas. Then the land is redistributed and each Khatedar is given new land in proportion to his original holding and as far as possible of the same value, difference to be adjusted by cash payment. In this method no Khatedar is deprived of his land. Each is accommodated and in the place of his original small and scattered fields gets one plot of almost their aggregate size. It is only a few people whose holding may be very small and whom it would not be expedient to keep on as farmers, that may have to lose their small pieces. But they too would benefit as they would get their full value in money."

The Baroda Committee prefers the second method because:

> "It takes as its starting principle, that nobody (except perhaps a few, holding plots of insignificant sizes) is going to be driven off the land. It will give even the smallest man, chance to better his condition. Each land holder receives a new compact piece of land proportionate to the

6. R. B. C, p. 35

value of his old small and scattered field. In this way the previous sub-divisions together with their attendant evils totally disappear."[7]

Regarding consolidation, Prof. H. S. Jevons says:

> "The principles which should guide the choice of a method of carrying out the re-organization of villages on the lines above described are the following. In the first place compulsion should be avoided as far as possible and the principle adopted that no charge should be imposed upon any area unless the owners of more than one-half of that area desire the change. Should this condition be satisfied for an area..... .it would seem expedient that legal power should be taken to compel the minority to accept the redistribution of holdings under the supervision of Government. In the second place.....the expense of the operation should be kept as low as possible.....In the third place considerable elasticity should be permitted in the methods of carrying through the re-organization in the different places during the first few years, as the whole undertaking would be in an experimental stage so that different methods might be tried, and the best be ultimately selected for a permanent set of regulations. Fourthly, the possible necessity for a considerable change of the existing tenancy law in the re-organised villages must be faced..... .. .For the sake of completeness I may add as a fifth principle the obvious condition that redistribution of land must be made upon the most equitable basis possible, and that liberal compensation should be given to those, if any, who may be excluded from a former cultivating ownership." [8]

As for procedure in the compulsory consolidation of holdings both Prof. Jevons and the Baroda Committee propose the appointment of Commissioners to hear applications for consolidation and to carry it out, leaving to any objector the right to petition the Court to stay the proceedings in case he felt that an injustice was being done to him.

The problem of perpetuating such a consolidated holding will next demand the care of the legislator. It is accepted without question by many that the law of inheritance that prevails among the Hindus and the Mohomedans is responsible for the sub-division of land. On the death of a Hindu or a Mahomedan his heirs are entitled without let or hindrance to equal shares in the property of the deceased. Now a consolidated holding subject to the operation of such a law of inheritance will certainly not endure for long. It will be the task of Sisyphus over again if, after consolidation, the law of inheritance were to remain unaltered.

7. R. B.C. . p. 35.

8. The Consolidation of Agicultural Holdings in the United Provinces, 1918, pp. 45-46. The author is grateful to Prof. Jevons for a copy.

But how is the existing law of inheritance to be changed ? If it is not to be the law of equal sub-division shall we have the law of primogeniture.[9] The Baroda Committee thanks that,—

> "It is not necessary that it should be introduced. All that it wanted is, that there should not be sub-divisions of land beyond a certain limit, which may be fixed for the sake of good agriculture. There is no objection to a holding being sub-divided, so long as by so doing each of the parts does not become less than the limit fixed for the sub-division of land. But when a holding reaches a stage to render further sub-division uneconomic, the other members of the family may not be allowed to force further sub-division of the holding. Instead of being sub-divided, it may be either cultivated in common or be given to one of the members of the family as a whole, and that member made to pay amounts equal to the value of their shares as compensation to the other members."[10]

The principle of not dividing immovable property among the heirs, when division would result in inconveniently small shares, but of giving to the highest bidder among the sharers or in case none of them is willing to have it, to outside bidders, and dividing the money realized in proportion to the recognized shares, has been accepted in the Indian Partition Act, No. 4 of 1893, section 2 of which runs thus :

> "Whenever in any suit for partition, in which, if instituted prior to the commencement of this Act, a decree for partition might have been made, it appears to the Court that, by reason of the nature of the property to which the suit relates, or of the number of the shareholders therein or of any other special circumstance, a division of the property cannot reasonably or conveniently be made and that a sale of the property and distribution of proceeds would be more beneficial for all the share-holders, the Court may, if it thinks fit, on the request of any such share-holder interested individually or collectively to the extent of one moiety or upwards direct a sale of the property and a distribution of the proceeds."

Granting the advisability of thus changing the law of inheritance it only requires to amend the Civil Procedure Code so as to make it obligatory on the Courts to refuse partition whenever it would reduce a field beyond the economic limit fixed in advance.

---

9. Besides these two systems of inheritance there is a third which allows a father liberty to do as he likes with a part of his estate provided he leaves sufficient for his heir to constitute what is called *pars legitima*. Under it the Germans have enacted a permissive law of *Anerbenrecht* designed to obviate the effects of the law of inheritance in causing unnecessary sub-division of land. In some aspects it anticipates the proposals of the Baroda Committee; in others those of the Hon. Mr. Keatings. For a description of it *see* Prof. N. G. Pierson's Principles of Economics, Vol. II, pp. 286-90.

10. R.B.C., p. 26.

Another method of dealing with the problem is advocated by the Hon. Mr. G. F. Keatinge, Director of Agriculture, Bombay Presidency. In the Statement of Objects and Reasons appended to his draft bill he says :

> "4..... . The object of this bill is to enable such landowners as may wish to do so to check the further sub-division of their lands and to enable them, when it is otherwise possible, to effect a permanent consolidation of their holdings; and also to enable the executive government to secure the same results in respect of unoccupied land. The legislation proposed is purely enabling, and it will be operative in the case of any holding only upon the expressed wish of any person possessing an interest in that holding.
>
> "5. The scheme embodied in this bill for securing these objects is briefly as follows. In order to be constituted an economic holding a plot of land must be entered as such in a register prescribed by rules. If the land is occupied, it will rest with some person having an interest in the land to make an application to the Collector to have the land registered as an economic holding..... . Unless the Collector considers that there are sufficient grounds for rejecting the application, he holds a careful enquiry in which he follows a procedure similar to that prescribed in the Land Acquisition Act, 1894. If the proceedings show that all persons interested agree, the land is registered. Land vesting absolutely in Government may be registered without inquiry. The holding must in any case be registered in one name only, and the act of registration annuls all the interest of all other persons, except the registered owner, in the holding. Thereafter the owner cannot divide the plot but must so long as he owns it, keep it entire. He may sell, mortgage or otherwise dispose of it as an entire unit, but not dispose of part of it or do anything that might result in splitting up the holding. On the death of the holder, if he has not disposed of the land by will it will devolve upon a single heir. If the provisions of the bill are contravened (for instance if the holder mortgages a part of his holding and the mortgagee obtains a decree for possession), the Collector is empowered to send a certificate to the Court, and the Court will set aside its decree or order. The Collector may also evict a person in wrongful possession. When a plot has been once constituted an economic holding, the registration cannot be cancelled except with the consent of the Collector; the grounds on which cancellation will be allowed, will be laid down by rule and it is proposed that it shall be permitted chiefly in cases where economic considerations indicate that it is expedient."

Summing up this discussion of the two issues of consolidation, it must be said that the problem has not been viewed as a whole by all its advocates. The Baroda Committee alone endeavours to consolidate as well as to preserve

the consolidated holding. Prof. Jevons makes no provision to conserve the results of consolidation. Mr. Keatinge does not deal with consolidation at all. He is concerned only with the prevention of *further* fragmentation. But fragmentation, there will be in a holding even after it is entered as an economic holding. By his measure he will only succeed in preserving the holdings as they will be found at the time of registration, i.e., he will not allow them to be reduced in size. But they will be small and scattered all the same. Mr. Keatinge, notwithstanding his legislation, leaves the situation more or less as it exists. Real consolidation is, however, aimed at by Prof. Jevons and the Baroda Committee. The principles they advocate for the purpose are almost the same ; and so are their procedures for carrying it out.

As for the preservation of consolidated holdings Mr. Keatinge as well as the Baroda Committee establish the one-man rule of succession. The Baroda Committee would adopt this rule only when division of land would result in uneconomic holdings and then too would compel the successor to buy off the claims of the other dispossessed heirs. Mr. Keatinge would let the dispossessed heirs off without compensation.

A more serious criticism against these projects of consolidation consists in the fact they have failed to recognize that a consolidated holding must be an enlarged holding as well. If it is said that Indian agriculture suffers from *small* and *scattered* holdings we must not only consolidate, but also enlarge them. It must be borne in mind that consolidation may obviate the evils of scattered holdings, but it will not obviate the evils of small holdings unless the consolidated holding is an economic, i.e. an enlarged holding. The Committee as well as Mr. Keatinge have entirely lost sight of this aspect of the question. Prof. Jevons, alone of the advocates, keeps it constantly before his mind that consolidation must bring about in its train the enlargement of holdings.

IV

ENLARGEMENT

Granted that enlargement of holdings is as important as their consolidation we will now turn to the discussion of regulating their size. It is desired by all interested in our agriculture that our holdings should be economic holdings. We would have been more thankful to the inventors of this new, precise and scientific terminology had they given us a precise and scientific definition of an economic holding. On the other hand, it is believed that a large holding is somehow an economic holding. It may be said that even Prof. Jevons has fallen a victim to this notion. For when discussing what the size of a holding should be he dogmatically states that in the consolidated village the mode

should be between 29 and 30 acres. [11] But why should the mode be at this point and not at 100 or say 200 ? We might imagine Prof. Jevons to reply that his model point is placed at that particular acreage because it would produce enough for a farmer to sustain a higher standard of living. Raising the general standard of living in India is the one string on which Prof. Jevons harps even to weariness throughout his pamphlet.[12] The error underlying this doctrine we shall consider later on. It is enough to say that he does not give any sound economic reason for his model farm.

The case with the Baroda Committee is much worse, Prof. Jevons at least sticks to one definition of an ideal economic holding; but the Report of the Baroda Committee suffers from a plurality of definitions. While comenting on the size of an average holding in the state as is summarized in the above table, it should be noted that the Committee, though it desired consolidation, was perfectly satisfied with the existing size of the holding as is clear, from the following:

> "If the average holding of a Khatedar was a .compact field of those figures, the situation would be an ideal one and would not leave much to be desired."[13]

But absent-minded as it were, the Committee, without any searching analysis of the question it was appointed to investigate and report upon, lays down that:

> "An ideal economic holding would consist of 30 to 50 bighas of fair land in one block with at least one good irrigation well and a house situated in the holding."[14]

If the size of existing holdings is an ideal size why should they be enlarged ? To this, the Committee gives no answer. But this is not all. The Committee does not even adhere to the *quantitative* limit it has already set down to its ideal economic holding. When it comes to discuss the project of re-arrangement of the scattered fields of the village on the principle of "Economic unit" it presents a third ideal of an economic holding. To realize this ideal it says :

> "Each of these new plots must be of such a size, as having regard to the local conditions of soil, tillage, etc., to form an Economic field, i.e., a parcel of land necessary to keep fully engaged and support one family."[15]

Thus with perfect equanimiy (1) the Baroda Committee holds, not too fast, to three notions of an ideal economic holding. No wonder then that the Report of the Committee is a model of confused reasoning though it is a valuable repository of facts bearing on the subject.

11. Opt. Cit. chart on p. 38.
12. Opt. Cit. Introduction.
13. *Ibid.,* p. 4.
14. R.B.C., p. 31.
15. *Ibid.,* p. 53.

According to the Hon. Mr. Keatinge an economic holding is :—

> "a holding which allows a man chance of producing sufficient to support himself and his family in reasonable comfort, after paying his necessary expenses."[16]

His definition of an economic holding will be accepted, we may expect, by the Baroda Committee; for, it does not differ from its own, given above as third in order. Assuming they agree, we may now proceed to see how far tenable this definition is.

It is plain that these definitions including that of Professor Jevons view an economic holding from the stand-point of consumption rather than of production. In this lies their error; for consumption is not the correct standard by which to judge the economic character of a holding. It would be perverse accounting to condemn a farm as not paying because its total output does not support the family of the farmer though as a *pro-rata* return for each of his investments it is the highest. The family of a farmer can only be looked upon in the light of so much labour corps at his disposal. It may well be that some portion of this labour corps is superfluous, though it has to be supported merely in obedience to social custom as is the case in India. But if our social custom compels a farmer to support some of his family members even when he cannot effectively make any use of them on his farm we must be careful not to find fault with the produce of the farm because it does not suffice to provide for the workers as well as the dependants that may happen to compose the family. The adoption of such an accounting system will declare many enterprises as failures when they will be the most successful. There can be no true economic relation between the family of the entrepreneur and the total out-turn of his farm or industry. True economic relation can subsist only between the total out-turn and the investments. If the total out-turn pays for all the investments no producer in his senses will ever contemplate closing his industry because the total out-turn does not support his family. This is evident; for though production is for the purpose of consumption it is for the consumption only of those who help to produce. It follows, then, that if the relation between out-turn and investments is a true economic relation, we can only speak of a farm as economic, i.e., paying in the sense of production and not in the sense of consumption. Any definition, therefore, that leans on consumption mistakes the nature of an economic holding which is essentially an enterprise in production.

Before going further, we must clear the ground by a few preliminary remarks to facilitate the understanding of an economic holding from the standpoint of production.

16. Rural Economy in the Bombay Deccan, p. 51.

It must be premised at the outset that in a competitive society the daily transactions of its members, as consumers or producers, are controlled by a price regime. It is production, then, in a price regime that we have to analyse here for our purpose. In the main the modern process of production is captained by the entrepreneur, is guided and supervised by him and is worked out through him. All employers of labour or hirers of instrumental goods are entrepreneurs. His computations run, as they must, in a pecuniary society, in terms of price-outlay as over against price-product, no matter whether the prospective product is offered for sale or not. The entrepreneur, in producing for gain, apportions his outlays in varieties of investments. These investments, the same as factors of production or costs to the entrepreneur, have by tradition been confined to wages (labour) profits, rent (land) and interest (capital). Industrial facts do not support this classification. There are many other factors, it is contended, which as they share in the distributive process must have functioned in the productive process, in some way immediate or remote. But it is immaterial how many factors there are and whether they differ in kind or degree. What is important for the purpose of production is the process of combining them.

This combination of necessary factors of production is governed by a law called the law of proportion. It lays down that disadvantage is bound to attend upon a wrong proportion among the various factors of production employed in a concern. Enlarged, the principle means that as a certain volume of one factor has the capacity to work only with a certain volume of another to give maximum efficiency to both, an excess or defect in the volume of one in comparison with those of the others will tell on the total output by curtailing the efficiency of all. Having regard then to this interdependence of factors, an economically efficient combination of them compels the producer if he were to vary the one to vary the rest correspondingly. Neither can it be otherwise. For, the chief object of an efficient production consists in making every factor in the concern contribute its highest; and it can do that only when it can co-operate with its fellow of the required capacity. Thus, there is an ideal of proportions that ought to subsist among the various factors combined, though the ideal will vary with the changes in the proportions.[17]

These proportions it must be acknowledged are affected by the principle of substitution chiefly brought into play owing to variations in the prices of the factors. But this principle of substitution is too limited in its application to invalidate the law of proportion which is the law governing all

17. This description of the process of production is pieced together from the remarks of Prof. H. J. Davenport in his masterly treatise "The Economics of Enterprize" New York. Macmilian, 1913, In this connection see also the able paper by Prof. Henry C. Taylor on "Two Dimensions of Productivity" read before the 29th Annual Meeting of the American Economic Association held in December 1916 and the remarks on the same by Prof. A. A. Young. Both these will be found in the American Economic Review for March 1917.

economic production and which no producer can hope to ignore with impunity.[18]

Bringing to bear the above remarks regarding production on the definition of an economic holding, we can postulate that if agriculture is to be treated as an economic enterprise, then, by itself, there could be no such thing as a large or a small holding. To a farmer a holding is too small or too large for the other factors of production at his disposal necessary for carrying on the cultivation of his holding as an economic enterprise. Mere size of land is empty of all economic connotation. Consequently, it cannot possibly be the language of economic science to say that a large holding is economic while a small holding is uneconomic. It is the right or wrong proportion of other factors of production to a unit of land that renders the latter economic or uneconomic. Thus a small farm may be economic as well as a large farm ; for, economic or uneconomic does not depend upon the size of land but upon the due proportion among all the factors including land.

An economic holding, therefore, if it is not to be a hollow concept, consists in a combination of land, capital and labour, etc., in a proportion such that the *pro rata* contribution of each in conjunction with the rest is the highest. In other words to create an economic holding it will not do for a farmer solely to manipulate his piece of land. He must also have the other instruments of production required for the efficient cultivation of his holding and must maintain a due proportion of all the factors for, without it, there can be no efficient production. If his equipment shrinks, his holding must also shrink. If his equipment augments, his holding must also augment. The point is that his equipment and his holding must not be *out* of proportion to each other. They must be *in* proportion and must vary, if need be, in proportion.

The line of argument followed above is not without support from actual practice. It is happy from an economist's point of view, to find it recognized and adopted in India itself by the fathers of the Survey and Settlement System in the Bombay Presidency. The famous Joint Report (1840) contains an illuminating discussion of the problem. The question before the officers deputed to introduce the Survey System in the Deccan was how to levy the assessment. Was it to be a field assessment or an assessment to be placed on the whole lands of the village or on the entire holdings of individuals or co-parceners, whether proprietors or occupants. That after

18. Some economists who hold that it is the law of Diminishing Returns that governs agricultural production will demur to the universal applicability that is claimed for the Law of Proportion. Briefly stated the Law of Dininishing Returns asserts that additional 'doses' of capital and labour administered to a given piece of land will be responded to by a less and less yield. This means that if only the *non-land* expense of production is doubled there results less than a doubled product. But if this is the fact that is intended to be generallised by the Law of Diminishing Returns then there is nothing in it that is peculiar to agricultural production. If' the expense to the land be doubled but the land not doubled it is certain that the extra return will fall short of the increased expense. This is simply another way of saying that if the returns are to grow all the factors must be increased in proportion. But so stated is not the Law of Diminishing Returns a confused version of the Law of Proportion?

much deliberation the system of field assessment was finally adopted is known to many. But as the reasons that led to its adoption are known only to a few the following explanatory parts from the Joint report will be found to be both interesting and instructive:

> "Para 6. That one manifest advantage of breaking up the assessment of a village into portions so minute [as indicated by a survey number] is the facility it affords to the cultivators of contracting or enlarging his farm from year to year, according to the fluctuating amount of agricultural capital at their disposal which is of incalculable importance to farmers possessed of so limited resources as those of the cultivating classes throughout India.
>
> "Para 7. The loss of a few bullocks by disease or other causes may quite incapacitate a ryot from cultivating profitably the extent of land he had previously in village and, without the privilege of contracting his farm, and consequent liabilities on occassion of such loss, his ruin would be very shortly consummated."[19]

Judging in the light of this conclusion the proposal to regulate the size of holdings appears ill-considered and futile. For as Prof. Richard T. Ely observes[20] :

> "Obviously no simple answer can be given to the question [as to what should be the size of a farm]. The value of land or the rent it will bring is perhaps the most important factor.....In addition to the factor of rent the amount of capital that he can command, the kind of fanning in which he is most skilled, the character of the labour he can secure, the proximity of markets, and the adequacy of transportation facilities, all must be taken into account by the farmer in determining how large a farm he will attempt to manage and how intensively he will farm it.
>
> "*This question is primarily one of private profit which the individual must decide for himself,* but the legislator and the scientific student can be of some assistance in helping to develope that most difficult branch of commercial science—farm accounting—and in keeping the farmer alive to those charges in prices, wages, and transportation charges to which the farm organization must adjust itself."

To those who have the temerity to fix the size of a holding Prof. Ely's well-considered opinion will bring home that in spite of good intentions their vicarious mission will end in disaster; for none but the cultivator can decide what should be the size of his holding. They would do well to remember that the size of his holdings will vary in time. Consequent to

19. Survey Settlement Manual Bombay Presidency, 1882. p. 3.

20. Outlines of Economics, pp. 531-32 (Italics ours).

the changes in his equipment with which he has to adjust the size of his farm, at one point in time he will decide in favour of a small, as at another he will decide in favour of a large holding. He would therefore be a poor economist who would legally fix the size of the holding which in the interest of economic production must be left to vary when variation is demanded. By fixing the size of a holding he can only make it a large holding but not an economic holding. For an economic holding is not a matter of the size of land alone but is a matter of the adjustment of a piece of land to the necessary equipment for its efficient cultivation.

V

CRITIQUE OF THE REMEDIES

The proposal to enlarge the existing holdings which is brought forward as a cure to the ills of our agriculture can be entertained only if it is shown that farms have diminshed in size while the agricultural stock has increased in amount. Facts regarding the size of farms have already been recorded. It only remains to see if the agricultural stock has increased- Mr. K. L. Datta in his exhaustive survey says[21] :

> "178. Most of the Indian witnesses, whom we examined, appeared to be under the belief that there has been a decrease in the supply of agricultural products, owing to the inefficient tillage of land. It was said that land is not now cultivated as carefully and efficiently as before, owing to the *scarcity and dearness of plough, cattle and labour*. In order to effect, a saving in the cost of cultivation, cultivators do not also plough their lands as often as they did before, and manuring and weeding, as also the amount of irrigating where wells are used for the purpose, have all been reduced."
>
> "179. As regards the scarcity of plough cattle..... (the) figures bear testimony to the deplorable effects of famine, the inevitable result of which has always been to reduce the number of cattle, though the deficiency is generally made good in a few years if otherwise favourable. The number of plough cattle in the latest year (1908-09) included in the statement was lower than in the commencement (1893-94), in some of the circles namely Assam, Bundelkhund. Agra Provinces—North and West, Gujarat, Deccan, Berar, Madras-North and Madras-West. Although great reliance cannot be placed on these statistics, they can be accepted as showing that in some areas at any rate there has been a dearth of plough cattle."

Regarding the existence of capital Mr. Elliot James says :

> "The ryots have a keen eye to the results of a good system of farming as exhibited on model farms, but they cannot derive much good from

21. Report on the Enquiry into the Rise of Prices in India, 1914, Vol. 1, pp. 66-67, (Italics ours).

the knowledge though they may take it in and thoroughly understand that superior tillage and proper manuring mean a greater out turn in crops. Their great want is *capital*."[22]

The farmer knows, says the same author, that his agricultural equipment is inefficient and antiquated but he cannot substitute better ones in its place for :

"A superior class of cattle and superior farm implements mean to him so much outlay of what he has not—Money."

Similar facts for the Baroda State have been collected in another connection by Mr. M. B. Nanavali, Director of Commerce and Industry. But unfortunately he did not bring his knowledge of such facts to bear upon the conclusions of the Committee for the consolidation of holdings in the State of which he was also a member, apparently thinking that the size of a holding bore no relation to the instruments of production. He bemoans that:

"The farmers are not fully equipped with draught-cattle. They have today (1913) 8,34,901 bullocks, etc., for use on farms, that is one pair for 36 bighas of land. On an average a pair of good bullocks can cultivate 25 bighas of land. But the present breed has much deteriorated and one pair is supposed to cultivate 20 bighas at the most, while the present actual averages comes to about 36 bighas. Under the circumstances it is not likely that ploughing can be deep. It must be like scratching the surface. The small cultivators do not possess any draught-cattle or at the most a single one and cultivate land in co-operation with their friends similarly situated. As for farm implements there are 1,54,364 ploughs in the State, i.e., one for two Khatedars. It must be understood here that the number of cultivators and tenants is much more than three lakhs. Every one of them needs full equipment. Therefore actually the average must be much smaller than shown above."[23]

In fact the equipment for agricultural production in the State has considerably deteriorated since 1898 as shown by the table below :

Year		Plough	Carts	Plough Cattle	Other Domestics
1898	..	1,75,989	....	4,15,089	5,70,517
1910	..	1,51,664	68,946	3,34,801	5,09,416

Given, this state of affairs can we not say with more propriety that not only the existing equipment is inadequate for the enlarged holdings but

22 Indian Industries, p. 6.

23. Report on Agricultural Indebtedness in the Baroda State, 1913, para. 35.

that the existing holdings, small as they are, are too big for the available instruments of production other than land ? *Facts such as these interpreted in the light of our theory force upon us the conclusion that the existing holdings are uneconomic, not, however, in the sense that they are too small but that they are too large.* Shall we therefore argue that the existing holdings should be further reduced in size with a view to render them economic in the sense in which we have used the term ? Unwary readers might suppose that this is the only logical and inevitable conclusion— a conclusion that is in strange contrast with the main trend of opinion in this country. Contrary, no doubt, the conclusion is ; but it is by no means inevitable. For, from our premises we can with perfect logic and even with more cogency argue for increase in agricultural stock and implements which in turn will necessitate enlarged holdings which will be economic holdings as well.

Consequently the remedy for the ills of agriculture in India does not lie primarily in the matter of enlarging holdings but in the matter of increasing capital and capital goods. That capital arises from saving and that saving is possible where there is surplus is a commonplace of political economy.

Does our agriculture—the main stay of our population—give us any surplus ? We agree with the answer which is unanimously in the negative. We also approve of the remedies that are advocated for turning the deficit economy into a surplus economy, namely by enlarging and consolidating the holdings. What we demur to is the method of realizing this object. For we most strongly hold that *the evil of small holdings in India is not fundamental but is derived from the parent evil of the mal-adjustment in her social economy.* Consequently if we wish to effect a permanent cure we must go to the parent malady.

But before doing that we will show how we suffer by a bad social economy. It has become a tried statement that India is largely an agicultural country. But what is scarcely known is *that notwithstanding the vastness of land under tillage, so little land is cultivated in proportion to her population.*

Mulhall's figures for the year 1895 clearly demonstrate the point.

Acres per inhabitant in 1895

Great Britain	Ireland	France	Germany	Russia	Austria	Italy	Spain and Portugal	U.S.A.	India
0.91	3.30	2.30	1.70	5.60	2.05	1.75	2.90	8.90	1.0

That since 1895 the situation, however, has gone from bad to worse figures eloquently bear out:

	1881	1891	1901	1911
Bengal	1.5	0.8	1.12	....
Bombay	1.7	1.6	1.41	1.3
Madras	1.3	0.3	.68	.79
Assam	...	0.5	.78	.85
Punjab	1.2	1.3	1.05	1.11
Oudh	.81	0.7	.73	.75
N. W. P.	....	0.8		
Burmah	....	1.5	1.08	1.09
Central P.	1.67	2.4	1.8	1.79
B. India	1.04	1.0	0.86	0.88

Now, what does this extraordinary phenomenon mean ? A large agricultural population with the lowest proportion of land in actual cultivation means that a large part of the agricultural population is superfluous and idle. How much idle labour there is on Indian farms it is not possible to know accurately. Sir James Caird who was the first to notice the existence of this idle labour estimated in 1884 that,

> "A square mile of land in England cultivated highly gives employment to 50 persons, in the proportion 25 men, young and old, and 25 women and boys. If four times that number, or 200, were allowed for each square mile of cultivated land in India, it would take up only one-third of the population."[24]

Out of the total population of 254 millions in 1881 nearly two-thirds were returned as agricultural. Allowing, as per estimate, one-third to be taken up, we can safely say that a population of equal magnitude was lying idle instead of performing any sort of productive labour. With the increasing ruralization of India and a continually decreasing proportion of land under cultivation, the volume of idle labour must have increased to an enormous extent.

The economic effects of this idle labour are two-fold. Firstly, it adds to the tremendous amount of pressure that our agricultural population exerts on land. A quantitative statement will serve to bring home to our mind how high the pressure is:

Mean density per square mile in 1911

	Oudh and N. W. P	Bengal	Madras	Punjab	Bombay	Assam	Berar and C. P.	Coorg	British Burma
of Total Area	427	551	291	177	145	115	122	111	53
of Cultivated Area	829	1162	785	453	444	766	360	792	575

24. India, the Land and the People, p. 225.

Such high pressure of population on land is probably unknown in any other part of the world. The effect of it is, of course, obvious.

Notwithstanding what others have said, this enormous pressure is the chief cause of the subdivision of land. It is the failure to grasp the working of this pressure on land that makes the law of inheritance such a great grievance. To say that the law of inheritance causes sub-division of land is to give a false view by inverting the real situation. The mere existence of the law cannot be complained of as a grievance. The grievance consists in the fact that it is invoked. But why is it invoked even when it is injurious ? Simply because it is profitable. There is nothing strange in this. When farming is the *only* occupation, to get a small piece of land is better than to have none. Thus the grievance lies in the circumstances which put a premium on these small pieces of land. The premium, is no doubt, due to the large population depending solely on agriculture to eke out its living. Naturally a population that has *little else to prefer to agriculture* will try to invoke every possible cause to get a piece of land however small. It is not therefore the law of inheritance that is the evil, but it is the high pressure on land which brings it into operation. People cultivate the small (piece not because their standard of living is low as Prof. Jevons seems to think[25] but because it is the only profitable thing for them to do at present. If they had something more profitable to do they would never prefer the small piece. It is therefore easy to understand how the universal prevalance of the small farms or *petit culture* is due to this enormous pressure on land.

In spite of the vehement struggle that our agricultural population maintains in trying to engage itself productively as cultivators of a farm however small, it is true that judged by the standard of Sir James Caird a large portion of it is bound to remain idle. Idle labour and idle capital differ in a very important particular. Capital *exists,* but labour *lives*. That is to say capital when idle does not earn, but does not also consume much to keep itself. But labour, earning or not consumes in order to live. Idle

25. Opt. cit. Introduction. The Impression that Prof. Jevons leaves on his readers is that agriculture suffers in India because of the low standard of living. That a higher standard of life once established will necessitate a large holding because people with a high standard of life will prefer to migrate rather than accept a small holding. As his argument that holdings and standard of life are related is likely to mislead his less thoughtful readers, a word of comment is necessary. A standard of living is merely a level of consumption fixed in habit. But what determines the depth of a particular level of consumption? Undoubtedly the level of production. We may grant the truth of the statement that a rise in the standard of living works as a stimulus to higher production but it is foolish to expect mere wish to be father to the deed. It is *actual* production alone that can support rise in the standard and not wish, generated though it be either by "travel or education". If Prof. Jevons means that an opportunity for increased production, leading to a higher standard of life, will disfavour small holdings we are one with him. But he can make himself more intelligible by dropping standard of living and only arguing for increased production; that increased production leads to a rise in standard will be granted by all; but the reverse cannot be maintained Prof. Jevons seems to do, for it may lead to production or predation. To speak of raising the standard of life without speaking of increased production is to give expression to a pious wish, if it does not lead to mischief.

labour is, therefore, a calamity ; for if it cannot live by production as it should, it will live by predation as it must. This idle labour has been the canker of India gnawing at its vitals. Instead of contributing to our national dividend it is eating up what little there is of it. Thus the depression of our national dividend is another important effect of this idle labour. The income of a society as of an individual proceeds (1) from the efforts made, and (2) from possessions used. It may be safely asserted that the aggregate income of any individual or society must be derived either from the proceeds of the current labour or from productive possession already acquired. All that society can have today it must acquire today or must take out of its past product. Judging by this criterion a large portion of our society makes very little current effort; nor does it have any very extensive possessions from which to derive its sustenance. No doubt then that our economic organization is conspicuous by want of capital. Capital is but crystallized surplus ; and surplus depends upon the proceeds of effort. But where there is no effort there is no earning, no surplus, and no capital.

We have thus shown how our bad social economy is responsible for the ills of our agriculture. We have also proved how our entire dependence on agriculture leads to small and scattered farms. How a large portion of our population which our agriculture cannot productively employ is obliged to remain idle has been made clear. We have also shown how the existence of this idle labour makes ours a country without capital. This being our analysis of the problem, it will be easy to see why the remedies for consolidation and enlargement under the existing social economy are bound to fail.

Those who look on small holdings as the fundamental evil naturally advocate their enlargement. This, however, is a faulty political economy and as Thomas Arnold once said "a faulty political economy is the fruitful parent of crime". Apart from the fact that merely to enlarge the holding is not to make it economic, this project of artificial enlargement is fraught with many social ills. The future in the shape of an army of landless and dispossessed men that it is bound to give rise to is neither cheerful from the individual, nor agreeable from the national, point of view. But even if we enlarged the existing holdings and procured enough capital and capital goods to make them economic, we will not only be not advocating the proper remedy but will end in aggravating the evils by adding to our stock of idle labour; for capitalistic agriculture will not need as many hands as are now required by our present day methods of cultivation.

But if enlargement is not possible, can we not have consolidation? It can be shown that under the existing social economy even consolidation is not possible. The remedy for preventing sub-division and fragmentation

of consolidated holdings cannot be expected to bring real relief. Instead it will only serve to be a legal eyewash. This becomes easy of comprehension if we realize at the start what the one man rule of succession means in actual practice. For this we shall have to note the changes it will introduce in the survey records. At present according to the Bombay Land Revenue Code Chapter I, Section 3, clause (6).

"Survey Number" means a portion of land of which the area and other particulars are separately entered, under an indicative number in the survey records of the village, town or city in which it is situated, and includes a recognized share of a survey number. Again by clause (7).

"Recognized share of a survey number" means a sub-division of a survey number separately assessed and registered.

After the adoption of the one man rule of succession a survey number will be made to cover a piece of land which will be of the size fixed for an ideal economic holding. Secondly, it will be necessary to refuse separate registration to any sub-division of such a survey number ; i.e., in order that a piece of land should be registered with a separate and a distinct survey number it must not be below the economic limit. Then too this survey number covering a piece of land large enough to be styled economic will be registered in the name of one person. This is precisely what will happen if we put into practice the project of the Baroda Committee. Mr. Keatinge instead of having one survey number covering a large and compact holding will have in the name of one person many survey numbers covering a unit of land composed of small and scattered fields. Abandoning Mr. Keatinge's scheme as serving no practical purpose *the one man rule of succession to a consolidated holding means in practice refusal to recognize legally a piece of land if it were below a certain size.* Now this refusal to recognize smaller pieces of land, it is claimed, will prevent the sub-division of a consolidated holding. Sub-division of land may be due to many causes the operation of which is rendered economic or uneconomic by the nature of the occasion which evokes it. Not to allow sub-division on any ground, as does Mr. Keatinge, is to cause a serious depreciation of the value of land. But if sub-division is needed as when the stock has depleted, not to grant it is to create an uneconomic situation—a result just opposite of what is intended to be achieved, apart from this to prevent sub-division legally is not to prevent it actually, if necessitated by the weight of economic circumstances. Granting the pressure of population on land and the scanty agricultural equipment—evils to which the authors of consolidation and enlargement have paid no attention—we must look forward to the sub-division of holdings. If we legislate in the face of this inevitable tendency and refuse to record on our survey roll holdings below a certain limit required for a separate survey number we will not only fail to cure what we must know

we cannot, atleast by this means, but will help to create a register that will be false to the true situation.

This being our criticism of the means for preventing sub-division and fragmentation it will not take us long to state our view as regards the project of consolidation. Consolidation and its conservation are so intimately connected that the one cannot be thought of without the other. Now if we cannot conserve a consolidated holding, is it worth our while to consolidate, however feasible the project may be ? This work of Sysiphus will not fail to fall to our lot unless we make effective changes in our social economy.

As the evils of this surplus and idle labour which will be added on to by the consolidation and enlargement of holdings are likely to outweigh their advantages', the proposals do not find much favour at the hands of Prof. Gilbert Slater.[26]

As against Prof. Slater we hold that the evils are avoidable and it is because we are anxious to avoid them that we wish to advocate different remedies for bringing about the enlargement of holdings. Consequently, we maintain that our efforts should be primarily directed towards this idle labour.[27]

If we succeed in sponging off this labour in non-agricultural channels of production we will at one stroke lessen the pressure and destroy the premium that at present weighs heavily on land in India. Besides, this labour when productively employed will cease to live by predation as it does to-day, and will not only earn its keep but will give us surplus; and more surplus is more capital. In short, strange though it may seem, *industrialization of India is the soundest remedy for the agricultural problems of India.* The cumulative effects of industralization, namely, a lessening pressure and an increasing amount of capital and capital goods will forcibly create the economic necessity of enlarging the holding. Not only this, but industralization by destroying the premium on land will give rise to few occasions for its sub-division and fragmentation. Industrialization is a natural and powerful remedy and is to be preferred to such ill-conceived projects as we have considered above. By legislation we will get a sham economic holding at the cost of many social ills. But by industrialization a large economic holding will force itself upon us as a pure gain.

26. "The village in the Melting Pot" Journal of the Indian Economic Society. Vol. 1, No. 1, p. 10.

27. Prof. Jevons does speak of removing the surplus agricultural population to towns. The author is happy to note that Prof. Jevons had recognised that there is the evil of surplus population. What he has failed to recognize is that this evil is the faithful parent of all other evils that affect our agriculture. When it is recalled that industrialization of India is the one theme against which Prof. Jevons never fails to argue with all the aid of his knowledge and influence, his remedy of removing the surplus population to towns sounds starnge; for migration to towns is simply euphemism for the industrialization of India. On the other hand Prof. Jevons has forgotten that there are few towns in India. If we believe, as does Prof. Jevons, that there is the evil of surplus population the only logical and inevitable conclusion, however unplatable it be, is the creations of more towns i.e,, industrialization.

Our remedy for the enlargement as for the consolidation of holdings as well as the preservation of consolidated holdings reduces itself to this: We prefer to cure agriculture by the reflex effects of industrialization. Lest this might be deemed visionary we proceed to give evidence in support of our view. How agriculture improves by the reflex effects of industrialization has been studied in the United States in the year 1883. We shall quote *in extenso* the summary given by the London Times:

> "The statistician of the Agricultural Department of the United States has shown in a recent report that the value of farm lands decreases in exact proportion as the ratio of agriculture to other industries increases. That is, where all the labour is devoted to agriculture, the land is worth less than where only half of the people are farm labourers ; and where only a quarter of them are so engaged the farms and their product are still more valuable. It is, in fact, proved by statistics that diversified industries are of the greatest value to a Stale, and that the presence of a manufactory near a farm increases the value of the farm and its crops. It is further established that, dividing the United States into four sections or classes, with reference to the ratio of agricultural workers to the whole population, and putting those States having less than 30 per cent of agriculture and of agricultural labourers in the first class, all having over 30 and less than 50 in the second, those between 50 and 70 in the third, and those having 70 or more in the fourth, the value of farms is in inverse ratio to the agricultural population, and that where as in the purely agricultural section, the fourth class, the value of farms per acre is only $ 5.28, in the next class it is $ 13.03, in the third $ 22.21, and in manufacturing districts $ 40.91. This shows an enormous advantage for a mixed district. Yet not only is the land more valuable the production per acre is greater, and the wages paid to farm hands larger. Manufactures and varied industries thus not only benefit the manufacturers, but are of equal benefit and advantage to the farmers as well."

This will show that ours is a proven remedy. It can be laid down without fear of challenge that industrialization will foster the enlargement of holdings and that it will be the most effective barrier against sub-division and fragmentation. Agreeing in this, it may be observed that industrialization will not be a sufficient remedy for consolidation. That it will require *direct* remedies may be true. But it is also true that industrialization, though it may not bring about consolidation, will facilitate consolidation. It is an incontrovertible truth that so long as there is the premium on land consolidation will not be easy, no matter on how equitable principles it is proposed to be carried out. Is it a small service if industrialization lessens the premium as it inevitably must ? Certainly not. Consideration of another aspect of consolidation as well points to the same conclusion : That

industrialization must precede consolidation. It should never be forgotten that unless we have constructed an effective barrier against the future subdivision and fragmentation of a consolidated holding it is idle to lay out plans for consolidation. Such a barrier can only be found in industrialization ; for it alone can reduce the extreme pressure which, as we have shown, causes subdivision of land. Thus, if small and scattered holdings are the ills from which our agriculture is suffering to cure it of them is undeniably to industrialize.

But just where does India stand as an industrial country ? :

	England and Wales		Germany		U. S. A.		France		India	
	Rural	Urban	Rural	Urban	Rural	Urban	Rural	Urban	Rural	Urban
1790	..	..	..	..	87.5	..	..	. .	. .	. .
1840	..	..	..	..	77.5	..	75.6	24.4	. .	. .
1851	49.92	50.08	..	..	..	..	..	. .	. .	. .
1871	38.20	61.80	..	36	47.6	..	..	. .	. .	. .
1881	32.1	67.9	..	41	44.3	29.5	..	. .	. .	. .
1891	27.95	72.05	..	47	39.2	36 1	..	. .	64.4	. .
1901	23.00	77.00	..	54	35.7	40.5	..	. .	67.5	. .
1911	19.9	78.1	..	..	33.3	46.3	57.9	42.1	71.5	. .

(The figures for the various countries do not correspond with the years. The range of variation is 3 years),

Sir Robert Giffen after a survey of the economic tendencies of various countries concludes that;

> "The wants of men increasing with their resources the proportion of people engaged in agiculture and mining and analogous pursuits, in every country is destined to decline, and that of people engaged in miscellaneous industry—in other words in manufactures using the latter phrase in a wide sense to increase."[28]

Figures for India, however, run counter to this dictum illustrating a universal tendency observed by an expert. While other countries like the U.S.A. starting as agricultural are progressively becoming industrial, India has been gradually undergoing the woeful process of de-urbanization and swelling the volume of her rural population beyond all needs. The earlier we stem this ominous tide, the better. For notwithstanding what interested persons might say[29] no truer and more wholesome words of caution were ever uttered regarding our national economy than those by Sir Henry Cotton when he said "**There is danger of too much agriculture in India.**"

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28. "Essays in Finance" 2nd Series, p. 240.

29. Prof. Jevons in his paper on the "Capitalistic Development of Agriculture" read before the Indian Industrial Conference, held at Bombay in December 1915 argues against industrialisation. It can however be maintained against Prof. Jevons that it is industrialisation only that can make capitalistic agriculture possible. As a needful corrective to his paper *cf.* Sir Robert Giffen's Essay IV in his Essays in Finance, 1st Series.

12

MR. RUSSELL AND THE RECONSTRUCTION OF SOCIETY

Review on
the " Principles of Social Reconstruction"
by
the Hon'ble Mr. Bertrand Russell

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MR. RUSSELL AND THE RECONSTRUCTION OF SOCIETY

The "Principles of Social Reconstruction"[1] by the Honourable Mr. Bertrand Russell is a war book. Bellicose literature, on the whole, is either propagandist or preventive. Mr. Russell's book, though it falls under the latter, must be distinguished from the rest of the same class. Of the preventive books some argue against the unnatural geographical barriers within which have been impounded some unwilling nations by their masterful conquerors : others like Mr. Angell's Great Illusion, attempt to show that in the calculus of war loss prevails over gain even to the victor. Mr. Russell's however, is a diagnosis, altogether different. Wars, he believes, cannot be banished by rationalistic appeals such as above, "It is not by reason alone" he says "that wars can be prevented but by a positive life of impulses and passions antagonistic to those that lead to war. It is the life of impulse that needs to be changed, not only the life of conscious thought".[2] As his diagnosis is different so is his social philosophy. To him, "the chief thing to be learned through the war has been a certain view of the springs of human action what they are, and what we may legitimately hope that they will become. This view, if it is true, seems to afford a basis for political philosophy more capable of standing erect in a time of crisis than the philosophy of traditional liberalism has shown itself to be."[3]

In consonance with this attitude he adopts the standpoint of the behaviouristic psychology.[4] A most important contribution of this new development in the Science of Psychology consists in a novel view of the springs of human action. It has overthrown the doctrine that external

1. London: George Allen and Unwin Ltd. 1917, 6/—net.
2. Principles of Social Reconstruction, p. 13.
3. *Ibid:,* p. 9.
4. Readers of Mr. Russell will do well to aquaint themselves with Prof. E. L. Thorndike's "Educational Psychology", Vol. I, "On the Original Nature of Man".

circumstances are responsible for man's activity If it were so, contends the behaviourist, it would presuppose a quiescent being which is a biological untruth. Man, it propounds, has the springs of action within him for he is born with certain tendencies to act. External circumstances do not induce activity. They only re-direct it. These tendencies to act, further says the behaviourist, in their working, become modified by the effect of the Social *milieu* in which they function. The modifications which these original tendencies undergo are of the highest importance, They constitute Education in the broadest sense of the word. All modifications, however, are not equally valuable and it is the business of the reformer to eliminate the circumstances and institutions that modify these tendencies for the socially worse and preserve and introduce those that will modify them for the socially better. Whatever that may be, it is of immense social value that these tendencies are capable of indefinite modifications. This is possible only because as Mr. Russell says " Man's impulses are not fixed from the beginning by his native dispositions. Within certain limits, they are profoundly modified by his circumstances and his way of life. The nature of these modifications ought to be studied, and the results of his study ought to be taken account of in judging the good or harm that is done by political and social institutions."[5]

In six illuminating chapters Mr. Russell studies the modifications that human nature has undergone under the institutions of State, War, Property, Education, Marriage and Religion. It is impossible to give an adequate idea of Mr. Russell's social philosophy by summarizing the contents of each one of these chapters. They are living contributions to the literature of the several subjects they deal with. Full of suggestions, they provoke thought and ought therefore to be read from the original. This might be unconventional so far as reviewing is concerned but is justified by the fact that this review is meant for an economic journal for the purposes of which, we need only attend to the analysis of the institution of Property and the modifications it is alleged by Mr. Russell to produce in human nature.

Before, however, proceeding to the task, it may be worth while discussing how the philosophy of war is related to the principles of growth as expounded by Mr. Russell.

At the outset it must be said that, because his is an anti-war book, those who read in him the philosophy of quieticism will have read him all wrong. For, though Mr. Russell is anxious for the abolition of war, he explicitly states that "in spite of all the destruction which is wrought by the impulses that lead to war, there is more hope for a nation which has these impulses

5. Principles of Social Reconstruction, p. 19.

than for a nation in which all impulse is dead. Impulse is the expression of life and while it exists, there is hope of its turning towards life instead of towards death ; but lack of impulse is death, and out of death no new life will come."[6] He further acknowledges that "a great many of the impulses which now lead nations to go to war are themselves essential to any vigorous or progressive life. Without imagination and love of adventure a society becomes stagnant and begins to decay. Conflict, provided it is not destructive and brutal, is necessary in order to stimulate men's activities and to secure the victory of what is living over what is dead and merely traditional. The wish for the triumph of one's cause, the sense of solidarity with large bodies of men, are not things which a wise man will wish to destroy. It is only the outcome in death and destruction and hatred that is evil. The problem is to keep these impulses without making war the outlet for them."[7]

The gist of it all is that *activity is the condition of growth*. Mr. Russell, it must be emphasized, is against war but is not for quieticism ; for, according to him, activity leads to growth and quieticism is but another name for death. To express it in the language of Professor Dewey he is only against "force as violence" but is all for "force as energy." It must be remembered by those who are opposed to force that without the use of it all ideals will remain empty just as without some ideal or purpose (conscious or otherwise) all activity will be no more than mere fruitless fooling. Ends and means (= force in operation) are therefore concomitants and the common adage that the end justifies the means contains a profound truth which is perverted simply because it is misunderstood. For if the end does not justify the means what else will? The difficulty is that we do not sufficiently control the operations of the means once employed for the achieving of some end. For a means when once employed liberates *many* ends—a fact scarcely recognised—and not the one only we wish it to produce. However, in our fanaticism for achievement we attach the article "the" to the end we cherish and pay no heed to the ends simultaneously liberated. Of course for the exigencies of an eminently practical life we must set an absolute value on some one end. But in doing this we must take precaution that the other ends involved are not sacrificed. Thus, the problem is that if we are to use force, as we must, to achieve something, we must see that while working for one end we do not destroy, in the process, other ends equally worthy of maintenance. Applying this to the present war, no justification. I think, is needed for the use of force. What needs to the justified is the destructive violence. The justification must satisfy the world that the ends given prominence to by one or other of

6. Principles of Social Reconstruction, p. 21.

7. *Ibid.,* p. 93.

the combatants could not be achieved otherwise than by violence, i.e., without involving the sacrifice of other ends equally valuable for the stability of the world. True enough that violence cannot always be avoided and non-resistance can be adopted only when it is a better way of resistance. But the responsibility for an intelligent control of force rests on us all. In short, the point is that to achieve anything we must use force : only we must use it constructively as energy and not destructively as violence.

The length of this discussion of the philosophy of war as related to the principles of growth can be justified, if need be, by more extenuating circumstances than one. The present European war has brought into unmeasured and even thoughtless censure the philosophy of force and has ushered to the forefront the gospel of quieticism and the doctrine of non-resistance. The fact that Mr. Russell's is an anti-war book, the author of which was sentenced to six months' goal, not for writing the book under review but for being a pacifist crank, will be construed to lend its support to the lurking desire in many a mind for a passive life as a natural reaction from the turmoil of war. It was therefore necessary to know how far Mr. Russell shared in this condemnation of force. A second justifying circumstance is furnished by the bias in the minds of the Indian readers of Mr. Russell. It will be realized that what is advocated to take the place of the philosophy of force is essentially an Eastern philosophy or to be specific, Indian philosophy. It was therefore much more important to present Indian readers of Mr. Russell with a correct interpretation of his attitude. Their innate craving for a pacific life and their philosophic bias for the doctrine of non-resistance, I am afraid, might lead them to read in Mr. Russell a justification of their view of life, if not guarded against.

Is the Indian view of life a practicable view ? Nietzsche in his cynical mood said of Christianity that there was only one Christian and he was crucified-implying the impracticability of the Christian view of life. This remark, if it is true of the Christian, must be true, in a larger degree, of the Eastern view of life as well: for, though regionally Western yet Christianity in its origin as well in its content is essentially Eastern. Equally condemnatory, though not so severely, as shown above, is the attitude of Mr. Russell towards this philosophy of quieticism. One cannot however, fail to notice with dismay the persistence of this attitude towards life on the part of Indians notwithstanding its theoretical impossibility and the many vissicitudes through which the country has passed. Nay, in the present days of Indian Nationalism—which sadly enough is tantamount to justifying everything Indian—the attitude is likely to be upheld and continued. Note, that of the stock contrasts between the East and the West, thrown in relief by the war, the East is ever eager to give prominence in terms of self-glorification to one—that of its being free from the extreme

materialism of the West leading to war and devastation. There is however no justification for setting the West in such a cruel contrast. The East is too prone to forget that materialist we all are ; even the East in spite of itself. Regarding the war, perhaps, the West may be blamed. But it can retort and say, "not to act is to be dead. Life consists in activity: It is better to act even violently as in war than not at all for only when we act that we may hope to act well." Thus, surprising as it may be, the pacifist Mr. Russell thinks even war as an activity leading to the growth of the individual and condemns it only because it results in death and destruction. He would welcome milder forms of war for according to him, "Every man needs some kind of contest, some sense of resistance overcome, in order to feel that he is exercising his faculties",[8] in other words to feel that he is growing.

Of the many reasons urged in support the Indian view of life one is that it is chiefly owing to its influence that India alone of all the oldest countries has survived to this day. This is a statement that is often heard and even from persons whose opinions cannot be too easily set aside. With the proof or disproof however of this statement I do not wish to concern myself. Granting the fact of survival I mean to make a statement yet more important. It is this; there are many modes of survival and not all are equally commendable. For instance, mobility to beat a timely retreat may allow weaker varieties of people to survive. So the capacity to grovel or lie low may equally as the power of rising to the occasion be the condition of the survival of a people. Consequently, it cannot be granted—as is usually supposed—that because a people have survived through ages that therefore they have been growing and improving through ages. Thus it is not survival but the quality, the plane of survival, that is important. If the Indian readers of Mr. Russell probe into the quality of their survival and not remain contented merely with having survived I feel confident that they will be convinced of the necessity of a revaluation of their values of life.

This much for Mr. Russell's outlook towards the philosophy of war. We will now turn to his analysis of the effects of property. Mr. Russell passes in review the various existing economic organizations of society, the social ills they produce and the remedies put forth. His critique is summarized by himself as follows:

> "The evils of present system result from the separation between the several interests of consumer, producer and capitalist. No one of these three has the same interests as the community or as either of the other two. The co-operative system amalgamates the interests of consumer and

8. Principles of Social Reconstruction, p. 96.

capitalist; syndicalism would amalgamate the interests of producer and capitalists. Neither amalgamates all three, or makes the interests of those who direct industry quite identical with those of the community. Neither, therefore, would wholly prevent industrial strife or obviate the need of the State as arbitrator. But either would be better than the present system, and probably a mixture of both would cure most of the evils of industrialism as it exists now. It is surprising that, while men and women have struggled to achieve political democracy, so little has been done to introduce democracy in industry. I believe incalculable benefits might result from industrial democracy either on the co-operative model or with recognition of a trade or industry as a unit for purposes of Government, with some kind of Home Rule such as syndicalism aims at securing. There is no reason why all Governmental units should be geographical. The system was necessary in the past because of the slowness of means of communication, but it is not necessary now. By some such system many men might come to feel again a pride in their work and to find again that outlet for the creative impulse which is now denied to all but a fortunate few. Such a system requires the abolition of the land owner and the restriction of the Capitalist, but does not entail equality of earnings. And unlike Socialism, it is not a static or final system; it is hardly more than a frame-work for energy and initiative. It is only by some such method, I believe that the free growth of the individual can be reconciled with the huge technical organizations which have been rendered necessary by industrialism".[9]

It is a common place criticism of the industrial system that it gives rise to compartmental ethics, dwarfs the personality and makes slaves of the workers. To obviate such a result Mr. Russell approaches with a cautious spirit, a breadth of outlook and philosophic grasp of the social effects of the Economic Institutions. I wish the same could be said of his analysis of the mental effects of property. On the other hand his discussion of this aspect of property is marked by certain misconceptions which it is necessary to expose.

The first misconception is embodied in a statement about the "love of money" in which he says "it leads men to mutilate their own nature from a mistaken theory of what constitutes success and to give admiration to enterprises which add nothing to human welfare. It promotes a dead uniformity of character and purpose, a diminution in the joy of life, and a stress and strain which leaves whole communities weary, discouraged, and disillusioned."[10] This is a sentiment that smacks of the antique and

9. Principles of Social Reconstruction, pp, 141-42.

10. *Ibid*,. p. 113.

once served as a basic philosophy of life, probably with justification. The economic life and the philosophic outlook of a society are more intimately connected than is commonly supposed[11] and chipped off its exaggerations, the Economical Interpretation of History holds true. This time-honoured complaint of the moralists against "love of money" is only a part of their general complaint against the goods of the world and finds its justification in the economic circumstances which gave rise to this particular belief. Bearing this in mind, it becomes easy to understand why the philosophy of sour grapes, of the have-nots, is the most human of all beliefs and why it so largely pervades our values about things which we can and things which we cannot possess in spite of our efforts to have them. When we cannot have a thing we argue that it is not worth having. There is thus a genuine difference between the outlooks of the "haves" and the "have-nots" towards worldly goods as there is between the religions of the down-cast and the successful. Each one in obedience to its profoundly moral nature—moral even in its immorality in that it seeks justification for everything it does—idealises its own attitude. At a time when the whole world was living in "pain economy" as did the ancient world and when the productivity of human labour was extremely low and when no efforts could augment its return, in short, when the whole world was living in poverty it is but natural that moralists should have preached the gospel of poverty and renunciation of worldly pleasures only because they were not to be had. The belief of a society of "pain economy" is that a thing must be bad if it cannot be had just as a society of "pleasure economy" addicted to " conspicuous consumption " believes that a thing must be nasty if it is cheap. Neither does the re-statement of the evils of "love of money" by Mr. Russell add any philosophic weight to its historic value. The misconception arises from the fact that he criticises the love of money without inquiring into the purpose of it. In a healthy mind, it may be urged, there is no such thing as a love of money in the abstract. Love of money is always *for something* and it is the purpose embodied in that "for something" that will endow it with credit or cover it with shame. Having regard to this, there can be no "dead uniformity of character" among the individual for, though actuated by love of money, their purposes on different occasions are likely to be different. Thus even love of money as a pursuit may result in a variety of character.

If Mr. Russell's thesis is shaky when looked at from the production side of our life, it entirely falls to the ground when looked at from the consumption side. Really to prove that human nature mutilates itself by feeding, exclusively, some one appetite we shall have to find our support by scrutinizing not the production but the consumption side of life. Now

11. Cf James Bonar "Philosophy in its Relation to Political Economy", more particularly, Achille Lorla, "Economic Foundations of Society".

knowing as we do the laws of consumption[12] is there a possibility of such mutilation? The answer, as we shall see, is in the negative.

The laws of consumption, it may be noted, are simply certain deductions from the economic doctrine of the utility theory of value Formulated, as a reaction to the classical theory by Cournot, Gossen, Walres Menger and Jevons, it no longer thinks of utility as a quality inherent in the objective thing or condition but as dependent upon the capacity it possesses to satisfy human wants. This being so, the utility of an object varies according to the varying condition of the organism needing satisfaction. Even an object of our strongest desire like food may please or disgust, according as we are hungry or have over-indulged the appetite. Thus utility diminishes as satisfaction increases. In other words as satisfaction is the pleasurable activity of a particular organ or a group of them, the curve representing the relation of the organ to the object of its satisfaction varies inversely with the condition of the organ.

If Mr. Russell had carefully gone into the implications of this psychological analysis, he would certainly have avoided the misconception in question. For what does the psychological analysis really mean ? Why does the utility of an object tend to be zero or even negative ? This takes place it may be argued either (1) because at some point in the process of satisfaction the particular organ irritated ceases to derive any further satisfaction by feeding itself on the object of its craving or (2) because other organs needing a *different* kind of satisfaction clamour against the over-indulgence of some one organ at their expense. Prof. Giddings holding the latter view says " if the cravings of a particular organ or a group of organs are being liberally met with appropriate satisfactions, while other organs suffer deprivation, the neglected organs set up a protest, which is usually sufficiently importunate to compel us to attempt their appeasing. The hunger of the neglected parts of our nature normally takes possession of consciousness, and diverts our attention and our efforts from the organ which is receiving more than its due share of indulgence".[13] Of the two alternative explanations that of Prof. Giddings is probably the more correct. Having regard to the behaviouristic hypothesis, of the organism as an active entity, it is but proper to suppose that there does exist this hunger of the entire organism for a varied satisfaction appropriate to each of its organ which would engender such a protest. It is this protest that compels obedience to what is called the law of *variety in consumption.* If this is a fact it is difficult to understand how one organ by perpetual dominance can mutilate the whole organism. On the other hand, though one at a time, all the appetites have their turn. Human nature is, thus, fortunately, provided by its very make-up against a one-sided development leaving no doubt as to its promise for an all-round development in a congenial environment. Whether it will be able to obtain the miscellaneous

12. For a brilliant discussion of them C/o. Prof. S. N. Patten's "A Theory of Consumption".

13. Democracy and Empire, p. 19.

food-material, intellectual or spiritual it craves for is a matter beyond its control. If it is mutilated by the lack of variety of food, it will be through social default and not its own.

Another allegations of Mr. Russell is that property as the embodient of the possessive instinct leads to war. One may agree with Mr. Russell and yet say that Fredric Nietzsche understood the effects of property better than Mr. Russell. This effect is well summed up in a story which Thucydides relates somewhere. He depicts a farmer who having gathered his harvest was sitting by the side of the heap brooding over the market and the gains of his business; while deeply engrossed in his reverie he was surprised by a robber. Thus aroused, the farmer, without even uttering a word of protest, at once consented to share his pile and thanked heavens for having escaped with the loss only of a half. Whether the above is a fact or a fable, it contains a kernel of truth not always perceived. How much man is tamed of his wild nature by his acquisitions through the course of time it is not possible to measure. But that it is so is beyond doubt. Nietzsche was perfectly aware of this and would not therefore let his Superman hold any property lest he (the Superman) might not play the havoc Nietzsche wanted him to play for the fear of losing his acquisitions in the bargain. The trouble therefore one might say, is not with property but with the unequal distribution of it; for those who have none of it are prone to perpetrate more destruction for its possession than, those who have. An industrial dispute of the modern time is another illustration and that workers, in a strike, use more violence than their employers can only be understood in the light of the above remarks. It is the existence of the stake that blunts the sword and it is the non-existence thereof that sharpens it. Thus property may be aggressive. Yet it is not without its compensating effects.

It would be unjust to pass over silently a most fundamental notion that pervades the whole outlook of Mr. Russell. He says that "men's impulses and desires may be divided into those that are creative and those that are possessive. Some of our activities are directed to creating what would not otherwise exist, others towards acquiring or retaining what exists already. The best life is that in which creative impulses play the largest part and possessive impulses the smallest.[14] Is it possible so to divide the impulses ? Is there such a thing as an impulse to appropriate? It is beyond the scope of this review to discuss this large question. I simply intend to raise a query because I feel, that by making the distinction as one of instinct, Mr. Russell is not quite on safe ground. Every impulse if uninhibited, will lead to some creative act. Whether the product will be appropriated or not is a matter wholly different from any act of impulse or instinct. It depends, I submit, upon the method of its production—whether individualistic or otherwise—and upon the nature of its use—whether communal or otherwise. No one sets

14. Principles of Social Reconstruction, p. 234.

up a right of appropriation to anything that is produced by common efforts nor to anything that is of joint use. Of the former one may cite the game of a communal hunt of the primitive folks. For an example of the latter the situation in a family presents a happy illustration, No member, it can be said without fear of being challenged, will ever set up a right of private appropriation to the articles of the Table or to the articles of decoration just as nobody will ever set up a right of exclusive ownership regarding public monuments. They are *of the house*. But every one of the family will surely set up a right to the exclusive use of his or her clothes. They are *of the Individual*. It is therefore, just a question of production and use and not of impulse that a thing is appropriated. Thus the creative and the possessive are on different levels and the methods of augmenting the former as of diminishing the latter are bound to be different. The more of one will not ensure the less of the latter.

With this we must close the review of Mr. Russell's book. There is much in it that can be laid at the foundation of the future reconstruction of Society. Mr. Russell deserves full credit for having emphasized the psychic basis of social life. Social reconstruction depends upon the right understanding of the relation of individual to society—a problem which has eluded the grasp of many sociologists. Mr. Russell's conception of the relation—as being of impulse to institution is, beyond doubt the truest. However, to understand this and many other problems the book touches I will strongly recommend the reader to go to the original. I have confined myself to putting Mr. Russell in his right place where I thought he was likely to be misunderstood and to guarding his uncritical readers against certain misconceptions that may pass off unnoticed. In both cases I have attempted to do my duty to Mr. Russell and to his readers.

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Babasaheb Dr. B.R. Ambedkar

(14th April 1891 - 6th December 1956)

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Minister for Social Justice and Empowerment
& Chairperson, Dr. Ambedkar Foundation

MESSAGE

Babasaheb Dr. B.R. Ambedkar, the Chief Architect of Indian Constitution was a scholar par excellence, a philosopher, a visionary, an emancipator and a true nationalist. He led a number of social movements to secure human rights to the oppressed and depressed sections of the society. He stands as a symbol of struggle for social justice.

The Government of Maharashtra has done a highly commendable work of publication of volumes of unpublished works of Dr. Ambedkar, which have brought out his ideology and philosophy before the Nation and the world.

In pursuance of the recommendations of the Centenary Celebrations Committee of Dr. Ambedkar, constituted under the chairmanship of the then Prime Minister of India, the Dr. Ambedkar Foundation (DAF) was set up for implementation of different schemes, projects and activities for furthering the ideology and message of Dr. Ambedkar among the masses in India as well as abroad.

The DAF took up the work of translation and publication of the Collected Works of Babasaheb Dr. B.R. Ambedkar published by the Government of Maharashtra in English and Marathi into Hindi and other regional languages. I am extremely thankful to the Government of Maharashtra's consent for bringing out the works of Dr. Ambedkar in English also by the Dr. Ambedkar Foundation.

Dr. Ambedkar's writings are as relevant today as were at the time when these were penned. He firmly believed that our political democracy must stand on the base of social democracy which means a way of life which recognizes liberty, equality and fraternity as the principles of life. He emphasized on measuring the progress of a community by the degree of progress which women have achieved. According to him if we want to maintain democracy not merely in form, but also in fact, we must hold fast to constitutional methods of achieving our social and economic objectives. He advocated that in our political, social and economic life, we must have the principle of one man, one vote, one value.

There is a great deal that we can learn from Dr. Ambedkar's ideology and philosophy which would be beneficial to our Nation building endeavor. I am glad that the DAF is taking steps to spread Dr. Ambedkar's ideology and philosophy to an even wider readership.

I would be grateful for any suggestions on publication of works of Babasaheb Dr. Ambedkar.

(Kumari Selja)

Collected Works of Babasaheb Dr. Ambedkar (CWBA)

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FOREWORD

Dr. Babasaheb Ambedkar was one of the greatest sons of India. A parliamentarian, scholar and constitutionalist of world repute, he has been universally acclaimed as a saviour of untouchables. As a great crusader of the downtrodden, he waged a relentless struggle against the old order which was based on injustice and was devoid of human dignity. He strove, throughout his life, to establish a new social order based on principles of liberty, equality and universal brotherhood.

Not only the depressed classes but Indian society, as such, owe a debt to this great humanitarian and social reformer for the awakening he brought about in that section so that they can contribute their due share to India's progress and prosperity.

Dr. Ambedkar always considered India's interest foremost and above the class in which he was born. To understand Dr. Ambedkar is to practise his message that the country is greater than the individual.

The Government of Maharashtra is committed to the welfare of all backward classes for whose uplift Dr. Ambedkar dedicated his entire life. The thoughts and teachings of great men like Mahatma Gandhi and Dr. Ambedkar will always serve as a beacon light for the new generations. Our Government, therefore, feel proud and happy in bringing out this Second Volume as a part of our total project of publication of the writings of Dr. Ambedkar.

This volume consists of his work in the erstwhile Bombay Legislature, with the Simon Commission and at the Round Table Conferences. Students of political science and politicians

are sure to find this book of great help in understanding the history of constitutional reforms in our country.

BABASAHEB A. BHONSALE,
Chief Minister of Maharashtra.

PREFACE

I consider it a rare privilege to have been called upon to write a preface to this volume.

Dr. Babasaheb Ambedkar has carved out for himself a niche in the minds of the people of India. He was a ray of hope to the Dalits, the oppressed and the downtrodden in out society. He instilled in them honour, dignity and freedom. For this purpose, he utilised his tongue, his pen and all his actions were directed towards attainment of the objective of securing to them equality in true sense–economic, social and cultural equality. The thoughts of such a great personality serve as a sentinel to his followers as well as to those who wish to pursue the ideals he cherished. It is with this view that the State Government took the decision to bring out collected volumes of his marathon work–his speeches and writings. I have pleasure in presenting the second like volume in this series to the readers.

Dr. Ambedkar's writings and speeches are mostly in English which has admittedly a very limited readership in our country. In order, therefore, to reach Dr. Ambedkar's erudition to every door-step, the Government is making efforts to render these English volumes in Marathi, for the benefit of our teeming masses.

The present volume consists of Dr. Ambedkar's work in the Bombay Legislature and with the Simon Commission and at the Round Table Conferences. This book will provide a great food to understand the constitutionalist in Dr. Ambedkar. Besides, it will be useful to the students and politicians to understand the history of constitutional reform in our country.

I thank the members of the Committee for their painstaking efforts in collecting material of this volume. I also thank the Government Central Press and its staff for their dedication in printing this volume in its excellent form. It is the love and affection towards Dr. Ambedkar that has reflected in production of this volume.

Mrs. S. S. PATIL,
Minister for Education.

INTRODUCTION

The present volume is the second in the series, which includes Writings and Speeches of Dr. B. R. Ambedkar. Many of Dr. Ambedkar's books went out of print. However, those were available in the shelves of libraries and those interested could read them. But his work in the Assemblies and Parliament is not easily available, with the result his contribution to the development of Indian Constitutional Law is not adequately recognised.

Dr. Ambedkar entered the Bombay Legislative Council in 1927. He was re-nominated in 1932. In 1937, he was returned to the Bombay Legislative Assembly in the General Elections. The Assembly was prorogued in 1939 when the Second World War broke out.

During this period of 12 years, Dr. Ambedkar played multifarious roles in the public life of the country. In 1927, he conducted the famous Satyagraha at Mahad to establish the right of access of the depressed classes to public places. In 1929, he pioneered the Satyagraha at Nasik for temple entry for untouchables. In April 1927, to rouse the public concience, he started a fortnightly bulletin in Marathi called 'Bahishkrit Bharat'. Through its columns, Dr. Ambedkar wrote articles on various social, political and religious subjects, in his own chaste style of Marathi. These articles have now become specimens of the best writings of Marathi

journalism. In 1928-29 he was elected a member of the committee to associate with the Simon Commission. He was also elected a member of the State Committee which made enquiries into the educational, economic and social conditions of the depressed classes and aboriginal tribes of the Bombay Presidency. Thereafter Dr. Ambedkar was nominated as a British India Delegate to the Round Table Conference held in London in 1930. This was followed by a proclamation of Communal Award and consequential starting of Fast Unto Death by Mahatma Gandhi. Dr. Ambedkar passed through this ordeal indomitably. The Poona Pact that followed brought out Dr. Ambedkar as an unquestionable champion of the Depressed Classes of India, which claim was hitherto denied to him. After the Round Table Conferences, Dr. Ambedkar proclaimed all-out war on Caste and Hindu Religion. In 1935, he proclaimed, "I am born as Hindu, but I shall not die as a Hindu". 1936 saw Dr. Ambedkar pleading for conversion of religion by the untouchables. Soon he was involved in organising labour movements, including the one for abolition of Proprietary Rights of Landlords viz. Khoti and also for abolition of Watans of Maharashtra's Mahars. He also founded the Indian Labour Party and fought battles for the rights of labourers, in and out of the Assembly. Such were the salient features of his activities.

Part I of this volume includes his speeches in the Bombay Legislature on varied subjects e.g. University Education, Primary Education, Khoti System, Mahar Watan, Industrial Disputes, Prohibition, Minister's Pay, Maternity Benefit for women employees, Linguistic States, participation in the Second World War etc. and also his considered views on the Budget. We have also incorporated his questions put up in the Legislature along with the replies given by the Ministers.

Dr. Ambedkar's views on Birth Control are reflected in the speech which Mr. P. J. Roham delivered. This speech and Dr. Ambedkar's evidence before the University Reforms Commission of 1924 are enclosed as Appendix to this Part. We have also included the draft bills on Khoti and Mahar Watan introduced by Dr. Ambedkar and his note of dissent to the Small Holders' Relief Bill.

The Part II includes his work with the Indian Statutory Commission, popularly known as the Simon Commission. This contains his independent report regarding his views on changes in the Constitution of the Bombay Presidency, his two memoranda submitted to the Commission on behalf of the Bahishkrit Hitakarini Sabha, and his oral evidence before the Simon Commission. We have also appended a note submitted by him to the Lothian Committee on Franchise.

In the Part III, we present his speeches in the Plenary Sessions of the First Round Table Conference, his arguments in the Minorities Sub-Committee and fight for safeguarding the rights of the Untouchables in the future Constitution of India and his role in the Franchise Sub-Committee as protagonist and advocate of universal adult suffrage. In Second Round Table Conference, we find him crossing sword with Mahatma Gandhi on the question of Untouchables' Rights in Minorities Committee. His examination of various witnesses as a member of the Joint Committee on Indian Constitutional Reform is also presented as much in detail as possible.

We do not propose to elaborate in details or analyse the value of this book, Apparently, the book presents Dr. Ambedkar's thoughts on varied subjects between 30s and 40s. They may be found relevant even in the context of the

present day problems. The volume may be found useful not only to a scholar but to a general reader as well. The students of Political Philosophy, History, Sociology, Economics, and particularly of Indian Constitutional Reform may find sufficient food in this work.

We greatfully acknowledge the permission granted by Her Majesty's Government of the United Kingdom for reproduction of excerpts from the Unrevised Minutes of Evidence of the Joint Committee during the Round Table Conferences. The India Office Library and Records, London, also deserves our gratitude for giving us Dr. Ambedkar's rare photograph along with Sir Mohammed Zafrullah Khan taken at the Third Round Table Conference. We are indebted to the librarians of the Bombay University Library, the Legislative Council . Library, Bombay, Gokhale Institute of Politics and Economics, Pune, Dr. Ambedkar Research Institute, Nagpur and Director of Archives, Government of Maharashtra, Bombay, for their help and co-operation, without which this volume would not have seen the light of the day. We have no words to express our thanks to the Director and Deputy Director of Government Printing and Stationery, and the Manager and the Staff of the Government Central Press, Bombay, who worked hard for speedy publication of this volume.

With all our efforts and due care, we cannot claim immunity from errors, which might have inadvertently crept in. Readers are requested to send their valuable and considered opinion which will be taken into consideration in the next print.

EDITOR

FOR SECOND EDITION

Dr. Babasaheb Ambedkar was the Social Revolutionary in the human history of world. He always considered his countrys interest foremost and above all, than any class of society. In his speech dated 4th April 1938 in Bombay Legislature he said, " I want all people to be Indian first, Indian Last and nothing else but Indians." *(Dr. Babasaheb Ambedkar Writings and Speeches, Vol. 2, page No. 195).* It appears for Dr. Ambedkar, to be an Indian is foremost important than any sectirian, rigional, religious and creed notions.

The biggest problem India is facing today is population explosion. Impact of that can be realised today in education, employment, health and food supply. We can observed that it was also Dr. Ambedkar's measure concern's back in 1938, When he outlined this problem in his manifesto of his Independant Labour Party. Declaring that if he come into power he will make birth control a compulsory issue for Bombay Province. Therefore we can call him that first even Indian politician to be concern about Population control of India. Even being on opposition leader in Bombay Legislature he moved a birth control bill and told the assembly that he recomends to the Government that they should make necessary arrangements to educate people, on 10th November 1938 *(Vol. 2, p.p. 263)* and have adequate facilities available for the practice of birth control. It was his firm belief that the population control is a remedy leading to controlling many future problems but the Congress Party, the Hindu Mahasabha,

the Communist Party and the Muslim League all opposed this bill which is the direct result of todays population explosion and problem related to it. He kept on stressing the problem in his further meeting with youth dated 12th December 1938, If you have to learn anything from Ambedkar learn have only one child. He further warned to Young Ladies that don't hurry to get married, But if you do so, remember having to many children is a crime. This I am advising you, that having economic independance of women is very important, because the progress of the community and the country can only be measured by the progress of women.

HARI NARKE,

Member-Secretary,

Dr. Ambedkar, Mahatma Phule, Rajarshi Shahu
Source Material Publication Committee, Govt. of
Maharashtra, Barrack No. 18, opp. Mantralaya, Mumbai 21.
Tel. 022-22870968/22835610

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PART I

Dr. Ambedkar in the Bombay Legislature

BLANK

1

*ON BUDGET : 1

†*Dr. B.R. Ambedkar :* Mr. President, the budget discussion has gone on for a long period, and I feel that all that could have been said has already been said. It would therefore have been better for a new member like me to keep silent But I feel that there is a point of view, which has not yet been placed before this House, and as I represent that point of view, I think it is my duty to give expression to it.

Mr. President, when one begins to criticise the budget, one is at the outset overcome with a feeling of helplessness. For the range of effective criticism is indeed very small. The total estimated expenditure as given in this budget is something like 36 per cent. The total estimated revenue of this presidency is 15½ crores, and out of this about 9½ crores is being levied by the Executive without the consent of this Council. I refer to the land revenue and excise revenue. So taking both the expenditure and revenue into consideration, I think it is fair to say that the criticism which one has to make is indeed very limited, because the Council can only deal with 64 per cent of the expenditure and 40 per cent of the revenue. But taking the things as they are, Mr. President, I proceed to offer such remarks as I am capable of making.

Commencing with the revenue side of the budget, I wish to deal with it, in the first place, from the standpoint of the Honourable the Finance Member, and secondly, from the standpoint of the taxpayers. The Honourable the Finance Member will agree with me when I say that the first and most essential requirement of a good revenue system is that it should be reliable. It does not matter whether that revenue system brings in large revenue or small revenue. But whatever it brings, it ought to be certain in its yield. Judging the revenue side from this standpoint, I find that the land revenue, which is the largest item in the budget, is capable of a variation of something like 50 lakhs. If you take "Excise", the second largest source of revenue, you find that since the inception of the Reforms, it has shown a variation of 73 lakhs. I, therefore, invite the attention of my friend, the Honourable the Finance Member, to consider the consequences

*B.L.C. Debates, Vol. XIX, pp. 164-68, dated 24th February 1927.

†Dr. Ambedkar was sworn in as a nominated Member of the Bombay Legislative Council on Friday the 18th February 1927.

that would follow if these two items in the revenue system varied in the same direction. If they did, then I think they will land him into a ditch of more than one crore. I do not know whether such a system of revenue is a system on which the Honourable the Finance Member should rely. But it is for him to see that and not for me, because he is in charge of the finances of this country.

Now, Mr. President, taking the same items of revenue into consideration and judging them from the standpoint of the taxpayers, I think the revenue system of this presidency is inequitable and undefensible. Take first of all the land revenue. Whatever may be the quibbles, whether it is tax or whether it is rent, I may say that there is no doubt that this land revenue is a tax on the profits of the businessman. If these two levies are the same, I want to know from the Honourable the Finance Member as to why there should be difference in the methods of levying the two. Every farmer, whatever may be his income, is brought under the levy of the land tax. But under the income-tax no person is called upon to pay the tax, if he has not earned any income during the year. That system does not exist as far as land revenue is concerned. Whether there is a failure of crop or abundance of crop, the poor agriculturist is called upon to pay the revenue. The income-tax is levied on the recognised principle of ability to pay. But under the land revenue system, a person is taxed at the same rate, whether he is a owner of one acre of land, or a jahagirdar or an inamdar. He has to pay the tax at the same rate. It is a proportionate tax and not a progressive tax as it ought to be. Again under the income-tax holders of income below a certain minimum are exempted from levy. But under the land revenue the tax is remorselessly collected from every one, be he rich or poor.

Take again the "Excise". This is an item from which a large revenue is derived. There can be no two opinions that this is public legal monopoly. This was not meant for the purpose of enabling the Government to raise revenue, but the monopoly was enacted because the Government would be in a better position to put a stop to demoralisation of the people by spread of the habit of drink. If collection of revenue is the only aim there is no necessity for a Government monopoly. How has this monopoly been managed by Government ? If you take the figures as to how much the people of each Presidency spend in drinking, you will find that the Bombay Presidency stands first so far as the drinking habit is concerned. I find in Madras every individual spends Re. 1-3-7 (Re. 1.22), in Bengal Re. 0-7-1 (Re. 0.45), in United Provinces Re. 0-4-7 (Re. 0.28), in Punjab Re. 1-7-8 (Re. 1.48), in Burmah Re. 1-4-0 (Re. 1.25), Bihar and Orissa Re. 0-8-7 (Re. 0.58), in Central Provinces and Berar Re. 0-15-0 (Re. 0.94), in Assam Re. 0-13-3 (Re. 0.83), but in Bombay we have the appalling figure of each individual spending Rs. 2-2-9 (Rs. 2.18). I ask my honourable friend the Finance Member whether this is a defensible system. Mr. President, Government has accepted the policy of prohibition and has adopted certain measures for carrying out that policy to fruition. But they have not done so. The first

of such measures is rationing. Now, Sir, the quantity of country liquor rationed out by Government beyond which it was not to sell was fixed at 1,883,804 gallons. But the limit fixed was only an idle pretence at checking consumption. For the actual quantity consumed was only 1,405, 437 gallons, i.e., the actual quantity rationed was in excess of the actual quantity consumed by 478,367 gallons. I understand that a second measure adopted for carrying the policy of prohibition to fruition was the appointment of an advisory committee. But I have found that 40 per cent of the composition of this advisory committee is composed of anti-prohibitionists. I do not think, Mr. President, that the Government benches are treating this Council with respect which it is their due. Mr. President, while I am speaking about the financial system of this country, I think, it is fair to suggest to my honourable friend the Finance Member that the prosperity of the people is the greatest patrimony of the State. He should not demoralise them or he should not beggar them. A state that beggars its people ends in beggaring itself.

Mr. President, I now want to touch—I know my time is very brief and I hope you will be pleased to allow me a little more time if you can.

The Honourable the President: No, no.

Dr. B. R. Ambedkar: Coming to the other sources of revenue, I do not think that the Honourable the Finance Member is doing his best in husbanding the resources of this presidency to the best advantage. For instance, taking the forests as a source of revenue, in 1921-22 the forest revenue was Rs. 74.9 lakhs; in 1927-28 the forest revenue was only Rs. 74 lakhs. There is, you will see, therefore, a stagnation of the revenue. But if you take the expenditure that has been incurred on the forests, you will see that the expenditure has increased from Rs. 40 lakhs to Rs 48 lakhs ; so that, ultimately, when we come to speak about the net gain from forests, you find a loss of something like Rs. 4 lakhs.

Mr. President, I next want to speak of irrigation and civil works. I think I will be wasting my time in giving details. But I do want to say one thing, Mr. President, that when Government undertakes a certain industry or work, it does it primarily for revenue ; or it does it primarily for service though incidentally for revenue; or it may be that it does it primarily for service. I do not think that the Government has any defined or definite policy with regard to the services it has undertaken. For instance, I personally feel—there might be difference of opinion between me and the other honourable members of this House—but I do feel that the Irrigation Department is not giving us the full return that we are entitled to get from them. I think if my honourable friend refers to the Taxation Inquiry Committee's report, he will find that the water rate is very low. I think we on this side of the House are entitled to expect from him better husbanding of the resources of this presidency.

Mr. President, I now turn to the expenditure side of this budget. I know most members of this House are alarmed at the deficit. I may say I am not.

Deficit is not something which ought to alarm honourable members. What has disquieted me is this, that the deficit in the budget is not due to any inclusion in it of a large policy of social advancement. The deficit is due entirely to the increase in cost on the non-productive charges of the administration. Mr. President, the honourable member the Secretary of the Finance Department was yesterday very wise, I should say, in telling the House to be reasonable. He said that if the honourable members of this House desires that they should be taken seriously by the Government benches, they should be reasonable. Mr. President, I admit the force of that argument But I want to send the argument back to him and ask him whether the increase in expenditure that has taken place in this presidency is reasonable and can be justified on the ground of increase of the administrative quality.

Mr. President, when you compare the cost of administration in this presidency from the year 1910 to the year 1927-28—and I am taking only figures of such departments for the purpose of comparison as were wholly provincial then and as are wholly provincial now—I find under General Administration the charges in 1910-11 were only Rs. 17 lakhs. Today they are Rs. 126 lakhs. I ask my honourable friend the Finance Secretary whether that is reasonable . . . . . .

Mr. G. Willes: If the honourable member will permit me, I would point out to him that I explained to the honourable member Rao Saheb Dadubhai Desai yesterday that the figures given in the statements in the budget should be used with great care. The classification of General Administration before the reforms is not the classification which is taken now. There was an item of expenditure on account of alienated lands which was then shown under another head and which is now included under the head of General Administration.

Dr. B. R. Ambedkar: Be that as it may, we are bound to take the statements as are given there, of course, subject to the correction as my honourable friend has said. But I do think that the cost of General Administration in this presidency has been very very heavy. In fact, it had no justification even from past history of this presidency. We have to-day, for instance, four Executive Councillors and three Ministers, and we have under them Secretaries and Deputy Secretaries numbering about 25 or so. I do not think that my honourable friend the Finance Secretary will say that that is something reasonable. The Honourable the Finance Member has tried to explain away this extravagant cost of administration in this presidency. I hope, Mr. President, you will give me some little time . . . . . .

The Honourable the President: No. I am so hard pressed for time, the honourable member will understand. He has got only two minutes more.

Dr. B. R. Ambedkar: Mr. President of course, I will drop what I had to say, and I will now come to my conclusion. In this part of my speech, Mr. President, I want to make my position quite clear. We have been hearing from honourable members that there should be severe retrenchment. I have joined and I do join in that chorus with all earnestness, for

I believe there is room for retrenchment But, Sir, I cannot disguise from myself the fact that this retrenchment will not take us very far. Taking retrenchment as its highest, I think it would quite probably give us a relief of a crore or two crores of rupees. But how far will it go ? I know by that means we could perhaps balance the budget But is that the only ambition of this House that the budget should be balanced ? I hope, and I hope I am right in saying, that this Council is really earnest in its desire for compulsory education, for medical relief, for freedom of the people from the habit of drink, and for providing all the amenities of life. Then, I want to remind this House that the good things of this earth do not fall from heaven. Every progress has its bill of costs and only those who pay for it will have that progress.

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2

*ON BUDGET : 2

Dr. B. R. Ambedkar: Sir, the budget is no doubt an unsatisfactory budget in so far as it is really a deficit budget. But if it was only unsatisfactory on account of the fact that it discloses a deficit, I do not think it would have been necessary for me to take any serious notice of it. The budget however is not merely unsatisfactory but it is, I think Sir, a deplorable budget and the state of affairs is indeed a very serious state of affairs.

You know, Sir, that we are practically coming to a close of the first decade of the Montagu-Chelmsford Reforms. That being so, it is certainly worth our while to take stock of the situation as from the year 1921 up to now. Now, Sir, these Reforms were introduced in order that the transferred subjects may receive greater consideration at the hands of the Government than the subjects which are called "Reserve". But, Sir, if you analyse the expenditure of this presidency from the year 1921 up to now, what do we find ? We find that the hopes that were entertained, that under the new regime objects of expenditure which help progress will receive preference over subjects which merely help the maintenance of law and order, have failed to come true.

I shall now show how it is so. I have collected some figures of expenditure incurred in various provinces on the "transferred" and "reserved" departments and with your permission, Sir, I beg to present those figures to this House, so that the House may know how deplorable the situation is. The figures I am giving show the percentage increase or decrease of expenditure in 1925-26 as compared with the year 1921-22 over the transferred and reserved departments in the various provinces. These figures are as under : —

		Reserved Department		Transferred Department	
		Increase, per cent.	Decrease, per cent.	Increase, per cent.	Decrease, per cent.
Madras	. . .	1.21	. . .	14.26	. . .
Bombay	. . .	6.33	. . .	5.82	. . .
Bengal†	. . .	. . .	. . .	6.11	. . .

†Decrease of expenditure on Reserved Department.

*B.L.C. Debates, Vol. XXII, pp. 167-70, dated 21st February 1928.

		Reserved Department		Transferred Department	
		Increase, per cent.	Decrease, per cent.	Increase, per cent.	Decrease, per cent.
United Provinces*	. . .	. . .	. . .	12.57	. . .
Punjab	. . .	10.40	. . .	29.41	. . .
Burmah	. . .	34.36	. . .	6.44	. . .
Bihar and Orissa	. . .	5.89	. . .	44.66	. . .
Central Provinces	. . .	6.24	. . .	18.15	. . .
Assam	. . .	8.24	. . .	12.75	. . .

*Decrease of expenditure on Reserved Department

Sir, if we look at these figures what do we find ? I am sorry to find, and I am sure every one in this House will be sorry to find, that such an important province as Bombay should occupy the very lowest place in the order of its relative expenditure on the reserved and transferred departments. Even the province of Burmah, which appears to have been so badly managed, stands higher than Bombay in this respect. I, therefore, submit, Sir, that that is a grave scandal. Surely this is not the way in which the finances of an important presidency like the Bombay Presidency should be managed. I wish the Honourable the Finance Member had paid more attention to the "transferred" departments than he seems to have actually paid to them. From the figures it is evident that the reserved departments are systematically over-fed and the transferred departments are systematically starved. Sir, what good is an Indian Finance member if he is not to respond to the wishes of his countrymen. There is a general clamour for progress on all hands. The Honourable, the Finance Member knows how very insistent the clamour is. But unfortunately he has so far done nothing to lead us to hope for anything at his hands in the future.

Then, Sir, not only are the finances badly managed, but I submit, that the financial position of this presidency is indeed very serious. Sir, if you examine the financial position year by year from 1921-22 to the present day, you will find that every year there is a reduction of the surplus; so much so that instead of having surplus budgets we have exhausted our surpluses and we have now reached a period where the budget discloses a series of deficits. In 1922-23 there was a surplus of Rs. 64 lakhs. In 1923-24 the surplus came down to Rs. 29,38 lakhs. In the year 1925-26 the year was closed with a deficit of Rs. 91 lakhs; and we know what has been the state of affairs since then. You see, Sir, from these figures that the financial position of this presidency is deteriorating year by year, and I submit, Sir, that having regard to the commitments made by Government, the position in time to come is indeed going to be very serious. Sir, you know the loan arrangements will have soon to be paid off. Some arrangement shall have to be made for the repayment of that loan, that is bound to cast a heavy burden on the already exhausted finances of the presidency. Sir, this Council and the Government have been committed to universal compulsory

primary education. This Council and Government are also committed to the carrying out of the policy of prohibition. These three items, I do not think any honourable member of Government is going to deny, are going to make a very heavy call upon the finances of this presidency. And when our finances are deteriorating year by year even without these three items, I cannot quite imagine what will be the state of affairs when we begin to give these items a practical shape. Finding myself in this situation what surprises me most is that all this does not seem to trouble the Honourable the Finance Member at all. He does not disclose that he is aware of all these commitments. In the financial statement he has submitted he does not show that he is conscious of these obligations. He is merely, if I may say so, carrying through a hand-to-mouth policy, a policy for the day without any thought for the morrow. There is no outline of a general policy which will improve the future exigencies of the situation. After me the deluge seems to be his watchward. He is merely trying to meet the deficit of the budget He is calculating upon what he might be able to gain out of the reduction in the famine insurance grant, and in the Meston contribution. But I ask him in all seriousness whether these small, paltry gains, as I call them, are going to really take us a long way in the financial stabilization of the presidency ? I think, Sir, it would be a mistake to suppose that they can. Either the Honourable the Finance Member must assure us that there are sufficient possibilities of economy in the administration of this presidency which will carry us through, or he should tell us definitely that we shall not get what we want unless we have recourse to taxation. I respectfully refer to the speech made yesterday by His Excellency the Governor. In that speech His Excellency pointed out that the Legislative Council was entirely responsible for taxation, that it was within its powers to impose such taxation as was necessary I admit that the Legislative Council has the power of taxation. But I also submit that the initiation in the matter must come from Government It is the Government that must suggest what taxation it wants. Has the Government done so ? The Government on the contrary is absolutely sitting silent It does not propose to tell us what it is going to do. It cannot be said that Government has not got the data to work out a plan. We all know that the Taxation Enquiry Committee has submitted a most exhaustive report, with endless recommendations which ought to suffice for the initiation of a new and adequate financial policy. These, I am sure, are lying on the table of the Honourable the Finance Member, but nothing seems to have been done in the matter at all. I say, Sir, that the situation is indeed very serious and it is high time the Honourable the Finance Member make up his mind to deal with it in a statesmanlike manner.

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3

*ON BUDGET : 3

†*Dr. B. R. Ambedkar* (*Bombay City*)*:* Mr. Speaker, Sir, this is the second financial statement which has been presented by my honourable friend the Finance Minister. It would therefore be natural to expect this Budget to be subjected to greater scrutiny and closer examination. Before stating what I think of this Budget, I cannot forget the fact that this budget has been commended by all those members of this House who have so far taken part in the discussion. The Honourable the Finance Minister must have felt a certain amount of satisfaction that his work has secured praise from all those who have spoken. But I must confess that I am very much surprised that this budget should have been really commended in the way in which it has been commended by speakers who have preceded me. I have devoted a certain amount of time for the consideration of the financial statement which he has presented, and I have no hesitation in saying that this is not only the most paltriest budget that I have ever seen, but it is a hollow and insubstantial Budget. It discloses no vision of the future and no recognition of the problems with which this presidency is faced. This may appear somewhat extravagant, but I am presently going to substantiate what I am saying. There is, Sir, one item for which, perhaps, I may praise the Government, but that praise, unfortunately for my honourable friend, cannot go to him. It must go to the Honourable the Home Minister. I refer to item No. 45 in the new scheme. This item No. 45 is an item which provides an additional expenditure of Rs. 36,217 for the augmentation of the police force. Sir, the relationship that existed between the members who are sitting on the other side and the police force before they took office and became part of the Government is a well known thing. I myself well remember having witnessed the scene of a number of people clad in white pursuing the police from place to place shouting "*Pili topi, hai, hai*". That there should have been established this *camaraderi* between the police, who were at one time regarded as the instruments of tyranny and oppression upon the people, and the Congress

*B.L.A. Debates, Vol. 3, pp. 168-79, dated 2nd March 1938.

†Dr. Ambedkar was elected to the Bombay Legislative Assembly in 1937 and was sworn in on Monday, the 19th July 1937. as M.L.A.

party is certainly a matter, if one may say so, for congratulating the Honourable the Home Minister for demanding the money and the Honourable the Finance Minister for finding it. He certainly in my judgment needs the police force. He certainly needs their loyalty, for we all know now what he is engaged in doing with the police force, and we recently had an illustration of what use the police force is being made of. I refer to the firing that took place at Dharavi. I am sure that the present Government, which has, so far as I can see, shown very little sympathy for the advancement of the cause of labour, may have to indulge in greater use of the police force against the labouring classes. That the Congress Ministry should have come out in its true colour is a matter of congratulation. But with that I must stop, because in the rest of the budget there is nothing for which Government can take any credit.

The first thing, Sir, to which I would like to draw the attention of this House is what I regard certain examples of financial impropriety. There are before me here—I have called out from the financial statement which the Honourable the Finance Minister has presented—some 5 items, namely, item No. 53 which provides 24 lakhs for education, item No. 46 which provides Rs. 25,000 for what is called voluntary police force, item No. 105 which provides 4 lakhs for village panchayats, item No. 100 which provides 1 lakh for labour amenities, and item No. 67 which provides Rs. 80,000 for what is called the training of Unani Hakims. Now, Sir, when one looks at the Blue Book which has been circulated, one notices an admission on the part of the Government that for none of these items which are included in the financial proposal is there any scheme in existence. All these heads on which this expenditure is intended to be incurred are still in incubation. They themselves do not know what are the purposes on which this money is to be spent. The second thing is that this House has not passed any of the legislative measures on which this expenditure is supposed to follow. Sir, this expenditure which practically asks for a blank cheque from this House with the fullest liberty for the members of the Government to spend it on anything they like so long as it falls under the main heads such as education, police etc. amounts altogether to 31 lakhs of rupees. Now, if one takes into consideration the fact that the total amount of the new items which have been added by the Honourable the Finance Minister to the existing budget comes to about 1.16 lakhs, one can very easily realise the amount of money which this Government proposes merely to lift from the hands of the House and spend in the way it wants to spend. Sir, I cannot help saying that this Government has been constantly encroaching upon the privileges of this House. My honourable friend the Home Minister is unfortunately not here and I regret it because I do want to refer to one or two things for which he principally is responsible. I have noticed ever since the Congress Government has taken office that the Honourable the Home Minister has insisted that this House has no right to pass upon any rules that the Government might make under any

particular law that this House may have passed. Sir, I say that this is an encroachment upon the authority of this House. I say that there are rules and rules. There are rules which merely carry out what is called the administrative policy. There are rules which are nothing else but a part of the law, and I claim and I insist that wherever a rule is a part of the law, then this House has not only the right to pass upon the original legislation but it has the right to pass upon the rule as well, and I do not understand how any executive Government can appropriate this field to itself. But the Congress Government has. Time in and time out it encroached upon this privilege of the House. This lifting of money, this asking for a blank cheque is, I regard, another in-road and an encroachment upon the privileges of this House. Sir, I do not know what the situation now is but I was quite familiar with what is known as the Devolution Rules which were prepared under the old Government of India Act and I think my honourable friend the Finance Minister will bear me out that one section of the Devolution Rules included what is called the constitution of the Finance Department. It was one of the cardinal principles then recognised under the old Government of India Act that the Finance Department ought not to be a transferred department. The reason given was a very substantial reason for not treating the Finance Department as a transferred department. The Finance Department was intended to be the watchdog. The Finance Department was intended to scrutinise all expenditure that was put forth by any particular Minister in charge of any particular portfolio. It was intended that one of the principal functions of the Finance Department was not only *to* see whether the sum asked for any particular purpose was necessary and could be granted, having regard to the financial position of the province, but whether the grant asked was properly itemised.

I am sure that, although the old Government of India Act of 1919 has ceased and the Devolution Rules framed under that Act are probably no longer law, the principles enunciated in those Devolution Rules must be permanent, must be abiding for all time. Ever since finance came to be recognised as an important part of the machinery of control which the Legislature has forged over the Executive, it has always been accepted that no Minister shall place before the Legislature a demand for any lump sum without specifying the particular services, the particular items which are supposed to be included in that demand. The reason is two-fold. The House must know what are the details on which funds are being spent. Secondly, it is necessary for the Audit and Accounts Department to know how the money granted by the House has been spent. And I say, Sir, that it is something which is quite inexcusable, that this Government should have had the courage—I say, the audacity to come forward before this Legislature and merely say that they want Rs. 31 lakhs for spending on certain items, about the propriety of which the House has never decided and as to the details of which the Government itself has not made up its mind. I say it is audacity.

Now, coming to the budget itself, I do not propose to go into the details of the different items of which this budget is composed. That would take me too long; nor do I think the general discussion is the occasion on which one should go into the details of the expenditure. I propose to confine myself to the general aspects of the budget, the broad problems with which we are faced and the ways and means adopted by the Finance Minister to deal with those problems. The first thing to note is that the new items which have been added in this budget to the frame-work of the administration as it exists now, come up to a total sum of Rs. 1,16,67,000. The question is, does this show a real expansion of our activities ? Now, Sir, I think we must make one deduction from this figure, and that is the deduction of Rs. 48,11,000. That part of the expenditure, as admitted by the Finance Minister, is non-recurring, that is to say, it is intended to cover temporary items which are the needs of the day. They are not intended to provide permanently for such deficiencies of the social services which it is the duty of the Government to make good. Therefore, deducting Rs. 48 lakhs out of a total of Rs. 1,16,00,000 you get a balance of Rs. 68,56,000 and therefore, I say that correctly estimated what the Government has come forward with' as a permanent addition of expenditure for meeting the social services of this Province is not what is alleged to be this big sum of Rs. 1,16,00,000 but the sum of Rs, 68,56,000. From that you have also to make a further deduction in my judgment, and that further deduction is Rs. 31,45,000 due to prohibition. That is merely a negative thing. It adds nothing positively to meeting the needs of the Province. It is merely the foregoing of an amount of revenue which was due to Government. Therefore, ultimately what one finds as the real budget providing for permanent expenditure is nothing more than Rs. 37,11,000. How this amount of Rs. 37,11,000 is distributed by the Government, many members of this House know. One conspicuous item is education, which takes up 29 lakhs ; that is recurring. Minor irrigation is Rs. 3,50,000, which is also recurring. The rest is non-recurring; and the other items of expenditure are village panchayats, village open sites, water supply, medical relief, quinine, teaching of Ayurvedic medicine, and all that; they are all non-recurring; that is to say, they are merely intended as stopgaps for the year. Now, Sir, taking the budget in the way in which I submit, it ought to be taken, the question really that has to be asked is this ; is this Government to be congratulated when, as a matter of fact, it comes before this House and demands nothing more than this paltry sum of Rs. 37,11,000 ? Sir, I have no hesitation in asking, having regard to the needs of this Province, having regard to the illiteracy, having regard to the poor health, having regard to malaria, having regard to gonorrhoea and syphilis and the other diseases that are prevalent in this Province, whether it connotes a sense of responsibility, whether it connotes a sense of adequacy on the part of this Government to come forward with nothing more than a paltry budget of Rs. 37,11,000. I see my honourable friend the Minister is laughing. Of course he must laugh. What else can he

do ? He can do nothing else (Laughter.) (An Honourable Member : Should he cry ?) I wish he did cry, and I would very much like to see him cry, because that would really show a certain amount of feeling and a certain amount of sympathy. A laugh carries us nowhere and is certainly not an argument.

Now, Sir, let me take another aspect of the question; it is this. Is there any chance of this expenditure provided for by the Government in this budget becoming permanent ? Is there any chance of the Rs. 29 lakhs which the Government proposes to spend on education being available for the next year or the year after that ? Is there any chance that the provision made by the Government for minor irrigation works and for many other things—is there any hope for us to feel that money for spending on all these items will be available to us next year or the year after ? Can we depend upon it that these will be permanent items ? Sir, I cannot give a positive answer. But it will be clear to all of us if we really ask one question, and it is this ; how is this expenditure financed by the Government ? What are the means adopted by it for the purpose ?

I find that the Finance Minister, in making up his budget, has, in the first instance, depended upon a surplus of Rs. 10,50,000 from the current year's budget. Then he has drawn upon this year's balances to the extent of 63 lakhs; and thirdly, he hopes to have, by what he calls the additional yield from certain taxes which are levied now, a sum of Rs. 8 lakhs. These are the sources on which my honourable friend is depending for financing the new items which he has provided in the budget. But, Sir, the question that I ask is this : are these sources, these ways and means which have been devised by my honourable friend the Finance Minister permanent and lasting ? Can they be depended upon to return from year to year ? Let us analyse the figures. First of all, the increase in the current year's revenue which has given him Rs. 10,50,000 is principally due to the fact that by good luck he has been able to get additional income from two sources, namely, excise and stamps. According to his own figures, these two sources of revenue have given him Rs. 21,52,000. Then, the Government of India gave him as part of income-tax return a revenue of 27 lakhs. Now, on his own principle, prohibition, or rather the excise revenue, is tainted money. His whole show, if one may say so, is a tainted show, based on tainted money. Let us not talk about the past; we are faced with the present; and there is no question about it that this excise money will not come to him again. Not only is he not collecting more but he is giving up what he has. Stamps, I do not think, will yield him much. He does not expect much from that, and, therefore, so far as recurring years are concerned, these two items which swelled his balance must now be dismissed from our consideration. Income-tax may or may not come. That again is a contingent item. Therefore, all that one can see now, so far as the future is concerned, is this. For the new items of expenditure which he has shown in the Budget, the basis in the form of real assets is nothing else but the paltry sum of

8 lakhs of rupees which he proposes to derive from remodelling the system of tabacco taxation which prevails in this Province. For this additional expenditure of 37 lakhs of rupees, all the revenue we have is 8 lakhs of rupees on which we can depend. Therefore, I feel I am justified in saying even this petty show which has been presented to us in the form of a budget of 37 lakhs may not come again next year.

Now, Sir, let us look at this Budget from another point of view. I ask this question : What are the liabilities, responsibilities, which the Congress Government propose to take upon its shoulders ? Let us realise what our total liabilities are. Sir, it is a small matter whether these liabilities are such that we can meet them tomorrow, day after, or whether it will take a long time for us to meet these liabilities. That is altogether a different question. It is quite important; I say quite essential and in fact fundamental, that all of us—those who are sitting on this side and those who are sitting on the other—should know once for all what we propose to undertake with respect to the welfare of the people of this Province, so far as the welfare of the people of this Province is concerned. Therefore, it is very necessary that we should take stock of what the ultimate position is going to be apart from the question how we meet and how soon we shall meet it. Now, Sir, it is quite clear that, traditionally taking things as they stand in this Province up to this day, Governments have undertaken, although they have never fulfilled, their responsibilities and duties which certainly cover such fields as education, public health, medical relief, and one may say, to a certain extent water supply. These are admittedly the functions of Government. Now, I am glad to say that the Congress Ministry, when it came in office on the 17th August 1937, issued a statement which is called a statement on the " Labour Policy of the Government." I would like to remind my honourable friend of that statement, because he has altogether taken no note of what Government have stated in the Press Communique. Referring to that statement, I find that Government have unequivocally accepted the fact that these are not the only duties which this Government would look upon as their obligations. The Congress Government have accepted that over and above these, what are called the essential services— education, public health, medical relief, and water supply—there are, by common standards now prevailing in all modern countries, other duties which Government must undertake. These duties, I find, are unemployment benefit, sickness insurance, old-age pensions, maternity benefits and premature death benefits to dependents. Therefore, we have got to start with this position that my Government who claims to have the reins of office in its hands must look upon these duties as part of their functions. And the question, therefore, is what are going to be the total liabilities of Government, if Government were to decide upon discharging these obligations ? As I said, it matters nothing, it does not solve the problem, whether we are in a position to do this today or not. It is quite essential, quite necessary, that we ought to know what our duties are and what is the

liability in which we will be involved ultimately. Now, Sir, taking all these things into consideration, I would like, I would welcome, even at the closing of the debate, some kind of estimate from my honourable friend from his expert hand, to tell us what exactly would be the liability thrown on the revenues of this Province, if we are to undertake the discharge of those liabilities in their fullness. I have made some little calculation so far as I am able to do. My calculations cannot be exact. I have no information, I have no data, I have no expert assistance, but I have ventured to make some kind of estimate to find out exactly what would be the total financial liabilities of Government. Modestly speaking, the total liabilities of this Province will come to 24 crores of rupees. This is what a Government of this Province will have to bear in mind. I have no objection which Government comes in. Even this Government may perpetually carry on the administration of this Province. I have no quarrel so long as that Government is conscious of what their obligations are. The question, therefore, we have to bear in mind is, how are you going to raise this sum of 24 crores ? It may be a little more or a little less ; somewhere about that figure will be the liability of the Government in this Province to undertake. Sir, I ask : Is it within the competence of this Government, any Government for that matter, to raise this sum ? Let us now turn to certain figures of revenue in other parts of the world and let us compare the position in other parts of the world with the position that we find in our own province. I have worked out some figures of per capita revenue in some countries. They are—

	£	s.	d.	
Canada	9	8	0	
South Australia	19	0	0	
New South Wales	13	0	0	
New Zealand	22	0	0	
Union of South Africa . . .	4	0	0	(This does not include the revenue collected by the Provincial Governments.)
Australia	12	0	0	
Irish Free State	10	0	0	
Bombay	0	0	7	

Sir, this, I say, is a most staggering picture. It is a picture, it is a contrast, which is bound to make any Finance Minister who wants to take the responsibility of bringing welfare to the mass of the people of this province, shake in his shoes.

Now, the other thing which we have to notice with regard to the financial position in this province is that our revenues have been absolutely stagnant. I am quoting the Finance Minister himself. In the last year's budget speech, he gave us a very useful set of figures comparing the increase of revenue

in the different provinces of India between 1922 and 1935. The increases were : —

				Per cent.
Madras	. . .	. . .	. . .	26.7
The Punjab	. . .	. . .	. . .	28.6
The United Provinces		. . .	. . .	16.7
Assam	. . .	. . .	. . .	14.7
Bengal	. . .	. . .	. . .	11.9
Bombay	. . .	. . .	. . .	3

Even this 3 per cent has to be taken with a further deduction. This increase is found to be on the basis that you take into consideration all the additional taxation that was imposed from the year 1922. If you deduct all the additional taxes that were levied from 1922 to 1935, the revenues of the presidency of Bombay have decreased by 5½ per cent. We, therefore, find ourselves in this position, that our revenues are not increasing at all ; they are practically in a stagnant position. Now, add to that two new factors. The first is that this position is now going to be worse off by the prohibition policy which has been adopted by this Government. Secondly, we have to bear in mind that this Government has announced its policy of reducing the land revenue. Now, it is a fact that these two items of revenue together make up something like 7 crores of rupees. These 7 crores of rupees, having regard to the policy laid down by the Government, must now be regarded as the vanishing assets of the province. Therefore, the net revenue which you can calculate as a permanent basis for building up anything that could be permanent is only 5 crores of rupees. As against this, you have to set up, as I said, an ultimate liability of 24 crores of rupees.

Now, Sir, the question is : What are the ways of improving the financial resources of this province ? I am very sorry to say, but I must really say it, that looking at the financial statement and the budget speech which my honourable friend made, that this budget is a most retrograde budget. It is a budget which shows that the Government has gone back on its plighted word. Sir, the last budget speech which the Honourable, the Finance Minister made, I do say—and I think praise must be given where it is due—did contain an element of boldness, an element of radicalism, which gladdened the hearts of those of us who were sitting on this side of the House. I have compared the speech which he delivered on the last occasion, with the speech which he delivered the other day, and I noticed a very painful contrast between the two. Sir, last year ; my honourable friend—at any rate judging from the speech which he delivered—gave me the impression that he was conscious of one of the most difficult and one of the most important problems with which we are all faced, namely, the problem of finding money. He was not only aware of the fact that, that was our one supreme problem, but he gave us the promise that he would tackle it in such a way that not only would there be greater resources available for the benefit

of this province but that the burdens would be so equitably distributed that those who could not bear would be relieved and those who could would be taxed. I am going to read to him certain passages from the speech which he delivered last year. In paragraph 14, this is what my learned friend—

An Honourable Member: "Honourable friend".

Dr. B. R. Ambedkar: I am used to the High Court where we call our friends "learned". This is what my honourable friend said :

> "Lastly, we come to new taxation as a source of the much needed additional finance. In this connection, our first object is to make the necessary adjustments in the incidence of the existing taxes. Take the land tax first. Our ultimate object is to cease taxing the uneconomic holdings in which our land is at present divided. To begin with, however, we think it necessary to introduce a graded tax on the larger agricultural incomes. Through a process of the expropriation of the actual cultivator, a considerable portion of the lands has passed into the hands of non-cultivating, rent-receiving, absentee landlord. Are their incomes, large or small, to be treated in respect of immunity from or reduction of taxation in the same way as the actual cultivator of the soil ? Then there is a large class of income derived from alienated lands. These incomes are putting this province to an annual loss of nearly 70 lakhs of rupees. How are these incomes to be treated when we propose to tax the more well-to-do classes of our Khatedars ? The views of the honourable members on every side of this House on questions like these would be of immense use in the formulation of definite proposals by Government. Such resources as will become available by the adoption of policy of higher taxation on landed incomes which could bear the burdens should, we think, be largely utilised for making the burden of land tax easily bearable by the actual tillers of the soil and for making their lives better. Enquiries regarding the result of a graded tax on higher and equitably taxable agricultural incomes have already been set afoot. Similarly the other taxes from which we are at present deriving our revenues require to be carefully re-examined and readjusted both in reference to their incidence as well as in reference to their effects on public interests. We are proceeding with this work as expeditiously as possible and Government have every hope that our definite conclusions could be announced to this House by the time the next budget is ready for submission to it.
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> "I hope that nothing that I have said this evening will countenance the belief that Government are not ready to propose new taxes for financing schemes of social utility. Such an impression would, I may say, be far from the truth. Although taxation in this province is very high, it is clear to us that most of this taxation is being borne by the poorer people in the province. The land tax, the excise tax, the stamps and court fees, the taxes on public conveyances, the tax on country grown tobacco—all these are being mostly paid by the poorer classes. The income-tax is the only tax paid by the rich and that at present is beyond the reach of the Provincial Government. Between the poorer classes who pay most of the provincial

taxes and the richer classes who pay the income-tax to the Central Government, there is a considerable body of people who ought to bear a portion of the financial responsibilities of their province. The wealthier classes whose contribution to Provincial Revenues is inadequate must also come forward to take their proper share in them. Pledged in as we are by numerous restrictions, it is no easy task to devise taxes which will affect only the taxable untaxed. Though today I am not in a position to anticipate the decisions of the future, I may state that we are exploring the possibilities of many proposals with a view to submit to this House proposals which may provide the necessary funds for not only recouping ourselves from the loss which a policy of prohibition may involve but will also enable us to undertake some expansion, though not all the expansion, that we desire in the many fields of social service, social service in the widest sense of the term."

Then, Sir, he also made this observation :

"There is one other direction in which Government's activities must be extended for the purpose of augmenting its resources. There are many public utility services which are at present being utilised for the benefit of a few at the cost of the community as a whole. There is no reason why the State should not nationalise these activities and appropriate the profits for the good of the community as a whole. The supply of electricity, for instance, to the public is carried on at present by private agencies under the protection which Government alone can give on behalf of the public. There is no valid reason why the profits of this public utility activity should not return to the pockets of the public as a whole through its accredited agency, the Government. Nothing has been hitherto done in this direction. Many other potential sources of income which could fairly be taken up by Government remain unutilised or are allowed to be exploited for the benefit of a few. There is a large field which we must explore, to which State activities could be extended, and Government will look forward with confidence to activities of this nature as possible sources of public benefit."

Is there anything of this in the new Budget speech which my honourable friend has made ? He has eaten up his very words : there is not even a passing allusion to any of the statements which he made in the course of his last Budget speech. I ask him this question : Why has he eaten up his words ? Who has compelled him to do it ? (Honourable Members : "Vallabhbhai!" "Shegaon !"). There must be somebody behind I will not go into that. But I do want to say one thing, and I want to say it with all the sincerity that I possess. My honourable friend has been congratulated, I think, on the ground that there has been no new taxation. I for myself have the greatest condemnation for the Government for not coming forward with taxation. This Budget, therefore, I say, is a rich man's budget. It is not a poor man's budget. The poor man wants more and more. The rich man can afford to be independent of the Government. A rich man needs no

school : he can keep a schoolmaster and give his son education up to B.A. or M.A. without sending him to school or college. A rich man needs no dispensary : he can call in a doctor, pay him Rs. 30 and get himself, his wife and his children examined if suffering from any disease. It is the poor man who wants Government to come to his succour ; it is the poor man that needs more service. **No Government worthy of its name, no Government with any sincerity, can tell the poor classes that it cannot provide these amenities because it has not the courage to levy taxes.** The sooner such a Government abdicates the better for all.

The Honourable Mr. Morarji R. Desai: That is the rub.

Dr. B. R. Ambedkar: There is one other point to which I should like to refer. I do not know how many members of this House will agree with me in what I am saying, but I hold firmly to the view that the Governments in India, no matter what the province is, will never do any good if they confine their attention to what in European countries are merely called social services. I do maintain, and I state it emphatically, that one of the principal duties of this Government must be to tackle the problem of poverty. The Government must see that they do adopt ways and means whereby the national income of this province rises to some substantial level, whereby the majority of the people can live in amenities which rightly belong to all modern and civilised men. The system of social services which has so far prevailed in European countries, whereby the Government gives what are called doles or unemployment benefits, maternity benefits, and so on, presupposes one thing : it presupposes that a majority of the people are above want, are above the line of poverty, and that it is only those few who, either by the vagaries of the economic system or by any misfortune befalling them, fall below that line of poverty, that need, assistance from the Government. It is, therefore, perfectly possible, perfectly justifiable, for European governments not to bother with problems of general economic uplift of the people as a whole. But the problems with which we are faced in this country are of a totally different character. I have no hesitation in saying and I do not suppose there is anybody in this House who would quarrel with me if I state it, that we are all a nation of beggars and coolies. That is the description which one can give of all this mass of people. Therefore, no Government worthy of its name can sit silent and not take account of this grave problem.

Now, Sir, having regard to the Budget proposals which we have before us, is there anything to indicate that this Government is aware of this problem, that it does take cognisance of it, that, after all, the one supreme aim must be to see that the national income of this country rises, that the national dividend rises ? I do not see anything. There seems to be one idea which is prevalent all over and which I really want to examine at this stage. The view is held by all that a large part of the poverty of the agriculturists arises out of what is called the heavy burden of land revenue. Therefore the view is held—and I have no doubt that that is the view of the Finance

Minister—that all that needs to be done in order that the people's income may increase would be to reduce that burden of land revenue. Now, Sir, I take the liberty of saying that nothing can be more fallacious than this view. That does not mean that I am opposed to the reduction of the land revenue : I am for it ; I will insist upon it, because I say that this Government has really no right to take what are called the profits of agriculture, as distinguished from mere rent for the use of land. But let me examine for the moment the idea that seems to be prevailing and the idea on which this Government seems to be proceeding, namely, that all that need be done for the relief of the poverty of the general mass of people is to remit the land revenue, to reduce it. Sir, let us examine and see what relief can be afforded by this process. The total land revenue which we collect is about 3½ crores and the total population of this Province is something like 2 crores, very nearly. Now, assuming for the sake of argument, and I am assuming it against myself, that this Government was generous enough and could afford to remit the whole of the land revenue, namely 3½ crores, let us distribute this precious sum of 3½ crores over the two crores of the population. Now, on a rough calculation I find that the total addition to the income of one individual, under these circumstances, would be 1 Rupee and eight annas. That is the highest Converting it into a monthly allowance I find that the addition that would be made to the income of each man would be of 2½ annas. Now, I like to ask whether anyobdy would seriously contend that an addition of 2½ annas, which would be the result of the remission of the whole of the land revenue, would increase our economic welfare in such a way that the problem of poverty would be abolished from our midst. Sir, the problem needs different remedies—altogether different remedies. I do not want to go into that now ; I have probably wearied the House enough. But I do want to say that this is something which this Government does not seem to be aware of, and I do say that a Government which is not cognisant of this problem, a Government which has not the ways and the means of solving this problem, can bring no relief, can be a source of no happiness to the people of this Province ; and, therefore, I will say, in conclusion, that this is a budget which is a most disappointing budget, a budget which is designed to relieve the rich and to starve the millions. (Applause.)

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*ON BUDGET : 4

Dr. B. R. Ambedkar (Bombay City): Mr. Speaker, Sir, this is now the third Budget which the Honourable the Finance Minister has submitted to this House. I think it would not be an exaggeration to say that the first two Budgets which he submitted to this House were not of a very satisfactory character. And probably there were sufficient excuses for the unsatisfactory character of the first two Budgets. The first Budget that was submitted by him was, as a matter of fact, not his Budget; it was probably the Budget prepared by the interim Ministry and undoubtedly the Finance Minister could not be held responsible for whatever blemishes the first Budget contained. The second Budget had the excuse of having been made in a hurry, without Government's having had sufficient time to prepare their plans and to digest the whole thing. But I am sure none of these excuses or extenuations could apply to the present Budget which has been presented to us. It must be said that this is a Budget which has been prepared after mature consideration. It undoubtedly embodies in it the full plan which the Ministry has with regard to the taxation and with regard to the proposals of expenditure which, from their point of view, are matters of urgency. I think that this Budget, therefore, needs to be more specifically scrutinised.

Every one is aware that this Budget has been a Budget which has caused a great deal of agitation. Those who were expectant have been disappointed, and those who have been hit have called this Budget a revolutionary Budget. Speaking for myself, when I refer to the revenue side of the Budget as well as its expenditure side, my own view is that the proper description of this Budget would be that on the revenue side it is a reckless Budget and on the expenditure side it is a senseless Budget. This is, of course, no occasion to discuss the merits or demerits of the proposals which have been embodied in the Finance Bill which is a part of this Budget; the detailed criticism of those proposals must wait till the Finance Bill is presented to this House for consideration. However, it would not be unwise to say, in a general way, what I think of the proposals of taxation which have been embodied by the Minister in the Finance Bill.

There are six different proposals in the Finance Bill. First of all, the Bill

*B.L.A. Debates, Vol. 5, Part I, pp. 903-16, dated 21st February 1939.

proposes to continue for a year more, the additions made to the stamp duties and the court-fees sanctioned by the Bombay Finance Act II of 1932. Secondly, it increases the duty on the consumption of electricity. Thirdly, it increases the stamp duties in certain cities and urban areas on conveyances of immoveable property. Fourthly, it levies a tax on leases of immoveable property. Fifthly, it imposes a tax of 10 per cent, on the annual letting value of buildings in Bombay, Bombay Suburban District, and Ahmedabad City. And Sixthly, it imposes a sales tax not exceeding 6¼ per cent. on three items, namely, motor spirit or lubricants, manufactured cloth, and silk yarn. As I said, I do not propose to go into the details of these proposals of taxation. All that I am going to do now is to offer, in a summary way, certain criticisms which occur to me on general principles.

Now with regard to the continuation of stamp and court fees, I would like to remind the Honourable the Finance Minister that this was a tax which, if my memory serves me aright, has always been objected to by Congressmen in the old Legislative Council. Sir, I do not remember a single Budget Session, when Congressmen did not turn the Budget Session into a kind of hardy annual between the Finance Members on the one hand and the Congressmen on the other. A tax which was fought tooth and nail every year, and where Congressmen themselves were not prepared to give this tax a perpetual lease of life should have now been thought by Congress Ministers themselves as a tax which should be continued *ad infinitum,* year by year is, to say the least, a bit of the same policy which Congressmen have been following now that they have got office, namely, that the things which were then bad are now good, because they are run by Congressmen. Very many examples could be cited of that kind of turn of mind. We know Congressmen who use to fight tooth and nail because the Executive was not separated from the Judiciary. They thought that was a most oppressive system and we have now the same Congressmen supporting that that was the most ideal system. I will not say anything more than that, but I should certainly like to point out that this is certainly contrary to the declared faith of all Congressmen.

Coming to the duty on electricity, this is, to my mind, in principle, a bad tax. I am one of those who believe that the use of electricity ought to be encouraged more and more, because in the absence of electricity what people would do would be to burn kerosene oil which causes smoke which is injurious to health and that ought to be stopped in the best way possible. The only way to discourage the consumption of kerosene oil would be to make electricity as cheap as one can possibly make it. And therefore my submission is that, on general principles, this is a bad duty. My second comment on this part of the taxation proposal is that it is a tax which is badly distributed. One of the most extraordinary things that one notices about this electricity tax is that there is no increase in the tax on the energy used by cinemas and theatres. Sir, I should have thought that if there was any person or any individual tax, it was certainly the cinema and the

theatre. Because, if a tax was levied on the cinema or on the theatre it would certainly be passed on, if not borne by the consumer, upon the persons who go to the theatres and to the cinemas. That would be taxation on luxuries and I am sure, although, I cannot be absolutely accurate, that instead of spreading the tax as the Honourable the Finance Minister has done upon householders, if he had increased the rate upon cinema and on theatre he would have got all the revenue that he intended to get out of this duty. But as I said it is an extraordinary thing that the party which has got the broadest back to bear this is exempt, and what is done ? What is done is this : that those persons who were hitherto consuming less than 12 units are now taxed, and those who consume more than 12 units, their taxation is increased from 9 pies to 15 pies. Sir, I do not understand the equity of the distribution of this taxation measure. Why is it that people who were hitherto exempt because they consumed less than 12 units are now taxed ? Why is it that those who bore only 9 pies (5 Nps.) are now made to pay 15 pies (8 Nps.), while the theatres and the cinemas are exempted from the operation of this measure ?

With regard to the third item of taxation which is, Stamp Duty on Conveyances, the increase, to my mind, is quite unjustified. In Bombay City, the Honourable the Finance Minister proposes to increase the tax from 3½ per cent. to 4 per cent. which is an increase of 20 per cent. on the present basis. In Poona and Ahmedabad he proposes a tax from 2¼ per cent, to 3 per cent. which is also an increase of 20 per cent. In other towns, which are to be notified by the Government, the tax is to be raised from 1½ per cent. to 3 per cent. which is an increase of 50 per cent., and in the rest of the towns it is to be raised from 1½ per cent, to 2, which is 33½ per cent. Reading the Honorabue Minister's Statement of Objects and Reasons which is attached to the Finance Bill, I do not find any explanation as to the justification for the increase of this taxation. All that the Honourable Minister chooses to say is this : that it is considered desirable that the stamp duty for conveyances should be higher in urban areas than in rural areas. Why is it desirable, why the urban areas are more sinful that they should be made to pay more than what they have been paying so far, we have had no answer from the Honourable Minister at all. It is a simple arbitrary act saying that the tax shall be increased without any rhyme or reason.

Then we come to the fifth proposal, that is the property tax. This of course, is the crux of the whole taxing proposal. Now this proposal, to my mind, is objectionable from the various points of view. My honourable friend Mr. Jamnadas Mehta has already pointed out one of the objections to this measure, and that objection is this : that this Government is now encroaching upon a basis of taxation which has hitherto been left for the Municipal governments. The Bombay City Municipality derives a large part of its revenue from taxation on property. Not only the Bombay Municipality derives its revenue from property tax, but similarly all the City

Municipalities are allowed to levy a tax upon property. Sir, this competition by Government into a field of taxation which is reserved for municipal bodies, I am sure, will prove greatly detrimental to the growth of local self-government. I will not say anything more on that point. But I will refer to certain other aspects of the proposal and the first aspect is this. The tenants of the Bombay City have been carrying on an agitation that the rents in the City of Bombay are abnormal and that they should be reduced. Now, Sir, if the Government as it is going to do by this measure of taxation, is going to take away 10 per cent. of the value of the property, it should not in the same breath say to the landlord that he shall also reduce the rent of the tenants who have been agitating against the present high pitch of rent. Therefore, what the Government is doing is really nothing more than defrauding the tenants of the Bombay City and similarly of Ahmedabad and Poona by taking away from them what was legitimately their due ; and I think that is certainly one of the most serious objections that can be urged *to* this measure.

Secondly, this property which is to be the subject-matter of taxation under the Government proposal cannot be said to be property which is not subject to taxation now nor can it be said that this is a property which has been lightly taxed and, therefore, can still bear a higher taxation. Let me take the case of Bombay City itself.

The Honourable the Speaker: I am afraid there is a misunderstanding ; Poona is not included in this taxation proposal.

Dr. B. R. Ambedkar: I am sorry—only Bombay and Ahmedabad. Now, with regard to the position in Bombay, what one finds is this. The Bombay Municipality levies on the whole 18½ per cent. on the rateable value of the property for its own use. In addition to that, the owner of the House has to pay, what is called, ground rent if the property is a leasehold property. In addition to that, he has to pay income tax to the Government of India on the income which he derives from the total rental of his property. Taken all together. I think all this burden would certainly come to about 22 to 23 per cent. (An Honourable Member : 50 per cent.). Well my honourable friend says it would come to 50 per cent.; he will probably explain it later on. What I point out is this that it cannot be said that this property is a lightly taxed property ; it is a property which is already heavily taxed and, therefore, it will be very unjust to impose upon it a further burden of 10 per cent.

The next thing that I should like to point out to the Honourable the Finance Minister is this. He seems to treat this tax as though it was just a rate and not a tax. Well, I have a quarrel with him on that point What he is levying is not a rate but it is a tax. The difference between a rate and a tax is this. A rate is something for which you get specific service. We pay rates to the municipality because in return for what we pay to the municipality we get direct service—we get water, we get conservancy, we get lighting, we get various other services. It is really a charge for the

services rendered, but in the case of what the Honourable Minister is doing there are no services. Therefore, it is a tax. And, I say, although the Minister chooses to call it a tax on property, it is a tax on income, because I do like to tell him that nowhere things pay anything. In all ultimate analysis, it is the man who pays ; things do not pay. If men pay, they pay out of their income. Therefore, it is an income tax. Now, I would like to ask the Honourable Minister why the equitable principles which are always recognised to be the part of a general scheme of income tax are not made the part of this tax ? Two things might be mentioned. One thing that needs to be mentioned is this that every scheme of income tax has in it a basis of exemption. Below a certain minimum you do not tax. In the present day income tax, the minimum, I think, is about Rs. 2,000. If this is an income tax, and I insist and say that it is an income tax, and nothing else, why is it that there is no exemption ? It is no use lumping all landlords together. I live in Hindu Colony; there are many people who have drawn their gratuities from Government, there are many people who have received certain accumulations of provident fund. These people have built small houses. In a part of the nouse they live and in the remaining part of the house they have tenants. These people pay ground rent; they pay municipal taxes. Is there no consideration for them ? Then, there are several people who have invested lakhs and lakhs of rupees in buildings and who are doing nothing else but living on the income derived from these properties. I say there is a distinction and a distinction ought to be made between a landlord of one type and a landlord of another type. Why is that distinction not made here?

Take another consideration. A number of these properties—I do not know how many but a great number of them—are certainly properties which belong to charitable organisations. Take for instance the Bombay City. Here, we have the Social Service League, the Servants of India Society and there are many other organisations which can be mentioned which are catering out of the income that they get for rendering assistance to poor widows, to orphan children, to people who have had no education and giving them medical aid. I cannot understand why a Government like this which has repudiated its responsibility—I am going to tell that later on—with regard to all social services and has thrown the burden upon the public to provide for such services out of charity, should not show any exemption for charitable organisations. Even the Income-tax Act, section 4, says that income derived from charities shall not be subject to taxation. I do not understand why none of these considerations have prevailed with the Honourable Minister for Finance. I am sure he will have something to say when we consider the Bill itself.

Coming to the Sales Tax, personally I do not like it. I know there are people who believe that it is a good tax and that it may be levied. I have a different opinion about it. To my mind, it certainly smacks of what we in India used to have imposed upon the Indian mills, and what was called

the excise duty on cotton manufactures, from the year 1894. It cannot be anything else except that. If it is shifted by the manufacturer or by the salesman, it is certainly going to affect the consumer ; it is certainly going to affect his standard of living. If it is not shifted, if it is borne by the manufacturer himself, then it is going to affect the industry on which it is placed. In either case, it is not a very satisfactory piece of taxation.

Now, Sir, I am one of those who have always held the view that good things of life do not fall from heaven like Mannat ; they have never done so anywhere. In fact, if you want the good things of life, you have got to pay for them. Unless you pay for them, you cannot get them. I am therefore, one of those who cannot have any conscientious objection to taxation, because I am certainly one of those who believe in having the good things of life and also believe in having to pay for them. The question, therefore, that we have to consider is this : What is all this taxation for ? What is the purpose ? What good the Government proposes to do by levying this taxation ? It is necessary to remember that the total revenue which the Finance Minister is proposing to raise by his scheme of taxation is 169 lakhs of rupees. Now, Sir, turning to the budget, one must first ask, what are the new items of expenditure which this budget includes ? Now, I have excluded from the budget certain items of expenditure which merely refer to administrative departments and do not result in direct benefit to what may be called the social welfare of the people. I have picked up from the budget such items of new expenditure which in my judgment may be said to be items which affect the public welfare of the people. I find that for irrigation the budget provides 7½ lakhs. For education it provides 16½ lakhs. Out of the 16½ lakhs, 5 lakhs are provided for the expansion of primary education, 5 lakhs are provided for buildings and 1.81 lakhs are provided for the introduction of what are called basic crafts. Then under public health there is nothing to report except an item of 5 lakhs for village water supply ; for agriculture there is nothing ; for co-operation there are 7 lakhs ; for rural development which of course means nothing more than the employment of 7,000 itinerary men who would be wandering all over the presidency carrying on some kind of propaganda which the Honourable Ministers think is going to be helpful to the people.

Secondly, there is a provision for 2 lakhs for debt redemption. One thing I would like to point out is this : apart from the question whether the expenditure that is provided for in the budget is adequate having regard to the needs of the province, the one thing that this House should realise is this that new taxation is not at all necessary for the new expenditure. As the Honourable the Finance Minister himself has said in his budget speech, out of a total taxation of 169 lakhs, only 44 lakhs are supposed to be necessary for two schemes, namely, one for expansion of rural education and one for economic rural development. The rest, practically 125 lakhs, are not wanted for the new expenditure that the Ministry has in contemplation 125 lakhs is wanted by the Ministry for no other purpose than to wipe

out a deficit arising from what they call their Prohibition Policy and therefore, the question that arises for consideration is a simple question. The issue is absolutely narrowed down and that issue is this : is drink a problem and if drink is a problem, is it an urgent problem ? Unless this House is prepared to give an affirmative answer to both these questions, there will be no justification for voting taxation which has been proposed by the Finance Minister. Sir, let us make no mistake in analysing the position. There is no question that drinking is an evil and it does have very bad consequences, but to admit that drink is an evil is not to admit that drink is a problem ; much less is it an admission that it is an urgent problem.

Now, Sir, let us look at the position in a comparative way. What is the position in the Bombay Presidency? We need not bother ourselves with the rest of India at all for the moment because we are dealing with the budget of the Bombay Ministry. What is the position in the Bombay Presidency and what is the position in other countries so far as the drink question is concerned ? First of all, let me give some figures with regard to the total excise revenue that is derived in various countries because the revenue of a country from excise is some indication as to the magnitude of the problem which a country has to face. Now, I have taken these figures from the Blue Book issued by the League of Nations and the figures refer to 1931. Beginning with Great Britain the population is 44,937,444 and the excise revenue is 1,504,895,000. In Austria—which is now no more but still it was in 1937—the population is 6,760,233 and the total revenue derived from excise was 15.96 lacks and odd. In Canada the population is 1 crore while the excise revenue derived is 57.19 lakhs. The Irish Free State has a total population of 2,965,854 while the total revenue derived from excise is 665 lakhs. Then take Denmark. Its total population is 37 lakhs while the excise revenue derived is 5,34,80,000. France has a total population of 419 lakhs and odd while the total revenue derived from excise is 207,079,650. Take now the figures for Norway. Norway has a total population of 2,814,194 and its total revenue derived from excise is—it is a country where there is local option 1,66,72,600. Now, Sir, in the light of this compare the figures of our presidency. The Bombay Presidency has a population of 180 lakhs. The total revenue from excise is 325 lakhs. Can any one say that this consumption of liquor in the Bombay Presidency can be said to create a problem which the State must undertake immediately to meet ? A man who said "Yes" and gave an affirmative answer would certainly be a man who has lost all his bearings. (Laughter) Take another test. Take the consumption of liquor and I take these figures from the report submitted by the Government of Bombay itself. What is the total amount of liquor that the people consume ? Now, the Blue Book or the Administration Report issued by the Government of Bombay say that the average consumption for the whole presidency works out at the rate of 3 drams per head. I am told that it is less than an ounce, in fact ¼ of an ounce, and my honourable

friends opposite call this a problem. In rural area consumption is 1.8 of a dram, and taking towns together, it is 8.2 drams not even an ounce. Take again the revenue basis of the Bombay Presidency, and I am taking here now the largest item of consumption, namely, the country spirit, which of course figures the largest in our excise. What is the revenue that this Presidency derives from country spirit? The report says that the total amount derived from country spirit is Rs. 1,54,43,750. That is the total for the whole Presidency. Now let us distribute this between the urban area and the rural area. According to the Administration Report, there are 33 towns in the Bombay Presidency. These 33 towns together total up in point of population about 29,00,000 of people. How much revenue is derived from these 33 towns from country liquor ? The revenue that is derived is fully a crore of rupees from these 33 towns. That means that the balance of the population, which does not live in the towns but lives in the villages and that is according to my calculation 1,52,00,000—consumes not more than 54 lakhs worth of country spirit. Working that out per head, it means that every individual consumes no more liquor than worth 5 annas (31 Nps.) in a year. Let me analyse the total figures in the towns a little further. In the towns as I said, 29,00,000 of people consume liquor worth one crore of rupees. Is that correct ? We all know that women in this country do not drink, and even the most habitual drunkard would not tolerate his wife sipping even a dram. Also children do not drink. Therefore, making an allowance for women and children, I think we would be justified in deducting about 75 per cent. of the population of the towns as a non-drinking population. If you deduct that, then it comes to this, that about 10,00,000 of people are the people who are affected by what is called the drink evil. Sir, with these figures before me I claim to say that with these figures before him nobody who is a fair minded person would be able to say that drink is such a problem in this country that it ought to be tackled forthwith.

Now, Sir, I know there are people who have the United States of America as their model, and who think that because the United States has carried out the policy of prohibition by amending the constitution of the United States in 1919, this country ought to follow that lead. But, Sir, it is necessary for us, before we run amok, if I may say so, to consider what the position was in the United States. I have here some figures of the problem as it existed, the magnitude on which it existed in the United States before the constitution was amended in 1919. What was the total consumption of liquor in the United States ? According to the Book "Prohibition" by Feldman, the position was this. Between 1910 and 1914 the total per capita consumption of distilled spirits, wines and beer in gallons was 22.43 per. individual ; between 1905 and 1910 it was 21; between 1900 and 1904 it was 18.77. It will be seen that the consumption per capita was rapidly growing. Between 1900 and 1901 it was 18, between 1905 and 1909 it was 19.46 and between 1910 and 1914 it was 22.43. Surely,

our conditions cannot be said to be in any way comparable with the position in the United States.

Take again another indication. Can we say that there is in this country such a thing as alcoholism ? Can we say that there are people here who have died of sheer alcoholism, people who have died of liver trouble on account of the fact that they have been taking alcohol excessively ? I have gone through the figures published in Public Health Reports of this Province and I have also searched the figures published by the Commissioner of Health appointed by the Government of India, and I want to say that neither have thought it necessary even to notice such a thing. The reason why they do not notice deaths from alcoholism or from liver trouble is because such a thing does not exist in India at all. On the other hand, see what has happened in the United States. In the United States, in 1917, 5 people out of 1,000 died of sheer alcoholism ; in 1916, 5.8 ; in 1915, 5.2 ; in 1914, 4.9 ; in 1913, 5.10. Take again another indication namely, deaths due to what is called cirrhosis of the liver. In 1917, 11 persons out of 1,000 ; in 1916, 12; in 1915, 12.6; in 1914, 13 ; in 1913, 13.4. Such a phenomenon, I submit, does not exist in our part of the country at all. Therefore, my contention is that it is wrong on the part of the Ministry to say that this is a problem which we ought to deal with. My contention is that this really cannot be a problem in our part of the country, and for two very good reasons. One good reason is that all religions in India agree in imposing an injunction upon the people, that drink is a sin. Religion may have done many mischievous things, but certainly there can be no doubt that the one good thing that the Indian religions have done, both Hindu and Mahomedan and the Zoroastrian religion, is that they do impose such an injunction which has been so strictly obeyed by a large part of our people.

The second distinguishing feature which marks out our country from other countries, and which cannot create a problem so far as drink is concerned is just this, that the drink traffic is in the hands of the Government. It is not in the hands of private profiteers as it is in the case of America or as it is in the case of other European countries. The Government is a responsible body, is subject to public opinion, is subject to the opinion of this House, and therefore can never do the mischief which a private profiteer can do. As I said, looking at it from every point of view, I refuse to admit that it is a problem which needs to be tackled.

Then, Sir, the next question that I want to ask is this. Is this such an urgent problem that we must keep aside everything and deal with it first ? In order to answer that question, it is necessary to bear in mind what the different needs are of the people of this Province. Are the other needs fully satisfied ? Are they tolerably satisfied, so that because they are tolerably satisfied we ought to keep them aside for the moment and tackle this one and only question ? Let me take a few illustrations. First of all take the question of education. With regard to adult education, the position in this Province is this. So far as males are concerned, only 14.3 per cent. of

the male population is literate. So far as the female population is concerned, only 2.4 per cent. of the female population is literate. That means that practically 86 per cent. of the male population and 98 per cent. of the female population needs still to be taught the rudiments of education, so that they may carry on the activities of their life without falling a prey to the machinations of other classes. We have had a committee appointed by the Government to report upon this matter. That committee has made its report. But I do not find any provision made in the present budget to carry out the proposals made by that committee. Take children's education. What is the position in this Province ? In this Province, one thing which is absolutely undeniable is this, that this Government have repudiated their responsibility in regard to college education. I think there can be no doubt on the point. This Government do not regard giving higher education to the boys of this Province any business of theirs. That has been left by Government to private agencies. With regard to secondary education, the matter is more or less on the same footing. Government do not take responsibility on their shoulders but they supplement the monies collected by private agencies by small grants from public treasury. Therefore, we are really under a very limited field of activity so far as education is concerned. Then, primary education. What have Government done with regard to primary education ? From the figures that I have been able to collect yesterday, I find the present position is this. The Primary Education Act applies to children who are between 6 and 11 years of age. The total number of children between 6 and 11 is 2,479,000. Of these children, I think 754,000 are in schools; and the rest of them are not in schools. This proportion works out in this way. Out of every three children, one is in school and two are still outside school. Examine the question from another point of view, from the point of view of facilities provided by Government for primary education. According to Government figures, there are in the towns of this Province, 184 primary schools. This is with regard to towns. What is the position with regard to villages? The total number of villages in this Province is 21,484. Out of these only 8,599 villages have got schools ; and 12,885 villages have no schools at all. That is the position. Government do not even care to provide facilities for them, apart from the question of carrying out the provisions of the Primary Education Act. Now, Sir, one curious thing which strikes me at any rate, and I do not know whether it strikes the Honourable Finance Minister, is what would be the cost of making primary education compulsory. According to the figures worked out by the Primary Education Committee, what Bombay Government need to make primary education compulsory is 1.30 lakhs. Now, Sir, that is just the amount the Honourable the Finance Minister is raising by his taxation proposals. Apart from the question whether the taxation proposals are good or not, confining my attention to the question as to the best method, the proper purpose for which this money ought *to* be spent, the question that I should like to ask of the Honourable the Finance Minister is this. You are

raising practically 1,30 lakhs of rupees ; is it necessary that you should spend this money on improving the lot of a drunkard or should you spend this money on educating children who do not get education ? What is the choice that you make ? That is really the whole question. Is the education of children more important ? Is the education practically of 17 to 18 lakhs of children less important than the lot of 10 lakhs of city people who choose to drink ? Sir, I do not believe in it. I am a teetotaller and I wish everybody was. But the problem is really this. If you give me an educated man who is also a sober man. I welcome him. But, if you tell me to take sober man who is a fool, who is a dud, who does not understand anything, I for myself would prefer a man who drinks but who knows something. That is my position, I think that is the position which ought to be considered by the Honourable the Finance Minister when distributing this colossal taxation which he is levying on the Province.

Take another alternative thing. I refer to public health. The total expenditure this Province incurs on public health is a paltry sum of Rs. 31,48,000. It works out at the rate of 2½ per cent. on our total expenditure. Now, Sir, village water supply is a crying need; there are hundreds of villages which have no water supply at all. Any one who goes to the villages will mark that every village in this Province is nothing else but a dung heap. It is a misnomer to call it a village, it is a misnomer to call it a place fit for human habitation. The improvement of the insanitary condition and the abomination that exist in villages is certainly the crying need of our Province. Hundreds of people are dying from malaria, are dying from all sorts of diseases. There are hardly any dispensaries. There is hardly any provision made for distribution of medicine or medical treatment. There is no water supply, as I said. Last year, a provision of 10 lakhs was made. We do not know how that money has been spent. This year, I find there is some provision made, about Rs. 8,55,000. What is all this having regard to the enormity of the want ? Hundreds of people are dying by reason of the fact that there is no medical aid, no clear water to drink. The Finance Minister has chosen to spend this money in saving the souls to use a biblical expression—in curing the souls or in being the curate of 10 lakhs of drunkards in Bombay and Ahmedabad.

Then, Sir, take another point. The same point has been made, that we are taxing the city dwellers, we are taxing the urban population. Why are we taxing the urban population ? The reason why we are taxing the urban population is because we want to improve the amenities of the village folk. Is there anything of the kind done in this budget ? If the Honourable Minister was really doing the thing for which some friends of mine have given so much care and attention, I shall be very glad. On whom is it spent, this tax of 1.69 lakhs ? He spends on the drunkard who lives in the town. The poor man in the village does not get any benefit out of it. Take for instance, one single item, namely, the land tax. The total of the land tax in this province is Rs. 3,38,63,000. Ten lakhs were remitted last year.

This of course is not a permanent reduction. It is indicated in the budget that there will be a total permanent reduction of something like 40 lakhs. That means that the rural population will still have to bear 3 crores of land revenue. The question I would ask the Finance Minister is this : if he is raising this tax of 1.69 lakhs from the city dwellers, why is he not wiping out the land revenue altogether ? Personally, I would be very glad indeed ; I will withdraw all my opposition to these taxation measures if he spends all this money on wiping out the land revenue. Is he doing that ? Why is he not doing that ?

Now, Sir, there are just one or two points which I should like to touch upon. In this budget, the Honourable the Finance Minister seems to take credit for two things. One is, that after all he is levying all these taxes from the urban areas. The second is, that taking things by their total, there is no additional burden imposed, because what is levied by way of a new tax is remitted by prohibition and, therefore, on the total the sums are equal. Now, with regard to the first question, I should like to draw attention to some important figures. It has been my view, and that view is confirmed by such study as I have been able to make of the conditions of this province, that, so far as our province is concerned, agriculture is the most congested occupation. I am going to cite a few figures in support of that proposition. The first thing to be noticed is that Bombay is a small province in point of area. The total area of this province is 76,735 square miles ; which is really just one-half of the Madras Presidency, two-third of the Punjab, of the United Provinces and of the Central Provinces, and just a little less than Bihar and Orissa. Now, bearing this in mind, compare the area that is actually sown for purposes of cultivation, for raising food-crops. In Bombay, the total area that is sown is 32,801,971 acres. Now, as I said, although our province is small in area, the area actually sown in our province is just the same as that in Madras, a province which is twice as big as Bombay, and that in the United Provinces. It exceeds the areas sown in Bihar and Orissa and in the Central Provinces by about 8 million acres, and what is sown in the Punjab by about 6 million acres. My contention is that that shows that agriculture is the most congested industry in this presidency, that almost every inch of area which can be utilised has already been utilised, and that, therefore, there is no use driving people to agriculture. Take again a further comparison, that of the cultivable waste lands. In the United Provinces the cultivable waste land is 10 million acres ; in Madras, 13 million acres; in the Central Provinces, 14 million acres ; in the Punjab, 14 million acres ; and in Bombay it is only 6 million acres. Sir, that being the position, the view I take is—and I say this with full deliberation—that the salvation of this province and, if I may say so, the salvation of the whole of India lies in greater urbanisation : in reviving our towns, in building our industries, in removing as much population as we possibly can from our villages to the towns. What is there in villages ? After all, our village folks have no capital to run their agriculture in the

best way in which agriculture ought to be run. Population is increasing every decade, and land is being fragmented every time a man and heirs come on the spot. Everywhere the situation is as bad as one could conceive it. The only way by which you can increase the standard of living of the people in the villages is not to give them an antiquated machine like the charkha or to force them to weave cloth which they cannot sell in a competitive market. The way to increase the standard of living is not to destroy industries and other revenues of service in the towns and force them to go to villages. The way lies in the other direction, namely, in taking away as many people as you possibly can from the villages and bringing them to the towns, giving them employment in industries and establishing better ways of economic life. That is the way. Sir, I have no hesitation in saying that a man who is bent upon breaking up such little industry, such little urbanisation, as we possess is certainly no friend of the people ; if I may say so, I look upon him as an enemy of the people.

Now, as regards the second point. My honourable friend says : "After all, what am I doing ? Am I adding anything to the total ? No. I am raising Rs. 1,69 lakhs, but I am also giving up 1,25 lakhs of the drink revenue and 40 lakhs of land revenue." I do not know whether he is serious in taking credit for this. If he is, I would remind him of the potter who was given a certain amount of potter's clay. Sir, if the potter instead of making a Ganapati made a monkey out of that clay, or instead of making a good elephant out of it made a donkey, would you say that the potter was a good potter, because he did not use more clay ? I wonder what would be the answer. This is nothing else but making a monkey out of the thing ; nothing else but that Therefore, Sir, in my judgment, as I said at the opening of my speech, this budget so far as taxation is concerned, is a reckless thing, and so far as expenditure is concerned, is a senseless thing. Sir, we all ought to realise that this presidency is the most highly taxed presidency. The per capita taxation in the provinces of British India is—these are not my figures; they are figures that I have taken from the speech my honourable friend the Finance Minister delivered last year :—

				Rs.
Bihar and Orissa	...	...	...	1.29
Bengal	...	...	...	1.78
Assam	...	...	...	2.26
Central Provinces	...	...	...	2.72
United Provinces	...	...	...	2.29
Punjab	...	...	...	4.43
Madras	...	...	...	3.26
Sind	...	...	...	4.90
Bombay	...	...	...	6.00

This alone will show that we are a very heavily taxed people. As a matter of fact our expenditure also is so regulated that we have really very little

to spend. We have really, as a matter of fact, very little margin for the purposes of our expenditure. Practically the cost of collection in this Province makes up 15 per cent. of our revenue; Superannuation is 10 per cent.; Interest takes away 10½ per cent; Law and Order including Justice, Police and Jails takes away 18 per cent of our revenue; and what little remains is spent on the other subjects which may be said to be subjects of public welfare. This is the position. In fact, it is a very tight corner : so far as the revenue is concerned, our capacity is less, and so far as our appropriations are concerned, many items are such that they really do not give us anything by way of public welfare. In a situation like this, I think it was but necessary that the Honourable Minister for Finance ought to have been more cautious than he has been. I am sorry to say that he has not. (Applause.)

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*ON THE FINANCE ACT AMENDMENT BILL

Dr. B. R. Ambedkar (*Bombay City*)*:* Mr. Speaker, Sir, having applied my mind to the Bill which has been moved by the Honourable the Finance Minister, I find that the Bill seeks to make three provisions. The first provision which the Bill seeks to make is to make the property tax a first charge; the second provision is with regard to the penalty in respect of the non-payment of the tax and the third is the retrospective character sought to be given to the penalty clause in this Bill. At the outset, I am glad to say that I find an occasion to congratulate the Honourable the Finance Minister on the declaration that he made in the course of his speech to which we have now listened, namely, that he would be prepared to accept an amendment in order to take away the retrospective character of the penalty. So far so good. With all that, it is not possible for me to pass from this point to other points in the Bill without expressing my sense of surprise that a Government which includes in it no less than five eminent lawyers should have thought it fit at the outset to bring in a Bill with a penalty which has got a retrospective character. I think it is a shocking thing. It should never have been brought in that form. However, dropping the matter aside, the two other provisions in the Bill which now call for attention are the two remaining ones, namely, whether the property tax should be made the first charge and whether there should be any penalty with regard to its non-payment.

I will take the second point first with regard to the question of penalty. I think it would be desirable if I draw the attention of the House to one or two points connected with that aspect of the Bill. My learned friend would have noticed—he perhaps has not paid sufficient attention to it—that the Municipal Act itself makes no provision for imposing any penalty for non-payment of the municipal part of the property tax. Section 200 of the City of Bombay Municipal Act provides that as soon as assessment is made, a bill shall be presented to the occupier who has to pay up the tax. Then section 202 provides that such a bill shall be met within 15 days from presentation. Then section 203 provides that if the bill is not paid within 15 days from the date of presentation, it shall be followed up with what is technically called notice of demand. Then section 203 says that if the amount due and mentioned in that notice of demand is not paid within 15 days, the municipality shall have certain rights for the recovery of the

*B.L.A. Debates, Vol. VI, pp. 1033-37, dated 28th August 1939.

amount due. Now, under the Municipal Act, there are only two provisions included in it in order to enable the municipality to recover the amount of property tax from the person who has defaulted. The first step is to levy a distress upon the property of the defaulted. The second method permitted to the municipality is to file a regular suit in the ordinary way. But, so far as penalty is concerned, there is none whatever in the Municipal Act itself. Then, coming to other financial measures I proceed to mention the provision in the Income Tax Act. My honourable friend must have noticed that there is a certain kind of penalty provided under the Income Tax Act that might be levied on the persons who are defaulters. That is done under section 45 of that Act. That is a big section and I do not want to go into it. I can mention the gist of it by saying that the scheme included under section 45 for the purpose for a continuing default. That is to say, if you make a default for one day, you will have to pay a certain penalty, if you default for two days then a further amount of penalty. That is penalty in a progressive manner. The maximum of penalty mentioned here is the amount of the tax itself. The provision contained here is not a continuing penalty for a continuing default. Then, I come to the Bombay Land Revenue Code. The penalty is mentioned in section 148. There, the provision is merely this. If there is a person who is a defaulter in the sense that he has not paid his instalment within the period fixed, then the Collector shall either levy a penalty, or interest on the amount due. According to the rules, there is one authorising Government to make a rule in that behalf. Having gone through the rules made by the Government of Bombay under the Land Revenue. Code, I find that the Government have made no rules at all with regard to the levy of penalty or with regard to the charging of interest. There is a casual mention in the notice of demand itself which fixes the penalty at a maximum of one-fourth the amount due. Now, Sir, I readily admit that the principle of penalty is new but it is something which undoubtedly exists in many financial provisions. Now, the questions we have to consider are with regard to the manner in which it is prescribed and the amount of maximum penalty that is laid down.

With regard to the other provisions of the Bill, the Honourable Minister has told us that they were merely consequential. Speaking for myself, I should have thought that they are the most contentious part of the Bill. If there is any provision in this Bill which makes me oppose it, it is really section 24B which my honourable friend seeks to introduce. First of all, let me deal with the arguments that this is merely consequential. Is it consequential or is it making the most radical, or if I may say so, revolutionary—

The Honourable Mr. A. B. Latthe: I never said that it was consequential—

Dr. B. R. Ambedkar: I withdraw—

The Honourable Mr. A. B. Latthe: I said that it was for making the provision clear.

Dr. B. R. Ambedkar: By trying to make the position clear, I have no doubt my Honourable friend the Minister has placed the Municipal Corporation of Bombay City in the issue. What is the position at which we

are now ? The position seems to be this, whether the amount due to the Bombay Municipal Corporation in respect of the urban property tax should be the first charge or not. You will recall one point of attack levelled against the Bill when it was first discussed in February was this, that the Government by taking the urban property as a basis for provincial taxation was really invading the domain which by tradition and by common consent had been reserved for the municipality for taxation. One of the points of criticism which was given expression to by many members on his side, and particularly by my honourable friend Mr. Jamnadas Mehta, was this, that by trespassing into the domain of their taxation Government had crippled the municipality. That is one point of criticism. Another point of criticism against this Bill was that it was very wrong on the part of this Government to use the Bombay Municipality as an agent for the collection of those taxes. One of the points made was, just as the Central Government use their own machinery for collecting such taxation as it levies—for instance, excise revenue, income-tax, salt duty, similarly the Government of Bombay should collect this levy by agencies belonging to itself. My honourable friend departed from that well established principle, from that most efficient practice, and utilised the services of the municipality for the purpose of collecting this revenue. Fortunately, he did not then add to the troubles of the municipality which he is now doing. He did not have the courage then to say that the tax collected by the municipality on behalf of the Government of Bombay under the urban property tax was to be the first charge. That he did not say. I have gone through the Bill. I do not find any provision to that effect at all. Therefore, I contend that this is a new ground we are travelling.

What was the position before this Bill ? If one refers to section 212 of the City of Bombay Municipal Act, the position was this : according to that section, the land revenue was the first charge on the property situated in the City of Bombay and which is subject to the municipal tax leviable by the municipality. After the land revenue, the first thing that came in order of priority was the municipal claim. That was the position. What is going to be the position now ? The position is going to be this. Land revenue will be the first charge ; the urban property tax due to Government is the second charge ; and the municipality which has an integral interest in this property tax is to come last. Sir, is that an enviable position from the point of view, of the Bombay Municipality which is to carry on its shoulders the burden of the welfare of practically 13 lakhs of people ? Is it right and fair that we should consent to a Bill which places the municipality's claim last ? My honourable friend is responsible for the levy of this urban tax. As he himself stated in the course of his opening remarks this measure is being opposed by the people—

The Honourable Mr. A. B. Latthe: I said, by a section—

Dr. B. R. Ambedkar: That is enough for me. (Laughter.) He said that there is opposition to this measure. If there is opposition to this measure, what kind of opposition is it ? We must realise it. I do not think I am making a false statement or one which is not within the knowledge of the Honourable the Revenue Minister. And the statement is this—and I think my honourable friend the Leader of the Opposition will bear me out that

apart from the small sections of landowners opposing the Bill, the whole of the Mahomedan community is opposing it. I think there is not the slightest exaggeration in that. They are : rightly or wrongly, I do not care to examine at this stage. Therefore, it is not the case of a single recalcitrant individual not being prepared to pay; it is a whole community which is opposed to it. Now, Sir, what is the position that we are going to have as a result of this Bill ? The position is this. The municipality is called upon to recover both its own tax levied on properties and the tax levied by the Government of Bombay and to be collected by the municipality on behalf of the Government of Bombay. Now, my honourable friend will not find it agreeable if I state that like a robber he comes forward and pounces upon the money collected by the municipality irrespective of the fact whether the amount collected by the municipality is collected on his behalf or whether it is collected on behalf of the municipality itself. The moment he sees with his open eyes that the bank balance of the municipality is inflated, without examining what the debit side of the municipality is, he issues a warrant to the bank quite at home. The municipality is left high and dry. What is the municipality to do ? The municipality, according to the scheme of the Bill, is to proceed against the whole community and to collect the tax. Now, the point I am putting to my honourable friend is this. If he has the courage, let him collect the tax himself. How can the municipality collect this tax, if it has to come against organised resistance—resistance, let us all be aware of it, coming from the Muslim community, who observe purdah ? Who will have the courage to enter their houses and find out what trinkets they have and what jewels they have ? What is the municipality to do in this case ? It has not an army of police ? It has no material and no means of forcing people. After all, as he has to levy the tax, then let him come but and as a courageous man employ his own agency and hook it from those who do not want to pay Why put the municipality to any difficulty ? That is my point. The rest of the thing I do not care to discuss; I do not mind. But the point really is this : Should the Government of Bombay be allowed to put the municipality of Bombay in so difficult a position, for reasons for which the municipality is not responsible ? Why should you shirk your responsibility ? It is no exaggeration to say, and I have no hesitation in saying, that this is a most cowardly Bill. If you say your tax is popular, why are you shirking the responsibility of collecting it ? Why are you throwing the burden on the municipality ? Why are you employing their resources ? From that point of view, I certainly think this is a cowardly Bill which ought not to be supported.

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*ON GRANTS FOR EDUCATION

Dr. B. R. Ambedkar: Mr. President, I do not wish to take much time because I know that the time that we have at our disposal is very short. All the same, I wish to present certain points for the consideration of the Honourable the Minister for Education.

The first point that I wish to bring to his attention is the fact that we are making indeed a very very slow progress in the matter of the education of our children. The recent report issued by the Government of India on the progress of education makes a very sad reading. It says that if the progress of education goes on at the rate at which it is going on today it will take 40 years for boys and 300 years for girls of school-going age to be brought under education. I beg to submit, Sir, that that is a very dark-prospect for this House to contemplate. The Honourable the Finance Member on the day on which he presented his budget told us that from the year 1921-22 to the present day, the expenditure on education had increased by something like 39 lakhs. Sir, taking into consideration the amount of increase of expenditure on education and the increase in the number of pupils in the schools, I find that the increase in the number of pupils is certainly not commensurate with the increase of expenditure on education. If we take the statistics from 1916-17 to 1922-23, we find that the expenditure on education has increased by something like 100 per cent. while the increase in the number of pupils during the same period is only 29 per cent., Sir, I know that there is a great financial stringency in this presidency, and that we are not at present situated in a position to ask for a rapid increase in education, but we can certainly plead for one thing. We have in this presidency two departments, which if I may say so are working at cross purposes. We have the Department of Education, the purpose of which is to moralise and socialise the people. We have on the other hand the Department of Excise which is working, if I may say so, in the reverse direction. Sir, I think that it is not asking too much if I plead that we should at least spend on education the same amount that we take from the people in the form of excise revenue. The amount of expenditure that we incur per individual in this presidency on education is only 14 annas, but

*B.L.C. Debates, Vol. XIX. pp. 971-76, dated 12th March 1927.

the amount of money that we recover in the form of excise revenue is Rs. 2-2-9 (Rs. 2.17), I think it is only fair that our educational expenditure should be so adjusted that we should spend on the education of the people as much as we take from them in the form of excise.

Another matter which is more or less analogous and to which I want to draw the attention of my honourable friend the Minister for education is that, at present the amount of money which we are spending on primary education is to a large extent really wasted. The object of primary education is to see that every child that enters the portals of a primary school does leave it only at a stage when it becomes literate and continues to be literate throughout the rest of his life. But if we take the statistics, we find that out of every hundred children that enter a primary school only eighteen reach the fourth standard; the rest of them, that is to say, 82 out of every 100, relapse into the state of illiteracy. What is the remedy for this state of affairs ? Sir, the comments made by the Government of India in its report on the review of education, I think might, without much excuse be read to this House. The report says : —

> "The wastage in educational effort is immense and most educationalists are of opinion that there is no solution to this problem of wastage in educational effort in India, but compulsion. The total wastage of educational effort and its concurrent dissipation of educational funds in the primary classes is about fifty per cent of the total energy put forth."

I therefore request the Honourable the Education Minister to spend more money on primary education, if for nothing else at least for the purpose of seeing that what he spends bears some fruit ultimately. Sir, this argument is not very different from the argument that was urged from the official benches in the matter of Back Bay reclamation. We were urged to spend more money on Back Bay because we were told that if we do not spend more money on Back Bay what we have spent will be an utter loss. I think the same argument might be utilised in this case, as well, and we can say that unless we spend a sufficient amount of money, to see that every child that enters a school reaches the fourth standard, what we have already spent upon him is of no purpose whatsoever.

Sir, the third matter to which I wish to draw the attention of the Honourable Minister for Education is this. Going over the figures which give us information as to the manner by which we finance education in this presidency I find that out of the total expenditure which we incur on arts colleges, something like 36 per cent is financed from fees; out of the expenditure that we incur on high schools, something like 31 per cent. is financed from fees ; out of the expenditure that we incur on middle schools, something like 26 per cent. is derived from fees. Now, Sir, I submit that this is commercialisation of education. Education is something which ought to be brought within the reach of every one. The Education Department is not a department which can be treated on the basis of *quid pro quo*. Education ought to be cheapened in all possible ways and to the greatest

possible extent. I urge this plea because I feel that we are arriving at a stage when the lower orders of society are just getting into the high schools, middle schools and colleges, and the policy of this department therefore ought to be to make higher education as cheap to the lower classes as it can possibly be made. I therefore wish to draw the attention of the Honourable Minister for Education to this rather glaring fact in the administration of education in this presidency.

Sir, the fourth point that I wish to bring to the attention of my honourable friend the Minister for Education is the great disparity in the comparative advancement in education of the different classes in this presidency. But before I go to that, I wish to explain one fact, namely, that the census report of this presidency has, for the purpose of comparing the advancement of the different communities in the matter of education, divided the total population into four different classes. The first class is called "advanced Hindus", the second class is called "intermediate Hindus" and it includes those people who for political purposes have now been designated as non-Brahmins i.e., Marathas and allied castes.

There is a third class called the backward classes which includes the depressed classes, Hill Tribes and the Criminal Tribes. Then, we have the fourth class which covers the Mahomedans. Bearing these divisions in mind, one sees a great disparity in the comparative advancement of these different communities in the matter of Education. Comparing these classes of people, according to the order in which they stand on the basis of population and according to the order in which they stand on the educational progress, what do we find ? I find that the intermediate class, namely, non-Brahmins, who are first in order on the basis of population, are third in college education, third in secondary education and third in primary education. The Backward classes who are second in order of population are the fourth in the order of college education, fourth in order of secondary education and fourth in order of primary education. The Mahomedans who are third in order of population are second in the order of college education, second in the order of secondary education and second in order of primary education. The advanced Hindus who are fourth in order of population are the first in order of college education, first in order of secondary education and first in the order of primary education. Now, Sir, I have given an idea of the comparative disparity in the educational advancement of the different communities. But the figures do not give us the range of disparity in the advancement of the different communities in our presidency. I will, therefore, present the following figures to the Honourable the Minister for Education for his serious consideration. Taking first the primary education, we find there are—

Advanced Hindus	. . .	119 students per 1,000 of their population.
Mahomedans	. . .	92 students per 1,000 of their population.
Intermediate Class	. . .	38 students per 1,000 of their population.
Backward Class	. . .	18 students per 1,000 of their population.

That is the state of the primary education. Coming to the secondary education, we find—

Advanced Hindus	. . .	3,000 in one lakh of their population.
Mahomedans	. . .	500 in one lakh of their population.
Intermediate Class	. . .	140 in one lakh of their population.
Backward Class	. . .	14 in one lakh of their population.

That is the state of the secondary education. Now, coming to the college education we find—

Advanced Hindus	. . .	1,000 in two lakhs of their population.
Mahomedans	. . .	52 in two lakhs of their population.
Intermediate Class	. . .	14 in two lakhs of their population.
Backward Class	. . .	Nil (or nearly one if at all).

That is the state of the backward class, as far as the college education is concerned, when their total population is something like 37½ lakhs. Sir, these figures show two things conclusively : one, that the different communities are not on a par in the matter of education. They also show another thing to which I should like to draw the attention of the honourable House, namely that the Mahomedans have stolen an enormous march in the matter of education. Sir, this is not an imaginary statement. The statistics I have given to this honourable House are from the Report of the Director of Public Instruction for Bombay for 1923-24, and in support of this argument I may cite the opinion of no less a person than Sir Ibrahim Rahimtoola who made the same remark from the presidential chair of the Mahomedan Conference. It may be remembered that I am not making this statement in any carping spirit nor grudge the efforts that Government have made in the matter of the education of Mahomedans. I must here emphasise that this country is composed of different communities. All these communities are unequal in their status and progress. If they are to be brought to the level of equality then the only remedy is to adopt the principle of inequality and to give favoured treatment to those who are below the level. There are some I know who object to this and adhere to the principle of equality of treatment. But I say Government has done well in applying this principle to the Mahomedans. For I honestly believe that equality of treatment to people who are unequal is simply another name for indifferentism and neglect My only complaint is that Government has not yet thought fit to apply this principle to the backward classes. Economically speaking or socially speaking, backward classes are handicapped in a manner in which no other community is handicapped. I, therefore, think that the principle of favoured treatment must be adopted in their case. As I have shown, their position is worse than that of the Mahomedans and my only pleading is that if the most favoured treatment is to be given to those who deserve it and need it most, then the backward classes deserve more attention of Government than do the Mahomedans. That is the question which I prominently, wish to place before this House, and I urge upon the Honourable the Minister for Education that he should adopt the same

methods and principle towards the uplift of the backward classes as have been adopted towards the uplift of the Mahomedan community. Sir, I may refer the Honourable Minister to the instructions issued by the Government of India in 1885 on the Report of the Education Commission of 1882. There were several proposals put forward for improving the education of the Mahomedan community ; the proposal on which the Government of India, however, laid stress was the appointment of a special inspecting staff to look to the educational wants of the Mahomedan community and to bring home to it the necessity of education. I think there is an equal urgency for special inspecting staff to look after the education of the depressed classes. I may mention, Sir, that the Primary Education Act is a great wrong. Perhaps honourable members may not agree with me, but I say it is a wrong, it is double wrong. It is wrong because the responsibility of education is transferred to the hands of those who are not enlightened enough to understand that education is a great necessity. If there are any people who realise the necessity for education they are not to be found in this Council. The members of the local boards are too uneducated to realize that education is a necessity. Therefore, I say this Council has done a great wrong in transferring the responsibility for education to the hands of those people who do not feel for education. Again, the transfer of education to local bodies is a wrong because the burden has thereby been transferred to shoulders less broad to bear it. Sir, education of the masses, we all realize, is a matter of great cost and if there is any body which can be said to be able to bear it, it is this Council with its revenue of 15½ crores and not the local bodies with their meagre revenues of a few lakhs. I feel, Sir, that this Council in transferring education to the local bodies has practically postponed the spread of education among the masses *sine die* and in doing so has gravely erred. But, Sir, this is only preliminary to, the point which I wish to make, namely that the people who are the greatest sufferers by this wrong are the depressed classes. With great respect to the Honourable the Minister for Local Self-Government, I am impelled to say that his local boards are conceived after the fashion of money houses in a museum where the aim of the curator is to make room for one individual of every species. Sir, there is only one representative of the depressed classes provided in each local body. What is the utility of having only one representative of these classes ? I cannot understand. If, for instance, the representation of the depressed classes in a local board is intended to force upon the local board the policy which is in the interests of the depressed classes, it is futile. For, certainly, one man cannot count in a body of ten or twelve. I hear complaints from all parts of the presidency that, under the present regime, the depressed classes find themselves in a most helpless condition. They are surrounded by people who by no means share their aspirations or their desires for advancement and betterment. There is, therefore, all the greater necessity, I say that this Government should employ certain inspecting agency under their direct control which will see that the depressed classes are not neglected by the bodies to whose charge such an important subject like education has been entrusted.

The second thing that I wish to say about the depressed classes is that

I find a certain sum has been set aside in the budget for scholarships for the backward communities. Now, Sir, I cannot understand the connotation of the words "backward classes" as used in the budget. I would have very much wished that the Honourable Minister had adopted the same-phraseology which the Director of Public Instruction adopts in his report, and I should very much like to see that he allocates a separate and distinct sum to each of the different communities which he proposes to include in the term "backward classes." We would then be in a position to know how the intermediate Hindus, backward Hindus, and the Mahomedans progress year by year. Now-a-days we are lumped together, when, as a matter of fact, there is no reason to lump us all together, because we are certainly different from one another however much we might wish to say we are one.

And the third thing which I wish to point out and which I hope the Honourable Minister will give his best consideration to, is the method of giving scholarships to the boys of the depressed classes. Now scholarship as an aid is better than no aid at all. But my honourable friend the Minister for Education will take it from me that my enquiries and my experience show that the method of giving scholarships is really a waste of public money. The depressed class parents are too poor, too ignorant, to understand that the help given by Government is really the help for the education of the child. The scholarship is looked upon by the parent as a family aid to meet their expenses. It is certainly not made available for the education of the boy as such, which is the primary object of the scholarship. Secondly, Sir, with the scholarship I have found that the boy is never able to reach the goal. There are a variety of reasons for that. First of all, a boy of the depressed classes is growing up in an evil set of surroundings. .....

An Honourable Member: Who is responsible for that ?

Dr. B. R. Ambedkar: God knows. He is brought up in circumstances which are by no means desirable, and when a boy gets a scholarship, he is an easy prey to all sorts of evil influences. Without proper direction he succumbs and gives up his education and money spent upon him is lost. I would, therefore, put it to the Honourable Minister whether it will not be better for him to spend this money in promoting hostels which either Government may open of its own accord or which may be opened by private agency for the promotion of the education of the backward classes. Sir, it will be a double saving. A hostel, first of all, weans the boy from evil surroundings. It provides effective inspection. And when a hostel is managed by private agency, it will mean some saving of money to Government.

Sir, these are the three suggestions which I wish to make in the very short time that is at my disposal. I hope that my honourable friend the Minister of Education will carefully consider them and do the needful in the matter.

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*ON THE BOMBAY UNIVERSITY ACT AMENDMENT BILL: 1

Dr. B. R. Ambedkar: Mr. President, I have listened with great interest to the speech which was delivered by my honourable friend the member for the University of Bombay. He has so exhaustively covered the subject in his speech which it took him an hour and twenty minutes to deliver that I fear very little is left for me to say. However, I think it fortunate that there is a point of view which has not been so far presented before this House either by my honourable friend the representative of the University or by my honourable friend Prof. Hamill who was specially called in to advise us on this important bill which we are discussing to-day. Sir, my honourable friend Mr. Munshi devoted a considerable part of his speech to the organization of the University of Bombay. He talked with a great deal of intimacy as regards the relations of the syndicate, the senate and the academic council as laid down in the Bill. I have not the good fortune to be a member of the University. I cannot therefore say with the same authority as to whether the provisions that have been incorporated in this particular bill will produce the results which we all desire that it should produce. But, Sir, I must say with due respect to my honourable friend the member for the University that even if we succeed in establishing the relations between the three bodies in the way in which my honourable friend wants that they should be, I am afraid that in the end we will be getting only the shadow but not the substance. Sir, the bill is primarily intended, if I understand the Honourable Minister for Education correctly, to organize the University of Bombay into a better teaching university. That I consider to be one of the principal objects of this Bill. Now, Sir, when I come to analyse the provisions that are incorporated in this bill must say that I felt that in this particular matter we are sure to be disappointed. One of the greatest defects from which this University has suffered ever since it was established was that it was primarily constituted as an examining body.

Sir, it must be realised that the University cannot succeed in promoting research or in promoting higher education, if it makes the examination

*B.L.C. Debates, Vol. XX, pp. 825-33, dated 27th July 1927.

system the be-all and end all of its existence. This fact was recognised by the University Commission of 1902 and the bill which followed the report of that Commission recognised that the statute which brought the University into being must be altered so as to enable the University directly to undertake teaching besides its usual task of examining the scholars appearing at its examinations. Now, Sir, when that particular Act of 1904 came into operation, the University, of course, was blocked in its path of undertaking higher education by the existence of a certain number of colleges which were already existing at that time. Obviously, therefore, Sir the only thing that the University could do was to appropriate to itself the field of what is called post-graduate work, and since 1912 the University of Bombay has been following along that line and has established what is called a School of Sociology and Economics to deal particularly with those students who care to take up post-graduate work in that department. I understand, Sir, that the University is also desirous of establishing certain other post-graduate faculties in order to carry out the mission which has been entrusted to it by the Act of 1904. With due respect to those who have framed this bill. I must say, Sir, that they have not paid any attention to the results of this policy of bifurcation that has been adopted by the University in carrying on its function as a teaching university. Sir, I think my honourable friend Prof. Hamill and my honourable friend Mr. Munshi will bear me out when I say that this bifurcation was brought into being by the Act of 1904, by which the University has appropriated to itself the post-graduate work and has relegated to the colleges the under-graduate work has brought about a certain amount of rivalry—I may almost say a certain degree of enmity — between the two institutions. Although my experience of this is limited, yet I was a Professor for sometime in one of the colleges, and even though I am no longer a Professor, I still have the chance of meeting my old colleagues and they tell me that the relations between the University Professors and the Professors of the colleges are not as cordial as they ought to be. Surely, Sir, that must be so. When, for instance, a University sets up itself as something higher, as something superior to the other colleges which are already carrying along similar education in their own way, one is apt to feel jealous of the other. Now, I submit, Sir, where a college professoriate is not on amicable terms with the professoriate established by the University, I think no research, no promotion of knowledge, can be carried on with any benefit either to the colleges or to the University, or to the public at large.

Secondly, I submit, Sir, that unless the University undertakes undergraduate teaching, any amount of super-imposition of post-graduate work will not be of any avail whatsoever. Sir, what is the position of the different colleges that we have to take ? Apart from the Government colleges, I beg to submit, Sir, that most of the colleges are established as a result of private effort, and I do not mean any disrespect to those who are serving upon these colleges, when I take the liberty of stating that I do not think

that the colleges are able to cope satisfactorily with the training of the under-graduates. First of all they are inadequately staffed. Take, for instance the two subjects which were my special subjects, namely, history and political economy. I find that a college has generally two professors on its staff to deal with these subjects. Now, I think it would be absurd to believe that two professors in a college can adequately teach such a vast subjects as political economy or history. The result is and I think my honourable friend Prof. Hamill will bear me out when I say that every professor is obliged to lecture for something like thirteen hours in a week. I say that a professor who is made to work in that galley slave fashion can never be a teacher in the real sense of the word. He can only be a hack doing a task with the help of ready-made notes. We can expect no originality from him and he can give no inspiration to those who may have the misfortune to listen to him. The whole study is bound to be a merely mechanical process. Not only are the colleges under-staffed but they are generally staffed by men not because they have more to give to the colleges but because they are willing to accept less. With the help of the army of under-graduates, any adventurer can form a college and get the control of under-graduate to teaching. I say, Sir, if your under-graduate work is as bad as I have described it to be, a university which merely super-imposes postgraduate to work upon it cannot succeed in promoting real knowledge or real research. Thirdly, the present system involves absolute waste, and I think that by a better organization of the University and the colleges this waste could be easily avoided. Take, for instance, the question of teaching of political economy in the city of Bombay itself. There are, Sir, to my knowledge somewhere about six professors at the Sydenham College of Commerce who deal particularly with the subjects of history and political economy and commercial geography. There are two professors at the Wilson College who are also dealing with the same subjects. There are two at the Elphinstone ; there are two at the St. Xavier's. Altogether, Sir, in a city like Bombay we have, so to say, a faculty engaged in the teaching of history and political economy which is composed of twelve teachers. Surely, Sir, if these four colleges, with their twelve professors on them, could be organized in such a fashion that the lecturing system was pooled and the students in the different colleges were allowed to listen and attend to the lectures to be delivered in any one particular college, the professors who are lecturing would be easily released to do some other kind of special work. If that is done, I am absolutely certain that these twelve gentlemen, who are now lecturing on the same subjects in the different colleges, not only will be able to manage the under-graduate teaching, but also can manage the post-graduate teaching as well. So that the expenses which we now have to incur on the extension of the School of Sociology and Economics will certainly be saved for better utilisation on other subjects. Now, Sir, not only does this waste take place with regard to the post-graduate teaching of history and political economy; but I submit,

Sir, that this waste will take place with regard to any other subject that the University might appropriate to itself as a subject for post-graduate research, for the simple reason that our colleges are, so to say, pocket universities in themselves. Each college is teaching almost every conceivable subject, and it has upon its collegiate staff, professors who teach all subjects which are laid down for the University examinations. That being so if the University establishes separate professors for post-graduate work there is bound to be duplication and waste in addition to the several disadvantages which I have mentioned in the earlier part of my speech. I therefore submit, Sir, that if the object of the bill is to promote higher education and research, the best method would be not to separate the colleges from the University as has been done now but to make a synthesis in which the University and the colleges would be partners on terms of equality and would be participating in promoting together, both the undergraduate and the post-graduate studies. Sir, what I have stated I must say is really not mine. It is what was recommended by the Sadler Commission which analysed a similar problem which faced the University of Calcutta. There is no doubt about it that the Sadler Commission was one of the most expert Commissions that could possibly be had in this country. I do not personally understand how, for instance, this Government can strut about with a report brought about by men who were absolutely inexpert in their job and pit it against the elaborate and considered judgment of experts who sat upon the Sadler Commission.

I have read with great care the report prepared by the University Committee for the reorganisation of the University of Bombay. But I have found nothing in it which can lead me to alter my opinion* that the recommendations of the Sadler Commission will be far more effective and beneficial than the recommendations of the Bombay University Committee. I, therefore, think that it would be far better if my honourable friend the Minister for Education could still in some way, either by introducing provisions in this bill itself or by giving powers to the Senate in the matter of making regulations, allow the University to localise teaching by giving greater control over colleges which may be called "constituent colleges" situated in geographically compact centres. The committee has, I think, admitted that Poona is a place which is ripe for establishing a separate university. There is no doubt that Bombay itself is ripe to have a separate university for itself and I think that if the colleges located in these two centres were separated and grouped into a university, we would be solving the problem of the promotion of higher education and research. As regards mofussil colleges which are scattered about in the Presidency we can very easily deal with them by adopting the suggestion of the Sadler Commission which recommended the establishment of a "Mofussil Board." I say that

*Dr. Ambedkar's written evidence to the Bombay University Reforms Committee is printed as Appendix III.

the scheme suggested by the Sadler Commission is a hundred times better than the scheme recommended by this Reforms Committee, namely, the appointment of a Rector. This is all, Sir, that I have to say as regards the organisation of the University itself.

Now, I wish to turn to the question of the composition of the Senate. A great deal of heat was generated yesterday by the speech of my honourable friend Mr. Jadhav when he said that the statement of objects and reasons does, not recognise/the necessity of the representation of backward communities on the Senate of the University of Bombay. I was somewhat surprised to see that my honourable friend, the member for the Bombay University, flared up at once. But I should like to point out, Sir, that we always kick the ladder by which we rise, and that my honourable friend, the member for the University, who has violently disclaimed communalism in himself is no an exception. Sir, I should like to remind him that he himself had issued a manifesto to the graduates of the University to support him on the ground of Gujarat was for Gujaratis. I would like to ask him now if that is not communalism, what is communalism ? I should like him to answer that . . ..

Mr. K. M. Munshi: I am glad to say, Sir, that that statement is absolutely incorrect.

Dr. B. R. Ambedkar: It is not absolutely incorrect. I myself have read your manifesto. However, politicians are men with very short memories.

What I want to state on the floor of this House is this, that I do not think that the Hindus and Mahomedans, constituted as they are, can honestly say that they are non-communal in their attitude towards each other. No member in this House can say that he is non-communal in his attitude. I challenge any honourable member to deny it . . ..

Rao Bahadur R. R. Kale: I challenge that statement.

Honourable Members: We challenge that statement too.

The Honourable the President: Order, order. No conversation across the table, please.

Rao Bahadur R. R. Kale: But the honourable member Dr. Ambedkar said that he would challenge any honourable member to deny his statement.

Dr. B. R. Ambedkar: There can be no gainsaying about this, that every Hindu and every Mahomedan is born in a certain caste or a community. There is no gainsaying that we are brought up and bred up in a communal environment. We share the aspirations and the ambitions of that community ; we feel the disabilities of that community and consequently, there can be no doubt in my mind that every member in this House as well as outside is bound to look at every question consciously or unconsciously from a communal point of view.

Honourable Members: No, no.

Dr. B. R. Ambedkar: I refuse to believe in the "Noes" absolutely; I call it hypocrisy—It is absolutely hypocrisy to shout "No", Sir. I myself look at every question that comes up before this House—I honestly

admit—from a communal point of view and I ask myself whether it would be good for the depressed classes or not.

Mr. K. F. Nariman: Sorry.

Dr. B. R. Ambedkar: Those who say "sorry" are themselves not free from communalism. It is very easy to talk about non-communalism, because it is only talk. We know, Sir, that we are so minded that we cannot, for instance, associate with other communities on terms of equality, that whenever we want to marry our daughters we begin to ask whether the bridegroom to be is a man Of our own caste or not (Laughter), when we want to invite guests for dinner we commence to enquire whether they are members of our own community. .....

Mr. B. G. Pahalajani: I challenge that.

Dr. B. R. Ambedkar: It is sheer hypocrisy to say that we do not do these things. I wish the honourable members to realise that this is a defect for which I do not accuse any one community. I say, Sir, that it is a blemish from which we all suffer. That being so, it ought to be recognised that no one community, however intellectually advanced it may be, can be the guardians of other communities. This has been recognised even by the legislators who framed the Reforms Act. If that was not so, we would not see in this Council separate representation for Mahomedans, separate representation for backward classes and separate representation for the depressed classes. It is because we are constitutionally unable to take a larger view of the situation and in order that the operative forces of communalism may be checked, that this counter-check has been provided and I think very wisely provided by these legislators. I should like to be honest, Sir, and I do hope honourable members will be honest on this point. There is no use talking one thing and doing another. That is the reason, I submit, why there is a necessity for the representation of communities, which are not intellectually advanced, on the Senate of the Bombay University. I submit Sir, that I do not wish to accuse the Senate of any conscious bias at all, yet I say that the policy of the Bombay University hitherto has not been very encouraging to the backward or the depressed classes. I will cite only one instance. Take the instance of the system of education that has been adopted by the University. There is no doubt about it in my mind and I do not think that those who represent the University will deny the fact, that our system of examination is the severest possible that exists in India to-day. This is no doubt justified by certain educationists in India who believe that the raising of the standard of examination is equivalent to the raising of the standard of education. I beg respectfully to differ from them. Examination is something quite different from education, but in the name of raising the standard of education, they are making the examinations so impossible and so severe that the backward communities which have hitherto not had the chance of entering the portals of the University are absolutely kept out. But I do not wish to speak of that; because that system applies to all communities alike.

But, Sir, just think of it. Has the University ever considered the effect of simultaneous examinations on the progress of education of the backward communities ? I do not understand what virtue there is in demanding that a particular candidate who appears at an examination shall pass in all the papers at one shot. It may be a matter of indifference, for instance, for students whose parents are rich enough, who can spare time to attend the colleges during the day time and who can devote their whole time to education. But what about the poor, the poverty-stricken parent, who requires his son to earn in the day time to add to the family earnings in order to make both ends meet ? What about the boy who finds very little during the 12 hours of the day to devote to university education ? Surely, if the University was mindful of the economic condition of the backward communities, it certainly would not have persisted in a system of simultaneous examinations which in my opinion is absolutely unjustifiable and absurd. I will give you another instance which comes to my mind just now, because my honourable friend Mr. Munshi says that the University has been doing everything without showing any preference of any kind to anybody. One of my friends, who has been nominated to the University Senate, told me the other day he twice moved a resolution in the Senate that candidates belonging to the depressed classes who appear at University examinations should be shown some concession in the matter of fees. I understand from him that the proposition was twice turned down by the Senate.

An Honourable Member: There are poor people in all communities.

The Honourable the President: The honourable member should proceed without minding interruptions.

Dr. B. R. Ambedkar: It has been everywhere recognised, even by the Government, that there are communities which are economically poor and which do require certain special concessions from the Government, in order that they may come on the same level on which the other communities are. If this wise principle cannot be appreciated and understood by the Senate, then I submit such a Senate can never be the guardian of the interests of the backward classes at all.

My honourable friend Professor Hamill made certain remarks in the course of his speech, and I think it is necessary that I should deal with him, although I do not wish to take much of the time of the House. He said that the depressed classes and the backward classes could certainly get nomination on the Senate, if they can help the efficiency of the University. I think that was the line of argument that he adopted, that if the members of the depressed classes were experts in educational matters, they should certainly have a seat on the Senate of the University of Bombay. Now, I should like to say that my honourable friend Professor Hamill absolutely forgets, when he makes that statement, the true function of the Senate. The Senate is not an executive body of the University. No member from the backward classes has asked for any special representation on the

Syndicate or on the Academic Council. I recognise, and I realise fully as well as my honourable friend Professor Hamill does, that these two bodies are no doubt bodies which are to be manned by experts, who will run the show of the University. But I have to remind him that the Senate is entirely intended to be a legislative body, a body which has to put forth the needs of the backward communities and to suggest the facilities that are necessary for meeting them. The Senate in my opinion, corresponds exactly to our Legislative Council, and we have in this Legislative Council members from the depressed classes, who are appointed not because they desire to displace any honourable members who are sitting here on the Government side but their only business here is to point out to the Government what are the needs of the communities which are suffering under disabilities. That is all we are asking, and I think when my honourable friend makes the point he absolutely forgets what the Senate is intended to be.

Now, Sir, before I close, I wish to state one thing most emphatically, Sir, there is a demand from honourable members belonging to the Swaraj party that we must have provincial autonomy. Sir, it is a demand which is a welcome demand. But, Sir, I beg to submit that when three-fourths of the population is drenched in ignorance and does not know its rights and responsibilities there can be no hope of autonomy. If we do get self-government notwithstanding the fact that three-fourths of the population is drenched in ignorance, our representative system will be a sham, and there would be a rule of wealth against poverty, of power against weakness. That is really what it will be. I, therefore, say, Sir, that if we desire to have provincial autonomy, we must ensure two things. One thing is that every access must be given to every grade of modern education to the communities which are educationally backward, in order that they may realise their rights and liabilities of citizenship, and secondly, in order that every access may be given to these communities, it is absolutely necessary, under the present circumstances, that special representation should be provided for them.

Before I sit down, Sir, I do wish one matter cleared up. You, Sir, have given us a ruling yesterday about which I am not quite clear. I understand, Sir, from your ruling yesterday that the principle of communal representation has been ruled out. Now, by that I understand that the principle of communal representation in the ordinary sense of that word, namely, that the voters of a particular communities are to be grouped together to elect a member from that community is ruled out. That is my interpretation of your ruling. So that, we are debarred now from raising the question of communal representation on the various bodies of the University in that sense of the term. But I do not think that your ruling goes so far as to say that we shall have no say in the matter as to how the 40 seats which are reserved for nomination shall be distributed. I submit that that particular matter is still open for the honourable members of this House to discuss in the select committee or at the second reading. I should like to ask, therefore, my honourable friend the Minister of Education that in his concluding

remarks he should make his position clear is regards that point; because, I want to say most emphatically that unless the representation to these backward communities is provided for on the Senate, the bill would be of no value to us whatsoever, and I for one will vote against it.

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*ON THE BOMBAY UNIVERSITY ACT AMENDMENT BILL: 2

Dr. B. R. Ambedkar: Sir, before I move my amendment to clause 3 I should like to correct a typist's error which has crept in the amendment as it stands on the paper. The amendment should read :

> "An incorporated college is any institution founded and managed by the University itself for the study of a special group of subjects not provided in any adequate way in other colleges; and so on."

Sir, this amendment which I propose to move is a consequential amendment which depends upon the passing of the main amendment to clause 25 of the bill which I shall be moving. If that amendment is not passed it will not become necessary for me to move this amendment. I therefore submit that I may be allowed to move this amendment after my main amendment to clause 25 is passed. If I move this amendment now and later on if my main amendment is lost, I shall be wasting the time of the House.

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Relation of Colleges to the University

Dr. B. R. Ambedkar: Mr. President, the first part of my amendment to clause 7 is a consequential amendment depending upon the amendment to clause 25. I therefore request you, Sir, to hold it over till the amendment to clause 25 is disposed of.

The Honourable the President: I will hold it over.

Dr. B. R. Ambedkar: As regards my second amendment to clause 7. I understand the Honourable Minister desires to have some time to consider whether he can devise some amendment to my amendment to which both of us can agree.

The Honourable the President: Will the honourable member move his amendment.

Dr. B. R. Ambedkar: My second amendment to clause 7 runs thus :

Add the following clause to the bill :—

> "7(b) For the purposes of grants-in-aid from Government Treasury the University alone shall be recognised by the Government and no grants-in-aid shall be given to any college except through the University."

*B.L.C. Debates, Vol. XXI, pp. 250-53, dated 1st October 1927.

I should like to insert the word "except" after the word "college" in the amendment of which I have given notice. It had been left over through mistake of the typist.

Sir, my reasons for moving this amendment are these. Under the new Act the University has been charged with the responsibility of undertaking the work of education far more directly than it was ever done before. Now, although the responsibility for teaching has been placed upon the University by the provisions of this Act, it must be recognised that the colleges which will be affiliated to the University will be the primary bodies which will carry on the practical work of teaching under this University. Now, Sir, I submit that unless the University is allowed some control over the colleges to regulate the work of teaching that is carried on in the colleges, I think it would not be fair to hold the University responsible for maintaining the standard of education. It must be given power to control the colleges and to regulate their work of teaching if the University is to discharge this responsibility. Now, Sir, under the existing law, the only means of control which the University has over these colleges is that the University appoints, I understand, what is called a committee of inspection, which committee visits these colleges at certain stated intervals, makes inspections and finds out what are the defects in their organisation and equipment. That committee I understand. .....

Mr. P. R. Chikodi: I rise to a point of order. I should like to know what the exact wording of the amendment of the honourable member is.

The Honourable the President: It was read out, the word "except" has been added.

Dr. B. R. Ambedkar: Now, Sir, I find that the only means of control which the University has over these colleges, whereby it can enforce its regulations on the colleges, is through the report of this committee of inspection. I understand that this committee of inspection occasionally goes round on a visitorial tour, and makes reports on the defects in the college organisation, and that report, I understand, is submitted to the standing committee of the University; and the standing committee reports to the syndicate its opinion on the defects pointed out by the committee of inspection. That is all that is done today by way of enforcing the rules of discipline which the University has framed in the matter of controlling the colleges. Now, I submit that that is not sufficient, because if the colleges do not follow the directions given by the University on the basis of the report of this committee of inspection then the only effective power which the University has got over these colleges is the right to disaffiliate those colleges. Now, I submit, Sir, that that is a power which is too drastic ; it is a power which is the power of annihilation. The University has really, as a matter of fact, no power to amend the ways of the colleges. In other words, under the existing system of control which the University has got over the colleges, the University today can only make or unmake a college, either by granting affiliation or by disaffiliating a college. The University,

under the present system, has now power, whereby it can enforce its discipline and compel obedience on the part of the colleges to these rules of discipline, without resort to this extreme penalty of disaffiliation. Now, Sir, my amendment is such that it gives the University the power to amend the ways of the colleges and to compel obedience on the part of the colleges to the directions given by the University, without resort to this extreme measure of disaffiliation. I submit, therefore, that if the University was recognised by the Government as a unit—and I submit that it ought to be—and if the grants given to the different colleges by the Government were distributed through the University or, if possible, on the recommendation of the University, then my submission is that the University will acquire a power which, it is very necessary for it to enable it to enforce its discipline on the colleges. I think there is no other power which the University can be given which can effect this object, and I say the most necessary object, of enabling the University to enforce its rules of discipline over a recalcitrant college. Now, Sir, this view, that the University should be given financial control over these colleges, is a view which has also been laid down by the Royal Commission on University Education in London. In paragraph 41 of their report, they say :

> "The power of the purse is indeed the most important means of control which the University should possess, if it is to organise teaching, with which it is concerned. All the other modern Universities, except Wales and Scotland are masters in their own house in regard to the assignment of State and municipal grants, because the University is one unit and not a congeries of many units."

In this report the Commissioners also recommended that the same principle should be applied in the case of the University of London and my amendment is based upon this important recommendation of the Royal Commission on University Education in London. I should also like to point out in this connection that the organization of the Bombay University in its inception was fundamentally based upon the organization of the University of London. I think we are also tending in this Bill to amalgamate, so to say, or assimilate the position of the colleges under the Bombay University to the same position which colleges under the London University have been made to assume under the reforms effected as a result of the Royal Commission. The situation in both cases is the same: and I think the rule prescribed for regulating the relations of the colleges under the University of London to that University should with equal advantage be applied for regulating the relations of the colleges under the University of Bombay to that University. There might be some objection on the ground that probably the University may misbehave in the matter of making recommendation for grants-in-aid. I think there is no justification at all for the supposition that the University will have any private grudge against any particular college. I do not think that a University under the new Act will be composed of such irresponsible persons that they would for their own

whims or private ends sacrifice the interests of a particular college. I therefore submit that on these grounds my amendment should be carried.

***Discussion resumed**

Dr. B. R. Ambedkar: Sir, although I do not know what is going to be the fate of this amendment, I am rather glad to find that there are so many honourable members who have recognised the principle embodied in this amendment. I do not think that I should waste the time of the House in dealing with every sort of objection that is raised against this amendment, but I should first of all like to point out that so far as I am able to construe the amendment as I have put it down, I do not think that it makes the University in any sense the sole arbitrator in the matter of distributing the grants.

All that I say is this : that the grant shall be distributed through the university. It does not take away the power of control of the Minister of pay grant. He is the final determining authority in the matter of making grants notwithstanding this amendment. I do not think that the Honourable Minister of Education will object to have any consultation with such an important body as the university in the matter of making grants. I am sure that those honourable members who have stood up for the mofussil colleges and feared that university authorities would manipulate affairs in such a way as to affect the interests of the mofussil colleges would agree with me when I say that it is as much their duty as the duty of every one in this House to see that Government money that is paid as grants-in-aid is properly expended by the colleges. I think there cannot be a better body than the university to advise the Minister whether the money which has been raised from taxation and handed over to the mofussil colleges as grants is well spent or not. I think the Honourable Minister should be the last man to reject the views of an important body of which he is going to be the father by the passing of this bill.

There was a point made by the honourable member Mr. Jairamdas which was greatly appreciated by the Government benches. He said that this amendment was going to reduce the control of this House over the Minister. I do not see how that can be the result of my amendment. As I said just now the only object of my amendment is to strengthen the hands of the Minister. If that object is not clear I am prepared to accept any amendment which the Honourable Minister may move in order to make that meaning clear. I do not see how it can at all curtail the power of this House over the Minister or the power of the Minister. Even under this amendment the Minister will be the final authority to make these grants. The only object of the amendment is that the university as an intermediary body should be consulted for making grants. I do not think there is any serious limitation either on the power of the Minister or on the control of the House over the

*B.L.C. Debates, Vol. XXI, pp. 264-65, dated 1st October 1927.

Minister. The House on the other hand will be in a much better position to judge whether the provision made by the Minister is properly spent. With these words I commend my amendment to the House.

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*ON THE BOMBAY UNIVERSITY ACT AMENDMENT BILL : 3

Appointment of Rector in the University

Dr. B. R. Ambedkar: Sir, I rise to support the amendment of my honourable friend Mr. Jadhav. It has been said by the honourable members who have preceded me that in the present financial circumstances of the University this office will be, an additional burden upon the meagre resources of the University. I think that argument is very cogent in itself, and in the few remarks that I wish to make, I should like to say that the office, administratively speaking, would be a superfluous one. Sir, I find that in 1914 the University of Bombay invited Sir Alfred Hopkinson, the Vice-Chancellor of the Manchester University, to advise the University upon a scheme of research proposed by the University, and I find, Sir, that officer making a report to the effect that this officer is not necessary. He is reported by the committee on University Reform, on page 9, to this effect :

> "He was not in favour of a salaried administrative head of the University and proposed to solve the difficulty of getting the increasing work done by employing a full-time Registrar and a paid full-time Secretary to the Joint Matriculation Board and by making more use of the University and College Professors for University administrative work."

If that was the opinion of such an expert as Sir Alfred Hopkinson in 1914, I do not see what new circumstances in the intervening period have arisen to compel us to force this officer upon the University. Further, I find that the office of the rector has no defined duties which he can perform. I. find it stated on page 162 of the report of the University Reform Committee that the Vice-Chancellor is to exercise general supervision over the University, and to have the power to see that the act, statutes and ordinances are observed. Now, Sir, referring to the position of the rector, the University Reform Committee also states on the same page that he is to hold office for five years and to be eligible for re-appointment, to be the principal executive and academic officer of the University and it is to be his duty to see that the act, statutes and ordinances are faithfully observed, and he should have all the powers necessary for this purpose.

*B.L.C. Debates, Vol. XXI, pp. 286-87, dated 3rd October 1927.

I do not see what is the difference between the duties attached to the office of the Vice-Chancellor and the duties that are going to be attached to the position of the rector. If the position as stated in the report of the University Reform Committee is what I have just placed before the House, then I do not understand how this office differs from that of the Vice-Chancellor on the one hand and from the office of the Registrar of the University on the other because I find on page 163 of the report of the same Committee stated that in the absence of the rector the Registrar will carry on his duties. Obviously, therefore, I do not see that the office of the rector is going to be in any sense distinct from that of the Vice-Chancellor and the Registrar, and therefore calling for the appointment of a distinct officer. It is superfluous and in the present circumstances a burden on the University. On these grounds, I support the amendment of my honourable friend Mr. Jadhav.

***Discussion resumed**

Dr. B. R. Ambedkar: I rise to support the amendment. I am not really in favour of principals of the different colleges coming into the University ; because I am one of those who hold the view that if the University, is to grow, the college organization must be subordinated to the faculty organization. It is my own feeling and I do not know how many honourable members share that view. If all the principals are allowed to enter they will carry into the University organization a spirit of the separatist and instead of integrating the University into one whole they will make University a disintegrated body. But my honourable friend Mr. Hamill has advanced the view that a University must really contain the minimum strength of the academic element that is necessary for the University to function. He has also pointed out that the University as at present constituted does not contain the academic element in sufficient strength. Sir, I think that the point made out by the honourable member Mr. Hamill is worthy of consideration, for I think that while we are democratising the University we must not forget that the University should have a sufficient academic element to enable the University to function as a body entrusted with the educational affairs of this presidency. I do wish that while providing for the presence of this academic element into the University we could have avoided the entry of the principals for the reasons I have already given. But I find that is not now possible, because by the definition in clause 3 teachers include professors. The principals are professors and they could come in whether the honourable member Mr. Dastur's amendment is accepted or not. His amendment is only explanatory and does not introduce any new change. I therefore support it.

*B.L.C. Debates, Vol. XXI, pp. 326-27, dated 3rd October 1927. This speech was delivered in support of Mr. Hamili's amendment to introduce the academic element in the university.

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*ON THE BOMBAY UNIVERSITY ACT AMENDMENT BILL : 4

Dr. B. R. Ambedkar: Sir, I rise to support this amendment. If I had agreed with the views which my honourable friend Mr. Munshi holds on university reforms and the functions of the university, I would certainly not have risen to support this amendment. But I find that both as a person who takes an interest in university reform and as one coming from the backward communities I am in fundamental disagreement with my honourable friend Mr. Munshi. Sir, my honourable friend Mr. Munshi seems to hold that the University is merely a body for the purpose of making statutes and regulations, that it is a body which is merely concerned with holding examinations, and with providing post-graduate courses in University Departments of Education to be started under this Bill. Sir, I think that that is a very narrow view of the University. One of the fundamental functions of the University, as I understand it, is to provide facilities for bringing the highest education to the doors of the needy and the poor. I do not think that any University in any civilised country can justify its existence if it merely deals with the problems of examinations and the granting of degrees. Now, if it is the duly of a modern university to provide facilities for the highest education to the backward communities, I think it will be accepted as a corollary that the backward communities should have some control in the University affairs. Sir, I look upon the University primarily as a machinery, whereby educational facilities are provided to all those who are intellectually capable of using those facilities to the best advantage, but who cannot avail themselves of those facilities for want of funds or for other handicaps in life. Now, Sir, it is said that the University is primarily a concern of the intelligentsia and of the educated classes, and that as the University is to function properly it is necessary that it should be controlled by what are called the educated classes. I would accept that principle, if the educated classes who are going to control the University possessed what we called social virtues. If they, for instance, sympathised with the aspirations of the lower classes, if they

*B.L.C. Debates, Vol. XXI, pp. 414-16, dated 5th October 1927. This speech was in support of the amendment to the Bombay University Bill moved by Mr. Noor Mohmed to raise the number of nominated senators from 40 to 50.

recognised that the lower classes had rights, if they recognised that those rights must be respected, then probably we, coming from the backward communities, might well entrust our destinies to what are called the advance communities. But, Sir, for centuries we have had the bitterest experience of the rule of what are called the higher and the educated classes, Sir, I think it is hardly to the credit of the advanced classes that there should exist in this country a large part of the population which is known as the criminal tribes. It is certainly not to their credit that there should exist in this country a population which is regarded untouchable. Surely, they could have raised the status of the depressed classes, they could have raised the status of the criminal classes. They could have brought their culture to us and made us equal to them, if they had only the desire to do so. But they have never done so in the past and do not mean to do anything in that direction in future. By their callous neglect of us and by their active hostility to our progress they have convinced us that they are really our enemies. There is no doubt that it is their desire to keep us where we are. I do not wish to refer to the debate that has gone on for the last few days. But there is not the slightest doubt about the fact that the opposition benches which looked upon Government as their enemy sided with it now with the sole object of defeating us on this vital question. There is no other excuse for their conduct except that they wanted to defeat the claims of the backward communities for representation through nomination. It is for that reason that they have joined Government whom they opposed in season and out of season. Sir, can we have any trust in an intelligentsia so narrow, so illiberal in its views.

My honourable friend, Mr. Munshi said that if it had been a question of division of any material benefits he would probably consent to the introduction of communal representation on the Senate. But I wish to remind him that the backward classes have come to realise that after all education is the greatest material benefit for which they can fight. We may forego material benefits, we may forego material benefits of civilization, but we cannot forego our right and opportunity to reap the benefit of the highest education to the fullest extent. That is the importance of this question from the point of view of the backward classes who have just realized that without education their existence is not safe. It is for this reason that the fight for increase of seats is being made.

There is another point to which I wish to refer. It has been stated several times that since the principals in the different colleges have been given separate representation it will not be necessary to increase the number of nominated seats, because, if the principals had not been given direct representation on the University, Government would have been obliged to use at least 10 seats to make for them. And that as separate provision has now been made for them the whole number of 40 seats will go to the backward classes. Now, Sir, I submit that it is for that very reason that the number of the nominated seats should be increased for ensuring adequate

representation of the backward classes. It can never be guaranteed to us that the principals of different colleges who have got direct representation as a result of the amendment of the honourable member Mr. Hamill would necessarily be friends of the backward communities. I have had sufficient experience of these principals, and I am sure that those who will be elected to the Senate will be from the upper classes and they will never come to the rescue of the backward classes who are clamouring for education. If the Honourable Minister had added 10 seats more to the strength of the upper classes in the Senate he should come to the rescue of the backward communities and equalize the balance. That can be done only by adding 10 more seats to the seats that have already been provided in the bill. Sir, we have expressed our fears and our doubts. I think it is only fair that in a matter like this, where the feelings of the backward communities are so high and where they think that their interest will not be safeguarded unless they get representation on the Senate, Government should consider whether it is proper that Government should use its official force to put the backward classes at the mercy of the upper classes. I think it would be wise and I appeal to the Honourable the Leader of the House to leave this question to the free vote of this House. Let the House decide in any way it likes best. With these remarks I support the amendment.

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*ON THE BOMBAY PRIMARY EDUCATION ACT AMENDMENT BILL: 1

Dr. B. R. Ambedkar : I find it very difficult to follow this section ; if I heard him correctly with reference to what he said that we should not think of a democratic constitution for the board contemplated under section 2A, I agree with him on the point. This board is intended to be a body of experts. Those members who are supposed to be elected by the school boards on the provincial board ex-hypothesi may be persons who will merely express the views of the general public. They could not bring to the work of this board expert mind. Obviously by their constitution, they could not. The other six members are to be appointed by Government. There is nothing in this section to suggest that Government bind themselves to appoint only persons who will be experts in education. The clause merely says that three shall be appointed by the Provincial Government. There is nothing to indicate that the three shall be experts on education. Therefore, analysing the whole constitution of the Provincial Board, beyond the three Government officers, who will be there, there is certainly no guarantee that the board as a majority will have experts on it. Therefore, my honourable friend should accept the principle suggested by the honourable member Mr. Bhole that this ought to be looked at as a democratic institution. From that point of view, the elective principle should prevail over nomination principle. If my honourable friend says that it ought not to be looked at as a democratic institution but as a body intended to give advice, he must provide for it by saying that the board shall consist of a majority of experts on education. I suggest to him whether he will accept some such amendment "three members to be appointed by the Provincial Government shall be appointed from people who are known as experts on education". He should not leave the matter vague as it is. Government in its weaker moments—Government have weaker moments as Governments and we have our weaker moments—may appoint persons who may not be experts. It will frustrate the very object underlying this clause.

The Honourable Mr. B. G. Kher : I am much indebted to the honourable member Dr. Ambedkar for replying in effect to the amendment brought forward by a member of his own party. I confess, I myself could not have put forth more convincing arguments against the amendment.

*B.L.A. Debates, Vol. 3, pp. 2176-77, dated 21st April 1938.

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*ON THE BOMBAY PRIMARY EDUCATION ACT AMENDMENT BILL: 2

(Clause by clause reading)

The Honourable the Speaker: We now proceed the Bill No. XV, the Primary Education Act Amending Bill. It was, I believe, on Tuesday last that the House was considering this Bill and, when it adjourned, amendment No. 91 in the consolidated list of amendments was under discussion. That amendment was moved by the honourable member Mr. Jamnadas Mehta and it runs as follows :

The sub-clause (2) of clause 12, omit the words "and shall be servant of".

The clause, as sought to be amended, will then read as follows : —

"(2) The Administrative Officer shall be appointed by the Provincial Government. His pay, powers and duties shall be as prescribed."

Dr. B. R. Ambedkar: May I rise to a point of order, Sir ? I am unable to understand the amendment and the purport of it. Therefore, I am rising to ask for some information on this point. The amendment is to omit the words "and shall be the servant of the Provincial Government". Am I right ? Therefore, the purpose of the amendment seems to be this. .....

The Honourable the Speaker: The words to be omitted are "and shall be a servant of". The words "the Provincial Government" are not sought to be omitted.

Dr. B. R. Ambedkar: Therefore, what I understand is that he is to be appointed by the Provincial Government but is not to be the servant of the Provincial Government. My submission is that in law, even if these words were omitted, namely, "and shall be a servant of ", he will continue to be the servant of the Provincial Government, by reason of the fact that he is allowed to be appointed by the Provincial Government. Therefore, it is rather difficult to make up one's mind whether to vote for the amendment or against it. If the honourable mover of the amendment desires that he should continue to be appointed by the provincial Government, then the fact that he is a servant of the Provincial Government is merely the legal consequence of it, and the omission of these words would not come in the

*B.L.A. Debates, Vol. 3, pp. 2647-49, dated 30th April 1938.

way of his being regarded as a servant of the Provincial Government. I want some light on this point.

The Honourable the Speaker : I am not sure whether the honourable member was present when the amendment was moved.

Dr. B. R. Ambedkar: I was present.

The Honourable the Speaker : I am unable to agree about the legal consequences.

Dr. B. R. Ambedkar : The Honourable the Home Minister might clear up the point.

The Honourable the Speaker : I believe the contention was that if the way in which the officers are selected or appointed by the school boards is not an ideal one or a proper one, it should be left to the Government to make the appointments on the lines of the appointment of the Municipal Commissioner for Bombay, but so long as they continue to be in service, they will be the servants of the school board and therefore amenable to their jurisdiction, and liable to suspension or dismissal or to being dealt with in any other way like any other servants at the hands of the school board. That seems to be the idea; and I believe it was also suggested that Government may have a panel submitted to the school board for that body to make a selection, and that is how the appointment was to be made. There does not seem to be any conflict or inconsistency in it.

Dr. B. R. Ambedkar: If the object is that he shall be the servant of the school board, then that object will not be carried out by the omission of these words, "and shall be a servant of" because in law he will be the servant of the Provincial Government, simply by reason of the fact that the Provincial Government appoints him. To be a servant is one thing, to be under control is another. One may be the servant of another, and yet may be under the control of a third party. I submit there is great distinction between the two.

The Honourable the Speaker: It does not necessarily follow that because an appointment is made by one party he cannot be the servant of another party. A person may be appointed by one party and yet may be the servant of another party. I expect the honourable member will clarify it in his reply.

Mr. Jamnadas M. Mehta: So far as I am concerned, I do not look upon it as a point of order.

Dr. B. R. Ambedkar: It is a point of information, if not a point of order. I would like to understand the position in order to decide whether to vote one way or the other.

The Honourable the Speaker: I will leave it to the honourable member the mover of the motion to reply, so far as the point of information is concerned.

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*ON THE BOMBAY PRIMARY EDUCATION ACT AMENDMENT BILL: 3

Dr. B. R. Ambedkar: Sir, I lost my opportunity of speaking on this amendment, but there is a question which I should like to ask the Prime Minister, if you permit me, just for information's sake.

The Honourable the Speaker: Do not be too long.

Dr. B. R. Ambedkar: He wanted to speak on the point, but I think he forgot. I should like to ask the Prime Minister whether the school board administrative officer would be under the disciplinary control of the school board or not. I can quite understand from the clause that he is a servant of the Provincial Government. But while he is in the school board, would he or would he not be under the disciplinary control of the school board ?

The Honourable Mr. B. G. Kher: How do you mean ? We have provided for this by saying that his pay, powers and duties shall be prescribed by rules. The powers of the school board are already defined. The honourable member was not present when I went into them in detail and put before the House the powers and duties of the school boards. These will now be prescribed by rules, as to what exactly will be the powers and duties of the administrative officers. I do not think, therefore, that the question of the school board's wishes in important matters being overridden by the administrative officer is such an imminent danger.

The Honourable the Speaker: It is not a question of danger. The point of the enquiry has been as to whether he will be subject to the disciplinary control of the school board.

The Honourable Mr. B. G. Kher: Well, he will not be removable by them.

Dr. B. R. Ambedkar: I will cite an example. There is an officer working in the Secretariat. An order is issued by the Minister, and the officer disobeys the Minister. The Minister has a right to punish him in the four or five different ways mentioned in the Civil Service Regulations. Of course, the officer has a right of appeal under certain circumstances. What I want to know is whether the relations of the administrative officer and the school board in the matter of disciplinary control would be exactly the same

*B.L.A. Debates, Vol. 3, pp. 2672-73, dated 30th April 1938.

as the relations of the Minister and any other superior administrative officer.

The Honourable Mr. B. G. Kher: No. I am afraid not.

***Discussion resumed**

Dr. B. R. Ambedkar (Bombay City): Sir I want to move an amendment to the amendment of the honourable member Mr. More.

The Honourable the Speaker: Is it a different one ?

Dr. B. R. Ambedkar: Yes, it is a different one. My amendment is this :

> "For the words 'removable from his office as such administrative officer' substitute the following : —
>
> 'under the disciplinary control of the school board and shall be liable to such punishment for breach of discipline at the hands of the school board by a resolution duly passed, subject to a right of appeal by the administrative officer, as may be provided for by rules.'
>
> So that the whole of the amendment with my amendment will read thus—
>
> 'The administrative officer shall be under the disciplinary control of the school board and shall be liable to such punishment for breach of discipline at the hands of the school board by a resolution duly passed subject to a right of appeal by the administrative officer, as may be provided for by rules.' "

The Honourable the Speaker: We should add "by the school board" after the word "passed" and change "provided for" into "prescribed".

The amendment will then read—

Delete the words beginning from "removable from his office" and ending with the words "shall forthwith withdraw the administrative officer", and substitute instead the following : —

> "under the disciplinary control of the school board and shall be liable to such punishment for breach of discipline at the hands of the school board by a resolution duly passed by the school board, subject to a right of appeal by the administrative officer, as may be prescribed by rules."

Dr. B. R. Ambedkar (Bombay City): Sir, the amendment which I am moving is totally different from the amendment which has been moved by my honourable friend Mr. More. Mr. More's amendment provides that under certain circumstances, the school board shall have the right to remove from office the administrative officer who has been appointed by Government. My amendment is fundamentally different from the amendment of Mr. More. My amendment does not give the school board the power to remove or dismiss an administrative officer. All that the amendment seeks to do is this that during the period when an administrative officer is engaged in doing his service as an administrative officer under a particular school board, that school board shall have disciplinary control over him. Sir, it must be realised that clause 12 of the Bill is an anomalous

*B.L.A. Debates, Vol. 3, pp. 2679-82, dated 30th April 1938.

clause in principle. It is an accepted principle that an officer must be subordinate to the authority whose servant he is. Now, by this clause 12, we have provided that the administrative officer shall be appointed by the Provincial Government and that he shall also be the servant of the Provincial Government. The evil effects of this anomaly have been pointed out by various members of the House who have spoken on the amendment which was tabled by my honourable friend Mr. Jamnadas Mehta. Therefore, I do not wish to take the time of the House in repeating what has been stated. What would be the result of enacting clause 12 ? I have my sympathy with the Honourable the Prime Minister in the procedure which he has adopted, namely, the administrative officers should be appointed by the Provincial Government and should be the servant of the Provincial Government and for two reasons. One reason why I sympathise with the view he has taken is this. If the local boards or the school boards continue to appoint the administrative officers, the one result will be that the administrative officers will have to spend all his life in one place which is undoubtedly a bad thing in principle, because, when an officer remains in service in one particular place all his life, he does undoubtedly create a party for himself, secures friendship and, therefore, provides for himself opportunities and occasions for exercising his administrative power in a partial way. Therefore, it is very desirable that these administrative officers should be moved from place to place just as the practice of moving important officers, like the Collector or the District Judge, from district to district. The second reason why I felt a certain amount of sympathy for the procedure adopted by the Honourable the Prime Minister is this. Unless Government appoint the administrative officers, it is not possible to provide a cadre with a regular service, with prospects of promotion and so on. I fully sympathise with that view. But, Sir, I do not understand why it should be difficult for Government to place these officers under the school boards for the purpose at least of disciplinary control. I do not understand how the smooth working of the local board machinery as contemplated in this Bill can be secured unless the amendment which I am suggesting is given effect to.

I should like to illustrate what I have to say by reference to what has happened under the Government of India Act. I would take for illustration the position of the members of the Indian Civil Service. The members of the Indian Civil Service are appointed by the Secretary of State. At the time when the Montagu-Chelmsford Report was made, I think those who have read it will realise that one of the greatest difficulties that was felt at the time in transferring effective control to ministers was just the opposition of the members of the Indian Civil Service. The contention of the members of the Indian Civil Service was that, as they were appointed by the Secretary of State and not by the ministers who were going to take office under the then contemplated reforms, they protested that they could

not subject themselves to any control by ministers. On the other hand, those who were upholding the cause of transferring effective power to Indian ministers decided that there could be no effective transfer of power to the Indian ministers unless the Indian ministers had effective power of controlling the Indian Civil Service members who were the instrumentality of the administration. For a long time this tussle was going on, and as a matter of compromise it was decided, if I remember correctly, as a result of the report of the Lee Commission, that the via media should be the via media which I am suggesting by my amendment. The via media that was suggested between the point of view that was taken by the members of the Indian Civil Service and the point of view that was taken by Indian politicians, namely, that the I.C.S. men should be under the entire control of the Ministers, and that those I.C.S. men who were working in the Transferred Departments under the dyarchical system should be under the disciplinary control of the Ministers. And by the Classification Rules it was provided that five different kinds of punishments might be levied by the Ministers against a recalcitrant I.C.S. man who refused to obey the orders of the Ministers. The punishments that were prescribed and which the Indian Ministers could exercise under those rules were censure, reduction, stopping of promotion, transfer and dismissal. The civil servant at the same time was given a right of appeal if he felt that a punishment had been inflicted upon him by the Minister which was not proper, which was unjust, or which was based upon racial antagonism. The civil servant would take his appeal to the Governor and finally to the Secretary of State and challenge the order of punishment passed by the Minister. In this way the two contending points of view, namely, no control, and absolute control, were brought so to say, to a common meeting point; the formula that was devised was that the civil servants should remain servants of the Secretary of State, liable to be dismissed by the authority who appointed them, but during the period that they were working as servants in the department, they should be subject to the disciplinary control of the Minister in charge of the department. Sir, the amendment which I have tabled merely gives effect to that formula. It does not take away the right of the Minister to appoint; it does not take away the right of the Minister to dismiss an administrative officer; nor does the amendment say that during the period that the administrative officer is serving under a school board he shall be regarded as the servant of the school board. The amendment is of a very limited character ; it merely says that during the period that he is working as the administrative officer of the school board, the school board shall have disciplinary control. Further, what kind of punishment the school board shall levy, and what is the nature of the appeal that the administrative officer is to have, are still matters which by my amendment are left to the Government to prescribe by rules, I do not say that this or that kind of punishment may be inflicted upon the administrative officer by the school

board ; I do not say that this or that alone should be the right of appeal. The nature of punishment, the extent of appeal—all that is left to the discretion of the Government to provide for by rules. All that the amendment does is to ensure that during the period that he is working ; he shall feel that the school board has control over him. If we do not give even this little power to the school board, I do not quite understand how and administrative officer will feel, by the necessities of the case, that he is really the servant of the school board. I ask the Honourable the Prime Minister; supposing he himself had no such power over the civil servant that was working under him, if he could not punish him for any disobedience on his part, what would be the state of his own department ? I submit that in the interest of smooth working this much at least must be given to the school board in order that the administrative officer shall feel that he is bound to carry out the just and lawful order of the school board. With these words, I commend my amendment to the House.

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BILL No. XII OF 1928 TO AMEND THE BOMBAY HEREDITARY OFFICES ACT

The following Bill*, for the introduction of which leave was granted to Dr. B. R. Ambedkar, M.L.C., at the meeting of the Legislative Council of the Governor of Bombay on the 19th March 1928, is published under rule 20 of the Bombay Legislative Council Rules : —

BILL No. XII OF 1928

A Bill further to amend the Bombay Hereditary Offices Act, 1874

(*Bom. III of 1874*)

WHEREAS it is expedient to amend the Bombay Hereditary Offices Act in a manner hereinafter appearing; And whereas the previous sanction of His Excellency the Governor under section 80C of the Government of India Act has been obtained, it is hereby enacted as follows : —

1. This Act may be called Bombay Hereditary Offices (Amendment) Act, 1928.

2. *Amendment of section 9 of Bom. Ill of 1874.*—In section 9, clause (1), for the words "whether assigned as remuneration of an officiator or not", substitute the following : —

"not assigned as remuneration of an Officiator".

3. *Insertion of new section 9A in Bom. III of 1874.*—After section 9, add the following : —

"9-A. (1) Whenever any watan or part thereof assigned as remuneration of an officiator has or have before the date of the Bombay Hereditary Offices Act, 1874 (Bom. III of 1874), coming into force passed otherwise than by virtue of, or in execution of a decree or order of any British Court, and without the consent of the Collector and transfer of ownership in the revenue records, into the ownership, or beneficial possession of any person, not a watandar of the same watan, the Collector shall declare such alienation to be null and void, and order that such watan or any part thereof, or any profits thereof, shall from the date of such order belong to the watandar previously entitled thereto, and shall recover and pay to such watandar any profits thereof accordingly.

*This is the text of the Bill to amend the Bombay Hereditary Offices Act of 1874 as published in *Bombay Government Gazette,* Part V, dated April 16, 1928. Speech delivered by Dr. Ambedkar while moving this Bill is printed at pages 75-87.

(2) If such part of the watan be land the Collector shall order its transfer to the watandar."

4. *Amendment of section 15 of Bom. III of 1874.*—Add the following proviso to section 15, clause 1 : —

"Provided that the whole body of representative watandars or a majority of them holding a hereditary office within the meaning of section 63 of the Act having in their possession watan lands shall have the option, if the same be expressed by a written application to the Collector, to be relieved of their obligation to perform such services in perpetuity and shall be entitled to retain possession of the lands held by them if they agree to pay full survey assessment on such lands."

5. Amendment of section 19 of Bom. III of 1874.—Delete the following from section 19, "and to decide whether the payment shall be made in kind or money".

6. *Insertion of new sections 19A, 19B, 19C and 19D in Bom. III of 1874.*—After section 19, add the following sections : —

19A. When the whole body of representative watandars or a majority of them whose watan property consists of a right to a levy in kind apply to the Collector to convert such right into money cess the Collector shall then convert the same into an equivalent money cess.

19B. When such a right to a levy in kind has been converted into an equivalent money cess the whole body of representative watandars or a majority of them concerned may apply to the Collector to recover the same from those who are liable to pay. The Collector shall then recover the same along with and as part of the land revenue and shall direct that the same be paid from Government treasury to those watandars entitled to the same.

19C. In case where such a right to levy in kind be deemed a joint return for services to both the ryots and the Government the whole body of representative watandars or a majority of them whose right to a levy in kind has been converted into a money cess may apply to the Collector to decide how much of the money cess is due to them for services to Government and how much for services to the ryots. The Collector shall then give such a decision, which decision shall be deemed to be final.

19D. That the whole body of representative watandars or a majority of them who have asked for such a decision as is referred to in section 19C, shall have the option to refuse to render any services to the ryots provided they inform the Collector in writing of their decision in this behalf. In case such option is exercised the watandars exercising such option shall forfeit that portion of the money cess due to them for services to the ryots.

7. *Amendment of section 21 of Bom. III of 1874.*—In section 21 for the words "such periods" substitute the following : —

"a period not exceeding ten years".

8. *Amendment of section 83 of Bom. III of 1874.*—This section shall be substituted in place of section 83—

83. After the passing of the Act, Government shall make rules, except as is otherwise provided for in section 18. Laying down the duties that are to appertain to any hereditary office :

Provided that the rules so made shall not come into operation until the same are previously published in the *Bombay Government Gazette* for one month previous to the next session of the Bombay Legislative Council and shall be liable to be rescinded or modified by a resolution of the said Council tabled at the next session thereof.

Statement of Objects and Reasons

The objects of this bill are : —

1. To make better provision for the remuneration of the officiating watandars.
2. To allow commutation of watans of inferior hereditary village servants.
3. To provide for the conversion of Baluta into money cess.
4. To allow the holder of inferior watan to free himself from the obligations to serve the ryots.
5. To define the duties of officiating watandars.

(Signed) B. R. AMBEDKAR

G. S. RAJADHYAKSHA,
Acting Secretary to the Legislative Council
of the Governor of Bombay.

Bombay, 13th April, 1928

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*ON THE HEREDITARY OFFICES ACT AMENDMENT BILL: 1

Dr. B. R. Ambedkar: Sir, I rise to move that Bill No. XII of 1928 (A Bill further to amend the Bombay Hereditary Offices Act, 1874) be read for the first time. This bill is not concerned with the Patel or the Kulkarni. The hereditary officers referred to in this bill are known under the Hereditary Offices Act as the inferior officers. At the present moment, such inferior hereditary officers cover the Mahars in the Deccan, the Vethias or the Varthanias in Gujarat, the Ramoshis or the Juglias and the Holiyas in Karnatak. A large part of these inferior holders are Mahars, and in the course of the remarks that I propose to offer this House, I shall largely speak of the Mahars as representative of the inferior officers.

Sir, in order to understand the provisions of this bill, I think it is very necessary that the House should know the wrongs and the grievances which have led me to bring forth this Bill. Now, the wrongs are very many, but I do not wish to spend the time of this House in giving a lucid description of what actually takes place. I will speak in general of the system and the nature of that oppressive system. First, Sir, it will be remembered that these inferior holders of watan are Government servants according to the Watan Act. But, Sir, the duties of these Government servants are not defined anywhere. It is not known, in fact nobody as a matter of fact can say, to what particular department these watandar Mahars belong. As a matter of fact, every department claims their services. They can be called upon to render service to the Irrigation Department; they can be called upon to render service to the Revenue Department; they can be called upon to render service to the Vaccination Department; they can be called upon to render service to the Education Department; they can be called upon to render service to the Local Self-government Department, and I think they can also be called upon to render service to the Police Department. They can also be called upon to render service even to the Excise Department. That I submit is an extraordinary system. Every Government servant knows and knows definitely to which department he belongs and the services that are expected of him. No department I understand employs

*B.L.C. Debates, Vol. XXIII, pp. 708-21, dated 3rd August 1928.

any individual as servant who can be called upon as the maid of all work but Mahars for all practical purposes are and are treated as maid of all work of all the Government departments. Further he may be called upon to render service at any hour of day or night. Every other Government servant, however humble his position between particular hours ; every peon in the Collector's office or any other office knows that he has to go to his duties at definite hours and return at definite hours. But that is never the case with these Mahars. They can be called upon to render service not only during the day not even between sunset and sunrise but they can be called upon to render service at night. If an officer calls upon the Mahar to render service during night, whether it is raining or there is lightning or any other difficulty, he dare not refuse to do so.

The third grievance is this. In the case of Mahars the officiator is the person whose name is entered in what is called the service register and he is not the only one person who is liable to render service to Government, but his whole family is liable to render service to Government. In case the officiator whose name is entered and who is liable to render service has gone out on service, if the officiator is absent on any Government duty and if there is no one to answer the call, his father may be called upon to render service. If his father is absent his grandfather may be called upon to render service but the names of the father and grandfather may not appear in the register. Not only the male member but, I submit that in their absence the female members also are impressed into Government service. If the officiator is absent his wife may be called upon ; if the wife is absent his mother may be called upon and if the mother is absent the young female members of the family are required to render service in the absence of the officiator. Imagine for one moment a situation like this; a young female Mahar of 18 years called upon by a police officer of 18 years to carry his bigar with him for a distance of five or six miles ! ! Imagine the dangers to which she is exposed under a situation like this ! ! Sir, there is no escape out of the system as it exists today. Under the system as it operates not only the officiator is obliged to render service but the whole family is obliged to render the service. I submit that this is a most oppressive system not obtainable in any other department of Government service.

Coming to the question of remuneration, what is the remuneration that these poor people get for their hard and arduous labour that they do for all the 24 hours ? This House will be surprised if I tell them that the Government practically pays nothing from their treasury directly for the services it exacts from these people. I have before me the figures given by the Government themselves. In Thana district the amount paid by Government directly to the Mahar officiator comes to Rs. 1-8-0 per month; the amount paid in the Ahmednagar district comes to Rs. 1-8-0 per month ; the amount paid in East Khandesh comes to Rs. 1-12-0 per month ; the amount paid in West Khandesh comes to 9 as. 4 pies per month ; in the Nasik district the amount comes to Re. 0-13-4 per month ; the amount paid in the Poona

district is Rs. 1-1-4 per month ; the amount paid in the Satara district comes to Re. 0-2-1 ; the amount paid in a Sholapur district comes to Re. 0-3-3 per month; and in the Bombay surburban district the amount varies between Rs. 9-8-0 and 5 as. per month. There is no salary paid by Government from their treasury in Belgaum. The figures for Ratnagiri and Kolaba are not given by Government in answer to the question put in March session of 1925. This House can see what a paltry pittance the Government pays for the services they exact from them. There is practically no remuneration whatsoever which Government gives to these poor Mahars for the services it exacts from them. The sources of income for these people, the watandar Mahars, are two. The first source is the inam land and the second source is what is called the baluta or the collection of grain made by the watandar Mahars from the villagers. These inam lands were not given by British Government but they were given to these Mahars by the ancient Emperors of this country. The Mahar watan is the most ancient watan that we have in this country and all the lands have been given to them in ancient times. I do not know, at least I am not aware, that the British Government has ever increased the extent of land that has been once given to these people in ancient times. Prices have increased, the standard of living has gone up and every Government servant has been given an increase—I do not know how many times—since the establishment of British Government. But the British Government has never paid a moment's attention to the remuneration of these people. They have left these poor people with such land as the ancient Rajas were pleased to give them. The Mahar population has increased enormously and the land assigned to the Mahars is divided and sub-divided to such an extent that the income these people get from the inam lands is absolutely not worthy of being taken into consideration. The main part of the remuneration which these people get comes largely from the second source, namely, the baluta. Now, Sir, the peculiarity of this mode of payment is really worthy of notice by this honourable House. Again I will repeat that the Mahars are Government servants ; but the Government does not take upon itself the responsibility of paying the remuneration to the person whom the Government employs. In every other case Government takes upon itself the responsibility of paying the peon, the clerk, the officer and employers but in the case of Mahars, so far as baluta is concerned, there is no way by which Government takes upon itself the responsibility that the remuneration shall be paid to them. The reason is that under the Watan Act with regard to the payment of the baluta. the Mahar is left entirely to the sweet will of the ryots. If the ryots are pleased to pay a Mahar he can get it. If the ryots are not pleased to pay the Mahars at the end of 12 months after exacting service from him, the Mahar will find that he has rendered service for nothing.

That, I submit, Sir, is an atrocious system, a system which has no justice in it whatsoever. If the Government desires that these people should work

for them, it is absolutely necessary that the Government should take upon its shoulders the responsibility of paying these Mahars ; they ought not vicariously to throw off this burden in a most careless way upon a third party, namely the ryot, but that is exactly what is happening under the present system.

Then, Sir, is there any security that the watan will be continued ? Is there any security that the Mahar watan will not be suspended or resumed ? Sir, there is no guarantee whatsoever. The reason is obvious and very simple. In every case of course, the tenure of service of a subordinate depends entirely upon the goodwill of the immediate officers under whom he works. Here, Sir, the patil, the kulkarni and the mamlatdar are the immediate officers under whom the Mahar has to work. The Mahar, cannot expect that his watan will be safe unless, besides rendering services to the Government—I mean the legitimate services which are expected of him as a Government servant—he also renders willingly, and without remuneration, private services to his immediate superiors, namely the patil, the kulkarni and the mamlatdar. Unless he ingratiates himself into their favours—and those favours are not easily given ; they are earned at the cost of services rendered without remuneration—there is no security that the patil or the kulkarni will not make a report that the Mahar is not discharging his duty—an absolutely false and concocted report. There have been innumerable cases where such reports have been made by patils and kulkarnis and acted upon by the mamlatdar and the Mahars have had their watans suspended or resumed. In my own experience, which I admit does not extend over a very large number of years, I have come across innumerable cases where Mahar watans have been suspended or resumed. I have myself tried my level best to get the superior officers, the District Deputy Collectors, the Assistant Collectors, the Collectors and even the Commissioners to reverse the orders passed by the mamlatdars, but, Sir, I have never succeeded in any single case. The result is that the subordinate officers are always certain that their decision, whether it is right or wrong, whether it is founded on legitimate grounds or not, whether, it is based on concocted evidence or not, will be upheld by their superiors. Grounded in that feeling of security there is no limit to the oppression or tyranny these people exercise over these unfortunate class of people. That, I submit, is another evil which is inherent in this system.

Now, Sir, if the evils of the system affected only the officiating Mahars and did not affect the rest of the depressed class community, probably I would not have made so much of the matter. The trouble is that the evils of this system are so wide in their scope and extent, so all-pervading, that they affect not merely the officiating class of Mahar but they affect the whole population of the depressed classes. Sir, the House will not probably believe it when I say that as a result of the watan system it is not open to the Mahar population in villages to claim the benefit of Dr. Paranjpye's circular that their children should be made to sit along with the children

of the other classes ; although this Council has passed a resolution that the depressed classes should be allowed the use of dharamshalas and all public places, it is not open to the depressed classes to ask for these privileges that this Council has been pleased to give them. This Council, as I say, will not believe in this, that the watan system is responsible for a situation like this ; but, Sir, that is the only explanation that I can offer why the Mahar population is not able to progress. The reason is simple. Whenever, for instance, any Mahar community in any particular village desires to make progress in any particular direction and that direction is not liked by the ryot, the one immediate step that the ryot takes is to stop the baluta and to proclaim a social boycott. I have known of a case where the villagers have stopped the baluta and declared a social boycott because the relative of a certain Mahar went into the village with socks and boots, an act which the villagers did not like. I have known of a case where the villagers have stopped the baluta and declared a social boycott against the Mahar population because one Mahar in the village had the daring to put tiles on his house. Sir, such a system which enslaves the whole population, which smothers the spirit of progress, which blocks the way for furtherance, is a system which, I think, no right-minded person, no man with any feelings, will sustain or will justify. Sir, no wonder that the whole of the Mahar population is absolutely tired of this watan system. My honourable friend the Revenue Member will take it from me that the whole of the Mahar population—I say that without fear of challenge—is absolutely tired of the system and is desirous of getting rid of it as soon as possibly can. With these few preliminary remarks I will now proceed to explain the provisions of the bill which is before this House today.

Now, Sir, for the consideration of my bill it is necessary to bear in mind that I propose to make two divisions of the watandar Mahar population. The first division is one which is absolutely tired of and would have nothing to do with the watan at all, a class which would like to be immediately relieved of the obligation to serve. Their only condition is that if they choose to give up their watan, that is to say their right to serve hereditary, they should not be deprived of the lands which they have in their possession. In order to carry out that object I have provided by clause 4 to add a proviso to section 15(1) of the existing Watan Act. By that proviso I propose that if a representative body of watandar Mahars or a majority of them represent to the Collector in writing that they do not want to serve and that they are willing to pay the full rate of assessment on their lands, the Collector should relieve them of their obligation to serve. That is the meaning of the proviso. Now, the first thing I should like to point out is that the principle of this proviso is not new. The principle enacted in this proviso is a very old principle, a principle with which the Government is familiar and a principle which Government have accepted and acted upon on various occasions. Sir, this House or at least the majority of honourable members in this House will know that before the introduction

of British Government in this country we had in the villages twelve different village servants known as Balutedars. When the British Government began the administration of this country they classified these 12 officers into three groups : Those whose services were necessary for the purpose of Government, those whose services were necessary only for the purposes of ryot and those whose services were necessary for both. In the case of those village servants whose services were only necessary for the purpose of the ryot, Government by what are known as the Gordon settlements, commuted their watans, that is to say they allowed them to retain full possession of the lands on their consenting to pay full revenue assessment. Sir, the proviso of my bill is nothing else than the principle embodied in the Gordon settlement.

The second example that I would like to give in support of my proposition that the principle of the bill is not new is that I find in 1923 Government issued a resolution with respect to the Shetsanadi watans. In that resolution No. 9319, dated the 13th October, Government have laid down that these Shetsanadi watandars who do not render services may be relieved of their obligations to serve provided they are willing to pay full revenue assessment.

Then, Sir, I should like to remind the House of the more recent example, I mean the Joshi Bill. When the Joshi Bill came up for discussion on the floor of this House it was pointed out that those Joshis who do not want to serve should be allowed to keep their land. Government, on that occasion, introduced of their own accord, I understand, a proviso in the bill allowing the village Joshis to retain the land provided they were willing to pay full revenue assessment. The proviso of my bill is not something different from the proviso introduced in the Joshi Bill.

Then, Sir, I should like to argue this point also from the legal point of view. Suppose, now, there was not this proviso and supposing a watandar Mahar wanted to be relieved of his obligation to serve and suppose, further, that Government wanted to exercise their powers of resumption of the watan, what would Government resume ? I submit, Sir, that Government would be entitled to resume only the land revenue and nothing more. The High Court of Bombay in a series of decisions which it has given has held that in the case of inam in this Presidency there is always the presumption that the grant is of land-revenue only and not of the land. That has been the view of the Bombay High Court. That being so, I submit, Sir, that ordinarily and without the enactment of this proviso the utmost that Government can do in the case of Mahars who do not wish to render services would be to ask for full revenue assessment on their lands because the inam merely consists in nothing else than freedom from land revenue. The grant does not include the land. I am aware. .....

Sardar G. N. Mujumdar: Even in the case of Mahars ?

Dr. B. R. Ambedkar: Yes, even in the case of Mahars.

I am aware, Sir, that there are two decisions of the Privy Council wherein

Their Lordships have stated that there is no justification for starting with a presumption of this sort. But then, Sir, there is also a decision of the Bombay High Court after those judgments were delivered. I refer to 22 Bombay Law Reporter, page 275 where the High Court has held, even after the decision of the Privy Council that that presumption holds good and the reason they have given is very important. That reason is this. Government in 1854 after the passing of the Act of 1852 for inquiring into the titles of revenue free estates passed a resolution defining the meaning of the word "resumption". I refer to resolution No. 2449 of the year 1854. The resolution expressly states that resumption means not taking away the land but the levying of full revenue assessment The Bombay High Court says that having regard to that resolution its ruling that in the case of crown grant the resumption is of land revenue and not of land will not be unjustifiable. I, therefore, submit, Sir, that even on legal grounds what Government can resume in the case of Mahar watans would be land revenue only and not land.

The Government may perhaps object to this proviso on the financial grounds. Government have stated in the course of the debate which has preceded this bill that if watans were commuted, that is to say, if the Mahars were allowed to retain their watan lands on the payment of the land revenue, Government in that case would be obliged to employ a paid agency and that the cost of remunerating this paid agency would be an additional burden on their treasury. Now, Sir, my first submission is this : I do not think there would be any additional burden on the treasury, and for these reasons. Even if Mahar watans are commuted and even if Mahars are liberated from rendering services that they render and even if Government employ a paid agency the Government will have at its disposal a fund from which they would be in a position to pay the new agency employed. First of all they would have a fund derived from the assessment levied on the lands of the Mahars. In addition to that Government will also have the right to levy baluta because according to the ruling of Government the village population is liable to pay, the cost of the watch and ward. I submit, Sir, that these two things together will form a sufficient fund for the maintenance of the new paid agency. The one reason which terrified Government at the thought of commutation of the Maharki watan is that they think they shall have to employ the same number of people as they at present employ. I understand—I have not the exact figures—that Government are employing about 64,000 Mahars in the Bombay Presidency. I submit, Sir, under the new system they will not have to employ such a large number of people. They are employed by Government now because they can vicariously do so at the cost of the ryot. In some villages there are 16 Mahars employed. In other villages for instance in Nagar District there are 32 Mahars employed in one village. I submit, Sir, that the number of Mahars employed at the present moment is most extravagant which certainly can be greatly reduced and if the reduction comes about as I expect it is

bound to come, one-third of the present number will be sufficient and the land revenue and the baluta will constitute a sufficient remuneration without any additional burden on the treasury. I ask in all seriousness why should not the Government undertake to bear that burden ? Why should not the Government pay the cost of the services ? In the case of every other Government employee, Government has made itself bold to come before this Council to ask for additional money. Sir, in the year 1921 Government agreed to increase the salaries of village teachers. In the same year Government brought forward proposals to increase the salaries of the subordinate services. Apart from this, Government brought forward proposals to increase the salaries of the talatis. If, Sir, the Government have got the nerve, the courage and the sympathy for these classes to bring forward financial measures to remunerate other services, why should not Government have the same nerve, the same courage and the same sympathy in the case of these Mahars ? I do not understand, Sir, why for instance Government should continue or be a party to a system which enthrals and enslaves a class of His Majesty's subjects. I submit, Sir, that either on the legal ground or the moral ground, and I say on financial ground, the principle I have enunciated in section 4 of my bill is just and equitable.

I now come, Sir, to the other class of watandar Mahars, those who care to carry on with the watan, those who are prepared to render services provided their grievances are remedied. These Mahars I have provided for in clause 6 of my bill. The provision in this section which is sought to be enacted in the interests of that part of the Mahar population, which cares to carry on the village duties, mainly consists in the re-organization. I use the word advisedly—mainly consist in the re-organization of the baluta system. If honourable members will go through the clauses which are enacted therein, they will find that there is, first of all, a provision made for the conversion of the baluta into a money cess. Secondly, provision is made for the recovery of the money cess along with the land revenue. Thirdly provision is made for the division of that cess into two parts, one for services rendered to the ryot and another for services rendered to the Government; so that that part of the cess which will be apportioned for services to the Government will be obligatory, while that part of the cess which will be apportioned for private services to the ryot will be optional. Those ryots who care to employ the services of the Mahar for their private service will be obliged to pay only that part of the cess which will have been assigned for private service. The Mahars, on the other hand, if, they do not want to render service to the ryot but want to render service only to the Government shall forfeit that part of the money cess which will have been assigned for private services.

Now, Sir, the House is likely to think that I am making some novel proposals; I wish however to emphasise that none of these provisions are new. They already exist in the Watan Act. There is only a change in the existing system and a re-organization. The first provision that baluta shall

be converted into a money cess will be found already existing in section 19 of the Watan Act. That is not, therefore, a new thing. Under the existing Watan Act the Collector is given the power to convert, whenever he thinks fit, the baluta into a money cess. The second provision that the collection of the money cess shall be made along with the land revenue, I submit again is not a new proposal. It already exists in the Watan Act. Reference to section 81 of the Watan Act will show that the Collector has, under the existing Act, the power to collect all haks, all remunerations, all emoluments, as if they were arrears of land revenue. Therefore, what I submit, Sir, is that there is nothing that is new in section 6 of the bill. All that is new in section 6 of my bill is that the discretion instead of being given to the Collector is given to the parties themselves. The existing law recognizes that circumstances will arise when provisions such as those contemplated by section 6 of my bill will be necessary. Otherwise those provisions would not have found any place in the existing law. What I feel is that although the Collector may have the discretion, he may not know, he may not be aware, and may not be cognisant of the fact that circumstances have arisen which require that his discretion should be exercised. All I say is that the Collector should be guided by the parties themselves in the matter of the exercise of the discretion, so that, if the parties desire that the baluta should be collected along with the land revenue, the Collector will know that the occasion has arisen for him to use his discretion. There is nothing new in this, except the transfer of the discretionary power from the Collector to the ryots and to the Mahars.

Then, Sir, the third provision as regards the partition of the baluta between two specific shares, one for private service and the other for Government service, is no doubt new. But I submit that circumstances have rendered it very necessary. According to the view of Government the baluta is a joint payment for services to the ryots and for services to Government. The Government on the 3rd of May 1899 passed a resolution No. 3074 wherein they have expressly laid down that baluta is a joint remuneration for services both to the ryots and to the Government. I need not go so fai back in order to give support to this view. Even as late as 1919, the Government in the papers that they laid before this House, in reply to a question on this point relied upon the order passed by the Assistant Secretary to Government in which the proposition has been expressly emphasized, that the baluta is not paid for merely private services, but is also paid for services to Government Now, Sir, what I submit is that the Mahars, some of them, are willing to render services to the Government, but they are not willing to render services to the ryots. There are also certain ryots, I know of, who do not want to employ an agency which is forced upon them as the Mahars are by the present law. They would like to employ on their own initiative at their own will, any one whom they would care to employ. In the same way there are some Mahars who do not want to render services to the ryot. They would like to have their freedom

to serve or not to serve. But under the existing law this freedom is denied to them. They are forced to serve whether they wish it or not. This is due to the fact that the baluta is a joint remuneration and there is no way of finding out how much of the remuneration in the form of baluta is due for Government services and how much of it is due for private services. In these days of rivalry in social advancement the tension between the ryots and the Mahar has become great and will continue to grow in intensity unless freedom to employ and freedom to serve is provided for. To achieve this purpose it is necessary to define the quota of baluta due from the ryot on account of private services to the ryots and that due for the services rendered to Government. What happens under the present circumstances is this, that if a Mahar does not render service to the ryot, all the same, there being no partition of the baluta, the ryot is obliged to pay the whole and the Mahar gets an advantage over the ryot.

On the other hand it happens that if the Mahar did not render service to the ryot but rendered services only to Government, he loses the whole of the baluta, for the reason that the ryot has no idea how much of the baluta is due from him for Government services. Not knowing this he withholds the whole and thereby causes a wrongful loss to the Mahars. It is therefore very essential, I think, in the interest of better administration and in the interests of peace in the villages that this partition of the baluta should take place. I submit it is absolutely contrary to the principle of law that the services of one class of people should be forced upon other classes of people. It would be atrocious to uphold a system under which a particular barber should alone shave us to the exclusion of any other barber. But the watan system is such an atrocious and barbarous system. I am sure the lawyer members of this House are aware that we had in the High Court a case in which one of the barbars had brought a suit that the Yajmans (the ryots) in a particular village were not entitled to employ the services of an outside barber, that whether or not that particular barber was efficient or not, whether he knew how to crop the hair or to pare the beard, he was entitled to render service to the ryots all the same. The same thing happens in the case of Mahars. What my bill aims at is freedom of contract; if the ryots do not want to employ the Mahars, they ought to have perfect liberty not to employ them, and if the Mahars do not want to serve, the Mahars should have perfect liberty not to serve. But under the present system, under the system of joint remuneration, this liberty of contract is negatived and is not obtainable. My scheme provides for that freedom of contract, and I think at least in this century when every society has advanced from status to contract we ought not for instance to block the progress of Indian society by refusing the Mahars and the ryots the liberty of contract.

One thing I would like to say is that the system which I have outlined here in this bill is not altogether my own. It is a system which I have copied from the Berars. In the Central Provinces and the Berars, similar feuds and troubles were going on between ryots and the Mahars. A great agitation

was carried on, on the part of both the sides and Government there appointed a committee to investigate into the matter and to make their proposals. In 1920, the committee made its proposals and the Government introduced the system which I have essentially reproduced in the provisions of this bill. I submit that if the provisions of this bill, which are the result of the recommendations of the Berar Committee, are good for the Berars, I think they cannot be bad for the Bombay Presidency, because the Berar system was a replica of the Bombay system ; so much so that the whole of the Berar Committee's report is based upon the resolutions of the Bombay Government. These are the main provisions of the bill.

There is a provision in the bill, however, which probably requires a little explanation and that provision is the provision which introduces certain changes in section 9 of the Watan Act. I mean clauses 2 and 3 of my bill. Under the provisions of the Watan Act, it is laid down that watan lands shall not be alienated to any one outside the watan family. There is also a provision under section 9, which empowers the Collector to resume the land of a watandar which has been transferred to a non-watandar. But under section 9 whether or not to declare the alienation null and void and to resume such alienated land is left entirely to the discretion of the Collector. The Collector does not always choose to exercise the discretion vested in him under section 9 in favour of the watandar. This may cause no particular hardship when the land so alienated although it is watan land is not assigned as remuneration to an officiating watandar. But I submit, Sir, that if an officiator is required to render services to Government on the express understanding that his watan land has been assigned to him in remuneration for his work shall always remain in his possession, I think Government ought to resume those watan lands which have gone out of the hands of the officiator. The sections which I have introduced make the declaration of alienation as null and void obligatory upon the Collector in the case of such watan lands as are assigned as remuneration of an officiator. In introducing these sections I adopt as my basis the well-known division of watan lands into two classes, those assigned as remuneration and those not assigned as remuneration. In the case of lands not assigned as remuneration the Collector may well not exercise his discretion because of the fact that the land is not necessary immediately for the purpose of the remuneration of the officiator. In that case if the Collector does not exercise his discretion in favour of the watandar and declare the alienation null and void there is not much case for complaint. But when the land is expressly reserved and assigned as remuneration. I think the Collector ought to have no discretion whatever in the matter but in every such case, the declaration should be given that the alienation is null and void.

I admit, Sir, that there are two defects in the bill as I have drafted it, and I like to make this admission because I want to be very, very just. I do not want to throw any additional burden on the ryot in the interests of the Mahars. The simple reason is that I am an enemy of the watan system.

I have striven all along to destroy the Maharaki watan system, although I know that in the immediate future the Mahars will suffer a great loss. But I am convinced that these shackles of the watan system are the principal causes which are keeping them backward. I am taking a long view of the matter and it is this that leads me to be indifferent to the immediate benefits to the Mahars from their watans. I cannot therefore be particularly striving to steel an advantage over the ryots, not particularly striving for benefitting the Mahars at the cost of the ryot. Honourable members of this House will see that the baluta system is, as I have organised it in my bill, not going to impose any additional burden upon the ryot. I use expressly the word "equivalent". That means no additional burden shall be levied upon the ryots for the remuneration of the Mahars. That will show how just I mean to be,. That leads me to admit that there are two defects in the bill. One is that in altering section 9 (alongwith clauses 2 and 3 of the bill) so as to make it obligatory upon the collector to resume the land, there ought to be a provision allowing the Collector to pay compensation to the dispossessed non-watandar. I readily admit that the lands may have been transferred to any one in faith and for full consideration. It stands to reason that when such a transferee is deprived of it, he ought to be paid compensation. When I had first drafted this bill, I had provided that the Collector should have power to compensate the non-watandar, but on the advice of certain official members, I withdrew that, but I am prepared to make that amendment in the select committee. Secondly, I ought to have provided that just as the Mahars should have option not to serve the ryot, the ryot ought to have the option not to employ the Mahars. I am prepared also to make that amendment in the bill in the select committee to which it may be referred. These are all the things, I think, in the bill which call for explanation.

Before I bring my remarks to a close I think I ought to make it very clear to the Honourable the Revenue Member that this bill has the support of the entire Mahar population. There is no division of opinion on that point at all. In fact there cannot be a division of opinion on this bill and for very good reason. The bill is not an obligatory bill. It is purely a discretionary bill. Unless the watandar Mahars desire that the provisions of this bill should be brought into operation, they will not be brought into operation. Things will continue as they are now. A change will come only when the Mahars will feel the necessity for it. It will not be forced upon them against their will.

Mr. P. R. Chikodi: This is an unilateral arrangement. It ought to be bilateral.

Dr. B. R. Ambedkar: I know I ought to make that amendment which has been omitted but which will be made in the select committee.

I say there cannot be any opposition to this bill on the part of the Mahars themselves because the bill is not an obligatory one and it does not compel them *to* take advantage of it. It only makes certain provisions in their interest if they want to avail themselves of them. The Mahars have not

therefore objected to this bill. Indeed there cannot be any objection on their part. Not only have they not opposed the bill, but they have whole heartedly welcomed it. Since the time I have been at this bill I have never kept anything secret from the Mahar population. I have placed the principles and the provisions of this bill before the whole Mahar population at several meetings to enable them to express their opinion on this bill and I am glad to say that the whole of the bill and the principles embodied in it have been unanimously accepted by them. In order that the Government may not have any occasion to say that these meetings were engineered by me for the purpose of obtaining support for the bill. I have, for the most part abstained myself from attending these meetings, which have been held under the chairmanship of members of other communities. My honourable friend Mr. Bole, sitting just by my side, will corroborate me when I say that in the city of Bombay a meeting of over 5,000 watandar Mahars was held under his presidentship. Of course some people tried to fool the Mahars that the bill is going to do them harm, but I think that the honourable member will corroborate me whether or not the Mahars supported the bill unanimously without a single dissenting voice. In the same manner, I would refer to my honourable friend Mr. Rajma Lakhichand. A meeting was held of the watandar Mahars of Khandesh at Jalgaon under his presidentship, where I addressed them on the provisions and the principles of this bill. Conservatively estimated, that meeting again was attended by something like 3,000 Mahars ; the theatre was full to its capacity, and when the resolution was moved, there was not a single Mahar who opposed it. I think my honourable friend Mr. Thorat will corroborate me that a similar meeting was held in the Ahmadnagar district, where also the bill was unanimously supported. I need not of course refer to the minor meetings held at different places. I can assure the House that the Mahar people are absolutely determined to have the bill, and I may tell my honourable friends that if the Government refuse to liberate these people on grounds of finance, on grounds of convenience, or on any other grounds, that it will be a war between the Revenue Department and the Mahars. If this bill does not pass, I for myself am not going to be in the Council; I am going to spend the rest of my time in seeing that the Mahars organise a general strike, and bring the Honourable the Revenue Member to feel that the principles of this bill are absolutely essential for the welfare of the Mahar people. I am speaking from the bottom of my heart; I do not want to keep anything behind. I want to say in all seriousness that that is our aim. Sir, I have been labouring in the cause of the depressed classes for the last three ycars as far as I possibly can. I have come across many difficulties in my way, and I have come definitely to know that the watan is probably the greatest difficulty that I have to face, in order to carry the Mahar population further. I am happy to find that the Mahars as well are convinced that these watans stand in the way of their advancement. I therefore hope that this Council will unanimously pass this bill. With these words, I move the first reading of the bill.

Question proposed.

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16

*ON THE HEREDITARY OFFICES ACT AMENDMENT BILL: 2

(Discussion on Bill No. XII of 1928, a Bill further to amend the Bombay Hereditary Offices Act, 1874, resumed)

Dr. B. R. Ambedkar: Sir, I am very much thankful, indeed to the non-official members of this House for the very warm and whole-hearted support which they have given to this measure. Sir, the debate has not disclosed that the opponents of this bill have made out any case against it and I do not think, therefore, that it is necessary on my part at this stage to enter into any details in reply to the objections that they have registered, All that they have done is to raise and place before this House certain matters, what we call "matters of prejudice", something which does not touch the intrinsic merits of the bill itself. Sir, I have admitted in my opening speech that the bill has no doubt probably certain defects, as is pointed out by a few of the honourable members opposite, and I made it plain in my opening speech that I leave an open door to the select committee to make such amendments that they may desire to make. I make no objections on that score. .....

An Honourable Member: Amendments even of principle ?

Dr. B. R. Ambedkar: Such amendments that the select Committee may want to make, even of principle; I have no objection at all. Any amendments that the select committee may desire to make. .....

Sardar G. N. Mujumdar: Even of principle ?

Dr. B. R. Ambedkar: Yes, I would much rather leave this bill in the hands of the select committee made up of non-official members of this House than leave it to the tender mercies of the officials. That I am prepared to do. Let the fate of the bill be what it may, but I leave it to the non-official members of the select committee of this House. Sir, I do not think that this procedure is going to inconvenience the Honourable the Revenue Member. Sir, I do not wish to incorporate into this bill any allegations or accusations against the official members. But I am constrained to say this, that they have certainly not treated this subject with the same urgency and with the same importance or with the same concern with which the

*B.L.C. Debates, Vol. XXIII, pp. 791-93, dated 4th August 1928.

depressed classes have viewed this bill. I remember a resolution was placed before this House in February 1923 discussing specifically same part of the provisions of this bill. The whole of that resolution was looked upon with the utmost favour by the non-official members of that House. The Honourable the Revenue Member then induced the member in charge of the resolution to withdraw it on the express understanding that he would institute immediate enquiries into the matter. Sir, four or five years have elapsed since that date, but no enquiry has been made at all. Sir, again a resolution was moved by my predecessor in the year 1925 raising the same issue which this bill raises. Then again, the honourable mover of the resolution was induced, to withdraw the resolution by the Government on the specific understanding that they would make enquiries into this matter. But nothing has been done. I do not think that it can lie in the mouth of my honourable friend the Revenue Member, that this bill is in any way a surprise sprung upon him. The provisions of this bill, that is, the demands that the depressed classes are making in the matter of their watan, are before him for a long time. If he really wanted to arm himself with facts and figures, if he really wanted to formulate his own proposals in substitution of the proposal which I have made, I submit, Sir, that he has sufficient time on his hands to do so. He has not availed himself of that opportunity which he had. All the same, I am prepared to offer him another opportunity and I say this, that if the bill goes to the select committee, I am prepared to move that the select committee shall make this report some time in June next; so that my honourable friend will have practically nine or ten months in between to make enquiries, to appoint any separate committee he wants to do of persons whom he regards as experts. He may thereby be in a position to formulate his own proposals and come before the select committee and move them by way of amendments. I have no objection to that, and if my honourable friend accepts that, I am perfectly willing to adopt that course. It is for him to say. But, as I said at the very beginning I am prepared to leave this measure in the hands of the select committee constituted of this House. I am not prepared to leave this measure to the official side. That is, Sir, what I want to say in reply.

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17

*BILL No. XXIII OF 1937 TO AMEND THE BOMBAY HEREDITARY OFFICES ACT

The following Bill for the introduction of which leave was granted to Dr. B. R. Ambedkar, M.L.A., at the meeting of the Bombay Legislative Assembly on the 17th September 1937 is published under rule 20 of the Bombay Legislative Assembly Rules : —

BILL No. XXIII OF 1937

A Bill to amend the Bombay Hereditary Offices Act HI of 1874.

Whereas it is expedient further to amend the Bombay Hereditary Offices Act, 1874 (Bom. in of 1874) in manner hereinafter appearing; It is hereby enacted as follows : —

1. *Short title.*—This Act may be called the Bombay Hereditary Offices (Amendment) Act, 1937.

2. *Amendment of section 15 of Bom. III of 1874.*—For section 15, clause 1, the following shall be substituted: —

15. *Clause 1.*—When the holder of a watan or any member of a watan family having an interest in the watan applies to the Collector in writing to relieve him in perpetuity of liability to perform services, the Collector shall so relieve him on being satisfied that the application is genuine.

Clause 2.—From the date when he is relieved from liability to serve he shall cease to be the holder of a watan and shall not be entitled to any rights existing from his watan except as is provided for in clause 3 hereof.

Clause 3.—On his agreeing to pay full assessment every holder of a watan who is relieved from the liability to serve under clauses 1 and 2 of this section shall be allowed to retain the land which he was entitled as the holder of the watan and shall be deemed to be an occupant of it within the meaning of section *3*(*16*) of the Bombay Land Revenue Code.

Clause 4.—It shall be lawful for the Collector to apportion the land to the applicant who is relieved from service if it is held jointly by more than one watandar or watan families.

Clause 5.—The land which is allowed to be retained by such applicant who is relieved from service shall cease to be regarded as watan land assigned as remuneration of an officiator.

**Bombay Government Gazette,* Part V, pp. 101-05, dated October 21, 1937.

3. Clause 2 shall be renumbered as clause 6.

4. Clause 3 shall be renumbered as clause 7.

5. In clause 4 after the words "the whole number of joint owners" the words "or one or some of such joint owners" shall be added. Clause 4 shall be renumbered as clause 8.

6. *Amendment of section 16 of Bom. III of 1874.*—In section 16 for the word "originally", the word "primarily" shall be substituted.

7. *Amendment of section 19 of Bom. III of 1874.*—In section 19 the words "and to decide whether the payment shall be made in kind or money" shall be deleted.

8. *Insertion of new sections 19A, 19B, 19C and 19D, after section 19 of Bom. III of 1874.*—After section 19, the following new sections shall be added : —

"19A. *Conversion of a right to a levy in kind into an equivalent money cess, by the Collector.*—When the whole body of representative watandars or a majority of them whose watan property consists of a right to a levy in kind apply to the Collector to convert such right into a money cess, the Collector shall then convert the same into an equivalent money cess.

"19B. *Recovery and payment of money cess by the Collector.*—When such a right to a levy in kind has been converted into an equivalent money cess the whole body of representative watandars or a majority of them concerned may apply to the Collector to recover the same from those who are liable to pay. The Collector shall then recover the same along with and as part of the land revenue and shall direct that the same be paid from Government Treasury to those watandars entitled to the same.

"19C. *The Collector to decide on application from watandars how much money cess is due to them for services to Government and how much for services to ryots.*—In case where such a right to a levy in kind be deemed a joint return for services to both the ryots and the Government, the whole body of representative watandars or a majority of them whose right to a levy in kind has been converted into a money cess may apply to the Collector to decide how much of the money cess is due to them for services to Government and how much for services to the ryots. The Collector shall then give such a decision, which decision shall be deemed to be final.

"19D. *Option to the watandars to refuse to render any service to the ryots.*—The whole body of representative watandars or a majority of them who have asked for such a decision as is referred to in section 19C, shall have the option to refuse to render any service to the ryots provided they inform the Collector in writing of their decision in this behalf. In case such option is exercised, the watandars exercising such option shall forfeit that portion of the money cess due to them for services to the ryots."

9. *Amendment of section 21 of Bom. HI of 1874.*—In section 21 for the words "such periods" the words "a period of 10 years" shall be substituted.

10. *Amendment of section 83 of Bom. III of 1874.—For* section 83, the following shall be substituted : —

> "83. Except as is otherwise provided for in section 18, Government shall have power to make rules laying down the duties that are to appertain to any hereditary office. Provided that the rules made under this section shall be laid on the table of the Legislature for not less than one month previous to the next session thereof and shall be liable to be rescinded or modified by a resolution of the Legislature. If any rule is modified or rescinded, Government shall accept the modification and republish the rule accordingly or shall rescind the rule."

Statement for Objects and Reasons

Three purposes underly the Bill. First is to permit commutation of the watan at the option of the holder, second to provide better security for the payment of the remuneration of certain classes of watandars and the third purpose is to provide for specification by rules of the duties to be performed by the watandars.

Sections 2-6 are designed to give effect to the first of these purposes. Sections 7-9 are intended to carry out the second purpose and section 10 is to meet the third purpose of the Bill,—

(*i*) Section 2 allows a watandar who wishes to do so to free himself from the liability to serve as a watandar without involving a loss to his right to the land which formed part of his watan. While it allows such a watandar to retain the land it does not involve any loss to Government because Government will be entitled to recover from him full survey assessment.

(*ii*) Sections 3 and 4 are formal.

(*iii*) Section 5 makes it possible for one or some of the joint owners of the watan to apply for being relieved from service.

(*iv*) Section 6 is intended to define more accurately who shall be liable for service to the community by the use of the word "primarily".

(*v*) Section 7 provides that there shall be no discretion left to the Collector in determining whether the collection shall be made in kind or in money.

(*vi*) *Section 8 adds four new sections to the Act.*—Section 19A gives the right to watandars to apply to the Collector to convert payment in kind into payment in money and requires the Collector to convert the same in its money equivalent.

Section 19B places an obligation on the Collector to collect the money cess as part of the land revenue if required to do so by the watandars. Section 19C gives the Collector the power in cases where the remuneration of the watandar is a joint payment for services to Government as

well as to the ryots to decide how much of it is for services to Government and how much is for services to the ryots.

Section 19D gives an option to the watandar to free himself from the liability to serve the ryots subject to his foregoing any claim to that part of the remuneration fixed by the Collector under section 19C as being due for services rendered to the ryots.

(*vii*) Section 9 fixes 10 years as the maximum period for any settlement made by the Collector under section 21 in respect of the profits of the watan.

(*viii*) Section 10 merely requires that the duties to be performed shall be laid down by rules.

(Signed) B. R. AMBEDKAR

H. K. CHAINANI,

Secretary to the Bombay Legislative Assembly.

Poona, 18th October 1937.

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18

*ON THE HEREDITARY OFFICES ACT AMENDMENT BILL No. XXIII OF 1937

Dr. B. R. Ambedkar (*Bombay City*): Sir, I rise to move for leave to introduce a Bill to amend the Bombay Hereditary Offices Act III of 1874.

Three purposes underlie the Bill. The first is to permit commutation of the watan at the option of the holder, the second to provide better security for the payment of the remuneration of certain classes of watandars, and the third purpose is to provide for specification by rules of the duties to be performed by the watandars.

Sections 2-6 are designed to give effect to the first of these purposes. Sections 7-9 are intended to carry out the second purpose and section 10 is to meet the third purpose of the Bill.

Section 2 allows a watandar who wishes to do so to free himself from the liability to serve as a watandar without involving a loss to his right to the land which formed part of his watan. While it allows such a watandar to retain the land, it does not involve any loss to Government because Government will be entitled to recover from him full survey assessment.

Sections 3 and 4 are formal.

Section 5 makes it possible for one or some of the joint owners of the watan to apply tor being relieved from service.

Section 6 is intended to define more accurately who shall be liable for service to the community by the use of the word "primarily".

Section 7 provides that there shall be no discretion left to the Collector in determining whether the collection shall be made in kind or in money.

Section 8 adds four new sections to the Act

Section 19A gives the right to watandars to apply to the Collector to convert payment in kind into payment in money and requires the Collector to convert the same in its money equivalent

Section 19B places an obligation on the Collector to collect the money cess as part of the land revenue if required to do so by the watandars.

Section 19C gives the Collector the power in cases where the remuneration of the watandar is a joint payment for services to Government as well as to

*B.L.A. Debates, Vol. 1, pp 1091-92, dated 17th September 1937.

The Bill introduced by Dr. Ambedkar is reproduced at pages 90-93

the ryots to decide how much of it is for services to Government and how much is for services to the ryots.

Question put, and leave granted.

Dr. B. R. Ambedkar: Sir, I introduce the Bill.

The Honourable the Speaker: The Bill is introduced.

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19

*BILL No. XX OF 1937 TO ABOLISH THE KHOTI SYSTEM

The following Bill for the introduction of which leave was granted to Dr. B. R. Ambedkar, M.L.A., at the meeting of the Bombay Legislative Assembly on the 17th September 1937 is published under rule 20 of the Bombay Legislative Assembly Rules : —

BILL No. XX OF 1937

A Bill to abolish the Khoti System

WHEREAS it is desirable and necessary to abolish the system of revenue farming known as the Khoti System and to extend the principles of the Rayatwari System as being more beneficial to the area where the Khoti System is in operation; It is hereby enacted as follows : —

1. *Short title and extent.*—This Act shall be called "The Khoti Abolition Act, 1937." It shall extend to the whole of the Presidency of Bombay.

2. *Aboition of Khoti System.*—After the passing of this Act it shall be lawful for Government by notification in the *Government Gazette* to declare that the Khoti Rights of a particular khot or of khots in a particular area are abolished from such date as may be mentioned in the said notification.

3. *After notification Khot not entitled to act as Khot and Government not bound to employ or recognise him as Khot.*—From the date of any such notification so much of any law, custom or usage now in force which entitles the Khot to act as a Khot or which requires Government to employ or recognise a Khot or which confers upon him the rights of Khot shall cease to be enforced in any suit or proceedings in any Court.

4. *After notification Khot free from liability in respect of revenue.*—From the date of any such notification the Khot shall be free from any liability to Government relating to revenue becoming due after the date of the notification.

5. *Compensation to Khots.*—(*i*) It shall be lawful for Government to pay reasonable compensation to the Khot for the loss of his rights as a Khot suffered by him in consequence of the notification :

Provided that the compensation shall not exceed one per cent. of the assessment leviable under the Land Revenue Code in respect of the land held by him as Khot.

**The Bombay Government Gazette,* Part V, dated October 21, 1937, pp. 88-94.

(*ii*) The decision of Government regarding the amount of compensation shall be final and conclusive.

(*iii*) It shall be lawful for Government to pay compensation due to a Khot in cash, bonds or annuity or in any other form and the decision of the Government as to the form and mode of payment shall be final and conclusive.

6. *Inferior holders of Khoti villages to be occupants.*—When the Khoti System in any area has been abolished under the provisions of this Act all persons in possession of the lands in that area whether under the management or beneficial enjoyment of the Khot shall be regarded as occupants of the lands in their possession within the meaning of section *3*(*16*) of the Land Revenue Code, 1879, and shall have the same rights and be affected by the same responsibility in respect of lands in their possession as the occupants of the unalienated land have been or are affected by or under the provisions of the said Code and all the provisions of the said Code shall be applicable to them.

7. *Determination of disputes regarding claims to occupancy rights.*—In case there is a dispute as to who should be the occupants of a particular holding priority shall be granted to the claimant whose occupation of the land has been of greater duration during the 12 years preceding the notification.

8. *Rights to occupancy not lost by disturbance.*—Any disturbance caused to the rights of an inferior holder after the passing of the Act shall not prejudice the rights to which he may be entitled under section 6 of this Act.

9. *Inquiry into disputes as to rights to compensation by Khots and rights to occupancy by inferior holders.*—(*i*) It shall be lawful for Government to appoint an officer to enquire into and decide all disputes arising under this Act between persons, claiming to be interested as occupants of lands in the area in which the Khoti System has ceased to exist, and also disputes between persons laying a claim to the compensation payable under this Act.

(*ii*) For the purpose of enquiries under this Act the Officer shall have power to summon and enforce the attendance of witnesses including the parties interested or any of them and to compel the production of documents by the same means and so far as may be in the same manner as is provided in the case of a Civil Court under the Code of Civil Procedure, 1908.

(iii) The provisions of sections 9, 10, 11, 12, 13, 14 and 15 of the Land Acquisition Act, 1894, shall so far as may be apply to the proceedings held under this Act for the determination of the amount of compensation to be paid or of the right to be recognised as an occupant.

(*iv*) It shall be lawful for the officer to compel the Khot or the inferior holder to produce all documents, records and registers in his possession or power for the purpose of any enquiry that may be necessary for settling disputes regarding rights to the amount of compensation or regarding rights to occupancy.

(*v*) The Officer shall lodge his decision with the Collector and shall communicate in writing his decision regarding claims, to a right to occupancy in the land or claims to a right *to* the compensation to the persons making such claims.

(*vi*) If the Officer is unable to satisfy himself as to which of the different claimants was entitled to compensation he may suspend payment of compensation until a competent Civil Court has determined the rights of the persons who have claimed the compensation.

10. *Reference by inferior holders whose claim to occupancy has been rejected.*—(*i*) Any person who is aggrieved by reason of the fact that his claim for being registered as an occupant is rejected by an order passed by an Officer specially deputed by the Government in his behalf shall by a written application to the Collector require that the question of his claim be referred by the Collector for the determination of the District Court within whose local jurisdiction the whole of part of the land is situated or a Tribunal appointed by Government in this behalf.

(*ii*) The application shall state the grounds of his objections to the decision of the Officer and shall be submitted within 90 days from the date of the service of the order rejecting his claim.

(*iii*) The Collector shall refer the application to the District Court or the Tribunal as the case may be. The application shall be numbered and registered as a suit between the applicant as plaintiff and the person or persons who have been declared by the Officer to be entitled to occupancy as defendant.

(*iv*) On such application being registered the Court or the Tribunal shall direct notice thereof to be given to the defendant or defendants to appear and answer the claim on a date to be therein specified.

(*v*) The application shall be set down for hearing as a suit instituted in the ordinary manner under the provisions of the Code of Civil Procedure, 1908, shall apply to such suits so far as the same are applicable.

(*vi*) No appeal shall lie from any decision given or order passed in any such suit by the Court or by the Tribunal.

11. *Statements to be filed by Khots.*—(1) Within three months from the passing of this Act the Collector shall by notice in writing require every Khot to lodge with him on or before a day named by him in the notice (which day shall not be later than three months from the date of the notice) a statement signed by the Khot showing : —

(*i*) The survey numbers of all lands of which he is a superior holder as a Khot or otherwise ;

(*ii*) the persons who have been in occupation of each survey number for each year commencing from the year 1920 to the date of the passing of this Act; and

(*iii*) the title and the nature of the interest claimed by the Khot in each such survey numbers.

(2) The Khot shall report to the Collector from time to time in writing of any change that may subsequently occur in any of the particulars contained in the statement lodged under sub-section (*i*).

(3) *Liability to make statement.*—Every Khot required to make or deliver a statement under the preceding section shall be deemed to be legally bound to do so within the meaning of sections 175 and 176 of the Indian Penal Code.

12. *Statement to be evidence.*—The entries in the statement furnished by the Khot under section 11 shall be conclusive evidence as against the Khot of the facts contained therein in any suit or proceeding to which the Khot or his representative in interest is a party.

13. *Penalty for not furnishing statement.*—(*i*) Any Khot who in contravention of the provision contained in sub-sections (1) and (2) of section 11 refuse or neglects to lodge a statement when required to do so or refuses or neglects to report any change occurring subsequently in any of the particulars of the statement shall be punished for each such offence with fine which may extend to 100 rupees.

(*ii*) Any Khot neglecting to make a statement as required by sub-section (*1*) of section 11 within the prescribed period shall be liable at the discretion of the Collector to be charged a late fee not exceeding five rupees a day of every day of the delay which shall be leviable as an arrears of Land Revenue.

14. *Provision for obtaining certified copies.*—In all cases in which a statement is lodged by the Khot and in all cases in which in the course of an enquiry documents have been filed and decisions have been given authenticated copies of entries in the statement of documents and decisions shall be furnished to the parties and to those claiming under them on due application being made for the same subject to such charges for copying, etc., as may from time to time be prescribed by Government.

15. *Authority to Government to make rules.*—(1) It shall be lawful for the Government to make rules for giving effect to the provisions of this Act and in particular providing for—

(*i*) the form, contents, publication and service of the notification.

(*ii*) the determination of the amount of compensation, and the mode of payment,

(*iii*) the appointment of Tribunal to hear and decide references,

(*iv*) the fees and cost to be paid by claimants on applications, references and authenticated copies of documents, entries and decisions arising in any proceedings under the Act,

(*v*) the production of documents by parties and the maintenance of the documents produced or lodged.

(2) The power to make rules under this section shall be subject to the condition of previous publication in the *Bombay Government Gazette.*

(3) The rules made under this section shall be laid on the table of the Legislative Assembly for not less than one month previous to the next session thereof and shall be liable to be rescinded or modified by a resolution of the said Assembly. If any rule is modified or rescinded, Government shall accept the modification and republish the rule accordingly or shall rescind the rule.

Statement of Objects and Reasons

1. The Khoti System is one of the minor land tenures in the Bombay Presidency. It is found mostly in the Ratnagiri District and in some parts of the Kolaba and Thana districts.

2. The terms of the Khoti Tenure are in some cases regulated by law, in some by custom and usage and in the rest by grant. In the Ratnagiri District the terms are regulated by Bombay Act I of 1880. In the Kolaba District the terms are regulated by custom and usage and in the Thana District by grant.

3. The Khoti Tenure differs from the ordinary Rayatwari Tenure inasmuch as in the latter the Government collects revenue directly from those who are in occupation of the land while in the former the Government is required to employ the services of the Khot for the purpose of collecting revenue.

4. The system of Khoti Tenure while it binds the Khot to pay revenue to the Government leaves him free to do what he likes to the inferior holders and this freedom has been so grossly abused by the Khots that the inferior holders are not only subjected to all kinds of exactions but they have been reduced to a state of abject slavery. In recent years the inferior holders have been carrying on a great agitation against Khots and have been demanding the abolition of the Khoti system. The relations between the khots and the inferior holders have been so strained that three Khots were murdered by them.

5. While the Khoti Tenure may have the advantage of facilitating the collection of revenue its disadvantages are so great that the Tenure cannot be allowed to continue hereafter without causing grave disturbance to the peace and tranouillity of the Presidency. It is therefore imperative to abolish the system.

6. The Bill aims (1) to abolish the Khoti System and to establish direct relationship between Government and those who are in possession or occupation of the land which is under the management or beneficial enjoyment of the Khot, (2) to make provision for the payment of reasonable compensation to the Khot for the loss of his rights and (3) to give those inferior holders who are in actual occupation of the land the status of occupants within the meaning of the Land Revenue Code and (4) to provide for other incidental purposes.

(Signed) B. R. AMBEDKAR.

H. K. CHAINANI,

Secretary to the Bombay Legislative Assembly.

Poona, 18th October, 1937.

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20

*ON A BILL TO ABOLISH THE KHOTI SYSTEM

Dr. B. R. Ambedkar (Bombay City, Byculla and Parel): Sir, I rise to move for leave to introduce a Bill to abolish the Khoti system. The brief statement which you have directed us to make in support of the motion will, in my case, consist of nothing more than a reference to the statement of objects and reasons. And before I do so, I would point out, Mr. Speaker, that this is the shortest statement of objects and reasons ever drafted to a Bill which is so important as the abolition of the Khoti system.

The Khoti system is one of the minor land tenures in the Bombay Presidency. It is found mostly in the Ratnagiri district and in some parts of the Kolaba and Thana districts.

The terms of the Khoti tenure are in some cases regulated by law, in some by custom and usage and in the rest by grant. In the Ratnagiri district the terms are regulated by Bombay Act I of 1880, in the Kolaba district the terms are regulated by custom and usage, and in the Thana district by grant.

The Khoti tenure differs from the ordinary Rayatwari tenure inasmuch as in the latter the Government collects revenue directly from those who are in occupation of the land while in the former the Government is required to employ the services of the Khot for the purpose of collecting revenue.

The system of Khoti tenure, while it binds the Khot to pay revenue to the Government, leaves him free to do what he likes to the inferior holders, and this freedom has been so grossly abused by the Khots that the inferior holders are not only subjected to all kinds of exactions but they have been reduced to a state of abject slavery. In recent years, the inferior holders have been carrying on a great agitation against the Khots and have been demanding the abolition of the Khoti system. The relations between the Khots and the inferior holders have been so strained that three Khots were murdered by them.

While the Khoti tenure may have the advantage of facilitating the collection of revenue, its disadvantages are so great that the tenure cannot be allowed to continue hereafter without causing grave disturbance to the

*B.L.A. Debates, Vol. 1, pp. 1087-89, dated 17th September 1937.

The Bill introduced by Dr. Ambedkar is reproduced at pages 96-100.

peace and tranquillity of the Presidency. It is therefore imperative to abolish the system.

The Bill aims (1) to abolish the Khoti system and to establish direct relationship between Government and those who, are in possession or occupation of the land which is under the management or beneficial enjoyment of the Khot, (2) to make provision for the payment of reasonable compensation to the Khot for the loss of his rights, and (3) to give those inferior holders who are in actual occupation of the land the status of occupants within the meaning of the Land Revenue Code, and (4) to provide for other incidental purposes.

With these words, Sir, I beg leave of the House to introduce the Bill.

Question proposed.

Mr. S. L. Karandikar (Ratnagiri North): Mr. Speaker, Sir, I rise to oppose the introduction of this Bill. (Interruption.) I would not ordinarily have opposed the introduction, because it seems to be a formality in this House to allow introduction unopposed. But I think it my duty to oppose this Bill at its very introduction for one reason only.

When the land revenue question was being discussed in this House at the time of the demands for grants, it was made clear to us by the Honourable the Revenue Member, when he gave us an assurance, that the whole question of land revenue policy in the Presidency would be taken up some time in ensuing February, and therefore, we have to wait before we do anything. We should not accept any piecemeal legislation in regard to any item of land revenue. Therefore, even the members on the Treasury benches will agree with me when I say that this piecemeal legislation that is being proposed should not be allowed to be introduced in this House.

There are so many other remarks that I would have liked to oppose, because the introductory remarks were read out to the House ; but, I believe, there is sufficient time ahead when all these matters will have to be discussed and fought for. Therefore, I do not want to take up any more time of the House. But I think this is a matter of principle. Government have given us an assurance that the whole question of land revenue in this Presidency will be taken up for consideration and that legislation on a broad basis will be brought before this House some time in January or February. There is no reason why an exception should be made so far as this legislation relating to Kolaba and Ratnagiri is concerned. With these remarks I oppose the introduction.

The Honourable the Speaker: I do not think that any other member has a right to participate in this, treating it as a debate. The honourable member who begs leave to introduce the Bill has a right of reply ; and if he wants to reply, I will give him a chance.

Dr. B. R. Ambedkar: Sir, I do not think that any very detailed reply is called for by the observations made by my honourable friend Mr. Karandikar. He said that the Honourable the Revenue Minister has

given an assurance to the House that he is going to bring in legislation in order to overhaul the whole of the revenue system. Unfortunately, I was not present when this assurance was given; and I personally myself do not know exactly the extent and the scope of the assurance that he gave to the House. But, Sir, what I should like to submit to the House is this. The Khoti system is a system which stands by itself. It is not a system which comes under the Land Revenue Code and therefore can be said to be a part and parcel of the general land tenure of this Presidency. It is a separate item altogether. Therefore, I do not see any objection to a system which does not come under the general system being considered by itself.

My second submission to the House is that if the honourable members who occupy the Treasury Bench do in fact intend to carry out what they have assured the House they will, and if I find that the measures that they are bringing forth in order to deal with the subject with which this Bill deals are of such a nature that I should be content with the remedies which they propose, then I have no hesitation in saying that I will withdraw the Bill if I find that their legislation is superior to mine. I do not think anything more is necessary for me to say on this occasion.

Question put, and leave granted.

Dr. B. R. Ambedkar: Sir, I introduce the Bill.

The Honourable the Speaker: The Bill is introduced.

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*ON VILLAGE PANCHAYATS BILL : 1

Dr. B, R. Ambedkar: Mr. President, I have listened with very great interest to the speech delivered by the Honourable Minister in charge of this Bill. Sir, I must also say that I have listened to it with very grave concern. I am sure there can be no two opinions on the fact that this Bill deals with some very vital issues. It not only deals with the question of self-government in so far as it affects the civic amenities of the rural population of this Presidency, but it also affects the question of the life, liberty and property of the rural population. Having regard to these vital issues involved in this Bill, I am bound to say that the Honourable Minister, in justice to all the interests concerned, ought to have given a longer period for the consideration of the implications involved in this Bill. Sir, he has chosen to satisfy his conscience by barely complying with the requirements of the law by allowing seven days to pass before the Bill was brought for consideration. May I say that in my opinion not only seven days but seven months are necessary for the consideration of this Bill ? And I suggest that there would be nothing wrong even now in the Honourable Minister sending this Bill for circulation in order to elicit the opinion of the general public on the issues involved in this Bill. That course I would request him with all due respect to adopt, but if he does not, I would like to address to him two other considerations which, in my opinion, are very important considerations. Sir, I would like to say that, in my opinion, the present Government is not competent to undertake this piece of legislation. The Government is aware that the present system of administration is a discredited system. I am not using that in any carping sense. I am only trying to depict the facts as we all know them. Sir, no section of the population of this country is satisfied with the administration and the working of this Government. Indeed, if one wants to state facts as they are, there is a powerful section in this country which is not prepared to admit and to acknowledge the moral authority of this Government to rule. Sir, we also know that we are on the threshold of a new constitution. We know that the constitution of India for a government of the people, by the people and for the people is on the anvil. We all know and I think we are justified in hoping that this new constitution will be

*B.L.C. Debates, Vol. XXXV, pp. 1128-36, dated 6th October 1932.

forged within the short period of a year or two, and that a new government, supported fully by all sections of the community, will be installed. Sir, having regard to that consideration, I would like to point out to the Honourable Minister and to those honourable members who are occupying the Treasury Bench that they in their present position are no better than caretakers. Sir, by common consent a caretaker cannot undertake substantial alterations in the premises he is appointed to look after. At the most, during the interval before the real occupant comes to occupy his abode, he may undertake repairs in order to keep the building in working order.

I would also like to point out to the Honourable Minister the analogy of parliamentary life. In England where parliamentary system has been in operation for centuries now, when a Ministry is defeated and when the defeated Ministry does not resign outright and allow the reins to pass into the hands of the opposition but chooses to make its appeal to the electorate, it is an accepted convention of the constitution that the Ministry so situated must not undertake any legislation of any consequential importance. All that they can do is to look after the administration pending the decision of the electorate so that the new Government may not be embarassed by anything that may be undertaken by such a Government. I ask the Honourable Minister whether he does not wish to abide by the conventions of the parliamentary constitution. I leave it to him to decide.

Sir, I do not find any reason why the Honourable Minister should rush with this measure with such terrific speed, if I may say so, with only seven days notice. I do not find that there is any very great urge, that there is any very great necessity and urgent call upon him by the people of this Presidency to introduce this measure. So far as I am aware, no political party in this country has made this measure a party cry. I do not know that the Liberals, the Responsivists or the Non-Brahmins or the Congress members who were in this House during the last Legislative Council had ever insisted that they looked upon the introduction of the village panchayats as a fundamental part of their programme. I know of no such thing. Not only that, but I do not find that the masses themselves are clamouring for this measure. If you read the report of the Committee made in 1925 on this question appointed to report upon the working of the Village Panchayat Act of 1920, what do you find ? You find this. There are in this Presidency as many as 30,000 villages, on a rough calculation. The Act was passed in 1920 permitting the people to apply for the application of that Act voluntarily. What is the result ? The result is that the Sind people set their face against the introduction of village panchayats, so that we do not find a single village panchayat instituted in the province of Sind. In the presidency proper, there is a paltry figure of 323 or something like that. I submit that it is a sad commentary on the civic spirit of the people. Apart from that, it is a proof positive that the people are not anxious for the introduction of village panchayats. I do not wish to go into the reasons of that at this stage, but I am certain that my honourable friend the Minister for Local Self-

Government will accept that that is a correct analysis of the situation. Not only that, but I would like to suggest that the reason why he has super-added the judicial functions to the village panchayats is to sweeten the pill so that it may be swallowed more readily. In view of these considerations, I think it would be advisable for the Honourable Minister to postpone the Bill *sine die* so that it may be considered in all its implications on its merits by a new Government which will be fully representative of the people of this Presidency.

Coming to the merits of the Bill itself, Sir, I find that the Bill has two parts. The first part deals with the functions of the panchayat as a body for local self-government. I should like to say at once that I have no objection in principle to the policy of devolution ; if it is found that the local boards of this Presidency are overburdened by the functions which are placed upon them by the Local Board Act and if by reason of that they are unable to discharge their functions efficiently, then I say "by all means institute village panchayats so as to disburden the local boards." Sir, if the desire is to constitute panchayats for their own sake, then to my mind it is a reversion to a very dangerous system. Many have eulogised the ancient system of village panchayats. Some have called them "rural republics". Whatever be the merits of these rural republics, I have not the slightest hesitation in saying that they have been the bane of public life of India.

Mr. Pestanshah N. Vakil: Question.

Dr. B. R. Ambedkar : If India has not succeeded in producing nationalism, if India has not succeeded in building up a national spirit, the chief reason for that in my opinion is the existence of the village system. It made all people saturated with local particularism, with local patriotism. It left no room for larger civic spirit. None whatever. Under the ancient village panchayats, India, instead of being a country of a united people, became a loose conglomeration of village communities with no common tie except common allegiance to a common King. I am glad to say, Sir, that this is not my opinion alone. A member of the committee which was appointed in 1925 expressed himself in that same strain. I refer to the minute of my friend Mr. R. G. Pradhan. This is what he stated in that minute :

> "The excessive village patriotism and village spirit which these communities fostered proved very fatal to the growth of a strong Indian nationality based on the realisation of the territorial unity of India as a whole or of the racial unity of each of our natural territorial divisions."

Mr. Pestanshah N. Vakil: Is Mr. R. G. Pradhan a historian ?

Dr. B. R. Ambedkar : I do not think that we need bring historians here ; we ought to be beware of historians. In these days when you are striving for bringing about a national spirit, in these days when you are striving for bringing about a common nationality and a common sense of Indian citizenship, in my opinion we ought to do nothing which will nullify and which will dilute that sense. I would like to leave this aspect of the matter at that so far as I am concerned.

My next objection is to the constitution of the panchayats themselves. The Bill, as the honourable member has pointed out, provides that the village panchayats shall be elected on the basis of adult suffrage both for males and females. I may at once state that, so far as I am concerned, I say "so far so good", but I should like to make it clear to the Honourable Minister that, speaking for the depressed classes, I have not the slightest hesitation in saying that adult suffrage is not sufficient for us. The Honourable Minister has forgotten that the depressed classes are in a minority in every village, a miserable minority, and assuming that he adopts adult suffrage, he will readily admit I am sure that adult suffrage cannot convert a minority into a majority. Consequentially I am bound to insist that if these village panchayats come, there shall be special representation for the minorities. At any rate, there shall be special representation for the depressed classes, and others of course will speak for themselves.

I know, Sir, that there is a section in this House who will at once jump and say that this is communalism. Now I agree that this is communalism. But I am also convinced that communalism must be my policy. I am not ashamed of it.

Mr. J. B. Petit: Is that compatible with nationalism ?

Dr. B. R. Ambedkar: Oh, yes. Why not ?

Mr. J. B. Petit: I am glad to hear that.

Dr. B. R. Ambedkar : I will say that India cannot proceed, in my opinion at any rate, on the path of political progress without communalism. Without communalism there can be no self-government for India. That is the proposition that I would assert without fear of challenge.

Speaking for the depressed classes, therefore, I can never accept the principle of self-government for India unless I am satisfied that every self-governing institution has provisions in it which give the depressed classes special representation in order to protect their rights, and until that is done, I am afraid it will not be possible for me to assent to the first part of the Bill.

Sir, in respect of this, I am glad to find that two members of the committee which was set up in 1925 to discuss this question supported the plea of the depressed classes for special representation. I refer to the minute of Mr. R. G. Pradhan. This is what he said :

> "I am of opinion that provision should be made for the representation of the depressed classes on the village panchayats by nomination. The nomination should be made either by the Collector or the President of the district local board, preferably the latter. It is eminently desirable in the interests of the proper representation of the depressed classes and much more with a view to raising their general status and making the other classes realise their communal identity with them that there should be at least one member of the depressed classes in every village panchayat. In cases, therefore, where no member of these classes has been able to get in by election, recourse should be had to nomination."

Sir, I should also like to refer to the minute of my honourable friend Mr. P. R. Chikodi. He also wrote a separate minute and this is what he said :

> "I think it is necessary that some arrangements ought to be made to secure on panchayats the representation of the depressed classes by means of nomination or by the system of reserved seats in villages where there are at least 50 adult persons belonging to these classes. It is not likely at present that any representative of these stands a chance of being elected at an open election, the failure of such an attempt having come to my notice very lately."

In this connection, I would also like to draw the attention of the Hindu members of this honourable House to the recent events that have happened. I refer to the Poona Pact between the Caste Hindus and the Depressed Classes that was signed on the 24th of last month. Many members, I am sure, must have read the terms of that Pact, but I should like to draw particular attention to one section of it. In that section it has been agreed that the right of the depressed classes to representation in all local bodies shall be accepted and an endeavour shall be made in order to give effect to that part of the agreement. Sir, I would like to draw the attention of the Hindu members to that part of the Pact and I am sure whatever may have been the opinions before 24th of last month, they will now loyally abide by the terms of that Pact.

Now, Sir, I come to what I call the second part of this Bill. I ought to have stated at the very start that when I read this Bill, I was inclined to say that this Bill was, like the curate's egg, bad in parts only. But after having read the whole Bill and gone through all the provisions of the Bill. I am obliged to revise my opinion. I now think that it is worse than the curate's egg. It is not only bad in some parts but it is rotten in others. I refer, Sir, to the judicial provisions of the Village Panchayats Bill. Sir, I do not know what is the view of the Honourable Minister for Local Self-Government as to the requisites of a proper judiciary which could be trusted to deal with civil and criminal justice. I was expecting to hear from him on that point in the course of the opening remarks which he addressed to this House, but he was silent on that point. I think it will be agreed that a judiciary before it could be entrusted with the duties of discharging civil and criminal justice, must have three requisites. It must be trained in law, it must be impartial in its outlook, and I submit, it must be independent in position. Let us apply these three requisites to the provisions of this Bill. What does the Honourable Minister provide in this Bill ? He says, "We shall elect a panchayat based on adult suffrage, consisting of five or seven members ; those gentlemen will hold office for three years. During the course of these three years they shall not only discharge the functions of a local self-governing body, but in addition to that they will also discharge the functions of trying certain criminal and civil cases." That is, in substance, the provision of this Bill.

Now, the first question that I would like to ask the Honourable Minister is this : Does he expect that these five gentlemen who will be elected on the basis of adult suffrage will have sufficient judicial training to discharge the duties of judges ? Sir, I would like to submit that judicial decisions demand a developed judgment; they demand a vast amount of legal knowledge. (Laughter.) Let there be no laughter, because it is a serious matter. Just take this into consideration. We are all agog when members of the I.C.S. want to have certain places reserved for them in the High Court or in the judiciary. What is the reason for our objection ? If I have understood the objection correctly, it is this, that these gentlemen who have passed the I.C.S. examination have no judicial training, and not having judicial training, we cannot entrust them with judicial powers. That is the gravamen of the objection. They not only want justice, but they want judges who are competent to discharge their duties. Now, I ask the Honourable Minister whether he thinks that a population which is illiterate, which is steeped in ignorance, which is swallowed up in superstition, can produce five good men who can be entrusted to discharge the duties of judges.

Mr. M. M. Karbhari: Are we so bad as that ?

Dr. B. R. Ambedkar: I do not know we may have a difference of opinion on that. But that is my contention. And, supposing it may not be held necessary for these gentlemen to have the necessary legal training. I think we ought at least to expect this much, that they should have proper notions of right, of duty, of equity and good conscience. A population which is hidebound by caste, a population which is infected by ancient prejudices, a population which flouts equality of status and is dominated by notions of gradations in life, a population which thinks that some are high, that some are low—can it be expected to have the right notions even to discharge bare justice ? Sir, I deny that proposition, and I submit that it is not proper to expect us to submit our life and our liberty and our property to the hands of these panchas.

The next proposition that I would like to place before this House is this : Is it possible to expect this panchayat to be an impartial body of judges ? Let us consider the facts as they are. No honourable member of this House, I am sure, will deny that there are very few villages which are not rent by faction feuds. There are quarrels between the Brahmins and non-Brahmins .....

Dewan Bahadur D. R. Patil: They will remain for ever.

Dr. B. R. Ambedkar: So much the worse for you if they do. There are, I submit, Sir, factions between Brahmins and non-Brahmins, and I think I may as well cite a case, in view of the fact that the honourable member Rao Bahadur Kale is laughing at the suggestion, from what I know of his own district, namely, Satara. I remember at one time the feud between the Brahmins and non-Brahmins had gone to such an extent in a certain village in Satara District that a complete boycott of the Brahmins was proclaimed by

the non-Brahmins. They could not get a barber to shave them ; they could not get the village Baniya to sell them provisions ; they could not get people to do any service for them. The Brahmin had either to grow a beard or walk seven miles to Satara to have a shave. So, there are quarrels between the depressed classes and the non-Brahmins.

An Honourable Member: They are over.

Dr. B. R. Ambedkar: Unfortunately, far from being over, they have become the order of the day. Not only are there quarrels amongst the Hindus themselves, but there are quarrels between the Hindus and the Mahomedans, and these quarrels are of no ordinary importance, they are serious. I would like the Honourable Minister and the House to consider whether a panchayat elected in an atmosphere of this sort would be impartial enough to distribute justice between men of different castes and men of different creeds. That is a proposition, I submit, which the House and the Honourable Minister should consider seriously.

The next question I would like to ask is, does the Honourable Minister expect that the judiciary he is bringing into being will be an independent judiciary ? Sir, what is his proposition ? His proposition is that the judiciary shall be elected, because that is what the provisions for a panchayat means. The panchayat which will administer justice will be a panchayat elected by the adult population of the village. I would like to ask him whether he expects that a judge who has to submit himself to the suffrage of the masses will not think twice before doing justice, whether, while giving justice he is offending the sensibility of the voter. Suppose there was a Hindu-Mahomedan riot ; suppose a Mahomedan was brought up before a panchayat for an offence which is triable by the panchayat; suppose one Hindu member of the panchayat thought that there was justice on the side of the Mahomedan. Does the Honourable Minister and does the House think that this gentleman, who may have to submit himself to an election within the course of a few months or a year, will think that he ought to do justice to the Mahomedan rather than keep his seat ? What will he do ?

Dewan Bahadur D. R. Patil: A riot case is not triable by a panchayat.

Dr. B. R. Ambedkar: I am giving it as an example; it may be for some other offence.

Sir, I have never seen anywhere a judiciary that is elected. The only country where we know that the judiciary is elected is America, and you know that it has brought judges into disrepute in all the American Commonwealth and has small justice a by-word for corruption. I am sure my honourable friend does not want us to have that experiment tried on us. In view of this, I must say at once, as I do not wish to trespass too much upon the time of the House, that I cannot accept the principle embodied in the second part of the Bill, that judicial powers, both civil and criminal, should be handed over to a panchayat, which, in substance, is an elective judiciary. Sir, I am bound to say, watching as I have been the affairs that are going on in this presidency and especially what is happening to the depressed

classes, that so far as we are concerned we can never consent to judicial affairs being administered by a panchayat. Ours is a very peculiar and, if I may say so, a very pitiable position. We are a small body of people, occupying a corner of a village. We are never looked upon as part and parcel of the village community. Although living in the village, we are all the same an alien body, whose progress is looked upon with great jealousy by the rest of the community. My honourable friend Mr. Kamat shakes his head, and therefore I think I must read to him from the report of the State Committee, which I did not want to do. In paragraph 102 of that Committee's report, the condition of the depressed classes in the village is described at great length. This is what the Committee say :

> "Although we have recommended various remedies to secure to the Depressed Classes their rights to all public utilities, we fear that there will be difficulties in the way of their exercising them for a long time to come. The first difficulty is the fear of open violence against them by the orthodox classes. It must be noted that the Depressed Classes form a small minority in every village, opposed to which is a great majority of the orthodox who are bent on protecting their interests and dignity from any supposed invasion by the Depressed Classes at any cost. The danger of prosecution by the Police has put a limitation upon the use of violence by the orthodox classes and consequently such cases are rare.
>
> "The second difficulty arises from the economic position in which the Depressed Classes are found today. The Depressed Classes have no economic independence in most parts of the Presidency. Some cultivate the lands of the orthodox classes as their tenants at will. Others live on their earnings as farm labourers employed by the orthodox classes and the rest subsist on the food or grain given to them by the orthodox classes in lieu of service rendered to them as village servants. We have heard of numerous instances where the orthodox classes have used their economic power as a weapon against those Depressed Classes in their villages, when the latter have dared to exercise their rights, and have evicted them from their land, and stopped their employment and discontinued their remuneration as village servants. This boycott is often planned on such an extensive scale as to include the prevention of the Depressed Classes from using the commonly used paths and the stoppage of sale of the necessaries of life by the village Bania. According to the evidence sometimes small causes suffice for the proclamation of a social boycott against the Depressed Classes. Frequently it follows on the exercise by the Depressed Classes of their right to the use of the common well, but cases have been by no means rare where a stringent boycott has been proclaimed simply because a Depressed Class man has put on the sacred thread, has bought a piece of land, has put on good clothes or ornaments, or has carried a marriage procession with a bridegroom on the horse through the public street."

That Sir, is our position. We are a besieged people, so to say, and I cannot

allow, and I cannot consent to so much judicial power, both civil and criminal to be handed over to a people who are perpetually in an organised conspiracy to defect our aims and objects.

An Honourable Member: No, no.

Dr. B. R. Ambedkar: I perfectly sympathise with the Honourable Minister's underlying purpose. If I have understood him correctly, all that he wants is that the villagers should get justice cheaply, and it should be more easily accessible to them. I believe that is the underlying motive he has for the judicial provisions he has made in his Bill. If that is so, then I think that there is a better method of doing that. It is not necessary to give the judicial powers to the village panchayats. We have already in existence what are called honorary bench magistrates in towns. It should be perfectly possible to extend that system whereby we can divide each district into judicial circles extending over an area of two or three miles suited to convenience, and for Government to nominate—I emphasise the word "nominate"—three or more persons to discharge the judicial functions in that circle. These three gentlemen would on one day sit as magistrates to deal with criminal cases and on another day they will sit as civil judges to try civil cases. By this method, you will secure cheap justice, easy justice, at the same time you will secure a judiciary that will be independent of local influence, a judiciary that will be free from the disadvantages of an elective system. I think, Sir, this ought to satisfy the requirements of the case. At any rate, I have to make it plain that, if the Honourable Minister insists that the Bill be put through as it is with all the provisions in it, especially those provisions which he regards as matters of principles, I must say that I shall oppose this Bill. (Applause.)

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*ON VILLAGE PANCHAYATS BILL : 2

Nomination Of Depressed Classes On Panchayat

Dr. B. R. Ambedkar: Mr. President, I must congratulate the Honourable Minister in charge of this Bill for having brought this amendment, belated as it is, which seeks to do some justice to the two great minorities of this province. Grateful as I am to the Minister I feel I must support the amendment of my honourable friend Mr. Mitha. I do not know what has passed on the floor of this House before I came in between the Honourable Minister for Local Self-Government and my honourable friends who are sitting on the front opposition bench. But I understand that they have no objection to the amendment as worded by the Honourable Minister for Local Self-Government that if the amendment stood in the terms in which he had proposed it, the opposition, without much lament would accept it.

Now Sir, if that is the position, then I do not understand what difficulty can the honourable members of the opposition have in order to accept the amendment proposed by my honourable friend Mr. Mitha. Sir, as I understand the position of the Honourable Minister and my friend Mr. Mitha the difference seems to me to be of a very minor character. The Honourable Minister for Local Self-Government has stated his amendment in general terms. He wants to impose an obligation upon the Collector in the matter of exercising his discretion in making provision for the appointment to the village bench of members of minority communities. That obligation he chooses to state in the general terms in the name of minorities whoever they may be. My honourable friend Mr. Mitha has gone a step further and stated that in doing so, the Collector should specifically bear in mind the

*B.L.C. Debates, Vol. XXXVII, pp. 323-24, dated 10th February 1933.

Honourable Sir Rustom J. Vakil moved an amendment to clause 37(2) of the Village Panchayats Act, seeking just and proper representation of minority communities in the village on a village bench.

To this amendment, Mr. Mahomed Suleman Cassum Mitha moved another amendment which reads as under :—

"Provided that when any such class consists of Mahomedans or members of the depressed classes the Collector shall appoint at least one Mahomedan or one member of the depressed classes, as the case may be, a member of the village bench.".

Dr. Ambedkar rose to support this amendment of Mr. Mitha.

Mahomedans and the Depressed Classes. Sir, I do not understand why the Honourable members who accept the amendment in general terms should object to the particularisation of that amendment. Do they think or do they not think there are minorities in this province, and the Honourable Minister's proviso is intended to safeguard the interests of these minorities ? If the minorities are there, then what is the harm if those minorities are specifically named in a clause ? If the general amendment is accepted that the minorities ought to be protected and if we, by our common knowledge of affairs in this Presidency, know that in every village if there are no other minorities, there are certainly the depressed classes and the Mahomedans. I do not quite understand what objection there can be if these particular minorities were mentioned in the clause itself. Either let us be honest and say that we do not see why any such clause giving special rights and special protection is necessary, or admit that there are communities which need special protection, and, if we mean business, let us specify the community that needs protection.

Rao Bahadur G. K. Chitale: What is that protection ?

Dr. B. R. Ambedkar: There ought to be no half-way halting house if we are honest in meeting the situation as it is.

Sir, the last speaker, honourable member Rao Bahadur Chitale, urged two propositions. First of all, he said that in accepting the amendment proposed by my honourable friend Mr. Mitha we shall be disfiguring the statute. Well, Sir, I would like to remind my honourable friend that this is a cry which is too late. We shall have a constitution not for this province, nor for that province, but a constitution for every province, a constitution for the whole of India, which will have recognised this principle in as clear terms as we can think of.

Honourable Members: "Hear!"

Dr. B. R. Ambedkar: It is too late. The plea which has been urged by my honourable friend in this House is a plea which has been urged by many stalwarts in the Round Table Conference, and we know, Sir, that they all came to grief, not only they came to grief but they almost ended in wrecking the constitution. If I may speak from personal experience, if there is anything that brought disaster on the Round Table Conference, it is the academic attitude of these stalwarts.

Sir, India is not Europe. England is not India. England does not know caste system. We do. Consequently the political arrangement that may suit England can never suit us. Let us recognise that fact And I would go one step further, Sir in saying that, whatever other students of Indian politics may say, I maintain the proposition that if there is any good in the Indian Constitution that is going to come, it is the recognition of the principle of communal representation.

Honourable Members: "Hear, hear!"

Dr. B. R. Ambedkar: I am not ashamed of what I am saying. I know, and I am saying, that it is going to be one of the best parts of the Indian

Constitution. We do not want, I do not want, the mere right to go to the ballot box and not knowing who is my representative, or if there is going to be any representative to represent me at all. I want a system in which not only I will have a right to go to the ballot box, but I will have a right to have a body of people belonging to my own class who will be inside the House, not only discuss matters but take part in deciding issues. I say, therefore, that communal representation is not a vicious thing, it is not a poison, it is the best arrangement that can be made for the safety and security of the different classes in this country. I do not call it a disfiguring of the constitution. I call it.....

Dr. M. K. Dixit: Decoration.

Dr. B. R. Ambedkar: Yes, decoration of the constitution. Then my honourable friend asks, should we admit this principle in the judiciary? Well, if my honourable friend can assure me that the existing judiciary is not without its communal bias, that, the Brahmin judge, when he sits to adjudicate upon issues between a Brahmin defendant and a Brahmin plaintiff, he decides as a mere judge I perhaps would be inclined to consider his proposition favourably. But I know what sort of judiciary we have. If my honourable friend and if this House had the patience, I could reel off heaps of stories where 1 know to my knowledge that the judiciary has abused and prostituted its position.

(*Honourable Members Oh ! Oh!*)

It is because we are not certain that what they call the village folk, the folk who are bound together by ties of blood, by ties of kith and kin, will not make a conspiracy to utilise the political and judicial power that they will get to put down the other classes that we want this provision. Sir, I have no doubt at all that this is one of the best provisions that we can have in the constitution, and I whole heartedly support the amendment of my honourable friend Mr. Mitha.

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†*Rao Bahadur R. R. Kale:* ..... Then Sir, I do object to the remarks of my honourable friend Dr. Ambedkar with regard to the judiciary of this presidency. It pained me certainly to hear him say that he questioned the *bona fides* and straightforwardness of our judiciary, which has been proclaimed even by the Privy Council to be second to none, when matters went to that Tribunal ..... It has been held by the highest tribunal in the land, namely, the Privy Council in its judgments from time to time, as being the best judiciary in the whole of the World.

An Honourable Member: In the whole world ?

Rao Bahadur R. R. Kale: Yes, in the whole world. My point is that it is certainly a serious slander to say that the judiciary is influenced by communal considerations. It pained me very much when I heard my

†B.L.C. Debates, Vol. XXXVII, pp. 326-27, dated 10th February 1933.

honourable friend Dr. Ambedkar say "I know what sort of a judiciary we have, they are guided by communal considerations in disposing of cases.

Moulavi Sir Rafiuddin Ahmed: By whom is it uttered ?

Rao Bahadur R. R. Kale: By the Honourable member Dr. Ambedkar.

Moulavi Sir Rafiuddin Ahmed: Your brother-in-law, and a Hindu.

Rao Bahadur R. R. Kale: What do you mean by "brother-in-law" ? He may be even my father or my son. I certainly would detest such an accusation coming from any one in this House. He may be my brother-in-law, or my father, or my son. I say I do not care. I do really feel for such an aspersion being thrown on the whole body of the judiciary in this privileged place, when they are not here to defend themselves. I do not know what judicial experience my honourable friend Dr. Ambedkar has. He may have some experience, but over 40 years' experience stands to my credit, and I can and do say that from the lowest to the highest tribunal, including the High Court, including the sub-courts, I have not been able to come across any communal bias in the decision of a case when the case comes before a judge. Therefore, I do demur to the proposition put forward by my honourable friend. I can understand the mentality of men of Dr. Ambedkar's persuasion—why they want even on the village bench a particulars community to be represented. That shows their mental attitude.

Mr. L. R. Gokhale (*Poona City*): The honourable member Dr. Ambedkar was here and I am sorry he has gone ..... I am surprised to find that the honourable members on the opposite benches who belong to the judiciary did not speak a word of protest when the sub-judges are maligned to their very face in this Honourable House.

Mr. B. S. Kamat: Before I come to his point, Sir, I must say that whether his services on this afternoon were requisitioned for a specific purpose for the occasion, or whether it was by a very happy coincidence that he came in this House,—I am not concerned which was the fact,—I do think that, taking Parliamentary practice as it is, it is not fair for a speaker to disappear from the House, to fit across like a comet from the horison without listening to the other side of the House. This is entirly contrary to Parliamentary etiquette and unsportsman-like in spirit .....

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Saturday, 11th February, 1933

†*Rao Bahadur G. K. Chitale (Ahmadnagar District): (While raising a point of order)* Sir, ... yesterday's attack of my Honourable friend Dr. Ambedkar on the Brahmin judiciary as a class is an instance which I have not yet met within any of these Councils though they have been exercising those rights for about 12 years. Under these circumstances, if it is open to slander a class, I should think that this side—the other side may note—it will make it a point to launch an attack on individual officers coming out of the minorities. I should therefore think, Sir, that an authoritative ruling

†B.L.C. Debates, Vol. XXXVII, pp. 339-40, dated 11th February 1933.

is absolutely necessary in this respect because I was really pained to see the treasury benches or the Government benches, in whose hands the honour of their own servants is concerned, were mute absolutely.

The Honourable Mr. R. D. Bell: Sir, ... Before therefore, the discussion goes any further, if there is to be any discussion, I think the House should know the exact words which the honourable member Dr. Ambedkar said.

Moulavi Sir Rafiuddin Ahmed: Sir, as this discussion will have a bearing on the presence of the honourable member Dr. Ambedkar, if this debate takes place when he is present here, that would be very relevant.

The Honourable the President: ..... The suggestion made by the honour able member Sir Rafiuddin Ahmed cannot be accepted and the House cannot wait till the honourable member Dr. Ambedkar is in the House, which is very uncertain factor. So that cannot be ; but in the meanwhile I think it would be preferable that we should go by the exact words of the speech and then the House will be in a better position to decide one way or the other.

Reads, 'what is reported to have said yesterday'.

The Honourable Mr. R. D. Bell: Mr. President, it must be the case that the Honourable Member Dr. Ambedkar has not yet seen the typescript of his speech and therefore fully share the regret expressed by the honourable member Mr. Kamat and yourself that he was present neither yesterday nor this morning in order to give himself, in fairness to himself the opportunity of explaining these words.

Then he defends how 'the Government have full and complete confidence in the Judiciary.'

The Honourable the President: I am glad that the Honourable the Home Member has made the statement. After the fullest statement made by the Honourable the Home Member the House has nothing further to take cognizance of.

I now add that it is certainly very objectionable and unparliamentary and unfair to any Department or service. I personally believe that honourable members who have the command of language, or believe that they have the gift of delivery may, in the flourish of the moment, go very much further than they should go, and regret afterwards at leisure. As the Honourable the Home Member pointed out evidently the honourable Member Dr. Ambedkar has not read the transcript of his statement yet. If he reads it, he would, I am sure feel, or ought to feel, as the whole House does. I myself would warn honourable members of this House that it is "highly unparliamentary to make a general condemnation, a wholesale of a highly respected service like the judiciary. I think the honourable member was wrong, and the point raised will be of considerable utility to the House for its guidance in future. I share the opinions expressed both on the Government side and the other side of the House (Applause).

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*ON VILLAGE PANCHAYATS BILL : 3

STATEMENT BY DR. AMBEDKAR RE : HIS SPEECH

Dr. B. R. Ambedkar: Mr. President, I crave your permission to offer my explanation with regard to the point of order that was raised by my Honourable friend Rao Bahadur Chitale on Saturday last as to the propriety of certain remarks that were alleged to have been made by me in the course of my speech on Friday last in connection with the amendment moved by my honourable friend Mr. Mitha. Sir, I was very anxious to offer this explanation on Saturday when the point was raised. But I could not obtain from the office, copies of the transcript of my speech and the statements made by honourable members in connection with the point of order. I was told by the office that it would not be possible for them to hand over the transcript to me before the Council rose. Consequently I was obliged to postpone my explanation till this hour.

I regret very much that this point of order should have been raised without first ascertaining whether I accepted the transcript as a correct record of what I said. It is one of the elementary principles of justice, I submit, Sir, in all humility, that no conclusion should be drawn, unless the facts on which it is going to be founded, are first ascertained. I am sorry I was not allowed the benefit of this rule. It was stated, on the basis of the argument urged by my honourable friend Mr. Kamat, that I was not entitled to this courtesy on the ground that my sudden departure on Friday, after making a speech, was a violation of the rules of Parliamentary etiquette. With regard to the rules of etiquette one must ever be ready to learn from the honourable member Mr. Kamat who as we all know belongs to that most ancient and honourable order of Indian politicians, the Liberals, and who has grown grey in Parliamentary life. In this particular case, I venture to say that the rule of etiquette relied upon cannot apply. If I have understood the rule correctly, it lays down that a member should not leave the House after his speech but should wait to hear the reply and it applies only when the member has in the course of his speech attacked another member of the House individually and personally. It does not extend in my opinion, to a case where a member has urged general arguments based on generally known facts.

*B.L.C. Debates, Vol. XXXVII, pp. 400-03, dated 13th February 1933.

So extended, I submit, Sir, that the rule would require that every member who has taken part in the debate must continue to be present at all times till the question is put and listen to every speech in the debate. I had not questioned the honourable member Mr. Kamat, or for the matter of that, any other honourable member of the House and as I had nothing to hear in reply I did not feel bound to sit, because I had an important engagement to fulfil. Another reason why I was not allowed the benefit of the rule of not condemning without hearing was that I was not a full-time member and that no body would be certain when I would be present. I bow to the opinion expressed therein. I must confess perhaps that I am more regular in my irregularity in attendance, although measured in terms of utility I do say that whatever work I have been able to do as a member of this House either inside or outside it will not fall below parity. Whether I am regular or irregular, that is not the point. The point is, in my opinion, why did not the honourable member raise the issue immediately while I was speaking ? If I understand the procedure correctly for raising a point of order, the procedure must be that a member who wants to complain must draw the attention of the President at the moment when the alleged violation of the order occurs. It is therefore strange to my mind that the aggrieved party should do nothing at the moment, sleep over the night, give vent to his grievances the next morning without notice, and then complain that the delinquent is not present in the box. A fair and correct procedure for the honourable member was to have immediately raised the point of order just when I was speaking or in fairness he was bound to give notice.

With regard to the substance of the point of order, I must state at once that I do not accept the transcript as a correct record of what I said. The transcript as it stands reads as if I was accusing the whole judiciary wholesale, which certainly was not my intention nor my purpose. The transcript reads—

> "The Brahmin Judge, when he sits to adjudicate upon issues between a Brahmin plaintiff and a Brahmin defendant, he decides as a mere Judge" etc.

This is incorrect, I was not referring to the case in which the Brahmins were parties to a dispute. I was referring to the cases in which the parties were Brahmins and non-Brahmins. Again the words "without a communal bias" after the words "decides as a mere judge" are left out Secondly, my important words of limitation have been left out from the sentence—

> "The judiciary has abused and prostituted its position."

What I said was that the judiciary has in such matters abused and prostituted its position. From these corrections it would be evident that I had no intention to pass any censure on the judiciary enbloc, nor did I intend to pass judgment on its conduct wholesale. Secondly I had no intention to pass any adverse remarks on Brahmins as such in the judicial service. Indeed, I go further and say that, when I referred to the Brahmin judiciary, it was not with a view to single them out for special condemnation. I was dealing with the issue generally and I used the Brahmins by way of illustration. That is evident from the fact that in the last of my speech, I speak of the judiciary in general without particularising any single

element in its composition. What is therefore important is for the purpose of the argument I was making, it was quite unnecessary for me to condemn the judiciary as a whole or to single out any particular element in it for special notice. I was replying to the point raised by the honourable member Rao Bahadur Chitale whether the judiciary has or has not communal bias. My reply to him was that as a consequence of the social system we were living under communal bias was a necessary consequence, I spoke of the Brahmin judge by way of illustration, because I was replying to an opponent who happened to be a Brahmin. If my opponent was a non-Brahmin or a Mahomedan, I would not have hesitated to refer to them. I do not know, Sir, whether you think that a statement alleging that the judiciary exhibits communal bias in communal cases is an unfair statement. I leave it to you and this House. All that I would say is that it is a premise which is recognised even by the Criminal Procedure Code. We have a section in the Criminal Procedure Code which permits parties to ask for a transfer on the ground that the judge has bias. We have a provision in the Criminal Procedure Code which prohibits a judge from entertaining a case in which he has interest. Secondly, this view, namely, that the judiciary has bias, may exhibit a communal bias in the issues of a communal character is recognised in the Bill itself. Most of the honourable members will remember that the Bill was originally based on the principle that the whole of the village bench should be the elected panchayat. It was in the course of the first reading I urged that it was not a proper principle to base the constitution of a judiciary and in response to that I believe a change was made in that part of the judiciary should be nominated. I regard that, Sir, as an evidence of the fact that communal bias is there. Lastly even the honourable member who raised the point of order seems to recognise what I am saying in his speech on the point of order. He threatened the Honourable the Home Member in these ominous words : "If the Honourable Home Member did not repudiate me," the honourable member would make it a point to launch an attack on individual officers coming out of the minority communities—a performance which he could not enact, unless he was certain of the existence of the facts I have referred to. The thing that pained my honourable friend is not the point I was making but the particular illustration I gave. If I had illustrated my point by citing a Mussalman or a non-Brahmin, the point of order would not have been raised. Probably I would have been lavishly praised. That is all I have to say.

After the statement on 13th February 1933 by Dr. Ambedkar, the Honourable the President explained the criticism in Ambedkar's speech, discussed etiquettes in the Council, the merits of the speech, and concluded : —

> "I have nothing further to say. The explanation given by the honourable member must be accepted, that it was not a general condemnation of the whole of the judiciary that he meant, but that it was an attempt to point out that there were instances in which communal bias had appeared in judicial courts also."

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*ON VILLAGE PANCHAYATS BILL : 4

Dr. B. R. Ambedkar: Sir, may I have a word of explanation ? I have not followed what you said. I understood you to say that at the third reading of a Bill an honourable member could not oppose the Bill on a point, if that point was not taken or if he was defeated on that point at the second reading. Am I correct ? If a point was not taken at the second reading, or if on a particular issue, at the second reading, a particular member or a minority was defeated in this House, the same minority could not oppose the third reading of the Bill on the same point. Is that it, Sir ?

The Honourable the President: No, no. The honourable member was not here when I gave my ruling when for the first time the occasion arose some days ago in this session. I shall repeat it for his benefit. The honourable member, as a constitutional lawyer, knows very well that there are three readings given to a Bill. There is the first stage of the Bill, namely, the first reading, when the principles of the Bill are discussed. After that, if the Bill is referred to a select committee, the House is in a position to criticise the Bill as it emerges out of the select committee, or if it is not referred to a select committee, at the second reading when the Bill is taken up clause by clause, changes are made. All those steps that honourable members have got to take they can take at the second reading. Now there may be other honourable members like the honourable member himself. He was not present perhaps throughout the second reading of this Bill. He now comes at the third reading. He can oppose the Bill if the features of the Bill as it passed from the first reading to the second reading have been changed at the clause by clause reading stage and he takes objection to it. Then he can oppose the third reading at the third stage, pointing to certain features which have come into existence at the second reading which are objectionable to him. That is all. Otherwise, the three stages would lose their significance. At the close of each stage, when the question is put, honourable members who _are opposed to the measure can oppose it at every stage, provided they confine themselves at the first reading to the principles, at the second reading to the details, and at the third reading to the changes in the various aspects of the Bill which have been made since and which are objectionable. That is my ruling, I do not prevent any honourable member from opposing the third reading. For instance, there was the honourable member Rao Saheb Kulkarni. He had tabled several amendments which were defeated, and he

*B.L.C. Debates, Vol. XXXVII, pp. 2197-98, dated 24th March 1933.

has opposed the third reading on those very grounds again. He said that he opposed the Bill because it does not go far enough, that he had tabled amendments which were defeated or not taken into consideration, and that he now, at the third reading, opposed it because it is not quite satisfactory from his point of view. Similarly, any honourable member, whether he has tabled any amendments or not, can oppose it at the third reading, but he must confine himself to the changes made or not made in the second reading, and not go back to the first reading and evoke the same discussion over again as regards the general principles, for which the proper time was the first reading stage.

Dr. B. R. Ambedkar: I suppose, Sir, your remarks are confined to the use of the arguments, and not the points. I shall put it in a different manner. Suppose, for instance, I take my own case. I oppose the Bill on certain principles. I say that the principles on which this Bill is based are wrong, and that the House by a majority carried the Bill is against me and against those honourable members who share my views. Am I not entitled to oppose the third reading of this Bill because the Bill retains the principles which I opposed at the first reading ?

The Honourable the President: No, that is my ruling. The honourable member cannot do it, and he would not be within his rights to do it, because he had opportunity to do that before the third reading.

Dr. B. R. Ambedkar: Going a bit further, suppose I was also defeated at the second reading of the Bill, and the House still carried the Bill with the original principles embodied in it, would I not be entitled to oppose the third reading of the Bill, on the ground that the provisions to which I am opposed are still retained in the Bill ?

The Honourable the President: No, I will stick to my ruling. He cannot do it, because he had his views laid before the House and the majority decided against him. We are now at the stage of the third reading. Otherwise, the three stages would have no significance.

Dr. B. R. Ambedkar: After your ruling, Sir, the only thing for the minorities who have opposed the Bill at all stages is to vote against it. Otherwise, it would be that if the majority decided that it was a good thing and the minority opposed it, the minority would have no opportunity of recording its objection.

The Honourable the President: That is perfectly right. The minority is entitled to vote against the third reading of the Bill. They can go to a division and record their vote against it. But to raise a debate on matters which have been decided at the first reading would be wrong.

Dr. B. R. Ambedkar: Exactly, Sir. Your proposition does not lead to the conclusion that our rights are debarred.

The Honourable the President: No, that is right.

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*ON LOCAL BOARDS ACT AMENDMENT BILL : 1

Dr. B. R. Ambedkar (*Bombay City*): Mr. Speaker, having signed the Poona Pact, I am, of course, entirely out of court in discussing the subject of separate electorates. Therefore, I am not going into that part of the Bill which deals with the method of representation to be devised for the different minorities for which provision is made in this Bill. Perhaps, it will be justifiable for me if I mention from what angle of vision I look at this very thorny question of joint versus separate electorates. Sir, the way I look at it is this. What is to be the effect of joint electorates, supposing that it was introduced for the different minorities ? What will happen, as I see, is this. One day in five years when the elections will come, a Hindu and a Mahomedian may go together to a common polling booth. I do not see what else can happen, as a result of joint electorates. (Interruption). Please allow me to go into the rest of the five years. When there are no elections, the Mahomedan community—I am taking that as an illustration— will believe in a separate life, a compartmental life to itself. I do not see that, as a result of joint electorates, the Mahomedans and the Hindus will come to live together in the same chawl. I do not see, as a result of joint electorates, that Mahomedans and Hindus will begin to inter-marry. I do not see, as a result of joint electorates, Hindus and Mahomedans will inter-dine. Sir, I take this opportunity to say deliberately that, if we want to build up unity, it is not by devising a day, however sacred that day may be, when both Hindus and Mahomedans will come to the same polling booth. If we want really to devise some means to build up unity, what we should do is to break up the social barrier. I say that in this matter the lead has to be taken up by the Hindu community, because they are a very exclusive community. If other communities live a separate life, it is because the Hindu community regards certain interests as its own interests and the fault is entirely due to the Hindu community. I say, therefore, deliberately that there is no use playing with this problem by putting forth a scheme which is ineffectual and which will have no operation except for one day which may come in the course of five years or three years. There is no use ; and nothing will happen as a result of this. You may try it. I request my Mahomedan

*B.L.A. Debates, Vol. 2, pp. 326-29, dated 18th January 1938.

friends to grant them this opportunity and see if any particular protection will give an opportunity for the two communities not to remain apart. I cannot hold a brief for separate electorates having signed the Poona Pact.

I will turn now to the other aspects of the Bill and begin by saying that the Bill, so far as it goes, certainly marks a stage in advance from where we are standing. But there is nothing which I find in the Bill itself. It is an empty shell. It contains nothing. But for the speech of the Honourable Minister giving what be proposed to do with regard to the reorganisation of local bodies, we would certainly have known nothing from the Bill as it is. All that the Bill says is that the Government will be given the power to make rules for this and for that. Beyond that, what is there in the Bill ? If the statement of objects and reasons was not attached to this Bill, we would not have even known what was the principle Government were going to adopt in providing for representation of the different minorities. I say it deliberately that the questions are constitutional questions. It is not a question of carrying ordinary legislation into effect where it has been the practice now, almost sanctified, that Government should be allowed to carry out the policy by rules. We are delegating part of our authority to Government to do something. We are delegating part of our taxing power to them. We are delegating to them the authority of making elective representation. I submit most deliberately that it is a constitutional question and as such ought to be settled in all its details in this House and ought not to be left to the sweet will of the executive. Take the example of the Government of India Act. What does this Bill deal with ? This Bill deals with franchise, deals with the communities that are to get representation, deals with constituencies and deals with the method of voting. Look at the Government of India Act. What does it do ? Has it left the number of seats to the minorities to the sweet will of the executive ? Has it left the question of dividing constituencies to the sweet will of the executive ? Has it left the method of voting to the sweet will of the executive ? Nothing of the kind. All that has been done by Orders in Council which are as much part of the Government of India Act as the Government of India Act itself. It is necessary that we should do things in the way in which constitutional things are required to be done. This is my first submission with regard to this Bill.

As regards other matters, the first thing I should like to know from the Honourable Minister in charge of the Bill is this. He has very graciously said in the statement of objects and reasons that the principle which he wishes to follow in allotting seats for the different minorities is the principle of population. I am grateful to him for that. But I do want to ask him that, if that is the principle on which he proposes to allot seats for the different minorities, why he should not embody the principle in the section itself. What guarantee is there that we will get the benefit of the principle stated in the statement of objects and reasons ? We do not want charity. We want our rights which we do not want to leave to the sweet will of the executive.

We want it to be definitely laid down by law. The second thing with which we are materially concerned is the question of system of constituency. I am most concerned about my honourable friend who could not come in as an M.L.A. I want to know what the system of constituency is in the matter of constitution of these boards. Is it to be a single member constituency or is it to be a plural member constituency ? Nothing is stated even in the statement of objects and reasons. Why is that ? If the executive wishes that hereafter they should adopt the system of single member constituency, then we ought to know, because that would decide whether we are to vote for this Bill or vote against it. That has not been done.

The third thing with which I am most concerned is the question of voting system. Is the voting system to be cumulative system of voting or is it to be distributive system of voting ? That again has not been made clear. I like all these matters to be made clear and definite on the floor of the House. I hope the Honourable Minister will reply to all the querries I have made and embody those principles I have mentioned in the Bill itself, so that we may know what our rights are. In this Bill everything is sought. to be done by rules, but the Honourable Minister does not even propose to place these rules on the floor of the House, so that the House may know what exactly the executive has done. That is the least bit that can be done with regard to this Bill. I do not want to repeat what I have already stated. I regard it as solely and purely a constitutional question. It is a question of according a constitution for the local authority which is endowed with legal authority to do certain things, even to penalise the people by tax. Surely, before we can give these powers to the executive, the executive should agree to place on the floor of this House what they have done by way of using the powers which they ask us to confer upon them. I content myself with these remarks at this stage.

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*ON LOCAL BOARDS ACT AMENDMENT BILL : 2

Dr. B. R. Ambedkar: Sir, I would like to ask whether the mover of the amendment has voted in this division, if you can tell from the report that has been submitted to you ?

The Honourable Mr. B. G. Kher: May I know whether it is the right of any honourable member to know in what particular way a person has voted?

Dr. B. R. Ambedkar: The reason why divisions are called is because not only the House but the public at large should know how members have voted.

The Honourable the Speaker: I cannot be expected to read the list of all members who have voted, just for the information of one honourable member.

Dr. B. R. Ambedkar: This House is entitled to know on which side the honourable mover of the amendment has voted, because I think I may say that the House is entitled to know whether any particular member has abused the process of this House.

The Honourable the Speaker: I think that, in the light of what has fallen from the honourable member Dr. Ambedkar, before I give out the name, I must clarify the position and it is this ; that the mover of the amendment, Mr. Phadake, moved his amendment from the point of view of abolition of separate electorates for the Muhammadan community. The same amendment was tabled by the honourable member Mr. Chundrigar with the object of doing away with the option which the Bill proposes to give to the Muhammadan community keeping intact the separate electorates. So, in this particular instance what has happened is that though the amendments in form and wording, of both these honourable members have been the same, the object of each was different It was only an accident that the honourable member Mr. Phadake's amendment came to be taken up for discussion and therefore the honourable member Mr. Chundrigar was not able to move his amendment. If the honourable member Mr. Chundrigar's amendment had been moved, the honourable member Mr. Phadake's amendment would not have been moved, and perhaps the difficulty which

*B.L.A. Debates, Vol. 2, pp. 501-02, dated 22nd January 1938.

the honourable member Mr. Phadake might be deemed to have been placed in at present, might have been felt by the honourable member Mr. Chundrigar. So, with this explanation, I think I shall say, on referring to the division list, whether the honourable member Mr. Phadake has voted at all and, if so, whether he has voted for the Ayes or for the Noes.

Mr. Ismail I. Chundrigar: May I clear a possible misunderstanding, Sir ? It is not correct to say that I did not move my amendment. As a matter of fact, Sir, you ruled that it was not necessary for me to move my amendment as an amendment in the same words was already moved by the honourable member Mr. Phadake.

The Honourable the Speaker: I did not intend to say that the honourable member Mr. Chundrigar declined to move or that he was not anxious to move his amendment. Not that. He was anxious to move ; but it has been the practice in this House that when the same motion is moved by a number of members, only one moves it for the sake of convenience ; not that Mr. Chundrigar declined to move it.

Now, I find that the honourable member Mr. Phadake, the mover of the amendment, I again repeat, with the object of the abolition of separate electorates, and having found that his first amendment was lost and that separate electorates do continue, has voted against the amendment.

Dr. B. R. Ambedkar: I would like to ask one more question and ask your ruling in the matter, whether it is open to a member of the House, who has moved an amendment, to vote against it.

The Honourable the Speaker: I think the point to my mind is obvious. It is always open to a person to change his mind up to the last (Laughter).

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†*Dr. B. R. Ambedkar (Bombay City):* I am very sorry, but I think I cannot help saying that this is a matter on which the wishes of this group ought to have prevailed with Government. Nobody would have been hurt, the interests of the country would not have been injured if the amendment moved by my honourable friend Mr. Gaikwad had been accepted. In view of the fact that Government wishes to use its majority in a tyrannical manner, I am afraid we must show our dissatisfaction by walking out in a body and not participating further in the day's proceedings.

The Honourable Mr. B. G. Kher: I hope the honourable member (Dr. Ambedkar) will give me an opportunity of saying a few words.

It is a very sad commentary that feeling in this country, where even the slightest question of caste or creed is concerned, is so very touchy. As the honourable the Leader of the Independent Labour Party knows, since a long time an attempt has been made to take away from currency in our language the words "Asprishya", because the very idea is a reminder of the most painful associations, of what has been universally now admitted to be a stain on Hinduism. I quite agree with the honourable member Mr. Gaikwad

†B.L.A. Debates, Vol. 2, pp. 510-12, dated 22nd January 1938.

that by merely changing the name we will not achieve this abject. The present section is an attempt in that direction. To remove the question of untouchability. We tried an alternative expression; we wanted to say "Parishishta Varga". But "Parishishta Varga" is the translation of the English expression "Scheduled class", and we thought that "Parishista Varga" would be a very inappropriate expression to introduce into the Marathi language. If instead of using the English expression "Scheduled Classes", we wanted to have a synonym for that expression, we had to accept this expression "Parishishta Varga" as the only alternative to denote what class was meant. I can quite understand, feeling as they do, that they do not like any attempt to differentiate them from the rest of the Hindus, but even for the purpose of legislation, to achieve this result even for bettering the condition of this class, we have to designate them as apart from the other Hindus—we may call them Asprishya or by any other name, and the fewer the expressions we use to differentiate and classify as different such a large body of Hindus the better ; but I know that since the last 4 or 5 years the word "Harijan" has now gained a currency in the whole if not in the whole of the country, at least in many parts of the country. This is an attempt to substitute a word for the expression "scheduled class" which ought to have met with the approval of the honourable member, the Leader of the Independent Labour Party. It is extremely unfortunate that he does not look at this question in that light, but if he suggests as alternative which is suitable for the expression "scheduled class", I do expect it will be possible to spare his feelings. In the alternative, I do appeal to him, at any rate, to read into this section no desire to hurt the feelings of a large class of people, who are unfortunately known as "untouchables", but merely a desire to recognise an expression which has, for such a long time, gained currency would appeal to him not to see in the word "Harijan" and in the definition, an attempt to cast any reflection on his community.

Dr. B. R. Ambedkar: Sir, as you have ruled that this is not an occasion for making speeches, I will not make any speech. All that I will say is this that I am not in a position to suggest any better name, but I must say that the name "Harijan" has now become practically equivalent to the term "Asprishya"; beyond that there is nothing remaining in that name, and I would think that if the Honourable the Prime Minister had felt in the same way in which we feel that the word "Harijan" has now become identical with the expression "scheduled class" then it was his duty, for the moment, to have withdrawn that word, and later on he could have discussed the matter with us with a view to find out some alternative term. His arguments, however, have not carried any conviction to us. I will, therefore, leave the Hall.

(Dr. B. R. Ambedkar and other members of the Independent Labour Party then walked out of the House.)

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*ON SMALL HOLDERS' RELIEF BILL : 1

Dr. B. R. Ambedkar: Sir, I am afraid whether I shall be able to finish all that I have to say on this bill within the ten minutes allotted to me by you. However I will try my best and will be very brief.

This bill proposes to solve the two problems which affect the agriculturists of this presidency. One is the problem of scattered farms and other is the problem of small farms. I do not think that any honourable member who has listened to the speech of my honourable friend the Settlement Commissioner will deny that the scattered farms are an evil and that that evil should be cured as far as possible. I agree with him that there are a great many disadvantages in having scattered farms and so far that part of the bill is concerned I agree that there should be consolidation. Coming to the question of small farms I must say that I differ from the honourable mover of the bill on the question that small farms are unprofitable. Sir, the honourable member Mr. Anderson loaded us almost with figures showing how small the existing farms were and what were the difficulties that were dependent upon the smallness of the farms. I admit there are difficulties in the existence of small farms but I do not admit that small farms are necessarily unprofitable or uneconomic. I do not understand what is the definition of the word "uneconomic" as it is used by the honourable mover of the bill or the honourable member the Settlement Commissioner. Sir, as I understand the term I should like to state that whether the farm is economic or uneconomic does not necessarily depend upon the size of the farm. It depends and in fact it varies with what we call in economics other factors of production. It varies with labour. It varies with capital. If a farmer has got for instance the means to employ increased labour and if he has not got any very large capital to invest then I submit that if this farm is small it would not be proper to call it uneconomic on that account. That being my position, Sir, I would have very much liked to hear from the mover of the bill and also, from the Settlement Commissioner that in our country we have a plethora of capital and that we had large agricultural equipment for a highly efficient sort of production. If they had shown that was the case then we could have agreed with them that the small farms made production

*B.L.C. Debates, Vol. XXI, pp. 607-10, dated 10th October 1927.

uneconomic in so far as they prevented the utilization of the equipment we had to the best advantage. But, Sir, I must confess that the honourable member the Settlement Commissioner has altogether omitted to touch that point. I should have liked to hear from him that the farmer had an enormous amount of capital, that they had ploughs and cattles in large numbers and that they could not employ all that because their farms were too small. So far as I have been able to work out the problem I find that instead of the capital available at the disposal of the farmer being very large and being for instance wasted because his holdings were small, the situation is just the opposite of what we are led to believe. I find, Sir, in the Madras Presidency we have for instance one plough for three acres ; in the Bombay Presidency we have one plough for 6 acres. In the Punjab there is one plough for every two acres. I am reading from the official figures. These are the figures regarding the capital equipment of the farmer and taking the position which I am taking namely that whether a particular farm is economic or uneconomic is dependent not upon the size of the farm but upon whether it is commensurate with the capital which the farmer possesses, I am inclined to think that under the present circumstances it is better to further reduce the farms. That will be my logical position and I am not afraid to face it. I do not therefore understand what is the use of enlarging the farms if, for instance, the farmer has not got the wherewithal to cultivate the land. I do not understand how the increasing of the area of the soil to add anything to any produce if he has not got the necessary labour and capital to cultivate the land.

Then we have also got to remember one fact that ours is an agricultural country and that our soil is exhausted. We have been cultivating it for thousands of years and no matter what efforts we may take we cannot raise the productivity of our soil to the same level as for instance in America where the soil is virgin. We must reckon with that fact. That being so, Sir, the salvation lies not in increasing the size of farms, but in having intensive cultivation that is employing more capital and more labour on the farms such as we have. I therefore think, Sir, that that part of the bill which deals with the enlargement of the farms is altogether uncalled for. But assuming that these two things are necessary namely that we must consolidate our holdings and that we must also enlarge our farms I think it is necessary to look into the methods that are proposed to be employed by this bill more carefully than has been done by the mover of the bill. Now, Sir. the methods which are chiefly employed in this bill are first, control of partition of the immovable property and, secondly, the sale of consolidated holdings. Now, Sir, I do not think that there can be any dispute on the point that if these two methods are adopted, a large part of our agricultural population will be landless, and I do not think that it is in the best interests of the country that the poorer classes should be further pauperised in this manner. Sir, I should like to point out that although the Hindu Law is very defective

in many ways yet the Hindu law of inheritance has been one great saviour of the people. Sir, the social and religious autocracy established by the Hindu Dharma has kept a large mass of the people in perpetual thraldom. If their lot is tolerable under this thraldom it is because the Hindu law of inheritance has prevented the creation of plutocracy. Sir, we do not wish to add economic slavery to social thraldom. Let men be economically free if they are not socially free. I am therefore totally opposed to the abrogation of that just and equitable system of inheritance. At this stage I should like to make one humble suggestion to the honourable mover of this bill. I am prepared to give my support to the first reading of this bill provided he is not wedded to the method of consolidation and enlargement of holding as provided in the Bill. I think, Sir, the better method is to introduce co-operative agriculture for standard areas and to compel owners of small strips included therein to join in cultivation without destroying private ownership. If this is done, if some provision for this is made in the bill, then I would certainly support the bill. (Mr. F. G. H. Anderson indicated dissent). The honourable member Mr. Anderson, the Settlement Commissioner shakes his head. But I can tell the honourable member, that the method which I am suggesting is not my own, but is a system which is prevalent in Italy, in France, and is being followed in parts of England with great advantage. In this connection, Sir, I would earnestly suggest to the Honourable the Leader of the House to give his most careful consideration to what Mr. Otta Rothfeld says in his book; "Impressions of the Co-operative Movement in France and Italy." I would quote a paragraph from it here:

> "As a whole the movement is one with vast potentialities. It has been imitated in France since the war, with good results and in Rumania a similar type of co-operation is almost revolutionizing the husbandry of the country. It is possible that in. co-operative cultivation in common, a solution might be discovered to those problems of Deccan poverty stricken unimproved cultivation which centre round the disputed issues of the "uneconomic holding" and "excessive sub-division of property."

Such a solution at any rate would avoid that revolutionary interference with traditional rights of succession that is so often recommended by light-hearted reformers of non-farming classes and would not bring in its train those consequences in the way of limitation of families which may be anticipated if legislation interferes to disinherit younger children.

So, it will be seen, Sir, that such a system has been actually tried elsewhere and with success. I would conclude by saying that, if the Honourable the Leader of the House is prepared to consider all these suggestions carefully and will not object to any amendments that may be suggested in the select committee on the ground that they are of principle, and is not wedded to the method of consolidation and enlargement of holdings as proposed in the bill, then I have no objection to supporting the first reading of the bill.

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*ON SMALL HOLDERS' RELIEF BILL : 2 (Minute of Dissent)

Proceedings of the Council of the Governor of Bombay

BY THE SECRETARY TO THE LEGISLATIVE COUNCIL

OF THE GOVERNOR OF BOMBAY

LEGISLATIVE COUNCIL OFFICE

Council Hall, Poona, 10th July 1928

No. 894.—With reference to the footnote to the Report of the Select Committee on Bill No. XVI of 1927 (An Act to prevent the excessive subdivision of agricultural land and to promote the consolidation of such land) published at pages 34-49 of the *Bombay Government Gazette,* Part V, dated the 30th June 1928, it is notified that Dr. B. R. Ambedkar, M.L.C. has signed the report of the Select Committee subject to a minute of dissent shown below :

(Minute of dissent by Dr. B. R. Ambedkar, M.L.C.)

1. Part I of this bill starts with the assumption that for the purposes of profitable cultivation it is necessary to have bigger farms than what we have now. I am not at all satisfied that this assumption is correct. But assuming that it is correct the main question every one shall be required to satisfy himself about before giving his assent to this part of the bill is "does the bill solve the problem of creating large farms out of the existing small farms in such manner that no serious objection can be raised to it ?"

2. The mechanism employed by the bill to maintain the standard unit once it is laid down in two-fold. First it severely penalises the owners of farms smaller than the standard so that ownership of a small farm shall to him become a burden instead of a benefit. Secondly it prohibits the ownership of small farms in that it provides that in future small farms shall not come into existence at all. As an instance of the latter one may refer to the restrictions on partitions. It is therefore obvious that in the mechanism adopted by the bill the rights of ownership of people are at stake.

3. I object to this mechanism on three grounds. Firstly because it affects the rights of property. If the arrangement was state ownership and

**The Bombay Government Gazette,* Part V pp. 64-65, dated July 12, 1928.

state management of lands the invasion of rights of property would not be a matter of such anxious concern. But the arrangement is such that there will be the aggrandisement of some landlords at the cost of the rest. There is no doubt in my mind that the effect of the mechanism adopted in the bill will be to reduce some landowing farmers into landless labourers. Just how many will find themselves in this predicament it is difficult to imagine. Everything will depend upon how large the standard farm will be. If the standard be much above the actual it will affect a large class than will be the case if the standard approximated the actual. The magnitude of displacement that will take place is an unknown quantity and will become known only when the standard becomes defined. But as majority of farmers are owners of small farms the fear is general. The opposition to the bill mainly arises from this fear and I am not prepared to say that the opposition is groundless. I cannot view with equanimity a prospect of such a revolutionary change in the economic basis of society.

4. The second ground of my objection to the mechanism of the bill is that it will be infructuous and will largely leave things as they are. The neighbouring owners of a small farm are given the right of pre-emption the object of which is to bring about a combination of contiguous small farms. But this right of pre-emption will come into operation only when the owner wants to sell and only when the neighbour is willing to accept the terms of the owner. The occasion for pre-emption may not arise ; for owner of small farm (I am referring to old fragments) may continue to hold it. On the other hand the occasion for pre-emption may arise but it may fail because no neighbour is able to accept the terms of the owner. In either case the existing small farms will continue indefinitely in spite of the desire to bring about the combination of small farms at an early date.

5. Apart from all this I think that the mechanism of Part-I of the Bill overshoots the purpose which the bill has in view. The purpose of the bill is to have larger farms under single cultivation than is the case now. Now I feel that if we can combine small farms owned by different owners for cultivation we ought to stop there and not attempt to bring them under the ownership of a single individual unless it was proved that single ownership was necessary for combine cultivation. I am certain that the establishment of co-operative farms of standard size will give us all that we want under the bill and will save from destruction the small farm-owners. Under this scheme the ownership of a farmer will remain intact, except to the extent that he shall not be at liberty to cultivate it unless he agrees to combine it with a contiguous farm or farms so that the total area so cultivated shall be equal to or exceed the standard unit. Such a covenant if it were made to run with the land will do away entirely with the necessity for the restrictions which the bill seeks to impose on transfers and partitions. For, whoever acquires the fragment he will not be able to disturb the arrangement for the cultivation of the co-operative farm. By reason of the covenant the transferee

will be obliged to cultivate the farm in common. The co-operative farm will be like a shareholders' company in which the company remains even though the shareholders change. The scheme is simple in its operation and avoids the evils of the present bill.

6. I do not see what objection there can be to such a plan. As a matter of fact such a system is actually working in many European countries and particularly in Italy. But it is unnecessary to go so far afield to seek support for the scheme I have outlined above. I am fortunate enough to be able to say that the bill itself in part accept the plan I have sketched above. A reference to clause 19 of the original bill which corresponds to clause 21 of the bill as amended by the Select Committee will show that no new fragment shall be cultivated unless it is combined with another contiguous farm. This I submit is nothing but the co-operative plan which I have suggested above. The only difference between myself and the Select Committee is that it restricts the co-operative plan to the new fragments; while I propose to apply it to all fragments. As between us I think I am right, when I say that it is for the Select Committee to justify why the plan satisfies the case of the one and not of that of the other. I see nothing to justify this distinction between the old and the new fragments.

7. For the reasons given above I cannot support Part I of the bill although I am not opposed to its aims and objects. Regarding Part II, I have no objection to raise, now that it is confined purely to consolidation. I may however say this that under my scheme separate provision for consolidation would be unnecessary. A co-operative farm would be both a large and a consolidated holding.

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*ON SMALL HOLDERS' RELIEF BILL : 3

Dr. B. R. Ambedkar (*Bombay City*): Sir, I would like to ask one question, because I am finding some difficulty in understanding Rule 19. This is undoubtedly a matter which, in the first instance, has to be decided by the Speaker as to whether a particular amendment or a particular Bill needs previous sanction. Clause (2) says that, if in the opinion of the Speaker, the matter requires previous sanction, the Speaker "shall as soon as may be after the receipt of the notice, refer the Bill or the amendment to the Governor and the notice shall not be placed on the list of business unless the Governor has indicated to the Speaker that the previous sanction required has been granted." Clause (3) deliberately states :

> "If any question arises whether a Bill or amendment is or is not a Bill or amendment which cannot be introduced or moved save with previous sanction the question shall be referred to the authority which would have power to grant previous sanction if it were necessary, and the decision of that authority shall be final."

The question that is contemplated in clause (2) to arise is between the Speaker and the member who has given notice of an amendment or Bill. If the member who has given notice of an amendment or a Bill feels that his Bill or amendment does not require previous sanction clause (3) gives him the right to refer the matter to the final authority, the Governor. Therefore, it seems to me—I will frankly say, I have not moved any amendment and am not, therefore, directly concerned—that the matter is so important that, if you would not mind, it should be discussed on the floor of this House. Our rights to bring in Bills is so limited by the Government of India Act that, if we are not given the benefit of the few sections there are which give us the right essential to us, though little, this House will be very greatly handicapped in trying to do its bit in the matter of bringing legislation which is vital. Therefore, I would really like to know whether you are of opinion that under Rule 19, the Speaker is the final authority and that there is no right of appeal to the authority which is vested with the power of giving previous sanction.

If you permit me, I shall refer to section 299, sub-section (3) of the

*B.L.A. Debates, Vol. 2, pp. 617-19, dated 24th January 1938.

Government of India Act in the light of the Bill for which permission has been asked by my learned friend. If I understand this Bill, technically it can be spoken of as a remedial measure.

The Honourable the Speaker: Let us keep clear of two issues. One issue that has been raised by the honourable member Mr. Parulekar is in regard to the interpretation of Rule 19 as to whether, when a question arises as between a member and the Speaker, the Speaker is the final authority. That is one issue. I have stated what my interpretation of Rule 19 is. As regards the question whether a particular amendment tabled by the honourable member Mr. Parulekar does or does not require sanction under section 299(*3*), it is an independent question. I have already intimated to the honourable member that I do not propose to have any discussion in this House over the question of his amendment. I have already come to a conclusion on that. I am prepared to hear the honourable member, if he advances any argument on the interpretation of sub-rule (3) of Rule 19.

Dr. B. R. Ambedkar: Unless I am permitted to point out that the Bill cannot come within the purview of sub-section (*3*) of section 299 of the Government of India Act, it is futile for me to argue on the interpretation of Rule 19(3). If I am to convince you that Rule 19(3) does give a member aggrieved whose amendment has been rejected, the right of appeal to the Governor, then my submission is that section 299(*3*) will have to be considered. If you are not prepared to allow me to argue whether this Bill really does come within the mischief which is sought to be prevented by sub-section (*3*) of section 299 of the Government of India Act, it will be quite useless for me to argue. Reading sub-section (*3*) of section 299 of the Government of India Act, it seems to me that the Bill will have to be postponed until a member who is aggrieved has obtained the final sanction, because it has precluded the member from discussing the most important provisions of this Bill. It is shelving the whole question. If I am given the opportunity, I will show how. I have applied my mind to it. Neither this Bill nor the amendment tabled by my honourable friend Mr. Parulekar or members of my party can come within the proviso of sub-section (*3*) of section 299. If you permit me. I will do it in two minutes.

The Honourable the Speaker: So far as the individual amendments are concerned. I have already decided one way. Now, if, without any reference to any particular amendment, or any ruling I have already given in regard to it the honourable member wishes to say how the entire Bill is out of the scope of section 299, that will be a different question, and I am prepared to give him a hearing on that question.

Dr. B. R. Ambedkar: I am obliged to you, Sir.

Sir, as I was saying, this Bill is a Bill which might be called purely a remedial measure. A person may obtain a decree from a court. That decree means that he has got certain rights as against a certain person. All that this Bill says is that whatever rights that person may have acquired as

a result of a decree against a debtor or against any other person, those rights shall not be enforced until a certain date is reached, namely, 31st of March 1939. I understand that to be the gist of the Bill. Therefore, this measure deals with the enforcement of rights ; it has nothing to do with the extinguishment or modification of the rights. That is my first submission. I would make a distinction between extinguishment or modification of a right which a person has got and the delaying or suspension of the enforcement of that right.

Secondly, sub-clause (3) of section 299 is confined to the extinguishment or modification of rights in land. Now, this measure does not confine itself to the execution of rights in respect of land; it extends also to debts and the eviction of tenants.

The distinction that I am seeking to make is this : that the suspension of the enforcement of a right is something very different from the extinguishment or modification of that right. The object of the Bill being merely to suspend such rights as the parties may acquire through decrees given by the courts, it is not a Bill which can be said either to extinguish or modify rights in land. Consequently, I submit that both this Bill and amendments which do not extinguish or modify rights in land would not come within the mischief of section 299(*3*).

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†Dr. *B. R. Ambedkar:* Supposing His Excellency were to accord sanction to such of the amendments as have been submitted to him, would you postpone the consideration of the Bill ? His Excellency may grant his sanction to the amendments just as he has done in the case of the Bill. In that event, what would happen ?

The Honourable the Speaker: I will certainly be glad to see that every amendment tabled gets a full chance of being discussed on the floor of the House and that no amendment is shut off on the ground of want of sanction. That is why I referred to the difficulty experienced by me when members sent in amendments at 12 or 1 O'clock today, when the Bill was before them for a long time. That is the difficulty which I have been feeling. That is the reason why I said that amendments should be tabled as early as possible. There are three honourable members who have tabled amendments today. It is difficult to scrutinise them all and to decide whether any of them requires sanction. There might be scope for honest difference of opinion. So I do not know whether in respect of all the amendments tabled now, it would be possible for me to waive notice. But, so far as the previous amendments are concerned, I will certainly try and see that the members do get an opportunity to move them.

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†B.L.A. Debates, Vol. 2, p. 621, dated 24th January 1938.

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*ON THE BOMBAY POLICE ACT AMENDMENT BILL : 1

Dr. B. R. Ambedkar (*Bombay City*)*:* Sir, I beg to move the following amendment to the Bill placed before us:

After sub-section (*2B*) the following shall be inserted, namely :—

"(*2C*)(*i*) The Provincial Government may, if satisfied that the peace or public tranquility in the City of Bombay or in any part thereof is disturbed or is likely to be disturbed in consequence of a conflict between different communities or sections thereof or gangs or factions, declare, by proclamation (hereinafter referred to as "the proclamation of emergency") in the *Official Gazette* that an emergency exists.

(*ii*) A proclamation of emergency—

(*a*) may at any time be revoked by a subsequent proclamation, and

(*b*) shall cease to operate at the expiration of one month, unless before the expiration of that period has been renewed.

(*iii*) After the Provincial Government has issued under clause (*i*) a proclamation of emergency, the Commissioner of Police, whenever it appears to him that the presence, movements or acts of any person in the City of Bombay is or are causing or calculated to cause danger or alarm, or that a reasonable suspicion exists that designs, calculated to disturb peace or public tranquility are entertained by such person, may by beat of drum or otherwise, as he thinks fit, direct such person so to conduct himself as he shall deem necessary in order to prevent the disturbance of the peace or remove himself to such place or places, by such route or routes, and within such time, as the Commissioner of Police shall prescribe

(*iv*) Any person aggrieved by an order made by the Commissioner of Police under clause (*iii*) may appeal to the Provincial Government within ten days from the date of such order.

(*v*) Subject to the appeal under clause (*iv*), an order made by the Commissioner of Police under clause (*iii*) shall be final.

(*vi*) Nothing hereinbefore contained in this section shall require any police officer to disclose to the person against whom an order is made under clause (*iii*) or to the Court the sources of his information or any fact

*B.L.A. Debates, Vol. 3, p. 2425, dated 27th April 19

the communication of which, might, in the opinion of the Commissioner of Police, lead to the disclosure of the identity or name of any informant.

(*vii*) Any order passed by the Commissioner of Police under clause (*iii*) or by the Provincial Government under clause (*iv*) shall not have any effect after the proclamation of emergency has ceased to operate."

After sub-clause (2), the following sub-clause shall be added, namely: —

(3) In sub-section (*3*) for the words, brackets, figure and letter "or (2A)" the following shall be substituted, namely : —

"(2A) or (2C)".

Question proposed.

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†*Dr. B. R. Ambedkar:* Sir, before I proceed to deal with the merits of the amendment which I have tabled, I think it would be desirable if 1 tried to show to the House the necessity of this amendment. The Honourable the Home Minister, in introducing the Bill, has stated that the City of Bombay and its citizens are a prey and a victim to certain undesirable characters who tyrannize and molest the weaker section of the community, and the weaker section of the community has neither the determination or the desire to go to a court of law and obtain a conviction and punishment of such dangerous characters ; and consequently, he thinks that it is necessary to arm the Commissioner of Police in the very interests of the people who are being molested by these dangerous characters, so that he should take action against him. Sir, I readily agree with what he said, that the danger to which he has referred is a very real one.

If the House would allow me to say so, I am very familiar with the kind of evil to which he has referred. I have spent a very great part of my life in what I may call the underworld of Bombay City. I have lived from 1911 to 1933 in the Improvement Trust chawls among labourers and the lower classes, and I know perfectly well, more than the Commissioner of Police or the Honourable the Home Minister, how these poor people are molested by what are called mavalis and dadas, how utterly impossible it is for these victims of their to obtain any redress, because they themselves, for fear of further molestation, would not go to court of law and seek to get a conviction. I therefore think that the Bill that has been brought forward is thoroughly justified by the circumstances of the case. But I felt that there was another danger to which the citizens of this city were subjected and for which he had made no provision in this Bill. Sir, the necessity to which I refer is the necessity arising out of what are called communal riots. I have here some figures relating to the communal riots that have taken place in the City of Bombay. Between the year 1851 and 1938, there have been altogether 9 communal riots in the City of Bombay. The first riot took place on the 17th October 1851. That riot was between the Muslims and Parsis. The second riot took place in the year 1874 ; that was also between the

†B.L.A. Debates, Vol. 3, pp. 2430-33, dated 27th April 1938.

Muslims and the Parsis. The third riot took place in 1893 and it was between the Hindus and Muslims. The fourth was in 1929 that was also between the Hindus and Muslims. The fifth took place in 1932 ; the sixth in 1933 ; the seventh in 1936; the eighth in 1937 ; and the ninth on the 17th April 1938. All these were riots between the Hindus and Musalmans. In the riot of 1893, there were 80 persons killed, 60 temples were destroyed, 7 mosques were destroyed and 27 durgas were destroyed. I have not got the figures for the others. In the riot of 1929, 51 persons were killed; in the riot of 1932, 300 persons were killed and more than 300 were wounded. In 1936, 61 persons were killed and 550 were wounded. In the year 1938—I have not the exact figure—12 persons were killed and more than 120 were wounded. The rapidity with which these riots have taken place is also interesting and important which the House should bear in mind. As I told you, the first riot took place in 1851 ; the second riot took place within 23 years of the first riot ; the third took place after 19 years of the second riot ; the fourth riot took place 36 years after the third riot ; the fifth riot took place within 3 years of the fourth ; the sixth riot took place within one year of the fifth ; the seventh riot took place within 3 years of the sixth ; the eighth riot took place within one year of the seventh ; and the ninth riot took place within less than one year of the eighth. Now, Sir, those of us who are conscious of these facts and who know the responsibility will agree that some remedy has to be found for this constant suspension of civilisation, the annual blood baths in which these two communities are indulging. I do not wish to enter into the reasons, the causes of these riots ; whether they are political, whether they are religious or whether they are economic is a matter of no concern to us. The stark fact that a Muslim, without caring for anything goes and stabs a Hindu, and a Hindu, without caring for anything, stabs a Mahomedan is a calamity which we could never tolerate. I think the time has arrived when some measure ought to be forged whereby the authorities in the country will be able to deal with the menace effectively and expeditiously.

Referring to the merits of this amendment, the first thing I should like to draw the attention of the House to is that clause 3 of my amendment gives the Commissioner of Police the power to remove any person within the limits of the Bombay Presidency, if the Commissioner of Police has reasons to believe that the person is acting in such a manner that his presence, his movements, or his acts are responsible for the riot. That is the main aim of the Bill. Now, I fully agree that this clause in this Bill itself seems to impose a restriction upon the particular individual. But, Sir, I can say this. I come from a class which needs liberty more than any other class in society. I am by profession a lawyer and I understand the importance of liberty ; but, with all that hankering for liberty, which is in me by reason of the interests of the class to which I belong and also by reason of the fact that I am by profession a lawyer, I cannot help saying that there are occasions when, in order to protect the liberty of the large mass

of the people, the liberty of the hooligans, the criminal sections in the society, can be suspended. I have no hesitation on the point. The only thing, therefore, which worries me and which ought to worry the members of this House is this. Are there any safeguards laid down in order to see that this arbitrary power which we are now giving to the Commissioner of Police will not be misused. That is the only question I submit with which this House, having regard to the necessity of the occasion, could be concerned.

Now, Sir, my submission to the House is that there are ample provisions of safeguard in this amendment Therefore, I will briefly refer to those safeguards. The first safeguard is this. Under this amendment, the Police Commissioner could sever in practice, without the knowledge of the Legislature or the public at large, begin to exercise this arbitrary power. He can never do it, because, as honourable members will see, this power of the Police Commissioner will commence and will vest in him, so to say, only after the emergency proclamation is issued. Before the emergency proclamation is issued, or before the emergency has been declared, the Commissioner of Police will not be able to exercise this power. That is one thing we have got to bear in mind with regard to the provision contained in this amendment. These powers will become operative only after the emergency proclamation is issued and this has a certain advantage from the point of view of the Legislature. It is this. If the Government issued a proclamation of emergency without any justification, then this House will have an opportunity to move an adjournment motion and condemn Government for having wrongly issued the emergency proclamation. This, I submit, is a control which this amendment gives to the Legislature in order to see that this power is not abused. The second advantage which this amendment gives is this. It may be that Government issue the proclamation of emergency and refuse to cancel or revoke the proclamation of emergency so that the Commissioner of Police begins to use the powers and continues using them, notwithstanding the fact that the emergency has ceased to exists ; as against this, there is a provision made in this to which I should like to call the attention of the House. By this very amendment, the proclamation will cease after one month, unless Government renew it, so that there is again an ample safeguard provided here that, after one month, the power shall cease to operate.

Another safeguard to which I should like to draw the attention of this House is sub-clause (*vi*). which is very important. Although this amendment gives the Commissioner of Police, the power to deport a person who, in his judgment, is causing communal riots, this order of deportation has a limitation to be appended, and that limitation is that as soon as the proclamation of emergency ceases to operate, the order automatically expires, so that a person who has been deported by the Commissioner of Police can return to Bombay. That again, I say, is a further safeguard.

Another safeguard to which I should like to draw the attention of the House is that as against the order of the Commissioner of Police there is

an appeal provided to the Provincial Government. I agree that there may not be much in this, but still, as far as it goes, there it is.

Now, with regard to the other amendments that have been moved, just one or two things I should like to say. I think my honourable friend the Home Minister will agree that yesterday, when we drafted clause (*i*) of this amendment, it was agreed on all sides that this section was not to be used for labour troubles or for any other troubles, except those arising out of disturbances caused by communities in the sense of religious communities, or sections of communities having religious differences, or factions. All this, in my judgment, was confined to purely communal riots. And I am perfectly prepared to be satisfied with the assurance given by the Honourable the Home Minister that it is intended not to be applied to any other. But if gentlemen in this House desire that there should be no lacuna left, no loophole left for the executive to use the provisions of this section for any other purpose than those for which it is intended, I am perfectly with them in order to make the meaning clear.

With regard to the word "presence", I must say that I cannot support the amendment that the word "presence" should be omitted. The word "presence" must remain. I will give an illustration. A sadhu comes to Bombay; he is a persona grata with one community, he is not a persona grata with another community. A fakir comes to Bombay ; one section venerates him, another section repudiates him. A communal riot starts on that account. Would it not be necessary that the very presence of this man should be removed from the City of Bombay in order that the riots may be quelled ? This, no doubt, may be an extreme illustration, but an extreme illustration is the only way of testing the validity and the effect of the power we give. Therefore, I submit, Sir, that the word "presence" is very necessary and should be retained in the Bill.

With regard to the other amendments, I have an open mind, because our intention is that the Bill should not apply to any riots other than communal. With these words, I move my amendment, and I hope the House will accept it.

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†*Dr. B. R. Ambedkar (Bombay City)*: Sir, I am very glad to find that the amendment which I have moved has found support from many honourable members of the House who have spoken on the first reading of the Bill. I do not think the Honourable the Leader of the Opposition opposed my amendment although he had a great deal to say with regard to the Bill itself. My honourable friend, Rao Bahadur Chitale, has supported the amendment and the opposition of my friend Mr. Jamnadas Mehta, if I may say so, was not fundamental, but was tactical. In view of this, it is not necessary for me really to make any very lengthy reply to the comments that have been made, but there are only two matters to which

†B.L.A. Debates, Vol. 3, pp. 2471-73, dated 27th April 1938.

I would like to refer. This is admittedly an emergency measure and as an emergency measure, it does involve a considerable amount of restraint upon the liberty of the individual.

Sir Ali Mahomed Khan Dehlavi: I wish to correct the honourable member. I do not know what authority the honourable member has to say that this is an emergency measure, which is not admitted by the Honourable the Mover.

Dr. B. R. Ambedkar: I am only replying with respect to my amendment. My amendment is an emergency amendment and, as I have admitted in my speech, it does involve a restraint on the part of the individual. I would like to submit in connection with this that if those gentlemen who have spoken in regard to my amendment enlarging and emphasising the fact that it does involve restriction, I would respectfully invite their attention to refer to the Defence of the Realm Act that was passed in the time of war in England and to the Defence of India Act that was passed in India. Both of them were emergency measures and if any one of those gentlemen were to refer to the provisions of the Act, I am sure they will find that this amendment is a very mild amendment and let it be remembered further that this emergency legislation, for instance, the Defence of the Realm Act and the Defence of India Act lasted for over four years. The Defence of Realm Act in England was passed in 1914 and was not repealed till 1919 and the powers given to the police officers—I happened to be in England then as a student—were certainly much vaster than the powers that are given under this amendment. Therefore, having regard to the emergency, I submit that the powers that are given to the Police Commissioner cannot be said to be unduly wide.

Now, with regard to the other matters, namely, that this is a permanent measure, I would like to draw the attention of the House to the provisions contained in section 102 of the Government of India Act and which are very pertinent and very relevant on this occasion. Sir, section 102 of the Government of India Act is exactly what this amendment proposes to do. There too, the Governor-General has been given the power in his own discretion to issue a proclamation of emergency and during the period of that proclamation, the Governor-General is entitled to pass whatever law, by means of ordinances that may be necessary for the maintenance of peace and order .....

Sir Ali Mahomed Khan Dehlavi: Which the country does not approve of.

Dr. B. R. Ambedkar: Well, it is contained in the Government of India Act. Similarly, there is a provision in the same section that the emergency proclamation shall last for six months. I will read the relevant provisions :

> "Notwithstanding anything in the preceding sections of this chapter, the Federal Legislature shall, if the Governor-General has in his discretion declared by Proclamation (in this Act referred to as a 'Proclamation of Emergency') that a grave emergency exists whereby the security of India is threatened, whether by war or internal disturbance, have power to

make laws for a Province or any part thereof with respect to any of the matters enumerated in the Provincial Legislative List."

Sub-clause (4) says :

"A law made by the Federal Legislature which that Legislature would not but for the issue of a Proclamation of Emergency have been competent to make shall cease to have effect on the expiration of a period of six months after the Proclamation has ceased to operate, except as respect to things done or omitted to be done before the expiration of the said period."

Therefore, my submission to the House is that we are really not doing anything that is unusual having regard to the Defence of the Realm Act and the Defence of India Act and having regard to the provisions contained in section 102.

There was one comment which my honourable friend Mr. Jamnadas Mehta made that although my desire was to confine these emergency powers to communal conflicts and communal riots, the language used in this amendment is not such as would, in the end, confine the operation of this amendment to communal riots. His argument was that the word "community" does not necessarily mean religious community and that it is used as commercial community, industrial community and labour community and secondly, the Government will use its powers for the purpose of invoking this legislation even in labour disputes.

Now, my first submission on that point is this, that this part of the proclamation is certainly not going to be the subject of bearing the interpretation because it is a matter to be determined by the Government in its own discretion. It is not going to any court and the emergency proclamation is not going to be a question in a Court of Law as to whether it has been properly invoked or not, all that the court will be concerned in finding is whether a proclamation has been issued. Whether the proclamation has been properly issued or not would be a matter for Government and this Government would be amenable to this House if the Government uses its power to make a proclamation for purposes which are not intended either by Government or myself or any members of the Opposition.

The other thing that I would like to submit is this that I admit that the word "community" is used popularly in a wide sense, but before I came here I did refer to the Oxford Dictionary in order to satisfy myself, because I am myself more anxious than Mr. Jamnadas Mehta is, that this measure should not be extended to labour disputes.

Mr. Jamnadas M. Mehta: As anxious, not more.

Dr. B. R. Ambedkar: If you will allow me to say, I am more anxious. Therefore, I say that if you can suggest a better language I am perfectly prepared to accept any change that you propose, but so far as I am able to understand the word and so far as any help can be derived from a standard dictionary, I have no doubt in my mind that the word "community" does mean basically—apart from the extended use to which

every word becomes subject—I have not the least doubt in my mind that the word "community", etymologically and basically is used only in the sense of religious community. The derivation seems to be those who are in communion. Communion is a religious word. A person ceases to be in communion when he is ex-communicated by a religious authority, he ceases to be inside the community. That is the origin of the word. I am perfectly satisfied that this is not a word which can be so used as to bring in labour or strike or other situation. As I say if my learned and honourable friend thinks that this is not enough and, that another word is necessary, I am perfectly prepared to help him in that matter.

With these words, I sit down.

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†*Dr. B. R. Ambedkar:* Sir, I find that my amendment as has been submitted does not contain a very material part which I intended to be a part of it, because I was proceeding on the draft that was given to us at the time of the conference. If you will allow me to supplement my amendment, it will be complete. The amendment is as follows:

In clause 2, sub-clause (1)(*i*). substitute the following for sub-clause (*a*) beginning with the words "that the presence", etc. namely: —

> "(*a*) that any person within the limits of the city of Bombay is by habit engaged in unlawful activities which are a menace to the residents of the city and who is so desperate and dangerous as to render his being at large in the City hazardous and who is habitually engaged in the commission of offences involving force or violence or any offence punishable under Chapter XII, XVI or XVII of the Indian Penal Code, and when in the opinion of the Commissioner witnesses are not willing to come forward to give evidence in public against such person ; or."

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‡*Dr. B. R. Ambedkar:* Sir, before I say what I have to say in support of the amendment which I have moved, it is perhaps necessary for me to make two preliminary observations. The first observation that I would like to make is this. The reason why I support the Bill brought forward by my honourable friend the Home Member, seeking to amend section 27 of the Act, is this. Much has been said in the course of the debates yesterday that the amendment gave more powers to the Commissioner of Police than the original section 27 did. Now having applied the Bill as a whole, I have not the slightest doubt in my mind that the amended section 27 will be of a much milder character than the section 27 as it stands today.

Therefore, I agreed to the suspension of the orders and to help the Honourable the Home Minister in getting this legislation pass through.

†B.L.A. Debates, Vol. 3, p. 2497, dated 27th April 1938.

‡B.L.A. Debates, Vol. 3, pp. 2499-2501, dated 27th April 1938.

The second observation I should like to make is this. At the parties conference where we had a discussion with regard to this amendment, I did say that I would support the measure which was agreed to at the time when we discussed the various proposals. My honourable friend the Home Minister might say that, having taken that view at the time of the conference, it was not open to me to come forward with an amendment now. It is that which I would like to explain. Sir, when I agreed with the Honourable the Home Minister to support him, the amendment was confined to the principle underlying the Bill. The principle underlying the Bill, if I understand it correctly, is this. There are certain persons in the City of Bombay who are committing crimes and whose character is such that by reason of the terror they strike against their victims, the victims themselves do not come forward to give evidence in a court of law. Therefore, a regular trial could not be had. That is the principle, as I said, of this Bill. To that principle I stick. I am not deviating from that principle. All that I am seeking to do is to confine the category of persons against whom action can be taken by the Commissioner of Police without resorting to a regular trial by reason of the fact that the informants are not prepared to come before a Court of Law. Therefore, my view is that my amendment is an amendment of detail and not an amendment of principle.

Now, Sir, turning to the amendment, the first thing I should like to draw the attention of the House is this. The wording as it stands is that:

> "that the presence, movements or acts of any person in the city of Bombay is or are causing or calculated to cause danger or alarm or a reasonable suspicion that unlawful designs are entertained by such person."

It will be noticed that the language is of the mildest character. Secondly, it seems to me that the person who does a single unlawful act which has the consequence of causing danger or alarm or reasonable suspicion can be taken hold of by the Commissioner of Police and deported under the powers we are giving. I am sure that was not the intention of the Honourable the Home Member nor was it ever my intention. If I understand correctly the view point of the Honourable the Home Minister, he said in the opening speech that in seeking powers under the amendment he has proposed that his main object is to get hold of pucca mavalis, to use his own words. If I understand the words "pucca mavali" my feeling is that a pucca mavali is a person who habitually does something which is dangerous and desperate and who habitually indulges in unlawful activities. If that is the intention of the Honourable the Home Minister he should have no objection in seeking that the intention he professed on the floor of this House is embodied in specific terms in the law itself. It is, therefore, from that point of view I have sought to amend his language by emphasising that the person must be doing all these things by habit :

> "that any person within the limits of the city of Bombay is by habit engaged in unlawful activities which are a menace to the residents of the

city and who is so desperate and dangerous as to render his being at large in the city hazardous and who is habitually engaged ....."

The rest of the amendment is like that of the honourable member Mr. Pataskar I take it the Honourable Minister has no objection to that amendment being an official one.

What I have sought to do is nothing new. I have taken the wording from section 110 of the Criminal Procedure Code. Section 110 of the Criminal Procedure Code gives power to the police to prosecute a man before a Presidency Magistrate or District Magistrate if he is by habit a robber. I have taken the wording from sub-section (*a*) of section 110 and sub-section (*f*) of section 110. It might be argued that under section 110 of the Criminal Procedure Code, even if a person is by habit a robber and even if a person is a desperate and dangerous character action cannot be taken against him without a trial. Why do you want to take action against him, because he is in the city of Bombay ? That kind of argument may be used. My justification for that is that we are dealing with cases where persons are not prepared to come before a court of law to give evidence and that is the reason why I have consented to give the Commissioner of Police the power of an extra-judicial and extra-legal kind. In giving such powers it is necessary to restrict and define the category of persons against whom action can be taken. My submission is that the House will do well in defining the class by saying that the person must be doing unlawful acts by habit and not by accident. With these words, I commend my amendment to the House.

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*ON THE BOMBAY POLICE ACT AMENDMENT BILL : 2

Dr. B. R. Ambedkar (Bombay City): Sir, I am sorry to find that my amendment, as worded by me, has created a wrong impression, a totally different impression from what I wanted to have by my amendment I would like to say one thing at this stage. I do not think this is an occasion on which any one of us should really stand on dignity. And I would like to say this over again, because I think the occasion is a very important occasion. Sir, I also like to say this that the Honourable the Home Minister has not taken into consideration, in making his reply that we have already amply empowered him to deal with cases of emergency and the powers which we have given him by my amendment which is so wide in character that he can deal with persons who have merely entertained designs in their minds and I beg to remind him of that. Therefore, Sir, having armed him with the most extensive powers possible to deal with an emergency, it is perfectly proper for members on this side to adopt, if I may say so, a somewhat carping spirit in giving him powers for normal occasions. He has totally forgotten that the amendment with which we are dealing now is an amendment which gives powers for normal occasions. It does not deal with abnormal situations, and therefore I do not see any conceivable case in which the Police Commissioner exercising the power that we are giving him under my amendment would not be able to deal with the situation. I therefore submit that it would be in the interest of the public and in the interest of all sections concerned, that my amendment should be accepted. Sir, I do say that this is a very important occasion and the Bill deals with so important a subject, namely, the liberty of the citizen that I think it is one of the most eminent occasions on which, as far as possible, there should be agreement on all sides. I therefore appeal to the Honourable Home Minister not to stand on dignity, as I am not standing on dignity at all, and to accept this amendment.

Sir, I accept the amendment of my honourable friend Mr. Chundrigar and also the amendment of my honourable friend Mr. Bhole.

The Honourable Mr. K. M. Munshi: It is not a question of standing on dignity. We went into every word, considered the implications of every

*B.L.A. Debates, Vol. 3, pp. 2509-12, dated 28th April 1938.

suggestion. After that there was no question of a person habitually engaged.

Dr. B. R. Ambedkar: Better thoughts come again some times.

The Honourable Mr. K. M. Munshi: Sir, as I said, there is no question of dignity. The question is of difference of opinion, because if in every case we have to find out whether a man engaged is habitually engaged and not a man who is about to engage for the first time, he would escape. It would reduce the section to nullity and the Police Commissioner or the Government would also be reduced to a worse position than they are in under the existing section.

Dr. B. R. Ambedkar: My honourable friend must understand that no member on this side is opposed to taking powers to deal with gangs. In fact, the Opposition says : "Retain gangs". If you want to have an amendment to deal with gangs. I am prepared to support it; I have not the least objection. I remember that the Leader of the Opposition said that power should be given to deal with gangs. But you are wanting power to deal with individuals and, therefore, we are putting these restrictions. If we are to deal with gangs, by all means, let somebody bring in an amendment and I for myself would support it, provided it is a reasonable amendment. Here, you are dealing with individuals.

Sir, if you like, we might adjourn for a short time and have a discussion.

Mr. S. H. Jhabvala: Sir, you see this shows the utility of a select committee I proposed.

The Honourable Mr. K. M. Munshi: Sir, I am quite willing, but it is no use adjourning for such a thing. I am trying to convince the honourable mover of the amendment that by putting the word "habit" there, he has reduced the operation of this section practically to a nullity. I cannot consider it further, unless he is willing to drop the word "habit". If he wants to keep the word "habit" in the section, then the section becomes more or less useless. That is why, I say it is no use adjourning. There is no common ground.

Sir Ali Mahomed Khan Dehlavi: That describes the pucca mavali.

The Honourable Mr. K. M. Munshi: A pucca mavali is not necessarily a person engaged habitually in unlawful activities. He may be a mavali in the sense of a bully or a dada. Members are putting something in my mouth which I never said. When I said "pucca mavali" I did not say a person habitually engaged in unlawful activities. That is what you are attributing to me.

Sir Ali Mahomed Khan Dehlavi: Sir, I should like to say that when the Honourable Minister said "pucca mavali" we at once understood that there were a number of classifications of mavalis in his own mind.

The Honourable Mr. K. M. Munshi: That I agree ; there may be a series of mavalis.

Dr. B. R. Ambedkar: Surely, the Honourable Minister does not want to deal with the case of a man who has done once a certain thing.

The Honourable Mr. K. M. Munshi: I gave the honourable member the

instance of the gang which came down from Calcutta. There were 11 persons who had not committed an offence, but who were about to engage in certain unlawful activities. They had not been convicted in Calcutta in spite of the vigilance of the Police there. Some of them were persons who were—

Dr. B. R. Ambedkar: If the people have been committing offences in Calcutta, they would be habitual. It does not mean that one should habitually commit an offence in Bombay.

The Honourable Mr. K. M. Munshi: They were not convicted for carrying on unlawful activities.

Dr. B. R. Ambedkar: May I draw the attention of the Honourable Minister to the wording of my amendment? It is "; .....who is so desperate and dangerous as to render his being at large in the City hazardous ....." A member of a gang would come under this.

The Honourable Mr. K. M. Munshi: If the honourable member will have patience, I will tell him. The man may not be desperate as I gave you the Instance of the leader of the very coterie which I mentioned. He was perhaps moving there in Calcutta in a motor-car. He was a European and was accepted in good society in Bombay, but he was not a desperate character in the sense that he took a lathi and ran about in the streets.

Dr. B. R. Ambedkar: But the word dangerous is there.

The Honourable Mr. K. M. Munshi: Now, Sir, what is meant by the word "dangerous"—

Dr. B. R. Ambedkar: I have taken the words used in the section and I am sure they are perfectly intelligible words.

The Honourable Mr. K. M. Munshi: Sir, the words "dangerous and desperate" are intended for bullies who are running amok and threatening people or proving dangerous in the physical sense of the term. They would not apply to the head of a counterfeiting gang.

Dr. B. R. Ambedkar: But there is a separate chapter altogether which deals with that, namely, Chapter XVI of the Indian Penal Code, which I have omitted.

The Honourable Mr. K. M. Munshi: But you have stated "habitually engaged".

Dr. B. R. Ambedkar: Sir, I may mention to the House that the words which I have now proposed will restrict the scope of the section only to the persons of a certain type and will not include the large number of cases of persons who would be included even by the present section as it stands.

The Honourable Mr. K. M. Munshi: Sir, as the honourable member himself has admitted that the words restrict the scope of the Bill, and if that is the case, there would be no meaning in having this Bill at all. If it is going to water down the section to such an extent, it becomes a useless weapon for the purpose for which it is designed. Therefore, it is not possible for me to accept the amendment.

The Honourable the Speaker: I have now to put the amendment and

the amendments to the amendment to the House. I will first take up the amendments to the amendment. So, I will first put Mr. Bhole's amendment to the amendment of Dr. Ambedkar. Need I read it ? (Honourable Members : No). So, I will now put the question.

Question put.

The Honourable the Speaker: The Noes have it.

Dr. B. R. Ambedkar: Sir, it was only a question of expressing the intention. It is not an amendment of substance at all.

The Honourable the Speaker: It is not, and, after all, the amended amendment of the honourable member Dr. Ambedkar will have to be put to the House at the end. So, it makes really no difference either way. I shall take the voices again.

Amendment put, and agreed to.

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†*Dr. B. R. Ambedkar (Bombay City):* Sir, I rise to support the amendment which has been moved by my honourable friend Mr. Chundrigar. The amendment requires that, before the Police Commissioner takes any action on the material in his possession, he should produce the person, whom he wants to expel, before the Magistrate and place the material before him and shall not take any action, unless the Magistrate is satisfied. Obviously, that amendment is intended as a further safeguard in order to see that no arbitrary action is taken by the Commissioner of Police. Now, Sir, whether this amendment which is by way of a safeguard asks something which is more than due to those persons or whether it is something that is unnecessary, is a matter which I think can be better understood if one institutes a comparison. Now, I take the case of the revolutionary, those who indulge in revolutionary crime. It is obvious that these persons who are intended to be dealt with by the present amendment to the Bill are certainly not so great a source of danger as the revolutionary. Obviously, therefore, they certainly need a far greater safeguard. a far greater protection, than the revolutionary. Now, let us stop for a moment and ask what are the safeguards that did exist in the law of India as against revolutionary criminals ? I do not want to go into the past history of the matter but I have before me the report of what is called Sedition Committee that was appointed by the Government of India in 1913. The terms of reference do say "to report upon the existence of revolutionary movement in India, to examine the difficulties that arise in dealing with criminal conspiracies and to suggest measures for bringing such offenders to book." It is unnecessary for me to go into the revolutionary crime in India which has been dealt with exhaustively by the Committee. What is relevant for the purpose is the safeguard that was suggested by the Sedition Committee.

The House might be interested in knowing the composition of this

†B.L,A. Debates, Vol. 3, pp. 2533-34, dated 28th April 1938.

Committee. Therefore, I may mention the names of the gentlemen who constituted this Committee : Mr. Justice Rowlatt, Judge of the King's Bench Division, Sir Basil Scott, Chief Justice of Bombay, Diwan Bahadur C. V. Kumaraswami Sastri, Judge of Madras High Court, Sir Verney Lovett, Member of the Board of Revenue, United Provinces and Mr. C. P. Mitter. The Committee consisted of a large number of persons who were judiciary minded. It is a fact that during all the period that Government of India wanted to deal with revolutionary crime, they have accepted the principle that the revolutionaries, before they are punished, must be tried by a tribunal. They were never dealt with by judicial action. The point was that the tribunal consisted of persons who were engaged in the executive of the Government of India. The Committee says in paragraph 182 :

> "While, however, we recommend in substance the procedure established under the Defence of India Act, we think the constitution of the tribunals as provided by these Acts should be altered. It seems to us inadvisable that these tribunals should to any extent be composed of persons not already members of the judiciary but selected by the executive for the purpose of the specific case. Nothing that we have seen suggests that the special tribunals hitherto appointed have been unfair towards the accused, but we think the objections in principle cannot be overlooked. Moreover, as the right of appeal is taken away, the tribunals should be of the highest strength and authority."

If this safeguard is necessary for the purpose of seeing that nothing that is harsh and nothing that is unjust is done to revolutionaries, I submit every man of common sense will think that a far greater safeguard is necessary for dealing with persons contemplated in this Bill. After all, what is it that the amendment asks ? The amendment does not ask that a tribunal consisting of Magistrates should be appointed in order to investigate the allegations made by the Police Commissioner against a person whom he wants to send out of the city. Nothing of the kind is asked for. Nor does the amendment demands that the material, when placed before the Magistrate, shall be investigated into as though it were a trial. The amendment does not require that the Police Commissioner, when he places the material before the Magistrate, shall disclose the name of the informants. Nothing of the kind is asked for. The amendment is of the mildest character. It does not require the Magistrate to sit in judgment over the material of the Police Commissioner. All that it says is this, that the Magistrate may look into it and give a certificate that it is a satisfactory case in which the Police Commissioner may, if he chooses, act. Now, Sir, by all standards, I am prepared to say that this is the mildest kind of safeguard that could be provided and ought to be provided. I submit, Sir, that in view of the fact that the amendment of the honourable member Mr. Pataskar has now been carried and the powers of the Police Commissioner are more unlimited than they would have been if my amendment had been carried, it

becomes all the more incumbent upon the opposition as well as upon the whole House to see that this little safeguard—I call it a very little safeguard—is provided in this Bill, in order to see that the Police Commissioner does not act in an arbitrary way.

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*ON THE BOMBAY POLICE ACT AMENDMENT BILL : 3

Dr. B.R. Ambedkar: What I would like to submit is this. What we have done by accepting the amendment of the honourable member Mr. Pataskar is this. We have laid down as a direction to the Commissioner of Police the cases in which he can exercise the power that are given to him. The direction is that he shall exercise his powers only in cases where in his opinion witnesses are not willing to come forward to give evidence in the public against the person. That is a direction given to him, that he has to exercise the power given to him only in cases where in his opinion witnesses for reasons of safety are not willing to come forward to give evidence. In sub-clause (2), the Bill lays down a certain procedure which the Commissioner has to follow, and it is this. Firstly, the Commissioner has to give particulars of the charge ; secondly, the Commissioner has to give an opportunity to the man to explain the charge ; and thirdly an opportunity has to be given to the man to bring his witnesses. This sub-clause (6) deals with the right of a criminal court to question the order passed by the Commissioner of Police. What does this section do ? This section merely says this : that the court shall have authority—I am putting it positively—to see whether the procedure prescribed under this Bill has been followed or not. The first thing that the Commissioner is asked to follow by way of procedure is, to present the particulars of the charge ; secondly, he must give an opportunity to the person to explain the charge ; thirdly—a matter which was omitted in the original, but which was part of the judgment of the High Court—that the Commissioner must have material before him. That has now been added by the amendment moved by the honourable member Mr. Pataskar. Now, my submission is that we have also added by the clause that we have passed that this power should be exercised only in those cases where witnesses for reasons of safety are not willing to come forward. What the honourable member Mr. Bhole's amendment seeks to do is to add one more ground on which the High Court quash the order. As the sub-clause is now worded, the High Court could quash the order if the particulars of the charge were not presented to the man, if an opportunity was not given to him to explain the allegations

*B.L.A. Debates, Vol. 3, pp. 2586-87, dated 29th April, 1938

against him or his witnesses were not examined, and lastly—according to Mr. Pataskar's amendment—there was no material before the Commissioner of Police upon which he could have passed his order. What the honourable member Mr. Bhole seeks to add is that the condition that has been laid down in part (I) of the amendment of the honourable member Mr. Pataskar, namely, that witnesses are not willing to come forward to give evidence shall also be one of the grounds on which the magisterial court could quash the order. Therefore, it is not a limitation upon the authority of the Magistrate. There is a procedure prescribed, and all that the clause says is, that the High Court or the magisterial court shall see that all these kinds of procedure are followed by the Commissioner of Police. The honourable member Mr. Pataskar does not seek, nor does anybody here seek, that the High Court or the magisterial court shall sit in judgment over the question whether the material was reliable. All that is needed for it to see is that the Commissioner had material. Similarly what the honourable member Mr. Bhole seeks to do is that the court should see that the Commissioner of Police had really taken into consideration the fact whether witnesses were prepared to come. The honourable member Mr. Bhole's amendment does not seek to give the High Court or the magisterial court the power to sit in judgment over the question as to why the witnesses were not prepared to come. The High Court or the magisterial court is not to sit in judgment over that question and say "These are grounds on which nobody ought to be satisfied". The finality of judgment is with the Commissioner of Police. What the amendment of the honourable member Mr. Bhole seeks to do is to bring into this clause a condition which we have imposed by passing the amendment of the honourable member Mr. Pataskar, which is a procedural condition, so as to make the Bill a complete whole. There is no conflict between the amendment we have passed and the honourable member Mr. Bhole's amendment. All that is necessary is to add the words "in the opinion of the Commissioner", and I move it.

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†*Dr. B. R. Ambedkar:* May I explain, Sir ? The position, briefly is this We have given certain powers to the court under renumbered sub-section (*7*); when a person is brought before a Magistrate for breaking the order of the Commissioner, the Magistrate has power to see that the proper procedure was followed. One of the things that the Presidency Magistrate has to see is whether the Commissioner had material before him. Now, this clause says that when the matter comes up before the Presidency Magistrate, the Commissioner or some other person will have to go into the witness box in order to inform the court that he had some material on which he could act. This clause says that in giving this evidence either the Police Commissioner or some other officer whom he may depute shall lead to the identity of a person or the identity of a property. I am explaining the place of sub-

†B.L.A. Debates, Vol. 3, pp. 2598-99, dated 29th April 1938

clause (8); the place of sub-clause (8) is that it comes into operation when the order is being considered by the Magistrate to see whether it is proper or not, that is to say, whether it was passed according to the procedure. One of the things that the Magistrate has to see is whether there was material before the Commissioner, because that is one of the conditions ; and in proving what the material was, the question may arise whether the Magistrate will have the right to compel the Commissioner of Police to disclose all information, including such as would lead to the identity of the person or property. This clause says that while giving evidence the Commissioner of Police may withhold such information as he may have and, which would lead to the identity of the person or property. That is the place of sub-section (*8*).

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†*Dr. B. R. Ambedkar:* Sir, I would like to move this amendment, namely : —

For the words "hereinafter appearing" the following words shall be substituted : —

> "and for the purpose of dealing with habitually dangerous characters and for the purpose of preserving public peace and tranquillity during communal riots."

That is the amendment which I wish to move.

The Honourable the Speaker: I was just referring to the amendment of the honourable member the learned Doctor in which he had moved for the application of this Act to habitual offenders. I am inclined to the view that even this part of the amendment will be out of order in view of the decisions taken by the House.

Dr. B. R. Ambedkar: Sir, I would like to submit that the Bill, which is now before the House, has two-fold purposes, namely, one purpose is to deal with communal riots and therefore I submit that that part of my amendment which refers to communal riots is perfectly in order. The Bill also deals with certain provisions which are intended or calculated to deal with what in the terms of the Honourable the Home Minister, are regarded as mavalis and which I submit is translated by the words "habitually dangerous characters". My amendment is merely intended to make clear the two-fold purpose which this legislation has in view. One purpose is to deal with communal riots and the other purpose is to deal with what are called "mavalis". I submit, therefore, that my amendment is in order. If, however, that is objectionable, I am prepared to use the words "for the purpose of controlling the activities of "mavalis".

The Honourable the Speaker: The difficulty about that will be that the word "mavali" is not defined in the Act. It is not an expression which is defined in any Act

Dr. B. R. Ambedkar: Sir, my submission is that the preamble is not

†B.L.A. Debates, Vol. 3, pp. 2630-34, dated 29th April 1938.

going to be the subject matter of judicial interpretation. The preamble merely contains a rule of guidance for the purpose for which we are to use this Act and I therefore submit that even though the word "mavali" has not been judicially interpreted, it is a term which is so well-known today to both the Honourable the Home Minister and the Commissioner of Police that I think there should be no difficulty about it

The Honourable the Speaker: The amendment is to be divided in two parts—one referring to habitual offenders, as the honourable member has stated, is the one which he is prepared, I understand, to drop.

Dr. B. R. Ambedkar: No, I am prepared to split it into one dealing with persons who are either dangerous characters or mavalis, and the other I submit is a direct reference to the amendment which gives the emergency powers.

The Honourable the Speaker: The other I can see. If divided into two parts, then about the first, I think that even the expression used "mavalis" will not .....

Dr. B. R. Ambedkar: Then my amendment will be this : —

> " for dealing with persons who are dangerous characters". I am prepared to take away the word "habitually". The preamble is intended to make clear our intentions.

Mr. Jamnadas M. Mehta: I submit, Sir, that the learned Doctor's amendment should be held perfectly in order, because it is now realised that the whole Bill has two intentions; one to deal with an emergency and the other to deal with characters which are described in the Act The preamble must express what the House has enacted ; otherwise the preamble will be incomplete and will not express what the object of the Bill is.

The Honourable the Speaker: I am not considering any technical objection. I am only considering how the phraseology would express what has been stated in the Bill and what has been passed by the House.

The Honourable Mr. B. G. Kher: May I suggest to the honourable member that the word "dangerous" is vague ? It must be "dangerous to society", "danger to the city" or something to that effect. We are accustomed to receive telegrams "so and so dangerous, start immediately". The word "dangerous" by itself is vague.

Dr. B. R. Ambedkar: I may suggest "for the purpose of dealing with persons who are a danger to the residents of the City of Bombay for preserving the peace and tranquillity during the riots".

The Honourable Mr. K. M. Munshi: You have left out "factions and gangs" during riots. The words of the section are "between communities, factions and gangs".

Dr. B. R. Ambedkar: We can put it this way : "for preventing disturbance of public peace and tranquillity by reason of conflicts between communities and sections thereof, and gangs and factions".

The Honourable the Speaker: This is what I have taken down : "for the purpose of dealing with persons who are a danger to the City of Bombay and for preventing disturbance of public peace and tranquillity by reason

of conflicts between communities and sections thereof, or gangs or factions."

The Honourable Mr. K. M. Munshi: "And for other purposes hereinafter mentioned".

Dr. B. R. Ambedkar: What other purposes ?

The Honourable Mr. K. M. Munshi: "And other purposes hereinafter mentioned".

Dr. B. R. Ambedkar: What are the other purposes ?

The Honourable Mr. K. M. Munshi: There are various procedural purposes also.

Dr. B. R. Ambedkar: Then, I will make it clear by saying "and for prescribing the procedure for dealing with such cases".

The Honourable the Speaker: Is that all necessary in the preamble ? We should not make it cumbersome.

The Honourable Mr. K. M. Munshi: There is the question of immigrants also in the Act. And so, "other purposes hereinafter mentioned" is necessary.

Mr. Jamnadas M. Mehta: "Hereinafter" is not necessary.

Mr. S. V. Parulekar: We may adjourn till tomorrow, so that we may arrive at an agreed wording.

The Honourable the Speaker: It seems there is agreement as to the substance, and now it is only a question of phraseology. The amendment now moved being accepted in substance, it may be incorporated in the Bill at this stage, and later on, at the third reading any verbal amendments necessary may be made.

The Honourable Mr. K. M. Munshi : Sir, may I have the final word ? I do not want to miss these immigrants.

The Honourable the Speaker: This is what is being proposed by the honourable member Dr. Ambedkar :

> "Instead of the words 'hereinafter appearing' substitute :
>
> 'for the purpose of dealing with persons who are a danger to the City of Bombay and for preventing disturbances of public peace and tranquillity by reason of conflict between communities and sections thereof or gangs or factions, and for certain other purposes hereinafter appearing'."

The Honourable Mr. K. M. Munshi: I accept the amendment

Dr. B. R. Ambedkar: May I know what other purposes there are ?

The Honourable Mr. K. M. Munshi: For dealing with immigrants.

Dr. B. R. Ambedkar: The immigrant is an object and not a purpose.

The Honourable Mr. B. G. Kher: The question is that immigrants who come into the city with certain diseases have to be dealt with. It is not the object of the preamble to describe all purposes seriatim. "Certain other purposes hereinafter appearing" clearly means the purposes embodied in the Bill itself. No other purpose can be brought into the Bill.

The Honourable the Speaker: Are the words "for certain other purposes" to be taken out ?

Sir Ali Mahomed Khan Dehlavi: They must disappear, because we are dealing with section 27 only and not the Act as a whole.

The Honourable Mr. B. G. Kher: If you do not want it, we are willing to take it out.

The Honourable the Speaker: The consensus seems to be that the word "hereinafter" should remain. The amendment would then read : In place of the words "hereinafter appearing", substitute the following :

> "of dealing with persons who are a danger to the City of Bombay and for preventing disturbance of public peace and tranquillity by reason of conflict between communities ....."

The Honourable Mr. B. G. Kher: May I suggest that the phrase should be "public peace or tranquillity" and not "public peace and tranquillity" ? So also, "by reason of conflict between communities or sections."

The Honourable the Speaker: "..... disturbance of public peace or tranquillity by reason of conflict between communities or sections thereof or gangs or factions, and for certain other purposes hereinafter ..... "

Sir Ali Mahomed Khan Dehlavi: "Or for certain other purposes"; I think we agreed to that ?

The Honourable Mr. K. M. Munshi: I will agree to anything.

Mr. R. A. Khedgikar: Are we not to be given a chance to examine the wording ? We have not, fully understood it.

The Honourable the Speaker: I am now reading the final draft. It is open to correction, in case I have committed any mistake.

Mr. S. V. Parulekar: Will you give us an opportunity of studying the amendment before we make up our mind about it ? The amendment is very long, and we do not know the implications of it just now. So, we should be given an opportunity to study it. It may be taken up for discussion.

The Honourable the Speaker: As I stated, the preamble, after all, merely tries to give a summary, and a very general summary, of what is following,

Dr. B. R. Ambedkar: It is a direction to the executive authority.

The Honourable Mr. B. G. Kher: We are willing to accept anything that you propose.

Mr. Jamnadas M. Mehta: Anything that will shorten this discussion will be welcome ! (Laughter)

The Honourable the Speaker: It is therefore that I am suggesting the final wording as it seems to have been agreed to. I am reading the whole amendment again ; honourable members will please hear it patiently :

> "In place of the words 'hereinafter appearing', substitute the following :
>
> 'of dealing with persons who are a danger to the City of Bombay and for preventing disturbance of public peace or tranquillity by reason of conflict between communities or sections thereof or gangs or factions and for the purposes hereinafter appearing'."

Mr. Jamnadas M. Mehta: "Other" must be there.

The Honourable the Speaker: "And for other purposes".

Dr. B. R. Ambedkar: "Such as dealing with immigrants".

The Honourable the Speaker: After all, lawyers know as to how a preamble is construed and what importance is attached to it so far as the construction of the sections is concerned. If I may be permitted to say so, I do not think this point is really such as to be such a debatable point as that.

Mr. Jamnadas M. Mehta: "Other" must be there, because those which are mentioned previously are also purposes.

The Honourable the Speaker: "And for other purposes hereinafter appearing".

Mr. Jamnadas M. Mehta: That will do.

The Honourable Mr. K. M. Munshi: I accept the amendment.

The Honourable the Speaker: So then, I take it that this will be the wording. (Interruption). The phraseology is taken from the sections themselves.

Dr. B. R. Ambedkar: I accept it.

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*ON THE CITY OF BOMBAY MUNICIPAL ACT AMENDMENT BILL

Dr. B. R. Ambedkar (Bombay City, Byculla and Parel): Sir, I rise to support the amendment moved by the honourable member Mr. A. V. Chitre. Sir, the amendment is that in addition to the 4 councillors who are to be elected by the workers' delegates there should be two councillors elected by the municipal workers. Now, the reason why I think this amendment ought to be supported is this. There is no doubt about it that the municipal workers are directly interested in the administration of the Municipal Corporation. They are under the authority of the Municipal Commissioners, they are under the authority of the various officers employed by the municipality under whom they are working. Now, Sir, having regard to the municipal constitution, there is one thing which is clear and abundantly clear and that is that these municipal workers have no right of redress against any order that may be passed by their superior officers. Their position is certainly very much different from the position of the ordinary civil servant who is working under the Government of Bombay. For instance, any civil servant, whether he is employed in the provincial service or subordinate service, has a right of appeal given to him in the case of any order passed to his prejudice. There is no such provision in the Bombay Municipal Corporation. Any order may be passed by any officer against any municipal worker and that worker has no right of redress. One of the advantages this amendment will give to the municipal workers is that any order that may be passed by any officer under the Bombay Municipal Corporation, could be ventilated through their representatives on the floor of the Corporation and certainly this amendment will enable them to get some redress. They do not possess this advantage under the present constitution.

The Honourable Minister in charge said that we are now providing for adult franchise and, because we have provided for adult franchise, it is not necessary to provide any representation for organised labour. I am sure the Honourable Minister has not paid efficient attention to what provisions he has introduced in the Bill which is before us. What I would like to ask the Honourable Minister is this, whether in his opinion adult franchise is the

*B.L.A. Debates, Vol. 3, pp. 2807-08, dated 3rd May 1938.

sovereign remedy which the municipal workers can depend upon for obtaining sufficient representation. In that case, there is no necessity to provide for the representation of four councillors for labour. There is no need to provide for the representation of the Bombay Chamber of Commerce, the Indian Merchants' Chamber and the Millowners' Association, because they can find representation through the ordinary channels of election. If adult franchise is sufficient for securing representation to labour, obviously the provision that is made for the four councillors to be elected by the delegates is unnecessary. Therefore, it is open to argument that the reason why it is provided that four places should be elected by labour is due to the fact that he is conscious of the fact that labour will not secure representation through the ordinary channels of election, although there may be adult franchise. If there is a necessity of providing representation for labour through labour constituencies then I submit that it is for better reason for providing special representation for the municipal workers who are far more interested in the constitution and working of the municipality than labour in general. I submit on this ground that this amendment ought to be supported by this House.

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*ON PROHIBITION

Dr. B. R. Ambedkar: Sir, I realise that the feelings of this House on the matter of prohibition run very high ; not that I do not share those feelings, but for other reasons I do not wish to be harsh to the Honourable the Minister for Excise. I realise that he is a new man for the office. I realise also that it is a very wrong place for a man to be in. I congratulate him on the courage he has shown in accepting the place which another honourable member of this House thought it better to leave.

I rise to speak on this subject simply because I feel that what has fallen from the Honourable the Minister for Excise during the last two or three days has left the impression on me that he will fall into the bad old ways, which are the established ways of this department. In course of the interpellation that we had the other day, to my mind, he made somewhat an extraordinary statement. He stated that he opened a shop somewhere near the borders of the Nizam's Dominions because the Nizam had opened a shop in our territory. Sir, I do not think that is an argument which a Minister who has accepted the policy of prohibition ought to advance in this House. That argument amounts to something like this ; that because a dacoit has committed dacoity and carried away some booty which the Honourable the Minister for Excise could have done himself that he himself is entitled to commit the dacoity. Sir, a wrong committed by one does not justify another to commit a similar wrong. The best policy for my honourable friend the Minister for Excise to adopt was to remonstrate with His Exalted Highness the Nizam for having opened shops near our territories. Instead of doing that he has placed the interest of revenue over and above the interests of the people of this Presidency.

It seems to me that my honourable friend the Minister for Excise looks only to revenue exclusive of every other consideration. In the course of the debate on the budget he also made a statement which I think ought to be taken seriously into consideration. In reply to certain criticisms which I offered he said that in judging of the policy of the Excise Department we ought to take into consideration the amount of consumption of liquor in the presidency and not the amount of money that is raised by the Excise

*B.L.C. Debates, Vol. XIX, pp. 838-40, dated 10th March 1927.

Department. He gave us certain figures to show that the people of Bombay were not drinking as much as the people of the other provinces in India. I have not had the time to look into those figures, but I think we may accept the figures as they were given by the Honourable the Minister for Excise. But I think, Sir, that my honourable friend will admit that while people are drinking less of licit liquor, the manufacture of illicit liquor in this presidency has been on the increase. So, if we take into consideration the fact that although drinking of licit liquor is decreasing, drinking of illicit liquor is on the increase, the result that we get is that the consumption is not less. Of course we have not got the actual figures of illicit manufacture, but I believe the fact is admitted, I think the Honourable the Minister for Excise will be first to urge it, that illicit liquor is increasing. So, on the whole we are not gainers, because the only result is that people are drinking less of licit liquor and more of illicit liquor. The question that then arises is, why is the manufacture of illicit liquor increasing in this presidency ? So far as I am aware, there has been no official reply to this question. But I venture to give a reply for it for what it is worth. I think, Sir, the increase in the manufacture of illicit liquor in this presidency is entirely due to the high tariff on country liquor. Now, it is an admitted principle of political economy, not only a principle which is embodied in text-books, but I believe it is also a principle which is acted upon and known to every housewife that when the price of a certain commodity rises, then, there is always a tendency on the part of the people to substitute another commodity in its place which is equally serviceable and which costs less. We all know, for instance, that when sugar rises in price people will substitute gul in place of sugar and if coffee was to rise in price people will consume more of tea. Applying the same principle to this case, I submit, Sir, that the increase of illicit drink in this presidency is entirely due to the high tariff on country liquor. My honourable friend the Minister for Excise will therefore pay a little more attention to this aspect of the question. If he is really a believer in prohibition he must regulate his tariff. If he does not regulate the tariff, I submit that although he may succeed in controlling the consumption of licit liquor, he will give a direct incentive to the increase in illicit liquor.

The other point that I wish to speak of is as regards the policy of prohibition. I was glad to hear from my honourable friend the Leader of of the House in reply to certain arguments urged by my honourable friend Mr. Murzban, that prohibition is now the accepted policy of Government, and that Government under no circumstances would go back on the policy resolved upon by the Legislative Council. But, Sir, I was a little disappointed when, as I believe, he sidetracked us a little from the real issue before us. He told us that the issue before the House was, what method we should adopt in bringing about prohibition, whether we should adopt the method of rationing or whether we should adopt the method of local option. Sir, in my view the two methods, making allowance for minor details, are more

or less equally efficient. Whether you adopt the policy of rationing or whether you adopt the policy of local option, makes no difference in the situation whatsoever, because the effect of either is to control the supply of liquor that will be put on the market. Whether you do it by not supplying more to the shop-keepers or whether you do it by not opening shops at all, the result is the same. But, Sir, the question is how far we can go on in advancing the policy of prohibition and that question, I think, my honourable friend the Leader of the House has not taken into account. I feel, Sir, that the problem of prohibition, whether you will be able to carry it out to a successful issue or not, entirely depends upon the financial solution of the question, upon how we will manage to make good the losses we are bound to incur as a result of our new excise policy. I think we on this side of the House would have liked to hear a good deal from the Honourable the Leader of the House as to the kind and method of taxation that he has in contemplation. Sir, I think although there might be differences of opinion in this House, we at least on this side feel that we are not opposed to the additional taxation, provided of course the Government will use the taxes for nation-building proposes. We are certainly opposed to additional taxation if Government are going to use the taxes merely to maintain the Government, merely to govern. But if they are going to make life happy, and not merely try to make life possible, then, I think we on this side are certainly willing to support any tax. The honourable member the Leader of the House tried to repudiate the charge of insincerity that was made against Government. Sir, I think no Government ought to make any promise as regards carrying out a policy of prohibition unless it has made up its mind as to how it will make good the loss of revenue. Unless therefore my honourable friend has got the courage—that is far more important than mere conviction—unless he has the courage to tax the people who have not been taxed so far, people who have better capacity to bear the burden, I think it is no use his trying to incur the odium of making a promise and not carrying it out. The best thing for the Honourable the Leader of the House would have been to bring forward a proposal for taxation and to test the sincerity of this House as regards the policy which it has been asking him to pursue. I think the House understands as well as anybody that this policy is going to cost money, and it was the duty and interest of my honourable friend the Leader of the House to have obtained from the House an assurance that it was willing to meet the cost of the policy it was so strenuously enforcing upon him. With these remarks I beg to resume my seat.

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*ON MATERNITY BENEFIT BILL

Dr. B. R. Ambedkar: Sir, I rise to support the first reading of this bill. And in doing so I just wish to reply to a few points that have been raised in the course of this debate against this bill. The Honourable the General Member, in speaking against the bill, first of all, pointed out that this is not an accident—accident as we understand it under the Workmen's Compensation Act, and, therefore, the principle of the Workmen's Compensation Act cannot be extended to the women who would be entitled to get the benefit under this particular bill. I admit, Sir, that this is not an accident. But it does not follow from that, that women are not entitled to get the benefit which the proposed bill desire to confer upon them. The principle on which this bill is based is altogether biased. There is absolutely, I believe, unanimity on this proposition that the pre-natal conditions which affect the mother are an important factor in the bill and the subsequent bringing up of the child. I do not think anybody will controvert that proposition. And I believe, therefore, Sir, that it is in the interests of the nation that the mother ought to get a certain amount of rest during the pre-natal period and also subsequently, and the principle of the bill is based entirely on that principle. That being so, Sir, I am bound to admit that the burden of this ought to be largely borne by the Government. I am prepared to admit this fact because the conservation of the people's welfare is primarily the concern of the Government. And in every country, therefore, where the maternity benefit has been introduced, you will find that the Government has been subjected to a certain amount of charge with regard to maternity benefit. But that being so, Sir, I am not prepared to admit that the employer who employs a woman, under such circumstances, is altogether free from the liability of such benefit in the interests of the woman and the reason for this is this. There is no doubt that an employer employs women in certain industries because he finds that there is a greater profit to be gained by him by the employment of women than he would gain by the employment of men. He is able to get *pro rata* larger benefits out of women than he would get by employing men. That being so, it is absolutely reasonable to say that to a certain extent at least the employer will be liable for this kind of

*B.L.C. Debates, Vol. XXIII, pp. 381-82, dated 28th July 1928.

benefit when he gets a special benefit by employing women instead of men. I, therefore, say that although there ought to have been some liability imposed on the Government in the matter of maternity benefit, I think the bill is not altogether wrong if it seeks to impose the liability under the present circumstances on the employer. I, therefore, support the bill on that account

It is stated that this bill is applied only to factories and not to other industries or to the agricultural occupation. The reply to that is very simple. It is to those industries where the conditions are such that they particularly affect the health of a woman that this principle is extended. In agriculture and other occupations the women are not exposed to those dangers or to those factors which obtain in factories and which affect the health of the women working in those factories. That is the reason why, for instance, such legislation is usually confined only to factories. The same may be said, for instance, with regard to the Workmen's Compensation Act. That Act applies to accident which may arise in factories in the course of the employment of labour for this very reason, and you will find that legislation is confined only to factories and not to other occupations.

Now, in respect of the burden on industries, the Honourable the General Member said that it will result in the reduction of wages. I am not certain whether it will result in a reduction of wages. Even if it does, it will mean that the burden on the industries will to a certain extent be shifted elsewhere and the Honourable the General Member ought therefore to have no objection on that ground. If this bill is passed, my submission is that the burden will probably be shifted on to the consumer and if it is shifted on to the consumer, the society as such ought not to object to pay the larger price for the produce in order that the producers who produce it may be benefitted.

Then, it is said that it is unjust to confine this bill to the Bombay Presidency only and that it ought to be extended to the whole of India, and that other Presidencies and provinces in India ought to be put on a par with the Bombay Presidency. My submission to you, Sir, is this. Suppose that this bill is applied to the whole of British India, what is there to prevent somebody rising up and saying, "Why should this bill be confined to India only and not to other countries ? India will be put at a disadvantage with respect to the other countries of the world and therefore let us wait till the whole world adopts the principle of this bill and then we may all be on a par with each other". I submit that there is no substance in this argument and I think, therefore, the benefits contemplated by this bill ought to be given by this Legislature to the poor women who toil in our factories in this Presidency.

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*ON PUNISHMENT OF WHIPPING

Dr. B. R. Ambedkar: Sir, after having heard my honourable friend the Honourable Mr. Bell, who is in charge of this Bill, and the honourable member the Remembrancer of Legal Affairs, I do not think that there remains any necessity for arguing a case for the necessity of this measure ; nor does there remain, in my opinion, any necessity for arguing the question whether whipping is a proper punishment. That we have had very serious riots in the city of Bombay and often in the mofussil, which have been a disgrace to Indian society and Indian civilization, no honourable member, I am sure, can dispute. That whipping as a method of punishment is on the Indian statute book is itself sufficient argument against those who say that we are making a new departure. Consequently, Sir, the only point that remains for discussion in my humble judgment, is whether the provisions of the Bill, as they are framed, go beyond the necessities of the occasion. That seems to me to be the only point that survives for discussion.

Sir, having read the Bill, having applied my mind to clause 2 of the Bill, which is the substantive clause, I find some difficulty in agreeing to the provisions as they are worded in clause 2. That clause as it stands says that the provisions of section 4 of the Whipping Act shall apply to every offence of rioting which may come within sections 146 and 148 of the Indian Penal Code. Now, Sir, I was under the impression that this measure was contrived and devised for the special purpose of dealing with what are called communal riots. Riots, Sir, may be of various sorts ; the purpose, the motive, the occasion may be different. We may have a riot arising out of an industrial strike in the city of Bombay; we may have a riot which is occasioned by a casual fracas between poor people who assemble together for asserting a certain right over certain properties which they may, however illegally but in their honest belief, think belong to them. Sir, this House ought to know that the offence of rioting really arises out of an offence of unlawful assembly. An unlawful assembly becomes a riot when that assembly uses force. That is the definition given in section 146 of rioting. Now, an unlawful assembly, although it may not be an offence which we can overlook, is certainly not such a serious offence as to invite such a terrible punishment

*B.L.C. Debates, Vol. XXXVII, pp. 652-53, dated 18th February 1933.

as whipping. Consequently my view is this, that if we are to introduce this punishment of whipping, we ought to amend clause 2 in such a manner that it shall become applicable only to those riots which may be said to arise out of a communal fracas and not to any other riots. The clause as it is, I submit, is worded so broadly as to embrace almost any riot, which may be occasioned by anything which may be of a very passing character or which may be so normal in human affairs that we really ought not to extend this punishment to such cases. And the Indian Penal Code, I submit, has very wisely provided the ordinary forms of punishment for ordinary offences of rioting. If this Bill is a necessity it can be a necessity only for the special purpose of dealing with a communal riot and for no other purpose. If my honourable friend the Home Member is prepared to alter the wording of clause 2 in such a manner that this punishment can be made applicable only to offences arising specially out of communal riots, he will have my support. That is all that I have to say on this occasion.

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*ON MINISTERS' SALARIES BILL

Dr. B R. Ambedkar (Bombay City, Byculla and Parel): Mr. Speaker, I rise to make a statement, and I use the word "statement" very advisedly. I am not moving an amendment to the Bill which has been proposed by my honourable friend the Prime Minister, nor do I propose to carry this matter to a division. The Ministers' Salaries Bill, I think, ought to have been an agreed measure, and it need not have been carried through, as the Ministry proposes to do, by a purely party vote. That course the Ministry has not chosen to take, and I am therefore bound to make this statement with the simple object of lodging a protest against the principle of the Bill. Notwithstanding what the Prime Minister has said in moving this Bill—and no doubt every member of this House will feel a greater degree of respect for him for the sincerity with which he spoke and for the high principles he has enunciated regarding the conduct of Ministers—taking the view of the situation as a practical man, looking at things from a practical point of view, I do not think that I can accept the standard salary for Ministers which has been laid down in this Bill.

Sir, before I explain the reasons why I think that this should not be a standard salary for the Ministers, I would like to place before the House some figures relating to the salaries which are paid to Ministers outside India and also to Ministers in India, so that the House may at the outset be able to realize what a great departure we are making from the standard that exists today. I have here with me a few figures which I have collected. In the Irish Free State there are 11 Ministers ; every one of them is paid a salary of £ 1,700 per annum, which according to my calculation comes approximately to Rs. 2,000 a month. In South Africa there are 13 Ministers, 2 without portfolio. The Prime Minister is paid £3,500 per annum ; the other Ministers are paid £ 2,500 per annum, which according to my calculation comes to Rs. 2,900 per month. I have not been able to gel the figures for Australia, but the figures for Canada are as follows : The Prime Minister gets $ 19,000 per annum ; there are 16 Ministers in Canada altogether, and the Ministers get $ 14,000 per annum, which includes $ 4,000 for sessional allowance. In New Zealand there are 12 Ministers. The Prime

*B.L.A. Debates, Vol. 1, pp. 247-54, dated 23rd August 1937.

Minister there gets £ 1,800 plus a residence, and a Minister gets £ 1,370 per annum which includes £ 200 for house allowance, so that the salary for the Minister comes to Rs. 1,500 per month.

Coming to India and leaving aside for a moment the salaries that were paid before the new Government of India Act came into operation, and taking the salaries that were fixed for the interim Ministers—and nobody could say that the interim Ministries were not Ministries which were, to some extent at any rate, responsible to public opinion—these are the figures which I find from a table submitted to Parliament. In Madras, the Prime Minister was paid a salary of Rs. 3,000, and each of the Ministers was paid Rs. 2,500 plus a house. In Bombay the salary was Rs. 4,000 for the Prime Minister, and for the Ministers Rs. 3,500 each. In the United Provinces each Minister including the Prime Minister was paid Rs. 2,500. In the Central Provinces the Prime Minister was paid Rs. 3,000, and each Minister was paid Rs. 2,250. In Bihar the Prime Minister was paid Rs. 2,500 and a Minister was paid Rs. 2,000. In Orissa the Ministers were paid Rs. 1,000 each.

Now, Sir, compare these figures with the figures proposed in the Ministers' Salaries Bill. There can be no doubt that there is a great departure from the prevailing standard. It seems to me that the difference is not merely a difference of degree but is a difference of kind, and I submit a difference of kind is a difference of principle. What are the considerations that ought to prevail in the fixing of the salary of a Minister ? In my judgment, Sir, there are four considerations which ought to prevail. The first is the consideration of the social standard of the Ministers, who are undoubtedly the social leaders of the community ; secondly, considerations of competency ; thirdly considerations of democracy ; and, fourthly, considerations of integrity and purity of administration. I am not prepared to push the first consideration to any unreasonable length. Personally, I should have thought myself that the Ministers of the country, who are the first citizens of the country, should lead a life which is cultured, which cares for art, which cares for learning, and which ought to be a model for the rest. But if our friends do not care to consider that aspect of the case, as I say, I am prepared to leave it out of consideration altogether. But surely the consideration of competency, the consideration of democracy and the consideration of integrity could never be overlooked in fixing the salaries of Ministers. I do not know what view the Honourable the Prime Minister takes of the duties and functions of the Ministers. If the view is that the Ministers are to do nothing more than go about and unfurl flags and receive salutes from crimson clad ladies forming guards of honour, then that is a different proposition. In my view, and I want to emphasise it with all the emphasis I am capable of, if there is anything we expect from the Ministry, it is competency. I have no doubt in my mind that of the three organs of the State, the legislature, the executive and the judiciary, the executive is the

main spring of action. It is the executive which is to study the problems that are facing the country ; it is the executive which is to show what solutions can be proposed for solving those problems ; in short, Sir, it is the executive that must be the brain trust, if we are to solve the various problems with which we are faced and to get the best out of this constitution.

The question that arises in my mind is this, whether the salary that is proposed is a salary which is capable of inviting men who are capable and who have the necessary competence to face the problems and suggest remedies. Looking at the question dispassionately in the light of the circumstances which I see prevalent in this country, I cannot give, Sir, an affirmative answer. First of all, there is this fact to be considered, namely, that there are other walks of life in which the prizes are far greater than the prizes which have been provided for the Ministry. Many people who have competence, who have ambitions, will seek other walks of life rather than come to the Ministry and have the responsibility of the Ministry. I could have understood if the ministry was legislating that nobody should receive a salary of more than five hundred in any walk of life. If they had done so, things would have been otherwise. But they are not doing so. They are driving away competent men in other walks of life. This is one aspect of the matter. The second aspect to be considered is this. Looking at the situation in India, I cannot help saying that the intellectual class from which you can draw men who are competent enough to undertake the responsibility is very very small. Sir, in this country, on account of the social system which has been prevalent and which the British regime has not been able to damage very much, education was confined to a small class. Education has never been the privilege and the opportunity of many. In fact, under the Chatur Varna it is only one class who could take education and the rest were debarred. Consequently, a large mass of the people are absolutely so situated that they cannot throw forth leaders who can be taken in the Ministry to carry on the administration. Therefore, my submission is that the salary is not a salary which can invite competent people to carry on the administration.

Now, Sir, coming to the question of democracy, what will be the effect of the salary ? I would not mince matters. I would straightway say that the consequence of this salary will be this : Either there would be people who do not care for money, who have private means but who want to capture political power in order that they may use that political power for the advancement of their own class or their own community. That would be one consequence. The other consequence would be that men who cannot make any money in other walks of life will get into the Ministry. There can be no other consequence. (Laughter.) My friends may laugh, but I have no hesitation in saying that that will be the consequence of this Bill. There can be no greater disaster if what I apprehend comes true. We want that the

political power which is given under the Government of India Act should not be cornered or monopolised by a few who have money and who do not care for salary. Nor do we want in the interest of the masses that the power should go into the hands of incompetent people.

Coming to the other question, namely, the integrity and purity of administration, a friend of mine who is Congress-minded said one thing which I would like to repeat on the floor of this House. He said that if the Governor were to give him a contract for the supply of Ministers, he would very readily undertake the contract and also give something to the Presidency of Bombay for giving him that contract. I think, Sir, that remark is very pregnant. There are hotels in Europe who pay to the managers to allow them to wait. That shows what possibilities there are open to people who are not kept above temptation to pick something which they cannot get by way of pay. I am not saying anything in regard to the present Ministry, because we are discussing the principle of the Bill, not at all personalities involved. Even with higher salaries I admit, and readily admit, that you can never buy the dishonesty of a dishonest man. Pay him any salary you like, if he is dishonest, he will be dishonest. That is, however, not the consideration. The consideration is whether you cannot fix your salary in such a way that the Minister will be kept beyond temptation. Sir, we have had in this province a salary of Rs. 4,000 and a salary of Rs. 3,000, and yet there were scandals relating to the administration. If even with salaries of Rs. 3,000 and Rs. 4,000 it is not possible to avoid scandals. I fear very much a salary of Rs. 500 may produce far greater scandals than have been produced in the past. In this, the question that arises for consideration is not merely whether the salary is adequate. But my view is that it is not the close of the argument. The problem of salary has to be considered from two points of view. From the standpoint of the individual the consideration is one of adequacy. From the standpoint of the State the consideration is a consideration of safety and purity of administration. A man may say that a particular salary is an adequate salary for him. But it does not follow that you should not consider whether from the public point of view it is a safe salary. Lowest standard is not necessarily a safe standard. I believe my friends opposite will have, when they give contracts, to enter a clause that contracts shall not be given merely because the tenders are the lowest. Just as we do not give contracts to persons simply because their standards are the lowest, similarly we cannot allow persons to serve as ministers merely because they are prepared to accept the lowest salary. We have to consider the other side of the question whether the contractor who is offering the lowest tender is capable of discharging the obligations of his task. Therefore, I am suggesting that, though the Honourable Minister may say that Rs. 500 salary is good enough, it does not dispose of the argument. The House has to consider whether on this basis it can expect and hope to have an administration which is free from corruption may possibly arise.

Now, Sir, I should like to read to the House a small extract from the report that was made by the committee appointed by the House of Commons in the year 1920 in order to suggest the principles on which the salaries of the Ministers ought to be fixed. This is what the committee observe :

"There are probably few subjects open to more varieties of opinion than the precise amount of salary suited to any given office of Government ; and the Committee disclaiming all pretensions to any infallible rule on a question necessarily so vague, will nevertheless submit some preliminary observations upon the general principles by which they have been governed in the conscientious discharge of an ungracious duty.

"It is impossible not to recognise in its fullest extent the principle, that the people have a right to have their service done at the smallest possible, consistent with its efficient performance. Whether public servants sit in Parliament or not, the principle is the same. The only justification for taxes of any sort, is either necessity or evident public utility. If, notwithstanding the consecutive gleanings of different committees of the House, any sinecures are still existing no time should be lost in abolishing them ; and it will be seen in the course of this report, that the Committee have not failed to do their duty by more than one case of this description.

"If any offices are overpaid they should be reformed. If any can be united with others with benefit to the public this useful species of economy should not be neglected and several suggestions of this sort will be found in the evidence which it is not within the powers given to the Committee to follow up. In short, all departments of Government should be watched with the same view to economy in general which any individual would apply to the management of his own affairs.

"It is almost unnecessary to observe that these general principles do not lead to the absurd conclusion, sometimes imputed to them, that a willingness to accept low pay is any qualification for office. Economy, to deserve the name must be rational; and no consideration of more money can be set in competition with the paramount evident necessity of securing for offices of great trust and confidence the highest class of Intelligence and Integrity. It has been frequently observed, and the observation being founded on truth and reason should never be lost sight of that offices in a free country should not be put beyond the reach of men of moderate fortune. If salaries should be fixed too low a monopoly would be created in the hands of the wealthy, the power of selection by the Crown would be most injuriously restricted, and the public would be deprived of the services of men of limited means, educated with a view to the pursuit of liberal professions, a class furnishing more than any other the talents and industry suited to official life.

"It should be further considered, that the higher offices of Government require an entire devotion of the whole time and attention of those who fill them ; that their own private affairs must necessarily be neglected ; and that if care should be taken on the one hand to avoid the scandal of private fortunes amassed at the public expense, it is neither for the interest nor for

the honour of the country, on the other hand that they should be ruined in its service."

I submit, Sir, that these are principles which any ministry who cares for the service of the country and for the purity of the administration, ought to bear in mind. And I do not think that the present ministry in fixing the salary of Rs. 500 has shown any regard to the principles which I have read out

Now, Sir, what are the principles that have been suggested for the salary that has been fixed in the Bill ? The one thing I have heard often said is that the salaries ought to be in accord with the income of the people. I ask the question, if that is so, can it be said that Rs. 500 salary is in accord with the income of the people ? What is the income of the people ? I have here figures given in the "Harijan"—I suppose a standard authority—from which I may quote.

The Honourable Mr. B. G. Kher: I am glad you read it.

Dr. B. R. Ambedkar: I do always read it. According to the figures given here, the income per head in the United Kingdom is £ 50 per annum ; in the United States of America, £ 100 ; in France, £ 40 ; in Australia, £ 70 ; in Canada, £ 75 ; in India, £ 4. (*The Honourable Mr. B. G. Kher:* Hear, hear.) Now, Sir, if all this is done on the principle that the salaries ought to be in accord with the income of the people, then I do not understand how it can be suggested that the salary of Rs. 500 a month is in accord with the £4 income of the people of this country. Surely, if my honourable friend is basing the Bill which he has placed before us, on this principle, namely, that the salary should be in accord with the income of the people, then Rs. 500, I submit, is a most extravagant sum to take for the ministry ; it ought to be less than Rs. 100 ; it ought to be Rs. 75, as was suggested. If they are honest, if they want to fix this sum as a matter of justice and not to placate the people, then why not be logical in your honesty ? Why fix a sum which is out of all proportion to the income of the people ?

The second thing that has been suggested in justification of the low salary is that the ministers ought to live in such a manner that they should look as though they were of the people, that there should be no distinction between ministers on the one hand and the private citizens on the other. Sir, if this is the object of the ministry, that all distinctions should be abolished, that they should look as though they were of the people, that the people should have full confidence in them as though they belong to the people, then, my submission is that this is not the method of winning the confidence of the people. Sir, in this country, the cleavages, social and religious, are far greater than they exist anywhere else in the world. We have here—I am speaking of this presidency for the moment—we have the division of Brahmins and non-Brahmins ; the division of the touchables and the untouchables—I am confining myself again to the Hindus—we have the division of Maharashtrians *versus* Gujaratis ; we have the division of Gujaratis *versus* Kanarese. And add to all that the difference between the Hindus and the Mahomedans. If you want to create confidence

in the administration, then, I submit that the proper way of doing it is not for the ministers to go about in the streets half clad, showing their anatomy ; or smoking bidis in place of cigarettes ; or going in third class or in bullock carts. Nobody is going to be deceived by these things. If you want to gain the confidence of the people, then, I submit that the only way of doing it is to constitute your Government, your ministry, your civil services, in such a way that it does not become the monopoly of any particular class or any particular community. (Cheers.) We shall watch what the ministry is going to do about it. But if they want to pretend that they are going to create confidence by doing these, what I might call, puerile things, then, I submit it is an attempt that is doomed to failure.

Then, Sir, the ministry has come forward with what might be called an act of renunciation on their part It reminds me of the conduct and the way of life of medieval monks. The medieval monks when theystarted their careers as monks were required to take the three vows—the vow of celibacy, the vow of chastity, and the vow of poverty.

I do not know whether my honourable friends have taken the vow of celibacy. (Laughter) I suppose it is too late for them now to do it. I do not know whether they have taken the vow of chastity. But if they have and if they break it, it is certainly not a matter of grievance for this House. But they certainly have taken the vow of poverty, as I see from this Bill. Can they keep this vow ? The medieval monks very seldom succeeded in maintaining their vow of chastity, but they always succeeded in maintaining their vow of poverty. Why was it so ? That was because the monks had no families ; they were single, solitary individuals, with no obligations to any one. The ministers in this respect stand in a different situation altogether. They have certainly large responsibilities arising out of their families and their children. I cannot see how they can succeed in keeping up to their vow of poverty. I wish them success, but I doubt very much whether they will be able to do it.

Mr. A. V. Chitre: They will be drawing their dividends ?

Dr. B. R. Ambedkar: Now. Sir, there is one other matter which I would like to speak about. Is there any necessity for this Bill ? Personally myself, I do not think that the Bill is a necessary Bill. Nobody can compel the Honourable Ministers to take more than what they desire. And surely, without bringing in the Bill, and allowing the salaries fixed by the Governor to remain at the figure at which they are fixed, they could take Rs. 500 and return the rest either to the State or to the Party chest, whichever they liked ? Why is it they do not do that ? Why is it that they are bringing in this Bill ? And that is where the catch comes in. I venture to say that this Bill is not put forth out of any pious motive : there is a strategy behind it. That strategy is this, that they should always remain in the saddle and nobody else should take their places.

The Honourable Mr. K. M. Munshi: You are welcome !

Dr. B. R. Ambedkar: This reminds me of how at the Round Table Conference the Conservative Party was trying to strengthen its provision by introducing certain clauses in the Government of India Bill which could have no other purpose except to restrict the freedom of action of the Labour Party. Many of us used to question them as to why they wanted certain clauses to be introduced into the Government of India Act which apparently had no justification. They could give no reply, but everybody knew that what they were doing was really to forestall the Labour Government should it ever come into power, and prevent it from undoing what the Conservative Party wanted to do. If my learned friends want to adopt that policy, they are welcome to do so. We cannot prevent them. All I want to say is that this is a misuse of their power.

Let me at this stage make it clear, because I am likely to be misunderstood, that when I am protesting at the salary of Rs. 500 as being too low. I am not at all suggesting that the salary of Rs. 4,000 or Rs. 3,000 which was suggested by the Interim Ministry was a standard salary. Nobody need draw that conclusion, because I am not going to say that Rs. 4,000 or Rs. 3,000 is a proper salary. I bind myself to no figure. All I say is that Rs. 500 is not a proper salary for a Minister. The statement I have made will no doubt leave me open to the criticism that I am suggesting an extravagance. But I do not feel any embarrassment in making the suggestion that the salary ought to be more than that fixed in the Bill. I am certainly not a recipient of the salary, if it was increased ; and, so far as I can see the future, I do not think that I shall ever be a recipient of it.

The Honourable Mr. B. G. Kher: Do not despair.

Dr. B. R. Ambedkar: Well, I need not answer my learned friend. But his policy is what it is ; he certainly has deliberately excluded members of the Scheduled Classes from his Cabinet.

The Honourable Mr. K. M. Munshi: They may not like Rs. 500 !

The Honourable the Speaker: Order, order.

Dr. B. R. Ambedkar: I do not feel any embarrassment in making this proposal, because I am not going to be a recipient of this salary. My motives are motives purely of public policy. Dr. Johnson said that patriotism was the last refuge of scoundrels. He could very well have said that politics also was the last refuge of scoundrels. And it is because I do not want that politics in India should become the last refuge of the scoundrel that I have risen to speak.

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†Dr. *B. R. Ambedkar (Bombay City):* Sir, I would just like to say a word to my honourable friend the Prime Minister, whether the whole of the difficulty could not be solved by putting in a lump sum rather than putting in all these different items. I am only suggesting it to him whether we could not then say that a consolidated salary of so much—Rs 750 per

†B.L.A. Debates, Vol. I, p. 279-80, dated 23rd August 1937.

month should be paid to a Minister. I am only suggesting for his consideration whether that would not solve the difficulty.

The Honourable Mr. B. G. Kher: Sir, I thought I had made clear what we had done in Poona, where there were four Government residences available. In Bombay also there will be Government residences available. Those Ministers as also the Speaker and the President who will get accommodation in Government bungalows will not need and will not be paid any allowances. There is no question of consolidating the allowances with salary. For residences which are available from the Government and which they occupy they do not get an allowance. If they have their own houses, whether they choose to occupy them or not is entirely left to them. But for the purposes of a house allowance, we consider that Rs. 100 per month is a reasonable provision. That being the position, I do not think it will be possible to consolidate the salary with the allowance. The arrangement that we have followed in Poona seems to have worked well ; the arrangement in Poona was to divide the Government residences available, and I can assure the honourable member Dr. Ambedkar that we are now accommodating in one. Government bungalow two or three Ministers where including the out-houses formerly only one Minister used to occupy it in solitary dignity. If we do the same thing in Bombay, after providing residences for the Ministers as also for the Honourable the Speaker and President, there will be some Government residences perhaps available for letting. Therefore, more retrenchment will follow as a result of the arrangement that we have in view.

Dr. B. R. Ambedkar: I am only trying to point out a way out of the difficulty which has been raised, namely, that the word "allowance" does not occur in the section of the Government of India Act which refers to the salaries of the Ministers. In order, therefore, not to give rise to any contention that an allowance has been fixed in addition to salary which may not be permissible under the Act, what I am suggesting to my honourable friend is that he might consolidate the whole thing and call it salary and drop the word "allowance" arid thereby get out of the difficulty. Of course, we have yet to know from the Advocate-General whether the point raised has any substance in it.

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*ON PROBATION OF OFFENDERS BILL

Dr. B. R. Ambedkar (*Bombay City*)*:* Mr. Speaker, Sir, one notices that there is not much enthusiasm for this Bill because one does not see the same competition that is observable when other Bills are before the House, and when I rise, although I am desirous of making reference to only one section, I also confess that I do not feel any very great enthusiasm for this Bill, and that, I submit, is very natural, because the Bill does not touch any problem which can be said to be either grave or urgent. It touches a very small problem. The Bill, I am told, follows very closely an English statute. I do not know whether the English people who are made subject to the statute which is taken as a model for this Bill have derived any benefit which may be called to be considerable, but I trust that the Honourable the Home Minister has examined the position carefully and has evidently come to the conclusion that the benefit arising from this Act in the country in which it is now prevailing, is certainly so considerable that we ought also to follow it by similar legislation in our province.

Sir, I have nothing to say with regard to the detailed provisions contained in the Bill, and I say at the outset that reading the Bill as it is, I think there are principles embodied in this Bill to which I can lend my support. There is only one clause about which I feel some trouble and which I would like to place before the Honourable the Home Minister for his consideration, and that clause is clause 6. Clause 6 seems to me to embody a principle which may become in its operation somewhat oppressive, to use a very mild expression. The latter part of clause 6 says :

> "and if the offender is under the age of sixteen years, and it appears to the Court that the parent or guardian of the offender has conduced by his neglect or in any other way to the commission of the offence, the Court may order payment of such damages or compensation and costs by such parent or guardian."

It seems to me that this may rightly involve a great deal of oppression as against the parent or guardian. My learned friend the Honourable the Home Minister will agree that the words "neglect" and "negligence" are

*B.L.A. Debates, Vol. 2, pp. 425-26, dated 20th January 1938.

the vaguest of the vague words, and it is very difficult to give any positive definition of what is negligence and what is not negligence. If I may refer to what happened during the course of the Civil Disobedience Movement, I think it will give an analogy by which it might be possible for my honourable friend to realise the difficulty which I feel. I believe it is true— I will stand corrected if I am told that I am wrong—that during the Civil Disobedience Movement many civil servants who were in the service of the State and whose children had taken to the Civil Disobedience Movement, were brought under disciplinary action on the ground that they had not justified their duty to the State by seeing that the children did not follow the movement which was subversive of the Government of the day. I think I am right in saying that members who are now sitting opposite did take great objection to that principle, because, if I understand them correctly, their contention was that no parents could be responsible for the conduct of their children, especially if the conduct involved the holding of a certain opinion which may differ very legitimately from the opinion of their parents. My submission is that a child may develop criminal proclivities notwithstanding the fact that the parent has been as careful and as dutiful as ordinarily parents are; and unless the word "neglect" or "connivance" or "conducing" is properly defined, it seems to me that this Bill may lead to consequences which would be far greater than those which probably the Honourable the Home Member himself intends.

My honourable friend Mr. Bramble, who undoubtedly, as one sees from the speech that he made, has devoted special attention to the study of this problem, has pointed out that the English law contains certain anomalies, and that if the English law is to be taken as our model, we ought to take this occasion in order to see that the anomalies which are found in the English law are not introduced in the legislation that we are passing. I have every reason to believe that the statement that he has made is based upon the deepest study, and if that is so and the prestige of the Government does not come in the way, I would join in the request made by the honourable member Mr. Bramble that this Bill could very well be referred to a select committee, where all the points that may be raised either in favour of certain principles or against may be threshed out, so that the Bill may become as perfect as we in this House can make it. With these remarks, I support the first reading of the Bill.

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*ON TOBACCO DUTY ACT AMENDMENT BILL

Dr. B. R. Ambedkar (*Bombay City*)*:* Sir, I should like to submit in reply to what the Honourable Leader of the House has suggested, that unless you uphold the principle that there is such a thing as waiver or estoppel, the discussion that my honourable friend Mr. Jamnadas Mehta wants to raise will be quite relevant under the rules of the House. With regard to the point raised by the Honourable Leader of the House, what I should like to submit is this, that the House may easily take the view that they have granted sufficient funds and more shall not be granted. I submit that would be a complete answer to the point raised by the Leader of the House. Therefore, there can be no estoppel or waiver on the ground that the House has granted supplies by adopting the other taxes which were discussed previously under the head "Finance Bill".

Then, Sir, the point I should like to raise is this. I think the issue is whether this is a Finance Bill or a Bill which merely regulates the administrative machinery for raising the tax. If this were a Bill merely providing for the machinery for raising the tax and laying down the mode and method of raising the tax, then I could quite understand the relevancy of the ruling to which you have referred. But it seems to me, looking to the statement of objects and reasons which is appended to the Bill, that this Bill is from beginning to end treated by the Government as a Finance Bill. The main object of the Bill is to raise additional revenue. The change in the machinery is merely secondary—to provide an instrument for raising the additional revenue. Additional revenue for the purpose of meeting the deficit caused by the prohibition policy of Government is the principal aim of this Bill. I shall just refer to one or two passages in the statement of objects and reasons:

> "Tobacco is subject to substantial taxation in most countries. It is absolutely essential to develop this source of revenue in order to meet part of the loss caused by the new prohibition or anti-drink policy. In Bombay City duty on tobacco is levied under the Tobacco Duty (Town of Bombay) Act, 1857. Under the said Act there is already a substantial

*B.L.A. Debates, Vol. 3, pp. 336-37, dated 5th March 1938.

maundage fee; but the licence fee is nominal, and there is a great demand for licences which are frequently sublet. The Bill provides for raising the licence fee in Bombay from Re. 1 to Rs. 25 or Rs. 50, ..."

That of course, leaves no doubt that this Bill is fundamentally a Finance Bill and not a Bill for the purpose of laying down a machinery for raising the tax. That is my submission. If it is a Finance Bill, then I submit, that the House has the right to discuss whether they should grant the supply to Government or not. With regard to the other point raised by the Honourable Leader of the House in regard to waiver, my submission is that it is perfectly open to the House to say : "Part of the supply we shall grant ; the rest we shall not."

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*ON INDEPENDENCE OF JUDICIARY

Dr. B. R. Ambedkar (*Bombay City*): Mr. Speaker, Sir, I rise to support this motion. Speaking as I do on this motion at almost the fag end of the debate and realising the fact that some time must be left for the Honourable the Home Minister to make his reply, I propose to be very brief in the statements that I want to make to this House.

Sir, the first thing that I should like to state, speaking for myself, is that the act which is the foundation of this censure motion certainly does not come to me as any matter of surprise. I look upon this as the culmination of a series of activities, which undoubtedly amount to law-breaking activities which the Government is guilty of ever since it has taken office. It is only part of a series, one act in the drama that is proceeding : we do not know when it will come to an end. The first act to which I should like to make a reference is certainly the act undertaken by the present Government of restoring the lands that were confiscated from the Bardoli peasants. (Interruption.) I suppose I shall have a hearing, because my time is limited.

The Honourable the Speaker: Order, order. Will the honourable member resume his seat ?

I am afraid if the discussion is to be carried on these lines, it would be opening up an interminable field. The point at issue is not whether the Government does or does not deserve condemnation for any of their past acts, but whether the particular act which is the subject-matter of the present motion is or is not deserving of condemnation. The motion is taken as relating to a definite matter of urgent public importance, and the definiteness, which has been the reason for the motion being allowed, has to be followed in the course of the debate also. Otherwise, the very object of the discussion will be frustrated. I would, therefore, request the honourable member to confine himself to the definite act that is before the House.

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*B.L.A. Debates, Vol. 3, pp. 420-24, dated 7th March 1938.

Mr. Jamnadas M. Mehta of Railway Unions moved an adjournment motion seeking adjournment of the House to draw public attention to the Government interference with the independence of Bombay High Court The Government had suspended the sentences of two prisoners named Jadhavji and Dhirajlal after the High Court had rejected the application of prisoners.

Dr. B. R. Ambedkar: May I make this submission. Sir, there is a distinction between a reference by way of analogy and argument and going into the merits. If I were going into the merits of the restoration of the Bardoli lands, I would certainly be subject to the objection you have taken. But I do say, subject to your ruling, that I am not out of order in saying that this act is the culmination of a series of activities of the Government and in referring to one of the past acts of Government without going into the pros and cons of it. I agree to finish by 5-30.

The Honourable the Speaker: It is not a matter of the honourable member agreeing to finish it by a certain time. What I feel is that, there being a definite matter and the honourable member having been given leave of the House for discussing a certain definite matter, even a reference to other matters may tend to introduce other subjects. I, therefore, feel that I would not be right in permitting references to other subjects even in general terms. I have no desire to curtail the liberty of any member ; I do want all the points that can be urged in this matter to be brought out but I do not want to allow any references to other matters, which may be sins of commission or omission. It is not that I am anxious to finish earlier and therefore wish to exclude reference to those matters. The Honourable member is entitled to have his full say on the point before the House.

Dr. B. R. Ambedkar: In view of that, I am bound to confine my remarks to the matter before the House.

Now, Sir, with regard to the matter before the House, what I should like to state is this, that, first of all, we are not in possession of the facts of the case, except what we have learnt from the newspapers. We have no definite data, and I am informed that although an appeal was made to the Honourable the Home Minister, to let the House know exactly what the facts were, he has not done so. Therefore, I, along with other members of the House, am certainly suffering under a handicap. It may be that in the end, when the facts are disclosed, it will be found that this debate was either unnecessary or premature. But if the debate turns out to be futile and unnecessary, the blame for that must necessarily fall upon the shoulders of the Honourable the Home Minister, because it is he who has declined to take the House into his confidence and to state exactly what has happened. If he had done so, probably the honourable mover of the motion might have taken it back, probably other members might have said that they did not want to take any part in the debate. But, as I said, if this debate turns out ultimately to be a futility, the fault will be his.

Relying upon the facts as we have come to know from newspaper reports, what is the point that arises for consideration ? It is said that the High Court had rejected the application of these men. The question is, why did the Minister allow it ? The point it seems to me is a very narrow point,

namely, whether there was any justification which the House could accept as reasonable for suspending the sentence passed upon the two convicts. The Honourable the Home Minister might say that the High Court does not possess the powers of suspension and therefore it is quite irrelevant to urge whether the High Court wisely or unwisely refused to suspend the sentence. That is not the question. The question is whether the authority, the prerogative, vested in the Government for suspending, commuting or reducing sentences on prisoners who have been lawfully convicted has been properly exercised. The question is whether the discretion has been properly exercised. Now, Sir, in order to find out whether the exercise on the part of the Honourable the Home Minister of this prerogative has been properly exercised, it is necessary to eliminate certain probabilities. First of all, on the facts as they appear from newspaper reports, it is clear that these people, who indulged in this act of gambling on a vast and a colossal scale, were certainly not poverty-stricken people who were driven to these nefarious acts of gambling for the purpose of earning their bread. That certainly is not the case. From the facts as reported, these people were rich Banias. They possessed enormous capital ; they had several companies or head offices in different parts of the city, in different parts of India, and they were carrying on their trade on a colossal scale. There could be, therefore, no justification in this particular case that they were unfortunate people who, by reason of their poverty, by reason of their adverse circumstances, were compelled to resort to acts of gambling. That is not the excuse that one can find, because the facts are totally opposed to that kind of inference. Secondly, there has been nothing suggested, at any rate in the reports that have appeared and in the application that was made in the High Court, that there was any other ground for this suspension. There is nothing to show that these two convicts were ill or suffering from any disease ; there is nothing to show that there was any domestic calamity befalling their families which needed their freedom. That also we do not know from the facts before us, and that inference, again, has to be eliminated. Thirdly, the possibility that might be suggested was that they wanted to make an appeal to a higher tribunal. As against that hypothesis, it is quite well known, and the Home Minister knows it far better than I do—he is a much greater lawyer than I can pretend to be—that the Privy Council has laid down in hundreds of cases that they shall not admit any appeal from a criminal court in India unless it is shown that in the course of the trial, not the ordinary provisions of the Criminal Procedure Code, but the principles of natural justice have been violated. They have, in their own judicious way, absolutely limited the scope and the authority for entertaining criminal appeals. And there is not the ghost of a suggestion in this case that either the Chief Presidency Magistrate or the High Court, before whom the trial and the appeal respectively were conducted, was in

any sense guilty of violating the provisions of the Criminal Procedure Code or the principles of natural justice. I do not see any other circumstance which *prima facie* could make me believe that there was a reasonable cause which could have induced the Home Minister to suspend the sentence passed upon these people.

Then, Sir, I submit that there has never been a precedent at any rate to my knowledge, of ordinary convicts having their sentences suspended for any reason by any of the Home Members who have preceded the present Home Minister. And certainly no Government has ever accepted illness or a private difficulty as sufficient cause for the suspension of sentences which have been judicially passed by the highest tribunal in the province. It is, therefore, I submit, a most scandalous affair, unless some reasonable explanation is coming forth, that a Home Minister should have gone over the head of the High Court and suspended the sentence. He well knows—at any rate we know from facts that have appeared in the papers—that an application was made by the advocate who appeared On behalf of these accused in the High Court. The advocate made an application for the grant of special consideration for these people while they were in jail, namely, that they should be treated as B class prisoners. I am also told that an application was made by the advocate who appeared on behalf of the appellants that their sentences should be suspended for the time being Both these applications were rejected. The very same applications—at any rate, one of those applications has been granted by the Home Minister. Sir, there could be no surer way of bringing law and order into contempt than the act of which the Home Minister is guilty. I have no hesitation in pronouncing that opinion. I would like to ask the Honourable the Home Minister whether an act of this kind which *prima facie,* on its very face, does not bear a satisfactory explanation which could carry conviction to the mind of the people, is not likely to create a suspicion about the integrity and honesty of the administration of this Province. Sir, I would also like to ask a further question in this connection and that question I want to put to the Honourable the Prime Minister. The question is this : Was this order passed with the knowledge of the Prime Minister ? Was this order passed with the knowledge of the Cabinet or was it passed only by the Honourable the Home Minister ? Sir, I ask these questions for a very great reason. We are entitled to suppose, although we have no positive evidence on this point that under the new Act the Congress Cabinet is working as a collective body with a collective responsibility; and, therefore, I am entitled to presume that this matter was placed before the whole of the Cabinet and if not before the whole of the Cabinet, at any rate, before the Prime Minister who, in the eye of the people, is the person who is solely responsible for the administration of this Province. I am particularly bound to make this

reference and ask these questions because I treat this as a very grave matter. Suspension of sentence passed upon a convicted person is certainly a violation of the law and I submit that so grave an act involving such serious consequences to the administration of justice, to the welfare of the people of this Province, could not have been carried out without the knowledge of the Prime Minister. I am presuming this and I would like to know whether my presumption is correct and I hope I will receive an answer to my questions. (Applause.).

Mr. W. S. Mukadam : May I know, Sir, whether any drink is allowed in the House ? I bring to your notice one fact that when the Town Planning Act was being discussed, I raised a point of order when Mr. Mirams was speaking and Sir Ibrahim Rahimtulla gave a ruling that no drink was allowed in the House. Then Mr. Mirams asked whether water was allowed, and the President said that even water was not allowed.

The Honourable the Speaker: I think it is better to have the convention of having nothing in the House by way of a drink, by which I mean pure water and nothing else. (Laughter.).

Mr. W. S. Mukadam: Mr. Mirams asked the question whether water was allowed in the House or not, and the President said that even water was not allowed.

The Honourable the Speaker: The Honourable member (Mr. Mukadam) raised a point of order with reference to "drink" which is capable of many meanings and therefore I restrict myself to the meaning of the word "drink" in the sense of drinking water. I believe the honourable member (Mr. Mukadam) raised the point with reference to the honourable member Dr. Ambedkar who had just a sip, before his speech, to keep him up.

Dr. B. R. Ambedkar: Sir, may I explain ? I am suffering from indigestion. Under medical instructions, I do not take any food for two days—Saturday and Sunday, and on these I am not allowed to drink water even. My condition on Monday is, therefore, of great exhaustion, and, unless I had taken a sip of water, I could not have made a speech. If I have offended against the rules of etiquette of the House and against decency, I apologise to the House.

The Honourable the Speaker: Now that the honourable member Dr. Ambedkar has given an explanation, I do not think anything more remains to be done in this matter, except the removal of glass from the table. (Laughter).

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*ON CREATION OF A SEPARATE KARNATAK PROVINCE

Dr. B. R. Ambedkar (Bombay City, Byculla and Parel): Sir, I am entirely in agreement with what has been stated by my honourable friend Sir Ali Mahomed Khan Dehlavi and I think the view that you have come to on this point, if I may say so with respect, is correct. I should like to draw your attention to Rule 22, sub-rule (2), which reads :—

> "The Speaker may disallow any Resolution or part of a Resolution on the ground that it relates to a matter which is not primarily the concern of the Provincial Government, and if he does so, the resolution or part of the resolution shall not be placed on the list of business."

I submit, therefore, that this resolution deals with a problem which is not primarily the concern of this provincial Government in so far as it recommends that certain areas which are now a part of the Madras Presidency shall be separated, which I submit is beyond the jurisdiction of a Provincial Government. But, Sir, coming to section 290, to which reference has been made by my honourable friend Mr. Jog, I should like to draw your attention to the fact that that section 290 of the present Government of India Act is analogous to section 52A of the Government of India Act of 1919. Comparing section 52A of the Government of India Act, 1919, with section 290, one finds a very radical and a very deliberate change made. Under the old Act, section 52A laid down that if any new Province was to be created, it was permissible for the local Legislature to pass a resolution to that effect and to communicate it to the Governor-General, because, Sir, as you will recall, under the old Act of 1919, the authority to create new Provinces was vested in the Governor-General, and before the Governor-General could take any initiative under section 52A, it was open to the Provincial Legislature to pass resolutions conveying their sentiments on this matter. Section 290, as I stated, involves a deliberate change. It takes away the power from the Governor-General of constituting new Provinces from the old. It gives the power to the Secretary of State, practically to His Majesty in Council Secondly, it takes away the power of initiative from the local Legislature. The power of initiation, as I see under section 290, is given to

*B.L.A. Debates, Vol. 3, pp. 1692-93, dated 4th April 1938.

the Secretary of State. After the Secretary of State decides to constitute new Provinces, then before tabling an Order in Council to that effect, he is required, an obligation is imposed upon him by section 290, to consult the Legislatures affected by the order. It is then only that it would be permissible for any Provincial Legislature to discuss a resolution of that sort, notwithstanding the fact that the resolution affected areas which were not included within the Province. If this resolution was referred by the Secretary of State to this House, I submit then and then only it would be permissible for this Legislature to consider whether Karnatak should be separated and certain areas which are not part and parcel of this Province should be incorporated in it or not. Unless that step has taken place, unless the matter has been approached by the Secretary of State, I submit this Provincial Government, the Provincial Legislature cannot deal with a resolution which evidently deals with a problem which is beyond the scope and authority of this Legislature and beyond the scope and authority of this Provincial Government I submit therefore that the view which you have taken is a perfectly proper view both under the rules and also under section 290 of the Government of India Act.

The Honourable the Speaker: I would like to have one point made clear. I dropped the suggestion so far as the inclusion of the words "Madras and Coorg" are concerned. The argument advanced by the honourable member Dr. Ambedkar seems to go further and says that any resolution dealing with the creation of any new Province or changing the boundaries of any Province cannot be taken up at all in any Provincial Legislature, because the Legislature has not got the power to take the initiative in that respect. That is what I understand the argument comes to.

Dr. B. R. Ambedkar: Yes, Sir.

The Honourable the Speaker: His point of order then really makes no difference between the inclusion of Madras and Coorg. If nothing can be discussed, then the inclusion of Madras or Coorg makes no difference. His point goes to the very root of it. There is one difficulty in that connection : the power of initiation is given under certain limitations or rather it is to be exercised under certain limitations. But a Legislature expresses its opinion with a view to move the Government which has got the power to initiate proceedings. Is there anything in section 290 which debars a Legislature from making a request for taking the initiative ? It is not that this Legislature by its resolution or its action is going to initiate proceedings in the sense of an actual separation. If the word "initiative" is used, in another sense, it will initiate by making a request. But is it debarred even from making a representation under the terms of section 290 ? On that point, I am afraid I am not inclined to agree with the learned Doctor.

Dr. B. R. Ambedkar: I take exactly the same view, that this House is debarred. The fact that explicitly or expressly the power to take the initiative has been given to the Secretary of State in itself would show that the initiation has been taken out from the Legislature, and I say, comparing

section 52A of the old Act with section 290 of the present Act, the situation seems to be absolutely clear. This fact was considered at the time by the Simon Commission and by the Round Table Conference, and they came to the conclusion that the only Provinces which satisfied the conditions for separation were Orissa, Sind and North-West Frontier Province. They did not leave the initiative to the Provincial Legislature.

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†*Dr. B. R. Ambedkar (Bombay City):* Mr. Speaker, Sir, I rise to oppose the resolution moved by my honourable friend Mr. Jog. The subject of this resolution is undoubtedly a matter of great moment. I wonder how many members of this House will be prepared to consider this resolution, without importing into the discussion any sentiment or feeling. I think I, as representing the Scheduled Classes, probably have an advantage over other members of the House. If I may say so, I do not say figuratively but as a matter of most genuine feeling, that we representing the Scheduled Castes take no pride either in being Maharashtrians or Gujaratis or Karnatakis. For reasons which I need not enter into on this particular occasion, there are very many reasons why we think that this is not our land. However, I am using the argument in order to show to the House that by circumstances, I am capable of taking a dispassionate view, at any rate I am making a very serious attempt to take a dispassionate view, of the situation that has been presented to us by this resolution. Sir, it would be necessary and desirable for members of this House to bear in mind one fact which I think is of supreme importance. This Presidency of Bombay was, before the Act came into operation, composed of four different units—Gujarat, Maharashtra, Karnatak and Sind. This joint family has not been of recent origin. Karnatak, Maharashtra and Gujarat have been together for the last 115 years. Sind was with us for nearly 90 years. Sind has been separated. It is a matter past which we need not dig up now. I mention this fact that we have been living together for the last 115 years only to emphasise the fact that those who want that this unity be sundered, that these three parts which are together be now separated, must consider this matter in a much more serious way and not on grounds which are purely sentimental.

The first thing I propose to consider is this. Our friend who has moved this resolution has given expression to the view that the proposition is only a part of the larger whole, the ideal being the unification of all Karnatak people, that this resolution is merely a step in that direction. Now, Sir, the question that I would like to ask on this aspect is this. Is it likely that this ideal, if my honourable friends will allow me to say this dream, could be realised, the ideal of all the Kanarese speaking people coming together ? I have no doubt that this is a dream which can never come true, and the reason for my saying so is this. In a book which has been circulated, at

†B.L.A. Debates, Vol. 3, pp. 1717-23, dated 4th April 1938.

any rate I have been fortunate in securing a copy of it, and which is called "A case for the unification of Karnatak"—I take it that it is a publication of the association which is responsible for this move—I find a statement on page 22 from which it is quite clear that a portion of the Kanarese-speaking people are included within the boundaries of Indian States. Having regard to this fact, the question I would like to ask my honourable friends who are supporting this motion is this : Is it possible to get out from the jurisdiction and sovereignty of the Indian States the Kanarese-speaking people so that they can become part of the autonomous Kanarese-speaking Province ? I agree and grant that it is possible for the authorities who are responsible for the administration of British India to persuade the Madras Presidency or other administrations which are subject to British law to part with such territories which consist of Kanarese-speaking people, so that all of them will be consolidated together under one common administration. But I fail to understand how it would be possible for any body to get Kanarese-speaking people who are now living in Indian States, as it is, to have their allegiance transferred from the States to any British Indian Province. The only conceivable situation in which I think that issue can be successfully thought out would be the transfer of some territory from British India to the Indian States in exchange for the territory occupied by the Kanarese-speaking people. Now, I wonder whether any body of people who are living under the constitution given by the Government of India Act would be prepared to go within the jurisdiction of the Indian States, so that the Indian States may agree to transfer the Kanarese-speaking people from their domain ? I see no prospect and, therefore, I ask those of the honourable members who are in charge of this resolution to consider if my submission is correct, namely, that it would be only possible for them to fully realise their ideal, namely, to have all the Kanarese-speaking people included in one common autonomous Government : Is it worth-while for them to separate a few Kanarese-speaking people occupying a few districts in British India and constitute it into an autonomous Province ? If I may say so what is the use of taking a step, if we know before hand that the step is not going to lead to the ultimate goal ?

Therefore, I will now turn to the second consideration. If it is not possible to realise the ideal of unifying all the Kanarese-speaking people by bringing them under one common autonomous rule, the question that arises in my judgment is this : Has there been any handicap, has there been any difficulty. in the matter of Kanarese-speaking people recouping or having all the advantages which justice can give them in this what I may call, the polyglot administration ? I personally do not see that the Kanarese-speaking people are suffering any handicap in the matter of administration in this polyglot province.

Now, Sir, I have examined this question from two different points of view. First of all, I take the question of the distribution of offices under the new Government. Have they suffered in that way ? Have they obtained less than what was due to them ? The second thing that I take by way of test is this : Have they obtained less representation in this House than what they are

entitled to ? Now, Sir, I take these figures, and, in taking these figures, I am leaving out of consideration composite territories, such as, for instance, the City of Bombay, which is really neither wholly Marathi-speaking nor wholly Gujarati, nor wholly Kanarese. I am leaving such areas aside; I am also leaving out of consideration the seats that are assigned to special interests, and I find these figures. So far as population is concerned, the Marathi-speaking population numbers 9,868,795—in Marathi-speaking, of course I include everybody, Hindus, Mussalmans and Scheduled Castes ; I am only taking the linguistic basis—the Gujarati-speaking population number, 3,422,139 ; and the Kanarese-speaking people number 3,266,223. Now, the position regarding seats in this House is this. On a purely population basis, taking that the 81 seats which have gone to the Marathi-speaking people as the standard, as the norm, by which to judge, I find that the Gujarati-speaking people should have got 27 seats. The Kanarese-speaking population, according to the book that is circulated, is 12 per cent. of the total, and on that basis, they were entitled to 21 seats. How many scats have been obtained by them in fact ? The Gujarati-speaking people have obtained 31 seats, when, as a matter of fact, they were entitled only to 27 seats. The Kanarese-speaking people have received 28 seats, when, as a matter of fact, they were entitled only to 21.

Now, coming to the offices. Taking the two Houses together there are 16 places. Now, on the basis of the ideal number of seats which each section was entitled to on the basis of its actual population, the Marathi-speaking people were entitled to 196, the Gujarati-speaking people were entitled to 3.3, and the Kanarese-speaking people were entitled to 3.1. Taking the distribution of offices on the basis of the actual number of seats obtained, irrespective of the question whether that was the right quota or not, the Marathi-speaking people's quota was 9.3, the Gujarati-speaking people's quota was 3.6, and the quota of the Kanarese-speaking people was 3.1. As a matter of fact, what has been the distribution of offices ? Six have gone to the Marathi-speaking people; 6 have gone to the Gujarati-speaking people. and 4 have gone to the Kanarese-speaking people.

Sir, as I said, I take no pride in being a Maharashtrian, but the fact remains—and when I use it, I do want to caution the House that I am not citing it by way of complaint, that is not my object; I am citing it merely to point out a fact—the fact remains that the minority people, namely, the Gujarati-speaking and the Kanarese-speaking people, have not been done any injustice either in the matter of seats or in the matter of offices. Before this matter was discussed in this House, I told my honourable friend Mr. Jog quite plainly that if he proved to my knowledge and to my conviction that the Karnatak people suffered in any way—either they did not receive adequate and just representation in this House or that they did not receive sufficient representation in the Cabinet—they could always depend upon my support. I am always prepared to do this. But, Sir, taking these figures—I have devoted the greatest care to the study of this subject; these are figures

quoted from official data—speaking for myself at any rate, I do not see that the Karnatak people have suffered in any way by their remaining within the presidency of Bombay.

Now, Sir, coming to the other argument, the question, which, I think is important, and which not only I on this side but those friends who are responsible for this resolution are bound to consider, is the financial question. Is it possible for this newly constituted Kanarese-speaking province to maintain financially the standard of expenditure which is accepted in modern times by every civilized Government ? That, I think, is a very important question. Friends on the other side who have spoken in support of the resolution have drawn the attention of the House to a complaint that in the past Karnatak has suffered enormously by negligence on the part of the Government of this province.

The Honourable the Speaker: I would only just invite the attention of the honourable member to the time-limit

Dr. B. R. Ambedkar: If you, Sir, ask me .....

The Honourable the Speaker: I do not like to interrupt the honourable member in the middle of an argument, but I would only remind him of the time limit for speeches, so that he might put forward his arguments in a nutshell.

Dr. B. R. Ambedkar: With regard to this question of finance, what I should like to say is this. In the book which has been circulated, we have been given certain figures. In Appendix B we are told that the total expenditure of the new Kanarese-speaking province would be about 2 crores, and the total revenue would be 2,57 lakhs. Now, I do not know how far the figures given in this appendix include what are called the overhead expenses of carrying on the administration of a province. What I find here are merely sums under certain heads of revenue and expenditure. I do not find anywhere here the expenditure that would be necessary to be incurred on paying a salary to a Governor; to his private staff; to the Secretaries; to the Ministers, to a Director of Public Instruction, who would be necessary ; to an Inspector-General of Police ; to a health officer—all those superior officers who are necessary for keeping the administration on the run.

Mr. V. N. Jog: You will find these figures in Appendix B in the other book.

Dr. B. R. Ambedkar: May be But, Sir, assuming now for a moment that this is going to be the budget, and as framed here there is to be a surplus of some 5 or odd lakhs, the question that I would like to ask is this : Is this revenue going to be sufficient for providing all that a modem administration must provide ? If my honourable friend were to acquaint himself as to what the revenue of the Bombay Municipality is, he will find that the revenue of the new Province will not be even half the revenue of the Bombay Municipality. The revenue of the Bombay Municipality is Rs. 4 crores, and even with the 4 crores the Bombay Municipality is not able to do all that a modern Government should. I really ask—and I am very serious

in saying this—whether this is no consideration which ought to prevail. My learned friend has quoted in the course of this debate a speech delivered by the Prime Minister of Orissa where he has stated that he was very glad that all the limbs have been brought together. I wonder what my honourable friend would say if I stated to him that it is not quite so important to bring limbs together as to provide food for them. This is a question which has to be considered. Sir, I do say and I say that with, all the emphasis, it is a most heart-rendering thing in this country to see these people cut up into small bodies with revenue no more than that of an ordinary local board. The separation of the Province might satisfy the ambitions of a few people who want to figure as the heads of the Province but what about the rest of the population who need to be fed, who need to be clothed, who need to be housed ? None of us can tolerate this kind of thing. I do say that with all emphasis. Sir, after all, what are these districts ? Two of these districts are famine-stricken. The whole of Bijapur is a famine-stricken district The whole of Bellary also I am told is famine-stricken. What revenue does he expect to get from the famine-stricken area ? Merely by separating from the Bombay Presidency is that going to be a milch cow ?

Then there is another question to which I advert and it is this : I being a member of a minority, I am bound to consider these things from the standpoint of the minority. I am very glad that several members who spoke in favour of the resolution did give us an assurance that the interests of the Muhammadans and the interests of the Harijans will be looked after. But I do want to say this, that along with dismemberment of these Provincial areas there is going to be a dismemberment of the minorities. I cannot forget the fact that in the Karnatak we have only two seats. I am sure that those members of the Scheduled Classes who come from the Karnatak must be feeling that their strength lies in the fact that there are 13 members from other parts of the Presidency to look after them. What is to happen to them ? I am sure, for instance, the Muhammadan community has got about 8 seats from the Karnatak.

Sir Ali Mahomed Khan Dehlavi: Only four.

Dr. B. R. Ambedkar: Very well. I won't argue as I am rather pressed for time. But we cannot allow this kind of dismemberment. It is very good for the members of the majority community to say that they will be generous and they will be kind. We cannot depend upon their generosity and upon their kindness. We want rights and rights cannot be given in a generous way. To a community which after all on a purely population basis forms only a microscopic minority, even supposing they were prepared to give weightage, what weightage could they give to a population which is about a few lakhs ? This is one of the points on which I oppose this resolution. This dismemberment I am not prepared to accept Our strength lies in a polyglot administration. I do not want to say, but I have my fears that if Karnatak is created as a separate Province, it would be a Province of all the Lingayats against everybody else. I am not mincing matters, but if, for instance, there

was separation there would be a combination of the Marathas against the Kanarese, we don't want this kind of thing—and there cannot be a common. front which we at present enjoy.

Then there is one other thing I would like to draw the attention of the House to—and with this I want to close—and that is I know there are people probably who would not agree with me but that is my conviction that the British, whatever they may have done in the course of history, whatever they may have failed to do—and there are many things which they have failed to do, which their self-interest probably did not permit them to do—have done two things which I am generous enough to admit as being two monuments of their rule in this country which will survive even when they go away. The one thing that they have done for us is a common code of law. You can travel from Kashmir down to South India and know that murder is the same thing whether you commit it in Kashmir, Punjab and the North-West Frontier Province, or whether you commit it in Rajah-mundry in Madras. You know what Transfer of Property means ; you know what evidence means wherever you go. Sir, I say such a thing we did not have. The other thing that the British have done is that they have given us a common Central Government Such a thing we did not have before. The importance of this fact of having a. common Central Government is not probably realised by all But I think it is a very crucial fact If today we are on the way of building a common nation, a spirit of nationality, a feeling that we are all one, it is due to the fact that we have a common Government ; it is due to the fact that we realise that we are citizens of a common Government.

Sir, I would plead with the members of this House that they should do nothing whereby they would impair these two advantages which we have secured. Personally myself I say openly that I do not believe that there is any place in this country for any particular culture, whether it is Hindu culture, or a Muhammadan culture, or a Kanarese culture or a Gujarati culture. There are things we cannot deny, but they are not to be cultivated as advantages, they are to be treated as disadvantages as something which divides our loyalty and takes away from us our common goal. That common goal is the building up of a feeling that We are all Indians. I do not like what some people say, that we are Indians first and Hindus afterwards or Muslims afterwards. I am not satisfied with that, I frankly say that I am not satisfied with that. I do not want that our loyalty as Indians should be in the slightest way affected by any competitive loyalty whether that loyalty arises out of our religion, out of our culture or out of our language. I want all people to be Indian first, Indian last and nothing else but Indians and therefore, I say, that this is a resolution which directly runs counter to this ideal. Sir, this is an ideal which we ought to cherish very zealously. I can quite understand that in a country like America, in a country like Germany, in a country like Europe, where the feeling of oneness is solidified, where there is no need to make anybody feel that he is not

a German to tolerate anything that is of a separatistic character, but where the feeling that we are Indians is still in its embryo, is only beginning to ripen, to allow other loyalties, feeling of culture, feelings of nationality to grow simultaneously—I say deliberately—is the greatest crime that we can commit and I, for myself, will not be a party to it and I strongly, very strongly, oppose this resolution. (Applause.)

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*ON THE ASSEMBLY PROCEDURE

Dr. B. R. Ambedkar (*Bombay City*)*:* Sir, with regard to this amendment I would like to draw your attention, first of all, to section 73, sub-clause (2), in the Government of India Act and my first submission is that this rule, in view of section 73 sub-clause (2) would be *ultra vires* of this House. Section 73 says thus :

> "(1) Subject to the special provisions of this Part of this Act with respect to finance Bills, a Bill may originate in either Chamber of the Legislature of a Province which has a Legislative Council.
>
> (2) A Bill pending in the Legislature of a Province shall not lapse by reason of the prorogation of the Chamber or Chambers thereof."

I submit, therefore, in view of the provision contained in sub-clause (2) of section 73, it is not competent for this House to make a rule that a Bill shall lapse after two Sessions or even after the lapse of one year, as has been suggested by the amendment suggested by my honourable friend Mr. Gupte. That is my first submission with regard to this rule.

My second submission with regard to this rule is that this rule is inconsistent with rule 19 already passed by this House. Rule 19 says : —

> "On the prorogation of a Session, all pending notices shall lapse except those in respect of questions, statutory motions, motions for amendment of Rules, motions the consideration of which has been adjourned to the next Session, under Rule 34, and Bills which have been introduced."

Therefore, motions with regard to Bills have been saved by rule 19, Rule 19 does not apply and my submission is that in view of the fact that the House has already passed rule 19, it cannot now proceed to adopt either rule 103 or the amendment that has been suggested.

My third submission is that assuming that this House has the authority to pass this rule and the amendment proposed, notwithstanding the fact that there is a clear provision of sub-clause (2) of section 73 of the Government of India Act and notwithstanding the fact that this House has already passed rule 19, it seems to me that this rule is really unnecessary. This rule says that "if no motion is made"; I find no definition of the word

*B.LA. Debates, Vol. 4, pp. 1062-65, dated 10th September 1938.

"motion" anywhere here. What I would like to submit is that no person would be in a position to make another motion unless the Bill is called on by the Secretary. That means that the Bill must be on the agenda. Secondly, it must be on the order paper; and thirdly, it must be called on by the Secretary. My submission is that no member who is in charge of a Bill should be penalised by this motion as be would be unless the Bill has been called on by the Secretary ; otherwise my submission is that there would be no default.

The Honourable the Speaker: That would be more or less an argument upon the merits of the rule.

Dr. B. R. Ambedkar: That is what I said. This was the third consideration. The first two were .....

The Honourable the Speaker: I think I may first dispose of the first two and then the honourable member may address his argument with regard to the difficulties as an argument on merits.

Two points have been raised, the first of which is that it is not competent for this House to frame a rule of this type in view of the provisions of section 73 of the Government of India Act. I had considered this aspect because this objection was suggested by the Honourable the Prime Minister when rule 103 was taken up for consideration last time. Sub-clause (2) of section 73 provides that a Bill pending in the Legislature shall not lapse by reason of the prorogation of the Chamber or Chambers. It is undoubtedly provided that it shall not lapse by reason of prorogation, but it does not mean, therefore, that a Bill can never lapse for reasons other than prorogation. What the rule purports to provide is that after a certain period, irrespective of prorogation or otherwise, a Bill shall lapse. There may have been possibly some room for doubt if the phraseology had been "two complete Sessions". But when a specific period is sought to be provided, namely, a period of one year, as under this rule, as is now proposed, a Bill may lapse even while the Session is going on. So prorogation of a Session is not the reason for the lapsing of a Bill under the rule as proposed.

I am not dealing with the merits. I am only dealing with the constitutional aspect. The rule as proposed requires that although a Bill may be shown on the agenda and the House may be in Session, still the moment the period of one year is completed, it will automatically lapse without the Session being prorogued. Therefore, to my mind, sub-clause (2) of section 73 of the Government of India Act, is not a bar to the making of a rule as proposed by the amendment.

Then the second objection is raised as regards—

Dr. B. R. Ambedkar: May I draw your attention to one fact, Sir ? My submission is, if the word "only" was there, then the construction you propose to put upon it would be proper.

Dr. B. R. Ambedkar: Sir, with regard to the amendment proposed, what I would like to submit is this. I have not heard any particular reason

as to why there is a necessity of making this rule 103. What harm would there be if a Bill did remain on the agenda without it having been discussed ? If it could be shown that some harm or some inconvenience would be caused by the Bill remaining on the books of the House without it being discussed, then I can quite understand that some necessity was there for a provision such as the one that is contained in rule 103, but I have not heard anything as to what harm and inconvenience would be caused. And my second submission is that this rule as it is framed, and also the amendment, takes away the right of a member to continue the Bill although there is no default on his behalf. The wording is "if no motion is made". That is what the wording is. But my submission is that a member may not be in a position to make a motion because the Bill has not been reached, because the Bill has not been on the agenda or because it has not been called out or for various other reasons, and I think it would be a great hardship if a member was deprived of moving a particular piece of legislation simply because by reason of other exigencies and other reasons he has not been able to make a motion with regard to the Bill. And, therefore, I think that unless some such further amendment is added such as "even though called on by the Secretary", I think this rule would involve a great deal of hardship and I, therefore, oppose the amendment in the terms in which it has been moved.

The Honourable Mr., B. G. Kher: Sir, the situation is rather complicated because the honourable member was not here either when the rule was moved or when the amendments, including the one which he now wishes should be adopted, were fully discussed in a committee. Before, therefore, I apply myself to reply to his objections, I should like to know what those who have discussed this rule with me have to say because only last night the amendment was agreed upon by all. The honourable member Mr. Ali Bahadur Khan was there and he had put before the House an identical amendment, namely, add the words "though called upon to do so". That is the honourable member Ali Bahadur Khan's amendment and we all discussed the merits of the several proposals and came to the conclusion that ultimately this was the best solution. The constitutional objection which the honourable member pointed out was also present to our minds. Our misfortune is that the honourable member comes to the House only occasionally and then not knowing of the situation he is not in a position to take up the thread of the events that have happened before. I do not, therefore, propose to address myself to the merits of what he has suggested by way of adding to the amendment that has been moved. I would only give him the principle which has made it necessary to include this rule in the present rules and also point out that, in the old rules as they stand, we had a similar provision. It says :

"If the member in charge makes no motion with regard to the same

during two complete sessions, the Bill shall lapse, unless the Assembly on a motion by that member in the next session makes a special order for the continuance of the Bill.".

Dr. B. R. Ambedkar: Does the Honourable the Prime Minister remember that that was consistent at the time, because there was no such provision as I have pointed out in the old Government of India Act ?

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*ON THE INDUSTRIAL DISPUTES BILL

Dr. B. R. Ambedkar (Bombay City): Mr. Speaker, Sir, I rise to oppose the first reading of this Bill. In rising to speak I am very much conscious of the handicaps under which I am labouring. I regret I have not been here to listen to the speeches that have been made by my predecessors who have spoken on the Bill. It is a misfortune which unfortunately I have not been able to escape. My work elsewhere has not permitted me to be here and to benefit myself by listening to points made by the previous speakers. I am also labouring under the handicap that so many speakers have preceded me and the debate has gone on for such a long time that I am wondering whether there is anything left for me to say at this fag end. But I take courage, if I may say so, that in a Bill of such a character, so vast, so extensive—it has 84 clauses—there might be much on which even a member rising to speak at the fag end may find something to say. My honourable friend Mr. Jamnadas Mehta, I think, very correctly described that this Bill was of such a vast character that even if Sheshashayi were to undertake to write about it and even if the ocean was available as ink and the earth as paper to write upon, he would probably not find it sufficient to cover the whole Bill. Knowing these limitations I propose to be very concise.

In order that this Bill may be understood, I think it is necessary to read its provisions in the light of the previous legislation. I believe and I think it will be readily agreed that the importance of the clauses of this Bill will not be apparent unless we compare and contrast its provisions with the provisions of the previous legislation. The last clause of the Bill makes it amply clear that this Bill is intended to replace the Bombay Trade Disputes Conciliation Act of 1934, and the question therefore that primarily arises for consideration is whether any case has been made out by the Prime Minister, who is in charge of this measure, for the change which he is now introducing by this Bill. The Act of 1934 was intended to provide a machinery for conciliation. The principle of the Act of 1934 was voluntary conciliation. Now this Bill introduces a change, namely,

*B.L.A. Debates, Vol. 4, pp. 1330-59, dated 15th September 1938.

that the conciliation shall be compulsory, and the question, I submit, that arises for the consideration of the House is whether any case has been made out for altering the voluntary provision of the Act of 1934 and giving it a compulsory character.

Now, taking the year 1934 and the conditions as they were in that year as the standard by which to measure the necessity for introducing compulsion, I desire to refer to certain facts which are relevant and important. The first fact that I would like to draw the attention of the House to is this, that the original Bill introduced by the Honourable Sir Robert Bell in 1934, which subsequently became the Act, contained provisions for compulsory conciliation. But at the time of the introduction of the Bill, at its very initial stage, the mover of that Bill was impressed by the fact that the circumstances existing in the year 1934 did not require compulsion in the matter of conciliation, and consequently, he of his own accord, at the very outset, at the first reading of the Bill, in his opening speech made a proposal that he was going to bring forward an amendment in order to substitute the word "may" for the word "shall". That, I submit, is proof of the fact that in 1934 the Honourable Sir Robert Bell did not feel any necessity for introducing compulsion in the matter of conciliation. There was in the House at the time when that Bill was introduced my honourable friend Mr. Saklatvala, who represented the Bombay Millowners. He too in the year 1934 did not demand compulsion in the matter of conciliation. On the other hand, in the speech which be delivered at the first reading of the Bill, he was lukewarm in his support of the Bill, for he went to the length of saying that the Bill normally was unnecesary. That was the view point that he had taken, and with regard to conciliation, he did not certainly press or demand any compulsion in the matter at all. What was happened between the year 1934 and the year 1938 which compels this House to alter the provisions of that Act, changing voluntary conciliation into compulsory conciliation ?

Now, in order to make out a case for compulsion, the Prime Minister started by giving us certain figures of strikes that have taken place in this country, in order to make out that the strikes that have taken place in this country, were so frequent and of such a grave character that the necessity had now arisen for changing the voluntary provision into a compulsory one. Now I have examined the figures of the strikes, the number of work-people involved and the number of working days lost. I have no hesitation in saying that I stand unconvinced by what the Honourable the Prime Minister seemed to say as a result of the figures relating to strikes. Turning our attention to the strikes that have taken place in the City of Bombay, I have here the March number of the *Labour Gazette* published by the Labour Office. On page 541 this number gives the figures of the strikes that have taken place in the Province of Bombay. From 1921 to 1937, it gives in column one the number of trade disputes. Secondly, it

gives the number of work-people involved ; and, thirdly, it gives the number of working days lost. Running one's eyes over these figures, I am sure any one would be able to see for himself that the industrial disputes far from increasing are diminishing year after year. For instance, in the year 1921, the industrial disputes in Bombay were 103 ; in 1922, there were 143 ; in 1923, there were 109 ; and between 1924 and 1927, they had fallen to 50, a drop of 50 per cent. Then, you get 1928 and the figure rises to 144. From 1929 to practically 1937, it varies between 88 and 53. I admit that the number of strikes that have taken place is no criterion for judging the amount of disturbance and dislocation that might have taken place in the industry. I find from the figures which are given in this table that there are cases in which although the number of strikes is small, the number of people involved is comparatively great and the number of hours lost are also comparatively great. But then taking the number of working days lost as the criterion, which is the only criterion, I find that the worst year was the year 1928 which resulted in 24 million working days being lost. The second worse year was 1925 when 11 million working days were lost ; and the third one was 1929 when 8 million working days were lost. But once you proceed further, beyond the year 1929, it will be found that the number of work-people involved and the number of working days lost and the number of strikes that have taken place after 1934, there is certainly nothing in the situation, so far as I am able to see, which can be said to create a situation which would cause anxiety to any Member of Government. The only bad year seems to be 1937 when 897 working days were lost. That is nothing as compared to the previous year. I am told that this happened because there was a general strike in the City of Ahmedabad which lasted for 15 days. My first submission, therefore, is this. No case has been made out by Government and by the Honourable the Prime Minister which would induce, at any rate, this part of the House, at any rate induce me to consent to so radical a change in the provisions of the Act of 1934. So much for the necessity of introducing compulsory conciliation.

Turning to the other provisions of the Bill, the provision to which I wish to advert are the provisions relating to strikes which undoubtedly are the most important, which this part of the House, at any rate the party I represent, stoutly oppose. Now, the Bill makes strikes under certain circumstances illegal. The provisions declaring strikes illegal are contained in clause 62 of the Bill which is the most important clause in it. It says :

"62. (1) A strike shall be illegal if it is commenced or continued—

(*a*) in cases where it relates to any industrial matter mentioned in Schedule I, before the standing orders relating to such matter and submitted to the Commissioner of Labour under section 26 are settled by him or by the Industrial Court, as the case may be, or before the

expiry of one year from the date on which such standing orders come into operation under section 26 ;

(b) without giving notice in accordance with the provisions of section 28 ;

(*c*) only for the reason that the employer has not carried out the provisions of any standing order or has made an illegal change ;

(*d*) in cases where notice of the change is given in accordance with the provisions of section 28 and where no agreement in regard to such change is arrived at, before the statement of the case referred to in section 34 is received by the Registrar ;

(*e*) in cases where conciliation proceedings in regard to the industrial dispute to which the strike relates have commenced, before the completion of such proceedings ;

(*f*) in cases where a submission relating to such dispute or such kinds of dispute is registered under section 43, until such submission is lawfully revoked ; or

(*g*) in contravention of the terms of a registered agreement, settlement or award.

(2) In cases where conciliation proceedings in regard to any industrial dispute have been completed, a strike relating to such dispute shall be illegal if it is commenced at any time after the expiry of two months after the completion of such proceedings".

Then, in order to make this clause effective, the Bill prescribes certain penalties for indulging in illegal strikes. These clauses are 66 and 67. Clause 66 says :

"Any employee who has gone on strike or who joins a strike which has been held by the Industrial Court to be illegal shall, on conviction, be punishable with imprisonment of either description for a term which may extend to six months or with fine or with both.".

Section 67 says :

"If any person instigates or incites others to take part in, or otherwise acts in furtherance of, a strike or lock-out which has been held to be illegal by the Industrial Court, whether such strike or lock-out has commenced or not, shall, on conviction, be punishable with imprisonment of either description for a term which may extend to six months, or with fine or with both.

Explanation.—For the purposes of this section, a person who contributes, collects or solicits funds for the purpose of any strike or lock-out shall be deemed to act in furtherance of such strike or lock-out".

Now, Sir, it has been said that these clauses are justifiable, because there is no such thing as a right to strike, and the Bill, therefore, in penalising what the labourers call the right to strike is certainly not contravening any rules of ethics or any rules of jurisprudence. Sir, my first

concern in this speech will be to refute that argument and repudiate that position. Now in order that I may make my position clear, I will begin from some very elementary propositions. First of all, let me make clear what we understand by the word "strike". What does it mean ? It is better, I think, to understand the meaning of the term "strike". In plain, popular language, a strike is nothing more than a breach of contract of service. When a worker strikes, all that it means is that he commits a breach of contract of service : there is nothing more in it, and nothing less in it. And the next question that I propose to raise is this : how is this breach of contract of service dealt with by the law as it stands today on the Indian Statute Book? Does the Indian law recognise this right to strike or not ? And, if it does, in what way ; and, if it punishes, in what way does it punish it ? Sir, here again, I will begin with an elementary proposition, and that elementary proposition is this : that an act or an omission may be a civil wrong, or it may be a crime. And the first question that I propose to raise—I really wish to deal with this matter exhaustively, because I do not want to leave any doubt at all as regards my position in this matter—the first question I propose to raise is : is breach of contract of service a civil wrong ? The answer that the law gives is : Yes, it is a civil wrong. What are the remedies for an aggrieved person who has suffered this civil wrong? That would be the next question to follow on. There again the answer is that the present law provides two remedies for an aggrieved person whose contract has been broken by a workman, and those are damages and specific relief. Now, although the law does provide these two remedies, namely, damages and specific performance wherever there is a civil wrong, there is one provision which applies particularly to contracts of service. Whenever a man breaks a contract of service all that the aggrieved party is entitled to is damages ; he can never seek specific relief, and the court can never give relief whereby it can compel a man to perform the contract of service which he has entered upon. All that the aggrieved party would be entitled to is damages. Sir, that is the position as far as breach of contract of service is concerned as a civil wrong. For this civil wrong the employer can get nothing more than damages.

Looking at this breach of contract of service as a crime, the question is : Is it a crime ? What has been the provision of the Indian law so far as breach of contract of service is concerned ? Sir, it is necessary, in the interest of clarification, to give to the House a little bit of history as to how this matter has been treated by our Indian law. The Indian law which first dealt with breach of contract of service was Act XIII of 1859 ; it was called the Workmen's Breach of Contract Act. This was passed in 1859, soon after the Mutiny or during the course of the Mutiny. I shall presently give to the House the reasons why this legislation was passed. Then, there

are provisions in the Indian Penal Code which also deal with this matter, namely, breach of contract of service as a crime, and those sections are 490, 491 and 492. With regard to Act XIII of 1859, that Act was of a limited application. It applied to artificers and artisans ; it applied to cases where artificers and artisans had taken advances from their employers and had subsequently refused to perform the obligations they had undertaken. It was dictated by the necessity of the circumstances. The British Government was faced with the Mutiny. During the period the Mutiny continued, the military engaged many artificers and many artisans to whom monies had been advanced in the expectation that they would render the service which they had undertaken to do, but by reason of fear or by reason of some other circumstances, those artificers and artisans went back to their native places and consequently were not in a position to perform the obligations that they had undertaken, although they had received an advance. It was to cover such cases that this Act of 1859 was passed. It is on record that although this Act was passed, which did make breach of service of contract a crime, it was very rarely put into operation ; it was really not a law which people were brought to suffer under. Sir, the subsequent history of this Act is also interesting. This Act, which stood as a formal statute from 1859, but which, as I said, was never put into operation, was amended in 1920 by Act XII of the Government of India. The amending Act introduced two very salutary principles in this Act One salutary principle that was introduced in this Act was that a magistrate, before punishing an artisan who had committed a breach of contract of service, was authorised to enquire into the equity of the contract, so that, if the magistrate came to the conclusion that the contract was inequitable, men, he was not authorised to punish the recalcitrant workman, notwithstanding the fact that he had taken an advance from his employer. That was the first change that was introduced by the Act of 1920. Then, the second salutary provision that was introduced by the Act of 1920 was that the magistrate was given the power to punish an employer who brought a frivolous complaint,—a provision which was not in the original Act.

Coming to the sections of the Indian Penal Code, the three sections to which I referred have an interesting history. Section 490 dealt with a breach of contract of service during a voyage or journey. It was a section of a very limited application. It did not apply to all breaches of contract of service ; it applied only to seamen who went on a voyage or a journey. Obviously, it was very necessary to make an exception of this kind in the case of service of seamen, on whose continued service the success and safety of the voyage depended. The other section, section 491, related to breach of contract on the part of an attendant in supplying the wants of helpless persons. It applied, for instance, to an ayah who had contracted to take care of a helpless child ; it applied to a servant who had undertaken to supply he needs of a man who was lame and who could not look after

himself. That was section 491. Then, section 492 covered a case of breach of contract of service at a distant place to which the servant was conveyed at the expense of the master. These were the three provisions that were enacted when the Indian Penal Code came into operation. Now, Sir, what has been the history of these three sections ever since they were enacted? The history is this, that by Act III of 1925 the Central Legislature has repealed section 490 and section 492. Those sections no longer apply, and the breaches of service which were crimes under them are no longer crimes at all. The only section, therefore, that remains is section 491 of the Indian Penal Code. So that, so far as the law now stands in India, the only breach of contract of service that can involve penal consequences, as distinguished from damages, is section 491 ; and I do not think that any member of the House would cavil at this provision if he knows that it is really intended to cover the case of a person who is a helpless person and who cannot look after himself.

Now, Sir, taking stock of all that I have stated so far relating to the legal position involved as a result of breach of contract of service, which, I say, is merely a popular description of that forbidding word "strike", what is the position ? The position is this. A breach of contract of service is not a crime, and is not punishable under the Indian Law except when the case falls under section 491. That means it is only a civil wrong ; it is not a crime. And, further, it is a civil wrong for which the remedy can only be damages and never a specific performance. I want to emphasise that. Now, the question which I am sure the House would like to consider with all the seriousness that it can command is this : Why is it that the Indian law does not make a breach of contract of service a crime ? And why is it that the Indian law does not provide for a specific performance ? Whatever answer other members of the House would choose to give, my answer is very simple. My answer is this, that the Indian Legislature does not make a breach of contract of service a crime because it thinks that to make it a crime is to compel a man to serve against his will ; [and making him a slave (Hear, hear.)] To penalise a strike, therefore, I contend, is nothing short of making the worker a slave. For what is slavery ? As defined in the constitution of the United States, slavery is nothing else but involuntary servitude. And this is involuntary servitude. This is contrary to ethics ; this is contrary to jurisprudence. Sir, the framers of the Indian Penal Code were very much concerned, when they drafted the provisions to which I have just referred, namely, sections 490, 491 and 492, as I see from the head-note here ; they evidently had great qualms of conscience, and they were wondering whether they would be right in enacting even the small provisions contained in sections 490, 491 and 492. This is what the framers of the Indian Penal Code said with regard to Chapter XIX, which is headed "Of the Criminal Breach of Contract of Service":

> "We agree with the great body of jurists in thinking that, in general, a mere breach of contract ought not to be an offence, but only to be the subject of a civil action. To this general rule there are, however, some exceptions. Some breaches of contract are very likely to cause evil such as no damages or only very high damages can repair, and are also very likely to be committed by persons from whom it is exceedingly improbable that any damages can be obtained. Such breaches of contract are, we conceive, proper subjects for penal legislation."

With all the great survey that they had made of the different kinds of acts of omission which could be penalised, they found that the only acts of omission which could be penalised, consistently with the provisions of ethics and jurisprudence, were these three provisions, and nothing more.

Now, Sir, it has been said that there is no such thing as the right to strike. My reply is that this statement can come from a man who really does not understand what a strike is. If members are prepared to accept my meaning of the word "strike" as being nothing more than a breach of contract, then I submit that a strike is simply another name for the right to freedom ; it is nothing else than the right to the freedom of one's services on any terms that one wants to obtain. And once you concede the right to freedom, you necessarily concede the right to strike, because, as I have said, the right to strike is simply another name for the right to freedom. A sort of ridicule is sought to be poured upon it by saying that this is something like the divine right of kings. Sir, I would only say in reply that a poetic phrase or a picturesque description does not dispose of an argument ; I have never seen that result anywhere—certainly not in courts of law. If you accept that the right to freedom is a divine right, then I contend that the right to strike is a divine right (Hear, hear.) I go further and say that because ten people or twenty people or two hundred people simultaneously declare a strike, that cannot make any difference in the situation so far as the law is concerned.

I know, Sir, that some will point out section 120A of the Indian Penal Code and I am going to deal with that matter before I leave this subject Now, Sir, section 120A of the Indian Penal Code is a section which deals with conspiracy. I wonder if members opposite wish to argue from it that there is no right to strike because a strike by a body of workers is a conspiracy. If they do, I would like those gentlemen opposite who rely on section 120A as a ground for submitting that there is no right to strike for a body of workers, to prove that a strike is a conspiracy. Unless they prove that a strike is a conspiracy section 120A will not apply, and I contend that a strike is not a conspiracy.

An Honourable Member : Who says it is applicable ? It is a matter of public utility.

Dr. B. R. Ambedkar : I am coming to the question of public utility later on.

Sir, unfortunately we have no decided cases in India. My research is not rewarded with a case where strikers have been hauled up under section 120A

on the ground that it was a conspiracy. But I find some support from the English law on the subject, which also deals with strike in its aspect of conspiracy, and I will read to the House a short passage from a book called "The Legal Position of Trade Unions" by Scholosser. I read the passage at p. 76 : —

> "Strikes, therefore, and similar combinations to better the conditions of labour, are not in themselves unlawful at common law. There is no foundation for the proposition that strikes are *per se* illegal or unlawful by the law of England. It is true that occasional dicta are to be found to the effect that combinations to better the conditions of labour are unlawful at common law, but the courts have never accepted the law thus laid down, and eminent judges have expressed views to the contrary. Throughout the seventeenth and eighteenth centuries no court treated combinations to better the conditions of labour as being contrary to common law, and none of the series of legislative enactments, resisting attempts of workmen to better the conditions of labour, purported to declare or rest upon the common law. If we accept an *obiter dictum* by Grose, J., in Rex *v*. Mawbey, there were no judicial dicta in support of the suggested proposition until after the Legislature swept away all those statutes by the Combination Act of 1925. Conclusions as to the common law which first appear in recent times, and are based upon an accepted principle of earlier date, are to be looked upon with great suspicion. Ever since 1824 the weight of authority is against this doctrine. Strikes *per se* are combinations"

This is an important part of the judgment :

> "neither for accomplishing an unlawful end, nor for accomplishing a lawful end by unlawful means. The law is clear that workmen have a right to combine for their own protection, while the combination is to obtain a benefit which by law they can claim. The power of choice in respect of labour and terms, which one may exercise"

This is the point I was trying to emphasise :

> "and declare singly, many, after consultation, may exercise jointly, and they may make simultaneously declaration of their choice, and may lawfully act thereon for the immediate purpose of obtaining the required terms.
>
> The maintenance of a strike is not necessarily illegal, and if a strike has taken place, in breach of contract, but the broken contracts have expired, those who help to maintain the strike by supporting the workmen after their current contracts have expired in a refusal to enter into new contracts of service on new terms, are not doing anything illegal.
>
> Thus combinations"

This is the point to which I wish to draw the attention of the House, because it has a direct bearing on section 120A of the Indian Penal Code, "which result in injury to another may be unlawful, when the object of the

combination is injury" the words are "when the object of the combination is injury":

> "and if the injury is effected, an action may lie for conspiracy. The question to be decided in each individual case is, haw far the resulting injury is ancillary to a legitimate combination and how far the combination exists for the purpose of injury."

Therefore, my submission is that in order to bring strikes under section 120A what would be necessary for the prosecution to prove is that the purpose of the strike was to cause injury. If injury merely resulted from the strike, that would not make the strike an unlawful combination within the meaning of section 120A. Therefore, my first contention is this that this Bill, by penalising a strike, is reducing the workers to a state of slavery and nothing else.

The Bill really, in my judgment ought to be called "The Workers' Civil Liberties Suspension Act". That would be the proper title for it. Some have got the impression that, after all, the suspension is only for two months—until the conciliation proceedings are terminated—and after that the workers would be at liberty to strike if they wish. Sir, I would like to say that this would be a very wrong impression. My contention is that the provisions of this Bill, when they are set in operation, will bring about perpetual slavery and the workers will never be able to strike. Let us look at the provisions. First of all, the Bill provides that when the Act comes into operation, there is not to be any strike at all for one year. Whether conditions are such that a reasonable worker would accept them or whether conditions are such that no reasonable worker would accept them, for one year there is complete slavery. The workers are bound down to the terms mentioned in the Second Schedule. There is no escape, there is no going away from that position. What happens after the first year is over ? What happens is this. You have got to give notice ; that takes away a part of the time during which you cannot strike. Then after notice is given, time is allowed for reply. During the period of reply you cannot strike. Then, conciliation proceedings commence. They may last for two months, if the parties are fortunate, if the parties are reasonable ; but the Bill provides that the term may extend to four months. Therefore, from the date of the origin of the grievance of the workers, for four months and practically 25 days—I will stand corrected if my calculation is wrong because I have not gone into the details—the worker must do nothing. He must not talk, he must not deliver a speech, he must not organise, he must do nothing. All mobilisation, included a word or a speech or an action is penalised during this period. Suppose that no conciliation is effected during this long period of four months and 25 days—I submit a long period of gestation—what is to happen ? The worker is allowed only two months to strike after the conciliation period is over. I do not know whether my honourable friend the mover of the Bill thinks that two months is a sufficiently long period for the demobilised forces of labourers to mobilise for action. I have been an active worker in the

labour field. I cannot say that I am a fieldman and I therefore do not know what are the difficulties which a person who is organising the workers for strike will have to meet. But looking at the situation from such experience as I possess as an observer in the City of Bombay, I have not the slightest hesitation that two months would be the most inadequate period for a body of labourers who have been held at bay so to say, for four months and 25 days to mobilise their forces in order to strike. If they do not strike within two months, what happens ? What happens is this that they are deemed in law to have accepted the situation. If they again raise their head and find out new grievances, the law says you shall again wait for four months and 25 days and allow conciliation to go on. Wait and see what we do. Wait and see, for four months and 25 days. Again if nothing happens at the end of four months and 25 days, if you think you can strike, do so within two months. If you do not and after two months you raise another grievance, you shall have to wait again for four months and 25 days. Sir, I would like to know whether such an endless cycle of don'ts would not produce complete slavery, perpetual slavery, of the workers for all time. If this is not a Bill for introducing slavery amongst workers, I would like to know what sort of Bill would introduce slavery. So much with regard to the provisions of the Bill which relate to strike.

Now, Sir, it will be necessary and I say very instructive to compare the provisions of this Bill, in so far as they relate to strike, with the provisions contained in Trade Disputes Act of 1929. That is an Act which also imposes certain limitations upon the right to strike and it would be, therefore, very instructive to compare the provisions contained in that Act with the provisions contained in this Bill, so that the House may be in a position to realise in what direction we are moving, whether we are moving in the direction of slavery. Sir, the Act of 1929 imposes certain limitations upon the right of the workers to strike and it would be enough if I refer to two of its sections. That Act of 1929 penalises a general strike for political purposes. That is section 16 of the Act and the other section which is more relevant for my purpose is section 15 which penalises a strike without notice. Apparently there does appear to be some sort of similarity between the Act of 1929 and the present Bill in so far as this Bill also penalises a strike without notice. But, Sir, beyond that the one Bill is as different from the other as chalk is from cheese. The one has nothing to do with the other and, comparatively speaking, I have not the slightest hesitation in saying that this Bill is reactionary and retrograde, and that the author of this Bill is a far greater Tory than the author of the Act of 1929.

Sir, let us compare the provisions of section 15 of the Act of 1929. As everyone who is acquainted with the subject knows, that section 15 of the Act of 1929 is restricted to public utilities. What that Act penalises is not all strikes, but strikes in what are called public utility services and this, I submit, is a fundamental difference between this Bill and the Act of 1929.

Now, Sir, the question that I would like to ask is, is this departure from the position taken in 1929 any way justifiable ? And I think it would be desirable if I begin by stating what was the position of the Congress Party in 1929 when this Bill was placed before the Central Assembly. Now, Sir, I have taken the trouble to hunt up and read the report of the Select Committee which was appointed by the Central Legislature to consider the provisions of the Bill which ultimately became the Act of 1929 and confining my attention to the two contestants, if I may say so, the bureaucracy, I use the terms which are familiar on the other side, the bureaucracy, on the one hand and the Congress Party on the other, what were the points of contention there when this Act of 1929 was on the anvil ? I find that the points of difference were these two. Government wanted that public utility services should be left to be defined by them at their discretion. They did not want to give in the Act itself a definition of what was a public utility nor were they prepared at the time *to* enumerate what, in their opinion, were the public utility services. They said that a public utility and its importance depended upon the circumstances of the case. It may vary according to times and circumstances. A service which may not be a public utility at one time may be a public utility at another time and they felt that in the interests of society as was conceived and understood by them it was necessary that the situation should be left in a flux undefined to be defined at the discretion of the Government. Now the Congress stood for two things at the time. The one thing it stood for was that nothing should be left to the discretion of the bureaucracy, that it could not be persuaded to bureaucratic purposes and therefore the Congress Party took the attitude that no discretion ought to be left with the Government. Whatever public utility was to be brought within the purview of section 15 ought to be stated clearly in the Act itself. The second position which the Congress Party took in the year 1929 when the Bill came up was this. They said that the category of a public utility was too large and that a strike should not be made illegal only because it related to a public utility serivce. The position that they took was that it should be confined to what is called "social security services". That was the position in 1929. In this contest Government gave up on one point. They agreed that a public utility should be defined in the Act and therefore you will find, Sir, that section 2 of the Act, which is an interpretation clause, has got a definition of what is a public utility and you have got there a public utility enumerated, Government not having any discretion to add to it or to take anything out of it. With regard to the other position, namely, narrowing the category of service to which the illegality of the strike was to be confined, Government did not yield. Government said that their formula that it should be extended to public utility services must stand and the Congress Party did not succeed, but that does not really matter for my argument, because my argument is this that in 1929 the Congress Party stood for restricting the illegality of the strike to social security services. Sir, I want to read from the report of the select

committee some of the minutes which members of the Congress wrote. I believe the honourable member Mr. Jamnadas Mehta was a member of the Congress then, but I am not sure.

Mr. Jamnadas M. Mehta : I have maintained that attitude even today.

Dr. B. R. Ambedkar : This is, Sir, from a minute written by Mr. Jamnadas Mehta, Mr. M. S. Sesha Aiyangar, Mr. S. C. Mitra and Mr. V. V. Jogiah :

> "The fundamental objections to the Bill as it emerges from the Select Committee remain unaffected. We feel that clauses 15 and onwards, far from settling trade disputes, will only multiply them ; they will embitter relations between the employer and the employed and will, as all experience of similar legislation testifies, be utilised by the authorities for crushing political propaganda unpleasant to the bureaucracy. If the object of the Bill is to develop and foster genuine trade union movement in the country, clause 15 and onwards will surely defeat that object."

That was the position that they took that no strike ought to be penalised even though it was applied to public utility services. The minute of dissent proceeds :

> "……. . But having failed in that object we are obliged to append this minute of dissent. Up to clause 14 the Bill is a genuine attempt towards settlement of trade disputes by means of courts of inquiry and boards of conciliation. We believe that so far as that portion of the Bill is concerned, it emerges from the Select Committee considerably improved and strengthened. Almost all the changes that have been made in the Bill up to that clause have served to make it more equitable and just. Of course we leave out of account the definition of the 'public utility services' in clause 2(*g*). That definition is consequential to clause 15 and should therefore be considered along with it. We believe that this clause is a great danger to friendly relations between the employers and the employed. A public service may be a 'utility service', but it does not therefore follow that a strike in such services without notice ought to be visited with criminal prosecution. It is true that a lock-out in such services has been made an offence also, but that does not affect the argument against making a strike a penal offence. We cannot understand why a strike in a postal, telegraph or telephone service or for the matter of that in any Railway service should be made a crime. No doubt such a strike is inconvenient and interferes with our ordinary comforts, but it is monstrous to claim that if any body of men refuses to minister to our comforts if any to claim that body as criminals especially when the strikers feel that these comforts and conveniences can only be satisfied by their own degradation and misery. Can it be seriously contended that the Frontier Mail and similar luxurious services are so vital to society that strikes thereon should be made illegal ?"

I commend these last few lines to my honourable friends opposite. Then the quotation goes on :

> "For the Legislature to give sanction to so iniquitous a doctrine as the one which is embodied in clause 15 is to proclaim to the world that the

mass of mankind ought to remain wage slaves and that they would strike only on the pain of being clapped into jail. We are most anxious to promote the industrial advancement of our country but not by methods of coercion as proposed under this clause. We grant that services like the supply of water, light and sanitation are absolutely essential to the very existence of society and that any strike in such services should be discouraged by all legitimate means, not because they are 'public utility services' but because they are 'social security services' ; and as no man could be permitted to have interest against the very existence of society, we are not opposed to any legislation against making strikes in the 'social security services' illegal ....."

Sir, that was the position the Congress members took then. Sir, I would also like to read an extract from the minute of dissent appended by Mr. Kunzru. He is a Liberal. I emphasize that because you would be able to know what even moderate men who did not profess the principles and policies of Congress said in 1929. This is what he says :

"Clause 15 which deals with strikes in public utility services renders a strike in violation of the terms of services without previous notice illegal. If it was attempted to make sudden strike penal only in services where stoppage of work without adequate notice would endanger human health or life, the case for such action would theoretically be clear, however difficult the enforcement of the law might be in practice. But the definition of a public utility service in spite of the deletion of that provision by the Select Committee which would have vested Government with a discretionary power to declare any service a public utility service still includes services sudden strikes in which, whatever the inconvenience they may cause, cannot involve danger to life. However undesirable sudden strikes may be in any undertaking, there is no ground for making them penal where they do not affect the safety of the community. It may further be pointed out that sudden strikes in services which affect the existence of the community have been remedied by the provinces. Besides strikes, if resorted to in breach of contract, can be severely dealt with under the Indian Penal Code ....."

That was the attitude of Mr. Kunzru. I too agree in the proposition, that the right to strike without notice should be restricted, but it should be restricted only in case of service which are not public utility services but social security services. Now, Sir, that is in perfect consonance with the English legislation. In this connection, I would like to draw the attention of the House to what is called the Emergency Powers Act of 1920. It was passed by the British Parliament a year or two after the War was over. There too Government was given power to make regulations to deal with emergencies. I will just read one or two sections from that Act. Section 1 says :

"If at any time it appears to His Majesty that any action has been taken or immediately threatened by any person or body of persons of

such a nature and on so extensive a scale as to be calculated to be interfering with the supply and distribution ..... ."

I desire to draw the attention of the House to these particular words :

"of food, water, fuel or light or with means of locomotion, to deprive the community or any single portion of the community of the essential services ..... ."

"His Majesty may, by proclamation declare that a state of emergency exists."

Then section 2 says :

"Where a proclamation of emergency has been made, and so long as the proclamation is in force, it shall be lawful for His Majesty's Court, to make regulations for securing the essentials of life to the community, and these regulations may confer or impose on a ..... . Government ..... . such powers and duties as His Majesty may deem necessary ..... ."

The point to bear in mind is that all this is confined to cases of essential to public safety and life of the community. This has always been the view taken, that if you want to restrict the right to strike and to make it illegal, then you must do it only in relation to services on which the sustenance of the life of the community depends. Now, it is obvious that this Bill extends to every trade and every industry. I do not wish to say anything with the object of making fun, but I should like to illustrate my point by saying that, supposing tomorrow the Indian women—I hope they do not—adopt the fashion of painting their lips and some manufacturer who had a nose for money started an industry for making lip-sticks for supplying their needs, and if under this Act the workers went on strike, its provisions would fall upon their head like the sword of Damocles. Can anybody seriously maintain that the lip-stick industry is essential to life, that the right to strike should be curtailed because some women are deprived of the pleasure of having the usual paint on their lips ? Sir, this Government has not only let go by the board the attitude that it took in 1929, of restricting the penalty to strikes in social security services, but they have beaten the bureaucracy by going beyond the provisions of the Act of 1929. The bureaucracy had at least the sense, if I may say so, the responsibility, to realise that the right to strike was so important that it should not be penalised beyond the four corners of what was covered by public security ; and here is a Bill which, I would like to repeat, would make a strike in the lip-stick industry penal.

All this, for what? What are we to gain by all these trials and tribulations which they are trying to impose upon these poor workmen ? The result, as I see, is to wait at the table of some gentlemen, whom the Bill calls the conciliator, for 4 months and 25 days. Beyond that I see nothing. The Honourable the Home Minister said that one of the reasons why this Bill has been introduced was because the State was taking upon its own shoulders to collective bargaining. I think he said something to that effect. If I am wrong, I hope he will correct me.

The Honourable Mr. K. M. Munshi : No ; not taking upon its shoulders collective bargaining, but regulating collective bargaining.

Dr. B. R. Ambedkar : Regulating collective bargaining. I shall be very candid. What is the use of these regulations ? There are heaps of regulations in the Civil Procedure Code. Is the litigant interested in them ? The litigant is interested in the result of his suit. With all the formalities, with all the provisions and procedure, who is to give notice, what is to happen after notice, who is to draft the written statement and all other things—the hungry workman is not interested in them in the least.

The Honourable Mr. K. M. Munshi : Therefore, repeal the Civil Procedure Code ?

Dr. B. R. Ambedkar : I do not say anything of the kind. What I am saying is, with all the provisions that they have got, they should have bucked up, they should have had the courage and said "we shall compulsorily arbitrate, whether you agree to it or not". (Interruption.) It is another matter whether I agree or not. If you had taken up that attitude, I could have certainly understood it, because the position then would have been this, that at the end of 4 months and 25 days you would have been certain of some tangible result.

An Honourable Member : That would have been slavery to the wage earner.
Dr. B. R. Ambedkar : You have enough, and you need not have been abashed for going a step further in this Bill. (Interruption).

The Honourable the Speaker : Order, order.

Dr. B. R. Ambedkar : Therefore, Sir, what is all this for ? You have to go through several stages—a Registrar, a Conciliator, and a Board of Conciliators if both parties agree. It is only a case of securing appearances before certain amiable gentlemen who will talk sweetly to different people and bring about probably a good temper, if a hungry man who wants some thing can be said to be in a good temper. I do not see anything in it. This is, in my judgment, absolutely a futility, an utter futility which can have no tangible result at all. The only tangible result of this will be that this delaying process for 4 months and 25 days will disable the worker from going on strike ultimately. Here again, I would like to draw the attention of the House to the contrast that exists between the Bombay Act of 1934 and the present Bill. Sir, when the Bill of 1934 was on the anvil, it was suggested that a strike should be prohibited during the period of conciliation. There was a proposal to that effect. But that proposal was rejected by the Honourable Sir Robert Bell. It was even pressed upon him that if a strike was not prohibited, at least picketing ought to be prohibited, but he refused even to be a party to that. (An Honourable Member : No, no.) As there is a challenge, I will read a portion of his speech. This is what he says on page 180, Vol. XL, of the Bombay Legislative Council Debates :

> "I wish to refer to one matter connected with the subject of picketing. In clause 15 you will see that provision is made for preventing picketing

of conciliation proceedings and also for preventing molestation of any individuals in order to prevent them 'from carrying on their usual work or business during a conciliation proceeding connected with such work or business'. In other words, it was the intention of Government that after conciliation proceedings began, picketing at the mill should not be allowed. Even if a strike is already in progress, it was intended that picketing in the mill premises should be stopped. If the two parties intend to come to a settlement, it was considered that this would be a desirable measure. On the other hand, we have no prohibition against the employees locking out the mill hands. It is considered in some quarters that the right of picketing is something like a sacred right and, after full and careful consideration, we have decided to move an amendment to omit the words in clause 15 which prevent picketing at the mill gate."

That was the position that he took, and, Sir, I do seriously contend that if a strike was permitted conciliation would be more probable. That is an aspect which I think has not been considered at all. Why should an employer be ready to conciliate when he knows that he has got 4 months and 25 days to mobilise his forces, when he knows that within the 4 months and 25 days no worker can mobilise, no worker can prepare, and when he knows further that the time within which to go on strike is limited only to two months ? There is no incentive, there is no pressure, there is no urge on the employer, in circumstances of this kind, to come to terms ; and if the honourable mover of the Bill is of opinion, and his object is, that this conciliation machinery should fructify, should result in some sort of tangible good which would be acceptable to both the parties, then I submit that the proper procedure to adopt is the procedure adopted by Sir Robert Bell, namely, to permit the strike to go on, in other words, to continue the provisions of the present Act. But, Sir, here the Government is not even prepared to take the position which a bureaucrat took. The position that was taken up by a bureaucrat was that a strike need not be prevented while a popular Government, which claims to be elected on Labour votes, which does not stand by the position taken by one whom they always regarded as a bureaucrat, with no interest for Labour and no interest in the welfare of the country. If this democracy—well, it might be, but I do not say it is democracy—a democracy which enslaves the working class, a class which is devoid of education, which is devoid of the means of life, which is devoid of any power of organisation, which is devoid of intelligence, I submit, is no democracy but a mockery of democracy. So much for the main provisions of the Bill.

Then, Sir, there are certain other provisions of the Bill to which I wish to advert, and these provisions are contained in clauses 4 to 20. Looking at the clauses, they refer to four different topics. They refer to different clauses of unions,—qualified unions, registered unions, representative unions. Sir, I had the opportunity of reading the previous draft of this Bill. That previous draft had a different phraseology, such as horizontal unions, vertical

unions, diagonal unions and perpendicular unions. I am glad that that phraseology has been dropped. I was never strong in mathematics, and certainly knew very little geometry, and I think for the small mercy that we have got for the change of phraseology it would be proper if I rendered my thanks to the honourable mover and those who have prepared the present Bill. The second thing with which these clauses deal is the terms and conditions and the procedure with regard to the registration of the different classes of unions. Thirdly, the terms and conditions and the procedure for these recognised unions or registered unions to be declared representative unions, and fourthly, the conditions for the registration of a union and for the cancellation of its declaration as a representative union. Now, Sir, I have been considerably at a loss to understand what practical connection these clauses have with the main provisions of the Bill. The main provisions of the Bill are, firstly, compulsory conciliation and, secondly, penalty for strikes during conciliation proceedings. To my mind, I do not see any organic connection between these clauses and the other clauses in dealing with these two topics which are the main purposes of the Bill. And, referring to the title of the Bill, I found that rather than disclosing the purpose it tries to conceal it. The Bill has a title which says "A Bill to make provision for the promotion of peaceful and amicable settlement of industrial disputes by conciliation and arbitration and for certain other purposes". Sir, what are the other purposes ? And why have they not been specified in the title of the Bill ? Is it something of which one need feel ashamed ? I do not know. Either there is some practical connection between the two parts of the Bill or there is not ; if there is, that ought to have been disclosed, and if there is no organic connection, then the logical conclusion is that these sections ought to be deleted from the Bill. But, Sir, my search has been rewarded by the discovery that there is an organic connection between the two. What that organic connection is, will be readily seen by reference to clause 75 of the Bill. Clause 75 of the Bill says :

> "No employee shall be entitled to appear in any proceedings under this Act except through the representative of employees."

Sir, this clause is the most fundamental and I say this is the most destructive clause of all trade unionism in India. Who is a representative of employees who is entitled to represent labour in conciliation proceedings ? No one will have any *locus standi* in any negotiations for the settlement of an industrial dispute, no matter what his qualifications may be, unless he falls within the definition of what is called by this Bill as a representative of employees, and it is for the purpose of defining who is a representative of labour my honourable friend has introduced clauses 4 to 20 in the Bill. They all hang on this section. The important question, therefore, is who is a representative of employees under this Bill ?

Now, Sir, under this Bill, there are two categories of unions which will have the right to represent labour. The first is a union which has 20 per cent. of the workers as its members, or rather not less than 20 per cent of

the workers as its members, and recognised by the employer. Secondly, a union whose membership is more than 50 per cent. can represent labour in the conciliation proceedings. These are, therefore, the two categories of unions which alone have the right to represent labour. Now, Sir, my honourable friend the Minister chooses to call them "representative unions"—both of them. I disagree with his terminology. I think a spade ought to be called a spade. Calling a spade a spade, what I submit is this : there are, no doubt, two kinds of representative unions under this Bill, but the important point to note is that one is a slave union and the other a free union. Sir, there is no exaggeration and there is no violence done to language if I say that a union which can have *locus standi,* a legal existence, a right to represent and a right to speak, only if it secures the prior approval of the employer is a slave union and not a union of freemen. I wish he had used the word "approval"; the word "recognised" is very inappropriate ; the proper definition should have been "a union approved by the employer", as we would then have seen in plain term what we are asked to give our sanction to.

Now, Sir, what I do not understand—and my honourable friend will explain it to me—is why he has made registration under this Bill a condition precedent for a union to obtain a representative character. I find great difficulty in understanding these provisions in the Bill. Sir, the provision as it stands today is this. There is a Trade Unions Act passed by the Government of India in 1926. It is called the Trade Unions Act. The Bill does not repeal that Act ; in fact, that Act remains, and further this Bill insists that any union before it can be registered under the provisions of this Bill must be registered under that Act. That is clear from the definition of a union given in this Bill. I will presently tell the House why this has been done. I find that there is some design behind it. The position is, therefore, this : a union has to have two-fold registration, registration under the Act of 1926 and registration, under the new Act. It seems to me that it would be better if I adverted to the advantages which registration under the Act of 1926 gives to a union which is registered under it, so that we may know what is it that this Bill gives in addition or whether there is anything which this Bill takes away. Applying my mind to the effect of registration of a union under the Act of 1926, these are the results that follow. The union becomes a corporation with a right to sue and to be sued. As a corporation it has certainly a right to represent its members ; otherwise, a corporate entity has no meaning. Secondly, as the House will realise, under the Government of India Act, 1935, a union registered under the Act of 1926 gets the right of political representation, that is to say, a union registered under the Act of 1926 can elect members to this House, and there are honourable members in this House who will bear testimony to that fact. Similarly, members of unions which are registered under the Act of 1926 have the right also to send representatives to the Bombay Municipal Corporation. Now, Sir, the question that arises is this.

If registration under the Act of 1926 gives the unions the right to represent, where is the necessity of requiring further registration under this Bill ? If a union registered under the Act of 1926 is competent to send members as representatives of the whole labour body to speak in this House, to vote in this House, where is the necessity of requiring registration under this Bill ? I should like to have an answer to that question later on. What the Bill does is a very queer thing, which again I am not able to understand. A union registered under the Act of 1926 will not have, under the House to realise the anomaly of the position. A union registered under the Act of 1926, while it is competent enough to represent workers in the Legislature, is not competent under this Bill to represent labour before the Conciliator. Why is this anomaly ? The Bill does not merely create an anomaly. I say it takes away a privilege from the unions which are registered under the Act of 1926.

In this connection, I should like to draw the attention of the House to what used to take place under the provisions of the Bombay Act of 1934. When conciliation proceedings started, members who know the provisions of that Act will remember, under section 9 the labourers were represented by delegates. That was the provision in that Act. This is the wording of section 9 :

> "On receipt of notice under section 8, the parties to a trade dispute shall within the time specified in the notice or within such time as may be fixed by the Conciliator in this behalf, appoint delegates in such manner as the Conciliator may direct."

Therefore, labour, in conciliation proceedings under the Act of 1934, was represented by delegates. How were these delegates chosen ? Who were the parties who were entitled to choose those delegates to represent labour before the Conciliator, under the Act of 1934 ? Sir, I have gone to the rules made under this Act, and a reference to the rules will show that the parties who were entitled to elect delegates were the registered trade unions, the unions registered under the Trade Disputes Act of 1926. That is provided by rule 3 of the rules made under the Bombay Act of 1934. It is, therefore, clearly established that up to this moment a union which was registered under the 1926 Act of the Central Legislature, by reason of the fact that it was a corporation, had the right to represent workers in all places and at all junctions. Constitutionally, by the Government of India Act of 1935, they have been given the right to represent labour in the Legislatures, and the Bombay Act of 1934 specifically recognised that the trade unions registered under that Act, namely, the Bombay Act of 1934, were the only bodies entitled to send delegates before a conciliator. Sir, my first complaint is that this Bill takes away a valuable right which the unions had and gives it to whom ? It gives it to slave unions, as I am going presently to show. If it was given to free unions, I would not mind at all. Then, Sir, why is it—this is an important point to understand—why is it that the unions registered under this Bill are also required to be registered under the Central

Act of 1926 ? Sir, it is nothing else but a piece of carpet—bagging, as the Americans say. My honourable friend wants that the unions which will be formed under this Bill should not only get the right to represent before a conciliator but should also walk away with the political representation which the unions registered under the Act of 1926 now possess. It is a snatching policy.

And all this endowment of political and economic power, for whose benefit is it ? I repeat again that it is for the benefit of the slave unions. Of course, if my honourable friend thinks that there is nothing wrong in having unionism based upon the principle of approval of the master, I have no quarrel. It is his philosophy of life ; it is not mine. If he thinks that a man who is enslaved is a free man, it is his view ; if he thinks that in order that we may have peace in industry the worker ought to be chained to his master, as he will be, it is for him ; I have no quarrel. But, for myself, I am not prepared to accept that position. We do not want mere peace, and I repudiate the peace, the kind of peace that we are asked to have. (Mr. S. V. Parulekar : Hear, hear !) Certainly, it is the peace of a man who has a contended belly and whose stomach, touches his buttons. I do not want that kind of peace.

The question that I am interested in is this. I am prepared to take a charitable view of the matter, and I want to know whether this charitable view will fructify and produce anything. It may be, as my honourable friend says, that there is no unionism in India ; it may be that there are people who are spoiling the growth of unions. I am surprised that he should still entertain the fear of members of the communist party, who were a thorn in the side of the Congress before, but who have now walked in—they avow peace, they avow truth, they avow non-violence, and they have even paid four annas, as I understand,—why, I ask, should he have any fear now of anybody spoiling the game of peaceful development of labour ? Supposing it to be so, let us see how all this will end. If my honourable friend can satisfy me that there will come a time when what I call the slave unions will ripen into free unions, I probably might reconsider my attitude again. But I have not the slightest hesitation in saying that there will never be free unions at all ; and that is because the conditions that he has imposed upon free unions are so impossible that they could never be fulfilled. What is the condition for a free union ? The condition is that you must at all times show that on your roll you have got 50.1 per cent. membership ; that is the condition. Twenty per cent., not enough ; 25 per cent., not enough ; you must always show the mathematical proportion of 50.1 per cent. if you want to be free. Sir, the question I should like to ask is this : Is this a reasonable condition ? The laws of the Romans, if I may use the analogy, began with enslavement. There was a provision for manumission, as we technically say. The slave ultimately became emancipated and became a free man, a civis. Applying the same analogy, I say that we begin with slavery, because the approval and the recognition are nothing

less than slavery. But is there any provision for manumission ? And if there is such a provision, is it a reasonable and a possible condition which workers can be expected to satisfy ? The condition is that you must show 50.1 per cent. membership of the total number of workers then and then alone you can escape the chains and the throes and the punishment of your master. Is that a possible condition ?

Now, Sir, we, who have been what my honourable friend probably likes to call misguided fellows, have been asked to turn our attention to the ideal situation that exists in Ahmedabad. We are asked to take a leaf out of that Ahmedabad book and to follow that ideal. I am prepared to do that. As I study the example it becomes necessary to ask this question : is there any possibility, under this Bill, of even the Ahmedabad Majoor Mahajan becoming a free union ? I cannot see any hope of that union becoming a union of free workers. Ahmedabad is certainly a most ideal place ; as the Royal Commission has pointed out, there does not exist anywhere in India such an ideal institution. There, there are employers who belong to the same religion as the employees, barring a few Mahomedans, who are weavers, and who are outside the union ; the workers speak the same language as their masters. Cultural unity there exists in abundance. Therefore, whatever fissiparous tendencies, whatever recalcitrant tendencies, that one might expect in other situations do not exist there. On top of that, there is the great personality of the Mahatma, to whom every recalcitrant may refer and bow, and fall in line no matter what his personal grievances may be. The Ahmedabad Majoor Mahajan has grown under such auspices. It has had a life of more than two decades ; I am told it has been in existence for eighteen years. What is the state of that union ? I have got figures here in this book, called the Labour Gazette for May 1938, and on Analysis I find this to be the situation at Ahmedabad. I am taking only the textile industry. The total number employed in the Ahmedabad textile industry is 90,000. What is the total number of workers who are included in the union ? The Majoor Mahajan, as everybody knows, is a federation of five different unions ; and the total number is 22,000. That is on the first of May 3938. Sir, that works out—I am a poor mathematician, I will stand corrected if somebody rectifies my figures—that works out, according to me, at 21 per cent. of the total ; that is to say, the union membership is 21 per cent. of the total number of workers in the textile industry. Applying that test, as I said, even to Ahmedabad, can anybody say that the Ahmedabad Majoor Mahajan, if it were to apply for registration today, could do without the approval of the employers ? No.

(The House re-assembled after recess at 2-30 p.m.)

Dr. B. R. Ambedkar : Mr. Speaker, Sir, before recess I was trying to emphasise that under the conditions prescribed in this Bill there is no possibility of any free union growing up in this country and I illustrated what I wanted to say by reference to the position of the Ahmedabad mill workers' union, and I showed that even under the most propitious conditions

that exist in Ahmedabad, it would not be possible for the Majoor Mahajan there to be a free union, entitled to recognition under the Act without securing the approval of the employer. Sir, this is really such an impossible condition that it would be impossible to realize it even in such an industrially organised country as England. Unfortunately, in all the books to which I had access, we get a set of figures showing the total membership of different unions in the country, but we do not get anywhere, along with it, figures showing the total number of persons employed in the different industries in the country : and, consequently, it is not quite easy to find out what is the total percentage of the workers in England who can be said to be members of the unions in the country. But I have here a small book by Mr. Walter Citrine published in the year 1926. Every one who is familiar with the trade union movement in England, will know that he occupies a very important position in the trade union movement and his book, therefore, may be taken to be an authoritative statement on the issue with which we are concerned. He has shown that at the end of the year 1924—the figures are unfortunately not very recent—the position in England was this that the total number of persons employed in the different industries was 18 millions, while the total number of persons who were members of the unions, both males and females, was only 3,531,000. That means that it certainly was not more than about 30 per cent. Now, if that is the state of affairs in a country like England where labour is so well organised, where the industry is so widespread, what can we expect in a country like India ? I therefore submit. Sir, that this condition, which the Bill imposes, is an impossible condition and no kind of an organisation of labour, which I am able to visualise even for 10 or 20 years, will be able to muster itself so strong as to show at all times on its record a membership which would be as much as 51 per cent. Consequently, the conclusion is irresistible that the only kind of labour union that will be representing labour in the conciliation proceedings in the strike will be none other than the slave union recognised by the masters.

Now, Sir, there are two other questions, to which I wish to draw the attention of the House, and they are also very important questions. The first question is this. What is to be the effect of the Bill on the growth of the trade union movement in India ? From that point of view, I submit that the most important section in the Bill is clause 8, sub-clause (*a*). Now, that clause lays down a principle, which, as I will try and show, is of the roost unusual character. The clause says "the Registrar shall not register more than one union in any local area in respect of any industry or occupation, as the case may be". In other words, what the Bill provides is this. It says to the workers that if they want to organise into a trade union they can have only one union in one industry or occupation, as the case may be. In other words, what the Bill provides is this. It says to the workers that if they want to organise into a trade union they can have only one union in one industry or in one occupation in a certain defined local

area. Now, Sir, my contention is that is a provision in the Bill which, I am sure, will prevent unions growing up in this country. First of all, what I would like from the Honourable the Mover of the Bill to know is this. Is this principle applied anywhere in any other part of the world ? Now, Sir, I have studied the conditions of tirade union organisation in so far as Great Britain is concerned, and I am prepared to cite an authority of a person who is eminently versed in this field to prove that certainly in Great Britain the law makes no such provision at all. In fact, the English law has left it to the workers to organise on any lines that they choose to adopt. There is no rule as such that the union must be confined to one industry, that the union must be confined to one occupation. There is no rule that the union must cover a particular area. On this point I would like to draw the attention of the House to a passage in a recent book called "The Employment Exchange Service of Great Britain" by Chegwidden and Myrddin Evans, and this is their conclusion. I am reading from page 30 :

> "All the workers in a particular industry are not necessarily organised in the same union but may belong to several different unions : in some cases organisation is on a district basis, in others on an occupational basis, and a section of workers in a particular industry may even belong to the union which normally caters for workers in another industry or to a general labour union. In a number of cases sectional unions are federated either in a federation or union covering the whole or the greater part of the particular industry concerned, or in a federation or union covering members of the same or similar occupations in different industries, or any federations of general labour unions."

This shows that in England there can be general labour unions. That is to say, workers working in different industries may join together and form a union. That is what is meant by general labour union. One labourer may have no connection with another so far as the industry or so far as the occupation is concerned. There may be a general union. This author also says that in England persons belonging to different industries may form one union. A man may be, for instance, a minor. He may become a member of some other union which has nothing to do with mines. Therefore, in England, the law has left entirely to the workers to decide in what manner, under what circumstances, they will organise. All that the law has taken care of is to see that the union does not become an unlawful body. All that the law has taken care to see is that the union before it is registered has certain objects which the law regards as lawful. Beyond examining the objects of the union, the English law certainly does not see whether the union is organised in a particular way or is not organised in a particular way and I do not understand why this principle should not be imported in this country. I have not seen the justification and I do not know what is the reason for the principle that is being introduced now in this Bill.

Sir, is it possible to have a union of all labourers in one industry or in

one occupation ? Now I am sure that it is not possible and for this reason. As everyone knows, a trade union may have three different purposes or three different objects. A trade union may have purely what are called trade union purposes, that is to say, purposes connected with the promotion of their particular interests as workers, wages, hours of work, promotions in industry and so on. Those are called purely trade union objects. In addition to that a trade union may have what are called social objects conferring certain benefits, giving old age pension, giving unemployment benefit to these members, providing pensions for their widows. These are recognised in England as social purposes. In addition to that a trade union may have a political purpose. A purpose, the object of which is to promote a particular line of politics, which the union thinks is best suited for the protection of its economic and its social position. Now, Sir, the question that I want to ask is this. Is it possible for all persons who are employed in a particular industry to be agreed upon all these three purposes ? I cannot see that in all cases it would be possible to give an affirmative answer and I propose to discuss the matter in some detail in order to show why we cannot have an affirmative answer. Let me take a case like this. There is a body of people working, say for instance, in the textile industry in Bombay and I shall be very particular in this matter because I want to emphasise my point. There are certain Mahomedan members, workers in a mill industry. They are anxious to become members of a trade union. But the other persons who are non-Muslims desire that the workers of the union should follow the Congress line of politics. There are Muslim members who are prepared to join the union but who prefer to follow the politics of the Muslim League. How are they, the two bodies of people, to unite together unless one of the two parties is prepared to drop its political programme ? Take another illustration. There are certain workers belonging to the untouchable community. They are prepared to be members of a certain union, but they also insist that the union ought to promote certain social objects and social purposes for the benefit of the community from which they are drawn. They desire that certain ether facilities may be provided and the workers from other classes do not agree with them. How is a union to be formed ? I do not understand. I do not understand why, therefore, you should impose a condition which makes things so impossible of achievement I should have thought that the proposal which is included in this Bill is as wise or as prudent as it would be if a Health Officer were to lay down that you shall build a house of a particular kind, you shall have a door only facing the south, no door facing the north, you shall have only a particular kind of window, a house not higher than a particular height, a house which has only a particular kind of elevation. Either you build a house which conforms to these rules or you live on the street. That is the kind of alternative that this Bill presents to the workers. What would be the evil if the matter of the organisation of labour is left to the will of the worker ? Why are you concerned with it ?

I do not understand. Why is it and what is it that you will get by bringing all persons working in one industry in one particular union ? I fail to understand. On the other hand, my view is, as I submitted, that if you make these impossible conditions, people will not care to form unions at all. The Mahomedans who prefer, and I think we must all agree to allow them the liberty to choose their politics, if they prefer that there will be no use in having a trade union if their trade union is not able to follow the policy laid down by the Muslim League, they may not have any union at all. In the same way if the untouchables feel that if they are not allowed to make some provision for the education of their children and other amenities pertaining to their classes, they would rather not have it, what is the situation that you are creating thereby ? The situation that you are creating is you are compelling people not to have any union at all and I submit therefore, that this is a provision which is fraught with great mischief.

Then, Sir, the second point that arises out of the provisions 4 to 20 is this. What is going to be the effect of this Bill on the stability of the trade union movement ? Supposing that some kind of trade union which could ultimately aspire to be free from the control of the master does grow up, is there any guarantee under the provisions contained in this Bill that that union will remain as a functioning union? So far as I have been able to study the provisions of this Bill that a union once registered will continue to enjoy that registration. Clause 10 is the most dangerous clause. That clause will always be hanging like a sword upon a union : Though registered, its life will always be in jeopardy and it can never be certain that while it has a legal existence today, it will not continue to have a legal existence tomorrow, because under the provisions of this clause its registration may be cancelled at any time provided certain circumstances happen, and once a registration is cancelled, the whole structure which might have been built up with enormous industry, with enormous energy, will simply have been washed away. Now, Sir, there is a further mischief, if I may say so, which is contained in this Bill. It is this that the cancellation of the registration of a union is left to a rival union or to an employer, which means that there will be mutual rivalry, mutual jealousy and a cut-throat competition, if I may say so, between the different trade union men in order to destroy a rival union. A trade union therefore which is once registered under this Bill, in order that it may enjoy a perpetual existence, shall have to show at all times that it had 51 per cent. membership of the total number of workers. Sir, I again ask the question : Is it possible for any union to show that it will have 51 per cent. membership of the total number of workers employed ? It will be interesting. I believe, if I show to the House how trade union membership fluctuates from year to year and I give these figures which I have taken from the figures of Great Britain. In the year 1892 the total membership of trade unions was 1,576,000. In 1910 it was 2,565,000. In 1920 it was 8,346,000 but in 1934 it fell to 4,441,000. There was a drop in ten years of 50 per cent. of the membership of trade unions.

Take the figures of the particular industry. In agriculture in the year 1920 the total membership was 210,000. In 1932 it was only 33,000. It fell from 210,000 to 33,000. In the coal-mining industry in 1920 the membership was 1,115,000. In 1932 it fell to 554,000. In the metal industry the figures in 1920 were 1,172,000. In 1932 the membership was 527,000. In the building trade the number of members in 1920 was 563,000. In 1932 it fell to 275,000. In the transport and general labour the total membership was 1,685,000 in 1920 while in 1932 it fell to 660,000. Taking the membership of the trade union congress in 1920, the total membership was 6,505,000 while in 1932 it was only 3,613,000 members. Sir, if in a country like England, where trade unionism may be said to be like the breath of the nostrils to a workman, the trade union membership fluctuates by 50 per cent. within a decade, I cannot understand how any man can expect any body of organisers of trade unions in this country of ours to maintain on its rolls at all times a membership of 51 per cent. If the membership falls by 1 per cent., the union stands to have its registration cancelled. The whole show will have to be wound up. I ask is this a reasonable condition, is this a condition which could ensure the growth of the trade union movement ? If every trade union which is registered stands to have its registration cancelled and stands in fear of it from day to day, what prospect is there of trade unionism growing in this country ?

Then, Sir, another regrettable feature which is a matter of serious consideration. Under this Bill, a person who is given the right to have the registration of a union cancelled may not apply for the registration of his own union. I can quite understand the reasonableness of the proposal if the right to have the registration cancelled was given to members of a union who were in a position to get themselves registered by reason of the fact that they had a larger membership. I could quite understand that position, but a reference to clause 10 of the Bill will show that a person need not be in a position to have his own union registered, that is to say he may not have at his command 51 per cent. membership of the members employed in the industry. All that is necessary for this mischief-monger is to prove that having regard to the roll of the employer and having regard to the roll of the union the percentage has fallen below 50 per cent. As I said, under industrial conditions where work fluctuates, labour fluctuates, it is impossible to fulfil this condition.

Then, Sir, there is another provision to which I think it is necessary to draw the attention of the House. What is to happen to a union whose registration has been cancelled ? Can it again apply for registration ? The answer is No. Clause 54 of the Bill gives power to the Industrial Court to declare under certain circumstances that the union had forfeited its registration. It says :

> "If in any proceeding under this Act, the Industrial Court finds that the registration of any union or the declaration of any union as a qualified union or as a representative union was obtained under a mistake,

misrepresentation or fraud, or that such union has contravened any of the provisions of this Act, the Industrial Court may direct that the registration of such union or the declaration of such union as a qualified union or as a representative union shall be cancelled."

Now, turn to clause 8, which contains a direction to the Registrar as to what rules he has to observe in the matter of registration the House will see that what I am stating is absolutely correct. Clause 8 reads thus :

"On receipt of an application from a union for registration under section 7 and on payment of the fee prescribed, the Registrar shall hold such enquiry as he thinks fit and if he is satisfied that such union fulfils the conditions necessary for registration specified in section 7 and is not disqualified from registration under the Act."

That is also one of the conditions prescribed by clause 8, that a union must not have been disqualified under clause 54. Now the question that I would like to ask is this. Why is it that there should be this perpetual disqualification ? I can quite agree that there may be a disqualification for a temporary period. It may be possible to argue that persons who have obtained a registration by reason of fraud, by reason of misrepresentation, should be on probation for some time. I can quite understand the reasonableness of a proposal of that sort But I do not understand the reasonableness of a provision which says that because a man was guilty of fraud or misrepresentation, he should be perpetually debarred from even coming before the Registrar and obtaining the registration of his union. Sir, let me refer in this connection to the provisions which we have in the Government of India Act 1935. We, the members of the House, have to face certain disqualifications which are enacted in the Government of India Act. We know that persons cannot stand for election because they suffer from disqualification, that certain persons even though they are elected cannot become members of the Legislature because they are disqualified. I was one of those who were about to be disqualified, but the Government, it is said, came to my rescue and managed to save my seat for me ; otherwise, I would have been disqualified. But the point that I am seeking to make is this, that the disqualifications contained in the Government of India Act are certainly not perpetual. Those disqualifications are temporary. Once the disqualification passes off by efflux of time the member becomes qualified to seek election and become a member of this House. If this is the principle that is embodied in the Government of India Act, if the disqualification of members who are supposed to be free from all moral taint, to have no kind of moral turpitude in them so that they may exercise their rights, their privileges and duties in an honest manner in this House, are not permanent, I ask why the disqualification of persons who are organising labour should be permanent I see no answer to it As a matter of fact, I would say that this provision really nullifies the decision of the Full Bench of the Calcutta High Court. I am sorry, as I came in a hurry, I am not in a position to lay my hands exactly on the report. But there is a case. It may be within

the knowledge of many members, at any rate of those who are dabbling in labour politics, that in Calcutta when the Emergency Powers Act was brought into operation a certain union was declared to be illegal by the Registrar because it was managed by communists. That was perfectly legal so far as the Emergency Powers Act was concerned, but those gentlemen, the communists, who were in charge of the union were not going to be defeated in that way. They devised another plan and that plan was to present another application for registration under a new name. The Registrar who smelt a rat in it, because he found that the man whose registration was cancelled was the same man who brought this application, said, "I must wait and make an enquiry." So, he made an enquiry into the personnel and composition of the management of this new union which had brought forth the application for registration and found that the gentlemen whose union was cancelled by him were the same gentlemen who had brought this application for registration. He said, "You are the same gentlemen. I will not grant you registration." They went to the Calcutta High Court, and the Calcutta High Court held that it was none of the business of the Registrar to enquire into the personnel of the management. What all the Registrar was entitled to do was to examine the object for which the union was formed and to examine whether seven persons have signed the application, but beyond that he had no concern. That was the position under the old law, that is to say, that persons who were once disqualified could go and obtain registration without there being any hitch by the law placed in their way. This Bill puts a perpetual hindrance in the way of people who want to organise labour, simply because they happen to have committed some kind of misrepresentation or fraud. This is all that I really wanted to say on the provisions of this Bill.

Of course, it may be pointed out that this Bill introduces equality of treatment between the labourers and the employers, because, just as this Bill penalises the strike of workmen, it also penalises the lockout by employers. I do not think that this position can be substantiated, because I do certainly find one or two cases where there is a differentiation made between the employer and the employee. For instance, I refer to the question of notice under clause 28. The employer is required to give notice for any change (1) in standing orders, (2) in regard to industrial matters mentioned in Schedule II. When you come to the employee, the employee is required to give notice of any change in the standing orders and in any industrial matters, not necessarily confined to Schedule II. That is certainly not an equality of position. With regard to the appearance, the employer is certainly not penalised if he does not appear. But the worker can be compulsorily represented if the union does not appear. If there is nobody there is the labour officer, who can represent labour and the agreement made after conciliation may bind labour also, although labour has repudiated the conciliation and was not prepared to have its interests represented by that officer. These are trifling things. Apart from this, what I am trying to urge

is this. Sir, what we want is not equality, what we want is equity. What I want to urge before this House is this. Equality is not necessarily equity. (Interruption). I am going to prove it. In order that it may produce equity in society, in order that it may produce justice in society, different people have to be treated unequally. Why go far ? Take the case of income-tax. I am a student of finance and so this illustration comes to my mind readily. Why do we have progressive income-tax ? Why don't we tax all people alike ? The reason why we tax the rich at a higher rate and the poor at a lower rate is because the taxable capacity of the two is different. In a case like that equality would produce the greatest inequity. Take an ordinary case. Suppose, in a household, there are several persons of whom one is sick. In order that the sick person may get out of sickness and in order that he may become better, we give chicken soup to him, but we do not give chicken soup to the others. No one would blame the mother of the household if she gave chicken soup to the sick member and denied it to the other adult members who are enjoying robust health. What we want is equity. This equity cannot be produced, if we propose to treat the strong and the weak, the rich and the poor, the ignorant and the intelligent on the same footing. If my honourable friend wishes to treat the two classes equitably, then this Bill will not suffice. He will have to introduce some other provisions into the Bill and I would like to ask whether he is prepared to introduce such provisions in the Bill.

What is happening today in this industry of ours ? I am sorry I have to make a plain breast of what I feel on this occasion. We have mills in Bombay City managed by Parsis. There are mills there managed by Gujaratis. There are mills in Bombay which are managed by Jews or by Europeans. I visited all these mills in my younger days when some members of my family were working there. I used to carry their bread to the mills where they were working. Recently also I visited some of the mills though not often times. The most surprising thing about all these mills is that they have been made the heaven for the cousins of the Managers. Hundreds of useless people are employed in higher grades simply because they are related to the managing agents in some way. You go to a Parsi mill, you will see hundreds of Parsis employed whether they are wanted or not. Go to a mill managed by Gujaratis. You will see hundreds of Gujaratis employed whether they are wanted or not. Go to a mill managed by Jews. You will see hundreds of Jews employed, whether they are wanted or not. The best part of the earning of the workers are taken away by the managers in order to feed these people who are employed in the mills, whether they are efficient or not, or whether they are wanted or not. All these people who are controlling the industry float the capital and bloat it up by all sorts of paper transactions. When the worker says that he gets less wages, the man controlling the industry says. "It is my capital". All this is bogus capital, stock exchange capital, bolstered up by speculators. A good part of the earning of the industry is swallowed by these people. From the little

balance that is left, the workers are asked to eke out their existence. If the Honourable the Prime Minister wants to introduce equity, let him make the workers' wages the first charge on the profits of industry. I do not understand why the mill owners or, for the matter of that, any owner of any industry, should not be required by law to present his budget annually. Government is required to present its budget every year ; annually we get a budget of Government in which Government say how many Ministers are employed, how many chaprasis are allowed to the Ministers, how many superintendents are there in departments, how many clerks, this, that and the other. This House is in a position to understand whether the establishment is excessive or not This House gets to know whether the money is spent properly or not. Why is it that a millowner or, for the matter of that, the owner of an industry, who gets his earning, not entirely by his capital but also by the sweat of another man, be not compelled to give the details of his management ? This is a very fair demand to make. The advantage would be this. Once a budget of that kind is presented by the owner of an industry, the workers would be in a position to realise and scrutinise whether the balance that is left to be divisible among the labourers is fair or whether the employer has taken an undue portion of the total profit. What is the use of having a conciliation board and asking the employers to produce their account books when the employee is not placed in a position to scrutinise what is really the state of affairs ? If the procedure I suggest is adopted, I am sure about it that there will be less labour troubles, the conciliation would be more effective and there will be more industrial peace. If the Honourable the Prime Minister wants to treat labour and capital on a footing of equality in the sense in which I have suggested, namely, that there should be equity, then there is no basis for equity in the provisions of this Bill. Secondly, there is no basis for equality between capital and labour because the Government in any dispute is always on the side of employers. This is clear from the use of the police Government makes in strikes. The police force is maintained out of public fund, out of the taxes we all bear. It is intended for the benefit of all. Surely, no Government is entitled to use this police force merely because a strike by the workers results in a breach of peace. What is further necessary is to show that the breach of peace, has been caused by one particular section of the industry. If the breach of peace is caused by some unreasonable demand made by labour, you may be justified in using police force against them. If on the other hand the breach of peace is broken by something which has been done by the employer which does not stand to reason, and which is contrary to justice and equity, then Government have no right to use the police force against the workers. Real equality between employers and employees can be brought about only by incorporating these two provisions. The employer must be compelled to disclose his budget and the Government must cease to use the police force against the workers merely because there is breach of peace. Without this there can be no equality between capital and labour

as to bargaining power. Will you do it ? If you do this, you will lose case with the employers. If you don't, you cannot be the friend of labour. The Bill as it is, I am sure about it, should not be passed. It only handicaps labour. Labour may not now know what this Bill does. But when the Bill comes into operation and the labourer stands face to face with the Bill he will say that this Bill is bad, bloody and a brutal Bill. Sir I cannot be a party to it. (Applause).

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*ON DISTURBANCES ENQUIRY COMMITTEE'S REPORT

Dr. B. R. Ambedkar (Bombay City) : I will try to finish within five minutes because I have not much to say. Mr. Speaker, Sir, if I rise to speak on this cut motion it is not because I think I am called upon to meet what the Committee has been pleased to say about myself. There is neither the time nor, in my judgment, any necessity for me to advance any pleading in respect of the position that I took with regard to this strike and I will, therefore, leave that matter aside. If I rise to speak, it is because I think that the speeches which have been delivered by the two honourable members of this House who preceded me gave me the impression that they would result in side-tracking the attention from the principal issues with which we are concerned as a result of this report. In my judgment, there are three questions that we have to consider—certainly two. It is to ask these three questions to the Home Minister that I have risen to speak. I accept for what it is worth the finding of this Committee that there were disturbances, for the sake of argument.

Mr. Jamnadas M. Mehta : They were not findings but they were found for the Committee.

Dr. B. R. Ambedkar : Whatever it may be, what the Committee has reported is this and it is reported in very definite terms. Paragraph 84 says :—

> "The attitude and actions of the crowd were solely responsible for the firing. We are of opinion that the ultimate responsibility for the disturbance at the Elphinstone Mill, which resulted in firing and consequent casualties, must rest on the members of the Council of Action, who, by their intensive propaganda, invited the illiterate workers to resort to violence to make the strike a success.".

As I said, I am not going to examine the correctness of this finding. I think if one wanted to examine the correctness of the finding, one could say a great deal, because speaking for myself I certainly find that the evidence on which this finding has been based and the number of the speeches alleged to have been delivered by the persons who were members

*B.L.A. Debates, Vol. 5, pp. 1724-27, dated 17th March 1939.

of the Council of Action and they have all been given in the body of this report practically from page 10 onwards, do not in my judgment support this finding. As I stated, I am taking this as a finding of fact for the sake of argument and the question that I am going to ask to the Honourable the Home Minister is this : Does he believe that this report is true ? If he says that this report is true, is he prepared to prosecute the members of the Council of Action for having aided and abetted this violence ? Speaking for myself, inasmuch as I was connected with this Council of Action, I am prepared to take my trial. Let any man who has the courage, who has the confidence, who believes in this evidence, come forward and prosecute me. I am prepared to take my trial and suffer what punishment the law might inflict upon me. That is my first question. The second question that I am going to ask the Honourable the Home Minister is this, and that is again based upon a finding of the Enquiry Committee which, as I said, I am going to accept for the sake of argument. I thought that the principal question with which this Committee was concerned was the question of justification of the firing. The Committee has stated that the firing was justified, that there were reasons for the firing. The Committee, I believe, has also reported that without firing the violence could not have been curbed, in other words, that the firing was just sufficient for the purpose. As I said, I am taking that finding as true for the purpose of my argument. I am also asking therefore another question to the Honourable the Home Minister. Is he prepared to prosecute the police officers who indulged in this firing in an ordinary court of law and get the finding given by this Committee sustained by a Judge and a Jury? Sir, I like to point out to this House that so far as the law is concerned, there is no difference between an ordinary citizen and a police officer or a military officer, and I would like to read for the benefit of the House a short paragraph from a very classical document which I am sure my honourable friend the Home Minister knows, namely, the Report of the Featherstone Riots Commmitee. In one passage it says :—

> "Officers and soldiers are under no special privileges and subject to no special responsibility as regards the principle of the law. A soldier for the purpose of establishing civil order is only a citizen armed in a particular manner. He cannot, because he is a soldier, excuse himself if, without necessity, he takes human life. The duty of magistrates and police officers to summon or abstain from summoning the assistance of the military depends in like manner in this case. A soldier can only act by using his arms. The weapons he carries are deadly. They cannot be employed at all without danger to fife and limb, and in these days of improved rites and perfected ammunition without some risk and endangering distant and possibly innocent bystanders. To call for assistance against rioters from those who can only interpose under such grave conditions

ought, of course, to be the last expedient of the civil authority."

And so far as the law of this country is concerned, this is the law. To put it very briefly, to put it in the language of that great writer on constitutional law Professor Dicey, the law is this that if a police officer or if a military officer does not obey the command of his officer when he is told to fire, he may be hanged by a court martial and if he obeys it and kills an innocent man, he will be hanged by a judge and a jury. His case must stand by the necessity of the circumstances. His case must stand on whether he has used excess of force. What I want to argue is this. Here is a committee which has justified the conduct of the police. The only thing that I am asking my honourable friend is this : If he believes in this document which has been written by three able and honourable men, if he has confidence in it, why does he not sanction prosecution against those people if that is true ? If there is a jury which can accept that there was a necessity and if there is a jury which can accept that there was no excess, well and good. Let us have a verdict of a judge and jury, and I put it this way that if he does not do this, if he does not prosecute the members of the Council of Action, if he does not prosecute the police officers, then this report has no greater value than a fiction or a novel written by the Three Tailors of Tooley Street. (Laughter).

And, Sir, there is the third question I want to ask, namely, and this is for information. Sir, I am informed and very reliably informed and I put this information to the Honourable the Home Minister that the Manager of the Spring Mill in the vicinity of which the firing took place at 6-30 or so on that day sent a sum of Rs. 200 to be distributed as reward among the police officers who took part in this firing. I do not know whether the Honourable the Home Minister is aware of this fact, but I know this is a fact and if he calls for information from his department, I am sure he will know that this is a fact. Now, Sir, if this is a fact that Rs. 200 were sent by the Manager of the Spring Mill to the Government with a specific direction that the amount was to be distributed as rewards among the police officers who took part in the riot or in the firing on that particular day, that took place in the vicinity of the mill, Sir, I like to ask whether it is not jusifiable to say that the firing was resorted to not because there was violence but because the Mill Manager told the police officers to do their job thoroughly. This is a very scandalous state of affairs, and I want the Honourable the Home Minister to take this fact very seriously, because if this is a fact, this police force is a police force maintained by the State not to do justice between classes but it is a police force to side with hirelings and side with assassins to be used by the capitalist class for the purpose of putting down the agitation of workers.

Sir, this affair fills me with horror, and it reminds me of what was

told by a very able civilian in the course of his evidence before the Joint Parliamentary Committee. I refer to the evidence of the late Sir, Edward Thompson, who was for some time Governor of the Punjab and for some time a member of the Viceroy's Executive Council. On his retirement he started an organisation in England in order to support the cause of Indian home rule. As everybody in this House knows, at the time when the Round Table Conference met, the civilians who had gone back—from here were divided into two groups—one group opposed to Indian home rule, and the other supporting Indian home rule. Sir Edward Thompson was one of those who led the group in support of the Indian claim. As a member of that group, he came before the Joint Parliamentary Committee to give evidence and to support his point of view, namely, as to why India should be given home rule. We were all very pleased that at any rate a section of the Indian civilians should come forward honestly and wholeheartedly to support the Indian cause. But I frankly say that I was horrified by the argument that he advanced. What was the argument that he advanced ? The argument that he advanced was this. He said, "I am an Irishman. I live in Southern Ireland. I have witnessed the rebellion that took place in Southern Ireland during 1916 and onwards". The one thing that convinced him, he said, in favour of Irish home rule was this : So long as the rebellion was going on, no Englishman could shoot an Irishman, however violent his action was, because if an Englishman shot an Irishman, the whole Irish country went up in arms. He said that as soon as home rule was granted, it was possible for Cosgrave to shoot Irishmen, and nobody rose in rebellion against it. He said that one advantage that the Englishman would have from home rule to India would be that the Indian Ministers would be able to shoot Indians without any qualms. This is exactly what is happening. This is not the only occasion when disturbances have taken place.

The Honourable the Speaker : I would remind the honourable member of the time-limit.

Dr. B. R. Ambedkar : I am much obliged to you, Sir ; I will finish in a minute.

As I said, this is not the only occasion when disturbances have taken place. If my honourable friend will search the official files, he will find that there have been plenty of occasions prior to this when the disturbances were far greater. Take a single illustration—the occasion when the Prince of Wales visited this country. What was the magnitude of the disturbances that took place then ? Take the riots that took place in 1928-29 ; what was the magnitude of the disturbances that took place then ? Disturbances are no doubt very unfortunate, but they could never be otherwise. The only question is this : Whether, in maintaining peace and order, we shall not have regard for freedom and for liberty. And if home rule means nothing

else—as I am thinking, it can mean nothing else—than that our own Minister can shoot our own people, and the rest of us merely laugh at the whole show or rise to support him because he happens to belong to a particular party, then I say home rule has been a curse and not a benefit to all India. (Applause).

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*ON PARTICIPATION IN THE WAR : 1

Dr. B. R. Ambedkar : Sir, I rise on a point of order. My point of order relates to the last part of the resolution which reads as follows : —

> "This Assembly regrets that the situation in India has not been rightly understood by His Majesty's Government when authorising the statement that has been made on their behalf in regard to India."

Sir, I rely on rule 75 of the Bombay Legislative Assembly Rules which deals with the form and contents of resolutions. The rule reads as under : —

> "Subject to the restrictions contained in these Rules, a resolution may be moved on a matter of general public interest :
>
> Provided that no resolution shall be admissible which does not comply with the following conditions, namely :—
>
> (*a*) it shall be clearly and precisely expressed and shall raise one definite issue.....".

My submission is that the last part of the resolution is not only not definite, but is certainly most ambiguous. The part of the resolution which I refer to says that "the situation in India has not been rightly understood by His Majesty's Government". My submission is that the House is entitled to know in what respect the Government of India has not rightly understood the situation in India. In that respect this part of the resolution is ambiguous. One of the fundamental principles which govern all decisions of the House is that the House ought not to leave the interpretation of any part of the decision that it takes to anybody outside it. The House ought definitely to say what it decides, and on that point I rely upon a precedent which has been referred to in the Digest of Rulings of the Presidents, Bombay Legislative Council, at page 148. Ruling No. 24 reads as follows : —

> "A resolution must be definite and not ambiguous. Neither the Council nor the Government ought to be a party to an ambiguous resolution which makes its meaning not quite clear."

I made a reference to Volume IV (1921), page 772 in connection with this ruling, and I find that this ruling arose out of an amendment moved by the honourable member Sir Dhanjishah Cooper to a resolution which referred

*B.L.A. Debates, Vol. 7, pp. 1968-69, dated 25th October 1939.

to the distribution of irrigation water, and his amendment suggested certain remedies to be applied "as far as practicable". A point of order was raised that this was an ambiguous amendment and it was disallowed. My submission is that the case I am referring to, so far as this resolution is concerned, is governed by this ruling and, therefore, should be declared out of order.

The Honourable Mr. B. G. Kher : I submit that the rule to which my honourable friend referred has no application at all here. The rule only says that the resolution should be clearly and precisely expressed. My resolution says that "this Assembly regrets that the situation in India has not been rightly understood by His Majesty's Government when authorising the statement that has been made on their behalf in regard to India." The question, therefore, is and the definite issue is : does the statement which has been made on His Majesty's behalf correctly represent the situation in India ? That is the definite and precise issue, and there is no vagueness in it. I submit further that it is one definite issue as is contemplated by Rule 75(a). Therefore, the objection raised by the honourable member has no application here. I can quite understand the ruling given about "as far as practicable", because that may mean anything. Here we are referring to the statement—that statement is not an unknown matter, that statement is before the House—and—

Dr. B. R. Ambedkar : I might invite the attention of the Honourable the Prime Minister to the fact that the wording is that "the situation in India has not been rightly understood" ; and my submission is that the House is entitled to know in what respect the Government of India has not rightly understood the situation.

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†*Dr. B. R. Ambedkar (Bombay City) :* Sir, I beg to move the following four amendments. My first amendment is this :

The Honourable the Speaker : I am taking it as one amendment.

Dr. B. R. Ambedkar : Sir, I beg to move—

Delete the words—

> "and have further in complete disregard of Indian opinion passed laws and adopted measures curtailing the powers and activities of the Provincial Governments".

The Honourable Mr. K. M. Munshi : Sir, on a point of order, with regard to your last ruling that the four amendments of the honourable member Dr. Ambedkar should be treated as one amendment. It may be possible for the House to accept one part of this amendment and not the others. Then, difficulty will be created if it is taken as one.

The Honourable the Speaker : Even though it is taken as one amendment, when putting it to the vote it may be divided in two parts. If that is the desire of the House, I shall certainly do so.

†B.L.A. Debates, Vol. 7, p. 1972, dated 25th October 1939.

Dr. B. R. Ambedkar : Further—

After the words "entitled to frame her own constitution" add the following :—

"and that the British Government will agree to give effect to such constitution on being satisfied through the representatives appointed by the minor communities, that the constitution so framed safeguards the life and liberty of these communities".

After the words "governance of India" add the following : —

"it being premised that such action shall not be in derogation of the fundamental right of the said communities to have a voice through their accredited representatives in the machinery established for the governance of the country".

Delete the whole portion beginning with "including arrangements" and ending with "in regard to India".

Question proposed.

The Honourable the Speaker : The resolution as it is sought to be amended will read thus :—

"This Assembly regrets that the British Government have made India a participant in the War between Great Britain and Germany without the consent of the people of India. This Assembly recommends to the Government to convey to the Government of India and through them to the British Government that in consonance with the avowed aims of the present war, it is essential in order to secure the co-operation of the Indian people that the principles of democracy be applied to India and her policy be guided by her people ; and that India should be regarded as an independent nation entitled to frame her own constitution and that the British Government will agree to give effect to such constitution on being satisfied through the representatives appointed by the minor communities, that the constitution so framed safe guards the life and liberty of these communities, and further that suitable action should be taken in so far as it is possible in the immediate present to give effect to that principle in regard to present governance of India, it being premised that such action shall not be in derogation of the fundamental right of the said communities to have a voice through their accredited representatives in the machinery established for the governance of the country.".

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†*Dr. B. R. Ambedkar :* Sir, I rise to a point of order. My submission is that this amendment is out of order, and I again rely upon sub-clause (*a*) of rule 75 at page 20. Sub-clause (*a*) says that a resolution shall be clearly and precisely expressed and shall raise one definite issue. I emphasise the words "one definite issue". My submission is that if this amendment becomes a part of the resolution, then the whole resolution will offend against sub-clause (*a*) of rule 75, because in that event the resolution

†B.L.A. Debates, Vol. 7, p. 1976, dated 25th October 1939.

will be covering more than one definite issue. Although the resolution, as it is, deals with, as has been pointed out by speakers before me, four or five different matters, it might be conceded that all these four or five different matters arise out of one issue and that issue is with regard to the war policy and the declaration demanded by this country ; but the question raised by this amendment, which relates to a matter of confidence in the Ministry, I submit, is a definite, distinct and separate issue and cannot be validly held to be a part of the resolution so as to be in conformity with the provisions of sub-clause (*a*) of rule 75. Sir, I will also invite your attention to the ruling given on this point which is reported at the page 148 and which is No. 23. It is as follows :—

> "A resolution must not suffer from the vice of involving two definite issues totally different and distinct from each other."

This is a ruling which is reported from Volume II of 1921, page 1425. In that case, a resolution was moved with regard to the women's franchise, and on a point of order it was contended that although the resolution was one it raised two definite issues. One was the right of women to vote and the other was the right of women to sit in the House, and the President at that time ruled that as the resolution involved two definite issues it was out of order. My submission is that for the same reason this amendment, if adopted, would make the resolution out of order.

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†*Dr. B. R. Ambedkar :* No. The question of resignation of the Ministry is a matter for the party. It is not a matter for the House. It is just a matter for the party whether they should stick to office or should not. It would be quite another matter if the Ministry state that the people of this country should not participate in the war. On that point the House can express its opinion. My submission is that the suggestion made by my honourable friend is not before the House—I do not know whether such an amendment to delete the words "while recording its fullest confidence in the Ministry" is coming or not. I am speaking on the amendment as it is now, and my submission is that in the terms in which the amendment stands now, it offends against sub-clause (*a*) of Rule 75. I will make my submission when the other amendment is before the House.

The Honourable the Speaker : The point of order was that by this amendment more issues than one are sought to be raised in the resolution as it originally stands. Therefore, the honourable member's objection is not restricted to those words only "while recording its fullest confidence in the Ministry".

Dr. B. R. Ambedkar : That is what I stated. It is to the whole of the thing.

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†B.L.A. Debates, Vol. 7, p. 1978, dated 25th October 1939.

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*ON PARTICIPATION IN THE WAR : 2

Dr. B. R. Ambedkar (Bombay City) : Mr. Speaker, Sir, at the outset I must mention that I am somewhat chilled at the decision that you have taken that you will not allow more than 45 minutes for any particular member who happens to be in the position of a leader. You also repeated the same just now ; and having regard to the notes that I have before me, I am afraid that I must begin by asking your indulgence for some extension of time. I might tell you that my request is not of an extraordinary character. There is a precedent. We all know the story in *Mahabharata* about king Yayati. He happened to marry in his old age a young girl by name Devyani. After marriage he found that there was so much discrepancy between the ages of the couple that unless some period was added to his youthful life, the marriage would be of no use at all. Turning round he began to find out whether there was any charitable soul who would consent to deduct a part of his life and add the period to his own. He could find no one. Fortunately, his son Pururava who was a very dutiful son, much younger and who needed all his youth to himself, came forward and offered a part of his life to that of his father. Sir, I would assure, you that those who are sitting behind me—and, if I may say, my relations with them are those of sons and father—have all agreed to have some deduction made from their time in order that that may be added to mine. But I know that unless you bless the bargain and sanction it, the addition cannot be made. It may be that this addition may not be necessary, but should the events turn out that the addition is necessary, I will proceed in the hope that you will sanction it ultimately.

Sir, turning to the resolution which the Honourable the Prime Minister has moved, I cannot help saying that this resolution to my mind, seems to be improper and inopportune. This resolution asks the House to demand a certain declaration, and further proceeds to invite the House to sanction a certain procedure in case those demands are not met. First of all, I want to know who made these demands ? Obviously, the demands which have been made to His Excellency the Viceroy were not made by this House.

*B.L.A. Debates, Vol. 7, pp. 2018-35, dated 26th October 1939.

The Honourable the Prime Minister did not think this House to be a worthwhile place for him to table the demands in the name of the country and to have the backing of this House before they were sent to His Excellency the Viceroy. The demands, as we know now, were presented by what the Honourable the Prime Minister will call his "High Command" and which I say is nothing but a vigilance committee appointed to check the bold actions of the ministers. (Laughter). My submission is, that this was the proper place where the demands ought to have been placed. He did not choose to do so. If they were tabled they were passed at the back of this House by somebody unknown to the constitution and unrecognised by this House, and after having done that, he now quietly comes to the House and says : "Well, the thing has been bungled ; come to our rescue." I submit that this is a most insulting procedure.

The second thing which I have to say about this resolution is, that this resolution asks for a declaration in certain terms. Now, Sir, it seems to me that a certain kind of declaration has been made by His Excellency the Viceroy. That declaration was known to the people of India on the 18th of this month ; some seven clear days have now elapsed after that. Now all that the House, in all propriety, could do is to express its opinion that that declaration is not a satisfactory declaration ; but the resolution does not do that. Although there is a declaration ; the Honourable the Prime Minister has worded his resolution without in any way expressing whether that declaration is acceptable or not, or whether some other declaration ought to be made or not. The whole thing seems to sound trivial. Sir, I do not wish to proceed in that strain, because my honourable friend the Prime Minister has requested the members of the Opposition to treat this resolution as though it was a non-contentious matter. But I would say that it is very seldom that a dog gets a chance to eat a dog, and such a resolution is one which shows that a dog can eat a dog. However, I am prepared to respond to the invitation of the Honourable the Prime Minister and treat the resolution and the amendments which have been tabled in a non-contentious manner.

Sir, as I am going to make some comments upon the resolution as such, and also upon the amendments, I would like at the outset to show to the House in what respect I agree with the resolution. In so far as the resolution says that India has been made a participant in the war between Great Britain and Germany without the consent of the people of India, I am in wholehearted agreement with it. In fact, I would have gone a step further because the position is really very anomalous. Here we are tied down to the chariot wheel of the British Cabinet. The British Cabinet controls the foreign policy of the Empire. In the making of the foreign policy this country has no voice. In the declaration of war this country has no voice. In the settling of peace terms this country has no voice.

Probably an invitation might be extended to some members from the public to go to Versailles or to some other place, where the peace is signed, in order to sign their names on the document. Beyond that, this country, I am sure, will not have any place. That is certainly a most anomalous position. I say that India has a greater right to participate in the foreign policy of Great Britain, a far greater right than the Dominions have. As the Honourable the Prime Minister referred in the course of his speech, under the Statute of Westminister it is open to a Dominion to declare herself to be neutral and to exempt herself from the consequences of a war for the outbreak of which she was not responsible. Unfortunately, we have at present no Dominion Status. We have no right to declare ourselves to be neutral. Without our will and without our consent we are dragged in this slaughter ; and I say that, if this is the case, we have a far greater right than any Dominion possesses in order to insist that we shall be consulted all along. Therefore, so far as that portion of the resolution is concerned, I give my full support.

There is one other matter also to which I would like to make a brief reference. Although this country has been involved in the war without her consent, as the resolution rightly says, this country from the standpoint of defence, is in a most defenceless condition. Supposing the question of defence of this country arose, then where is the army? Where is the navy ? Where are the aeroplanes that can protect this country ? As a member of the Round Table Conference, I remember we fought for one principle, and that principle was that the defence of India should be recognised as the responsibility of Great Britain and Indians should be taught to defend themselves. I am sorry to say that so far as I have been able to observe the defence policy of the Government of India, they have not taken any satisfactory measures along that line. I see nothing in their policy so far as the fulfilment of that principle is concerned. Therefore, I think that also is a legitimate part of the complaint which India could make. Now these are the points on which I agree with the Government ; but I am sorry to say that there my agreement ends.

Sir, as you know, I have tabled in all four amendments. They are three, but they are in fact four. I propose to take together the two amendments which deal with the rights of the minorities, and I will take the other amendments separately. I do not propose to read the amendments again to the House, because I want to economise time. The House fully knows what the amendments are. The Honourable the Prime Minister ended by drawing the attention of the House to the principle embodied in the constitution of the United States. He read a passage from the constitution of the United States which referred to democracy, to life and liberty and to pursuit of happiness. And he commended that those of us who are sitting on the Opposition benches should have a regard for that ancient and

very human document which embodied the principles of democracy. Sir, I would on my part, take the liberty to remind the Honourable the Prime Minister of the condition of affairs relating to South America. He referred to North America, and I shall be referring to South America—they are countries which are very near each other. My honourable friend the Prime Minister, I am sure, will recall the fact that when the Spanish American colonies such as Brazil and others separated from the Spanish empire, they also thought of framing their own constitutions. They did not know how to frame their own constitutions. Consequently, they sought the assistance of a man whom I am sure the Honourable the Prime Minister is familiar with. What they did was this—they referred the matter to Jeremy Bentham. Jeremy Bentham must be known to every lawyer, if not to the outside world. Jeremy Bentham was a great legislator ; he was a man who indulged in formularies ; he was a man who indulged in symmetrical classification of things ; he wanted to reform the English law on the basis of pure rationalism. The South American colonies thought that a man who believed in nothing but applying reason and who believed in doing things a priori was a proper person who would be asked to frame a constitution for themselves. They sent emissaries with briefs, I believe, marked, as they usually are for counsel, to draft the constitution. There were innumerable colonies in South America, all spilt out of the old Spanish empire. Jeremy Bentham jumped at the opportunity of drafting constitutions for these new countries in South America. He took great pains and framed the most elaborate documents. I see the Prime Minister laughing, because he knows the facts. And, Sir, they were shipped all these documents, constitutional documents framed by Jeremy Bentham, were shipped over to South America, for the protection of the life and liberty of the people and for the intonement, if I may say so, of the democratic principle. When they went there, they were tried by the South American people for a few years. And afterwards every constitution that was framed by Jeremy Bentham broke to pieces, and they did not know what to do with the surplus copies that had arrived ; and all the South American people decided that they should be burnt publicly.

Sir, the point that I want to emphasise is this, that a constitution, like a suit, must fit. A constitution which does not fit is no constitution—it cannot be a constitution. For instance, the coat which the Honourable the Home Minister, with his slim body, is wearing could not fit on the corpulent structure that I carry. (Laughter). Could it ? Would a suit made for a man with a hunch-back fit a normal man's back ? (Laughter). Can a shoe which fits a man who can place his feet firmly and straight on the ground fit a man who has a crooked leg? It cannot. Therefore, in talking about democracy, we must talk about fitting theories to facts. Now, the point that I am going to elaborate is this : Would the principle of democracy suit the

people of India ? My honourable friend the Prime Minister has not enlightened us by enunciating what he regards as the principles of democracy. But I take of that what he means by democracy is majority rule, because unless we all accept majority rule as the fundamental working principle, there can be no political democracy. Obviously that is the root, that is the basis, that is the line from which we must proceed to discuss this question.

Now, Sir, I think everybody will agree with one observation that the Leader of the Opposition made, namely, that in this country, the facts being what they are, there is one thing which is unalterable ; and that one thing which is unalterable is this, that the Hindus will remain in a majority, and the Muslims and the Scheduled Castes will remain in a minority, that, I submit, is an incontrovertible fact, a fact which whether we believe in one thing or other, we must all accept. Now the question, to my mind, is a very simple question, and I am going to deal with it purely from the standpoint of what are called the untouchable people of this country. To begin with, I will ask the House to note the relative position that we shall occupy under this democracy. Under this democracy which the Prime Minister wishes to be established in this country one thing, as I said, will be unalterable, namely, that there will be a Hindu majority, and, scattered all throughout this land, scattered all throughout every village there will be a small appendix, if I may use that expression a few clusters of huts, a few mud-houses of people who are called untouchables. In every village you will have in juxtaposition a colony consisting of Hindus, and a Maharwada or a Chambharwada or a Bhangiwada or whatever you like to call it attached to that colony. That will be the unalterable fact.

Now, my honourable friend asks me to submit to democracy. Well, I think he will allow me to say that my answer to this question would depend upon how this majority behaves towards me. Is this majority a tolerant majority ? Does this majority recognise equality, liberty and fraternity ? Will this majority permit me to live, to breathe, to grow ?

The Honourable Mr. B. G. Kher : Of course, it will.

Dr. B. R. Ambedkar : What is the attitude of the majority ? That is the only question that will have to be considered. My honourable friend said "Yes". But let us look to the facts. I am not going to travel into past and ancient history ; I propose to begin with the year 1929. The House knows that in the year 1929 the Bombay Legislative Council, by a resolution, appointed a committee to enquire into the grievances of what are called the Depressed Classes and the Aboriginal Tribes. That committee was presided over by an officer, named Mr. Starte, who was in charge of the criminal tribes. I was a member of that committee ; my colleague, Dr. Solanki, was a member ; the rest were Hindus. I would mention particularly one person, who happened to be a member of this

committee, and that was Mr. Thakkar, because I know that my honourable friend the Prime Minister will far more readily accept the testimony of Dr. Thakkar than of myself. Now. Sir, what was the attitude of the majority of the Hindus towards the depressed classes in the year 1928 ? I will just take your permission to read one paragraph from this report. Para. 102 of this report says :

> "Although we have recommended various remedies to secure to the Depressed Classes their rights to all public utilities we fear that there will be difficulties in the way of their exercising them for a long time to come. The first difficulty is the fear of open violence against them by the orthodox classes. It must be noted that the Depressed Classes form a small minority in every village, opposed to which is a great majority of the orthodox who are bent on protecting their interests and dignity from any supposed invasion by the Depressed Classes at any cost. The danger of prosecution by the Police has put a limitation upon the use of violence by the orthodox classes and consequently such cases are rare.
>
> The second difficulty arises from the economic position in which the Depressed Classes are found today. The Depressed Classes have no economic independence in most parts of the Presidency. Some cultivate the lands of the orthodox classes as their tenants at will. Others live on their earnings as farm labourers employed by the orthodox classes and the rest subsist on the food or grain given to them by the orthodox classes in lieu of service rendered to them as village servants. We have heard of numerous instances where the orthodox classes have used their economic power as a weapon against those Depressed Classes in their villages, when the latter have dared to exercise their rights, and have evicted them from their land and boycott is often planned on such an extensive scale as to include the prevention of the Depressed Classes from using the commonly used paths and the stoppage of sale of the necessaries of life by the village Bania. According to the evidence, sometimes small causes suffice for the proclamation of a social boycott against the Depressed Classes. Frequently it follows on the exercise by the Depressed Classes of their right to the use of the common well, but cases have been by no means rare where a stringent boycott has been proclaimed simply because a Depressed Class man has put on the sacred thread, has bought a piece of land, has put on good clothes or ornaments, or has carried a marriage procession with the bridegroom on the horse through the public street."

That was the condition in 1928. The question I should like to ask is this : Has there been any change since 1928? Now, Sir, so far as evidence is available to me, I have no hesitation in saying that the situation has not only not changed, but has worsened. I will give a few illustrations in order to support my contention.

The first thing I would refer to is the election of 1932 that took place

to the Legislative Council. As my honourable friend the Prime Minister would recall, in 1932 the Congress boycotted the legislature. They refused to fight the elections. Now, Sir, the Congress in 1932—I stand to be corrected if the date is wrong ; I quote it from memory—

An Honourable Member : It was 1930.

Dr. B. R. Ambedkar : 1930 ; the Congress in 1930 adopted various devices to scare away people, to persuade people not to participate in the elections. Sir, I should like to remind the House that that was the year in which the civil disobedience movement had also begun. And, if I mistake not, according to Congressmen, that is a momentous year, because it was the year in which the Dandi March took place. Sir, what were the slogans that were used by Congressmen in 1930 in order to prevent the people from joining the legislature ? One slogan used by these people was this, so far as I remember : Council may jana haram hay. But that was not all. The other slogan was this : Council may kon jayaga ? Dhed jayaga ; Chamar jayaga. These were the slogans that Congressmen had used. (Interruption). Please. If my honourable friends want evidence, I will produce unimpeachable evidence. And I may say in this House that the slogan was so insulting that even the *Times of India* felt it necessary to write an editorial about it. Now, Sir, the point that I was illustrating was this : that Hindus, even of the Congress persuation,—who say that they have forgotten caste, who say that they have forgotten religion, who say that they have forgotten untouchability—, Hindus even of the Congress persuasion used that slogan. If, Sir, the pick of the nation as I see here, the best informed, the most enlightened part of the Hindu community, is capable of expressing this kind of abomination towards a community so helpless, so downtrodden, what can you expect from the orthodox to whom the law of Manu is far greater than the law passed by my honourable friend the Prime Minister ?

Sir, let me take another case. I am taking mostly cases from Gujarat, for a very deliberate reason, because I am told that that is the most enlightened part of our presidency. The instance I am speaking of now comes from a village called Kavita in Dholka taluka in the Ahmedabad district. Let us all be particular about it. In this case, the facts were these. On a certain day, a certain Brahmin of the village had assaulted certain members of the untouchable community resident in Kavita. My honourable friend may note that these facts are taken from the *Harijan,* the last word on it.

The Honourable Mr. B. G. Kher : I had been to that place ; I know the incident. The honourable member need not quote it.

Dr. B. R. Ambedkar : The facts were these. A certain Brahmin assaulted certain members of the untouchable community in that village. Thinking in their impudence, if I may say so, that it was possible for these untouchables to have a Brahmin prosecuted and punished, they took it into their heads to go to the District Police to lodge a complaint against

the assailant. In the meantime, what had happened was this. On the day on which the male members of the untouchable quarters had gone out, an invasion of the quarters of these untouchables took place by caste Hindus of the village. Their houses were demolished, their roofs were thrown out. Finding that the male members were not present to receive blows, all these gentlemen lay in wait till evening thinking that these people would return at night. Some women who had come to know their plan sneaked out of the village and met the male members half way at night and told them that it was most dangerous to come to the village, because their life was not safe. These people spent the night outside the village and did not return. The next day, they came back in a scattered manner without being noticed, and managed to come to the village. They found that all their huts were demolished. Subsequently, they came to know that the village had declared a boycott. They were not allowed to purchase anything from the village Bania. Not only that, the villagers went further, purchased tins of kerosine oil and poured it into the watering place from where these people used to get their water. Then, they felt that something ought to be done. They thought, ill-advised as they were, they should have recourse to law. They went again and lodged a complaint. Some Congress friends of theirs intervened. What did they do ? Did they help these poor untouchables to vindicate their rights ? No. They persuaded them to withdraw the complaint and submit quietly. The distressing part of the whole business is here. What wrong have these untouchables of Kavita done ? Why were they persecuted in this manner ? For no other reason but this. The untouchables of Kavita persisted in sending four of their children and admitting them in the school where they should be admitted according to the orders of Government.

The next case to which I am coming is the case of a Bhangi boy who had the misfortune to be appointed a talati. His name is Parmar Kalidas Shivram. With your indulgence, I propose to read what Parmar Kalidas Shivram said at a public meeting in Bombay under the chairmanship of Mr. Indulal Yagnik at which I was also present. I was tremendously moved on hearing the story. I asked him to give me in writing the whole thing. I have merely translated what he has given to me in writing. This is the story :

> "I passed the vernacular final examination in 1933. I have studied English up to the 4th Standard. I applied to the Schools Committee of the Bombay Municipality for employment as a teacher but I failed as there was no vacancy. Then I applied to the Backward Class Officer, Ahmedabad, for the job of a Talati and I succeeded. On the 19th February 1938, I was appointed a Talati in the office of the Mamlatdar of the Borsad taluka in the Kaira district.
>
> Although my family originally came from Gujarat I had never been in Gujarat before. This was my first occasion to go there. Similarly, I did

not know that untouchability would be observed in Government offices. Besides, in my application the fact of my being a Harijan was mentioned, and so I expected that my colleagues in the office would know before hand who I was. That being so, I was surprised to find the attitude of the clerk in the Mamlatdar's office when I presented myself to take charge of the post of Talati.

The Karkun contemptuously asked, "Who are you ?" I replied, "Sir, I am a Harijan." He said, "Go away, stand at a distance. How dare you stand so near me. You are in office, if you were outside I would have given you six kicks. What is this audacity to come here for service !" Thereafter he asked me to drop on the ground my certificate and the order of appointment as Talati. He then picked them up.

While I was working in the Mamlatdar's office at Borsad I experienced great difficulty in the matter of getting water to drink. In the verandah of the office there were kept cans containing drinking water. There was a waterman in charge of these water cans. His duty was to pour out water to clerks in office whenever they needed it. In the absence of the waterman they could themselves take water out of the cans and drink it. That was impossible in my case. I could not touch the cans for my touch would pollute the water. I had, therefore, to depend upon the mercy of the Waterman. For my use there was kept a small rusty pot. No one would touch it or wash it except myself. It was in this tin that the waterman would dole out water to me. I could get water only if the waterman was present. This waterman did not like the idea of supplying me with water. Seeing that I was coming for it he would manage to slip away with the result that I had to go without water and the days on which I had nothing to drink were by no means few.

I had the same difficulties regarding my residence. I was a stranger in Borsad. No caste Hindu would rent a house to me. The untouchables of Borsad were not ready to give me lodgings for the fear of displeasing the Hindus who did not like my attempt to live as a clerk. Far greater difficulties were in regard to food. There was no place or person from where I could get my meals. I used to buy 'bhajias' morning and evening, eat them in some solitary place outside the village and come and sleep at night on the payment of the verandah of the Mamlatdar's office. In this way I passed four days. All this became unbearable to me. Then I went to live at Jentral, my ancestral village. It was six miles from Borsad. Everyday I had to walk twelve miles. This I did for a month and a half.

Thereafter the Mamlatdar sent me to a Talati to learn the work. This Talati was in charge of three villages, Jentral, Kanpur and Saijpur. Jentral was his headquarters. I was in Jentral with the Talati for two months. The headman of the village was particularly hostile and offensive. Once he said, "You fellow, your father, your brother are sweepers who sweep

the village office and you want to sit in the office as our equal ! Take care, better give up this job."

One day the Talati called me to Saijpur to prepare the population table of the village. From Jentral I went to Saijpur. I found the headman and the Talati in the village office doing some work. I went, stood near the door of the office and wished them good morning, but they took no notice of me. I stood outside for about 15 minutes. I was already tired of life and felt enraged at being thus ignored and insulted. I sat down on a chair that was lying there. Seeing me seated on the chair the headman and the talati quietly went away without saying anything to me. A short while after, some people began to come to the village library. I could not understand why an educated person should have led this mob. I subsequently learnt that the chair was his. He started abusing me in the worst terms. Addressing the Ravania, that is, the village servant, he said, "Who allowed this dirty dog of a bhangi to sit on the chair ?" The Ravania unseated me and took away the chair from me. I sat on the ground. Thereupon the crowd entered the village office and surrounded me. It was a furious crowd ranging with anger, some abusing me, some threatening to cut me to pieces with a dharia and I implored them to excuse me and to have mercy upon me. That did not have any effect upon the crowd. I did not know how to save myself. But an idea came to me of writing to the Mamlatdar about the fate that had befallen me and telling him how to dispose of my body in case I was killed by the crowd. Incidentally, it was my hope that if the crowd came to know that I was practically reporting against them to the Mamlatdar they might hold their hand. I asked the Ravania to give me a piece of paper which he did. Then with my fountain pen I wrote the following on it in big bold letters so that everybody could read it :—

"To the Mamlatdar,

Taluka Borsad.

Sir,

Be pleased to accept the humble salutations of Parmar Kalidas Shivram. This is to humbly inform you that the hand of a mean death is falling upon me today. It would not have been so if I had listened to the words of my parents. Be so good as to inform my parents of my death."

Now, I will refer to certain instances showing the behaviour of the majority towards the Scheduled Castes. One is the case from the Kekatnim-bhore village, taluka Jamner. It is as follows :—

"The Depressed Class people of this village have given up observance of any Hindu festival and have adopted a clean mode of living. One holiday they were asked by the caste Hindu to provide for their Holi cowdung from the fields. The Depressed Class people did so. But they did not have Holi and hence they did not provide for fire to the caste Hindus. Therefore the Hindus rushed into their colony, beat them in

their homes and have declared severe boycott on them and have made their life miserable.”.

Another case is a case from Vadali village in Jamner taluka. In that village a marriage procession of the Depressed Class people was not allowed to pass through the common gate of the village. The procession was broken and the caste Hindus did not allow the marriage ceremony to be performed on the same day. The Depressed Class people were socially boycotted.

Then there is another case from Manded in Amalner Taluka. In Manded the Depressed Class people held a conference and passed a resolution supporting abandonment of bad habits and to take to a clean mode of life. Some of the caste Hindus did not like the idea. They killed one small pig and put it into the drinking water of the Depressed Class people. This process was repeated twice. The Depressed Class people are now socially boycotted and harassed. Many of the Depressed Class people have vacated their places due to harassment.

Sir, I do not wish to repeat *ad infinitum* cases which show how intolerant this Hindu majority is so far as the untouchables are concerned. I may say that I will take not only a day but probably a month in order to recount all the material that I possess.

Now, the next question that I ask is this : What protection do the Scheduled Castes get as against this harassment? On that point before I make my submission to the House, I would like to draw the attention of the House to the composition of the administration of this country. I have only figures for the Bombay Presidency with me but, in my judgment, these figures are the typical ones ; they would be true not only of this province but they would be true of any part of India. How is the administration of this presidency manned? This is how it is manned. I am taking the figures given by the Government themselves ; they are not my own figures. I am taking, first of all, the Scheduled Castes and the Revenue Department. So far as the District Deputy Collectors are concerned, they are 33 and there is only one person belonging to the Scheduled Castes. There are hundred mamlatdars in this province ; out of these hundred mamlatdars there is only one from the Scheduled Castes. There are 34 Mahalkaris, but there is none from the Scheduled Castes. There are 246 Head Karknns, but there is none from the Scheduled Castes and, coming to the number of clerks in the Revenue Department, they total 2,444. Of them, persons belonging to the Scheduled Castes are just 30.

Now let us take the Public Works Department. In the Public Works Department there are 829 clerks. In this number of 829 clerks the Scheduled Caste people are just seven.

In the Excise Department there are 189 clerks. Of them, the Scheduled Castes can claim not more than three.

Coming to the Police Department, according to the figures given, the

total number of sub-inspectors is 538. In this number of 538 the untouchables are only two. It is, therefore, obvious that the composition of the administration is entirely Hindu. No question on that point at all.

I would further draw the attention of the House as to how the position of the Scheduled Castes stands in comparison with the other minorities in this province. In the Revenue Department, so far as the district deputy collectors are concerned, out of 33, 8 are Muslims, 3 are Christians and only 1 belongs to the Scheduled Castes. Out of the 100 mamlatdars, 30 are Muslims, 3 Christians and 1 belonging to the Scheduled Castes. Out of 34 Mahalkaris there are 4 Mohomedans, 3 Christians but no man from the Scheduled Castes. Out of 246 Head Karkuns, 17 are Mohomedans, 7 are Christians but no one from the Scheduled Castes. Out of the total number of 2,444 clerks, there are 283 Mohomedans, 61 Christians, 58 backward class people and 30 Scheduled Caste people. In the Police Department, out of 538 sub-inspectors, 106 are Mohomedans, 17 are Christians, 6 are backward class people and only 2 are untouchables. In the Public Works Department out of 829 clerks, 41 are Mohomedans, 28 Christians, 7 Backward Classes and 7 untouchables. In the Excise Department out of 189, 13 are Mohomedans, 19 Christians and 3 untouchables.

Therefore, Sir, the position with which we must start at the outset is that the Hindus are not only in a majority so far as the population is concerned, but the Hindus are in a majority so far as the administration is concerned. And the question that I want to ask the Honourable the Prime Minister is this. I think I have shown, I trust to his satisfaction, that the Hindu majority must undoubtedly be reckoned as a hostile majority. He nods his head. He is welcome to his own conclusions. I shall not quarrel with him. But that is the position. How do the untouchables fare in the matter of protection against this harassment? I want to take again a few cases to show that the whole of the administration, manned as it is by the caste Hindus, is certainly hostile to the untouchables ; that they do not wish, that they do not desire, and they do not care for justice when the parties to the quarrels are the caste Hindus on the one side and the untouchables on the other.

Now, the first case to which I want to refer is this. I am giving the number, so that my honourable friend may make inquiries. It is a judgment in Criminal Case No. 191 of 1938 on the file of the Magistrate of the First Class, Sangamner. In this case 7 Hindus were charged under offences falling under section 147, i.e., rioting, 323, 341, 452, 454 and 149 of the Indian Penal Code. The facts were briefly these. The complainant was an untouchable coming from the village which is called Vadgaon Langda. His case was that on a certain day, the villagers in a body of 200, armed with sticks, lathis and other instruments invaded the Mahar quarters and assaulted not only men but also the women. The hurts were grievous hurts.

They were in hospital for several days. Fortunately for them the police took up the case as a cognizable case, which they were bound to do on account of the fact that the hurt was a grievous hurt. These nine people were prosecuted in the court of the First Class Magistrate of Sangamner. The evidence was led by the Police. There was ample medical evidence to show that hurt was caused, and yet what happened ? And, if I may say, these nine accused felt so convinced of their guilt that they had actually sent word to me that they were prepared to compromise the matter by paying Rs. 300 to the Mahar men and women who were assaulted. In my poor judgment, I advised the Mahars not to compromise, but to allow the law to take its course. And what did the law do ? What did the Magistrate do ? To the surprise of everyone, what the Magistrate did was that he acquitted all the accused.

Dr. K. B. Antrolikar : Sir, is it competent to the honourable member to offer comments on the judgment of a Magistrate ?

Dr. B. R. Ambedkar : Certainly. I am stating facts.

The Honourable the Speaker : I was just considering the point. But I wanted to hear the facts which the honourable member, was stating. I do not think it will be proper on his part to criticise the judgment of the Magistrate ?

Dr. B. R. Ambedkar : Sir, I am not criticising. I am only stating the facts. I am stating how much protection we get. It is to give a notion as to the protection that the untouchables get, that I am submitting this to the House. I am not challenging the judgment in any way. What I am saying is this : that these people, who felt in their heart of hearts that they were guilty, and were prepared to compromise by paying Rs. 300 by way of compensation, were ultimately acquitted by the Magistrate. And the point that I want to emphasise is this : Why was this assault committed ? Why ? The reason why the assault was committed was simply this, that the untouchables had the audacity to make an application to the Magistrate that some forest lands should be given to them. That was the offence that these poor people had committed. Another case to which—

The Honourable the Speaker : I would not like to "chill" the honourable member, to use the honourable member's own expression, but I may only remind him that he has already taken one hour. He will take some more time, I am sure. But if he goes into the minor details of the cases which he is citing then I think another hour would not suffice, and I am anxious to see that the debate comes to a conclusion much sooner.

Dr. B. R. Ambedkar : Sir, I just want to refer to two other matters in order just to complete my argument. Another case where the untouchables feel that the officers of the State have failed in giving them the protection to which they are entitled, is the case which comes from a village called

Akushi. Now, in this village what had happened was this. This village is in the Wai taluka in the Satara district. The facts are very simple. In that village there was some trouble between the untouchables and the touchable Hindus. The untouchables and the caste Hindus were at loggerheads. But the untouchables decided that on the *Ekadashi day* they should go for what is called *deo darshan*. The caste Hindus, who had proclaimed a boycott against them, did not want the untouchables to go for *deo darshan*. Notwithstanding this, the untouchables went. The result was that the Patel of the village, in combination with the other villagers, assaulted the untouchables who went to *deo darshan*. As usual, the untouchables filed a complaint against the Patel of the village. The position was this : The Patel knew that he was guilty. A summons was issued. He went away and would not take the summons. Then the summons was pasted on his door. He absconded for three months. Ultimately he came back and the law took its course. Even in this case the learned Magistrate, who tried the case, thought it fit to acquit the accused person who had absconded for three months knowing full well that he was guilty.

The other case to which I would make a brief reference is a case which comes from the Poona district from the village of Thatwadi in the Mulshi Peta. In that case what had happened was this. This is an inam village. Somebody had cut some two or three trees of the inamdar. The inamdar lodged a complaint with the police saying that some Mahars, without mentioning anybody, had cut his trees and had stolen the wood. The police officer who made the investigation prosecuted four persons in the court of the magistrate. Now what happened was, that in the course of the prosecution, the pleader who appeared for the accused persons called for the Public Prosecutor to produce the fabricated first information and entered the names of the four Maharas as accused persons although originally no mention of any name was there. Fortunately, the Mahars were acquitted, but the fact remains that even the police officers who are supposed to give protection to these untouchables go to the length of fabricating evidence in order to involve them in such cases.

Sir, I will not mention any more instances now. I think this story is a sickening one ; is certainly sickens me. I know that the Hindus as a whole care nothing. They laugh at it. They only think that the problem in this country is the problem between the Hindus and the Muslims. I want to tell them that this is a far more serious problem and not only the Hindus, but even the State has not taken sufficient care of these people. If any argument was needed in support of the two amendments which I have tabled, namely, that in any constitution that is going to be framed the untouchables must have adequate safeguards, I think the arguments that I have now submitted to the House would be more than sufficient. I know that there is a certain amount of response on the other side. Two amendments have been tabled

by the Honourable the Home Minister. I must tell him frankly that I am not in a position to accept those amendments, and I shall tell the House presently why I cannot accept his amendments in preference to mine.

The first amendment of the Honourable the Home Minister is to the effect that the constitution shall provide adequate safeguards for the protection of the minorities. The position that I take is very simple and it is this : Not only we must have safeguards, but the safeguards must be to our satisfaction. That is the fundamental point. The Honourable the Home Minister evidently supposes that he is a trustee for the untouchables and that as a trustee he could enact certain provisions in the constitution which according to him, must suffice for the protection of the rights of the minorities. Now, I at once want to say that I repudiate that position. Nobody is my trustee ; I am my own trustee. They may make their constitution, but we shall claim our right. Whatever provisions they may make relating to our safeguards must be certified by the accredited representatives of the Depressed Classes that they are adequate. Their definition of adequacy will not satisfy me, and that is why I am not in a position to accept the first amendment moved by my learned friend.

With regard to the other amendment, no doubt the Honourable the Home Minister is prepared to meet half way. He is prepared to recognise that the minorities should have a voice in the governance of the country. There again I find that there is a certain amount of difference between him and me. My second amendment has been most deliberately worded. I have taken particular care to use the words "fundamental right," and I want to explain my position to some extent as to why I have used the expression "fundamental right". The one thing that I have realised in the course of the working of the constitution is this : Whether we admit it or not, the political system of this country is reflective of what we call the *chathur varna*. In that system, the theory was this : that the *Kshatriya* must rule ; that the Brahmin must advise ; that the Vaishya must trade but the Sudras or the Adi Sudras must serve. That was the position in olden times. I find in politics the position has changed to some extent. The Vaishya no longer trades. If he trades he trades in politics only. (Laughter). One thing has, however, remained unalterable, and it is that the Sudras shall have no part in the governance of this country. As I observe conditions in this country, as I observe the political constitution of the different cabinets that have been formed all throughout India, I notice that while we untouchables are Sudras or Adi Sudras socially, the Congress Government—if not the Congress Government, the exigencies of the situation—are such that it will ultimately lead us to become political Sudras. I will not tolerate it. I will shed the last drop of my blood to uproot that position. (Loud cries of "hear, hear"). I will not tolerate it if to the social dominance, the economic dominance and the religious

dominance which the Hindu exercises over me, is added the political dominance also. I will certainly not tolerate it. I repeat again that I will never allow it. We shall fight tooth and nail against politics being perverted for the purpose of establishing an oligarchy of a ruling class. I will not allow that. I repeat, I cannot allow a constitution which will mean liberty for them and empire over me. I will not allow a constitution in which I am not free and I am not an equal partner. Never will I allow that. Sir, I know these are strong words. But I want to remind the Honourable the Prime Minister that these words are not stronger than the words that were used by Ulstermen in connection with Ireland. I know that in this country when a man belonging to a minority community stands up to fight for the rights of his community, the whole crowd comes out against him, dubs him as communal, dubs him as an anti-Indian and dubs him as a tool acting in the hands of some bureaucrat working for the destruction of this country. Sir, I want to caution this crowd which is taking this attitude ; I say that the attitude that the minorities in this country are taking is far better, far nobler, than the attitude that Ulstermen took. What was the attitude of Ulstermen ? I remember reading the proceedings of a conference which was held at the instance of the late King Edward VII at Buckingham Palace in order to bring together the Southern Irish Nationalists and Ulstermen. The question was whether Ulster should be brought under the majority rule of the Southern Irishmen. What were the proposals made by the Nationalists in Southern Ireland to Ulstermen ? Many people probably might not be aware of that history. Those who are will know that Mr. John Redmond, who was the leader of the Irish Nationalist Party, did his level best in order to induce the Carsonites to come under the constitution. He said : "You can have any amount of weightage you like ; I do not mind." Let us not live under the belief that weightage is being talked of only in India ; weightage was talked of a great deal in Ireland, and Redmond was prepared to give weightage to Ulstermen. He was prepared to give power in the constitution to some officer to prevent any kind of discrimination being made against Ulstermen. A further provision that the Irish Nationalists were prepared to make for Ulstermen was this, that if after 10 years the Ulster people found that the Southern Irishmen—who undoubtedly would be in a majority—abused their powers and maltreated and persecuted the Protestants of Ulster County, the Ulstermen had the right to go out of the constitution. Sir, they were tremendous provisions. What was the reply of the Ulstermen to this offer? The reply that the Ulstermen gave to Redmond was this : "Damn your safeguards. We do not want to be ruled by you." Are we saying that? Would I not be entitled to say, in view of the stories that I have recounted, "Damn your safeguards. I do not want to be ruled by you ?" I am not saying that. What I am saying is this : "Give me my safeguards, which I think are necessary ;

and you can have your democracy." I am sure that is a position which no man can quarrel with.

I would say one word in the end. I know my position has not been understood properly in the country. It has often been misunderstood. Let me, therefore, take this opportunity to clarify my position. Sir, I say this, that whenever there has been a conflict between my personal interests and the interests of the country as a whole, I have always placed the claim of the country above my own personal claims. (Hear, hear). I have never pursued the path of private gain. If I had played my cards well, as other do, I might have been in some other place. I do not want to say anything about it, but I did not do it. There were colleagues with me at the Round Table Conference who, I am sure, would support what I say—that so far as the demands of the country are concerned, I have never lagged behind. Many European members who were at the Conference rather felt embarrassed that I was the enfant terrible of the Conference. But I will also leave no doubt in the minds of the people of this country that I have another loyalty to which I am bound and which I can never forsake. That loyalty is the community of untouchables, in which I am born, to which I belong, and which I hope I shall never desert. And I say this to this House as strongly as I possibly can, that whenever there is any conflict of interest between the country and the untouchables, so far as I am concerned, the untouchables' interests will take precedence over the interests of the country. I am not going to support a tyrannising majority simply because it happens to speak in the name of the country. I am not going to support a party because it happens to speak in the name of the country. I shall not do that. Let everbody here and everywhere understand that that is my position. As between the country and myself, the country will have precedence ; as between the country and the Depressed Classes, the Depressed Classes will have precedence—the country will not have precedence. That is all that I would say with regard to these two amendments of mine.

Now, with regard to the other amendments, I do not propose to detain the House at all. I was rather surprised at the remarks made by the Honourable the Prime Minister with regard to a part of the resolution which says that whatever arrangements are to be made they should be made with the consent of the Provincial Governments. I knew that he was not aware of the amendment which is being moved by my honourable friend Mr. Mukadam, because, I see, those parts are to be deleted. Therefore, I will not make any comments upon that part of the resolution, although I must say that on principle I do not agree with this part of the resolution.

Now, Sir, before sitting down I would like to say one or two words with regard to the other amendments that are before the House. In doing so, I would advert first to the amendment moved by the honourable member the Leader of the Opposition. With regard to that amendment, I would

request the Prime Minister to note one thing which I think he has failed to note. It is true that the Leader of the Opposition in his amendment says that democracy has failed. But, Sir, the point that I wish the Prime Minister to note in making his comment upon the amendment of the Leader of the Opposition is this. We see now that he is opposed to democracy ; but, Sir, he may not be opposed to self-government. After all, democracy, autocracy, republicanism—these are all forms of government ; they all come under self-government. So long as the honourable member the Leader of the Opposition does not take the view that this country is not entitled to self-government, I think too much blame ought not to be attached to the unfortunate language that has been used. After all, he is with us.

And I do not understand my honourable friend the Prime Minister insisting upon democracy as the only solution. I remember reading the speeches of the leaders of the Honourable the Prime Minister at the Tripuri Congress. Unfortunately, the volume which I had with me I forgot to bring today. So much the better, because I could save time. But I think at the Tripuri Congress the friends of the Honourable the Prime Minister, Pandit Govind Vallabh Pant, Mr. Rajgopalachari, Pandit Jawaharlal Nehru and all of them were singing the praises of Mussolini and Hitler—

The Honourable Mr. Morarji R. Desai : When ?

Dr. B. R. Ambedkar : I will quote chapter and verse if it is wanted. In fact I wanted to bring the book, but I forgot to bring it.

The Honourable Mr. B. G. Kher : I was present there, and I heard the speeches. What the honourable member says is not correct.

Dr. B. R. Ambedkar : I am sorry, I have not got the volume with me now. If I had it, we could have decided the issue right now.

The Honourable the Speaker : There is no time for that now.

Dr. B. R. Ambedkar : All that I am saying is this, that so long as people in India have self-Government, whether the self-Government takes the form of democracy, whether it takes the form of autocracy, or whether it takes some other form, it is a matter of detail, about which there ought to be no quarrel. And, therefore, my submission is this : that in judging of the resolution, which, as I said, is somewhat unfortunately worded, his intention should not be misconstrued.

With regard to the amendment moved by the Congress Party, join with the Prime Minister in saying that they ought to be felicitated on the amendment that they have moved, and I agree with the main basis of their resolution. There is one amendment, however, to which I cannot lend any support, and that is the one which is to the effect that the House approves of the intention of the ministry resigning—or something like that. Now, Sir, what I should like to say is this. My honourable friend the Prime Minister would agree—he is as good a politician as any politician can be—that this is really a matter for their party caucus. It is not a matter for

the House to decide. Whether the ministry should go out or should not go out is entirely a matter for their party to decide. Why does he want my sanction for his going out?

The Honourable Mr. B. G. Kher : I do not want it.

Dr. B. R. Ambedkar : Why does he need it ? I put to him another conundrum. Suppose I bring an amendment to say that the ministry shall not come back unless I invite them, will he accept it ? I am sure he would not tie himself down in that manner. If you want my sanction for going out, it will be some honour to me if you will also make your re-entry dependent on my sanction. But you will not do that, and I feel bound in conscience to oppose that amendment.

Sir, I thank you for the indulgence you have given me. (Applause).

The Honourable the Speaker : I would repeat my appeal to curtail the time. The honourable member Dr. Ambedkar has taken an hour and a half. I hope other honourable members will now curtail their time.

Dr. B. R. Ambedkar : I apologise, Sir.

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*ON PARTICIPATION IN THE WAR : 3

The Honourable Mr. B. G. Kher : I shall try and finish as soon as you like.

Sir, I will not go over the entire ground which the honourable Doctor has covered. I agree with him : I concede the correctness of what he says about the wrongs done to Harijans, because it is not necessary for my purpose to deny all those instances of wrongs which are done to the members of his community in this country. Those indeed are the wrongs which we have tried to remedy to the best of our ability for a long, long time.

The honourable member did not say what the remedy was ; in that his long speech was lacking. As has been pointed out by other speakers, whether it is the judgment in the Sangamner case or the hundred and one cases which he has read out here, the only remedy is that we must have a proper form of government, and that form of government can only be democracy in this country with due safe-guards for the minorities—a point which we concede. Sir, we are thankful to the honourable member for pointing out to us that he did not say, like the Ulstermen, "Damn your safe-guards ; I do not want to be governed by you." He was not going to say that, and I appreciate it. But I cannot appreciate the statement which he made—and which he believes in—in all sincerity. He said : "As between me and the country, the country has precedence." I support him in this and I shall quote every word of what he has said. I have known the honourable member's life and career intimately, and I can say that this is absolutely correct. He has always been willing to subordinate his personal advancement for the cause of the country. He goes on to say, "as between the depressed classes and the country, the depressed classes have precedence with him."

Dr. B. R. Ambedkar : Certainly.

The Honourable Mr. B. G. Kher : He said that ; he does not deny that. My quarrel is with that statement of his. Because the part can never be greater than the whole. The whole must contain the part.

Dr. B. R. Ambedkar : I am not a part of the whole ; I am a part apart.

*B.L.A. Debates, Vol. 7, p. 2130, dated 27th October 1939.

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APPENDIX I

*ON MEASURES FOR BIRTH-CONTROL

Mr. P. J. Roham (Ahmednagar South) : Sir, I beg to move—

> "This Assembly recommends to Government that in view of the urgent need of limiting the family units, Government should carry on an intensive propaganda in favour of birth-control among the masses of this Province and should provide adequate facilities for the practice of bith-control."

Question proposed.

Mr. P. J. Roham (Addressed the House in Marathi) : The educated class has, by this time, fully realized the necessity of birth-control and fortunately the leaders in our country also are unanimous on this point. Pandit Jawaharlal Nehru, Sir Ravindranath Tagore and Mrs. Sarojini Naidu, know very well the importance and the urgency of the movement for birth-control and are in favour of contraceptives. Babu Subhash Chandra Bose, the President of the Indian National Congress, said in his presidential speech :

> "If the population goes up by leaps and bounds, as it has done in the recent past, our plans are likely to fall through."

Even Mahatma Gandhi has written long ago as follows :

> "I must not conceal from the reader the sorrow I feel when I hear of births in this land."

Very few have an adequate idea of the immense loss sustained by children born of persons who are handicapped either physically, mentally or financially. The parents as well as the society also suffer very much. The prevention of the births of such children would considerably reduce the death-rate among mothers who succumb to child-birth and its concomitant diseases, lower infantile mortality, improve public health by removing the many diseases due to want of even the prime necessaries of life felt by many persons, check the offences perpetrated by persons suffering from intense poverty and would bring about an all-round uplift of society by affording full scope to its spiritual advancement.

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*Speech delivered by Shri P. J. Roham. He has expressly stated that the speech was based in all respects on the points drawn by Dr. Ambedkar for his own speech and that Dr. Ambedkar is the father of this speech. Shri Roham further states that he was complimented by Dr. Ambedkar for almost reproducing the speech which, he had contemplated to deliver in the Assembly, but he could not do so owing to his inability to attend the Assembly on that day, i.e. on 10th November 1938.

B.L.A. Debates, Vol. 4 (Part 3), November 1938. pp. 4024-38.

The present keen struggle of life renders timely marriage impossible for many and thus exposes them to various diseases and habits. Many women become invalid for life and some even lose their lives by the birth of children in their diseased condition or in too great numbers or in too rapid succession. Attempts at abortion, resorted to for the prevention of unwanted progeny, exact a heavy toll of female lives. Unwanted children are often neglected by their mothers and hence they become nothing but a burden to society which is further deteriorated by the addition of defective progeny from diseased persons. Birth-control is the only sovereign specific that can do away with all these calamities. Whenever a woman is disinclined to bear a child for any reason whatsoever, she must be in a position to prevent conception and bringing forth progeny which should be entirely dependent on the choice of women. Society would in no way profit by the addition of unwanted progeny. Only those children who are welcomed by their parents, can be of social benefit and hence every woman must be enabled to resort to prevention of conception quite easily.

Poverty is the root-cause of immorality. The following passage from the essay read by Prof. Dr. Tondler before the Congress at Vienna in 1933 would show the evil consequences of insufficiency of living accommodation. The professor said, "On the average every family gets one room in Germany, two and a half rooms in France and three rooms in England. Seventy-five thousand families had no tenements of their own in Berlin in 1925. The result is that children sleep with the adults not only in the same room but also in the same bed. Many children lose their lives by the overcrowding in insanitary dwellings. Whole families are stricken with veneral diseases. Girls have to succumb to sexual intercourse even before they are mature. Sexual connections often take place between parents and their children and brothers and sisters. The boys learn to commit thefts and the girls become prostitutes. The same condition prevails at Vienna. In 1919, out of the tenements let out, 10 per cent. had only one small room ; 37 per cent. had one big room and 23 per cent. had one small room and one big room. Out of the children between the ages of fourteen and eighteen who maintained themselves, twenty per cent. had no separate beds of their own. Towns and villages fare even worse."

In our country, the same condition prevails in cities like Bombay. A few exceptions apart, it is observed that virtue is palsied where poverty prevails. Further on it will be shown how it is well-nigh impossible to uproot poverty without the aid of birth-control. The aphorism, बुभुक्षित : किम् न करोती पापम् ,is well known.

When we have thus realised that birth-control is the *sine qua-non* for every progress, we must consider the means to attain that end. To be satisfied with only that much of sexual enjoyment that is necessary for getting the desired number of children and to banish sexual thoughts from one's mind when progeny is not required, is one of the ways. The use of modern contraceptives is the other way. As for the first way, it must be

remembered that while continence in the unmarried state may be possible, it is nothing but displaying ignorance about human nature to expect that young and healthy married couples, living together and fond of each other, can observe continence for years together. The cases of strong-willed persons, whose minds are not affected in the presence of objects of enjoyment, apart, there is no doubt that ordinary human beings are bound to fall a prey to the influence of enticements. Is it not strange, therefore, that this fact, which is as clear as daylight, is denied by some.

Self-control has been proved to be absolutely useless for birth-control from the experience of several countries and ages. Even the advocates of continence cannot claim that ordinary persons will be able to eschew sexual intercourse altogether throughout their lives. The laying aside of continence even for a single day every year may lead to an annual conception. Even, if we assume that self-control enables certain persons to bring about birth-control, we cannot draw the conclusion that others will be able to follow them. It is necessary to remember that just as appetite for food differs in the case of different persons, so sexual appetite also varies from person to person.

Strict observance of certain rules laid down in Hindu scriptures necessitates the neglect of the ideal of family-limitation. For instance, verse 8, Chapter 54, of "Vishnu Smriti" enjoins sexual intercourse on certain specified days.

Sir, honourable members have received a pamphlet written by Mrs. Sarojini Mehta, M.A., I am not going to read the whole pamphlet, but will quote only a few passages from it :

> "Whenever the subject of birth-control is broached, the burden of our opponents' song is that continence (Brahmacharya) is the sovereign specific for our country and that it is better to leave Westerners to be blessed by their own artificial remedies. I humbly supplicate these honourable persons to state the grounds upon which they hold this view. It is stated that our people are spiritualistic, while Westerners are materialistic. It has now become well-nigh nauseating to hear this parrot cry repeated. In what way are our people spiritualistic ? Have our people renounced the world and become ascetics ? Can mere repetition of certain catch-phrases like "All this is delusion." "One must abandon attachment to worldly life", turn people into spiritualistic ? Does not every one of our villages possess Shylocks ready to demand their pound of flesh from poor and innocent debtors ? Are there not bankers mean enough to devour the deposits of widows ? Have we not scoundrels who are debased enough to leave stranded helpless widows whom they themselves have misled ? Can we claim that our society is without men who have discarded their chaste and devoted wives and taken to prostitutes ? I am completely at a loss to understand how a society can be called spiritualistic, in which many are ruined by matrimonial transactions that amount to virtual sales of brides and bridegrooms, in which a person refusing to give an absenquial feast to his

caste-people is out-casted, in which men are planning their second marriages while their first wives are burning on funeral pyres, in which even old fogies of sixty years can marry girls of twelve on the strength of monetary bribes and in which the treatment offered to widows is worse than that given even to the beasts. Western materialism cannot be held responsible for the rotten state of our society discribed above. On the contrary it is those who have come into contact with western materialism who are trying their best to remedy these evils, though their efforts are proving nothing but a cry in the wilderness."

Further on, in another paragraph, she says :

"The conduct of Indraraj towards Ahilya, of Parashar Rishi towards Satyawati and of Suryadev towards Kunti would make those perpetrators liable for rigorous imprisonment in this age of Kali but that being considered to be Satya Yug, we not only connive at these delinquencies but raise books containing such descriptions to the status of 'Sacred Books' and insist that they must be prescribed as test-books in the curriculum for children. How many lessons on continence can pupils find in the Mahabharat, the Bhagwat and the Puranas ? How can an age, that never knew what continence was, inspire us to observe that virtue ? How is it possible to consider that age to have observed continence in which there were incidents like the story of King Dushyanta, who first misled an innocent and guileless girl living in the hermitage of a sage and then discarded her when she was pregnant ? When one considers the number of children born to certain persons mentioned in very ancient narratives, a doubt naturally arises in one's mind as to whether the people in those days ever dreamt what continence was. How can one believe that continence was observed in those times when one considers that Sagar begot sixty thousand sons and that there were a hundred Kowrawas, twenty-seven daughters of Daksha Prajapati and several other such instances ? Continence was paid scant respect in bygone days. It can actually be seen that in these days it is kept at a distance everywhere. The birth-rate of our country is not falling lower than that of any 'materialistic' country. Brahmacharya cannot be observed even where the life of a woman, already the mother of many children, is jeopardised by an additional delivery. It is neglected even in the families of paupers, dying of hunger, where the addition of even a single individual to the family would be nothing short of a calamity. Even in these days of unemployment, when it is practically impossible to find outlets for sons, additional children are born even in middle class families every year or year and a half. In castes, in which the usage of dowry prevails, parents express much grief at the birth of a daughter, kill her at the very outset or bring her up most negligently so that she may die a natural death. They, however, never resort to continence to avoid the chances of girls being born. In spite of all these instances we go on proclaiming that continence alone is the ideal for our country ! Of what

earthly use is such conduct ? We have to take into account the state of things actually existing before our eyes. There are no chances of making any improvement in our condition by mere talk of ideals."

Dr. K. B. Antrolikar : Sir, all that may be taken as read, because every member has received it.

Mr. P. J. Roham : Sir, I have made it clear that I am not going to read the whole of it. I request my honourable friend Dr. Antrolikar to have patience. *Mr. P. J. Roham :* She continues :

"If, therefore, they have got the country's welfare at heart, they ought to try their level best to popularise continence by founding associations for the purpose of carrying on the work systematically, just as the birth-controllers are doing to popularise contraceptives. If, however, they are either unwilling or unable to do anything in this matter, the hands of the champions of contraception will be strengthened."

As a doctor has wisely remarked, if men had to bear the pangs which women have to undergo during child-birth none of them would ever consent to bear more than a single child in his life.

It is wrong to hold that because the ideal of large families is before society up to this time nobody wishes to limit his family. Human beings, who earnestly desire to be saddled with large families, are rare. Ordinary persons do want to limit their families and do not even flinch to have recourse to diabolical methods such as abortion, infanticide, etc. Such attempts are witnessed everywhere. From an account published by "The People's Tribune" in 1934 it is found that in 1933 over 24,000 dead bodies of little infants were picked up in the street of Shanghai alone and the same state prevails throughout most of China. It is bitter and terrible poverty that makes the parents expose their infants. In the light of such instances, it is futile to hope that ordinary persons will be able to avoid progeny merely through self-control. It is, therefore, established that there is no go without recourse to modern contraceptives. To deny the necessity of those remedies is to show one's preference for abortions, infanticides, etc.

Some people think that they would be losers if the numbers in their particular race, religion, or region are lessened. They are afraid that their adversaries would thereby be enabled to gain ground over them. In the first place, it is necessary to remember in this connection that the rate of increase of a population does not necessarily dwindle down as soon as family limitation is resorted to. That rate is dependent not merely on the birth-rate but chiefly on the survival-rate. The experience of several scientists from different places has proved that the higher the birth-rate, the higher is the death-rate also and no sooner the birth goes down, the death-rate also declines. The result is that not only is the survival-rate not adversely affected but very often it even rises. Dr. Maria Stopes has found from the experience gained in "The Mothers' Clinic" that the

greater the number of conceptions the higher is the rate of maternal and infantile mortality. Similar is the experience of other scientists. Dr. J. M. Munro, M.D., F.R.F.P.S., says in his book "Maternal Mortality and Morbidity" :

> "The strongest argument in favour of limiting the family is that by the fourth birth the mortality-rate very nearly approaches that of the first birth, looked upon generally as the most serious and dangerous. After the fourth birth, the mortality rate steadily and markedly rises with each successive pregnancy and parturition. The same applies to still-births and neo-natal deaths."

Due to excessive child-mortality, the rate of growth of the population of Countries like India is not equal to that of countries like England though the birth-rates in countries of the former type are higher than those in the latter type. The birth-rate of England is nearly half that of India. Yet we find that the population in England increased by nearly 23 per cent. between 1901 and 1931, while the population in India rose by only 17 per cent. in the same period. This will show that even for a rapid growth of numbers, the better way is to adopt the practice of birth-control and thus cut down infantile mortality.

It must also be remembered that for modern wars comparatively few persons are necessary. An army, well-equipped with modern materials for warfare, can route an army much greater in number than itself, if the latter one is not so well-equipped. In the former world war, countries of low birth-rates vanquished those with high birth-rates.

In the world, we can witness many societies that are small in numbers but distinguished in respect of wealth, culture etc. In our country, the Parsee community is an illustration on this point. To hanker after quantity is, therefore, not a very profitable ideal. The aphorism, वरमेको गुणीपुत्रो न च मुर्खशतान्यपि, is well known.

After this, it is worth while keeping in mind that it is principally poverty that is at the root of the animosity between different races, societies and countries. When poverty will be uprooted, the root-cause of much of such hatred will be eradicated and then nobody need be afraid of molestation from others.

The example of Western nations shows us that modern contraception is utilised by persons of all races, religions and strata. For instance, it is found that the notion that the Roman Catholics are against birth-control is unfounded. France is a Roman Catholic country and still it is notorious that the birth-rate in that country is quite low. The following ten countries had the lowest birth-rates in 1932 : —

Sweden	...	...	...	14.5
Germany	...	...	...	15.1
Austria	...	...	...	15.2
England and Wales	...	...	...	15.3

Norway	...	...	...	16.3
Australia	...	...	...	16.4
Switzerland	...	...	...	16.7
New Zealand	...	...	...	17.1
United States	...	...	...	17.3
France	...	...	...	17.3

Among the three lowest countries are Austria, which is entirely Catholic, and Germany, which is one-third Catholic.

The following figures, the birth-rates of important cities, illustrate the very point. They are all for 1927 or 1928 : —

London	...	...	...	16.1
Cologne	...	...	...	16.0
Geneva	...	...	...	14.6
Milan	...	...	...	14.5
Turin	...	...	...	13.2
Prague	...	...	...	12.5
Munich	...	...	...	12.0
Vienna	...	...	...	10.6

With the exception of London, all the above towns are solidly Roman Catholic, yet they all have a lower birth-rate than London. Three of them are in Mussolini's Italy.

It will be thus seen that the fear, that other communities will neglect birth-control and will thus become stronger in numbers, is altogether a baseless one.

Speeches of statesmen, who are responsible for wars, clearly show that economic difficulties, due to pressure of population, are at the root of most of the modern wars, Bernhardt, the Kaiser, Hitler, Mussolini and Gooring have often stressed this point in no ambiguous words. For instance, Adolf Hitler says in his book, Mein Kampf :

> "Through the mad multiplication of the German people before the war, the question of providing the necessary daily bread came in an ever sharper manner into the foreground of all political and economic thought and action."

Further on he says :

> "Only an adequate amount of room upon this earth secures to a nation the freedom of its existence—The National Socialist movement must endeavour to do away with the disproportion between our numbers and our territory ..... Ground and territory must be the object of our foreign politics." (pp. 728-35).

In his recent historic speech, delivered on the 12th of September 1938, Hitler says :

> "They expect Germany, where 140 persons are squeezed into a square kilometre, to keep her Jews, whereas the powers with only a few persons per kilometre do not want them ....."

Similarly Mussolini has said :

"We are hungry for land, because we are prolific and intend to remair so." (From "Foreign Affairs", October 1926).

"Italy demands that her indisputable need of sun and land shall be recognised by all other nations. Should they fail to do so. Italy will be forced to take matters into her own hand." (From "Sunday Times", November 14, 1926).

The Deputy Speaker : The honourable member has exceeded the time-limit.

Mr. B. K. Gaikwad : Sir, may I know what is the time-limit ?

The Deputy Speaker : Half-an-hour.

Mr. B. K. Gaikwad : On a point of information, Sir. The honourable member who moved the last resolution (Mr. Shrikant) spoke, I believe, for more than an hour.

The Deputy Speaker : Extension of the time is within the discretion of the Chair.

Mr. B. K. Gaikwad : Can that indulgence not be given to other resolutions ?

Mr. P. J. Roham : Sir, I do not wish to take much time of the House, but I have still some more points to make and request you to kindly allow me some more minutes.

It is, therefore, obvious that all those who stand for permanent world-brotherhood, must discountenance every attempt at increase of numbers and must try their best to limit populations by means of birth-control.

The fear that birth-control propaganda will fail to filter down to the masses and the result of the movement will thus be dysgenic instead of eugenic, is also groundless. The experience gained in Western countries establishes the fact that the lower classes do take advantage of contraceptives as soon as they are made cognizant of them, the need being greater in their cases. The masses in our country, though illiterate, are intelligent enough to know in what their own interest lies and hence there is no doubt that they will fully utilise this invention also as soon as they are made aware of its existence. Vasectomy would be found to be useful in the case of such persons and hence Government and municipalities must provide facilities in this respect in their hospitals, etc.

The late principal Gole has clearly shown in his book "हिंदु धर्म आणि सुधारणा" that even villagers have many virtues and it is really they that replenish the supply of good citizens.

The opponents of this movement try to show its futility by pointing out the examples of France, Germany and Italy but they forget that we cannot follow these countries unless it is proved that their attempts at the increase of their populations are justified. In the first place, it must be kept in mind that the birth-rates of these nations are much lower than the birth-rate of our country. Our birth-rate is 35 whereas in 1936 the birth-rates of Italy,

France and Germany were 22.2, 15 and 19 respectively. In 1900 the birth-rate in Germany was 35.6 but in 1933 it came down to 14.7. Italy and France also have their birth-rates much reduced since that time. In England the birth-rate was 33.9 in 1851-55 but in 1931 it was lowered to 15.3. Our birth-rate is practically stationary for the last fifty years and hence it would be unwise for us to imitate the efforts of other countries towards raising that rate.

It is quite natural for imperialists to lament the slackening of the rate of increase of the people of their race and it is not surprising that they should raise cries like "Renew or Die". It is, however, strange to see that those cries should make even some educated persons suspicious about the benefits of birth-control. An article, "Renew or Die", by Sir Leo Chiozza Money in "The Nineteenth Century and After" for February 1938 will illustrate the point. This writer has assumed that white leadership is necessary for the good of all humanity and has raised a cry to arrest the decline in the number of the white people. Now, in the first place, many will refuse to admit that white supremacy has benefitted the world and secondly few educated persons will be prepared to go to the length of maintaining that the decline in the number of white people will bring down any calamity upon humanity. Besides this, the postulates of this person are all wrong. He has taken it for granted that the birth-rate in England will gradually become lower and lower and that in the year 2,035 the population of England will be reduced to 4,400,000 (44 lacs). But the facts are that the birth-rate in England is increasing instead of going down. In 1933 it was 14.4 but in July 1938 it becomes 15.3. Similarly whereas the writer has estimated that the population of England and Wales in 1940 would be only 40,700,000, the actual figure for 1937 there was already 41,031,000 and it is increasing at the rate of 190,000 people per year. These facts will show that one must take the precaution of not being misled by such articles.

Emigration is sometimes suggested as a remedy for finding an outlet to over-population but that remedy also is not very promising. Compulsion in emigration, amounting to transportation is out of question. Very few persons have the courage and the inclination necessary for leaving one's own country, endeared to one's heart by reminiscences of childhood and the presence of relatives and friends and made agreeable by a suitable climate and other factors and to repair to a distant land in which there is the danger of the climate being found to be an unsuitable one and in which the inhabitants are different from oneself in language, customs and manners. Generally, people willing to emigrate are those who are fit to be good citizens and who are able and energetic. It is really a loss to the motherland that such people should emigrate. These persons can easily maintain themselves in their own country but ambition impels them to try to better their lot by going to distant lands. Emigration is practically useless in the case of persons who are handicapped either physically or mentally or

financially and it is really these people that stand in need of help. Considered from the point of the necessary capital alone, this remedy cannot afford relief to many persons.

Besides this, it must be kept in mind that sparsely populated countries are unwilling to accommodate others because they require elbow-room for their own increasing progeny. Canada is a colony in the British Empire mainly inhabited by Englishmen but it is notorious that the Canadians refused to allow English labourers, who had gone there for seasonal work, to settle in their land. Wars are occasioned by the attempts of populous countries to force their entrance in sparse regions. An illustration on the point, which is quite recent and near to us, is afforded by Burma. The cause underlying the recent communal riots there was mainly the suspicion in the minds of the Burmans that Indian marred their material progress. Compared to over-populated countries, regions of sparse populations are very few, Japan, Italy, Germany, China, India and many other countries are over-populated. It is not possible to find adequate room for emigrants from all these lands.

One more point in this connection is also worth mentioning. Emigration cannot solve the population problem of a country permanently. Like air, expanding population has a tendency to fill up vacuum immediately, leading to the recurrence of the former condition and hence it is obvious that there is no go without birth-control.

Some think that as soon as child-marriages are given up and late marriages are introduced, the increase in population will be checked. But this belief also is an unfounded one. In the first place, years must elapse before the ages at which girls are married would be sufficiently raised in our country. The years of greatest fertility in the case of girls are those between 18 and 22. In Western countries, women marry after this period. That is, they marry when their time of greatest fertility is over. When we notice the difficulties in the enforcement of the Sarda Act, fixing the minimum age of marriage of a girl at 14, we can easily see that it is almost useless to hope that in the near future women in our country will postpone their marriages up to 22 and population will be checked thereby. Mr. P. K. Wattal has drawn the following conclusions from the fertility-enquiry conducted specially in connection with the 1931 census.

(1) That girls married at ages below twenty give birth to a smaller number of children than girls married at ages above twenty.

(2) That the survival-rate of children born to mothers married at ages below twenty is much less than that of children born to mothers married at ages above twenty.

These conclusions show us that even when late marriages would come into vague generally, there is no chance of population being appreciably checked thereby. More children would live upto mature ages and hence there is a chance of an increase and not a decrease in the rate of growth of our population.

Dr. G. S. Ghurye, Ph.D., University Professor of Sociology, Bombay, says in his article, "Fertility Data of the Indian Census of 1931" in the "Journal of the University of Bombay" (Vol. III, May 1934) : —

> "If the above tentative conclusion about the co-relation between fertility and the age of woman at marriage should prove to be correct, then with the increase in woman's age at marriage which is quite essential, there would be an increase in the fertility or marriage. As it is, I believe our population is very large and Our increase undesirable and to help its increase at a greater rate would be suicidal. With our efforts to raise the women's age at marriage, therefore, there must also be carried on an intensive campaign for control of birth."

It must not, moreover, be forgotten that prostitution is encouraged by people being unable to marry at proper ages and other evil consequences also follow thereby. It is, therefore, necessary to resort to birth-control if marriage at a proper age is aimed at.

The view is held that economic independence of women will lessen the growth of population but it also does not hold water. Economic independence has no power to free a person from the clutches of Eros. Few women can observe perfect continence throughout their lives and hence this remedy would be found to be fruitless. Even now, women of the lower classes are actually helping their families with their own earnings but that fact does not seem to help family-limitation to any extent.

Some persons hold the view that though birth-control may be necessarily on medical and hygenic grounds, still it is not required for solving economic difficulties. They maintain that our country has got much scope for economic and agricultural development and efforts in these directions would raise the standard of life of our people appreciably. On close examination, however, this view also is found to be quite untenable. Want of sufficient capital and rich customers would prevent any material development of our industries. Similarly, insufficiency of fertile lands, rain-fall and manures stand in the way of any substantial increase in our agricultural production. Except in Assam, there is very little fertile land that has not yet been brought under cultivation. In Burma, there is even now sufficient suitable land awaiting cultivation and it was the figure of such land from that province that misled certain people into the belief that India has even yet sufficient fertile virgin land. In our province, 86.4 per cent. of the cultivable land has already been brought under the plough and it is doubtful whether even a fraction of the rest of the land is of any value. According to the Report of the Royal Commission on Indian Agriculture much of such land is worthless. A great portion of the agricultural land in our country has become barren through incessant cropping and want of sufficient manures.

Through the excessive growth of population, our country suffers from deficiency of forests and pasture-lands. In Canada 34.3 per cent. of cultivable land is reserved for pasturage. This proportion is 21.5 in France,

18.3 in Italy, 14.3 in Germany but in our country it is only 1.6. These figures will show to what strait our cattle is forced. Cast our glance in whatever direction we may come across mere skeletons of cattle. Though our people pride themselves upon their humanitarianism, they have, in their struggle for land, unjustly deprived the dumb creatures of much of their pasturage and brought it under tillage. Our agriculture, therefore, is suffering from insufficiency of useful cattle and organic manures like cow-dung, and hence it is very difficult to effect many appreciable improvements in it. Some persons point out the large produce per acre of rice in Japan and China and hold out the hope that there is scope for materially increasing our produce of that crop. There are grounds, however, to doubt the correctness of the figures of the production of rice in those countries. Count Karlo Sforra, former Minister for Foreign Affairs for Italy, contributed an article styled "The conflict between China and Japan" to a recent number of the "International Conciliation," a monthly published from New York. It is stated therein that from 1900, there is an appreciable decrease in the rice production per acre in Japan. There is considerable evidence to show that figures about agriculture in Japan are not reliable. Besides this, notice also must be taken of the facts that Japan is blessed with plenty of timely and all-the-year round rainfall and abundance of manures due to her extensive forests and also with a climate ideally suited to her rice crops ; combination of advantages rarely witnessed anywhere else. Although it may be admitted that self-rule may effect some betterment of the lot of our masses, no lasting and appreciable improvement in the economic condition of our people can be hoped for unless the growth of our population is deliberately checked. As has been already explained, with every opportunity afforded for its expansion, population begins to grow rapidly and thus nullifies all the advantages secured through great efforts. Hence, experience has made many scientists to hold the view that unless precaution is taken to regulate population growth by means of birth-control along with efforts to improve the economic condition of the people there cannot be any substantial and permanent rise in the standard of life of the masses.

The fact, that mere self-rule is powerless to effect an all-round improvement in the condition of a people, is demonstrated to the hilt by the examples of many independent nations. Although, through various reasons, including a low birth-rate, the economic condition of the inhabitants of countries like England and America is superior to that obtaining in this country—poverty prevents many of our countrymen from obtaining a nourishing food—still it is far from satisfactory. Even there, many find it difficult to maintain a standard of life necessary for perfect health. According to President Roosevelt one-third of the inhabitants of America do not get sufficient nourishing food. One of the reasons for this is that even there birth-control is not practised to the extent to which it is necessary. There is plenty of fertile land per head in countries that are newly settled and hence the

people there get more nourishing food than that obtained by persons in thickly populated nations. Here are the figures of consumption per head per annum in Australia and Italy :

			Australia	*Italy*
Milk and its products (gals.)		...	102	23
Meat (lbs.)	...	...	202	35
Fruit (lbs.)	...	...	104	40
Sugar (lbs.)	...	...	107	18
Wheat (lbs.)	...	...	297	351

Every article of food except wheat is consumed in far greater quantities in Australia than in Italy.

Out of the nations of the old world, countries like Holland that have their birth-rates much reduced through birth-control, are much happier than the rest.

In the Bombay Presidency, the amount of milk available per head per day is only one and a quarter "tolas". According to authorities on nutrition, every individual must get on an average at least one pint of milk per day.

The main object of the movement for birth-control is to bring about a state of things wherein every country will have its birth-rate suitably reduced so that it would thus be able to maintain its population decently with the aid of its own produce.

Some are under the impression that modern scientific discoveries have solved the problems of food for mankind and that it is only mal-distribution that is at the root of the present economic difficulties. Fair distribution of property would, in their opinion, bring about plenty everywhere. There is no doubt that in many places injustice prevails in the division of property and every impartial public worker must take all steps to secure justice for wronged persons in this respect. It is, however, necessary to remember that mere equal distribution will never be able to bring about a permanent and material amelioration of the condition of the masses unless growth of population is controlled by means of family-limitation.

Land being the chief source of all wealth, there cannot be plenty for all unless plenty of fertile land falls to the share of each individual. Agricultural experts like Sir Damiel Hall and Prof. East have pointed out that about two and a half acres of cultivable land are needed to support one individual on the western European standard. But in all old countries, people have to. maintain themselves on land much less than this. In India, there is only three quarters of an acre of cultivable land for each individual and, as has been already pointed out, according to the opinion of the Royal Commission on Agriculture, much of the uncultivated land in this country is practically useless.

The view that the advent of chemical fertilisers has solved the problem of manures is also not a sound one. Artificial manures cannot be used at each and every place.

Rao Bahadur D. L. Sahastrabudhe, M.Ag., M.Sc, retired Agricultural

Chemist to the Government of Bombay, wrote in his article in "Sahyadri" for October 1936 as follows : —

> "Experience has shown that artificial manures cannot be utilised everywhere. Organic manures like cow-dung must accompany the use of chemical fertilisers. Otherwise, artificial manures do not prove to be congenial to the crops. Similarly the crop that is to be manured with chemical fertilisers must have plentiful supply of water to prevent an injury to it.
>
> Besides this, it must be noted that the two chief fertilisers are nitrates and phosphates and neither is of much use without the other. The supply of phosphates, however, is very limited. Sir Federick Keeble says :
>
> 'Nearly all the soil of the world are famishing for phosphates. (Fertilisers and Food Production) (1932), p. 221. Professor Armstrong says :
>
> 'The solution of the nitrogen problem by Crookes has brought us nearer to destruction rather than saved us, by hastening the depletion of irreplaceable phosphatic stores.'."

Almost all places are suffering from inadequacy of forests and as a result thereof there is also a shortage of water and manures.

The present Congress Government are trying to uplift the masses of this Bombay Presidency (hear, hear). But all their efforts will go in vain if the population-problem is not tackled by means of birth-control.

The Deputy Speaker : The Honourable Member may now bring his remarks to a close.

Mr. P. J. Roham : Yes, Sir. Dr. Radhakamal Mukerjee has in his book. 'Food Planning for 400 Millions", states :

> "Unless some check is placed upon population-growth, any other remedy tends to be only temporary, as in the latter country (China), for population will rapidly rise again to the maximum number of persons the land will support. As population outruns faster the educational facilities that may be provided, while the taxable capacity hardly increases, it is clear that the pressure of population cannot be viewed merely in relation to the food-supply. An expanding population makes readjustments more and more difficult. A rational family planning and education of the masses in birth-control, must be accepted as the most effective means of combating population-increase."

Bombay is the gateway of India and this movement also entered this country through that very gate. It would be in the fitness of things, therefore, that it should also be nurtured in this very province. Few people get an opportunity for doing acts that would immortalize their names. Birth-control movement has afforded such an opportunity to our provincial government and it is hoped that they will not let it slip but will fully utilize it to the benefit of themselves and the people.

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APPENDIX II

QUESTIONS ASKED BY Dr. B. R. AMBEDKAR AND REPLIES GIVEN BY THE GOVERNMENT

Government Service : Selection Board

Dr. B. R. Ambedkar : Will Government be pleased to state—

(*a*) whether there is any selection board constituted for the purpose of selecting candidates applying for the vacancies in the Provincial and Subordinate Services of the Government of Bombay ;

(*b*) if so, the names of the members who constitute that Board ?

The Honourable Sir Chunilal Mehta : No single Board exists for selecting candidates for the Provincial and Subordinate Services of the Government of Bombay. For certain of the Provincial Services selection committees have been constituted. Appointments to the Subordinate Services are made by the heads of offices under powers delegated to them or by the Local Government.

Dr. B. R. Ambedkar : Will the Honourable Member state whether he can give the names of the members of the Committees constituted for the Provincial Services ? He says that for certain of the Provincial Services selection committees have been formed.

The Honourable Sir Chunilal Mehta : I am afraid I cannot carry the names of the members in my head. If the honourable member gives notice, I shall supply the names. But I think there is not a fixed list of members of these committees ; they change, I believe, every year or from time lo time.

(B.L.C. Debates, Vol. XIX, p. 325, dated 28th February 1927)

Acquisition and Improvement of Land for Village Sites

Dr. B. R. Ambedkar : Sir, I rise to a point of information. I do not exactly understand the object for which this amount is provided in the present budget. I should like to know from the Honourable Member in-charge whether it is expended for the purposes of establishing new settlements of villagers who are dissatisfied with their own village sites, or whether the amount is spent for providing amenities to the villagers, or for what purpose. There is certainly no information given either in the

Blue Book or the White Book to enable new members like myself understand the exact purpose of this amount. I, therefore, hope that some enlightenment will be thrown on this subject.

(B.L.C. Debates, Vol. XIX, p. 421, dated 1st March 1927)

Superintendents of Land Records

Dr. B. R. Ambedkar : Sir, I do not think that much argument need be wasted on this motion. The motion is based upon the ground that these superintendents who are provided in the budget at a cost of Rs. 35,800 do work which ordinarily in the course of things can be done and discharged by the deputy collectors. The only answer to this argument is that the deputy collectors are not in a position to do this work. The reply given by the honourable member, the Settlement Commissioner, does not seem to me to touch on that aspect of the question. Nobody here in this House disputes that the work done by them is useful work necessary in the interest of society, but, Sir, the point and the important point is whether such work cannot be done by deputy collectors. If the reply to that is in the affirmative, then Government has no case at all, and I should like Government to clear that point in order to enable new members like me to decide one way or the other.

(B.L.C. Debates, Vol. XIX, p. 453, dated 3rd March 1927)

Deputy Collectorship : Application of Mr. M. K. Jadhav

Dr. B. R. Ambedkar : Will Government be pleased to state—

(i) Whether Mr. M. K. Jadhav, B.A. (Hons.), Bombay, applied for one of the three posts of Deputy Collector recently filled up by the Revenue Department of the Government of Bombay ?

(ii) Whether they were aware that he belonged to the depressed classes ?

(iii) The reasons why his application was rejected ?

Honourable Mr. J. L. Rieu : (i) Yes.

(ii) Yes.

(iii) Government regret that they are not prepared to state the reasons why Mr. Jadhav or any other individual candidate was not selected.

Dr. B. R. Ambedkar : Did Government apply the rule of 50 per cent. reserved posts for depressed classes in Government service when filling up the appointments ?

The Honourable Mr. J. L. Rieu : The rule does not apply at all. It applies to clerical staff only.

Mr. W. S. Mukadam : Will Government be pleased to give us the names of the candidates selected ?

The Honourable Mr. J. L. Rieu : The honourable member will find it from records.

Dr. B. R. Ambedkar : Is the exclusion of Mr. Jadhav consistent with

the policy of Government of encouraging the depressed classes ?

The Honourable Mr. J. L. Rieu : It is not inconsistent with it.

(B.L.C. Debates, Vol. XIX, p. 545, dated 5th March 1927)

Admission of Depressed Classes to Public Places

Dr. B. R. Ambedkar : Will Government be pleased to state what steps they have taken to carry into effect Mr. Bole's resolution to throw open to the depressed classes all public places in this presidency ?

The Honourable Sir Ghulam Hussain : Attention is invited to the Press Note No. P-117, dated the 29th September 1923 (copy below for ready reference) issued by the Director of Information.

Press Note No. P-117, dated the 29th September 1923

(With the Compliments of the Director of Information, Bombay)

THE UNTOUCHABLE CLASSES

GOVERNMENT AND COUNCIL RESOLUTIONS

At the last session of the Bombay Legislative Council, on the motion of Mr. S. K. Bole, a resolution was passed recommending that "the untouchable classes be allowed to use all public watering places, wells and dharamshalas which are built and maintained out of public funds or are administered by bodies appointed by Government or erected by Statutes as well as public schools, courts, offices and dispensaries."

In pursuance of this resolution Government have directed their officers to give effect to it as far as it relates to the public places and institutions belonging to and maintained by Government. The Collectors have been requested to advise the local public bodies to consider the desirability of accepting the recommendation made in the resolution. The Bombay and Karachi Port Trusts, the Bombay City Improvement Trust and the Municipal Corporation have also been requested to give effect to the resolution with regard to the places under their control.

Dr. B. R. Ambedkar : Is the honourable member aware that the depressed classes in several places are prevented from taking advantage of the public places provided by the public bodies, by the ordinary villagers in the villages ?

The Honourable Sir Ghulam Hussain : Not to my knowledge.

(B.L.C. Debates, Vol. XIX, p. 546, dated 5th March 1927)

Assistant Educational Inspector for Depressed Classes

Dr. B. R. Ambedkar : Will Government be pleased to state—

(i) Why Mr. G. G. Kamble was reduced from his post of Extra Assistant Educational Inspector for the Depressed Classes ?

(ii) Whether the said post has been abolished ?

(iii) If so, why ?

The Honourable Dewan Bahadur Harilal D. Desai : (i) Mr. Kamble was reverted because he failed to justify his existence, there being no real improvement in the schools placed under his charge.

(ii) Yes.

(iii) The post was abolished because the control of primary schools having been transferred to the local authorities under the Bombay Primary Education Act, 1923, there was no longer any necessity for Government to continue to maintain it.

Dr. B. R. Ambedkar : Does not Government think it necessary that the benefit of a special assistant educational inspector should be extended to the depressed classes schools ?

The Honourable Dewan Bahadur Harilal D. Desai : In the first instance, Government created the special post. The schools have now been transferred to the local bodies, and if Government find it necessary to make such an appointment, they will consider the matter.

(B.L.C. Debates, Vol. XIX, p. 604, dated 7th March 1927)

Judgments of Mr. Fleming, City Magistrate

Dr. B. R. Ambedkar : Will Government be pleased to state—

(*a*) whether their attention has been drawn to the judgments delivered by Mr. Fleming, City Magistrate, Poona, in the two recent criminal cases (i) Emperor *v.* Baburao Fule and (ii) Emperor *v.* Javalkar and others in both of which the accused were charged under section 500 of the Indian Penal Code ;

(*b*) whether they are aware that Mr. Fleming has delivered contradictory judgments on a common point of law involved in both the cases, viz., whether the complainant is an aggrieved person within the meaning of section 198 of the Criminal Procedure Code ;

(*c*) whether they have called for an explanation from Mr. Fleming as to why he delivered such contradictory judgments ;

(*d*) whether they propose to take any steps against Mr. Fleming in this connection ?

The Honourable Mr. J. E. B. Hotson : (*a*) to (*d*) The remedies provided by the law are open to any person who considers himself aggrieved by a magistrate's judgment. Government could not without gross impropriety express an opinion in this House on the points to which this question refers.

Mr. S. K. Bole : The answer is given only to (*b*) and not to (*a*), (c) or (*d*).

The Honourable Mr. J. E. B. Hotson : The answer is to all four parts of the question.

Mr. S. K. Bole : The question in (*a*) is "whether their attention is drawn to the judgments delivered by Mr. Fleming" but there is no answer to that.

The Honourable Mr. J. E. B. Hotson : I think, it is implied. The attention of Government has been drawn to them.

Mr. S. K. Bole : Again, in (*b*) the question is "whether they are aware that Mr. Fleming has delivered contradictory judgments" but there is no answer to that.

The Honourable Mr. J. E. B. Hotson : Yes, the reply is there, "Government could not without gross impropriety express an opinion in this House" etc.

Mr. S. K. Bole : What is asked is whether they are aware.

The Honourable the President : The word "contradictory" implies and asks for opinion, and therefore that reply.

(B.L.C. Debates, Vol. XIX, p. 1147, dated 16th March 1927)

Assault by Mulki Patil on a Mahar (Chikhardi)

Dr. B. R. Ambedkar : Will Government be pleased to state—

(*a*) whether it is a fact that the Mulki Patil of the village Chikhardi in the Sholapur District committed an assault on Arjuna Lala Mahar for refusing to do his private work and fractured his skull ;

(*b*) whether it is a fact that Arjuna is now being treated for his injury at the Civil Hospital, Barsi ;

(*c*) if so, what steps they have taken against the Patil ?

The Honourable Mr. J. L. Rieu : The information has been called for.

(B.L.C. Debates, Vol. XIX, p. 1147, dated 16th March 1927)

Harassment of Mahars (Sholapur)

Dr. B. R. Ambedkar : Will Government be pleased to state—

(*a*) whether it is a fact that the Gaonkaris of the villages of (i) Ralerass, (ii) Pangaon, (iii) Pangri, (iv) Uple Dumala, (v) Ambegaon and (vi) Surdi in the District of Sholapur have been acting in conspiracy to stop the ryots and shop-keepers of their respective villages from having any dealings with the Mahars of their villages and have assaulted the Mahars of their villages and have in some cases outraged the modesty of the Mahar women and have gone to the length of throwing filth in the water-courses used by the Mahars because the Mahars in these villages have in their efforts at self-improvement given up the carrying of the carcasses of dead animals ;

(*b*) what steps they propose to take to protect the Mahars from such tyranny.

The Honourable Mr. J. E. B. Hotson : The information is being obtained.

(B.L.C. Debates, Vol. XIX, p. 1298, dated 17th March 1927)

Accident on the Ulhas River

Dr. B. R. Ambedkar : Will Government be pleased to state—

(*a*) whether their attention has been drawn to the leading article published in the *Pratiyogi,* dated the 13th February 1926, and the extracts of statements

of the people of Badlapur published in the *Pratiyogi,* dated the 12th June 1926 ;

(*b*) if so, whether they still withhold the permission to prosecute as asked for ?

The Honourable Sir Cowasji Jehangir : (*a*) Government have noticed a summary of the article published in the *Pratiyogi,* dated the 13th February 1926, but not the extracts of statements of the people of Badlapur published in the issue of the paper of 12th June 1926.

(*b*) Yes.

(B.L.C. Debates, Vol. XX, p. 759, dated 27th July 1927)

Public Service : Depressed Classes

Dr. B. R. Ambedkar : Will Government be pleased to give the following information regarding the strength of the depressed classes in the public service :—

District	Department	Number of depressed classes employed	
		As peons	On the staff

The Honourable Sir Chunilal Mehta : The information has been called for.

(B.L.C. Debates, Vol. XX, p. 847, dated 27th July 1927)

Watandar Mahars : Remuneration

Dr. B. R. Ambedkar : Will Government be pleased to give the following information for each village in the Presidency :—

Village	Total population	No. of officiating mahars	Remuneration to officiating mahars estimated from all sources, in rupees			Total remunera-tion
			From inami and	From Baluta	Government salary	

The Honourable Mr. J. L. Rieu : As the time and trouble involved in obtaining the information would be out of all proportions to its possible utility from the public point of view. Government regret that they are not prepared to collect it. If the Honourable Member will select a small number of typical villages for this enquiry, Government will consider whether it is practicable to supply the information he desires in regard to them.

Dr. B. R. Ambedkar : It is not a fact that the information asked for in this question is obtainable from the watan proceedings of every village ?

The Honourable Mr. J. L. Rieu : In any case I would call the honourable member's attention to the fact that this question would have to be sent to

every village in the Bombay Presidency. The labour and time involved in collecting this information would be enormous.

(B.L.C. Debates, Vol. XX, p. 1065, dated 27th July 1927)

Officiating Watandar Mahars

Dr. B. R. Ambedkar : Will Government be pleased to state—

(*a*) whether there are any rules governing the number of the officiating Watandar Mahars in the villages in the different parts of the presidency ?

(*b*) if so, whether they will publish them or refer to them ?

The Honourable Mr. J. L. Rieu : (*a*) and (*b*) There are no rules on the subject. The appointment of officiating Watandar Mahars is governed by the provisions of section 64 of the Bombay Hereditary Offices Act.

Dr. B. R. Ambedkar : Is the Honourable Member aware that discretion is left to the Collector under section 64 in exercise of which he can make rules regarding officiating Watandar Mahars ?

The Honourable Mr. J. L. Rieu : I am aware of that.

Dr. B. R. Ambedkar : Is the honourable member aware that in a certain village 16 Mahars are officiating as Watandars ?

The Honourable Mr. J. L. Rieu : If the honourable member gives notice I will make enquiries.

(B.L.C. Debates, Vol. XX, p. 1207, dated 27th July 1927)

Bridge on the Ulhas River at Badlapur

Dr. B. R. Ambedkar : Will Government be pleased to state—

(*a*) whether the consideration of the question of constructing a low level causeway on the river Ulhas at Badlapur in the Thana District has not yet been finished ;

(*b*) whether the whole correspondence including the Commissioner's and the Collector's reports thereon would be placed on the Council Table ;

(*c*) whether they are aware that a high level bridge instead of a low level causeway is absolutely necessary ?

The Honourable Mr. J. L. Rieu : (*a*) No. But it is hoped that a conclusion will soon be reached.

(*b*) Government are not prepared to place the correspondence on the table.

(*c*) No.

(B.L.C. Debates, Vol. XX, p. 1472, dated 27th July 1927)

Forest Land for Cultivation : Grants to Depressed Classes

Dr. B. R. Ambedkar : Will Government be pleased to state—

(*a*) the total extent of forest land given for cultivation in each district of this Presidency in the years 1923, 1924, 1925 and 1926 ;

(*b*) how much of this was given to the Depressed Classes in each district in the years mentioned ?

The Honourable Mr. G. B. Pradhan : (*a*) and (*b*) A statement furnishing the required information is placed on the Council Table. The area shown in the statement is for each forest division of the Presidency.

Statement of forest land given out for cultivation during 1923, 1924, 1925 and 1926

	Forest Division			Total extent of forest land given out for cultivation			
				1923	1924	1925	1926
	Northern Circle			Acres	Acres	Acres	Acres
1	Panch Mahals	..	..	660	7,536	....	9
2	Surat	..	..	1,175	1,152	3,558	....
3	North Thana	..	..	191	171	....	5
4	West Thana	..	..	339	330	295	....
5	East Thana	..	..	21,463	2,237	2,810	3,733
6	West Nasik	..	..	3,080	432	1,817	256
7	East Nasik	..	..	8,493	2,714	2,100	2,482
	Central Circle						
1	East Khandesh	..	..	186	401	1,756	1,872
2	North Khandesh	..	..	....	1,325	1,660	1,815
3	West Khandesh	..	..	90	51	235	560
4	Poona	..	..	1	1	70	36
5	Ahmednagar	..	..	4,254	55	86	88
6	Satara	..	..	3,516	252	473	285
	Southern Circle						
1	Northern Division, Kanara		..	22	....	....	7
2	Eastern Division, Kanara		..	105	137	33	7
3	Southern Division, Kanara		..	26	40	31	37
4	Western Division, Kanara		..	133	70	59	5
5	Central Division, Kanara		..	13	6	1	....
6	Belgaum	..	..	668	719	2,006	2,717
7	Dharwar	..	..	346	25	154	132
	Sind Circle						
1	Sukkur	..	..	1,841	2,577	1,330	1,888
2	Shikapur	..	..	1,399	1,256	1,066	928
3	Larkana	..	..	4,321	3,143	4,838	5,300
4	Hyderabad . .	..	..	549	1,782	2,071	2,396
5	Karachi	..	..	92	1,093	1,789	3,084

Statement of forest land given out for cultivation during 1923, 1924, 1925 and 1926—contd.

	Forest Division	Land given to the Depressed Classes				Remarks
		1923	1924	1925	1926	
	Northern Circle	Acres	Acres	Acres	Acres	
1	Panch Mahals	227	1,446	..	9	
2	Surat	1,175	1,152	3,558	..	
3	North Thana	191	171	..	5	
4	West Thana	339	330	295	..	
5	East Thana	21,463	2,237	2,810	3,733	
6	West Nasik	2,927	411	1,727	243	
7	East Nasik	8,493	2,714	2,100	2,482	
	Central Circle					
1	East Khandesh	..	30	91	101	
2	North Khandesh	..	1,325	1,660	1,815	
3	West Khandesh	40	37	90	340	
4	Poona	..	..	..	..	
5	Ahmednagar	55	..	..	..	
6	Satara	..	..	..	..	
	Southern Circle					
1	Northern Division, ..	..	..	..	..	No applications were received from persons of Depressed Classes during these years.
2	Kanara ..	..	..	..	..	
	Eastern Division, Kanara					
3	Southern Division, Kanara ..	20	38	28	36	
4	Western Division, Kanara ..	..	..	..	..	No applications were received from persons of Depressed Classes during these years.
5	Central Division, Kanara ..	..	..	..	..	
6	Belgaum	45	104	23	664	
7	Dharwar	..	..	..	..	Do.
	Sind Cir					
1	Sukkur	..	..	..	..	There are no Depressed Classes in Sind who do agricultural work.
2	Shikapur	..	..	..	..	
3	Larkana	..	..	..	..	
4	Hyderabad	..	..	..	..	
5	Karachi	..	..	..	..	

(B.T.C. Debates. Vol. XX. pp. 1472-74. dated 27th July 1927)

Tobacco Licence

Dr. B. R. Ambedkar : Will Government be pleased to state—

(*a*) whether one Narayan Sakharam had applied to the Superintendent of Excise, Tobacco Department, for licence to sell tobacco ;

(*b*) whether his application was refused although the applicant was a military pensioner and was recommended for licence by the Officer Commanding the 117th Rajputs ;

(*c*) the reasons why his application was refused ;

(*d*) whether the application was refused on account of the fact that the applicant belonged to the depressed classes ;

(*e*) whether they make any caste discrimination in the matter of issuing licences ?

The Honourable Mr. J. L. Rieu : (*a*) Yes.

(*b*) Yes.

(*c*) Tobacco licences are only granted to persons in really indigent circumstances who are unable to earn a livelihood by any other means. The person referred to by the honourable member was reported to be quite fit to earn his livelihood in other ways. He was therefore refused a licence.

(*d*) No.

(*e*) No.

Dr. B. R. Ambedkar : Is this in accordance with the rules laid down by the department in the matter of tobacco licences ?

The Honourable Mr. J. L. Rieu : I do not think that there are any specific rules on the subject, but that is the practice.

Dr. B. R. Ambedkar : May I know whether this particular question refers to the honourable member's department or to the department under the Excise Minister ?

The Honourable Mr. J. L. Rieu : This refers to the Revenue Department. Tobacco licences are given out by the Collector of Bombay.

(B.L.C. Debates, Vol. XXI. p. 57. dated 29th September 1927)

Forest Lands, Nasik : Applications of Mahars

Dr. B. R. Ambedkar : Will Government be pleased to state—

(*a*) whether they are aware that the Mahars of the village of Pimplad in taluka Nasik had applied to the Collector for forest land ;

(*b*) whether they had asked for survey number 220 in the village of Pimplad ;

(*c*) whether, that being refused, they had asked for survey number 202 in the village of Rajur-Babula ;

(*d*) whether, that being refused they had asked for survey number 71 in the village of Rajur-Babula ;

(*e*) whether it is a fact that even this last application has been rejected ;

(*f*) the reasons for this persistent refusal to consider favourably the applications of these Mahars ?

The Honourable Mr. G. B. Pradhan : (*a*), (*b*), (*c*), (*d*) and (*e*) Yes, as it had already been granted to another individual.

(2) Survey No. 202 of Rajur is pasture forest incharge of the Revenue Department. It is sold annually for grazing to the villagers, and it cannot be granted for any other purpose, as the remaining grazing area available in the village is not sufficient for their requirements.

(3) For the same reason Survey No. 71 of Rajur-Babula which is assigned for Kuran (grazing ground) could not be granted to the Mahars.

I may add that 11 survey numbers of Pimplad and Rajur-Babula comprising of nearly 200 acres of land were the only lands available for being given out for cultivation. They were therefore put to sale at an upset price 12 times the assessment and it was ordered that none but the Mahars, Bhils and Kolis should bid. The condition was imposed specially to exclude unfair competition by moneyed people. The papers of the sales recently sanctioned show that two Kolis and three Mahars of Pimplad and one Koli and three Mahars of Rajur-Babula are the purchasers.

(B.L.C. Debates, Vol. XXI, p. 219, dated 1st October 1927)

Grazing Grounds, Thana District

Dr. P. G. Solanki on behalf of Dr. B. R. Ambedkar : Will Government be pleased to state—

(*a*) whether their attention has been drawn to the information published on pages 372 and 417 of the Vividha Jnana Vistar of the year 1926 ;

(*b*) if so, whether they intend to take steps to order such varkas or grass lands to be free from assessment ;

(*c*) whether they intend to let open the forest lands of the village of Badlapur in the Thana District for agricultural and grazing purposes as the income from those forest lands is comparatively very small ?

The Honourable Mr. J. L. Rieu : (*a*) Only when the Honourable Member gave notice of this question.

(*b*) No.

(*c*) No.

(B.L.C. Debates, Vol. XXI, pp. 269-70, dated 1st October 1927)

Forest Lands for Depressed Classes

Dr. P. G. Solanki on behalf of Dr. B. R. Ambedkar : Will Government be pleased to state—

(*a*) whether they are aware of the enormous extent of unemployment prevailing among the depressed classes ;

(*b*) whether in view of the fact that many occupations are closed to the depressed classes owing to the system of untouchability, they intend to consider the question of forming settlements of the depressed classes wherever tracts of forests lands are available as has been done by the Mysore Government ;

(*c*) whether they intend to give preferential treatment to applicants from the depressed classes for forest lands ?

The Honourable Mr. G. B. Pradhan : (*a*) No.

(*b*) Such settlements have already been formed in the three Khandesh Divisions, and the feasibility of forming further settlements will be considered if applications are made and suitable lands in forests are available.

(*c*) Application from depressed classes for forest lands will be favourably considered, but no promise of preferential treatment can be held out.

(B.L.C. Debates, Vol. XXI, pp. 269-70, dated 1st October 1927)

Deccan Agriculturists' Relief Act : Repeal

Dr. B. R. Ambedkar : Will Government be pleased to state—

(*a*) whether it is a fact that they are contemplating the introduction of a bill to repeal the Deccan Agriculturists' Relief Act ;

(*b*) if so, whether they have ascertained the views of the agricultural population whose interests are bound to be affected by such a step ;

(*c*) whether they are aware that the Royal Commission on Agriculture has expressed the opinion that the operation of the Usurious Loans Act, 1918. has not been successful ?

The Honourable Mr. J. R. Martin : (*a*) and (*b*) The question of amending or repealing the Deccan Agriculturists' Relief Act has been postponed till the question of legislation in connection with agricultural indebtedness recommended by the Royal Agricultural Commission can be taken up as a whole.

(*c*) Yes.

(B.L.C. Debates, Vol. XXIV, p. 287, dated 29th September 1928)

Government Servants : Salaries and Pensions

Dr. B. R. Ambedkar : Will Government be pleased to state the total amount they paid out in 1927-28 (or any other year previous to it for which figures are available)—

(*i*) as salaries to their permanent servant in the subordinate and clerical services ;

(*ii*) as pensions to servants who were in their subordinate and clerical services ?

The Honourable Mr. G. B. Pradhan : (*i*) Figures of the cost of permanent and temporary establishments are not separately available. The total amount expended by the Provincial Government during 1925-26 on the salaries of their subordinate establishments was Rs. 296 lakhs excluding the cost (amounting to about Rs. 25 lakhs) of the menial establishments.

(*ii*) Government regret that they are unable to furnish the information asked for as separate figures for different classes of establishments are not readily available.

(B.L.C. Debates, Vol. XXIV. p. 287. dated 29th September 1928)

Government Servants : Starting Pay of Graduates

Dr. P. G. Solanki on behalf of Dr. B. R. Ambedkar : Will Government be pleased to state—

(*a*) whether it is a fact that Mr. S. K. Bole had put a question in the Council asking for information about the starting pay of Graduates in the City of Bombay ;

(*b*) whether it is a fact that Government replied that Graduates were started on Rs. 90 except those serving in the Lower Grade in those offices, where the establishments are divided into "Upper and Lower Grades," and that Government issued Government Resolution, Finance Department, No. 1140, dated 25th March 1925 directing the Heads of Departments accordingly ;

(*c*) whether it is a fact that inspite of the abovementioned Government Resolution directing the Heads of Departments to start Graduates on Rs. 90 in the City of Bombay, the Collector of Bombay starts Graduates on Rs. 60 only in the departments under him, even though there are no Upper and Lower Grades in those departments ;

(*d*) whether Government are aware that Graduates start on Rs. 70 in the mofussil ?

The Honourable Mr. G. B. Pradhan : (*a*) Yes.

(*b*) Government replied that all Heads of Offices in Bombay were authorised to pay an initial salary of Rs. 90 to all graduates except those in the Lower Division in those offices in which the establishment is divided into Upper and Lower Divisions. Orders to the above effect were issued in Government Resolution, Finance Department, No. 1140, dated 25th March 1925.

(*c*) Under the orders referred to by the Honourable Member Government have authorised their Heads of Offices to start graduates, except those in the Lower Division in those offices in which the establishment is divided into Upper and Lower Divisions, on an initial pay of Rs. 90 per mensem in the revised time scale. According to the above orders the Collector of Bombay gives an initial pay of Rs. 90 per mensem to a graduate where he thinks that a graduate clerk is absolutely necessary whereas in other cases graduates are given rates of pay ranging from Rs. 60 to Rs. 90 according to the importance of the work assigned to them.

(*d*) Yes.

(B.L.C. Debates, Vol. XXV, p. 685, dated 28th February 1929)

Land Acquisition : Mulshi Dam

Dr. P. G. Solanki on behalf of Dr. B. R. Ambedkar : Will Government be pleased to state—

(*a*) whether the lands of the Mahars of Mohari and Wadgaon, taluka Haveli, district Poona, were acquired by Government on account of the Mulshi dam ;

(*b*) the rates at which the lands were acquired ;

(*c*) whether the price of the lands was paid to the Mahars of these villages ?

The Honourable Mr. J. L. Rieu : (*a*) Yes.

(*b*) Rs. 50 per acre for Jirait land and Rs. 550 per acre for Gadi (rice) lands.

(*c*) The lands being service inam, the sums awarded were credited to Government and an annual cash allowance calculated at 5 per cent. of the total amount of the compensation was sanctioned for the watandar Mahars.

(B.L.C. Debates, Vol. XXV, p. 767, dated 1st March 1927)

Grants-in-aid to Local Boards

Dr. P. G. Solanki on behalf of Dr. B. R. Ambedkar : Will Government be pleased to state—

(*a*) whether it is a fact that the question of grants to Local Boards has been kept pending for nearly 3 years by the Director of Public Instruction ;

(*b*) if so, who is responsible for the delay ;

(*c*) what steps, if any, Government propose to take in the matter ?

The Honourable Moulvi Rafiuddin Ahmed : (*a*) If the honourable member refers to grants by Government on account of primary education the provisional grants made yearly to district local boards or local authorities are often in excess of the actual amount shown to be due after audit. The final adjustment of these yearly grants are made later when audit objections have been met.

(*b*) Does not arise.

(*c*) No alteration of the existing procedure is contemplated.

(B.L.C. Debates, Vol. XXV, p. 1092, dated 7th March 1929)

Bombay Municipal Corporation—Morland Road

Dr. B. R. Ambedkar : Will Government be pleased to state—

(*a*) whether it is a fact that the Bombay Municipal Corporation has not completely re-constructed Morland Road even once during the last 15 years, and, if so, the reasons therefor ;

(*b*) whether Government intend to take any steps in the matter ;

(*c*) whether it is a fact that the matter was represented to the Police Authorities and to the Municipal Corporation through representations and in the Press ?

The Honourable Dewan Bahadur Harilal D. Desai : (*a*) It is not a fact that the road has not been repaired during the last 15 years. During the period 1914 to 1921 the whole road was repaired regularly and in 1920-21 the entire length was repaired and the surface dressed with a paint coat of tar at a cost of Rs. 11,640-15-3. Since 1922 substantial repairs have not been carried out, but extensive patching of the road surface has been frequently done. The Corporation has given its consent to the re-construction of the road with sheet asphalt on cement concrete foundations and the work will be taken in hand in due course.

(*b*) No.

(*c*) Complaints have been made to the Corporation.

(B.L.C. Debates, Vol. XXV, p. 1092, dated 7th March 1929)

Secondary Schools : Grants-in-aid

Dr. P. G. Solanki for Dr. B. R. Ambedkar : Will Government be pleased to state—

(*a*) the reasons why the question of reorganising the basis of assessing annual grants to Secondary Schools was not considered last year ;

(*b*) whether there are any schools in the Presidency that have deserved special consideration from Government in point of receiving regular grants-in-aid ;

(*c*) whether in assessing grants to Secondary Schools the Director of Public Instruction is invariably guided by the inspection reports of the Educational Inspectors ? If not, what is generally his standard of distributing annual grants to Secondary Schools ;

(*d*) whether the Educational Department observe, in order to maintain the departmental standard of efficiency, some basis on which the aided Schools are' expected to spend per capita annually, and the Government on the other hand are expected to share the corresponding cost ? If so, what is the minimum ratio between the cost to the Government and the institution according to the basis ;

(*e*) the minimum number of years after which a Secondary School is given registration by the Education Department ;

(*f*) the number of Secondary Schools of over 5 years' standing that have not yet been permanently registered for grant-in-aid ?

The Honourable Moulvi Rafiuddin Ahmed : (*a*) Government were generally satisfied that the basis on which grants to Secondary Schools are assessed is sound.

(*b*) Yes.

(*c*) Grants are assessed according to the principles laid down in the Grant-in-aid Code. In framing his estimate of the extent to which a particular school satisfies the requirements of the Grant-in-aid Code, the Director of Public Instruction is invariably guided by the reports of the Inspecting staff. The question in the latter portion does not therefore arise.

(*d*) No definite standard of expenditure per capita is observed in assessing expenditure for grant. The system laid down in the Grant-in-aid Code provides for grants at the rate of one-third of the admitted expenditure being given to all schools which satisfy the requirements, subject to the funds allotted for the purpose permitting.

(*e*) No minimum number of years is prescribed. Owing to lack of funds the registration of additional schools has been suspended.

(*f*) About 110 schools.

(B.L.C. Debates, Vol. XXVIII, pp. 585-86, dated 27th February 1980)

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APPENDIX III

UNIVERSITY REFORMS COMMITTEE

(Refer Chapter 7. page 48)

*QUESTIONNAIRE

Of University Reform in Bombay Presidency

(The Bombay Government appointed a Committee to look into the problem of reform of the Bombay University. This Committee consisted of 13 members with Sir Chimanlal H. Setalvad, Kt. as its Chairman. Dr. Ambedkar was not a member of this committee but he was one of the 321 persons to whom the committee sent its questionnaire of 54 questions. Dr. Ambedkar replied only some of the questions which he considered worth replying. The questions replied by Dr. Ambedkar are alone reproduced here to be followed by his evidence.—*Editor*.)

1. What in your opinion should be the aim and function of University education in the Bombay Presidency ? Do you consider that the existing system of University education in this Presidency affords the young Indians of this Presidency adequate opportunities of attaining this aim ? If not, in what main respects do you consider the existing system deficient ?

2. Do you consider that the defects pointed out by you mainly lie in or spring from (*a*) the spirit and methods of instructor or pupil ; (*b*) the conditions of education, antecedent to the students' entrance of the University ; or (*c*) the administrative or educational machinery of the University ?

3. How far in your opinion has the University promoted knowledge of, and mutual interest in and sympathy for, the history and culture of the different communities in this Presidency ? Can you suggest means by which this can be further promoted ?

II. Secondary and Intermediate Education

(Questions 4-7)

4. Do you consider the training and attainments of students coming out of our High Schools sufficient preparation for entering upon University

*Report of the Committee on University Reform appointed by Government, 1925-26, pp. 226-31.

education ? If you consider this preparation inadequate, have you any suggestions for the improvement of the present conditions ?

5. Do you consider the creation in this Presidency of (*a*) a new set of institutions in intermediate between High Schools and University ; (*b*) a new Board of Secondary and Intermediate Education such as was proposed by the Calcutta University Commission necessary or desirable ? If so, how should such institutions and such a Board be constituted and financed ?

6. If you consider intermediate institutions, with or without an Intermediate Board, unnecessary or undesirable, how without them could the level, range and effectiveness of existing High School education in this Presidency be improved ?

7. How may the University best secure the maintenance of efficiency in the institutions that send students to it for admission ?

III. Functions of the University of Bombay

(Questions 8-24)

(*a*) *Teaching* (Questions 8-13)

8. In what directions is it necessary and practicable as well as advisable, in your judgment, to extend the function of the University of Bombay so as to make it predominantly a teaching University ?

9. Do you consider that the University should, in addition to postgraduate teaching take any direct part in under-graduate teaching ? If so, how would you reconcile and co-ordinate the teaching functions of the University with those of the existing teaching institutions ?

10. If you do not consider the University should take any direct part in under-graduate teaching, how by proper co-ordination would you utilise to the best advantage the existing facilities for under-graduate study ?

IV. Additional University in Bombay Presidency

(Questions 25-30)

25. Is it desirable to constitute any additional Universities within the Bombay Presidency ? What Centres of higher education in the Presidency do you consider—

(*a*) ripe for immediate expansion into Universities,

(*b*) likely to be ripe in the near future, and on what grounds ?

28. How would the institution of additional Universities affect the existing University of Bombay ? How would you secure co-operation, co-ordination, and reciprocity between the University of Bombay and the new University ? What arrangement do you suggest for the period of transition ?

VII. Constitution

(Questions 36-40)

36. What defects do you find in the constitutional machinery of the University of Bombay ?

37. What should be the strength, composition, duration of office, method

of constituting and powers and functions of the Senate ? Who, if any, should be *ex-officio,* life, and nominated members of the Senate ? How does your method of constituting the Senate secure the representation of all interests and communities ?

38. Do you consider that it is necessary or desirable to decentralise the powers and functions hitherto exercised by the Syndicate of the Bombay University ? If so, what powers or functions would you remove from the Syndicate and to what new or existing bodies of the University would you assign them ? How should the Syndicate so reorganised and any new bodies you may propose be composed ?

39. What functions and powers would you assign to the Faculties and Boards of Studies ? How should these bodies be constituted and appointed ?

III. Functions of the University of Bombay

(Questions 8-24)

(*c*) *Prescribing Courses and Examining* (Questions 16-19)

16. How in your opinion has the University been discharging the functions of (*a*) conducting examinations, (*b*) prescribing courses of study, and (*c*) appointing text-books ? Would you suggest any modifications in the exercise of these functions ?

17. How far can University examinations be profitably replaced or supplemented by other means of testing proficiency, intelligence and competence ?

18. On what branches of study should the Bombay University undertake the teaching immediately and in the near future ?

19. In considering the extension of the teaching functions of the University of Bombay and bearing in mind the special requirements of the people of Bombay, would you suggest the institution of any more faculties e.g. of Fine Arts or Technology so as to make the scope of the University broader, more liberal and more comprehensive ?

(*d*) *Post-Graduate Courses and Degrees* (Questions 20-21)

20. When the Bombay University further develops its teaching functions, what should be the duration of studies for post-graduate degrees ? How would you award such degrees, whether by examination, thesis, original research or a combination of one or more of these ?

21. Do you wish to institute any new degrees *honoris causa* and, if so, on what grounds would you have them awarded ?

(*e*) *Promoting Research* (Questions 22-23)

22. How Can the University best encourage and guide independent investigation of Indian and especially Bombay's problems, whether historical, economic, sociological, industrial, or other ?

23. Is there any need for the creation of a University Press and Publication Department ? How might such Department be organised and financed ?

(*f*) *Appointing University Teachers* (Question 24)

24. In a Bombay Teaching University what should be the method of

selecting and appointing University Professors, Readers, Lecturers etc. ? What qualifications are requisite in them ? What range of salaries do they require ? What should be the conditions regulating their appointment and tenure of office ?

IV. Additional Universities in Bombay Presidency

(Questions 25-30)

30. What principles or policy should be followed by (*a*) the Bombay University, (*b*) any new University within this Presidency in permitting the opening of any new College or Institution, constituent or affiliated ?

V. Relation of the University and the Public

(Questions 31-34)

31. How far do you consider the curricula of the Bombay University satisfy the needs of Agricultural, Industrial, Professional and Public-life in the Presidency, and especially in the City of Bombay ?

32. Can you suggest method of promoting cordial relation and co-operation between the University and other public bodies whether industrial, commercial, professional, municipal or Government ?

33. What measures should be taken to bring the University and its working into closer relation with the industrial and commercial life and interests of the City ?

34. What should be the extent and purpose of the University's contribution to the education of the adult non-collegiate population ? How should the University organise extension lectures, vacation terms and other measures to this end ?

VI. Relation of University and Government

(Question 35)

35. What should be the relation of the Government of India and of the Government of Bombay to the University of Bombay and to any new Universities that may be created ? What modifications, if any, do you think necessary in the existing powers of the Chancellor and of Government to control University finance, legislation, appointments of University Officers and Teachers and membership of University bodies ? What should be the relation, if any, of the Director of Public Instruction and the Minister in charge of Education to the University ?

VIII. Curricula

(Questions 41-44)

41. Are you generally satisfied with the subject and curricula at present prescribed for the various University Examinations ? If not, can you indicate the changes you desire ?

42. Are you in favour of establishing (*a*) an absolute or (*b*) a greater differenciation of the pass and honours courses ? How would such differenciation affect the Colleges and Students ?

43. Would you approve of an absolute exclusion of science from the Arts Courses ? Do you approve of the present dissociation of Literature and Arts from the study of science ?

44. Do you consider the existing courses for the Bachelor's and Master's degree provide a sufficient variety of options and satisfactory combinations and correlations of Courses of Study ?

IX. Use of the Vernacular

(Questions 45-46)

45. To what stage and to what extent do you consider the vernacular, can and should be used to replace English as the medium of instruction and examination *(a)* in Bombay, *(b)* in any newly constituted University ? What safeguards do you suggest to secure that the standard of English required by students does not suffer from such replacement ?

46. What do you consider the best method of promoting the scientific study of the Vernaculars of this Presidency and for encouraging the production of good vernacular literature of all kinds ?

XIII. Special Communities

(Question 52)

52. Do you consider any special measures are required for the promotion of University education in any particular community ?

*WRITTEN EVIDENCE BY DR. B. R. AMBEDKAR

Question 1: I agree with the Inspectors of the Board of Education in England that the aim and functions of University Education should be to see that the teaching carried on there is suited to adults ; that it is scientific, detached and impartial in character; that it aims not so much at filling the mind of the student with fact or theories as at calling forth his own individuality, and stimulating him to mental effort; that it accustoms him to the critical study of the leading authorities, with perhaps, occasional reference to first hand sources of information, and that it implants in his mind a standard of thoroughness, and gives him a sense of the difficulty as well as the value of reaching at truth. The student so trained should learn to distinguish between what may fairly be called matter of fact and what is certainly mere matter of opinion. He should be accustomed to distinguish issues, and to look at separate questions each on its own merits and without an eye to their bearing on some cherished theory. He should learn to state fairly, and even sympathetically, the position of those to whose practical conclusions he is most stoutly opposed. He should become able to examine a suggested idea, and see what comes of it, before accepting it or rejecting it. Without necessarily becoming an original student he should gain an insight into the conditions under which original research is carried on. He

*University Reforms Committee-Written Evidence No. 103, pp. 1-17, dated 15th August 1924.

should be able to weigh evidence, to follow and criticise argument and put his own value on authorities.

I see no reason why the aim and functions of the University Education in the Bombay Presidency should be different. Judged by the quality of the students it turns out it must be said that the existing system of University Education in this Presidency has totally failed to realize the aim and functions of University Education.

Question 2 : It is possible that this failure springs partly from the spirit and methods of the instructor, partly of the pupils and partly from the conditions of education antecedent to the students' entrance to the University. In my opinion, however, the failure springs mainly from the administrative and educational machinery of the University. Before a University can be in a position to fulfil the aims and functions of University Education it must be so organized that it becomes essentially a place of learning, where a Corporation of Scholars labour in comradeship for the training of men and the advancement and diffusion of knowledge. In the light of these remarks it will be obvious that the Bombay University in the first place is no true University. It is not a Corporation of Scholars. It does not undertake the training of men and it is not directly interested in the advancement and diffusion of knowledge. On the other hand, the Bombay University in respect of its administration and educational machinery is what a University ought not to be. It is a Corporation of Administrators. It is only concerned with the examination of candidates while the advancement and diffusion of knowledge is outside the ambit of its interests.

Question 3 : The University of Bombay has not promoted knowledge of and mutual interest in and sympathy for the history and culture of the different communities in this Presidency. A purely examining University that does not concern itself with inculcating the love of learning cannot achieve this object. And it seems to me that the only way of success along this line is first of all to convert the University into a Teaching University.

Questions 4-7 : I do not feel I am competent to answer these questions satisfactorily. I agree that a great deal depends upon what kind of "stuff" the University gets from the high schools. How to get the right kind of stuff is a problem with every University. But I cannot understand why a University should be required to enter upon the control of high schools in order to compel them to produce the required kind of stuff. I know of no University that has undertaken this responsibility. All that the Universities do is to hold their own entrance examination whereby they select the kind of stuff they want by their test papers. I do not see why the Bombay University should be called upon to do more.

Questions 8-10 : There are in my opinion two distinct problems that must arise in any attempt that may be made for converting the University of Bombay into a Teaching University. They are (*i*) how to convert it into a Teaching University and (*ii*) how to organize its teaching. With the first

problem I will deal when I come to questions 36-40. Here I will deal with the second problem. In the Incorporation Act of 1857 no provision was made for allowing the University to undertake teaching functions. The Act of 1904 for the first time described the University as being incorporated for the purpose (among others) of "making provision for the instruction of students", a phrase which might seem to have been intended to include undergraduates in putting into practice this clause all the older Universities have followed the University Commission which recommended that the Universities might justify their existence as teaching bodies by making further provision for advanced courses of study. As a result of this we find today that the undergraduate teaching has been separated from the postgraduate teaching, the former being taken up by the University and the latter left to the colleges.

I am totally opposed to any such sharp division between post-graduate and undergraduate training. My reasons are as follows : —

(1) The separation of post-graduate work from undergraduate work means the separation of teaching from research. But it is obvious that that where research is divorced from teaching research must suffer. As has been well observed by the Commissioners of 1911 on University Education in London.

> "69. Teaching will, of course, predominate in the earlier work, and research will predominate in the advance work ; but it is in the best interests of the University that the most distinguished of its professors should take part in the teaching of the undergraduates from the beginning of their University career. It is only by coming into contact with the junior students that a teacher can direct their minds to his own conception of his subject, and train them in his own methods and hence obtain the double advantage of selecting the best men for research, and getting the best work out of them. Again it is the personal influence of the man doing original work in his subject which inspires belief in it, awakens enthusiasm, gains disciples. His personality is the selective power by which those who are fittest for his special work are voluntarily enlisted in its services and his individual influence is reproduced and extended by the spirit which actuates his staff. Neither is it the few alone who gain ; all honest students gain inestimably from association with teachers who show them something of the working of the thought of independent and original minds. 'Any one', says Helmholtz, who has once come into contact with one or more men of the first rank must have had his whole mental standard altered for the rest of his life'. Lectures have not lost their use and books can never fully take the place of the living spoken word. Still less can they take the place of the more intimate teaching in laboratory and seminar, which ought not to be beyond the range of the ordinary course of a university education, and in which the student learns, not only conclusions and the reasons supporting them, all of which he might get from books but the actual process of developing thought, the working of the highly trained and original mind."

"70. If it is thus to be desired that the highest university teachers should take their part in undergraduate work and that their spirit dominate it all, it follows for the same reasons that they should not be deprived of the best of their students when they reach the stage of post-graduate work. This work should not be separated from the rest of the work of the University, and conducted by different teachers in separate institutions. As far as the teacher is concerned it is necessary that he should have post-graduate students under, him. He must be doing original work himself, and he often obtains material assistance from the co-operation of advanced students. Their very difficulties are full of suggestions, and their faith and enthusiasm are a pay source of refreshment and strength. He escapes the flagging spirit and and the moods of lethargy which are apt to overtake the solitary worker. There can be no question of a higher class of teachers than the professors of the University, or the whole position of the University will be degraded. On the other hand, a university teacher of the highest rank will naturally desire to have as his post-graduate students those students whom he has already begun to train in his own methods, though his laboratory or seminar will, of course, be open to students who come from other universities, and to some perhaps who come from no university at all, as well as to some who come from other teachers of the University of London. There must be a great deal of give and take, and students may often gain by studying under more than one teacher of the same subject ; but that is an entirely different thing from separating the higher work from the lower. We do not think it would be possible to get the best men for University Professorship it they were in any way restricted from doing the highest work or prevented from spreading their net wide to catch the best students."

"71. It is also a great disadvantage to the undergraduate students of the University that post-graduate students should be removed to separate institutions. They ought to be in constant contact with those who are doing more advanced work than themselves, and who are not too far beyond them, but stimulate and encourage them by the familiar presence of an attainable ideal."

The disastrous consequences which follow to advanced research work where it is separated from teaching have become patent at least to me. It is a notorious fact that many Indian students who have returned with post-graduate degrees from the University of London and other universities have been failures in the sense that they have failed to master their subjects although some of them occupy the highest posts in the educational line. The reason for this is to be found in the fact that their under-graduate training was utterly insufficient for advanced research work. The Committee will remember that post-graduate training is very modern in its origin and conception. There were men at Cambridge and Oxford who did a great deal of excellent work although those universities did not have post-graduate departments. Even now the men at the head of post-graduate departments

at Oxford, Cambridge and London are only graduates and yet they are doing their work of directing post-graduate research remarkably well so as to attract students from all parts of the world. The reason is that their undergraduate training was of a high order. I am, therefore, bound to emphasise that the University must undertake the training of the undergraduates if it intends to rear a structure of a sound system of post-graduate work.

(2) Secondly, the assumption by the University of direct responsibility for teaching in the post-graduate sphere by its own staff which is regarded as a great reform tends to produce the unhappy effect of placing the university staff in antithesis and in opposition to the college staff which feels that its status is unreasonably reduced by the formal and practically permanent limitation of the colleges to an inferior sphere of work.

(3) Thirdly, the establishment of a distinct University Professoriate for post-graduate work is a sheer waste of the resources of the University and can be easily avoided by a proper husbanding of the resources of the colleges. In our system of University education the colleges are the only places of learning. But they are at present the property of separate bodies and the management of each college is vested in a separate governing body. The income derive from a college goes to its own fund. If there is any surplus after the necessary expenses it only serves to swell this fund. Each college teaches the same subjects as the rest and is so to say a 'pocket' university obliged to maintain a competent staff to teach all the subjects and to provide separate libraries and laboratories for their own use. Autonomous as these colleges are none of them is financially a wealthy institution to be able to engage a first class and adequate staff and to provide a first class and adequate equipment in the form of libraries and laboratories. Owing to their slender resources the college staff is handicapped and overburdened. Being obliged to teach too many subjects specialization becomes impossible and a college professor under these circumstances has neither the inducement nor the opportunity to become the master of a small branch of a great-subject. As an inevitable result of this system of autonomous self-sufficing colleges we have scattered here and there poor professoriates, poor libraries and poor laboratories. But because the existing resources seem insufficient when looked upon as attached to or dissipated among the different colleges it does not follow that the resources of the colleges in the aggregate are not great enough to cope with the teaching of the post-graduate and undergraduate work of the Bombay University. Take for instance the resources of the colleges situated in the City of Bombay for the purpose of teaching economics.

We have in the City of Bombay the following colleges providing training in Economics for the B.A. Course of the Bombay University :—(1) Elphinstone College, (2) Wilson College, (3) St. Xavier's College and (4) Sydenham College, There are two men teaching economics at the Elphinstone, two at the Wilson, two at the St. Xavier's and some six or so at the Sydenham

College. Together there are about 12 men in the City of Bombay engaged in the teaching of economics. I know of no university in the world which has such a large number of men engaged in the teaching of one subject and yet all this plethora of professors is running to waste merely for the want of a better organization. And the University instead of attempting to stop, this waste had added to it by the appointing of two more professors of its own to the existing lot.

It is however obvious that if these colleges could be induced to pool their teaching and library resources it would not only produce a strong specialized professoriate but it will produce a professoriate adequate to deal with both undergraduate and post-graduate work and thus obviate the waste of university resources on the two university chairs of economics. To bring this about one has only to arrange that these twelve men do combine together to distribute among themselves the work of carrying out the economics curriculum of the University and agree to lecture to all students taking that course irrespective of the colleges in which they are enrolled. The same plan could be easily adopted in organizing the teaching of other subjects in the colleges in the City of Bombay. The only difficulty probably in the way of this plan is of the students having to run from college to college to attend these lectures. This difficulty can be easily met. I should say that all lectures on Political Science shall be delivered at the Sydenham College. All lectures on Philosophy and Psychology shall be delivered at the Wilson College and all lectures on Literature and languages shall be delivered at the Elphinstone College. By this arrangement the frequent run of students between colleges will be entirely obviated. The colleges should be declared to be halls of lectures on a particular subject and the lectures while remaining on the foundations of their respective colleges will coalesce together so as to form a homogeneous group and will have rooms at the college which is assigned for the subject they will be dealing with, and which will contain the portions of the libraries of the colleges on that particular subject.

I agree that University should be a centralized institution and if the plan of a new University were to be laid down *ab integro* it would be better to rule out the type in which a university was to be composed of affiliated colleges. But it must be recognized that universities cannot be sown broadcast and that where a number of institutions of collegiate status have come into being they cannot be lightly abolished in order to promote the success of centralizing institution. Under the plan I have outlined neither the standard of university education nor the independence of colleges is sacrificed. Administratively the colleges remain independent. Educationally they become integral parts of the University. In short the position becomes somewhat like the position at Oxford and Cambridge where the university is the colleges and the colleges form the university. Such an organization makes the most of the existing colleges and eliminates the waste.

Question 25 : My scheme of organizing University Education applies only

to those centres where the colleges are situated in close proximity. If this scheme is to be utilized on a large scale the first thing to do is to control the location of colleges so that they shall be established in close proximity. In other words it is necessary to prevent adventurous educationists from opening individual autonomous colleges in all sorts of unseemly and unpromising towns. When one recalls the waste, duplication and dissipation of resources involved in the existence of such separate and scattered colleges one is surprised to see that such anarchical situation should have been tolerated so far. I regard it a great piece of good fortune for the Bombay Presidency that the growth of these isolated colleges has not as yet become so rank and wild as in Bengal. But steps must be taken at once to counteract the establishment of scattered colleges at random if the standard of University Education is to be maintained. For this purpose I should lay down the centres of University Education in this Presidency and should not allow any college to be started at any other place. In my opinion the following places should be marked as actual or potential centres of University Education : —

I—Bombay.	VI—Hyderabad (potential).
II—Poona.	VII—Dharwar (potential).
III—Ahmedabad.	VIII—Sangli (potential).
IV—Surat (potential).	IX—Nasik (potential).
V—Karachi	X—Amalner (potential).

Having defined the centres of University education the next thing to do is to organize the teaching at those places. At most of the above University centres there is as yet only a single college providing education in Arts. Only in Bombay and Poona are there groups of colleges in close proximity. There the problem of University teaching can be easily solved by permutation and combination of the various college staffs into departments. At those centres where there are as yet only a single isolated college the problem of providing education of the university type can be solved in two ways (1) by allowing the foundation of new colleges in close proximity of the existing ones for the purpose of teaching one particular subject or (2) by recognizing the existing college as a university and to allow it to expand by starting new departments of study. The former plan seems to be easier of success. But the latter would be better from the standpoint of efficiency. By adopting this policy, instead of having a number of colleges scattered through the different parts of the Presidency to meet the educational demands in those parts of the Presidency we would be able to have other universities in other parts of the Presidency to meet the educational demands in those parts. By this we may not have achieved the ideal of a centralized university. But we may at least be achieving the next best, of having all the colleges which are affiliated to a university situated in the university town in close proximity of one another to combine together in intellectual co-operation and make the university so to say a living personality.

Question 28 : Bombay and Poona are the only places ripe for immediate expansion into universities and I suggest that these be at once incorporated into separate universities. Ahmedabad is likely to be ripe in the near future. It has already an Arts College and a Science Institute and may be converted into a University.

Pending the establishment of universities in the centres marked above the three universities of Bombay, Poona and Ahmedabad should have an external side like the University of London whereby arrangements could be made to grant degrees to students of the other colleges appearing at their examinations.

If the future universities to be established in this Presidency shape themselves into centralized institutions then the problems raised in these questions will not arise. For, then, the university will be in full control of its staff and teaching arrangements. But I will assume that our future universities will be a cluster or constituent colleges independent in their organization. At any rate it will be so of the new universities of Bombay and Poona. Under the scheme of having constituent colleges, the colleges will still continue to be places licensed by the university to provide University education. The plan of inter-collegiate teaching will remove the waste duplication and dissipation of resources by the constituent colleges. But will that arrangements be sufficient to ensure that the standard of university education will be maintained at a high level. That depends upon the standing of the teaching staff engaged in imparting University education. At present the teachers are attached to the colleges and their pay and status are regulated by the authorities governing the colleges. But the colleges do not seem to be making the appointments solely from the sense of obtaining the most qualified persons nor regulating their grades, tenure, pay and promotion in such a manner as to open a career to the best and most qualified member of the staff. The whole educational work carried on by Government is entrusted to the educational services in the three grades of which are included all the administrative and inspecting officers, and all the teachers in Government colleges and schools from the most responsible to the most junior. As in all services the principle of seniority is so deeply rooted that it has become a sacred convention that all superior posts should go by seniority. The principal drawback of this system so far as the work of University education is concerned is that rewards are regulated not by depth of scholarship but by the length of service. Teachers of a college who are subject to be transferred from place to place as is the case with the members of the Government service cannot but feel that the body corporate which claims their loyalty and obedience *is* not the college but the service and more often than not their ambition is directed to securing service promotions than that of creating a school of learning with which their names will be identified. The invidious distinction drawn between the I.E.S.

and P.E.S. is another weakness of the service system in that it tempts even the very junior members of the former to regard themselves as the superior of the most senior and distinguished members of the latter. This introduces an element of friction among the members of the college staff rendering difficult that free and friendly co-operation which is so indispensable to promote the intellectual life of any educational institution. Last but by no means the least in importance is the fact that under the present circumstances the professors in the Government colleges by reason of their being servants of the Government have lost the confidence of their students. The students instead of regarding their professors as their intelectual leaders regard them as the agents of Government and the professors receiving no response from their students drudge on without kindling their interest and winning their allegiance. In the colleges maintained by Missionary bodies the leading members of the staff are European Missionaries. The rest of the staff consists of Indian teachers. The distinction between the I.E.S. and P.E.S. is reproduced there on a small scale though it is not quite so emphasized as to produce open friction. In the private colleges maintained by Societies, such as the Deccan Education Society all the members of the staff are the members of the Society. The staff here is therefore more homogeneous and has nothing in its organization to lead to any cleavage. But the constitution of these colleges restricts them to the appointment of men who care to become life members of the Societies which control them. I cannot speak very definitely about the prospects offered by these private colleges but it is certain that they are very poor even when compared with the lowest grades in the Government colleges and indeed they are so poor that they cannot attract men of moderate attainments unless the same can afford to maintain a large margin of disinterestedness. But it is not the private colleges alone that fail to procure proper persons to fill their vacant posts. Even Government colleges with the best of prospects seldom succeed in hitting upon the right sort of a person. The reason is that neither have any proper machinery for making a judicious selection. In the case of Government colleges it is the Director of Public Instruction or the Secretary to Government that makes the choice. But as a matter of fact they are the most inexpert people for this task. Similarly the appointments in the private colleges are mostly in the hands of the heads of the colleges and they too are incapable of making proper choices. The fault lies in not recognizing that to assess the merits of a person one must belong to his kind. It will take an economist to judge an economist.

Quite apart however from these difficulties and drawback there is no possible means of bringing a University staff thus recruited by the different colleges into a due relation, as regards either its members or its distribution, to University needs. The University might find itself supplied with half a dozen professors of one subject and without a single in another equally

important branch of knowledge. University organization cannot proceed on these lines, and the difficulties described above can be removed only by placing the appointments of all teachers of the University in the hands of the University itself acting through the Academic Council (*see* constitution of the new University) or at least by giving the University an effective voice in their appointment.

I therefore propose that the collegiate branch of the Educational Service should be separated from the Administrative branch and should be placed under the University with proper safeguards. In other words the teachers' posts at the different colleges should be converted into chairs attached to and supported by certain foundations in the present case by the private colleges and Government. But the appointments to these chairs should be controlled by the University.

I attach the greatest importance to the control of the University over the appointment of its teaching staff. Hitherto the University of Bombay has attempted to maintain the standard of University education by means of its power to test it by a rigid system of examination. The result has been a gradual lowering of the calibre of its graduates. This is principally to be attributed to the egregious error committed by the fathers of our University education in not at all recognizing that the only means of maintaining the standard of University education are the rigid exclusion of students who are unfit for University studies and the existence of a body of highly qualified and productive teachers, organized in departments adequately equipped. In other words they attempted to maintain the standard of the University degrees without attempting to maintain the standard of the teachers and the taught. When events are moving us in the direction of making the University of Bombay a teaching University, it must be clearly realized that "the power to control teaching is of more importance than the power to test it by granting degrees". A University cannot become a teaching University unless its academic affairs, i.e., teaching and examination are left to the uncontrolled discretion of those engaged in teaching. But it will be fatal to the standard of a University degree if the University reposed such a large trust in a body of teachers in whose calibre it has no confidence. I therefore propose that the University should have the power of purse over the colleges. All Government grants to the colleges should be made through the University, so that the University will have a voice in the appointment of the staff of teachers and their equipment in the matter of libraries and laboratories.

Questions 36-39 : If a University as a corporation of learning is to serve the community, then its constitution must provide (*a*) for a body which will keep it in touch with all varied requirements of the community ; (*b*) for a body which will give the University a statesman-like guidance in the provision and also in accommodation of means to ends so as to bring about

a working comprise between the possible misconceptions of the public and the possibly too narrow outlook of the scholar ; and (*c*) for a body of scholars engaged in the work of teaching to give an authoritative direction to the academic business of the University.

I want to impress upon the Committee that a University does not become a teaching University merely by engaging in the work of teaching through the agency of its own staff. That is not the criterion of a teaching University. A University may undertake teaching and yet may not be a teaching University. Whether or not a University is a teaching University depends upon whether or not the scholars engaged in the work of teaching have the authoritative direction of the academic business of the University in their hands. If it is in their hands then the University is a teaching University. If it is not in their hands then the University is not) a teaching University. A teaching University is a teachers' University.

I am led to make these preliminary remarks because I feel that the Committee in inviting answers to its questions on the constitution is motivated by the desire to obtain such suggestions as will help to make the University of Bombay a teaching University. The existing constitution of the University of Bombay does not provide in any adequate or clear cut manner any of the three bodies I have said to be necessary for a University to function properly. The Senate of the University is not sufficiently representative of the life and interests of Bombay. The Syndicate has not the responsibilities and powers which should devolve upon the Executive Council of a great University and often has devolved upon it duties which it is absolutely unfit to perform. While the teaching staff which is really the heart of the University has practically no voice, let alone authoritative direction, in the academic affairs of the University.

To make the University of Bombay a teaching University I would first of all proceed to the constitution of faculties. For this purpose I will take it that my scheme of inter-collegiate teaching between the colleges situated in the City of Bombay is adopted. Under that scheme the several studies pursued in the colleges will naturally have to be grouped into Departments, e.g., Economics. History, Politics, Administration, Law, Literature, Languages, Chemistry, Physics, etc. It will be admitted that students are receiving at a University their final systematic preparation for one or other of the several occupations of life for which a University education is necessary at any rate, the most advantageous preliminary.

To succeed in this it is necessary to group together certain branches of knowledge which students pursue. Not only do the needs of students require such a grouping but the needs of the teachers point in the same direction, for it is obvious that certain studies have a closer relation between them and there is a greater similarity in the point of view from which they are approached. These forces emanating from the teachers and the taught have

led everywhere the grouping of the several departments of study into what are called Faculties. I suggest therefore that the Departments in the new University of Bombay should be grouped into Faculties and the Faculties should be made the basis of the University organisation if our University is to be a teaching University. A faculty should consist, either wholly or mainly of the Professors and Assistant Professors of the subjects comprised within the Faculty ; and of such other teachers and officers appointed by the University as the Faculty may co-opt. The Vice-Chancellor should *ex-officio* be a member of every faculty. A Faculty should have the power to make Regulations—

(i) to appoint Committees consisting of the Faculty together with other persons to act as Board of Studies and for other purposes ;

(ii) to determine generally the conditions for the award of degrees, diplomas, and other distinctions within the purview of the Faculty ;

(iii) to determine generally the course of study to be pursued by students of the University in the subjects within the purview of the Faculty ;

(iv) to determine generally the method and manner of teaching and examination with regard to the subjects within the purview of the Faculty.

I must say again that if the Faculties are to be entrusted with the powers set out above and the teachers are to be freed from the restrictions imposed by a common syllabus of instruction and a general quasi-external examination, it is necessary to make sure that the teachers are worthy of the trust imposed in them.

The Faculties should be the constituent bodies of the University. Having constituted our Faculties to take charge of the academic and educational work of the University, we must constitute a Central Governing Body to take charge of the administrative work of the University. This body should correspond to the existing Senate of the Bombay University but should be entirely different in character and composition. In my opinion the Senate as a supreme governing body should be comparatively a large body mainly non-professional in character but including representatives of graduates and the teachers. The advantages of such a mode of government are obvious. By mean of a large Senate a number of influential citizens, chosen because of their individual capacity, and of representatives of the great interests of the town, municipal, administrative, commercial, legal, scientific, etc., and of members of Legislative Council, the Assembly and the Council of State are brought into touch with the University and serve as channels between the University and the community as a whole. Such a Senate will be able to ask for support to the University with greater authority and success and the whole city will feel interested in the success of the University.

But the Universities Commission of 1902 regarded it as a fault of the system and reported that the Senates of the Universities were too bulky in

numbers (in 1900 the Senate of the Bombay University consisted of 305 fellows) and incapable of exercising proper control in educational matters. That Commission did not understand that the proper function of the Senate was not to control the education but to keep the University in touch with all the varied requirements of the community. That being the function of the Senate it must necessarily be large and varied in its composition. I propose that the Senate of the University of Bombay should be composed of 150 members. One of the most important changes effected under the Universities Act of 1904 was the provision that two-fifths of the Ordinary Fellows should be associated with the profession of teaching. As a preventive of the system in which Fellowships were bestowed by way of compliment without due regard to the qualifications of the recipient this proviso was a salutary proviso. But in view of the proposal I advocate of giving greatly increased statutory powers to the Faculties, I do not think that the teachers in the University need more representation on the Senate than is sufficient to enable each of the Faculties to have a spokesman. I, therefore, propose to restrict the representation of the teachers to the Deans of the Faculties. The rest of the Senate should be composed of persons in the political or commercial world and interest in education may be able to render the University substantial service.

The chief function of the Senate would be legislation—

(1) to make statutes affecting the Government of the University and pass resolutions,

(2) to confer all honorary degrees,

(3) to approve of the admission of constituent colleges or University departments,

(4) to institute any new degree, diploma, or certificate,

(5) to decide disputes between Faculties.

Having provided for the two bodies one to look after the Government of the University and the other to take charge of the academic business of the University, we have now to provide for third body charged with the provision and also the accommodation of means to ends. In other words there must be a Central Executive of the University. This body should correspond to the existing Syndicate of the Bombay University but should be entirely different in character and composition. The Syndicate appears, both as to its composition and the conditions of its work, the least satisfactory of all the University bodies. As a supreme executive the Syndicate should have the custody and use of the Common Seal, the management of the whole revenue and property of the University and (except as otherwise provided) the conduct of all the affairs of the University. But instead of this the work of the Syndicate has been extended over a wide field of business much of which might be conveniently entrusted to other and more appropriate bodies. The existing system concentrates in a so-called executive

the work rather of discussion than of deliberate decision. I, therefore, propose to abolish the Board of Accounts and transfer its functions to the Syndicate which shall have power to determine—

(1) The finance, investments and accounts of the University.

(2) The amount and payment of fees to be exacted within the University, or in relation to the enjoyment of privileges therefrom.

(3) The terms and mode of appointment, tenure of and removal from office, duties, emoluments, allowances, salaries and superannuation allowances of the officers of the University, including its professors, teachers, registrars, librarians and permanent servants.

(4) The tenure of office and terms and manner of appointment and the duties of the Assessors, Examiners and Examining Board.

(5) The provisions and tenure of fellowships, scholarships, prizes, rewards, and pecuniary and other aids.

(6) The provision, maintenance, and supervision of halls, hostels or other premises for the residence of students.

(7) The admission of students as under-graduates of the University.

(8) To deal with the real and personal property of the University.

(9) To provide buildings, premises, furniture and apparatus and other means needed for carrying on the work of the University.

(10) To borrow money for the University and to mortgage University property if necessary.

(11) To enter into, vary, carry out and cancel contracts on behalf of the University.

(12) To entertain, adjudicate upon and if thought fit redress any grievances of the officers of the University, the professors, the teaching staff, the graduates, under-graduates and the University servants who may feel aggrieved otherwise than by an act of the Senate.

(13) To regulate the Government grants to the constituent colleges.

These three bodies, the Senate, the Syndicate and the Faculties should be constituted by the Act of Incorporation and together they are enough to supply all the necessary organs of a great teaching University. But there seems to be a want for one more body for the new University of Bombay, particularly for the transition period that is bound to be very long before the mother colleges at the centre of University education ripen into Universities pending which they must remain affiliated to one or other of the newly organized teaching Universities in this Presidency. But even if this problem of making provision for the transition period was not there, the need for a fourth body in the management of a great teaching University would be felt nonetheless.

The plan of organization I have proposed is based more or less on the principle of separation of powers. The centre of legislative power is the Senate. The centre of executive power is the Syndicate and the centre of

academic power is the Faculty. But if these separate powers are exercised independently and without any co-ordination, the result is bound to be injurious to the best interest of the University. A Faculty is here taken as the basis of University organization and is given complete autonomy in prescribing courses of study and arranging the teaching of and the examining work. But provision must be made for the control of all matters not expressly assigned to the Faculties, the settlement of matters affecting more than one Faculty, and for a final decision when differences arise between one Faculty and another. There is not only a need for a body for co-ordinating the Faculties but there is also a need for a body for co-ordinating the Faculties and the Syndicate, otherwise the Syndicate by the exercise of its executive powers may seriously interfere in the academic freedom of the Faculties. The control of the purse must ultimately mean the control of all else and it is therefore necessary to ensure that the Syndicate shall not take any action having a direct educational bearing on the University as a whole without consultation with a body representative of the teaching staff as a whole. Thus whether as a feature of the transition period or as a permanent feature of University organization there is a clear necessity for the establishment of a fourth body in the act of incorporation. That body I propose to call the Academic Council. Its functions will be partly advisory and partly executive.

Its executive functions would include the determination by regulation or otherwise of all matters relating to—

(1) The quorum to be required at meetings of the Faculties or at meetings of any Committees appointed by the Faculties.

(2) The duties and powers of Advisory and other Boards, including Boards and Committees to be appointed by the University jointly with any other University or Body touching any educational matter.

(3) The qualifications for honorary degrees and distinctions to be awarded by the University and the means and steps to be taken relative to the granting of the same.

(4) The visitation of affiliated colleges.

(5) The affiliation and disaffiliation of colleges.

(6) The tenure of fellowships, scholarships, exhibitions and pecuniary and other aids.

(7) The discipline to be enforced in regard to the graduates and undergraduates in so far as they come within the jurisdiction of the University.

(8) The removal from membership of the University of graduates and under-graduates and the withdrawal of degrees, diplomas, certificates and distinctions, subject to an appeal to the Senate. The advisory functions of the Academic Council shall be as follows :

(*i*) The Syndicate shall not make any decision in regard to any matter relating to the organisation, improvement, and extension of University

education, both under-graduate and post-graduate without first inviting and receiving a report thereon from the Academic Council.

(*ii*) The Syndicate shall not issue general directions to the Faculties, or review any act of any Faculty or of any Committee or Board of a Faculty, other than the election of an officer or representative of such body, upon the appeal of any other Faculty or give directions for their future action without first inviting and receiving a report thereon from the Academic Council.

(*iii*) The Syndicate shall not make any appointment to the teaching staff without first inviting and receiving a report from the Academic Council.

The composition and strength of the Senate, the Syndicate and the Academic Council should be the same as proposed by the Calcutta University Commission for the new Calcutta University. I think it might be better to change as well the nomenclature and call the Senate, the Court and the Syndicate the State of the new University. I also propose that the Viceroy should be the Visitor of the University.

Question 16 : The University of Bombay may have been discharging the functions of (*a*) conducting examinations, (*b*) prescribing course of study, and (*c*) appointing text-books very well. But the University never seems to have paid attention to the pernicious effect of all this on the teacher and the taught. How to secure freedom for the University teacher to teach as he thinks best and not to restrict him by a hard and fast syllabus is a problem which should be in the forefront of the problems to be solved by this Committee. If freedom for the teacher can be obtained then freedom for the learner will follow. For this purpose the teachers of the University ought under proper safeguards to have entire control of the education and examination of their students and the University ought to be so constituted as to make this possible.

Question 17 : Besides examination, students' work in colleges ought to be taken into account. For the higher degrees there should be thesis and oral examinations.

Questions 18 and 19 : The University of Bombay should have the Faculties of Engineering, Agriculture, Fine Arts, Technology and Music to make it a complete University.

Question 20 : The duration of studies for post-graduate degrees should be four years (I am speaking only for social sciences). There should be two stages of two years each. At the end of the first stage the candidate should be entitled to the M.A. degree. He should specialize in one subject only which should be the subject of his major interest. The test should consist of a written examination accompanied by an essay of some 75 type-written pages showing his familiarity with the art of using original sources and commenting upon them. At the end of the second stage the candidate should be entitled to the Ph.D. degree. There the test would include an oral

examination and a thesis of a respectable size fit for publication. The thesis will embody the investigations of the candidate in a particular field lying within the scope of the subject he had taken at the M.A. as being of major interest to him. Beside this the candidate will present himself for an oral examination in two subjects to be known as subjects of minor interest which will be allied to the subjects of his major interest. This arrangement will allow specialization with a broad base.

Question 21 : It may be well to have a few such degrees.

Question 22 : By means of subventions, studentships and fellowships.

Question 23 : Most essential to have a University press and publication department. Without this the post-graduate work will be considerably hampered.

Question 24 : See answer to questions Nos. 11-13.

Question 30 : Bombay University should confine itself to Bombay. New Universities should open their own departments. But if the new University is to be composed of colleges, then each college must confine itself to the teaching of one subject only.

Questions 31-33 : See answer to questions Nos. 36-39.

Question 34 : Spread of education should be a proper function of the University. But this cannot be achieved unless the University adopts vernacular as the medium of instruction which in the present circumstances is a far cry.

Question 35 : Government should have no control over the academic affairs of the University which must be entirely entrusted to the Faculties. But Government should have some control over the legislative and administrative affairs of the University. This they should have by means of nominations to the Court and the Senate of the University.

Questions 41-44 : I should leave these questions to the newly constituted Faculties. My opinion is that the curriculum even of the Honours Course provides a poor fare to the students.

Questions 45-46 : I hold a very strong affirmative view on the use of vernacular as a medium of instruction. But I feel that the problem cannot be solved unless Indian public opinion decides which vernacular it selects for common intercourse.

Question 52 : I think special measures are required for the promotion of University education among the Backward Classes and particularly the Depressed Classes.

Before closing my replies to the questionnaire I beg to express my surprise at the absolute disregard the Committee has shown in the matter of organizing a good Library. I cannot see how any University can function without a first rate library attached to it.

15th August 1924.

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PART II

Dr. Ambedkar with the Simon Commission (Indian Statutory Commission)

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A

REPORT ON THE CONSTITUTION OF THE GOVERNMENT OF BOMBAY PRESIDENCY

PREFACE

I regret that I have not been able to agree in the tenor of the report prepared by my colleagues on the committee or to accept the more important of the conclusions on the matters falling within the scope of our inquiry. I have therefore submitted this separate report containing my own views and recommendations. The bulk of my report has exceeded that of my colleagues. It might perhaps have been possible, by including in my report nothing more than formal answers to the questions raised to limit its bulk. But I felt there was a question to which an answer could be given without some general explanation of the principles on which the answer was based or also the report could not be properly understood. I have therefore set aside all considerations of brevity which would have exposed me to the criticism that the recommendations in the report were not supported by a sufficient amount of reasons and arguments and have allowed the report to grow to the size it has reached.

SECTION I

REDISTRIBUTION OF THE AREA OF THE PROVINCE

1. The area of the Bombay Presidency which extends over 1,223,541 square miles may be divided into four distinct linguistic divisions : (1) Maharashtra, (2) Gujarat, (3) Karnatak and (4) Sindh. The people of these divisions have beeen associated together under one administration for a long period. Gujarat, Maharashtra and Karnatak have been parts of the Bombay Presidency for last 110 years, while Sindh was joined to the Presidency 85 years ago. From this Confederacy, Karnatak and Sindh are now demanding that they be separated from the Presidency. The argument urged in favour of separation states that the Province does not represent a natural unit that not only it does not meet the test of unity of race or language but that it is actually built up by a deliberate fragmentation of homogeneous groups and their amalgamation with other heterogeneous groups. This, it is said, is an evil. For it is urged that the fragmentation involves a smothering of their distinctive cultures, while their amalgamation with other bigger groups makes them politically helpless.

2. In the case of Karnatak this argument has no doubt some force. That Karnatak has been dismembered into various small parts which have been linked up with other non-Karnatak areas for administrative purposes thereby causing a severence is true. Nor can it be gainsaid that the part united with the Presidency of Bombay has politically suffered by being under-represented in the Bombay Legislative Council. Notwithstanding all this, I am opposed to the separation of Karnatak from the Bombay Presidency. The principle of one language one province is too large to be given effect to in practice. The number of provinces that will have to be carved out if the principle is to be carried to its logical conclusion shows in my opinion its unworkability. Nor can it be made workable by confining it to cases "where the language is a distinct cultural language with a past and a future" and "where there exists a strong linguistic consciousness." For the simple reason that every language which has a past if given an opportunity will have a future and every linguistic group of people if they are vested with the powers of government will acquire linguistic consciousness. I am aware that this may involve the sacrifice of Kanarese culture although I am not sure that that would be an inevitable consequence of the continuance of the present arrangement. But even if

that be the consequence I do not think it is a matter for regret. *For, I am of opinion that the most vital need of the day is to create among the mass of the people the sense of a common nationality the feeling not that they are Indians first and Hindus, Mohamedans or Sindhis and Kanarese afterwards but that they are Indians first and Indians last.* If that be the ideal then it follows that nothing should be done which will harden local patriotism and group consciousness. The present heterogeneous character of the province has this much in its favour that it provides a common cycle of participation for a polyglot people which must go a great deal to prevent the growth of this separatist feeling. I think that an arrangement which results in such an advantage should be conserved. I am therefore opposed to the demand of Karnatak for separation.

3. My colleagues have summarily dismissed the claim of Karnatic for separation on the ground that no witness appeared before the conference to support the same. I do not regret it in view of the fact that I and my colleagues agree in our recommendation regarding it. But it is a surprise to me that my colleagues should have in the case of Sindh come to a different conclusion. For I think that as compared to Karnatak, Sindh has no case. There can be no two opinions regarding the fact that Sindh has gained substantially by its incorporation in the Bombay Presidency. Having been separated by long distance, Sindh instead of being made a subordinate member of the household has been accorded the superior status of a neighbour associated with on the most honourable terms. In so far as her affairs have been administered by a Commissioner who is next to the Governor, Sindh must be said to have preserved the dignity of her independence. She has been allowed to retain her ancient and customary code of laws. Seldom has she been subjected to any new law passed for the Presidency proper unless the same was deemed to be specially conducive to her benefit. Her tribunals are entirely independent of the tribunals of the Presidency. Her public service is virtually separate from the Presidency Public Service and is manned by her own people. Her being linked to the Presidency cannot be said to have worked to her financial detriment. On the contrary she has been able to ride on the broad shoulders of the Presidency at a speed which would have been beyond her own capacity. It is her incorporation which has enabled her to draw so largely upon the great resources of this Presidency. Nor can Sindh be said to have failed to secure the consideration and attention from the Government which is due to it. Indeed since the introduction of the Reforms, Sindh has exercised an influence on the Government of Bombay out of all proportion to its magnitude. Given these facts it is difficult to understand what more is to be gained by separation when Sindh has all the advantages of separation without the disadvantages of incorporation.

4. It is also evident that all the communities of Sindh have not joined in making this demand. The evidence such as was placed before the joint Conference of the Commission and the Committee disclosed a sharp

cleavage between the Moslems and the Hindus of Sindh, the former favouring separation and the latter arraying themselves in opposition to it. On an examination of the history of Sindh public opinion regarding this question I find that the politically minded people of Sindh as a body took up the question of the status of Sindh only in 1917. After the announcement of August, 1917, the Sindis held a Special Conference in November, 1917, to consider the place of Sindh in the coming Scheme of reforms. The Honourable Mr. G. M. Bhurgri, the leading Mohamedan citizen of Sindh, was the Chairman of the Reception Committee, while the President of the Conference was a Hindu gentleman, Mr. Harchandrai Vishindas. The Conference had before it four alternatives, namely : (1) Formation of Sindh as a separate Province, (2) Sindh and Baluchistan to form one province, (3) Sindh to go with the Punjab and (4) Sindh to remain with Bombay. It is noteworthy that this Special Conference turned down three of these four alternatives including the proposal to form Sindh into a separate province. Not only did the Conference reject the proposal of a separate province but in its resolution supported by Hindus and Mohamedans urged for a closer incorporation between Sindh and the Presidency by reducing the position of the Commissioner of Sindh to that of the Divisional Commissioner in the Presidency. The deputation consisting of Hindus and Muslims which waited upon the Secretary of State, Mr. Montague, and the Viceroy, Lord Reading, was, it is said, emphatic in its declaration that Sindh did not wish to be a separate Province. The same attitude towards this question was uniformly maintained by members of both the communities at subsequent sessions of the Conference which met in 1918, 1919 and 1920. Since 1920 the question has not been considered by the Conference owing to its being swayed by the movement of non co-operation. From this survey it is clear that it is the Mohamedans who have changed front and it is they who have departed from an agreed point of view and that the demand far from being a united demand is a sectional demand originating from the Mohamedan Community only.

5. Before any sympathy can be shown to such a sectional demand, one must be satisfied that the purpose for which separation is sought is a proper one. Now although, the Mohamedan deputation which put forth this demand and the Hindu deputation which opposed it, both did their best not to reveal the real object of the demand and the real objection to its fulfilment. All the same those who knew the reality, must have felt that the contending factions had not placed all their cards on the table. But this purpose must be made clear so that it may be considered on its own merits and I propose to do so to the best of my information. On the 20th of March 1927, there were put forth what are known as the "Delhi Muslim Proposals," by prominent members of the Muslim Community as the terms for an *entente cordiale* between Hindus and Muslims. According to these proposals it was demanded (1) that Sindh should be made into a separate Province, (2) that the North-West Frontier Province should be treated on

the same footing as other provinces and (3) that in the Punjab and Bengal the proportion of Muslim representation should be in accordance with their population. A glance at the above proposals is sufficient to indicate that the object of the scheme is to carve out as many Provinces with a Mohamedan majority as possible out of the existing arrangement. At present Punjab and Bengal are two Provinces with a bare Muslim majority. The proposals by demanding that in those provinces representation should be proportionate to population seeks to make the communal majority of the Muslims a political majority so that a Mohamedan Government will be assured in those provinces. Baluchistan and N. W. F. Province have an overwhelming Muslim majority. But they are as yet out of the pale of responsible Government with the result that the Mohamedan majority is not a ruling majority. The aim of the proposals is to rectify this anomaly so that they will make four Provinces with a Muslim majority with sure chances of forming a Muslim Government. The demand for the formation of Sindh which is predominently Muslim in numbers into a separate Province is to add a fifth to the list of Muslim provinces contemplated by the scheme. Now what is the purpose behind the formation of these Mohamedan Provinces ? In the eyes of the Mohamedans themselves it has the same purpose as communal electorates. For the authors of the scheme say that they are prepared to give up communal electorates and agree to joint electorates in all provincial legislatures and in the Central Legislature provided their proposal of Mohamedan Provinces was agreed to. By parity of reasoning it follows that the object of carving out Mohamedan Provinces is to protect the Muslim minorities ; since that was the object of communal electorates. The scheme on the surface does not show how the creation of Muslim provinces is going to protect the Muslim minorities against Hindu majorities in Provinces in which the Hindus predominate. Indeed the scheme seems to weaken the position of the Muslim minorities by taking away the protection they receive or believed to receive from communal electorates. But if we probe into it we can see that the scheme is neither so innocent nor so bootless as it appears on the surface. At bottom it is an ingenious contrivance for the protection of Muslim minorities. For if the Hindu majority tyrannized the Muslim minority in the Hindu Provinces the scheme provides a remedy whereby the Mohamedan majorities get a field to tyrannize the Hindu minorities in the five Mohamedan Provinces. It is a system of protection by counterblast against blast; terror against terror and eventually tyranny against tyranny. That is the purpose behind the whole scheme and also behind the demand for the separation of Sindh. Lest there should be any doubt on this point I wish to remove it by directing attention to the Report of the Nehru Committee in which they say : "we agree that the Muslim demand for the separation of Sindh was not put forward in the happiest way. It was based on communalism and tacked on irrelevently to certain other matters with which it had no concern whatever." That the Nehru Committee should have fought shy of

disclosing the real grounds of separation is a circumstance which raises the presumption that the purpose as known to the Committee must have been otherwise than laudable. But if we are to consent to it, it is better to know the worst about it. I will therefore raise the curtain and let Maulana Abdul Kalam Azad reveal the same. Addressing the Muslim League at its recent session at Calcutta in a speech which must be admired for its terseness and clarity he said — "That by the Lucknow pact they had sold away their interests. The Delhi proposals of last March opened a door for the first time to the recognition of the real rights of the Musalmans in India. Separate electorates by the pact of 1917 only ensured them Muslim representation, but what was vital for the existence of the community was the recognition of its numerical strength. Delhi opened the way to the creation of such a state of affairs as would guarantee to them in the future of India a proper share. Their existing small majority in Bengal and in the Punjab was only the census figure but the Delhi proposals gave them for the first time five provinces of which no less than three (Sind, N. W. F. and Baluchistan) contained a real overwhelming majority. If Muslims did not recognise this great step they were not fit to live (applause). There would be now nine Hindu provinces against five Muslim provinces and whatever treatment Hindus accorded in nine provinces Muslims would accord same treatment to Hindus in the five provinces. Was not this a great gain ? Was not a new weapon gained for the assertion of Muslim rights ?" (Hindustan Times, 3rd January, 1928). No one who is not interested in misunderstanding the plain meaning of simple English can mistake the real purpose of the demand for the separation of Sind. It is obvious that the real purpose has very little to do with the destiny of Sind. It is part of a larger scheme designed for the protection of Muslim minorities and is based upon the principle that the best way of keeping peace is to be prepared for war.

6. Knowing the real purpose of the demand the question is should it be sympathised with ? I, for one, am unable to sympathise with it and no person I venture to say who has at heart the interests of good administration will consent to it. It will no doubt be said as is done by the Nehru Committee which has expressed itself in favour of separation that "the manner of putting it forward does not necessarily weaken the merits of a proposal." I take exception to this position. I hold that the manner discloses the motive and that motive, far from being a small matter, is important enough to change the face of the situation. For it cannot be gainsaid that the main force which sets an institution in motion and also fixes its direction centres round the motive which brings the institution into being. The motive that lies behind this scheme is undoubtedly a dreadful one involving the maintenance of justice and peace by retaliation and providing an opportunity for the punishment of an innocent minority, Hindu in Mohamedan provinces and Mohamedan in Hindu provinces, for the sins of their co-religionists in other provinces. A system must stand self-condemned which permits minorities to be treated in their own provinces as hostages

rather than as citizens, whose rights are subject to forfeiture, not for any bad behaviour chargeable to them but as a corrective for the bad behaviour of their kindred elsewhere. And who can say that the grievance leading to such a forfeiture will always be just and substantial ? As often as not, a grievance is one at which one merely feels aggrieved so that any act be it great or trivial against a minority may be made to serve as a *causus belli* for a war between the Provinces. The consequences of such a scheme are too frightful to be contemplated with equanimity. That the Hindus get the same chance to tyrannize the Muslims in Hindu provinces does not alter for the better the character of the scheme which contains within itself the seeds of discord and disruption. The scheme is so shocking that if the Mohamedans cannot feel secure without it I for one would prefer that Swaraj be deferred till mutual trust has assured them that they can do without it. The Nehru Committee argues that "a long succession of events in history is responsible for the distribution of the population of India as it is today"—and that in creating communal provinces "we have merely to recognize facts as they are." This is no doubt true. But the point remains whether we should create such admittedly communal provinces at a time when the communal feeling is running at full tide and the national feeling is running at its lowest ebb. There would be time for creating such provinces when the Hindus and Mohamedans have outgrown their communal consciousness and have come to feel that they are Indians first and Indians last. At any rate this question should wait till both have come to feel that they are Indians first and Hindus and Mohamedans afterwards. On these grounds I dissociate myself from the sympathy shown by my colleagues towards the question of the separation of Sindh.

7. It will be noticed that I say nothing about the financial difficulties that lie in the way of separating Sindh from the Presidency. That is not because I do not attach importance to them. I do. But my view is that they alone cannot be decisive and if I have not alluded to them it is because I hold that the objections which I have raised to the separation of Sindh will survive, even when the financial objections are met or withdrawn.

SECTION II

PROVINCIAL EXECUTIVE

CHAPTER 1

DUAL VERSUS UNIFIED GOVERNMENT

8. My colleagues have recommended that the subject of Law and Order should be continued as a reserved subject for five years after the new regime has come into operation. I would not have cared to differ from my colleagues if their recommendation had involved nothing more than a short period of waiting to allow the Council an opportunity of settling down to its work. But unfortunately their recommendation involves more than this and is accompanied by a proviso that "after that period it should be left to the decision of the Legislative Council with the concurrence of the Upper House and of the Governor to decide that the subject should be transferred." I am unable to agree to this recommendation which means the continuance of dyarchy for an indefinite period. Such a recommendation cannot be supported except on the assumption that dyarchy is a workable system of Government and that as it has been successfully worked in the past it can be expected to work in future. This assumption is in my opinion quite untenable.

9. Many things have been pointed out as being responsible for the unsatisfactory working of dyarchy as a form of Government. It is true that the Transferred side of the Government was hampered by certain checks which were introduced by way of safeguards. The subjects transferred to the control of the ministers all related to the well-being of the people, as distinguished from subjects relating to the maintenance of law and order. Indeed the subjects were transferred largely because they were of that character. As a matter of policy, therefore, the finances of the Presidency should have been in the hands of a minister. For it is obvious that no policy has any chance of reaching fruition unless the Finance Department found the ways and means required for the same. This could be expected of the Finance Department only if it belonged to the Ministerial side of the Government. But it did not. Section 45A(*3*) provided for the constitution by rules under the Act of Finance Department and for the regulation of the functions of that department. The department as constituted is neither a Transferred nor a Reserved one but was common to both sides

of the Government. Yet as rule 36(1) of the Devolution Rules laid down that the Finance Department should be controlled by a member of the Executive Council, that department was virtually converted into a Reserved Department. Having been placed into the hands of the Executive Councillor, not responsible to the legislature, it is only natural that the department should be on the Reserved side and the head of the department more or less identified with the work of the reserved departments to the disadvantage of the Ministers. The position assigned to the Governor in relation to the Transferred subjects was another factor which worked to the detriment of the transferred side of the Government. Under section 52(*3*) it was laid down that in relation to the transferred subjects the Governor shall be guided by the advice of his ministers, unless he sees sufficient reason to dissent from their opinion. But the common complaint has been that the Governors instead of reducing their interference to exceptional occasions of fundamental difference claimed that in law the ministers were merely their advisers and they were free to reject their advice if they thought fit to do so. This perverse interpretation made the position of the ministers worse than the position of the Executive Councillors. For, the Executive Councillors could not be overruled in ordinary cases except by a majority of votes. While under the interpretation put by the Governors upon section 52(*3*) Ministers were at the mercy of the Governor and were without the protection enjoyed by the Executive Councillors. There was another thing which also helped the aggrandizement of the powers of the Governors as against the ministers and which tended to cripple the activity of the latter. The Instrument of Instructions issued to the Governor charged him to safeguard the interests of all members of the services employed in the Presidency in the legitimate exercise of their function and in the enjoyment of all their recognised rights and privileges. The duty was confined only to the question of the safeguarding of the interests of the services. But the Governors placed a wider interpretation on this instruction and insisted that all matters relating to the services including the question of their appointments, posting and promotions in the Minister's department should be under the charge of the Governors. In Bombay the Governor claimed this right even with regard to the services functioning under the Executive Councillors and to make it known that the Governor has this power; the ordinary form "the Governor in Council is pleased to appoint" was changed to "Governor is pleased to appoint". The position assigned to the Secretary of a Ministerial Department also helped to weaken the authority of the minister and to increase the autocracy of the Governor. For, in all cases, where the Secretary differed from the decision of the ministers, he was permitted to approach the Governor over the head of his political chief and get his decision altered by the fiat of the Governor.

10. All this undoubtedly had an adverse effect on the satisfactory working of dyarchy. But what I wish to guard against is the inference often drawn that in the absence of these factors dyarchy could have been

a workable system of Government. For I maintain that dyarchy is in itself an unworkable system of Government. Fortunately for me I am not alone in holding this opinion. The Government of Bombay, some members of which individually support the continuance of the system of dyarchy, has itself condemned it in 1919, as an unworkable system in words which are worth quoting : "A reference to the records of Government will show that there is scarcely a question of importance which comes up for discussion and settlement in any of the departments of Government which does not require to be weighed carefully in the light of considerations which form the province of another department of Government. The primary duty of the Government as a whole is to preserve peace and order, to protect the weak against the strong, and to see that in the disposal of all questions coming before them the conflicting interests of the many different classes affected receive due attention. And it follows from this that practically all proposals of importance put forward by the Minister in charge of any of the departments suggested for transfer.....will involve a reference to the authorities in charge of the reserved departments.....there are few, if any, subjects on which they (the functions of the two portions of the Government) do not overlap. Consequently the theory that, in case of a transferred subject in charge of a Minister, it will be possible to dispose it off without reference to departments of Governments concerned with the control of reserved subjects is largely without foundation."

11. The dualism due to division of subjects is but one of the inherent defects which makes dyarchy unworkable. There is also another. Under it, it is not possible for the Executive to act as a unified body with a common policy. Such a unity can be secured only by a common allegiance arising out of a common mandate. Ministers who are appointed from the legislature are bound to feel a real obligation towards that body that indeed is the reason why they are appointed and they would not serve their intended purpose unless they felt such obligation But every link that binds them to the legislature works only to separate them from their official colleagues with the result that the dualism inherent in dyarchy tends to come to the surface. Once this dualism has established itself between the two halves of government — and the many instances in which Ministers and Executive Councillors have opposed each other by speech and vote in open Council prove its possibility — government must become impossible. This dualism in dyarchy is kept in check by a coalition But this coalition is a forced and artificial union between two parties with totally different mandates and can easily lead to an impasse. That such an impasse has not occurred in the Bombay Presidency does not negative this inherent defect in dyarchy. It only throws in clear relief that in this coalition the ministers had surrendered themselves to the Councillors.

12. Notwithstanding these inherent defects, there are people who hold that dyarchy has been successfully worked in this Presidency. That view can be agreed to only if it means that the Governor was not obliged to

suspend the constitution or to bring into operation the emergency powers given to him by the Government of India Act. This is true. But the question is not whether dyarchy worked. The question is whether it worked as a responsible form of Government. For it must not be overlooked that in 1919 there were many other alternative forms of Government competing with dyarchy for acceptance. There was the Congress League Scheme and there was the Scheme by heads of the Provinces, to mention no others. But all these schemes were rejected in preference to dyarchy because they failed to satisfy the tests of responsible government. Any estimate of the working of the dyarchical system of Government must therefore be based upon that supreme consideration alone. If we bear this fact in mind and then attempt to evaluate the working of dyarchy, the conclusion that in this province dyarchy has been a failure is beyond dispute. Responsible government means, that the Executive continues to be in office only so long as it commands a majority in the House. That is the essence of the doctrine of ministerial responsibility. Now if we apply this test to the working of dyarchy in the Bombay Presidency and take into account the occasions on which the Council divided on motions relating to the transferred subjects, we find a most unedifying spectacle that the ministers have been defeated time and again on the floor of the House and yet they have continued in office as though nothing had happened. This lamentable tale is told by the following table : —

Year		Total No. of Divisions	No. of divisions in which Government were neutral	No. of Government defeats	No. of Government defeats if official block is eliminated	No. of Government successes	No. of ties
1921	..	3	..	2	2	1	..
1922	..	17	..	4	8	9	..
1923	..	4	1	1	2	1	..
1924	..	19	..	10	14	5	1
1925	..	30	1	..	11	18	..
1926	..	3	..	..	1	2	1
1927	..	26	..	3	10	16	..
1928	..	2	..	1	1	1	..

These figures show that in 1921 out of three divisions the ministers were defeated on 2 ; in 1922 out of 17 on 8 ; in 1924 out of 19 on 14 ; in 1925 out of 30 on 11 ; in 1926 out of 3 on 1 ; in 1927 out of 26 on 10 ; in 1928 out of 2 on 1. Notwithstanding this there has never been a case in this Presidency of a minister having resigned. With these facts before us it is impossible to agree to any conclusion which implies the dyarchy has worked as a responsible system of government.

13. It is of course open to argument that if the ministers did not resign it is because the Council did not intend by these divisions to indicate want of confidence ; otherwise it would have refused supplies to the ministers whom it had discredited by its adverse vote. That the Bombay Legislative Council was too effete to impose its will effectively upon the ministers is a fact too well known to need mention. Its division into cliques and factions, its vicious way of following men rather than principles, made it a toy in the hands of the executive, so much so, that the House as a whole failed to exercise even the selective function which any popular House conscious of its power is expected to fulfil. Any popular House, howsoever dominated by the executive, will not tolerate the candidature of any member of the House for office unless he shows that he has some power of speech, some dexterity in the handling of a subject, some readiness of reply and above all some definite vision which can constitute the basis of a rational policy of social and economical betterment. Even in England where the dominance of the cabinet is as complete as it could be, no Prime Minister in filling the subordinate offices of Government will choose men who have not shown themselves acceptable to the House of Commons. The Legislative Council of Bombay was incapable even of this, with the result that the choice for political office did not always fall on the best man available. But supposing that the Council being better organised, had imposed its will more effectively on the executive. What would have been the result ? Would it have made dyarchy work as a responsible form of Government ? My answer is emphatically in the negative. For, any effective action on the part of the legislature against the Executive can produce only one result, namely, it will lead to the use by the Governor of the emergency powers of suspension and certification, which are entrusted to him under the Act. That this is the inevitable result of strong action on the part of the legislature is the testimony of all provinces where the constitution has been suspended. But to admit this is to admit that the moment the Council begins to assert its power to the fullest extent dyarchy must crumble unless jacked by the emergency powers of the Governor. It is therefore obvious that in either case dyarchy fails. It fails by the inaction of the legislature as in the Bombay Presidency. It fails as much by the action of legislature as in Central Provinces. In the one case by reason of the weakness of the legislature the executive gets the freedom to be irresponsible. In the other case the legislature by force of action compels the Governor to keep into being an irresponsible executive.

14. Many have suggested that dyarchy would have worked better if the Governor has chosen to conduct himself as a constitutional head in accordance with the provisions of Section 52(*3*) and the advice given by the Joint Parliamentary Committee. I do not share this view. First of all there is no foundation of facts to support the contention that the Governor was bound to act as a constitutional head. It is often forgotten that though the dyarchical form of government was selected as being a responsible form of government implying that the Governor in relation to the ministers was to

be a constitutional head. But the Joint Report made it quite clear that he was not to be reduced to that position. They expressly stated, "We do not contemplate that from the outset the Governor should occupy the position of a purely constitutional Governor who is bound to accept the decision of his ministers. We reserved to him the power of control because we regard him as generally responsible for his administration". Nor did the Joint Parliamentary Committee recommend that he should work as a constitutional Governor. The Committee distinctly stated in paragraph 5 of their Report that the Ministers will be assisted and guided by the Governor who will accept their advice and promote their policy whenever possible. This is far from saying that the Committee intended him to function as a constitutional head. Indeed such an intention would be inconsistent with the provisions of the Act under which the Governor's dictatorial powers were expressly reserved and nothing that is said in the Joint Report or in the Report of the Parliamentary Committee nullifies their use ; so that if the Governor has himself governed and has not allowed the ministers to govern through him it is no fault of his. But granting that the Governor should have acted as a constitutional head, the question again is, would it have made dyarchy workable as responsible form of government ? My answer to this question is also in the negative. For, as I see the situation, if you take away the power of the Governor and make him a constitutional head, you thereby expose the existence of the reserved side of the Government to an attack from a popularly elected chamber. From this peril the reserved side deprived of the protection of the Governor has only one escape and that is to consent to be ruled by the wishes of the Council. In other words, if you remove them from the leap of the Governor, you have no other alternative except to place them on the same footing as the transferred side. But this is only another way of stating that if the desire is to reduce the position of the Governor to that of a constitutional head you must first put an end to dyarchy.

15. So far I have argued against the view that dyarchy is not a system which is made unworkable by certain other factors and in support of the view that owing to its inherent defects, it is not only unworkable but it is incapable of being worked as a responsible form of a government. Of course dyarchy with complete dualism involving the functioning of two separate governments and two separate legislatures, in one the legislature is subordinate to the executive and in the other the executive is subordinate to the legislature, is free from the criticism which has been urged above against the system of dyarchy-with-dualism such as is in operation. But the alternative of dyarchy-with-dualism was rejected by the Government of India in 1919 and is open to the same objections which apply to the system of government that was established by the Morley-Minto Reforms and which have never been so forcibly voiced as in the Montagu-Chelmsford Report A return to such a system at this stage in the evolution of political life in India is unthinkable and I therefore refrain from saying anything on

a possible recourse to such a system. The only alternative left is to discontinue dyarchy and transfer all subjects to the control of the ministers.

16. So far the general grounds of my opposition to the recommendations of my colleagues who have given their sanction to the continuance of dyarchy have been stated. I now proceed to state my grounds of objection to the continued reservation of the particular subject, namely law and order. The principal reason urged against the transfer of law and order to the charge of a minister is that being subject to the wishes of the electorates and being removable by an adverse vote of the Council the minister will not be able to administer the department impartially. The inevitable consequence of such a situation, it is feared, will be that the services working in the administration of that department will be placed in a false position. Never knowing when they will be supported and when they will be censured, the uncertainty will paralyse their action to the grave detriment of peace and good government It is further urged that in view of the series of Hindu-Moslem riots which have, of late, become so very common we ought not to transfer law and order to the control of a minister who is subject to the vagaries of public opinion and who is likely to be swayed by communal prejudices, Hindu or Moslem.

17. To be frank this argument has produced no effect upon me although my colleagues seem to have been considerably impressed by it. It is one of the stock arguments of bureaucracy. To admit its force is to accept that bureaucratic government is the best form of government Unfortunately bureaucratic government has been known to India too long for anybody to be deceived by any such argument It is so extravagant that its acceptance would involve the negation of all responsible government Whatever its antecedents, responsible government, it must be recognised has come to stay in India. Any change time can bring along with it must be in the direction of expansion of the principle. Any Plan therefore which hinders the broadening of this basic principle must create a serious conflict between the Government and the people. Nor does it appear to me that there exists any ground why we should needlessly give rise to such a conflict by acting upon the bureaucratic argument For, in my opinion, the fear that the ministers will succumb to the clamour of their followers in the House or that their followers will be malevolent in their attitude is not backed by experience and in so far as it is, it does them a great injustice. The suspension of the Local Boards and Municipalities which had been captured by the non-co-operators in 1922 at a time when Mr. Gandhi was in the plenitude of his power gives us hope to say that ministers can be trusted to act independently of the wishes of the electorates when such an action is demanded of them. Members of Government will I am sure testify that the Bombay Legislative Council has invariably acted with the necessary restraint which consciousness of responsibility always brings with it. But even if one is compelled to admit that the House may not keep itself unruffled on occasions of communal feeling and communal clash

this is no argument against transfer. For one may point out in reply that no community whatever its attitude towards another has any vested interest in disorder such as will induce its accredited representatives to be so irresponsible as to lead them to work against peace and goodwill. The fear therefore which operates on the mind of those who support the reservation of law and order is merely the fear of the unseen, unknown and the untried. My colleagues in not recommending the transfer are no doubt adopting a most cautious course. But I am not certain that they are thereby following the wisest course. For, there is such a thing as too much caution which prohibits the liberty to make an experiment which the wisest course must demand in order to find out whether or not the fear is real. The very same fear of the unknown which is now urged against the transfer of law and order was urged in 1919 against the transfer of the subjects now entrusted to the control of the ministers. But they were all brushed aside by the Secretary of States and the Government of India who both consented to take the leap in the dark. I prefer to adopt the same course with respect to law and order.

18. But there is another reason why if we are to make the experiment it is wise that we should make it without delay. It is obvious that the transfer of a subject brings in its wake an increase in the number of Indians employed in the services. It is possible that the Indians might be less efficient, at any rate, less experienced than the European members of the staff. To postpone the transfer of law and order is therefore to increase the dangers incident upon every transitional stage. Consequently it is much the safest to take the step at once and emerge through that stage while the experienced trained civil servants, who could be relied upon to loyally assist in working the new constitution with as little dislocation as possible, are still with us. Fortunately for me this suggestion comes from a very important authority, in fact it comes from an experienced civil servant, who supplied his views in a note to Mr. Barker who has reproduced the same in his book on the "Future of Government of India and the I.C.S.".

"I propose to state," says Mr. Barker, "the lines of such criticism, as it is advanced in a Note written by an experienced civil servant……In the first place it is urged by the author of the Note that the maintenance of law and order, and matters concerned with land revenue and tenancy rights, ought to be transferred." "These departments," he urges, "are administered under Government by the strongest and most able branch of all the services in India—the Indian Civil Service. The principles of their administration have long been laid down, and are well understood. The service has great tradition behind it which will ensure that, mat administration will get the best assistance and most outspoken advice……It is admitted that the people of India are quiet and easily governed people, though occasionally liable to excitement over things affecting their caste or religion. The task of maintaining law and order is not therefore a very difficult one……the argument that land revenue and tenancy questions affect the interest of the masses rather than

of the classes who will be represented in the Legislature (and therefore, on the fifth of the canons mentioned above, should not be transferred) is absolutely inconsistent with the franchise and electorate scheme which has been put forward for the Provinces……The convinced advocate of the compartmental system who is afraid to transfer some at any rate of the departments concerned with law and order and with revenue administration admit that he is afraid of his own scheme. I, though I am not an advocate of dyarchy, should not be afraid to make the experiment, because I should hope to find among the Ministers that common sense, goodwill, and forbearance which are essential to the success of any scheme, dyarchical or not."

19. I quite realise the anxiety of the minorities in respect of the transfer of law and order. But it is somewhat difficult to understand how they expect to gain by its reservation. There will be no difference between a bureaucrat in charge of law and order and a minister from the standpoint of personal bias if the bureaucrat is to be an Indian. If he is to be a European, then the most that can be said of him is that he will be a neutral person. But this is hardly an advantage. For, there is no guarantee that a neutral person will also be an impartial person. On the contrary a person who is neutral has also his interests and his prejudices and when he has no such interest he is likely to be ignorant. The European personal of the bureaucrat is therefore a doubtful advantage to the minorities who are anxious for the reservation of law and order. What however passes my comprehension is the failure of some of the representatives of the minorities to realise the great advantage which the ministerial system gives them as against the bureaucratic regime. For the best guarantee which the minorities can have for their own protection is power to control the actions of the executive. The bureaucratic system is impervious to this control. If it protects the minorities it is because it likes to do so. But if on any occasion it chooses not to take action the minorities have no remedy. In other words, a minister can be dictated to ; but a bureaucrat may not even be advised. This it seems to me is a vital difference between the regime of the bureaucrat and the regime of the minister. Personally myself, I do not see how the minorities will lose by the transfer of law and order and I say this, although I belong to a minority whose members are treated worse than human beings. My view is that in a Legislature where minorities are adequately represented, it is to their advantage that law and order should be transferred. For, such transfer gives them the power of control over the administration of the subject which is denied to them under reservation. I think the minorities should consider seriously whether there is not sufficient truth in the statement that a rogue does better under the master's eye than an honest man unwatched ; and if they do I think they will realise that they can with good reason prefer inferior officers, over whom they can exercise an influence, to the most exemplary of mankind entirely free from such responsibility.

20. There is however another and a more important reason why Minorities prefer reservation to transfer. It is because their representation

in the Legislature is so small as to make them inconsequential. From the standpoint of the minorities, the choice obviously is between reservation and no representation on the one hand and transfer and adequate representation on the other. Here again the second alternative must be deemed to be more beneficial than the first. It would therefore be more in the interest of the minorities to insist on adequate representation than to persist in opposing the transfer of law and order. But, if the fear of mal-administration in the department of law and order to the prejudice of the minorities cannot be allayed by the grant of adequate representation to the minorities, I am prepared to add a proviso to my recommendation to the effect that if a minority of say 40 per cent, in the Legislative Council should decide by a vote that law and order be a reserved subject, it shall then be withdrawn from the list of transferred subjects. I make the proposal in preference to that of the Majority, because I hold that some day the subject shall have to be transferred if the principle of responsible government laid down in the Pronouncement of 20th August, 1917, is to be made good and that the proposal while it does not come in the way of giving effect to it immediately it does not preclude the possibility of cancelling the transfer, if experience shows that the fears entertained about it are well founded.

CHAPTER 2

THE EXECUTIVE IN WORKING

21. The introduction of a unified government based on ministerial responsibility gives rise to four important questions. Of these the first pertains to the stability of the executive, the second to communal representation in the Executive, the third to the enforcement of the responsibility of the Executive and the fourth to the mutual relation among the members of the Executive.

22. Regarding the first question it is said that owing to the communal bias of the members of the legislature, the legislature is bound to be composed of groups. With attachment to community more pronounced than loyalty to principles, the ministry may find itself resting on uncertain foundation of communal allegiance measured out in proportion to communal advantage so that if communities choose to transfer their allegiance according to their will and without reference to principles, ministries may crumble as soon as they are formed. To prevent such an evil it is proposed that the ministry might be formed from a panel of men chosen by the various groups in the Council and once it is formed it should be made irremovable during the lifetime of the Council. I recognise that the fear of an unstable executive may come true. But I do not think that it calls for a remedy or a remedy of the kind suggested. India is not the only country with the group tendency manifesting itself in the Legislature. The French Chamber of Deputies is a more glaring instance of the group tendency involving frequent disruption of the ministeries. All the same the French

have felt that the situation, bad as it is, is not so intolerable as to call for a remedy. But assuming that what is anticipated comes true and the situation becomes intolerable, I am convinced that the remedy is not the right one. That the remedy will immensely weaken the responsibility of the ministers is beyond dispute. What, however, I am afraid of, is that the scheme instead of making for the coalescence of the groups will only serve to harden and perpetuate them; so that the remedy far from curing the disease will only aggravate it. The true remedy appears to me to lie along the line of reconstruction of the existing electorates.

23. I am totally opposed to the recognition of communal representation in the executive of the country. Under it, the disease will break out in its worst form in a most vital organ of the governmental machinery. It will be a dyarchy or triarchy depending upon the number of communities that will have to be recognised as being entitled to representation in the cabinet, it will no doubt be a communal dyarchy somewhat different from the political dyarchy which we have today. But that will not make it better than political dyarchy. The defects inherent in the one are inherent in the other and if the aim of constitutional reconstruction is a unified government, dyarchy in its communal form must be as summarily rejected as dyarchy in its political form. Indeed there is greater reason for the rejection of communal dyarchy than there is for the rejection of political dyarchy. For under political dyarchy the possibility of a Government based on principle exists. But communal dyarchy is sure to result in a Government based on class ideology.

24. It is a cardinal principle of the constitutional law of Great Britain and the self-governing Dominions that every minister is amenable to the law Courts. Indeed it is owing to this wise principle that British subjects at home and in the Dominions are secure in person and property against ministerial wrong doing. India alone stands in strange contrast with Great Britain and the Dominions in the matter of legal responsibility of the Executive for illegal acts. During the course of a better conflict between the judiciary headed by Sir Iliajah Impey and the Executive backed by Warren Hastings, the Executive in India as early as 1780 secured for itself immunity from the control of the Courts. That immunity has been continued to it ever since and now finds its place in sections 110 and 111 of the Government of India Act. Such an immunity was tolerated because it was local and not general. For it was provided that members of the Executive who could not be prosecuted in India were liable to prosecution in England for illegal acts done in India. This system of accountability if it was remote was none the less efficacious because under the old regime almost every member of the Executive by reason of the fact that he was a European returned to England. The composition of the Executive has now undergone a change. It is largely Indian in personnel and as the chances of any one of them going to England are so rare their liability can never in fact be enforced. The situation as it now stands provides no remedy either immediate or remote

against wrongful acts of ministers. To allow the situation to continue, is to destroy the very basis of constitutional government. I therefore recommend that sections 110 and 111 of the Government of India Act should be amended so as to allow all British subjects, whether Indian or European, the right to resort to the Courts in respect of illegal acts ordered by ministers. Such a change in the law was urged in 1919 in respect of ministers. But it was not then accepted because its acceptance, it was thought, would introduce an invidious distinction between Ministers and Executive Councillors. With the introduction of full responsible government in the Provinces, this objection does not survive.

25. I hold so strongly to the view of enforcing legal responsibility of ministers for illegal acts that I propose that the constitution should provide for the constitution of a tribunal composed of the Legislature or partly of the Legislature and partly of the Judiciary before which ministers may be impeached for acts unlawful in themselves or acts prejudicial to the national welfare. I am aware that owing to the introduction of ministerial responsibility impeachment has fallen into disuse. But I feel that ministerial responsibility in India is only in the making and until the Legislature and the Executive have become conscious of its implications it is better to provide a more direct means of curbing the extravagances of power in the hands of men who are unused to it and who may be led to abuse it by excessive loyalty to caste and creed. A safeguard is never superfluous because it is not often invoked.

26. In determining the relationship between the members of the executive— whether each should be liable for his acts only or whether each should be liable for the acts of all, in other words, whether the liability should be individual or joint — is a question on which no one can dogmatise. All the same I am for joint responsibility. I am aware that under it the Legislature is practically helpless in the matter of punishing a delinquent minister. With joint responsibility the legislature will not be able to dismiss a minister of whose acts it disapproves ; it will not be in position even formally to censure him, unless it is prepared to get rid of his colleagues as well. This no legislature functioning with a parliamentary executive date do. For if it does, and overthrows the executive, the executive will also overthrow the Legislature by asking for a dissolution. Notwithstanding this defect, I am in favour of joint responsibility and for two reasons. In a modern state the function of the executive as an administering body applying legislation has become a secondary function. Its main function is to determine policy and submit proposals to the Legislature. Indeed so necessary is the function that the usefulness of the Legislatures would be considerably diminished if the executive failed to perform it. But in order that the executive may perform the function of policy-making, there must be a unity of outlook among its members. Such a unity of outlook will not be possible without complete coherence in the executive. Joint responsibility, it appears to me, can alone ensure such coherence. Second

reason why I recommend joint responsibility is because I fear that the principle of individual responsibility will, never permit the growth of a common political platform transcending the boundaries of caste and creed. It will perpetuate groups and the Presidency will for ever be condemned to a rule of Government by Coalition of groups which by their readiness to form new combinations, will plague the administration with instability and which by their preference for a policy of menoeuvres to a policy of ideas, will fatally affect the integrity of the work of the administration. Under joint responsibility although a party may be a collection of units of varying views yet members of each unit, not only shall be forced to do the best they can to formulate a unified policy but will be compelled to be bound by it. The habit of submitting to a party programme which is wider than the group programme will furnish a kind of education, the need of which must be keenly felt by all who know the conditions of India.

27. How to secure joint responsibility is a matter of some importance. To do it by express terms of law will leave no liberty either to the Head of the administration or the Legislature to dismiss a minister without dismissing the whole of the executive. It is therefore better to leave it to convention. The question how to make the convention operative still remains. It seems to me that if instead of the Governor choosing the ministers, the task was entrusted to one of the ministers to choose his colleagues, a cabinet so formed is bound to function on the basis of joint responsibility and would yet leave room for getting rid of an individual minister without changing the whole personnel of the government I therefore suggest that the Governor should be instructed not to undertake directly the task of appointing individual ministers but to choose a chief minister and leave to him the work of forming a government.

28. My colleagues have recommended that there should be 7 ministers to take charge of the administration of the Presidency. I am unable to concur in the recommendation in so far as it fixes the number of ministers. It may be that the future government of the Presidency might be able to do with less than 7 or may feel the necessity for having more than 7 to make no mention of having to appoint ministers without portfolios for satisfying the personal ambitions of members of the Legislature without whose support it may not be possible to carry on the government of the Province. Under these circumstances the wisest course seems to me to leave the question of the number of ministers open to be determined by the Legislature of the day.

CHAPTER 3

THE POSITION AND POWERS OF THE GOVERNOR

29. Under the existing constitution the Governor of a Province does not occupy a well defined position. He has not the position of a constitutional head representing the Crown in the Province without any responsibility for the government of the Province. Nor is his position such as to invest him

with a complete direction of the affiairs of the Province. His position partakes of both. Such a position for the Governor which makes him play the double role of an autocrat and a constitutional head is not a very happy position either from the standpoint of the Governor or from the standpoint of smooth working of the governmental machine. Whatever the nature of the difficulties of the position of a Governor was made to occupy it was quite consistent with the type of the constitution that was introduced in 1919. As the constitution did not grant full responsible government the Governor was naturally not reduced to the position of a constitutional head. On the other hand, as the direction of the affairs of the Provinces was in some departments at any rate, transferred to responsible ministers, the Governor was not permitted to retain his former position as an irresponsible head. The change in the position of the Governor was thus based on an intelligent principle of reducing the executive powers of the Governor in direct ratio to the advance made towards responsible government. Following the logic of the principle laid down in 1919, of making the position of the Governor to accord with the transfer of responsibility, I recommend that the Governor of the Province should be reduced to the position of a constitutional head. Indeed no other position for the Governor can be thought of, which will be compatible with the system of full responsible government.

30. Regarding his powers he shall have in his capacity as representing the Crown in the Executive of the Province the power to make appointments to the Cabinet. In the same capacity, he will have the ultimate power of giving or refusing sanction, to any order proposed by the minister in any matter pertaining to any branch of the administration. As representing the Crown in the Legislature he will have in dealing with Bills passed by the Council the power (1) to assent, (2) to reserve assent pending signification of His Majesty's pleasure and (3) to refuse assent.

31. The exercise of these powers given to the Governor must of course be made conditional upon the formula that it must be with the advice of ministers responsible to the Legislature. This does not mean that he will not have the discretion to disagree with his ministers. Far from that being the case, he will retain the liberty not merely to tell his ministers that he does not approve of their policy but actually to dismiss the ministers who persist in a policy to which he is opposed. For there cannot be any obligation on a constitutional head compelling him to follow a minister responsible to a Legislature. The essence of his obligation is to follow the general wish of the electors and if he appears to follow the minister it is because a minister is supposed to represent the will of the electors. But there may be occasions when he may have reasons to doubt that the minister correctly represents the Will of the general electorates. Consequently not only do the constitutions of all responsible governments recognise this possibility but they actually provide him with all possible means of ascertaining what the Will of the electorates is. For that purpose the constitution of every responsible government permits

the Governor to dismiss the ministers and appoint others who agree with him in the hope that the Legislature will support them. If the Legislature refuses support to the new ministers, the constitutions of all responsible governments permit him another resource that of an appeal to the electorates in the hope that they might support him. These resources the Governor of the Province must be allowed. But it is also necessary to bear in mind that no constitution gives him larger powers than these. If after the ascertainment of the Will of the electorates, it is found that the decision has gone against him the constitution of every responsible government leaves him no other alternative but to yield, abdicate or fight. The Governor of a Province must be content with these resources. Under no circumstances can he have independent powers of action such as he has under the present constitution to certify measures not passed by the Legislature, sanction expenditure refused by the legislature or suspend the constitution by dismissing the ministers and assuming the direction of affairs himself. What is necessary therefore for making the Governor a constitutional head is to take away his powers of certification and suspension and thus make it impossible for him to act independently of ministers responsible to the Legislature.

32. The precise language of the Section in which the obligation of the Governor to act on the advice of the minister is a matter of some moment. Section 52(*3*) which deals with this seems to be too vaguely worded. It is too indefinitely worded to secure the desired end. Instead of stating that the Governor shall act on the advice of his ministers it would be better if the Section stated that no order of the Governor shall be valid unless it is countersigned by a minister. The obligatory force of such language is obvious. Accordingly I recommend such a change in the language of the Section.

33. Along with the definition of the powers of the Governor, the place of the Governor in the Executive must also be defined. Being relieved from the responsibility for the direction of affairs the function of the Governor becomes supervisory rather than executive. His main business will be to see that those on whom the responsibility will now fall do not infringe the principles enunciated in the constitution for their guidance. In order that he may, perform this function, he must be independent of local politics. That independence is absolutely essential to unprejudicial supervision. The best way of keeping him independent is to keep him away from the executive. Nothing will undermine public confidence in his impartial judgment so much as a direct participation by the Governor in political controversies Nor can it be doubted that his association in the public mind with the controversies between the Legislature and the Executive will have any other result. If the Governor is to discharge his functions in a manner that will be regarded as fair it is very important that he must be above party. For that purpose he must be emancipated from the Executive as he has been dissociated from the Legislature. I therefore recommend that it should be provided that the Governor shall not be a part of the Executive nor shall he have the right to preside over it. The meetings of the Executive shall be summoned and presided over by the Prime Minister without any intervention of the Governor

SECTION III

PROVINCIAL LEGISLATURE

CHAPTER I

FRANCHISE

34. My colleagues have recommended that the franchise in urban areas should remain as it is and that in rural areas the land revenue assessment should be halved. I am unable to agree to this. My colleagues have treated the question of franchise as though it was a question of favour rather than of right. I think that such a view is too dangerous to be accepted as the basis of political society in any country. For if the conception of a right to representation is to be dismissed as irrelevant; if a moral claim to representation is to be deemed as nothing but a metaphysical or sentimental obstruction ; if franchise is considered a privilege to be given or withheld by those in political power according to their own estimate of the use likely to be made of it, then it is manifest that the political emancipation of the unenfranchised will be entirely at the mercy of those that are enfranchised. To accept such a conclusion is to accept that slavery is no wrong. For slavery, too, involves the hypothesis that men have no right but what those in power choose to give them. A theory which leads to such a conclusion must be deemed to be fatal to any form of popular Government, and as such I reject it in toto.

35. My colleagues look upon the question of franchise as though it was nothing but a question of competency to put into a ballot box a piece of paper with a number of names written thereon. Otherwise they would not have insisted upon literacy as a criterion for the extension of the franchise. Such a view of the franchise is undoubtedly superficial and involves a total misunderstanding of what it stands for. If the majority had before its mind the true conception of what franchise means they would have realised that franchise, far from being a transaction concerned with the marking of the ballot paper, "stands for direct and active participation in the regulation of the terms upon which associated life shall be sustained and the permit of good carried on." Once this conception of franchise is admitted, it would follow that franchise is due to every adult who is not a lunatic. For, associated life is shared by every individual and as every individual is affected by its consequences, every individual must

have the right to settle its terms. From the same premises it would further follow that the poorer the individual the greater the necessity of enfranchising him. Form in every society based on private property the terms of associated life as between owners and workers are from the start set against the workers. If the welfare of the worker is to be guaranteed from being menaced by the owners the terms of their associated life must be constantly resettled. But this can hardly be done unless the franchise is dissociated from property and extended to all propertyless adults. It is therefore clear that judged from either point of view the conclusion in favour of adult suffrage is irresistible. I accept that conclusion and recommend that the franchise should be extended to all adults, male and female, above the age of 21.

36. Political justice is not the only ground for the introduction of adult suffrage. Even political expediency favours its introduction. One of the reasons why minorities like the Mohamedan insist upon communal electorates is the fear that in a system of joint electorates the voters of the majority community would so largely influence the election that seats would go to men who were undesirable from the standpoint of the minority. I have pointed out in a subsequent part of the report that such a contention could be effectively disposed of by the introduction of adult suffrage. The majority has given no thought to the importance of adult suffrage as an alternative to communal electorates. The majority has proceeded as though communal electorates were a good to be preserved and have treated adult suffrage as though it was an evil to be kept within bonds. My view of them is just the reverse. I hold communal electorates to be an evil and adult suffrage to be a good. Those who agree with me will admit that adult suffrage should be introduced not only because of its inherent good but also because it can enable us to get rid of the evil of communal electorates. But even those whose political faith does not include a belief in adult suffrage, will, I am sure, find no difficulty in accepting this view. For it is only commonsense to say that a lesser evil is to be preferred to a greater evil and there is no doubt that adult suffrage, if it is at all an evil, is a lesser evil than communal electorates. Adult suffrage, which is supported by political justice and favoured by political expediency, is also, I find, demanded by a substantial body of public opinion. The Nehru Committee's report, which embodies the views of all the political parties in India except the Non-Brahmins and the Depressed Classes, favours the introduction of adult suffrage. The Depressed Classes have also insisted upon it The Sindh Mohamedan Association, one Mohamedan member and one Non-Brahmin member of the Government of Bombay, have expressed themselves in favour of it. There is thus a considerable volume of public opinion in support of adult franchise. My colleagues give no reason why they have ignored this volume of public opinion.

37. Two things appear to have weighed considerably with my colleagues in their decision against the introduction of adult suffrage. One

is the extent of illiteracy prevalent in the country. No one can deny the existence of illiteracy among the masses of the country. But that this factor should have any bearing on the question of franchise is a view the correctness of which I am not prepared to admit. First of all, illiteracy of the illiterate is no fault of theirs. The Government of Bombay for a long time refused to take upon itself the most important function of educating the people, and, when it did, it deliberately confined the benefit of education to the classes and refused to extend it to the masses.*

38. It was not until 1854, that Government declared itself in favour of mass education as against class education. But the anxiety of Government for the spread of education among the masses has gone very little beyond the passing of a few resolutions. In the matter of financial support Government always treated education with a most niggardly provision. It is notorious, how Government, which is always in favour of taxation refused to consent to the proposal of the Honourable Mr. Gokhale for compulsory primary education, although it was accompanied by a measure of taxation. The introduction of the Reform has hardly improved matters. Beyond the passing of a Compulsory Primary Education Act in the Presidency there has not been any appreciable advance in the direction of mass education. On the contrary there has been a certain amount of deterioration owing to the transfer of education to local authorities which are manned, comparatively speaking, by people who being either indifferent or ignorant, are seldom keen for the advancement of education.*

39. In the case of the Depressed Classes the opportunity for acquiring literacy has in fact been denied to them. Untouchability has been an insuperable bar in their way to education. Even Government has bowed before it and has sacrificed the rights of the Depressed Classes to admission in public schools to the exigencies of the social system in India. In a resolution of the year 1856 the Government of Bombay in rejecting the petition of a Mahar boy to a school in Dharwar observed :

> "The question discussed in the correspondence is one of very great practical difficulty.....
>
> "1. There can be no doubt that the Mahar petitioner has abstract justice in his side; and Government trust that the prejudices which at present prevent him from availing himself of existing means of education in Dharwar may be are long removed.
>
> "2. But Government are obliged to keep in mind that to interefere with the prejudices of ages in a summary manner, for the sake of one or few individuals, would probably do a great damage to the cause of education. The disadvantage under which the petitioner labours is not one which has originated with this Government, and it is one which

*Lest this fact should be regarded as a fiction, I invite attention to the extracts from the Report of the Board of Education of the Bombay Presidency for the year 1850-51. (These extracts are printed at the end of this report as Appendix at pages 402-06.—*Editor*)

Government cannot summarily remove by interfering in his favour, as he begs them to do."

The Hunter Commission which followed after the lapse of 26 years did say that Government should accept the principle that nobody be refused admission to a Government College or School merely on the ground of caste. But it also felt it necessary to say that the principle should "be applied with due caution" and the result of such caution was that the principle was never enforced. A bold attempt was, no doubt, made in 1921 by Dr. Paranjpye, when he was the Minister of Education. But as his action was without any sanction behind it, his circular regarding admission of the Depressed Classes to Schools is being evaded, with the result that illiteracy still continues to be a deplorable feature of the life of the Depressed Classes.

40. To the question that is often asked how can such illiterate people be given the franchise, my reply therefore is, who is responsible for their illiteracy ? If the responsibility for illiteracy falls upon the Government, then to make literacy a condition precedent to franchise is to rule out the large majority of the people who, through no fault of their own, have never had an opportunity of acquiring literacy provided to them. Granting that the extension of franchise must follow the removal of illiteracy what guarantee is there that efforts will be made to remove illiteracy as early as possible ? The question of education like other nation-building questions is ultimately a question of money. So long as money is not forthcoming in sufficient amount, there can be no advance in education. How to find this money is therefore the one question that has to be solved. That a Council elected on the present franchise will never be in a position to solve the problem is beyond dispute. For the simple reason that money for education can only be provided by taxing the rich and the rich are the people who control the present Council. Surely the rich will not consent to tax themselves for the benefit of the poor unless they are compelled to do so. Such a compulsion can only come by a radical change in the composition of the Council which will give the poor and illiterate adequate voice therein. Unless this happens the question of illiteracy will never be solved. To deny them that right is to create a situation full of injustice. To keep people illiterate and then to make their illiteracy the ground for their non-enfranchisement is to add insult to injury. But the situation indeed involves more than this. It involves an aggravation of the injury. For to keep people illiterate and then to deny them franchise which is the only means whereby they could effectively provide for the removal of their illiteracy is to perpetuate their illiteracy and postpone indefinitely the day of their enfranchisement.

41. It might be said that the question is not who is responsible for illiteracy; the question is whether illiterate persons should be given the right to vote. My answer is that the question cannot be one of literacy or illiteracy : the question can be of intelligence alone. Those who insist on literacy as a test and insist upon making it a condition precedent to enfranchisement in

my opinion, commit two mistakes. Their first mistake consists in their belief that an illiterate person is necessarily an unintelligent person. But everyone knows that, to maintain that an illiterate person can be a very intelligent person, is not to utter a paradox. Indeed an appeal to experience would fortify the conclusion that illiterate people all over the world including India have intelligence enough to understand and manage their own affairs. At any rate the law presumes that above a certain age every one has intelligence enough to be entrusted with the responsibility of managing his own affairs. The illiterate might easily commit mistakes in the exercise of the franchise. But then the Development Department of Bombay has fallen into mistakes of judgment equally great which though they are condemned, are all the same tolerated. And even if they fall into greater errors it may still be well that they should have franchise. For all belief in free and popular Government rests ultimately on the conviction that a people gains more by experience than it loses by the errors of liberty and it is difficult to perceive why a truth that holds good of individuals in non-political field should not hold good in the political field Their second mistake lies in supposing that literacy necessarily imports a higher level of intelligence or knowledge than what the illiterate possesses. On this point the words of Bryce might be quoted. In his survey of "Modern Democracies" he raises the question how far ability to read and write goes towards civic competence and answers thus : "Because it is the only test practically available, we assume it to be an adequate test. Is it really so ? Some of us remember, among the English rustics of sixty years ago shrewd men, unable to read but with plenty of mother wit, and by their strong sense and solid judgment quite as well qualified to vote as are their grand-children today who read a newspaper and revel in the cinema……The Athenian voters……were better……fitted for civic franchise than most of the voters in modern democracies. These Greek voters learnt politics not from the printed and, few even from any written page, but by listening to accomplished orators and by talking to one another. Talking has this advantage over reading, that in it mind is less passive. It is thinking that matters, not reading, and by thinking, I mean the power of getting at facts, and arguing consecutively from them. In conversation there is a clash of wits, and to that some mental exertion must go……But in these days of ours reading has become substitute for thinking. The man who reads only the newspaper of his own party, and reads its political intelligence in a medley of other stuff, narratives of crimes and descriptions of football matches, need not know that there is more than one side to a question and seldom asks if there is one, nor what is the evidence for what the paper tells him. The printed page, because it seems to represent some unknown power, is believed more readily than what he hears in talk. He takes from it statements, perhaps groundless, perhaps invented, which he would not take from one of his follows in the workshop or the counting house. Moreover, the Tree of Knowledge is the Tree of the Knowledge of Evil as well as of Good. On the Printed Page Truth

has no better chance than Falsehood, except with those who read widely and have the capacity of discernment. A party organ, suppressing some facts, misrepresenting some others, is the worst of all guides, because it can by incessantly reiterating untruth produce a greater impression than any man or body of men, save only ecclesiastics clothed with a spiritual authority, could produce before printing was invented. A modern voter so guided by his party newspapers is no better off than his grandfather who eighty years ago voted at the bidding of his landlord or his employer or (in Ireland) of his Priest. The grandfather at least knew whom he was following, while the grandson, who only reads what is printed on one side of a controversy may be the victim of selfish interests who own the organs which his simplicity assumes to express public opinion or to have the public good at heart. So a democracy that has been taught only to read and not also to reflect and judge, will not be better for the ability to read."

42. It seems to me that too much is being made out of the illiteracy of the masses in India. Take the English voter and inquire into his conduct as a voter and what do we find ? This is what the Times Literary Supplement of August 21, 1924, says about him :

> "The mass of the people have no serious interest. Their votes decide all political issues, but they know nothing of politics. It is a disquieting, but too well-founded reflection that the decision about tariff reform or taxation or foreign policy is now said by men and women who have never read a dozen columns of serious politics in their lives. Of the old narrow electorate of eight years ago probably at least two-thirds eagerly studied political speeches on the question of the day. Today not five per cent, of the voters read either debates or leading articles. The remnant, however remarkable, is small. Democracy as a whole is as content with gross amusement as Bottles was with vulgar ones, and like him it leases his mind to its newspaper which makes his Sundays much more degrading than those which he spent under his Baptist Minister. This is the atmosphere against whose poisonous gases the schools provide in vain the helmet of their culture."

43. Surely if British Democracy — say the British Empire is content to be ruled by voters such as above, it is arguable that Indians who are opposed to adult suffrage are not only unjust and visionaries but are protesting too much and are laying themselves open to the charge that they are making illiteracy of the masses an excuse to pocket their political power. For, to insist that a thorough appreciation of the niceties of political creeds and the ability to distinguish between them are necessary tests of political intelligence is, to say the least, hypercritical. On small political questions no voter, no matter in what country he is, will ever be accurately informed. Nor is such minute knowledge necessary. The most that can be expected from the elector is the power of understanding broad issues and of choosing the candidate who in his opinion will serve him best. This, I make bold to say, is not beyond the capacity of an average Indian.

44. The other thing which apparently weighed with my colleagues in refusing to accept adult suffrage is the analogy of the countries like England. It is argued that the extension of the franchise from forty shilling freehold in 1429 to adult suffrage in 1832 there were less than 500,000 persons who had the right to vote in the election of members of Parliament; that it was not until the Reform Act of that year that the number of voters was increased to nearly 1,000,000 ; that no further step was taken to lower the franchise till the passing of the Act of 1867 which increased it to 2,500,000 ; that the next step was taken 17 years after when the Act of 1884 increased it again to 5,500,000 ; and that adult suffrage did not come till after a lapse of 34 years when People's Representation Act of 1918 was passed. This fact has been used for very different purposes by different set of peoples. A set of politicians who are social tories and political radicals use this in support of their plea that the legislature can be given full powers although it may not be fully representative and in reply to this argument of their opponents that the transference of power to a legislature so little representative will be to transfer it to an oligarchy. By others in support of their plea that in the matter of franchise we must proceed slowly and go step by step as other nations have done. To the second group of critics my reply is that there is no reason why we should follow in the foot steps of the English nation in this particular matter. Surely the English people had not devised any philosophy of action in the matter of franchise. On the other hand, if the extension was marked by such long intervals it was because of the self-seeking character of the English ruling classes. Besides, these is no reason why every nation should go through the same stages and enact the same scenes as other nations have done. To do so is to refuse to reap the advantage which is always open to those who are born later. To the other section of critics my reply is that their contention as a fact is true, that Parliament did exercise full powers of a sovereign state even when it represented only a small percentage of the population. But the question is with what results to the nation ? Anyone who is familiar with the history of social legislation by the unreformed Parliament as told by Lord Shaftesbury certainly will not wish the experiment to be repeated in this country. This result was the inevitable result of the restricted franchise which obtained in England. The facts relied upon by these critics in my opinion do not go to support a government based upon a restricted franchise is a worse form of government in that it gives rise to the rule of oligarchy. Such a result was never contemplated by the authors of the Joint Report. Indeed they were so conscious of the evil that in paragraph 262 of their Report they were particular enough to say that among the matters for consideration the Statutory Commission should consider the working of the franchise and the constitution of electorates, including the important matter of the retention of communal representation. "Indeed we regard the development of a broad franchise as the arch on which the edifice of self-government must be raised : for we have no intention that our reforms should result merely in the transfer of powers from a bureaucracy to an oligarchy."

45. What is however the remedy for preventing oligarchy ? The only remedy that I can think of is the grant of adult suffrage. It is pertinent to remark that the members of the Ceylon Commission of 1928 who like the authors of the Joint Report were conscious that "the grant of a responsible government to an electorate of these small dimensions would be tantamount to placing an oligarchy in power without any guarantee that the interests of the remainder of the people would be consulted by those in authority" and who felt it "necessary to observe that His Majesty's Government is the trustee not merely of the wealthier and more highly educated elements in Ceylon but quite as much of the peasant and the coolie, and of all those poorer classes which form the bulk of the population" and who held that "to hand over the interests of the latter to the unfettered control of the former would be a betrayal of its trust," came "to the conclusion that literacy should not remain as one of the qualifications for voters at election of State Council." They said "the development of responsible government requires, in our opinion, an increasing opportunity to the rank and file of the people to influence the Government and the franchise cannot be fairly or wisely confined to the educated classes." If adult franchise can be prescribed for Ceylon the question that naturally arises is why should it not be prescribed for India ? Similarity in the political, social, economic, and educational conditions of the two countries is so striking that to treat them differently in the matter of franchise is to create a distinction when there is no real difference to justify the same. Analogy apart and considering the case purely on merits it is beyond doubt that of the two if any one of them is more fitted to be trusted with the exercise of adult it is the people of India and more so the people of the Bombay Presidency wherein the system of adult suffrage is already in vogue in the village panchayats.

CHAPTER 2

ELECTORATES

46. The existing Legislative Council is composed of 114 members, of whom 26 are nominated and 86 are elected. The nominated members fall into two groups (*a*) officials to represent the reserved half of the Government and (*b*) the non-officials to represent (1) the Depressed Classes, (2) Labouring Classes, (3) Anglo-Indians, (4) Indian Christians and (5) the Cotton Trade. Of the elected members (1) some are elected by class-electorates created to represent the interests of the landholders, commerce and industry, (2) some by reserved electorates for Maratha and allied castes and the rest, (3) by communal electorates which are instituted for the Muhammadans and the Europeans. The question is whether this electoral structure should be preserved without alteration. Before any conclusion can be arrived at, it is necessary to evaluate it, in the light of considerations both theoretical as well as practical.

Nominated members

47. Against the nominated members it is urged that their presence in the Council detracts a great deal from its representative character. Just as the essence of responsible self-government is the responsibility of the Executive to the Legislature, so the essence of representative government lies in the responsibility of the legislature to the people. Such a responsibility can be secured only when the legislature is elected by the people. Not only does the system of nominated member make the house unrepresentative, it also tends to make the Executive irresponsible. For by virtue of the power of nominations, the Executive on whose advice that power is exercised, appoints nearly 25 per cent, of the legislature with the result that such a large part of the house is in the position of the servants of the Executive rather than its critics. That the nominated non-officials are not the servants of the Government cannot go to subtract anything from this view. For the nominated non-official can always be bought and the Executive has various ways open to it for influencing an elected member with a view to buy up his independence. A direct conferment of titles and honours upon a member, or bestowal of patronage on his friends and relatives, are a few of such methods. But the nominated non-official members are already in such an abject state of dependence that the Executive has not to buy their independence. They never have any independence to sell. They are the creatures of the Executive and they are given seats on the understanding, if not on the condition, that they shall behave as friends of the Executive. Nor is the Executive helpless against a nominated member who has the audacity to break the understanding. For, by the power of renomination which the Executive possesses, it can inflict the severest penalty by refusing to renominate him and there are instances where it has inflicted that punishment. Like the King's veto, the knowledge that this power to renominate exists, keeps every nominated member at the beck and call of the Executive.

48. Another evil arising from the system of nomination must also be pointed out. The nominated non-official members were to represent the interests of certain communities for whose representation the electoral system as devised, was deemed to be inadequate just as the nominated official members were appointed to support the interests of government. The regrettable thing is that while the nominated officials served the interests of government, the nominated non-officials failed to serve the interests of their constituents altogether. Indeed a nominated non-official cannot serve his community. For more often that not the interests of the communities can only be served by influencing governmental action, and this is only possible when the Executive is kept under fire and is made to realise the effects of an adverse vote. But this means is denied to a nominated member by the very nature of his being, with the result that the Executive, being assured of his support, is indifferent to his cause and the nominated member, being denied his independence, is helpless to effect any change in

the situation of those whom he is nominated to represent. Representation by nomination is thus no representation. It is only mockery.

49. Another serious handicap of the system of nomination is that the nominated non-officials are declared to be ineligible for ministership. In theory there ought not to be limitations against the right of a member of the legislature to be chosen as a minister of an administration. Even assuming that such a right is to be limited, the purpose of such limitation must be the interests of good and efficient administration. Not only that is not the purpose of this limitation but that the limitation presses unequally upon different communities owing to the difference in the manner of their representation and affects certain communities which ought to be free from its handicap. Few communities are so greatly in need of direct governmental action as the Depressed Classes for effecting their betterment. It is true that no degree of governmental action can alter the face of the situation completely or quickly. But making all allowance for this, no one can deny the great benefits that wise legislation can spread among the people. All these classes do in fact begin and often complete their lives under a weight of inherited vices and social difficulties, for the existence of which society is responsible, and of the mitigation of which much can be done by legislation. The effect of legislation to alter the conditions under which the lives of individuals are spent has been recognised everywhere in the world. But this duty to social progress will not be recognised unless those like the Depressed Classes find a place in the Cabinet of the country. The system of nomination must therefore be condemned. Its only effect has been to produce a set of eventually subordinate the care of the constituents to the desire for place.

Elected members

50. *Class Electorates*—These class electorates a heritage of the Morley-Minto Reforms. The Morley-Minto Scheme was an attempt at make-believe. For under it the bureaucracy without giving up its idea to rule was contriving to create legislatures, by arranging the franchise and the electorates in such a manner as to give the scheme the appearance of popular rule without the reality of it. To such a scheme of things, these class electorates were eminently suited. But the Montagu Chelmsford Scheme was not a make-believe. It contemplated the rule of the people. Consequently it was expected to suggest the abolition of such class electorates. Owing, however, to the powerful influence, which these classes always exercised, the authors of the Report were persuaded to recommend their continuance, which recommendation was given effect to by the South-borough Committee. Whatever the reason that led to the retention of these class electorates, there is no doubt that their existence cannot be reconciled with the underlying spirit of popular government. Their class character is a sufficient ground for their condemnation. In a deliberative assembly like the legislature, where questions of public interest are decided

in accordance with public opinion, it is essential that members of the Council who take part in the decision should each represent that opinion. Indeed no other person can be deemed to be qualified to give a decisive vote on the issues debated on the floor of the house. But the representatives of class interests merely reflect the opinions one might say, the prejudices of their class, and should certainly be deemed to be disqualified from taking part in the decision of issues which lie beyond the ambit of the interests of their class. Notwithstanding their class character as members of legislature they acquire the competence to vote upon all the issues whether they concern their own class or extend beyond. This, in my opinion, is quite subversive of the principle of popular government. It might be argued that representatives of such class interests are necessary to give expert advice on those sectional issues with which the unsectional house is not familiar. As against this, it is necessary to remember that in a democracy, the ultimate principle is after all self-government and that means that final decision on all matters must be made by popularly elected persons and not by experts. It is moreover not worthy that the advice of such people is not always serviceable to the house. For, their advice invariably tends to become eloquent expositions of class ideology rather than careful exposition of the formulae in dispute.

51. Assuming, however, that it is necessary either to safeguard the interests of these classes or to tender advice to the house on their behalf, it is yet to be proved that these interests will not secure sufficient representation through general electorates. Facts, such as we have, show that they can. Taking the case of the Inamdars, though they have been given three seats through special electorates of their own, they have been able to secure 12 seats through the general electorates. Indeed by virtue of the solidarity which they have with other landholding members of the Council, they felt themselves so strong in numbers that only a few months back they demanded a ministerial post for the leader of their class. Besides, it is not true that without class-electorates there will be no representation of the interests of these classes in the Council. Such interests will be amply safeguarded by a member belonging to that class, even if he is elected by a general constituency. This will be clear if we bear in mind that a member taking his seat in the legislature, although he represents directly his constituency, yet indirectly he does represent himself and to that extent also his class. Indeed, from the very nature of things this tendency on the part of a member, indirectly to represent himself, although it might be checked, controlled and over-ruled, so surely manifests itself that it throws, and must necessarily throw, direct representation into the background. No one for instance can believe that a European gentleman representing a Chamber of Commerce will only represent the interests of commerce and will not represent the interests of the European community because he is elected by a Chamber of Commerce and not by the general European community. It is in the nature of things that a man's self should be nearer

to him than his constituency. There is a homely saying that a man's skin sits closer to him than his shirt and without any imputation on their good faith so it is with the members of the legislature. It is the realisation of this fact which has led the English people who at one time wished that the shipping trade, the woollen trade and the linen trade should each have its spokesman in the House of Commons, to abandon the idea of such class-electorates. It is difficult to understand why a system abandoned elsewhere should be continued in India. It is not necessary in the interests of these classes and it is harmful to the body politic. The only question is whether or not persons belonging to the commercial and individual classes can secure election through the general constituencies. I know of nothing that can be said to handicap these classes in the race of election. That there is no handicap against them is proved by the success of Sardars and Inamdars in general election. Where Inamdars and Sardars have succeeded there is no reason why representatives of commerce and industry should not.

52. *Reserved Electorates*—Three objections can be raised against the system of reserved electorates. One is that it seeks to guarantee an electoral advantage to a majority. It is true that the Marathas and the allied castes form a majority in the Marathi speaking part of the Presidency both in population as well as in voting strength and as such deserve no political protection. But it must be realised that there is all the difference in the world between a power informed and conscious of its strength and power so latent and suppressed that its holders are hardly aware of that they may exercise it. That the Marathas and the allied castes are not conscious of their power, is sufficiently evident if we compare the voting strength of the Marathas and the allied castes in those constituencies wherein, seats are reserved for them, with the rank of their representatives among the different candidates contesting the elections. In every one of such constituencies the Maratha voters, it must be remembered, have a preponderance over the voters of other communities. Yet in the elections of 1923 and 1926, out of the seven seats allotted to them, they could not have been returned in three had it not been for the fact that the seats were reserved for them. It is indeed strange that the candidates of a community which is at the top in the electoral roll, should find themselves at the bottom, almost in a sinking position. This strange fact is only an indication that this large community is quite unconscious of the power it possesses, and is subject to some influence acting upon it from without.

53. The second ground of objection, urged by the members of the higher classes who are particularly affected by the system of reserved seats, is that it does an injustice to them in that it does not permit them the benefit of a victory in a straight electoral fight. It is true that the system places a restriction upon the right of the higher classes to represent the lower classes. But is there any reason why "the right to represent," as distinguished from "a right to representation," should be an unrestricted right'? Modern

politicians have spent all their ingenuity in trying to find out the reason for restricting the right to vote. In my opinion there is a greater necessity why we should strive to restrict the right of a candidate to represent others. Indeed, there is no reason why the implications of the representative function should not define the condition of assuming it. It would be no invasion of the right to be elected to the Legislature to make it depend, for example, upon a number of years' service on a local authority and to rule out all those who do not fulfil that condition. It would be perfectly legitimate to hold that that service in a legislative assembly is so important in its results, that proof of aptitude and experience must be offered before the claim to represent can be. admitted. The argument for restricting the rights, of the higher classes to represent the lower classes follows the same line. Only it makes a certain social attitude as a condition precedent to the recognition of the right to represent. Nor can it be said that such a requirement is unnecessary. For aptitude and experience are not more important than the social attitude of a candidate towards the mass of men whom he wishes to represent. Indeed, mere aptitude and experience will be the cause of ruination if they are not accompanied and regulated by the right sort of social attitude. There is no doubt that the social attitude of the higher classes towards the lower classes is not of the right sort. It is no doubt always said to the credit of these communities that they are intellectually the most powerful communities in India. But it can with equal truth be said that they have never utilised their intellectual powers to the services of the lower classes. On the other hand, they have always despised, disregarded and disowned the masses in belonging to a different strata, if not to a different race than themselves. No class has a right to rule another class, much less a class like the higher classes in India. By their code of conduct, they have behaved as the most exclusive class steeped in its own prejudices and never sharing the aspirations of the masses, with whom they have nothing to do and whose interests are opposed to theirs. It is not, therefore, unjust to demand that a candidate who is standing to represent others shall be such as shares the aims, purposes and motives of those whom he desires to represent

54. The third objection to the system of reserved electorates is that it leads to inefficiency inasmuch as a candidate below the line gets the seat in supersession of a candidate above the line. This criticism is also true. But here, again, there are other considerations which must be taken into account. First of all, as Professor Dicey rightly argues, "it has never been a primary object of constitutional arrangement to get together the best possible Parliament in intellectual capacity. Indeed, it would be inconsistent with the idea of representative government to attempt to form a Parliament far superior in intelligence to the mass of the nation." Assuming, however, that the displacement of the intellectual classes by the candidates belonging to the non-intellectual classes is a loss, that loss will be more than amply recompensed by the natural idealism of the backward communities. There

is no doubt that the representatives of the higher orders are occupied with the pettiest cares and are more frequently concerned with the affairs of their own class than with the affairs of the nation. Their life is too busy or too prosperous and the individual too much self-contained and self-satisfied for the conception of the social progress to be more than a passing thought of a rare moment. But the lower orders are constantly reminded of their adversity, which can be got over only by a social change. The consciousness of mutual dependence resulting from the necessities of a combined action makes for generosity, while the sense of untrained powers and of undeveloped faculties gives them aspirations. It is to the lower classes that we must look for the motive power for progress. The reservation of seats to the backward Hindu communities makes available for the national service such powerful social forces, in the absence of which any Parliamentary government may be deemed to be poorer.

55. *Communal Electorates*—That some assured representation is necessary and inevitable to the communities in whose interests communal electorates have been instituted must be beyond dispute. At any rate, for some time to come the only point that can be open to question is, must such communal representation be through communal electorates ? Communal electorates have been held by their opponents to be responsible for the communal disturbances that have of late taken place in the different parts of the country. One cannot readily see what direct connection there can be between communal electorates and communal disturbances. On the contrary it has been argued that by satisfying the demand of the Mohamedans, communal electorates have removed one cause of discontent and ill-feeling. But it is equally true that communal electorates do not help to mitigate communal disturbances and may in fact help to aggrevate them. For communal electorates do tend to the intensification of communal feeling and that they do make the leaders of the two communities feel no responsibility towards each other, with the result that instead of leading their people to peace, they are obliged to follow the momentary passions of the crowd.

56. The Mohamedans who have been insisting upon the retention of the communal electorates take their stand on three grounds.

57. In the first place they say that the interests of the Mohamedan community are separate from those of the other communities, and that to protect these interests they must have separate electorates. Apart from the question whether separate electorates are necessary to protect separate interests, it is necessary to be certain that there are any interests which can be said to be separate in the sense that they are not the interests of any other community. In the secular, as distinguished from the religious field, every matter is a matter of general concern to all. Whether taxes should be paid or not, if so, what and at what rate; whether national expenditure should be directed in any particular channel more than any other; whether education should be free and compulsory ; whether Government lands should

be disposed of on restricted tenure or occupancy tenure ; whether State aid should be granted to industries ; whether there should be more police in any particular area ; whether the State should provide against poverty of the working classes by a scheme of social insurance against sickness, unemployment or death; whether the administration of justice is best served by the employment of honorary magistrates, and whether the code of medical ethics or legal ethics should be altered so as to produce better results, are some of the questions that usually come before the Council. Of this list of questions, is there any which can be pointed out as being the concern of the Mohamedan community only ? It is true that the Mohamedan community is particularly interested in the question of education and public service. But there again it must be pointed out that the Mohamedan community is not the only community which attaches particular importance to these questions. That the non-Brahmin and the depressed classes are equally deeply interested in this question becomes evident from the united effort that was put forth by all three in connection with the University Reform Bill in the Bombay Legislative Council. The existence of separate interests of the Mohamedan community is therefore a myth. What exists is not separate interests but special concern in certain matters.

58. Assuming, however, that separate interests do exist, the question is, are they better promoted by separate electorates than by general electorates and reserved seats ? My emphatic answer is that the separate or special interests of any minority are better promoted by the system of general electorates and reserved seats than by separate electorates. It will be granted that injury to any interest is, in the main, caused by the existence of irresponsible extremists. The aim should therefore be to rule out such persons from the councils of the country. If irresponsible persons from both the communities are to be ruled out from the councils of the country, the best system is the one under which the Mohamedan candidates could be elected by the suffrage of the Hindus and the Hindu candidates elected by the suffrage of the Mohamedans. The system of joint electorates is to be preferred to that of communal electorates, because it is better calculated to bring about that result than is the system of separate electorates. At any rate, this must be .said with certainty that a minority gets a larger advantage under joint electorates than it does under a system of separate electorates. With separate electorates the minority gets its own quota of representation and no more. The rest of the house owes no allegiance to it and is therefore not influenced by the desire to meet the wishes of the minority. The minority is thus thrown on its own resources and as no system of representation can convert a minority into a majority, it is bound to be overwhelmed. On the other hand, under a system of joint electorates and reserved seats the minority not only gets its quota of representation but something more. For, every member of the majority who has partly succeeded on the strength of the votes of the minority if not a member of the minority, will certainly be a member for the minority. This, in my opinion, is a very great advantage which makes

the system of mixed electorates superior to that of the separate electorates as a means of protection to the minority. The Mohamedan minority seems to think that the Council is, like the Cardinals' conclave, convened for the election of the Pope, an ecclesiastical body called for the determination of religious issues. If that was true then their insistence on having few men but strong men would have been a wise course of conduct. But it is time the community realised that Council far from being a religious conclave is a secular organisation intended for the determination of secular issues. In such determination of the issues, the finding is always in favour of the many. If this is so, does not the interest of the minority itself justify a system which compels others besides its own members to support its cause ?

59. The second ground on which the claim to separate electorates is made to rest is that the Mohamedans are a community by themselves ; that they are different from other communities not merely in religion but that their history, their traditions, their culture, their personal laws, their social customs and usages have given them such a widely different outlook on life quite uninfluenced by any common social ties, sympathies or amenities; that they are in fact a distinct people and that they do so regard themselves even though they have lived in this country for centuries. On this assumption it is argued that if they are compelled to share a common electorate with other communities, the political blending consequent upon it will impair the individuality of their community. How far this assumption presents a true picture, I do not step to consider. Suffice it to say, that in my opinion it is not one which can be said to be true to life. But conceding that it is true and conceding further that the preservation of the individuality of the Mohamedan community is an ideal which is acceptable to that community one does not quite see why communal electorates should be deemed to be necessary for the purpose. India is not the only country in which diverse races are sought to be brought under a common Government. Canada and South Africa are two countries within the British Empire where two diverse races are working out a common system of government. Like the Hindus and the Mohamedans in India, the British and the Dutch in South Africa and the British and the French in Canada are two distinct communities with their own distinctive cultures. But none has ever been known to object to common electorates on the ground that such a common cycle of participation for the two communities for electoral purposes is injurious to the preservation of their individualities. Examples of diverse communities sharing common electorates outside the Empire are by no means few. In Poland there are Poles, Ruthenians, Jews, White Russians, Germans and Lithuanians. In Latvia, there are Latvians, Russians, Jews, Germans, Poles, Lithuanians and Esthonians. In Esthonia, there are Germans, Jews, Swedes, Russians, Latvians and Tartars. In Czechoslovakia, there are Czechs, Slovaks, Germans, Magyars, Ruthenians. Jews and Poles. In Austria, there are Germans, Czechs and Slovenes; while

in Hungary there are Hungarians. Germans, Slovaks, Roumanians, Ruthenians. Croatians, and Serbians. All these groups are not mere communities. They are nationalities each with a live and surging individuality of their own, living in proximity of each other and under a common Government. Yet none of them have objected to common electorates on the ground that a participation in them would destroy their individuality.

60. But it is not necessary to cite cases of non-Moslem communities to show the futility of the argument. Cases abound in which Mohamedan minorities in other parts of the world have never felt the necessity of communal electorates for the preservation of their individuality against what might be termed the infectious contagion of political contact with other communities. It does not seem to be sufficiently known that India is not the only country where Mohamedans are in a minority. There are other countries, in which they occupy the same position. In Albania, the Mohamedans form a very large community. In Bulgaria, Greece and Roumania they form a minority and in Yugoslavia and Russia they form a very large minority. Have the Mohamedan communities there insisted upon the necessity of separate communal electorates ? As all students of political history are aware the Mohamedans in these countries have managed without the benefit of separate electorates ; nay, they have managed without any definite ratio of representation assured to them. In India, at any rate, there is a consensus of opinion, that as India has not reached a stage of complete secularisation of politics, adequate representation should be guaranteed to the Mohamedan community, lest it should suffer from being completely eclipsed from the political field by the religious antipathy of the majority. The Mohamedan minorities, in other parts of the world are managing their affairs even without the benefit of this assured quota. The Mohamedan case in India, therefore, overshoots the mark and in my opinion, fails to carry conviction.

61. The third ground on which it is sought to justify the retention of separate communal electorates of the Mohamedans, is that the voting strength of the Mohamedans in a mixed electorate may be diluted by the non-Mohamedan vote to such an extent that the Mohamedan returned by such a mixed electorate, it is alleged, will be a weak and instead of being a true representative of the Mohamedans will be a puppet in the hands of the non-Mohamedan communities. This fear has no doubt the look of being genuine, but a little reasoning will show that it is groundless. If the mass of the non-Muslim voters were engaged in electing a Mohamedan candidate, the result anticipated by the Mohamedans may perhaps come true if the non-Muslims are bent on mischief. But the fact is that at the time of general election there will be many non-Mohamedan candidates standing for election. That being the case, the full force of all the non-Muslim voters will not be directed on the Mohamedan candidates. Nor will the non-Mohamedan candidates allow the non-Mohamedan voters to waste their votes by concentrating themselves on the Mohamedan candidates. On the contrary, they will engage many voters, if not all, for themselves. If this

analysis is true, then it follows that very few non-Mohamedan voters will be left to participate in the election of the Mohamedan candidates, and that the fear of the Mohamedans of any mass action against Muslim candidates by non-Muslim voters is nothing but a hallucination. That the Mohamedans themselves do not believe in it is evident from what are known as the "Delhi" proposals. According to these proposals, which have been referred to in an earlier part of this report, the Mohamedans have shown their willingness to give up communal electorates, in favour of joint electorates, provided the demand for communal Provinces and certain other concessions regarding the representation of the Muslims in the Punjab and Bengal are given to them. Now, assuming that these communal Provinces have no purpose outside their own, and it is an assumption which we must make, it is obvious that the Mohamedan minority in any province must be content with such protection as it can derive from joint electorates. It is therefore a question as to why joint electorates should not suffice without the addition of communal Provinces when they are said, to suffice with the addition of communal Provinces. But this consideration apart, if there is any substance in the Muslim view that the watering of votes is an evil which attaches itself to the system of joint electorates, then the remedy in my opinion does no lie in the retention of communal electorates. The remedy lies in augmenting the numbers of the Mohamedan electors to the fullest capacity possible by the introduction of adult suffrage, so that the Mohamedan community may get sufficiently large voting strength to neutralise the effects of a possible dilution by an admixture of the non-Muslim votes.

62. All this goes to show that the case for communal electorates cannot be sustained on any ground which can be said to be reasonable. What is in its favour is feeling and sentiment only. I do not say that feeling and sentiment have no place in the solution of political problems. I realise fully that loyalty to Government is a matter of faith and faith is a matter of sentiment. This faith should be secured if it can be done without detriment to the body politic. But communal representation is so fundamentally wrong that to give in to sentiment in its case would be to perpetuate an evil. The fundamental wrong of the system, has been missed even by its opponents. But its existence will become apparent to any one who will look to its operation. It is clear that the representatives of the Muslims give law to the non-Muslims. They dispose of revenue collected from the non-Muslims. They determine the education of the non-Muslims, they determine what taxes and how much the non-Muslims shall pay. These are some of the most vital things which Muslims as legislators do, whereby affect the welfare of the non-Muslims. A question may be asked by what right can they do this ? The answer, be it noted, is not by right of being elected as representatives of the non-Muslims. The answer is by a right of being elected as the representatives of the Muslims ! Now, it is an universally recognised canon of political life that the Government must be by the consent of the governed. From what I have said above communal electorates are a violation of that

canon. For, it is government without consent. It is contrary to all sense of political justice to approve of a system which permits the members of one community to rule other communities without their having submitted themselves to the suffrage of those communities. And if as the Mohamedans allege that they are a distinct community with an outlook on life widely different from that of the other communities, the danger inherent in the system becomes too terrible to be passed over with indifference.

63. Such are the defects in the existing structure of the Council. It was framed by the Southborough Committee in 1919. The nature of the framework prepared by that Committee was clearly brought forth by the Government of India in their Despatch No. 4 of 1919 dated 23rd April, 1919, addressed to the Secretary of State in which they observed :

> "2. Before we deal in detail with the report (of the Southborough Committee) one preliminary question of some importance suggests itself. As you will see, the work of the Committee has not to any great extent been directed towards the establishment of principles. In dealing with the various problems that came before them they have usually sought to arrive at agreement rather than to base their solution upon general reasonings."

64. My colleagues have not cared to consider the intrinsic value of the framework as it now stands. They have no doubt recommended that the system of nominations should be done away with and in that I agree with them. But excepting that they have kept the whole of the electoral structure intact, as though it was free from any objection. In this connection I differ from them. As I have pointed out, the whole structure is faulty and must be overhauled. I desire to point out that the object of the Reforms are embodied in the pronouncement of August, 1917, declares the goal to be the establishment of self-governing institutions. The electoral structure then brought into being was only a half-way house towards it and was justified only because it was agreed that a period of transition from the rule of the bureaucracy to the rule of the people, was a necessity. This existing electoral structure can be continued only on the supposition that the present system of divided government is to go on. The existing system of representation would be quite incompatible with a full Government and must therefore be over-ruled.

65. There is also another reason why the present system of representation should be overhauled. Representative government is everywhere a party government. Indeed a party government is such a universal adjunct of representative government that it might well be said that representative government cannot function except through a party government. The best form of party government is that which obtains under a two-party-system both of ensuring stable as well as responsible government. An executive may be made as responsible as it can be made by law to the legislature. But the responsibility will only be nominal if the legislature is so constituted that it could not effectively impose its Will on the executive. A stable government requires absence of uncertainty. An executive must be able to plan

its way continuously to an ordered scheme of policy. But that invokes an unwavering support of a majority. This can be obtained only out of a two-party-system. It can never be obtained out of a group system. Under the group system the executive will represent not a general body of opinion, but a patch-work of doctrines held by the leaders of different groups who have agreed to compromise their integrity for the sake of power. Such a system can never assure the continuous support necessary for a stable government since the temptation to reshuffling the groups for private advantage is ever present. The existing Council by reason of the system of representation is, to use the language of Burke, "a piece of joinery so crossly indented and whimsically dovetailed, a piece of diversified mosaic, a tessellated pavement without cement, patriots and courtiers, friends of government and open enemies. This curious show of a Legislature utterly unsafe to touch and unsure to stand on" can hardly yield to a two-party-system of government, and without a party system there will neither be stable government nor responsible government The origin of the group system must be sought in the formation of the electorates. For, after all, the electorates are the moulds in which the Council is cast. If the Council is to be remodelled so that it may act with efficiency, then it is obvious that the mould must be recast.

66. In making my suggestions for the recasting of the electoral system I have allowed myself to be guided by three considerations : (1) Not to be led away by the fatal simplicity of many a politician in India that the electoral system should be purely territorial and should have no relation with the social conditions of the country, (2) Not to recognise any interest, social or economic, for special representation which is able to secure representation through territorial electorates, (3) When any interest is recognised as deserving of special representation, its manner of representation shall be such as will not permit the representatives of such interest the freedom to form a separate group.

67. Of these three considerations the second obviously depends upon the pitch of the franchise. In another part of this Report I have recommended the introduction of adult suffrage. I am confident that it will be accepted. I make my recommendations therefore on that basis. But in case it is not, and if the restricted franchise continues, it will call for different recommendations, which I also proposed to make. For the reasons given above and following the last mentioned consideration I suggest that—

I. If adult suffrage is granted there shall be territorial representation except in the case of the Mohamedans, the Depressed Classes, and the Anglo-Indians.

II. If the franchise continues to be restricted, all representation shall be territorial except in the case of the Mohamedans, the Depressed Classes, Anglo-Indians, the Marathas and the allied castes and labour.

III. That such special representation shall be by general electorates and reserved seats and of labour by electorate made up of registered trade unions.

68. From these suggestions it will be seen that I am for the abolition of all class electorates, such as those for (1) Inamdars and Sardars, (2) Trade and Commerce, whether Indian or European, (3) Indian Christians, and (4) Indusry ; and merge them in the general electorates. There is nothing to prevent them from having their voice heard in the Councils by the ordinary channel. Secondly, although I am for securing the special representation of certain classes, I am against their representation through separate electorates. Territorial electorates and separate electorates are the two extremes which must be avoided in any scheme of representation that may be devised for the introduction of a democratic form of government in this most undemocratic country. The golden mean is the system of joint electorates with reserved seats. Less than that would be insufficient, more than that would defeat the ends of good government. For obvious reasons I make an exception in the case of the European community. They may be allowed to have their special electorates. But they shall be general electorates and not class electorates

CHAPTER 3

DISTRIBUTION OF SEATS

I. Distribution of seats among the minorities

69. The quota of seats assigned by my colleagues to the different minorities is given below in the tabular form:

Minority			No. of seats out of 140 General	plus	Special
I. Europeans	...	...	2		5
II. Anglo-Indians	..,	...	2		Nil
II. Indian Christians		...	1		Nil
IV. Depressed Classes		...	10		Nil
V. Mohamedans	...	...	43		2

70. From this table it will be seen that in distributing the seats among the different minorities, my colleagues have not acted upon any uniform principle. Nor does it appear that they have striven to do justice to the minorities concerned. This is clear if we compare the treatment given by my colleagues to the Mohamedans with the treatment they have given to the Depressed Classes. Mohamedans form 19 per cent, of the population of the Presidency. My colleagues have proposed to give them over 31 per cent, of the total representation provided for the Legislative Council. The Depressed Classes on the other hand who form according to the most conservative estimate 8 per cent, of the total population of the Presidency are allowed only 7 per cent, of the total seats in the Council. The reasons for this discrimination are difficult to comprehend. Of the two minorities the Mohamedan minority is undoubtedly stronger in numbers, in wealth and in education. Besides being weak in numbers, wealth and education, the

Depressed Classes are burdened with disabilities from which the Mohamedans are absolutely free. The Depressed Classes cannot take water from public watering places even if they are maintained out of public funds ; the Mohamedans can. The Depressed Classes, by virtue of their untouchability, cannot enter the Police, the Army and the Navy, although the Government of India Act lays down that no individual shall be denied his right to any public office by reason of his caste, creed or colour. The Mohamedans have not only an open door in the matter of public service, but that in certain departments they have secured the largest share. The Depressed Classes are not admitted in Public schools even though they are maintained out of public money; there is no such bar against the Mohamedans. The touch of a Depressed Class man causes pollution; the touch of a Mohamedan does not; that trade and industry are open to a Mohamedan while they are closed to a man from the Depressed Classes. The Mohamedan does not bear the stigma of inferiority as does a man from the Depressed Classes with the result that the Mohamedan is free to dress as he likes, to live as he likes and to do what he likes. This freedom the Depressed Class man is denied. A Depressed Class man may not wear clothes better than the villagers even though he may have the economic competence to pay for its cost. He must live in a hut. A Depressed Class man may not make much display of wealth and splendour even on ceremonial occasions and may certainly not take the bridegroom on a horse in procession through the main streets. Any act contrary to the customary code or beyond his status is bound to be visited by the wrath of the whole body of villagers amongst whom he happens to live. The Depressed Class man is far often subject to the tyranny of the majority than the Mohamedan is. The reason is that the Mohamedan who has all the elementary rights of a human being accorded to him, has no cause for quarrel against the majority, except when a religious issue comes to the front. But the position of the Depressed Class man is totally different. His life which is one incessant struggle for the acquisition of the rights of a human being, is a constant challenge to the majority which denies him these rights. The result is that he is constantly in antagonism with the majority. This is not all. If on any occasion the Mohamedan is visited by the tyranny of the majority, he has on his sides the long arm of the Police and the Magistracy. But when the Depressed Class man is a victim of the tyranny of the majority, the arm of the Police or of the Magistracy seldom comes to his rescue. On the contrary it works in league with the majority to his detriment, for the simple reason that the Mohamedan can count many of their kith and kin in the Police and the Magistracy of the Province ; while the Depressed Classes have no one from them in these departments. And be it noted that the Depressed Classes have not merely to bear the brunt of the orthodox Hindu force. It has also to count against the Mohamedans. It is ordinarily supposed that the Mohamedan is free from social prejudices of the Hindus against the Depressed Classes. Nothing can be a greater error than this. Leaving aside the urban areas,

the Mohamedan in the rural parts is as much affected by the poison as the Hindu. The fracas that took place at Harkul, a village in the Mangaon Taluka of the Kolaba District, is an instance in point. In this district the Depressed Classes launched a campaign of social elevation and resolved to give up certain unclean practices which have marked them out as persons of inferior status. The Hindus of the district, who had formerly preached to these people the abandonment of these unclean practices as a necessary condition of their uplift, turned upon these poor people and tyrannised them by bringing to bear upon them a social and economic boycott. But it was never expected that the Mohamedans of the district would follow their Hindu neighbours. On the contrary it was the hope of the Depressed Classes that in their struggle with the touchable Hindus the Mohamedans would act as their friends. But these hopes of theirs were dashed to pieces. For, it was soon found that the Mohamedans, although they did not observe untouchability, were as much infected as the Hindus with the noxious belief that the Depressed Classes were born to an inferior social status and that their attempt to raise themselves above it by giving up their unclean habits was an affront and an insult which required to be put down. As a result many were the fights that took place between the Mohamedans and the Depressed Classes of the district, in one of which, at Harkul, a Depressed Class man actually lost his life.

71. It is therefore clear that the problem of the Depressed Classes is far greater than the problem of the Mohamedans. The Mohamedans may be backward in the race, although they are so forward that in education at least they are second only to the advanced Hindus. But they are certainly not handicapped, so that with effort and encouragement they can hope to rise. The Depressed Classes, on the other hand, are not merely backward, they are also handicapped, so that no effort or encouragement will enable them to rise unless the handicap is first removed. That being the difference between the two, whatever degree of political power that may be necessary for the Mohamedans to change their backward state, the Depressed Classes will require twice as much if not more to do so. Yet my colleagues have reversed the proportion of their representation. The Mohamedans, who are 19 per cant, and who form a strong minority, are given 31 per cent, of seats in the Council, while the Depressed Classes, who form 8 per cent, of the population on the most conservative estimates, are given only 7 per cent. of the seats in the Council which, in fact, is 1 per cent. less than their population ratio.

72. There is a view that the problem of the Depressed Classes is a social problem and that its solution must be sought for in the social field. I am surprised that this view prevails even in high quarters. I am afraid that those who hold this view forget that every problem in human society is a social problem. The drink problem, the problem of wages, of hours of work, of housing, of unemployment insurance are all social problems. In the same sense the problem of untouchability is also a social problem. But the

question is not whether the problem is a social problem. The question is whether the use of political power can solve that problem. To that question my answer is emphatically in the affirmative. True enough that the State in India will not be able to compel touchables and untouchables to be members of one family whether they liked it or not. Nor will the State be able to make them love by an Act of the Legislature or embrace by order in Council of the Executive. But short of that the State can remove all obstacles which make untouchables remain in their degraded condition. If this view is correct, then no community has a greater need for adequate political representation than the depressed classes.

73. My colleagues nowhere explain why the Mohamedan minority should get 12 per cent, more than its population ratio and why the Depressed Classes should not get even the share that is due to them on the basis of their population. It is noteworthy that the Mohamedan witnesses who pleaded for the excess of their representation did not claim it on the ground, as one might have expected, that it was necessary to ensure their progress or their well-being. Their only ground was that the Mohamedans were the descendants of a ruling class and that they required this excessive representation because without it, they feared that the community would suffer in importance and influence. From this it will be seen that the Mohamedan claim for such excessive representation proceeds not on the basis of adequacy but on the basis of supremacy. I am strongly of opinion that in any democratic form of government all communities must be treated as of equal political importance and that there should be no room left for any one community to claim that it is *uber alles*. When anyone said that his community was important and should receive fair and adequate representation the claim was entitled to the sympathetic consideration of all. But when any one urged that his community was specially important and should therefore receive representation in excess of its fair share, the undoubted and irresistible implication was that the other communities were comparatively inferior and should receive less than their fair share. That is a position to which naturally the other communities will not assent. The earlier therefore the Mohamedan community is disabused of this extravagant notion, the better it will be for the future of the community. For there is no benefit in an advantage which not being willingly conceded by the other communities has perpetually to be fought for. On the contrary it may result in positive harm to the Mohamedan community by sowing the seeds of estrangement and perhaps of positive antipathy between it and the other communities concerned.

74. The Mohamedan's is not the only case of a ruling class which has suffered a fall in its position. The French in Canada and the Dutch in South Africa are other instances where a class fell from its position of a ruling class to that of a subject class. But neither the French in Canada nor the Dutch in South Africa put forth claims to extravagant representation in order to be able to maintain their former position as rulers. Nor

is such a consideration shown to the Mohamedan minorities in other parts of the world. The Mohamedan minorities in Albania, Roumania, Greece, Bulgaria are the remnants of what was once a ruling race. Yet in none of these countries have they claimed a royal share of representation. The Mohamedan claim for representation according to the influence is not only not heard of but is quite foreign to the system of representative government. The landowners, the capitalists, and the priests have an immense influence in every society, but no one has ever conceded that these classes should be given an immense share of representation. There is therefore no reason why the Mohamedan claim should be recognised when claims of similar nature have been dismissed elsewhere.

75. Whatever may have been their position before the advent of British rule in India—and there again it must not be forgotten, that if the Mohamedans have ruled India for five centuries, the Hindus have ruled for countless centuries before them and even after them — the safest course is to proceed on the basis that as a result of the British conquest all communities stand on a common level and pay no heed to their political past. Such an attitude far from being unjust will be perfectly in keeping with the sentiments expressed by the Law Commissioners who drafted the Indian Penal Code in their address to the Secretary of State. Therein they observed :

> "Your Lordship in Council will see that we have not proposed to except from the operation of this Code any of the ancient sovereign houses of India residing within the Company's territories. Whether any such exception ought to be made is a question which, without a more accurate knowledge than we possess of existing treaties, of the sense in which those treaties have been understood, of the history of negotiations, of the temper and of the power of particular families, and of the feeling of the body of the people towards those families, we could not venture to decide. We will only beg permission most respectfully to observe that every such exception is an evil; that it is an evil that any man should be above the law ; that it is still greater evil that the public should be taught to regard as a high and enviable distinction the privilege of being above the law ; that the longer such privileges are suffered to last, the more difficult it is to take them away; that there can scarcely ever be a fairer opportunity of taking them away than at the time when the Government promulgates a new Code binding alike on persons of different races and religion; and that we greatly doubt whether any consideration except that of public faith solemnly pledged, deserves to be weighed against the advantages of equal justice."

76. These are words of great wisdom and I am sure that words of greater wisdom have not been uttered for the guidance of those in charge of the public affairs of India. Nor is their wisdom restricted to the occasion on which or the purpose in relation to which they were uttered. I have no doubt that they apply to the present occasion with equal if not greater force. Indeed using the language of the Law Commissioners, I am led to say that it is an evil that the constitutional law of the country should recognise that any one

community is above the rest ; that it is a still greater evil that sections of public should be taught to weigh themselves in the scales of political importance in such a manner as to lead one to look up to and the other to look down upon ; that the longer such notions are suffered to last the more difficult it is to eradicate them and that there can scarcely ever be a fairer opportunity for dispelling them than at the time when Parliament promulgates a new code of constitutional law binding alike on persons of different races and religion.

77. Equal treatment of all the minorities in the matter of representation is only a part of the problem of the representation of minorities. To determine a satisfactory quantitative measure for the distribution of seats is another and a more important part of the problem. But this is a most controversial question. Of the two opposing theories one is that the representation of a minority should be in a strict proportion to its population. The other theory which is strongly held by the minorities is that such representation must be adequate. I do not think that the arithmetical theory of representation can be agreed to. If the Legislative Council was a zoo or a museum wherein a certain number of each species was to be kept, such a theory of minority representation would have been tolerable. But it must be recognised that the Legislative Council is not a zoo or a museum. It is a battle ground for the acquisition of rights, the destruction of privileges and the prevention of injustice. Viewed in this light a minority may find that its representation is in full measure of its population yet it is so small that in every attempt it makes to safeguard or improve its position against the onslaught of an hostile majority it is badly beaten. Unless the representation of minorities is intended to provide political fun the theory of representation according to population must be discarded and some increase of representation beyond their population ratio must be conceded to them by way of weightage.

78. To recognise the necessity of weightage is no doubt important. But what is even of greater importance is to recognise that this weightage must be measured out to the minorities on some principle that is both intelligent and reasonable. For it must be recognised that the minorities under the pretext of seeking adequate protection are prone to make demands which must be characterised as preposterous. To avoid this we must define what we mean by adequacy of representation. No doubt adequacy is not capable of exact definition, but its indefiniteness will be considerably narrowed if we keep before our mind certain broad considerations. First of all a distinction must be made in the matter of minority representation between adequacy on the one hand and supremacy on the other. By supremacy, I mean such a magnitude of representation as would make the minority a dictator. By adequacy of representation I mean such a magnitude of representation as would make it worth the while of any party from the majority to seek an alliance with the minority. Where a party is compelled to seek an alliance with a minority, the minority is undoubtedly

in the position of a dictator. On the other hand where a party is only drawn to seek an alliance with the minority, the minority is only adequately represented. The first thing, therefore, that should be kept in mind in the matter of the allotment of seats to minorities is to avoid both the extremes—inadequacy as well as supremacy. These extremes can in my opinion be avoided if we adopt the rule that minority representation shall, in the main, be so regulated that the number of seats to which a minority is entitled will be a figure which will be the ratio of its population to the total seats multiplied by some factor which is greater than one and less than two.

79. This principle, it is true, merely defines the limits within which the representation of a minority must be fixed. It still leaves unsettled and vague with what this multiplier should vary. My suggestion is that it should vary with the needs of the particular minority concerned. By this method we arrive at a principle for measuring out the weightage to the minorities which is both intelligible and reasonable. For, the needs of a minority are capable of more or less exact ascertainment. There will be general agreement that the needs of a minority for political protection are commensurate with the power it has to protect itself in the social struggle. That power obviously depends upon the educational and economic status of the minorities. The higher the educational and economic status of a minority the lesser is the need for that minority of being politically protected. On the other hand the lower the educational and economic status of a minority, the greater will be the need for its political protection.

80. Taking my stand on the sure foundation of the principle of equality on the one hand and the principle of adequacy on the other I feel I must demur to the allotment of seats proposed by my colleagues to the different minorities. My proposal is that out of 140 seats the Mohamedans should have 33 and the Depressed Classes 15. This gives the Mohamedans 23 per cent. and the Depressed Classes 10.7 per cent. of the total seats in the Council. By this, the Mohamedans get nearly 4 per cent. and the Depressed Classes 2 per cent. above their respective population ratios. This much weightage to the respective communities is, in my opinion, reasonable and necessary and may be allowed. Besides my proposal has one thing in its favour and that is, it keeps the ratio of Mohamedan representation unaltered. In the present Council, the Mohamedans have 23 per cent. of the total representation. As a result of my proposal they will have the same ratio of representation in the new Council.

81. In view of the fact that some people disfavour, I do not say oppose, the degree of representation I have allowed to the Depressed Classes, I think it is necessary that I should clear the cloud by additional explanation. There is no doubt that the initial representation allowed to the Depressed Classes was grossly unfair. The authors of the Joint Report expressly stated (paragraph 153) "we intend to make the best arrangements we can for (the) representation (of the Depressed Classes)". But this promise was thrown to the wind by the Southborough Committee which was subsequently

appointed to devise franchise, frame constituencies and to recommend what adjustments were needed to be made in the form of the proposed popular Government as a consequence of the peculiar social conditions prevalent in India. So grossly indifferent was the Southborough Committee to the problem of making adequate provision for safeguarding the interests of the Depressed Classes that even the Government of India which was not particular in this matter, felt and called upon in paragraph 13 of then Despatch on the Report of the Southborough Committee to observe : "We accept the proposals (for non-official nomination) generally. But there is one Community whose case appears to us do require more consideration than the Committee gave it. The Report on Indian Constitutional Reforms clearly recognised the problem of the Depressed Classes and gave a pledge respecting them. The castes described as 'Hindus—others' in the Committee's Report though they are defined in varying terms, are broadly speaking all the same kind of people. Except for differences in the rigidity of their exclusion they are all more or less in the position of the Madras Panchamas, definitely outside the part of the Hindu Community which is allowed access to their temples. They amount to about one-fifth of the total population, and have not been represented at all in the Morley-Minto Councils. The Committee's Report mentions the Depressed Classes twice but only to explain that in the absence of satisfactory electorates they have been provided, or by nomination. It does not discuss the position of these people of their capacity for looking after themselves. Nor does it explain the amount of nomination which it suggests for them. Paragraph 24 of the Report (of the Franchise Committee) justified the restriction of the nominated seats on grounds which do not suggest that the Committee were referring to the Depressed Classes. The measure of representation which they proposed for this Community is as follows :

Province	Total population in millions	Population of Depressed classes in millions	Total Seats	Seats for the Depressed Classes
Madras	39.8	6.3	120	2
Bombay	19.5	.6	113	1
Bengal	45.0	9.9	127	1
United Provinces	47.0	10.1	120	1
Punjab	19.5	1.7	85	....
Bihar and Orissa	32.4	9.3	100	1
Central Provinces	12.0	3.7	72	1
Assam	6.0	.3	54	....
	221.2	41.9	791	7

These figures speak for themselves. It is suggested that the one-fifth of the entire population of British India should be allotted seven seats out of

practically 800. It is true that in all the councils there will be roughly a one- sixth proportion of officials who may be expected to bear in mind the interests of the Depressed ; but that arrangement is not, in our opinion, what the Report on Reforms aims at. The authors stated that the Depressed Classes should also learn the lesson of self-protection. It is surely fanciful to hope that this result can be expected from including a single member of the Community in an assembly where there are 60 to 90 Caste Hindus. To make good the principles of paragraphs 151, 152, 155 of the Report we must treat the out-castes more generously. . . . . ."

82. Even the Joint Select Committee recognised that the Depressed Classes were unjustly treated in the matter of representation by the South-borough Committee. For the Committee in its Report felt bound to observe that "the representation proposed for the Depressed Classes is inadequate. Within the definition are comprised, as shown in the Report of the Franchise Committee, a large proportion of the whole population of India. They think that the Government of India should, as it advises, be instructed to give such classes a larger share of representation by nomination, regard being had to the numbers of Depressed Classes in each Province, and after consultation with the Local Governments. This representation should, if necessary, be in addition to, but not in diminution of, the general electorate." All this of course was of no avail and the wrong done by the Southborough Committee to the Depressed Classes remained unredressed. The present is not an attempt to give excessive representation to the Depressed Classes. It is only an attempt to rectify the wrong done. Nor can it be said that in suggesting the measure of representation it is open to the objection of being extravagant. For, even the Muddiman Committee which said that there was "a very general recognition of the fact that it is desirable that both these interests (i.e., the labouring classes and the Depressed Classes) should receive further representation" and expressed itself as being "in agreement with this view" proposed to give them 11 seats in a Legislative Council of 113. If 11 seats out of 113 was a reasonable allotment, then the allotment of 15 out of 140 must be admitted to be very moderate. The quota of 15 appears excessive only because the initial quota was small. Those who object to the quota of 15 because it is out of proportion to the existing quota forget that the initial quota of seats which they are adopting as the standard measure is neither just nor proper.

83. There is one other matter which needs to be cleared up. My colleagues in paragraph 16 of their Report in which they discuss the question of the allotment of seats to the Mohamedan community say, "Two of our members, Sirdar Mujumdar and Dr. Ambedkar, are of the opinion that this arrangement can stand only so long as the Lucknow pact stands as regards all provinces." My colleagues have misunderstood me and have therefore misrepresented me. What I wanted to point out was that as they had not justified communal electorates or the number of seats to be given to the Mohamedans it would be better if they stated in their report that this was

in pursuance of the Lucknow pact. The way in which my colleagues have reported me seems to suggest that I support the Lucknow pact. I take this opportunity to say that the suggestion is quite unwarranted.

II. Geographical distribution of seats

84. My difference with my colleagues is not confined only to the question of allotment of seats to the different minorities. It extends also to the question of distribution of seats among the different constituencies. One unpleasant feature of the Council as now constituted is the over- representation of some part and an under-representation of the rest. The enormous extent of the evil is made clear by the following figures :

	Area in Square miles	Population	Land Revenue demand for 1925-26	Seats in the Council at present
			Rs.	
Maharashtra	47,854	8,536,217	2,18,18,155	25
Gujarat	10,118	2,958,849	99,41,264	16
Karnatak	18,870	3,188,523	82,91,225	8
Sind	46,506	3,279,377	1,03,85,031	19

85. How glaring are the inequalities becomes evident from the above table. Taking population as the basis, Maharashtra and Karnatak are grossly under-represented. Adopting representation of Gujarat as the standard, Maharashtra ought to be allowed 48 seats and Karnatak 17. Even taking revenue as the basis of distribution, Maharashtra and Karnatak have undoubtedly been treated quite unfairly. For, on that basis also Maharashtra is entitled to 32 and Karnatak 15. This demand for equal electoral power is not a mere sentimental demand or a demand for exact electoral symmetry. It has also behind it ample theoretical justification. For, in a system in which the value of a vote is high in one constituency and low in another, it is open to objection that every member of the community has not an equal share with each of the rest of the people in the choice of their rulers. But even if the principle of exact equivalence of all votes be not treated as a fundamental principle of political justice, yet the differences of this kind do not fail to produce the evil consequences of the over-representation of one part of the country or one set of opinions or interests at the expense of the other. Experience has shown that the existing distribution of seats has unduly divided the centre of gravity of legislative and executive action to certain parts of the Presidency to the prejudice of other parts of the Presidency, with the result that the latter have unintentionally been deprived of an adequate share of consideration and attention from the Government. From this practical point of view the existing distribution of seats is a grievance, the justice of which cannot be denied. As matters now stand Karnatak and Maharashtra can never exercise in this Province that influence on the Government to which they consider themselves entitled by

reason of their numbers. This is a substantial grievance which must be keenly felt as indicated by the evidence from Karnatak. This grievance is bound to increase as the responsible character of the Legislative Council increases and with it the influence which it will exercise upon the conduct of public affairs. There is, therefore, too much reason to fear that instead of dying out, the bitterness of feeling will become more and more acute. It is, therefore, proper that at a time when we are overhauling the machinery of Government with a view to make it a representative and a responsible government, this grievance should also be redressed.

86. The evil of over-representation of some parts of this Presidency at the expense of other parts was due to the fact that the Southborough Committee acted quite capriciously and refused to follow any definite principle in the matter of the distribution of seats. I am glad to find that my colleagues have sought to follow a uniform principle in the matter of distribution of seats as far as possible. But my complaint is that they have taken the worst possible principle as the basis of the distribution of seats. Contributions to the exchequer, electors on the roll and population in the constituency are the three conceivable tests that can be adopted as the basis for the distribution of seats. Of these three the test of the electors is the most unjust and indefinite. In the first place where the franchise is so restricted as we now have, it means the rule of wealth. It means that if any particular area on any arbitrary test of property qualification does not produce the basic quota of electors it should go without representation. That this must be inevitable consequence of following the test of electors is clearly brought out in the distribution proposed by the Majority for the Depressed Classes, according to which the Depressed Classes of some parts have enormous representation while those of the other part of the Presidency have no representation at all. A theory which produces such an absurd result must be regarded as indefensible and must be ruled out. Revenue is a better test than the test of electorates. For it may be argued that the power to influence government should be commensurate with the revenue paid to Government. This test must even be rejected as being deceptive and inadequate, owing to the fact that as all revenue might not be paid when it is earned, it would be difficult to know the true revenue of a State. A constituency in which a large revenue is earned may suffer in distribution of seats because it is paid in another. But the most fatal objection to both these tests is that the State does not exist for the benefit of the electors or the tax-payers. Nor does the State limit its coercive action to them. Its jurisdiction extends over all the people who are its subjects irrespective of the question whether or not he is a tax-payer or an elector. From that it follows that the population is the only test for a just and proper distribution of seats. That is the test applied in England and in all countries which have a representative system of government, and I recommend that the seats for the Bombay Legislative Council should be distributed on that basis.

III. Other aspects of the distribution of seats

87. The want of principle which is noticeable in the distribution of seats among the minorities as proposed by my colleagues is also noticeable in the distribution of seats they have proposed between Capital and Labour, and between Landlords and Tenants. To capital as represented through Commerce and Industry they have given 11 seats, while to labour they give only four. To tenants they give none except what they can scrape through in the general election ; while to the landlords they give five. But this is not correct for if we take into consideration the Sind members and others from the Presidency, the seats to the landlords in the Council might easily come up to forty. Nor can I say that my colleagues have paid sufficient attention to the question of the proper distribution of seats between urban and rural areas. The Legislature is at present too much at the mercy of the rural classes and there is a great danger of governmental powers being exploited in the name of the agriculturists for legalising dangerous fads such as permanent settlements, cheap irrigation and free forests. If such fads are to be kept out of the statute book it is necessary to increase the representation of the urban classes whose representation is not commensurate with their ability or their contribution. It would have been better if my colleagues had left the task of a proper distribution of seats between the different parts of the Presidency to a separate Committee. I cannot say they have succeeded in doing justice to the weaker parties. I would suggest that a separate committee should be appointed to deal with this problem.

IV. Seats and residential qualification

88. Under rule 6(1)(*b*) of the Bombay Electoral Rules, a residential qualification is prescribed for candidates for election to the Legislative Council. The rule lays down that "No person shall be eligible for election as a member of the Council to represent a general constituency unless he has for the period of six months immediately preceding the last date fixed for the nomination of candidates in the constituency, resided in the constituency or in a division any part of which is included in the constituency." The rule has been interpreted in this Presidency to mean that actual or habitual residence in the constituency (and not merely a place of residence or occasional visits to it) is necessary before a candidate can stand for election from a particular constituency. Before I give my own opinion on this question I would like to state briefly the history of this restriction so far as this Presidency is concerned. Paragraph 84 of the Joint Report commented on the fact that a noteworthy result of the electoral system then existing was the large percentage of the members of the legal profession who succeeded at elections and went on to point out that so great a predominance of men of one calling in the political field was clearly not in the interests of the general community and suggested that in framing the new constituencies an important object to be borne in mind was to ensure

that men of other class and occupations found a sufficient number of seats in the councils and that it was possible that this could be done by prescribing certain definite qualifications for rural seats. The question was carefully examined by the Southborough Committee, who in paragraph 29 of their report referred to the fact that some of the local governments, namely, those of the United Provinces, Behar and Orissa and Assam did not press for the insertion of the residential qualification, while the Governments of Bengal, Bombay, Madras and the Punjab held that it would be detrimental to the interests of a large proportion of the new electorate to admit as candidates, persons who were not resident in the areas they sought to represent. The majority of the Southborough Committee were on principle opposed to the residential qualification, but they resolved, by way of a compromise, to impose the restriction in the Central Provinces. Bombay and the Punjab but not in the remaining provinces. The Government of India, in expressing their views upon the recommendations of the Southborough Committee, accepted those recommendations, but pointed out that the Committee's treatment of the question had placed them in some difficulty in that while the Committee accepted the views of some of the local governments in favour of the restriction, they discarded the views of some others who equally pressed for it. The Joint Parliamentary Committee on the Government of India Bill recommended that the compromise suggested by the Franchise Committee should be accepted. This was done and the residential qualification was imposed only in the Central Provinces, Bombay and the Punjab. I would point out that subsequent to this the residential qualification was done away with in the Punjab in the revision of the rules which proceeded the General Elections of 1923. The Punjab Government themselves in the opinion which they gave to the Muddiman Committee stated that for the first general elections the residential qualification wave the rural representatives an entry from which they had not been dispossessed, and there appeared to be no adequate reason for restoring the qualification. The position at present therefore is that Bombay and the Central Provinces are the only provinces in which the residential qualification still exists. In the Central Provinces the restriction is not interpreted as strictly as it is in this Presidency. It is, in my opinion, difficult to justify the retention of this restriction in this the most advanced Province in India when provinces much more backward have felt no necessity for it. The retention of this qualification is, in my opinion, to some extent responsible for the election of inferior men to the Councils and for the keeping out of the Councils men of position, ability and proved political capacity who are mostly found in the larger urban areas and who by the existence of the qualification are prevented from seeking election anywhere else if for some reason they are unable to secure election from their own residential area. I therefore recommend that the residential qualification should now be abolished so far as this Presidency is concerned.

CHAPTER 4

LUCKNOW PACT

89. I am aware that my recommendations regarding the substitution of joint electorates for communal electorates and the distribution of seats conflict with the terms of the Lucknow Pact in so far as they affect the representation of the Mohamedan community. The representation of the Mohamedan community as settled under the rules framed in 1919 was largely based upon what is known as the Lucknow Pact. This pact embodies an agreement arrived at in 1917 at Lucknow between the Moslem League and the Congress, the former acting on behalf of the Mohamedans and the latter on behalf of the Hindus. It gave to the Mohamedans communal electorates and a varying proportion of seats in the Provincial and Central Legislature. I realise that the views I have put forth on the representation of the Mohamedan community are subversive of this agreement, and I feel that it is incumbent upon me to state why I think that this agreement should be scrapped.

90. My first argument is that the settlement embodied in the Lucknow Pact is wrong settlement. This was admitted by all the local governments. The Government of India in their Despatch reviewing the recommendations of the Franchise Committee to the Secretary of State, reported : "We note that local governments were not unanimous in subscribing to the compact. The Government of Madras framed their own proposals for Mohamedan representation without regard to it. The Bombay Government, while adopting the compact, did not rule out from discussion a scheme of representation upon a basis of population. The Chief Commissioner of the Central Provinces was opposed to separate Mohamedan electorates and considered that the percentage proposed in the compact was 'wholly disproportionate to the strength and standing of the community.' The Chief Commissioner of Assam thought it was a mistake even from a Muslim point of view to give that community representation in excess of their numerical proportion." Nor did the Government of India differ from this view generally held by the Provincial Governments. Evaluating the results of the Lucknow Pact in the different Provinces, they observed, "the result is that while Bengal Mohamedans get only three-quarters and the Punjab Mohamedans nine-tenths of what they would receive upon a population basis, the Mohamedans of other Provinces have got good terms and some of them extravagantly good. We cannot ourselves feel that such a result represents the right relation either between Mohamedans in different Provinces, or between Mohamedans and the rest of the community". Sir William Vincent, in a note of dissent, went so far as to say, "In my view.....we should proceed without regard to the details of the Lucknow Settlement to fulfil our own pledges to the Mohamedans in what we ourselves think is the best way."

91. The wrong in the Lucknow Pact is not so much that it treated the Mohamedans in the different Provinces in a dissimilar manner, providing for them generously in some and niggardly in others. This is comparatively speaking a small matter. The principal defect in the Lucknow Pact is that in allotting the seats to the Mohamedans it did not take into consideration the effect it will have upon other interests. The framers of the pact, as pointed out by the Government of India, failed to remember that whatever advantage is given to the Mohamedans is taken away from some other interest or interests. Sir William Vincent, too, was careful enough to point this out. He also said in his minute of dissent, "The compact meets with much more acceptance than criticism of the present time; but hereafter, when the value of votes and representation comes to be realised, it must be expected drat the interests which are hard hit by it will complain with some injustice that the Government of India should have endorsed it." The extent to which this prediction has been realised is remarkable, and the universal dissatisfaction that is felt with the result of the Lucknow Pact is more than sufficient testimony to show that settlement embodied in the Lucknow Settlement is a wrong settlement. Now there can be nothing improper in asking that what is wrongly settled shall be re-settled. Such a demand is bound to meet with opposition from the Mohamedan community. Having obtained representation on an extravagant scale, they are sure to take their stand on precedent and past rights. But as Thomas Paine pointed out, the error of those who reason by precedents drawn from antiquity respecting their rights is that they would not take that time to the starting point when no vested rights existed. If they did they would realise that rights, far from being immutable, are historical accidents and are therefore liable to readjustment from time to time. This must be so, for all political and social progress is based upon the maxim that wrong cannot have a legal descent and that what is not rightly settled is never settled.

This is not the only instance in which a pact like the Lucknow Pact is sought to be revised. The Act of Union between Ireland and England was also a pact of the same sort. It certainly had a far greater binding force than the Lucknow Pact. In fact it was regarded as a treaty which guaranteed to Ireland 100 seats in Parliament. All the same, Mr. Balfour's Government, when it found that the excessive representation granted to Ireland had become a positive wrong, did not hesitate to bring in a Bill in 1905 which would have had the effect of reducing the Irish seats by 30. That owing to the resignation of Mr. Balfour's Government the Bill did not become law is another matter. But the fact remains that a revision of the Irish Settlement in the matter of the representation was not excluded by the fact that the settlement was based upon an agreement between the two parties. Nor was Mr. Balfour agreeable to the view that such revision could be carried out only with the consent of Ireland. Indeed, he had launched upon the scheme of redistribution in the teeth of the Irish opposition. But it is not necessary to go so far a field to find a precedent when there is

one near at hand. The constitution of Ceylon had also given recognition to pacts and agreements between various organisations allowing communal representation and communal distribution of seats. But the Ceylon Commission of 1928 was emphatic in its view that "in any case, in considering afresh the whole problem of representation, private arrangements between races or groups, while worthy of attention, cannot take precedence of considerations in the interests of the Ceylon people as a whole." It had therefore no hesitation in revising the whole scheme of representation in Ceylon out of recognition. What is asked herein is no more than what is done elsewhere.

92. It is further to be remembered that the Lucknow Pact is valueless not merely because its terms, to use the words of Government of India, "were the result rather of political negotiation than of deliberate reason," but also because it was brought about by organisations neither of which had any real authority to speak in the name of those on whose behalf they purported to act. The All-India Muslim League was not entitled to speak for all Mohamedans, and that it was the view of the Government of India in their despatch on the Report of the Southborough Committee is abundantly clear. Regarding the Congress, it is indisputable that it is a body which does not represent the vast mass of the Non-Brahmins and the Depressed Classes. A pact arrived at by organisations which are not constituent assemblies of the mass of people may bind themselves, but they certainly cannot bind the generality of the people. To give the pact an authority as though it was treaty negotiated between duly empowered plenipotentiaries of different States is to assume in the League and the Congress an authority which they did not possess. It has become necessary to assess the binding force of the agreement because of the view taken by the Government of Bombay that, "Any change in the direction of abolishing separate electorates must, however, be based on agreement between the two communities, and cannot be forced on the Mohamedans against their wish. The question is also an All-India one and can hardly be dealt with on different lines for each Presidency. The Government of Bombay adhere to the view which they had expressed in 1916 that communal electorates are not acceptable to them and that their abolition is desirable, if it can be secured with the consent of both parties as in the case of the Lucknow Pact." In my opinion this is an attitude which is as irresponsible as it is dangerous. It is irresponsible because it involves the surrender of the right of Parliament to decide in the matter. That the Government of India thought it wise not to "ignore" the pact, which in their opinion represented a genuine attempt on the part of the two communities upon so highly controversial a subject and "on behalf of the larger community at least a subordination of their immediate interests to the cause of unanimity and united political advance," is true. But that is far from saying that the Government of India or any other authority held the view that on the question of Mohamedan representation

their position was merely to register the decision which the Congress and the League may by mutual negotiations make. Indeed, Sir William Vincent was careful to point out that "in this matter (the Government of India) cannot delegate (its) responsibility to Parliament into other hands."

93. The attitude taken by the Bombay Government is dangerous because, admitting that an error has been committed, it refuses to take upon itself the task of correcting it. I would have looked upon such an attitude as a pardonable sin if the error was not an error in the constitutional arrangement of the country. But unfortunately it is an error in the constitution, and, having found its lodgment in a most vital part thereof, it affects its working in a fatal manner. An error of such a character cannot be tolerated. A mistake in constitutional innovation directly affects the entire community and every part of it. It may be fraught with calamity or ruin, public or private, and correction is virtually impossible. The Government of Bombay practically takes for granted that all constitutional changes are final and must be submitted to, whatever their consequences. Doubtless this assumption arises from a fateful renunciation that in these matters we are propelled by an irresponsible force on a definite path towards an unavoidable end towards destruction. But I am glad to find that the Government of India in accepting the pact did not concede that its terms as embodied in the Act should stand unaltered. Far from leaving the matter shrouded in ambiguity, they made it quite clear that the arrangement was not to stand beyond the first Statutory Commission. In their Despatch on the Report of the South-borough Committee they said : "Before we deal in detail with the Report, one preliminary question of some importance suggests itself. As you will see, the work of the Committee has not to any great extent been directed towards the establishment of principles. In dealing with the various problems that came before them they have usually sought to arrive at agreement rather than to base their solutions upon general reasonings. It was no doubt the case that the exigencies of time alone made any other course difficult for them. But in dealing with their proposals, we have to ask ourselves the question whether the results of such methods are intended to be in any degree permanent..... Whatever be the machinery for alteration, however, we have to face the practical question of how long we intend the first electoral system set up in India to endure. Is it to be opened to reconstruction from the outset at the wish of the Provincial Legislature or is it to stand-unchanged at least until the first Statutory Commission ? There are reasons of some weight in either direction. In the interest of the growth of responsibility it is not desirable to stereotype the representation of the different interests in fixed proportion; the longer the separate class and communal constituencies remain set in a rigid mould, the harder it will become to progress towards normal methods of representation. On the other hand, it is by no means desirable to invite incessant struggle over their revision." It is for the Commission to say whether the life of this error shall be prolonged. I have hopes that the Commission will not merely

say, "Well, we feel the force of the objections to principle of the communal system fully. But we cannot help as India has deliberately chosen her road to responsible government." For the Commission will realise that its duty to point out the right road and lead India on to it arises not merely out of a conscientious regard for what is right but also out of the moral obligation of the British authorities who are primarily responsible for pointing out in 1909 this wrong road.

CHAPTER 5

SECOND CHAMBER

94. My colleagues have recommended the institution of a second chamber as a part of the Provincial Legislature of this Presidency and have suggested a framework for its constitution. I am afraid my colleagues have not devoted sufficient thought to the difficulties pertaining to its construction. In the matter of its composition, a second chamber, if there is to be one, must be different than the first. In the matter of its powers, they must be such that a second chamber can work without impediment to the first chamber. It seems to me to be very difficult to constitute a second chamber which will satisfy both these conditions. A nominated second chamber is out of question. The Canadian Senate is a standing warning against the introduction of a nominated second chamber. It cannot have the moral authority of a popularly elected chamber to command respect for its decisions. Nor can it have the independence possessed by a popularly elected chamber to sit in judgment, as a revising chamber must, over the very executive which brings it into being. If the second chamber is an elective chamber then its working smoothly with the first will depend upon their respective franchise, times of election and their powers. If the second chamber is elected on the basis of a restricted franchise, it is sure to end in the raising of a small group from amongst the aristocracy into a governing class having a special degree of control over the destiny of the masses. Such a second chamber, far from being a revising chamber acting as a check upon the supposed rashness of the lower chamber, will be a chamber which, instead of putting a premium upon improvement in general, will put a premium upon the upkeep of vested interests. It would be dormant under a conservative administration and would be vigilant only under a radical one. When it ought to revise it will refuse, and when it ought to refuse to revise it will revise and may perhaps obstruct. If the two are elected on a uniform franchise, then the second will only be a replica of the first and will be quite superfluous. The same would be the result if the second chamber was elected simultaneously with the first. On the other hand, if the second chamber is elected at a different time than the first, then it is bound to unfeeble the executive and diminish its efficiency. For it would work as a hindrance to adequate policy making and may cause such a violent break in the policy of the executive as to lead to constant general elections.

If the two chambers are coequal in powers there are bound to be deadlocks, and the inevitable result of all deadlocks is an unhappy compromise, if not a total abandonment of the principle in dispute. On the other hand, if the powers of the second chamber are inferior to those of the first, it will not be able to control the supposed rashness of the first chamber and will thus fail to perform the purpose of its life.

95. In framing the constitution of a second chamber my colleagues have ignored all these difficulties. In doing so they have created a second chamber which, if I may say so, has all the faults and none of the virtues which a second chamber should have. In supporting the idea of a second chamber it seems to me that my colleagues have more or less followed the crowd psychology. A widespread existence of second chambers in historical times has given rise to the dogma of political science that a second chamber is a necessary accompaniment of a popular government. But it is forgotten that a two-chamber system which had its origin in England was a purely historical accident. That it found a place in the constitution of other countries was the result of the imitation of the superior by the inferior, and the virtue ascribed to it of serving as a brake on the rashness of the popular chamber is a subsequent invention of the human mind to justify the existence of what had become a universal fact. But it must be noted that this faith in the second chamber has been dwindling of late and that pre-war constitutions like Canada and South Africa and many post-war constitutions like those of Latvia, Lithuania, Esthonia and Yugoslavia have dispensed with the second chamber. This reaction has come about by the growing conviction that a government must be judged not by the symmetry of its structure, but by its practical achievement, by the content of actual service that it renders to the community and by the amount of well-being that it brings to the nation as a whole.

96. Looking at the institution of a second chamber from the utilitarian point of view, I refuse to accept that it can perform the function of a revising chamber. If to revise means to interpret the will of the electorates, I fail to understand how the second chamber is more likely than the first to be correct in its judgment as to what the electoral will is. My view is that the electorate and not the second chamber will be the best judge when such a question arises, unless we suppose that the members of the second chamber by virtue of their position have a greater presence than the members of the lower chamber. I deny that the second chamber possesses any such virtue. Indeed, a second chamber is not only as much likely to fail in correctly gauging the popular will, but its own interests in the matter are likely to give it such a personal bias one way or the other as to make it quite incapable of coming to an independent and rational judgment It is therefore better, safer and more reasonable to have a single chamber and to throw the responsibility of decision, when doubt arises, upon the electorate which chooses the chamber. Besides, if the idea underlying the second chamber is to delay the decision of the first chamber,

then this is already secured by the Governor having the power to refer back any particular measure which has been passed by the Legislature for reconsideration. If the Legislature does not reconsider, but passes it in original form, the Governor can still stop it by vetoing it. And if the Legislature does not abide by the decision of the Governor, it may compel him to submit the matter in dispute to the electorate by compelling the dissolution of the House. It is therefore obvious that what the second chamber can do or is expected to do, can be done by the Governor with his powers to veto, to refer back and to dissolve. If this is admitted, then a second chamber becomes a useless appendage to a popular chamber.

97. I am sure my colleagues would not have been led away by what exists in some other countries without applying the utilitarian standard if they had made sure that their assumption that a single chamber is likely to pass hasty and ill-conceived laws was based on sure foundations. It seems to me that the assumption is quite unfounded and displays a total ignorance of the working of modern politics. No piece of legislation in modern times is flung upon the Legislature as a surprise. On the other hand every legislative proposal before it is enacted into law goes through a long process of discussion and dissection at the hands of the public extending over a long period of years. Indeed, if the antecedent history of every measure which has found its place in the Statute Book were investigated it would demonstrate that the period that has intervened between the conception of the idea and its enactment into a law has varied more often on the side of length than on the side of brevity. Such being the case the assumption that a popular chamber acts hastily and therefore needs a brake upon its wheels is to prescribe for a disease which does not exist.

98. What however my colleagues are after is not a revising chamber but a governing caste. This is clear from the purpose assigned to it, from the franchise on which it is sought to be built and the powers which are proposed to be given to it I confess I am somewhat surprised that they should have thought that a devolution of powers on the Legislature must be circumscribed by the institution of a second chamber as an insurance against such powers being used to the detriment of a particular community, or a particular interest. For the desire really felt, as I understand it, is not that we should have a reform in which the centre or the balance of political power shall remain unchanged but that within certain limits it shall be surreptitiously shifted in the direction of the mass of the people. To attempt to circumscribe this devolution of power seems to suggest that my colleagues think that the most desirable kind of political reform is one which does not alter the balance of power amongst the different communities concerned. Persons who hold such a view in my opinion either do not know what political reform means or, knowing what it means, do not desire a reform which will disturb the *status quo*. As for myself, I make no mistake about the fact that the essence of all reforms is to change the balance of power among the different classes. If the lower classes gain, some

other class must lose. If each class remains with no more political power than before then there will have been no real reform. It is idle to suppose that either the lower classes or for the matter of that any class interested in reform will be satisfied with a measure, either because it is called political reform or because while proposing to change everything it contrives to keep things where they are. It would be much better to say in plain terms that the scheme of devolution of political power should be so conditioned that the flow of power shall stop with the classes and shall not reach the masses. I must however make it plain that I cannot be a party to any such scheme of reforms.

99. Granting that a second chamber is a necessity there is one supreme difficulty in the way of its formation. The authors of the Montagu-Chelmsford Report had in 1917 carefully considered the question of establishing second chambers in the Provinces. But taking all things into consideration they decided against the proposal. They said, "We see very serious practical objections to the idea. In many provinces it would be impossible to secure a sufficient number of suitable members for two Houses. We apprehend also that a second chamber representing mainly lended and monied interests might prove too effective a barrier against legislation, which affected such interests. Again, the presence of large landed proprietors in the second chamber might have the unfortunate result of discouraging other members of the same class from seeking the votes of the electorates. We think that the delay involved in passing legislation through two Houses would make the system far too cumbrous to contemplate for the business of Provincial Legislature. We have decided for the present therefore against bicameral institution for the Provinces." The objections raised to second chambers in 1917 hold good even today. I am quite certain that this Presidency has not at its command a sufficient number of eminent men to run both the Houses. A second chamber will sap the life of the first or the first will sap the life of the second. There is not enough material to build both. Under such circumstances it is better to have a single efficient chamber than to have two effective ones. For these reasons I oppose the institution of a second chamber in the Presidency.

CHAPTER 6

POWERS OF THE LEGISLATURE

100. *Power of appointing and removing the President.* — Prior to the reforms of 1919 the Governor who was the chief of the executive of the Province was the President of the Provincial Legislature. By the changes introduced in 1919 the Provincial Legislature obtained the right of electing one of its members as its President and to remove him from office. This was a valuable privilege. The exercise of this privilege was, however, made subject to certain restrictions inasmuch as the appointment of the President was made subject to the approval and his removal subject to the concurrence

of the Governor. These limitations are the remnants of the time when the Executive was supreme over the Legislature. They are not to be found in the constitution of the dominions. They are incompatible with the independence of the Legislature and must be removed. Granting that the President must be made independent of the executive, question is, must he also be made independent of the judiciary ? Section 110 of the Government of India Act defines the officers and the matters in respect of which they are exempt from the jurisdiction of the High Courts. The President of the Legislative Council is not included among the officers who enjoy this immunity. That being the case, the President of the Legislature is subject to the jurisdiction in respect of what he does as a President. That means that his conduct as a President is liable to be questioned in a Court of Law. It is feared that this opens a vast field to vexatious litigation involving great delay in the conduct of the business of the Legislature. This is sought to be remedied by granting exemption to the President from the jurisdiction of the Courts. I am opposed to this change and prefer to leave things as they are.

101. *Power of defining Privileges*.—No one will question the expediency of allowing a Legislature every power reasonably necessary to the existence of such a body, and the proper exercise of the functions which it is intended to execute. The position of the Provincial Legislatures under the existing law is very unsatisfactory. Beyond giving certain immunities to the members of the Legislature and barring the meagre powers given to the President by rule 17 of the Legislative Council Rules for expelling a disorderly member, the law gives no authority to the Legislature to vindicate itself against a wrong calculated to obstruct its work or lower its dignity. Such authority can no longer be withheld from the Legislature. I therefore recommend that the Provincial Legislatures like the Dominion Legislatures should be given the power within prescribed limits to define by law the powers and privileges which it thinks are necessary in its own interest.

102. *Power of regulating Procedure*.—The conduct of business in the Bombay Legislative Council is governed by Rules framed under Section 72D (*6*) of the Government of India Act supplemented by Standing Orders framed under Section 72D (*7*) of the same. In the framing of this code of procedure the Provincial Legislature has had no hand. The standing orders were made by the Governor-General in Council, though the Legislature had had the liberty to suggest amendments to them. But the Rules are framed under the provisions of Section 129A by the Governor-General in Council which expressly prohibits the Provincial Legislature from altering or repealing them. I am of opinion that the Provincial Legislature should have the power of regulating its own. procedure. The difficulty in giving such freedom to the Provincial Legislatures seems to arise from the fact that some of the Rules embody provisions which in other countries form parts of their constitutional law ; so that the power to amend rules virtually become power to alter the constitution. But this difficulty can be easily avoided if an attempt was made to enact such rules as section of the Government of

India Act. If this is done, the recommendation I have made can be easily given effect to and the Provincial Legislatures brought on a par with the Dominion Legislatures of Australia, South Africa and Canada.

103. *Power of Legislation*.—Section 80C of the Government of India Act provides that it shall not be lawful for any member of any local Legislature to introduce, without the previous sanction of the Governor, Lieutenant Governor or Chief Commissioner, any measure affecting the public revenue of a province, or imposing any charge on those revenues. This section is a serious limitation upon the powers of the Legislature. It is a relic of the days when the people had no voice in the administration of the affairs of the country. The retention of these powers will ill-accord with a Legislature supreme over the executive. This section must therefore be deleted. The Governor will still have the power of vetoing any legislation that will be passed by the Council. That power must suffice. More than that will not be consistent with the position he will have to occupy under a system of complete ministerial responsibility.

104. *Power of Appropriation*.—The Legislative Council under Section 72D may assent or refuse its assent to a demand or reduce the amount referred to therein either by a reduction of the whole grant or by the omission or reduction of any of the items of expenditure of which the grant is composed. This power is subject to certain important provisions. In the case of a demand relating to a reserved subject, the Governor has the power of over-ruling the decision of the Legislature if he certifies that the expenditure provided for in the demand is essential to the discharge of his responsibility for the subject. Another proviso limiting the powers of appropriation of the Legislature is contained in Section 72D, Clause (2)(*b*), by virtue of which the Governor has the "power in cases of emergency to authorise such expenditure as may be in his opinion necessary for the safety or tranquillity of the Province, or for the carrying on of any department." These are also very serious limitations on the powers of the Legislative Council, and I suggest that they should be removed from the Act The powers given to the Governor under the first proviso are out of place in a Government which is fully responsible and in which the Governor is not charged with the direction of affairs. The safety and tranquillity of the Province will not be a special concern of the Governor any more than that of the responsible Executive. Consequently the power given by the second proviso to the Governor is unnecessary and should be taken away.

105. Another restraint on the financial powers of the Legislature is embodied in Section 72D(*3*). By virtue of this, the executive is not required to submit to the Legislature for its vote expenditure on certain specified heads mentioned therein. The result is that the Budget of the Province contains permanent appropriations to a large extent which the Legislative Council cannot touch. Theoretically speaking, every item of expenditure should be sanctioned each year by the Legislature. But the Budget, in almost every country, contains permanent appropriations which do not

require to be voted annually by the Legislature. Even in England there has grown up quite a list of permanent appropriations covering before the War in the aggregate about one-third of the total annual expenditure. Whether the Executive can or cannot be trusted to fix the amount and determine the character of public expenditure depends upon the stage of development at which people have arrived in their realisation of constitutional government. If the stage be such that there exists an uncertainty concerning the political rights of the Government and the people, it would not be safe to permit such permanent appropriations of public moneys without Legislative sanction as are contemplated by Section 72D(*3*). It is true that the foundation of responsible government in the Provinces is just being laid and the Provincial Legislatures have jealously to guard against the encroachments of the Executive. All the same, it must, I think, be recognised that the right of popular control over public affairs is recognised and will be under the new constitution fully conceded, so that under the various checks upon the arbitrary use of public authority the submission for annual sanction of every item of public expenditure need not be insisted upon. I do not therefore object to this scheme of permanent appropriations. But I object to their being made so by law, thereby curtailing the powers of the Legislature. Their being made a matter of law has had the effect of debarring the Legislature from even discussing the policy underlying the administration of non-votable items. The creation of non-votable items must be a matter of convenience. There ought to be no restraint about them on the Legislature by law.

106. *Power of controlling the Executive*.—Originally Provincial Legislatures under the reformed constitution of 1919 could control the Minister in three ways : (1) by legislation, (2) by refusing supplies, and (3) by refusing or reducing their salaries. The second and the third were the only two ways whereby the Legislature could control the administration by the Ministers. This control could normally be exercised only once a year, and was therefore insufficient. Consequently provision was made in 1926 for a motion regarding want of confidence in a Minister. These powers are sufficient for the Legislature to control the actions of a Minister and were in keeping with the idea that the Ministers were to be individually liable for their actions. The future Ministry will be based upon the principle of joint responsibility under which Ministers will stand together or fall together. There is nothing in the existing powers of the Legislature to indicate that it desires to dismiss the Ministry as a whole. I think provisions to this effect should be made by adding a new class of motion to be called "a motion of no confidence" as distinguished from the existing motion, which should be renamed as "motion questioning a Minister's policy in a particular matter". This was suggested by the Muddiman Committee but was not carried out.

107. *Power of altering the Constitution*.—The Provincial Legislatures are bound by the terms of the instrument which has created them. By virtue of that instrument they are made bodies with "plenary powers" possessing

a specific and defined power of government in their territory over all persons. The plenary powers of government do not per se carry a power to alter the constitution itself. There is a desire that the Provincial Legislatures should have the powers of a constituent Assembly to alter the constitution of the Province. There is much that can be said in favour of such a proposal. Parliament having consented to grant self-government to the people of the Province, it is as well that the people of the Province had the right to decide the form of government under which they liked to live. But it must be recognised that there are minorities who will not like their constitutional rights to be determined by the majority, as would be the case if the Provincial Legislatures were allowed the right to alter the constitution. This is the principal reason why the constitution of Canada gives no power to the Canadian Parliament to alter the constitution of Canada. There is, however, the example of South Africa, which shows that the powers of altering the constitution can be conferred on a Legislature without detriment to the position of the minorities. There is therefore no reason why the example of South Africa should not be followed. I recommend that the power of altering the constitution of the Province should be granted to the Provincial Legislature; provided that it shall have no power to alter the provisions regarding the representation of minorities in the Legislature.

108. What special procedure should be prescribed for passing such legislation is a matter which it is very difficult to decide. But it might, however, be stated that the mode of amending the constitution should be such as to make it sufficiently rigid to protect the fundamental rights of the citizens but which should at the same time leave it flexible enough to recognise that development is as much a law of life as existence and to secure deliberation before action and final decision in harmony with the principle of rule by majority. The safest course, it seems to me, would be to prescribe different procedure for different kinds of amendments to the constitution. For the more fundamental amendments the procedure should be more exacting than for amendments to less fundamental parts of the constitution.

SECTION IV

PROVINCIAL AUTONOMY

CHAPTER 1

PROVINCIAL GOVERNMENT IN RELATION TO THE GOVERNMENT OF INDIA

109. It is evident that the responsibility of the Executive would be of very little consequence if the Provincial Executive instead of being subordinate to the Provincial Legislature is subordinate to any other body outside the Province or if the Provincial Legislature instead of being supreme within its field is made subject to some other authority in the matter of the exercise of its powers. In other words responsible government must also be autonomous government. To render Provincial Government autonomous it is necessary to demarcate clearly the spheres of operation of the Provincial and Central Governments.

110. Prior to 1919 a Provincial Government was required under Section 45 of the Government of India Act, 1915, to obey the orders of the Governor-General in Council, and keep him constantly and diligently informed of its proceedings and of all matters which ought, in its opinion, to be reported to him, or as to which he requires information, and is under his superintendence, direction and control in all matters relating to the government of its province. This meant that the Provincial Governments had no acknowledged authority of their own in any of the matters which they administered; that whatever powers they exercised were powers which were delegated to them by the Central Government in the same way as a principal delegates his authority to his agent. By the Act of 1919 this relation of the Provincial to the Central Government was made subject to its provisions and rules made thereunder. Section 45 (*1*) (*b*) of the Act of 1919 provided "for the devolution of authority in respect of provincial subjects to local governments, and for the allocation of revenues or other moneys to those governments," while Section 45 (*3*) laid down that "the powers of superintendence, direction, and control local governments vested in the Governor-General in Council under this Act shall, in relation to transferred subjects, be exercised only for such purposes as may be specified in rules made under this Act, but the Governor-General in Council shall be the sole judge as to whether the purpose of the exercise of such powers in any particular case

comes within the purposes so specified." The Act of 1919 therefore made two changes : (1) It gave the provinces authority of their own as distinguished from authority derived as agents of the Government of India. (2) It relieved them of their former obligation to obey the Government of India in regard to those subjects which were transferred to the control of the Ministers but retained its powers of supervision. From this it is clear that there may be a complete transfer of all the subjects to the control of the Ministers; but transfer will always be subject to the powers of supervision of the Government of India involving interference in the freedom of action by the Provincial Government. The question is whether these powers of supervision are necessary and if so whether any other form of relationship between the Provincial and Central Governments can be contemplated in which these powers will be so placed as not to conflict with the autonomy of the Province.

111. By the Act of 1919 and the Rules made thereunder the Provincial subjects are marked off from Central subjects. Notwithstanding this the Provincial Legislature have not been given freedom of action or finality of action in legislating upon Provincial subjects. The powers of Provincial Legislature are restricted in two different ways. In certain matters defined in Section 80A it cannot without the previous sanction of the Governor-General make or take into consideration any law although it might pertain to a matter lying within the Provincial field. In certain other matters Provincial Legislature may pass a law but if the law happens to fall within the purview of Section 81A and rules made thereunder its action becomes subject to the veto of the Governor-General. The combined effect of these two restrictions on Provincial autonomy can be easily understood. The question is whether any other system of relationship between the Provincial and Central Governments can be contemplated in which the powers of the Central Government will not conflict with the autonomy of the Province.

112. The provision regarding supervision by the Central Government over Provincial Government in the matter of administration of Provincial subjects and of previous sanction and subsequent veto by the Central Government of Provincial legislation regarding Provincial subjects is a feature which is not to be found in the constitution of any other country in which the functions of government are divided between two body politics, Central and Provincial, such as Canada, Australia and the United States. The provisions regarding previous sanction have found their way in the Indian constitution as a result of two erroneous suppositions. One is that it is not possible to demarcate functions exclusively. That assumption does not seem to be well-founded. For in Canada the constitution does divide the functions into two distinct classes (1) those which exclusively belong to the Central Government and (2) those which exclusively belong to the Provincial Government making each government absolutely autonomous in the sphere which is allotted to it. The second assumption is that in dealing with those functions which cannot be said to be exclusively Provincial

the only way open is to make their exercise subject to previous sanction and subsequent veto by the Central Government. This again seems to me to be an erroneous assumption. The constitution of Australia and the United States are examples where the constitutions have not divided the functions into two clear cut exclusive divisions as is done in Canada. By the scheme of division of powers and functions adopted by the Australian constitution there are certain matters over which the Central Government has exclusive powers. In certain other matters the powers of the Central Government are concurrent with those of the State Governments. But the matters of concurrent legislation are divided into two categories (1) in which the power of the Commonwealth Parliament operates by way of paramount legislation merely over-riding any exercise by the State of its own powers and (2) in which the Commonwealth has no paramount power. In the United States Governmental powers are distinguished into (1) Powers vested in the Central Government alone, (2) Powers vested in the State Governments alone, (3) Powers exercisable by either the Central Government or the States, (4) Powers forbidden to the Central Government and (5) Powers forbidden to the State Governments. Thus the constitution of Australia and the United States both recognise that there may be functions which cannot be said to exclusively belong to either. But neither of them have adopted the plan of assigning them to one government subject to the previous sanction and subsequent veto of the other government. I recommend that the scheme of division of functions and powers like that of Canada should be tried and failing that the scheme prevalent in Australia or the United States should be adopted. But in any case the provision of previous sanction and subsequent veto should be done away with.

113. The provision whereby the Central Government has been invested with powers of supervision over subjects which have been transferred to Provincial control is partly due to want of clear cut allocation of subjects between Central and Provincial and partly to an erroneous view of the responsibility of the Central Government for the administration of Provincial subjects. The power of supervision is sought to be justified on the ground that certain subjects are of importance for Central Government This reason will not survive a proper allocation of the subjects on the Canadian, Australian or American lines. The other justification for the powers of supervision is the view that the Government of India must be responsible for the peace, order and good Government of India as a whole and that it may discharge its own responsibilities, it must have the power of supervision. It seems to me that with the partition of functions there must follow a partition of responsibilities as well. If these responsibilities are partitioned and that of the Central Government confined to matters arising out of matters assigned to it, the necessity for supervision over Provincial Governments will vanish and I suggest that the clauses in the Government

of India Act which define the responsibilities of the Central Government should be amended accordingly.

114. While I am anxious to see that there should be established complete Provincial autonomy I am opposed to any change which will in any way weaken the Central Government or which will impair its national character or obscure its existence in the eye of the people. Holding this view I am against making the Central Government a league composed of a number of governments bound together to constitute for certain purposes a single body. The effect of such an arrangement is obvious. The league will exist only as an aggregate of governments, and will therefore vanish as soon as the governments decide to separate themselves from one another. Such a Central Government will last only as long as the component governments will desire it to last. The league being a confederacy of governments will have to deal with and act upon the governments only. With the individual citizen it will have very little to do. It will have no right to tax the individual, to adjudicate upon his causes or to make laws for him. Such a Central Government is bound to be the weakest government possible. My conception of the position of the Central Government will not permit me to reconcile myself even to such a form of relationship as is found in the American constitution in which the Central Government is a commonwealth as well as a union of commonwealths. It is true that under it the Central Government acts immediately upon every individual through its courts and executive officers. But it is equally true that the Central Government in the United States is a creature of the States. Having been called into existence by the States it must stand or fall with the States. The States retain all the powers which they have not expressly surrendered. The Central Government has no more powers than those that have been conferred upon it by law. Such a Central Government, howsoever stronger it may be than a Central Government in a league, will not in my opinion be strong enough for the needs of India. My view is that the national Government should be so placed as not to appear to stand by virtue of the Provincial Governments Indeed its position should be so independent that not only it should survive even when all Provincial Governments have vanished or changed into wholly different bodies but it should have the power to carry on provincial administration when a Provincial Government by rebellion or otherwise has ceased to function. Consequently on this aspect of the question I make the following recommendations : (1) That all residuary powers must be with the Central Government, (2) that there must be a specific grant of power to the Central Government to coerce a recalcitrant or a rebellious Province acting in a manner prejudicial to the interests of the country, (3) that all powers given to the Provincial Government in case of its non-functioning shall return to the Central Government and (4) that the election to the Central Legislature shall be direct.

CHAPTER 2

PROVINCIAL GOVERNMENT IN RELATION TO THE CROWN

115. For the purpose of securing Provincial autonomy it is not sufficient merely to lay down proper relations between the Provincial Government and the Central Government. It is also necessary to define the status of the Provincial Government. This is of practical importance principally in respect to their external relations. That the Provinces cannot have any international status goes without saying. But the question of their relationship with the Home Government stands on a different footing and cannot be easily disposed of. It is clear that whatever the nature of the relationship between the Provincial and Home Government it must be in keeping with the constitutional law of the country. The degree of independent political existence of a Province must determine the angle from which the problem is to be looked at. Are the Provinces to be treated so very devoid of independent political existence that they are to be treated as mere internal divisions comparable with the areas of local Government, unknown and unrecognised beyond India itself ? If so, that Imperial Government would know but one Indian authority, the Central Government, and would in all matters affecting India address itself to that Government and receive communications from or through it alone. On the other hand, have the Provincial Governments an independent political existence in the eye of the law ? If they can be said to have it, then the Imperial Government must recognise them and must in all provincial matters address them and must receive communication from them. Of these two possible bases of relationship there is no doubt that the latter is the more proper one. An independent political existence for the Provinces is now an accomplished fact. They have a sphere of activity in which they have an authority of their own. The whole scheme of reforms is opposed to the subordination of the Provincial Governments to the Central. The chief executive of the Province is not a nominee of the head of the Central Government. He is the representative of the Crown in the Province and not of the Governor-General. The constitution is a pluralistic constitution and there is nothing to suggest the view that while within India the constitution is to be treated as plural, conferring distinct powers on each, it is to be treated by the Imperial Government as a unitary constitution with a single responsible Government.

116. What are the matters in which the right of Provincial Governments to deal directly with the Home Government can be recognised ? Following the role prevalent in the case of the Australian Commonwealth that in matters in which the Crown is concerned solely in its capacity as part of the constitution of a Government, communications proceed directly between the State Governor and the Colonial Office without the intervention of the Governor-General, it must be claimed on behalf of the Provincial Governments that they shall have the right to deal with the Home Government directly without the intervention of the Central Government. The

matters in which it must have such a right must include the reservation, the allowance and disallowance of provincial legislation, the appointment and removal of Provincial Governors and their instructions, the amendment of provincial constitutions and other matters which exclusively belong to the Provincial Governments. What about matters which do not exclusively belong to either Government ? I suggest that in cases in which the Central Government has paramount power of legislation, the Central Government is the sole representative of India. But as to matters within concurrent jurisdiction of the Central and Provincial Government, the Provincial Government must have a right to direct representation.

117. To make the political existence of the Provinces as an entity independent of the Government of India a reality, the representation of the Crown in the Provincial Executive and the Provincial Legislature should be made more manifest than it is at present Under the existing law the Secretary of State has placed the Crown quite in the background and has in fact usurped its place. The office of the Secretary of State for India is analogous to the office of the Secretary of State for Colonies. But the two play quite different roles. The Secretary of State for Colonies occupies no place in the constitutional law of the Dominions. The constitutional laws of all the Dominions are emphatic in their declaration that their Executive and Legislative Government is vested in the Crown. Section 2 of the Government of India Act gives a definite legal status to the Secretary of State. So prominent is the position given to the Secretary of State that he has altogether eclipsed the Crown. Indeed, except for a passing reference in Section 1 there is no mention of the Crown anywhere in the Government of India Act. The reasons for this are no doubt historical and go back to the passing of the Regulation Act of 1773 when the East India Company disputed the right of the Crown to the possessions it had acquired in the East. Whatever be the historical differences the fact remains that the Dominion laws do not recognise the Secretary of State while the Indian law does. The result is that the Secretary of State for Colonies does not govern the Dominions. His duty is to advise the Crown to allow or disallow particular acts of the Dominion Governments. The Secretary of State on the other hand is not merely the adviser of the Crown. By Section 2 of the Government of India Act he has been given the fullest powers of government.

118. The provisions contained in Section 2 cannot be justified under any circumstance. They are derogatory to the position of the Crown and are a perversion of the true position of a Secretary of State. They gave a false picture of the position of the Provincial Governments. Whatever might have been the justification of the provisions in Section 2 before 1919 the changes introduced in that year have removed it altogether. The powers of government having been transferred to the people it is no longer possible to retain those powers in the hands of the Secretary of State. To do so would be to introduce a system of double government fraught with

the possibilities of serious conflict. I therefore recommend that section (*2*) of the Government of India Act should be deleted and two new sections of the following tenor should be added :—

(1) The Legislative power of the Province shall be vested in a Provincial Parliament which will consist of the King and a Council of the King and a Council of Representatives and which is hereinafter called "The Provincial Legislature".

(2) The Executive power of the Province is vested in the King and is exercisable by the Governor as the King's representative and extends to the execution and maintenance of the constitution and of the laws of the Province.

Sections of similar import regarding the position of the Crown in the Government of India should be added to Act of 1919. Such a change will not only help to place the Crown and the Secretary of State in their true position, but they will also help to bring the constitutional law of India in line with the constitutional law of the Dominions.

SECTION V

PUBLIC SERVICES

I. Reorganisation of Services

119. *Separation of Services.*—The present organisation of the public services in India is the outcome of the recommendations of the Aitchison Commission which inquired into the Public Service of India in 1886-87. Prior to the appointment of the Commission the great bulk of the civil posts of higher responsibility and emoluments were filled by recruits from Europe and that Commission was expressly directed to suggest measures which would "do full justice to the claims of natives of India to higher and more extensive employment in the Public Service" of their country. The Commission held the view that the Civil Service should be only "a Corps d'elite" and consequently recommended that the recruitment of officials in England should be substantially reduced and the higher appointments so set free transferred to a service locally recruited in India. As a result of these recommendations officers recruited in England formed Imperial Services and the officers locally recruited formed the Provincial Services. The conditions of appointments in regard to pay, leave and pension of officers belonging to the two services were to be fixed on independent grounds and were not necessarily to have any relation to each other. This division into Imperial and Provincial obtains in most of the Civil Services of the country which it is needless to detail. What is important to bear in mind is that the division was made to distinguish officers recruited in England and officers recruited in India and not as might be understood from the description, in order to distinguish officers placed under the Government of India and liable to serve all over India from officers placed under Local Governments and liable to serve only in specified provinces. For instance the officers belonging to the Provincial services in the Telegraph (Engineering) and the Survey of India are directly under the Government of India and not confined to any particular province while officers in the Imperial Service in the Education and the Police Departments are allotted to different provinces. In my opinion time has arrived when each Province should be free to organise its own civil service. For this the All-India character of the services must cease. There should be Central Civil Service recruited and maintained in response to its own needs by the Central Government to run various departments which are handed over

to it by the Government of India without imposing upon its members the liability to serve under any of the Provincial Governments. Similarly there should be a Provincial Civil Service recruited and maintained in response to its own needs by every Provincial Government exclusively for its own employment. This recommendation cannot be said to involve any substantial change in the system. For although members of the Imperial Service and Provincial Service are liable to serve in any part in India, their All-India character is only nominal. For the cases in which a member of the Civil Service whether Imperial or Provincial has been called upon to serve in a Province different from the one in which he was originally posted are few. Almost all of them continued to work to the end in the same Province in which they were placed in the beginning. That being the case the reform which I have suggested will involve no change. It will only recognise facts as they exist.

120. The grounds on which I press for this reform in the organisation of the Civil Service are many. First of all such a separation of the services into those which are Central in the sense that they are in the employment of the Government of India and those which are Provincial in the sense that they are in the employment of the Provincial Government has this immense advantage, namely that it is a reform which is eminently called for by the change in the character of the Provincial Government. If the present system was continued, ministerial responsibility would be difficult of realisation. Public Servants in India according to Section 96(B) of the Government of India Act no doubt hold their position during the pleasure of the Crown. But it must be remembered that the Act does not allow the Ministers the power to decide when His Majesty should be pleased to remove him from office. Although that power is given to the authority who appoints him yet the dismissed officer has been given a right of appeal to the Secretary of State. Not only the Minister has no right of dismissing an officer, but he cannot even punish him with impunity, because it is provided in the Act that if any officer appointed by the Secretary of State in Council thinks himself wronged by an order of an official superior in a Governor's Province he has a right to complain to the Governor and the Governor by the Act as well as by the instrument of instructions is bound to inquire and pass such an order as may appear to him just and equitable. These provisions must make any Minister, however strong he may be, quite helpless against a recalcitrant member of the Civil Service who refuses to carry out the policy for which the Minister is responsible to the legislature in accordance with its wishes. Ministerial responsibility requires that a Minister shall have power effectively to deal with an erring officer working under him. He must also have the power to decide how many officers he must have and to what particular post any of them might be appointed. The existing provisions do not permit him any of the powers he must stand in sore need of. This anomaly was recognised by the Lee Commission which was appointed soon after the reforms were introduced. That Commission

recommended that no further recruitment should take place in the transferred departments on an All-India basis and the personnel required for them should in future be recruited and appointed by Provincial Governments. As a result of this recommendation Provinces have been empowered to frame rule for the recruitment of officers who will take the place of the existing All-India Service Officers in these services operating in the transferred department when the latter vacate. The reform I have suggested is merely an extension of the same principle which the necessities of the case have compelled the authorities to accept. The extension cannot now be delayed for the reason that under a fully responsible system of Government the distinction between Reserved and Transferred will have vanished.

121. The second advantage of a separate and independent Provincial Civil Service will be the liberty it will give to the Provincial Governments to alter the cadre of the services belonging to the Province. The draw-back of the All-India system is that a Minister who is satisfied that there are several superfluous posts ordinarily held by the members of the All-India Service and a larger number the duties of which can be and in the temporary vacancies have been efficiently discharged by the more moderately paid officers of the Provincial Services, and who might therefore be convinced of abolishing such a post or transferring it to the cadre of a Provincial Service finds himself powerless to do so. For, under the Act he has no such power. All that he can do is to let such post remain in abeyance or to let an officer of the Provincial Service concerned officiate for a lengthened period. But even here his powers are limited. For, under the rules he cannot do this beyond fixed number of months without the sanction of the Secretary of State. This is a very serious limitation arising out of the All-India Organisation of the Services in that it prevents the attainment of the ends of economy for which the Reformed Council has been clamouring from its very inception.

122. These are not the only advantages of an independent system of Provincial Civil Service. The All-India character of the service imposes upon the provinces a uniformity in the conditions of employment in, relation to pay, leave allowances, promotions and pensions. I contend that such uniformity must work great hardships upon the resources of comparatively poor Provinces. They are obliged to pay more for the service than they can reasonably afford. Nor can it be said that uniform scale of salary in all Provinces is necessary to ensure equality in the standard of living. It is notorious that owing to differences in local conditions the same standards of comfort can be had in two different Provinces on quite different salary. If that is the case there is no reason why should uniformity in pay be enforced when such uniformity is either burdensome or unjust.

123. The requirement of uniformity in the conditions of service also arises directly out of the All-India character of the Civil Service and it will not vanish unless the service ceases to have that character. The constitution of an independent Provincial Civil Service is a means for accomplishing

this end and should be welcomed particularly when its accomplishment can reduce the cost of administration and give the Provinces full liberty to manage its own affairs. This of course means that the position of the Secretary of State *vis-a-vis* the Provincial Governments in the matter of recruitment to the public service must be radically altered. The Secretary of State instead of being the general employer and the Provincial Government indenting upon him for the number of hands necessary for work in their provinces, the Secretary of State in those cases where the recruitment in England is necessary should merely act as the agent of particular provinces concerned, on the terms prescribed by the Provincial Government and not on the terms formulated by himself. The Provinces should henceforth cease as authorities utilising the service of persons lent to them or found for them, so to say, by the Secretary of State. So long such a system continues the Secretary of State is bound to claim the powers which he now enjoys under Section 96B of the Government of India Act. Much is said by the Ministers against the powers retained by the Secretary of State over the Civil Service on the ground that they make responsible government impossible. That criticism is perfectly valid. But those who urged this criticism do not seem to be aware of the fact that these powers can be taken away only when the Secretary of State ceases to be the recruiting officer.

124. If this reform of separation of services is carried into effect, I should like to suggest the following classification of the Provincial Civil Service : —

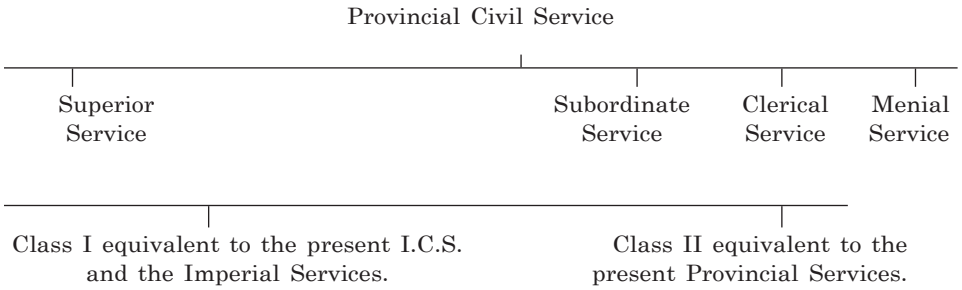

125. *Recruitment Agency for the Provincial Civil Service.*—The next question that arises for consideration relates to the agency that should be in charge of matters pertaining to the recruitment to the Provincial Civil Service when the Secretary of State has ceased to perform that function. I accept that the Civil Service in order that it may be free from the evil effects of political influence and jobbery should be recruited and controlled by an authority independent of the Ministers. I am not, however, prepared to say that a Provincial Civil Service Commission could be instituted to take charge of this kind of work. On financial considerations alone the proposal seems to be too big. However, I agree with the suggestion that in every province there should be a full-time officer specially charged with the

consideration of service matters. He should be a liaison officer between the Public Service Commission and the Local Government.

II. Indianisation of the Services

126. (i) *Recruitment of Indians.*—The case for Indianisation was accepted by the Islington Commission in 1915. Its relation to the success of the Reforms was emphasised by the authors of the Joint Report and the Lee Commission gave effect to it by defining the proportion between the Indians and the Europeans in the different services. There is, therefore, no necessity to argue the case for Indianisation *de novo.* All that is necessary to say is that during the interval that elapsed between the appointment of the Islington Commission and the appointment of Lee Commission the angle of vision regarding this question had completely altered. In the days of the Islington Commission the question was, "How many Indians should be admitted into the Public Services ?" At the time of the Lee Commission it had become, "what is the minimum number of Englishmen which must still be recruited ?" I am glad to say that the Lee Commission gave full recognition to this altered angle of vision. What is now necessary is to determine the necessary changes in the principles which were taken by the Lee Commission for framing the proportions of Indians and Europeans so as to accelerate the pace of Indianisation. The consideration that should, in my opinion, govern the proportions is the requirement of a Department and the merits of qualified Indians to run them. If this consideration were adopted the proportions settled by the Lee Commission will have to be altered in favour of Indians in all departments except Law and Order, Forest and other Technical Departments.

127. (ii) *Payment of Indians.*—I press for Indianisation not only on its own merits but also because of its potential effects on the finances of the Province. For, I hope that Indianisation can be made to yield economy in administration. I have not been personally able to see why equality of pay to Indians and Europeans should be regarded as a necessary consequence of membership of an All-India Service. Looking to the question from the standpoint of merit I have been convinced that there is no logical justification for equal remuneration for both classes of public servants. One class consists of a body of public servants exiled from their own home and posted in a country thousands of miles away in which they do not think that they can properly educate their children or maintain their health. Conditions such as these which compel them to maintain dual establishments at a standard of living admittedly high are considerations which do not apply to those civil servants who have their domicile in India. In contrast to their European colleagues they are working in a country in which they are living free from the difficulties of dual establishments not exposed to ill-health owing to climatic considerations and accustomed to a comparatively low standard of living. The financial burden they are obliged to carry is obviously less pressing than is the case with their European colleagues. If this difference

between personal risk and sacrifices involved in the performance of their service is admitted, then in my opinion, there is no logical justification for paying them on the same basis. Indeed, if the total position of the two classes of public servants in India be compared then one thing is certain. That if the present salary of European officers is adequate then it is beyond dispute that the Indian officers are overpaid. If, however, the contention is that the Indian officers are not overpaid then it follows that the European officers are underpaid. Whichever view is taken the present practice of equal pay to Indians and Europeans gives rise to a position which is quite unsatisfactory. I have no hesitation in saying that under the present practice of equal payment whether or not the European is adequately paid his Indian colleagues is certainly overpaid. That being my view I am anxious to see that the scale of salary of public servants with Indian domicile is lower. This argument, I am sure, cannot fail to appeal to every Indian who examines the financial position of the different Provincial Governments and the serious embarrassments in which each is placed by reason of the high proportion of expenditure which is devoted to the payment of emoluments to public servants. There are some Indians I know who object to this principle of inequality in salaries. Be it noted that these objections come from those classes of Indians from which the Civil Service is largely recruited, and who claim to be the leaders of the country. Theirs is a contemptible little argument without any substance in it. It has no substance because inequality in status is not a necessary consequence of inequality in pay. It is contemptible because it is based on self-interest. I for myself am in favour of increasing Indianisation mainly because of the large promise of economy which it holds out.

128. (iii) *Indianisation and the claims of the Backward Classes.*—It is notorious that the Public Services of the country in so far as they are open to Indians have become by reason of various circumstances a close preserve for the Brahmins and allied castes. The Non-Brahmins, the Depressed Classes and the Mohamedans are virtually excluded from them. They are carrying on an intense agitation for securing to themselves what they regard as a due share of the Public Services. With that purpose in view they prefer the system of appointment by selection to the system of appointment by open competition This is vehemently opposed by the Brahmins and the allied castes on the ground that the interests of the State require that efficiency should be the only consideration in the matters of appointment to public offices and that caste and creed should count for nothing. Relying upon educational merit as the only test which can be taken to guarantee efficiency, they insist that public offices should be filled on the basis of competitive examinations. Such a system it is claimed serves the ends of efficiency without in any way prohibiting the entry of the Backward Classes in the Public Services. For the competitive examination being open to all castes and creeds it leaves the door open to a candidate from these communities if he satisfied the requisite test.

129. The attitude of the Brahmin and allied castes towards this question has no doubt the appearance of fairness. The system of competitive examination relied upon may result in fairness to all castes and creeds under a given set of circumstances. But those circumstances presuppose that the educational system of the State is sufficiently democratic and is such that facilities for education are sufficiently widespread and sufficiently used to permit all classes from which good public servants are likely to be forthcoming to complete. Otherwise even with the system of open competition large classes are sure to be left out in the cold. This basic condition is conspicuous by its absence in India, so that to invite Backward Classes to rely upon the results of competitive examination as a means of entry into the Public Services is to practise a delusion upon them and very rightly the Backward Classes have refused to be deceived by it.

130. Assuming therefore that the entry of the Backward Classes in the Public Services cannot be secured by making it dependent upon open competition, the first question that arises for consideration is, have the Backward Classes a case for a favoured treatment ? Unless they can make good their case they cannot expect any modification of the accepted principles of recruitment by considerations other than those of efficiency pure and simple. In regard to this important question I have no hesitation in stating that the Backward Classes have a case which is overwhelming.

131. First of all those who lay exclusive stress upon efficiency as the basis for recruitment in public services do not seem to have adequate conception of what is covered by administration in modern times. To them administration appears to be nothing more than the process of applying law as enacted by the legislature. Beyond question that is a very incomplete understanding of its scope and significance. Administration in modern times involves far more than the scrutiny of statutes for the sake of knowing the regulations of the State. Often times under the pressure of time or from convenience a government department is now-a-days entrusted with wide powers of rule-making for the purpose of administering a particular law. In such cases it is obvious that administration cannot merely consist in applying the law. It includes the making up of rules which have the force of law and of working them out. This system of legislation by delegation has become a very common feature of all modern governments and is likely to be on the increase in years to come. It must be accepted as beyond dispute that such wide powers of rule-making affecting the welfare of large classes of people cannot be safely left into the hands of the administrators drawn from one particular class which as a matter of fact is opposed to the rest of the population in its motives and interests, does not sympathise with the living forces operating in them, is not charged with their wants, pains, cravings and desires and is inimical to their aspirations, simply because it comes out best by the test of education.

132. But even assuming that administration involves nothing more than the process of applying the law as enacted by the legislature it does not in

the least weaken the case of the Backward Classes. For, officers who are drawn from a particular caste and in whose mind consciousness of caste sits closer than conscientious regard to public duty, may easily prostitute their offices to the aggrandizement of their community and to the detriment of the general public. Take the ordinary case of a Mamlatdar, administering the law relating to the letting of Government lands for cultivation. He is no doubt merely applying the law. But in applying he may pick and choose the lessees according to his predilection and very possibly may decide against lessees on grounds which may be communal in fact although they may be non-communal in appearance. Take another illustration of an officer placed in charge of the census department in which capacity he is called upon to decide questions of nomenclature of the various communities and of their social status. An officer in charge of this department by reason of his being a member of particular caste in the course of his administration may do injustice to a rival community by refusing to it the nomenclature or the status that belongs to it. Instances of favouritism, particularly on the grounds of caste and creed are of common occurrence though they are always excused on some other plausible ground. But I like to quote one which pertains to the Vishwakarmans of the Madras Presidency. It is related in their letter to the Reforms Enquiry Committee of 1924 in which they complained that "a Brahmin member of the Madras Executive Council Sir (then Mr.) P. Siwaswami Ayyar—when he was in charge of the portfolio of law, issued a Government Order objecting to the suffix 'Acharya' usually adopted by the Vishwakarmans in their names and seeking to enforce in its place the word 'Asry', which is weighed with common odium. Though there was neither necessity nor authority to justify the action taken by the law member, the Government Order was published by the law department as if on the recommendation of the Spelling Mistakes Committee. It happened to our misfortune that the non-official members of this Committee were drawn largely from the Brahmin community, who never knew how to respect the rights of their sister communities and never informed us of the line of action that they were decided upon. It was dealt more or less as the star in the dark."

133. This is inevitable. Class rule must mean rule in terms of class interests and class prejudices. If such results are inevitable then it must raise a query in the minds of all honest people whether efficient government has also given us good government ? If not, what is the remedy ? My view is that the disadvantages arising from the class bias of the officers belonging to Brahmin and allied castes has outweighed all the advantages attending upon their efficiency and that on the total they have done more harm than good. As to me remedy, the one I see is a proper admixture of the different communities in the public service. This may perhaps import a small degree of inefficiency. But it will supply a most valuable corrective to the evils of class bias. This has become all the more necessary because of the social struggles that are now going on in the country. The struggles between the

Brahmins and the non-Brahmins, between Hindus and Mohamedans, between Touchables and Untouchables for the destruction of all inequalities and the establishment of equality, with all their bitterness, cannot leave the judges, magistrates, civil servants and the police without being influenced in their judgment as to the right or wrong of these struggles. Being members of the struggling communities they are bound to be partisans, with the result that there may be a great loss in the confidence reposed by the public in their servants.

134. So far I have considered the case of the Backward Classes on grounds of administrative utility. But there are also moral grounds why entry into the public service should be secured to them. The moral evils arising out of the exclusion of a person from the public service were never so well portrayed as by the late Mr. Gokhale. In the course of a telling speech he observed, "The excessive costliness of the foreign agency is not however its only evil. There is a moral evil, which, if anything, is even greater. A kind of dwarfing or stunting of the Indian race is going on under the present system. We must live all the days of our life in an atmosphere of inferiority and tallest of us must bend in order that the exigencies of the existing system may be satisfied. The upward impulse, if I may use such an expression, which every school-boy at Eton or Harrow may feel that he may one day be a Gladstone, a. Nelson, or a Wellington, and which may draw forth the best efforts of which he is capable, is denied to us. The full height to which our manhood is capable of rising can never be reached by us under the present system. The moral elevation which every self-governing people feel cannot be felt by us. Our administrative and military talents must gradually disappear, owing to sheer disuse, till at last our lot, as hewers of wood and drawers of water in our own country, is stereotyped." Now what one would like to ask those who deny the justice of the case of the Backward Classes for entry into the Public Service is whether it is not open to the Backward Classes to allege against the Brahmins and allied castes all that was alleged by the late Mr. Gokhale on behalf of Indian people against the foreign agency ? Is it not open to the Depressed Classes, the non-Brahmins and the Mohamedans to say that by their exclusion from the Public Service a kind of dwarfing or stunting of their communities is going on ? Can they not complain that as a result of their exclusion they are obliged to live all the days of their lives in an atmosphere of inferiority, and that the tallest of them has to bend in order that the exigencies of the existing system may be satisfied ? Can they not assert that the upward impulses which every school-boy of the Brahmanical community feels that he may one day be a Sinha, a Sastri, a Ranade or a Paranjpye, and which may draw forth from him the best efforts of which he is capable is denied to them ? Can they not indignantly assert that the full height to which their manhood is capable of rising can never be reached by them under the present system ? Can they not lament that the moral elevation which every self-governing people feel cannot be felt by them and that their

administrative talents must gradually disappear owing to sheer disgust till at last their lot as hewers of wood and drawers of water in their own country is stereotyped ? The answers to these queries cannot but be in the affirmative. If to exclude the advanced communities from entering into public service of the country was a moral wrong, the exclusion of the backward communities from the same field must also be a moral wrong, and if it is a moral wrong it must be righted.

135. These are the considerations which lead me to find in favour of the Backward Classes. It will be noticed that these considerations are in no way different from the considerations that were urged in favour of Indianisation. The case for Indianisation, it must be remembered, did not rest upon efficient administration. It rested upon considerations of good administration. It was not challenged that the Indian was inferior to the European in the qualities that go into the make-up of an efficient administrator. It was not denied that the European bureaucracy had improved their roads, constructed canals on more scientific principles, effected transportation by rail, carried their letters by penny post, flashed their messages by lightning, improved their currency, regulated their weights and measures, corrected their notions of geography, astronomy and medicine, and stopped their internal quarrels. Nothing can be a greater testimony to the fact that the European bureaucracy constituted the most efficient government possible. All the same the European bureaucracy, efficient though it was, was condemned as it was found to be wanting in those qualities which make for human administration. It is therefore somewhat strange that those who clamoured for Indianisation should oppose the stream flowing in the direction of the Backward Classes, forgetting that the case for Indianisation also includes the case for the Backward Classes. Be that as it may, I attach far more importance to this than I attach either to Provincial Autonomy or to complete responsibility in the Provincial Executive. I would not be prepared to allow the devolution of such large powers if I felt that those powers are likely to fall in the hands of any one particular community to the exclusion of the rest That being my view I suggest that the following steps should be taken for the materialisation of my recommendations : —

(1) A certain number of vacancies in the Superior Services, Class I and Class II, and also in the Subordinate Services, should every year be filled by system of nomination with a pass examination. These nominations should be filled on the recommendation of a select committee composed of persons competent to judge of the fitness of a candidate and working in conjunction with the Civil Service officer referred to above. Such nominations shall be reserved to the Depressed Class, the Mohamedans and the Non-Brahmins in the order of preference herein indicated until their numbers in the service reach a certain proportion.

(2) That steps should be taken to post an increasing number of officers belonging to these communities at the headquarters.

(3) That a Central Recruitment Board should be constituted as a central agency for registering all applications for appointments and vacancies and putting applicants in touch with the offices where vacancies exist or occur from time to time. It is essential to put the man and the job in touch if this desire is to be achieved. The absence of such a Board is the reason why the efforts of the Government of Bombay in this connection have not achieved the success which was expected of them.

SECTION VI

SUMMARY OF RECOMMENDATIONS

SECTION I

There should be no separation of Karnatak or Sind from the Bombay Presidency.

SECTION II

Chapter 1.—There should be complete responsibility in the Provincial executive subject to the proviso that if members of the Legislature resolve to make it a reserved subject effect shall be given to their resolution.

Chapter 2.—Under no circumstances should the executive be made irremovable. There shall be no communal representation in the executive. Ministers should be amenable to courts of law for illegal acts. The constitution should provide for the impeachment of Ministers. There should be joint responsibility in the executive. The executive should be presided over by a Prime Minister and not by the Governor.

Chapter 3.—The Governor should have the position of a constitutional head. He should have no emergency powers.

SECTION III

Chapter 1.—There should be adult franchise.

Chapter 2.—The Legislature should be wholly elective. All class and communal electorates should be abolished except for Europeans. Reserved seats should be provided for Mohamedans, Depressed Classes and Anglo-Indians and to the Non-Brahmins only if the franchise continues to be a restricted one.

Chapter 3.—The Legislature should consist of 140 members. Of these Mohamedans should have 33 and the Depressed Classes 15. The under-representation of certain districts and the over-representation of others should be rectified on the basis of population. There should be a Committee to adjust seats between different classes and interests. The requirement of a residential qualification for a candidate should be removed.

Chapter 4.—Lucknow Pact is not a permanent settlement and cannot prevent consideration of the question arising out of it afresh and on their own merits.

Chapter 5.—There should be no second chamber in the Province.

Chapter 6.—The Legislature should have the power of appointing and removing the President, of defining its privileges and regulating its procedure. Sections 72D and 80C of the Government of India Act should be removed from the Statute. The Legislature should have the power to move "a motion of non-confidence". The Legislature should have the power to alter the constitution subject to certain conditions.

SECTION IV

Chapter 1.—There should be complete Provincial autonomy. The division of functions between Central and Provincial should be reconsidered with a view to do away with the control of Central Government now operating through the system of previous sanction and subsequent veto.

Chapter 2.—Within the limits fixed by the functions assigned to the Provincial Government the relations between that Government and the Home Government should be direct and not through the medium of the Central Government. Section 2 of the Government of India Act should be deleted as it obscures the position of the Crown in relation to the governance of India.

SECTION V

There should be a distinct Provincial Civil Service and the Secretary of State should cease altogether to perform the function of a recruiting agency. His functions regarding the Services may be performed by a Provincial Civil Service Commission or by an officer acting conjointly with the Public Service Commission of India. Indianisation of Services should be more rapid. Its pace should vary with the nature of the different departments of State. Indianisation should be accompanied by a different scale of salary and allowances. In the course of Indianisation of the services arrangement should be made for the fulfilment of claims of the backward classes.

17th May 1929 B.R. AMBEDKAR

APPENDIX

(Refer footnote on page 339)

Extracts from the Report of the Board of Education of the Bombay Presidency for the year 1850-51

System adopted by the Board based on the views of Court of Directors

"*Paragraph 5.* Thus, the Board of Education at this Presidency, having laid down a scheme of education, in accordance with the leading injunctions of Despatches from the Honourable Court, and founded not more on the opinions of men who had been attentively considering the progress of education in India, such as the Earl of Auckland, Major Candy and others, than on the openly declared wants of the most intelligent of the natives themselves, the Board, we repeat, were informed by your Lordship's predecessor in Council that the process must be reversed."

* * * * *

Views of Court on the expediency of educating the upper classes

"*Paragraph 8.* Equally wise, if we may be permitted to use the expression, do the indications of the Honourable Court appear to us to be as to the quarters to which Government education should be directed, and specially with the very limited funds which are available for this branch of expenditure. The Honourable Court write to Madras in 1830 as follows : ' The improvements in education, however, which most effectively contribute to elevate the moral and intellectual condition of a people are those which concern the education of the higher classes — of the persons possessing leisure and natural influence over the minds of their countrymen. By raising the standard of instruction amongst these classes you would eventually produce a much greater and more beneficial change in the ideas and the feelings of the community than you can hope to produce by acting directly on the more numerous class. You are, moreover, acquainted with our anxious desire to have at our disposal a body of natives qualified by their habits and acquirements to take a larger share and occupy higher situations in the civil administration of their country than has been hitherto the practice under our Indian Government.' Nevertheless, we hear on so many sides, even from those who ought to know better of the necessity and facility for educating the masses, for diffusing the arts and sciences of Europe amongst the hundred or the hundred and forty millions (for numbers count for next to nothing) in India, and other like generalities indicating cloudy notions on the subject, that a bystander might almost be tempted to suppose the whole resources of the State were at the command of Educational Boards, instead of a modest pittance inferior in amount to sums devoted to a single establishment in England."

* * * * *

Conclusion that no means exist for educating the masses

"*Paragraph 14.* It results most clearly from these facts, that if sufficient funds are not available to put 175 vernacular schools into due state of organisation, and to give a sound elementary education to 10,730 boys, all

question as to educating 'the masses', the 'hundred and forty millions', the 900,000 boys in the Bombay Presidency disappears. The object is not one that can be attained or approximated to by Government, and Educational Boards ought not to allow themselves to be distracted from a more limited practical field of action by the visionary speculations of uninformed benevolence."

Views of Court of Directors as to the best method of operation with limited means

"*Paragraph 15*. The Honourable Court appear to have always kept the conclusion which has been arrived at in the last paragraph very distinctly in view. Perceiving that their educational efforts to improve the people could only be attempted on a very small scale, they have deemed it necessary to point out to their different Governments the true method of producing the greatest results with limited means. We have already cited their injunctions to the Madras Government on this head (paragraph 7), and their despatch to the Government on the same date enforces sentiment of exactly the same import : ' It is our anxious desire to afford to the higher classes of the natives of India the means of instruction in European sciences and of access to the literature of civilised Europe. The character which may be given to the classes possessed of leisure and natural influence ultimately determines that of the whole people.' "

Inquiry as to Upper Classes of India

"*Paragraph 16*. It being then demonstrated that only a small section of the population can be brought under the influence of Government education in India, and the Honourable Court having in effect decided that this section should consist of the 'upper classes', it is essential to ascertain who these latter consist of Here it is absolutely necessary for the European inquirer to divest his mind of European analogies which so often insinuate themselves almost involuntarily into Anglo-Indian speculations. Circumstances in Europe, especially in England, have drawn a marked line, perceptible in manners, wealth, political and social influence, between the upper and lower classes. No such line is to be found in India, where, as under all despotisms, the Will of the Prince was all that was requisite to raise men from the humblest condition in life to the highest station, and where, consequently, great uniformity in manners has always prevailed. A beggar, according to English notions, is fit only for the stocks or compulsory labour in the workhouse ; in India he is a respectable character and worthy indeed of veneration according to the Brahminical theory, which considers him as one who has renounced all the pleasures and temptations of life for the cultivation of learning and undisturbed meditation on the Deity."

Upper Classes in India

"*Paragraph 17*. The classes who may be deemed to be influential and in so far the upper classes in India, may be ranked as follows : —

1st. The landowners and jaghirdars, representatives of the former

feudatories and persons in authorities under Native powers, and who may be termed the Soldier class.

2nd. Those who have acquired wealth in trade or commerce or the commercial class.

3rd. The higher employees of Government.

4th. Brahmins, with whom may be associated though at long interval those of higher castes of writers who live by the pen such as Parbhus and Shenvis in Bombay, Kayasthas in Bengal, provided they acquire a position either in learning or station."

Brahmins the most Influential

"Paragraph 18. Of these four classes incomparably the most influential, the most numerous and on the whole easiest to be worked on by the Government, are the latter. It is a well-recognised fact throughout India that the ancient Jaghirdars or Soldier class are daily deteriorating under our rule. Their old occupation is gone, and they have shown no disposition or capacity to adopt a new one, or to' cultivate the art of peace. In the Presidency the attempts of Mr. Elphinstone and his successors to bolster up a landed aristocracy have lamentably failed ; and complete discomfiture has hitherto attended all endeavours to open up a path to distinction through civil honours and education to a race to whom nothing appears to excite but vain pomp and extravagance, of the reminiscences of their ancestors' successful raids in the plains of Hindusthan, nor among the commercial classes, with a few exceptions, is there much greater opening for the influences of superior education. As in all countries, but more in India than in the higher civilized ones of Europe, the young merchants or trader must quit his school at an early period in order to obtain the special education needful for his vocation in the market or the counting house. Lastly the employees of the state, though they possess a great influence over the large numbers who come in contact with Government, have no influence, whatever, with the still larger numbers who are independent of Government; and, indeed, they appear to inspire the same sort of distrust with the public as Government functionaries in England, who are often considered by the vulgar as mere hacks of the state."

Poverty of Brahmins

"*Paragraph 19.* The above analysis, though it may appear lengthy, is nevertheless, indispensable, for certain important conclusions deducible from it. First, it demonstrates that the influential class whom the Government are able to avail themselves of in diffusing the seeds of education are the Brahmins and other high castes Brahmannis proximi. But the Brahmins and these high castes are for the most part wretchedly poor; and in many parts of India the term Brahmin is synonymous with 'beggar' "

Wealthy classes will not at present support superior education

"*Paragraph 20.* We may see, then, how hopeless it is to enforce what your Lordship in Council so strongly enjoined upon us in your letter of the 24th April, 1850,— what appears, *prima facie,* so plausible and proper in

itself — what in fact, the Board themselves have very often attempted, viz., the strict limitation of superior education ' to the wealthy, who can afford to pay for it, and to youths of unusual intelligence.' The invariable answer the Board has received when attempting to enforce a view like this, has been, that the wealthy are wholly indifferent to superior education and that no means for ascertaining unusual intelligence amongst the poor exist until their faculties have been tested and developed by school training. A small section from among the wealthier classes is no doubt displaying itself, by whom the advantages of superior education are recognised, it appears larger in Bengal, where education has been longer fostered by Government, than in Bombay, and we think it inevitable that such class must increase, with the experience that superior attainments lead to distinction, and to close intercourse with Europeans on the footing of social equality ; but as a general proposition at the present moment, we are satisfied that the academical instruction in the arts and sciences of Europe cannot be based on the contributions either of students or of funds from the opulent classes of India."

Question as to educating low castes

"*Paragraph 21.* The practical conclusion to be drawn from these facts which years of experience have forced upon our notice, is that a very wide door should be opened to the children of the poor higher castes, who are willing to receive education at our hands. But here, again, another embarrassing question arises, which it is right to notice : If the children of the poor are admitted freely to Government Institutions what is there to prevent all the despised castes — the Dheds, Mhars, etc., from flocking in numbers to their walls ?"

Social Prejudices of the Hindus

"*Paragraph 22.* There is little doubt that if a class of these latter were to be formed in Bombay they might be trained, under the guiding influence of such Professors and masters as are in the service of the Board, into men of superior intelligence to any in the community ; and with such qualifications, as they would then possess, there would be nothing to prevent their aspiring to the highest offices open to Native talent — to Judgeships, the Grand Jury, Her Majesty's Commission of the Peace. Many benevolent men think it is the height of illiberality and weakness in the British Government to succumb to the prejudices which such appointments would excite into disgust amongst the Hindu community, and that an open attack should be made upon the barriers of caste."

Wise observations of the Honourable Mount Stuart Elphinstone cited

"*Paragraph 23.* But here the wise reflections of Mr. Elphinstone, the most liberal and large minded administrator who has appeared on this side of India, point out the true rule of action. 'It is observed,' he says, 'that the missionaries find the lowest caste the best pupils ; but we must be careful how we offer any special encouragement to men of that description ; they are not only the most despised but among the least numerous of the

great divisions of society and it is to be feared that if our system of education first took root among them, it would never spread further, and we might find ourselves at the head of a new class, superior to the rest in useful knowledge, but hated and despised by the castes to whom these new attainments would always induce us to prefer them. Such a state of things would be desirable, if we were contented to rest our power on our army or on the attachment of a part of the population but is inconsistent with every attempt to found it on a more extended basis.' "

B

STATEMENT

concerning the state of education of the Depressed Classes in the Bombay Presidency

submitted by

Dr. Bhimrao R. Ambedkar, M.A., PH.D. . D.SC, BAR-AT-LAW
Member of the Legislative Council, Bombay

on behalf of the

Bahishkrita Hitakarini Sabha

(Depressed Classes Institute of Bombay)

to the

Indian Statutory Commission

29th May 1928

Damodar Hall
Parel, Bombay-12
INDIA

N.B.—**In this statement the expressions Backward Classes and Depressed Classes are used interchangeably.**

I. From 1813 to 1854

1. Education under the British Rule in the Bombay Presidency must be said to have begun with the foundation of the Bombay Education Society in 1815. That Society did not continue its efforts to the education of European children. Native boys were encouraged to attend its schools at Surat and Thana and at the beginning of 1820 four separate schools for natives had been opened in Bombay and were attended by nearly 250 pupils. In August of the same year further measures were taken to extend native education. A special committee was appointed by the Society to prepare school-books in the Vernacular Languages and to aid or establish vernacular schools. But the wide scope of the undertaking was soon seen to be beyond the aims of a society established mainly for the education of the poor; and in 1822 the committee became a separate corporation, thenceforth known as the *Bombay Native School-book and School Society* which name was in 1827 changed into the *Bombay Native Education Society*. The Honourable Mount Stuart Elphinstone was the new Society's first President. The Vice-Presidents were the Chief Justice and the three members of the Executive Council of the Bombay Government; and the managing committee consisted of twelve European and twelve native gentlemen, with Captain George Jervis R.E., and Mr. Sadashiv Kashinath Chhatre as Secretaries. The Society started its work with a grant of Rs. 600 per mensem from the Government. As early as 1825 the Government of Bombay had along side begun to establish primary schools at its own expense in district towns and had placed them under the control of the Collectors. To co-ordinate the activities of these two independent bodies there was established in 1840 a Board of Education composed of six members, 3 appointed by Government and 3 appointed by the Native Education Society. This Board was in charge of the Education Department till the appointment of the Director of Public Instruction in 1855.

2. On the 1st March 1855 when the Board was dissolved there were in the Presidency of Bombay under the charge of the Board 15 English Colleges and schools having 2,850 students on the Register and 256 vernacular schools having 18,888 students on the Register. In the same report it is stated by the Board :

> "24. In August [1855] we received a petition from certain inhabitants of Ahmednagar, praying for the establishment of *a school for the education of low castes* and engaging to defray one-half the teacher's salary, in accordance with the terms of the late rules. A school room had been built by the petitioners and the attendance of boys was calculated at thirty. The establishment of such a school was opposed to the prejudices of the richer and higher castes, and there was some difficulty in procuring a teacher on a moderate salary, but as the application was made in strict accordance with the conditions stated in the late notification on the subject, we readily complied with the request, and the school was opened in November. *We merely mention the subject, as it is the first occasion on which we have established a school for these castes."* (Italics not in the original).

3.The statement by the Board that this was the first occasion when a school for the low castes was established in this Presidency naturally raises the question what was the policy of the British Government in the matter of the education of the Depressed classes before 1855 ? To answer this question it is necessary to have a peep into the history of the educational policy of the British Government in this Presidency from 1813 to 1854. It must be admitted that under the Peshwa's Government the Depressed classes were entirely out of the pale of education. They did not find a place in any idea of state education, for the simple reason that the Peshwa's Government was a theocracy based upon the canons of Manu, according to which the Shudras and Atishudras (classes corresponding to the Backward classes of the Education Department), if they had any right to life, liberty and property, had certainly no right to education. The Depressed classes who were labouring under such disabilities naturally breathed a sigh of relief at the downfall of this hated theocracy. Great hopes were raised among the Depressed classes by the advent of the British Rule. Firstly because it; was a democracy which they thought believed in the principle of one man one value, be that man high or low. If it remained true to its tenets, such a democracy was a complete contrast to the theocracy of the Peshwa. Secondly the Depressed classes had helped the British to conquer the country and naturally believed that the British would in their turn help them, if not in a special degree, at least equally with the rest.

4. The British were for a long time silent on the question of promoting education among the native population. Although individuals of high official rank in the administration of India were not altogether oblivious of the moral duty and administrative necessity of spreading knowledge among the people of India, no public declaration of the responsibility of the state in that behalf was made till the year 1813 when by section 43 of the Statute 53 George IV chap. 155, Parliament laid down that " one of the surplus revenues of India a sum of not less than one lakh of rupees in each year shall be set apart and applied to the revival and improvement of literature and the encouragement of the learned natives of India, and for the introduction and promotion of a knowledge of sciences among the inhabitants of British territories in India etc." This statutory provision however did not result in any systematic effort to place the education of the natives upon a firm and organized footing till 1823. For the Court of Directors in their despatch dated 3rd June 1814 to the Governor-General in Council, in prescribing the mode of giving effect to section 43 of the statute of 1813 directed that the promotion of Sanskrit learning amongst the Hindus would fulfil the purposes which Parliament had in mind. But what a disappointment to the Depressed classes there was when systematic efforts to place the education of the natives upon a firm and organized footing came to be made ! ! For the *British Government deliberately ruled that education was to be a preserve for the higher classes.* Lest this fact should be regarded as a fiction, attention is

invited to the following extracts from the Report of the Board of Education of the Bombay Presidency for the year 1850-51 :

System adopted by the Board based on the views of Court of Directors.

"Paragraph 5th. Thus the Board of Education at this Presidency having laid down a scheme of education, in accordance with the leading injunctions of Despatches from the Honourable Court, and founded not more on the opinions of men who had been attentively considering the progress of education in India, such as the Pearl of Auckland, Major Candy and others, than on the openly declared wants of the most intelligent of the natives themselves, the Board, we repeat, were informed by your Lordship's predecessor in Council that the process must be reversed.

Views of Court on the expediency of educating the upper classes.

"Paragraph 8th. Equally wise, if we may be permitted, to use the expression, do the indications of the Hon. Court appear to us to be as to the quarters to which Government education should be directed, and specially with the very limited funds which are available for this branch of expenditure. The Hon. Court write to Madras in 1830 as follows : '*The improvements in education, however, which most effectively contribute to elevate the moral and intellectual condition of a people, are those which concern the education of the higher classes—of the persons possessing leisure and natural influence over the minds of their countrymen. By raising the standard of instruction amongst these classes you would eventually produce a much greater and more beneficial change in the ideas and the feelings of the community than you can hope to produce by acting directly on the more numerous class. You are, moreover, acquainted with our anxious desire to have at our disposal a body of natives qualified by their habits and acquirements to take a larger share and occupy higher situations in the civil administration of their country than has been hitherto the practice under our Indian Government.*' Nevertheless, we hear on so many sides, even from those who ought to know better of the necessity and facility for educating the masses for diffusing the arts and sciences of Europe amongst the hundred or the hundred and forty millions (for number count for next to nothing) in India, and other like generalities indicating cloudy notions on the subject, that a bystander might almost be tempted to suppose the whole resources of the State were at the command of Educational Boards, instead of a modest pittance inferior in amount to sums devoted to single establishment in England.

Retrospect of Principal Educational facts during the last ten years necessary.

"Paragraph 9th. The arguments adduced in the few last paragraphs appear to show that a careful examination of the real facts, and an analysis of the principal phenomena which have displayed themselves in the course of educational proceedings in the Presidency, would not be without their uses, if made with sufficient industry and impartiality to ensure confidence, and with a firm determination to steer clear of bootless controversy and all speculative inquiries. The present epoch, also, appears

especially to command itself for such a retrospect, as in 1850 the second decenial period commenced, during which the Schools of the Presidency have come under exclusive control of a Government Board ; and it is obvious that as a considerable body of information ought now to have been accumulated, and as the majority of the present members have bad seats at the Board during the greater portion of that time, they would fain hope that by recording their experience, they may shed some light on certain obscure but highly interesting questions, which are certain to arise from time to time before their successors at this Board.

A uniform system developing itself spontaneously both in Bengal and Bombay.

"Paragraph 10th. We now proceed to give as minute a detail as comports with our limits, of the principal educational facts which have forced themselves upon our notice, and we think it will clearly appear, when those facts are duly appreciated, that many of the disputed questions, which arise in the Indian field of education, will be seen to solve themselves, and that a system is generally evolving itself in other Presidencies as well as in Bombay, which is well suited to the circumstances of the country, and which, as the growth of spontaneous development, denotes that general causes are at work to call it forth.

Statistics of education in Bombay.

Paragraph 11th. In the return on the following page, a comparative view is given of the number of schools and of pupils receiving education under Government at the period when the Establishments first came under the control of the Board, in 1840 and in April 1850. It shows, in the latter period, an addition of four English and 83 vernacular schools and a general increase in pupils of above a hundred per cent. The total number receiving Government education at present is 12,712 in the following proportions : —

English Education	...	...	1,699
Vernacular Education	...	...	10,730
Sanskrit Education	...	...	283

[comparison from tables : in 1840 there were 97 schools; number of pupils 5,491. In 1850, number of schools 185 and number of pupils 12,712.]

Same subject.

"Paragraph 12th. But the population of the Bombay Presidency is now calculated by the most competent authorities to amount to ten millions. Now on applying the rule of statistics deduced from the Prussian census as noticed in a former Report, (1842-43, page 26) a population of this amount will be found to containing fewer than 900,000 male children between the ages of seven and fourteen years and of course, fit subjects for school. It follows, therefore, that Government at this Presidency has not been able to afford an opportunity for obtaining education to more than one out of every sixty-nine boys of the proper school going age.

Same subject.

"Paragraph 13th. Further, it is admitted that education afforded in the Vernacular School is far from efficient. A great portion of the strictures of Mr. Willoughby's Minute is directed against the defective character and insignificant results of these schools. The Board, not only acknowledge this fact, but they have been studious to point it out prominently for many years past, and indeed, in the opinion of some competent observers, have drawn too unfavourable a picture of the vernacular schools. But what are the obvious remedies for the defects indicated ? Mr. Willoughby describes them very correctly : 'a superior class of school masters, normal schools, more efficient supervision, additions to the vernacular literature.' These are all subjects, however, which have occupied the attention of the Board for many years past, and as to which not a step can be made in advance without additional expenditure. But we are given to understand from the letter of your Lordship in Council that' it is not probable the Government will have the power, for a considerable time to come, to afford the Board additional pecuniary assistance.'

Conclusion that no means exist for educating the masses.

"Paragraph 14th. It results most clearly from these facts, that if sufficient funds are not available to put 175 vernacular schools into a due state of organisation, and to give a sound elementary education to 10,730 boys, all question as to educating 'the masses', the 'hundred and forty millions', the 900,000 boys in the Bombay Presidency disappears. The object is not one that can be attained or approximated to by Government; and Educational Boards ought not to allow themselves to be distracted from a more limited practical field of action by the visionary speculations of uninformed benevolence.

Views of Court of Directors as to the best method of operation with limited means.

"Paragraph 15th. The Hon. Court appear to have always kept the conclusion which has been arrived at in the last paragraph very distinctly in view. Perceiving that their educational efforts to improve the people could only be attempted on a very small scale, they have deemed it necessary to point out to their different Governments the true method of producing the greatest results with limited means. We have already cited their injunctions to the Madras Government on this head (Para 7) and their despatch to the Government on the same date enforces sentiment of exactly the same import : '*It is our anxious desire to afford to the higher classes of the Natives of India the means of instruction in European sciences and of access to the literature of civilized Europe. The character which may be given to the classes possessed of leisure and natural influence ultimately determines that of the whole people.*'

Inquiry as to upper classes of India.

"Paragraph 16th. It being then demonstrated that only a small section of the population can be brought under the influence of Government education in India, and *the Hon'ble court having in effect decided that this section should consist of the 'upper classes', it is essential to ascertain who these latter*

consist of. Here it is absolutely necessary for the European inquirer to divest his mind of European analogies which so often insinuate themselves almost involuntarily into Anglo-Indian speculations. Circumstances in Europe, especially in England have drawn a marked line, perceptible in manners, wealth, political and social influence, between the upper and lower classes. No such line is to be found in India, where, as under all despotisms, the Will of the Prince was all that was requisite to raise men from the humblest condition in life to the highest station and where, consequently great uniformity in manners has always prevailed. A beggar, according to English notions, is fit only for the stocks or compulsory labour in the work-house ; in India he is a respectable character and worthy indeed of veneration according to the Brahminical theory, which considers him as one who has renounced all the pleasures and temptations of life for the cultivation of learning and undisturbed meditation on the Deity.

Upper classes in India.

"Paragraph 17th. The classes who may be deemed to be influential and in so far the upper classes in India, may be ranked as follows :

1st. The landowners and jaghirdars, representatives of the former feudatories and persons in authorities under Native powers, and who may be termed the Soldier class.

2nd. Those who have acquired wealth in trade or, commerce or the commercial class.

3rd. The higher *employees* of Government.

4th. Brahmins, with whom may be associated though at long interval those of higher castes of writers who live by the pen such as Parbhus and Shenvis in Bombay, Kayasthas in Bengal, provided they acquire a position either in learning or station.

Brahmins the most influential.

"Paragraph 18th. Of these four classes incomparably the most influential, the most *numerous,* and on the whole easiest to be worked on by the Government, are the latter. It is a well-recognized fact throughout India that the ancient Jaghirdars or Soldiers class are daily deteriorating under our rule. Their old occupation is gone, and they have shown no disposition or capacity to adopt new one, or to cultivate the art of peace. In the Presidency the attempts of Mr. Elphinstone and his successors to bolster up a landed aristocracy have lamentably failed; and complete discomfiture has hitherto attended all endeavours to open up a path to distinction through civil honours and education to a race to whom nothing appears to excite but vain pomp and extravagance, of the reminiscences of their ancestors' successful raids in the plains of Hindusthan, nor among the commercial classes with a few exceptions, is there much greater opening for the influences of superior education. As in all countries, but more in India than in the higher civilized ones of Europe, the young merchants or trader must quit his school at an early period in order to obtain the special education needful for his

vocation in the market or the counting house. Lastly the employees of the state, though they possess a great influence over the large numbers who come in contact with Government, have no influence, whatever, with the still larger numbers who are independent of Government; and, indeed, they appear to inspire the same sort of distrust with the public as Government functionaries in England, who are often considered by the vulgar as mere hacks of the state.

Poverty of Brahmins.

"Paragraph 19th. *The above analysis, though it may appear lengthy, is nevertheless, indispensable, for certain important conclusions deducible from it. First, it demonstrates that the influential class whom the Government are able to avail themselves of in diffusing the seeds of education are the Brahmins and other high castes Brahmannis proxmi.* But the Brahmins and these high castes are for the most part wretchedly poor; and in many parts of India the term Brahmin is synonymous with 'beggar'.

Wealthy classes will not at present support superior education.

"Paragraph 20th. We may see then, how hopeless it is to enforce what your Lordship in Council so strongly enjoined upon us in your letter of the 24th April 1850,—what appears, *prima facie,* so plausible and proper in itself—what in fact, the Board themselves have very often attempted, viz. the strict limitation of superior education 'to the wealthy, who can afford to pay for it, and to youths of unusual intelligence.' The invariable answer the Board has received when attempting to enforce a view like this, has been, that the wealthy are wholly indifferent to. superior education and that no means of ascertaining unusual intelligence amongst the poor exist until their faculties have been tested and developed by school training. A small section from among the wealthier classes is no doubt displaying itself, by whom the advantages of superior education are recognized, it appears larger in Bengal, where education has been longer fostered by Government, than in Bombay, and we think it inevitable that such class must increase, with the experience that superior attainments lead to distinction, and to close intercourse with Europeans on the footing of social equality; but as a general proposition at the present moment, we are satisfied that the academical instructions in the arts and sciences of Europe cannot be based on the contributions either of students or of funds from the opulent classes of India.

Question as to educating low castes.

"Paragraph 21st. *The practical conclusion to be drawn from these facts which years of experience have forced upon our notice, is that a very wide door should be opened to the children of the poor higher castes, who are willing to receive education at our hands. But here, again, another embarrassing question arises, which it is right to notice : If the children of the poor are admitted freely to Government Institutions what is there to prevent all the despised castes—the Dheds, Mhars etc., from flocking in numbers to their walls* ?

Social Prejudices of the Hindus.

"Paragraph 22nd. *There is a little doubt that if a class of these latter were to be formed in Bombay they might be trained, under the guiding influence of such Professors and masters as are in the service of the Board, into men of superior intelligence to any in the community; and with such qualifications, as they would that possess, there would be nothing to prevent their aspiring to the highest offices open to Native talent*—to Judgeships, the Grand Jury, Her Majesty's Commission of the Peace. *Many benevolent men think it is the height of illiberality and weakness in the British Government to succumb to the prejudices which such appointments would excite into disgust amongst the Hindu community, and that an open attack should be made upon the barriers of caste.*

Wise observations of the Hon Mount Stuart Elphinstone cited.

"Paragraph 23rd. *But here the wise reflections of Mr. Elphinstone, the most liberal and large-minded administrator who has appeared on this side of India, point out the true rule of action. 'It is observed,' he says, 'that the missionaries find the lowest castes the best pupils; but we must be careful how we offer any special encouragement to men of that description; they are not only the most despised, but among the least numerous of the great divisions of society and it is to be feared that if our system of education first took root among them, it would never spread further, and we might find ourselves at the head of a new class, superior to the rest in useful knowledge, but hated and despised by the castes to whom these new attainments would always induce us to prefer them. Such a state of things would be desirable, if we were contented to rest our power on our army or on the attachment of a part of the population but is inconsistent with every attempt to found it on a more extended basis.' "*

5. It is, therefore, obvious that if no schools were opened for Depressed classes before 1855 in the Bombay, Presidency it was because the deliberate policy of the British Government was to restrict the benefits of education to the poor higher castes chiefly the Brahmins. Whether this policy was right or wrong is another matter. *The fact, however, is that during this period the Depressed classes were not allowed by Government to share in the blessings of education.*

II. From 1854 to 1882

6. In their Despatch No. 49 of 19th July 1854 the Court of Directors observed : "Our attention should now be directed to a consideration, if possible, still more important, and one which has hitherto, we are bound to admit, too much neglected, namely, how useful and practical knowledge, suited to every station in life, may be best conveyed to the great mass of the people who are utterly incapable of obtaining any education worthy of the name by their own efforts ; and we desire to see the active measures of Government more especially directed, for the future, to this object, for

the attainment of which we are ready to sanction a considerable increase of expenditure." This despatch is very rightly regarded as having laid the foundation of mass education in this country. The results of this policy were first examined by the Hunter Commission on Indian Education in 1882. The following figures show what was achieved during the period of 28 years :

Primary Education

1881-82

	No. of scholars at school	Per cent on total
Christians	1,521	.49
Brahmins	63,071	20.17
Other Hindus	2,02,345	64.69
Mohamedans	39,231	12.54
Parsis	3,517	1.12
Aboriginal and Hill Tribes	2,713	.87
Low caste Hindus	2,862	.87
Jews and others	373	.12

Secondary Education

1881-82

		Middle Schools		High Schools	
		No of scholars at schools	P.c. on total No. of scholars	No. of scholars at schools	P.c. on total No. of scholars
Christians		1,429	12.06	111	2.26
Brahmins		3,639	30.70	1,978	40.29
Other Hindus	Cultivators	624	5.26	140	2.85
	Low castes	**17**	**.14**	..	..
	Other castes	3,823	32.25	1,573	32.04
Mohamedans		687	5.80	100	2.04
Parsis		1,526	12.87	965	19.66
Aboriginal and Hill Tribes ..		**6**	**.05**	..	..
Others (including Jews etc.) ..		103	.87	92	.86

Collegiate Education

1881-82

		No. of scholars	P. c. on total No. of scholars
Christians		14	3
Brahmins		241	50
Other Hindus	Cultivators	5	1
	Low castes	0	0
	Other castes	103	21.3
Mohamedans		7	1.5
Parsis		108	21.5
Aboriginal and Hill Tribes		0	0
Others (including Jews etc.)		2	0.4

7. What do these figures show ? *They show that although mass education was the policy of the Government the masses were as outside the pale of education as they were before the year 1854 and that the lowest and aboriginal classes of the Hindus still remained lowest in order of education; so much so that in 1881-82 there was no student from that community either in the High Schools or in the Colleges of this Presidency*. What can this failure to bring the Depressed classes to the level of the rest in the matter of education be due to ? To answer this question it is necessary again to go into the history of the educational policy of the Government of this Presidency.

8. The Despatch of the Court of Directors of the year 1854, for the first time recognized after a lapse of full 40 years that the duty of the state was to undertake the education of the great mass of the people. But there were still die-hards who had great misgivings as to the wisdom of the principle laid down in that Despatch and who were agitating for a reversal of that policy. The fears of dire consequences to the British Rule arising from elevating the Backward classes above their station in life still haunted men like Lord Ellenborough, President of the Board of Control who in a letter to the Chairman of the Court of Directors dated 28th of April 1858 did not hesitate to strike the following note of caution :

> "Gentlemen : Many letters have been lately before me reviewing the state of education in different parts of India under the instructions sent by the Court of Directors in 1854, and I confess that they have not given me the impression that the expected good has been derived from the system which was then established, while all the increase of charge which might have been expected appears to be in progress of realization.
>
> * * * * *
>
> "Paragraph 11. I believe we rarely, if ever induce parents of the lower class to send their children to our schools, and we should practically, if we succeeded in extending education as we desire, give a high degree of mental cultivation to the labouring class, while we left the more wealthy in ignorance.
>
> "Paragraph 12. This result would not tend to create a healthy state of society. Our Government could not offer to the most educated of the lower class the means of gratifying the ambition we should excite.
>
> "Paragraph 13. We should create a very discontented body of poor persons, having, through the superior education we had given to them, a great power over the mass of the people.
>
> "Paragraph 14. *Education and civilization may descend from the higher to the inferior classes, and so communicated may impart new vigour to the community, but they will never ascend from the lower classes to those above them; they can only, if imparted solely to the lower classes, lead to general convulsion, of which foreigners would be the first victims.*
>
> "Paragraph 15. *If we desire to diffuse education, let us endeavour to give it to the higher classes first.*

"Paragraph 16. These are but two ways of doing this — by founding colleges to which the higher classes alone should be admitted, and by giving in the reorganization of the army, commissions at once, to such sons of native gentlemen as may be competent to receive them."

9. This antipathy of the European officers towards the untouchable classes was finally corrected by the Secretary of State for India in his despatch of 1859 which again reiterated the responsibility of Government for mass education.

10. Singular as it may appear *the recognition by the Government of its responsibility for mass education conferred upon the Depressed classes a benefit only in name*. For, although, schools were opened for the masses in the various districts the question of the admission of the Depressed classes to these schools had yet to be solved. Such a question did practically arise in the year 1856. But the decision of the Government was not favourable to the Depressed classes as will be seen from the following extracts from the Report of the Director of Public Instruction for the Bombay Presidency for the year 1856-57 :

"Paragraph 177. *Schools for Low castes and wild tribes*. There are no low class schools established directly by Government, and the supreme Government has expressed disapproval of such schools. The ordinary schools entirely supported by the state are in theory open indifferently to all castes. In the course of observation of my Report 1855-56 the Government issued the following order : "*The only case as yet brought before Government in which the question as to the admissions of the pupils of the lowest class to Government schools has been raised, was that of a Mahar boy on whose behalf a petition was submitted in June 1856, complaining that though willing to pay the usual schooling fee, he had been denied admission to the Dharwar Government School.*

"On this occasion Government felt a great practical difficulty which attended the adjudication of a question in which their convictions of abstract right would be in antagonism to the general feelings of the mass of the natives, for whose enlightenment, to the greatest possible extent, the Government Educational Department has been established; and *it was decided as will appear from the Resolution* passed at the time with some hesitation, that it would not be right for the sake of a single individual, the only Mahar*

*Text of the Resolution passed by Government on the 21st July 1856 :—

1. The question discussed in the correspondence is one of very great practical difficulty.

2. There can be no doubt that the Mahar petitioner has abstract justice on his side ; and Government trust that the prejudices which at present prevent him from availing himself of existing means of education in Dharwar may be erelong removed.

3. But Government are obliged to keep in mind that to interfere with the prejudices of ages in a summary manner, for the sake of one or few individuals, would probably do a great damage to the cause of education. The disadvantage under which the petitioner labours is not one which has originated with this Government, and it is one which Government summarily remove by interfering in his favour, as he begs them to do.

who had ever come forward to beg for admission into a school attended only by the pupils of castes and to force him into association with them, at the probable risk of making the institution practically useless for the great mass of natives."

The proceedings of the Government of Bombay in this matter were noticed in the following terms by the Government of India, in a letter No. 111 dated 23rd January 1857 :

"Governor-General in Council thinks it very probable that the Bombay Government has acted wisely in the matter; but it desires me (i.e. Secretary to the Government of India) to say that the boy would not have been refused admission to any Government school in the Presidency of Bengal."*

On receipt of this letter it was resolved that Government of India should be assured that this Government would be most unwilling to neglect any means of rendering the schools throughout the country less exclusive than they practically are in the matter of caste; provided this could be effected without bringing the Government school into general disrepute, and thus destroying their efficiency and defeating the object for which they were intended. It was also determined that an enquiry should be made as to the practical working of the principle which was said to prevail in Bengal as affecting the general usefulness of the Government schools.

11. Inquiries as to the practice prevalent in Bengal revealed that the Bengal authorities contrary to the supposition of the Government of India had left it to the District Committees of Instructions to grant or refuse admittance to candidates of inferior castes, with reference to the state of local native feeling in each case. *The result of this was that the Depressed classes were left in the cold because the touchable classes would not let them sit at the fire of knowledge which the Government had lit up in the interest of all its subjects.*

12. Under these circumstances mass education as contemplated by the Despatch of 1854 was in practice available to all except the Depressed classes. The lifting of the ban on the education of the Depressed classes in 1854 was a nominal affair only. For, although the principle of non-exclusion was affirmed by the Government its practical operation was very carefully avoided; so that we can say that the ban was continued in practice as before.

The only agency which could take charge of the education of the Depressed classes was that of Christian missionaries. In the words of Mount Stuart Elphinstone they "found the lowest classes the best peoples". But the

*In a Despatch No. 58 dated April 28th, 1858 the Court of Directors passed the following order on this subject: "The educational institutions of Government are intended by us to be open to all classes, and we cannot depart from a principle which is essentially sound, and the maintenance of which is of first importance. It is not impossible that, in some cases, the enforcement of the principle may be followed by a withdrawal of a portion of the scholars; but it is sufficient to remark that those persons who object to its practical enforcement will be at liberty to withhold their contributions and apply their funds to the formation of schools on a different basis."

Government was pledged to religious neutrality and could not see its way to support missionary schools, so much so that no pecuniary grant was made in this Presidency to any missionary school in the early part of this period although the Educational Despatch of 1854 had not prohibited the giving of grants to missionary schools.

13. To find a way out of this *impasse* the Government adopted two measures : (1) The institution of separate Government schools for low caste boys, and (2) The extension of special encouragement to missionary bodies to undertake their education by relaxing the rules of grants-in-aid. Had these two measures not been adopted the education of the Depressed classes would not have yielded the results, most meagre as they were, at the stocktaking by the Hunter Commission in 1882.

III. From 1882 to 1928

14. After the year 1882 the year 1923 forms the next landmark in the educational history of the Bombay Presidency. That year marks the transfer of primary education from the control of Provincial Governments to the control of local bodies. It will therefore be appropriate to take stock of the position as it stood in 1923. The position of the different communities in the Bombay Presidency in 1923 in the matter of educational advancement may be summed up in a tabular form as follows :

Classes* of Population in the Presidency			Order in respect of population	Order in respect of education		
				Primary	Secondary	Collegiate
Advanced Hindus	..	..	4th	1st	1st	1st
Intermediate Hindus	..	..	1st	3rd	3rd	3rd
Backward Hindus	..	..	2nd	4th	4th	4th
Mahomedans	..	..	3rd	2nd	2nd	2nd

15. From this table one notices a great disparity in the comparative advancement of these different communities in the matter of education. Comparing these classes of people according to the order in which they stand in respect of their population and according to the order in which they stand in respect of their educational progress, we find that the Inter mediate class, which is first in order of population is third in order of college education, third in order of secondary education and third in order of primary education. The Depressed classes who are second in order of population, stand fourth i.e., last in order of college education, last in order of

*The Education Department of the Government of Bombay has divided the population of this Presidency for departmental purposes into four different classes. In one of them are put the Brahmins and allied castes, who are collectively called "Advanced Hindus". The Marathas and allied castes are put in a separate class called the "Intermediate Hindus". The rest of the population comprising the Depressed classes; hill tribes and the crimina tribes are placed in a class by themselves and are designated by the term "Backward class". To these three classes there is to be added a fourth class which comprises the Mahomedans of the Presidency and Sind.

secondary education and last in order of primary education. The Mahomedans who are third in order of population are second in order of college education, second in order of secondary education and second in order of primary education; while the "Advanced Hindus" who occupy the fourth place in order of population stand first in order of college education, first in order of secondary education and first in order of primary education. From this we can safely say that in this respect there has been no improvement over the situation as it stood in 1882 relatively speaking.

16. The above statement which is based upon the Report of the Director of Public Instruction, Bombay Presidency for the year 1923-24 merely reveals the disparity that exists in the educational advancement of the different communities. But the disparity in the level of education among the different communities would be a very small matter if it be not very great. We can form no important conclusion unless we know the degree of disparity. To make the position clear from this point of view the following table is presented :

TABLE

Classes of Population	Primary Education, Students per 1,000 of the population of the class	Secondary Education, Students per 100,000 of the population	College Education, Students per 200,000 of the population
Advanced Hindus	119	3,000	1,000
Mahomedans	92	500	52
Intemediate class	38	140	14
Backward class	18	14	Nil (or nearly one if at all).

17. The above figures give the lengths as it were by which each community is a head of the rests in the matter of primary, secondary and collegiate education. They reveal a range of disparity between the different communities in this Presidency which shows that the position of some of the communities in the matter of education is most shocking. *From the statistics as given above two facts stand out to be indisputable.* (1) *That the state of education of the Backward classes in this Presidency is deplorable. In the matter of population they occupy a place as high as second. But in the matter of Education they occupy a place which is not only last but which also is the least;* (2) *That the Mahomedans of the Presidency have made enormous strides in education; so much so that within the short span of 30 years they have not only stolen a march over other communities such as the Intermediate and the Backward class, but have also come close to the Brahmins and allied castes.*

18. What can this be due to ? To the policy of unequal treatment adopted by the Government must again be our reply to this ever present question. How unequal was the treatment of the two classes will be evident

from the following extracts from the Quinquennial Reports on Education. With regard to the treatment of the Mahomedans in the matter of education the following observations in the third Quinquennial Report (1892-96) are noteworthy :

> "Concerning the figures for Mahomedan Education in Bombay,..... the Director remarks that the increase would have been larger ' but for adverse circumstances'. It has long been recognized in Bombay that Mahomedans make a larger use of Public Institutions than the rest of the population..... On the general question of what has been done to encourage Mahomedan education, the Director writes :
>
> 'In the first place, a Mahomedan officer is appointed to every District, either as Deputy or Assistant Deputy Inspector; and we have three Mahomedan graduates as Deputies, at Kaira, Sholapur and Hyderabad, while a fourth has been drafted into the higher grades of the Revenue Department. There is thus not a District where the staff is out of touch with the Mahomedan population. Again at Bombay, Karachi and Junagadh [a Muhammadan State in Kathiawar], special efforts have been made to provide High Schools for Muhammadans with low fee rates, and smaller schools have been opened by other Anjumans (Muhammadan associations) elsewhere. The Department also provides for their benefit special standards and maintains special schools in certain localities, and reserves for them one-third of the Provincial and Local Boards scholarships. Then, there are the special scholarships founded by Khan Bahadur Kazi Shahbuddin [at one time Diwan of Baroda]; and in Sindh a certain number of food scholarships have been given by the heir of the Native State of Khairpur for students attending in Arts College. (I had great difficulty in filling these up last year, though they are of the value of Rs. 25 a month). In Primary schools, Muhammadans are very leniently treated in the matter of fees. They are encouraged to come to the Training Colleges by special rules which require from them an easier test than from Hindus ;..... The Joint Schools Committee at Bombay has lately made special efforts to encourage Muhammadan education by the appointment of a Muhammadan Deputy Inspector.....' "

19. Compare with this the observations regarding the education of the Depressed classes in the fifth Quinquennial Report (1902-07) :

> "*959*. Bombay—In the Central division of Bombay the low caste children are admitted free into schools and receive presents in the form of books, slates etc..... In Kathiawar only three children of the Depressed castes are receiving education. In the Southern division there are 72 special schools or classes of them, most of which are under unqualified teachers."

20. This unequal treatment has its origin in the recommendations of the Hunter Commission. How partial was the Hunter Commission to the Mahomedans will be evident if we compare the recommendations it made

in their behalf to those it made in the interests of the Depressed classes. With respect to the Mahomedans the Commission made seventeen recommendations of which the following are worthy of note : —

(1) that the special encouragement of Mahomedan education be regarded as a ligitimate charge on local, on Municipal, and on Provincial funds.

(7) that higher English education for Mahomedans, being the kind of education in which that community needs special help, be liberally encouraged.

(8) that where necessary graduated system of special scholarships for Mahomedans be established to be awarded (*a*) in primary schools and tenable in middle schools ; (*b*) in middle schools, and tenable in high schools; (*c*) on the results of Matriculation and. First Arts examinations, and tenable in colleges also.

(9) that in all classes of schools maintained from public funds a certain proportion of free studentship be expressly reserved for Mahomedan students.

(10) that in places where educational endowments for the benefit of Mahomedans exist and are under the management of Government the funds arising from each endowment be devoted to the advancement of education among the Mahomedans exclusively.

(11) that where Mahomedans exist, and are under the management of private individuals or bodies, inducements by liberal grants-in-aid be offered to them to establish English teaching schools or colleges on the grant-in-aid system.

(12) that, where necessary, the Normal Schools or classes for the training of Mahomedan teachers be established.

(14) that Mahomedan inspecting officers be employed more largely than hitherto for the inspection of primary schools for Mahomedans.

(17) that the attention of Local Governments be invited to the question of the proportion in which patronage is distributed among educated Mahomedans and others.

21. Everyone of these recommendations made by the Hunter Commission was necessary in the interests of the Depressed classes also. But when we come to analyse the recommendations made by the Commission in the interests of the Backward classes we do not find them directing that education of the Backward classes be regarded a legitimate change on Government funds, that scholarships and proceedings be reserved for them, that special inspecting staff be kept to look after their educational needs or that public patronage be given to them by way of encouraging the growth of education amongst them. All that we find the Commission saying is that (1) the principle that "no boy be refused admission to a Government College or School merely on the ground of caste," be now reaffirmed as a principle and be applied with due caution to every institution, not reserved for special

races, which is wholly maintained at the cost of public funds, whether provincial, municipal or local, (2) that the establishment of special schools or classes for children of low castes be liberally encouraged in places where there are a sufficient number of such children to form separate schools or classes and where the schools already maintained from public funds do not sufficiently provide for their education. As a matter of fact the recommendations made by the Commission for the Mahomedans were far more necessary in the interests of the Backward classes than in the interests of the Mahomedans. For even the Hunter Commission, presided as it was by a chairman of pronounced sympathies for the Mahomedans, had to admit that "the inquiries made in 1871-73 went to prove that except in the matter of the higher education there had been a tendency to exaggerate the backwardness of the Mahomedans." Notwithstanding this the only recommendations made by the Hunter Commission were the two mentioned above. Even these two recommendations made by the Commission regarding the Depressed classes were not calculated to do much good. They were bound to be futile. The reaffirmation of the principle even if it be for the fifth time was useless. For under the proviso inserted by the Commission the enforcement was to be avoided in practice. Similarly the opening of the separate schools for the Depressed classes was hardly possible which again was bound to be sterile. Separate schools involving additional expense could hardly be acceptable to a Government to which primary education was a task. Besides the proviso that such schools should be opened *where Backward classes were in large numbers* was sufficient to negative the recommendations simply because in rural parts the Backward classes can seldom be found to be living in one locality in large numbers.

22. It is difficult to understand why the Hunter Commission paid such a scan attention to the educational needs of the Backward classes. If it felt necessary to be generous towards the Mahomedans, it should have at least seen that it was just to the Backward classes who were far behind the Mahomedans in education, wealth and social status. Once the Hunter Commission had thrown the Depressed classes into the background they remained there and the Government never paid any attention to them. As an example of this neglect, attention may be drawn to the Resolution of the Government of India in the Department of Education dated Delhi the 21st February 1913. It was one of the most important resolutions ever issued by the Government of India in which they decided "to assist local Government by means of large grants from imperial revenues as funds became available, to extend comprehensive systems of education in the several provinces ". In that Resolution they were particular to point out to the Provincial Government the educational needs of " Domiciled community" and the Mahomedan community. But they had not a word to say in the whole Resolution about the Backward classes. The Bombay Government readily accepted the suggestion and appointed in 1913 a Mahomedan on Education Committee to make recommendations for the promotion of

education among the Mahomadans. One feels righteous indignation against such criminal neglect on the part of the Government particularly when it is realized that the large grants given by the Government of India after 1913 were given by way of fulfilment of the declaration made by His most Gracious Imperial Majesty the King Emperor in replying to the address of the Calcutta University on the 6th January 1912 in which he said :

> "It is my wish that there may be spread over the land a network of schools and Colleges, from which will go forth loyal and manly and useful citizens, able to hold their own in industries and agriculture and all the vocations in life. And it is my wish too, that the homes of my Indian subjects may be brightened and their labour sweetened by the spread of knowledge with all that follows in its train, a higher level of thought, of comfort and health. It is through education that my wish will be fulfilled, and the cause of education in India will ever be very close to my heart."

IV. From 1923 and after

23. The Reforms Act came into force in 1921. Education was made a transferred subject in charge of a minister and a rapid advance in education was naturally expected at his hands. The Backward classes had, however, their doubts as to whether any benefit would accrue to them from the transfer of education to the control of the ministers. Already they had suffered in the matter of education at the hand of the bureaucracy. In the first period of existence the bureaucracy did not permit them to receive the benefits of education. In the second period the bureaucracy did not help them to get education. All the same the bureaucracy was too much enlightened to deny the principle that the Backward classes had a right to education. The Backward classes were not prepared to predicate the same enlightenment of the Indian intelligentsia which was struggling to replace the bureaucracy. As the Indian intelligentsia had its roots in the part in which the Backward class had no recognized rights, the latter were apprehensive that the past may again be made to live in the present.

24. Unfortunately their doubts came true and it may be truly said that under the Reforms the Backward classes in the Bombay Presidency have fallen from purgatory to hell. This may appear to be a very strong commentary on the existing situation. But the situation for in Backward classes of the Bombay Presidency created by the Compulsory Primary Education Act (Bombay Act No. IV of 1923) can hardly be described in any other words. The Compulsory Primary Education Act is in a very important sense a "fraud". It was claimed for the Act, it was calculated to change the character of the primary education from being voluntary to compulsory. The Act does nothing of the kind. A reference to section 10 of the Act is sufficient to expose the "fraud". The system is as voluntary as it was before and will remain so indefinitely. For, not only there is no obligation to make it compulsory, but there is even no time limit fixed within which to fulfil the obligation. Apart from this the Compulsory Primary Education Act has

made a most extravagant change in the administrative machinery for the control of Primary Education. Hitherto the control and management of Primary Education was entrusted to the Provincial Government and the whole of the expenditure on primary education was defrayed out of Provincial revenues except a small grant by the Local Boards amounting to one-third of their revenue from certain defined sources. Under the Compulsory Primary Education Act the position is reversed. The control and management of Primary Education is now entrusted to District School Boards (which are committees of District Local Boards) and instead of the Local Boards giving grants to the Provincial Government the Provincial Government is required to give a grant to the District School Board. Such extravagant and wild was the spirit in which this change was conceived that the Act gives to these School Boards power to appoint its own executive officer—a privilege which is denied even to such an advanced Corporation as the Municipality of Bombay.

25. The Sabha think that this change is a most revoluntionary change and is bound to be detrimental to the best interest of the Presidency and particularly of the Backward classes. It must be borne in mind that the vital necessity of education has not been realized by all the classes of the population. The popular belief is that education is nobody's concern except that of the Brahmins. It is only a few, who have taken to politics, that care for the spread of education. The School Board must be drawn from the many uniformed villagers who being brought up in the tradition that education is the concern of the Brahmins only must be indifferent to it and are bound to be opposed to make it compulsory. Education if it is to be efficiently administered must for some time to come, remain with the Provincial Government under the direct control of the Legislative Council where the few politicals who know the necessity of education are likely to be. The transfer of education from the Education Department to the School Boards, therefore, means transfer from well-trusted quarters to unworthy hands. But if the transfer is harmful to the progress of education in general, it is detrimental to the interests of the Backward classes in particular. It must be borne in mind that although there may be some doubts as to whether the generality of the people do or do not believe in education, one thing is certain that they do not believe in the education of the Backward classes. As to the attitude of the higher classes towards the extension of elementary education to the lower classes of the community the Hunter Commission observed : " Several witnesses have replied that positive hostility is shown to the admission of low caste boys to school. A Madras witness mentions the case of a school for Cherumans, the ancient slave caste, being established at Calicut, but the Nayars and Tiyas used to waylay the boys as they went to school and snatch their books out of their hands..... *In our discussion on this subject it was brought to our notice that in some parts of the Central Provinces and of Bombay special objections were*

entertained by the rural communities to the instruction of low castes on the ground that education would advance them in life and induce them to seek emancipation from their present servile condition. In his report for the year 1896-97 the Director of Public Instruction, Bombay quoted a case in which the action of the Local Officers of the Kaira District in requiring the admission of low caste pupils led to five or six large schools being closed for years and to the huts and crops of the low caste people being burnt in one village and to the imposition of a heavy punitive post on that village for two years."

26. Such being the attitude of the rural communities, how can it be expected that the School Boards drawn as they largely will be from the rural communities will discharge, faithfully, their trust in the matter of the education of the Depressed classes ? To give the School Boards the control over the education of the Backward classes is to make the prosecutor the ruler. No wonder that Resolutions are passed by the Backward classes condemning the transfer of the control of Primary Education to the School Boards. It would have given some relief if the School Boards were manned by representatives of the Depressed classes in adequate numbers. But that is not the case. The representation of the Depressed classes in self-governing bodies from the Council down to the Local Boards has been planned by the Government after the manner of a curator who is not anxious to keep more than one specimen of each species in his Museum. Government nominates one member from the Depressed classes to the District Local Board out of some forty members and the School Board is directed to co-opt one member from the Depressed classes. In the principle of co-option there is always the danger of the wrong man being co-opted—a danger which the Depressed classes of East Khandesh have had to face in the recent School Board elections. But supposing the right man is co-opted, what can a single individual do in a hostile group of 15 which is the maximum strength of a School Board ?

27. If Government is sincere in the matter of promoting the education of the Depressed classes then there are certain measures which Government must adopt. The Sabha has its own convictions as to what Government should do in this connection and would like to state the same in the form of proportions as follows :—

(1) Unless the Compulsory Primary Education Act is abolished and the transfer of Primary Education to the School Boards is stopped, the Sabha fears that education of the Depressed classes will receive a great set-back.

(2) Unless compulsion in the matter of Primary Education is made obligatory and unless the admission to primary schools is strictly enforced, conditions essential for educational progress of the Backward classes will not come into existence.

(3) Unless the recommendations made by the Hunter Commission regarding the education of the Mohamedans are applied to the Depressed classes their educational progress will not be an accomplished fact.

(4) Unless entry in the public service is secured to the Depressed classes there will be no inducement for them to take education.

28. In making these comments upon the management of the educational affairs of the Presidency under the Reform in their bearing upon the Depressed classes the Sabha is not oblivious to the special provisions made for the education of the Depressed classes in the form of a few hostels and a few scholarships for higher education. But the Sabha begs to point out that it is useless to make provision for higher education of the Depressed classes unless steps are taken to ensure the growth of Primary Education. Besides there is no guarantee that such concessions will continue. On the other hand they that depend a great deal upon the policy of the particular Minister in charge of Education and upon the voting strength of the Depressed classes in the Legislative Council, both of which are uncertain factors and cannot be depended upon.

C

STATEMENT

concerning the safeguards for the protection of the interests of the Depressed Classes as a minority in the Bombay Presidency and the changes in the composition of and the guarantees from the Bombay Legislative Council necessary to ensure the same under Provincial Autonomy

submitted by

Dr. Bhimrao R. Ambedkar, M.A., PH.D., D.SC, BAR-AT-LAW
Member of the Legislative Council, Bombay

on behalf of the

Bahishkrita Hitakarini Sabha
(Depressed Classes Institute of Bombay)

to the

Indian Statutory Commission

29th May 1928

Damodar Hall
Parel, Bombay-12
INDIA

I. Protection through adequate Representation

1. *Preliminary*.—The Sabha feels relieved of great anxiety by the decision of Parliament not to appoint an Indian on the Statutory Commission. The agitation for the appointment of an Indian would have been proper if the Commission had to consider a common Indian demand for self-government But the fact is that the Commission shall have to consider not one demand, but a variety of demands made by the different interests prevailing in the country. That being the case the agitation should have been for a representation of all such interests on the Commission. The Sabha desires to point out that nothing could have satisfied the Depressed Classes better than the appointment of Indians representing various interests in the country, including their own, on the Statutory Commission. The demand for representation on the Statutory Commission was not, however, of such a nature and the Sabha, therefore, could not feel at one with those who urged it. The Sabha, it is true, did not agitate as it should have done, in conformity with its own views, for the representation of the Depressed Classes on the Commission. But that was because the Sabha felt that it was too much to hope for in a country where those in charge of the affairs from the Viceroy downwards have cultivated the habit of recognising the noisy few and forgetting the dumb millions. To use the language of Burke, because half a dozen politicians, like grasshoppers under a fera, make the field ring with their importunate chink, whilst the masses, like thousands of great cattle, are reposing beneath the shadow of the oak, chew the cud and are silent, the Government of India imagines that the politicians who make the noise are the only inhabitants of the field—that, of course, they are many in number—or that, after all, they are other than the little, shrivelled, meagre, hopping, though loud and troublesome insects of the hour. But there was also another reason why the Sabha did not press for its views. In the opinion of the Sabha this exclusion of Indians from the Statutory Commission was no small mercy to the Depressed Classes. For, by their non-appointment the Depressed Classes are, at any rate, saved the prejudice that would have otherwise been caused to their case, which the Sabha has hereby undertaken to place before the Commission.

2. *Injustice done to the Depressed Classes in 1919*.—The Montagu Chemsford Report recognised fully (para. 151) that the existence of the social differences and divisions formed "a feature of Indian Society which is out of harmony with the ideas on which elsewhere in the world representative institutions rest" and the authors of the Report (para. 153) held that they "have to be taken into account and they must lead us to adjust the forms of popular Government familiar elsewhere to the special conditions of Indian life." In accordance with this, the authors of the Report, in order to pacify the Depressed Classes who had stoutly opposed the introduction of the Reforms, undertook to safeguard their interests as will be seen from the following statement in paragraph 155 of their Report in which they say : " We have shown that the political education of the Ryot cannot be very rapid and may be a very difficult process. Till it is complete he must be exposed to the risk of oppression by people who are stronger and cleverer than he is ; and until it is clear that his interests can safely be left in his

own hands or that the Legislative Council represent and consider his interests, we must retain power to protect him. *So with the Depressed classes, we intend to make the best arrangements we can for their representation in order that they too may ultimately learn the lesson of self-protection.* But if it is found that their interests suffer and that they do not share in the general progress, we must retain the means in our hand of helping them....."

3. The Sabha regrets that all these promises were thrown to the wind by the Southborough Committee which was subsequently appointed to devise franchise, frame constituencies and to recommend what adjustments were needed to be made in the form of the proposed popular Government as a consequence of the peculiar social conditions prevalent in India. So grossly indifferent was the Southborough Committee to the problem of making adequate provision for safeguarding the interests of the Depressed classes that even the Government of India which was not over-particular in this matter felt called upon in paragraph 13 of their Despatch on the Report of the Southborough Committee to observe : " We accept the proposals (for non-official nomination) generally. But there is one Community whose case appears to us to require more consideration than the Committee gave it. The Report on Indian Constitutional Reforms clearly recognised the problem of the Depressed classes and gave a pledge respecting them. The castes described as 'Hindus—others' in the Committee's Report though they are defined in varying terms, are broadly speaking all the same kind of people. Except for differences in the rigidity of their exclusion they are all more or less in the position of the Madras *Panchamas,* definitely outside that part of the Hindu Community which is allowed access to their temples. They amount to about one-fifth of the total population, and have not been represented at all in the Morley-Minto Councils. *The Committee's Report mentions the Depressed Classes twice, but only to explain that in the absence of satisfactory electorates they have been provided for by nomination. It does not discuss the position of these people or their capacity for looking after themselves. Nor does it explain the amount of nomination which it suggests for them. Paragraph 24 of the Report (of the Franchise Committee) justifies the restrictions of the nominated seats on grounds which do not suggest that the Committee were referring to the Depressed Classes.* The measure of representation which they propose for this Community is as follows :

Province	Total population in millions	Population of Depressed classes in millions	Total seats	Seats for the Depressed classes
Madras ..	39.8	6.3	120	2
Bombay	19.5	0.6	113	1
Bengal	45.0	9.9	127	1
United Provinces	47.0	10.1	120	1
Punjab	19.5	1.7	85	..
Bihar and Orissa	32.6	9.3	100	1
Central Provinces	12.0	3.7	72	1
Assam ..	6.0	0.3	54	..
Total ..	221.4	41.9	791	7

"These figures speak for themselves. It is suggested that the one-fifth of the entire population of British India should be allotted seven seats out of practically 800. It is true that in all the Councils there will be roughly a one-sixth proportion of officials who may be expected to bear in mind the interests of the depressed (?); but that arrangement is not, in our opinion, what the Report on Reforms aims at. The authors stated that the Depressed Classes should also learn the lesson of self-protection. It is surely fanciful to hope that this result can be expected from including a single member of the Community in an Assembly where there are 60 to 90 Caste-Hindus. To make good the principles of paragraphs 151, 152, 154 and 155 of the Report we must treat the out-castes more generously....."

4. The Sabha feels happy that it is not alone in its opinion as to the injustice done to the Depressed Classes by the framers of the Reforms Scheme of 1919. This opinion was also shared by the Muddiman Committee which was appointed two years afterwards to report upon the possibility of improving and enlarging the scheme of Reforms. That Committee admitted in its Report (Paragraph 64) that the representation granted to the Depressed Classes under the Scheme was inadequate.

5. *Extent of Representation that must be granted to the Depressed classes.*— What then should be the extent of the representation of the Depressed Classes which can be said to be adequate ? In the opinion of the Sabha the following scheme for the composition of the Legislative Council of Bombay assuming that Sind will be separated from the Presidency may be deemed to satisfy the demand of the Depressed Classes for adequate representation :

Composition of the Bombay Legislative Council

FOR

I. BOMBAY PRESIDENCY WITHOUT SIND

	Constituencies	Total No. of seats	Reserved for the Depressed classes	Reserved for Moha-medans	Reserved for Marathas and allied castes
	I. GENERAL				
	(*a*) URBAN				
1.	Bombay City North ..	5	1	1	Same as now
2.	Bombay City South ..	3	....	....	
3.	Ahmedabad City	3	1	1	
4.	Surat City	1	....	....	
5.	Sholapur City	3	1	1	
6.	Poona	1	....	....	
	(*b*) RURAL ..				
	Northern Division ..				
7.	Ahmedabad District ..	5	1	1	
8.	Broach District	4	1	1	
9.	Kaira District	5	1	1	
10.	Panchmahals District ..	4	1	1	
11.	Surat District	5	1	1	
12.	Thana District	5	1	1	

Constituencies	Total No. of seats	Reserved for the Depressed classes	Reserved for Moha-medans	Reserved for Marathas and allied castes
Central Division				
13. Ahmednagar District ..	5	1	1	Same as now
14. Khandesh East District ..	6	1	1	
15. Khandesh West District ..	5	1	1	
16. Nasik District	5	1	1	
17. Poona District	6	1	1	
18. SataraDistrict	6	1	1	
19. Sholapur District ..	5	1	1	
Southern Division ..				
20. Belgaum District	5	1	1	
21. Buapur District	5	1	1	
22. Dharwar District ..	6	1	1	
23. Kanara District	4	1	1	
24. Kolaba District	4	1	1	
25. Ratnagiri District ..	6	1	1	
Total of General ..	112	22	22	
II. SPECIAL				
26. Labour Unions	4			
27. University	3			
28. Europeans	4			
29. Millowners	2			
30. Commerce	2			
31. Agriculture	3			
32. Inamdars	1			
33. Officials	9			
Total of Special ..	28			
Grand Total ..	140			

which should be the strength of the Bombay Legislative Council.

6. In case it is decided to keep Sind as part of the Bombay Presidency the Sabha would like to propose the following scheme for the composition of the Bombay Legislative Council :

Composition of the Bombay Legislative Council

FOR

II. BOMBAY PRESIDENCY WITH SIND

Constituencies	No. of seats	Reserved for Depressed classes	Reserved for Marathas and allied castes
I. NON-MOHAMEDAN			
(*a*) URBAN			Same as now
1 Bombay City North	5	1	
2 Bombay City South	4	....	

	Constituencies	No. of seats	Reserved for Depressed classes	Reserved for Marathas and allied castes
3	Karachi City	1	....	Same as now
4	Ahmedabad City	3	1	
5	Surat City	2	....	
6	Sholapur City	4	1	
7	Poona City	2	....	
	(*b*) RURAL			
8	Ahmedabad District	5	1	
9	Broach District	4	1	
10	Kaira District	4	1	
11	Panch Mahals District	4	1	
12	Surat District	4	1	
13	Thana District	4	1	
14	Ahmednagar District	4	1	
15	Khandesh East District	5	1	
16	Nasik District	4	1	
17	Poona District	5	1	
18	Satara District	5	1	
19	Belgaum District	4	1	
20	Bijapur District	4	1	
21	Dharwar	4	1	
22	Kanara District	4	1	
23	Ratnagiri District	5	1	
24	Eastern Sind District	2	....	
25	Western Sind District	2	....	
26	Sholapur District	4	1	
27	Kolaba District	4	1	
28	Khandesh West District	4	1	
	Total ..	86	22	
	II. MOHAMEDAN			
	(*a*) URBAN			
29	Bombay City	2		
30	Karachi City	2		
31	Ahmedabad City	1		
32	Surat City	1		
33	Poona City	1		
34	Sholapur City	1		
	(*b*) RURAL			
35	The Northern Division	2		
36	The Central Division	3		
37	The Southern Division	3		
38	Hyderabad District	2		
39	Karachi District	2		
40	Larkana District	2		
41	Sukkur District	2		

	Constituencies	No. of seats	Reserved for Depressed classes	Reserved for Marathas and allied castes
42	Thar and Parkar District	2		
43	Nawabshah District	2		
44	Upper Sind Frontier	2		
	Total ..	30		
	III. SPECIAL			
45	Labour Unions	4		
46	University	2		
47	Europeans	4		
48	Millowners	1		
49	Commerce	1		
50	Agriculture	1		
51	Inamdars and Jaghirdars	2		
52	Officials	9		
	Total for Special ..	24		
	Grand Total ..	140		

which should be the total strength of the Council.

7. In either case the demand of the Sabha is for 22 representatives of the Depressed classes in a Council composed of 140 members. The Sabha desires to state emphatically that this much representation to the Depressed classes in a Council of 140 is only just. The Sabha is aware that some people are likely to call such a demand as a very large one. Such a view must however be deemed to be the result of prejudice against the Depressed classes. It cannot be said to be founded upon any definite reason. The Sabha thinks that an exact idea as to the population of the Depressed classes would be a sufficient corrective to views of this sort. *For, it must be admitted that population is a measure by which to evaluate the representation that is to be granted to any community*. The computation of the exact strength of the Depressed classes is therefore a matter of considerable importance. The Depressed classes of the Bombay Presidency have already suffered an injustice at the hands of the Southborough Committee in 1919. That Committee gave in its Report a grossly wrong figure* as to the exact -strength of the Depressed classes in the Bombay Presidency—a figure which was absolutely unwarranted by the Census of 1911. So small was the strength of the Depressed classes shown by the Southborough Committee that even the paltry suggestion of the Government of India to give two representatives to the Depressed classes in the Bombay Legislative Council failed to have any effect. Similar attempt is now being made in responsible quarters to whittle down the population of the Depressed classes. For instance,

*The figure given by the Southborough Committee and adopted by the Government of India in the Table given above was 577,516. According to the authority relied upon by the Southborough Committee the population of the Depressed classes in the Bombay Presidency in 1911 was 2,145,208.

Mr. Bajpai speaking on behalf of the Government of India in the Legislative Assembly on the 23rd February 1928 said "that the population of the Depressed classes in India was much exaggerated and that the real strength of the Depressed classes was only 28½ millions and not 60 millions" as used to be stated theretofore. The Sabha fears that the Commission may fall into the same error in which the Southborough Committee fell and may in consequence make proposals based upon such erroneous calculation. The Sabha therefore desires to draw the attention of the Commission to what the Director of the Census of India has to say in this connection. In Chapter XI of Volume I of the Census of India 1921 the Director observes :

> "Paragraph 193. It has been usual in recent years to speak of a certain section of the community as the 'Depressed classes'. So far as I am aware the term has no final definition, nor is it certain exactly whom it covers. In the Quinquennial Review of the Progress of Education from 1912 to 1917 (Chapter XVIII paragraph 505), the Depressed classes are specifically dealt with the point of view of educational assistance and progress, and in Appendix XIII to that Report a list of the castes and tribes constituting this section of the community is given. The total population classed according to these lists as depressed amounted to 31 million persons or 19 p.c. of the Hindu and Tribal population of British India. There is undoubtedly some danger in giving offence by making in a public report social distinctions which may be deemed invidious ; but in view of the lists already prepared and the fact that the 'depressed' have especially in South India, attained a class consciousness and a class organization, are served by special missions, 'raised' by philanthropic societies and officially represented in the Legislative Assemblies, it certainly seems advisable to face the facts and to attempt to obtain some statistical estimate of their numbers. I. therefore, asked Provincial Superintendents to let me have an estimate based on Census figures of the *approximate* strength of the castes who were usually included in the category of 'depressed'. I received lists of some sorts from all Provinces and States except the United Provinces, whose extreme delicacy of official sentiment shrank from facing the task of attempting even a rough estimate. The figures given are not based on exactly uniform criteria, as a different view is taken of the position of the same group in different parts of India, and I have had in some cases to modify the estimate on the basis of the figures in the educational report and of information from the 1911 reports and tables. *They are also subject to the general deject which has already been explained, that the total strength of any caste is not recorded*. The marginal statement [reproduced below] gives, however, a rough estimate of the *minimum* numbers which may be considered to form the 'depressed classes' of the Hindu Community. The total of these provincial figures adds up to about 53 millions. *This, however, must be taken as a low and conservative estimate since it does not include* (1) *the full strength of the castes and tribes concerned and* (2) *the tribal aborigines most recently*

absorbed in Hinduism, many of whom are considered impure. We may *confidently* place the numbers of the depressed classes, all of whom are considered impure, at something between 55 and 60 millions in India proper....."

POPULATION OF THE DEPRESSED CLASSES IN INDIA

Provinces	000's omitted
Total	52,680
Assam	2,000
Bengal	9,000
Bihar and Orissa	8,000
Bombay	2,800
C. P. and Berar	3,300
Madras	6,072
Punjab	2,893
U.P.	9,000
Baroda	177
Central India	1,140
Gwaliar	500
Hyderabad	2,339
Mysore	932
Rajputana	2,267
Travancore	1,260

8. This cautious and considered estimate of the Director of Census must supersede all guesses and surmises regarding the strength of the Depressed classes in the different Provinces of India. It destroys the validity of the estimate of Mr. Bajpai. For, it has been arrived at after scrutinizing the figures that have appeared in the Provincial Educational Reports which Mr. Bajpai says have formed the basis of his statement. Its correctness must be admitted. For, as the Director says it was arrived at after a deliberate investigation. The Sabha must therefore insist upon the Statutory Commission accepting these figures in preference to any other. According to this estimate the *minimum strength of the Depressed classes in the Bombay Presidency is 28,00,000 souls* or *10.8 p.c. of the total population. On the basis of their strength alone the Depressed classes are entitled to 15 seats out of a total of 140.*

9. If the strength of a community was the only factor governing the extent of the representation to be granted to it, then the demand for the seven extra seats for the depressed classes would no doubt appear to be one for an unearned increment. *It must however be recognised that the strength of the community cannot be taken as the sole factor in determining matters of this sort. The standing of a community is no less an important factor to be taken into account in determining its quota of representation.* The standing of the community must mean its power to protect itself in the social struggle. That power would obviously depend upon the educational and economic status of the community. It follows from the recognition of the principle that *the lower the standing of a community the greater is the electoral advantage it must get over the rest.* There can be no two opinions that the standing

of the Depressed classes both educational and economical is the lowest in this Presidency. Consequently they are entitled to some electoral advantage over what they are entitled to on the basis of their strength. This electoral advantage must be greater in the case of the Depressed classes than in the case of any other community of equal strength and standing; because no community can be said to form a submerged class in the same sense in which the Depressed classes do. Nor can any class be said to be burdened with those grave disabilities which form the common lot of the Depressed classes and which prevent them from rising above their degraded station in life. This is one reason why the Sabha feels justified in asking for this increment in representation. There is also another reason which the Sabha thinks must justify the extra representation claimed by it for the Depressed classes. The representation of a minority, if it is to protect the minority, must also be effective. If not, it would be a farce. To escape this reproach it must be recognized that *if a minority is to be protected then there must be enough representatives of the minority to save it from being entirely submerged.* To put the same thing in the form of a proposition, the effectiveness of a minority representation depends upon its being large enough to have the sense of not being entirely overwhelmed. In claiming this extra representation the Depressed classes, the Sabha thinks, are entitled to invoke this principle in their favour, in common with the rest of the minorities in the country.

10. *Necessity for impartial treatment of all minority communities.*—These principles governing the extent of representation are those which have been laid down by the Government of India in their despatch reviewing the Report of the Southborough Committee. The Sabha desires to point out that the case of the Depressed classes was more deserving of the application of such principles than that of any other community that could have been thought of in the whole of India. In practice, however, the benefit of these principles was rigorously denied to the Depressed classes all throughout India and was literally showered upon a community like the Mahomedans holding a stronger and better position in the country than can be predicated of the Depressed classes. To point out one such instance of unequal treatment the Sabha would invite the attention of the Commission to the two following cases : —

Provinces	Moslem Population	Seats for Moslems	Depressed classes Population	Seats for Depressed classes
Central Provinces	574,276	11	3,060,232	2
Bombay Presidency	1,207,443	7	1,627,980	1

Howsoever indignant one may feel over the perpetration of such injustice to the Depressed classes the Government of India does not blush at it. For, it had avowedly enunciated those principles for the very limited purpose of applying them to the Mahomedans only. This was due, as everyone knows, to the distinction the Government of India made in the political importance of the different communities. The Sabha protests against this grading of the citizens of a country on the basis of their

political importance. There can be no safe and secure rule except the one that all communities are politically of equal importance. This invidious distinction is at the root of all the communal troubles and is destructive of the principle of equal opportunity. The introduction of this principle in the governance of India at the time when the 1st instalment of Reforms was granted by Parliament was disastrous to the interests of the Depressed classes. The Sabha is glad to find the present Secretary of State recognizing the existence of the Depressed classes as a problem for serious consideration in the decision that may now be taken With regard to the enlargement of the scope of the Political Reforms already introduced. But the Sabha is anxious to point out that such recognition would be of no consequence to the Depressed classes if it is not reflected in the changes that may now be introduced into the framework of the constitution of the country.

11. *Mode of representation.*—The Sabha is opposed to the principle of nomination and would insist upon the extension of the principle of election to the Depressed classes. Election is not only correct in principle from the standpoint of responsible Government, but is also necessary in practice from the standpoint of political education. Every community must have an opportunity for political education which cannot well be secured otherwise than by the exercise of the vote. It must be regarded as unfortunate that the Depressed classes who need such education, more than any other community, should be denied an opportunity to take their share in the rapidly developing political life of India. There is also another reason why election in the case of the Depressed classes is a necessity. Ministership is a very important privilege and the Depressed classes cannot afford to forego the same. No great benefit can come to them from the introduction of Political Reforms unless they can find a place in the Cabinet of the country, from where they can influence the policy of the Government This opportunity will be denied to them so long as they are denied the opportunity of electing their own representatives. For, under responsible Government nominated members must continue to be ineligible for office. A system of representation like that of nomination which deprives the Depressed classes of this right must stand self-condemned.

12. Two objections are usually urged against the application of the principle of election to the Depressed classes.

(*a*) *Difficulty in forming constituencies.*—This objection, the Sabha thinks, must be ruled out of serious consideration as not being honest. If difficulty in the matter of forming constituencies was a consideration which led Government to prefer nomination to election in the matter of the representation of the Depressed classes, it is difficult to understand how the Government ventured to apply the principle of election to the Moslems and the Europeans. These communities are not less scattered than the Depressed classes and no constituencies can be formed for them including the existing one, which cannot be condemned as absurd from a logical point of view. All the same, the Government of Bombay did abandon its aesthetic sense

and undertook to form as symmetrical constituencies for these communities when it found impossible to form symmetrical ones. All these difficulties in regard to the formation of the constituencies for the Depressed classes are, however, set at rest under the scheme of representation outlined by the Sabha. The problem being thus simplified, no objection ought now to be raised for the substitution of the principle of nomination by the principle of election.

(*b*) *Difficulty in getting a sufficiently large electorate*.—Will there be a sufficient number of electors in any constituency to make the election of the Depressed classes to the Council a real election ? By way of pointing out a difficulty in substituting election for nomination this question is usually raised and answered in the negative. The difficulty would no doubt be there if it is decided that the existing pitch of the franchise is not to be touched and so long as the pitch continues where it now is, the Sabha must admit that the number of electors among the Depressed classes will be very few. But the Sabha thinks that the existing pitch of the franchise is unjustifiable on every ground. It has turned responsible Government into a mockery. It means a Government of the whole Presidency of two crores of people by a minority of seven lakhs who happen to have the good fortune of being voters under the existing franchise. Such a state of things is clearly vicious and cannot be allowed to continue in future, if there is to be responsible Government, not merely in name but also in fact. It is to be regretted that the question of franchise does not seem to have been adequately pressed by the class that is most vocal in demanding Reforms. Democracy is alleged to be the aim of that class, but if the truth be told, in the words of the Government of Burma, "they are in favour of democratic institutions mainly because they are making an appeal to a democratic nation. They could not very well call for democracy and leave the *Demos* out. Their chief interests in the Reforms is centered in the powers that they expect to gain over the executive. The broad franchise and responsible voting in its true sense by the rural electors is not at all the central idea of their demand. As long as their own class will furnish the Legislative Councillors who will exercise the desired control, it is immaterial to them whether these represent few or many voters." Whether or not this is the correct diagnosis of the difference of the Indian politicians to the important question of franchise, the fact remains that the question of franchise occupies in Congress politics a very subordinate place as compared to the question of the transfer of powers. In the opinion of the Sabha, this attitude of the Congress politicians is a reversal of the true relationship between the question of the franchise and the question of transfer of power. It must be admitted that the dictum of the Government of India that the forces which now hold the administration together cannot be withdrawn before satisfactory substitutes are ready to take their place, must find acceptance in all quarters which are willing to look at things from a proper perspective. Now these substitutes must obviously be the electors ; it follows therefore that the degree and the kind

of responsibility which can be introduced into the Government of the country will depend upon the strength of the electors. So vital is this question of the franchise that upon its determination alone can depend the degree of the transfer of political power. What should be the franchise is therefore a most important question. In the way in which it is determined at present the Sabha wishes to point out that the principle aim of representative Government has been lost sight of altogether. *Franchise means the right to determine the terms of associated life.* Franchise can mean nothing else. If that is the meaning of franchise, then it follows that it should be given to those who by reason of their weak power of bargaining are exposed to the risk of having the terms of associated life fixed by superior forces in a manner unfavourable to them. If this is true, then the very exigencies of representative Government demand that the franchise, if the term is properly understood, must be fixed so low as to bring it within the reach of the large majority of the poor and the oppressed sections of society. Indeed adult franchise is the only system of franchise which can be in keeping with the true meaning of that term. The Sabha would, however, be content if the franchise for the Legislative Council is fixed at the same level as that for the Taluka Local Board in the rural parts and Rs. 3 rental per month in urban parts of the Presidency. The fear often entertained on the part of the Government that such a lowering of the franchise will bring in a large part of unintelligent people is without foundation. Large property is not incompatible with ignorance. Nor is abject poverty incompatible with high degree of intelligence. Property may as well dull the edge of intelligence. On the other hand poverty does and often must stimulate intelligence. Consequently the adherence of the Government to a high property qualification as an insurance against ignorance is nothing but a superstition, which is sedulously cultivated by the classes and fostered by the Government in order to deprive the masses of their right to the making of their Government.

13. *System of Election.*—Free election in general constituencies is, in the opinion of the Sabha, out of the question so far as the Depressed classes are concerned. On the other hand the Sabha does not wish to ask for Communal electorates. In its opinion, it would be sufficient if the Depressed classes are provided with reserved seals in the general constituencies. In the case of the candidates for election from the Depressed classes the Sabha would urge the total abandonment of the residential qualification and a partial relaxation in the condition as to deposit.

14. *Representation in the Assembly.*—The Sabha respectfully protests against the non-recognition of the right of the Depressed classes in the Legislative Assembly in 1919. The Government of India is still supreme in important matters which are directly under its control or under the Reserved half of the Provincial Governments. Even in respect of the Transferred subjects it continues to have the power of superintendence. It is, therefore, obvious that in the direction of such large powers the Depressed classes should have some voice and the Sabha would, therefore, claim that three members

from the Depressed classes of the Bombay Presidency should be elected to the Legislative Assembly by their representatives in the Local Legislative Council.

II. Protection through Guarantees

15. In addition to the demand for adequate representation the Sabha feels that it must also demand the inclusion of clauses in the constitution of the country and as a fundamental part thereof guaranteeing the civil rights of the Depressed classes as a minority in the Bombay Presidency. Such guarantees must cover the recognition of the following propositions concerning the interests of the Depressed classes : —

(1) That the education of the Depressed classes shall be recognized as the first charge on the revenues of the Province and that an equitable and just proportion of the total grant for education should be earmarked for the benefit of the Depressed classes.

(2) That the right of the Depressed classes to unrestricted recruitment in the army, navy, and the police shall be recognized without any limitation as to caste.

(3) That for a period of 30 years the right of the Depressed classes for priority in the matter of the recruitments to all posts, gazetted as well as non-gazetted in all civil services shall be recognized.

(4) That the right of the Depressed classes to the appointment of a special inspector of police from amongst themselves for every District shall be recognized.

(5) That the right of the Depressed classes to effective representation (as defined above) on the Local Bodies shall be recognized by the Provincial Government.

(6) That the right of the Depressed classes to appeal to the Government of India in cases of violation of these rights by the Provincial Government shall be recognized and the Government of India shall be given the power to compel the Provincial Government to conform to the law in the matter.

16. *Justification of such guarantees.*—It may be argued that as the Depressed classes have been given adequate representation in the Council, there can be no danger to their rights, as there can be in the case of an unrepresented minority. Why then should there be these guarantees ? The Sabha demurs to this much faith in the efficacy of a representative form of Government to effectively protect a minority from the tyranny of the majority. In this connection the Sabha would like to invite the attention of the Commission to the views of John Stuart Mill who has observed that "the notion that the people have no need to limit their power over themselves, might seem axiomatic, when popular Government was the thing only dreamt about or read of as having existed at some distant period of the past. . . .. It was now perceived that such phrases as self-Government, and the power of the people over themselves, do not express the true state of

the case. The people who exercise the power are not always the same people with those over whom it is exercised; and the self-government spoken of is not the government of each by himself, but of each by all the rest. The will of the people, moreover, practically means the will of the most numerous or the most active *part* of the people, the majority of those who succeed in making themselves accepted as the majority ; the people, consequently, may desire to oppress a part of their number; and precautions are as much needed against this, as against any other abuse of power. The limitation, therefore, of the power of Government over individuals loses none of its importance when the holders of power are regularly accountable to the community, that is to the "strongest party therein. This view of things, recommending itself equally to the intelligence of thinkers and to the inclination of those important classes in European Society to whose real or supposed interests democracy is adverse, has had no difficulty in establishing itself; and in political speculations the tyranny of the majority is now generally included amongst the evils against which the Society requires to be on its guard."

17. From this it is obvious that representative Government cannot altogether do away with the necessity of such guarantees for the protection of the interests of the minorities in a nation. Indeed it may safely be asserted that a representative form of Government far from being a means of affording protection to the minorities must be deemed to be so very inadequate for that purpose that its introduction without a system of guarantees being made a part thereof was looked upon as a most dangerous experiment. The postwar history of Europe abounds in such cases. The peace treaties between the allied powers and Zechoslovakia, Austria, Hungary, Rumania and the Polish German Convention relating to Upper Silesia with their guarantee clauses for the benefit of the minorities bear eloquent testimony to the fact that the minorities cannot depend upon the representative form of Government but must seek protection in the form of guarantees of their rights.

18. If representative Government is so weak when operating among European peoples, where the secularisation of politics has gone far further, how much weaker must it be in India where politics is nothing but theology in action. It is this theology against which the Depressed classes must seek to be protected. How destructive is this theology of true citizenship has nowhere been described so well as in the Note by the Hon'ble Sir Alexander Cardew, K.C.S.I., I.C.S., to the Government of India contained in the letter No. 1146 (Reforms) dated the 31st December 1918. The following extracts are made from that Note :

> "2. It may first be asked whether the democratic idea is in accordance with the prevailing philosophy of the people of India. The fundamental principle of the modern democratic State is the recognition of the value of the individual and the belief that as each individual has but one life, full opportunity should be accorded to each to attain his maximum development in that life. Neither of these propositions is accepted in the current philo-

sophy of India. This rather holds that the present life is for each only one of a series of existences; that the position of each individual in this life has been determined for him by his merit or demerit in previous births ; and that, therefore, his place in the social organism is irrevocably fixed and cannot be changed. It may therefore be safely asserted that the root notions of democracy run counter to all the ideas which for thousands of years have formed the common stock of popular belief in India.

"3. Closely connected with the doctrine, that each man's place in the present birth has been determined by his actions in the past existences is the institution of caste which has the effect of stereotyping and fixing unalterably the position of each individual in the social scale. Thus a man born a Brahman cannot be other than a Brahman and a man born Pariah can never be other than a Pariah. Equality of opportunity is impossible under such conditions and it is neither recognized nor desired by Indian public opinion.

"4. At the apex of the caste pyramid stands the Brahman. This caste, originally representing, at least in Southern India, a racial difference, has established through a long period of time its absolute supremacy over all other castes. The Brahman's claim to supremacy is based not only on race and intellect but also on the injunctions of religion. The sanctity of a Brahman's person and religious merit to be obtained by feeding him, paying for his education, providing money for the marriage of his daughters, endowing him with land, has been an established belief in India for centuries..... Brahmans possessed numberless privileges.....

"6. With such predominence in most walks of life, it is not surprising that the Brahman has easily secured control in politics. ..... No representative of the great Pariah community nor of the Christian community has ever sat, or would ever have a chance of sitting, for one of these constituencies. This experience strongly suggests that the political machine in the future as in the past will be under the control of the Brahmans, unless special measures are resorted to, to secure adequate representation of the other classes.

"8. Next to the Brahman *sed longo intervello* comes the great group of Hindu—castes, some higher, some lower, generally grouped together as non-Brahmans but all equally exclusive and largely antagonistic to one another. It is notorious that if a member of one of these castes attains to a position of influence he fills the offices in his gifts with his fellow castemen. The Standing Orders of the Government recognize this tendency and contain directions to counteract it. The joint report is not ignorant of this, for it says, ' there runs through Indian Society a series of cleavages of religion, race and caste which constantly threaten its solidarity.' These distinctions of castes do not merely threaten the solidarity of Indian Society—they prevent such solidarity from ever existing.

"9. Below both the Brahmans and the non-Brahman caste Hindus, come the low castes or more correctly the persons of no castes who number

in this Presidency [*i.e.* Madras] some ten millions of people. For convenience they may be referred to as the Panchama or Pariah community. These people are regarded, not merely as belonging to a lower class, but as conveying by their very presence an actual pollution which requires purificatory religious ceremonies.

"13. The difficulty of introducing democratic institutions into a society such as this, illiterate, divided into hard and fast castes, with Brahman at the top, with the various Non-Brahman Hindu castes in the middle and the low castes liable to be oppressed impartially by both, at the bottom must be very great. Nor does this difficulty seem to have been sufficiently realized by the writers of the Joint Report. *Surely the first essential of any scheme of reform is that adequate safeguard should he provided for the good government of the inarticulate masses of the population* ……."

19. If this is a correct description of the existing state of affairs then the Minorities of Europe cannot be said to have a better case for obtaining guarantees of their rights than the Depressed classes. *Many people in the world have fallen low by force of circumstances. But having fallen they are free to rise. The Depressed classes on the other hand form a solitary case of a people who have remained fallen because their rise is opposed to the religious notions of the majority of their countrymen.* Much was made before the Muddiman Committee by certain persons of the resolutions passed by the various Legislative Councils, throwing open wells, dispensaries and dharamshalas to members of Depressed classes and of the circulars issued by Ministers of Education requiring children of the Depressed classes to be admitted to schools in common with the rest. But what a mockery such resolutions and circulars are will be apparent to the Commission from the perusal of Annexure A to this statement. It will illustrate the attitude of the majority towards the Depressed classes as evidenced by incidents reported from time to time in the various newspapers in the country (item Nos. 1 and 10). From a perusal of these news items it will be realized that the Depressed classes cannot be employed in the army, navy and the police, because such employment is opposed to the religious notions of the majority (item No. 8). They cannot be admitted in schools, because their entry is opposed to the religious notions of the majority (item No. 12). They cannot avail themselves of Government dispensaries, because Doctors will not let them cause pollution to their persons or to their dispensaries (item Nos. 2 and 5). They cannot live a cleaner and higher life, because to live above their prescribed station is opposed to the religious notions of the majority (item Nos. 1 and 6). So rigorous is the enforcement of the Social Code against the Depressed classes that any attempt on the part of the Depressed classes to exercise their elementary rights of citizenship only ends in provoking the majority, to practice the worst form of social tyranny known to history (item Nos. 4, 7 and 11). It will be admitted that when society is itself a tyrant, its means of tyrannising are not restricted to the acts which it may do by the hands of its functionaries and it leaves fewer means of escape,

penetrating much more deeply into the details of life, and enslaving the soul itself. Protection against such tyranny is usually to be found in the Police power of the state. But unfortunately in any struggle in which the Depressed classes are on the one side and the upper class of Hindus on the other, the Police power is always in league with the tyrant majority (item No. 11), for the simple reason that the Depressed classes have no footing whatsoever in the Police or in the Magistracy of the country.

20. In view of this, it is unfair to the Depressed classes to be lulled into the belief that their interests would be safe in the hands of their countrymen, because some Councils have passed resolutions and some of the Ministers have issued circulars favouring the Depressed classes. The Sabha desires to caution the Commission against being lured into forming a better opinion of the Hindu majority from its best instances. Pictures of loving exercise of authority on one side, loving submission to it on the other, of superior wisdom ordering all things for the greatest good of the dependants are very gratifying to read. But such pictures would be to the purpose only if any one from the Depressed Classes denied the existence of good men in the Hindu society. Nobody among the Depressed classes doubts that there would be great and universal happiness under the government of a good Hindu. But the fact is that laws and institutions require to be adapted not to good men but to bad. From this point of view, it is safer to grant the minority the necessary protection by the inclusion of guarantee clauses than to leave it unprotected on the fanciful ground that the tyrant majority has in it a few good men sympathetic to the minority. Such guarantees may be looked down upon by persons other than the Depressed classes as being unnecessary ; but from the standpoint of the Depressed classes it is but an essential safeguard. There is such an enormous dread of the Reforms prevalent amongst the Depressed classes that they have from the very beginning opposed their introduction. So strong was their feeling against the Reforms that in one of the addresses presented to Mr. Montague the Depressed classes declared "we shall fight to the last drop of our blood, against any attempt to transfer the seat of authority in this country from the British hands to the so-called high class Hindus." Nothing can allay such fears as the system of guarantees can do. Government is based upon faith and not upon reason. If the Depressed classes can have no faith in the new constitution it is statesmanship to buy that faith if it can be done so with the concession of guarantees herein demanded.

ANNEXURE A

Item No. 1

(From the *Times of India* 8th February 1928)

NO UPLIFT FOR ANTYAJAS

As a landmark in the rapid progress of Indian social reform, a lecture delivered last month by Mahamahopadhyaya Pandit Ananta Krishna Shastri (Professor, Calcutta University) to an audience of Sanatanist (orthodox) Agrawal Marwadis of Bombay in the local Nara-Narayan temple, deserves to be rescued from unmerited oblivion. The subject of the discourse was "The way to uplift the Patits (i.e. 'fallen' untouchables)", and the chair was graced by Shri Jagadguru Anantacharya Maharaj of the new Vaishnav temple in Bombay. The lecturer proved by citations from the Shastras that the various castes have always been in existence and will continue so to exist till the end of all time. He added that those who talk of uplifting the "Fallen" (Antyajas) are merely talking, and that, in fact, there is no way of uplifting the Antyajas in the sense of getting them admitted into any of the four castes or taking them out of their present social position.

ORTHODOX GENEROSITY

The learned lecturer suggested the only possible way of uplifting the "unupliftable Fallen", namely, generously restoring to them some of their inalienable professions at present encroached upon by unthinking and unorthodox caste people. "In this 20th century," said the Mahamahopadhyaya, "people on getting up in the morning sit down to clean their costly shoes instead of performing their appointed morning ritual. Next they sit down to shave themselves. And instead of cleaning their teeth in the Swadeshi style (i.e., with twigs of babool, etc.), they sit down to rub powder on their teeth with brushes. By doing all these things they deprive Mochis (cobblers), Hajams (barbers), and tooth-stick sellers of their livelihood. Let everyone do his duty according to Dharma and rest content. This is the only way to bring about the uplift of the Antyajas,—let those who have deprived these Fallen people of their means of livelihood restore it to them."

Item No. 2

(From the *Times of India* 2nd March 1928)

ANTYAJAS IN INDIA

But, the patriots will protest, all this happened in British India, not in Indian India. Well, we know what happened to Balais only the other day in a big Central India Native State for wearing gold and silver ornaments and absurdly presuming to behave like touchable caste Hindus. And this is what the *Saurashtra* reports about the Antyajas in Baroda territory where the Maharaja himself sympathises so deeply with these unfortunates : "The order to admit Antyaja boys into Gujarati schools is on paper only. In nearly

95 per cent. of schools the Antyaja children are made to sit outside in the cold, heat or rain, and they are made to fetch cowdung, fuel, droppings, dust etc……. In April 1927 an Antyaja went to the Damnagar dispensary for medicine. The Doctor made him wait for twelve hours and then examined him—from a distance and gave him medicine—from a distance. This happened in the presence of an Antyaja member of the Baroda Legislative Assembly." And the *Pratap* of Surat tells us that when a teacher in the Navasari Antyaja Ashram took an ailing boy to the local hospital, the doctor in charge drove them both away with these remarkable words : "Get away ! This is not Gandhi Raj but Baroda Sarkar's Raj !"

Item No. 3

(From the *Evening News* 11th May 1926)

UNTOUCHABLE IN JAMBUSAR MUNICIPALITY

FOUR HINDUS RESIGN

A sensation has been caused in Jambusar at the election of an untouchable to the Jambusar Municipality. Four Hindu members have resigned, while the rest have promised not to touch the untouchable member and to bathe if ever they touched him.

Item No. 4

(From the *Bombay Chronicle*)

KOLABA DEPRESSED CLASS CONFERENCE

ROWDYISM OF UPPER CLASS HINDUS

The *Times of India* in its issue of the 24th gives a statement of the riot at Mahad. But as that statement is incomplete and fails to give a correct idea of what happened it is necessary to give a complete and correct account of the riot.

A Conference of the Depressed Classes of the Kolaba District was held at Mahad on the 19th and 20th instants *[i.e.* of March 1927] under the Presidentship of Dr. B. R. Ambedkar, Bar-at-Law. The attendance of the depressed classes was over 2,500 and great enthusiasm prevailed. But the work of the Conference was severely marred by a riot, the responsibility for which rests entirely upon the upper class Hindu residents of the town of Mahad. On the first day of the Conference after the President had delivered his address, several upper class Hindus addressed the Conference assuring the depressed classes that, they were willing to help them in all ways and urging that the depressed classes should not cultivate hatred of the upper class Hindus. In pursuance of this, the Subjects Committee drafted a resolution among others laying down what the upper class Hindus should do for the uplift of the depressed classes. In the Subjects Committee attention was drawn by some people to the fact that there was a great difficulty at Mahad for the depressed classes in obtaining water for drinking purposes and that this difficulty was felt not only by the resident depressed classes of Mahad but also by the depressed classes from villages who resorted to Mahad for private business or for the purposes of Government

work. So great was the scarcity that water worth Rs. 15 had to be bought each day to satisfy the needs of the Conference. The Municipality of Mahad had sometime ago passed a resolution declaring the tanks in the city to be open to the public but as it had not placed a board there, people feared to resort to them. The Subjects Committee, therefore, decided after taking the sense of the upper classes who attended the Conference in this matter, that the Conference should go in body to the Chowdar tank and help the depressed classes, in establishing their right to take water.

A FALSE RUMOUR

When, therefore, the Conference met on the morning of the 20th, and the first resolution which declared what the upper classes should do for the depressed classes was put before the Conference by members of depressed classes the President requested Messrs. Purushottam Prabhakar Joshi and Govind Narayan Dharya [as representatives of the upper classes] to speak on the resolution. With the exception of one clause in the resolution dealing with inter-marriages they both accepted the resolution. Having thus assured itself that there was general support behind it the Conference when the Session was over, went in body to the said tank. The procession was a most peaceful one and everything passed off quietly. But after about two hours some evil minded leaders of the town raised a false rumour that the depressed classes were planning to enter the temple of Vireshwar, whereupon a large crowd of riff raffs were collected all armed with bamboo sticks. The crowd soon became aggressive and the whole town at once became a surging mass of rowdies who seemed to be out for the blood of the depressed classes.

TWENTY WOUNDED

The depressed classes were busy in taking their meal before dispersing to their villages. When a large part of them had left the town the rowdies entered the kitchen where the depressed classes were taking their food. There would have been a regular battle between the two forces; but the depressed classes were held back by their leaders and thus a far more serious riot was averted. The rowdies finding no occasion for provocation began patrolling the main street and assaulting the members of the depressed classes who in stray batches were passing along on their way to their villages and committed trespass in the houses of several depressed class people and gravely assaulted them. In all, the number of wounded, among the depressed classes is supposed to be as large as 20. In this the attitude of the depressed classes was commendable whereas the attitude of many of the upper classes was unworthy. The depressed classes assembled vastly out-numbered the upper classes. But as the object of their leaders was to do everything in a non-violent and absolutely constitutional manner they set their faces against any aggression on the part of the depressed classes. It speaks a great deal in favour of the depressed classes that although the provocation given to them was immense they kept their self-control. The Mahad Conference has shown that the upper classes are not willing to allow the depressed classes to enjoy such elementary civic rights as taking water from public water-courses.

The most reprehensible part of the conduct of the upper caste Hindus in Mahad and Kolaba District was that messages were sent immediately to the different villages asking the upper class people there to punish the delegates of the Conference as soon as they returned to their respective villages. In obedience to this mandate assaults were committed on a number of Mahars returning from the Conference either before or after they reached their villages where the depressed classes have the disadvantage of being overwhelmingly out-numbered by the upper caste Hindus. The leaders of the depressed classes have appealed to the authorities for protection and the District Officials including the D. S. P. are making enquiries on the spot. It must, however, be stated that if the Resident Magistrate had not allowed two precious hours to pass without doing anything the riot would have probably been averted.

Item No. 5

(From *Young India* 5th May 1927)

MAN'S INHUMANITY TO MAN

(*By M. K. Gandhi*)

In another column will be seen an extract from *Navajivan* of a most disgraceful case of calculated inhumanity of a medical man towards the dying wife of a member of the suppressed class in a Kathiawad village. Sjt. Amritlal Thakkar who is responsible for giving the details of the case has withheld the names of the place and parties for fear of the poor suppressed class schoolmaster being further molested by the medical man, I wish, however, that the names will be disclosed. Time must come when the suppressed class people will have to be encouraged by us to dare to suffer further hardships and tyranny. Their sufferings are already too great for any further sufferings to be really felt. Public opinion cannot be roused over grievances that cannot be verified and traced to their sources. I do not know the rules of the Medical Council in Bombay. I know that in other places a medical practitioner, who refused to attend before his fees were paid, would be answerable to the Council and would be liable to have his name removed from the Council's list and be otherwise subject to disciplinary action. Fees are no doubt exactable; but proper attendance upon patients is the first duty of a medical practitioner. The real inhumanity, however, if the facts stated are true, consists in the practitioner refusing to enter the untouchable's quarters, refusing himself to see the patient, and refusing himself to apply the thermometer. And if the doctrine of untouchability can ever be applied in any circumstances, it is certainly applicable to this member of the profession which he has disgraced. But I am hoping that there is some exaggeration in the statement made by Sjt Thakkar's correspondent and, if there is none, that the medical practitioner will himself come forth and make ample amends to the society which he has so outraged by his inhuman conduct.

READ, REFLECT AND WEEP

There is a school for the children of the suppressed classes in a village in Kathiawad. The teacher is a cultured, patriotic man belonging to the *Dhedh* or Weaver (untouchable) class. He owes his education to the compulsory education policy of His Highness the Gayakwad and had been doing his little bit for the amelioration of his community. He is a man of cleanly habits and refined manners, so that no one can recognise him as belonging to the untouchable class. But because he had the fortune or misfortune of teaching the children of his own community in a conservative village in Kathiawad, everyone regards him as an untouchable. But unmindful of that he had been silently working away. There are some moments, however, when the most patient man living under intolerable conditions may give vent to agony and indignation, which are evident in the following letters from the schoolmaster. Every little sentence in it is surcharged with pathos. I have purposely omitted the names of the village and all the people mentioned in the letter, lest the schoolmaster should come into further trouble.

Namaskar. My wife was delivered of a child on the 5th instant. On the 7th she was taken ill, had motions, lost her speech, had hard breathing and swelling on the chest, and her ribs were aching painfully. I want to call in Dr.—, but he said 'I will not come to the untouchable's quarters. I will not examine her either.' Then I approached the Nagarsheth—and the Garrsia Durbar—, and requested them to use their good offices for me. They came and on the Nagarsheth standing surety for me for the payment of Rs. 2 as the doctor's fee, and on condition that the patient would be brought outside the untouchable's quarters, he consented to come. He came, we took out the woman who had a baby only two days old. Then the doctor gave his thermometer to a Musalman who gave it to me. I applied the thermometer and then returned it to the Musalman who gave it to the doctor. It was about eight O'clock, and having inspected the thermometer in the light of a lamp, he said: 'She has pneumonia and suffocation'. After this the doctor left and sent medicine. I got linseed from the market and we are applying linseed poultice and giving her the medicine. The doctor would not condescend to examine her, simply looked at her from a distance. Of course I gave Rs. 2 for his fee. It is a serious illness. Everything is in His hands !

II

The light in my life has gone out. She passed away at 2 O'clock this afternoon.

Comment is needless. What shall one say about the inhumanity of the doctor who being an educated man refused to apply the thermometer except through the medium of a Musalman to purify it, and who treated an ailing woman lying in for two days worse than a dog or a cat ? What shall one say of the society that tolerates this inhumanity ? One can but reflect and weep.

A.V. THAKKAR

Item No. 6

(From the *Times of India* dated 1-4-28 and 10-2-28)

TYRANNY OF HINDUS

RULES FOR BALAIS

Mode of life laid down

Last May high caste Hindus, viz., Kalotas, Rajputs, and Brahmins including the patels and patwaris of villages Kanaria, Bicholee Hafsi, Bicholi Mardana, and of about 15 other villages in the Indore district informed the Balais of their respective villages that if they wished to live among them, they must conform to the following rules :—1. Balais must not wear gold lace bordered pugrees ; 2. They must not wear dhoties with coloured or fancy borders ; 3. They must convey intimation of the death of any Hindu to relatives of deceased—no matter how far away these relatives may be living ; 4. In all Hindu marriages, the Balais must play music before the processions, and during the marriages ; 5. The Balai women must not wear gold or silver ornaments ; they must not wear fancy gowns, or jackets ; 6. Balai women must attend all cases of confinement of Hindu women ; 7. The Balais must render services without demanding remuneration, and must accept whatever a Hindu is pleased to give ; 8. If the Balais do not agree to abide by these terms, they must clear out of the villages.

BALAIS REFUSE COMPLIANCE

The Balais refused to comply ; and the Hindu element proceeded against them. Balais were not allowed to get water from the village wells; they were not allowed to let go their cattle to graze. Balais were prohibited from passing through land owned by a Hindu ; so that if the field of a Balai was surrounded by fields owned by Hindus, the Balai could have no access to his own field. The Hindus also let their cattle graze down the fields of Balais. The Balais submitted petitions to the Darbar against these persecutions ; but as they could get no timely relief, and the oppression continued hundreds of Balais, with their wives and children, were obliged to abandon their homes in which their ancestors lived for generations, and migrate to adjoining States, viz., to villages in Dhar, Dewas, Bagli, Bhopal, Gwalior, and other States.

COMPULSORY AGREEMENT

Only a few days ago the Hindus of Reoti village barely 7 miles to North of Indore City ordered the Balais to sign a stamped agreement in accordance with the rules framed against the Balais by the Hindus of other villages. The Balais refused to comply. It is alleged that some of them were beaten by the Hindus ; and one Balai was fastened to a post, and was told that he would be let go on agreeing to sign the agreement. He signed the agreement; and was released. Some Balais from this village ran up to the Prime Minister, the next day, i.e., on the 20th December, and made a complaint about the ill-treatment they have received from the Hindu villagers of Reoti. They were sent to the Subha of the District. This Officer, with the help of the Police, made inquiries at the village, and recommended that action be taken against

the Hindus under Sections 342 and 147 and against the Balais under Section 147, Indian Penal Code.

BALAIS LEAVE VILLAGES

CASTE TYRANNY

IGNORANCE OF LAW, A HANDICAP

There has been no improvement in the treatment of the Balais by the Hindu residents of certain villages. Balais, it has already been reported, have been ill-treated by the higher caste Hindus. From the Depalpur Pergana alone, Indore District a large number of Balais have had to leave their homes and find shelter in adjoining States. The villages from which Balais have been forced to clear out are Badoli, Ahirkheral, Piploda, Moof-khera, Pamalpur, Karoda, Chatwada, Newri Pan, Sanauda, Ajnoti, Khatedi, and Sanavda. Pamalpur village has been altogether deserted, and not a Balai, man, woman, or child, is to be found there. Nanda Balai, a resident of one of the above villages, it is alleged, was severely beaten by the Hindus of the village. In one village, the report goes, the Hindus burnt down all the dwellings of the Balais but the offenders have not yet been traced.

Balais are ignorant village folk, who are ignorant of legal procedure and think that if a petition is sent to the *Sirkar* all that is required will be done for them. They have not the knowledge, or the means and practice to pursue a complaint to its end ; and, as they, it is said in some cases, failed to attend or produce witnesses in support of their allegations, the Magistrate had no alternative but to dismiss their complaint.

Item No. 7

(From the *Bombay Chronicle* 25th February 1928)

ORTHODOXY RUN MAD

ALLEGED BARBAROUS TREATMENT OF "UNTOUCHABLES"

CRIME OF BEING MAHARS

Mr. Keshavaji Ranchhodji Vaghela from Ahmedabad has informed Dr. B. R. Ambedkar, President, Bahishkrit Hitkarini Sabha as follows :

One Bapoorao Laxman and his brother Kaurao have been residents of Ahmedabad during the last six years. They used to mix with some people from the Deccan belonging to Maratha caste, Kaurao's two sons viz. Damoo and Laxuman used to take part in the Bhajan parties of the Marathas. The latter, however, recently came to know that the brothers Damoo and Laxuman were Mahars by caste and in order to ascertain this, two Mahars employed on the Parcel Train between Surat and Ahmedabad were specially called to identify Damoo and Laxuman. After it was ascertained that Damoo and Laxuman were Mahars they were called at a Bhajan party at Kalupur, Bhanderi Pole, at midnight on the 11th instant. Asked as to what caste they belonged to, Damoo and Laxuman replied that they were Somvanshis. This reply enraged the Marathas who freely abused them for having defiled their persons and places. The Mahar brothers were also assaulted by the Marathas. One of the brothers had a gold ring on his person. It was forcibly taken

away from him and sold for Rs. 11. Out of this amount Rs. 6 was paid to the Mahars who had been called from Surat to identify the brothers. Damoo and Laxuman entreated the Marathas to allow them to return to their homes, the latter refused to do so unless a fine Rs. 500 was paid. On the Mahar brothers pleading their inability to pay such a heavy sum, one of the Marathas suggested that the Mahar brothers should be fined only Rs. 125. But then one of the Marathas opposed the proposal for fine saying that they should not be satisfied with fine, but should punish the Mahars severely for their crime of concealing their caste. Having decided upon the course, the Mahar brothers were detained and at about 9 O'clock in the morning they were subjected to barbarous indignities. Their mustaches in the left side and eyebrows on the right side were shaved, their bodies besmeared with soot mixed in oil and also with dirt, garlands made of old shoes were put around their necks, and one of them was asked to hold a broom in his hand and the other to hold a placard on which it was written that the punishment was meted out to the culprits for venturing to touch high caste people. The Mahar brothers were taken in procession consisting of about 75 people, a drum being beaten in the front.

A complaint has been lodged with the Police by the said two Mahar brothers. The accused in their statement have admitted that Damoo and Laxuman were treated in the alleged manner, but pleaded that, the complainants had willingly agreed to undergo the punishment. Obviously Damoo and Laxuman were helpless when they were abused, assaulted and threatened with severe punishment and actually subjected to barbarous indignities. This case has created a great sensation among the people belonging to the so-called untouchables castes and efforts are being made to give proper legal aid to the complainants.

Item No. 8

(Bombay Legislative Council Debates 1927, Vol. XX)

(Part XVI, p. 1373)

Police : Enlistment of Mahars

Dr. B. R. Ambedkar: Will Government be pleased to state whether there is any rule prohibiting the enlistment of the Depressed classes in the police constabulary force of the Presidency ?

The Honourable Mr. J. E. B. Hotson : There is no such rule.

Dr. B. R. Ambedkar: Will the Honourable Member please inform me why the Commissioner of Police for the city of Bombay refuses to appoint depressed class members in the police constabulary if there is no restriction ?

The Honourable Mr. J. E. B. Hotson : This opens up a very large subject, I can only say that there are practical difficulties which are known to every member of this House, and which stand in the way of the more extensive enlistment of these classes in the police. There is no prohibition against it.

N.B.—The practical difficulties referred to by Mr. Hotson are evidently difficulties arising **out** of untouchability.

Item No. 9

(Bombay Legislative Council Debates 1928, Vol. XXII)

(Part II, pp. 96-97)

Clerks in Government Service

Mr. R. S. Asarale: Will Government be pleased to state the total number in the clerical ranks in the offices of the various departments of [Government] ?

The Honourable Sir Chunilal Mehta: A statement giving the requisite information is placed on the Council Table :

	Marathas and allied castes	Muhammadans	Depressed classes	Advanced Hindus	Parsis	Christians and Jews	Others	Total
I The Secretariat.	31	11	..	268	38	81	11	440
II P. W. D.	6	..	..	64	8	10	3	91
III Collector of Bombay	3	8	..	28	..	4	1	44
IV Commissioner of Excise.	1	..	..	12	5	..	..	18
V Small Causes Court.	9	7	..	58	1	5	8	97
VI High Court.	4	15	..	125	22	23	9	198
VII Bombay Police Courts.	7	4	..	32	..	4	..	47
VIII Commissioner of Police, Bombay.		7	..	59	..	4		87

Item No. 10

(From the *Times of India* 30th May 1928)

THROUGH INDIAN EYES

"CHAMARDAS AND MAHARDAS"

How sincere the political lions are when they roar about the disabilities and hardships of the Untouchables, was clearly brought out at the Maharashtra Conference when the question of the removal of untouchability was adroitly shelved. Among the half dozen or so of protestants against this trick were men belonging to the *Swarajya*. One of them wrote in that paper an outspoken article, exposing the general Hindu outlook on the thorny problem,

which throws much light on what the Maharashtra Conference did. "While speaking to me the other day," says the writer about the Samata Sangha (Social Equality Society) of Poona, "a friend of mine said : 'Because people like you join them, these Chambhardas and Mahardas (contemptible Chamars and Mahars) become insolent' ……. . From this utterance one can realise what a terrible hatred of the Untouchable classes still exists among the upper classes."

RESOLUTIONS AND ACTS

The sad reformer continues : "Mahatmaji issued a proclamation that untouchability was a blot on Hindu dharma; Swamy Shraddhanand and Lala Lajpatrai have said all along that we shall never be able to win Swaraj if untouchability is not removed from Hindu Society ; during the last seven years resolutions for its removal are being adopted by the Congress; but what is the actual result of all these activities ? Utterances like the one given above are still coming out of the mouths of highly educated persons ! We pass resolutions in the Congress and the Hindu Sabha advocating temple entry of Untouchables and urging that public tanks, wells, etc., should be thrown open to them. But when the time for putting them into practice comes, we contemn the Untouchables, nay, we assault them and then proceed legally against them and send them to jail."

Item No. 11

RESOLUTIONS PASSED AT THE DEPRESSED CLASSES CONFERENCE HELD AT DAPOLI (District Ratnagiri)

1. *(a)* This Conference express indignation at the campaign of persecution carried on by the so-called high caste Hindus in this district against the depressed classes for the refusal on the latter's part to eat the meat of dead animals.

(*b*) This Conference is extremely grieved to find that the Police officers and Magistrates in the district systematically abuse the depressed class people instead of giving them protection against the tyranny and injustice to which they are being subjected by the so-called high caste Hindus through impounding the cattle of the former, committing assaults on them and making it impossible for them to obtain the necessaries of life in the bazars by observing a strict social bycott against them.

(*c*) This Conference appeals to the Government to take steps for having the usual *baluta* remuneration paid to the Watandar Mahars who have been deprived of the same by the high caste Hindu villagers owing to the former's refusal to eat the carrion and carry dead animals, beg alms and do other unclean things.

2. (*a*) Having come to know that in a number of villages it is the Police Patel who countenances the campaign of persecution against the depressed class people, this Conference requests the Government to take proper steps against such Police Patels.

(*b*) This Conference requests the Government to appoint in each district a special Police Inspector from amongst the depressed classes for the protection of these classes and to admit recruits from these classes in the police service.

(*c*) This Conference requests the Government immediately to quarter punitive police under the command of military pensioners belonging to the depressed classes, at the villages of Vadval, Matven, Tulsi, Degaon, Mandangad, Satara etc. at the expense of the so-called high caste Hindus residing in these villages in view of the fact that owing to harassment and social boycott and open assaults it has become impossible for the depressed classes to live in these villages.

3. This Conference is emphatically of the opinion that no further instalment of self-government be given to India except with proper safeguard for the interests of the depressed classes.

Item No. 12

(From the *Bombay Chronicle* dated 20-10-27)

MUNICIPAL SCHOOLS [IN THE CITY OF BOMBAY]

The Schools Committee has made itself ridiculous by taking fright at the little question of drinking "lotas" (pots). It seems that, in spite of the Corporation's resolution that there should be no caste discrimination in the Municipal Schools, "depressed" class children are given separate pots for drinking water. A sub-committee of the Schools Committee recommended that all children should be given the same pots. But the members of the Schools Committee gravely cogitated over this recommendation and entertained all sorts of fears. Some said that the change would be resented by the caste Hindus ; evidently, the resentment of the "low" caste Hindus does not count for much. Prof. V. G. Rao said that it was a revolutionary change and Mr. D. G. Dalvi, himself a well-known social reformer, added to these fears a legal one, that some parents might file a suit against the Committee. Ultimately the Schools Committee referred the question back to the sub-committee, which was tantamount to saying that the latter's recommendation was not acceptable to them.

A CALCULATED INSULT

The fears mentioned above are absurd, as every boy is expected to wash a pot well before using it, on sanitary and—if he is so minded—on caste grounds. That a pot once used by an "untouchable" boy becomes itself untouchable or unusable by the "high" caste Hindus in spite of its being washed clean, is a calculated insult to the unfortunate "depressed" classes, which we certainly did not expect the Schools Committee to countenance. Mr. Dalvi stated that in view of compulsory education in some Wards parents might file a suit against the Committee "for enforcing an obligation which was by no means a legal one". But nobody is under an obligation to

use the common pots in the schools. Those parents who are so over scrupulous may give their own pots to their children and thereby protect their "religion". As for the "depressed" classes the insult to them remains, whether they bring their own pots or betake themselves to other schools where better notions of justice prevail.

D

EVIDENCE OF Dr. AMBEDKAR BEFORE THE INDIAN STATUTORY COMMISSION ON 23rd OCTOBER 1928

INDIAN STATUTORY COMMISSION, POONA*

Dated 23rd October 1928

PRESENT

ALL THE MEMBERS OF THE COMMISSION, OF THE CENTRAL COMMITTEE (EXCEPT RAJA NAWAB ALI KHAN) AND OF THE BOMBAY PROVINCIAL COMMITTEE

Dr. B. R. Ambedkar (a member of the Bombay Committee) and Dr. P. G. Solanki (representing the Depressed Classes), called and examined.

Chairman : Just to remind my colleagues, the documents we should have before us are : Dr. Ambedkar's Statement on behalf of the Depressed Classes' Institute of Bombay and the Joint Memorandum of the Depressed Indian Association, Bombay, and the Servants of Somavamshi Society. Dr. Ambedkar has changed his seat, because he is acting for the moment as one of our witnesses. Dr. Ambedkar, of course, we know as a member of the Bombay Committee. I think, Dr. Solanki, you or your Association is responsible for the other document ?

Dr. Solanki : I concur in the document submitted by Dr. Ambedkar.

2. I should like you to begin, Dr. Ambedkar, by helping us as to the sort of number of depressed classes in this Presidency. Can you help us about that?

Dr. Ambedkar : I find that the depressed class population, as computed in the Memorandum submitted by the Government of Bombay is estimated at 1,478,390 as may be seen from page 3 of their Memorandum (Vol. VII).

3. Let us see. They say, "The depressed classes, which include mostly the Dheds, Mangs, Mahars and Holiyas, number, according to the Census

*Indian Satutory Commission, Vol. XVI. Selections from Memoranda and Oral Evidence, Part I, published by His Majesty's Stationery Office, London, 1930, p. 52-75. This Commission is popularly known after its Chairman Sir John Simon.

of 1921, 1,478,390 approximately." What do you say about that figure?

Dr. Ambedkar : As you will see. the figure I have given on page 39 of my Memorandum is about 28 lakhs.

4. You think the number should be about 2,800,000 ?

Dr. Ambedkar : Yes.

5. How does the discrepancy arise ?

Dr. Ambedkar : The first thing I should like to say is this, that the figures given by the Government of Bombay are taken, I believe, from the Census of India, 1921, Vol. 8, Bombay Presidency, Part II, the tables starting on page 176, while the figures which I give in my memorandum are from Chapter 11 of Vol. 1 of the Census of India, 1921. These are the figures estimated by the Director of Census, who has collected the figures of the different Provinces, and his computations, which I have taken bodily, are given on page 39 of my memorandum under the heading "Population of the Depressed Classes in India", and show the figures for the different Provinces, giving the population of the depressed classes in each. Now, as we see, there is this discrepancy between the two sets of figures. These figures of course, can never be exact, neither the Provincial nor the Central figures. In fact, if the Conference will refer to the remarks of the Director of the Census of India, which I commence quoting on page 39 of my memorandum, it will be seen that, after giving the total estimated population of the depressed classes he goes on to say (page 39 of memorandum, in italics)*, "This, however, must be taken as a low and conservative estimate since it does not include (1) the full strength of the castes and tribes concerned, and (2) the tribal aborigines most recently absorbed in Hinduism, many of whom are considered impure. We may confidently place the numbers of the depressed classes, all of whom are considered impure, at something between 55 and 60 millions in India proper." Then he gives the figures for each province.

6. Would you mind if I just try to clear my own mind, not by reference to precise figures, but by contrasting two conceptions ? It is manifest that if some authorities, speaking with the precision of Census returns, give a total like 1,478,000, and other authorities, also speaking with precision, give a figure like 2,800,000, the second authorities must be including people not included by the first ?

Dr. Ambedkar : That is so, and I should, therefore, like to point out to the Conference that the provincial figures do not include certain castes which are, as a matter of fact, untouchable castes.

7. May we put it like this ? See if I have it correct, and if I have not please tell me. I have been studying it as well as I can, although I have been looking forward to your help and that of Dr. Solanki. In one sense of the term, by "Depressed Classes" you might mean untouchables in the sense of persons who are Hindus, but who are denied access to the Hindu temples,

**See* para. 7, Quotation paragraph 193 at pages 436-37 of this book.

might you not ?

Dr. Ambedkar : Yes.

8. In another sense you might include in the "Depressed Classes" not only those people whom I have described, but also the criminal tribes, the hill tribes and other people who no doubt are very low in the scale, but who are not, perhaps, in the narrower sense untouchables from the point of view of the Hindus hierarchy ?

Dr. Ambedkar: Quite.

9. Is not that a possible view ?

Dr. Ambedkar : That is a possible view.

10. Is not that the real explanation of why in some connections you get a certain figure for the depressed classes, meaning untouchables, persons who are refused admission to the Hindu temples, whereas on the other hand you sometimes get a bigger figure which would include these criminal and hill tribes ?

Dr. Ambedkar : I do not think that is so in this case, because the figures I have given seem to have reference to the depressed classes as distinct from the hill tribes and the criminal tribes.

11. Let me point this out to you. I have before me these three figures. I have got a figure of 1,478,000 odd for untouchables taken from the Census of 1921, and made up of these Mahars, Dheds and other people. Then I have a long list of criminal tribes and so on, which adds up to 589,000—just over half a million. Then I have a third list of aboriginals and hill tribes—Bhils, and people of that sort—and they add up to another million. If you were to add the aboriginal and criminal tribes in with the first figure, you would get a total approximately like the larger figure you give of 2,800,000 ?

Dr. Ambedkar : The quotation I reproduce on page 39 of my memorandum from the remarks of the Directors of the Census gives me the impression that his figures are strictly for the depressed classes. My feeling is that the figures computed by the Director of the Census and referred to by him in the paragraph which I quote on page 39 of my memorandum are figures which apply only to the depressed classes.

12. ……. I see that the Director of the Census of India for 1921 says this : "It has been usual in recent years to speak of a certain section of the community as the 'Depressed Classes'—so far as I am aware the term has no final definition, nor is it certain exactly whom it covers." Then he refers to some educational criticisms. That is the passage you mean ?

Dr. Ambedkar : Yes, and "The total population classed according to these lists as depressed amounted to 31 million persons or 19 per cent. of the Hindu and tribal population of British India." That remark would appear to exclude the tribal people from the depressed classes.

13. I do not know. Anyhow, that is one possible explanation, and I think you agree a possible explanation is that the smaller figure is the figure of untouchables in the sense I have tried to define. I think you agree

that is a possible view. It is manifest that for many purposes those interested in trying to promote the advancement and elevation of those who are most depressed may very well include in their survey a wider number of persons, including the criminal and hill tribes. That is a possibility ?

Dr. Ambedkar : It is a possibility.

14. I should like to suggest to you another possible view. I do not know if it qualifies it. On page 39 of your document you point out, quite accurately, I think, that if you add the provincial figures together you get something like 55 to 60 millions in India proper ?

Dr. Ambedkar : Yes.

15. "India proper" there, I think, would include the Indian States?

Dr. Ambedkar : Yes, I thought of that, but I would point out one thing. He seems to exclude the Indian States, because he gives a separate figure for Baroda.

16. Perhaps he mentions one or two of the larger ones ?

Dr. Ambedkar : Probably. Qualification of the figures.

17. We do not, of course, want to spend too long on the statistical point, because, after all, whether the right figure to take is 1½ million or 2 millions or *2½* millions, it is obvious, it is a very large number of people, and they are people who deserve our very special consideration ?

Dr. Ambedkar : One point I wish to mention is this, that the figures from which the provincial figures are computed are in the table which deals only with the principal Indian castes. It is not an exhaustive table, and I find by going over the different castes which are mentioned in this table that it does not give any figures whatsoever for ten castes, which are undoubtedly castes. They are not included in the principal Indian castes.

18. What I was going to suggest, if it was agreeable to you both, was this. You have called attention to the main considerations with regard to the figures and, without fixing absolutely the right figures, I think it would be well to get rid of this figures point as quickly as possible and then we can get to the question of considering the position and treatment of these classes ; otherwise we may occupy a long time on arithmetic. I have asked what I want to put about it, and I am quite prepared to take it that if you apply a narrower test you may get a figure of 1½ millions, but that with a wider test you will get a figure of between 2 and 3 millions. I accept that from you, as I follow it ?

Dr. Ambedkar: Yes, with this qualification, that the Bombay figures do not include ten of the castes.

Chairman : We want to get to the real point, which is their representation. Is there anyone who wants to occupy time on this statistical point ? Are you content, Mr. Rajah, that we should take it the figures are something of that sort ?

Rao Bahadur Rajah : Which figures ?

Chairman : Do not you think we might proceed with the really important question, which is their representation, leaving it like this, that in the Bombay

Presidency the Census of 1921 gives a figure of 1½ millions, but it would appear that those are the depressed classes in the narrower sense I have mentioned, the untouchables from the point of view of religion, but that, as Dr. Ambedkar has pointed out, the official figures really show, if you take a rather wider but perfectly legitimate view, that the true figure may be between 2 and 3 millions. Is not that fair ?

Rao Bahadur Rajah: Yes, that is right.

Chairman : Does anybody want to add anything about that ?

19. *Colonel Lane Fox :* On which figure are the two memoranda which we have received based ? In each memorandum you ask for special representation for the depressed classes. You ask for adult suffrage in one memorandum, and you ask for special recruitment for the army and navy and so on. It is obvious it is a bigger thing if you ask for it for the aborigines and criminal tribes and so on. Are these privileges asked for the bigger figure or for the smaller ?

Dr. Ambedkar : I ask for them for the depressed classes.

20. For the aborigines and criminal classes also ?

Dr. Ambedkar : No. I do not think it would be possible to allow them the privilege of adult suffrage.

21. But you quote the bigger figure ?

Dr. Ambedkar : I am not accepting altogether the fact that the figure which I have given in my memorandum covers the aborigines and the hill tribes. I still hold to the view that on a fair computation the figure I have given is largely the figure for the depressed classes I admit only the possibility of the other view.

Chairman : There is only one thing I might add. Sir Arthur Froom may be able to confirm it. I notice the Muddiman Committee (Reforms Enquiry Committee, 1925) in the table subjoined to para. 64 of their Report, give the figure at 2,800,000.

22. *Sir Hari Singh Gour :* Dr. Ambedkar, would you regard "depressed classes" and "untouchables" as synonymous terms ?

Dr. Ambedkar : Yes.

23. In asking for special representation for the depressed classes you confine yourselves to the untouchables ?

Dr. Ambedkar : Yes.

24. You say that some aborigines are not untouchables'?

Dr. Ambedkar : In some parts they may be. I do not propose to speak on their behalf.

25. They are not untouchables. The criminal tribes are not untouchables ?

Dr. Ambedkar : Some of them are.

26. Some, but as a tribe they are not ?

Dr. Ambedkar : The criminal tribes have so little social intercourse with the rest of the Hindus that there is no basis for any definite opinion on that point, but if they did have such intercourse I think they would be regarded as untouchables.

27. There are certain classes which stand midway between touchability and untouchability ?

Dr. Ambedkar : I would rather say they were lower down than the untouchables.

28. No, higher up in the social ladder there is a class which is semi-untouchable ?

Dr. Ambedkar : I cannot say. My point is this, that with respect to the criminal tribes we have no data for forming an opinion as to whether they are untouchable or not, because there is very little intercourse between the main body of Hindus and the criminal tribes.

29. Leave out of account the criminal tribes and aborigines ; I am now dealing with the untouchables. Among the untouchables themselves there are degrees ; there are certain among them who may be regarded as only semi-untouchable ?

Dr. Ambedkar : (Both witnesses) No.

30. I will give you an example. What is the position of the Chambhar ?

Dr. Ambedkar : He is entirely untouchable.

31. As much as the Mahar ?

Dr. Ambedkar ; Yes.

32. Are you certain of that ?

Dr. Ambedkar : Yes, if you apply this test of common water, or of entering a temple.

33. No, by untouchability I mean whose touch will pollute a high caste Hindu ?

Dr. Ambedkar: Well, you can take entering a temple or taking water as a test.

Chairman: After all, we are engaged here primarily in a constitutional and political inquiry. Social customs and deep-rooted religious traditions are not things which are likely to be removed between night and morning by any commission; that is obvious enough. It really comes to this, that in one sense the depressed classes meaning the untouchables, will be those classes who are denied all access to Hindu temples, and who, it is suggested, are deprived very often of the use of schools, of dharmashalas and things of that sort. In addition to those, speaking politically and constitutionally, we shall all agree there are others, not very advanced in the scale of civilisation, such as Sir Hari Singh Gour has referred to—criminal tribes, hill tribes and so on—who are also inhabitants of India and as such demand our attention.

Sir Hari Singh Gour: The Hindus are divided into four castes. The Sudras cannot get into the temples . .....

Chairman: I think we all appreciate that. However, we are not engaged in making laws for the Hindu religion, but in considering the structure of the constitution of British India, which is a very different thing.

34. Taking that figure, what is it that you want to represent as the proper way in which the constitution of India, and more particularly the

constitution of the Bombay Presidency, should deal with these people ?

Dr. Ambedkar : The first thing I would like to submit is that we claim that we must be treated as a distinct minority, separate from the Hindu community. Our minority character has been hitherto concealed by our inclusion in the Hindu community, but as a matter of fact there is really no link between the depressed classes and the Hindu community. The first point, therefore, I would stress before the Conference is that we must be regarded as a distinct and independent minority. Secondly, I should like to submit that the depressed classes minority needs far greater political protection than any other minority in British India, for the simple reason that it is educationally very backward, that it is economically poor, socially enslaved, and suffers from certain grave political disabilities, from which no other community suffers. Then I would submit that, as a matter of demand for our political protection, we claim representation on the same basis as the Mahomedan minority. We claim reserved seats if accompanied by adult franchise.

35. And if there is no adult franchise ?

Dr. Ambedkar : Then we would ask for separate electorates. Further, we would like to have certain safeguards either in the constitution, if it is possible, or else in the way of advice in the instrument to the Governor regarding the education of the depressed classes and their entry into the public services.

36. May we just ask Dr. Solanki if he agrees in those points ?

Dr. Solanki: I agree with all the points.

37. Then we may take it that that is the view of both you gentlemen ?

Dr. Ambedkar : Yes.

38. Would it be convenient if I asked a question of two on these points as we go ? You claim that the depressed class, although included within Hinduism in a sense, should none the less be regarded from the point of view of the constitution as a distinct and separate community from others who are within Hinduism ?

Dr. Ambedkar : Yes.

39. Is that on the ground that in your view the depressed classes cannot expect to have their interests satisfactorily represented by the higher ranks of Hinduism ?

Dr. Ambedkar: That is one ground, but a matter of fact, really we cannot be deemed to be part of the Hindu community.

40. You come, I believe from an earlier set of inhabitants of this continent ?

Dr. Ambedkar : That is one view, I think.

41. It is supposed — we will not go into details — that you are pre-Aryan ?

Dr. Ambedkar : Well, I do not know. That is a view.

* * * * *

43. I only ask you the question because there are some very distinguished Hindu public men — I do not mention any names — who have undoubtedly exhibited a good deal of interest in the case of the depressed classes. There is no question about that ?

Dr. Ambedkar : Yes, there is a great deal of public talk.

44. I know ; but, at any rate, that is your view : You say you must be regarded as a distinct and separate community from the constitutional point of view ?

Dr. Ambedkar : Yes.

45. As regards representation, I notice that whether there is adult franchise, or whether there is not adult franchise, you seem to be abandoning any idea of nomination, you want election ?

Dr. Ambedkar : Yes.

46. Is that the view of both of you ?

Dr. Solanki : Yes.

47. That means, of course, that you have to make a list of voters ?

Dr. Ambedkar : Yes.

48. And you have to make sure that the man who comes to vote is the man on the list, and nobody else ?

Dr. Ambedkar : Yes.

49. Could you give me an estimate at all, Dr. Ambedkar, of what percentage of the population whom you call the depressed classes can read ?

Dr. Ambedkar : In a separate memorandum which I have submitted to the Commission on education in the Bombay Presidency I gave the figures.

50. I am afraid it is a very small proportion ?

Dr. Ambedkar : Quite.

51. After all, one of the complaints that are made is that they have not had as free access to schools as more fortunate people ?

Dr. Ambedkar : Quite so.

52. So it would mean, would it not, if it was done by election, that it would almost entirely have to be done by people voting who could not themselves understand the ballot paper ?

Dr. Ambedkar : Yes. That is true of the majority of voters even today.

53. True. Now, would you tell me how many reserved seats in the Bombay Presidency you would suggest classes ?

Dr. Ambedkar: In the scheme that I have prepared I say out of 140 we claim 22 seats.

54. What you suggest is that if the total number of members of the Bombay Council, all elected, was 140, then you think that the body for which you wish to speak should have 22 elective seats ?

Dr. Ambedkar : Yes.

55. And supposing, to take your other alternative, there is no adult franchise, then you are asking for separate electorates. Do you still want 22 seats ?

Dr. Ambedkar : Yes.

56. The only other thing I will ask you is this. I think Mr. Rajah probably will be glad to put a few questions himself to bring out the social condition. At present I think, in the Bombay Legislative Council there are two members, are there not, who are nominated to represent the depressed classes ?

Dr. Ambedkar : That is so.

57. You yourself being one of them ?

Dr. Ambedkar : Yes.

58. And Dr. Solanki being the other ?

Dr. Ambedkar : Yes.

59. Was that based on the Southborough Committee's Report ?

Dr. Ambedkar : Yes, I believe so.

60. I believe you gave evidence before the Southborough Committee ?

Dr. Ambedkar : Yes.

61. I have been reading your evidence before that Committee, and I was looking to see how many members you said there were of the depressed classes. I think you point out in your memorandum, in a note at the bottom of page 39, that the figure of the depressed classes given by the Southborough Committee for the Bombay Presidency was 5,77,000 ?

Dr. Ambedkar : Yes.

62. I think your view is that, that was an error ?

Dr. Ambedkar : Yes, a very large error.

63. Can you tell me, as a matter of fact, how they arrived at it ? Do you know at all ?

Dr. Ambedkar : They simply took, I think, a small table with regard to castes which cause pollution.

64. It was taking a still narrower definition of what constituted the depressed classes ?

Dr. Ambedkar : Yes.

65. *Mr. Hartshorn:* I notice in this note you say, after referring to the figure of the Southborough Committee of 5,77,000. "According to the authority relied upon by the Southborough Committee, the population of the depressed classes in the Bombay Presidency in 1911 was 2,145,000".

Dr. Ambedkar : In the Census.

66. That is the authority they relied upon ? That was what I wanted to know.

Dr. Ambedkar : Yes. The authority gave two different figures on two different pages, if I remember correctly. On one page they gave the smaller figure, and they took that up, and as soon as the Report of the Southborough Committee was published we protested against this estimate to the Government of Bombay.

67. *Chairman:* I think it is quite clear what the 2,100,000 was. It was the result of adding together in the Census of 1921 the figure given for the untouchables, which as I have said, was 1,478,000, and the figure given

for the criminal tribes, which was something like 623,000. Adding those two together, you would get the 2,100,000 ?

Dr. Ambedkar : Yes.

68. And it was leaving out the aboriginal and hill tribes. It must have been ?

Dr. Ambedkar ; Yes.

69. *Mr. Miller :* I should like to ask about the position in some of the Indian States. In Baroda and one other State, I think, where some special facilities are shown, are those special facilities anything beyond education facilities ?

Dr. Ambedkar : No, nothing beyond that.

70. Could you obtain service with the State ?

Dr. Ambedkar : I should think it would be very difficult.

71. You are particularly anxious to get appointments in the public service ?

Dr. Ambedkar : Yes, decidedly.

72. Why is that so ?

Dr. Ambedkar : On that point I should like to say this, that our experience so far as the administration of the law is concerned is very bitter. I wish to say most emphatically that in many cases the law is administered to the disadvantage of the depressed class man. I would like to give a concrete case of what actually happened in one of the districts, without, of course, mentioning names. The Bombay Government annually lets out its forest lands for cultivation to the villages on certain stated terms. Now we discovered that in the allotment of those forest lands the depressed class man, who was often a landless labourer or with very little land, and who was clamouring for some sort of economic stability, never came in for a share. The Mamlatdars, who were really in charge of distributing the lands, showed absolute favouritism to the caste Hindu as against the depressed class man. Last year in one district we organised and sent a deputation to the Assistant Deputy Collector of that district, placing before him our grievances with respect to these forest lands. He issued a circular to the Mamlatdars saying that the applications from the depressed classes should be considered. Now, some of the Mamlatdars, to show they were acting up to the circular, did give some lands to the depressed classes. But we found that they rather fooled us, if I may say so. What they did was, on paper they allotted a very large amount of land to the depressed classes and a very small amount of land to the caste Hindus, but when we came to see actually what was allotted to us we found that the land allotted to the depressed classes was all rocky and unfit for cultivation and the depressed class people would not take it for anything, and the land allotted to the caste Hindus though small, was all rich and fertile. Now I think that is a most fragrant abuse of the administrative power which is entrusted to the officials, and I personally attach far more importance to good administration of law than to more efficient administration of law.

73. *Chairman:* I imagine that the application of what you have told us, which is interesting, to our present inquiry is really this — because, of course, it is no part of the function of this Commission to interfere in day-by-day administration ?

Dr. Ambedkar : No.

74. You are using it as an argument to support your view that the depressed classes should have a full representation ?

Dr. Ambedkar : In the services.

75. That is your point ?

Dr. Ambedkar: That is my point. I will give some instances of what happens in judicial courts actually in this Presidency. I happened to defend a depressed class man in one of the courts, and, to my great surprise, I found that the man had to stand outside the court behind a little window, outside the wall, and he would not come in simply because, he said, "It is all right so far as you are concerned, but after you have left there will be terrible social ostracism if I enter the court"

76. It was the client who did not want to come in ?

Dr. Ambedkar : Who dare not come in.

77. What sort of social ostracism had he in mind ?

Dr. Ambedkar : The social ostracism would be that if he went back to the village there would be the boycott of the shop-keepers; nobody would sell him grain. The villagers would stop his dues as a village servant. He would not be allowed to come into the village. The depressed class people always live on the border of the village, not in the centre or in the midst

78. Your point would be that he was timid about coming into court on this occasion because he thought that afterwards the other people of the village, not his own lot but the others, the caste people, would regard him as having pushed himself in where he should not go ?

Dr. Ambedkar : Certainly—having exceeded the bounds of his social status.

79. That is a single case, is it ?

Dr. Ambedkar : I have had that experience but I think that the existence of a circular of the Bombay High Court to the effect that the depressed classes must be allowed entry in the courts indicates that that is often the case. There must be some reason for that circular.

80. *Mr. Miller:* The only other question, I want to ask is this. If you got these 22 seats in the Council do you think you could bring forward 22 suitable men ?

Dr. Ambedkar : Yes, I think so.

81. *Khan Sahib Abdul Latif :* Would you please enlighten the members of the Conference as to the fate of the minorities in the Bombay Council, when the official bloc is withdrawn for certain reasons ?

Dr. Ambedkar : I quite see that the fate of the minorities would be precarious. It has been precarious.

82. Did the honourable Minister belonging to the advanced class show

any consideration to the project, or the feelings of Mahomedans, non-Brahmins, or depressed classes ?

Dr. Ambedkar : No, not at all.

83. Do the minor communities stand any chance of getting through any legislation in the Bombay Legislative Council, or get any chance to move it?

Dr. Ambedkar : Their chances would be almost nil.

* * * * *

98. *Sardar Mujumdar:* Is it not a fact that different kinds of castes among the depressed classes are known as the depressed classes ; that is to say, there are different kinds of castes even among the depressed classes ?

Dr. Ambedkar : Yes, of course.

99. Can you give me approximately the number of those castes ?

Dr. Ambedkar : I think you will find them in the Census, the different castes enumerated as untouchables.

100. Can you give me any idea of the number of different castes ?

Dr. Ambedkar: About a dozen or so. The Census gives it.

101. How many castes are included in the depressed classes in Bombay ?

Dr. Ambedkar : Almost all the castes.

102. Then the members of the different castes are members of your organisation ?

Dr. Ambedkar : Quite ; it is a general body inclusive of all the depressed classes.

103. So that among the depressed classes are included ail those ?

Dr. Ambedkar : Yes.

104. Have you taken into consideration the claims of the Bhils and Wadias and other persons ?

Dr. Ambedkar : No.

105. What do you say about the protection of those minorities ?

Dr. Ambedkar : I think that they also should be allowed some protection by representation.

106. Do you not think that even among the backward classes there are certain communities, who are in a minority ?

Dr. Ambedkar : Yes.

106A. Then has the present constitution any provision to protect their interest ?

Chairman: Are these castes to which you refer refused admission to the Hindu temples ?

Sardar Mujumdar: No, they are allowed to go into them.

Chairman: This morning we are really considering the case of untouchables, and persons who are quite outside the Hindu temple scheme. I do not think we can go into the question of the backward classes, who would be admitted to the Hindu temples.

Sardar Mujumdar: What I submit is that there are various minorities

even amongst the backward classes. We are not concerned with the question of suitability; we are here to safeguard the interests of all the minorities.

Chairman: Certainly.

Sardar Mujumdar: It was from that point of view that I asked the question.

Chairman: Let me relieve you at once. India is full of minorities, and you have mentioned some of them; but this morning we are considering the body of people called the depressed classes.

Sardar Mujumdar: Very well, Sir.

107. *Syed Miran Muhammad Shah:* You have just said that you want representation in proportion to what the Mahomedans get ?

Dr. Ambedkar: Yes.

108. Do you want them because Mahomedans get them ? Do you see any justice in that ?

Dr. Ambedkar: I see justice in that, I do not quite accept the principle of representation of minorities according to population of the legislature as though it was a museum in which we have only to keep so many specimens of so many communities. A Legislative Council is more than a museum, it is a place where, for instance, social battles have to be fought, privileges have to be destroyed, and rights have to be won. Now, if that is the conception of a Legislative Council, I do not think it at all in the fitness of things to confine the minority to proportional representation according to population, that means you are condemning a minority to be perpetually a minority without the power necessary to influence the actions in the majority.

109. Would you be satisfied if the franchise was reduced to local boards in the rural areas ?

Dr. Ambedkar: Well, I would really insist upon adult suffrage. The lower the franchise the better, on that principle I would accept any lowering, out I certainly would not say I would be content with that.

110. Would you then extend adult suffrage to the aboriginal tribes and to the criminal and hill tribes ?

Dr. Ambedkar: Yes, I think so.

111. You would?

Dr. Ambedkar: Yes.

112. Or would you like to exclude them and give them nomination and yourselves adult suffrage ?

Dr. Ambedkar: I will say one thing. With regard to the criminal tribes, it might not be a good thing to give them adult suffrage, because by occupation they are a people who have more the interest of their own particular community in their mind, and they are not very particular as regards the means whereby they earn their living; but I do not think there is any harm in giving aborigines the right to vote.

113. They should be given the right to vote, or should their interests be

protected by nomination ?

Dr. Ambedkar: They should be protected somehow ; I do not much mind how. My feeling is that every man is intelligent enough to understand exactly what he wants. Literacy has not much bearing on this point; a man may be illiterate, none the less he may be very intelligent

114. Do not you think that this separate representation will lead to communal tension ? It is stated that communal tension is due to separate representation and separate electorates. Is that your belief ?

Dr. Ambedkar: Even assuming it does lead to tension I do not see how you can get rid of it. Whether it does lead to tension is questionable, but I do not see in any case how you can get rid of it, having regard to the fact that society is divided into classes and communities.

115. Do not you think it is the root cause of dissension ?

Dr. Ambedkar: I do not think so, but I do say this; as a result of communal representation, the leaders of the communities are less prone to compromise than they would otherwise be. That is my feeling, but I do not think it leads to communal riots, which are due, I think, to something very different

116. *Syed Miran Muhammad Shah:* Would you not suggest that by taking away the official bloc, non-officials may be nominated in order ?

Dr. Ambedkar: I do not want nomination.

117. *Major Attlee:* Are there members of the depressed classes working in industry, in the cotton mills and so on ?

Dr. Ambedkar: All of them. The depressed class men are all labourers.

118. You have not got my point; I am talking of industry. You have members of the depressed classes who work in villages, for the most part in certain occupations. But are there large numbers of the depressed classes engaged in industry ?

Dr. Ambedkar: A very large number.

119.You would have a very large number in a place like Bombay City?

Dr. Ambedkar: Yes.

120. Do they cease in any degree to be untouchable ?

Dr. Ambedkar: No, I should like to point out this. The depressed class man is entirely kept out of the weaving department, the most paying department. He can only enter departments like the throstle department and others.

121. Why?

Dr. Ambedkar: On account of untouchability.

122. When he is working there he is working alongside people of all castes?

Dr. Ambedkar: Not quite. The departments are discriminated according to castes. One department is entirely manned by the depressed classes;

another—say the weaving department—by Mahomedans and caste Hindus.

123. Do they take part in the trade unions ?

Dr. Ambedkar: Yes, they are beginning to do so.

124. With members of the classes above the depressed classes ?

Dr. Ambedkar: Yes.

125. I wanted to get this point from you. You put forward a claim for representation of the depressed classes on the basis of numbers. Now, we have claims put forward on a different basis altogether; on, say, the labour basis. You get a cross-division in that way, because a man can be a depressed class man and he can also be a labourer ?

Dr. Ambedkar: He is usually, if not always, a labourer.

126. That is rather a play on words, is not it ? I am speaking of capital and labour, of labour in big- industries, not of the ordinary un-organised labour. I am speaking of organised labour. How are you going to get over the difficulty ? If you are going to have representation by social status in one case and by industry in another, you are going to get a cross-division. How will you get over that ?

Dr. Ambedkar: There will be some provision for organised labour, and the majority of the depressed classes are labourers.

127. *Mr. Hartshorn:* I think, Dr. Ambedkar, you have made it pretty clear that you are in favour of adult suffrage. You say on page 41 of your memorandum, however, "The Sabha would, however, be content if the franchise for the Legislative Council is fixed at the same level as that for the Taluka Local Board in the rural parts and Rs. 3 rental per month in the urban parts of the Presidency." Have you formed any opinion, or are any statistics available to enable us to know to what extent the franchise would be extended on that qualification ?

Dr. Ambedkar: I may tell you that I am myself shaky about that statement. I do not mind admitting that. Such information as I have been able to gather from the depressed classes in the mofussils, however, leads me to believe that the existing taluka local franchise does produce a certain number of voters from the depressed classes.

128. I was not quite thinking of that. Could you tell us the increase in the number of persons who would become voters in the Bombay Presidency if this qualification rather than the present one were adopted ?

Dr. Ambedkar: I do not think I can give you any very definite information on this point.

129. May I revert to a question put to you by Major Attlee ? I gather the depressed classes work in the factories in isolation ?

Dr. Ambedkar: In isolation, yes.

130. They have their own shed and their own department ?

Dr. Ambedkar: Their own department; there are no sheds.

131. Whatever it is, they are separated from the other workers in the factory ?

Dr. Ambedkar: I would rather put it in this way, that certain

departments are exclusively assigned to the depressed classes and certain departments are departments into which they are not allowed to enter.

132. Certain kinds of occupations are forbidden to them ?

Dr. Ambedkar: In the mills, yes.

133. I think you said they are not allowed to go into the weaving department ?

Dr. Ambedkar: Yes.

134. If they became members of the same trade union, would the workers in the weaving department decline to allow them in ?

Dr. Ambedkar: They would decline to allow them in. If I may mention one thing, in the recent Bombay strike this matter was brought up prominently by me. I said to the members of the union that if they did not recognise the right of the depressed classes to work all the departments, I would rather dissuade the depressed classes from taking part in the strike. They afterwards consented, most reluctantly, to include this as one of their demands, and when they presented this to the millowners, the millowners very rightly snubbed them and said that if this was an injustice, they certainly were not responsible for it.

135. It is not altogether merely a case of the employers wanting to get cheap labour and confining certain departments to the depressed classes for economic reasons ?

Dr. Ambedkar: No, it is untouchability.

136. Would there be anything of this in the situation ? The better-paid Indian, say, declines to allow the untouchable to come into his department for fear that the effect of their lower wages would be to depress wages in his department ?

Dr. Ambedkar: No. There is no distinction on the basis of wages.

137. That does not come into it at all ?

Dr. Ambedkar: No, not at all.

138. It is merely a question of untouchability ?

Dr. Ambedkar: Quite so.

139. *Mr. Cadogan:* They can be members of the trade union ?

Dr. Ambedkar: Yes.

140. *Mr. Premchand:* Can you give me a strict definition of the classes who will be on a special register of the electorate as the depressed classes ?

Dr. Ambedkar: Castes which cause pollution.

141. Is the principle that the lower the standing of a community the greater the electoral advantage it should command over others, justifiable ?

Dr. Ambedkar: Yes.

142. If all minorities are granted additional seats, what then will constitute the majority ?

Dr. Ambedkar: If minorities put together make up a majority there is no majority and the question does not arise. There may be class distinctions among the minorities. I can quite conceive the Mahomedans in the Bombay Presidency being divided into two groups, one favouring the capitalists and

one the labourers.

143. Is not it true that people who are not politically minded or trained are frequently led astray by professional leaders ?

Dr. Ambedkar: I do not know. I have never been a professional leader, so I cannot say.

144. Would not the extension of the franchise to the large majority of the uneducated section of society be fraught with danger and render it liable to abuse ?

Dr. Ambedkar: No, I do not think so.

145. Can you tell me why it is not possible to admit members of the depressed classes to our present schools and colleges without the necessity for a charge on the revenue of the Province ?

Dr. Ambedkar: Because they are hopelessly neglected under the present system.

146. Why is not. it possible to admit members of the depressed classes to our present schools and colleges without the necessity for a charge on the revenues of the Province ?

Dr. Ambedkar: You should ask those who refuse what their reason for resfusal is.

147. Refusal of what ?

Dr. Ambedkar: To admit them.

148. To the colleges and schools ?

Dr. Ambedkar: Yes.

149. Do you know the Bombay Municipality has passed a rule now ?

Dr. Ambedkar: And you know also of the protest meeting which was held in Bombay.

150. There may have been a protest by one section, but the Municipality has removed all those restrictions ?

Dr. Ambedkar:. It remains to be seen how far they will stick to it at the next election.

151. But they have done it, you know ?

Dr. Ambedkar: Yes.

152. *Chairman:* Might we know what is the protest meeting to which he refers ?

Dr. Ambedkar: The position is this. Hitherto the Bombay Municipality has had separate schools for the depressed classes in the City of Bombay. Now, under the scheme of compulsory primary education, the Bombay Municipality is compelled to limit the number of schools and bring together the scattered children of the depressed classes into the schools of the caste Hindus as a measure of economy. Naturally, some provision has to be made for water and other amenities for the children who attend. The question arose whether there should be a distinction in the drinking arrangements, whether the untouchables should have separate pots for drinking from the caste Hindus. The Municipality passed a resolution saying "We cannot recognise untouchability in our own schools," and they issued a circular

that there should be no distinction as to drinking pots in their schools. This protest meeting was a meeting held under the presidency of an important Hindu leader of Bombay to protest against that kind of uniform arrangement being made, as being against the Hindu religion.

153. *Mr. Premchand:* Do you know the depressed classes are employed in the weaving departments of the Ahmedabad mills ?

Dr. Ambedkar: I did not know that.

154. I can tell you they are.

Dr. Ambedkar: There again I should like to say one thing, probably they are employed exclusively. I can quite conceive of a situation where, for instance, so many looms are exclusively handed over to the depressed classes. Today there is a proposal also in certain mills that the depressed classes should take charge of the whole of the weaving department, that the millowners should hand it over to them, but you cannot have part depressed classes and part caste Hindus.

155. *Chairman:* The difficulty is the mixture ?

Dr. Ambedkar: Yes.

156. *Sir Hari Singh Gour:* What is the view of your Institute in regard to the general scheme of constitutional reform ? Have you formulated any views at all on the subject ?

Dr. Ambedkar: I may tell you this. The depressed classes as such, of course, are not very much interested in constitutional questions ; they are more interested in obtaining the guarantees and protection they require, under whatever form of Government that may come to be. Therefore, I do not think that the depressed classes as such have any definite views as to the form of Provincial Government or the form of the Central Government; but, of course, I have my own individual views as a member of the depressed classes, without these being the views of the depressed classes themselves. It is on that account that nothing is said about the constitution in my memorandum.

157. I am aware of that, and that is why I asked you that question. What are your personal views ?

Dr. Ambedkar: So far as the Provincial Government is concerned, I am in favour of Provincial autonomy.

158. Qualified or unqualified ?

Dr. Ambedkar: I think there might be some safeguards with regard to the transfer of law and order. It is not that I object to the transfer of law and order; I am in favour of the transfer; but still I should like some safeguard. I am not certain today what it shoud be, but there might be with advantage some safeguard in that respect Barring that, I am in favour (speaking personally) of full Provincial autonomy.

159. What about the Central Government ?

Dr. Ambedkar: I think we might start with dyarchy there.

160. As regards adult suffrage, I suppose you are in favour of adult male and female suffrage ?

Dr. Ambedkar: Yes.

161. Do you think that is a practical proposition ?

Dr. Ambedkar: Very practical.

162. Do you think the masses have attained any degree of political consciousness, so as to be able to use that political suffrage with any advantage to their own community ?

Dr. Ambedkar: Speaking only on behalf of the depressed classes. I emphatically maintain that the depressed classes will exercise their vote in a most intelligent manner, speaking for the Bombay Presidency. Having regard to the fact that the canker of untouchability is before their minds every minute of their lives, and having regard to their being alive to the fact that political power is the only solvent of this difficultly, I emphatically maintain that the depressed class voter would be an intelligent voter.

163. Do not you think that, following the example of other countries, those who pay no taxes, having a political existence and possessing political power, will tax those who are already oppressed with heavy taxes ?

Dr. Ambedkar: I think that should be so. I do not see anything wrong in it.

164. You see no wrong in the exploitation of the tax paying community ? Is this your own opinion or the opinion of the Institute which you represent ?

Dr. Ambedkar: My own opinion. The Institute has said nothing about it here.

165. Do you think you reflect the general opinion of your Institute in conveying this view to the Commission ?

Dr. Ambedkar: I think that would be the view of all poor communities.

* * * * *

167. *Sir Hari Singh Gour:* In answer to the Chairman, you said the depressed classes must be regarded as a distinct community, a community distinct from the Hindu community. Do you apply that only for electoral purposes, or for all purposes ?

Dr. Ambedkar: They are distinct for all purposes, as a matter of fact

168. Would you class the depressed classes as real Hindus ?

Dr. Ambedkar: I do not care about the nomenclature. It does not matter whether I call myself a Hindu or a non-Hindu, as long as I am outside the pale of the Hindu community.

* * * * *

170. It makes all the difference in the world. If you were ..... outside the pale of Hinduism you would not be subject to Hindu law. You could not, for instance, contract a marriage under the Act 30 of 1923, which has completely abolished all castes so far as the marriage law is concerned between a Hindu and a Mahar, touchable and untouchable. Now, if you go out of that community, out of that social system, and call yourself a non-Hindu, you will be outside the pale of Hindu law to that extent ?

Dr. Ambedkar: It might be.

171. Then by what law would you be governed ?

Dr. Ambedkar: We are governed by the Hindu law, just as, for instance, the Khojas, who are Mahomedans, prefer to be governed by Hindu law so far as the devolution of property is concerned.

172. And you are under the Act 30 of 1923 ; you are under Hindu law ?

Dr. Ambedkar: I do not know what the depressed classes would think about marriage.

173. Would you kindly turn to your memorandum ? You say at page 39, and you also repeated it today in answer to my friend Mr. Kikabhai, "the standing of the community must mean its power to protect itself in the social struggle. That power would obviously depend upon the educational and economic status of the community."

Dr. Ambedkar: Quite.

174. It follows from the recognition of the principle that the lower the standing of a community, the greater electoral advantage it must get over the rest. Do you adduce this last sentence as a logical deduction from the premises, from the previous two sentences ?

Dr. Ambedkar: Yes.

175. You regard that as a logical deduction ?

Dr. Ambedkar: Yes, quite.

176. ..... I wish to draw your attention to the fact that you say :

"In addition to the demand for adequate representation, the Sabha feels that it must also demand the inclusion of clauses in the constitution of the country." Now, amongst these clauses you find things like this mentioned:

"the right of every depressed class to the appointment of a special inspector of police from amongst themselves" ?

Dr. Ambedkar: Yes.

177. Do you expect that an Act of Parliament should contain a clause to this effect, that the depressed classes in India shall have an inspector of police in every district from amongst themselves ?

Dr. Ambedkar: I really do not see anything strange in that

178. Supposing there was a provision to that effect relating to all communities (because if you have got certain constitutional guarantees it follows by necessary implication that other communities have an equal right), then you parcel out all the official posts and you parcel out all the other things amongst the various communities, and that is the constitution that you foresee for India ?

Dr. Ambedkar: I do not know that. I am only speaking for the depressed classes. May I just make one thing clear ?

179. May I just complete my sentence ? That is a contingency that does not arouse any apprehension in your mind ?

Dr. Ambedkar: Just let me explain before you go further. I think we must be very careful in using the word "minority". I do not think simply because a community happens to be a community composed of small numbers it is therefore necessarily a minority for political purposes.

A minority which is oppressed, or whose rights are denied or the majority, would be a minority that would be fit for consideration for political purposes.

180. Wherever you have these minorities in other countries, there is provision made, there is sometimes a minister for the protection of minorities. Have you thought about that ?

Dr. Ambedkar: Yes.

181. Supposing we gave you the protection—the protection might be given in any form, and if I may say so ?

Dr. Ambedkar: I am sorry to interrupt you—I do find that the new constitutions that have been framed after the peace for the various European countries composing the bulk of the Slavonic nations very largely embody this principle. I have devoted some special attention to this subject, if you will permit me to say so.

182. *Lord Burnham:* And carried out ?

Dr. Ambedkar: And made part of the Constitution.

183. And carried out in practice too?

Dr. Ambedkar: Carried out in practice ; and the point is this, that if a minority feels that the guarantee has not been fulfilled, it has the right of appeal to the League of Nations.

* * * * *

186. I am not quarrelling with the principle ?

Dr. Ambedkar: And I may say I am not very particular about the form.

187. If the details of the scheme which you have adumbrated were to be introduced into the constitution of 'this country, would it not lead to a perpetual class war ?

Dr. Ambedkar: It might, but that would depend upon the attitude of the majority.

188. Therefore you would not, as a sagacious statesman ?

Dr. Ambedkar: If you will permit me to say so, all these things, though I insist upon them, I admit to be provisions of a transitory character. I do contemplate and I do desire, the time when India shall be one ; and I believe that a time will come when, for instance, all these things will not be necessary ; but all that would depend upon the attitude of the majority towards the minority.

* * * * *

198. Now, you mentioned a case that you conducted on behalf of a member of the depressed class, who, from fear of social ostracism, stood outside near the window. What district was it ?

Dr. Ambedkar: Khandesh district.

199. Ordinary Magistrate's Court ?

Dr. Ambedkar: The stipendiary Magistrate's Court.

200. What caste was the Magistrate ?

Dr. Ambedkar: A Hindu.

201. He did not object to the accused coming into the court ?

Dr. Ambedkar: No. I say the accused himself would not come in.

202. The accused himself was terrorised by the past acts of the Hindus ?

Dr. Ambedkar: Yes.

203. The fear had been engendered in the minds of the depressed classes on account of the oppression of the caste Hindus that he would not get a square deal thereafter if he was to trench upon the limited rights which he had been given by the caste Hindus ?

Dr. Ambedkar: Yes.

204. *Sir Hari Singh Gour:* I think you will admit, Dr. Ambedkar, that during the last few years there has been a forward movement in the way of removing untouchability and removing all disqualifications from the path of the depressed classes ?

Dr. Ambedkar: Yes.

205. I admit that the reforms have not been commensurate with your desires and mind, but at the same time, we have to recognise that there is a growing feeling that there must be a consolidation of the Hindu people by removing all these barriers that stand between the caste and the non-caste Hindus. You recognise that ?

Dr. Ambedkar: Yes, there are speeches from the platform.

206. There are positive actions ?

Dr. Ambedkar: Speaking for my part of the country, the Bombay Presidency, I would rather hesitate to accept your proposition.

207. Therefore, I will give you examples. Every year, for instance, wherever there is a caste and no-caste society, Hindus hold annual dinners, and they all sit together for the purpose of making one class of people accustomed to the other class of people ?

Dr. Ambedkar: I am not aware of it in this Presidency.

208. I have attended several of them.

Dr. Ambedkar: In this Presidency?

Sir Hari Singh Gour: No, in Nagpur.

209. There is no such movement here ? *Dr. Ambedkar:* No.

210. But you admit that there is recognition of the fact that oppression and untouchability must go, and that every effort to suggest anything in that way receives sympathetic consideration from the caste Hindus, and particularly from the Reformers ?

Dr. Ambedkar. I would hesitate, again, to answer that.

Chairman: Would you agree, in order to get this witness's view of the facts, that I should ask two or three questions on your line ? *Sir Hari Singh Gour:* Yes Sir, certainly.

211. *Chairman:* Mr. Rajah would be, in many ways, the best person to do it, but I wish you would tell us your own view. Compare twenty years ago with now in the Bombay Presidency. How many years, if I may ask, have you been here ?

Dr. Ambedkar : Five or six years.

212. You have, of course, taken an interest in your own community since long before that ?

Dr. Ambedkar: Yes.

213. You can look back twenty years and give us some ideal ?

Dr. Ambedkar: Yes.

214. Let me take two or three things. First of all I imagine that there is no change at all so far as regards the admission of the depressed classes to the interior of a Hindu temple. That, of course, is a matter of religious practice and teaching. I do not criticise it, but there is no change at all ?

Dr. Ambedkar: No, there is no change at all in that respect.

215. What I want to know is this. Let us take two or three definite things in this Presidency. In the country districts, you have told us that as a rule the depressed classes, the untouchables, live in a place for themselves. Of course, we have seen it many times. Sometimes they five in a corner of the village, if it happens to be a Hindu village, and sometimes in a hamlet of their own. Now is there any change in the last twenty years as regards their living among the general communities ?

Dr. Ambedkar: No change.

216. We saw some of the villages the other day. We understand some of them can draw water from the river, but I suppose there are other villages that rely on wells ?

Dr. Ambedkar: Even in the case of rivers they can take water only from a portion of the river. A point on the river is appointed for them.

217. That is to say, the depressed classes will draw water at a point lower down than the caste Hindus ?

Dr. Ambedkar: Yes.

218. Now let us take the case of villages that rely on wells. It is not uncommon ?

Dr. Ambedkar: No, not uncommon.

219. I am anxious to know and I hope you will tell me quite frankly, is there in that respect any improvement in the last twenty years ?

Dr. Ambedkar: No.

220. Your attention has been called to the fact that there have been resolutions passed on this subject ?

Dr. Ambedkar: Yes, only resolutions.

221. It is suggested that untouchability sometimes goes to such a length that the actual contact with the man (or sometimes his shadow itself) is regarded-socially by those of the higher castes as a pollution ?

Dr. Ambedkar: Yes.

222. Is there an improvement in that respect ?

Dr. Ambedkar: There is an improvement in that respect.

223. I am glad to hear that. That is, whereas 20 years ago a caste Hindu who found himself in close contact with an untouchable would possibly think it his religious duty to purify himself, it is not viewed with so much

strictness now ; is that correct ?

Dr. Ambedkar: Yes.

224. Then, of course, as compared with twenty years ago I imagine that there are some members of the depressed classes who have in fact risen very much in the professional scale. Twenty years ago were there depressed classes who were practising at the Bar in Bombay ?

Dr. Ambedkar: No.

225. How many members of the depressed classes practise at the Bar now ?

Dr. Ambedkar: I am the only man.

226. I think we were told yesterday that in the list of voters for the Sardars and Inamdars there were two members of the depressed classes ?

Dr. Ambedkar: Only one. His position is different. His jagir was granted by the Peshwas for the services rendered on the battlefield. His title was not given by the British Government.

227. What one notices is that in India there is gradually being introduced the motor bus connecting the town with the village and I see them going along the road. Are those public vehicles open to the depressed classes ?

Dr. Ambedkar: Not in villages. There are a great many villages where the depressed classes are not allowed to travel in these buses

228. Who prevents them ?

Dr. Ambedkar: The driver would not take them.

229. One would expect the driver to take anybody who pays. Why does he not take them ?

Dr. Ambedkar: Because if he takes them the other people will not come into his car. For instance, the barber here would not shave my head even though I offer him a rupee.

230. *Rao Saheb Patil:* According to law the driver would be prosecuted if he refuses to take any passenger ?

Dr. Ambedkar: That can be evaded by saying that all seats are booked.

231. Are matters improving in that respect ?

Dr. Ambedkar: Yes, they are improving; but still there are numerous cases where the depressed classes would not be allowed to enter into these buses.

232. Let us take the depressed classes who are employed in the mills in Bombay. Some of them go in trams, I suppose. Do you suggest that they are not allowed to use the trams ?

Dr. Ambedkar: There was a case two years ago where a Bhungi was not allowed to board a tram.

233. When you speak of the case two years ago it suggests to me that it is rather exceptional than a rule ?

Dr. Ambedkar: I have seen, for instance, when I was travelling by the B.B. & CI. Railway hundreds of cases where the passengers obstructed the depressed classes coming into the compartments.

234. *Sir Hari Singh Gour:* With regard to the case of the Bhungi which you mentioned, are you sure if he was not properly attired and therefore be was not allowed to get into the tram ?

Dr. Ambedkar: I do not know about that.

235. Before a man gets into the tram he is not asked to which caste he belongs ; they only ask him whether he has got the fare, is it not ?

Dr. Ambedkar: But people can easily recognise him.

236. That is on account of his dress ?

Dr. Ambedkar: But he will be dealt with very badly when once he is recognised to belong to the depressed classes.

237. Apart from the question of caste there is also the question of costume ?

Dr. Ambedkar: Yes, but some of the members of the depressed class are very well dressed.

238. In the Bombay Presidency you have no such thing as to consider it a pollution to walk in the shadow of a depressed class member ?

Dr. Ambedkar: Yes, it exists in some parts of the Konkan and in Kathiawad.

239. It is on the wane ?

Dr. Ambedkar: Yes.

240. With regard to the Ambalal Sarlal School in Ahmedabad, has not his sister started the school for depressed classes ?

Dr. Ambedkar: That is the only honourable exception.

241. Is not the school maintained for the depressed classes from public funds ?

Dr. Ambedkar: I do not know that, but I know that that lady is taking interest in the elevation of the depressed classes.

242. *Chairman:* I understand it is an exceptional case ?

Dr. Ambedkar: Yes, it is quite an exceptional case.

243. *Dr. Suhrawardy:* In view of the instances of social ostracism and tyranny which you have just stated, do you not think that in a general election members of your community will be frightened out of the polling booths ?

Dr. Ambedkar: Yes, it may happen.

244. Also there is the further apprehension that the high caste-Hindus may refuse to come and participate in the elections where the untouchables go to record their votes ?

Dr. Ambedkar: They might; it is very difficult to say what might happen. We have cases, for instance, where the caste-Hindu members of district boards have left the premises because the depressed class members have claimed to sit at the table.

245. Do you not think that, in view of this state of affairs, it will be better for you to have a separate electorate because in practice it will mean a separate electorate even if you reserve your seats in a general electorates ?

Dr. Ambedkar: Yes.

246. *Rao Bahadur Rajah:* With reference to the question put by my friend, Sir Hari Singh Gour, regarding the costume of the depressed classes, did the barber refuse to shave your head because you were not well dressed ?

Dr. Ambedkar: No; it is because I belong to the depressed class.

247. Not on account of the dress you were wearing ?

Dr. Ambedkar: No.

248. With regard to another question put by another member of the Committee, may I ask you whether it is easy for a depressed class member in a village to file a suit against the owner of a bus because he has refused to take him ?

Dr. Ambedkar: It is not possible.

249. I understand that you have been taking very much interest in the uplift of the depressed classes. What has been your experience during your propaganda as to the help you receive in this work from the higher classes ? Do they help you to impress upon the depressed classes the need for greater sanitation, hygiene and such like things ?

Dr. Ambedkar: My experience, unfortunately, is rather very bitter in this matter. The depressed classes have been dubbed to be unfit for association because of certain unclean habits. That is the allegation of the upper classes. That is to say, they eat the meat of the dead animals and they are not clean, and so on. In this Presidency during the last two years I started a campaign to purify the depressed classes, so to say, and to persuade them to give up some of their dirty habits. But, to my great misfortune, I found the whole caste-Hindu population up against me when in a matter like this I expected the utmost co-operation from them. But when I began to analyse the basis of their opposition I found that they insisted upon the depressed class people doing the unclean things because giving up doing these things meant that the depressed classes were exceeding their social status and rivalling the upper class. For instance, in the Colaba and Ratnagiri districts the whole of the Mahar population have given up the eating of the meat of dead animals, but the tyranny and social oppression that is going on against them is simply unspeakable; there is a complete economic and social boycott. The lands they had been cultivating for years past have been taken away from them by their caste-Hindu landlords. Every sort of pressure, social and economic, has been brought to bear upon the depressed classes in order to compel them to resume their dirty habits. The officials, who are all caste-Hindus, give no protection to the depressed classes, whose condition has really become pitiable, and all this because they sought to give up their dirty habits. Instead of getting co-operation I find that the members of the upper classes are up against me, and they say "these evil habits of the depressed classes are all insignia of their inferiority and they must remain."

250. The other day we heard a witness say that there is not a single depressed class member on the sanitary boards. If what you have said

just now with regard to the higher castes is true, is there any good in the depressed class members, being on these boards so far as their sanitary improvement is concerned ?

Dr. Ambedkar: I think the depressed class people ought to be represented on every local authority.

251. You told us just now that in the courts in this Presidency witnesses belonging to the depressed classes have no access. I want to be clear on that point. Do you mean to say that the members of the depressed class are not admitted into some of the courts ?

Dr. Ambedkar: Yes.

252. And I understand you to say that in a case the man did not dare go into the court, is that so ?

Dr. Ambedkar: The thing is the depressed class man is looked upon by the caste people as having a particular station in life, he exceeds that station in life when he enters the court, and if he exceeded that station in life they would begin to harass him. The man, if he exceeded the social limits, would subsequently suffer at the hands of the caste people. My protection in that particular case was only temporary protection and he knew it would cease as soon as the case was over.

253. If you had not been there and if he attempted to go into the court, what would have happened to him ?

Dr. Ambedkar: I think the same thing would have happened to me when I tried to enter a temple in Bombay.

254. Coming to medical relief, will you kindly enlighten us as to the kind of medical relief the depressed class men are getting ?

Dr. Ambedkar: They are not allowed entry into the dispensary, unless the case is a very very serious one; such as, for instance, the non-admission would bring the officer's conduct to the notice of the higher authorities. Ordinarily the medicine is dispensed out

255. *Chairman:* I suppose you are talking of dispensaries in the mofussil ?

Dr. Ambedkar: Yes, Government dispensaries.

256. They are, of course, in the department of the Minister of Medical Administration ?

Dr. Ambedkar: Yes.

257. I imagine that the regulations of the Minister provide that these dispensaries are open to everybody who goes ?

Dr. Ambedkar: Yes.

258. But you say that in the mofussil in fact it does not work out like that ?

Dr. Ambedkar: No.

Dr. Solanki: The Hindu medical man who is orthodox always takes objection to examine a man belonging to the depressed classes. There have been instances in Gujarat where the men have actually died from the want of medical relief. I know of instances where doctors have actually

refused even to touch the patient when he was suffering from pneumonia. The doctor would hand over the thermometer to a Mahomedan who does not know how to hold the thermometer and the Mahomedan would hand over the thermometer to the patient. This is a fact and it has happened.

259. What is important, I think, as I said before and I may repeat it, is to get a true picture. The thing may happen occasionally. I want to know whether what you are describing is quite an exceptional thing due to some particular doctor's objection or whether you think it is an everyday happening ?

Dr. Solanki: Doctors who are orthodox do it.

260. The difficulty about this thing is that the objection that is taken by the medical man is an objection based on his own religious views ?

Dr. Solanki: Yes.

261. *Rao Bahadur Rajah:* Have these facts been brought to the notice of the authorities concerned ?

Dr. Ambedkar: Yes.

262. What was the action they took ?

Dr. Ambedkar: The reply the Minister gave was that we had belter depend on persuasion; that was the word he used.

Chairman: Would you do this for us, Rao Bahadur ? One hears of different aspects of this and I want to know the facts. What is the position about the depressed class children in the ordinary public schools in this province ? Would you ask the witness about that for me ?

263. *Rao Bahadur Rajah:* Will you kindly enlighten us as to the attitude of the schoolmasters or the Education Department or the managers of schools towards the children of the depressed classes ?

Dr. Ambedkar: There is a circular issued by Dr. Paranjpye when he was Minister of Education in this Presidency to the effect that children of depressed classes should be admitted in all schools. But our experience is that circular has not been carried out at all. It is true that in the report of the Director of Public Instruction it is stated that that circular has been carried into effect; but I beg to differ from that view. It is not a correct statement of facts as they exist today. There is an incident here at Poona which took place only a few days ago, at Deoo, where the children of the depressed classes were refused admission and when they insisted on it the village proclaimed social boycott against the depressed classes.

264. *Chairman :* The memorandum refers to that report ?

Dr. Ambedkar: Yes, that is not a correct statement of facts as I said. I beg to differ from that

265. *Rao Bahadur Rajah:* I understood from Mr. Griffith that in his view there are reasons why the depressed classes could not be taken into the police department as the duties of the police involved house searches and arrests. Supposing, for the sake of argument, that is true, would there be similar objection to the recruitment of the depressed class members to other subordinate and provincial services ?

Dr. Ambedkar: Find that there are so many objections raised.

266. You are a member of the Local Legislative Council ?

Dr. Ambedkar: Yes.

267. What is your experience as regards the attitude of the higher caste members of the local Council towards your community ?

Dr. Ambedkar: One cannot say it is favourable to the depressed classes.

268. What is the attitude of the Government towards the members of your community in your Provinces ?

Dr. Ambedkar: Very apathetic.

269. I suppose you have got honorary bench magistrates' courts in this Presidency. Are there any members of the depressed classes on these boards ?

Dr. Ambedkar: There are none and we are trying to get some on the bench of magistrates, but without effect. Perhaps it might be interesting to the Conference if I read in this connection a letter written by the Collector of the Khandesh district to a member of the depressed classes when he applied for an appointment on the bench. This letter also gives the reasons why he should not be appointed to the place, and it reads thus :

"The Collector has every sympathy with the aspirations of the depressed classes and is glad to recognise and appreciate Mr. Medhe's good work in the various fields of public activities ; but in his opinion time has not yet come when a member of the depressed classes can be given a seat on the bench of magistrates, and, until the Government makes some pronouncement favourable to the aspiration of the depressed classes in this Presidency he must regretfully express his inability to recommend such an appointment" This letter is dated 25th September 1928.

270. I am sure you will agree with me that appointments to these bodies have nothing to do with the progress of the communities ?

Dr. Ambedkar: Nothing.

271. The sole consideration should be whether the individual candidate can discharge his duties with a sense of responsibility ?

Dr. Ambedkar: Yes.

272. *Lord Burnham:* I understood you to say that of all the methods to protect the interests of the depressed classes, you preferred the universal suffrage ?

Dr. Ambedkar: I would rather say adequate representation in the Legislative Council.

273. I understand you to say you were in favour of universal suffrage ?

Dr. Ambedkar: Yes.

274. If you have not got that you go in for separate electorates ? Supposing you cannot get either, are you still in favour of the principle of nomination ?

Dr. Ambedkar: No. I would insist on our representative being elected.

275. If you cannot get the election on the terms proposed, you would prefer adult franchise ?

Dr. Ambedkar: Yes.

276. *Chairman:* You have spoken of your strong preference for the representation of the depressed classes being secured by the method of election. Are you satisfied, supposing the method was the method of election, that the result would be that you will get elected those who were really the best spokesmen for the depressed classes ?

Dr. Ambedkar: I believe so.

277. You do not feel anxious that influences which were really against the interests of the depressed classes will get to work ?

Dr. Ambedkar: I admit that and that is why I want adult suffrage.

278. You think that the influence will cease because of the adult suffrage ?

Dr. Ambedkar: That will be counterbalanced.

279. Supposing that a member of the depressed classes has the necessary qualification, does he vote in a general constituency ?

Dr. Ambedkar: He does.

280. Taking your case you will have a qualification to vote in some general constituency ?

Dr. Ambedkar: Yes ; I vote for the University constituency as also my friend.

281. How does the position stand about the paying of taxes ? A suggestion was made that depressed classes do not pay the taxes. Of course, it follows that, as regards the Customs duties and other indirect taxes which may raise the price of the articles, I suppose the depressed classes will have to pay the increased price like anybody else ?

Dr. Ambedkar: Yes. Also the depressed class men, particularly the Mahar community, is always in possession of some land of ordinary tenure or watan tenure at any rate, and they pay what is called the judi, that is the assessment, as anybody else.

282. I suppose that a good many Mahars follow the occupation of waiters in private service ?

Dr. Ambedkar: Yes, very few. But they mainly work in industries in the cities.

283. Take, for instance, a European private house or a club, they employ Mahars ?

Dr. Ambedkar: Yes.

284. Are those people qualified to vote in a general constituency or not?

Dr. Ambedkar: That will depend on the pitch of franchise.

285. As a rule the waiters would not have any qualification ?

Dr. Ambedkar: Yes, under the existing circumstances.

286. *Sardar Mujumdar:* Are you aware that saints from the depressed

classes arc revered by all classes, and high-class persons bow down before them as much as before such saints from higher classes ?

Dr. Ambedkar: There is only one case so far as I know.

287. But do they do so ?

Dr. Ambedkar: Yes, as they do the Mahomedan Pir.

288. Are you aware that untouchability is not observed in the Warkari Panth, i.e. the devotees of the God Vithoba at Pandharpur ?

Dr. Ambedkar: That is entirely incorrect.

289. Do you agree that there is a vast change during the last 25 years in the treatment accorded to the depressed classes, that the educated higher classes are trying to remove this evil of untouchability and mix with them quite freely and that there is a gradual change in the condition of the depressed classes and in the treatment accorded to them by the general educated public ?

Dr. Ambedkar: Yes, it is so, though the sympathy is only in words and is seldom translated into action.

290. Are you aware that in almost all villages the depressed class people are provided with wells meant only for their own use ?

Dr. Ambedkar: No.

291. Are there not such wells ?

Dr. Ambedkar: Not in every village.

292. Who are the depressed classes ? Will you please name the castes ?

Dr. Ambedkar: There is the census.

293. Do inter-marriages take place between the Mang and the Mahar castes ?

Dr. Ambedkar: No, the caste Hindus have spread their poison to the rest.

294. Do they dine together ?

Dr. Ambedkar: Yes, now-a-days. The movement for consolidation is going on and there is now a case of inter-marriage between a Mang and a Mahar.

295. Are there not two Inamdars in my constituency who belong to the depressed classes ?

Dr. Ambedkar: I do not know.

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*NOTE BY Dr. B. R. AMBEDKAR TO THE INDIAN FRANCHISE COMMITTEE (LOTHIAN COMMITTEE) ON THE DEPRESSED CLASSES SUBMITTED ON 1st MAY 1932

I. General

1. I have agreed to confine the term depressed classes to untouchables only. In fact, I have myself sought to exclude from the untouchables all those in whom there cannot be the same consciousness of kind as is shared by those who suffer from the social discrimination that is inherent in the system of untouchability and who are therefore likely to exploit the untouchables for their own purposes. I have also raised no objection to the utilisation of tests 7 and 8 referred to in the Committee's report for the ascertainment of the untouchable classes. But as I find that different persons seek to apply them in different ways, or put different constructions on them I feel it necessary to explain my point of view in regard to this matter.

2. In the first place it is urged in some quarters that whatever tests are applied for ascertaining the untouchable classes they must be applied uniformly all over India. In this connection, I desire to point out that in a matter of this sort it would hardly be appropriate to apply the same test or tests all over India. India is not a single homogeneous country. It is a continent. The various Provinces are marked by extreme diversity of conditions and there is no tie of race or language. Owing to absence of communication each Province has evolved along its own lines with its own peculiar manners and modes of social life. In such circumstances the degree of uniformity with which most of the tests of untouchability are found to apply all over India is indeed remarkable. For instance, bar against temple entry exists everywhere in India. Even the tests of well-water and pollution

* Report of the Indian Franchise Committee, Vol. I, Second Edition, pp. 202-11, The Indian Franchise Committee was constituted on the recommendations by the Franchise Sub-Committee of the Round Table Conference in December 1931. The Committee consisted of 18 members including Dr. Ambedkar. The Marquess of Lothian, C. H., Parliamentary Under Secretary of State for India, was the Chairman of this Committee.

by touch apply in every Province, altough not with the same rigidity everywhere. But to insist on absolute uniformity in a system like that of untouchability which after all is a matter of social behaviour and which must therefore vary with the circumstances of each Province and also of each individual is simply to trifle with the problem. The Statutory Commission was quite alive to this possible line of argument and after careful consideration rejected it by recognizing the principle of diversity in the application of tests of untouchability. On page 67 of Vol. II which contains its recommendations it observed : "It will plainly be necessary, after the main principles of the new system of representation have been settled, to entrust to some specially appointed body (like the former Franchise Committee) the task of drawing up fresh electoral rules to carry these principles into effect, and one of the tasks of such a body will be to frame for each province a definition of 'depressed classes' (which may well vary, sometimes even between parts of the same province), and to determine their numbers as so defined." Another point which I wish to emphasize is the futility of insisting upon the application of uniform tests of untouchability all over India. It is a fundamental mistake to suppose that differences in tests of untouchability indicate differences in the conditions of the untouchables. On a correct analysis of the mental attitude they indicate, it will be found that whether the test is causing pollution by touch or refusal to use common well, the notion underlying both is one and the same. Both are outward registers of the same inward feeling of defilement, odium, aversion and contempt. Why will not a Hindu touch an untouchable ? Why will not a Hindu allow an untouchable to enter the temple or use the village well ? Why will not a Hindu admit an untouchable in the inn ? The answer to each one of these questions is the same. It is that the untouchable is an unclean person not fit for social intercourse. Again, why will not a Brahmin priest officiate at religious ceremonies performed by an untouchable ? Why will not a barber serve an untouchable ? In these cases also the answer is the same. It is that it is below dignity to do so. If our aim is to demarcate the class of people who suffer from social odium then it matters very little which test we apply. For as I have pointed out each of these tests is indicative of the same social attitude on the part of the touchables towards the untouchables.

3. In the second place the view is put forth that in applying the test of "causing pollution by touch" for ascertaining the untouchable classes effect must be given to it in its literal sense—and not in its notional sense. In the literal sense untouchables are only those persons whose touch not only causes pollution and is therefore avoided, or if not avoided is washed off by purification. In the notional sense an untouchable is a person who is deemed to belong to a class which is commonly held to cause pollution by touch, although contact with such a person may for local circumstances not be avoided or may not necessitate ceremonial purification. According to those who seek to apply the test in its literal sense the conclusion would be

the so-called untouchables should cease to be reckoned as untouchables wherever conditions have so changed that people do not avoid the touch of an untouchable, or do not trouble to purify themselves of the pollution caused by their touch. I cannot accept this view which, in my opinion is based on a misconception. An individual may not be treated as an untouchable in the literal sense of the term on account of various circumstances. None the less outside the scope of such compelling circumstances he does continue to be regarded as an impure person by reason of his belonging to the untouchable class. This distinction is well brought out by the Census Superintendent of Bihar and Orissa in his Census Report of 1921 from which the following is an extract. Speaking of the relaxation of caste rules he says : "Such incidents however which we have only noticed amongst the upper and more educated castes that are aspiring to the upper ranks, are to be regarded not as sign portending the collapse of the caste system, but of its adjustment to modern conditions. The same may be said with regard to modifications of the rules about personal contact or the touching of what is eaten or drunk..... In places like Jamshedpur where work is done under modern conditions men of all castes and races work side by side in the mill without any misgivings regarding the caste of their neighbours. But, because the facts of everyday life make it impossible to follow the same practical rules as were followed a hundred years ago, it is not to be supposed that the distinctions of pure and impure, touchable and untouchable are no longer observed. A high caste Hindu will not allow an 'untouchable' to sit on the same seat, to smoke the same hookah or to touch his person, his seat, his food or the water that he drinks." If this is a correct statement of the facts of life then the difference between untouchability in its literal and notional sense is a distinction which makes no difference to the ultimate situation ; for as the extract shows untouchability in its notional sense persists even where untouchability in its literal sense has ceased to obtain. This is why I insist that the test of untouchability must be applied in its notional sense.

4. In the third place the idea is broadcast that untouchability is rapidly vanishing. I wish to utter a word of caution against the acceptance of this view, and to point out the necessity of distinguishing facts from propaganda. In my opinion what is important to be borne in mind in drawing inference from instances showing the occasional conuningling of Brahmins and non-Brahmins, touchables and untouchables is that the system of caste and the system of untouchability form really the steel frame of Hindu society. This division cannot easily be wiped out for the simple reason that it is not based upon rational, economic or racial grounds. On the other hand, the chances are that untouchability will endure far longer into the future than the optimist reformer is likely to admit on account of the fact that it is based on religious dogma. What makes it so difficult, to break the system of untouchability is the religious sanction which it has behind it. At any rate the ordinary Hindu looks upon it as part of his religion and there is no doubt that in adopting

towards untouchables in what is deemed to be an inhuman way of behaviour he does so more from the sense of observing his religion than from any motive of deliberate cruelty. Based on religion the ordinary Hindu only relaxes the rules of untouchability where he cannot observe them. He never abandons them. For abandonment of untouchability to him involves a total abandonment of the basic religious tenets of Hinduism as understood by him and the mass of Hindus. Based on religion untouchability will persist as all religious notions have done. Indian history records the attempts of many a Mahatma to uproot untouchability from the Indian soil. They include such great men as Buddha, Ramanuja and the Vaishnava saints of modern times. It would be hazardous to assume that a system which has withstood all this onslaught will collapse. The Hindu looks upon the observance of untouchability as an act of religious merit, and non-observance of it as sin. My view therefore is that so long as this notion prevails untouchability will prevail.

Having explained my views on general questions regarding interpretations and connotations of the system of untouchability, I proceed to offer some remarks on the question of the population of depressed classes in the three Provinces in which there is no unanimity of opinion.

II. Depressed Classes in United Provinces

5. Regarding the population of the depressed classes in the United Provinces five different estimates have been given to the Committee—

(1) estimate of the United Provinces Provincial Franchise Committee ;

(2) estimate given by Mr. Blunt in his note ;

(3) estimate given by the Census Commissioner;

(4) two estimates given by the Government of the United Provinces.

I make the following observations on these estimates :

6. I agree that Mr. Blunt's note carries great authority with it. It is based on the facts which came into his possession as a Census Superintendent for United Provinces in 1911. It has the added weight of the opinion of an informal Committee of non-official Hindus which I am told was appointed by the United Provinces Government to examine the correctness of the lists of untouchable castes in United Provinces drawn up by Mr. Blunt in his first draft. All the same I differ from Mr. Blunt in the following particulars :

(*i*) One is that Mr. Blunt has divided the three following single communities into two dichotomous sections, one touchable and the other untouchable :

			Touchable	Untouchable
(1)	Bhoksa group	..	30,000	19,028
(2)	Kori group	..	154,867	775,839
(3)	Chamar group	..	2,000,000	4,187,770

(*ii*) The second point of difference is that he treats the Arakh group whose population is 110,032 as touchable when as a matter of fact that group forms a part of the Pasi community which is undoubtedly an untouchable community.

My contention is that the procedure adopted by Mr. Blunt is not in accordance with facts and is not warranted by the fundamental theory of Hindu social life. That the Kori group is simply a part of the Chamar group and as such is wholly an untouchable group is borne out by the views of Mr. Blunt himself as expressed by him in the report of the United Provinces Census of 1911 of which he was the Superintendent. I rely on the remarks made by him in paragraph 347 of the Census Report of 1911 where he has discussed the connection of the Kori to the Chamar. On the same Report he makes the following observations :

> "The relation between Kori and Chamar has already been referred to above. In Gorakhpur it appears to be closer still and it is said that there are no Koris there save Kori Chamars The Kori Chamar however drops the Chamar and tries to pass himself off as a Kori pure and simple, or even by slurring the word to make it sound like Koiri. A Khalasi in Gorakhpur district was severely beaten by the rest of his Hindu fellow servants for playing this trick and making them take water from his hands."

Regarding the Arakh group Mr. Blunt himself admits in his note that "as a whole these castes appear to be off-shoots of the important Pasi tribe" which he has treated as untouchable. Coming to the Chamar group Mr. Blunt's reasons for excluding 2 million Chamars from the category of untouchables are given by him on page 17 of his note. He says : "Oh the other hand many Chamars have taken to cleaner occupations such as those of saddler (zingar), cobbler (mochi), groom (syce) while the extension of the leather trade at Cawnpore and elsewhere has enabled many Chamars to become wealthy when they aim at social status much higher than that of their village brethren. Such Chamars are generally regarded as touchables and many change the caste name for something less ill-sounding, for instance, Koril, Aharwar, Jatiya, Dhusiya and especially Jaiswar." In my opinion to exclude, as Mr. Blunt has done, such Chamars as have taken to cleaner occupations or have become wealthy from the category of untouchables is a totally erroneous view. One of the characteristics of the system of untouchability and also of the caste system is that the social status of the individual rises or falls with that of the community to which he belongs. Once an untouchable always an untouchable has been the rule of Hindu social life. This is its cardinal feature and it is this which distinguishes it from the class system in which the social status of the individual rises or falls not with that of the community to which he belongs but with his own personal merits and demerits. Having regard to this fundamental and basic principle of Hindu social life, the division made by Mr. Blunt that some members of an admittedly untouchable caste are touchable must be discarded Indeed it is a contradiction in terms and does not seem to be in accord With the facts. It is not true that sections of the Chamar caste mentioned by Mr. Blunt have been ted as touchable or allowed to enter temples or draw water from public wel . On the contrary, they have invented, according to Mr. Blunt's own

statement, new names for themselves to avoid being treated as untouchables. Mr. Blunt himself gives instances of this in his Census Report for the United Provinces for 1911. I quote the following extract from Part I :

> "A Jaiswar Chamar in the same way will never admit he is a Chamar but tries to pass his caste off as Jaiswar alone, a sub-caste of so many castes including Rajput. A syce once tried the trick on me and in Tundla in Agra district. I found a whole colony of Jaiswars who on enquiry proved to be descendants of Chamar regimental syces who had settled there."

If my contentions are accepted and if that part of the population of the untouchable communities which Mr. Blunt has treated as touchable is added to the total of untouchables then Mr. Blum's figures for untouchables in the United Provinces come to 11,476,214.

7. The Census Commissioner's estimate of the population of the depressed classes is 12.6 millions, and even if a stricter computation was followed and only 'list A' which includes untouchables only was accepted the population of depressed classes so understood would come up to a little over 11 millions—a figure which very nearly agrees with that of Mr. Blunt.

8. The Government of the United Provinces has given two sets of estimates. In its first report it gave the figure of 6,773,814. In its final report it agreed with the Provincial Committee that the population of castes which fell within the definition of causing pollution by touch came to only 459,000. Regarding the estimate of 6,773,814 given in its first report it is necessary to point out that this estimate is not an estimate of the population of untouchables in the United Provinces. So far as that point is concerned the Government of the United Provinces seem tacitly to accept the figures given by Mr. Blunt in his Note. The estimate of 6,773,814 given by the U. P. Government is an estimate of people who in its opinion require to be recognised for political protection. The merits of this procedure I have discussed below. All that I wish to do here is to repeat that this estimate of the U. P. Government is not an estimate of the total population of untouchables as such. The only comment I wish to make on the estimate given by the United Provinces Government in its final report is to place beside it the estimate which it gave to the Simon Commission In their note on the position of the depressed classes which is printed as an addendum at the end of their memorandum to the Statutory Commission they said : "Of the total Hindu population of the province nearly one-third, that is almost thirteen millions are regarded by orthodox Hindus as untouchables. A list of castes classed as untouchable, extracted from the U. P. Census Report of 1901, with the population of each is appended to this note..... *The social impurity attaching to the untouchable castes merely implies that a man of high caste will not take food or water from an untouchable, and if he touches or comes in close contact with such a person he must wash before eating or even before mixing with persons of higher castes."* It is clear from this that on the 16th of May 1928, on which the memorandum was

submitted, the population of persons who on the basis of untouchability as meaning causing pollution of touch was 13 millions. It is obvious that the definition given by the Chairman of our Committee is not different from the definition which obtained in U.P. and which is followed by the Government in 1928 in computing this total of 13 millions. I must therefore leave the United Provinces Government to explain the vast difference between the two estimates. I am, however, constrained to remark that these changes in the estimates of the untouchables in the United Provinces by the United Provinces Government are equalled by the changes in the views of the United Provinces Government regarding the method of representation of the depressed classes In their despatch on the report of the Statutory Commission written on 23rd August 1930 the Government of the United Provinces was the staunchest supporter of separate electorates for the depressed classes. In their first report to our Committee the Government came down to nomination from a panel while in their final report it recommended reservation of seats. It would be a disaster to the cause of the depressed classes if the views of a Government were to undergo such strange oscillations in regard to two such momentous issues as the population and representation of the depressed classes.

9. Coming to the estimate given by the United Provinces Provincial Franchise *Committee* I wish *to* draw attention to the following facts :

(i) The figures of the Census Commissioner, of Mr. Blunt and of the Government in 1928 all agree that the depressed class population meaning thereby those who cause pollution by touch is approximately between 11½ and 13 millions. It is therefore for the Committee to justify its surprisingly low estimate.

(ii) I am not at all certain that when the Committee says that the two depressed class members agree in its view and the majority of the Committee were ad-idem in respect of all the implications of the agreement At any rate, I am bound to point out that the opinion of Babu Ram Charan on this issue has no value. He belongs to the depressed class in the sense of the economically poor and educationally backward classes and not to the untouchable classes in the strict sense of the term.

(iii) The Indian Franchise Committee has adopted two tests for the classification of untouchables, temple entry and pollution by touch. The U. P. Provincial Franchise Committee has proceeded on the basis of only one test namely causing pollution by touch and that too in its literal sense and not in its notional sense.

(iv) In adopting our Chairman's definition of untouchability, which I must say he gave on his own responsibility, the Provincial Franchise Committee does not seem to have adverted to the clause "as it exists in the United Provinces".

10. There is another question of great importance which arises in connection with the method adopted both by Mr. Blunt and the U. P. Government in estimating the population of the depressed classes. The Indian

Franchise Committee has proceeded on the hypothesis that all those who fall under the two tests accepted by it must be treated as untouchables and must be reckoned as such for purposes of special representation. In the course of its investigation the Indian Franchise Committee found that as things stood in India, all depressed classes were not untouchables, and to include all untouchables irrespective of their economic and educational condition. Mr. Blunt and the Government of the United Provinces seem to make a distinction between "untouchables" and "depressed classes" out of quite a different sort. According to them all depressed classes are untouchables. All untouchables, however, do not belong to the category of depressed classes. This is just the reverse of the prevalent practice and the conclusions of the Indian Franchise Committee. The question is not one of mere nomenclature. It has far reaching consequences which go to affect the degree of representation. The United Provinces Government and Mr. Blunt do not take into their calculation all untouchables for the purposes of representation. They take into account only those untouchables who can be called depressed. The Indian Franchise Committee proceeds on the hypothesis that once the class of untouchables is ascertained by the application of the two tests it has accepted for the purpose the whole of the class of untouchables so ascertained must be taken into account for the purpose of representation without any further distinction between rich and poor, advanced and backward, educated and uneducated, which in my opinion is the correct procedure.

It is hardly necessary for me to say that I do not agree with the procedure adopted by Mr. Blunt and the Government of the United Provinces.

III. Depressed Classes in the Punjab

11. In connection with the population figure for the depressed classes given in the census of 1931 I wish to draw attention to two facts :

(1) The population of those who caused pollution by touch was according to the census of 1911, 2.8 millions while in the census of 1931 the population of untouchables is given as amounting to 1-3 millions.

(2) The census of 1911 gives a list of 23 castes which are deemed to cause pollution by touch. The census of 1931 mentions only castes as forming the untouchable population in the Punjab.

12. Why the total population of the untouchables and the list of castes included in that category should have shrunk so much between 1911 and 1931 I am not able to ascertain. It is however necessary to state that among the untouchables of Punjab there has been going on for some years past a strong movement called the Ad-Dharm movement the object of which is to separate from the Hindu fold and form themselves into a distinct community under the new name of Ad-Dharmis. Such has been the strength of the movement that the untouchables decided to return themselves as Ad-Dharmis instead of Hindus in the census of 1931, and the Government gave recognition to this feeling and allowed the Census Superintendent of Punjab to open a new category, of Ad-Dharmis. This, led in some parts of the

Punjab to riots between the Hindus and the untouchables. As a result the untouchables in some parts returned themselves simply as Ad-Dharmis without mentioning their respective castes, and in other parts where they were prevented from doing so returned themselves as Hindus under their caste names. I am mentioning these facts to show that the difficulties created in the enumeration of the untouchables and which are admitted by the Government of Punjab may be responsible for this shrinkage in the number and list of untouchables in the Punjab. The matter therefore requires to be carefully looked into.

IV. Depressed Classes in Bengal

13. In regard to the depressed classes of Bengal there is an important piece of evidence to which I should like to call attention and which goes to show that the list given in the Bengal Census of 1911 is a correct enumeration of caste which have been traditionally treated as untouchable castes in Bengal. I refer to Section 7 of Regulation IV of 1809 (A regulation for rescinding Regulations IV and V of 1806 ; and for substituting rules in lieu of those enacted in the said regulations for levying duties from the pilgrims resorting to Jagannath, and for the superintendence and management of the affairs of the temple; passed by the Governor-General in Council, on the 28th of April 1809) which gives the following list of castes which were debarred from entering the temple of Jagannath at Puri : (1) Loli or Kashi, (2) Kalal or Sunri, (3) Machhua, (4) Namasudra or Chandal, (5) Ghuski, (6) Gazur, (7) Bagdi, (8) Jogi or Nurbaf, (9) Kahar-Bauri and Dulia, (10) Rajbansi, (11) Pirali, (12) Chamar, (13) Dom, (14) Pan, (15) Tiyar, (16) Bhuinnali, and (17) Hari.

The enumeration agrees with the list of 1911 Census and thus lends support to its correctness. Incidentally it shows that a period of 100 years made no change in the social status of the untouchables of Bengal.

II. In connection with the three provinces, United Provinces, Bengal and Punjab, where there is disagreement on the question of the population of the Depressed Classes I desire to draw attention to the fact that the Indian Franchise Committee has proceeded upon two distinct tests for the ascertainment of the untouchable population, while the Provincial Governments and Provincial Committees have apparently followed one single test, namely, causing pollution by touch.

V. Nomenclature

14. The revision of the electoral rolls consequent upon the proposed changes in the constitution is a very good occasion for considering the question of having a proper and appropriate nomenclature for the depressed classes. I therefore propose to express my opinion on this question. There is considerable objection on the part of the communities which are now called “depressed classes” to the use of that term in describing them. Several witnesses who have appeared before the Committee have given

expression to this sentiment. Besides the term 'depressed classes' has led to a great deal of confusion in the census because it includes others who are not strictly untouchables. Secondly, it gives the impression that the depressed classes are a low and helpless community when as a matter of fact in every Province numbers of them are both well-to-do and well-educated, and the whole community is acquiring consciousness of its needs, is charged with ambition for securing a respectable status in Indian society and is making Stupendous efforts to achieve it On all these grounds the term 'depressed classes' is inappropriate and unsuitable. Mr. Mullan, the Census Superintendent of Assam, has brought into use a new term called 'exterior castes' to cover the untouchables. This designation has many advantages. It defines exactly the position of the untouchables who are within the Hindu religion but outside the Hindu society and distinguishes it from Hindus who are economically and educationally depressed but who are both within the pale of Hindu religion and Hindu society. The term has two other advantages. It avoids all the confusion that is now caused by use of the vague term depressed classes and at me same time is not offensive. Our Committee did not feel competent to make recommendation in this behalf. But as a representative of the depressed classes I have no hesitation in saying that until better nomenclature is found the untouchable classes should hereafter be described by the more expressive term 'Exterior Castes' or 'Excluded Castes' and not as depressed classes.

VI. Reservations

15. Before concluding this note I would like on my part to make the same reservation which my Muslim colleagues on the Committee have made namely that the allocation of seats to labour women, and other special interests must not affect the proportion of seats which the depressed classes have claimed in the Minorities Pact submitted to the Round Table Conference.

The 1st May 1932. **B. R. AMBEDKAR**

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Dr. Ambedkar with Mr. Muhammad Zafrulla Khan arriving at the House of Lords for the Third R. T. C. in 1932

Courtesy; India Office Library and Records, London

PART III

Dr. Ambedkar at the Round Table Conferences

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IN THE PLENARY SESSION

Fifth Sitting—20th November 1930

NEED FOR POLITICAL POWER FOR DEPRESSED CLASSES

**Dr. B. R. Ambedkar:* Mr. Chairman, my purpose in rising to address this conference is principally to place before it the point of view of the depressed classes, whom I and my colleague, Rao Bahadur Srinivasan, have the honour to represent, regarding the question of constitutional reform. It is a point of view of 43,000,000 people, or one-fifth of the total population of British India. The depressed classes form a group by themselves which is distinct and separate from the Muhammadans and, although they are included among the Hindus, they in no sense form an integral part of that community. Not only have they a separate existence, but they have also assigned to them a statute which is invidiously distinct from the status occupied by any other community in India. There are communities in India which occupy a lower and subordinate position; but the position assigned to the depressed classes is totally different. It. is one which is midway between that of the serf and the slave, and which may, for convenience, be called servile with this difference, that the serf and the slave were permitted to have physical contact, from which the Depressed Classes are debarred. What is worse that this enforced servility and bar to human intercourse, due to their untouchability, involves, not merely the possibility of discrimination in public life, but actually works out as a positive denial of all equality of opportunity and the denial of those most elementary of civic rights on which all human existence depends. I am sure that the point of view of such a community, as large as the population of England or of France, and so heavily handicapped in the struggle for existence, cannot but have some bearing on the right sort of solution of the political problem, and I am anxious that this Conference should be placed in possession of that point of view at the very start.

The point of view I will try to put as briefly as I can. It is this that the bureaucratic form of Government in India should be replaced by

* Proceedings of the Round Table Conference (hereinafter referred to as R.T.C.) (First Session), Government of India, Central Publication Branch, Calcutta, 1931, pp. 123-29.

a Government which will be a Government of the people, by the people and for the people. This statement of the view of the depressed classes I am sure will be received with some surprise in certain quarters. The tie that bounds the Depressed Classes to the British has been of a unique character. The Depressed Classes welcomed the British as their deliverers from age long tyranny and oppression by the orthodox Hindus. They fought their battles against the Hindus, the Mussalmans and the Sikhs and won for them this great Empire of India. The British, on their side, assumed the role of trustees for the depressed classes. In view of such an intimate relationship between the parties, this change in the attitude of the depressed classes towards British Rule in India is undoubtedly a most momentous phenomenon. But the reasons for this change of attitude are not far to seek. We have not taken this decision simply because we wish to throw in our lot with the majority. Indeed, as you know, there is not much love lost between the majority and the particular minority I represent. Ours is an independent decision. We have judged of the existing administration solely in the light of our own circumstances and we have found it wanting in some of the most essential elements of a good Government. When we compare our present position with the one which it was our lot to bear in Indian society of the pre-British days, we find that, instead of marching on, we are only marking time. Before the British, we were in the loathsome condition due to our untouchability. Has the British Government done anything to remove it ? Before the British, we could not enter the temple. Can we enter now ? Before the British, we were denied entry into the Police Force. Does the British Government admit us in the Force ? Before the British, we were not allowed to serve in the Military. Is that career now open to us ? To none of these questions can we give an affirmative answer. That the British, who have held so large a sway over us for such a long time, have done some good we cheerfully acknowledge. But there is certainly no fundamental change in our position. Indeed, so far as we were concerned, the British Government has accepted the social arrangements as it found them, and has preserved them faithfully in the manner of the Chinese tailor who, when given an old coat as a pattern, produced with pride an exact replica, rents, patches and all. Our wrongs have remained as open sores and they have not been righted, although 150 years of British rule have rolled away.

We do not accuse the British of indifference or want of sympathy. What we do find is that they are quite incompetent to tackle our problems. If the case was one of indifference only it would have been a matter of small moment, and it would not have made such a profound change in our attitude. But what we have come to realise on a deeper analysis of the situation is that it is not merely a case of indifference, rather it is a case of sheer incompetence to undertake the task. The depressed classes find that the British Government in India suffers from two very serious

limitations. There is first of all an internal limitation which arises from the character, motives and interests of those who are in power. It is not because they cannot help us in these things but because it is against their character, motives and interests to do so. The second consideration that limits its authority is the mortal fear it has of external resistance. The Government of India does realise the necessity of removing the social evils which are eating into the vitals of Indian society and which have blighted the lives of the downtrodden classes for so many years. The Government of India does realise that the landlords are squeezing the masses dry, and the capitalists are not giving the labourers a living wage and decent conditions of work. Yet it is most painful thing that it has not dared to touch any of these evils. Why? Is it because it has no legal powers to remove them? No. The reason why it does not intervene is because it is afraid that its intervention to amend the existing code of social and economic life, will give rise to resistance. Of what good is such a Government to anybody? Under a Government, paralysed between two such limitations, much that goes to make life good must remain held up. We must have a Government in which the men in power will give their undivided allegiance to the best interest of the country. *We must have a Government in which men in power, knowing where obedience will end and resistance will begin, will not be afraid to amend the social and economic code of life which the dictates of justice and expediency so urgently call for. This ROLE the British Government will never be able to play.* It is only a Government which is of the people, for the people and by the people mat will make this possible.

These are some of the questions raised by the Depressed Classes and the answers which in their view these questions seem to carry. This is therefore the inevitable conclusion which the Depressed Classes have come to : namely, that the bureaucratic Government of India, with the best of motives, will remain powerless to effect any change so far as our particular grievances are concerned. We feel that nobody can remove our grievances as well as we can, and we cannot remove them unless we get political power in our own hands. No share of this political power can evidently come to us so long as the British Government remains as it is. It is only in a Swaraj constitution that we stand any chance of getting the political power into our own hands, without which we cannot bring salvation to our people.

There is one thing, Sir, to which I wish to draw your particular attention. It is this. I have not used the expression Dominion Status in placing before you the point of view of the Depressed Classes. I have avoided using it, not because I do not understand its implications nor does the omission mean that the depressed classes object to India's attaining Dominion Status. My chief ground for not using it is that it does not convey the full content of what the Depressed Classes stand for. The Depressed Classes, while they stand for Dominion Status with safeguards, wish to lay all the emphasis

they can on one question and one question alone. And that question is, how will Dominion India function ? Where will the centre of political power be ? Who will have it ? Will the Depressed Classes be heirs to it ? These are the questions that form their chief concern. The Depressed Classes feel that they will get no shred of the political power unless the political machinery for the new constitution is of a special make. In the construction of that machine certain hard facts of Indian social life must not be lost sight of. It must be recognised that Indian Society is a gradation of Castes forming an ascending scale of reverence and a descending scale of contempt—a system which gives no scope for the growth of that sentiment of equality and fraternity so essential for a democratic form of Government. It must also be recognized that while the intelligentsia is a very important part of Indian society, it is drawn from its upper strata and although it speaks in the name of the country and leads the political movement, it has not shed the narrow particularism of the class from which it is drawn. In other words what the Depressed Classes wish to urge is that the political mechanism must take account of and must have a definite relation to the psychology of the society for which it is devised. Otherwise you are likely to produce a constitution which, however symmetrical, will be truncated one and a total misfit to the society for which it is designed.

There is one point with which I should like to deal before I close this matter. We are often reminded that the problem of the Depressed Classes is a social problem and that its solution lies elsewhere than in politics. We take strong exception to this view. We hold that the problem of the Depressed Classes will never be solved unless they get political power in their own hands. If this is true, and I do not think that the contrary can be maintained, then problem of Depressed Classes is I submit eminently a political problem and must be treated as such. We know that political power is passing from the British into the hands of those who wield such tremendous economic, social and religious sway over our existence. We are willing that it may happen, though the idea of Swaraj recalls to the mind of many of us the tyrannies, oppressions and injustices practised upon us in the past and fear of their recurrence under Swaraj. We are prepared to take the inevitable risk of the situation in the hope that we shall be installed, in adequate proportion, as the political sovereigns of the country along with our fellow countrymen. But we will consent to that on one condition and that is that the settlement of our problems is not left to time. I am afraid the Depressed Classes have waited too long for time to work its miracle. At every successive step taken by the British Government to widen the scope of representative Government the Depressed Classes have been systematically left out. No thought has been given to their claim for political power. I protest with all the emphasis I can that we will not stand this any longer. The settlement of our problem must be a part of the general political settlement and must not be left over to the

shifting sands of the sympathy and goodwill of the rulers of the future. The reasons why the Depressed Classes insist upon it are obvious. Every one of us knows that the man in possession is more powerful than the man who is out of possession. Everyone of us also knows that those in possession of power seldom abdicate in favour of those who are out of it. We cannot therefore hope for the effectuation of the settlement of our social problem. If we allow power to slip into the hands of those who stand to lose by settlement unless we are to have another revolution to dethrone those, whom we today help to ascend the throne of power and prestige. We prefer being despised for too anxious apprehensions, than ruined by too confident a security, and I think it would be just and proper for us to insist that the best guarantee for the settlement of our problem is the adjustment of the political machine itself so as to give us a hold on it, and not the will of those who are contriving to be left in unfettered control of that machine.

What adjustments of the political machine the Depressed Classes want for their safety and protection I will place before the Conference at the proper time. All I will say at the present moment is that, although we want responsible Government, we do not want a Government that will only mean a change of masters. Let the Legislature be fully and really representative if your Executive is going to be fully responsible.

I am sorry Mr. President. I had to speak in such plain words. But I saw no help. The Depressed Classes have had no friend. The Government has all along used them only as an excuse for its continued existence. The Hindus claim them only to deny them or, better still, to appropriate rights. The Muhammadans refuse to recognize their separate existence, because they fear that their privileges may be curtailed by the admission of a rival. Depressed by the Government, suppressed by the Hindu and disregarded by the Muslim, we are left in a most intolerable position of utter helplessness to which I am sure there is no parallel and to which I was bound to call attention.

Regarding the other question which is set down for discussion I am sorry it was decided to tag it on to a general debate. Its importance deserved a session for itself. No justice can be done to it in a passing reference. The subject is one in which the Depressed Classes are deeply concerned and they regard it as a very vital question. As members of a minority, we look to the Central Government to act as a powerful curb on the provincial majority to save the minorities from the misrule of the majority. As an Indian, interested in the growth of Indian nationalism, I must make it plain that I am a strong believer in the Unitary form of Government and the thought of disturbing it I must confess does not please me very much, This Unitary Government has been the most potent influence in the building up of the Indian nation. That process of unification which has been the result of a unified system of Government has not been completed and

I should be loathed to withdraw this most powerful stimulus in the formative period and before it has worked out its end.

However, the question in the form in which it is placed is only an academic question and I shall be prepared to consider a federal form, if it can be shown that in it local autonomy is not inconsistent with central unity.

Sir, all that I, as a representative of the depressed classes, need say on their behalf I have said. May I crave your indulgence to permit me as an Indian to say a word or two generally on the situation which we have to meet. So much has been said regarding its gravity that I shall not venture to add a word more to it, although I am no silent spectator of the movement. What I am anxious about is to feel whether we are proceeding on right lines in evolving our solution. What that solution should be rests entirely upon the view that British delegates choose to take. Addressing myself to them I will say, whether you will meet the situation by conciliation or by applying the iron heel must be a matter for your judgment for the responsibility is entirely yours. To such of you as are particular to the use of force and believe that a regime of LETTERS DE CACHET and the Bastille will ease the situation, let me recall the memorable words of the greatest teacher of political philosophy, Edmund Burke. This is what he said to the British nation when it was faced with the problem of dealing with the American colonies :

> "The use of force alone is but temporary. It may endure for a moment, but it does not remove the necessity of subduing again ; a nation is not governed which is perpetually to be conquered. The next objection to force is its uncertainty. Terror is not always the effect of force, and an armament is not a victory. If you do not succeed, you are without resource ; for conciliation failing, force remains, but force failing, no further hope of reconciliation is left. Power and authority are sometimes bought by kindness, but they can never be begged as alms by an impoverished and defeated violence. A further objection to force is, that you impair the object by your very endeavours to preserve it. The thing you fought for (to. wit the loyalty of the people) is not the thing you recover but depreciated, sunk, wasted and consumed in the contest."

The worth and efficacy of this advice you all knew. You did not listen to it and you lost the great continent of America. You followed it to the lasting good of yourself and the rest of the Dominions that are with you. To such of you as are willing to adopt a policy of conciliation I should like to say one thing. There seems to be prevalent an impression that the Delegates are called here to argue for and against a case for Dominion Status and that the grant of Dominion Status will be dependent upon which side is the victor in this battle of wits. With due deference to all who are sharpening their wits, I submit that there can be no greater mistake than to make the formula of logic govern so live an issue. I have no

quarrel with logic and logicians. But I warn them against the disaster that is bound to follow if they are not careful in the selection of the premises they choose to adopt for their deductions. It is all a matter of temper whether you will abide by the fall of your logic, or whether you will refute it, as Dr. Johnson did the paradoxes of Berkeley by trampling them under his feet. I am afraid it is not sufficiently realised that in the present temper of the country, no constitution will be workable which is not acceptable to the majority of the people. The time when you were to choose and India was to accept is gone, never to return. Let the consent of the people and not the accident of logic be the touchstone of your new constitution, if you desire that it should be worked.

2

COMMITTEE OF THE WHOLE CONFERENCE

†Comments on the Interim Report of Sub-Committee No. I (Federal Structure)—16th December 1930

‡*Dr. Ambedkar:* I should like to raise the point which my friend Mr. Joshi made before we adjourned. The Lord Chancellor, as the Chairman of this Sub-Committee, invited some of the delegates to submit any views they might have on these particular matters, and a few delegates including myself submitted a letter to the Chairman of the Sub-Committee, and expressed our wish that that letter should be submitted to the Sub-Committee for consideration. I do not find in the Report any reference to that letter, and I was informed by Lord Sankey that that letter was not placed before the Sub-Committee, but was sent to you, Sir, as Prime Minister. I do not think that that was quite a proper way of dealing with it. The letter was submitted to the Chairman of the Sub-Committee, for the Sub-Committee's use and it expressed certain definite views we held on the question of Federation. I am bound to make this comment because, speaking for myself, the Report as drawn up is so much at variance with the principles expressed in the letter that I find we shall have at some stage to raise a debate on this question, and I should like to know what steps the Lord Chancellor proposes to take.

Lord Sankey: I am very much obliged to Dr. Ambedkar for raising the point he has done, because I should have liked to have raised it myself, and it gives me the opportunity of saying a few words which I should have said at the beginning.....This is not a complete picture.....soon you are going to be presented with the complete picture, and Dr. Ambedkar, I shall want your assistance,.....Now with regard to the letter, Dr. Ambedkar, that you were good enough to send to me, I have considered it very carefully, and it will be vital to discuss it when we come to No. 6.§

† Proceedings of the R.T.C., pp. 193-95.

‡ Dr. Ambedkar was not the member of this Sub-Committee. He was nowever included as member of the Federal Structure Committee in the 2nd R.T.C.

§ Head No. 6 dealt with the constitution, character, powers and responsibilities of the Federal Executive.

Dr. Ambedkar : All I should like to know, if I may say so, is whether you will place that letter before the Committee. At what stage you may do so is a matter which I must leave to you.

Lord Sankey : One moment, Dr. Ambedkar. I am going to do a good deal more than that; I am not only going to place your letter before the Committee. I am going to draw the Committee's attention to it myself.

Dr. Ambedkar : I am obliged. That is enough for me.

Lord Sankey : One moment. I have not finished. When you are as old as I am, you will not be in such a hurry. Instead of having to do the job myself, I personally should very much take the gentlemen who presented the letter to come and do the job. If I have to do it myself, I shall not do it as well as you gentlemen would. But I will do this : not a word of the letter shall be left out; but it is not quite the time to consider it yet, because it must be considered at that important time when we come to No. 6.

Comments on paragraph 16 of the Report which dealt with Governor-General's special power

†*Dr. Ambedkar:* Sir, before you proceed, I should like to make it plain that the power given to the Governor-General to intervene to avoid serious prejudice to the interests of any section of the population must remain. The power must be embodied in the constitution in the same form as under section 93 of the Canadian Constitution.

Lt. Col. Gidney: Sir, I agree with and support everything that Dr. Ambedkar has said about the Governor-General having reserved power in such matters as he has mentioned.

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‡*Chairman:* Paragraph 34. I call on Col. Gidney.

Lt. Col. Gidney: I have one observation to make on this paragraph and I do so in conjunction with paragraph 29. Whereas in paragraph 29 a population ratio is to be adopted in estimating the representation of various communities in the upper chamber, in this paragraph 34, you use the word "possibly" which still further closes the door to minorities and special interests even to get a single representative in the upper chamber. I would suggest that that word "possibly" be deleted from this paragraph and the other words following, "and certainly in the Lower Chamber" be also deleted, as that the reconstructed paragraph will read :

> "Provision should be made for the representation in both chambers, however small this representation be"

I think all the minority communities have every entitlement to representation in the upper house, however small it be.

Dr. Ambedkar: I associate myself with what Col. Gidney has said.

(Paragraph 34 dealt with representation of special interests and of the Crown in Federal Legislature.)

† Proceedings of the R.T.C., p. 261.

‡ *Ibid.,* pp. 278-79.

3

IN SUB-COMMITTEE No. II (PROVINCIAL CONSTITUTION)

First Sitting—4th December 1930

†*Dr. Ambedkar:* I propose to divide my remarks under three heads: (l) provincial autonomy, (2) responsibility in the provinces, (3) provincial services. I make a distinction between provincial autonomy and provincial services. It seems to me that the question of provincial autonomy raises the definition of the relations of the provincial Executive and Legislature *vis-a-vis* the Central Government and the Central Legislature. The first remark I would offer with the attitude of those who hold that the time has arrived when the provincial Governments ought to be left with as complete an autonomy as is possible under the circumstances, and they should be free from such control as the Central Government now exercises. But, Sir, I cannot help making this further observation, that viewing the problem of provincial autonomy from the standpoint of the particular class I represent in this Conference and of the interests of India as a whole and the working classes in particular, I think that in any future constitution that we propose to devise for endowing the Provinces with provincial autonomy we must take into consideration certain facts which are bound to limit the character of that autonomy.

The first limiting factor in the provincial autonomy is that it must be made subject to such questions of a provincial character which are, although provincial in nature, also of an All-India character. The Provinces may have their say with regard to these subjects, and yet the Central Government should not be excluded from its jurisdiction with regard to them. For instances, I would like to draw an illustration from labour legislation, legislation affecting tenants and affecting agriculture. These, no doubt, in a country like India, must become provincial subjects yet I do not think they can be viewed entirely from such a small compass. They cannot be

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† Proceedings of the Sub-Committee No. II (Provincial Constitution), Government of India, Central Publication Branch, Calcutta, 1931, pp. 18-22.

The terms of reference to this Committee were as under:—

(1) "The powers of the Provincial Legislature."

(2) "The constitution, character, powers and responsibilities of the Provincial Executive."

regarded as entirely provincial and without an All-India character. The Central Government must have some jurisdiction over subjects of this character, notwithstanding that it cuts across provincial autonomy.

Secondly, I should state that in dividing the powers of Government between the Central and the Provincial Governments in the future constitution of India with a view to giving the Provinces as complete an autonomy as possible, it will also be necessary that such powers as remain undefined must be left with the Central Government. Well, I do not think that there is no other view on that point. But I say that in the present situation in India, where the separatist tendency exists to such an extent as we all know it, where provincial and local parochialism is more dominant than national feeling, while we are building up a Federated India with complete autonomy of the units, we still have the problem of making India as a whole a strong and united country. I would make this further observation, namely, that I do not think that the reservation of powers in the Central Government is likely to affect the autonomy of the Provinces. The reservation of powers as interpreted by the Judicial Committee of the Privy Council in the case of Canada has not had this over-riding effect. It means a power that comes into existence in an emergency in a field not specifically allotted to the Provinces. I do not think that the Provincial autonomy should be really affected.

The second thing I should like to observe in connection with this question of Provincial autonomy is that that autonomy must be limited by the affording of protection for the interests of the minorities and of the Depressed Classes. As I visualise the situation in India as it. will result from the new constitution, I find there will be certain Provinces in which some communities will be in a majority, but in all the Provinces the Depressed Classes, whom I represent, will be in a minority. They will be in a minority in every Province. I cannot understand how we can at this state permit the Provincial majorities to have a complete uninterrupted and undiluted sway over the destinies of these poor people, without any right of appeal being given to the latter in regard to mal-administration or neglect of their interests. There must be some authority somewhere, over and above the Provincial Government, which will be in a position to intervene and rescue them from any adverse position in which they may be placed by the Provincial majorities.

These are the three things which, in my opinion at any rate must limit the autonomy of the future Provincial Governments of India.

Coming to the question of the character of responsibility in the Provincial Governments, my first observation is that the whole question of responsibility in the Provincial Legislature is entirely dependent upon the kind of Legislature that you are going to get in the Provinces. If the Legislature that you are going to get in the Provinces is a Legislature which is going to be a mirror of the whole population of the Province, if it is going to be

thoroughly representative and not merely representative as a museum is, where there are a few specimens of every species for the observation of the general onlooker; if every minority and every class which fears its existence will be jeopardised is placed on a position to make its influence felt, then I think in a Legislature of that sort there will be no harm in conceding the principle that Provincial responsibility may be introduced to the fullest extent. That is my first observation.

Making that a condition that the Legislatures shall be fully and adequately representative of all the classes, I see no objection to the subjects which are now reserved being transferred to popular control.

Coming to the question of whether the responsibility in the Provinces should be joint or should be individual I have not the slightest hesitation in saying that the responsibility not only should be joint but must be joint. I have been a member of Legislative Council, and I have seen how Ministries in the Provinces have worked. It has been a most painful experience for me, as it has been the experience, I believe, of many of those who have had the misfortune or the good fortune to be members of a Legislative Council, to find that Ministries have been working as a kind of loose confederation, without having any complete or unanimous view on a particular policy which they adopted. There have been divided counsels, and cases of Ministers not being very willing to support each other.

What has been the result? The result is this, that in no instance have we had any considered policy put forward by the Cabinet as a whole, worked out in detail and placed before the Legislative Council Things have been done by fits and starts, and I do not think we want our responsibility in future to be bungled in that fashion.

Turning now to the question of communal representation in the Cabinets, I must confess that I am not very much drawn to the suggestion which is often made that there should be communal representation in the Cabinet I am not, of course, oblivious of the fact; in fact, I am very conscious of it that if the minority communities are not represented in the Cabinet it is very possible, and even very likely, that in matters of administration which affect their daily lives their interests may be affected very prejudicially by the policy of Ministers whose dominant interest is communalism. I do not forget that for a moment, but my submission is that there is a better way of dealing with that sort of evil, and it seems to me that if the minorities could get constitutional and statutory guarantees laid down in the Constitutional Act itself against anything likely to injure their interests being done or left undone by the Cabinet, the danger which most of us apprehend from the fact that the Cabinets may be communally dominated, will vanish, and we shall not have much cause to insist on communal representation in the Cabinet

Although I am very desirous that the Chief Minister, whoever he is,

should recognise or should be made to recognise the interest of having most of the important minorities represented in the Cabinet, we cannot for the moment forget that, after all, a Cabinet office is a very responsible office. A Cabinet Minister has not merely to look after the interests of the minorities ; he has to see to the safety and interest of the Province as a whole. That demands ability and competence ; it does not merely demand a communal outlook, and it is from that point of view that I look at the matter. I should like to have the interests of the minorities and the Depressed Classes safeguarded in such a manner that constitutionally it would be impossible for Ministers drawn from the majority communities to do anything prejudicial to the minorities or to neglect their interests.

Coming to the question of the relations between the Governor and his Ministry, I think one thing is obvious, namely that no constitution, if it is really to embody full responsible Government and collective responsibility, can permit the Governor the power to interfere in the day-to-day administration of the country. That would run quite across the system of responsible Government and collective responsibility. The Ministry must be allowed to carry on the day-to-day administration on the basis of joint responsibility.

When we come to the question of the emergency powers which it is suggested should be left with the Governor. I find myself in a somewhat difficult position, because I do not understand exactly what is meant. Is it meant that when an emergency arises the Governor should simply dismiss the Ministry and have nothing to do with it, and should promulgate whatever laws, ordinances or measures he thinks are necessary to meet the situation, notwithstanding the fact that they are opposed by the Ministry? I do not know what is wanted. I can quite understand the Governor should have the absolute, undoubted and unrestricted power of dismissing a Ministry which he thinks is not acting in the best interests of the country, but I cannot understand how there can be responsible Government in a Province in which the Governor is allowed to do a thing without a Ministry. It is one thing to say that the Governor should have a Ministry with which he agrees in a particular emergency, but it is quite a different thing to say that when an emergency arises the Governor should simply disregard the Ministry altogether. I think this point will have to be worked out in some deal, for, as I say, I do not quite understand it.

Coming to the question of the Services, there is one observation I am bound to make. I quite agree in principle that with provincial autonomy the power of regulating the Services in a Province should belong to that Province, and that the Provinces should have full liberty to Indianise the Services as they desire and according to their means and circumstances. The observation which I feel bound to make, however, is this : I cannot forget that Indians are communal minded. We do hope it is only a hope that a time will come when all Indians will cease to look at problems from a communal

point of view in administrating matters which are left to their charge, but that is only a hope; it is not a fact The fact is that Indians do discriminate between class and class, community and community, in administering such discretion as is left to them in their administration of the law. That is a fact I cannot get over; it is a fact from which I have suffered immensely. My fear with regard to the future constitution of India is that having regard to the present position of the depressed classes, having regard to the fact that education is not widely spread amongst them, and having regard to the fact that there is hardly a single individual holding a gazetted post in the Bombay Presidency for instance,—

A Member: There is one.

Dr. Ambedkar : Yes, there is one, and that is the exception which proves the rule. You know how much trouble I had to get him in. I very much fear that this Indianisation may work out as a tyranny, and therefore, from my particular point of view, I should like to emphasise that at any rate for some time it will be necessary to maintain a British element in the Services. I do not say there should be no Indianisation, but I do say that, having regard to our interests, it should be rather slower than some people desire it to be.

These are the general remarks that I wish to offer from our point of view.

Third Sitting—8th December 1930

†*Dr. Ambedkar:* May I make a suggestion ? It seems to me this question of Second Chambers is so important that it cannot be discussed properly and adequately by being tacked on to the series of heads we are now discussing. In my opinion a special day ought to be allotted to this subject. I see very little connection between the subject of Second Chambers and that of the protection of minorities, or any of the other matters enumerated in items 1 and 2. It seems to me this is a very important question. I find nothing in this list of heads dealing with the composition of the Legislature ; if you were to add a head "Composition of the Legislature" we should have a proper opportunity of discussing the whole subject.

Chairman: I cannot see how you can separate this whole subject and split it up.

Dr. Ambedkar: The question of Second Chambers can certainly be separated from that of minorities.

Chairman: Not entirely. Whether there is to be a Second Chamber or not affects almost every other subject that comes up, the powers of the Governor *vis-a-vis* the Executive and the Legislature, the powers of the

† Proceedings of Sub-Committee No. II (Provincial Constitution), p. 56.

Legislature and so on. I think you had better let us go on, and if at the end we find the discussion has not been adequate, we will try to arrange for a further discussion on this subject by itself.

Fourth Sitting—9th December 1930

†*Dr. Ambedkar:* It may be, but I am taking these two communities for the moment because they are important. It seems to me that any argument which is based upon that fact is an argument which leads to a conclusion which will never enable us to transfer law and order. Therefore it seems to me that that is an argument which ought not to be adopted or accepted. It seems to me also that the noble Marquess assumes that although a Muhammadan or a Hindu will be in charge of the department of law and order, he will be entirely subject to the whims of the particular community to which he belongs. My submission, Sir, is this, that assumes that the future of political parties in India will be so constituted that they will be divided on religious lines and not on the lines of political or economic differences. As I view the situation it seems to me that in the future constitution of India the Executive will be so divided that we shall see less of the religious and racial distinctions coming to the surface and we shall find a Hindu Minister having a party and a following containing a large element of Muhammadans, and a Muhammadan Minister with a following of Hindus in his group. If that happens, and I take it is almost a certainty that it will happen, I do not understand how, for instance, a Hindu Minister who is in charge of law and order could administer law and order in such a manner as to offend the susceptibilities of a part of the group which supports him in office. It seems to me therefore that the fears so far as this particular aspect of the matter is concerned are rather unfounded.

The second thing which seems to be agreed upon more or less is this, that not only should the Executive be a unified Executive but that the responsibility of this unified Executive should be joint and not several. With these conclusions, Sir, I agree, but the points of difference that have arisen in the course of the debate to which we have listened largely relate to the composition of the Executive and it seems to me that there arise three different questions for our consideration in connection with the composition of the Executive. The first question is : should the Executive be confined to members of the Legislature or should it be open to individuals who are officials or non-officials and who are outside the Legislature? The second question is : should it consist of members of the minority communities ? The third question is : whether the Governor should have the responsibility of appointing the Ministers himself or whether he should appoint the Chief Minister and leave the matter of the selection of his

† Proceedings of the Sub-Committee No. II (Provincial Constitution), pp. 95-102.

colleagues to that Chief Minister.

Now, Sir, on all these three questions my answer is in the affirmative. Personally, I do not see why the membership of the Cabinet should be rigorously restricted and confined to the members of the Legislature. I also do not see why there should not exist some provisions whereby the Executive should not be made as representative as possible of all the communities that are represented in the Legislature. Thirdly, regarding the power of the Governor to compose his Ministry, it seems to me that we must admit that it is his prerogative right to constitute the Ministry and that you must have discretion left to him in the matter of selecting his men. But, Sir, when I say that I answer these three questions in the affirmative, namely, that the Executive need not be confined to the members of the Legislature, that some provision should exist whereby different communities may be represented in the Cabinet, and that the Governor should have left with him abundant discretion in order to form his Cabinet, I say when I make these admissions I make them subject to one supreme condition. That supreme condition is that however the Executive is composed, it shall abide by one principle, namely that it shall accept joint responsibility. If, for instance, this principle of joint responsibility is made obligatory upon the Executive, it seems to me that the importation of a foreign element into the Cabinet will not be a disturbing factor as it is supposed to be. If, for instance, the new-comer who does not belong to the Legislative Council comes into the Cabinet and accepts joint responsibility along with the Cabinet, I do not see any reason why such a procedure should not be permitted. It was pointed out that it may so happen that when a Ministry is censured and it goes out, the official or the one who does not belong to the Legislature will remain while the other members of the Cabinet will go out ; that when a new Ministry is formed, he will be again tacked on to the Ministry and that he will be perpetually in the Council. It seems to me with all respects that that is a somewhat fallacious view, because, unless the members who are drawn from the Legislature to form the Ministry are prepared to take him along with them and are prepared to bear the responsibility of his actions, they will not consent to work with when he accepts their advice and they accept his advice. If, for instance, a Prime Minister were so situated that he could safely take an outsider into his Cabinet and at the same time maintain the confidence of the House, I do not see why the Chief Minister should be prevented from having that privilege accorded to him.

In the same way, Sir, if, for instance, it was found possible that the Governor should have powers to see that the different minority communities are represented in his Cabinet, and if at the same time it is made perfectly clear that whoever is appointed to the Cabinet must accept joint responsibility with the others, then I submit there is no harm in allowing this sort of thing. It seems to me therefore that the point Which it is

necessary to emphasize is that the Governor may have the power which as I say belongs to him as of right to compose the Ministry in any way he likes provided that the Ministry does not violate in its operation the principle of its being, namely, that it is to work on the principle of joint responsibility.

Now the next question to which I will address myself, Sir, is how best to achieve this result, how best to bring out a responsible and unified Executive. It seems to me there are two ways open to us. One way is to define in the constitution itself the character of the Executive by law ; the other is to leave to convention the constitution of the Executive. Both these ways are adopted, as you all know. We all know that in the Dominions of Canada, South Africa and Australia, responsible Government of a unified character is entirely a matter of convention. Everyone of us knows that in the Canadian Act or in the Acts of South Africa or Australia the words "responsible Government" do not arise. It is not even mentioned in the Canadian Act, as I found to my great surprise, that the Ministers who are to advise the Governor are to be members of the Legislature, although as a matter of fact they are. On the other hand, as we know, in the constitutions of Ireland, Malta and Rhodesia this is a subject which is not left to convention, it is something which is incorporated in law. In Ireland we know that the Prime Minister is a creature of statute, the joint responsibility is also defined by law.

I therefore think that we shall have to make our choice between the two, and in making the choice I for one would be guided by two considerations. I fully realise that when a matter is left to convention it is possible that the convention may be wrongly worked, that it may be abused, and may be abused with impunity. The danger of matters being left to convention in a country like India seems to me to be greater because there are no parties in India which have a keen eye on the way in which the constitution works and we may have Ministers less interested in working the constitution in the right spirit than in maintaining their seats in the Cabinet. On the other hand it seems to me that where matters are defined by law it must necessarily take away all the discretion that must necessarily be left to a Governor. In a country like India where the political field with all its communal and racial difficulties is an absolutely uncharted sea, it seems to me that we must so contrive that sufficient discretion will be left with the Governor. My concrete suggestion therefore is this, that joint responsibility of the Executive should be prescribed by law and that everything else should be left to the discretion of the Governor, so that we shall have satisfied both the conditions : we shall have provided that whatever responsibility there is, is joint responsibility and that the composition of the Executive is at the same time not hampered in such a manner that the communities which do require to be represented in the Cabinet may be represented or that the necessity which Prime Minister may feel of

having a non-official, I mean an outsider, in his Cabinet is provided for. If we do that, if we insist by law, not leaving it to the discretion of the Governor, that the Executive shall be a joint Executive with joint responsibility, I think all other matters may be left without any fear of abuse to the choice of the Governor.

Now Sir, the next topic which I will take for consideration is that of the powers of the Governor *vis-a-vis* his Executive. The present relations between the Governor and the Minister, as well we all know, are defined in section 52, sub-clause 3. That clause says that in all transferred matters—and all matters will now be transferred, none being reserved—the Governor shall be guided by the advice of his Ministers ; and it adds a further proviso that if he sees sufficient cause to dissent from the advice of his Ministers he may cause action to be taken otherwise than in accordance with that advice. With all due respect to those who framed that clause, and they did it with the best intention of providing responsible Government, I cannot help saying that this clause as it now stands is a perversion of responsible Government; it makes responsible Government a matter of convenience, a matter which may be accepted and followed when it suits the Governor, whereas as a matter of fact what we want is that responsible Government should be a matter of obligation. If responsible Government means anything it means this, that in whatever action the Governor takes in any field he has the support of a Ministry which has the confidence of the House. That is a fundamental proposition which we cannot ignore. It does not of course mean that a Governor must always accept the advice of his Ministry; it leaves it open to the Governor to throw out the Ministry, to say he will not abide by their advice; but then if the Governor chooses to differ from his Ministry his obligation is not to act on his own initiative but to find some other Ministers who will support his action. So that the proposition is that at all times when the Governor takes action he takes action which is in conformity with the views of Ministers who have the confidence of the House. My submission therefore is that this clause, namely section 52, must be so altered as to make it plain that unless specific provision is made to the contrary by statute there may be cases which, I will come to a little later, the Governor shall always act upon the advice of the Ministers.

Now, Sir, I do readily agree that there may be cases in which it is necessary to provide the Governor with over-riding powers, powers in respect to which he will not be obliged to follow the advice of his Ministers but will have the right of independent action. Those cases are mentioned in paragraph 50, page 36 of Volume 2 of the Report of the Simon Commission. The first is that he should have over-riding powers in order to preserve the safety and tranquillity of the Province; secondly, he should have over-riding powers in order to prevent serious prejudice to one or more sections of the community as compared with other sections; and then lastly it mentions certain cases where the Governor may have fixed

upon him specific responsibility as apart from the responsibility of the whole of the Executive, in which case it says that he should also have over-riding powers.

With regard to these items my first submission is this, that if you are going to give the Governor to over-ride his Ministers to preserve the peace, safety and tranquillity of the Province, it seems to me you are taking away a very large part of responsible Government in the Provinces. After all, what we are striving for is that the Provinces shall be governed in all matters, including even the peace, safety and tranquillity of the Province, by a Governor on the advice of his Ministers ; and, if you reserve powers to the Governor to act contrary to their advice, it seems to me you are to a very large extent nullifying the powers of responsible Government. I should not, therefore, give the Governor over-riding powers in a matter of this sort, unless some way could be found whereby this large formula, which seems to me to eat-up the whole situation, might be very narrowly defined.

Coming to the other question, namely prejudice to one section of the community as compared with the others, my own view is that although this is a very salutary thing my preference is that such matters as are likely prejudicial to affect the interests of any particular community should be governed by statute ; it should not be left to the sweet will of the Governor. I say that for this very good reason. After all, a Governor has to keep in touch with a Cabinet which is supported by a majority in the Legislature. He can never work at cross purposes with the Cabinet ; the greatest amity must prevail between them, and I am not sure the Governor would always be so minded as to quarrel with a Cabinet which represented a majority in the House merely in order to protect a minority which, in his eyes, might not be very important. Although, therefore, I agree with the underlying suggestion there. I rather prefer that the interests of the minorities should be protected in a firmer manner than is suggested, and for myself I should be prepared to delete this clause.

Regarding the other items 3, 4 and 5, I agree that in cases of this sort the Governor must have over-riding powers, because they are cases where he personally is made responsible for the administration of those subjects.

Coming to the next subject, the powers of the Governor *vis-a-vis* the Legislature, I will divide my remarks under three heads. There is first of all budgetary legislation; secondly, ordinary legislation and thirdly, emergency legislation. The Governor has today powers of certification with regard to the provision for reserved subjects, and that will necessarily go with the abolition of anarchy. Secondly, the Governor has authority to authorise expenditure for the safety and tranquillity of the Province. It seems to me that if you are going to leave questions of peace and tranquillity to be settled by a responsible ministry, the Governor should not possess this power of authorising expenditure for the safety and tranquillity of the

Province. In the next place, he has the power of certifying Bills, which are of two sorts. He may certify that a particular Bill which is being discussed in the Legislature shall not be discussed because it affects the safety and tranquillity of the Province, and he has also the power to certify a Bill which is in the interests of the safety and tranquillity of the Province even though the Legislature may not desire to pass it in the ordinary course. It seems to me both these powers should go ; they will not be necessary in the future constitution of India.

He has also powers of previous sanction; certain subjects have to be previously sanctioned by him before they can be discussed, and in my opinion this power should go.

Sir Ahmad Sayed Khan: Discriminatory legislation ?

Dr. Ambedkar : That should be dealt with by Statute ; I should not leave it to the Governor. The Governor must have the power of veto, and in view of the fact that there will be no Second Chamber in those Provinces which do not want it, it is very necessary that the Governor should have the power of veto. The Governor today has also the power of returning a Bill to the House for reconsideration. This is a very useful power which exists in the constitutions of the various Dominions, and I think it should be retained. The Governor has also power to reserve a Bill for the consideration of the Governor-General and the cases in which he should do so are defined by Statute. That is a matter, I think which might be more conveniently considered when we consider the relations of the Provincial Governments to the Central Government, but I should like to make one observation on this subject. We should so endeavour to contrive our Provincial constitution that it will function independently, as far as possible of the interference of the Central Government in those domains which have been transferred to its control. We must make a constitution under which there will be no occasion for constant intervention by the Central Government, either administratively or legislatively by the reservation of Bills.

With regard to the question of safeguards for Law and Order and for minorities, I have already stated that Law and Order should be transferred, but I am prepared to make one suggestion, for what it is worth. In cases of emergency, when Law and Order are being jeopardised, I suggest the Governor should have power to pass orders finally, without respect to the advice of the Ministry, regarding the posting and transfer of Police officers. I think that is very necessary ; it is essential.

Sir Cowasji Jehangir: In case of emergency only ?

Dr. Ambedkar: Yes, but not in other cases.

Mr. Paul: Not in normal times ?

Dr. Ambedkar: Not in normal times, no, but in cases of emergency when a riot has taken place or a disturbance has occurred, it is very necessary that an impartial officer like the Governor, who is not swayed by what is happening in the Cabinet, should have the ultimate power to see

that people are not transferred from one place to another to suit one community or the other community when a riot is actually proceeding. It seems to me that it gives him sufficient power for the purpose of safeguarding the administration of Law and Order.

With regard to the question of minorities, it was suggested by some speakers that a Second Chamber would afford protection to minorities, and my friend Mr. Wood threw out the suggestion that I had not carefully considered the position of the Depressed Classes in relation to a Second Chamber. I should like to assure my friend that I have given the matter most careful consideration, and I thoroughly agree with my friend Mr. Paul that these Second Chambers, far from being a protection to minorities, will be really milestones round their necks.

There is one subject I did not touch on before, but which I should like briefly to mention now, namely, the relation of the Governor to his Cabinet. Should he preside over the Cabinet as a matter of right or should he not ? Should there be the system which prevails in this country where the Cabinet holds its meetings without the King being there, and if so what should be the means of communicating the results and decisions arrived at by the Cabinet to the Governor ? I do not know if that arises on this item ; if it does not, I will not waste time in discussing it.

Chairman: We have generally discussed the whole question, so that if you desire to continue I shall not object.

Dr. Ambedkar: In that connection I want to say one thing. The Simon Commission has suggested that a Cabinet Secretary should be appointed who would be of the same status as an I.C.S. Officer, and who would act as the liaison officer of the Cabinet to the Governor. In throwing out that suggestion the Commission says it has drawn on the practice that has now become prevalent in this country, namely, that the Cabinet now always has a Secretary, which formerly it did not have. I should like to submit, however, that it is one thing to say that the Cabinet should have a Secretary, but it is a totally different thing to say that that Secretary should have access to the Governor over the heads of the Ministers. In this country the practice does exist, probably, of appointing a Secretary, but I do not think any Cabinet or Prime Minister in this country would consent to that Cabinet Secretary having access to. His Majesty over the heads of the Ministers or over the head of the Prime Minister; such a thing would be intolerable. We know that in this country the Cabinet throughout all its history has laid emphasis on the fact that the persons who will be near to His Majesty should be persons who will bear the same complexion as the Ministry, and we know that that has been carried so far that even the Ladies of the Chamber who wait upon the Queen are required to be nominated by the Prime Minister and the Cabinet. The situation suggested, therefore, seems to me almost impossible. I do not think any Cabinet which is working on the principle of joint responsibility

will consent to have a Secretary of this kind attached to it.

On the other hand, if the Governor is given the power to preside over the Cabinet when it is discussing its policy, I doubt very much whether that will work, because although the Ministry may, and indeed must, communicate to the Governor the decisions at which it has arrived, I do not think the Ministry will consent to disclose to the Governor the reasons which have led it to come to those decisions. The reasons may be very particular and very delicate, and you all know that the Cabinet is very jealous not to let the Governor know the reasons why it has arrived at a particular decision. The explanation of that is that the Governor holds in his hands a tremendous power for undoing the Ministry for he may not agree to the Ministry's advice to dissolve the House, but may instead of being embodied in a Statute, the matter should be left to the Instrument of Instructions, which may provide that the Governor can attend if he desires to do so, but it should not be obligatory at all. On the other hand, it should be made obligatory for the Cabinet to communicate to the Governor all the recommendations at which it arrives at its meeting. That is all I desire to say on that point.

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†*Dr. Ambedkar:* We should like to say one thing on that point that the Second Chamber should not be constituted first, and then its abolition should be left to constitutional resolution requiring a certain majority. What we suggest is that if the situation is such that it should be left as a matter of discretion in certain Provinces, then first of all a resolution might be passed by the Provincial Legislature expressing its desire for a Second Chamber, and then that the Second Chamber shoud be constituted. It should not be first imposed on the Provincial Legislature by the constitution.

Fifth Sitting—15th December 1930

‡*Dr. Ambedkar:* Sir, I should like to make one or two observations on the amendment which the noble Marquess has moved. I should like to state at once that the position which he has taken up seems to me to be absolutely logical. In this report we are going to provide that certain interests and minority groups may be represented by nomination in the Legislative Council. At the same time we are also making provision in this report that the Governor shall be given an obligation to endeavour to secure that his Cabinet shall be representative of all interests and of all minorities. Now, Sir, unless you provide that in the making up of this Cabinet, the Governor shall also have the right to include members who represent certain important interests by nomination, it seems to me that you are creating an absolutely illogical position. Either you must provide

† Proceedings of Sub-Committee No. II (Provincial Constitution), p. 133.

‡ *Ibid.,* pp. 156-57.

that there shall be no nomination to the Legislative Council at all, that all interests, no matter how minute, shall be secured by election to the Legislative Council, or, if there is to be nomination then you must provide that a nominated member shall have the right to be in the Cabinet if his colleagues are prepared to work with him on the principle of joint responsibility. There is no escape from one or other of those positions.

Now, Sir, it is stated by friends who are sitting on this side that if we accept this principle, that a nominated member shall be a member of the Cabinet, or at least that there shall be no ban upon him, it will run counter to the principle of responsibility. I really cannot understand that position. These gentlemen who are saying it will run counter to the principle of responsibility are prepared to take the votes of nominated members. I am taking the report as it stands. I do not know what future amendments there will be. Supposing the report as it stands is carried, that there shall be certain members in the Legislative Council who shall be nominated. Is it the position of these gentlemen that their votes are illegal? If those who form the Cabinet who are drawn from the elected portion of the House can validly use the votes of members who are nominated to the Legislative Council, if those votes can logically become the basis of the policy of a Government, I cannot see how a member who is one of that nominated group should not become a member of that Cabinet. I fail altogether to understand it. If, as I say, they can take these votes of nominated members and utilise them for their own purposes. I cannot understand what objection there can be to the inclusion of a member from the nominated group in the Cabinet. I therefore say the position of the noble Marquess is perfectly logical. It seems to me we have to make a choice whether we shall make a provision of the sort suggested by the noble Marquess in his amendment, or whether we shall agree to the other proposal which my friends say they will move at a later stage, that there shall be no nominative element in the Legislative Councils at all. Personally I would much rather have the whole Legislative Council elected with no trace of nomination at all. From that point of view I am not very much in favour of the amendment suggested by the noble Marquess ; but if in this Committee or at any later stage nomination remains, then I think I shall have to agree with the noble Marquess and accept the amendment he has proposed.

Diwan Bahadur Ramachandra Rao: I must express my surprise at the speech to which I have just listened.

Dr. Ambedkar: You may, but you cannot have it both ways.

Diwan Bahadur Ramachandra Rao : He knows very well that even under the existing system nominated members are not eligible for appointment as ministers. Section 52 clearly lays it down that no minister shall hold office for a longer period than six months unless he is an elected member of the local Legislature.

Dr. Ambedkar: That is in the melting pot.

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Opposition to Co-option in Legislature

†*Dr. Ambedkar:* I am afraid I shall have to oppose this amendment. First of all, such experience of co-option as we have had in Bombay is not very encouraging. It has developed into the worst sort of scandal ; the amount of corruption and bribery that take place are such that I for one should not like to introduce this principle in the constitution of the Legislature of Bombay.

A further objection is this. If the various communities that do not find themselves elected at the polls are to get representation of a real sort, representation which is independent of the influence of any other community, I think co-option is a principle which is certainly not going to help them, for it may very well happen that when representatives of the various communities stand for co-option only those will be in fact co-opted as may happen to be subservient to and willing to play into the hands of the majority. It seems to me this would be worse than no representation at all, and I am afraid on that ground I must oppose the amendment. But I submit, Sir, that this Sub-Committee ought to make a recommendation that the future constitution of the Provincial Legislatures should be such that there should be no nominated members at all.

Diwan Bahadur Ramachandra Rao: That is far better, of course.

Dr. Ambedkar: That is my own view of the matter. I am certainly opposed to co-option.

Diwan Bahadur Ramachandra Rao: I agree that some statement that the Legislature should be wholly elected ought to be inserted in this report, and unless some such indication is given of the views of this Sub-Committee the nominated element will continue, though I believe it is the desire of most of our members that it should disappear. A statement to that effect ought to find a place in the report. I have no doubt whatsoever that everyone of us is quite alive to the evils of nomination, and we are anxious it should disappear as early as possible. Under these circumstances I am not prepared to support the amendment, and I would favour the proposal made by my friend, Dr. Ambedkar.

Chairman: What was the proposal ? I have no words here.

Dr. Ambedkar: We should say it is the view of the Sub-Committee that hereafter the Legislative Councils in the Provinces should be wholly elected.

Chairman: That is another amendment altogether, you will have to send it in writing if you want to move that.

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‡*Chairman:* I will take your decision on this point.

Raja Narendra Nath: I support Sir A. P. Patro. I think the power of

† Proceedings of Sub-Committee No. II (Provincial Constitution), p. 194.

‡ *Ibid.,* p. 196.

nomination should be strictly confined to the representation of interests which cannot be given by election.

Dr. Shafa'at Ahmad Khan: Yes.

Raja Narendra Nath: There may be in certain Provinces some communities, such as the one to which Dr. Ambedkar belongs, for which it would be impossible to arrange election.

Dr. Ambedkar: I should not have anything to do with a constitution which did not provide the franchise for my community.

Raja Narendra Nath: The franchise will have to be arranged on a very different basis if it is to be provided for the community to which Dr. Ambedkar belongs, and therefore a limited power of nomination should be provided.

Chairman: It seems to me the majority of the Sub-Committee is in favour of clause (*c*) as it stands in the Report.

COMMITTEE OF THE WHOLE CONFERENCE

†Comments on the Report of Sub-Committee No. II (Provincial Constitution)—16th December 1930

Mr. Chintamani opposed the institution of 2nd Chamber in Provinces. He said, it would be a costly luxury and not an institution of public utility. In U.P. demand for 2nd Chamber comes from a small section of the community, which according to Simon Commission, is over-represented in the Provincial Legislature. He therefore considered this proposed 2nd Chamber as absolutely unnecessary and undesirable either in U.P. or any other Province in India for any length of time, in whatever conditions Dr. Ambedkar said,— "I shall like to associate myself with the remarks which have just fallen from Mr. Chintamani".

Chairman :..... The discussion is now on paragraph *5*(*b*).

(This paragraph deals with the procedure of appointment of Ministers.)

Dr. Ambedkar: It was moved in the Sub-Committee that the word "elected" (Elected members of the Provincial Legislature) should be dropped in view of the recommendation made by the Committee in another part of the Report that probably some part of the Legislature might have to be composed of nominated members. It was then decided that if the Committee which would be constituted to discuss the composition of the Legislature came to the conclusion that there should be a nominated member, the word "elected" should be dropped.

Chairman: The word used is "ordinarily" ("The Ministers should ordinarily be drawn") I think that covers the point. It indicates the possible necessity of extraordinary action.

† Proceedings of the R.T.C., p. 314.

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IN SUB-COMMITTEE No. III (MINORITIES)

Second Sitting—31st December 1930

†*Dr. Ambedkar:* Mr. Chairman, I am sure you will readily agree that the task which has fallen upon me to represent the case of the Depressed Classes is a heavy one. I think it is for the first time that the case of the Depressed Classes from the political point of view has come to be considered. The disabilities of the Depressed Classes were mentioned in almost every despatch that was recorded by the Government of India in connection with the political advancement of the country; but the despatches only mentioned the difficulties and never attempted to give any solution of those difficulties. The problem was just allowed to rest there. In view of that, and in view of other matters, namely, that in a Committee consisting of so many members we are only two to voice the grievances of 43 millions of people, and grievances which the Committee will agree are unparallel by the case of any other community that exists in India, I submit that the task is really an enormous one, and I should have expected more latitude in the matter of time allowed to me for presenting this case. But I anticipated that probably such would be the fate that would befall me, as it did, of course, at the Plenary Session ; and, in anticipation of that, I and my colleague, Rao Bahadur Srinivasan, thought it advisable to submit to this Conference a written memorandum‡ giving in clear-cut language what the Depressed Classes desire by way of political safeguards in the future constitution of India. That memorandum has already been submitted and circulated among the members of this Committee, and I hope everyone of them has received it. In view of this fact, that the case of the Depressed Classes is in the possession of the members of this Committee, I do not wish to ask indulgence from the Chairman for a larger period to present the case. I will therefore summarise, only to emphasize, what I have stated in the memorandum which is

† Proceedings of the Sub-Committee No. III (Minorities), Government of India, Central Publication Branch, Calcutta, 1931, pp. 73-80.

The terms of reference to the Sub-Committee were as under:—

"The provision to be made to secure the willing co-operation of the minorities and the special interests."

‡ The memorandum is appended at the end of this chapter as Appendix I, pp. 546-54.

already in the hands of the members of the Committee.

Sir, the first observation that I will make is this, that although there are various minority communities in India which require political recognition, it has to be understood that the minorities are not on the same plane, that they differ from each other. They differ in the social standing which each minority occupies *vis-a-vis* the majority community. We have, for instance, the Parsee community, which is the smallest community in India, and yet, *vis-a-vis* its social standing with the majority community, it is probably the highest in order of precedence.

On the other hand, if you take the Depressed Classes, they are a minority which comes next to the great Muslim minority in India, and yet their social standard is lower than the social standard of ordinary human beings.

Again, if you take the minorities and classify them on the basis of social and political rights, you will find that there are certain minorities which are in enjoyment of social and political rights, and the fact that they are in a minority does not necessarily stand in the way of their full and free enjoyment of those civic rights. But if you take the case of the Depressed Classes, the position is totally different. They have in certain matters no rights, and, where they have any, the majority community will not permit them to enjoy them.

My first submission to this Committee, then, is that it should realise that although, to use an illustration, the minorities are all in the same boat, yet the most important fact to remember is that they are not all in the same class in the same boat; some are travelling in "A" Class, some in "B" Class and some in "C", and so on. I have not the slightest doubt in my mind that the Depressed Classes, though they are a minority and are to that extent in the same boat as other minorities, are not even in "C" or "D" Class but are actually in the hold.

Starting from that point of view, I agree that, in some respects, the position of the Depressed Classes is similar to that of the other minorities in India. The Depressed Classes, along with the other minorities, fear that under any future Constitution of India by which majority rule will be established and there can be no shadow of doubt that that majority rule will be the rule of the orthodox Hindus—there is great danger of that majority with its orthodox Hindu beliefs and prejudices contravening the dictates of justice, equality and good conscience, there is a great danger that the minorities may be discriminated against either in legislation or administration or in the other public rights of citizenship, and therefore it is necessary to safeguard the position of the minorities in such a manner that the discrimination which is feared shall not take place.

From that point of view, however, what is asked is that the minorities shall have representation in the Legislature and the Executive, that they shall have representation in the public services of the country, and that the constitution shall provide that there shall be imposed on the future

legislatures of India, both Central and Provincial, certain limitations on their legislative power which will prevent the majorities from abusing their legislative power in such a manner as to enact laws which would create discrimination between one citizen and another. I say, this circumstance—this danger of discrimination is common to all minorities, and I, as a representative of the Depressed Classes, join with the demand which the other minorities have made in this regard.

Now, Sir, I will come to those circumstances which mark off the Depressed Classes and the other minority communities in India. I will at once say that the way in which the position of the Depressed Classes differs from the position of the other minority communities in India is this, that in the first place the Depressed Classes are not entitled, under present circumstances, to certain civic rights which the other minorities by law enjoy. In other words, in the existing situation the Depressed Classes suffer from what are called civic disabilities. I will give you just one or two illustrations, because I know I have not much time at my disposal.

Take the case of employment in the Police or in the Army. In the Government of India Act it is provided that no subject of His Majesty shall be deprived of the right of being employed in any public service by reason of his caste, creed or colour. Having regard to that, it is obvious that every member of the Depressed Class community who is capable, who is in a position to satisfy the test laid down for employment in any public department, should have the right to enter that public department. But what do we find ? We find this. If a Depressed Class man applies for service in the Police Department today, he is told point blank by the executive officers of the Government that no member of the Depressed Classes can be employed in the Police Service, because he is an untouchable person. In the case of the Military the same situation obtains. Up to 1892 practically the whole of the Madras Army and the whole of the Bombay Army consisted of members drawn from the Depressed Classes. All the great wars in the history of India have been fought with the help of sepoys drawn from the Depressed Classes, both in the Bombay Presidency and in Madras. Yet in 1892 a rule or regulation was made which debarred the Depressed Classes from entry into the Military Service, and even today, if you ask a question in the Legislative Council as to why this is done, the answer is that the bar of untouchability does create insuperable difficulties in the recruitment of these classes.

I am quite sure that this disability is as effective as it was imposed by law, and the section in the Government of India Act, which says that all His Majesty's subjects shall have free entry into employment provided they are otherwise fit, is altogether set at naught.

I can cite many other cases. For instance, there is the difficulty the Depressed Classes find in getting themselves accommodated in public inn when they are travelling, the difficulty they find in being taken in an omnibus

when travelling from one place to another, the difficulty they find in securing entry to public schools to which they have themselves contributed, the difficulty they find in drawing water from a well for the building of which they have paid taxes, and so on. But I need not go into all these cases. The one circumstance which distinguishes the position of the Depressed Classes from that of the other minorities is that they suffer from civic disabilities which are as effective as though they were imposed by law.

The second and, in my opinion, the most hideous distinction which marks the Depressed Classes is that the Depressed Classes are subject to social persecution unknown in any other part of the world. In that connection I want to read to the Sub-Committee a small extract from the Report of a Committee appointed by the Government of Bombay in the year 1928 to investigate into the position of the Depressed Classes. That Committee tried to find out whether there were any impediments in the way of the Depressed Classes enjoying such rights as the law gave them in common with other citizens of the State :

> "Although we have recommended various remedies to secure to the Depressed Classes their rights to all public utilities we fear that there will be difficulties in the way of their exercising them for a long time to come. The first difficulty is the fear of open violence against them by the orthodox classes. It must be noted that the Depressed Classes form a small minority in every village, opposed to which is a great majority of the orthodox who are bent on protecting their interests and dignity from any supposed invasion by the Depressed Classes at any cost. The danger of prosecution by the Police has put a limitation upon the use of violence by the orthodox classes and consequently such cases are rare.
>
> "The second difficulty arises from the economic position in which the Depressed Classes are found today. The Depressed Classes have no economic independence in most parts of the Presidency. Some cultivate the lands of the orthodox classes as their tenants at will. Others live on their earnings as farm labourers employed by the orthodox classes and the rest subsist on the food or grain given to them by the orthodox classes in lieu of service rendered to them as village servants. We have heard of numerous instances where the orthodox classes have used their economic power as a weapon against those Depressed Classes in their villages, when the latter have dared to exercise their rights, and have evicted them from their lands, and stopped their employment and discontinued their remuneration as village servants. This boycott is often planned on such an extensive scale as to include the prevention of the Depressed Classes from using the commonly used paths and the stoppage of the necessaries of life by the village Bania. According to the evidence sometimes small causes suffice for the proclamation of a social boycott against the Depressed Classes. Frequently it follows on the exercise by the Depressed Classes of their right to the use of the common well, but

cases have been by no means rare where a stringent boycott has been proclaimed simply because a Depressed Class man has put on the sacred thread, has bought a piece of land, has put on good clothes or ornaments, or has carried a marriage procession with the bridegroom on the horse through the public street.

> "We do not know of any weapon more effective than this social boycott which could have been invented for the suppression of the Depressed Classes. The method of open violence pales away before it, for it has the most far-reaching and deadening effects. It is more dangerous because it passes as a lawful method consistent with the theory of freedom of contact. We agree that this tyranny of the majority must be put down with a firm hand if we are to guarantee the Depressed Classes the freedom of speech and action necessary for their uplift."

A third thing which the Depressed Classes fear more than any other community is that whatever representation they may be granted in the new legislature, they will always be in a very small minority, and consequently, having regard to the apathetic attitude of the orthodox classes towards the Depressed Classes, there is always the danger of the interests of the Depressed Classes, being neglected altogether, or some action taken which may ultimately prove to be prejudicial to their interests.

As against these special circumstances which affect the Depressed Classes, we propose the following safeguards. First of all, we want a fundamental right enacted in the constitution which will declare "untouchability" to be illegal for all public purposes. We must be emancipated, so to say. from this social curse before we can at all consent to the constitution ; and secondly, this fundamental right must also invalidate and nullify all such disabilities and all such discriminations as may have been made hitherto. Next, we want legislation against the social persecution to which I have drawn your attention just now, and for this we have provided in the document which we have submitted by certain clauses which are based upon an Act, which now prevails in Burma. I need not go into that detail just for the moment. Then what we want is this, that liability of the executive officers of the Crown for acts of tyranny or oppression shall be made effective. Today under sections 110 and 111 of the Government of India Act that liability is not real. And lastly, what we want is a right to appeal against acts of neglect of prejudice to the Central Government and failing that, to the Secretary of State and a Special Department in the Government of India to take charge of our welfare.

This is, in general, the cases for the Depressed Classes, and the safeguards that they want. Let me just say a word or two as regards the most important of them—namely, their right to adequate representation in the legislature. Now, on the question of the granting of representation of the Depressed Classes, we are absolutely unanimous that that representation shall be by election and not by nomination. The system of nomination has

produced in the case of the Depressed Classes, results which we all say are abdominable. The system has been abused in a manner in which it was never expected that it would be abused, and it has never given the Depressed Classes the real and independent representation which they must have as their safeguard. Under no circumstances, therefore, will the Depressed Classes accept representation by nomination.

As to the question of joint or separate electorates, our position is this—that if you give us adult universal suffrage the Depressed Classes, barring a short transitional period which they want for their organisation, will be prepared to accept joint electorates and reserved seats; but if you do not give us adult suffrage, then we must claim representation through separate electorates. That is our position.

Now regarding the question of the number of seats, it is not possible, of course, for us to state definitely what that number should be, except to state that we will not tolerate any invidious discrimination. We insist upon equality of treatment. But the whole question, in my opinion, is entirely a relative question : it is a question that can be determined only in connection with and by taking into account, the seats that will be allotted to the other minority communities ; but I will make two observations in this connection. The first observation that I will make is this—that we, the Depressed Classes, demand a complete partition between ourselves and the Hindus. That is the first thing. We have been called Hindus for political purposes, but we have never been acknowledged socially by the Hindus as their brethren. They have taken to themselves all the political advantage with our numbers, with our voting strength, have given to them, but in return we have received nothing. All that we have received is a treatment which is worse than the treatment that they themselves have accorded to other communities whom they do not call Hindus. That must be the first thing, therefore, that we want to be done.

The second thing that I will say concerns the question of weightage. Now, this system—I will be plain, to my mind has been abused. I am not against the principle of weightage. I do not accept the principle that in all circumstances every minority must be confined to its population ratio. A minority may be so small that its population ratio may give a representation which may be wholly inadequate for the purpose of its protection. It may be a representation which may be of no consequence at all. If, therefore, you want to protect a minority adequately and really, then in certain circumstances the principle of weightage will have to be conceded. But the distribution of weightage must be subject to some uniform and intelligible principle. In our opinion weightage is to be conceded because a minority is weak, either in numbers, or because its social standing is low, or its educational standing is backward as compared with others, or because its economic strength is not sufficient to place it on a fighting par with other communities.

Member: Quite right.

Dr. Ambedkar: But I cannot understand, for instance, how weightage can be allowed on the ground of political importance, or loyalty, or services rendered either to the Empire or to the British Government. I think if we adopt that principle, we shall land ourselves in very difficult circumstances from which it will be difficult to extricate ourselves.

Regarding the question of the representation of the Depressed Classes in the Central Legislature. If you have again adult suffrage for the election of members of the Central Legislature, then, of course, the Depressed Classes will claim separate representation in the Legislature, such number of seats being allotted to them in conjunction with the seats allotted to other minorities. But if your representation is to be by a suffrage which is higher or much higher, based on property, and so much higher that the Depressed Classes will probably be entirely left out, then I am afraid the Depressed Classes will have to claim indirect election to the Central Legislature, carried on by electoral colleges composed of members of the Depressed Classes, in the Provincial Legislature, in Municipalities, and in district local boards. That is all that I have to say so far as the Depressed Classes are concerned.

Having said all that I need say let me add one thing in conclusion that this whole question of minority representation is really the crux of the whole situation, and if the majority community desire that all minorities should associate with them in having or in claiming, a constitution which will give India what they call Dominion Status, or what we prefer to call Government by the people, for the people and in the name of the people, then I am afraid that the majority community must see to it that all fears of the minorities are set at rest. Otherwise it may not be possible for us to take what I do not conceal from myself is the risk that most of us are taking in claiming Dominion Status.

Fifth Sitting—14th January 1931

†*Chairman:* The proposal that has just been made makes it impossible for us to go on and adopt the Draft Report that is in front of us, because, of course, it changes the whole circumstances. If you would be agreeable, I should propose to adjourn this Sub-Committee now, and I will also, you being agreeable, propose to remain in the Chair and to ask that those of you who are specially interested should meet and we must include Dr. Ambedkar.

Dr. Ambedkar: I am obliged to you, Sir.

Chairman: Oh, yes, we must include him and see whether by an exchange of opinions across the table we could not come to an agreement.

† Proceedings of the Sub-Committee No. III (Minorities), pp. 127-28.

Sir P. C. Mitter: I should like to join, Sir, in those discussions.

Dr. Ambedkar: We have heard just now these proposals and percentages being disposed of, but really it strikes me that if you add up all these they not only go over 100 per cent but they practically take no notice of many other communities that are existing in the Punjab and Bengal and in other places. If these communities, the Sikhs, the Muhammadans, the Hindus are going to appropriate 49 and 20 and so on, what is left for the other people? Are they to be taken into account or not? That is a very serious question, Mr. Prime Minister.

Lt. Col. Gidney: May I just raise my humble voice—it is a very small voice. I know—in this conflict? I support what Dr. Ambedkar has just said. Surely you are not going to take the political rupee and give 15 annas and 9 pies to the major communities, leaving 3 pies to be scrambled for by the other minorities. On behalf of the smaller communities I maintain we should have some say in this distribution.

Chairman: That is just the point. I think that we had better discuss this matter with a smaller body and a little but more informally.

Mr. Foot: And no notes taken ?

Chairman: And I shall remain in the Chair, you being agreeable, and see what can be done to straighten out the situation that has been opened up by the very hopeful suggestion made by Sir Muhammad Shafi.

Sixth Sitting— 16th January 1931

†*Chairman:* "The inclusion in the Constitution of declaration of fundamental rights safeguarding the cultural and religious life of the various communities and securing to every individual, without distinction of race," and so on, "the free exercise," and so on.

Raja Narendra Nath: I propose we say "the free and equal exercise".

Chairman: of his or her economic, social and civil rights".

Raja Narendra Nath: I do not think we want the "his or her". Cannot we say "the free and equal exercise of economic, social and civil rights by citizens" ? I do not insist on it.

Chairman : "equal" is of substance, but I do not think the other matters very much.

Raja Narendra Nath : I suggest we should say "free and equal exercise".

Chairman: As a matter of fact, that is a question from Dr. Ambedkar.

Raja Narendra Nath: The word "equal" was used in Dr. Ambedkar's speech.

Sir M. Shaft: I think "free" covers it.

Dr. Shafa'at Ahmad Khan: I think it should remain as it is.

Chairman: It says "and securing to every individual.....the free

† Proceedings of the Sub-Committee No. III (Minorities), pp, 129-31.

exercise". You cannot secure the equal exercise, because equal is an attribute of the individual who uses the rights.

Raja Narendra Nath: I mean equality in rights; equal rights.

Mr. Chintamani: I do not see the particular propriety of that objective "equal".

Raja Narendra Nath: It is used in Dr. Ambedkar's draft.

Chairman: You can secure to each individual the Free exercise of his rights, but if he does not exercise them in terms of equality that is his lookout, not the Government's.

Raja Narendra Nath: Very well.

Chairman: "his or her" can come out, I think.

Dr. Ambedkar: After the word "rights" at the end of the paragraph I should like the words "without discrimination" added.

Chairman: It says already "without distinction of race, caste, creed or sex".

Dr. Ambedkar: I should like the word "untouchability". You included there !

Chairman :..... "untouchability ! " you already have race and caste.

Dr. Moonje: I think it is all right.

Dr. Ambedkar: In order to explain things better I think that word might be included.

Chairman : Do not let us produce a document which people will laugh at on account of the way it is worded.

Dr. Ambedkar: I think we ought to make a distinction between caste and untouchability. Many people who have caste do not suffer from the difficulties of untouchability.

Raja Narendra Nath: Even the Muslims have caste.

Diwan Bahadur Ramachandra Rao: There is caste among the untouchables. "Caste" is a wider expression.

Mr. Foot: Unless an alteration which is substantial is proposed, I understand it is rather late to make an alteration at this stage.

Dr. Ambedkar: I should like to say "social and civil rights on account of untouchability or otherwise".

Chairman : Untouchability is a violation of social rights, and if you pile on words instead of making it more precise it has, as a matter of fact, an exclusive tendency ; it narrows the thing if you give a specific application to a general principle. If you keep your general principle sound you are much safer so far as its application is concerned than if you quote it as applying to the one particular grievance.

Dr. Ambedkar: That is true, but I do maintain that the question of interpretation will come in, and I should like whoever is going to handle this Report to understand that the Sub-Committee did mean not to impose any disability on account of untouchability.

Chairman : In a case like that, if there is any doubt about it, I will take the opinion of the Committee and settle it Do you persist, Dr. Ambedkar ?

Dr. Ambedkar: I am afraid, Sir, I shall have to. My dissent might be noted, that I do wish that this should be made clear.

Chairman : There is a suggestion made that the word "distinction" should be substituted by the word "discrimination", so that it will read "without discrimination as to race, caste" and so on.

Dr. Ambedkar: Yes, that would do it.

Chairman: That will be all right ?

Dr. Ambedker: That will be all right. I suggest at the end it should be "without discrimination".

Chairman: Quite then would you make that alteration please. Then it will read without discrimination.

Dr. Ambedkar: Yes.

Chairman: That is a good amendment: the other, I think, would have been a bad one.

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†*Dr. Ambedkar:* Sir, as I understand, paragraph 3 summarises the demand put by the different communities before this Committee.

Chairman : Yes.

Dr. Ambedkar: In view of that, I should like to suggest that the other demands made by the Depressed Classes specifically in their own interests, on account of the fact that their position differs somewhat from the position of the other minorities, should be added. I do not mean to say that they should be added as an accepted proposition by this Conference, but for the sake of completeness those demands should be put in. I would therefore suggest the addition of the following paragraph to this paragraph after the word "rights" : "The Depressed Classes also urged that untouchability, with all its consequent disabilities, should be abolished by law, and that they should be guaranteed free and unfettered enjoyment of their rights ; and they also claim the right of appeal to the Governor-General and the Secretary of State in cases of prejudices or neglect of their interests."

Chairman: But you see, in so far as these suggestions can be made workable, they will come in in the details that will have to be worked out.

Dr. Ambedkar: I quite see that.

Chairman: Partly legislative and partly administrative.

Dr. Ambedkar: But what I would like to say is this, that in view of the fact that the paragraph tries to summarise what was put before this Committee by the different communities, what was put by the Depressed Classes, as something specifically for themselves, apart from what other communities needed, ought to come in by way of completion.

Chairman: But it says "without discrimination" and so on.

† Proceedings of the Sub-Committee No. III (Minorities), pp. 133-35.

Dr. Ambedkar: Mr. Prime Minister, you will excuse me ; it is one thing for the constitution to say that no man shall be discriminated against, and that every man shall be guaranteed the free enjoyment, and so on; but I know as a matter of fact that we are hard up against facts, and that people will not allow us to enjoy the rights which are given to us by the constitution. I am as certain of that as I am certain of my existence. I do not want merely a paper guarantee. The whole community will be against us, and we shall certainly never enjoy one-tenth of what is given to us. I therefore desire that the constitution should not only declare that we shall have specific rights that every community will have, but that the constitution should also provide ways and means by which we shall be protected in the exercise of those rights.

Chairman: The point is, supposing a legislature does not pass a law which will suit you, then the constitution has been broken.

Dr. Ambedkar: No. What I suggest is this : That in the memorandum which I have circulated I have suggested certain ways and means by which we think our rights could be protected in the matter of their exercise. The Committee here, for instance, may not agree that that is an appropriate way of doing it; the Committee may suggest that there are some other means of doing it. I am quite prepared and open for consideration of these other ways and means ; but what I want to submit is this, that this draft ought to report that the Depressed Classes did suggest that they were not satisfied with the mere declaration that they were placed on an equal footing with other communities : but they pressed in that rights be given to them by the constitution. I am not asking for anything more than that. That is by way of completion of the report. In the memorandum which I submitted, you will see I do recommend a certain procedure for that.

Mr. Foot: The only difficulty which occurred to me, with every sympathy for Dr. Ambedkar, was that if you begin to put in a statement of your position, it would have to be a very full statement. Already we have upon the notes the claim that has been made, and the sympathetic adoption of it here referred to again at the end of paragraph.

16. It seems to me perhaps there may be the risk that if you are going to put in any claim at all, you will not have it fully stated in this memorandum.

Dr. Ambedkar: I would just like to say as regards paragraph 16, the last two sentences refer to the Depressed Classes, and they are confined to the seats that are to be allotted to them. That is a different matter altogether. What I am stating is this, that the constitution may give me certain rights, but I know that 99 per cent of the people in India are not going to allow me to exercise those rights. What is the use of those paper rights to me unless the constitution provides that if anyone infringes my rights he is liable to certain penalties ? What I say is this. I do not press that the meeting should adopt my proposal. What I want is that the constitution should be made to complete as to cover what I have said on behalf of the

Depressed Classes on this Sub-Committee.

Chairman : We have every sympathy with your position, and are prepared to support it; but the difference between putting a paragraph in the constitution declaring for fundamental rights and the drafting of laws carrying out those fundamental rights is a real one. You cannot get into a constitutional declaration any details of a law which is going to enforce it. What you have got to do is, when you get your representation, when you get your declaration of rights, not in detail, in your constitution, then, as a representative of your people co-operating with the other people in the Legislature you have to produce the law which you think carries out the declaration in the constitution, because if you put anything more by way of detail into your constitution and the constitution is not carried out in that respect, then the constitution is not carried out at all. So you will never get on in that way.

Dr. Ambedkar: My submission is this. I perfectly agree with you that this declaration of fundamental rights is of no consequence. I attach no importance to it myself personally, because after all, what is important to an individual is not that his rights should be declared but that he should have the remedy in order to enforce those rights. That is the effective guarantee of the rights in the declaration, and therefore I want that the constitution should give me some means whereby I can get redress when I am wrong. It is no use merely saying that there is no "untouchability" and so on.

Chairman: As a matter of fact we have got the point clearly in our minds, so it need not be reiterated ; but what Dr. Ambedkar says is that a declaration in the constitution is not good enough for him unless it is enforceable by law. That is so. In order to make it enforceable by law, laws must be passed creating the penalties and the crimes—the crimes first of all, and the penalties. You cannot create a crime of this kind. I think, not safely—I am in the hands of Lord Reading; he is a lawyer, I am not—you cannot, in drafting a general introductory clause to your constitution, create by that a crime which gives you more rights than those that you can claim under the constitution. Under the constitution you have got certain rights given to you, and I am not at all sure what is the position. Supposing a Depressed Class person was actually persecuted in violation of this declaration, could he not move for some redress in the Courts ?

Lord Reading: Well, you have got to give him some remedy for it, of course. You must make it a misdemeanour.

Chairman : Can you do that in the constitution ?

Lord Reading: No, I do not think so. If you will forgive me for a moment I do not think Dr. Ambedkar was pressing for that. As I understand it, he wants us to make a definite statement that he had put the claim forward, that he was not satisfied merely with the declaration of

"free exercise" etc. What he wants also is that he drew special attention to the fact that that was no use to him unless he also had protection for an infringement of these rights, and he leaves it there. Then you have to consider what the remedy is hereafter. That is as I understood him.

Dr. Ambedkar: That is my position.

Discussion on paragraph 4 of the Report

Dr. Ambedkar: I wish to suggest an amendment to the second subparagraph of paragraph 4. After the words "Depressed Classes" I should like to have the words added "barring a short initial period". It would read "and would be acceptable to the Depressed Classes barring a short initial period".

Chairman: I understood you accepted it provided there was adult suffrage ?

Dr. Ambedkar: I said that for ten years we should have separate electorate whether there was adult suffrage or not.

Chairman: "And would be acceptable to the Depressed Classes after a transition period" ?

Dr. Ambedkar: Yes.

Chairman: Do you agree that makes it more accurate ?

Mr. Chintamani: Are we to delete the proviso "provided the franchise was based on adult suffrage" ?

Chairman: No, we cannot alter the speeches that were made. But what Dr. Ambedkar said—he will correct me if I am wrong—was that if there is to be no adult sutfrage then they must claim separate electorates, but if there is adult suffrage then, after a transition period, they would abandon them. I cannot allow the accuracy to be altered.

Discussion on paragraph 12 of the Report

Dr. Ambedkar: Sir, I should like to have the following words added to paragraph 12 in the beginning : "The minorities and the Depressed Classes were definite in their assertion that they would not consent to any self-governing constitution for India unless their demands were accepted." And then you can proceed : "There was general agreement with respect to recommendations," and so on. Speaking for myself, I think I made it very clear at the time when I delivered my speech in this Committee that unless we were assured that we were safe in the new constitution, we could give no consent to any constitution involving the principle of responsibility. If other communities do not care to join in this, it would go as my own statement on behalf of the Depressed Classes.

Lt. Col. Gidney : I join in that statement too, Sir.

Chairman: Of course, the statement as a matter of fact was made, and it was made in a representative way, not merely as an individual statement. But if that is put in in this report, you will observe the effect of it, that one or two of you will be able to say : "Our claims have not been satisfied." It is not a decision of this Committee, but it does put obstacles

in the way of anything being done unless everybody says they are satisfied with what is being done. Whether you think it is wise to take that statement, undoubtedly made to the Committee, and put it in such a position as to make it necessary to record it in the report which the Committee sends to the Conference, is for you to say. I do not object at all, as a matter of record.

Lord Reading: It is rather difficult to see what part it plays in this particular paragraph ; this is dealing with the Executive, and the only point which is mentioned about the new constitution is in regard to the successful working of it.

Dr. Ambedkar: My position is this, Sir, that speaking for myself, I do not merely make a statement, and I do not want the record merely to say that I made certain demands ; I want the report also to record the strength of feeling that is in my mind behind this ; that it is not merely a demand which I made merely to be accepted or rejected, but I said that the acceptance of these demands was conditional on the acceptance of this.

Lord Reading: I do not see how it can come in this paragraph at all.

Dr. Ambedkar: It may come in anywhere. As it was dealing with general agreements, I thought these few lines might come in appropriately at the top of this paragraph. If you do not think it is suitable, I have no objection.

Chairman: I do not think it can come in here ; I do not see how you can work that in here. You could raise it again. It is really what we should call in a Bill before the House of Commons a new clause and not an amendment to a clause 12.

Dr. Ambedkar: In the third line it reads in this way : "that the representation on the Provincial Executives of important minority communities, i.e. Hindus, Muhammadans and Sikhs, was a matter of the greatest practical importance....." My amendment is this, that we should delete the word "important", because I do not want any discriminations made between minorities and minorities, but you should not mention any minority by name, and that if you are going to do so, then you must mention all the minorities.

Dr. Moonje: That is exactly what I was going to say.

Chairman: As a matter of fact, the reason why these words were put in is that they are in the report to which reference is made. What is the amendment ? We are not going to put in anything that you do not agree with. "That the representation on the Provincial Executive of minority communities" ?

Dr. Ambedkar: Leave it there. Delete "Hindus, Muhammadans and Sikhs".

Chairman: Let us see what it means. It would then read : "that the representation on the Provincial Executives of minority communities was a matter of the greatest practical importance for the successful working", and so on.

Dr. Ambedkar: Yes.

Chairman : That means that every minority community, if it is 8, 9, 10 or 12, must have a representative upon the Executive.

Dr. Ambedkar: No; I would then add : "as far as possible leaving discretion to the Governor". I should not like any community to be specifically mentioned.

Lord Reading: Surely you must look and see what this says : "There was general agreement with the recommendation of Sub-Committee No. II (Provincial Constitution)." Then it goes on to quote it.

Dr. Ambedkar: It should not.

Dr. Moonje: My suggestion was a small one, but perhaps it might meet Dr. Ambedkar's point of view. It was on the same lines : "important minority communities, i.e. Muhammadans, Sikhs, Depressed Classes,". That was my small amendment.

Lord Reading: Then the others will have to come in.

Sir A. P. Patro: The Depressed Classes are not Hindus? Will you cut off the Depressed Classes ? With due respect, I say there are Depressed Classes who would simply revolt at the suggestion that they are not Hindus. In Southern India, if Dr. Ambedkar comes and says they are not Hindus, then I do not know what position Dr. Ambedkar will have in Southern India.

Dr. Ambedkar: We are not discussing that here.

Sir A. P. Patro: Therefore I say representation consistent with facts and experiences.

Chairman: I have referred to the report to which reference is made. "Hindus, Muhammadans and others" I am told was put in by way of illustration, and these words do not appear in the report.

Sir Muhammad Shafi: That is what I was going to say.

Chairman: Just one minute. The word "important" docs "that the representation on the Provincial Executives of important minority communities". Therefore "important" will have to stand.

Members: Yes.

Chairman : But "Hindus, Muhammadans and Sikhs" will have to go out; they have no business to be there.

Dr. Ambedkar: Just before you go from that. Sir, I should like to draw attention to the words "working of the new constitution and it was also agreed that on the same grounds Muhammadans should be represented on the Federal Executive". The words "important minorities" should replace the word "Muhammadans" there I mean, in keeping with what we are saying in the beginning.

Chairman: Oh, yes ! "It was also agreed on the same grounds"—

Dr. Ambedkar: "they should be represented also on the Federal Executive".

Chairman: "That important minorities should be represented on the

Federal Executive. On behalf of the smaller minorities a claim was put forward for their representation, either individually or collectively, on the Provincial and Federal Executives or that, failing this, in each cabinet, there should be a Minister specially charged," and so on. That is exactly what was put forward.

Lord Reading: Yes.

Chairman: Officially.

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**Chairman:* As a matter of accurate recording, the use of the word "Muhammadans" is perfectly right.

Sir Muhammad Shafi: Federal stands on a special footing.

Chairman: "Muhammadans" stands.

Mr. Joshi: Yes, I agree to that.

Dr. Ambedkar: Then you must add to "Muhammadans", "and other important minorities".

Chairman: No, you cannot. That was the claim.

Dr. Ambedkar: May I not say so for myself? Speaking for myself, I speak on behalf of the Depressed Classes as well.

Mr. Joshi: It is not agreed. You did not make the claim.

Dr. Ambedkar: It is not a question of whether I did or not.

Chairman: Now, we are doing business, and it is two minutes to eleven.

Dr. Moonje: I would ask, instead of the word "agreed," that we should say, "it was also claimed that on the same grounds," and so on.

Sir Muhammad Shafi: No, no, it was agreed. That is a matter of fact.

Dr. Moonje: I do not know what took place in the Federal Structure Committee.

Sir Muhammad Shafi: The record shows it.

Dr. Moonje: But here, of course, I do not agree with that point.

Sir A. P. Patro: That is accepted, and it goes to the next paragraph.

Dr. Moonje: A claim was put in.

Chairman: The statement was made that the Muhammadans should be recognised, and to that, according to the minutes, there was an agreement, and that has just been lifted out of the records.

Mr. Joshi: The records of this Committee?

Lt. Col. Gidney: I made a distinct statement on this matter when we had this before the plenary session, and I made statement to this effect—that it is all very well for the larger communities to demand certain things, but the minorities wanted some representation.

Chairman : That is in.

Lt. Col. Gidney: This is only an alternative.

Chairman: Oh, no, it is not. The sentence gives an alternative, but it says the claim was made that there should be either representation of the

* Proceedings of the Sub-Committee No. III (Minorities), pp. 144-46.

minorities direct, or, failing that that is, if that is impossible then. . . . . .

Lt. Col. Gidney: That is all we want.

Rao Bahadur Pannir Selvam: "Failing this" might replaced by "if this should be found impossible".

Chairman: Yes, instead of "failing this", "if that should be found impossible". There is no reason why that should not be substituted, "if this should be found impossible".

Lord Reading: What is the difference ? We are spending time over interchangeable phrases, that is all.

Sardar Ujjal Singh: Make provision for any other communities in the Federal Executive, and insert the words "important minorities" there. We might make some provision, somehow or other, not necessarily, but provision must be there.

Chairman: May I bring you up against the hard facts of the situation. You cannot, on a Federal Executive, have every minority.

Dr. Ambedkar: Let me make my position clear. In the Provincial Constitution, what we have done is, we have placed an obligation upon the Governor to endeavour to do it. He is not tied down, but in the endeavour he should certainly be allowed the freedom to select even from other important minorities. We are not tying him hand and foot in the making of the Constitution. All we have done is that we place an obligation on him not to select, but we place an obligation upon him merely to make an endeavour. Surely that is not tying him down hard and fast, and I submit that after the word "Muhammadans" the words "other important minority communities" should come.

Chairman: No, we have passed that point. We are now at the second point.

Sir A. P. Patro: May I refer to paragraph 13 ?

Dr. Ambedkar: I would suggest that my dissent be recorded from paragraph 12.

Sardar Ujjal Singh: After the word "Muhammadans", "other important minorities" should be added.

Lt. Col. Gidney: Why close it to the other minorities ?

Chairman: I really must rule. As I have said already, we are not closing it to the other minorities. I am quite willing to discuss amendments on the words as they are, but really you must not raise false issues. This makes a claim that the other minorities shall also be represented, but if this should be found impossible—that alteration has been made—then there will be a Minister. That is an accurate record of the claims which were made. Paragraph 12 agreed.

Dr. Ambedkar: I think our dissent should be recorded.

Chairman: Very well.

[Paragraph No. 12 as adopted finally by the Sub-Committee No. III (Minorities).]

12. There was general agreement with the recommendation of Sub-

Committee No. II (Provincial Constitution) that the representation on the Provincial Executives of important minority communities was a matter of the greatest practical importance for the successful working of the new constitution, and it was also agreed that, on the same grounds, Muhammadans should be represented on the Federal Executive. On behalf of the smaller minorities a claim was put forward for their representation, either individually or collectively, on the Provincial and Federal Executives, or that, if this should be found impossible, in each Cabinet there should be a Minister specially charged with the duty of protecting minority interests.

†(Dr. Ambedkar and Sardar Ujjal Singh would add the words "and other important minorities" after the word "Muhammadans" in line 6.)

Discussion on paragraph 18 of the Report

‡*Chairman :* 17 is deleted. Now 18, which will then become 17. That this Report be presented to the Committee of the Whole Conference. Those in favour ? On the contrary ? That is carried. Then it will go to the Committee of the Whole Conference.

Dr. Ambedkar: Sir, there is my amendment.

Chairman: I beg your pardon; I am so sorry.

Dr. Ambedkar: I should like to have this amendment put in as a separate paragraph after 16.

Chairman: Make it the last paragraph ?

Dr. Ambedkar: Yes.

Chairman: Then that is the over-riding paragraph.

Dr. Ambedkar: My amendment is this : "That the minorities and the Depressed Classes were definite in their assertion that they would not consent to any self-Government constitution for India unless their demands were accepted."

Chairman : As a matter of fact that was said, and it was said in a responsible way ; it was not merely an individual expression of opinion.

Dr. Ambedkar: I think it should be in.

Mr. Joshi: I think labour cannot be regarded as a minority for that statement.

Chairman: I cannot rule it out.

Dr. Ambedkar: I would accept the words : "unless their demands are accepted in a reasonable manner".

Chairman: That makes it meaningless.

Dr. Ambedkar: Or "their reasonable demands are accepted".

Mr. Zafrullah Khan: Does anybody suppose that if the demands are met in a reasonable way they are going to be pleased ?

Mr. Foot: It is only the record of a claim.

Chairman: It is only the record of a claim. That paragraph should be added as paragraph 18, a new paragraph.

† Paragraph No. 12 as adopted after discussion in the Sub-Committee No. III.

‡ Proceedings of the Sub-Committee No. III (Minorities), p. 153.

APPENDIX I

A SCHEME OF POLITICAL SAFEGUARDS FOR THE PROTECTION OF THE DEPRESSED CLASSES IN THE FUTURE CONSTITUTION OF A SELF-GOVERNING INDIA

† Appendix to Report of Sub-Committee No. III (Minorities)

(Submitted by Dr. Bhimrao R. Ambedkar and Rao Bahadur R. Srinivasan)

The following are the terms and conditions on which the Depressed Classes will consent to place themselves under a majority rule in a self-governing India :

Condition No. I

EQUAL CITIZENSHIP

The Depressed Classes cannot consent to subject themselves to majority rule in their present state of hereditary bondsmen. Before majority rule is established their emancipation from the system of untouchability must be an accomplished fact. It must not be left to the will of the majority. The Depressed Classes must be made free citizens entitled to all the rights of citizenship in common with other citizens of the State.

(A) To secure the abolition of untouchability and to create the equality of citizenship, it is proposed that the following fundamental right shall be made part of the constitution of India :

Fundamental Right

U.S.A. Constitution Amendment XIV and Government of Ireland Act, 1920, 10 & 11, Geo. V, Ch. 67, sec. 5 (2).

"All subjects of the State in India are equal below the law and possess equal civic rights. Any existing enactment, regulation, order, custom or interpretation of law by which any penalty, disadvantage, disability is imposed upon or any discrimination is made against any subject of the State on account of untouchability shall, as from the day on which this Constitution comes into operation, cease to have any effect in India."

This is so in all Constitutions, see Prof. Keith's remarks in Cmd. 207, p. 56.

(B) To abolish the immunities and exemptions now enjoyed by executive officers by virtue of sections 110 and 111 of the Government of India Act, 1919 and their liability for executive action be made co-extensive with what it is in the case of a European British Subject.

Condition No. II

FREE ENJOYMENT OF EQUAL RIGHTS

It is no use for the Depressed Classes to have a declaration of equal rights. There can be no doubt that the Depressed Classes will have to face the whole force of orthodox society, if they try to exercise the equal rights of citizenship. The Depressed Classes therefore feel that if these

† Proceedings of the Sub-Committee No. III (Minorities), pp. 168-76.

face the whole force of orthodox society if they try to exercise the equal rights of citizenship. The Depressed Classes therefore feel that if these declarations of rights are not to be mere pious pronouncements but are to be realities of everyday life then they should be protected by adequate pains and penalties from interference in the enjoyment of these declared rights.

(A) The Depressed Classes therefore propose that the following section should be added to Part XI of the Government of India Act, 1919, dealing with Offences, Procedure and Penalties :

(i) *Offence of Infringement of Citizenship*

U. S. Statutes at arge. Civil Rights Protection Acts of April 9, 1866 and of March 1,1875 passed in the interest of the Negroes after their emancipation.

"Whoever denies to any person except for reasons by law applicable to persons of all classes and regardless of any previous condition of untouchability the full enjoyment of any of the accommodations, advantages, facilities, privileges of inns, educational institutions, roads, paths, streets, tanks, wells and other watering places, public conveyances on land, air or water, theatres or other places of public amusement, resort or convenience whether they are dedicated to or maintained or licensed for the use of the public shall be punished with imprisonment of either description for a term which may extend to five years and shall also be liable to fine."

(B) Obstruction by orthodox individuals is not the only menace to the Depressed Classes in the way of peaceful enjoyment of their rights. The commonest form of obstruction is the social boycott. It is the most formidable weapon in the hands of the orthodox classes with which they beat down any attempt on the part of the Depressed Classes to undertake any activity if it happens to be unpalatable to them. The way it works and the occasions on which it is brought into operation are well described in the Report of the Committee appointed by the Government of Bombay in 1928 'to enquire into the educational, economic and social condition of the Depressed Classes (untouchables) and of the Aboriginal Tribes in the Presidency and to recommend measures for their uplift'. The following is an extract from the same :

Depressed Classes and Social Boycott

"102. Although we have recommended various remedies to secure to the Depressed Classes their rights to all public utilities we fear that there will be difficulties in the way of their exercising them for a long time to come. The first difficulty is the fear of open violence against them by the orthodox classes. It must be noted that the Depressed Classes form a small minority in every village, opposed to which is a great majority of the orthodox who are bent on protecting their interests and dignity from any supposed invasion by the Depressed Classes at any cost. The danger of prosecution by the Police has put a limitation upon the use of violence by the orthodox classes and consequently such cases are rare.

"The second difficulty arises from the economic position in which the Depressed Classes are found today. The Depressed Classes have no economic independence in most parts of the Presidency. Some cultivate the lands of the orthodox classes as their tenants at will. Others live on their earnings as farm labourers employed by the orthodox classes and the rest subsist on the food or grain given to them by the orthodox classes in lieu of service rendered to them as village servants. We have heard of numerous instances where the orthodox classes have used their economic power as a weapon against those Depressed Classes in their villages, when the latter have dared to exercise their rights, and have evicted them from their land, and stopped their employment and discontinued their remuneration as village servants. This boycott is often planned on such an extensive scale as to include the prevention of the Depressed Classes from using the commonly used paths and the stoppage of sale of the necessities of life by the village Bania. According to the evidence sometimes small cause suffice for the proclamation of a social boycott against the Depressed Classes. Frequently it follows on the exercise by the Depressed Classes of their right to the use of the common well, but cases have been by no means rare where a stringent boycott has been proclaimed simply because a Depressed Class man has put on the sacred thread, has bought a piece of land, has put on good clothes or ornaments, or has carried a marriage procession with the bridegroom on the horse through the public street.

"We do not know of any weapon more effective than this social boycott which could have been invented for the suppression of the Depressed Classes. The method of open violence pales away before it, for it has the most far-reaching and deadening effects. It is the most dangerous because it passes as a lawful method consistent with the theory of freedom of contact. We agree that this tyranny of the majority must be put down with a firm hand if we are to guarantee the Depressed Classes the freedom of speech and action necessary for their uplift."

In the opinion of the Depressed Classes the only way to overcome this kind of menace to their rights and liberties is to make social boycott an offence punishable by law. They are therefore bound to insist that the following sections should be added to those included in Part XI of the Government of India Act, 1919, dealing with Offences, Procedure and Penalties :

I. Offence of Boycott Defined

(*i*) A person shall be deemed to boycott another who—

This and the following legal provisions are bodily taken from Burma Anti-Boycott Act, 1922, with a few changes to suit the necessities of the case.

(*a*) refuses to let or use or occupy any house or land, or to deal with, work for hire, or do business with another person, or to render to him or receive for him any service, or refuses to do any of the said things on the terms on which such things should commonly be done in the ordinary course of business, or

(*b*) abstains from such social, professional or business relations as he would, having regard to such existing customs in the Community which are not inconsistent with any fundamental right or other rights of citizenship declared in the Constitution, ordinarily maintain with such person, or

(*c*) in any way injures, annoys or interferes with such other person in the exercise of his lawful rights.

II. Punishment for Boycotting

Whoever, in consequence of any person having done an act which he was legally entitled to do or of his having omitted to do any act which he was legally entitled to omit to do or with intent to cause any person to do any act which he is not legally bound to do or to omit to do any act which he is legally entitled to do, or with intent to cause harm to such person in body, mind, reputation or property, or in his business or means of living, boycotts such person or any person in whom such person is interested, shall be punished with imprisonment of either description for a term which may extend to seven years or with fine or with both :

Provided that no offence shall be deemed to have been committed under this section if the Court is satisfied that the accused person has not acted at the instigation of or in collusion with any other person or in pursuance of or in collusion with any other person or in pursuance of any conspiracy or of any agreement or combination to boycott.

III. Punishment for Instigating or Promoting a Boycott

Whoever—

(*a*) publicly makes or publishes or circulates a proposal for, or

(*b*) makes, publishes or circulates any statement, rumour or report with intent to, or which he has reason to believe to be likely to, cause, or

(*c*) in any other way instigates or promotes the boycotting of any person or class of persons, shall be punished with imprisonment which may extend to five years or with fine or with both.

Explanation.—An offence under this section shall be deemed to have been committed although the person affected or likely to be affected by any action of the nature referred to herein is not designated by name or class but only by his acting or abstaining from acting in some specified manner.

IV. Punishment for Threatening a Boycott

Whoever, in consequence of any person having done any act which he was legally entitled to do or of his having omitted to do an act which he was legally entitled to omit to do, or with intent to cause any person to do any act which he is not legally bound to do, or to omit to do any act which he is legally entitled to do, threatens to cause such person or any person in whom such person is interested, to be boycotted shall be punished with imprisonment of either description for a term which may extend to five years or with fine or with both.

Exception.—It is not boycott—

(*i*) to do any act in furtherance of a *bona fide* labour dispute,

(*ii*) to do any act in the ordinary course of business competition.

N.B.—All these offences shall be deemed to be cognizable offences.

Condition No. III

Protection Against Discrimination

The Depressed Classes entertain grave fears of discrimination either by legislation or by executive order being made in the future. They cannot therefore consent to subject themselves to majority rule unless it is rendered impossible in law for the legislature or the executive to make any invidious discrimination against the Depressed Classes.

It is therefore proposed that the following Statutory provision be made in the constitutional law of India :

> "It shall not be competent for any Legislature or Executive in India to pass a law or issue an order, rule or regulation so as to violate the rights of the subjects of the State, regardless of any previous condition of untouchability, in all territories subject to the jurisdiction of the dominion of India,—
>
> (1) to make and enforce contracts, to sue, be parties, and give evidence, to inherit, purchase, lease, sell, hold and convey real and personal property,
>
> (2) to be eligible for entry into the civil and military employ and to all educational institutions except for such conditions and limitations as may be necessary to provide for the due and adequate representation of all classes of the subjects of the State,
>
> (3) to be entided to the full and equal enjoyment of the accommodations, advantages, facilities, educational institutions, privileges of inns, rivers, streams, wells, tanks, roads, paths, streets, public conveyances on land, air and water, theatres, and other places of public resort or amusement except for such conditions and limitations applicable alike to all subjects of every race, class, caste, colour or creed,
>
> (4) to be deemed fit for and capable of sharing without distinction the benefits of any religious or charitable trust dedicated to or created, maintained or licensed for the general public or for persons of the same faith and religion,
>
> (5) to claim full and equal benefit of all laws and proceedings for the security of person and property as is enjoyed by other subjects regardless of any previous condition of untouchability and be subject to like punishment, pains and penalties and to none other."

Condition No. IV

Adequate Representation in the Legislatures

The Depressed Classes must be given sufficient political power to influence legislative and executive action for the purpose of securing their welfare. In view of this they demand that the following provisions shall

be made in the electoral law so as to give them—

(1) Right to adequate representation in the Legislatures of the Country, Provincial and Central.

(2) Right to elect their own men as their representatives, (*a*) by adult suffrage, and (*b*) by separate electorates for the first ten years and thereafter by joint electorates and reserved seats, it being understood that joint electorates shall not be forced upon the Depressed Classes against their will unless such joint electorates are accompanied by adult suffrage.

N.B.—Adequate Representation for the Depressed Classes cannot be defined in quantitative terms until the extent of representation allowed to other communities is known. But it must be understood that the Depressed Classes will not consent to the representation of any other community being settled on better terms than those allowed to them. They will not agree to being placed at a disadvantage in this matter. In any case the Depressed Classes of Bombay and Madras must have weightage over their population ratio of representation irrespective of the extent of representation allowed to other minorities in the Provinces.

Condition No. V

ADEQUATE REPRESENTATION IN THE SERVICES

The Depressed Classes have suffered enormously at the hands of the high caste officers who have monopolized the Public Services by abusing the Law or by misusing the discretion vested in them in administering it to the prejudice of the Depressed Classes and to the advantage of the caste Hindus without any regard to justice, equity or good conscience. This mischief can only be avoided by destroying the monopoly of caste Hindus in the Public Services and by regulating the recruitment to them in such a manner that all communities including the Depressed Classes will have an adequate share in them. For this purpose the Depressed Classes have to make the following proposals for statutory enactment as part of the constitutional law :—

(1) There shall be established in India and in each Province in India a Public Service Commission to undertake the recruitment and control of the Public Services.

(2) No member of the Public Service Commission shall be removed except by a resolution passed by the Legislature nor shall he be appointed to any office under the Crown after his retirement.

(3) It shall be the duty of the Public Service Commission subject to the tests of efficiency as may be prescribed—(*a*) to recruit the Services in such a manner as will secure due and adequate representation of all communities, and (*b*) to regulate from time to time priority in employment in accordance with the existing extent of the representation of the various communities in any particular service concerned.

Condition No. VI

Redress against Prejudicial Action or Neglect of Interests

In view of the fact that the Majority Rule of the future will be the rule of the orthodox, the Depressed Classes fear that such a Majority Rule will not be sympathetic to them and that the probability of prejudice to their interests and neglect of their vital needs cannot be over-looked. It must be provided against, particularly because, however adequately represented, the Depressed Classes will be in a minority in all legislatures. The Depressed Classes think it very necessary that they should have the means of redress given to them in the constitution. It is therefore proposed that the following provision should be made in the constitution of India :—

British North America Act, 1867, sec. 93.

"In and for each Province and in and for India it shall be the duty and obligation of the Legislature and the Executive or any other Authority established by law to make adequate provision for the education, sanitation, recruitment in Public Services and other matters of social and political advancement of the Depressed Classes and to do nothing that will prejudicially affect them.

"(2) Where in any Province or in India the provisions of this section are violated an appeal shall lie to the Governor-General in Council from any act or decision of any Provincial Authority and to the Secretary of State from any act or decision of a Central Authority affecting the matter.

"(3) In every such case where it appears to the Governor-General in Council or to the Secretary of State the Provincial Authority or Central Authority does not take steps requisite for the due execution of the provisions of this section then and in every such case, and as far only as the circumstances of each case require, the Governor-General in Council or the Secretary of State acting as an appellate authority may prescribe, for such period as they may deem fit, remedial measures for the due execution of the provisions of this section and of any of its decisions under this section and which shall be binding upon the authority appealed against."

Condition No. VII

Special Departmental Care

The helpless, hapless and sapless condition of the Depressed Classes must be entirely attributed to the dogged and determined opposition of the whole mass of the orthodox population which will not allow the Depressed Classes to have equality of status or equality of treatment. It is not enough to say of their economic condition that they are poverty-stricken or that they are a class of landless labourers, although both these statements are statements of fact. It has to be noted that the poverty of the Depressed Classes is due largely to the social prejudices in consequence of which many an occupation for earning a living is closed to them. This is a fact which differentiates the position of the Depressed Classes from that of the ordinary caste labourer and is often a source of trouble between the two. It has also to be borne in mind that the forms of tyranny and oppression practised against the

Depressed Classes are very various and the capacity of the Depressed Classes to protect themselves is extremely limited. The facts which obtain in this connection and which are of common occurrence throughout India are well described in the Abstracts of Proceedings of the Board of Revenue of the Government of Madras dated 5th November 1882, No. 723, from which the following is an extract:

"134. There are forms of oppression only hitherto hinted at which must be at least cursorily mentioned. To punish disobedience of Pariahs, their masters—

(*a*) Bring false cases in the village court or in the criminal courts.

(*b*) Obtain, on application, from Government, waste lands lying all round the paracheri, so as to impound the Pariahs' cattle or obstruct the way to their temple.

(*c*) Have mirasi names fraudulently entered in the Government account against the paracheri.

(*d*) Pull down the huts and destroy the growth in the back-yards.

(*e*) Deny occupancy right in immemorial sub-tenancies.

(*f*) Forcibly cut the Pariahs' crops, and on being resisted charge them with theft and rioting.

(*g*) Under misrepresentations, get them to execute documents by which they are afterwards ruined.

(*h*) Cut off the flow of water from their fields.

(*i*) Without legal notice, have the property of sub-tenants attached for the landlords' arrears of revenue.

"135. It will be said there are civil and criminal courts for the redress of any of these injuries. There are the courts indeed ; but India does not breed village Hampdens. One must have courage to go to the courts ; money to employ legal knowledge, and meet legal expenses ; and means to live during the case and the appeals. Further most cases depend upon the decision of the first court; and these courts are presided over by officials who are sometimes corrupt and who generally, for other reasons, sympathize with the wealthy and landed classes to which they belong.

"136. The influence of these classes with the official world can hardly be exaggerated. It is extreme with natives and great even with Europeans. Every office, from the highest to the lowest, is stocked with their representatives, and there is no proposal affecting their interests but they can bring a score of influence to bear upon it in its course from inception to execution."

There can be no doubt that in view of these circumstances the uplift of the Depressed Classes will remain a pious hope unless the task is placed in the forefront of all governmental activities and unless equalization of opportunities is realized in practice by a definite policy and determined effort on the part of the Government. To secure this end the proposal of the Depressed Classes is that the Constitutional Law should impose upon the

Government of India a statutory obligation to maintain at all times a department to deal with their problems by the addition of a section in the Government of India Act to the following effect :—

"1. Simultaneously with the introduction of this Constitution and as part thereof there shall be created in the Government of India a Department to be in-charge of a Minister for the purpose of watching the interests of the Depressed Classes and promoting their welfare.

"2. The Minister shall hold office so long as he retains the confidence of the Central Legislature.

"3. It shall be the duty of the Minister in the exercise of any powers and duties conferred upon him or transferred to him by law, to take all such steps as may be desirable to secure the preparation, effectively carrying out and co-ordination of measures preventative of acts of social injustice, tyranny or oppression against the Depressed Classes and conducive to their welfare throughout India.

"4. It shall be lawful for the Governor-General—

(*a*) to transfer to the Minister all or any powers or duties in respect of the welfare of the Depressed Classes arising from any enactment relating to education, sanitation, etc.,

(*b*) to appoint Depressed Classes welfare bureaux in each province to work under the authority of and in co-operation with the Minister."

Condition No. VIII

Depressed Classes and the Cabinet

Just as it is necessary that the Depressed Classes should have the power to influence governmental action by seats in the Legislature so also it is desirable that the Depressed Classes should have the opportunity to frame the general policy of the Government. This they can do only if they can find a seat in the Cabinet. The Depressed Classes therefore claim that in common with other minorities, their moral rights to be represented in the Cabinet should be recognized. With this purpose in view the Depressed Classess propose :

That in the Instrument of Instructions an obligation shall be placed upon the Governor and the Governor-General to endeavour to secure the representation of the Depressed Classes in his Cabinet.

APPENDIX II

REPORT OF SUB-COMMITTEE No. III (MINORITIES)

These are some of the paragraphs of the Report related to the interests of Depressed Classes which have been approved by the Committee of Whole Conference on 19th January 1931

3. One of the Chief proposals brought before the Sub-Committee was the inclusion in the constitution of a declaration of fundamental rights safe-

guarding the cultural and religious life of the various communities and securing to every individual without discrimination as to race, caste, creed or sex, the free exercise of economic, social and civil rights (Dr. Ambedkar called attention to the necessity of including in the constitution sanctions for the enforcement of the fundamental rights, including a right of redress when they are violated).

4. Whilst it was generally admitted that a system of joint free electorates was in the abstract consistent with democratic principles as generally understood, and would be acceptable to the Depressed Classes after a short transitional period, provided the franchise was based on adult suffrage, the opinion was expressed that, in view of the distribution of the communities in India and of their unequal economic, social and political effectiveness, there was a real danger that under such a system the representation secured by minorities would be totally inadequate, and that this system would therefore give no communal security.

5. Claims were therefore advanced by various communities that arrangements should be made for representation and for fixed proportions of seats. It was also urged that the number of seats reserved for a minority community should in no case be less than its proportion in the population. The methods by which this could be secured were mainly three (1) nomination, (2) joint electorates with reservation of seats, and (3) separate electorates.

8. The discussion made it evident that the demand which remained as the only one which would be generally acceptable was separate electorates. The general objection to this scheme has been subject to much previous discussion in India. It involves what is very difficult problem for solution, viz. what should be the amount of communal representation in the various Provinces and in the Centre ; that, if the whole, or practically the whole, of the seats in a legislature are to be assigned to communities, there will be no room for the growth of independent political opinion or of true political parties, and this problem received a serious complication by the demand of the representatives of the Depressed Classes that they should be deducted from the Hindu population and be regarded, for electoral purposes, as a separate community.

12. There was general agreement with the recommendation of Sub-Committee No. II (Provincial Constitution) that the representation on the Provincial Executives of important minority communities was a matter of the greatest practical importance for the successful working of the new constitution, and it was also agreed that on the same grounds Muhammadans should be represented on the Federal Executive (Dr. Ambedkar would add the words, “and other important minorities” after the word “Muhammadans”). On behalf of smaller minorities, a claim was put forward for their representation, either individually or collectively, on the Provincial and Federal Executives, or that, if this should be found impossible in each

Cabinet, there should be a Minister specially charged with the duty of protecting minority interests.

13. As regards the administration, it was agreed that recruitment of both Provincial and Central Services should be entrusted to P. S. Cs., with instructions to recruit the claims of various communities to fair and adequate representation in the Public Services, whilst providing for the maintenance of a proper standard of efficiency.

16. It has also been made clear that the British Government cannot with any chance of agreement impose upon the communities an electoral principle which, in some feature or other, would be met by their opposition. It was therefore plain that, failing an agreement, separate electorates with all their drawbacks and difficulties, would have to be retained as the basis of the electoral arrangements under the new constitution. From this the question of proportions would arise. Under these circumstances, the claims of the Depressed Classes will have to be considered adequately.

18. The Minorities and Depressed Classes were definite in their assertion that they would not consent to any self-governing constitution for India unless their demands were met in a reasonable manner.

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IN SUB-COMMITTEE No. VI (FRANCHISE)

Second Sitting—22nd December 1930

†*Dr. Ambedkar:* It seems to me that there are only two important questions which this Round Table Conference is going to consider. One question is whether India should have responsible Government, and the second question is to what people that Government should be responsible.

In the Plenary sessions we all joined in one chorus in demanding that India should have a responsible form of Government, and I for one, speaking on behalf of the Depressed Classes in that Plenary session, joined with my friends sitting opposite in demanding responsible Government for India. When I did so, however, I was under the impression that the Indian people who came to represent their country at this Round Table Conference were not only united in making a demand for responsible Government for India, but were also united in the view as to whom that Government should be responsible.

I am sorry to say, Sir, that I have been deluded. I find now that although some of our people would desire me and others to join them in their demand for Dominion Status, they do not join with us in demanding that the Government which will be set up under that Dominion Status shall be responsible to the people of India as a whole. I never thought there would be this division of opinion, and that I should have to stand up to defend the position we take.

Now, Sir, speaking on behalf of the Depressed Classes I cannot honestly consent to responsible Government or to Dominion Status unless I can be sure that the people for whom I speak are to have a place in that constitution. I must make that fact plain to all my friends. As an objection has been raised to the proposal for adult suffrage by some of my friends, I propose to deal with the arguments brought forward against it.

One of the arguments brought forward was that we should follow the precedent laid down in this country, that adult suffrage should be reached

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† Proceedings of the Sub-Committee No. VI (Franchise), Government of India, Central Publication Branch, Calcutta, 1931, pp. 28-35.

The terms of reference to this Sub-Committee were as under :—

"On what main principles is franchise to be based for men and women."

by stages. It is suggested that we should follow the stages adopted in this country from 1832 to 1918. Those who take their stand on the political history of enfranchisement in this country seem to think that there was some philosophical course of action thought out by the English people in devising the steps that were taken by them in enfranchising the people from 1832 onwards, that they had decided before hand that they must enfranchise only a limited number of people in 1832 that otherwise it would be philosophically wrong ; that they should take the next step only in 1867, and not in 1866 ; that they should take the next step in 1884 and not in 1867. I do not know whether those who use that argument believe that there was any philosophic belief behind that fact. But I should like to point out to my friends, those who base their arguments upon this fact, that if you read the political history of England, you will find that not only was there no philosophical belief which determined the stages that were taken by the British people, but the question of franchise was treated in this country as a mere matter of party politics : that each party tried to extend the franchise because it thought that as a political catch-word it would influence and augment that party. Perhaps that will be news to my friend who used that argument, and, I must say, always uses it with satisfaction to himself, feeling that he is placing an insuperable obstacle in our path. We will be perhaps pleased to find that one of the great steps in the political enfranchisement of the people of England was taken by a Conservative Government in this country, and not by the Liberals or the Radicals.

The second thing I should like to point out to my friend is this. Does he really mean to tell us that because the franchise in this country was limited, that, therefore, the Government produced under that franchise was a good Government, a Government the object of which was the welfare of the people and the prosperity of the masses ? Is that the inference he wants to draw from that fact ? That because the franchise was limited, that, therefore, there was no trouble, and that everybody was satisfied in this country ? Surely that is not the case. If my friend will only take the trouble of reading the life of Lord Shaftesbury, and the social and political history of England, he will certainly find that the unreformed Parliament was not a blessing to anyone.

Thirdly, I should like to point out to my friend, if he really is serious and if he really believes what he says, that the people of India ought not be given adult suffrage, because they are not fit for it, that the only alternative for him is to go back to India and not to demand Dominion Status or responsible Government, for surely, if it is the view of the gentleman who puts forward this case that the Indian people are not fit to exercise the franchise, are not fit to take upon themselves the responsibilities of Government, then I do not understand in whose name he asks for responsible Government. Is it for this class ? Is it for himself ? For whom is it ? The only argument, as I understand

in favour of responsible Government and in favour of Dominion Status, is the assumption which must constitute the basis of any such argument, that the people of India are fit to undertake the responsibility of Government. If my friend does not believe that the Indian people are capable of exercising that responsibility, then the only conclusion is that the Indian people cannot have Dominion Status and cannot have responsibility.

The second argument that was brought forward was that, although adult suffrage may be an ideal, it cannot be brought into effect at the present moment, because we have not the machinery to give effect to it. Now I have great sympathy with that argument, but I should like to point out that there are considerations in opposition to that view. Let us understand what the franchise does really mean. Surely the franchise does not mean a mere matter of the ballot box, does not mean a mere matter of polling booths and the placing of polling officers there. The franchise means something more vital than that. Now, Sir, as I understand it, to me the suffrage and the franchise are nothing else but the right of self-defence; it means that you will create a legislature which will have the amplest power of passing laws which will affect the life, liberty and property of the people. Surely, if that is going to be the position, if your legislature is going to have that power of affecting your life in these most vital matters, then surely every individual who is going to be subject to that legislation ought to have the power to defend himself against laws which will probably in the circumstances invade his liberty, invade his life and his property. It is not a mere question of the ballot box ; it is not a mere question of polling booths.

May I put it in a different way ? If I understand the franchise, I understand it to be the right to regulate the terms of what one might call associated life in society; that is the essence of the franchise. When you give a man the franchise, what you mean is that you give him power to regulate the terms on which he will live in relationship with other individuals in society. Now, if that is the meaning of the suffrage, surely you cannot give the higher classes, the intellectuals as they are called, or the propertied classes, the power to regulate the terms of associated life, and leave the lower classes at their mercy. They, too, must have the power to regulate the terms of associated life. Just as the capitalist must have the power, if he is to have any constitution, to dictate how he shall live on terms of associated life with the labour, surely the labour is entitled also to have the power to regulate the terms on which he shall live with his capitalist master. It cannot be a one-sided bargain ; it must not be a onesided bargain. If you understand the franchise in the right sense of the word, then it seems to me the franchise is something which must be regarded as the inherent right of every individual in the State; and if you understand that the franchise is the inherent right of every man or woman who is capable of understanding it, then surely you cannot make an inherent right of a people dependent upon the convenience of your administration.

My friend used that argument, that we must not have adult suffrage because we shall not have polling booths and polling officers. I should like to remind him of what would be the situation if he were told that he had been wronged by an individual, that he had a good case which, if he brought it to the Court would certainly succeed, but that he could not be given redress because we had not sufficient judges in the High Court. How would he like that position? Surely, if the franchise is an inherent right, and if there are administrative difficulties in the effectuation of that franchise, then the remedy is not to curtail the franchise, but the remedy is to provide the necessary machinery, so that every man or woman capable of enjoying that franchise shall be in a position to give effect to it.

Sir, it seems to me that the difficulties of administering the franchise which have been placed before us arise from two different sources. We are told that the constituencies in India are very vast; and, surely, as 'we see from the Report of the Simon Commission, they are of a most fabulous character. It is said that if you increase the number of electors in the existing constituencies, as they exist today, the whole machinery will break down. My submission to this Conference is this : Surely this difficulty can easily be met. It seems to me this difficulty can be met in this way. It seems to me that the difficulty arises largely because of the composition and strength of your Legislative Councils today ; that composition is so very limited that you cannot help having the large constituencies that you have today. It seems to me that from the standpoint of numbers the existing strength of the legislatures in the Provinces is ridiculous. Let us have the figures for a moment before our mind's eye. I find on comparison that Madras, Bengal and the United Provinces have more or less the same population as France, Great Britain and Italy. The Madras Legislative Council consists of 132 members; the Bengal Legislative Council consists of 140 members ; the United Province Legislative Council consists of 123 members. On the other hand, France has a Lower Chamber which consists of 626 members ; Great Britain has somewhere over 600, and Italy has 560 members. Take, on the other hand, Bombay and the Punjab, which are more or less on a par in the matter of population. Bombay has 114 members ; the Punjab has 94. Bombay and the Punjab are more or less equal in population to Spain; if you take the Lower Chamber in Spain, you find it consists of 417 members. I know it is not in existence now, but that is another matter. It is a matter of constitution. In France it is in existence with a large number. Then take the Central Provinces in which the Legislative Council has 73 members. I find that the population of the Central Provinces is equal to that of Yugoslavia. Yugoslavia has 313 members. Assam has 53 members ; in population it is equal to Portugal, and Portugal has 146 members.

Now, surely if you are going to cramp these vast aggregations of people into Legislative Councils which do not exceed 140 in membership, you

are bound, as a result, to have very large constituencies. Why are you afraid of increasing the numbers in the Legislature ? I cannot understand it. If you are not afraid, and if you follow the parallels in other countries, then surely you can very easily reduce the size of the electorates, and thereby remove one of the difficulties that is said to exist in the matter of adult suffrage.

Then another difficulty which was pointed out was that it was said we should not have a sufficient number of polling officers. Now that difficulty to ray mind also does not seem to be of a very serious character. It seems to me that if all the college students in India could be drafted into the service of the electoral departments, this difficulty could be very easily solved. Some of my friends on the other side laugh at it, but I do not know why. I know, as a matter of fact, that in the census all college students, and school boys also, help the census department in carrying on the enumeration. If, for instance, the same system were adopted on the polling day, if all the college students were asked to help in this matter and I have not the slightest doubt that they would come to the rescue of the department, then surely we should have more polling officers than we need on the occasions of this sort.

It seems to me, therefore, that the difficulties of the situation are not insuperable. Let me point this out to my friends opposite who object to adult suffrage on this ground. It seems to me their position is of a somewhat curious character. Where a member of the British Delegation raises a difficulty, and says there are heaps of difficulties in the way of India, and, therefore, India must not have Dominion Status or responsible Government, the gentlemen sitting opposite would not allow the English gentlemen to take advantage of the difficulties; they would tell him at once : "Why, you bolster up difficulties to put down our claims. These are difficulties which surely can be met." Let me tell him that we on this side are also not prepared to allow you to take advantage of this difficulty. We say that if there are difficulties in the way of getting the power in our hands, those difficulties ought to be solved. We are not going to let you have the advantage of the situation.

Sir, so far I have dealt with the arguments which have been presented against adult suffrage. Now let me put one or two arguments which I think are in favour of adult suffrage, and which in my opinion, are more or less decisive. The first argument that I will put is this, that you cannot have in India any system of suffrage short of adult suffrage which will give equality of representation to all the castes and communities in India; there is no other system you can devise for India which will give that result. Take, for instance, the existence of constituencies. In Bengal and in the Punjab the Muhammadans form a majority of the population. You have in Sind also, as apart from Bombay, the Muhammadans in a majority. Now what is the state of the Muhammadan communities in these Provinces ?

I am putting this as a feeler : My Muhammadan friends may take their stand apart from this : I am putting it as a case. What is the position of the Muhammadan communities in these Provinces under the system of franchise that we have today. The Muhammadans in Sind form something like 70 per cent of the population ; and yet, if I am not very much mistaken, their voting strength is only 49 per cent. Take, for instance, again Bengal and the Punjab; there again the Muhammadans pre-dominate in population, and yet in the voting list they are in the minority. Take again the Depressed Classes ; under the existing franchise they are nowhere at all in the electorate. I think it is a most disgraceful thing to have a franchise of this sort. You have to remember one thing : that Indian society is composed of so many castes and creeds and those castes and creeds are not related to each other in what one might call the vertical perpendicular, so that if you chop-off this mass at any particular point you get a part which is representative of all the communities in an equal degree. On the other hand, if I may put it so, they are related in such a manner that the parallel grains are, so to speak, placed horizontally one on the other, so that if you chop at any particular point you get a part which is representative of one single community only or at the most two, and the rest are not represented at all. Now surely you do not want to create a system of political Government in which only some castes and some communities will predominate. Surely you do not want to create in India a South Africa where only some people will have the vote and the rest will not. I say, if you are interested in giving every man a vote, in giving every man the political franchise, so that he may work out his destiny, then you cannot have any other system of franchise in India than that of adult suffrage.

Now, let me give you another example. As I say, I am not opposed to female suffrage, and I am very obliged to our lady colleague, Mrs. Subbarayan, for supporting us in this matter. I will go with her whole-heartedly. Let roe point out one or two illustrations of what has been suggested by way of enlarging and broadening the franchise. It is suggested that there should be a franchise of literacy. I do not propose to call it a fancy franchise, but let me tell you what will be the effect of it. The effect of it would be this : that some communities would have their voting strength almost doubled, while other communities would stand where they are. Literacy in India is so unevenly distributed, that some communities would have all the increase of the franchise added to their stock, while other communities would remain where they are. Surely you do not want to create that sort of situation.

Therefore my submission is, that if this Conference and the members who are assembled round this table are true to their creed, believe that India must have responsible Government, and that Government must be responsible to the people, then I submit there is no alternative to adult suffrage.

Then, Sir, there is one more consideration that I would like to point

out, that seems to me to be a most decisive consideration in this matter. We all of us know that the question of joint versus separate electorate is a most thorny question ; it seems to me to be a very crucial question. May I point out to this Conference that, at least in my opinion, the question of joint versus separate electorates is inextricably bound up with the question of franchise. You will not ask any minority in India, you will not compel any minority in India, and you will not get the consent of any minority in India, to agree to joint electorates unless that minority has adult suffrage. I am not going to place myself under the thumb and authority of any majority Government, unless I am certain that I can exercise in the elections electoral power which is commensurate with my social power. Unless I know that every man and every woman in the Depressed Class community will be able to exercise the vote and to determine the destiny of the candidate who is going to represent the mass of people in the country, I certainly am not going to consent to joint electorates ; certainly not. I am not going to place myself in a minority position ; I am not going to allow the majority to select my candidate. No, under no circumstances. And I think what is true of my minority may also be true of the Muhammadans. I do not wish to say something that I shall have to say in another Committee, but the point is so relevant that I cannot help making a reference. You cannot in fairness ask the Muhammadans of Bengal or the Punjab to accept joint electorates unless you place them in a majority in the electorate. You cannot deny the franchise to the Muhammadans, make a minority of them in the electoral power, and then say, "Come along and have a joint electorate".

The decisiveness of this fact was acknowledged by the Nehru Committee and by three members of the Indian Central Committee.

Let me, before I conclude, make one or two remarks to my friends who will not give us adult suffrage. I made it plain at the beginning of my speech that we make the question of the grant of responsible Government to India not entirely dependent on this question. Although I know that my friend and I are only two in a Conference of 80 or 90, we represent 43 millions of people.

Diwan Bahadur Ramachandra Rao: Would Dr. Ambedkar accept the proposal of Lord Zetland ?

Dr. Ambedkar: We might accept the principle. But may I say that I am receiving hundreds of letters and telegrams on the subject I have brought forward. It is a crucial thing.

Sir P. C. Mitter: What about the Central Legislature? Does he want adult suffrage, and what size does he want the Legislature to be ?

Dr. Ambedkar: That will be a question to be decided later on. The Central Legislature, I think, ought to consist of 500 members.

Sir P. C. Mitter: And adult suffrage also?

Dr. Ambedkar: Yes.

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†*Sir Cowasji Jehangir:* All these suggestions, I may say so with due respect to the Begum, emanate from the feeling that the franchise is the foundation of the representation in the Councils. That is so in all countries.

But where we have introduced the principle of weightage for communities, that principle does not hold good.

Colonel Gidney : I will now make a concrete suggestion, and my concrete suggestion is this, that in adopting the scheme suggested by Lord Zetland we should go in for direct and for indirect election. So far as direct election is concerned, I suggest there should be no further broadening of the. franchise, and that the-present franchise should remain as it is.

Dr. Ambedkar: No.

Colonel Gidney: That is all right.

Sir Cowasji Jehangir: That should return a certain number of representatives to the Legislature, both for urban and for rural constituencies. A large number of the population will remain without the direct vote, and for that whole block of the population the franchise should be broadened. It should be on the basis of 25 per cent of the adult population, and they should return their representatives by the indirect system of election both in rural and urban areas. I make no distinction between the two. That will bring in industrial labour as well as agricultural labour.

Dr. Ambedkar: It will not bring in anything of the sort.

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‡*Dr. Ambedkar;* Sir, this morning I said what I need say regarding the question of franchise ; but, without prejudice of what I have stated this morning, I should like to examine the suggestions which are put forward before this Committee for the purpose of extending the franchise. I take it that this Committee is agreed that the ideal is adult suffrage. Some of us think that it ought to be realised immediately ; the rest of our friends think that it ought to be evolved by stages. We have therefore put before us two concrete suggestions. One suggestion is that we should adopt the system of instalment and increase the suffrage by a graduated scheme of 25 per cent addition to the existing voting list, say at an interval of a certain number of years. We have on the other hand the suggestion of our noble friend the Marquess of Zetland in which also effect is sought to be given to some realisation of this ideal of adult suffrage.

Now, comparing the two, I cannot help saying that I have a partiality for the suggestion of the noble Lord, although, as I say, I hold strongly that we must have undiluted adult suffrage. If it were a mere matter of choice between the two, I should certainly like to have a system which immediately lays the foundation of adult suffrage in preference to a system

† Proceedings of the Sub-Committee No. VI (Franchise), pp. 68-69.

‡ *Ibid.,* pp. 72-73.

which gives some sort of suffrage to only a class of the people and postpones the fact of self-Government to a large mass for a time to come. But, having said that, I cannot, as I say, give whole-hearted support to the suggestion, because I find there are certain difficulties. But, because I think that probably the noble Marquess will come to our help in meeting the difficulties which some of us feel, I propose to make one or two observations. One thing I see : that if this system of indirect elections by groups is adopted, it seems to me the Depressed Classes probably will not fare better under that system. I say that for this reason : the Depressed Classes are scattered throughout India in small numbers in every village ; their life is practically dominated on all sides by powerful bodies of villagers who hold over them social and economic sway. It is possible, and I think it is also probable, that when this indirect election comes to be applied to them, such an amount of pressure may be applied by the village community on the Depressed Classes that, in exercising their vote, so to say, in the primary election, they may be compelled to select people who may not be their best representatives. That is a fear which I certainly have.

Another thing which I find is that if this system is to be adopted in preference to the graduated system of extending the vote by instalments, I do not understand why we should confine this to the propertied class or to any other Class ; I do not see why we should not extend the system in such a manner that adult suffrage should become the foundation of the system.

A Member: That is the intention.

Dr. Ambedkar : I am glad to hear that. With regard to the difficulties that have been suggested, that this would complicate the matter of separate electorates, I do not think it will, because with indirect election you can still maintain separate registers for such communities as may desire to have them. I do not think that will create any difficulty in the matter.

But, as I say, we cannot, for instance, give support to this principle unless we know really how this principle is going to work in practice, unless we know all the details about it. My concrete suggestion, therefore, is that this Committee should appoint a small Sub-Committee in order to consider this system and to report upon it, so that we may be better able, with full knowledge and information, to recommend this to a Franchise Committee that may hereafter be left to work out the system. It seems to me in its raw form, if the noble Lord will excuse my using that expression, it is somewhat difficult, and it is too much of a large order for anyone of us—speaking, at any rate, for myself to give out support to this principle.

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†*Mr. Basu:* But is it necessary to put a maximum figure at all, because the Franchise Committee will be there, they will have to consider it and go into details. I think we should put the minimum figure ; that is all that is required. As regards the maximum, they may decide as to what

† Proceedings of the Sub-Committee No. VI (Franchis), pp. 74-75.

the maximum should be.

Dr. Ambedkar : I should like to make the observation with regard to the first paragraph in your summarisation. I should like to have it stated in the paragraph which you have drawn up that the opinion of the Committee was that the extension of the franchise should be limited by considerations of administration and machinery. That was the only limitation that we thought should be put in.

Sir C. Setalvad : It is not merely administration ; there are other considerations as well.

Mrs. Subbarayan : What is practicable ?

Dr. Ambedkar: Practical means machinery. I mean the Committee might find that it was practicable with the present machinery that 50 per cent of the population should be enfranchised.

Mr. Zajrullah Khan: Do you mean 50 per cent of the total population ?

Dr. Ambedkar: Yes.

Mr. Zajrullah Khan : That would be slightly more than universal adult franchise.

Chairman : It is suggested that we should leave out the maximum. The whole thing is conditional on the expert Committee finding it practicable and desirable ; so that we need not have a maximum. Let us leave out the maximum. Does anyone wish me to read it again?

Mr. K. T. Paul: If you leave out 25 per cent, if it weakens our statement I would not agree to it.

Chairman: It does not weaken it.

Mr. Chintamani: Very often in these matters when a minimum is stated it comes to be a maximum in actual practice. If we indicate the figure 10 per cent in our Report, it will show the Franchise Committee that is appointed that we should be contented if they secure a maximum of 10 per cent. Those of us who mentioned the figure of 25 per cent did so as a sort of unsatisfactory compromise between the present position and adult franchise. I, for one, shall not be happy if you take it out.

Mr. Foot: Mr. Chintamani mentioned 25 per cent of the adult population ?

Mr. Chintamani: Of the total population.

Mr. Foot: I beg your pardon.

Mr. Joshi: Sir, I am very sorry to say that you should not put down in the Report that the suggestion is a unanimous one, because I for one would not agree to it, and I reserve to myself the right of re-opening the question of adult suffrage in the full Conference.

Dr. Ambedkar: That is my position too.

Mr. Joshi: It should be put down in the Report.

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†*Dr. Ambedkar:* It would be a second best, provided we knew it was going to work. (Universal adult suffrage.)

† Proceedings of the Sub-Committee No. VI (Franchise), pp. 76-78.

Chairman: Subject to that, are the rest of the Committee agreed?

Sir C. Jehangir: I cannot agree to this figure, 25 per cent until we have the whole of the facts before us.

Chairman: We are suggesting that an expert Franchise Committee be set up.

Sir P. C. Mitter: Before we fully know the facts it would not be right for us to commit ourselves.

Chairman : It would not do for us to hand over our job to the expert Franchise Committee. We are in the unfortunate position of having to make some recommendation, and we cannot say that we recommend merely that somebody else should take over our job.

Sir P. C. Mitter: I am expressing only my own personal opinion. I suggest to the Franchise Committee that there should be an increase, as large an increase as possible, and I would not have objected to 10 or 20 or 50 per cent. If I know all the facts before hand on which to base an opinion.

Chairman: Would you like, Sir Provash, to put in such qualification as you desire, to the effect that any recommendation both as to maximum and minimum should be entirely subject to the discretion of the Franchise Committee ? I feel that we ought to give that Committee some guidance. However, we have got near enough now, and we will take an opportunity of speaking with you about this afterwards.

Mr. Chintamani: I do not know, Sir, whether you will agree to what I am about to suggest, but there is also before us an important proposal that the Franchise Committee should be asked to devise such qualifications as will ensure, as far as possible, the same proportion of voters to population in the different communities. This was proposed by the Simon Commission, and it has been supported by several local Governments. Could that be considered new ? If the Franchise Committee find it not possible they will reject it.

Chairman: I think it comes under the next head, namely, "general basis of franchise, (i) Should the franchise qualifications be the same for all communities in the same area ?" I call your attention to those words "in the same area". Do not let us embark now on the subject of women's suffrage or anything of that sort.

Sir P. C. Mitter: I thought from what you ruled that the special interests and communal interests came under the Minorities Committee.

Chairman: We shall very likely know more about that after tomorrow. For the moment we are discussing the general basis of the franchise, and whether the qualifications should be the same for all communities.

Diwan Bahadur Ramachandra Rao: You said that you would speak to the Prime Minister and let us know whether this matter came within the province of our Committee or of the other.

Dr. Ambedkar: I should like to make one proposal. Although the question of universal adult suffrage has been pointed out by certain members

of this Committee to be for the present not possible or practicable, it seems to me that it may be possible to have, at any rate, adult suffrage for the Depressed Classes. There is no reason why, for instance, all communities should have the same franchise—in fact, there may even be cases which we find in the practical affairs of life, that in order to reach equality of status, we may have to adopt, so to speak, methods of inequality. In the matter of treating the richer class as against the poorer, for example, we do enact certain special measures for the benefit of the latter. We tax the richer class at a higher rate than the poorer, the object being that the principle of ability to pay the tax may be realised in practice. I think that the same consideration might be applied to the Depressed Classes. If the object of the Committee is that all communities should be represented in equal proportion in the electorate, there is no reason why one class of people may not be treated differently from another class of people if a different sort of treatment is the only means available for the purpose. It seems to me that if, for instance, adult suffrage were applied to the Depressed Class and not to other communities, but other communities had a system such as Lord Zetland has suggested, it would not be in reality any difference at all, and it would not put any great pressure on the electoral machinery available in the Provinces, having regard to the peculiar position of the Depressed Classes, and having regard also to the consensus of opinion that no other system of franchise would give them the vote and without the vote there would be no solicitude expressed for them by any candidate who stands for the Legislature at the present time. I think that the Committee would not do any great harm if it recognised the application of this principle to the Depressed Classes.

Third Sitting—30th December 1930

†*Chairman:* We are now discussing the question of the educational qualification. I may just remind you that the second conclusion to which we came was this : "We recommend that in any given area the franchise qualification should be the same for all communities, but we desire that the Expert Franchise Committee, in making their proposals, should bear in mind that the ideal system would as nearly as possible give each community a voting strength proportional to its population and this Committee should so contrive their franchise as so far as practicable to bring about this result." I am afraid that is rather a counsel of perfection, but at the same time the only way in which we can possibly expect them to carry that out is if we give them a certain latitude ; that is manifest. Therefore, in considering all these questions of educational qualifications and so on, you have to remember that unless you authorise the Franchise Committee

† Proceedings of the Sub-Committee No. VI (Franchise), p. 94.

to take these into account, you are restricting and not enlarging their possibility of action.

Dr. Ambedkar: I should like, if I may, to ask one question with regard to the conclusion which you, Sir, have read out, and at which you said the Sub-Committee had arrived. Does that conclusion imply that the Franchise Committee will have the liberty to consider a variety of franchises for different communities, to arrive at the result that the voting strength shall be proportional to the strength of those communities ?

Chairman: I do not think that is it. We have to give guidance to the Franchise Committee ; they will fill in the details. We are, as it were, the architects, and they are the masons and builders.

Dr. Ambedkar: I understand that, but what I should like to know is whether that conclusion gives liberty to the Franchise Committee to have a different franchise for the different communities with the object of securing equality.

Chairman: No. The first sentence says that we recommend that in any given area the franchise qualification should be the same for all communities. We will now proceed with our discussion on the educational qualification.

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†*Mr. Jadhav :* Would any Legislative Council have the power to go back after ten years and restrict the franchise? Some of them might wish to do that.

Chairman : Their powers would be powers of extension, not of diminution.

Dr. Ambedkar: I should like to say a word on this subject, without prejudice to the position we have taken all along. It seems to me that as compared with the alternatives which have been suggested, one by Mr. Joshi that there should be some law providing for automatic extension, and the other, the main proposal, that the matter should be left to the sweet will of the Legislatures, the recommendations made by the Simon Commission seems to me to be better and to be more readily acceptable from my point of view. It might be much better, as I say, to have some authority which will investigate at the end of a definite period exactly what has been the result of the working of the franchise up to that period. That body will be able to see what disparity there has been as between the different provinces. That body will be able to see what is the machinery existing at the end of the ten years, in order to cope with the elections if the franchise were to be altered, and that body, being impartial itself, will be able to deal with the rights of the mass of the people much more readily, in a much more just and equitable way, than the class-conscious people who may be installed as a result of the limited franchise which we are introducing today. For these reasons it seems to me that the proposals of the Simon Commission are better than the alternatives.

Sir Cowasji Jehangir: Who is to set that up ?

† Proceedings of the Sub-Committee No. VI (Franchise), pp. 138-39.

Dr. Ambedkar : Just as Parliament in the Act suggested that there should be a Public Service Commission, so it could be suggested that there should be the appointment of a Committee.

Sir Cowasji Jehangir: By the Central Government ?

Dr. Ambedkar: Yes.

Chairman: I think I know enough now to draft a Report on this subject, but I should like to know what is your view—not that we shall here and now recommend that any Expert Franchise Committee or any other Committee should be set up after 15 years, say, but in view of possibility that one Province might extend its franchise much more generously than another, so that the whole thing might get out of step, ought we to contemplete the possibility of anybody being constituted to look into the matter then, to try and adjust things, or shall we merely content ourselves with leaving things to the Provinces, or ought we to follow Dr. Ambedkar's idea of a Committee ? We need not say that it has to come into being, or when it is to come into being, but that it might function if it came into being.

Mr. Basu : At any period when the Central Government desired to appoint a Committee.

Chairman: We will not say how it is to be appointed, but what do you say about the possibility of appointing such a body ?

Diwan Bahadur Ramachandra Rao : I think the Government of India should set up such a body, not that Parliament should set up such a body.

Dr. Ambedkar: What difference does it make?

Diwan Bahadur Ramachandra Rao: We are leaving great freedom in all these matters. I would like to eliminate parliamentary control. I should like to know what the proposal is. If you say that after a number of years it shall be competent for the Government of India to appoint a Committee to look into this question in the whole of the Provinces, I shall have no objection, but if it is a question of Parliament going into this question again in ten years, I object to it entirely. I have no objection to the Committee being appointed by which the franchise will be extended, but I should like that power vested entirely in the Government of India and to be exercised at its discretion whenever there is necessity for such a thing within a certain number of years, or after a certain number of years.

Dr. Ambedkar: How has it any bearing on the functions of this Sub-Committee whether this Committee is appointed by Parliament or by the Government of India?

Diwan Bahadur Ramachandra Rao: We are devoluting authority to India from Parliament, because in 1919 when this question came up before the Parliamentary Committee, I and several others with me contended that there should be devolution of questions like this to authorities in India ; and because such a step was not taken, we are now confronted with the accumulated complaints about franchise which are now being investigated and they could not be investigated because parliamentary permission

was required. Therefore I suggest that any step taken in that direction should be devolution of complete power to the Government of India, to be exercised at its discretion to go into the whole question of franchise in a certain number of years. That is a point upon which I really desire to lay some stress.

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†*Dr. Ambedkar:* It is now evident, at least to myself and some of my friends, that we shall have to record a note of dissent from certain propositions that will be placed before the Sub-Committee. Will it be permissible for us to submit to you a note of dissent on the various points, which you may be kind enough to append to the report, or will you allow us some other method?

Chairman: I do not think that up to the present any of the Sub-Committees have appended minority reports, as it were ; I think the report of the Sub-Committee has been one report, but has indicated on its face that certain members—naming them if necessary—have dissented.

Dr. Ambedkar: I should like, with your permission to point out one disadvantage which I see in that procedure. If we are not allowed to record our minute of dissent, you do not give us an opportunity to put our suggestions in a concrete form, which we should like to do if we may be allowed to do so. We are allowed the negative liberty of saying we do not agree, and that is all.

Chairman : I am not sure we cannot meet you. I think you have made your objection quite clear. What you want really is adult suffrage, and I think we have got a sentence in to indicate that certain members of our Sub-Committee—naming them—objected to this because they thought the system of adult suffrage was the only satisfactory system. That states the point.

Dr. Ambedkar: What we should do would depend on the report.

Chairman: Let us leave the difficulty until it arises, and then see if we cannot meet you. I think we can.

Fourth Sitting—1st January 1931

‡Draft Report—Point 4

4. *Extension of the Franchise:* While it was generally held that adult suffrage was the goal which should ultimately be attained, it was agreed that the basis of the franchise could forthwith be broadened and that a large increase was desirable.

Some difference of opinion existed as to the extent to which this was

† Proceedings of the Sub-Committee No. VI (Franchise), pp. 147-48.

‡ *Ibid.,* pp. 149-50.

practicable in present circumstances, and it was realised that the Sub-Committee had not the necessary material to determine the precise limits of the advance. The Statutory Commission suggested such an increase in the number of electors as would bring that number up to ten per cent of the population. Some of our members thought that an increase to twenty-five per cent of the adult population was immediately practicable.

We recommend that an expert Franchise Commission should be appointed with instructions to provide for the immediate increase of the electorate so as to enfranchise not less than ten per cent of the total population and indeed a larger number—but not more than twenty-five per cent of the total population—if that should, on a full investigation, be found practicable and desirable.

We recommend that, in addition to providing for this increase the Commission should consider the introduction of a scheme by which all adults not entitled to a direct vote would be grouped together in primary groups of about 20, for the election of one representative member from each group, who would be entitled to vote in the Provincial elections either in the same constituencies as the directly qualified voters or in separate constituencies to be formed for them.

(Mr. Joshi, Mr. Shiva Rao, Dr. Ambedkar and Mr. Srinivasan regard these proposals as only "second best" and consider that the immediate introduction of adult suffrage is both practicable and desirable.

Sir Cowasji Jehangir, Sir P. C. Mitter and Mr. Basu do not assent to the maximum or minimum we have suggested, but desire the discretion of the Franchise Commission to be entirely unfettered.)

† Discussion on point 4 of Draft Report

Dr. Ambedkar: I beg to move an amendment to paragraph 4, namely. that in the second section, line 2, to add the following words after the word "practicable"— "with the electoral machinery available in present circumstances". It would then read "Some difference of opinion existed as to the extent to which this was practicable with the electoral machinery available in present circumstances."

Several Members: There are other grounds.

Dr. Ambedkar: That is my amendment. I leave it to the Chairman as the best judge to sum up the sense of the Committee, but the impression that was left upon my mind was that the majority of those who opposed universal adult suffrage as being practical politics for the immediate future did so mainly upon the ground that there was not sufficient electoral machinery in India to cope with the situation if everybody was allowed to vote.

Chairman : I do not think myself, Dr. Ambedkar, that was the sole ground on which the matter was put. It was one of the main grounds, but in

† Proceedings of the Sub-Committee No. VI (Franchise), pp. 152-54.

recording the view of the Committee I do not think we should limit ourselves to saying that that was the sole ground. For instance, the difficulty of communications, and the lack of facilities for travel, and so on, were also very much stressed.

Dr. Ambedkar: I would rather like to have it made clear in the Report.

Mr. Joshi: You might put in some such words as "practical electioneering difficulties".

Sir Cowasji Jehangir: But there are other objections.

Mr. Joshi: We are talking of the general majority, and not of those people who do not want to vote on principle.

Chairman: I think what is already stated meets the point. After all, you and Mr. Joshi come in under the note at the end.

Dr. Ambedkar: I quite see that. Although we stand for the ideal, we may have to accept the second best, but we should like to have the second best as good as it can possibly be made. I think my point ought to be made clear, so that the expert Franchise Committee might consider it.

Chairman : I do not think that would meet the majority of the Committee. I think the majority of the Committee would rather feel that the words should not be qualified. Very well.

Now what about the next sentence beginning, "We recommend that an Expert Franchise Commission should be appointed with instructions to provide for the immediate increase of the electorate so as to enfranchise not less than ten per cent of the total population and indeed a larger number— but not more than twenty-five per cent of the total population—if that should, on a full investigation, be found practicable and desirable."

Dr. Ambedkar: I have an amendment on page 3. Instead of the words "but not" I should like to have the words "and even substituted".

Chairman: Many of us felt, and I am one of them, that an immediate increase of twenty-five per cent was straining it somewhat, and I do not think we should be asked to strain it further. Again, you come in under your reservation, Dr. Ambedkar.

Dr. Ambedkar: My second amendment is to strike out the words "and desirable". This matter, whatever increase is desirable or not, is really one which must be decided by this Committee. It cannot be decided by the Expert Franchise Commission. That Commission is to be appointed to devise ways and means to carry into effect the decisions we take. How much increase is desirable is certainly a matter which cannot be left to the competence of the new Franchise Commission. From that point of view I think it is necessary to drop these words.

Chairman : It is very difficult to separate what is practicable and what is desirable. "Practicable" is an elastic word. It may be a very difficult thing to achieve or it may be a comparatively easy thing to achieve ; but it may be possible of achievement and therefore you will say it is practicable. In considering the desirability, you can hardly shut out of your mind the

extent to which the thing is practicable. The two must come in together to a certain extent.

Dr. Ambedkar: We have decided that in our opinion an extension which covers twenty-five per cent of the population is desirable,

Chairman: You use such an elastic word as "practicable". That is the difficulty I feel. You cannot put the two words in completely water-tight compartments. What is practicable must react on what is desirable, and you use a very elastic word. I think it would be wiser to keep both there. We give a clear view of our indication by saying at the very outset that we look forward to adult suffrage as an ideal.

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†*Chairman:* We had better take it line by line. Will anybody interrupt if they have an amendment to propose : "We recommend that, in addition to providing for this increase, the Commission should consider the introduction of a scheme by which all adults not entitled to a direct vote would be grouped together in primary groups of about 20,"—then it is proposed to insert "or in some other suitable manner".

Is there any objection?

—"for the election of one representative member from each group, who would be entitled to vote in the Provincial elections either in the same constituencies as the directly qualified voters or in separate constituencies to be formed for them".

"(Mr. Joshi, Mr. Shiva Rao, Dr. Ambedkar and Mr. Srinivasan regard these proposals as only 'second best' and consider that the immediate introduction of adult suffrage is both practicable and desirable.)"

Dr. Ambedkar: I should like to say that Mr. K. T. Paul was also of the same opinion as ourselves.

Chairman: That will be noted.

Mr. Joshi: I propose that instead of the words "second best" the words "quite inadequate" should be substituted.

Chairman: That is really a matter for you gentlemen. If you prefer those words "quite inadequate" instead of the words "second best", that is a matter for you really. So it will read : "Mr. Joshi, Mr. Shiva Rao, Dr. Ambedkar, Mr. Srinivasan and Mr. K. T. Paul regard these proposals as quite inadequate and consider that the immediate introduction of adult suffrage is both practicable and desirable."

Mr. Jadhav: My name also should be added to that list.

Chairman: A note will be made of that. Then it goes on : "Sir Cowasji Jehangir, P. C. Mitter, and Mr. Basu do not assent to the maximum or minimum we have suggested, but desire the discretion of the Franchise Commission to be entirely unfettered." Obviously that is a matter for them to say what they want.

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† Proceedings of the Sub-Committee No. VI (Franchise), p. 159.

†*Chairman :* The minor communities are really protected, not so much by the number of voters as by the number of representatives they have, whether they have separate electorates or whether they have joint electorates with reservation. That is in the main their protection.

But in order to try to get a conclusion could not we say this, instead of using the words "each community"—Mr. Chintamani put it to me—"We desire that the Franchise Commission in making their proposal should bear in mind that the ideal system would as nearly as possible give the major communities a voting strength in proportion," and so on. I think that would do.

Sir C. Jehangir: "The two major communities."

Chairman : His point is, he does not want to confine himself to the major communities, but he wants to put it in this way that he is only recommending with regard to the major communities ; the Minor communities are not the subject matter of the recommendation at all. Cannot you meet him on that ?

Sir C. Jehangir: It is too dangerous. When you talk about separate electorate, we have no separate electorates and we do not want them.

Dr. Ambedkar : It means this, that in order to maintain the advantage of having a large existing electorate the suffrage should not be extended to the majority of the people. That is what it comes to, that in order that Sir Cowasji Jehangir should maintain the existing ratio of his population to the electoral strength the other people in the country should not be on the electoral strength.

Sir C. Jehangir: All I mean is that the smaller community should not be jeopardised.

Dr. Ambedkar: Your position is bound to be jeopardised in any lowering of the franchise, and if you feel that proportionately to the other voters your position goes down, then your safety lies either in trusting to the majority or in asking for separate electorates. But you cannot say : "Because we will be thrown down, we will sink, therefore other communities should not be given it." It comes to nothing else but that.

Sir C. Jehangir: I do not say that.

Chairman : I am afraid that we will have to take our conclusion. Bear in mind, if you will, that we are agreeing to adult suffrage as an ideal. We have passed that part of the report. I have suggested the words "would as nearly as possible give at least major communities".

First of all I will put it to the Committee that the words should remain as they are "give, if possible, each community". Who is against that ?

A note will be taken that Sir Cowasji Jehangir, Colonel Gidney and Sardar Ujjal Singh dissent from the latter part.

Dr. Ambedkar: If you want to place it before the Franchise Committee we should still like to say that in our view the principle of adult suffrage

† Proceedings of the Sub-Committee No. VI (Franchise), pp. 171-72.

should be applied to the Depressed Classes.

Chairman: We have got that already.

Mr. Foot: Otherwise you would put an *addendum* to each paragraph.

Chairman: We cannot have that every time.

Mr. Jadhav: Brahmins and non-Brahmins and different communities in Bombay, Depressed Classes and all should be added.

Chairman: We cannot go into that.

(Dr. Ambedkar insists for recording his dissent from para. 13.)

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†*Mr. Foot:* There is only one point In view of the general objection based upon the claim for adult suffrage, need you have a note following each paragraph ? Would not there be a general note at the end embodying the objection taken by Mr. Joshi and his colleagues ?

Chairman: I think that would be better for you, I quite understand your position.

Dr. Ambedkar: I leave it to you.

Chairman: If I may say so, I think it might make you appear 10 be in rather a false position if, for instance, you appeared to be objecting to the women's vote.

Dr. Ambedkar: We have very good ground for doing that. We are quite prepared, in our minds, and we can meet whatever objection may be raised on that ground. We have no theoretical objection to women.

Mr. Jadhav: The maximum of 25 per cent will be taken up by women, and then there will be no necessity of any other lowering of the franchise.

COMMITTEE OF THE WHOLE CONFERENCE

‡Summary of the Report submitted by Sub-Committee No. VI (Franchise)—16th January 1931

(Some of the paragraphs related to Dr. Ambedkar's proposals)

The Sub-Committee recommended *vide:*

Para. 4: (1) that an expert Franchise Commission should be appointed with instructions to provide for the immediate increase of the electorate so as to enfranchise not less than 10 per cent of the total population and indeed a larger number—but not more than 25 per cent of the total population—if that should, on a full investigation, be found practicable and desirable,

(2) that in addition to providing for this increase, the commission should consider the introduction of a scheme by which all adults not entitled to a direct vote would be grouped together in primary groups of

† Proceedings of the Sub-Committee No. VI (Franchise), pp. 175-76.

‡ *Ibid.,* pp. 178-79.

about 20 or in some other suitable manner, for the election of one representative member from each group, who would be entitled to vote in the Provincial elections either in the same constituencies as the directly qualified voters or in separate constituencies to be formed for them.

(Mr. Joshi, Mr. Shiva Rao, Dr. Ambedkar, Mr. Srinivasan, Mr. K. T. Paul and Mr. Jadhav regard these proposals as quite inadequate and consider that the immediate introduction of adult suffrage is both practicable and desirable.)

Para. 7: The Sub-Committee was of opinion that the Franchise Commission should consider the possibility of framing a suitable educational qualification as an additional qualification for the franchise.

Para. 8: The Sub-Committee agreed that the existing Military Service qualification should be retained and recommended that the Franchise Commission should consider the extension of this qualification so as to include service in the Auxiliary and Territorial Forces.

Para. 9 : The Sub-Committee agreed that special qualifications should be prescribed for women and recommended that the Franchise Commission should devote special attention to this question in the light of all the evidence available including the recommendation of the Statutory Commission and the suggestion made in the Sub-Committee that the age-limit mentioned in the proposals of the Statutory Commission should be lowered from 25 to 21.

(Mr. Joshi, Mr. Shiva Rao, Dr. Ambedkar and Mr. Srinivasan dissent from the proposals in paragraphs 7, 8 and 9.)

13. The Sub-Committee considered it inadvisable to lay down any programme of automatic extension of the franchise. It preferred that it should be left to each Provincial Legislature to extend its franchise at its discretion, after a lapse of 10 years from the date of the introduction of the new constitution.

(Mr. Joshi, Mr. Shiva Rao, Dr. Ambedkar and Mr. Srinivasan considered that a preference of automatic extension of the franchise should be laid down.)

[*No comments by Dr. Ambedkar in the discussion. Comments in Committee of the Whole Conference (16th January 1931) on Report of Sub-Committee No. VI* (*Franchise*) *by Mr. N. M. Joshi.*]

Mr. Joshi: I want to make one point clear, on paragraph 9. It is said that Mr. Joshi, Mr. Shiva Rao, Dr. Ambedkar and Mr. Srinivasan dissent from the proposals in paragraphs 7, 8 and 9. I want it to be noted that we are not against the claims of women for some kind of qualification being created for them. Unfortunately, we had to take up the attitude which we did in the Committee, on account of the fact that the Committee fixed a certain limit to the total number of voters, being created, and in these circumstances it became our duty to protect the interests of the unenfranchised because if we accept the principle of giving votes to the

wives of those who are enfranchised, the limit of enfranchising those who had not the franchise is bound to be higher. On account of the special and difficult position in which we were placed we had to take up the attitude of not giving votes to the wives of those who are already enfranchised and thus depriving the unenfranchised of their rights. We are not against removing the disqualification of sex.

Chairman: Paragraph 9 noted

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COMMITTEE OF THE WHOLE CONFERENCE

Comments on the Report of Sub-Committee No. VII (Defence)—16th January 1931

**Dr. Ambedkar:* What I want to do is to move an amendment to clause (2) of paragraph 4 of this Report to the following effect, that immediate steps be taken to see that recruitment to the Indian Army is thrown open to all subjects of His Majesty, including the depressed classes, consistently with consideration of efficiency and the possession of the necessary qualifications. I do not merely wish to have this matter recorded ; I wish to move it as a substantive amendment, so that the sense of the House may be taken on it. My amendment is very simple one ; it seeks to remove all discriminations between the different classes of His Majesty's subjects to enter Military Service. No doubt I move the amendment primarily with a view to protecting the specific rights of the depressed classes, but in doing so I am not asking the Committee to confer any favour, I am asking the Committee to see us realize in practice the principle recognized in the Government of India Act, that no subject of His Majesty shall be debarred from entering any Public Service by reason of his caste, creed or colour. In doing so, therefore, I do not think I am asking for any special favour.

I may point out to you, Sir, this amendment is on the lines adopted by the Service Committee. If you will refer, Sir, to the Report of Service Committee appointed by this Committee, you will find that the Service Committee did make a serious effort to see that all subjects of His Majesty had a fair and adequate chance in Public Services of the country, and that they not only enunciated certain fundamental rights protecting subjects of His Majesty from being debarred from entering any Public Service, but they went out of their way to make special recommendations, mentioning certain specific communities, such as the Anglo-Indians and the Depressed Classes.

But, Sir, this amendment is not merely in the interests of the depressed classes. I submit it is also in the interests of all communities and subjects of His Majesty. I think, Sir, that it is a great public danger that any

*Proceedings of the R.T.C. (First Session), pp. 379-80.

community in India should be allowed to monopolise any services in the country. I say it is a great public danger, because it not only excites a sense of superiority in these particular communities which have been placed in the position of advantage, but it also jeopardises the welfare of the people by making them dependent upon the protection afforded to them by certain specific communities, I therefore submit that as we are enunciating a new constitution for India, we ought to begin with a system which will permit every member of His Majesty's community to play such part as he is capable of by reason of his fitness in any Public Service of the country. And, if I may say so, Sir, the amendment which I am moving is only a logical consequence of the principle enunciated in this paragraph itself, because if you refer to sub-clause 1 of clause 4 you will see this:

> "The Sub-Committee consider that with the Government of the new political structure in India, the defence of India must to an increasing extent be the concern of the Indian people, and not of the British Government"

Now Sir, if that sentence has any meaning, that the defence of India should be to an increasing extent the concern of all the Indian people, it must be the concern of Indian people and not the concern of any particular community.

I therefore submit that this House do accept the amendment which I am proposing.

Dr. Moonje: With regard to Dr. Ambedkar's proposal that recruitment should be thrown open to all classes, I entirely agree with him provided the standard of efficiency is maintained.

Dr. Ambedkar: That is my amendment; I say that it shall be consistent with efficiency.

Sir Tejbahadur Sapru: I also associate myself with Dr. Ambedkar.

Mr. Basu: Mr. Chairman, I raise a point of order. This amendment overlaps a portion of the Department of the Services Committee which says, in clause 5(4) regarding membership of any Committee that castes, creed or race shall not be a ground for promotion or supersession in any public services.

Dr. Ambedkar: We excluded the Army for our consideration.

Mr. Thomas : Mr. Chairman, I do not think there is any need for the amendment. The paragraph was deliberately put in. "The Sub-Committee consider that with the development of the new political structure in India, the defence of India must to an increasing extent be the concern of the Indian people and not of the British Government alone." That does not say that the defence of India must be the special concern of any section in India. It was deliberately framed to cover that, and the word "Indianisation" is applicable.

Dr. Ambedkar: Yes, but I mean there may be Indianisation without there being the opportunity of men to all communities to enter Public Service. Indianisation may still mean the monopoly of some communities.

Chairman : The position is that, it will be noted.

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IN SUB-COMMITTEE No. VIII (SERVICES)

Second Sitting—7th January 1931

**Dr. Ambedkar:* There is one thing which it seems to me necessary that this Sub-Committee should consider, whether this process of Indianisation should not be accompanied by some distinction in the matter of pay, pensions and other privileges of Indians as against Europeans in the Civil Service of the future. I think that is a point which this Sub-Committee must necessarily consider. I should therefore like to add to this paragraph "Should the Indian element be on a par with the European element in the matter of pay, pensions and other privileges".

Chairman: We will bear that in mind.

Then "(4) Who should be the recruiting authority for the recruitment of All-India Services under the new Constitution ?"

Sir Chimanlal Setalvad: You will have to add there the question of control, who shall recruit and who shall control.

Chairman: We will leave that for the moment.

Then "(5) Recommendations concerning the Civil Branch of the Indian Medical Service". That is quite at large. We can make what recommendations we like there.

Then "(6) The desirability of recommending that the question as to what conditions may be required to attract and retain future recruits of the right type should be referred to a technical Committee or Committees". It occurred to me that there are so many of these points, for instance, with regard to rates of pay, which we have to consider. You do not want to pay more than you need; on the other hand it is bad economy to pay people inadequate salaries when you do not get the right type of man. That is obvious

The point made as to the question of control seems to me to involve highly technical matters, calling for expert knowledge, so that I doubt whether this Sub-Committee is qualified to express any final opinion — I know I am not. I therefore purposely drafted item (6) of the agenda so that we might

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*Proceedings of Sub-Committee No. VIII (Services), Government of India, Central Publication Branch, Calcutta, 1931, pp. 44-46.

(Terms of reference to this Committee were : "the relation of services to the new political structure", which meant to include the ratio of British recruitment in the All-India Services.)

consider whether we ought not to say that there should be Commissions set up to determine this question. Can any of you say — I cannot — what rate of pay is necessary to attract the right type of people ? Is anybody prepared to say that he knows ? Or can anybody formulate what precise regulations should be made regarding control, if we are to cope with that topic ?

Sir Chimanlal Setalvad: I think the broad principle with regard to control should be dealt with here, namely, whether it should rest with the Secretary of State as at present or devolve upon the Government of India.

Dr. Ambedkar: The distinction of remuneration as between Europeans and Indians is a broad question which this Sub-Committee ought to decide. The particular principle whether the two elements in the Service should be treated on a par is certainly one for this Sub-Committee.

Sir Provash Chunder Mitter: If you want to have an All-India Service it is necessary to remember that conditions in the provinces are not the same. Unless you take evidence I cannot see how even broad generalisations can be made on the question of attracting the best men for the Services throughout India.

Sir A. P. Patro: We had a Committee to investigate whether there should be any retrenchment in the Services. It was a very independent Committee, but the result at which it arrived was that the rates of salaries should actually be increased in some respects. I think that this question should be considered by an independent Committee. Some of us, while strongly in favour of Indianisation, feel that in the interests of our own country there should be greater economy in the matter of the salaries of the Indian officers, but at the same time there should be sufficient attraction to such officers, enabling them to maintain their position and prestige in the country, and preserving them from temptation. As to what scale is adequate to keep the best men in the Service, this is not a matter which can be determined offhand, it is one which will require very careful consideration. These are vital questions affecting the efficiency of the Service. My respectful submission is that we should not burden ourselves with details at present

Sir Chimanlal Setalvad: With regard to control, I am afraid my remark was not quite understood. I only want to have the large principle settled, whether the control should be in Whitehall or in India.

Dr. Ambedkar: I should like to draw your attention to the report of the Ceylon Commission, which recommended the broad principle that there should be differentiation of salaries between the native of Ceylon and others.

Chairman: It may meet the point if we had at the end of Item (6) of the agenda, "and if so, whether any definite recommendation should be made for the guidance of such Committees".

Lord Zetland: The question which Sir Chimanlal Setalvad wishes to discuss will come up on Item (4). The control goes with the recruiting authority.

Chairman: We can add to Item (4) "and what general recommendations should be made as to control". I agree with Lord Zetland that the one is

a corollary of the other. The control goes with the recruiting authority. Will you, therefore, add to Item (6), in order to meet Dr. Ambedkar's point, "and is so, whether any definite recommendations should be made for the guidance of such Committees" ?

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†*Chairman:* We come now to Item (3) : "Should recruitment on an All-India basis continue for any of the following Services : (*a*) Indian Civil Service, (*b*) Indian Police Service, (*c*) Indian Forest Service, (*d*) Irrigation Branch of the Indian Service of Engineers." I pause here, and suggest that I rather gather the sense of the Committee to be "Yes" to (*a*), "Yes" to (*b*). and "No" to (*c*). May I take it that the answer is "Yes" to (*a*) and (*b*) ?

Mr. Shiva Rao: I think that all these Services should be provincialised. I do not think it would be satisfactory to work these Services on an All-India basis, and at the same time ensure a proper relationship between the Services and the Ministry.

Mr. Basu: The Indian Civil Service is a general service that is recruited, and there are bifurcations and trifurcations. After a period in the general service, some members, for example, go to Customs, some take the Judicial line and become Judges, and others remain in the Executive and Revenue Departments. Are we going to have a service which is not a specialised service, such as we ought to have from the very start ? It may be, as I pointed out in my general remarks, that with the new Constitution it will be necessary to recast the categories of services, instead of having one service, namely, the I.C.S. The I.C.S. has done good work in the past, but it is to some extent an anachronism, and may be more so within a short time. The question is whether by this kind of nomenclature we shall be tending to continue and perpetuate a state of things which does not fit in with the requirements of the present day.

Dr. Ambedkar: This question has to be considered from more than one point of view. There is, first of all, the point of view of Provincial autonomy. We are framing a Constitution in which we propose to give as large a degree of Provincial autonomy to the provinces as possible, and it seems to me that no province can be deemed to have Provincial autonomy if it has not the right to regulate the Civil Service that is going to work in its area. There is another and very important point of view, namely, finance. When we have an All-India Civil Service we have a fixed scale of pay. Salaries, remunerations, and other privileges are on a scale which is somewhat remote from what would be obtainable in the various provinces. A Civil Service that will not be costly to Bombay or Bengal may be costly to smaller and poorer provinces, like Assam, Sind, the North-West Frontier Province, and Punjab, and it may be that these provinces will feel themselves satisfied with a little less efficient service than the All-India basis would give them. Having regard to finance at their command, they may regard the brains and efficiency obtainable as quite sufficient for their purpose. Finally, I agree with Mr. Basu

†Proceedings of Sub-Committee No. VIII (Services), pp. 54-58.

with regard to specialisation. I do not understand how the passing of an examination like that of the I.C.S. can give any man the competence to serve in certain specialised Department. A man was passed his I.C.S. examination, with mathematics as a special subject, may be placed in the Department of Agriculture or in that of Indian currency. We ought to have a Service which not merely assures a certain standard of education in those who participate, but also allow for a certain degree of specialisation. It is necessary, in my view, that the All-India character of some of these Services should now cease, and the Provinces should be allowed liberty to cut their coats according to their cloth.

Sir A. P. Patro: The objection which has been raised by Dr. Ambedkar is a very relevant one.

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†*Chairman :* Mr. Basu's point of view on Dr. Ambedkar's remarks should clearly be considered. We should be careful to make it plain that in recommending recruitment for the I.C.S. we do not regard the I.C.S. as perfect, good though it is, or as a thing which must be continued for ever on exactly the same basis. It will be necessary to do whatever is possible to remould and recast it. Those of Dr. Ambedkar's school of thought suggest that the All-India Services should be done away with and small Provincial Services set up in their stead.

Dr. Ambedkar: I think that I should make my position clear. I hold, with the rest of the members of this Committee, that it is very necessary to have a European element in the Service, but I do not share the view of the noble Lord, Lord Zetland, when he said that if you make the Service provincial it will dry up the source of recruitment.

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‡*Chairman:* The suggestion is that we snould fix 1939, or any other date you like. There is no magic in a date. The suggestion is that we should fix some date, and make it plain that thereafter it is a matter for the Government of India to consider. That is the suggestion which I make in order to try to meet everybody.

Dr. Ambedkar: My view is that your recommendations should be applicable only to the Indian Civil Service and the Indian Police Service.

Chairman: I would agree to that, and I will make that plain.

Third Sitting—8th January 1931

§*Dr. Ambedkar:* Sir, I must say mat I do not hold a very strong opinion on the question as to whether there should be a Committee appointed or not, in order to give guidance to the future Government of India, but there are two matters upon which I do hold a very strong opinion. The first is that

†Proceedings of Sub-Committee No. VIII (Services), pp. 57-58.

‡*Ibid.,* p. 85.

§*Ibid.,* pp. 91-93.

I think the time has arrived when instead of having one common Indian Civil Service to men of all departments, we should have hereafter some provision made for the specialisation of Services in order that efficiency may be more greatly secured than it is now. I am not going to say anything as regards the capacity of the Indian Civil Service, because I think that it is generally admitted that it is a capable Civil Service, but, notwithstanding that, I do maintain that the kind of training that one gets in the Indian Civil Service is not sufficient for the discharge of certain duties in certain technical, or otherwise specialised, departments. Consequently it is necessary, that some reorganisation should take place in the Indian Civil Service in order that we may get greater efficiency in the Service. That is one thing upon which I feel very strongly. The second point upon which I feel even more strongly is that, although we are all agreed that there must be Indianisation in the Indian Civil Service and that there must be more rapid Indianisation in the Indian Civil Service than has been contemplated hitherto my submission to the Committee is that, looking at the problem from the standpoint of the Indian tax-payer, it is far more necessary that this Indianisation should not merely be a change in the personnel of the Service, but the Indianisation must be accompanied by some lowering of the burden on the Indian tax-payer. There must be some differentiation in the remuneration, the salary, the pay and the pensions, and other privileges of the Indian element of the Indian Civil Service as compared with what is granted to the European element of the Indian Civil Service. In this connection I should like to draw the attention of the Committee to the recommendations made by the Donoughmore Commission for the Constitution of Ceylon. At page 133, they recommend that the Ceylon Government should hereafter appoint a Salaries Commission, and with regard to that Salaries Commission they make a definite recommendation that there shall be a differentiation in the remuneration of the European element in the Ceylon Civil Service and the Ceylonese element in the Ceylon Civil Service. This is how they justify it : "On the merits of the case it is clear that there is no logical justification for remunerating both classes of public servants on the same basis. In one class are a body of men exiled from the temperate climate which is their birth-right and posted in a tropical country thousands of miles from their homes; a country in which it is impossible for them to bring up their children and from which it is essential for the sake of their own health that they should proceed on leave of absence at regular intervals ; a country in whose service they are compelled, not only to face all the difficulties involved in the maintenance of dual establishments, the risks to their health and the personal sacrifice of family ties, but also to preserve at considerable cost a standard of living and hospitality in keeping with their own traditions and those of a Service which, for over 125 years, has represented a great Imperial Power. Side by side with them are men living and working in

their native country, with their homes at band, subjected to none of the climatic difficulties and to only a part of the financial burden imposed on their European colleagues. It is obvious that the former class of public servants must be paid a salary sufficient to compensate them, over and above the actual value of the work performed, for the personal risks and sacrifices involved in its performance. There can be no logical justification for extending to the latter the compensation necessarily paid to the former." I think that these observations apply with equal force to conditions in India. If this Subcommittee accepts the two points that I am placing before them, namely, the necessity for diversification in the Indian Civil Service, and also the necessity for differentiation in the remuneration between the two elements in the Indian Civil Service, then I think that it is a necessary corollary that there ought to be somebody set up to advise the Government of India to carry into effect these recommendations. It is for those reasons that I support the suggestion that, after the new Constitution is brought into effect, the Government of India should be empowered to set up such a Committee as is recommended in head 6.

Chairman: May I say for the guidance of the Sub-Committee that, as our terms of reference are the relations of the Services to the new political structures, obviously we cannot go at great length into the question of salaries ? At present there is a differentiation in the pay of officials based upon what is called non-Asiatic domicile. I expect that you all know about this. The difference comes to this that those who have a non-Asiatic domicile get what is called overseas pay, which is an addition of about £ 300.

Dr. *Ambedkar:* I think that that really hardly touches the point. You can create differentiation by adding something to the European salary. That is no relief to the Indian.

Sir A. P. Patro: I think that the reasons given by Dr. Ambedkar necessitate a reply in the affirmative to the two questions propounded in head 6. I think that he has very strongly put the case of enquiry in the matter of Indianisation. The reference as it goes is, what conditions will be required to attract the right recruits ? That is a very important thing. If the Committee thinks that the present conditions should be altered and changed in order to attract the best men, then the Committee will consider that aspect of the matter, and, therefore, it will be necessary to have a Committee. The other feature is, that it is said that the future Government of India should have the right of looking into the matter, and considering what would be necessary according to the circumstances which may arise then, I fear that there is a notion that the future Government of India will be so radically altered that the Ministers would do everything that they could to revolutionize the existing system. The sooner that we forget that, the better for us, and then we would be more reasonable in our conception of these conditions of service.

After all, we know there is to be only a limited responsibility in the Centre. The responsibility of Ministers will be restricted. Therefore we

should consider from past experience that there should be some guidance to the future Government of India, which must not be allowed to start with a blank cheque. It is purely a business matter, and my reply would be in the affirmative to both parts of Item No. 6.

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†*Dr. Ambedkar:* I would point out a difficulty that will arise in the question of fundamental rights in the words which you are trying to introduce. The point is this. You are giving the Public Services a direction to recruit the Services so as to give due and adequate representation—whatever the words are. That means this: the Commission will have the right to choose between the different communities in order to make up the quota of the community which does not otherwise get into the Services. That means that they would have to exclude members of other communities in order to make good the claim of fair and adequate representation of other communities which have not hitherto been recruited in the Public Service and if you have this fundamental right given to every individual of every community, that certainly would embarrass the Public Services Commission, because a person who had a fundamental right of this sort may say : You are prejudicing me by preferring some other member of some other community. There seems to me to be the difficulty.

Sir Chimanlal Setalvad: May I point out that this enunciation of fundamental rights, about there being no disability by reason of religion, caste, or creed, is merely repeating the proclamation of Queen Victoria when the Crown took over the Government of India. It was incorporated in the proclamation then made.

Raja Narendra Nath: It does not solve the practical difficulty.

Chairman: May I suggest that as it seems to be that the fundamental right is already there, is it necessary to repeat the fundamental rights ? Would the Sub-Committee be satisfied if we accepted in our report the first two propositions which Sir Chimanlal has read, and not put in the declaration as to fundamental rights ?

Dr. Ambedkar: I would point out that we have not only to guard against the Public Services Commission being influenced by the local Government in the matter of making appointments. It seems to me that we have also to guard against the Public Services Commission abusing its own powers. I feel somewhat strongly on this point. The Public Services Commission is bound to be very limited in its personnel; we therefore cannot provide that the Public Services Commission in its personnel shall represent the different communities in the country. The Public Services Commission will have to be drawn from some communities, and human nature being as it is I fear the Public Services Commission might abuse its own powers.

Mr. Mody: What will be the remedy ?

Dr. Ambedkar: The remedy would be that the Legislative Council should

†Proceedings of Sub-Committee No. VIII (Services), pp. 111-13.

have the power to pass a resolution of want of confidence in the Public Services Commission, just as, for instance —

Sir Chimanlal Setalvad: That would defeat the whole object.

Dr. Ambedkar: If this means is not desirable, I shall welcome some other means and some other method on this point, but I do feel very strongly that it is no use having a Public Services Commission which may be interested in their own community and not in others.

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†*Sir Chimanlal Setalvad:* .....Having laid it down that the Public Services Commission shall secure a fair representation to the various communities, we would give power to the Governor, in his Instrument of Instructions, to see that such fair representation was secured.

Dr. Ambedkar: You might provide in clause 2 that this should be subject to such directions as may be given them by the Governor.

Sir Chimanlal Setalvad: That is giving too much power to the Governor. All you want to secure is a fair representation for the various communities ; you want to see that the fair representation which we have provided that the Public Services Commission shall allot is in fact secured.

Mr. Zafrullah Khan: How will the Governor see to that ?

Chairman : Major Stanley has been good enough to make this suggestion, which may be a *via media*. He suggests some words to this effect, that at the end of clause 2 we might insert : "This part of the duty of the Public Services Commissions shall be subject in the case of the Provincial Public Services Commissions to the periodic review of the Governor, and, in the case of the Central Public Services Commission, of the Governor-General, who shall be empowered to issue any necessary instructions to secure the desired result."

Dr. Ambedkar: Yes.

Sir Chimanlal Setalvad: That is all right; I am prepared to accept that.

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‡*Mr. Shiva Rao:* I want to suggest that we say that every member of the Public Services Commissions shall hold office during his good behaviour, and that the Chairman and other members of the Public Services Commissions shall not be removed from office except by the Governor-General on an address by the Central Legislature, and in the case of the Provincial Public Services Commissions by the Governor of the Province concerned on an address by the Provincial Legislature.

Chairman: Mr. Shiva Rao has suggested a new clause, and he puts the point quite clearly. We do not tie ourselves to language but the substance of it is that we should state as a new clause that office is to be held during good behaviour and that a member of the Public Services Commissions, whether Chairman or an ordinary member, is to be removable on an address of the

†Proceedings of Sub-Committee No. VIII (Services), pp. 121-22.

‡*Ibid.*. p. 124.

Legislature to the Governor or Governor-General as the case may be. Let us put that

Dr. Ambedkar: I support that.

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†*Dr. Ambedkar:* The position taken by Mr. Shiva Rao is that discretion in the matter of removal of members of the Public Services Commissions is to be vested entirely in the Governor or Governor-General. The fact the Legislature has passed a resolution by a majority will not *ipso facto* lead to removal, but the Governor or Governor-General will consider whether action should be taken or not

Raja Narendra Nath: I would not allow the Legislature to interfere at all in respect of appointments.

Dr. Ambedkar: A man may be corrupt, just as judges may be corrupt. Should there be no remedy at all ? Should there be no way of removing such persons ? We are removing patronage from the Ministers because we feel they may be corrupt, but the Public Services Commissions may be corrupt, and if we have no chance of removing any of their members what will the position be ?

Dr. Shafa'at Ahmad Khan: Dr. Ambedkar has admitted that a member of a Public Services Commission can be removed by the Governor, and if that is so what is the use of the address by the House ? It is very dangerous to have a Legislative body interfering in executive matters. We must keep the deliberative function of the Legislatures completely apart from the function of the Executive, and if we mix the two functions in a matter of this kind, where thousands of appointments may be at stake. I think we shall be inviting trouble and making the whole of the regulations regarding the Public Services Commissions completely useless and utterly futile.

Chairman: Would it be in accordance with the desire of the Sub-Committee—I think the criticism made is rather cogent — that we should insert a clause to the effect that any member of a Public Services Commission holds office during good behaviour and is removable by the Governor or Governor-General as the case may be ? (Agreed).

Sir Provash Chunder Mitter: So long as the Legislature is not specifically brought in, I am satisfied.

Chairman: Would that further amendment be in accordance with the wishes of the Sub-Committee ? (Agreed). We shall consider it at the report stage ; we are considering it provisionally now. Now we get to Colonel Gidney's point

Dr. Ambedkar: Before you proceed to Colonel Gidney's proposal when the draft was first read out there was a clause stating that a member of a Public Services Commission after he had ceased to hold office as a member of such a Commission should not be eligible for service under the Crown.

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†Proceedings of Sub-Committee No. VIII (Services), pp. 125-26.

†*Chairman:* At present I want to put before you what the suggestion is. Will you therefore please strike out the words "be placed under Provincial management", and insert instead the words "no longer be recruited on an All-India basis" ?

"and we do not think it necessary to make any special recommendation with regard to these two services.

" we recommend that recruitment on an All-India basis should continue for the Indian Civil Service and the Indian Police Service (Mr. Shiva Rao lissents—)" I do not know whether he is alone or whether there is anyone with him.

Dr. Ambedkar: My resolution is that except for the European element in hese two Services, the rest should be provincialised.

Chairman: I think that will have to be separately put in.

"(Mr. Shiva Rao dissent from this conclusion, and would desire that all Services be provincialised forthwith)." I suggest that we add here this : " some members are of opinion that recruitment for judicial offices should no longer be made from the Indian Civil Service."

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‡*Dr. Ambedkar:* I am in favour of both the Services being on a Provincial basis, but I am prepared to make an exception in favour of the European element in those two Services.

Mr. Zafrullah Khan: I agree with Dr. Ambedkar.

Sardar Sampuran Singh: I endorse the same view.

Chairman: I am much obliged. That will certainly go in.

Dr. Ambedkar: On page 2, in the paragraph beginning "No doubt such government if it requires", and so on, you have mentioned the question of the reorganisation and readjustment of the departments of Public Services, etc. May I know whether you will add also the question of the basis of salary, in view of the discussions that took place this morning ?

Chairman: That comes within those words, I think.

Fourth Sitting—9th January 1931

§*Lord Zetland:* No. You cannot withdraw the jurisdiction of the local Government, because the local Government admittedly must be supreme over its officers, but it could be laid down that that should be the practice which it is desirable to pursue. That, Sir, I think covers what I want to put before the Sub-Committee. The main point is to secure that the powers now vested in the Inspector-General by the Police Act of 1861 should be retained, and I put forward various other suggestions, such as the formation of a Police Council in a Province for the consideration of the Sub-Committee.

†Proceedings of Sub-Committee No. VIII (Services), p. 128.

‡*Ibid.,* p. 132.

¶Indian Civil Service and Indian Police Service.

§Proceedings of Sub-Committee No. VIII (Services), pp. 181-82.

Dr. Ambedkar: I want to ask one question for information, if you will permit me to do so. Does the noble Marquess desire that the position of the Inspector-General should be recognised by statute, or does he want the position as it now is under the Police Act to be maintained ? Does he want them to be recognised by statute as officers having certain statutory rights and obligations ?

Lord Zetland: Yes.

Sir Provash Chunder Mitter: By Parliamentary statute ?

Lord Zetland: That is right. The Inspector-General now has these powers by statute, namely the Police Act.

Dr. Ambedkar: That is a different thing to the Police Act, which of course would be subject to amendment by the local Legislature. The question is whether you want the position of the Inspector-General to be recognised as that of an officer performing certain duties, and as an officer not liable to interference by the Minister or by the local Government ?

Lord Zetland: That is the effect of it. That is my proposal. I think that the powers which are now vested in the Inspector-General should be retained.

Sir Cowasji Jehangir: By what authority—by the Police Act or by the Government of India Act ?

Sir Chimanlal Setalvad: It should be beyond the vote of the local Legislature or of any Legislature to alter the provisions of the Police Act.

Lord Zetland: Yes. I think that it should be the Act of the Federal Government.

Mr. Zafrullah Khan: That can be done by placing the Police Act in the list as one of the Acts which cannot be repealed, altered, or modified, by a Provincial Government without the consent of the Governor-General.

Dr. Ambedkar: That would be the position today, because the Act can not be amended with the previous sanction of the Central Government.

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†*Mr. Zafrullah Khan :* If I may add just this. Perhaps the members of this Committee are not all aware that both the Federal Structure Sub-Committee and the Joint Sub-Committee set up by Sub-Committees Nos. I and II have suggested quite a large number of enactments on comparatively unimportant subjects to be placed in that list under Section 80(*3*)(*h*) and if we put the Police Act under that it will not contravene any principles whatever.

Dr. Ambedkar: I am in general agreement with Mr. Zafrullah Khan. The reason why the Police Act is not placed in the Schedule today is that the subject is a reserved subject, therefore as a matter of fact the Government of India has a complete control over the Department of Law and Order; and when the Department of Law and Order comes to be transferred the position will be altogether different. I think it will be necessary to consider whether we should not at least for the transitional period, consider the necessity of certain safeguards at least for keeping such as they exist at the

†Proceedings of Sub-Committee No. VIII (Services), pp. 186-88.

present time. I personally am in favour of the suggestion that this Police Act should be included in the Schedule which requires today the previous sanction of the Governor-General or the Government of India.

There is another point to which I should like to draw your attention with respect to the question of the Police and the Department of Law and Order a point which I raised also in the Provincial Constitution Sub-Committee. This question has been considered, of course, from the standpoint of the responsibility of the future Provincial Governments. It seems to me that this question has also to be considered from the standpoint of the different minorities in the Provinces and the emergency occasions which may arise on occasions of communal trouble and such other emergencies. It seems to me that it is indeed a great safeguard for the minorities in the different Provinces to know which officer belonging to what community is going to administer law and order in that particular locality when a communal riot has taken place. We are all aware that all Police Officers are accused of partiality and of showing favour to one community or the other. There may not be sufficient justification for that accusation ; but there may be cases when there may be abundant justification for the partiality of the officers operating law and order in those particular localities. It seems to me that it is very necessary in the interests of the protection of the minorities that the transfer and posting of Police Officers should not be, at least in times of emergency, in the hands of Ministers. It may be that a Minister who may have a communal majority in the Province may on any particular occasion shift a Police Officer who may not favour the particular community to which he belongs.

Mr. Zafrullah Khan: Ordinarily the Inspector-General does it

Dr. Ambedkar: I know that in the Bombay Presidency a great row was created on account of the transfer of Police Officers. I do not know whether it was done under the Inspector of Police or by the Officer in charge; but I think that is a great safeguard which it is necessary to provide for in the future Constitution of India.

My specific proposal is this, that in cases of emergency, as a riot or communal trouble takes place, the Governor should have over-riding powers over the Minister in different localities with regard to the Police.

Fifth Sitting—12th January 1931

**Chairman :* Doctor Ambedkar, Mr. Zafrullah Khan, and Sardar Sampuran Singh are averse to further recruitment on an All-India basis for the Indian Civil Service, save in respect of the European element in that Service. Some members are of opinion that recruitment for Judicial Offices should no longer be made from the Indian Civil Service.

Dr. Ambedkar: Also the Indian Police Service, Sir.

Chairman: You want to put in, do you, "for the Indian Civil Service and

†Proceedings of Sub-Committee No. VIII (Services), p. 198.

the Indian Police Service" ?

Dr. Ambedkar: Yes.

Chairman: Does that apply to Mr. Zafrullah Khan ?

Mr. Zafrullah Khan: Yes.

Chairman: And to Sardar Sampuran Singh ?

Sardar Sampuran Singh: That is right.

Chairman: I am only purporting to record your views there, so I will put in the words "and for the Indian Police Service".

Sixth Sitting—13th January 1931

**Dr. Ambedkar:* I should like to have a new paragraph inserted after sub-paragraph (4) to this effect : "The Sub-Committee desires that a generous policy be adopted in the matter of the employment of the depressed classes in the Public Service, and it particularly recommends that the recruitment of the Police and Military, from which they are now excluded, should be thrown open to them.".

Mr. Chintamani: Are they excluded by rule, or merely as a matter of practice ?

Dr. Ambedkar: By rule. The Police Service Commission expressly lays it down that the depressed classes are ineligible.

Mr. Chintamani: If there are rules excluding the depressed classes from employment in particular Departments, such as the Police or Military, they are not rules which hold good over the whole country. There may be such rules in some Provinces, but not in all.

Dr. Ambedkar: If it is desired I would have my proposal end as follows: "and in particular recommends that they (the depressed classes) should not be excluded from any Department of the Public Service hereafter by reason of their untouchability".

Raja Narendra Nath: Surely clause (5)(*a*) covers that.

Sir Cowasji Jehangir: The position is that this community has been excluded on account of the impracticability of employing them. It is no good going into details here and now. If we had a separate section of the Police for the depressed classes, there would still remain the difficulty of members of such classes doing the work of policemen amongst a population which resented it. How this great disadvantage is to be removed is not clear. I cannot express any opinion. What has been done has been done with the greatest reluctance, as I think Dr. Ambedkar will admit. But I see no objection in expressing what Dr. Ambedkar wishes us to do even though it be merely pious. I am afraid that we have expressed the same opinion on hundreds of occasions, and nothing has come out of it. Dr. Ambedkar knows very well what orders have been passed, and how they have proved to be impracticable. Nevertheless, I support the inclusion of such a para-

*Proceedings of Sub-Committee No. VIII (Services), pp. 231-33.

graph as he proposes. We take the risk and know it may not be a practical proposition, but as you have said on a previous occasion, we cannot always be logical when we are aiming at an ideal.

Dr. Ambedkar: I am particularly anxious that the Police and the Military should be mentioned, because those are the Departments for which the members of the depressed classes would be most fit.

Chairman: The point is covered by paragraph (5) (*a*) and (*b*).

Dr. Ambedkar: In that way the question of the Anglo-Indian community is also included. I propose a new clause to follow clause (4). "The Sub-Committee desires that a generous policy be adopted in the matter of the employment of the depressed classes: in the Public Services, and in particular recommends that the recruitment to the Police and Military Departments, from which they are now excluded, should be thrown open to them."

Raja Narendra Nath : I have a suggestion to make, namely, that we should add : "No person shall be under disability or shall be prejudiced in any way for admission to any Service of the country merely by religion, caste or sex." I would have that as a special recommendation.

Dr. Ambedkar: That will come later.

Mr. Basu: I sympathise with Dr. Ambedkar's desire to see the disabilities under which his community suffers removed, and if there is in any Province any disability laid down by administrative rules, those rules should be done away with. But the way in which he has put this statement makes it much too general. For instance, in my Province, a great many posts are filled by members of the depressed classes. This is not a matter which greatly concerns my Province.

Dr. Ambedkar: I am prepared to insert some limiting words such as, "where they are at present excluded"

Raja Narendra Nath: There is no rule debarring their employment in the Police, but in practice they are not employed. Once a question was raised by a Member of the Council asking the Government why these people were not recruited for the Police and whether the practice was not in contravention of Section 96 of the present Government of India Act; the reply was not satisfactory. I think the addition of the words which I have suggested will help, and that also the expression of a general desire and general recommendation will also help. But let me tell you that the expression of a general sentiment would not be so effective as the insertion of the words which I have suggested.

Major Stanley: A specific reference to the Military Service is surely outside the scope of this Committee.

Mr. Mody: We have recommended that the requirements of the Army should be borne in mind.

Chairman: I suggest you would make it slightly less controversial if you said this, "And in particular recommend that the recruitment to all Services should be thrown open to them."

Mr. Mody: Yes, from which they are now excluded.

Chairman: I should not say that because that will raise a point of controversy. All you want to say is that recruitment to all Services should be thrown open to them.

Lieut.-Colonel Gidney : That there shall be no disqualification for such employment.

Chairman: May I point this out ? If we are to make this Report read intelligibly it is a little awkward if we have two consecutive paragraphs which seem to me to cover exactly the same ground, and therefore I would suggest to Dr. Ambedkar that if we have these words it is better that they should come after clause 5. We should make our general recommendations in clause 5, and then I suggest we should attach a paragraph at the end of clause 5 saying something of this sort : "In making this recommendation,"— that is to say the recommendation in clause 5 — "the Sub-Committee have particularly in mind the case of the depressed classes. They desire", and so on.

Dr. Ambedkar: Very well.

Chairman: We will discuss clause 5 first if you do not mind and see whether we ought to add some clause to that effect. Has anyone any observations to make on clause 5 as it is drafted ?

Raja Narendra Nath: That is what I said. I suggested after "disability" you should add "or shall be prejudiced in any way".

Chairman: I will put that later. We will take it subject to that point; we will come to that later.

Dr. Ambedkar suggests, having passed clause 5, that we should add these words, "In making this recommendation the Sub-Committee have particularly in mind the case of the depressed classes ; they desire that a generous policy be adopted in the matter of the employment of the depressed classes in Public Services, and in particular recommend that the recruitment to all Services, including the Police, should be thrown open to them." That is the amendment proposed by Dr. Ambedkar to be added on to the end of clause 5.

Those in favour of that please signify; those of the contrary opinion; it is carried.

8

IN THE PLENARY SESSION (GENERAL REVIEW)

Eighth Sitting—19th January 1931

DEMAND FOR SPECIFIC AND CONCRETE PROVISIONS FOR SAFEGUARDS OF DEPRESSED CLASSES IN THE FUTURE CONSTITUTION

**Dr. Ambedkar:* Mr. Prime Minister, the Round Table Conference has had to grapple with two most important questions which must arise in any attempt to organise the political life of a community. The problem of responsible government was one of them and the other was that of representative government.

On the question of responsible government in the Provinces I have very little to say. I accept the report of the Committee and subject to my dissents, I stand by it. But regarding the question of responsible government in the Centre I am afraid I take a different view. It would be dishonest to say that the report of the Federal Structure Sub-Committee does not contemplate change in the bureaucratic form of government as we know it today. But it would be equally dishonest for me to conceal from you my opinion that this change is shadowy and not substantial, and the responsibility is bogus and not real.

The Lord Chancellor told us that he had sown the seed and it was for us to tend the plant Sir, we are indeed very grateful to the Lord Chancellor for the great part he has played in this momentous Conference. Grateful as I am to him I am not sanguine that the plant he promises will grow. I fear the grain he has chosen for his seed is sterile and the soil in which he has cast it is not congenial to its growth.

I had submitted to the Lord Chancellor a statement† containing my views on the future constitution for Federal India. I do not know whether or not the Committee on which he presided considered it, for I do not find any reference to it in the report of the Committee on which he presided,

*Proceedings of R.T.C. (1930-31), First Session, pp. 438-41.

†Lord Chancellor was the Chairman of Sub-Committee No. I (Federal Structure) of which Dr. Ambedkar was not a member. It seems, the statement referred to above was not considered.

I adhere to the views I expressed therein, and I cannot give my approval to a constitution which so largely departs from those views. Indeed if I were given a choice between the existing system and the cross-bred by the Committee I would prefer the existing one. But, Sir, if the constitution for the Central Government contained in the Report of the Committee satisfies Sir T. B. Sapru, who has been the friend, guide and philosopher of this Conference, if it is agreeable to Mr. Jayakar, who proclaimed himself the representative of the Youth of India, and if it pleases Sir A. P. Patro, who speaks, as he says, in the name of the Non-Brahmins of India, it is not for me to oppose. My attitude, therefore, is that of one who does not approve but who also does not obstruct. I will leave it to those who bless it to carry it through.

This attitude is all the more agreeable to me because I have no mandate from those whom I represent regarding the form of government. But I have a mandate and that is, while not opposing responsible government, to see that no responsible government was established unless it was at the same time accompanied by a truly representative government. It is when I look at the achievement of the Conference to find out how it has dealt with the question of representative government that I feel most disappointed. The franchise and the representation of the different classes in the Legislatures are the two pillars on which a truly representative government can rest. Everybody knows that the Nehru Committee had adopted adult suffrage and that that part of the constitution framed by it had the support of all political parties in India. When I came to this Conference I had thought that so far as the question of franchise was concerned the battle had already been won. But in the Franchise Committee I was completely disillusioned. I found to my great surprise that all those who had signed the Nehru Report had done so with mental reservations, so much so that it was difficult to persuade even the Indian Liberals to consent to enfranchise 25 per cent of the population for Provincial Legislatures. The franchise for the Central Legislature is no doubt an unknown quantity. But I have no hope that it will be such as to make the Central Legislature more representative of the people than the Provincial Legislatures are going to be. A franchise so limited must necessarily make the future government of India a government of the masses by the classes.

Regarding the question of the distribution of seats among the majority and the various minority communities we all know that there is a deadlock. The deadlock is largely due, in my opinion, to the mischief done in the past. I am sure that if the authorities in India had acted in the past on the principle of justice to all and favour to none, the problem would not have become so difficult of solution. The British Government set different values on different communities according to the political use they made of them and gave to many communities an extraordinary share of political power by denying it to the Depressed Classes in a measure which was their rightful due. In this matter the most aggrieved community is the

Depressed Classes, and I was hoping that this Conference would proceed on the principle that what is wrongly settled is never settled, and give to the Depressed Classes their rightful quota of seats by a revaluation of the old values. But this has not happened. The claims of the other minorities have already been acknowledged and defined. All that they stand in need of is alterations and amendments to bring them in conformity with the enlarged structure and increased scope of the new Government. Whatever be the alterations and amendments, no one will dare to furrow out the foundations that have already been laid down. The case of the Depressed Classes is totally different. Their claims have just been heard. They have not even been adjudged and I do not know how many of them will be admitted. To my mind it is not improbable that having regard to the helplessness of their position, the claims of the Depressed Classes for representations may be whitted down to satisfy the ever-increasing scramble by other communities who are manoeuvering not so much for protection as for power.

In view of this I am bound to make my attitude perfectly plain. As the rights of the Depressed Classes in the future constitution are not defined, any announcement that might be made on behalf of His Majesty's Government regarding the introduction of responsibility in the Centre as well as in the Provinces should make it clear that any advance in that direction must be on condition and subject to an agreement between the communities which would provide effective safeguards for the rights and interests of the Depressed Classes. I must emphasize the gravity of the situation and bring to your notice that no announcement will be acceptable to us unless the position is made perfectly clear in this behalf, and that failing this I and my colleague will be unable to accept the responsibility of participating in the further work of the Conference, and will be compelled to dissociate ourselves from it. Sir, in asking you to do so, I am not asking you to do more than give effect to your pledged word. The British Parliament and those who speak for it, have always stated that they are trustees for the Depressed Classes and I am sure that what they have been saying is not one of those conventional lies of civilization which we are all led to utter to keep human relations as pleasant as possible. In my opinion it is therefore the bounden duty of any Government to see that that trust is not betrayed and let me tell you, Mr. Prime Minister, that the Depressed Classes would regard it as the greatest betrayal on the part of His Majesty's Government if it were to leave us to the mercy of those who have taken no interest in our welfare and whose prosperity and greatness is founded on our ruination and degradation.

For saying so I will be called a communalist by the nationalists and patriots of India. I am not afraid of that. India is a peculiar country and her nationalists and patriots are a peculiar people. A patriot and a nationalist in India is one who sees with open eyes his fellowmen treated as being less than men. But his humanity does not rise in protest He knows that men and women for no cause are denied their human rights. But it does

not prick his civic sense to helpful action. He finds whole class of people shut out from public employment. But it does not rouse his sense of justice and fair play. Hundreds of evil practices that injure man and society are perceived by him. But they do not sicken him with disgust. The patriot's one cry is power and more power for him and for his class. I am glad I do not belong to that class of patriots. I belong to that class which takes its stand on democracy and which seeks to destroy monopoly in a very shape and form. Our aim is to realise in practice our ideal of one man one value in all walks of life, political, economic and social. It is because representative government is one means to that end that the Depressed Classes attach to it as great a value and it is because of its value to us that I have urged upon you the necessity of making your declaration subject to its fulfilment. You may tell me that the Depressed Classes have your sympathy. My reply is, for a stricken people what is wanted is something more concrete, something more defined. You may despise me for being unduly apprehensive. My reply is it is better to be despised for too anxious apprehensions rather than be ruined by too confident a security.

9

IN THE FEDERAL STRUCTURE COMMITTEE

Twenty-third Sitting—16th September 1931

HEAD 2

(*Questions connected with the Election of Members of the Federal Legislature*)

**Dr. Ambedkar:* My Lord Chancellor, I am speaking for the first time as a member of the Federal Structure Committee. Every new member, in availing himself of the very kind opportunity that you gave him for making a general statement of his position with regard to the problems which this Committee will have to face, has given expression to his sense of appreciation of the great services which you, Sir, have rendered to this Committee; and he has also added a proviso making it plain that the safety of his own community, or of the interests he represented, was a condition precedent to any consent that he might give to the establishment of responsibility in the Central Government. Lord Chancellor, if I do not follow my predecessors in this, it is not because I have no feelings to express on the matter. On the contrary, my feelings are very deep; and if I do not give expression to them it is because I prefer to obey the mandate that you gave us this morning, that all these matters shall be taken as understood.

With these few preliminary remarks I propose to submit my views on the various sub-heads included under Head No. 2. In doing so I do not wish to follow the order of the sub-heads as they are given in the Memorandum which has been circulated to us, nor do I propose to express my views on every item that has been included in that Memorandum. I will only touch upon the topics on which I think I have a definite opinion to express and a definite contribution to make.

The first thing that I propose to deal with is the subject of the composition of the Federal Legislature; and before I proceed with that subject let me make my position clear with respect to the question as to whether the Federal Legislature of future India shall be unicameral or bicameral. Now,

*Proceedings of the Federal Structure Committee and Minorities Committee (R.T.C. Second Session), Government of India, Central Publication Branch, Calcutta, 1932, Vol I, pp. 120-32.

I confess at the very outset that I have never been a believer in a bicameral system. I have never accepted that the Second Chamber has any utility at all; but I also agree that, although I have that conviction in me, there are many others who do not accept that position, and I know that in this Conference it will not be possible for us to convince them that a Second Chamber is not necessary. Secondly, I also feel that, if the relations of the two Chambers are properly regulated and there are ways by which the fangs of a Second Chamber could be clipped by proper safeguards so that it could be made safe for a democratic government in India—I do not wish to raise any objection to a bicameral system being introduced in India.

Having said that, let me turn to the question of the representation of the British Indian Provinces in the Federal Legislature of India. In doing that, the first question with which we are concerned and confronted is whether the representation shall be direct or whether the representation shall be indirect It seems to me that, so far as the Lower Chamber of the Federal Assembly is concerned, there can be no two opinions. It must be constituted by direct election. I am quite conscious of the fact that the Simon Commission, in dealing with this question, recommended that the Lower Chamber, instead of being constituted by direct election, should be constituted by indirect election ; and in support of that they observed that, as a matter of fact, there was no distinction between direct election and indirect election, and that indirect election was only direct election one step removed. Now, logically, perhaps that position is correct; but I submit that psychologically there is a great difference between direct election and indirect election. In my opinion, what is of the utmost importance is that the people of India should be impregnated with the sense that, in the last resort, they are responsible for the good government of the country. And I venture to suggest that, unless the Indian citizen is made to feel that it is he who can make or unmake the government, we shall never be able to succeed in establishing the true foundations of a responsible government in India. Now, if my suggestion is correct, then it follows that we must have some system of election whereby a direct contact will be established between the government and the citizens of the country ; and therefore I submit that the blind of an indirect election between the Central Government and the citizens must be removed, and they must be allowed to see the effect of their election upon the government of the country and upon their welfare. I can, under no circumstances, consent to a system which will not provide for direct election to the Lower Chamber of the Federal Assembly.

Coming to the constitution of the Upper Chamber, I approve of the method suggested by the Federal Structure Sub-Committee—namely, that it should be constituted by the method of indirect election in which the Provincial Legislative Councils will form the constituencies. I approve of the system because the election, instead of being carried out by the watertight methods of separate or communal electorates, will be carried out on the basis of proportional representation. Now, I think it is a great advantage in a country like

India, where, unfortunately, owing to various circumstances, we cannot avoid the separate representation of distinct communities—where we cannot ignore safeguarding the interests of various groups—to have in the constitution a Chamber which will be non-communal, a Chamber the members of which will have a mandate which will not be drawn exclusively from one particular community, but a mandate which will be broad-based. There is only one comment, however, that I would like to make on this proposal. I nave no objection to—indeed, as I have stated, I approve of—the system of proportional representation ; but there is one point which I think ought to be mentioned. All members of the Committee are aware that the minorities in India are not only anxious to have their interests and their communities represented in the various legislatures, but they are also insistent upon the fact that they shall get a certain minimum quantum of representation. Now, my fear is that, although proportional representation may give them some representation in the Upper Chamber, we do not know—for we can never be certain of the results of proportional representation—we do not know that the various communities will succeed in getting the quantum of representation which they want. I would therefore like to suggest that, to this recommendation of the Federal Structure Sub-Committee, a proviso something on the lines of Article 35 of the Austrian Constitution should be added. That proviso, of course, does not speak of the representation of the communities ; it speaks of the representation of political parties. But it can be easily made applicable to the representation of the communities. This is how the proviso reads :

> "The members of the Federal Council and their substitutes shall be elected by the Provincial Diets for the duration of their own legislative period according to the principles of proportional representation ; but at least one seat must fall to the Party having the second highest number of seats in the Provincial Diet or (if several parties have an equal number of seats) the second highest number of votes at the last election to the Provincial Diet. When the claims of several parties are equal, the matter shall be decided by lot."

I do not say that this could be taken bodily and adopted in the Indian Constitution; but that the principle enunciated there, that along with the institution of proportional representation there shall be a proviso which will guarantee a quantum of representation, may be adopted in the constitution.

Now, this is all I have to say so far as the representation of the Provinces of British India in the Federal Legislature is concerned. I come now to the other part of the subject, namely, the representation of the Native States in the Federal Legislature. This subject raises two issues for consideration. One is whether each and every State shall be represented individually or whether they shall be grouped for the purposes of representation; and the second issue Which arises out of it is how they shall be represented, whether by election or by nomination.

I take issue No. I. The Federal Structure Sub-Committee has recommended that this is a matter that can be left to the States themselves. With all respect

to the Sub-Committee, I beg to differ from their position. I do not think at all it is a matter for the States to decide. My view is it is a matter for the Federal Structure Committee to decide as to which units shall be recognised as units of the Federal Constitution which we are making. Just see what would be the result of leaving the whole thing to the Native States themselves. First of all I will assume that each State is represented in the Indian Federation. If that happens, my submission is that the Federation which we will have in India will be a mammoth Federation. Let us look at this comparatively. In the German Empire there were only 25 units of the Federal State ; in Australia we have only 5 ; in Austria 8 ; in Canada 4 ; in Switzerland 22 ; in the United States, the largest Federal State 48. In India, on the assumption I am making that every State is to be represented, we shall have a Federation which will have something like 570 units. Assume, on the other hand, that all the States are not represented in this Federation which we are contemplating and that only some States are to be represented; then the question which arises is : what is going to happen to the ideal which we have set before ourselves that in the new constitution which we are going to have every inch of Indian area should be represented ? What is going to happen to the States that are going to be left out in the cold ? That is a problem which we shall have to consider.

But, My Lord Chancellor, I have raised this question not because I am alarmed at the number of States that are going to be the units of the Indian Federation. The thing that disturbs me is this : are we going to recognise every Indian State as an independent unit of the future Federation of India, irrespective of the question whether the units so recognised are capable of bearing the burdens of modern civilisation; or are we going to admit into our Federation units which are going to be units of the utmost lowest possible vitality ? I am sure that when we are discussing this question of the Indian States, we are not quite aware of the multiplicity and variety of the circumstances which will be found in the different States; and, with your permission. My Lord Chancellor, I propose to read a small passage which gives a description of the existing Indian States. I am reading from a book called "The States and their People in the Indian Constitution" by D. V. Gundappa. Now this is really the position. He gives a table with which I do not wish to trouble the Committee ; I will read his comment :

> "From the foregoing tables, it will be seen that as many as 454 States have an area of less than 1,000 square miles; that 452 States have less than 1,00,000 population; and that 374 States have a revenue of less than Rs. 1 lakh. British India, with an area of 10,94,300 square miles and a population of nearly 222 millions, is divided into 273 Districts. The average area of a British Indian District is therefore 4,000 square miles and its average population about 8,00,000. If the suggestion were made that each District in British India should be constituted into a State, how ridiculous would it be considered ? Yet it is only some 30, among

the 562 States, that possess the area, population and resources of an average British Indian District Some of the States are so absurdly small that no one can help pitying them for the unfortunate dignity imposed upon them. As many as 15 States have territories which in no case reach a square mile ; while 27 others possess just 1 square mile. Fourteen States exist in Surat district, not one of which, according to the list of 1925, realised a revenue of more than Rs. 3,000 in the previous financial year. Three of these States could not boast of a population of 100 souls, and 5 of a revenue of Rs. 100."

The smallest revenue mentioned is Rs. 20 for the year.

H.H. The Maharaja of Bikaner: May I say that bears out what I said yesterday—that there is a confusion of thought in talking of these units of Indian States' territory as States or sovereign States ?

Dr. Ambedkar: No. There is none.

H.H. The Maharaja of Bikaner: And I am afraid that even this another from an Indian State, about whom Sir Mirza will be able to say more, has fallen into the same error.

Dr. Ambedkar: May be. With all respect to His Highness The Maharaja of Bikaner, I will ask this question : if he has a special definition of what a State is, and if he is going to follow that definition in the matter of admission of States into the Indian Federation, we should like to know what is going to happen to those who are excluded by the definition he has in mind.

H. H. The Maharaja of Bikaner: I think all that will be dealt with in due ours later.

Dr, Ambedkar: This Federal Structure Committee cannot blindly give to the States what they want.

H.H. The Maharaja of Bikaner: Nor can the States : we cannot sign a blank cheque either. We have to appreciate each other's difficulties.

Chairman: Dr. Ambedkar, perhaps you will help me with regard to that. You read a most interesting extract, which I followed with a very great care ; but I should like to ask you what are the conclusions that you draw from that extract.

Dr. Ambedkar: What I say is this—that this is a most critical occasion. I say so for this reason that once you accept the proposition that every State, whatever the attributes of the State may be, is entitled to become a member of the Indian Federation, then you give that State an independent right of existence for ever.

H.H. The Maharaja of Bikaner: It has that right now.

Dr. Ambedkar: That is so by the kindness of the British Government; but my submission is that this is a state of affairs which I for one am unable to contemplate or agree to, and for this reason. After all, no unit in these modern lays can exist on a scale such as modern civilisation demands unless it has sufficient resources at its command ; and it is no use trying to please the fancy of an Indian Prince simply because he delights to call himself a Prince by Jetting his State be a separate entity, irrespective of the considera-

tion whether his people can benefit by it.

H. H. The Maharaja of Bikaner: They are not called Princes.

Dr. Ambedkar: I submit that at any rate this Committee should lay down certain qualifications which a State must fulfil before it can be admitted into the Indian Federation.

Chairman: This is very interesting. Are you able to help us at all with regard to what the qualifications should be ?

Dr. Ambedkar: I would prescribe a certain area and a certain revenue as the tests. I cannot say offhand what the area should be and what the revenue should be; but I take my stand on the fact that, if the Ruler of a State wants his State to exist as an independent State and to become a part of the Indian Federation, he should be able to prove that his country has the necessary resources and capacity to give to its citizens a civilised life. That is the stand I take.

Sir Maneckjee Dadabhoy: Am I to understand from my friend's statement that he would not permit a small State with small territory and small income to come into the Federation ?

Dr. Ambedkar: Coming to the second part of the question, namely, the representation of the Indian State in the Federal Legislature, the Indian States have made it clear that they will come into the Indian Federation only if they are permitted to nominate their representatives to the Federal Legislature. Now, with all respect to the Indian Princes, I am afraid I cannot agree with them, and I must insist that their representation shall be by election. In making my submissions on this point, Lord Chancellor, the first thing I should like to point out is that, to my knowledge, there is no precedent in any constitution except one, which I am going to mention in a minute, where State Governments are allowed to nominate their representatives in the Federal Legislature. To recognise that a Unit of the Federation is entitled to representation in the Upper Chamber of the Federal Legislature is one thing; but it is a totally different thing from the other proposition, namely, that it is the Governments which should nominate their representatives to the Chamber. The two things are, in my opinion, totally distinct; and the only example I know in which such an arrangement was accepted and embodied in the constitution was the Constitution of the old German Empire, in which the Governments of the States were permitted to send their representatives to the Bundesrat. It may be that our brother Delegates on the other side of this table take their stand on this provision in the Constitution of the old German Empire. Before I proceed further I would just like to make this comment — that I am not sure if the Princes understand full well all the implications of this provision in the old German Empire. The representatives of the various States in the Bundesrat were no doubt regarded as ambassadors of the various States, working with definite instructions, but there was also this tremendous consequence flowing from it, namely, that the Bundesrat had the power to examine what might be called the credentials of the ambassadors. Not only that, but the Bundesrat had the power to

enquire into dynastic matters concerning the various Princes governing the German States, because it followed that, unless a Prince was lawfully recognised as the head of the State, his delegation had no right to sit in the Bundesrat. Now, I wonder whether the Princes who base their claim on this analogy.....

Colonel Haksar : They do not.

Dr. Ambedkar: I wonder if they would permit the Federal Legislature of India to have such powers as the Bundesrat possessed. But, Lord Chancellor, I am not going to discuss this question by referring to precedents or to analogies ; I am going to discuss this question on a totally different basis and by applying totally different tests. One thing we are all clear about is this, that we are framing a constitution for establishing a system of responsible government for India. And although we are discussing various matters, I, for one, can never forget that that is the principal objective and the principal task of this Committee. It follows from this that no concession can be made, no scheme can be adopted, if ultimately it is found that that concession or that scheme is going to compromise the system of responsibility or is going to whittle down the system of responsibility at which we are all aiming.

Now, applying that test, it follows that you cannot consent to the claim of the Princes for nomination of their representatives.

Colonel Haksar: In which House ?

Dr. Ambedkar: In either House; and for this reason. First of all, anyone who reads the Report of the Federal Structure Sub-Committee will find that not only do the Princes want to come into the Legislature, but they also want to be represented in the Central Executive of the country; and it is only right that the Princes should have that objective, because they would gain nothing by merely coming into the Legislature—their real gain consists in having a hand in the Executive of the country. Now, bearing that point in mind, what I say is this—that you have in the Federal Structure Sub-Committee laid down that the system of responsibility in the Central Legislature will be a system of collective responsibility. If the representatives of British India are going to come into the Federal Legislature by election, and if the representatives of the Indian States are coming into the Federal Legislature by nomination with definite instructions from those who will nominate them, I, for one, fail to understand how the system of collective responsibility—with divided mandates, with different instructions—is going to work in the future constitution of the country.

There is also another way in which the system of responsibility is going to be affected by the nomination of the Princes to the Federal Legislature. Sir Tej Bahadur Sapru yesterday very rightly condemned the existence of the official nomination bloc, and for the simple reason that, being at the beck and call of the Executive, the nominated bloc makes the Executive irresponsible to the Legislature. I think that is the gist of his argument for not supporting the official bloc. Now, the question that I wish to raise is

this : Are we quite certain that the Princes' nominees to the Federal Legislature will not play the part of the official speaking for myself, I will be quite candid and say that I am not certain about it; and I will make my position quite clear as to why I say that. We all know that the Princes carry on the administration of their States under what is called the system of paramountcy, and I think we all know that one of the incidents of the doctrine of paramountcy is that the Paramount Power claims the right of advising the Princes on the matter of important appointments.

H. H. The Maharaja of Bikaner: Not in all. It may be in one or two cases.

Dr. Ambedkar: Well, I can only say that that is what the Butler Committee stated.

Colonel Haksar: Did they ?

H. H. The Maharaja of Bikaner: Did they ? If they did they were wrong, as they were in some other respects.

Dr. Ambedkar: I think I am right at least, that is how I have understood it. Add to this the fact that paramountcy in the new constitution is contemplated to remain a reserved subject. Now, supposing the Political Department, which will be exercising the powers of paramountcy, claims the right to advise the Princes in the matter of nomination to the Federal Legislature, what is the effect ?

H. H. The Maharaja of Bikaner: It cannot and would not; and that would not be accepted by the States.

Dr. Ambedkar: What I say is this. Suppose the Political Department claims that the nomination of the Princes to the Federal Legislature is an important appointment, and as such the Political Department must exercise its right to advise the Princes—what happens ? So far as I am able to judge, so far as I am able to conjecture, the only result will be that the Princes' nomination will in fact be nothing less and nothing else than the official bloc replaced in another form.

Colonel Haksar: It does not happen.

Dr. Ambedkar: And now, at this stage, My Lord Chancellor, I would like to say one thing.....

Sir Maneckjee Dadabhoy: But you have not given us the solution of that problem.

Dr. Ambedkar: I say election, absolutely.

Colonel Haksar: Dr. Ambedkar, would you at some time or other give us the reference to the Butler Committee's Report ?

Dr. Ambedkar: I will try.

Colonel Haksar: Because you credit them with the assertion that the Political Department makes appointments in the important States.

Dr. Ambedkar: Well, Colonel Haksar, we will not wander into a controversy ; but if paramountcy is not brought into operation many other influences could be brought to bear.

Colonel Haksar: You are departing from your position.

Dr. Ambedkar: No, I am not. I will give you the reference.

Now, My Lord Chancellor, there is just this one observation that I would like to make, which I have no doubt made earlier, but I would like to emphasise it. Of course, we are all trying to work out a federal constitution for India as a whole. But I would also like to emphasise that we are not here merely for the purpose of getting a change in the form of Government; a change from a unitary government to a federal government.

Chairman : Some people say ; whatever be best administered is best.

Dr. Ambedkar: Yes, but I thought we were all agreed on the fact that the thing that is best administered is responsible government. Therefore, although I am willing to make any concession possible in order to bring this Federation into existence, I cannot be a party to any concession or any compromise, as I said, which will only give us the skeleton of federation without the soul, namely, responsible government.

Frankly speaking, I really do not understand why the Princes should oppose the principle of election. Even in the old German Empire, where the right of the federal units to be represented by their governments was conceded, it was also conceded by the States that the Lower Chamber, the Reichstag, should be constituted by election by the people of the States. I cannot see what objection there can be on their part, because all that popular election to the Federal Assembly in the Native States would involve would be the dividing up of their territory into so many constituencies. I could quite understand their objection if we were saying that they must have legislative institutions in their own territory which would control their own administration ; but we are not saying anything of the sort. All that we are saying is this: permit us to divide your territory into constituencies and let your people elect your representatives who will come and vote in the Federal Assembly, not to decide upon your particular matters, not to determine the affairs of your State, but to discuss the affairs of India as a whole. I certainly do not understand what objection there can be from the point of the native States.

Sir Maneckjee Dadabhoy: And in small States also ?

Dr. Ambedkar: If they accept the view which I am urging, that election to the Federal Assembly cannot disturb their own administration—cannot cause any prejudice to their own States—then I submit that, so far as the problem of the representation of the States in the Lower Chamber is concerned, it will be easy of solution. The problem of the representation of the States in the Upper Chamber, of course, will remain to be solved ; and if it is to be solved by a method which will not involve the representation of the States by nomination, I beg to suggest two alternatives for it. The first alternative that I would suggest is the adoption of the Norwegian plan, where you have one elected Chamber popularly constituted, and where that Chamber elects out of its own members a Second Chamber, so that you will avoid thereby the difficulty of the States having to nominate their representatives in the Upper Chamber. Or, if that is not acceptable, there is another solution which I think may be offered. That is that the Princes may suggest a panel of candidates from which representatives may be selected to the Federal Legislature.

H. H. The Maharaja of Bikaner: By whom ?

Dr. Ambedkar: By the Lower Chamber. But in any case I must make it plain, so far as I am concerned, that I shall not be a party to any system which permits the representation of the States by nomination.

Now, My Lord Chancellor, I will take up the other head of discussion, namely, representation of special interests.

Chairman: You have got to No. (*v*)—provision made for the representation by special constituencies of special interests.

Dr. Ambedkar: The first thing I would like to make clear is this I do not want the Depressed Classes to be treated as a special interest. I want the Depressed Classes to be treated as a separate community for political purposes in the same way as the Muhammadans or the Christians are treated. They must have the same right of representation, not only in the Provincial Legislative Councils, but also in both Houses of the Central Legislature.

Chairman: When you say the same rights, do you mean to say they are to have the same number as the others ?

Dr. Ambedkar: No; the numbers that they will be entitled to on the basis of the principle that may be adopted in common with all.

Chairman : You said the same. Thank you.

Dr. Ambedkar: Now I come to the other interests which have so far been recognised ; namely, Trade, Commerce, Landholders and Universities.

Dr. Shafa'at Ahmad Khan : Not Universities ?

Dr. Ambedkar: No, we have not got Universities. I am afraid I cannot give my consent to the representation of these special interests. First of all, I do not quite understand why, for instance, a landholder needs any special representation. I do not know what are the difficulties and disabilities from which he would suffer if he were to stand out in a general constituency and seek the suffrages of his people. There is nothing to prevent him from doing that. In all other countries—for instance, in England and all European, countries—no provision is made, I am sure, for the special representation of such interests as Trade, Commerce and Landholders; they are allowed to find their place through the general electorates, and I think the same system should be adopted in India. My further objection to making any special provision for the representation of these interests is this : first of all, these interests get themselves represented by a very, very narrow constituency ; it is almost by a clique. Now, if their voting power were confined to matters which concern them, the evil would be comparatively small. But they do not only come on the basis of this restricted constituency into the Legislative Council; they vote upon all and sundry matters that come before the Legislative Council. One of the things that I have noticed in the Bombay Legislative Council is this, that we have there constituencies for Trade and Commerce. Now Trade and Commerce in the Bombay Presidency have been the monopoly of a special community which I am sorry to say is the most orthodox community known to me.

Mr. Jayakar: Politically ?

Dr. Ambedkar: Socially. Now, such members get these easy pocket constituencies in order to get themselves into the Legislative Council. Then, if any progressive measure is brought forward, they come and side with the orthodox and thereby defeat the ends of freedom and progress. I therefore object to it. If any such provision were necessary, I would make this concession—that any such interest, for instance Trade, Commerce or Landholders, may have the right to be heard in the Legislative Assembly or the Upper Chamber whenever a Bill affecting their particular interest is being discussed. The right of audience may be granted, but there is no necessity for granting them membership of the Legislature or the power of voting on any Bill that comes before the Legislature.

With regard to Labour I would say this. I do not know whether my friend Mr. Joshi will agree with me or not; but my own view is that, if the system of adult suffrage comes into operation—and I hope that, with the help and support of Mahatma Gandhi we shall be able to carry it through in this Conference—then there may perhaps be no necessity for the special representation of Labour; but if we adopt a system of representation which keeps out a large body of the working classes from the constitution, so that they cannot control the Government and influence it for bringing about their welfare and their prosperity, then there would certainly be a necessity for making special provision for the representation of Labour, and I think that could be done by recognising the various unions as the electoral colleges for the purposes of such representation.

The next topic to which I propose to refer is the question of nominated members. I suppose—I am not sure—that the object of having a bloc of nominated members in the Federal Legislature is principally to give support to what are called Crown subjects, or what in the Provinces, under the Dyarchical System, were called reserved subjects. First of all I should like to make it plain that I have a great horror of this nominated bloc of officials. If there is any institution which, in my opinion, has absolutely destroyed the system of responsibility in the Provincial Governments, which was sought to be introduced by the Montagu-Chelmsford Reforms, it is this institution of the nominated official bloc. It is this which has perverted the whole system. It is this group which has made possible, in the Provinces, Government by a minority against a majority. It is this group which has made alliances with all sorts of people and groups—not necessarily groups which needed its help or support, but groups which were ready to sell themselves for petty gains. I have, as I say, the strongest objection to a nominated official bloc.

My next submission is that this nominated official bloc is really not necessary at all for the purpose of lending support to what are called the Crown subjects. In the Provincial Constitution, where we have now the system of reserved subjects, we have various methods of supporting and safeguarding these reserved subjects. First of all, under section 72-D, we have a person in charge of these reserved subjects who is non-removable

and whose salary is non-votable; secondly, the Governor has been given the power of certifying expenditure which he thinks is necessary for the purpose of safeguarding the reserved subjects; thirdly, the Governor has the power to certify Bills which he thinks are necessary for the purpose of maintaining the efficiency of the reserved subjects; and lastly, the Governor has the power to veto any Bill to which he has an objection. My submission, Lord Chancellor, is that the safeguards which I have just mentioned—namely, non-removability of the person in charge of the reserved subjects, the non-votable character of his salary, the power of certifying expenditure which the Governor possesses, the power of certifying Bills necessary for the safety of the reserved subjects, and the ultimate power of the Governor to veto a Bill—are quite sufficient, in my opinion, to maintain the integrity of what are called Crown subjects.

Sir Tej Bahadur Sapru: May I ask you one question at this stage ? You suggest there should be power of certification ?

Dr. Ambedkar: I do not suggest there should be power of certification; I will deal with that matter at a later stage. What I am saying is that these are other alternative methods which are provided in the constitution beside the nominated official bloc. That is my argument. My submission is that, when you have such abundance of legislative and executive powers in the Government to safeguard what are called Crown subjects, there is no necessity for having an official bloc in the Legislative Council at all.

Secondly, what I say is this, that by having a nominated official bloc you disguise and conceal the real character of what is occurring. There are many measures which the Legislative Council probably would not have passed if the nominated official bloc had not been there, and which the Governor would have been obliged to certify or carry through in some other way under his special powers; but, because of the presence of a nominated official bloc, you have the anomalous position of giving the appearance to the outside world that the Legislative Council is working normally on the basis of majority rule, when as a matter of fact, the decisions have been taken by a minority with the help of the official bloc. I submit, therefore, there is no use in the future constitution of India for this nominated official bloc.

There is one last subject to which I should like to refer, namely, the question of the Oath. This question, in my opinion, is a very big one; and it is a question which opens up another big question, namely, that of common citizenship for India. In the short time which I have at my disposal I do not think it will be possible for me to discuss the whole subject; and I would therefore request that a special occasion may be provided when this question can be thrashed out, because I hold the view that there can be no real federation unless there is common citizenship. It would be a misnomer to call a constitution a federal constitution if it did not provide for a common citizenship. This, as I say, is a point which I cannot develop at the moment because there is not sufficient time.

Twenty-fifth Sitting—18th September 1931

HEAD 2

(*Questions connected with the Election of Members of the Federal Legislature*)

†*Dr. Ambedkar:* I would like to ask Mr. Gandhi this question : The Congress has not considered at all the question regarding the nature of the Federal Legislature or the Federal Executive. The only question that the Congress has considered is whether it will be part of the British Empire or whether it will be independent. Consequently, what Mr. Gandhi said yesterday might be his own personal view. I should like to ask whether he was expressing his own personal view, or whether he claimed in that respect to represent the views of the Congress. Then I should like to ask him a second question. In so far as we know of the proceedings of the Congress which are open to the public, this question was not considered by the Congress to my knowledge. It may have been considered in secret by the Congress. Therefore, I ask the question. The next question is whether the question of indirect election to which, I think, he gave his support yesterday, was not put forward by Mrs. Annie Besant in the Home Rule Bill which was formulated, and whether that method of constituting the Federal Legislature was not definitely rejected by the Congress.

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II

‡Lord Chancellor, another point of view has been pressed (and very strongly) by Dr. Ambedkar; and as that may have some weight with some of the members on this side, I should like to refer to that as well. It has been suggested that, if the principle of election of State subjects were not guaranteed, there might be created a bloc which, in essence, will not differ very much from the official bloc; and. it was suggested that the Political Department in particular will play a great part in constituting that bloc. Sir, I have no hesitation in stating that the great body of public servants who constitute the Political Department are as conscientious and as fair as any other body of public servants anywhere in India or outside.

Dr. Ambedkar: Why do you want responsible government at all. if that is so ?

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IV

§*Dr. Ambedkar:* Why are you not similarly kind to Sir Samuel Hoare, and let him take his own time for introducing popular institutions in British India ? He will be grateful to you, I am sure.

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†Proceedings of the Federal Structure Committee and Minorities Committee, Vol. I, p. 175.

‡*Ibid.,* pp. 184-85.

§*Ibid.,* pp. 192-95.

Chairman: I do not think that we need discuss Sir Samuel Hoare's gratitude. That is a matter which is not before the Committee.

Pandit M. M. Malaviya: My friend, Dr. Ambedkar, forgets what I have said. I have repeated twice that I desire that the representative principle should be introduced into the States at once. I do not yield even to my friend, Dr. Ambedkar, in that desire ; but I recognise a difference between my desire and Dr. Ambedkar's desire and the right of the Ruling Princes to take time to consider when and how the representative principle may be introduced in their States.....

.....Now, My Lord, I want also to say that those of us who are impatient— and none can be more impatient, I will repeat, than myself— to see the principle of representative institutions introduced into the States, should remember.....

Dr. Ambedkar: May I point out, My Lord Chancellor, that we on this side have never said that representative institutions should be introduced into the States. All that we say is that there should be constituencies in the Indian States, similar to the constituencies in British India, for the election of the representatives to the Federal Assembly. I have never said that there should be popular Assemblies in the Native States to control the Native States as a condition precedent to the entry of the Princes into the Federation.

Pandit M. M. Malaviya: If Dr. Ambedkar thinks that he has not asked for representative institutions, I leave him to have that satisfaction. We should not think that, if members who will come to the Federal Assembly from the States will not be elected by some popular method, they will not be useful.....even if the representatives of Indian States do not come by popular election—which, I again repeat, I desire that they should—even then we may have some excellent representatives whose co-operation will be very valuable in our work.

Chairman: Summing it up quite briefly, you say that "rotten boroughs" do not always return rotten members.

Pandit M. M. Malaviya: I think Your Lordship. I wish I could imitate Your Lordship's epigrammatic way of putting things.

[Pandit Malaviya further suggested that the introduction of principle of representation should be left at the mercy of the India Princes. If they do it voluntarily, he is delighted] 'but' he concludes,

"then my recommendation to my British Indian friends would be, let us show patience and courtesy, let us hope that such institutions will be established in proper time, but let us not do anything to create unnecessary obstacles in the way of the establishment of that All-India Federation upon which now, as matters stand, our hopes so much depend."

Dr. Ambedkar: That is the same advice that is given to the Depressed Classes—that their salvation will also come in time.

Pandit M. M. Malaviya: My Lord, my friend, Dr. Ambedkar, is entirely mistaken and, I am sorry to say, not so well informed as I thought he would be.

Dr. Ambedkar: I should like to be enlightened.

Pandit M. M. Malaviya: I am not saying that the Depressed Classes should wait. In a criticism of the Montagu-Chelmsford proposals which I had the honour to publish when the proposed Reforms were first announced in 1918, I urged that, so far as the Depressed Classes were concerned, it is particularly a question of education, and I pleaded—and I still plead and the Congress has pleaded—for universal primary education. It has pleaded all the years of its existence ; and if the Government of India, which commanded all the resources of the country, had spent sufficient money on promoting primary education among the people, I am sure the words "Depressed Classes" would have been a matter of history by this time—long before this time. We have desired that they should receive elementary, primary education, that they should receive secondary education, that they should receive higher education. I have the honour to be the Vice-Chancellor of a University, the Benares Hindu University, and there a student of the Depressed Classes gets a seat exactly as a student of any other class does ; there is absolutely no distinction. And those who have received education give an excellent account of themselves, even, if I may say so, as my esteemed friend Dr. Ambedkar has given.

Dr. Ambedkar: I am still an "Untouchable" in society, although I am educated. Education has not raised me out of that.

Pandit M. M. Malaviya: I beg your pardon ; you are not an Untouchable ; you are a dear friend and colleague—a brother with whom your most orthodox friends have the pleasure to meet and work, and you know that they work together with you. Today there are more Brahmins working in the cause of the Depressed Classes than the representatives of any other class. I think that is a fact which my friend, Dr. Ambedkar, will admit.

Pandit M. M. Malaviya: .....will admit.

Now, the second point. My Lord, which I should like to touch upon is the question of direct and indirect election. I fear that the remarks which Mahatma Gandhi made yesterday in this connection were somewhat misunderstood..... When yesterday he spoke approvingly of Lord Peel's suggestion, the object, as I understood it, was to show that, it was felt that there were practical difficulties in the way of extending the franchise to all the adults in the country..... It was most certainly to introduce the principle of adult suffrage that Mr. Gandhi suggested that plan. He has not approved the idea that an indirect method of election should be adopted whereby the people should feel that they were kept out of the right to vote.

Sir Tej Bahadur Sapru: I listened with great attention and interest to Mahatma Gandhi's exposition of the principle of adult suffrage, but I am very much of the view that it is much lower than that recommended in the Nehru report. If I am wrong, will you please correct me ?

Sir Samuel Hoare: Pandit Malaviya, it would still be direct election. You are now making an argument in favour of adult suffrage. That was not the subject to which the Committee was addressing itself yesterday, so

I understand. That subject was the alternative of direct and indirect election ; and, as I understood Mahatma Gandhi's speech, he was in favour of adult suffrage, but he was also in favour of indirect election.

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†*Colonel Haksar:* .....I do not think that I need go on further. I would merely echo the words of our esteemed friend, Pandit Malaviya. If I might summarise what he said in that portion of his speech, it was this. The paramount consideration is to create a State in India in which no part will stand outside that State. The paramount consideration is to unite the country. If that be the paramount consideration, I say that that object should be achieved at all costs, and that nothing should be allowed to come in the way of the attainment of that object.

Dr. Ambedkar: Not at all costs—not at our cost!

Twenty-sixth Sitting—21st September 1931

HEAD 3

(*Relations between the two Chambers of the Federal Legislature*)

‡*Dr. Ambedkar:* There is one question I should like to put, if I may interpose at this point. Sir Tej said that, in the matter of Supply or Money Bills in general, the Upper House should have the right to make suggestions and references to the Lower House; but what happens if the Lower House does not accept the suggestions made ?

Sir Tej Bahadur Sapru: Then the Upper House is tree to reject the Bill, but if a deadlock thus arises you can follow to the South African precedent and adopt their procedure.

Dr. Ambedkar: How can a deadlock arise if the Upper House has power only to make references or suggestions ?

Sir Tej Bahadur Sapru: It may reject the Bill completely.

Sir Muhammad Shaft: Then what is the substantial difference between an amendment which is referred back to the Lower House and a suggestion to the Lower House which is backed by power to reject ? What is the substantial difference between the two ? The final decision is to be by Joint Session of the two Houses.

Sir Tej Bahadur Sapru : In the first place, it is more consistent with modem practice.

Dr. Ambedkar: According to your suggestion there would be no vital difference between Money Bills and others except this, that with regard to a Money Bill the Lower House alone would have the right of initiation. In all other matters the two Houses would be equal ?

Sir Tej Bahadur Sapru: That, in effect, is what I have said.

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†Proceedings of the Federal Structure Committee and Minorities Committee, Vol. I, p. 205.

‡*Ibid.,* p. 207.

†Mr. *Zafrullah Khan:* My submission, therefore, is that, having regard to the proposed strength—though I do not know whether that relative strength will be maintained—it is only consistent with the views expressed so far that the majority required should not be a simple majority or even an absolute majority of the total number of Members of both Houses, but a higher majority than that.

Dr. Ambedkar: Would Mr. Zafrullah Khan permit either Chamber sitting separately to decide upon measures by a simple majority or would he require an actual majority of the Members in that case ?

Mr. Zafrullah Khan: A simple majority.

Dr. Ambedkar: Then I do not see why they should not decide questions by simple majority when they are sitting together.

Sir Muhammad Shaft: Because there is a difference of opinion between the two Houses.

Mr. Zafrullah Khan: Very often Members are not able to see the points of view of other Members; but one reason will be that the character of the two Houses will be different.

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‡*Sardar Ujjal Singh:* So far as money matters are concerned, I would like to give a few illustrations from present day federations. Take first the Dominion of Canada, a Member of the British Commonwealth. There, Sir, section 53, which has already been pointed out by various speakers, only says that —

"Bills for appropriating any Part of the Public Revenue, or for imposing, any Tax or Impost, shall originate in the House of Commons." In Canada the powers of the two Chambers have not been definitely defined. The reason for this is that, under section 18, it is laid down that Canada will follow generally the British model. It says :

> "The Privileges, Immunities, and Powers to be held, enjoyed, and exercised....."

Dr. Ambedkar: That has no relevancy to this ; it is a privilege inside the House.

Sardar Ujjal Singh: I beg your pardon.

> "The Privileges, Immunities, and Powers to be held, enjoyed, and exercised by the Senate and by the House of Commons....."

it does not mean the Members of the House of Commons.

Dr. Ambedkar: No, Sir. If you refer to the Preamble, you will see there that the Canadian Constitution lays down that the Canadian Constitution shall be similar to that laid down in the United Kingdom ; and you will see that the relations between the House of Commons and the House of

†Proceedings of the Federal Structure Committee and Minorities Committee, Vol. I, p. 242.
‡*Ibid.,* p. 249.

Lords are to be the governing principle in Canada, but the privileges of the House of Commons in Canada are not affected there.

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†*Dr Ambedkar:* The views which have been expressed so far have struck one note which I think is common to all; and that is, that in regulating the relations of the two Houses in the future Constitution of India, there should be equality of status, equality of power, granted to them, except of course in such small and minor matters as the right of initiative with regard to Money Bills and the right of voting. Bearing that, the general consensus of opinion, I think, was that the two Houses should enjoy equality of position.

Now, in all humility and with all respect to the gentlemen who have spoken before me, I must say that I cannot agree with their views. The reason for the difference of opinion that exists between myself and them appears to me to arise from the simple fact that we take a totally different view of the functions and the purposes of the Second Chamber. I could quite understand the views of those gentlemen who propounded yesterday the proposition that the two Houses must enjoy co-equal powers if our Legislature were so constituted that each Chamber represented, to use ancient language, separate Estates of the Realm. If the Lower House were composed of classes which were not represented in the Upper Chamber, and if the Upper Chamber were composed of classes which were not represented in the popular Chamber, then there would be something to say for a view of the sort that was expressed yesterday. But, if our Legislature were constituted on the plan of what I call separate Estates of the Realm, I, for one, would not give my consent to a bicameral Legislature ; for, speaking for the masses—I am a rival of Mahatma Gandhi in this respect—speaking for the masses, I could not consent to such a Legislature, and thereby consign their destiny to a government working under a system of this kind and thus to use an expression of the late Lord Asquith—functioning under a system of false balances and loaded dice.

As a matter of fact, the Houses of our Legislature, unless I am mistaken, are not going to be constituted on the basis of separate representation of separate Estates. If I understand correctly the composition of the future Legislature, I take it that the Lower Chamber will be a popularly constituted Chamber—a Chamber which will represent each and every class, each and every shade of public opinion. That being so, I submit that we cannot have a Second Chamber which would claim to be its rival or which could claim to have co-equal status. That being my view, I submit, Lord Chancellor, that so far as the question propounded in sub-head (*ii*) of Head No. 3 is concerned, I would answer it by saying that the decisive voice must be vested in the Lower Chamber.

Chairman: Would you put that in the constitution, Dr. Ambedkar ?

†Proceedings of the Federal Structure Committee and Minorities Committee, Vol. 1, pp. 266-70.

Dr. Ambedkar: Yes, I think it could be done.

Chairman: It could be done ; but would you favour it being ?

Dr. Ambedkar: Perhaps you would be kind enough to give me time to deal with that later on. This must particularly be so in the case of Finance Bills. The Second Chamber, in my opinion, may have the power to make suggestions for the consideration of the Lower House, which the Lower House, may accept if it likes; but the Second Chamber shall not only have no power to initiate a Finance Bill, but it shall not have the power to amend it; and a Finance Bill must become law, as passed by the Lower House, even if it was rejected by the Upper House.

Now, I recognise that the proposal which I have made appears to be a very radical proposal—in fact, I think it might be described as a revolutionary proposal; but, My Lord Chancellor, if so, it is only because yesterday, when our learned colleagues Sir Tej Bahadur Sapru and Sir Muhammad Shafi dealt with this question, they did not refer to some of the most modern constitutions. It was a surprise to me that they should have confined themselves to drawing illustrations from the relatively ancient Constitutions of the Dominion of Canada, Australia or South Africa. The Canadian Constitution was framed in 1867, the Australian in 1901, the South African in 1909. I do not know why they did not consider the constitutional relations that exist between the House of Commons and the House of Lords here. I do not know why they did not consider the relations that exist, for instance, between the two Houses in Ireland ; nor do I quite understand why they forgot to consider the proposals of the Bryce Committee. If they had done so, I am sure that the surprise with which this proposal of mine has been received by members of the Committee would not have existed ; but, as they have not done so, I would venture to support my proposal by citing precedents for it. Now, my proposal is exactly the proposal that is embodied in the Parliament Act of 1911. There it is provided that, so far as a Money Bill is concerned, the House of Lords may consider, but the House of Commons is supreme ; and it is provided in the Act that when a Money Bill is considered and passed by the House of Commons it shall become law, notwithstanding the absence of consent of the House of Lords, provided His Majesty gives his Assent to the Bill. Again, My Lord, this is the relationship that is laid down between the two Houses, so far as Money Bills are concerned, in the Irish Constitution. Section 35 of the Irish Constitution says :

"Dail Eireann shall in relation to the subject matter of Money Bills as hereinafter defined have Legislative authority exclusive of Seanad Eireann."

Then Article 38 says that —

> "Every Bill initiated in and passed by Dail Eireann shall be sent to Seanad Eireann and may, unless it be a Money Bill, be amended in Seanad Eireann."

and so on,

"but a Bill passed by Dail Eireann. . . . . "

and then the rest follows that Article.

The next authority that I would cite in support of my proposition is the recommendation of the Bryce Committee. Now, as all of us know, this was a most representative Committee—a Committee the membership of which was drawn both from the House of Commons and from the House of Lords—and the Committee came to the unanimous conclusion that at least so far as Money Bills were concerned, the provisions embodied in the Parliament Act of 1911 were right and proper.

Then, My Lord, I would cite a third authority in favour of this proposition. The Report of the Bryce Committee and the recommendations made by it were not shelved; they were considered by the Coalition Government of 1922. Resolutions were moved (I am glad to see that Lord Peel is here) showing what action the Government of the day was prepared to take upon the Report of the Bryce Committee. The Resolutions were placed before Parliament on the 11th July 1922. The Fourth Resolution reads as :

> "That while the House of Lords shall not amend or reject Money Bills. The decision as to whether a Bill is or is not a Money Bill or is partly a Money Bill and partly not a Money Bill shall be referred to a Joint Standing Committee of the two Houses. The decision of which shall be final."

The principle recommended by the Bryce Committee that Money Bill shall be the exclusive concern of the House of Commons was accepted and affirmed by these Resolutions. Let me here quote the speech made by Viscount Peel, then the Secretary of State for India, on these Resolutions. In moving the Resolutions he said that the Resolutions were a general sketch laying down principles only. He went on to say that the Second Chamber should not have equal power to or become a rival of the House of Commons nor have the power of dismissing Governments or making the Executive equally responsible to both Chambers.

I think that I have given sufficient authority in support of the proposition which I have placed before this Committee for its consideration.

Lord Peel : May I suggest that that was a Coalition Government?

Dr. Ambedkar: It was a Coalition Government

Lord Peel: In a Coalition Government you cannot say everything that you want to say.

Dr. Ambedkar: Your Lordship may have made mental reservations—I cannot say—but there it is. The Coalition Government was a Government in which more than one Party had joined. Therefore, the statement made in the name of the Coalition Government was a statement which had the support of more than one Party, including Lord Peel. I submit that I have cited sufficient authority to show that the proposition that I have placed before this Committee is not a revolutionary proposition.

Sir Tej Bahadur Sapru: May I ask Dr. Ambedkar if he will give a reference to any federal constitution to support his point of view ? England is not

a federation, and Ireland is not a federation.

Dr. Ambedkar: That is so.

Sir Tej Bahadur Sapru: The Bryce Committee had nothing to do with a federation.

Dr. Ambedkar: My reply is that unless your federal constitution was so composed that the Upper House exclusively represented some other interests not represented in the Lower Chamber, the proposition would stand. This has nothing to do with the form of the Government, whether it was unitary or federal.

Sir Provash Chnnder Mitter: I should like to ask one question. The House of Lords was a hereditary House. Was not the Irish Upper House one at that stage also ?

Dr. Ambedkar: I am submitting that even the House of Lords, which is a most ancient House, with all the dignity, traditions and privileges behind it, consented to this revolutionary change. What are the Indian States as compared with the House of Lords, if I may submit it with all due deference ?

H.H. The Maharaja of Bikaner: With all due respect to the great Peers of the British Realm, the States possess sovereignty over any territory which is not British territory, whereas even the most important Peers of the Realm and their estates are in a totally different position.

Dr. Ambedkar: The sovereignty is subject to the influence and power of the House of Lords.

Sir Muhammad Shaft: May I ask Dr. Ambedkar what are the privileges of the House of Lords ?

Dr. Ambedkar: Taking this position, the next thing that I would submit is that the constitution should contain a definition of what a Finance Bill is. It may be defined, as has been suggested, in the way in which it is defined in the Irish Constitution, which is not different from the one given in the Parliament Act of 1911.

The next point that I would submit, arising out of the matter, is that a Member in charge of a Bill should have the privilege of. claiming that his Bill is a Finance Bill. If there is a dispute between the two Houses as to whether or not a Bill claimed to be a Finance Bill is a Finance Bill, I submit that the dispute should be resolved by the decision of a Joint Committee of both Houses, in which each House should be represented by a number of Members proportionate to its strength, and in which all parties should also be represented according to their strength.

Sir Maneckjee Dadabhoy: You want to make a departure from the existing practice.

Dr. Ambedkar: Very much so.

Mr. Zafrullah Khan: If the existing practice were satisfactory we would not be here.

Dr. Ambedkar: The next matter to which I want to come is non-financial

Bills. In the case of non-financial Bills I am prepared to modify the principle applicable to Finance Bills, but for only two purposes. First, the Second Chamber may have power to revise and amend non-financial Bills brought up from the Lower House, subject to the proviso that no amendment shall be made by the Second Chamber which is of a financial character. Secondly, the Second Chamber will have power to hold up, and to enforce so much delay (and no more) in the passing of a non-financial Bill into law, as may be necessary to prevent hasty action, or as may be needed to enable the opinion of the electorate adequately to be expressed upon it. In view of this, my answer to the question propounded in the sub-head dealing with non-financial Bills is that the Upper House should have the right to amend a non-financial Bill. If the amendments are accepted by the Lower House, well and good ; but if they are not accepted, then the constitution should provide that, if a non-financial Bill is passed three times by the Lower Chamber in three different sessions of its life, it shall become law, notwithstanding the opposition of the Second Chamber. Lastly, I submit that these relations between the two Houses should be embodied in law, and should not be left to convention. That is all that I have to submit.

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†*Dr. Ambedkar:* Is it your view, Mr. Gavin Jones, that the Constitutions of South Africa and Australia have defined the relations between the two Houses in the manner in which they have done because of the fact that they knew that they were drafting a Constitution for a Federal form of government ?

Mr. Gavin Jones: Yes, certainly.

Dr. Ambedkar: Then why is it that the Canadian Constitution did not lay down any rules regarding the relations of the two Houses ?

Sir Muhammad Shafi: Because the general rule is that the relations shall be the same as those of the House of Lords and the House of Commons.

Dr. Ambedkar: But the House of Lords and the House of Commons make a unitary government, not a federal government. I said this has nothing to do with unitary or federal form of government; and, if you will permit me to proceed, I will say that the various Dominions made the relations of the two Chambers in their constitutions what they were as they found them existing between the House of Lords and House of Commons at the time when they made their constitutions. They were not drafting them either for federal or for unitary. The Canadian Constitution said —

Chairman: You must give Mr. Gavin Jones a chance to speak, Dr. Ambedkar.

Mr. Gavin Jones: All that I would say is that the Australian Constitution is a federal constitution.

†Proceedings of the Federal Structure Committee and Minorities Committee, Vol. I, p. 281-82.

Dr. Ambedkar: Certainly.

Mr. Gavin Jones: I will also say that Australia is one of the most democratic countries in the world.

Dr. Ambedkar: I quite agree.

Mr. Gavin Jones: If they found it necessary to have all these safeguards, I think that it is very advisable that we should have them in India.

Dr. Ambedkar: That is another matter. The point is whether Australia made the provision it did in this connection because it wanted a federal constitution. I say that they simply took their relations as they found them in England at the time that they drafted their constitution.

Twenty-eighth Sitting—23rd September 1931

HEAD 1

(*Strength and Composition of the Federal Legislature*)

**Dr. Ambedkar:* I do not propose to say anything on sub-heads (i), (ii), (iii) and (v). I agree with what my friend, Mr. Joshi, said this morning upon all those points except in one respect. I am not wedded to any particular figure regarding the composition of the two Chambers. In my opinion, a given figure ought not to be our starting point. The figure ought to be the resultant of all relevant considerations. I may also say here that my sympathies are in favour of a larger Chamber, because I think that a Chamber, being a deliberative body, ought to be constituted in such a manner that all interests can find their place in it, without any particular interest having to be cramped into it.

There is one argument that has been brought forward against a large Chamber namely that our Chambers must be business-like. I think there is some force in that argument, but I do not quite understand how the strength of the Chamber has anything to do with its business character. I should have thought that the business character and despatch of a Chamber depended less upon the numbers of which it was composed, and more upon the Standing Orders and the rules of business that it had framed for itself. Consequently, I would not limit it by that consideration.

The point with regard to which I propose to speak in particular is subhead (iv). Taking part (*b*) of sub-head (iv) first, it reads thus—

> "To what minimum extent must the adherence of Indian States be secured in order to justify the initiation of proceeding of the Federal Structure Committee a Federal Constitution ?"

It seems to me, with all respect, that that is a question which ought to be addressed to His Majesty's Government It is they who ought to tell us what number was, in their opinion, necessary before the Federation could be initiated.

*Proceedings of the Federal Structure Committee and Minorities Committee, Vol. I, pp. 344-46.

There is one question, the veil from which has not as yet been lifted. We are all told that the Indian Constitution of the future must be a Federal Constitution ; but no one has yet made it clear whether it is the view of those who assert that proposition that the entry of the Indian States is a condition precedent for the establishment of a responsible government in a federal form. It is a subject on which it is difficult for me to speak unless I know definitely what is the view of those who take their stand upon that proposition. If you wish me to answer that question, then I will do so for myself; and my answer is that we need not wait for the adherence of any prescribed number of States for the initiation of the Federal Constitution. I do not know that there would be any British Indian who would like to put the establishment of responsible government in cold storage until the Princes make up their minds to enter into the Federal Government of India. I therefore think that all that we need do for the initiation of the Federal Government of India is to put a clause in the Constitution to permit His Majesty, by Order in Council, to admit new States as they desire to come into the Federation. This is not something which is new. Such an arrangement finds a place in the Canadian Constitution, Sections 146 and 147, and in the Australian Constitution, Sections 121 to 124. The Canadian Constitution, Section 146, provided that, in the case of other units, which were not included in the Federation at the time when it was formed, in 1867, and which thereafter showed their willingness to enter into it, His Majesty could, by Order in Council, admit them as units of the Constitution. I think that it would be sufficient for our purposes to initiate the Federal Constitution with a clause of this sort. This would be consistent with the freedom of the Princes to enter or not to enter the Federation.

Coming to (*a*) of sub-head (*v*), we have had the suggestion from His Highness The Maharaja of Bikaner that the States joining the Federation, whether one or all or a few, should be entitled to exercise the whole of the voting strength that is assigned to them. In all humility, I submit that that is a proposition which to my mind is an astounding proposition. It is a proposition, if I may say so with due respect, without rhyme or reason. No justification has been made out for what I may call an extraordinary proposition of this character. What does it mean ultimately ? It means this—that a single Prince coming into the Federation and taking part in legislation affecting the destinies of subjects of British India, will be able to throw in, in his voting capacity, the whole of the power of the Native States, without the British Indians participating in the Legislature having any right to do anything to affect the destinies of the subjects of those Princes who do not choose to come into the Federation. It is a terribly one-sided arrangement. A Prince who chooses to keep outside the Legislature will, under this provision, be able to acquire and transfer his vote to a neighbouring Prince or his colleague and give him the power to affect the destinies of British

India. That, I submit, is something which is without justice and without equity in it, and it is something to which I, for myself, can never consent. The only right thing and the only proper thing, would be that the voting strength of such Princes as would be willing to come into the Federation should be confined to the particular quota of votes that will be assigned to them under the arrangements proposed by Sir Mirza Ismail. If a single Prince comes in, and if he has one representative, he will be entitled to one vote. If groups of Princes come in, and under the system proposed by Sir Mirza Ismail the group has got two votes assigned to it, the group will have to come as a group and will not have the power to exercise more than its two votes. The other arrangement would be one to which I, at least, would be unable to give my consent.

Thirtieth Sitting—25th September 1931

HEAD 4

(*Distribution of Financial Resources between the Federation and its Units*)

**Dr. Ambedkar:* I attach a very great deal of importance to the point which has been raised by Sir Muhammad Shafi. I hope that you will provide us with an opportunity, at least later on, to discuss this question—whether this recommendation made by the Federal Structure Sub-Committee of the division of subjects into "Central" and Federal should be incorporated in the Constitution. Another point which I would suggest for your consideration is whether it would not be proper first to consider that subject, and then to refer this matter to the Finance Sub-Committee, or whether you should have the Finance Sub-Committee and then consider this matter afterwards. That is a matter for your consideration. I should have thought that it would be much better for us to come to some conclusion, one way or the other, whether we retain this dichotomous division in the constitution, or whether we had not better hand over those subjects to the Sub-Committee for consideration.

Thirty-fourth Sitting—14th October 1931

HEAD 4

(*Distribution of Financial Resources between the Federation and its Units*)

Discussion on the Report of the Federal Finance Sub-Committee

†*Dr. Ambedkar:* My Lord Chancellor, we have heard the debate that has been going on for the last two days on the Report of the Finance Sub-Committee, and I am afraid that the debate has become somewhat wearisome and tiresome. I should not have intervened in this debate at all if I had

*Proceedings of the Federal Structure Committee and Minorities Committee, Vol. I, p. 418.

†*Ibid.,* pp. 529-34.

not found myself in disagreement with the majority of the recommendations made by the Sub-Committee.

The first problem with which the Sub-Committee has dealt is the problem of the division of resources between the Federal Government and the Units ; and, in making the recommendation which the Sub-Committee has made, it has proceeded upon certain principles applying to the division of resources as between the Federal Government and the Units. Those principles are referred to in paragraph 8 of the Report, and there it is suggested that a proper system of allocation of revenues between the Federal Government and the Units would be that "indirect" taxes should go to the Federal Government and "direct" taxes should go to the Units. Now, that is a principle to which I venture to take exception : and the first thing that I would say is this, that this is something which has no foundation in precedent at all. I have examined with much care the constitutions of most of the Federal Governments, and I find that there is no authority for the principle which has been enunciated in paragraph 8 of the Finance Sub-Committee's Report. Take, for instance, the Constitution of Canada, Section 91 and Section 92. There the scheme laid down is that the Provincial Governments in Canada are restricted to what are called "direct" taxes, but the Central Government is not restricted to "indirect" taxation. The liberty of the Central Government to have either a "direct" tax or an " indirect" tax is kept intact in Canada. If you take the Australian Constitution, Sections 86, 69 and 90, you will see that the same result is arrived at, although by a different method. These sections provide that the States shall not levy Customs and Excise. Of course, from that it does not follow that the Central Government in Australia can levy only Customs and Excise. There again the liberty of the Central Government in Australia to levy "direct" taxation is preserved intact. The Sub-Committee has made a reference to the fact that the system which it described in paragraph 8 of the Report prevailed in the United States until the 16th Amendment to the Constitution was passed in 1913. I beg respectfully to submit that that is an error. The United States Constitution, even as its very inception, never laid any limitation upon the power of the Central Government in the United States to levy " direct" taxation. If you refer to Article I, Section 2, of the United States Constitution, you will find distinct provisions stating that the Central Government in the United States shall have liberty to levy "direct" taxation. The only limitation that was put upon the authority of the Central Government in the United States to levy "direct" taxation, was that "direct" taxation, if levied at all, was to be apportioned amongst the various States according to population. The only provision that was made by the amendment of 1913 was that this limitation upon "direct" taxation on the part of the Central Government—namely, apportionment according to population—was abolished. But the right existed from the very start. Not only so, but it was exercised in 1864 by the United States,

and also in 1894. The only country which had for some time a system, which was in accordance with the proposition enunciated by the Committee, was Switzerland. There the Central Government was entirely dependent upon "indirect" sources, while the Cantons had the power to levy "direct" taxation. But I do not suppose that any member of this Committee would really be so bold as to draw a moral from the experience of Switzerland for the purposes of the Indian Federation. There would be no purpose in comparing, if I may say so, chalk with cheese. And, even there, the Swiss Constitution had to give up this system in 1915 and permit the Central Government to levy "direct" taxation on the citizens of the State. Consequently, in so far as this proposition is going to serve as a direction to the Expert Committee that is to be appointed, I am unable to give my concurrence to it.

Coming now to the actual division of resources proposed by the Sub-Committee in paragraph 10, of course, the only test that would be applied to this allocation is the test of adequacy. Is the allocation made in paragraph 10 such as to give both to the Central Government and to the Units the necessary adequacy of revenue ? Now, it is not possible to examine the scheme by that test, because—without meaning any offence to the Sub-Committee—the Report is absolutely bare of the necessary Budget Estimates that one would have to have before oneself in order to say whether the allocation is adequate or not. The division seems to have been based on the assumption that the welfare functions are largely Provincial, and that therefore the Provinces must get expanding sources of revenue. That, of course, is true in the main ; but, in so providing, it seems to me they have denied to the Federal Government both adequacy and elasticity in its fiscal system.

Take the revenue side of the proposals as contained in paragraph 10 of the Report of the Sub-Committee. You have first of all Customs as a source of revenue. Now, there are various factors on which the Customs revenue would be dependent. First of all, it would be dependent upon trade prosperity or trade depression. In times of depression it is obvious that exports would be reduced, and also the consuming power of the people, and to that extent imports would also be reduced ; and that would mean a direct reduction in the Customs revenue. Secondly, this source of revenue is largely dependent upon the particular kind of tariff policy that will be pursued in times to come. It may be that there may come into power in India a party which may believe in absolute protection, creating a dead wall against any imports of any sort from outside that are likely to compete with industry and products at home. If that happens—if imports are shut out by a policy of extreme protectionism—that would cut at the root of the Customs revenue. If, on the other hand, there comes a party in power which believes in free trade and no protection, that again will make the Customs revenue a very bare and slender source for the Federal Government to depend on.

And now, let us take the second source of revenue for the Federal Government—Opium. According to the Government of India's Despatch, I find the

Government of India say that we shall lose all our revenue on Opium exports, which amounts to about 2 crores, but shall still retain a small sum of 10 or 15 lakhs from the sale of medical Opium. That shows how meagre is this source of revenue for the Federal Government.

The third source of revenue which has been assigned to the Federal Government by the Sub-Committee is the Salt-tax. Now, as we all know, this source has been a matter of contention and has been dragged into the vortex of Indian politics ; and, if the Congress Party had its way, this tax would vanish altogether. Now, apart from the question of whether the Congress would succeed in removing the tax altogether, it is absolutely certain that this tax. which is so intimately bound up with the standard of living of the ordinary masses of the people in India, can never be depended on to give a very large source of revenue to the Federal Government.

Lastly, you have the Corporation tax, which is suggested by the Sub-Committee as a source of revenue for the Federal Government. I am informed that its yield is somewhere about 3 crores, so that obviously it is at the present moment a source of very small dimensions. It seems to me that, if we agree that industrialisation is a very important thing for the prosperity of India, and if we further agree that, for industrialisation, the incorporation of capital is also necessary, then I am afraid that we cannot increase this tax to any very large extent, for fear of penalising incorporation.

This is what I feel regarding the revenue side of the Budget. Coming to the expenditure side, the Sub-Committee has proceeded upon the view that the Government at the Centre will have very little to do except to defend. I do not agree that that can be the view of the function of any government in modern times. There was a time in history when people thought that the proper function of a government was to provide for nothing but anarchy plus the constable ; but I think we have changed. We believe that the government must provide the constable, but it must also provide welfare. It seems to me—this is my personal view, the view of other members may be different—that the Government at the Centre, for some time at any rate, will have to take upon itself certain welfare functions which to my mind are peculiar to India. I think, and I am going to propose elsewhere, that the Government at the Centre should take upon itself the burden of securing and helping, to some extent at any rate, the welfare of what we call the Depressed Classes. I want that the problem of the Depressed Classes, and the problem of removing Untouchability, should not hereafter be looked upon as a purely Local or Provincial problem. I want that it should be looked upon as a national problem in which the whole of India is interested. I want the Government at the Centre to take upon itself the duty of bringing the jungle tribes, which number probably as many as the Depressed Classes themselves, within the pale of civilisation. I want that Government to take

upon itself certain functions in respect of what are called the "backward tracts". In other words, my submission is that the Government at the Centre should take at least such welfare functions upon itself as will guarantee what I call the minimum of civilised life to every individual and to every community.

Then, again, there may be such afflictions as may affect the whole of India, or as may affect a particular Province and which yet may not be within the competence of that particular Province to deal with. Take, for instance, the curse of malaria. In some Provinces, it is a small malady. In some Provinces, I am told that it is eating into the vitals of the people. The Province may not be sufficiently strong, economically or financially speaking, to eradicate it. It may have to be treated as a national problem, and to that extent the national government will have to take a welfare function upon itself.

Again, the Sub-Committee does not seem to have taken into account the fact that, for certain peculiar reasons, apart from reasons which would be common to all the provinces, the Federal Government may have to give certain subventions, for instance, subventions to the North-West Frontier Province, for the peculiar burdens it may have to bear by reason of its special connection with Imperial problems. Similarly, new Provinces may come into being, and, in order that they may be sustained, the Federal Government may have to give them subventions.

Now, it seems to me that, if you take a broad view of the expenditure side, as I have tried to explain, and compare it with the revenue side as is proposed in this Sub-Committee's Report, it should not be at all an exaggeration if I said that the fiscal system which is adumbrated for the purposes of the Federal Government will be such as will enable it to keep its nose just above the water in ordinary times : and even that may not be so. What is absolutely certain is that, with any gust of adverse wind, it will sink.

Now, take the provisions suggested by the Sub-Committee in paragraph 21 regarding emergency—I ought to say grave emergency. Now, the recommendation made by the Sub-Committee is that the Federal Government should have power to call for contributions from all the Units of the Federation. The question that arises in my mind is, is this a safe and a sure method ? Is this a method which would be a dependable method in all circumstances ? As regards the willingness of the Provinces to pay contributions in a grave emergency to the Federal Government, a view was expressed yesterday by an esteemed colleague. He said that, if the Provinces were to help the Federal Government in a grave emergency with contributions, then the Provinces should have the discretion in determining whether an emergency has arisen or not. Now, I do not think that that is a view that will be accepted by all ; but that view is surely indicative of

one thing—namely, that the Provinces will not be willing co-operators in meeting the deficit of the Federal Government in an emergency that may arise. Could the States be depended upon to meet their share of the contribution in an emergency ? I have raised that question, but I do not know that I should give the answer. In any case it seems to me that it is not a dependable method. As to the solvency of the Provinces, we can be more or less certain. About the solvency of the States in an emergency, for emergency purposes, I, for one, could not be certain of that. Therefore, My Lord Chancellor, my conclusion is that, for the purposes of adequacy, for purposes of elasticity and emergency, the best course would be to widen and broaden the basis of the financial system of the Federal Government. Therefore, my proposal would be that the Income-tax should be treated as a common source of revenue both for the Federal Government and for the Provincial Governments, so that each Government will have the inherent right and authority to tap that source, whenever there is any necessity for it, without having to depend upon such contributions as are contemplated in paragraph 21.

Now, while I am dealing with this, I should like also to make certain observations as to the method of sharing this Income-tax. Before I do so, let me enunciate two propositions. The first is that in any allocation that we may ultimately agree upon between the Federal Government and the Units—I am speaking particularly of the Provinces of British India—we should so contrive matters that the Provincial finance shall be a self-contained system not dependent upon doles or upon contributions. Secondly, I should so contrive the Provincial system of finance that it would not be destructive of that sense of responsibility which every Executive must feel towards its Legislature.

Chairman: Do I rightly interpret your remarks, that it would be most important to get all the Provincial matters into order as soon as possible ? I quite agree with your laying down a canon with regard to Provincial finance, and I gather you mean that all these Provincial questions should be settled as soon as possible.

Dr. Ambedkar: They should be. My submission, following these two propositions, is that I would not approve of such a division of the Income-tax as would permit the Federal Government to fix the rate of taxation and to divide the yield between the Provinces, and itself. I would allocate the basis of taxation, one base to the Federal Government, and another to the Provincial Government. I want the system recommended by the Taxation Enquiry Committee introduced so far as the division of the Income-tax is concerned. I should allocate "personal income" to the Provinces, and the rest of it to the Federal Government, and the rate on "personal income" should be fixed by each Province, and not by the Federal Government, according to its own necessity.

Thirty-fifth Sitting—15th October 1931

HEAD 4

(*Distribution of Financial Resources between the Federation and its Units*)

Discussion on the Report of the Federal Finance Sub-Committee

**Dr. Ambedkar:* My Lord Chancellor, yesterday I pointed out that the fiscal system devised by the Sub-Committee for the Federal Government appeared to me to be inadequate and inelastic, that it was not equal to the strain which was likely to be put upon it by reason of any emergency, and that it was necessary therefore to alter the allocation of the revenues proposed by the Sub-Committee by making the Income-tax a common source of revenue for both. I also said that, in devising a scheme of allocation of resources, two propositions ought to be kept in mind. One was that the system of finance, whether Federal or Provincial, should be autonomous and self-sufficing; and, secondly, that it must not impair the sense of responsibility which the Executive must bear towards the Legislature. It will be obvious that those subventions or contributions are inconsistent with an autonomous and self-contained system of finance. They are bound to impair the sense of responsibility in the Executive towards the Legislature, and they are likely to make the Legislature indifferent to the Executive. Power to refuse supplies and power to refuse appropriation of supplies already secured from outside, are not equally efficacious methods of controlling the Executive and bringing it into conformity with the wishes of the Legislature. From this point of view, the problem of dividing sources of revenue becomes of immense importance. You may divide them in such a manner that the division will make each authority autonomous and self-sufficient, or you may divide them in such a manner that the fiscal system resulting therefrom would not be autonomous and could not be self-sufficient without adjustment by means of subventions and contributions.

In suggesting the particular method of dealing with the Income-tax as a joint head of revenue I have been guided largely by these considerations. There are two conceivable ways of dealing with the Income-tax as a joint source of revenue. First, you may adopt the method of what is called segregation of the source and division of the yield; and, secondly, you may adopt the method of appointment or partition of the source and division of the yield. Under the first method, the fixing of the rate will be within the exclusive jurisdiction of one of the two authorities, and naturally of the Federal Government. The Provincial Authority will only be a sleeping partner entitled to receive a share in the total yield of the tax. Under the second, both will have equal jurisdiction to fix their respective rates of Income-tax. A Province will fix its own Income-tax rate, to be operative within the Province; the Federation will fix an Income-tax rate, to be operative throughout the Units of the Federation. On the basis that the administration and the collection of

*Proceedings of the Federal Structure Committee and Minorities Committee, Vol. I, pp. 534-40.

the Income-tax shall continue to be a Federal subject of administration, my view is that the second method ought to be adopted as the means of allocating the revenue. This would not be very different from the system which prevails in France, Belgium and various other European countries. Under this scheme there will be two Income-tax rates : (1) a Federal rate, fixed by the Federal Government from time to time according to its needs ; (2) a Provincial rate, fixed by the Provincial Governments from time to time according to the financial requirements of each. The tax as a whole will continue, as now, to be administered and collected by the Federal Government.

The advantages of this plan are obvious. First, it will do away with the system of doles and contributions and will help to make the financial system of each Unit autonomous and self-sufficient. Secondly, it will maintain the sense of responsibility of the Executive by compelling it to obtain the consent of the Legislature for fixing its rate of Income-tax as a means of securing its supply. Thirdly—and this is very important, I think—one Province will not be taxed for the benefit of another. Under the other system of the segregation of the source, with its single Federal rate for all Provinces and a division of the yield, the amount raised in a Province will not necessarily be the same as its share in its distribution; some Provinces may be giving more and receiving less. For these Provinces, such a system will be nothing else but a disguised method of taxing one Province for the benefit of another.

Now. the only objection that can be taken to the method I am suggesting arises from those who insist upon a uniform rate of Income-tax as being necessary for trade and industry. Uniformity of rate is, of course, something which is very desirable ; but it is easy to exaggerate the importance of it. India is as large as Europe. There is no uniformity of Income-tax rate in Europe and yet trade and industry are going on as well as anywhere else. Why should it be otherwise in India ? Then again, those who insist upon uniformity in the rate of Income-tax have to explain how they can reconcile themselves to facts, such as they exist, regarding the Land tax in India. There is no uniformity there at all. On the contrary there is a bewildering variety of rates of Land tax. In no two Provinces are the rates the same, nor is the system of taxation in any two Provinces alike. This objection, therefore, must not prevail against the method of treating the Income-tax which I have suggested with a view—with due respect to members of the Sub-Committee—to improving the allocation they have recommended. It meets the needs of all concerned in normal as well as abnormal times.

There is one statement which I made yesterday which I would like to withdraw. I said that my plan was the plan recommended by the Taxation Enquiry Committee. That was a slip due to an error which had crept into the notes which I had made for this discussion. I ought to have said that they considered it; they did not recommend it, although they did not see any insuperable objection to it.

The next point relates to paragraph 12 of the Sub-Committee's Report, where the problem of "residual powers" of taxation is dealt with. The Sub-Committee has anticipated that the decision will be in favour of the residual powers being vested in the Provinces. They have made, on that basis, the recommendation that the power to levy unscheduled taxes should be in the hands of the Units. The Sub-Committee gives no reasons at all why it came to that conclusion, but there is a passage in paragraph 12 which states that the Sub-Committee sees constitutional objections to making any other recommendation than the one that they have made. From this it-follows that the Sub-Committee's view is that, in any Federation, the residual powers of taxation must reside in the Units. Now, my submission is that this is not a necessary consequence of Federation at all. If you will refer to the Constitution of Canada, Section 91, paragraph 3, you will see that the powers of taxation given to the Central Government fn Canada, which is admittedly a federal constitution, are not limited by any such proviso as enters into the recommendation of the Sub-Committee. The paragraph I have just mentioned is the widest possible that can be conceived. It gives the most unlimited power that any Central Government can have in matters of taxation. But perhaps it might be suggested that I have taken a wrong example because, under the Constitution of Canada, the residual powers are with the Central Government and not with the Units. Let me take another example where the residual powers are left to the Units, namely, Australia. There the residual powers of taxation are not given to the Units but are left to the Federal Government. The Australian Constitution, Section 51, paragraph (ii), says that the Central Government shall have the power of taxation, but so as not to discriminate between States or parts of States. Now, that language again is the widest possible language that can be conceived; and it is even suggested that that power is so wide that the Federal Government in Australia can be said to have the power of controlling the taxation system of the States. Let me refer you to the Commentary by Moore on 'the Commonwealth or Australia,' of the first edition, where this point is dealt with. This is what he says with respect to the extent of the power of taxation given to the Australian Federation :

> "It has been seen that, on the establishment of the Commonwealth, the States are subject to the restriction, that they may not tax the property of the Commonwealth; that perhaps this extends to the ' instrumentalities of the Commonwealth' and that, on the establishment of uniform duties of customs, they may no longer impose duties of customs or excise, nor put any tax upon inter-State trade, commerce or intercourse. Further, discriminations injuriously affecting British subjects resident in other States are inoperative."

What follows is very important :

> "Finally, it has been suggested that tine Commonwealth Power to

make laws with respect to 'Taxation' may give very extensive powers of regulating taxation by the States."

This is a constitution where the residuary powers lie with the States; yet, in financial matters, the residuary powers are not with the States but with the Federal Government. Take the Constitution of the United States of America, Article I. There again, the residuary powers of legislation are with the States and not with the Federal Government, yet Section VIII of Article I of the United States Constitution provides :

"The Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defence and general welfare of the United States ; but all duties, imposts and excises shall be uniform throughout the United States."

There again, you do not find any limitation whatever placed on the taxing powers of the Central Government in the United States. I therefore do not see any substantial reason, so far as constitutional law is concerned, for the kind of recommendation that the Sub-Committee has made.

My further submission, however, is that this question of whether the residuary powers of taxation should be with the Federal Government, or whether the residuary powers should be with the Provinces, is an entirely artificial question which has arisen in no other country. And the reason why it has arisen in India is because we have somehow introduced in our Devolution Rules of the present day a silly system—if I may be permitted to say so—of what are called schedules of taxation. This did not exist anywhere else and was never prescribed by any government or any constitutional authority that drafted a federal constitution. We are somehow not only dividing the spheres of taxation, but we are, by having these schedules, prescribing the particular method by which and the particular form in which, that power of taxation shall be exercised; I do not think that such a thing is at all necessary. First of all, it is going to stereotype the taxation system and is going to limit the ingenuity of future Chancellors of the Exchequer. I do not think that any Chancellor of the Exchequer would like to take upon himself the responsibility of managing a financial system in which his discretion was limited, not only in regard to his powers of taxation, but also in the choice of the particular taxes that he might levy.

My view, therefore, is that we should altogether delete from our constitution these schedules and simply divide the field of taxation by the method that is followed in other federal countries- by putting a simple limitation on the Provincial Governments that they shall not make use of Customs or such Excises as the Federal Government chooses to impose, and leave the rest of the field for both Governments to divide in the way they like. That is exactly what has been done, as I say, in other federal countries ; and I do not think, therefore, that it is at all necessary to introduce this principle of residuary powers of taxation in our constitution.

The next point I propose to deal with is the position of the States in Federal finance. When I turned to this part of the Report of the Sub-Committee, the first thing I naturally tried to find out was what head of revenue has the Federal Government gained from the States as an addition to its financial resources. I find that there is no additional resource given to the Federal Government by the States. As to Customs, it is obvious that this revenue was never the revenue of the States to which they had no claim, and under which, therefore, they have taken no additional burden upon themselves. As to Salt, it is a revenue the right to which is vested in the Indian Government and not in the States by reason of the purchase. As to Currency profits, they are due to the credit of British India. Regarding cash contributions and revenue of ceded territories, these have been the sources of the revenue of the Central Government, and would have been so even without Federation. It is obvious, therefore, that the States, by entering into the Federation, have surrendered nothing to which they can be said to have any rights. The only contribution that I see that they are making is in the form of a military force for the defence of India. Looking at the figure mentioned in the Report of the Committee which was appointed by the Government of India, I find that the total expenditure of this military force incurred by the States today is a paltry sum of 2 crores and 38 lakhs.

Another thing which I looked for in the Report was the comparative treatment accorded to the Provinces and the States in respect of the financial burdens of the Federation. When I saw this, I came to the conclusion that the Sub-Committee had thrown the principle of equality of burden to the winds. Just see how this inequality runs through the whole Report. First the Provinces are to bear both the "direct" as well as the "indirect" taxes of the Federal Government. The States are to bear only "indirect" taxes. The Committee does not even insist upon their accepting the Corporation tax. Not only are they not to bear "direct" taxes, but they are to be relieved of such "direct" taxes as they do bear at present, such as tributes and cash contributions. Secondly, the Provinces are prohibited from levying internal Customs, but the Staves are allowed to retain intact their right to levy those Customs, although it is admitted by the Sub-Committee that one of the objects of the Federation is to have freedom of commerce throughout the Federation, and although the Committee recognises that the continued maintenance of the right of the States to internal Customs is likely to impinge upon Federal receipts. Thirdly, the Provinces are required to pledge their revenues as a security for Federal loans ; but the States, although they are to be Units of Federation just as much as the Provinces, are to be free from the burden of this obligation.

One can quite understand the reasons for allowing the States the right to retain their internal Customs. One can see that, if they are compelled to take off internal Customs all at once, it will disarrange their financial stability. But one cannot understand why the Sub-Committee should have allowed the States the freedom from bearing direct burdens of the Federal

Government, nor can one understand the reasons which led the Sub-Committee to recommend that the States should not be required to pledge their revenues in support of Federal loans.

Now, Lord Chancellor, in ceremonial matters a discrimination between the Provinces and the States may be permitted. We may refuse to ourselves the honour of the salutes, and we may let the States have what they want in respect of that; but when it is a matter of the purse, I think we ought to follow the maxim that "business is business". If British India is making a sacrifice in the interests of Federation, it has an equal right to call upon all the other Units to make equal sacrifices in the interests of Federation; and I therefore urge that the following amendments to this part of the Committee's Report be made : —

(1) That the States must accept the right of the Federal Government to "direct" taxation. Until this is done there should not be remission of cash contributions and no consideration of ceded territory.

(2) A time limit should be fixed within which the States should be required to abolish their internal Customs by an appropriate change in their fiscal system which shall not injuriously affect the fiscal system of the Federal Government.

(3) The States must be required to pledge their revenues as security for Federal loans.

That is all I have to say, Lord Chancellor, on this matter.

Thirty-eighth Sitting—22nd October 1931

HEAD 4

(*Distribution of Financial Resources between the Federation and its Units*)

Discussion on the Report of the Federal Finance Sub-Committee

**Dr. Ambedkar:* I should just like to say one thing. Lord Peel said just now that there was general agreement regarding the principles enunciated in the Report of the Federal Finance Sub-Committee. Now, whatever may be the view of the other members of the Federal Structure Committee, I should for myself like to make this reservation, that I certainly do not agree with the principles enunciated by the Federal Finance Sub-Committee ; and I should for myself like to say that I have no objection to the appointment of this Committee, provided it is distinctly understood that the Committee has a right to suggest alterations and amendments of the principles, in order that the future financial system for the Federal Government may be a sound system.

HEAD 8

(*The Federal Court*)

†*Dr. Ambedkar:* Lord Chancellor, it seems to me that, in considering the

*Proceedings of the Federal Structure Committee and Minorities Committee, Vol. I, p. 685.

†*Ibid.*, pp. 689-702.

establishment of a Federal Court in India, there are three questions with which we are mainly concerned. The first question is the jurisdiction of the Federal Court; the second, the enforcement of the judgments and decisions of the Federal Court; and the third, the organisation of the Federal Court. I propose to offer a few remarks on each of these heads, and the first head that I propose to take for consideration is the jurisdiction of the Federal Court.

It is an accepted proposition that one of the functions of the Federal Court is to interpret the Federal Constitution. The distinguishing feature of a Federal Government, as contrasted with a unitary system of government, is that there is, in a Federal Government, a division of functions which constitutes the essence of Federation. There are two spheres, one allotted legally to the Federal Government and another allotted to the State or the Provincial Government; and the important thing in a Federation is to see that the one does not interfere in the sphere of the other. In order to see that there is, of course, the evident necessity of a Federal Judicature which will keep the two governments restricted to the spheres allotted to them. That is one purpose for which a Federal Court is necessary. But it seems to me that there is also a second purpose which a Federal Court of Judicature must perform. The Federal Court of Judicature is also what may be called a Court of international justice. One of the objects which has led many national governments to form a Federation is to see that disputes between different governments and different units which before the formation of the Federation, used to be decided by diplomacy, or by war, failing diplomacy, should be decided by judicial decisions of a Federal Court, to which they are all subjects. That is the view taken by the Supreme Court of the United States of America itself; and, with your permission, I would just like to read a small paragraph from one of the judgments of the Supreme Court of the United States of America reported in Louisiana v. Texas, 176, U.S.

Chairman : What is the date of that ?

Dr. Ambedkar: 1900. This is what Mr. Justice Brown said regarding the function of the Supreme Court :

> "In view of the solicitude which, from time immemorial States have manifested for the interests of their own citizens ; of the fact that wars are frequently waged by Stales in vindication of individual rights, of which the last War of Independence, the Opium War of 1840 between Great Britain and China, and the war which is now being carried on in South Africa between Great Britain and the Transval Republic, are notable examples ; of the further fact that treaties are entered into for the protection of individual rights, and that international tribunals are constantly being established for the settlement of rights of private parties—it would seem a strange anomaly if a State of this Union, which is prohibited by the Constitution from levying war upon another State, would not invoke the authority of this Court to raise an embargo which had been established by another State against its citizens and their

property. An embargo, though not an act of war, is frequently resorted to as a preliminary to a declaration of war, and may be treated in certain instances as a sufficient *casus belli*."

He goes on further to point out that there are many cases which may arise under a Federation which, in the event of the absence of Federation, would be decided by diplomacy or war ; and the Federal Judicature, therefore, in order to prevent such a catastrophe, must make ample provision for a wide jurisdiction of the Federal Court which would enable it to give justice in all such cases. Taking that standpoint, Lord Chancellor, I think that the scheme which was adumbrated in the observations which you were kind enough to address to the Committee the other day, regarding the jurisdiction of the Federal Court, is somewhat inadequate, if you pardon my saying so.

According to the observations which you made the other day, the judicial power is to extend to matters arising between Units of the Federation, State *versus* State, Province *versus* State, and the Commonwealth of India *versus* a State or a Province. I do not know whether the word "State" is used to refer to an incorporated body or to the State in its position of trustee, guardian or representative of the citizens. But, apart from that, it seems to me that the Federal Judicature must make provision for matters arising between one Unit and a citizen of another Unit. Take this case. Assume, that an Indian State, which becomes a Unit of the Federation, borrows money through the contemplated Loans Board in the open market. Assume, further, that a resident of the Province of Bombay subscribes to that loan ; and assume that the State fails to meet its obligation. What is the remedy ? Under the scheme, I do not see any provision made for the Federal Judicature to take due cognizance of a matter of this sort. Take another illustration. We have what are called the ceded territories in the possession of the British Government. The States are demandins that these ceded territories shall be returned ; or, if they are not returned, certain compensation shall be given to them. Suppose that in a ceded territory, the British Government has made a grant of land to a certain individual, and suppose that, after the rendition of the territory to the Indian State, the State Ruler also makes a grant of the same land to another individual. You have here a case where there is one subject matter of the same grant made by two different authorities to two different persons. What is the remedy for the adjudication of a dispute of this sort ? Is the Federal Court going to take cognizance of it or not ? Again, take the case of two persons between whom there is litigation, but who reside in different Units of the Federation. Which is the Court which is going to take cognizance of the case ? These are some of the matters which, I find, are not provided for in the observations that you addressed to us the other day.

Comparing the constitution suggested in your scheme for a Federal Court in India with the jurisdiction of the Federal Courts in Australia and in the

United States of America, I think the scheme entirely falls short of the necessities of a Federal Government. In Australia, under Section 75, the Australian High Court has jurisdiction in all matters (1) arising under any treaty, (2) affecting the consuls or other representatives of other countries, (3) in which the Commonwealth or a person suing or being sued on behalf of the Commonwealth is a party, (4) between States or between residents of different States, or between a State and resident of another State, and (5) in which a writ of mandamus or prohibition or injunction is sought against an officer of the Commonwealth. According to Section 76, it can also have jurisdiction with regard to matters (1) arising under the constitution or involving its interpretation, (2) arising under any laws made by the Parliament, (3) of admiralty and maritime jurisdiction, and (4) relating to the same subject matter claimed under the laws of different States. Turning to the Constitution of the United States, Article 3(2), the judicial power of the United States is said to extend (1) to all cases in law and equity arising under the constitution, the laws of the United States, treaties made or which shall be made under their authority ; (2) to all causes affecting ambassadors or other public ministers and consuls; (3) to all cases of admiralty and maritime jurisdiction ; (4) to controversies to which the United States shall be a party ; (5) to controversies between two or more States; (6) to controversies between a State and a citizen of another State (which of course subsequently has been abrogated by the eleventh amendment of the constitution); (7) to controversies between citizens of different States ; (8) to controversies between citizens of the same State claiming lands under grants of different States ; and (9) to controversies between a State or the citizens thereof and foreign States' citizens or subjects. My submission therefore is that, if this Federal Court is going to be federal in the real sense of the word—that is to say, if it is going to cover all cases of dispute between Units of the Federation or between citizens of the different Units—then the list must be revised and must be brought into conformity with the federal jurisdiction that has been given in countries like Australia or the United States.

Now, the next point that I wish to submit, Lord Chancellor, is this—that although India is going to be a federal country, yet India cannot be satisfied with the extent of jurisdiction which the Federal Courts in countries like Australia and the United States have at present. There are certain peculiar circumstances about India which do not obtain in those countries. Consequently, my submission is that the federal jurisdiction of the Federal Court in India must not only be in conformity with the federal jurisdiction of the Federal Courts in Australia and the United States, but it must have federal jurisdiction in matters relating to fundamental rights and the minority safeguards.

Chairman: Will you refer me to the fundamental rights clause in the U.S.A. Constitution ?

Dr. Ambedkar: Yes, I will.

Chairman: Just tell me where it is, if you do not mind. I know it so well, but at the moment I cannot put my hand on it.

Dr. *Ambedkar:* I am sorry. I have not got it.

Chairman: I was thinking of the clause which began about the privileges and immunities of free citizens in the various States—about the people of each Province and State having free ingress and egress, and that sort of thing. However, we will not waste our time because I cannot put my hand on it at the moment. Section 2 of Article IV is the one I was thinking of.

Dr. Ambedkar: My submission is this — that whatever may be the manner in which we define the fundamental rights, or whatever may be the manner in which we define minority rights, the important problem is to see that they are properly safeguarded. My reasons are these. The Federal Constitution which we are going to have is not going to be, with all the protests that some of us are making, a perfect Federation. We shall have probably a Federation between British India, with all the popular and representative institutions, and the Indian States with no popular and representative institutions in them. I am only imagining. Probably the results may be otherwise ; and, if so, nobody will be more happy than myself. But we shall have this situation, namely, that of a federation between a democracy and an autocracy; and we shall have, as I say, within British India, a government not of political majorities, but a government in the main of communal majorities. My view, therefore, is that the question of the protection of fundamental rights, and the question of the protection of minority rights, assume far greater importance in India than it can assume in any other constitution; and the duty absolutely to guarantee the fundamental rights, whatever they are, and the minority rights, whatever they are, becomes paramount. The best way of doing this seems to me to be to endow the Federal Court with a jurisdiction to hear matters arising out of them. That is my submission. Everywhere, whether a question arises regarding fundamental rights or minority safeguards, whether in British India or in a Native State, the Federal Court must have jurisdiction to hear them.

Chairman: Would you include cases of commercial discrimination ?

Dr. Ambedkar: Yes. If we all agree that it should be a fundamental right that there shall be no commercial discrimination, then it should come within the jurisdiction of the Federal Court, so much with regard to the jurisdiction of the Federal Court.

The next point that I wish to touch upon is with regard to the enforcement of the decisions of the Federal Court. The note which you have been kind enough to circulate, Lord Chancellor, does not suggest any legal measures for the enforcement of the decisions of the Federal Court. The matter, I understand, is to be left to the different States and to the different Provinces ; and you rather give us the admonition that we must not distrust the *bona fides* of the Provinces or the States, and that we must assume that they will faithfully abide by the decisions of the Federal Court and

give effect to them. Now, Lord Chancellor, I feel that we ought to follow the maxim which John Stuart Mill laid down, that if all men were good there would be no necessity for making laws ; but that we are obliged to make laws because we know that certain people are bad. So I rather take the view that the matter should not be left in this undecided manner and I say this, that I am strengthened in the attitude that I take up by the experience of the Supreme Court in the United States. If you will pardon me, I propose to draw the attention of the Committee to the history regarding the enforcement of the judgments of the Supreme Court. I should like first of all to draw your attention to the case of Chisholm *v*. Georgia, decided in 1793. The Supreme Court, under the federal jurisdiction which it had, granted a decree in favour of Mr. Chisholm for the recovery of a certain debt against the State of Georgia. But, as history shows, the State of Georgia rose in arms against the Supreme Court, and refused to honour the decree on the ground that it was an affront to a sovereign State ; and the judgment of the United States Supreme Court remained in abeyance — it was not executed. So much so that it was this attitude of the State of Georgia which led to the eleventh amendment, which took away the federal jurisdiction given to the Supreme Court of the United States as between a State and a citizen of another State. Another illustration is the case of Virginia *v*. West Virginia. After the Civil War there was a partition of the old State of Virginia into two States, Virginia and West Virginia. This occurred in 1861, and, as n part of this agreement, West Virginia agreed to pay a just proportion of the Public Debt incurred by the parent State prior to January 1st, 1861. This obligation was reaffirmed in the eighth article of the West Virginia Constitution. For forty years, Virginia did all in her power to induce, by friendly negotiation. West Virginia to settle the claim. All this Droved unavailing, and. in 1906, Virginia took the matter to the Supreme Court of the United States. West Virginia proved most obstructive, and first of all refused to submit to the jurisdiction of the Supreme Court. It took objection from 1906 to 1911 merely to the jurisdiction of the Supreme Court. Then, when the Supreme Court decided that it had jurisdiction, the Supreme Court appointed a Master to go into the accounts and to prepare a report. A report was prepared, and then again West Virginia took some three years in challenging that report. After that she asked for time for her Legislature to consider whether the obligation should be honoured. That dragged matters on until 1913. Then she asked for time to file a supplementary written statement after the report had been made and objections over-ruled. In 1915, all methods of obstruction having failed, the Court pronounced judgment. For four years. West Virginia refused to look at the judgment, but in 1919 she was persuaded to honour the debt.

Mr. Jinnah: Assuming that difficulty do exist, what do you suggest ?

Dr. Ambedkar: My suggestion is this. I must tell you that my feelings on the subject are really rather high ; and I do say this, that for a long

time to come there will be communalism and there will be provincialism, and I am not at all certain that, in all this turmoil of communalism, the judgments of the Supreme Court or the Federal Court — whichever you like to call it — are not likely to be flouted. As a member speaking for a minority, and as a member speaking for a minority which at present has no rights and which is claiming rights and which meets with opposition in every centres, I am not at all certain that a Provincial Government, backed by a communal majority in the Council, will readily consent to give effect to judgments and to decrees which may not be palatable to its own interests. This is my position. I take a very serious view of the matter and I do say that. Therefore, My Lord, I would suggest that we ought to make provision in the constitution that judgments and decisions of the Supreme Court shall have effect given to them, and I suggest that we should follow and adopt the provisions that are entered in the Australian Constitution. First of all, Sections 118 and 51, paragraph 25, of the Australian Constitution provide, of course, that faith and credit shall be given to all laws. That of course is nothing. It is found also in the Constitution of the United States. Then, with regard to the execution of decrees, you have in the Australian Constitution, under paragraph 34, power given to the Federal Legislature to legislate about matters which are incidental to other powers which are given to it. Then you have certain specific powers given in the Australian Constitution to the Central Government, for the enforcement of decrees and decisions. There is first of all Section 51, paragraph 24, whereby provision is made for inter-State service and execution of judgments as between States, the service and execution throughout the Commonwealth of the civil and criminal process and the judgments of the Courts of the States. That is one thing. Then you have Section 78 in the Australian Constitution —

Chairman: " The Parliament may make laws conferring rights to proceed against the Commonwealth or a State in respect of matters within the limits of the judicial power."

Dr. Ambedkar: Yes, that is one; and as Your Lordship knows, by the Judicature Act, 1903, Part 9, the Federal Legislature in Australia has made definite provision as to how judgments and decrees shall be executed against the States. Then you have Section 120 of the Australian Constitution—

> "Every State shall make provision for the detention in its prisons of persons accused or convicted of offences against the laws of the Commonwealth, and for the punishment of persons convicted of such offences and the Parliament of the Commonwealth may make laws to give effect to this provision."

I therefore submit that some specific power ought to be conferred upon the Federal Legislature whereby it can enforce the decisions of the Federal. Court.

Chairman: What sort of sanction are you thinking of ?

Dr. Ambedkar: I do not know what they would do ; but my submission is that the matter should not be left hanging in the air in this fashion. I was going to show Your Lordship, from certain extracts I have made, that judgments of the Supreme Court of the United States have been absolutely worthless by reason of the fact that they were obsessed by the fact that their judgments may not be executed but may be flouted. In one case, for instance, in the case of a Governor of Ohio State, they did make an order that a certain fugitive offender who had gone into the State of Ohio should be delivered by the Governor. The Governor refused to do so. Then the State of Kentucky asked for a writ of mandamus. The Court said : The Constitution does not give us power to execute our judgment; therefore we shall not give a writ of mandamus. That was so, although they had given a decision that the Governor was bound to deliver the fugitive. I could cite hundreds of cases in which the Supreme Court of the United States has refused to give relief simply because it was oppressed by the feeling that its judgments might not be enforced. Unless we have some sort of provision of this sort, I cannot see how the situation will be rendered safe.

Chairman: What sort of legislation ? Are you suggesting, for instance, that, if judgment was given against Bengal, you should put a bailiff into Bengal in some way ?

Dr. Ambedkar: I mean what I find in Section 78, that in the execution of civil decrees the Treasurer or the person who is in charge of the Treasury shall be bound to pay.

Chairman: Supposing he does not, what happens ?

Dr. Ambedkar: I suppose they will haul him up for contempt.

Sir Maneckjee Dadabhoy: Where will he be tried ?

Dr. Ambedkar: By the Federal Court, wherever it states.

Mr. Iyengur: Who is to execute the warrant of contempt ?

Dr. Ambedkar: The Federal Government by its own officers. I want the Federal Government to have that power. This was one of the implied powers in the United States ; and under Section 120 of the Australian Constitution, the Federal Government has the power to detain offenders against the federal law. Supposing a federal law was passed and a certain citizen of a State abrogated it and the Supreme Court passed judgment against him, and the feeling of the State was so great that they would not keep the man in jail, I suppose, under the power given in Section 120, the Federal Government would have its own prisons. If the Federal Government is to see that justice is done in all matters, it must have the power to see that judgments are executed. How it will do that is a matter beyond me to say now. All I say is that power should be given in the constitution to the Federal Government to see that judgments and decisions are made effective throughout India. It is not necessary for me to repeat that, if the remedy fails, the right also fails.

Mr. Jayakar: If a state of racial or communal warfare should prevail,

no remedy can be devised which may not become futile.

Dr. Ambedkar: It is not for me to answer that. I will take my own case. Suppose, in the Bombay Presidency, we have a Nasik Satyagraha, and suppose we have a fundamental right, which I claim in the first part of this Memorandum which I have submitted, namely, the right to enter the temple. Suppose the magistrate passes an order saying that we are creating a breach of the peace, and that, unless we desist from doing it, we shall be imprisoned. Suppose we go to the Federal Court under the jurisdiction which I say the Federal Court ought to have, and the Federal Court says that the magistrate was wrong. Suppose we come back to the Home Member for the execution of the order. The Home Member, if he is depended on the majority of the orthodox people, will say "I cannot do it," I want the Central Government to have some power to make its laws effective under such conditions.

Mr. Jinnah: I think there is a great deal of force in what you are saying— that in order to execute a decree or a warrant it must be backed up in the first instance by the Police, and, in the second instance, the final authority is the Military. How would you expect the member of your Federal Government in charge to execute that decree or warrant unless he had resort to the Military ?

Dr. Ambedkar: He may have. I am not putting any limitation upon him. I would give him the power that he thinks will be necessary for the purpose. It may come to that. I do not deny it; but what I say is this, that if you want to make sure of the protection of the people under the fundamental rights or under the minority rights, whatever they are, then I say the power must be vested, and for all purposes I say that the power must be vested in the Federal Government, to see that the decisions of the Federal Court are executed.

Mr. Jinnah: It is not only that the power should be invested, but there must be an instrument in their hands to enforce that power.

Dr. Ambedkar: Under this they will have the instrument.

Mr. Jinnah: Power may be vested in the Federal Government, but that power can only be enforced if you have the instrument to enforce it.

Dr. Ambedkar: The Army.

Mr. Jinnah: Quite right; and therefore what the Lord Chancellor has suggested is — and I think you have omitted to take notice of that — that, in the last resort, it will be the Crown who will be responsible for the enforcement of decrees and orders of the Federal Court. And it is stated there that the Crown will be responsible, because I understand upto the present moment that the position is this, that Defence is going to be a Crown subject. Am I right, Lord Chancellor ?

Chairman: Yes. That is the point.

Dr. Ambedkar: But the point I am making is this, that if you are dividing functions between the Federal Government on the one hand and the Provincial

Government on the other hand, then if you do not give the Federal Government the power, legislative or otherwise, to give effect to the decisions of the Supreme Court, it would not be able to do it. That is my submission.

Mr. Jayakar: But, at the same time, the difficulty will not end there. I mean, in the state of communal feeling which you are imagining, the difficulty will not end there.

Dr. Ambedkar: I quite agree that far more drastic measures will probably have to be adopted, and, as we know, in the Swiss Confederation even the military is used—at least, the power is given to the Swiss Federal Government to use the military for enforcing the judgment of the Federal Court in Switzerland. I do not wish to prescribe what means should be adopted, but what I say is this. The difficulty which arose in the United States, that the Federal Government had no power.

Chairman: I quite follow. Therefore, they would not take responsibility.

Dr. Ambedkar: Yes. That ought not to be the situation in India.

Lord Lothian: Is not there this distinction in America that the Federal Authority is able to proceed as long as it is against an individual; but this very question came up in the Convention, and they decided that the Federal Government could not proceed against a State, because one State can only proceed against another by an act of war, and they, therefore, did leave it to the good sense of the community to bring pressure on the State to fulfil the obligations. You can provide upto a certain point in dealing with the individual, but you cannot provide within a Federation for the proceeding of the Federal Government against a State Government except by embodying an act of war as part of your constitutional procedure; and that nobody will do. That is your difficulty.

Dr. Ambedkar: Well. I do not know; but, as I say, in the United States also the President has the power to use the military for suppressing rebellion.

Lord Lothian: And that becomes an act of war, and that has happened in the past

Dr. Ambedkar: That provision is embodied in the United States Constitution.

Mr. Jayakar: But, surely, the choice will lie between civil war and federal loyalty?

Dr. Ambedkar: That I perfectly realise. I am not denying the point that you are making. What I say is this, that we should not have the position that we have in the United States—that although there is a Federal Court there for the purpose of deciding disputes arising out of federal jurisdiction, there is no power in the Federal Government to make those decisions effective. What I mean is that our Federal Government or Federal Legislature should have such a power in the way in which the Australian has it.

Mr. Jinnah: The distinction is this, that in the United States the Federal Government is in charge and control of the military. You assume that your

Federal Government which you are proposing should take over the control and responsibility for the military at once.

Dr. Ambedkar: Well, if not now, later on.

Mr. Jinnah: What is to happen in the meantime ?

Dr. Ambedkar: As I said, that is another matter. The necessity for the employment of the military may not arise.

Mr. Jayakar: You will have to go to the Crown to ask for military help.

Dr. Ambedkar: Yes.

Mr. Jayakar: The Crown is the ultimate military authority.

Dr. Ambedkar: I do not think that takes away the point that I am making. The power ought to be given to the Federal Legislature. In the United States of America, people have been hanged by the States, although a writ of error has been issued by the Supreme Court.

Chairman: I have heard it said, with regard to English Common Law, that it is no use pulling up a plant repeatedly to have a look at the roots and to see whether it is growing. English Common Law will not stand that sort of thing, and you will find that no code of law will. You are putting very interesting legal conundrums; but the short answer is that anybody can make a thing unworkable, and it is no good always diving into the foundations to see if the foundations are all right. You must trust a good deal to the good sense of the people. It took about nineteen years in the Virginia case for people to come to a proper view. You may find that that may happen in your case. There may be these difficulties at first; but when you begin to work together, you will find a great many of them disappear. You cannot dig down to the foundations of your house every three weeks to see whether they are in order. You must trust people a little.

Dr. Ambedkar: My only reply is that we must see we do not lay our foundations on sand.

Coming to the third part of the subject, namely, the organisation of the Federal Court, I do not really want to say much on this because I agree with a great deal that has already been said. I should like, however, to make one observation, namely, that we should follow in this matter the Australian model, in so far as by that we should not only be able to get a Federal Court of Appeal for federal matters, but also a Supreme Court of Appeal for India as a whole, as they have done in Australia, whereby the Federal Court not only hears appeals from Courts which exercise federal jurisdiction but also hears appeals from Courts in matters which are outside the federal jurisdiction.

I would particularly point out that the Federal Legislature of India should be left free to invest the Courts in Indian States with federal jurisdiction, so that it may be able to utilise the agency of the State Courts in the Indian States. Federal jurisdiction should not be delegated merely to the High Courts of the Provinces, but certain selected State Courts, which to the knowledge of the Federal Legislature are functioning efficiently, may also

be selected as agencies for the exercise of federal jurisdiction in certain matters. The result of that, I think, will be very important. It will first of all raise the dignity of the State Courts; and, secondly, it will link up the State Courts with the whole judicial system in India, and will make our Federation a real Federation.

Mr. Jayakar: An appeal must lie to the Supreme Court, the Federal Court?

Dr. Ambedkar: I am coming to that. In that connection, what I would suggest is that the State Courts should consent to send their appeals to the Federal Supreme Court even in matters not affecting federal jurisdiction. If they do not, I suggest that we should keep the same open-door policy which has been adopted in the Australian Constitution. In the Australian Constitution, provision is made that the Federal Court or the High Court of Australia shall not be prevented from hearing appeals from the States' Courts. I would like to have that provision introduced into our constitution. Further, although we may not make it obligatory upon the States' Courts to send their appeals to the Federal Court, we should prevent the Federal High Court from hearing appeals in case the States subsequently decide to give appellate jurisdiction to the Federal Court from their decisions. As I say, I would again follow the model of the Australian Constitution by giving to the States the right to regulate the right of appeal from their Courts to the Federal Courts. They may not give the same rights of appeal as there maybe from British Provinces; they regulate it if they like.

Then there is just one thing I would like to say. That is with regard to the relation of the High Court to the Federal Government. At present the Indian High Courts are Provincial both for finance and for administration, except the High Court of Calcutta, which is, of course, Provincial for finance but Central for administration. Sir Tej Bahadur Sapru yesterday made the suggestion that the Indian High Courts should be Central for administration in all Provinces, and for financial purposes should be Provincial. As regards the suggestion by Sir Tej Bahadur Sapru that they should be Central for administration, I entirely agree with him ; but my reasons are somewhat different, and I should like to state them. He said there was a certain amount of nervousness on the part of Judges of the Indian Provinces that they are likely to be subjected to local political pressure, and that they would, therefore, like to be lifted from the local politics to the control of the Federal Central Government. Now, I do not think the High Courts in any country, for the matter of that, where there is representative democracy and responsible Government can be free from the influence of politics or the influence of party politicians.

Sir Tej Bahadur Sapru: I thought the theory of the law is that the English Courts are outside party politics.

Dr. Ambedkar: There are certain judicial posts in this country which are looked upon as political appointments, but that is another matter. Now, the

consideration I would like to place before this Committee is this. We are admitting to this Federation some 562 Indian States.

Mr. Jinnah : Are you ?

Dr. Ambedkar: I suppose that is the scheme ; at least that is the ideal we have placed before ourselves that all the Native States will come into this Federation. I think there is no dispute on this point, that a great many of the States, which will be part of the Indian Federation, are financially not strong enough to maintain a competent judiciary. I know of a case in the Bombay Presidency—I am citing a case with which I am acquainted. In Bombay there is a small Native State, the administration of which is run by a lady. In that State, so far as I know, there is only one officer. He acts as a Civil Judge ; he also acts as a Magistrate ; he also acts as a Sessions Judge. From him appeals go to the head of the State, and she is helped by the Diwan who is, so far as I know, a retired revenue official. Most complicated cases come before this tribunal, which is called, so to say, the Privy Council of that State ; and judgments are being given today by a Court so constituted. Now, I do not blame anybody for that. The point is that such a State is so small that it simply has not got sufficient revenue to maintain a competent Court.

Then there is another consideration, namely, that we may, even with respect to British India", go on creating new Provinces so small that they, again, may not be in a position to maintain, financially speaking, a High Court. The case happens even today. The Province of Assam cannot maintain a High Court. It shares a High Court with the Presidency of Bengal. My submission is this—that if we can improve matters in such a way as to help all these Native States which are small and financially weak to maintain a proper judiciary by allowing to utilise these High Courts which are now functioning in British India for the purpose of administering civil and criminal justice among their subjects, such a plan ought to be welcome. The fact is that, so long as a Provincial High Court is being entirely controlled by a Provincial Government, the States, which have no share in the control of the affairs of the Province, will not care to use the services of the High Court. If, on the other hand, the Provincial High Courts were made a Central subject, where all these States would undoubtedly be represented either directly or indirectly, then there would be more inducement—certainly much less objection on their part—to utilise these High Courts for the purpose of adjudication of civil and criminal disputes among their subjects. The result would be that we would considerably improve the judicial administration in the Native States, which are going to be a part of the future Government of India, without in any sense impairing the efficiency of the Provincial High Courts. On that ground, I suggest that the Provincial High Courts may, for the purposes of administration and also for purposes of finance, be made a Central subject. One of the reasons why the High Court of Calcutta is Central for administration is because it is not a Court exclusively for the

Presidency of Bengal. It is a Court which is a joint Court for the Presidency of Bengal and for the Province of Assam. It was for this reason that the Simon Commission recommended that the system should continue and be extended to other Provinces. That is the reason why I think this suggestion ought to be welcome.

That is all I have to say on this subject of the Federal Court.

Forty-fourth Sitting—2nd November 1931

Discussion on the Draft Third Report

**Dr. Ambedkar:* I should like to draw your attention to the last four lines of the paragraph. After stating, in the beginning, the recommendations of the Sub-Committee in paragraph 34 of their Second Report, Your Lordship stated :

> "We make no recommendation here relating to the first four of these interests, since the decision on this point is one for the Minorities Sub-Committee."

I do not think that Your Lordship means that the Committee is indifferent to the representation of those interests, nor, I think, does the opinion expressed in paragraph 34 of the Second Report mean this. What you mean is that you "cannot make any recommendation as to the extent or method of representation. I should therefore be obliged if you would amend the passage by adding, after the word "recommendation", the words—

> "as regards the extent or method of their representations."

Mrs. Subbarayan: You may remember that I spoke at one of our sittings on the possibility of securing some special provision for the representation of women in the Legislature, and suggested that the consideration of this matter should be deferred until the Minorities Committee published their Report. But, lest the point be overlooked, I should respectfully suggest that some reference to it be made here, and that the following words be added in line 9 of paragraph 28 ; after the word "interests", insert the words—

> "or to the representation of women in the Legislature."

Chairman: I am much obliged—I am sorry that we left it out—and I am also much obliged to Dr. Ambedkar. We will put in both those amendments. That was an oversight.

Mrs. Subbarayan: On a previous occasion, while recognising the valuable work done by many of the nominated members in the past on the Legislatures, I objected to nomination in the new constitution on principle. I feel that I object to it all the more when I find that the two Chambers may have co-equal powers. I quite agree with the Report that the services of persons of the elder statesman type are most valuable ; but I am also convinced that the system of nomination is unwise and undemocratic, and. therefore, that it will be better if the services of such persons too are secured

*Proceedings of the Federal Structure Committee and Minorities Committee, Vol. 1, pp. 882-83.

through some system of election. If there is a system of nomination, I cannot help thinking that the whole object of this clause may be frustrated. and that the Ministry may only think of strengthening its own party in the Upper Chamber. Apart from this general objection, I would ask that, in paragraph 32, lines 7, 10, 19 and 22, the word "persons" be substituted for the word "men".

Chairman: I quite agree, Mrs. Subbarayan. In England we actually held, until about five years ago, that a woman was not a "person".

Mrs. Subbarayan: Perhaps they meant that she was something better !

Mr. Zafrullah Khan: In our General Clauses Act, it says that, whenever "man" is used, it includes "woman".

Mr. Iyengar: I desire to associate myself with what my friend, Mrs. Subbarayan, has said as regards nominated members. I also agree that it is very useful to have these elder statesmen in the Upper Chamber; but surely, if these elder statesmen are really wanted by the country, it would certainly be possible for them to come in by some constituency or other. I think the principle of nomination is vicious and we should get rid of it altogether.

Dr. Ambedkar: I should like to associate myself with what has fallen from Mrs. Subbarayan.

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†*Chairman:* We will say "should be adopted as a model for candidates for the Upper Chamber, taking into account any special provisions that may be required for women".

Dr. Ambedkar: I find considerable difficulty in subscribing to this part of paragraph 34—the Council of State qualifications taken as a model. It seems to me that it will entirely block the representation of the Depressed Classes.

Chairman: We must not do that.

Dr. Ambedkar: Liberty should also be given to the Franchise Committee to take this into consideration in framing their model rules.

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‡*Dr. Ambedkar:* I should like to say that the Committee should also consider the necessity of endowing the Central Government with powers to finance itself in emergency matters directly and independently, rather than be dependent upon contributions from the Provinces and States.

Lord Peel: All these points, of course, were considered from every point of view, and this was the result of a compromise between the different views. That is really all I can say on it at the present moment, I think.

Mr. Joshi: Lord Chancellor, I agree with Dr. Ambedkar's view.

Dr. Ambedkar: Lord Chancellor, I should also like to say that the fact-finding Committee, in apportioning the burden of the Federal Legislature

†Proceedings of the Federal Structure Committee and Minorities Committee, Vol. I, p. 886.
‡*Ibid.,* pp. 899-900.

between British Provinces and Indian States, ought to consider the principle of equity of contribution as between the two.

Chairman: Lord Peel no doubt will consider that. I wish you would mention that again, if you would not mind, when we come to the full Conference.

Forty-fifth Sitting—4th November 1931

†*Chairman :* Now, that is the Report on which I want your comments. Will you kindly go back now to paragraph 52 ?

Dr. Ambedkar: May I just say this with regard to paragraph 52? Your Lordship will remember that, while we were discussing the jurisdiction of the Federal Court, I raised the point that the Court, besides having the jurisdiction to interpret the constitution and to see that neither the Provincial Governments nor the Federal Government intervene in the sphere of the other, should also have the jurisdiction to deal with matters arising out of the fundamental rights or the minority rights. I think I was supported in that also by Mr. Jayakar, and also, if I am right, by Mr. Sastri. Perhaps a note might be made to that effect in this paragraph.

Chairman; I am obliged to Dr. Ambedkar, but I am happy to be able to reassure him in this way—that when they are in the constitution, they will naturally fall within the domain of the Federal Court's interpretation.

Mr. *Jayakar:* That is included in the word "constitutional"

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‡*Chairman:* Now paragraph 62.

Dr. Ambedkar: I did not think there was unanimity regarding the location of the Court at Delhi. I should have liked that this matter should be investigated by some committee.

Mr. Jayakar: I made tine suggestion that it should be at a central place somewhere, not Delhi, but some place where the Court could work for the whole of the year, the climate being suitable for working during the whole year.

Mr. Zafrullah Khan: All sorts, of suggestions were made from different quarters, but I do not think that any single place had as much support as Delhi.

Chairman: Now, please, paragraphs 63 and 64.

Forty-sixth Sitting—16th November 1931

Discussion on Future Procedure

§*Dr. Ambedkar:* I should like to know what view Sir Tej Bahadur Sapru

†Proceedings of the Federal Structure Committee and Minorities Committee, Vol. I, p. 908.

‡*Ibid.,* p. 922.

§ *Ibid.,* p. 979.

has regarding the relationship which should subsist between the Army Member and the Commander-in-Chief. Would the Commander-in-Chief be merely the head of the department under the control and supervision of the Minister or Member or would you give him certain powers with which the Army Member would not have the right to interfere ?

Sir Tej Bahadur Sapru: I am not prepared to go into details, but as I conceive the position of the Army Member he will deal with general questions of policy, financial and otherwise, but he will have no power to deal with technical or administrative matters relating to the Army and, if he is wise, even if he has such power he will not exercise it. I have no personal knowledge of the matter, but I appeal to my British colleagues here to say what exactly the position in England is with regard to the Army. The Secretary of State for War has probably no power to interfere with the internal discipline of the Army but deals with big questions of policy. I cannot forget one period of your Army history, the period of the -Duke of Cambridge.

10

IN THE MINORITIES COMMITTEE

Seventh Sitting—28th September 1931

**Chairman:* There are other minorities which are represented. If we adjourn, they will have to see if they can get their point of view made ready for expression. An adjournment would be useful only if those representatives of the other sections would use the adjournment period for the purpose of preparing something, and then handing in to me, in preparation for the next meeting, a list of names of those who would like to take part in the discussions. I am rather at a disadvantage this morning because nobody has handed in his name. If you would like it, I could conduct this Conference in such a way that you would break up in the course of two or three meetings. That is exactly what I am determined shall not happen. In order to be able to guide the discussion in a friendly and in a profitable way I should like to know who is going to speak, and what points of view are going to be put forward, so that the speakers might be called upon at the most helpful moment. The idea is not to suppress speeches at all, but, in order that the discussion shall proceed in such a way as to produce the maximum amount of good. If you do adjourn now, please remember that the others of you are coming to a bargain with me that you too will use this time for the purpose of making preparations for a statement which will be brief, to the point, and comprehensive, and, I beg of you, helpful. On that understanding, and with that bargain, will you adjourn ?

Dr. Ambedkar: I would like to say one word before we adjourn. As regards your suggestion — that while these negotiations are going on members of the other minority communities should prepare their case — I should like to say that, so far as the Depressed Classes are concerned, we have already presented our case to the Minorities Sub-Committee last time.

The only thing which remains for me to do is to put before this Committee a short statement suggesting the quantum of representation which we want in the different Legislatures. Beyond that I do not think I am called upon to do anything; but the point I am anxious to make at the very outset is

* Proceedings of the Federal Structure Committee and Minorities Committee, Vol, I, pp. 1337-38.

this. I have heard with great pleasure that further negotiations are going to, take place for the settlement of the communal issue. But I would like to make this matter absolutely plain at the very start. I do not wish that any doubt should be left on this question at all. Those who are negotiating ought to, understand that they are not plenipotentiaries at all; that whatever may be the representative character of Mr. Gandhi or the Congress people, they certainly are not in a position to bind us—certainly not. I say that most emphatically in this meeting.

Another thing I want to say is this—that the claims put forward by the various minorities are claims put forward by themselves irrespective of the consideration as to whether the claims that they have put forward are consistent with the claims of the other minorities. Consequently, any negotiations which take place between one minority on the one hand and the Congress or any other people for that matter on the other hand, without taking into consideration the claims which have been put forward by the other minorities can have no chance of success as far as I am concerned. I want to make that absolutely plain. I have no quarrel with the question whether any particular community should get weightage or not, but I do want to say most emphatically that whoever claims weightage and whoever is willing to give that weightage he must not give it— he cannot give it—out of my share. I want to make that absolutely plain.

Sir Henry Gidney : I want to say a very few words, I wholeheartedly associate myself with my friend Dr. Ambedkar. Representing a small community as I do, I fail to see where I come in this transaction. If the Congress on the one hand makes a settlement with the Muhammadans on the other hand, where do the other minority communities come in ? You ask us to settle our differences amongst ourselves and to present them individually. We have already done so. At the last Conference I submitted the minimum demands of the small community I represent. I want to make it abundantly clear that in making this new map of India all minorities should have the right of putting their own little spot on it and I do not see how we can if the settlement here is going to be entirely a Hindu-Muslim pact

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†*Chairman:* Do not let there be any misunderstanding. This is the body before which the final settlement must come, and the suggestion is merely that if there are minorities or communities that hitherto have been in conflict with each other, they should use a short time for the purpose of trying to overcome their difficulties. That will be a step, and a very important and essential step, towards a general agreement, but the agreement is going to be a general one.

Dr. Ambedkar: I have made my position absolutely clear.

† Proceedings of the Federal Structure Committee and Minorities Committee, Vol. I, pp. 1338-39.

Chairman: Dr. Ambedkar's position has been made absolutely clear ; in his usual splendid way he has left no doubt at all about it, and that will come up when this body resumes its discussions. What I would like to do is to get you all to feel that we are co-operating together for a general settlement; not for a settlement between any two or any three, but a complete settlement.

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†*Dr. Ambedkar:* I should like to suggest whether it would not be possible for you to appoint a small Committee consisting of members drawn from the various minority communities, along with the Congress representatives, to sit in an informal manner and discuss this problem during the period of the adjournment.

Chairman: I was going to make this suggestion. Do not ask me to appoint that Committee ; do it yourselves. I have invited you to get together. Could not you manage to hold an informal meeting amongst yourselves and talk the matter over, and then when you speak here you will speak with some sort of knowledge of the effect of what you are saying on others ? Could we leave it in that way ?

Dr. Ambedkar: As you like.

Chairman: That would be far better.

Eighth Sitting—1st October 1931

‡*Mr. Gandhi:* Prime Minister, after consultation with His Highness The Aga Khan and other Muslim friends last night, we came to the conclusion that the purpose for which we meet here would be better served if a week's adjournment was asked for. I have not had the opportunity of consulting my other colleagues, but I have no doubt that they will also agree in the proposal I am making. I have been having with my Muslim friends anxious conversations, and I had the pleasure of meeting some other friends also last afternoon belonging to the different groups or classes. We were not able to make much headway, but they too felt that the time at our disposal was too short even for exchanging views. I may say for myself that beyond this week's adjournment I would not press for any further adjournment, but I would report to this Committee what has been the result of the endeavour I shall be making during the week.

I let out no secret when I inform this Committee that His Highness and the other friends with whom I was closeted last night laid upon my shoulders the burden of calling representatives of the different groups together and holding consultations with a view to arriving at some final settlement. If this proposal of mine commends itself to you, Prime Minister, and to the

† Proceedings of the Federal Structure Committee and Minorities Committee, Vol. I, p. 1340.
‡*Ibid.,* pp. 1340-45.

rest of the members of this Committee, I shall be glad. I know that His Highness will second this proposal, and let us all hope that at the end of the week it will be possible to report some sort of a settlement.

When I express this hope I do not wish to convey any impression that, because I express it, there is something that I know, and on which I am building that hope. But I am an irrepressible optimist, and often in my lifetime when the horizon has appeared to be the blackest, some turn has taken place which has given ground for hope. Whatever it may be, so far as human endeavour is possible, all that endeavour will be made. I have no doubt, by many members of this Committee to arrive at a settlement.

With these words I leave my proposal, that we adjourn our proceedings to this day in your hands for consideration.

H. H. The Aga Khan: I have pleasure in seconding the proposal.

Sardar Ujjal Singh: I rise to give my wholehearted support to this proposal, and I share the hope that by this means we may come to some understanding, given goodwill on both sides.

Dr. Ambedkar: I do not wish to create any difficulty in our making every possible attempt to arrive at some solution of the problem with which this Committee has to deal, and if a solution can be arrived at by the means suggested by Mahatma Gandhi, I, for one, will have no objection to that proposal.

But there is just this one difficulty with which I, as representing the Depressed Classes, am faced. I do not know what sort of committee Mahatma Gandhi proposes to appoint to consider this question during the period of adjournment, but I suppose that the Depressed Classes will be represented on this committee.

Mr. Gandhi: Without doubt.

Dr. Ambedkar: Thank you. But I do not know whether in the position in which I am today, it would be of any use for me or my colleague to work on the proposed committee. And for this reason, Mahatma Gandhi told us on the first day that he spoke in the Federal Structure Committee that as a representative of the Indian National Congress he was not prepared to give political recognition to any community other than the Muhammadans and the Sikhs. He was not prepared to recognise the Anglo-Indians, the Depressed Classes, and the Indian Christians. I do not think that I am doing any violence to etiquette by stating in this Committee that when I had the pleasure of meeting Mahatma Gandhi a week ago and discussing the question of the Depressed Classes with him, and when we, as members of the other minorities, had the chance of talking with him yesterday in his office, he told us in quite plain terms that the attitude that he had taken in the Federal Structure Committee was his full and well considered attitude. What I would like to say is that unless at the outset I know that the Depressed Classes are going to be recognised as a community entitled to political recognition in the future constitution of India, I do not know whether it will serve any purpose for

me to join the particular committee that is proposed by Mahatma Gandhi to be constituted to go into this matter. Unless, therefore, I have an assurance that this committee will start with the assumption that all those communities which the Minorities Sub-Committee last year recommended as fit for recognition of India will be included, I do not know that I can wholeheartedly support the proposition for adjournment, or that I can wholeheartedly co-operate with the committee that is going to be nominated. That is alt that I wish to make plain now.

Sir Henry Gidney (*Anglo-Indians*)*:* On behalf of the community which I have the honour to represent, I associate myself entirely with my friend Dr. Ambedkar. I also am in the unfortunate position of having been refused recognition by Mahatma Gandhi as far as a separate community is concerned. I may be wrong, but I am sure that Mahatma Gandhi will correct me if I am. Yesterday, when we met Mahatma Gandhi upon this matter, he impressed us in terms that left no doubt in my mind that as a community he and the Congress were not prepared to recognise us, and that the Lahore Resolution of the Congress indicated, almost at the behest of the Mahatma, that it was only possible to recognise two communities, the Muhammadans and the Sikhs, and that that was on traditional and historical grounds. Possibly it might be impertinence on my part to claim the same grounds for the recognition of my community. But I do ask the Mahatma to make it abundantly clear here before this meeting, before this committee is appointed, and before you, Sir, ask for an adjournment, that he will include in this committee representatives of those communities which have already received recognition on this committee.

Rao Bahadur Pannir Selvam (*Indian Christians*)*:* The statement made by Dr. Ambedkar is news to me. I was not aware until now that the Mahatma was not granting us any recognition. If that be so, I submit that our position here will be absolutely unnecessary. Since no recognition as a community in the political future is given to us, I am really unable to see what purpose will be served by our taking part in any committee that might subsequently be formed. I feel that I ought to put forward my case exactly in the same terms as Dr. Ambedkar and Sir Henry Gidney have stated theirs.

Dr. Moonje: I did not attach much importance or so much seriousness to the fact when I read in the papers that only two communities are to be recognised by Mahatma Gandhi in the Minorities Committee. I thought that perhaps it might be a kind of move to facilitate conciliation and understanding, and to smooth over difficulties, but I find from Dr. Ambedkar's speech, and from Sir Henry Gidney's speech, that they have taken the matter most seriously. Therefore, I should like to say, and bring it to the notice of the Committee, that even the Hindus in the Provinces of Punjab and Bengal are minorities, and have, therefore, to look after their own interests also. With this little explanation, I have no objection to the proposal of adjourning

for considering this question.

Sir Muhammad Shafi: I am afraid there is some misapprehension in the minds of some of my friends about the proposal which has been put forward by Mahatma Gandhi. As I understand that proposal, Mahatma Gandhi does not ask for the appointment of a Sub-Committee of this Committee, nor does he ask for the appointment of a committee in the ordinary sense of the term. What is intended is this, that each group constituting the whole of this Committee, including of course the Depressed Classes and the Anglo-Indian community, might select a few representatives, one or two or three from each group, who should meet together and consider, after an exchange of ideas, whether some settlement satisfactory to all cannot be arrived at and thus lighten the burden which rests upon the shoulders of the Minorities Committee as a whole. If that consummation can be arrived at, I am sure every sincere well-wisher of India's peaceful progress ought to be glad to contribute to the bringing about of that consummation. I am afraid the objection made by my friend Dr. Ambedkar is merely the result of a misapprehension as to the nature of the proposal made by Mahatma Gandhi and seconded by His Highness The Aga Khan. If after this explanation which I have ventured to submit, a unanimous decision can be arrived at in favour of the adjournment of this Committee for a week in order to enable us all to meet in a friendly spirit, in a spirit of co-operation, as sincere well-wishers for peaceful progress in our common motherland, I shall be very glad.

Mrs. Naidu: Mr. Prime Minister, as I do not represent either a minority or a special interest I am completely disinterested in the appeal I am going to make to the minorities and special interests not to raise difficulties and not to cross their bridges before they come to them. It is only in fulfilment of the appeal, Sir, which you made to us the other day, which coincide with our own sense of self-respect, with our own sense of duty in settling a domestic matter entirely without outside arbitration or intervention, that I want to make an appeal that we should settle our domestic quarrels, if there are any, and announce to you a reconciliation, if there must be a reconciliation, but at any rate a harmonious result, and I think that is the reason why Mahatma Gandhi has made this motion for an adjournment. I do not think that any single minority, however small, need have any apprehension. Every minority is as much a part of the nation as every majority, and I, for one, pledge myself to follow the exhortation given to me by one of the greatest statesmen in Europe, whose boast is that he built up an independent nation without an army and without money. He said to me two years ago : "Madame, keep your minorities happy ; you cannot build a nation without giving a sense of security to your minorities ;" and it is because we want to give this sense of security to the minorities and make them feel that they are an integral part of the nation that a majority community, speaking through the mouth of Mahatma Gandhi, and, if I may

say so, also a minority community, speaking through the mouth of His Highness The Aga Khan, are making an appeal that we shall not bring our small domestic quarrels before those who are not concerned primarily with them, but that we shall settle them ourselves, with equity, magnanimity and a sense of chivalry which is justice, and a sense of self-respect which does not permit outsiders to know of the differences within our own house.

That is my appeal, Prime Minister, and I hope it will be accepted by all the minorities and majorities present.

Dr. Ambedkar: I should like to make my position further clear. It seems , that there has been a certain misunderstanding regarding what I said. It is not that I object to adjournment; it is not that I object to serving on any committee that might be appointed to consider the question. What I would like to know before I enter upon this committee, if they give me the privilege of serving on it, is : What is the thing that this committee is going to consider ? Is it only going to consider the question of the Muhammadans *vis-a-vis* the Hindus ? Is it going to consider the question of the Muhammadans *vis-a-vis* the Sikhs in the Punjab ? Or is it going to consider the question of the Sikhs *vis-a-vis* the Hindus ? Is it going to consider the question of the Christians, the Anglo-Indians and the Depressed Classes ?

If we understand perfectly well before we start that this committee will not merely concern itself with the question of the Hindus and the Muhammadans, of the Hindus and the Sikhs, but will also take upon itself the responsibility of considering the Depressed Classes, the Anglo-Indians and the Christians, I am perfectly willing to allow this adjournment resolution to be passed without my protest. But I do want to say this, that if I am to be left out in the cold, and if this interval is going to be utilised for the purpose of solving the Hindu-Muslim question and the Hindu-Sikh question, I would press that this committee should at once grapple with the question and consider it, rather than allow both positions to be taken hold of by somebody else.

Mr. Gandhi : Prime Minister and friends, I see that there is some kind of misunderstanding with reference to the scope of the work that some of us have set before ourselves. I fear that Dr. Ambedkar, Colonel Gidney and other friends are unnecessarily nervous about what is going to happen. Who am I to deny political status to any single interest or class or even individual in India ? As a representative of the Congress, I should be unworthy of the trust that has been reposed in me by the Congress if I were guilty of sacrificing a single national interest. I have undoubtedly given expression to my own views on these points. I must confess that I hold to those views also. But there are ways and ways of guaranteeing protection to every single interest. It will be for those of us who will be putting our heads together to try to evolve a scheme. Nobody would be hampered in pressing his own views on the members of this very informal conference or meeting. We need not call it a committee. I have no authority to convene any committee or

to bring into being a committee. I can only act as a humble messenger of peace, try to get together representatives of different interests and groups, and see whether by being closeted in one room and by heart-to-heart conversation, we may not be able to remove cobwebs of misunderstanding and see our way clear to the goal that lies so hazily before us today.

I do not think, therefore, that anybody need be afraid as to being able to express his opinion or carrying his opinion also. Mine will be there equal to that of everyone of us; it will carry no greater weight; I have no authority behind me to carry my opinion against the opinion of anybody. I have simply given expression to my views in the national interest, and I shall give expression to these views whenever they are opportune. It will he for you, it is for you to reject or accept those opinions. Therefore please disabuse your minds, everyone of us, of the idea that there is going to be any steam-rolling in the Conference and the informal meetings that I have adumbrated. But if you think that this is one way of coming closer together than by sitting stiffly at this table, you will not only carry this adjournment motion, but give your wholehearted co-operation to the proposal that I have made in connection with these informal meetings.

Sir Hubert Carr: Mr. Prime Minister, my community has not been mentioned. It is a very small one ; but I would like to say that we welcome an adjournment or any other means which will assist a solution of this question which we recognise must precede the final consideration of other questions in which we are all vitally interested.

Dr. Datta: May I say I welcome this adjournment ?

Chairman: Then I shall proceed to put it. I put it on the clear understanding, my friends, that the time is not going to be wasted, and that these conferences—as Mr. Gandhi has said, informal conferences, but nevertheless I hope very valuable and fruitful conferences—will take place between now and our next meeting. I hope you will all pledge yourselves to use the time in that way.

Ninth Sitting—8th October 1931

**Chairman:* When we met last Thursday, by common consent we adjourned for a week in order to enable informal and unofficial consultations to take place, with a view of coming to an agreement. Perhaps our first business is to receive a report from those who conducted the negotiations. May I ask Mr. Gandhi to speak first ?

Mr. Gandhi: Prime Minister and friends, it is with deep sorrow and deeper humiliation that I have to announce utter failure on my part to secure an agreed solution of the communal question through informal

*Proceedings of the Federal Structure Committee and Minorities Committee, Vol. I, pp. 1356-58.

conversations among and with the representatives of different groups I apologise to you, Mr. Prime Minister, and the other colleagues for the waste of a precious week. My only consolation lies in the fact that when I accepted the burden of carrying on these talks I knew that there was not much hope of success, and still more in the fact that I am not aware of having spared any effort to reach a solution.

But to say that the conversations have to our utter shame failed is not to say the whole truth. Causes of failure were inherent in the composition of the Indian Delegation. We are almost all not elected representatives of the parties or groups whom we are presumed to represent; we are here by nomination of the Government. Nor are those whose presence was absolutely necessary for an agreed solution to be found here. Further, you will allow me to say that this was hardly the time to summon the Minorities Committee. It lacks the sense of reality in that we do not know what it is that we are going to get. If we knew in a definite manner that we were going to get the thing we want, we should hesitate fifty times before we threw it away in a sinful wrangle, as it would be if we are told that the getting of it would depend upon the ability of the present Delegation to produce an agreed solution of the communal tangle. The solution can be the crown of the Swaraj constitution, not its foundation—if only because our differences have hardened, if they have not arisen, by reason of the foreign domination. I have not a shadow of a doubt that the iceberg of communal differences will melt under the warmth of the sun of freedom.

T, therefore, venture to suggest that the Minorities Committee be adjourned *sine die* and that the fundamentals of the constitution be hammered into shape as quickly as may be. Meanwhile, the informal work of discovering a true solution of the communal problem will and must continue ; only it must not baulk or be allowed to block the progress of constitution-building. Attention must be diverted from it and concentrated on the main part of the structure.

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Lastly, inasmuch as the only reason for my appearance at these deliberations is that I represent the Indian National Congress, I must clearly set forth its position. In spite of appearances to the contrary, especially in England, the Congress claims to represent the whole nation, and most decidedly the dumb millions, among whom are included the numberless Untouchables, who are more suppressed than depressed, as also in a way the more unfortunate and neglected classes known as Backward Races.

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It seems to have been represented that I am opposed to any representation of the Untouchables on the Legislature. This is a travesty of the truth. What I have said, and what I must repeat, is that I am opposed to their special representation. I am convinced that it can do them no good, and may do much harm ; but the Congress is wedded to adult franchise. Therefore millions of them can be placed on the Voters' Roll. It is impossible to conceive that,

with untouchability fast disappearing, nominees of these voters can be boycotted by the others ; but what these people need more than election to the Legislatures is protection from social and religious persecution. Custom, which is often more powerful than law, has brought them to a degradation of which every thinking Hindu has need to feel ashamed and to do penance. I should, therefore, have the most drastic legislation rendering criminal all the special persecution to which these fellow-countrymen of mine are subjected by the so-called superior classes. Thank God, the conscience of Hindus has been stirred, and untouchability will soon be a relic of our sinful past.

Dr. Ambedkar: Mr. Prime Minister, last night when we parted at the conclusion of the meeting of the informal Committee we parted although with a sense of failure, at least with one common understanding, and that was that when we met here today none of us should make any speech or any comment that would cause exasperation. I am sorry to see that Mr. Gandhi should have been guilty of a breach of this understanding. Excuse me, I must have the opportunity to speak. He started by giving what were, according to him, the causes' of the failure of the informal Committee. Now, I have my own cause which I think were responsible for the failure of the informal Committee to reach an agreement, but I do not propose to discuss them now. What disturbs me after hearing Mr. Gandhi is that instead of confining himself to his proposition, namely, that the Minorities Committee should adjourn *sine die,* he started casting certain reflections upon the representatives of the different communities who are sitting round this table. He said that the Delegates were nominees of the Government, and that they did not represent the views of their respective communities for whom they stood. We cannot deny the allegation that we are nominees of the Government, but, speaking for myself, I have not the slightest doubt that even if the Depressed Classes of India were given the chance of electing their representatives to this Conference, I would, all the same, find a place here. I say therefore that, whether I am a nominee or not, I fully represent the claims of my community. Let no man be under any mistaken impression as regards that.

The Mahatma has been always claiming that the Congress stands for the Depressed Classes, and that the Congress represents the Depressed Classes more than I or my colleague can do. To that claim I can only say that it is one of the many false claims which irresponsible people keep on making, although the persons concerned with regard to those claims have been invariably denying them.

I have here a telegram which I have just received from a place which I have never visited and from a man whom I have never seen from the President of the Depressed Classes Union, Kumaun, Almora, which I believe is in the United Provinces, and which contains the following resolution :

"This Meeting declares its no-confidence in the Congress movement

which has been carried on in and outside the country, and condemns the methods adopted by the Congress workers."

I do not care to read further, but I can say this (and I think if Mr. Gandhi will examine his position he will find out the truth), that although there may be people in the Congress who may be showing sympathy towards the Depressed Classes, the Depressed Classes are not in the Congress. That is a proposition which I propose to substantiate. I do not wish to enter into these points of controversy. They seem to be somewhat outside the main proposition. The main proposition which Mr. Gandhi has made is that this Committee should be adjourned *sine die*. With regard to that proposition, I entirely agree with the attitude taken up by Sir Muhammad Shafi. I, for one, cannot consent to this proposition. It seems to me that there are only two alternatives—either that this Minorities Committee should go on tackling the problem and trying to arrive at some satisfactory solution, if that is possible, and then, if that is not possible, the British Government should undertake the solution of that problem. We cannot consent to leave this to the arbitration of third parties whose sense of responsibility may not be the same as must be the sense of responsibility of the British Government.

Prime Minister, permit me to make one thing clear. The Depressed Classes are not anxious, they are not clamorous, they have not started any movement for claiming that there shall be an immediate transfer of power from the British to the Indian people. They have their particular grievances against the British people and I think I have voiced them sufficiently to make it clear that we feel those grievances most genuinely. But, to be true to facts, the position is that the Depressed Classes are not clamouring for transfer of political power. Their position, to put it plainly, is that we are not anxious for the transfer of power; but if the British Government is unable to resist the forces that have been set up in the country which do clamour for transference of political power—and we know the Depressed Classes in their present circumstances are not in a position to resist that—then our submission is that if you make that transfer, that transfer will be accompanied by such conditions and by such provisions that the power shall not fall into the hands of a clique, into the hands of an oligarchy, or into the hands of a group of people, whether Muhammadans or Hindus ; but that that solution shall be such that the power shall be shared by all communities in their respective proportions. Taking that view, I do not see how I, for one, can take any serious part in the deliberations of the Federal Structure Committee unless I know where I and my community stand.

Mr. Gandhi: One word more as to the so-called Untouchables.

I can understand the claims advanced by other minorities, but the claims advanced on behalf of the Untouchables, that to me is the "unkindest cut of all". It means the perpetual bar-sinister. I would not seal the vital interests of the Untouchables even for the sake of winning the freedom of India.

I claim myself in my own person to represent the vast mass of the Untouchables. Here I speak not merely on behalf of the Congress, but I speak on my own behalf, and I claim that I would get, if there was a referendum of the Untouchables, their vote, and that I would top the poll. And I would work from one end of India to the other to tell the Untouchables that separate electorates and separate reservation is not the way to remove this bar-sinister, which is the shame, not of them but of orthodox Hinduism.

Let this Committee and let the whole world know that today there is a body of Hindu reformers who are pledged to remove this blot of untouchability. We do not want on our register and on our census Untouchables classified as separate class. Sikhs may remain as such in perpetuity, so may Muhammadans, so may Europeans. Will Untouchables remain Untouchables in perpetuity ? I would fear rather that Hinduism died than that untouchability lived. Therefore, with all my regard for Dr. Ambedkar, and for his desire to see the Untouchables uplifted, with all my regard for his ability, I must say in all humility that here the great wrong under which he has laboured and perhaps the bitter experiences that he has undergone have for the moment warped his judgment. It hurts me to have to say this, but I would be untrue to the cause of the Untouchables, which is as dear to me as life itself, if I did not say it. I will not bargain away their rights for the kingdom of the whole world. I am speaking with a due sense of responsibility, and I say that it is not a proper claim which is registered by Dr. Ambedkar when he seeks to speak for the whole of the Untouchables of India. It will create a division in Hinduism which I cannot possibly look forward to with any satisfaction whatsoever. I do not mind Untouchables, if they so desire, being converted to Islam or Christianity. I should tolerate that, but I cannot possibly tolerate what is in store for Hinduism if there are two divisions set forth in the villages. Those who speak of the political rights of Untouchables do not know their India, do not know how Indian society is today constructed, and therefore I want to say with all the emphasis that I can command that if I was the only person to resist this thing I would resist it with my life.

APPENDIX I*

PROVISIONS FOR A SETTLEMENT OF THE COMMUNAL PROBLEM PUT FORWARD JOINTLY BY MUSLIMS, DEPRESSED CLASSES, INDIAN CHRISTIANS, ANGLO-INDIANS AND EUROPEANS

Claims of Minority Communities

1. No person shall by reason of his origin, religion, caste or creed, be prejudiced in any way in regard to public employment, office of power or honour, or with regard to enjoyment of his civic rights and the exercise of any trade or calling.

2. Statutory safeguards shall be incorporated in the constitution with a view to protect against enactments of the Legislature of discriminatory laws affecting any community.

3. Full religious liberty, that is, full liberty of belief, worship observances, propaganda, associations and education, shall be guaranteed to all communities subject to the maintenance of public order and morality.

No person shall merely by change of faith lose any civic right or privilege. or be subject to any penalty.

4. The right to establish, manage and control, at their own expense, charitable, religious and social institutions, schools and other educational establishments with the right to exercise their religion therein.

5. The constitution shall embody adequate safeguards for the protection of religion, culture and personal law, and the promotion of education, language, charitable institutions of the minority communities and for their due share in grants-in-aid given by the State and by the self-governing bodies.

6. Enjoyment of civic rights by all citizens shall be guaranteed by making any act or omission calculated to prevent full enjoyment an offence punishable by law.

7. In the formation of Cabinets in the Central Government and Provincial Governments, so far as possible, members belonging to the Mussulman community and other minorities of considerable number shall be included by convention.

8. There shall be Statutory Departments under the Central and Provincial Governments to protect minority communities and to promote their welfare.

9. All communities at present enjoying representation in any Legislature through nomination or election shall have representation in all Legislatures through separate electorates and the minorities shall have not less than the proportion set forth in the Annexure but no majority shall be reduced to a minority or even an equality. Provided that after a lapse of ten years it will be open to Muslims in Punjab and Bengal and any minority communities in any other Provinces to accept joint electorates, or joint electorates

*This is printed as Appendix III in the original proceedings of the Federal Structure Committee and Minorities Committee, pp. 1394-99.

with reservation of seats, by the consent of the community concerned. Similarly after the lapse of ten years it will be open to any minority in the Central Legislature to accept joint electorates with or without reservation of seats with the consent of the community concerned.

With regard to the Depressed Classes no change to joint electorates and reserved seats shall be made until after 20 years' experience of separate electorates and until direct adult suffrage for the community has been established.

10. In every Province and in connection with the Central Government a Public Services Commission shall be appointed, and the recruitment to the Public Services, except the proportion, if any, reserved to be filled by nomination by the Governor-General and the Governors, shall be made through such Commission in such a way as to secure a fair representation to the various communities consistently with the considerations of efficiency and the possession of the necessary qualifications. Instructions to the Governor-General and the Governors in the Instrument of Instructions with regard to recruitment shall be embodied to give effect to this principle, and for that purpose, to review periodically the composition of the services.

11. If a Bill is passed which, in the opinion of two-thirds of the members of any Legislature representing a particular community affects their religion or social practice based on religion, or in the case of fundamental rights of the subjects if one-third of the members object, it shall be open to such members to lodge their objection thereto, within a period of one month of the Bill being passed by the House, with the President of the House who shall forward the same to the Governor-General or the Governor, as the case may be, and he shall thereupon suspend the operation of that Bill for one year, upon the expiry of which period he shall remit the said Bill for further consideration by the Legislature. When such Bill has been further considered by the Legislature and the Legislature concerned has refused to revise or modify the Bill so as to meet the objection thereto, the Governor-General or the Governor, as the case may be, may give or withhold his assent to it in the exercise of his discretion, provided further, that the validity of such Bill may be challenged in the Supreme Court by any two members of the denomination affected thereby on the grounds that it contravenes one of their fundamental rights.

Special Claims of Mussulmans

A. The North-West Frontier Province shall be constituted a Governor's Province on the same footing as other Provinces with due regard to the necessary requirements for the security of the Frontier.

In the formation of the Provincial Legislature the nomination shall not exceed more than 10 per cent of the whole.

B. Sind shall be separated from the Bombay Presidency and made a Governor's Province similar to and on the same fooling as other Provinces in British India.

C. Mussulman representation in the Central Legislature shall be one-third of the total number of the House, and their representation in the Central Legislate shall not be less than the proportion set forth in the Annexure.

Special Claims of the Depressed Classes

A. The constitution shall declare invalid any custom or usage by which any penalty or disadvantage or disability is imposed upon or any discrimination is made against any subject of the State in regard to the enjoyment of civic rights on account of Untouchability.

B. Generous treatment in the matter of recruitment to Public Service and the opening of enlistment in the Police and Military Service.

C. The Depressed Classes in the Punjab shall have the benefit of the Punjab Land Alienation Act extended to them.

D. Right of Appeal shall lie to the Governor or Governor-General for redress of prejudicial action or neglect of interest by any Executive Authority.

E. The Depressed Classes shall have representation not less than set forth in the Annexure.

Special Claims of the Anglo-Indian Community

A. Generous interpretation of the claims admitted by Sub-Committee No. VIII (Services) to the effect that in recognition of the peculiar position of the community special consideration should be given to the claim for public employment, having regard to the maintenance of an adequate standard of living.

B. The right to administer and control its own educational institutions, i.e., European education, subject to the control of the Minister.

Provisions for generous and adequate grants-in-aid and scholarships on the basis of present grants.

C. Jury rights equal to those enjoyed by other communities in India unconditionally of proof of legitimacy and descent and the right of accused persons to claim trial by either a European or an Indian Jury.

Special Claims of the European Community

A. Equal rights and privileges to those enjoyed by Indian-born subjects in all industrial and commercial activities.

B. The maintenance of existing rights in regard to procedure of criminal trials, and any measure or bill to amend, alter, or modify such a procedure cannot be introduced except with the previous consent of the Governor-General.

Agreed by—

HIS HIGHNESS THE AGA KHAN (Muslims),

DR. AMBEDKAR (Depressed Classes),

RAO BAHADUR PANNIR SELVAM (Indian Christians).

SIR HENRY GIDNEY (Anglo-Indians),

SIR HUBERT CARR (Europeans).

APPENDIX *I—contd.*

ANNEXURE

REPRESENTATION IN LEGISLATURES

Figures in brackets = Population basis 1931 figures and depressed percentages as per Simon Report.

	Stength of Chamber	Hindus			Muslims	Christians	Sikhs	Anglo-Indians	Tribal etc.	Europeans
		Caste	Depressed	Total						
Centre										
All India (1931)										
		(47.5)	(19)*	(66.5)	(21.5)					
Upper . .	200	101	20	121	67	1	6	1	....	4
Lower . .	300	123	45	168	100	7	10	3	....	12
		(48.9)	(13.4)	(62.3)	(34.8)					
Assam . .	100†	38	13	51	35	3	....	1	....	10
		(18.3)	(24.7)	(43)	(54.9)					
Bengal . .	200	38	35	73	102	2	....	3	....	20
		(67.8)	(14.5)	(82.3)	(11.3)					
Bihar and Orissa . .	100	51	14	65	25	1	....	1	3	5

*Represents percentage in Governor's Provinces of British India.

†Population figures exclude Tribal Areas.

APPENDIX *I—contd.*

ANNEXURE—contd.

REPRESENTATION IN LEGISLATURES

Figures in brackets = Population basis 1931 figures and depressed percentages as per Simon Report.

	Stength of Chamber	Hindus			Muslims	Christians	Sikhs	Anglo-Indians	Tribal etc.	Europeans
		Caste	Depressed	Total						
		(68)	(8)	(76)	(20)					
Bombay . .	200	88	28	116	66	2	....	3	....	13
On Sind being separated weightage of Mussulmans in Bombay to be on the same footing as to the Hindus in the N.W.F.P.										
		(63.1)	(23.7)	(86.8)	(44)					
C. P. . .	100	58	20	78	15	1	....	2	2	2
		(71.3)	(15.4)	(86.7)	(7.1)	(3.7)				
Madras . .	200	102	40	142	30	14	....	4	2	8
		(15.1)	(13.5)	(28.6)	(56.5)		(13)			
Punjab . .	100	14	10	24	51	1.5	20	1.5	....	2
		(58.1)	(26.4)	(84.5)	(14.8)					
U. P. . .	100	44	20	64	30	1	....	2	....	3
Sind and N.W.F.P. . .	Weightage similar to that enjoyed by the Mussulmans in the Provinces in which they constitute a minority of the population, shall be given to the Hindu minority in Sind and to the Hindu and Sikh minorities in the N.W.F.P.									

Explanatory Memorandum to Appendix I

1. The suggested details for community representation have not been agreed by the Hindus or the Sikhs, but the full representation claimed by the latter in the Central Legislature is provided for.

2. The proposed distribution of seats for the different minorities constitutes a whole scheme and the detailed proposals cannot be separated one from another.

3. This distribution of seats follows the principle that in no case is the majority community to be reduced to the position of a minority of even equality.

4. No representation is provided for Commerce, Landlords, Industry, Labour, etc. It being assumed that these seats are ultimately communal and that communities desiring special representation for these interests may do so out of the communal quota.

5. The allowance of 33½ per cent. representation to Muslims in the Central Legislature is based on the assumption that 26 per cent. shall be from British India and at least 7 per cent. by convention out of the quota assigned to the Indian States.

6. In the Punjab the suggested common sacrifice by the Muslims, Caste-Hindus and the Depressed Classes, would permit of a weightage of 54 per cent. being given to the Sikhs, giving them representation of 20 per cent. in the Legislature.

7. The proposals may be taken as being acceptable to well over 115 millions of people, or about 46 per cent. of the population of India.

APPENDIX II*

SUPPLEMENTARY MEMORANDUM ON THE CLAIMS OF THE DEPRESSED CLASSES FOR SPECIAL REPRESENTATION

By Dr. Bhimrao R. Ambedkar and Rao Bahadur R. Srinivasan

In the memorandum that was submitted by us last year dealing with the question of political safeguards for the protection of the Depressed Classes in the constitution for a self-governing India, and which forms Appendix III to the printed volume of Proceedings of the Minorities Subcommittee, we had demanded that special representation of the Depressed Classes must form one of such safeguards. But we did not then define the details of the special representation we claimed as being necessary for them. The reason was that the proceedings of the Minorities Sub-Committee came to an end before the question was reached. We now propose to make good the omission by this supplementary memorandum so that the Minorities

*For previous memorandum *see* Appendix to Proceedings of the Minorities Sub-Committee of the First Session of the Conference. This Supplementary Memorandum, dated 4th November 1931 is printed as Appendix VII in the original proceedings at pp. 1409-11.

Sub-Committee, if it comes to consider the question this year, should have the requisite details before it.

I. Extent of Special Representation

A. Special Representation in Provincial Legislature

(i) In Bengal, Central Provinces, Assam, Bihar and Orissa, Punjab and the United Provinces, the Depressed Classes shall have representation in proportion to their population as estimated by the Simon Commission and the Indian Central Committee.

(ii) In Madras the Depressed Classes shall have twenty-two per cent. representation.

(iii) In Bombay—

(*a*) In the event of Sind continuing to be a part of the Bombay Presidency the Depressed Classes shall have sixteen per cent. representation.

(*b*) In the event of Sind being separated from the Bombay Presidency the Depressed Classes shall enjoy the same degree of representation as the Presidency Muslims, both being equal in population.

B. Special Representation in the Federal Legislature

In both Houses of the Federal Legislature the Depressed Classes shall have representation in proportion of their population in India.

Reservations

We have fixed this proportion of representation in the Legislatures on the following assumptions : —

(1) We have assumed that the figures for the population of the Depressed Classes given by the Simon Commission (Vol. I, p. 40) and the Indian Central Committee (Report, p. 44) will be acceptable as sufficiently correct to form a basis for distributing seats.

(2) We have assumed that the Federal Legislature will comprise the whole of India, in which case the population of the Depressed Classes in Indian States, in Centrally Administered Areas, and in Excluded Territories, besides their population in Governor's Provinces, will form very properly an additional item in calculating the extent of representation of the Depressed Classes in the Federal Legislature.

(3) We have assumed that the administrative area of the Provinces of British India will continue to be what they are at present.

But if these assumptions regarding figures of population are challenged as some interested parties threaten to do, and if under a new census over which the Depressed Classes can have no control, the population of the Depressed Classes shows a lower proportion, or if the administrative areas of the Provinces are altered, resulting in disturbing the existing balance of population, the Depressed Classes reserve their right to revise their proportion of representation and even to claim weightage. In the same way, if the

All-India Federation does not come into being, they will be willing to submit to readjustment in their proportion of representation calculated on that basis in the Federal Legislature.

II. Method of Representation

1. The Depressed Classes shall have the right to elect their representatives to the Provincial and Central Legislatures through separate electorates of their voters.

For their representation in the Upper House of the Federal or Central Legislature, if it is decided to have indirect election by members of the Provincial Legislatures, the Depressed Classes will agree to abandon their right to separate electorates so far as their representation to the Upper House is concerned subject to this : that in any system of proportional representation arrangement shall be made to guarantee to them their quota of seats.

2. Separate electorates for the Depressed Classes shall not be liable to be replaced by a system of joint electorates and reserved seats, except when the following conditions are fulfilled : —

(*a*) A referendum of the voters held at the demand of a majority of their representatives in the Legislatures concerned and resulting in an absolute majority of the members of the Depressed Classes having the franchise.

(*b*) No such referendum shall be resorted to until after twenty years and until universal adult suffrage has been established.

III. Necessity of Defining the Depressed Classes

The representation of the Depressed Classes has been grossly abused in the past inasmuch as persons other than the Depressed Classes were nominated to represent them in the Provincial Legislatures, and cases are not wanting in which persons not belonging to the Depressed Classes got themselves nominated as representative of the Depressed Classes. This abuse was due to the fact that while the Governor was given the power to nominate persons to represent the Depressed Classes, he was not required to confine his nomination to persons belonging to the Depressed Classes. Since nomination is to be substituted by election under the new constitution, there will be no room for this abuse. But in order to leave no loophole for defeating the purpose of their special representation we claim —

(i) That the Depressed Classes shall not only have the right to their own separate electorates, but they shall also have the right to be represented by their own men.

(ii) That in each Province the Depressed Classes shall be strictly defined as meaning persons belonging to communities which are subjected to the system of untouchability of the sort prevalent therein and which are enumerated by name in a schedule prepared for electoral purposes.

IV. Nomenclature

In dealing with this part of the question we would like to point out that the existing nomenclature of Depressed Classes is objected to by members of the Depressed Classes who have given thought to it and also by outsiders who take interest in them. It is degrading and contemptuous, and advantage may be taken of this occasion for drafting the new constitution to alter for official purposes the existing nomenclature. We think that they should be called "Non-caste Hindus", "Protestant Hindus", or "Non-conformist Hindus", or some such designation, instead of "Depressed Classes". We have no authority to press for any particular nomenclature. We can only suggest them, and we believe that if properly explained the Depressed Classes will not hesitate to accept the one most suitable for them.

We have received a large number of telegrams from the Depressed Classes all over India supporting the demands contained in this Memorandum.

11

EVIDENCE TAKEN BEFORE THE JOINT COMMITTEE ON INDIAN CONSTITUTIONAL REFORM

Witnesses examined by Dr. B. R. Ambedkar

(1)

Sir Patrick James Fagan, K.C.I.E., C.S.I., F.R.A.S.. Mr. E. B. Loveluck, Mr. Wilfred Harold Shoobert, Mr. Eustace Arthur Cecil King, Mr. Henry Robert Harrop, Mr. Frederick Wynne Robertson, Sir Evans Cottan, Mr. Harold Lancelot Newman and Mr. Sale, on behalf of European Government Servants, Indian Police Association and Civil Engineers' Association.

*382. *Dr. B. R. Ambedkar :* You stated a little while ago that there is a great deal of hostility shown to the Indian Public Service by the Indian Press and by the politicians in India ?

Sir P. J. Fagan : Yes.

*383. *Dr. B. R. Ambedkar :* I would like to read to you a small extract from the Minute written by Sir Reginald Craddock, which is appended to the Lee Commission Report, on page 132, paragraph 10, a few lines from the bottom. This is the paragraph to which I want to draw your attention : "Several of those who have given evidence before us believe that the hostility from time to time shown by the new legislatures is entirely occasioned by the fact that the members of the All-India Services are imposed on them from outside, and that fresh recruitment for those Services will indefinitely prolong these vested interests ; but that, once control passes from the Secretary of State to the Government of India or to the Local Government in the transferred field as the case may be, all bias and animus will disappear." I want to know whether you agree with that statement ?

Sir P. J. Fagan : No ; I do not think we have sufficient grounds for agreeing with that statement. Of course, if it should turn out so, it would be good, but I am afraid the Associations have not sufficient grounds for agreeing with the statement that there would be a sudden change of attitude.

384. *Dr. B. R. Ambedkar :* Do not you think the very fact that you want to remain outside the control of the Indian Legislature, and the new

*Minutes of Evidence, Vol. II-A, 13th June 1933, pp. 69-70.

Government will itself be provocative enough to arouse public opinion against you ?

Mr. W. H. Shoobert : Sir, we do not want to remain outside the control. We only want our existing accruing rights, our pensions and our family pensions secured. We do not wish to be outside the control in the very least.

385. *Dr. B. R. Ambedkar :* Supposing, for instance, all the rights that may be agreed upon in this Conference as being legitimate rights of the Indian Civil Servants were guaranteed to you by Indian Legislatures by Acts passed by the Local and Central Legislatures. Would that give you sufficient protection ?

Sir P. J. Fagan : We are afraid of the financial situation.

386. *Dr. B. R. Ambedkar :* That is another matter : whether the Indian Legislature will be able to find the moneys on account of your services and other matters is another matter ?

Sir P. J. Fagan : Quite.

387. *Dr. B. R. Ambedkar :* But with regard to your conditions of service, what I want to press is, suppose they were regulated by the Acts of Indian Legislatures (by rules made by the Secretary of State in Council). Do you think that would give you adequate protection or not?

Sir P. J. Fagan : No.

Mr. W. H. Shoobert : Such Acts could be repealed by future extremist Governments.

388. *Dr. B. R. Ambedkar :* Supposing some provision were made for that, that there would be no sudden repeal of an Act ?

Sir P. J. Fagan : I think I may say that the Associations would certainly not regard that as sufficient protection.

389. *Dr. B. R. Ambedkar :* I want to make this point which you have made so much of, that there is so much hostility against you in India both on the part of the Press and the politician. Is not it the fact that you are asking for safeguards the result of which is to keep you entirely out of the purview of legitimate public opinion expressed in the Press as well as in the Legislature ?

Sir P. J. Fagan : No, I do not think it keeps us outside the purview. I should say certainly not. I certainly do not think that it would keep them out of the purview of healthy public opinion.

390. *Dr. B. R. Ambedkar :* I want to put this question to you again : Do not you think that if you were under the control of laws made by the Indian Legislature with the consent of the Indian Ministers you would get far better protection from the Indian Ministers themselves when you are attacked in the Press or by the public than you are likely to get if you remain outside ?

Sir P. J. Fagan : No ; I do not think the Associations would take that view.

391. *Dr. B. R. Ambedkar :* You just now read some extracts from the

Simon Commission Report in support of the statement you made just now. Is it not a fact that Sir John Simon was driven almost against his will to recommend the transfer of law and order simply because he came to the conclusion that to keep that as a reserved subject would expose the services operating in that Department to extreme criticism ?

Sir P. J. Fagan : That is again, I think, a subject that we would rather avoid. It is a very debatable subject and I believe there are very diverse opinions on the subject. I am not responsible for what Sir John Simon may have thought.

Dr. B. R. Ambedkar : Do you agree that that was the reason for its prevailing with the Simon Commission Report ?

Sir Austen Chamberlain : The witness has already asked to be excused from answering that question.

Dr. B. R. Ambedkar : I do not wish to press it if he does not wish to answer.

Sir Austen Chamberlain : Surely it is not a proper question to press the representatives of the Civil Service on. who come to speak to their own special position and claims, and not to take part in a discusssion about general reform in India.

Dr. B. R. Ambedkar : The reason Sir John Simon cites for the transfer of law and order was that reserving that Department outside the control of the Legislature and the Minister would expose the Department to far greater criticism from the Press and the public.

Viscount Burnham : As a member of the Statutory Commission, what Dr. Ambedkar has said is a most misleading account.

Dr. B. R. Ambedkar : Possibly I may have misread it.

(2)

Mr. Sachchidananda Sinha, Barrister-at-Law, M.I.C.

*1985. *Dr. B. R. Ambedkar :* I want to ask you, first of all, a question about the special powers of the Governor, especially his power to take action in order to prevent a menace to peace and tranquillity. I want to draw your attention, if I may, to the position as it exists today with regard to the administration of the transferred subjects. Have you got the Government of India Act before you ?

Mr. Sachchidananda Sinha : Yes.

1986. *Dr. B. R. Ambedkar :* Will you just refer to Section 52 of the Government of India Act ?

Mr. Sachchidananda Sinha : Yes.

1987. *Dr. B. R. Ambedkar :* I do not want to take you to Section 45 of the Government of India Act which provides for the classification of subjects transferred and reserved ; that we know. I am dealing only with the question

*Minutes of Evidence, Vol. II-A, 22nd June 1933, pp. 256-58.

of control. If you take Section 52, sub-section (1) says : "The Governor of a Governor's Province may, by notification, appoint Ministers, not being members of his Executive Council", and so on ?

Mr. Sachchidananda Sinha : Yes.

1988. *Dr. B. R. Ambedkar :* Then we come to sub-section (3)—this is what it says : "In relation to transferred subjects, the Governor shall be guided by the advice of his Ministers, unless he sees sufficient cause to dissent from their opinion, in which case he may require action to be taken other wise than in accordance with that advice" ?

Mr. Sachchidananda Sinha : Yes.

1989. *Dr. B. R. Ambedkar :* What I call your attention to is that this section does not say that wherever the Governor thinks there is a menace to peace and tranquillity, he shall overrule his Ministers ?

Mr. Sachchidananda Sinha : No.

1990. *Dr. B. R. Ambedkar :* Specific provision is not made in this section as it is now made in the White Paper ?

Mr. Sachchidananda Sinha : No, that is so.

1991. *Dr. B. R. Ambedkar :* If you refer to the Instrument of Instructions, which is issued to the Governor, in which he is told in what cases he should not Act upon the advice of the Ministers ?

Mr. Sachchidananda Sinha : I have not got a copy here.

1992. *Dr. B. R. Ambedkar :* You will find it in that book at page 269 ?

Mr. Sachchidananda Sinha : Yes, I have it.

1993. *Dr. B. R. Ambedkar :* On page 270, clause VI of the Instrument of Instructions says : "In considering a Minister's advice and deciding whether or not there is sufficient cause in any case to dissent from his opinion, you shall have due regard to his relations with the Legislative Council and to the wishes of the people of the Presidency as expressed by their representatives therein." In other words, the Governor, under the present circumstances, can over-rule the Minister and not accept his advice in the matter of transferred Departments, only if he came to the conclusion that the Minister had not the support of the Legislature or of the constituencies ?

Mr. Sachchidananda Sinha : That is so, I suppose.

1994. *Dr. B. R. Ambedkar :* What I want to say is this, if I may, for the sake of clarity : Under the existing system of administering transferred Departments, the Governor has not got his special veto which is now given under clause (*a*) of the powers given to the Governor, namely, to maintain peace and tranquillity ?

Mr. Sachchidananda Sinha : That is so.

1995. *Dr. B. R. Ambedkar* : Today, having regard to the fact that the Department of Law and Order is a reserved subject, he, of course, can take any action that he likes within the scope of that Department ?

Mr. Sachchidananda Sinha : Yes

1996. *Dr. B. R. Ambedkar :* But he cannot come to the Minister and

say : "I will not accept your advice, although you are dealing with a transferred Department, because the action that you propose to take will be a menace to peace and tranquillity" ?

Mr. Sachchidananda Sinha : No.

1907. *Dr. B. R. Ambedkar :* So, consequently, this is a retrograde provision ?

Mr. Sachchidananda Sinha : Undoubtedly.

1998. *Dr. B. R. Ambedkar :* Today the Minister can take any action he likes in his Department. Under the new scheme of the White Paper (assuming the White Paper goes through) every Department would be a transferred Department. The veto of the Governor arising out of his special power to maintain peace and tranquillity instead of being confined to one particular Department of Law and Order will spread itself over to every Department ?

Mr. Sachchidananda Sinha : Yes.

1999. *Dr. B. R. Ambedkar :* It would be, to that extent, a diminution of responsibility in every Department, although every Department would be a transferred Department ?

Mr. Sachchidananda Sinha : That is so.

Dr. B. R. Ambedkar : Now let me come to the question of the Services. You will see the Appendix 7 which enumerates them —

Viscount Burnham : On a point of order, my Lord Chairman, we have had this explanation of what are the present powers of the Governors of Provinces, but we are not told where it is laid down.

Dr. B. R. Ambedkar : I drew attention to Section 52(*1*) of the Government of India Act.

Viscount Burnham : On whose authority is this explanation given ?

Dr. B. R. Ambedkar : I do not know.

Viscount Burnham : Who authorises the explanation which you have given ?

2000. *Dr. B. R. Ambedkar :* That is my own interpretation of the Act and the Witness agrees with it. I refer to Section 52, and the Instrument of Instructions, which is part of the Act. Now coming to the question of the Services, Appendix 7, you will see there in that Appendix—I do not want to refer specifically to each point, that provision is made that the Secretary of State in Council shall retain all powers regarding classification and the regulation of the conditions of service ?

Mr. Sachchidananda Sinha : Yes.

2001. *Dr. B. R. Ambedkar :* May I refer you now to Section 96B, sub-section (2) ? This is how it reads : "The Secretary of State in Council may make rules for regulating the classification of the Civil Services in India, the methods of their recruitment, their conditions of service, pay and allowances and discipline and conduct." And further "such rules may, to such extent and in respect of such matters as may be prescribed, delegate the power of making rules to the Governor-General in Council or

to local Governments, or authorise the Indian Legislature or local Legislatures to make laws regulating the Public Services."

Mr. Sachchidananda Sinha : Yes.

2002. *Dr. B. R. Ambedkar :* So, under the Government of India Act as enacted, the intention was to transfer this power of making rules with regard to the emoluments and the conditions of service, to the Governor-General or to the Indian Legislatures ?

Mr. Sachchidananda Sinha : Or the Local Governments.

2003. *Dr. B. R. Ambedkar :* And the intention was that the conditions of service should be such as to be assimilated to the new system of government that was to be introduced in India ?

Mr. Sachchidananda Sinha : That seems to be the implication.

2004. *Dr. B. R. Ambedkar :* If, for instance, these provisions as they are laid down in Appendix 7 were enacted, the whole tendency which emanated from the Government of India Act of developing control over the Indian authorities would be arrested ?

Mr. Sachchidananda Sinha : That is why I say in my Memorandum that the proposals relating to the Public Services do not give satisfaction to India.

2005. *Dr. B. R. Ambedkar :* It is quite necessary, and it is in fact provided in the Government of India Act itself, that these powers are being exercised by the Secretary of State in Council, and may be delegated, under proper conditions, to the Indian Legislature ?

Mr. Sachchidananda Sinha : Yes.

2006. *Dr. B. R. Ambedkar :* If the White Paper proposals were enacted, this process of devolution would be arrested ?

Mr. Sachchidananda Sinha : Clearly.

2007. *Dr. B. R. Ambedkar :* Take, again, certain specific items in the Services' rights. Take, for instance, 14 on page 121, "Personal concurrence of the Governor, formal censure," and so on ; 15 : "Personal concurrence of the Governor with regard to posting ; 16 : Right of complaint to the Governor against any order of an official superior," and so on. Now these rights, as conditions of service, are really not final ; they are in their evolutionary stage. These were enacted because nobody was certain how the Minister would react ?

Mr. Sachchidananda Sinha : What is your question, Dr. Ambedkar ?

2008. *Dr. B. R. Ambedkar :* My question is this : Some of these Service conditions which are laid down, and to which I have drawn your attention, were enacted as an experimental thing in order to find out what exactly would be the ultimate result of the experiment between a popular Minister and the Civil Service ?

Mr. Sachchidananda Sinha : Yes.

2009. *Dr. B. R. Ambedkar :* They were not intended to be final ?

Mr. Sachchidananda Sinha : No, I suppose not.

2010. *Dr. B. R. Ambedkar :* And if they were enacted as they are, I again

say that the process of assimilating the conditions of the Civil Service to the responsible system of Government would be arrested ?

Mr. Sachchidananda Sinha : Yes.

2011. *Dr. B. R. Ambedkar :* I just want to ask you one question about this Central responsibility. You said in reply to a question by Sir Henry Gidney, that you were very keen on a date being fixed for the inauguration of the Federation ?

Mr. Sachchidananda Sinha : Yes.

2012. *Dr. B. R. Ambedkar :* On the other hand, as you are aware, it is urged that it is impossible to fix any specific date, because there are so many elements of uncertainty, namely, that the Princes may not come in, within the time prescribed, and you know also that in order to avoid that there are certain transitory provisions enacted in the White Paper. Now what I want to suggest is this, because I am anxious to get your opinion upon this point : Suppose the Federation were started immediately with a nominated bloc in the Central Legislature, partly of officials and partly of non-officials, pending the admission or the entry of the requisite number of Princes, so that the Federation may not keep on hanging until the requisite number of Princes come, would you have objection to that sort of system ?

Mr. Sachchidananda Sinha : I can express no opinion offhand, but the matter may be considered and examined. It is worth examining.

2013. *Dr. B. R. Ambedkar :* I want to get this point clear. I suppose you do not agree with the position that Federation of British India with the Indian Princes is a condition precedent to responsibility at the Centre ?

Mr. Sachchidananda Sinha : I do not desire to express any opinion. because I understand the proposals outlined in the White Paper were agreed to at the Round Table Conference.

2014. *Dr. B. R. Ambedkar :* What I am putting is this : Speaking apart from the White Paper, you do not say, or you do not agree, that British India can have Central responsibility only on one condition, that there shall be Federation ?

Mr. Sachchidananda Sinha : No, not apart from the White Paper.

Mr. Butler : Before we proceed further, my Lord Chairman, may I say that we cannot accept the interpretations given in these questions and answers of the present Government of India Act, in particular the limitations which have been assumed under the Instructions of the present Government, Clause VI and Section 52 of the present Government of India Act ?

(3)

Mir Maqbool Mahmood, Dr. P. K. Sen, Mr. K. M. Panikkar and Mr. B. Kak, on behalf of Chamber of Princes

*3000. *Dr. B. R. Ambedkar :* Arising out of these questions, I want to put

*Minutes of Evidence, Vol. II-A, 27th June 1933, pp. 372-76.

the thing as I see it. You know in the White Paper there is one condition laid down for the inauguration of the Federation : that is the joining of a certain number of Indian States. Then for the transfer of finance an important condition is laid down, and that is the introduction of the Bank. What I want to ask you is this : Would the Princes be prepared to join the Federation if finance was not a transferred subject ?

Mir Maqbool Mahmood : I have no definite instructions on that question, but I do not think that, considering the trend of their discussions, they would be prepared to.

3001. *Dr. B. R. Ambedkar :* They would not be prepared to join the Federation if finance was not a transferred subject ?

Mir Maqbool Mahmood : I do not think so.

3002. *Dr. B. R. Ambedkar :* Coming to other matters, in the course of the evidence that you gave last time, Mir Maqbool, you stated that in case all the Princes did not join the Federation at once you would like to have a system introduced whereby those Princes who would join the Federation should be allowed to have the benefit vicariously of the votes of those who did not join. I have put it correctly ?

Mir Maqbool Mahmood : That represents only one aspect of the position.

3003. *Dr. B. R. Ambedkar :* That is the position you take?

Mir Maqbool Mahmood : That is half the truth, not the full truth. We contemplate two aspects of the position.

3004. *Dr. B. R. Ambedkar :* I know your Confederation ?

Mir Maqbool Mahmood : Not that : One is, that States which are entering will do so on the assumption that the States' position in the Federation would be 40 per cent. in the Upper House and one-third in the Lower House ; that is with regard to the States which entered, individually ; the other is in regard to those States which are outside, that they are also affected by the decisions of Federation. Those are the two aspects, and I understood your question referred to the second.

3005. *Dr. B. R. Ambedkar :* I just want you to concentrate your attention, if you please, on this point : I thought I understood from you, last time, that you wanted to lay down as one of the conditions, that if all the States did not enter the Federation at once in the beginning, and that if only some entered and other kept out. you would like a system of weightage, so to say, in which those Princes who entered the Federation would claim, or cast, votes vicariously, those which were the share of those which did not enter. That is the position ?

Mir Maqbool Mahmood : Yes.

3006. *Dr. B. R. Ambedkar :* Now what I want to ask you with regard to that, is this : What would be the position of those States which would not enter the Federation at the start, but whose votes were used by those who did enter *vis-a-vis* the Federation, with respect to taxation and with respect to Federal Legislation ? Would Federal Legislation be operative in

those States which did not enter, but whose votes were used ?

Mir Maqbool Mahmood : It would, substantially, be the same as it is now.

3007. *Dr. B. R. Ambedkar :* No ; my point is this : Would the Federal law be operative in those States which did not enter the Federation, but whose voting strength was used by States which did enter the Federation ?

Mir Maqbool Mahmood : In certain matters of taxation, it would apply in spite of it. In other matters it would apply by negotiation.

3008. *Dr. B. R. Ambedkar :* Would they be regarded as member States of the Federation ?

Mir Maqbool Mahmood : No.

3009. *Dr. B. R. Ambedkar :* They would not be? *Mir Maqbool Mahmood :* No.

3010. *Dr. B. R. Ambedkar :* And yet their votes would be used ?

Mir Maqbool Mahmood : Yes. In the same way as under Article 147 of the Canadian Constitution, Nova Scotia and New Brunswick exercised the votes of Edward Island in the Senate that the latter formed the Federation.

3011. *Dr. B. R. Ambedkar :* Now I want to ask some questions about nationality. I do not know which of you gentlemen would address yourself to that matter. I think it is common ground that the subjects of the Indian States are aliens, so far as British India is legally concerned ?

Mr. K. M. Panikkar : They are British protected people, but, in law, they are aliens.

3012. *Sir Hari Singh Gour :* They are not British subjects ?

Mir Maqbool Mahmood : They are not British subjects.

3013. *Dr. B. R. Ambedkar :* They come within what is known as the Foreigners' Act in British India ?

Mir Maqbool Mahmood : I do not think so.

3014. *Dr. B. R. Ambedkar :* You can take it from me, that they do. Anyhow, it is common ground, that they are not British subjects, and you do not propose, I suppose, to regularise the position which would be most compatible and consistent with All-India Federation, to have one common Indian nationality ?

Mir Maqbool Mahmood : That is not contemplated.

3015. *Dr. B. R. Ambedkar :* So I take it that the result of this will be that if the situation which obtains now continues, aliens (I mean subjects of the Indian States) would be entitled to the franchise, would be entitled to stand as members of the Federal and the Provincial Legislatures, and would be entitled to hold office of trust under the Crown, without being subjects of the Crown ?

Mir Maqbool Mahmood : That is possible, even now.

3016. *Dr. B. R. Ambedkar :* I know it is possible.

Mir Maqbool Mahmood : It has happened, even now.

3017. *Dr. B. R. Ambedkar :* But what I want to ask is this : Do you not regard that as an anomalous thing ?

Mir Maqbool Mahmood : We do not think so.

3018. *Dr. B. R. Ambedkar :* Can you cite to me any Constitution in which an alien is entitled to the franchise, is entitled to stand as a member of the Legislature, and is further entitled to hold office of trust ?

Mir Maqbool Mahmood : Even here our distinguished Delegate, Sir P. Pattani, was a member of the Executive Council.

3019. *Dr. B. R. Ambedkar :* I know that, but what I am trying to impress upon you is that that is an anomalous thing, something which is not found in any other Federation ?

Mir Maqbool Mahmood : I cannot cite an instance at the moment.

3020. *Dr. B. R. Ambedkar :* You think it is a very wide system in which a subject of an Indian State may hold an office of trust under the Crown, and yet may be subject to what is known as the Foreigners' Act ?

Mir Maqbool Mahmood : So long as he takes the Oath of Allegiance to the Constitution.

3021. *Dr. B. R. Ambedkar :* Do you think that would take him out of the purview of the Foreigners' Act ?

Mir Maqbool Mahmood : If it is necessary for you to reconsider that Act, you might do so.

3022. *Dr. B. R. Ambedkar :* That is the point I am putting. Would it, therefore, not be desirable to have a common Indian nationality ?

Mir Maqbool Mahmood : I am afraid we have not considered the legal implications of this position.

3023. *Mr. Jayakar :* Has this question of a common nationality been considered by the Princes at all ?

Mir Maqbool Mahmood : Yes.

3024. *Dr. B. R. Ambedkar :* And they do not approve of it ?

Dr. P. K. Sen : The Princes have not denied the allegiance of their subjects to the British Crown, subject to their allegiance to the Rulers of the States themselves. That is, a supplementary allegiance has always been considered in that sense, and therefore they have always been allowed, in Provinces of India the same privileges as British Indians.

3025. *Dr. B. R. Ambedkar :* I am talking about the legal position as it would be ?

Mir Maqbool Mahmood : I do not think, if I may say so with respect, that analogy would help us very much in a case of this kind, because the position as regards the States in India and their relationship with the Crown is undoubtedly unique, and you cannot, therefore, draw much help by analogies of that description ; but as a matter of fact, the question of nationality is preeminently important, and I dare say some proper solution could be arrived at after consideration, but it is hardly possible to give a definite answer with regard to the legal position and all the implications arising therefrom, in

evidence. I said that in a matter like this it is very difficult to derive any help from analogy. What is, or is not, present in other parts of the world will not very much help us, because the position of the States in regard to the British Crown is very unique and, therefore, we have it here (it may be anomalous) that whereas the State subject owes allegiance to his own Ruler, he also owes allegiance to the Crown, and in order to adjust the legal position and all the implications arising therefrom, the matter has got to be considered in all its bearings. It is hardly possible to give an answer in the course of evidence as to what should be the legal implications of such a position.

3026. *Mr. Jayakur :* Therefore, may I take it that no final and unalterable decision upon this point has been arrived at by the States ?

Mir Maqbool Mahmood : No.

3027. *Dr. B. R. Ambedkar :* I am satisfied that you regard the position as anomalous and worthy of consideration ?

Mir Maqbool Mahmood : It is, undoubtedly, worthy of consideration.

3028. *Dr. B. R. Ambedkar :* Now I want to ask you a question about this Federal Court. Will you look at paragraph 155 of the White Paper ? You will see there that there is no provision made for a Federal Court having any jurisdiction in a dispute arising between a citizen from an Indian State *versus* a British Indian Province, or a citizen of a British Indian Province *versus* an Indian State. Do you not agree that it is necessary to provide a forum whereby a British Indian subject having a cause of action arising out of a Federal law against an Indian Slate should have a forum wherein he could vindicate his right ?

Mir Maqbool Mahmood : As I understand the White Paper, it is contemplated that Section 155 would apply only to certain special cases where the parties are State and State, or State and Province, or State and Federation, or Province and Federation. As regards a particular individual having a cause of action against a British Indian Province or a State, there is really no provision that the Federal Court will have jurisdiction. It is evidently implied that the cause of action arises or the place of residence of the defendant, as is ordinarily the case according to the Code of Civil Procedure, will determine the forum where the litigation will take place.

3029. *Dr. B. R. Ambedkar :* That is not the question. The question is this : Whether the Federal Court would have jurisdiction ?

Mir Maqbool Mahmood : No, it is not contemplated that the Federal Court will have jurisdiction.

3030. *Dr. B. R. Ambedkar :* Supposing a dispute arises out of a cause of action out of a Federal Legislation, the ultimate forum, wherever the original suit may lie, certainly must be the Federal Court ? May we not first look at the original litigation, the suit itself ?

Mir Maqbool Mahmood : It evidently contemplates that the suit will lie, either in British India or in the State, as the case may be. Then we come to the question of appeal.

3031. *Dr. B. R. Ambedkar :* But the suit may be of such a large character that the jurisdiction may lie with the Federal Court itself ?

Mir Maqbool Mahmood : I do not think so.

3032. *Dr. B. R. Ambedkar :* All that I want to draw your attention to is this, that in the provisions contained in paragraph 155, there is no provision made for a private citizen to vindicate his rights arising out of Federal Legislation against a Native Indian State, or a citizen of an Indian State against an Indian Province ?

Mir Maqbool Mahmood : Evidently.

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3036. *Dr. B. R. Ambedkar :* Will you please refer to paragraph G of your Memorandum, Document 21, sub-paragraph (*c*) ?

Mir Maqbool Mahmood : Yes.

3037. *Dr. B. R. Ambedkar :* At the end of that paragraph you suggest that in case a particular State fails to enforce the decree of the Federal Court powers should be given to the Viceroy to do so ?

Dr. P. K. Sen : Yes.

3038. *Dr. B. R. Ambedkar :* Why do you want to give this power to the Viceroy and not to the Governor-General or to the Federal Ministry ? The Federal Court is part of the Federal Constitution ?

Dr. P. K. Sen : In the event of a particular order of the Federal Court not being carried out by the State unit, it seems that the appropriate person to see that it is carried out is the Viceroy.

3039. *Dr. B. R. Ambedkar :* Why Viceroy ? Why not the Governor-General or the Federal Ministry ? Why the Viceroy ?

Dr. P. K. Sen : Because the Viceroy is in touch with the State in his position as representative of the paramount power to see that a particular function which the State ought to fulfil is fulfilled.

3040. *Dr. B. R. Ambedkar :* No, I take a different view, and I want to put that view to you. The Federal Court is part of the machinery of the Federal Government, and it is the Governor-General who, under the White Paper proposals would be the person who would represent the Federation and not the Viceroy. The appropriate party therefore to have this power, if anyone is to have it, is the Governor-General and not the Viceroy ?

Dr. P. K. Sen : The question is whether the Governor-General as Governor-General, and as head of the Federal Executive, will be able to bring to book, if I may so use the expression, or, rather, to enforce the particular order in the State.

3041. *Dr. B. R. Ambedkar :* My point is that he should be able to do it, not the Viceroy. The Viceroy represents the Crown in relation to para-mountcy in these things ?

Dr. P. K. Sen : What is the sanction for the Governor-General ? We apprehend that it would be the Viceroy who would have that particular

relationship of control as representative of the paramount power to bring it into effect.

3042. *Dr. B. R. Ambedkar :* I do not know whether I have made myself clear. My point is that the Federal Court is part of the Federal Constitution ?

Dr. P. K. Sen : Undoubtedly.

3043. *Dr. B. R. Ambedkar :* And the head of the Federal Constitution will be the Governor-General and not the Viceroy ?

Dr. P. K. Sen : Yes.

3044. *Dr. B. R. Ambedkar :* Consequently, the enforcement of the decisions of the Federal Judiciary, which is part of the Federal Constitution, properly belongs to the Governor-General and not to the Viceroy, and there fore it is the Governor-General who ought to have the power of enforcement ?

Dr. P. K. Sen : All I can say is that it seems that the proper procedure would be for the Governor-General to proceed through the Viceroy.

3045. *Dr. B. R. Ambedkar :* I will not pursue that point further. Mr. Panikkar, in reply to a question put by Mr. Jayakar, you said that it would be necessary to have the prior consent of the Indian States before the subjects which are going to be reserved at the centre are transferred, especially the Army. Have I represented you correctly ?

Mr. K. M. Panikkar : Quite correctly.

3046. *Dr. B. R. Ambedkar :* Do I understand you to say that if the States assent, at the next time when a question for discussion arises, that the Army should not be a transferred subject, it would not be transferred ?

Mr. K. M. Panikkar : Presumably so.

(4)

Sir Michael O'dwyer, G.C.I.E., K.C.S.I.

*3356. *Dr. B. R. Ambedkar :* In your evidence I find that you make a very sharp distinction between what are called the intellectual classes, or intelligentsia and the masses. I want to ask you this : Do you make any difference in the situation when the intellectuals which you have in mind are drawn from one particular stratum of society and the situation in which the intellectuals are drawn from the different strata of society ?

Sir Michael O'dwyer : I do. I think if they are drawn from different strata they will have a wider outlook.

3357. *Dr. B. R. Ambedkar :* Do not you think in the present circumstances in India the intellectual class is really a composite class not merely drawn from the Brahmins but from the non-Brahmins, the Muslims, the Depressed Classes ?

Sir Michael O'dwyer : It varies very much in the different parts of India. In the North of India the intellectual classes are predominantly Hindu out-

*Minutes of Evidence, Vol. II-A, 29th June 1933, pp. 406-07.

side the Punjab, and are drawn from the higher caste-Hindus. In Madras, where education has been more widespread, the situation is different. It would be very hard to generalise.

3358. *Dr. B. R. Ambedkar :* The point I wish to put to you is this : You would not say, I am sure, that if the intellectual classes are drawn from the different strata of Indian society, that there would be the same dichotomy between them and the masses as would be the case if the intellectual classes were drawn from one single stratum ?

Sir Michael O'dwyer : I entirely agree with you, there would not be.

3359. *Dr. B. R Ambedkar :* Therefore I think it would logically follow that such an intellectual class could be trusted to take care of the masses from which they themselves are drawn ?

Sir Michael O'dwyer : I think so ; they would be more likely to do so.

3360. *Dr. B. R. Ambedkar :* I want to ask you another question : Is it not a fact that the existing Government rather fights shy of a legislative programme of social reform ?

Sir Michael O'dwyer : Yes, I think on the whole there is a hesitation to do anything which could be construed or misconstrued interference with religious usages.

3361. *Dr. B. R. Ambedkar :* Do you not agree that a large part of the inefficiency of the Indian people is really due to these social evils ?

Sir Michael O'dwyer : I think it has been largely due to that.

3362. *Dr. B. R. Ambedkar :* And, therefore a Government which fights shy of a programme of legislative reform in order to remove the causes of social inefficiency of the Indian people is a weak Government ?

Sir Michael O'dwyer : I would not say the Government fights shy. The Government hesitates until it feels it has a certain support of a mass of public opinion on its side. I think on that ground it supported the Survey Act.

3363. *Dr. B. R. Ambedkar :* Yes, but in the main its legislative programme has been very poor ?

Sir Michael O'dwyer : Yes, because legislation can never be too much in advance of public opinion in a country like India. When the Government first introduced legislation of that kind Mr. Tilak was at once up in arms, and said the Government was interfering with religion. The result was an agitation in the Deccan and massacres.

3364. *Dr. B. R. Ambedkar :* The Government was frightened by a single individual like Mr. Tilak ?

Sir Michael O'dwyer : It was not Mr. Tilak alone ; he had marvellous powers of carrying people with him.

3365. *Dr. B. R. Ambedkar :* Indians would not be afraid of Mr. Tilak ?

Sir Michael O'dwyer : I think they would. I think very few people would cross swords with Mr. Tilak. Lord Sydenham was one.

3366. *Dr. B. R. Ambedkar :* You said you would not transfer Law and Order for the moment. You would transfer all the other before you would

transfer Law and Order, and not make any change at the centre. Would you give us any idea of the interval you would like to elapse before Law and Order is transferred ?

Sir Michael O'dwyer : I would leave it. Let communal antagonism die down. When Ministers who have been given extended powers have used those powers in the Departments of Land Revenue, Irrigation, and others, and have shown that they are capable of being entrusted with further powers, and when the anti-British agitations which exist and terrorist gangs which exist in certain provinces have been got under, and when conditions are otherwise favourable, then I would favour a transfer of Law and Order.

3367. *Dr. B. R. Ambedkar :* You were asked whether there was any section of the Indian public which would be favourable to the sort of scheme which you propose. You said : Yes, there would be some sections in India which would accept that ?

Sir Michael O'dwyer : Yes.

3368. *Dr. B. R. Ambedkar :* I want to put this to you : Make the other assumption which is being put to you that there is no section in India which will accept that. I ask you to make that assumption ?

Sir Michael O'dwyer : Yes.

3369. *Dr. B. R. Ambedkar :* Then tell us what would be your next move, supposing you found that there was no section in India which was prepared to accept your proposal ; what would be the advice that you would tender to Parliament in that case ?

Sir Michael O'dwyer : I would go ahead on the lines I thought most suitable for the benefit of the people of India.

3370. *Dr. B. R. Ambedkar :* Your position is do what you think best and leave the Indians to accept or not accept ?

Sir Michael O'dwyer : Yes ; trusting in time that they will see that the restrictions imposed,.....

3371. *Dr. B. R. Ambedkar :* For the sake of argument make that assumption that ultimately, after sufficient waiting, you found no Indian section to accept your scheme, what would be the advice you would then tender to Parliament ?

Sir Michael O'dwyer : The advice I would tender to Parliament would be to go ahead with the scheme which you consider feasible and workable in the hope that the people in time will realise that your position is a natural one and will come round to accept a reasonable view.

3372. *Dr. B. R. Ambedkar :* I am sorry you are not following my question. My question is a very specific question ?

Sir Michael O'dwyer : I might abbreviate it in this way. I do not think people will maintain an unreasonable attitude for an indefinite period of time.

3373. *Dr. B. R. Ambedkar :* Supposing they thought the White Paper Scheme, or your scheme, was so bad that they would not touch it ?

Sir Michael O'dwyer : The King's Government must be carried on upon the best methods by which you could do it.

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†3564. *Dr. B. R. Ambedkar :* My Lord Chairman, before Sir Michael O'dwyer leaves, may I point out one fact ? Sir Michael, in answer to a question put by Mr. Butler, made the point that the Simon Commission made the recommendation with regard to the Transfer of Law and Order ; it is Volume II of the Simon Commission Report, paragraph 369. This is the paragraph you had in mind, was it not, "In writing this Report we have made no allusion to the events of the last few months in India" ?

Sir Michael O'dwyer : Yes, that is it.

3564A. *Dr. B. R. Ambedkar :* But I should like to point out to you that most of us understood by the events referred to here, the events of the Non-Co-operation Movement by Gandhi and certainly not the communal riots that took place in India, such as at Cawnpore.

Viscount Burnham : I said that had reference to the communal riots. I understood it in the sense I mentioned, that they did not refer to the Civil Disobedience Campaign, or to the communal riots which were the result of them.

(5)

Mr. F. E. James, Mr. W. W. K. Page, Mr. T. Gavin-Jones, Mr. G. E. Cuffe, Mr. L. A. Roffey, Sir William McKercher and Mr. F. W. Hockenhnll

‡3882. *Dr. B. R. Ambedkar :* Just one or two questions. I want to ask Mr. James one question first. Does your Association accept the declaration that was made by Lord Irwin during his viceroyalty, on the 29th October 1929, which said that, according to the view of His Majesty's Government then in office, the logical evolution of India's political constitution was Dominion status ? Does your Association accept that declaration ?

Mr. F. E. James : I do not believe that that particular statement of Lord Irwin is contained in the White Paper.

3883. *Dr. B. R. Ambedkar :* Not, it is not ?

Mr. F. E. James : And my Memorandum deals with the proposals of the White Paper, but I do remember that at the time of that statement the Association made a pronouncement, and I would refer the gentleman to the newspaper files on which that pronouncement will be found.

3884. *Dr. B. R. Ambedkar :* Would you give us a summary of that pronouncement ?

Mr. F. E. James : I would not trust my memory to do that just now.

3885. *Dr. B. R. Ambedkar :* Let me put my point somewhat differently.

†Minutes of Evidence, Vol. II-A, 29th June 1933, p. 424.

‡*Ibid.,* 4th July 1933, pp. 476-77.

Do you accept the proposals laid down in the White Paper as the final form which the Constitution of India should take, or do you think there is some room for evolution further ?

Mr. F. E. James : I think the answer to that is to be found in paragraph 1 of the Memorandum.

3886. *Dr. B. R. Ambedkar :* That gives the answer, does it ?

Mr. F. E. James : That, I think, is the answer : "We consider the general scheme of the White Paper to be satisfactory as a whole and to form a reasonable basis on which to frame the future Constitution of India."

3887. *Dr. B. R. Ambedkar :* My question, if I may say so, was some what different. My question is this : Do you regard these proposals as the final form of India's political constitution ?

Mr. F. E. James : May I refer you to the third sub-paragraph of paragraph 1 of the Memorandum, in which you will find the following words : "The Council of the Association reserves the right to determine its final attitude to the constitutional scheme when the Report of the Joint Select Committee has been published and the Bill for the future Government of India based upon that Report is presented to Parliament."

3888. *Dr. B. R. Ambedkar :* Forgive me ; that, again, is not an answer to my question. My question is somewhat different. My question is this : Do you think that there is any more room for the advancement of the political status of India beyond the proposals as they are laid down in the White Paper ? Have I made myself clear ?

Mr. F. E. James : Yes. Obviously the White Paper leaves room for modification or changes in the future.

3889. *Dr. B. R. Ambedkar :* I used the word "advancement" ?

Mr. F. E. James : If you call it advancement, possibly.

3890. *Dr. B. R. Ambedkar :* I will not pursue that point ?

Mr. F. E. James : But we are now considering only the proposals of the White Paper.

3891. *Dr. B. R. Ambedkar :* In paragraph 52 you make the proposal that the Indian Legislatures should not have authority to effect the law of British Nationality, I quite follow that point. Then you go further on and say that it should not even have authority to prescribe what might be called Indian Nationality, on the analogy of the Canadian Act. I understand what you say. What I want to know is this. Do you want to put that as an absolute limitation which would prevent the Indian Legislature from constituting a status of an Indian National for any purpose whatsoever ?

Mr. F. E. James : No ; I think the paragraph is perfectly clear. We merely say that if India does desire to legislature in that way, India should not be permitted to do so to the exclusion of the European British Community in India.

3892. *Dr. B. R. Ambedkar :* I put it this way : Supposing, for instance, a case arose which is similar to that which arose in Canada and which gave

rise to that Act; supposing there was necessity for Indian representation on any international tribunal and India wanted that right of representation should be reserved to Indian British subjects of His Majesty or Indian subjects of His Majesty, would you not in that case allow the Legislature to pass a law providing for such a status being created on the analogy of the Canadian Act, or for the matter of that, the South African Act ?

Mr. F. E. James : The answer to that really is the last sentence of our paragraph. Perhaps Mr. Page will explain it in greater detail.

Mr. Page : I think, Sir, that you need be under no misapprehension that there is any such hidden meaning. The whole of our object as regards that paragraph is this, that the creation of what we may call an Indian citizenship should not affect, in our view, the rights of a British National as a British subject. What we really want to say is this, that we wish to preserve for all individuals of British nationality, while resident in India either temporarily or otherwise, all the rights to which an Indian subject of His Majesty similarly resident is entitled, and we wish to prevent the passing of any law, or the making of any regulation or rule, which would have the effect of restricting or taking away any of these rights. That is the whole object of that paragraph. We have not the slightest objection to the formation of an Indian citizenship.

Dr. B. R. Ambedkar : My Lord Chairman : Is it in order to put a similar question to Mr. Gavin Jones on the suggestions he has made, but if it is not, I will not pursue that point ?

Chairman : If Dr. Ambedkar ask my personal view, it is that perhaps the matter is not sufficiently important at this stage to justify the time taken.

(6)

Sir John Perronet Thompson, K.C.S.I., K.C.I.E., Sir Alfred Watson and Mr. Edward Villiers

*4659. *Dr. B. R. Ambedkar :* Just one question, Sir John Thompson. Yesterday you raised a question regarding making some provision for safeguarding the financial position of the Provinces, and, by way of illustration, you mentioned that under the present circumstances the water rate, which provides a very large part of the Provincial Revenue, is liable to be changed by Executive order—I think that is what you said yesterday ?

Sir John P. Thompson : Yes.

4660. *Dr. B. R. Ambedkar :* Is it not a fact that for a long time the Indians have been agitating that all this taxation which is raised by mere Executive order—and, as you know the Land Revenue is also raised by Executive order—should not be raised any further hereafter by Executive order, but should be raised by legislative enactments ?

Sir John P. Thompson : Certainly there has been an agitation to that effect, as regards Land Revenue. I am not quite sure how far that goes in regard to the Irrigation rates.

*Minutes of Evidence, Vol. II-A, 6th July 1933, p. 540.

4661. *Sir Tej Bahadur Sapru :* May I point out that in point of fact Land Revenue is not raised by Executive Order ? What he is probably thinking of is that Land Revenue settlements are effected by Executive Order ?

Sir John P. Thompson : Yes.

4662. *Dr. B. R. Ambedkar :* Yes ; and a recommendation was made that all these finances which are raised by Executive Order should no longer be raised by Executive Order but by legislation ?

Sir John P. Thompson : I do not know that.

Dr. B. R. Ambedkar : That has not been carried into effect.

(7)

Sir Charles Innes, K.C.S.L. C.L.E.

*5161. *Dr. B. R. Ambedkar :* Sir Charles, you laid considerable emphasis on Second Chamoers ?

Sir Charles Innes : Yes.

5162. *Dr. B. R Ambedkar :* The reason that you gave was that it would mitigate the necessity of the constant use of the special powers ?

Sir Charles Innes : No. I do not know that I said it would mitigate the necessity. I said that it would reinforce the special powers, and I hoped that the existence of the Second Chamber would make it unnecessary, or make it necessary very rarely, to use the special powers which nobody wants to be used.

5163. *Dr. B. R. Ambedkar :* It is not your position that you would substitute Second Chambers for the special powers ?

Sir Charles Innes : No.

5164. *Dr. B. R. Ambedkar :* The second question I want to ask you is this : I think this morning you stated that there was nothing unusual in these special responsibilities, and that you found them in some of the Constitutions of the Dominions ?

Sir Charles Innes : I said there was nothing new in safeguards. I think those were my exact words.

5165. *Dr. B. R. Ambedkar :* I want to put to you this : Is not there this difference between whatever safeguards there might be in the Constitutions of the Dominions and the provisions in the White Paper ? I am sorry I cannot put the question in a short form, because I have to give some explanation of the position as I understand it before I can put this question. I think under responsible government it is never understood (at least, I do not understand) that the Governor is absolutely bound by the advice given by the Ministry. He can refuse to take their advice if he thinks that he need not take it, but when I think the next step that he can take is to form another Ministry which will support him in the particular view which he takes. If that Ministry does not take the view that he takes he can dissolve the Legislative Council and have a new Legislature elected, and if he then

*Minutes of Evidence, Vol. II-A, 6th July 1933, pp. 573-74

finds that there cannot be a Ministry constituted from the new Legislature he must yield. Is not that so ?

Sir Charles Innes : Yes, that would, ordinarily, be the case, unless he thought it was so important that he should not do it.

5166. *Dr. B. R. Ambedkar :* Under the proposals in the White Paper is not there this vital difference, that under the White Paper proposal the Governor will be in a position to overrule any and every Ministry ?

Sir Charles Innes : Only in the exercise of his special responsibility.

5167. *Dr. B. R. Ambedkar :* He will never be bound by the advice of any Ministry ?

Sir Charles Innes : Just as on our side we are assuming that the Indian is going to work the constitution in a spirit of reasonable co-operation, so also I think you have to assume that the Governor is going to do his best to work the constitution in the spirit in which it was conceived.

5168. *Dr. B. R. Ambedkar :* Yes ?

Sir Charles Innes : I do not see why you should assume that the Governor will try to exercise these powers. I think every Governor will try to avoid exercising them as much as he possibly can.

5169. *Dr. B. R. Ambedkar :* I am trying to bring out the difference between the two positions as I see it : the special powers do not give the Governor the power to overrule a particular Ministry with whose advice he disagrees ?

Sir Charles Innes : I really do not know what you are driving at.

5170. *Dr. B. R. Ambedkar :* The point I want to put to you is this, that the special powers which are to be given to the Governor are not given in order that he may overrule a particular Ministry whose advice he does not accept ; but the powers are given so that he may overrule any Ministry ?

Sir Charles Innes : Exactly, because what he has got to do is to discharge certain special responsibilities. It is not a question of overruling a particular Ministry or not : it is a question of whether or not he has got to preserve that special responsibility.

5171. *Dr. B. R. Ambedkar :* That is a vital difference between the safe guards ?

Sir Charles Innes : That is exactly what I said : that the safeguards in India may have to be more precise and more defined because of certain facts. For instance, this communal trouble necessitates safeguards.

5172. *Dr. B. R. Ambedkar :* I am not asking whether there are any grounds for it. I am trying to point out that there is a difference ?

Sir Charles Innes : Yes.

(8)

Sir Edward Benthall, Sir Thomas Catto and Mr. G. L. Winterbotham, on behalf of Associated Chambers of Commerce of India

*6214. *Dr. B. R. Ambedkar :* Sir Edward, I want to ask you, first of all,

*Minutes of Evidence, Vol. II-A, 13th July 1933, pp. 640-42.

a question with regard to that part of your statement dealing with Federal Finance. I think (I do not know whether I am putting it correctly) you attach a great deal of importance to uniformity of taxation in India ? *Sir Edward Benthall :* Yes.

6215. *Dr. B. R. Ambedkar :* And on that account, you have made the suggestion that almost all sources of Revenue, as between the Centre and the Provinces, should be segregated at the Centre, and that the Centre should divide ? Is that not so ?

Sir Edward Benthall : Do we make that suggestion ?

6216. *Dr. B. R. Ambedkar :* I am summing it up generally, that you want that almost all the principal taxes, at any rate, should be levied by the Centre in order that there may be uniformity of taxation ?

Sir Edward Benthall : We did not go so far as to say that We desired uniformity, but we did not go so far as to say that all taxes should be levied by the Centre.

6217. *Dr. B. R. Ambedkar :* How would you otherwise have uniformity of taxation, if there was not one tax levying authority in India as a whole ?

Sir Edward Benthall : Some methods of co-ordination might be devised.

6218. *Dr. B. R. Ambedkar :* Suppose, for instance, we adopted the principle that a Province was to levy a surcharge on Income Tax for Provincial purposes, that would cut across the principle of uniformity ?

Sir Edward Benthall : Yes ; we are totally opposed to that.

6219. *Dr. B. R. Ambedkar :* Then again, you oppose terminal taxes ?

Sir Edward Benthall : We are opposed to them on principle, and we have suggested that any taxes which are likely to lead to inter-Provincial Customs duties or inter-Provincial barriers, should require Federal approval. That is the purport of our evidence.

6220. *Dr. B. R. Ambedkar :* That would ultimately mean that there would be segregation of the sources of taxation ; either the Province could not levy, or could levy only with the prior approval of the Centre ?

Sir Edward Benthall : There would be a third method of devising some scheme of co-ordination, I think.

6221. *Dr. B. R. Ambedkar :* I do not know. Have you any method to suggest as to how this co-ordination is to be brought about ?

Sir Edward Benthall : I think there are rules laid down at the present moment. Of course, at the present moment we are dealing with a unitary Government which lays down rules.

6222. *Dr. B. R. Ambedkar :* We want to look at this thing, surely, from the standpoint of the Provincial Autonomy which we are contemplating, and also of the responsible Government that we are introducing into the Provinces ?

Sir Edward Benthall : Yes.

6223. *Dr. B. R. Ambedkar :* Now I want to put this : From the stand point of Provincial Autonomy, it would be very difficult to realise this

Autonomy in practice if the Province is not to be free to devise its own method and system of taxation and has to go to the Centre every time ?

Sir Edward Benthall : Not every time, but in the case of these particular taxes which are likely to result in the stoppage of development of Indian commerce. May I just say this, that our intention in bringing forward these points was not to lay down any rules but to bring them to the notice of the Joint Select Committee, so that they might consider them.

6224. *Dr. B. R. Ambedkar :* Then I will put this generally : That you would recognise that in devising any system of finance as between the Centre and the Provinces, it is necessary to recognise that whatever system is adopted, it will not be incompatible with Provincial Autonomy and responsible Government, in the Provinces ?

Sir Edward Benthall : Yes. In answer to a previous question, I said there should not be more concurrent powers than are necessary, and we agree to that. The division of subjects and of taxation should be as clear-cut as possible, but, from the point of view of trade, we desire to point out how these provisions might lead to inter-Provincial Customs barriers.

6225. *Dr. B. R. Ambedkar :* Now I want to ask you a question about this Reserve Bank, referred to in paragraph 3. You say that the bank ought to be free from political interference ?

Sir Edward Benthall : Yes.

6226. *Dr. B. R. Ambedkar :* I suppose you will agree that political aid would be necessary for the bank in times of crisis ?

Sir Edward Benthall : It might be.

6227. *Dr. B. R. Ambedkar :* It might be necessary in a crisis, in order to support the bank to have the Government declare a moratorium ?

Sir Edward Benthall : Yes, it is customary I think, in the constitutions of all Reserve Banks to allow them ultimate power of intervention by the Government in case of a financial crisis, and I would not object to that in a Reserve Bank.

6228. *Dr. B. R. Ambedkar :* You would, therefore, permit, if the Government is to aid the bank in times of crisis, either by way of a moratorium or by way of advancing money in order to stabilise its reserves so that it could carry on, that it should have some influence over the bank, and its operations ?

Sir Edward Benthall : The Government, in some form of other, will appoint some of the officers of the bank and some of the Directors, but the Government should not appoint a majority of such Directors.

6229. *Dr. B. R. Ambedkar*. I want to make this point clear. I make this distinction : Political intervention, interference and influence. What is it that you would allow the Government to have and what is it you would exclude the Government from ?

Sir Edward Benthall : To define that would mean drawing up the constitution of the Reserve Bank.

6230. *Dr. B. R. Ambedkar :* I will not pursue that. Now, with respect to Directors, what sort of a provision do you contemplate for excluding political influence ? Would you say, for instance, that a person who belonged to a political party in India was to be disqualified from being a Director ?

Sir Edward Benthall : No. To begin with, I would have a Shareholders Bank, and the shareholders nominating the majority of the Directors.

6231. *Dr. B. R. Ambedkar :* They may be politicians?

Sir Edward Benthall : Not politicians sitting in the Legislatures.

6232. *Dr. B. R. Ambedkar :* But they may be very actively supporting the Party fund ?

Sir Edward Benthall : If they were very actively supporting Party politics, they would not carry the financial confidence of the country.

6233. *Dr. B. R. Ambedkar :* But there will be no disqualification to such persons being appointed ?

Sir Edward Benthall : They would be very foolish if they tried to carry on the two things at once.

6234. *Dr. B. R. Ambedkar :* Now with respect to your comments on paragraph 122 of the White Paper. In paragraph 5, you make certain suggestions for including certain qualifications in Proposal 122 ? ,

Sir Edward Benthall : Yes.

6235. *Dr. B. R. Ambedkar :* I just want to read the last four or five lines of that paragraph : "but no law will be deemed to be discriminatory for this purpose on the ground only that it prohibits either absolutely or with exceptions the sale or mortgage of agricultural land in any area to any person not belonging to some class recognised as being a class of persons engaged in, or connected with, agriculture in that area." What I want to point out is this, that unless the words "without distinction of caste, creed or religion," are inserted in this latter portion, it will still be possible to make a discrimination within that class based on caste, creed or religion. You can have an agricultural class and within that agricultural class you can make a distinction between caste, creed or religion ?

Sir Edward Benthall : Yes. I should like the lawyers to consider that point.

6236. *Dr. B. R. Ambedkar :* The reason why I ask you is this, that you make certain suggestions with regard to the improvement of this clause by saying : 'if this proposal is to be effective, it will be necessary to include "domicile, continuity or duration of residence" in British India ?

Sir Edward Benthall : Yes.

6237. *Dr. B. R. Ambedkar :* You did not say that it should also exclude any distinction based upon caste, creed or religion ? That would have to be done if this paragraph is to be effective against any discrimination ?

Sir Edward Benthall : I think the point that we made in connection with the latter half of that paragraph is contained in our paragraph 6 under Section G. We did not want that to apply to prevent Europeans taking up

land, planters, and such people.

6238. *Dr. B. R. Ambedkar :* But, as I say, in order to effect your purpose, if it were necessary, you say that distinction shall not be based upon caste, creed, race or religion ?

Sir Edward Benthall : Yes ; it is a matter of legal draftsmanship.

(9)

Lady Layton, Mrs. O. Stracey and Sir Philip Hartog, on behallf of the British Committee for Indian Women's Franchise

*C67. *Dr. B. R. Ambedkar :* I would like to ask one question. I do not know whether you agree with me, but I suppose when you press for votes for women, I think you also desire that the franchise should be so devised that the women who will be brought upon the register will be drawn from all strata of Indian society, and not necessarily drawn, either from the upper strata or the middle strata or the lower strata exclusively ; that there ought to be some proportion of the women on the electoral roll to the communities from which they are drawn ?

Lady Layton : As far as is practically possible, certainly.

C68. *Dr. B. R. Ambedkar :* I mean, it is not your case that you want this mathematical ratio of 1 to 4 or 1 to 5, but apart from that ratio, you would also desire that all women from all sections should be on the register ?

Lady Layton : Certainly, as far as possible, we do want to feel that the urban and rural voters and the different sections will be adequately represented.

C69. *Dr B. R. Ambedkar :* You will also agree, I suppose, that if the education qualification or the property qualification were fixed higher, the result of that would be that you would be getting on to the electoral roll women drawn from one section of Indian society alone ?

Lady Layton : That is so. I would supplement that by saying that if it were administratively possible, we should welcome, and we have pressed in our Memorandum, that the wives of the lower property qualification should be enfranchised, and not only the wives of the higher property qualification.

C70. *Dr. B. R. Ambedkar :* What I am anxious to get at is this—whether you attach importance to the point which I am putting to you, namely, a well-proportioned distribution of the women's voting strength throughout the population, or whether you merely attach importance to the proportion of the man voter as against the woman voter ?

Lady Layton : Attach importance to both those factors but we think that the women's interests for the moment are sufficiently safeguarded on this particular question. If you have a sufficient number of women enfranchised in all the districts for them to represent the other women, the women who are not enfranchised, we would like to see it as low as possible and if

*Minutes of Evidence, Vol. II-C, 26th July 1933. p. 2276.

it is put at a certain place now we would like it to be moved as soon as practically possible. We ourselves would certainly wish to see it as low as possible. We would be prepared to ask for adult franchise, if it were practically possible, but we realise it is not administratively possible.

C71. *Dr. B. R. Ambedkar :* Might I put the same point in a somewhat different manner ? Of course, all women are interested in matters of social welfare ; that is quite true. The woman's point of view may be quite common, but you will also realise that schemes of social welfare are going to cost money, if they are to be put through and that would require taxation ?

Lady Layton : Yes, I quite appreciate it would.

C72. *Dr. B. R. Ambedkar :* And all women may not take the same point of view with regard to that ; they are likely to divide on the basis of the class to which they belong ?

Lady Layton : Yes, I can give you two answers to that. First of all, take the education point of view. If you have a certain amount of money to divide on education, women of every class would agree that it should be spent equally on men and women, whereas, if you have not got women with sufficient pressure to bear, you will still go on spending a great deal more on the boys than on the girls. In the first place, that is one of the things that has to be seen to. Also, I would say this : The women of all classes who are taking any active interest in welfare are pressing that there should be a larger proportion of finances spent on education. I think you could safely trust to the women of most classes to take that line at the present moment, but I should be very glad to see the franchise taken as near as possible, and that is why I do lay particular importance upon the literacy qualification. Any woman who is intelligent enough to be of any value to bring any pressure to bear at all can make herself literate within a reasonable period and if you have the literacy qualification, and any section of women feel strongly that the section of women which has the vote, is not taking the vote, they have the weapon in their hands, and it is for that reason that I have always been so strongly in favour of literacy, and it is for that reason that all the organised women of India are also, in favour of literacy.

C73. *Dr. B. R. Ambedkar :* I am satisfied, as long as you see my point of view. Sir Philip Hartog, I just want to ask you a question about literacy. We have really no information as to what the administrative difficulties are, as they are alleged to be, against! adopting literacy as a test for the franchise in the case of women, but what I understand the difficulties to be are these : First of all, it is suggested that there are no certificates available which would enable a registration officer, offhand, to satisfy himself that a woman falls within the category required under literacy, and therefore, would in the position to be put on the roll offhand. That being the case, we shaft have to adopt the procedure suggested in the proposals, that a village officer should

examine and his certificate should be countersigned by a tahsildar. I think the administrative difficulty that is suggested is this : How is a village officer to approach a woman in the village to find out whether she is literate or not ? Would you make it depend upon the woman who wants to get her vote having to approach and make an application ?

Sir Philip Hartog : I think that is the only possible way. She would have to have sufficient interest to say, either herself or through her husband : "I wish to be placed on the roll ; I am literate and am willing to be tested."

C74. *Mr. Butler :* How does that difter from application ?

Lady Layton : I do not think we have objected to application on the part of literacy in our Memorandum. We do not object. We think that the people who are already recognised as literate in any educational qualification that is admitted should be put automatically on the roll. Beyond that it must be a matter of application.

C75. *Dr. B. R. Ambedkar :* So really this objection raised on the basis of inquiries made in households, which might be objectionable, would not arise ?

Sir Philip Hartog : May I just say, it seems to me to be an appropriate point to make reference to two answers of the Secretary of State bearing directly upon the point which has been raised by Dr. Ambedkar. In answer to question 7437 the Secretary of State said : "In future, for future generations of girls or women, it will be a comparatively simple matter to adopt your educational registers and returns for electoral purposes, but in Provinces where that has not been done hitherto, there will be very considerable difficulty in doing it for the first election." Now, I should like to point out that if you read that with another answer of the Secretary of State, he says at page 817, question 7214 : "There will be no change for X years." In answer to the Marquess of Salisbury, he suggests that in the Act of Parliament he would say for X number of years there can be no alteration of the franchise. Consequently, it would be of little use to have a register for the second, third or fourth elections, if those second, third or fourth elections came within the period of X years. Let me take the question of number. The total number of literate women is estimated in the Lothian Report to be a million and a quarter. It is on page 86 of that Report. Of those, 3,45,000 are in Madras, with regard to whom there is no difficulty. That leaves over for the rest of India the relatively small number of 8,75,000. Now, if it was possible to put 3,45,000 Madras women on the rolls for one election, and that must have been done at some time or another, why is it impossible to put 8,75,000 women on the rolls for the whole of the rest of India ?

(10)

Rajkumari Amrit Kaur and Mrs. Hamid Ali on behalf of All India Women's Conference and two other Women's Associations

*C334. *Dr. B. R. Ambedkar :* Did you say there would be no difficulty about the Muhammadan households ?

*Minutes of Evidence, Vol. II-C, 29th July 1933, pp. 2314-21.

Mrs. Hamid Ali : The Mussulman never has an objection to taking his wife's name. As Sir Hari puts it, there is a certain feeling of delicacy, but I have never known any feeling of difficulty among Muslims to take their wives' names. It is true the women do not take their husband's name frequently, but they do it occasionally.

Rajkumari Amrit Kaur : It is in Hindu households, where the husband may object to taking the wife's name.

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C342. *Dr. B. R. Ambedkar :* I thought the point of the question raised by Sir Hari Singh Gour was not whether there was some mental objection on the part of the Hindu husband or the Muhammadan husband to give utterance to the name of his wife. I thought the point of the question was : Which one of the two, or anyone, would object to the sort of enquiry that a registration officer will have to make ?

Rajkumari Amrit Kaur : I do not understand what sort of enquiry the registration officer have to make.

Dr. B. R. Ambedkar : It will be, "Have you a wife ; if you have a wife, what is her name ?"

Sir Hari Singh Gour : And "How many wives have you got ?"

Dr. B. R. Ambedkar : Who would object to the sort of enquiry that will have to be made by the registration officer is the point of the question.

Marquess of Lothian : "Is she over 21" ?

Dr. B. R. Ambedkar : That is the sort of question.

C343. *Chairman :* The witness might care to interpose an answer now. Will you answer Dr. Ambedkar's suggestion, if you have any views ?

Rajkumari Amrit Kaur : Yes ; I can only say that I do not think anybody will have any objection to a question like that. I cannot understand the mentality that even prefers a question of this nature. It seems to me wholly incomprehensible.

C344. *Chairman :* Do you agree with that answer, Mrs. Hamid Ali ? Do you agree that there will be no difficulty ?

Mrs. Hamid Ali : I think it will depend on the way and the tone, in which a question like this is put. Ordinarily a question like that asked in good faith and with no evil intention would not be taken amiss by anybody at all.

* * * * *

C346. *Dr. B. R. Ambedkar :* I want to ask (Mrs. Hamid Ali) one more question. You come from Bombay. You know that there are certain distinct wards which are exclusively Musselman quarters. From your experience do you really think it is possible for an election officer to enter these wards and make these enquiries ?

Mrs. Hamid Ali : As far as Bombay is concerned, yes. I do not think anybody would take objection in Bombay, because in Bombay we have municipal elections so often and people are trained to this kind of thing.

* * * * *

C352. *Dr. B. R. Ambedkar :* I have not exactly followed what is stated in this supplementary statement No. 56 in regard to the representation of women in the Federal Assembly. It is said "We have repeatedly urged that we do not desire the communal virus to enter into our united ranks." You see that the proposal of the White Paper so far as the representation of women in the Lower House is concerned is not by communal electorates, but is by a general electorate by a single transferable vote ?

Rajkumari Amrit Kaur : Yes.

C353. *Dr. B. R. Ambedkar :* From that point of view I should have thought it could not be objected to on the ground of its being a communal electorate ?

Rajkumari Amrit Kaur : In the first place the seats in the Lower House of the Federal Assembly for Women are definitely to be on a communal basis. We have the Secretary of State's clear dictum on that point, in his evidence the day before yesterday or three days ago. In the Lower House of the Federal Assembly the reserved seats to which this indirect system of election refers are definitely to be on a communal basis.

C354. *Mr. M. R. Jaykar :* Your objection is to the reservation of seats on the communal basis ?

Rajkumari Amrit Kaur : Yes ; and further the indirect system of election to those seats by legislatures which must, in the very nature of the Constitution as proposed today, be on communal lines.

Miss Mary Pickford : May I just interpose here ? In the Secretary of State's reply when he said that the communal question was involved he was then referring to the women's seats on the Provincial Council of Bengal. It was not in reference to the seats in the Legislative Assembly.

C355. *Dr. B. R. Ambedkar :* That is what I thought If I may draw the attention of the witness to page 89 of the White Paper, Appendix II, I should have thought that that matter had been settled once and for all. You also refer to it. "Election to the women's seat in each of the provinces to which one is allocated will be by the Members of the Provincial Legislature voting by means of the single transferable vote"?

Rajkumari Amrit Kaur : Yes ; but my point is this. May I, then know if the Secretary of State in answer to Miss Pickford's question was referring to reserved seats on a communal basis for the Provincial Council of Bengal. May I understand whether the communal question does not enter into the reserved seats for women in the Lower House ? Are they to be reserved on a non-communal basis ? I should like to be clear on this point. I want to know on what basis these seats are to be reserved.

* * * * *

C363. *Dr. B. R. Ambedkar :* Let me follow this further, because, to my mind, there is a certain amount of confusion, and I should like to get it cleared up. First of all, do you object to indirect election as such ?

Rajkumari Amrit Kaur : Yes.

C364. *Dr. B. R. Ambedkar :* You do ?

Rajkumari Amrit Kaur : Yes.

C365. *Dr. B. R. Ambedkar :* That is one objection?

Rajkumari Amrit Kaur : Yes.

C366. *Dr. B. R. Ambedkar :* You do not want the women representatives who are to represent women in the Federal Lower House to be elected by indirect election from the Provincial Legislative Council ?

Rajkumari Amrit Kaur : Most definitely not.

C367. *Dr. B. R. Ambedkar :* You want some sort of a direct constituency provided ?

Rajkumari Amrit Kaur : As we are against reserved seats, if they are reserved for us on a communal basis, of course, really this question as far as we are concerned does not arise, but we would, of course, want women to enter.

C368. *Dr. B. R. Ambedkar :* Let me put a question first to clear the ground. Do you want any seats to be reserved for women at all in the Lower House ?

Rajkumari Amrit Kaur : I have said that we would recommend for the time being until such time as adult suffrage is obtained through our organisations, the acceptance of reservation, provided it were definitely laid down that the women's seats would be on a non-communal basis, and through the means of joint electorates. That is the only condition on which we would accept it.

C369. *Dr. B. R. Ambedkar :* I quite follow two things. You want for the time being a certain number of seats reserved for women ?

Rajkumari Amrit Kaur : We have always been opposed to reservation.

C370. *Dr. B. R. Ambedkar :* The second thing I have understood from you — correct me if I am wrong — is that you do not want that provision for the representation of women in the Federal Lower House by any system of indirect election. That is the second point you have made ?

Rajkumari Amrit Kaur : Yes.

C371. *Dr. B. R. Ambedkar :* What I want to ask you is that .....?

Rajkumari Amrit Kaur : You say we want reservation, I have hold you we have always been opposed to reservation.

C372. *Dr. B. R. Ambedkar :* You do not want any reservation at all ?

Rajkumari Amrit Kaur : We have always said that we do not want reservation, but, as I say, if reservations are to be forced down on us as so many things have been forced down on us against our wishes, then the only conditions on which we would recommend the acceptance of reservation to our organisations would be definitely that they would be through a system of joint electorates and direct election, and if the seats were on a purely non-communal basis, that is to say, that we have the right to put on woman of our choice.

C373. *Dr. B. R. Ambedkar :* If the matter were left to your choice, you

would not want any earmarking of seats for women as such in the Federal Lower House ?

Rajkumari Amrit Kaur ; Certainly not.

C374. *Dr. B. R. Ambedkar :* If it is to be, then you would want it on a system of joint electorate and direct election ?

Rajkumari Amrit Kaur : Yes ; direct election and a non-communal basis.

C375. *Dr. B. R. Ambedkar :* Let me take the non-communal basis. Do you want this constituency for direct election to consist only of women in that particular constituency ?

Rajkumari Amrit Kaur : No ; we want men and women.

C376. *Dr. B. R. Ambedkar :* You want this constituency to be a sort of composite constituency, in which the voters will be both men and women ?

Rajkumari Amrit Kaur : Yes.

C377. *Dr. B. R. Ambedkar :* With this restriction that the candidate to be ultimately elected from that constituency would be a woman ?

Rajkumari Amrit Kaur : Yes ; that is to say, if a woman was to be elected to a reserved seat, it would naturally follow that it must be a woman.

C378. *Dr. B. R. Ambedkar :* How would you provide these direct constituencies for the Legislative Assembly ?

Rajkumari Amrit Kaur : As I say we have not got any constructive proposals on this because we have throughout been opposed to reservation. We would leave that to the discretion of the Committee, but if reservations were given to us, on the terms and the only terms on which we would accept it, we would leave it to the discretion of the Committee to form such constituencies as would be the most representative.

C379. *Dr. B. R. Ambedkar :* I thought you said in answer to a question that you objected to this indirect system of election provided in the White Paper for the representation of women in the Lower House of the Federal Legislature, because, in a certain sense, it would be, what shall I say, communally-minded ?

Rajkumari Amrit Kaur : Yes.

C380. *Dr. B. R. Ambedkar :* That the representatives in the various Provincial Councils would act in a communal manner in the exercise of their votes, and that is the ground of your objection ?

Rajkumari Amrit Kaur : I have already answered this question, have I not?

C381. *Dr. B. R. Ambedkar :* Yes ; I want to put one more question. Further, I see, and I want to get this matter clear, that you object to the indirect election that is proposed in the White Paper because you think that the representatives of the different communities in the Provincial Legislature will be communally-minded, and, therefore, communal considerations will be imported in that election ?

Rajkumari Amrit Kaur : May I give you the answer again? We object to indirect election first of all, because naturally we want direct election.

C382. *Dr. B. R. Ambedkar :* Yes. I follow that.

Rajkumari Amrit Kaur : That is the first objection. The second objection is that when this indirect election for us is proposed through the Provincial Councils, these Provincial Councils which are going to be on communal lines will naturally bring that communal question again to the women that they elect

Dr. B. R. Ambedkar : That is true, but I want to put a further question. I quite understand your objection that to have different representatives of the different communities in the Provincial Legisaltive Council would import a material consideration in the election of women.

C383. *Mr. M. R. Jayakar :* That is only one of your objections to the indirect election, but I understand another objection is also on the ground that it is indirect ?

Rajkumari Amrit Kaur : I have said so more than once.

C384. *Dr. B. R. Ambedkar :* The question is this. Take, for instance, your direct constituency, any constituency that you may like to take, for instance the City of Bombay. You will have in that constituency, which you would desire to be specially designed for the election of a woman representative in the Lower House, electorates of both men and women drawn from different communities ?

Rajkumari Amrit Kaur : Yes.

C385. *Dr. B. R. Ambedkar :* Do you mean to suggest that those voters who would take part in the election of a woman representative would be less communally-minded than the representatives of those larger communities in the Provincial Legislative Council who would be participating in the election of a woman candidate on the indirect basis ?

Rajkumari Amrit Kaur : Without doubt, because the communal question exists far more among the type which goes into the Legislature than it does among the masses of the people.

C386. *Dr. B. R. Ambedkar :* But I want to draw your attention to this fact, that these very electorates will be electing the men who will be the voters for the indirect election ?

Rajkumari Amrit Kaur : It may be so, but when it is a question of joint electorates and we are going to get the votes of joint electorates, the communal question will not exist there — it cannot exist — to the same extent that it does in a Provincial Council which has been elected by separate electorates and where the communal question is alive and must be very much alive.

C387. *Dr. B. R. Ambedkar :* Do you think that in the general electorate the men and women in India do not act in a communal manner ?

Rajkumari Amrit Kaur : Certainly not in the general mass.

C388. *Dr. B. R. Ambedkar :* Have you ever seen a poll going on ?

Rajkumari Amrit Kaur : Yes. We have had a very recent example in the case of one of the women members of our organisation who topped the poll

in Bombay with the joint electorates, and practically no women at all but all men : the Depressed Classes and everyone voting and she topped the poll. That is in a municipal election. Then there was not only her but another lady, and we have had examples in elections in Universities in Patna where women have been elected by men, and no difficulty on the communal question has arisen.

C389. *Dr. B. R. Ambedkar :* When the point is whether a woman will be elected, no doubt the communal feeling will be less in a direct election than it will be in an indirect election ?

Rajkumari Amrit Kaur : Certainly. Whenever the indirect election is going to be by means of the Council, it is going to be permeated by communalism.

* * * * *

†C406. *Dr. B. R. Ambedkar :* In those Councils where they have actually been members I understand it has been by nomination ?

Rajkumari Amrit Kaur : Yes, there is no such thing as election.

C407. *Sir Hari Singh Gour :* To the Legislative Assembly they have never been nominated so far ?

Dr. B. R. Ambedkar : Never.

C408. *Dr. B. R. Ambedkar :* Is there a disqualification ?

Rajkumari Amrit Kaur : I think not.

Mrs. Hamid Ali : May I point out in connection with this that it is very lately that the Provinces have done away with the disqualification ?

Dr. B. R. Ambedkar : It has been done very, very recently ; in some Provinces so recently that they have scarcely had time for another election since the disqualification was done away with.

(11)

Mrs. P. K. Sen and Mrs. L. Mukerji

‡C588. *Dr. B. R. Ambedkar :* Is it to be inferred that these communal differences would very likely spread to the women if the women were to enter the professions ?

Mrs. L. Mukerji : I do not think so. I think that woman by nature is free from such communal feelings on account of her sex.

C589. *Dr. B. R. Ambedkar :* For instance, today the struggle or scramble for jobs and professional appointments is really confined to the men ?

Mrs. L. Mukerji : Yes.

C590. *Dr. B. R. Ambedkar :* Largely, because women in India are not earning members of the family ?

Mrs. L. Mukerji : I quite see your point.

C591. *Dr. B. R. Ambedkar :* Therefore, to take the case of education, if a large section of women along with men were entering that profession, and other professions as a result of education, or your own analysis, perhaps the thing would develop among women ?

†Mintues of Evidence, Vol. II-C, 29th July 1933, p. 2327.

‡*Ibid.,* p. 2354.

Mrs. L. Mukerji : It is quite possible. I cannot answer that point until we see the result.

C592. *Dr. B. R. Ambedkar :* I appreciate that, but I just wanted to put the point to you ?

Mrs. L. Mukerji : I feel in a future time, when our women will be in a position to go into the professions, that the communal business might die out altogether. I anticipate that.

Dr. B. R. Ambedkar : I hope so.

* * * * *

†C610. *Dr. B. R. Ambedkar :* There is just one question I would like to ask you, Mrs. Sen. You have explained your views with regard to the representation of women in the Federal Lower House, and you have stated your objection *to* the provision made in the White Paper for indirect election ?

Mrs. P. K. Sen : Yes.

C611. *Dr. B. R. Ambedkar :* I do not find anywhere your views as to the provisions made for the representation of women in the Provincial Legislatures, except, of course, that you have expressed generally that you would not like any provision which savours of communalism ?

Mrs. P. K. Sen : Yes.

C612. *Dr. B. R. Ambedkar :* Have you anything to suggest on that ?

Mrs. P. K. Sen : I did not quite follow the question.

C613. *Dr. B. R. Ambedkar :* In the Provincial Legislatures several seats are provided which are to be filled by women ?

Mrs. P. K. Sen : Yes.

C614. *Dr. B. R. Ambedkar :* No detailed provisions are laid down in the White Paper as to how those seats are to be filled. It is Appendix III of the White Paper, on page 93, under "General", Madras, out of 152, 6 women ; Muhammadan, 29, including one woman. This is all the provision that exists in the White Paper, so far ?

Mrs. P. K. Sen : We would like to do away with all these communities, if you would give us six seats in each of the Provinces. That would be much better, and we should be able to fill these seats with the best women available.

C615. *Dr. B. R. Ambedkar :* Have you any other method by which these six seats could be filled up ?

Mrs. P. K. Sen : Yes ; capital city, for the Federal Assembly. I have already answered that question. It would be the same for the Provincial Assembly also. The capital city would be the constituent area ; it would be a small electorate. It would not mean so much expense, and women from all over the Provinces would be able to stand for the seats.

C616. *Dr. B. R. Ambedkar :* You would have one capital city to return six women in Madras ?

Mrs. P. K. Sen : No. They would have their separate constituencies

†Minutes of Evidence, Vol. II-C, 29th July 1933, p. 2355.

for different principalities of the Province.

C617. *Dr. B. R. Ambedkar :* The question I wanted to ask was how far you agree ? Would you be prepared, as a matter of concession to the communal sentiment of the various communities, that while making arrangements on the basis of a joint electorate for the return of such women in the Legislative Councils, to have a permission reserving a certain number of seats, for instance, for the Muslim women, keeping the total the same ?

Mrs. P. K. Sen : We are against communal reservation.

C618. *Dr. B. R. Ambedkar :* I can quite understand your objection to having a separate electorate of Hindu women to return five Hindu women and a separate electorate of Muslim women to return one Muslim woman. What I want to know is this : Whether you have also the same objection to a system in which both the Hindu women and the Muslim women would vote together in a common constituency — a joint constituency, with this reservation, that, at least, one seat would be reserved for a Muslim woman ?

Mrs. P. K. Sen : They would all vote for the Muhammadan lady.

C619. *Dr. B. R. Ambedkar :* I know that you would probably be so generous that you may give more. Would you be prepared to approve a reservation being made by law that just one should be reserved for a Muslim woman ?

Mrs. P. K. Sen : Yes ; that is already there, and we have to accept that.

C620. *Dr. B. R. Ambedkar :* That may be on the basis of separate electorate, it is not stared how it would be. Therefore, I wanted to get your opinion on the matter. The detailed provisions as to how these six seats in Madras are to be filled are not found in the White Paper ?

Mrs. P. K. Sen : That should be a joint electorate of men and women.

C621. *Dr. B. R. Ambedkar :* I do not know. At least Mr. Butler might be able to enlighten us as to how these six seats are going to be filled ?

Mrs. L. Mukerji : We do not, if it can be avoided, want any communal distinction.

Dr. B. R. Ambedkar : I quite follow you. I am asking you whether you would be prepared to moderate your objection, to this extent, that you would have a joint electorate with one seat reserved, so as not to disturb the communal balance.

Mr. Butler : I think that Dr. Ambedkar will find this at "The precise electoral machinery to be employed in the constituencies for the special women's seats is still under consideration."

Dr. B. R. Ambedkar : Therefore, I was asking whether these seats would be filled by separate electorates of women in the general constituency ; it is not made clear here. I do not know how it is done, because I find in the Table given on seats allocated under separate heads. Under "General", six women's seats, under "Muhammadan", one ; that rather gives me the impression that you would have a separate electorate of Muslim women only, so that the result would be that 28 would be men, and one a woman.

I do not know ; I seek for information upon the point.

C622. *Chairman :* I think we had better use this afternoon in getting information out of the witnesses. Will you return to the point ?

Mrs. P. K. Sen : It would not be at least a separate women's electorate.

C623. *Dr. B. R. Ambedkar :* If left to you, you might give them all the six, or more than that ?

Mrs. P. K. Sen : Quite.

C624. *Dr. B. R Ambedkar :* I mean, in view of the fear that there may be none ?

Mrs. P. K. Sen : Yes.

(12)

Discussion in Joint Committee on Poona Pact

**Sir N. N. Sircar :* May I make a short statement which probably will shorten matters ? I claim the right to put questions, if the Committee will allow it on the Communal decision, but, as a matter of fact, I do not intend to put in any questions relating to the dispute between the Hindus and Muslims, because that does not depend upon any facts that are going to be proved by any witnesses ; but I do want to ask the witnesses to give Your Lordships the facts relating to the Poona Pact. There are two more observations I may be permitted to make as regards Sir Annepu Patro's statement as to its being mixed up, and so on, that the decision itself makes it quite clear that the result of one Province is not connected with the result in any other Province. The decision itself says that any change can be made in one Province as distinct from any other Province. As regards my friend, Mr. Zafrulla Khan's statement, I only venture to submit this : At the Round Table Conference we were trying to find out what was the greatest measure of agreement. It was open to us to say : Unless I get 100 per cent. seats for Hindus, I will not take any further part. It is no good taking up that attitude. I beg of the Committee to enter into the merits of the question.

Dr. B. R. Ambedkar : May I say just a word ? I am glad that this wrangle if I may use that expression, on this side is going to be confined only to the Poona Pact, and that Sir Nripendra Sircar does not propose to reopen the question of the distribution of seats between Hindus and Muslims but might I say that the sentiments expressed by Chaudhari Zafrulla Khan with regard to the attitude of the Muslims were exactly the sentiments that I have been expressing from the very beginning when I commenced to take part in the Round Table Conference, and that I, too, consented to join in the deliberations on the understanding that the Poona Pact was an accepted proposition. I do not object, of course, to Sir Nripendra Sircar putting the facts before the Committee, because I know I will also get an opportunity to rectify any errors ; but so far as my own position is

*Minutes of Evidence, Vol. II-C, 31st July 1933, p. 1356-61.

concerned, I do not think that it would be possible for me to take any further part in the Proceedings of the Committee, if, for instance, the whole question was reopened with regard to the representation of the Depressed Classes.

Sir N. N. Sircar : I beg Your Lordship's permission to hand in at this stage the following letter from myself to the Prime Minister and a cablegram from Sir Rabindranath Tagore, dated 27th July, 1933 : —

LETTER FROM SIR N. N. SIRCAR TO PRIME MINISTER

St. James Court,
Buckingham Gate,
London, S.W.I.
14th December, 1932

My Dear Prime Minister,

I am forwarding to you as requested, certain telegrams. The first telegram from 25 members of Bengal Legislative Council reads as follows :

"Representation from 25 members of Bengal Legislative Council. Poona Depressed Classes Pact made without consulting Bengal Hindus. No Depressed Classes problem in Bengal as elsewhere in India, as found on careful examination by Lothian Committee. Ambedkar and others had no direct knowledge of Bengal conditions, where, alleged Depressed Classes suffer no political disability. Poona Pact introduces revolutionary change, cutting at root of normal progress of Hindu society in Bengal. Earnestly urge necessity for modifying Poona Pact as affecting Bengal, as Lothian Committee Scheme meets Bengal situation fairly. Show this Premier :

"B. C. Chatterji, S. M. Bose, Maharaja Dinajpur, Maharaja Cosim-bazar, Rajabahadur Nashipur, Narendra Kumar Basu, Syamaprasad Mukerji, Rai Bahadur Kamini Kumar Das, Satyendra Kumar Das, Keshabchandra Banerji, Haridhan Dutt, Satischandra Mukerji, Saratchandra Mitra, Anandamohan Poddar, Satischandra, Roychowdhary, Hanumanprasad Poddar, Kishorimohan Chowdhari, Satyakinkar Sahana, Khetramohan Roy, Debrai Mohashi, Santisekhareshwar Roy, Saratkumar Roy, P. Banerji, Surendraaiath Law, Saileswar Singh Roy."

2. I showed the above telegram to Dr. Ambedkar, who in his turn received telegram, copy of which reads as follows :

"Regarding Bengal. Hindu friends cable for revision of Poona Pact for Bengal. They defaulted twice, once before the Lothian Committee when they failed to give a list of Depressed Classes. Second when invited to Bombay September Conference nobody responded. Now they raise false cry, besides they are unjustifiably afraid of Namsudras appropriating all seats. Further Bengal Government depressed population figure is 103 lacs, *vide* Lothian Volume II, while we assumed for calculation of seats 75 lacs, *vide* Lothian, Poona Pact follows closely Lothian recommendations. Refer Mullick's note — Lothian Volume II. In Calcutta Thakkar found general

Hindu feeling in favour of Pact. Hence Pact approved by Cabinet can't be revised."

— *Birla and Thakkar*

3. I have received two further telegrams, viz :

"Birla's cable to Ambedkar. Birla not acquainted with conditions in Bengal and has absolutely no representative character there. Poona Pact in allowing 30 seats to depressed classes in Bengal, number being equal to seats allowed to Madras cannot be justified. Question to depressed classes in Bengal is certainly not at all acute and is absolutely different from that in other Provinces. Premier's Award on this question is utmost that Bengal can accept."

"Satischandra Sen, Bijoykumar Basu, Satyendrachandra Ghosh Maulik, Amarnath Dutt, Satyendrachandra Mitra, Satyacharan Mukherjee, Satyendranath Sen, Jagadischandra Banerjee, Naba Kumar Singh Dudhoria, Bengal Non-Mahomedan Representatives present in Central Legislature."

—*Amarnath Dutt*

"Bengal, M.L.C.S who wired previously state Birla Thakkar cabled misrepresentations. Bengal Representatives not invited to Conference leading to Poona Pact. Its terms astonished Bengal. Not being agreed, according Premier's formula, settlement cannot bind Bengal. Lothian Committee made enquiries which castes are untouchable and unapproachable in Bengal. Provincial Franchise Committee consisting Hindu Mahommedans correctly answer. Report Volume 2, Mullick's Note not placed before Committee, but prepared secretly. Mullick's classification of Bengal depressed different from other Provinces covering Subarnobaniks Sahas Mahishyas admittedly outside depressed category. Also England—returned Indians, Brahmo Samaj people, even Baidyas, Kayasthas contrasted against Brahmanas. Bengal Public life free from caste consideration. High caste Hindus elected a Namsudra against Chatterjee 1923 at Madaripur. Deshbandhu disregarded orthodoxy marrying Brahmin's daughter, but his following included all high caste people. Distribution of Namasudras *vide* Calcutta Gazette fourteenth July ensures their securing 20 reserved seats. Non-Namasudras alarmed at prospect. Namasudras Rajbansis rigidly exclude other depressed castes from social communion, and have less right to represent them, than high caste people who have worked for generation for their uplift. Poona Pact introduces political division Hindu Bengal, where none hitherto existed. Show Premier."

— *Chatterjee and others*

4. I left India in August last, I have no personal knowledge relating to the Poona Pact.

5. In your "Communal decision" it was stated, "His Majesty's Government wish it to be most clearly understood that they themselves can be no parties to any negotiations which may be initiated with a view to revision of their decision and will not be prepared to give consideration to any

representation aimed at securing modification of it which is not supported by all the parties affected."

6. Under your decision, the Hindus (including all alleged depressed classes) have been given 80 seats whereas Mahomedans get 119 seats, i.e. 50 per cent. more than Hindus. The European interests get 25 seats, viz. 10 per cent. of the total seats, while they do not form any appreciable fraction of even one per cent. of the population. Factors of position, influence, education, etc., have apparently been considered, and legitimately considered in case of Europeans—but of heads has been considered between Hindus and Mahomedans. The latter claim to constitute 54 per cent. by inclusion of infants below 21 years, for if adults are counted, Mahomedans have no appreciable majority, if at all.

7. Even if Mahomedans form 54 per cent. of the population, their getting 50 per cent. more than Hindus is explained by the fact of carving out of the special seats, 51 in number in disproportionately large share from the Hindus.

8. The nature of the Special Seats, which include 25 for Europeans, 4 for Anglo-Indians, 8 for Labour, clearly does not lend itself to the suggestion that Hindus can make up their proper share in the total from these seats.

9. I fully realise that having regard to the wording of your decision, arguments, however forcible, cannot be listened to by you, but with the best of intentions the decision operates very unfairly on Hindus—and that is all the greater reason why Bengal Hindus other than the Depressed Classes object to the whittling down of what has been given to them by your decision. I may be permitted to add that if for the sake of argument it is assumed that one community has got nearly 50 per cent. more than its share it is idle to expect that it will give up its unjustified gain from any abstract considerations of justice.

10. The matter involved relates solely to a question of fact, viz., did the people now complaining agree to the modification of your decision ? The laboured argument about agreement by alleged "defaults", it is submitted, has no force. In any case, it remains to be determined whether there has been such default, from which it can be concluded that Bengal non-depressed classes have agreed to alter your Award.

11. It is submitted that the matter is too important to be dealt with on the footing, that the telegram of Birla and Thakkar represent facts correctly—facts which have been disputed. Nor does any agreement follow, even if these facts are taken to be substantially correct.

12. In the interest of the party aggrieved, an enquiry as to the fact of the non-depressed classes in Bengal being parties to, or being bound by the Poona Pact, should be made—whether through the Government of India or Bengal, or any other responsible and neutral Agency, is a matter of detail.

I am forwarding a copy of this letter to Dr. Ambedkar for information

As I have to leave England very soon, any acknowledgment of, or reply to this representation may be kindly directed to be forwarded to —

Mr. Narendra Kumar Basu, M.L.C.,

Bar Association, High Court, Calcutta.

Yours truly,

(Signed) N. N. SIRCAR,

Member,

Indian Round Table Conference.

CABLEGRAM FROM SIR RABINDRANATH TAGORE

Dated 27th July, 1933

To Sir N. N. Sircar,

I remember to have sent a cable to the Prime Minister requesting him not to delay in accepting the proposal about Communal Award submitted to him by Mahatmaji. At that moment a situation had been created which was extremely painful not affording us the least time or peace of mind to enable us to think quietly about the possible consequences of the Poona Pact which had been effected before my arrival when Sapru and Jayakar had already left with the help of members among whom there was not a single responsible representative from Bengal. Upon the immediate settlement of this question Mahatmaji's life depended and the intolerable anxiety caused by such a crisis drove me precipitately to a commitment which I now realise as a wrong done against our country's permanent interest Never having experience in political dealings while entertaining a great love for Mahatmaji and a complete faith in his wisdom in Indian politics I dared not wait for further consideration not heeding that justice had been sacrificed in case of Bengal. I have not the least doubt now that such an injustice will continue to cause mischief for all parties concerned keeping alive the spirit of communal conflict in our Province in an intense form making peaceful government perpetually difficult.

— RABINDRANATH TAGORE

LETTER AND ENCLOSURES FROM DR. AMBEDKAR TO THE PRIME MINISTER

Imperial Hotel,
Russell Square,
London, W.C.I.
5th January, 1933

My Dear Prime Minister,

Sir N. N. Sirkar has been good enough to send me a copy of the letter, dated 19th December, 1932, which he addressed to you just before his departure for India, in which he has laid before you for your consideration certain telegrams received by him from the Caste Hindus of Bengal protesting against the application of the terms of the Poona Settlement between the Caste Hindus and the Depressed Classes of Bengal on the ground that the Bengal Caste Hindus were not represented at the Settlement.

I had also received telegrams on behalf of the other side. Of these I had shown to Sir N. N. Sircar one which had come from Messrs. Thakkar and Birla, who had acted on behalf of Mr. Gandhi in the course of the negotiations that resulted in the Poona Settlement and the text of which has been quoted by him in his letter. I did not, however, like to trouble you with them, firstly because His Majesty's Government, having accepted the Poona Settlement, the matter, in my opinion, was closed, and secondly because I was assured by Sir N. N. Sircar that he would do nothing more than forward the telegrams received by him for your information. But as Sir N. N. Sircar has not contented merely with forwarding the telegrams, but has urged that "the laboured argument about agreement by alleged default" used by Messrs. Thakkar and Birla in their telegram has no force and has ended with a plea "that any enquiry as to the fact of the non-depressed classes in Bengal being parties to, or being bound by the Poona Pact should be made ..... through the Government of India, Bengal or any other responsible and neutral agency," I feel called upon to place my views on the question raised by him.

My first submission is that assuming that the Bengal Hindus were not represented at the Poona Settlement it cannot for that reason alone make it inapplicable to Bengal. Paragraph 4 of the Communal Decision of His Majesty's Government under which they had provided for an agreement settlement to supersede the terms of their award did not, in my opinion, stipulate that in respect of an alternative scheme for the whole of British India—and the Poona Settlement, it must be remembered, was for the whole of British India—Caste and Depressed—province for province was a necessary condition for its acceptance. Indeed, I go further and say that such a stipulation is not postulated in the Communal Decision even for a settlement in respect of a single province. According to my reading of paragraph 4 all that is stipulated is that His Majesty's Government should be satisfied that the communities who are concerned are mutually agreed upon a practicable alternative scheme. Taking my stand on this interpretation of paragraph 4, I venture to say that the absence of the representatives of Bengal Caste Hindus cannot derogate from the applicability of the Poona Settlement to Bengal. If the contrary interpretation were true it would then be open to the Depressed Classes of Punjab, U.P. and Bihar and Orissa to repudiate the Poona Settlement, for they were not represented at all.

My second submission is that it is really not necessary to proceed on the assumption that the Bengal Caste Hindus were not represented as is alleged by the signatories to the telegram forwarded to you by Sir N. N. Sircar. I know for a fact they were represented and the statement of Messrs. Thakkar and Birla in their telegram that the Bengal Hindus did not respond to the invitation sent to them—a statement on the basis of which Sir N. N. Sircar has founded his plea for an enquiry is incorrect. What is more important to bear in mind is that these representatives of

Bengal were not merely present as silent spectators, they were active participants in the negotiations. I very well remember one of them came to me in Bombay accompanied by a Bengal Depressed Class youth of the Raja Party and had a private conference with me for nearly an hour and a half in the course of which he urged me to come to terms with the Caste Hindus on the basis of joint electorates. It is, therefore, quite untrue to say that the Bengal Caste Hindus were not represented, and the inaccuracy in the statement of Messrs. Thakkar and Birla must be attributed to the impossibility of keeping in touch with all the details of the negotiations which, having regard to the momentous character of issues involved, is quite excusable. I am sorry I am not in a position to give you the name of the Bengal Caste Hindu gentleman who had this conference with me. But I will let you have his name immediately after my return to India.

There is therefore no case for reopening the Poona Settlement on behalf of the Caste Hindus of Bengal. As for the Depressed Classes, their spokesman, Mr. M. B. Mullick, has cabled to me that they accept the Poona Pact. His telegram and the telegram of Messrs. Thakkar and Birla are enclosed herewith in original for your information. I am leaving for India next week. Any further communication which you may wish to have with me in connection with this matter may be sent to my address in Bombay, which I give below for ready reference.

Yours truly,

(Signed) B. R. AMBEDKAR.

Address :
Damodar Hall, Parel,
Bombay-12 (India).

COPY OF TELEGRAM DATED 1ST DECEMBER, 1932

1774. Delhi. 118.29.2020.

DLT Doctor Ambedkar, India Office, London.

Regarding Bengal Hindu friends cable for revision, Poona Pact for Bengal they defaulted twice one before Lothian Committee when they failed to give list of Depressed Castes second when invited to Bombay September Conference nobody responded now they raise false cry besides they are unjustifiably afraid of Namsudras appropriating all seats further Bengal Government depressed population figure is 103 lacs *vide* Lothian volume two page 263 while we assumed for calculation of seats 75 lacs *vide* Lothian Poona Pact follows closely Lothian recommendations refer Mullick's note Lothian volume two page 251 in Calcutta Thakkar found general Hindu feeling in favour of Pact hence Pact approved by Cabinet can't be revised.

— BIRLA AND THAKKAR

COPY OF TELEGRAM DATED 26TH DECEMBER, 1932

WLT Ambedkar, Indian Conference, London.

Bengal Depressed Classes accept Poona Settlement so do Hindus Council Hindus representation *malafide* perverse.—MULLICK.

(13)

Dr. B. S. Moonje, Mr. B. C. Chatterjee, Mr. J. Bannerjee, Mr. G. A, Gavai, Rai Saheb Meherchand Khanna, Mr. R. M. Deshmukh, Mr. Bhai Parmanand and Pandit Nanak Chand, on behalf of the Hindu Mahasabha

*8813. *Dr. B. R. Ambedkar :* I just want to ask one or two questions of Dr. Moonje, to start with. Dr. Moonje, you have been asked certain questions by Sir Nripendra Sircar about the meeting that was called by Pandit Madan Mohan Malviya in Bombay to discuss what could be done with regard to the question that was raised by the fast of Mahatma Gandhi. I just want to ask you one or two questions in order to bring out the details. You were present at the first conference which took place in Bombay under the presidency of Pandit Malviya on 19th September 1932.

Dr. Moonje : Yes.

8814. *Dr. B. R. Ambedkar :* At that meeting, as you know, a small Sub-Committee was appointed ?

Dr. Moonje : Yes.

8815. *Dr. B. R. Ambedkar :* Consisting of the representatives of the Depressed Classes and of the caste-Hindus, including Mr. Jayakar, Sir Tej Bahadur Sapru and others ?

Dr. Moonje : Yes.

8816. *Dr. B. R. Ambedkar :* That Sub-Committee went over to Poona to discuss the question ?

Dr. Moonje : Yes.

8817. *Dr. B. R. Ambedkar :* Because they thought it would be very desirable to be near Mahatma Gandhi when the matter was being discussed. The Poona Pact was arrived at Poona as a result of the deliberations of the Sub-Committee, in agreement with Mahatma Gandhi ?

Dr. Moonje : Yes.

8818. *Dr. B. R. Ambedkar :* Then the main Hindu Committee which had appointed this Sub-Committee met again in Bombay on the 25tb September ?

Dr. Moonje : It may be. I was not present

8819. *Dr. B. R. Ambedkar :* At that meeting the Pact was put to the vote and passed : is that not so ?

Dr. Moonje : I am glad that Dr. Ambedkar has given me an opportunity of explaining all the details.

8820. *Dr. B. R. Ambedkar :* Do you know that of your own knowledge ?

Dr. Moonje : I can give the details which I, personally, know.

*Minutes of Evidence, Vol. II-C, 31st July 1933, pp. 1425-34.

8821. *Dr. B. R. Ambedkar :* I just want to ask this question : I want to know whether you are aware that the Sub-Committee, after having finished its work in Poona, came back to Bombay and reported what it had done to the main conference of the Hindus which had appointed the Sub-Committee ?

Dr. Moonje : Yes ; it must have done.

8822. *Dr. B. R. Ambedkar :* I will put the question to Mr. Gavai, who I think was there. Mr. Gavai, you took part in the negotiations which resulted in the Poona Pact ?

Mr. Gavai : Yes.

8823. *Dr. B. R. Ambedkar :* I am not putting it in an offensive manner, but you at that time belonged to what is called the Raja-Moonje Pact Party ?

Mr. Gavai : Yes.

8824. *Dr. B. R. Ambedkar :* You were present in Poona ?

Mr. Gavai : I was.

8825. *Dr. B. R. Ambedkar :* When the Pact was signed, the Sub-Committee came back to Bombay and held a meeting under the presidency of Pandit Malviya and resolution was passed by the whole of that Committee, approving of the Poona Pact ?

Mr. Gavai : Yes,

Dr. Moonje : On these points that Dr. Ambedkar has asked me, may I not explain ?

Chairman : I think the Committee would prefer to hear the conclusion of Dr. Ambedkar's examination. We will hear your explanation afterwards, Dr. Moonje.

8826. *Dr. B. R. Ambedkar :* After the Sub-Committee was appointed and it went to Poona to discuss this matter with Mahatma Gandhi, there was a Session of the Hindu Mahasabha held at Delhi between 24th and 26th September, 1932?

Dr. Moonje : Yes.

8827. *Dr. B. R. Ambedkar :* Under the presidency of Pandit Malviya ?

Dr. Moonje : No. Under the presidency of Mr. N. C. Kelkar.

8828. *Dr. B. R. Ambedkar :* Mr. Ramanand Chatterjee was present at the meeting in Delhi ?

Dr. Moonje : Yes.

8829. *Dr. B. R. Ambedkar :* Raja Narendranath was also present at this meeting of the Hindu Mahasabha in Delhi ?

Dr. Moonje : Yes.

8830. *Dr. B. R. Ambedkar :* Is it not a fact that this Pact was ratified by the Hindu Mahasabha at the Delhi Session ?

Dr. Moonje : Yes ; there is no question about that.

8831. *Dr. B. R. Ambedkar :* Mr. Ramanand Chatterjee is the leading member of the caste-Hindus of Bengal ?

Dr. Moonje : Yes.

8832. *Dr. B. R. Ambedkar :* And also a very prominent member of the Hindu Mahasabha ?

Dr. Moonie : Yes.

Mr. J. Bannerjee : May I explain that he is not a caste-Hindu at all ; he is a non-caste-Hindu ; he is a Brahmo.

8833. *Marquess of Zetland :* I saw there was a misprint in the evidence before ; it is a very natural mistake. Sir Rabindranath Tagore was described as a "Brahmo" which is a very different thing from a caste-Hindu. In the evidence the word "Brahmo" became "Brahmin", which is one of the highest castes of Hindus there is. The same thing applies to Mr. Ramanand Chatterjee ; he is a Brahmo, not a Brahmin. Is that not so ?

Mr. J. Bannerjee : Yes.

8834. *Mr. Zafrulla Khan :* We on this side, who really do not know the details of this wish to understand it. Is it Brahmin or non-Brahmin, a question of birth, a question who is born a Brahmin ? Dr. Moonje is a Brahmin by caste, although he might give us his convictions so far as caste is concerned ?

Mr. J. Bannerjee : If he adopts a different religion, he ceases to be a Hindu.

8835. *Mr. M. R. Jaykar :* May I ask a question on this point ? You do not mean to suggest that because a man is a Brahmo, he ceases to be Hindu?

Mr. J. Bannerjee : He certainly ceases to be a Hindu by religion ; he is a non-Hindu. When he marries he has to describe himself as a non-Hindu.

8836. *Mr. M. R. Jaykar :* I am not speaking of the matter in connection with the law of marriage or anything of that kind, but do you say, as a Hindu, that if a Brahmin becomes a Brahmo in religion he ceases to be a Hindu or a Brahmin ?

Mr. J. Bannerjee : He ceases to be a Brahmin, certainly.

8837. *Dr. B. R. Ambedkar :* Dr. Moonje, apart from the question of whether Mr. Ramanand Chatterjee is a Brahmo or Hindu, he has been taking a very active part in the movement of the Hindu Mahasabha ?

Dr. Moonje : Yes.

8838. *Dr. B. R. Ambedkar :* He has been protagonist of the Hindu interest ?

Dr. Moonje : Yes.

8839. *Dr. B. R. Ambedkar :* Raja Narendranath comes from the Punjab ?

Dr. Moonje : Yes.

8840. *Dr. B. R. Ambedkar :* He is the President of the local Hindu Mahasabha ?

Dr. Moonje : He is President of the Hindu Mahasabha too. May I explain, my Lord Chairman ?

8841. *Chairman :* If you please ?

Dr. Moonje : I was called to the meeting in Bombay by Pandit

Malviya when the meeting took place and when the discussions were going on. I got up, Dr. Ambedkar will remember, and I said that when Mahatma Gandhi was not prepared even to grant reservation of seats to the Depressed Classes in joint electorates, it is not possible to any compromise on this question, in order that he may give up his fast. However, to our great relief, on the second day news came that Mahatma Gandhi was prepared to recognise the reservation of seats in joint electorates. I was greatly pleased. Then at a certain meeting, where the principle of the Poona Pact was being evolved. I distinctly told at that time Pandit Malviya that this principle of the Poona Pact which is being evolved is based upon separate electorates. I personally, and the Hindu Mahasabha as a body, have a fundamental objection to separate electorates, and I personally and the Hindu Mahasabha as a body will not accept this principle of the Poona Pact. Then of course I could not go to Poona, along with the other members, for carrying on the negotiations. Then, to my satisfaction, having come to know that Mahatma Gandhi was prepared to accept the reservation of seats, I said "The danger of Gandhi's life is over," and therefore I went to Delhi. In Delhi, when the session of the Hindu Mahasabha was in progress, we received the wire that Gandhi had accepted the Poona Pact and, naturally, everybody was anxious to save the life of Gandhi; and we passed a resolution in the Hindu Mahasabha—

8842. *Dr. B. R. Ambedkar :* Accepting the Pact ?

Dr. Moonje: Yes, accepting the Pact. But it must be understood here that on the spot, Raja Narendranath on behalf of the Punjab protested and protested in vain, but of course the majority of the whole House was at that time in fear and dread—

8843. *Mr. Zafrulla Khan:* Under the shadow of the fast ?

Dr. Moonje: That if the Pact was not accepted, Mahatma Gandhi's life would not be saved, and therefore they accepted the Pact. Those are all the details. One particular point is this : in our negotiations with Dr. Ambedkar during the First and Second Round Table Conferences, Dr. Ambedkar has agreed, I made an agreement with the Hindu Mahasabha that he was fully satisfied if, under a system of joint electorates, reservation of seats on the population basis would be granted to him. On one occasion, during the Second R.T.C. when Dr. Ambedkar thought that there was some ambiguity in this point. I suggested to him that a joint letter should be sent to the Prime Minister, signed by himself and myself, saying that the difference between the Depressed Classes and the Hindus were settled by this arrangement; that is, reservation of seats on the population basis in joint electorates with the Hindus.

8844. *Dr. B. R. Ambedkar:* To which I did not agree ?

Dr. Moonje: To which, at that time, Dr. Ambedkar did not agree ; but at the First Round Table Conference, Dr. Ambedkar did agree and, by his consent, the fact was announced to the American newspapers.

Dr. B. R. Ambedkar: I do not accept that.

8845. *Mr. M. R. Jayakar:* May I ask a question, Dr. Moonje ? You were speaking about the Hindu Mahasabha accepting the Poona Pact at Delhi ?

Dr. Moonje: Yes.

8346. *Mr. M. R. Jayakar:* Do you mean to say that the Hindu Mahasabha accepted the Poona Pact, not on its merits, but because of the satisfaction that Mahatma Gandhi's life was saved ?

Dr. Moonje : I have already said that when the Pact was being evolved I distinctly said that the principle under which the Pact was being evolved could be acceptable to me personally or to the Hindu Mahasabha as a whole because it was based on separate electorates.

Mr. Bhai Parmanand : May I add one word ? The Punjab Hindus have a similar feeling towards the Poona Pact as the Hindus of the Bengal. Raja Narendranath was opposed to it on the very day when the Hindu Mahasabha passed a resolution accepting it in a hurry. Within 48 hours of the acceptance of the Poona Pact at Bombay there was a Hindu protest in the open meeting. The Secretary of the Punjab Hindus also made a protest, and Dr. Gokalchand sent a Cablegram to the Premier here that the Punjab Hindus were opposed to it. The Hindu feeling is still opposed to it. There are articles in the newspapers, which I have not with me, that the Poona Pact has affected the Hindus of the Punjab very badly. Then one thing more, and that is that certain Scheduled Tribes of the Depressed Classes, who regard themselves recorded in the Census Report as Hindus, as Butwalas, Barawalas, Kabir-panthas and Domes have not been included among the Scheduled Tribes of the Depressed Classes. They are carrying on agitation on that behalf; the names of these Tribes are Butwalas, Barawalas, Kabirpanthas and Domes. They amount to about 50,000 population in the Punjab because they got themselves recorded in the Census Report as Oriyas. They are not mentioned in the Scheduled Tribes ; and they are creating this agitation in order to be included among them. So that shows a sort of prejudice against those Tribes of the so-called Depressed Classes amongst all those who describe themselves as Hindus. Therefore, my request to the Joint Select Committee is to look into this matter, and at least give them a right in the new tribes.

8847. *Mr. Zafrulla Khan:* His last point is not clear. These particular tribes whom you have mentioned want to be scheduled ?

Mr. Bhai Parmanand : Yes.

8848. *Mr. Zafrulla Khan:* And they have not been scheduled ?

Mr. Bhai Parmanand: This is another aspect—

8849. *Mr. Zafrulla Khan:* I want to clear the point up. Not exactly depressed as those who have been put in scheduled ?

Mr. Bhai Parmanand: My point is this, that simply because they have described themselves as Hindus in Scheduled Caste, they have been excluded from this right which has been given to the other tribes.

8850. *Mr. Zafrulla Khan:* The right to be scheduled ?

Mr. Bhai Parmanand: Yes.

Dr. Moonje: May I explain this point ?

As regards the Punjab and as regards Bengal the objection of the Hindu Mahasabha is that after careful examination, both by the people and the Lothian Committee, it was found that the question of depressed classes does not exist in Punjab, and the question of depressed classes in Bengal is not so insistent or is not so keen as to require any very great consideration.

It was this point which has been made a grievance, and my friend, Mr. Parmanand, says that these people are complaining that they are not included in the depressed classes because they have been made Arya Samajis. The point is that if the depressed class question in Punjab is to be created as a vested interest in separate electorates, then these depressed classes have a right to be included, which are now being scheduled as depressed classes. If that vested interest is not to be created then those people have no claim to be included in those depressed classes.

8851. *Dr. B. R. Ambedkar:* Might I ask one question : You object to the Poona Pact being applied to Punjab because, in your opinion, there are no depressed classes there ?

Mr. Bhai Parmanand: Not in the sense in which there are in most of other Provinces.

8852. *Dr. B. R. Ambedkar:* In some sense, are there or are there not ? Are there depressed classes in the Punjab or are there not ?

Mr. Bhai Parmanand: They are not Untouchables, they are not Unapproachables. No distinction is kept, and it is in the Report of the Simon Commission and the Government of India Report also that the distinction between caste-Hindus and the depressed classes does not exist in the Punjab.

8853. *Dr. B. R. Ambedkar:* Might I ask you this question? How do you reconcile yourself : Your first position is that there are no depressed classes and therefore, there is no provision for them, and your second complaint is that certain depressed classes are not included in the scheduled list?

Pandit Nanak Chand: I have dealt with this point, and I will give you an explanation. As far as unapproachability and untouchability is concerned, it does not exist, or if it exists, it is almost negligible ; there is very little. This is admitted by the Government officials, by the Sikhs, by the Mahommedans and by the Hindus, but certain classes have been scheduled as depressed classes and certain others of equal status, whether economically backward or otherwise, deprived of certain rights, namely, of purchasing land, and so forth, want to be scheduled along with those others because they are on the same social status.

8854. *Dr. B. R. Ambedkar:* You are very anxious that they should be included ?

Pandit Nanak Chand: I am not anxious ; they are anxious. I do not want anybody to be called a Depressed Class.

8855. *Dr. B. R. Ambedkar:* I want to ask a few questions of Mr. Chatterjee of Bengal. I think your main complaint is that the Bengal Hindus were not represented when this Poona Pact was evolved—is that it ?

Mr. B. C. Chatterjee: That is one of the complaints. My main complaint is —

8856. *Dr. B. R. Ambedkar:* I will take this for the moment because I want to exhaust one at a time. I think it was admitted by your colleague that there were members of the Bengal caste-Hindus present both in Bombay and Poona ?

Mr. B. C. Chatterjee: Yes.

Mr. J. Bannerjee: At Poona one caste-Hindu was present : that is what I have said.

8857. *Dr. B. R. Ambedkar:* Were not there dozens from other Provinces ?

Mr. B. C. Chatterjee: That may be.

Marquess of Zetland: Dr. Ambedkar, could not we solve the whole of this problem if you told us the names of the Bengal caste-Hindus who were there?

8858. *Dr. B. R. Ambedkar:* I am giving the names. These names were given in the course of the discussion that took place in the Bengal Legislative Council on the 14th March 1933.

Mr. B. C. Chatterjee: Will you kindly give the names ?

8859. *Dr. B. R. Ambedkar:* There was no contradiction at all on that point ?

Mr. B. C. Chatterjee: I was in England at the time.

8860. *Dr. B. R. Ambedkar:* I am quoting from speech of Mr. Mullick who represented the depressed classes in the Bengal Legislative Council. This is what he says ?

Mr. J. Bannerjee: He is a nominated member not an elected representative : I want to make that point clear.

8861. *Dr. B. R. Ambedkar:* He is a representative of the depressed classes ?

Mr. J. Bannerjee: And he has been defeated in a constituency before—twice before.

8862. *Dr. B. R. Ambedkar:* What difference does that make to the point I am dealing with ? I am on the point whether certain Bengal Hindus were present or not. This was a statement made in the proceedings of the Bengal Legislative Council in the course of a speech by a Bengal Depressed Class Member who advocated the Poona Pact : "We know that they were men like Swami Satyananda of the Hindu Mission. Babu Haridas Mazumdar,

M.A., B.L. of the Amrita Samaj, Babu Pramathanath Banerjee, M.L.C., of Midnapore, Babu S. C. Das Gupta of the Khadi Pratisthan, besides men like Pandit Malaviya, Sir Tej Bahadur Sapru, Mr. M. R. Jayakar, Mr. Rajgopalachari ?"

Mr. J. Bannerjee: Excepting one, none of them was present at Poona.

Dr. B. R. Ambedkar: That was a statement in the Council.

8863. *Mr. J. Bannerjee:* Will you permit me to go on ?

Dr. B. R. Ambedkar: Please answer when I ask a question.

Mr. J. Bannerjee: It is an incorrect statement.

8864. *Dr. B. R. Ambedkar:* I say this statement has not been contradicted by anyone in the Bengal Legislative Council ?

Mr. J. Bannerjee: I was present on that day. No speech was delivered, but something was read from paper, and it is quite possible that people missed those bits. A paper was read indistinctly.

8865. *Mr. M. R. Jayakar:* The proceedings of your Council are published, are they not ?

Mr. J. Bannerjee: Yes.

8866. *Mr. M. R. Jayakar:* Since the publication of those proceedings has there been any contradiction ?

Mr. J. Bannerjee: Yes ; immediately after the debate was held, as soon as we heard that certain names were given out, a contradiction was made in the newspapers.

8867. *Dr. B. R. Ambedkar:* I put it to you that not only were these men present at Bombay ?

Mr. J. Bannerjee: I am speaking of Poona.

8868. *Dr. B. R. Ambedkar:* I am talking first of all about Bombay. Not only were these men present at Bombay when the sub-committee was appointed, but they had conversations with me individually in my office and urged me to come to a settlement. This is a fact which I disclosed in an interview which I gave to the Bombay Times and which is published on the 17th March, soon after your legislative proceedings were announced ?

Mr. J. Bannerjee: The very next day I contradicted your statement and said that did not touch the point because three of those members had not, according to your own admission, gone to Poona, and were not present at the time of the Pact.

Mr. B. C. Chatterjee: I just want to say this, that it is nobody's case and I do not think it is Dr. Ambedkar's case—that these gentlemen were sent to Bombay, or a solitary gentleman who was present at Poona was sent there by the Bengali Hindus or anybody of Bengali Hindus ; they may have been there accidentally or may have been there because they wanted to see the Mahatma who was ill. Some actually went there for the glory of carrying his dead body in a procession.

8869. *Dr. B. R. Ambedkar:* I will put it to you that if that is the case that it was well known that, these men had left Calcutta for the

express purpose of attending the Malaviya Conference. That has been published in the "Liberty" ?

Mr. J. Bannerjee : They did not go there on authorisation by any public body in Bengal. They may have gone there on their own business or for some other reason. May I make an offer to Dr. Ambedkar; may T just say this ? We, in Bengal, feel it a great slur that there should be a suggestion that there are depressed classes in Bengal. The Bengali Hindus have been going on doing social work for over a century now in order to remove caste barriers and things like that. I ask Dr. Ambedkar to agree with this. The Lothian Committee very fairly formulated two characteristics, two criteria, for determining who are depressed classes, untouchability, unapproachability within a certain distance. I suggest that the Bengal Government should make an enquiry into who are untouchables and unapproachables, and if their number is ascertained we should be willing to give these people their proportion of representation on the Bengal Legislative Council on the basis of joint electorates.

8870. *Dr. B. R. Ambedkar:* I am not discussing joint electorates ; I am discussing this important point of fact when it was well known that certain Bengal caste-Hindus were going to Bombay to attend Malaviya Conference. I am quoting to you from the "Liberty" of the 17th September, 1932: it is a paper which is published in Calcutta. I find in column 4 on page 5 of the "Liberty" of that date this report written in broad headlines : "Swami Satyananda and others leave for Bombay. Swami Satyananda, Sjs. Haridas Majumdar and Jajneshwar Mandal of the Amrita Samaj are leaving for Bombay tonight to attend the Malaviya Conference." They were not going on any of their private business ?

Mr. B. C. Chatterjee: As far as I am concerned I have never heard of the gentlemen ; this is the first time I have heard of them ; certainly they have been hiding their light under a brushel as far as Bengal is concerned, and these gentlemen must themselves have sent the report just to advertise that they were going.

8871. *Dr. B. R. Ambedkar:* My point is that the public of Bengal was aware that certain members from the caste-Hindus were proceeding from Bengal to attend the Malaviya Conference, and if the public of Bengal thought that they were not representatives it was quite possible for them to send a message to Malaviya not to trust these people ?

Mr. B. C. Chatterjee: I submit it is most unfair to the public of Bengal to hold them to a paragraph that appeared casually in some column of the "Liberty".

8872. *Dr. B. R. Ambedkar:* I am only stating it as a fact that every body in Bengal ought to know ?

Mr. B. C. Chatterjee: Nobody reads the paper thorough like that. Nobody searches out particular columns to find out things like that. It never came to our notice.

Dr. B. R. Ambedkar: I will not press you further on that.

8873. *Sir Austen Chamberlain:* Does Mr. Chatterjee mean he was unaware that such a meeting was being held in Bombay ?

Mr. B. C. Chatterjee: We were aware that a meeting was being held, but we were completely unaware that anybody was taking it upon himself to go from Bengal to that meeting.

8874. *Sir Austen Chamberlain:* If you had these strong feelings on the subject and you were, in your opinion, the most representative body who could speak on behalf of those who held your views, why did not you send representatives when you became aware of the meeting ?

Mr. B. C. Chatterjee: We did not know what was happening there. We in Calcutta, honestly did not know what was happening there excepting that we heard the news of Mr. Gandhi's going to fast.

Mr. J. Bannerjee: We did not attach any great importance to it. The Malaviya Conference was not to dispose of the fate of the caste-Hindus of Bengal; therefore, nobody went there in any capacity whatever. The Poona Meeting was really important.

8875. *Sir Austen Chamberlain:* You were aware of the meeting, but you did not think it worth attending. That is the position ?

Mr. J. Bannerjee: I am afraid you are confusing the two meetings at Bombay and Poona. The Pact was signed at Poona and that was the important meeting to which the caste-Hindus were not invited. The meeting at Bombay was a sort of preliminary canter. We were justified in not attaching much importance to it.

8876. *Mr. Zafrulla Khan:* May I put this to you : I do not want to offend you in any way, Mr. Chatterjee, but it appears that, perhaps, the attitude of Bengal caste-Hindus was : " We are not concerned with this : perhaps it will come to nothing; if it helps to save the Mahatma's life well and good ; if it affects us in any way we can repudiate it afterwards" ?

Mr. B. C. Chatterjee: With great respect that was not so. I had the honour to be on the Provincial Franchise Committee and had the honour to co-operate with the Lothian Committee. We went into careful investigation as to who were the Untouchables. That is the whole point for investigation.

8877. *Dr. B. R. Ambedkar:* You are going away from my point. The reports of what was happening in Bombay and Poona were published regularly fully in the "Liberty" every day. Are you prepared to contradict that ?

Mr. B. C. Chatterjee : I am sorry to say I never read the "Liberty".

8878. *Dr. B. R. Ambedkar:* I brought the "Liberty". I purposely did not bring the " Statesman " because you would say it is an Anglo-Indian paper ?

Mr. B. C. Chatterjee: Why should I ? I cannot imagine myself saying that.

8879. *Dr. B. R. Ambedkar:* I brought it deliberately because I know it is a Hindu paper ?

Mr. B. C. Chatterjee: It is. It comes to my house. I read it occasionally.

8880. *Dr. B. R. Ambedkar:* I put it to you that the proceedings of the Malaviya Conference held on the 20th are given on full front page in "Liberty" ?

Mr. B. C. Chatterjee: I hear that from you.

8881. *Dr. B. R. Ambedkar:* You can see it for yourself. I will pass it to you ?

Mr. B. C. Chatterjee: I accept your word for it.

8882. *Dr. B. R. Ambedkar:* Similarly, what happened on the 21st is published on the front page fully in the issue of the 22nd ?

Mr. B. C. Chatterjee: I dare say.

8883. *Dr. B. R. Ambedkar:* So that anybody in Bengal would really know what was happening in Bombay and Poona. I will put to you one more point ?

Mr. B. C. Chatterjee: We thought before any decision of this weightly character could ever become applicable to public bodies in Bengal they would be invited to send their representatives to take part in the deliberations.

8884. *Dr. B. R. Ambedkar:* When the Sub-Committee was propounded there was no protest made against its composition ?

Mr. B. C. Chatterjee: They would have no right to.

8885. *Dr. B. R. Ambedkar:* If you refer to the "Liberty" of the 22nd September 1932, it contains the Report of the proposals I made to this Sub-Committee on the basis of which I was prepared to negotiate. Mr. Jayakar will corroborate me that I did propose certain things on the basis of which I was prepared to negotiate. In my proposals I had demanded 50 seats for the Bengal.

Mr. J. Bannerjee: Depressed Classes you mean ?

8886. *Dr. B. R. Ambedkar:* I mean Depressed Classes, and yet there was not a single statement of protest from the Bengal caste-Hindus either to Pandit Malaviya, who was supposed to negotiate the Pact on this basis, nor did you send anybody to Poona although you know I had made this demand which was published, as I say, in a most prominent place in the issue of the 22nd September ?

Mr. J. Bannerjee : I am sorry, but I am afraid we did not attach as much importance to Dr. Ambedkar's proposals as we ought to have done.

8887. *Dr. B. R. Ambedkar:* I am sorry, you are to suffer for it. I just want to ask you one or two questions about this. The announcement of His Majesty accepting the Poona Pact was made on the 26th September, 1932, in the Central Legislature in both Houses. That announcement by His Majesty's Government was acclaimed by everybody in the Central Legislature ; there was no protest made then by any member either in the Council of State or in the Legislature against the acceptance of this Pact. Is not that so ?

Mr. J. Bannerjee. : That may be so.

Mr. M. R. Jayakar: Bengal is represented in the Central Legislature.

Sir Hari Singh Gour: With reference to an imputation made by Dr. Ambedkar, that when Sir Harry Haig, the Home Member, made an announcement to the Legislative Assembly there was no protest from any member. I wish to draw the attention of the Joint Committee to the fact that it is not in accordance with the practice of the Legislative Assembly when an announcement of a decision by His Majesty's Government is made for any reference on any protest to be addressed by any member of the House.

8888. *Lieut. Colonel Sir H. Gidney:* I was in the House when the statement was made by Sir Harry Haig, and it was met by universal acclamation ?

Mr. Bhai Parmanand: I was also there, but there was no acclamation about it

Dr. B. R. Ambedkar: There was applause, if you will take a word as it was given.

8889. *Lieut. Colonel Sir H. Gidney:* I meant applause, yes ?

Mr. Bhai Parmanand: Some people might have done it.

Dr. B. R. Ambedkar: The whole statement is given in the Legislative Council proceedings for the 26th September 1932, Volume 5, No. 5, and the statement is concluded there is in brackets "applause". The same statement was made in the Council of State. What I want to put is this, is it not a fact that the following gentlemen represented caste-Hindus in the Legislative Assembly ?—(Naming). Then in the Council of State there are the following :—(Naming them.)

Mr. B. C. Chatterjee: My answer is that they did not realise the repercussions of the Pact and they are now unanimous in condemning it.

Mr. Bhai Parmanand: May I explain this point ?

8890. *Dr. B. R. Ambedkar:* I do not know that there is any explanation needed. They are members of the Assembly and they did not protest. With regard to the protests in the Bengal Province itself after the Pact in September 1932, there was a session of the Bengal Legislative Council in November, 1932 ?

Mr. B. C. Chatterjee: Yes.

8891. *Dr. B. R. Ambedkar:* There was no formal resolution moved in the Council protesting against the application of the Poona Pact to Bengali?

Mr. B. C. Chatterjee: No.

8892. *Dr. B. R. Ambedkar:* I am referring to the Report.

Mr. B. C. Chatterjee: 1 must reply to this question. The first thing we did was to get together all the influential Hindu members of the Council within a short time of the Council Meeting, and we decided that we should jointly .....

8893. *Dr. B. R. Ambedkar :* May I have an answer to my question, and then we can have an explanation. I want to know whether there was

any formal resolution moved in the Bengal Legislative Council in November Session which met immediately after the acceptance of the Poona Pact protesting formally against this. That is what I want to know, was there a. resolution ?

Mr. B. C. Chatterjee: Undoubtedly, I did put in a resolution protesting against the Poona Pact in the November Session, but I was induced to withdraw it by the joint representations of Mr. Rasik Biswas, a member of the Namsudras, an influential member, and Pandit Malaviya, but both of them assured me that they would get Dr. Ambedkar to hold another meeting and to revise the Poona Pact in view of the facts which are placed before them and they repeatedly requested me not to press it to a division in the Council without giving them this chance.

8894. *Dr. B. R. Ambedkar :* Was it moved ?

Mr. B. C. Chatterjee : They induced me to withdraw it and on the ground.

8895. *Dr. B. R. Ambedkar:* It was not moved ?

Mr. B. C. Chatterjee: I withdrew it.

8896. *Dr. B. R. Ambedkar:* It was not moved ?

Mr. B. C. Chatterjee: I say I withdrew it.

8897. *Dr. B. R. Ambedkar:* You had given notice of it?

Mr. B. C. Chatterjee: I gave notice of it, and, on the representation of Mr. Rasik Biswas and Pandit Malaviya, I withdrew it. I did not move it.

3898. *Dr. B. R. Ambedkar:* In the March Session of 1933, the motion that was discussed was a special motion. The ordinary motion which stood in the name of Mr. Shanti Shekhareswar Ray was not moved ?

Mr. J. Bannerjee: It could not be reached.

8899. *Dr. B. R. Ambedkar:* No priority was sought for it ?

Mr. J. Bannerjee: Priority was sought for it but priority could not be obtained. There was no time to reach it. Subsequently a special resolution was moved by me.

8900. *Dr. B. R. Ambedkar:* A month after that resolution was passed, in the March Session of 1933 in the Bengal Legislative Council, a public meeting was held in Calcutta in the Albert Hall, on the 21st April, 1933. It was presided over by one Mr. Samal, and that meeting passed a resolution condemning the attitude of the Bengal Legislative Council in protesting against the Poona Pact ?

Mr. J. Bannerjee : Very possibly.

8901. *Dr. B. R. Ambedkar:* The proceedings of that Committee are published in full in the "Liberty" of 22nd April, 1933. Is that a fact, or is not?

Mr. B. C. Chatterjee: Very possibly. I do not know myself. I was in England.

8902. *Dr. B. R. Ambedkar:* You said that the Bengal Government at the time the Poona Pact was accepted was somewhere in Darjeeling, and that no Hindu was consulted. You said that in answer to Sir Nripendra Sircar?

Mr. B. C. Chatterjee : Yes.

8903. *Dr. B. R. Ambedkar:* Will you tell what was the composition of the Bengal Executive in September, 1932 ? Who were its members, and what was communal composition ?

Mr. J. Bannerjee: There were three Bengali Members—no, two Bengali Hindu Members in the Bengal Government.

8904. *Dr. B. R. Ambedkar:* Is it your suggestion that the Bengal Government which had two Bengal caste-Hindu members on it did not approve of the Poona Pact ?

Mr. J. Bannerjee: I have nothing to suggest about the Government but I am quite sure that both the Hindu members of the Government had disapproved of it, and had emphatically protested against it.

8905. *Dr. B. R. Ambedkar:* With respect to the Central Executive you have said one Bengal Hindu was there, Sir B. L. Mitter. Is that so ?

Mr. J. Bannerjee: Yes ; I cannot say anything about Sir B. L. Mitter, but I would ask you to refer to the present member of the Viceroy's Executive Council.

8906. *Dr. B. R. Ambedkar:* It has been suggested by Sir Nripendra Sircar in the course of his examination that the whole thing was accepted by His Majesty in a sort of emergency created by the fast of Mahatma Gandhi. What I want to put to you is this : Is it not a fact that the first letter written by Mahatma Gandhi to the Government was not dated the 18th August, but was dated the 11th March, 1932 (that letter is addressed to Sir Samuel Hoare); it is practically five months before the letter referred to by Sir Nripendra Sircar, and that is what he says. That is before the Communal Decision was given, that is my point. This is his statement : "Dear Sir Samuel, you will perhaps recollect that at the end of my speech at the Round Table Conference when the Minorities' claim was presented I had said that I should resist with my life the grant of separate electorates to the Depressed Classes. This was not said in the heat of the moment nor by way of any rhetoric. It was meant to be a serious statement", and so on. Then he says "I have therefore respectfully to inform His Majesty's Government that in the event of their decision creating separate electorate for the Depressed Classes I must fast unto death." The threat to fast was not given in the letter of the 18th August, after the Communal Decision was given, but was given in the letter of the 11th March, 1932 ?

Mr. J. Bannerjee : Quite true.

8907. *Dr. B. R. Ambedkar:* And His Majesty's Government gave separate electorate to the Depressed Classes notwithstanding this threat in the letter of the 11th March ?

Mr. J. Bannerjee: Our complaint against the Pact is that it perpetuates every evil of separate electorates.

8908. *Dr. B. R. Ambedkar:* That is another matter. You had better say that to Mahatma Gandhi; I cannot discuss it ?

Mr. J. Bannerjee : The award of His Majesty's Government is much more acceptable to us than the Poona Pact.

8909. *Dr. B. R. Ambedkar:* I will ask you one or two questions about that. Your complaint is that the Poona Pact gives a larger number of seats to the Depressed Classes than were given in His Majesty's Government's Award. I want to draw your attention to the letter of the Prime Minister to Mr. Gandhi dated 8th September, 1932, and this is what he said. "The number of territorial seats allotted to Muslims is naturally conditioned by the fact that it is impossible for them to gain any further territorial seats and that in most Provinces they enjoy weightage in excess of their population ratio." I want to draw your special attention to this. "The number of special seats to be filled from special Depressed Class constituencies will be seen to be small and has been fixed, not to provide a quota numerically appropriate for the representation of the whole of the Depressed Class population, but solely to procure a minimum number of spokesmen for the Depressed Classes in the Legislature who are chosen exclusively by the Depressed Classes. The proportion of their special seats is everywhere much below the population percentage of the Depressed Classes ?

Mr. J. Bannerjee : Quite so, because it is expected that many of the Depressed Classes, especially in Bengal, will come in through the general constituencies.

8910. *Dr. B. R. Ambedkar:* What I want to draw your attention to is this : In giving the Communal Award and apportioning seats to the Depressed Classes His Majesty's Government and the Prime Minister have definitely admitted that those seats are not in proportion to the population ratio and were much below ?

Mr. J. Bannerjee : Quite true but at the same time, the Prime Minister there distinctly makes it clear that the number allotted to the Depressed Classes is less than their numerical proportion, because he specifically mentions the case of Bengal, because in Bengal many of the Depressed Class members would be sure to come in through general constituencies.

8911. *Dr. B. R. Ambedkar:* He never mentioned anything about Bengal, I can assure you ?

Mr. J. Bannerjee: Most certainly he has done so ; I have read the award carefully.

8912. *Dr. B. R. Ambedkar*. With regard to this, there was a session held — the seventh session of the Bengal Provincial Hindu Conference at Malda, somewhere between the 17th and 19th of September, 1932, under the presidency of Mr. Ramanand Chatterjee. Is that so ?

Mr. J. Bannerjee: Very possibly.

8913. *Dr. B. R. Ambedkar:* In the seventh session of the Bengal Provincial Hindu Conference at Malda ?

Mr. J. Bannerjee: Very possibly. I do not know ; I have no personal knowledge.

8914. *Dr. B. R. Ambedkar:* I want to read to you a resolution that was passed at this Bengal Provincial Hindu Conference, published in "Liberty" of the 19th September, 1932 : "This Conference appeals to the so-called Depressed Classes not to demand representation on the basis of separate electorates in the coming Constitution, and affirms its adherence to the Raja Moonje Pact and its readiness to concede representation to the Depressed Classes according to their population strength through joint electorate even if it means surrender to them of the majority of seats allotted to the Hindus ?

Dr. Moonje: May I reply to that question ? The resolution was passed. We stick to it, and my friend Mr. Chatterjee had made a sporting offer to Dr. Ambedkar. Is he prepared to see what his number would be according to the population basis, the Depressed Classes being defined as untouchables and unapproachables ? We art prepared to make this sporting offer to Dr. Ambedkar, and let the whole question be decided in Bengal and the Punjab as to what is the number of the Depressed Classes according to the definition that the Depressed Classes member is one who is untouchable or unapproachable. We make the sporting offer.

Dr. B. R. Ambedkar: I do not want to make the fate of my people the sport of party politics and I am afraid I cannot accept that offer.

* * * * *

†9269. *Dr. B. R. Ambedkar:* May I put a supplementary question ? Do I understand that you include the depressed classes also in your Hindu Mahasabha ? Do you claim to represent them ?

Dr. Moonje: My contention is that I represent also the depressed classes and my friend, Mr. Gavai, who is sitting by my side, is a representative of the Depressed Classes on the deputation of Hindu Mahasabha and it has never been proved whether I represent the majority or whether Mr. Gavai represents the majority among the Depressed Classes.

9270. *Dr. B. R. Ambedkar:* That is a different matter. I want to know, do you represent the depressed classes ?

Dr. Moonje: I represent the majority portion of the depressed classes also.

9271. *Dr. B. R. Ambedkar:* As far as I am concerned I absolutely disagree with that position. What does Mr. Gavai have to say ? I still repeat the fact that the Depressed Classes do not belong to the organisation that Dr. Moonje represents so far as his memorandum is concerned. I know as a matter of fact that the Hindus of the Punjab have repudiated it ?

Dr. Moonje: What?

Dr. B. R. Ambedkar: That part of your memorandum No. 57 has been repudiated by the depressed classes of the Punjab.

†Minutes of Evidence, Vol. 11-C, 31st July 1933, p. 1466.

(14)

Mr. M. K. Acharya, Mr. L. M. Deshpande, and Mr. J. L. Bannerjee, on behalf of the All-India Varnashram Swarajya Sangha

*10,753. *Dr. B. R. Ambedkar:* Mr. Acharya, do I understand you correctly, when I say that what you want is that the Legislature should not have competence to pass laws affecting what you call the fundamentals of religion ?

Mr. M. K. Acharya: Yes.

10,754; *Dr. B. R. Ambedkar:* And that before any such law is introduced you want a sort of previous sanction obtained from heads of religious institutions ?

Mr. M. K. Acharya: Yes.

10,755. *Dr. B. R. Ambedkar:* And, thirdly, that after it is introduced it should not become law until it is passed by a two-thirds majority ?

Mr. M. K. Acharya: Yes.

10,756. *Dr. B. R. Ambedkar:* I want to ask you this : This two-thirds majority is to be two-thirds majority of the Hindu members of the Legislature or two-thirds majority of the total Legislature ?

Mr. M. K. Acharya: Of each community sought to be affected. If it is only the Hindu community it would be only the Hindu members. If it is the Muslim community there would be the Muslim members also.

10,757. *Dr. B. R. Ambedkar:* Are you able to tell us in a defined form what you regard to be the fundamentals of your religion so that it may be possible for this Committee to know to what extent the Legislature can interfere and to what extent it cannot ?

Mr. M. K. Acharya: I am willing to give a very humble lecture on the fundamentals of religion if the Committee will hear me for three hours.

10,758. *Sir Austen Chamberlain:* You could not give us a formula that we could get into a reasonable number of words for the section of the Act?

Mr. M. K. Acharya: That is what I said. Dr. Ambedkar is now trying to heckle me into some kind of answer in three words. I cannot.

10,759. *Dr. B. R. Ambedkar:* I am not trying to heckle you ; I am trying to understand. For legislative purposes you must give the Committee some formula which could be put into the Act so that it would be possible, both for the Speaker of the House or the Governor, or whoever may be the deciding authority, and the Courts, to find out exactly whether a particular law passed by the Legislature is *ultra vires* of that Legislature ?

Mr. M. K. Acharya: I have suggested, I thought, a formula which is very workable and which I have in fact taken from some —

10,760. *Dr. B. R. Ambedkar:* You merely said they are fundamentals. You leave the whole matter undecided. What are the fundamentals ?

*Minutes of Evidence, Vol. II-C, 2nd August 1933, pp. 1605-08.

Mr. M. K. Acharya: The formula I suggested was this : Before a measure affecting religion is introduced the Governor or the Governor-General should refer it to the opinion of the recognised religious heads of organisations in that Province, and after getting their opinions, and probably after modifying them so as to bring it in accordance with their opinions, it might be introduced, and all that it is for the Governor or the Governor-General to decide.

10,761. *Dr. B. R. Ambedkar:* May I take from you that whether a certain piece of legislation affects the fundamentals of your religion or not is a matter which is to be decided by the heads of the religious institutions ?

Mr. M. K. Acharya: Certainly so. They are the competent judges to decide.

10,762. *Dr. B. R. Ambedkar:* Mr. Acharya, you are a Brahmin by caste ?

Mr. M. K. Acharya: Yes.

10,763. *Dr. B. R. Ambedkar:* Mr. Deshpande, you are a Brahmin by caste ?

Mr. Deshpande: Yes.

10,764. *Dr. B. R. Ambedkar:* Mr. Bannerjee, are you a Brahmin by caste ?

Mr. J. Bannerjee : Yes.

10,765. *Dr. B. R. Ambedkar:* Mr. Acharya, is not it a fact that in the Hindu religion nobody can be a priest unless he is a Brahmin by birth ?

Mr. M. K. Acharya: It is not a fact.

10,766. *Dr. B. R. Ambedkar:* You mean any Hindu in practice can officiate as a priest at any Hindu ceremony ?

Mr. M. K. Acharya: No, it does not mean that.

10,767. *Dr. B. R. Ambedkar:* That is my question?

Mr. M. K. Acharya: Please put it properly.

10,768. *Dr. B. R. Ambedkar:* Whether anyone who is not a Brahmin can officiate and perform any religious ceremony ?

Mr. M. K. Acharya: A very simple question. Every community, sub-community or class has got its priest from that community or sub-community. A Brahmin will not go to certain communities.

10,769. *Dr. B. R. Ambedkar:* 1 am telling you most respectfully that that is not a correct statement ?

Mr. M. K. Acharya: That is the truth, as far as I know.

10,770. *Dr. B. R. Ambedkar:* Does Mr. Deshpande know ?

Mr. Deshpande: It is so now.

Mr. M. K. Acharya: A Brahmin will not officiate for certain things.

10,771. *Dr. B. R. Ambedkar:* The heads of all religious institutions are Brahmins, are they not ?

Mr. Deshpande: No. In Bombay Presidency there is a very huge Mutt

which has property and all that is purely non-Brahmin.

10,772. *Dr. B. R. Ambedkar:* In the main?

Mr. Deshpande: Some are Brahmins ; some are non-Brahmins.

10,773. *Dr. B. R. Ambedkar:* Is it not a fact in Bombay Presidency?

Mr. Deshpande: There are others also, Lingayats.

10,774. *Dr. B. R. Ambedkar:* I do not want to confuse the issue. My question is this : As distinct from the Lingayats, the Jains, or the Buddhists (I am talking purely of the Hindus) is it not a fact that all these institutions are controlled by Brahmins ?

Mr. Deshpande: There are some which are controlled by non-Brahmins even in Bombay Presidency.

10,775. *Dr. B. R. Ambedkar :* There are very few ?

Mr. Deshpande : Yes, that would be accepted; but not that the whole of them belong to Brahmins.

10,776. *Dr. B. R. Ambedkar:* Now if your proposition was accepted, that the heads of these institutions should have the right to give previous sanction, it would simply mean that the whole of the destiny of the Hindu community would be in the hands of the Brahmins in charge of these institutions ?

Mr. M. K. Acharya: It will not mean that at all.

10,777. *Dr. B. R. Ambedkar:* Let me ask you a question or two about your representative character. Mr. Deshpande, in the Satara district there is a non-Brahmin party, is there not ?

Mr. Deshpande: Yes.

10,778. *Dr. B.* JR. *Ambedkar:* The non-Brahmins of Satara district would cover almost 90 per cent. of the population ?

Mr. Deshpande: Yes.

10,779. *Dr. B. R. Ambedkar:* There is a very strong antagonism between the Brahmins and the non-Brahmins in the Satara district ?

Mr. Deshpande: On certain points ; not on all.

10,780. *Dr. B. R. Ambedkar:* But on points of politics and social reform ?

Mr. Deshpande: On points of politics.

10,781. *Dr. B. R. Ambedkar:* On point of social reform ?

Mr. Deshpande: Not so much.

10,782. *Dr. B. R. Ambedkar:* Is it not true that the Brahmins and non-Brahmins have been struggling as to the equality in temples, so far as officiating is concerned?

Mr. Deshpande: In some districts they may have, but not in all.

10,783. *Dr. B. R. Ambedkar:* But is there not a strong cleavage between the two ?

Mr. Deshpande: Not so far as I know.

10,784. *Dr. B. R. Ambedkar:* But they are, anyhow, a separate entity, carrying on a separate political life ?

Mr. Deshpande: Yes, everybody has his own.

10,785. *Dr. B. R. Ambedkar:* And you still think a few Brahmins in the Satara district would represent the non-Brahmins ?

Mr. Deshpande: So far as I am concerned.

10,786. *Dr. B. R. Ambedkar:* Do you think that you and Mr. Jadhav, the leader of the non-Brahmins, would go together on most of these points in the Memorandum ?

Mr. Deshpande: I do not know about Mr. Jadhav; I know about mine.

10,787. *Dr. B. R. Ambedkar:* Do you dine together ?

Mr. Deshpande: Mr. Jadhav and myself, no.

10,788. *Dr. B. R. Ambedkar:* In the Madras Presidency there is a Justice party consisting of the non-Brahmins ?

Mr. M. K. Acharya: There was a party some years ago. I do not know if it is as active now.

10,789. *Dr. B. R. Ambedkar:* But it did exist for a year or two ?

Mr. M. K. Acharya: It existed for seven or eight years.

10,790. *Dr. B. R. Ambedkar:* There is again a very strong cleavage between the Brahmins and the non-Brahmins in the Madras Presidency ?

Mr. M. K. Acharya: Not a very strong cleavage upon what might be called religious questions at all.

10,791. *Dr. B. R. Ambedkar:* They have a separate organisation of their own ?

Mr. M. K. Acharya: I believe in the Justice party Brahmins are being admitted now.

10,792. *Dr. B. R. Ambedkar:* But hitherto they were not admitted ?

Mr. M. K. Acharya: They are admitting even Brahmins now and, therefore, they are changing.

10,793. *Dr. B. R. Ambedkar:* Would it be correct to say that you are only representing the views of the Brahmins ?

Mr. M. K. Acharya: Quite incorrect

10,794. *Dr. B. R. Ambedkar:* Now I want to ask you a question, Mr. Deshpande. In your Memorandum No. 64, I do not find any comment on the Poona Pact : Is that so ?

Mr. Deshpande: There is none.

10,795. *Dr. B. R. Ambedkar:* Is that true ?

Mr. Deshpande: It is true.

10,796. *Dr. B. R. Ambedkar:* Mr. Acharya, in your Memorandum No. 65, apart from this one line on page 3 : "It is upon its merits we condemn the Poona Pact," there is no reference to it ?

Mr. M. K. Acharya: That was quite enough, I thought.

10,797. *Dr. B. R. Ambedkar:* This joint production of yours is the latest thought, is it not ?

Mr. M. K. Acharya: Yes, it has come later than the others.

10,798. *Dr. B. R. Ambedkar:* After the evidence of the Hindu Mahasabha was given ?

Mr. M. K. Acharya: No, much before that.

10,799. *Dr. B. R. Ambedkar:* Why did not Mr. Deshpande put it before in your Memorandum, if as it is stated here, you had a mandate from your clients to condemn it ?

Mr. Deshpande: I did not think that it was necessary.

10,800. *Dr. B. R. Ambedkar:* There is just one other question I want to ask. You ask in your joint production, No. 72, full Provincial autonomy and Central responsibility ; I need not read that. Now, under paragraph 4. Franchise for Lower Chambers, you say : "The bulk of our countrymen are yet untrained in the habit of working representative institutions." The question that I want to ask you is this : For whose benefit do you ask for Provincial autonomy and Central responsibility, if you say your "country men are yet untrained in the habit of working representative institutions" ?

Mr. M. K. Acharya: I would ask the Honourable Gentleman to read the paragraph more carefully. The answer is there already.

10,801. *Dr. B. R. Ambedkar:* What is the answer?

Mr. M. K. Acharya: The answer is there, if you read it.

10,802. *Dr. B. R. Ambedkar:* What is the answer ?

Mr. M. K. Acharya: We say we are against the indiscriminate lowering of the franchise in the immediate future ; the indiscriminate lowering we condemn ; but making the lowering more discriminate, we are taking the next step immediately to urge Provincial autonomy and Central responsibility.

10,803. *Dr. B. R. Ambedkar:* But how can indiscriminate lowering of the franchise make your countrymen trained in the habit of working representative institutions ?

Mr. M. K. Acharya: That is what we say. Indiscriminate lowering will not train them.

10,804. *Dr. B. R. Ambedkar:* Therefore, raise it higher up ?

Mr. M. K. Acharya: No, the opposite of indiscriminate lowering is discriminate lowering.

10,805. *Dr. B. R. Ambedkar:* Confining it only to the Brahmins and the higher classes ?

Mr. M. K. Acharya: Discriminate lowering does not mean that. The White Paper says 38,000,000, I would be content with 20,000,000 or 28,000,000. That is not for confining them to this class and that class.

10,806. *Dr. B. R. Ambedkar:* You know in Malabar, there is a community called the Naiyadis ?

Mr. M. K. Acharya: Yes.

10,807. *Dr. B. R. Ambedkar :* I understand that under the social customs

prevailing there a Naiyadi cannot walk along the road ?

Mr. M. K. Acharya: He can walk along the public roads today.

10,808. *Dr. B. R. Ambedkar:* And if he wants to sell anything, or buy anything, he has to place his goods or articles that he wants to sell some 60 yards away from the street and call out from there ?

Mr. M. K. Acharya: That is not correct information, so far as I know.

10,809. *Dr. B. R. Ambedkar:* I give you that information?

Mr. M. K. Acharya: That is not correct; I may deny it. I have been for many years in Malabar, and I know Malabar better than my honourable friend.

10,810. *Dr. B. R. Ambedkar:* The point I am going to ask you is something further. Assume my facts are correct ?

Mr. M. K. Acharya: When they are incorrect, how can I assume that ?

10,811. *Dr. B. R. Ambedkar:* The question is this : Supposing a law was passed making it a crime for any Hindu to prevent a Naiyadi from walking along the public street in Malabar, would you say that would affect the fundamentals of your religion ?

Mr. M. K. Acharya: As the honourable gentleman presumes on wrong facts, there is no such custom and there is no such law. If there were such a custom and if there were any need for such a law, then that law would not conflict with any fundamental of religion.

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110,899. *Dr. B. R. Ambedkar:* I would like to clear up a matter. Mr. Acharya, you stated that Pandit Malaviya has repudiated the implications of the Poona Pact. I want to ask you a question on that : Is not it a fact that Mr. Gandhi says that the Poona Pact, apart from settling the political problem, imposed a certain obligation on the Hindus to abolish untouchability and to open the doors of the Hindu temples to the untouchables ?

Mr. M. K. Acharya: That is what Mr. Gandhi says, I think.

10,900. *Dr. B. R. Ambedkar:* Pandit Malaviya says that is not the case : that the Poona Pact does not impose any obligation on the Hindus to do that and it is therefore that he says he does not agree with the implications of the Poona Pact. Is not that the case ?

Mr. M. K. Acharya: Yes. That is so

10,901. *Dr. B. R. Ambedkar:* It does not touch the political side of the matter. Mr. Gandhi says the Poona Pact imposes an obligation on the Hindus to open the doors of the temples. Pandit Malaviya says there is no such implication at all ?

Mr. M. K. Acharya: Yes.

†Minutes of Evidence, Vol. II-C, 2nd August 1933, p. 1720.

(15)

Lieut.-Colonel C. E. Bruce, C.S.I., CLE., C.B.E., Lieut.-General Sir George Macmunn, K.C.B., K.C.S.L, D.S.O., Mr. F. F. Lyall CLE., Mr. Waris Ameer Ali I.C.S., Mr. O. C. G. Hayter, and Hon. Mr. Justice W. A. Le Rossignol.

†12,465. *Dr. B. R. Ambedkar:* Were there Ministers in India at the time when you were District Judge ?

Lt. Col. C. E. Bruce: There were, but they were not concerned with me ; I should say, not elected Ministers, but I am referring now to the future in this Memorandum when, as I understand, the proposed Constitution—

12,466. *Dr. B. R. Ambedkar:* I thought you were speaking from your experience ?

Lt. Col. C. E. Bruce: May I explain to you ? This refers to the future when the proposal is to place Ministers under elected Legislatures and responsible to elected Legislatures and liable to stand or fall with their Cabinets.

Sir Hart Singh Gour: Your words are prophetic.

(16)

Wing Commander A. W. H. James, M.P., and Dr. J. H. Hutton, C.I.E., I.C.S.

‡D29. *Dr. B. R. Ambedkar:* Cannot they plead tribal law as their customary law ?

Wg. Comdr. A.W.H. James: No, it is not recognised by the High Court

Dr. B. R. Ambedkar: The High Court would recognise any custom ?

Wg. Comdr. A. W. H. James: It is not necessary to establish that it is a Hindu or Muhammadan custom. If there is no law laid down in that sense, the custom would govern. Ordinarily, that would be the thing. I am not speaking with first hand knowledge.

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§D222. *Dr. B. R. Ambedkar:* Dr. Hutton, in reply to a question by Major Attlee, I think you stated that you would prefer that the administration of the excluded areas should be a Central subject, rather than a Provincial subject ?

Dr. J. H. Hutton: That is my own feeling.

* * * * *

D224. *Dr. B. R. Ambedkar:* I just want to turn to some other matters which have been discussed in your paper, I think you are proceeding upon the basis that these people should under no circumstances come within the purview of the new constitution ?

Dr. J. H. Hutton: That is so.

D225. *Dr. B. R. Ambedkar:* That is the hypothesis and the basis upon which you are proceeding ?

†Minutes of Evidence, Vol. II-C, 6th October 1933, p. 1612.

‡*Ibid.,* Vol. II-D, 16th October 1933, p. 2376.

§*Ibid.,* pp. 2388-90.

Dr. J. H. Hutton: I admitted that in some circumstances where they are very scattered living among other populations, it would be otherwise.

D226. *Dr. B. R. Ambedkar:* But in the main, that is the hypothesis upon which you are proceeding ?

Dr. J. H. Hutton: Yes, in the main.

D227. *Dr. B. R. Ambedkar:* What is the ideal that you have before you for these people ? I will crystallise my question so that you may answer it better.

Dr. J. H. Hutton: The minimum of interference by anybody.

D228. *Dr. B. R. Ambedkar:* Let me put it in the way I visualise the question. Is it your ideal that these primitive people should continue to remain primitive people without having anything to do with the affairs of the rest of India, or do you propose that the destinies of these people should be so regulated that in course of time they should cease to be an isolated part of humanity and take part in the public affairs of their country as the rest of Indians are doing now ?

Dr. J. H. Hutton: I think that the second is my ideal.

D229. *Dr. B. R. Ambedkar:* That they should not continue permanently as primitive people ?

Dr. J. H. Hutton: The question would have to be that, if possible, ultimately they should take a part in the life of their country.

D230. *Dr. B. R. Ambedkar:* That is what I say ?

Dr. J. H. Hutton: But it is possible that in some cases you might never be able to achieve that ideal.

D231. *Dr. B. R. Ambedkar:* Let us, first of all, ascertain what the ideals are ?

Dr. J. H. Hutton: Yes.

D232. *Dr. B. R. Ambedkar:* I am not introducing the religious question at all, whether they should be this or that ?

Dr. J. H. Hutton: No.

D233. *Dr. B. R. Ambedkar:* What you do point out is this : You do say, and I think it is your ideal, that they should become part and parcel of the civil society ?

Dr. J. H. Hutton: Yes.

D234. *Dr. B. R. Ambedkar:* And outgrow their tribal condition ?

Dr. J. H. Hutton: Yes, I think that is necessary.

D235. *Dr. B. R. Ambedkar:* Let me therefore proceed further. If that is the view, is it not desirable that there should be a common cycle of participation both for the civilised people of India and for these primitive people ?

Dr. J. H. Hutton: Not yet.

D236. *Dr. B. R. Ambedkar : So* that there may be a percolation of the ideas which are agitating the minds of the civilised part of Indian society into this primitive class of people ?

Dr. J. H. Hutton: I think the ideas will percolate without any difficulty.

D237. *Dr. B. R. Ambedkar:* How?

Dr. J. H. Hutton: What troubles me is that unless they are separated they are likely to be destroyed by too abrupt contact. That is what has happened nearly everywhere else in the world.

D238. *Dr. B. R. Ambedkar:* I do not know but I do want to submit to you for your consideration whether if, as you have admitted, that is your ideal, namely, that they shall some day become part of the Indian society, segregation, and so complete and so rigid a segregation as you propose, is the proper way for the realisation of that ideal ?

Dr. J. H. Hutton: I think it is the only possible one myself.

D239. *Sir Reginald Craddock:* Might I put a question ? There are various educational agencies going on in some of those tribes. Is not that the case ?

Dr. J. H. Hutton: Yes, certainly....

D240. *Sir Reginald Craddock:* Are they chiefly missions, or has the Government any schools ?

Dr. J. H. Hutton: The Government has a number of schools.

D241. *Sir Reginald Craddock:* That would be one of the points that you would refer to in connection with the improvement of these classes would not you ?

Dr. J. H. Hutton : I should.

D242. *Dr. B. R. Ambedkar:* I want to proceed a little further. I see from your paper (correct me if I am wrong) that you are troubled about two things. You think that a contact or incorporation, if I may use that term, of the educated or the advanced or the civilised Indians, and of the primitive people in one constitution is likely to result, first of all, in their exploitation by the advanced classes or shall I say, the civilised part of the Indian society ?

Dr. J. H. Hutton: Yes.

D243. *Dr. B. R. Ambedkar:* Secondly, I suppose I am right in summarising it thus, that you are afraid that sufficient attention will not be paid to them in the new Council ?

Dr. J. H. Hutton: Yes.

D244. *Dr. B. R. Ambedkar:* Let me put to you one question. I will take the case of their land. Is it not a fact that this question, namely, of keeping the land in, the hands of the primitive people as far as possible that they may not be rendered a class of landless labourers, is also the problem which is before many of the agricultural classes in India and that even for their protection it has become necessary to pass Acts like the Deccan Agricultural Relief Act in Bombay and the Alienation of Land Act in the Punjab and several other cases ?

Dr. J. H. Hutton: I believe such Acts have been passed.

D245. *Dr. B. R. Ambedkar:* My suggestion is this, that if these primitive

people are brought under the same constitution as the rest of India they would not be quite alone in their demand for keeping the moneylender out and seeing that the land remains in the hands of those who cultivate it. There would be many others who would have a similar demand to make in the Legislature. The point I want to make is that they would not be isolated ?

Dr. J. H. Hutton: The point which I should be inclined to answer was that the proof of the pudding was in the eating, and, as far as experience went, it has shown that they always have been done out of their land.

D246. *Dr. B. R. Ambedkar:* But, Dr. Hutton, would you mind making this distinction, that the Legislatures, as they are composed today, and as they were composed some time ago, are not going to be the same as the Legislatures that will be composed under the White Paper ?

Dr. J. H. Hutton: Yes.

D247. *Dr. B. R. Ambedkar:* You would have a certain amount of representation drawn from the general electorate who would favour the poorer classes. The experience of the last Legislatures would be no safe guide in a matter of this kind ?

Dr. J. H. Hutton: I would sooner be on the safe side and exclude them.

D248. *Dr. B. R. Ambedkar :* I do not know, but you are not prepared to deny the fact that they would have many friends in the Legislature ?

Dr. J. H. Hutton: I would not admit that. I should like to be convinced first that they would have many friends. There may be others with similar interests, but they would have very little in common with them individually.

D249. *Dr. B. R. Ambedkar:* Yes, but I mean so far as the general question of protection for a class similarly situated is concerned ?

Dr. J. H. Hutton: I can conceive that a Musselman cultivator in Sihat would demand the maximum of protection for himself and the maximum of non-protection for his neighbours.

D250. *Dr. B. R. Ambedkar:* Do you think the Legislature would go to the length of saying that certain laws which are necessary in the interests of Indians are not to be extended, and that the protection of those laws is not to be given to the primitive classes ?

Dr. J. H. Hutton: No, I do not think they would go as far as that.

D251. *Dr. B. R. Ambedkar:* How would the discrimination arise?

Dr. J. H. Hutton: I think the primitive classes might have extreme difficulty in obtaining the necessary protection. There is no guarantee with the depressed classes that the cultivator will obtain the necessary protection under the new constitution.

D252. *Dr. B. R. Ambedkar:* Quite true; I agree with you. There can be no protection that the other classes probably would not club together and prevent protection being given to some other minorities ? The fear is legitimate, but taking into calculation all the forces on the one side and all the forces on the other, the point I want to make to you is that the fear, that

one or two, or a few representatives of the primitive classes in the Provincial Council will feel that they are overwhelmed by the forces on the other side, is not quite justified by an analysis as I am presenting it to you of the composition of the future Legislatures as it will be under the White Paper proposal ?

Dr. J. H. Hutton: In view of the difference of race, I think it is possibly justified, at any rate in certain places.

D253. *Dr. B. R. Ambedkar:* Take the question again of education. I happen to know something about these primitive people in the Bombay Presidency. We have a backward classes ?

Dr. J. H. Hutton: Yes, I know.

D254. *Dr. B. R. Ambedkar:* We ourselves are not very far divided from them ?

Dr. J. H. Hutton: I know.

D255. *Dr. B. R. Ambedkar:* Educationally speaking, one could not really say that a good many people in India are in less need of education than the primitive or the backward people ?

Dr. J. H. Hutton: You could not say what ?

D256. *Dr. B. R. Ambedkar:* You could not say (take, for instance, the depressed classes) that bare educational need is less ?

Dr. J. H. Huttton: You could not say that it was less.

D257. *Dr. B. R. Ambedkar:* One could not say it ?

Dr. J. H. Hutton: No.

D258. *Dr. B. R. Ambedkar:* I have been sitting on the backward class board in Bombay, which is a composite board for the depressed classes and these primitive people ?

Dr. J. H. Hutton: Yes, in certain cases the primitive people are very much more educated.

D259. *Dr. B. R. Ambedkar:* Therefore, as I say, taking their educational need, in the Legislative Council, they would not find themselves isolated ?

Dr. J. H. Hutton: They might do.

D260. *Dr. B. R. Ambedkar:* You would desire that they should be completely excluded, and their need, such as education, which I think is the greatest need of these people should be met entirely by revenues supplied by the Governor under his special responsibilities ?

Dr. J. H. Hutton: Yes.

D261. *Dr. B. R. Ambedkar:* I want to put this to you : whether a Governor would at all go to the length of providing what he thought was a sufficient amount of funds for the education of the primitive classes if his Ministers did not support him ?

Dr. J. H. Hutton: That is a serious difficulty.

D262. *Dr. B. R. Ambedkar:* If there is something in the point that I have put to you, would not it be desirable that some representatives of these people should be in the Legislative Council so that a Minister may be

dependent upon their votes, and may be amenable to their wants ?

Dr. J. H. Hutton: An odd vote or two would not be likely to affect a Minister.

D263. *Dr. B. R. Ambedkar:* I do not say one or two. You may have a small number, but, assuming they have adequate representation in the Legislature, would not the Minister be dependent upon their votes, and, therefore, he might be more amenable to their wants ?

Dr. J. H. Hutton : Theoretically, but not in practice. Their numbers would be so small.

Dr. B. R. Ambedkar: In politics a single vote might turn the balance.

D264. *Lord Eustace Percy:* I thought Dr. Hutton's recommendation was that they should be excluded from the purview not only of the Province but of the Governor also, and that they should be administered from the centre. Is not that so?

Dr. J. H. Hutton: That is what I should, on the whole, prefer. I have stated in my memorandum that in the case of the proposals of the White Paper for the totally excluded areas in which the Governor acts as the agent of the Governor-General, the White Paper proposal is satisfactory. I do not say I should prefer it.

D265. *Lord Eustace Percy:* I thought from your proposals for setting up petty States that you intended that it should as far as possible be a central function ?

Dr. J. H. Hutton: My intention was that it should be central as far as possible, certainly.

D266. *Dr. B. R. Ambedkar:* Even in that case, the criticism I have offered would be equally applicable even if the subject was made central, because the Governor would have to certify the amount necessary for the administration of the subject and, if the Ministers in the Central Government objected to spending that amount of money, the conflict would still be there; it would only be transferred from the Provincial Field to the Central Field ?

Dr. J. H. Hutton: I am assuming the Minister would not have a word in it.

Dr. B. R. Ambedkar: But my point is that the Minister would have a word, because there would be other rival claims for the expenditure, and a Minister cannot be expected to be interested in primitive peoples who are not part of the Legislature.

Dr. Shafa'at Ahmad Khan: Would not the representatives of the primitive people in the Legislature generally combine with the depressed classes ?

D267. *Dr. B. R. Ambedkar:* That is what I am visualising, and, therefore, they would have many friends.

Dr. J. H. Hutton: I do not think the representation would be affected.

D268. *Dr. B. R. Ambedkar:* If I felt as pessimistic as you feel I should

at once say : "I do not want this constitution at all" ?

Dr. J. H. Hutton: But I do not, for the primitive tribes.

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D284. *Major Attlee:* I do not think the Simon Commission recommended the forests from your point of view at all. The forests were recommended by the Simon Commission to be transferred ?

Dr. J. H. Hutton: No. I put that forward as a suggestion for the economical administration of an excluded area.

Lord Eustace Percy : Perhaps Dr. Hutton will deal with this difficulty, because I do not understand what a totally excluded area is in which the provincial forest official and the provincial forest policy prevails.

D285. *Dr. B. R. Ambedkar:* If I may say so, the area is not excluded, it is the people who are excluded ?

Dr. J. H. Hutton : No, the area is excluded, as I read the White Paper. Is there any definition of a totally excluded area in the White Paper ?

(17)

The Right Honourable Sir Winston Spencer Churchill, C.H. Member of the House of Commons

†14,681. *Dr. B. R. Ambedkar:* Mr. Churchill, the White Paper does not propose to establish Dominion Constitution ?

Sir Winston Churchill: No.

14,682. *Dr. B. R. Ambedkar:* Therefore I do not propose to trouble you with any questions with regard to the logical and metaphysical position, whether one could draw a distinction between Dominion Status as a ceremonial affair and Dominion Status as a Dominion Constitution. I propose to ask you just one or two questions with regard to the White Paper itself without confusing the issue by bringing in anything with regard to the distinction that you propose to make. May I draw your attention, therefore, to the debate that took place in Parliament on December 1st, 1931, when the Prime Minister moved the resolution; it was in these terms : "That this House approves the Indian policy of His Majesty's Government as set out in Command Paper No. 3972 — Indian Round Table Conference — presented in Parliament on the 1st December, 1931." That is the first White Paper-not the full scheme ?

Sir Winston Churchill: You mean the Prime Minister's speech ?

14,683. *Dr. B. R. Ambedkar:* The Prime Minister's speech.

Sir *Winston Churchill :* Quite.

14,684. *Dr. B. R. Ambedkar:* The Constitution adumbrated in the White Paper which was presented to the House included in the main the proposals which are contained in the White Paper as it is presented to the Joint Select Committee. There was to be Provincial responsible government

†Minutes of Evidence, Vol. II-C, 24th October 1933, pp. 1807-08.

in the Provinces with the transfer of Law and Order, and there was to be a sort of dyarchy at the Centre, in which Defence and Foreign Relations were to be reserved subjects. Is that right ?

Sir Winston Churchill: I find no need to interrupt you at this point.

14,685. *Dr. B. R. Ambedkar:* Then the next point I wish to ask about this. The Prime Minister made his object clear in moving this resolution in the House of Commons. I am reading his words : "the statement which I made to the Round Table Conference yesterday had the full authority of the Cabinet, and we now wish, having communicated that statement to the House, to ask the House by its vote to associate itself with that policy." That was the object of the Prime Minister in moving this resolution in the House of Commons. Now, as you know you moved an amendment to the resolution. That amendment was in these terms : "Mr. Churchill : I beg to move in line 3 at end to add the words, provided that nothing in the said policy shall commit this House to the establishment in India of Dominion Constitution as denned by the Statute of Westminster ; provided also that the same policy shall effectively safeguard the British trade in and with India from adverse or prejudicial discrimination, and provided further that no extensions of self-government in India at this juncture shall impair the ultimate responsibility of Parliament for the peace, order and good Government of the Indian Empire."

14,686. *Dr. B. R. Ambedkar:* The impression that I have formed, after reading this debate that took place in the House of Commons on the 3rd December 1931, was this, that if the Prime Minister had accepted your amendment you were willing to vote with the Government in support of the resolution moved by the Prime Minister. Is that correct ?

Sir Winston Churchill: I think it very difficult to say what would have happened in these hypothetical circumstances, but, undoubtedly it would have been a very great relief to the great mass of Conservative Members in the House of Commons if the Government had seen eye to eye with those who supported me in that amendment—a very great relief, and altogether more agreeable atmosphere would have followed immediately and would have been created.

14,687. *Dr. B. R. Ambedkar:* Fortunately for me, I do not think the matter is really hypothetical because I find you have taken a very definite attitude with regard to your amendment in the course of that debate and I want to call your attention to one or two statements you made in the course of your speech. I think the one fact which has puzzled me, I must admit, is that, first of all, according to the impression of most Members then present in the House, there was really no distinction between what the Government was asserting and what you proposed to state in your amendment. Is it not so ? Let me read a passage of yours. The point I want to make is this : A subject which has always puzzled me is this, that having read the statement of the Prime Minister and the amendment which you proposed to move on

that day in the House of Commons, I, at any rate, did not see any distinction, and that, I say, was your position as well, because I propose to read a passage which will make it clear. You say at column 234 : "I have finished and I am most grateful to the House for permitting me to intrude for so long upon their attention. What can we do but to preserve with our amendment. It is not a vote of confidence in His Majesty's Government" and this is the important point, "On the contrary, it merely asserts the principles which they themselves affirm and which both the Prime Minister and the Secretary of State have affirmed." So you yourself really saw no distinction between the proposals as put forth in the statement of the Prime Minister and the substance of your amendment ?

Sir Winston Churchill: Of course, I thought it was unfortunate that the Government did not take proper view of the proposal. I should have been very glad to get that amendment on the paper.

14,688. *Dr. B. R. Ambedkar:* Let me quote another passage of what you said on the same day. You said your second alternative to the Government on that day was that if your amendment was not accepted you would be content to vote with the Government provided the pronouncement of the Prime Minister was accompanied by the speech of the Secretary of State that was made on that day in the House of Commons ?

Sir Winston Churchill: Yes.

14,689. *Dr. B. R. Ambedkar:* My point is this : If that is your position, namely, that you were content to vote with the Government on that particular debate, provided the Prime Minister's announcement was accompanied by the speech made by the Secretary of State in the House of Commons, what I wish to understand from you is this : What is the difference between the White Paper as it is presented to this Committee and the statement of the Prime Minister combined with the speech of the Secretary of State ? Could you give us any difference that you see between the White Paper as presented to the Committee and the pronouncement of the Prime Minister as interpreted by the Secretary of State in the House of Commons ?

Sir Winston Churchill: In the case of a difference which arises in a Parliament or in a House of Commons between two sides of a debate, it is difficult for outsiders to appreciate what the difference was unless they understand all the circumstances which influence and affect our debates, but that there was a great and real difference between the amendment which I sought to have put upon the paper and the resolution which the Government passed over our heads is indisputable. There was a sharp difference. Each side naturally presents its case in the manner least likely to deter support, but the difference is there all the same and remains quite clear, and I do not suggest to Dr. Ambedkar that in justice to our Parliamentary institutions, he should remember that we still have a bica-

meral Parliament and that the debates in the House of Lords must be read in conjunction with those in the House of Commons.

14,690. *Dr. B. R. Ambedkar:* If I may say so respectfully, I wish to understand your position alone, irrespective of the position of the House of Lords or other members of the Party. You stated definitely that you would vote with the Government, provided the Prime Minister's statement was issued in conjunction with the speech made by the Secretary of State. The point which I wish to submit to you respectfully is this : Do you see any difference in the White Paper as presented to the Joint Parliamentary Committee, and the statement by the Prime Minister as interpreted that day by. the Secretary of State in the House of Commons ? If there is, of course, you have every ground to differ ?

Sir Winston Churchill: I can assure Dr. Ambedkar that I have never been in favour of a federal system being erected at this time at the Centre of India nor of transferring law and order in the Provinces, and nothing that I have ever said in this controversy is in conflict with that. *Dr. B. R. Ambedkar:* I have no more questions to ask.

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†14,945. *Dr. B. R. Ambedkar:* My Lord Chairman, may I ask a question with your permission ?

Chairman: If you please.

14,946. *Dr. B. R. Ambedkar:* I just want to ask you one question, Mr. Churchill. Do you make any distinction between responsible government and Dominion Status ?

Sir Winston Churchill: Oh, yes. Responsible government has many interpretations, many that we know in practice and we have seen. Responsible government may mean serious, real, important functions transferred to the discretion of a Provincial, or local body, or it may mean the various degrees of responsible government which have a technical understanding in the language of the Dominions and Colonial Offices, namely, Ministers responsible to the Assembly and so forth, but there are very considerable gradations in the history of our outlying Dominions and Empire in the exact form of institutions, which would be covered by the term "responsible government".

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‡15,147. *Dr. B. R. Ambedkar:* Would you agree that the masses should be given adult suffrage ?

Sir Winston Churchill: No.

15,148. *Dr. B. R. Ambedkar:* Why not ?

Sir Winston Churchill: Because I think it quite impracticable.

†Minutes of Evidence, Vol. II-C, 25th October 1933, p. 1833.

‡*Ibid., p.* 1849.

(18)

Lieut.-Colonel Sir Henry Gidney, M.L.A., I.M.S. (Retired), on behalf of the Anglo-Indian and Domiciled European Association of India

*16,241. *Dr. B. R. Ambedkar:* I realise from your Memorandum that you are very apprehensive of what may happen to your community under the new Constitution. I believe your apprehensions are shared by many other minorities. Therefore, the question I want to put to you is this : Would it serve any purpose which you have in view if a provision was made in the Constitution that there should be some officer or some Department in the future Central Government of India which was charged with the statutory duty of presenting to Parliament annually a Report on the moral and material condition of the various communities in India ? Do you think that proposal would be of any use to your community in drawing the attention of Parliament to anything that may have occurred in the course of the administration of various provinces affecting your material interests ?

Sir Henry Gidney: That proposal meets with my entire approval as the *ultima thule* of what would be the protection of minorities, but, as a preliminary canter to that the minorities, in my humble submission, demand protection not in so far as someone can report to the Houses of Parliament annually, but a practical protection.

16,242. *Dr. B. R. Ambedkar:* Let me make myself clear. What I am suggesting is not in substitution of what you are asking; it may be supplemental to what you are asking ?

Sir *Henry Gidney :* Yes.

16,243 *Dr. B. R. Ambedkar:* Do you agree with me that this opportunity, or this method of exposing possible abuses of power in itself serve as a check against any possible abuse ?

Sir Henry Gidney: I certainly think it would be a means of bringing to the Houses of Parliament anything in the way of a prejudicial effect on Communities.

16,244. *Dr. B. R. Ambedkar:* Not merely yours, but of many others ?

Sir Henry Gidney: Of all minorities.

Mr. Zafrulla Khan: What would Parliament be expected to do thereupon ?

Dr. B. R. Ambedkar: It would lie there. Parliament would take note of the various Governments. Not only should the Governor-General know, but Parliament should know how the various Governments are executing their responsibilities to the various minorities which are placed under their charge.

Sir Hari Singh Gour: And you would call that Provincial autonomy ?

Dr. B. R. Ambedkar: Yes ; I certainly would.

*Minutes of Evidence, Vol. II-C, 10th November 1933, p. 1996.

(19)

Mr. J. C. French and Mr. S. H. Mills on behalf of Indian Police

*16,904. *Dr. B. R. Ambedkar:* Mr. Mills, there is just one question I should like to ask you, because I am rather interested in getting your view of this matter. You stated somewhat emphatically that under the proposed Constitution in Bengal, Muslims and the Depressed Classes would be under the influence of the Congress ?

Mr. S. H. Mills: I think there is every chance of their being under the influence of the Congress —a percentage of them.

16,905. *Dr. B. R. Ambedkar:* You said about 20 of the Depressed Classes ?

Mr. S. H. Mills: Yes.

16,906. *Dr. B. R. Ambedkar:* I suppose it is not your suggestion that as it is today there are any Depressed Classes or there are any Muhammadans who are in sympathy with the terrorist movement ?

Mr. S. H. Mills: We have quite a large number of Depressed Classes who have been arrested as terrorists.

16,907. *Dr. B. R. Ambedkar:* From what community ?

Mr. S. H. Mills: We have had some from peculiar communities and there have been a number of Shahas ; then from Midnapore quite a number of the Depressed Classes have been arrested — particularly Midnapore.

16,908. *Dr. B. R. Ambedkar:* Shaha is not a scheduled caste of the Depressed Classes ?

Mr. S. H. Mills: No. In the Midnapore district there have been quite a number of the Depressed Classes who have been arrested.

16,909. *Dr. B. R. Ambedkar:* Now the next point that I want to draw your attention to is this : May I just put it ? Is it your experience, for instance, that a large community like the Namasudras in Bengal are in any way connected with the terrorist movement ?

Mr. S. H. Mills : Yes, they are.

16,910. *Dr. B. R. Ambedkar:* The next question that I want to ask you is this : You know that under the White Paper proposals the minorities of Bengal have separate electorates ?

Mr. S. H. Mills: Yes.

16,911. *Dr. B. R. Ambedkar:* Do you still think that, notwithstanding the separate electorates, the Congress will have any influence in the election of the members of these communities ?

Mr. S. H. Mills: I think it is highly probable.

16,912. *Dr. B. R. Ambedkar:* How would that influence be felt ?

Mr. S. H. Mills: Because the Congress having the terrorists behind them is very greatly feared in the Province, and that fear would tend to dominate them.

*Minutes of Evidence, Vol. II-C, 13th November 1933, p. 2043.

(20)

Secretary of state for India's Evidence before the Joint Committee on Indian Constitutional Reform

†The Right Hon. Sir Samuel Hoare, Bt., G.B.E., C.M.G., M.P., Sir Malcolm Hailey, G.C.S.L., G.C.L.E., and Sir Findlater Stewart, K.C.B., K.C.I.E., C.S.I.

‡6394. *Dr. B. R. Ambedkar:* I have not followed it I think even under Proposals 92 and 95, although the Legislature may be in Session, the Governor will not be bound to put his legislation before the Legislature if he so thinks ?

Sir Samuel Hoare: That is perfectly true. The Governor has full discretion.

6395. *Dr. B. R. Ambedkar:* The Governor has full discretion ?

Sir Samuel Hoare: Whether for ordinances or for legislation, on his own initiative.

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§6440. *Dr. B. R. Ambedkar:* I want to pursue this point a stage further. You said that would depend on the circumstances of the case. That was not the question of Sir Tej Sapru. The question is, is this Clause wide enough to give the power to intervene and say : "No, this will interfere with peace and tranquillity, and I will not allow you to introduce this legislation" ?

Sir Tej Bahadur Sapru: The Clause is merely wide enough to allow the Governor to take action if he is convinced that it will lead to a grave menace to the peace and tranquillity of the Province, not mere that he thinks such legislation is undesirable in the interests of one class or another.

6441. *Dr. B. R. Ambedkar:* If he comes to that conclusion this clause is wide enough for him to say : "I will not allow you to proceed with such legislation" ?

Sir Samuel Hoare: I can only say we have had in the United Provinces within the last two years the menace of very grave trouble indeed arising out of the agrarian situation, and dealing with the rental question. There was a stage then when, in my opinion, this clause would undoubtedly have applied, but it would have applied because there was threatening of actual risings of tenants in certain parts of the Province. I would not have held that it would have applied if it had been merely the case that one class or other would have been prejudicially affected by the Legislature.

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¶6533. *Dr. B. R. Ambedkar:* I want to know whether the Secretary of

†Sir Samuel Hoare was the Secretary of State for India, Sir Malcolm Hailey was the Governor of United Province, and Sir Findlater Stewart was the Permanent Under Secretary of India Office, London.

‡Minutes of Evidence, Vol. II-B, 14th July 1933, p. 729.

§*Ibid.,* p. 735.

¶*Ibid.,* p. 747.

State desires me to reserve any questions upon Second Chambers for the Provinces ?

Sir Samuel Hoare: I would suggest, so far as the Constitution of the Second Chambers goes (the membership), perhaps it would be better to take that with the franchise generally.

6534. *Dr. B. R. Ambedkar:* This franchise question ought to be excluded at this stage ?

Sir Samuel Hoare : Whatever the Committee thinks, I should have thought it came better into the franchise.

Dr. B. R. Ambedkar: I will not ask any questions of the Secretary of State.

Chairman: I think the Secretary of State's suggestion is a practical one. I hope you will not put questions at this stage.

6535. *Dr. B. R. Ambedkar:* I was going to ask the composition of the Second Chamber. Would it be better to reserve it ?

Sir Samuel Hoare: Yes, I think perhaps that would be better.

6536. *Dr. B. R. Ambedkar:* You said in the course of a reply to a question put last time, that you contemplated that in the Provinces the Ministers could be drawn from either Chamber, both the Lower and the Upper ?

Sir Samuel Hoare: Yes.

6537. *Dr. B. R. Ambedkar:* You remember that in the Second Chamber, as suggested in the White Paper, there are to be 10 nominated Members ?

Sir Samuel Hoare: Yes.

6538. *Dr. B. R. Ambedkar:* Is it the proposal that these 10 nominated members who will sit in the Upper Chamber will also be eligible for being Ministers ?

Sir Samuel Hoare: Yes, I would not draw any distinction between them and the others.

6539. *Dr. B. R. Ambedkar:* The nominated members would be eligible for being Ministers ?

Sir Samuel Hoare : Yes, certainly; that is how I conceive it to be.

6540. *Dr. B. R. Ambedkar:* In the present Government of India Act there is a distinct provision that any member who is a nominated member of the Provincial Legislature is not eligible for being a Minister ?

Sir Samuel Hoare: I take it from Dr. Ambedkar that is so.

6541. *Dr. B. R. Ambedkar*. I stand subject to correction, but I believe that is the position ?

Sir Samuel Hoare: Yes.

6542. *Dr. B. R. Ambedkar :* So you are really introducing the very important change by allowing nominated members in the Upper Chambers to be Ministers in the new Government ?

Sir Samuel Hoare: It is, of course, a very different kind of Government.

6543. *Dr. B. R. Ambedkar:* I am not going into the reasons, but I am only stating the facts ?

Sir Samuel Hoare : Yes. I think there is a great deal to be said for giving the Governor a free choice, always assuming, Dr. Ambedkar, that the Cabinet is collectively responsible and there would be no intention of imposing a Minister against the wish of the Cabinet in case of this kind.

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†6549. *Sir Tej Bahadur Sapru :* Is Sir Samuel right in conceding that the present Government of India Act makes a distinction between elected and nominated members for appointment as Ministers ?

Sir Malcolm Hailey: It was new to me, but I took it from Dr. Ambedkar.

Dr. B. R. Ambedkar: I used it in the sense that it must be an elected member within six months.

Sir Tej Bahadur Sapru : So far as I can see the Government of India Act makes no distinction between elected and nominated members for the purpose of appointment as Ministers. The Section which deals with that matter is Section 52.

Dr. B. R. Ambedkar: He has to get himself elected.

6550. *Sir Tej Bahadur Sapru:* I thought Dr. Ambedkar put it to Sir Samuel, and suggested that the Government of India Act makes a distinction between elected and nominated members in the matter of being Minister ?

Sir Malcolm Hailey: It only does so to the extent of laying down that a Minister shall not hold office for a longer period than six months unless he becomes an elected member.

6551. *Sir Tej Bahadur Sapru :* But if there is a nominated member there already, there is nothing to prevent you from appointing him Minister ?

Sir Malcolm Hailey: That is so.

6552. Sir *Tej Bahadur Sapru :* And that has been done ?

Sir Malcolm Hailey : Yes.

Sir Tej Bahadur Sapru: The law, as I understand it, is this: It is open to the Governor to appoint any outsider a Minister, provided that outsider gets elected to the Legislative Council within a period of six months. Similarly, it is open to the Governor to appoint a Minister from the block of nominated members who are already there. The Act does not make any distinction.

6553. *Mr. Zafrulla Khan :* Once a nominated member is appointed, does he continue to be nominated member all the time or must he seek election ?

Sir Samuel Hoare: No, I thought that was quite clear. A nominated member is treated just like anyone else.

Dr. B. R. Ambedkar: He cannot continue to be a Minister after six months unless he gets elected.

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‡6558. *Dr. B. R. Ambedkar:* May I read the section ?

Sir Samuel Hoare: Does it really very much matter with what the

†Minutes of Evidence, Vol. II-B, 14th July 1933, p. 748.

‡Ibid., pp. 749-50.

position is now ?

6559. *Dr. B. R. Ambedkar:* It matters because I want to ask what the exact position is. Section 52, sub-section 2 is : "No Minister shall hold office for a longer period than six months unless he is or becomes an elected Member of the Local Legislature." All I wanted to suggest was that the Act does not contemplate the continued holding of a nominated member as a Minister. which would be the case if the suggestions in the White Paper were adopted, that a nominated Member of the Second Chamber would be entitled to be a Minister. With respect to the appointment of the Ministry, I want to draw your attention to the recommendation of the Sub-Committee on Provincial Constitution. They said: "The Sub-Committee is of the opinion that in the discharge of that function the Governor should ordinarily summon the Member possessing the largest following in the Legislature and invite him to suggest the Ministers and submit their names for approval." Paragraph 67 says that he shall make "his best endeavours to select his Ministers in the following manner"—which I regard as a considerable departure from the recommendation of the Provincial Constitution Committee ?

Sir Samuel Hoare: I do not think there is any departure at all. The Committee said 'ordinarily', and this is, I imagine, what will ordinarily happen.

6560. *Dr. B. R. Ambedkar:* You do not think it would be necessary, in the interests of fostering collective responsibility, to impose an obligation upon the Government that he should follow a particular course in the formation of the Ministry ?

Sir Samuel Hoare: The Round Table Committee that Dr. Ambedkar quotes did not think so.

6561. *Dr. B. R: Ambedkar:* I thought that was the thing ?

Sir Samuel Hoare: You have just read a quotation from them saying "ordinarily" they thought so.

6562. *Dr. B. R. Ambedkar:* Or that they should do it —not "best endeavour" ?

Sir Samuel Hoare: It is a question of words.

6563. *Dr. B. R. Ambedkar:* The next question I want to ask is on the question of this ordinance power of the Ministers under Proposal 104. What I want to know is this : Why is it necessary to make a provision of this sort in the Constitution itself ? Would not it be possible for a Ministry in a Provincial Legislature to have an Emergency Act passed by the Legislature itself similar, for instance, to that of 1920 in this country, and to derive its powers from the Acts passed by the Legislature ? I am talking about No. 104 : Would not it be possible for the Provincial Ministry to have an Act passed by the Provincial Legislature giving them the necessary powers to act in a specified emergency ?

Sir Samuel Hoare : I should have thought this was essentially a power that every government must possess, namely, of taking emergency action when the Legislature is not sitting and particularly necessary in a country like India where there are great distances and where it may take some time to get the Legislature sitting.

6564. *Dr. B. R. Ambedkar:* I suggest the Provincial Ministry can get an Act passed from the Provincial Legislature defining the emergencies in which they may be called upon to act, and the Legislature may give them the powers. Why is it necessary to make a provision of this sort in the Constitution itself ?

Sir Samuel Hoare: Because I regard it as an essential power that a Government should have, and as we are dealing with the whole field of the Constitution it is the kind of power that ought to be inserted in the Constitution Act

Dr. B. R. Ambedkar: It is a power that is intended to be given to a responsible Ministry and it is, in the nature of things, that the responsible Ministry should draw its powers, whether emergency or otherwise, from the Legislature to which it is responsible.

Lord Eustace Percy: May I remind Dr. Ambedkar that the Act of 1920 in this country only regularized a power which Ministers frequently exercised in the past without legislation ? It has always been the practice in this country, that, subject to be a sequent Parliamentary indemnity, a Ministry can issue an Emergency Order.

Dr. B. JR. *Ambedkar:* That is all I ask.

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†6870. *Sir Hubert Carr:* No. 44 gives the Governor-General power in his discretion, "in any case in which he considers that a Bill introduced, or proposed for introduction, or any clause thereto, or any amendment to a Bill moved or proposed would affect the discharge of his 'special responsibility' for the prevention of any grave menace to the peace or tranquillity of India, to direct that the Bill, clause or amendment shall not be further proceeded with." That, I understand, is only in the case of his special responsibility for the peace or tranquillity of India being threatened. Does any such power exist for him in the case of his other special responsibilities being threatened ?

Sir Samuel Hoare: No, I think not

6871. *Sir Hubert Carr:* For instance, (*b*) : "The safeguarding of the financial stability and credit of the Federation" ?

Sir Samuel Hoare: No ; it is limited to the special responsibility for grave menace to peace and tranquillity.

Sir Malcolm Hailey: I think I could give Sir Hubert the reason for that. It is a practical repetition of Section 67 *(2a)* of the existing Act which only refers to the safety and tranquillity in British India, and it has been repeated

†Minutes of Evidence, Vol. II-B, 18th July 1933, p. 784.

almost in terms.

6872. *Sir Hubert Carr:* It is not considered necessary to give the Governor-General that power to prevent his responsibilities being threatened other than peace and tranquillity ?

Sir Findlater Stewart: No. He could, of course, refuse his assent to the Bill as passed by the House.

6873. *Sir Hubert Carr:* But he cannot stop the discussion ?

Sir Findlater Stewart: No.

Dr. B. R. Ambedkar: I would like to reserve my questions for the Secretary of State because they are questions of policy.

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†7016. *Dr. B. R. Ambedkar :* Arising out of the questions that were put by Mr. Morgan Jones regarding the pledges, you stated that no responsible statesman in this country has bound himself to time and pace. Is that so ?

Sir Samuel Hoare : Yes.

7017. *Dr. B. R. Ambedkar:* But I think there is a general agreement that the ultimate goal of India's Constitution is to be Dominion status ?

Sir Samuel Hoare: It has constantly been so stated.

7018. *Dr. B. R. Ambedkar: So* that on the question of the ultimate goal, there is really no dispute ?

Sir Samuel Hoare: That would be so, yes.

7019. *Dr. B. R. Ambedkar:* Now what I want to ask you is this : In view of that, would you be prepared to put this in the Preamble to the Government of India's Constitution that India would be Dominion status, leaving the question of the time and the pace to be determined by circumstances as they arise ?

Sir Samuel Hoare: I do not think here and now I would like to give a pledge as to What is or is not put in the Preamble of an Act of Parliament. I, myself, am prejudiced against Preamble of Acts of Parliament, for reasons good or bad, and I would rather say neither yes nor no to Dr. Ambedkar's question. It is a point that ought to be considered by the Committee. I would not regard it as a question of principle, one way or the other; I think it is essentially a matter for discussion. Upon the face of it, I am against these general declarations in Preambles.

7020. *Dr. B. R. Ambedkar:* I want to say this, that this is not a point in dispute now, and, in view of the fact that it would have a reassuring effect on the Indian people, it would be desirable to have this embodied in the Preamble to the Government of India Act ?

Sir Samuel Hoare: We must take note of what Dr. Ambedkar has said upon the point.

7021. *Dr. B. R. Ambedkar:* Now the next question that I propose to ask you is with regard to the date of the Federation : that in view of certain uncertain elements connected with the entry of the Princes into the Federation,

†Minutes of Evidence, Vol. II-B, 18th July 1933, pp. 797-805.

it was not desirable to give a date for the inauguration of the Federation. Now the point that I propose to put to you is this : What would you say to a proposal like this — I am making it as my own : Supposing you started the Federation without waiting for the Princes, and had a nominated bloc appointed by the Viceroy or the Governor-General, it may be officials or non-officials, it may be partly from officials and partly from non-officials, and then inaugurate your Federation, and then, as the Princes come in, eliminate the nominated bloc to make room for such Princes as begin to come in ? Have you any objection to a proposal of this sort ?

Sir Samuel Hoare: Yes, I have several objections to it. I think that perhaps, the strongest that occurs to me offhand is that it is a completely new one. Here for the last three years we have been considering no other kind of Federation than an All-India Federation, with the Princes adequately represented in it.

7022. *Dr. B. R. Ambedkar:* Quite true, but let me pursue this point ?

Sir Samuel Hoare: May I just finish my answer? Secondly, I would say, even apart from that every formidable objection, an objection that would mean that we should have to start all our discussions over again, there is the further objection that I do not see what is to happen supposing when you had got your nominated bloc, the Princes then do not come into the Federation at all.

7023. *Dr. B. R. Ambedkar:* I will put my next question. You want the Princes' representation as a stabilising element ?

Sir Samuel Hoare: No; more than that, Dr. Ambedkar; I would not restrict myself to that at all. I want the Princes' accession for a number of reasons. I believe, quite apart from the stabilising element of the Princes' representation, they can bring into the Government of India many very valuable influences.

7024. *Dr. B R. Ambedkar:* But my point is this, I am not making this suggestion as a permanent part of the Constitution. I am making the suggestion for the transitional period until the Princes come in. I am only trying to get over the difficulty that you would say would arise if the Princes do not make up their minds to come in a stated period. I am only trying to get over the difficulty as to date ?

Sir Samuel Hoare: I quite see that. None the less, with the best will in the world, I do see the very formidable objections that I have just mentioned to a transitional plan of this kind.

Nawab Sir Liaqat Hayat Khan : In any case, if I might interject, had that not better be brought out when you meet again, in the event of such a contingency arising. It has been promised that when a contingency arises we meet again. I think a suggestion of that nature would be more appropriate then rather than now.

Sir A. P. Patro: You will not be there when it comes.

Sir Samuel Hoare : I have always thought that it is really a great mistake,

particularly for those who are really interested in setting up an All-India Federation, to concentrate upon setting up some kind of provisional government upon the assumption either that Federation is never coming into existence, or that Federation is only coming into existence in the very indefinite future. I believe myself that Members of the Committee and Indian Delegates who make proposals of that kind, although they do not wish the result of their proposals to be in the least what it will be, are really putting Federation further and further into the distance. I only go on repeating my own opinion, and I must rely upon my British and Indian friends to see that time after time it is not misrepresented by our enemies outside.

Dr. B. R. Ambedkar: May I pursue this a little further. Do you think Federation is more important, or responsibility is more important ?

7025. *Sir Tej Bahadur Sapru :* Or neither ?

Sir Samuel Hoare: I do not see the point of Dr. Ambedkar's question.

7026. *Dr. B. R. Ambedkar :* My point is this : If you are not prepared to consider any alternative for a transitional period the conclusion is that there can be no responsibility unless there is Federation ?

Sir Samuel Hoare: Really now Dr. Ambedkar is raising issues that we have been discussing for three years. For three years we have assumed in every discussion we have had that these proposals are based upon a foundation of All-India Federation, and I am not prepared today, after three years of these discussions, to reopen this question.

Dr. B. R. Ambedkar: It is true. I do not want to pursue the matter. I am only suggesting an alternative for your consideration. I have two more questions to ask, but I do not know whether they will be within the ambit of the topic we are discussing. One is in relation to the qualifications of candidates for the Federal Upper Chamber.

Archbishop of Canterbury: I think that would more properly come under franchise, would it not ?

Dr. B. R. Ambedkar: I would like to ask a question or two about financial safeguards.

Archbishop of Canterbury: I think that clearly comes within finance.

7027. *Dr. B. R. Ambedkar:* I want to ask a question or two about defence. You remember that the Sub-Committee on Defence in its report recommended that there should be a Military Council. I do not find any proposal in the White Paper dealing with that ?

Archbishop of Canterbury: For the very good reason that we do not think that is a constitutional proposal. It is an administrative proposal.

7028. *Dr. B. R. Ambedkar:* Are you going to have it?

Archbishop of Canterbury: I have always myself been in favour of having in India something in the nature of the Committee of Imperial Defence here. I believe in actual practice it will be found to be necessary. It is very important to bring not only the Defence Ministers, and the Defence officials, in touch with Defence problems, but now that

Defence covers so very wide a field of the life of a nation we have found here it is of great value to have a Committee of some kind in which the appropriate Ministers can be had in for specific discussions, and there is a strong body, not only of civil opinion, but also of military opinion in India that is in favour of the development of some such Committee as this, but essentially it is an administrative question rather than a question that can be dealt with in an Act of Parliament.

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7033. *Dr. B. R. Ambedkar:* With regard to the reserved subjects, you do not propose to make that part of the budget votable ?

Sir Samuel Hoare: That is so.

7034. *Dr. B. R. Ambedkar:* That is opposed to the theory of Reserved Departments as it exists now under the Government of India Act ?

Sir Samuel Hoare: It is based upon all our previous discussions and I thought, although there was a good deal of discussion at the Round Table Conferences about certain features of Defence, there was a very general agreement upon the point that the monies should not be votable.

7035. *Dr. B. R. Ambedkar:* Do you see any very great danger if the Legislative Assembly vote upon it, and the Viceroy had the power to certify, if he found any drastic cut was made ?

Sir Samuel Hoare : I think it is better in a matter of this kind, in which the responsibility of the Viceroy is clear and unquestioned, that whilst opportunities should be given for discussion, the necessary expenditure should be non-votable.

Dr. B. R. Ambedkar: The next question is with regard to the appointment of the commander-in-chief. I do not find any specific proposals dealing with that in the White Paper. Section 19 of the Government of India Act merely states that commander-in-chief shall be appointed by His Majesty by warrant under the Royal Sign Manual.

7036. *Sir Tej Bahadur Sapru :* It is a curious accident that in the present Government of India Act there is no reference to the appointment of the commander-in-chief. All it does is to provide that if the commander-in-chief is a Member of the Executive Council he should take precedence over the other Members of the Executive Council. White Paper or not, it is intended to continue the appointment of a commander-in-chief.

7037. *Dr. B. R. Ambedkar:* Section 19(1) of the present Government of India Act says : "The Commander-in-Chief of His Majesty's Forces in India is appointed by His Majesty by warrant under the Royal Sign Manual" ?

Sir Samuel Hoare: Yes; that would probably go on in much the same way.

7038. *Lord Irwin:* Is not the matter referred to in Proposal 6 at the foot of page 39 of the White Paper ?

Sir Samuel Hoare: Yes, paragraph 6, page 39.

7039. *Dr. B. R. Ambedkar:* Paragraph 6 does not say how his appointment is going to be made — on whose advice ?

Sir Samuel Hoare : By the Crown.

7040. *Dr. B. R. Ambedkar:* On whose advice ?

Sir Samuel Hoare: The appointment is made by the Government here.

7041. *Sir Austen Chamberlain:* By His Majesty acting on the advice of Ministers at home ?

Sir Samuel Hoare : Yes.

7042. *Dr. B. R. Ambedkar:* I look up the other day the Debates in the Legislative Assembly dated the 17th February, 1921, and Sir Godfrey Fell described the circumstances under which the Commander-in-Chief was appointed in these terms : "The appointment of the Commander-in-Chief is made by His Majesty the King on the advice of the Cabinet, and the Cabinet naturally turns to the Chief of the Imperial General Staff, the highest military authority in the British Empire, for advice." So the position is that the Commander-in-Chief under the present law or practice is appointed by the Cabinet on the advice of the Chief of the Imperial General Staff ?

Sir Samuel Hoare: He is not appointed by the Cabinet; he is appointed by the Crown, on the advice of the Prime Minister, or whatever it may be—the Secretary of State for India here.

7043. *Dr. B. R. Ambedkar:* The point I want to put to you is this : Do you think this practice is consistent with the new sort of Government we are contemplating, considering that Defence is to be largely a responsibility of the Indian people and the Indian Legislatures ?

Sir Samuel Hoare : I think it is quite inevitable with Defence a Reserved Department.

7044. *Dr. B. R. Ambedkar:* But it is also going to be a responsibility of the Indian people and the Indian Legislatures. How is the appointment of an important officer who is going to be in charge of a very important Department under the new Government, who is appointed not on the advice of the Secretary of State, not on the advice of the Governor-General, but on the advice of the Cabinet in consultation with the Chief of the Imperial General Staff, compatible with a Government whose Defence will be a responsibility of the Indian people ?

Sir Samuel Hoare: Surely, if Defence is a Reserved Department the Government to whom those Reserved Departments are responsible should make the appointment.

7045. *Dr. B. R. Ambedkar:* I can understand the Viceroy making this appointment; I can understand the Secretary of State making the appointment ?

Sir Samuel Hoare: That is what it comes to.

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†7125. *Marquess of Salisbury:* Your plan, as I understand (or I ought

†Minutes of Evidence, Vol. II-B, 20th July 1933, pp. 813-15.

to say the plan you prefer of three plans), was to add to the representation of the Princes already in the Assembly a proportion of the other Princes' representation on the same proportion as those already admitted. Is that so?

Sir Samuel Hoare: I do not know what Lord Salisbury means by saying "upon the same proportion as those already admitted."

7126. *Marquess of Salisbury :* I understand one of the States which came in would have say, 10 seats ?

Sir Samuel Hoare: I see what Lord Salisbury means. I think very likely it would work out on those lines.

7127. *Marquess of Salisbury:* There is only one other question I want to put as regards the Provincial distribution, that is to say, the distribution of seats in the Provinces. He is aware, of course, that there is a great deal of difference of opinion on that. I am not going into the difference of opinion, as to whether the communities are properly represented in Bengal under the Poona Pact. I am not going into it; but I am going to put this question to the Secretary of State : Whether he has any statement at all to make upon that subject ?

Sir Samuel Hoare: Upon the Communal decision of the Government ?

7128. *Marquess of Salisbury:* In the case of Bengal, I am speaking especially ?

Sir Samuel Hoare: No, I have nothing to add to the Memorandum that I circulated to the Committee and Delegates on the 26th May. upon the Government's Communal decision. The Government made it quite clear that they regarded their decision as final and they were only prepared to accept a variation if it was clear to them that the variation had been agreed by the accredited leaders of the various communities ; and, as a Member of the Government, I am not prepared to add anything further to that statement of Government policy.

Chairman: Secretary of State, do you desire to hand in the Memorandum to which you have just referred ?

Sir Samuel Hoare: Yes, the Memorandum is as follows : —

MEMORANDUM—COMMUNAL AWARD

I think it may be useful to my colleagues on the Joint Select Committee who have not been familiar with the developments leading up to the White Paper, if I give for their information a very brief account explaining the scope of what is known as the "Communal Award", the history of its origin, and why it stands, so far as the Government is concerned, on a different footing from the other proposals in the White Paper.

2. Both the first and second sessions of the Round Table Conference found progress much impeded through the failure among the Indian, delegates to reach mutual agreement both on the number of seats which the various great communities in India were to secure in the Legislature and on the method of election to those seats. The main issue as regards election

was whether separate electorates were to be maintained or the system of joint electorates with reserved seats ; employed. (For an explanation of these terms see paragraphs 149 and 150 of Vol. I of the Statutory Commission's Report). Repeated failure, after many attempts, to reach agreement on these problems had not only left this vital gap in the Constitution so far outlined, but was preventing some of the minority communities from proceeding any further with discussion of other aspects of the Constitution which had a communal bearing until they knew where they stood as regards their representation in the Legislatures.

3. Accordingly, in order to remove this obstacle to progress, the Government were very reluctantly compelled to give a decision on these points which was more or less of the nature of an arbitral award. The Government undertook to incorporate the provisions of the award in their proposals to Parliament. This award covered the composition of the Provincial Legislatures and the method of election to them. It was found impossible to isolate the more purely communal questions involved from such matters as the number of seats for special interests, and the size of the Legislatures. On such points, however, the Government had had the benefit of the advice of the Indian Franchise (Lothian) Committee. The award was issued on the 16th August, 1932, and presented to Parliament as Cmd. 4147.

4. Subject to an alteration in respect of the Depressed Classes explained further below, the provisions of the Award are reproduced on pages 91 and 93 of the White Paper (those regarding election on page 91 being a slightly abridged version).

5. The announcement prefaced to the Award contained the following very important passage : —

Paragraph 4. "His Majesty's Government wish it to be most clearly understood that they themselves can be no parties to any negotiations which may be initiated with a view to the revision of their decision, and will not be prepared to give consideration to any representation aimed at securing the modification of it which is not supported by all the parties affected. But they are most desirous to close no door to an agreed settlement should such happily be forthcoming. If, therefore, before a new Government of India Act has passed into law, they are satisfied that the communities who are concerned are mutually agreed upon a practicable alternative scheme, either in respect of any one or more of the Governor's Provinces or in respect of the whole of British India, they will be prepared to recommend to Parliament that alternative should be substituted for the provisions now outlined."

6. Since the Award there has been one important modification in respect of the representation of the Depressed Classes, the history of which is shortly as follows :

On the issue of the Award Mr. Gandhi expressed his intention to fast

against it in view of his objection to the provisions made regarding representation of the Depressed Classes, which, in his view, would have produced an artificial splitting of the Hindu community. In published correspondence the Prime Minister gave the reasons why the Government were unable to take the same view, but Mr. Gandhi remained unconvinced and began his fast. Negotiations now began, under Mr. Gandhi's auspices, between the representatives of caste-Hindus and representatives of the Depressed Classes led by Dr. Ambedkar. As a result an agreement was reached, now known as the Poona Pact, by which the number of the Depressed Classes seats in each province were increased above that recommended by the Communal Award, while a different system of election was substituted. The total number of Hindu seats (known technically as "general" seats) for caste-Hindus and Depressed Classes taken together remained the same under the Poona Pact as under the original Communal Award. The Government accepted the provisions of this Pact in modification of their Communal Award as being a mutually agreed practicable alternative under the provisions of paragraph 4 quoted above, and on this being announced Mr. Gandhi broke off his fast. The White Paper proposals on pages 91 and 93 incorporate the terms of the Poona Pact.

7. The position of the Government, therefore, as regards the proposals of the White Paper which cover the composition of Provincial Legislatures and the method of election thereto* is that they themselves are specifically pledged not to recommend to Parliament any variation of these proposals except such as may be mutually agreed upon by the communities concerned, and they are also pledged as a Government not to participate in any negotiations for the purpose of reaching such a change. The Government interpret this pledge as covering the provisions of the Poona Pact which they have themselves accepted in the circumstances explained above.

8. The original Communal Award was concerned only with the Provincial Legislatures owing to the fact that corresponding provisions for the Centre could not very well be settled pending a decision on the numbers to be assigned in the Federal Legislature to British India and British Indian States respectively. The proposals in Appendices I and II of the White Paper, which should be read with paragraph 18 of the Introduction to the White Paper, now contain the Government's proposals on this subject. These proposals are in effect supplementary to the original Communal Award. The Government have, however, not given in respect to them a specific pledge similar to that contained in paragraph 4 of the original announcement quoted above. While, therefore, they are not anxious to see a fresh investigation *de novo* into these proposals for allocation between the communities of seats in the Central Legislature, they do not consider these proposals to stand as regards their own attitude, in exactly the same

*This does not cover Franchise.

position as the Provincial Communal Award, but they see the gravest objection to any change on two points, *viz.*, the allocation of one-third of the British India seats in the Federal Legislature to Muslims, and the percentages of the seats allocated to British India and the States respectively.†

9. To summarise, it will be clear from the above that the Communal Award has reference only to the composition of the Legislatures, and is not concerned with the whole of the manifold points in the Constitution which have a communal aspect (e.g. special responsibilities of Governors and Governor-General, relations between Centre and Provinces, fundamental rights, etc.) and also that in respect of the matters provided for in the Communal Award, the Government have clearly defined their position and the conditions upon which alone they would think it justifiable to depart from it.

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‡7231. *Sir Austen Chamberlain:* Is it the intention of the Secretary of State at sometime during our proceedings to make proposals of that kind to us ?

Sir Samuel Hoare: Certainly ; I think it is quite essential that in any Constitution Act, somewhere or other, there should be provision for constituent powers.

7232. *Dr. B. R. Ambedkar:* I may draw attention to similar provisions in the present Government of India Act. There are certain sections mentioned in an appendix.

Sir Samuel Hoare: It is I think following the lines of every Constitution Act and following the lines of the Government of India Act itself.

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7236. *Lord Salisbury:* I have read it as well as 1 can at the moment, but I have not been able to appreciate it fully ?

Sir Samuel Hoare : If Lord Salisbury will look at it again, always keeping in mind the fact that this is one of the questions which we have to consider and for which we have eventually to make some kind of provision in the Constitution Act, I think he will fully appreciate it.

Dr. B. R. Ambedkar: It is the Fifth Schedule to the Government of India Act : "The provisions of this Act which may be repealed or altered by the Indian Legislature."

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§7260. *Marquess of Zetland:* May I ask one supplementary question? With regard to those four constituencies which will return Depressed Class representatives, will they overlap territorially ?

†To prevent misapprehension, it may be explained that of the ten Governor-General's nominees in the Upper Chamber, it is intended that six should be from British India and four from the States.

‡Minutes of Evidence, Vol. II-B, 20th July 1933, p. 828.

§*Ibid.,* 21st July 1933, p. 832.

Sir Samuel Hoare: I do not think it has been worked out, but I think they will be chosen not to overlap. The whole area of Madras will be divided up into 15 areas ; 11 of these, as I see it, will be of the ordinary kind.

7261. *Dr. B. R. Ambedkar:* Fifteen will be general ?

Sir Samuel Hoare: I make 11 ordinary, making 19 in all; 11 single members and four double members.

7262. *Mr. Zafrulla Khan :* May I put one question to Sir Findlater Stewart to clear up one aspect of it ? I merely want to understand it. Supposing a panel of four is chosen and then they proceed to contest or this particular constituency reserved for them amongst themselves. One knows if a contest comes forward, everybody will vote who can vote in a general constituency, but supposing three of them say : "We do not wish to contest this election," would it be possible for them to withdraw before the election takes place ?

Sir Findlater Stewart: It is an interpretation of the Poona Pact.

Sir Samuel Hoare : What does Dr. Ambedkar say?

Dr. B. R. Ambedkar: That is the view, that it is not obligatory upon all four of them to contest.

Sir N. N. Sircar: That is the view, but that is not the language used.

Mr. Zafrulla Khan: Another aspect is, are the Depressed Classes in any of these particular constituencies bound to put forward four candidates ? Supposing they put forward only one, will the terms of the Pact be complied with ? What does His Majesty's Government understand the Pact to mean in that respect ?

Sir A. P. Patro: The purpose of preliminary election will be defeated. What is meant by preliminary election is electing four people for a seat ?

Sir N. N. Sircar: Dr. Ambedkar will vouch that I am putting the interpretation which was understood at the time of the making of the Poona Pact. It was understood that the Depressed Classes should have the liberty, instead of electing four, to elect one only. In that case, automatically the one got through.

Dr. B. R. Ambedkar: That is quite right.

Mr. Zafrulla Khan: If they put forward four, one could withdraw.

Dr. B. R. Ambedkar: Yes.

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†7488. *Sir N. N. Sircar:* May I get some facts before the Committee ? I am not putting any argument; I only want to put some facts so that the Committee can get them in a short compass. The communal decision is dated the 17th August, 1932 ?

Sir Samuel Hoare: August 16th.

7489. *Sir N. N. Sircar:* In my copy it is the 17th. One day does not matter. Under this award or decision the net result of that was, as regards the depressed classes, that they would vote in the general constituencies, and

†Minutes of Evidence, Vol. II-B, 21st July 1933, pp. 858-63. Correspondence referred to in this discussion in paras 7488 to 7509 is printed at pp. 707-14 of this Book.

their number of seats would be 10, and the arrangement would come to an end after 20 years. To put it very shortly that was the decision ?

Sir Samuel Hoare : Yes.

7490. *Sir N. N. Sircar:* The other date is the 18th August, 1932. That is the date on which Mahatma Gandhi wrote his letter to the Prime Minister—(I am quoting the words):—threatening a fast and saying : "This fast will cease if the British Government will revise their decision and withdraw their scheme of representation for the depressed classes." Mahatma Gandhi wrote this letter to the Prime Minister threatening a fast and the consequences. Does that date agree with your information ?

Sir Samuel Hoare: I have not got the dates here. I take it the dates are accurate.

7491. *Sir N. N. Sircar:* Will the Secretary of State accept this course ? May I put all these dates in my questions, and, if there is any mistake it can subsequently be pointed out either by communication or by some other means ?

Sir Samuel Hoare : Yes.

7492. *Sir N. N. Sircar:* I am giving the dates. On the 18th August that letter was written by Mahatma Gandhi to the Prime Minister. On the 8th September, 1932, the Prime Minister wrote back to Mahatma Gandhi pointing out that the Prime Minister's scheme, that is to say, the communal decision, had not separated the depressed classes from the Hindu community. The point is the date ; on the 8th September the Prime Minister tried to reason with Mahatma Gandhi that nothing wrong had been done. On the 15th September, 1932, Pandit Madan Mohan Malaviya issued a notification in some of the newspapers calling a Conference to be held at Delhi on the 17th and 18th September. The invitation as it appeared in the Press was stated to be "To a few friends." That is the 18th September, 1932. On the 16th September, 1932, another announcement was made by the same gentleman, Pandit Madan Mohan Malaviya, in the Press that the venue had been changed from Delhi to Bombay, and, on the 20th September, 1932, the fast which later on was described as the fast unto death, began. On the 24th September the condition of Mahatma Gandhi was announced to be very serious, and on the 25th September, 1932, the Pact was singned. These are the dates I am giving to you. You can subsequently either correct them or accept them ?

Sir Samuel Hoare: Yes.

7493. *Sir N. N. Sircar:* in my next question I am giving you some other dates, and I will not press for an answer if you are not prepared with an answer just now, but I am only indicating my case broadly because I shall call witnesses on these points to prove these facts. The Pact was signed at Poona on the 25th September, 1932. In this Pact there are many signatories. I do not want to read out all the names. There is no signatory representing the Bengal Hindus, and the very next day, on the 26th September, 1932, at Delhi, at 11 o'clock, the Home Member announced the acceptance of the

Pact by His Majesty's Government, and he said : "His Majesty's Government has learned with great satisfaction that an agreement has been reached between the leaders of the depressed classes and the rest of the Hindu community." That was the very next day it was announced in the Assembly. These are the dates if you will kindly check them. May I take it, judging by those, as also by your answers which you were pleased to give yesterday, that the Government here was under the impression that an agreement had been reached between the leaders of the depressed classes and the rest of the Hindu community ? That must have been your impression ?

Sir Samuel Hoare: I will answer your question when you have finished it.

7494. *Sir N. N. Sircar:* I have finished this question.

Sir Samuel Hoare: The Government, rightly or wrongly, have, under the terms of paragraph 4 of their original Communal Award, accepted the Poona Pact as an All-India agreement between the parties concerned, that is to say, between the depressed classes and other Hindus. Everyone in public life in India must have known that the negotiations from which the Poona Pact emerged were in progress, and it was to be presumed that any interested parties would take steps to secure that their views were not overlooked. It is perhaps not without significance (and I would draw the attention of the Committee to this fact) that no protest from Bengal sees to have come for a considerable time after the announcement of the Pact. Indeed, during the course of the discussions we received scores of telegrams in favour of the Pact; not a telegram against it, and, amongst those scores of telegrams, I remember offhand a telegram from a very distinguished Hindu in Bengal, Sir Rabindranath Tagore. I do not know when protests first began to be made in Bengal, and I cannot trace that any representations were made to His Majesty's Government until something like three months after their acceptance of the Poona Pact. The Government expresses no opinion on the merits of the Pact in relation to Bengal. They would, of course, be perfectly ready to accept any modification in respect of Bengal reached by mutual agreement between the parties concerned, but the Government, as a Government, is precluded by the terms of its original communal award, from itself taking part in any negotiations towards that end.

7495. *Mr. M. R. Jayakar:* What was the nature of the telegram sent by Sir Rabindranath Tagore ? Did he approve of the Pact ?

Sir *Samuel Hoare:* Urging the Government to accept the Pact.

Sir Tej Bahadur Sapru: May I, Sir Samuel Hoare, tell you and the Committee one thing with regard to this matter ? Both Mr. Jayakar and I happened to be in Poona for about four or five days during the progress of these negotiations. I have a very distinct recollection that telegrams were received from Bengali Hindus. I, personally, received a telegram from two or three important Bengali Hindus. I have not got those telegrams here, but I will further add that Sir Rabindranath did pay a visit to Mr. Gandhi

in jail at the time or shortly after the opening of the fast. That is my recollection. I am speaking subject to correction.

Sir Hari Singh Gour: He did.

Sir Tej Bahadur Sapru: There was some sort of ceremony held. I left Poona immediately after the signing of the Pact; all this happened after I left. Probably, Mr. Jayakar was there, and he will be able to make a statement.

Mr. M. R. Jayakar: I was not there when Sir Rabindranath Tagore called : I was not present in Poona.

7496. *Sir N. N. Sircar:* Is Sir Samuel Hoare aware that Sir Rabindranath Tagore is a Brahmin ?

Sir Samuel Hoare: I take it from Sir Nripendra Sircar that that is so. The indisputable fact, however, is that for many weeks we received almost countless telegrams and letters from India urging the acceptance of the Pact and not a single protest against it.

7497. *Sir N. N. Sircar:* I will not go into minute details, because I am waiting for evidence to be called upon this point, but have you scrutinised those telegrams ? Whether they were all coming from Congress people ?

Sir Samuel Hoare: They were all coming from Hindus, and I would not for a moment accept the suggestion that they came exclusively from Congress Hindus.

7498. *Sir N. N. Sircar:* As regards the sufficient protest not having been made at or about the time and telegrams coming from some people, may I put this situation to you. that when Mahatma Gandhi uttered that threat, it was not a question merely of a large section of the Hindu being ground down. Is it not right to say that was the position also of His Majesty's Government ?

Sir Samuel Hoare: That never entered into our minds at all.

7499. *Sir N. N. Sircar:* Let me put it to you, if it strikes you now in that way. When he said : "I am going to fast myself to death unless the British Government do this, that, and the other", you did not point out to him section 508 of the Indian Penal Code and say : "This is a crime but we propose now to let you out of jail." Was not that His Majesty's Government's understanding also, because of overriding considerations, because if the man had been allowed to carry out his fast, tremendous consequences might have arisen. Therefore, you not merely acquiesced in what was an offence under the Indian Penal Code, but your offer was that a man who ought to be kept in jail for other reasons, should now come out into the open. I am putting to you this ?

Sir Samuel Hoare: Sir Nripendra Sircar can rest assured that we did not in any way act under any sort of threat or in any atmosphere of emergency. The only aspect of the question to which we looked was this : Was the agreement reached an agreement such as we had contemplated under the communal decision judged by all the evidence that was available to us ?

Then, and for many weeks subsequently, it seemed to us quite conclusive that it was such an agreement.

7500. *Sir N. N. Sircar:* I think you are aware that a representation was made to the Prime Minister by a letter from me in December, 1932, enclosing certain telegrams which had come here in November from members of the Bengal Council ?

Sir Samuel Hoare : I am aware that Sir Nripendra Sircar has taken a very close interest in the question from start to finish.

Sir N. N. Sircar: I sent that letter on to the Prime Minister as requested by the Members of the Council, and you will find that before I sent to the Prime Minister this telegram of protest from the 25 Members of the Bengal Council, that Bengal are not represented, and so on, it was shown to Dr. Ambedkar, who sent a telegram to Bombay to find out what their reply to this telegram was. I thought it fair to show it to him, so that he could get his version from Bombay, and this is the reply which he got.

Dr. B. R. Ambedkar: I assure I did not do anything of the sort, if Sir Nripendra Sircar will forgive me. Sir Nripendra Sircar represented that he showed to me a certain telegram and asked me to get certain information about it from Bombay. I did not do anything of the sort.

Sir N. N. Sircar: I have got the copy which was handed over to me by Dr. Ambedkar, and I will read to you the reply which he got.

Dr. B. R. Ambedkar: It is not a reply ; it is an independent telegram sent to me.

Sir N. N. Sircar: The point is the contents of the telegram, which said that the Bengal Hindus are bound by reason of their default in not appearing at Bombay, that is to say, it was put on the ground that we were bound because we had not taken part in the Pact. I think you must have found that in the telegrams that were sent to the Prime Minister.

Sir Samuel Hoare: I think it is very unfortunate that those telegrams were only sent in December, and were not sent when the negotiations were actually in progress.

7501-2. *Dr. B. R. Ambedkar:* The telegram was in November. It was sent in December, because I was waiting for the replies, and so on, and the Bengal Council rnet for the first time after these negotiations in November. As soon as they met, 25 members sent this telegram, or representation, to the Prime Minister. I only wanted to point out to you that whatever may be said, it has been the case that Bengal has gone by default. The case of Bengal has never been made, even in that telegram. Now the next matter to which I draw your attention, is a very short one. Does Sir Samuel Hoare agree with the view that the situation which has been created as the result of the Poona Pact and the communal decision, will lead to very terrible and serious consequences in Bengal ?

Sir Samuel Hoare: No, I do not think.

Sir N. N. Sircar: I do.

7503. *Dr. B. R. Ambedkar:* Is it your opinion that if the vastly preponderating majority of seats of the Muhammadans, 119 seats, are reduced by 10 or 12 seats, that will lead to terrible consequences in Bengal ?

Sir N. N. Sircar: I do not accept the phrase, "vastly preponderating majority", nor do 1 think that the result will be disastrous.

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7509. *Dr. B. R. Ambedkar:* My Lord Chairman, may I have your attention for a moment to make a very brief statement with regard to a question or two that was put by Sir Nripendra Sircar, in view of the fact that he may not be here when my turn comes ? Sir Nripendra Sircar said that he got a telegram during the course of the Third Round Table Conference last year and that he showed it to me and that I made inquiries with regard to that telegram, and that I got a certain telegram in reply to that. The point that I would like to make clear so that Sir Nripendra may have an opportunity to correct me if I am mis-stating anything is this : The telegram which I got was not a telegram in reply to any inquiry that I made.

Sir N. N. Sircar: I may cut the matter short.

Dr. B. R. Ambedkar: I just want to say a word.

Chairman : Please let Dr. Ambedkar make his statement.

Dr. B. R. Ambedkar: The telegram to Sir Nripendra Sircar was published in the Indian papers and when the members of the Anti-Untouchability Board that was established by Mahatma Gandhi after his fast was over, learned that this telegram was sent to Sir Nripendra Sircar protesting against the Poona Pact, they, of' their own accord, sent me the telegram to which Sir Nripendra Sircar has made reference. It was not in reply to any inquiry that I made. The next point I want to bring to the notice of the Committee is that when Sir Nripendra Sircar showed me the telegram he got from his Bengal friends protesting against the Poona Pact, he told me that all he was going to do was to send that telegram to the Prime Minister, without any comment, for his information. On the day before he left he very kindly sent me a copy of the letter which he addressed to the Prime Minister. In that letter I found that Sir Nripendra Sircar had not only forwarded the letter to the Prime Minister, but had urged upon the Prime Minister to make an inquiry as to whether the Bengal caste-Hindus were represented at the time when the Poona Pact was settled. In view of that I also immediately wrote a letter to the Prime Minister, a copy of which I shall present to the Committee when my turn comes, in which I also forwarded the telegrams which I had received, and I also stated that the fact mentioned in the telegram that the Bengal caste-Hindus were not represented when the Poona Pact was made was not correct to my knowledge, because I knew, as a fact, that several members from the Bengal caste-Hindus were present when the Pact was made, that they had had conversations with me and had presented me to come to terms. That is all I want to say at this stage.

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†7533. *Sir Mirza Ismail :* What Lord Lothian said was that the Legislature which appoints the Government will appoint the members to the Upper House. Once these members are elected by the Legislature they cease to have any responsibility. They can express their own views, and they do not go and consult the Legislature on every point which comes up before the Federal Government. Once they are elected they are independent, but what the Federal Government would like to know would be the views of the Government of the Province.

Dr. B. R. Ambedkar; The Government of the day of the Province ?

Sir Mirza Ismail: Of the day.

Dr. B. R. Ambedkar: And if there were a change of Government of the Province there would be a change of representation at the Centre ?

Sir Mirza Ismail: At the Centre. If you want to prevent this extreme provincialism that is already developing in India this seems to me to be the best way of doing it. You have already the popular element in the Lower House ; from the democratic standpoint there should be no objection to it because of the democratic Governments in the Provinces.

Dr. B. R. Ambedkar: Send them with mandates to vote on a particular issue.

Mr. M. R. Jayakar: If this scheme were adopted, would it not come to this, that although normally the life of the Provincial Legislature would end in five years and, as Mr. Zafrulla Khan pointed out, the life of the Upper House would be seven years, there must be necessarily one change in the personnel.

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‡7746. *Dr. B. R. Ambedkar:* I would like to ask the Secretary of State whether the Instruments of Accession that would be passed by the different States on entering the Federation would find a place in the Constitution Act?

Sir Samuel Hoare: The answer is : No, they would not.

7747. *Dr. B. R. Ambedkar:* How would it be possible, supposing a dispute arose in a Federal Court, for the Court to determine whether any particular subject which was the subject-matter of dispute was within the competence of the Federation ?

Sir Samuel Hoare: I imagine—here I speak as a layman—they would take into account the treaty, just as they take into account treaties now.

Sir Tej Bahadur Sapru : Yes.

7748. *Dr. B. R. Ambedkar:* But it would not be part of the Constitution Act?

Sir Samuel Hoare: No ; it would not be in the Constitution Act; neither are the treaties now in any Act of Parliament, yet (Sir Tej Sapru and other Indians will correct me if I am wrong) treaties have been constantly taken into account.

† Minutes of Evidence, Vol. II-B, 25th July 1933, p. 899,

‡ *Ibid.,* p. 901,

Sir Tej Bahadur Sapru: Yes. Treaties are part of the municipal law everywhere.

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†8102. *Dr. B. R. Ambedkar:* May I draw the attention of the Secretary of State to the fact that under Proposal 70 of the White Paper, the Governor has the special responsibility to secure the execution of orders lawfully issued by the Governor-General ?

Sir Samuel Hoare : Yes.

8103. *Dr. B. R. Ambedkar:* If the Governor-General issued any orders with respect *to* finance which required the Provincial Governments to execute them, the Governor would see that they were executed ?

Sir Samuel Hoare: Yes; in the field of Federal taxation that would be so.

8104. *Dr. B. R. Ambedkar:* Any orders issued by the Federation which required that they were to be executed by the Provincial Government, there is a special responsibility on the Governor to see that those orders are executed ?

Sir Samuel Hoare: Yes, Orders issued by the Governor-General.

Sir Hari Singh Gour: Lawfully issued.

8105. *Dr. B. R. Ambedkar:* Lawfully issued, of course. Another question. In that section of the White Paper proposals which deals with the administrative relations of the Provinces and the Centre—I am speaking offhand—I think provision is made that whether the Provincial agency will be utilised by the Centre in carrying out the administration of Central subjects is a matter for the Province : it may employ its own agency ?

Sir Samuel Hoare: Yes, I have always hoped, judging from the experience of other Federations, that we should duplicate as little as possible administrations, and speaking generally, it is much better that the Provincial administration should carry out the directions of the Federation within the Federal field rather than that you should duplicate these administrations all over India.

8106. *Dr. B. R. Ambedkar:* What I was trying to point out was this. that if the Provincial Governments turned out to be recalcitrant and not amenable to the control of the Central Government, the Centre is not bound to employ the agency of the Province and can employ their own agency in the administration of Central subjects ?

Sir Samuel Hoare: That is so.

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‡8138. *Dr. B. R. Ambedkar:* I want to suggest that the standard of administration in Bengal is low because Bengal has not been able to raise sufficient revenue by reason of the Permanent Settlement. It is another way of stating the same thing ?

Sir Samuel Hoare : It is one of the reasons, but we have to accept the fact that the Permanent Settlement is there.

†Minutes of Evidence, Vol. II-B, 27th July 1933, p. 945.

‡*Ibid.,* 28th July 1933, p. 990.

Dr. B. R. Ambedkar: That is so.

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†8527. *Dr. B. R. Ambedkar:* Under the White Paper there is no means raising, say, one anna for Provincial purposes without raising in those circumstances another anna, which ex-hypothesis is not needed, for Federal purposes. The other hypothesis is that the Provinces do not need any more income-tax, but the Federal Government does and you then have to raise double the amount (assume that the percentage prescribed is 50 : 50) you have to raise two annas in order that the Federal Government may get one because, for every one it takes, it must give one to the Provinces, even though they do not want it ?

Sir Samuel Hoare: I will take all these points into account. I would ask the members of the Committee to remember that there must be (whatever the arrangements) anomalies. I do not say exactly of the kind contemplated in the White Paper, but anomalies of some kind under any system under which the income-tax is shared between the Centre and the Provinces.

Dr. B. R. Ambedkar: May I draw the attention of the Secretary of State and Sir Austen Chamberlain to two points ? Sir Austen said there is no provision for the Province to raise any income-tax if it wanted it for its own purposes. I wish to draw his attention to Proposal 139, and what appears in the brackets, "A prescribed percentage, not being less than 50 per cent, nor more than 75 per cent of the net revenues derived from the sources specified in the margin."

Sir Samuel Hoare: That is the income-tax—"(exclusive of any surcharges imposed by the Provinces)." I take it from that the Provinces will have the right to levy a surcharge on the income-tax for their purposes.

Sir A. P. Patro: In addition.

8528. *Dr. B. R. Ambedkar:* That is Proposal 139 ?

Sir Samuel Hoare: That is so, and the Committee will see that we alluded to it at the top of page 30 of the Introduction.

8529. *Dr. B. R. Ambedkar:* May I draw the attention of the Secretary of State to a statement that he made just now, that with regard to the imposition of surcharges for Federal purposes on the income, I think he said the key to the position was the previous sanction of the Governor-General. I would like to draw his attention to the fact that Proposal 141 does not stipulate that the previous sanction of the Governor-General will be required to surcharges for Federal purposes. The previous sanction of the Governor-General refers to revenues assigned to the Provinces, namely, those enumerated in Proposals 138 and 139. Paragraph 141 is not made dependent on the previous consent of the Governor-General ?

Sir Samuel Hoare: I think Dr. Ambedkar is quite right, and I must look into my answer in connection with the note I will circulate.

Sir Akbar Hydari: There is also Head 49 in the exclusively Federal heads

†Minutes of Evidence, Vol. II-B, 28th July 1933, pp. 1002-03.

where definitely it is said : "Imposition and administration of taxes on income other than agricultural income or the income of corporations, but subject to the power of the provinces to impose surcharges" under the exclusively Federal heads.

Lord Eustace Percy: I do not think that exhausts it because all the evidence we have received, and all the evidence I ever heard in India was violently opposed to Provincial surcharges.

Dr. B. R. Ambedkar: That was the view of the business people, I am sure.

Lord Eustace Percy: It was the opinion of every single Indian to whom I had the opportunity of putting questions.

Dr. B. R. Ambedkar: No, indeed, they were not.

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8537. *Lord Rankeillour:* May I ask a question arising out of Dr. Ambedkar's. I think it is of some importance. With regard to the consent of the Governor-General, surely all Federal taxation will be subject to the consent of the Governor-General. It can only be on his initiation, and a resolution such as we have here, that any tax can be considered ?

Sir Samuel Hoare: Yes, but I think Lord Rankeillour really is confusing the two positions. There is the general constitutional position under which money votes originate with the initiative of the Crown. That position, of course, stands. I was contemplating the other position in which the Governor-General intervenes under some special obligation in the Indian Constitution.

8538. *Lord Rankeillour:* I felt sure that was the meaning, but the actual answer given to Dr. Ambedkar would seem to suggest that under paragraph 141 the Federal Legislature would have the power to act without the Governor-General's previous recommendation.

Mr. M. R. Jayakar: May I ask Lord Rankeillour's attention to Proposal 45, which deals with this question. "A recommendation of the Governor-General will be required for any proposal in either Chamber of the Federal Legislature for the imposition of taxation."

Lord Rankeillour: Yes, so I thought. I quite agree.

Dr. B. R. Ambedkar: That relates to the special power of the Governor-General, and that is made so because the taxes contemplated in paragraph 138 are not to go to the Central fisc, but they are to be distributed amongst the Provinces.

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†8575. *Dr. B. R. Ambedkar:* My Lord Chairman, may I just intervene for a moment for the purpose of asking for information, not for raising any controversy. The Committee knows that there is a certain amount of difference of opinion on the expression "existing and accruing rights". The Civil Service takes one view, the Law Officers of the Crown take another view, and I believe this Committee will have to give some sort of opinion

†Minutes of Evidence, Vol II-B, 28th July 1933, p. 1010.

upon that subject before the clause is drafted. I find exactly the same expression "existing and accruing rights" used in the South African Constitution of 1909, and I wonder whether it would not be possible for Your Lordship and the Secretary of State to obtain the Memorandum from the Dominions Office to find out exactly how that clause has been acted upon, and interpreted by the South African Government ?

Sir Samuel Hoare: I will certainly look into that suggestion. In any case, it is a question which we must deal with when we come to the Services. It is not quite the same question though that Sir Purshotamdas put to us.

8576. *Dr. B. R. Ambedkar:* No ; that is why I said I did not want to raise any controversy. I am simply asking for information as to whether that would not be possible as a sort of comparative view ?

Sir Samuel Hoare : Yes.

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†8633. *Dr. B. R. Ambedkar:* I would like to ask one question about the statement made by Sir Akbar Hydari on the application of paragraph 141. You said yesterday, Secretary of State, in making your brief observations on that statement that you were glad that the States bad accepted, at a certain point, to bear the burden of the Federal Government ?

Sir Samuel Hoare: Yes.

8634. *Dr. B. R. Ambedkar:* What I would like to know is this — you can give the answer now, or, if you like to refer to it later I have no objection— whether you agree that the stage which has been described by Sir Akbar Hydari is the stage at which the States should begin to bear the burden of the Federation ? He has, as you know, described certain stages through which the Federal finance must go before the States could be called upon to bear their share ?

Sir Samuel Hoare: Yes.

8635. *Sir Akbar Hydari:* Additional burden ?

Sir Samuel Hoare: There are really three burdens. There was first of all the burden of indirect taxation that they undertake from the start; secondly, there was the burden of the Corporation Tax, or the equivalent of the Corporation Tax that they undertake after a definite terms of years ; and, thirdly, there was the surtax that they undertake in the event of an emergency.

8636. *Dr. B. R. Ambedkar:* I thought he laid down certain conditions ?

Sir Samuel Hoare: He laid down certain conditions — Sir Akbar will correct me if I am wrong for the third of these burdens, namely, the surtax.

8637. *Dr. B. R. Ambedkar:* I wanted to know whether you agree that those were the appropriate conditions under which the Federation will resolve to surcharge ?

Sir Samuel Hoare: I think so. I do not want to tie myself down to the exact words, but I think, generally, that seems to me to be a fair basis of an arrangement.

†Minutes of Evidence, Vol. II-B, 28th July 1933, pp. 1018-20.

8638. *Dr. B. R. Ambedkar:* The next question I want to put to you, arising out of that, is this : that if that position is maintained or even the position as it is under Proposal 141 is maintained, would it not be the fact that the Federation will have to carry on its finances entirely on the basis of indirect taxation ?

Sir Samuel Hoare: Not entirely on the basis of indirect taxation.

8639. *Dr. B. R. Ambedkar:* To a very large extent ?

Sir Samuel Hoare: Obviously, to a large extent. Indirect taxation will then, as it does now, play a very prominent part in the Indian revenue.

8640. *Dr. B. R. Ambedkar:* What I want to put to you is this, Sir Samuel Hoare, that it will be more so under the Federation than it is now, for the simple reason that the British Indians would not consent to direct taxation, because the States will not consent, and, consequently both of them would rather go in for indirect taxation, to be borne by both apart, rather than agree to direct taxation, which would be borne by British India alone. From that point of view indirect taxation would be more and more forced upon them than is now the case ?

Sir Samuel Hoare: From the other point of view, I can imagine the States very often on the side of the less indirect taxation.

8641. *Dr. B. R. Ambedkar:* That is because they do not have their finger in the pie now. Would it be the same thing afterwards when, if they are opposed to indirect taxation they have to bear the brunt of the taxation ?

Sir Samuel Hoare: Dr. Ambedkar will also remember in this triangle of forces that the Provinces will have an interest in direct taxation, as they have a share in it.

8642. *Dr. B. R. Ambedkar:* Yes, that may be so, but the Province also will see that the Federation is not entirely a charge on Indian Revenue raised in British India. It is a pure matter of speculation, but I want to pay attention to what would be the drift of the finance under the Federation. If I may say so, the Federation would entirely have to build a tariff wall round itself in order to carry on ?

Sir Samuel Hoare: Dr. Ambedkar says it is a subject of speculation. I am inclined to agree with him, but I am not inclined, having assumed it is a subject of speculation, then to prophesy exactly what is going to happen.

8643. *Dr. B. R. Ambedkar:* I will leave it at that. The next question I would like to ask of Sir Samuel Hoare arising out of the same proposal, 141, is this : You said that the States will contribute an equivalent amount to the Federal Revenues on a sum to be assessed on a prescribed basis. Of course, you have explained this morning how the word "prescribed" is used, and I am not going to ask you any questions upon that, but what I would like to ask you is this. Is there any provision made in the White Paper to see that the sum assessed on this prescribed basis, which becomes payable by a particular State, will be ultimately paid to the Federation ?

Sir Samuel Hoare: It would then mean a default, would it not, on the part of a State ?

8644. *Dr. B. R. Ambedkar:* Yes, supposing the State does not pay. I am assuming only one case now, for the moment ?

Sir Samuel Hoare: The Viceroy then, I assume, could intervene.

8645. *Dr. B. R. Ambedkar:* The Viceroy, as you know, is outside the Federal Constitution ?

Sir Samuel Hoare: If Dr. Ambedkar will look at paragraph 129, he will see there : "The Governor-General will be empowered in his discretion to issue general instructions to the Government of any State-Member of the Federation for the purpose of ensuring that the Federal obligations of that State are duly fulfilled."

8646. *Dr. B. R. Ambedkar:* Yes. What I want to say is this. Paragraph 129, if I may make the distinction, only gives the Governor-General the power to give a direction. It does not give the Governor-General the power to take remedial measures, if the directions are not obeyed ?

Sir Samuel Hoare: The Act nowhere provides explicit sanctions in situations of that kind either for the Provinces or for the States.

8647. *Dr. B. R. Ambedkar:* For the Provinces it does, because the Governor has a special responsibility to see that the orders of the Governor-General are carried out and obeyed, and to that extent he will be directly under the control of the Governor-General, and so provision does there exist, so far as the relations between the Provinces and the' Centre are concerned, that his orders will be carried out ?

Sir Samuel Hoare: 1 think there is just the same sanction. Is there not, with the Governor-General and the States ?

8648. *Dr. B. R. Ambedkar:* No, if I may say so, as you explained on the Memorandum on the Instrument of Instructions if he disobeyed, the Governor could be recalled. There is no such provision in the relations between the States and the Centre ?

Sir Samuel Hoare: In each case the responsibility is the responsibility of the Governor-General at his discretion, that is to say, subject to his instructions from here.

Dr. B. R. Ambedkar: But my point is that just as the Governor would be subject to the power of the Governor-General with respect to the administration of the Province, the ruler of a State is not subject to the directions of the Governor-General beyond, I suppose, the administration of such matters which appertain to the Federation; that is with the Viceroy.

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8650. *Dr. B. R. Ambedkar:* But, as you said, the paramountcy will be assigned to the Viceroy, and not to the Governor-General ?

Sir Samuel Hoare: Yes, but nevertheless the result will be the same.

Mr. Zafrulla Khan: The Governor-General will formally make a request to the Viceroy and the Viceroy will thereupon act.

Dr. B. R. Ambedkar: May I ask another question arising out of the same ? There is another aspect of it. It is assumed that the States that would be liable to make this contribution would be solvent at the time when the contribution is called for. Is there any provision in the White Paper to see that the Governor-General whose finances would, to some extent, be dependent upon these contributions coming from the Indian States, has power to see that these contributories will be solvent on the days when the contributions fall due ?

Rao Bahadur Sir Kishnama Chari: What is the provision with regard to the Provinces ? Is there any such provision with regard to the Provinces ?

Dr. B. R. Ambedkar: Yes, the Governor can certify that a certain amount is due to the Federation and shall be paid, and it will be paid.

Mr. Zafrulla Khan: May I recall a suggestion I made during the preliminary discussions here that the Viceroy might ask the States who are units of the Federation to submit for his information every audited copies of their accounts ?

8651. *Dr. B. R. Ambedkar:* There is one more point, and I think the Secretary of State may give a combined answer. If you will refer to paragraph 146 dealing with the borrowing powers you will see there it is provided that the Federation may borrow upon the security of Federal revenues. The contributions to be made under Proposal 141 will be part of the Federal revenues which will be the security for the loans which the Federation will raise. Do you think it would sufficiently add to the credit of the Federation if part of the revenues which the Federation can call upon in order to give security for the Federal loans are left in this uncertain state both as to capacity to pay and the willingness to pay ?

Sir Samuel Hoare: I would have thought really that the contingency Dr. Ambedkar is contemplating is a contingency that is not very likely to arise often, and that, if it does arise, it is not the kind of contingency that is going substantially to alter the credit of the Federation. After all, these amounts taken altogether are very small amounts.

8652. *Dr. B. R. Ambedkar:* I do not know what they would be ?

Sir Samuel Hoare: And in the event of a single default.

8653. *Dr. B. R. Ambedkar:* I hope they will not be very small ?

Sir Samuel Hoare: I cannot imagine that that would make much difference to the credit of India.

Sir Akbar Hydari: Is not the financial position of the States, through the exercise of paramountcy, in a much better condition than that of the Provinces through the exercise of the special responsibilities of the Governor ?

Dr. B. R. Ambedkar: I thought the statement made by Sir Mirza Ismail yesterday disclosed a most pathetic state of affairs.

Sir Akbar Hydari : It was still a balanced budget by which he could pay up his tribute all right.

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†11,297. *Dr. B. R. Ambedkar:* My Lord Chairman, I would like to point out to the Secretary of State that the expression which we find in the Government of India Act—"existing and accruing rights"—is an expression which is also found in the South African Constitution Act. I was wondering whether it would not be possible for us to get a statement from the Dominion Office to find out exactly how that expression has been acted upon in South Africa ?

Sir Samuel Hoare : We made an inquiry upon this very point. Dr. Ambedkar, I think, did allude to it during the summer and I have asked the Dominion Office for the information. I have not yet got it, but I am told that the cases are separate and distinct. In the case of South Africa there is no promise of compensation at all.

Sir Manubhai N. Mehta: I think they have it in Australia as well.

11,298. *Dr. B. R. Ambedkar:* I simply wanted to know how the expression, "accruing rights", had been interpreted in South Africa by the South African Government. The expression is exactly the same ?

Sir Samuel Hoare: I will see if I can get it. I asked about South Africa and Australia as well.

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‡11,438. *Dr. B. R. Ambedkar:* There is nothing to prevent a Public Service Commission being appointed for one province or for two provinces ?

Sir Samuel Hoare: No ; we do make provision for that purpose.

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§11,526. *Dr. B. R. Ambedkar:* Might I intervene just for a moment to point out that the result to which Sir Malcolm Hailey has referred, namely, the denudation of the services of the local element, as soon as they are transferred to ministerial control is largely due to the fact that this transfer has also been accompanied by a reduction in the scale of salary. When a service has become provincialised the Minister has adopted a lower scale of salary than was obtainable formerly, and, consequently, the smaller scale of salary has not attracted European candidates ?

Sir Samuel Hoare: Yes ; they have substituted, in other words, 'Imperial' for 'Provincial' services.

Dr. B. R. Ambedkar: It is the salary that has made the difference—not the transfer.

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¶11,669. *Dr. B. R. Ambedkar:* Might I make a suggestion for consideration on this matter ? Instead of giving the right outright to the new entrant would it not be better for the Secretary of State to retain a discretion in his own hands which he may exercise in a genuine case where a man wants to

†Minutes of Evidence, Vol. II-B, 3rd October 1933, p. 1032.

‡*Ibid.,* p. 1056.

§*Ibid.*, p. 1058.

¶*Ibid.,* p. 1072.

retire because he has really been suffering under the new conditions, and does not really want to take advantage of this rule ?

Sir Samuel Hoare: We can consider a suggestion of that kind. 1 assume Dr. Ambedkar's suggestion refers to the new entrants ?

11,670. *Dr. B. R. Ambedkar:* Yes, I am talking of the new entrants. In that case the Secretary of State may retain in his own hands a certain amount of discretion which he may exercise in favour of a man who has genuinely proved to the Secretary of State and his advisers that the reasons of his retirement is discontent and dissatisfaction with the new conditions ?

Sir Samuel Hoare: I should like to consider a suggestion of that kind. The doubt that is in my mind is whether the mere fact that there is this discretion will take away the assurance from the mind of the parent, or the university, or the school from which the young man is coming, but I will consider it.

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†12,025. *Dr. B. R. Ambedkar:* I want to ask one question, Sir Samuel, on these provisions in general. The ultimate purpose of these previous sanction rules would also of course be achieved by the power of veto—the subsequent power of veto which the Viceroy, and the Governors have got; so, from that point of view, there is really not much to be gained by these provisions. I mean although the Viceroy may give his previous sanction he is not thereby bound to adopt the Bill when it is finally passed; he has the power of veto. So, from that point of view, there is not much to be gained by the rules of previous sanction, which could not ultimately be gained by the power of veto ?

Sir Samuel Hoare : I am not sure that I should agree with Dr. Ambedkar. The veto is a sanction of a somewhat different kind. It seems to me it is a bigger and more serious sanction. It comes after the Legislature has formally pledged itself to certain proposals ; I think therefore it is a more serious sanction.

12,026. *Dr. B. R. Ambedkar:* Apart from all that, so far as the main object is to prevent anything affecting adversely the special responsibilities of the Viceroy, the veto is an effective measure ?

Sir Samuel Hoare: I was just coming to that second consideration. The veto has a long history behind it, and judged by British experience generally, the veto becomes more and more in course of time something in the nature of a constitutional formality.

12,027. *Dr. B. R. Ambedkar:* But what I wanted to say was this. So far as I am able to judge the only distinction that one could draw between the effect of a previous sanction rule and ultimate veto is that the one, namely, the previous sanction, prevents discussion, while the veto does not. Is that not so ?

Sir Samuel Hoare: It is a difference.

†Minutes of Evidence, Vol. II-B, 5th October 1933, pp. 1118-19.

12,028. *Dr. B. R. Ambedkar:* That is a difference. Now, what I want to point out to you, Sir Samuel Hoare, is this : Surely if discussion is to be prevented because it is going to attack the special responsibility of the Viceroy, you will bear in mind that this previous sanction rule certainly cannot operate to prevent discussion, either in the Press or on the public platform outside the Legislature, and cannot even prevent a public demonstration on an issue that would legitimately be brought under a previous sanction rule, so the only thing really that would happen under this is that while the public and the Press may be free to agitate and to demonstrate on a matter covered by the previous sanction rule, the only body that would be muzzled would be the Legislature ?

Sir Samuel Hoare : That is one way of putting it; it is Dr. Ambedkar's way of putting it.

12,029. *Dr. B. R. Ambedkar:* Is it not a fair way of putting it ? Surely the Viceroy's previous sanction powers are not going to be so widely extended in their operation as to cover the prevention of any discussion of a matter subject to previous sanction, either in the Press or in public meetings, or anywhere else ?

Sir Samuel Hoare: I think these certainly will be discussion of that kind. None the less, I do think there is a difference between discussion in the Legislature, and the comparatively irresponsible discussion outside. Secondly, this sanction of the previous consent has been in operation for some time and it was accepted generally as a Part of the New Constitution at each of the Round Table Conferences. Thirdly, if Dr. Ambedkar will look at the categories set out in paragraph 119 he will see that for each of them there is a considerable demand for some kind of special precautions. For instance, if he will take the question of religious rights and usages ; there he must have noticed the very strong feeling that certain sections of the orthodox Hindus have upon the subject. He does not agree with them ; he thinks they are all wrong. At the same time, they do hold these views very strongly, and they would like questions of that kind excluded from the Indian Legislature altogether. Now, we have attempted to adopt a midway attitude between the two points of view and so on. With each of those categories I could make a similar defence, that there is a considerable body of opinion asking for some special precautions in these directions.

12,030. *Dr. B. R. Ambedkar:* What I was trying to drive at was this that while a member of the Legislative Council and a member of the Legislative Assembly may be free to discuss these matters outside in public, they will not be free to discuss them when they come inside the Legislative House. That is the only difference you are making by this previous sanction rule ?

Sir Samuel Hoare: They can have resolutions, but that is substantially the case.

12,031. *Dr. B. R. Ambedkar:* Now I just want to make one suggestion with regard to the point raised by Mr. Jayakar regarding the use of the

expression "religion and religious usages", because that is a thing in which I am so vitally concerned. I am just making the suggestion whether it would not be sufficient to use the expression "articles of faith" rather than the phrase "religion and religious usages" ?

Sir Samuel Hoare: I would have thought that articles of faith would have occasioned almost the same kind of controversy.

12,032. *Sir Hari Singh Gour:* More so ?

Sir Samuel Hoare: And the trouble of a new phrase of that sort, I would have thought, would have concentrated upon it more varieties of interpretation even than the old phrase.

12,033. *Dr. B. R. Ambedkar:* I suggest that as far as possible the word "usage" ought to be avoided ?

Sir Samuel Hoare: I will take note of what Dr. Ambedkar has said.

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†12,751. *Lord Rankeillour:* Secretary of State, on that would not it be possible for the Central Government to carry out the contemplated orders arising out of Federal legislation and to charge the Province with the cost ?

Sir Samuel Hoare: There is no machinery for getting the money.

12,752. *Lord Rankeillour:* But the money for the Provinces comes through the Central Exchequer, does it not ?

Sir Samuel Hoare: Income Tax would.

Dr. B. R. Ambedkar: I think the answer to Sir Austen Chamberlain's question may be given somewhat in this form. So far as the concurrent legislation is concerned, it is, I think, laid down in one of the paragraphs of the White Paper that any law in the concurrent field passed by the Federal Legislature will override a similar law passed by the Provincial Government. Consequently, if there was a conflict of law passed in the concurrent field between a law passed by the Centre and one passed by the Province, *ipso facto,* by the provisions of the White Paper itself the Federal Law will have an overriding force as against the Provincial Law.

Sir Austen Chamberlain: That is so. That is the point that I put earlier to the Secretary of State.

Dr. B. R. Ambedkar: That is I think the position so far as the legislation is concerned.

Sir Austen Chamberlain: So I understand.

Dr. B. R. Ambedkar: So far as administration is concerned, I think the position will be that the Federal Executive will have the authority to issue directions and instructions to the Provincial Government through the Provincial Governors with regard to the administration of a concurrent law passed by the Federal Legislature, and the Governors, I think, would be bound to obey them.

Marquess of Reading: That is exactly the point upon which the Secretary of State has given an answer in the negative.

†Minutes of Evidence, Vol. II-B, 10th October 1933, p. 1130.

Sir Hari Singh Gour: There would be the penal clause that he who runs an unauthorised paper will be punished.

Dr. B. R. Ambedkar: Might I give another example which comes to my mind ? Supposing for instance in a state of emergency the Central Government passes a Press Act under which provision is made that no paper may be started unless it deposits a certain amount of security. Now that sort of legislation is not going to affect any particular private individual. Supposing there is a paper in a particular province which is helping the Government of the day—a Party paper. Supposing that paper is influencing the Press Act passed by the Central Legislature, and supposing on account of that affiliation between the particular newspaper journal and the Government of the Province, the Government refuses to take any action against that particular paper, what is the position ? Surely no individual is affected in this particular case ?

Sir Hari Singh Gour: There would be the penal clause that he who runs an unauthorised paper will be punished.

Dr. B. R. Ambedkar: That is exactly the point.

Sir Austen Chamberlain: And has to have the information and all the machinery for reaching the Government.

Dr. B. R. Ambedkar: If he charges a particular officer to carry on the prosecution and the local government pays the expenses of that prosecution and does not make provision for it in the budget, what is to happen ?

Sir Samuel Hoare: I see all those difficulties. At the same time I cannot help seeing the difficulties on the other side. The case mentioned by Dr. Ambedkar is essentially a case of law and order, and law and order is a provincial subject and interest. The interest of the Federation is the interest of uniformity, but that does not affect the fact that primarily that case is a provincial case. If the argument suggested in Dr. Ambedkar's question and in Sir Austen Chamberlain's question, too, if I may say so, is pressed to its logical conclusion, it really does mean that the Federation will control the law and order in the Provinces, and that is directly contrary to the principles as at present drafted in the White Paper.

Dr. B. R. Ambedkar: I beg your pardon. My point is this, if I may submit it; either you must make law and order a purely provincial matter, a provincial concern which the Centre has nothing to do with, and then, of course, you can have the argument which you urged just now, but if you make it a matter of concurrent legislation, then I think the Federation must be in the position to see that the law is corrected.

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†13,129. *Dr. B. R. Ambedkar:* Secretary of State, I just want to draw your attention to the present position of the concurrent field under the Government of India Act. I am anxious to do so because it was suggested to you that under the present Government of India Act only certain subjects or parts of certain subjects are made subject to the Central Legislature.

†Minutes of Evidence, Vol. II-B, 12th October 1933, pp. 1178-81.

The point that I wish to draw your attention to is that, first of all, there are some Provincial subjects which are made specifically concurrent under Part II of Schedule I to the Devolution Rules ?

Sir Samuel Hoare: Yes.

13,130. *Dr. B. R. Ambedkar:* While subjects although they are made Provincial are controlled by the proviso that they are subject to the Central Legislature ?

Sir Samuel Hoare: Yes.

13,131. *Dr. B. R. Ambedkar:* I have made a computation that out of the 51 subjects which are included in Part II of the Schedule to the Devolution Rules, 14 are made expressly subjects to the Central Legislature, or to rules made by the Central Government or the Secretary of State. That is one thing. The second thing is this : That all Provincial matters are subject to concurrent jurisdiction by the Central Government under section 67, sub-clause (2) of the Government of India Act by previous sanction. Although any subject is regarded under Part II as a Provincial subject, it is none the less open to the Central Government to legislate upon the whole of that Central subject provided previous sanction is obtained from the Governor-General ?

Sir Samuel Hoare: Yes.

13,132. *Dr. B. R. Ambedkar:* On the side of the Provincial Government control is exercised by the Central Government on the concurrent field under section 80(*a*), whereby the local legislature of any Province may not with out the previous sanction of the Governor-General make or take into consideration any law for regulating any Central subject or regulating any Provincial subject which has been declared by rule or law as being subject to the Central expressly reserved to the Governor-General in Council by the law for the time being in force. That is the present position ?

Sir Samuel Hoare: Yes.

13,133. *Dr. B. R. Ambedkar:* That is practically all of the Provincial field as also the concurrent field provided the sanction of the Governor-General is obtained ?

Sir Samuel Hoare: Yes ; that is so.

13,134. *Dr. B. R. Ambedkar:* Now under the present proposals the whole thing is completely altered. I mean the concurrent power of the Central Legislature is proposed to be taken away in most of the matters ?

Sir Samuel Hoare: Except in the List 3, yes.

13,135. *Dr. B. R. Ambedkar:* I want next to draw your attention to List 3. I am sorry I lost my paper which I completed, but I think I am right in suggesting that a great many of the subjects included in List 3 are today either exclusively Central or concurrent ?

Sir Samuel Hoare: Yes ; I think it might be said that a number of them certainly are.

13,136. *Dr. B. R. Ambedkar:* Consequently it would be fair to suggest that under the present Government of India Act. Your Concurrent List has

always been treated as predominantly of All-India importance, under the Government of India Act as it is today, they being included either in the purely Central List or in the Concurrent List. My suggestion is that under the Government of India Act the field which is now concurrent was regarded in the Government of India Act as of All-India importance ?

Sir Samuel Hoare: Yes ; I think that generally is so. I think it is inevitable under a unitary form of Government.

13,137. *Dr. B. R. Ambedkar:* Quite so. My suggestion, therefore, Secretary of State, is this : That it would not be quite correct to say that a field of legislation which was under the Government of India Act regarded as of All-India importance is administratively to be hereafter regarded as purely provincial ?

Sir Samuel Hoare : No ; I should draw a great distinction between the conditions under a unitary form of Government and the conditions under a Federation in which the Provinces are autonomous. We are quite definitely changing the form of Indian Government from a highly centralised Government into a Federal Government.

13,138. *Dr. B. R. Ambedkar:* But I am only talking about the importance of the subject, a subject which, upto 1901, was regarded as of All-India importance, could not all of a sudden cease to be of All-India importance and become purely a local matter. I am aware that a great deal of concession has to be made for the new Provincial Government; the fact that the Government of India has upto now been regarded as more than of local importance has always to be recognised ?

Sir Samuel Hoare: I think it is very difficult to make such a comparison when it is admitted that the form of Government proposed is a very different type of Government. I think new conditions enter into the problem as soon as you move away from a unitary Government to a Government of Federation with autonomous Provinces.

13,139. *Dr. B. R. Ambedkar:* I will not press the point further, but I wanted to draw your attention to the fact that these subjects have hitherto been regarded as of more importance than purely Provincial subjects ?

Sir Samuel Hoare: I suppose, however, it would be fair to say that in most of them administration even under a highly centralised Government, has been Provincial.

13,140. *Dr. B. R. Ambedkar:* Yes ; subject to the control of the Centre ?

Sir Samuel Hoare: There again, I do not think that Dr. Ambedkar's comment upon my answer quite covers the whole field. It would not cover the transferred field in the Provinces.

13,141. *Dr. B. R. Ambedkar:* No ; that is so. Next, I want to draw your attention to Proposal 125 and to Section 45 of the Government of India Act. Section 45 of the Government of India Act is what is called the Obedience Clause, and lays down that a Provincial Government shall be under the superintendence or the control in all matters relating to the

Government and its Province and will also diligently and constantly inform the Government of India of its proceedings in all matters which ought in its opinion to be reported so as to give the required information. Now, what I would like to know from you, Secretary of State, is this. What is it that you wish to delete from the provisions and requirements of this Section 45 ? I see you do not want superintendence. That, of course, is obvious when the Provinces become autonomous. You want to retain direction only with regard to those matters which would be non-concurrent ?

Sir Samuel Hoare : Yes.

13,142. *Dr. B. R. Ambedkar:* And there is to be no control ? Now the question that I want to ask is this : Do you desire that the Central Government should be kept informed of what is happening under the field of Provincial administration, and do you desire that the Central Government should have the power to call for information will regard to the administration of any Provincial subject, so that it may inform itself of what is happening ?

Sir Samuel Hoare: No ; we do not have any such general intention. We assume that as soon as you set up a Federal Government you must then have a definite allocation of powers between the Federation and the units. In many respects, the clearer you keep that division, the less likely it is that responsibility should be blurred, and the less likely it is that there will be incessant between the two kinds of Government. Quite definitely, under our scheme—indeed, it is one of the basic principles of it—we now divide up these various duties between the Federation, the Provinces, and the Imperial Parliament.

13,143. *Mr. N. M. Joshi:* May I ask a supplementary question? As regards the point of information raised by Dr. Ambedkar, I want to ask you this: In some cases, the compilation of statistics relating to All-India will be valuable. Such, for instance, as figures of All-India as regards Education. At present, although education is a transferred subject, the Government of India issues an All-India Report. Will the future Government of India possess power to collect information as regards transferred and spend money upon the compilation of an All-India Report ?

Sir Samuel Hoare: Only within the specified Federal field ; anything outside the Federal field must be done by agreement.

Mr. N. M. Joshi: Education is not in the Federal field ?

Lord Eustace Percy: I am sure, Secretary of State, you are bearing in mind that in every Federation, for instance, in America, the research and statistical departments of the Federal Government go far beyond the Federal field.

13,144. *Mr. N. M. Joshi:* For instance, in America, they do publish an Educational Report for the Whole of the United States ?

Sir Samuel Hoare: Yes. If Lord Eustace will look now at Appendix VI List 1, he will see there that we have covered his point, that the Census and so on included in the Federal field, and there, I think, we must consider the

point of All-India statistics generally—statistics, that is to say, for the purpose of Federation.

13,145. *Lord Eustace Percy:* I do not understand quite why it is necessary to limit it in that way. There is no reason why a Federal Government should not publish information and why its information should be entirely confined to the Federal field. It is not so in any other Federation I have ever heard of ?

Sir Samuel Hoare: But, surely a Federal Government can only act for the purposes of Federation. A Federal Government has no *locus standi* outside the field of Federation.

13,146. *Lord Eustace Percy:* Of course, it cannot publish a report on the intellectual and moral progress of India if the Provincial Governments will not supply the information, I agree, but that hardly need be anticipated ?

Sir Samuel Hoare: I do not think there is any difference of opinion between Lord Eustace and myself; my comment was only directed towards keeping this kind of activity within reasonable limits. If a Federal Government constantly worried Provincial Governments for all sorts of information that had nothing to do with the Federal Government. Then, I can foresee constant difficulties arising between them.

13,147. *Dr. B. R. Ambedkar:* Might I give this instance which comes to my mind ? Supposing, for instance, in a particular Province, criminal proceedings are taken against a foreigner and reference is made by his Government to the Government of India with regard to the proceedings taken against this particular foreigner in a Province, and the Government of India needs information in order to deal with the subject. Would the Government of India be in a position to require the Provincial Government to furnish information with regard to that subject ?

Sir Samuel Hoare: Yes, and also to take action. It would come within the field of foreign affairs.

13,148. *Dr. B. R. Ambedkar:* I submit that law and order would be a transferred subject ?

Sir Samuel Hoare: That may be so, but foreign affairs have special reservation. This Clause 125, which you are discussing now, I think, would cover that. Foreign affairs is a Federal subject. Under the second paragraph of Clause 125 the Federal Government could give directions to the Provincial Government.

13,149. *Dr. B. R. Ambedkar:* I mean, you see the necessity of the Central Government obtaining such information as is necessary for its purpose ?

Sir Samuel Hoare: Certainly, and I accept the need.

13,150. *Dr. B. R. Ambedkar:* I thought I would draw your attention to it because I do not find the information in Proposal 125 ?

Sir Samuel Hoare: I think that presupposes obtaining the necessary information from the Provincial Government. It is intended to anyhow.

13,151. *Dr. B. R. Ambedkar:* Now, with regard to Proposal 114, there is a proviso tacked on to it that the concurrent power shall not be exercised so as to impose a financial burden. What I would like to know is this. If there is a dispute that a particular proposal does impose a financial burden, one party contending that it does not, another party contending that it does, now is this dispute to be resolved ? Largely and broadly, for instance, the Central Government proposes new service to be carried on by the new Provinces, one could draw the conclusion that such a thing would impose a financial burden, but there might be cases on the border-line where there might be a dispute ?

Sir Samuel Hoare: As the provisions stand at present, recourse would be to the Federal Court. That may not, however, be sufficiently comprehensive a method and, as I said the other day, we are considering the possibility of some kind of arbitral procedure to apply in cases that were not suited for settlement by the Federal Court.

13,152. *Mr. M. R. Jayakar:* It would fall at present under paragraph 155(i) ?

Sir Samuel Hoare: Yes, the Federal Court.

13,153. *Dr. B. R. Ambedkar:* There is just one more question I would like to ask you, Secretary of State, because I am not clear about it What I want to know is this : With regard to these administrative relations, first of all, is the Central Government bound to employ the Provincial Governments as its agents ?

Sir Samuel Hoare: Yes, in the concurrent field.

13,154. *Dr. B. R. Ambedkar:* It is bound to?

Sir Samuel Hoare: Yes.

13,155. *Dr. B. R. Ambedkar:* It cannot employ its own agents ?

Sir Samuel Hoare: It is our intention that the administration in the concurrent field should be Provincial.

13,156. *Dr. B. R. Ambedkar:* Subject to a question of whether its directions can be given or not—that is another matter ?

Sir Samuel Hoare: Yes.

13,157. *Dr. B. R. Ambedkar:* Then it would also follow that the Provincial Governments are bound to take up the work of the agency of the Central Government if they are called upon ?

Sir Samuel Hoare: Yes, under the Federal Law.

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†13,411. *Dr. B. R. Ambedkar:* Also the fact that the backward classes are included in the Communal Award by having a certain number of seats assigned to them. Would that not also bring them under the definition of "minorities" ? I mean if, as you said just now, the minorities would be those communities that are covered by and included in the Communal Award, I should imagine the Backward Classes also would be included in the Communal Award ?

† Minutes of Evidence, Vol. II-B, 17th October 1933. p. 1206.

Sir Samuel Hoare: I think after this discussion I had better look once again into this very difficult question of these comparatively small bodies of people scattered about outside the Excluded Areas, and perhaps Members of the Committee and the Delegates, will also think over the best way of meeting what appears to be a rather general desire.

13,412. *Dr. B. R. Ambedkar:* Might I draw your attention, Secretary of State, to the peculiar position occupied by the Criminal Tribes. The Criminal Tribes are more or less scattered in 'the general population. I am speaking of the particular experience of Bombay ; I suppose it is so in other Provinces. Now in order to protect the Criminal Tribes, which are, as I say, scattered in the general mass of the population, there is, I think, a Government of India Act called the Criminal Tribes Act. I am giving an illustration in order to suggest a method of protecting them. That Act gives the Governors some powers to make regulations with regard to the movements of these people and their interests. Would it not be possible for the Governor under paragraph 108 to pass some such regulation affecting the mode of living or protection of these people, although they may be scattered ?

Sir Samuel Hoare: It would only be possible under these clauses in the Excluded and partially Excluded Areas.

13,413. *Dr. B. R. Ambedkar:* What I wish to put to you is this : Would it not be open, for instance, to the Governor under paragraph 108, once he has got a definition of a person belonging to a tribal area or an aboriginal class, to make certain legislation affecting him whether he stayed in the Excluded Area or whether he stayed in the population, as is the case with the Criminal Classes ? The legislation of the Criminal Classes affects the members of the particular tribe no matter where he stays ?

Sir Malcolm Hailey; The Criminal Tribes Act is no longer a Government of India Act They have become matters of Provincial Legislation. The Criminal Tribes Act gives to the Local Government not specifically to the Governor, power to control the movements, to register and restrict in various ways persons who fall within the definition of Criminal Tribes as notified by the Local Government Therefore it would be difficult to apply that analogy to the extension of the special protection of the scattered aboriginals or Backward Classes. In any case, that is a matter which the local Legislature could undertake now of its own initiative. My point was that it gives no special power to the Governor as apart from the Local Government

13,414. *Dr. B. R. Ambedkar:* But under paragraph 108 the Governor could, for instance, by notification classify people as belonging to aboriginal or Backward Areas, and then pass legislation affecting them, no matter where they stayed ?

Sir Samuel Hoare: I do not think he could do that under paragraph 108. Under paragraph 108 he could only deal with people living in the scheduled territory.

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†13,530. *Dr. B. R. Ambedkar:* I want to ask you one or two questions to clear up the financial side of this problem. I want to ask a question, first of all, with regard to financing what are called the partially excluded areas ?

Sir Samuel Hoare: Yes.

13,531. *Dr. B. R. Ambedkar:* I take it that there would be a common budget, the provincial budget, in which the moneys provided for the partially excluded area would also be included ?

Sir Samuel Hoare: Yes.

13,532. *Dr. B. R. Ambedkar:* In that case, the whole budget, of course, would be open to discussion by the Legislature ?

Sir Samuel Hoare: Yes, subject to paragraph 109.

13,533. *Dr. B. R. Ambedkar:* I am coming to that. It is only when the Governor exercises his special responsibility under paragraph 70 that they would go outside the purview of the Legislature ? Is not that so ?

Sir Samuel Hoare: Yes, and paragraph 109.

13,534. *Dr. B. R. Ambedkar:* But ordinarily they would be part of the provincial budget ?

Sir Samuel Hoare: Yes.

13,535. *Dr. B. R. Ambedkar:* I want to ask a similar question with regard to the wholly excluded areas. I find that the special responsibility of the Governor under paragraph 70(*f*), is confined to partially excluded areas only?

Sir Samuel Hoare: Yes.

13,536. *Dr. B. R. Ambedkar:* That means that for the administration of the wholly excluded areas the Governor could not draw upon the provincial funds?

Sir Samuel Hoare: Dr. Ambedkar's very acute mind has discovered a gap in the White Paper. That is so.

13,537. *Dr. B. R. Ambedkar:* He could not draw upon them ?

Sir Samuel Hoare: As drafted he could not draw upon the provincial funds. It is an omission that we propose to set right in any final draft.

13,538. *Dr. B. R. Ambedkar:* Another paragraph is 49 to which I also want to draw your attention in this connection. There sub-clause (v) says that the expenditure required for excluded areas shall be the special responsibility of the Governor-General ?

Sir Samuel Hoare: Yes.

13,539. *Dr. B. R. Ambedkar:* Do I take it that in the administration of the wholly excluded area the Governor, who presumably would be the agent of the Governor-General, would have to depend upon such moneys as may be supplied to him by the Governor-General in the exercise of his special responsibility ?

Sir Samuel Hoare: No; the Governor himself will ask for the money from the Province.

† Minutes of Evidence, Vol. II-B, 17th October 1933, p. 1218.

13,540. *Dr. B. R. Ambedkar:* So you do propose to amend the provision dealing with the special responsibilities of the Governor to enable him to draw upon provincial funds for the administration of the wholly excluded areas also ?

Sir Samuel Hoare: Yes.

Mr. M. R. Jayakar: Does it not now fall under paragraph 96, sub-paragraph (*b*) : "The Governor will cause a statement of the estimated revenues", etc., and then you have given power to specify separately those additional proposals (if any), whether under the votable or non-votable heads, which the Governor regards as necessary for the fulfilment of any of his "special responsibilities". Special responsibilities include expenditure to be spent on the partially excluded areas.

13,541. *Dr. B. R. Ambedkar:* I am talking about wholly excluded areas ?

Sir Samuel Hoare: The point Dr. Ambedkar has raised deals with totally Excluded Areas and, by an error in drafting (it is nothing more than that) it would appear that the Provincial Governor, while he could draw upon the provincial funds for partially Excluded Areas, could not draw upon the provincial funds for the totally Excluded Areas. That is an omission in drafting.

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†13,722. *Dr. B. R. Ambedkar:* Might I ask just one question arising out of the questions put by Mr. Joshi. I just want to draw the attention of the Secretary of State to a difficulty which I feel. Under paragraph 109 as drafted the distinction made between the Excluded Area and the partially Excluded Area is on the basis that in the partially Excluded Area discussion is possible or the Governor has the power to disallow it, while in the case of an Excluded Area, the Governor is prohibited from allowing any discussion. My difficutly is this : Yesterday, I think in answer to a question by Major Attlee, you stated, Secretary of State, that the contribution which the Centre was bound to make to Assam in order to cover the deficit arising out of the Excluded Area there was not to be an earmarked amount but was to be part of the general revenues of the Province of Assam. I suppose I am correct in saying that that was what you stated ?

Sir Samuel Hoare: I think I left the question somewhat open as to whether it should be a specific grant or whether it should be merged in the general grant.

13,723. *Dr. B. R. Ambedkar:* The impression that I formed was that you said you did not think that it would be an earmarked amount ?

Sir Samuel Hoare: No. I think what I said, or anyhow what I intended to say, was that in the figures that we had been discussing we had assumed that it would be part of the general fund, but as to whether that was the best way of dealing with it I had an open mind.

13,724. *Dr. B. R. Ambedkar:* Very well. I will take another aspect of the thing. In answer to a question which I put you stated that *so* far as the

† Minutes of Evidence, Vol. II-B, 18th October 1933, pp. 1223-24.

financing of the Excluded Area was concerned you were going to rectify the omission in the White Paper and allow the Governor of the Province to draw upon the general fund of the Province of Assam for the expenditure that he was likely to incur under the Excluded Area ?

Sir Samuel Hoare: Yes.

13,725. *Dr. B. R. Ambedkar:* The difficulty that I feel is this, that if the Governor is to have the power to draw money from the Provincial Fund of Assam in order to carry on that administration in the Excluded Area, is it consistent with this provision in paragraph 109 that the Legislature should be altogether prohibited from discussing the affairs of the Excluded Area which is supposed to provide that money ?

Sir Samuel Hoare: I think Dr. Ambedkar does raise a difficult case. It is not a case in which a very large sum is involved, for this reason, that by far the greater part of the expenditure upon the totally Excluded Area of Assam will be found from Federal funds, but I think it may be assumed that there will be a sum in addition to that needed.

13,726. *Dr. B. R. Ambedkar:* As you said yesterday, in all these areas where there will be partially Excluded Areas the Budget would be a common Budget, unless, of course, the Governor certified an extra amount under his extra responsibility, in which case the Budget as a whole would be placed before the Legislature and open to discussion. I do not see how the difficulty would be got over ?

Sir Samuel Hoare: We had considered the advantage in a case of that kind of proceeding, say, by a contract but get over a period of years. What I am anxious to avoid are frequent discussions.

13,727. *Dr. B. R. Ambedkar:* I suppose the purpose could be best served by having a common provision for both, prohibiting discussion and allowing the Governor the power to prohibit it or disallow it, whichever he thought necessary ?

Sir Samuel Hoare: It was pressed upon us very strongly by the people working in these tracts that there was a great advantage in excluding discussions in the case of the totally Excluded Areas, but I have always seen the difficulty of the expenditure in Assam from provincial funds. I think the Committee and the Delegates might consider whether supposing there was a contract budget for a period of years when the contract was renewed there might then be a discussion; but even that (I say it so that the Committee should know the whole position) is contrary to the views of a good many of the experts.

13,728. *Dr. B. R. Ambedkar:* But I suppose the purpose of the experts and the purpose that you have in view would be very well served by having this power of the Governor to allow a resolution and discussion ?

Sir Samuel Hoare: What we wanted to avoid was the Governor constantly having to refuse discussions of this kind. It would put him into a difficult position, and we do not. contemplate in the case of totally Excluded Areas that there would be discussions, and we do not want to take any action

that would appear to permit discussions that we think would be harmful to the area ; that is what it comes to.

Dr. B. R. Ambedkar: I was only suggesting that the Governor's power would be adequate protection against that That is all I ask.

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†13,923. *Dr. B. R. Ambedkar:* Might I ask one question on that point ? As I understand it in the concurrent field there will be an appeal to the Privy Council from the decisions of the High Court ?

Sir Samuel Hoare: Yes.

13,924. *Dr. B. R. Ambedkar:* What I do not understand is this, if there can be an appeal to the Privy Council in an issue arising out of an interpretation of the concurrent law in the concurrent field, what difficulty can there be in allowing such an appeal to the Federal Court ?

Sir Samuel Hoare: One of our reasons anyhow is that we do not want to flood the Federal Court with an enormous amount of work and the demand for a very large number of Judges at the beginning.

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‡14,373. *Dr. B. R. Ambedkar:* Secretary of State, I just want to ask one question about paragraph 155. This para 155 relates to exclusive original jurisdiction of the Federal Court. I do not understand the distinction that seems to be made there. I find on reading paragraph 155 that you make a distinction in the matter of the exclusive original jurisdiction of the Federal Court on the basis that where the parties to the dispute are as there mentioned in sub-clauses (*a*) and (*b*), the exclusive original jurisdiction is given to the Federal Court, but the Federal Court cannot have an exclusive original jurisdiction if the parties are private individuals. Now the question I would like to ask is this. The issue in both cases is the same, namely, the constitution issue involving the interpretation of the Constitution Act. What I do not understand is this. Why there should be this distinction in the matter of an exclusive original jurisdiction of the Federal Court based on parties when the issue is the same ?

Sir Samuel Hoare: I think this is what usually happens with Federal Courts that the original jurisdiction is jurisdiction between units, and it is in the appellate jurisdiction that the individual comes into it as of right

14,374. *Dr. B. R. Ambedkar:* I mean, if the intention is that where, for instance, the interpretation of the Constitution Act is involved, the matter should at once go to the Federal Court, then I think there can be no distinction made whether the parties are parties which are units of the Federation or of individuals ?

Sir Samuel Hoare: I would have thought that this was one of the necessary working conditions of a Federal Court. I think if it had original jurisdiction in individual cases as well it would be entirely swamped with cases.

† Minutes of Evidence, Vol. II-B, 19th October 1933, p. 1247.

‡ *Ibid.,* dated 20th October 1933, p. 1292.

Dr. B. R. Ambedkar: But, all the same, the issue in both cases would be the same, namely, the interpretation of the Constitution Act. I can quite understand the distinction being based upon different causes of action, but where the cause of action is the same, or rather the plea is the same, namely, that there is a breach of the constitution, I do not see any justification in making this distinction based upon units and parties.

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†14,380. *Dr. B. R. Ambedkar:* Now there is another question which I wish to ask the Secretary of State, and it is this. I do not find any provision in the White Paper about it. Do not you think, Secretary of State, it is desirable that there should be provision made allowing private individuals to sue for a declaration that a particular act is unconstitutional, although he is not seeking any specific relief ? I mean, all the cases that you have provided for I find are cases in which some specific relief is asked for. It may be desirable that a private party, in order to safeguard his future, may like to test at once if he has any doubts whether the particular proposal made by the Federation or by a Province is unconstitutional so that he may safeguard his position for the future, although, at the moment, when he is filing the suit for the proceedings, he has no reason to seek any specific relief ?

Sir Samuel Hoare: I have some hesitation, not being a lawyer, in answering a question of that kind, but if I may give offhand the answer of a layman I would have said that it was extraordinarily difficult to allow a general right of that kind without any specific issue affecting the individual.

Marquess of Reading: May I make the observation that what you have said is really the law as it is applied in this country ? We do not allow these applications of what are called Qia timet, that is to say, merely a case of difficulty hereafter to get a declaration when there is no substantial dispute and the moment there is a dispute it can be done. We never allow it, and I do not think they do in India.

Sir Hari Singh Gour: No cause of action ; no right of suit.

Mr. Zafrulla Khan: Indeed there would be very great difficulties if such a provision were inserted in the Constitution. You would start a million suits being instituted in India the moment the Act was passed.

14,381. *Dr. B. R. Ambedkar:* I do not know whether everybody will exercise his right ?

Sir Samuel Hoare: It would be an excellent affair for the legal profession in India.

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‡15,741. *Dr. B. R. Ambedkar:* Just one question, Secretary of State, dealing with the exceptions in (c), "Special Powers" (Special powers of the Governor-General) as I understand, the position is this : Generally

† Minutes of Evidence, Vol. II-B, 20th October 1933, p. 1293.

‡ *Ibid.,* 7th November 1933 p. 1344.

speaking, the Legislature cannot pass a discriminatory Act. I am speaking quite generally ?

Sir Samuel Hoare : Yes.

15,742. *Dr. B. R. Ambedkar:* Administratively the Government of the day cannot discriminate unless it satisfies the Governor that there is no discrimination in fact ?

Sir Samuel Hoare: No.

Mr. M. R. Jayakar: The Governor-General.

15,743. *Dr. B. R. Ambedkar:* The Governor-General or the Governor, because the proviso refers to both. That is theoretically and generally the position, is it not ?

Sir Samuel Hoare: Yes.

15,744. *Dr. B. R. Ambedkar:* Now under sub-clause (*c*) the Governor-General will have the power to pass a legislative enactment making a discrimination if it came within the terms of this proviso. I mean, this power you give to the Governor not only for administrative purposes, but also for legislative purposes ?

Sir Samuel Hoare: It is the general power under Proposal 18 of the White Paper.

15,745. *Dr. B. R. Ambedkar:* Governing both ; so that the Governor may discriminate although the Government may not ?

Sir Samuel Hoare: For the prevention of any grave menace to peace and tranquillity.

15,746. *Dr. B. R. Ambedkar:* Yes ; Now I want to ask what is the import of this. I will put one or two specific illustrations to see if that is what you mean. I suppose under (his clause it would be possible for the Governor-General, by way of prevention of any grave menace, to say that certain persons shall not be employed in the Army. Would it be open to the Governor to do so under this ?

Sir Samuel Hoare: I suppose theoretically it would be, but the case would be very remote in connection with a grave menace to peace and tranquillity. I cannot, for instance, imagine putting the concrete case which is perhaps in Dr. Ambedkar's mind, a Governor-General saying that a proposal to start a unit endangered the peace and tranquillity of India.

15,747. *Dr. B. R. Ambedkar:* I am glad to hear that. That is what rather disturbed me ?

Sir Samuel Hoare: I am not saying whether from a military point of view it would be a good or a bad plan but I cannot see that this would come within the scope of this safeguard.

15,748. *Dr. B. R. Ambedkar:* Nor would it come within the special powers of the Governor in this clause to say that the Depressed Classes shall not be employed in the Police ?

Sir Samuel Hoare: No.

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Babasaheb Dr. B.R. Ambedkar

(14th April 1891 - 6th December 1956)

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DR. BABASAHEB AMBEDKAR
WRITINGS AND SPEECHES

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by

VASANT MOON

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Prof. Hari Narake

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Kumari Selja

Minister for Social Justice and Empowerment
& Chairperson, Dr. Ambedkar Foundation

MESSAGE

Babasaheb Dr. B.R. Ambedkar, the Chief Architect of Indian Constitution was a scholar par excellence, a philosopher, a visionary, an emancipator and a true nationalist. He led a number of social movements to secure human rights to the oppressed and depressed sections of the society. He stands as a symbol of struggle for social justice.

The Government of Maharashtra has done a highly commendable work of publication of volumes of unpublished works of Dr. Ambedkar, which have brought out his ideology and philosophy before the Nation and the world.

In pursuance of the recommendations of the Centenary Celebrations Committee of Dr. Ambedkar, constituted under the chairmanship of the then Prime Minister of India, the Dr. Ambedkar Foundation (DAF) was set up for implementation of different schemes, projects and activities for furthering the ideology and message of Dr. Ambedkar among the masses in India as well as abroad.

The DAF took up the work of translation and publication of the Collected Works of Babasaheb Dr. B.R. Ambedkar published by the Government of Maharashtra in English and Marathi into Hindi and other regional languages. I am extremely thankful to the Government of Maharashtra's consent for bringing out the works of Dr. Ambedkar in English also by the Dr. Ambedkar Foundation.

Dr. Ambedkar's writings are as relevant today as were at the time when these were penned. He firmly believed that our political democracy must stand on the base of social democracy which means a way of life which recognizes liberty, equality and fraternity as the principles of life. He emphasized on measuring the progress of a community by the degree of progress which women have achieved. According to him if we want to maintain democracy not merely in form, but also in fact, we must hold fast to constitutional methods of achieving our social and economic objectives. He advocated that in our political, social and economic life, we must have the principle of one man, one vote, one value.

There is a great deal that we can learn from Dr. Ambedkar's ideology and philosophy which would be beneficial to our Nation building endeavor. I am glad that the DAF is taking steps to spread Dr. Ambedkar's ideology and philosophy to an even wider readership.

I would be grateful for any suggestions on publication of works of Babasaheb Dr. Ambedkar.

(Kumari Selja)

Collected Works of Babasaheb Dr. Ambedkar (CWBA)

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FOREWORD

Dr. Ambedkar, the Chief Architect of Indian Constitution, is well-known not only as a constitutionalist and a parliamentarian but also as a scholar and active reformer all over the world. As a champion of the down-trodden he waged relentless struggle against the oppressive features of Hindu society. Throughout his life, he strove for establishment of a new social order based on the principles of liberty, equality, justice and universal brotherhood.

The Indian society owes a tremendous debt to his radical and humanitarian approach for solution of the problems of the Backward Classes.

The Government of Maharashtra is committed to the welfare of the backward classes for whose uplift Dr. Ambedkar dedicated his whole life. Thoughts and teachings of great men like Dr. Ambedkar will always serve as a beacon light for the new generation. Our Government, therefore, feels proud and happy to bring out these three consecutive volumes of his unpublished writings as part of our total project of publication of the writings of Dr. Ambedkar.

(S. B. CHAVAN)

Chief Minister of Maharashtra

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PREFACE

I consider it a great honour to have been asked to write a preface to these volumes which consist of hitherto unpublished writings of Dr. Babasaheb Ambedkar.

Dr. Ambedkar occupies a position of high eminence among the learned scholars of Indian society and philosophy. His erudition and learning as reflected through his writings may serve as a beacon light for rational approach towards our social and religious problems.

The Government of Maharashtra has undertaken the work of bringing out complete writings of Dr. Ambedkar in a series of volumes. The reconstituted Committee appointed for this work, has now come up with three consecutive volumes of the unpublished writings, which were very eagerly awaited by the students of India's social and political evolution.

The present volumes, which deal with philosophical as well as social problems of Indian society, may prove interesting to the scholars as well as to the new and young generation which is eager to find solutions to the national problems on a rational basis.

The Editorial Board is to be congratulated for the zeal, dedication and care which they brought to bear on the expeditious publication of these volumes.

(Prof. RAM MEGHE)

Minister for Education,
Maharashtra State

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INTRODUCTION

The members of Dr. Babasaheb Ambedkar Source Material Publication Committee are pleased to present this volume of Dr. Babasaheb Ambedkar's unpublished writings to readers on behalf of the Government of Maharashtra. This volume is significant and unique in several respects. Firstly, the contents of this volume were hitherto unknown. These are the unpublished writings of Dr. Ambedkar which were in the custody of the Administrator General and the custodian of Dr. Ambedkar's property. The students of Dr. Ambedkar's writings and his devoted followers were anxious to read these writings. Some of the followers of Dr. Ambedkar had even gone to the court to secure permission for the printing of these writings although the manuscripts were not in their possession. Thus, these writings had assumed such significance that it was even feared that they had been destroyed or lost.

There is a second reason why this volume is significant. Dr. Ambedkar is known for his versatile genius, but his interpretation of the philosophy of and his historical analysis of the Hindu religion as expressed in these pages may throw new light on his thought.

The third important point is that Dr. Ambedkar's analysis of Hindu Philosophy is intended not as an intellectual exercise but as a definite approach to the strengthening of the Hindu society on the basis of the human values of equality, liberty and fraternity. The analysis ultimately points towards uplifting the down-trodden and absorbing the masses in the national mainstream.

It would not be out of place to note down a few words about the transfer of these papers to the Committee for publication. During his life time, Dr. Ambedkar published many books, but also planned many others. He had also expressed his intention to write his autobiography, the life of Mahatma Phule and the History of the Indian Army, but left no record of any research on these subjects.

After his death, in 1956, all the papers including his unpublished writings were taken into custody by the custodian of the High Court of Delhi. Later, these papers were transferred to the Administrator General of the Government of Maharashtra. Since then, the boxes containing the unpublished manuscripts of Dr. Ambedkar and several other papers were in the custody of the Administrator General.

It was learned that Shri J. B. Bansod, an Advocate from Nagpur, had filed a suit against the Government in the High Court Bench at Nagpur,

which was later transferred to the High Court of Judicature at Bombay. The petitioner had made a simple request seeking permission from the court to either allow him to publish the unpublished writings of Dr. Ambedkar or to direct the Government to publish the same as they had assumed national significance. This litigation was pending before the Bombay High Court for several years.

After the formation of this Committee and after the appointment of Shri V. W. Moon as Officer on Special Duty in 1978, it was felt necessary to secure the unpublished writings of Dr. Ambedkar and to publish them as material of historical importance. Shri Moon personally contacted the legal heris of Dr. Ambedkar and the Administrator General. Shri Bansod, Advocate, was also requested to cooperate. It must be noted with our appreciation that Smt. Savita B. Ambedkar, Shri Prakash Y. Ambedkar and his family members and Shri Bansod, Advocate, all showed keen interest, consented to the Government project for publication and agreed to transfer all the boxes containing the Ambedkar papers to the Government. At last, the Administrator General agreed to transfer all the papers contained in five iron trunks to this Committee. Accordingly, Shri Vasant Moon took possession of the boxes on behalf of the Government of Maharashtra on 18-9-1981. All the five trunks are since stored safely in one of the Officers' Chambers in the Education Department of Mantralaya.

Shri M. B. Chitnis, who, as a close associate of Dr. Ambedkar, was intimately familiar with the latter's handwriting. He was at that time Chairman of the Editorial Board. On receipt of the papers, he spent a fortnight identifying which of the papers were Dr. Ambedkar's manuscripts. This basic process of identification having been accomplished, there remained the stupendous task of reading, interpreting and collating the vast range of MS material in the collection, to decide in what form and in what order it should be presented to the public.

In 1981, Shri. Moon, OSD, set to work on this project. This work of matching and sorting was a delicate and difficult one as well as immensely time-consuming. Many of the works what Dr. Ambedkar had evidently intended to complete, were scattered here and there in an incomplete state in the manuscript form. It was therefore necessary to retrieve and collate the fragments in order to place them in proper order. Only after very many hours of reading, selecting and reflecting not only on the contents of these papers but also what was already known of Dr. Ambedkar's work and thought, did Shri. Moon arrive at the present selection and arrangement of those MS.

This task was not merely strenuous at the intellectual level but also at the physical one due to the condition of the papers themselves. These had been stored in the closed boxes for more than 30 years. They were fumigated with insecticides, with the result that a most poisonous foul odour emitted from these papers. Shri Moon and his staff had to suffer infection of the skin and eyes and required medical treatment.

After two years of strenuous work, Shri Moon had submitted a detailed report to the Editorial Board on 17-9-83 containing recommendations as to the proper arrangement and presentation of the papers as they were to appear in a published form. The present volume is substantially in accordance with these recommendations.

In the execution of this laborious work, invaluable assistance was rendered by the Stenographers Shri Anil Kavale and Shri L. R. Meher, and Shri S. A. Mungekar as a clerk.

After the proposed arrangements had been approved by the Dr. Babasaheb Ambedkar Source Material Publication Editorial Committee in its meeting Dt. 23-9-86, Shri Moon and his staff took on the tasks associated with publication, i.e. proof reading and indexing.

In the papers that the Editorial Board scrutinised, we have come across 51 titles of unpublished writings (including 26 of 'Riddles in Hinduism'). In addition to these, we have received 14 unpublished essays of Dr. Ambedkar from Shri S. S. Rege, the Ex-Librarian of the Siddharth College, Bombay. The essays received from Shri Rege are shown by asterisk in the list mentioned below. Not all these essays are complete. All the essays have been divided into three volumes as under :—

VOLUME 3:

1. Philosophy of Hinduism
2. The Hindu Social Order : Its Essential Principles
3. The Hindu Social Order : Its Unique Features
4. Symbols of Hinduism
5. Ancient India on Exhumation
6. The Ancient Regime—The State of the Aryan Society
7. A Sunken Priesthood
8. Reformers and Their Fate

*9. The Decline and Fall of Buddhism

10. The Literature of Brahminism

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12. The Morals of the House—Manusmriti or the Gospel of Counter-Revolution

13. The Philosophic Defence of Counter-Revolution: Krishna and His Gita

14. Analytical notes of Virat Parva and Uddyog Parva

15. Brahmins V/s Kshatriyas
16. Shudras and the Counter-Revolution
17. The Woman and the Counter-Revolution
18. Buddha or Karl Marx
19. Schemes of books.

VOLUME 4:

Riddles in Hinduism (27 Chapters including 1 from Shri S. S. Rege)

VOLUME 5 :

1. Untouchables or Children of India's Ghetto
*2. The House the Hindus have Built
*3. The Rock on which it is Built
*4. Why Lawlessness is Lawful ?
*5. Touchables Vs Untouchables
*6. Hinduism and the Legacy of Brahminism
*7. Parallel Cases
8. Civilization or Felony
9. The Origin of Untouchability
10. The Curse of Caste
*11. From Millions to Fractions
12. The Revolt of Untouchables
13. Held at Bay
14. Away from the Hindus
15. A Warning to the Untouchables
16. Caste and Conversion
*17. Christianizing the Untouchables
*18. The Condition of the Convert
*19. Under the Providence of Mr. Gandhi
*20. Gandhi and His Fast

In this Introduction we propose to deal with all the questions raised about these manuscripts in order to clear the air about the publication of all Dr. Ambedkar's extant writings.

It is generally believed by the followers of Dr. Ambedkar that Dr. Ambedkar had completed the books entitled : (1) Riddles of Hinduism, (2) The Buddha and Karl Marx and (3) Revolution and Counter-Revolution. The manuscripts of "Riddles of Hinduism" have been found in separate chapters bundled together in one file. These chapters contain corrections, erasures, alterations, etc. by the hands of Dr. Ambedkar himself. Fortunately, the introduction by Dr. Ambedkar is also available for this book. We, however, regret that the

final manuscript of this volume has not been found. The Committee has accepted the title "Riddles in Hinduism", given by Dr. Ambedkar in his Introduction to the Book.

"The Buddha and Karl Marx" was also said to have been completed by Dr. Ambedkar, but we have not come across such a book among the manuscripts. There is, however, a typed copy of a book entitled "Gautam the Buddha and Karl Marx" (A Critique and Comparative Study of their Systems of Philosophy) by LEUKE—Vijaya Publishing House, Colombo) (year of publication not mentioned). One short essay of 34 pages by Dr. Ambedkar entitled "Buddha or Karl Marx" was however found and being included in the third volume. A third book, viz., "Revolution and Counter-Revolution", was also believed to have been completed by Dr. Ambedkar, A printed scheme for this treatise has been found in the papers received by the Committee. It appears that Dr. Ambedkar had started working on various chapters simultaneously. Scattered pages have been found in the boxes and are gathered together.

We are tempted here to present the process of writing of Dr. Ambedkar which will give an idea of the colossal efforts he used to make in the writing of a book. He had had his own discipline. He used to make a blue-print of the book before starting the text. The Editorial Board found many such blue-prints designed by him, viz., "India and Communism", "Riddles in Hinduism", "Can I be a Hindu?", "Revolution and Counter-Revolution", "What Brahmins have done to the Untouchables", "Essays on Bhagvat Gita", "Buddha and Karl Marx", etc. But some of these were not even begun and those which were begun were left incomplete.

It will be interesting to present an illustration. Dr. Ambedkar had prepared a blue-print for a book entitled "India and Communism".

The contents are as follows :

Part—I The Pre-requisites of Communism

Chapter 1—The Birth-place of Communism

Chapter 2—Communism & Democracy

Chapter 3—Communism & Social Order

Part—II India and the Pre-requisites of Communism

Chapter 4—The Hindu Social Order

Chapter 5—The Basis of the Hindu Social Order

Chapter 6—Impediments to Communism arising from the Social Order.

Part—III What then shall we do?

Chapter 1—Marx and the European Social Order

Chapter 2—Manu and the Hindu Social Order.

Dr. Ambedkar could complete only Chapters 4 and 5 of the scheme viz., "The Hindu Social Order" and "The Basis of the Hindu Social Order". It appears that when it struck to him that he should deal with two more topics in Part III he added those two topics in his own handwriting on the typed page. In the same well-bound file of typed material, there appears a page entitled "Can I be a Hindu ?" which bears his signature in pencil and a table of contents on the next page as follows :

Introduction.

Symbols of Hinduism

Part-I—Caste

Part-II—Cults—Worship of Deities

Part-Ill—Superman.

The third page bears sub-titles of the chapters as follows:—

1. Symbols represent the soul of a thing
2. Symbols of Christianity
3. Symbols of Islam
4. Symbols of Jainism
5. Symbols of Buddhism
6. Symbols of Hinduism
7. What are the Symbols of Hinduism ?

Three

1. Caste.

2. Cults—

(1) Rama

(2) Krishna

(3) Shiva

(4) Vishnu

3. Service of Superman.

The plan as designed above remains incomplete except for the chapter on, "Symbols of Hinduism".

The Editorial Committee has found a chapter on "Riddles of Rama and Krishna" which might have been intended for the volume "Riddles in Hinduism". The 24 riddles as proposed in his original plan were changed often in blue-prints. The seriatim of the contents and chapters and the arrangement of the file do not synchronize. The chapter on Rama and Krishna did not find a place in the listing of the contents of the book. However, we are including it in the volume on Riddles.

At the end we are confident that our time and our pains will not go unrewarded when Dr. Babasaheb Ambedkar's hitherto unpublished works will be brought in a proper form before the general public as well as interested scholars.

We place on record our deep sense of gratitude to Smt. Savita B. Ambedkar, Shri. Prakash Y. Ambedkar and his family members for granting permission to the Government for publication of all the writings of Dr. Ambedkar. Shri. Y. I. Desai, the Administrator General and Custodian of Dr. Ambedkar's Estate deserves our appreciation for transfer of the manuscripts to the Government. Shri. J. B. Bansod, an Advocate from Nagpur also deserves thanks for co-operating with the Committee. We record our deep appreciation of the Late Shri. M. B. Chitnis for sparing his valuable time, labour and guidance in his failing health.

We express our sincere gratitude to Shri Shankarrao Chavan, the Hon'ble Chief Minister, Prof. Ram Meghe, the Education Minister, and Miss Chandrika Keniya, the Minister of State for Education, Maharashtra State, for their decision to publish all the manuscripts. We thank Shri. R. S. Gavai, the Vice-President of the Committee and MLC for his initiative, guidance and invaluable efforts in solving the Committee's problems. We are also thankful to Shri. Madhusudan Kolhatkar, Secretary, Education Department, Maharashtra State, for his valuable advice. We thank Shri R. S. Jambhule, Director; Shri. S. A. Deokar, Joint Director; Shri. J. B. Kulkarni, Asistant Secretary; Shri. M. M. Awate, Deputy Director and Shri E. M. Meshram, Superintendent, all of the Education Department, for taking keen interest in the process of publication.

A special mention needs to be made of Dr. P. T. Borale, Shri S. S. Rege, Dr. B. D. Phadke and Shri Daya Pawar, Members of the Committee, who met together several times and made invaluable suggestions in the editing of this volume. We express our deep appreciation for their contribution.

Shri. S. S. Rege, a Member of this Committee, was kind enough to spare the manuscripts of 14 essays of Dr. Babasaheb Ambedkar which had been in his possession for many years. These essays have enriched the material included in these three volumes. The Members of the Committee are most indebted to Shri. Rege for his kindness.

Shri. R. B. Alva, the Director, Shri. G. D Dhond, the Deputy Director, Shri. P. S. More, the Manager, Shri. A. C. Sayyad and Shri R. J. Mahatekar, the Dy. Managers, Shri. J. S. Nagvekar, Operator Film Setter, and the staff of the Department of Printing and Stationery deserve full appreciation and thanks for their expeditious printing with utmost care and sincerity.

EDITORS
Dr. Babasaheb Ambedkar Source
Material Publication Committee
Maharashtra State

Bombay
14th April 1987

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PART I

Philosophy of Hinduism

This script on Philosophy of Hinduism was found as a well-bound copy which we feel is complete by itself. The whole script seems to be a Chapter of one big scheme. This foolscap original typed copy consists of 169 pages.—Editors

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CHAPTER 1

Philosophy of Hinduism

I

What is the philosophy of Hinduism ? This is a question which arises in its logical sequence. But apart from its logical sequence its importance is such that it can never be omitted from consideration. Without it no one can understand the aims and ideals of Hinduism.

It is obvious that such a study must be preceded by a certain amount of what may be called clearing of the ground and defining of the terms involved.

At the outset it may be asked what does this proposed title comprehend ? Is this title of the Philosophy of Hinduism of the same nature as that of the Philosophy of Religion ? I wish I could commit myself one way or the other on this point. Indeed I cannot. I have read a good deal on the subject, but I confess I have not got a clear idea of what is meant by Philosophy of Religion. This is probably due to two facts. In the first place while religion is something definite, there is nothing definite[1] as to what is to be included in the term philosophy In the second place Philosophy and Religion have been adversaries if not actual antagonists as may be seen from the story of the philosopher and the theologian. According to the story, the two were engaged in disputation and the theologian accused the philosopher that he was "like a blind man in a dark room, looking for a black cat which was not there". In reply the philosopher charged the theologian saying that "he was like a blind man in the dark room, looking for a black cat which was not there but he declared to have found there" Perhaps it is the unhappy chioce of the title — Philosophy of Religion—which is responsible for causing confusion in the matter of the exact definition of its field. The nearest approach to an intelligible statement as to the exact subject matter of Philosophy of Religion I find in Prof. Pringle-Pattison who observes[2] :—

[1] See Article on 'Philosophy' in Munro's Encyclopaedia of Education.

[2] The Philosophy of Religion. Oxf. pages 1-2.

"A few words may be useful at the outset as an indication of what we commonly mean by the Philosophy of Religion. Philosophy was described long ago by Plato as the synoptic view of things. That is to say, it is the attempt to see things together - to keep all the main features of the world in view, and to grasp them in their relation to one another as parts of one whole. Only thus can we acquire a sense of proportion and estimate aright the significance of any particular range of facts for our ultimate conclusions about the nature of the world-process and the world-ground. Accordingly, the philosophy of any particular department of experience, the Philosophy of Religion, the Philosophy of Art, the Philosophy of Law, is to be taken as meaning an analysis and interpretation of the experience in question in its bearing upon our view of man and the world in which he lives. And when the facts upon which we concentrate are so universal, and in their nature so remarkable, as those disclosed by the history of religion—the philosophy of man's religious experience—cannot but exercise a determining influence upon our general philosophical conclusions. In fact with many writers the particular discussion tends to merge in the more general."

"The facts with which a philosophy of religion has to deal are supplied by the history of religion, in the most comprehensive sense of that term. As Tiele puts it, "all religions of the civilized and uncivilised world, dead and living", is a 'historical and psychological phenomenon' in all its manifestations. These facts, it should be noted, constitute the data of the philosophy of religion; they do not themselves constitute a 'philosophy' or, in Tiele's use of the term, a 'science' of religion. 'If', he says, 'I have minutely described all the religions in existence, their doctrines, myths and customs, the observances they inculcate and the organization of their adherents, tracing the different religions from their origin to their bloom and decay, I have merely collected the materials with which the science of religion works'. 'The historical record, however complete, is not enough; pure history is not philosophy. To achieve a philosophy of religion we should be able to discover in the varied manifestations a common principle to whose roots in human nature we can point, whose evolution we can trace by itelligible stages from lower to higher and more adequate forms, as well as its intimate relations with the other main factors in human civilization".

If this is Philosophy of Religion it appears to me that it is merely a different name for that department of study which is called comparative religion with the added aim of discovering a common

principle in the varied manifestations of religion. Whatever be the scope and value of such a study, I am using the title Philosophy of Religion to denote something quite different from the sense and aim given to it by Prof. Pringle-Pattison. I am using the word Philosophy in its original sense which was two-fold. It meant teachings as it did when people spoke of the philosophy of Socrates or the philosophy of Plato. In another sense it meant critical reason used in passing judgments upon things and events. Proceeding on this basis Philosophy of Religion is to me not a merely descriptive science. I regard it as being both descriptive as well as normative. In so far as it deals with the teachings of a Religion, Philosophy of Religion becomes a descriptive science. In so far as it involves the use of critical reason for passing judgment on those teachings, the Philosophy of Religion becomes a normative science. From this it will be clear what I shall be concerned with in this study of the Philosophy of Hinduism. To be explicit I shall be putting Hinduism on its trial to assess its worth as away of life.

Here is one part of the ground cleared. There remains another part to be cleared. That concerns the ascertainment of the factors concerned and the definitions of the terms I shall be using.

A study of the Philosophy of Religion it seems to me involves the determination of three dimensions. I call them dimensions because they are like the unknown quantities contained as factors in a product. One must ascertain and define these dimensions of the Philosophy of Religion if an examination of it is to be fruitful.

Of the three dimensions, Religion is the first. One must therefore define what he understands by religion in order to avoid argument being directed at cross purposes. This is particularly necessary in the case of Religion for the reason that there is no agreement as to its exact definition. This is no place to enter upon an elaborate consideration of this question. I will therefore content myself by stating the meaning in which I am using the word in the discussion which follows.

I am using the word Religion to mean Theology. This will perhaps be insufficient for the purposes of definition. For there are different kinds of Theologies and I must particularize which one I mean. Historically there have been two Theologies spoken of from ancient times. *Mythical* theology and *Civil* theology. The Greeks who distinguished them gave each a definite content. By Mythical theology they meant the tales of gods and their doings told in or implied by current imaginative literature. Civil theology according to them consisted of the knowledge of the various feasts and fasts of the State

Calendar and the ritual apropriate to them. I am not using the word theology in either of these two senses of that word. I mean by theology *natural theology'* which is the doctrine of God and the divine, as an integral part of the theory of nature. As traditionally understood there are three thesis which 'natural theology' propounds. (1) That God exists and is the author of what we call nature or universe (2) That God controls all the events which make nature and (3) God exercises a government over mankind in accordance with his sovereign moral law.

I am aware there is another class of theology known as *Revealed Theology*—spontaneous self disclosure of divine reality—which may be distinguished from *Natural theology*. But this distinction does not really matter. For as has been pointed out[2] that a revelation may either "leave the results won by *Natural theology* standing without modifications, merely supplementing them by further knowledge not attainable by unassisted human effort" or it "may transform Natural theology in such a way that all the truths of natural theology would acquire richer and deeper meaning when seen in the light of a true revelation." But the view that a genuine *natural theology* and a genuine *revelational theology* might stand in real contradiction may be safely excluded as not being possible.

Taking the three thesis of Theology namely (1) the existence of God, (2) God's providential government of the universe and (3) God's moral government of mankind, I take Religion to mean the propounding of an ideal scheme of divine governance the aim and object of which is to make the social order in which men live a moral order. This is what I understand by Religion and this is the sense in which I shall be using the term Religion in this discussion.

The second dimension is to know the ideal scheme for which a Religion stands. To define what is the fixed, permanent and dominant part in the religion of any society and to separate its essential characteristics from those which are unessential is often very difficult. The reason for this difficulty in all probability lies in the difficulty pointed out by Prof. Robertson Smith[3] when he says:—

> "The traditional usages of religion had grown up gradually in the course of many centuries, and reflected habits of thought, characteristic of very diverse stages of man's intellectual and moral development. No conception of the nature of the gods could possibly afford the clue to all parts of that motley complex of rites and ceremonies which the later paganism had received by

[1] Natural Theology as a distinct department of study owes its origin to Plato-see Laws.

[2] A. E. Taylor. "The Faith of a Moralist" p. 19.

[3] The Religion of the Semites (1927)

inheritance, from a series of ancestors in every state of culture from pure savagery upwards. The record of the religious thought of mankind, as it is embodied in religious institutions, resembles the geological record of the history of the earth's crust; the new and the old are preserved side by side, or rather layer upon layer".

The same thing has happened in India. Speaking about the growth of Religion in India, says Prof. Max Muller :—

"We have seen a religion growing up from stage to stage, from the simplest childish prayers to the highest metaphysical abstractions. In the majority of the hymns of the Veda we might recognise the childhood; in the Brahmanas and their sacrificial, domestic and moral ordinances the busy manhood; in the Upanishads the old age of the Vedic religion. We could have well understood if, with the historical progress of the Indian mind, they had discarded the purely childish prayers as soon as they had arrived at the maturity of the Brahamans; and if, when the vanity of sacrifices and the real character of the old gods had once been recognised, they would have been superseded by the more exalted religion of the Upanishads. But it was not so. Every religious thought that had once found expression in India, that had once been handed down as a sacred heirloom, was preserved, and the thoughts of the three historical periods, the childhood, the manhood, and the old age of the Indian nation, were made to do permanent service in the three stages of the life of every individual. Thus alone can we explain how the same sacred code, the Veda, contains not only the records of different phases of religious thought, but of doctrines which we may call almost diametrically opposed to each other."

But this difficulty is not so great in the case of Religions which are *positive* religions. The fundamental characteristic of *positive* Religions, is that they have not grown up like primitive religions, under the action of unconscious forces operating silently from age to age, but trace their origin to the teaching of great religious innovators, who spoke as the organs of a divine revelation. Being the result of conscious formulations the philosophy of a religion which is positive is easy to find and easy to state. Hinduism like Judaism, Christianity and Islam is in the main a positive religion. One does not have to search for its scheme of divine governance. It is not like an unwritten constitution. On the Hindu scheme of divine governance is enshrined in a written constitution and any one who cares to know it will find it laid bare in that Sacred Book called the Manu Smriti, a divine Code which lays down the rules which govern the religious, ritualistic and social life of

the Hindus in minute detail and which must be regarded as the Bible of the Hindus and containing the philosophy of Hinduism.

The third dimension in the philosophy of religion is the criterion[1] to be adopted for judging the value of the ideal scheme of divine governance for which a given Religion stands. Religion must be put on its trial. By what criterion shall it be judged? That leads to the definition of the norm. Of the three dimensions this third one is the most difficult one to be ascertained and defined.

Unfortunately the question does not appear to have been tackled although much has been written on the philosophy of Religion and certainly no method has been found for satisfactorily dealing with the problem. One is left to one's own method for determining the issue. As for myself I think it is safe to proceed on the view that to know the philosophy of any movement or any institution one must study the revolutions which the movement or the institution has undergone. Revolution is the mother of philosophy and if it is not the mother of philosophy it is a lamp which illuminates philosophy. Religion is no exception to this rule. To me therefore it seems quite evident that the best method to ascertain the criterion by which to judge the philosophy of Religion is to study the Revolutions which religion has undergone. That is the method which I propose to adopt.

Students of History are familiar with one Religious Revolution. That Revolution was concerned with the sphere of Religion and the extent of its authority. There was a time when Religion had covered the whole field of human knowledge and claimed infallibility for what it taught. It covered astronomy and taught a theory of the universe according to which the earth is at rest in the centre of the universe, while the sun, moon, planets and system of fixed stars revolve round it each in its own sphere. It included biology and geology and propounded the view that the growth of life on the earth had been created all at once and had contained from the time of creation onwards, all the heavenly bodies that it now contains and all kinds of animals of plants. It claimed medicine to be its province and taught that disease was either a divine visitation as punishment for sin or it was the work of demons and that it could be cured by the intervention of saints, either in person or through their holy relics; or by prayers or

[1] Some students of the Philosophy of Religion seem to regard the study of the first two dimensions as all that the field of Philosophy of religion need include. They do not seem to recognize that a consideration of the third dimension is necessary part of the study of the Philosophy of Religion. As an illustration of this see the Article on Theology by Mr. D. S. Adamas in 'Hastings Encyclopedea of Religion and Ethics' Volume XII page 393. I dissent from this view. The difference is probably due to the fact that I regard Philosophy of Religion as a normative study and as a discriptive study. I do not think that there can be such a thing as a general Philosophy of Religion. I believe each Religion has its particular philosophy. To me there is no Philosophy of Religion. There is a philosophy of a Religion.

pilgrimages; or (when due to demons) by exorcism and by treatment which the demons (and the patient) found disgusting. It also claimed physiology and psychology to be its domain and taught that the body and soul were two distinct substances.

Bit by bit this vast Empire of Religion was destroyed. The Copernican Revolution freed astronomy from the domination of Religion. The Darwanian Revolution freed biology and geology from the trammels of Religion. The authority of theology in medicine is not yet completely destroyed. Its intervention in medical questions still continues. Opinion on such subjects as birth-control, abortion and sterilization of the defective are still influenced by theological dogmas. Psychology has not completely freed itself from its entanglements. None the less Darwinism was such a severe blow that the authority of theology was shattered all over to such an extent that it never afterwards made any serious effort to remain its lost empire.

It is quite natural that this disruption of the Empire of Religion should be treated as a great Revolution. It is the result of the warfare which science waged against theology for 400 years, in which many pitched battles were faught between the two and the excitement caused by them was so great that nobody could fail to be impressed by the revolution that was blazing on.

There is no doubt that this religious revolution has been a great blessing. It has established freedom of thought. It has enabled society "to assume control of itself, making its own the world it once shared with superstition, facing undaunted the things of its former fears, and so carving out for itself, from the realm of mystery in which it lies, a sphere of unhampered action and a field of independent thought". The process of secularisation is not only welcomed by scientists for making civilization—as distinguished from culture—possible, even Religious men and women have come to feel that much of what theology taught was unnecessary and a mere hindrance to the religious life and that this chopping of its wild growth was a welcome process.

But for ascertaining the norm for judging the philosophy of Religion we must turn to another and a different kind of Revolution which Religion has undergone. That Revolution touches the nature and content of ruling conceptions of the relations of God to man, of Society to man and of man to man. How great was this revolution can be seen from the differences which divide savage society from civilised society.

Strange as it may seem no systematic study of this Religious Revolution has so far been made. None the less this Revolution is so great and so immense that it has brought about a complete

transformation in the nature of Religion as it is taken to be by savage society and by civilized society although very few seem to be aware of it.

To begin with the comparison between savage society and civilized society.

In the religion of the savage one is struck by the presence of two things. First is the performance of rites and ceremonies, the practice of magic or tabu and the worship of fetish or totem. The second thing that is noticeable is that the rites, ceremonies, magic, tabu, totem and fetish are conspicuous by their connection with certain occasions. These occasions are chiefly those which represent the crises of human life. The events such as birth, the birth of the first born, attaining manhood, reaching puberty, marriage, sickness, death and war are the usual occasions which are marked out for the performance of rites and ceremonies, the use of magic and the worship of the totem.

Students of the origin and history of Religion have sought to explain the origin and substance of religion by reference to either magic, tabu and totem and the rites and ceremonies connected therewith, and have deemed the occasions with which they are connected as of no account. Consequently we have theories explaining religion as having arisen in magic or as having arisen in *fetishism*. Nothing can be a greater error than this. It is true that savage society practises magic, believes in tabu and worships the totem. But it is wrong to suppose that these constitute the religion or form the source of religion. To take such a view is to elevate what is incidental to the position of the principal.

The principal thing in the Religion of the savage are the elemental facts of human existence such as life, death, birth, marriage etc. Magic, tabu, totem are things which are incidental. Magic, tabu, totem, fetish etc., are not the ends. They are only the means. The end is life and the preservation of life. Magic, tabu etc., are resorted to by the savage society not for their own sake but to conserve life and to *exercise* evil influences from doing harm to life. Thus understood the religion of the savage society was concerned with life and the preservation of life and it is these life processes which constitute the substance and source of the religion of the savage society. So great was the concern of the savage society for life and the preservation of life that it made them the basis of its religion. So central were the life processes in the religion of the savage society that everything which affected them be came part of its religion. The ceremonies of the savage society were not only concerned with the events of birth, attaining of manhood, puberty, marriage, sickness, death and war they were also concerned with food. Among pastrol peoples the flocks and herds are sacred. Among

agricultural peoples seed time and harvest are marked by ceremonials performed with some reference to the growth and the preservation of the crops. Likewise drought, pestilence, and other strange, irregular phenomena of nature occasion the performance of ceremonials. Why should such occasions as harvest and famine be accompanied by religious ceremonies? Why is magic, tabu, totem be of such importance to the savage. The only answer is that they all affect the preservation of life. The process of life and its preservation form the main purpose. Life and preservation of life is the core and centre of the Religion of the savage society. As pointed out by Prof. Crawley the religion of the savage begins and ends with the affirmation and conservation of life.

In life and preservation of life consists the religion of the savage. What is however true of the religion of the savage is true of all religions wherever they are found for the simple reason that constitutes the essence of religion. It is true that in the present day society with its theological refinements this essence of religion has become hidden from view and is even forgotten. But that life and the preservation of life constitute the essence of religion even in the present day society is beyond question. This is well illustrated by Prof. Crowley. When speaking of the religious life of man in the present day society, he says how—

> "a man's religion does not enter into his professional or social hours, his scientific or artistic moments; practically its chief claims are settled on one day in the week from which ordinary worldly concerns are excluded. In fact, his life is in two parts; but the moiety with which religion is concerned is the elemental. Serious thinking on ultimate questions of life and death is, roughly speaking, the essence of his Sabbath; add to this the habit of prayer, giving the thanks at meals, and the subconscious feeling that birth and death, continuation and marriage are rightly solemnized by religion, while business and pleasure may possibly be consecreted, but only metaphorically or by an overflow of religious feeling."

Comparing this description of the religious concerns of the man in the present day society with that of the savage, who can deny that the religion is essentially the same, both in theory and practice whether one speaks of the religion of the savage society or of the civilized society.

It is therefore clear that savage and civilized societies agree in one respect. In both the central interests of religion—namely in the life processes by which individuals are preserved and the race

maintained—are the same. In this there is no real difference between the two. But they differ in two other important respects.

In the first place in the religion of the savage society there is no trace of the idea of God. In the second place in the religion of the savage society there is no bond between morality and Religion. In the savage society there is religion without God. In the savage society there is morality but it is indepenent of Religion.

How and when the idea of God became fused in Religion it is not possible to say. It may be that the idea of God had its origin in the worship of the Great Man in Society, the Hero—giving rise to theism—with its faith in its living God. It may be that the idea of God came into existence as a result of the purely philosophical speculation upon the problem as to who created life—giving rise to Deism—with its belief in God as Architect of the Universe. In any case the idea of God is not integral to Religion. How it got fused into Religion it is difficult to explain. With regard to the relation between Religion and Morality this much may be safely said. Though the relation between God and Religion is not quite integral, the relation between Religion and morality is. Both religion and morality are connected with the same elemental facts of human existence—namely life, death, birth and marriage. Religion consecrates these life processes while morality furnishes rules for their preservation. Religion in consecrating the elemental facts and processes of life came to consecrate also the rules laid down by Society for their preservation. Looked at from this point it is easily explained why the bond between Religion and Morality took place. It was more intimate and more natural than the bond between Religion and God. But when exactly this fusion between Religion and Morality took place it is not easy to say.

Be that as it may, the fact remains that the religion of the Civilized Society differs from that of the Savage Society into two important features. In civilized society God comes in the scheme of Religion. In civilized society morality becomes sanctified by Religion.

This is the first stage in the Religious Revolution I am speaking of. This Religious Revolution must not be supposed to have been ended here with the emergence of these two new features in the development of religion. The two ideas having become part of the constitution of the Religion of the Civilized Society have undergone further changes which have revolutionized their meaning and their moral significance. The second stage of the Religious Revolution marks a very radical change. The contrast is so big that civilized society has become split

That the idea of God has evolved from both these directions is well illustrated by Hinduism. Compare the idea of Indra as God and the idea of Bramha as God.

into two, antique society and modern society, so that instead of speaking of the religion of the civilized society it becomes necessary to speak of the religion of antique society as against the religion of modern society.

The religious revolution which marks off antique society from modern society is far greater than the religious revolution which divides savage society from civilized society. Its dimensions will be obvious from the differences it has brought about in the conceptions regarding the relations between God, Society and Man.

The first point of difference relates to the composition of society.

Every human being, without choice on his own part, but simply in virtue of his birth and upbringing, becomes a member of what we call a *natural* society. He belongs that is to a certain family and a certain nation. This membership lays upon him definite obligations and duties which he is called upon to fulfil as a matter of course and on pain of social penalties and disabilities while at the same time it confers upon him certain social rights and advantages. In this respect the ancient and modern worlds are alike. But in the words of Prof. Smith[1]:—

> "There is this important difference, that the tribal or national societies of the ancient world were not strictly natural in the modern sense of the word, for the gods had their part and place in them equally with men. The circle into which a man was born was not simply a group of kinsfolk and fellow citizens, but embraced also certain divine beings, the gods of the family and of the state, which to the ancient mind were as much a part of the particular community with which they stood connected as the human members of the social circle. The relation between the gods of antiquity and their worshippers was expressed in the language of human relationship, and this language was not taken in a figurative sense but with strict literality. If a god was spoken of as father and his worshippers as his offsprings, the meaning was that the worshippers were literally of his stock, that he and they made up one natural family with reciprocal family duties to one another. Or, again, if the god was addressed as king, and worshippers called themselves his servants, they meant that the supreme guidance of the state was actually in his hands, and accordingly the organisation of the state included provision for consulting his will and obtaining his direction in all weighty matters, also provision for approaching him as king with due homage and tribute.
>
> "Thus a man was born into a fixed relation to certain gods as surely as he was born into relation to his fellow men; and his

[1] Smith *Ibid*

religion, that is, the part of conduct which was determined by his relation to the gods, was simply one side of the general scheme of conduct prescribed for him by his position as a member of society. There was no separation between the spheres of religion and of ordinary life. Every social act had a reference to the gods as well as to men, for the social body was not made up of men only, but of gods and men."

Thus in ancient Society men and their Gods formed a social and political as well as a religious whole. Religion was founded on kinship between the God and his worshippers. Modern Society has eliminated God from its composition. It consists of men only.

The second point of difference between antique and modern society relates to the bond between God and Society. In the antique world the various communities

"believed in the existence of many Gods, for they accepted as real the Gods of their enemies as well as their own, but they did not worship the strange Gods from whom they had no favour to expect, and on whom their gifts and offerings would have been thrown away.... Each group had its own God, or perhaps a God and Goddess, to whom the other Gods bore no relation whatever."[1]

The God of the antique society was an exclusive God. God was owned by and bound to one singly community. This is largely to be accounted for by

"the share taken by the Gods in the feuds and wars of their worshippers. The enemies of the God and the enemies of his people are identical; even in the Old Testament 'the enemies of Jehovah' are originally nothing else than the enemies of Israel. In battle each God fights for his own people, and to his aid success is ascribed; Chemosh gives victory to Moab, and Asshyr to Assyria; and often the divine image or symbol accompanies the host to battle. When the ark was brought into the camp of Israel, the Philistines said, "Gods are come into the camp; who can deliver us from their own practice, for when David defeated them at Baalperazim, part of the booty consisted in their idols which had been carried into the field. When the Carthaginians, in their treaty with Phillip of Macedon, speak of "the Gods that take part in the campaign, "they doubtless refer to the inmates of the sacred tent which was pitched in time of war beside the tent of the general, and before which prisoners were sacrificed after a victory. Similarly an Arabic poet says, "Yaguth went forth with us against Morad" ; that is, the image of the God Yaguth was carried into the fray"

Smith *Ibid*

This fact had produced a solidarity between God and the community.

> "Hence, on the principle of solidarity between Gods and their worshippers, the particularism characteristic of political society could not but reappear in the sphere of religion. In the same measure as the God of a clan or town had indisputable claim to the reverance and service of the community to which he belonged, he was necessarily an enemy to their enemies and a stranger to those to whom they were strangers".[1]

God had become attached to a community, and the community had become attached to their God. God had become the God of the Community and the Community had become the chosen community of the God.

This view had two consequences. Antique Society never came to conceive that God could be universal God, the God of all. Antique Society never could conceive that there was any such thing as humanity in general.

The third point of difference between ancient and modern society, has reference to the conception of the fatherhood of God. In the antique Society God was the Father of his people but the basis of this conception of Fatherhood was deemed to be physical.

> "In heathen religions the Fatherhood of the Gods is physical fatherhood. Among the Greeks, for example, the idea that the Gods fashioned men out of clay, as potters fashion images, is relatively modern. The older conception is that the races of men have Gods for their ancestors, or are the children of the earth, the common mother of Gods and men, so that men are really of the stock or kin of the Gods. That the same conception was familiar to the older Semites appears from the Bible. Jeremiah describes idolaters as saying to a stock, Thou art my father; and to a stone, Thou hast brought me forth. In the ancient poem, Num. xxi. 29, The Moabites are called the sons and daughters of Chemosh, and at a much more recent date the prophet Malachi calls a heathen woman "the daughter of a strange God". These phrases are doubtless accommodations to the language which the heathen neighbours of Israel used about themselves. In Syria and Palestine each clan, or even complex of clans forming a small independent people, traced back its origin to a great first father; and they indicate that, just as in Greece this father or progenitor of the race was commonly identified with the God of the race. With this it accords that in the judgment of most modern enquirers several names of deities appear in the old genealogies of nations in the Book of Genesis. Edom,

[1]Smith *Ibid*

for example, the progenitor of the Edomites, was identified by the Hebrews with Esau the brother of Jacob, but to the heathen he was a God, as appears from the theophorous proper name Obededom, "worshipper of Edom", the extant fragments of Phoenician and Babylonian cosmogonies date from a time when tribal religion and the connection of individual Gods with particular kindreds was forgotten or had fallen into the background. But in a generalised form the notion that men are the offspring of the Gods still held its ground. In the Phoenician cosmogony of Philo Bablius it does so in a confused shape, due to the authors euhemerism, that is, to his theory that deities are nothing more than deified men who had been great benefactors to their species. Again, in the Chaldaean legend preserved by Berosus, the belief that men are of the blood of the Gods is expressed in a form too crude not to be very ancient; for animals as well as men are said to have been formed out of clay mingled with the blood of a decapitated deity." [1]

This conception of blood kinship of Gods and men had one important consequence. To the antique world God was a human being and as such was not capable of absolute virtue and absolute goodness. God shared the physical nature of man and was afflicted with the passions infirmities and vices to which man was subject. The God of the qntique world had all the wants and appetites of man and he often indulged in the vices in which many revelled. Worshipers had to implore God not to lead them into temptations.

In modern Society the idea of divine fatherhood has become entirely dissociated from the physical basis of natural fatherhood. In its place man is conceived to be created in the image of God; he is not deemed to be begotten by God. This change in the conception of the fatherhood of God looked at from its moral aspect has made a tremendous difference in the nature of God as a Governor of the Universe. God with his physical basis was not capable of absolute good and absolute virtue. With God wanting in righteousness the universe could not insist on righteousness as an immutable principle. This dissociation of God from physical contact with man has made it possible for God to be conceived of as capable of absolute good and absolute virtue.

The fourth point of difference relates to the part religion plays when a change of nationality takes place.

In the antique world there could be no change of nationality unless it was accompanied by a change of Religion. In the antique world,

[1]Smith *Ibid*

> "It was impossible for an individual to change his religion without changing his nationality, and a whole community could hardly change its religion at all without being absorbed into another stock or nation. Religions like political ties were transmitted from father to son; for a man could not choose a new God at will; the Gods of his fathers were the only deities on whom he could count as friendly and ready to accept his homage, unless he forswore his own kindred and was received into a new circle of civil as well as religious life."

How change of religion was a condition precedent to a Social fusion is well illustrated by the dialogue between Naomi and Ruth in the Old Testament.

> "Thy Sister" says Naomi to Ruth, "is gone back unto her people and unto her Gods" ; and Ruth replies, "Thy people shall be my people and thy God my God."

It is quite clear that in the ancient world a change of nationality involved a change of cult. Social fusion meant religious fusion.

In modern society abandonment of religion or acceptance of another is not necessary for social fusion. This is best illustrated by what is in modern terminology and naturalization, whereby the citizen of one state abandons his citizenship of the state and becomes a citizen of a new state. In this process of naturalization religion has no place. One can have a social fusion—which is another name for naturalization—without undergoing a religious fusion.

To distinguish modern society from antique society it is not enough to say that Modern Society consists of men only. It must be added that it consists of men who are worshippers of different Gods.

The fifth point of difference relates to the necessity of knowledge as to the nature of God as part of religion.

> "From the antique point of view, indeed the question what the Gods are in themselves is not a religious but a speculative one; what is requisite to religion is a practical acquaintance with the rules on which the deity acts and on which he expects his worshippers to frame their conduct—what in 2 Kings xvii. 26 is called the "manner" or rather the "customary law" (misphat) of the God of the land. This is true even of the religion of Israel. When the prophets speak of the knowledge of the laws and principles of His government in Israel, and a summary expression for religion as a whole is "the knowledge and fear of Jehovah," i.e. the knowledge of what Jehovah prescribes, combined with a reverent obedience. An extreme scepticism towards all religious speculation is recommended in the Book of Ecclesiastes as the proper attitude of

piety, for no amount of discussion can carry a man beyond the plain rule, to "fear God and keep His Commandments". This counsel the author puts into the mouth of Solomon, and so represents it, not unjustly, as summing up the old view of religion, which in more modern days had unfortunately begun to be undermined."

The sixth point of difference relates to the place of belief in Religion.

In ancient Society :-—

"ritual and practical usages were, strictly speaking, the sum total of ancient religions. Religion in primitive times was not a system of belief with practical applications; it was a body of fixed traditional practices, to which every member of society conformed as a matter of courage. Men would not be men if they agreed to do certain things without having a reason for their action; but in ancient religion the reason was not first formulated as a doctrine and then expressed in practice, but conversely, practice preceded doctrinal theory. Men form general rule of conduct before they begin to express general principles in words; political institutions are older than political theories and in like manner religious institutions are older than religious theories. This analogy is not arbitrarily chosen, for in fact the parallelism in ancient society between religious and political institutions is complete. In each sphere great importance was attached to form and precedent, but the explanation why the precedent was followed consisted merely of legend as to its first establishment. That the precedent, once established, was authoritative did not appear to require any proof. The rules of society were based on precedent, and the continued existence of the society was sufficient reason why a precedent once set should continue to be followed."

The seventh point of difference relates to the place of individual conviction in Religion. In ancient Society:—

"Religion was a part of the organised social life into which a man was born, and to which he conformed through life in the same unconscious way in which men fall into any habitual practice of the society in which they live. Men took the Gods and their worship for granted, just as they took the other usages of the state for granted, and if they reason or speculated about them, they did so on the presupposition that the traditional usages were fixed things, behind which their reasonings must not go, and which no reasoning could be allowed to overturn. To us moderns religion is above all a matter of individual conviction and reasoned belief, but to the ancients it was a part of the citizen's public life, reduced to fixed forms, which

he was not bound to understand and was not at liberty to criticise or to neglect. Religious non-conformity was an offence against the state; for if sacred tradition was tampered with the bases of society were undermined, and the favour of the Gods was forfeited. But so long as the prescribed forms were duly observed, a man was recognised as truly pious, and no one asked how his religion was rooted in his heart or affected his reason. Like political duty, of which indeed it was a part, religion was entirely comprehended in the observance of certain fixed rules of outward conduct."

The eighth point of difference pertains to the relation of God to Society and man, of Society to Man in the matter of God's Providence.

First as to the difference in the relation of God to Society. In this connection three points may be noted.

The faith of the antique world

"Sought nothing higher than a condition of physical *bien etre*.... The good things desired of the Gods were the blessings of earthly life, not spiritual but carnal things." What the antique societies asked and believed themselves to receive from their God lay mainly in the following things:

"Abundent harvests, help against their enemies and counsel by oracles or scoothsayers in matters of natural difficulty."

In the antique world

"Religion was not the affair of the individual but of the Community.... It was the community, and not the individual, that was sure of the permanent and the unfailing hand of the deity."

Next as to the difference in the relation of God to man.

"It was not the business of the Gods of heathenism to watch, by a series of special providences, over the welfare of every individual. It is true that individuals laid their private affairs before the Gods, and asked with prayers and views for strictly personal blessings. But they did this just as they might crave a personal boon from a king, or as a son craves a boon from a father, without expecting to get all that was asked. What the Gods might do in this way was done as a matter of personal favour, and was no part of their proper function as heads of the community."

"The Gods watched over a man's civic life, they gave him his share in public benefits, the annual largess of the harvest and the vintage, national peace or victory over enemies, and so forth, but they were not sure helpers in every private need, and above all they would not help him in matters that were against the interests of the community as a whole. There was therefore a whole region of

possible, needs and desires for which religion could and would do nothing."

Next the difference in the attitude of God and Society to man.

In the antique world Society was indifferent to individual welfare.

God was no doubt bound to Society. But

> "The compact between the God and his worshippers was not held to pledge the deity to make the private cares of each member of the Community his own."

> "The benefits expected of God were of a public character affecting the whole community, especially fruitful seasons, increase of flocks of herds and success in war. So long as community flourished the fact that an individual was miserable reflected no discredit on divine providence."

On the contrary the antique world looked upon the misery of a man as proof.

> "That the sufferer was an evil-doer, justly hateful to the Gods. Such a man was out of place among the happy and the prosperous crowd that assembled on feast days before the alter."

It is in accordance with this view that the leper and the mourner were shut out from the exercise of religion as well as from the privileges of social life and their food was not brought into the house of God.

As for conflict between individual and individual and between society and the individual God had no concern. In the antique world:

> "It was not expected that (God) should always be busy righting human affairs. In ordinary matters it was men's business to help themselves and their own kins folk, though the sense that the God was always near, and could be called upon at need, was a moral force continually working in some degree for the maintenance of social righteousness and order. The strength of this moral force was indeed very uncertain, for it was always possible for the evil-doer to flatter himself that his offence would be overlooked."

In the antique world man did not ask God to be righteous to him.

> "Whether in civil or in profane matters, the habit of the old world was to think much of the community and little of the individual life, and no one felt this to be unjust even though it bore hardly on himself. The God was the God of the nationl or of the tribe, and he knew and cared for the individual only as a member of the community."

That was the attitude that man in the antique world took of his own private misfortune. Man came to rejoice before his God and

> "in rejoicing before his God man rejoiced with and for the welfare of his kindred, his neighbours and his country, and, in renewing by

a solemn act of worship the bond that united him to God, he also renewed the bonds of family, social and national obligation."

Man in the antique world did not call upon his maker to be righteous to him.

Such is this other Revolution in Religion.

There have thus been two Religious Revolutions. One was an external Revolution. The other was an internal Revolution. The External Revolution was concerned with the field within which the authority of Religion was to prevail. The Internal Revolution had to do with the changes in Religion as a scheme of divine Governance for human society. The External Revolution was not really a Religious Revolution at all. It was a revolt of science against the extra territorial jurisdiction assumed by Religion over a field which did not belong. The Internal Revolution was a real Revolution or may be compared to any other political Revolution, such as the French Revolution or the Russian Revolution. It involved a constitutional change. By this Revolution the Scheme of divine governance came to be altered, amended and reconstituted.

How profound have been the changes which this internal Revolution, has made in the antique scheme of divine governance can be easily seen. By this Revolution God has ceased to be a member of a community. Thereby he has become impartial. God has ceased to be the Father of Man in the physical sense of the word. He has become the creator of the Universe. The breaking of this blood bond has made it possible to hold that God is good. By this Revolution man has ceased to be a blind worshipper of God doing nothing but obeying his commands. Thereby man has become a responsible person required to justify his belief in God's commandments by his conviction. By this Revolution God has ceased to be merely the protector of Society and social interests in gross have ceased to be the centre of the divine Order. Society and man have changed places as centres of this divine order. It is man who has become the centre of it.

All this analysis of the Revolution in the Ruling concepts of Religion as a scheme of divine governance had one purpose namely to discover the norm for evaluating the philosophy of a Religion. The impatient reader may not ask where are these norms and what are they? The reader may not have found the norms specified by their names in the foregoing discussion. But he could not have failed to notice that the whole of this Religious Revolution was raging around the norms for judging what is right and what is wrong. If he has not, let me make explicit what has been implicit in the whole of this discussion. We began with the distinction between antique society and

modern society as has been pointed out they differed in the type of divine governance they accepted as their Religious ideals. At one end of the Revolution was the antique society with its Religious ideal in which the end was Society. At the other end of the Revolution is the modern Society with its Religious ideal in which the end is the & individual. To put the same fact in terms of the norm it can be said that the norm or the criterion, for judging right and wrong in the Antique Society was *utility* while the norm or the criterion for judging right and wrong in the modern Society is *justice*. The Religious Revolution was not thus a revolution in the religious organization of Society resulting in the shifting of the centre—from society to the individual—it was a revolution in the norms.

Some may demur to the norms I have suggested. It may be that it is a new way of reaching them. But to my mind there is no doubt that they are the real norms by which to judge the philosophy of religion. In the first place the norm must enable people to judge what is right and wrong in the conduct of men. In the second place the norm must be appropriate to current notion of what constitutes the moral good. From both these points of view they appear to be the true norms. They enable us to judge what is right and wrong. They are appropriate to the society which adopted them. Utility as a criterion was appropriate to the antique world in which society being the end, the moral good was held to be something which had social utility. Justice as a criterion became appropriate to the Modern World in which individual being the end, the moral good was held to be something which does justice to the individual. There may be controversy as to which of the two norms is morally superior. But I do not think there can be any serious controversy that these are not the norms. If it is said that these norms are not transcendental enough; my reply is that if a norm whereby one is to judge the philosophy of religion must be Godly, it must also be earthly. At any rate these are the norms I propose to adopt in examining the philosophy of Hinduism.

II

This is a long detour. But it was a necessary preliminary to any inquiry into the main question. However, when one begins the inquiry one meets with an initial difficulty. The Hindu is not prepared to face the inquiry. He either argues that religion is of no importance or he takes shelter behind the view—fostered by the study of comparative Religion—that all religions are good. There is no doubt that both these views are mistaken and untenable.

Religion as a social force cannot be ignored. Religion has been aptly described by Hebert Spencer as "the weft which everywhere crosses the warp of history". This is true of every Society. But Religion has not only crossed everywhere the warp of Indian History it forms the warp and woof of the Hindu mind. The life of the Hindu is regulated by Religion at every moment of his life. It orders him how during life he should conduct himself and how on death his body shall be ; disposed of. It tells him how and when he shall indulge in his sexual impulses. It tells him what ceremonies are to be performed when ; a child is born—how he should name, how he should cut the hair on its head, how he should perform its first feeding. It tells him what occupation he can take to, what woman he should marry. It tells him with whom he should dine and what food he should eat, what vegetables are lawful and what are forbidden. It tells how he should spend his day, how many times he should eat, how many times he should pray. There is no act of the Hindu which is not covered or ordained by Religion. It seems strange that the educated Hindus should come to look upon it as though it was a matter of indifference.

Besides, Religion is a social force. As I have pointed out Religion stands for a scheme of divine governance. The scheme becomes an ideal for society to follow. The ideal may be non-existent in the sense that it is something which is constructed. But although non-existent, it is real. For an ideal it has full operative force which is inherent in every ideal. Those who deny the importance of religion not only forget this, they also fail to realize how great is the potency and sanction that lies behind a religious ideal as compound with that of a purely secular ideal. This is probably due to the lag which one sees between the real and the ideal which is always present whether the ideal is religious or secular. But the relative potency of the two ideals is to be measured by another test—namely their power to override the practical instincts of man. The ideal is concerned with something that is remote. The practical instincts of man are concerned with the immediate present. Now placed as against the force of the practical instincts of man the two ideals show their difference in an unmistaken manner. The practical instincts of man do yield to the prescriptions of a religious ideal however much the two are opposed to each other. The practical instincts of man do not on the other hand yield to the secular ideal if the two are in conflict. This means that a religious ideal has a hold on mankind, irrespective of an earthly gain. This can never be said of a purely secular ideal. Its power depends upon its power to confer material benefit. This shows how great is the difference in the potency and sanction of the two ideals over the human mind. A religious ideal

never fails to work so long as there is faith in that ideal. To ignore religion is to ignore a live wire.

Again to hold that all religions are true and good is to cherish a belief which is positively and demonstrably wrong. This belief, one is sorry to say, is the result of what is known as the study of comparative religion. Comparative religion has done one great service to humanity. It has broken down the claim and arrogance of revealed religions as being the only true and good religions of study. While it is true that comparative religion has abrogated the capricious distinction between true and false religions based on purely arbitrary and a priori considerations, it has brought in its wake some false notions about religion. The most harmful one is the one I have mentioned namely that all religions are equally good and that there is no necessity of discriminating between them. Nothing can be a greater error than this. Religion is an institution or an influence and like all social influences and institutions, it may help or it may harm a society which is in its grip. As pointed out by Prof. Tiele[1] religion is

> "one of the mightiest motors in the history of mankind, which formed as well as tore asunder nations, united as well as divided empires, which sanctioned the most atrocious and barbarous deeds, the most libinous customs, inspired the most admirable acts of heroism, self renunciation, and devotion, which occasioned the most sanguinary wars, rebellions and persecutions, as well as brought about the freedom, happiness and peace of nations—at one time a partisan of tyranny, at another breaking its chains, now calling into existence and fostering a new and brilliant civilization, then the deadly foe to progress, science and art."

A force which shows such a strange contrast in its result can be accepted as good without examining the form it takes and the ideal it serves. Everything depends upon what social ideal a given religion as a divine scheme of governance hold out. This is a question which is not avowed by the science of comparative religion. Indeed it begins where comparative religion ends. The Hindu is merely trying to avoid it by saying that although religions are many they are equally good. For they are not.

However much the Hindu may seek to burke the inquiry into the philosophy of Hinduism there is no escape. He must face it.

III

Now to begin with the subject. I propose to apply both the tests, the test of justice and the test of utility to judge the philosophy of

[1] Quoted by Crowby Tree of Life, page 5.

Hinduism. First I will apply the test of justice. Before doing so I want to explain what I mean by the principle of justice. No one has expounded it better than Professor Bergbon[1]. As interpreted by him the principle of justice is a compedious one and includes most of the other principles which have become the foundation of a moral order Justice has always evoked ideas of equality, of proportion of" compensation". Equity signifies equality. Rules and regulations, right and righteousness are concerned with equality in value. If all men are equal, all men are of the same essence and the common essence entitled them to the same fundamental rights and to equal liberty.

In short justice is simply another name for liberty equality and fraternity. It is in this sense I shall be using[2] justice as a criterion to judge Hinduism.

Which of these tenets does Hinduism recognize? Let us take the question one by one.

I. Does Hinduism recognise Equality?

The question instantaneously brings to one's mind the caste system. One striking feature of the caste system is that the different castes do not stand as an horizontal series all on the same plane. It is a system in which the different castes are placed in a vertical series one above the other. Manu may not be responsible for the creation of caste. Manu preached the sanctity of the Varna and as I have shown Varna is the parent of caste. In that sense Manu can be charged with being the progenitor if not the author of the Caste System. Whatever be the case as to the guilt of Manu regarding the Caste System there can be no question that Manu is responsible for upholding the principle of gradation and rank.

In the scheme of Manu the Brahmin is placed at the first in rank. *Below* him is the Kshatriya. *Below* Kshatriya is the Vaishya. *Below* Vaishya is the Shudra and *Below* Shudra is the Ati-Shudra (the Untouchables). This system of rank and gradation is, simply another way of enunciating the principle of inequality so that it may be truly said that Hinduism does not recognise equality. This inequality in status is not merely the inequality that one sees in the warrant of precedence prescribed for a ceremonial gathering at a King's Court. It is a permanent social relationship among the classes to be observed— to be enforced—at all times in all places and for all purposes. It will take too long to show how in every phase of life Manu has introduced and made inequality the vital force of life. But I will

[1]Two Moralities page.

[2] For another interpretation of justice *see* J. S. Mill—Utilitarianism.

illustrate it by taking a few examples such as slavery, marriage and Rule of Law.

Manu recognizes[1] Slavery. But he confined it to the Shudras. Only Shudras could be made slaves of the three higher classes. But the higher classes could not be the slaves of the Shudra.

But evidently practice differed from the law of Manu and not only Shudras happened to become slaves but members of the other three classes also become slaves. When this was discovered to be the case a new rule was enacted by a Successor of Manu namely Narada[2]. This new rule of Narada runs as follows:—

> V 39. In the inverse order of the four castes slavery is not ordained except where a man violates the duties peculiar to his caste. Slavery (in that respect) is analogous to the condition of a wife."

Recognition of slavery was bad enough. But if the rule of slavery had been left free to take its own course it would have had at least one beneficial effect. It would have been a levelling force. The foundation of caste would have been destroyed. For under it a Brahmin might have become the slave of the Untouchable and the Untouchable would have become the master of the Brahmin. But it was seen that unfettered slavery was an equalitarian principle and an attempt was made to nullify it. Manu and his successors therefore while recognizing slavery ordain that it shall not be recognized in its inverse order to the Varna System. That means that a Brahmin may become the slave of another Brahmin. But he shall not be the slave of a person of another Varna i.e. of the Kshatriya, Vaishya, Shudra, or Ati-Shudra. On the other hand a Brahmin may hold as his slave any one belonging to the four Varnas. A Kshatriya can have a Kshatriya, Vaisha, Shudra and Ati-Shudra as his slaves but not one who is a Brahmin. A Vaishya can have a Vaishya, Shudra and Ati-Shudra as his slaves but not one who is a Brahmin or a Kshatriya. A Shudra can hold a Shudra and Ati-shudra can hold an Ati-Shudra as his slave but not one who is a Brahmin, Kshatriya, Vaishya or Shudra.

Consider Manu on marriage. Here are his rules governing intermarriage among the different classes.

Manu says:—

> III. 12. "For the first marriage of the twice born classes, a woman of the same class is recommended but for such as are impelled by inclination to marry again, women in the direct order of the classes are to be preferred."

[1] Manu recognizes seven kinds of slaves (VIII-415). Narada recognizes fifteen kinds of slaves (V-25)

[2] The same rule is laid down by Yajnavalkya (II-183) whose authority is equal to that of Manu.

III. 13. "A Shudra woman only must be the wife of Shudra: she and a Vaisya, of a Vaisya; they two and a Kshatriya, of a Kshatriya; those two and a Brahmani of a Brahman."

Manu is of course opposed to intermarriage. His injunction is for each class to marry within his class. But he does recognize marriage outside the defined class. Here again he is particularly careful not to allow intermarriage to do harm to his principle of inequality among classes. Like Slavery he permits intermarriage but not in the inverse order. A Brahmin when marrying outside his class may marry any woman from any of the classes below him. A Kshatriya is free to marry a woman from the two classes next below him namely the Vaishya and Shudra but must not marry a woman from the Brahmin class which is above him. A Vaishya is free to marry a woman from the Shudra Class which is next below him. But he cannot marry a woman from the Brahmin and the Kshatriya Class which are above him.

Why this discrimination ? The only answer is that Manu was most anxious to preserve the rule of inequality which was his guiding principle.

Take Rule of Law. Rule of Law is generally understood to mean equality before law. Let any one interested to know what Manu has to say on the point ponder over the following Rules extracted from his code which for easy understanding I have arranged under distinct headings.

As to witnesses.—According to Manu they are to be sworn as follows:—

VIII. 87. "In the forenoon let the judge, being purified, severally call on the twice-born, being purified also, to declare the truth, in the presence of some image, a symbol of the divinity and of Brahmens, while the witnesses turn their faces either to the north or to the east."

VIII. 88. "To a Brahman he must begin with saying, 'Declare'; to a Kshatriya, with saying, 'Declare the truth'; to a Vaisya, with comparing perjury to the crime of stealing kine, grain or gold; to a Sudra, with comparing it in some or all of the following sentences, to every crime that men can commit."

VIII. 113. "Let the judge cause a priest to swear by his veracity; a soldier, by his horse, or elephant, and his weapons; a merchant, by his kine, grain, and gold; a mechanic or servile man, by imprecating on his own head, if he speak falsely, all possible crimes;"

Manu also deals with cases of witnesses giving false evidence. According to Manu giving false evidence is a crime, says Manu:—

VIII. 122. "Learned men have specified these punishments, which were ordained by sage legislators for perjured witnesses, with a view to prevent a failure of justice and to restrain iniquity."

VIII. 123. "Let a just prince banish men of the three lower classes, if they give false evidence, having first levied the fine; but a Brahman let him only banish.

But Manu made one exception:—

VIII. 112. "To women, however, at a time of dalliance, or on a proposal of marriage, in the case of grass or fruit eaten by a cow, of wood taken for a sacrifice, or of a promise made for the preservation of a Brahman, it is deadly sin to take a light oath."

As parties to proceedings—Their position can be illustrated by quoting the ordinances of Manu relating to a few of the important criminal offences dealt with by Manu.

Take the offence of Defamation. Manu says:—

VIII. 267. "A soldier, defaming a priest, shall be fined a hundred panas, a merchant, thus offending, an hundred and fifty, or two hundred; but, for such an offence, a mechanic or servile man shall be shipped."

III. 268. "A priest shall be fined fifty, if he slander a soldier; twenty five, if a merchant; and twelve, if he slander a man of the servile class." Take the offence of Insult—Manu says:—

VIII. 270. "A once born man, who insults the twice-born with gross invectives, ought to have his tongue slit; for he sprang from the lowest part of Brahma."

VIII. 271. "If he mention their names and classes with contumely, as if he say," Oh Devadatta, though refuse of Brahmin, "an iron style, ten fingers long, shall be thrust red into his mouth."

VIII. 272. "Should he, through pride, give instruction to priests concerning their duty, let the king order some hot oil to be dropped into his mouth and his ear."

Take the offence of Abuse—Manu says:—

VIII. 276. "For mutual abuse by a priest and a soldier, this fine must be imposed by a learned king; the lowest amercement on the priest, and the middle-most on the soldier."

VIII. 277. "Such exactly, as before mentioned, must be the punishment a merchant and a mechanic, in respect of their several

classes, except the slitting of the tongue; this is a fixed rule of punishment."

Take the offence of Assault—Manu propounds:—

VIII. 279. "With whatever member a low-born man shall assault or hurt a superior, even that member of his must be slit, or cut more or less in proportion to the injury; this is an ordinance of Manu."

VIII. 280. "He who raises his hand or a staff against another, shall have his hand cut; and he, who kicks another in wrath, shall have an incision made in his foot."

Take the offence of Arrogance—According to Manu:—

VIII. 281. "A man of the lowest class, who shall insolently place himself on the same seat with one of the highest, shall either be banished with a mark on his hinder parts, or the king, shall cause a gash to be made on his buttock."

VIII. 282. "Should he spit on him through price, the king shall order both his lips to be gashed; should he urine on him, his penis: should he break wing against him, his anus."

VIII. 283. "If he seize the Brahman by the locks, or by the feet, or by the beard, or by the throat, or by the scrotum, let the king without hesitation cause incisions to be made in his hands." Take the offence of Adultery. Says Manu:—

VIII. 359. "A man of the servile class, who commits actual adultery with the wife of a priest, ought to suffer death; the wives, indeed, of all the four classes must ever be most especially guarded."

VIII. 366. "A low man, who makes love to a damsel of high birth, ought to be punished corporally; but he who addresses a maid of equal rank, shall give the nuptial present and marry her, if her father please."

VIII. 374. "A mechanic or servile man, having an adulterous connection with a woman of a twice-born class, whether guarded at home or unguarded, shall thus be punished; if she was unguarded, he shall lose the part offending, and his whole substance; if guarded, and a priestless, every thing, even his life."

VIII. 375. "For adultery with a guarded priestess, a merchant shall forfeit all his wealth after imprisonment for a year; a soldier shall be fined a thousand panas, and he be shaved with the urine of an ass."

VIII. 376. "But, if a merchant or soldier commit adultery with a woman of the sacredotal class, whom her husband guards not at home, the king shall only fine the merchant five hundred, and the soldier a thousand;"

VIII. 377. "Both of them, however, if they commit that offence with a priestess not only guarded but eminent for good qualities, shall be punished like men of the servile class, or be burned in a fire of dry grass or reeds."

VIII. 382. "If a merchant converse criminally with a guarded woman of the military, or a soldier with one of the mercantile class, they both deserve the same punishment as in the case of a priestess unguarded."

VIII. 383. "But a Brahman, who shall commit adultery with a guarded woman of those two classes, must be fined a thousand panas; and for the life offence with a guarded woman of the servile class, the fine of a soldier or a merchant shall be also one thousand."

VIII. 384. "For adultery with a woman of the military class, if guarded, the fine of a merchant is five hundred; but a soldier, for the converse of that offence, must be shaved with urine, or pay the fine just mentioned."

VIII. 385. "A priest shall pay five hundred panas if he connect himself criminally with an unguarded woman of the military, commercial, or servile class, and a thousand, for such a connexion with a woman of a vile mixed breed."

Turning to the system of punishment for offences Manu's Scheme throws an interesting light on the subject. Consider the following ordinances:—

VIII. 379. "Ignominious tonsure is ordained, instead of capital punishment, for an adulterer of the priestly class, where the punishment of other classes may extend to loss of life."

VIII. 380. "Never shall the king slay a Brahman, though convicted of all possible crimes; let him banish the offender from his realm, but with all his property secure, and his body unhurt."

XI. 127. "For killing intentionally a virtuous man of the military class, the penance must be a fourth part of that ordained for killing a priest; for killing a Vaisya, only an eighth, for killing a Sudra, who had been constant in discharging his duties, a sixteenth part."

XI. 128. "But, if a Brahmen kill a Kshatriya without malice, he must, after a full performance of his religious rites, give the priests one bull together with a thousand cows."

XI. 129. "Or he may perform for three years the penance for slaying a Brahmen, mortifying his organs of sensation and action, letting his hair grow long, and living remote from the town, with the root of a tree for his mansion."

XI. 130. "If he kill without malice a Vaisya, who had a good moral character, he may perform the same penance for one year, or give the priests a hundred cows and a bull."

XI. 131. "For six months must he perform this whole penance, if without intention he kill a Sudra; or he may give ten white cows and a bull to the priests."

VIII. 381. "No greater crime is known on earth than slaying a Brahman; and the king, therefore, must not even form in his mind an idea of killing a priest."

VIII. 126. "Let the king having considered and ascertained the frequency of a similar offence, the place and time, the ability of the criminal to pay or suffer and the crime itself, cause punishment to fall on those alone, who deserves it."

VIII. 124. "Manu, son of the Self-existent, has named ten places of punishment, which are appropriated to the three lower classes, but a Brahman must depart from the realm unhurt in any one of them."

VIII. 125. "The part of generation, the belly, the tongue, the two hands, and, fifthly, the two feet, the eye, the nose, both ears, the property, and, in a capital case, the whole body."

How strange is the contrast between Hindu and Non-Hindu criminal jurisprudence? How inequality is writ large in Hinduism as seen in its criminal jurisprudence? In a penal code charged with the spirit of justice we find two things—a section dealing defining the crime and a section prescribing a rational form of punishment for breach of it and a rule that all offenders are liable to the same penalty. In Manu what do we find ? First an irrational system of punishment. The punishment for a crime is inflicted on the organ concerned in the crime such as belly, tongue, nose, eyes, ears, organs of generation etc., as if the offending organ was a sentient being having a will for its own and had not been merely a servitor of human being. Second feature of Manu's penal code is the inhuman character of the punishment which has no proportion to the gravity of the offence. But the most striking feature of Manu's Penal Code which stands out in all its nackedness is the inequality of punishment for the same offence. Inequality designed not merely to punish the offender but to protect also the dignity and to maintain the baseness of the parties coming to a Court of Law to seek justice in other words to maintain the social inequality on which his whole scheme is founded.

So far I have taken for illustrations such matters as serve to show how Manu has ordained social inequality. I now propose to take other matters dealt with by Manu in order to illustrate that Manu has also

ordained Religious inequality. These are matters which are connected with what are called sacraments and Ashrams.

The Hindus like the Christians believe in sacraments. The only difference is that the Hindus have so many of them that even the Roman Catholic Christians would be surprised at the extravagant number observed by the Hindus. Originally their number was forty and covered the most trivial as well as the most important occasions in a person's life. First they were reduced to twenty. Later on it was reduced to sixteen[1] and at that figure the sacraments of the Hindus have remained stabilized.

Before I explain how at the core of these rules of sacraments there lies the spirit of inequality the reader must know what the rules are. It is impossible to examine all. It will be enough if 1 deal with a few of them. I will take only three categories of them, those relating with Initiation, Gayatri and Daily Sacrifices.

First as to Initiation. This initiation is effected by the investitute of a person with the sacred thread. The following are the most important rules of Manu regarding the sacrament of investitute.

> II. 36. "In the eighth year from the conception of a Brahman, in the eleventh from that of a Kshatriya, and in the twelfth from that of a Vaisya, let the father invest the child with the mark of his class."
>
> II. 37. "Should a Brahman, or his father for him, be desirous of, his advancement in sacred knowledge; a Kshatriya, of extending his power; or a Vaisya of engaging in mercantile business; the investitute may be made in the fifth, sixth, or eighth years respectively."
>
> II. 38. "The ceremony of investitute hallowed by the Gayatri must not be delayed, in the case of a priest, beyond the sixteenth year; nor in that of a soldier, beyond the twenty second; nor in that of a merchant, beyond the twenty fourth."
>
> II. 39. "After that, all youths of these three classes, who have not been invested at the proper time, become vratyas, or outcasts, degraded from the Gayatri, and condemned by the virtuous."
>
> II. 147. "Let a. man consider that as a mere human birth, which his parents gave him for their mutual gratification, and which he receives after lying in the womb."
>
> II. 148. "But that birth which his principal acharya, who knows the whole Veda, procures for him by his divine mother the Gayatri, is a true birth; that birth is exempt from age and from death."

[1]The following are the sixteen sacraments:—

II. 169. "The first birth is from a natural mother; the second, from the ligation of the zone; the third from the due performance of the sacrifice; such are the births of him who is usually called twice born, according to a text of the Veda."

II. 170. "Among them his divine birth is that, which is distinguished by the ligation of the zone, and sacrificial cord; and in that birth the Gayatri is his mother, and the Acharya, his father."

Then let me come to Gayatri. It is a Mantra or an invocation of special spiritual efficacy. Manu explains what it is.

II. 76. "Brahma milked out, as it were, from the three Vedas, the letter A, the letter U, and the letter M which form by their coalition the triliteral monosyllable, together with three mysterious words, bhur, bhuvah, swer, or earth, sky, heaven."

II. 77, "From the three Vedas, also the Lord of creatures, incomprehensibly exalted, successively milked out the three measures of that ineffable text, be ginning with the word tad, and entitled Savitri or Gayatri."

II. 78. "A priest who shall know the Veda, and shall pronounce to himself, both morning and evening, that syllable and that holy text preceded by the three words, shall attain the sanctity which the Veda confers."

II. 79. "And a twice born man, who shall a thousand times repeat those three (or om, the vyahritis, and the gayatri,) apart from the multitude, shall be released in a month even from a great offence, as a snake from his slough."

II. 80. "The priest, the soldier, and the merchant, who shall neglect this mysterious text, and fail to perform in due season his peculiar acts of piety, shall meet with contempt among the virtuous."

II. 81. "The great immutable words, preceded by the triliteral syllable, and followed by the Gayatri which consists of three measures, must be considered as the mouth, or principal part of the Veda."

II. 82. "Whoever shall repeat, day by day, for three years, without negligence, that sacred text, shall hereafter approach the divine essence, move as freely as air, and assume an ethereal form."

11. 83. "The triliteral monosyllable is an emblem of the Supreme, the suppressions of breath with a mind fixed on God are the highest devotion; but nothing is more exalted than the gayatri; a declaration of truth is more excellent than silence."

11. 84. "All rights ordained in the Veda, oblations to fire, and solemn sacrifices pass away; but that which passes not away, is

declared to be the sylable om, thence called acshare; since it is a symbol of God, the Lord of created beings."

II. 85. "The act of repeating his Holy Name is ten times better than the appointed sacrifice; an hundred times better when it is heard by no man; and a thousand times better when it is purely mental."

II. 86. "The four domestic sacraments which are accompanied with the appointed sacrifice, are not equal, though all be united, to a sixteenth part of the sacrifice performed by a repetition of the gayatri."

Now to the Daily Sacrifices.

III. 69. "For the sake of expiating offences committed ignorantly in those places mentioned in order, the five great sacrifices were appointed by eminent sages to be performed each day by such as keep house."

III. 70. "Teaching (and studying) the scripture is the sacrifice to the Veda; offering cakes and water, the sacrifice to the Manes, an oblation to fire, the sacrifice to the Deities; giving rice or other food to living creatures, the sacraments of spirits; receiving guests with honour, the sacrifice to men."

III. 71. "Whoever omits not those five great sacrifices, if he has ability to perform them, is untainted by the sons of the five slaughtering places, even though he constantly resides at home."

Turning to the Ashramas. The Ashram theory is a peculiar feature of the philosophy of Hinduism. It is not known to have found a place in the teachings of any other religion. According to the Ashram theory life is to be divided into four stages called *Brahmachari, Grahastha, Vanaprastha* and *Sannyas*. In the Brahamachari stage a person is unmarried and devotes his time to the study and education. After this stage is over he enters the stage of a Grahastha i.e. he marries, rears a family and attends to his worldly welfare. Thereafter he enters the third stage and is then known as a Vanaprasth a. As a Vanaprastha he dwells in the forest as a hermit but without severing his ties with his family or without abandoning his rights to his worldly goods. Then comes the fourth and the last stage—that of Sannyas—which means complete renunciation of the world in search of God. The two stages of Brahamchari and Grahastha are natural enough. The two last stages are only recommendatory. There is no compulsion about them. All that Manu lays down is as follows:

VI. 1. A twice born who has thus lived according to the law in the order of householders, may, taking a firm resolution and

keeping his organs in subjection, dwell in the forest, duly (observing the rules given below.)

VI. 2. When a householder sees his (skin) wrinkled, and (his hair) white, and the sons of his son, then he may resort to the forest.

VI. 3. Abandoning all food raised by cultivation, all his belongings,, he may depart into the forest, either committing his wife to his sons, or a companied by her.

VI. 33. But having passed the third part of (a man's natural term of) life in the forest, he may live as an ascetic during the fourth part of his existence, after abandoning all attachment to worldly objects.

The inequality embodied in these rules is real although it may hot be quite obvious. Observe that all these sacraments and Ashramas are confined' to the twice-born. The Shudras are excluded' from their benefit. Manu of course has no objection to their undergoing the forms of the ceremonies. But he objects to their use of the Sacred Mantras in the performance of the ceremonies. On this Manu says:—

X. 127. "Even Shudras, who were anxious to perform their entire duty, and knowing what they should perform, imitate the practice of good men in the household sacraments, but without any holy text, except those containing praise and saluation, are so far from sinning, that they acquire just applause."

See the following text of Manu for women:—

II. 66. "The same ceremonies, except that of the sacrificial thread, must be duly performed for women at the same age and in the same order, that the body may be made perfect; but without any text from the Veda."

Why does Manu prohibit the Shudras from the benefit of the Sacraments ? His interdict against the Shudras becoming a Sannyasi is a puzzle. Sannyas means and involves renunciation, abandonment' of wordly object. In legal language Sannyas is interpreted as being equivalent to civil death. So that when a man becomes a Sannyasi he is treated as being dead from that moment and his heir succeeds immediately. This would be the only consequence which would follow if a. Shudra become a Sannyasi. Such a consequence could hurt nobody except the Shudra himself. Why then this interdict ? The issue is important and I will quote Manu to explain the significance and importance of the Sacraments and Sannyas. Let us all ponder over the following relevant texts of Manu:

II. 26. With holy rites, prescribed by the Veda, must the ceremony on conception and other sacraments be performed for

So also are the women.

twice-born men, which sanctify the body and purify (from sin) in this (life) and after death.

II. 28. By the study of the Veda, by vows, by burnt oblations, by (the recitation of) sacred texts, by the (acquisition of the) three sacred Vedas, by offering (to the gods Rishis and Manes), by (the procreation of) sons, by the Great Sacrifices, and by (Srauta) rites this (human) body is made fit for (union with) Bramha.

This is the aim and object of the Samscaras. Manu also explains the aim and object of Sannyas.

VI. 81. He (the Sannyasi) who has in this manner gradually given up all attachments and is freed from all the pairs (of opposites), reposes in Brahman alone.

VI. 85. A twice born man who becomes an ascetic, after the successive performance of the above mentioned acts, shakes off sin here below and reaches the highest Brahman.

From these texts it is clear that according to Manu himself the object of the sacraments is to sanctify the body and purify it from sin in this life and hereafter and to make it fit for union with God. According to Manu the object of Sannyas to reach and repose in God. Yet Manu says that the sacraments and Sannyas are the privileges of the higher classes. They are not open to-the Shudra. Why? Does not a Shudra need sanctification of his body, purification of his soul? Does not a Shudra need to have an aspiration to reach God? Manu probably would have answered these questions in the affirmative. Why did he then make such rules. The answer is that he was a staunch believer in social inequality and he knew the danger of admitting religious Equality. If I am equal before God why am I not equal on earth? Manu was probably terrified by this question. Rather than admit and allow religious equality to affect social inequality he preferred to deny religious equality.

Thus in Hinduism you will find both social inequality and religious inequality imbedded in its philosophy.

To prevent man from purifying himself from sin!! To prevent man from getting near to God!! To any rational person such rules must appear to be abominal and an indication of a perverse mind. It is a glaring instance of how Hinduism is a denial not only of equality but how it is denial of the sacred character of human personality.

This is not all. For Manu does not stop with the non-recognition of human personality. He advocates a deliberate debasement of human personality. I will take only two instances to illustrate this feature of the philosophy of Hinduism.

All those who study the Caste System are naturally led to inquire into the origin of it. Manu being the progenitor of Caste had to give an explanation of the origin of the various castes. What is the origin which Manu gives? His explanation is simple. He says that leaving aside the four original castes the rest are simply baseborn!! He says they are the progeny of fornication and adultery between men and women of the four original castes. The immorality and looseness of character among men and women of the four original castes must have been limitless to account for the rise of innumerable castes consisting of innumerable souls!! Manu makes the wild allegation without stopping to consider what aspersions he is casting upon men and women of the four original castes. For if the chandals—the old name for the Untouchables—are the progeny of a Brahman female and a Shudra male then it is obvious that to account for such a large number of Chandals it must be assumed that every Brahman woman was slut and a whore and every Shudra lived an adulterous life with complete abandon. Manu in his mad just for debasing the different castes by ascribing to them an ignoble origin seems deliberately to pervert historical facts. I will give only two illustrations. Take Manu's origin of *Magadha* and *Vaidehik* and compare it with the origin of the same castes as given by Panini the great Grammarian. Manu says that *Magadha* is a caste which is born from sexual intercourse between Vaishya male and Kshatriya female. Manu says that *Vaidehik* is a caste which is born from sexual intercourse between a Vaishya male and a Brahmin female. Now turn to Panini. Panini says that *Magadha* means a person who is resident of the country known as *Magadha*. As to *Vaidehik* Panini says that *Vaidehik* means a person who is resident of the country known as *Videha*. What a contrast!! How cruel it is. Panini lived not later than 300 B.C. Manu lived about 200 A.D. How is it that people who bore no stigma in the time of Panini became so stained in the hands of Manu? The answer is that Manu was bent on debasing them. Why Manu was bent on deliberately debasing people is a task which is still awaiting exploration.' In the meantime we have the strange contrast that while Religion everywhere else is engaged in the task of raising and ennobling mankind Hinduism is busy in debasing and degrading it.

The other instance I want to use for illustrating the spirit of debasement which is inherent in Hinduism pertains to rules regarding the naming of a Hindu child.

[1] See my Essay Manu on Caste—A puzzle" (*This Essay has not been found in the papers* received.—Editors.)

The names among Hindus fall into four classes. They are either connected with *(i)* family deity *(ii)* the month in which the child is born *(iii)* with the planets under which a child is born or *(iv)* are purely temporal i.e. connected with business. According to Manu the temporal name of a Hindu should consist of two parts and Manu gives directions as to what the first and the second part should denote. The second part of a Brahmin's name shall be a word implying happiness; of a Kshatriya's a word implying protection; of a Vaishya's a term expressive of prosperity and of a Shudra's an expression denoting service. Accordingly the Brahmins have *Shatma* (happiness) or *Deva* (God), the Kshatriyas have *Raja* (authority) or Verma (armour), the Vaishyas have Gupta (gifts) or Datta (Giver) and the Shudras have *Das* (service) for the second part of their names. As to the first part of their names Manu says that in the case of a Brahmin it should denote something auspicious, in the case of a Kshatriya something connected with power, in the case of a Vaishya something connected with wealth. But in the case of a Shudra Manu says the first part of his name should denote something contemptible!! Those who think that such a philosophy is incredible would like to know the exact reference. For their satisfaction I am reproducing the following texts from Manu. Regarding the naming ceremony Manu says:—

> II. 30. Let (the father perform or) cause to be performed the namadheya (the rite of naming the child), on the tenth or twelfth (day after birth), or on a lucky lunar day, in a lucky muhurta, under an auspicious constellation.
>
> II. 31. Let (the first part of) a Brahman's name (denote) something auspicious, a Kshatriya's name be connected with power, and a Vaishya's with wealth, but a Shudra's (express something) contemptible.
>
> II. 32. (The second part of) a Brahman's (name) shall be (a word) implying happiness, of a Kshatriya's (a word) implying protection, of a Vaishya's (a term) expressive of thriving, and of a Shudra's (an expression) denoting service.

Manu will not tolerate the Shudra to have the comfort of a high sounding name. He must be contemptible both in fact and in name.

Enough has been said to show how Hinduism is a denial of equality both social as well as religious and how it is also a degradation of human personality.

Does Hinduism recognize liberty?

Liberty to be real must be accompanied by certain social conditions.[1]

[1]See Laski—Liberty in the Modern State.

In the first place there should be social equality. "Privilege tilts the balance of social action in favour of its possessors. The more equal are the social rights of citizens, the more able they are to utilize their freedom……If liberty is to move to its appointed end it is important that there should be equality."

In the second place there must be economic security. "A man may be free to enter any vocation he may choose…….Yet if he is deprived of security in employment he becomes a prey of mental and physical servitude incompatible with the very essence of liberty… The perpetual fear of the morrow, its haunting sense of impending disaster, its fitful search for happiness and beauty which perpetually eludes, shows that without economic security, liberty is not worth having. Men may well be free and yet remain unable to realize the purposes of freedom".

In the third place there must be knowledge made available to all. In the complex world man lives at his peril and he must find his way in it without losing his freedom.

> "There can, under these conditions, be no freedom that is worthwhile unless the mind is trained to use its freedom. (Given this fact) the right of man to education becomes fundamental to his freedom. Deprive a man of knowledge and you will make him inevitably the slave of those more fortunate than himself…… deprivation of knowledge is a denial of the power to use liberty for great ends. An ignorant man may be free.... (But) he cannot employ his freedom so as to give him assurance of happiness."

Which of these conditions does Hinduism satisfy? How Hinduism is a denial of equality has already been made clear. It upholds privilege and inequality. Thus in Hinduism the very first condition for liberty is conspicuous by its absence.

Regarding economic security three things shine out in Hinduism. In the first place Hinduism denies freedom of a vocation. In the Scheme of Manu each man has his avocation preordained for him before he is born. Hinduism allows no choice. The occupation being preordained it has no relation to capacity nor to inclination.

In the second place Hinduism compels people to serve ends chosen by others. Manu tells the Shudra that he is born to serve the higher classes. He exhorts him to make that his ideal. Observe the following rules laid down by Manu.

> X. 121. If a Shudra (unable to subsist by serving Brahmanas) seeks a livelihood, he may serve Kshatriyas, or he may also seek to maintain himself by attending on a wealthy Vaishya.
>
> X. 122. But let a Shudra serve Brahmans…..

Manu does not leave the matter of acting upto the ideal to the Shudra. He goes a step further and provides that the Shudra does not escape or avoid his destined task. For one of the duties enjoined by Manu upon the King is to see that all castes including the Shudra to discharge their appointed tasks.

> VIII. 410. "The king should order each man of the mercantile class to practice trade, or money lending, or agriculture and attendance on cattle; and each man of the servile class to act in the service of the twice born."

> VIII. 418. "With vigilant care should the king exert himself in compelling merchants and mechanics to perform their respective duties; for, when such men swerve from their duty, they throw this world into confusion."

Failure to maintain was made an offence in the King punishable at Law.

> VIII. 335. "Neither a father, nor a preceptor, nor a friend, nor a mother, nor a wife, nor a son, nor a domestic priest must be left unpunished by the King, if they adhere not with firmness to their duty."

> VIII. 336. "Where another man of lower birth would be fined one pana, the king shall be fined a thousand, and he shall give the fine to the priests, or cast it into the river, this is a sacred rule."

These rules have a two-fold significance, spiritual as well as economic. In the spiritual sense they constitute the gospel of slavery. This may not be quite apparent to those who know slavery only by its legal outward form and not by reference to its inner meaning. With reference to its inner meaning a slave as defined by Plato means a person who accepts from another the purposes which control his conduct. In this sense a slave is not an end in himself. He is only a means for filling the ends desired by others. Thus understood the Shudra is a slave. In their economic significance the Rules put an interdict on the economic independence of the Shudra. A Shudra, says Manu, must serve. There may not be much in that to complain of. The wrong however consists in that the. rules require him to serve others. He is not to serve himself, which means that he must not strive after economic independence. He must forever remain economically dependent on others.

For as Manu says:—

> I. 91. One occupation only the lord prescribed to the Shudra to serve meekly even these other three castes.

In the third place Hinduism leaves no scope for the Shudra to accumulate wealth. Menu's rules regarding the wages to be paid to the

Shudra when employed by the three higher classes are very instructive on this point. Dealing with the question of wages to the Shudras, Manu says:—

> X. 124. "They must allot to him (Shudra) out of their own family property a suitable maintenance, after considering his ability, his industry, and the number of those whom he is bound to support."
>
> X. 125. "The remnants of their food must be given to him, as well as their old clothes, the refuse of their grain, and their old household furniture.

This is Manu's law of wages. It is not a minimum wage law. It is a maximum wage law. It was also an iron law fixed so low that there was no fear of the Shudra accumulating wealth and obtaining economic security. But Manu did not want to take chances and he went to the length of prohibiting the Shudra from accumulating property. He says imperatively:—

> X. 129. No collection of wealth must be made by a Shudra even though he be able to do it; for a Shudra who has acquired wealth gives pain to Brahmans.

Thus in Hinduism, there is no choice of avocation. There is no economic independence and there is no economic security.. Economically, speaking of a Shudra is a precarious thing.

In the matter of the spread of knowledge two conditions are prerequisites. There must be formal education. There must be literacy. Without these two, knowledge cannot spread. Without formal education it is not possible to transmit all the resources and achievements of a complex society. Without formal education the accumulated thought and experience relating to a subject cannot be made accessible to the young and which they will never get if they were left to pick up their training in informal association with others. Without formal education he will not get new perceptions. His horizon will not be widened and he will remain an ignorant slave of his routine work. But formal education involves the establishment of special agencies such as schools, books, planned materials such as studies etc. How can any one take advantage of these special agencies of formal education unless he is literate and able to read and write? The spread of the arts of reading and writing i.e. literacy and formal education go hand in hand. Without the existence of two there can be no spread of knowledge.

How does Hinduism stand in this matter?

The conception of formal education in Hinduism is of a very limited character. Formal education was confined only to the study of the

Vedas. That was only natural. For the Hindus believed that there was no I knowledge outside the Vedas. That being so formal education was confined to the study of the Vedas. Another consequence was that the Hindu recognized that its only duty was to study in the schools established for the study of the Vedas. These schools benefitted only the Brahmins. The State did not hold itself responsible for opening establishments for the study of arts and sciences which concerned the life of the merchant and the artisan. Neglected by the state they had to shift for themselves.

Each class managed to transmit to its members the ways of doing things it was traditionally engaged in doing. The duties of the Vaishya class required that a young Vaishya should know the rudiments of commercial geography, arithmetic,, some languages as well as the practical details of trade. This he learned from his father in the course of the business. The Artisan's class or the Craftsman who sprang out of the 'Shudra class also taught the arts and crafts to their children in the same way. Education was domestic. Education was practical. It only increased the skill to do a *particular* thing. It did not lead to new perceptions. It did not widen horizon, with the result that the practical education taught him only an isolated and uniform way of acting so that in a changing environment the skill turned out to be gross ineptitude. Illiteracy became an inherent part of Hinduism by a process which is indirect but integral to Hinduism. To understand this process it is necessary to draw attention to rules framed by Manu in regard to the right to teach and study the Vedas. They are dealt with in the following Rules.

> I. 88. To the Brahmanas he (the creator) assigned *teaching* and *studying* the Veda.
>
> I. 89. The Kshatriya he (the creator) commanded to *study* the Veda.
>
> I. 90. The Vaishya he (the creator) commanded .....to study the Veda.
>
> II. 116. He who shall acquire knowledge of the Veda without the assent of his preceptor, incurs the guilt of stealing the scripture, .and shall sink to the region of torment."
>
> IV. 99. He (the twice born) must never read (the Veda)..... in the presence of the Shudras.
>
> IX. 18. Women have no business with the text of the *Veda*.
>
> XI. 199. A twice born man who has..... (improperly) divulged the Veda (i.e. to Shudras and women) (commits sin), atones for his offence, if he subsists a year on barley.

In these texts there are embodied three distinct propositions. The Brahmin, Kshatriya and Vaishya can study the Vedas. Of these the

Brahmins alone have the right to teach the Vedas. But in the case of the Shudra he has not only not to study the Vedas but he should not be allowed to hear it read.

The successors of Manu made the disability of the Shudra in the matter of the study of the Veda into an offence involving dire penalties.

For instance Gautama says:—

> XII. 4. If the Shudra intentionally listens for committing to memory the Veda, then his ears should be filled with (molten) lead and lac; if he utters the Veda, then his tongue should be cut off; if he has mastered the Veda his body should be cut to pieces.

To the same effect is Katyayana.

The ancient world may be said to have been guilty for failing to take the responsibility for the education of the masses. But never has any society been guilty of closing to the generality of its people the study of the books of its religion. Never has society been guilty of prohibiting the mass of its people from acquiring knowledge. Never has society made any attempt to declare that any attempt made by the common man to acquire knowledge shall be punishable as a crime. Manu is the only devine law giver who has denied the common man the right to knowledge.

But I cannot wait to dilate upon this. I am more immediately concerned in showing how the prohibition against the study of the Vedas to the mass of the people came to give rise to illeteracy and ignorance in secular life. The answer is easy. It must be realized that reading and writing have an integral connection with the teaching and study of the Vedas. Reading and writing were arts necessary for those who were free and privileged to study the Vedas. They were not necessary to those who were not free to do so. In this way reading and writing became incidental to the study of the Vedas. The result was that the theory of Manu regarding the rights and prohibitions in the matter of the teaching and the study of Vedas came to be extended to the arts of reading and writing. Those who had the right to study the Vedas were accorded the right to read and write. Those who had no right to study the Vedas were deprived of the right to read and write. So that it can be rightly said according to the law of Manu reading and writing has become the right of the high class few and illeteracy has become the destiny of the low class many.

Only a step in the process of this analysis will show how Manu by prohibiting literacy was responsible for the general ignorance in which the masses came to be enveloped.

Thus Hinduism far from encouraging spread of knowledge is a gospel of darkness.

Taking these facts into consideration Hinduism is opposed to the conditions in which liberty can thrive. It is therefore denial of liberty.

III

Does Hinduism recognize Fraternity?

There are two forces prevalent in Society. Individualism and Fraternity. Individualism is ever present. Every individual is ever asking "I and my neighbours, are we all brothers, are we even fiftieth cousins, am I their keeper, why should I do right to them" and under the pressure of his own particular interests acting as though he was an end to himself, thereby developing a non-social and even an anti-social self. Fraternity is a force of opposite character. Fraternity is another name for fellow feeling. It consists in a sentiment which leads an individual to identify himself with the good of others whereby "the good of others becomes to him a thing naturally and necessarily to be attended to like any of the physical conditions of our existence". It is because of this sentiment of fraternity that the individual does not "bring himself to think of the rest of his fellow-creatures as struggling rivals with him for the means of happiness, whom he must desire to see defeated in their object in order that he may succeed in his own." Individualism would produce anarchy. It is only fraternity which prevents it and helps to sustain the moral order among men. Of this there can be no doubt.

How does this sentiment of Fraternity of fellow feeling arise? J. S. Mill says that this sentiment is a natural sentiment.

> "The social state is at once so natural, so necessary, and so habitual to man, that, except in some unusual cicumstances or by an effort of voluntary abstraction he never conceives himself otherwise than as a member of a body; and this association is riveted more and more, as mankind are further removed from the state of savage independence. Any condition, therefore, which is essential to a state of society, becomes more and more an inseparable part of every person's conception of the state of things which he is born into, and which is the destiny of a human being. Now, society between human beings, except in the relation of master and slave, is manifestly impossible on any other footing than that the interests of all are to be consulted. Society between equals can only exist on the understanding that the interests of all are to be regarded equally. And since in all states of civilisation, every person, except

an absolute monarch, has equals, every one is obliged to live on these terms with some body; and in every age some advance is made towards a state in which it will be impossible to live permanently on other terms with any body. In this way people grow up unable to conceive as possible to them a state of total disregard of other people's interests."

Does this sentiment of fellow feeling find a place among the Hindus? The following facts throw a flood of light on this question.

The first fact that strikes one is the number of castes. No body has made an exact computation of their number. But it is estimated that total is not less than 2000. It might be 3000. This is not the only distressing aspect of this fact. There are others. Castes are divided into sub-castes. Their number is legion. The total population of the Brahmin Caste is about a crore and a half. But there are 1886 sub-castes of the Brahmin Caste. In the Punjab alone the Saraswat Brahmins of the Province of Punjab are divided into 469 sub-castes. The Kayasthas of Punjab are divided into 590 sub-castes. One could go on giving figures to show this infinite process of splitting social life into small fragments.

The third aspect of this splitting process is the infinitely small fragments into which the Castes are split. Some of the Baniya sub-castes can count no more than 100 families. They are so inter related they find extremely dificult to marry within their castes without transgressing the rules of consanguinity.

It is noteworthy what small excuses suffice to bring about this splitting.

Equally noteworthy is the hierarchical character of the Caste System. Castes form an hierarchy in which one caste is at the top and is the highest, another at the bottom and it is the lowest and in between there are castes every one of which is at once above some castes and below some castes. The caste system is a system of gradation in which every caste except the highest and the lowest has a priority and precedence over some other castes.

How is this precedence or this superiority determined ? This order of superiority and inferiority or this insubordination is determined by Rules (1) which are connected with religious rites and (2) which are connected with commensuality.

Religion as a basis of Rules of precedence manifests itself in three ways. Firstly through religious ceremonies, secondly through incantations that accompany the religious ceremonies and thirdly through the position of the priest.

Beginning with the ceremonies as a source of rules of precedence it should be noted that the Hindu Scriptures prescribe sixteen religious ceremonies. Although those are Hindu ceremonies every Hindu Caste cannot by right claim to perform all the sixteen ceremonies. Few can claim the right to perform all. Some are allowed to perform certain ceremonies, some are not allowed to perform certain of the ceremonies. For instance take the ceremony of Upanayan, wearing of the sacred thread. Some castes can't. Precedence follows this distinction in the matter of right to perform the ceremonies. A caste which can claim to perform all the ceremonies is higher in status than the caste which has a right to perform a few.

Turning to the Mantras, it is another source for rules of precedence According to the Hindu Religion the same ceremony can be performed in two different ways. (1) Vedokta and (2) Puranokta. In the Vedokta form the ceremonies are performed with Mantras (incantations) from the Vedas. In the Puranokta form the ceremony is performed with Mantras (incantations) from the Puranas. Hindu Religious Scriptures fall into two distinct categories (1) The Vedas which are four, and (2)the Puranas which are eighteen. Although they are all respected as scriptures they do not all have the same sanctity. The Vedas have the highest sanctity and the Puranas have the lowest sanctity. The way the Mantras give rise to social precedence will be obvious if it is borne in mind that not every caste is entitled to have the ceremony performed in the Vedokta form. Three castes may well claim the right to the performance of one of the sixteen ceremonies. But it will be that one of it is entitled to perform it in the Vedokta form, another in the Puranokta form. Precedence goes with the kind of Mantra that a caste is entitled to use in the performance of a religious ceremony. A caste which is entitled to use Vedic Mantras is superior to a caste which is entitled to use only Puranokta Mantras.

Taking the priest as a second source of precedence connected with Religion, Hinduism requires the instrumentality of a priest for the derivation of the full benefit from the performance of a religious ceremony. The priest appointed by the scripture is the Brahmin. A Brahmin therefore is indispensable. But the scriptures do not require that a Brahmin shall acecept the invitation of any and every Hindu irrespective of his caste to officiate at a religious ceremony. The invitation of which caste he will accept and of which he will refuse is a matter left to the wishes of the Brahmin. By long and well established custom it is now settled at which caste he will officiate and at which caste he will not. This fact has become the basis of precedence as between castes. The caste at which a Brahmin will officiate is held as

superior to a caste at whose religious functions a Brahmin will not officiate.

The second source for rules of precedence is commensality. It will be noticed that rules of marriage have not given rise to rules of precedence as rules of commensality have. The reason lies in the distinction between the rules prohibiting intermarriage and interdining. That difference is obvious. The prohibition on intermarriage is such that it cannot only be respected but it can be carried out quite strictly. But the prohibition of interdining creates difficulties. It cannot be carried out quite strictly in all places and under all circumstances. Man migrates and must migrate from place to place. In every place he happens to go he may not find his castemen. He may find himself landed in the midst of strangers. Marriage is not a matter of urgency but food is. He can wait for getting himself married till he returns to the Society of his castemen. But he cannot wait for his food. He must find it from somewhere and from someone. Question arises from which caste he can take food, if he has to. The rule is that he will take food from a caste above him but will not take food from a caste which is below him. There is no way of finding how it came to be decided that a Hindu can take food from one caste and not from another. By long series of precedent every Hindu knows from what caste he can take food and from what caste he cannot. This is determined chiefly by the rule followed by the Brahmin. A caste is higher or lower according as the Brahmin takes from it food or not. In this connection the Brahmin has a very elaborate set of rules in the matter of food and water. (1) He will take only water from some and not from others. (2) A brahmin will not take food cooked in water by any caste. (3) He will take only food cooked in oil from some castes. Again he has a set of rules in the matter of the vessels, in which he will accept food and water. He will take food or water in an earthen vessel from some castes, only in metallic vessel from some and only in glass vessel from others. This goes to determine the level of the castes. If he takes food cooked in oil from a caste its status is higher than the caste from which he will not. If he takes water from a caste its status is higher than the caste from which he will not. If he takes water in a metallic vessel that caste is higher than the caste from which he will take water in an earthen vessel. Both these castes are higher than the caste from which he will take water in a glass vessel. Glass is a substance which is called (Nirlep) (which conserves no stain) therefore a Brahmin can take water in it even from the lowest. But other metals do conserve stains. Contaminating character of the stain depends upon the status of the person who has used it. That status depends upon the Brahmins will to accept water in that vessel.

These are some of the factors which determine the place and status of a caste in this Hindu hierachical system of castes.

This hierarchial organization of the caste system is responsible for producing a social psychology which is noteworthy. In the first place it produces a spirit of rivalry among the different castes for dignity. Secondly it produces an ascending scale of hatred and descending scale of contempt.

This social psychology of mutual hatred and contempt is well illustrated by the innumerable proverbs that are flying about in India. As examples I record a few of them.

This spirit of hatred and contempt has not only found its place in proverbs but it has found its place in Hindu literature also. I refer to a Scripture known as the *Sahyadrikhand*. It is one of the Puranas which form a part of the Hindu Sacred literature. But its subject matter is totally foreign to the subject matter of other Puranas. It deals with the origin of the different castes. In doing so it assigns noble origin to other castes while it assigns to the Brahmin caste the filthiest origin. It was a revenge on Manu. It was worst lampoon on the Brahmins as a caste. The Peshwas very naturally ordered its destruction. Some survived the general destruction.

I will just record one more fact before I put the question.

Present day Hindus are probably the strongest opponents of Marxism. They are horrified at its doctrine of class-struggle. But they forget that India has been not merely the land of class struggle but she has been the land of class wars.

The bitterest class war took place between the Brahmins and the Kshatriyas. The classical literature of the Hindus abounds in reference to class wars between these two Varnas.

The first recorded conflict was between the Brahmins and KingVena. Vena was the son of King Anga, of the race of Atri and was born of Sunitha, the daughter of Mrityu (Death). This son of the daughter of Kala (death), owing to the taint derived from his maternal grandfather, threw his duties behind his back, and lived in covetousness under the influence of desire. This king established an irreligious system of conduct; transgressing the ordinances of the Veda, he was devoted to lawlessness. In his reign men lived without study of the sacred books and the gods had no soma-libations to drink at sacrifices. 'I' he declared, 'am the object, and the performer of sacrifice, and the sacrifice itself; it is to me that sacrifice should be presented, and oblation offered This transgressor of the rules of duty, who arrogated to himself what was not his due, was then addressed by all the great rishis, headed by Marichi. 'We are about to consecrate

* *The proverbs are not mentioned in the MS*— Editors.

ourselves for a ceremony which shall last for many years, practice not unrightousness, O Vena: this is not the eternal rule of duty. Thou art in every deed a Prajapati of Atri's race, and thou hast engaged to protect thy subjects.' The foolish Vena, ignorant of what was right, laughingly answered those great rishis who had so addressed him; 'Who but myself is the ordainer of duty or whom ought I to obey? Who on earth equals me in sacred knowledge, in prowess, in austere fervour, in truth? Ye who are deluded and senseless know not that I am the source of all beings and duties. Hesitate not to believe that I, if I willed, could burn up the earth, or deluge it with water, or close up heaven and earth.' When wing to his delusion and arrogance Vena could not be governed then the mighty rishis becoming incensed, seized the vigorous and struggling king, and nibbed his left thigh. From this thigh, so rubbed, was produced a black man, very short in stature, who, being alarmed, stood with joined hands. Seeing that he was agitated, Atri said to him 'Sit down' (Nishada). He became the founder of the race of the Nishadas, and also progenitor of the hivaras (fishermen), who sprang from the corruption of Vena. So two were produced from him the other inhabitants of the Vindhya range, the Tukharas and Tumburas, who are prone to lawlessness. Then the mighty sages, excited and incensed, again rubbed the right hand of Vena, as men do the Arani wood, and from it arose Pritha, respondent in body, glowing like the manifested Agni."

"The son of Vena (Pritha) then, with joined hands, addressed the great Rishis: 'A very slender understanding for perceiving the principles of duty has been given to me by nature; tell me truly how I must employ it. Doubt not that I shall perform whatever thy shall declare to me as my duty, and its object'. Then those gods and great rishis said to him: 'Whatever duty is enjoined perform it without hesitation, disregarding what though mayest like or dislike, looking on all creatures with an equal eye, putting far from thee lust, anger, cupidity and pride. Restrain by the strength of thine arm all those men who swerve from righteousness, having a constant regard to duty. And in thought, act, and word take upon thyself, and continually renew, the engagement to protect the terrestrial Brahman (Veda or Brahmins?)..... And promise that thou wilt exempt the Brahmans from punishment, and preserve society from the confusion of Castes'. The son of Vena then replied to the gods, headed by the rishis: 'The great Brahmans, the chief of men, shall be reverenced by me'. 'So be it,' rejoined those declares of the Veda. Sukra, the depository of divine knowledge, became his

Purohita; the Balakhilyas and Sarasvatyas his ministers; and the venerable Garga, the great rishi, his astrologer.

The second recorded conflict took place between the Brahmins and the Kshatriya king Pururavas. A brief reference to it occurs in the Adiparva of the Mahabharat.

Pururavas was born of Ha. Ruling over thirteen islands of the ocean, and surrounded by beings who were all superhuman, himself a man of great renown, Pururavas, intoxicated by his prowess engaged in a conflict with the Brahmans, and robbed them of their jewels, although they loudly remonstrated. Sanatkumara came from Brahma's heaven, and addressed to him an admonition, which however, he did not regard. Being then straightway cursed by the in censed rishis, he perished, this covetous monarch, who, through pride of power, had lost his understanding. This glorious being (virat), accompanied Urvasi, brought down for the performance of sacred rites the fires which existed in the heaven of the Gandharvas, properly distributed into three.

A third collision is reported to have occurred between the Brahmins and King Nahusha. The story is given in great details in the Udyogaparva of the Mahabharat. It is there recorded:

"After his slaughter of the demon Vrittra, Indra became alarmed at the idea of having taken the life of a Brahmin (for Vrittra was regarded as such), and hid himself in waters. In consequence of the disappearance of the king of gods, all affairs, celestial as well as terrestrial, fell into confusion. The rishis and Gods then applied to Nahusha to be their king. After at first excusing himself on the plea of want of power, Nahusha at length, in compliance with their solicitations, accepted the high function. Up to the period of his elevation he had led a virtuous life, but he now became addicted to amusement and sensual pleasure; and even aspired to the possession of Indrani, Indra's wife, whom he had happened to see. The queen resorted to the Angiras Vrihaspati, the preceptor of the Gods, who engaged to protect her. Nahusha was greatly incensed on hearing of this interference; but the Gods endeavoured to pacify him, and pointed out the immorality of appropriating another person's wife. Nahusha, however, would listen to no remonstrance, and insisted that in his adulterous designs he was not worse than Indra himself; "The renowned Ahalya, a rish's wife, was formerly corrupted by Indra in her husband's lifetime; why was he not prevented by you? And many barbarous acts, and unrighteous deeds, and frauds were perpetrated of by old Indra; Why was he not prevented by you?" The Gods, urged by Nahusha, then went to bring Indrani; but Vrihaspati would not

give her up. At his recommendation, however, she solicited Nahusha for some delay, till she should ascertain what had become of her husband. This request was granted. The Gods next applied to Vishnu on behalf of Indra; and Vishnu promised that if Indra would sacrifice to him, he should be purged from his guilt, and recover his dominion, while Nahusha would be destroyed. Indra sacrificed accordingly; and the result is thus told; "Having divided the guilt of Brahmanicide among trees, rivers, mountains, the earth, women and the elements, Vasava (Indra), lord of the Gods, became freed from suffering and sin, and self governed." Nahusha was by this means, shaken from his place. But he must have speedily regained his position, as we are told that Indra was again ruined, and became invisible. Indrani now went in search of her husband; and by the help of Upasriti (the Goddess of night and revealer of secrets) discovered him existing in a very subtle form in the stem of a lotus growing in a lake situated in a continent within an ocean north of the Himalaya. She made known to him the wicked intention of Nahusha, and entreated him to exert his power, rescue her from danger, and resume his dominion. Indra declined any immediate interposition on the plea of Nahusha's superior strength; but suggested to his wife a device by which the usurper might be hurled from his position. She was recommended to say to Nahusha that "if he would visit her on a celestial vehicle borne by rishis, she would with pleasure submit hereself to him". The question of the Gods accordingly went to Nahusha, by whom she was graciously received, and made this proposal: "I desire for thee, king of the Gods, a vehicle hitherto unknown, such as neither Vishnu, nor Rudra, nor the asuras, nor the rakshases employ. Let the eminent rishis, all united, bear thee, lord, in a car; this idea pleases me". Nahusha receives favourably this appeal to his vanity, and in the course of his reply thus gives utterance to his self congratulation: "He is a personage of no mean prowess who makes the *Munis* his bearers. I am a fervid devotee of great might, lord of the past, the future and the present. If I were angry the world would no longer stand; on me everything depends ..... Wherefore, O Goddess I shall, without doubt, carry out what you propose. The seven rishis, and all the Brahman rishis. shall carry me. Behold beautiful Goddess, my majesty and my prosperity." The narrative goes on: "Accordingly this wicked being, irreligious, violent, intoxicated by the force of conceit, and arbitrary in his conduct, attached to his car the rishis, who submitted to his commands, and compelled them to bear him". Indrani then again resorts to Vrihaspati, who assures her that vengeance will soon overtake Nahusha for his presumption; and promises that he will himself perform a sacrifice with a view to the

destruction of the oppressor, and the discovery of Indra's lurking place. Agni is then sent to discover and bring Indra to Vrihaspati; and the latter, on Indra's arrival, informs him of all that had occurred during his absence. While Indra with Kuvera, Yama, Soma, and Varuna, was devising means for the destruction of Nahusha, the sage Agastya came up, congratulated Indra on the fall of his rival, and proceeded to relate how it had occurred: "Wearied with carrying the sinner Nahusha, the eminent divine rishis, and the spotless brahman-rishis asked that divine personage Nahusha (to solve) a difficulty: 'Dost thou, Vasava, most excellent of conquerors, regard as authoritative or not those Brahmana texts which are recited at the immolation of king?' 'No', replied Nahusha, whose understanding was enveloped in darkness. The rishis rejoined: 'Engaged in unrighteousness, thou attainest not unto righteousness: these texts, which were formerly uttered by great rishis, are regarded by us as authoritative.' The (proceeds Agastya) disputing with the munis, impelled by unrighteousness, touched me on the head with his foot. In consequence of this the king's glory was smitten and his prosperity departed. When he had instantly become agitated and oppressed with fear, I said to him, 'Since thou, O fool, condemnest that sacred text, always held in honour, which has been composed by former sages, and employed by Brahman-rishis, and hast touched my head with thy foot, and employest the Brahma—like and irresistable rishis as bearers to carry thee,—therefore, short of thy lustre and all thy merit exhausted, sink down, sinner, degraded from heaven to earth. For then thousand years thou shalt crawl in the form of a huge serpent. When that period is completed, thou shalt again ascend to heaven. 'So fell that wicked wretch from the sovereignty of the Gods."

Next there is a reference to the conflict between King Nimi and the Brahmins. The Vishnu Puran relates the story as follows:—

"Nimi had requested the Brahman-rishi Vasishtha to officiate at a sacrifice, which was to last a thousand years, Vasishtha in reply pleaded a pre-engagement to Indra for five hundred years, but promised to return at the end of that period. The king made no remark, and Vasishtha went away, supposing that he had assented to this arrangement. On his return, however, the priest discovered that Nimi had retained Gautama (who was equal with Vasishtha a Brahman-rishi) and others to perform the sacrifices; and being incensed at the neglect to give him notice of what was intended, he cursed the king, who was then asleep, to lose his corporeal form. When Nimi awoke and learnt that he had been cursed without any previous warning, he retorted, by uttering a similar curse on

> Vasishtha, and then died. In consequence of this curse the vigour of Vasistha, however, received from them another body when their seed had fallen from them at the sight of Urvasi. Nimi's body was emblamed. At the close of the sacrifice which he had begun, the Gods were willing, on the intercession of the priests, to restore him to life, but he declined the offer, and was placed by the deities, according to his desire, in the eyes of all living creatures. It is in consequence of this fact that they are always opening the shutting, (nimishas means "the twinkling of the eye")."

Manu mentions another conflict between the Brahmins and King Sumukha. But of this no details are available.

These are instances of conflict between the Brahmins and the Kshatriya Kings. From this it must not be supposed that the Brahmins and the Kshatriyas as two classes did not clash. That there were clashes between these two classes as distinguished from conflicts with kings is abundently proved by material the historic value of which cannot be doubted. Reference may be made to three events.

First is the contest between two individuals Vishvamitra the Kshatriya and Vasishtha the Brahmin. The issue between the two was whether a Kshatriya can claim Brahmahood. The story is told in Ramayana and is as follows:-

> "There was formerly, we are told, a king called Kusa, son of Prajapati, who had a son called Kushanabha, who was father of Gadhi, the father of Visvamitra. The latter ruled the earth for many thousand years. On one occasion, when he was making a circuit of the earth, he came to Vasishtha's hermitage, the pleasant abode of many saints, sages, and holy devotees, where, after at first declining he allowed himself to be hospitably entertained with his followers. Visvamitra, however, coveting the wondrous cow, which had supplied all the dainties of the feast, first of all asked that she should be given to him in exchange for a hundred thousand common cows, adding that "she was a gem, that gems were the property of the king, and that, therefore, the cow was his by right". On this price being refused the king advances immensely in his offers, but all without effect. He then proceeds—very ungratefully and tyrannically, it must be allowed—to have the cow removed by force, but she breaks away from his attendants, and rushes back to her master, complaining that he was deserting her. He replied that he was not deserting her, but that the king was much more powerful than he. She answers, "Men do not ascribe strength to a Kshatriya; the Brahmins are stronger. The Strength of Brahmins is divine, and superior to that of Kshatriya. Thy strength is immeasureable. Visvamitra, though of great vigour, is not

more powerful than thou. Thy energy is invincible. Commission me, who have been acquired by the Brahmanical power, and I will destroy the pride, and force, and attempt of this wicked prince". She accordingly by her bellowing creates hundreds of Pahlavas, who destroy the entire host of Visvamitra, but are slain by him in their turn. Sakas and Yavans, of great power and valour, and well armed, were then produced, who consumed the king's soldiers, but were routed by him. The cow then calls into existence by her bellowing, and from different parts of her body, other warriors of various tribes, who again destroyed Visvamitra's entire army, foot soldiers, elephants, horses, chariots, and all. "A hundred of the monarch's sons, armed with various weapons, then rushed in great fury on Vashistha, but were all reduced to ashes in a moment by the blast of that sage's mouth. Vishvamitra, being thus utterly vanquished and humbled, appointed one of his sons to be regent, and travelled to the Himalaya, where he betook himself to austerities, and thereby obtained a vision of Mahadeva, who at his desire revealed to him the science of arms in all its branches, and gave him celestial weapons with which, elated and full of pride, he consumed the hermitage of Vashishtha, and put its inhabitants to flight. Vashishtha then threatens Vishvamitra and uplifts his Brahminical mace. Vishvamitra too, raises his fiery weapon and calls out to his adversary to stand. Vashishtha bids him to show his strength, and boasts that he will soon humble his pride. He asks: "What comparison is there between a Kshatriya's might, and the great might of a Brahman? Behold, thou contemptible Kshatriya, my divine Brahmanical power". The dreadful fiery weapon uplifted by the son of Gadhi was then quenched by the rod of the Brahman, as fire is by water. Many and various other celestial missiles, as the nooses of Brahma, Kala (time), and Varuna, the discus of Vishnu, and the trident Siva, were hurled by Vishvamitra at his antagonist, but the son of Brahma swallowed them up in his all-devouring mace. Finally, to the intense consternation of all the Gods, the warrior shot off the terrific weapon of Brahma (Brahmastra); but this was equally ineffectual against the Brahmanical sage. Vashishtha had now assumed a direful appearance:' Jets of fire mingled with smoke darted from the pores of his body; the Brahminical mace blazed in his hand like a smokeless mundane conflagration, or a second sceptre of Yama". Being appeased, however, by the munis, who proclaimed his superiority to his rival, the sage stayed his vengeance ;and Vishvamitra exclaimed with a groan: 'Shame on a Kshatriya's strength; the strength of a Brahman's might alone is strength; by the single Brahmanical mace all my weapons have been destroyed.' No

alternative now remains, to the humiliated monarch, but either to acquiesce in this helpless inferiority, or to work out his own elevation to the Brahmanical order. He embraces the latter alternative: "Having pondered well this defeat, I shall be take myself, with composed senses and mind, to strenous austere fervour, which shall exalt me to the rank of a Brahman". Intensely vexed and mortified, groaning and full of hatred against his enemy, he travelled with his queen to the south, and carried his resolution into effect; and we are first of all told that three sons Havishyanda, Madhusyanda, and Dridhanetra were born to him. At the end of a thousand years Brahma appeared, and announced that he had conquered the heaven of royal sages (Rajarshis); and, in consequence of his austere fervour, he was recognised as having attained that rank. Vishvamitra, however, was ashamed, grieved, and incensed at the offer of so very inadequate a reward, and exclaimed: "I have practised intense austerity, and the Gods and Rishis regard me only as a Rajarshi and not as a Brahman." There is conflict recorded between the same persons or different persons of the same name though on a somewhat different issue.

King Trisanku, one of Ikshvaku's descendants, had conceived the design of celebrating a sacrifice by virtue of which he should ascent bodily to heaven. As Vashistha, on being summoned, declared that the thing was impossible (asakyam), Trisanku travelled to the south, where the sage's hundred sons were engaged in austerities, and applied to them to do what their father had declined. Though he addressed them with the greatest reverence and humility, and added that "the Ikshvaku regarded their family—priests as their highest resource in difficulties, and that, after their father, he himself looked to them as his tutelary deities" he received from the haughty priests the following rebuke for his presumption: "Asakyam" "Fool, thou hast been refused by thy truth speaking preceptor. How is it that, disregarding his authority, thou hast resorted to another school (sakha). The family priest is the highest oracle of all the Ikshvakus; and the command of that veracious personages cannot be transgressed. Vashishtha, the divine Rishi, has declared that' the thing cannot be'; and how can we undertake thy sacrifice? Thou art foolish king; return to thy capital. The divine (Vashishtha) is competent to act as priest of the three worlds; how can we shew him disrespect?" Trisanku then gave them to understand, that as his preceptor and "his preceptor's sons had declined compliance with his requests, he should think of some other expedient". In consequence of his venturning to express this presumptuous intention, they condemned him by their imprecation to become a Chandala. As this curse soon took effect, and the unhappy

king's form was changed into that of a degraded outcast, he resorted to Vishvamitra (who, as we have seen, was also dwelling at this period in the south), enlarging on his own virtues and piety, and bewailing his fate. Vishvamitra commiserated his condition, and promised to sacrifice on his behalf, and exalt him to heaven in the same Chandala form to which he had been condemned by his preceptor's curse. "Heaven is now as good as in thy possession, since thou hast resorted to the son of Kusika". He then directed that preparations should be made for the sacrifice, and that all the Rishis, including the family of Vashishtha should be invited to the ceremony. The disciples of Vishvamitra, who had conveyed his message, reported the result on their return in these words: "Having heard your message, all the Brahmans are assembling in all the countries, and have arrived, excepting Mahodaya (Vashishtha)? Hear what dreadful words those hundred Vashishthas, their voices quivering with rage, have uttered: "How can the Gods and Rishis consume the oblation at the sacrifice of that man, especially if he be a Chandala, for whom a Kshatriya is officiating priest? How can illustrious Brahmans ascend to heaven after eating the food of a Chandala, and being entertained by Vishvamitra?" These ruthless words all Vashishthas, together with Mahodaya, uttered, their eyes inflamed with anger. Vishvamitra, who was greatly incensed on receiving this, message by a curse doomed the sons of Vashishtha to be reduced to ashes, and reborn as degraded outcasts (mritapah) for seven hundred births, and Mahodaya to become a Nishada. Knowing that this curse had taken effect, Vishvamitra then after eulogizing Trisanku, proposed to the assembled Rishis that the sacrifice should be celebrated. To this they assented, being actuated by fear of the terrible sage's wrath. Vishvamitra himself officiated at the sacrifices as yajakas; and the other Rishis as priests (Ritvijah) (with other functions) performed all the ceremonies. Vishvamitra next invited the gods to partake of the oblations; "When, however, the deities did not come to receive their portions, Vishvamitra became full of wrath, and raising aloft the sacrificial ladle, thus addressed Trisanku: 'Behold, O monarch, the power of austere fervour acquired by my own efforts. I myself, by my own energy, will conduct thee to heaven. Ascend to that celestial region which is so arduous to attain in an earthly body. I have surely earned SOME reward of my austerity'." Trisanku ascended instantly to heaven in the sight of Munis. Indra, however, ordered him to be gone, as a person who, having incurred the curse of his spiritual preceptors, was unfit for the abode of the celestials:—and to fall down headlong to earth. He accordingly began to descend, invoking loudly, as he fell, the help of

his spiritual patron. Vishvamitra, greatly incensed, called out to him to stop: "Then by the power of his divine knowledge and austere fervour created, like another Prajapati, other Seven Rishis (a constellation so called) in the southern part of the sky. Having proceeded to this quarter of the heavens, the renowned sage, in the midst of the Rishis, formed another garland of stars, being overcome with fury. Exclaiming, 'I will create another Indra, or the world shall have no Indra at all', he began, in his rage, to call Gods also into being". The Rishis, Gods, (Suras), and Asuras now became seriously alarmed and said to Vishvamitra, in a concilliatory tone, that Trisanku, "as he had been cursed by his preceptors, should not be admitted bodily into heaven, until he had undergone some lustration". The sage replied that he had given a promise to Trisanku, and appealed to the Gods to permit his proteage to remain bodily in heaven, and the newly created stars to retain their places in perpetuity. The Gods agreed that "these numerous stars should remain, but beyond the Sun's path, and that Trisanku, like an immortal, with his head downwards should shine among them, and be followed by them", adding "that his object would be thus attained, and his renown secured, and he would be like a dweller in heaven". Thus was this great dispute adjusted by a compromise, which Vishvamitra accepted.[1]

When all the Gods and rishis had departed at the conclusion of the sacrifice, Vishvamitra said to his attendant devotees; "This has been a great interruption (to our austerities) which has occurred in the southern region: we must proceed in another direction to continue our penances". He accordingly went to a forest in the west, and began his austerities anew. Here the narrative is again interrupted by the introduction of another story, that of king Ambarisha, king of Ayodhya, who was, according to the Ramayana, the twenty eighth in descent from Ikshvaku, and the twenty second from Trisanku. Vishvamitra is nevertheless represented as flourishing contemporaneously with both of these princes. The story relates that Ambarisha was engaged in performing a sacrifice, when Indra carried away the victim. The priest said that this ill-omened event had occurred owing to the king's bad administration; and would call for a great expiation, unless a human victim could be produced. After a long search the royal rishi (Ambarisha) came upon the Brahmin-rishi Richika, a descendant of Bhrigu, and asked him to sell one of his sons for a victim, at the price of a hundred thousand cows. Richika answered that he would not sell his eldest son; and his wife added that

[1] This is the story of Trisanku. It will have been observed, it differs materially from the one quoted above from Harivansa; but brings out more distinctly the character of the conflict between Vashishtha and Vishvamitra.

she would not sell the youngest: "Eldest sons," she observed, "being generally the favourites of their fathers, and youngest sons of their mothers". The second son, Sunassepa then said that in that case he regarded himself as the one who was to be sold, and desired the king to remove him. The hundred thousand cows, with ten millions of gold pieces and heaps of jewels, were paid down, and Sunassepa was carried away. As they were passing through Puskara, Sunassepa beheld his maternal uncle Vishvamitra who was engaged in austerities there with other rishis, threw himself into his arms, and implored his assitance, urging his orphan, friendless, and helpless state, as claims on the sage's benevolence. Vishvamitra soothed him; and pressed his own sons to offer themselves as victims in the room of Sunassepa. This proposition met with no favour from Madhushanda and the other sons of the royal hermit, who answered with haughtiness and derison: "How is it that thou sacrificest thine own sons, and seekest to rescue those of others ? We look upon this as wrong, and like the eating of one's own flesh". The sage was exceedingly wrath at this disregard of his injunction, and doomed his sons to be born in the most degraded classes, like Vashishtha's sons, and to eat dog's flesh, for a thousand years. He then said to Sunassepa: "When thou art bound with hallowed cords, decked with a red garland, and anointed with unguents, and fastened to the sacrificial post of Vishnu, then address thyself to Agni, and sing these two divine verses (gathas), at the sacrifice of Ambarisha; then shall thou attain the fulfilment of thy desire". Being furnished with the two gathas, Sunassepa proposed at once to King Ambarisha that they should set out for their destination. Then bound at the stake to be immolated, dressed in a red garment, "he celebrated the two Gods, Indra and his younger brother (Vishnu), with the excellent verses. The thousand-eyed (Indra) was pleased with the sacred hymn, and bestowed long life on Sunassepa". King Ambarisha also received great benefits from this sacrifice. Vishvamitra meanwhile proceeded with his austerities, which he prolonged for a thousand years, "At the end of this time the Gods came to allot his reward; and Brahma announced that he had attained the rank of a rishi, thus apparently advancing an additional step. Dissatisfied, as it would seem, with this, the sage commenced his task of penance anew. After a length of time he beheld the nymph (Apsara) Menka, who had come to bathe in the lake of Pushkara. She flashed on his view, unequalled in her radiant beauty, like lightning in a cloud. He was smitten by her charms, invited her to be his companion in his hermitage, and for ten years remained a slave to her witchery, to the great prejudice of his austerities. At length he became ashamed of this ignoble subjection, and full of indignation at

what he believed to be a device of the Gods to disturb his devotion; and, dismissing the nymph with gentle accents, he departed for the northern mountains, where he practised severe austerities for a thousand years on the banks of the Kausiki river. The Gods became alarmed at the progress he was making, and decided that he should be dignified with the appellation of great rishi (Maharshi); and Brahma, giving effect to the general opinion of the deities, announced that he had conferred that rank upon him. Joining his hands and bowing his head, Vishvamitra replied that he should consider himself to have indeed completely subdued his senses, if the incomparable title of Brahmin-rishi were conferred upon him. Brahma informed him in answer, that he had not yet acquired the power of perfectly controling his senses; but should make further efforts with that view. The sage then began to put himself through a yet more rigourous course of austerities, standing with his arms erect, without support, feeding on air, in summer exposed to five fires (i.e. one on each of four sides, and the sun overhead), in the rainy season remaining unsheltered from the wet, and in winter lying on a watery couch night and day. This he continued for a thousand years. At last Indra and the other deities became greatly distressed at the idea of the merit he was storing up, and the power which he was thereby acquiring; and the chief of the celestials desired the nymph Rambha to go and bewitch him by her blandishments. She expressed great reluctance to expose herself to the wrath of the formidable muni, but obeyed the repeated injunction of Indra, who promised that he and Kandarpa (the God of love) should stand by her, and assumed her most attractive aspect with the view of overcoming the sage's impassibility. He, however, suspected this design, and becoming greatly incensed, he doomed the numph by a curse to be turned into stone and to continue in that state for a thousand years. The curse took effect, and Kandarpa and Indra sunk away. In this way, though he resisted the allurements of sensual love, he lost the whole fruit of his austerities by yielding to anger; and had to begin his work over again. He resolved to check his irresistibility, to remain silent, not even to breathe for hundreds of years; to dry up his body; and to fast and stop his breath till he had obtained the coveted character of a Brahmin. He then left the Himalaya and travelled to the east, where he underwent a dreadful exercise, unequalled in the whole history of austerities, maintaining silence, according to a vow, for a thousand years. At the end of this time he had attained to perfection, and although thwarted by many obstacles, he remained unmoved by anger. On the expiration of this course of austerity, he prepared some food to eat; which Indra, coming in the form of a Brahmin, begged

that he would give him. Vishvamitra did so, and though he had 'done left for himself, and was obliged to remain fasting, he said nothing to the Brahmin, on account of his vow of silence. "As he continued to suspend his breath, smoke issued from his head, to the great consternation and distress of the three worlds." The Gods, rishis, etc., then addressed Brahma. "The great muni Vishvamitra has been allured and provoked in various ways, but still advances in his sanctity. If his wish is not conceded, he will destroy the three worlds by the force of his austerity. All the regions of the universe are confounded, no light anywhere shines; all the oceans are tossed, and the mountains crumble, the earth quakes, and the wind blows confusedly. We cannot, O Brahma, guarantee that mankind shall not become atheistic ..... Before the great and glorious sage of fiery form resolves to destroy (everything) let him be propitiated." The Gods, headed by Brahma, then addressed Vishvamitra : 'Hail, Brahman rishi, we are gratified by the austerity ; O Kausika, thou hast, through their intensity, attained to Brahmahood. I, O Brahman, associated with the Maruts, confers on thee long life. May every blessing attend thee; depart whereever thou wilt.' The sage, delighted, made his obeisance to the Gods, and said : 'If I have obtained Brahmahood, and long life, then let the mystic monosyllable (omkara) and the sacrificial formula (vashatkara) and the Vedas recognise me in that capacity. And let Vashishtha, the son of Brahmin, the most eminent of those who are skilled in the Kshatra-Veda, and the Brahma-Veda (the knowledge of the Kshatriya and the Brahmnical disciplines), address me similarly' ..... Accordingly Vashishtha, being propitiated by the Gods, became reconciled to Vishvamitra, and recognised his claim fo all the prerogatives of a Brahman rishi ..... Vishvamitra, too having attained the Brahmanical rank, paid all honour to Vashishtha".

The second event has a reference to the slaughter of the Brahmins by the Kshatriyas. It is related in the Adiparva of the Mahabharat from which the following account is taken:—

"There was a King named Kritrvirya, by whose liberality the Bhrigus, learned in the Vedas, who officiated as his priests, had been greatly enriched with corn and money. After he had gone to heaven, his descendants were in want of money, and came to beg for a supply from the Bhrigus, of whose wealth they were aware. Some of the latter hid their money under ground, others bestowed it on Brahmins, being afraid of the Kshatriyas, while others again gave these last what they wanted. It happened, however, that a Kshatriya, while digging the ground, discovered some money buried in the house of Bhrigu. The Kshatriyas then assembled and saw this treasure, and, being incensed,

slew in consequence all the Bhrigus, who they regarded with contempt, down to the children, in the womb. The widows, however, fled to the Himalaya mountains. One of them concealed her unborn child in her thigh. The Kshatriya, hearing of its existence from a Brahmani informant, sought to kill it; but it issued forth from its mother's thigh with lustre, and blinded the persecutors. After wandering about bewildered among the mountains for a time, they humbly supplicated the mother of the child for the restoration of their sight; but she referred them to her wonderful infant Aurva into whom the whole Veda, with its six Vedangas, had entered as the person who (in retaliation of the slaughter of his relatives) had robbed them of their eyesight, and who alone could restore it. They accordingly had recourse to him, and their eyesight was restored. Aurva, however, meditated the destruction of all living creatures, in revenge for the slaughter of the Bhrigus, and entered on a course of austerities which alarmed both Gods, Asuras, and men; but his progenitors (Pitris) themselves appeared, and sought to turn him from his purpose by saying that they had no desire to be revenged on the Kshatriyas: "It was not from weakness that the devout Bhrigus overlooked the massacre prepetrated by the murderous Kshatriyas. When we became distressed by old age, we ourselves desired to be slaughtered by them. The money which was buried by someone in a Bhrigu's house was placed there for the purpose of exciting hatred, by those who wished to provoke the Kshatriyas. For what had we, who were desiring heaven, to do with money?" They added that they hit upon this device because they did not wish to be guilty of suicide, and concluded by calling upon Aurva to restrain his wrath; and abstain from the sin he was meditating, "Destroy not the Kshatriyas. Oh, son, nor the seven worlds. Suppress thy kindled anger which nullifies the power of austere fervour." Aurva, however, replies that he cannot allow his threat to remain unexecuted. His anger, unless wreaked upon some other object, will, he says, consume himself. And he argues on grounds of justice, expediency, and duty, against the clemency which his progenitors recommend. He is, however, persuaded by the Pitris to throw the fire of his anger into the sea, where they say it will find exercise in assailing the watery element, and in this way his threat will be fulfilled."

The third event has reference to the slaughter of the Kshatriyas by the Brahmins. This story is told in several places in the Mahabharat.

The magnificent and mighty Kartavirya, possessing a thousand arms, was lord of this whole world, living in Mahishmati. This Haihaya of unquestioned valour ruled over the whole sea-girt earth, with its oceans and continents. He obtained boons from the Muni Dattatreya, a thousand arms whenver he should go into battle, power to make the conquest of the whole earth, a disposition to rule it with

justice and the promise of instruction from the virtuous in the event of his going astray. "Then ascending his chariot glorious as the resplendent Sun, he exclaimed in the intoxication of his prowess, 'Who is like me in fortitude, courage, fame, herosim, energy, and vigour?' At the end of this speech a bodyless voice in the sky addressed him: 'Thou knowest not, O fool, that a Brahman is better than Kshatriya. It is with the help of the Brahman that the Kshatriya rules his subjects.' Arjuna answers: 'If I am pleased, I can create, or, if displeased, annihilate living beings; and no Brahman is superior to me in act, thought or word. The first proposition is that the Brahmins are superior; the second that the Kshatriyas are superior; both of these thou hast stated with their grounds, but there is a difference between them (in point of force). The Brahmins are dependent on the Kshatriyas and not the Kshatriyas on the Brahmins, who wait upon them, and only make the Vedas a pretence. Justice, the protection of the people, has its seat in the Kshatriyas. From them the Brahmins derive their livelihood; how then can the latter be superior? I always keep in subjection myself those Brahmins, the chief of all beings, who subsist on alms and who have a high opinion of themselves. For truth was spoken by that female the Gayatri in the sky. I shall subdue alt those unruly Brahmins clad in hides. No one in the three worlds, god or man, can hurl me from my royal authority; therefore I am superior to any Brahman. Now shall I turn the world in which Brahmins have the upper hand into a place where Kshatriyas shall have the uper hand; for no one dares to encounter my force in battle.' Hearing this speech of Arjun, the female roving in the night became alarmed. Then Vayu hovering in the air, said to Arjuna: 'Abandon this sinful disposition, and do obeisance to the Brahmins. If thou shall do them wrong, thy kingdom shall be convulsed. They will subdue thee; those powerful men will humble thee, and expel thee from thy country.' The King asks him, 'Who art thou?' Vayu replies, 'I am Vayu, the messenger of the Gods, and tell thee what is for thy benefit.' Arjuna rejoins, 'Oh, thou displayest today a great warmth of devotion to the Brahmins. But say that a Brahman is like (any other) earth-horn creature."

This king came into conflict with Parsuram the son of a Brahman sage Jamadagni. The history of this conflict is as follows:—

There lived a king of Kanyakubja, called Gadhi, who had a daughter named Satyavati. The marriage of this princess to the rishi Richika, and the birth of Jamadagni, are then told in nearly the same way as above narrated. Jamadagni and Satyavati had five sons, the youngest of whom was the redoubtable Parasuram. By his father's command he

kills his mother (who, by the indulgence of impure desire, had fallen from her previous sanctity), after the four elder sons had refused this matricidal offence, and had in consequence been deprived of reason by their father's curse. At Parasuram's desire, however, his mother is restored by his father to life, and his brothers to reason; and he himself is absolved from all the guilt of murder; and obtains the boon of invincibility and long life from his father. His history now begins to be connected with that of king Arjuna (or Kartavirya). The latter had come to Jamadagni's hermitage, and had been respectfully received by his wife; but he had requited this honour by carrying away by force the calf of the sage's sacrificial cow, and breaking down his lofty trees. On being informed of this violence, Parasurama was filled with indignation, attacked Arjuna, cut off his thousand arms, and slew him. Arjuna's sons, in return slew the peaceful sage Jamadagni, in the absence of Parasuram.

Rama, after performing, on his return, his father's funeral obsequies, vowed to destroy the whole Kshatriya race; and execucted his threat by killing first Arjun's sons and their followers. Twenty one times did he sweep away all the Kshatriyas from the earth, and formed five lakes of blood in Samantpanchaka; in which he satiated the manes of the Bhrigus, and beheld face to face (his grandfather), Richika, who addressed himself to Rama. The latter gratified Indra by offering to him a grand sacrifice, and gave the earth to the officiating priests. He bestowed also a golden altar, ten fathoms long and nine high, on the mighty Kasyapa. This, by his permission, the Brahmins divided among themselves, deriving thence the name of Khandavavanas. Having given away the earth to Kasyapa, Parasuram himself dwells on the mountain Mahendra. Thus did enmity arise between him and Kshatriyas, and thus was the earth conquered by Parasuram of boundless might."

The Kshatriyas who were slain by Parasuram are described in the Dronaparvan of the Mahabharata as of various provinces, viz., Kasmiras, Daradas, Kuntis, Kshudrakas, Malavas, Angas, Vangas, Kalingas, Videhas, Tamraliptakas, Marttikavatas, Sivis and other Rajanyas.

The means by which the Kshattriya race was restored is also told as part of this story of anihilation of the Kshatriyas by the Brahmins. It is said:—

"Having one and twenty times swept away all the Kshatriyas from the earth, the son of Jamdagni engaged in austerities on Mahendra the most excellent of mountains. After he had cleared the world of Kshatriyas, their widows came to the Brahmins, praying for offspring. The religious Brahmins, free from any impulse of lust

> cohabited at the proper seasons with these women, who in consequence became pregnant, and brought forth valiant Kshatriya boys and girls, to continue the Kshatriya stock. Thus was the Kshatriya race virtuously begotten by Brahmins on Kshatriya women, and became multiplied and long lived. Thence there arose four castes inferior to the Brahmins."

No country has such a dismal record of class war as Hindustan. It was the proud boast of the Brahmin Parsuram that he exterminated the Kshatriyas twenty one times from the face of Hindustan and recreated them by Brahmans cohabiting with the widows of the Kshatriyas.

It must not be supposed that this Class War in India is a matter of ancient History. It has been present all along. Its existence was very much noticeable in Maharashtra during the Maratha Rule. It destroyed the Maratha Empire. It must not be supposed that these class Wars were like ordinary wars which are a momentary phenomena which come and go and which leave no permanent chasms to divide the peoples of the different nations. In India the class war is a permanent phenomenon which is silently but surely working its way. It is a grain in the life and it has become genius of the Hindus.

These facts it will not be denied are symptomatic in the sense they indicate health and character. Do they suggest that there is fraternity among Hindus? In the face of these facts I am sure it would be impossible to give an affirmative answer.

What is the explanation of this absence of fraternity among the Hindus ? It is Hinduism and its philosophy that is responsible for it. The sentiment of fraternity as Mill said is natural but it is a plant which grows only where the soil is propitious and the conditions for its growth exist. The fundamental condition for the growth of the sentiment of fraternity is not preaching that we are children of God or the realization that one's life is dependent upon others. It is too rational to give rise to a sentiment. The condition for the growth of this sentiment of fraternity lies in sharing in the vital processes of life. It is sharing in the joys and sorrows of birth, death, marriage and food. Those who participate in these come to feel as brothers. Prof. Smith very rightly emphasizes the importance of sharing food as a prime factor in the creation of community feeling when he says;

> "The sacrificial meal was an appropriate expression of the antique ideal of religious life, not merely because it was a social act and in which the God and his worshippers were conceived as partaking together, but because, as has already been said, the very

act of eating and drinking with a man was a symbol and a confirmation of fellowship and mutual social obligations. The one thing directly expressed in the sacrficial meal is that the God and his worshippers are commensals but every other point in their mutual relations is included in what this involves. Those who sit at meal together are united for all social effects; those who do not eat together are aliens to one another, without fellowship in religion and without reciprocal social duties".'

There is no sharing among Hindus of joys and sorrows involved in the vital facts of life. Everything is separate and exclusive. The Hindu is separate and exclusive all through his life. A foreigner coming to India will not find men crying Hindu Pani (water for Hindus) and Musalman Pani (water for Musalmans). He will find Brahmin Coffee Houses, Brahmin Eating Houses, where no non-Brahmin Hindus can go. He will find Brahmin Maternity Homes, Maratha Maternity Homes and Bhatia Maternity Homes although Brahmins, Marathas and Bhatias are all Hindus. If there is a birth at the house of a Brahmin, no non-Brahmin will be invited nor will he feel the desire to join. If there is marriage in the family of a Brahmin, no non-Brahmin will be invited nor will he feel the desire to join if a Brahmin dies, no non-Brahmin will be invited to join the funeral nor will he think it necessary to join in the procession. If there is a festivity in the house of a Brahmin, no non-Brahmin will be called and no non-Brahmin will feel any wrong about it. Joys and sorrows of one caste are not the joys and sorrows of another. One caste has no concern with other castes. Even charity has become caste bound. Among Hindus there is no public charity in the sense of its benefit being open to all. You have Brahmin Charity for Brahmins. Within that you have Chitpavan Brahmin Charity for Chitpavan Brahmins only. Deshastha Brahmin Charity for Deshastha Brahmins only, Karhada Brahmin Charity for Karahda Brahmins only. You have Sarasvat Brahmin Charity. Within that you have Kudaldeshkar Brahmin Charity. One could go on with such instances *ad nauseum* to show the exclusive character of Hindu Charity—rather Charity among Hindus—for there is no such thing as Hindu Charity. Thus one Hindu will share nothing with another Hindu while they are alive. But they will be separate and exclusive even when they are dead. Some Hindus bury their dead. Some Hindus burn their dead. But those bury will not share the same cemetery. Each will appropriate a part of the cemetery to bury its dead. Those who burn will not burn at the same burning place. If they do, each will have a separate funeral pan.

Is there any wonder that the sentiment of fraternity is foreign to the Hindus? With a complete refusal to share the joys and sorrows of life how can the sentiment of fraternity take roots?

[1] The Religion of the Semites—p.269.

But the question of all questions is why do the Hindus refuse to share the joys and sorrows of life? It needs no saying that he refuses to share because his religion tells him not to share them. This conclusion need cause no surprize. For what does Hinduism teach? It teaches not to interdine, not to inermarry, not to associate. These don'ts constitute the essence of its teaching. All the shameful facts I have referred to, to illustrate the separate and exclusive character of the Hindus is the direct outcome of this philosopy of Hindusim. The philosopy of Hinduism is a direct denial of fraternity.

This brief analysis of the Philosopy of Hinduism from the point of view of justice reveals in a glaring manner how Hinduism is inimical to equality, antagonistic to liberty and opposed to fraternity.

Fraternity and liberty are really derivative notions. The basic and fundamental conceptions are equality and respect for human personality. Fraternity and liberty take their roots in these two fundamental conceptions. Digging further down it may be said that equality is the original notion and respect for human personality is a reflexion of it. So that where equality is denied, everything else may be taken to be denied. In other words it was enough for me to have shown that there was no equality in Hinduism. But as Hinduism has not been examined so far in the manner I have done, I did not think it sufficient to leave it to implication that Hinduism was a denial of Fraternity and Liberty as well.

There is one final observation with which I wish to conclude this discussion with the profound observation of Lord Acton. The great Lord says that inequality has grown as a result of historical circumstances. It has never been adopted as a creed. It is obvious that in making this observation Lord Acton must have omitted to take note of Hinduism. For in Hinduism inequality is a religious doctrine adopted and conscientiously preached as a sacred dogma. It is an official creed and nobody is ashamed to profess it openly. Inequality for the Hindus is a divinely prescribed way of life as a religious doctrine and as a prescribed way of life, it has become incarnate in Hindu Society and is shaped and moulded by it in its thoughts and in its doings. Indeed inequality is the Soul of Hinduism.

Let me now turn to the examination of the philosophy of Hinduism from the point of view of Utility.

This examination of Hinduism from this aspect need not be long and detailed. For as Mill pointed out there is no necessary antagoism between justice and utility. In other words what is unjust to the individual cannot be useful to society. Apart from this we have before us the consequences of caste staring us in the face.

The ideal of caste was not mere ideal. The ideal was put into practice; was therefore something real. So that, in the matter of the Chaturvarna the Hindus have very faithfully followed the German Philosopher Nietszche who said "Realize the ideal and idealize the real",

The value of the ideal must be tested by its results. If experience therefore must be the criterion then the ideal of Chaturvarna stands thrice condemned. Purely as a form of social orgaization it stands condemned. As a producer's organization it stands discredited. As an ideal scheme of distribution it has miserably failed. If it is an ideal form of organization how is it that the Hinduism has been unable to form a common front. If it is an ideal form of production, how is it that its technique never advanced beyond that of the primitive man. If it is an ideal form of distribution, how is it that it has produced appalling inequality of wealth, immense wealth side by side extreme poverty.

But I do not wish to dismiss the subject so summarily, for I know many Hindus who claim great social utility to the institution of caste and praise Manu for having been so wise and so thoughtful not only in devising it but in giving it a divine sanction.

This view of the caste is due to taking the separate aspects of caste separately. One must take them in conjunction. The resultant social utility or disutility of caste can be ascertained only by putting together the separate aspects of caste and judge them in their combination. Following this line of attacking the problem, the following conclusions follow :—

(1) Caste divides Labourers (2) Caste disassociates work from interest (3) Caste disconnects intelligence from manual labour (4) Caste devitalises by denying to him the right to cultivate vital interest and (5) Caste prevents mobilization. Caste System is not merely division of labour. ***IT IS ALSO A DIVISION OF LABOURERS***. Civlized society undoubtedly needs division of labour. But in no civilized society is division of labour accompanied by this unnatural division of labourers into water-tight compartments. Caste System is not merely a division of labourers—which is quite different from division of labour—it is an hierarchy in which the divisions of labourers are graded one above the other. In no other country is the division of labour accompanied by this gradation of labourers. There is also a third point of criticism against this view of the Caste System. This division of labour is not spontaneous, it is not based on natural aptitudes. Social and individual efficiency requires us to develop the capacity of an individual to the point of competency to chose and to

make his own career. This principle is violated in the Caste System in so far as it involves an attempt to appoint tasks to individuals in advance, selected not on the basis of trained original capacities, but on that of the social status of the parents. Looked at from another point of view this stratification of occupations which is the result of the Caste System is positively pernicious. Industry is never static. It undergoes rapid and abrupt changes. With such changes an individual must be free to change his occupations. Without such freedom to adjust himself to changing circumstances it would be impossible for him to gain his livelihood. Now the Caste System will not allow Hindus to take occupations where they are wanted if they do not belong to them by heredity. If a Hindu is seen to starve rather than take to new occupations not assigned to his Caste, the reason is to be found in the Caste System. By not permitting readjustment of occupations, caste becomes a direct cause of much of the unemployment we see in the country. As a form of division of labour the Caste System suffers from another serious defect. The division of labour brought about by the Caste System is not a division based on choice. Individual sentiment, individual preference has no place in it. It is based on the dogma of predestination. Considerations of social efficiency would compel us to recognize that the greatest evil in the industrial system is not so much poverty and the suffering that it involves, as the fact that so many persons have callings which make no appeal to those who are engaged in them. Such callings constantly provoke one to aversion, ill will and the desire to evade. There are many occupations in India which on account of the fact that they are regarded as degraded by the Hindus provoke those who are engaged in it to aversion. There is a constant desire to evade and escape from such occupations which arises solely because of the blighting effect which they produce upon those who follow them owing to the slight and stigma cast upon them by the Hindu religion.

The second mischief it dose is to dissociate intelligence from work and create contempt for labour. The theory of the Caste is that a Brahmin who is permitted to cultivate his intellect is not permitted to labour, indeed is taught to look down upon labour. While the Shudra who is required to labour is not permitted to cultivate his intelligence. The disastrous consequences of this have been well protrayed by Mr. R. C. Dutt.* .....

Caste devitalizes a man. It is a process of sterilization. Education, wealth, labour are all necessary for every individual if he is to reach a free and full manhood. Mere education without wealth and labour is

* *Quotation not given in the MS.*—Editors

barren. Wealth without education and wealth is brutal. Each is necessary to every one. They are necessary for the growth of a man.

That the Brahmin should cultivate knowledge, Kshatriya should bear arms, the Vaishya should trade and that the Shudra should serve is presented as a theory of mutual interdependence found in the family. It is asked why should the Shudra need trouble to acquire wealth when the three Varnas are there to support him; Why need the Shudra bother to take to education when the Brahmin to whom he can go when the occasion for reading or writing arises; Why need the Shudra worry to arm himself because there is the Kshatriya to protect him? The theory of Chaturvarnya understood in this sense may be said to look upon the Shudra as the ward and the three Varnas as his guardians. Thus interpreted it is a simple and alluring theory. Assuming this to be the correct view of the underlying conception of Chaturvarnya it seems to me that the system is neither fool-proof nor knave-proof. What is to happen if the Brahmins, Vaishyas nd Kshatriyas fail to pursue knowledge, to engage in economic enterprises and to be efficient soldiers which are their respecive functions? Contrarywise, suppose that they discharge their functions but flout their duty to the Shudra or to one another? What is to happen to the Shudra if the three classes refuse to support him on fair terms or combine to keep him down? Who is to safeguard the interests of the Shudra or for the matter of that of the Vaishya and Kshatriya when the person who is trying to take advantage of his ignorance is the Brahmin ? Who is to defend the liberty of the Shudra or that of the Brahmin and the Vaishya, when the person who is robbing him of it is the Kshatriya? Inter-dependence of one class on another class is inevitable. Even dependence of one class upon another may sometimes become allowable. But why make one person depend upon another in the matter of his vital needs? Education every one must have. Means of defence every one must have. These are the paramount requirements of every man for his self-preservation. How can the fact that his neighbour is educated and armed, help a man who is uneducated and disarmed. The whole theory is absurd. These are the questions which the defenders of Chaturvarnya do not seem to be troubled about. But they are very pertinent questions. Assuming their conception of Chaturvarnya that the relationship between the different classes is that of ward and guardian is the real conception underlying Chaturvarnya, it must be admitted that it makes no provision to safeguard the interests of the ward from the misdeeds of the guardian. Whether the relationship of guardian and ward was the real underlying conception on which Chaturvarnya was based there is no doubt that in practice

the relation was that of master and servant. The three classes, Brahmins, Kshatriyas and Vaishyas although not very happy in their mutual relationship managed to work by compromise. The Brahmin flattered the Kshatriya and both let the Vaishya live in order to be able to live upon him. But the three agreed to beat down the Shudra. He was not allowed to acquire wealth lest he should be independent of the three Varnas. He was prohibited from acquiring knowledge lest he should keep a steady vigil regading his interests. He was prohibited from bearing arms lest he should have the means to rebel against their authority. That this is how the Shudras were treated by the Trayavarnikas is evidenced by the Laws of Manu. There is no code of laws more infamous regarding social rights than the Laws of Manu. Any instance from anywhere of social injustice must pale before it. Why have the mass of people tolerated the social evils to which they have been subjected? There have been social revolutions in other countries of the world. Why have there not been social revolutions in India is a question which has incessantly troubled me. There is only one answer which I can give and it is that the lower classes of Hindus have been completely disabled for direct action on account of this wretched system of Chaturvarnya. They could not bear arms and without arms they could not rebel. They were all ploughmen or rather condemned to be ploughmen and they were allowed to convert their ploghshares into swords. They had no bayonets and therefore everyone who chose ploughs did sit upon them. On account of the Chaturvarnya they could receive no education. They could not think out or know the way to their salvation. They were condemned to be lowly and not knowing the way of escape and not having the means of escape, they became reconciled to eternal servitudes which they accepted as their inescapable fate. It is true that even in Europe the strong has not shrunk from the exploitation, nay the spoliation of the weak but in Europe, the strong have never contrived to make the weak helpless against exploitation so shamelessly as was the case in India among the Hindus. Social war has been raging between the strong and the weak far more violently in Europe than it has ever been in India. Yet the weak in Europe has had in him freedom of military service his physical weapon, in suffrage his political weapon and in education his moral weapon. Three weapons for emancipation were never withheld by the strong from the weak in Europe. All these weapons were however denied to the masses in India by Chaturvarnya. There cannot be a more degrading system of social organization than Chaturvarnya. It is the system which deadens, paralyses and cripples the people from helpful activity. This is no exaggeration. History bears ample evidence.

There is only one period in Indian history which is a period of freedom, greatness and glory. That is the period of the Mourya Empire. At all other times the country suffered from defeat and darkness. But the Mourya period was a period when Chaturvarnya was completely annihilated, when the Shudras, who constituted the mass of the people came into their own and became the rulers of the country. The period of defeat and darkness is the period when Chaturvarnya flourished to the damnation of the greater part of the people of the country.

Caste prevents mobilization. Occasions arise when society must mobilize all its resources to one end in order to save itself from a catastrophy. To take a catastrophy like war, Society must mobilize all its resources for militarization. Every one must do war. Every one must be a soldier. Is this possible under the theory of caste? Obviously not. Indeed the destiny of a defeat which has been the lot of India throughout history is due to caste. Caste prevented general mobilization. Or the extent of mobilization was of a very limited character. Only the Kshatriyas were expected to fight. The rest the Brahmins and the Vaishyas were not armed and the Shudras who formed the large majority of the country were disarmed. The result was that once the small class of Kshatriyas were defeated by a foreign foe the whole country fell at his feet. It could offer no resistence. It was not capable of resistence. Indian wars have been mostly wars of single battles or single campaigns. This was due to the fact that once the Kshatriyas fell everything fell. Why? Simply because there was no general mobilization and the theory deeply imbedded in the psychology of the people.

If these conclusions are sound, how can a philosophy which dissects society in fragments, which dissociates work from interest, which disconnects intelligence from labour, which expropriates the rights of man to interests vital to life and which prevented society from mobilizing resources for common action in the hour of danger, be said to satisfy the test of Social Utility.

IV

The Philosophy of Hinduism therefore neither satisfies the test of social utility nor does it satisfy the test of individual justice.

The result of my analysis is so odd that it will surprise many. Astonished some may even say that if the conclusions are so odd then there must be something wrong in my analysis of the philosophy of Hinduism. I must meet this objection. To those who refuse to accept

my analysis I say that they find my analysis odd because they do not have a correct notion what is central in the philosophy of Hinduism. If they do they will feel no surprise at my conclusions.

This matter is so important that I must stop to explain it. It may be recalled that the foregoing analysis of the religious revolution showed that religious ideals as forms of divine governance for human Society fall into two classes, one in which Society is the centre and the other in which the Individual is the centre. The same analysis showed that for the former the appropriate test of what is good and what is right i.e. the test of the moral order is utility while for the latter the test is justice. Now the reason why the philosophy of Hinduism does not answer the test either of utility or of justice is because the religious ideal of Hinduism for divine governance of human society is an ideal which falls into a separate class by itself. It is an ideal in which the individual is not the centre. The centre of the ideal is neither individual nor society. It is a class—the class of Supermen called Brahmins, Those who will bear the dominant and devastating fact in mind will understand why the philosophy of Hinduism is not founded on individual justice or social utility. The philosophy of Hinduism is founded on a totally different principle. To the question what is right and what is good the answer which the philosophy of Hinduism gives is remarkable. It holds that to be right and good the act must serve the interest of this class of supermen, namely, the Brahmins. Oscar Wilde said that to be intelligible is to be found out. Manu is neither afraid nor ashamed of being found out. Indeed Manu does not leave it to be found out. He expresses his view in resonent and majestic notes as who are the Supermen and anything which serves the interest of the Supermen is alone entitled to be called right and good. Let me quote Manu.

> X. 3. "On account of his pre-eminence, on account of the superiority of his origin, on account of his observance of (particular) restrictive rules, and on account of his particular sanctification the Brahman is the Lord of (all) Varnas."

He proceeds to amplify his reasons and does so in the following characteristic manner:—

> I. 93. "As the Brahmana sprang from (Prajapati's i.e. Gods) mouth, as he was first-born, and as he possesses the Veda, he is by right the lord of this whole creation."

> I. 94. For the self existent (Svayambhu i.e. God), having performed austerities, produced him first from his own mouth, in order that offerings might be conveyed to the Gods and Manes and that this universe might be preserved."

I. 95. "What created being can surpass him, through whose mouth the gods continually consume the sacrificial viands and the manes the offerings to the dead?"

I. 96. " Of created beings the most excellent are said to be those which are animated; of the animated, those who subsist by intelligence; of the intelligent, mankind; and of the men, the Brahmanas".

Besides the reason given by Manu the Brahmin is first in rank because he was produced by God from his mouth, in order that the offerings might be conveyed to the Gods and manes. Manu gives another reason for the supremacy of the Brahmins. He says:—

I. 98. "The very birth of a Brahmana is an eternal incarnation of the sacred Law (Veda); for he is born to (fulfil) the sacred law, and becomes one with Brahman (God)."

I. 99. "A Brahamana, coming into existence, is born as the highest on earth, the lord of all created beings, for the protection of the treasury of the Law."

Manu concludes by saying that:—

I. 101. "The Brahman eats but his own food, wears but his own apparel, bestows but his own in alms; other mortals subsist through the benevolence of the Brahamana."

Because according to Manu:—

II. 100. "Whatever exists in the world is the property of the Brahmana; on account of the excellence of his origin the Brahmana is, indeed, entitled to it all."

Manu directs:—

VII. 36. "Let the King, after rising early in the morning, worship Brahmans who are well versed in the three-fold sacred science and learned (in polity), and follow their advice".

VII. 38. " Let him daily worship aged Brahmans who know the Veda and are pure ....."

VII. 37. " Let the king, having risen at early dawn, respectfully attend to Brahman, learned in the three Vedas and in the science of ethics, and by their decision let him abide."

VII. 38. "Constantly must he show respect to Brahmans, who have grown old, both in years and in piety, who know the scriptures, who in body and mind are pure; for he, who honours the aged, will perpetually be honoured even by cruel demons."

IX. 313. "Let him not, although in the greatest distress for money, provoke Brahmans to anger by taking their propery; for they, once enraged, could immediately by sacrifices and imprecations destroy him with his troops, elephants, horses and cars."

Finally Manu says:—

> XI. 35. "The Brahman is (hereby) declared (to be) the creator (of the world), the punisher, the teacher, (and hence) a benefactor (of all created beings); to him let no man say anything unpropitious; nor use any harsh words".

To conclude and complete the theory of supermen and of what is right and good let me reproduce the following two texts from Manu:—

> X. 122. But let a Shudra serve Brahmans, either for the sake of heaven or with a view to both this life and the next, for he who is called the servant of a Brahman thereby gains all his ends.

> X. 123. The service of the Brahmana alone is declared to be an excellent occupation for a Shudra; for whatever else besides this he may perform will bear no fruit.

And Manu adds :—

> X. 129. No collection of wealth must be made by a Shudra, even though he be able to do it; for a Shudra who has acquired wealth gives pain to Brahman.

The above texts from Manu disclose the core and the heart of the philosophy of Hinduism. Hinduism is the gospel of the superman and it teaches that what is right for the superman is the only thing which is called morally right and morally good.

Is there any parallel to this philosophy ? I hate to suggest it. But it is so obvious. The parallel to this philosophy of Hinduism is to be found in Nietzsche. The Hindus will be angry at this suggestion. It is quite natural. For the philosophy of Nietzsche stands in great odium. It never took roots, In his own words he was "sometimes deified as the philosopher of the aristrocracy and squirearchy, sometimes hooted at, sometimes pitied and sometimes boycotted as an inhuman being". Nietzsche's philosophy had become identified with will to power, violence, denial of spiritual values, superman and the sacrifice, servility and debasement of the common man. His philosophy with these high spots had created a certain loathsomeness and horror in the minds of the people of his own generation. He was utterly neglected if not shunned and Nietzsche himself took comfort by placing himself among the "posthumous men". He foresaw for himself a remote public, centuries after his own time to appreciate him. Here too Nietzsche was destined to be disappointed. Instead of there being any appreciation of his philosophy, the lapse of time has only augmented the horror and loathing which people of his generation felt for Nietzsche. This is principally due to the revelation that the philosophy of Nietzsche is capable of producing Nazism. His friends have vehemently protested

against such a construction.[1] But it is not difficult to see that his philosophy can be as easily applied to evolve a super state as to superman. This is What the Nazis have done. At any rate the Nazis trace their ancestry from Nietzsche and regard him as their spiritual parent. Hitler has himself photographed beside a bust of Nietzsche; he takes the manuscripts of the master under his own special guardianship; extracts are chosen from Nietzsche's writings and loudly proclaimed at the ceremonies of Nazism, as the New German Faith. Nor is the claim by the Nazis of spiritual ancestry with Nietzsche denied by his near relations. Nietzsche's own cousin Richard Ochler approvingly says that Nietzsche's thought is Hitler in action and that Nietzsche was the foremost pioneer of the Nazi accession to power. Nietzsche's own sister, few months before her death, thanks the Feurhar for the honour he graciously bestows on her brother declaring that she sees in him that incarnation of the "Superman" foretold by Zarathustra.

To identify Nietzsche, whose name and whose philosophy excites so much horror and so much loathing; with Manu is sure to cause astonishment and resentment in the mind of the Hindus. But of the fact itself there can be no doubt. Nietszche himself has openly declared that in his philosophy he is only following the scheme of Manu. In his *Anti Christ* this is what Nietzsche says:—

> "After all, the question is, to what end are falsehoods perpetrated ? The fact that, in Christianity, 'holy' ends are entirely absent, constitutes my objection to the means it employs. Its ends are only bad ends; the poisoning, the calumniation and the denial of life, the contempt of the body, the degradation and self pollution of man by virtue of the concept of sin, - consequently its means are bad as well. My feelings are quite the reverse, When I read the law book of Manu, an incomparably intellectual and superior work, it would be a sin against the spirit even to mention in the same breath with the Bible. You will guess immediately why; it has a genuine philosophy behind it, in it, not merely an evil-smelling Jewish distillation of Rabbinism and superstition - it gives something to chew even to the most fastidious psychologist. And, not to forget the most important point of all, it is fundamentally different from every kind of Bible: by means of it the noble classes, the philosophers and the warriors guard and guide the masses; it is replete with noble values, it is filled with a feeling of perfection, with saying yea to life, and triumphant sense of well-being in regard to itself and to life, - the Sun shines upon the whole book. All those

[1]For this as also for facts which follow see M.P. Nicolas. "From Nietzsche Down to Hitler" 1938.

> things which Christianity smothers with its bottomless vulgarity; procreation, woman, marriage, are here treated with earnestness, with reverence, with love and confidence. How can one possibly place in the hands of children and women, a book that contains those vile words: "to avoid fornication, let every man have his own wife, and let every woman have her own husband ..... it is better to marry than to burn". And is it decent to be a Christian so long as the very origin of man is Christianised, - that is to say, befouled, by the idea of the immaculate conception?... I know of no book in which so many delicate and kindly things are said to woman, as in the Law Book of Manu; these old grey-beards and saints have a manner of being gallant to woman which, perhaps, cannot be surpassed. "The mouth of a woman", says Manu on one occassion, "the breast of a maiden, the prayer of a child, and the smoke of the sacrifice, are always pure". Elsewhere he says: "there is nothing purer than the light of the Sun, the shadow cast by a cow, air water, fire and the breath of a Maiden". And finally-perhaps this is also a holy lie:— "all the openings of the body above the navel are pure, all those below the navel are impure. Only in a maiden is the whole body pure."

This leaves no doubt that Zarathustra is a new name for Manu and that *Thus Spake Zarathustra* is a new edition of *Manu Smriti*.

If there is any difference between Manu and Nietzsche it lies in this. Nietzsche was genuinely interested in creating a new race of men which will be a race of supermen as compared with the existing race of men. Manu on the other hand was interested in maintaining the privileges of a class who had come to arrogate to itself the claim of being supermen. Nietzsche's supermen were supermen by reason of their worth. Manu's supermen were supermen by reason of their birth. Nietzsche was a genuine disinterested philosopher. Manu on the contrary was an hireling engaged to propound a philosophy which served the interests of a class born in a group and whose title to being supermen was not to be lost even if they lost their virtue. Compare the following texts from Manu.

> X. 81. "Yet a Brahman, unable to subsist by his duties just mentioned, may live by the duty of a soldier; for that is the next rank."

> X. 82. "If it be asked, how he must live, should he be unable to get a subsistence by either of those employments; the answer is, he may subsist as a mercantile man, applying himself into tillage and attendance on cattle."

Manu adds :

> IX. 317. "A Brahmana, be he ignorant or learned, is a great divinity, just as the fire, whether carried forth (for the performance of a burnt oblation) or not carried forth, is a great divinity".
>
> IX. 323. " Thus, though the Brahmans employ themselves in all (sorts) of mean occupation, they must be honoured in every way (for each of) them is a very great diety".

Thus Manu's is a degraded and degenerate philosophy of superman as compared with that of Nietzsche and therefore far more odious and loathsome than the philosophy of Nietzsche.

This explains why the philosophy of Hinduism does not satisfy the test of justice or of utility. Hinduism is not interested in the common man. Hinduism is not interested in Society as a whole. The centre of its interest lies in a class and its philosophy is concerned in sustaining and supporting the rights of that class. That is why in the Philosophy of Hinduism the interests of the common man as well as of society are denied, suppressed and sacrificed to the interest of this class of Supermen. What is the value of such a religion to man ? Mr. Balfour in speaking on the merits of positivism as Religion asked the positivists certain questions which are worth recalling. He very pertinently asked;

> "What has (Positivism) to say to the more obscure multitude who are absorbed, and well nigh overwhelmed, in the constant struggle with daily needs and narrow cares; who have but little leisure or inclination to consider the precise role they are called on to play in the great drama of 'humanity' and who might in any case be puzzled to discover its interest or its importance ? Can it assure them that there is no human being so insignificant as not to be of infinite worth in the eyes of Him who created the Heavens, or so feeble but that his action may have consequence of infinite moment long after this material system shall have crumbled into nothingness ? Does it offer consolation to those who are bereaved, strength to the weak, forgiveness to the sinful, rest to those who are weary and heavy laden ?"

The same questions may be asked of Manu.

The answer to each one of them must be in the affirmative.

In short the philosophy of Hinduism is such that it cannot be called the Religion of humanity. That is why to use the language of Balfour, Hinduism, if it penetrates, does not vitrify the inmost life of ordinary humanity. Indeed if it does anything it paralyses it. There is in Hinduism no nourishment for ordinary human souls, no comfort for ordinary human sorrow, no help for ordinary human weakness. It

leaves men in darkness face to face with the unthinking energies of nature which gives them birth to which after a few fruitless struggles they succumb. Not less cruel than the crudest irreligion, does it leave men divorced from all communion with God.

Such is the philosophy of Hinduism. It is Superman's heaven and the common man's damnation.

I am conscious that my position regarding the philosophy of Hinduism will be assailed from different sides. So contrary it is to the current views about it that it is bound to be assailed. The attack may come from various sides.

It will be said that I am wrong in taking the Manu Smriti as the book of Hindu religion and that the true gospel of Hinduism is contained in the Vedas and the Bhagwat Gita..

I am sure no orthodox Hindu will be bold enough to repudiate the authority of Manu Smriti as a book of Hindu Religion. Such a charge can be made only by some reformed sects of Hinduism such as the Arya Samajists. But there can be no doubt that this charge is not well founded. To refute this charge it is perhaps desirable to explain[1] how the Smritis obtained a place and position of authority among the Hindus.

The Smritis originally were a collection of rules relating to social traditions, customs and conventions approved of and recommended by those who were learned in the Vedas. For a long time these rules existed only in the memory of those learned in the Vedas, so they began to be called Smritis i.e. things which are remembered in contrast to Vedas or Shruti that is things which were heard. In the beginning the Smritis even when they were codified were treated as rules of inferior value as compared with the rules contained in the Vedas.

The difference in their authority and binding force was the result of the natural difference between the trustworthiness of what is heard as compared to what is only remembered. There was also another reason of this differentiation in the two sorts of Dharma Shastra literature. This was based upon the status of their authors. The authors of the Vedas were Rishis. The authors of the Smritis were only learned men. The Rishis were superior in status and sanctity than those who were merely learned. Consequently the Vedas were treated as more authoritative than the Smritis.

The consequence arising from this was well expressed in the Hindu theological formula according to which if there was a conflict in the rules of two Vedas on the same subject it meant option for a rule of

[1] See the interesting article by Prof. Altekar on "The Position of Smritis as a Source of Dharma" in the Kane Memorial Volume pp. 18-25.

Vedas cannot be deemed to be inoperative. On the other hand, in a conflict between a rule of Shriti and a rule of Smriti the rule of Shruti prevailed becuse for the reasons stated above Smriti was inferior in authority to the Shruti. But as pointed out by Prof. Altekar, the Smritis in course of time came to be invested with the same authority as belonged to the Vedas. Various means were adopted to accomplish this purpose. In the first place the authors of the Smritis were elevated to the status of Rishis. The early Dharma Shastra writers like Gautama, and Baudhayana were never given the status of a Rishi. But Manu and Yajnavalkya are reckoned as Rishis. By this means the status of the Smritis was equated to that of the Shrutis. The second means adopted was to regard the Smriti as the record from memory of a Shruti which was lost. Thus Smriti instead of being regarded as something quite different from Shruti came to be regarded as akin to and indistinguishable from Shruti. The result of these steps was a complete change in the rules regarding the authority of the two. Originally if there was a conflict between a Smriti and a Shruti, the Shruti prevailed. The new rule was that in case of conflict there was an option which meant that the Smriti rule was as operative as the Rule of Shruti. This new rule has been expressly laid down by Kumarila in his commentary on the Purvamimansa Sutra whereby the Smritis were made as authoritative as Shrutis.

While originally Hindu Society was bound to the Vedas and could not follow any rule which was contrary to the Vedas, the new rule altered the situation and left it to the option of society either to follow the Shruti or the Smriti. But even this option was later on taken away. This was done by making the study of the Smritis as compulsory as that of the Shruti.

This was done gradually. In the first place it was suggested that the Shrutis and Smritis are the two eyes of the Brahamana, if he is devoid of one he becomes a one-eyed person. Then came the theory that Brahmanyam is possible only as the result of a joint study of both the Vedas and the Smritis. Finally came the rule according to which the study of the Smruti only was recognized and a contempt of the Smriti was made a sin and a person guilty of it was declared to be condemned to be born as a beast for 21 generations.

This is how the Smritis have been recognized as a source of Hindu Religion and there is no doubt that, to quote Prof. Altekar, the Smritis;

> "have played a great part in determining the features of many a social and socio-religious institutions and customs and in moulding the development of modern Hinduism."

It cannot therefore be maintained that I was wrong in taking Manu Smriti as containing the philosophy of Hinduism.

This work of elevating the Smritis to the status of the Vedas was undertaken by the Brahmins for a most selfish reason. The Smritis contain in all its wild and luxurious growth the doctrine of Caste, the doctrine of the superiority of the Brahmins, their rights and privileges, the doctrine of the subordination of the Kshatriyas and Vaishyas and the doctrine of the degradation of the Shudras. Such being the philosophy of the Smritis, the Brahmins were directly interested in investing the Smritis with the authority which was claimed for the Vedas and in which they ultimately succeeded to their advantage but to the ruination of the whole country. But conceding—which orthodox and pious Hindu would do—that the Smritis do not contain the philosophy of Hinduism but that the same is to be found in the Vedas and the Bhagwat Geeta the question is what difference would this make in the result.

It seems to me that it matters very little whether one takes the Smritis, or the Vedas or the Bhagwat Geeta.

Do the Vedas teach something which is fundmentally different from what the Smritis do? Does the Bhagwat Geeta run contrary to the injunctions of the Smritis. A few illustrations will make the matter clear.

It is indisputable that the Vedas lay down the theory of Chaturvarna in what is known as the Purushasukta. This Purushasukta recognizes two basic principles. It recognizes the division of society into four sections as an ideal. It also recognizes that the ideal relationship between the four sections is inequality.

What the Bhagwat Geeta teaches is also beyond controversy. Its teaching may be summarized in the following four pronouncements made by Krishna in the Bhagwat Geeta.

(1) "I myself have created the arrangement known as Chaturvarna (i.e. the fourfold division of society into four castes Brahmins, Kshatriyas, Vaishyas and Shudras) assigning them different occupations in accordance with the native capacities. It is I who am the maker of this Chaturvarna".— Gita. IV. 13

(2) "Even if it may be easier to follow the occupation of another *Varna* yet to follow the occupation of one's own Varna is more mertorious, although one may not be able to do it quite efficiently. There is bliss in following the occupation of one's own Varna, even if death were to result in performing it; but to follow the occupation of another *Varna* is risky ".—Geeta. III. 35.

(3) "The educated should not unsettle the faith of the uneducated who have become attached to their occupation. He himself should perform the occupation of his Varna and make others perform their's accordingly. An educated man may not become attached to his occupation. But the uneducated and dull-minded people who have become attached to their occupation should not be spoiled by the educated by putting them on a wrong path by abandoning their own occupation"—Geeta III. 26, 29.

(4) "Oh, Arjun! Whenever this religion of duties and occupations (i.e. this religion of Chaturvarna) declines, then I myself will come to birth to punish those who are responsible for its downfall and to restore it—Geeta IV, 7-8.

Such is the position of Geeta. What difference is there between it and the Manu Smriti ? Geeta is Manu in a nutshell. Those who run away from Manu Smriti and want to take refuge in Geeta either do not know Gita or are prepared to omit from their consideration that soul of Geeta which makes it akin to Manu Smriti.

Compare the teachings of the Veda, of the Bhagwat Geeta with what is contained in the Manu Smriti which I have taken as the text for elucidating the philosophy of Hinduism. What difference does one find ? The only difference one can find is that the Vedas and the Bhagwat Geeta deal with General Theory while the Smritis are concerned in working out the particulars and details of that theory. But so far as the essence is concerned all of them—the Smritis, the Vedas and the Bhagwat Geeta—are woven on the same pattern, the same thread runs through them and are really parts of the same fabric.

The reason for this is obvious. The Brahmins who were the authors of the whole body of Hindu Religious Literature—except the Upanishad Literature—took good care to inject the doctrines formulated by them in the Smritis, into the Vedas and the Bhagwat Geeta. Nothing is to be gained in picking and chosing between them. The Philosophy of Hinduism will be the same whether one takes the Manu Smriti as its Gospel or whether one takes the Vedas and the Bhagwat Geeta as the gospel of Hinduism.

Secondly it will be contended that Manu Smriti is a Book of Laws and not a code of ethics and that what I have presented as a philosophy of Hinduism is only legal philosophy and is not the moral philosophy of Hinduism.

My answer to this contention is simple. I hold that in Hinduism there is no distinction between legal philosophy and moral philosophy. That is because in Hinduism there is no distinction between the Legal and the Moral, the Legal being also the Moral.

Not much evidence is necessary to support my contention. Take the meaning[1] of the word Dharma in the Rig Veda. The word Dharma occurs in the Rig Veda 58 times. It is used in six different senses. It is used to denote (I) Ancient custom, (2) Laws, (3) Any arrangement which maintains law and order in society, (4) The course of nature, (5) The quality of a substance and (6) Duty of good and evil. It will thus be seen that from the very beginning the word Dharma in Hinduism has a two fold connotation. It means both law and moral. That is one reason why in the philosophy of Hinduism there can be no distinction between legal philosophy and moral philosophy.

This is not to say that the Hindus have no code of morality. To be sure they have. But it is very pertinent to ask the nature and character of conduct which the Hindu Code of Ethics declares to be moral.

To have an idea of the nature of conduct which the Hindu thinks moral, it is better to begin by recognizing that there are three levels of conduct[2] which must be distinguished. (I) Conduct arising from instincts and fundamental needs (2) Conduct regulated by standards of society and (3) Conduct regulated by individual conscience. Conduct on the first level, we do not call moral conduct. It is of course not immoral; it is merely unmoral. It is governed by forces not as moral in purpose but as valuable in result. The forces are biological or sociological or psychological. These have purpose, such as to satisfy hunger, or to forge a weapon against an enemy. But the end is one set up by our physical or instinctive nature. So long as this is merely *accepted* as an inevitable end and not compared with others, valued, and *chosen,* it is not properly moral. Conduct on the second level is no doubt social. Wherever groups of men are living there are certain ways of acting which are common to the group—"folkways". There are *approved* ways of acting, common to a group, and handed down from generation to generation. Such approved ways of acting are called the mores or the morals of the group. They imply the judgment of the group that they are to be followed. The welfare of the group is regarded as in some sense imbedded in them. It becomes the duty of the individual to follow them and if any one acts contrary to them he is made to feel the group's disapproval. We cannot strictly speaking call the conduct moral. Because the end is accepted as a standard of 'good' prescribed by society. If it had spoken of a moral conduct it is only because it conforms to the mores or morals of the Society. It may be called customary morality. Conduct on the third level is conduct which alone is truly and completely moral. That is because in it the

[1] What follows if taken from an article on the subject by Mr. Yeshwant Ramkrishna Date in a Marathi Magazine called "Swadhaya" Double No. 7-8. First year pp. 18-21.

[2] In this I am entirely following the analysis given by Crawley and Tufts in their volume on Ethics.

individual *recognizes* the right or *chooses* the good, and freely devotes himself heartily to its fulfilment. He does not merely accept what is inevitable or follow what is approved by society. He values and chooses the end and becomes personally responsible. His is reflective morality.

On what level does Hindu morality stand ? Obviously it is not on the third level. This means that a Hindu is social but not moral in the strict sense of the term. A Hindu takes no responsibility for the ends he serves. He is a willing tool in the hands of his society, content to follow. He is not a free agent not afraid to differ. His notions of sin give remarkable proof of his unmoral character. Institutes of Vishnu gives a list of sins which are divided into nine classes:—

1. Deadly sins—*atipataka.* These are certain forms of incest, to be atoned for only by burning.

2. Great sins—*mahapataka.* These are killing a Brahman, drinking spirituous liquor, stealing the gold of a Brahman, connexion with a Guru's wife; also social intercourse with those guilty of such sins.

3. Minor sins of a similar character—*anupataka.* These include the killing of certain other classes of persons, giving false evidence and killing a friend, stealing lands or deposits of a Brahman, certain forms of incest and adultery.

4. Minor sins—*upapataka.* Sins of false statement, neglect of certain religious duties, adultery, unlawful occupation, offences connected with marrying before an elder brother &c, not paying one's debts to the Gods, and manes, atheism & c.

5. Sins effecting loss of caste—*jatibramsakara.* Causing bodily pain to a Brahman, smelling things which should not be smelt, dishonest dealing, certain unnatural crimes.

6. Sins which degrade to a mixed caste—*samkarikarana.* Killing domestic or wild animals.

7. Sins which render one unworthy to receive alms—*apatrikarana.* Receiving presents and alms from despicable persons, trade, money— lending, lying, serving a Shudra.

8. Sins causing defilment—*malavaha.* Killing birds, amphibious animals, and aquatic animals, worms and insects; eating nutmegs or other plants similar in their effects to intoxicating liquors.

9. Miscellaneous sins—*prakirnaka.* Those not already mentioned.

This list of sins is not exhaustive but it, is long enough and illustrative enough to give us the idea which underlies the Hindu notion of Sin. In the first place it connotes the fall of man from a prescribed form of conduct. In the second place it means to be defiled, to become unclean. This is the root meaning of the term *Patak.* It

means *Patana* (falling away) and it means *Asowcha* (being rendered unclean). In either case sin according to Hindu notion is a desease of the soul. In the first sense it is merely breach of a rule of external conduct. In the other sense it is a defilement of the body to be cleaned and purified by both or by pilgrimage or by sacrificial offering. But it is never the spiritual defilement which is associated with the harbouring of evil thoughts and purposes.

This shows the morality of the Hindu is purely social. This means that the level of his morality is purely traditional and customary. There are two evils of customary morality. In the first place there is no surety that it will always be charged with sincerity and purity of motive. For it is only when morality penetrates to the deepest springs of purpose and feeling in the individual that pretense will cease to find a place in human behaviour. In the second place customary morality is an anchor and a drag. It holds up the average man and holds back the man who forges ahead. Customary morality is only another name for moral stagnation. This is true of all cases where morality is only customary morality. But the customary morality of the Hindus has an evil feature which is peculiar to it. Customary morality is a matter of meritorious conduct. Ordinarily this meritorious conduct is something which is good from the general or public point of view. But among the Hinduism the meritorious conduct is not concerned with the worship of God or the general good of community. Meritorious conduct in Hinduism is concerned with the giving of presents, of good and of honour to the Brahmins. Hindu Ethics is worship of the superman.

What difference would it have made if I had taken Hindu Ethics as the basis for deducing the philosophy of Hinduism ? Most students of Hinduism forget that just as in Hinduism there is no difference between law and Religion so there is no difference between law and ethics. Both are concerned with the same thing namely regulating the conduct of the low class Hindus to *subserve* the ends of high Caste Hindus.

Thirdly it will be objected that I presented an altogether false picture of Hinduism in as much as I have omitted to take into account the Upanishads which are the true source of Hindu philosophy.

I admit that I have not taken the Upanishads into account. But I have a reason and I believe very good reason for doing so. I am concerned with the philosophy of Hinduism as a part of the philosophy of Religion. I am not concerned with Hindu philosophy. If I was, it would have been necessary to examine the Upanishads. But I am quite willing to deal with it so as to leave no doubt that what I have shown to be the philosophy of Hinduism is the philosophy of Upanishads.

The philosophy of the Upanishads can be stated in very few words. It has been well summarized by Huxley[1] when he says that the Upanishd philosophy agreed:—

> "In supposing the existence of a permanent reality, or 'substance', beneath the shifting series of phenomena, whether of matter or of mind. The substance of the cosmos was' Brahma', that of the individual man 'Atman'; and the latter was separated from the former only, if I may so speak, by its phenomenal envelope, by the casing of sensations, thoughts and desires, pleasures and pains, which make up the illusive phantasmagoria of life. This the ignorant, take for reality; their 'Atman' therefore remains eternally imprisoned in delusions, bound by the fetters of desire and scourged by the whip of misery.

Of what use is this philosophy of the Upanishadas ? The philosophy of the Upanishadas meant withdrawal from the struggle for existence by resort to asceticism and a destruction of desire by self mortification.

As a way of life it was condemned by Huxley[2] in scathing terms:—

> "No more thorough mortification of the flesh has ever been attempted than that achieved by the Indian ascetic anchorite; no later monachism has so nearly succeeded in reducing the human mind to that condition of impassive quasi-somnambulism, which, but for its acknowledged holiness, might run the risk of being confounded with idiocy." But the condemanation of the philosophy of the Upanishads is nothing as compared to the denunciation of the same by Lala Hardyal[3]:—

> "The Upanishads claim to expound 'that, by knowing which everything is known'. This quest for 'the absolute' is the basis of all the spurious metaphysics of India. The treatises are full of absurd conceits, quaint fancies, and chaotic speculations. And we have not learned that they are worthless. We keep moving in the old rut; we edit and re-edit the old books instead of translating the classics of European social thought. What could Europe be if Frederic Harrison, Brieux, Bebel, Anatole France, Herve, Haekel, Giddings, and Marshall should employ their time in composing treatises on Duns, Scotus and Thomas Aquinas, and discussing the merits of the laws of the Pentateuch and the poetry of Beowulf ? Indian pundits and graduates seem to suffer from a kind of mania for what is effete and antiquated. Thus an institution, established by progressive men, aims at leading our youths through Sanskrit grammar to the Vadas

[1] Evolution and Ethics, p. 63.

[2] Evolution and Ethics p. 64

[3] Modern Review. July. 1912.

via the Six Darshanas! What a false move in the quest for wisdom! It is as if a caravan should travel across the desert to the shores of the Dead Sea in search of fresh water! Young men of India, look not for wisdom in the musty parchments of your metaphysical treatises. There is nothing but an endless round of verbal jugglary there. Read Rousseau and Voltaire, Plato and Aristotle, Haeckel and Spencer, Marx and Tolstoi, Ruskin and Comte, and other European thinkers, if you wish to understand life and its problems."

But denunciations apart, did the Upanishad philosophy have any influence on Hinduism as a social and political system? There is no doubt that it turned out to be most ineffective and inconsequential piece of speculation with no effect on the moral and social order of the Hindus.

It may not be out of place to inquire into the reasons for this unfortunate result. One reason is obvious. The philosophy of Upanishad remained incomplete and therefore did not yield the fruit which it ought to have done. This will be quite clear if one asks what is the key-note of the Upanishads. In the words of Prof. Max Muller[1] the key note of the Upanishads is 'Know thy Self". The 'Know thy Self of the Upanishads, means, know thy true Self, that which underlies thine ego and find it and know it in the highest, the eternal self, the One without a Second, which underlies the whole world."

That Atman and Brahman were one was the truth, the great truth which the Upanishads said they had discovered and they asked man to know this truth. Now the reasons why the philosophy of Upanishads, became ineffective are many. I will discuss them elsewhere. At this place I will mention only one. The philosophers of Upanishads did not realize that to know truth was not enough. One must learn to love truth. The difference between philosophy and religion may be put in two ways. Philosophy is concerned with knowing truth. Religion is concerned with the love of truth. Philosophy is static. Religion is dynamic. These differences are merely two aspects of one and the same thing. Philosophy is. static because it is concerned only with knowing truth. Religion is dynamic beause it is concerned with love of truth. As has been well said by Max Plowman[2]:—

"..... Unless religion is dynamic and begets in us the emotion of love for something, then it is better to be without any thing that we can call religion; for religion is perception of truth and if our perception of truth is not accompanied by our love for it then it were better not seen at all; The Devil himself is one who has seen

[1] Hibbert lectures 1878. p. 3I7.

[2] "The Nemesis of Ineffectual Religion"— Adelphi, January 1941.

the truth only to hate it. Tennyson said "We must love the highest when we see it". It does not follow. Seen in pure objectivity the highest repels by its difference and distance; what we fear it, and what we fear we come to hate ....."

This is the fate of all treanscendal philosophies. They have no influence on the way of life. As Blake said " Religion is politics and politics is Brotherhood. Philosophy must become Religion that is it must become a Working Ethic. It must not remain mere metaphysics. As Mr. Plowman says—

"If religion were a Metaphysic and nothing else, one thing is certain, it would never be the concern of the simple and humble men.

"To keep it wholly in the realm of Metaphysic is to make nonsense of it. For belief in religion as in something not directly and vitally effective of politics is ultimately belief that is strictly speaking idiotic; because in the effective sense such a belief makes no difference, and in the world of time and space what 'makes no difference' does not exist."

It is for these very reasons that the philosophy of the Upanishads proved so ineffective.

It is therefore incontrovertible that notwithstanding the Hindu Code of Ethics, notwithstanding the philosophy of the Upanishads not a little not a jot did abate from the philosophy of Hinduism as propounded by Manu. They were ineffective and powerless to eraze the infamy preached by Manu in the name of religion. Notwithstanding their existence one can still say

"Hinduism! Thy name is inequality!"

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Inequality is the soul of Hinduism. The morality of Hinduism is only social. It is unmoral and unhuman to say the least. What is unmoral and unhuman easily becomes immoral, inhuman and infamous. This is what Hinduism has become. Those who doubt this or deny this proposition should examine the social composition of the Hindu Society and ponder over the condition of some of the elements in it. Take the following cases.

First as to the Primitive Tribes. In what state of civilization are they ?

The history of human civilization includes the entire period of human progress from Savagery to Barbarism and from Barbarism to Civilization. The transition from one to other has been marked by

some discovery or intention in some department of knowledge of Art resulting in advancing the onward march of man.

The development of articulate speech was the first thing which, from the point of view of human progress, divided man from the brute. It marks the first stage of savagery. The Middle period of the state of savagery began with the knowledge of the manufacture and use of fire. This wonderful discovery enabled man to extend his habit almost indefinitely. He could leave his forest home, go to different and colder climates, and increase his food supply by including flesh and fish. The next discovery was the Bow and Arrow. This was the greatest achievement of primitive man and marks the highest state of savage man. It was indeed a wonderful implement. The possesor of this device could bring down the fleetest animal and could defend himself against the most predatory.

The transition from Savagery to Barbarism was marked by the discovery of pottery. Hitherto man had no utensils that could withstand the action of fire. Without utensils man could not store nor could he cook. Undoubtedly pottery was a great civilizing influence.

The Middle state of Barbarism began when man learned to domesticate wild animals. Man learned that captive animals could be of service to him. Man now became a herdsman, no longer dependent for food upon the precarious chase of wild animals. Milk procurable at all seasons made a highly important addition to his dietary. With the aid of horse and camel he traversed wide areas hitherto impassable. The captive animals became aids to commerce which resulted in the dissemination of commodities as well as of ideas.

The next discovery was of the Art of smelting iron. This marks the highest stage of advancement of Barbaric man. With this discovery man became a "tool-making animal" who with his tool could fashion wood and stone and build houses and bridges.

This marks the close of the advancement made by Barbaric man.

The dividing line which marks off Barbaric people from Civilized people, in the fullest sense of the word Civilization, is the art of making ideas tangible by means of graphic signs—which is called the art of writing. With this man conquered time as he had with the earlier inventions conquered space. He could now record his deeds and his thoughts. Henceforth, his knowledge, his poetical dreams, his moral aspirations might be recorded in such form as to be read not merely by his contemporaries but by successive generations of remote posterity. For man his history became safe and secure. This was the steepest assent and the climbing of it marks the beginnings of civilization.

Stopping here for the moment let us ask in what state of civilization arc the Primitive Tribes.

The name Primitive Tribes[1] is expressive of the present state of people who are called by that name. They live in small scattered huts in forests. They live on wild fruits, nuts and roots. Fishing and hunting are also resorted to for the purpose of securing food. Agriculture plays a very small part in their social economy. Food supplies being extremely precarious, they lead a life of semi-starvation from which there is no escape. As to clothes they economize them to a vanishing point. They move almost in a state of complete nakedness. There is a tribe which is known as "Bonda Porajas" which means "Naked Porajas". Of these people it is said that the women wear a very narrow strip which serves as a petticoat almost identical with what is worn by the Momjak Nagas in Assam, the ends hardly meeting at the top on the left thigh. These petticoats are woven at home out of the fibre of a forest tree. Girls wear a fillet of beads and of palmyra leaf and an enormous quantity of beads and neck ornaments extremely like those worn by many Komjak women. Otherwise the women wear nothing. The women shave their heads entirely ..... Of these Chenchus, a tribe residing near Farhabad in the Nizam's Dominions it is said that" their houses are conical, rather slight in structure made of bamboos sloping to the central point and covered with a thinnish layer of thatch ..... They have very little, indeed, in the way of material effects, the scanty clothes they wear, consisting of a *langoti* and a cloth in the case of men, and a short bodice and a petticoat in the case of women, being practically all, besides a few cooking pots and a basket or two which perhaps sometimes contains grain. They keep cattle and goats and in this particular village do a little cultivation, elsewhere subsisting on honey and forest produce which they sell". Regarding the Morias, another Primitive tribe, it is stated the men generally wear a single cloth round the waist with a slap coming down in the front. They also have a necklace of beads and when they dance put on cock's plumes and peacock's feathers in their turbans. Many girls are profusely tattooed, especially on their faces, and some of them on their legs as well. The type of tattooing is said to be according to the taste of the individual and it is done with thorns and needles. In their hair many of them stick the feathers of jungle cocks and their heads are also adorned with combs of wood and tin and brass.

These Primitive Tribes have no hesitation about eating anyting, even worms and insects, and, in fact, there is very little meat that they will

[1] This and other information is taken from Census of India 1931 Vol. I part

not eat, whether the animal has died a natural death or has been killed four days or more before by a tiger.

The next group of the people he will come accross are the Criminal Tribes.

The Criminal Tribes live not in Forests as the Primitive Tribes do but in the plains in close proximity to, and often in the midst of civilized life. Hollius in his "Criminal Tribes of the United Provinces" gives an account of their activities. They live entirely by crime. A few may be ostensibly engaged in agriculture, but this is only to cover up their real activities. Their nefarious practices find largest scope in dacoity or robbery by violence, but being a community organized for crime, nothing comes amiss to them. On deciding to commit a dacoity in any particular locality spies are sent out to select a suitable victim, study the general habits of the villagers, and the distance from any effective aid, and ennumerate the number of men and firearms. The raid usually takes place at midnight. Acting on the information given by the spies, men are posted at various points in the village and by firing off their guns attract attention from the main gang which attacks the particular house or houses previously appointed. The gang usually consists of 30 to 40 men.

It is essential to emphasize the great part played by crime in the general life of these peoples. A boy is initiated into crime as soon as he is able to walk and talk. No doubt the motive is practical, to a great extent, in so far as it is always better to risk a child in petty theft, who, if he is caught, would probably be cuffed, while an adult would immediately be arrested. An important part is also played by women, who, although they do not participate in the actual raids, have many heavy responsibilities. Besides being clever in disposing off stolen property the women of the Criminal Tribes are experts in shop lifting.

At one time the Criminal Tribes included such well organized Confederacies of Professional Criminals as the Pindharies and the Thugs.

The Pindharies were a predatory body of armed gangsters. Their organization was an open military organization of freebooters who could muster 20000 fine horse and even more. They were under the command of brigand chiefs. Chitu one of the most powerful commanders had under his single command 10000 horse, including 5000 good cavalry, besides infantry and guns. The Pindharies had no military projects for employing their loose bands of irregular soldiery, which developed into bodies of professional plunderers. The Pindharies aimed at no conquests. Their object was to secure booty and cash for themselves. General loot and rapine was their occupation.

They recognized no rulers. They were subjects of none. They rendered loyalty to none. They respected none, and plundered, all, high and low, rich and poor, without fear or compunction.

The Thugs[1] were a well organized body of professional assassins, who, in gangs of from 10 to 100 wandered in various guises throughout India, worked themselves into the confidence of wayfarers of the wealthier class, and, when a favourable opportunity occurred, strangled them by throwing a handkerchief or noose round their necks, and then plundered and buried them. All this was done according to certain ancient and rigidly prescribed forms and after the performance of special religious rites, in which was the consecration of the package, and the sacrifice of sugar. They were staunch worshippers of Kali, the Hindu Goddess of destruction. Assassination for gain was with them a religious duty, and was considered a holy and honourable profession. They had, in fact, no idea of doing wrong, and their moral feelings did not come into play. The will of the Goddess, by whose command and in whose honour they followed their calling, was revealed to them through a very complicated system of omens. In obedience to these they often travelled even the distance of hundred miles in company with, or in the wake of, their intended victims before a safe opportunity had presented itself for executing their design; and when the deed was done, rites were performed in honour of that tutelary deity, and a goodly portion of the spoil was set apart for her. The Thugs had also a jargon of their own, as well as certain signs by which its members recognized each other in the remotest part of India. Even those who from age or infirmities could no longer take an active part in the operations, used to aid the cause as watchmen, spies or dressers of food. It was owing to their thorough organization, the secrecy and security with which they went to work, but chiefly to the religious garb in which they shrouded their murders, that they could continue for centuries to practise their craft. The extraordinary fact was that Thugee was regarded as a regular profession by Indian Rulers of the day, both Hindu and Mahomedans. The Thugs paid taxes to the state and the state left them unmolested.

It was not until the British became rulers of the country that an attempt was made to suppress the Thugs. By 1835, 382 Thugs were hanged and 986 were transported or imprisoned for life. Even as late as 1879 the number of registered Thugs was 344 and the Thugee and the Dacoity department of the Government of India continued to exist until 1904 when its place was taken by the Central Criminal Intelligence Department. While it is not possible for the criminal

[1] Encyclopedia Britannica. 11th Ed. Vol. XXVI p. 896.

tribes to live by organized bodies of criminals, crime continues to be their main occupation.

Besides these two classes there is a third class which comprizes a body of people who are known as Untouchables.

Below the Untouchables there are others who are known as Unapproachables. Untouchables are those who cause pollution only if they touch. The Unapproachables are those who cause pollution if they come within a certain distance. It is said of the Nayadis—a people who fall into the category of the Unapproachables, "that they are the lowest caste among the Hindus—the dog-eaters. They are the most persistent in their clamour for charity, and will follow at a respectful distance, for miles together any person walking, driving or boating. If any thing is given to them, it must be laid down, and after the person offering it has proceeded a sufficient distance, the receipient comes timidly forward, and removes it." Of the same people Mr. Thurston says, "The subject (i.e. the Nayadis) whom I examined and measured at Shoranus, though living only about three miles off, had, by reason of the pollution which they traditionally carry with them to avoid walking over the long bridge which spans the river, and follow a circuitous route of many miles"

Below the Unapproachables are the Unseeables.

In the Tinnevelley District of the Madras Presidency there is a class of unseeables called Purada Vannans. Of them it is said," that they are not allowed to come out during day time because their sight is enough to cause pollution. These unfortunate people are 'compelled' to follow the nocturnal habits, leaving their dens after dark and scuttling home at the false dawn like the badger, the hyena, the avordvark."

Consider the total population of these classes. The Primitive Tribes form a total of 25 million souls. The Criminal Tribes number 4½ millions and the Untouchables number 50 millions. This makes a grand total of 79½ millions. Now ask how these people could have remained in the state of moral, material, social and spiritual degradation surrounded as they have been by Hinduism. Hindus say that their civilization is older than any civilization, that Hinduism as a religion is superior to any other religion. If this is so how is that Hinduism failed to elevate these people, bring them enlightenment and hope; how is it that it failed even to reclaim them; how is it that it stood with folded hands when millions and millions were taking to life to shame and crime ? What is the answer to this. The only answer is that Hinduism is overwhelmed with the fear of pollution. It has not got the power to purify. It has not the impulse to serve and that is because by its very nature it is unhuman and unmoral. It is a misnomer to call it religion. Its philosophy is opposed to very thing for which religion stands.

PART II

India and The Pre-requisites of Communism

We are reproducing here the text of Chapter One and Two of 'The Hindu Social Order'. This Chapter seems to be a part of the book entitled 'India and Communism'. From the contents on the first page of the typed script, we find that Dr. Ambedkar had divided the whole book "India and Communism" into three parts. The first part was captioned as 'The Prerequisites of Communism'. This part was to have three Chapters but we could not find any of these Chapters in Dr. Ambedkar's papers. So far as the part Two is concerned which is titled "India and the Pre-requisites of Communism", only Chapter Four entitled, "Hindu Social Order" has been found in a well bound register. This Chapter has two sub-titles as follows :—

I—Hindu Social Order: Its Essential Principles, and II—The Hindu Social Order: Its Unique Features. No other chapters on the subjects mentioned in the table of contents of this book were found. In all, there are 63 foolscap typed pages.—Editors.

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CHAPTER 2

The Hindu Social Order: Its Essential Principles

I

What is the character of the Hindu Social Order? Is it a free social order? To answer this question, some idea of what constitutes a free social order is necessary. Fortunately, the matter is not one of controversy. Since the days of the French Revolution there is no difference as to the essentials of a free social order. There may be more but two are fundamental. Generally speaking, they are two. The first is that the individual is an end in himself and that the aim and object of society is the growth of the individual and the development of his personality. Society is not above the individual and if the individual has to subordinate himself to society, it is because such subordination is for his betterment and only to the extent necessary.

The second essential is that the terms of associated life between members of society must be regarded by consideration founded on liberty, equality and fraternity.

Why are these two essentials fundamental to a free social order?

Why must the individual be the end and not the means of all social purposes? For an answer to this question, it is necessary to realise what we precisely mean when we speak of the human person. Why should we sacrifice our most precious possessions and our lives to defend the rights of the human person? No better answer to this question can be found than what is given by Prof. Jacques Maritain. As Prof. Maritain in his essay on 'The Conquest of Freedom'[1] says:—

> "What do we mean precisely when we speak of the human person? When we say that a man is a person, we do not mean merely that he is an individual, in the sense that an atom, a blade of grass, a fly, or an elephant is an individual. Man is an individual who holds himself in hand by his intelligence and his will; he exists not merely in a physical fashion. He has spiritual super-existence through knowledge and love, so that he is, in a way, a universe in

[1] Freedom—Its Meaning by Ruth Nanda Kishen. p. 214.

himself, a microcomos, in which the great universe in its entirety can be encompassed through knowledge. By love he can give himself completely to beings who are to him, as it were, other selves. For this relation no equivalent can be found in the physical world. The human person possesses these characteristics because in the last analysis man, this flesh and these perishable bones which are animated and activated by a divine fire, exists 'from the womb to the grave' by virtue of the existence itself of his soul, which dominates time and death. Spirit is the root of personality. The notion of personality thus involves that of totality and independence, no matter how poor and crushed a person may be, he is a whole, and as a person subsistent in an independent manner. To say that a man is a person is to say that in the depth of his being he is more a whole than a part and more independent than servile. It is to say that he is a minute fragment of matter that is at the same time a universe, a beggar who participates in the absolute being, mortal flesh whose value is external and a bit of straw-into which heaven enters. It is this metaphysical mystery that religious thought designates when it says that the person is the image of God. The value of the person, his dignity and rights, belong to the order of things naturally sacred which bear the imprint of the Father of Being, and which have in him the end of their movement."

Why is Equality essential ? The best exposition of the subject is by Prof. Beard in his essay on 'Freedom in Political Thought' and I shall do no more than quote him. Says Prof. Beard[1] :

"The term 'Equality' is unfortunate, but no other word can be found as a substitute. Equality means 'exactly the same or equivalent in measure, amount, number, degree, value, or quality'. It is a term exact enough in physics and mathematics, but ovbiously inexact when applied to human beings. What is meant by writers who have gone deepest into the subject is that human beings possess, in degree and kind, fundamental characteristics that are common to humanity. These writers hold that when humanity is stripped of extrinsic goods and conventions incidental to time and place, it reveals essential characteristics so widely distributed as to partake of universality. Whether these characteristics be called primordial qualities, biological necessities, residues or any other name matters little. No one can truthfully deny that they do exist. It is easy to point out inequalities in physical strength, in artistic skill, in material wealth, or in mental capacity, but this too is a matter of emphasis. At the end it remains a fact that fundamental

[1] Freedom — Its Meaning—pp. 11-13.

characteristics appear in all human beings. Their nature and manifestations are summed up in the phrase 'moral equality'.

Emphasis must be placed on the term 'moral'. From time immemorial it has been the fashion of critics to point out the obvious facts that in physical strength, talents, and wealth, human beings are not equal. The criticism is both gratuitous and irrelevant. No rational exponent of moral equality has even disputed the existence of obvious inequalities among human beings, even when he has pointed out inequalities which may be ascribed to tyranny or institutional prescriptions. The Declaration of Independence does not assert that all men are equal; it proclaims that they are 'created' equal.

In essence the phrase 'moral equality' asserts in ethical value, a belief to be sustained, and recognition of rights to be respected. Its validity cannot be demonstrated as a problem in mathematics can be demonstrated. It is asserted against inequalities in physical strength, talents, industry, and wealth. It denied that superior physical strength has a moral right to kill, eat, or oppress human beings merely because it is superior. To talents and wealth, the ideal of moral equality makes a similar denial of right. And indeed few can imagine themselves to have superior physical strength, talents and wealth will withhold from inferiors all moral rights. In such circumstances government and wealth would go to superior physical strength; while virtue and talents would serve the brute man, as accomplished Greek slaves served the whims, passions and desires to Roman conquerors. When the last bitter word of criticism has been uttered against the ideal of moral equality, there remains something in it which all, except things, must accept and in practice do accept, despite their sheers and protests. A society without any respect for human personalities is a band of robbers."

Why is Fraternity essential?

Fraternity is the name for the disposition of an individual to treat men as the object of reverence and love and the desire to be in unity with his fellow beings. This statement is well expressed by Paul when he said 'Of one blood are all nations of men, There is neither Jew nor Greek, neither bond nor free, neither male nor female; for yet are all one in Christ Jesus.' Equally well was it expressed when the Pilgrim Fathers on their landing at Plymouth said: "We are knit together as a body in the most sacred covenant of the Lord ..... by virtue of which we hold ourselves tied to all care of each others' good and of the whole." These sentiments are of the essence of fraternity. Fraternity strengthens socialties and gives to each individual a stronger personal

interest in practically consulting the welfare of others. It leads him to identify his feelings more and more with their good, or at least with an even greater degree of practical consideration for it. With a disposition to fraternity he comes as though instructively to be conscious of himself as being one who of course pays a regard to others. The good of others becomes to him a thing naturally and necessarily to be attended to like any of the physical conditions of our existence. Where people do not feel that entireness of sympathy with all others, concordance in the general direction of their conduct is impossible. For a person in whom social feeling is not developed cannot but bring himself to think of the rest of his fellow-beings as rivals struggling with him for the means of happiness when he must endeavour to defeat in order that he may succeed in himself.

What is Liberty and why is it essential in a free social order?

Liberty falls under two classes. There is civil liberty and there is political liberty. Civil liberty refers to (I) liberty of movement which is another name for freedom from arrest without due process of law (2) liberty of speech (which of course includes liberty of thought, liberty of reading, writing and discussion) and (3) liberty of action.

The first kind of liberty is of course fundamental. Not only fundamental it is also most essential. About its value, there can be no manner of doubt. The second kind of liberty which may be called freedom of opinion is important for many reasons. It is a necessary condition of all progress intellectual, moral, political and social. Where it does not exist the status quo becomes stereotyped and all originality even the most necessary is discouraged. Liberty of action means doing what one likes to do. It is not enough that liberty of action should be formal. It must be real. So understood, liberty of action means effective power to do specific things. There is no freedom where there are no means of taking advantage of it. Real liberty of action exists only where exploitation has been annihilated, where no suppression of one class by another exists, where there is no unemployment, no poverty and where a person is free from the fear of losing his job, his home and his food as a consequence of his action.

Political liberty consists in the right of the invidual to share in the framing of laws and in the making and unmaking of governments. Governments are instituted for securing to men certain unalienable rights such as life, liberty and pursuit of happiness. Government must, therefore, derive its powers from those whose rights it is charged with the duty to protect. This is what is meant when it is said that the existence, power and authority of the Government must be derived from the consent of the governed. Political liberty is really a deduction

from the principle of human personality and equality. For it implies that all political authority is derived from the people that the people are capable of directing and controlling their public as well as private lives to ends determined by themselves and by none else.

These two tenets of a free social order are integrally connected. They are inseverable. Once the first tenet is admitted, the second tenet automatically follows. Once the sacredness of human personality is admitted the necessity of liberty, equality and fraternity must also be admitted as the proper climate for the development of personality.

II

How far does the Hindu social order recognise these tenets ? The inquiry is necessary. For it is only in so far as it recognizes these tenets that it will have the title to be called a free social order.

Does the Hindu social order recognise the individual? Does it recognise his distinctiveness his moral responsibility ? Does it recognise him as an end in himself, as a subject not merely of disabilities but also of rights even against the State ? As a starting point for the discussion of the subject one may begin by referring to the words of the exodus where Jehova says to Ezekiel:—

> "Behold! all souls are mine; as the soul of the Father, so also the soul of the son is mine; the soul that sinneth, it shall die ..... the son shall not bear the iniquity of the Father, neither shall the father bear the iniquity of the son; the righteousness of the righteous shall be upon him, and the wickedness of the wicked upon him."

Here is emphasized the distinctiveness of the individual and his moral responsibility. The Hindu social order does not recognise the individual as a centre of social purpose. For the Hindu social order is based primarily on class or Varna and not on individuals. Originally and formally the Hindu social order recognized four classes: (1) Brahmins, (2) Kshatriyas (3) Vaishyas and (4) Shudras. Today it consists of five classes, the fifth being called the Panchamas or Untouchables. The unit of Hindu society is not the individual Brahmin or the individual Kshatriya or the individual Vaishya or the individual Shudra or the individual Panchama. Even the family is not regarded by the Hindu social order as the unit of society except for the purposes of marriage and inheritance. The unit of Hindu society is the class or Varna to use the Hindu technical name for class. In the Hindu social order, there is no room for individual merit and no consideration of individual justice. If the individual has a privilege it is not because it is due to him personally. The privilege goes with the class, and if he is

found to enjoy it, it is because he belongs to that class. Contrawise, if an individual is suffering from a wrong, it is not because he by his conduct deserves it. The disability is the disability imposed upon the class and if he s found to be labouring under it, it is because he belongs to that class.

Does the Hindu social order recognize fraternity ? The Hindus like the Christians and the Muslims do believe that men are created by God. But while the Christians and the Muslims accept this as the whole truth the Hindus believe that this is only part of the truth. According to them, the whole truth consists of two parts. The first part is that men are created by God. The second part is that God created different men from different parts of his divine body. The Hindus regard the second part as more important and more fundamental than the first.

The Hindu social order is based on the doctrine that men are created from the *different parts* of the divinity and therefore the view expressed by Paul or the Pilgrim Fathers has no place in it. The Brahmin is no brother to the Kshatriya because the former is born from the mouth of the divinity while the latter is from the arms. The Kshatriya is no brother to the Vaishya because the former is born from the arms and the latter from his thighs. As no one is a brother to the. other, no one is the keeper of the other.

The doctrine that the different classes were created from different parts of the Divine body has generated the belief that it must be divine will that they should remain separate and distinct. It is this belief which has created in the Hindu an instinct to be different, to be separate and to be distinct from the rest of his fellow Hindus. Compare the following rules in the Manu Smriti regarding the Upanayan or the Investiture of a body with the sacred thread:—

> II. 36. "In the eighth year after conception, one should perform the initiation (Upanayan) of a Brahmani in the eleventh after conception (that) of a Kshatriya but in the twelfth that of a Vaishya."
>
> II. 41. "Let students according to the order (of their castes), wear (as upper dressed) the skins of black antelope, spotted deer, and he-goats and (lower garments) made of hemp, flex or wool."
>
> II. 42. "The girdle of a Brahmana shall consist of a triple cord of Munga grass, smooth and soft (that) of a Kshatriya, of a bowstring, made of Murva fibres (that) of a Vaishya of hempen threads.
>
> II. 43. "If Munga grass (and soforth) be not procurable, (the girdles) may be made of kusa, Asmantaka, and Balbaga (fibres) with

a single threefold knot, or with three or five (knots according to the custom of the family."

II. 44. "The sacrificial string of a Brahmana shall be made of cotton (shall be) twisted to the right, (and consist) of three threads, that of a Kshatriya of hempen threads, and that of a Vaishya of woolen threads.

II. 45. "A Brahamana shall carry according to sacred law a staff of Bilva or Palasa, a Kshatriya of Vata or Khadira; and a Vaishya of Pillu or Udumbara."

II. 46. "The staff of a Brahmana shall be made of such length as to reach the end of his hair; that of a Kshatriya to reach his forehead; and that of a Vaishya to reach the tip of his nose."

II. 48. "Having taken a staff according to his choice having worshipped the Sun and walked round the fire, turning his right hand towards it (the student) should beg alms according to the prescribed rule."

II. 49. "An initiated Brahmana should beg, beginning his request with the word *lady* (bhavati); a Kshatriya placing the word *lady* in the middle, but a Vaishya placing *it* at the end of the formula."

On reading this one may well ask the reasons for such distinctions. The above rules refer to students or what are called Bramhacharia ready to enter upon the study of the Vedas. Why should there be these distinctions ? Why should the ages of Upanayana of the Brahmin boy differ from that of the Kshatriya or Vaishya? Why should their garments be of different kind ? Why should their materials of girdle cords be different? Why should the material of strings be different? Why should their staves be of different trees ? Why should their staves differ in length? Why in uttering the formula for asking alms they should place the word 'Bhavathi' in different places? These differences are not necesary nor advantageous. The only answer is that they are the result of the Hindu instinct to be different from his fellow which has resulted from the belief of people being innately different owing to their being created from different parts of the divine body.

It is also the Hindu instinct due to the same belief never to overlook a difference if it does exist but to emphasize it, recognize it and to blazen it forth. If there is caste its existence must be signalized by a distinguishing head-dress and by a distinguishing name. If there is a sect it must have its headmark. There are 92 sects in India. Each has a separate mark of itself. To invent 92 marks each one different from the other is a colossal business. The very impossibility of it would have made the most ingenious person to give up the task. Yet, the Hindus

have accomplished it as may be seen from the pictorial representation of these marks given by Moore in his Hindu Pantheon.

The most extensive and wild mainfestation of this spirit of isolation and separation is of course the caste-system. It is understandable that caste in a single number cannot exist. Caste can exist only in plural number. There can be castes. But there cannot be such a thing as a caste. But granting that theoretically castes must exist, in plural number how many castes should there be? Originally, there were four only. Today, how many are there? It is estimated that the total is not less than 2000. It might be 3000. This is not the only staggering aspect of this fact. There are others. Castes are divided into sub-castes. Their number is legion. The total population of the Brahmin castes is about a crore and a half. But there are 1886 sub-castes of Brahmin caste !! In the Punjab alone, the Saraswat Brahmans are divided into 469 sub-castes. The Kayasthas of Punjab are divided into 890 sub-castes!! One could go on giving figures to show this infinite process of splitting social life into small fragments. The splitting process has made a social life quite impossible. It has made the castes split into such small fragments that it has marital relationship consistent with the rule of excluded degrees quite impossible. Some of the Baniya sub-castes count no more than 100 families. They are so interrelated they find it extremely difficult to marry within their castes without transgressing the rules of consanguinity.

It is noteworthy that small excuses suffice to bring about this splitting of castes into sub-castes. Castes become sub-divided into sub-castes by reason of change of location, change of occupation, change in social practices, change due to pollution, changes due to increased prosperity, changes due to quarrel and changes due to change of religion. Mr. Blunt has given many instances to illustrate this tendency among the Hindus. There is no space to reproduce all except one which shows how ordinary quarrels lead to the splitting one caste into sub-castes. As stated by Mr. Blunt[1]:—

> "In Lucknow there was a sub-caste of Khatika consisting of three *ghols or groups,* known as Manikpur, Jaiswala and Dalman. They inter-married, ate together, and met together in panchayat under the .presidency of their *Chaudharis* or headmen. Twenty years ago each group had one Chaudhri, but now Jaiswala have three and Manikpur two. The quarrel was as follows. Firstly a woman (her ghol is not given) peddled fruit about the streets. The brethren ordered her to desist from the practice, which is derogatory to the caste's dignity; women should only sell in shops. Her husband and

[1]"The Carte system of Northern India" pp. 51-56.

she proved contumacious; and finally their own ghol, acting singly, outcasted the man. The Dalmu ghol, however, dissenting from this action admitted the husband to communion with themselves upon payment of a fine of Rs. 80 in lieu of excommunication. Secondly a man (the ghol, again is not given) was excommunicated by his own ghol, acting alone; and while his case was under trial, the Jaiswala Chaudhri invited him to dinner by mistake. Thereupon, the three ghols, acting in concert, fined the Chaudhri Rs. 30. Lastly, fines had accumulated and it was decided to hold a *Katha* (sacred recitation). The Dalmu Chaudhri said he preferred to have his share of money; but the Manikpur Chaudhri (who seems to have kept the joint purse) refused, taking up the attitude that there was going to be a *Katha* to which the Dalmu people could come or not as they liked. The matter at this stage was brought into court; meanwhile the three ghols ceased to inter-marry, so that one endogamous sub-caste split into three quarrels, ghol was pitted against ghol.

If in any caste a group should adopt some new or unusual worship of which other members do not approve, one would expect that group to break off and become an endogamous sub-caste. That such sub-castes are uncommon is due to the tolerance about what and with whom he eats and whom he marries. We do, however, find that the Mahabhiras and Panchipriya sub-castes amongst Telis, Koris and the Namakshalis amongst Barhais, Bhangis and Kadheras."

How do these castes behave towards one another. Their guiding principle is 'be separate', do not intermarry 'do not interdine' and 'do not touch'. Mr. Blunt[1] has well described the situation when he says:

"A Hindu sits down to a meal either alone or with his caste fellows. The women cannot eat with the men; they wait till their lords have finished. So long as the meal or a part of it consists of *Kachcha* food (as it usually does, since Chapatis appear at most meals), the man must dine with the precautions of a magic ceremony. He sits within a square marked off on the ground (chauka) inside which is the *Chulha* or cooking place. Should a stranger's shadow fall upon this square, all food cooked within it is polluted and must be thrown away. In camp, Hindu servants may be seen, each well apart from the rest, each within his own chauka, cooking his food upon his own mud oven and eating alone……

"Rules regarding the acceptance of water are on the whole the same as those regarding the acceptance of a pakka food, but with

a tendency to greater laxity. The vessel in which the water is contained affects the question. A high caste man will allow a low caste man to fill his *lota* (drinking vessel) for him; but he will not drink from the lota of that low caste man. Or a high caste man will give anybody (save Untouchables) a drink, by pouring water from his own lota into that of the drinker; all the men employed at stations to supply railway travellers with water are Barhais, Baris, Bharbhunjas, Halwais, Kahars, and Nais; and of course from higher castes still.

Rules regarding smoking are stricter. It is very seldom that a man will smoke with anybody but a caste fellow; the reason, no doubt is that smoking with a man usually involves smoking his pipe, and this involves much closer contact even than eating food which he has prepared. So stringent is this rule, indeed, that the fact that Jats, Ahirs, and Gujars will smoke together has been regarded as a ground for supposing that they are closely akin. Some castes, the Kayastha for instance, differentiates between smoking in narial fashion in which the hands are closed round the pipe and the smoke is drawn in without putting the stem actually in the mouth—and smoking in the usual way. Little need be said on the subject of vessels. There are rules laying down what sort of vessels should be made, but they are rather religious than social. Hindus must use brass or alloy (although the use of alloy is hedged about by numerous and minute injunctions, and if such vessels become impure, the only remedy is to get them remoulded). The risk of pollution makes it imperative for every man to have a few vessels of his own. The minimum consists of a *lota* (drinking vessel), *batna* (cooking pot), and *thali* (dish). Better class folk add a *Katora* (spoon) and *Gagra* (Water pot). For feasts, the brotherhood usually keep a set of larger vessels of all kinds, which they lend to the host; these are bought with the proceeds of fines, and are common property."[1]

What fraternity can there be in a social order based upon such sentiments? Far from working in a spirit of fraternity the mutual relations of the castes are fratricidal. Class consciousness, class struggle and class war are supposed to be ideologies which came into vogue from the writings of Karl Marx. This is a complete mistake. India is the land which has experienced class consciousness, class struggle. Indeed, India is the land where there has been fought a class war between Brahmans and Kshatriyas[2] which lasted for several

[1] In the Northern India the bar to eating together applies only when the food is kachcha food. In Southern India the bar is complete and applies even when the food it pucca food. Kachcha food is food cooked in water. Pacca food is food cooked in ghee.

[2] See my book 'Who were the Shudras?'

generations and which was fought so hard and with such virulence that it turned but to be a war of extermination.

It must not be supposed that the fratricidal spirit has given place to a spirit of fraternity. The same spirit of separation marks the Hindu social order today as may be seen from what follows:

Each class claims a separate origin. Some claim origin from a Rishi or from a hero. But in each case it is a different Rishi or a different hero having nothing to do with the Rishis and heroes claimed by other castes as their progenitors. Each caste is engaged in nothing but establishing for itself a status superior to that of another caste. This is best illustrated by rules of hypercommensality and rules of hypergamy. As pointed out by Mr. Blunt[1]:

> "It is essential to realize that in respect of the cooking taboo, the criterion is the caste of the person who cooks the food, not the caste of the person who offers it. It follows, therefore, that a high caste Hindu can eat the food of a man of any caste, however low, if his host possesses a cook of suitable caste. And that is why so many cooks are Brahmins. The Hindu draws a distinction between kachcha food, which is cooked in water and pucca food which is cooked with ghee (clarified butter). This distinction depends on the principle that ghee, like all the products of the sacred cow, protects from impurity, and since such protection is the object of all food taboos, this convenient fiction enables the Hindu to be less particular in the case of pucca food than of kachcha food, and to relax his restrictions accordingly:

Speaking of hypergamy, Mr. Blunt[2] says:—

> "The custom of hypergamy introduces an important modification into the marriage laws of many castes. Where it prevails, the exogamous groups are classified according to their social position; and whilst a group of highest rank will take brides from it, it will not give brides to a group of lower rank. The law is found most highly developed amongst Rajputs but it is observed by many other castes..... Indeed amongst all Hindus there is probably a tendancy towards hypergamy."

What is it that has behind these rules regarding hyper-commensality and hypergamy ? Nothing else but the spirit of high and low. All castes are infested with that spirit and there is no caste which is free from it. The Hindu social order is a ladder of castes placed one above the other together representing an ascending scale of hatred and a descending scale of contempt.

[1] 'The Caste system of Northern India' pp. 89-90.

[2] *Ibid.* 'The Caste system of Northern India'.

This spirit has exhibited itself in the proverbs coined by one caste with the object of lampooning another caste. It has given rise even to literature by authors of low castes suggesting filthy origin of the so-called high caste. The Sahyadrikhand is the best illustration of it. It is one of the Puranas which form part of the Hindu sacred literature. It is a Purana of a style quite different from the traditional puranas. It deals with the origin of the different castes. In doing so, it assigns noble origin to other castes while it assigns to the Brahmin caste the filthiest origin.

Does the Hindu social order recognise equality ? The answer must be in the negative. That men are born equal is a doctrine which is repugnant to the Hindu social order. In the spiritual sense it treats the doctrine as false. According to the Hindu social order though it is true that men are the children of Prajapati the Creator of the Universe, they are not equal on that account. For, they were created from the different parts of the body of Prajapati. The Brahmins were created from the mouth, the Kshatriyas from the arms, the Vaishyas from his thighs and Shudras from his feet. The limbs from which they were created being of unequal value the men thus created are as unequal. In the biological sense, the Hindu social order does not bother to examine whether the doctrine is founded in a fact. If it was not a fact, i.e., men were not equal in their character and natural endowments of character and intelligence so much the better. On the other hand, if it was a fact, i.e., men were equal in character and natural endowments, so much the worse for the doctrine. The Hindu social order is indifferent to the doctrine as a fact. It is equally indifferent to it as an ethical principle. It refuses to recognise that men no matter how profoundly they differ as individuals in capacity and character, are equally entitled as human beings to consideration and respect and that the well-being of a society is likely to be increased if it so plans its organization that, whether their powers are great or small, all its members may be equally enabled to make the best of such powers as they possess. It will not allow equality of circumstances, institutions and manner of life. It is against equalitarian temper.

III

If the Hindu social order is not based on equality and fraternity, what are the principles on which it is based ? There is only one answer to this question. Though few will be able to realize what they are, there is no doubt as to their nature and effect on Hindu society. The Hindu social order is reared on three principles. Among these the first and foremost is the principle of graded inequality.

That the principle of graded inequality is a fundamental principle is beyond controversy. The four classes are not on horizontal plane, different but equal. They are on vertical plane. Not only different but unequal in status, one standing above the other. In the scheme of Manu, the Brahmin is placed at the first in rank. Below him is the Kshatriya. Below the Kshatriya is the Vaishya. Below Vaishya is the Shudra and below Shudra is the Ati-shudra or the Untouchable. This order of precedence among the classes is not merely conventional. It is spiritual, moral and legal. There is no sphere of life which is not regulated by this principle of graded inequality.

One can substantiate this by numerous illustrations from the Manu Smriti. I will take four illustrations to prove the point. They will be the law of slavery, law of marriage, law of punishment and law of Samskaras and law of Sanyas. The Hindu law recognised slavery as a legal institution. Manu Smriti recognised seven kinds of slaves. Narada Smriti recognised fifteen kinds of slaves. These differences as to the number of slaves and the classes under which they fall is a matter of no importance. What is important is to know who could enslave whom. On this point, the following citations from the Narada Smriti and the Yajnavalkya Smriti are revealing:

Narada Smriti: V. 39. "In the inverse order of four castes slavery is not ordained except where a man violates the duties peculiar to his caste. Slavery (in that respect) is analogous to the condition of a wife."

Yajnavalkya Smriti: XVI. 183 (2). "Slavery is in the descending order of the Varnas and not in the ascending order."

Recognition of slavery was bad enough. But if the rule of slavery had been left free to take its own course it would have had at least one beneficial effect. It would have been a levelling force. The foundation of caste would have been destroyed. For under it, a Brahmin might have become the slave of the Untouchables and the Untouchables would have become the masters of the Brahmin. But it was seen that unfettered slavery was an equilitarian principle and an attempt was made to nullify it. Manu and his successors therefore while recognising slavery ordian that it shall not be recognized in its inverse order to the Varna system. That means that a Brahmin may become the slave of another Brahmin. But he shall not be the slave of a person of another Varna, i.e., of the Kshatriya, Vaishya, Shudra, or Ati-Shudra. On the other hand, a Brahmin may hold as his slave anyone belonging to the four Varnas. A Kshatriya can have a Kshatriya, Vaishya, Shudra and Ati-Shudra as his slaves but not one who is a Brahmin. A Vaishya can have a Vaishya, Shudra and Ati-Shudra as his slaves but not one who is a Brahmin or a Kshatriya. A Shudra can hold a Shudra and

an Ati-Shudra, as his slaves but not one who is a Brahmin, Kshatriya or a Vaishya. Ati-Shudra can hold an Ati-Shudra as his slave but not one who is a Brahmin, Kshatriya, Vaishya or Shudra.

Another illustration of this principle of graded inequality is to be found in the Laws of marriage. Manu says:—

> III. 12. "For the first marriage of the twice-born classes, a woman of the same class is recommended but for such as are impelled by inclination to marry again, women in the direct order of the classes are to be preferred."

> III. 13. "A Shudra woman only must be the wife of a Shudra; she and a Vaishya, of a Vaishya; they two and a Kshatriya of a Kshatriya; those three and a Brahmani of a Brahmin."

Manu is of course opposed to inter-marriage. His injunction is for each class to marry within his class. But he does recognize marriage outside the defined class. Here again, he is particularly careful not to allow inter-marriage to do harm to his principle of inequality among classes. Like slavery he permits inter-marriage but not in the inverse order. 'A Brahmin when marrying outside his class may marry any woman from any of the classes below him. A Kshatriya is free to marry a woman from the two classes next below him, namely, the Vaishya and Shudra but must not marry a woman from the Brahmin class which is above him. A Vaishya is free to marry a woman from the Shudra class which is next below him. But he cannot marry a woman from the Brahmin and the Kshatriya class which are above him.

The third illustration is to be found in the Rule of Law as enunciated by Manu. First as to treatment to be given to witnesses. According to Manu, they are to be sworn as follows:

> VIII. 87. "In the forenoon let the judge, being purified, severally call on the twice-born, being purified also, to declare the truth, in the presence of some image, a symbol of the divinity and of Brahmins, while the witnesses turn their faces either to the north, or to the east."

> VIII. 88. "To a Brahmin he must begin with saying 'Declare'; to a Kshatriya, with saying 'Declare the truth'; to a Vaishya admonishing him by mentioning his kine, grain or gold; to a Shudra, threatening him with the guilt of every crime that causes loss of caste."

Take the punishment of offences as laid down by Manu. To begin with, punishment for defamation:

> VIII. 267. "A soldier, defaming a priest, shall be fined a hundred panas; merchant thus offending, a hundred and fifty, or two hundred; but for such an offence a mechanic or servile man shall be whipped."

VIII. 268. "A priest shall be fined fifty if he slanders a soldier; twenty-five if a merchant and twelve if he slanders a man of the servile class."

Take the offence of insults. The punishment prescribed by Manu is as follows:

VIII. 270. "A Shudra who insults a Dvija with gross invectives, ought to have his tongue slit for he sprang from the lowest part of Brahma."

VIII. 271. "If he mentions their names and classes with contumely, as if he says, 'Oh Devadatta, thou refuse of Brahmin'; an iron style, ten fingers long, shall be thrust red into his mouth."

VIII. 272. "Should he, through pride, give instructions to Brahmins concerning their duty; let the king order some hot oil to be dropped into his mouth and his ear."

Punishment for the offence of abuse. Manu says:

VIII. 276. "For mutual abuse by a Brahmin and a Kshatriya, this fine must be imposed by a learned king; the lowest on the Brahmin and the middlemost on the soldier."

VIII. 277. "A Vaishya and a Shudra must be punished exactly in the same manner according to their respective castes, except the slitting of the tongue of the Shudras. This is the fixed rule of punishment."

Punishment for the offence of assault. Manu propounds:

VIII. 279. "With whatever limb a Shudra shall assault or hurt a Dvija that limb, of his shall be cut off, this is in accordance of Manu."

Punishment for the offence of arrogance. According to Manu:

VIII. 281. "A Shudra who shall insolently place himself on the same seat with 9 man of high caste, shall either be branded on his hip and be banished or the King shall cause a gash to be made on his buttock."

VIII. 282. "Should he spit on him through pride, the king shall order both his lips to be gashed; should he urine on him, his penis; should he break wind against him, his anus."

VIII. 283. "If he seizes the Brahmin by the locks or likewise if he takes him by the feet, let the king unhesitatingly cut off his hands, or by the beard, or by the throat or by the scrotum."

Punishment for the offence of adultery. Says Manu.

VIII. 359. "A man who is not a Brahmin who commits actual adultery ought to suffer death; for the wives, indeed of all the four classes must ever be most especially guarded."

VIII. 366. "A Shudra who makes love to a damsel of high birth, ought to be punished corporally; but he who addresses a maid of equal rank, shall give the nuptial present and marry her, if her father desires it."

VIII. 374. "A Shudra having an adulterous connection with a woman of a twice-born class, whether guarded at home or unguarded shall thus be punished in the following manner; if she was unguarded, he shall lose the part offending and all his property; if guarded everything even his life."

VIII. 375. "For adultery with a guarded Brahmin a Vaishya shall forfeit all his wealth after imprisonment for a year; a Kshatriya shall be fined a thousand panas, and he be shaved with the urine of an ass."

VIII. 376. "But if a Vaishya or Kshatriya commits adultery with an unguarded Brahmin, the king shall only fine the Vaishya five hundred panas and the Kshatriya a thousand."

VIII. 377. "But even these two however, it they commit that offence with a Brahmani not only guarded but the wife of an eminent man, shall be punished like a Shudra or be burned in a fire of dry grass or reeds."

VIII. 382. "If a Vaishya approaches a guarded female of the Kshatriya or a Kshatriya a guarded Vaishya-woman, they both deserve the same punishment as in the case of an unguarded Brahmin female."

VIII. 383. "But a Brahmin, who shall commit adultery with a guarded woman of those two classes, must be fined a thousand panas, and for the offending with a Shudra woman the fine of a thousand panas on a Kshatriya or Vaishya."

VIII. 384. "For adultery by a Vaishya with a woman of the Kshatriya classes, if guarded, the fine is five hundred; but a Kshatriya for committing adultery on a Vaishya woman must be shaved with urine or pay the fine just mentioned."

How strange is the contrast between Hindu and non-Hindu criminal jurisprudence! How inequality is writ large in Hinduism as seen in its criminal jurisprudence! In a Penal Code charged with the spirit of justice we find two things—a section dealing with defining the crime and a section prescribing a rational form of punishment for breach of it and a rule that all offenders are liable to the same penalty. In Manu, what do we find? First an irrational system of punishment. The punishment for a crime is inflicted on the origin concerned in the crime such as belly, tongue, nose, eyes, ears, organs of generation etc., as if

the offending organ was sentiment having a will for its own and had not been merely a survitor of human being. Second feature of Manu's Penal Code is the inhuman character of the punishment which has no proportion to the gravity of the offence. But the most striking feature of Manu's Penal Code which stands out in all its nakedness is the inequality of punishment for the same offence. Inequality designed not merely to punish the offender but to protect also the dignity and to maintain the baseness of the parties coming to a Court of Law to seek justice; in other words to maintain the social inequality on which his whole scheme is founded.

The principle of graded inequality has been carried into the economic field. "From each according to his ability; to each according to his need" is not the principle of Hindu social order. The principle of the Hindu social order is: "From each according to his need. To each according to his nobility." [1]Supposing an officer was distributing dole to a famine striken people. He would be bound to give greater dole to a person of high birth than he would to a person of low birth. Supposing an officer was levying taxation. He would be bound to assess a person of high birth at a lower rate than he would to a person of low birth. The Hindu social order does not recognise equal need, equal work or equal ability as the basis of reward for labour. Its motto is that in regard to the distribution of the good things of life those who are reckoned as the highest must get the most and the best and those who are classed as the lowest must accept the least and the worst.

Nothing more seems to be necessary to prove that the Hindu social order is based on the principle of graded inequality. It pervades all departments of social life. Every side of social life is protected against the danger of equality.

The second principle on which the Hindu social order is founded is that of fixity of occupations for each class and continuance thereof by heredity. This is what Manu says about occupations of the four classes.

> "I. 87. But in order to protect this universe, He, the most resplendent one, assigned separate (duties and) occupations, to those who sprang from his mouth, arms, thighs and feet.
>
> I. 88. To Brahmanas he assigned teaching and studying (the Veda) sacrificing for their own benefit and for others, giving and accepting (of alms).
>
> I. 89. The Kshatriya he commanded to protect the people, to bestow gifts to offer sacrifices to study (the Veda) and to abstain from attaching himself to sensual pleasures."

[1] The illustrations given above are not merely drawn from imagination. They are facts of history. The differentiation between high and low was recognised by law in the time of the Peshwas. The differentiation about dole exists even now in the Bombay Presidency and was defended by a Congress Minister. *These Remarks are not applicable today*—Editors.

"I. 90. The Vaishya to tend cattle to bestow gifts to offer sacrifices to study (the Veda) and to abstain from attaching himself to sensual pleasures."

I. 91. One occupation only the Lord prescribed to the Shudra, to serve meekly even these (other) three castes."

These rules regarding the occupations of the different classes are further amplified by Manu as will be seen from the following citations from his Smriti:

"I. 88. To Brahmans he (Swayambhu Manu) assigned the duties of reading the Veda, of teaching it, of sacrificing, of assisting others to sacrifice, of giving alms if they be rich, and if indigent of receiving of gifts.

I. 89. To defend the people, to give alms, to sacrifice, to read the Veda, to shun the allurements of sensual gratification, are in a few words, the duties of a Kshatnya.

I. 90. To keep herds of cattle, to bestow largeness, to sacrifice, to read the scriptures, to carry on trade, to lend at interest, and to cultivate land are prescribed or permitted to a Vaishya.

I. 91. One principal duty the supreme Ruler assigns to a Shudra; namely, to serve the beforementioned classes, without depreciating their worth.

X. 74. Let such Brahmans as are intent on the means of attaining the supreme godhead, and firm in their own duties, completely perform in order, the six following acts.

X. 75. Reading the Vedas, the teaching others to read them, sacrificing, and assisting others to sacrifice, giving to the poor if themselves have enough, and accepting gifts from the virtuous if themselves are poor, are the six prescribed acts of the firstborn class."

"X. 76. But, among those six acts of a Brahman three are his means of subsistence; assisting to sacrifice, teaching the Vedas and receiving gifts from a purehanded giver.

X. 77. Three acts of duty cease with the Brahman and belong not to the Kshatriya, teaching the Vedas, officiating at a sacrifice and thirdly receiving presents.

X. 78. Those three are also (by the fixed rule of law) forbidden to the Vaishya since Manu, the Lord of all men, prescribed not those acts to the two classes, military and commercial.

X. 79. The means of subsistence peculiar to the Kshatriya are bearing arms, either held for striking or missile; to the Vajshya, merchandise, attending on cattle, and agriculture; but with a view to the next life, the duties of both are alms giving, reading and sacrificing."

Every member must follow the trade assigned to the class to which he belongs. It leaves no scope for individual choice, individual inclination. An individual under the Hindu social order is bound to the profession of his ancestor. It is an inexorable law from which he cannot escape.

The principle does not stop with fixity of occupation. It grades the several occupations in terms of respectability. This is what Manu says:—

> "X. 80. Among the several occupations for gaining a livelihood the most commendable respectively for the Brahmans, Kshatriyas and the Vaishyas are the teaching of the Vedas, defending the people and trade.

The third principle on which the Hindu social order is founded is the fixation of people within their respective classes. There is nothing strange or peculiar in the fact that the Hindu social order recognizes classes. There are classes everywhere and no society is without them. Families, cliques, clubs, political parries, nay communities, gangs engaged in criminal conspiracies, business corporations which prey upon the public are to be found in all societies in all parts of the world. Even a free social order will not be able to get rid of the classes. What a free social order aims to do is to prevent isolation and exclusiveness being regarded by the classes as an ideal to be followed. For so long as the classes do not practise isolation and exlusiveness they are only non-social in their relations towards one another. Isolation and exclusiveness make them anti-social and inimical towards one another. Isolation makes for rigidity of class consciousness, for institutionalizing social life and for the dominance of selfish ideals within the classes. Isolation makes life static, continues the separation into a privileged and underprivileged, masters and servants.

Not so much the existence of classes as the spirit of isolation and exlusiveness which is inimical with a free social order. What a free social order endeavours to do is to maintain all channels of social endosmosis. This is possible only when the classes are free to share in an extensive number of common interests, undertakings and expenses, have a large number of values in common, when there is a free play back and forth, when they have an equable opportunity to receive and to take from others. Such social contacts must and does dissolve custom, makes for an alert and expanding mental life and not only occasion but demand reconstruction of mental attitudes. What is striking about the Hindu social order is its ban on free inter-change and inter-course between different classes of Hindu society. There is a bar against inter-dining and inter-marriage. But Manu goes to the length of interdicting ordinary social intercourse. Says Manu:

IV. 244. "He, who seeks to preserve an exalted rank, must constantly form connections with the highest and best families, but avoid the worst and the meanest.

IV. 245. Since a priest, who connects himself with the best and the highest of men, avoiding the lowest and worst, attains eminence; but sinks by an opposite conduct, to the class of the servile.

IV. 79. Not let him tarry even under the shade of the same tree with outcaste *for the great crimes,* nor with Chandalas, nor with Puccasas, nor with idiots, nor with man proud of wealth, nor with washermen and other vile persons, nor with Antyevasins."

The Hindu social order is opposed to fraternity. It does not admit the principle of equality. Far from recognising equality it makes inequality its official doctrine. What about liberty? So far as choice of occupation goes, there is none. Everyone has his occupation determined for him. Only thing left to do is to carry it on. As to freedom of speech it exists. But it exists only for those who are in favour of the social order. The freedom is not the freedom of liberalism which was expressed by Voltaire when he said "I wholly disapprove of what you say and will defend to the death your right to say it. "This is clear from what Manu has to say about Logic and dialectics.

"IV. 29-30. No guest must stay in his house without being honoured according to his ability, with a seat, food, a couch, water, or roots and fruits.

Let him not honour even by a greeting heretics, men who follow forbidden occupations, men who live like cats, rogues, logicians (arguing against the Veda) and those who live like herons.

II. 10. But by Sruti (Revelation) is meant the Vedas and by Smriti (tradition) the Institutes of the sacred law; those two must not be called into question in any matter, since from those two the sacred law shone forth.

II. 11. Every twice-born man, who, relying on the Institutes of dialectics, treats with contempt those two sources (of the law), must be cast out by the virtuous as an atheist and a scorner of the Veda. II. 12. The Veda, the sacred tradition, the customs of virtuous men, and one's own pleasure, they declare to be visibly the fourfold means of defining the sacred law." The reasons for this are made manifest by Manu who says:

II. 6. "The whole Veda is the (first) source of the sacred law, next the tradition and the virtuous conduct of those who know the (Veda further) also the customs of holy men, and (finally) self-satisfaction :

II. 7. Whatever law has been ordained for any (person) by Manu; that has been fully declared in the Veda; for that (sage was) omniscient."

In this freedom there is not freedom for dialecticians, no freedom for logicians to criticise the social order which means there is no freedom at all.

What about liberty of action ? In the sense of effective choice, there is no room for it in the Hindu social order. The Hindu social order leaves no choice to the individual. It fixes his occupation. It fixes his status. All that remains for the individual to do is to conform himself to these regulations.

The same must be said with regard to political liberty. The Hindu social order does not recognise the necessity of a representative government composed of the representatives chosen by the people. Representative Government rests on the belief that people must be governed by law and law can be made only by the representative of the people. The Hindu social order recognises the first part of this thesis which says that people must be governed by law. But it denies the second part of the thesis which says that law can be made only by the representatives chosen by the people. The tenets of the Hindu social order is that the law by which people are to be governed is already made and is to be found in the Vedas. Nobody has a right to add to and subtract from it. That being so, a representative assembly of the people is unnecessary. Political liberty which is liberty to frame laws and to make and unmake Government is futility for which there is no place in the Hindu social order.

To sum up, the Hindu social order is an order based on classes and not on individual. It is an order in which classes are graded one above the other. It is an order in which the status and functions of the classes are determined and fixed. The Hindu social order is a rigid order. No matter what changes take place in the relative position of an individual his social status as a member of the class he is born in relation to another person belonging to another class shall in no way be affected. The first shall never become the last. The last shall never become the first.

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CHAPTER 3

The Hindu Social Order: Its Unique Features

So far the discussions were confined to describing the essentials of the Hindu social order. Besides its essentials, the Hindu social order has some unique features. These unique features are as important as the essentials. No study of the Hindu social order which does not make any reference to them can be regraded as complete or accurate.

What are these special features ? The special features of the Hindu social order are three in number. Of these three, the most striking is the worship of the superman. In this respect the Hindu social order is nothing but Nietzsche's Gospel put in action. Nietzsche himself never claimed any originality for his theory of the superman. He admitted and avowed that he borrowed it from the Manu Smriti. In his treatise, called *Anti-Christ* this is what Nietzsche said:—

> "After all, the question is, to what end are falsehoods perpetrated ? The fact that, in Christianity,' Holy' ends are entirely absent, constitutes my objection to the means it employs. Its ends are only bad ends; the poisoning, the calumination and the denial of life, the contempt of the body, the degradation and self-pollution of man by virtue of the contempt of sin,—consequently its means are bad as well. My feelings are quite the reverse when I read the law book of Manu, an incomparably intellectual and superior work, which it would be a sin against the spirit even to mention in the same breath with the Bible. You will guess immediately why it has a genuine philosophy behind it. In it, not merely an evil smelling Jewish distillation of Rabbinism and superstition—it gives something to chew even to the most fastidious psychologist. And, not to forget the most important point of all, it is fundamentally different from the very kind of Bible; by means of it the noble classes, the philosophers and the warriors guard and guide the masses; it is replete with noble values, it is filled with a feeling of

> perfection with saying yea to life, triumphant sense of well-being in regard to itself and to life,—the Sun shines upon the whole book. All those things which Christianity smothers with its bottomless vulgarity; procreation, women, marriage are here treated with earnestness, with reverence, with love and confidence. How can one possibly place in the hands of children and women, a book that contains those vile words;' to avoid fornication let every man have his wife, let every woman have her own husband..... It is better to marry than to burn. And is it decent to be a Christian so long as the very origin of man is Christianised—that is to say, befouled, by the idea of the immaculate conception."

Nietzsche never got any respectful or serious hearing in his own country. In his own words, he was 'sometimes defied as the philosopher of the aristocracy and squiarchy, sometimes hooted at, sometimes pitied and sometimes boycotted as an inhuman being.' Nietzsche's philosophy had become identified with will to power, will to violence and denial of spiritual values, sacrifice, servility to and debasement of the common man in the interest of the Superman. His philosophy with these high spots had created a feeling of loathsomeness and horror in the minds of the people of his own generation. He was utterly neglected if not shunned and Nietzsche himself took comfort by placing himself among the 'posthumous men'. He foresaw for himself a remote public, centuries after his own time to appreciate him. Here too Nietzsche was destined to be disappointed. Instead of there being any appreciation of his philosophy the lapse of time has only augmented the horror and loathing which people of his generation felt for Nietzsche. Having regard to the vile nature of Nietzsche's philosophy some people may not be ready to believe that the Hindu social order is based on the worship of the Superman.

Let the Manu Smriti speak on this point. This is what Manu says with regard to the position of the Brahmin in the Hindu social order.

> I. 93. "As the Brahmana sprang from Prajapati's (i.e. God's) mouth, as he was first-born, and as he possesses the Veda, he is by right the Lord of this whole creation."
>
> I. 94. "For the self-existent (Swayambhu) i.e. God having performed austerities, produced him first from his own mouth, in order that the offerings might be conveyed to the Gods and Manes and that this universe might be preserved."
>
> I. 95. "What created being can surpass him, through whose mouth the Gods continually consume the sacrificial viands and the Manes the offerings to the dead."

I. 96. "Of created beings the most excellent are said to be those which are animated, of the animated those who subsist by intelligence; of the intelligent mankind, and of the men the Brahmans."

Besides the reason given by Manu the Brahman is first in rank because he was produced by God from his mouth, in order that the offerings might be conveyed to the Gods and manes, Manu gives another reason for the supremacy of the Brahman. He says:

I. 98. "The very birth of a Brahmana is an eternal incarnation of the sacred law (Veda) for he is born to (fulfil) the sacred law, and becomes one with Brahman (God.)"

I. 99. "A Brahmana coming into existence, is born as the highest on earth, the Lord of all created beings, for the protection of the treasury of the law." Manu concludes by saying that:

I. 101. "The Brahmana eats but his own food, wears but his own apparel, bestows but his own in alms; other mortals subsist through the benevolence of the Brahmana." Because according to Manu:

I. 100. "Whatever exists in the world is the property of the Brahmana; on account of the excellence of his origin the Brahmana is, indeed, entitled to it all." Being a deity the Brahman is above law and above the king. Manu directs:

VII. 37. "Let the king, rising early in the morning, worship Brahmanas who are well-versed in the threefold sacred science and learned (in polity) and follow their advice."

VII. 38. "Let him daily worship aged Brahmans who know the Veda and are pure....."

Finally Manu says:

XI. 35. "The Brahman is (hereby) declared to be the creator (of the world), the punisher, the teacher, (and hence) a benefactor (of all created beings) to him let no man say anything unpropitious, nor use any harsh words." Manu ordains that:

X. 3. "From priority of birth, from superiority of origin, from a more exact knowledge of scripture, and from a distinction in the sacrificial thread, the Brahman is the lord of all classes."

The Brahmin or the Superman of the Hindu social order was entitled to certain privileges. In the first place, he could not be hanged even though he might be guilty of murder.[1] Manu says:

[1]This immunity was continued by the British Government up to 1837. It was in 1837 the Penal Law was amended whereby the Brahman for the first time became liable to capital punishment for murder. The immunity still exists in Indian States. In Travancore the Dewan who is a Brahmin adopted an ingenious method of meeting public criticism of this continuance of this privilege, instead of hanging the Brahmins he abolished capital punishment altogether.

VIII. 379. "Ignominous tonsure is ordained, instead of capital punishment, for a Brahmin adulterer where the punishment of other classes may extend to loss of life."

VIII. 380. "Never shall the king slay a Brahmin, though convicted of all possible crimes; let him banish the offender from his realm, but with all his property secure, and his body unhurt."

XI. 127. "For a Brahmin killing intentionally a virtuous man of the Kshatriya class, the penance must be a fourth part of that ordained for killing a priest; for killing a Vaishya, only an eighth; for killing a Shudra, who had been constant in discharging his duties a sixteenth part."

XI. 128. "But, if a Brahmin kills a Kshatriya without malice, he must, after a full performance of his religious rites, give the priests one bull together with a thousand cows."

XI. 129. "Or he may perform for three years the penance for slaying a Brahmin, mortifying his organs of sensation and action, letting his hair grow long, and living remote from the town, with the root of a tree for his mansion."

XI. 130. "If he kills without malice a Vaishya, who had a good moral character, he may perform the same penance for one year, or give the priests a hundred cows and a bull."

XI. 131. "For six months must, he perform this whole penance, if without intention he kills a Shudra, or he may give ten white cows and a bull to the priests."

VIII. 381. "No greater crime is known on earth than slaying a Brahmin; and the king, therefore must not even form in his mind an idea of killing a priest."

VIII. 126. "Let the king having considered and ascertained the frequency of a similar offence, the place and time, the ability of the criminal to pay or suffer and the crime itself, cause punishment to fall on those alone, who deserve it."

VIII. 124. "Manu, son of the self-existent, has named ten places of punishment, which are appropriated to the three lower classes, but a Brahmin must depart from the realm unhurt in any one of them."

The Brahmin has been given by the Manu Smriti other privileges. In the matter of marriage in addition to his marrying a woman of his own class he is entitled[1] to enter into wedlock with a woman of any of the classes lower to him without being bound to the woman by the tie of marriage or conferring upon the children the right to his status or to his property. He had the

Manu III. 12-13. This privilege is recognised by Courts in India.

power to punish his wrongdoer without resort to court[1]. He could take the property of the common man (the Shudra) without compensation and without reference to court if the same was necessary for the performance of his religious duties[2]. If he discovers a hidden treasure he was free to appropriate the whole[3] of it without giving the usual share to the king 'since he was the lord of all' and was entitled to claim half[4] if it was discovered by another. He was entitled to whole amount accumulated from legal fines from a king whose death was due to some incurable disease.[5] He was exempt from taxation[6]. He was entitled to compel the king to provide for his daily food and to see that he did not starve[7]. His property was free from the law of escheat.[8]

The superman of the Hindu Social order is not bound by the rules as to occupation if he is in distress.

Manu says:—

> X. 81. "Yet a Brahman, unable to subsist by his duties just mentioned, may live by the duty of a soldier; for that is the next in rank."
>
> X. 82. "If it be asked, how he must live, should he be unable to get a subsistence by either of those employments; the answer is, he may subsist as a mercantile man, applying himself in person to tillage and attendance on cattle."
>
> X. 83. "But a Brahman and a Kshatriya, obliged to subsist by the acts of a Vaishya, must avoid with care, if they can live by keeping herds, the business of tillage, which gives great pain' to sentient creatures, and is dependent on the labour of others, as bulls and so forth."
>
> X. 84. "Some are of opinion, that agriculture is excellent but it is a mode of subsistence which the benevolent greatly blame, for the iron mouthed pieces of wood not only wound the earth, but the creatures dwelling in it."
>
> X. 85. "If, through want of a virtuous livelihood, they cannot follow laudable occupations, they may then gain a competence of wealth by selling commodities usually sold by merchants, avoiding what ought to be avoided."
>
> X. 102. "The Brahmana, having fallen into distress, may receive gifts from any person whatever; for by no sacred rule can it be shown, that absolute purity can be sullied."

[1] Manu XI. 31—This privilege has been abolished.
[2] Manu XI. 32.—This privilege no longer exists.
[3] Manu VIII. 37.
[4] Manu VIII. 38.
[5] Manu IX. 323.
[6] Manu VII. 133.
[7] Manu VII. 134.
[8] Manu IX. 189

X. 103. "From interpreting the Veda, from officiating at sacrifices or from taking presents, though in modes generally disapproved, no sin is committed by priests in distress; for they are as pure as fire or water."

The privileges of the superman are not at all counterbalanced by an obligation towards the common man. Indeed the superman has no duty towards the common man.

He is not bound to do charity for the uplift of the Comman man. On the other hand, to receive charity is the monopoly of the Superman. For any other person to receive charity is a sin. To the Common man (Shudra) who is born to serve the Superman man, the Superman is not at all required to be a good employer and is not bound to keep him well-fed, well clothed and well-housed. His obligations in this behalf as laid down by Manu are stated below:

X. 124. "They must allot to him (Shudra) out of their own family property a suitable maintenance after considering his ability, his industry and the number of those whom he is bound to support."

X. 125. "The remnants of their food must be given to him, as well as their old clothes, the refuse of their grain, and their old household furniture.

The rise of the Common man is antagonistic to the supremacy of the Superman. In order to keep the Superman satisfied, happy and secure the Hindu social order takes special care to keep the Common man in a state of perpetual degradation.

Manu insists on the Shudra doing nothing but service:

X. 122. "But let a Shudra serve Brahmanas."

X. 121. "If a Shudra unable to subsist by serving Brahmanas seeks a livelihood, he may serve Kshatriyas, or he may also seek to maintain himself by attending on a wealthy Vaishya."

I. 91. "One occupation only the lord prescribed to the Shudra, to serve meekly even these other three castes."

And why ? Manu does not hesitate to give the reason. He says :

X. 129. "No superfluous collection of wealth must be made by a Shudra, even though he has power to make it, since a servile man, who has amassed riches, becomes proud, and, by his insolence or neglect, gives pain even to Brahmanas."

The common man is not permitted to acquire learning. The following are the injunctions of Manu:

I. 88. "To the Brahmanas he (the creator) assigned *teaching* and *studying* the Veda."

I. 89. "The Kshatriya he (the creator) commanded to *study* the Veda."

II. 116. "He who shall acquire knowledge of the Veda without the assent of his preceptor incurs the guilt of stealing the scriputre, and shall sink to the region of torment."

IV. 99. "He (the twice-born) must never read the Veda…in the presence of the Shudras."

IX. 18. "Women have no business with the text of the Veda."

IX. 199. "A twice-born man who has….. (improperly) divulged the Veda (ie., to Shudras and women) commits sin, atones for his offence, if he subsists a year on barley."

In those texts there are embodied three distinct propositions. The Brahmins, Kshatriyas and Vaishyas can study the Vedas. Of these the Brahmans alone have the right to teach the Vedas. But in the case of the Shudra he has not only to study the Vedas but he should not be allowed to hear it read.

The successsors of Manu made the disability of the Shudra in the matter of the study of the Veda into an offence involving dire penalties. For instance, Gautama says:

III. 4. "If the Shudra intentionally listens for committing to memory the Veda, then his ears should be filled with (molten) lead and lac; if he utters the Veda, then his tongue should be cut off; if he has mastered the Veda his body should be cut to pieces. "

To the same effect is Katyayana.

The common man (Shudra) is not allowed the benefit of the sacrament of initiation. It is the second birth that helps towards the moral and material advancement of the individual.

The common man is denied the right to have a name conveying dignity. Manu says:

II. 30. "Let the father perform or cause to be performed the Namadheya (the rite of name of the child), on the tenth or twelfth (day after birth), or on a lucky lunar day in a lucky muhurth under an auspicious constellation.

II. 31. "Let (the first part of) a Brahman's name (denote something) auspicious, a Kshatriya name be connected with power, and a Vaishya with wealth, but a Shudra's (express something) contemptible."

II. 32. "(The second part of) a Brahman's name shall be a word implying happiness, of a Kshatriya (a word) implying protection, of a Vaishya (a term) expressive of thriving and of a Shudra's (an expression) denoting a service."

The Superman will not tolerate the Shudra to have the comfort of a high-sounding name. He must be contemptible both in fact and in name.

A Hindu's life is divided into periods. The first period is called Brahmacharya, the stage of a student. The second period is called Grahasthashram, the stage of married life. The third period is called Vanasprastha, the stage of detachment from worldly life. The fourth period is called Sanyasa which is complete severance from the affairs of the world which is tantamount to civil death. The common man is denied the right of becoming a Sanyasi. It is difficult to understand why. Obviously for the benefit of the Superman. A Shudra by becoming a Sanyasi ceases to render service to Superman. A Shudra by becoming a Sanyasi reaches God or Brahma which is an invasion of the privileges of the Superman.

The citations from Manu prove that the Hindu social order is openly and avowedly devised and intended for the good of the Superman. In it everything is ordained for the Superman. The Superman is the Brahmin and the common man is the Shudra. The Superman has rights and no duties. Everyithing is at the disposal of the Superman, everything must be ascribed in the interests of the Superman. The counterpart of the same feature is the degradation of the common man. As against the Superman the common man has no right to life, liberty, property or pursuit of happiness. He must be ready to sacrifice everything for the sustenance of the life and dignity of the Superman. The Hindu social order prescribes that such sacrifice should be made willingly by the common man. Indeed, it inculcates that the common man should respond to such call for sacrifice in the interest of the Superman as his supreme duty.

Can there be any doubt that Zarathustra is a new name for Manu and that 'Thus spake Zarathustra' is a new edition of the Manu Smriti?

If there is any difference between Manu and Nietzsche, it lies in this. Nietzsche was genuinely interested in creating a new race of men which will be race of Superman as compared with the existing race of men. Manu, on the other hand, was interested in maintaining the privilege of a class who had come to arrogate to itself the claim of being Superman. Nietzsche's Supermen were Supermen by reason of their worth. Nietzsche was a genuine distinterested philosopher. Manu, on the contrary, was a hireling engaged to propound a philosophy which served the interests of a class, born in a group and whose title to being Superman was not to be lost even if they lost their virtue. Compare the following texts from Manu.[1]

> X. 81. "Yet, a Brahmin, unable to subsist by his duties just mentioned, may live by the duty of a soldier; for that is the next rank."

[1] The correct description of the Brahmin would be the Supermost Superman. For below him and above the common man there are the Kshatriyas and the Vaishyas. But since the Kshatriyas and the Vaishyas are only superiors and not supermen it is unnecessary to change the nomenclature.

X. 82. "If it be asked, how he must live, should he be unable to get a subsistence by either of those employments; the answer is, he may subsist as a mercantile man, applying himself to tillage and an attendance on cattle."

Manu adds:

IX. 317. "A Brahmin, be he ignorant or learned, is a great divinity, just as the fire, whether carried forth (for the performance of a burnt oblation) or not carried forth, is a great divinity."

IX. 319. "Thus, though the Brahmins employ themselves in all (sorts) of mean occupation, they must be honoured in every way; (for each of) them is a very great deity."

Nietzsche's praise of the Manu Smriti is undeserved. For when he says that according to its scheme "the noble classes, the philosophers and the warriors guard and guide the masses", he is either making a positively untrue statement or that he has not read it correctly. Under the Manu Smriti the superman has rights against the common man but he has no duties towards the common man.

Manu's degraded and degenerate philosophy of Superman as compared with that of Nietzsche is therefore far more odious and loathsome than the philosophy of Nietzsche. Such is the social order which the Hindus regard as a pearl without price and which Mr. Gandhi is proud to offer as a gift from the Hindus to the world.

Another special feature of the Hindu social order relates to the technique devised for its preservation. The technique is twofold.

The first technique is to place the responsibility of upholding and maintaining the social order upon the shoulders of the King. Manu does this in quite express terms.

VIII. 410. "The King should order each man of the mercantile class to practise trade or money-lending or agriculture and attendance on cattle; and each man of the servile class to act in the service of the twice-born."

VIII. 418. "With vigilant care should the King exert himself in compelling merchants and mechanics to perform their respective duties; for, when such men swerve from their duty they throw this world into confusion."

Manu does not stop with the mete enunciation of the duty of the King in this behalf. He wants to ensure that the King shall at all times perform his duty to maintain and preserve the established order. Manu therefore makes two further provisions. One provision is to make the failure of the King to maintain the established order an offence for which the King became liable for prosecution and punishment like

a common felon. This would be clear from the following citations from Manu:—

> VIII. 335. "Neither a father, nor a preceptor, nor a friend, nor a mother, nor a wife, nor a son, nor a domestic priest must be left unpunished by the King if they adhere not with firmness to their duty."

> VIII. 336. "Where another man of lower birth would be fined one pana, the King shall be fined a thousand, and he shall give the fine to the priests, or cast it into the river, this is a sacred rule."

The other provision made by Manu against a King who is either negligent or opposed to the established order is to invest the three classes, Brahmins, Kshatriyas and Vaishyas with a right to rise in armed rebellion against the King.

> VIII. 348. "The twice-born may take arms, when their duty is obstructed by force; and when, in some evil time, a disaster has befallen the twice-born classes."

The Right of rebellion is given to the three higher classes and not to the Shudra. This is very natural. Because it is only the three upper classes who would benefit by the maintenance of this system. But supposing the Kshatriyas joined the king in destroying the system what is to be done? Manu gives the authority to the Brahmins to punish all and particularly the Kshatriyas.

> XI. 31. "A priest, who well knows the laws, need not complain to the king of any grievous injury; since, even by his own power, he may chastise those, who injure him."

> XI. 32. "His own power, which depends on himself alone, is mightier than the royal power, which depends on other men; by his own might, therefore, may a Brahmin coerce his foes."

> XI. 33. "He may use, without hesitation, the powerful charms revealed to Atharvan, and by him to Angiras; for speech is the weapon of a Brahmin; with that he may destroy his oppressors."

> IX. 320. "Of a military man, who raises his arm violently on all occasions against the priestly class, the priest himself shall be the chastiser; since the soldier originally proceeded from the Brahmin."

How can the Brahmins punish the Kshatriyas unless they can take arms? Manu knows this and therefore allows the Brahmins to arm themselves to punish the Kshatriyas.

> XII. 100. "Command of armies, royal authority, power of inflicting punishment, and sovereign dominion over all nations, he only well deserves, who perfectly understands the Veda Sastra i.e., who is a Brahmin."

The second technique devised for the maintenance and preservation of the established order is quite different from the first. Really speaking, it is this which constitutes a special feature of the Hindu social order.

In the wake of the preservation of the social order from violent attack it is necessary to bear in mind three considerations. The outbreak of a revolution is conditioned by three factors: (1) the existence of a sense of wrong; (2) capacity to know that one is suffering from a wrong and (3) availability of arms. The second consideration is that there are two ways of dealing with a rebellion. One is to prevent a rebellion from occuring and the other is to suppress it after it has broken out. The third consideration is that whether the prevention of rebellion would be feasible or whether the suppression of rebellion would be the only method open, would depend upon the rules which govern the three pre-requisites of rebellion.

When the social order denies opportunity to rise, denies right to education and denies right to use arms, it is in a position to prevent rebellion against the social order. Where on the other hand, a social order allows right to education, and permits the use of arms, it cannot prevent rebellion by those who suffer wrongs. Its only remedy to preserve the social order is by suppression of rebellion by the use of force and violence. The Hindu social order has adopted the first method. It has fixed the social status of the lower orders for all generations to come. Their economic status is also fixed. There being no disparity between the two, there is no possibility of a grievance growing up. It has denied education to the lower orders. The result is that no one is conscious that his low condition is a ground for. grievance. If there is any consciousness it is that no one is responsible for the low condition. It is the result of fate. Assuming there is a grievance, assuming there is consciousness of grievance, there cannot be a rebellion by the lower orders against the Hindu social order because the Hindu social order denies the masses the right to use arms. Other social orders such as those of the Muslims or the Nazis, follow the opposite course. They allow equal opportunity to all. They allow freedom to acquire knowledge. They allow the right to bear arms and take upon themselves the odium of supressing rebellion by force and violence. To deny freedom of opportunity, to deny freedom to acquire knowledge, to deny the right of arms is a most cruel wrong. Its results Manu mutilates and emasculates man. The Hindu social order is not ashamed to do this. It has, however, achieved two things. It has found the most effective, even though it be the most shameless method of preserving the established order. Secondly, notwithstanding the use of

most inhuman means of killing manliness, it has given to the Hindus the reputation of being very humane people. The Nazis had indeed a great deal to learn from the Hindus. If they had adopted the technique of suppressing the masses devised by the Hindus they would have been able to crush the Jews without open cruelty and would have also exhibited themselves as humane masters.

The third special feature of the Hindu social order is that it is a Divine order designed by God himself. As such it is sacred, not open to abrogation, amendment, not even to criticism. For the purpose of removing any doubt that may be lurking in the minds of anybody about the Divine character of the Hindu social order, attention is invited to the following verses from the Bhagvat Gita and the Manu Smriti. Shri Krishna one of the Hindu Gods, whose word is the Bhagvat Gita says:—

> IV. 13. "1 myself have created the arrangement of the four castes (into Brahmins, Kshatriyas, Vaishyas and Shudras), consistently with the differences in their qualities and actions. It is, I who am the Maker of it."
>
> XVIII. 41-44. "O, Parantapa! the respective duties of Brahmins (priests), Kshatriyas (warriors), Vaishyas (tradesmen) and Shudras (menials) have been individually fixed with reference to the qualities arising from their inherent natures, that is, from Prakriti. The inherently natural duties of a Brahmin are peace, self-restrain, religious austerities, cleanliness, quietness, straightforwardness (humanity). Knowledge (that is, spiritual knowledge), Vijnana (that is Imperial knowledge) and *Astikya-budhi* (that is belief in a future world). The inherently natural duty (karma) of the Kshatriya is bravefy, brilliance, courage, intentness, not running away from the battle, generosity, and exercising authority (over subject people) '*goraksya'* (that is the business of keeping cattle), and *vanijya* (that is, trade) is the inherently natural duty of the Vaishya; and in the same way, *service* is the inherently natural duty of the Shudra."

Krishna forbids propaganda against the Hindu social order. He says:—

> III. 26. "As the ignorant act with attachment to action so a wise man wishing to keep the people to their duties, should not shake the convictions of the ignorant who are attached to action, but acting with devotion (himself) should make them apply themselves to all action.... A man of perfect knowledge should not shake these men of imperfect knowledge in their convictions."

When the Hindu social order breaks down, Krishna does not want the people to undertake the work of reform. He asks them to leave the

task to him. This is evident from the following admonition contained in the Bhagvat Gita. Says Krishna :—

> IV. 7-8. "O! Bharata, whenever Righteousness declines and Unrighteousness becomes powerful, then I Myself come to birth. I take birth in different Yugas for protecting the Righteous and destroying the Unrighteous and for establishing Righteousness."

It is not only a special feature of the Hindu social order. It is an extraordinary feature. An examination of consecrations will show that there are instances where society has consecrated inanimate beings and inculcated on the minds of its members the religious belief that they are sacred. There are cases where stones, rivers, trees are made Gods and Goddesses. There are instances where society has consecrated living things and inculcated on the minds of its members the religious belief that they are sacred. But there are no instances where a particular social order has been consecrated by Religion and made sacred. The primitive world had its clan order and its tribal order. But the clan or the tribal order was only a social order and was never consecrated by religion and made sacred and inviolate. The ancient world countries like Egypt, Persia, Rome, Greece, etc., each had its social order in which some were free and some were slaves, some were citizens, some were aliens, some of the race, some of another. This class order again was only a social order and was never consecrated by religion and made sacred and inviolate. The modern world has its order, in some it is Democracy, in some Facism, in some Nazism and in some Bolshevism. But here again the order is only social order. It is not consecrated by religion and made sacred and inviolate.

Nowhere his society consecrated its occupations—the ways of getting a living. Economic activity has always remained outside the sanctity of religion. Hunting society was not without a religion. But Hunting as an occupation was not consecrated by religion and made sacred. Pastoral society was not without religion. But pastorage was not consecrated by religion and made sacred. Farming as an occupation did not become consecrated by religion and made sacred. Feudalism with its gradations, with its Lords, villains and serfs was a purely social in character. There was nothing sacred about it.

The Hindus are the only people in the world whose social order—the relation of man to man is consecrated by religion and made sacred, eternal and inviolate. The Hindus are the only people in the world whose economic order—the relation of workman to workman, is consecrated by religion and made sacred, eternal and inviolate.

It is not therefore enough to say that the Hindus are a people with a sacred code of religion. So are the Zorastrians, Israelites, Christians

and Muslims. All these have sacred codes. They consecrate beliefs and rites and make them sacred. But they do not prescribe, nor do they consecrate a particular form of social structure—the relationship between man and man in a concrete form—and make it sacred inviolate. The Hindus are singular in this respect. This is what has given the Hindu social order its abiding strength to defy the ravages of time and the onslaught of time.

The orthodox Hindu will accept this as an accurate description of the Hindu social order. It is only the reformer who is likely to demur. He would say that since the advent of the British, this is all a description of a dead past. One need not be perturbed by this view. For it contains a fallacy. It omits to take note of the fact that institutions which have died as creeds sometimes continue, nevertheless survive as habits. No one can deny that the Hindu social order has become the habit of the Hindus and as such is in full force.

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CHAPTER 4

Symbols of Hinduism

There are 37 pages under this title. The chapter seems incomplete. However this relates to the topic No. 7 of the original plan. All these pages are tagged along with the pages of "India and Communism" into One register. We are reproducing the text of this typed copy along with the table of contents written by Dr. Ambedkar.

A photo copy of the plan of a proposed book 'Can I be a Hindu ?' is also reproduced from the original (moth-eaten).—Editors

Is there anything peculiar in the social organization of the Hindus ? An unsophisticated Hindu who is unaware of investigations conducted by scholars will say that there is nothing peculiar, abnormal or unnatural in the organization of the Hindu society. This is quite natural. People who live their lives in isolation are seldom conscious of the peculiarities of their ways and manners. People have gone on from generation to generation without stopping to give themselves a name. But how does the social organization of the Hindus strike the outiders, the non-Hindus ? Did it appear to them as normal and natural as it appears to the Hindus?

Megasthenese who came to India as the ambassador of the Greek King Seleukos Nickator to the Court of Chandragupta Maurya some time about the year 305 B.C. did feel that the social organization of the Hindus was of a very strange sort. Otherwise, he would not have taken such particular care to describe the peculiar features of the Hindu social organization. He has recorded:

> "The population of India is divided into seven parts. The philosophers are first in rank, but form the smallest class in point of

number. Their services are employed privately by persons who wish to offer sacrifices or perform other sacred rites, and also publicly by the kings at what is called the Great Synod, wherein at the beginning of the new year all the philosophers are gathered together before the king at the gates, when any philosopher who may have committed any useful suggestion to writing, or observed any means for improving the crops and the cattle, or for promoting the public interests, declares it publicly. If anyone is detected giving false information thrice, the law condemns him to be silent for the rest of his life, but he who gives sound advice is exempted from paying any taxes or contributions. The second caste consists of the husbandmen, who form the bulk of the population, and are in disposition most mild and gentle. They are exempted from military service, and cultivate their lands undisturbed by fear. They never go to town, either to take part in its tumults, or for any other purpose. It therefore not unfrequently happens that at the same time, and in the same part of the country, men may be seen drawn up in array of battle, and fighting at risk of their lives, while other men close at hand are ploughing and digging in perfect security, having these soldiers to protect them. The whole of the land is the property of the king, and the husbandmen till it on condition of receiving one-fourth of the produce.

The third caste consists of herdsmen and hunters, who alone are allowed to hunt, and to keep cattle and to sell draught animals or let them out on hire. In return for clearing the land of wild beasts and fowls which devour the seeds sown in the fields, they receive an allowance of grain from the king. They lead wandering life and live under tents.

The fourth class, after herdsmen and hunters, consists of those who work at trades, of those who vend wares, and of those who are employed in bodily labour. Some of these pay tribute, and render to the state certain prescribed services. But the armourmakers and shipbuilders receive wages and their victuals from the king, for whom alone they work. The general in command of the army supplies the soldiers with weapons, and the admiral of the fleet lets out ships on hire for the transport both of passengers and merchandise.

The fifth class consists of fighting men, who when not engaged in active service, pass their time in idleness and drinking. They are maintained at the king's expense, and hence they are always ready, when occasion calls, to take the field, for they carry nothing of their own with them but their own bodies.

The sixth class consists of the overseers, to whom is assigned the duty of watching all that goes on, and making reports secretly to the king. Some are entrusted with the inspection of the city, and others with that of the army. The former employ as their coadjutors the courtezans of the city, and the latter the courtezans of the camp. The ablest and most trustworthy men are appointed to fill these offices.

The seventh class consists of the Councillors and assessors of the king. To them belong the highest posts of government, the tribunals of justice, and the general administration of public affairs.

No one is allowed to marry out of his own caste, or to exchange one profession or trade for another, or to follow more than one business. An exception is made in favour of the philosopher, who for his virtue is allowed this privilege."

Alberuni who wrote an account of his travels in India some time about 1030 AD must have been struck by the peculiarity of the Hindu social organization. For he too has not omitted to make a note of it in the record of impressions he made. He observed:—

"The Hindus call their castes varna i.e. colours, and from a genealogical point of view they call them jataka i.e., births. These castes are from the very beginning only four.

I. The highest caste are the Brahmins of whom the books of the Hindus tell that they were created from the head of Brahma. And a Brahma is only another name for the force called nature, and the head is the highest part of the animal body, the Brahmana are the choice part of the whole genus. Therefore the Hindus consider them as the very best of mankind.

II. The next caste are the Kshatriyas, who were created, as they say, from the shoulders and hands of Brahma. Their degree is not much below that of the Brahmana.

III. After them follow the Vaisyas, who were created from the thigh of Brahma.

IV. The Sudras, who were created from his feet.

Between the latter two classes there is no very great distance. Much, however, as these classes differ from each other, they live together in the same towns and villages, mixed together in the same houses and lodgings.

After the Sudra follow the people called Antyaja, who render various kinds of services, who are not reckoned amongst any caste, but only as members of a certain craft or profession. There are eight classes of them who freely intermarry with each other, except the fuller, shoemaker and weaver, for no others would condescend to

have anything to do with them. These eight guilds are the fuller, shoemaker, juggler, the basket and shield maker, the sailor, fisherman, the hunter of wild animals and of birds, and the weaver. The four castes do not live together with them in one and the same place. These guilds live near the villages and towns of the four castes, but outside them.

The people called Hadi, Doma (Domba), Candala, and Badhatau (sic) are not reckoned amongst any caste or guild. They are occupied with dirty work, like the cleansing of the villages and other services. They are considered as one sole class, and distinguished only by their occupations. In fact, they are considered like illegitimate children; for according to general opinion they descend from a Sudra father and a Brahmani mother as the children of fornication; therefore they are degraded outcaste.

The Hindus give to every single man of the four castes characteristic names, according to their occupations and modes of life, eg., the Brahman is in general called by this name as long as he does his work staying at home. When he is busy with the service of one fire, he is called *ishtin;* if he serves three fires, he is called *Agnihotrin;* if he besides offers an offering to the fire, he is called *Dikshita*. And as it is with the Brahmana, so is it also with the other castes. Of the classes beneath the castes, the Hadi are the best spoken of, because they keep themselves free from everything unclean. Next follow the Doma, who play on the lute and sing. The still lower classes practise as a trade killing and the inflicting of judicial punishments. The worst of all are the Badhantan, who not only devour the flesh of dead animals, but even of dogs and other beasts.

Each of the four castes, when eating together, must form a group of themselves, one group not being allowed to comprise two men of different castes. If, further, in the group of the Brahman there are two men who live at enmity with each other, and the seat of the one is by the side of the other, they make a barrier between the two seats by placing a board between them, or by spreading a piece of dress, or in some other way; and if there is only a line drawn between them, they are considered as separated. Since it is forbidden to eat the remains of a meal, every single man must have his own food for himself, for if anyone of the party who are eating should take of the food from one and the same plate, that which remains in the plate becomes, after the first eater has taken part, to him who wants to take as the second, the remains of the meal as such is forbidden."

Alberuni did not merely content himself with recording what struck him as peculiar in the Hindu social organization. He went on to say:—

> "Among the Hindus institutions of this kind abound. We Muslims, of course, stand entirely on the other side of the question, considering all men as equal, except in piety; and this is the greatest obstacle which prevents any approach or understanding between Hindus and Muslims."

Duarte Barbosa who was a Portuguese official in the service of the Portuguese Government in India from 1500 to 1571 has left a record of his impressions of Hindu society. This is what struck him in. Speaking of the kingdom of Gujerat:

> "And before this kingdom Guzerate fell into the hands of the Moors. A certain caste of Heathen whom the Moors called Resbutos (Rajputs) dwelt therein, who in those days were the knights and wardens of the land, and made war wheresoever it was needful. These men kill and eat sheep and fish and all other kinds of food; in the mountains there are yet many of the them, where they have great villages and obey not the king of Guzarate, but rather wage daily war against him; who, do what he may, is yet not able to prevail against them, nor will do so, for they are very fine horsemen, and good archers, and have besides divers other weapons to defend themselves withal against the Moors, on whom they make war without ceasing; yet have they no king nor lord over them. And in this kingdom there is another sort of Heathen whom they call Baneanes, who are great merchants and traders. They dwell among the Moors with whom they carry on all their trade. This people eat neither flesh nor fish nor anything subject to death; they slay nothing, nor are they willing even to see the slaughter of any animal; and thus they maintain their idolatry and hold it so firmly that it is a terrible thing. For often it is so that the Moors take to them live insects or small birds, and make as though to kill them in their presence, and the Baneanes buy these and ransom them, paying much more than they are worth, so that they may save their lives and let them go. And if the King or a Governor of the land has any man condemned to death, for any crime which he has committed, they gather themselves together and buy him from justice, if they are willing to sell him, that he may not die. And divers Moorish mendicants as well, when they wish to obtain alms from this people, take great stones wherewith they beat upon their shoulders and bellies as though they would slay themselves before them, to hinder which they give them great alms that they may depart in peace. Others carry knives with which they slash their arms and legs, and

to these too they give large alms that they may not kill themselves. Others go to their doors seeking to kill rats and snakes for them, and to them also they give much money that they may not do so. Thus they are much esteemed by the Moors. When these Baneanes meet with a swarm of ants on the road they shrink back and seek for some way to pass without crushing them. And in their houses they sup by daylight, for neither by night nor by day will they light a lamp, by reason of certain little flies which perish in the flame thereof; and if there is any great need of a light by night they have a lantern of varnished paper or cloth, so that no living thing may find its way in, and die in the flame. And if these men breed many lice they kill them not, but when they trouble them too much they send for certain men, also Heathen, who living among them and whom they hold to be men of a holy life, they are like hermits living with great abstinence through devotion to their gods. These men house them, and as many lice as they catch they place on their own heads and breed them on their own flesh, by which they say they do great service to their Idol. Thus one and all they maintain with great self restraint their law of not killing. On the other hand they are great usurers, falsifiers of weights and measures and many other goods and of coins; and great liars. These Heathen are tawny men, tail and well-looking gaily attired, delicate and moderate in their food. Their diet is of milk, butter, sugar and rice, and many conserves of divers sorts. They make much use of dishes of fruit and vegetables and pot herbs in their food. Wheresoever they dwell they have orchards and fruit gardens and many water tanks wherein they bathe twice a day, both men and women; and they say when they have finished bathing that they are clear of as many sins as they have committed up to that hour. These Baneanes grow very long hair, as women do with us, and wear it twisted up on the head and made into a knot, and over it a turban, that they may keep it always held together; and in their hair they put flowers and other sweet scented things.

They use to annoint themselves with white sandalwood mixed with saffron and other scents. They are very amorous people. They are clad in long cotton and silken shirts and are shod with pointed shoes of richly wrought cordwain; some of them wear short coats of silk and brocade. They carry no arms except certain very small knives ornamented with gold and silver, and this for two reasons; first because they are men who make but little use of weapons; and secondly, because the Moors defend them."

And there is here another class of Heathen whom they call Brahmenes, who are priests among them and persons who manage

and rule their houses of prayer and idol-worship, which are of great size and have great revenues; and many of them also are maintained by alms. In these houses are great numbers of wooden Idols, and others of stone and copper and in these houses or monasteries they celebrate great ceremonies in honour of these idols, entertaining them with great store of candles and oil lamps, and with bells after our fashion. These Brahmans and Heathen have in their creed many resemblances to the Holy Trinity, and hold in great honour the relation of the Triune Three, and always make their prayers to God, whom they confess and adore as the true God, Creator and maker of all things, who is three persons and one God, and they say that there are many other Gods who are rulers under him, in whom also they believe. These Brahmans and Heathen wheresoever they find our churches enter them and make prayers and adorations to our Images, always asking for Santa Maria, like men who have some knowledge and understanding of these matters and they honour the Church as is our manner, saying that between them and us there is little difference. These men never eat anything subject to death, nor do they slay anything. Bathing they hold to be a great ceremony and they say that by it they are saved."

Speaking of the Kingdom of Calicut, Barbosa says:—

"There is also in this same kingdom of Calicut a caste of people called Brahmenes who are priests among them (as are the clergy among us) of whom 1 have spoken in another place."

"These all speak the same tongue, nor can any be a Brahmene except he be the son of a Brahmene. When they are seven years of age they put over their shoulder a strip of two fingers in breadth of untanned skin with the hair on it of a certain wild beast which they call Cryvamergam, which resembles a wild ass. Then for seven years he must not eat betel for which time he continues to wear this strap. When he is fourteen years old they make him a Brahmene, and taking off their leather strip they invest him with the cord of three strands which he wears for the rest of his life as a token that he is a Brahmene. And this they do with great ceremonial and rejoicings, as we do here for a cleric when he sings his first mass. Thereafter he may eat betel, but no flesh or fish. They have great honour among the Indians, and as I have already said, they suffer death for no cause whatsoever, their own headman gives them a mild chastisement. They marry once only in our manner, and only the eldest son marries, he is treated like the head of an entailed estate. The other brothers remain single all their lives. These Brahmenes keep their wives well guarded, and greatly honoured, so that no

other man may sleep with them; if any of them die, they do not marry again, but if a woman wrongs her husband she is slain by poison. The brothers who remain bachelors sleep with the Nayre women, they hold it to be a great honour, and as they are Bramenes no woman refuses herself to them, yet they may not sleep with any woman older than themselves. They dwell in their own houses and cities, and serve as clergy in the houses of worship, whither they go to pray at certain hours of the day, performing their rituals and idolatries."

"Some of these Brahmenes serve the kings in every manner except in arms. No man may prepare any food for the King except a Brahmene or his own kin; they also serve as couriers to other countries with letters, money or merchandise, passing wherever they wish to go in safety and none does them any ill, even when the kings are at war. These Brahmenes are learned in their idolatry and possess many books thereof. The Kings hold them in high esteem."

"I have already spoken many times of the Naiyars and yet I have not hitherto told you what manner of men they are. You are to know that in this land of Malabar there is another caste of people called Nayars and among them are noble men who have no other duty than to serve in war, and they always carry their arms withersoever they go, some swords and shields, others bows and arrows, and yet others spears. They all live with the King, and the other great Lords; nevertheless all receive stipends from the King or from the great Lords with whom they dwell. None may become a Nayar, save only he who is of Nayar lineage. They are very free from stain in their nobility. They will not touch anyone of low caste. Nor eat nor drink save in the house of a Nayar. These men are not married, their nephews (sister's sons) are their heirs. The Nayar women of good birth are very independent, and dispose of themselves as they please with Brahmenes and Nayars, but they do not sleep with men of caste lower than their own under pain of death. When they reach the age of twelve years their mothers hold a great ceremony. When a mother perceives that her daughter has attained that age, she asks her kinsfolk and friends to make ready to honour her daughter, then she asks of the kindred and especially of one particular kinsman or great friend to marry her daughter; this he willingly promises and then he has a small jewel made, which would contain a half ducat of gold, long like a ribbon, with a hole through the middle which comes out on the other side, strung on a thread of white silk. The mother then on a fixed day is present with her daughter gaily decked with many rich jewels, making great rejoicings with music and singing, and

a great assembly of people. Then the kinsmen or friend comes bringing that jewel, and going through certain forms, throws it over the girl's neck. She wears it as a token all the rest of her life, and may then dispose of herself as she wills. The man departs without sleeping with her inasmuch as he is her kinsman; if he is not, he may sleep with her, but is not obliged to do so. Thenceforward the mother goes about searching and asking some young men to take her daughter's virginity; they must be Nayars and they regard it among themselves as a disgrace and a foul thing to take a woman's virginity. And when anyone has once slept with her, she is fit for association with men. Then the mother again goes about enquiring among other young Nayars if they wish to support her daughter, and take her as a Mistress so that three or four Nayars agree with her to keep her, and sleep with her, each paying her so much a day; the more lovers she has the greater is her honour. Each of one of them passes a day with her from midday on one day till midday on the next day and so they continue living quietly without any disturbance or quarrels among them. If any of them wishes to leave her, he leaves her, and takes another and she also if she is weary of a man, she tells him to go, and he does go, or makes terms with her. Any children they may have stay with the mother who has to bring them up, for they hold them not to be the children of any man, even if they bear his likeness, and they do not consider them their children, nor are they heirs to their estates, for as I have already stated their heirs are their nephews, sons of their sisters, (which rule whosoever will consider inwardly in his mind will find that it was established with a greater and deeper meaning than the common folk think) for they say that the Kings of the Nayars instituted it in order that the Nayars should not be held back from their service by the burden and labour of rearing children."

"In this kingdom of Malabar there is also another caste of people whom they call Biabares, Indian Merchants, natives of the land. They deal in goods of every kind both in the seaports and inland, wheresoever their trade is of most profit. They gather to themselves all the pepper and ginger from the Nayars and husbandmen and offtimes they buy the new crops beforehand in exchange for cotton clothes and other goods which they keep at the seaports. Afterwards they sell them again and gain much money thereby. Their privileges are such that the king of the country in which they dwell cannot execute them by legal process."

"There is in this land yet another caste of folk known as Cuiavem. They do not differ from the Nayars, yet by reason of

a fault which they committed, they remain separate from them. Their business is to make pottery and bricks for roofing the houses of the Kings and idols, which are roofed with bricks instead of tiles; only these, for as I have already said, other houses are thatched with branches. They have their own sort of idolatry, and their separate idols."

"There is another Heathen caste which they call Mainatos, whose occupation is to wash clothes for the Kings, Brahmenes and Nayars. By this they live, and may not take up any other."

"There is another lower caste than these which they call Caletis, who are weavers who have no other way of earning save by weaving of cotton and silk clothes, but they are low caste folk and have but little money, so that they clothe the lower races. They are apart by themselves and have their own idolatry."

"Besides the castes mentioned above, there are eleven others lower than they with whom the others do not associate, nor do' they touch them under pain of death; and there are great distinctions between one and another of them, preserving them from mixture with one another. The purest of all these low, simple folk they call Tuias. Their work is mainly that of tending the palm-groves and gathering the fruit thereof, and carrying it away for wages on their backs, for there are no beasts of burden in the land."

"There is another caste still lower than these whom they call Manen (Mancu in the printed text) who neither associate with others nor touch them, nor do the other touch them. They are washermen for the common people, and makers of sleeping mats from which occupations all but they are barred; their sons must perforce follow the same trade; they have their own separate idolatry."

"There is another caste in this land still lower whom they call Canaquas. Their trade is making buckles and umbrellas. They learn letters for purposes of astronomy, they are great astrologers, and foretell with great truth things that are to come; there are some lords who maintain them for this cause."

"There is also another lower caste, also Heathens, called Ageres. They are masons, carpenters, smiths, metal workers and some are goldsmiths, all of whom are of a common descent, and a separate caste, and have their idols apart from other folk. They marry, and their sons inherit their property, and learn their fathers' trade."

"There is another caste still lower in this country called Mogeres, they are almost the same as the Tuias, but they do not touch one another. They work as carriers of all things belonging to the Royal

State when it moves from one place to another, but there are very few of them in this land; they are a separate caste; they have no marriage law; the most of them gain their living on the sea, they are sailors, and some of them fishers; they have no Idols. They are as well slaves of the Nayars:

"There is another caste yet lower whom they call Monquer, fishers who have no other work than fishing, yet some sail in the Moors' ship and in those of other Heathens, and they are very expert seamen. This race is very rude, they are shameless thieves; they marry and their sons succeed them, their women are of loose character, they sleep with anyone whosoever and it is held no evil. They have their own idolatry."

"In this land of Malabar there is another caste of Heathen even lower than those, whom, they call Betunes. Their business is salt-making and rice growing, they have no other livelihood."

"They dwell in houses standing by themselves in the fields away from the roads, whither the gentlefolk do not walk. They have their own idolatry. They are slaves of the Kings and Nayars and pass their lives in poverty. The Nayars make them walk far away from them and speak to them from a far off. They hold no intercourse with any other caste."

"There is another caste of Heathen, even lower and ruder, whom they call Paneens, who are great sorcerers and live by no other means."

"There is another caste lower and ruder than they, named Revoleens a very poor folk, who live by carrying firewood and grass to the towns, they may touch none, nor may any touch them under pain of death. They go naked, covering only their private parts with scant and filthy rags,, the more part of them indeed with leaves of certain trees. Their women wear many brass rings in their ears; and on their necks, arms and legs, necklaces and bracelets of heads."

"And there is yet another caste of Heathens lower than these whom they call Poleas, who among all the rest are held to be accursed and excommunicate; they dwell in the fields and open campaigns in secret lurking places, whither folk of good caste never go save by mischance, and live in huts very strait and mean. They are tillers of rice with buffaloes and oxen. They never speak to the Nayars save from a far off, shouting so that they may hear them, and when they go along the roads they utter loud cries that they may be let past, and whosoever hears them leaves the road, and stands in the wood till they have passed by; and if anyone whether man or woman, touches them, his kinsfolk slay them forthwith, and

in vengeance therefore they slay Poleas until they are weary without suffering any punishment."

"Yet another caste there is even lower and baser called Parens, who dwell in the most desert places away from all other castes. They have no intercourse with any person nor anyone with them; they are held to be worse than devils, and to be damned. Even to see them is to be unclean and outcaste. They eat yams and other roots of wild plants. They cover their middles with leaves, they also eat the flesh of wild beasts."

"With these end the distinctions between the castes of the Heathen, which are eighteen in all, each one separate and unable to touch others or marry with them; and besides these eighteen castes of the Heathen who are natives of Malabar, which I have now related to you, there are others of outlandish folk merchants and traders in the land, where they possess houses and estates, living like the natives yet with customs of their own."

These foreigners were not able to give a full and detailed picture of caste. This is understandable. For to every foreigner the private life of the Hindu is veiled and it is not possible for him to penetrate it. The social organism of India, the play of its motive forces, is moreover, regulated infinitely more by custom, carrying according to locality and baffling in its complexity, than by any legal formula which can be picked out of a legal text book. But there is no doubt that caste did appear to the foreigner as the most singular and therefore the most distinguishing feature of Hindu society. Otherwise they would not have noted its existence in the record they made of what they observed when they came to India.

Caste therefore is something special in the Hindu social organization and marks off the Hindus from other peoples. Caste has been a growing institution. It has never been the same at all times. The shape and form of Caste as it existed when Megashthenes wrote his account was very different from what the shape and form it had taken when Alberuni came and the appearance it gave to the Portuguese was different from what it was in the time of Alberuni, But to understand caste one must have more exact idea of its nature than these foreigners are able to give.

To follow the discussion of the subject of caste it is necessary to familiarize the reader with some basic conceptions which underlie the Hindu Social Organization. The basic conception of social organization which prevails among the Hindus starts with the rise of four classes or Varnas into which Hindu society is believed to have become divided. These four classes were named (1) Brahmins, the

priestly and the educated class (2) Kshatriyas the military class (3) The Vaishyas the trading class and (4) The Shudras the servant class. For a time these were merely classes. After a time what were only classes (Varnas) became Castes (Jatis) and the four castes became four thousand. In this way the modern caste system was only the evolution of the ancient Varna system.

No doubt the caste system is an evolution of the Varna system. But one can get no diea of the caste system by a study of the Varna system. Caste must be studied apart from Varna.

II

An old agnostic is said to have summed up his philosophy in the following words:—

> "The only thing I know is that I know nothing; and I am not quite sure that I know that"

Sir Denzil Ibbetson undertaking to write about caste in the Punjab said that the words of these agnostic about his philosophy expressed very exactly his own feelings regarding caste. It is no doubt true that owing to local circumstances there does appear a certain diversity about caste matters and that it is very difficult to make any statement regarding any one of the castes. Absolutely true as it may be, as regards one locality which will not be contradicted with equal truth as regards the same caste in some other area.

Although this may be true yet it cannot be difficult to separate the essential and fundamental features of caste from its non-essential and superficial features. An easy way to ascertain this is to ask what are the matters for which a person is liable to be excluded from caste. Mr, Bhattacharya has stated the following as causes for expulsion from caste. (1) Embracing Christanity or Islam (2) Going to Europe or America (3) Marrying a widow (4) Publicly throwing the sacred thread (5) Publicly eating beef, pork or fowl (6) Publicly eating *kachcha* food prepared by a Mahomedan, Christian or low caste Hindu (7) Officiating at the house of a very low caste Shudra (8) By a female going away from home for immoral purposes (9) By a widow becoming pregnant. This list is not exhaustive and omits the three most important causes which entail expulsion from caste. They are (10) Intermarrying outside caste (11) Interdining with persons of another caste and (12) Change of occupation. The second defect in the statement of Mr. Bhattacharya is that it does not make any distinction between essentials and non-essentials.

Of course, when a perosn is expelled from his caste the penalty is uniform. His friends, relatives and fellowmen refuse to partake of his hospitality. He is not invited to entertainments in their houses. He cannot obtain brides or bridegrooms for his children. Even his married daughters cannot visit him without running the risk of being exlcuded from caste. His priest, his barber and washerman refuse to serve him. His fellow castemen severe their connection with him so completely that they refuse to assist him even at the funeral of a member of his household. In some cases the man excluded from caste is debarred access to public temples and to the cremation or burial ground.

These reasons for expulsion from caste indirectly show the rules and regulations of the caste. But all regulations are not fundamental. There are many which are unessential. Caste can exist even without them. The essential and unessential can be distinguished by asking another question. When can a Hindu who has lost caste regain his caste ? The Hindus have a system of Prayaschitas which are Penances and which a man who has been expelled from caste must perform before he can be admitted to caste fellowship. With regard to these Prayaschitas or Penances certain points must be remembered. In this first place, there are caste offences for which there is no Prayaschita. In the second place, the Prayaschitas vary according to the offence. In some cases the Prayaschitas involve a very small penalty. In other cases the penalty involved is a very severe one.

The existence of a Prayaschita and the absence of it have a significance which must be clearly understood. The absence of Prayaschita does not mean that anyone may commit the offence with impunity. On the contrary it means that the offence is of an immeasurable magnitude and the offender once expelled is beyond reclamation. There is no re-entry for him in the caste from which he is expelled. The existence of a Prayaschita means that the offence is compoundable. The offender can take the prescribed Prayaschita and obtain admission in the caste from which he is expelled.

There are two offences for which there is no penance. These are (1) change from Hindu Religion to another religion (2) Marriage with a person of another caste or another religion. It is obvious if a man loses caste for these offences he loses it permanently.

Of the other offences the prayaschitas prescribed are of the severest kind, are two—(1) interdining with a person of another caste or a non-Hindu and (2) Taking to occupation which is not the occupation of the caste. In the case of the other offences the penalty is a light one almost nominal.

The surest clue to find out what are the fundamental rules of caste and what caste consists it is furnished by the rules regarding prayaschitas. Those for the infringement of which there is no prayaschita constitute the very soul of caste and those for the infringement of which the prayaschita is of the severest kind make up the body of caste. It may therefore be said without any hesitation that there are four fundamental rules of caste. A caste may be defined as a social group having *(a)* belief in Hindu Religion and bound by certain regulations as to *(b)* marriage *(c)* food and *(d)* occupation. To this one more characteristic may be added namely a social group having a common name by which it is recognized.

In the matter of marriage the regulation lays down that the caste must be endogamous. There can be no intermarriage between members of different castes. This is the first and the most fundamental idea on which the whole fabric of the caste is built up.

In the matter of food the rule, is that a person cannot take food from and dine with any person who does not belong to his caste. This means that only those who can intermarry can also interdine. Those who cannot intermarry cannot interdine. In other words, caste is an endogamous unit and also a communal unit.

In the matter of occupation the regulation is that a person must follow the occupation which is the traditional occupation of his caste and if the caste has no occupation then he should follow the occupation of his father.

In the matter of status of a person it is fixed and is hereditary. It is fixed because a person's status is determined by the status of the caste to which he belongs. It is hereditary because a Hindu is stamped with the caste to which his parents belonged, a Hindu cannot change his status because he cannot change his caste. A Hindu is bom in a caste and he dies a member of the caste in which he is born. A Hindu may lose his status if he loses caste. But he cannot acquire a new or a better or different status.

What is the significance of a common name for a caste? The significance of this will be clear if we ask two questions which are very relevant and a correct answer to each is necessary for a complete idea of this institution of caste. Social groups are either organized or unorganized. When the membership of the group and the process of joining and leaving the groups, are the subject of definite social regulations and involve certain duties and privileges in relation to other members of the group then the group is an organized group. A group is a voluntary group in which members enter with a full knowledge of what they are doing and the aims which the association

is designed to fulfil. On the other hand, there are groups of which an individual person becomes a member without any act of volition, and becomes subject to social regulation and traditions over which he has no control of any kind.

Now it is hardly necessary to say that caste is a highly organized social grouping. It is not a loose or a floating body. Similarly, it is not necessary to say that caste is an involuntary grouping. A Hindu is born in a caste and he dies as a member of that caste. There is no Hindu without caste, cannot escape .caste and being bounded by caste from birth to death he becomes subject to social regulations and traditions of the caste over which he has no control.

The significance of a separate name for a caste lies in this—namely it makes caste an organized and an involuntary grouping. A separate and a distinctive name for a caste makes caste asking to a corporation with a perpetual existence and a seal of separate entity. The significance of separate names for separate castes has not been sufficiently realized by writers on caste. In doing that they have lost sight of a most distinctive feature of caste. Social groups there are and they are bound to be in every society. Many social groups in many countries can be equated to various castes in India and may be regarded as their equivalent. Potters, Washermen, Intellectuals as social groups are everywhere. But in other countries they have remained as unorganized and voluntary groups while in India they have become organized and involuntary i.e, they have become castes because in other countries the social groups were not given name while in India they did. It is the name which the caste bears which gives it fixity and continuity and individuality. It is the name which defines who are its members and in most cases a person born in a caste carries the name of the caste as a part of his surname. Again it is the name which makes it easy for the caste to enforce its rules and regulations. It makes it easy in two ways. In the first place, the name of the caste forming a surname of the individual prevents the offender in passing off as a person belonging to another caste and thus escape the jurisdiction of the caste. Secondly, it helps to identify the offending individual and the caste to whose jurisdiction he is subject so that he is easily handed up and punished for any breach of the caste rules.

This is what caste means. Now as to the caste system. This involves the study of the mutual relations between different castes. Looked at as a collection of caste, the caste system presents several features which at once strike the observer. In the first place there is no inter-connection between the various castes which form a system. Each caste is separate and distinct. It is independent and sovereign in the disposal of its

internal affairs and the enforcement of caste regulations. The castes touch but they do not interpenetrate. The second feature relates to the order in which one caste stands in relation to the other castes in the system. That order is vertical and not horizontal.

Such is the caste and such is the caste system. Question is, is this enough to know the Hindu social organization? For a static conception of the Hindu social organization an idea of the caste and the caste system is enough. One need not trouble to remember more than the facts that the Hindus are divided into castes and that the castes form a system in which all hang on a thread which runs through the system in such a way that while encircling and separating one caste from another it holds them all as though it was a string of tennis balls hanging one above the other. Bm this will not be enough to understand caste as a dynamic phenomenon. To follow the workings of caste in action it is necessary to note one other feature of caste besides the caste system, namely class-caste system.

The relationship between the ideas of caste and class has been a matter of lively controversy. Some say that caste is analogous to class and that there is no difference between the two. Others hold that the idea of castes is fundamentally opposed to that of class. This is an aspect of the subject of caste about which more will be said hereafter. For the present it is necessary to emphasize one feature of the caste system which has not been referred to hereinbefore. It is this. Although caste is different from and opposed to the notion of class yet the caste-system—as distinguished from caste—recognizes a class system which is somewhat different from the graded status referred to above. Just as the Hindus are divided into so many castes, castes are divided into different classes of castes. The Hindu is caste-conscious. He is also class conscious. Whether he is caste conscious or class conscious depends upon the caste with which he comes in conflict. If the caste with which he comes in conflict is a caste within the class to which he belongs he is caste conscious. If the caste is outside the class to which he belongs he is class conscious. Anyone who needs any evidence on this point may study the Non-Brahmin Movement in the Madras and the Bombay Presidency. Such a study will leave no doubt that to a Hindu caste periphery is as real as class periphery and caste consciousness is as real as class consciousness.

Caste, it is said, is an evolution of the Varna system. I will show later on that this is nonsense. Caste is a perversion of Varna. At any rate it is an evolution in the opposite direction. But while caste has completely perverted the Varna system it has borrowed the class

system from the Varna system. Indeed the Class-caste system follows closely the class clevages of the Varna system.

Looking at the caste system from this point of view one comes across several lives of class clevage which run through this pyramid of castes dividing the pyramid into blocks of castes. The first line of clevage follows the line of division noticeable in the ancient Chaturvarna system. The old system of Chaturvarna made a distinction between the first three Varnas, the Brahmins, Kshatriyas, Vaishyas and the fourth Varna namely the Shudra. The three former were classes as the Regenerate classes. The Shudra was held as the Unregenerate class. This distinction was based upon the fact that the former were entitled to wear the sacred thread and study the Vedas. The Shudra was entitled to neither and that is why he was regarded as the unregenerate class. This line of clevage is still in existence and forms the basis of the present day class division separating the castes which have grown out of the vast class of Shudras from those which have grown out of the three classes of Brahmins, the Kshatriyas and Vaishyas. This line of class clevage is the one which is expressed by the terms High Castes and Low Castes and which are short forms for the High Class Castes and Low Class Castes.

Next after this line of clevage there runs through the pyramid a second line of class clevage. It runs just below the Low Class Castes. It sets above all the castes born out of the four Varnas i.e., the High Castes as well as the low castes above the remaining castes which 1 will merely describe as the 'rest'. This line of class clevage is again a real one and follows the well-defined distinction which was a fundamental principle of the Chaturvarna system. The Chaturvarna system as is pointed out made a distinction between the four Varnas putting the three Varnas above the fourth. But it also made an equally clear distinction between those within the Chaturvarna and those outside the Chaturvarna. It had a terminology to express this distinction. Those within the Chaturvarna—high or low, Brahmin or Shudra were called *Savarna* i.e., those with the stamp of the Varna. Those outside the Chaturvarna were called Avarna i.e., those without the stamp of Varna. All the castes which have evolved out of the four varnas are called Savarna Hindus—which is rendered English by the term Caste Hindus—The 'rest' are the *A varnas* who in present parlance spoken of by Europeans as Non-caste Hindus i.e., those who are outside the four original castes or varnas.

Much that is written about the caste system has reference mostly to the caste-system among the Savarna Hindus. Very little is known about the Avarna Hindus. Who are these Avarna Hindus, what is their

position in Hindu Society, how are they related to the Savarna Hindus are questions to which no attention has so far been paid. I am sure that without considering these questions no one can get a true picture of the social structure the Hindus have built. To leave out the Class clevage between the Savarna Hindus and the Avarna Hindus is to relate Grimm's Fairy Tale which leaves out the witches, the goblins and the orges.

The Avarna Hindus comprise three

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Part III

Revolution and Counter-Revolution in Ancient India

Dr. B. R. Ambedkar had proposed to write a treatise, i.e., 'Revolution and Counter' Revolution in Ancient India'.The table of contents has been printed in the chapter of schemes. He had originally planned to write seven books to be included under this broad title. The Committee was able to find some pages and few chapters in his collection. The chapters are also incomplete. After scrutiny, the Committee came to a decision that 'Revolution and Counter-Revolution in Ancient India' is to be presented in this volume with the available material though incomplete. Dr. Ambedkar considered the rise of Buddhism as revolution. The Counter-Revolution pioneered by Brahmins[1] resulted into decline and fall of Buddhism.

Contd. overleaf

As such the following chapters are included under this title.

1. *Ancient India on Exhumation*
2. *The Ancient Regime—The State of the Aryan Society*
3. *A Sunken Priesthood*
4. *Reformers and Their Fate*
5. *The Decline and Fall of Buddhism*
6. *The Literature of Brahminism*
7. *Triumph of Brahminism*
8. *The Morals of the House—Manusmruti or the Gospel of Counter-Revolution*
9. *Philosophic Defence of Counter-Revolution (Krishna and his Gita)*
10. *Analysis of Virat Parva and Uddyog Parva*
11. *Brahmins V/s Kshatriyas*
12. *The Shudras and the Counter-Revolution*
13. *The Women and the Counter-Revolution*

The readers may compare these chapters with the proposed plan given in the last chapters of Schemes.—Editors

CHAPTER 5

Ancient India On Exhumation

There are two typed copies of this Chapter. Both of them contain additions and corrections in the handwriting of Dr. Babasaheb Ambedkar. After consideration, we decided that the latter version should be included here. This essay, consisting of three pages only, seems to be an introduction to a larger subject Dr. Ambedkar probably had in his mind.—Editors,

Much of the ancient history of India is no history at all. Not that ancient India has no history. It has plenty of it. But it has lost its character. It has been made mythology to amuse women and children. This seems to have been done deliberately by the Brahminical writers. Take the word *Deva*. What does it mean? Is the word Jana Vishesh represent a member of the human family? It is made to appear superhuman agency. By this the pith of history contained in it is squeezed out.

Along with the word Deva occur the names of Yaksha, Gana, Gandharva, Kinnars. Who were they? The imperession one gets on reading the Mahabharat and Ramayan is that they are imaginary beings who filled the horizon but did not exist.

But the Yaksha, Gana, Gandharva, Kinnaras were also members of the human family. They were in the service of the Devas. The Yakshas were guarding the palaces. Ganas were guarding the Devas. Gandharvas were amusing the Devas by music and dancing. The Kinnaras were also in the service of the Gods. The descendants of the Kinnaras are even now living in Himachal Pradesh.

Take the name Asura. The description of Asura given, in the Mahabharat and Ramayana make out as though they belonged to non-human world. An Asura is described to eat ten carts-load of food. They are monsters in size. They sleep for six months. They have ten mouths. Who is a Rakshas? He too is described as a non-human creature. In size, in his capacity for eating, in his habits of life he resembled the Asura.

There is a plenty of references to the Nagas. But who is a Naga? A Naga is represented as a serpent or a snake. Can this be true ? Whether true or not, it is so and Hindus believe it. Ancient Indian history must be exhumed. Without its exhumation Ancient India will go without history. Fortunately with the help of the Buddhist literature, Ancient Indian History can be dug out of the debris which the Brahmin writers have heaped upon in a fit of madness.

The Buddhist literature helps a great deal to remove the debris and see the underlying substance quite clearly and distinctly.

The Buddhist literature shows that the Devas were a community of human beings. There are so many Devas who come to the Buddha to have their doubts and difficulties removed. How could this be unless the Devas were human beings.

Again the Buddhist canonical literature throws a flood of light on the puzzling question of the Nagas. It makes a distinction between womb-born Nagas and egg-born Nagas and thereby making it clear that the word Naga has two-fold meaning. In its original sense it stood for the name of a human community.

The Asuras again are not monsters. They too are a Jan-Vishesh human beings. According to Satpatha Bramhana, the Asuras are the descendants of Prajapati the Lord of the creation. How they became evil spirits is not known. But the fact is recorded that they fought against the Devas for the possession of the earth and that they were overcome by the Devas and that they finally succumbed. The point is clear that the Asuras were members of the human family and not monsters.

With this exhumation of debris, we can see Ancient Indian History in a new light.

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CHAPTER 6

The Ancient Regime: The State of the Aryan Society

This essay consists of 11 typed foolscap pages tagged into a file. From the last sentence it appears that the Chapter is incomplete.—Editors

I

Buddhism was a revolution. It was as great a Revolution as the French Revolution. Though it began as a Religious revolution, it became more than Religious revolution. It became a Social and Political Revolution. To be able to realize how profound was the character of this Revolution, it is necessary to know the state of the society before the revolution began its course. To use the language of the French Revolution, it is necessary to have a picture of the ancient regime in India.

To understand the great reform which he brought about by his teaching, it is necessary to have some idea of the degraded condition of the Aryan civilization at the time when Buddha started on the mission of his life.

The Aryan Community of his time was steeped in the worst kind of debauchery; social, religious and spiritual.

To mention only a few of the social evils, attention may be drawn to gambling. Gambling had become as widespread among the Aryans as drinking.

Every king had a hall of gambling attached to his palace. Every king had an expert gambler in his employment as a companion to play with. King *Virat* had in his employment *Kank* as an expert gambler. Gambling was not merely a pastime with kings. They played with heavy stakes. They staked kingdoms, dependents, relatives, slaves, servants.[1] King Nala staked everything in gambling with *Paskkar* and lost everything. The only thing he did not stake was himself and his

[1] Mahabharat—Vanaparva.

wife Damayanti. Nala had to go and live in the forest as a beggar. There were kings who went beyond Nala. The Mahabharat[1] tells how Dharma the eldest of the Pandavas gambled and staked everything, his brothers and also his and their wife Draupadi. Gambling was a matter of honour with the Aryans and any invitation to gamble was regarded as an injury to one's honour and dignity. Dharma gambled with such disastrous consequences although he was warned beforehand. His excuse was that he was invited to gamble and that as a man of honour, he could not decline such an invitation.

This vice of gambling was not confined to kings. It had infected even the common folk. Rig-Veda contains lamentations of a poor Aryan ruined by gambling. The habit of gambling had become so common in Kautilya's time that there were gambling houses licensed by the king from which the king derived considerable revenue.

Drinking was another evil which was rampant among the Aryans. Liquors were of two sorts *Soma* and *Sura*. *Soma* was a sacrificial wine. The drinking of the Soma was in the beginning permitted only to Brahmins, Kshatriyas and Vaishyas. Subsequently it was permitted only to Brahmins and Kshatriyas. The Vaishyas were excluded from it and the Shudras were never permitted to taste it. Its manufacture was a secret known only to the Brahmins. *Sura* was open to all and was drunk by all. The Brahmins also drank Sura. Shukracharya the priest to the *Asuras* drank so heavily that in his drunken state he gave the life giving *Mantra* known to him only and with which he used to revive the *Asuras* killed by the Devas—to *Katch* the son of Brahaspati who was the priest of the Devas. The Mahabharat mentions an occasion when both Krishna and Arjuna were dead drunk. That shows that the best among the Aryan Society were not only not free from the drink habit but that they drank heavily. The most shameful part of it was that even the Aryan women were addicted to drink. For instance *Sudeshna*[2] the wife of King Virat tells her maid *Sairandhri* to go to *Kichaka's* palace and bring Sura as she was dying to have a drink. It is not to be supposed that only queens indulged in drinking. The habit of drinking was common among women of all classes and even Brahmin women were not free from it. That liquor and dancing was indulged in by the Aryan women is clear from the *Kausitaki Grihya Sutra* I. 11-12, which says; "Four or eight women who are not widowed, after having been regaled with wine and food are to dance for four times on the night previous to the wedding ceremony."

[1] Mahabharat—Sabhaparva.

[2] Vanaparva. Adh. XV. 10:

That the drinking of intoxicating liquor was indulged in by Brahmin women, not to speak of women of the lower *Varnas,* as late as the seventh and eighth centuries- A.D. in the Central region of Aryavarta, is clear from Kumarila Bhatta's *Tantra- Vartika* I (iii). 4, which states, "Among the people of modern days we find the Brahmin women of the countries of Ahicchatra and Mathura to be addicted to drinking". Kumarila condemned the practice in the case of Brahmins only, but not of Kshatriyas and Vaishyas men and women, if the liquor was distilled from fruits or flowers (Madhavi), and Molasses (Gaudi) and not from grains (Sura).

The sexual immorality of the Aryan Society must shock their present day descendants. The Aryans of pre-Buddhist days had no such rule of prohibited degrees as we have today to govern their sexual or matrimonial relationship.

According to the Aryan Mythology, Brahma is the creator. Brahma had three sons and a daughter. His one son Daksha married his sister. The daughters born of this marriage between brother and sister were married some to Kashyapa the son of Marichi the son of Brahma and some to Dharma the third son of Brahma.[1]

In the Rig-Veda there is an episode related of Yama and Yami brother and sister. According to this episode Yami the sister invites her brother Yama to cohabit with her and becomes angry when he refuses to do so.[2]

A father could marry his daughter. *Vashishta* married his own daughter *Shatrupa* when she came of age.[3] *Manu* married his daughter *Ila.*[4] *Janhu* married his daughter *Janhavi.*[5] *Surya* married his daughter *Usha.*[6]

There was polyandri not of the ordinary type. The polyandri prevalent among the Aryans was a polyandri when kinsmen cohabited with one woman. Dhahaprachetani and his son Soma cohabited with Marisha the daughter of Soma.[7]

Instances of grandfather marrying his grand-daughter are not wanting. Daksha gave his daughter in marriage to his father Brahma[8] and from that marriage was born the famous Narada. Dauhitra gave his 27 daughters to his father Soma for cohabitation and procreation.[9]

The Aryans did not mind co-habiting with women in the open and within sight of people. The Rishis used to perform certain religious

[1] Mahabharat Adiparva. Adh. 66.
[2] Rig. Veda.
[3] Hari Vansha Adh. II.
[4] *Ibid.* Adh. X.
[5] *Ibid* Adh. XXVII.
[6] Yask Nirutta Adh. V. Khanda VI.
[7] Harivansha Adh. II.
[8] *Ibid.* Adh. III.
[9] *Ibid.*

rites which were called *Vamdevya vrata*. These rites used to be performed on the *Yadnya bhumi*. If any woman came there and expressed a desire for sexual intercourse and asked the sage to satisfy her, the sage used to cohabit with her then and there in the open on the *Yadnya bhumi*. Instances of this may be mentioned. The case of the sage Parashara had sexual intercourse with Satyavati and also of Dirghatapa. That such a custom was common is shown by the existence of the word Ayoni. The word Ayoni is understood to mean of immaculate conception. That is not however the original meaning of the word. The original meaning of the word Yoni is house. Ayoni means conceived out of the house i.e. in the open. That there was nothing deemed to be wrong in this is clear from the fact that both Sita and Draupadi were Ayonija. That this was very common is clear from the fact that religious injunctions had to be issued against such a practice.[1]

There was prevalent among the Aryans the practice of renting out their women to others for a time. As an illustration may be mentioned the story of *Madhavi*.[2] The king *Yayati* gave his daughter *Madhavi* as an offering to his Guru *Galav*. *Galav* rented out the girl *Madhavi* to three kings, each a period. Thereafter he gave her in marriage to *Vishwamitra*. She remained with him until a son was born to her. Thereafter *Galav* took away the girl and gave her back to her father *Yayati*.

Besides the practice of letting out women to others temporarily at a rent there was prevalent among the Aryans another practice namely allowing procreation by the best amongst them. Raising a family was treated by them as though it was a breeding or stock raising. Among the Aryas there was a class of persons called *Devas* who were Aryans but of a superior status and prowess. The Aryans allowed their women to have sexual intercourse with any one of the class of Devas in the interest of good breeding. This practice prevailed so extensively that the Devas came to regard prelibation in respect of the Aryan Women as their prescriptive right. No Aryan woman could be married unless this right of prelibation had been redeemed and the woman released from the control of the Devas by offering what was technically called *Avadan*. The *Laja Hoame* which is performed in every Hindu marriage and the details of which are given in the *Ashwalayan Grahya Sutra* is a relic of this act of the redemption of the Aryan woman from the right of prelibation of the Devas. The *Avadan* in the *Laja Hoama* is nothing but the price for the existinguishment of the right of the Devas over

[1] Mahabharat, Adi Parva—Adh. 193.

[2] *Ibid*. Udyoga Parva—Adh. 106-123.

the bride. The *Saptapadi* performed in all Hindu marriages and which is regarded as the most essential ceremony without which there is no lawful marriage has an integral connection with this right of prelibation of the Devas. Saptapadi means walking by the bridegroom seven steps with the bride. Why is this essential ? The answer is that the Devas, ii they were dissatisfied with the compensation, could claim the woman before the seventh step was taken. After the seventh step was taken, the right of the Devas was extinguished and the bridegroom could take away the bride and live as husband and wife without being obstructed or molested by the Devas.

There was no rule of chastity for maidens. A girl could have sexual intercourse with and also progeny from anybody without contracting marriage. This is evident from the root meaning of the word *Kanya* which means a girl. Kanya comes from the root *Kam* which means a girl free to offer herself to any man. That they did offer themselves to any man and had children without contracting regular marriage is illustrated by the case of *Kunti* and *Malsyagandha*. *Kunti* had children from different men before she was married to *Pandu* and *Matsyagandha* had sexual intercourse with the sage *Parashara* before she married to *Shantanu* the father of *Bhishma*.

Beastiality was also prevalent among the Aryans. The story of the sage Dam having sexual intercourse with a female dear, is well known. Another instance is that of Surya cohabiting with a mare. But the most hideous instance is that of the woman having sexual intercourse with the horse in the Ashvamedha *Yadna*.

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CHAPTER 7

A Sunken Priesthood

This essay is numbered as Chapter III in the file of the Ancient Regime and contains 16 foolscap typed pages. This Chapter also seems to be left incomplete.—Editors.

The priestly profession in the ancient Aryan Society was monopolized by the Brahmins. None except a Brahmin could become a priest. As custodians of religion, the Brahmins were the guides of the people in moral and spiritual matters. They were to set the standard for people to follow. Did the Brahmins act up to the standard? Unfortunately, all the evidence we have, shows that the Brahmins had fallen to the utmost depth of moral degradation.

A Shrotriya Brahmin was supposed not to keep with him a store of provision lasting for more than a week. But they had systematically trampled upon this rule and were addicted to the use of the things stored up; stores, to wit, of foods, drinks, clothing, equipages, beddings, perfumes, and curry-stuffs.

The Brahmins were addicted to visiting shows such as:—

(1) Nautch dances (nakkam).

(2) Singings of songs (gitam).

(3) Instrumental music (vaditam).

(4) Shows at fairs (pekham).

(5) Ballads recitations (akkhanam).

(6) Hand music (panisaram).

(7) The chanting of bards (vetals).

(8) Tam-tam playing (kumbhathunam).

(9) Fair scenes (sobhanagarkam).

(10) Acrobatic feats by Kandalas (Kandala-vamsa-dhopanam).

(11) Combats of elephants, horses, buffaloes, bulls, goats, rams, cocks and quails.

(12) Bouts at quarterstaff, boxing, wrestling.

(13-16) Sham-fights, roll-calls, manoeuvres, reviews.

They were addicted to games and recreations; that is to say,

(1) Games on boards with eight, or with ten rows of squares.
(2) The same games played by imagining such boards in the air.
(3) Keeping going over diagrams drawn on the ground so that one steps only where one ought to go.
(4) Either removing the pieces or men from a heap with one's nail, or putting them into a heap, in each case without shaking it. He who shakes the heap, loses.
(5) Throwing dice.
(6) Hitting a short stick with a long one.
(7) Dipping the hand with the fingers stretched out in lac, or red dye, or flour water, and striking the wet hand on the ground or on a wall, calling out 'what shall it be?' and showing the form required—elephants, horses *& c.*
(8) Games with balls.
(9) Blowing through toy pipes made of leaves.
(10) Ploughing with toy ploughs.
(11) Turning summersaults.
(12) Playing with toy windmills made of palm leaves.
(13) Playing with toy measures made of palm leaves.
(14, 15) Playing with toy carts or toy bows.
(16) Guessing at letters traced in the air, or on a playfellow's back.
(17) Guessing the playfellow's thoughts.
(18) Mimicry of deformities.

They were addicted to the use of high and large couches; that is to say:

(1) Moveable settees, high, and six feet long (Asandi).
(2) Divans with animal figures carved on the supports (Pallanko).
(3) Goat's hair coverings with very long fleece (Gonako).
(4) Patchwork counterpanes of many colours (Kittaka).
(5) White blankets (Patika).
(6) Woollen coverlets embroidered with flowers (Patalika).
(7) Quilts stuffed with cotton wool (Tulika).
(8) Coverlets embroidered with figures of lions, tigers, & c, (Vikatika).
(9) Rugs with fur on both sides (Uddalom).
(10) Rugs with fur on one side (Ekantalomi).
(11) Coverlets embroidered with gems (Katthissam).
(12) Silk coverlets (Koseyyam).
(13) Carpets large enough for sixteen dancers (Kuttakam).
(14-16) Elephant, horse and chariot rugs.
(17) Rugs of antelope skins sewn together (Aginapaveni).

(18) Rugs of skins of the plantain antelope.

(19) Carpets with awnings above them (Sauttarakkhadam).

(20) Sofas with red pillows for the head and feet".

The Brahmins were addicted to the use of means for adorning and beautifying themselves; that is to say:

Rubbing in scented powders on one's body, shampooing it, and bathing it, patting the limbs with clubs after the manner of wrestlers, the use of mirrors, eye-ointments, garlands, rouge, cosmetics, bracelets, necklaces, walking-sticks, reed cases for drugs, rapiers, sunshades, embroidered slippers, turbans, diadems, whisks of the yak tail and long-fringed white robes.

The Brahmins were addicted to such low conversation as these:

Tales of kings, of robbers, of ministers of state; tales of war, of terrors, of battles; talk about foods and drinks, clothes, beds, garlands, perfumes; talks about relationships, equipages, villages, towns, cities and countries; tales about women, and about heroes; gossip at street corners, or places whence water is fetched; ghost stories; desultory talk; speculations about the creation of the land or sea, or about existence and non-existence.

The Brahmins were addicted to the use of wrangling phrases: such as:

"You don't understand this doctrine and discipline, I do."

"How should you know about this doctrine and discipline?"

"You have fallen into wrong views. It is I who am in the right."

"I am speaking to the point, you are not."

"You are putting last what ought to come first, and first what ought to come last."

"What you've ex-cogitated so long, that is all quite upset."

"You are proved to be wrong."

"Set to work to clear your views."

"Disentangle yourself if you can."

The Brahmins were addicted to taking messages, going on errands, and acting as go-betweens; to wit, on kings, ministers of state, Kshatriyas, Brahmans, or young men, saying: Go there, come hither, take this with you, bring that from thence.'

'The Brahmins were tricksters, droner out (of holy words for pray), diviners, and exorcists, ever hungering to add gain to gain.'

The Brahmins earned their living by wrong means of livelihood, by low arts, such as these:

(1) Palmistry—prophesying long life, prosperity, & c, (or the reverse from marks on a child's hands, feet, & c.)

(2) Divining by means of omens and signs.

(3) Auguries drawn from thunderbolts and other celestial portents.
(4) Prognostication by interpreting dreams.
(5) Fortune-telling from marks on the body.
(6) Auguries from the marks on cloth gnawed by mice.
(7) Sacrificing to Agni.
(8) Offering oblations from a spoon.
(9-13) Making offerings to gods of husks, of the red powder between the grain and the husk, of husked grain ready for boiling, or ghee and of oil.
(14) Sacrificing by spewing mustard seeds, & c, into the fire out of one's mouth.
(15) Drawing blood from one's right knee as a sacrifice to the gods.
(16) Looking at the knuckles, & c, and, after muttering a charm, divining whether a man is well born of luck or not.
(17) Determining whether the site for a proposed house or pleasance, is luck or not.
(18) Advising on customary law.
(19) Laying demons in a cemetery.
(20) Laying ghosts.
(21) Knowledge of the charms to be used when lodging in an earth house.
(22) Snake charming.
(23) The poison craft.
(24) The scorpion craft".
(25) The mouse craft.
(26) The bird craft.
(27) The crow craft.
(28) Foretelling the number of years that man has yet to live.
(29) Giving charms to ward off arrows.
(30) The animal wheel.

The Brahmins earned their living by wrong means of livelihood, by low arts, such as these:

Knowledge of the signs of good and bad qualities in the following things and of the marks in them denoting the health or luck of their owners: to wit,

gems, staves, garments, swords, arrows, bows, other weapons, women, men, boys, girls, slaves, slave-girls, elephants, horses, buffaloes, bulls, oxen, goats, sheep, fowls, quails, iguanas, herrings, tortoises, and other animals.

The Brahmins, earned their living by wrong means of livelihood by low arts such as soothsaying, to the effect that:

The chiefs will march out.

The home chiefs will attack and the enemies retreat.

The enemies' chiefs will attack, and ours will retreat.

The home chiefs will gain the victory, and ours will suffer defeat.

The foreign chiefs will gain the victory on this side, and ours will suffer defeat.

Thus will there be victory on this side, defeat on that.

The Brahmins, while living on food provided by the faithful, earn their living by wrong means of livelihood, by such low arts as foretelling:

(1) There will be an eclipse of the Moon.
(2) There will be an eclipse of the Sun.
(3) There will be an eclipse of a star (Nakshatra).
(4) There will be aberration of the Sun or the Moon.
(5) The Sun or the Moon will return to its usual path.
(6) There will be aberrations of the stars.
(7) The stars will return to their usual course.
(8) There will be a jungle fire.
(9) There will be a fall of meteors.
(10) There will be an earthquake.
(11) The god will thunder.
(12-15) There will be rising and setting, clearness and dimness of the Sun or the Moon or the stars, or foretelling of each of these fifteen phenomena that they will betoken such and such a result."

The Brahmins earned their living by wrong means of the livelihood, by low arts, such as these:

Foretelling an abundant rainfall.

Foretelling a deficient rainfall.

Foretelling a good harvest.

Foretelling scarcity of food.

Foretelling tranquility.

Foretelling disturbances.

Foretelling a pestilence.

Foretelling a healthy season.

Counting on the fingers.

Counting without using the fingers.

Summing up large totals.

Composing ballads, poetizing.

Casuistry, sophistry.

The Brahmins, while living on food provided by the faithful, earn their living by wrong means of livelihood, by low arts, such as:

(1) Arranging a lucky day for marriages in which the bride or bridegroom is brought home.
(2) Arranging a lucky day for marriages in which the bride or bridegroom is sent forth.
(3) Fixing a lucky time for the conclusion of treaties of peace (or using charms to procure harmony).
(4) Fixing a lucky time for the outbreak of hostilities (or using charms to make discord).
(5) Fixing a lucky time for the calling in of debts (or charms for success in throwing dice).
(6) Fixing a lucky time for the expenditure of money (or charms to bring ill luck to an opponent throwing dice).
(7) Using charms to make people lucky.
(8) Using charms to make people unlucky.
(9) Using charms to procure abortion.
(10) Incantations to keep a man's jaws fixed.
(11) Incantations to bring on dumbness.
(12) Incantations to make a man throw up his hands.
(13) Incantations to bring on deafness.
(14) Obtaining oracular answers by means of the magic mirror.
(15) Obtaining oracular answers through a girl possessed.
(16) Obtaining oracular answers from a god.
(17) The worship of the Sun.
(18) The worship of the Great One.
(19) Bringing forth flames from one's mouth.
(20) Invoking Siri, the goddess of Luck.

The Brahmins earned their living by wrong means of livelihood, by low arts, such as these:

(1) Vowing gifts to a god if a certain benefit be granted.
(2) Paying such vows.
(3) Repeating charms while lodging in an earth house.
(4) Causing virility.
(5) Making a man impotent.
(6) Fixing on lucky sites for dwellings.
(7) Consecrating sites.
(8) Ceremonial rinsings of the mouth.
(9) Ceremonial bathings.
(10) Offering sacrifices.
(11-14) Administering emetics and purgatives.

(15) Purging people to relieve the head (that is by giving drugs to make people sneeze).

(16) Oiling people's ears (either to make them grow or to heal sores on them).

(17) Satisfying people's eyes (soothing them by dropping medicinal oils into them).

(18) Administering drugs through the nose.

(19) Applying collyrium to the eyes.

(20) Giving medicinal ointment for the eyes.

(21) Practising as an oculist.

(22) Practising as a surgeon.

(23) Practising as a doctor for children.

(24) Administering roots and drugs.

(25) Administering medicines in rotation.

(INCOMPLETE)

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CHAPTER 8

Reformers and Their Fate

This is a typed bound copy consisting of 87 pages. The Ambatta Sutta starts at page 69 of the manuscript and after page 70, pages are numbered from A to Z. The beginning of page 71 starts with Lohikka Sutta.—Editors.

I. Aryan Society. II. Buddha and Reform. III.

I

It was Sir T. Madhava Raw who speaking of Hindu Society of his time said:

> "The longer one lives, observes, and thinks, the more deeply does he feel that there is no community on the face of the earth which suffers less from political evils and more from self-inflicted or self-accepted or self-created, and therefore avoidable evils, than the Hindu Community."

This view expresses quite accurately and without exaggeration the necessity of social reform in Hindu Society.

The first Social Reformer and the greatest of them all is Gautama Buddha. Any history of Social Reform must begin with him and no history of Social Reform in India will be complete which omits to take account of his great achievements.

Siddhartha, surname Gautama, was born in the Sakya clan at Kapilvastu in Northern India, on the borders of Nepal in 563 B.C. Tradition says he was a prince. He received education fit for a prince, was married and had a son. Oppressed by the evils and misery then prevalent in the Aryan Society he renounced the world at the age of twenty-nine and left his home in search for truth and deliverance. He became a mendicant and studied with two distinguished teachers, but finding that their teachings did not satisfy him he left them and became an ascetic. He gave up that also as being futile. By hard thinking he got insight into things and as a result of this insight he formulated his own

Dhamma. This was at the age of thirty-five. The remainder of his eighty years he spent in spreading his Dhamma and founding and administering an order of monks. He died about the year 483 B.C. at Kusinara surrounded by his devoted followers.

To the carrying out of his mission, the Buddha devoted all his days after the achievement of enlightment. His time was divided between feeding the lamp of his own spiritual life by solitary meditation—just as Jesus spent hours in lonely prayer—and active preaching to large audiences of his monks, instructing the more advanced in the subtle points of inner development, directing the affairs of the Order, rebuking breaches of discipline, confirming the faithful in their virtue, receiving deputations, carrying on discussions with learned opponents, comforting the sorrowful, visiting kings and peasants, Brahmins and outcasts, rich and poor. He was a friend of publicans and sinners, and many a public harlot, finding herself understood and pitied, gave up her evil ways to take refuge in the "Blessed One" Such a life demanded a variety of moral qualities and social gifts, and among others a combination of democratic sentiments with an aristocratic *Savoir Faire* which is seldom met with. In reading the dialogues one can never forget that Gotama had the birth and upbringing of an aristocrat. He converses not only with Brahmins and pundits but with princes and ministers and kings on easy and equal terms. He is a good diner-out, with a fund of anecdotes and apparently a real sense of humour, and is a welcome quest at every house. A distinguished Brahmin is pictured as describing him thus:

> 'The venerable Gotama is well born on both sides, of pure descent..... is handsome, pleasant to look upon, inspiring trust, gifted with great beauty of complexion, fair in colour, fine in presence, stately to behold, virtuous with the virtue of the Arhats, gifted with goodness and virtue and with a pleasant voice and polite address, with no passion of lust left in him nor any fickleness of mind. He bids all men welcome, is congenial, conciliatory, not supercillious, accessible to all, not backward in conversation.'

But what appealed most to the India of his time, and has appealed most to India through the ages, is expressed by the Brahmin in these words:

> "The monk Gotama has gone forth into the religious life, giving up the great clan of his relatives, giving up much money and gold, treasure both buried and above ground. Truly while he was still a young man, without a gray hair on his head, in the beauty of his early manhood he went forth from the household life into the homeless state."

> "Such a life as his, demanded not only pleasant manners, sympathy and kindness, but firmness and courage. When the occasion required it, he could be calmly severe with those who worked evil for the Order. Physical pain, he bore not only with equanimity but with no diminution of his inner joy. Courage also was needed and was found; as, for example, in the Buddha's calm attitude during Devadatta's various attempts to assassinate him, in facing threats of murder, and in the conversion of the famous bandit in the Kingdom of Kosala, whom all the countryside feared, and whom the Buddha visited, alone and unarmed, in his lair, changing him from a scourge of the kindom to a peaceful member of the Order. Neither pain, danger, nor insults marred his spiritual peace. When he was reviled he reviled not again. Nor was he lacking in tender thoughtfulness for those who needed his comfort and support."

He was beloved of all. Repeatedly he is described or describes himself, as one born into the world for the good of the many, for the happiness of the many, for the advantage, the good, the happiness of gods and men, out of compassion for the world.

He left an indelible mark on the Aryan Society and although his name has gone out of India the impression of his teaching still remains. His religion spread like wild fire. It soon became the religion of the whole of India. But it did not remain confined to India. It reached every corner of the then known world. All races accepted it. Even the Afghans were once Buddhists. It did not remain confined to Asia. There is evidence to show that Buddhism was the religion of Celtic Britain.*

What was the cause of this rapid spread of Buddhism ?On this point what Prof. Hopkins has said is worth quoting. This is what he says:

> "The cause, then, of the rapid spread of Buddhism at the beginning of its career lies only in the conditions of its teaching and the influential backing of its founder. It was the individual Buddha that captivated men; it was the teaching that emanated from him that fired enthusiasm; it was his position as an aristocrat that made him acceptable to the aristocracy, his magnetism that made him the idol of the people. From every page stands out the strong, attractive personality of this teacher and winner of hearts. No man ever lived so godless yet so godlike. Arrogating to himself no divinity, despairing of future bliss, but without fear as without hope, leader of thought but despising lovingly the folly of the world, exalted but

* *Dr. Donald A. Mackenzie. 'Buddhism in Pre-Christian Britain. Blackie & Son. London. 1928.*—Editors

adored, the universal brother, he wandered among men, simply, serenely; with gentle irony subduing them that opposed him, to congregation after congretation speaking with majestic sweetness, the master to each, the friend of all. His voice was singularly vibrant and eloquent; his very tones convinced the hearer, his looks inspired awe. From the tradition it appears that he must have been one of those whose personality alone suffices to make a man not only a leader but a god to the hearts of his fellows. When such a one speaks he obtains hearers. It matters little what he says, for he influences the motions, and bends whoever listens to his will. But if added to this personality, if encompassing it, there be the feeling in the minds of others that what this man teaches is not only a variety, but the very hope of their salvation; if for the first time they recognize in his words the truth that makes of slaves free men, of classes a brotherhood, then it is not difficult to see wherein lies the lightninglike speed with which the electric current passes from heart to heart. Such a man was Buddha, such was the essential of his teaching; and such was the inevitable rapidity of Buddhistic expansion and the profound influence of the shock that was produced by the new faith upon the moral consciousness of Buddha's people."

To understand the great reform which he brought about by his teaching, it is necessary to have some idea of the degraded condition of the Aryan civilization at the time when Buddha started on the mission of his life.

The Aryan Community of his time was steeped in the worst kind of debauchery: social, religious and spiritual.

To mention only a few of the social evils, attention may be drawn to gambling. Gambling had become as widespread among the Aryans as drinking.

Every king had a hall of gambling attached to his palace. Every king had an expert gambler in his employment as a companion to play with. King *Viral* had in his employment *Kank* as an expert gambler. Gambling was not merely a pastime with kings. They played with heavy stakes. They staked kingdoms, dependents, relatives, slaves, servants.[1] King Nala staked everything in gambling with *Paskkar* and lost everything. The only thing he did not stake was himself and his wife Damayanti. Nala had to go and live in the forest as a beggar. There were kings who went beyond Nala. The Mahabharat[2] tells how Dharma the eldest of the Pandavas gambled and staked everything.

[1]Mahabharat—Vanparva.

[2] *Ibid*-Sabhaparva

his brothers and also his and their wife Draupadi. Gambling was a matter of honour with the Aryans and any invitation to gamble was regraded as an injury to one's honour and dignity. Dharma gambled with such disastrous consequences although he was warned beforehand. His excuse was that he was invited to gamble and that as a man of honour he could not decline such an invitation.

This vice of gambling was not confined to kings. It had infected even the common folk. Rig-Veda contains lamentations of a poor Aryan ruined by gambling. The habit of gambling had become so common in Kautilya's time that there were gambling houses licensed by the king from which the king derived considerable revenue.

Drinking was another evil which was rampant among the Aryans. Liquors were of two sorts *Soma* and *Sura*. *Soma* was a sacrificial wine. The drinking of the Soma was in the beginning permitted only to Brahmins, Kshatriyas and Vaishyas. Subsequently it was permitted only to Brahmins and Kshatriyas. The Vaishyas were excluded from it and the Shudras were never permitted to taste it. Its manufacture was a secret known only to the Brahmins. *Sura* was open to all and was drunk by all. The Brahmins also drank *Sura*. Shukracharya[1] the priest to the *Asuras* drank so heavily that in his drunken state he gave the life-giving *Mantras*—known to him only and with which he used to revive the *Asuras* killed by the *Devas*—to *Katch* the son of *Brahaspati* who was the priest of the Devas. The Mahabharat mentions an occasion when both *Krishna* and *Arjuna* were dead drunk. That shows that the best among the Aryan Society were not only not free from the drink habit but that they drank heavily. The most shameful part of it was that even the Aryan women were addicted to drink. For instance *Sudeshna*[2] the wife of king *Virat* tells her maid *Sairandhri* to go to *Kichaka's* palace and bring *Sura* as she was dying to have a drink. It is not to be supposed that only queens indulged in drinking. The habit of drinking was common among women of all classes and even Brahmin women were not free from it.[3] That liquor and dancing was indulged in by the Aryan women is clear from the *Kausitaki Grihya Sutra* I. 11-12, which says, "Four or eight women who are not widowed after having been regaled with wine and food are to dance for four times on the night previous to the wedding ceremony."

[1] Mahabharat.

[2] *Ibid.* Viratparva Ad. XV. 10.

[3] That the drinking of intoxicating liquor was indulged in by Brahmin women, not to speak of women of the lower *Varnas,* as late as the seventh and eighth centuries A.D. in the Central region of Aryavarta, is clear from Kumarita Bhatta's *Tantra-Vartika* I (iii). 4, which states. "Among the people of modern days we find the Brahmin women of the countries of Ahicchatra and Mathura to be addicted to drinking." Kumarila condemned the practice in the case of Brahmins only, but not of Kshatriyas and Vaishyas men and women if the liquor was distilled from fruits or flowers (Madhavi), and Molasses (Gaudi) and not from grains (Sura).

Turning to the Aryan Society it was marked by class war and class degradation. The Aryan Society recognized four classes, the Brahmins, Kshatriyas, Vaishyas and Shudras. These divisions were not merely horizontal divisions, all on a par with each other in the matter of social relationship. These divisions, had become vertical, one above the other. Being placed above or below there was both jealousy and rivalry among the four classes. This jealousy and rivalry had given rise even to enmity. This enmity was particularly noticeable between the two highest classes, namely, the Brahmins and the Kshatriyas and there was a regular class war between the two, so intense that it would delight the heart of any Marxian to read the descriptions thereof. Unfortunately there is no detailed history of this class war between the Brahmins and the Kshatriyas. Only a few instances have been recorded. Vena, Pururavas, Nahusha, Sudas, Sumukh and Nimi were some of the Kshatriya kings who came into the conflict with the Brahmins. The issues in these conflicts were different.

The issue between Vena and the Brahmins was whether a King could command and require the Brahmins to worship him and offer sacrifice to him instead of the Gods. The issue between Pururavas and the Brahmins was whether a Kshatriya King could confiscate the property of the Brahmin. The issue between Nahusha and the Brahmins was whether a Kshatriya king could order a Brahmin to do a servile job. The issue between Nimi and the Brahmins was whether the king was bound to employ only his family priest at the sacrificial ceremony. The issue between Sudas and the Brahmins was whether the king was bound to employ only a Brahmin as a priest.

This shows how big were the issues between the two classes. No wonder that the struggle between them was also the bitterest. The wars between them were not merely occasional riots. They were wars of extermination. It is stated that Parashuram a Brahmin fought against the Kshatriyas twenty-one times and killed every Kshatriya.

While the two classes were fighting among themselves for supremacy, they both combined to keep down the Vaishyas and the Shudras. The Vaishya was a milch cow. He lived only to pay taxes. The Shudra was a general beast of burden. These two classes existed for the sole purpose of making the life of the Brahmins and Kshatriyas glorious and happy. They had no right to live for themselves. They lived to make the life of their betters possible.

Below these two classes there were others. They were the Chandalas and Shwappakas. They were not untouchables but they were degraded. They were outside the pale of society and outside the pale of law. They had no rights and no opportunities. They were the rejects of the Aryan Society.

The sexual immorality of the Aryan Society must shock their present day descendants. The Aryans of pre-Buddhist days had no such rule of prohibited degrees as we have today to govern their sexual or matrimonial relationship.

According to the Aryan Mythology, Brahma is the creator. Brahma had three sons and a daughter. His one son Daksha married his sister. The daughters born of this marriage between brother and sister were married some to Kashyapa the son of Marichi the son of Brahma and some to Dharma the third son of Brahma.[1]

In the Rig-Veda there is an episode related of Yama and Yami brother and sister. According to this episode Yami the sister invites her brother Yama to cohabit with her and becomes angry when he refuses to do so.[2]

A father could marry his daughter. *Vashishta* married his own daughter *Shatrupa* when she came of age.[3] *Manu* married his daughter *Ila*[4] *Janhu* married his daughter *Janhavi.*[5] *Surya* married his daughter *Usha.*[6] There was polyandri not of the ordinary type. The polyandri prevalent among the Aryans was a polyandri when Kinsmen cohabited with one woman. *Dhahaprachetani* and his son *Soma* cohabited with *Marisha* the daughter of *Soma.*[7]

Instances of grandfather marrying his grand-daughter are not wanting. Daksha gave his daughter in marriage to his father Brahma[8] and from that marriage was born the famous Narada. Dauhitra gave his 27 daughters to his father Soma for cohabitation and procreation.[9]

The Aryans did not mind cohabiting with women in the open and within sight of people. The Rishis used to perform certain religious rites which were called Vamdevya vrata. These rites used to be performed on the Yadnya Bhumi. If any woman came there and expressed a desire for sexual intercourse and asked the sage to satisfy her, the sage used to cohabit with her then and there in the open on the Yadnya Bhumi. Instances of this may be mentioned; the case of the sage Parashara who had sexual intercourse with Satyavati and also of Dirghatapa. That such a custom was common is shown by the existence of the word Ayoni. The word Ayoni is understood to mean of immaculate conception. That is not however the original meaning of the word. The original meaning of the word Yoni is house. Ayoni

[1] Mahabharata Adiparva. Adh. 66.
[2] Rig Veda.
[3] Harivansha Adh. II..
[4] *Ibid* Adh. X.
[5] *Ibid* Adh. XXVII.
[6] Yask Nirukta Adh. V. Khanda VI.
[7] Harivansha Adh. II.
[8] Harivansha Adh. III.
[9] *Ibid,*

means conceived out of the house i.e. in the open. That there was nothing deemed to be wrong in this is clear from the fact that both Sita and Draupadi were Ayonija. That this was very common is clear from the fact that religious injunctions had to be issued against such a practice.[1]

There was prevalent among the Aryans the practice of renting out their women to others for a time. As art illustration may be mentioned the story of Madhavi[2] The king Yayati gave his daughter Madhavi as an offering to his guru Galav. Galav rented out the girl Madhavi to three kings each a period. Thereafter he gave her in marriage to Vishwamitra. She remained with him until a son was born to her. Thereafter Galav took away the girl and gave her back to her father Yayati.

Besides the practice of letting out women to others temporarily at a rent, there was prevalent among the Aryans another practice namely, allowing procreation by the best amongst them. Raising a family was treated by them as though it was a breeding or stock raising. Among the Aryas there was a class of persons called *Devas* who were Aryans but of a superior status and prowess. The Aryans allowed their women to have sexual intercourse with any one of the class of Devas in the inerest of good breeding. This practice prevailed so extensively that the Devas came to regard prelibation in respect of the Aryan women as their prescriptive right. No Aryan woman could be married unless this right of prelibation had been redeemed and the woman released from the control of the Devas by offering what was technically called *Avadan*. The Laja Hoame which is performed in every Hindu marriage and the details of which are given in the Ashwalayan Grahya Sutra is a relic of this act of the redemption of the Aryan woman from the right of prelibation of the Devas. The *Avadan* in the Laja Hoame is nothing but the price for the extinguishment of the right of the Devas over the bride. The *Saptapadi* performed in all Hindu marriages and which is regarded as the most essential ceremony without which there is no lawful marriage has an integral connection with this right of prelibation of the Devas. Saptapadi means walking by the bridegroom seven steps with the bride. Why is this essential ? The answer is that the Devas if they were dissatisfied with the compensation could claim the woman before the seventh step was taken. After the seventh step was taken, the right of the Devas was extinguished and the bridegroom could take away the bride and live as husband and wife without being obstructed or molested by the Devas.

[1] Mahabharat Adi Parva—Add. 193.

[2] Mahabharat Udyoga parva. Adh. 106-123.

There was no rule of chastity for maidens. A girl could have sexual intercourse with and also progeny from anybody without contracting marriage. This is evident from the root meaning of the word *Kanya* which means a girl. *Kanya* comes from the root *Kam* which means a girl free to offer herself to any man. That they did offer themselves to any man and had children without contracting regular marriage is illustrated by the case of *Kunti* and *Matsyagandha*. Kunti had children from different men before she was married to Pandu and Matsyagandha had sexual intercourse with the sage Parashara before she was married to *Shantanu* the father of Bhishma.

Beastiality was also prevalent among the Aryans. The story of the sage Dam having sexual intercourse with a female deer[1] is well known. Another instance is that of Surya cohabiting with a mare[2]. But the most hideous instance is that of the woman having sexual intercourse with the horse in the Ashvamedha Yadna.

The religion of the Aryan consisted of the *Yadna* or sacrifice. The sacrifice was a means to enter into the godhead of the gods, and even to control the gods. The traditional sacrifices were twenty one in number divided into three classes of seven each. The first were sacrifices of butter, milk, corn, etc. The second class covered *Soma* sacrifices and third animal sacrifices. The sacrifice may be of short duration or long duration lasting for a year or more. The latter was called a *Sattra*. The argument in favour of the sacrifice is that eternal holiness is won by him that offers the sacrifice. Not only a man's self but also his Manes stood to benefit by means of sacrifice. He gives the Manes pleasure with his offering, but he also raises their estate, and sends them up to live in a higher world.[3]

The sacrifice was by no means meant as an aid to the acquirement of heavenly bliss alone. Many of the great sacrifices were for the gaining of good things on earth. That one should sacrifice without the ulterior motive of gain is unknown. Brahmanic India knew no thank offering. Ordinarily the gain is represented as a compensating gift from the divinity, whom they sacrifice. The sacrifice began with the recitation: "He offers the sacrifice to the god with this text: 'Do thou give to me (and) I (will) give to thee; do thou bestow on me (and) I (will) bestow on thee'."

The ceremony of the sacrifice was awe-inspiring. Every word was pregnant with consequences and even the pronunciation of the word or accent was fateful. There are indications, however, that the priest themselves understood that, much in the ceremonial was pure hocus-pocus, and not of much importance as it was made out to be.

[1] Mahabharat Adhyaya 1-118.

[2] *Ibid.* Adhyaya 66.

[3] This is taken from Hopkins—The Religions of India.

Every sacrifice meant fee to the priest. As to fee, the rules were precise and their propounders were unblushing. The priest performed the sacrifice for the fee alone, and it must consist of valuable garments, kine, horses or gold—when each was to be given was carefully stated. The priests had built up a great complex of forms, where at every turn fees were demanded. The whole expense, falling on one individual for whose benefit the sacrifice was performed, must have been enormous. How costly the whole thing became can be seen from the fact that in one place the fee for the sacrifice is mentioned as one thousand cows. For this greed, which went so far that he proclaimed that he who gives a thousand cows obtains all things of heaven. The priest had a good precedent to cite, for, the gods of heaven, in all tales told of them, ever demand a reward from each other when they help their neighbour gods. If the Gods seek rewards, the priest has a right to do the same.

The principal sacrifice was the animal sacrifice. It was both costly and barbaric. In the Aryan religion there are five sacrificial animals mentioned. In this list of sacrificial animals man came first. The sacrifice of a man was the costliest. The rules of sacrifice required that the individual to be slaughtered must be neither a priest nor a slave. He must be a Kshatriya or Vaishya. According to the ordinary valuation of those times the cost of buying a man to be sacrificed was one thousand cows. Besides being costly and barbaric, it must have been revolting because the sacrificers had not only to kill the man but to eat him. Next to man came the horse. That also was a costly sacrifice because the horse was a rare and a necessary animal for the Aryans in their conquest of India. The Aryans could hardly afford such a potent instrument of military domination to be offered as sacrifice. The sacrifice must have been revolting in as much as one of the rituals in the horse-sacrifice was the copulation of the horse before it was slaughtered with the wife of the sacrificer.

The animals most commonly offered for sacrifice were of course the cattle which were used by the people for their agricultural purposes. They were mostly cows and bullocks.

The Yadnas were costly and they would have died out of sheer considerations of expense involved. But they did not. The reason is that the stoppage of Yadna involved the question of the loss of the Brahmin's fees. There could be no fees if the Yadna ceased to be performed and the Brahmin would starve. The Brahmin therefore found a substitute for the costly sacrificial animals. For a human sacrifice the Brahmin allowed as a substitute for a live man, a man of straw or metal or earth. But they did not altogether give up human sacrifice for fear that this Yadna might be stopped and they should

lose their fees. When human sacrifice became rare, animal sacrifice came in as a substitute. Animal sacrifice was also a question of expense to the laity. Here again rather than allow the sacrifice to go out of vogue, the Brahmins came forward with smaller animals for cattle just as cattle had been allowed to take the place of the man and the horse. All this was for the purpose of maintaining the *Yadna* so that the Brahmin did not lose his fees which was his maintenance. So set were the Brahmins on the continuance of the Yadna that they were satisfied with merely rice as an offering.

It must not however be supposed that the institution of substitutes of the Yadnas of the Aryans had become less horrid. The introduction of substitutes did not work as a complete replacement of the more expensive and more ghastly sacrifice by the less expensive and the more innocent. All that it meant was that the offering may be according to the capacity of the sacrificer. If he was poor his offering may be rice. If he was well to do it might be a goat. If he was rich it might be a man, horse, cow or a bull. The effect of the subsitutes was that the Yadna was brought within the capacity of all so that the Brahmin reaped a larger harvest of feast on the total. It did not have the effect of stopping animal sacrifice. Indeed animals continued to be sacrificed by the thousands.

The Yadna often became a regular carnage of cattle at which the Brahmins did the work of butchers. One gets some idea of the extent of this carnage of innocent animals from references to the Yadnas which one comes across in Buddhist literature. In the Suttanipat a description is given of the Yadna that was arranged to be performed by Pasenadi, king of Kosala. It is stated that there were tied to the poles for slaughter at the Yadna five hundred oxen, five hundred bulls, five hundred cows, five hundred goats and five hundred lambs and that the servents of the king who were detailed to do the jobs according to the orders given to them by the officiating Brahmin priests were doing their duties with tears in their eyes.

The Yadna besides involving a terrible carnage was really a kind of carnival. Besides roast meet there was drink. The Brahmins had Soma as well as Sura. The others had Sura in abundance. Almost every Yadna was followed by gambling and what is most extraordinary is that, side by side there went on also sexual intercourse in the open. Yadna had become debauchery and there was no religion left in it.

The Aryan religion was just a series of observances. Behind these observances there was no yearning for a good and a virtuous life. There was no hunger or thirst for rightousness. Their religion was without any spiritual content. The hymns of the Rig Veda furnish very

good evidence of the absence of any spiritual basis for the Aryan religion. The hymns are prayers addressed by the Aryans to their gods. What do they ask for in these prayers ? Do they ask to be kept away from temptation ? Do they ask for deliverance from evil ? Do they ask for forgiveness of sins? Most of the hymns are in praise of Indra. They praise him for having brought destruction to the enemies of the Aryans. They praise him because he killed all the pregnant wives of Krishna, an Asura. They praise him because he destroyed hundreds of villages of the Asuras. They praise him because he killed lakhs of Dasyus. The Aryans pray to Indra to carry on greater destruction among the Anaryas in the hope that they may secure to themselves the food supplies of the Anaryas and the wealth of the Anaryas. Far from being spiritual and elevating, the hymns of the Rig-Veda are saturated with wicked thoughts and wicked purposes. The Aryan religion never concerned itself with what is called a righteous life.

II

Such was the state of the Aryan Society when Buddha was born. There are two pertinent questions regarding Buddha as a reformer who laboured to reform the Aryan Society. What were the chief planks in his reform ? To what extent did he succeed in his reform movement ?

To take up the first question.

Buddha felt that for the inculcation of a good and a pure life, example was better than precept. The most important thing he did was to lead a good and a pure life so that it might serve as a model to all. How unblemished a life he led can be gathered from the *Brahma-Jala Sutta*. It is reproduced below because it not only gives an idea of the pure life that Buddha led but it also gives an idea of how impure a life the Brahmins, the best among the Aryans led.

Brahma Jala Sutta

1. Thus have I heard. The Blessed One was once going along the high road between Rajagaha and Nalanda with a great company of the brethren with about five hundred brethren. And Suppiya the mendicant too was going along the high road between Rajagaha and Nalanda with his disciple the young Brahmadatta. Now just then Suppiya the mendicant was speaking in many ways in dispraise of the Buddha, in dispraise of the Doctrine, in dispraise of the Order. But young Brahmadatta, his pupil, gave utterance, in many ways, to praise of the Buddha, to praise of the Doctrine, to praise of the Order. Thus they two, teacher and pupil, holding opinions in direct contradiction of one to the other, were following, step by step, after the Bleased one and the company of the brethren.

2. Now the Blessed one put up at the royal rest-house in the Ambalatthika pleasance to pass the night, and with him the company of the brethren. And so also did Suppiya the mendicant, and with him his young disciple Brahmadatta. And there, at the rest-houses, these two carried on the same discussion as before.

3. And in the early dawn a number of the brethren assembled as they rose up, in the pavilion; and this was the trend of the talk that sprang up among them, as they were seated there. 'How wonderful a thing is it, brethren, and how strange that the Blessed One, he who knows and sees, the Arahat, the Buddha Supreme, should so clearly have perceived how various are the inclination of men! For see how while Suppiya the mendicant speaks in many ways in dispraise of the Buddha, the Doctrine, and the Order, his own disciple, young Brahmadatta, speaks, in as many ways, in praise of them. So do these two, teacher and pupil, follow step by step after the Blessed One and the company of the brethren, giving utterance to views in direct contradiction of one to the other.

4. Now the Blessed One, on realising what was the drift of their talk, went to the pavilion, and took his seat on the mat spread out for him. And when he had sat down he said: "What is the talk on which you are engaged sitting here, and what is the subject of the conversation between you ?" And they told him all. And he said:

5. Brethren, if outsiders should speak against me, or against the Doctrine, or against the Order, you should not on that account either bear malice, or suffer heart-burning, or feel ill-will. If you, on that account, should be angry and hurt, that would stand in the way of your own self-conquest. If, when others speak against us, you feel angry at that, and displeased, would you then be able to judge how far that speach of theirs is well said or ill?

'That would not be so, Sir.'

'But when outsiders speak in dispraise of me, or of the Doctrine, or. of the Order, you should unravel what is false and point it out as wrong, saying: "For this or that reason this is not the fact, that is not so, such a thing is not found among us, is not in us."

6. But also, brethren, if outsiders should speak in praise of me, in praise of the Doctrine, in praise of the Order, you should not, on that account, be filled with pleasure or gladness, or be lifted up in heart. Were you to be so that also would stand in the way of your self-conquest. When outsiders speak in praise of me, or of the Doctrine, or of the Order, you should acknowledge what is right to be the fact, saying: "For this or that reason this is the fact, that is so, such a thing is found among us, is in us."

7. It is in respect only of trifling things, of matters of little value, of mere morality, that an unconverted man. when praising the Tathagata, would speak. And what are such trifling, minor details of mere morality that he would praise?

(4) (The Moralities. Part I).

8. "Putting away the killings of living things, Gotama the recluse holds aloof from the destruction of life. He has laid the cudgel and the sword aside, and ashamed of roughness, and full of mercy, he dwells compassionate and kind to all creatures that have life." It is thus that the unconverted man, when speaking in praise of the Tathagata, might speak.

Or he might say: "Putting away the taking of what has not been given, Gotama the recluse lived aloof from grasping what is not his own. He takes only what is given, and expecting that gifts will come, he passes his life in honesty and purity of heart."

Or he might say: "Putting away unchastity, Gotama the recluse is chaste. He holds himself aloof, far off, from the vulgar practice, from the sexual act."

9. Or he might say: "Putting away lying words, Gotama the recluse holds himself aloof from falsehood. He speaks truth from the truth he never swerves; faithful and trustworthy, he breaks not his word to the world".

Or he might say: "Putting away slander, Gotama the recluse holds himself aloof from calumny. What he hears here he repeats not elsewhere to raise a quarrel against the people here; what he hears elsewhere he repeats not here to raise a quarrel against the people there. Thus does he live as a binder together of those who are divided, an encourager of those who are friends, a peacemaker, a lover of peace, impassioned for peace, a speaker of words that make for peace."

Or he might say: "Putting away rudeness of speech, Gotama the recluse holds himself aloof from harsh language. Whatsoever word is blameless, pleasant to the ear, lovely, reaching to the heart, urbane, pleasing to the people, beloved of the people—such are words he speaks."

Or he might say: "Putting away frivolous talk, Gotama the recluse holds himself aloof from vain conversation. In season he speaks, in accordance with the facts, words full of meaning, on religion, on the discipline of the Order. He speaks, and at the right time, words worthy to be laid up in one's heart, fitly illustrated, clearly divided, to the point."

10. Or he might say: "Gotama the recluse holds himself aloof from causing injury to seeds or plants.

He takes but one meal a day, not eating at night, refraining from food after hours (after midday).

He refrains from being a spectator at shows at fairs with nautch dances, singing, and music.

He abstains from wearing, adorning, or ornamenting himself with garlands, scents, and unguents.

He abstains from the use of the large and lofty beds.
He abstains from accepting silver or gold.
He abstains from accepting uncooked grain.
He abstains from accepting raw meat.
He abstains from accepting women or girls.
He abstains from accepting bondmen or bond-women.
He abstains from accepting sheep or goats.
He abstains from accepting fowls or swine.
He abstains from accepting elephants, cattle, horses and mare.
He abstains from accepting cultivated fields or waste.
He abstains from the acting as a go-between or messenger.
He abstains from buying and selling.
He abstains from cheating with scales or bronzes or measures.
He abstains from the crooked ways of bribery, cheating, and fraud.
He abstains from maiming, murder, putting in bonds, highway robbery, dacoity, and violence."

Such are the things, brethren, which an unconverted man, when speaking in praise of the Tathagata might say.

....

Here ends the Kula Sila (the Short Paragraphs on Conduct).

.....

11. Or he might say: "Whereas some recluses and Brahmans, while living on food provided by the faithful, continue addicted to the injury of seedlings and growing plants whether propagated from roots or cuttings or joints or buddings or seeds—Gotama the recluse holds aloof from such injury to seedlings and growing plants."

12. Or he might say: "Whereas some recluses and Brahmans, while living on food provided by the faithful, continue addicted to the use of the things stored up; stores, to wit, of foods, drinks, clothing, equipages, bedding, perfumes, and curry-stuffs—Gotama the recluse holds aloof from such use of things stored up."

13. Or he might say: "Whereas some recluses and Brahmans, while living on food provided by the faithful, continue addicted to visiting shows; that is to say,

(1) Nautch dances (nakkam),

(2) Singings of songs (gitam)

(3) Instrumental music (vaditam)

(4) Shows at fairs (pekham)

(5) Ballads recitations (akkhanam)

(6) Hand music (paniseram)

(7) The chanting of bards (vetala)

(8) Tam-tam playing (kumbhathunam)

(9) Fair scences (sobhanagarkam)

(10) Acrobatic feats by Kandalas (Kandala-vamsa-dhopanam)

(11) Combats of elephants, horses, buffaloes, bulls, goats, rams, cocks and quails.

(12) Bouts at quarterstaff, boxing, wrestling.

(13)-(16) Sham-fights, roll-calls, manoeuvres, reviews.

Gotama the recluse holds aloof from visiting such shows."

14. Or he might say: "Whereas some recluses and Brahmans, while living on food provided by the faithful, continue addicted to games and recreations; that is to say,

(1) Games on boards with eight, or with ten, rows of squares.

(2) The same games played by imagining such boards in the air.

(3) Keeping going over diagrams drawn' on the ground so that one steps only where one ought to go.

(4) Either removing the pieces or men from a heap with one's nail, or putting them into a heap, in each case without shaking it. He who shakes the heap, loses.

(5) Throwing dice.

(6) Hitting a short stick with a long one.

(7) Dipping the hand with the fingers stretched out in lac, or red dye, or flour water, and striking the wet hand on the ground or on a wall, calling out 'What shall it be?' and showing the form requires—elephants, horses etc.,

(8) Games with balls.

(9) Blowing through toy pipes made of leaves.

(10) Ploughing with toy ploughs.

(11) Turning summersaults.

(12) Playing with toy windmills made of palm leaves.

(13) Playing with toy measures made of palm leaves.

(14, 15) Playing with toy carts or toy bows.

(16) Guessing at letters traced in the air, or on a playfellow's back.

(17) Guessing the playfellow's thoughts.

(18) Mimicry of deformities.

Gotama the recluse holds aloof from such games and recreations."

15. Or he might say: "Whereas some recluses and Brahmans, while living on food provided by the faithful, continue addicted to the use of high and large couches; that is to say,

(1) Moveable settees, high, and six feet long (Asandi).
(2) Divans with animal figures carved on the supports (Pallanko).
(3) Goats' hair coverings with very long fleece (Ganako).
(4) Patchwork counterpanes of many colours (Kittaka).
(5) White blankets (Patika).
(6) Woollen coverlets embroidered with flowers (Patalika).
(7) Quilts stuffed with cotton wood (Tulika).
(8) Coverlets embroidered with figures of lions, tigers, &c, (Vikatika).
(9) Rugs with fur on both sides (Uddalomi).
(10) Rugs with fur on one side (Ekantalomi).
(11) Coverlets embroidered with gems (Katthissam).
(12) Silk coverlets (Koseyyam).
(13) Carpets large enough for sixteen dancers (Kuttakam).
(14-16) Elephant, horse, and chariot rugs.
(17) Rugs of antelope skins sewn together (Aginapaveni).
(18) Rugs of skins of the plantain antelope.
(19) Carpets with awnings above them (Sauttarakkhadam).
(20) Sofas with red pillows for the head and feet. "

16. Or he might say: "Whereas some recluses and Brahmans, while living on food provided by the faithful, continue addicted to the use of means for adorning and beautifying themselves: that is to say:

Rubbing in scented powders on one's body, shampooing it, and bathing it. Patting the limbs with clubs after the manner of wrestlers. The use of mirrors, eye-ointments, garlands, rouge, cosmetics, bracelets, necklaces, walking-sticks, reed cases for drugs, rapiers, sunshades, embroidered slippers, turbans, diadems, whisks of the yak's tail, and long-fringed white robes.

Gotama the recluse holds aloof from such means of adorning and beautifying the person."

17. Or he might say: "Whereas some recluses and Brahmans while living on food provided by the faithful, continue addicted to such low conversation as these:

Tales of kings, of robbers, of ministers of state: tales of war, of terrors, of battles; talk about foods and drinks, clothes, beds, garlands, perfumes; talks about relationships, equipages, villages, towns, cities, and countries; tales about women, and about heroes; gossip at street corners, or places whence water is fetched; ghost stories; desultory

talk; speculations about the creation of the land or sea, or about existence and non-existence. Gotama the recluse holds aloof from such low conversation.

18. Or he might say: "Whereas some recluses and Brahmans, while living on food provided by the faithful, continue addicted to the use of wrangling phrases: such as:

"You don't understand this doctrine and discipline, I do."

"How should you know about this doctrine and discipline?"

"You have fallen into wrong views. It is I who am in the right."

"I am speaking to the point, you are not."

"You are putting last what ought to come first, and first what ought to come last."

"What you've excogitated so long, that's all quite upset."

"Your challenge has been taken up."

"You are proved to be wrong."

"Set to work to clear your views."

"Disentangle yourself if you can." Gotama the recluse holds aloof from such wrangling phrases."

19. Or he might say: "Whereas some recluses and Brahmans, while living on food provided by the faithful, continue addicted to taking messages, going on errands, and acting as go-betweens; to wit, on kings, ministers of state, Kshatriyas, Brahmans, or young men, saying: 'Go there, come hither, take this with you, bring that from thence.'

Gotama the recluse abstains from such servile duties."

20. Or he might say: "Whereas some recluses and Brahmans, while living on food provided by the faithful, are tricksters, droners out (of holy words for pay), diviners, and exorcists, ever hungering to add gain to gain.

Gotam the recluse holds aloof from such deception and patter."

Here ends the Majjhima Sila (the Longer Paragraphs on Conduct).

.....

21. Or he might say: "Whereas some recluses and Brahmans, while living on food provided by the faithful, earn their living by wrong means of livelihood, by low arts, such as these:

(1) Palmistry—prophesying long life, prosperity, &c, (or the reverse), from marks on a child's hands, feet, &c.

(2) Divining by means of omens and signs.

(3) Auguries drawn from thunderbolts and other celestial portents.

(4) Prognostication by interpreting dreams.

(5) Fortune-telling from marks on the body.

(6) Auguries from the marks on cloth gnawed by mice.

(7) Sacrificing to Agni.

(8) Offering oblations from a spoon.

(9-13) Making offerings to gods of husks, of the red powder between the grain and the husk, of husked grain ready for boiling, of ghee and of oil.

(14) Sacrificing by spewing mustard seeds, &c., into the fire out of one's mouth.

(15) Drawing blood from one's right knee as a sacrifice to the gods.

(16) Looking at the knuckles, &c., and, after muttering a charm, divining whether a man is well born of luck or not.

(17) Determining whether the site, for a proposed house or pleasance, is lucky or not.

(18) Advising on customary law.

(19) Laying demons in a cemetery.

(20) Laying ghosts.

(21) Knowledge of the charms to be used when lodging in an earth house.

(22) Snake charming.

(23) The poison craft.

(24) The scorpion craft.

(25) The mouse craft.

(26) The bird craft.

(27) The crow craft.

(28) Foretelling the number of years that a man has yet to live.

(29) Giving charms to ward off arrows.

(30) The animal wheel.

Gotama the recluse holds aloof from such low arts."

22. Or he might say: "Whereas some recluses and Brahmans while living on food provided by the faithful, earn their living by wrong means of livelihood, by low arts, such as these:

Knowledge of the signs of good and bad qualities in the following things, and of the marks in them denoting the health or luck of their owners: to wit, gems, staves, garments, swords, arrows, bows, other weapons, women, men, boys, girls, slaves, slave-girls, elephants, horses, buffaloes, bulls, oxen, goats, sheep, fowls, quails, iguanas, herrings, tortoises, and other animals.

Gotama the recluse holds aloof from such low arts."

23. Or he might say: "Whereas some recluses and Brahmans, while living on food provided by the faithful, earn their living by

wrong means of livelihood by low arts, such as soothsaying to the effect that:

The chiefs will march out.

The home chiefs will attack, and the enemies retreat.

The enemies' chiefs will attack, and ours will retreat.

The home chiefs will gain the victory, and ours will suffer defeat.

The foreign chiefs will gain the victory on this side, and ours will suffer defeat.

Thus will there be victory on this side, defeat on that. Gotama the recluse holds aloof from such low arts."

24. Or he might say: "Whereas some recluses and Brahmans, while living on food provided by the faithful, earn their living by wrong means of livelihood, by such low arts as foretelling:

(1) There will be an eclipse of the Moon.

(2) There wilt be an eclipse of the Sun.

(3) There will be an eclipse of a Star (Nakshatra).

(4) There will be aberration of the Sun or the Moon.

(5) The Sun or the Moon will return to its usual path.

(6) There will be aberrations of the Stars.

(7) The Stars will return to their usual course.

(8) There will be a fall of meteors.

(9) There will be a jungle fire.

(10) There will be an earthquake.

(11) The God will thunder.

(12-15) There will be rising and setting, clearness and dimness of the Sun or the Moon or the stars, or foretelling of each of these fifteen phenomena that they will betoken such and such a result." Gotama the recluse holds aloof from such low arts.

25. Or he might say: "Whereas some recluses and Brahmans, while living on food provided by the faithful, earn their living by wrong means of the livelihood, by low arts, such as these:

Foretelling an abundant rainfall.

Foretelling a deficient rainfall.

Foretelling a good harvest.

Foretelling scarcity of food.

Foretelling tranquility.

Foretelling disturbances.

Foretelling a pestilence.

Foretelling a healthy season.

Counting on the fingers.

Counting without using the fingers.

Summing up large totals.

Composing ballads, poetizing.

Casuistry, sophistry.

Gotama the recluse holds aloof from such low arts."

26. Or he might say: "Whereas some recluses and Brahmans, while living on food provided by the faithful, earn their living by wrong means of livelihood, by low arts, such as:

(1) Arranging a lucky day for marriages in which the bride or bridegroom is brought home.
(2) Arranging a lucky day for marriages in which the bride or bridegroom is sent forth.
(3) Fixing a lucky time for the conclusion of treaties of peace (or using charms to procure harmony)
(4) Fixing a lucky time for the outbreak of hostilities (or using charms to make discord).
(5) Fixing a lucky time for the calling in of debts (or charms for success in throwing dice).
(6) Fixing a lucky time for the expenditure of money (or charms to bring ill luck to an opponent throwing dice).
(7) Using charms to make people lucky.
(8) Using charms to make people unlucky.
(9) Using charms to procure abortion.
(10) Incantations to keep a man's jaws fixed.
(11) Incantations to bring on dumbness.
(12) Incantations to make a man throw up his hands.
(13) Incantations to bring on deafness.
(14) Obtaining oracular answers by means of the magic mirror.
(15) Obtaining oracular answers through a girl possessed.
(16) Obtaining oracular answers from a god.
(17) The worship of the Sun.
(18) The worship of the Great One.
(19) Bringing forth flames from one's mouth.
(20) Invoking Siri, the goddess of Luck.

Gotama the recluse holds aloof from such low arts."

27. Or he might say: "Whereas some recluses and Brahmans, while living on food provided by the faithful, earn their living by wrong means of livelihood, by low arts, such as these:

(1) Vowing gifts to a god if a certain benefit be granted.
(2) Praying such vows.
(3) Repeating charms while lodging in an earth house.
(4) Causing virility.
(5) Making a man impotent.
(6) Fixing on lucky sites for dwellings.

(7) Consecrating sites.
(8) Ceremonial rinsings of the mouth.
(9) Ceremonial bathings.
(10) Offering sacrifices.
(11-14) Administering emetics and purgatives.
(15) Purging people to relieve the head (that is by giving drugs to make people sneeze).
(16) Oiling people's ears (either to make them grow or to heal sores on them).
(17) Satisfying people's eyes (soothing them by dropping medicinal oils into them).
(18) Administering drugs through the nose.
(19) Applying collyrium to the eyes.
(20) Giving medical ointment for the eyes.
(21) Practising as an oculist.
(22) Practising as a surgeon.
(23) Practising as a doctor for children.
(24) Administering roots and drugs.
(25) Administering medicines in rotation.

Gotama the recluse holds aloof from such low arts."

'These brethren, are the trifling matters, the minor details of morality, of which the unconverted man, when praising the Tathagata, might speak.'

.....

Here end the Long Paragraphs on Conduct.

III

This was indeed the highest standard for a moral life for an individual to follow. So high a standard of moral life was quite unknown to the Aryan Society of his day.

He did not stop merely with setting an example by leading a life of purity. He also wanted to mould the character of the ordinary men and women in society. For their guidance he devised a form of baptism which was quite unknown to the Aryan Society. The baptism consisted in the convert to Buddhism undertaking to observe certain moral precepts laid down by Buddha. These precepts are known as Panch Sila or the five precepts. They are; (1) Not to kill, (2) Not to steal, (3) Not to lie, (4) Not to be unchaste and (5) Not to drink intoxicants. These five precepts were of the laity. For the Monks there were five additional precepts: (6) Not to eat at forbidden times, (7) Not to dance, sing, or attend theatrical or other spectacles, (8) To abstain from the use of garlands, scents, and ornaments, (9) To abstain from the use of high or broad beds, and (10) Never to receive money.

These *Silas* or precepts formed the moral code which it was intended should regulate the thoughts and actions of men and women.

Of these the most important one was the precept not to kill. Buddha took care to make it clear that the precept did not merely mean abstension from taking life. He insisted that the precept must be understood to mean positive sympathy, good will, and love for everything that breathes……

He gave the same positives and extended content to other precepts. One of the Buddha's lay followers once reported to him the teaching of a non-Buddhist ascetic, to the effect that the highest ideal consisted in the absence of evil deeds, evil words, evil thoughts, and evil life. The Buddha's conment upon this is significant. "If, said he, "this were true, then every suckling child would have attained the ideal of life….. life is knowledge of good and evil; and after that the exchange of evil deeds, words, thoughts, and life, for good ones. This is to be brought about only by a long and determined effort of the will"…….

Buddha's teachings were not merely negative. They are positive and constructive. Buddha was not satisfied with a man following his precepts. He insisted upon encouraging others to follow them. For example in the *Auguttara Nikaya* the Buddha is quoted as distinguishing between a good man and a very good man by saying that one who abstains from killing, stealing, unchastity, lying and drunkenness may be called good; but only he deserves to be called very good who abstains from these evil things himself and also instigates others to do the like……

As has been well said the two cardinal virtues of Buddhism are love and wisdom.

How deeply he inculcated the practice of love as a virtue is clear from his own words. "As a mother at the risk of her life watches over her own child, her only child, so also let every one cultivate a boundless loving mind towards all beings. And let him cultivate good will towards, all the world, a boundless (loving) mind above and below and across, unobstructed, without hatred, without enmity. This way of living is the best in the world." So taught Buddha[1].

> "Universal pity, sympathy for all suffering beings, good will to every form of sentient life, these things characterized the Tathagath (Buddha) as they have few others of the sons of men; and he succeeded in a most surprizing degree in handing on his point of view to his followers."[2]

[1] Sutta Nipata.

[2] Pratt—Buddhism, p. 49.

Buddha held to the doctrine of wisdom as firmly as he did to the doctrine of love. He held that moral life began with knowledge and ended with wisdom, he "came to save the world, and his method for the accomplishment of this end was the destruction of ignorance and the dissemination of knowledge as to the true values of life and the wise way to live." Buddha did not arrogate to himself the power to save people. People had to do that for themselves. And the way to save lay through knowledge. So much insistance did he place upon knowledge that he did not think that morality without knowledge was virtue.

There are three things against which Buddha carried on a great campaign.

He repudiated the authority of the Vedas.....

Secondly he denounced the *Yadna* as a form of religion. The attitude of Buddha towards Yadna is well stated in the Jatakamala in the form of a story. The story runs thus:

THE STORY OF THE SACRIFICE

Those whose hearts are pure do not act up to the enticement of the wicked. Knowing this, pure-hearted-ness is to be striven after. This will be taught by the following:

Long ago the Bodhisattva, it is said, was a king who had obtained his kingdom in the order of hereditary succession. He had reached this state as the effect of his merit, and ruled his realm in peace, not disturbed by any rival, his sovereignty being universally acknowledged. His country was free from any kind of annoyance, vexation or disaster, both his home relations and those with foreign countries being quite in every respect; and all his vessels obeyed his commands.

1. This monarch having subdued the passions, his enemies, felt no inclination for such profits as are to be blamed when enjoyed, but was with his whole heart intent on promoting the happiness of his subjects. Holding virtuous practice (dharma) the only purpose of his actions, he behaved like a Muni.

2. For he knew the nature of mankind, that people set a high value on imitating the behaviour of the highest. For this reason, being desirous of bringing about salvation for his subjects, he was particularly attached to the due performance of his religious duties.

3. He practised almsgsiving, kept strictly the precepts of moral conduct (sila), cultivated forbearance, strove for the benefit of the creatures. His mild countenance being in accordance with his thoughts devoted to the happiness of his subjects, he appeared like the embodied Dharma.

Now it once happened that, though protected by his arm, his realm, both in consequence of the faulty actions of its inhabitants and inadvertance on the part of the angels charged with the care of rain, was afflicted in several districts by drought and the troublesome effects of such a disaster. Upon this the king, fully convinced that his plague had been brought about by the violation of righteousness by himself or his subjects, and taking much to heart the distress of his people, whose welfare was the constant object of his thoughts and cares, took the advice of men of acknowledged competence, who were reputed for their knowledge in matters of religion. So keeping counsel with the elders among the Brahmans, headed by his family priest (purohita) and his ministers, he asked them for some means of putting an end to that calamity. Now they believing a solemn sacrifice as is enjoined by the Veda to be a cause of abundant rain, explained to him that he must perform such a sacrifice of a frightful character, inasmuchas it requires the massacre of many hundreds of living beings. But after being informed of everything concerning such a slaughter as is prescribed for the sacrifice, his innate compassionateness forbade him to approve of their advice in his heart; yet out of civility, unwilling to offend them by harsh words of refusal, he slipped over this point, turning the conversation upon other topics. They, on the other hand, no sooner caught the opportunity of conversing with the king on matters of religion, than they once more admonished him to accomplish the sacrifice, for they did not understand his deeply hidden mind.

4. "You constantly take care not to neglect the proper time of performing your different royal duties, established for the sake of obtaining the possession of land and ruling it. The due order of these actions of yours is in agreement with the precepts of Righteousness (dharma).

5. "How then is this that you who (in all other respects) are so clever in the observance of the triad (of dharma, artha, and kama), bearing your bow to defend the good of your people, are so careless and almost sluggish as to that bridge to the world of the Devas, the name of which is 'sacrifice'?

6. "Like servants, the kings (your vassel) revere your commands, thinking them to be the surest gage of success. Now the time is come, O destroyer of your foes, to gather by means of sacrifice superior blessings, which are to procure for you a shining glory.

7, 8. 'Certainly, that holiness which is the requisite for a dikshita is already yours, by reason of your habitual practice of charity and your strictness in observing the restraint (of good conduct). Nevertheless, it

would be fit for you to discharge your debt to the Devas by such sacrifices as are the subject matter of the Veda. The deities being satisfied by duly and faultlessly performed sacrifice, honour the creatures in return by (sending) rain. Thus considering, take to mind the welfare of your subjects and your own, and consent to the performance of a regular sacrifice which will enhance your glory.'

Thereupon he entered upon this thought; 'Very badly guarded is my poor person indeed, being given in trust to such leaders. While faithfully believing and loving the law, I should uproot my virtue of tenderheartedness by reliance upon the words of others. For, truly.'

9. Those who are reputed among men to be the best refuge are the very persons who intend to do harm, borrowing their arguments from the Law. Alas! such a man who follows the wrong path shown by them, will soon find himself driven to straits, for he will be surrounded by evils.

10. What connections may there be, forsooth, between righteousness and injuring animals? How my residence in the world of the Devas or propitiation of the deities have anything to do with the murder of victims?

11, 12. The animal slaughtered according to the rites with the prescribed prayers, as if those sacred formulas were so many darts to wound it, goes to heaven, they say, and with this object it is killed. In this way that action is interpreted to be done according to the Law. Yet it is a lie. For how is it possible that in the next world one should reap the fruits of what has been done by others ? And by what reason will the sacrificial animal mount to heaven, though he has not abstained from wicked actions, though he has not devoted himself to the practice of good ones, simply because he has been killed in sacrifice, and not on the ground of his own actions?

13. And should the victim killed in sacrifice really go to heaven, should we not expect the Brahmans to offer themselves to be immolated in sacrifice? A similar practice, however, is nowhere seen among them. Who, then, may take to heart the advice proffered by these counsellors?

14. As to the Celestials, should we believe that they who are wont to enjoy the fair ambrosia of incomparable scent, flavour, magnificence, and effective power, served to them by the beautiful Apsaras, would abandon it to delight in the slaughter of a pitiable victim, that they might feast on the omentum and such other parts of his body as are offered to them in sacrifice?

'Therefore, it is the proper time to act so and so.' Having thus made up his mind, the king feigned to be eager to undertake the sacrifice;

and in approval of their words he spoke to them in this manner; 'Verily, well protected am I, well gratified, having such counsellors as Your Lordships are, thus bent on securing my happiness ! Therefore I will have a human sacrifice (purushamedha) of a thousand victims performed. Let my officials, each in his sphere of business, be ordered to bring together the requisites necessary for that purpose. Let also an inquiry be made of the most fitting ground whereon to raise the tents and other buildings for the sattra. Further, the proper time for the sacrifice must be fixed (by the astrologers) examining the auspicious lunar days, karanas, muhurtas, and constellations.' The purohtta answered; 'In order to succeed in your enterprise, Your Majesty ought to take the Avabhritha (final bath) at the end of one sacrifice; after which you may successively undertake the others. For if the thousand human victims were to be seized at once, your subjects, to be sure, would blame you and be stirred up to great agitation on their account.' These words of the purohita having been approved by the (other) Brahmans, the king replied: 'Do not apprehend the wrath of the people, Reverands. I shall take such measures as to prevent any agitation among my subjects.'

After this the king convoked an assembly of the townsmen and the landsmen, and said: "I intend to perform a human sacrifice of a thousand victims. But nobody behaving honestly is fit to be designated for immolation on my part. With this in mind, 1 give you this advice: Whomsoever of you I shall henceforword perceive transgreassing the boundaries of moral conduct, despising my royal will, him I order to be caught to be a victim at my sacrifice, thinking such a one the stain of his family and a danger to my country. With the object of carrying this resolution into effect, I shall cause you to be observed by faultless and sharp-sighted emissaries, who have shaken off sleepy carelessness and will report to me concerning your conduct.'

Then the foremost of the assembly, folding their hands and bringing them to their foreheads, spoke:

15, 16. 'Your Majesty, all your actions tend to the happiness of your subjects, what reason can there be to despise you on that account? Even (God) Brahma cannot but sanction your behaviour. Your Majesty, who is the authority of the virtuous, be our highest authority. For this reason anything which pleases Your Majesty must please us too. Indeed, you are pleased with nothing else but our enjoyment and our good.'

After then, noteables both of the town and the country had accepted his command in this manner; the king dispersed about his towns and all over his country, officers notified as such by their outward

appearance to the people, with the charge of laying hold of the evil doers, and everywhere he ordered proclamations to be made by beat of drum day after day, of this kind:

17. The King, a granter of security as he is, warrants safety to every one who constantly cultivates honesty and good conduct, in short, to the virtuous, yet, intending to perform a human sacrifice for the benefit of his subjects, he wants human victims by thousands to be taken out of those who delight in misconduct.

18. 'Therefore, whosoever henceforward, licentiously indulging in misbehaviour, shall disregard the command of our monarch, which is even observed by the kings, his vassels, shall be brought to the state as a sacrificial victim by the very force of his own actions, and people shall witness his miserable suffering, when he shall pine with pain, his body being fastened to the sacrificial post.'

When the inhabitants of that realms became aware of their king's careful search after evil-doers with the aim of destining them to be victims at his sacrifice—for they heard the most frightful royal proclamation day after day and saw the king's servants, who were appointed to look out for wicked people and to seize them, appearing every now and then everywhere—they abandoned their attachment to bad conduct, and grew intend on strictly observing the moral precepts and self-control. They avoided every occasion of hatred and enmity, and settling their quarrels and differences, cherished mutual love and mutual esteem. Obedience to the words of parents and teachers, a general spirit of liberality and sharing with others, hospitality, good manners, modesty, prevailed among them. In short, they lived as it were in the Krita Yuga.

19. The fear of death had awakened in them thoughts of the next world; the risk of tarnishing the honour of their families had stirred their care of guarding their reputation; the great purity of their hearts had strengthened their sense of shame. These factors being at work, people were soon distinguished by their spotless behaviour.

20. Even though every one became more than ever intend on keeping a righteous conduct, still the king's servants did not diminish their watchfulness in the pursuit of the evil-doers. This also contributed to prevent people from falling short of righteousness.

21. The king, learning from his emissaries this state of things in his realm, felt extremely rejoiced. He bestowed rich presents on those messengers as a reward for the good news they told him, and enjoined his ministers, speaking something like this:

22-24. 'The protection of my subjects is my highest desire, you know. Now, they have become worthy to be recipients of sacrificial

gifts, and it is for the purpose of my sacrifice that I have provided this wealth. Well, I intend to accomplish my sacrifice in the manner which I have considered to be the proper once. Let every one who wishes for money, that it may be fuel for his happiness, come and accept it from my hand to his heart's content. In this way the distress and poverty, which is vexing our country, may be soon driven out. Indeed, whenever I consider my own strong determination to protect my subjects and the great assistance I derive from you, my excellent companions in that task, it often seems to me as though those sufferings of my people, by exciting my anger, were burning in my mind like a blazing fire.'

The ministers accepted the royal command and anon went to execute it. They ordered alms-halls to be established in all villages, towns, and markets, likewise at all stations on the roads. This being done, they caused all who begged in order to satisfy their wants, to be provided day after day with a gift of those objects, just as had been ordered by the king.

25. So poverty disappeared, and the people, having received wealth from the part of the king, dressed and adorned with manifold and fine garments and ornaments, exhibited the splendour of festival days.

26. The glory of the king, magnified by the eulogies of the rejoiced recipients of his gifts, spread about in all directions in the same way, as the flowerdust of the lotuses carried forth by the small waves of a lake, extends. itself over a larger and larger surface.

27. And after the whole people, in consequence of the wise measures taken by their ruler, had become intent on virtuous behaviour, the plagues and calamities, overpowered by the growth of all such qualities as conduce to prosperity, faded away, having lost their hold.

28. The seasons succeeded each other in due course, rejoicing everybody by their regularity, and like kings newly established, complying with the lawful order of things. Consequently the earth produced the various kinds of corn in abundance, and there was fulness of pure and blue water and lotuses in all waterbasins.

29. No epidemics afflicted mankind; the medicinal herbs possessed their efficacious virtues more than ever; monsoons blew in due time and regularly; the planets moved along in auspicious paths.

30. Nowhere there existed any danger to be feared, either from abroad, or from within, or such as might be caused by dangerous derangements of the elements. Continuing in righteousness and self-control, cultivating good behaviour and modesty, the people of that country enjoyed as it were the prerogatives of the Krita Yuga.

By the power, then, of the king performing his sacrifice in this manner in accordance with (the precepts of) the Law, the. sufferings of the indigent were put to an end together^ with the plagues and calamities, and the country abounded in a prosperous and thriving population offering the pleasing aspect of felicity. Accordingly people never wearied of repeating benedictions on their king and extending his renown in all directions.

One day, one of the highest royal officials, whose heart had been inclined to the (True) Belief, spoke thus to the king: "This is a true saying, in truth.

31. "Monarchs, because they always deal with all kinds of business, the highest, the lowest, and the intermediate, by far surpass in their wisdom any wise men.

"For, Your Majesty, you have obtained the happiness of your subjects both in this world and in the next, as the effect of your sacrifice being performed in righteousness, free from the blameable sin of animal-slaughter. The hard times are all over and the sufferings of poverty have ceased, since men have been established in the precepts of good conduct. Why use many words? Your subjects are happy.

32. "The black antelope's skin which covers your limbs has the resemblane of the spot on the bright Moon's surface, nor can the natural loveliness of your demeanour be hindered by the restraint imposed on you by your being a dikshita. Your head, adorned with such hair-dress as is in compliance with the rites of the diksha, possesses no less lustre than when it was embellished with the splendour of the royal umbrella. And, last not least, by your largesses you have surpassed the renown and abated the pride of the famous performer of a hundred sacrifices.

33. "As a rule, Oh, you wise ruler, the sacrifice of those who long for the attainment of some good, is a vile act, accompanied as it is by injury done to living beings. Your sacrifice, on the contrary, this monument of your glory, is in complete accordance with your lovely behaviour and your aversion to vices.

34. "Oh! Happy are the subjects who have their protector in you ! It is certain that no father could be a better guardian to his children."

Another said:

35." If the wealthy practise charity, they are commonly impelled to do so by the hopes they put in the cultivation of that virtue; good conduct too, may be accounted for by the wish to obtain high regard among men or the desire of reaching heaven after death. But such a practice of both, as is seen in your skill in securing the benefit of others, cannot be found but in those who are accomplished both in

learning and in virtuous exertions." In such a way, then, those whose hearts are pure do not act up to the enticement of the wicked. Knowing this, pure-heartedness is to be striven after."

(In the spiritual lessons for princes, also this is to be said:

'Who to his subjects wishing good, himself exerts,
Thus brings about salvation, glory, happiness.
No other should be of a king the business.'

And it may be added as follows: '(The prince) who strives after material prosperity, ought to act in accordance wih the precepts of religion, thinking, a religious conduct of his subjects to be the source of prosperity.'

Further this is here to be said: 'Injuring animals never tends to bliss, but charity, self-restraint, continence and the like have this power; for this reason he who longs for bliss must devote himself to these virtues. 'And also when discoursing on the Tathagata : 'In this manner the Lord showed his inclination to care for the interests of the world, when he was still in his previous existences.')

IV

Another powerful attack against Yadna is contained in his discourses known as Kutadanta Sutta. It is as follows:

THE WRONG SACRIFICE AND THE RIGHT

1. Thus have I heard. The Blessed One once, when going on a tour through Magadha, with a great multitude of the brethren, with about five hundred brethren, came to a Brahman village in Magadha called Khanumata. And there at Khanumata he lodged in the Ambalatthika pleasance.

Now at that time the Brahman Kutadanta was dwelling at Khanumata, a place teeming with life, with much grassland and woodland and water and corn, on a royal domain presented him by Seniya Bimbisara the king of Magadha, as a royal gift, with power over it as if he were the king.

And just then a great sacrifice was being got ready on behalf of Kutadanta the Brahman. And a hundred bulls, and a hundred steers, and a hundred heifers, and a hundred goats, and a hundred rams had been brought to the post for the sacrifice.

2. Now the Brahmans and householders of Khanumata heard the news of the arrival of the Samana Gotama. And they began to leave Khanumata in companies and in bonds to go to the Ambalatthika pleasance.

3. And just then Kutandanta the Brahman had gone apart to the upper terrace of his house for his siesta; and seeing the people thus to go by, he asked his door-keeper the reason. And the doorkeeper told him.

4. Then Kutandanta thought: 'I have heard that the Samana Gotama understands about the successful performance of a sacrifice with its threefold method and its sixteen accessory instruments. Now I don't know all this, and yet I want to carry out a sacrifice. It would be well for me to go to the Samana Gotama, and ask him about it.'

So he sent his doorkeeper to the Brahmans and householders of Khanumata, to ask them to wait till he could go with them to call upon the Blessed One.

5. But there were at that time a number of Brahmans staying at Khanumata to take part in the great sacrifice. And when they heard this they went to Kutadanta, and persuaded him on the same grounds as the Brahmans had laid before Sonadanda, not to go. But he answered them in the same terms as Sonadanda had used to those Brahmans. Then they were satisfied, and went with him to call upon the Blessed One.

9. And when he was seated there Kutadanta the Brahman told the Blessed One what he had heard, and requested him to tell him about success in performing a sacrifice in its three modes and with its accessory articles of furniture of sixteen kinds.

'Well then, O Brahman, give ear and listen attentively and I will speak.'

'Very well, Sir, 'said Kutadanta in reply; and the Blessed One spoke as follows:

10. 'Long ago, O Brahman, there was a king by name Wide-realm(Maha Vigha), mighty, with great wealth and large property; with stores of silver and gold, of aids to enjoyment, of goods and corn; with his treasure-houses and his garners full. Now when King Wide-realm was once sitting alone in meditation, he became anxious at the thought: "I have in abundance all the good things a mortal can enjoy. The whole wide circle of the earth is mine by conquest to possess.' Twere well if I were to offer a great sacrifice that should ensure me weal and welfare for many days."

And he had the Brahman, his chaplain, called; and telling him all that he had thought, he said: "Be I would fain, O Brahman, offer a great sacrifice-let the venerable one instruct me how-for my weal and my welfare for many days."

11. Thereupon the Brahman who was chaplain said to the king: "The king's country. Sirs, is harrassed and harried. There are decoits

abroad who pillage the villages and townships, and who make the roads unsafe. Were the king, so long as that is so, to levy a fresh tax, verily his majesty would be acting wrongly. But perchance his majesty might think: 'I'll soon put a stop to these scoundrels' game by degradation and banishment, and fines and bonds and death!' But their license cannot be satisfactorily put a stop to. The remnant left unpunished would still go on harassing the realm. Now there is one method to adopt to put a thorough end to this disorder. Whosoever there be in the king's realm who devote themselves to keeping cattle and the farm, to them let his majesty the king give food and seed-corn. Whosoever there be in the king's realm who devote themselves to trade, to them let his majesty the king give capital. Whosoever there be in the king's realm who devote themselves to government service, to them let his majesty the king give wages and food. Then those men following each his own business, will no longer harass the realm; the king's revenue will go up; the country will be quiet and at peace; and the populace, pleased one with another and happy; dancing their children in their arms, will dwell with open doors."

'Then King Wide-realm, O Brahman, accepted the word of his chaplain, and did as he had said. And those men, following each his business, harassed the realm no more. And the King's revenue went up. And the country became quiet and at peace. And the populace pleased one with another and happy, dancing their children in their arms, dwelt with open doors.'

12. 'So King Wide-realm had his chaplain called, and said: "The disorder is at an end. The country is at peace. I want to offer that great sacrifice—let the venerable one instruct me how—for my weal and my welfare for many days."

'Then let his majesty the king send invitations to whomsoever there may be in his realm who are Kshatriyas, vassals of his, either in the country or the towns; or who are ministers and officials of his, either in the country or the towns; or who are Brahmans of position, either in the country or the towns; or who are householders of substance, either in the country or the towns, saying: "I intend to offer a great sacrifice. Let the venerable ones give their sanction to what will be to me for weal and welfare for many days."

'Then King Wide-realm, O Brahman, accepted the word of his chaplain, and did as he had said. And they each—Kshatriyas and ministers and Brahmans and householders—made alike reply: "Let his majesty the king celebrate the sacrifice. The time is suitable O King!"

'Thus did these four, as colleagues by consent, become wherewithal to furnish forth that sacrifice,

13. 'King Wide-realm was gifted in the following eight ways:

'He was well born on both sides, on the mother's side and on the father's, of pure descent back through seven generations, and no slur was cast upon him, and no reproach, in respect of birth.'

'He was handsome, pleasant in appearance, inspiring trust, gifted with great beauty of complexion, fair in colour, fine in presence, stately to behold.'

'He was mighty, with great wealth, and large property, with stores of silver and gold, of aids to enjoyment, of goods and corn, with his treasure-houses and his garners full'

'He was powerful, in command of an army, loyal and disciplined in four divisions (of elephants, cavalry, chariots, and bowmen), burning up, methinks, his enemies by his very glory.'

'He was a believer, and generous, a noble giver, keeping open house, a well in spring whence Samanas and Brahmans, the poor and the wayfarers, beggars, and petitioners might draw, a doer of good deeds.'

'He was learned in all kinds of knowledge.'

'He knew the meaning of what had been said, and could explain, "This saying has such and such a meaning, and that such and such ".

'He was intelligent, expert and wise and able to think out things present or past or future.

'And these eight gifts of his, too, became where withal to furnish forth that sacrifice.'

14. 'The Brahman, his chaplain was gifted in the following four ways:

'He was well born on both sides, on the mother's and on the father's, of pure descent back through seven generations, with no slur cast upon him, and no reproach in respect of birth.

'He was a student repeater who knew the mystic verses by heart, master of the three Vedas, with the indices, the ritual, the phonology, and the exegesis (as a fourth), and the legends as a fifth, learned in the idioms and the grammar, versed in Lokayata (Mature-lore) and in the thirty marks on the body of a great man.

'He was virtuous, established in virtue, gifted with virtue that had grown great.

'He was intelligent, expert, and wise; foremost, or at most the second, among those who hold out the ladle.

'Thus these four gifts of his, too became wherewithal to furnish forth that sacrifice.'

15. 'And further, O Brahman, the chaplain, before the sacrifice had begun, explained to King Wide-realm the three modes:

'Should his majesty the King, before starting on the great sacrifice, feel any such regret as : "Great, alas, will be the portion of my wealth used up herein," let not the king harbour such regret. Should his majesty the King, whilst he is offering the great sacrifice, feel any such regret as: "Great, alas, will be the portion of my wealth used up herein "let not the king harbour such regret. Should his majesty the King, when the great sacrifice has been offered, feel any such regret as "Great, alas, will be the portion of my wealth used up herein," let not the king harbour such regret.'

'Thus did the chaplain, O Brahman, before the sacrifice, had begun, explained to King Wide-realm the three modes.'

16. 'And further, O Brahman, the chaplain, before the sacrifice had begun, in order to prevent any compunction that might afterwards in ten ways, arise as regards those who had taken part therein, said: "Now there will come to your sacrifice, Sire, men who destroy the life of living things, and men who refrain therefrom, men who take what has not been given, and men who refrain therefrom, men who speak lies, and men who do not—men who slander and men who do not—men who speak rudely and men who do not—men who chatter vain things and men who refrain therefrom—men who covet and men who covet not—men who harbour illwill and men who harbour it not—men whose views are wrong and men whose views are right. Of each of these let them, who do evil, alone with their evil. For them who do well let your majesty offer, for them, Sire, arrange the rites, for them let the king gratify, in them shall our heart within find peace."

17. 'And further, O Brahman, the chaplain, whilst the king was carrying out the sacrifice, instructed and aroused and incited and gladdened his heart in sixteen ways: "Should there be people who should say of the king, as he is offering the sacrifice: 'King Wide-realm is celebrating sacrifice without having invited the four classes of his subjects, without himself having the eight personal gifts, without the assistance of a Brahman who has the four personal gifts.' Then would they speak not acording to the fact. For the consent of the four classes has been obtained, the king had the eight, and his Brahman has the four, personal gifts. With regard to each and every one of these sixteen conditions the king may rest assured that it has been fulfilled. He can sacrifice, and be glad, and possess his heart in peace."

18. 'And further, O Brahman, at that sacrifice neither were any oxen slain, neither goats, nor fowls, nor fatted pigs, nor were any kinds of living creatures put to death. No trees were cut down to be used as posts, no Dabha grasses mown to strew around the sacrificial spot. And the slaves and messengers and workmen there employed were

driven neither by rods nor fear, nor carried on their work weeping with tears upon their faces. Whoso chose to help, he worked; whoso chose not to help, worked not. What each chose to do he did; what they chose not to do, that was left undone, With ghee and oil, and butter and milk, and honey and sugar only was that sacrifice accomplished.

19. 'And further, O Brahman, the Kshatriya vassels, and the ministers and officials, and the Brahmans of position, and the householders of substance, whether of the country or of the towns, went to King, Wide-realm, taking with them much wealth, and said," This abundant wealth, Sire, have we brought hither for the king's use. Let his majesty accept it at our hands!"

"Sufficient wealth have I, my friends, laid up, the produce of taxation that is just. Do you keep yours, and take away more with you!"

When they had thus been refused by the king, they went aside, and considered thus one with the other: "It would not beseem us now, were we to take this wealth away again to our own homes. King Wide-realm is offering a great sacrifice. Let us too make an after-sacrifice!"

20. 'So the Kshatriyas established a continual largesses to the east of the king's sacrificial pit, and the officials to the south thereof, and the Brahmans to the west thereof, and the householders to the north thereof. And the things given, and the manner of their gift, was in all respects like unto the great sacrifice of King Wide-realm himself.'

'Thus, O Brahman, there was a fourfold co-operation, and King Wide-realm was gifted with eight personal gifts, and his officiating Brahman with four. And there were three modes of the giving of that sacrifice. This, O Brahman, is what is called the due celebration of a sacrifice in its threefold mode and with its furniture of sixteen kinds.

21. 'And when he had thus spoken, those Brahmans lifted up their voices in tumult, and said: "How glorious the sacrifice, how pure its accomplishment!" But Kutadanta the Brahman sat there in silence.

Then those Brahmans said to Kutadanta: 'Why do you not approve the good words of the Samana Gotama as well-said?'

'I do not fail to approve; for he who approves not as well-said that which has been -well spoken by the Samana Gotama, verily his head would split in twain. But I was considering that the Samana Gotama does not say: "Thus have 1 heard," nor "Thus behoves it to be," but says only, "Thus it was then," or "It was like that then". So I thought; "For a certainty the Samana Gotama himself must at that time have been King Wide-realm, or the Brahman who officiated for him at that sacrifice. Does the Venerable Gotama admit that he who celebrates such a sacrifice, or causes it to be celebrated, is reborn at the

dissolution of the body, after death, into some state of happiness in heaven ?"

'Yes, O Brahman, that I admit. And at that time I was the Brahman who, as chaplain, had that sacrifice performed.'

22. 'Is there, O Gotama, any other sacrifice less difficult and less troublesome, with more fruit and more advantage still than this?'

'Yes, O Brahman, there is.'

'And what, O Gotama, may that be?'

'The perpetual gifts kept up in a family where they are given specifically to virtuous recluses.'

23. 'But what is the reason, O Gotama, and what the cause, why such perpetual giving specifically to virtuous recluses, and kept up in a family, are less difficult and troublesome of greater fruit and greater advantage than that other sacrifice with its three modes and its accessories of sixteen kinds?'

'To the latter sort of sacrifice, O Brahman, neither will the Arhata go, nor such as have entered on the Arhat way. And why not ? Because in it beating with sticks takes place, and seizing by the throat. But they will go to the former, where such things are not. And therefore are such perpetual gifts above the other sort of sacrifice.'

24. 'And is there, O Gotama, any other sacrifice less difficult and less troublesome, of greater fruit and of greater advantage than either of these.'

'Yes, O Brahman, there is.'

'And what, O Gotama, may that be ?'

'The putting up of a dwelling place (Vihara) on behalf of the Order in all the four directions.'

25. 'And is there, O Gotama, any other sacrifice less difficult and less troublesome, of greater fruit and of greater advantage than each and all of these three?'

'Yes, O Brahman, there is.'

'And what, O Gotama, may that be?'

'He who with trusting heart takes a Buddha as his guide, and the Truth, and the Order—that is a sacrifice better than open largeses, better than perpetual alms, better than the gift of a dwelling place.'

26. 'And is there, O Gotama, any other sacrifice less difficult and less troublesome, of greater fruit and of greater advantage than all these four?'

'When a man with trusting heart takes upon himself the precepts-abstinence from destroying life; absitence from taking what has not been given; abstinence from evil conduct in respect of lusts; abstinence from lying words; abstinence from strong, intoxicating, maddening

drinks, the root of carelessness, that is a sacrifice better than open largesses, better than perpetual alms, better than the gift of dwelling places, better than accepting guidance.'

27. 'And is there, O Gotama; any other sacrifice less difficult and less troublesome, of greater fruit and of greater advantage than all these five?'

'Yes, O Brahman, there is.'

'And what, O Gotama, may that be-?'

(The answer is the long passage from the Samana-phale Sutta 40, p. 62 (of the text,) down to 75 (p. 74) on the First Ghana, as follows:

1. The Introductory paragraphs on the appearance of a Buddha, his preaching, the conversion of a hearer, and his renunciation of the world.

2. The Silas (minor morality).

3. The paragraph on Confidence.

4. The paragraph on 'Guarded is the door of his senses.'

5. The paragraph on 'Mindful and self possessed.'

6. The paragraph on Content.

7. The paragraph on Solitude.

8. The paragraph on the Five Hindrances.

9. The description of the First Ghana.)

'This, O Brahman, is a sacrifice less difficult and less troublesome, of greater fruit and greater advantage than the previous sacrifices,

(The same is then said the Second, Third, and Fourth Ghanas, in succession (as in the Samannao-phalo Sutas 77-82) and of the Insight arising from knowledge *(ibid* 83, 84), and further (omitting direct mention either way of 85-96 inclusive) of the knowledge of the destruction of the Asavas, the deadly intoxications or floods *(ibid.* 97-98).

'And there is no sacrifice man can celebrate, O Brahman, higher and sweeter than this.'

28. And when he had thus spoken, Kutadanta the Brahman said to the Blessed One:

'Most excellent, O Gotama, are the words of thy mouth, most excellent! Just as if a man were to set up what has been thrown down, or were to reveal that which has been hidden away, or were to point out the right road to him who has gone astray, or were to bring a light into the darkness so that those who had eyes could see external forms—just even so has the truth been made known to me in many a figure by the Venerable Gotama. I, even I, betake myself to the Venerable Gotama as my guide, to the Doctrine and the Order. May the Venerable One accept me as a disciple, as one who, from this day

forth, as long as life endures has taken him as his guide. And I myself, O Gotama, will have the seven hundred bulls, and the seven hundred steers, and the seven hundred heifers, and the seven hundred goats, and the seven hundred rams set free. To them I grant their life. Let them eat green grass and drink fresh water, and may cool breezes waft around them.'

29. Then the Blessed One discoursed to Kutadanta the Brahman in due order; that is to say, he spake to him of generosity, of right conduct, of heaven, of the danger, the vanity, and the defilement of lusts, of the advantages of rununciation. And when the Blessed One became aware that Kutadanta the Brahman had become prepared, softened, unprejudiced, upraised, and believing in heart then did he proclaim the doctrine the Buddhas alone have won; that is to say, the doctrine of sorrow, of its origin, of its cessation and of the Path. And just as a clean cloth, with all stains in it washed away, will readily take the dye, just even so did Kutadanta the Brahman, even while seated there, obtain the pure and spotless Eye for the Truth. And he knew whatsoever has a beginning, in that is inherent also the necesity of dissolution.

30. And then the Brahman Kutadanta, as one who had seen the Truth, had mastered it, understood it, dived deep down into it. Who had passed beyond doubt, and put away perplexity and gained full confidence, who had become depedent on no other for his knowledge of the teaching of the Master, addressed the Blessed One and said:

'May the venerable Gotama grant me the favour of taking his tomorrow meal with me, and also the members of the Order with him.'

And the Blessed One signified, by silence, his consent. Then the Brahman Kutadanta, seeing that the Blessed One had accepted, rose from his seat, and keeping his right towards him as he passed, he departed thence. And at daybreak he had sweet food, both hard and soft, made ready at the pit prepared for his sacrifice and had the time announced to the Blessed One:' It is time, O Gotama and the meal is ready.' And the Blessed One, who had dressed early in the morning, put on his outer robe, and taking his bowl with him, went with the brethren to Kutadanta's sacrificial pit, and sat down there on the seat prepared for him. And Kutadanta the Brahman satisfied the brethren with the Buddha at their head, with his own hand, with sweet food, both hard and soft, till they refused any more. And when the Blessed One had finished his meal, and cleansed the bowl and his hands, Kutadanta the Brahman took a low seat and seated himself beside him. And when he was thus seated, the Blessed One instructed and aroused

and incited and gladdened Kutadanta the Brahman with religious discourse; and then arose from his seat and departed thence.

KUTADANTA SUTTA IS ENDED

V

Thirdly Buddha denounceed the caste system. The Caste System in its present form was not then existing. The bar against inter-dining and inter-marriage had not then become operative. Things were flexible and not rigid as they are now. But the principle of inequality which is the basis of the caste system had become well established and it was against this principle that Buddha carried on a determined and a bitter fight. How strongly was he opposed to the pretensions of the Brahmins for superiority over the other classes and how convincing were the grounds of his opposition are to be found in many of his dialogues. The most important one of these is known as the Ambattha Sutta.

AMBATTHA SUTTA

(A young Brahman's rudeness and an old one's faith).

1. Thus have I heard. The Blessed One when once on a tour through the Kosala country with a great company of the brethren, with about five hundred brethern, arrived at a Brahman village in Kosala named Ikkhanankala; and while there he stayed in the Ikkhanankala Wood.

Now at that time the Brahman Pokkharsadi was dwelling at Ukkattha, a spot teeming with life, with much grassland and woodland and corn, on a royal domain, granted him by King Pasenadi of Kosala as royal gift, with power over it as if he were the king.

2. Now the Brahman Pokkharasadi heard the news: 'They say that the Samana Gotama, of the Sakya clan, who went out from a Sakya family to adopt the religious life, has now arrived, with a great company of the brethren of his Order, at Ikkhanankala, and is staying there in the Ikkhanankala Wood. Now regarding that venerable Gotama, such is the high reputation that has been noised abroad: The Blessed One is an Arahat, a fully awakened one, abounding in wisdom and goodness, happy, with knowledge of the worlds, unsurpassed as a guide to mortals willing to be led, a teacher for gods and men, a Blessed One, a Buddha. He, by himself, thoroughly knows and sees, as it were, face to face this universe, including the worlds above of the gods, the Brahmans, and the Maras, and the world below with its recluses and Brahmans, its princes and peoples, and having known it,

he makes his knowldge known to others. The truth, lovely in its origin, lovely in its progress, lovely in its consummation, doth he proclaim, both in the spirit and in the letter, the higher life doth he make known, in all its fullness and in all its purity.

'And good is it to pay visits to Arahats like that.'

3. Now at the time a young Brahman, an Ambattha, was a pupil under Pokkharasadi the Brahman. And he was a repeater (of the sacred words) knowing the mystic verses by heart, one who had mastered the Three Vedas, with the indices, the ritual, the phonology, and the exegesis (as a fourth), and the legends as a fifth learned in the idioms and the grammar, versed in Lokayata sophistry and in the theory of the signs on the body of a great man—so recognised an authority in the system of the threefold Vedic knowledge as expounded by his master, that he could say of him: 'What I know that you know, and what you know that I know.'

4. And Pokkharasadi told Ambattha the news, and said : 'Come now, dear Ambattha, go to the Samana Gotama, and find out whether the reputation so noised abroad regarding him is in accord with the facts or not, whether the Samana Gotama is such as they say or not'.

5. 'But how, Sir, shall I know whether that is so or not ?'

'There have been handed down, Ambattha, in our mystic verses thirty-two bodily signs of a great man,—signs which, if a man has, he will become one of two things, and no other. If he dwells at home he will become a sovereign of the world, a righteous king, bearing rule even to the shores of the four great oceans, a conqueror, the protector of his people, possessor of the seven royal treasures. And these are the seven treasures that he has the Wheel, the Elephant, the Horse, the Gem, the Woman, the Treasurer, and the Adviser as a seventh. And he has more than a thousand sons, heroes, mighty in frame, beating down the armies of the foe. And he dwells in complete ascendancy over the wide earth from sea to sea, ruling it in righteousness without the need of baton or of sword. But if he go forth from the household life into the houseless state, then he will become a Buddha who removes the veil from the eyes of the world. Now I, Ambattha, am a giver of the mystic verses; you have received them from me.'

6. 'Very good Sir, said Ambattha in reply; and rising from his seat and paying reverence to Pokkharasadi, he mounted a chariot drawn by mares, and proceeded, with a retinue of young Brahmans, to the Ikkhanankala Wood. And when he had gone on in the chariot as far as the road was practicable for vehicles, he got down, and went on, into the park, on foot.

7. Now at that time a number of the brethren were walking up and down in the open air. And Ambattha went up to them, and said: 'Where may the Venerable Gotama be lodging now? We have come hither to call upon him.'

8. Then the brethren thought: 'This young Brahman Ambattha is of distinguished family, and a pupil of the distinguished Brahman Pokkharasadi. The Blessed One will not find it difficult to hold conversation with such.' And they said to Ambattha: 'There Gotama is lodging, where the door is shut, go quietly up and enter the porch gently, and give a cough, and knock on the crossbar. The Blessed One will open the door for you.'

9. Then Ambattha did so. And the Blessed One opened the door, and Ambattha entered in. And the other young Brahmans also went in; and they exchanged with the Blessed One the greetings and compliments of politeness and courtesy, and took their seats. But Ambattha, walking about, said something or other of a civil kind in an off-hand way, fidgetting about the while, or standing up, to the Blessed One sitting there.

10. And the Blessed One said to him; 'Is that the way, Ambattha, that you would hold converse with aged teachers, and teachers of your teachers well stricken in years, as you now do, moving about the while or standing, with me thus seated?'

11. 'Certainly not, Gotama. It is proper to speak, with a Brahman as one goes along only when the Brahman himself is walking and standing to a Brahman who stands, and seated to a Brahman who has taken his seat, or reclining to a Brahman who reclines. But with shavelings, sham friars, menial black fellows, the offscouring of our kinsman's heels—with them I would talk as I now do to you.'

'But you must have been wanting something, Ambattha, when you come here. Turn your thoughts rather to the object you had in view when you came. This young Brahman Ambattha is ill bred, though he prides himself on his culture; what can this come from except from want of training?'

12. Then Ambattha was displeased and angry with the Blessed One at being called rude; and at the thought that the Blessed One was vexed with him, he said, scoffing, jeering, and sneering at the Blessed One: 'Rough is this Sakya breed of yours, Gotama, and rude, touchy is this Sakya breed of yours and violent. Menials, mere menials, they neither venerate, nor value, nor esteem, nor give gifts to, nor pay honour to Brahmans. That, Gotama, is neither fitting, nor is it seemly.'

Thus did the young Brahman Ambattha for the first time charge the Sakyas with being menials.

13. 'But in what then, Ambattha, have the Sakyas given you offence ?'

'Once, Gotama, I had to go to Kapilvastu on some business or other of Pokkharasadi's, and went into the Sakyas' Congress Hall. Now at that time there were a number of Sakyas, old and young, seated in the hall on grand seats, making merry and joking together, nudging one another with their fingers; and for a truth, methinks, it was I myself that was the subject of their jokes; and not one of them even offered me a seat. That, Gotama, is neither fitting, nor is it seemly, that the Sakyas, menials, as they are, mere menials, should neither venerate, nor value, nor esteem, nor give gifts to, nor pay honour to Brahmans.'

Thus did the young Brahman Ambattha for the second time charge the Sakyas with being menials.

14. 'Why a quail Ambattha, little hen bird tough she be, can say what she likes in her own nest. And there the Sakyas are at their own home, in Kapilvastu. It is not fitting for you to take offence at so trifling a thing.'

15. 'There are these four grades, Gotama,—the nobles, the Brahmans, the tradesfolk, and the work-people. And of these four, three—the nobles, the tradesfolk, and work-people—are, verily, but attendants on the Brahmans. So, Gotama, that is neither fitting nor is it seemly, that the Sakyas, menials as they are, mere menials should neither venerate, nor value, nor esteem, nor give gifts to, nor pay honour to the Brahmans.'

[1]*Thus did the young Brahman Ambattha for the third time charged the sakyes with being menials.

16. Then the Blessed One thought thus:' This Ambattha is very set on humbling the Sakyas with his charge of servile origin. What if I were to ask him as to his own lineage.' And he said to him:

'And what family do you then, Ambattha, belong to?'

'Yes, but if one were to follow up your ancient name and lineage, Ambattha, on the father's and the mother's side, it would appear that the Sakyas were once your masters, and that you are the offspring of one of their slave girls. But the Sakyas trace their line back to Okkaka the kings.'

'Long ago, Ambattha, King Okkaka, wanting to divert the succession in favour of the son of his favourite queen, banished his elder children-Okkamukha, Karanda, Hatthinika, and Sinipura-from the land. And being thus banished they took up their dwelling on the slopes of the Himalaya, on the borders of a lake where a mighty oak tree grew. And through fear of injuring the purity of their line they intermarried with their sisters.

'Now Okkaka the king asked the ministers at his court: "Where, Sirs, are the children now?"

'There is a spot, Sire, on the slopes of the Himalaya, on the borders of a lake, where there grows a mighty oak (sako). There do they dwell. And lest they should injure the purity of their line they have married their own (sakahi) sisters.'

'Then did Okkaka the king burst forth in admiration: "Hearts of oak (sakya) are those young fellows! Right well they hold their own (parama sakya)!"

'That is the reason, Ambattha, why they are known as Sakyas. Now Okkaka had slave girl called Disa. She gave birth to a black baby. And no sooner was it born than the little black thing said, "Wash me, mother. Bathe me, mother. Set me free, mother of this dirt. So shall I be of use to you,"

Now, just as now, Ambattha, people call devils, "devils", so then they called devils, "black fellows" (kanhe). And they said, "This fellow spoke as soon as he was born.' Tis a black thing (Kanha) that is born, a devil has been born!" And that is the origin, Ambattha, of the Kanhayanas. He was the ancestor of the Kanhayanas. And thus is it, Ambattha, that if one were to follow up your ancient name and lineae, on the father's and on the mother's side, it would appear that the Sakyas were once your masters, and that you are the offspring of one of their slave girls.'

17. When he had thus spoken the young Brahmans said to the Blessed One: 'Let not the Venerable Gotama, humble Ambattha too sternly with this reproach of being descended from a slave girl. He is well born, Gotama, and of good family; he is versed in the sacred hymns, an able reciter, a learned man. And he is able to give answer to the Venerable Gotama in these matters.

18. Then the Blessed One said to them: 'Quite so. If you thought otherwise, then it would be for you to carry on our discussion further. But as you think so, let Ambattha himself speak.'

19. 'We do not think so; and we will hold our peace. Ambattha is able to give answer to the venerable Gotama in these matters.'

20. Then the Blessed One said to Ambattha the Brahman: 'Then this further question arises, Ambattha, a very reasonable one which even though unwillingly, you should answer. If you do not give a clear reply, or go off upon another issue, or remain silent, or go away, then your head will split in pieces on the spot. What have you heard, when Brahmans old and well stricken in years, teachers of yours or their teachers, were talking together, as to whence the Kanhayanas draw their origin, and who the ancestor was to whom they trace themselves back?'

And when he had thus spoken Ambattha remained silent. And the Blessed One asked the same question again. And still Ambattha remained silent. Then the Blessed One said to him: 'You had better answer, now, Ambattha. This is no time for you to hold your peace. For whosoever, Ambattha, does not, even up to the third time of asking, answer a reasonable question put by a Tathagata (by one who has won the truth), his head splits into pieces on the spot.'

21. Now at that time the spirit who bears the thunderbolt stood over above Ambattha in the sky with a mighty mass of iron, all fiery, dazzling, and aglow, with the intention, if he did not answer, there and then to split his head in pieces. And the Blessed One perceived the spirit bearing the thunderbolt, and so did Ambattha the Brahman. And Ambattha on becoming aware of it, terrified, startled, and agitated, seeking safety and protection and help from the Blessed One, crouched down besides him in awe, and said: 'What was it the Blessed One said ? Say it once again!'

'What do you think, Ambattha? What have you heard, when Brahmans old and well stricken in years, teachers of yours or their teachers, were talking together, as to whence the Kanhayanas draw their origin, and who the ancestor was to whom they trace themselves back?'

'Just so, Gotama, did I hear, even as the Venerable Gotama hath said. That is the origin of the Kanhayana. and that the ancestor to whom they trace themselves back.'

22. And when he had thus spoken the young Brahmans fell into tumult, and uproar, and turmoil; and said: 'Low born, they say, is Ambattha the Brahman; his family, they say, is not of good standing; they say he is descended from a slave girl; and the Sakyas were his masters. We did not suppose that the Samana Gotama. whose words are righteousness itself, was not a man to be trusted!

23. And the Blessed One thought: 'They go too far. these Brahmans in their depreciation of Ambattha as the offspring of a slave girl. Let me set him free from their reproach. 'And he said to them:' Be not too severe in disparaging Ambattha the Brahman on the ground of his descent. That Kanha became a mighty seer. He went into the Dekkan, there he learnt mystic verses, and returning to Okkaka the king, he demanded his daughter Madda-rupi in marriage. To him the king in answer said: "Who forsooth is this fellow, who son of my slave girl as he is—asks for my daughter in marriage:" and. angry and displeased, he fitted an arrow to his bow. But neither could he let the arrow fly. nor could he take it off the string again.

Then the ministers and courtiers went to Kanha the seer, and said: "Let the king go safe. Sir, let the king go safe."

"The king shall suffer no harm. But should he shoot the arrow downwards, then would the earth dry up as far as his realm extends."

"Let the king, Sir, go safe, and the country too."

"The king shall suffer no harm, nor his land. But should he shoot the arrow upwards, the god would not rain for seven years as far as his realm extends."

"Let the king. Sir. go safe, and the country too."

"The king shall suffer no harm, nor his land. But should he shoot the arrow upwards, the god would not rain for seven years as far as his realm extends."

"Let the king. Sir, go safe, and the country too; and let the god rain."

"The king shall suffer no harm, nor the land either, and the god shall rain. But let the king aim the arrow at his eldest son. The prince shall suffer no harm, not a hair of him shall be touched."

'Then, O Brahmans, the ministers told this to Okkaka, and said: "Let the king aim at his eldest son. He win suffer neither harm nor terror." And the king did so, and no harm was done. But the king, terrified at the lesson given him, gave the man his daughter Madda-rupi as wife. You should not, O Brahmans, be too severe to disparage Ambattha in the matter of his slave-girl ancestry. That Kanha was a mighty seer,'

24. Then the Blessed One said to Ambattha; 'What think you, Ambattha ? Suppose a young Kshatriya should have connection with a Brahman maiden, and from their intercourse a son should be born. Now would the son thus come to the Brahman maiden through the Kshatriya youth receive a seat and water (as token of respect) from the Brahmans?

'Yes, he would. Gotama.'

'But would the Brahmans allow him to partake of the feast offered to the dead, or of the food boiled in milk, or of the offerings to the gods, or of food sent as a present?'

'Yes, they would Gotama.'

'But would the Brahmans teach him their verses or not?'

'They would, Gotama.'

'But would he be shut off, or not, from their women?'

'He would not be shut off.'

'But would the Kshatriyas allow him to receive the consecration ceremony of a Kshatriya?'

'Certainly not. Gotama.'

'Because he is not of pure descent on the mother's side.'

25. 'Then what think you Ambattha? Suppose a Brahman youth should have connection with a Kshatriya maiden, and from their intercourse a son should be bom. Now would the son come to the Kshatriya maiden through the Brahman youth receive a seat and water (as token of respect) from the Brahmans?'

'Yes, he would, Gotama.'

'But would the Brahmans allow him to partake of the feast offered to the dead, or of food boiled in milk, or of an offering to the gods, or of food sent as a present?'

'Yes, they would, Gotama.'

'But would the Brahmans teach him their verses or not ?'

'They would, Gotama.'

'But would the Kshatriyas allow him to receive the consecration ceremony of a Kshatriya.'

'Certainly not, Gotama.'

'Why not that?'

'Because he is not of pure descent on the father's side.'

26. 'Then, Ambattha, whether one compares women with women, or men with men, the Kshatriyas are higher and the Brahmans inferior.

'And what think you, Ambattha ? Suppose the Brahmans, for some offence or other, were to outlaw a Brahman by shaving him and pouring ashes over his head, were to banish him from the land from the township. Would he be offered a seat or water among the Brahmans?'

'Certainly not, Gotama.'

'Or would the Brahmans allow him to partake of the food offered to the dead, or of the food boiled in milk, or of the offerings to the gods, or of food sent as a present?'

'Certainly not, Gotama.'

'Or would the Brahmans teach him their verses or not?'

'Certainly not, Gotama.'

'And would he be shut off, or not, from their women?'

'He would be shut off.'

27. 'But what think you, Ambattha? If the Kshatriyas had in the same way outlawed a Kshatriya and banished him from the land or the township, would he, among the Brahmans, be offered water and a seat?'

'Yes, he would, Gotama.'

'And would he be allowed to partake of the food offered to the dead, or of the food boiled in milk, or of the offerings to the gods, or of food sent as a present?'

'He would, Gotama.'

'And would the Brahmans teach him their verses?'

'They would, Gotama?'

'And would he be shut off, or not, from their women?'

'He would not, Gotama.'

'But thereby, Ambattha, the Kshatriya would have fallen into the deepest degradation, shaven as to his head, cut dead with the ash-basket, banished from land and townships. So that, even when a Kshatriya has fallen into the deepest degradation, still it holds good that the Kshatriyas are higher, and the Brahmans inferior.

28. 'Moreover it was one of the Brahma gods, Sanam-kumara, who uttered this stanza."

"The Kshatriya is the best of those among this folk who put their trust in lineage.

But he who is perfect in wisdom and righteousness, he is the best among gods and men."

'Now this stanza, Ambattha, was well sung and not ill sung by the Brahma Sanam-kumara. well said and not ill said, full of meaning and not void thereof. And 1 too approve it,

'I also' Ambattha says:

"The Kshatriya is the best of those among this folk who put their trust in lineage.

But he who is perfect in wisdom and righteousness, he is the best among gods and men."

HERE ENDS THE FIRST PORTION FOR RECITATION

.....

1. 'But what. Gotama, is the righteousness and what the wisdom spoken of in that verse?'

'In the supreme perfection in wisdom and righteousness. Ambattha, there is no reference to the question either of birth, or of lineage, or of the pride which says: "You are held as worthy as I", or "You are not held as worthy as I". It is where the talk is of marrying, or giving in marriage, that reference is made to such things as that. For whosoever. Ambattha. are in bondage to the notions of birth or of lineage, or to the pride of social position, or of connection by marrige. they are far from the best wisdom and righteousness. It is only by having got rid of all such bondage that one can realise for himself that supreme perfection in wisdom and in conduct.

2. 'But what, Gotama. is that conduct, and what that wisdom?'

[Here follow, under 'Morality' (Sila)]

The introductory paragraphs (40 42 of the 'Samanaphala' pp. 62, 63 of the text) on the appearance of a Buddha, his preaching the conversion of a hearer, and his renunciation of the world: then come.

1. The Silas above pp. 4-12 (8-27) of the text. Only the refrain differs. It runs here, at the end of each clause, through the whole of this repeated passage: 'This is reckoned in him as morality.'

Then under 'Conduct' (Karuna).

2. The paragraph on 'Confidence,' above, p. 69 of the text 63. The refrain from here onwards is: This is reckoned to him as conduct.

3. The paragraph on 'Guarded is the door of the senses' above, p. 70 of the text, 64.

4. The paragraph on 'Mindful and self-possessed,' above, p. 70 of the text 65.

5. The paragraph on 'Content,' above, p. 71 of the text, 66.

6. The paragraph on 'Solitude,' above, p, 71 of the text, 67.

7. The paragraphs on the 'Five Hindrances,' above pp, 71-2 of the text, 68-74.

8. The paragraphs on the 'Four Rapt Contemplations' above, 73-76, pp. 75-82. The refrain at the end of each of them ('higher and better than the last') is here of course, to be read not as higher fruit of the life of a recluse, but as higher conduct.

UNDER WISDOM (VIGGA)

9. The Paragraphs on 'Insight arising from Knowledge' (Nana- dassanam), above, p. 76 of the text, 83, 84. The refrain from here onwards is: 'This is reckoned in him as wisdom, and it is higher and sweeter than the last.'

10. The paragraphs on the 'Mental Image,' above, p. 77 of the text 85, 86.

11. The paragraphs on 'Mystic Gifts' (Iddhi), above, p. 77 of the text, 87, 88.

12. The paragrphs on the 'Heavenly Ear' (Dibbasota), above p. 79 of the text, 89, 90.

13. The paragraphs on 'Knowledge of the hearts of others '(Kato-pariya-nanam) above p. 79 of the text 91, 92.

14. The paragraphs on 'Memory of one's own previous births' (Pubbe-nivasa-anussati-nama) above, p. 81 of the text, 93, 94.

15. The paragraph on the 'Divine Eye' (Dibbakakkhu), above, p. 82 of the text, 95, 96.

16. The paragraphs on the 'Destruction of the Deadly Floods' (Asavanam Khaya-nanam), above, p. 83 of the text. 97, 98.

'Such a man, Ambattha, is said to be perfect in wisdom, perfect in conduct, perfect in wisdom and conduct. And there is no other perfection in wisdom and conduct higher and sweeter than this.'

3. 'Now, Ambattha, to this supreme perfection in wisdom and goodness there are Four Leakages. And what are the four?'

'In case, Ambattha, any recluse or Brahman, without having thoroughly attained unto this supreme perfection in wisdom and conduct, with his yoke on his shoulder (to carry fire-sticks, a water-pot, needles, and the rest of a mendicant friar's outfit), should plunge into the depths of the forest, vowing to himself: "I will henceforth be one of those who live only on fruits that have fallen of themselves"—then, verily, he turns that out worthy only to be a servant unto him that hath attained to wisdom and rightsouness.'

'And again, Ambattha, in case any recluse or Brahman, without having thoroughly attained unto this supreme perfection in wisdom and conduct, and without having attained to living only on fruits fallen of themselves, taking a hoe and a basket with him, should plunge into the depths of the forest, vowing to himself: "I will henceforth be one of those who live only on bulbs and roots of fruits." Then, verily he turns out worthy only to be a servant unto him who hath attained to wisdom and righteousness.'

'And again, Ambattha. in case any recluse or Brahman, without having thoroughly attained unto this supreme perfection in wisdom and conduct, and without having attained to living only on fruits fallen of themselves, and without having attained to living only on bulbs and' roots and fruits, should build himself a fires-hrine near the boundries of some village or some town, and there dwell serving the fire-god,— then, verily he turns out worthy only to be a servant unto him that hath attained to wisdom and righteousness.'

'And again, Ambattha, in case any recluse or Brahman, without having thoroughly attained unto this supreme perfection in wisdom and conduct, and without having attained to living only on fruits fallen of themselves, and without having attained to living only on bulbs and roots and fruits, and without having attained to serving the fire-god, should build himself a four-doored almshouse at a crossing where four high roads meet, and dwell there, saying to himself: "Whosoever, whether recluse or Brahman, shall pass here, from either of these four directions, him will I entertain according to my ability and according to my power—then, verily, he turns out worthy only to be a servant unto him who hath attained to wisdom and righteousness.'

'These are the Four Leakages, Ambattha, to supreme perfection in righteousness and conduct.'

4. 'Now what think you. Ambattha ? Have you, as one of a class of pupils under the same teacher, been instructed in this supreme perfection of wisdom and conduct?'

'Not that, Gotama. How little is it that I can profess to have learnt! How supreme this perfection of wisdom and conduct! Far is it from me to have been trained therein?'

'Then what think you, Ambattha? Although you have not thoroughly attained unto this supreme perfection of wisdom and goodness, have you been trained to take the yoke upon your shoulders, and plunge into the depths of the forest as one who would fain observe the vow of living only on fruits fallen of themselves?'

'Not even that, Gotama'.

'Then what think you Ambattha? Althougn you have not attained unto this supreme perfection of wisdom and goodness, nor have attained to living on fruits fallen of themselves, have you been trained to take hoe and basket, and plunge into the depths of the forest as one who would fain observe the vow of living only on bulbs and roots and fruits?'

'Not even that, Gotama'

'Then what think you, Ambattha? Althougn you have not attained unto this supreme perfection of wisdom and goodness, and have not attained to living on fruits fallen of themselves, and have not attained to living on bulbs and roots and fruits, have you been taught to build yourself a fire-shrine on the borders of some village or some town, and dwell there as one who would fain serve the fire-god?'

'Not even that, Gotama.'

'Then what think you, Ambattha ? Although you have not attained unto this supreme perfection of wisdom and goodness, and have not attained to living on fruits fallen of themselves, and have not attained to living on bulbs and roots and fruits, and have not attained to serving the firegod, have you been taught to build yourself a four-doored almshouse at a spot where four high roads cross, and dwell there as one who would fain observe the vow to entertain whosoever might pass that way, from any of the four directions, according to your ability and according to your power?'

'Not even that. Gotama.'

5. 'So then you, Ambattha, as a pupil, have fallen short of due training, not only in the supreme wisdom and conduct, but even in any one of the Four Leakages by which the complete attainment thereof is debarred. And your teacher too. the Brahman Pokkharasadi, has told you this saying : "Who are these shavelings, sham friars, menial black fellows, the offscouring of our kinsman's heels, that they should claim converse with Brahmans versed in the threefold Vedic Lore!" he himself not having even fulfilled any one even of these lesser duties (which lead men to neglect the higher ones). See, Ambattha,

how deeply your teacher the Brahman Pokkharasadi has herein done you wrong.'

6. 'And the Brhman Pokkharasadi Ambattha. is in the enjoyment of a grant from Pasenadi, the king of Kosala. But the king does not allow him to come into his presence. When he consults with him he speaks to him only from behind a curtain. How is it, Ambattha, that the very King, from whom he accepts this pure and lawful maintenance, King Pasendadi of Kosala, does not admit him to his presence? See, Ambattha, how deeply your teacher the Brahman Pokkharasadi, has herein done you wrong."

7. 'Now what think you, Ambattha ? Suppose a king, either seated on the neck of his elephant or on the back of his horse, or standing on the footrug of his chariot, should discuss some resolution of state with his chiefs or princes, and suppose as he left the spot and stepped on one side, a workman (Sudra) or the slave of a workman should come up and. standing there, should discuss the matter, saying : "Thus and thus said Pasendadi the King." Although he should speak as the king might have spoken, or discuss as the king might have done, would he thereby be the king, or even as one of his officers?'

'Certainly not, Gotama.'

8. 'But just so, Ambattha, those ancient poets (Rishis) of the Brahmans, the authors of the verses, the utterers of the verses whose ancient form of words so chanted, uttered, or composed the Brahmans of to-day chant over again and rehearse, intoning or reciting exactly as has been intoned or recited—to wit, Atthaka, Vamaka, Vamadeva, Yamataggi, Angirasa, Bharadvaja, Vasettha, Vessamitta, Kassapa, and Bhagu—though you can say: 'I as a pupil know by heart their verses 'that you should on that account by a Rishi, or have attained to the state of a Rishi—such a condition of things has no existence!'

9. 'Now what think you, Ambattha ? What have you heard when Brahmans, old and well stricken in years, teachers of yours of their teachers, were talking together—did those ancient Rishis, whose verses you so chant over and repeat, parade about well groomed, perfumed, trimmed as to their hair and beard adorned with garlands and gems, clad in white garments, in the full possession and enjoyment of the five pleasures of sense, as you. and your teacher too, do now?'

'Not that, Gotama.'

'Or did they live, as their food, on boiled rice of the best sorts, from which all the black specks had been sought out and removed, and flavoured with sauces and curries of various kind as you, and your teacher too. do now?'

'Not that. Gotama.'

'Or were they waited upon by women with fringes and furbelows round their loins, as you, and your teacher too, do now?

'Or did they go about driving chariots, drawn by mares with plaited manes and tails, using long wands and goads the while, as you, and your teacher too, do now?'

'Not that Gotama.'

'Or did they have themselves guarded in fortified towns, with moats dug out round them and Crossbars let down before the gates, by men girt with long swords, as you, and your teacher too, do now?'

'Not that Gotama.'

10. 'So then, Ambattha, neither are. you a Rishi, nor your teacher, nor do you live under the conditions under which the Rishis lived. But whatsoever it may be, Ambattha, concerning which you are in doubt or perplexity about me, ask me as to that, I will make it clear by explanation.'

11. Then the Blessed One went forth from his chamber, and began to walk up and down that Ambattha did the same. And as he thus walked up and down, following the Blessed One, he took stock of the thirty-two signs of a great man, whether they appeared on the body of the Blessed One or not. And he perceived them all save only two. With respect to those two—the concealed member and the extent of tongue—he was in doubt and perplexity, not satisfied not sure.

12. And the Blessed One knew that he was so in doubt. And he so arranged matters by his Wondrous Gift that Ambattha the Brahman saw how that part of the Blessed One that ought to be hidden by clothes was enclosed in a sheath. And the Blessed One so bent round his tongue that he touched and stroked both his ears, touched and stroked both his nostrils, and the whole circumstance of his forehead he covered with his tongue.

And Ambattha, the young Brahman, thought: 'The Samana Gotama is endowed with the thirty-two signs of a great man, with them all, not only with some of them.[1] And he said to the Blessed One: 'And now, Gotama, we would fain depart. We are busy and have much to do.'

'Do Ambattha, what seemed to you fit.'

And Ambattha mounted his chariot drawn by mares, and departed thence.

13. Now at that time the Brahman Pokkharasadi had gone forth from Ukkattha with a great retinue of Brahmans, and was seated in his own pleasance waiting there for Ambattha. And Ambattha came on to the pleasance. And when he had come in his chariot as far as the path was practicable for chariots, he descended from it, and came on foot to where Pokkharasadi was, and saluted him, and took his seat

respectfully on one side. And when he was so seated, Pokkharasadi said to him.

14. 'Well, Ambattha! Did you see the Blessed One?'

'Yes, Sir, we saw him.'

'Well! is the Venerable Gotama so, as the reputation about him I told you of declares, and not otherwise. Is he such a one, or is he not?'

'He is so, Sir, as his reputation declares, and not otherwise. Such is he, not different. And he is endowed with the thirty-two signs of a great man, with all of them, not only with some.'

'And did you have any talk, Ambattha, with the Samana Gotama?'

'Yes. Sir, I had.'

'And how did the talk go?'

Then Ambattha told the Brahman Pokkharasadi all the talk that he had with the Blessed One.

15. When he had thus spoken, Pokkharasadi said to him: 'Oh. you wiseacre! Oh! you dullard! Oh! you expert, forsooth, in our threefold Vedic Lore! A man, they say, who should carry out his business thus, must, on the disolution of the body, after death, be reborn into some dismal state of misery and woe. What could the very points you pressed in your insolent words lead up to, if not to the very disclosures the venerable Gotama made? What a wiseacre, what a dullard; what an expert, forsooth, in our threefold Vedic lore !' And angry and displeased, he struck out with his foot, and rolled Ambattha over. And he wanted, there and then, himself to go and call on the Blessed One.

I. But the Brahmanas there spake thus to Pokkharasadi: 'It is much too late. Sir, today to go to call on the Samana Gotama. The venerable Pokkharasadi can do so tomorrow.

So Pokkharasadi had sweet food, both hard and soft, made ready at his own house, and taken on wagons, by the light of blazing torches, out to Ukkattha. And he himself went on to the Ikkhanankala Wood, driving in his chariot as far as the road was practicable for vehicles, and then going on, on foot, to where the Blessed One was. And when he had exchanged with the Blessed One the greetings and compliments of politeness and courtesy, he took his seat on one side, and said to the Blessed One:

17. 'Has our pupil, Gotama, the young Brahman Ambattha, been here?'

'Yes, Brahman, he has.'

'And did you, Gotama. have any talk with him?'

'Yes, Brahman, I had.'

'And on what wise was the talk that you had with him?

18. Then the Blessed One told the Brahman Pokkharasadi all the talk that had taken place. And when he had thus spoken Pokkharasadi said to the Blessed One:

'He is young and foolish, Gotama, that young Brahman Ambattha. Forgive him, Gotama.'

'Let him be quite happy. Brahman, that young Brahman Ambattha'

19. And the Brahman Pokkharasadi took stock, on the body of the Blessed One, of the thirty two marks of a Great Being. And he saw them all plainly, save only two. As to two of them the sheath concealed member and the extensive tongue—he was still in doubt and undecided. But the Blessed One showed them to Pokkharasadi, even as he had shown them to Ambattha. And Pokkharasadi perceived that the Blessed One was endowed with the thirty two marks of a Great Being, with all of them, not only with some. And he said to the Blessed One: 'May the venerable Gotama grant me the favour of taking his tomorrow's meal with me, and also the members of the Order with him' And the Blessed One accepted, by silence, his request.

20. Then the Brahman Pokkharasadi, seeing that the Blessed One had accepted, had (on the morrow) the time announced to him : 'It is time. Oh Gotama, the meal is ready.' And the Blessed One. who had dressed in the early morning, put on his outer robe, and taking his bowl with him, went, with the brethren to Pokkharasadi's house, and sat down on the seat prepared for him. And Pokkharasadi the Brahman, satisfied the Blessed One, with his own hand, with sweet food, both hard and soft, until he refused any more, and the young Brahmans the members of the Order. And when the Blessed One had finished his meal, and cleansed the bowl and his hands, Pokkharasadi took a low seat, and sat down beside him.

21. Then to him thus seated the Blessed One discoursed in due order; that is to say, he spoke to him of generosity, of right conduct, of heaven, of the danger, the vanity, and the defilement of lusts, of the advantages of renunciation. And when the Blessed One saw that Pokkharasadi the Brahman, had become prepared, softened, unprejudiced, upraised, and believing in heart, then he proclaimed the doctrine the Buddhas alone have won; that is to say, the doctrine of sorrow, of its origin, of its cessation, and of the Path. And just as a clean cloth from which all stain has been washed away will readily take the dye, just even so did Pokkharasadi the Brahman, obtain, even while sitting there, the pure and spotless Eye for the Truth, and he knew: 'Whatsoever has a beginning in that is inherent also the necessity of dissolution.'

22. And then the Brahman Pokkarasadi as one who had seen the Truth, had mastered it, understood it, dived deep down into it, who had passed beyond doubt and put away perplexity and gained full confidence, who had become dependent on no other man for his knowledge of the teaching of the Master, addressed the Blessed One and said:

'Most excellent Oh Gotama (are the words of thy mouth), most excellent! Just as if a man were to set up that which has been thrown down, or were to reveal that which has been hidden away, or were to point out the right road to him who has gone astray, or were to bring a light into the darkness so that those who had eyes could see external forms,—just even so. Lord, has the truth been made known to me, in many a figure, by the venerable Gotama. And I, Oh Gotama, with my sons, and my wife, and my people, and my companions, betake myself to the venerable Gotama as my guide, to the truth, and to the Order. May the venerable Gotama accept me as a disciple, as one who, from this day forth, as long as life endures, has taken him as his guide. And just as the venerable Gotama visits the families of others, his disciples, at Ukkatha, so let him visit mine. Whosoever there may be there, of Brahmans or their wives, who shall pay reverence to the venerable Gotama. or stand up in his presence, or offer him a seat or water, or take delight in him, to him that will be for long, a cause of weal and bliss.'

'It is well. Brahman, what you say.'

Here ends the Ambattha Sutta.

VI

In the matter of his opposition to Caste, Buddha practised what he preached. He did what the Aryan Society refused to do. In the Aryan Society the Shudra or low caste man could never become a Brahman. But Buddha not only preached against caste but admitted the Shudra and the low caste to the rank of a Bhikku who held the same rank in Buddhism as the Brahman did in Brahmanism. As Rhys Davis points out: (Quotation not given)

In the first place, as regards his own Order, over which alone he had complete control, he ignores completely and absolutely all advantages or disadvantages arising from birth, occupation, and social status, and sweeping away all barriers and disabilities arising from the arbitrary rules of mere ceremonial or social impurity.

One of the most distinguished members of his Order, the very one of them who was referred to as the chief authority after Gotama himself.

on the rules of the Order, was Upali, who had formerly been a barber, one of the despised occupations. So Sunita, one of the brethren whose verses are chosen for insertion in the Thera Gatha, was a Pukkusa, one of the low tribes. Sati, the propounder of a deadly heresy, was of the sons of the fisherfolk, afterwards a low caste, and even then an occupation, on account of its cruelty, particularly abhorred. Nanda was a cowherd. The two Panthakas were born out of wedlock, to a girl of good family through intercoure with a slave (so that by the rule laid down in Manu 31, they were actually outcasts). Kapa was the daughter of a deer-stalker, Punna and Punnika had been slave girls. Sumangalamata was daughter and wife to workers in rushes, and Subha was the daughter of a smith. More instances could doubtless be quoted and others will become known when more texts are published.

It does not show much historical insight to sneer at the numbers as small, and to suggest that the supposed enlightenment or liberality was mere pretence. The facts speak for themselves; and the percentage of low-born members of the Order was probably in fair proportion to the percentage of persons belonging to the despised jatis and sippas as compared with the rest of the population. Thus of the Theris mentioned in the Theri Gatha we know the social position of sixty, of whom five are mentioned above — that is, $8^1/_2$ per cent of the whole number were base-born. It is most likely that this is just about the proportion which persons in similar social rank bore to the rest of the population.

Just as Buddha levelled up the position of the Shudras and the low caste men by admitting them to the highest rank namely that of Bhikkus, he also levelled up the position of women. In the Aryan Society women were placed on the same position as the Shudras and in all Aryan literature women and Shudras are spoken of together as persons belonging to the same status. Both of them were denied the right to take *Sanyas,* as Sanyas was the only way open to salvation. Women and Shudras were beyond salvation. Buddha broke this Aryan rule in the case of women as he did in the case of the Shudras. Just as a Shudra could become a Bhikku so a woman could become a nun. This was taking her to the highest status then conceivable in the eyes of the Aryan Society.

Another issue on which Buddha fought against the leaders of the Aryan Society was the issue of the Ethics of teachers and teaching. The leaders of the Aryan Society held the view that learning and education was the privilege of the Brahmins. Kshatriyas and Vaishyas. The Shudras were not entitled to education. They insisted that it would be danger to social order if they taught women or any males not

twice-born. Buddha repudiated this Aryan doctrine. As pointed out by Rhys Davis on this question is "That everyone should be allowed to learn; that everyone, having certain abilities, should be allowed to teach; and that, if he does teach, he should teach all to all; keeping nothing back, shutting no one out." In this connection reference may be made to the dialogue between Buddha and the Brahman Lohikka and which is known as the Lohikka Sutta.

LOHIKKA SUTTA

(Some points in the Ethics of Teaching)

1. Thus have I heard. The Exalted One, when once passing on a tour through the Kosala districts with a great multitude of the members of the Order, with about five hundred Bhikshus, arrived at Salavatika. (village surrounded by a row of Sala trees). Now at that time Lohikka the Brahman was established at Salavatika, a spot teeming with life, with much grassland and woodland and corn, on a royal domain granted him by King Pasenadi of Kosala, as a royal gift, with power over it as if he were the king.

2. Now at that time Lohikka the Brahman was thinking of harbouring the following wicked view; 'Suppose that a Samana or a Brahmana have reached up to some good state (of mind), then he should tell no one else about it. For what can one man do for another? To tell others would be like the man who, having broken through an old bond, should entangle himself in a new one. Like that, I say, is this (desire to declare to others); it is a form of lust. For what can one man do for another?'

Now Lohikka the Brahman heard the news: 'They say that the Samana Gotama, of the sons of the Sakyas, who went out from the Sakya clan to adopt the religious life, has now arrived, with a great company of the brethren of his Order, on his tour through the Kosala districts, at Salavatika. Now regarding that venerable Gotama, such is the high reputation that has been noised abroad: that Exalted One is an Arhat, fully awakened, abounding in wisdom and goodness, happy, with knowledge of the worlds, unsurpassed as a guide to mortals willing to be led, a teacher for gods and men, an exalted one, a Buddha. He, by himself thoroughly knows, and sees as it were face to face, this universe—including the worlds above of the gods, the Brahmans and the Maras; and the world below with its Samanas and Brahmans, its princes and peoples—and having known it, he makes his knowledge known to others. The truth, lovely in its origin. lovely in its progress, lovely in consummation, doth he proclaim both in the spirit

and in the letter. The higher life doth he make known in all its fullness, and in all its purity. And good is it to pay visists to Arhats like that.'

4. Then Lohikka the Brahman said to Bhesika the barber, 'Come now, good Bhesika, go where the Samana Gotama is staying, and on your arrival, ask in my name as to whether his sickness and indisposition as abated, as to his health and vigour and condition of ease; and speak thus: "May the venerable Gotama, and with him the brethren of the order, accept the tomorrow's meal from Lohikka the Brahman."

5. 'Very well. Sir.' said Bhesika the barber, acquiescing in the word of Lohikka the Brahman, and did so even as he had been enjoined. And the Exalted One consented, by silence, to his request.

6. And when Bhesika the barber perceived that the Exalted One had consented, he rose from his seat, and passing the Exalted One with his right hand towards him, went to Lohikka the Brahman, and on his arrival spake to him thus :

'We addressed that Exalted One, Sir, in your name, even as you commanded. And the Exalted One hath consented to come.'

7. Then Lohikka the Brahman, when the night had passed made ready at his own dwelling place sweet food, both hard and soft, and said to Bhesika the barber: 'Come now, good Bhesika, go where the Samana Gotama is staying, and on your arrival, announce the time to him, saying: "It is time, O Gotama. and the meal is ready."

'Very well. Sir', said Bhesika the barber in assent to the words of Lohikka the Brahman; and did so even as he had been enjoined.

And the Exalted One, who had robed himself early in the morning, went robed, and carrying his bowl with him, with the brethren of the Order, towards Salavatika,

8. Now, as he went, Bhesika the barber walked step by step, behind the Exalted One. And he said to him:

'The following wicked opinion has occured to Lohikka the Brahman; "Suppose that a Samana or a Brahmana have reached up to some good state (of mind), then he should tell no one else about it. For what can one man do for another? To tell others would be like the man who, having broken through an old bond, should entangle himself in a new one. Like that, I say, is this (desire to declare to others); it is a form of lust", Twere well. Sir, if the Exalted One would disabuse his mind thereof. For what can one man do for another?' 'That may well be, Bhesika, that may well be.'

9. And the Exalted One went on to the dwelling-place of Lohikka the Brahman, and sat down on the seat prepared for him. And Lohikka the Brahman satisfied the Order, with the Buddha at its head.

with his own hand, with sweet food both hard and soft, until they refused any more. And when the Exalted One had finished his meal, and had cleansed the bowl and his hands, Lohikka the Brahman brought a low seat and sat down beside him. And to him, thus seated the Exalted One spake as follows:

'Is it true what they say, Lohikka, that the following wicked opinion has arisen in your mind; (and he set forth the opinion as above set forth)?

'That is so Gotama.'

10. 'Now what think you, Lohikka? Are you not etablished at Salavatika?'

'Yes, that is so, Gotama.'

'Then suppose, Lohikka, one were to speak thus: "Lohikka the Brahman has domain at Salavatika. Let him alone enjoy all the revenue, and all the produce of Salavatika. allowing nothing to anybody else!" Would the utterer of that speech be danger-maker as touching the men who live in dependance upon you, or not?'

'He would be danger-maker, Gotama'

'And making that danger, would he be a person who sympathised with their welfare, or not?'

'He would not be considering their welfare, Gotama.'

'And not considering their welfare, would his heart stand fast in love towards them, or in enmity?"

'In enmity. Gotama.'

'But when one's heart stands fast in enmity, is that unsound doctrine, or sound?'

'It is unsound doctrine, Gotama.'

'Now if a man hold unsound doctrine, Lohikka, I declare that one of two future births will be his lot, either purgatory or rebirth as an animal.'

11. 'Now what think you Lohikka? Is not King Pasenadi of Kosala in possession of Kasi and Kosala?'

'Yes, that is so. Gotama.'

'Then suppose, Lohikka. one were to speak thus:' King Pasenadi of Kosala is in possession of Kasi and Kosala. Let him enjoy all the revenue and all the produce of Kasi and Kosala, allowing nothing to anybody else." Would the utterer of that speech be a danger-maker as touching the men who live in dependence on King Pasenadi of Kosala—both you yourself and others or not?'

'He would be danger-maker Gotama.'

'And making that danger, would he be a person who sympathised with their welfare, or not?

'He would not be considering their welfare, Gotama.'

'And not considering their welfare, would his heart stand fast in love toward them, or in enmity?'

'In enmity, Gotama.'

'But when one's heart stands fast in enmity, is that unsound doctrine, or sound?'

'It is unsound doctrine, Gotama.'

'Now if a man hold unsound doctrine, Lohikka, I declare that one of two future births will be his lot, either purgatory or rebirth as an animal.

12 and 14. 'So then, Lohikka, you admit that he who should say that you, being in occupation of Salavatika, should therefore, yourself enjoy all the revenue and produce thereof, bestowing nothing on any one else; and he who should say that King Pasenadi of Kosala, being in power over Kasi and Kosala, should therefore himself enjoy all the revenue and produce thereof, bestowing nothing on any one else— would be making danger for those living in dependence upon you; or for those you and others living in dependence upon the King. And that those who thus make danger for others, must be wanting in sympathy for them. And that the man wanting in sympathy has his heart set fast in enmity. And that to have one's heart set fast in enmity is unsound doctrine.

13 and 15. 'Then just so, Lohikka, he who should say: "Suppose a Samana or a Brahamana to have reached up to some good state (of mind), then should he tell no one else about it. For what can one man do for another? To tell others would be like the man who, having broken through an old bond, should entangle himself in a new one. Like that, I say, is this desire to declare to others, it is a form of lust;"—just so he, who should say, thus, would be putting obstacles in the way of those clansmen who, having taken upon themselves the Doctrine and Discipline set forth by Him-who-has-won-the-Truth, have attained to great distinction therein—to the fruit of conversion, for instance, or to the fruit of once returning, or to the fruit of never returning, or even to Arhatship—he would be putting obstacles in the way of those who are bringing to fruition the course of conduct that will lead to rebirth in states of bliss in heaven. But putting obstacles in their way he would be out of sympathy for their welfare; being out of sympathy for their welfare his heart would become established in enmity; and when one's heart is established in enmity, that is unsound doctrine. Now if a man hold unsound doctrine, Lohikka, I declare that one of two future births will be his lot, either purgatory or rebirth as an animal.

16. 'There are these three sorts of teachers in the world, Lohikka, who are worthy of blame; And whosoever should blame such a one, his rebuke would be justified, in accord with the facts and the truth, not improper. What are the three?

'In the first place, Lohikka, there is a sort of teacher who has not himself attained to that aim of Samanaship for the sake of which he left his home and adopted the homeless life. Without having himself attained to it he teaches a doctrine (Dhamma) to his hearers, saying: "This is good for you, this will make you happy." Then those hearers of his neither listen to him, nor give ear to his words, nor become steadfast in heart through their knowledge thereof; they go their own way, apart from the teaching of the master. Such a teacher may be rebuked, setting out these facts, and adding: "You are like one who should make advances to her who keeps repulsing him, or should embrace her who turns her face away from him. Like that, do I say, is this lust of yours (to go on posing as a teacher of men, no one heeding, since, they trust you not). For what, then, can one man do for another ?"

'This, Lohikka, is the first sort of teacher in the world worthy of blame. And whosoever should blame such a one, his rebuke would be justified, in accord with the facts and the truth, not improper.

17. 'In the second place, Lohikka, there is a sort of teacher who has not himself attained to that aim of Samanship for the sake of which he left his home and adopted the homeless life. Without having himself attained to it he teaches a doctrine to his hearers, saying: "This is good for you; that will make you happy." And to him his disciples listen; they give ears to his words; they become steadfast in heart by their understanding what is said; and they go not their own way, apart from the teaching of the master. Such a teacher may be rebuked, setting out these facts and adding: "You are like a man who, neglecting his own field, should take thought to weed out his neighbour's field. Like that, do I say, is this lust of yours (to go on teaching others when you have not taught yourself). For what, then, can one man do for another?"

This, Lohikka. is the second sort of teacher in the world worthy of blame. And whosoever should blame such a one, his rebuke would be justified, in accord with the facts and the truth not improper.

18. And again, Lohikka, in the third place, there is a sort of teacher who has himself attained to that aim of Samanaship for the sake of which he left his home and adopted the homeless life. Having himself attained it, he teaches the doctrine to his hearers, saying: "This is good for you, that will make you happy." But those hearers of

his neither listen to him, nor give ear to his words, nor become steadfast in heart through understanding thereof; they go their own way, apart from the teaching of the master. Such a teacher may be rebuked, setting out these facts, and adding; "You are like a man who, having broken through an old bond, should entangle himself in a new one." Like that, do I say, is this lust of yours (to go on teaching when you have not trained yourself to teach). For what, then, can one man do for another?"

'This, Lohikka, is the third sort of teacher in the world worthy of blame. And whosoever should blame such a one, his rebuke would be justified, in accord with the facts and the truth, not improper. And these, Lohikka, are the three sorts of teachers of which I spoke.'

19. 'And when he had thus spoken, Lohikka, the Brahman spake thus to the Exalted One:

'But is there, Gotama, any sort of teacher not worthy of blame in the world?'

'Yes, Lohikka, there is a teacher not worthy, in the world of blame.'

'And What sort of a teacher, Gotama, is so?'

(The answer is in the words of the exposition set out above in the Samanna-phala, as follows:

1. The appearance of a Tathagata (one who won the truth), his preaching, the conversion of a hearer, his adoption of the homeless state.
2. The minor details of mere morality that he practises.
3. The Confidence of heart he gains from this practice.
4. The paragraph on 'Guarded is the door of his Senses.'
5. The paragraph on 'Mindful and Self-possessed.'
6. The paragraph on Simplicity of Life, being content with little.
7. The paragraphs on Emancipation, ill-temper, laziness, worry and perplexity.
8. The paragraph on the Joy and Peace that, as a result of this emancipation, fills his whole being.
9. The paragraphs on the Four Raptures (Ghanas).
10. The paragraphs on the Insight arising from Knowledge (the knowledge of the First Path).
11. The paragraphs on the Realisation of the Four Noble Truths the destruction of the Intoxications—lust, delusions, be comings, and ignorance—and the attainment of Arhatship.)

The refrain through and the closing paragraph is:

'And whosoever the teacher be, Lohikka, under whom the disciple attains to distinction so excellent as that, that, Lohikka is a teacher

not open to blame in the world. And whosoever should blame such a one, his rebuke would be unjustifiable, not in accord either with the facts or with the truth, without good ground.'

78. And when he had thus spoken, Lohikka the Brahman said to the Exalted One:

'Just, Gotama, as if a man had caught hold of a man, falling over the precipitous edge of purgatory, by the hair of his head and lifted him up safe back on the firm land—just so have I, on the point of falling into purgatory, been lifted back on to the land by the Venerable Gotama. Most excellent, O Gotama, are the words of thy mouth, most excellent? Just as if a man were to set up what has been thrown down, or were to reveal what has been hidden away, or were to point out the right road to him who has gone astray, or were to bring a light into the darkness so that those who had eyes could see external forms—just even so has the truth been made known to me, in many a figure, by the Venerable Gotama. And I, even I, betake myself to the Venerable Gotama as my guide, to the Doctrine and to the Order. May the Venerable Gotama accept me as a disciple; as one who, from this day forth as long as life endures, has taken him as his guide!'

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CHAPTER 9

The Decline and Fall of Buddhism.

Dr. B. R. Ambedkar had written "The Decline and Fall of Buddhism", as a part of the treatise, 'Revolution and Counter-Revolution'. We have found only 5 pages in our papers which were not even corrected. Copy of this essay has been received from Shri S. S. Rege, which shows some corrections in Dr. Ambedkar's handwriting. This essay is of 18 typed pages which is included here.— Editors,

I

The disappearance of Buddhism from India has been a matter of great surprize to everybody who cares to think about the subject and is also a matter of regret. But it lives in China, Japan, Burma, Siam, Annam, Indo-China, Ceylon and parts of Malaya-Archipalego. In India alone, it has ceased to exist. Not only it has ceased to live in India but even the name of Buddha has gone out of memory of most Hindus. How could such a thing have happened ? This is an important question for which there has been no satisfactory answer. Not only there is no satisfactory answer, nobody has made an attempt to arrive at a satisfactory answer. In dealing with this subject people fail to make a very important distinction. It is a distinction between the fall of Buddhism and the decline of Buddhism. It is necessary to make this distinction because the fall of Buddhism is one, the reasons for which are very different from those which brought about its downfall. For the fall is due to quite obvious causes while the reasons for its decline are not quite so obvious.

There can be no doubt that the fall of Buddhism in India was due to the invasions of the Musalmans. Islam came out as the enemy of the '*But*'. The word '*But*' as everybody knows is an Arabic word and means an idol. Not many people however know what the derivation of the word '*But' is 'But'* is the Arabic corruption of Buddha. Thus the origin of the word indicates that in the Moslem mind idol worship

had come to be identified with the Religion of the Buddha. To the Muslims, they were one and the same thing. The mission to break the idols thus became the mission to destroy Buddhism. Islam destroyed Buddhism not only in India but wherever it went. Before Islam came into being Buddhism was the religion of Bactria, Parthia, Afghanistan, Gandhar and Chinese Turkestan, as it was of the whole of Asia.[1] In all these countries Islam destroyed Buddhism. As Vicent Smith[2] points out :

> "The furious massacre perpetrated in many places by Musalman invaders were more efficacious than Orthodox Hindu persecutions, and had a great deal to do with the disapperance of Buddhism in several provinces (of India),"

Not all will be satisfied with this explanation. It does seem inadequate. Islam attacked both, Bramhanism and Buddhism. It will be asked why should one survive and the other perish. The argument is plausible but not destructive of the validity of the thesis. To admit that Bramhanism survived, it does not mean that the fall of Buddhism was not due to the sword of Islam. All that it means is that, there were circumstances which made it possible for Bramhanism and impossible for Buddhism to survive the onslaught of Islam. Fortunately for Bramhanism and unfortunately for Buddhism that was the fact.

Those who will pursue the matter will find that there were three special circumstances which made it possible for Bramhanism and impossible for Buddhism to survive the calamity of Muslim invasions. In the first place Bramhanism at the time of the Muslim invasions had the support of the State. Buddhism had no such support. What is however more important is the fact that this State support to Bramhanism lasted till Islam had become a quiet religion and the flames of its original fury as a mission against idolatory had died out. Secondly the Buddhist priesthood perished by the sword of Islam and could not be resusciated. On the other hand it was not possible for Islam to annihilate the Bramhanic priesthood. In the third place the Buddhist laity was persecuted by the Bramhanic rulers of India and to escape this tyranny the mass of the Buddhist population of India embraced Islam and renounced Buddhism.

Of these circumstances there is not one which is not supported by history.

Among the Provinces of India which came Under Muslim domination, Sind was the first. It was ruled by a Shudra king. But the throne was usurped by a Brahmin who established his own dynasty

[1] Modern researches go to show that Buddhism had spread over Europe and that the Cells in Britain were Buddhist—Sec "Buddhism in pre-Christian Britain" by Donald A. Mackenzie.

[2] Early History of India (1924) pages.

which naturally supported the Brahmnic religion at the time of the invasion of Sind by Ibne Kassim in 712 A.D. The ruler of Sind was Dahir. This Dahir belonged to the dynasty of Brahmin rulers.

Heuen Tsang had noticed that the Punjab was in his time ruled by a Kshatriya Buddhist dynasty. This dynasty ruled Punjab till about 880 A.D. In that year the throne was usurped by a Brahmin army commander by name Lalliya who founded the Brahmin Shahi dynasty. This dynasty ruled the Punjab from 880 A.D. to 1021 A.D. It will thus be seen that at the time when the invasions of the Punjab were commenced by Sabuktagin and Mohammad, the native rulers belonged to the Bramhanic religion and Jayapala (960-980 A.D.) Anandpal (980-1000 A.D.) and Trilochanpal (1000-21 A.D.) of whose struggles with Sabuktagin and Mahammad we read so much were rulers belonging to the Bramhanic faith.

Central India began to be infested by Muslim invasions which commenced from the time of Mohammad and continued under the leadership of Shahabuddin Ghori. At that time Central India consisted of different kingdoms. Mewad (now known as Udepur) ruled by the Gulohits, Sambhar (now divided into Bundi, Kota and Sirohi) ruled by the Chauhans, Kanauj[1] ruled by the Pratihars, Dhar ruled by the Parmars, Bundelkhand ruled by Chandellas, Anhilwad ruled by the Chavdas, Chedi ruled by the Kalachuris. Now the rulers of all these kingdoms were Rajputs and the Rajputs for reasons which are mysterious and which I will discuss later on had become the staunchest supporters of the Bramhanic religion.

'About the time of these invasions Bengal had fallen into two kingdoms, Eastern and Western. West Bengal was ruled by the Kings of the Pal dynasty and East Bengal was ruled by the Kings of the Sena dynasty.

The Palas were Kshatriyas. They were Buddhist but as Mr. Vadiya says[2] "probably only in the beginning or in name". As to the Sena kings there is a difference of opinion. Dr. Bhandarkar says they were Brahmins who had taken to the military profession of the Kshatriyas. Mr. Vaidya insists that the Sena Kings were Aryan Kshatriyas or Rajputs belonging to the Lunar race. In any case there is no doubt that the Senas like the Rajputs were supporters of the orthodox faith.[3]

"South of the river Nerbudda, then existed about the time of the Muslim invasions four kingdoms (1) The Deccan Kingdom of Western Chalukyas, (2) The Southern Kingdom of the Cholas (3) The Silahara

[1] Nothing remains of Kanauj. It was completely destroyed by Mohammad although it was most gallantly defended by Prithviraj.

[2] History of Medieval Hindu India Vol, II. p. 142.

[3] Ibid Vol, III. Chap. x.

Kingdom in Konkan on the West Coast and (4) The Ganga Kingdom of Trikalinga on the East Coast. These Kingdoms flourished during 1000-1200 A.D. which is the period of the Muslim invasions. There were under them, certain feudatory Kingdons which rose to power in the 12th Century A.D. and which became independent and powerful in the 13 the Century. They are (1) Devagiri ruled by the Yadavas, (2) Warangal ruled by Kakatiyas (3) Halebid ruled by Hoyasalas (4) Madura ruled by the Pandyas and (5) Travancore ruled by the Cheras.

All these ruling dynasties were followers of orthodox Brahmanism.

The Muslim invasions of India commenced in the year 1001 A.D. The last wave of these invasions reached Southern India in 1296 A.D. when Allauddin Khilji subjugated the Kingdom of Devagiri. The Muslim conquest of India was really not completed by 1296. The wars of subjugation went on between the Muslim conquerors and the local rulers who though defeated were not reduced. But the point which requires to bear in mind is that during this period of 300 years of Muslim Wars of conquests, India was governed all over by princes who professed the orthodox faith of Bramhanism. Bramhanism beaten and battered by the Muslim Invaders could look to the rulers for support and sustenance and did get it. Buddhism beaten and battered by the Muslim invaders had no such hope. It was an uneared for orphan and it withered in the cold blast of the native rulers and was consumed in the fire lit up by the conquerors.

The Musalman invaders sacked the Buddhist Universities of Nalanda, Vikramasila, Jagaddala, Odantapuri to name only a few. They raised to the ground Buddhist monasteries with which the country was studded. The Monks fled away in thousands to Napal, Tibet and other places outside India. A very large number were killed outright by the Muslim commanders. How the Buddhist priesthood perished by the sword of the Muslim invaders has been recorded by the Muslim historians themselves. Summarizing the evidence relating to the slaughter of the Budhist Monks perpetrated by the Musalman General in the course of his invasion of Bihar in 1197 A.D. Mr. Vincent Smith says[1] :

> "The Musalman General, who had already made his name a terror by repeated plundering expeditions in Bihar, seized the capital by a daring stroke. The almost contemporary historian met one of the survivors of the attacking party in A.D. 1243, and learned from him that the Fort of Bihar was seized by a party of only two hundred horsemen, who boldly rushed the postern gate and gained possession of the place. Great quantities of plunder were obtained,

[1] Early History of India (1924) pp. 419-420.

and the slaughter of the 'shaven headed Brahmans' that is to say the Buddhist monks, was so thoroughly completed, that when the victor sought for some one capable of explaining the contents of the books in the libraries of the monasteries, not a living man could be found who was able to read them. 'It was discovered' we are told, 'that the whole of that fortress and city was a college, and in the Hindi tongue they call a college Bihar."

Such was the slaughter of the Buddhist priesthood perpetrated by the Islamic invaders. The axe was struck at the very root. For by killing the Buddhist priesthood Islam killed Buddhism. This was the greatest disaster that befell the religion of Buddha in India. Religion like any other ideololgy can be attained only by propaganda. If propoganda fails, religion must disappear. The priestly class, however detestable it may be, is necessary to the sustenance of religion. For it is by its propoganda that religion is kept up. Without the priestly class religion must disappear. The sword of Islam fell heavily upon the priestly class. It perished or it fled outside India. Nobody remained to keep the flame of Buddhism burning.

It may be said that the same thing must have happened to the Brahmanic priesthood. It is possible, though not to the same extent. But there is this difference between the constitution of the two religions and the difference is so great that it contains the whole reason why Brahmanism survived the attack of Islam and why Buddhism did not. This difference relates to the constitution of the clergy.

The Brahmnic priesthood has a most elaborate organization. A clear and succinct account of it has been given by the late Sir Ramkrishna Bhandarkar in the pages of the Indian Antiquary.[1]

'Every Brahmanic family,' he writes, 'is devoted to the study of a particular Veda, and a particular Sakha (recension) of a Veda; and the domestic rites of the family are performed according to the ritual described in the Sutra connected with that Veda. The study consists in getting by heart the books forming the particular Veda. In Northern India, where the predominant Veda is the White Yagush and the Sakha that of the Madhyandinas, this study has almost died out, except at Banaras, where Brahmanic families from all parts of India are settled. It prevails to some extent in Gujarat, but to a much greater extent in the Maratha country; and in Tailangana there is a large number of Brahmans who still devote their life to this study. Numbers of these go about to all parts of the country in search of dakshina (fee, alms), and all well-to-do natives patronize them according to their means, by getting them to repeat portions of

[1] Indian Antiquary 1874. p. 132 quoted by Max Muller. Hibbert Lectures (1878) pp. 162-164.

their Veda, which is mostly the Black Yagush, with Apastamba for their Sutra. Hardly a week passes here in Bombay in which no Tailangana Brahman comes to me to ask for dakshina. On each occasion I get the men to repeat what they have learned, and compare it with the printed texts in my possession.

'With reference to their occupation, Brahmans of each Veda are generally divided into two daises, Grihasthas and Bhikshukas. The former devote themselves to a worldly avocation, while the latter spend their time in the study of their sacred books and the practice of their religious rites.

'Both these classes have to repeat daily the Sandhya-vandana or twilight-prayers, the forms of which are somewhat different for the different Vedas. But the repetition of the Gayatri-mantra 'Tat Savitur Vareynam' etc., five, then twenty eight, or a hundred and eight times, which forms the principal portion of the ceremony, is common to all.

'Besides this, a great many perform daily what is called Brahmayagna, which on certain occasions is incumbent on all. This for the Rig-Veda consists of the first hymn of the first mandal, and the opening sentences of the-Aitareya Brahmana, the five parts of the Aitereya Aranyaka, the Yagus-samhita, the Sama-samhita, the Atharva-samhita, Asvalayana Kalpa Sutra, Nirukta, Khandas, Nighantu, Jyotisha, Siksha, Panini, Yagnavalkya Smriti, Mahabharata, and the Sutras of Kanada, Jaimini, and Badarayan.'

The point to be remembered is that in the matter of officiation there is no distinction between a Bhikshuka[1] and a Grahastha. In Brahmanism both are priest and the Grahastha is no less entitled to officiate as a priest than a Bhikshu is. If a Grahastha does not choose to officiate as a priest, it is because he has not mastered the mantras and the ceremonies or because he follows some more lucrative vocation. Under Brahmanic dispensation every Brahmin who is not an outcast has the capacity to be a priest. The Bhikshuka is an actual priest, a Grahastha is a potential priest. All Brahmins can be recruited to form the army of Bramhanic priesthood. Further no particular training or initiation ceremony is necessary for a Brahmin to act as a priest. His will to officiate is enough to make him function as a priest. In Brahmanism the priesthood can never become extinct. Every Brahmin is a potential priest of Brahmanism and be drafted in service

[1]The Bhikshuks (under Bramhanism) are further sub-divided into (1) Vaidikas (2) Yajniks (3) Srotriyas and (4) Agnihotris. Vaidikas are those who learn the Vedas by heart and repeat them without a mistake. Yajnikas are those who perform Yajnas and other religious rites and ceremonies. Srottiyas are those who specialize in the art of performing great sacrifices, Agnihotris are those who maintain the three sacrificial fires and perform the Ishtis (fortnightly sacrifices) and Chaturmasyas (sacrifices to be performed every four months).

when the need be. There is nothing to stop the rake's life and progress. This is not possible in Buddhism. A person must be ordained in accordance with established rites by priests already ordained, before he can act as a priest. After the massacre of the Buddhist priests, ordination became impossible so that the priesthood almost ceased to exist. Some attempt was made to fill the depleted ranks of the Buddhist priests. New recruits for the priesthood had to be drawn from all available sources. They certainly were not the best. According to Haraprasad Shastri,[1]

> "The paucity of Bhiksus brought about a great change in the composition of the Buddhist priesthood. It was the married clergy with families, who were called Aryas, that took the place of the Bhiksus proper, and began to cater to the religious needs of the Buddhists generally. They commenced attaining the normal status of Bhiksus through the performance of some sacraments. (Intro.pp. 19.7, quoting Tatakara Guptas' Adikarmaracana : 149, pp. 1207-1208). They officiated at the religious ceremonies but at the same time, in addition to their prolusion of priesthood, earned their livelihood through such avocations as those of a mason, painter, sculptor, goldsmith, and carpenter. These artisan priests who were in later times larger in numbers than the Bhiksus proper became the religious guides of the people. Their avocations left them little time and desire for the acquisition of learning, for deep thinking, or for devotion to Dhyana and other spiritual exercises. They could not be expected to raise the declining Buddhism to a higher position through their endeavours nor could they check its course towards its ruin through the introduction of salutary reforms."

It is obvious that this new Buddhist priesthood had neither dignity nor learning and were a poor match for the rival, the Brahmins whose cunning was not unequal to their learning.[2]

The reason why Brahmanism rose from the ashes and Buddhism did not, is to be accounted for, not by any inherent superiority of Brahmanism over Buddhism. It is to be found in the peculiar character of their priesthood. Buddhism died because its army of priests died and it was not possible to create. Though beaten it was never completely broken. Every Brahmin alive became priest and took the place of every Brahmin priest who died.

[1] Summary of his views by Narendra Nath Law in Harprasad Shastri Memorial Volume pp. 363-64.

[2] The reason why the new Buddhist priest could not leave their avocations and devote themselves wholly to the propagation of religion is because as Harprasad Shastri points out. "The decrease in the number of Buddhist laity also resulted in the difficulty of Buddhist monks to receive alms. As a monk could not take alms from more than three householders and could not visit the same household within a month for the same purpose, ninety household are necessary to maintain a monk". Harprasad Shastri Memorial Volume. p.362.

As to the conversion to the faith of Islam by the Buddhist population as a cause of the fall of Buddhism, there can hardly be much doubt.

In his Presidential address to the early Medieval and Rajput section of the Indian History Congress held at Allahabad in 1938, Prof. Surendra Nath Sen very rightly observed that there were two problems relating to the Medieval History of India for which no satisfactory answers were forthcoming as yet. He mentiond two: one connected with the origin of the Rajputs and the other to the distribution of the Muslim population in India. Referring to the second, he said:

> "But I may be permitted to deal with one question that is not wholly of antiquarian interest today. The distribution of Muslim population in India demands some explanation. It is commonly believed that Islam followed the route of conquest and the subjugated people were forced to accept the faith of their rulers. The predominance of the Muslims in the Frontier Province and the Punjab lends some colour to this contention. But this theory cannot explain an overwhelming Muslim majority in Eastern Bengal. It is quite likely that the North-Western Frontier Province was peopled by Turkish folks during the Kushan days, and their easy conversion to Islam may be explained by racial affinity with the new conquerors; but the Muslims of Eastern Bengal are certainly not racially akin to the Turks and the Afghans, and the conversion of the Hindus of that region must have been due to other reasons."[1]

What are these other reasons ? Prof. Sen then proceeds to lay bare these reasons which are found in Muslim Chronicles. He takes the case of Sind for which there is direct testimony and says :[2]

> "According to the Chachnama, the Buddhists of Sind suffered all sorts of indignities and humiliations under their Brahman rulers, and when the Arabs invaded their country, the Buddhists lent their whole hearted suport to them. Later on, when Dahir was slain and a Muslim Government was firmly established in his country, the Buddhists found to their dismay that, so far as their rights and privileges were concerned, the Arabs were prepared to restore status quo ante bellum and even under the new order the Hindus received a preferential treatment. The only way out of this difficulty was to accept Islam because the converts were entitled to all the privileges reserved for the ruling classes. So the Buddhists of Sind joined the Muslim fold in large numbers."

Prof. Sen then adds this significant passage :

[1]Early Career of Kanhoji Angria and other papers, pp. 188-89.

[2]*Ibid.* pp. 188-89.

"It cannot be an accident that the Punjab, Kashmir, the district around Behar Sharif, North-East Bengal where Muslims now predominate, were all strong Buddhist Centres in the pre-Muslim days. It will not be fair to suggest that the Buddhists succumbed more easily to political temptations than the Hindus and the change of religion was due to the prospects of the improvement of their political status."

Unfortunately the causes that have forced the Buddhist population of India to abandon Buddhism in favour of Islam have not been investigated and it is therefore impossible to say how far the persecution of the Brahmanic Kings was responsible for the result. But there are not wanting indications which suggest that this was the principal cause. We have positive evidence of two Kings engaged in the campaign of persecuting the Buddhist population.

The first to be mentioned is Mihirkula. He belonged to the Huns who invaded India about 455 A.D. and established their kingdom in Northern India with Sakala, the modern Sialkot in the Punjab as the capital. Mihirkula ruled about 528 A.D. As Vincent Smith says:[1]

"All Indian traditions agree in representing Mihirkula as a blood thirsty tyrant. 'The Attila of India', stained to a more than ordinary degree with 'implicable cruelty' noted by historians as characteristic of the Hun temperament."

Mihirkula, to use the language of Smith,[2] :- "exhibited ferocious hostility against the peaceful Buddhist cult, and remorselessly overthrew the *stupas* and monasteries, which he plundered of their treasures".

The other is Sasanka, the King of Eastern India. He ruled about the first decade of the seventh century and was defeated in a conflict with Harsha. In the words of Vincent Smith[3]

"Sansanka, who has been mentioned as the treacherous murderer of Harsha's brother, and probably was a scion of the Gupta dynasty, was a worshipper of Shiva, hating Buddhism, which he did his best to extirpate. He dug up and burnt the holy Bodhi tree at Buddha Gaya, on which, according to legend, Asoka had lavished inordinate devotion; broke the stone marked with the footprints of Buddha at Pataliputra; destroyed the convents, scattered the monks, carrying his persecutions to the foot of the Nepalese hills".

The seventh century seems to be a century of religious persecution in India. As Smith points out:[4]

[1] Early History of India (1924) p. 336.

[2] Ibid p. 337.

[3] Ibid p. 360.

[4] Ibid F. N. p. 214.

"A terrible persecution of the cognate religion Jainism occurred in Southern India in the seventh century".

Coming nearer to the time of the Muslim invasions, we have the instance of Sindh where presecution was undoutedly the cause. That these persecutions continued upto the time of the Muslim invasions may be presumed by the fact that in Northern India the Kings were either Brahmins or Rajputs both of whom were anti Buddhists. That the Jains were persecuted even in the 12th century is amply supported by history. Smith refers to Ajayadeva, a Saiva King of Gujarat who came to the throne in A.D. 1174-6 and began his reign by a merciless persecution of the Jains, torturing their leader to death. Smith adds, "Several other well-established instances of severe persecution might be cited."

There is therefore nothing to vitiate the conclusion that the fall of Buddhism was due to the Buddhist becoming coverts to Islam as a way of escaping the tyranny of Brahmanism. The evidence, if it does not support the conclusion, at least makes it probable. If it has been a disaster, it is a disaster for which Brahmanism must thank itself.

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CHAPTER 10

Literature of Brahminism

We have come across scattered pages of this essay, numbering from 6 to 14 and 17 to 39. These pages seem to be a continuation of the subject dealt with under the title 'The Decline and Fall of Buddhism'. Some of the pages are the first copies while the rest are the carbon copies. There are 14 more pages dealing with the Vedanta Sutras and Bhagvat Gita. The size and quality of the paper on which 3 chapters i.e. (1) The Decline and Fall of Buddhism, (2) The Literature of Brahminism and (3) Vedanta Sutras and Bhagvat Gita are typed, appear to be similar but distinct from the size and quality of other Chapters in this part.—Editors.

I

The facts which supply the reasons must be gleaned from the literature of Brahmanism which grew up after its political trimuph under Pushyamitra.

The literature falls under six categories (1) Manu Smriti (2) Gita (3) Shankaracharya's Vedant (4) Mahabharat (5) Ramayana and (6) the Puranas. In analysing this literature, I propose to bring out only such facts as are capable of being suggested by inference, the reason or reasons for the decline of Buddhism.

There is nothing unusual or unfair in this. For literature is the mirror in which the life of a people can be said to be reflected.

There is one point which I feel I must clear up. It relates to the period when this literature came into existence. Not all will agree that the literature referred to came into being after the revolution of Pushyamitra. On the contrary most Hindus, whether orthodox or not, learned or not, have an inerradicable belief that their sacred literature is a very old one in point of time. Indeed it seems to be an article of faith with every Hindu which necessitates a belief in a very high antiquity of their sacred literature.

As to the age of Manu I have given references to show that Manu Smriti was written by Sumati Bharagava after 185 B.C. i.e. after the Revolution of Pushyamitra. I need say nothing more on the subject.

The date of the Bhagavat Gita is a subject about which there has been a difference of opinion.

Mr. Telang was of opinion that the Geeta must be older than the third century B.C. though he was not able to say how much.

Mr. Tilak……..

In the opinion of Prof. Garbe,[1] the Geeta as we have it, is different from what it originally was. He agrees that the conviction that the Bhagwat Geeta has not reached us in its original form but has undergone essential transformations, is now, however, shared by many Indologists outside India. According to Prof. Garbe, one hundred and forty-six verses in the Bhagwat Geeta are new and do not belong to the original Geeta. As to the date of its composition Prof. Garbe says that it "cannot possibly be placed before the second Century A.D."

Prof. Kausambi insists that the Geeta was composed in the reign of King Baladitya. Baladitya belonged to the Gupta Dynasty which supplanted the Andhra Dynasty in the year……. Baladitya came to the throne in the year 467 A.D. His reasons for so late a date are two. Before Shankaracharya—who was born in 788 A.D. and who died in 820 A.D.—wrote his commentary on the Bhagwat Geeta, it was an unknown composition. It was certainly not mentioned in the *Tatvasangraha* by Shantarakshit who wrote his treatise only 50 years before the advent of Shankaracharya. His second reason is this. Vasubandhu was the originator of a school of thought known as '*Vijnyan Vad*'. The *Bramha-Sutra-Bhashya* contains a criticism of the Vijnyan Vad of Vasubandu. The Geeta contains a reference[2] to the Bramha-Sutra-Bhashya. The Geeta must therefore be after Vasubandu and after the Bramha-Sutra-Bhashya. Vasubandhu was the preceptor of the Gupta King Baladitya. That being so, the Geeta must have been composed during or after the reign of Baladitya.

Nothing more need be said about the date of Shankaracharya. The age in which he lived and wrote is now generally accepted. Something about his life needs to be said. But I will reserve that for another place.

The question of determining the date of the composition of the Mahabharata is next to impossible. Only an attempt to fix the period of its composition can be made. The Mahabharat has undergone three editions and with each editor the title and subject matter has changed. In its original form it was known as *'Jaya',* Triumph. This original

[1] See his "Introduction to the Bhagvatgeeta" English Translation by Prof. Utgikar

[2] Geeta Adhya XIII. Shloka 4.

name occurs even in the third edition both in the beginning as well as in the end. The original edition of the book known as *'Jaya'* was composed by one Vyas. In its second edition it was known as Bharat. The Editor of this second edition was one Vaishampayana. Vaishampayan's edition was not the only second edition of the Bharata. Vyas had many pupils besides Vaishampayana; Sumantu, Jaimini, Paila and Shuka were his other four pupils. They all had learned at the feet of Vyas. Each one of them produced his own. Thus there were four other editions of Bharata. Vaishampayana recast the whole and brought out his own version. The third editor is Sauti. He recast Vaishampayana's version of Bharata. Sauti's version ultimately came to have the name of *Mahabharata*. The book has grown both in size and in the subject matter as well. The '*Jaya*' of Vyas was amall work having not more than 8800 Shlokas. In the hands of Vaishampayana it grew into 24000 verses. Sauti expanded it to contain 96836 Shlokas. As to subject matter the original as composed by Vyas was only a story of the war between the Kauravas and the Pandavas. In the hands of Vaishyampayana the subject became two-fold. To the original story there was added the sermon. From a purely historical work, it became a diadactic work aiming to teach a right code of social, moral and religious duties. Sauti the last Editor made it an all-embracing repository of legendary lore. All the smaller floating legends and historical stories which existed independently of the Bharata were brought together by Sauti so that they might not be lost or that they may be found togeher. Sauti had another ambition, that was to make the Bharata a storehouse of learning and knowledge. This is the reason why he added sections on all branches of knowledge, such as politics, geography, archary etc. Taking into account Sauti's habit of repetition, it is no wonder that the Bharata in his hand became Mahabharata.

Now as to the date of its composition. There is no doubt that the war between the Kauravas and the Pandavas is a very ancient event. But that does not mean that the composition of Vyas is as old as the event or contemporaneous with the event. It is difficult to assign specific dates to the different editions. Taking it as a whole Prof. Hopkins says:[1]

> "The time of the whole Mahabharata generally speaking may then be from 200-400 A.D. This, however, takes into account neither subsequent additions, such as we know to have been made in later times, nor the various recasting in verbal form, which may safely be assumed to have occurred at the hands of successive copyists."

[1] Prof Hopkins, "The Great Epic of India", p. 389.

But there are other circumstances which definitely point to a later date.

The Mahabharat contains a reference to the Huns. It was Skandagupta who fought the Huns and defeated them in or about the year 455 A.D. Notwithstanding this the invasions of the Huns continued till 528 A.D. It is obvious that the Mahabharat was being written about his time or therefter.

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In the same Adhyaya verse 59, it is said that "Oppressed by the Vrashalas, the Brahmins struck with fear and finding no one to protect them, will roam all over the world groaning and crying in agony".

The Vrashalas referred to in this verse cannot be the Buddhists. There is no particle of evidence that the Brahmins were ever oppressed. On the contrary the evidence is that the Brahmins, during the Buddhists regime, were treated with the same liberality as the Buddhist Bhikshus. The reference to the Vrashalas means the uncultured must be to the Islamic invaders.

There occur other verses in the same Adhyaya of the Vanaparva. They are 65, 66 and 67. In these verses it is said that, "Society will become disarranged. People will worship *Yedukas*. They will boycott Gods. The Shudras will not serve the twice-born. The whole world will be covered with Yedukas. The Yug will come to an end."

What is the meaning of the term '*Yedukas*'? By some it has been taken to mean a Buddhist *Chaitya*. But according to Mr. Kausambi[1] this is wrong. Nowhere either in the Buddhist literature or in the Vedic literature is the word Yeduka used in the sense of 'Chaitya'. On the contrary according to the Amarkosh as commented upon by Maheshwar Bhatt the word Yeduka means a wall which contains a wooden structure to give it strength. So understood Kausambi contends that the word Yeduka must mean 'Idgaha' of the Musalmans before which they say their prayers. If this is a correct interpretation

[1] Hindi Sanskriti Ani Ahimsa. p. 156.

then it is obvious that parts of the Mahabharata were written after the invasion of Mohammad Ghori. The first Muslim invasion took place in 712 A.D. under Ibne Kassim. He captured some of the towns in Northern India but did not cause much destruction. He was followed by Mohammad of Gazni. He caused great destruction of Temples and Viharas and massacred priests of both religions. But he did not engage himself in building Mosques or Idgahas. That was done by Mohammad Ghori. From this it can be said that the writing of the Mahabharata was not complete till 1200 A.D.

It seems that like the Mahabharata, the Ramayana has also gone through three editions. There are two sort of references to the Ramayana in the Mahabharata. In one case the reference is to 'Ramayana' without any mention of the author. In other the reference is to the Ramayana of Valmilki. But the present Ramayana is not the Ramayana of Valmiki.[1] In the opinion of Mr. C. V. Vaidya[2]:

> "That the present Ramayana, even as it is approved and adopted by the searching and all-respected commentator Kataka, is not the Ramayana originally written by Valmiki, not even the most orthodox thinker will be disposed to doubt. Whoever even cursorily reads the poem cannot but be struck with the inconsistencies, the severances of connections, juxta-positions of new and old ideas which abound so greatly in the present Ramayana, whether we take the Bengal or the Bombay text of it. And one cannot but come to the conclusion that the Ramayana of Valmiki was substantially reconstructed at some subsequent date."

As in the case of the Mahabharata there has been an accretion to the subject matter of the Ramayana. Originally it was just a story of the war between Rama and Ravana over the abduction of Rama's wife Sita by Ravana. In the second edition it became a story with a sermon. From a purely historical work it also became a didactic work aiming to teach a right code of Social, Moral and religious duties. When it assumed the form of a third edition it was, again, like the Mahabharat, made a repository of legends, knowledge, learning, philosophy and other arts and sciences.

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[1] Hopkins "The Great Epic of India", p. 62.

[2] The Riddle of the Ramayana Chap. II. p. 6.

Ramayana was composed after a great part of the Mahabharata had already been composed.[1]

(INCOMPLETE)

II

The literature from which I propose to draw upon consists of (1) The Bhagwat Geeta (2) The Vedant Sutras (3) The Mahabharat (4) The Ramayana and (5) The Puranas. In analysing this literature I propose to bring out only such facts as are capable of being suggested by inference a reason or reasons for the decline of Buddhism.

Before proceeding to examine the subject matter of this lirerature I must deal with the question of the period when this literature came into existence. Not all will agree that the literature referred to came into being after the revolution of Pushyamitra. On the contrary most Hindus whether orthodox or not, learned or not, have an in-eradicable belief that their sacred literature is a very old one in point of time. Indeed it seems to be an article of faith with every Hindu which necessitates a belief in a very high antiquity of their sacred literature.

(I) BHAGWAT GITA

Beginning with the Bhagwat Gita, the date of its composition has been a matter of controversy. Mr. Telang[2] was of opinion that we should "take the second century B.C. as a terminous before which the Gita must have been composed". The late Mr. Tilak[3] was convinced that the date of the present Gita must be taken as not later than 500 years before the Saka era" which means that the present Gita was composed somewhere about.... According to Prof. Garbe[4] the date of the composition of the Bhagwat Gita must be placed somewhere between 200 and 400 A.D. There is another view propounded by Mr. Kausambi and is based on quite indisputable data.

Prof. Kausambi insists that the Gita was composed in the reign of Gupta King Baladitya. Baladitya belonged to the Gupta dynasty which supplanted the Andhra Dynasty in the year..... Baladitya came to the throne in the year 467 A.D. His reasons for so late a date for the composition of the Gita are two. Before Sankaracharya —who was

[1] See the Appendix A to Hopkins "The Great Epic of India" for Parallel phrases in the two epics.

[2] Introduction to his translation of the Bhagwat Gita in the "Sacred Books, of the East" Series.

[3] Gita-Rahasva (Eng. Translation) Vol.II p.800. According in Mr. Tilak the original Gita must have been some centuries earlier.

[4] Introduction to the Bhagwat Gita English Translation by Prof. Utgikar.

born in 788 A.D. and who died in 820 A.D. —wrote his commentary on the Bhagwat Gita, it was an unknown composition. It was certainly not mentioned in the *Tatvasangraha* by Shantarakshit who wrote his treatise only 50 years before the advent of Sankaracharya. His second reason is this. Vasubandhu was the originator of a school of thought known as '*Vijnan Vad'*. The Brahma-Sutra-Bhashya contains a criticism of the Vijnan Vad of Vasubandhu. The Gita contains a reference[1] to the Brahma-Sutra-Bhashya. The Gita must therefore be after Vasubandhu and after the Brahma-Sutra-Bhashya. Vasubandhu was the preceptor of the Gupta King Baladitya. That being so the Bhagwat Gita must have been composed or at any rate portions of Gita must have been added to the original edition during or after the reign of Baladitya i.e. about 467 A.D.

While there is a difference of opinion regarding the date of the composition of the Bhagwat Gita, there is no difference of opinion that the Bhagwat Gita has gone through many editions. All share the conviction that the Bhagwat Gita has not reached us in its original form but has undergone essential transformations at the hands of different editors who have added to it from time to time. It is equally clear that the editors through whose hands it has gone were not of equal calibre. As Prof. Garbe points out[2]

> "The Gita is certainly 'no artistic work which the all comprehending vision of a genious has created.' The play of inspiration is indeed often times perceptible; not seldom, however, there are merely high-sounding, empty words with which an idea that has been already quite often explained, is repeated; and occasionally the literary expression is exceedingly faulty. Verses are bodily taken over from the Upanishad literature, and this is certainly what a poet filled with inspiration would never have done. The workings of Sattva, Rajas and Tamas are systematized with a truly Indian pedantry, and much indeed besides this could be brought forward to prove that the Gita is not the product of a genuinely poetic creative impulse..."
>
> Hopkins speaks of the Bhagwat Gita as characteristic in its sublimity as in its puerilities, in its logic as in its want of it....Despite its occasional power and mystic exaltation, the Divine Song in its present state as a poetical production is unsatisfactory. The same thing is said over and over again, and the contradictions in phraseology and meaning are as numerous as the repetitions, so that one is not surprised to find it described as "the wonderful song, which causes the hair to stand on end".

[1] Gita Adhayaya XIII, Shloka, 4.

[2] Ibid p. 3.

This is not to be rejected as the view of foreigners. It is fully supported by Prof. Rajwade[1] who goes to show that some of those who had a hand in the composition of the Bhagwat Gita were ignorant of the rules of grammar.

While all are agreed that there have been different editions of the Gita under different editors, they are not agreed as to what parts of the Gita are original and what parts of the Gita are additions subsequently made. In the opinion of the late Rajaram Shastri Bhagwat the original Gita consisted only of 60 Shlokas. Humboldt was inclined to the view that originally the Gita consisted of only the first eleven Adhyayas (chapters) and that 12 to 18 Adhyayas were subsequent additions made to the original. Hopkins' view is that the first fourteen Adhyayas constitute the heart of the poem. Prof. Rajwade thinks that Adhyayas 10 and 11 are spurious. Prof. Garbe says that 146 verses in the Bhagwat Gita are new and do not belong to the original Gita which means that more than one-fifth of the Gita is new.

Regarding the author of the Gita there is none mentioned. The Gita is a conversation between Arjuna and Krishna which took place on the battle field, in which Krishna propounds his philosophy to Arjuna. The conversation is reported by Sanjaya to Dhritarashtra, the father of the Kauravas. The Gita should have been a part of the Mahabharata, for, the incident which formed the occasion for it, is natural to it, but it does not find a place there. It is a seperate indepenent work. Yet there is no author to whom it is attributed. All that we know, is that Vyas asks Sanjaya to report to Dhritarashtra the conversation that took place between Arjuna and Krishna. One may therefore say that Vyas is the author of the Gita.

(2) VEDANT SUTRAS

As has already been said, the Vedic literature consists of the Vedas, the Brahmanas, the Aranyakas, and the Upanishadas. From the point of their subject matter, this literature falls into two classes (1) literature which deals with religious observances and rites and ceremonies technically called Karma Kanda and (2) literature which deals with the knowledge about God to use the Vedic equivalent; the Brahmanas, technically called 'Gnanakanda'. The Vedas and the Brahmanas fall under the first category of literature, while the Aranyakas and the Upanishadas fall under the second.

This Vedic literature had grown to enormous proportions and what is important is that, it had grown in a wild manner. Some system,

[1] Bhandarkar Memorial Volume.

some coordination was necessary to bring order out of this chaos. As a result of the necessity for this coordination, there grew up a branch of inquiry called "Mimansa" i.e. an inquiry into the connected meaning of sacred texts i.e. the Vedic literature. Those who thought it necessary to undertake such a task of systematization and coordination divided themselves into two schools, those who systematized the '*Karmakand*' portion and these who systematized the '*Gnanakand*" portion of the Vedic literature. The result was that there grew up two branches of the Mimansa Shastra, one called *Purva Mimansa* and the other *Uttara Mimansa*. As the names suggest, the Purva Mimansa deals with the early portion of the Vedic literature namely the *Vedas* and the *Bramhanas*. That is why it is called Purva (early) Mimansa. The Uttara Mimansa deals with the later portions of the Vedic literature namely the Aranyakas and Upanishads. That is why it is called Uttara (later) Mimansa.

The literature connected with the two branches of the Mimansa Shastra is immense. Of this, two collections of Sutras stand out as the principal and leading works in this field of Mimansa. The authorship of one is attributed to Jaimini and that of the other is ascribed to Badarayana. Jaimini's Sutras deal with 'Karmakanda' and Badarayan's deal with 'Gnanakand'. There is no doubt that there were prior to Jaimini and Badarayana, other authors who had written treatises on these subjects. Nonetheless the sutras of Jaimini and Badarayana are taken as the standard works on the two Branches of the Mimansa Shastra.

Although the Sutras of both relate to that branch of inquiry called Mimansa, Jaimini's sutras are called *Mimansa Sutras*[2] while those of Badarayana are called *Vedanta Sutras*. The term 'Vedanta' is taken to mean "the end of the Veda", or the doctrines set forth in the closing chapter of the Vedas which comprise the Upanishads and as the Upanishads constitute "the final aim of the Vedas." The Sutras of Badarayana which go to systematize and coordinate them have come to be called *Vedanta Sutras,* [3]* or the doctrines set forth in the closing chapter of the Vedas which asked Sanjaya to report to. This is the origin of the Vedanta Sutras.

[1] At a matter of fact the systematization of the Karmakand portion of the Vedic literature gave rise to two kinds of works (1) Kalpa Sutras and (2) Purva Mimansa Sutras. The former give only a ahort and concise description of the rituals enjoined in the Brahamanas; while the latter enunciate and support the general principle which the author of the Kalpa Sutra must follow, if he wishes to render his rules strictly conformable to the teaching of the Vadas.

[2] They are also called Purva Mimansa or *Karma Mimansa*.

[3] They also go by various other names such as Uttara Mimansa Sutras, Brahma Sutras or Saririka Sutras or Saririka Mimansa Sutras.

Who is this Badarayana? Why did he compose these Sutras and when did he compose them? Beyond the name nothing is known about Badarayana.[1] It is not even certain that it is the real name of the author. There is a considerable uncertainty regarding the authorship of these Sutras even among his chief commentators. Some say that the author is Badarayana. Others say that the author of the Sutra is Vyas. The rest say that Badarayana and Vyas are one and the same person. Such is the bewildering conflict of opinion regarding the author of the Sutras.

Why did he compose these Sutras ? That the Brahmins should undertake to systematize the Karmakand portion of the Vedic literature one can quite understand. The Brahmins were deeply concerned with the Karmakand. Their very existence, their livelihood depended upon the systematization of the Karmakand portion of the Vedic literature. The Brahmins on the other hand had no interest in the 'Gnankand' portion of the Vedic literature. Why should they have made an attempt to systematize it? The question has not even been raised. But it is an important question and the answer to that must also be very important. Why the question is important and what the answer is I shall discuss later on.

There are two other questions with regard to the Vedanta Sutras. First is this. Is this work theological in character or is it purely philosophical in its nature? Or is it an attempt to tie down pure philosophy to the apron strings of established theology and thereby to make it innocuous and harmless. The other question relates to the commentaries on the Vedanta Sutras. There have been altogether five commentaries on the Vedanta Sutras by five eminent men all of whom are called Acharyas (doctors of learning) by reason of their intellectual eminence. They are (1) Shankaracharya (788 A.D. to 820 A.D.), (2) Ramanujacharya (1017 A.D. to 1137 A.D.), (3) Nimbarkacharya (died about 1162 A.D.), (4) Madhavacharya (1197-1276 A.D.) and (5) Vallabhacharya (born 1417 A.D.). The commentaries of these Acharyas on the Vedanta Sutras have become far more important than the Vedanta Sutras. The point of some significance is that on the text of one and the same collection of the Vedanta Sutras, an attempt has been made by those five Acharyas to found five different systems of thought. According to Shankara, the Vedanta Sutras teach absolute monism. According to Ramanuja, qualified monism. According to

[1] The same is true of Jaimini. As Kane says "Hardly anything is known about Jaimini. There is a Brahmana, a Srauta Sutra and a Grihyasutra ascribed to Jaimini. But it is hardly likely that they are the works of the founder of the Purvamimansa. In the *tarpana* in the Asvalayan Grihya Sutra Jaimini occurs along with Sumantu, Vaishyampayana. In the Bhagwat Purana Jaimini is said to be the teacher of Sumantu and a promulgator of Samaveda. The Panchatantra tells us that an elephant crushed to death Jaimini—the author of the Mimansa. "A brief sketch of the Purva Mimansa System", p. 12.

Nimbarka, monodualism. According to Madhava, dualism and according to Vallabha, pure monism. I will not discuss here what these terms mean. All I want to say is why should five different schools should have arisen as a result of five different interpretation of the same collection of Sutras. Is it a mere matter of grammar ? Or is there any other purpose behind these several interpretations. There is also another question which arises out of the plurality of commentaries. While there are Five different commentaries each propounding five different ways of looking at God and the individual soul really speaking there are only two, the view taken by Shankaracharya and the view taken by the other four. For though the four differ among themselves, they are all united in their opposition to Shankaracharya on two points (1) The complete oneness between God and individual soul and (2) the world is an illusion. Here comes the third question. Why did Shankaracharya propound so unique a view of the Vedanta Sutras of Badarayana ? Is it the result of a critical study of the Sutras ? Or is it a wishful interpretation designed to support a preconceived purpose ?

I am only raising this question, I don't propose to deal with them here. Here I am concerned with the age of this literature, is it Pre-Buddhist or Post-Buddhist.

As to the date of the composition of the Vedanta Sutras the initial difficulty is that like the Bhagwat Gita it has also gone through several recensions. According to some[1] there have been three recensions of the Vedanta Sutras. That being so nothing definite can be said regarding the date of its composition.[2] The views expressed are only approximations. There can be no doubt that the Vedanta Sutras are composed after the rise of Buddhism for the Sutras do allude to Buddhism. They must not be after Manu for Manu refers to them in his Smriti. Prof. Keith holds that they must have been written about 200 A.D. and Prof. Jacobi believes that the Sutras must have been composed between 200 A.D. and 450 A.D.

(3) MAHABHARATA

The question of determining the date of the composition of the Mahabharata is next to impossible. Only an attempt to fix the period of its composition can be made. The Mahabharata has undergone three editions and with each editor the title and subject matter has changed. In its original form it was known as *'Jaya'* Triumph. This

[1] See Belvalkar, Basu Mallick Lectures on Vedanta Lecture IV.

[2] See Radhakrishnan—Indian Philosophy Vol. II p. 430 where the relevant evidence is collected together.

original name occurs even in the third edition, both in the beginning as well as in the end. The original edition of the book known as '*Jaya*' was composed by one Vyas. In its second edition it was known as Bharat. The editor of this second edition was one Vaishampayana. Vaishampayana's Edition was not the only second edition of the Bharata. Vyas had many pupils besides Vaishampayana; Sumantu, Jaimini, Paila and Shuka were his other four pupils. They all had learned at the feet of Vyas. Each one of them produced his own edition. Thus there were four other editions of Bharata. Vaishampayana recast the whole and brought out his own version. The third Editor is Sauti. He recast Vaishampayana's version of Bharata. Sauti's version ultimately came to have the name of *Mahabharata*. The book has grown both in size and in the subject matter as well. The 'Jaya' of Vyas was a small work having not more than 8,800 Shlokas. In the hands of Vaishampayana it grew into 24,000 verses. Sauti expanded it to contain 96,836 Shlokas. As to subject matter, the original as composed by Vyas was only a story of the war between the Kauravas and the Pandavas. In the hands of Vaishampayana the subject became two-fold. To the original story there was added the sermon. From a purely historical work it became a diadactic work aiming to teach a right code of social, moral and religious duties. Sauti the last Editor made it an all embracing repository of legendary lore. All the smaller floating legends and historical stories which existed independently of the Bharata were brought together by Sauti so that they might not be lost or that they may be found together. Sauti had another ambition, that was to make the Bharata a storehouse of learning and knowledge. This is the reason why he added sections on all branches of knowledge, such as politics, geography, archary etc. Taking into account Sauti's habit of repetition it is no wonder that the Bharata in his hand became Mahabharata.

Now as to the date of its composition. There is no doubt that the war between the Kauravas and the Pandavas is a very ancient event. But that does not mean that the composition of Vyas is as old as the event or contempraneous with the event. It is difficult to assign specific dates to the different editions. Taking it as a whole Prof. Hopkins says:[1]

> "The time of the whole Mahabharata generally speaking may then be from 200-400 A.D. This, however, takes into account neither subsequent additions, such as we know, to have been made in later times, nor the various recasting in verbal form, which may safely be assumed to have occurred at the hands of successive copyists."

[1] Prof. Hopkins, "The Great Epic of India", p. 389.

But there are other circumstances which definitely point to a later date.

The Mahabharata contains a reference to the Huns. It was Skandagupta who fought the Huns and defeated them in or about the year 455. Notwithstanding this, the invasions of the Huns continued till 528 A.D. It is obvious that the Mahabharata was being written about this time or thereafter.

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Great significance attaches to the term '*Yedukas'*. By some it has been taken to mean a Buddhist *Chaitya,* on the ground that *Yeduka* means bone and particularly the bones of Buddha and subsequently Chaitya because a Chaitya contains the bones of the Buddha. But according to Mr. Kausambi[2] this is wrong. Nowhere either in the

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Buddhist literature or in the Vedic literature is the word Yeduka used in the sense of 'Chaitya'. On the contrary, according to Amarkosh as commented upon by Maheshwar Bhatt, the word Yeduka means a wall which contains a wooden structure to give it strength. So understood Kausambi contends that the word Yeduka must mean 'Idgaha' of the Musalmans before which they say their prayers. If this is a correct interpretation then it is obvious that part of the Mahabharata was written after the Muslim invasions, particularly after those of It Mohammad Ghori. The first Muslim invasion took place in 721 A.D. under Ibne Kassim. He captured some of the towns in Northern India but did not cause much destruction of Temples and Viharas and massacred priests of both the religions. But he did not engage himself in building Mosques or Idgahas. That was done by Mahammad Ghori. So that, it can well be said, that the writing of the Mahabharata was going on till 1200 A.D.

RAMAYANA

It is a fact that like Mahabharata, the Ramayana has also gone through three editions. There are two sorts of references to the Ramayana in the Mahabharata. In one case the reference is to Ramayana without any mention of the author. The other reference is to the Ramayana of Valmiki. But the present Ramayana is not the Ramayana of Valmiki.[1] In the opinion of Mr. C. V. Vaidya[2]:

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assumed the form of a third edition, it was again, like the Mahabharata, made a repository of legends, knowledge, learning, philosophy and other arts and sciences.

With regard to the date of the composition of the Ramayana, one proposition is well established namely that the episode of Rama is older than the episode of the Pandus. But that the composition of the Ramayana has gone on peripassu along with the composition of the Mahabharata. Portions of Ramayana may be earlier than the Mahabharata. But there can be no doubt that a great part of the Ramayana was composed after a great part of the Mahabharata had already been composed.[1]

PURANAS

The Puranas[2] today number 18. This is however not the original number. According to traditions, there is no reason to doubt, there was only one Purana to start with. Tradition alleges that this Purana was older than the Vedas. The Atharva Veda refers to this *Purana* and the Bramhanda Puran says that it is more ancient than the Vedas. It was a lore which the King was expected to know for the Satapada. Bramhana says the Adhvaryu was required to recite the Purana to the 'King on the 10th day of the Yajna.

The origin of the 18 Puranas is attributed to Vyas who it is said recast the original single Purana and by additions and substractions made 18 out of one. The making of the 18 Puranas is thus the second stage in the evolution of the Puranas. The edition of each of these 18 Puranas as published or uttered by Vyas is called the Adi[3] Purana i.e. the original edition as brought out by Vyas. After Vyas composed these 18 Puranas, he taught them to his disciple Romaharsana. Romaharsana prepared his own edition of the Puranas and taught it to his six disciples. Romaharsana's edition of the Puranas thus becamethe third edition of the Puranas. Of the six disciples of Romaharsana, three: Kasyapa, Savarni and Vaisampayana, made three separate editions which may be called the fourth edition of the Puranas which we call by their names. According to the Bhavishya Purana, the Puranas came to be revised sometime during the reign of King Vikramaditya.[4]

[1]See the Appendix A to Hopkins "The Great Epic of India" for Parallel phrases in the two epics.

[2]For the account of the Puranas which follows I have drawn upon Kale's Purananirikshana (Marathi) and Partigar's Ancient Indian Historical Tradition.

[3] Adi Purana does not mean a separate Purana of that name. It means the first edition of each of the 18 Puranas.

[4] Who is Vikramaditya ? No one can say.

As to the subject matter of the Puranas. The *Purana* from the oldest time is a recognised department of knowledge. For instance it was distinguished from Itihas or history. By Itihas what was understood was past occurances connected with a ruling king. By *Akhyana* was meant the recital of an event the occurance of which one had witnessed. By *Upakhyana* was meant the recital of something one has heard. *Gathas* meant songs about dead ancestors and about nature and universe.

Kalpashudhi[1] are ancient ways of acting regarding Shraddha and Kalpa.[2] The Purana was distinguished from all these branches of knowledge. The Purana was concerned with five subjects. (1) Sarga (2) Prati Sarga (3) Vamsha (4) Manvantar and (5) Vamshacharitra. Sarga means creation of the universe, Pratisarga means the dissolution of the Universe. Vamsha means Geneology, Manvantar means the Ages of the different Manus, particularly the fourteen successive Manus who were the progenitors or sovereigns of the Earth. Vamshacharitra means the account of royal dynasties.

There has been a considerable addition made in the scope and subject matter of the Puranas. For the Puranas which we have are no longer confined to these subjects. In addition to these subjects they contain other subjects which fall entirely outside their prescribed scope. Indeed there has been such a change in the fundamental notion I regarding the scope of the Puranas so that some of them do not contain any treatment of the regular subjects but deal wholly with the new or extra subjects. The extra subjects include the following main topics:

(I) Smriti Dharma which include discussion of:

(1) Varnashrama-dharma, (2) Achara, (3) Ahnika, (4) Bhashyabhasya, (5) Vivaha, (6) Asaucha, (7) Shradha (8) Dravya-Suddhi (9) Pataka, (10) Prayaschitta, (11) Naraka, (12) Karma Vipaka and (13) Yuga Dharma.

(II) Vrata Dharma—Observance of holy vows and holy days

(III) Kshetra Dharma—Pilgrimages to holy places and

(IV) Dana Dharma—Gifts to holy persons.

In addition to this, there are two other topics the new subject matter with which one finds the Puranas to be deeply concerned.

The first of these two topics relates to sectarian worship. The Puranas are votaries of a particular deity and advocate the cause of

[1] Mr. Hazara speaks of Kalpajokti (instead of Kalpashudhi) which means lore that has come down through ages—see chronology of Puranas p. 4.

[2] The word Kalpa is used in various senses. (1) Practicable. (2) Proper (3) Able, Competent. The word *Kalpa* is else used in various senses (1) A Sacred rule (2) A prescribed alternative (3) Made of performing religious rites (4) End of the world, Universal destruction. (5) A day of the Brahma Yuga (6) Medical treatment of the sick and (7) One of the six Vedangas: that which lays down the ritual and prescribes rules for ceremonies and sacrificial acts.

a particular deity and the sect devoted to his worship. Five[1] Puranas advocate worship of Vishnu, Eight[2] worship of Shiva, One[3] worship of Brahma, One[4] worship of Surya, Two worship of Devi and One worship of Genesh.

The second topic which the Puranas have made a part of their subject matter is the history of the Avatars of the God. The Puranas make a distinction between identification of two Gods and the incarnation of a God. In the case of identification, the theory is that the God is one although he has two names. In the case of an incarnation, God becomes another being of the man or brute and does something miraculous. In reading this history of incarnations the fruitful source is Vishnu. For it is only Vishnu who has taken Avatars from time to time and done miraculous deeds and we find in the Puranas this new topic discussed in all its elaborate details.

It is no wonder if by the addition of these new subjects, the Puranas have been transformed out of recognition.

There is one other matter regarding the authorship of the Puranas which is noteworthy. It relates to the change in the authorship of the Puranas. Among the ancient Hindus, there were two separate sections among the literary class. One section consisted of the *Brahmins* and another section called *Sutas* who were non-Bramhins. Each was in charge of a separate department of literature. The Sutas had the monopoly of the Puranas. The Brahmins had nothing to do with the composition or the reciting of the Puranas. It was exclusively reserved for the Sutas and the Brahmins had nothing to do with it. Though the Sutas had specialized themselves in the making and the reciting of the Puranas, although they had acquired a hereditary and a prescriptive right to compose and recite the Puranas, there came a time when the Sutas were ousted from this profession by Brahmins who took it into their own hands and made a monopoly of it in their own favour. Thus there was a change in the authorship of the Puranas. Instead of the Sutas, it is the Brahmins who became their authors.[5]

It is probably when the Puranas fell into the hands of the Brahmins that the Puranas have been finally edited and recast to make room for the new subjects. The editing and recasting has been of a very daring character. For in doing so they have added fresh chapters, substituted new chapters for old chapters and written new chapters with old names. So that by this process some Puranas retained their earlier

[1] (1) Vishnu (2) Bhagwat (3) Narada (4) Vaman and (5) Garuda.

[2] (1) Shiva (2) Brahma (3) Linga (4) Varaha (5) Skanda (6) Matsya (7) Kurma (8) Bramhanda

[3] Padma.

[4] Agni.

[5] Partiger.

materials, some lost their early materials, some gained new materials and some became totally new works.

The determination of the date of the composition of the Puranas is a problem which has hardly been tackled.All history written by the Brahmins is history without dates and the Puranas are no exception. The date of the Puranas has to be determined by circumstantial evidence co-related with events the dates of which are well settled. The dates of the composition of the different Puranas have not been examined as closely as those of the other parts of the Brahminic literature. Indeed scholars have paid no attention to the Puranas at all certainly nothing like what they have done in the matter of the Vedic literature. Mr, Hazara's is the only work I know of in which an attempt is made in the matter of determining the date of the composition of the Puranas. I give below the dates of the Puranas as found by him.

	Puranas			Date of Composition
1.	Markendeya	..	..	Between 200 and 600 A. D.
2.	Vayu	..	..	Between 200 and 500 A. D.
3.	Bramhanda	..	..	Between 200 and 500 A. D.
4.	Vishnu	..	..	Between 100 and 350 A. D.
5.	Matsya	..	..	Part about 325 A. D. Part about 1100 A. D.
6.	Bhagwat	..	..	Between 500 and 600 A. D.
7.	Kurma	..	..	Between 550 and 1000 A. D.
8.	Vamana	..	..	Between 700 and 1000 A. D.
9.	Linga	..	..	Between 600 and 1000 A. D.
10.	Varaha	..	..	Between 800 and 1500 A. D.
11.	Padma	..	..	Between 600 and 950 A. D.
12.	Brahanaradiya	..	..	Between 875 and 1000 A. D.
13.	Agni	..	..	Between 800 and 900 A. D.
14.	Garuda	..	..	Between 850 and 1000 A. D.
15.	Bramha	..	..	Between 900 and 1000 A. D.
16.	Skanda	..	..	After 700 A. D.
17.	Bramha Vaivrata	..	..	After 700 A. D.
18.	Bhavishya	..	..	After 500 A. D.

No more precise date can be fixed for the Puranas at any rate for the present. New research in the field may narrow the higher and lower limits of their composition. The difference will only be a difference of degree. It will not be one of subversion of Eras.

This short survey is enough to remove any doubt as to the age of this literature that it is post-Buddhistic. The survey establishes one more point of great significance. This literature arose during the period subsequent to the triumph of Brahmins under the leadership of Pushyamitra. The survey brings out one other point. Vyas writes Mahabharata. Vyas tells Bhagwat Gita, and Vyas also writes the Puranas. Mahabharata contains 18 Parvas, the Gita has 18 Adhyayas and the Puranas number 18. Is all this an Accident ? Or is it the result of a design planned and worked out in concert ? We must wait and see.

III

THE VEDANTA SUTRAS

The vedanta Sutras of Badarayana as has been pointed out already constitute a department of study on the same line as the Karma Sutras of Jaimini. It is natural to ask how the founders of these two schools of thought comfort themselves towards each other. When one begins to inquire into the matter one comes across facts which are revealing. In the first place as Prof. Belvalkar[1] points out, 'the Vedanta Sutras are very closely modelled upon the Karma Sutras.' In the matter of methodology and terminology, Badarayana almost slavishly follows Jaimini. He accepts Jaimini rules of interpreting the text of the Shruti. He uses Jaimin's technical terms in the sense in which they have been used by Jaimini. He uses the very illustrations which are employed by Jaimini.

This is a matter for small wonder. But what is not a matter for small wonder is the attitude of the two schools towards each other in the matter of doctrine. Let me give an illustration.

Badarayana gives the following Sutras[2] as illustrative of the position of Jaimini towards the Vedanta.

2. Because (the Self) is supplementary (to sacrificial acts), (the fruits of the knowledge of the Self) are mere praise of the agent, even as in other cases; thus says Jaimini.

> "According to Jaimini the Vedas merely prescribe acts to attain certain purposes including Liberation, and nothing more. He argues that the knowledge of the Self does not yield any independent results, as Vedanta holds, but is connected with the acts through the agent. No one undertakes a sacrificial act unless he is conscious of the fact that he is different from the body and that after death he

[1] Basu Mallick Lectures, p. 152.

[2] Swami Vireswarananda—Brahma Sutras (Advaita Ashram Edition 1936), pp. 408-411.

will go to heaven, where he will enjoy the results of his sacrifices. The Text dealing with Self-knowledge serve merely to enlighten the agent and so are subordinate to sacrificial acts. The fruits, however, which the Vedanta texts declare with regard to Self-knowledge, are merely praise, even as texts declare such results by way of praise, with respect to other matters. In short, Jaimini holds that by the knowledge that his Self will outlive the body, the agent becomes qualified for sacrificial actions, even as other things become fit in sacrifices through purificatory ceremonies.

3. Because we find (from the scriptures such) conduct (of men of realization).

"Janaka, emperor of Videha performed a sacrifice in which gifts were freely distributed" (Brih. 3.1.1.); "I am going to perform a sacrifice, Sirs" (Chh. 5.11.5.). Now both Janaka and Asvapati were knowers of the Self. If by this knowledge of the Self they had attained Liberation, there was no need for them to perform sacrifices. But the two texts quoted show that they did perform sacrifices. This proves that it is through sacrificial acts alone that one attains Liberation, and not through the knowledge of the Self, as the Vedantians hold.

4. That (viz, that knowledge of the Self stands in a subordinate relation to sacrificial acts) the scriptures directly declare,

"That alone which is performed with knowledge, faith and meditation becomes more powerful" (Chh. 1.1.10); This text clearly shows that knowledge is a part of the sacrificial act.

5. Because the two (knowledge and work) go together (with the departing soul to produce the results).

"It is followed by knowledge, work, and past experience" (Brih. 4.4.2.). This text shows that knowledge and work go together with the soul and produce the effect which it is destined to enjoy. Knowledge independently is not able to produce any such effect."

6. Because (the scriptures) enjoin (work) for such (as know the purport of the Vedas).

"The scriptures enjoin work only for those who have a knowledge of the Vedas, which includes the knowledge of the Self. Hence knowledge does not independently produce any result."

7. And on account of prescribed rules.

"Performing works here let a man wish to live a hundred years" (Is. 2.); "Agnihotra is a sacrifice lasting up to old age and death; for through old age one is freed from it or through death" (Sat. Br. 12.4.1.1.). From such prescribed rules also we find that Knowledge stands in a subordinate relation or work.

What is the position of Badarayana towards Jaimini and Karma Kanda Shastras? This is best illustrated by the reply which Badarayana gives to the attack by Jaimini on Vedanta as formulated by Badarayana in the Sutras quoted above. The reply is contained in the following Sutras :[1]

8. But because (the scriptures) teach (the Supreme Self to be) other (than the agent), Badarayana's (view is) correct; for that is seen (from the scriptures).

"Sutras 2-7 give the view of the Mimamsakas, which is refuted by Sutras 8-17.

The Vedanta texts do not teach the limited self, which is the agent, but the Supreme Self, which is different from the agent. Thus the knowledge of the Self which the Vedanta texts declare is different from that knowledge of the self which an agent possesses. The knowledge of such a Self, which is free from all limiting adjuncts, not only does not help, but puts an end to all actions. That the Vedanta texts teach the Supreme Self is clear from such texts as the following; "He who perceives all and knows all" (Mu. 1.1.9.); "Under the mighty rule of this immutable, O Gargi" etc. (Brih. 3.8.9.).

9. But the declarations of the Shruti equally support both views.

"This Sutra refutes the view expressed in Sutra 3. There it was shown that Janaka and others even after attaining Knowledge were engaged in work. This Sutra says the scriptural authority equally supports the view that for one who attained Knowledge there is no work. "Knowing this very Self the Brahmanas renounce the desire for sons, for wealth, and for the worlds, and lead a mendicant life" (Brih. 3.5.1.). "We also see from the scriptures that knowers of the Self like Yajnavalkya gave up work." 'This much indeed is (the means of) immortality, my dear'. Saying this Yajnavalkya left home" (Brih. 4.5.15). The work of Janaka and others was characterized by non-attachment, and as such it was practically no work; so the Mimamsa argument is weak.

10. (The declaration of the scripture referred to in Sutra 4) is not universally true.

The declaration of the Shruti that knowledge enhances the fruit of the sacrifice does not refer to all knowledge, as it is connected only with the Udgitha, which is the topic of the section.

(There is) division of knowledge and work, as in the case of a hundred (divided between two persons).

[1] Swami Vireswaranand, Brahma Sutras, 411-416.

"This Sutra refutes Sutra 5. "It is followed by knowledge, work, and past experiences" (Brih. 4.4.2.). Here we have to take knowledge and work in a distributive sense, meaning that knowledge follows one and work another. Just as when we say a hundred be given to these two persons, we divide it into two halves and give each man fifty. There is no combination of the two. Even without this explanation Sutra 5 can be refuted. For the text quoted refers only to knowledge and work, which concern the transmigrating soul, and not an emancipated soul. For the passage," Thus does the man who desires (transmigrate)" (Brih. 4.4.6.) shows that the previous text refers to the transmigrating self. And of the emancipated soul Shruti says, "But the man who never desires (never transmigrates)" etc. (Brih. 4.4.6.).

12. (The scriptures enjoin work) only on those who have read the Vedas.

"This Sutra refutes Sutra 6. Those who have read the Vedas and known about the sacrifices are entitled to perform work. No work is prescribed for those who have knowledge of the Self from the Upanishads. Such a knowledge is incompatible with work.

13. Because there is no special mention (of the Jaimini it does not(apply to him).

"This Sutra refutes Sutra 7. The text quoted there from the Isa Upanishad is a general statement, and there is no special mention in it that it is applicable to a Jnani also. In the absence of such a specification it is not binding on him.

14. Or rather the permission (to do work) is for praising (Knowledge).

"The injunction to do work for the knowers of the Self is for the glorification of this Knowledge. The praise involved in it is this : A knower of the Self may work all his life, but on account of this Knowledge he will not be bound by its effects.

15. And some according to their choice (have refrained from all work).

"In Sutra 3 it was said that Janaka and others were engaged in work even after Knowledge. This Sutra says that some have of their own accord given up all work. The point is that after Knowledge some may choose to work to set an example to others, while others may give up all work. There is no binding on the knowers of the Self as regards work.

16. And (the scriptures say that the) destruction (of all qualifications for work results from Knowledge).

Knowledge destroys all ignorance and its products like agent, act, and result. "But when to the knower of Brahman everything has become the Self, then what should one see and through what" etc., (Brih. 4.5.15). The knowledge of the Self is antagonistic to all work and so cannot possibly be subsidiary to work.

17. And (Knowledge belongs) to those who observe continence (i.e. to Sannyasis); because (this fourth Ashrama is mentioned) in the scriptures.

> "The scriptures declare that Knowledge is gained in that stage of life in which continence is prescribed, i.e. the fourth stage or Sannyasa Asrama. To a Sannayasin there is no work prescribed except discrimination. So how can Knowledge be subservient to work ? That there is a stage of life called Sannyasa we find from the scriputures themselves in texts like : "There are three branches of duty; sacrifice, study and charity are the first;.... All these attain to the worlds of the virtuous; but only one who is firmly established in Brahman attains immortality" (Chh. 2.33.1-2); "Desiring this world (the Self) alone monks renounce their homes "(Brih. 4.4.22). See also Mu. 1.2.11 and Chh. 5.10.1. Everyone can take to this life without being a householder etc. which shows the independence of Knowledge".

Many such Sutras can be found in Badarayana indicating the attitude of the two schools of thought towards each other. But one is enough as it is so very typical. If one stops to consider the matter the position becomes absolutely clear. Jaimini denounces Vedanta as a false Shastra a snare and a delusion, something superficial, unnecessary and insubstantial. What does Badarayana do in the face of this attack ? He defends his own Vedanta Shastra. What one would expect from Badrayana is denunciation of the Karmakanda of Jaimini as a false religion. Badarayana shows no such courage. On the contrary he is very apologetic. He concedes that Jaimini's Karmakanda is based on the Scriptures and cannot be repudiated. All that he insists is that his Vedanta doctrine is also true because it has also the support of the Scriptures. Some explanation is necessary for this attitude of Badarayana.

BHAGWAT GITA

The Bhagwat Gita forms part of the Bhishmaparvan of the great epic known as the Mahabharat. The epic is mainly concerned with the struggle for sovereignty between cousins, the Kauravas the sons of Dhritarashtra and the Pandavas the sons of Pandu. Pandu was the

younger brother of Dhritarashtra. But as Dhritarashtra was blind the throne went to Pandu. After Pandu's death there arises a dispute between his sons and the sons of Dhritarashtra regarding the right of succession. The struggle for sovereignty culminated in the battle of Kurukshetra (near modern Panipat). In this battle Krishna sides with the Pandavas and acts as their guide, friend and philohopher,—nay acts as the charioteer of Arjuna, one of the Pandava brothers and who plays the part of the chief warrior in the battle on the side of the Pandavas.

The two armies of the Kauravas and the Pandavas were arrayed for battle on the field. Arjuna in his chariot with Krishna as a driver comes and takes his place in front of the Pandava army. Strong and valiant he gazes at the opposing army of the Kauravas and is struck by the horror of the dreadful fratricidal war in which he will have to kill his cousins and slay those whom he himself revers and to whom he is greatly attached and indebted, He becomes dejected, lays down his weapons and refuses to fight. Krishna begins to argue with him and provoke him to fight. This argument takes the form of a question and answer of a conversation between Arjuna and Krishna at the end of which Arjuna agrees to fight.

At the opening of the Bhagwat Gita we find old Dhritarashtra questioning Sanjaya about the battle. This is because Dhritarashtra the father of the Kauravas who though alive at the time when the battle was fought was a blind man and could not see and know things for himself. For the knowledge of the happenings he had to depend upon the reports of others. Anticipating the difficulty of getting someone to tell Dhritarashtra the authentic story, Vyas the author of the Mahabharata, it is said, bestowed on Sanjaya, the charioteer of Dhritrashtra, the power of knowing all that takes place on the battlefield— even the thoughts in men's minds—that he may make a faithful report to Dhritarashtra. That is why we find the episode of Bhagwat Gita related as a reply by Sanjaya to questions by Dhritarashtra. But the Gita is really a conversation between Arjuna and Krishna and is rightly called *Krishana Arjuna Samvad*.

In this Krishna-Arjuna-Samvad—which is the real name of the Bhagwat Gita— the main question over which there was disagreement was to fight or not to fight. There was no other question. This was the one and the only question which was the subject matter of discussion and argument between the two. Starting from this point of view it is obvious that the Gita could never have been intended by Krishna to be the occasion for moral instruction for the general public or the doctrinal exposition of any religious system or the catechism attached

to any creed. Yet this is just what the Gita has come to be. Although the occasion was to decide to fight or not to fight, the Gita is said to contain what his religious doctrine Krishna is said to have preached to Arjuna.

The first question that crops up is who is this Krishna. To this one gets quite surprizingly a variety of answers from the Gita itself. At the start Krishna appears as a mere man with a completely human personality. He is a warrior by profession. He is a great warrior though he had chosen[1] the humble duty of driving the chariot of Arjuna. From man he grows into superman directing and controlling the war and its frotunes. From superman he grows into a demigod and dictator. When all his arguments fail to move Arjuna to fight, he simply orders him to fight and the frightened Arjuna gets up and does his biddings. From demigod he rises to the position of God and is spoken of as Ishwara.

This shows the growth of the personality of Krishna. But what is important is that in the very same Gita, Krishna stands out as a representative of other forms of God. Four such representative characters in which Krishna appears are clear to any one who happens to read the Gita even casually.

Krishna is Vasudeo :

Bhagwat Gita:

Ch.X.37. Of the Vrishnis I am Vasudeva; of the Pandavas, Dhananjaya; and also for the Munis, I am Vyasa; of the sages, Ushanas the sage.

Krishna as Bhagwan :

Ch.X.12. The Supreme Brahman, the Supreme Abode, the Supreme Purifier, art Thou.

Krishna is an Avtar of Vishnu :

Ch.X.21. Of the Adityas, I am Vishnu; of luminaries, the radiant Sun; of the winds, I am Marichi; of the asterisms, the Moon.

Ch.XI.24. On seeing Thee touching the sky, shining in many a colour, with mouths wide open, with large fiery eyes, I am terrified at heart, and find no courage nor peace, O Vishnu.

XI.30. Swallowing all the worlds on every side with Thy flaming mouths. Thou art licking Thy lips. Thy fierce rays, filling the whole world with radiance, are burning, O Vishnu.

Krishna is also an Avtar of Shankara ;

X.23. And of the Rudras I am Shankara; of the Yakshas and Rakshasas the Lord of wealth (Kuvera); of the Vasus I am Pavaka; and of mountains, Meru am I.

[1] This is the result or an arrangement between him and Duryodhan leader of the Kauravas. Before the war actually started Duryodhan approached Krishna to fight on the side of the kauravas. Krishna gave him a choice, have him or have his men the Yadavas. Duryodhan chose the Army of Yadavas. That is why Krishna and the Yadavas fought on opposite sides.

Krishna is Bramhan :—

XV. 15. I am centered in the hearts of all; memory and perception as well as their loss come from Me. I am verily that which has to be known by all the Vedas, I indeed am the Author of the Vedanta, and the Knower of the Veda am I.

XV. 16. There are two Purushas in the world,—The Perishable and the Imperishable. All beings are the Perishable, and the Kutastha is called Imperishable.

XV. 17. But (there is) another, the Supreme Purusha, called the Highest Self, the immutable Lord, who pervading the three worlds, sustains them.

XV. 18. As I transcend the Perishable and am above even the Imperishable, therefore am I in the world and in the Veda celebrated as the Purushottama, (the Highest Purusha).

XV. 19. He who free from delusion thus knows Me, the Highest Spirit, he knowing all, worships Me with all his heart, O descendant of Bharata.

Ask the next question, What is the doctrine that Krishna preaches to Arjuna ? The doctrine preached by Krishna to Arjuna is said to be the doctrine of salvation for the human soul. While the question dealt with by Krishna is one relating to Salvation, Krishna teaches three different doctrines of Salvation.

Salvation is possible by *Dnyanmarg* as propounded by Samkhya Yog.

II.39. The wisdom of Self-realisation has been declared unto thee. Hearken thou now to the wisdom of Yoga, endued with which, O son of Pritha, thou shah break through the bonds of Karma.

Thus is the concluding verse of the discourse on Samkhya Yoga discussed in Chapter II, verses 11-16 and 18-30.

(2) Salvation is possible by *Karma* marg,

V.2. Both renunciation and performance of action lead to freedom : of these performance of action is superior to the renunciation of action.

(3) Salvation is possible by *Bhakti* Marg.

IX. 13. But the great souled ones O son of Pritha, possessed of the Divine Prakriti, knowing Me to be the origin of beings, and immutable, worship Me with a single mind.

IX. 14. Glorifying Me always and striving with firm resolve, bowing down to Me in devotion, always steadfast, they worship Me.

IX. 15. Others, too, sacrificing by the Yajna of knowledge (i.e. seeing the Self in all), worship Me the All Formed, as one, as distnct, as manifold.

IX. 17. I am the Father of this world, the Mother, the Sustainer, the Grandfather; the Purifier, the (one) thing to be known, (the syllable) Om, and also the Rik Saman and Yajus.

IX.22. Persons who, meditating on Me as non-separate, worship Me in all beings, to them thus ever jealously engaged, I carry what they lack and preserve what they already have.

There are two other features of the Bhagwat Gita which arrests one's attention.

(i) There is a sentiment of depreciation of the Vedas and Vedic rituals and sacrifices.

II.42-44. O Partha, no set determination is formed in the minds of those that are deeply attached to pleasure and power, and whose disctimination is stolen away by the flowery words of the unwise, who are full of desires and look upon heaven as their highest goal and who, taking pleasure in the panegyric words of the Vedas, declare that there is nothing else. Their (flowery) words are exuberant with various specific rites as the means to pleasure and power and are the causes of (new) births as the result of their works (performed with desire).

II.45 The Vedas deal with the three Gunas, Be thou free, O Arjun, from the triad of the Gunas, free from the apirs of opposites, ever balanced, free from (the thought of) getting and keeping, and established in the Self.

II.46. To the Brahmana who has known the Self, all the Vedas are of so much use, as a reservoir is, when there is a flood everywhere.

IX.21. Having enjoyed the vast Swarga-world, they enter the mortal world, on the exhaustion of their merit; Thus, abiding by the injunctions of the three (Vedas), desiring desires, they (constantly) come and go.

INCOMPLETE

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CHAPTER 11

The Triumph of Brahmanism: Regicide or the birth of Counter-Revolution

We have found only 3 typed pages under this title. Fortunately, a copy of the essay has been spared by Shri S. S. Rege for being included in this book. While examining the pages we have noticed that the copy given by Mr. Rege also lacks page nos 3 to 7 and 9 to 17. The total typed pages of this essay have been numbered 92 inclusive of the missing pages. The title on the copy of Mr. Rege is the 'Triumph of Brahmanism' ; whereas the first page of the script in our papers is also entitled as 'Regicide or the Birth of Counter-Revolution'. The classification of the subject into IX Chapters is noted in our copy whereas it is missing from the copy of Mr. Rege. Both the titles and the classification are recorded in the handwriting of Dr. Ambedkar. Hence, they are retained in this print. Incidentaly, the page nos 9 to 17 were found tagged in other file. All those papers have now been introduced at proper place. Thus except page Nos. 4 to 7, the script is complete.—Editors.

I

I The Brahmanic Revolt against Buddhism. II Manu the apostle of Brahmanism. III Brahmanism and the Brahmin's Right to rule and regicide. IV Brahmanism and the privileges of Brahmins. V Brahmanism and the Creation of Caste. VI Brahmanism and the degradation of the Non-Brahmins. VII Brahmanism and the Suppression of the Shudra. VIII Brahmanism and the Subjection of Women. IX Brahmanism and the legalization of the social system.

Speaking about India, Prof. Bloomfield opens his lectures on the Religion of the Veda by reminding his audience that "India is the land

of religions in more than one sense. It has produced out of its own resources, a number of distinctive systems and sects.....

In another sense India is a land of religions. Nowhere else is the texture of life so much impregnated with religious convictions and practices... "[1]

These observations contain profound truth. He would have given utterance to truth far more profound and arresting if he had said that India is a land of warring religions. For indeed there is no country in which Religion has played so great a part in its history as it has in the history of India. The history of India is nothing but a history of a mortal conflict between— Buddhism and Brahmanism. So neglected is this truth that no one will be found to give it his ready acceptance. Indeed there may not be wanting persons who would repudiate any such suggestion.

Let me therefore briefly recount the salient facts of Indian history. For it is important that everyone who was able to understand the history of India must know that it is nothing but the history of the struggle for supremacy between Brahmanism and Buddhism.

The history of India is said to begin with the Aryans who invaded India, made it their home and established their culture. Whatever may be the virtues of the Aryans, their culture, their religion and their social system, we know very little about their political history. Indeed notwithstanding the superiority that is claimed for the Aryans as against the Non-Aryans, the Aryans have left very little their political achievements for history to speak of. The political history of India begins with the rise of a non-Aryan people called Nagas, who were a powerful people, whom the Aryans were unable to conquer, with whom the Aryans had to make peace, and whom the Aryans were compelled to recognize as their equals. Whatever fame and glory India achieved in ancient times in the political field, the credit for it goes entirely to the Non-Aryan Nagas. It is they who made India great and glorious in the annals of the world.

The first land mark in India's political history is the emergence of the Kingdom of Magadha in Bihar in the year 642 B.C. The founder of this kingdom of Magadha is known by the name of Sisunag[2] and belonged to the non-Aryan race of Nagas.

From the small beginning made by Sisunag, this Kingdom of Magadha grew in its extent under the capable rulers of this Sisunag dynasty. Under Bimbisara the fifth ruler of this dynasty the kingdom

[1] The Religion of the Veda p. 1.

[2] His name is also spelt as *Sisunak*.

grew into an Empire and came to be known as the Empire of Magadha. The Sisunag dynasty continued to rule the kingdom till 413 B.C. In that year the reigning Emperor of the Sisunag Dyansty Mahananda was killed by an adventurer called Nanda. Nanda usurped the throne of Magadha and founded the Nanda Dynasty. This Nanda Dynasty ruled over the Empire of Magadha upto 322 B.C. The last Nanda king was deposed by Chandragupta who founded the Maurya Dynasty. Chandragupta was related[1] to the family of the last ruling emperor of the Sisunag Dynasty so that it may be said that the revolution effected by Chandragupta was really a restoration of the Naga Empire of Magadha.

The Mauryas by their conquests enormously extended the boundaries of this Empire of Magadha which they inherited. So vast became the growth of this Empire under Ashoka, the Empire began to be known by another name. It was called the Maurya Empire or the Empire of Ashoka. *(From here onwards page Nos. 4 to 7 of the MS are missing.)*

It did not remain as one of the many diverse religions then in vogue. Ashoka made it the religion of the state. This of course was the greatest blow to Brahmanism. The Brahmins lost all state partonage and were neglected to a secondary and subsidiary position in the Empire of Ashoka. Indeed it may be said to have been suppressed for the simple reason that Ashoka prohibited all animal sacrifices which constituted the very essence of Brahmanic Religion. The Brahmins had not only lost state partonage but they lost their occupation which mainly consisted in performing sacrifices for a fee which often times was very substantial and which constituted their chief source of living. The Brahmins therefore lived as the suppressed and Depressed Classes[2] for nearly 140 years during which the Maurya Empire lasted. A rebellion against the Buddhist state was the only way of escape left to the suffering Brahmins and there is special reason why Pushyamitra should raise the banner of revolt against the rule of the Mauryas. Pushyamitra was a Sung by Gotra. The Sungas were Samvedi Brahmins,[3] who believed in animal sacrifices and soma sacrifices. The Sungas were therefore quite naturally smarting under the prohibition on animal sacrifices throughout the Maurya Empire proclaimed in the very Rock Edict by Ashoka. No wonder if Pushyamitra who as a Samvedi Brahmin was the first to conceive the passion to end the degradation of the Brahmin by destroying the Buddhist state which

[1] Mr. Hari Krishna Deb: quoted by Smith. Early History of India (1924) p.44. F.N. 1.

[2] The inferiority complex of the Brahmins under the Maurya Rule becomes apparent from the privileges asked for them by Manu in the Manu Smriti. This inferiority complex must be due to their depressed condition.

[3] See Harprasad Shastri in Buddhistic Studies (Ed. Law) Chapter XXXIV p. 819.

was the cause of it and to free them to practise their Brahmanic religion.

That the object of the Regicide by Pushyamitra was to destroy Buddhism as a state religion and to make the Brahmins the sovereign rulers of India so that with the political power of the state behind it Brahmanism may triumph over Buddhism is borne out by two other circumstances.

The first circumstance relates to the conduct of Pushyamitra himself. There is evidence that Pushyamitra after he ascended the throne performed the Ashvamedha Yajna or the horse sacrifice, the vedic rite which could only be performed by a paramount sovereign. As Vincent Smith observes :

> "The exaggerated regard for the sanctity of animal life, which was one of the most cherished features of Buddhism, and the motive of Ashoka's most characterisitic legislation, had necessarily involved the prohibition of bloody sacrifices, which are essential to certain forms of Brahmanical worship, and were believed by the orthodox to possess the highest saving efficacy. The memorable horse sacrifices of Pushyamitra marked an early stage in the Brahmanical reaction, which was fully developed five centuries later in the time of Samudragupta and his successors."

Then there is evidence that Pushyamitra after his accession launched a violent and virulent campaign of persecution against Buddhists and Buddhism.

How pitiless was the persecution of Buddhism by Pushyamitra can be gauged from the Proclamation which he issued against the Buddhist monks. By this proclamation Pushyamitra set a price of 100 gold pieces on the head of every Buddhist monk.[1]

Dr. Harprasad Shastri speaking about the persecution of Buddhists under Pushyamitra says[2] :

> "The condition of the Buddhists under the imperial sway of the Sungas, orthodox and bigotted, can be more easily imagined than described. From Chinese authorities it is known that many Buddhists still do not pronounce the name of Pushyamitra without a curse."

II

If the Revolution of Pushyamitra was a purely political revolution there was no need for him to have launched a compaign of persecution

[1] Burnouf— L'Introduction a L'Historie on Buddhisme Indien (2nd.Ed.) p. 388.

[2] Buddhistic Studies (Ed. by Law) Chapter XXXIV p. 820.

against Buddhism which was not very different to the compaign of persecution launched by the Mahamad of Gazni against Hinduism. This is one piece of circumatantial evidence which proves that the aim of Pushyamitra was to overthrow Buddhism and establish Brahmanism in its place.

Another piece of evidence which shows that the origin and purpose of the revolution by Pushyamitra against the Mauryas was to destroy Buddhism and establish Brahmanism is evidenced by the promulgation of Manu Smriti as a code of laws.

The Manu Smriti is said to be divine in its origin. It is said to be revealed to man by Manu to whom it was revealed by the Swayambhu (i.e. the Creator). This claim, as will be seen from the reference already made to it, is set out in the Code itself. It is surprizing that nobody has cared to examine the grounds of such a claim. The result is that there is a complete failure to realise the significance, place and position of the Manu Smriti in the history of India. This is true even of the historians of India although the Manu Smriti is a record of the greatest social revolution that Hindu society has undergone. There can however be no doubt that the claim made in the Manu Smriti regarding its authorship is an utter fraud and the beliefs arising out of this false claim are quite untenable.

The name Manu had a great prestige in the ancient history of India and it is with the object to invest the code with this ancient prestige that its authorship was attributed to Manu. That this was a fraud to deceive people is beyond question. The code itself is signed[1] in the family name of Bhrigu as was the ancient custom. "The Text Composed by Bhrigu (entitled) "The Dharma Code of Manu" is the real title of the work. The name Bhrigu is subscribed to the end of every chapter of the Code itself. We have therefore the family name of the author of the Code. His personal name is not disclosed in the Book. All the same it was known to many. The Author of Narada Smriti writing in about the 4th Century A.D. knew the name of the author of the Manu Smriti and gives out the secret. According to Narada it was one Sumati Bhargava who composed the Code of Manu. Sumati Bhargava is not a legendary name, and must have been historical person for even Medhatithe[2] the great commentator on the Code of Manu held the view that this Manu was 'a certain individual'. Manu therefore is the assumed name of Sumati Bhargava who is the real author of Manu Smriti.

[1] On this point see Jaiswal's Volume on Manu & Yajnavalkya.

[2] Commentary on Manu 1.1.

When did this Sumati Bhargava compose this Code? It is not possible to give any precise date for its composition. But quite a precise period during which it was composed can be given. According to scholars whose authority cannot be questioned Sumati Bhargava must have composed the Code which he deliberately called Munu Smriti between 170 B.C. and 150 B.C. Now if one bears in mind the fact that the Brahmanic Revolution by Pushyamitra took place in 185 B.C. there remains no doubt that the code known as Manu Smriti was promulgated by Pushyamitra as embodying the principles of Brahmanic Revolution against the Buddhist state of the Mauryas. That the Manu Smriti forms the Institutes of Brahmanism and are a proof that Pushyamitra Revolution was not a purely personal adventure will be clear to any one who cares to note the following peculiarities relating to the Manu Smriti.

First thing to be noted is that the Manu Smriti is a new Code of law promulgated for the first time during the reign of Pushyamitra. There was a view once prevalent that there existed a code known as the Manava-Dharma-Sutra and that what is known as Manu Smriti is an adaptation of the old Manava Dharma Sutra. This view has been abandoned as there has been no trace of any such work. Two other works existed prior to the present Manu Smriti. One was known as Manava Artha Sastra, or Manava-Raja-Sastra or Manava-Raja-Dharma-Sastra. The other work was known as Manava-Grihya-Sutra. Scholars have compared the Manu Smriti. On important points the provisions of one are not only dissimilar but are in every way contrary to the provisions contained in the other. This is enough to show that Manu Smriti contains the new law of the new regime.

That the new regime of Pushyamitra was anti-Buddhist is betrayed by the open provisions enacted in the Manu Smriti against the Buddhists and Buddhism. Note the following provisions in Manu Smriti:—

> IX. 225. "... Men who abide in heresy ... the king should banish from his realm."
>
> IX. 226. "These robbers in disguise, living in the king's realm constantly injure the worthy subject by the performance of their misdeeds."
>
> V. 89. "Libations of water shall not be offered to (the souls of) those who (neglect the prescribed rites and may be said to) have been born in vain, to those born in consequence of an illegal mixture of the castes, to those who are ascetics (of heretical sects) and to those who have committed suicide."

V. 90. (Libations of water shall not be offered to the souls of) women who have joined a heretical sect.....

IV. 30. Let him (the householder) not honour, even by a greeting heretics.... logicians, (arguing against the Veda).

XII. 95. "All those traditions and all those despicable systems of Philosophy, which are not based on the Veda produce no reward after death, for they are declared to be founded on Darkness.

XII. 96. "All those (doctrines), differing from the (Veda), which spring up and (soon) perish, are worthless and false, because of modern date."

Who are the heretics to whom Manu refers and whom he wants the new king to banish from his realm and the Householder not to honour in life as well as after death? What is this worthless philosophy of modern date, differing from the Vedas, based on darkness and bound to perish? There can be no doubt that the heretic of Manu is the Buddhist and the worthless philosophy of modern date differing from the Vedas is Buddhism. Kalluck Bhutt another commentator on Manu Smriti expressly states that the references to heretics in these Shlokas in Manu are to the Buddhists and Buddhism.

The third circumstance is the position assigned to the Brahmins in the Manu Smriti. Note the following provisions in Manu :—

I. 93. As the Brahmana sprang from (Bramha's) mouth, as he was the first born, and as he possesses the Veda, he is by right the lord of this whole creation.

I. 96. Of created beings the most excellent are said to be those which are animated; of the animated, those which subsist by intelligence; of the intelligent, mankind; and of men, the Brahmans.

I. 100. Whatever exists in the world is the property of the Bramhans; on account of the excellence of his origin the Brahmana is, indeed, entitled to it all.

I. 101. The Brahmana eats but his own food, wears but his own apparel, bestows but his own in alms; other mortals subsist through the benevolence of the Brahmana.

X. 3. On account of his pre-eminance, on account of the superiority of his origin, on account of his observance of (particular)restrictive rules, and on account of his particular sanctification, the Brahmana is the lord of (all) castes.

XI. 35. The Bramhana is declared to be the creator of the world, the punisher, the teacher, and hence a benefactor of all created beings; to him let no man say anything unpropitious, nor use any harsh words.

Manu warns the King against displeasing the Bramhans in the following terms :—

> IX. 313. Let him (the King) not, though fallen unto the deepest distress, provoke Bramhans to anger; for they, when angered, could instantly destroy him together with his army and his vehicles.

Manu further proclaims,

> XI. 31. A Bramhana who knows the law need not bring any (offence) to the notice of the king; by his own power alone he can punish those men who injure him.
>
> XI. 32. His own power is greater than the power of the king;
>
> The Bramhana, therefore, may punish his foes by his own power alone.

This deification of the Brahmins, placing them even above the King would have been impossible unless the King himself was a Brahmin and in sympathy with the view expressed by Manu. Pushyamitra and his successors could not have tolerated these exaggerated claims of the Brahmins unless they themselves were Brahmins interested in the establishment of Bramhanism. Indeed it is quite possible that the Manu Smriti was composed at the command of Pushyamitra himself and forms the book of the philosophy of Bramhanism.

Taking all these facts into considerations there can remain no doubt; the one and only object of Pushyamitra's revolution was to destroy Buddhism and re-establish Bramhanism.

The foregoing summary of the political history of India would have been quite unnecessary for the immediate purpose of this chapter if I was satisfied with the way in which the history of India is written. But frankly I am not satisfied. For too much emphasis is laid on the Muslim conquest of India. Reels and reels have been written to show how wave after wave of Muslim invasions came down like avalanche and enveloped the people and overthrew their rulers. The whole history of India is made to appear as though the only important thing in it is a catalogue of Muslim invasions. But even from this narrow point of view it is clear that the Muslim invasions are not the only invasions worth study. There have been other invasions equally if not of greater importance. If Hindu India was invaded by the Muslim invaders so was Buddhist India invaded by Bramhanic invaders. The Muslim invasions of Hindu India and the Bramhanic invasions of Buddhist India have many similarities. The Musalman invaders of Hindu India fought among themselves for their dynastic ambitions. The Arabs, Turks, Mongols and Afghans fought for supremacy among themselves. But they had one thing in common—namely the mission to destroy idolatory. Similarly the Bramhanic invadars of Buddhist India fought

among themselves for their dynastic ambitions. The Sungas, Kanvas and the Andhras fought for supremacy among themselves. But they, like the Muslim invaders of Hindu India, had one object in common that was to destroy Buddhism and the Buddhist Empire of the Mauryas. Surely if Muslim invasions of Hindu India are worthy of study at the hands of the historians, the invasions of Buddhist India by Bramhanic invaders are equally deserving of study. The ways and methods employed by the Bramhanic invaders of Buddhist India to suppress Buddhism were not less violent and less virulent than the ways and means adopted by Muslim invaders to suppress Hinduism. From the point of view of the permanent effect on the social and spiritual life of the people, the Bramhanic invasions of Buddhist India have been so profound in their effect that compared to them, the effect of Muslim invasions on Hindu India have been really superficial and ephemeral. The Muslim invaders destroyed only the outward symbols of Hindu religion such as temples and Maths etc. They did not extirpate Hinduism nor did they cause any subversion of the principles or doctrines which governed the spiritual life of the people. The effects of the Bramhanic invasions were a thorough-going change in the principles which Buddhism had preached for a century as true and eternal principles of spiritual life and which had been accepted and followed by the masses as the way of life. To alter the metaphor the Muslim invaders only stirred the waters in the bath and that too only for a while. Thereafter they got tired of stirring and left the waters with the sediments to settle. They never threw the baby—if one can speak of the principles of Hinduism as a baby—out of the bath. Bramhanism in its conflict with Buddhism made a clean sweep. It emptied the bath with the Buddhist Baby in it and filled the bath with its own waters and placed in it its own baby. Bramhanism did not care to stop how filthy and dirty was its water as compared with the clean and fragrant water which flowed from the noble source of Buddhism. Bramhanism did not care to stop how hideous and ugly was its own baby as compared with the Buddhist baby. Bramhanism acquired by its invasions political power to annihilate Buddhism and it did annihilate Buddhism. Islam did not supplant Hinduism. Islam never made a thorough job of its mission. Bramhanism did. It drove out Buddhism as a religion and occupied its place.

These facts show that Brahmanic invasions of Buddhist India have a far greater significance to the Historian of India than the Muslim invasions of Hindu India can be said to have produced. Yet very little space is devoted by historians to the vissicitudes which befell Buddhist India built up by the Mauryas and even where that is done they have

not cared to deal in a pointed manner with questions that quite naturally arise: questions such as, who were the Sungas, Kanavas and Andhras; why did they destroy the Buddhist India which was built up by the Mauryas, nor has any attempt been made to study the changes that Brahmanism after its triumph over Buddhism brought about in the political and social structure.

Failure to appreciate this aspect of India's history is due to the prevalence of some very wrong notions. It has been commonly supposed that the culture of India has been one and the same all throughout history; that Brahmanism, Buddhism, Jainism are simply different phases and that there has never been any fundamental antagonism between them. Secondly it has been assumed that whatever conflicts have taken place in Indian politics were purely political and dynastic and that they had no social and spiritual significance. It is because of these wrong notions that Indian history has become a purely mechanical thing, a record of one dynasty succeeding another and one ruler succeeding another ruler. A corrective to such an attitude and to such a method of writing history lies in recognition of two facts which are indisputable.

In the first place it must be recognized that there has never been such as a common Indian culture, that historically there have been three Indias, Brahmanic India, Buddhist India and Hindu India, each with its own culture. Secondly it must be recognized that the history of India before the Muslim invasions is the history of a mortal conflict between Bramhanism and Buddhism. Any one who does not recognize these two facts will never be able to write a true history of India, a history which will disclose the meaning and purpose running through it. It is a corrective to Indian history written as it is and to disclose the meaning and purposes running through it that I was obliged to re-cast the history of the Brahmanic invasions of Buddhist India and the political triumph of Brahmanism over Buddhism.

We must therefore begin with the recognition of the fact: Pushyamitra's revolution was a political revolution engineered by the Brahmins to overthrow Buddhism.

The curious will naturally ask what did this triumphant Brahmanism do? It is to this question that I will now turn. The deeds or misdeeds of this triumphant Brahmanism may be catalogued under seven heads. (1) It established the right of the Brahmin to rule and commit regicide. (2) It made the Bramhins a class of privileged persons. (3) It converted the Varna into caste. (4) It brought about a conflict and anti-social feeling between the different castes. (5) It degraded the Shudras and the women (6) It forged the system of graded inequality and (7) It made legal and rigid the social system which was conventional and flexible.

To begin with the first.

The revolution brought about by Pushyamitra created an initial difficulty in the way of the Brahmins. People could not be easily reconciled to this revolution. The resentment of the public was well expressed by the poet Bana[1] when in referring to this revolution reviles Pushyamitra as being base born and calls his act of regicide as *Anarya*. The act of Pushyamitra was properly described by Bana as *Anarya* i.e. contrary to Aryan law. For on three points the Aryan law at the date of Pushyamitra's revolution was well settled. The then Aryan law declared (1) That Kingship is the right of the Kshatriya. only. A Brahmin could never be a king. (2) That no Brahmin shall take to the profession of Arms[2] and (3) That rebellion against the King's authority was a sin. Pushyamitra in fostering the rebellion had committed a crime against each of these three laws. He was Brahmin, and although a Brahmin he rebelled against the King, took to the profession of Arms and became a King. People were not reconciled to this usurption which constituted so flagrant a breach of the law that the Brahmins had to regularize the position created by Pushyamitra. This the Brahmins did by taking the bold step of changing the law. This change of law is quite manifest from the Manu Smriti. I will quote the appropriate shlokas from the Code:

> XII. 100. "The post of the Commander-in-Chief of the Kingdom, the very Headship of Government, the complete empire over every one are deserved by the Brahmin."

Here we have one change in the law. This new law declares that the Brahmin has a right to become Senapati (Commander of forces), to conquer a kingdom, and to be the ruler and the Emperor of it.

> XI. 31. A Brahmin, who well knows the laws, need not complain to the king of any grievous injury; since, even by his own power, he may chastise those, who injure him.
>
> XI. 32. His (Brahmin's) own power, which depends on himself alone is mightier than the royal power, which depends on other men; by his own might, therefore may a Brahmin coerce his foes.

[1] Harsha Charita, quoted by Smith (1924) p. 208.

[2] The rule was so strict that according to the Apastamba Dharmasutra 'A Brahman shall not take up a weapon in his hand though he be only desirous of examining it.' It may be matter of some surprize how Pushyamitra who was a Brahmans could have done a deed which could under the circumstances be expected only from a member of the martial race. This difficulty is well explained by Harprasad Shastri. According to him the Sungas though Brahmins were a martial race. Among the fighting Brahmans, two were distinguished among the rest, the Vishwamitras and the Bharadvajas. The wife of Vishvamitra Brahmin proving barren, a Bharadvaj was requested by the ancient custom of 'Niyoga' to beget a son on Vishvamitra's. The issue was Sung. He was the progenitor of a Gotra and that Gotra took up the Samveda for their study. The Sungas were called a Dvayamushyam gotra i.e. a gotra issuing from the two gotras, Vishvamitra and Bharadvaj both of which had taken to military occupation—*See* Buddhistic Studies (Ed. by Law) Ch. XXXIV, p. 820.

XI. 261-62. A Brahmin who has killed even the peoples of the three worlds, is completely freed from all sins on reciting three times the Rig, Yajur or Sama.-Veda with the Upanishadas."

Here is the second change in the law. It authorized the Brahmin to kill not only the king but to engage in a general massacre of men if they seek to do injury to his power and position.

VIII. 348. "The twice born man may take arms, when the rightful occupation assigned to each by Dharma is obstructed by force; and when, in some evil time, a disaster has befallen the twice-born classes."

IX. 320. Of a Kshatriya (Military man or king), who raise his arm violently on all occasions against the Brahmins, Brahmin himself shall be the chastiser; since the soldier originally proceeded from the Brahmin."

This is the third legal change. It recognized the right to rebellion and the right to regicide. The new law is very delicately framed. It gives the right of rebellion to three higher classes. But it is also given to the Brahmins singly by way of providing for a situation when the Kshatriyas and the Vaishyas may not be prepared to join the Brahmin in bringing about a rebellion. The right of rebellion is well circumscribed. It can be exercised only when the king is guilty of upsetting the occupations assigned by Manu to the different Varnas.

These legal changes were as necessary as they were revolutionary. Their object was to legalize and regularize the position created by Pushyamitra by killing the last Maurya King. By virtue of these legal changes, a Brahmin could lawfully become a king, could lawfully take arms, could lawfully depose or murder a king who was opposed to Chaturvarna and could lawfully kill any subject that opposed the authority of the Brahmin. Manu gave the Brahmins a right to commit Barthalomeu if it became necessary to safeguard their interests.

In this way Brahmanism established the right of Brahmana to rule and set at rest whatever doubt and dispute there was regarding the same. But that could hardly be enough for the Brahmins as a whole. It may be a matter of pride but not of any advantage. There can be no special virtue in Brahmin rule if the Brahmin was treated as common man along with the Non-Brahmins having the same rights and same duties. Brahmin rule if it is to justify itself, it must do so by conferring special privileges and immunities on the Brahmins as a class. Indeed Pushyamitra's Revolution would have been an ill wind blowing no good if it had not recognized the superior position of the Brahmins and conferred upon them special advantages. Manu was alive to this and accordingly proceeds to create monopolies for Brahmins and grant them certain immunities and privileges as may be seen from the Code.

First as to monopolies:

I. 88. To Brahmanas he assigned teaching and studying (the Veda) sacrificing for their own benefit and for others, giving and accepting (of alms).

X. 1. Let the three twice-born castes (Varna), discharging their (prescribed) duties, study (the Veda); but among them the Brahmana (alone) shall teach it, not the other two; that is an established rule.

X. 2. The Brahmana must know the means of subsistence (prescribed) by law for all, instruct others, and himself live according to (the law).

X. 3. On account of his pre-eminence, on account of the superiority of his origin, on account of his observance of (particular) restrictive rules, and on account of his particular sanctification, the Brahmana is the lord of (all) castes (varna).

X. 74. Brahmanas who are intent on the means (of gaining union with) Brahman and firm in (discharging) their duties, shall live by duly performing the following six acts, (which are enumerated) in their (proper) order.

X. 75. Teaching, studying, sacrificing for himself, sacrificing for others, making gifts and receiving them are the six acts (prescribed) for a Brahamana.

X. 76. But among the six acts (ordained) for him three are his means of subsistence, (viz.) sacrificing for others, teaching, and accepting gifts from pure mdn.

X. 77. (Passing) from the Brahmana to the Kshatriya, three acts (incumbent) (on the former) are forbidden, (viz.) teaching, sacrificing for others, and, thirdly, the acceptance of gifts.

X. 78. The same are likewise forbidden to a Vaisya, that is a settled rule; for Manu, the lord of creatures (Prajapati), has not prescribed them for (men of) those two (castes).

X. 79. To carry arms for striking and for throwing (is prescribed) for Kshatriyas as a means of subsistence; to trade, (to rear) cattle, and agriculture for Vaisyas; but their duties are liberality, the study of the Veda, and the performance of sacrifices.

Here are three things which Manu made the monopoly of the Brahmin: teaching Vedas, performing Sacrifices and receiving gifts.

The following are the immunities that were granted to the Brahmins. They fall into two classes; freedom from taxation and exemption from certain forms of punishment for crimes.

VII. 133. Though dying (with want), a king must not levy a tax on Srotriyas, and no Srotriya residing in his kingdom, must perish from hunger.

VIII. 122. They declare that the wise have prescribed these fines for perjury, in order to prevent a failure of justice, and in order to restrain injustice.

VIII. 123. But a just king shall fine and banish (men of) the three (lower) castes (varna) who have given false evidence, but a Brahmana he shall (only) banish.

VIII. 124. Manu, the son of the Self-existent (Svayambhu), has named ten places on which punishment may be (made to fall) in the cases of the three (lower) castes (varna); but a Brahmana shall depart unhurt (from the country).

VIII. 379. Tonsure (of the head) is ordained for a Brahmana (instead of) capital punishment; but (men of) other castes shall suffer capital punishment.

VIII. 380. Let him never slay a Brahmana, though he have committed all (possible) crimes; let him banish such an (offender), leaving all his property (to him) and (his body) unhurt.

Thus Manu places the Brahmin above the ordinary penal law for felony. He is to be allowed to leave the country withdraw a wound on him and with all property in proved offences of capital punishment. He is not to suffer forfeiture of fine nor capital punishment. He suffered only banishment which in the words of Hobbes was only a "Change of air" after having committed the most heinous crimes.

Manu gave him also certain privileges.

A Judge must be a Brahmin.

VIII. 9. But if the king does not personally investigate the suits, then let him appoint a learned Brahmana to try them.

VIII. 10. That (man) shall enter that most excellent court, accompanied by three assessors, and fully consider (all) causes (brought) before the (king), either sitting down or standing. The other privileges were financial.

VIII. 37. When a learned Brahmana has found treasure. deposited in former (times), he may take even the whole (of it); for he is master of everything.

VIII. 38. When the king finds treasure of old concealed in the ground, let him give one half to Brahmanas and place the (other)half in his treasury.

IX. 323. But (a king who feels his end drawing nigh) shall bestow all his wealth, accumulated from fines, on Brahmanas, make over his kingdom to his son, and then seek death in battle.

IX. 187. Always to that (relative within three degrees) who is nearest to the (deceased) Sapinda the estate shall belong; afterwards a Sakulya shall be (the heir, then) the spiritual teacher or the pupil.

IX. 188. But on failure of all (heirs) Brahmanas (shall) share the estate, (who are) versed in the three Vedas, pure and self-controlled ; thus the law is not violated.

IX. 189. The property of a Brahmana must never be taken by the King, that is a settled rule; but (the property of men) of other castes the king may take on failure of all (heirs).

These are some of the advantages, immunities and privileges which Manu conferred upon the Brahmins. This was a token of a Brahmin having become a king.

Supporters of Brahmanism—so strong is the belief in the excellence of Brahmanism that there are no appologists for it as yet—never fail to point to the disabilities which Manu has imposed upon the Brahmins. Their object in doing so is to show that the ideal placed by Manu before the Brahmin is poverty and service. That Manu has placed certain disabilities upon the Brahmins is a fact. But to conclude from it that Manu's ideal for a Brahmin is poverty and service is a gross and deliberate concoction for which there is no foundation in Manu.

To understand the real purpose which Manu had in imposing these disabilities, two things must be borne in mind. Firstly the place Manu has assigned to the Brahmins in the general scheme of society and secondly the nature of the disabilities. The place assigned by Manu to the Brahmins is enunciated by him in unequivocal terms. The matter being important I must quote again the Verses already quoted.

I. 93. As the Brahmana sprang from (Brahman's) mouth, as he was the first born, and as he possesses the Veda, he is by right the lord of this whole creation.

Consider the nature of the disabilities.

IV. 2. A Brahamana must seek a means of subsistence which either causes no, or at least little pain (to others), and live (by that) except in times of distress.

IV. 3. For the purpose of gaining bare subsistence, let him accumulate property by (following those) irreproachable occupations (which are prescribed for) his (caste), without (unduly) fatiguing his body.

VIII. 337. In (a case of) theft the guilt of a Sudra shall be eightfold, that of a Vaishya sixteenfold, that of a Kshatriya two-and-thirty fold.

VIII. 338. That of a Brahamana sixty-four-fold, or quite a hundred-fold or (even) twice four-and-sixty-fold; (each of them) knowing the nature of the offence.

VIII. 383. A Brahamana shall be compelled to pay a fine of one thousand (panas) if he has intercourse with guarded (females of)

those two (castes); for (offending with) a (guarded) Sudra female a fine of one thousand (panas) (shall be inflicted) on a Kshatriya or a Vaishya.

VIII. 384. For (intercourse with) an unguarded Kshatriya a fine of five hundred (panas shall fall) on a Vaisya; but (for the same offence) a Kshatriya shall be shaved with the urine (of a donkey) or (pay) the same fine.

VIII. 385. A Brahamana who approaches unguarded females (of the) Kshatriya or Vaisya (castes), or a Sudra female, shall be fined five hundred (panas); but (for intercourse with) a female (of the) lowest (castes), one thousand.

Examining these disabilities against the background furnished by the place assigned to him by Manu, it is obvious that the object of these disabilities was not to make the Brahmin suffer. On the other hand it becomes clear that the object of Manu was to save the Brahmin from falling from the high pennacle on which he had placed him and incurring the disgrace of the non-Brahmins.

That the object of Manu was not to subject the Brahmins to poverty and destitute is clear from other provisions from Manu-Smriti. In this connection reference should be made to the rule contained in the Manu Smriti regarding the course of conduct a Brahmin should pursue when he is in distres.

X. 80. Among the several occupations the most commendable are, teaching the Veda for a Brahmana, protecting (the people) for a Kshatriya, and trade for a Vaisya.

X. 81. But a Brahmana, unable to subsist by his peculiar occupations just mentioned, may live according to the law applicable to Kshatriyas; for the latter is next to him in rank.

X. 82. If it be asked, 'How shall it be, if he cannot maintain himself by either (of these occupations?' the answer is), he may adopt a Vaisya's mode of life, employing himself in agriculture and rearing cattle.

X. 83. But a Brahamana, or a Kshatriya, living by a Vaisya's mode of subsistence, shall carefully avoid (the pursuit of) agriculture, (which causes) injury to many beings and depends on others.

X. 84. (Some) declare that agriculture is something excellent, (but) that means of subsistence is blamed by the virtuous; (for) the wooden (implement) with iron point injures the earth and (the beings) living in the earth.

X. 85. But he who, through a want of means of subsistence, gives up the strictness with respect to his duties, may sell, in order to

increase his wealth, the commodities sold by Vaisyas, making (however) the (following) exceptions.

It will be seen that the disabilities imposed upon a Brahmin last as long as he is prospering by the occupations which belong to him as of right. As soon as he is in distress and his disabilities vanish and he is free to do anything that he likes to do in addition to the occupations reserved to him and without ceasing to be a Brahmin. Further whether he is in distress or not is a matter which is left to the Brahmin to be decided in his own discretion. There is therefore no bar to prevent even a prosperous Brahmin to supplement his earnings by following any of the professions open to him in distress by satisfying his conscience.

There are other provisions in Manu Smriti intended to materially benefit the Brahmanas. They are *Dakshina* and *Dana,* Dakshina is the fee which the Brahmin is entitled to charge when he is called to perform a religious ceremony. Brahmanism is full of rites and ceremonies. It is not very difficult to imagine how great must this source of income be to every Brahmin. There was no chance of a priest being cheated of his fees. The religious sense attached to Dakshina was a sufficient sanction for regular payment. But Manu wanted to give the Brahmins the right to recover his fees.

XI. 38. A Brahamana who, though wealthy, does not give, as fee for the performance of an Agnyadheya, a horse sacred to Prajapati, becomes (equal to one) who has not kindled the sacred fires.

XI. 39. Let him who has faith and controls his senses, perform other meritorious acts, but let him on no acount offer sacrifices at which he gives smaller fees (than those prescribed).

XI. 40. The organs (of sense and action), honour, (bliss in) heaven, longevity, fame, offspring, and cattle are destroyed by a sacrifice at which (too) small sacrificial fees are given; hence a man of small means should not offer a (Srauta) sacrifice.

He even goes to the length of excusing a Brahmin by declaring that anything done by him to recover his fees shall not be an offence under the law.

VIII. 349. In their own defence, in a strife for the fees of officiating priests and in order to protect women and Brahmanas; he who (under such circumstances kills in the cause of right, commits no sin.

But it is the provision of Dana which makes a fruitful source of income to the Brahmins. Manu exhorts the King to make *Dana* to Brahmins.

VII. 79. A King shall offer various (Srauta) sacrifices at which liberal fees (are distributed), and in order to acquire merit, he shall give to Brahmanas enjoyments and wealth.

VII. 82. Let him honour those Brahmanas who have returned from their teacher's house (after studying the Veda); for that (money which is given) to Brahmanas is declared to be an imperishable treasure for kings.

VII. 83. Neither thieves nor foes can take it, nor can it be lost; hence an imperishable store must be deposited by kings with Brahmanas.

XI. 4. But a king shall bestow, as is proper, jewels of all sorts, and presents for the sake of sacrifices on Brahmanas learned in the Vedas.

This admonition by Manu to the King did not remain a mere hope for the Brahmin. For as history shows that this exhortation was fully exploited by the Brahmins as the number of *dana patras* discovered by Archialogists indicate. It is astounding how the kings were befooled by the Brahmins to transfer village after village to crafty, lazy and indolent Brahmins. Indeed a large part of the wealth of the present day Brahmins lies in this swindle practised by wily Brahmins upon pious but foolish kings. Manu was not content to let the Brahmin prey upon the King for *dana*. He also allowed the Brahmin to prey upon the public in the mattter of *dana*. This Manu does in three different ways. In the first place he exhorts people to make gifts as a part of the duty owed by the pious to himself at the same time pointing out that the highest dana to a Brahmin.:

VII. 85. A gift to one who is not a Brahmana (yields) the ordinary (reward); a gift to one who calls himself a Brahmana, a double (reward); a gift to a well-read Brahmana, a hundred thousandfold (reward); (a gift) to one who knows the Veda and the Angas (Vedaparanga), (a reward) without end.

VII. 86. For according to the particular qualities of the recipient and according to the faith (of the giver) a small or a great reward will be obtained for a gift in the next world.

In the next place Manu declares that in certain circumstances *dana* to a Brahmin is compulsory.

XI. 1. Him who wishes (to marry for the sake of having) offspring, him who wishes to perform a sacrifice, a traveller, him who has given away all his property, him who begs for the sake of his teacher, his father, or his mother, a student of the Veda, and a sick man.

XI. 2 These nine Brahmanas one should consider as Snatakas, begging in order to fulfill the sacred law; to such poor men gifts must be given in proportion to their learning.

XI. 3. To these most excellent among the twice-born, food and presents (of money) must be given; it is declared that food must be given to others outside the sacrificial enclosure.

XI. 6. One should give, according to one's ability, wealth to Brahmanas learned in the Veda and living alone; (thus) one obtains after death heavenly bliss.

The third method adopted by Manu to make the rule of Dana become a source of secure and steady income is beyond question the most ingenuous one. Manu linked up *dana* with penance. In the Scheme of Manu, an improper act may be a sin although not an offence or it may be both a sin as well as an offence. As a sin its punishment is a matter for canonical law. As an offence its punishment is a matter of secular law. As sin, the improper act is called Pataka and the punishment for it is called Penance. In the Scheme of Manu every Pataka must be expunged by the performance of a penance.

XI. 44. A man who omits a prescribed act, or performs a blameable act, or cleaves to sensual enjoyments, must perform a penance.

XI. 45. (All) sages prescribe a penance for a sin unintentionally committed; some declare, on the evidence of the revealed texts, (that it may be performed) even for an intentional (offences).

XI. 46. A sin unintentionally committed is expiated by the recitation of Vedic texts, but that which (men) in their folly commit intentionally, by various (special) penances.

XI. 53. Thus in consequence of a remnant of (the guilt of former) crimes, are born idiots, dumb, blind, deaf and deformed men, who are (all) despised by the virtuous.

XL. 54. Penances, therefore, must always be performed for the sake of purification, because those whose sins have not been expiated, are born (again) with disgraceful marks.

The penances prescribed by Manu are many and the curious may refer to the Manu Smriti itself for a knowledge of what they are. What is worthy of note is these penances are calculated to materially benefit the Brahmin. Some penances take the form of a simple *dana* to the Brahmin. Others prescribe the performance of some religious rites. But as religious rites cannot be performed by anybody except by a Brahmin and that the performance of religious rite requires the payment of fees the Brahmin alone can be the beneficiary of the *dana* system.

It is therefore absurd to suggest that Manu wanted to place before the Brahmins the ideal of humility, poverty and service. The Brahmins certainly did not understand Manu that way. Indeed they believed that they were made a privileged class. Not only they believed in it but they sought to extend their privileges in other directions a matter which will be discussed later on. They were perfectly justified, in their view. Manu called the Brahmins the 'lords of the earth * and he framed (the law) with such care that they shall remain so.

Having made full provision for Brahmin Rule and Brahmin dominance Manu next launches out to transform society to suit his purposes.

The transformation of Varna into Caste is the most stupendous and selfish task in which Brahmanism after its triumph became primarily engaged. We have no explicit record of the steps that Brahmanism took to bring about this change. On the contrary we have a lot of confused thinking on the relation between Varna and Caste. Some think that Varna and Caste are the same. Those who think that they are different seem to believe that Varna became caste when prohibition on intermarriage became part of the social order. All this, of course, is erroneous and the error is due to the fact that Manu in transforming the Varna into Caste has nowhere explained his ends and how his means are related to those ends. Oscar Wilde has said that to be intelligible is to be found out. Manu did not wish to be found out. He is therefore silent about his ends and means, leaving people to imagine them. For Hindus the subject is important beyond measure. An attempt at clarification is absolutely essential so that the confusion due to different people imagining differently the design of Manu may be removed and light thrown on the way how Brahmanism proceeded to give a wrong and pernicious turn to the original idea of Varna as the basis of society.

As I said Manu's ways are silent and subterranean and we cannot give the detailed and chronological history of this conversion of Varna into Caste. But fortunately there are landmarks which are clear enough to indicate how the change was brought about.

Before proceeding to describe how this change was brought about let me clear the confusion between Varna and Caste. This can best be done by noting the similarities and differences between the two. Varna and Caste are identical in their *de jure* connotation. Both connote status and occupation. Status and occupation are the. two concepts which are implied both in the notion Varna as well as in the notion of Caste. Varna and Caste however differ in one

important particular. Varna is not hereditary either in status or occupation. On the other hand Caste implies a system in which status and occupation are hereditary and descend from father to son.

When I say that Brahmanism converted Varna into Caste what I mean is that it made status and occupation hereditary.

How was this transformation effected? As I said there are no foot . prints left of the steps taken by Brahmanism to accomplish this change but there are landmarks which serve to give us a clear view of how the deed came to be done.

The change was accomplished by stages. In the transformation of Varna into Caste three stages are quite well marked. The first stage was the stage in which the duration of Varna i.e. of status and occupation of a person was for a prescrbied period of time only. The second stage was a stage in which the status and occupation involved the Varna of a person ensured during lifetime only. The third stage was a stage in which the status and occupation of the Varna became hereditary. To use legal language the Estate conferred by Varna was at the beginning an Estate for a term only. Thereafter it became a life Estate and finally it became an Estate of inheritance which is tantamount to saying that Varna became Caste. That these are the stages by which Varna was converted into Caste seems to have ample support from tradition as recorded in the religious literature.[1] There is no reason why this tradition should not be accepted as embodying some thing that is quite genuine. According to this tradition, the task of determining Varna of a person was effected by a body of officers called Manu and Sapta Rishis. From the mass of people Manu selected those who were fit to be Kshatriyas and Vaishas and the Sapta Rishis selected those who were fit to be Brahmanas. After this selection was made by Manu and Sapta Rishis for being Brahmins, Kshatriyas, Vaishas, the rest that were not selected were called Shudras. The Varna arrangement so determined lasts for one *Yug* i.e. a period of four years. Every fourth year a new body of officers known by the same designation Manu and Sapta Rishi were appointed for making a new selection. It happened that last time some of those who were left to be fit only for being Shudras were selected for being Brahmins, Kshatriyas and Vaishyas while some of those who were, elected last time for being Brahmins, Kshatriyas and Vaishyas were left as being fit only of being Shudras. Thus the personnel of the Varna changed. It was

[1] I am here following the clues supplied by the investigations of Mr. Daphtary and Pradnayneshwar Yati. The former's Dharma Rahasya and the letter's Chaturvarnya are very valuable as they are quite original in their point of view. The subject of course needs to be further investigated along the lines suggested by them.

a sort of a periodical shuffling and selection of men to take up according to their mental and physical aptitudes and occupations which were essential to the life of the community. The time when the reshuffling of the Varnas took place was called *Manwantar* which etymologically means change of Vama made by Manu. The word Manwantar also means the period for which the Varna of an individual was fixed. The word Manwantar is very rich in its contents and expresses the essential elements of the Varna system which were two. First it shows that Varna was determined by an independent body of people called Manu and Saptarshi. Secondly it shows that the Varna was for a period after which a change was made by Manu[1]. According to ancient tradition as embodied in the Puranas the period for which the Varna of a person was fixed by Manu and Saptarshi was a period of four years and was called *Yug*. At the end of the period of four years there occured the Manwantar whereby every fourth year the list was revised. Under the revision some changed their old Varna, some retained it, some lost it and some gained it.[2]

The original system seems to have in contemplation the determination of the Varna of adults. It was not based on prior training or close scrutiny of bias and aptitude. Manu and Saptarshi was a sort of a Board of Interview which determined the Varna of a person from how he struck them at the interview. The determination of the Varna was done in a rough and tumble manner. This system seems to have gone into abeyance. A new system grew up in its place. It was known as the Gurukul system. The Gurukul was a school maintained by a Guru (teacher) also called Acharya (learned man). All children went to this Gurukul for their education. The period of education extended for twelve years. The child while at Gurukul was known as Bramhachari. After the period of education was over there was the Upanayan ceremony performed at the Gurukul by the Acharya. The Upanayan ceremony was the most important ceremony. It was a ceremony at which the Acharya determined the Varna of the student and sent him out in the world to perform the duties of that Varna. Upanayan by the Acharyas was the new method of determining Varna which came into vogue in place of method of determination by Manu and Saptarshi. The new method was undoubtedly superior to the old method. It retained the

[1] One can now see why Sumati Bhargava called his code as the Code of Manu. He wanted to invest it with the dignity and authority of the ancient law-giver Manu.

[2] This is the only theory which can explain how some of the Mantras of the Vedas are admitted to have been made by Shudras, a question which in view of the statement of Manu that the Shudras must not recite the Vedas, nor hear them recited becomes a very puzzling question.

true feature of the old method namely that the Varna should be determined by a disinterested and independent body. But it added a new feature namely training as a pre-requisite for assignment of Varna. On the ground that training alone developes individual in the make up of a person and the only safe way to determine the Varna of a person is to know his individuality, the addition of this new feature was undoubtedly a great improvement.

With the introduction of the Acharya Gurukul system, the duration of the Varna came to be altered. Varna instead of being Varna for a period became Varna for life. But it was not hereditary.

Evidently Brahmanism was dissatisfied with this system. The reason for dissatisfaction was quite obvious. Under the system as prevalent there was every chance of the Acharya declaring the child of a Brahmin as fit only to be a Shudra. Brahmanism was naturally most anxious to avoid this result. It wanted the Varna to be hereditary. Only by making the Varna hereditary could it save the children of the Brahmins from being declared Shudra. To achieve this Brahmanism proceeded in the most audacious manner one can think of.

III

Brahmanism made three most radical changes in the system of determing the Varna of the child. In the first place the system of Gurukul as the place where training to the child was given and its Varna was determined by the Guru at the end of the period of training was abolished. Manu is quite aware of the Gurukul and refers to *Guruvas*[1] i.e. training and residence in the Gurukul under the Guru. But does not refer to it at all in connection with the Upanayan. He abolishes the Guru as an authority competent to perform Upanayan by omitting to make even the remotest reference to him in connection with Upanayan. In place of the Guru Manu allows the Upanayan of the child to be performed by its father athome.[2] Secondly Upanayan was made into a Sanskara i.e. a sacrament. In olden times Upanayan was like a convocation ceremony[3] held by the Guru to confer degrees obtained by students in his Gurukul in which certificates of proficiency in the duties of a particular Varna were granted. In Manu's law that Upanayan was a complete change in the meaning and purpose of this most important institution. Thirdly the relation of training to Upanayan was totally reversed. In the olden system training came before Upanayan.

[1] Manu II. 67 Where Manu.

[2] Manu II, 36-37.

[3] On this point see Pradnaneshwar Yati's booklet on Upnayan.

Under the Brahmanism Upanayan came before training. Manu directs that a child be sent to the Guru for training but that is after Upanayan i.e. after[1] his Varna is determined by his father.

The principal change made by Brahmanism was the transfer of authority from the Guru to the father in the matter of performing Upanayan. The result was that the father having the right to perform the Upanayan of his child gave his own Varna to the child and thus made it hereditory. It is by divesting the Guru of his authority to determine the Varna and vesting it in the father that Brahmanism ultimately converted Varna into Caste.

Such is the story of the transformation of Varna into Caste. The story of the transition from one to the other is of course reconstructed. For the reasons already given it may not be quite as accurate as one would wish it to be in all its details. But I have no doubt that the stages and the ways by which Varna ceased to exist and caste came into being must be some such as have been suggested in the foregoing discussion of the subject.

What object Brahmanism could have had in converting Varna into caste it is not difficult to imagine. The object was to make the high status enjoyed by the Brahmins from ancient times the privilege of every Brahmin and his progeny without reference to merits or to qualifications. To put it differently the object was to elevate and ennoble every Brahmin, however mean and worthless he may be, to the high status occupied by some of them on account of the virtue. It was an attempt to ennoble the whole of the Brahmin Community without exception.

That this was the object of Brahmanism is clear from Manu's ordinances. Manu knew that making Varna hereditary, the most ignorant Brahmin[2] will be elevated to the status occupied by the most learned Brahmin. He feared that the former may not be respected as much as the most learned, which was the object of this attempt at the ennoblement of the whole class of Brahmins. Manu is very much concerned about the ignorant Brahmin—a new thing— and warns people against being disrespectful to an ignorant and mean Brahmin.

> IX. 317. A Brahmin, whether learned or ignornt, is a powerful divinity; even as fire is powerful divinity, whether consecrated or popular.
>
> IX. 319. Thus although Brahmins employ themselves in all sorts of mean ocupations, they must invariably be honoured; for they are something transcendently divine.

[1] Manu II. 69.

[2] Under the Varna there could be no ignorant Brahmin. The possibility of an ignorant Brahmin can arise only when Varna becomes Caste i.e. when one becomes a Brahmin only by reason of birth.

Such a warning was unnecessary if the object was to ennoble the whole Brahmin class. Here is a case where vice refuses to pay to virtue even the homage of hypocracy. Can there be greater moral degeneracy than what is shown by Manu in insisting upon the worship of the Brahmin even if he is mean and ignorant?

So much for the object of change from Varna to caste. What have been the consequences of this change?

From the spiritual point of view the consequences have been too harmful to be contemplated with equanimity. The harm done may perhaps be better realized by comparing the position of the Brahmin as a priest resulting from the law of Manu with that of the law of the clergy under the Church of England. There the clergy is subject to the criminal law as every citizen is. But in addition to that he is always subject to Church Descipline Act. Under the Criminal Law he would be punished if he officiated as a clergy without being qualified for it. Under the Church Discipline Act he would be liable to be disqualified as a clergy for conduct which would be deemed to be morally wrong although it did not amount to a crime. This double check on the clergy is held justifiable because learning and morality are deemed to be quite essential for the profession of the clergy who are supposed to administer to the spiritual needs of the people. Under Brahmanism the Brahmin who alone can be the clergy need not possess learning or morality. Yet he is in sole charge of the spiritual affairs of the people!! On the value of a creed which permits this, comment is unnecessary.

From the secular point of view, the consequences of this transformation of Varna into Caste has to introduce a most pernicious mentality among the Hindus. It is to disregard merit and have regard only to birth. If one is descended from the high he has respect although he may be utterly devoid of merit or worth. One who is of high birth will be superior to the one who is of low birth although the latter may be superior to the former in point of worth. Under Brahmanism it is birth that always wins, whether it is against birth or against worth. Merit by itself can win no meads. This is entirely due to the dissociation of merits from status which is the work of Brahmanism. Nothing could be better calculated to produce an unprogressive society which sacrifices the rights of intelligence on the altar of aristocratic privilege.

Now the third deed in the catalogue of deeds done by Brahmanism after its triumph over Buddhism. It was to separate the Brahmins from the result of the Non-Brahmin population and to sever the different social strata of the Non-Brahmin population.

Pushyamitra's Brahmanic Revolution was undertaken for the purposes of restoring the ancient social system of Chaturvarna which under the Buddhist regime was put into the melting pot. But when Brahmanism triumphed over Buddhism it did not content itself with merely restoring Charutvarna as it was in its original form. The system of Chaturvarna of the Pre-Buddhist days was a flexible system and was an open to system. This was because the Varna system had no connection with the marriage system. While Chaturvarna recognized the existence of four different classes, it did not prohibit inter-marriage between them. A male of one Varna could lawfully marry a female of another Varna. There are numerous illustrations in support of this view. I give below some instances which refer to well known and respectable individuals which have acquired a name and fame in the sacred lore of the Hindus.

Husband	His Varna	Wife	Her Varna
1. Shantanu	Kshatriya	Ganga	Shudra Anamik
2. Shantanu	Kshatriya	Matsyagandha	Shudra Fisher woman
3. Parashara	Brahmin	Matsyagandha	Shudra Fisher woman
4. Vishwamitra	Kshatriya	Menaka	Apsara
5. Yayati	Kshatriya	Devayani	Brahmin
6. Yayati	Kshatriya	Sharmishta	Asuri—Non-Aryan
7. Jaratkaru	Brahmin	Jaratkari	Nag—Non-Aryan

Should anybody retain doubt on the question that the division of the society into classes did not prohibit intermarriages between the four Varnas let him consider the geneology of the family of the great Brahmin sage Vyas.

GENEOLOGY OF VYAS

Varuna Mitra = Urvashi
↳ Vashishtha = Akshamala
↓
Shakti =
Parashara = Matsyagandha
↓
= Vyas

Brahmintsm with the ferocity of an outraged brute proceeded to put a stop to these intermarriage between the different Varnas. A new law is proclaimed by Manu. It is in the following terms:—

III. 12. For the first marriage of twice born men (wives) of equal caste are recommended.

III. 13. It is declared that a Sudra woman alone can be the wife of a Shudra.

III. 14. A Shudra woman is not mentioned even in any (ancient) story as the (first) wife of a Brahmana or of a Kshatriya, though they lived in the (greatest) distress.

III. 15. Twice-born men who, in their folly, wed wives of the low (Sudra) caste, soon degrade their families and their children to the state of Sudras.

III. 16. According to Atri and to (Gautama) the son of Utathya, he who weds a Sudra woman becomes an outcast, according to Saunakaon the birth of a son, and according to Bhrigu he who has (male)offspring from a (Sudra female, alone).

III. 17. A Brahmana who takes a Sudra wife to his bed, will (after death) sink into hell; if he begets a child by her, he will lose the rank of a Brahmana.

III. 18. The manes and the gods will not eat the (offerings) of that man who performs the rites in honour of the gods, of the manes, and of guests chiefly with a (Sudra wife's) assistance, and such (a man) will not go to heaven.

III. 19. For him who drinks the moisture of a Sudra's lips, who is tainted by her breath, and who begets a son on her, no expiation is prescribed.

Brahmanism was not satisfied with the prohibition of intermarriage. Brahmanism went further and prohibited interdining.

Manu lays down certain interdicts on food. Some are hygenic. Some are social. Of the social the following are worthy of attention:

IV. 218. Food given by a king, impairs his manly vigour; by one of the servile class, his divine light; by goldsmiths, his life; by leathercutters, his good name.

IV. 219. Given by cooks and the like mean artizans, it destroys his offsprings: by a washerman, his muscular strength;

IV. 221. That of all others, mentioned in order, whose food must never be tasted, is held equal by the wise to the skin, bones, and hair of the head.

IV. 222. Having unknowingly swallowed the food of any such persons, he must fast during three days; but having eaten it knowingly, he must perform the same harsh penance, as if he had tasted any seminal impurity, ordure, or urine.

I said that Brahmanism acted with the ferocity of an outranged brute in undertaking the task of prohibiting intermarriage and interdining. Those who have doubts in this matter ponder over the language of Manu.

Mark the disguest Manu shows with regard to the Shudra woman.

Mark what Manu says about the food of the Shudra. He says it is as impure as semen or urine.

These two laws have produced the caste system. Prohibition of intermarriage and prohibition against interdining are two pillars on which it rests. The caste system and the rules relating to intermarriage and interdining are related to each other as ends to means. Indeed by no other means could the end be realized.

The forging of these means shows that the creation of the caste system was end and aim of Brahmanism. Brahmanism enacted the prohibitions against intemarriage and interdining. But Brahmanism introduced other changes in the social system and if the purposes underlying these changes are those which I suggest them to be, then it must be admitted that Brahmanism was so keen in sustaining the caste system that it did not mind whether ways and means employed were fair or unfair, moral or immoral. I refer to the laws contained in the Code of Manu regarding marriage of girls and the life of widows.

See the law that Manu promulgates regarding the marriage of females.

> IX. 4. Reprehensible is the father who gives not (his daughter) in marriage at the proper time.
>
> IX. 88. To a distinguished, handsome suitor of equal caste should a father give his daughter in accordance with the prescribed rule, though she have not attained (the proper age), i.e. although she may not have reached puberty.

By this rule Manu enjoins that a girl should be married even though she may not have reached the age of puberty i.e. even when she is a child.

Now with regard to widows Manu promulgates the following rule.

> V. 157. At her pleasure let her (i.e. widow) emaciate her body, by living voluntarily on pure flowers, roots and fruits; but let her not, when her lord is deceased, even pronounce the name of another man.
>
> V. 161. But a widow, who from a wish to bear children, slights her deceased husband by marrying again, brings disgrace on herself here below, and shall be excluded from the seat of her lord (in heaven).
>
> V. 162. Offspring begotten on a woman by any other than her husband, is here declared to be no progeny of hers; no more than a child, begotten on the wife of another man belongs to the begetter; nor is a second husband any where prescribed for a virtuous woman.

This is the rule of enforced widowhood for a woman. A reference may also be made to Sati or a widow who burns herself on the funeral pyre of her husband and thus puts an end to her life. Manu is silent about it.

Yajnavalkya[1] an authority nearly as great as Manu says, she must not live separately or alone.

> 86. When deprived of her husband, she must not remain away from her father, mother, son, brother, mother-in-law or from her maternal uncle; otherwise she might become liable to censure.

Here again Yajnavalkya does not suggest that a widow become a Sati. But Vijnaneshwar, the author of Mitakshara a commentary on Yajnavalkya Smriti makes the following observation in commenting on the above Sloka.

> "This is in the case of the alternative of leading a celibate life vide the text of Vishnu[2]: "After the death of the husband, either celibacy or ascending the (cremation) pile after him."
>
> Vijnaneshwar[3] adds as his opinion that 'There is great merit in ascending the funeral pyre after him.'

From this one can very easily and clearly see how the rule of Sati came to be forged. Manu's rule was that a widow was not to remarry. But it appears from the statement by Vijnaneshwar that from the time of the Vishnu Smriti a different interpretation began to put on the ordinance of Manu. According to this new interpretation Manu's rule was explained to be offering to the widow a choice between two alternatives: (1) Either burn yourself on your husband's funeral pyre or (2) If you don't, remain unmarried. This of course is totally false interpretation quite unwarranted by the clear words of Manu. Somehow it came to be accepted. The date of the Vishnu Smriti is somewhere about the 3rd or 4th Century. It can therefore be said that rule of Sati dates from this period.

One thing is certain, these were new rules. The rule of Manu that girl should be married before she has reached puberty is a new rule. In Pre-Buddhistic Brahmanism[4] marriages were performed not only after puberty but they were performed when girls had reached an age when they could be called grown up. Of this there is ample evidence. Similarly the rule that a woman once she had lost her husband must not remarry is a new rule. In the Pre-Buddhist Brahmanism there was no prohibition on widow remarriage. The fact that the Sanskrit language contains words such as *Punarbhu* (woman who has

[1] The date of the Yajnavalkya Smriti is betwen 150-200 A.D.

[2] Vishnu Smriti Ch. XXV 14.

[3] He wrote his Mitakshara between 1070 and 1100 A.D.

[4] See kane—History of Dharmashastra I. Part I. page.

undergone a second marriage ceremony) and *punarbhav* (second husband) show that such marriages were quite common under the Pre-Buddhist Brahmanism.[1] With regard to Sati the position as to when it arose,[2] there is evidence to suggest that it existed in ancient times. But there is evidence that it had died out and it was revived after Brahmanism under Pushyamitra obtained its victory over Buddhism although it was some time later than Manu.

Question is this, why these changes were made by the triumphant Brahmanism? What did Brahmanism want to achieve by having girls married before they had become pubert, by denying the widow to the right to marry again and by telling her to put herself to death by immolating herself in the funeral pyre of her deceased husband? No explainations are forthcoming for these changes. Mr. C. V. Vaidya who offers an explanation for girl marriage says[3] that girl marriage was introduced to prevent girls from joining the Buddhist order of nuns. This explanation does not satisfy me. Mr. Vaidya omits to take into consideration another rule laid down by Manu—namely the rule relating to suitable age for marriage. According to that rule.

> IX. 94. A man, aged thirty, shall marry a maiden of twelve who pleases him, or a man of twenty-four a girl eight years of age.

The question is not why girl marriage was introduced. The question is why Manu allowed so much discrepancy in the ages of the bride and the bridegroom.

Mr. Kane[4] has attempted an explanation of Sati. His explanation is that there is nothing new in it. It existed in India in ancient times as it did in other parts of the world. This again does not satisfy the world. If it existed outside India, it has not been practised on so enormous a scale as in India. Secondly if traces of it are found in Ancient India in the Kshatriyas, why was it revived, why was it not universalized? There is no satisfactory explanation. Mr. Kane's explanation that the prevalence of Sati by reference to laws of inheritance does not appear to me very convincing. It may be that because under the Hindu Law of inheritance as it prevailed in Bengal, women got a share in property. The relations of the husband of the widow pressed her to be a Sati in order to get rid of a share may explain why Sati was practised on so large a scale in Bengal. But it does not explain how it arose nor how it came to be practised in other parts of India.

Again with regard to the prohibition of widow remarriage, there is no explanation whatsoever. Why was the widow, contrary to

[1] See Kane—History of Dharmashastra, Vol. II, Part II Chapt.

[2] The available evidence on Sati has been collected by Kane in his History of Dharmashastra Vol. II Part I pp. 617-636.

[3] History of India Vol. II.

[4] History or Dharmashastra.

established practice, prohibited from marrying? Why was she required to lead a life of misery? Why was she disfigured?

My explanation for girl marriage, enforced widowhood and Sati is quite different and I offer it for what it is worth.[1]

> "Thus the superposition of endogamy over exogamy means the creation of Caste. But this is not an easy affair. Let us take an imaginary group that desire to make itself into a caste and analyse what means it will have to adopt to make itself endogamous. If a group desires to make itself endogamous, a formal injunction against intermarriage with outside groups will be of no avail, especially if prior to the introduction of endogamy, exogamy were to be the rule in all matrimonial relations. Again there is a tendency in all groups living in close contact with one another to assimilate and amalgamate, and thus consolidate into a homogeneous society. If this tendency be strongly counteracted in the interest of Caste formation, it is absolutely necessary to circumscribe a circle without which people should not contract marriages."
>
> "Nevertheless this encircling to prevent marriages from without creates problems from within which are not very easy of solution. Roughly speaking in a normal group the two sexes are more or less evenly distributed, and generally speaking there is an equality between those of the same age. But this equality is never quite realised in actual societies. While to the group that is desirous of making itself into a caste the maintenance of this equality between the sexes becomes the ultimate goal, for without this endogamy can no longer subsist. In other words, if endogamy is to be preserved, conjugal rights from within have to be provided for, else members of the group will be driven out of the circle to take care of themselves in any way they please. But in order that the conjugal rights be provided for from within, it is absolutely necessary to maintain a numerical equality between the marriageable units of the two sexes within the group desirous of making itself into a Caste. It is only through the maintenance of this equality that the necessary endogamy of the group could be kept intact, and a very large disparity is sure to break it."
>
> "The problem of Caste then ultimately resolves itself into one of repairing the disparity between the marriageable units of the two sexes within it. The much needed parity between the units could be realized only when a couple dies simultaneously. But this is a rare contingency. The husband may die before the wife and create a surplus woman who must be disposed of, else through intermarriage she will violate the endogamy of the group. In like manner the husband may survive his

[1] They will be found in my paper on "Castes in India" which appeared in *The Indian Antiquarry* for May, 1917.

wife and be a surplus man whom the group, while it may sympathise with him for the sad bereavement, has to dispose of, else he will marry outside the Caste and will break the endogamy. Thus both the surplus man and the surplus woman constitute a menace to the Caste if not taken care of, for, not Finding suitable partners inside their prescribed circle (and they cannot find any, for there are just enough pairs to go round) very likely they will transgress the boundary, marry outside and import population that is foreign to the Caste. Let us see what our imaginary group is likely to do with this surplus man and surplus woman. We will first take up the case of the surplus woman. She can be disposed of in two different ways so as to preserve the endogamy of the Caste."

"First : burn her on the funeral pyre of her deceased husband and get rid of her. This, however, is rather an impracticable way of solving the problem of sex disparity. In some cases it may work, in others it may not. Consequently every surplus woman cannot thus be disposed of, because it is an easy solution but a hard realization. However, the surplus woman (widow) if not disposed of, remains in the group: but in her very existence lies a double danger. She may marry outside the Caste and violate to endogamy or she may marry within the Caste and through competition encroach upon the chances of marriage that must be reserved for the potential brides in the Caste. She therefore is a menace in any case and something must be done to her if she cannot be burned along with her deceased husband."

"The second remedy is to enforce widowhood on her for the rest of her life. So far as the objective results are concerned burning is a better solution than enforcing widowhood. Burning the widow eliminates all the three evils that a surplus woman is fraught with. Being dead and gone she creates no problem of remarriage either inside or outside the Caste. But compulsory widowhood is superior to burning because it is more practicable. Besides being comparatively humane it also guards against the evils of remarriage as does burning; but it fails to guard the morals of the group. No doubt under compulsory widowhood the woman remains and, just because she is deprived of her natural right of being a legitimate wife in future, the incentive to bad moral conduct is increased. But this is by no means an insuperable' difficulty. She can be degraded to a condition where she could no longer be a source of allurement."

"The problem of surplus man (—widower) is much more important and much more difficult than that of the surplus woman in a group that desires to make itself into a Caste. From time immemorial man as compared with woman has had the upper hand. He is a dominant

figure in every group and of the two sexes has greater prestige. With this traditional superiority of man over woman his wishes have always been consulted. Woman on the other hand has been an easy prey to all kinds of iniquitous injunctions, religious, social or economic. But man as a maker of injunctions is most often above them all. Such being the case you cannot accord the same kind of treatment to a surplus man as you can to a surplus woman in a Caste."

"The project of burning him with his deceased wife is hazardous in two ways: first of all it cannot be done, simply because he is a man. Secondly, if done, a sturdy soul is lost to the Caste. There remain then only two solutions which can conveniently dispose of him. I say conveniently because he is an asset to the group."

"Important as he is to the group, endogamy is still more important, and the solution must assure both these ends. Under these circumstances he may be forced, or I should say induced, after the manner of the widow to remain a widower for the rest of his life. This solution is not altogether difficult, for without there being any compulsion some are so disposed as to enjoy self-imposed celibacy or may even take a further step of their own accord to renounce the world and its joys. But, given human nature as it is, this solution can hardly be expected to bc\ realized. On the other hand, as is very likely to be the case, if he remains in the group as an active participator in group activities, he is a danger to the morals of the group. Looked at from a different view point, ceilibacy though easy in cases where it succeeds, is not so advantageous even then to the material prospects of the Caste. If he observes genuine celibacy and renounces the world, he would not be a menace to the preservation of Caste endogamy or Caste morals as undoubtedly would be, if he remained a secular person. But as an ascetic celibate he is as good as burned, so far as the material well-being of his Caste is concerned. A Caste, in order that it may be large enough to afford a vigorous communal life, must be maintained at a certain numerical strength. But to hope for this and to proclaim celibacy is the same as trying to cure atrophy by bleeding.

"Imposing celibacy on the surplus man in the group therefore fails, both theoretically and practically. It is in the interest of the Caste to keep him as a Grahastha (one who raises a family) to use a Sanskrit technicality. But the problem is to provide him with a wife from within the Caste. At the outset this is not possible, for the ruling ratio in a caste has to be one man to one woman and none can have two chances of marriage, for in a Caste thoroughly self enclosed there are always just enough marriageable women to go round for the marriageable men. Under these circumstances the surplus man can

only be provided with a wife by recruiting a bride from the ranks of those not yet marriageable in order to tie him down to the group. This is certainly the best of the possible solutions in the case of the surplus man. By this, he is kept within the Caste. By this, this numerical depletion through constant outflow is guarded against, and by this endogamy and morals are preserved.

"It will now be seen that the four means by which numerical disparity between the two sexes is conveniently maintained are : (1) Burning the widow with her deceased husband; (2) Compulsory widowhood—a milder form of burning; (3) Imposing celibacy on the widower; (4) Wedding him to a girl not yet marriageable. Though as I said above, burning the widow and imposing celibacy on the widower are of doubtful service to the group in its endeavour to preserve its endogamy, all of them operate as means. But means as forces, when liberated or set in motion create an end. What then is the end that these means create? They create and perpetuate endogamy, while caste and endogamy, according to our analysis of the various definitions of caste, are one and the same thing. Thus the existence of these means means caste and caste involves these means."

"This, in my opinion, is the general mechanism of a caste in a system of castes. Let us now turn to the castes in the Hindu Society and inquire into their mechanism. I need hardly promise that there are a great many pitfalls in the path of those who try to unfold the past, and caste in India to be sure is a very ancient institutiion. This is especially true where there exist no authentic or written history or records or where the people, like the Hindus are so constituted that to them writing history is a folly, for the world is an illusion. But institutions do live, though for a long time they may remain unrecorded and as often as not customs and morals are like fossils that tell their own history. If this is true, our task will be amply rewarded if we scrutinize the solution the Hindus arrived at to meet the problems of the surplus man and surplus woman."

"Complex though it be in its general working the Hindu Society, even to a superficial observer, presents three singular uxorial customs, namely:—

(i) Sati or the burning of the widow on the funeral pyre of her deceased husband.

(ii) Enforced widowhood by which a widow is not allowed to remarry.

(iii) Girl marriage.

In addition to these, one also notes a great hankering after Sannyasa (renunciation) on the part of the widower, but it may in some cases be due purely to psychic disposition.

"So far as I know, no scientific explanation of the origin of these customs is forth coming even today. We have plenty of philosophy to tell us why these customs were honoured. (Cf. A. K. Coomaraswamy— "Sati: a Defence of the Eastern Woman "in the British Sociological Review Vol. VI 1913) Because it is a "proof of the perfect unity of body and soul" between husband and wife and of "devotion beyond the grave", because it embodied the ideal of wifehood which is well expressed by lima when she said "Devotion to her Lord is woman's honour, it is her eternal heaven: and O Maheshwara", she adds with a most touching human cry, "I desire not paradise itself if thou art not satisfied with me!" Why compulsory widowhood is honoured I know not nor have I yet met with anyone who sang in praise of it, though there are a great many who adhere to it. The eulogy in honour of girl marriage is reported by Dr. Ketkar to be as follows: "A really faithful man or woman ought not to feel affection for a woman or a man other than the one with whom he or she is united. Such purity is compulsory not only after marriage, but even before marriage, for that is the only correct ideal of chastity. No maiden could be considered pure if she feels love for a man other than to whom she might get married. As she does not know whom she is going to get married to, she must not feel affection for any man at all before marriage. If she does so, it is a sin. So it is better for a girl to know whom she has to love, before any sexual consciousness has been awakened in her". Hence girl marriage.

"This high-flown and ingenious sophistry indicates why these institutions were honoured, but does not tell us why they were practised. My own interpretation is that they were honoured because they were practised. Any one slightly acquainted with rise of individualism in the 18th century will appreciate my remark. At all times, it is the movement that is most important; and the philosophies grow around it long afterwards to justify it and give it a moral support. In like manner I urge that the very fact that these customs were so highly eulogized proves that they needed eulogy for their prevalence. Regarding the question as to why they arose, I submit that they were needed to create the structure of caste and the philosophies in honour of them were intended to popularize them or to gild the pill, as we might say, for they must have been so abominable and shocking to the sense of the unsophisticated that they needed a great deal of sweetening. These customs are essentially of the nature of means, though they are represented as ideals. But this should not blind us from understanding the results that flow from them. One might safely say that idealization of means is

> necessary and in this particular case was perhaps motivated to endow them with greater efficacy. Calling means an end does not harm except that it disguises its real character, but it does not deprive it of its real nature, that of a means. You may pass a law that all cats are dogs, just as you can call a means an end. But you can no more change the nature of means thereby than you can turn cats into dogs; consequently I am justified in holding that, regard them as ends or as means, Sati, enforced widowhood and girl marriage are customs that were primarily intended to solve the problem of the surplus man and surplus woman in a caste and to maintain its endogamy. Strict endogamy could not be preserved without these customs, while caste without endogamy is fake."

According to my view girl marriage, enforced widowhood and Sati had no other purpose than that of supporting the Caste System which Brahmanism was seeking to establish by prohibiting intermarriage. It is difficult to stop intermarriage. Members of different castes are likely to go out of their Caste either for love or for necessity. It is to provide against necessity that Brahmanism made these rules. This is my explanation of these new rules, made by Brahmanism. That explanation may not be acceptable to all. But there can be no doubt that Brahmanism was taking all means possible to prevent intermarriages between the different classes taking place.

Another illustration of this desire on the part of Brahmanism is to be found in the rule regarding excommunication promulgated by Manu.

Manu says that a person who is excommunicated by his Caste is an outcast.[1] According to Manu an outcast is to be treated as though he was actually dead. Manu ordains that his obsequies should be performed and lays down the mode and manner of performing these obsequies of the outcast.

> XI. 183. The Sapindas and Samanodakas of an outcast must offer (a libation of) water (to him, as if he were dead), outside (the village), on an inauspicious day, in the evening and in the presence of the relatives, officiating priests, and teachers.
>
> XI. 184. A female slave shall upset with her foot a pot filled with water, as if it were for a dead person; (his Sapindas) as well as the Samanodakas shall be impure for a day and a night. Manu however allows the outcast to return to Caste on performing penance as will be seen from the following rules:
>
> XI. 187. But when he has performed his penance, they shall bathe with him in a holy pool and throw down a new pot, filled with water.

[1] The outcast is quite different from un Untouchable as will be shown later.

XI. 188. But he shall throw that pot into water, enter his house and perform, as before, all the duties incumbent on a relative.

XI. 189. Let him follow the same rule in the case of female outcasts; but clothes, food, and drink shall be given to them, and they shall live close to the (family) house.

But if the outcast was recalcitrant and impenitent Manu provides for his punishment.

Manu will not allow the outcast to live in the family house. Manu enjoins that

XI. 189.....Clothes, food, and drink shall be given to them (i.e. the outcast members of the family), and they shall live close to the (family) house.

III. 92. Let him (i.e. the householder) gently place on the ground (some food) for dogs, outcasts, chandals, those aflicted with diseases that are punishments of former sins, crows and insects.

Manu declares that having social intercourse with an outcast is a sin. He warns the Snataka

IV. 79.....not (to) stay together with outcasts.

IV. 213.....Not (to eat food given) by outcasts.

To the householder Manu says:—

III. 151. Let him (i.e. the householder) not entertain at a Shradha.

III. 157. (A person) who forsakes his mother, his father, or a teacher without (sufficient) reason, he who has contracted an alliance with outcasts either through the Veda or through a marriage.

Manu ordains a social boycott of the outcast by penalizing those who associate with him.

XI. 181. He who associates himself for one year with an outcast himself becomes an outcast; not by sacrificing, reading the Veda, or contracting affinity with him, since by those acts he loses his class immediately, but even by using the same carriage or seat, or by taking his food at the same board.

XI. 182. He who associates with any one of those outcasts, must perform, in order to atone for (such) intercourse, the penance prescribed for that (sinner).

Then there are penalties against an outcast who defies his caste and choses to remain an outcast. Manu tells him what will be his penalty in the next world.

XII. 60. He who has associated with outcasts (will) become Brahmarakshas (i.e. an evil spirit).

Manu however was not prepared to leave the outcast with this. He proceeds to enact penalty the severity of which cannot be doubted. The following are the penal sections of Manu Smriti against an outcast.

> III. 150.....Those Brahmins who are .....outcasts ..... Athesists are unworthy (to partake) of oblations to the gods and manes.
>
> IX. 201. .....Outcast receive(s) no share (in inheritance).
>
> XI. 185. But thenceforward (i.e. after the obsequies of the outcast have been performed) it shall be forbidden to converse with him, to sit with him, to give him a share of the inheritance, and to hold with him such intercourse as is usual among men;
>
> XI. 186. And (if the outcast be the eldest) his right of primogeniture shall be withheld and the additional share, due to the eldest son; and in his stead a younger brother, excelling in virtue (i.e. who observes the rule of caste) shall obtain the share of the eldest.

Such is the law of Manu against an outcast. The severity of the penalties prescribed against him is quite obvious. Its effect is to exclude him from all social intercourse, to suspend him from every civil function, to disqualify him for all offices and to disable him from inheriting any property. Under these pains and penalties the outcaste might as well be dead which indeed Manu considers him to be, directing libations to be offered to the manes as though he was naturally so. This system of privations and mortifications was enforced by prescribing a similar fate to anyone who endeavoured to associate with an outcast. The penalty was not confined to the outcast. Nor was it restricted to males. Males and females were both subject to the law of the outcast. Even their progeny was subject to penalty. The law was extended to the son of the outcast. Born befo

son was entitled to inherit immediately, as though his father was dead. Born after excommunication he lost his right to inherit, i.e. he became an outcast along with his father.

The laws of Manu regarding the outcast are of course devoid of justice and humanity. Some might think that there is nothing very strange about them. That is because these laws are very similar to the laws against apostacy and heresy to be found in all religious codes. It is unfortunately a fact. All religions —*Except Buddhism*— have used or misued the laws of inheritance for enforcing adhesion and conformity to their codes. The conversion of a Christian to Judaism or paganism or any other religion was punished by the Emperors Constantines and Jul

Emperors Theodosius and Valentiniaus added capital punishment, in

case the apostle endeavoured to pervert others to the same inequity. This was borrowed by all the European countries[1] who maintained a similar system of penalities to enforce the Christian faith.

Such a view of the law of the outcast would be quite superficial. First of all the outcast is a creation of Brahmanism. It is a necessary coefficient of caste. Indeed once Brahmanism was determined to create the caste system the law against the outcast was absolutely essential. For only by punishing the outcast can the caste system be maintained. Secondly there is a difference between the Christian or Mahomedan Law of Apostacy and the Brahmanic law of caste. The disqualification under the Christian or Mahomedan law of apostacy was restricted to want of religious belief or the profession of wrong religious belief. Under the Brahmanic law the disqualification had no connection with belief or want of belief. It was connected with the sanctity of a certain form of social organization—namely Caste. It is the act of going out of one's caste that was made punishable. This is a very important difference.

The Brahmanic law of the outcast as compared with the law of apostacy in other religions shows that a belief in God is not essential to Brahmanism; that a belief in life after death is not essential to Brahmanism; that a belief in salvation either by good deeds or by a belief in a prophet is not essential to Brahmanism; that a belief in the sacredness of the Vedas is essential to Brahmanism. This is only one thing that is essential to Brahmanism. For it is only breach of caste which is penalized. All else is left to violation.

Those who are not blind to these forces of integration will admit that this act of Brahmanism in prohibiting intermarriage and interdining is nothing short of a complete dismemberment of society. It is a deathknell to unity, an effective bar to united action. As will be shown hereafter Brahmanism was keen on preventing united action by Non-Brahmins to overthrow Brahmanism and that is why Brahmanism brought about this segmentation of Indian Society. But the fatal effects of a poison can never be confined to the limits of the original intention of the perpetrator. The same thing has happened in the case of Caste. Brahmanism intended to paralyse the Non-Brahmans for action against Brahmins, it did not design that they as a nation should be paralysed for action against a foreign nation. But the result of the poison of Caste has been they have become stricken for action against Brahmanism as well as against foreigners. In other words Brahmanism in instituting Caste system has put the greatest impediment against the growth of nationalism.

[1.] See Stephen's Commentaries on the Laws of England (15th Ed.) Vo. IV. p. 179.

In spite of what others say the Hindu will not admit that there is any thing evil in the Caste system, and from one point of view he is right. There is love, unity and mutual aid among members of a family. There is honour among thieves. A band of robbers have common interests as respects to its members. Gangs are marked by fraternal feelings and intense loyalty to their own ends however opposed they may be to the other gangs. Following this up one can say that a Caste has got all the praiseworthy characteristics which a society is supposed to have.

It has got the virtues of a family inasmuch as there is love unity and mutual aid. It has got the honour known to prevail among thieves. It has got the loyalty and fraternal feeling we meet with in gangs and it also possesses that sense of common interests which is found among robbers.

A Hindu may take satisfaction in these praiseworthy characteristics of the Caste and deny that there is anything evil in it. But he forgets that his thesis that Caste is an ideal form of social organization is supportable on the supposition that each caste is entitled to regard himself as an independent society, as an end in itself as nations do. But the theory breaks down when the consideration pertains to Hindu Society and to the Caste-System which goes with it.

Even in such a consideration of the subject the Hindu will not admit that the Caste system is an evil. Charge Hinduism with the responsibility for the evils of the Caste-system and the Hindu will at once retort, "What about the Class System in Europe?" Upto a point the retort is good if it means that there exists nowhere that ideal society of the philosophers marked by organic unity, accompanied by praiseworthy community of purpose, mutuality of sympathy, loyalty to public ends and concern for general welfare. Nobody can have much quarrel if the Hindu by way of analogy were to say that in every Society there are families and classes marked by exclusiveness, suspicion, and jealousy as to those without; bands of robbers, gangs. narrow cliques, trade unions. Employees' Associations, Kartels, Chambers of Commerce and political parties. Some of these are held together by the interest and plunder and others while aspiring to serve the public do not hesitate to prey upon it.

It may be conceded that everywhere *de facto* society whether in the past or in the present is not a single whole but a collection of small groups devoted to diverse purposes as their immediate and particular objectives. But the Hindu cannot take shelter under this analogy between the Hindu caste system and the Non-Hindu Class system and rest there as though there is nothing more to be said about the subject. The fact is there is a far bigger question which the Hindu has still to

face. He must take note of the fact that although every society consists of groups there are societies in which the groups are only non-social while there are societies in which the groups are anti-social. The difference between a society with the class system and a society with the caste system lies just in this namely the class system is merely non-social but the caste system is positively anti-soicial.

It may be important to realize why in some societies the group system produces only non-social feeling and in some societies the group system produces anti-social feeling. No better explanation of this difference can be given than the one given by professor John Dewey. According to him every thing depends upon whether the groups are isolated or associated, whether there is reciprocity of interest between them or whether there is lack of reciprocity of interest. If the groups are associated, if there is a reciprocity of interest between them the feeling between them will be only non-social. If the groups are isolated, if there is no reciprocity between them the feeling between them will be anti-social. To quote Professor Dewey[1]:

> "The isolation and exclusiveness of a gang or clique brings its anti-social spirit into relief. But this same spirit is found wherever one group has interests 'of its own' which shut it out from full interaction with other groups, so that its prevailing purpose is the protection of what it has got, instead of reorganization and progress through wider relationships. It marks nations in their isolation from one another; families which seclude their domestic concerns as if they had no connection with a larger life; schools when separated from the interest of home and community; the divisions of rich and poor; learned and unlearned. The essential point is that isolation makes for rigidity and formal institutionalizing of life, for static and selfish ideals within the group."

The question to be asked is not whether there are groups in a Society or whether the Society is one single whole. The question to be asked is what degree of association, cooperative intercourse and interaction exists among the different groups; how numerous and varied are the interests which are consciously shared by them: how full and free is the interplay with other forms of Association? A society is not to be condemned as body because there are groups in it. It is to be condemned if the groups are isolated, each leading an exclusive life of its own. Because it is this isolation which produces the anti-social spirit which makes co-operative effort so impossible of achievement.

This isolation among the classes is the work of Brahmanism. The principal steps taken by it was to abrogate the system of intermarriage

[1]Democracy and Education p. 99

and interdining that was prevalent among the four Varnas in olden times. This has already been discussed in an earlier section of this chapter. There is however one part of the story that remains to be told. I have said the Varna system had nothing to do with marriage. That males and females belonging to the different Varnas could marry and did marry. Law did not come in the way of inter-varna marriage. Social morality was not opposed to such marriages. Savarna marriage was neither required by law nor demanded by Society. All marriages between different Varnas—irrespective of the question whether the bride was of a higher Varna than the bride-groom or whether the bride-groom was of the higher Varna and the bride of the lower Varna—were valid. Indeed as Prof. Kane says the distinction between Anuloma and Pratiloma marriage was quite unknown and even the terms Anuloma and Pratiloma were not in existence. They are the creation of Brahmanism. Brahmanism put a stop to Pratiloma marriages i.e. marriages between women of a higher Varna and men of lower Varna. That was a step in the direction of closing the connection between the Varnas and creating in them an exclusive and anti-social spirit regarding one another. But while the inter-connecting gate of the Pratiloma marriage was closed the inter-connecting gate of Anuloma marriage had remained open. That was not closed. As pointed out in the section on graded inequality Anuloma marriage i.e. marriage between a male of the higher Varna and the female of the lower Varna was allowed by Brahmanism to continue. The gate of Anuloma marriage was not very respectable and was a one way gate only, still it was an interconnecting gate by which it was possible to prevent a complete isolation of the Varnas. But even here Brahmanism played what cannot but be called a dirty trick. To show how dirty the trick was it is necessary first to state the rules which prevailed for determining the status of the child. Under the rule existing from very ancient times the status of the child was determined by the Varna of the lather. The Varna of the mother was quite unimportant. The following illustrations will place the point beyond doubt:

Father's name	Varna of father	Mother's Name	Varna of mother	Child's name	Varna of child
1. Shantanu	Kshatriya	Ganga	Shudra (Anamik)	Bhishma	Kshatriya
2. Shantanu	Kshatriya	Matsyagandha	Shudra (Fisher)	Viehitra Virya	Kshatriya
3. Parashar	Brahmin	Matsyagandha	Shudra (Fisher)	Krishna-Dwaipayana	Brahmin
4. Vishwamitra	Kshatriya	Menaka	(Apsara)	Shakuntala	Kshatriya
5. Yayati	Kshatriya	Devayani	Brahmin	Yadu	Kshatriya
6. Yayati	Kshatriya	Sharmishta	Asuri (Nonaryan)	Druhya	Kshatriya
7. Jaratkaru	Brahmin	Jaratkari	Nag. (Nonaryan)	Asita	Brahmin

The rule was known as the rule of Pitra Savarnya. It would be interesting to consider the effect of this rule of Pitra Savarnya on the Anuloma and Pratiloma systems of marriage.

The effect on Pratiloma marriage would be that the children, of mothers of the higher Varnas would be dragged down to the level of the lower Varnas represented by their fathers. Its effect on Anuloma marriage would be just the contrary. The children of mothers of the lower Varnas would be raised up and absorbed in the higher Varnas of their fathers.

Manu stopped Pratiloma marriages and thereby prevented the higher from being dragged to the status of the lower. However regrettable, not much damage was done by it so long as the Anuloma marriage and the rule of Pitra Savarnya continued in operation. The two together formed a very useful system. The Anuloma marriage maintained the inter-connection and the Pitra Savarnya rule made the higher classes quite composite in their make up. For they could not but help to be drawn from mothers of different Varnas. Brahmanism did not want to keep this gate of intercommunication between the Varnas open. It was bent on closing it. But it did it in a manner which is disreputable. The straight and honourable way was to stop Anuloma marriage. But Brahmanism did not do that. It allowed the system of Anuloma marriage to continue. What it did was to alter the rule of determining the status of the child. It replaced the rule of Pitra Savarnya by the rule of Matra Savarnya by which the status of the child came to be determined by the status of the mother. By this change marriage ceased to be that means of intersocial communication which it principally is. It relieved men of the higher Varna from the responsibility to their children simply because they were born of a mother of lower Varna. It made Anuloma marriage mere matter of sex. a humiliation and insult to the lower Varnas and a privilege to the higher classes to lawfully commit prostitution with women of the lower classes. And from a larger social point of view it brought the complete isolation among the Varnas which has been the bane of Hindu Society. Notwithstanding all this the Orthodox Hindu still believes that the caste system is an ideal system. But why talk about the orthodox Hindus. There are among enlightened politicians and historians. There are of course Indians both politicians and historians who vehemently deny that the Caste system comes in the way of nationalism. They presume that India is a nation and feel very much offended if anybody instead of speaking of the Indian Nation speaks of the people of India. This attitude is quite understandable. Most of the politicians and historians are Brahmins and cannot be expected to have the courage to

expose the misdeeds of their ancestors or admit the evils perpetrated by them. Ask any one the question, is India a nation, and all in a chorus say, 'yes.' Ask for reasons, they will say that India is a nation firstly because India has a geographical unity of the country and secondly because of the fundamental unity of the culture. All this may be admitted for the sake of argument and yet it is true to say that to draw an inference from these facts that India is a nation is really to cherish a delusion. For what is a nation? A nation is not a country in the physical sense of the country whatever degree of geographical unity it may posses. A nation is not people synthesized by a common culture derived from common language, common religion or common race. To recall what I have said in another place " Nationality is a subjective psychological feeling. It is a feeling of a corporate sentiment of oneness which makes those who are charged with it feel that they are kith and kin. This national feeling is a double edged feeling. It is at once a feeling of fellowship for one's own kith and an anti-fellowship feeling for those who are not one's own kith. It is a feeling of " consciousness of kind" which binds together those who are within the limits of the kindred and severs them from those who are outside the limits of the kindred. It is a longing to belong to one's own group and a longing not to belong to any other group. This is the essence of what is called a nationality and national feeling. This longing to belong to one's own kindred as I said is a subjective psychological feeling and what is important to bear in mind is that the longing to belong to one's own kindred is quite independent of geography, culture or economic or social conflict. There may be geographical unity and yet there may be no "longing to belong". There may be no geographical unity and yet the feeling of longing to belong may be very intense. There may be cultural unity and yet there may be no longing to belong. There may be economical conflicts and class divisions and yet there may be an intense feeling of longing to belong. The point is that nationality is not primarily a matter of geography culture or"…….

In the declinging[1] days of the Vedic Regime, the Shudras as well as women had come to occupy a very low position. The rising tide of Buddhism had brought about a great change in the status of both. To put it briefly a Shudra under the Buddhist regime could acquire property, learning and could even become a king. Nay he could even rise to the highest rung of the social ladder occupied by the Brahmin in the Vedic Regime. The Buddhist order of Bhikshus was counterpart of the Vedic order of Brahmins. The two orders, each within its own

[1.]By declining days I mean the period since when the Brahmins started disturbing the balance of Chaturvaryna system by asserting their supremacy.

religious system were on a par in the matter of status and dignity. The Shudra could never aspire to be a Brahmin in the Vedic regime but he could become a Bhikshu and occupy the same status and dignity as did the Brahmin. For, while the Vedic order of Bramhins was closed to the Shudra, the Buddhist order of Bhikshus was open to him and many Shudras who could not become Brahmins under the Vedic Regime had become their peers by becoming Bhikshus under Buddhism. Similar change is noticeable in the case of women. Under the Buddhist regime she became a free person. Marriage did not make her a slave. For marriage under the Buddhist rule was a contract. Under the Buddhist Regime she could acquire property, she could acquire learning and what was unique, she could become a member of the Buddhist order of Nuns and reach the same status and dignity as a Brahmin. The elevation of the status of the Shudras and women was so much the result of the gospel of Buddhism that Buddhism was called by its enemies as the Shudra religion (i.e. the religion of the low classes).

All this of course must have been very galling to the Brahmins. How very galling it must have been to them is shown by the vandallic fury with which Bramhanism after its triumph over Buddhism proceeded to bring about a complete demolition of the high status to which the Shudras and women had been elevated by the revolutionary changes effected by the vivifying gospel of Buddhism.

Starting with this background one shudders at the inhumanity and cruelty of the laws made by Manu against the Shudras. I quote a few of them assembling them under certain general heads.

Manu asks the householders of the Brahmana, Kshatriya and Vaishya Class :

> IV. 61. Let him not dwell in a country where the rulers are Shudra.....

This cannot mean that Bramhana, Kashtriya and Vaishya should leave the country where Shudra is a ruler. It can only mean that if a Shudra becomes a king he should be killed. Not only a Shudra is not to be recognized as fit to be a king, he is not to be deemed as a respectable person. For Manu enacts that :—

> XI. 24. A Bramhin shall never beg from a Shudra property for (performing) a sacrifice i.e. for religious purposes.

All marriage ties with the Shudra were proscribed. A marriage with a woman belonging to any of the three higher classes was forbidden. A Shudra was not to have any connection with a woman of the higher classes and an act of adultery committed by a Shudra with her was declared by Manu to be an offence involving capital punishment.

VIII. 374. A Shudra who has an intercourse with a woman of the higher caste guarded[1] or unguarded, shall be punished in the following manner; if she was unguarded, he loses the offending part. If she was guarded then he should be put to death and his property confiscated.

Manu insists that a Shudra shall be servile, unfit for office, without education, without property and as a contemptible person, his person and property shall always be liable to be conscripted.

As to office Manu prescribes.

VIII 20. A Bramhana who is only a Brahmana by descent i.e. one has neither studied nor performed any other act required by the Vedas may. at the king's pleasure, interpret the law to him i.e. act as the Judge, but never a Shudra (however learned he may be).

VIII. 21. The Kingdom of that monarch who looks on while a Shudra settles the law will sink low like a cow in a morass.

VIII. 272. If a Shudra arrogantly presumes to preach religion to Bramhins the King shall have poured burning oil in his mouth and ears.

In olden times the study of the Vedas stood for education. Manu declare that the study of the Vedas was not a matter of right but that it was a matter of privilege. Manu deprived the Shudra of the right to study Veda. He made it a privilege of the three higher classes. Not only did he debar the Shudra from the study of the Vedas but he enacted penalties against those who might help the Shudra to acquire knowledge of the Veda. To a person who is previleged to study the Vedas, Manu ordains that :

IV. 99. He must never read the Vedas.. .in the presence of the Shudras.

and prescribes that :—

III. 156. He who instructs Shudra pupils and he whose teacher is a Shudra shall become disqualified for being invited to Shradha.

Manu's successor went much beyond him in the cruelty of their punishment of the Shudra for studying the Veda. For instance Katyayana lays down that if a Shudra overheard the Veda or ventured to utter a word of the Veda, the King shall cut his tongue in twain and put hot molten lead in his ears.

As to property Manu is both ruthless and shameless. According to the Code of Manu :

X. 129. No superfluous collection of wealth must be made by a Shudra, even though he has power to make it since a servile man, who has amassed riches, becomes proud, and. by his insolence or neglect, gives pain to Bramhans.

[1]Guarded means under the protection of relation, Unguarded means living alone.

The reason for the rule is more revolting than the rule itself. Manu was of course not sure that the prohibitory injunction will be enough to prevent the Shudra from acquiring wealth. To leave no room for the Shudra to give offence to the Bramhins by his accumulation of wealth Manu added another section to his code whereby he declared that :

> VIII. 417. A Bramhana may seize without hesitation if he be in distress for his subsistence, the goods of his Shudra.

Not only is the property of a Shudra liable to conscription but the labour of the Shudra, Manu declares, is liable to conscription. Compare the following provision in Manu :

> VIII. 413. A Bramhana may compel a Shudra, whether bought or unbought to do servile work; for he is created by the creator to be the slave of a Bramhana.

A Shudra was required by Manu to be servile in his speech. How very servile he must be can be seen from the following provisions in Manu :—

> VIII. 270. A Shudra who insults a twiceborn man with gross invective, shall have his tongue cut out; for he is of low origin.

> VIII. 271. If he mentions the names and castes of the (twiceborn) with contumely, an iron nail, ten fingers long, shall be thrust red hot into his mouth.

Manu's object was to make the Shudra not merely a servile person but an altogether contemptible person. Manu will not allow a Shudra the comfort of having a high sounding name. Had Manu not been there to furnish incontrovertible proof it would be difficult to believe that Bramanism could have been so relentless and pitiless in its persecution of the Shudra. Observe Manu's law as to the names that the different classes can give to their children.

> II. 31. Let the first part of a Brahman's name denote something auspicious, a Kshatriya's be connected with power, and a Vaishya's with wealth, but a Shudra's express something contemptible.

> II. 32. The second part of a Bramhan's name shall be a word implying happiness, of a Kshatriya's a word implying protection, of a Vaisya's a term expressive of thriving and of a Shudra's an expression denoting service.

The basis of all these inhuman laws is the theory enunciated by Manu regarding the Shudra. At the outset of his Code, Manu takes care to assert it emphatically and without blushing. He says :

> I. 91. One occupation only, the Lord prescribed to the Shudra, to serve meekly these other three castes (namely Bramhin, Kshatriya and Vaishya).

Holding that the Shudra was born to be servile, Manu made his laws accordingly so as to compel him to remain servile. In the Buddhist regime a Shudra could aspire to be a judge, a priest and even a King, the highest status that he could ever aspire to. Compare with this the ideal that Manu places before the Shudra and one can get an idea of what fate was to be under Brahmanism :

> X. 121. If a Shudra, (unable to subsist by serving Brahmanas), seeks a livelihood, he may serve Kshartiyas, or he may also seek to maintain himself by attending on a wealthy Vaishya.
>
> X. 122. But let a (Shudra) serve Brahmanas, either for the sake of heaven, or with a view to both (this life and the next); for he who is called the servant of a Brahmana thereby gains all his ends.
>
> X. 123. The service of Brahmanas alone is declared (to be) an excellent occupation for a Shudra; for whatever else besides this he may perform will bear him no fruit.
>
> X. 124. They must allot to him out of their own family (property) a suitable maintenance, after considering his ability, his industry, and the number of those whom he is bound to support.
>
> X. 125. The remnants of their food must be given to him, as well as their old household furniture.

Manu can hardly be said to be more tender to women than he was to the Shudra. He starts with a low opinion of women. Manu proclaims :

> II. 213. It is the nature of women to seduce men in this (world); for that reason the wise are never unguarded in (the company of) females.
>
> II. 214. For women are able to lead astray in (this) world not only a fool, but even a learned man, and (to make) him a slave of desire and anger.
>
> II. 215. One should not sit in a lonely place with one's mother sister or daughter; for the senses are powerful, and master even a learned man.
>
> IX. 14. Women do not care for beauty, nor is their attention fixed on age; (thinking), '(It is enough that) he is a man ', they give themselves to the handsome and to the ugly.
>
> IX. 15. Through their passion for men, through their mutable temper, through their natural heartlessness, they become disloyal towards their husbands, however carefully they may be guarded in this (world).
>
> IX. 16. Knowing their disposition, which the Lord of creatures laid in them at the creation, to be such, (every) man should most strenuously exert himself to guard them.

IX. 17. (When creating them) Manu allotted to women (a love of their) bed, (of their) seat and (of) ornament, impure desires, wrath, dishonesty, malice, and bad conduct.

The laws of Manu against women are of a piece with this view. Women are not to be free under any circumstances. In the opinion of Manu :—

IX. 2. Day and night women must be kept in dependence by the males (of) their (families), and, if they attach themselves to sensual enjoyments, they must be kept under one's control.

IX. 3. Her father protects (her) in childhood, her husband protects (her) in youth, and her sons protect (her) in old age; a woman is never fit for independence.

IX. 5. Women must particularly be gurded against evil inclinations, however trifling (they may appear); for, if they are not guarded, they will bring sorrow on two families.

IX. 6. Considering that the highest duty of all castes, even weak husbands (must) strive to guard their wives.

V. 147. By a girl, by a young woman, or even by an aged one, nothing must be done independently, even in her own house.

V. 148. In childhood a female must be subject to her father, in youth to her husband, when her lord is dead to her sons; a woman must never be independent.

V. 149. She must not seek to separate herself from her father, husband, or sons; by leaving them she would make both (her own and her husband's) families contemptible. Woman is not to have a right to divorce.

IX. 45. The husband is declared to be one with the wife, which means that there could be no separation once a woman is married. Many Hindus stop here as though this is the whole story regarding Manu's law of divorce and keep on idolizing it by comforting their conscience by holding out the view that Manu regarded marriage as sacrament and therefore did not allow divorce. This of course is far from the truth. His law against divorce had a very different motive. It was not to tie up a man to a woman but it was to tie up the woman to a man and to leave the man free. For Manu does not prevent a man for giving up his wife. Indeed he not only allows him to abandon his wife but he also permits him to sell her. But what he does is to prevent the wife from becoming free. See what Manu Says :

IX. 46. Neither by sale nor by repudiation is a wife released from her husband.

The meaning is that a wife, sold or repudiated by her husband, can never become the legitimate wife of another who may have bought or received her after she was repudiated. If this is not monstrous nothing can be. But Manu was not worried by considerations of justice or injustice of his laws. He wanted to deprive women of the freedom she had under the Buddhistic regime. He knew, by her misuse of her liberty, by her willingness to marry the Shudra that the system of the gradation of the Varna had been destroyed. Manu was outraged by her license and in putting a stop to it he deprived her of her liberty.

A wife was reduced by Manu to the level of a slave in the matter of property.

> IX. 146. A wife, a son, and a slave, these three are declared to have no property; the wealth which they earn is (acquired) for him to whom they belong.

When she becomes a widow Manu allows her maintenance if her husband was joint and a widow's estate in the property of her husband if he was separate from his family. But Manu never allows her to have any dominion over property.

A woman under the laws of Manu is subject to corporal punishment and Manu allows the husband the right to beat his wife.

> VIII. 299. A wife, a son, a slave, a pupil, and a younger brother of the full blood, who have committed faults, may be beaten with a rope or a split bamboo.

In other matters woman was reduced by Manu to the same position as the Shudra.

The study of the Veda was forbidden to her by Manu as it was to the Shudra.

> II. 66. Even for a woman the performance of the *Sanskaras* are necessary and they should be performed. But they should. be performed without uttering the Veda Mantras.

> IX. 18. Women have no right to study the Vedas. That is why their Sanskars are performed without Veda Mantras. Women have no knowledge of religion because they have no right to know the Vedas. The uttering of the Veda Mantras is useful for removing sin. As women cannot utter the Veda Mantras they are as unclean as untruth is.

Offering sacrifices according to Bramhanism formed the very soul of religion. Yet Manu will not allow women to perform them. Manu ordains that :—

> XI. 36. A woman shall not perform the daily sacrifices prescribed by the Vedas.

> XI. 37. If she does it she will go to hell.

To disable her from performing such sacrifices Manu prevents her from getting the aid and services of a Bramhin priest.

> IV. 205. A Bramhan must never eat food given at a sacrifice performed by a woman.
>
> IV. 206. Sacrifices performed by women are inauspicious and not acceptable to God. They should therefore be avoided.

Woman was not to have any intellectual persuits and nor free will nor freedom of thought. She was not to join any heretical sect such as Buddhism. If she continues to adhere to it, till death she is not to be given the libation of water as is done in the case of all dead.

Finally a word regarding the ideal of life, Manu has sought to place before a woman. It had better be stated in his own words :

> V. 151. Him to whom her father may give her, or her brother with the father's permission, she shall obey as long as he lives and when he is dead, she must not insult his memory.
>
> V. 154. Though destitute of virtue, or seeking pleasure elsewhere, or devoid of good qualities, yet a husband must be constantly worshipped as a god by a faithful wife.
>
> V. 155. No sacrifice, no vow, no fast must be performed by women, apart from their husbands; if a wife obeys her husband, she will for that reason alone be exalted in heaven.

Then comes the choicest texts which forms the pith and the marrow of this ideal which Manu prescribes for the women :

> V. 153. The husband who wedded her with sacred Mantras, is always a source of happiness to his wife, both in season and out of season, in this world and in the next.
>
> V. 150. She must always be cheerful, clever in the management of her household affairs, careful in cleaning her utensils, and economical in expenditure.

This the Hindus regard as a very lofty ideal for a woman!!!

The severity of these laws against Shudras and women show that the phenomenal rise of these classes during the Buddhist regime had not only offended the Brahmins but had become intolerable to them. It was a complete reversal of their sacred social order from top to bottom. The first had become last and the last had become first. The laws of Manu also explain, the determined way in which the Brahmins proceeded to use their political power to degrade the Shudras and the women to their old status. The triumphant Bramhanism began its onslaught on both the Shudras and the women in pursuit of the old ideal namely servility and Bramhanism did succeed in making the Shudras and women the servile classes, Shudras the serfs to the three higher classes and women the serfs to their husbands. Of the black

deeds committed by Brahmanism after its triumph over Buddhism this one is the blackest. There is no parallel in history for so foul deeds of degradation committed by a class of usurpers in the interest of class domination. The collosal character of this deed of degradation perpetrated by Barahmanism is unfortunately not fully realized. It is concealed by those small monosyllablic words, Stri and Shudra. Let those who wish to get an idea of the enormity of their deed think, of the numbers that lie behind these two terms. What part of the population do they apply to ? The woman represents one half of the population. Of the balance the Shudra represents not less than two third. The two together make up about 75% of the total population. It is this huge mass of people that has been doomed by Brahmanism to eternal servility and eternal degradation. It is because of the collosal scale of degradation whereby 75% of her people were deprived of their right to life, liberty and persuit of happiness that India became a decaying if not a dead nation.

The principle of graded inequality runs through the whole of the Manu Smriti. There is no department of life in which he has not introduced his principle ,of graded inequality. For a complete and thorough exposition of it, it would be necessary to reproduce the whole of Manu Smriti. I will take only a few departments to illustrate how in the hands of Manu the principle of graded inequality became imbedded in the social life.

Take the field of marriage. Observe the rule of Manu :-—

> III. 13. It is declared that a Shudra woman alone (can be) the wife of a Shudra, she and one of his own caste (the wives) of a Vaishya, those two and one of his own caste the wives of a Kshatriya, those three and one of his own caste (the wives of a Bramhan).

Take the rules of Manu regarding the treatment of guests :—

> III. 110. But a Kshatriya (who comes) to the house of a Brahmana is not called a guest (atithi), nor a Vaisya, nor a Shudra, nor a personal friend, nor a relative, nor the teacher.
>
> III. 111. But if Kshatriya comes to the house of a Brahmana in the manner of a guest, (the house-holder) may feed him according to his desire, after, the above mentioned Brahmanas have eaten.
>
> III. 112. Even a Vaisya and a Shudra who have approached his house in the manner of guests, he may allow to eat with his servants, showing (thereby) his compassionate disposition.

In the house of a Brahmana, nobody except a Brahmin is to have the honour of being a guest.[1] If the Kshatriya comes in the manner

[1] The word guest is used by Manu in a technical sense and means a Bramhana who stays one night only see III. 102.

of a guest to the house of a Brahmin he is to be fed after all the Brahmins are fed and if the Vaishyas and Shudras come in the manner of guests they are to be fed after everybody is fed and only in the company of servants.

Take the rules of Manu regarding Sanskaras:

X. 126. A Shudra has no right to receive the sacraments.

X. 68. The law prescribes that neither of the two (that is those who belong to mixed castes) shall receive the sacraments the first being excluded on account of lowness of his origin of his parents was against the order of the castes.

II. 66. The whole series[1] of sacraments must be performed for females also in order to sanctify the body at the proper time and in the proper order, but without the recitaion of sacred Vedic Mantras.

Manu further lays down that:

VI. 1. A twice born Snataka, who has thus lived according to the law in the order of householders, may, taking a firm resolution and keeping his organs in subjection, dwell in the forest, duly (observing the rules given below).

VI. 33. But having thus passed the third part of (a man's natural term of) life in the forest, he may live as an ascetic during the fourth part of his existence, after abandoning all attanchment to worldly objects.

Even in law Manu introduces the principle of graded inequality. To take only two illustrations, the law of defamation, abuse and the law of assault:

VIII. 267. A Kshatriya having defamed a Brahmana, shall be fined one hundred (panas); A Vaisya one hundred and fifty or two hundred; a Shudra shall suffer corporal punishment.

VIII. 268. A Brahamna shall be fined fifty (panas) for defaming a Kshatriya; in (the case of) a Vaisya the fine shall be twenty five (panas); in (the case of) a Shudra twelve.

VIII. 269. For offences of twice born men against those of equal caste (varna, the fine shall be) also twelve (panas) for speeches which ought not to be uttered, that (and every fine shall be) double.

VIII. 276. (For mutual abuse) by a Brahmana and a Kshatriya a fine must be imposed by a discerning (king), on the Brahmana the lowest agreement, but on the Kshatriya the middlemost.

VIII. 277. A Vaisya and a Shudra must be punished exactly in the same manner according to their respective castes, but the tongue (of the Shudra) shall not be cut out; that is the decision.

[1] Except Upanayan which is forbidden for women.

VIII. 279. With whatever limb a man of a low caste does hurt to (a man of the three) highest (castes), even that limb shall be cut off; that is the teaching of Manu.

VIII. 280. He who raises his hand or a stick, shall have his hand cut off; he who in anger kicks with his foot, shall have his foot cut off.

Everywhere is the principle of graded inequality. So ingrained it had become in the social system that the successors of Manu were careful to introduce it where he had failed to give effect to it. For instance Manu had had recognized the system of slavery. But had failed to prescribe whether the system of slavery was or was not subject to the principle of graded order of insubordination.

Lest it should be understood that the law of graded inequality did not apply to slavery and that a Brahmin may be a slave of the Shudra, Yajnavalkya at once proceeds to clear the doubt. He expressly laid down that:—

"Slavery is in the descending order of the Varnas and not in the ascending order" (XIV. 183).

Vijnaneshwar in his commentary on Yajnavalkya makes it concrete by his illustrations when he says :

"Of the Varnas such as the Brahmana and the rest, a state of slavery shall exist *Anulomyena,* in the descending order. Thus, of a Brahmana, a Kshatriya and the rest may become a slave; of a Kshatriya, the Vaishya and the Shudra; and of a Vaishya, Shudra, thus the state of slavery shall operate in the descending order."

Stated in the language of equality and inequality, this means that the Brahmin is the highest because he can be the slave of nobody but is entitled to keep a person of any class as his slave. The Shudra is the lowest because everybody can keep him as his slave but he can keep no one as his slave except a Shudra. The place assigned to the Kshatriya and the Vaishya introduces the system of graded inequality. A Kshatriya while he is inferior to the Brahmin he can be the slave of the Brahmin. While he is yet superior to the Vaishyas and the Shudras because he can keep them as his slaves; the Vaishyas and the Shudras have no right to keep a Kshartiya as his slave. Similarly a Vaishya while he is inferior to the Bramhins and the Kshatriyas, because they can keep him as their slave and he cannot keep any one of them as his slave, he is proud that he is at least superior to the Shudra because he can keep the Shudra as his slave while Shudra cannot keep the Vaishya as his slave.

Such is the principle of graded inequality which Bramhanism injected into the bone and the marrow of the people. Nothing worse to paralyze society to overthrow inequity could have been done.

Although its effects have not been clearly noticed there can be no doubt that because of it the Hindus have been stricken with palsy. f Students of social organization have been content with noting the difference between equality and inequality. None have realized that in addition to equality and inequality there is such a thing as graded inequality. Yet inequality is not half so dangerous as graded inequality. Inequality carried within itself the seeds of its own destruction. Inequality does not last long. Under pure and simple inequality two things happen. It creates general discontent which forms the seed of revolution. Secondly it makes the sufferers combine against a common foe and on a common grievance. But the nature and circumstances of the system of graded inequality leave no room for either of these two things to happen. The system of graded inequality prevents the rise of general discontent against inequity, ft cannot therefore become the storm centre of revolution. Secondly the sufferers under inequality becoming unequal both in terms of the benefit and the burden there is no possibility of a general combination of all classes to overthrow the inequity. To make the thing concrete the Brahmanic law of marriage is full of inequity. The right of Brahmana to take a woman from the classes below him but not to give a woman to them is in inequity. But the Kshatriya, Vaishya and Shudra will not combine to destroy it. The Kshatriya resents this right of the Brahmana. But he will not combine with Vaishya or the Shudra and that for two reasons. Firstly because he is satisfied that if the Brahman has the right to take the right of three communities, the Kshatriya has the right to appropriate the women of two communities. He does not suffer so much as the other two. Secondly if he joins in a general revolution against this marriage—inequity in one way he will rise to the level of the Bramhins but in another way all will be equal which to him means that the Vaishyas and the Shudras will rise to his level i.e. they will claim Kshatriya women-which means he will fall to their level. Take any other inequity and think of a revolt against it. The same social psychology will show that a general rebellion against it is impossible.

One of the reasons why there has been no revolution against Brahmanism and its inequities is due entirely to the principle of graded inequality. If is a system of permitting a share in the spoils with a view to enlist them to support the spoils system. It is a system full of low cunning which man could have invented to perpetuate inequity and to profit by it. For it is nothing else but inviting people to share in inequity in order that they may all be supporters of inequity.

There now remains to lift the curtain from the last act of this drama of Bramhanism.

Bramhanism inherited from the Vedic past that system of Chaturvarna. The system of Chaturvarna which the Hindus regard as the unique creation of their Aryan ancestors is in no sense unique. There is nothing original about it. The whole ancient world had stumbled into it. The Egyptians had it and the ancient Persians had it. Plato was so convinced about its excellence that he presented it as ideal form of social organization. The ideal of the Chaturvarna is faulty. The lumping together of individuals into a few sharply marked off classes is a very superficial view of man and his powers. The Ancient Aryans as well as Plato had no conception of the uniqueness of every individual, of his incommensurability with others and of each individual forming a class of his own. They had no recognition of the infinite diversity of active tendencies and combination of tendencies of which an individual is capable. To them there were types of faculties or powers in the individual constitution and all that is necessary for social organization is to classify them. All this is demonstrably wrong. Modern science has shown that lumping together of individuals into a few sharply marked off classes each confined to one particular sphere does injustice both to the individual and to Society. The stratification of Society by classes and occupations is incompatible with the fullest , utilization of the qualities which is so necessary for social advancement and is also incompatible with the safety and security of the individual as well as of Society in general.[1]

There is another mistake which the Ancient Hindus including Plato, made. There is probably some truth in saying that there is among human beings a dimorphism or polyformism in human beings as there is among insects, though in the former it is only psychological while in the latter it is both physical as well as psychlolgical. But assuming that there is a thing psychological dimorphism or polyformism among human beings, it is wrong to separate them into those who are born to do one thing and others to do another, some born to command i.e. to be masters and some born to obey i.e. to be slaves. It is wrong to suppose that in a given person some qualities are present and others are absent. On the contrary the truth is that all qualities are present in every person and this truth is not diminished in any way by that, some tendency predominates to the extent of being the only one that is apparent. So well established is this truth that a tendency which may be dominant in a man at one time may be quite different from and even the direct opposite of the tendency that may be dominant at another time. As Prof. Bergson[2] in speaking of the Nietsche's false antithesis of 'men' and 'slaves' observes :

1. For further consideration of this subject see my tract on "Annihilation of Caste."

2. "Two sources of Morality". (Holt), p. 267.

> "We have a clear vision of this (falsity) in times of revolution, Unassuming citizens, upto that moment humble and obedient, wake up one fine day with pretentions to be leaders of men".

The cases of Mussolini and Hitler are a complete disproof of the theory of the Aryans and of Plato.

This Vedic system of Chaturvarna, far from being an ideal system was made positively worse by the changes which Bramhanism made and which have already been described. Every one of them was mischievous in character is beyond question. The Buddhist order of Bhikshus and the Vedic order of Brahmins were designed to serve the same purpose. They formed the elite of their society whose function was to lead and guide society along the right road. Although designed to discharge the same function the Budhist Bhikshu was better placed to discharge it than was the Bramhin. That is because Buddha recognized one thing which nobody either before him or after him has done. Buddha realized that lor a person to give a true lead to Society and be its trustworthy guide he must be intellectually free and further, which is more important, to be intellectually free he must not have private property. An elite charged with the care of his private property must fail to discharge his duty of leading and guiding Society along the right road. Buddha therefore took care to include in the Code of discipline for the Bhikshus a rule prohibiting a Bhikshu from holding private property. In the Vedic order of Bramhins there was no such prohibition. A Bramhin was free to hold property. This difference produced a profound difference on the character and outlook of the Buddhist Bhikshu and the Vedic Bramhin. The Bhikshus formed an intellectual class. The Bramhins formed on the other hand merely an educated class. There is a great difference between an intellectual class and an educated class. An intellectual class has no limitations arising out of any affiliations to any class or to any interest. An educated Class on the other hand is not an intellectual class although it has cultivated its intellect. The reason is that its range of vision and its sympathy to a new ideology is circumscribed by its being identified with the interest of the class with which it is affiliated.

The Bramhins from the very beginning therefore were inclined to be a purely educated class, enlightened but selfish. This evil in the Vedic order of Bramhins was extreme by the changes made in the old Vedic System. The right of the Brahmins to rule and the grant of special privileges and immunities made them more selfish, and induced in them the desire to use their education not for the advancement of learning but for the use of their community and against the advancement of society.

All their energy and their education has been spent in maintaining their own privileges against the good of the public. It has been the boast of many Hindu authors that the civilization of India is the most ancient civilization in the world. They will insist that there was no branch of knowledge in which their ancestors were not the pioneers. Open a book like "The Positive Background of Hindu Sociology" by Prof. Benoy Kumar Sarkar, or a book like "The Positive Sciences of the Ancient Hindus" by Dr. Brajendranath Seal one is overwhelmed with data touching upon the knowledge their ancestors had about various scientific subjects. From these books it would appear that the ancient Indians knew astronomy, astrology, biology, chemistry, mathematics, Medicine, minerology. Physics and in the view of the mass of people even aviation. All this may be very true. The important question is now how the ancient Indians discovered these positive sciences. The important question is why did the ancient Indians cease to make any progress in the sciences in which they were the pioneers? This sudden arrest in the progress of science in ancient India is as astounding as it is deplorable. In the scientific world India occupies a position which even if it be first among the primitive is certainly last among the civilized nation. How did it happen that a people who began the work of scientific progress stopped, halted on the way, left in its incohate and incomplete condition ? This is a question that needs to be considered and answered, not what the ancient Indians knew.

There is only one answer to the question and it is a very simple answer. In ancient India the Bramhins were the only educated class. They were also the Class which was claiming to be above all others. Buddha disputed their claim for supremacy and declared a war on the Brahmins. The Brahmins acted as an Educated Class—as distinguished from an intellectual class—would act under the circumstances. It abandoned all pursuits and engaged itself in defending the claim of supremacy and the social, economic and political interests of its class. Instead of writing books on Science, the Brahmins undertook to write Smritis. Here is an explanation why the progress of science in India became arrested. Brahmins found it more important and more imperative to write Smritis to repel the Buddhist doctrine of social equality.

How many Smritis did the Brahmins write ?

Mr. Kane a great authority on the Smriti literature has computed their number to be 128. And what for ? The Smritis are called lawbooks which of course hide their nature. They are really treatises expounding the supremacy of the Brahmins and their rights to special privileges. The defence of Bramhanism was more important than the

progress of science. Bramhanism not only defended its previleges but set about extending them in a manner that would cover every descent man with shame. The Brahmins started particularly to expand the meaning of certain privileges granted to them by Manu.

Manu had given the Bramhins the right to *dana,* gift. The *dana* was always intended to be money or chattel. But in course of time the concept of *dana* was expanded so as to include the gift of a woman which a Brahmin could keep as his mistress or who could be released by the Bramhin on commutation[1] of money payment.

Manu designated the Bramhins as Bhu-devas, lords of the Earth. The Bramhins enlarged the scope of this statement and began to claim the right to sexual intercourse with women of other classes. Even queens were not exempt from this claim. Ludovico Di Varthema who came to India as a traveller in about 1502 A.D. records the following about the Brahmins of Calicut:

> "It is a proper, and the same time pleasant thing to know who these Brahmins are. You must know that they are the chief persons of the faith, as priests are among us. And when the King takes a wife, he selects the most worthy and the most honoured of these Brahamins and makes him sleep the first night with his wife, in order that he may deflower her. "[2].

Similarly Hamilton[3] another writer says:

> "When the Samorin marries, he must not cohabit with his bride till the Nambourie (Nambudari Brahmin), or chief priest, has enjoyed her, and if he pleases, he may have three nights of her company, because the first fruits of her nuptials must be an holy oblation to the god she worships."

In the Bombay Presidency the priests of the Vaishnava sect claimed the right to deflower the women of their sect. This gave rise to the famous Maharaja Libel case brought by the chief priest of the Sect against one Karosondas Mulji in the High Court of Bombay in the year 1869 which shows that the right to claim the benefit of the first night was certainly effective till then.

When such a right to sexual cohabitation for the first night could be extended against the generality of the lower classes the Brahmins did not hesitate to extend it. This they did particularly in Malabar. There, Manu designated the Brahmins as Bhu-devas, lords of the earth. The Brahmins enlarged the scope of this statement and began to claim the

[1.] I remember reading the report of case in which a Brahmin who had taken a married wife as Dana refused to release her even though communication was offered by her husband.

[2.] "The Travels of Ludovico Di Varthema" (Pub. Hakyt Society) Page 141. Varthema adds Do not imagine that the Brahmin goes willingly to perform this operation. The King is even obliged to pay him four hundred or five hudndred ducats.

[3.] New Account of the East Indies (1744) Vol. I. page 310.

right of promiscuous sexual intercourse with the women folk of the other Classes. This happened particularly in Malabar. There[1]

> "The Brahman castes follow the Makatyam System that is the system by which the child belongs to its father's family. They contract, within their own caste regular marriages, with all the ordinary legal and religious sanctions and incidents. But the Brahmin men are also in the habit of entering into Sambandhan-Unions with women of the lower castes."

This is not all. Observe further what the writer has to say:

> "Neither party to a Sambadhan Unions becomes thereby a member of the other family; and the offspring of the Union belong to their mothers *tharwad* (family) and have no sort of claim, so far as the law goes, to a share of their father's property or to maintenance therefrom."

Speaking of the origin of this practice the author of the Gazetteer observes that the origin of this institution:

> " Is found in the claim of the Bhu-devas " or " Earth Gods" (that the Brahmanas) and on a lower plain of the Kshatriyas or the ruling classes, to the first fruits of lower Caste Womanhood, a right akin to the medieval droit de Seigneurie."

It is an understatement to say that it is only a right to first fruits as the 'right to the first night' was called in the middle ages in Europe. It is more than that. It is a general right of the Brahmin against the lower caste to claim any woman of that class for mere prostitution, for the mere satisfaction of sexual appetite, without burdening the Brahmin to any of the obligations of marriage.

Such were the rights which the Brahmins the spiritual precepts claimed against the laity!! The Borgese Popes have been run down in history as the most debauched race of spiritual preceptors who ascended the throne of Peter. One wonders whether they were really worse than the Brahmins of India.

A purely intellectual Class, free to consider general good and having no interest of a class to consider, such as the one contemplated by Buddha is not to be had anywhere. For the limitations resulting from property on the freedom of intellect of the elite have not been generally recognized until very recently. But this want of an intellectual class has been made good in other countries by the fact that in those countries each Strata of Society has its educated class. There is safety, if no definite guidance, in the multiplicity of views expressed by different educated classes drawn from different strata of society. In such a multiplicity of views there is no danger of Society being misguided or

[1] Gazetteer of Malabar and Anjengo District by Mr. C. A. Innes Vol. I. p. 95

misdirected by the views of one single educated class drawn from one single class of society and which is naturally bound to place the interest of its class before the interests of the country. By the change made by Brahmanism India ceased to have safe and sure guidance of an intellectual class. But what is worse is that the Hindus lost the safety and security which other, peoples have and which arises from the multiplicity of views expressed by various educated classes drawn from different strata of Society.

By the denial of education to the Shudras, by diverting the Kshatrryas to military persuits, and the Vaishyas to trade and by reserving education to themselves the Brahmins alone could become the educated class—free to misdirect and misguide the whole society. By converting Varna into Caste they declared that mere birth was a real and final measure of the worth of a man. Caste and Graded inequality made disunity and discord a matter of course.

All this disfigurement of the original Varna system would have been tolerable if it had remained a mere matter of social practice. But Brahmanism was not content to leave the matter there. It wanted to give the Chaturvarna in its changed and perverted form the force of law. This new Chaturvarna the making of Brahmanism occupies in the Manu Smriti as the Law of Persons and the Law of Family. Nobody can make a mistake about it. Manu made it an offence for a person of a lower Caste to arrogate to himself the status of a higher Caste or to pass off as a member of the higher Caste.

> X. 96. A man of low caste who through covetousness lives by the occupations of a higher one, the king shall deprive of his property and banish.
>
> XI. 56. Falsely attributing to oneself high birth, giving information to the king (regarding a crime), and falsely accusing one's teacher, (are offences) equal to slaying a Brahmana.

Here there are two offences, General Impersonation (X. 96) and impersonation by the Shudra (XI 56). Note also the punishments how severe they are. For the first the punishment is confiscation of property and banishment. For the second the punishment is the same as the punishment for causing the death of a Brahmin.

The offence of personation is not unknown in modern jurisprudence and the Indian Penal Code recognizes it in section 419. But what is the punishment the Indian Penal Code prescribes for cheating by personation? Fine, and if imprisonment, then 3 years or both. Manu must be turning in his grave to find the British Government make so light of his law of Caste.

Manu next proceeds to direct the king that he should execute this law. In the first place he appeals to the King in the name of his pious duty:

> VIII. 172. By preventing the confusion of Castes.....the power of the King grows, and he prospers in this world and after death.

Manu perhaps knows that the law relating to the confusion of Varna may not be quite agreeable to the conscience of the king and he avoids enforcement. Consequently Manu tells the King how in the matter of the execution of the laws the King should act:

> VIII. 177. Therefore let the King not heeding his own likes and dislikes behave exactly like Yama.

i.e. he should be as impartial as Yama the Judge of the Dead.

Manu however does not wish to leave the matter to the King as a mere matter of pious duty. Manu makes it a matter of obligation upon the King. Accordingly Manu lays down as a matter of obligation that:

> VIII. 410. The King should order a Vaishya to trade to lend money, to cultivate the land, or to lend cattle, and the Shudra to serve the twice born Caste. Again Manu reverts to the subject and say:

> VIII 418. The King should carefully compel Vaishyas and Sudras to perform the work (prescribed) for them; for if these two castes swerved from their duties they would throw this whole world into confusion.

What if the Kings do not act up to this obligation. This law of Chaturvarna is so supreme in the eyes of Manu that Manu will not allow himself to be thwarted by a King who will not keep his obligation to maintain this law. Boldly Manu forges a new law that such a king shall be disposed. One can imagine how dear Chaturvarna was to Manu and to Brahmanism.

As I have said the Chaturvarna of the Vedic system was better than caste system was not very favourable to the creation of a Society which could be regarded as one single whole possessing the Unity of the ideal society. By its very theory the Chaturvarna has given birth to four classes. These four classes were far from friendly. Often they were quarreling and their quarrels were so bitter that they cannot but be designated as Class wars. All the same this old Chaturvarna had two saving features which Brahminism most selfishly removed. Firstly there was no isolation among the Varnas. Intermarriage and interdining the two strongest bonds for unity had full play. There was no room for the different Varnas to develop that anti-social feeling which destroys the very basis of Society. While the Kshatriyas fought against the Brahmins and the Brahmins fought against the Kshatriyas there were

not wanting Kshatriyas who fought against the Kshatriyas[1] for the sake of Brahmins and there were not wanting Brahmins[2] who joined hands with Kshatriyas to put down the Brahmins.

Secondly this old Chaturvarna was conventional. It was the ideal of the Society but it was not the law of the State. Brahmanism isolated the Varnas and sowed the seed of antagonism. Brahmanism made legal what was only conventional. By giving it a legal basis it perpetrated the mischief. The Vedic Chaturvarna if it was an evil would have died out by force of time and circumstances. By giving it the force of Law Brahmanism has made it eternal. This is probably the greatest mischief that Brahmanism has done to Hindu Society.

In considering this question one cannot fail to notice that the obligation imposed upon the King for the maintenance of the law of Chaturvarna which is another name for the system of graded inequality does not require the King to enforce it against the Brahmins and the Kshatriyas. The obligation is limited to the enforcement of the law against the Vaishyas and the Shudras. Having regard to the fact that Brahmanism was so intent on giving the system the force of law the result has been very awkward to say the least about it. Notwithstanding this attempt at legalization the system remained half legal and half conventional, legal as to the Vaishyas and the Shudras and merely conventional as to Brahmins and Kshatriyas,

This difference needs to be accounted for. Was Brahmanism honest in its attempt to give the system the force of law? Did it wish that each of the four Varnas be bound by it? The fact that Brahmanism would not bind the Brahmins and the Kshatriyas by the law it made, shows that in this business Brahmainsm was far from honest. If it believed in the system as ideal it could not have failed to make it an universal binding force.

But there is more than dishonesty in this foul game. One can quite understand why the Brahmins were left free and untramelled by the shackles of the law. Manu called them Gods on earth and Gods must be above the law. But why were the Kshatriyas left free in the same way as the Brahmins. He knows that the Kshatriyas will not humble themselves before the Brahmins. He then proceeds to warn them, how the Brahmins can punish them if the Kshatriyas show arrogance and plan rebellion.

> IX. 320 When the Kshatriyas become in any way overbearing towards the Brahmanas, the Brahmanas themselves shall duly restrain them; for the Kshatriyas sprang from the Brahmanas.

1. This is how Interpret the story of Parashuram's war against the Kshatriyas.

2. Buddhism was a revolt against Brahmins and Brhminism. Yet many or the early followers of Buddha & Buddhism were Brahmins.

IX. 321. Fire sprang from water, Kshatriya from Brahmanas, iron from stone; the all-penetrating force of those (three) has no effect on that whence they were produced.

One might think that the reason why Manu does not impose an obligation upon the King to enforce the law against the Kshatriya was because the Brahmins felt themselves quite capable of dealing with Kshatriyas by their own prowess and without the aid of the King and that they meant to put their sanctions against the Kshatriyas when the time came and without fear of consequences. All this could not have been meant by Manu. For after uttering this vows of vengeance, and threats and imprecations Manu suddenly come down and begins to plead with the Kshatriyas for cooperation and common front with the Brahmins. In a verse next after the verse in which he utters the threats and imprecations against the Kshatriyas Manu pleads:

IX. 323. But (a king who feels his end drawing nigh) shall bestow all his wealth, accumulated from fines on Brahmanas, make over his kingdom to his son and then seek death in battle.

From imprecations to supplication is a very queer cry. What is the explanation of this anti-climax in the attitude of this strange behaviour of Manu towards the Kshatriyas? What is the object of this cooperation between Brahmins and Kshatriyas ? Against whom is this common front to be? Manu does not explain. A whole history of a thousand years must be told before this puzzle is solved and the questions satisfactorily answered.

The history which furnishes the clue to the solution of this puzzle is the history of the class wars between the Brahmins and the Kshatriyas.

Most of the orthdox Hindus are repelled by the doctrine of Class war which was propounded by Karl Marx and would be certainly shocked if they were told that the history of their own ancestors probably furnishes the most cogent evidence that Marx was searching for support of his theory. Indeed there have been numerous class wars between Brahmins and the Kshatriyas and only the most important of them have been recorded[1] in the ancient Hindu literature. We have record of the conflict between the Brahmins and the Kings who were all Kshatriyas. The first of these conflicts was a conflict with King Vena, the second with Pururavas, the third with Nahusha, fourth with Nimi and fifth with Sumukha. There is a record of a conflict between Vashishtha a Brahmin and Vishvamitra an ordinary Kshatriya and not a king. Then we have the record of the wholesale massacre of the Brahmins of Bhrigu clan by the Kshatriya decendants of Kratavirya

[1.] All this record has been collected by Prof. Muir in his Original Sanskrit Texts. Vo. I.

and then we have the record of the whole class of Kshatriyas exterminated by Parashuram acting on behalf of the Brahmanas. The issues that brought them in conflict extended over a wide range and show how bitter and strained must have been the feelings between Brahmins and Kshatriyas. There were conflicts over the question whether the Kshatriya had a right to become a Brahmana. There were conflicts over the question, whether the Brahmins were subject to the authority or not. There were conflicts on the question who should salute first and who should give way to whom. The wars were wars[1] of authority, status and dignity.

The results of these wars could not but be obvious to the Brahmins. Notwithstanding their boastful utterances they must have realized that it was not possible for them to crush the Kshatriyas and that notwithstanding the wars of extermination the Kshatriyas survived in sufficient numbers to plague the Brahmins. One need not pay any attention to the filthy story told by the Brahmins and alluded to by Manu that the Kshatriyas of the Manu's day were not the original Kshatriyas but a race of new Kshatriyas begotten by the Brahmins upon the widows of the old Kshatriyas who were massacred by Parashuram. Blackmailing is one of the means which Brahmanism is never ashamed of using to advance its own purposes. The fight of Brahmanism against the Kshatriyas was from the very beginning a fight between a fool and a bully. Brahmanas were fighting against the Kshatriyas for the maintenance of the Chaturvarna. Now it is this very Chaturvarna which allowed bayonets to the Kshatriyas and denied them to the Brahmins. How under this theory could the Brahmin fight with the Kshatriya with any hope of success? It could not have taken long for the Brahmins to realise the truth—which Tallyrand told Napoleon—that it is easy to give bayonets but it is very difficult to sit on them and that as Kshatriyas had bayonets and Brahmins none, war with the Kshatriya was the way to ruin. These were the direct consequences of these wars between the Brahmins and the Kshatriyas. But there were others which could not have escaped the attention of the Brahmins. While the Brahmins and Kshatriyas were fighting among themselves nobody was left to check and keep the Vaishyas and the Shudras under control. They were on the road of social equality almost nearing to the status of the Brahmins and Kshatriyas. To Brahmanism the possibility of suppressing the Kshatriya was very remote and the danger of being overtaken by Vaishyas and Shudras were real and very real. Should the Brahmana continue to fight the Kshatriya and ignore the danger of the Vaishyas and the Shudras? Or Should the Brahmana give up the hopeless struggle against the

[1] See Hopkins History of the Ruling Races.

Kshatriya and befriend him and make with him a common cause and suppress the growing menace of the Vaishyas and Shudras? Brahmanism after it was exhausted in the wars with the Kshathyas chose the second alternative. It sought to befriend their worthwhile enemies the Kshatriyas to work for a new ideal namely to enslave and exploit the two classes below them namely the Vaishyas and the Shudras. This new ideal must have taken shape some time when the Satpatha Brahmana came to be composed. It is in the Satpatha Brahmana we find the new ideal expressed it was well established. The language in which it is expressed, and the subject to which it is applied are so telling that I feel it should be quoted in its original terms. Says the author of the Satpatha[1]:

> "They then make the beast return (to the Ahavaniya[2]) the he-goat goes first of them, then the ass, then the horse. Now in going away from this (Ahavaniya) the horse goes first, then the ass, then the he-goat—for the horse corresponds to the Kshatra (nobility), the ass to the Vaishya and Shudra, the he-goat to the Brahman and in-as-much as, in going from here, the horse goes first, therefore the Kshatriya, going first, is followed by the three others castes; and in-as-much as, in returning from here, the he-goat goes first, therefore the Brahman, going first, is followed by the three other castes. And in-as-much as the ass does not go first, either in going back from here, or in coming back from there, therefore the Brahmana and Kshatriya never go behind the Vaishya and Sudra; hence they walk thus in order to avoid a confusion between good and bad. And, moreover, he thus encloses those two castes (the Vaishyas and Sudra) on both sides by the priesthood and the nobility and makes them submissive."

Here is the explanation of the puzzling attitude of Manu towards the Kshatriyas, attitude of willing to wound but afraid to strike, of wishing to dictate but preferring to befriend.

It is these wars and the compromise that had taught Manu that it was no use trying to coerce the Kshatriyas to submit to the domination of the Brahmin. It may be an ideal to be kept up. But as practical politics it was an impossible ideal. Like Bismark, Manu knew that politics was the game of the possible. What was possible was to make a common cause and to build up a common front between the Brhamins and the Kshatriyas against the Vaishyas and the Shudras and this is what Manu did. The pity of it is that it was done in the name of religion. This need not shock anybody who has studied the soul and spirit of Brahmanism. With Brahmanism religion is a cloak to cover and hide its acquisitive politics.

[1] Eggeling Sathapatha Brahmana. Part III. pp. 226-27.

[2] Avavaniya.

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CHAPTER 12

The Morals of the House

This is 61 page typed manuscript. This is a second copy but it is having corrections and modifications by Dr. Ambedkar himself. It is reproduced here taking all the corrections into account. There is one separate file entitled 'Manu Smriti or the Gospel of Counter-Revolution '. In that copy notes on Manu Smriti under various categories have been drawn. However, all these notes have been found to be incorporated in this essay, 'Morals of the Mouse.' It is felt that the printing of these notes would be a mere repetition of this essay. Hence, the said copy is not separately printed:

I

The morals of the Hindus and their religious creed are prescribed by the *Smritis* which form a part of the Sacred literature of the Hindus. It is to the Smritis that one must go to understand the Ethics and the Religion of the Hindus. The Smritis are by no means few in number. A conservative estimate gives the total number of Smritis to be 108. The large number of *Smritis* cannot however make our problem difficult. For though the Smritis are numerous they do not differ in essentials. Indeed they repeat one another so closely that reading the Smritis creates a most monotonous task. They are all derived from one common source. That source is the Smriti of Manu otherwise known as Manava Dharma Shastra. The other Smritis are faithful repetitions of the Manu Smriti. A study of the Manu Smriti is therefore quite sufficient to obtain an adequate conception of the moral standards and Religious notions of the Hindus.

It may be said that Manu Smriti—and the same is true of the other Smritis—is a Code of Laws. It is not a book of Ethics nor is it a book of Religion and to take a book of Laws and to treat it as though it is a book of Ethics and Religion is to confound Ethics, Religion and Law.

In the first place it is only in modern times that Law has been separated from Religion. In all ancient Society, Law and Religion were one. As Prof. Max Muller[1] points out that though :—

> "Law seems naturally to be the foundation of society, and the bond that binds a nation together. Those who look below the surface have quickly perceived that law itself, at least ancient law, derives its authority, its force, its very life from religion.....The belief that the law giver enjoyed some closer intimacy with the Deity than ordinary mortals, pervades the ancient traditions of many nations. According to a well known passage in Diodorus Siculus, the Egyptians believed their laws to have been communicated to Menvis by Hermes; the Cretaus held that Minos received his laws from Zeus, the Lacedaemonians that Lykurgus received his laws from Apollon. According to the Arians, their law giver Zarathustras had received his Laws from the Good Spirit; According to the Stoe, Zamolixis received his laws from the goddess Hestia; and according to the Jews, Moses received his laws from the God las."

No one has pointed out more forcibly than Sir Henry Mains[2] that in ancient times religion as a divine influence was underlying and supporting every relation of life and every social institution when he says of Religion as:

> "A supernatural presidency (which) is supposed to consecrate and keep together all the cardinal institutions of those times, the state, the Race, and the Family ".

From this superntural presidency of Reigion, Law had notsucceded in finding an escape until at a later time when law Finally breaks away from religion but not without leaving many traces to show the link it had with Religion at the very beginning of human history.

Again it is only in modern times that a difference is being made between Religion and Ethics. Religion and Ethics are inextricably and indissolubly bound together. Morality and Ethics are essentially practical. As Prof. Jacks insists[3] that the problem of Ethics is not merely getting the Good understood but *realised,* not merely getting the Right placed on scientific basis but *done*. Morality is a mere matter of defining what is good and what is right. Prof. Jacks rightly says :

> "Whenver we embark on the study of morality without interest in its application I cannot but think that it is not morality we are studying. Morality does not arise till the point of application is reached. The effect of a moral theory launched upon the world is

[1] Science of Religion, pages 150-151.

[2] Ancient Law p. 6.

[3] " Morals and Religion "— Hibbert Journal Vol. XIX. pp. 615-621.

next to nothing unless the application of it can be reinforced by powerful motives. The good life, as Aristotle pointed out is a very difficult affair; difficult even when it goes no further than conformity to existing conventions. But when the good life demands that existing standards must be transcended how can this be effected without an immense liberation of power? Mere information as to why men should do right has no effect against their natural tendencies to do wrong—it is no match for the difficulties that beset good life."

Unless some motive force comes to its aid morality remains inert. There can be no doubt that what gives motive force to morality is Religion. It is a propelling force which creates, to use again the language of Principal Jacks:

" Motives which are strong enough to overcome the enormous difficulties involved in living the good life, even in its simpler forms, and adequate to maintain that continuous improvement of the moral ideal."

Religion as a motive force reinforces the moral will in various ways. Sometimes it takes the form of sanctions by laying down a scheme of rewards and punishments after death; some times it makes rules of morality as the commandments of God; some times it invests these rules with sanctity which evokes willing obedience. But these are only different ways in which motive power generated by Religion helps to sustain moral life in action. Religion is the dynamics which moves the wheels of morality.

If Ethics and Morality are duties then there can be no doubt that Manu Smriti is a book of Ethics. Any one who takes the trouble to read the Smriti of Manu will have to admit that if there is any subject which figures prominently in the book it is that of duties. Manu was the first to syatematise and codify the duties to which a Hindu was bound. He distinguishes between *Varnashramadharmas* and *Sadharandharmas*. The Varnashramdharmas are the specific duties relating to one's station in life i.e. one's station as determined by one's Varna or caste and one's Ashram or particular stage of life. The Sadharandharmas are duties irrespective of one's age, caste or creed i.e. duties obligatory on man as man and not as a member of a particular community or social class or as being at a particular stage or period of life. The whole book deals with duties and with nothing else. Manu Smriti is thus a book of Law, Religion and Ethics rolled into one. It is Ethics because it deals with duties of men. It is religion because it deals with Caste which is the soul of Hinduism. It is Law because it prescribes penalities for breach of duties. In this view there

is nothing wrong in going to Manu Smriti to ascertain the moral standards and religious notions of the Hindus.

That Manu Smriti is a book of Religion may not be quite obvious. That is because Hinduism is a very illusive term. Different writers have defined it in various ways.

Sir D. Ibbetson[1] defines Hinduism as :

> "A hereditary sacerdotalism with Brahmins for its devices, the vitality of which is preserved by the social institution of caste and which include all shades and diversities of religion native to India, as distinct from foreign importations of Christianity and islam, and from the later outgrowths of Buddhism, more doubtfully of Sikhism and still more doubtfully of Jainism".

Sir J. A. Baines[2] defined Hinduism as :—

> "The large residium that is not Sikh, or Jain, or Buddhist or professedly Animistic, or included in one of the foreign religions such as Islam. Mazdaism. Christianity, or Hebraism."

To Sir Edward Gait[3] Hinduism :—

> " is a complex congenies of creeds and doctrines. It shelters within its portals monotheists, polytheists. and pantheists; Worshippers of the great God Siva and Vishnu, or of their female counterparts, as well as worshippers of the divine mothers, of the spirits of trees, rocks and streams and of the tutelary village deities; persons who propitate their deity by all matter of bloody sacrifices, and persons who will not only kill no living creature, but who must not even use the word "cut"; those whose ritual consists mainly of prayers and hymns, and those who indulge in unspeakable orgies in the name of religion".

This discription of complexity is full but is still incomplete. To the list must be added those who revere the cow and those who eat it, those who worship natural forces, and those who worship a single God; those who are worshippers of idols, demons, ghosts, ancestors, saints and heroes.

Such are the answers given by the three Census Commissioners to the simple question what is Hinduism. Others have not found it less difficult to answer the question. Consider how Sir A. Lyall has fared in answering the question. In his " Rede Lecture " delivered at Cambridge in 1891 he said[4] :

> "And if I were asked for a definition of Hinduism I could give no precise answer, I could not define it concisely by giving its central

[1] Punjab Census Report 1881. para 214.

[2] Census of India. Report 1881. p. 158.

[3] Census of India. Report 1911 p. 114.

[4] Asiatic Studies Vol. II pp. 287-88.

doctrines and its essential articles of faith; as I might do in describing of the great historical Religions. For the word Hindu is not exclusively a religious denomination; it denotes also a country, and to certain degree a race. When we speak of Christian, a Mahomedan, or a Buddhist, we mean a particular religious community, in the widest sense, without distinction of race or place. When we talk of a Russian or a Persian, we indicate country or parentage without distinction of creed. But when a person tells me that he is a Hindu, I know that he means all three things together— Religion. Parentage and Country."

Speaking of Hinduism as a Religion Sir Alfred Lyall said that:

"Hinduism was a tangled mugle of disorderly superstitions, the collection of rights, worships, beliefs, traditions and mythologies, that are sanctioned by the sacred books and ordinances of the Brahmins and are propogated by Brahmanic teachings."

Lastly I will quote the defintion given by a Hindu Mr. G. P. Sen who not merely a Hindu but is a student of Hinduism. In his book called 'Introduction to the study of Hinduism' Mr. Sen says :—

" Hinduism is what the Hindus, or a major portion of them in a Hindu Community do. "

Is there then no principle in Hinduism which all Hindus no matter what their other differences are, feel bound to render willing obedience? It seems to me there is and that principle is the principle of Caste. There may be a difference of opinion as to which matters constitute matters of essence so far as Hinduism is concerned. But there can be no doubt that Caste is one and an essential and integral part of Hinduism. Every Hindu—if he is not merely a statutory Hindu-believes in Caste and every Hindu—even one who prides himself on being a statutory Hindu—has a Caste. A Hindu is as much born into caste as he is born in Hinduism. Indeed a person connot be born in Hinduism unless he is born in a Caste. Caste and Hinduism are inseparable. As Prof. Max Muller[1] observes :

"Modern Hinduism rests on the system of Caste as on a rock which no arguments can shake."

It therefore follows that in so far as Manu lays down the creed of the Caste and in so far as Hinduism at its core is the creed of Caste the Manu Smriti must be accepted as the Book of Religion.

II

What are the Ethical and Religious norms prescribed by Manu for Hindus to observe and follow?

[1] Science of Religion, p. 28.

To begin with, Manu divides Hindus into four varnas or social orders. He not only divides Hindus into four orders he also grades them. The following is his scheme of gradation.

X. 3. On account of his pre-eminence, on account of the superiority of his origin, on account of his observance of (particular) restrictive rules, and on account of his particular sanctification the Brahman is the Lord of (all) Varnas.

He proceeds to amplify his reasons and does so in the following characteristic manner :—

I. 93. As the Brahmana sprang from (Prajapati's i.e.Gods) mouth, as he was first-born, and as he possesses the Veda, he is by right the lord of this whole creation.

I. 94. For the self existent (Svayambhu i.e. God), having performed austerities, produced him first from his own mouth, in order that the offerings might be conveyed to the Gods and Manes and that this universe might be preserved.

I. 95. What created being can surpass him, through whose mouth the Gods continually consume the sacrificial viands and the manes the offerings to the dead.

I. 96. Of created beings the most excellent are said to be those which are animated; of the animated, those who subsist by intelligence; of the inteligent, mankind; and of the men, the Brahmans.

Besides the reason given by Manu the Brahmin is first in rank because he was produced by God from his mouth, in order that the offerings might be conveyed to the Gods and manes. Manu gives another reason for the supremacy of the Brahmins.

He says :—

I. 98. The very birth of a Brahmana is an eternal incarnation of the sacred Law (Veda); for he is born to (fulfil) the sacred law, and become one with Brahman (God).

I. 99. A Brahamana, coming into existence, is born as the highest on earth, the lord of all created beings, for the protection of the treasury of the Law.

Manu concludes by saying that :

I. 101. The Brahmana eats but his own food, wears but his own apparel, bestows but his own alms; other mortals subsist through the benevolence of the Brahmana."

Because according to Manu :

I. 100. Whatever exists in the world is the property of the Brahmana; on account of the excellence of his origin the Brahmana is, indeed, entitled to it all.

It is really an understatement to say that according to Manu the Brahman is a lord of all creation. For Manu gives a warning to the effect that :—

IX. 317. A Brahmana, be he ignorant or learned, is a great divinity, just as the fire, whether carried forth (for the performance of a burnt oblation) or not carried forth, is a great divinity.

IX. 319. Thus, though the Brahmans employ themselves in all (sorts) of mean occupations, they must be honoured in every way; (for each of) them is a very great deity.

Being a deity the Brahmin is above law and above the King. Manu directs :—

VII. 37. Let the King, after rising early in the morning, worship Brahmans who are well versed in the threefold sacred science and learned (in polity), and follow their advice

VII. 38. Let him daily worship aged Brahmans who know the Veda and are pure.....

Finally Manu says :

XI. 35. The Brahman is (hereby) declared (to be) the creator (of the world), the punishcr, the teacher, (and hence) a benefactor (of all created beings); to him let no man say anything unpropitions, nor use any harsh words.

In the Code of Manu there are rules regarding the different occupations which the different orders are required to follow:

I. 88. To Brahmens he (Swayambhu Manu) assigned the duties of reading the Veda, of teaching it, of sacrificing, of assisting others to sacrifice, of giving alms, if they the rich, and if indiquent, of receiving of gifts.

I. 89. To defend the people, to give alms, to sacrifice, to read the Veda, to shun the allurements of sensual gratifiction, are, in a few words, the duties of a Kshatriya.

I. 90. To keep herds of cattle, to bestow largeness, to sacrifice, to read the scriptures, to carry on trade, to lend at interest, and to cultivate land are prescribed or permitted to a Vaishya.

I. 91. One principal duty the supreme Ruler assigns to a Shudra; namely, to serve the before mentioned classes, without depreciating their worth.

I.74. Let such Brahmans as are intent on the means of attaining the supreme Godhead, and firm in their own duties, completely perform, in order, the six following acts:

X. 75. Reading the Vedas, the teaching others to read them, sacrificing, and assisting others, to sacrifice, giving to the poor if themselves have enough, and accepting gifts from the virtuous if themselves are poor, are the six prescribed acts of the first born class;

X. 76. But, among those six acts of a Brahmin, three are his means of susbsistence; assisting to sacrifice, teaching the Vedas, and receiving gifts from a pure handed giver.

X. 77. Three acts of duty cease with the Brahman, and belong not to the Kshatriya; teaching the Vedas, officiating at a sacrifice, and, thirdly, receiving presents.

X. 78. Those three are also (by the fixed rule of law) forbidden to the Vaisya; since Manu, the Lord of all men, prescribed not those acts to the two classes, military and commercial.

X. 79. The means of subsistence, peculiar to the Kshatriya, are bearing arms, either held for striking or missile, to the Vaisya, merchandize, attending on cattle, and agriculture but with a view to the next life, the duties of both are alms giving, reading, sacrificing."

Besides prescribing rank and occupation Manu grants privileges to certain orders and imposes penalties on certain orders.

As to privileges those relating to marriage may be referred to first. Manu says :

III. 12. For the first marriage of the twice born classes, a woman of the same class is recommended but for such as are impelled by inclination to marry again, women in the direct order of the classes are to be preferred :

III. 13. A Sudra woman only must be the wife of a Sudra; she and a Vaisya, of a Vaisya; they two and a Kshatriya, of a Kshatriya; those three and a Brahmani of a Brahman.

Then there are privileges relating to occupations. These privileges stand out quite prominently when Manu deals with the question as to what a person is to do when he is in distress:

X. 81. Yet a Brahmen, unable to subsist by his duties just mentioned, may live by the duty of a soldier; for that is the next in rank.

X. 82. If it be asked, how he must live, should he be unable to get a subsistence by either of those employments; the answer is, he may subsist as a mercantile man, applying himself in person to tillage and attendance on cattle.

X. 83. But a Brahman and a Kshatriya, obliged to subsist by the acts of a Vaisya, must avoid with care, if they can live by keeping herds, the business of tillage, which gives great pain to sentient creatures, and is dependent on the labour of others, as bulls and so forth.

X. 84. Some are of opinion, that agriculture is excellent, but it is a mode of subsistence which the benevolent greatly blame, for the iron mouthed pieces of wood not only wound the earth, but the creatures dwelling in it.

X. 85. If through want of a virtuous livelihood, they cannot follow laudable occupations, they may then gain a competence of wealth by selling commodities usually sold by merchants, avoiding what ought to be avoided.

X. 86. They must avoid selling liquids of all sorts, dressed grain, seeds of tila, stones, salt, cattle, and human creatures.

X. 87. All woven cloth dyed red, cloth made of sana, of cshuma-bark, and of wool, even though not red; fruit, roots, and medicinal plants.

X. 88. Water, iron, poison, flesh-meat, the moon-plant, and perfumes of any sort; milk, honey, butter milk, clarified butter, oil of tila, wax sugar, and blades of cusa grass;

X. 89. All beasts of the forest, as deer and the like, ravenous beasts, birds, and fish; spirituous liquors, nili, or indigo, and lascha, or lac; and all beasts with uncloven hoofs.

X. 90. But the brahmen-husbandman may at pleasure sell pure tila-seeds for the purpose of holy rites, if he keep them not long with a hope of more gain, and shall have produced them by his own culture.;

X. 91. If he apply seeds of tila to any purpose but food, anoiting, and sacred oblations, he shall be plunged, in the shape of a worm, together with his parents, into the ordure of dogs.

X. 92. By selling flesh-meat, lac or salt, a Brahmen immediately sinks low; by selling milk three days, he falls to a level with a Sudra.

X. 93. And by selling the other forbidden commodities with his own free will, he assumes in this world, after seven nights, the nature of a mere Vaisya.

X. 94. Fluid things may, however, be bartered for other fluids, but not salt for anything liquid; so may dressed grain for grain undressed, and tila-seeds for grain in the husk, equal weights or measures being given and taken.

X. 102. The Brahmen having fallen into distress, may receive gifts from any person whatever; for by no sacred rule can it be shown, that absolute purity can be sullied.

X. 103. From interpreting the Veda, from officiating at sacrifices, or from taking presents, though in modes generally disapproved, no sin is committed by priests in distress; for they are as pure as fire or water.

Compare with this what Manu has to say with regard, to what the other Varnas can do in an emergency, Manu says :

X. 96. A man of lowest class, who through covetousncss. lives by the acts of the highest, let the king strip of all his wealth and instantly banish.

X. 97. His own office, though defectively performed, is preferable to that of another, though performed completely; for he, who without necessity discharges the duties of another class, immediately forfeits his own.

X. 98. A mercantile man, unable to subsist by his own duties, may descend even to the servile acts of a Sudra, taking care never to do what ought never to be done; but, when he has gained a competence, let him depart from service.

X. 99. A man of fourth class, not Finding employment by waiting on the twice born, while his wife and son are tormented with hunger, may subsist by handicrafts.

X. 121. If a Sudra want a subsistence and cannot attend priest, he may serve a Kshatriya; or, if he cannot wait on a soldier by birth, he may gain his livelihood by serving an opulent Vaisya.

X. 122. To him, who serves Brahmens, with a view to a heavenly reward, or even with view to both this life and the next, the union of the word Brahmen with his name of servant will assuredly bring success.

X. 123. Attendance on Brahmens is pronounced the best work of Sudra; whatever else he may perform will comparatively avail him nothing.

X. 124. They must allot him a fit maintenance according to their own circumstances, after considering his ability, his exertions, and the number of those, whom he must provide with nourishment.

X. 125. What remains of their dressed rice must be given to him, and apparel which they have worn, and the refuse of their grain, and their old household furniture.

X. 126. There is no guilt in a man of the servile class who eats leeks and other forbidden vegetables; he must not have the sacred investiture; he has no business with the duty of making oblations to fire and the like, but there is no prohibition against his offering dressed grain as a sacrifice, by way of discharging his own duty.

X. 127. Even Sudras, who were anxious to perform their entire duty, and, knowing what they should perform, imitate the practice of good men in the household sacraments, but without any holy text, except those containing praise and salutations, are so far from sinning, that they acquire just applause.

X. 128. As a Sudra, without injuring another man, performs the lawful acts of the twice-born, even thus, without being censured, he gains exaltation in this world and in the next.

X. 129. No superfluous collection of wealth must be made by a Sudra, even though he has power to make it, since a servile man,

who has amassed riches, becomes proud, and, by his insolence or neglect, gives pain even to Brahmens.

He concludes :—

X. 130. Such, as have been fully declared, are the several duties of the four classes in distress for subsistence, and, if they perform them exactly, they shall attain the highest beatitude.

The privileges to some were not merely social they were also financial, Says Manu :—

VIII. 35. From the man, who shall say with truth, 'This property, which has been kept, belongs to me', the king may take a sixth or twelfth part, for having secured it.

VIII. 36. But he, who shall say so falsely, may be fined either an eighth part of his own property, or else in some small proportion to the value of the goods falsely claimed, a just calcultion having been made.

VIII. 37. A learned Brahmen, having found a treasure formerly . hidden, may take it without any deduction; since he is the lord of all.

VIII. 38. But of a treasure anciently deposited under ground, which any other subject or the king has discovered, the king may lay up half in his treasury having given half to the Brahmens.

IX. 323. Should the king be near his end through some incurable disease, he must bestow on the priests all his riches, accumulated his kingdom to his son, let him seek death in battle, or if there be no war, by abstaining from food.

VII. 127. Having ascertained the rates of purchase and sale, the length of the way, the expenses of food and of condiments the charges of securing the goods carried, and the net profits of trade, let the king oblige traders to pay taxes on their saleable commodities.

VII. 128. After full consideration, let a king so levy those taxes continually in his dominions, that both he and the merchant may receive a just compensation for their several acts.

VII. 129. As the leech, the suckling calf, and the bee, take their natural food by little and little, thus must a king draw from his dominions an annual revenue.

VII. 130. Of cattle, of gems, of gold and silver, added each year to the capital stock, a fiftieth part may be taken by the king; of grain, an eighth part, a sixth, or a twelfth, according to the difference of the soil, and the labour necessary to cultivate it.

VII. 131. He may also take a sixth part of the clear annual increase of trees, fleshmeat, honey, clarified butter, perfumes, medical substances, liquids, flowers, roots, and fruit.

VII. 132. Of gathered leaves, pot-herbs, grass, utencils made with leather or cane, earthen pots, and all things made of stone.

VII. 132. A king, even though dying with want, must not receive any tax from a Brahman learned in the Vedas, nor suffer such a Brahmen, residing in his territories, to be afflicted with hunger.

VII. 134. Of that king, in whose dominion a learned Brahmen is afflicted with hunger, the whole kingdom will in a short time be afflicted with famine.

VII. 137, Let the king order a mere trifle to be paid, in the name of the annual tax, by the meaner inhabitants of his realm, who subsist by petty traffic.

VII. 138. By low handicraftsmen, artificers, and servile men, who support themselves by labour, the king may cause work to be done for a day in each month.

VIII. 394. Neither a blind man, nor an idiot, nor a cripple, nor a man full seventy years old, nor one who confers great benefits on priests of eminent learning, shall be compelled by any king to pay taxes.

X. 118. A military king, who takes even a fourth part of the crops of his realm at a time of urgent necessity, as of war or invasion, and protects his people to the utmost of his power, commits no sin:

X. 119. His peculiar duty is conquest, and he must not recede from battle; so that, while he defends by his arms the merchant and husbandman, he may levy the legal tax as the price of protection.

X. 120. The tax on the mercantile class, which in times of prosperity must be only a twelfth part of their crops, and a fiftieth of their personal profits, may be an eighth of their crops in a time of distress, or a sixth, which is the medium, or even a fourth in great public adversity; but a twentieth of their gains on money, and other moveables, is the highest tax; serving men, artisans, and mechanics, must assist by their labour, but at no time pay taxes.

X. 187. To the nearest sapinda, male or female, after him in the third degree, the inheritance next belongs; then, on failure of sapindas and of their issue the samanodaca, or distant kinsman, shall be the heir; or the spiritual preceptor, or the pupil, or the fellow student, of the deceased.

IX. 188. On failure of all those, the lawful heirs are such Brahmens, as have read the three Vedas, as are pure in body and mind, as have subdued their passions; and they must consequently offer the cake; thus the rites of obsequies cannot fail.

IX. 189. The property of a Brahmen shall never be taken as an escheat by the king; this is a fixed law; but the wealth of the other classes, on failure of all heirs, the king may take.

The terms on which the different social orders should carry on their associated life has been defined by Manu in a set of rules which form a very important part of the morals of the Hindu House.

Manu ordains that:

X. 3. From priority of birth, from superiority of origin, from a more exact knowledge of scripture, and from a distinction in the sacrificial thread, the Brahmen is the lord of all classes.

IX. 317. A Brahmen, whether learned or ignorant, is a powerful divinity; even as fire is powerful divinity, whether consecrated or popular.

IX. 319. Thus, although Brahmens employ themselves in all sorts of mean occupations, they must invariably be honoured; for they are something transcendently divine.

VII. 35. A king was created as the protector of all those classes and orders, who, from the first to the last, discharge their several duties.

VII. 36. And all, that must be done by him, for the protection of his people, with the assistance of good ministers, I will declare to you, as the law directs, in due order.

VII. 37. Let the king, having risen at early dawn, respectfully attend to Brahmen, learned in the three Vedas, and in the science of ethics, and by their decision let him abide.

VII. 38. Constantly must he show respect to Brahmens, who have grown old, both in years and in piety, who know the scriptures, who in body and mind are pure; for he, who honours the aged, will perpetually be honoured even by cruel demons:

IX. 313. Let him not, although in the greatest distress for money, provoke Brahmens to anger by taking their prosperty; for they, once enraged, could immediately by sacrifices and imprecations destroy him with his troops, elephants, horses and cars.

Such was to be the relationship in the field of political life. For ordinary social intercourse between the different Varnas Manu lays down the following rules:—

III. 68. A house-keeper has five places of slaughter, or where small living creatures may be slain; his kitchen-hearth, his grindstone, his broom, his pestle and mortar, his water-pot; by using which, he becomes in bondage to sin:

III. 69. For the sake of expiating offences committed ignorantly in those places mentioned in order, the five great sacraments were appointed by eminent sages to be performed each day by such as keep house.

III. 70. Teaching and studying the scripture is the sacrament of the Veda; offering cakes and water, the sacrament of the Manes, an oblation to fire, the sacrament of the Deities; giving rice or other food to living creatures, the sacrament of spirits; receiving guests with honour, the sacrament of men.

III. 71. Whoever omits not those five great ceremonies, if he have ability to perform them, is untainted by the sons of the five slaughtering places, even though he constantly reside at home;

III. 84. In his domestic Are for dressing the food of all the Gods, after the prescribed ceremony, let a Brahmen make an oblation each day to these following divinities.

After it is offered to the deities Manu directs:—

III. 92. The share of dogs, of outcasts, of dog-feeders, of sinful men, punished with elephantiasis or consumption, of crows, and of reptiles, let him drop on the ground by little and little.

With regard to the rules of hospitality Manu directs the householder:

III. 102. A Brahmen, staying but one night as a guest, is called an atithi, since continuing so short a time, he is not even a sojourner for a whole tithi, or day of the moon.

III. 98. But an offering in the fire of a sacerdotal mouth, which richly blazes with true knowledge and piety, will release the giver from distress and even from deadly sin.

III. 107. To the highest guests in the best form, to the lowest in the worst, to the equal equally, let him offer seats, resting places, couches; giving them proportionable attendance when they depart; and honour, as long as they stay.

III. 110. A military man is not denominated a guest in the house of a Brahman; nor a man of the commercial or servile class; nor his familiar friend, nor his paternal kinsmen; nor his preceptor.

III. 111. But if a warrior come to his house in the form of a guest, let food be prepared for him, according to his desire, after the beforementioned Brahmens have eaten.

III. 112. Even to a merchant or a labourer, approaching his house in the manner of guests, let him give food, showing marks of benevolence at the same time with his domestics.

On social bearing of one class towards another Manu has laid down some very interesting ordinances. He has an equation for social status:

II. 135. The student must consider a Brahmen, though but ten years old, and a Kshatriya, though aged a hundred years, as father and son; as between those two, the young Brahmen is to be respected as the father.

II. 136. Wealth, kindred, age, moral conduct, and, fifthly divine knowledge, entitle men to respect; but that which is last mentioned in order, is the most respectable.

II. 137. Whatever man of the three highest classes possesses the most of those five, both in number and degree that man is entitled to most respect; even a Sudra, if he have entered the tenth decade of his age.

II. 138. Way must be made for a man in a wheeled carriage, or above ninety years old, or afflicted with disease, or carrying a burthen; for a woman; for a priest just returned from the mansion of his preceptor; for a prince, and for a bridegroom.

II. 139. Among all those, if they be met at one time, the priest just returned home and the prince are most to be honoured; and of those two, the priest just returned, should be treated with more respect than the prince.

As illustrating the rules of social bearing a reference may be made to rules regarding salutation:

II. 121. A youth who habitually greets and constantly reverses the aged, obtains an increase of four things; life, knowledge, fame, strength.

II. 122. After the word of salutation, a Brahman must address an elder; saying, "I am such an one," pronouncing his own name.

II. 123. If any persons, through ignorance of the Sanskrit language, understand not the import of his name, to them should a learned man say, " It is I"; and in that manner he should address all classes of women.

II. 124. In the salutation he should pronounce, after his own name, the vocative particle 'bhoh'; for the particle 'bhoh' is held by the wise to have the same property with names fully expressed.

II. 125. A Brahmen should thus be saluted in return; " May'st thou live long, excellent man ", and at the end of his name, the vowel and preceding consonant should be lengthened, with an acute accent, to three syllabic moments or short vowels.

II. 126. That Brahmen, who knows not the form of returning a salutation, must not be saluted by a man of learning; as a Shudra, even so is he.

II. 127. Let a learned man ask a priest, when he meets him, if his devotion prospers, a warrior, if he is unhurt; a merchant, if his wealth

is secure; and one of the servile classes, if he enjoys good health; using respectively the words, cusalam, anamayam, ksheman and anarogyam.

The provisions laid down by Manu in relation to Religion and Religious Sacraments and Sacrifice are worthy of note.

The ordinances of Manu relating to Sacraments and sacrifices are as follows:

> III. 68. A house-keeper has five places of slaughter, or where small living creatures may be slain; his kitchen-hearth, his grindstone, his broom, his pastle and mortar, his water-pot; by using which, he become in bondage to sin.
>
> III. 69. For the sake of expiating offences committed ignorantly in those places mentioned in order, the five great sacraments were appointed by eminent sages to be performed each day by such as keep house.
>
> III. 70. Teaching and studying the scriptures is the sacrament of the Veda; offering cakes and water, the sacrament of the Manes, an oblation to fire, the sacrament of the Deities; giving rice or other food to living creatures, the sacraments of spirits; receiving guests with honour, the sacrament of men.
>
> III. 71. Whoever omits not those five great ceremonies, if he have ability to perform them, is untainted by the sons of the five slaughtering places, even though he constantly reside at home.

Manu then proceeds to lay down that all are not entitled to the benefit of the sacraments and all have not the same right to perform the sacrifices.

He defines the position of women and Shudras in the matter of Sacraments and sacrifices. As to women Manu says :—

> II. 66. The same ceremonies, except that of the sacrificial thread, must be duly performed for women at the same age and in the same order, that the body may be made perfect; but without any text from the Veda."

As to Shudras, Manu says :—

> X. 127. Even Shudras, who were anxious to perform their entire duty, and, knowing what they should perform initate the practice of , good men in the household sacraments, but without any holy text, except those containing praise and salutation, are so far from sinning, that they acquire just applause.

The investiture of a person with the sacred thread is a very important sacrament.

> II. 36. In the eighth year from the conception of a Brahman, in the eleventh from that of a Kshatriya, and in the twelfth from that of a Vaisya, let the father invest the child with the mark of his class.

II. 37. Should a Brahman, or his father for him, be desirous of his advancement in sacred knowledge; a Kshatriya, of extending his power; or a Vaisya of engaging in mercantile business; the investiture may be made in the fifth, sixth, or eighth years respectively.

II. 38. The ceremony of investiture hallowed by the Gayatri must not be delayed, in the case of a priest, beyond the sixteenth year; nor in that of a soldier, beyond the twenty second; nor in that of a merchant, beyond the twenty fourth.

II. 39. After that, all youths of these three classes, who have not been invested at the proper time, become vratyas, or outcasts, degraded from the Gayatri, and condemned by the virtuous.

As to the *Gayatri* it is a *mantra* and this is how Manu explains its importance:—

II. 76. Brahma milked out, as it were, from the three Vedas, the letter A, the letter U, and the letter M which form by their coalition the triliteral monosyllable, together with three mysterious words bhur, bhuvah, svah or earth, sky, heaven.

II. 77. From the three Vedas, also, the Lord of creatures, incomprehensibly exalted, successively milked out the three measures of that ineffable text, beginning with the word tad, and entitled Savitri or Gayatri.

II. 78. A priest who shall know the Veda, and shall pronounce to himself, both morning and evening, that syllable, and that holy text preceded by the three words, shall attain the sanctity which the Veda confers:

II. 79. And a twice born man, who shall a thousand times repeat those three (om, the vyahritis, and the gayatri), apart from the multitude, shall be released in a month even from a great offence, as a snake from his slough.

II. 80. The priest, the soldier, and the merchant, who shall neglect this mysterious text, and fail to perform in due season his peculiar acts of piety, shall meet with contempt among the virtuous.

II. 81. The great immutable words, preceded by the triliteral syllable, and followed by the gayatri which consists of three measures, must be considered as the mouth, or principal part of the Veda;

II. 82. Whoever shall repeat, day by day, for three years, without negligence, that sacred text, shall hereafter approach the divine essence, move as freely as air, and assume an ethereal form.

II. 83. The triliteral monosyllable is an emblem of the Supreme, the suppressions of breath with a mind fixed on God are the highest

devotion; but nothing is more exalted than the Gayatri; a declaration of truth is more excellant than silence.

II. 84. All rites ordained in the Veda, oblations to fire, and solemn sacrifices pass away; but that which passes not away, is declared to be the syllable om, thence called acshara; since it is a symbol of God, the Lord of created beings.

II. 85. The act of repeating his Holy Name is ten times better than the appointed sacrifice; an hundred times better when it is heard by no man; and a thousand times better when it is purely mental.

II. 86. The four domestic sacraments which are accompanied with the appointed sacrifice, are not equal though all be united, to a sixteenth part of the sacrifice performed by a repetition of the gayatri.

This investiture is equivalent to a new birth.

II. 147. Let a man consider that as a mere human birth, which his parents gave him for their mutual gratification, and which he receives after lying in the womb.

II. 148. But that birth which his principal acharya, who knows the whole Veda, procures for him by his divine mother the gayatri, is a true birth; that birth is exempt from age and from death.

II. 169. The first birth is from a natural mother; the second, from the ligation of the zone; the third from the due performance of the sacrifice; such are the births of him who is usually called twice-born, according to a text of the Veda.

II. 170. Among them his divine birth is that, which is distinguished by the ligation of the zone, and sacrificial cord ; and in that birth the Gayatri is his mother, and the Acharya, his father. This sacrament is not permitted by Manu to Shudras and to women.

II. 103. But he who stands not repeating it in the morning, and sits not repeating it in the evening, must be precluded, like a Sudra, from every sacred observance of the twice born class.

Manu has not forgotten to mention rules relating to education and learning. Manu has nothing to say about mass education. He does not see the utility of it and he does not see the necessity of imposing any obligation upon the king or the state. He was merely concerned with the learning of the sacred and Religious literature namely the Vedas.

Veda must be learned from a preceptor and with his assent. No one can read and study the Vedas by himself. He will be guilty of theft if he did it.

II. 116. He who shall acquire knowledge of the Veda without the assent of his preceptor, incurs the guilt of stealing the scripture and shall sink to the region of torment.

But others cannot study at all.

IX. 18. Women have no business with the texts of the Veda; thus is the law fully settled; having, therefore, no evidence of law, and no knowledge of expiatory texts, sinful women must be as foul as falsehood itself; and this is a fixed rule.

IV. 99. He must never read the Veda without accents and letters well pronounced; nor even in the presence of Sudras; nor, having begun to read it in the last watch of the night, must he, though fatigued, sleep again.

This prohibition applies to *Vratyas* or outcasts from the three higher classes. For Manu says:

II. 40. With such impure men, let no Brahmen, even in distress for subsistence, ever form a connexion in law, either by the study of the Veda, or by affinity.

Teaching Veda or performing of sacrifices for disqualified persons was prohibited by Manu.

IV. 205. Never let a priest eat part of a sacrifice not begun with texts of the Veda, nor of one performed by a common sacrificer, by a woman, or by an eunuch:

IV. 206. When those persons offer the clarified butter, it brings misfortune to good men, and raises aversion in the deities, such oblations, therefore, he must carefully shun.

XI. 198. He, who has officiated at a sacrifice for outcasts, or burned the corpse of a stranger, or performed rites to destroy the innocent, or made the impure sacrifice, called Ahimsa, may expiate his guilt by three prajapatya penances.

Take equality before Law.

When they come as witnesses—according to Manu they are to be sworn as follows:

VIII. 87. In the forenoon let the judge, being purified, severally call on the twice-born, being purified also, to declare the truth, in the presence of some image, a symbol of the divinity, and of Brahmens, while the witnesses turn their faces either to the north or to the east.

VIII. 88. To a Brahmen he must begin with saying, "Declare;" to a Kshatriya, with saying, " Declare the truth "; to a Vaisya, with comparing perjury to the crime of stealing kine, grain, or gold; to a Sudra, with comparing it in some or all of the following sentences, to every crime that men can commit.

VIII. 113. Let the judge cause a priest to swear by his veracity; a soldier, by his horse, or elephant, and his weapons; a merchant, by his kine, grain, and gold; a mechanic or servile man, by imprecating on his own head, if he speak falsely, all possible crime; Manu also deals with cases of witnesses giving false evidence.

According to Manu giving false evidence is a crime. Says Manu:

VIII. 122. Learned men have specified these punishments, which were ordained by sage legislators for perjured witnesses, with a view to prevent a failure of justice and to restrain iniquity.

VIII. 123. Let a just prince banish men of the three lower classes, if they give false evidence having first levied the fine; but a Brahmen let him only banish."

But Manu made one exception:

VIII. 112. To women, however, at a time of dalliance, or on a proposal of marriage, in the case of grass or fruit eaten by a cow, of wood taken for a sacrifice, or of a promise made for the preservation of a Brahmen, it is deadly sin to take a light oath. As parties to proceedings—Their position can be illustrated by quoting the ordinances of Manu relating to a few of the important criminal offences dealt with by Manu.

Take the offence of Defamation. Manu says:

VIII. 267. A soldier, defaming a priest, shall be fined a hundred panas a merchant, thus offending, an hundred and fifty, or two hundred : but, for such an offence, a mechanic or servile man shall be whipped.

VIII. 268. A priest shall be fined fifty, if he slander a soldier; twenty five, if a merchant; and twelve, if he slander a man of the servile class.

Take the offence of Insult—Manu says:

VIII. 270. A once-born man, who insults the twice-born with gross invectives, ought to have his tongue slit; for he sprang from the lowest part of Brahma.

VIII. 271. If he mention their names and classes with contumely as, if he say, "Oh Devadatta, thou refuse of Brahmen", an iron style, ten fingers long, shall be thrust red into his mouth.

VIII. 272. Should he, through pride, give instruction to priests concerning their duty, let the king order some hot oil to be dropped into his mouth and his ear.

Take the offence of Abuse—Manu says:

VIII. 276. For mutual abuse by a priest and a soldier, this fine must be imposed by a learned king; the lowest amercement on the priest, and the middle-most on the soldier.

VIII. 277. Such exactly, as before mentioned, must be the punishment for a merchant and a mechanic, in respect of their several classes, except the slitting of the tongue; this is a fixed rule of punishment.

Take the offence of Assault—Manu propounds:

VIII. 279. With whatever member of a low-born man shall assault or hurt a superior, even that member of his must be slit, or cut more or less in proportion to the injury; this an ordinance of Manu.

VIII. 280. He who raises his hand or a staff against another, shall have his hand cut; and he, who kicks another in wrath, shall have an incision made in his foot.

Take the offence of Arrogance—According to Manu:

VIII. 281. A man of the lowest class, who shall insolently place himself on the same seat with one of the highest, shall either be banished with a mark on his hinder parts, or the king shall cause a gash to be made on his buttock.

VIII. 282. Should he spit on him through pride, the king shall order both his lips to be gashed; should he urine on him, his penis; should he break wind against him, his anus.

VIII. 283. If he seize the Brahmen by the locks, or by the feet, or by the beard, or by the throat, or by the scrotum, let the king without hesitation cause incisions to be made in his hands.

Take the offence of Adultery. Says Manu:

VIII. 359. A man of the servile class, who commits actual adultery with the wife of a priest, ought to suffer death; the wives. indeed, of all the four classes must ever be most especially guarded.

VIII. 366. A low man, who makes love to a damsel of high birth, ought to be punished corporally; but he who addresses a maid of equal rank, shall give the nuptial present and marry her, if her father please.

VIII. 374. A mechanic or servile man, having an adulterious connection with a woman of a twice-born class, whether guarded at home or unguarded, shall thus be punished; if she was unguarded, he shall lose the part offending, and his whole substance; if guarded, and a priest less, every thing, even his life.

VIII. 375. For adultery with a guarded priestess, a merchant shall forfeit all his wealth after imprisonment for a year; a soldier shall be fined a thousand panas, and be shaved with the urine of an ass.

VIII. 376. But, if a merchant or soldier commit adultery with a woman of the sacerdotal class, whom her husband guards not at

home, the king shall only fine the merchant five hundred, and the soldier a thousand;

VIII. 377. Both of them, however, if they commit that offence with a priestess not only guarded but eminent for good qualities, shall be punished like men of the servile class, or be burned in a fire of dry grass or reeds.

VIII. 382. If a merchant converse criminally with a guarded woman of the military, or a soldier with one of the mercantile class, they both deserve the same punishment as in the case of a priestess unguarded.

VIII. 383. But a Brahmen, who shall commit dultery with a guarded woman of those two classes, must be fined a thousand panas; and for the like offence with a guarded woman of the servile class, the fine of a soldier or a merchant shall be also one thousand.

VIII. 384. For adultery with a woman of the military class, if unguarded, the fine of a merchant is five hundred; but a soldier, for the converse of that offence, must be shaved with urine, or pay the fine just mentioned.

VIII. 385. A priest shall pay five hundred panas if he connect himself criminally with an unguarded woman of the military, commercial, or servile class, and a thousand, for such a connexion with a woman of vile mixed breed.

Turning to the system of punishment for offences Manu's Scheme throws an interesting light on the subject. Consider the following ordinances:

VIII. 379. Ignominious tonsure is ordained, instead of capital punishment, for an adulterer of the priestly class, where the punishment of other classes may extend to loss of life.

VIII. 380. Never shall the king slay a Brahmen, though convicted of all possible crimes; let him banish the offender from his realm, but with all his property secure, and his body unhurt.

XI. 127. For killing intentionally a virtuous man of the military class, the penance must a fourth part of that ordained for killing a priest; for killing a Vaisya, only an eighth; for killing a Sudra, who had been constant in discharging his duties, a sixteenth part.

XI. 128. But, if a Brahmen kill a Kshatriya without malice, he must, after a full performance of his religious rites, give the priests one bull together with a thousand cows.

XI. 129. Or he may perform for three years the penance for slaying a Brahmen, mortifying his organs of sensation and action, letting his hair grow long, and living remote from the town, with the root of a tree for his mansion.

XI. 130. If he kill without malice a Vaisya, who had a good moral character, he may perform the same penance for one year, or give the priests a hundred cows and a bull.

XI. 131. For six months must he perform this whole penance, if without intention he kill a Sudra; or he may give ten white cows and a bull to the priests.

VIII. 381. No greater crime is known on earth than slaying a Brahmen; and the king, therefore, must not even form in his mind an idea of killing a priest.

VIII. 126. Let the king having considered and ascertained the frequency of a similar offence, the place and time, the ability of the criminal to pay or suffer and the crime itself, cause punishment to fall on those alone, who deserve it.

VIII. 124. Manu, son of the Self-existent, has named ten places of punishment, which are appropriate to the three lower classes, but a Brahmen must depart from the realm unhurt in any one of them.

VIII. 125. The part of generation, the belly, the tongue, the two hands, and, fifthly, the two feet, the eye, the nose, both ears, the property, and, in a capital case, the whole body.

On the point of rights and duties relating to religious Sacraments and Sacrifices the views of Manu are noteworthy:

II. 28. By studying the Veda, by religious observances, by oblations to fire, by the ceremony of Traividya, by offering to the Gods and Manes, by the procreation of children, by the five great sacraments, and by solemn sacrifices, this human body is rendered fit for a divine state.

III. 69. For the sake of expiating offences committed ignorantly in those places mentioned in order, the five great sacrements were appointed by eminent sages to be performed each day by such as keep house.

III. 70. Teaching and studying the scripture is the sacrament of the Veda; offering cakes and water, the sacrament of the Manes; an oblation to fire, the sacrament of the Deities; giving rice or other food to living creatures, the sacrament of spirits; receiving guests with honour, the sacrament of men.

III. 71. Whoever omits not those five great ceremonies, if he have ability to perform them, is untained by the sins of the five slaughtering places, even though he constantly reside at home.

Such are the ordinances of Manu. Laws are never complete enough to cover every point. There are always moot questions. Manu was conscious of this and provides for such contingencies.

XII. 108. If it be asked, how the law shall be ascertained, when particular cases are not comprised under any of the general rules, the answer is this: "That which well instructed Brahmens propound, shall be held incontestible law."

XII. 109. Well instructed Brahmens are they, who can adduce occular proof from the scripture itself, having studied, as the law ordains, the Vedas and their extended branches, or Vedangas, Mimansa, Nyaya, Dharma, Shastra, Puranas.

XII. 113. Even the decision of one priest, if more cannot be assembled, who perfectly knows the principles of the Vedas, must be considered as law of the highest authority; not the opinion of myriads, who have no sacred knowledge.

The Laws of Manu are eternal. Therefore there is no question of considering how changes could be effected in them. The only question Manu had to consider was the upholding and maintaining the system. Manu has laid down several provisions with this purpose in view. As to the preservation of the Social Code, Manu has made it the duty of the King to uphold and maintain:

VIII. 410. The king should order each man of the mercantile class to practice trade, or money lending, or agriculture and attendance on cattle; and each man of the servile class to act in the service of the twice-born.

VIII. 418. With vigilant care should the king exert himself in compelling merchants and mechanics to perform their respective duties; for, when such men swerve from their duty, they throw this world into confusion.

Failure to maintain was made an offence in the King punishable at Law.

VIII. 335. Neither a father, nor a preceptor, nor a friend, nor a mother, nor a wife, nor a son, nor a domestic priest must be left unpunished by the king, if they adhere not with firmness to their duty.

VIII. 336. Where another man of lower birth would be fined one pana, the king shall be fined a thousand, and he shall give the fine to the priests, or cast it into the river, this is a sacred rule.

Failure to uphold and maintain the system on the part of the king involved a forfeiture of his right to rule. For Manu allows a right to rebel against, such a King.

VIII. 348. The twice-born may take arms, when their duty is obstructed by force; and when, in some evil time, a disaster has befallen the twice-born classes.

The right of rebellion is given to the three higher classes and not to the Shudra. This is very natural. Because it is only the three upper classes who would benefit by the maintenance of this system. But supposing the Kshatriyas joined the King in destroying the system what is to be done? Manu gives the authority to the Brahmins to punish all and particularly the Kshatriyas.

> XI. 31. A priest, who well knows the laws, need not complain to the king of any grievious injury; since, even by his own power, he may chastise those, who injure him.
>
> XI. 32. His own power, which depends on himself alone, is mightier than the royal power, which depends on other men; by his own might, therefore, may a Brahman coerce his foes.
>
> XI. 33. He may use, without hesitation, the powerful charms revealed to Atharvan, and by him to Angiras; for speech is the weapon of a Brahmen; with that he may destroy his oppressors.
>
> IX. 320. Of a military man, who raises his arm violently on all occasions against the priestly class, the priest himself shall be the chastiser; since the soldier originally proceeded from the Brahmen."

How can the Brahmins punish the Kshatriyas unless they can take arms? Manu knows this and therefore allows the Brahmins to arm themselves to punish the Kshatriyas.

> XII. 100. Command of armies, royal authority, power of inflicting punishment, and sovereign dominion over all nations, he only well deserves, who perfectly understands the Veda Shastra.

So intent is Manu on the maintenance of the system of Chaturvarna that he did not hesitate to make this fundamental change in it. For to ask a Brahman to take up arms is a fundamental change as compared with the rule that was prevalent before Manu. The prohibition against Brahmin handling arms was very strict. In the Apastamba Dharma Sutras which is prior to Manu the rule is laid down in the following terms:

> I. 10, 29, 6. A Brahmin shall not take up a weapon in his hand' though he be only desirous of examining it."

Successor of Manu—Baudhayana—improved upon him, and laid down in his Code of Laws:

> II. 24, 18. For the protection of the Cows, Brahmins, or in the case of the confusion of Varnas, Brahmins and Vaisyas (also) should take up arms, out of consideration for the Dharma. and maintain the system at any cost.

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CHAPTER 13

Essays on the Bhagwat Gita: Philosophic Defence of Counter-Revolution: Krishna and His Gita

The first page of 'Essays on the Bhagvat Gita' is autographed by Dr. Ambedkar, Next 42 pages consist of analytical notes on Viral Parva and Uddyog Parva including the table of contents on this subject. The table of contents is printed in the schemes. This file contains two typed copies of an essay entitled 'Philosophic Defence of Counter-Revolution—Krishna and His Gita'. The last sentence of this essay is left incomplete. The total number of typed pages of this essay is 40 only. The notes on Viral Parva & Udyog Parva are printed in the next chapters.—Editors.

What is the place of the Bhagwat Gita in the literature of ancient India? Is it a gospel of the Hindu Religion in the same way as the Bible is of the Christian Religion? The Hindus have come to regard it as their gospel. If it is a gospel, what does it really teach? What is the doctrine it stands for? The variety of answers given to this question by students competent to speak on the subject is really bewildering. Bohtlingk[1] says:

> "The Gita contains by the side of many high and beautiful thoughts, not only a few weak points; contradictions (which the commentators have tried to pass over as excusable), repetitions, exaggerations, absurdities and loathsome points."

> "Hopkins[2] speaks of the Bhagvat Gita as a characteristic work of the Hindu Literature in its sublimity as in its puerilities, in its logic as in its want of it; ..... an ill-assorted cabinet of primitive philosophical opinions."

In his judgment:

[1] Quoted by Garbe in his Introduction to the Bhagvat Gita (Indian Antiquary 1918 Supplement).

[2]. Religion of India pp. 390-400.

"Despite its occasional power and music exaltation, the Divine song in its present state as a poetical production is unsatisfactory. The same thing is said over again, and the contradictions in phraseology and in meaning are as numerous as the repetitions, so that one is not surprised to find it described as "the wonderful song, which causes the hair to stand on end."

Holtzman[1] says:

"We have before us (in the Bhagvat Gita) a Vishnuite revision of a pantheistic poem."

Garbe[2] observes:

"The whole character of the poem in its design and execution is preponderatingly theistic. A personal God Krishna stands forth in the form of a human hero, expounds his doctrine, enjoins, above all things, on his listener, along with the performance of his duties, loving faith in Him and self-surrender:..... And by the side of this God—(who is) delineated as personally as possible, and who dominates the whole poem—stands out frequently the impersonal neutral Brahman, the Absolute, as the highest principle. At one time Krishna says that He is the sole Highest God who has created the world and all beings and rules over it all; at another time, he expounds the Vedantic doctrine of Brahman and *maya*—the Cosmic Illusion, and expounds as the highest goal of human being that he be freed from the World-Illusion and become Brahman. These two doctrines—the theistic and the pantheistic—are mixed up with each other, and follow each other, sometimes quite unconnected and sometimes loosely connected. And it is not the case that the one is represented as a lower, exoteric, (Text p. 9) and, (p.) as the higher esoteric doctrine. It is nowhere taught that the Theism is a preliminary step to the knowledge of the reality or that it is its symbol, and that the pantheism of the Vedanta is the (ultimate) reality itself; but the two beliefs are treated of almost throughout as though there was indeed no difference between them, either verbal or real."

Mr. Telang says:[3]

"There are several passages in the Gita which it is not very easy to reconcile with one another; and no attempt is made to harmonise them. Thus, for example, in stanza 16 of Chapter VII, Krishna divides his devotees into four classes, one of which consists of 'men of knowledge', whom, Krishna says, he considers 'as his own self. It would probably be difficult to imagine any expression which

[1] Quoted by Garbe.

[2] Introduction to Bhagvat Gita.

[3] Bhagvat Gita (S.E.B.) Introduction p. II.

could indicate higher esteem. Yet in stanza 46 of chapter VI, we have it laid down, that the devotee is superior not only to the mere performer of penances, but even to the men of knowledge. The commentators betray their gnostic bias by interpreting 'men of knowledge' in this latter passage to mean those who have acquired erudition in the Shastras and their significations. This is not an interpretation to be necessarily rejected. But there is in it a certain twisting of words, which, under the circumstances here, I am not inclined to accept. And on the other hand, it must not be forgotten, that the implications fairly derivable from Chapter IV, stanza 39 (pp. 62, 63), would seem to be rather than knowledge is superior to devotion—is the higher stage to be reached by means of devotion as the stepping stone. In another passage again at Gita, Chapter XII, stanza 12, concentration is preferred to knowledge, which also seems to me to be irreconcileable with Chapter VII, stanza 16. Take still another instance. At Gita, Chapter B stanza 15, it is said, that 'Lord receives the sin or merit of none.' Yet at Chapter V, stanza 24 Krishna calls himself 'the Lord and enjoyer,' of all sacrifices and penances. How, it may be well asked, can the Supreme Being 'enjoy that which he does not even receive?' Once more at Chapter X, stanza 29, Krishna declares that' none is hateful to me, none dear.' And yet the remarkable verse at the close of Chapter XII seem to stand in pointblank contradiction to that declaration. There through a most elaborate series of stanzas, the burden of Krishna's eloquent sermon is 'such a one is dear to me.' And again in those fine verses, where Krishna winds up his Divine Law, he similarly tells Arjuna, that he, Arjuna, is 'dear' to Krishna. And Krishna also speaks of that devotee as 'dear' to him, who may publish the mystery of the Gita among those who references Supreme Being.[1] And yet again, how are we to reconcile the same passage about none being 'hateful or dear' to Krishna, with his own words at Chapter XVI, stanza 18 and following stanzas? The language used in describing the 'demoniac' people there mentioned is not remarkable for sweetness towards them, while Krishna says positively, 'I hurl down such people into demoniac wombs, whereby they go down into misery and the vilest condition.' These persons are scarcely characterized with accuracy 'as neither hateful nor dear' to Krishna. It seems to me, that all these are real inconsistencies in the Gita, not such, perhaps, as might not be explained away, but such, I think, as indicate a mind making guesses at truth, as Professor Max Muller puts it, rather than a mind elaborating a complete and organized

[1]And see, too, Chapter VII, stanza 17, where the man of knowledge is declared to be 'dear' to Krishna.

system of philosophy. There is not even a trace of consciousness on the part of the author that these inconsistencies exist. And the contexts of the various pasages indicate, in my judgment, that a half-truth is struck out here and another half-truth there, with special reference to the special subject then under discussion; but no attempt is made to organize the various half-truths which are apparently incompatible, into a symmeterical whole, where the apparent inconsistencies might possibly vanish altogether in the higher synthesis."

These are the views of what might be called modern scholars. Turning to the view of the orthodox Pandits, we again find a variety of views. One view is that the Bhagvat is not a sectarian book, it pays equal respect to the three ways of salvation (1) Karma marge or the path of works (2) Bhakti marga or the path of devotion and (3) J nana marga or the path of knowledge and preaches the efficacy of all three as means of salvation. In support of their contention that the Gita respects all the three ways of salvation and accepts the efficacy of each one of them, the Pandits point out that of the 18 Chapters of the Bhagvat Gita, Chapters 1 to 6 are devoted to the preaching of the J nana marga, Chapters 7 to 12 to the preaching of Karma marga and Chapters 12 to 18 to the preaching of Bhakti marga and say that this equal distribution of its Chapters shows that the Gita upholds all the three modes of salvation.

Quite contrary to the view of the Pandits is the view of Shankaracharya and Mr. Tilak, both of whom must be classed amongst orthodox writers. Shankaracharya held the view that the Bhagvat Gita preached that the Jnana marga was the only true way of salvation. Mr. Tilak[1] does not agree with the views of any of the other scholars. He repudiates the view that the Gita is a bundle of inconsistencies. He does not agree with the Pandits who say that the Bhagvat Gita recognizes all the three ways of salvation. Like Shankaracharya he insists that the Bhagvat Gita has a definite doctrine to preach. But he differs from Shankaracharya and holds that the Gita teaches Karma Yoga and not Jnana Yoga.

It cannot but be a matter of great surprise to find such a variety of opinion as to the message which the Bhagvat Gita preaches. One is forced to ask why there should be such divergence of opinion among scholars? My answer to this question is that scholars have gone on a false errand. They have gone on a search for the message of the Bhagvat Gita on the assumption that it is a gospel as the Koran, the Bible or the Dhammapada is. In my opinion this assumption is quite

[1] See His Gita Rahasya 2nd editions vol. II. Chapter XIV. passim.

a false assumption. The Bhagvat Gita is not a gospel and it can therefore have no message and it is futile to search for one. The question will no doubt be asked: What is the Bhagvat Gita if it is not a gospel? My answer is that the Bhagvat Gita is neither a book of religion nor a treatise on philosophy. What the Bhagvat Gita does is to defend certain dogmas of religion on philosphic grounds. If on that account anybody wants to call it a book of religion or a book of philosophy he may please himself. But essentially it is neither. It uses philosophy to defend religion. My opponents will not be satisfied with a bare statement of view. They would insist on my proving my thesis by reference to specific instances. It is not at all difficult. Indeed it is the easiest task.

The first instance one comes across in reading the Bhagvat Gita is the justification of war. Arjuna had declared himself against the war, against killing people for the sake of property. Krishna offers a philosophic defence of war and killing in war. This philosophic defence of war will be found in Chapter II verses 11 to 28. The philosophic defence of war offered by the Bhagvat Gita proceeds along two lines of argument. One line of argument is that anyhow the world is perishable and man is mortal. Things are bound to come to an end. Man is bound to die. Why should it make any difference to the wise whether man dies a natural death or whether he is done to death as a result of violence? Life is unreal, why shed tears because it has ceased to be? Death is inevitable, why bother how it has resulted ? The second line of argument in justification of war is that it is a mistake to think that the body and the soul are one. They are separate. Not only are the two quite distinct but they differ in-as-much as the body is perishable while the soul is eternal and imperishable. When death occurs it is the body that dies. The soul never dies. Not only does it never die but air cannot dry it, fire cannot burn it, and a weapon cannot cut it. It is therefore wrong to say that when a man is killed his soul is killed. What happens is that his body dies. His soul discards the dead body as a person discards his old clothes—wears a new ones and carries on. As the soul is never killed, killing a person can never be a matter of any movement. War and killing need therefore give no ground to remorse or to shame, so argues the Bhagvat Gita.

Another dogma to which the Bhagvat Gita comes forward to offer a philosophic defence is Chaturvarnya. The Bhagvat Gita, no doubt, mentions that the Chaturvarnya is created by God and therefore sacrosanct. But it does not make its validity dependent on it. It offers a philosophic basis to the theory of Chaturvarnya by linking it to the theory of innate, inborn qualities in men. The fixing of the Varna of

[1] And see, too, Chapter VII, stanza 17, where the man of knowledge is declared to be 'dear' to Krishna.

man is not an arbitrary act says the Bhagvat Gita. But it is fixed according to his innate, inborn qualities.[1]

The third dogma for which the Bhagvat Gita offers a philosphic defence is the Karma marga. By Karma marga the Bhagvat Gita means the performance of the observances, such as Yajnas as a way to salvation. The Bhagvat Gita most stands out for the Karma marga throughout and is a great upholder of it. The line it takes to defend Karma yoga is by removing the excrescences which had grown upon it and which had made it appear quite ugly. The first excrescence was blind faith. The Gita tries to remove it by introducing the principle of Buddhi yoga[2] as a necessary condition for Karma yoga. Become Stihtaprajna i.e., 'Befitted with Buddhi' there is nothing wrong in the performance of Karma kanda. The second excrescence on the Karma kanda was the selfishness which was the motive behind the performance of the Karmas. The Bhagvat Gita attempts to remove it by introducing the principle of *Anasakti* i.e., performance of karma without any attachment for the fruits of the *Karma*.[3] Founded in Buddhi yoga and dissociated from selfish attachment to the fruits of Karma what is wrong with the dogma of Karma kand ? this is how the Bhagvat Gita defends the Karma marga.[4] It would be quite possible to continue in this strain, to pick up other dogmas and show how the Gita comes forward to offer a philosophic defence in their support where none existed before. But this could be done only if one were to write a treatise on the Bhagvat Gita. it is beyond the scope of a chapter the main purpose of which is to assign to the Bhagvat Gita its proper place in the ancient Indian literature. I have therefore selected the most important dogmas just to illustrate my thesis.

Two other questions are sure to be asked in relation to my thesis. Whose are the Dogmas for which the Bhagvat Gita offers this philosophical defence? Why did it become necessary for the Bhagvat Gita to defend these Dogmas?

To begin with the first question, the dogmas which the Gita defends are the dogmas of counter-revolution as put forth in the Bible of counter-revolution namely Jaimini's Purvamimamsa. There ought to be no difficulty in accepting this proposition. If there is any it is largely due to wrong meaning attached to the word Karma yoga. Most writers on the Bhagvat Gita translate the word Karma yoga as 'action' and the word Janga yoga, as 'knowledge' and proceed to discuss the Bhagvat Gita as though it was engaged in comparing and contrasting

[1] Bhagvat Gita IV. 13.

[2] Bhagvat Gita II. 39-53

[3] Bhagvat Gita II. 47.

[4] This is well summed up in Bhagvat Gita II. 48.

knowledge versus action in a generlized form. This is quite wrong. The Bhagvat Gita is not concerned with any general, philosophical discussion of action versus knowledge. As a matter of fact, the Gita is concerned with the particular and not with the general. By Karma yoga or action Gita means the dogmas contained in Jaimini's Karma kanda and by Jnana yoga or knowledge it means the dogmas contained in Badarayana's Brahma Sutras. That the Gita in speaking of Karma is not speaking of activity or inactivity, quieticism or energism, in general terms but religious acts and observances cannot be denied by anyone who has read the Bhagvat Gita. It is to life the Gita from the position of a party pamphlet engaged in a controversy on small petty points and make it appear as though it was a general treatise on matters of high philosophy that this attempt is made to inflate the meaning of the words Karma and Jnana and make them words of general import. Mr. Tilak is largely to be blamed for this trick of patriotic Indians. The result has been that these false meanings have misled people into believing that the Bhagvat Gita is an independent self-contained book and has no relation to the literature that has preceded it. But if one were to keep to the meaning of the word Karma yoga as one finds it in the Bhagvat Gita itself one would be convinced that in speaking of Karma yoga the Bhagvat Gita is referring to nothing but the dogmas of Karma kanda as propounded by Jaimini which it tries to renovate and strengthen.

To take up the second question: Why did the Bhagvat Gita feel it necessary to defend the dogmas of counter-revolution? To my mind the answer is very clear. It was to save them from the attack of Buddhism that the Bhagvat Gita came into being. Buddha preached non-violence. He not only preached it but the people at large—except the Brahmins—had acepted it as the way of life. They had acquired a repugnance to violence. Buddha preached against Chaturvarnya. He used some of the most offensive similes in attacking the theory of Chaturvarnya. The frame work of Chaturvarnya had been broken. The order of Chaturvarnya had been turned upside down. Shudras and women could become sannyasis, a status which counter-revolution had denied them. Buddha had condemned the Karma kanda and the Yajnas. He condemned them on the ground of *Himsa* or violence. He condemned them also on the ground that the motive behind them was a selfish desire to obtain bonus. What was the reply of the counter-revolutionaries to this attack? Only this. These things were ordained by the Vedas, the Vedas were infallible, therefore the dogmas were not to be questioned. In the Buddhist age, which was the most enlightened and the most rationalistic age India has known, dogmas resting on

such silly, arbitrary, unrationalistic and fragile foundations could hardly stand. People who had come to believe in non-violence as a principle of life and had gone so far as to make it a rule of life—How could they be expected to accept the dogma that the Kshatriya may kill without sinning because the Vedas say that it is his duty to kill ? People who had accepted the gospel of social equality and who were remaking society on the basis of each one according to his merits—how could they accept the chaturvarnya theory of gradation, and separation of man based on birth simply because the Vedas say so ? People who had accepted the doctrine of Buddha that all misery in society is due to Tanha or what Tawny calls acquisitive instinct—how could they accept the religion which deliberatly invited people to obtain boons by sacrifices merely because there is behind it the authority of the Vedas? There is no doubt that under the furious attack of Buddhism, Jaimini's counter-revolutionary dogmas were tottering and would have collapsed had they not received the support which the Bhagvat Gita gave them. The philosophic defence of the counter-revolutionary doctrines given by the Bhagwat Gita is by no means impregnable. The philosophic defence offered by the Bhagvat Gita of the Kshtriya's duty to kill is to say the least puerile. To say that killing is no killing because what is killed is the body and not the soul is an unheard of defence of murder. This is one of the doctrines which make some people say that the doctrines make one's hair stand on their end. If Krishna were to appear as a lawyer acting for a client who is being tried for murder and pleaded the defence set out by him in the Bhagvat Gita there is not the slightest doubt that he would be sent to the lunatic asylum. Similarly childish is the defence of the Bhagvat Gita of the dogma of chaturvarnya. Krishna defends it on the basis of the Guna theory of the Sankhya. But Krishna does not seem to have realized what a fool he has made of himself. In the chaturvarnya there are four Varnas. But the gun as according to the Sankhy as are only three. How can a system of four varnas be defended on the basis of a philosophy which does not recognise more than three varnas? The whole attempt of the Bhagvat Gita to offer a philosophic defence of the dogmas of counterrevolution is childish—and does not deserve a moment's serious thought. None-the-less there is not the slightest doubt that without the, help of the Bhagvat Gita the counter-revolution would have died out, out of sheer stupidity of its dogmas. Mischievous as it may seem, to the revolutionaries the part played by the Bhagvat Gita, there is no doubt that it resuscitated counter-revolution and if the counterrevolution lives even today, it is entirely due to the plausibility of the philosophic defence which it received from the Bhagvat Gita— anti-

Veda and anti-Yajna. Nothing can be a greater mistake than this. As will appear from other portions of the Bhagvat Gita that it is not against the authority of the vedas and shastras (XVI, 23, 24: XVII, 11,13, 24). Nor is it against the sanctity of the yajnas (III. 9-15). It upholds the virtue of both. There is therefore no difference between Jaimini's Purva Mimansa and the Bhagvat Gita. If anything, the Bhagvat Gita is a more formidable supporter of counter-revolution than Jaimini's Purva Mimansa could have ever been. It is formidable because it seeks to give to the doctrines of counter-revolution that philosophic and therefore permanent basis which they never had before and without which they would never have survived. Particularly formidable than Jaimini's Purva Mimansa is the philosophic support which the Bhagvat Gita gives to the central doctrine of counter-revolution—namely Chaturvarnya. The soul of the Bhagvat Gita seems to be the defence of Chaturvarnya and securing its observance in practice, Krishna does not merely rest content with saying that Chaturvarnya is based on Guna-karma but he goes further and issues two positive injunctions. The first injunction is contained in Chapter III verse 26. In this Krishna says: that a wise man should not by counter propaganda create a doubt in the mind of an ignorant person who is follower of Karma kand which of course includes the observance of the rules of Chaturvarnya. In other words, you must not agitate or excite people to rise in rebellion against the theory of Karma kand and all that it includes. The second injunction is laid down in Chapter XVIII verses 41-48. In this Krishna tells that every one do the duty prescribed for his Varna and no other and warns those who worship him and are his devotees that they will not obtain salvation by mere devotion but by devotion accompanied by observance of duty laid down for his Varna. In short, a Shudra however great he may be as a devotee will not get salvation if he has transgressed the duty of the Shudra—namely to live and die in the service of the higher classes. The second part of my thesis is that the essential function of the Bhagvat gita to give new support to Jaimini at least those portions of it which offer philosophic defence of Jaimini's doctrines—has become to be written after Jaimini's Purva Mimansa had been promulgated. The third part of my thesis is that this philosophic defence of the Bhagvat Gita, of the doctrines of couter-revolution became necessary because of the attack to which they were subjected by the revolutionary and rationalistic thought of Buddhism.

I must now turn to the objections that are likely to be raised against the validity of my thesis. I see one looming large before me. I shall be told that I am assuming that the Bhagvat Gita is posterior in time to

Buddhism and to Jaimini's Purva Mimansa and that this asumption has no warrant behind it. I am aware of the fact that my thesis runs counter to the most cherished view of Indian scholars all of whom, seem to be more concerned in fixing a very ancient date to the compositon of the Bhagvat Gita far anterior to Buddhism and to Jaimini than in finding out what is the message of the Bhagvat Gita and what value it has as a guide to man's life. This is particularly the case with Mr. Telang and Mr. Tilak. But as Garbe[1] observes "To Telang, as to every Hindu—how much so ever enlightened—it is an article of faith to believe in so high an antiquity of the Bhagvat Gita and where such necessities are powerful criticism indeed comes to an end."

In the words of Prof. Garbe:

> "The task of assigning a date to the Gita has been recognized by every one who has earnestly tried to solve the problem, as being very difficult; and the difficulties grow (all the more) if the problem is presented two fold, viz., to determine as well the age of the original Gita as also of its revision. I am afraid that generally speaking, we shall succeed in arriving, not at any certainties, but only at probabilities in this matter."

What are the probabilities? I have no doubt that the probabilities are in favour of my thesis. Indeed so far as I can see there is nothing against it. In examining this question, I propose first to advance direct evidence from the Gita itself showing that it has been composed after Jaimini's Purva Mimansa and after Buddhism.

Chapter III verses 9-13 of the Bhagvat Gita have a special significance. In this connection it is true that the Bhagvat Gita does not refer to Jaimini by name: nor does it mention Mimansa by name. But is there any doubt that in Chapter III verses 9-18 the Bhagvat Gita is dealing with the doctrines formulated by Jaimini in his Purva Mimansa? Even Mr. Tilak[2] who believes in the antiquity of the Bhagvat Gita has to admit that here the Gita is engaged in the examination of the Purva Mimansa doctrines. There is another way of presenting this argument. Jaimini preaches pure and simple Karma yoga. The Bhagvat Gita on the other hand preaches *anasakti* karma. Thus the Guta preaches a doctrine which is fundamentally modified Not only the Bhagvat Gita modifies the Karma yoga but attacks the upholders of pure and simple Karma yoga in somewhat severe terms.[3].If the Gita is prior to Jaimini one would expect Jaimini to take note of this attack of the Bhagvat Gita and reply to it. But we do not find any; reference in Jaimini to this *anasakti* karma yoga of the Bhagvat Gita.

[1] Introduction (Indian Antiquary Supplement) p. 30.

[2] Gita Rahasya Vol. II. 916-922.

[3]Bhagvat Gita II. 42-16 and XVIII 66.

Why? The only answer is that this modification came after Jaimini and not before—which is simply another way of saying that the Bhagvat Gita was composed after Jaimini's Purva Mimansa.

If the Bhagvat Gita does not mention Purva Mimansa it does mention by name the Brahma Sutras[1] of Badarayana. This reference to Brahma Sutras is a matter of great significance for it furnishes direct evidence for the conclusion that the Gita is later than the Brahma Sutras.

Mr. Tilak[2] admits that the reference to the Brahma Sutras is a clear and defniite reference to the treatise of that name which we now have. It may be pointed out that Mr. Telang[3] discusses the subject in a somewhat cavalier fashion by saying that the treatise "Brahma Sutras" referred to in the Bhagvat Gita is different from the present treatise which goes by that name. He gives no evidence for so extraordinary a proposition but relies on the Conjectural statement of Mr. Weber[4]—given in a foot-note of his Treatise in Indian Literature, again without any evidence—that the mention of Brhma Sutras in the Bhagvat Gita "may be taken as an appellative rather than as a proper name." It would not be fair to attribute any particular motives to Mr. Telang for the view he has taken on this point. But there is nothing unfair in saying that Mr. Telang[3] shied at admitting the reference to Brahma Sutra because he saw that Weber had on the authority of Winternitz assigned 500 A.D. to the composition of the Brahma Sutras, which would have destroyed his cherished theory regarding the antiquity of the Bhagvat Gita. There is thus ample internal evidence to support the conclusion that the Gita was composed after Jaimini's Purva Mimansa and Badarayana's Brahma Sutras.

Is the Bhagvat Gita anterior to Buddhism ? the question was raised by Mr. Telang:

> "We come now to another point. What is the position of the Gita in regard to the great reform of Sakya Muni? The question is one of much interest, having regard particularly to the remarkable coincidences between Buddhistic doctrines and the doctrines of the Gita to which we have drawn attention in the footnotes to our translation. But the materials for deciding the question are unhappily not forth coming. Professor Wilson, indeed, thought that there was

[1] Bhagwat Gita XIII. 4

[2] Gita Rahasya II. p. 749.

[3] Bhagvat Gita (S.B.E.) Introduction p. 31.

[4] History of Indian Literature p. 242 f.n.

[5] On the other hand, it may be said that Mr. Tilak readily admitted the reference because it was his opinion that Brahma Sutras were a very ancient treatise—see Gita Rahasya Vol. II.

an allusion to Buddhism in the Gita.[1] But his idea was based on a confusion between the Buddhists and the Charvakas or materialists.[2] Failing that allusion, we have nothing very tangible but the unsatisfactory 'negative argument' based on mere non-mention of Buddhism in the Gita. That argument is not quite satisfactory to my own mind, although, as I have elsewhere pointed out,[3] some of the ground occupied by the Gita is common to it with Buddhism, and although various previous thinkers are alluded to directly or indirectly in the Gita. There is, however, one view of the facts of this question, which appears to me to corroborate the conclusion deducible by means of the negative argument here referred to. The main points on which Budddha's protest against Brahmanism rests, seem to be the true authority of the Vedas and the true view of the differences of caste. On most points of doctrinal speculation. Buddhism is still but one aspect of the older Brahmanism[4]. The various coincidences to which we have drawn attention show that, if there is need to show it. Well now, on both these points, the Gita, while it does not go the whole length which Buddha goes, itself embodies a protest against the views current about the time of its composition. The Gita does not, like Buddhism, absolutely reject the Vedas, but it shelves them. The Gita does not totally root out caste. It places caste on a less untenable basis. One of two hypothesis therefore presents itself as a rational theory of these facts. Either the Gita and Buddhism were alike the outward manifestation of one and the same spiritual upheaval which shook to its centre the current religion, the Gita being the earlier and less thorough going form of it; or Buddhism having already begun to tell on Brahmanism, the Gita was an attempt to bolster it up, so to say, at its least weak points, the weaker ones being altogether abandoned. I do not accept the latter alternative, because I cannot see any indication in the Gita of an attempt to compromise with a powerful attack on the old Hindu system while the fact that, though strictly orthodox, the author of the Gita still undermines the authority, as unwisely venerated, of the Vedic revelation; and the further fact, that in doing this, he is doing what others also had done before him or about his time; go, in my opinion, a considerable way towards fortifying the results of the negative argument already set forth. To me Buddhism is perfectly intelligible as one outcome of that play of thought on high

[1] Essays on Sanskrit Literature. Vo. Ill p. 150.

[2] See our remarks on this point in the Introductory Essay to our Gita in verse p. II seq.

[3] Introduction to Gita in English verse p. v. seq,

[4] Cr. Max Muller's Hibbert Lectures, p. 137 Webet's Indian Literature, pp. 288, 289: and Rhys Davids' excellent little volume on Buddhism, p. 151; and see also p. 83 of Mr. Davids' book.

spiritual topics, which in its other, and as we may say, less thorough going, manifestation we see in the Upanishads and the Gita[1]."

I have quoted this passage in full because it is typical of all Hindu scholars. Everyone of them is most reluctant to admit that the Bhagvat Gita is anyway influenced by Buddhism and is ever ready to deny that the Gita has borrowed anything from Buddhism. It is the attitude of Prof. Radhakrishnan and also of Tilak. Where there is any similarity in thought between the Bhagvat Gita and Buddhism too strong and too close to be denied, the argument is that it is borrowed from the Upanishads. It is typical of the mean mentality of the counterrevolutionaries not to allow any credit to Buddhism on any account.

The absurdity of these views must shock all those who have made a comparative study of the Bhagvat Gita and the Buddhist Suttas. For if it is true to say that Gita is saturated with Sankhya philosophy it is far more true to say that the Gita is full of Buddhist ideas.[2] The similarity between the two is not merely in ideas but also in language. A few illustrations will show how true it is.

The Bhagvat Gita discusses Bramha-Nirvana.[3] The steps by which one reaches Bramha. Nirvana are stated by the Bhagvat Gita to be (1) Shraddha (Faith in oneself); (2) Vyavasaya (Firm determination); (3) Smriti (Rememberance of the goal); (4) Samadhi (Earnest contemplation) and (5) Prajna (Insight or True Knowledge). From where has the Gita borrowed this Nirvana theory? Surely it is not borrowed from the Upanishads. For no Upanishad even mentions the word Nirvana. The whole idea is peculiarly Buddhist and is borrowed from Buddhism. Anyone who has any doubt on the point may compare this Bramha-Nirvana of the Bhagvat Gita with the Buddhist conception of Nirvana as set out in the Mahapari-nibbana Sutta. It will be found that they are the same which the Gita has laid down for Bramha-Nirvana. Is it not a fact that the Bhagvat Gita has borrowed the entire conception of Brmhma Nirvana instead of Nirvana for no other reason except to conceal the fact of its having stolen it from Buddhism ?

Take another illustration. In Chapter VII verses 13-20 there is a discussion as to who is dear to Krishna; one who has knowledge, or one who performs karma or one who is a devotee. Krishna says that the Devotees is dear to him but adds that he must have the true marks

[1] Cr. Weber's History of Indian Literature, p. 285. In Mr. Davids' Buddhism, p. 94 we have a noteworthy extract from a standard Buddhistic work, touching the existence of the soul. Compare that with the corresponding doctrine in the Gita. It will be found that the two are at one in rejecting the identity of the soul with the senses &c. The Gita then goes on to admit a soul separate from these. Buddhism rejects that also, and sees nothing but the senses.

[2] On this point compare Bhagvat Gita by S. D. Budhiraja M.A.. L.L.B.. Chief Judge, Kashmere. At every point the author has attempted to draw attention to textual similarities between the Gita and Buddhism.

[3] Max Muller Mahapari-Nibbana Sutta p. 63.

of a Devotee. What is the charcter of a true Devotee ? According to Krishna the true devotee is one who practices (1) Maitri; (loving Kindness); (2) Karuna (compassion); (3) Mudita (sympathizing joy) and (4) Upeksa (unconcernedness). From where has the Bhagvate Gita borrowed these qualifications of a perfect Devotee ? Here again, the source is Buddhism. Those who want proof may compare the Mahapadana Sutta,[1] and the Tevijja Sutta[2] where Buddha has preached what Bhavanas (mental attitude) are necessary for one to cherish for the training of the heart. This comparison will show that the whole ideology is borrowed from Buddhism and that too word for word.

Take a third illustration. In chapter XIII the Bhagvat Gita descusses the subject of Kshetra-Kshetrajna. In verses 7-11 Krishna points out what is knowledge and what is ignorance in the following language:

> "Pridelessness (Humility), Unpretentiousness, Non-injury or Harmlessness, Forgiveness, Straight-forwardness, (uprightness), Devotion to Preceptor, Purity, Steadiness, Self-restraint, Desirelessness towards objects of sense, absence of Egoism, Reflection on the suffering and evil of Birth, Death, decrepitude and disease, Non-attachment, Non-identification of oneself with regard to son, wife and home and the rest, Constant even-mindedness on approach of both (what is) agreeable and (what is) disagreeable unswerving devotion to Me with undivided meditation of Me, Resort to sequestered spots (contemplation, concentration, in solitude), Distaste for the society of worldly men, Incessant application to the knowledge relating to self, Perception or realisation of the true purport of the knowledge of the Tattvas (Samkhya Philosophy), all this is called 'knowledge'; what is Ajnana (Ignorance) which is the reverse thereof."

Can anyone who knows anything of the Gospel of Buddha deny that the Bhagvat Gita has not in these stanzas reproduced word for word the main doctrines of Buddhism?

In chapter XIII verses 5, 6, 18, 19, the Bhagvat Gita gives a new metaphorical interpretation of karmas under various heads (1) Yajnas (sacrifices); (2) Dana (Gifts); (3) Tapas (penances); (4) Food and (5) Svadhyaya (Vedic study). What is the source of this new interpretation of old ideas ? Compare with this what Buddha is reported to have said in the Majjhina Nikaya I, 286 Sutta XVI. Can anyone doubt that what Krishna says in verses 5, 6, 18, 19 of chapter XVII is a verbatim reproduction of the words of Buddha?

[1] See Mahapadana Sutta p.

[2] Tevijja Sutta p.

These are only a few illustrations I have selected those of major doctrinal importance. Those who are interested in pursuing the subject, may take up the reference to similarities between Gita and Buddhism given by Telang in the footnotes to his edition of the Bhagvat Gita and satisfy their curiosity. But the illustrations I have given will be enough to show how greatly the Bhagvat Gita is permeated by Buddhistic ideology and how much the Gita has borrowed from Buddhism. To sum up the Bhagvat Gita seems to be deliberately modelled on Buddhists Suttas. The Buddhists Suttas are dialogues. So is the Bhagvat Gita. Buddha's religion offered salvation to women and Shudras. Krishna also comes forward to offer salvation to women and Shudras. Buddhists say, "I surrender to Buddha, to Dhamma and to Sangha." So Krishna says, "Give up all religions and surrender unto Me." No parallel can be closer than what exists between Buddhism and Bhagvat Gita.

IV

I have shown that Gita is later than Purva Mimansa and also later than Buddhism. I could well stop here. But I feel I cannot. For there still remains one argument against my thesis which requires to be answered. It is the argument of Mr. Tilak. It is an ingenious argument. Mr. Tilak realizes that there are many similarities in ideas and in words between the Bhagvat Gita and Buddhism. Buddhism being earlier than the Bhagvat Gita, the obvious conclusion is that the Bhagvat Gita is the debtor and Buddhism is the creditor. This obvious conclusion is not palatable to Mr. Tilak or for the matter of that to all upholders of counter-revolution. With them it is a question of honour that counter-revolution should not be shown to be indebted to Revolution. To get over this difficulty Mr. Tilak has struck a new line. He points out the distinction between Hinayana Buddhism and Mahayana Buddhism and say, that Mahayana Buddhism was later than Bhagvat Gita and if there are any similarities between the Buddhism and Bhagvat Gita it is due to the borrowing by the Mahayanist from the Bhagvat Gita. This raises two questions. What is the date of the origin of the Mahayana Buddhism ? What is the date of the composition of the Bhagvat Gita ? The argument of Mr. Tilak is ingenious and clever. But it has no substance. In the first place, it is not original. It is based on certain casual remarks made by Winternitz[1] and by Kern[2] in foot-notes that there are certain similarties between

[1] History of Indian Literature (English Translation) Vol. II, p. 229 foot-note.

[2] Manual of Indian Buddhism p. 122 foot-note.

the Bhagvat Gita and the Mahayan Buddhism and that there similarities are the result of Mahayana Buddhism borrowing its ideas from the Bhagvat Gita. Behind these remarks there is no evidence of special research either on the part of Winternitz, Kern or Mr. Tilak. All of them seem to be led away by the assumption that the Bhagvat Gita is earlier than Mahayana Buddhism.

This leads me to examine the question of the date of the Bhagvat Gita particularly with reference to the theory as put forth by Mr. Tilak. Mr. Tilak[1] is of opinion that the Gita is part of the Mahabharata and that both have been written by one and the same author named Vyasa and consequently the date of the Mahabharata must be the date of the Bhagvat Gita. The Mahabharata, Mr. Tilak argues, must have been written at least 500 years before the Shaka Era on the groung that the stories contained in the Mahabharata were known to Megasthenes who was in India about 300 B.C. as a Greek ambassador to the court of Chandragupta Maurya. The Shaka Era began in 78 A.D. On this basis it follows that the Bhagvat Gita must have been composed before 422 B.C. This is his view about the date of the composition of the present Gita. According to him, the original Gita must have been some centuries older than Mahabharata If reliance be placed on the tradition referred to in the Bhagvat Gita that the religion of the Bhagvat Gita was taught by Nara to Narayan in very ancient times. Mr. Tilak's theory as to the date of the composition of the Mahabharata is untenable. In the first place, it assumes that the whole of the Bhagvat Gita and the whole of Mahabharat have been written at one stretch, at one time and by one hand. There is no warrant for such an assumption, either in tradition, or in the internal evidence of these two treatises. Confining the discussion to the Mahabharata the assumption made by Mr. Tilak is quite opposed to well-known Indian traditions. This tradition divides the compostion of the Mahabharata into three stages; (1) Jaya (2) Bharata and (3) Mahabharata and assigns to each part a different author. According to this tradition Vyasa was the author of the 1st edition so to say of the Mahabharata called 'Jaya'. Of the Second Edition called 'Bharata' tradition assigns the authorship to Vaishampayana and that of the Third Edition called Mahabharata to 'Sauti'. That this tradition is well-founded has been confirmed by the researches of Prof. Hopkins based on the examination of. internal evidence furnished by the Mahabharata. According to Prof. Hopkins[2] there have been several stages in the composition of the Mahabharata. As has been pointed

[1] Gita Rahasya Vol. II p. 791-800.

[2] The Great Epic of India p. 398.

out by Prof. Hopkins[1] in the first stage it was just a Pandu Epic consisting of plays and legends about heroes who took part in the Mahabharata war without the masses of didactic material. Such a Mahabharata, says Prof. Hopkins, may have come into existence between 400-200 B.C. The second stage was the remaking of the epic by the inclusion of didactic matter and the addition of Puranic material. This was between 200 B.C. and 200 A.D. The third stage is marked when (1) the last books were added to the composition as it stood at the end of the second stage with the introduction of the first book and (2) the swollen Anushasana Parva was separated from Shanti Parva and recognized as a separate book. This happened between 200 to 400 A.D. To these three stages Prof. Hopkins adds a fourth or a final stage of occasional amplification which started from 400 A.D. onwards. In coming to this conclusion Prof. Hopkins has anticipated and dealt with all the arguments advanced by Mr. Tilak such as the mention of Mahabharata in Panini[2] and in the Grihyasutras.[3] The only new pieces of evidence produced by Mr. Tilak which has not been considered by Prof. Hopkins are two. One such piece of evidence consists of the statements which are reported to have been recorded by Megasthenes,[4] the Greek Ambassador to the court of Chandra Gupta Maurya, and the other is the astronomical evidence[5], in the Adi Parva which refers to the Uttarayana starting with the Shravana constellation. The facts adduced by Mr. Tilak as coming from Megasthenes may not be denied and may go to prove that at the time of Megasthenes i.e., about 300 B.C. a cult of Krishna worship had come into existence among the Sauraseni community. But how can this prove that the Mahabharata had then come into existence ? It cannot. Nor can it prove that the legends and stories mentioned by Megasthenes were taken by him from the Mahabharata. For there is nothing to militate against the view that these legends and stories were a floating mass of Saga and that it served as a reservoir both to the writer of the Mahabharata as well as to Greek Ambassador.

Mr. Tilak's astronomical evidence may be quite sound. He is right insaying[6] that "it is stated in the Anugita that Visvamitra started the enumeration of the constellation with Shravana (Ma.Bha. Asva.44.2, and Adi.71.34). That has been interpreted by commentators as showing that the Uttarayana then started with the Shravana constellation, and no other interpretation is proper. At the date of the

[1] The Great Epic of India p. 398.

[2] The Great Epic of India p. 395.

[3] Ibid p. 390.

[4] Gita Rahasya II p. 79.

[5] Gita Rahasya II p. 789.

[6] Ibid p. 789.

Vedanga-Jyotisa, the Uttarayana used to start with the Sun in the Dhanistha constellation. According to astronomical calculations, the date when the Uttarayana should start with the Sun in the Dhanistha constellation to about 1,500 years before the Saka era; and according to astronomical calculations, it takes about a thousand years for the Uttarayana to start one constellation earlier. According to this calculation, the date when the Uttarayana ought to start with the Sun in the Shravana constellation comes to about 500 years before the Saka era. This conculsion would have been proper if it was true that the Mahabharata was one whole piece, written at one time by one author. It has, however, been shown that there is no warrant for such an assumption. In view of this Mr, Tilak's astroncomical evidence cannot be used to determine the date of the Mahabharata. It can be used only to determine the date of that part of the Mahabharata which is affected by it—in this case the Adi Parva of the Mahabharata. For these reasons Mr. Tilak's theory as to the date of the composition of the Mahabharata must fall to the ground. Indeed any attempt to fix a single date for a work like the Mahabharata which is a serial story produced in parts at long intervals must be regarded as futile. All that one can say is that the Mahabharata was composed between 400B.C. to 400A.D. a conclusion too broad to be used for the purpose which Mr. Tilak has in view. Even this span seems to some scholars to be too narrow. It is contended[1] that the reference to *Edukas* in the 190th Adhyaya of the Vanaparva has been wrongly interpreted to mean. Buddhist Stupas when, as a matter of fact, it refers to the *Idgahas* created by the Muslim invaders for Muslim converts. If this interpretation is correct it would show that parts of the Mahabharata were written about or after the invasions of Mohammed Ghori.

Let me now turn to examine Mr. Tilak's theory as to the date of the composition of the Bhagvat Gita, There are really two propositions underlying his theory. First is that the Gita is part of the Mahabharata, both are written at one time and are the handiwork of one man. His second proposition is that the Bhagvat Gita has been the same what it is today from the very beginning when it first came to be written. To avoid confusion I propose to take them separately.

Mr. Tilak's object in linking the Gita with the Mahabharata in the matter of its composition is quite obvious. It is to have the date of the Mahabharata which he thinks is known to derermine the date of the Bhagvat Gita which is unknown. The basis on which Mr. Tilak has tried to establish an integral connection between the Mahabharata and the Bhagvat Gita is unfortunately the weakest part of his theory. To

[1] Dharmanand Kausambi — Hindi Sanskriti ani Ahimsa (Marathi) p. 156.

accept that the Gita is a part of the Mahabharata because the author of both is Vyasa—and this is the argument of Mr. Tilak—is to accept a fiction for a fact. It assumes that Vyasa is the name of some particular individual capable of being identified. This is evident from the fact that we have Vyasa as the author of the Mahabharata, Vyasa as the author of the Puranas, Vyasa as the author of Bhagvat Gita and Vyasa as the author of the Bramha Sutras. It cannot therefore be accepted as true that the same Vyasa is the author of all these works separated as they are by a long span of time extending to several centuries. It is well-known how orthodox writers wishing to hide their identity get better authority for their works by the use of a revered name were in the habit of using Vyasa as a nom-de-plume or pen name. If the author of the Gita is a Vyasa he must be a different Vyasa. There is another argument which seems to militate against Mr, Tilak's theory of synchroniety between the composition of the Bhagvat Gita and the Mahabharata. The Mahabharata consists of 18 Parvas. There are also 18 Puranas. It is curious to find that Bhagvat Gita has also 18 Adhyayas. The question is: Why should there be this parallelism? The answer is that the ancient Indian writers regarded certain names and certain numbers as invested with great sanctity. The name Vyasa and the number 18 are illustrations of this fact. But there is more in the fixation of 18 as the chapters of the Bhagvat Gita than is apparent on the face of it. Who set 18 as the sacred number, the Mahabharata or the Gita ? If the Mahabharata, then Gita must have been written after the Mahabharata. If it is the Bhagvat Gita, then the Mahabharata must have been written after the Gita. In any case, the two could not have been written at one and the same time.

These considerations may not be accepted as decisive against Mr. Tilak's first proposition. But there is one which I think is decisive. I refer to the relative position of Krishna in the Mahabharata and in the Bhagvat Gita. In the Mahabharata, Krishna is nowhere represented as a God accepted by all. The Mahabharata itself shows the people were not prepared even to give him the first place. When at the time of the Rajasuya Yajna, Dharma offered to give Krishna priority in the matter of honouring the guest, Shishupala—the near relation of Krishna—protested and abused Krishna. He not only charged him with low origin, but also with loose morals, an intriguer who violated rules of war for the sake of victory. So abhorent but so true was this record of Krishna's foul deeds that when Duryodhan flung them in the face of Krishna, the Mahabharata itself in the Gada Parva records that the Gods in heaven came out to listen to the charges made by Duryodhan against Krishna and after listening showered flowers as

a token of their view that the charges contained the whole truth and nothing but the truth. On the other hand, the Bhagvat Gita presented Krishna as God omnipotent, omniscient, omnipresent, pure, loving, essence of goodness. Two such works containing two quite contradictory estimates about one and the same personality could not have been written at one and the same time by one and the same author. It is a pity that Mr. Tilak in his anxiety to give a pre-Buddhist date to the composition of the Bhagvat Gita should have completely failed to take note of these important considerations.

The second proposition of Mr. Tilak is equally unsound. The attempt to fix a date for the composition of the Bhagvat Gita is nothing but the pursuit of a mirage. It is doomed to failure. The reason is that the Bhagvat Gita is not a single book written by a single author. It consists of different parts written at different times by different authors.

Prof. Garbe is the only scholar who has seen the necessity of following this line of inquiry. Prof. Garbe hold that there are two parts of the Bhagvat Gita one original and one added. I am not satisfied with this statement. My reading of the Bhagvat Gita leads me to the conclusion that there have been four separate parts of Bhagvat Gita. They are so distinct that taking even the present treatise as it stands they can be easily marked off.

(i) The original Gita was nothing more than a heroic tale told or a ballad recited by the bards of how Arjuna was not prepared to fight and how Krishna forced him to engage in battle, how Arjuna yielded and so on. It may have been a romantic story but there was nothing religious or philosophical in it.

This original Gita will be found embedded in Chapter I, Chapter II, verses.... and Chapter XI verses 32-33 in which Krishna is reported to have ended the argument:

> "Be my tool, carry out my will, don't worry about sin and evil resulting from fighting, do as I tell you, don't be impudent."

This is the argument which Krishna used to compel Arjuna to fight. And this argument of coercion and compulsion made Arjuna yield. Krishna probably threatened Arjuna with brute force if he did not actually use it. The assumption of Vishva-rupa by Krishna is only different way of describing the use of brute force. On that theory it is possible that the chapter in the present Bhagvat Gita dealing with Vishva-rupa is also a part of the original Bhagvat Gita.

(ii) The first patch on the original Bhagvat Gita is the part in which Krishna is spoken of as Ishvara, the God of the Bhagvat religion. This part of the Gita is embedded in those verses of the present Bhagvat Gita which are devoted to Bhakti Yoga.

(iii) The second patch on the original Bhagvat Gita is the part which introduces the Sankhya and the Vedanta philosophy as a defence to the doctrines of Purva Mimansa which they did not have before. The Gita was originally only a historical Saga with the cult of Krishna came to be interwoven. The Philosophy portion of the Bhagvat Gita was a later intrusion can be proved quite easily from the nature of the original dialogue and the sequence of it.

In chapter I verses 20-47 Arjuna mentions those difficulties. In chapter II Krishna attempts to meet the difficulties mentioned by Arjuna. There are arguments and counter arguments. Krishna's first argument is contained in verse 2 and 3 in which Krishna tells Arjuna that his conduct is infamous, unbecoming an Arya and that he should not play the part of an effeminate which was unworthy of him. To this, Arjuna gives a reply which is embodied in verses 4 to 8. In verses 4 to 5 he says, "how can I kill Bhishma and Drona who are entitled to highest reverence: it would be better to live by begging than kill them. I do not wish to live to enjoy a kindom won by killing old revered elders." In verses 6 to 8 Arjuna says: "I do not know which of the two is more meritorious, whether we should vanquish the Kauravas or whether we should be vanquished by them." Krishna's reply to this is contained in verses 11 to 39 in which he propounds (i) that grief is unjustified because things are imperishable, (ii) that it is a false view that a man is killed when the atman is eternal and (iii) that he must fight because it is the duty of the Kshatriya to fight.

Any one who reads the dialogue will notice the following points:

(1) The questions put by Arjuna are *not* philosophical questions. They are natural questions put by a worldly man faced with worldly problems.

(2) Upto a point Krishna treats them as natural questions and returns to them quite natural replies.

(3) The dialogue takes a new turn. Arjuna after having informed Krishna positively and definitely that he will not fight, suddenly takes a new turn and expresses a doubt whether it is a good to kill the Kauravas or be killed by them.This is a deliberate departure designed to give Krishna a philosophical defence of war, uncalled for by anything said by Arjuna.

(4) Again there is a drop in the tone of Krishna from verses 31 to 38. He treats the question as natural and tells him to fight because it is the duty of the Kshatriya to fight.

Anyone can see from this that the introduction of the Vedanta philosophy is quite unnatural and therefore a later intrusion. With regard to the introduction of the Sankhya philosophy the case is quite

obvious. Often it is expounded without any question by Arjuna and whenever it has been propounded in answer to a question that question has nothing to do with the war. This shows that the philosophic parts of the Bhagvat Gita are not parts of the original Gita but have been added later on and in order to find a place for them, new, appropriate and leading questions have been put in the mouth of Arjuna which have nothing to do with the mundane problems of war.

(iv) The third patch on the oriinal Bhagvat Gita consists of verses in which Krishna is elevated from the position of Ishwara to that of Parmeshwara. This patch can be easily detected as being chapters X and XV where Krishna says:

(Quotation not mentioned) .....

As I said, to go in for a precise date for the composition of the Bhagvat Gita is to go on a fool's errand and that if an attempt in that direction is to be of any value, effort must be directed to determine the date of each patch separately. Proceeding in this way it is possible that what I have called the original unphilosophic Bhagvat Gita was part of the first edition of the Mahabharata called Jaya. The first patch on the original Bhagvat Gita in which Krishna is depicted as Ishvara must be placed in point of date sometimes later than Megasthenes when Krishna was only a tribal God,[1] How much later it is not possible to say. But it must be considerably later. For it must be remembered that the Brahmins were not friendly to Krishnaism in the beginning. In fact they were opposed to it.[2] It must have taken some time before the Brahmins could have become reconciled to Krishna worship.[3]

The second patch on the original Bhagvat Gita having reference to Sankhya and Vedanta must for reason already given be placed later than the Sutras of Jaimini and Badarayana. The question of the date of these Sutras has carefully been examined by Prof. Jacobi[4]. His conclusion is that these Sutras were composed sometime between 200 and 450 A.D.

The third patch on the original Bhagvat Gita in which Krishna is raised into Parmeshvara must be placed during the reign of the Gupta Kings. The reason is obvious. Gupta kings made Krishna-Vasudev their family deity as their opponents the Shaka kings had made

[1] Dr. Bhandarkar in his 'Saivism and Vaishnavism' says, "If the Vasudeva Krishna worship prevailed in the time of the first Maurya it must have originated long before the establishment of the Maurya dynasty." This is an unexceptionable statement. But it seems to me that a distinction must be made between Krishna as a tribal God and Krishna as an universalized Ishwara. The date for the first may be what Dr. Bhandarkar suggests but the same cannot be the date for the second. In the Gita we are concerned with the second.

[2] See Shamshastri Memorial Volume.

[3] The opposition to Krishnaism has been expressed by so late a person as Shankaracharya.

[4] The dates of the Philosophical Sutras or the Brahmans—in the journal of the American Oriental Society—Vol. XXXI 1911.

Mahadeo their family deity. The Brahmins to whom religion has been a trade, who were never devoted to one God but came forward to worship the deity of the ruling race thought of pleasing their masters by making their family deity into a high and mighty Parmeshvar. If this is correct explanation then this patch on the original Bhagvat Gita must be placed between 400 and 464 A.D.

All this goes to confirm the view that the attempt to place the Bhagvat Gita prior in point of time to Buddhism cannot succeed. It is the result of wishful thinking on the part of those who have inherited a positive dislike to Buddha and his revolutionary gospel. History does not support it. History proves quite abnormally that at any rate those portions of the Bhagvat Gita which have any doctrinal value are considerably later in point of time to the Buddhist canon and the Sutras of Jaimini and Badarayana.

The discussion of the dates not only proves that the Bhagvat Gita is later than Hinayana Buddhism but is also later than Mahayana Buddhism. The impression prevails that Mahayana Buddhism is later in origin. It is supposed to have come into being after A.D. 100 when Kanishka held the third Buddhist Council to settle the dissension in the Buddhist Church. This is absolutely a mistake.[1] It is not true that after the Council a new creed of Buddhism came into existence. What happened is that new names of abuse came into existence for parties which were very old. As Mr. Kimura has shown the Mahayanist is simply another name for the sect of Buddhists known as Mahasanghikas. The sect of Mahasanghikas had come into being very much earlier than is supposed to be the case. If tradition be believed the sect had come into being at the time of the First Buddhist Council held at Pataliputra 236 years after the death of Buddha i.e., 307 B.C[2] for settling the Buddhist canon and is said to have led the opposition to the Theravad sect of Buddhism which later on came to be stigmatized as Hinayana (which means those holding to the low path). There could hardly be any trace of Bhagvat Gita when the Mahasanghikas later known as Mahayanists came into being.

Apart from this what have the Mahayanists borrowed from the Bhagvat Gita? Indeed what can they borrow from the Bhagvat Gita? As Mr. Kimura points out the doctrine of every school of Buddhism is mainly concerned at least with three doctrines: (1) Those which deal with cosmic existence; (2) Those which deal with Buddhology; and (3) Those which deal with conception of human life. Mahayana is no

[1] On the whole subject see—A Historical study of the terms Hinayana and Mahayana and the origin of Mahayana Buddhism—by Ryukan Kimura, Cal. University 1927.

[2] This is if the date of Buddha's death is taken to be 543 B.C. and would be 217 B.C. if the date of his death is taken to be 453 B.C.

exception to this. Except probably on Buddhology the Mahayanists could hardly use the Bhagvat Gita to draw upon So different is the aproach of the two on the other doctrines and even this possibility is excluded by the factor of time.

The foregoing discussion completely destroys the only argument that could be urged against my thesis—namely that the Bhagvat Gita is very ancient, pre-Buddhistic in origin and therefore could not be related to Jaimini's Purva Mimansa and treated as an attempt to give a philosophic defence of his counter-revolutionary doctrines.

To sum up, my thesis is three-fold. In other words it has three parts. First is that the Bhagvat Gita is fundamentally a counter-revolutionary treatise of the same class as Jamini's Purva Mimansa—the official Bible of counter-revolution. Some writers relying on verses 40-46 of Chapter II hold the view that the Bhagvat Gita is

(In all the copies available with us, the essay has been left here incomplete, as is seen from the above sentence—Editors.)

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CHAPTER 14

Analytical Notes of Virat Parva & Udyog Parva

VIRAT PARVA

1. The spies sent by Kauravas to search for the existence of the Pandavas return to Duryodhan and tell him that they are unable to discover them. They ask his permission as to what to do.—Virat Parva, Adhya. 25.

2. Duryodhan asks for advice from his advisers. Karna said send other spies. Dushasan said they might have gone beyond the sea. But search for them.—*Ibid.* —Adhya. 26.

3. Drona said the Pandavas are not likely to be defeated or destroyed. They may be living as Tapasis, therefore send Siddhas and Brahamins as spies—*Ibid.* Adhya 27.

4. Bhishma supports Drona— *Ibid* Adhya. 28.

5. Kripacharya supported Bhishma and added—Pandavas are great enemies. But wise man does not neglect even small enemies. While they are in *Agnyatavasa* you should go on collecting armies from now.— *Ibid* Adhya. 29.

6. Then Susharma King of Trigarth raised quite a different subject. He said that *Kichaka* who was the *Senapati* of King Virat I hear dead, King Virat is to give us great trouble. Kichaka having been dead Virat must have become very weak. Why not invade the Kingdom of Virat ? This is the most opportune time. Karna also supported Susharma. Why worry about the Pandavas, these Pandavas are without wealth, without army and fallen. Why bother with them? They might have even been dead by now. Give up the search and let undertake the project of Susharma—*Ibid* Adhya. 30.

7. Susharma's invasion of Vairat. Susharma carries away the cows of Virat. The cow herds go and inform Virat of this and ask him to pursue Susharma and rescue the cows.—*Ibid* Adhya. 31.

8. Virat became ready for war. In the meanwhile *Shatanik* the younger brother of Virat suggested that instead of going alone he

might take with him Rank (Sahadeo) Ballava (Yudhishtira) Santipal (Bhima) and Granthik (Nakula) to help him to fight Susharma. Virat agreed and they all went—*Ibid*. Adhya. 31.

9. War between Shusharma and Virat—*Ibid* Adhya. 32.

10. Yudhishthira rescues Virat.—*Ibid*. Adhya. 33.

11. Announcement in the Virat Nagari that their King is safe.—*Ibid* Adhya. 34.

ENTRY IN VIRAT NAGARI BY KAURVAS

12. While King Virat went after Susharman Duryodhan with *Bhishma, Drona, Karna, Krapa, Ashvashthama, Shakuni, Dushashana, Vivinshali, Vikama, Chitrasen, Durmukha, Dushala* and other warriers entered the Virat Nagari and captured the cows of Virat and were going away. The cowherds came to the palace of King Virat and gave the news. They need not find the King but they found his son *Uttar*. so they gave him the news.—*Ibid* Adhya. 35.

13. *Uttar* began to boast saying he was superior to Arjuna and would do the job. But his complaint was that there was no one to act his *Sarathi. Draupadi went and told him that Brahannada* was at one time the Sarathi of Arjuna. Why not ask him? He said he had no courage and requested Draupadi to make the request. Why not ask your younger sister *Manorama*. So he told Manorama to bring Brahannada—*Ibid* Adhya. 36.

14. Manorama takes Brahannada to his brothers and Uttara persuades him to be his Sarathi. Brahannada agreed and took the Rath of Uttara in front of the Kauravas—*Ibid*. Adhya. 37.

15. On seeing the army of the Kauravas Uttara left the Rath and started running away. Arjuna stopped him. The Kauravas seeing this began to suspect that the man might be Arjuna. Arjuna told him not to be afraid—*Ibid* Adhya. 38.

16. Arjuna took his Ratha to the Shami tree. Seeing this Drona said he must be Arjuna. Hearing this the Kauravas were greatly upset. But Duryodhana said if Drona is right it is good for us. Because it is before the thirteenth year that the Pandavas will have been discovered and they will have to suffer Vanavas again for 12 years.—*Ibid* Adhya. 39.

17. Arjuna asks Uttara to climb the Shami tree and to take down the weapons.—*Ibid* Adhya. 40.

18. Uttara's doubts about the corpse on the Shami Tree—*Ibid* Adhya. 41.

19. Uttara's excitement after seeing the weapons—*Ibid* Adhya. 42.

20. Arjuna's description of the weapons.—*Ibid* Adhya. 43.

21. Uttara's Inquiry regarding the whereabouts about the Pandavas.—*Ibid* Adhya. 44.

22. Climbing down of Uttara from the tree—*Ibid* Adhya. 45.

23. The Rath with Vanar Symbol. Drona becomes sure that he is Arjuna. Bad omens seen by the army of the Kauravas.—*Ibid* Adhya. 46.

24. Duryodhan encourages the soldiers who were frightened by Drona's saying that it was Arjuna. Karna's slander of Drona and proposal to Duryodhan to remove Drona as a Commander-in-Chief.— *Ibid* Adhya. 47.

25. Boasting by Kama and Pratijna to defeat Arjuna—*Ibid* Adhya. 48.

26. Krapacharya's admonition to Karna not to brag and boast. War is regarded as bad by the Shastras—*Ibid* Adhya. 49.

27. Ashvasthama abuses Karna and Duryodhan because of their slander of Drona—*Ibid* Adhya. 50.

28. Ashavashthama abused Karna and Duryodhan for speaking ill of Drona. Karna replied, 'after all I am only a Suta.' But Arjuna has behaved as bad as Rama behaved towards Vali—*Ibid* Adhya. 50.

29. Ashvashthama was quieted by Bhisma, Drona and Krapa, Duryodhan and Karna tendered apology to Drona—*Ibid* Adhya. 51.

30. Bhishma's decision that the Pandavas have completed 13 years.—*ibid* Adhya. 52.

31. Arjuna has defeated the army of the Kauravas.—*Ibid* Adhya. 53.

32. Arjuna defeats Karna's *Bhrata.* Arjuna defeats Karna and Karna runs away—*Ibid* Adhya. 54.

33. Arjuna destroys the army of the Kauravas and breaks the Rath of Kripacharya—Ibid Adhya. 55.

34. Gods came out in heaven to witness the fight between Arjuna and the army of the Kauravas—*Ibid* Adhya. 56.

35. Battle between Krapa and Arjuna and the running away of Krapa.—*Ibid* Adhya. 57.

36. Battle between Drona and Arjuna and running away of Drona.—*Ibid* Adhya.' 58.

37. Battle between Ashavashthama and Arjuna—*Ibid* Adhya. 59.

38. Battle between Karna and Arjuna, defeat of Karna—Adhya. 60.

39. Attack on Bhishma by Arjuna—*Ibid* Adhya. 61.

40. Arjuna kills the Kauravas soldiers—*Ibid* Adhya. 62.

41. Defeat of Bhishma and his running away from the Battle-field— *Ibid* Adhya. 64.

42. Fainting of the soldiers of the Kauravas. Bhishmas telling them to return home.—*Ibid* Adhya. 66.

43. Kaurava soldiers surrendering to Arjuna from *Abhay*. Uttar and Arjuna return to Virat Nagari—*Ibid* Adhya. 67.

44. Virat enters his capital and his people honouring him.—*Ibid* Adhya. 68.

45. The Pandavas enter the King's Assembly.—*Ibid* Adhya. 69.

46. Arjuna introduces his other brothers in Virat.—*Ibid* Adhya. 71.

47. Marriage between Arjuna's son and the daughter of Virat.—*Ibid* Adhya. 72.

48. Thereafter the Pandavas leave Virat Nagari and live in Upaplowya Nagari—*Ibid* Adhya. 72.

49. Arjuna thereafter brought his son Abhimanyu, Vasudev, and Yadav from Anrut Desh—*Ibid* Adhya. 72.

50. Friends of Yudhisthir such as Kings Kashiraj and Shalya came with two Akshauhini army. Similarly Yagyasen Drupadraj came with one Akshauhini. Draupadi's all sons Ajinkya, Shikhandi, Drustadumna also came .—*Ibid* 72.

UDYOGAPARVA

After the marriage of Abhimanyu the Yadavas and the Pandavas met in the Sabha of King Virat. Krishna addresses them as to what is to be done about the future. We must do what is good both Kauravas and Pandavas. Dharma will accept anything—even one villaga—by *Dharma*. Even if he is given the whole kingdom by Duryodhana he will not accept it. Upto now the Pandavas have observed *Niti*. But if the Kauravas observe *Aniti* the Pandavas will not hesitate to kill the Kauravas. Let nobody be afraid on account of the fact that the Pandavas are a minority. They have many friends who will come to their rescue. We must try to know the wishes of the Kauravas. I suggest that we should send a messanger to Duryodhan and ask him to give part of the Kingdom to the Pandavas.—Udyog Parva, Adhya. 1.

2. Balaram supports the proposal of Krishna but added that it was the fault of Dharma knowing that he was losing at the hands of Shakuni. Therefore instead of fighting with the Kauravas get what you can by negotiation.—*Ibid,* Adhya. 2.

3. Satyaki got up and condemned Balaram for his attitude—*Ibid* Adhya. 3.

4. Drupad supports Satyaki. Drupad agrees to send his Purohit as a messanger—*Ibid*. Adhya. 4.

5. Krishna supports Drupad and goes to Dwarka. Kings invited by Drupad and Virat arrive. Similarly Kings invited by Duryodhan arrive.—*Ibid,* Adhya. 5.

6. Drupada instructs his purohit how to speak in the assembly and deal with the issue.—*Ibid* Adhya. 6.

7. Arjuna and Duryodhana both go to Dwarka to ask for his aid in the war. He said I will help you both. I can give my army to one and I can join one singly. Choose what you want. Duryodhan chose the army. Arjuna choose Krishna.—*Ibid* Adhya. 7.

8. Coming of Shalya to the Pandavas with a large army. Duryodhan thinks him lower. Meeting of Shalya and Pandavas. Pandavas request Shalya to discourage Karna in the war. Agreement of Shalya.—*Ibid*. Adhya. 8.

9. Adhya. 9—Irrelevant.

10. Adhya. 10—Irrelevant.

11. Adhya. 11—Irrelevant.

12. Adhya. 12—Irrelevant.

13. Adhya. 13—Irrelevant.

14. Adhya. 14—Irrelevant.

15. Adhya. 15—Irrelevant.

16. Adhya. 16—Irrelevant.

17. Adhya. 17—Irrelevant.

18. Adhya. 18—Irrelevant.

19. Adhya—Satyaki comes to Pandvas with his army and Bhagadatta went to Duryodhana.

20. Adhya. 20—The Purohit of Drupada enters the Kauravas Sabha. The Purohit said that the Pandvas are prepared to part evil deeds of the Kauravas and make a compromise with them. He told them that the Pandavas have a large army yet they wish to compromise.

21. Adhya. 21—Bhishma supports the Purohit. Karna objects. Dispute between Bhishma and Karna. Dhratrarashtra suggests that Sanjaya be sent for negotiation on their behalf.

22. Adhya. 22—Dhratrarashtra sends Sanjaya to go to the Pandvas and give his blessings and say what you think best for the occasion and which will not advance enmity between the two.

23. Adhya. 23—Sanjaya's going to the Pandvas.

24. Adhya. 24—Conversation betwen Sanjaya and Yudhistira.

25. Adhya. 25—Sanjaya condemns war.

26. Adhya. 26—Dharma says 'I am prepared to compromise if the Kauravas give us our Kingdom of Indraprastha.

27. Adhya. 27—It is *Adharma* to kill *Gurujan* and obtain a Kingdom. If the Kauravas refuse to give you any kingdom without war you had better live by begging in the Kingdom of Vrishni and Andhakas.

28. Adhya. 28—Says, Dharma Blame us Sanjaya if you think we have acted or acting against Dharma. Sanjaya says I want Swadharma or Sama.

29. Adhya. 29—Krishna's address to Sanjaya why war is legitimate and asks him to go and tell his views to Dhratarashtra.

30. Adhya. 30—Sanjaya returns to Kauravas and tells Duryodhana to war. Duryodhan either to return Indraprastha to the Pandavas or be ready for war.

31. Adhya. 30—Sanjaya tells Duryodhan to live and let live. If he cannot give Indraprastha let him give us five villages.

32. Adhya. 31—Sanjaya reaches Dratrarashtra at night and tells him I will give you the message of Dharma in the morning.

33. Adhya. 32—Dhratarashtra is uneasy and wants to know the message Sanjaya brought. So he sends for Sanjaya immediately. Sanjaya gives him the message and says settle the dispute by giving them their share of the Kingdom.

34. Adhya. 34—Dhratarashtra calls for Vidura and asks his advice. His advice is, give the Pandavas their portion of the Kingdom.

35. Adhya. 35—Irrelevant.

36. Adhya. 36—Irrelevant. Vidur says make the two sides friends.

37. Adhya. 37—Irrelevant.

38. Adhya 38—Irrelevant.

39. Adhya. 39—Dhratarashtra tells Vidura I cannot give up Duryodhan although he is bad.

40. Adhya. 40—Vidura describes Chaturvarna.

41. Adhya. 41—Dhratarashtra asks Vidur about Brahma. He says I can't because I am a Shudra. Then comes Sanat-Sujata.

42. Adhya. 42—Conversation between Dhratarashtra & Sanat Sujata on Brahma Vidya.

43. Adhya. 43—Dialogue between Sanat Sujat and Dhratarashtra on the same subject.

44. Adhya. 44—Sanat Sujata on Brahma Vidya.

45. Adhya. 45—Sanat Sujata preaches yoga.

46. Adhya. 46—Sanat Sujat on Atma.

47. Adhya. 47—Kauravas come to the Sabha to hear the message brought by Sanjaya.

48. Adhya. 48—Sanjaya delivers the message. (Particularly that part which was given by Arjuna?)

49. Adhya. 49—Praise of Arjuna & Krishna by Bhishma. Karna gets angry. Drona supports Bhisma and advices compromise.

50. Adhya. 50—Dhratarashtra asks Sanjaya who are the allies of the Pandvas & their strength. Sanjaya taunts, gets up answers.

51. Adhya. 51—Dhratarashtra thinks of the prowess of Bhismna and sighs.

52. Adhya. 52—Dhratarashtra thinks of the prowess of Arjuna and sighs.

53. Adhya. 53—Dhratarashtra thinks of the prowess of Dharma and his friends. He tells his sons to compromise with the Pandavas.

54. Adhya. 54—Sanjaya predicts the defeat of the Kauravas.

55. Adhya. 55—Duryodhan says Pandavas cannot defeat us because our forces are greater.

56. Adhya. 56—Sanjaya describes the disposition of the army made by the Pandavas.

57. Adhya. 57—Sanjaya describes how Pandavas have designed to kill the warriors of the Kauravas. Duryodhan says he is not afraid of the Pandvas defeating the Kauravas who have a larger army.

58. Adhya. 58—Dhratarashtra tells Duryodhan not to fight. Duryodhan takes oath not to swerve from battle. Dhratarashtra weeps.

59. Adhya. 59—Dhratarashtra tells Sanjaya to tell him what conversation took place between Krishna & Arjuna.

60. Adhya. 60—Dhratarashtra tells Duryodhan that the Devas will help the Pandavas and will ruin the Kauravas.

61. Adhya. 61—Duryodhan says he is not afraid of that.

62. Adhya. 62—Karna says he alone is capable of killing Arjuna.

63. Adhya. 63—Duryodhan says he is fighting relying on Karna & not on Bhishma, Drona etc.

64. Adhya. 64—Vidura tells Duryodhan give up enmity.

65. Adhya. 65—Dratarashtra admonishes Duryodhan.

66. Adhya. 66—Sanjaya tells Dratarashtra the message of Arjuna.

67. Adhya. 67—The kings who had assembled in the hall of the Kauravas return to their homes. Vyas and Gandhari come with Vidur. Vyas told Sanjaya to tell Dhratarashtra every thing he knows about the real Swarup of Krishna & Arjuna.

68. Adhya. 68—Sanjaya tells Dhratarashtra about Krishna.

69. Adhya. 69—Dhratarashtra tells Duryodhan to surrender to Krishna. Refusal of Duryodhan. Gandhari abuses Duryodhan.

70. Adhya 70—Different names of Krishna & their origin.

71. Adhya 71—Dhratarashtra surrenders to Krishna.

72. Adhya. 72—Conversation between Yudhistira and Krishna. Yudhistir says Sanjaya told him not to rely on Dhratarashtra. Yudhistir stresses the importance of property Speaks of (Kshatradharma) & the necessity of observing it Krishna proposes to go to the Kauravas. Yudhistir does not like the idea but says to what you think is the best.

73. Adhya. 73—Krishna tells Dharma the secret which has in mind. Don't use soft speech with the Pandvas tells Krishna to Dharma. There are plenty of reasons why you should not make any compromise with the Kauravas. Emphasizes how the Kauravas disgraced Draupadi. Therefore Oh; Dharma do not hesitate to kill them.

74. Adhya. 74—Bhishma tells Krishna to use soft speech with the Kauravas.

75. Adhya. 75—Krishna redicules Bhima.

76. Adhya. 76—Bhima makes up his mind to fight.

77. Adhya. 77—Krishna tells Bhima the difference between *Daiva* and *Paurush*.

78. Adhya. 78—Arjuna tells Krishna to adopt Shama—failing war can be considered.

79. Adhya. 79—Krishna's talk to Arjun. I will try to bring about a settlement by peace. If that is not possible be ready for war. I will not communicate to Duryodhan Dharma's willingness to accept, five villages.

80. Adhya. 80—Nakul tells Krishna to do the best.

81. Adhya. 81—Sahadev meets Krishna and tells him to bring about a war with the Kauravas. Satyaki said that all warriors assembled here agree with the view of Sahadeo.

82. Adhya. 82—Draupadi meets Krishna & tells him that she will not be satisfied unless Duryodhan is punished. Krishna gives her assurance.

83. Adhya. 83—Last meeting between Arjuna and Krishna. Arjuna makes the best effort for *Shama*. Yudhishtir tells Krishna to give assurances to Kunti. Krishna starts on his mission.

84. Adhya. 84—Good & Bad omens to Krishna on his way to Hastinapura.

85. Adhya. 85—Duryodhana creates Resting places for Krishna's journey to Hastinapur. Krishna arrives in Hastinapura.

86. Adhya. 86—Dhratarashtra tells Vidura what gifts are to be offered to krishna.

87. Adhya. 87—Vidur tells Dhratarashtra that he cannot separate Krishna from the Pandavas.

88. Adhya. 88—Duryodhan says Krishna is worship. But this is not the time to worship him. Bhishma tells Duryodhan to make a compromise with Pandavas. Duryodhan desires to look up Krishna. Bhishma's strong opposition to Duryodhana.

89. Adhya. 89—Krishna's entry into Hastinapur. Meeting with Dhratarashtra. His stay with Vidura.

90. Adhya. 90—Meeting between Kunti and Krishna—Kunti's

sorrow. Krishna consoles her. Kunti tells Krishna— (1) Tell ray sons to fight for their kingdom. (2) I am sorry for Draupadi.

91. Adhya. 91—Kauravas invite Krishna to dinner. Krishna's refusal. Krishna goes for meal to Vidur.

92. Adhya. 92—Vidur tells Krishna that he does not like his going among the Kauravas.

93 Adhya. 93—Krishna tells Vidura not all the Kauravas can hurt him. I have come only because *Shama* is Punnyakarak.

94. Adhya. 94—Krishna enters the assembly Hall of the Kauravas.

95. Adhya. 95—Krishna's address to the Assembly. He told them pandavas are ready for both peace as well as war. Give them half their kingdom.

96. Adhya. 96—Jamadgni tells a story against arrogance.

97. Adhya. 97-105—Matali Akhyan.

98. Adhya. 106—Narada's advice to Duryodhana.

99. Adhya. 106-123—Galava Akhyan.

100. Adhya. 124—Dratarashtra tells Krishna to advise Duryodhana.

101. Adhya. 125—Bhishma's advice to Duryodhan. Drona's support. Vidura's condemnation of Duryodhana. Dhratarashtra's advice.

102. Adhya. 126—Bhishma & Drona advice Duryodhana a second time.

103. Adhya. 127—Duryodhana announces not to give anything to the Pandavas.

104. Adhya. 128—Krishna condemns Duryodhana. Duryodhan leaves the Assembly. Dushyasana's speech. Krishna warns Bhishma.

104. Adhya. 129—Dhratarashtra asks Vidur to bring Gandhari to the Assembly. Duryodhan comes back—Gandhari asks him to give half the Kingdom to Pandavas.

104. Adhya. 130—Duryodhana leaves the assembly. His intention to kill Krishna. Satyaki informs Dhratarashtra of this secret plot. Srikrishna's speech. Dhratarashtra calls back Duryodhana to the assembly, warns him. Vidur's condemnation.

105. Adhya. 131—*Bhagwana's Vishwarup Darshan* Dhratarashtra gets *Divya Chakshu*? Krishna leaves the assembly and goes to Kunti.

106. Adhya. 132—Krishna tells Kunti what happened in the assembly. Kunti tells Krishna war is natural to Kshatriyas. There is no better Dharma than that.

107. Adhya. 133—Kunti tells Krishna the story of Vidula to reinforce her point.

108. Adhya. 134—Vidula's story.

109. Adhya. 135—Vidula's story.

110. Adhya. 136—Vidula's story.

111. Adhya. 137—Kunti's advice to her sons. Krishna's advice to Karna and his departure to *Upapalavya Nagari*.

112. Adhya. 138—Advice to Duryodhana by Bhishma & Drona.

113. Adhya. 139—Bhishma's sorrow. Drona again advises Duryodhana.

114. Adhya. 140—Conversation between Dhratarashtra and Sanjaya. Krishna advices Karna's.

115. Adhya. 141—Karna's reply to Krishna.

116. Adhya. 142—Krishna's assurance to Karna that the Pandava's will win.

117. Adhya. 143—Karna sees bad omens. His determination to finish Pandavas. His going home.

118. Adhya. 144—Conversation between Vidura and Pratha. Knows Duryodhana is determined to fight. Kunti's sorrow. Her wish to tell Karna his origin. Kunti goes to the bank of the river.

119. Adhya. 145—Kunti meets Karna and tells him his origin and request him to join the Pandavas.

120. Adhya. 146—Surya supports the proposal of Kunti. Karna rejects it. Promises to save all the Pandavas except Arjuna.

121. Adhya. 147—Krishna goes to Pandavas. Yudhistir asks what happened in the Kaurava Sabha.

122. Adhya. 147, 148, 149, 150—Krishna relates the whole story.

123. Adhya. 151—Appointment of Senapati for the Pandavas Army. Entry of Pandava's Army in Kurushetra.

124. Adhya. 152—Description of Pandavas arrangement for supply to the Army.

125. Adhya. 153—Arrangement on Kaurava's side. Our army must enter Kurushetra tomorrow early morning.

126. Adhya. 154—Dharma's fear of fall from his moral rectitude by going to war. Krishna satisfied him. Arjuna said you must fight.

127. Adhya. 155—Description of Duryodhan's army.

128. Adhya. 156—Bhishma is made Senapati of the Kaurava's army. Karna is offended. His decision not to take command till Bhishma is dead. Kaurava's *Army enters Kurushetra*.

129. Adhya. 157—Krishna becomes commander of Pandava's Army.

130. Balram goes on Pilgrimage saying I do not like the Kauravas destroyed.

131. Adhya. 158—Rukmi neither wanted by Arjuna nor by Duryodhana goes home.

132. Adhya. 159—Conversation between Sanjaya and Dhratarashtra. He blames Dhratarashtra.

133. Adhya. 160—Pandava's Army on the bank of the *Hiranyavati* river. Duryodhan sends offensive messages to Pandavas and Krishna saying fight if you can.

134. Adhya. 161. Uluka goes with the messages.

135. Adhya. 162—Angry Pandavas send back angry messages. They give order that the war will start tomorrow.

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CHAPTER 15

Brahmins Versus Kshatriyas

This manuscript consists of 43 foolscap typed pages. All the loose pages are tagged. The original title, 'Brahmins and Kshatriyas and the Counter-Revolution' has been modified in Dr. Ambedkar's hand-writing as 'Brahmins Versus Kshatriyas' on the title page. The essay seems to be complete.—Editors.

The sacred literature of the Hindus contains many cases of conflicts between the Brahmins and the Kshatriyas and even of sanguinary wards between the two.

The first case reported was that of the King Vena. Vena was a Kshatriya King. His conflict with the Brahmins has been referred to in various authorities. The following account is taken from the Harivansa.

> "[1]There was formerly a Prajapati (lord of creatures), a protector of righteousness, called Anga, of the race of Atrai, and resembling him in power. His son was the Prajapati Vena, who was but indifferently skilled in duty, and was born of Sunitha, the daughter of Mrityu. This son of the daughter of Kala (Death), owing to the taint derived from his maternal grand-father, threw his duties behind his back, and lived in covetousness under the influence of desire. This king established an irreligious system of conduct; transgressing the ordinances of the Veda, he was devoted to lawlessness. In his reign men lived without study of the sacred books and without the Vashatkara, and the gods had no some-libations to drink at sacrifices."

No sacrifice or oblation shall be offered,—such was the ruthless determination of that Prajapati, as the time of his destruction approached. 'I', he declared, 'am the object, and the performer of sacrifice, and the sacrifice itself; it is to me that sacrifice should be presented, and oblations offered.' This transgressor of the rules of duty, who arrogated to himself what was not his due, was then

[1] Muir Vol. I. p. 302-303.

addressed by all the great Rishis, headed by Marichi: "We are about to consecrate ourselves for a ceremony which shall last for many years; practise not unrighteousness, of Vena; this is not the eternal rule of duty. Thou art in every deed a Prajapati of Atri's race and thou hast engaged to protect thy subject.' The foolish Vena, ignorant of what was right, laughingly answered those great Rishis who had so addressed him: "Who but myself is the ordainer of duty ? or whom ought I to obey ? Who on earth equals me in sacred knowledge, in process, in austere fervour, in truth? Ye who are deluded and senseless know not that I am the source of all beings and duties. Hesitate not to believe that I, if I willed, could turn up the earth, or deluge it with water, or close up heaven and earth.' When owing to his delusion and arrogance Vena could not be governed, then the mighty Rishis becoming licensed, seized the vigorous and struggling king, and rubbed his left thigh. From this thigh, so rubbed, was produced a black man, very short in stature, who, being alarmed, stood with joined hands. Seeing that he was agitated, Atri said to him 'Sit down' (Nishida). He became the founder of the race of the Nishadas, and also progenitor of the Dhivaras (Fishermen), who sprang from the corruption of Vena.'

The second case is that of Pururavas. Pururavas is another Kshatriya King, son of Ila and grandson of Manu Vaivasvata. He came in conflict with the Brahman's the following account of which appears in the Adi Parva of the Mahabharata:

> "[1]Subsequently the wise Pururavas was born of Ila who, as we have heard was both his father and his mother. Ruling over thirteen islands of the ocean, and surrounded by beings who were all superhuman, himself a man of great renown, Pururavas, intoxicated by his prowess, engaged in a conflict with the Brahmans, and robbed them of their jewels, although they loudly remonstrated. Sanatkumara came from Brahma's heaven, and addressed to him an admonition, which however, he did not regard. Being then straightway cursed by the incenses Rishis, he perished, this covetous monarch, who, through piece of power, had lost his understanding."

The third and a somewhat serious conflict was that between King *Nahusha* and the Brahmins. *Nahusha* is the grandson of Pururavas. The story is told in two places in the Mahabharata once in the Vanaparvan and a second time in the Udyogaparvan. The following account is taken from the Udyogaparvan of the Mahabharata:

> "[2]After his slaughter of the demon Vritta, Indra became alarmed at the idea of having taken the life of a Brahman (for Vritta was

[1] Muir Vol. I, p. 307.

[2] Muir Vol. I, p. 310-313.

regarded as such) and hid himself in the waters. In consequence of the disappearance of the king of the gods, all affairs, celestial as well as terrestrial, fell into confusion. The Rishis and gods then applied to Nahusha to be their king. After the first excusing himself on the plea of want of power, Nahusha at length, in compliance with their solicitations, accepted the high function. Upto the period of his elevation he had led a virtuous life, but he now became addicted to amusement and sensual pleasure, 'and even aspired to the possession of Indrani, Indra's wife, whom he had happened to see. The queen resorted to the Angiras Vrihaspati, the preceptor of the gods, who engaged to protect her. Nahusha was greatly incensed on hearing of this interference; but the gods endeavoured to pacify him, and pointed out the immorality of appropriating another person's wife. Nahusha, however, would listen to no remonstrance, and insisted that in his adulterous designs he was no worse than Indra himself."

"The renowned Ahalya, a rishi's wife, was formerly corrupted by Indra in her husband's lifetime. Why was he not prevented by you? And many barbarous acts, and unrighteous deeds, and frauds were perpetrated of old by Indra; Why was he not prevented by you?" The gods, urged Nahusha, then went to bring Indrani; but Vrihaspati would not give her up. At his recommendation, however, she solicited Nahusha for some delay, till she should ascertain what had become of her husband. This request was granted." Indrani now went in search of her husband; and by the help of Upasruti (the goddess of night and revealer of secrets) discovered him existing in a very subtile form in the stem of a lotus growing in a lake situated in a continent within an ocean north of the Himalayas. She made known to him the wicked intentions of Nahusha, and entreated him to exert his power, rescue her from danger, and resume his dominion. Indra declined any immediate interposition on the plea of Nahusha's superior strength; but suggested to his wife a device by which the usurper might be hurled from his position. She was recommended to say to Nahusha that "if he would visit her on a celestial vehicle borne by Rishis, she would with pleasure submit herself to him."

"I desire for thee, king of the gods, a vehicle hitherto unknown, such as neither Vishnu, nor Rudra, nor the Asuras, nor the Rakshases employ. Let the eminent Rishis, all united, bear thee, lord, in a car: this idea pleases me." Nahusha receives favourably this appeal to his vanity, and in the course of his reply thus gives utterance to his self-congratulation: "He is a personage of no mean prowess who makes the Munis his bearers. I am a fervid devotee of

great might, lord of the past, the future, and the present. If I were angry the world would no longer stand; on me everything depends……. Wherefore, O goddess, I shall, without doubt, carry out what you propose. The seven Rishis, and all the Brahman-rishis, shall carry me. Behold, beautiful goddess, my majesty and my prosperity." The narrative goes on: "Accordingly this wicked being, irreligious, violent, intoxicated by the force of conceit, and arbitrary in his conduct, attached to his car the Rishis who submitted to his command, and compelled them to bear him." Indrani then again resorts to Vrihaspati, who assures her that vengeance will soon overtake Nahusha for his presumption, and promises that he will himself perform a sacrifice with a view to the destruction of the oppressor, and the discovery of Indra's lurking place. Agni is then sent to discover and bring Indra to Vrihaspati; and the latter, on Indra's arrival, informs him of all that had occurred during his absence. While Indra, with Kuvera, Yama, Soma and Varuna was devising means for the destruction of Nahusha, the sage Agastya came up, congratulated Indra on the fall of his rival, and proceeded to relate how it had occurred:

"Wearied with carrying the sinner Nahusha the eminent divine-rishis, and the spotless Brahman-rishis, asked that divine personage Nahusha (to solve) a difficulty; "Dost thou, O Vasava, most excellent of conquerors, regard as authoritative or not those Brahmana texts which are recited at the immolation of kine?" 'No', replied Nahusha, whose understanding was enveloped in darkness. The Rishis rejoined: 'Engaged in unrighteousness, thou attainest not unto righteousness: these texts, which were formerly uttered by great Rishis, are regarded by us as authoritative.' Then (proceeds Agastya) disputing with the Munis, Nahusha, impelled by unrighteousness, touched me on the head with his foot. In consequence of this the king's glory was smitten and his prosperity departed. When he had instantly become agitated and oppressed with fear, I said to him,' Since thou, O fool, contemnest that sacred text, always held in honour, which has been composed by former sages, and employed by Brahman-rishis, and has touched my head with thy foot, and employest the Brahma—like the irresistible Rishis as bearers to carry thee,—therefore, shorn of thy lusture, and all thy merit exhausted, sink down, sinner, degraded from heaven to earth. For ten thousand years thou shalt crawl in the form of a huge serpent. When that period is completed, thou shalt again ascend to heaven.' So fell that wicked wretch from the sovereignty of the gods. Happily, O Indra, we shall now prosper, for the enemy of the

Brahmans has been smitten. Take possession of the three worlds, and protect their inhabitants, O husband of Sachi (Indrani) subduing thy senses, overcoming thine enemies, and celebrated by the great Rishis."

The fourth case is of King Nimi. Nimi was one of the sons of Ikshvaku. The facts of his conflict with the Brahmans are related in the Vishnu Purrana which says:

"[1]Nimi had requested the Brahman Rishi Vashistha to officiate at a sacrifice, which was to last a thousand years. Vashistha in reply pleaed a pre-engagement to Indra for five hundred years, but promised to return at the end of that period. The king made no remark, and Vashistha went away, supposing that he had assented to his arrangement. On his return, however, the priest discovered that Nimi had retained Gautama (who was, equally with Vashistha, a Brahmin-rishi) and others to perform the sacrifice; and being incensed at the neglect to give him notice of what was intended, he cursed the king, who was then asleep, to lose his corporeal form. When Nimi awoke and learnt that he had been cursed without any previous warning, he retorted by uttering a similar curse on Vashistha, and then died. Nimi's body was emblamed. At the close of the sacrifice which he had begun, the gods, were willing, on the intercession of the priests, to restore him to life, but he declined the offer; and was placed by the deities, according to his desire, in the eyes of all living creatures. It is in consequence of this that they are always opening and shutting (nimisha means "The twinkling of the eye").

The fifth case relates to the conflict between Vashishtha and Vishvamitra. Vashishtha was a Brahmin priest. Vishavamitra was a Kshatriya. His great ambition was to become a Brahmin. The following episode reported from the Ramayana explains the reasons why he became anxious to become a Brahmin.

"[2]There was formerly, we are told, a king called Kusa, son of Prajapati, who had a son called Kusanabha, who was father of Gadhi, the father of Vishvamitra. The latter ruled the earth for many thousand years. On one occasion, when he was making a circuit of the earth, he came to Vashishtha's hermitage, the pleasant abode of many saints, sages, and holy devotees, where, after all first declining, he allowed himself to be hospitability entertained with his followers by the son of Brahma. Vishvamitra, however, coveting the wonderous cow, which had supplied all the dainties of the feast, first

[1] Muir Vol. I, pp. 316.

[2] Muir Vol. I, pp. 397-400.

of all asked that she should be given to him in exchange for a hundred thousand common cows, adding that "she was a gem, that gems were the property of the King, and, therefore, the cow owas his by right." On this price being refused, the King advances immensely in his offers, but all without effect. He then proceeds very ungratefully, and tyrannically, it must be allowed—to have the cow removed by force, but she breaks away from his attendants, and rushes back to her master, complaining that he was deserting her. He replies that he was not deserting her, but that the king was much more powerful than he. She answers, 'Men do not ascribe strength to a Kshatriya: the Brahmans are stronger. The strength of Brahmins is divine, and superior to that of Kshatriyas. Thy strength is immeasurable. Vishvamitra, though of great vigour, is not more powerful than thou. Thy energy is invincible. Commission me, who have been acquired by thy Brahmanical power, and I will destroy the pride, and force, and attempt of this wicked prince." She accordingly by her bellowing creates hundred of Pahalvas, who destroy the entire host of Vishvamitra, but are slain by him in their turn. Sakas and Yavanas, of great power and valour, and well armed, were then produced, who consumed the king's soldiers, but were routed by him. The cow then calls into existence by her bellowing, and from different parts of her body, other warriors of various tribes, who again destroyed Vishvamitra's entire army, foot soldiers, elephants, horses, chariots, and all. A hundred of the monarch's sons, armed with various weapons, then rushed in great fury on Vashishtha, but were all reduced to ashes in a moment by the blast of that sage's mouth. Vishvamitra, being thus utterly vanquished and humbled, appointed one of his sons to be regent, and travelled to the Himalaya, where he betook to austerities, and thereby obtained a vision of Mahadeva, who at his desire revealed to him the science of arms in all its branches, and gave him celestial weapons with which, elated and full of price, he consumed the hermitage of Vashishtha, and put its inhabitants to flight. Vashishtha then threatens Vishvamitra and uplifts his Brahmanical mace. Vishvamitra, too, raises his fiery weapon and calls out to his adversary to stand. Vashishtha bids him to show his strength and boasts that he will soon humble his pride. He asks: "What comparison is there between a Kshatriya's might and the might of a Brahman? Behold, thou contemptible Kshatriya, my divine Brhmanical power.' The dreadful fiery weapon uplifted by the son of Gadhi was then quenched by the rod of the Brahman, as fire is by water." Many and various other celestial missiles, as the nooses of

> Brahma, Kala (Time), and Varuna, the discuss of Vishnu, and the trident of Shiva, were hurled by Vishvamitra at his antagonist, but the son of Brahma swallowed them up in his all-devouring mace. Finally, to the intense consternation of all the gods, the warrior shot off the terrific weapon of Brahma; but this was equally ineffectual against the Brahmanical sage. Vashishtha had now assumed a direful appearance. "Jets of fire mingled with smoke darted from the pores of his body; the Brahmanical mace blazed in his hand like a smokeless mundane conflagration, or a second sceptre of Yama." Being appeased, however, by the munis, who proclaimed his superiority to his rival, the sage stayed his vengeance; and Vishvamitra exclaimed with a groan: "Shame on a Kshatriya's strength: the strength of a Brahman's might alone is strength; by the single Brahmanical mace all my weapons have been destroyed."
>
> No alternative now remains to the humilated monarch, but either to acquiesce in this help less inferiority, or to work out his own elevation to the Brahmanical order. He embraces the latter alternative: "Having pondered well this defeat, I shall betake myself, with composed senses and mind, to strenuous austere fervour, which shall exalt me to the rank of a Brahman." Intensely vexed and mortified, groaning and full of hatred against his enemy, he travelled with his queen to the south, and carried his resolution into effect. At the end of a thousand years Brahma appeared, and announced that he had conquered the heaven of royal sages (rajarshis): and, in consequence of his austere fervour, he was recognised as having attained that rank."

The conflict seems to have begun in the reign of King Sudas who belonged to the line of Ikshavaku. Vashishtha was the hereditary priest of King Sudas. For some reason which is not very clearly stated Sudas appointed Vishvamitra as his family priest. This brought about a conflict between Vishvamitra and Vashishtha. This conflict once started raged on for a long time.

The conflict between the two took a peculiar turn. If Vishvamitra was involved in a dispute Vashishtha came into the fray and sided with his opponent. If Vishvamitra was involved in dispute Vashishtha entered into fray and sided with Vishvamitra as opponent. It was a case of one persecuting the other.

The first such episode is that of Satyavrata otherwise called Trishanku. The story as told in the Harivamsha is as follows:

> "[1]Meanwhile Vashishtha, from the relation subsisting between the King (Satyavrata's father) and himself, a disciple and spiritual

[1] Muir Vol. I. pp. 177-378.

preceptor, governed the city of Ayodhya, the country, and the interior apartments of the royal palace. But Satyavrata, whether through folly or the force of destiny, cherished constantly an increased indignation against Vashishtha, who for a (proper) reason had not interposed to prevent his exclusion from the royal power by his father. 'The formulas of the marriage ceremonial are only binding,' said Satyavrata, 'when the seventh step has been taken, and this had not been done when I seized the damsel: still Vashishtha, who knows the precepts of the law, does not come to my aid.' Thus Satyavrata was incensed in his mind against Vashishtha, who however, had acted from a sense of what was right. Nor did Satyavrata understand (he propriety of) that silent penance imposed upon him by his father..... When he had supported this arduous rite, (the supposed that) he had redeemed his family position. The venerable muni Vashishtha did not, however, (as has been said) prevent his father from setting him aside, but resolved to install his son as King. When the powerful prince Satyavrata had endured the penance for twelve years, he beheld, when he was without flesh to eat, the milch cow of Vashishtha which yielded all objects of desire; and under the influence of anger; delusion, and exhaustion, distressed by hunger, and failing in the ten duties he slew..... and both partook of her flesh himself, and gave it to Vishvamitra's sons to eat. Vashishtha hearing of this, became incensed against him", and imposed on his the name of Trisanku as he had committed three sins. On his return home, Vishvamitra was gratified by the support which his wife had received, and offered Trisanku the choice of a boon. When this proposal was made, Trisanku chose the boon of ascending bodily to heaven. All apprehension from the twelve year's drought being now at an end, the muni (Vishvamitra) installed Trisanku in his father's kingdom, and offered sacrifice on his behalf. The mighty Kaustka then, in spite of the resistance of the gods and of Vashishtha,[1] exalted the king alive to heaven."

2. As stated in the Harivamsa:

"[2]In consequence of the wickedness which had been committed, Indra did not rain for a period of twelve years. At that time Vishvamitra had left his wife and children and gone to practise austerities on the sea-shore. His wife, driven to extremity by want, was on the point of selling her second son for a hundred cows, in

[1] As stated in another place in the Harivamsa Trisanku had been expelled from his home by his father for the offence of carrying off the young wife of one of the citizens under the influence of a criminal passion and Vashishtha did not interfere to prevent his banishment. It is to this that the text refers.

[2] Muir Vol. I. pp. 376-77.

order to support the others; but this arrangement was stopped by the interventions of Satyavrata, who liberated the son when bound, and maintained the family by providing them with the flesh of wild animals; and according to his father's injunction, consecrated himself for the performance of a silent penance for twelve years."

The next episode in which they appear on opposite sides is that of Harishchandra the son of Trisanku. The story is told in the Vishnu Purana and in the Markendeya Purana. This is how the story runs:

"On one occasion, when hunting the king heard a sound of female lamentation which proceeded, it appears, from the sciences who were becoming mastered by the austerely fervid sage Vishvamitra, in a way they had never been before by anyone else; and were consequently crying out in alarm at his superiority. In fulfilment of his duty as a Kshatriya to defend the weak, and inspired by the god Ganesha, who had entered into him, Harishchandra exclaimed, "What sinner is this who is binding fire in the hem of his garment, white, I, his lord, am present, resplendent with force and fiery vigour?' He shall to-day enter on his long sleep, pierced in all his limbs by arrows, which, by their discharge from my bow, illuminate all the quarters of the firmament." Vishvamitra was provoked by this address. In consequence of his wrath the Sciences instantly perished, and Harishchandra, trembling like the leaf of an Asvattha tree, submissively represented that he had merely done his duty as a king, which he defined as consisting in the bestowl of gifts on eminent Brahmins and other persons of slender means, the protection of the timid, and war against enemies. Vishvamitra hereupon demands a gift as a Brahman intent upon receiving one. The. king offers him whatsoever he may ask: Gold, his own son, wife, body, like kingdom, good fortune. The saint first requires the present for the Rajasuya sacrifice. On this being promised, and still more offered, he asks for the empire of the whole earth, including everything but Harishchandra himself, his wife and son, and his virtue which follows its posses or wherever he goes." "Harishchandra joyfully agrees. Vishvamitra then requires him to strip off all his ornaments, to clothe himself in the bark of trees, and to quit the kingdom with his wife Saviya (Taramati) and his son. When he is departing the sage stops him and demands payment of his yet unpaid sacrificial fee. The king replies that he has only the persons of his wife, his son, and himself left. Vishvamitra insists that he must nevertheless pay; and that "unfulfilled promises of gifts to Brahmans bring destruction." The unfortunate prince, after being threatened with a curse, engages to make the payment in a month;

and commences his journey with a wife unused to such fatigues, amid the universal lamentations of his subjects. While he lingers, listening to their affectionate remonstrances against his desertion of his kingdom, Vishvamitra, comes up and being incensed at the delay and the King's apparent hesitation, strikes the queen with his staff, as she is dragged on by her husband. Harishchandra then proceeded with his wife and little son to Benares, imagining that this divine city, as the special property of Siva, could not be possessed by any mortal. Here he found the relentless Vishvamitra waiting for him, and ready to press his demand for the payment of his sacrificial gift, even before the expiration of the full period of grace. In this extremity Saivya the queen suggests with a sobbing voice that her husband should sell her. On hearing this proposal Harishchandra swoons, then recovers, utters lamentations, and swoons again, and his wife, seeing his said condition, swoon also. While they are in a state of unconsciousness, their famished child exclaims in distress, "O father, father, give me bread; O mother, mother give me food: hunger overpowers me and my tongue is parched." At this moment Vishvamitra returns, and after recalling Harishchandra to consciousness by spinkling water over him, again urges payment of the present. The king again swoons, and is again restored. The sag threatens to curse him if his engagement is not fulfilled by sunset. Being now pressed by his wife, the King agrees to sell her ading, however, "If my voice can utter such a wicked word, I do not what the most inhuman wretches cannot perpetrate." He then goes into the city and in selfacusing language offers his queen for sale as a slave. A rich old Brahman offers to buy her at a price corresponding to her value, to do his household work. Seeing his mother dragged away, the child ran after her, his eyes dimmed with tears, and crying 'mother'. The Brahman purchaser kicked him when he came up; but he would not let his mother go, and continued crying 'mother, mother.' The queen then said to the Brahman, "Be so kind, my master, as to but also this child, as without him I shall prove to thee but a useless purchase. Be thus merciful to me in my wretchedness, unite me with my son, like a cow to her calf." The Brahman agrees: "Take this money and give me the boy." After the Brahman had gone out of sight with his purchases, Vishvamitra again appeared and renewed his demands; and when the afflicted Harishchanda offered him the small sum he had obtained by the sale of his wife and son, he angrily replied, "If, miserable Kshatriya, thou thinkest this a sacrificial gift befitting my deserts, thou shalt soon beheld the transcendent power of my ardent austere fervour, of my spotless

Brahmanhood of my terrible majesty, and of my holy study. Harishchandra promises an additional gift, and Vishvamitra allows him the remaining quarter of the day for its liquidation. On the terrified and afflicted prince offering himself for sale, in order to gain the mean of meeting this cruel demand, Dharma (Righteousness) appears in the form of a hideous and offensive Chandala, and agrees to buy him at his own price, large or small. Harishchandra declines such a degrading servitude, and declares that he would rather be consumed by the fire of his persecutor's curse than submit to such a fate. Vishvamitra however again comes on the scene, asks why he does not accept the large sum offered by the Chandala; and, when he pleads in excuse his descent from the solar race, threatens to fulminate a curse against him if he does not accept that method of meeting his liability. Harishchandra implores that he may be spared this extreme of degradation, and offers to become Vishvamitra's slave in payment of the residue of his debt; whereupon the sage rejoins, "If thou art my slave, then I sell thee as such to the Chandala for a hundred millions of money."

"The Chandala, delighted, pays down the money, and carries off Harishchandra, bound beaten, confused and afflicted, to his own place of abode. Harishchandra is sent by the Chandala to steal grave clothes in a cemetary and is told that he will receive two-sixths goind to his masters, and one-sixth to the King. In this horrid spot, and in this degrading occupation, he spent in great misery, twelve months, which seemed to him like a hundred years. He then falls asleep and has a series of dreams suggested by the life he had been leading. After he awoke, his wife came to the cemetary to perform the obsequies of their son, who had died from the bite of a serpent. At first the husband and wife did not recognize each other, from the change in appearance which had been brought upon them by their miseries. Harishchandra however, soon discovered from the tenor of her lamentations that it is his wife, and falls into a swoon; as the queen does also when she recognizes her husband. When consciousness returns, they both break out into lamentations, the father bewailing in a touching strain the loss of his son, and the wife the degradation of the King. She then falls on his neck, embraces him, and asks "whether all this is a dream, or a reality, as she is utterly be wildered", and adds, that "if it be a reality, then righteousness is unvailing to those who practise it." After hesitating to devote himself to death on his son's funeral pyre without receiving his master's leave, Harishchandra resolves to do so, braving all the consequences, and consoling himself with the hopeful

anticipation: "If I have given gifts, and offered sacrifices an gratified my religious teachers, then may I be reunited with my son and with thee (my wife) in another world." The queen determines to die in the same manner. When Harishchandra, after placing his son's body on the funeral pile, is meditating on the Lord Shri Narayan krishna, the supreme spirit, all the gods arrive, headed by Dharma (righteousness), and accompanied by Vishvamitra. Dharma entreats the king to desist from his rash intention; and Indra announces to him that he, his wife, and son have conquered heaven by their good works. Amrosia, the antidote of death, and flowers are rained by the god from the sky; and the king's son is restored to life and the bloom of youth. The king, adorend with celestial clothing and garlands, and the queen, embrace their son. Harishchandra, however declares that he cannot go to heaven till he has received his master the Chandala's permission, and has paid him a ransom. Dharma then reveals to the king that it was he himself who had miraculously assumed the form of a Chandala. The king next objects that he cannot depart unless his faithful subjects, who are shares in his merits, are allowed to acompany him to heaven, at least for one day. This request is granted by Indra; and after Vishvamitra has inaugurated Rohitasva the king's son to be his successor, Harishchandra, his friends and followers, all ascend in company to heaven. Even after this great consummation, however, Vashishtha, the family-priest of Harishchandra, hearing, at the end of a twelve years' abode in the waters of the Ganges, an account of all that has occured, becomes vehementaly incensed at the humiliation inflicted on the excellent monarch, whose virtues and devotion to the gods and Brahmans he celebrates, declares that his indignation had not been so great roused even when his own hundred sons had been slain by Vishvamitra, and in the following words dooms the latter to be transformed into crane. Wherefore that wicked man, enemy of the Brahmans, smitten by my curse, shall be expelled from the society of intelligent beings, and losing his understanding shall be transformed into a Vaka." Vishvamitra reciprocates the curse, and changes Vashishtha into a bird of the species called Ari. In their new shapes the two have a furious fight, the Ari being of the portentous height of two thousand yojanas = 18,000 miles, and the Vaka of 3090 yojanas. The first assail each other with their wings; then the Vaka smites his antagonist in the same manner, while the Ari strikes with his talons. Falling mountains, overturned by the blasts of wind raised by the flapping of their wings, shake the whole earth, the waters of the ocean

overflow, the earth itself, thrown off its perpendicular slopes downwards patala, the lower regions. Many creatures perish by these various convulsions. Attracted by the dire disorder, Brahma arrives, attended by all the gods, on the spot, and command the comptants to desist from their fray. They were too fiercely infuiriated to regard this injunction; but Brahma put an end to the conflict by restoring them to their natural forms, and conselling them to be reconciled.

The next episode in which they came in as opponents is connected with *Ambarish* King of Ayodhya.

[1]The story relates that Ambarisha was engaged in performing a sacrifice, when Indra carried away the victim. The priest said that this ill-omened event had occurred owing to the king's had administration, and would call for a great expiation, unless a human victim could be produced. After a long search the royal rishi (Ambarisha) came upon the Brahman-rishi Richika, a descendent of Bhrigu, and asked him to sell one of his sons for a victim, at the price of a hundred thousand cows. Richika answered that he would not sell his eldest son; and his wife added that she would not sell the youngest: eldest sons" she observed, "being generally the favourites of their fathers, and youngest sons of their mothers." The second son, Sunassepna, then said that in that case he regarded himself as the one who was to be sold, and desired the king to remove him. The hundred thousand cows, with ten millions of gold pieces and heaps of jewels, were paid down, and Sunassepa carried away. As they were passing through Pushkara Sunassepa beheld his maternal uncle Vishvamitra who was engaged in austerities there with other rishis, threw himself into his arms, and implored his assistance, urging his orphan friendless, and helpless state, as claims on the sage's benevolence.

"Vishvamitra soothed him: and pressed his own sons to offer themselves as victim in the room of Sunassepa. This proposition met with no favour from Madhushyanda and the other sons of the royal hermit, who answered with haughtiness and derision: "How is that thou sacrificest thine own sons, and seekest to rescue those of others ? We look upon this as wrong, and like the eating of one's own flesh." The sage was exceedingly wroth at this disregard of his injunction, and doomed his sons to be born in the most degraded classes, like Vashishtha's sons, and to eat dog's flesh, for a thousand years. He then said to Sunassepa: "When thou art bound with hallowed cords, decked with a red garland, and annointed with unguents, and fastened to the sacrificial post of Vishnu, then address thyself to Agni, and sing these two divine verses (gathas), at the

[1]Muir Vol. I. pp. 405-407.

sacrifice of Ambarisha; then shalt thou attain the fulfilment." Being furnished with the two gathas, Sunassepa proposed at once to king Ambarisha that they should set out for their destination. When bound at the stake to be immolated, dressed in a red garment, "he celebrated the two gods, Indra and his younger brother (Vishnu), with the excellent verses. The thousand-eyed (Indra) was pleased with the secret hymn, and bestowed long life on Sunassepa."

The last episode recorded in which the two appear as opponents is connected with King *Kalmashapada*. The episode is recorded in the Adi Parva of the Mahabharata.

"[1]Kalmashapada was a King of the race Ikshvaku. Vishvamitra wished to be employed by him as his officiating priest; but the king preferred Vashishtha." It happened, however, that the king went out to hunt, and after having killed a large quantity of game, he became very much fatigued, as well as hungry and thirsty. Meeting Saktri, the eldest of Vashishtha's hundred sons, on the road, he ordered him to get out of his way. The priest civilly replied: "The path is mine, O King; this is the immemorial law; in all observances the king must cede the way to the Brahman." Neither party would yield, and the dispute waxing warmer, the king struck the muni with his whip. The muni, resorting to the usual expedient of offended sages, by a curse doomed the king to become a man eater. "It happened that at that time enmity existed between Vishvamitra and Vashishtha on account of their respective claims to be priest to Kalmashapada." Vishvamitra had followed the king; and approached while he was disputing with Saktri. Perceiving, however, the son of his rival Vashishtha, Vishvamitra made himself invisible, and passed them, watching his opportunity. The king began to implore Saktri's clemency: but Vishvamitra wishing to prevent their reconciliation, commanded a Rakshasa (a man-devouring demon) to enter into the king. Owing to the conjoint influence of the Brahma-rishi's curse, and Vishvamitra's command, the demon obeyed the injunction. Perceiving that his object was gained, Vishvamitra left things to take their course, and absented himself from the country. The king having happened to meet a hungry Brahman, and sent him, by the hand of his cook (who could procure nothing else), some human flesh to eat, was cursed by him also to the same effect as by Saktri. The curse, being now augmented in force, took effect, and Saktri himself was the first victim, being eaten up by the King. The same fate befell all the other sons of Vashishtha at the instigation of Vishvamitra. Perceiving Saktri to be dead, Vishvamitra again and

[1]Muir Vol. I, pp. 415-417.

again incited the Rakshasa against the sons of Vashishtha; and accordingly the furious demon devoursed those of his sons who were younger than Saktri as a lion eats up the small beasts of the forest. On hearing of the destruction of his sons by Vishvamitra, Vashishtha supported his affliction, as the great mountain sustains the earth. He meditated his own destruction, but never thought of exterminating the Kausikas. This divine sage hurled himself from the summit of Meru, but fell upon the rocks as if on a heap of cotton. Escaping alive from his fall, he entered a glowing fire in the forest; but the fire, though fiercely blazing, not only failed to burn him, but seemed perfectly cool. He next threw himself into the sea with a heavy stone attached to his neck; but was cast up by the waves on the dry land. He then went home to his hermitage; but seeing it empty and desolate, he was again overcome by grief and went out; and seeing the river Vipasa which was swolen by the recent rains and sweeping along many trees torn from its banks, he conceived the design of drowning himself into its water, he accordingly tied himself firmly with cords, and threw himself in, but the river severing his bonds, deposited him unbound (vipasa) on dry land; whence the name of the stream, as imposed by the sage. He afterwards saw and threw himself into the dreadful Satadru (Sutlej), which was full of alligators, etc., and derived its name rushing away in a hundred directions on seeing the Brahman brilliant as fire. In consequence of this he was once more stranded; and seeing he could not kill himself, he went back to his hermitage."

There are only particular instances of their general enmity towards each other. This general enmity was of a mortal kind so much so that Vishvamitra wanted even to murder Vashishtha. This is related in the Shalyaparva of the Mahabharata. Says the author of the Mahabharata:

"[1]There existed a great enmity, arising from rivalry in their austerities, between Vishvamitra and the Brahman rishi Vashishtha. Vashishtha had an extensive hermitage in Sthanutirtha, to the east of which was Vishvamitra's.....These two great ascetics were every day exhibiting intense emulation in regard to their respective austerities. But Vishvamitra, beholding the might of Vashishtha, was the most chagrined; and fell into deep thought. The idea of this sage, constant in duty (!) was the following: 'This river Sarasvati will speedily bring to me on her current the austere Vashishtha, the most eminent of all mutterers of prayers. When that most excellent Brahman has come, I shall most assuredly kill him.' Having thus

[1]Muir Vol. I, pp. 420-422.

determined, the divine sage Vishvamitra, his eyes reddened by anger, called to mind the chief of rivers. She being thus the subject of his thoughts, became very anxious, as she knew him to be very powerful and very irascible. Then trembling palid, and with joined hands, the Sarasvati stood before the chief of munis. Like a woman whose husband has been slain, she was greatly distressed; and said to him, 'What shall I do?" The incensed muni replied, 'Bring Vashishtha hither speedily, that I may slay him.' The lotus-eyed goddess, joining her hands trembled in great fear, like a creeping plant agitated by the wind"..... Vishvamitra, however, although he saw her condition, repeated his command. "The Sarasvati, who knew how sinful was his design, and that the might of Vashishtha was unequalled, went trembling, and in great dread of being cursed by both the sages, to Vashishtha, and told him what his rival had said. Vashishtha seeing her emaciated, pale, and anxious, spoke thus: 'Deliver thyself, O chief of rivers; carry me unhesitatingly to Vishvamitra, lest he curse thee'. Hearing these words of the merciful sage, the Sarasvati considered how she could act most wisely. She reflected, 'Vashishtha has always shown me great kindness; I must seek his welfare.' Then obsering the Kausika sage praying and sacrificing on her brink, she regarded that as a good opportunity, and swept away the bank by the force of her current. In this way the son of Mitra and Varuna (Vashishtha) was carried down; and while he was being borne along, he thus celebrated the river: 'Thou, O Sarasvati, issuest from the lake of Brahma, and pervadest the whole world with thy excellent streams. Residing in the sky, thou dischargest water into the colouds. Thou alone art all waters. By these we study.' 'Thou art nourishment, radiance, fame, perfection, intellect, light. Thou art speech; thou art Svaha; this world is subject to thee. Thou, in fourfold form, dwellest in all creatures'.....

Beholding Vashishtha brought near by the Sarasvati, Vishvamitra searched for a weapon with which to make an end of him. Perceiving his anger, and dreading lest Brahmanicide should ensue, the river promptly carried away Vashishtha in an easterly direction; thus fulfilling the commands of both sages, but eluding Vishvamitra. Seeing Vashishtha so carried away, Vishvamitra, impatient, and enraged by vexation, said to her: 'Since thou, O chief of rivers, hast elued me, and hast receded, roll in waves of blood acceptable to the chief of demons," (which are fabled to gloat on blood). "The Sarasvati, being thus cursed, flowed for a year in a stream mingled with blood..... Rakshasas came to the place of pilgrimage, where Vashishtha had been swept away, and revealed in drinking to satiety

the bloody stream in security, dancing and laughing, as if they had conquered heaven." Some rishis who arrived at the spot some time after were horrified to see the blood-stained water, and the Rakshasas quaffing it, and "made the most strenuous efforts to rescue the Sarasvati."

The foregoing cases relate to individual conflicts between a particular Brahmin and a particular Kshatriya. The cases which follow are cases of class or communal conflicts between Brahmins on the one hand and the Kshatriyas on the other. They are not mere conflicts. Nor is it correct to say that they were like communal riots. They were class wars undertaken by one community with the avowed intention of exterminating the other root and branch. Two such class wars of extermination have been recorded in the Mahabharat. The first is a war of the Haihaya Kshatriyas on the Bhargava Brahmins. It occurred in the reign of the Haihaya King Kritavirya. The following is the description of this war in the Adiparvan of the Mahabharat.

"[1]There was a king named Kritavirya, by whose liberality the Bhrigu, learned in the Vedas, who officiated as his priest, had been greatly enriched with corn, and money. After he had gone to heaven, his descendants were in want of money, and came to beg for a supply from the Bhrigus, of whose wealth they were aware. Some of the latter hid their money under ground, others bestowed it on Brahmans, being afraid of the Kshatriyas, while others again gave these last what they wanted. It happened, however, that a Kshatriya, while digging the ground, discovered some money buried in the house of a Bhrigu. The Kshatriyas then assembled and saw this treasure, and, being incensed, slew in consequence all the Bhrigus, whom they regarded with contempt, down to the children in the womb. The widows, however, fled to the Himalaya mountains. One of them concealed her unborn child in her thigh. The Kshatriyas, hearing of its existence from a Brahmani informant, sought to kill it; but it issued forth from its mother's thigh with lustre, and blinded the persecutors. After wandering about bewildered among the mountains for a time, they humbly supplicated the mother of the child for the restoration of their sight; but she referred them to her wonderful infant Aurva into whom the whole Veda, with its six Vedangas, had entered, as the person who (in retaliation of the slaughter of his relatives) had robbed them or their eye-sight, and who alone could restore it. They accordingly had recourse to him, and their eye-sight was restored. Aurva, however, meditated the destruction of all living creatures, in revenge for the slaughter of the

[1] Muir Vol. I. pp. 448-449.

Bhrigus, and entered on a course of austerities which alarmed both gods, asuras, and men; but his progenitors (Pitris) themselves appeared, and sought to turn him from his purpose by saying that they had no desire to be revenged on the Kshatriyas: It was not from weakness that the devout Bhrigus overlooked the massacre perpetrated by the murderous Kshatriyas. When we became distressed by old age, we ourselves desired to be slaughtered by them. The money which was buried by someone in a Bhrigu's house was placed there for the purpose of exciting hatred, by those who wished to provoke the Kshatriyas. For what had we, who were desiring heaven, to do with money?" They add that they hit upon this device because they did not wish to be guilty of suicide, and concluded by calling upon Aurva to restrain his wrath; and abstain from the sin he was meditating, "Destroy not the Kshatriyas, O son, nor the seven worlds. Suppress thy kindled anger which nullifies the power of austere-fervour." Aurva, however, replies that he cannot allow his threat to remain unexecuted. His anger, unless wreaked upon some other object, will, he says, consume himself. And he argues on grounds of justice, expediency, and duty, against the clemency which his progenitors recommend. He is, however, persuaded by the Pitris to throw the fire of his anger into the sea, where they say it will find exercise in assailing the watery element, and in this way his threat will be fulfilled."

The second class war and which was also a war of extermination was declared by the Bhargava Brahmins on the Haihaya Kshatriyas. In this the leader of Bhargava Brahmins was one Parashuram. The story of the birth of Parashuram is described in the Vishnu Purana in the following terms:

"[1]Gadhi's daughter Satyavati had been given in marriage to an old Brahman called Richika, of the family of Bhrigu. In order that his wife might bear a son with the qualities of a Brahman, Richika had prepared for her a dish of Charu (rice, barley, and pulse, with butter and milk) for her to eat; and a similar mess for her mother, calculated to make her conceive a son with the character of a warrior. Satyavati's mother, however, persuaded her to exchange messes. She was blamed by her husband on her return home for what she had done. I quote the words of the original:

"Sinful woman, what improper deed is this that thou has done? I beheld thy body of a very terrible appearance. Thou hast certainly eaten the Charu prepared for thy mother. This was wrong. For into that Chari I had infused all the endowments of heriosm, vigour, and

[1] Muir Vol. I. pp. 349-350.

roce, whilst into thine I had introduced all these qualities of quietude, knowledge, and patnence which constitute the perfection of a Brahmin. Since thou hast acted in contravention of my design a son shall be born to thee who shall live the dreadful, martial, and murderous life of a Kshatriya and thy mother's offspring shall exhibit the peaceful disposition and conduct of a Brahman." As soon as she had heard this, Satyavati fell down and seized her husband's feet, and said, 'My lord, I have acted from ignorance; show kindness to me, let me not have a son of the sort thou hast described; if thou pleasest, let me have a grandson of that description.' Subsequently she bore Jamadagni, and her mother gave birth to Vishvamitra. Satyavati became the river called Kausiki. Jamadagni wedded Renuka, the daughter of Renu, of the family of Ikshvaku; and on her he begot a son called Parashurama."

The following additional details about Parashuram's family history is given in the Venaparvan of the Mahabharata:

"[1]Jamadagni and Satyavati had five sons, the youngest of whom was the repubtable Parasurama. By his father's command he kills his mother (who by the indulgence of impure desire, had fallen from her brevious sanctity), after the four elder sons had refused this matricidal offen, and had in consequence been deprived of reason by their father's curse. At Parasurama's desire however, his mother is restored by his father to life, and his brothers to reason; and he himself is absolved from all the guilt of murder; and obtains the boon of invincibility and long life from his father."

This second class war took place in the reign of the Haihaya king Arjuna the son of King Kartavirya. To understand it correctly it is necessary to divide it into two parts for there are two stages in it. The trouble began with the Brahmans claiming certain prerogatives and powers exclusively for themselves and King—Arjuna scouting them in most contemptuous terms. As the Anushasanparvan of the Mahabharata puts it.

"[2]Then ascending his chariot glorious as the resplendent sun, he exclaimed in the intoxication of his prowess, 'Who is like me in fortitude, courage, fame, heriosm, energy, and vigour?' At the end of this speech a bodiless voice on the sky addressed him: 'Thou knowest not, O fool, that a Brahman is better than a Kshatriya. It is with the help of the Brahman that the Kshatriya rules his subjects. Arjuna answers 'If I am pleased, I can create, or, if displeased, annihilate, living beings; and no Brahman is superior to me in

[1] Muir Vol. I, pp. 450.

[2] Muir Vol. I, pp. 454.

act, thought, or word. The first proposition is that the Brahmans are superior; the second that the Kshatriyas are superior; both of these thou hast stated with their ground, but there is a difference between them. The Brahmans are dependent on the Kshatriyas, and not the Kshatriyas on the Brahmans; and the Kshatriyas on the Brahmans; and the Kshatriyas are eaten up by the Brahmans, who wait upon them and only make the Vedas a pretence. Justice the protection of the people, has its seat in the Kshatriyas. From them the Brahmans derive their livelihood; how then can the latter be superior? I always keep in subjection to myself those Brahmans, the chief of all beings, who subsist on alms, and who have a high opinion of themselves. For truth was spoken by that female the Gayatri in the sky. I shall subdue all those unruly Brahmans clad in hides. No one in the three worlds, god or man can hurl me from my royal authority; wherefore I am superior to any Brahman."

On hearing this Vayu comes and says to Arjuna:

"[1]Abandon this sinful disposition, and to obeisance to the Brahmans. If thou shalt do them wrong, thy kingdom shall be convulsed. They will subdue thee; those powerful men will humble thee, and expel thee from thy country' The king asks him, 'who art thou? Vayu replies, 'I Vayu, the messenger of the gods, and tell thee what is for thy benefit'. Arjuna rejoins, 'Oh thou displayest to-day a great warmth of devotion to the Brahmans. But say that a Brahman is like (any other) earth-born creature. Or say that this most excellent Brahman is something like the wind. But fire is like the waters, or the sun, or the sky.'

Vayu then adduces various instances in which the superiority of the Brahmins has been mainfested. Arjuna then drops his hostility against the Brahmins and becomes their friend. In the Anushasanparva he is reported to have said:

"[2]I live altogether and always for the sake of the Brahmans. I am devoted to the Brahmans, and do obeisance to them continually. And it is through the favour of Dattatreya (A Brahman) that I have obtained all this power and high renown, and that I have practised righteousness."

[1] Muir Vol. I. pp. 454.

[2] Muir Vol. I. pp. 473

It is in the second stage that Parashuram comes on the scene and extreminates the Kshatriyas. The story is told in the Shantiparvan in the following terms:

"[1]Being of a meek, pious, kind and charitable turn of mind, the valiant Arjuna thought nothing of the curse; but his sons, who were of an arrogant and barbarous disposition, became the cause of its resulting in his death. Without their father's knowledge they took away Jamadagni's calf; and in consequence Parasurama attacked Arjuna and cut off his arms." His son retaliated by killing Jamadagni. Parashurama incensed at the slaughter of his father, having vowed in consequence to sweep away all Kshatriyas from the earth, seized his weapons; and slaying all the sons and grandsons of Arjuna, with thousands of the Haihayas, he turned the earth into a mass of ensanguined mud. Having thus cleared the earth of Kshatriyas, he became penetrated by deep compassion and retired to the forest. After some thousands of years had elapsed, the hero, naturally irascible, was taunted by Paravsu, the son of Raibhya and grandson of Vishvamitra, in a public assembly in these words: 'Are not these virtuous men, Pratardana and the others, who are assembled at the sacrifice in the city of Yayati,—are they not Kshatriyas? Thou hast failed to execute thy threat, and vainly boastest in the assembly. Thou has withdrawn to the mountain from fear of those valiant Kshatriyas, while the earth has again become overrrun by hundred of their race.' Hearing these words, Rama seized his weapons. The hundreds of Kshatriyas who had before been spared had now grown powerful kings. These, however, Parasurama now slew with their children, and all the numerous infants then unborn as they came into the world. Some, however, were preserved by their mothers."

Those who are curious to know the subsequent history of the Kshatriyas might be interested in the following extract from the Adiparvan.

"[2]Having one and twenty time swept away all the Kshatriyas from the earth, the son of Jamadagni engaged in austerities on Mahendra the most excellent of mountains. After he had cleared the world of Kshatriyas, their widows came to the Brahmans, praying for offspring. The religious Brahmans, free from any impulse of lust cohabited at the proper seasons with these women, who in consequence became pregnant, and brought forth valiant Kshatriya boys and girls, to continue the Kshatriya stock. Thus was the Kshatriya race virtuously begotten by Brahmans on Kshatriya

[1] Muir Vol. I, pp. 454-455.

[2] Muir Vol. I, pp. 451-452.

women, and became multiplied and long-lived, thence arose four castes inferior to the Brahmans."

These instances of enmity were accompanied by challenges from one side to the other which shows how high were the tempers running on both sides. The conduct of king Nimi in yoking the Brahmins to his chariot and making them drag it like horses show how determined the Kshatriyas were to humiliate the Brahmans. The challenges uttered by Arjuna Kartavirya against the Brahmins indicates his determination to level them down. The Brahmins on their side were not slow to take up this challenge and send counter challenges to the kshatriyas not to provoke the Brahmins. This is very clear from the way Vayu the messenger or Ambassador of the Brahmins talks to Arjuna Kartivirya after he had issued his challenge to the Brahmans. Vayu tells Arjuna how the Brhmans Atri made sea water saltish by urinating in it, how Dandakas were overthrown by the Brahmans, how the Kshatriyas of the Talajaughas were destroyed by a single Brahmin Aurva; The striking power of the Brahmins is not only superior to that of the Kshatriya it is superior to that of the Devas and Vayu proceeds to tell Arjuna some of the victories achieved by the Brahmins over the Devas. He tells him how Varuna ran away with Bhadra the daughter of Soma and the wife of the Brahman Utathya of the race of Angiras how Utathya by his curse caused the earth to be dried up and how Varuna as a consequence submitted to Utathya and returned his wife. He tells him how once the *Devas* were conquered by the Asuras and the Danavas, how deprived of all oblations, and stripped of their dignity they came to the earth went to the Brahmin Agastya and applied to him for protection and how Agastya scorched the Danavas from heaven and earth and made him fly to the South and reinstated the Devas in their dominion. He tells Arjuna how once the Adityas were performing a sacrifice and while engaged in it were attached by Danavas called Khalims, who came in ten in thousands to slay them, how the Adityas went to Indra and how Indra himself attached by the Daityas not being able to render help to the Adityas went to the Brahmin Vashishtha for help and how Vashishtha taking mercy on the Adityas saved them by burning the Danavas alive. He next tells Arjuna how the Danavas once fought with the Devas, how by enveloping them in dreadful darkness the Danavas slaughtered the Devas, how the Devas implored the Brahmin Atri to become the moon and dispell the glown around the sun which Atri did thereby saved the Devas from the Danvas. The last episode of Brahmin prowess which Vayu tells Arjuna is how the Brahmin Chyavana compelled Indra to admit the Ashwins to equal rank and drink Soma with them as a token of equality and

how when Indra refused he took away both the earth and heaven from them and how he created a Demon Mada and put the Devas including Indra into his mouth and how he compelled Indra to admit the Ashwins to equal rank and drink Soma with them and how Indra ultimately surrendered to Chyavana.

Vayu did not merely recount these exploits of the Brahmins. He did something more. Every time he gave Arjuna an instance of the power of the Brahmins he ended by asking Arjuna pointed questions such as "Can you tell me of any Kshatriya who was superior to him (i.e. the Brahmins hero of the story)". "Declare on your part, any Kshatriya who has been superior to him, "Tell me of any Kshatriya superior to Atri."

This class war between the Brahmins and the Kshatriyas must have gone on for ages. In the light of this the attitude of Manu towards this Class War comes as very strange. Consider the following verses from the Manu Smriti:

> IV. 135. "Let him who desires prosperity, indeed, never despise a Kshatriya, a snake, and a learned Brahmana, be they ever so feeble."
>
> IV. 136. "Because these three, when treated with disrespect, may utterly destroy him; hence a wise man must never despite them."
>
> X. 322. "Kshatriyas prosper not without Brahmans, Brahmans prosper not without Kshatriyas; Brahmans and Kshatriyas, being closely united, prosper in this (world) and in the next."

Here there is a clear attempt on the part of Manu to close the ranks. Against whom did Manu want the Brahmins and the Kshatriyas to close their ranks? Was this an attempt to forget and forgive or was the motive to combine them in a conspiracy to achieve some unholy purpose. What were the circumstances that forced Manu to advise the Brahmins to forget their age old enmity with Kshatriyas and seek the helping hand? The circumstances, must have been very hard and very pressing. For there was no room left for a reapproachment between the two. The Brahmins had hurled a terrible insult against the Kshatriyas and had wounded their price by saying quite openly that the Kshatriyas were the illegitimate children of Brahmins begotten by them on Kshatriyas widows. The next offensive thing that the Brahmins had done to wound the feelings of the Kshatriyas was to extract from the latter a confession that the Brahmins were superior to the Kshatriyas in military prowess and had made Bhishma say:

> "[1]The prowess of the Brahmans can destroy even the gods. Those wise beings behold all these worlds. To them it is indifferent whether they are perfumed with sandal wood or deformed with mire,

[1] Muir Vol. I, pp. 473-474.

whether they eat or fast, whether they are clad in silk, or in sack cloth or skins. They can turn what is not divine into what is divine, and the converse; and can in their anger create other worlds with their guardians. They are the gods of the gods; and the cause of the cause. The ignorant Brahman is a god, whilst a learned Brahman is yet more a god, like the full ocean."

All this makes this sudden climb down by the Brahmins, this stoping down to win over the Kshatriyas very mysterious. What can be the key to this mystery?

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CHAPTER 16

Shudras and the Counter Revolution

This is a 21-page foolscap typed manuscript. The cover page is having a title 'Shudras and the Counter-Revolution' and the text on next page starts with the same title. All these pages were loose and tagged together. Unfortunately, only 21 pages are available and the latter pages seem to be lost. — Editors.

The laws of Manu relating to the Status of the Shudra make a very interesting reading for the simple reason that they have moulded thed psychology of the Hindus and determined their attitude towards the Shudras who forms at the present and at all times the most numerous part of Hindu society. They are set out below under separate heads so that it may be possible for the reader to have a complete idea of the status given by Manu to the Community of Shudras.

Manu asks the householders of the Brahmana, Kshatriya and Vaishya Class:

> IV. 61. Let him not dwell in a country where the rulers are Shudra. A Shudra is not to be deemed as a respectable person. For Manu enacts that:
>
> XI. 24. A Brahmin shall never beg from a Shudra property for (performing) a sacrifice i.e. for religious purpose. All marriage ties with the Shudra were proscribed. Marriage with a woman belonging to any of the three other classes was forbidden. A Shudra was not to have any connection with a woman of the higher classes and an act of adultery committed by a Shudra with her was declared by manu to be an offence involving capital punishment.
>
> VIII. 374. A Shudra who has an intercourse with a woman of the higher caste guarded[1] or unguarded, shall be punished in the following manner:

If she was unguarded, he loses the offending part. If she was guarded then he should be put to death and his property confiscated.

As to office Manu prescribes.

[1] Guarded means under the protection of some relation. Unguarded means living alone.

VIII. 20. A Brahmana who is only a Brahmana by decent i.e. one who has neither studied nor performed any other act required by the Vedas may, at the king's pleasure, interpret the law to him i.e. act as the Judge, but never a Shudra (however learned he may be).

VIII. 21. The kingdom of that monarch who looks on while a Shudra settles the law will sink low like a cow in a morass.

VIII. 272. If a Shudra arrogantly presumes to preach religion to Brahmins the King shall have poured burning oil in his mouth and oars.

In the matter of acquiring learning the knowledge Manu ordains as follows:

III. 156. He who instructs Shudra pupils and he whose teacher is a Shudra shall become disqualified for being invited to a Shudra.

IV. 99. He must never read the Vedas.... in the presence of the Shudras.

Manu's successors went much beyond him in the cruelty of their punishment of the Shudra for studying the Veda. For instance Katyayana lays down that if a Shudra overheard the Veda or ventured to utter a word of the Veda the King shall cut his tongue in twain and pour hot molten lead in his ears.

As to right to property by the Shudra Manu enjoins as follows:

X. 129. No superfluous collection of wealth must be made by a Shudra, even though he has power to make it, since a servile man, who has amassed riches, becomes proud, and, by his insolence or neglect, gives pain to Brahmans.

VIII. 417. A Brahmanas may seize without hesitation if he be in distress for his subsistence, the goods of his Shudra.

The Shudra can have only one occupation. This is one of the inexhorable Laws of Manu. Says Manu:

I. 91. One occupation only, the Lord prescribed to the Shudra, to serve meekly these other three castes (namely Brahmin, Kshatriya and Vaishyas).

X. 121. If a Shudra, (unable to subsist by serving Brahmans) seeks a livelihood, he may serve Kshatriyas, or he may also seek to maintain himself by attending on a wealthy Vaisya.

X. 122. But let (Shudra) serve Brahmans, either for the sake of heaven, or with a view to both (this life and the next); for he who is called the servant of a Brahmana thereby gains all his ends.

X. 123. The service of Brahmanas alone is declared (to be) an excellent occupation for a Shudra for whatever else besides this he may perform will bear him no fruit.

Service by Shudra is not left by Manu to be regulated as a free contract. If the Shudra refuses to serve there is a provision for conscription which runs as follows:

> VIII. 413. A Brahmana may compel a Shudra, whether bought or unbought to do servile work; for he is created by the creator to be the slave of a Brahmana.
>
> X. 124. They must allot to him out of their own family (property) a suitable maintenance, after considering his ability, his industry, and the number of those whom he is bound to suport.
>
> X. 125. The remnants of their food must be given to him, as well as their old household furniture.

A Shudra is required by Manu to be servile in his speech and manner towards the other classes.

> VIII. 270. A Shudra who insults a twice-born man with gross invective, shall have his tongue cut out; for he is of low origin.
>
> VIII. 271. If he mentions the names and castes of the (twice-born) with contumely, an iron nail, ten fingers long, shall be thrust red hot into his mouth.

Manu is not satisfied with this. He wants this servile status of the Shudra to be expressed in the names and surnames of persons belonging to that community. Manu says:

> II. 31. Let the first part of a Brahman's name denote something auspicious, a Kshatriya's be connected with power and a Vaishya's with wealth, but a Shudra's, express something contemptible.
>
> II. 32. The second part of a Brahman's name shall be a word implying happiness; of a Kshatriya's word implying protection; of a Vaishya's a term expressive of thriving and of a Shudra's an expression denoting services.

What was the position of the Shudra before Manu? Manu treats the Shudra as though he was an alien Non-Aryan not entitled to the social and religious privileges of the Aryan. Unfortunately the view that the Shudra was a Non-Aryan is too readily accepted by the generality of the people. But there can be no doubt that this view has not the slightest foundation in the literature of the ancient Aryans.

Reading the Religious literature of the ancient Aryans one comes across the names of various communities and groups of people. There were first of all the Aryans with their fourfold divisions of Brahmins, Kshatriyas, Vaishyas and Shudras. Besides them and apart from them there were (i) Asuras (ii) Suras or Devas (iii) Yakshas (iv) Gandharvas (v) Kinnars (vi) Charanas (vii) Ashvins and (viii) Nishadas. The Nishadas were a jungle people primitive and uncivilized. The Gandharvas, Yakshas, Kinnars, Charanas and Ashvins were professional classes and

not communities. The word Asura is generic name given to various tribes known by their tribal names of Daityas, Danavas, Dasyus, Kalananjas, Kaleyyas, Kalins, Nagas, Nivata-Kavachas, Paulomas, Pishachas and Raxasas. We do not know if the Suras and Devas were composed of various tribes as the Asuras were. We only know the leaders of the Deva Community. The well known amongst them were Brahma, Vishnu Rudra, Surya, Indra, Varuna, Soma etc.

Due mostly to the ignorant interpretations of Sayanacharya some very curious beliefs prevail even among the best informed people about these communities namely the Aryans, the Asuras and the Devas and their inter-relation and their consanguinity. It is believed that the Asuras were not a human species at all. They are held to have been ghosts and goblins who plagued the Aryans with their nocturnal visitations. The Suras or Devas are understood to be poetic deifications of nature's forces. With regard to the Aryans the belief is that they were a fair race with sharp nose and had a great deal of colour prejudice. As to the Dasyus it is asserted that a Dasyu is only another name for a Shudra. The Shudras it is said formed the aboriginals of India. They were dark and flat nosed. The Aryans who invaded India conquered them and made them slaves and as a badge of slavery gave them the name Dasyu which it is said comes from the word Das[1] which means a slave.

Every one of these beliefs is unfounded. The Asuras and Suras were communities of human beings as the Aryans were. The Asuras and Suras were descended from a common father Kashapa. The story is that Daksha Prajapati had 60 daughters, of them thirteen were given in marriage to Kashapa. Diti and Aditi were two among the 13 of Kashapa's wives. Those born to Diti were called Asuras and those born to Aditi were called Suras or Devas. The two faught a long and a bloody battle for the soverignty of the world. This no doubt is mythology and mythology though it is history in hyperbole is still history.

The Aryans were not a race. The Aryans were a collection of people. The cement that held them together was their interest in the maintenance of a type of culture called Aryan culture. Any one who accepted the Aryan culture was an Aryan. Not being a race there was no fixed type of colour and physiognomy which could be called Aryan. There was no dark and flat nose people for the Aryans to distinguish themselves from[2]. The whole of this edifice of colour prejudice as being factors for division and antagonism between Aryans and the Dasyus is based upon a wrong meaning given to the two words *Varna* and *Anas* which are used with reference to the Dasyus. The word Varna is taken to mean colour and the

[1] According to Nirukta, Das means to destroy.

[2] On the whole of this subject see a brilliant discussion by Mr. Satvalekar in Purusharth Vol. XIII. p.

word *Anas* is taken to mean without nose. Both these meanings are erroneous. Varna means Caste or group and *Anas* if read as An-As means uncultivated speech. That statement that the Aryans had a colour prejudice which determined their social order is arrant nonsense. If there were any people who were devoid of colour prejudice it is the Aryans and that is because there was no dominant colour to distinguish themselves.

It is wrong to say that the Dasyus were non-Aryans by race. The Dasyus were not a pre-Aryan race of aboriginals of India. The Dasyus were members of the Aryan community who were deprived of the title of Arya for opposing some belief or cult which was an essential part of the Aryan Culture. How this belief that the Dasyus were Non-Aryans by race could have arisen it is difficult to understand. In the Rig Veda (X. 49) Indra says: "I (Indra) have killed with my thuderbolt for the good of the man, known as Kavi. I have protected Kupa by adopting means of protection. I took up the thunderbolt for killing Susna. *I have deprived the Dasyus of the appellation of Arya."*

Nothing can be more positive and definite than this statement of Indra that the Dasyus were Aryans. Further and better proof of this fact can be had in the impeachment of Indra for the various atrocities he had committed. In the list of atrocities for which Indra was impeached there was one charge namely the killing of Vratra. Vratra was the leader of the Dasyus. It is unthinkable that such a charge could be framed against Indra if the Dasyus were not Aryans.

It is erroneous to believe that the Shudras were conquered by the Aryan invaders. In the first place the story that the Aryans came from outside India and invaded the natives has no evidence to support it. There is a large body of evidence that India is the home of the Aryans. In the second place there is no evidence anywhere of any warfare having taken place between Aryans and Dasyus but the Dasyus have nothing to do with the Shudras. In the third place it is difficult to believe that the Aryans were a powerful people capable of much military prowess. Any one who reads the history of the Aryans in India in their relation to the Devas will be reminded of the relationship that subsisted between the Viellens and their lords during the feudal times. The Devas were the feudal lords and the Aryans were the Villens. The innumerable sacrifices which the Aryans performed have the look of fudal dues paid to the Deva. This servility of the Aryans to the Devas was due to the fact that without the help and the protection of the Devas they could not withstand the assualts of the Asuras. It is too much to presume that so effete a people could have conquered the Shudras. Lastly there was no necessity to conquer the Shudra. They were Aryans in the only sense in which the word Aryan is used,

namely, the upholders of the Aryans Culture. Two things are clear about the Shudras. Nobody has ever contended that they were dark and flat nosed. Nobody has contended that they were defeated or enslaved by the Aryans. It is wrong to treat the Dasyus and Shudras as one and the same. As a people they may be the same. But culturally they were quite different. The Dasyus were Non-Aryans in the sense they had fallen away and rebelled against the Aryan culture. The Shudras on the other hand were Aryans i.e. they were believers in the Aryan way of life. The Shudra was accepted as an Aryan and as late as Kautilya's Artha Shastra was addressed an Arya.

The Shudra was an intergral, natural and valued member of the Aryan Society is proved by a prayer which is found in the Yajur Veda[1]and which is offered by the Sacrificer. It runs as follows:

"..... O Gods

Give lustre to our holy priests, set lustre in our ruling chiefs, Lustre to Vaisyas, Shudras: Give, through lustre; Lustre unto me." It is a remarkable prayer, remarkable because it shows that the Shudra was a member of the Aryan Community and was also a respected member of it.

That the Shudras were invited to be present at the coronation of the King along with Brahmins, Kshatriyas and Vaishyas is proved by the description given in the Mahabharata of the coronation of Yudhisthira the eldest brother of the Pandavas. Shudra took part in the consecration of the King. According to ancient writer called Nilkantha speaking of the coronation ceremony expressly says: "that the four chief Ministers, Brahmin, Kshatriya, Vaishya and Shudra consecrated the new king. Then the leaders of each Varna and by the Castes lower still consecrated him with the holy water. Then followed acclamation by the twice-born. In the post-vedic period preceding Manu there was group of the representatives of the people called the Ratnis. The Ratnis played a significant part in the investiture of the King. The Ratnis were so called because they held the Ratna (jewel) which was a symbol of sovereignty. The king received his sovereignty only when the Ratnis handed over to him the jewel of sovereignty and on receiving his sovereignty the King went to the house of each of the Ratnis and made an offering to him. It is a significant fact that the Shudra was one of the Ratnis.

Shudras were members of the two political Assemblies of ancient times namely the Janapada and Paura and as a member of this he was entitled to special respect even from a Brahmin.

[1]..... White Yajur Veda p. 200.

That the Shudra in the Ancient Aryan Society had reached a high political status is indisputable. They could become ministers of State. The Mahabharata bears testimony to this. Enumerating the different classes of ministers within his memory the writer of the Mahabharata mentions a list[1] of 37 Ministers of whom four are Brahmins, eight Kshatriyas, twenty-one Vaishyas, three Shudras and one Suta.

Shudras did not stop with being ministers of State. They even became Kings. The story of Shudras which is given in the Rig Veda stands in cruel contrast with the views expressed by Manu regarding the eligibility of the Shudra to be a King. The reign of Sudas if referred to at all is referred only in connection with the terrible contest between Vashishtha and Vishvamitra as to who should become the purohit or Royal priest of King Sudas. The issue involved in the contest was as to the right to officiate as the Purohit or the King. Vashishtha who was a Brahmin and who was already an officiating priest of Sudas claimed that a Brahmin alone could become the Purohit of a King while Vishvamitra who was a Kshatriya contended that a Kshatriya was competent for that office. Vishvamitra succeeded and in his turn became the Purohit of Sudas. The contest is indeed memorable because the issue involved in it is very crucial although the result has not been a permanent deprivation of the Brahmins. But there can be no doubt the story is probably the best piece of social history that is to be found in the ancient literature. Unfortunately nobody has taken serious notice of it. Nobody has even asked who this King was. Sudas was the son of Paijavana and Paijavana is the son of Devodas who was the King of Kasi i.e. Benares. What was the Varna of Sudas? Few would believe if they were told that King Sudas was a Shudra. But that is a fact and it can be proved by the testimony of the Mahabharata[2] where in the Santipurva a reference is made to this *Paijavana*. It is stated that Paijavana was a Shudra. In the light of this the story of Sudas sheds new light on the status of the Shudra in the Aryan Society. It shows that a Shudra could be a reigning monarch. It also shows that both the Brahmins and the Kshatriyas not only saw no humiliation in serving a Shudra King but they with each other to secure his patronage and were ready to perform vedic ceremonies at his house.

It cannot be said that there were no Shudra Kings in later times. On the contrary history shows that the two dynasties which preceded Manu were dynasties of Shudras Kings. The Nandas who ruled from B.C.413 to B.C. 322* were Shudras. The mauryas who succeded

[1] Jaiswal—Hindu Polity Part II. p. 148.

[2] Muir Sanskrit Texts Vol. I. p. 366.

**Figures are incorporated by Editors as they are not in the M.S.*—Editors.

the Nandas and who ruled from 322 3.C, to 183 B.C.* were also Shudras. What more glaring piece of evidence can there be to show the high dignity enjoyed by the Shudra than to point to the case of Asoka who was not merely the Emperor of India but a Shudra and his Empire was the Empire built by the Shudras.

On the question of the right of the Shudra to study the Vedas a reference may be made to the Chhandogya Upanished (V. 1.2). It relates the story of one Janasruti to whom Veda Vidya was taught by the preceptor Raikva. This Janasruti was a Shudra. This story if it is a genuine story leaves no doubt that there was a time when there was no bar against the Shudra in the matter of studying the Vedas.

Not only was Shudra free to study the Vedas but there were Shudras who had reached the status of Rishis and has been composers of the Hymns of the Vedas. The story of the Rishi Kavasha Aliusha[1] is very illuminating. He was a Rishi and the author of several hymns of the Tenth Book of the Rig-Veda.[2]

On the question of the spiritual eligibility of the Shudra to perform the Vedic ceremonies and sacrifies the following data may be presented. Jaimini[3] the author of the Purva Mimansa mentions an ancient teacher by name Badari—whose work is lost as an exponent of the view that even Shudra could perform Vedic sacrifices. The Bharadvaja Srauta Sutra (v. 28) admits that there exists another school of thought which holds that a Sudra can consecrate the three sacred fires necessary for the performance of a Vedic Sacrifice. Similarly the Commentator of the Katyayana Srauta Sutra (1 & 5) admits that there are certain Vedic texts which lead to the inference that the Shudra was eligible to perform Vedic rites. In the Satpath Brahmana (I. 1.4.12) there is enunciated a rule of etiquette which the priest officiating at the performance of a sacrifice is required to observe. It relates to the mode in which the priest should address the Haviskut (the person celebrating the sacrifice) calling upon him to begin the ceremony. The rule says:

> "Now there are four different forms of this call, viz. 'Come hither' (Ehi) in the case of a Brahmana; 'approach' (Agahi) and 'hasten hither' (Adarva) in the case of a Vaishya and a member of the Military caste and 'run hither' (Adhava) in that of a Shudra."

In the Satpatha Brahman[4] there is evidence to show that the Shudra was eligible to perform the Soma Yaga and to partake of the divine drink Soma. It says that in the Soma Yaga in place of a 'payovrata'

[1] Aitercya Brahmana Vol. II. p. 112.

[2] Max-Muller— Ancient Sanskrit Literature 1860, p.58.

[3] See Kane—History of Dharmashastras.

[4] Quoted by Kane—History of Dharmashastras.

[5] *Figures are incorporated by Editors as they are not in the MS.*—Editors.

(vow to drink milk only) Mastu (whey) is prescribed for the Shudra. In another place the same Satapatha Brahmana[1] says:

> "There are four classes, the Brahmin, Rajanya, Vaishya and Sudra. There is no one of these who dislikes Soma. If any one of them however should do so, let there be an atonment."

This means that the drinking of Soma was not only permissible but it was compulsory on all including the Shudra. But in the story of the Ashvins there is definite evidence that the Shudra had a right to the divine drink of Soma. The Ashvins as the story[2] goes once happened to behold Sukanya when she had just bathed and when her person was bare. She was young girl married to a Rishi by name Chyavana who at the time of marriage was so old as to be dying almost any day. The Ashvins were captivated by the beauty of Sukanya and said "accept one of us for your husband, it behoveth thee not to spend thy youth fruitlessly."

She refused saying "I am devoted to my husband." They again spoke to her and this time proposed a bargain—"We two are the celestial physicians of note. We will make thy husband young and graceful. Do thou then select one of us as thy husband." She went to her husband and communicated to him the terms of the bargain. Chyavana said to Sukanya "Do thou so" and the bargain was carried out and Chyavana was made a young man by the Ashwins. Subsequently a question arose whether the Ashwins were entitled to Soma which was the drink of the Gods. Indra objected saying that the Ashwins were Shudras and therefore not entitled to Soma. Chyavana who had received perpetual youth from the Ashwins set aside the contention and compelled Indra to give them Soma.

All these provisions can have no meaning unless the Shudra was in fact performing the Vedic ceremonies to which they relate—there is evidence to show that a Shudra woman took part in the Vedic sacrifice known as the Ashwamedha.[3]

With regard to the Upanayana ceremony and the right to wear the sacred thread there is nowhere an express prohibition against the Shudra. On the other hand in the Sansakara Ganapati there is an express provision declaring the Shudra to be eligible for Upanayan.[4]

The Shudra though belonging to a lower class was nonetheless a free citizen in days before Manu cannot be gainsaid. Consider the following provisions in Kautilya's Artha Shastra:

[1] Quoted by Muir Sanskrit Texts I p. 367.

[2] V. Fausboil Indian Mythology pp. 128-134.

[3] Jaiswal Indian Polity Part II. p. 17.

[4] Referred to by Max-Muller in Ancient Sanskrit Literature-(1860)—p. 207.

"The selling or mortgaging by kinsmen of the life of a Sudra who is not a born slave, and has not attained majority, but is an Arya in birth shall be punished with a fine of 2 panas."

"Deceiving a slave of his money or depriving him of the privileges he can exercise as an Arya (Aryabhava), shall be punished with half the fine (levied for enslaving the life of an Arya)."

"Failure to set a slave at liberty on the receipt of a required amount of ransom shall be punished with a fine of 12 panas; putting a slave under confinement for no reason (samrodhaschakaranat) shall likewise be punished.

"The offspring of a man who has sold himself off as a slave shall be an Arya. A slave shall be entitled without prejudice to his master's work but also the inheritance he has received from his father."

Why did Manu suppress the Shudra?

This riddle of the Shudra is not a simple riddle. It is a complex one. The Aryans were for ever attempting to Aryanize the Non-Aryans i.e. bringing them within the pale of the Aryan Culture. So keen were the Aryans on Aryanization that they had developed a religious ceremony for the mass conversion of the Non-Aryans. The ceremony was called Vratya-stoma. Speaking of the Vratya-Stoma Mahamahopadhyaya Haraprasad Shastri says:

"The ceremony by which these Vratyas were purified, and which is described in the Pancavimsa Brahmana differed at least in one particular from other great ceremonies of the Vedic times, namely, while other ceremonies had only one sacrificer and his wife in the hall of sacrifice, this ceremony had thousands of sacrificers. One of them, the wisest, the richest or the most powerful acted as Grahapati or Patriarch and the rest simply followed him. The Grahapati had to pay a higher Daksina or fee than the rest."

"I consider this to be a device by which thousands and thousands of Vratyas were admitted to the society of the Rsis by one ceremony, and such ceremonies were of frequent occurrence, thus admitting hordes after hordes of nomadic Aryans into settled habits. The purified Vratyas were not allowed to bring their possessions in Vratya life with them in settled life. They had to leave them to those who remained Vratyas still or do the so-called Brahmins of the Magadha-desa, which, as I have elsewhere shown, was mostly inhabited by men whom the Rsis looked down upon."

"But when the Vratyas were admitted to settled life, they were admitted as fully equals. The Rsis used to eat food cooked by them, and they used to eat food cooked by the Rsis. They were taught all

the three Vidyas, Sama, Rk, and Yajus, and they were allowed to study the Vedas, and teach them, and to sacrifice for themselves and for others, that is, they were considered as fully equal. Not only were they treated as fully equal but they attained the highest proficiency of a Rsi. Samans were revealed to them, and even Rks. One of the purified Vratyas, Kausitaki was allowed to collect Brahmans of the Rig-Veda, which collection still goes under his name."

The Aryans were not only converting to their way of life the willing non-Aryans they were also attempting to make converts from among the unwilling Asuras who were opposed to the Aryans, their cult of sacrifice, their theory of Chaturvarna and even to their Vedas which according to the mythology the Asuras stole away from the Aryas. The story of Vishnu rescuing Pralhad by killing his father the Asura called Hiranya Kashapu on the ground that Pralhad was willing to be converted to the Aryan Culture while Hiranya Kashapu was opposed to it is an illustration in point. Here are instances of Non-Aryans being naturalized and enfranchized. Why was an opposite attitude taken against the Shudra? Why was the Shudra fully naturalized and fully enfranchized, denaturalized and disfranchized?

The treatment given to the *Nishadas* gives a point to this riddle which should not be overlooked. The Ancient Sanskrit Literature is full of reference to the five tribes. They are described under various appellations[1] such as Panch-Krishtayah, Panch-Kshitayah, Panch-Kshityas Manushyah, Panch-Charshanayah, Panch-Janah, Panchi-janya viz., Pancha-Bhuma, Panchajata. There is a difference of opinion as to what these terms denote. Sayanacharya the Commentator of Rig Veda says that these expressions refer to the four Varnas and the Nishads. The Vishnu Purana gives the following story about the Nishads:

"7. The Maiden named Sunitha, who was the first born of Mrityu (Death) was given as wife to Anga; and of her Vena was born."

8. This son of Mrityu's daughter, infected with the taint of his maternal grandfather, was born corrupt, as if by nature.

9. When Vena was inaugurated as king by the eminent rishis, he caused this proclamation to be made on the earth; "Men must not sacrifice, or give gifts, or present oblations. Who else but myself is the enjoyer of sacrifices? I am for ever the lord of offerings."

10. Then all the rishis approaching the king with respectful salutations, said to him in a gentle and conciliatory tone:

[1] Source not *quoted*. — Editors.

11. 'Hear, O King, what we have to say:

12. We shall worship Hari, the monarch of the Gods, and the lord of all sacrifices with a Dirghasattra (prolonged sacrifice), from which the highest benefits will accrue to your kingdom, your person and your subjects. May blessing rest upon you? You shall have a share in the ceremony.

13. Vishnu the Lord of sacrifices Male, being propitiated by us with this rite, will grant all the objects of your desire. Hari, the Lord of Sacrifices, bestows on those kings in whose country he is honoured with oblation everything that they wish." Vena replied: "What other being is superior to me? Who else but I should be adored ? Who is this person called Hari, whom you regard as the Lord of sacrifice? Brahma Janardana, Rudra, Indra, Vayu, Yama, Ravi (the Sun) Agni, Varuna, Dhatri, Pushan, Earth, the Moon,— these and the other gods who curse and bless are all present in king's person: for he is composed of all the gods. Knowing this, ye must act in conformity with my commands. Brahmans, ye must neither give gifts, nor present oblations nor sacrifices.

14. As obedience to their husbands is esteemed the highest duty of women, so is the observance of my orders incumbent upon you." The Rishis answered. 'Give permission great kings: let not religion perish: this whole world is but a modified form of oblations.

15. When religion perishes the whole world is destroyed with it, When Vena although thus admonished and repeatedly addressed by the eminent rishis, did not give his permission, then all the munis, filled with wrath and indignation, cried out to one another, "Slay, slay the sinner."

16. This man of degraded life, who blasphemes the sacrified Male, the god, the Lord without beginning or end, is not fit to be lord of the earth.' So saying the munis smote with blades of kusa grass consecrated by texts this king who had been already smitten by his blasphemy of the divine being and his other offences. The munis afterwards beheld dust all round, and asked the people who were standing near what that was.

17. They were informed: "In this country which has no king, the people being distressed, have become robbers, and have begun to seize the property of others.

18. It is from these robbers rushing impetuously, and plundering other men's goods, that this great dust is seen ?" Then all the munis, consulting together, rubbed with force the thigh of the king, who was childless, in order to produce a son. From his thigh when

rubbed there was produced a man like a charred log, with flat face, and extremely short.

19. "What shall I do," cried the man, in distress, to the Brahmans. They said to him, "Sit down (nishida); and from this he became a Nishada.

20. From his sprang the Nishadas dwelling in the Vindhya mountains, distinguished by their wicked deeds.

21. By this means the sin of the king departed out of him; and so were the Nishads produced, the offspring of the wickedness of Vena."

This is a mythological origin of the Nishads. But it contains historical facts. It proves that the Nishads were a low, primitive jungle tribe living in the forests of the Vindhya mountains, that they were a wicked people i.e. opposed to the Aryan Culture. They invented a mythology for explaining their origin and connecting them with the Aryan Society. All this was done in order to support the inclusion of the Nishads into the Aryan fold though not in the Aryan Society. Now there is nowhere any sort of disabilities imposed upon Nishads a low, uncivilized and foreign tribe. Question is why were the disabilities imposed upon the Shudra, who was civilized and an Arya?

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CHAPTER 17

The Woman and the Counter-Revolution

There is one copy with a title 'The Woman and the Counter-Revolution'. There is another copy of the same text with a title, 'The Riddle of the Woman'. The Editorial Board felt that this essay would be appropriate in this Volume rather than in the volume of 'Riddles in Hinduism' .—Editors.

Manu can hardly be said to be more tender to women than he was to the Shudra. He starts with a low opinion of women. Manu proclaims:

II. 213. It is the nature of women to seduce men in this (world); for that reason the wise are never unguarded in (the company of) females.

II. 214. For women are able to lead astray in (this) world not only a fool, but even a learned man, and (to make) him a slave of desire and anger.

II. 215. One should not sit in a lonely place with one's mother, sister or daughter; for the senses are powerful, and master even a learned man.

IX. 14. Women do not care for beauty, nor is their attention fixed on age; (thinking); '(It is enough that) he is a man', they give themselves to the handsome and to the ugly.

IX. 15. Through their passion for men, through their mutable temper, through their natural heartlessness, they become disloyal towards their husbands, however, carefully they may be guarded in this (world).

IX. 16. Knowing their disposition, which the Lord of creatures laid in them at the creation, to be such, (every) man should most strenuously exert himself to guard them.

IX. 17. (When creating them) Manu allotted to women (a love of their) bed, (of their) seat and (of) ornament, impure desires, wrath, dishonesty, malice, and bad conduct.

The laws of Manu against women are of a piece with this view. Women are not to be free under any circumstances. In the opinion of Manu:

IX. 2. Day and night women must be kept in dependence by the males (of their families), and, if they attach themselves to sexual enjoyments, they must be kept under one's control.

IX. 3. Her father protects (her) in childhood, her husband protects (her) in youth, and her sons protect (her) in old age; a woman is never fit for independence.

IX. 5. Women must particularly be guarded against evil inclinations, however trifling (they may appear); for, if they are not guarded, they will bring sorrow on two families.

IX. 6. Considering that the highest duty of all castes, even weak husbands (must) strive to guard their wives.

IV. 147. By a girl, by a young woman, or even by an aged one, nothing must be done independently, even in her own house.

V. 148. In childhood a female must be subject to her father, in youth to her husband, when her lord is dead to her sons; a woman must never be independent.

V. 149. She must not seek to separate herself from her father, husband, or sons; by leaving them she would make both (her own and her husband's) families contemptible.

Woman is not to have a right to divorce.

IX. 45. The husband is declared to be one with the wife, which means that there could be no separation once a woman is married.

Many Hindus stop here as though this is the whole story regarding Manu's law of divorce and keep on idolizing it by comforting their conscience by holding out the view that Manu regarded marriage as sacrament and therefore, did not allow divorce. This of course is far from the truth. His law against divorce had a very different motive. It was not to tie up a man to a woman but it was to tie up the woman to a man and to leave the man free.

For Manu does not prevent a man from giving up his wife. Indeed he not only allows him to abandon his wife but he also permits him to sell her. But what he does is to prevent the wife from becoming free. See what Manu says:

IX. 46. Neither by sale nor by repudiation is a wife released from her husband.

The meaning is that a wife, sold or repudiated by her husband, can never become the legitimate wife of another who may have bought or received her after she was repudiated. If this is not monstrous nothing can be. But Manu was not worried by consideration of justice or injustice of his law. He wanted to deprive woman of the freedom she had under the Buddhistic regime. He knew that by her misuse of her liberty, by her willingness to marry the Shudra the system of the

gradation of the Varna had been destroyed. Manu was outraged by her license and in putting a stop to it he deprived her of her liberty.

A wife was reduced by manu to the level of a slave in the matter of property.

> IX. 416. A wife, a son, and a slave, these three are declared to have no property; the wealth which they earn is (acquired) for him to whom they belong.

When she becomes a widow Manu allows her maintenance, if her husband was joint, and a widow's estate in the property of her husband, if he was separate from his family. But Manu never allows her to have any dominion over property.

A woman under the laws of Manu is subject to corporal punishment and Manu allows the husband the right to beat his wife.

> VIII. 299. A wife, a son, a slave, a pupil and a younger brother of full blood, who have committed faults, may be beaten with a rope or a split bamboo. In other matters woman was reduced by Manu to the same position as the Shudra.

The study of the Veda was forbidden to her by Manu as it was to the Shudra.

> II. 66. Even for a woman the performance of the *Sanskaras* are necessary and they should be performed. But they should be performed without uttering the Veda Mantras.

> IX. 18. Women have no right to study the Vedas. That is why their Sanskars are performed without Veda Mantras. Women have no knowledge of religion because they have no right to know the Vedas. The uttering of the Veda Mantras is useful for removing sin. As women cannot utter the Veda Mantras they are as unclean as untruth is.

Offering sacrifices according to Brahmanism formed the very soul of religion. Yet Manu will not allow women to perform them. Manu ordains that:

> XI. 36. A woman shall not perform the daily sacrifices prescribed by the Vedas.

> XI. 37. If she does it she will go to hell.

To disable her from performing such sacrifices Manu prevents her from getting the aid and services of a Brahmin priest.

> IV. 205. A Brahman must never eat food given at a sacrifice performed by a woman.

> IV. 206. Sacrifices performed by women are inauspicious and not acceptable to God. They should therefore be avoided.

Woman was not to have any intellectual persuits nor free will, nor freedom of thought. She was not to join any heretical sect such as

Buddhism. If she continues to adhere to it till death she is not to be given the libation of water as is done in the case of all dead.

Finally a word regarding the ideal of life, Manu has sought to place before a woman. It had better be stated in his own words:

> V. 151. Him to whom her father may give her, or her brother with the father's permission, she shall obey as long as he lives and when he is dead, she must not insult his memory.
>
> V. 154. Though destitute or virtue, or seeking pleasure elsewhere, or devoid of good qualities, yet a husband must be constantly worshipped as a god by a faithful wife.
>
> V. 155. No sacrifice, no vow, no fast must be performed by women, apart from their husbands; if a wife obeys her husband, she will for that reason alone be exalted in heaven.

Then comes the choicest texts which forms the pith and the marrow of this ideal which Manu prescribes for women:

> V. 153. The husband who wedded her with sacred Mantras, is always a source of happiness to his wife, both in season and out of season, in this world and in the next.
>
> V. 150. She must always be cheerful, clever in the management of her household affairs, careful in cleaning her utensils, and economical in expenditure.

This the Hindus regard as a very lofty ideal for a woman!

Compare with this the position of the woman before the days of Manu.

That a woman was entitled to Upanayan is clear from the Atharva Veda where a girl is spoken of as being eligible for marriage having finished her Brahmacharya. From the Shrauta Sutras it is clear that women could repeat the Mantras of the Vedas and that women were taught to read the Vedas. Panini's Ashtaadhyai bears testimony to the fact that women attended Gurukul and studied the various Shakhas of the Veda and became expert in Mimansa. Patanjali's Maha Bhashya shows that women were teachers and taught Vedas to girl students. The stories of women entering into public discussions with men on most abstruse subjects of religion, philosophy and metaphysics are by no means few. The story of public disputation between Janaka and Sulbha, between Yajnavalkya and Gargi, between Yajnavalkya and Maitrei and between Shankaracharya and Vidyadhari shows that Indian women in pre-Manu's time could rise to the highest pinnacle of learning and education.

That women in pre-Manu days were highly respected cannot be disputed. Among the Ratnis who played so prominent a part in the coronation of the King in Ancient India was the queen and the King

made her an offering[1] as he did to the others. Not only the king elect did homage to the Queen, he worshipped his other wives of lower castes[2]. In the same way the King offers salutation after the coronation ceremony to the, ladies of the chiefs of the shremes (guides[3]).

In the days of Kautilya women[4] were deemed to have attained their age of majority at 12 and men at 16. The age of majority was in all probability the age of marriage. That the marriages were post puberty marriages is clear from Baudhayanas' Grihya Sutras[5] where an expiatory ceremony is specially prescribed in the case of a bride passing her menses on the occasion of her marriage.

In Kautilya there is no law as to age of consent. That is because marriages were post puberty marriages and Kautilya is more concerned with cases in which a bride or a bridegroom is married without disclosing the fact of his or her having had sexual intercouse before marriage with another person or maiden in menses having had sexual intercouse. In the former case Kautilya says[6]:

> "Any person who has given a girl in marriage without announcing her guilt of having laid with another shall not only be punished with a fine but also be made to return the Sulka and Stridhana. Any person receiving a girl in marriage without announcing the blemishes of the bridegroom shall not only pay double the above fine, but also forfeit the Sulka and Stridhana (he paid for the bride). In regard to the latter case the rule in Kautilya[7] is:
>
> "It is no offence for a man of equal caste and rank to have connection with a maiden who has been unmarried three years after her first menses. Nor is it an offence for a man, even of different caste, to have connection with a maiden who has spent more than three years after her first menses and has no jewellery on her person."

Unlike Manu Kautilya's idea is monogamy. Man can marry more than one wife only under certain conditions. They are given by Kautilya in the following terms[1]:

> "If a woman either brings forth no (live) children, or has no male issue, or is barren, her husband shall wait for eight years (before marrying another). If she bears only a dead child, he has to wait for ten years. If she brings forth only females, he has to wait for twelve

[1] Jaiswal: Indian Polity, Part II, p. 16.

[2] *Ibid,* Part II, p. 17.

[3] *Ibid,* p. 82.

[4] Sham Shastri, Kautilya's Arthashastra, p. 175.

[5] Baudhyayana, I. 7. 22.

[6] Sham Shastri, Kautilya's Arthashastra, p. 222.

[7] *Ibid,* p. 259.

years. Then if he is desirious to have sons, he may marry another. In case of violating this rule, he shll be made to pay her not only Sulks, her property (Stridhana) and an adequate monetary compensation (adhivedanika martham), but also a fine of 24 panas to the Government. Having given the necessary amount of Sulka and property (Stridhana) even to those women who have not received such things on the occasion of their marriage with him, and also having given his wives the proportionate compensation and an adequate subsistence (vrutti), he may marry any number of women; for women are created for the sake of sons."

Unlike Manu in Kautilya's time women could claim divorce on the ground of mutual enmity and hatred.

"A woman, hating her husband, cannot dissolve her marriage with him against his will. Nor can a man dissolve his marriage with his wife against her will. But from mutual enmity, divorce may be obtained (parasparam dveshanmokshah). If a man, apprehending danger from his wife, desires divorce (mokshamichchhet), he shall return to her whatever she was given (on the occasion of her marriage). If a woman, under the apprehension of danger from her husband, desires divorce, she shall forfeit her claim to her property."

A wife can abandon her husband if he is a bad character.

"A woman who has a right to claim maintenance for an unlimited period of time shall be given as much food and clothing (grasacchadana) as necessary for her, or more than is neessary in proportion to the income of the maintainer (yathapurushapari-vapam va). If the period (for which such things are to be given to her with one-tenth of the amount in addition) is limited, then a certain amount of money, fixed in proportion to the income of the maintainer, shall be given to her; so also if she has not been given her Sulka, property, and compensation (due to her for allowing her husband to re-marry). If she places herself under the protection of any one belonging to her father-in-law's family (Svasurakula), or if she begins to live independently, then her husband shall not be sued (for her maintenance). Thus the determination of maintenance is dealt with."

In the days of Kautilya there was no ban on woman or a widow remarrying:

"On the death of her husband a woman, desirous to lead a pious life, shall at once receive not only her endowment and jewellery (sthapyabharanam), but also the balance of Sulka due to her. If after obtaining these two things she re-married another, she shall be caused to pay them back together with interest (on their value). If

she is desirous of a second marriage (kutumbarkama), she shall be given on the occasion of her re-marriage (nivesakale) whatever either her father-in-law or her husband or both had given to her. The time at which women can re-marry shall be explained in connection with the subject of long sojourn of husbands.

"If a widow marries any man other than of her father-in-law's selection (svasurapratilomyenanivishta), she shall forfeit whatever had been given to her by her father-in-law and her deceased husband.

"The kinsmen (gnatis) of a woman shall return to her old father-in-law whatever property of her own she had taken with her while, re-marrying a kinsman. Whoever justly takes a woman under his protection shall equally protect her property. No woman shall succeed in her attempt to establish her title to the property of her deceased husband, after she re-marries.

"if she lives a pious life, she may enjoy it (dharmakama bhunjita). No woman with a son or sons shall (after re-marriage) be at liberty to make free use of her own property (stridhana); for that property of hers, her sons shall receive.

"If a woman after re-marriage attempts to take possession of her own property under the plea of maintaining her sons by her former husband, she shall be made to endow it in their name. If a woman has many male children by many husbands, then she shall conserve, her property in the same condition as she had received from her husbands. Even that property which has been given her with full powers of enjoyment and disposal, a remarried woman shall endow in the name of her sons.

"A barren widow who is faithful to the bed of her dead husband may, under the protection of her teacher, enjoy her property as long as she lives; for it is to ward off calamities that women are endowed with property. On her death, her property shall pass into the hands of her kinsman (Dayada). If the husband is alive and the wife is dead, then her sons and daughters shall divide her property among themselves. If there are no sons, her daughters shall have it. In their absence her husband shall take that amount of money (sulka) which he had given her, and her relatives shall re-take whatever in the shape of gift or dowry they had presented her. Thus the determination of the property of a woman is dealt with."

"Wives who belong to Sudra, Vaisya, Kshatriya or Brahman caste, and who have not given birth to children, should wait as long as a year, two, three and four years respectively for their husbands who have gone abroad for a short time; but if they are such as have

given birth to children, they should wait for their absent husbands for more than a year. If they are provided with maintenance, they should wait for twice the period of time just mentioned. If they are not so provided with, their well-to-do gnatis should maintain them either for four or eight years. Then the gnatis should leave them to marry, after taking what had been presented to them on the occasion of their marriages. If the husband is a Brahman, studying abroad, his wife who has no issue should wait for him for ten years; but if she has given birth to children, she should wait for twelve years. If the husband is a servant of the king, his wife should wait for him till her death; but even if she bears children to a savarna husband (i.e. a second husband belonging to the same gotra as that of the former husband), with a view to avoid the extinction of her race, she shall not be liable to contempt thereof (savarnatascha prajata na' pavadam labheta). If the wife of an absent husband lacks maintenance and is deserted by well-to-do gnatis, she may remarry one whom she likes and who is in a position to maintian her and relieve her misery."

Unlike Manu every precaution was taken to guarantee economic independence to a married woman. This is clear from the following provisions in Kautilya's Arthashastra relating to wife's endowment and maintenance:

"Means of subsistence (vruti) or jewellery (abadhya) constitutes what is called the property of a woman. Means of subsistence valued at above two thousand shall be endowed (in her name). There is no limit to jewellery. It is no guilt for the wife to make use of this property in maintaining her son, her daughter-in-law, or herself, whenever her absent husband has made no provision for her maintenance. In calamities, disease and famine, in warding off dangers and in charitable acts, the husband, too, may make use of this property. Neither shall there by any complaint against the enjoyment of this property by mutual consent by a couple who have brought forth a twin. Nor shall there be any complaint if this property has been enjoyed for three years by those who are wedded in accordance with the customs of the first four kinds of marriage. But the enjoyment of this property in the cases of Gandharva and Asura marriages shall be liable to be restored together with interest on it. In the case of such marriages as are called Rakshasa and Paisacha, the use of this property shall be dealt with as theft. Thus the duty of marriage is dealt with."

"A woman who has a right to claim maintenance for an unlimited period of time shall be given as much food and clothing

(grasachhadan) as is necessary for her, or more than is necessary in proportion to the income of the maintainer (yatha-purushaparivapam va). If the period (for which such things are to be given to her with one-tenth of the amount in addition) is limited, then a certain amount of money, fixed in proportion to the income of the maintainer, shall be given to her; so also if she has not been given her sulka, property, and compensation (due to her for allowing her husband to re-marry). If she places herself under the protection of any one belonging to her father-in-law's family (svasurkula), or if she begins to live independently, then her husband shall not be sued (for her maintenance). Thus the determination of maintenance is dealt with."

Surprising as it may appear in Kautilya's time a wife could bring an action in a court of law against her husband for assault and defamation.

In short in pre-Manu days a woman was free and equal partner of man.

Why did Manu degrade her?

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PART IV

Buddha or Karl Marx

The Committee found three different typed copies of an essay on Buddha and Karl Marx in loose sheets, two of which have corrections in the author's own handwriting. After scrutinizing these, this essay is compiled incorporating the corrections. The essay is divided into sub-topics as shown below:

Introduction

1. *The Creed of the Buddha*
2. *The Original Creed of Karl Marx*
3. *What survives of the Marxian Creed*
4. *Comparision between Buddha and Karl Marx*
5. *Means*
6. *Evaluation of Means*
7. *Whose Means are More Efficacious ?*
8. *Withering away of the State*—Editors.

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CHAPTER 18

Buddha or Karl Marx

A comparison between Karl Marx and Buddha may be regarded as a joke. There need be no surprise in this. Marx and Buddha are divided by 2381 years. Buddha was born in 563 B.C. and Karl Marx in 1818 A.D. Karl Marx is supposed to be the architect of a new ideology-polity—a new Economic system. The Buddha on the other hand is believed to be no more than the founder of a religion which has no relation to politics or economics. The heading of this essay "Buddha or Karl Marx" which suggests either a comparison or a contrast between two such personalities divided by such a lengthy span of time and occupied with different fields of thought is sure to sound odd. The Marxists may easily laugh at it and may ridicule the very idea of treating Marx and Buddha on the same level. Marx so modern and Buddha so ancient! The Marxists may say that the Buddha as compared to their master must be just primitive. What comparison can there be between two such persons? What could a Marxist learn from the Buddha ? What can Buddha teach a Marxist ? None-the-less a comparison between the two is a attractive and instructive. Having read both and being interested in the ideology of both a comparison between them just forces itself on me. If the Marxists keep back their prejudices and study the Buddha and understand what he stood for I feel sure that they will change their attitude. It is of course too much to expect that having been determined to scoff at the Buddha they will remain to pray. But this much can be said that they will realise that there is something in the Buddha's teachings which is worth their while to take note of.

I THE CREED OF THE BUDDHA

The Buddha is generally associated with the doctrine of Ahimsa. That is taken to be the be-all and end-all of his teachings. Hardly any one knows that what the Buddha taught is something very vast; far beyond Ahimsa. It is therefore necessary to set out in detail his tenets. I enumerate them below as I have understood them from my reading of the Tripitaka :—

1. Religion is necessary for a free Society.

2. Not every Religion is worth having.

3. Religion must relate to facts of life and not to theories and speculations about God, or Soul or Heaven or Earth.

4. It is wrong to make God the centre of Religion.

5. It is wrong to make salvation of the soul as the centre of Religion.

6. It is wrong to make animal sacrifices to be the centre of religion.

7. Real Religion lives in the heart of man and not in the Shastras.

8. Man and morality must be the centre of Religion. If not, Religion is a cruel superstition.

9. It is not enough for Morality to be the ideal of life. Since there is no God it must become the law of life.

10. The function of Religion is to reconstruct the world and to make it happy and not to explain its origin or its end.

11. That the unhappiness in the world is due to conflict of interest and the only way to solve it is to follow the Ashtanga Marga.

12. That private ownership of property brings power to one class and sorrow to another.

13. That it is necessary for the good of Society that this sorrow be removed by removing its cause.

14. All human beings are equal.

15. Worth and not birth is the measure of man.

16. What is important is high ideals and not noble birth.

17. Maitri or fellowship towards all must never be abandoned. One owes it even to one's enemy.

18. Every one has a right to learn. Learning is as necessary for man to live as food is.

19. Learning without character is dangerous.

20. Nothing is infallible. Nothing is binding forever. Every thing is subject to inquiry and examination.

21. Nothing is final.

22. Every thing is subject to the law of causation.

23. Nothing is permanent or sanatan. Every thing is subject to change. Being is always Becoming.

24. War is wrong unless it is for truth and justice.

25. The victor has duties towards the vanquished.

This is the creed of the Buddha in a summary form. How ancient but how fresh! How wide and how deep are his teachings!

II THE ORIGINAL CREED OF KARL MARX

Let us now turn to the creed of Karl Marx as originally propounded by him. Karl Marx is no doubt the father of modern socialism or Communism but he was not interested merely in propounding the theory of Socialism. That had been done long before him by others. Marx was more interested in proving that his Socialism was scientific. His crusade was as much against the capitalists as it was against those whom he called the Utopian Socialists. He disliked them both. It is necessary to note this point because Marx attached the greatest importance to the scientific character of his Socialism. All the doctrines which Marx propounded had no other purpose than to establish his contention that his brand of Socialism was scientific and not Utopian.

By scientific socialism what Karl Marx meant was that his brand of socialism was *inevitable* and *inescapable* and that society was moving towards it and that nothing could prevent its march. It is to prove this contention of his that Marx principally laboured.

Marx's contention rested on the following theses. They were :—

(i) That the purpose of philosophy is to reconstruct the world and not to explain the origin of the universe.

(ii) That the forces which shapes the course of history are primarily economic.

(iii) That society is divided into two classes, owners and workers.

(iv) That there is always a class conflict going on between the two classes.

(v) That the workers are exploited by the owners who misappropriate the surplus value which is the result of the workers' labour.

(vi) That this exploitation can be put an end to by nationalization of the instruments of production i.e. abolition of private property.

(vii) That this exploitation is leading to greater and greater impoverishment of the workers.

(viii) That this growing impoverishment of the workers is resulting in a revolutionary spirit among the workers and the conversion of the class conflict into a class struggle.

(ix) That as the workers outnumber the owners, the workers are bound to capture the State and establish their rule which he called the dictatorship of the proletariat.

(x) These factors are irresistible and therefore socialism is inevitable,

I hope I have reported correctly the propositions which formed the original basis of Marxian Socialism.

III WHAT SURVIVES OF THE MARXIAN CREED

Before making a comparison betwen the ideologies of the Buddha and Karl Marx it is necessary to note how much of this original corpus of the Marxian creed has survived; how much has been disproved by history and how much has been demolished by his opponents.

The Marxian Creed was propounded sometime in the middle of the nineteenth century. Since then it has been subjected to much criticism. As a result of this criticism much of the ideological structure raised by Karl Marx has broken to pieces. There is hardly any doubt that Marxist claim that his socialism was inevitable has been completely disproved. The dictatorship of the Proletariat was first established in 1917 in one country after a period of something like seventy years after the publication of his *Das Capital* the gospel of socialism. Even when the Communism—which is another name for the dictatorship of the Proletariat—came to Russia, it did not come as something inevitable without any kind of human effort. There was a revolution and much deliberate planning had to be done with a lot of violence and bloodshed, before it could step into Russia. The rest of the world is still waiting for coming of the Proletarian Dictatorship. Apart from this general falsification of the Marxian thesis that Socialism is inevitable, many of the other propositions stated in the lists have also been demolished both by logic as well as by experience. Nobody now accepts the economic interpretation of history as the only explanation of history. Nobody accepts that the proletariat has been progressively pauperised. And the same is true about his other premises.

What remains of the Karl Marx is a residue of fire, small but still very important. The residue in my view consists of four items :

(i) The function of philosophy is to reconstruct the world and not to waste its time in explaining the origin of the world.

(ii) That there is a conflict of interest between class and class.

(iii) That private ownership of property brings power to one class and sorrow to another through exploitation.

(iv) That it is necessary for the good of society that the sorrow be removed by the abolition of private property.

IV COMPARISON BETWEEN BUDDHA AND KARL MARX

Taking the points from the Marxian Creed which have survived one may now enter upon a comparison between the Buddha and Karl Marx.

On the first point there is complete agreement between the Buddha and Karl Marx. To show how close is the agreement I quote below a part of the dialogue between Buddha and the Brahmin Potthapada.

"Then, in the same terms, Potthapada asked (the Buddha) each of the following questions:

1. Is the world not eternal?
2. Is the world finite?
3. Is the world infinite?
4. Is the soul the same as the body?
5. Is the soul one thing, and the body another?
6. Does one who has gained the truth live again after death?
7. Does he neither live again, nor not live again, after death?

And to each question the exalted one made the same reply: It was this.

"That too, Potthapada, is a matter on which I have expressed no opinion".

28. "But why has the Exalted One expressed no opinion on that?" (Because) 'This question is not calculated to profit, it is not concerned with (the Dhamma) it does not redound even to the elements of right conduct, nor to detachment nor to purification from lust, nor to quietude, nor to tranquilisation of heart, nor to real knowledge, nor to the insight (of the higher stages of the Path), nor to Nirvana. Therefore it is that I express no opinion upon it."

On the second point I give below a quotation from a dialogue between Buddha and Pasenadi King of Kosala :

"Moreover, there is always strife going on between kings, between nobles, between Brahmins, between house holders, between mother and son, between son and father, between brother and sister, between sister and brother, between companion and companion..."

Although these are the words of Pasenadi, the Buddha did not deny that they formed a true picture of society.

As to the Buddha's own attitude towards class conflict his doctrine of Ashtanga Marga recognises that class conflict exists and that it is the class conflict which is the cause of misery.

On the third question I quote from the same dialogue of Buddha with Potthapada;

"Then what is it that the Exalted One has determined?"

"I have expounded, Potthapada, that sorrow and misery exist!"

I have expounded, what is the origin of misery. I have expounded what is the cessation of misery; I have expounded what is method by which one may reach the cessation of misery.

30. 'And why has the Exalted One put forth a statement as to that?'

'Because that questions Potthapada, is calculated to profit, is concerned with the Dhamma redounds to the beginnings of right

conduct, to detachment, to purification from lusts, to quitude, to tranquilisation of heart, to real knowledge, to the insight of the higher stages of the Path and to Nirwana. Therefore is it, Potthapada that I have put forward a statement as to that.'

That language is different but the meaning is the same. If for misery one reads exploitation Buddha is not away from Marx.

On the question of private property the following extract from a dialogue between Buddha and Ananda is very illuminating. In reply to a question by Ananda the Buddha said :

"I have said that avarice is because of possession. Now in what way that is so, Ananda, is to be understood after this manner. Where there is no possession of any sort or kind whatever by any one or anything, then there being no possession whatever, would there, owing to this cessation of possession, be any appearance of avarice?"

'There would not, Lord'.

'Wherefore, Ananda, just that is the ground, the basis, the genesis, the cause of avarice, to wit, possession.

31. 'I have said that tenacity is the cause possession. Now in what way that is so, Ananda, is to be understood after this manner. Were there no tenacity of any sort or kind whatever shown by any one with respect to any thing, then there being whatever, would there owing to this cessation of tenacity, be any appearance of possession?'

'There would not, Lord.'

'Wherefore, Ananda, just that is the ground, the basis, the genesis, the cause of possession, to wit tenacity.'

On the fourth point no evidence is necessary. The rules of the Bhikshu Sangh will serve as the best testimony on the subject.

According to the rules a Bhikku can have private property only in the following eight articles and no more. These eight articles are :—

1. } Three robes or pieces of cloth for daily wear.
2.
3.
4. a girdle for the loins.
5. an alms-bowl.
6. a razor.
7. a needle.
8. a water strainer.

Further a Bhikku was completely forbidden to receive gold or silver for fear that with gold or silver he might buy some thing beside the eight things he is permitted to have.

These rules are far more rigourous than are to be found in communism in Russia.

V THE MEANS

We must now come to the means. The means of bringing about Communism which the Buddha propounded were quite definite. The means can be decided into three parts.

Part I consisted in observing the Pancha Silas.

The Enlightenment gave birth to a new gospel which contains the key to the solution of the problem which was haunting him.

The foundation of the New Gospel is the fact that the world was full of misery and unhappiness. It was fact not merely to be noted but to be regarded as being the first and foremost in any scheme of salvation. The recongnition of this fact the Buddha made the starting point of his gospel.

To remove this misery and unhappiness was to him the aim and object of the gospel if it is to serve any useful purpose.

Asking what could be the causes of this misery the Buddha found that there could be only two.

A part of the misery and unhappiness of man was the result of his own misconduct. To remove this cause of misery he preached the practice of Panch Sila.

The Panch Sila comprised the following observations:

(1) To abstain from destroying or causing destruction of any living thing; (2) To abstain from stealing i.e. acquiring or keeping by fraud or violence, the property of another; (3) To Abstain from telling untruth; (4) To abstain from lust; (5) To abstain from intoxicating drinks.

A part of the misery and unhappiness in the world was according to the Buddha the result of man's inequity towards man. How was this inequity to be removed ? For the removal of man's inequity towards man the Buddha prescribed the Noble Eight-Fold Path. The elements of the Noble Eight-Fold Path are:

(l) Right views i.e. freedom from superstition; (2) Right aims, high and worthy of the intelligent and earnest men; (3) Right speech i.e. kindly, open, truthful; (4) Right Conduct i.e. peaceful, honest and pure; (5) Right livelihood i.e. causing hurt or injury to no living being; (6) Right perseverence in all the other seven; (7) Right mindfulness i.e. with a watchful and active mind; and (8) Right contemplation i.e. earnest thought on the deep mysteries of life.

The aim of the Noble Eight-Fold Path is to establish on earth the kingdom of righteousness, and thereby to banish sorrow and unhappiness from the face of the world.

The third part of the Gospel is the doctrine of Nibbana. The doctrine of Nibbana is an integral part of the doctrine of the Noble Eight-Fold Path. Without Nibbana the realization of the Eight-Fold Path cannot be accompalished.

The doctrine of Nibbana tells what are the difficulties in the way of the realization of the Eight-Fold Path.

The chief of these difficulties are ten in number. The Buddha called them the Ten Asavas, Fetters or Hinderances.

The first hindrance is the delusion of self. So long as a man is wholly occupied with himself, chasing after every bauble that he vainly thinks will satisfy the cravings of his heart, there is no noble path for him. Only when his eyes have been opened to the fact that he is but a tiny part of a measureless whole, only when he begins to realize how impermanent a thing is his temporary individuality, can he even enter upon this narrow path.

The second is Doubt and Indecision. When a man's eyes are opened to the great mystery of existence, the impermanence of every individuality, he is likely to be assailed by doubt and indecision as to I his action. To do or not to do, after all my individuality is impermanent, why do anything are questions, which make him I indecisive or inactive. But that will not do in life. He must make up his mind to follow the teacher, to accept the truth and to enter on the struggle or he will get no further.

The third is dependence on the efficacy of Rites and Ceremonies. No good resolutions, however firm will lead to anything unless a man gets rid of ritualism; of the belief that any outward acts, any priestly powers, and holy ceremonies, can afford him an assistance of any kind. It is only when he has overcome this hindrance, that men can be said to have fairly entered upon the stream and has a chance sooner or later to win a victory.

The fourth consists of the bodily passions.

The fifth is ill-will towards other invididuals.

The sixth is the suppression of the desire for a future life with a material body and the seventh is the desire for a future life in an immaterial world.

The eighth hindrance is Pride and nineth is Self-Righteousness. These are failings which it is most difficult for men to overcome, and to which superior minds are peculiarly liable—a Praisaical contempt for those who are less able and less holy than themselves.

The tenth hindrance is ignorance. When all other difficulties are conquered this will even remain, the thorn in the flesh of the wise and good, the last enemy and the bitterest foe of man.

Nibbana consists in overcoming these hindrances to the pursuit of the Noble Eight-Fold Path.

The doctrine of the Noble Eight-Fold Path tells what disposition of the mind which a person should sedulously cultivate. The doctrine of Nibbana tells of the temptation or hindrance which a person should earnestly overcome if he wishes to trade along with the Noble Eight-Fold Path.

The Fourth Part of the new Gospel is the doctrine of Paramitas.

The doctrine of Paraimitas inculcates the practice of ten virtues in one's daily life.

These are those ten virtues—(1) Panna (2) Sila (3) Nekkhama (4) Dana (5) Virya (6) Khanti (7) Succa (8) Aditthana (9) Metta and (10) Upekkha.

Panna or wisdom is the light that removes the darkenss of Avijja, Moha or Nescience. The Panna requires that one must get all his doubts removed by questioning those wiser than himself, associate with the wise and cultivate the different arts and sciences which help to develop the mind.

Sila is moral temperament, the disposition not to do evil and the disposition to do good; to be ashamed of doing wrong. To avoid to do evil for fear of punishment is Sila. Sila means fear of doing wrong.

Nekkhama is renunciation of the pleasures of the world.

Dana means the giving of one's possessions, blood and limbs and even one's life for the good of the others without expecting anything in return.

Virya is right endeavour. It is doing with all your might with thought never turning back, whatever you have undertaken to do.

Khanti is forbearance. Not to meet hatred by harted is the essence of it. For hatred is not appeased by hatred. It is appeased only by forbearance.

Succa is truth. An aspirant for Buddha never speak a lie. His speech is truth and nothing but truth.

Aditthana is resolute determination to reach the goal.

Metta is fellow-feeling extending to all beings, foe and friend, beast and man.

Upekkha is detachment as distinguished from indifference. It is a state of mind where there is neither like nor dislike. Remaining unmoved by the result and yet engaged in the pursuit of it.

These virtues one must practice to his utmost capacity. That is why they are called Paramitas (States of Perfection).

Such is the gospel the Buddha enunciated as a result of his enlightenment to end the sorrow and misery in the world.

It is clear that the means adopted by the Buddha were to convert a man by changing his moral disposition to follow the path voluntarily.

The means adopted by the Communists are equally clear, short and swift. They are (1) Violence and (2) Dictatorship of the Proletariat.

The Communists say that there are the only two means of establishing communism. The first is violence. Nothing short of it will suffice to break up the existing system. The other is dictatorship of the proletariat. Nothing short of it will suffice to continue the new system.

It is now clear what are the similarities and differences between Buddha and Karl Marx. The differences are about the means. The end is common to both.

VI EVALUATION OF MEANS

We must now turn to the evaluation of means. We must ask whose means are superior and lasting in the long run. There are, however, some misunderstandings on both sides. It is necessary to clear them up.

Take violence. As to violence there are many people who seem to shiver at the very thought of it. But this is only a sentiment. Violence cannot be altogether dispensed with. Even in non-communist countries a murderer is hanged. Does not hanging amount to violence? Non-Communist countries go to war with non-Communist countries. Millions of people are killed. Is this no violence ? If a murderer can be killed, because he has killed a citizen, if a soldier can be killed in war because he belongs to a hostile nation why cannot a property owner be killed if his ownership leads to misery for the rest of humanity ? There is no reason to make an exception in favour of the property owner, why one should regard private property as sacrosanct.

The Buddha was against violence. But he was also in favour of justice and where justice required he permitted the use of force. This is well illustrated in his dialogue with Sinha Senapati the Commander-in-Chief of Vaishali. Sinha having come to know that the Buddha I preached Ahimsa went to him and asked:

> "The Bhagvan preaches Ahimsa. Does the Bhagvan preach an offender to be given freedom from punishment ? Does the Bhagvan preach that we should not go to war to save our wives, our children and our wealth ? Should we suffer at the hands of criminals in the name of Ahimsa.?"

"Does the Tathagata prohibit all war even when it is in the interest of Truth and Justice?"

Buddha replied, You have wrongly understood what I have been preaching. An offender must be punished and an innocent man must be freed. It is not a fault of the Magistrate if he punishes an offender. The cause of punishment is the fault of the offender. The Magistrate who inflicts the punishment is only carrying out the law. He does not become stained with Ahimsa. A man who fights for justice and safety cannot be accused of Ahimsa. If all the means of maintaining peace have failed then the responsibility for Himsa falls on him who starts war. One must never surrender to evil powers. War there may be. But it must not be for selfish ends...."

There are of course other grounds against violence such as those urged by Prof. John Dewey. In dealing with those who contend that the end justifies the means is morally perverted doctrine, Dewey has rightly asked what can justify the means if not the end ? It is only the end that can justify the means.

Buddha would have probably admitted that it is only the end which would justify the means. What else could ? And he would have said that if the end justified violence, violence was a legitimate means for the end in view. He certainly would not have exempted property owners from force if force was the only means for that end. As we shall see his means for the end were different. As prof. Dewey has pointed out that violence is only another name for the use of force and although force must be used for creative purposes a distinction between use of force as energy and use of force as violence needs to be made. The achievement of an end involves the destruction of many other ends which are integral with the one that is sought to be, destroyed. Use of force must be so regulated that it should save as many ends as possible in destroying the evil one. Buddha's Ahimsa was not as absolute as the Ahimsa preached by Mahavira the founder of Jainism. He would have allowed force only as energy. The Communists preach Ahimsa as an absolute principle. To this the Buddha was deadly opposed.

As to Dictatorship the Buddha would have none of it. He was born a democrat and he died a democart. At the time he lived there were 14 monarchical states and 4 republics. He belonged to the Sakyas and the Sakya's kingdom was a republic. He was extremely in love with Vaishali which was his second home because it was a republic. Before his Mahaparinirbban he spent his Varshavasa in Vaishali. After the completion of his Varshavasa he decided to leave Vaishali and go elsewhere as was his wont. After going some distance he looked back

on Vaishali and said to Ananda. "This is the last look of Vaishali which the Tathagata is having". So fond was he of this republic.

He was a thorough equalitarian. Originally the Bhikkus, including the Buddha himself, wore robes made of rags. This rule was enunciated to prevent the aristocratic classes from joining the Sangh. Later Jeevaka the great physician prevailed upon the Buddha to accept a robe which was made of a whole cloth. The Buddha at once altered the rule and extended it to all the monks.

Once the Buddha's mother Mahaprajapati Gotami who had joined the Bhikkuni Sangh heard that the Buddha had got a chill. She at once started preparing a scarf for him. After having completed it she took to the Buddha and asked him to wear it. But he refused to accept it saying that if it is a gift it must be a gift to the whole Sangh and not to an individual member of the Sangh. She pleaded and pleaded but he refused to yield.

The Bhikshu Sangh had the most democratic constitution. He was only one of the Bhikkus. At the most he was like a Prime Minister among members of the Cabinet. He was never a dictator. Twice before his death he was asked to appoint some one as the head of the Sangh to control it. But each time he refused saying that the Dhamma is the Supreme Commander of the Sangh. He refused to be a dictator and refused to appoint a dictator.

What about the value of the means? Whose means are superior and lasting in the long run?

Can the Communists say that in achieving their valuable end they have not destroyed other valuable ends? They have destroyed private property. Assuming that this is a valuable end can the Communists say that they have not destroyed other valuable end in the process of achieving it? How many people have they killed for achieving their end. Has human life no value ? Could they not have taken property without taking the life of the owner?

Take dictatorship. The end of Dictatorship is to make the Revolution a permanent revolution. This is a valuable end. But can the Communists say that in achieving this end they have not destroyed other valuable ends ? Dictatorship is often defined as absence of liberty or absence of Parliamentary Government. Both interpretations are not quite clear. There is no liberty even when there is Parliamentary Government. For law means want of liberty. The difference between Dictatorship and Parliamentary Govt. lies in this. In Parliamentary Government every citizen has a right to criticise the restraint on liberty imposed by the Government. In Parliamentary Government you have

a duty and a right; the duty to obey the law and right to critise it. In Dictatorship you have only duty to obey but no right to criticise it.

VII WHOSE MEANS ARE MORE EFFICACIOUS

We must now consider whose means are more lasting. One has to chose between Government by force and Government by moral disposition.

As Burke has said force cannot be a lasting means. In his speech on conciliation with America he uttered this memorable warning :

> "First, Sir, permit me to observe, that the use of force alone is but temporary. It may subdue for a moment; but it does not remove the necessity of subduing again; and a nation is not governed which is perpetually to be conquered."
>
> "My next objection is its uncertainty. Terror is not always the effect of force, and an armament is not a victory. If you do not succeed, you are without resource, for, conciliation failing, force remains; but force failing, no further hope of reconciliation is left. Power and authority are sometimes bought by kindness; but they can never be begged as alms by an impoverised and defeated violence.
>
> A further objection to force is, that you impair the object by your very endeavours to preserve it. The thing you fought for is the thing which you recover, but depreciated, sunk, wasted and consumed in the contest."

In a sermon addressed to the Bhikkus the Buddha has shown the difference between the rule by Righteousness and Rule by law i.e. force. Addressing the Brethren he said :

(2) Long long ago, brethren, there was Sovereign overlord named Strongtyre, a king ruling in righteousness, lord of the four quarters of the earth, conqueror, the protector of his people. He was the possessor of the celestial wheel. He lived in supremacy over this earth to its ocean bounds, having conquered it, not by the courage, not by the sword, but by righteousness.

(3) Now, brethren, after many years, after many hundred years, after manu thousand years, king Strongtyre command a certain man, saying:

> "Thou shouldest see. Sir, the Celestial Wheel has sunk a little, has slipped down from its place, bring me word."

Now after many many hundred years had slipped down from its place On seeing this he went to King Strongtyre and said: "Know, sire, for a truth that the Celestial Wheel has sunk, has slipped down from its place."

The king Strongtyre, brethren, let the prince his eldest son be sent for and spake thus:

'Behold, dear boy, my Celestial Wheel has sunk a little, has slipped down from its place. Now it has been told me; If the Celestial Wheel of a wheel turning King shall sink down, shall slip down from its place, that king has not much longer to live. I have had my fill of human pleasures; 'It's time to seek after divine joys, Come, dear boy, take thou charge over this earth bounded by the ocean. But I, shaving hair and beard, and donning yellow robes, will go forth from home into the homeless state.

So brethren, King Strongtyre, having in due form established his eldest son on the throne, shaved hair and beared, donned yellow robes and went forth from home into homeless state. But on the seventh day after the royal hermit had gone forth, the Celestial Wheel disappeared.

(4) Then a certain man went to the King, and told him, saying: Know, O King, for a truth, that the Celestial Wheel has disappeared !

Then that King, brethren, was grieved thereat and afflicted with sorrow. And he went to the royal hermit, and told him, saying: Know, sire, for a truth, that the Celestial Wheel has disappeared.

And the anointed king so saying, the royal hermit made reply. Grieve thou not, dear son, that the Celestial Wheel has disappeared, nor be afflicted that the Celestial Wheel has disappeared. For no paternal heritage of thine, dear son, is the Celestial Wheel. But verily, dear son, turn thou in the Ariyan turning of the Wheel-turners. (Act up to the noble ideal of duty set before themselves by the true sovereigns of the world). Then it may well be that if thou carry out the Ariyan duty of a Wheel-turning Monarch, and on the feast of the moon thou wilt for, with bathed head to keep the feast on the chief upper terrace, to the Celestial Wheel will manifest, itself with its thousand spokes its tyre, navel and all its part complete.

(5) 'But what, sire is this Ariya duty of a Wheel-turning Monarch?'

This, dear son, that thou, leaning on the Norm (the law of truth and righteousness) honouring, respecting and revering it, doing homage to it, hallowing it, being thyself a Norm-banner, a Norm-signal, having the Norm as thy master, shouldest provide the right watch, ward, and protection for thine own folk, for the army, for the nobles, for vassals, for brahmins and house holders, for town and country dwellers, for the religious world, and for beasts and birds. Throughout thy kingdom let no wrong doing prevail. And whosoever in thy kingdom is poor, to him let wealth be given.

'And when dear son, in thy kingdom men of religious life, renouncing the carelessness arising from intoxication of the senses, and

devoted to forbearance and sympathy, each mastering self, each claiming self, each protecting self, shall come to thee from time to time, and question thee concerning what is good and what is bad, what is criminal and what is not, what is to be done and what is to be left undone, what line of action will in the long run work for weal or for woe, thou shouldest hear what they have to say and thou shouldest deter them from evil, and bid them take up what is good. This, dear son, is the Ariyan duty of a sovereign of the world.'

'Even so,' sire, answered the anointed king, and obeying, carried out the Ariyan duty of a sovereign lord. To him, thus behaving, when on the feast of the full moon he had gone in the observance with bathed head to the chief upper terrance the Celestial Wheel revealed itself, with its thousand spokes, its tyre, its naval, and all its part complete. And seeing this is occured to the king: 'It has been told me that a king to whom on such a occasion the Celestial Wheel reveals itself completely, becomes a Wheel-turning monarch. May I even I also become a sovereign of the world.'

(6) Then brethren, the king arose from his seat and uncovering his robe from one shoulder, took in his left hand a pitcher, and with his right hand sprinkled up over the Celestial Wheel, saying: 'Roll onward, O Lord Wheel! Go forth and overcome, O Lord Wheel!'

Then, brethern, the Celestial Wheel rolled onwards towards the region of the East, and after it went the Wheel-turning king, and with him his army, horses and chariots and elephants and men. And in whatever place, brethren, the wheel stopped, there the king, the victorious war-lord, took up his abode, and with him his fourfold army. Then the all, the rival kings in the region of the East came to the sovereign king and said 'Come, O mighty king! Welcome, O mighty king! All is thine, O mighty King! Teach us, O mighty king!'

The king, the sovereign war-lord, spake thus: 'Ye shall slay no living thing. Ye shall not take that which has not been given. Ye shall not act wrongly touching bodily desires. Ye shall speak no lie. Ye shall drink no maddening drink. Enjoy your possessions as you have been want to do.'

(7) Then, brethern, the Celestial Wheel, plunging down to the Eastern ocean, rose up out again, and rolled onwards to the region of the south.... (and there all happened as had happend in the East). And in like manner the Celestial Wheel, plunging into Southern ocean, rose up out again and rolled onward to the region of the West... and of the North; and there too happened as had happened in the Southern and West.

Then when the Celestial Wheel had gone forth conquering over the whole earth to its ocean boundry, it returned to the royal city, and stood, so that one might think it fixed, in front of the judgement hall at entrance to the inner apartments of the king, the Wheel-turner, lighting up with its glory the facade of the inner apartments of the king, the sovereign of the world.

(8) And a second king, brethern, also a Wheel-turning monarch;... and a third... and a fourth... and a fifth... and a sixth... and a seventh king, a victorious war-lord, after many years, after many hundred years, after many thousand years, command a certain man, saying :

'If thou should'est see, sirrah, that the Celestial Wheel has sunk down, has slid from its place, bring me word.'

'Even so, sire,' replied the man.

So after many years, after many hundred years, after many thousand years, that man saw that the Celestial Wheel had sunk down, had become dislodged from its place. And so seeing he went to the king, the war-lord, and told him.

Then that king did (even as Strongtyre had done). And on the seventh day after the royal hermit had gone forth the Celestial Wheel disappeared.

Then a certain man went and told the King. Then the King was grieved at the disappearance of the wheel, and afflicted with grief. But he did not go to the hermit-king to ask concerning the Ariyan Duty of sovereign war-lord. But his own ideas, forsooth, he governed his people; and they so governed differently from what they had been, did not prosper as they used to do under former kings who had carried out the Arivan duty of a sovereign king.

Then, brethren, the ministers and courtiers, the finance officials, the guards and door keepers and they who lived by sacred verses came to the King and spake thus :

'Thy people, O king, whilst thou governest them by thine own ideas, differently from the way to which they were used when former kings were carrying out the Arivan Duty prosper not. Now there are in thy kingdom ministers and courtiers, finance officers, guards and custodians, and they who live by sacred verses—both all of us and others—who keep the knowledge of the Ariyan duty of the sovereign king. Lo ! O king, do thou ask us concerning it; to thee thus asking will we declare it.'

9. Then, brethren, the king, having made the ministers and all the rest sit down together, asked them about the Ariyan duty of Sovereign war-lord, And they declared it unto him. And when he had heard

them, he did provide the due watch and ward protection, but on the destitute he bestowed no wealth and because this was not done, poverty became widespread.

When poverty was thus become rife, a certain man took that which others had not given him, what people call by theft. Him they caught, and brought before the king, saying: 'This man, O king has taken that which was not given to him and that is theft'.

Thereupon the king spake thus to the man. 'Is it true sirrah, that thou hast taken what no man gave thee, hast committed what men call theft.'

'It is ture, O king.'

'But why?'.

'O king, I have nothing to keep me alive.' Then the king bestowed wealth on that man, saying: 'With this wealth sir, do thou both keep thyself alive, maintain thy parents, maintain children and wife, carry on thy business.'

'Even so, O king,' replied the man.

10. Now another man, brethern, took by theft what was not given him. Him they caught and brought before the king and told him, saying: 'this man, O king, hath taken by theft what was not given him'.

And the king (spoke and did even as he had spoken and done to the former man.)

11. Now men heard brethren, that to them who had taken by theft what was not given them, the King was giving wealth. And hearing they thought, let us then take by theft what has not been given us.

Now a certain man did so. And him they caught and charged before the king who (as before) asked him why he had stolen.

'Because, O king I cannot maintain myself'.

Then the king thought: If I bestow wealth on anyone so ever who has taken by theft what was not given him, there will be hereby and increase of this stealing. Let me now put final stop to this and inflict condign punishment on him, have his head cut off!

So he bade his man saying: 'Now look ye! bind this man's arms behind him with a strong rope and tight knot, shave his head bald, lead him around with a harsh sounding drum, from road to road, from cross ways to cross ways, take him out by the southern gate and to the south of the town, put a final stop to this, inflict on him uttermost penalty, cut of his head.'

'Even so , O king' answered the men, and carried out his commands.

12. Now men heard, brethren, that they who took by theft what was not given them were thus put to death. And hearing they thought:

Let us also now have sharp swords made ready for themselves, and them from whom we take what is not given us—what they call them—let us put a final stop to them, inflict on them uttermost penalty, and their heads off.

And they got themselves sharp swords, and came forth to sack village and town and city, and to work highway robbery. And then whom they robbed they made an end of, cutting off their heads.

13. Thus, brethren, from goods not being bestowed on the destitute poverty grieve rife; from poverty growing rife stealing increased, from the spread of stealing violence grew space, from the growth of violence the destruction of life common, from the frequency of murder both the span of life in those beings and their comeliness also (diminished).

Now among humans of latter span of life, brethren, a certain took by theft what was not given him and even as those others was accused before the king and questioned if it was true that he had stolen.

'Nay, O king,' he replied, 'they are delibarately telling lies.'

14. Thus from goods not being bestowed on the destitute, poverty grew rife... stealing... violence... murder... until lying grew common.

Again a certain man reported to the king, saying: 'such and such a man, O king! has taken by theft what was not given him' —thus speaking evil of him.

15. And so, brethren, from goods not being bestowed on the destitute poverty grew rife... stealing... violence... murder... lying... evil speaking grew abundant.

16. From lying there grew adultery.

17. Thus from goods not being bestowed on the destitute, poverty... stealing... violence... murder... lying... rvil speaking... immorality grew rife.

18. Among (them) brethren, three things grew space incest, wanton greed and perverted lust.

Then these things grew apace lack of filial piety to mother and father, lack of religious piety to holy men, lack of regard for the head of the clan.

19. There will come a time, brethren, when the descendants of those humans will have a life-span of ten years. Among humans of this life-span, maidens of five years will be of a marriageable age. Among such humans these kinds of tastes (savours) will disappear; ghee, butter, oil of tila, sugar, salt. Among such humans kudrusa grain will be the highest kind of food. Even as to-day rice and curry is the highest kind of food, so will kudrusa grain will be then. Among such humans the ten moral courses of conduct will altogether disappear, the ten

immoral courses of action will flourish excessively; there will be no word for moral among such humans, the ten moral courses of conduct will altogether disappear, the ten immoral courses of action will flourish excessively, there will be no word for moral among such humans—far less any moral agent. Among such humans, brethren, they who lack filian and religious piety, and show no respect for the Head of the clan—'tis they to whom homage and praise will be given, just as to-day homage and praise are given to the filial minded, to the pious and to them who respect the heads of their clans.

20. Among such humans, brethren, there will be no (such thoughts of reverence as are a bar to intermarriage with) mother, or mother's sister, or mother's sister-in-law, or teacher's wife, or father's sister-in-law. The world will fall into promiscuity, like goats and sheep, fowls and swine, dogs and jackals.

Among such humans, brethren keen mutual enmity will become the rule, keen ill-will, keen animosity, passionate thoughts even of killing, in a mother towards her child, in a child towards its father, in brother to brother, in brother to sister, in sister to brother. Just a sportsman feels towards the game that he sees, so will they feel.

This is probably the finest picture of what happens when moral force fails and brutal force takes its place. What the Buddha wanted was that each man should be morally so trained that he may himself become a sentinal for the kingdom of righteousness.

VIII WITHERING AWAY OF THE STATE

The Communists themselves admit that their theory of the State as a permanent dictatorship is a weakness in their political philosophy. They take shelter under the plea that the State will ultimately wither away. There are two questions which they have to answer. When will it wither away ? What will take the place of the State when it withers away? To the first question they can give no definite time. Dictatorship for a short period may be good and a welcome thing even for making Democracy safe. Why should not Dictatorship liquidate itself after it has done its work, after it has removed all the obstacles and boulders in the way of democracy and has made the path of Democracy safe. Did not Asoka set an example ? He practised violence against the Kalingas. But thereafter he renounced violence completely. If our victors to-day not only disarm their victims but also disarm themselves there would be peace all over the world.

The Communists have given no answer. At any rate no satisfactory answer to the question what would take the place of the State when it withers away, though this question is more important than the

question when the State will wither away. Will it be succeded by Anarchy ? If so the building up of the Communist State is an useless effort. If it cannot be sustained except by force and if it results in anarchy when the force holding it together is withdrawn what good is the Communist State.

The only thing which could sustain it after force is withdrawn is Religion. But to the Communists Religion is anathema. Their hatred to Religion is so deep seated that they will not even discriminate between religions which are helpful to Communism and religions which are not. The Communists have carried their hatred of Christianity to Buddhism without waiting to examine the difference between the two. The charge against Christianity levelled by the Communists was two-fold. Their first charge against Christianity was that they made people other worldliness and made them suffer poverty in this world. As can be seen from quotations from Buddhism in the earlier part of this tract such a charge cannot be levelled against Buddhism.

The second charge levelled by the Communists against Christianity cannot be levelled against Buddhism. This charge is summed up in the statement that Religion is the opium of the people. This charge is based upon the Sermon on the Mount which is to be found in the Bible. The Sermon on the Mount sublimates poverty and weakness. It promises heaven to the poor and the weak. There is no Sermon on the Mount to be found in the Buddha's teachings. His teaching is to acquire wealth. I give below his Sermon on the subject to Anathapindika one of his disciples.

Once Anathapindika came to where the Exalted One was staying. Having come he made obeisance to the Exalted One and took a seat at one side and asked 'Will the Enlightened One tell what things are welcome, pleasant, agreeable, to the householder but which are hard to gain.'

The Enlightened One having heard the question put to him said 'Of such things the first is to acquire wealth lawfully.'

'The second is to see that your relations also get their wealth lawfully.'

'The third is to live long and reach great age.'

'Of a truth, householder, for the attainment of these four things, which in the world are welcome, pleasant agreeable but hard to gain, there are also four conditions precedent. They are the blessing of faith, the blessing of virtuous conduct, the blessing of liberality and the blessing of wisdom.

The Blessing of virtuous conduct which abstains from taking life, thieving, unchastity, lying and partaking of fermented liquor.

The blessing of liberality consists in the householder living with mind freed from the taint of avarice, generous, open-handed, delightening in gifts, a good one to be asked and devoted to the distribution of gifts.

Wherein consists the blessing of Widsom? He know that an householder who dwells with mind overcome by greed, avarice, ill-will, sloth, drowsiness, distraction and flurry, and also about, commits wrongful deeds and neglects that which ought to be done, and by so doing deprived of happiness and honour.

Greed, avarice, ill-will, sloth and drowsiness, distraction and flurry and doubt are stains of the mind. An householder who gets rid of such stains of the mind acquires great wisdom, abundant wisdom, clear vision and perfect wisdom.

Thus to acquire wealth legitimately and justly, earn by great industry, amassed by strength of the arm and gained by sweat of the brow is a great blessing. The householder makes himself happy and cheerful and preserves himself full of happines; also makes his parents, wife, and children, servants, and labourers, friends and companions happy and cheerful, and preserves them full of happiness.

The Russians do not seem to be paying any attention to Buddhism as an ultimate aid to sustain Communism when force is withdrawn.

The Russians are proud of their Communism. But they forget that the wonder of all wonders is that the Buddha established Communism so far as the Sangh was concerned without dictatorship. It may be that it was a communism on a very small scale but it was communism without dictatorship a miracle which Lenin failed to do.

The Buddha's method was different. His method was to change the mind of man: to alter his disposition: so that whatever man does, he does it voluntarily without the use of force or compulsion. His main means to alter the disposition of men was his Dhamma and the constant preaching of his Dhamma. The Buddhas way was not to force people to do what they did not like to do although it was good for them. His way was to alter the disposition of men so that they would do voluntarily what they would not otherwise to do.

It has been claimed that the Communist Dictatorship in Russia has wonderful achievements to its credit. There can be no denial of it. That is why I say that a Russian Dictatorship would be good for all backward countries. But this is no argument for permanent Dictatorship. Humanity does not only want economic values, it also wants spiritual values to be retained. Permanent Dictatorship has paid

no attention to spiritual values and does not seem to intend to. Carlyle called Political Economy a Pig Philosophy. Carlyle was of course wrong. For man needs material comforts. But the Communist Philosophy seems to be equally wrong for the aim of their philosophy seems to be fatten pigs as though men are no better than pigs. Man must grow materially as well as spiritually. Society has been aiming to lay a new foundation was summarised by the French Revolution in three words, Freternity, Liberty and Equality. The French Revolution was welcomed because of this slogan. It failed to produce equality. We welcome the Russian Revolution because it aims to produce equality. But it cannot be too much emphasized that in producing equality society cannot afford to sacrifice fraternity or liberty. Equality will be of no value without fraternity or liberty. It seems that the three can coexist only if one follows the way of the Buddha. Communism can give one but not all.

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PART V

Schemes of Books

***The scheme of 'What the Brahmins have done to the Hindus ?' is in printed form. All other schemes are typed.*—Editors.**

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CHAPTER 19

Schemes of Books

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REVOLUTION AND COUNTER-REVOLUTION IN ANCIENT INDIA

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Chapter 1 Regicide or the Birth of Counter-Revolution

Chapter 2 Manu Smriti or the Gospel of Counter-Revolution

Part II *The Social Effects of Counter-Revolution*

Chapter 1 The Deification of the Brahamin

Chapter 2 The Installation of the Brahamins as Rulers

Chapter 3 The Suppression of the Shudras

Chapter 4 The Degradation of Women

Part III *The Struggle between Revolution and Counter-Revolution*

Chapter 1

Chapter 2

Chapter 3

Chapter 4

Part IV *Social Effects of Revolution*

Chapter 1

Chapter 2

Chapter 3

Chapter 4

Part V *The Triumph of Counter-Revolution*

Chapter 1

Chapter 2

Chapter 3

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Part VI *The Present Age is the Age of Counter-Revolution*

Chapter 1

Chapter 2

Chapter 3

Chapter 4

Part VII *Constitution of Counter-Revolution*

Chapter 1

Chapter 2

Chapter 3

Chapter 4

No. 2

WHAT THE BRAHMINS HAVE DONE TO THE HINDUS

Part I *The Making of the Hindu Society*

Chapter 1 The Growth of Hindu Religion

Chapter 2 Hinduism And Its Symbols

Chapter 3 The Rock on which it is Built

Part II *The Riddles of Hinduism*

Chapter 4 The Supremacy of the Brahmin

Chapter 5 The Fall of the Shudra

Chapter 6 The Degradation of Woman

Chapter 7 Beef-Eating v/s Vegetarianism

Chapter 8 Vedas v/s Vedanta

Chapter 9 Rise of Shiva and Vishnu

Chapter 10 Worship of Rama and Krishna

Chapter 11 Bhagvat Gita—Peace for War

Part III *The Holy Brahmin Empire*

Chapter 12 The Brahminic Revolution

Chapter 13 The Causes of the Revolution

Chapter 14 Manu the Philosopher of the Revolution

Chapter 15 The Political and Social Philosophy of the Brahamanic Revolution

Chapter 16 Brahamanic Rule in Action

Patr IV *Hinduism and the Legacy of Brahmanism*

Chapter 17 The Disease of Graded Inequality

Chapter 18 The Debasement of Man

Chapter 19 The Degradation of Religion

Chapter 20 The Darkening of the Mind

Chapter 21 The Deadening of Conscience

Chapter 22 The Depreciation of Life

Chapter 23 The Death Knell of Democracy

Part V *Brahmnism and Modern India*

Chapter 24 Brahmins and Administration

Chapter 25 Brahmins and Politics

Chapter 26 Brahmins and Labour

Part VI *Brahmins v/s Hindus*

Chapter 27 What Ails the Hindus

Chapter 28 The British and Brahmins

Chapter 29 The Remedy for the Disease

Note:—This scheme is found in print. Rest of the schemes are in typed form

NO. 3

CAN I BE A HINDU?

SYMBOLS OF HINDUISM

1. Symbols represent the Soul of a Thing
2. Symbols of Christianity
3. Symbols of Islam
4. Symbols of Jainism
5. Symbols of Buddhism
6. What is Hinduism;
   Undefinable something
7. What are the Symbols of Hinduism
   Three
   (1) Caste
   (2) Cults
      (1) Rama
      (2) Krishna
      (3) Shiva
      (4) Vishnu
   (3) Service of Superman

NO. 4

INDIA AND COMMUNISM

Part I *The Pre-Requisites of Communism*

Chapter 1 The Birth-place of Communism

Chapter 2 Communism and Democracy

Chapter 3 Communism and Social Order

Part II *India and the Pre-Requisites of Communism*

Chapter 4 The Hindu Social Order

Chapter 5 The Basis of the Hindu Social Order

Chapter 6 Impediments to Communism arising from the Social Order

Part III *What then shall we do ?*

I Marx and the European Social Order

II Manu and the Hindu Social Order

NO. 5

ESSAYS ON THE BHAGVAT GITA

Table of Contents

Essay I *What made Arjun agree to fight* ?

(1) Was it because Krishna met his objections?

or

(2) Because of the command of Krishna

Essay II *What does the Bhagvat Gita teach* ?

(1) Does it teach Sankhyayog ?

(2) Does it teach Dnyanyoga ?

(3) Does it teach Karmayoga ?

(4) Does it teach Bhaktiyoga ?

(5) Conclusion

Essay III *Was Gita a part of the original Mahabharat* ?

(1) Gita and the Udyoga Parva

(2) The first mention of Gita in the stream of Sanskrit Literature

(3) When was the Bhagvat Gita written ?

Essay IV *Why was the Bhagvat Gita written* ?

(1) Was the necessity Social ?

(2) Was the necessity Religious ?

Essay V *Gita and Buddhism*

●●

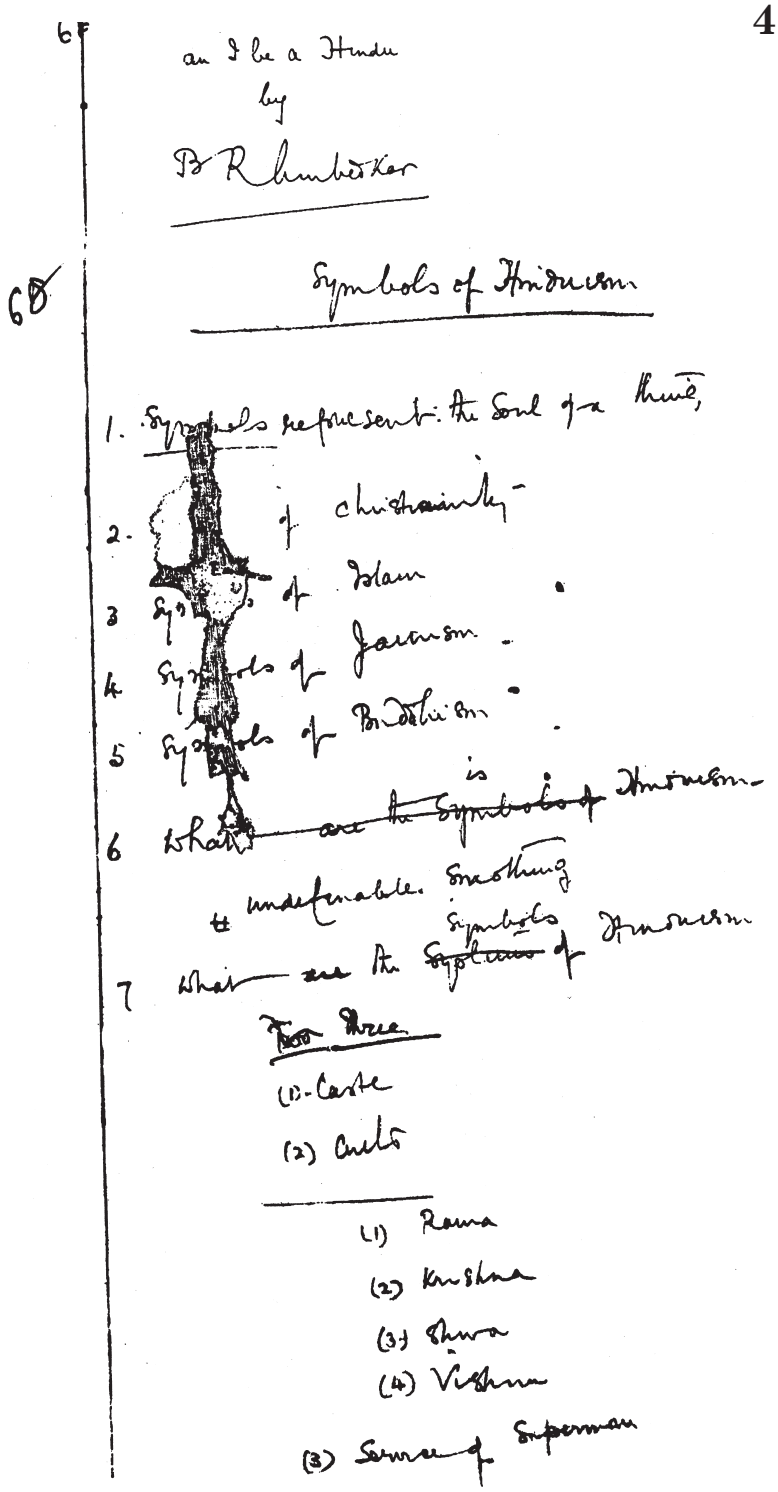

Specimen of Dr. Babasaheb Ambedkar's handwriting in pencil from the pages entitled 'Can I be a Hindu' and 'Symbols of Hinduism'.

472A

by

B R Ambedkar

Virat Parva

1. The spies sent by Kauravas to search for the existence of the Pandavas return to Duryodhan and tell him that they are unable to discover them. They ask his permission as to what to do. — Mh. Virat-Parva. Adhya 25.

2. Duryodhan asks for advice from his advisors. Karna said send other spies. Dushashan said. They might have gone beyond the sea. But Search for them. — Ibid - Adhya 26.

3. Drona said the Pandavas are not likely to be defeated or destroyed. They may be living as Tapasis. Therefore send Siddhas and Brahamins as spies — Ibid Adhya 27.

4. Bhishma supports Drona - Ibid Adhya 28

5. Kripacharya supported Bhishma and added - Pandavas are great enemies. But wise man does not neglect even small enemies while they are in अज्ञातवास you should go on collecting armies from now. — Ibid Adhya -29

6. Then Susharma King of Trigarth raised quite a different subject. He said that Kichaka who was the

Facsimile of a page from the notes on Virat Parva in Dr. Babasaheb Ambedkar's handwriting and the title page of his intended scheme on Bhagvat Gita.

B. R. AMBEDKAR,
M.A., Ph.D., D.Sc., LL.D., D.Litt., Barrister-at-Law,
Member, Council of States.

26, ALIPORE ROAD,
CIVIL LINES,
DELHI,

Dated the 12th June, 1956.

My dear Rege,

I have returned the Marathi Edition of the Mahabharat. It seems that along with your copies my edition has also been taken away. Will you kindly send me the Marathi translation of the Adi Parwar by registered post. My work on the Revolution and Counter Revolution has been held up. Treat this as most urgent.

Yours sincerely,

B R Ambedkar

(B.R. Ambedkar)

Shri S. Rege,
Librarian,
Siddharth College,
Bombay.

Facsimile of a letter by Dr. Babasaheb Ambedkar to Mr. S. S. Rege, showing that his work on Revolution and Counter-Revolution was in progress in June 1956.

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Babasaheb Dr. B.R. Ambedkar

(14th April 1891 - 6th December 1956)

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DR. BABASAHEB AMBEDKAR
WRITINGS AND SPEECHES
VOL. 4

Compiled

by

VASANT MOON

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Kumari Selja

Minister for Social Justice and Empowerment
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MESSAGE

Babasaheb Dr. B.R. Ambedkar, the Chief Architect of Indian Constitution was a scholar par excellence, a philosopher, a visionary, an emancipator and a true nationalist. He led a number of social movements to secure human rights to the oppressed and depressed sections of the society. He stands as a symbol of struggle for social justice.

The Government of Maharashtra has done a highly commendable work of publication of volumes of unpublished works of Dr. Ambedkar, which have brought out his ideology and philosophy before the Nation and the world.

In pursuance of the recommendations of the Centenary Celebrations Committee of Dr. Ambedkar, constituted under the chairmanship of the then Prime Minister of India, the Dr. Ambedkar Foundation (DAF) was set up for implementation of different schemes, projects and activities for furthering the ideology and message of Dr. Ambedkar among the masses in India as well as abroad.

The DAF took up the work of translation and publication of the Collected Works of Babasaheb Dr. B.R. Ambedkar published by the Government of Maharashtra in English and Marathi into Hindi and other regional languages. I am extremely thankful to the Government of Maharashtra's consent for bringing out the works of Dr. Ambedkar in English also by the Dr. Ambedkar Foundation.

Dr. Ambedkar's writings are as relevant today as were at the time when these were penned. He firmly believed that our political democracy must stand on the base of social democracy which means a way of life which recognizes liberty, equality and fraternity as the principles of life. He emphasized on measuring the progress of a community by the degree of progress which women have achieved. According to him if we want to maintain democracy not merely in form, but also in fact, we must hold fast to constitutional methods of achieving our social and economic objectives. He advocated that in our political, social and economic life, we must have the principle of one man, one vote, one value.

There is a great deal that we can learn from Dr. Ambedkar's ideology and philosophy which would be beneficial to our Nation building endeavor. I am glad that the DAF is taking steps to spread Dr. Ambedkar's ideology and philosophy to an even wider readership.

I would be grateful for any suggestions on publication of works of Babasaheb Dr. Ambedkar.

(Kumari Selja)

Collected Works of Babasaheb Dr. Ambedkar (CWBA)

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FOREWORD

Dr. Ambedkar, the Chief Architect of Indian Constitution, is well-known not only as a constitutionalist and a parliamentarian but also as a scholar and active reformer all over the world. As a champion of the down-trodden he waged relentless struggle against the oppressive features of Hindu society. Throughout his life, he strove for establishment of a new social order based on the principles of liberty, equality, justice and universal brotherhood.

The Indian society owes a tremendous debt to his radical and humanitarian approach for solution of the problems of the Backward Classes.

The Government of Maharashtra is committed to the welfare of the backward classes for whose uplift Dr. Ambedkar dedicated his whole life. Thoughts and teachings of great men like Dr. Ambedkar will always serve as a beacon light for the new generation. Our Government, therefore, feels proud and happy to bring out these three consecutive volumes of his unpublished writings as part of our total project of publication of the writings of Dr. Ambedkar.

(S. B. CHAVAN)

Chief Minister of Maharashtra

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PREFACE

I consider it a great honour to have been asked to write a preface to these volumes which consist of hitherto unpublished writings of Dr. Babasaheb Ambedkar.

Dr. Ambedkar occupies a position of high eminence among the learned scholars of Indian society and philosophy. His erudition and learning as reflected through his writings may serve as a beacon light for rational approach towards our social and religious problems.

The Government of Maharashtra has undertaken the work of bringing out complete writings of Dr. Ambedkar in a series of volumes. The reconstituted Committee appointed for this work, has now come up with three consecutive volumes of the unpublished writings, which were very eagerly awaited by the students of India's social and political evolution.

The present volumes, which deal with philosophical as well as social problems of Indian society, may prove interesting to the scholars as well as to the new and young generation which is eager to find solutions to the national problems on a rational basis.

The Editorial Board is to be congratulated for the zeal, dedication and care which they brought to bear on the expeditious publication of these volumes.

(Prof. RAM MEGHE)
Minister for Education,
Maharashtra State

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Dr. Babasaheb Ambedkar Source Material Publication Committee, Maharashtra State

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INTRODUCTION

The members of Dr. Babasaheb Ambedkar Source Material Publication Committee are pleased to present this volume of Dr. Babasaheb Ambedkar's unpublished writings to readers on behalf of the Government of Maharashtra. This volume is significant and unique in several respects. Firstly, the contents of this volume were hitherto unknown. These are the unpublished writings of Dr. Ambedkar which were in the custody of the Administrator General and the custodian of Dr. Ambedkar's property. The students of Dr. Ambedkar's writings and his devoted followers were anxious to read these writings. Some of the followers of Dr. Ambedkar had even gone to the court to secure permission for the printing of these writings although the manuscripts were not in their possession. Thus, these writings had assumed such significance that it was even feared that they had been destroyed or lost.

There is a second reason why this volume is significant. Dr. Ambedkar is known for his versatile genius, but his interpretation of the philosophy of and his historical analysis of the Hindu religion as expressed in these pages may throw new light on his thought.

The third important point is that Dr. Ambedkar's analysis of Hindu Philosophy is intended not as an intellectual exercise but as a definite approach to the strengthening of the Hindu society on the basis of the human values of equality, liberty and fraternity. The analysis ultimately points towards uplifting the down-trodden and absorbing the masses in the national mainstream.

It would not be out of place to note down a few words about the transfer of these papers to the Committee for publication. During his life time, Dr. Ambedkar published many books, but also planned many others. He had also expressed his intention to write his autobiography, the life of Mahatma Phule and the History of the Indian Army, but left no record of any research on these subjects.

After his death, in 1956, all the papers including his unpublished writings were taken into custody by the custodian of the High Court of Delhi. Later, these papers were transferred to the Administrator General of the Government of Maharashtra. Since then, the boxes containing the unpublished manuscripts of Dr. Ambedkar and several other papers were in the custody of the Administrator General.

It was learned that Shri J. B. Bansod, an Advocate from Nagpur, had filed a suit against the Government in the High Court Bench at Nagpur,

which was later transferred to the High Court of Judicature at Bombay. The petitioner had made a simple request seeking permission from the court to either allow him to publish the unpublished writings of Dr. Ambedkar or to direct the Government to publish the same as they had assumed national significance. This litigation was pending before the Bombay High Court for several years.

After the formation of this Committee and after the appointment of Shri V. W. Moon as Officer on Special Duty in 1978, it was felt necessary to secure the unpublished writings of Dr. Ambedkar and to publish them as material of historical importance. Shri Moon personally contacted the legal heris of Dr. Ambedkar and the Administrator General. Shri Bansod, Advocate, was also requested to cooperate. It must be noted with our appreciation that Smt. Savita B. Ambedkar, Shri Prakash Y. Ambedkar and his family members and Shri Bansod, Advocate, all showed keen interest, consented to the Government project for publication and agreed to transfer all the boxes containing the Ambedkar papers to the Government. At last, the Administrator General agreed to transfer all the papers contained in five iron trunks to this Committee. Accordingly, Shri Vasant Moon took possession of the boxes on behalf of the Government of Maharashtra on 18-9-1981. All the five trunks are since stored safely in one of the Officers' Chambers in the Education Department of Mantralaya.

Shri M. B. Chitnis, who, as a close associate of Dr. Ambedkar, was intimately familiar with the latter's handwriting. He was at that time Chairman of the Editorial Board. On receipt of the papers, he spent a fortnight identifying which of the papers were Dr. Ambedkar's manuscripts. This basic process of identification having been accomplished, there remained the stupendous task of reading, interpreting and collating the vast range of MS material in the collection, to decide in what form and in what order it should be presented to the public.

In 1981, Shri. Moon, OSD, set to work on this project. This work of matching and sorting was a delicate and difficult one as well as immensely time-consuming. Many of the works what Dr. Ambedkar had evidently intended to complete, were scattered here and there in an incomplete state in the manuscript form. It was therefore necessary to retrieve and collate the fragments in order to place them in proper order. Only after very many hours of reading, selecting and reflecting not only on the contents of these papers but also what was already known of Dr. Ambedkar's work and thought, did Shri. Moon arrive at the present selection and arrangement of those MS.

This task was not merely strenuous at the intellectual level but also at the physical one due to the condition of the papers themselves. These had been stored in the closed boxes for more than 30 years. They were fumigated with insecticides, with the result that a most poisonous foul odour emitted from these papers. Shri Moon and his staff had to suffer infection of the skin and eyes and required medical treatment.

After two years of strenuous work, Shri Moon had submitted a detailed report to the Editorial Board on 17-9-1983 containing recommendations as to the proper arrangement and presentation of the papers as they were to appear in a published form. The present volume is substantially in accordance with these recommendations.

In the execution of this laborious work, invaluable assistance was rendered by the Stenographers Shri Anil Kavale and Shri L. R. Meher, and Shri S. A. Mungekar as a clerk.

After the proposed arrangements had been approved by the Dr. Babasaheb Ambedkar Source Material Publication Editorial Committee in its meeting dated 23-9-1986, Shri Moon and his staff took on the tasks associated with publication, i.e. proof reading and indexing.

In the papers that the Editorial Board scrutinised, we have come across 51 titles of unpublished writings (including 26 of 'Riddles in Hinduism'). In addition to these, we have received 14 unpublished essays of Dr. Ambedkar from Shri S. S. Rege, the Ex-Librarian of the Siddharth College, Bombay. The essays received from Shri Rege are shown by asterisk in the list mentioned below. Not all these essays are complete. All the essays have been divided into three volumes as under :

VOLUME 3 :

1. Philosophy of Hinduism
2. The Hindu Social Order : Its Essential Principles
3. The Hindu Social Order : Its Unique Features
4. Symbols of Hinduism
5. Ancient India on Exhumation
6. The Ancient Regime—The State of the Aryan Society
7. A Sunken Priesthood
8. Reformers and Their Fate

*9. The Decline and Fall of Buddhism

10. The Literature of Brahminism

*11. The Triumph of Brahmanism

12. The Morals of the House—Manusmriti or the Gospel of Counter-Revolution
13. The Philosophic Defence of Counter-Revolution: Krishna and His Gita
14. Analytical notes of Virat Parva and Uddyog Parva

15. Brahmins Vs Kshatriyas
16. Shudras and the Counter-Revolution
17. The Woman and the Counter-Revolution
18. Buddha or Karl Marx
19. Schemes of books

VOLUME 4:

Riddles in Hinduism (27 Chapters including 1 from Shri S. S. Rege) [While composing this Volume, the total number of Riddles (24), including Appendices (8), has come to 32.]

VOLUME 5:

1. Untouchables or Children of India's Ghetto
*2. The House the Hindus have Built
*3. The Rock on which it is Built
*4. Why Lawlessness is Lawful ?
*5. Touchables Vs Untouchables
*6. Hinduism and the Legacy of Brahminism
*7. Parallel Cases
8. Civilization or Felony
9. The Origin of Untouchability
10. The Curse of Caste
*11. From Millions to Fractions
12. The Revolt of Untouchables
13. Held at Bay
14. Away from the Hindus
15. A Warning to the Untouchables
16. Caste and Conversion
*17. Christianizing the Untouchables
*18. The Condition of the Convert
*19. Under the Providence of Mr. Gandhi
*20. Gandhi and His Fast

In this Introduction we propose to deal with all the questions raised about these manuscripts in order to clear the air about the publication of all Dr. Ambedkar's extant writings.

It is generally believed by the followers of Dr. Ambedkar that Dr. Ambedkar had completed the books entitled : (1) Riddles of Hinduism, (2) The Buddha and Karl Marx and (3) Revolution and Counter-Revolution. The manuscripts of "Riddles of Hinduism" have been found in separate chapters bundled together in one file. These chapters contain corrections, erasures, alterations, etc. by the hands of Dr. Ambedkar himself. Fortunately, the introduction by Dr. Ambedkar is also available for this book. We, however, regret that the

final manuscript of this volume has not been found. The Committee has accepted the title "Riddles in Hinduism", given by Dr. Ambedkar in his Introduction to the Book.

"The Buddha and Karl Marx" was also said to have been completed by Dr. Ambedkar, but we have not come across such a book among the manuscripts. There is, however, a typed copy of a book entitled "Gautam the Buddha and Karl Marx" (A Critique and Comparative Study of their Systems of Philosophy) by LEUKE—Vijaya Publishing House, Colombo) (year of publication not mentioned). One short essay of 34 pages by Dr. Ambedkar entitled "Buddha or Karl Marx" was however found and being included in the third volume. A third book, viz., "Revolution and Counter-Revolution", was also believed to have been completed by Dr. Ambedkar. A printed scheme for this treatise has been found in the papers received by the Committee. It appears that Dr. Ambedkar had started working on various chapters simultaneously. Scattered pages have been found in the boxes and are gathered together.

We are tempted here to present the process of writing of Dr. Ambedkar which will give an idea of the colossal efforts he used to make in the writing of a book. He had had his own discipline. He used to make a blue-print of the book before starting the text. The Editorial Board found many such blue-prints designed by him, viz., "India and Communism", "Riddles in Hinduism", "Can I be a Hindu?", "Revolution and Counter-Revolution", "What Brahmins have done to the Untouchables", "Essays on Bhagvat Gita", "Buddha and Karl Marx", etc. But some of these were not even begun and those which were begun were left incomplete.

It will be interesting to present an illustration. Dr. Ambedkar had prepared a blue-print for a book entitled "India and Communism". The contents are as follows :

Part—I The Pre-requisites of Communism

Chapter 1—The Birth-place of Communism

Chapter 2—Communism & Democracy

Chapter 3—Communism & Social Order

Part—II India and the Pre-requisites of Communism

Chapter 4—The Hindu Social Order

Chapter 5—The Basis of the Hindu Social Order

Chapter 6—Impediments to Communism arising from the Social Order.

Part—III What then shall we do ?

Chapter 1—Marx and the European Social Order

Chapter 2—Manu and the Hindu Social Order

Dr. Ambedkar could complete only Chapters 4 and 5 of the scheme viz., "The Hindu Social Order" and "The Basis of the Hindu Social Order". It appears that when it struck to him that he should deal with two more topics in Part III he added those two topics in his own handwriting on the typed page. In the same well-bound file of typed material, there appears a page entitled "Can I be a Hindu?" which bears his signature in pencil and a table of contents on the next page as follows :

Introduction

Symbols of Hinduism

Part-I—Caste

Part-II—Cults—Worship of Deities

Part-III—Superman

The third page bears sub-titles of the chapters as follows:

1. Symbols represent the soul of a thing
2. Symbols of Christianity
3. Symbols of Islam
4. Symbols of Jainism
5. Symbols of Buddhism
6. Symbols of Hinduism
7. What are the Symbols of Hinduism ?

Three

1. Caste.
2. Cults—
   (1) Rama
   (2) Krishna
   (3) Shiva
   (4) Vishnu
3. Service of Superman

The plan as designed above remains incomplete except for the chapter on, "Symbols of Hinduism".

The Editorial Committee has found a chapter on "Riddles of Rama and Krishna" which might have been intended for the volume "Riddles in Hinduism". The 24 riddles as proposed in his original plan were changed often in blue-prints. The seriatim of the contents and chapters and the arrangement of the file do not synchronize. The chapter on Rama and Krishna did not find a place in the listing of the contents of the book. However, we are including it in the volume on Riddles.

At the end we are confident that our time and our pains will not go unrewarded when Dr. Babasaheb Ambedkar's hitherto unpublished works will be brought in a proper form before the general public as well as interested scholars.

We place on record our deep sense of gratitude to Smt. Savita B. Ambedkar, Shri Prakash Y. Ambedkar and his family members for granting permission to the Government for publication of all the writings of Dr. Ambedkar. Shri Y. I. Desai, the Administrator General and Custodian of Dr. Ambedkar's Estate deserves our appreciation for transfer of the manuscripts to the Government. Shri J. B. Bansod, an Advocate from Nagpur also deserves thanks for co-operating with the Committee. We record our deep appreciation of the Late Shri M. B. Chitnis for sparing his valuable time, labour and guidance in his failing health.

We express our sincere gratitude to Shri Shankarrao Chavan, the Hon'ble Chief Minister, Prof. Ram Meghe, the Education Minister, and Miss Chandrika Keniya, the Minister of State for Education, Maharashtra State, for their decision to publish all the manuscripts. We thank Shri R. S. Gavai, the Vice-President of the Committee and MLC for his initiative, guidance and invaluable efforts in solving the Committee's problems. We are also thankful to Shri Madhusudan Kolhatkar, Secretary, Education Department, Maharashtra State, for his valuable advice. We thank Shri R. S. Jambhule, Director; Shri S. A. Deokar, Joint Director; Shri J. B. Kulkarni, Asistant Secretary; " Shri M. M. Awate, Deputy Director and Shri E. M. Meshram, Superintendent, all of the Education Department, for taking keen interest in the process of publication.

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Shri S. S. Rege, a Member of this Committee, was kind enough to spare the manuscripts of 14 essays of Dr. Babasaheb Ambedkar which had been in his possession for many years. These essays have enriched the material included in these three volumes. The Members of the Committee are most indebted to Shri Rege for his kindness.

Shri G. D. Dhond, the Director; Shri P. S. More and Shri Purkar,the Managers; Shri R. J. Mahatekar, the Dy. Manager; Shri J. S. Nagvekar, Operator Film Setter, and the staff of the Department of Printing and Stationery deserve full appreciation and thanks for their expeditious printing with utmost care and sincerity.

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Riddles in Hinduism

An Exposition
To
Enlighten the Masses

By

B. R. Ambedkar

M.A., Ph.D., D.Sc, LL.D., D.Litt., Barrister-at-Law.

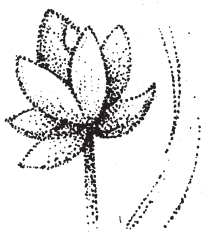

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INTRODUCTION

This book is an exposition of the beliefs propounded by what might be called Brahmanic theology. It is intended for the common mass of Hindus who need to be awakened to know in what quagmire the Brahmins have placed them and to lead them on to the road of rational thinking.

The Brahmins have propagated the view that the Hindu civilization is Sanatan, that is, unchanging. This view has been reinforced by a good many of the European Scholars who have said that the Hindu civilization is static. In this book I have attempted to show that this view is not in accord with facts and that Hindu Society has changed from time to time and that often times the change is of the most radical kind. In this connection, compare the Riddles from Himsa to Ahimsa and from Ahimsa back to Himsa. I want to make the mass of people to realize that Hindu religion is not Sanatan.

The second purpose of this book is to draw attention of the Hindu masses to the devices of the Brahmins and to make them think for themselves how they have been deceived and misguided by the Brahmins.

It will be noticed how the Brahmins have changed and chopped. There was a time when they worshipped the Vedic Gods. Then came a time when they abandoned their Vedic Gods and started worshipping non-Vedic Gods. One may well ask them—where is Indra, where is Varuna, where is Brahma, where is Mitra — the Gods mentioned in the Vedas? They have all disappeared. And why, because the worship of Indra, Varuna and Brahma ceased to be profitable. Not only did the Brahmins abandon their Vedic Gods but there are cases where they have become the worshippers of Muslim Pirs. In this connection one glaring case may be referred to. In Kalyan near Bombay there is a famous Darga of Pir called Bawa Malangsha on the top of a hill. It is a very famous Darga. Every year a Urs (pilgrimage) is held and offerings are made. The person who officiates at the Darga as a priest

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This is a seven-page manuscript, with corrections in Dr. Ambedkar's handwriting. Last few paras are additions in the handwriting by Dr. Ambedkar to the typed script.—Ed.

is a Brahmin, sitting near it, wearing the clothes of Muslims and receiving monies offered at the Darga. This he did for the sake of money. Religion or no religion what the Brahmin wants is Dakshina. Indeed the Brahmins have made religion a matter of trade and commerce. Compare with this faithlessness of the Brahmins the fidelity of the Jews to their Gods even when their conqueror Nebuchadnezzar forced the Jews to abandon their religion and adopt his (religion)[1].

Nebuchadnezzar, the king, made an image of gold, whose height was three score cubits, and the breadth thereof six cubits; he set it up in the plain of Dura, in the province of Babylon.

Nebuchadnezzar, the king, ordered the princes, the governors, the captains, the judges, the treasurers, the counsellors, the sheriffs, and all the rulers of the provinces to come to the dedication of the image which Nebuchadnezzar, the king had set up.

Then the princes, the governors, the captains, the judges, the treasurers, the counsellors, the sheriffs, and all the rulers of the provinces, were gathered together unto the dedication of the image that Nebuchadnezzar the king had set up; and they stood before the image that Nebuchadnezzar had set up.

Then an herald cried aloud,

> "To you, it is commanded, O people, nations, and languages, That at what time ye hear the sound of the cornet, flute, harp, sack-but, psaltery, dulcimer and all kinds of musick, ye fall down and worship the golden image that Nebuchadnezzar the king hath set up:
>
> And who so falleth not down and worshippeth shall the same hour be cast into the midst of burning fiery furnace."

Therefore at that time, when all the people heared the sound of the cornet, flute, harp, sack-but, psaltery, dulcimer, and all kinds of musick, all the people, the nations, and the languages fell down and worshipped the golden image that Nebuchadnezzar the king had set up.

Wherefore at that time certain Chaldeans came near, and accused the Jews.

They spake and said to the king Nebuchadnezzar,

> "O King, live for ever.
>
> Thou, O king, hast made a decree, that every man that shall hear the sound of the cornet, flute, harp, sack-but, psaltery, dulcimer, and all kinds of musick shall fall down and worship the golden image;

[1] What follows is from Damet Ch. 3 (Old Testament).

And who so falleth not down and worshippeth that he should be cast into the midst of a burning fiery furnace;

There are certain Jews whom thou hast set over the affairs of the province of Babylon; Shadrach, Meshach, and Abed-nego; these men, O king, have not regarded thee; they serve not thy gods, nor worship the golden image which thou hast set up."

Then Nebuchadnezzar in his rage and fury commanded to bring Shadrach, Meshach, and Abed-nego. Then they brought these men before king.

Nebuchadnezzar spake and said unto them,

"Is it true, O Shadrach, Meshach and Abed-nego, do not ye serve my gods, nor worship the golden image which I have set up?

Now if ye'be ready that at what time ye hear the sound of the cornet, flute, harp, sack-but, psaltery, and dulcimer, and all kinds of musick, ye fall down and worship the image which I have made; well! but if ye worship not, ye shall be cast the same hour into the midst of a burning fiery furnace; and who is that God that shall deliver you out of my hands?"

Shadrach, Meshach, and Abed-nego, answered and said to the king, "O Nebuchadnezzar, we are not careful to answer thee in this matter.

If it be so, our God whom we serve is able to deliver us from the burning fiery furnace and he will deliver us out of thine hand, O King.

But if not, be it known unto thee, O King, that we will not serve thy Gods, nor worship the golden image which thou hast set up."

Then was Nebuchadnezzar full of fury, and the form of his visage was changed against Shadrach, Meshach, and Abed-nego; therefore he spake, and commanded that they should heat the furnace one seven times more than it was wont to be heated.

And he commanded the most mighty men that were in his army to bind Shadrach, Meshach, and Abed-nego, and to cast them into the burning fiery furnace.

Then these men were bound in their coats, their hosen and their hats, and their other garments, and were cast into the midst of the burning fiery furnace.

Therefore because the king's commandment was urgent, and the furnace exceeding hot, the flame of the fire slew those men that took up Shadrach, Meshach, and Abed-nego.

And these three men, Shadrach, Meshach, and Abed-nego, fell down bound into the midst of the burning fiery furnace."

Can the Brahmins of India show such stead-fast faith and attachment for their Gods and to their religious faith?

Buckle in his history of civilization says:

> "It is evident that until doubt began, progress was impossible. For as we have clearly seen, the advance of civilization solely depends on the acquisitions made by the human intellect and on the extent to which those acquisitions are diffused. But men who are perfectly satisfied with their own knowledge will never attempt to increase it. Men who are perfectly convinced of the accuracy of their opinions will never take the pains of examining the basis on which they are built. They look with wonder, and often with horror, on views contrary to those which they inherited from their fathers; and while they are in this state of mind, it is impossible that they should receive any new truth which interferes with their foregone conclusions.
>
> On this account it is, that although the acquisition of fresh knowledge is the necessary precursor of every step in social progress, such acquisition must itself be preceded by a love of inquiry, and therefore by a spirit of doubt; because without doubt there will be no inquiry and without inquiry there will be no knowledge. For knowledge is not an inert and passive principle which comes to us whether we will or not; but it must be sought before it can be won; it is the product of great labour and therefore of great sacrifice. And it is absurd to suppose that men will incur the labour, and make the sacrifice for subjects respecting which they are already perfectly content. They who do not feel the darkness, will never look for the light. If on any point we have attained to certainty, we make no further inquiry on that point; because inquiry would be useless, or perhaps dangerous. The doubt must intervene, before the investigation can begin. Here, than we have the act of doubting as the originator or, at all events, the necessary antecedent of all progress."

Now the Brahmins have left no room for doubt, for they have propounded a most mischievous dogma which the Brahmins have spread among the masses, is the dogma of the infallibility of the Vedas. If the Hindu intellect has ceased to grow and if the Hindu civilization and culture has become a stagnant and stinking pool, this dogma must be destroyed root and branch if India is to progress. The Vedas are a worthless set of books. There is no reason either to call them sacred or infallible. The Brahmins have invested it with sanctity and infallibility only because by a later interpolation of what is called the Purusha — Sukta, the Vedas have made them the lords of the Earth. Nobody has

had the courage to ask why these worthless books which contain nothing but invocation to tribal Gods to destory the Enemies, loot their property and give it to their followers (have been made sacred and infallible)[1]. But the time has come when the Hindu mind must be freed from the *hold** which the silly ideas propagated by the Brahmins, have on them. Without this liberation India has no future. I have undertaken this task knowing full well what *risk** it involves. I am not afraid of the consequences. I shall be happy if I succeed in stirring the masses.

B. R. AMBEDKAR

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[1] Inserted by the editors—Ed.

* The word 'hold' has been introduced by us. This word is illegible in the hand-written manuscript. So also the word 'risk' is missing from the original.

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PART I

Religious

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RIDDLE NO. 1

THE DIFFICULTY OF KNOWING WHY ONE IS A HINDU

India is a conjeries of communities. There are in it Parsis, Christians, Mohammedans and Hindus. The basis of these communities is not racial. It is of course religious. This is a superficial view. What is interesting to know is why is a Parsi a Parsi and why is a Christian a Christian, why is a Muslim a Muslim and why is a Hindu a Hindu? With regard to the Parsi, the Christian and the Muslim it is smooth sailing. Ask a Parsi why he calls himself a Parsi he will have no difficulty in answering the question. He will say he is a Parsi because he is a follower of Zoraster. Ask the same question to a Christian. He too will have no difficulty in answering the question. He is a Christian because he believes in Jesus Christ. Put the same question to a Muslim. He too will have no hesitation in answering it. He will say he is a believer in Islam and that is why he is a Muslim.

Now ask the same question to a Hindu and there is no doubt that he will be completely bewildered and would not know what to say.

If he says that he is a Hindu because he worships the same God as the Hindu Community does his answer cannot be true. All Hindus do not worship one God. Some Hindus are monotheists, some are polytheists and some are pantheists. Even those Hindus who are monotheists are not worshippers of the same Gods. Some worship the God Vishnu, some Shiva, some Rama, some Krishna. Some do not worship the male Gods. They worship a goddess. Even then they do not worship the same Goddesses. They worship different Goddesses. Some worship Kali, some worship Parvati, some worship Laxmi.

Coming to the Polytheists they worship all the Gods. They will worship Vishnu and Shiva, also Rama and Krishna. They will worship Kali, Parvati and Laxmi. A Hindu will fast on the Shivaratri day because it is sacred to Shiva. He will fast on Ekadashi day because it is sacred to Vishnu. He will plant a Bel tree because it is sacred to Shiva and he will plant a Tulsi because it is dear to Vishnu.

Polytheists among the Hindus do not confine their homage to the Hindu Gods. No Hindu hesitates to worship a Muslim Pir or

a Christian Goddess. Thousands of Hindus go to a Muslim Pir and make offerings. Actually there are in some places Brahmins who own the office of a hereditary priesthood of a Muslim Pir and wear a Muslim Pir's dress. Thousands of Hindus go to make offerings to the Christian Goddess Mant Mauli near Bombay.

The worship of the Christian or Muslim Gods is only on occasions. But there are more permanent transfer of religious allegiance. There are many so-called Hindus whose religion has a strong Muhammadan content. Notable amongst these are the followers of the strange Panchpiriya cult, who worship five Muhammadan saints, of uncertain name and identity, and sacrifice cocks to them, employing for the purpose as their priest a Muhammadan Dafali fakir. Throughout India many Hindus make pilgrimages to Muhammadan shrines, such as that of Sakhi Sarwar in the Punjab.

Speaking of the Malkanas Mr. Blunt says that they are converted Hindus of various castes belonging to Agra and the adjoining districts, chiefly Muttra, Ettah and Mainpuri. They are of Rajput, Jat and Bania descent. They are reluctant to describe themselves as Musalmans, and generally give their original caste name and scarcely recognize the name Malkana. Their names are Hindu; they mostly worship in Hindu temples; they use the salutation Ram-Ram; they intermarry amongst themselves only. On the other hand, they sometimes frequent a mosque, practise circumcision and bury their dead; they will eat with Muhammadans if they are particular friends.

In Gujarat there are several similar communities — such as the Matia Kunbis, who call in Brahmans for their chief ceremonies, but are followers of the Pirana saint Imam Shah and his successors, and bury their dead as do the Muhammadans; the Sheikhadas at their weddings employ both Hindu and a Muhammadan priest, and the Momans who practise circumcision, bury their dead and read the Gujarati Koran, but in other respects follow Hindu custom and ceremonial.

If he says that "I am a Hindu because I hold to the beliefs of the Hindus" his answer cannot be right for here one is confronted with the fact that Hinduism has no definite creed. The beliefs of persons who are by all admitted to be Hindus often differ more widely from each other than do those of Christians and Muhammadans. Limiting the issue to cardinal beliefs the Hindus differ among themselves as to the beliefs which are of cardinal importance. Some say that all the Hindu scriptures must be accepted, but some would exclude the Tantras, while others would regard only the Vedas as of primary importance; some again think that the sole essential is belief in the doctrine of karma and metempsychosis.

A complex congeries of creeds and doctrines is Hinduism. It shelters within its portals monotheists, polytheists and pantheists; worshippers of the great Gods Shiva and Vishnu or of their female counterparts, as well as worshippers of the divine mothers or the spirits of trees, rocks and streams and the tutelary village deities; persons who propitiate their deity by all manner of bloody sacrifices, and persons who will not only kill no living creature but who must not even use the word 'cut'; those whose ritual consists mainly of prayers and hymns, and those who indulge in unspeakable orgies in the name of religion; and a host of more or less heterodox sectaries, many of whom deny the supremacy of the Brahmans, or at least have non-Brahmanical religious leaders.

If he says that he is a Hindu because he observes the same customs as other Hindus do his answer cannot be true. For all Hindus do not observe the same customs.

In the north near relatives are forbidden to marry; but in the south cousin marriage is prescribed, and even closer alliances are sometimes permitted. As a rule female chastity is highly valued, but some communities set little store by it, at any rate prior to marriage, and others make it a rule to dedicate one daughter to a life of religious prostitution. In some parts the women move about freely; in others they are kept secluded. In some parts they wear skirts; in others trousers.

Again if he said that he is a Hindu because he believes in the caste system his answer cannot be accepted as satisfactory. It is quite true that no Hindu is interested in what his neighbour believes, but he is very much interested in knowing whether he can eat with him or take water from his hands. In other words it means that the caste system is an essential feature of Hinduism and a man who does not belong to a recognized Hindu Caste cannot be a Hindu. While all this is true it must not be forgotten that observance of caste is not enough. Many Musalmans and many Christians observe caste if not in the matter of inter-dining certainly in the matter of inter-marriage. But they cannot be called Hindus on that account. Both elements must be present. He must be a Hindu and he must also observe caste. This brings us back to the old question who is a Hindu? It leaves us where we are.

Is it not a question for every Hindu to consider why in the matter of his own religion his position is so embarrassing and so puzzling? Why is he not able to answer so simple a question which every Parsi, every Christian, and every Muslim can answer? Is it not time that he should ask himself what are the causes that has brought about this Religious chaos ?

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RIDDLE NO. 2

THE ORIGIN OF THE VEDAS- THE BRAHMINIC EXPLANATION OR AN EXERCISE IN THE ART OF CIRCUMLOCUTION

There is hardly any Hindu who does not regard the Vedas as the most sacred Book of his religion. And yet ask any Hindu what is the origin of the Vedas and it would be difficult to find one who can give a clear and a definite answer to the simple question. Of course, if the question was addressed to a Vedic Brahmin he would say that the Vedas are Sanatan. But this is no answer to the question. For first of all what does the word *Sanatan* means?

The best explanation of the word *Sanatan* is to be found in the Commentary by Kalluka Bhatt on Chapter I Shlokas 22-23 of the Manu Smriti. This is what Kulluka Bhatt defines the word Sanatan[1].

[1] Muir Sanskrit Texts Vol. III. p. 6.

We have found 72 pages dealing with the subject "Origin of the Vedas". These pages were neither arranged properly nor paged either by the typist or by the author. We have attempted to organize and arrange all these loose papers systematically and divide them into the Riddle No. 2 to 6, in accordance with the arrangement given in the Table of contents. It is difficult to assume that all these pages are complete in the treatment of the subject of each Chapter.

There is, however, one independent chapter containing 61 pages under the title 'Riddle of the Vedas' placed as Appendix I. That essay deals with all the subjects mentioned in the Table of Contents at Sr. No. 2 to 6 in a consolidated manner. Several paras may be found repeated in that essay. The original MS of the chapters 2 to 6 included here bears corrections and modifications in the handwriting of the author, whereas the Chapter included as Appendix I is a typed second copy having no corrections at all. We have followed the chronology of the Table of contents and the pages of corrected MS are arranged accordingly. —Ed.

> "The word Sanatana he says, means 'eternally pre-existing'. The doctrine of the superhuman origin of the Vedas is maintained by Manu. The same Vedas which (existed) in the previous mundane era (Kalpa) were preserved in the memory of the omniscient Brahma, who was one with the supreme spirit. It was those same Vedas that, in the beginning of the present Kalpa, he drew forth from Agni, Vayu and Surya; and this dogma, which is founded upon the Veda, is not to be questioned, for the Veda says, 'the Rig-Veda comes from Agni, the Yajur-Veda from Vayu, and the *Sama-Veda* from Surya."

To understand the explanation by *Kulluka Bhatt* it is necessary to explain what Kalpa means.

A Kalpa is a reckoning of time adopted by the Vedic Brahmins. The Brahmanic reckoning of time divides time into (1) Varsha, (2) Yuga, (3) Mahayuga, (4) Manvantara and (5) Kalpa.

Varsha is easy enough to understand. It corresponds to the term year.

What exactly the period of time covered by the term Yuga covers there is no unanimity.

A Mahayuga is a period covered by a group of four Yugas: (1) Krita Yuga, (2) Treta Yuga, (3) Dwapar Yuga and (4) Kali Yuga. The four Yugas follow one another in a cycle, when the period of the first Yuga is spent it is followed by the second and so on in the order given. When the cycle is complete one Mahayuga is completed and a new Mahayuga opens. Every Mahayuga begins with the Krita Yuga and ends with Kali Yuga.

There is no uncertainty as to the time relation of a Mahayuga and a Kalpa. 71 Mahayugas make one Kalpa. There is however some uncertainty as to the time relation between Mahayuga and Manvantara. A Manvantara is equal to 71 Mahayugas "and something more". What exact period of time that 'something more' means, the Brahmins have not been able to state categorically. Consequently the time relation between Manvantara and Kalpa is uncertain.

But this does not matter very much for our present purposes. For the present it is enough to confine our attention to Kalpa.

The idea underlying 'Kalpa' is closely connected with the creation and dissolution of the Universe. The creation of the world is called *Srashti*. The dissolution of the universe is called *Pralaya*. Time between *Srashti* and *Pralaya* is called *Kalpa*. The idea of the origin of the Vedas is thus more intimately connected with the idea of Kalpa

According to this scheme of things, what is supposed to happen is that when a *Kalpa* begins creation begins. With the beginning of the creation there comes into being a new series of Vedas. What Kulluka

Bhatt wants to convey is that though in a sense every new Kalpa has a new series of Vedas the same old Vedas are reproduced by Brahma from his memory. That is why he says the Vedas are Sanatan i.e., eternally pre-existing.

What Kalluka Bhatt says is that the Vedas are reproduced from memory. The real question is who made them and not who reproduced them. Even if one accepts the theory of reproduction at the beginning of each Kalpa the question still remains who made the Vedas when the first Kalpa began. The Vedas could not have come into being *ex-nihilo*. They must have a beginning though they may have no end. Why don't the Brahmins say openly? Why this circumlocution?

●●

RIDDLE NO. 3

THE TESTIMONY OF OTHER SHASTRAS ON THE ORIGIN OF THE VEDAS

I

The search for the origin of the Vedas may well begin with the Vedas themselves.

The Rig-Veda propounds a theory of the origin of the Vedas. It is set out in the famous Purusha Sukta. According to it, there was a mystic sacrifice of the Purusha a mythical being and it is out of this sacrifice that the three Vedas namely, Rig, Sama, Yajus came into being.

The Sama-Veda and Yajur-Veda have nothing to say about the origin of the Vedas.

The only other Veda that refers to this question is the Atharva-Veda. It has many explanations regarding the origin of the Vedas. One explanation[1] reads as follows:

> "From Time the Rig verses sprang; the Yajus sprang from Time."

There are also two other views propounded in the Atharva-Veda on this subject. The first of these is not very intelligent and may be given in its own language which runs as follows[2]:

> "Declare who that Skamba (supporting principle) is in whom the primeval rishis, the rick, saman, and yajush, the earth and the one rishi, are sustained. . . .
>
> "Declare who is that Skamba from whom they cut off the rick verses, from whom they scrapped off the yajush, of whom the saman verses are the hairs and the verses of Atharvan and Angiras the mouth."

Obviously this statement is a challenge to some one who had proclaimed that the Rig, Sama and Yajur Veda were born out of a Skamba.

The second explanation given in the Atharva-Veda is that the Vedas sprang from Indra.[3]

[1] Atharva-Veda XIX 54. 3. Quoted in Muir S. I. III. p. 4.

[2] Atharva-Veda X 7.14 quoted in Muir S. I. III. p. 3.

[3] Muir S. T. III. p. 4.

II

This is all that the Vedas have to say about their own origin. Next in order of the Vedas come the Brahmanas. We must therefore inquire into what they have to say on this subject. The only Brahmanas which attempt to explain the origin of the Vedas are the Satapatha Brahmana, the Taitteriya Brahmana, Aitereya Brahmana and Kaushitaki Brahmana.

The Satapatha Brahmana has a variety of explanations. One attributes the origin of the Vedas to Prajapati[1]. According to it:

> "Prajapati, was formerly this universe (i.e., the sole existence) one only. He desired, 'may I become, may I be propagated'. He toiled in devotion, he performed austerity.
>
> > "From him, when he had so toiled and performed austerity, three worlds were created—earth, air and sky. He infused warmth into these three worlds. From them, thus heated, three lights were produced,—Agni (fire), this which purifies i.e., Pavana, or Vayu, (the Wind), and Surya (the Sun). He infused heat into these three lights. From them so heated the three Vedas were produced,— the Rig-Veda from Agni (fire), the Yajur-Veda from Vayu (Wind) and the Sama-Veda from Surya (the Sun). He infused warmth into these three Vedas. From them so heated three luminous essences were produced, *bhuh,* from the Rig-Veda, *bhuvah* from the Yajur-Veda, and *svar* from the Sama-Veda. Hence, with the Rig-Veda, the office of the *adhvaryu;* with the Sama-Veda, the duty of the *udgatri;* while the function of the brahman arose through the luminous essence of the triple science (i.e., the three Vedas combined)."

The Satapatha Brahmana gives another variant[2] of this explanation of the origin of the Veda from Prajapati. The explanation is that Prajapati created the Vedas from waters. Says the Satapatha Brahmana:

> "This male, Prajapati, desired, 'May I multiply, may I be propagated'. He toiled in devotion; he practised austere-fervour. Having done so he first of all created sacred knowledge, the triple Vedic science. This became a basis for him. Wherefore men say, 'sacred knowledge is the basis of this universe'. Hence after studying the Veda a man has a standing ground; for sacred knowledge is his foundation. Resting on this basis he (Prajapati) practised austere-fervour. He created the waters from Vach (speech) as their world. Vach was his; she was created. As she pervaded (apnot) waters were

[1] Muir Sanskrit Texts, III. p. 5.

[2] *Ibid,* p. 8

called 'apah'. As she covered (avrinot) all, water was called 'Var'. He desired, 'May I be propagated from these waters'. Along with this triple Vedic science he entered the waters. Thence sprang an egg. He gave it an impulse; and said ' let there be, let there be, let there be again'. Thence was first created sacred knowledge, the triple Vedic science. Wherefore men say, 'Sacred knowledge is the first-born thing' in this universe. Moreover, it was sacred knowledge which was created from that Male in front, wherefore it was created as his mouth. Hence they say of a man learned in the Veda, 'he is like Agni; for the sacred knowledge is Agni's mouth'."

There is a third explanation[1] given in the Satapatha Brahmana:

" I settle thee in the ocean as they seat."

" Mind is the ocean. From the mind-ocean with speech for a shovel the Gods dug out the triple Vedic science. Hence this verse has been uttered; 'May the brilliant deity today know where they placed that offering which the Gods dug out with sharp shovels. Mind is the ocean; speech is the sharp shovel; the triple Vedic Science is the offering. In reference to this the verse has been uttered. He settles it in Mind."

The Taitteriya— Brahmana has three explanations to offer. It speaks of the Vedas as being derived from Prajapati. It also says Prajapati created king Soma and after him the three Vedas were created[2]. This Brahmana has another explanation[3] quite unconnected with Prajapati. According to it:

"Vach (speech) is an imperishable thing, and the first-born of the ceremonial, the mother of the Vedas, and the centre-point of immortality. Delighting in us, she came to the sacrifice. May the protecting goddess be ready to listen to my invocation, she whom the wise rishis, the composers of hymns, the Gods sought by austere-fervour, and by laborious devotion."

To crown all this the Taitteriya Brahmana offers a third explanation. It says that the Vedas came from the beard of Prajapati.[4]

III

The Upanishads have also attempted to explain the origin of the Vedas.

The explanation offered by the Chhandogya Upanishad is the same[5]

[1] Muir I. pp. 9-10.

[2] *Ibid.* p. 8.

[3] *Ibid.* p. 10.

[4] *Ibid.* p. 10.

[5] *Ibid* p. 5.

as that given by the Satapatha Brahmana—namely that the Rig-Veda originated from Agni, Yajus from Vayu and Sam from the Sun.

The Brahad Aranyaka Upanishad has two explanations to offer. In one place, it says[1]:

> "As from a fire made of moist wood, various modifications of smoke proceed, so is the breathing of this great Being the Rig-Veda, the Yajur-Veda, the Sama-Veda, the Atharvangirases, the Itihasas, Puranas, science, the Upanishads, verses (slokas), aphorisms, comments of different kinds—all these are his breathings."

In another place, it says[2]:

> "Prajapati (identified with Death or the Devourer) is said to have produced Vach (speech), and through her, together with soul, to have created all things, including the Vedas."
>
> "By that speech and that soul he created all things whatsoever, rick, yajush, and saman texts, metres, sacrifices, creatures and animals."
>
> " The three Vedas are (identifiable with) these three things (speech, mind and breath). Speech is the Rig-Veda, mind the Yajur-Veda and breath the Sama-Veda."

IV

Coming to the Smritis, there are two theories as to the origin of the Vedas to be found in the Manu Smriti. In one place[3], it is said that the Vedas were created by Brahma.

> "He (Brahma) in the beginning fashioned from the words of the Veda the several names, functions, and separate conditions of all (creatures). That Lord also created the subtle host of active and living deities, and of Sadhyas, and eternal sacrifice. And in order to the performance of sacrifice, he drew forth from Agni, from Vayu and from Surya, the triple eternal Veda, distinguished as Rick, Yajush and Saman."

In another place[4], he seems to accept the story of Prajapati being the originator of the Vedas as would be evident from the following:

> "Prajapati also milked out of the three Vedas the letters, *'a', 'u',* and *'m'* together with the words *'bhuh', 'bhuvah'* and *'svar'*. The same supreme Prajapati also milked from each of the three Vedas one of the three portions of the text called Savitri (or gayatri), beginning with the word *tat* . . . . The three great imperishable particles (bhuh,

[1] Muir Vol. I. p. 8.

[2] *Ibid.* p. 9.

[3] *Ibid. p.* 6.

[4] *Ibid p.* 7.

bhuvah, svar) preceded by om, and the gayatri of three lines, are to be regarded as the mouth of Brahma."

V

It is also interesting to note what the Puranas have to say about the origin of the Vedas. The Vishnu Purana[1] says:

"From his eastern mouth Brahma formed the gayatra, the rick verses, the trivrit, the soma-rathantara, and of sacrifices, the agnishtoma. From his southern mouth he created the yajush verses, the trishtubh metre, the panchadasa-stoma, the vrihat-saman and the ukthya. From his western mouth he formed the saman verses, the jagatimetre, the saptadasa-stoma, the vairupa, and the atiratra. From his northern mouth he framed the ekavinsa, the atharvan, the aptoryaman, with the anushtubh and biraj metres."

The Bhagvat Purana[2] says:

"Once the Vedas sprang from the four-faced creator, as he was meditating 'how shall I create the aggregate worlds as before?... He formed from his eastern and other mouths the Vedas called rick, yajush, saman, and atharvan, together with praise, sacrifice, hymns and expiation." *[*There appears to be some quotations missing as there is no link between these two paragraphs.*]

"Entering between her eyes. From her there was then produced a quadruple being in the form of a Male, lustrous as Brahma, undefined, eternal, undecaying, devoid of bodily senses or qualities, distinguished by the attribute of brilliancy, pure as the rays of the moon, radiant, and embodied in letters. The God fashioned the Rig-Veda, with the Yajush from his eyes, the Sama-Veda from the tip of his tongue, and the Atharvan from his head. These Vedas, as soon as they are born, find a body, (kshetra). Hence they obtain their character of Vedas, because they find (vindanti) that abode. These Vedas then create the pre-existent eternal Brahma (sacred science), a Male of celestial form, with their own mind-born qualities."

It also accepts Prajapati as the origin. It says that when the Supreme being was intent on creating the Universe, Hiranyagarbha, or Prajapati, issued from his mouth the sound 'Om', and was desired to divide himself—a process which he was in great doubt how he should effect—the Harivamsa proceeds[3]:

" While he was thus reflecting, the sound 'om' issued from him, and resounded through the earth, air and sky. While the God of Gods

[1] Muir Vol. I. p. 11.

[2] *Ibid.* p. 11.

[3] *Ibid.* p. 14.

was again and again repeating this, the essence of mind, the vashatkara proceeded from his heart. Next, the sacred and transcendent vyahritis, (bhuh, bhuvah, svar), formed of the great smriti, in the form of sound, were produced from earth, air, and sky. Then appeared the goddess, the most excellent of meters, with twenty-four syllables (the gayatri). Reflecting on the divine text (beginning with) 'tat', the Lord formed the Savitri. He then produced all the Vedas, the Rick, Saman, Atharvan, and Yajush, with their prayers and rites."

VI

Here we have eleven different explanations regarding the origin of the Vedas—(1) as originating from the mystical sacrifice of Purusha, (2) as resting on Skambha, (3) as cut or scraped off from him, as being his hair and his mouth, (4) as springing from Indra, (5) as produced from Time, (6) as produced from Agni, Vayu and Surya, (7) as springing from Prajapati, and the Waters, (8) as being the breath of Brahma, (9) as being dug by the Gods out of mind-ocean, (10) as being the hair of Prajapati's beard and (11) as being the offspring of Vach.

This bewildering multiplicity of answers to a simple question is a riddle. The writers who have come forward to furnish these answers are all Brahmins. They belong to the same Vaidik school of thought. They alone were the guardians of the ancient religious lore. Why should they have given such incoherent and chaotic answers to a very simple question?

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RIDDLE NO. 4

WHY SUDDENLY THE BRAHMINS DECLARE THE VEDAS TO BE INFALLIBLE AND NOT TO BE QUESTIONED?

To say that the Vedas occupy a very high position in the Religious literature of the Hindus is to make an understatement. To say that the Vedas form the sacred literature of the Hindus will also be an inadequate statement. For the Vedas besides being a sacred literature of the Hindus is a book whose authority cannot be questioned. The Vedas are infallible. Any argument based on the Vedas is final and conclusive. There is no appeal against it. This is the theory of the Vedic Brahmins and is accepted by the generality of the Hindus.

I

On what does this theory rest? The theory rests on the view that the Vedas are *Apaurusheya*. When the Vedic Brahmins say that the Vedas are *Apaurusheya* what they mean is that they were not made by man. Not being made by man, they are free from the failings, faults and frailties to which every man is subject and are therefore infallible.

II

It is difficult to understand how such a theory came to be propounded by the Vedic Brahmins. For there was a time when the Vedic Brahmins themselves thought quite differently on the question of the authority of the Vedas as being final and conclusive. These *Vaidik* Brahmins are no other than the authors of the various Dharma Sutras.

The following are the views expressed by the Dharma Sutras on question of the authority of the Vedas:

To begin with the Gautama Dharma Sutra.

It lays down the following rule on the question of the infallibility of the Vedas.

> "The Veda is the source of the sacred law" I-1.

"And the tradition and practice of those who know the Veda" I-2.

"If authorities of equal force are conflicting, (either may be followed at) pleasure" I-4.

The Vashishta Dharma Sutra propounds the following view:

"The sacred law has been settled by the revealed texts i.e., Vedas and by the tradition of the sages" I-4.

"On the failure of (rules given in) these (two sources) the practice of Shishtas (has) authority". I-5.

The views of Baudhayana are given below:

Prasna I, Adhyaya I, Kandika I.

(1) The sacred law is taught in each Veda.

(2) We will explain (it) in accordance with that.

(3) (The sacred law), taught in the tradition (Smriti) stands second.

(4) The practice of the Sishtas (stands) third.

(5) On failure of them an Assembly consisting at least of ten members (shall decide disputed points of law).

The view taken by the Apastamba Dharma Sutra is clear from the following extract from that Sutra:

"Now, therefore, we will declare the acts productive of merit which form part of the customs of daily life" I-1.

"The authority (for these duties) is the agreement (samaya) of those who know the law". I-2.

"And (the authorities for the latter are) the Vedas alone" I-3.

With regard to the *Shishtas* both the Vashishtha Dharma Sutra and also the Baudhayana Dharma Sutra have taken particular care to define who can be regarded as *Shishtas*.

The Vashishta Dharma Sutra says:

"He whose heart is free from desire (is called) a Shishta". I-6.

Baudhayana goes into much greater details about the qualification of the Shishtas. This is what he says:

"5. Shishtas, forsooth, (are those) who are free from envy, free from pride, contented with a store of grain sufficient for ten days, free from covetousness, and free from hypocrisy, arrogance, greed, perplexity and anger."

"6. Those are called Shishtas who, in accordance with the sacred law, have studied the Veda together with its appendages, know how to draw inferences from that (and) are able to adduce proofs perceptible by the senses from the revealed texts."

Baudhayana has also something very interesting to say about the assembly whom he authorises to decide. The following are his views on the matter:

"8. Now they quote also (the following verses): 'Four men, who each know one of the four Vedas, a Mimansaka, one who knows the Angas, one who recites (the works on) the sacred law, and three Brahmanas belonging to (three different) orders, constitute an assembly consisting at least of ten members."

"9. There may be five, or there may be three, or there may be one blameless man, who decides (questions regarding) the sacred law. But a thousand fools (can) not do it)."

"As an elephant made of wood, as an antelope made of leather, such an unlearned Brahmana; those three having nothing but the name (of their kind)".

This review of Dharma Sutras[1] shows that the (1) Veda, (2) Tradition (Smriti), (3) Practice of Shishta and (4) Agreement in an assembly were the four different authorities which were required to be referred to in the decision of an issue which was in controversy. It also shows that there was a time when the Vedas were not the sole infallible authorities. That was the time represented by the Dharma Sutras of Vashishta and Baudhayana. Apastambha does not invest the Vedas with any authority at all. Knowledge of Vedas is made by him as an electoral qualification for membership of the Assembly whose agreed decision is the law and the only law. The Veda was not at all regarded as a book of authority and when the only recognized source of authority was an agreement arrived at in an Assembly of the learned. It is only in the time of Gautama that the Vedas came to be regarded as the only authority. There was a time when an agreed decision of the Assembly was admitted as one source of authority. That is the period represented by Baudhayana.

This conclusion is reinforced by the following quotation from the Satapatha Brahmana. It says:

[*Left incomplete. Quotation and further discussion not given.*]

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[1] According to Max Muller the period of the Dharma Sutras was sometime between 600 and 200 B.C.

RIDDLE No. 5

WHY DID THE BRAHMINS GO FURTHER AND DECLARE THAT THE VEDAS ARE NEITHER MADE BY MAN NOR BY GOD?

The Vedic Brahmins were not content with investing the Vedas with Infallibility. They went further and asserted that the Vedas were Apaurusheya. By this they meant the Vedas were not made by man. This doctrine no doubt leads to the doctrine of Infallibility. For not being made by man they are free from the failings, faults and frailties of man and are therefore infallible. All the same it is necessary to examine the theory separately for it is an independent theory.

Is there really no human author of the Vedas? Are they really Apaurusheya ? The best evidence on the subject is the evidence of the *Anukramanis*— a special class of literature which forms part of the ancient Sanskrit literature. What are called Anukramanis are nothing but systematic indices to various portions of the ancient Vedic literature. Every Veda has an Anukramani, sometimes have more than one Anukramani. Seven Anukramanis for the Rig-Veda are known to be in existence, five by Shaunaka, one by Katyayana and one by an unknown author. For the Yajur-Veda there exist three Anukramanis, one for each of the three Shakhas, Atreyi, Charayaniyas and Madhyandina. For the Sama-Veda there are two Anukramanis, one is called Arsheya-Brahmana and the other is known by the name Parishistas. As to the Atharva-Veda one Anukramani is known to exist. It is known as Brihat-Sarvanukramani.

The most perfect Anukramani according to Prof. Max Muller is Katyayana's Sarvanukramani to the Rig-Veda. Its importance lies in the fact that it gives (1) the first words of each hymn, (2) the number of verses, (3) the name and the family of the Rishi who composed it, (4) the names of the deities and (5) the metres of every verse. What emerges from a reference to the Sarvanukramani is that the Rishis are the authors of the hymns which make up the Rig-Veda. The Rig-Veda therefore on the evidence of the Anukramani cannot but be regarded as a man-made work. The same must be the conclusion regarding the other Vedas.

That the Anukramanis are realistic is proved by many passages in the Rig-Veda in which the Rishis describe themselves as the composers of the hymns.

Below are given a few of such passages:

"The Kanvas make a prayer to you, hear well their invocation'. Thus, O, Indra, yoker of steeds, have the Gotamas made hymns for these efficaciously"

"This hymn has efficaciously been made to you, O opulent Asvins, by the Manas"

"These magnifying prayers, (this) hymn, O Asvins, the Gritsamadas have made for you"

"Aspiring to heaven, the sage Kusikas have made a hymn with praises to thee, O Indra."

"Nodhas, descendant of Gotama, fashioned this new hymn for (thee), Indra, who are of old, and who yokest thy steeds"

"Thus O, hero, have the Gritsamadas, desiring succour, fashioned for thee a hymn as men make works."

"The sages generated an efficacious production and a prayer for Indra."

"These hymns, Agni, generated for thee, celebrate thy bounty in cows and horses."

"Our father hath discovered (or invented) this great, sevenheaded hymn, born of sacred truth; Ayasya, friend of all men celebrating Indra, has generated the fourth song of praise."

"We, the Raghuanas, have uttered to Agni honied speech; we incessantly laud him with eulogies."

"Thus, all ye Adityas, Aditi, and ye ruling powers, has the wise son of Plati magnified you. The celestial race has been lauded by the immortal Gaya."

"He it is whom they call a rishi, a priest, a pious sacrificer, a chanter of prayers, a reciter of hymns, he it is who knows the three bodies of the brilliant (Agni), the man who is most prominent in bestowing gifts."

Apart from the evidence of the Anukramanis there is another sort of evidence which militates against the theory of the Vedas being Apaurusheya. The Rishis themselves have treated the Vedas as a human and as a historical product. The hymns of Rig-Veda distinguish between ancient and modern Rishis. Here are a few of them:

"Agni, who is worthy to be celebrated by former as well as modern rishis, will bring the gods hither."

"The former rishis who invoked thee for succour.

"Hear the hymn of me this modern sage, of this modern (sage)."

"Indra, as thou hast been like a joy to former worshippers who praised thee, like waters to the thirsty, I invoke thee again and again with this hymn."

"The ancient rishis, resplendent and sage, have placed in front of them (Brihaspati) with gladdening tongue."

"Neither the ancients nor later men, nor any modern man, has attained to (conceived) thy prowess, O, Madhavan."

"As (Indra's) former worshippers were, (may we be) blameless, irreproachable, and unharmed."

"For, now, O energetic god, men are thy worshippers as the ancients born of old and the men of the middle and later ages have been thy friends, And O, much-invoked think of the most recent of all.

"To Him (Indra) our ancient fathers, the seven Navagava sages desiring food, (resorted) with their hymns."

"Glorified by our newest hymn, do thou bring to us wealth and food with progeny."

A closer study of the Rig-Veda will show that the Rig-Veda itself makes a distinction between old hymns and new hymns. Some of them are given below:

"Glorified by our newest hymn, do thou bring to us wealth and food and progeny."

"Agni thou hast announced (or do thou announcest) among the gods this our offering, our newest hymn."

"Through our new hymns, do thou, vigorous in action, destroyer of cities, sustain us with invigorating blessings."

"I bring to Agni, the son of strength, a new and energetic hymn, a production of thought uttered by the voice (vachah)."

"I present to the mighty protector a mental production, a new utterance (now) springing up"

"May the new prayer impel thee, the heroic well-accourted, the loud-thundering to succour us."

"I seek like the ancients, to stimulate thee, the ancient, with a new hymn."

"May the new hymns made to praise you, may these prayers gratify you."

" Sing O, Sobhari, with a new hymn to these youthful, vigorous, and brilliant (gods)

"Indra, slayer of Vritra, thunderer, invoked of many, we (thy) numerous (worshippers) bring to thee, as thy hire, hymns which never before existed."

"I will address to this ancient (deity) my new praises which he desires; May he listen to us"

"Desiring horses, cattle, and wealth we invoke thee to approach us."

Given this abundance of evidence to prove the human origin of the Vedas it is a riddle to find that the Brahmins should so strenuously propagate this extravagant view that the Vedas are not man made. What made the Brahmins propagate such a view?

Notwithstanding this there were eminent philosophers who were prepared to accept the authority of the Vedas although they were not prepared to admit that the Vedas were *Sanatan* or *Apaurush*.

The Gautama the founder of what is called the Nyaya system of Philosopy said:

"The authority of the Veda, like that of the formulas, and the Ayur-Veda (treatise on medicine) follows from the authority of the competent persons from whom they proceeded. Since the competent maker of the Veda possesses authority, inculcates truth, it results from the force of the terms that the Veda was uttered by a person of this character; and by this reasoning the authority of the Veda is to be inferred. He illustrates this by the case of the formulas and the Ayur-Veda. By formulas *(mantra)* are meant the sentences which neutralize poison etc., and the section containing the Ayur-Veda forms part of the Veda. Now as the authority of these two classes of writings is admitted by general consent, the authority of everything which possess the characteristics of the Veda must be inferred from this example. Some, however, explain the aphorism thus; a Veda is that in which authority is found or recognized. From such Vedicity (or Possession of the character of a Veda) the authority of any work is to be inferred."

The Vaishashika system admits that the Vedas are authoritative. But the grounds on which it rests its conclusion are:

(1) That the Vedas are the product of an intelligent mind and

(2) That they have been uttered by God. Therefore they are authoritative.

The Sankhya system founded by Kapila held the view that eternity cannot be predicated of the Vedas, since various texts in the Vedas themselves declare them to have been produced. It expressly denies that the Vedas originated from the conscious effort of any divine being. According to the Sankhya, the Vedas like the Sun shine by their own light, and evince an inherent power both of revealing their own perfection and of elucidating all other things, past and future, great and small, near and remote. The system of Philosophy known as the

Vedanta seems to support two distant views. It ascribes the origin of the Vedas to Brahma as its source or cause of source using the term Brahma as neuter denoting the supreme spirit and not as masculine designating the personal creator. It also speaks of the eternity of the Vedas and makes mention of a self-dependent author.

The Brahmins did not remain content with the argument that the Vedas were not made by man. They went much further and contended that the Vedas were not made even by God. This theory is propounded by Jaimini the author of the Purva Mimansa. Jaimini's arguments in favour of the thesis are so strange that one has to know them in order to realize their strangeness.

It is in the *Purva Mimansa*— a book of Brahmanic philosophy— that this doctrine of the Vedas being Apaurusheya is propounded. The following extracts from the book will reveal the nature of the argument.

Jaimini the author of the Purva Mimamsa first deals with the argument of the Naiyayikas who assert that the Vedas are made by Parameshwara and states the case made out by the Naiyayikas.

The argument of the Mimansakas is:

> "The Veda could not have been uttered by the incorporeal Paramesvara (God), who has no palate or other organs of speech, and therefore cannot be conceived to have pronounced the letters (of which it is composed.). This objection (answers the Naiyayika) is not happy, because, though Paramesvara is by nature incorporeal, he can yet, by way of sport assume a body, in order to show kindness to his devoted worshippers. Consequently, the arguments in favour of the doctrine that the Veda had no personal author are inconclusive."

He then proceeds to state his arguments in favour of the Doctrine of the Mimansakas—

> "I shall now clear up all these difficulties. What is meant by this *paurusheyatva* ('derivation from a personal author') which it is sought to prove? Is it (1) mere procession (*utpannatva*) from a person (purusha) like the procession of the Veda from persons such as ourselves, when we daily utter it? or (2) is it the arrangement— with a view to its manifestation—of knowledge acquired by other modes of proof, in the sense in which persons like ourselves compose a treatise? If the first meaning be intended, there will be no dispute.
>
> If the second sense be meant, I ask whether the Veda is proved (to be authoritative) in virtue (a) of its being founded on inference, or (b) of its being founded on supernatural information (*agama-balat*)?

The former alternative (a) i.e., that the Veda derives its authority from being founded on inference cannot be correct, since this theory breaks down, if it be applied to the sentence of the Malati Madhava or any other secular poem (which may contain inferences destitute of authority). If, on the other hand, you say (b) that the contents of the Veda are distinguished from those of other books of having authority, this explanation also will fail to satisfy a philosopher. For the word of the Veda is (defined to be) a word which proves things that are not provable by any other evidence.

Now if it could be established that this Vedic word did nothing more than prove things that are provable by other evidence, we should be involved in the same sort of contradiction as if a man were to say that his mother was a barren woman.

And even if we conceded that Parameswara might in sport assume a body, it would not be conceivable that in that case he should perceive things beyond the reach of the senses, from the want of any means of apprehending objects removed from him in place, in time, and in nature. Nor is it to be thought that his eyes and other sense alone would have the power of producing such knowledge, since men can only attain to conceptions corresponding with what they have perceived.

This is what has been said by the Guru (Prabhakara) when he refutes this supposition of an omniscient author; 'Wherever any object is perceived (by the organ of sight) in its most perfect exercise, such perception can only have reference to the vision of something very distant or very minute, since no organ can go beyond its own proper objects, as e.g., the ear can never become cognizant of form'.

Hence the authority of the Veda does not arise in virtue of any supernatural information acquired by the Deity in a corporeal shape."

These are arguments urged by Jaimini to destroy the case of the Naiyayikas. Jaimini then proceeds to give his positive arguments to show why the Vedas are not the word of God but something superior to that. This is what he says:

"In the preceding aphorism it was declared that the connection of words and their meanings is eternal. Desiring now to prove that this (eternity of connection) is dependent on the eternity of words (or sound), he begins by setting forth the first side of the question, viz., the doctrine of those who maintain that sound is not eternal."

"Some, i.e., the followers of the Nyaya philosophy, say that sound is a product, because we see that it is the result of effort, which it would not be if it were eternal."

"That it is not eternal, on account of its transitoriness, i.e., because after a moment it ceases to be perceived."

"Because, we employ in reference to it the expression 'making' i.e., we speak of 'making' a sound."

"Because it is perceived by different persons at once, and is consequently in immediate contact with the organs of sense of those, both far and near, which it could not be if it were one and eternal."

"Because sounds have both an original and a modified form; as e.g., in the case of *dadhi atra,* which is changed into *dadhy atra,* the original letter '*i*' being altered into '*y*' by the rules of permutation. Now, no substance which undergoes a change is eternal."

"Because sound is augmented by the number of those who make it. Consequently the opinion of the Mimansaka, who say that sound is merely manifested, and not created, by human effort, is wrong; since even a thousand manifesters do not increase the object which they manifest, as a jar is not made larger by a thousand lamps."

These objections against the Mimansaka theory that sound is manifested, and not created, by those who utter it, are now answered by Jaimini. Says Jaimini:

"But, according to both schools, viz., that which holds sound to be created, and that which regards it as merely manifested, the perception of it is alike momentary. But of these two views, the theory of manifestation is shown in the next aphorism to be the correct one."

"The non-perception at any particular time, of sound, which, in reality, perpetually exists, arises from the fact that the utterer of sound has not come into contact with his object i.e., sound. Sound is eternal, because we recognize the letter *'k',* for instance, to be the same sound which we have always heard, and because it is the simplest method of accounting for the phenomenon to suppose that it is the same. The still atmosphere which interferes with the perception of sound, is removed by the conjunctions and disjunctions of air issuing from a speaker's mouth, and thus sound (which always exists, though unperceived) becomes perceptible. This is the reply to the objection of its 'transitoriness'.

"The word, 'making' sounds; merely means employing or uttering them."

"One sound is simultaneously heard by different persons, just as one Sun is seen by them at one and the same time, Sound like the Sun is a vast, and not a minute object, and thus may be perceptible by different persons, though remote from one another."

"The letter '*y*', which is substituted for '*i*' in the instance referred to under Sutra 10, is not a modification of '*i*', but a distinct letter. Consequently, sound is not modified."

"It is an increase of 'noise', not of sound, that is occasioned by a multitude of speakers. The word 'noise' refers to the 'conjunctions' and 'disjunctions' of the air which enter simultaneously into the hearer's ear from different quarters; and it is of these that an increase takes place."

"Sound must be eternal, because its utterance is fitted to convey a meaning to other persons. If it were not eternal (or abiding), it would not continue till the hearer had learned its sense, and thus he would not learn the sense, because the cause had ceased to exist."

"Sound is eternal, because it is in every case correctly and uniformly recognised by many persons simultaneously; and it is inconceivable that they should all at once fall into a mistake."

"When the word '*go*' (cow) has been repeated ten times, the hearers will say that the word '*go*' has been ten times pronounced, not that ten words having the sound of '*go*' have been uttered ; and this fact also is adduced as a proof of the eternity of sound.

"Sound is eternal, because we have no ground for anticipating its destruction.

"But it may be urged that sound is a modification of air, since it arises from its conjunctions, and because the Siksha (or Vedanga treating of pronunciation) says that 'air arrives at the condition of sound' and as it is thus produced from air, it cannot be eternal."

A reply to this difficulty is given in Sutra 22.

"Sound is not a modification of air, because if it were, the organ of hearing would have no appropriate object which it could perceive. No modification of air (help by the Naiyayikas to be tangible) could be perceived by the organ of hearing, which deals only with intangible sound."

"And the eternity of sound is established by the argument discoverable in the Vedic text, 'with an eternal voice, O Virupa'. Now, though this sentence had another object in view, it, nevertheless, declares the eternity of language, and hence sound is eternal."

Such is the argument by Jaimini in favour of his thesis that the Vedas are eternal and not made by man, not even by God.

The bases on which his thesis rests are simple.

Firstly God has no body and no palate and therefore he could not utter the Vedas.

Secondly, Assuming God had a body, God could not perceive things which are beyond the reach of the senses while the Vedas contain things beyond the reach of human senses.

Thirdly, The connection between a word and its meaning is eternal.

Fourthly, Sound is eternal.

Fifthly, Because sound is eternal words which are made up of sounds are also eternal.

Sixthly Because words are eternal therefore the Vedas are eternal and because the Vedas are eternal they are not made by man nor by God.

What can one say of these premises? Can there be anything more absurd? Who can accept that the Vedas contain something not comprehensible by human senses ? Who can accept that there is an eternal connection between a word and its meaning ? Who can accept that sound is not created nor manifested but is eternal ?

Having regard to these absurd premises one is led to ask why did the Brahmins make such a desparate attempt for establishing a desparate conclusion? What did they want to gain thereby? Was it because the Vedas had been made the exponent of the Chaturvarna with the Brahmins as the Lord of all?

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RIDDLE NO. 6

THE CONTENTS OF THE VEDAS: HAVE THEY ANY MORAL OR SPIRITUAL VALUE?

I

If the Vedas are to be accepted as binding and Infallible then what they teach must have ethical and spiritual value. Nobody can regard a rag to be binding and infallible because a Philosopher like Jaimini came forward to lend his authority to such a proposal. Have the Vedas any ethical or spiritual value? Every Hindu who regards the Vedas are infallible is bound to consider this question.

Modern writers have expressed views which deny any spiritual value to the Vedas. As an illustration one may refer to the views of Prof. Muir. According to Prof. Muir[1]:

> "The whole character of these compositions and the circumstances under which, from internal evidence, they appear to have arisen, are in harmony with the supposition that they were nothing more than the natural expression of the personal hopes and feelings of those ancient bards of whom they were first recited. In these songs the Aryan sages celebrated the praises of their ancestral gods (while at the same time they sought to conciliate their goodwill by a variety of oblations supposed to be acceptable to them), and besought of them all the blessings which men in general desired—health, wealth, long life, cattle, offspring, victory over their enemies, foregiveness of sin, and in some cases also celestial felicity."

It would no doubt be objected that all foreign scholars are prejudiced and that their views cannot therefore be accepted. Fortunately we are not altogether dependent upon the views of foreigners. There are leaders of indegeneous schools of thought which have taken the same view. The most notorious example is that of the Charvakas.

The opposition of Charvaka can be seen from the following quotation which reproduces his line of argument against the Vaidikas[2]:

> "If you object that, if there be no such thing as happiness in a future world, then how should men of experienced wisdom engage

[1] Muir. Sanskrit Texts. Vol. III (Page not mentioned).

[2] Sarva Darshan Sangraha p. 10.

in the agnihotra and other sacrifices, which can only be performed with great expenditure of money and bodily fatigue. Your objection cannot be accepted as any proof to the contrary, since the agnihotra, etc., are only useful as means of livelihood; for the Veda is tainted by three faults of untruth, self-contradiction, and tautology; then again the impostors who call themselves Vaidic pundits are mutually destructive, as the authority of the Jnan-Kanda is overthrown by those who maintain the authority of the Karma-Kanda and those who maintain the authority of the Jnan-Kanda reject that of the Karma-Kanda; and lastly, the three Vedas themselves are only the incoherent rhapsodies of knaves and to this effect runs the popular saying:

"The Agnihotra, the three Vedas, the ascetic, three staves, and smearing oneself with ashes," Brihaspati says, "these are but means of livelihood for those who have no manliness nor sense."

Brahaspati is another example of the same school of thought. Brahaspati was far more bold and militant in his opposition to the Vedas than the Charvakas. As reported by Madhava Acharya, Brahaspati argued[1]:—

"There is no heaven, no final liberation, nor any soul in another world; Nor do the actions of the four castes, orders etc., produce any real effect. The Agnihotra, the three Vedas, the ascetic's three stages and smearing one's self with ashes, ... were made by Nature as the livelihood of those destitute of knowledge and manliness; If a beast slain in the Jyotishtoma rite will itself go to heaven; why then does not the sacrificer forthwith offer his own father?

If the Sraddha produces gratification to beings who are dead, then here, too, in the case of travellers when they start, it is needless to give provisions for the journey.

If beings in heaven are gratified by our offering the Sraddha here, then why not give the food down below to those who are standing on the housetop ?

While life remains let a man live happily, let him feed on ghee even though he runs in debt;

When once the body becomes ashes, how can it ever return again?

If he who departs from the body goes to another world, how is that he comes not back again restless for love of his kindred?

Hence it is only a means of livelihood that Brahmans have established here.

All these ceremonies are for the dead, there is no other fruit anywhere. The three authors of the Vedas were buffoons, knaves and demons.

[1] Sarva Darshan Sangraha (Page not mentioned).

All the well-known formulas of the pundits Jarphari, Turphari, and all the obscene rites for the queen commanded in the Aswamedha;

These were invented by buffoons, and so all the various kinds of presents to the priests.

While the eating of flesh was similarly commended by night prowling demons."

If the opinions of the Charvaka and Brahaspati are not accepted there is plenty of other evidence. That evidence is recorded in the books of the various schools of philosophy such as the Nyaya, Vaishashikha, Purva and Uttar Mimamsa. It must be said to the credit of the authors of the text-books of these philosophies that before proceeding to defend the authority of the Vedas they have been very careful to set out the case of their opponents who were opposed to the authority of the Vedas. This fact enables us to prove two things: (1) That there was a school of thought which was opposed to recognize the Vedas as books of authority; (2) That they were a respectable group of people whose opinions the defenders of the authority of the Vedas were bound to consider. I reproduce below the case of the opponents as set out in the Nyaya and the Purva Mimamsa.

Gotama the author of the Nyaya system of Philosophy was an upholder of the doctrine of the authority of the Vedas. He has summarized the arguments of his opponents in Sutra 57 which reads as follows[1]:

"The Veda has no authority, since it has the defects of falsehood, self-contradiction, and tautology. That verbal evidence, which is distinct from such as relates to visible objects, i.e., the Veda, has no authority. Why? Because it has the defects of falsehood etc."

"Of these defects, that of falsehood is established by the fact that we sometimes observe that no fruit results from performing the sacrifice for a son, or the like. 'Self-contradiction' is a discrepancy between a former and a later declaration. Thus the Veda says 'he sacrifices when the Sun is risen; he sacrifices when the Sun is not yet risen. He sacrifices, (I cannot explain the next words says Muir,) A tawny (dog?) carries away the oblation of him who sacrifices before the Sun has risen: and both of these two carry off the oblation of him who sacrifices. Now here there is a contradiction between the words which enjoin sacrifices and the words which intimate by censure that those sacrifices will occasion disastrous results. Again, the Veda has no authority, owing to its 'tautology', as where it is said, he repeats the first thrice, he repeats the last thrice. For as the

[1] Muir III. p. 113.

lastness ultimately coincides with the firstness and as there is a triple repetition of the words, this sentence is tautological. Now since these particular sentences have no authority, the entire Veda will be proved by these specimens to stand in the same predicament, since all its other parts have the same author, or are of the same character, as these portions."

Coming to Jaimini. He summarises the views of the opponents of the Vedas in the first part of Sutras 28 and 32 of his Purva Mimamsa. Sutra 28 says[1] :

"It is also objected that the Vedas cannot be eternal, because we observe that persons, who are not eternal, but subject to birth and death, are mentioned in them. Thus it is said in the Veda 'Babara Pravahani desired', 'Kusurvinda Auddalaki desired'. Now, as the sentences of the Veda in which they are mentioned, could not have existed before these persons were born, it is clear that these sentences had a beginning, and being thus non-eternal, they are proved to be of human composition."

Sutra 32 says[2]:

"It is asked how the Veda can constitute proof of duty when it contains such incoherent nonsense as the following: 'An old ox, in blanket and slippers, is standing at the door and singing benedictions. A Brahman female, desirous of offspring, asks, ' Pray O King, what is the meaning of intercourse on the day of the new moon?' or the following: 'the cows celebrated this sacrifice'."

This is also the view of Yaska the author of Nirukta who says:

(Of the four kinds of verses specified in the preceding section), (a) those which address a god as absent, (b) those which address him as present, and (c) those which address the worshippers as present and the god as absent, are the most numerous, while (d) those which refer to the speaker himself are rare. It happens also that a god is praised without any blessing being invoked, as in the hymn (R. V. i. 32). "I declare the heroic deeds of Indra," etc. Again, blessings are invoked without any praise being offered, as in the words, 'May, I see well with my eyes, be resplendent in my face, and hear well with my ears'. This frequently occurs in the Adhvaryava (Yajur), and in the sacrificial formula. Then again we find oaths and curses as in the words (R.V.vii. 104, 15), 'May I die today, if I am a Yatudhana,' etc. Further, we observe the desire to describe some particular state of things, as in the verse (R. V. x. 129, 2). 'Death was not then, nor immortality,' etc. Then there is lamentation, arising out of a certain

[1] Muir III. p. 77.

[2] Muir III. p. 80.

state of thing, as in the verse (R. V. x. 95, 14), 'The beautiful god will disappear and never return,' etc. Again we have blame and praise, as in the words (R. V. x. 117, 6). "The man who eats alone, sins alone, etc. So, too, in the hymn to dice (R. V. x. 34, 13) there is a censure upon dice, and a commendation of agriculture. Thus the objects for which the hymns were seen by the rishis were very various."

To quote the words of Yaska again—

"Each particular hymn has for its deity the God to whom the Rishi, seeking to obtain any object of desire which he longs for, addresses his prayer."

If this is not enough to prove that there is no ethical or spiritual Value in the Vedas further evidence could be added.

As to morality there is hardly any discussion about it in the Rig-Veda. Nor does the Rig-Veda contain elevating examples of moral life. Three illustrations of cases on the other side may well be given:

First is the conversation between *Yama* and *Yami* who were brother and sister.

"(Yami speaks). I invite my friend to friendship, having come over the vast and desert ocean may Vedhas, after reflecting, place in the earth the offspring (of thee) the father, endowed with excellent qualities."

"(Yama speaks), Thy friend desires not this friendship, for although of one origin, she is of a different form; the hero sons of the great Asura (are) the upholders of heaven, enjoying vast renown."

"(Yami speaks). The immortals take pleasure in (a union) like this which is forbidden to every mortal; let thy mind then concur with mine, and as the progenitor (of all) was the husband (of his daughter), do thou enjoy my person"

"(Yama speaks). We have not done what was done formerly; for how can we who speak truth, utter now that which is untrue? Gandharva (the sun) was in the watery (firmament), and the water was his bride. She is our common parent, hence our near affinity."

"(Yami speaks). The divine omniform generator Twashtri, the progenitor, made us two husband and wife, even in the womb; none frustrate his undertaking; earth and heaven are conscious of this our (union)."

"(Yama speaks). Who knows anything of this (his) first day (of existence)? Who has beheld it? Who has here revealed it? The dwelling of Mitra and of Varuna is vast. What sayest thou, who punishest men with hell?"

"(Yami speaks). The desire of Yama hath approached me Yami, to lie with him in the same bed; I will abandon my person as a wife to her husband; let us exert ourselves in union like the two wheels of a wagon."

"(Yama speaks). The spies of the Gods, which wander upon earth, never stop, never close their eyes. Associate quickly, destructress with some other than with me, and exert yourselves in union, like the two wheels of a wagon."

"(Yami speaks). To him (Yama) let every whorshipper sacrifice both day and night, on him let the eye of the Sun repeatedly rise; (for him may) the kindred pair (day and night unite) with heaven and earth. Yami will adhere to the non-affinity of Yama."

"(Yama speaks). The subsequent ages will come, when sisters will choose one who is not a brother (as a husband); therefore, auspicious one, choose another husband than me, and make thine arm a pillow for thy mate."

"(Yami speaks). Is he a brother whose sister has no lord? Is she a sister (whose brother) misfortune approaches? Overcome by desire, I strongly urge this one request; unite thy person with mine."

"(Yama speaks). I will not unite my person with thine; they call him who approaches a sister, a sinner. Enjoy pleasure with some other than me; thy brother, auspicious one, has no such desire."

"(Yami speaks). Alas, Yama, thou art feeble; we understand not thy mind or thy heart. Some other female exbrances thee as a girth a horse, or as a creeper a tree."

"(Yama speaks). Do thou, Yami, embrace another; and let another embrace thee as a creeper a tree; seek his affection, let him seek thine; and make a happy union."

"May Agni, the destroyer of the Rakshasas consenting to our prayer, drive hence (the evil spirit) who (in the form of) sickness assails thine embryo, who, as the disease durnaman, assails thy womb."

"May Agni concurring in our prayer, destroy the cannibal who, as sickness, assails thine embryo, who, as the disease durnaman, assails thy womb."

"May we exterminate from hence (the evil spirit) who destroys the impregnating energy, the germ as it settles, the moving embryo, who seeks to destroy (the babe) when born."

"May we exterminate from hence (the evil spirit), who separates thy thighs, who lies between husband and wife, who entering thy womb, devours (the seeds). May we exterminate from hence (the evil spirit), who in the form of brother, husband, or paramour, approaches thee, and seeks to destroy thy offspring."

"May we exterminate from hence (the evil spirit) who, having beguiled thee by sleep or darkness, approaches thee, and seeks to destroy thy offspring."

Take some of the Hymns or prayers that are to be found in the Rig-Veda. The following are a few of them—

1. Oh ! God Vayu, how very beautiful you are. We have prepared the Somarasa (an intoxicating drink) with spices. Pray come and drink it and grant us our prayers—Rig. Ved. I. 1.2.1.
2. Oh! God Indra. Bring ye wealth for our protection. Let the wealth that you bring make us happy be increasing and everlasting and help us to kill our enemies—I. 1.8.1.
3. Oh! ye people whenever you are performing your yajna, fail not to praise the Gods Indra and Agni. Advance their position and sing their praises in the Gayatri Meter—I. 21.2.
4. Oh ! ye Agni, please bring the wives of the Gods and Twashta who are eager to come and drink Soma—I. 22.9.
5. We pray that the Gods' wives come to us with all available wings and with all happiness—I. 22.11.
6. I am praying the wives of Indra, Varuna and Agni to come to my place to drink Soma.
7. Oh! Varuna, we are supplicating before you to remove your anger. Oh ! ye Asura, you are all wise, relieve us from our sins—I. 24.14.
8. Our Somarasa has been prepared by women who have churned it backward and forward. Oh ! ye Indra we pray you to come and drink this Soma—I. 28.3.
9. Your enemies who do not make any offering to you may disappear and let your followers who do prosper. Oh ! Indra give us best cows and best horses and make us famous in the world.—I. 29.4.
10. Oh! Agni save us from Rakshasas, from cunning enemies, from those who hate us and want to kill us.—I. 36.15.
11. Oh ! Indra, you are a hero. Come and drink the Soma we have prepared and be ready to give us wealth. Loot the wealth of those who do not make you any offering and give the same to us—I. 81-8-9.
12. Oh! Indra, drink this Soma which is the best, giving immortality and most intoxicating.—I. 84-4.
13. Oh ! Adityas, you come to give us your blessings. You give us victory in war. You are wealthy. You are charitable. Just as a chariot is pulled through a difficult path in the same way you pull us through our dangers.—I. 106-22.

14. Oh ! ye Marutas. . . . .your followers are singing your praises. Be pleased to come and sit on the grass-cushion prepared for you for the purpose of drinking Soma.—VII. 57-1-2.

15. Oh ! ye Mitra-Varuna we have offered you worship in the yajna. Be pleased to accept it and save us from all dangers—VII. 60-12.

These are only a few verses out of a large bundle which form the Rig-Veda. But there can be no doubt that this sample small as it is is true to bulk.

I may state that I have deliberately omitted a good many obscene passages to be found in the Rig-Veda and Yajur-Veda. Those who have any curiosity in the matter might look up the conversation between Surya and Pushan in Rig-Veda Mandal X. 85.37 and between Indra and Indrani in Rig-Veda. Mandal X. 86.6. A further obscenity will also be found in the Ashvamedha Section of the Yajur-Veda.

Leaving these obscenities aside and confining oneself to the prayer portion of the Rig-Veda can any one say that these are morally or spiritually elevating prayers?

As to philosophy there is nothing of it in the Rig-Veda. As Prof. Wilson observes there is in the Rig-Veda, which is the stock Veda, scarcely any indication or doctrinal or philosophical speculation, no allusion to the later notions of the several schools, nor is there any hint of metempsychosis, or of the doctrine intimately allied to it, of the repeated renovation of the world. The Vedas may be useful as a source of information regarding the social life of the Aryans. As a picture of primitive life it is full of curiosity but there is nothing elevating. There are more vices and a few virtues.

II

We may now turn to the Atharva-Veda and examine its contents. The best I can do is to present the following extracts from the table of contents of the Atharva-Veda.

Book 1. Charms to cure diseases and possession by demons of disease (bhaishagyani).

v, 22. Charm against takman (fever) and related diseases.

vi, 20. Charm against takman (fever).

i, 25. Charm against takman (fever).

vii, 116. Charm against takman (fever).

v, 4. Prayer to the Kushtha-plant to destroy takman (fever).

xix, 39. Prayer to the Kushtha-plant to destroy takman (fever) and other ailments.

i, 12. Prayer to lightening, conceived as the cause of fever, headache, and cough.

i, 22. Charm against jaundice and related diseases.

vi, 14. Charm against the disease halasa.

vi, 105. Charm against cough.

i, 2. Charm against excessive discharges from the body.

ii, 3. Charm against excessive discharges from the body, undertaken with spring-water.

vi, 44. Charm against excessive discharges from the body.

i, 3. Charm against constipation and retention of urine.

vi, 90. Charm against internal pain (colic) due to the missiles of Rudra.

i, 10. Charm against dropsy.

vii, 83. Charm against dropsy.

vi, 24. Dropsy, heart-disease, and kindred maladies cured by flowing water.

vi, 80. An oblation to the sun, conceived as one of the two.

ii, 8. Charm against kshetriya, hereditary disease.

ii, 10. Charm against kshetriya, hereditary disease.

iii, 7. Charm against kshetriya, hereditary disease.

i, 23. Leprosy cured by a dark plant.

i, 24. Leprosy cured by a dark plant.

vi, 83. Charm for curing scrofulous sores called *apakit*.

vii, 76. A. Charm for curing scrofulous sores called *apakit*.

B. Charm for curing tumours called gayana.

C. Stanza sung at the mid-day pressure of Soma.

vii, 74. A. Charm for curing scrofulous sores called apakit.

B. Charm to appease jealousy.

C. Prayer to Agni, the lord of vows.

vi, 25. Charm against scrofulous sores upon neck and shoulders.

vi, 57. Urine (galasha) as a cure for scrofulous.

iv, 12. Charm with the plant arundhati (laksha) for the cure of fractures.

v, 5. Charm with the plant silaki (laksha) arundhati for the cure of wounds.

vi, 109. The pepper-corn as a cure for wounds.

i, 17. Charm to stop the flow of blood.

ii, 31. Charm against worms.

ii, 32. Charm against worms in cattle.

v, 23. Charm against worms in children.

iv, 6. Charm against poison.

iv, 7. Charm against poison.

vi, 100. Ants as an antidote against poison.

v, 13. Charm against snake-poison.

vi, 12. Charm against snake-poison.

vii, 56. Charm against the poison of serpants, scorpions and insects.

vi, 16. Charm against opthalmia.

vi, 21. Charm to promote the growth of hair.

vi, 136. Charm with the plant nitauni to promote the growth of hair.

vi, 137. Charm to promote the growth of hair.

iv, 4. Charm to promote virility.

vi, 111. Charm against Mania.

iv, 37. Charm with the plant agasringi to drive out Rakshasas, Apsaras and Gandharvas.

ii, 9. Possession by demons of disease, cured by an amulet of ten kinds of wood.

iv, 36. Charm against demons (pisaka) conceived as the cause of disease.

ii, 25. Charm with the plant prisniparni against the demon of disease called kanva.

vi, 32. Charm for driving away demons (Rakshas and Pisakas).

ii, 4. Charm with an amulet derived from the gangidatree against diseases and demons.

xix, 34. Charm with an amulet derived from the gangidatree against diseases and demons.

xix, 35. Charm with an amulet derived from the gangidatree against diseases and demons.

vi, 85. Exorcism of disease by means of an amulet from the varana-tree.

vi, 127. The kipuddru-tree as a panacea.

xix, 38. The healing properties of *bdellium*.

vi, 91. Barley and water as universal remedies.

viii, 7. Hymn to all magic and medicinal plants used as a universal remedy.

vi, 96. Plants as a panacea.

ii, 33. Charm to secure perfect health.

ix, 8. Charm to procure immunity from all diseases.

ii, 29. Charm for obtaining long life and prosperity by transmission of disease. II. Prayers for long life and health (ayushyani).

iii, 11. Prayer for health and long life.

ii, 28. Prayer for long life pronounced over a body.

iii, 31. Prayer for health and long life.

vii, 53. Prayer for long life.

viii, 1. Prayer for exemption from the dangers of death.

viii, 2. Prayers for exemption from the dangers of death.

v, 30. Prayer for exemption from disease and death.

iv, 9. Salve (angana) as a protector of life and limb.

iv, 10. The pearl and its shell as an amulet bestowing long life and prosperity.

xix, 26. Gold as an amulet for long life.

III. Imprecations against demons, sorcerers, and enemies (abhikarikani and Krityapratiharanan).

i, 7. Against sorcerers and demons.

i, 8. Against sorcerers and demons.

i, 16. Charm with lead, against demons and sorcerers.

vi, 2. The soma-oblation directed against demons (rakshas).

ii, 14. Charm against a variety of female demons, conceived as hostile to men, cattle and home.

iii, 9. Against Vishkandha and Kabava (hostile demons).

iv, 20. Charm with a certain plant (sadampushna) which exposes demons and enemies.

iv, 17. Charm with the apamarga-plant, against sorcery, demons and enemies.

iv, 18. Charm with the apamarga-plant against sorcery, demons and enemies.

iv, 19. Mystic power of the apamarga-plant, against demons and sorcerers.

vii, 65. Charm with the apamarga-plant against curses, and the consequence of sinful deeds.

x, 1. Charm to repel sorceries or spells.

v, 14. Charm to repel sorceries or spells.

v, 31. Charm to repel sorceries or spells.

viii, 5. Prayer for protection addressed to a talisman made from the wood of a sraktya-tree.

x, 3. Praise of the virtue of an amulet derived from the varana-tree.

x, 6. Praise of the virtues of an amulet of khadira-wood in the shape of a ploughshare.

ix, 16. Prayer to Varuna for protection against treacherous designs.

ii, 12. Imprecation against enemies thwarting holy work.

vii, 70. Frustration of the sacrifice of an enemy.

ii, 7. Charm against curses and hostile plots undertaken with a certain plant.

iii, 6. The asvattha-tree as a destroyer of enemies.

vi, 75. Oblation for the suppression of enemies (naibadhyam havih).

vi. 37. Curse against one that practises hostile charms.

vii. 13. Charm to deprive enemies of their strength.

IV. Charms pertaining to women (strikarmani).

ii, 36. Charm to obtain a husband.

vi, 60. Charm to obtain a husband.

vi, 82. Charm for obtaining a wife.

vi, 78. Blessing for a married couple.

vii, 36. Love-charm spoken by a bridal couple.

vii, 37. Charm pronounced by the bride over the bridegroom.

vi, 81. A bracelet as an amulet to ensure conception.

iii, 23. Charm for obtaining a son (pumsavanam).

vi, 11. Charm for obtaining a son (pumsavanam).

vii, 35. An incantation to make a woman sterile.

vi, 17. Charm to prevent miscarriage.

i. 11. Charm for easy parturition.

i, 34. Charm with licorice, to secure the love of a woman.

ii, 30. Charm to secure the love of a woman.

vi, 8. Charm to secure the love of a woman.

vi, 9. Charm to secure the love of a woman.

vi, 102. Charm to secure the love of a woman.

iii, 25. Charm to secure the passionate love of a woman.

vii, 38. Charm to secure the love of a man.

vi, 130. Charm to arouse the passionate love of a man.

vi, 132. Charm to arouse the passionate love of a man.

iv, 5. Charm at an assignation.

vi, 77. Charm to cause the return of a truant woman.

vi, 18. Charm to allay jealousy.

i, 14. A woman's incantation against her rival.

iii, 18. Charm of a woman against a rival or co-wife.

vi, 138. Charm for depriving a man of his virility.

i, 18. Charm to remove evil bodily characteristics from a woman.

vi, 110. Expiatory charm for a child born under an unlucky star.

vi, 140. Expiation for the irregular appearance of the first pair of teeth.

V. Charms pertaining to royalty (ragakarmani).

iv, 8. Prayer at the consecration of a king.

iii, 3. Charm for the restoration of an exiled king.

iii, 4. Prayer at the election of a king.

iv, 22. Charm to secure the superiority of a king.

iii, 5. Praise of an amulet derived from the parna-tree, designed to strengthen royal power.

i, 9. Prayer for earthly and heavenly success.

vi, 38. Prayer for lustre and power.

vi, 39. Prayer for glory (yasas).

viii. 8. Battle-charm.

i, 19. Battle-charm against arrow-wounds.

iii, 1. Battle-charm for confusing the enemy.

iii, 2. Battle-charm for confusing the enemy.

vi, 97. Battle-charm of a king upon the eve of battle.

vi, 99. Battle-charm of a king upon the eve of battle.

xi, 9. Prayer to Arbudi and Nyarbudi for help in battle.

xi, 10. Prayer to Trishmdhi for help in battle.

v, 20. Hymn to the battle-drum.

v, 21. Hymn to the battle-drum, the terror of the enemy.

VI. Charms to secure harmony, influence in the Assembly, and the like (sammanasyani).

iii, 30. Charm to secure harmony.

vi, 73. Charm to allay discord.

vi, 74. Charm to allay discord.

vii, 52. Charm against strife and blood shed.

vi, 64. Charm to allay discord.

vi, 42. Charm to appease anger.

vi, 43. Charm to appease anger.

vii, 12. Charm to procure influence in the assembly.

ii, 27. Charm against opponents in debate undertaken with the pata-plant.

vi, 94. Charm to bring about submission to one's will.

VII. Charms to secure prosperity in house, field, cattle, business, gambling and kindred matters.

iii, 12. Prayer at the building of a house.

vi, 142. Blessing during the sowing of grain.

vi, 79. Charm for procuring increase of grain.

vi, 50. Exorcism of vermin infesting grain in the field.

vii, 11. Charm to protect grain from lightning.

ii, 26. Charm for the prosperity of cattle.

iii, 14. Charm for the prosperity of the cattle.

vi, 59. Prayer to the plant arundhati for protection to cattle.

vi, 70. Charm to secure the attachment of a cow to her calf.

iii, 28. Formula in expiation of the birth of twin-calves.

vi, 92. Charm to endow a horse with swiftness.

iii, 13. Charm for conducting a river into a new channel.

vi, 106, Charm to ward off danger from fire.

iv, 3. Shephered's charm against wild beasts and robbers.

iii, 15. A merchant's prayer.

iv, 38. *A*. Prayer for success in gambling.

B. Prayer to secure the return of calves that have strayed to a distance.

vii, 50. Prayer for success at dice.

vi, 56. Exorcism of serpents from the premises.

x, 4. Charm against serpents invoking the horse of Pedu that slays serpents.

xi, 2. Prayer to Bhava and Sarva for protection from dangers.

iv, 28. Prayer to Bhava and Sarva for protection from dangers.

vii, 9. Charm for finding lost property.

vi, 128. Propitiation of the weather-prophet.

xi, 6. Prayer for deliverance from calamity, addressed to the entire pantheon.

VIII. Charms in expiation of sin and defilement.

vi, 45. Prayer against mental delinquency.

vi, 26. Charm to avert evil.

vi, 114. Expiatory formula for imperfections in the sacrifice.

vi, 115. Expiatory formulas for sins.

vi, 112. Expiation for the precedence of a younger brother over an elder.

vi, 113. Expiation for certain heinous crimes.

vi, 120. Prayer for heaven after remission of sins.

vi, 27. Charm against pigeons regarded as ominous birds.

vi, 29. Charm against pigeons regarded as ominous birds.

vi, 29. Charm against ominous pigeons and owls.

vii, 64. Expiation when one is defiled by a black bird of omen.

vi, 46. Exorcism of evil dreams.

vii, 115. Charm for the removal of evil characteristics, and the acquisition of auspicious.

III

It will thus be seen that the Atharva-Veda is nothing but a collection of sorcery, black-magic and medicine. Three-fourths of it is full of sorcery and black magic. It must not however be assumed that it is only the Atharva-Veda which contains black-magic and sorcery. The Rig-Veda is not altogether free from it. There are in it Mantras relating to black magic and sorcery. I give below three Suktas which deal with this matter:

SUKTA XVII (CXLV)

The deity or rather the aim of the hymn is the getting rid of a rival wife; the Rishi is Indrani, the metre of the last verse is Pankati, of the rest Anushtubh.

1. I dig up this most potent medicinal creeper, by which (a wife) destroys a rival wife, by which she secures to herself her husband.
2. O (plant) with up-turned, leaves, auspicious, sent by the Gods, powerful, remove my rival and make my husband mine alone.
3. Excellent (plant) may I too be excellent amongst the excellent, and may she who is my rival be vile amongst the vile.
4. I will not even utter her name, no (woman) takes pleasure in that person; may we remove the other rival wife to a distance.
5. I am triumphing, thou art triumphant; we two being powerful will triumph over my rival.
6. I make thee the triumphant (herb) my pillow, I support thee with that more triumphant (pillow); let thy mind hasten to me as a cow to her calf, let it speed on its way like water.

SUKTA IV (CLV)

The deity of verses 1 and 4 is the averting of misfortune (Alakshmighna), of verses 2 and 3 Brahmanaspati, and of verse 5 the Viswadevas; the Rishi is Sirimbitha, the son of Bharadwaja, the metre is Anushtubh.

1. Miserable, ill-favoured, deformed ever-railing (goddess), go to thy mountain; with these exploits of Sirimbitha we scare thee away.
2. May she be scared away from this (world), scared away from the next (world), the destructress of all embryos; sharp-horned Brihaspati approach, driving away Distress.
3. The wood which floats by the seashore far off, remote from man, seize that, (O, goddess) hard to destroy, and therewith go to a distant shore.
4. Utterers of discordant sounds, when swiftly moving you departed, all the enemies of Indra were slain, disappearing like bubbles.
5. These (Viswadevas) have brought back the (stolen) cattle, they have built up the fire; they have provided food for the Gods. Who will overcome them?

SUKTA XII (CLXIII)

The deity is the cure of phthisis; the Rishi is Vivrihan, the son of Kasyapa; the metre is Anushtubh.

1. I banish disease from thine eyes, from thy head, from thy nose, from thy ears, from thy chin, from thy brain, from thy tongue.
2. I banish disease from thy neck, from thy sinews, from thy bones, from thy joints, from thy upper arms, from thy shoulders, and from thy fore-arms.

3. I banish disease from thine entrails, from thy anus, from thine abdomen, and from thy heart, from thy kidneys, from thy liver, from thy (other) viscera.
4. I banish disease from thy thighs, from thy knees, from thy heels, from thy toes, from thy loins, from thy buttocks, from thy private parts.
5. I banish disease from thy urethra, from thy bladder, from thy hair, from thy nails, from thy whole person.
6. I banish disease from each limb, from each hair, from each joint where it is generated, from thy whole person.

Enough has been extracted from the Vedas to show that they contain nothing that can be said to be spiritually or morally elevating. Neither the subject matter nor contents of the Vedas justify the infallibility with which they have been invested. Why then did the Brahmins struggle so hard to clothe them with sanctity and infallibility ?

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RIDDLE NO. 7

THE TURN OF THE TIDE OR HOW DID THE BRAHMINS DECLARE THE VEDAS TO BE LOWER THAN THE LOWEST OF THEIR SHASTRAS ?

I

The religious literature of the Hindus includes (1) The Vedas, (2) The Brahmanas, (3) The Aranyakas, (4) Upanishads, (5) Sutras, (6) Itihas, (7) Smritis and (8) Puranas.

As has been pointed out there was a time when they occupied the same status. There was no distinction of superior or inferior, sacred or profane, fallible or infallible.

Later on as we have shown the Vedic Brahmins felt that they must make a distinction between the Vedas and other classes of their religious literature. They made the Vedas not only superior to other classes of literature but they made them sacred and infallible. In evolving their dogma of the infallibility of the Vedas they made a distinction and divided their sacred writings in two classes (1) Shruti and (2) Non-Shruti. In the first division they placed only two of the eight classes of literature spoken of above namely—(1) Samhitas and (2) the Brahmanas. The rest they declared as Non-Shruti.

II

When this distinction was first made it is not possible to say. The more important question, however, is on what basis was this division made ? Why were Itihas and Puranas excluded ? Why were Aranyakas and Upanishads excluded ? Why were the Sutras excluded ? One can well understand why Itihas and Puranas were excluded from Shruti. At the time when the division took place they were too elementary and too undeveloped and in all probability included in the Brahmanas. Similarly one can well understand why the Aranyakas are not

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This is a 21-page typed MS originally entitled 'The Supersession of the Vedas', with several corrections and modifications by the author himself. This chapter seems complete as the last para of this chapter is concluded in the handwriting of the author.—Ed.

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specifically mentioned as a part of the Shruti. They are a part of the Brahmanas and for that reason it was probably unnecessary to say expressly that they are part of the Shruti. The question of the Upanishads and the Sutras remains a puzzle. Why were they excluded from the Shruti ? The question regarding the Upanishads is the subject matter of another chapter. Here it is proposed to deal with the question of the Sutras. Because the reasons for the exclusion of the Sutras it is not possible to comprehend. If there were good reasons for including the Brahmanas in the category of Shruti the same reasons could not fail to justify the inclusion of the Sutras. As Prof. Max Muller observes :

> "We can understand how a nation might be led to ascribe a superhuman origin to their ancient national poetry, particularly if that poetry consisted chiefly of prayers and hymns addressed to their gods. But it is different with the prose compositions of the Brahmans. The reasons why the Brahmanas which are evidently so much more modern than the Mantras, were allowed to participate in the name of Sruti, could only have been because it was from these theological compositions, and not from the simple old poetry of the hymns, that a supposed divine authority could be derived for the greater number of the ambitious claims of the Brahmanas. But, although we need not ascribe any weight to the arguments by which the Brahmanas endeavoured to establish the contemporaneous origin of the Mantras and Brahmanas there seems to be no reason why we should reject as equally worthless the general opinion with regard to the more ancient date of both the Brahmanas and Mantras, if contrasted with the Sutras and the profane literature of India. It may easily happen, where there is a canon of sacred books, that later compositions become incorporated together with more ancient works, as was the case with the Brahmanas. But we can hardly imagine that old and genuine parts should ever have been excluded from a body of sacred writings, and a more modern date ascribed to them, unless it be in the interest of a party to deny the authority of certain doctrines contained in these rejected documents. There is nothing in the later literature of the Sutras to warrant a supposition of this kind. We can find no reason why the Sutras should not have been ranked as Sruti, except the lateness of their date, if compared with the Brahmanas, and still more with the Mantras. Whether the Brahmanas themselves were aware that ages must have elapsed between the period during which most of the poems of their Rishis were composed, and the times which gave rise to the Brahamanas, is a question which we need hardly hesitate to

answer in the affirmative. But the recklessness with which Indian theologians claim for these Brahmanas the same title and the same age as for the Mantras, shows that the reason must have been peculiarly strong which deterred them from claiming the same divine authority for the Sutras."

The exclusion of the Sutras from the category of Shruti is a riddle that calls for explanation.

There are other riddles which strike the student who cares to investigate into the subject. They relate to the changes in the content of the literature comprised in the term Shruti and their relative authority.

One such riddle relates to the class of literature called the Brahmanas. At one time the Brahmanas were included in the term Shruti. But later on they seem to have lost this position. For Manu[1] seems to exclude the "Brahamanas" from the category of Shruti as may be seen from the following extract from his Smriti :

"By Shruti is meant the Veda, and by Smriti the institutes of law ; the contents of these are not to be questioned by reason, since from them (a knowledge of) duty has shown forth. The Brahman who, relying on rationalistic treatises, shall condemn these two primary sources of knowledge must be excommunicated by the virtuous as a sceptic and reviler of the Vedas.... To those who are seeking a knowledge of duty, the Sruti is the supreme authority."

Why were the Brahmanas excluded from Shruti ?

III

We may now turn to the class of literature called the Smritis, the most important of which are the Manu Smriti and the Yajnavalkya Smriti. The number of Smritis was ever on the increase and the composing of Smritis went on up to the advent of the British. Mitramistra refers to 57 Smritis, Nilakanta to 97 and Kamalakar to 131. The Smriti literature is bigger than any other class of religious literature regarded as sacred by the Hindus.

There are several points regarding the relation of the Smritis to the Vedas.

The first is that the Smriti was not recognized[2] as part of the Dharma Shastra literature represented by the Dharma Sutras such as that of Baudhayana, Gautama or Apastambha. A Smruti originally

[1] Some may depute this on the ground that the word Veda includes "Brahamana" also. This of course is a fact. Bui it seems to me that Manu uses the term Shruti in a restricted sense so as to exclude the Brahmanas. This is supported by the fact that there is in the Manu Smriti no reference to the Brahamanas except in one place (iv. 100) where he says that only the Mantra portion need be studied.

[2] On this subject see the illuminating article by Prof. Altekar on "The position of Smritis as a source of Dharma, in the Kane Memorial Volume, pp. 18-25.

dealt with social customs and conventions that were approved of and recommended by the learned leaders of society. As Prof. Altekar observes :

> "In the beginning, Smritis were identical in nature and contents with *Sadacara* and were based upon it. When Smritis came into existence, the scope of Sadacara became naturally reduced, as much of it was codified by Smritis. It began to denote those old practices which happened not to be codified in Smritis, or those new ones, which had acquired social approval at a period subsequent to the codification of the early Dharmasastras or Smritis."

The second point to note is that the Smritis were treated as quite different from the Vedas or the Srutis. So far as their sanction and their authority were concerned they stood on absolutely different footing. The sanction behind the Sruti was divine. The sanction behind the Smriti was social. In the matter of their authority the Purva Mimamsa lays down two rules. The first rule is that if there is a conflict between two texts of Sruti then both are authoritative and the presumption will be that the Vedas have given an option to follow one or the other. The second rule is that the text of a Smriti should be summarily rejected if it was opposed to the text of the Sruti. These rules were rigorously applied with the result that the Smritis could not acquire either the status or the authority of the Vedas.

Surprising as it may appear a time came when Brahmins took a summersault and gave the Smritis a status superior to that of the Vedas. As Prof. Altekar points out :

> "The Smritis have actually overruled some of the specific dicta of Srutis that were not in consonance with the spirit of the age, or were coming into direct conflict with it. The Vedic practice was to perform *daiva karma* in the morning and the *pitr karma* in the afternoon. In later times the modern *pitr tarpana* came into vogue and it began to be offered in the morning, as the morning bath became the order of the day. Now this procedure is in direct conflict with the Vedic practice prescribed in the above-mentioned rule. Devamabhatta, the author of the *Smrticandrika,* however says that there is nothing wrong in this : the Sruti rule must be presumed to be referring to *pitr karman* other than *tarpana.* The Sruti literature shows that Visvamitra adopted Sunassepa, though he had a hundred sons living ; this would thus permit a person to adopt a son even when he had a number of his own sons living. But Mitramisra says that such a deduction would be wrong ; we shall have to assume that the Smriti practice is also based upon a Sruti text, which is not now available but the existence of which will have to be assumed."

"The Vedic passage, *na seso 'gne' nyajatamasti* certainly disapproves of the practice of the adoption of a son, which is clearly recommended in later times by the Smriti literature. This is a clear example of a Sruti being thrown overboard by a Smriti. But Mitramisra says that there is nothing wrong about the procedure. The Sruti passage is a mere *arthavada ;* it does not lay down any injunction. The Smritis on the other hand prescribe adoption so that *homas* etc. should be properly performed. *Arthavada Sruti* is thus being fittingly overruled by a Smriti text, which has a *vidhi* for its purport."

"The custom of the Sati of the later age is in direct conflict with the vedic injunction prohibiting suicide. Apararka, however, argues that the conflict with Sruti should not invalidate the custom. For the Sruti passage lays down a general principle disapproving suicide, while the Smritis lay down a special exception in the case of a widow."

Whether the customs of a Sati and adoption are good or not is a different question. Somehow or other society had come to approve of them. Smritis gave canonical sanction to them and sought to defend them even against the authority of the Vedas.

The question is why did the Brahmins after having struggled so hard for establishing the supremacy of the Vedas degrade the Vedas and invest the Smritis with authority superior to that of the Vedas ? They did so much to raise the authority of the Vedas above the divine. Why did they drag them below the Smritis which had nothing but social sanction ?

The steps they adopted were so ingenious and artificial that one cannot help feeling that there must have been some definite motive which led the Brahmins to give the Smritis a status superior to that of the Vedas.

To give some idea as to how artificial, ingenious and desparate these arguments were it might be useful to give just a brief outline of them.

As an illustration of an artificial argument, one may refer to the view propounded by Brahaspati. According to him, Sruti and Smriti are the two eyes of the Brahmana, if he is void of one of them he becomes a one-eyed person.

As an illustration of an ingenious argument one may refer to the argument of Kumarila Bhatt. His argument is founded on the theory of lost Sruti. It was argued on behalf of the Smritis that their views cannot be set aside even when they are in direct conflict with the Srutis for they may quite possibly have been based upon a lost text of Sruti, and so the conflict is not a conflict between a text of Sruti and that of

a Smriti. It is really a conflict between an existing and lost text of Sruti. Smriti therefore came to be represented as lost Sruti.

There is a third means adopted by the Brahmins to make the Smritis equal if not superior to the Vedas. It is to be found in the Atri Smriti. Atri says that those who do not respect the Smritis will be subject to curse. Atri's argument is that *Brahmanyam* arises only as a result of a joint study of the Sruti and Smriti and if a person studies the Vedas only but holds the Smriti in contempt he would be immediately condemned to be born as a beast for 21 generations.

Why did the Brahmins adopt such desparate means to place the Smritis on the same footing as the Sruti ? What was their purpose ? What was their motive ?

Prof. Altekar's argument that the Smritis were given supremacy over the Vedas because they gave legal justification to customary law which was of later growth, cannot be accepted as adequate. If the case was that, there was law in the Vedic period and custom had grown later on ; and if there was a conflict between the two, one could have understood the argument that the Smritis were given predominance because they set right the conflict by recognizing the progressive doctrines of the custom. This is not the case. There was no such thing as law in the Vedas. As Professor Kane points out :

> "All law was customary and there was no necessity to give recognition to the customs because they were recognized by the people. Secondly the Smritis cannot be said to be more progressive than the Vedas. Barring the Chaturvarna doctrine which everybody knows the Vedas except in the matter of forms of worship left Society quite free to develop. What the Smritis have done is, take out the unprogressive element in the Vedas namely the Chaturvarna theory and to propagandize it and hammer it into the heads of the people."

Therefore there must be some other reason why the Brahmins gave supremacy to the Smritis over the Vedas.

The Brahmins were not content with their first acrobatics. They performed another.

The Smritis were followed in point of time by the Puranas. There are 18 Puranas and 18 Up-Puranas altogether 36. In one sense the subject matter of the Puranas is the same. They deal with the creation, preservation and destruction of the world. But in the rest of their contents they differ altogether. Some propagate the cult of Brahma, some the cult of Shiva, some the cult of Vishnu, some the cult of Vayu, some the cult of Agni, some the cult of Surya and some the cult of Goddesses and other deities.

As has been noted there was a time when the Puranas were not included in the Shruti. In later times however a striking change seems to have taken place. The Puranas which were considered as too profane to be included in the Shruti were given a superiority over the Vedas.

The Vayu Purana says[1]:

> "First, of all the Shastras, the Purana was uttered by Brahma, Subsequently the Vedas issued from his mouth."

The Matsya Purana not only claims priority of creation for the Puranas as against the Vedas, but also the qualities of eternity and identity with sound, which was once predicated of the Vedas alone.

It says[2]:

> "Pitamaha (Brahma), first of all the immortals, took shape ; then the Vedas with their Angas and Upangas (appendages and minor appendages), and the various modes of their textual arrangements, were manifested. The Purana, eternal, formed of sound, pure, extending to the length of a hundred crores of verses, was the first of the Sastras which Brahma uttered ; and afterwards the Vedas, issued from his mouth ; and also the Mimansa and the Nyaya with its eightfold system of proofs.

The Bhagawat Purana claims equality of authority with the Vedas. It says[3]:

> "(Bramharatra) declared the Purana called the Bhagavata, which stands on an equality with the Veda."

The Brahma-Vaivartta Purana has the audacity to claim superiority over the Vedas. It says[4]:

> "That about which venerable sage, you have inquired, and which you desire, is all known to me, the essence of the Puranas, the pre-eminent Brahma-Vaivartta, which refutes the errors of the Puranas and Upa-puranas, and the Vedas."

This is the second acrobatic performed by the Brahmins in assigning priority, precedence, and authority to their sacred books.

This does not complete the story of the suppression of the Vedas. The worse is yet to come. The Puranas were followed by another class of literature called the *Tantras.**[5] Their number is also quite formidable. Shankaracharya refers to 64 Tantras. There might be many more.

[1] Muir Sanskrit Texts, Vol. III. p. 27.

[2] *Ibid.,* p. 28.

[3] & [4] Quoted by Muir, Vol. III.

*[5] *For further discussion on Smarth Dharma and Tantrik Dharma, please see Appendices IV & V of this Part.*—Editors.

Traditionally the authorship of these works is attributed to Dattatreya, who was an incarnation of the Hindu trinity, Brahma, Vishnu and Shiva. They are therefore to be regarded as equally the revelation of the three supreme divinities. In form, however, they are dependent on Shiva alone, who in dialogue with his wife Durga, or Kali, reveals the mystical doctrines and observances which are to be received and practised by his worshippers. This authoritative or 'higher tradition' is further said to have been delivered from his central or fifth mouth. As such it is pre-eminently sacred and secret and may not be revealed to the uninitiated. They are also called by the name Agamas, and as such are sometimes distinguished from Nigama, the text of the Vedas, Dharmashastras, and other sacred books.

The Tantras are regarded specially as the religious text-books of the Saktas and of their various sects. There are different Tantrik schools, with variant traditions, the distinctions between which are little understood outside of their immediate circle of adherents. The ritual of the Tantras of the Daksinacharins, however, is said to be pure and in harmony with the Vedas, while that of the Vamacharins is intended only for Shudras.

The teaching of the Tantras, as of the Puranas is essentially based on the Bhakti-Marga which is regarded by them as superior to the Karma-Marga and Jnana-Marga of the Brahmanas and Upanishads. Adoration of a personal deity is inculcated, especially of the wife of Shiva, who is worshipped as the source of all regenerative power. In all these writings the female principle is personified and made prominent, to the almost total exclusion of the male.

What is the relation of the Tantras to the Vedas ? Kalluka Bhatta the well known commentator of Manu Smriti has no hesitation in asserting that Shruti is two-fold- *Vaidik* and *Tantrik*—which means that the Vedas and the Tantras stand on equal footing. While the Vaidik Brahmins like Kalluka Bhatta admitted the equality of the Tantras to the Vedas, the authors of the Tantras went much beyond. They claimed that the Vedas, the Shastras, and the Puranas are alike a common woman, but the Tantras are like a highborn woman conveying thereby that the Tantras are superior to the Vedas.

From this survey one thing is clear. The Brahmins have not been very steadfast in their belief regarding the sacred character of what they called their books of religion. They fought to maintain the thesis that the Vedas were not only sacred but that they were infallible. Not only they maintained that the Vedas were infallible but they spent their ingenuity to invent strange arguments to support the doctrine of infallibility. Yet they had not the slightest compunction to overthrow

the position of the Vedas and to subordinate them first to the Smritis, then to the Puranas and lastly to the Tantras. The question of all questions is what made the Brahmins degrade the Vedas and supersede them by Smritis, Puranas and the Tantras if they regarded their Vedas as the most sacred ?

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RIDDLE NO. 8

HOW THE UPANISHADS DECLARED WAR ON THE VEDAS ?

What is the position of the Upanishads in relation to the Vedas ? Are the two complimentary to each other or are they antagonistic ? Of course, no Hindu would admit that the Vedas and Upanishads are repugnant to each other. On the contrary, it is the common belief of all Hindus that there is no antagonism between them and that both form part and parcel of the same single system of thought. Is this belief well-founded ?

The principal reason for the rise of such a belief is to be found in the fact that the Upanishads are also known by another name which is called Vedanta. The word Vedanta has got two meanings. In one sense, it means the last parts of the Vedas. In the second sense, it means the essence of the Vedas. The word Vedanta being another name for the Upanishads, the Upanishads themselves have come to acquire these meanings. It is these meanings which are responsible for the common belief that there is no antagonism between the Vedas and the Upanishads.

To what extent are these meanings of the word Upanishads justified by facts ? In the first place, it is well to note the meaning of the word Vedanta. What was the original meaning of the word Vedanta ? Does it mean the last book of the Vedas ?

As observed by Prof. Max Muller[1] :

> "Vedanta is a technical term and did not mean originally the last portions of the Veda, or chapters placed, as it were, at the end of a volume of Vedic literature, but the end i.e., the object, the highest purpose of the Veda. There are, of course, passages, like the one in the Taittiriya-aranyaka (ed-Rajendra Mitra p. 820), which have been misunderstood both by native and European scholars, and where Vedanta means simply the end of the Veda : *yo vedadu svarah*

[1] The Upanishads (S.B.E.) Vol. I, Introduction, p. LXXXVI.

This 15-page typed MS with modifications in the handwriting of the author was originally entitled 'Vedas versus Upanishads'. Concluding two paragraphs are added by the author in his own handwriting.—Ed.

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prokto vedante ka pratishthitah, 'the Om which is pronounced at the beginning of the Veda, and has its place also at the end of the Veda.' Here Vedanta stands simply in opposition to Vedadu, it is impossible to translate it, as Sayana does, by Vedanta or Upanishad. Vedanta, in the sense of philosophy, occurs in the Taittiriya-aranyaka p. 817, in a verse of the Narayania-upanishad repeated in the Mundak-upanishad 111 2, 6 and elsewhere *vedantavignansuniskitarah,* 'those who have well understood the object of the knowledge arising from the Vedanta' not from the last books of the Veda and *Svetasvatara-up* VI-22, *vedante paramam guhyam,* 'the highest mystery in the Vedanta'. Afterwards it is used in the plural also, e.g., Kshurikopanishad, 10 (bibl. Ind. p. 210) *pundariketi Vedanteshu nigadyate,* 'it is called pundarika in the Vedantas' i.e., in the Khandogya and other Upanishads, as the commentator says, but not in the last books of each Veda."

More direct evidence on the point is that which is contained in the Gautama Dharma Sutras. In Chapter XIX verse 12 Gautama speaks of purification and says :

"The purificatory (texts are), the Upanishads, the Vedantas, the Samhita—text of all the Vedas" and so on.

From this it is clear that at the date of Gautama the Upanishads were distinguished from Vedantas and were not acknowledged as a part of the Vedic literature. Hardatta in his commentaries says "those parts of the Aranyakas which are not (Upanishads) are called Vedantas". This is unimpeachable proof that the Upanishads did not come within the range of the Vedic literature and were outside the canons.

This view is also supported by the use of the Veda in the Bhagwat Gita. The word Veda is used in the Bhagwat Gita at several places. And according to Mr. Bhat[1] the word is used in a sense which shows that the author did not include the Upanishads in the term.

The subject matter of the Upanishads is not the same as that of the Vedas. This is also another reason why the Upanishads are not a part of the Vedas. What is the origin of the word Upanishad ? The point is somewhat obscure. Most European scholars are agreed in deriving Upanishad from the root *sad,* to sit down, preceded by the two prepositions, *ni* down and *upa* near, so that it would express the idea of session or assembly of public sitting down near their teacher to listen to his instructions. This is because in the Trikandasesha, the word Upanishad is explained by *Samipasadana* as sitting down near a person.

[1] Sacred Books of the East Vol. II p. 275.

But as Prof. Max Muller points out there are two objections to the acceptance of this derivation. Firstly such a word, it would seem, would have been applicable to any other portion of the Veda as well as to the chapters called Upanishad, and it has never been explained how its meaning came thus to be restricted. Secondly, the word Upanishad, in the sense of session or assembly has never been met with. Whenever the word occurs, it has the meaning of doctrine, secret doctrine, or is simply used as the title of the philosophic treatises which contain the secret doctrine.

There is another explanation proposed by Sankara in his commentary on the Taittiriya-Upanishad II, 9, noted by Prof. Max Muller. According to it the highest bliss is contained in the Upanishad *(param sreyo 'syam nishannam)*. That is why it is called Upanishad. Regarding this, Prof. Max Muller says :

> "The Aranyakas abound in such etymologies which probably were never intended as real as plays on words, helping, to account somehow for their meaning."

Prof. Max Muller however favours a derivation of the word 'Upanishad' from the root *sad* to destroy, and meant knowledge which destroys ignorance, the cause of Samsara, by revealing the knowledge of Brahmana as a means of salvation. Prof. Max Muller points out that this is the meaning which the native scholars have unanimously given to the word Upanishad.

If it be granted that the true derivation of the word 'Upanishad' is what is suggested by Prof. Max Muller, then it would be one piece of evidence to show that the common belief of the Hindus is wrong and that the subject matter of the Vedas and the Upanishads are not complimentary but antagonistic. That the system of thought embodied in the Upanishads is repugnant to that of the Vedas is beyond doubt. A few citations from some of the Upanishads will suffice to show their opposition to the Vedas. The Mundaka Upanishad says :

> "Bramha was produced the first among the gods, maker of the universe, the preserver of the world. He revealed to his eldest son Atharva, the science of Brahma the basis of all knowledge. (2) Atharvan of old declared to Angis this science, which Brahma had unfolded to him ; and Angis, in turn, explained it to Satyavaha, descendant of Bharadvaja, who delivered this traditional lore, in succession, to Angiras. (3) Mahasala Saunaka, approaching Angiras with the proper formalities, inquired, 'What is that, O venerable sage, through the knowledge of which all this (universe) becomes known ? (4) (Angiras) answered, 'Two sciences are to be known— this is what the sages versed in sacred knowledge declare—the

superior and the inferior. (5) The inferior (consists of) the Rig Veda, the Yajur-Veda, the Sama-Veda, the Atharva-Veda, accentuation, ritual grammar, commentary, prosody and astronomy. The superior science is that by which the imperishable is apprehended" by which of course he means the Upanishads.

The Chhandogya Upanishad says :

"(1) Narada approached Sanatkumara, saying, "Instruct me, venerable sage. He received for answer 'Approach me with (tell me) that which thou knowest ; and I will declare to thee whatever more is to be learnt.' (2) Narada replied, 'I am instructed, venerable sage, in the Rig-veda, the Sama-veda, the Yajur-veda, the Atharvana (which is) the fourth, the Itihasas and Purana (which are) the fifth Veda of the Vedas, the rites of the pitris, arithmetic, the knowledge of portents and of great periods, the art of reasoning, ethics, the science of the gods, the knowledge of Scripture, demonology, the science of war, the knowledge of the stars, the sciences of serpents and deities; this is what I have studied. (3) I, venerable man, know only the hymns (mantras); while I am ignorant of soul. But I have heard from reverend sages like thyself that 'the man who is acquainted with soul overpasses grief. Now I, venerable man, am afflicted ; but do thou transport me over my grief. Sanatkumara answered, 'That which thou hast studied is nothing but name. (4) The Rig-veda is name ; and so are the Yajur-veda, the Sama-veda, the Atharvana, which is the fourth, and the Itihasas and Puranas, the fifth Veda of the Vedas, etc., (all the other branches of knowledge are here enumerated just as above),—all these are but names; worship name. (5) He who worships name (with the persuasion that it is) Brahma, ranges as it were at will over all which that name comprehends : such is the prerogative of him who worships name (with the persuasion that it is) Brahma, 'Is there anything, venerable man' asked Narada, 'which is more than name ?' 'There is,' replied, 'something which is more than name'. 'Tell it to me', rejoined Narada."

The Brahadaranyaka Upanishad says :

"In that (condition of profound slumber) a father is no father, a mother is no mother, the worlds are no worlds, the gods are no gods, and the Vedas are no Vedas, sacrifices are no sacrifices. In that condition a thief is no thief, a murderer of embryos is no murderer of embryos, a Pulkasa no Paulakasa, a Chandala no Chandala, a Sramana no Sramana, a devotee no devotee ; the saint has then no relation, either of advantage or disadvantage, to merit or to sin ; for he then crosses over all griefs of the heart."

This is what the Katha Upanishad has to say :

> "This soul is not to be attained by instruction, nor by understanding, nor by much scripture. He is attainable by him whom he chooses. The soul chooses that man's body as his own abode".
>
> "Although this soul is difficult to know, still it may easily be known by the use of proper means. This is what (the author) proceeds to say. This soul is not to be attained, known, by instruction, by the acknowledgement of many Vedas ; nor by understanding, by the power of recollecting the contents of books ; nor by much scripture alone. By what, then, is it to be attained ?
>
> This he declares".

How great was the repugnance to the Upanishads and the philosophy contained in them will be realized if one takes note of the origin of the words Anuloma and Pratiloma which are usually applied to the marriage tie among the Hindus. Speaking of their origin Mr. Kane, points out that[1] :

> "These two words Anuloma and Pratiloma (as applied to marriage or progeny) hardly ever occur in the Vedic literature. In the Br. Up. (II. 1.5) and Kausitaki Br. Up. IV. 8. the word 'Pratiloma' is applied to the procedure adopted by a Brahmana of going to a Kshatriya for knowledge about *'Brahman'*.

Anuloma means according to the heir that is in the natural order of things, Pratiloma means against the heir that is contrary to the natural order. Reading the observations of Mr. Kane in the light of the definition of the word Pratiloma it is obvious that the Upanishads far from being acknowledged as part of the Vedic literature were if not despised, held in low esteem by the Vedic Brahmins. This is an additional piece of evidence which shows that there was a time when the relation between the Vedas and the Upanishads was of antagonism.

Another illustration of the attitude of the Vedic Brahmins towards Brahmins who had studied the Upanishads may be given. It is to be found in the texts of the Dharma Sutras of Baudhayana. Baudhayana in his Dharma Sutras (ii. 8.3) says that at a Shradha ceremony a Rahasyavid is to be invited only if other Brahmins are not available. A Rahasyavid of course means a Brahmin versed in the Upanishads.

The belief that the Vedas and the Upanishads are complimentary came into being is really a riddle.

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[1] History of Dharma Sastra Vol. II, Part-I, p. 52.

RIDDLE NO. 9

HOW THE UPANISHADS CAME TO BE MADE SUBORDINATE TO THE VEDAS ?

In the preceding chapter it was shown that originally the Upanishads were not a part of the Vedas and that the two in the matter of doctrine were opposed to each other. It is instructive to compare the later relations between the Vedas and the Upanishads. The later relations between them are best illustrated by the controversy between two philosophers, Jaimini and Badarayana.

Jaimini is the author of a work called the Mimamsa Sutras while Badarayana is the author of Brahma Sutras. Jaimini is an upholder of the Vedas and Badarayana is an upholder of the Upanishads.

The point of dispute was—Is it necessary to perform sacrifices ? The Vedas say 'yes' and the Upanishads say 'no'.

The position of Jaimini is stated by Badarayana in his Sutras 2-7, and explained by Shankaracharya in his commentary.

Jaimini contends that[1] :

"No one undertakes a sacrificial act unless he is conscious of the fact that he is different from the body and that after death he will go to heaven, where he will enjoy the result of his sacrifices. The Texts dealing with self-knowledge serve merely to enlighten the agent and so are subordinate to sacrificial acts."

In short Jaimini says that all that Vedanta teaches is that self is different from the body and outlive the body. Such a knowledge is not enough. The self must have the aspiration to go to heaven. But it can't go to heaven unless it performs Vedic sacrifices which is what his Karmakand teaches. Therefore his Karmakand is the only Salvation and that the Jnankand from that point of view is quite useless. For this Jaimini relies on the conduct of men who have believed in Vedanta[2] :

[1] See Badarayana Sutra 2 and Shankara's comment on it.

[2] See Badarayana Sutra 3 and Shankara's comment.

'Jaimini versus Badarayana' was the title given to this chapter which was later scored out. This is a 9-page typed MS with modifications in the first two pages by the author.—Ed.

"Janaka, emperor of Videha performed a sacrifice in which gifts were freely distributed (Brih. 3.1.1). I am going to perform a sacrifice sirs (Chh. 5.11.5). Now both Janaka and Asvapati were knowers of the Self. If by this knowledge of the Self they had attained Liberation, there was no need for them to perform sacrifices. But the two texts quoted show that they did perform sacrifices. This proves that it is through sacrificial acts alone that one attains Liberation and not through the knowledge of the Self as the Vedantins hold."

Jaimini makes a positive assertion that the scriptures unmistakably declare[1] "that knowledge of the Self stands in a subordinate relation to sacrificial acts". Jaimini justifies it because he says[2] "the two (knowledge and work) go together (with the departing soul to produce the results)." Jaimini refuses to give an independent position to Badarayana's *Jnanakanda*. He takes his stand on two grounds.

First[3]: "Knowledge of the Self does not independently produce any result."

Second[4]: According to the authority of the Vedas "Knowledge (of Self) stands in a subordinate relation to work."

This is the position of Jaimini towards Badarayana's *Jnanakanda*.

What is the position of Badarayana towards Jaimini and his *Karma Kanda ?* This is explained by Badarayana in Sutras 8 to 17.

The first position[5] taken up by Badarayana is that the Self spoken of by Jaimini is the limited self i.e., the soul is to be distinguished from the Supreme soul and that the Supreme soul is recognized by the Scriptures.

The second[6] position taken up by Badarayana is that the Vedas support both knowledge of Self as well as sacrifices.

The third[7] position taken up by Badarayana is that only those who believe in the Vedas are required to perform sacrifices. But those who follow the Upanishads are not bound by that injunction. As Shankaracharya explains :

"Those who have read the Vedas and known about the sacrifices are entitled to perform work (sacrifices). No work (sacrifice) is prescribed for those who have knowledge of the Self from the Upanishads. Such a knowledge is incompatible with work."

[1] See Badarayana Sutra 4.

[2] See Badarayana Sutra 5.

[3] See Badarayana Sutra 6 and Shankara's commentory.

[4] See Badarayana Sutra 7.

[5] See Badarayana Sutra 8.

[6] See Badarayana Sutra 9.

[7] See Badarayana Sutra 12.

The fourth[1] position taken up by Badarayana is that *Karmakanda* is optional to those who have attained Bramhanand. As Shankaracharya explains :

> "That some have of their own accord given up all work. The point is that after knowledge some may choose to work to set an example to others, while others may give up all work. There is no binding on the knowers of the Self as regards work."

His last and final[2] position is that :

> "Knowledge of the Self is antagonistic to all work and so cannot possibly be subsidiary to work."

And as evidence in support of it he relies[3] on the scriptures which recognizes Sannyas as the fourth Ashram and relieves the Sannyasi from performing sacrifices prescribed by the *Karmakanda*.

Many such Sutras can be found in Badarayana indicating the attitude of the two scholars of thought towards each other. But the one given above is enough as it is so very typical. If one stops to consider the matter the position wears a strange appearance. Jaimini denounces Vedanta as a false Shastra, a snare and a delusion, something superficial, unnecessary and unsubstantial. What does Badarayana do in the face of this attack ? Does he denounce the *Karmakanda* of Jaimini as a false Shastra, a snare and a delusion, something superficial, unnecessary and unsubstantial as the Upanishads themselves did ? No. He only defends his own Vedanta Shastra. But one would expect him to do more. One would expect from Badarayana a denunciation of the *Karmakanda* of Jaimini as a false religion. Badarayana shows no courage. On the contrary he is very apologetic. He concedes that Jaimini's *Karmakanda* is based on the scriptures and the scriptures have authority and sanctity which cannot be repudiated. All that he insists on is that his Vedanta doctrine is also true because it has also the support of the scriptures.

This is not all. What Badarayana does is to use the term Vedanta to cover two senses. He uses it so as to emphasize that the Upanishads do form a part of the Vedic literature. He uses it also to emphasize that Vedanta or the *Jnyanakanda* of the Upanishads is not opposed to the *Karmakanda* of the Vedas that the two are complimentary. Indeed this is the foundation on which Badarayana has raised the whole structure of his Vedanta Sutras.

This thesis of Badarayana—which underlies his Vedanta Sutras and according to which the Upanishads are a part of the Veda and there is

[1] See Badarayana Sutra 15.

[2] See Badarayana Sutra 16.

[3] See Badarayana Sutra 17.

no antagonism between the Vedas and Upanishads—is quite contrary to the tenor of the Upanishads and their relation to the Vedas. Badarayana's attitude is not easy to understand. But it is quite obvious that Badarayana is a queer and a pathetic case of an opponent who begins his battle by admitting the validity of the premises of his adversary. Why did Badarayana concede to Jaimini on the question of infallibility of the Vedas which were opposed to the Upanishads ? Why did he not stand for truth, the whole truth and nothing but the truth as expounded by the Upanishads ? The Badarayana has in his Vedanta Sutras betrayed the Upanishads. Why did he do so ?

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RIDDLE NO. 10

WHY DID THE BRAHMINS MAKE THE HINDU GODS FIGHT AGAINST ONE ANOTHER ?

The Hindu theology regarding the world is based upon the doctrine of Trimurti. According to this doctrine the world undergoes three stages. It is created, preserved and destroyed. It is endless series of cycles which goes on without stoppage. The three functions which comprise the cycle are discharged by three Gods, Brahma, Vishnu and Mahesh. Brahma creates the world, Vishnu preserves and Mahesh destroys it for the purpose of creation. These gods are spoken of as forming what is called Trimurti. The doctrine of Trimurti postulates that three gods are co-equal in status and are engaged in functions which are contemporary and not competitive. They are friends and not rivals. They are allies of one another and not enemies.

When, however, one studies the literature which depicts the deeds of these three gods one finds a complete difference between the theory and the practice. The Gods far from being friends appear to be worse enemies of one another, competing for supremacy and sovereignty among themselves. A few illustrations from the Puranas will make the matter clear.

At one time Brahma appears to be the most supreme god as compared to Shiva and Vishnu. Brahma is said to be the creator of the universe—the first Prajapati. He is the progenitor of Shiva,[1] and the master of Vishnu because if Vishnu became the preserver of the universe it was because Brahma commanded him to do it. So supreme was Brahma that he was the arbitrator in the conflicts that took place between Rudra and Narayan and between Krishna and Shiva.

Equally certain is the fact that at a subsequent stage Brahma came into conflict with Shiva and Vishnu and strangely enough lost his position and supremacy to his rivals. Two illustrations of his conflict with Vishnu may be given.

[1] Vishnu Purana. Muir. *Ibid.,* p. 392.

The original title was 'Gods at War'. This is a 25-page typed and corrected MS which includes three concluding pages handwritten by the author.—Ed.

The first may well be the story of the Avatars. On the issue of the Avatars there is a rivalry between Brahma and Vishnu. The theory of Avatars or incarnation assumed by God to save humanity from a calamity began with Brahma. He was said to have assumed two Avatars (1) Boar and (2) Fish. But the followers of Vishnu refused to allow this. They asserted that these Avatars were not the Avatars of Brahma but that they were the Avatars of Vishnu. Not only did they appropriate these Avatars of Vishnu they gave to Vishnu many more Avatars.

The Puranas have run riot with the *Avatars* of Vishnu and different Puranas have given different lists of Avatars as will be seen from the following :

AVATARS OF VISHNU

Sr. No.	According to Hari Vamsa	According to Narayani Akhyan	According to Varaha Purana	According to Vayu Purana	According to Bhagwat Purana
1.	Varaha	Hansa	Kurma	Narasinha	Sanatkumar
2.	Narasinha	Kurma	Matsya	Vaman	Boar
3.	Vaman	Matsya	Varaha	Varaha	
4.	Parshuram	Varaha	Narasinha	Kurma	Nara-Narayan
5.	Rama	Narasinha	Vaman	Sangram	Kapila
6.	Krishna	Vaman	Parshuram	Adivaka	Dattatraya
7.		Parshuram	Rama	Tripurari	Jadna
8.		Rama	Krishna	Andhakarh	Rashabha
9.		Krishna	Buddha	Dhvaja	Prithi
10.		Kalkin	Kalkin	Varta	Matsya
11.				Halahal	Kurma
12.				Kolhahal	Dhanwantari
13.					Mohini
14.					Narasinha
15.					Vaman
16.					Parshuram
17.					Ved Vyas
18.					Naradeo
19.					Rama
20.					Krishna
21.					Buddha
22.					Kalkin

The second story may well be the issue of the first born. It is related in the Skanda Purana. The story says that at one time Vishnu lay asleep on the bosom of Devi, a lotus arose from his navel, and its ascending flower soon reached the surface of the flood, Brahma sprang from flower, and looking round without any creature on the boundless

expanse, imagined himself to be first born, and entitled to rank above all future beings ; yet resolved to investigate deep and to ascertain whether any being existed in its universe who could controvert his preeminence, he glided down the stock of the lotus and finding Vishnu asleep, asked loudly who he was 'I am the first born' answered Vishnu ; and when Brahma denied his preprogeniture, they engaged in battle, till Mahadeo pressed between them in great wrath, saying 'It is I who am truly the first born'. But I will resign my place to either of you, who shall be able to reach and behind the summit of my head, or the soles of my foot. Brahma instantly ascended but having fatigued himself to no purpose in the regions of immensity yet loath to abandon his claim, returned to Mahadeo declaring that he had attained and seen the crown of his head, and called as his witness the first born cow. For this union of pride and falsehood, the angry God Shiva ordained that no sacred rites should be performed to Brahma and that the mouth of cow should be defiled. When Vishnu returned, he acknowledged that he had not been able to see the feet of Mahadeo who then told him that he was the first born among the Gods, and should be raised above all. It was after this Mahadeo cut off the fifth head of Brahma who thus suffered the loss of his pride, his power and his influence.

According to this story Brahma's claim to be the first born was false. He was punished by Shiva for making it. Vishnu gets the right to call himself the first born. But that is allowed to him by the grace of Shiva. The followers of Brahma had their revenge on Vishnu for stealing what rightfully belonged to him with the help of Shiva. So they manufactured another legend according to which Vishnu emanated from Brahma's nostrils in the shape of a pig and grew naturally into a boar—a very mean explanation of Vishnu's Avatar as a boar.

After this Brahma tried to create enmity between Shiva and Vishnu evidently to better his own position. This story is told in the Ramayana. It says : "When King Dasaratha was returning to his capital, after taking leave of Janaka, the king of Mithila, whose daughter Sita had just been married to Rama, he was alarmed by the ill-omened sounds uttered by certain birds, which however were counteracted, as the sage Vasishtha assured the king, by the auspicious sign of his being perambulated by the wild animals of the forest. The alarming event indicated was the arrival of Parasurama, preceded by a hurricane which shook the earth and prostrated the trees, and by thick darkness which veiled the sun. He was fearful to behold, brilliant as fire, and bore the axe and a bow on his shoulder. Being received with honour, which he accepted, he proceeded to say to Rama, the son of

Dasaratha that he had heard of his prowess in breaking the bow produced by Janaka and had brought another which he asked Rama to bend, and to fit an arrow on the string ; and if he succeeded in doing so, he (Parasurama) would offer to engage with him in single combat. Dasaratha is rendered anxious by this speech, and adopts a suppliant tone towards Parasurama, but the latter again addresses Rama, and says that the bow he had broken was Siva's, but the one he himself had now brought was Vishnu's. Two celestial bows, he proceeds, were made by Visvakarma of which one was given by the gods to Mahadeva, the other to Vishnu".

The narrative then proceeds :

> "The gods then all made a request to Brahma desiring to find out the strength and weakness of Sitikantha (Mahadeva) and Vishnu. Brahma, most excellent of the three learning the purpose of the gods, created enmity between the two. In this state of enmity a great and terrible fight ensued between Sitikantha and Vishnu each of whom was eager to conquer the other. Siva's bow of dreadful power was then relaxed and the three-eyed Mahadeva was arrested by a muttering. These two eminent deities being entreated by the assembled gods, rishis, and Charanas then became pacified. Seeing that the bow of Siva had been relaxed by the prowess of Vishnu, the gods and rishis esteemed Vishnu to be superior."

Thus Brahma managed to avenge the wrong done to him by Mahadeo.

Even this stratagem did not avail Brahma to maintain his position against Vishnu. Brahma lost his position so completely to Vishnu that Vishnu who at one time was at the command of Brahma became the creator of Brahma.

In his contest with Shiva for supremacy Brahma suffered equal defeat. Here again, the position became completely inverted. Instead of being created by Brahma, Shiva became the creator of Bramha. Brahma lost the power of giving salvation. The god who could give salvation was Shiva and Brahma became no more than a common devotee worshipping Shiva and his Linga in the hope of getting salvation.[1] He was reduced to the position of a servant of Shiva doing the work of charioteer[2] of Shiva.

Ultimately Brahma was knocked out of the field of worship on a charge of having committed adultery with his own daughter. The charge is set out in the Bhagwat Purana in the following terms :

[1] Mahabharata quoted in Muir IV, p. 192.

[2] Mahabharata quoted in Muir IV, p. 199.

"We have heard, O Kshatriya, that Swayambhu (Brahma) had a passion for Vach, his slender and enchanting daughter, who had no passion for him. The Munis, his sons, headed by Marichi, seeing their father bent upon wickedness, admonished him with affection ; 'This is such a thing as has not been done by those before you, nor will those after you do it,— that you, being the lord, should sexually approach your daughter, not restraining your passion. This, O preceptor of the world, is not a laudable deed even in glorious personages, through limitation of whose actions men attain felicity. Glory to that divine being (Vishnu) who by his own lustre revealed this (universe) which abides in himself, he must maintain 'righteousness'. Seeing his sons, the Prajapatis, thus speaking before him the lord of the Prajapatis (Bramha) was ashamed, and abandoned his body. This dreadful body the regions received and it is known as foggy darkness."

The result of this degrading and defamatory attacks on Brahma was to damn him completely. No wonder that his cult disappeared from the face of India leaving him a nominal and theoretical member of the Trimurti.

After Brahma was driven out of the field there remained in the field Shiva and Vishnu. The two however were never at peace. The rivalry and antagonism between the two is continuous.

The Puranas are full of propaganda and counter-propaganda carried on by the Brahmins, protagonists of Shiva and Vishnu. How well matched the propaganda and counter-propaganda was, can be seen from the following few illustrations :

Vishnu is connected with the Vedic God Sun. The worshippers of Shiva connect him with Agni. The motive was that if Vishnu has a Vedic origin Shiva must also have Vedic origin as well. One cannot be inferior to the other in the matter of nobility of origin.

Shiva must be greater than Vishnu and Vishnu must not be less than Shiva. Vishnu has thousand[1] names. So Shiva must have thousand names and he has them[2].

Vishnu has his emblems[3]. They are four. So Shiva must have them and he has them. They are (1) flowing ganges, (2) Chandra (moon), (3) Shesh (snake) and, (4) *Jata* (walled hair). The only point on which Shiva did not compete with Vishnu was the matter of *Avatars*. The reason is not that there was no desire to compete but that philosophically there was an impediment in the way of Shiva taking

[1] *See* Vishnu Sahasranama.

[2] They are mentioned in the Padma Purana.

[3] *Ibid.*

Avatars. The Saivas and Vaisnavas differed fundamentally in their conceptions of immortal bliss. As has been pointed out by Mr. Ayyer :

> "To the Saiva the goal to be reached was final liberation from all fetters, bodily and mental, by their total annihilation. Hence he conceived of Rudra as the inextinguishable, one who could never be destroyed, but who extinguished or destroyed everything else. That was why Rudra came to be called the Destroyer. In the final stage of the spiritual development of an individual, there ought to be no separateness at all from the supreme Shiva. He ought to transcend his body and mind, pleasure and pain, and all opposites or dualities. He should attain union or Sayujya with Shiva in which condition he would not be able to regard himself as separate from Shiva. Till he reached that stage, he was imperfect, however pure he might be, however eligible he might be, for the highest state of Sayujya ; for, those who were eligible had attained only the subordinate stages of Salokya, Samipya and Sarupya. That was also the reason why the doctrine of Avatars did not appeal to the Saiva. God as an Avatar was only a limited being, one who had the capacity, perhaps, of releasing himself from his fetters but not one without fetters. The Vaisnava believed differently. He had also an equally clear conception of the highest state that could be reached, and that ought to be reached. But there was, according to him, nothing appealing in the idea of losing one's own individuality totally. One should be united with the supreme, and yet be conscious of the union. He should be united with the universe which again should be regarded as the other aspect of the supreme imperishable being. He was not, in other words, for the extinction of the universe as if it were something separate and distinct from the Supreme Purusha. He was rather in favour of the preservation of the universe which was neither more nor less than the manifestation of the Purusha so manifested. That was the reason why Vishnu was given the name of the Preserver. After all it is but a difference in the way in which the truth is perceived or viewed. The Saiva viewed the universe as an object of pain and misery—as *Pasha* or fetters (and one bound by it to be *Pasu)* which had to be broken and destroyed. The Vaisnava regarded it as evidencing the greatness of the Purusa and so to be preserved. The Saiva, with his superior pessimism (if it could be so called) was not likely to respect the Dharma Shastras, the Artha Shastras and other scriptures all of which were framed with the purpose of establishing orderliness in the world, inevitable for its welfare. He was bound to be a non-conformist, disdaining rules and conventions. Ideas of caste rigidity would be repugnant to the highly-evolved Saiva who would at best tolerate such

notions in others who had not reached his own stage of development. He would pay respect to and cultivate the society of only such people, to whatever caste they might belong, as were eligible for Samipya, Salokya, Sarupya and Sayujya, with Siva. The Vaisnava, on the other hand, was more concerned with the preservation of all rules and regulations which would have the effect of promoting peace and happiness in the world. If '*Dharma*' perished, the world would perish too, and since the world ought not to perish, for it was a manifestation of the glory of the cosmic Purusa, his duty consisted in doing everything he could for preserving the Dharma. If things went beyond his control he was sure Vishnu would take the matter up himself ; for he would come into the world as an Avatar. But when Vishnu did come upon the earth, it would be to destroy the wicked, that is, all those who were instrumental in upsetting the Dharma, and so it was necessary that one should be careful not to deserve that terrible punishment from Vishnu. Hence, the Agamas or rules laid down for the guidance of Siva bhaktas did not emphasise caste, and were concerned only with the duties of *bhaktas* in general, the proper fulfilment of which would render them fit to gain God vision, and ultimately union with Siva. These were regarded as impure by the others because they were subversive of caste ideas, and as stated before, they were not alluded to in the orthodox scriptures."

In the performance of deeds of glory the propaganda in favour of Shiva is fully matched by counter-propaganda in favour of Vishnu. One illustration of this is the story regarding the origin of the holy river Ganges.[1] The devotees of Shiva attribute its origin to Shiva. They take its origin from Shiva's hair. But the Vaishnavas will not allow it. They have manufactured another legend. According to the Vaishnavite legend the blessed and the blessing river flowed originally out of Vaikunth (the abode of Vishnu) from the foot of Vishnu, and descending upon Kailasa fell on the head of Shiva. There is a two-fold suggestion in the legend. In the first place Shiva is not the source of the Ganges. In the second place Shiva is lower than Vishnu and receives on his head water which flows from the foot of Vishnu.

Another illustration is furnished by the story which relates to the churning of the oceans by the Devas and the Asuras. They used the Mandara mountain as the churning rod and mighty serpant Shesha as a rope to whirl the mountain. The earth began to shake and people became afraid that the world was coming to an end. Vishnu took the Avatar of Kurma (Tortoise) and held the earth on his back and prevented the earth from shaking while the churning was going on.

1. Moore's Hindu Pantheon pp. 40-41.

This story is told in glorification of Vishnu. To this the Shaivites add a supplement. According to this supplement the churning brought out fourteen articles from the depth of the ocean which are called fourteen jewels. Among these fourteen a deadly poison was one. This deadly poison would have destroyed the earth unless somebody was prepared to drink it. Shiva was the only person who came forward to drink it. The suggestion is that Vishnu's act was foolish in allowing the rivals—the Gods and Demons—to bring out this deadly poison. Glory to Shiva for he drank it and saved the world from the evil consequences of the folly of Vishnu.

Third illustration is an attempt to show that Vishnu is a fool and that it is Shiva who with his greater wisdom and greater power saves Vishnu from his folly. It is the story of Akrurasura[1]. Akrur was a demon with the face of a bear, who, nevertheless, was continuously reading the Vedas and performing acts of devotion. Vishnu was greatly pleased and promised him any boon that he would care to ask. Akrurasura requested that no creature, then existing in three worlds, might have power to deprive him of life, and Vishnu complied with his request ; but the demon became so insolent that the Devatas, whom he oppressed, were obliged to conceal themselves, and he assumed the dominion of the world; Vishnu was then sitting on a bank of the Kali, greatly disquieted by the malignant ingratitude of the demon ; and his wrath being kindled, a shape, which never before had existed, sprang from his eyes. It was Mahadeva, in his destructive character, who dispelled in a moment the anxiety of the Vishnu.

This is countered by the story of Bhasmasura intended to show that Shiva was a fool and Vishnu saved him from his folly. Bhasmasura having propitiated Shiva asked for a boon. The boon was to be the power to burn any one on whose head Bhasmasura laid his hands. Shiva granted the boon. Bhasmasura tried to use his boon power against Shiva himself. Shiva became terrified and ran to Vishnu for help. Vishnu promised to help him. Vishnu took the form of a beautiful woman and went to Bhasmasura who became completely enamoured of her. Vishnu asked Bhasmasura to agree to obey him in everything as a condition of surrender. Bhasmasura agreed. Vishnu then asked him to place his hands on his own head which Bhasmasura did with the result that Bhasmasura died and Vishnu got the credit of saving Shiva from the consequences of his folly.

> "Is Isa (Mahadeva) the Cause of causes for any other reasons ? We have not heard that the linga (male organ) of any other person is worshipped by the gods. Declare, if thou hast heard, what other

[1] This story is told in Vishnu Agama and is quoted in Moore's Hindu Pantheon, pp. 19-20.

being's linga except that of Mahesvara is now worshipped, or has formerly been worshipped, by the gods ? He whose linga Brahma and Vishnu, and thou (Indra), with, the deities, continually worship, is therefore then most eminent. Since children bear neither the mark of the lotus (Brahma's), nor of the discus (Vishnu's), nor of the thunderbolt (Indra's), but are marked with the male and the female organs,—therefore offspring is derived from Mahesvara. All women produced from the nature of Devi as their cause, are marked with the female organ, and all males are manifestly marked with the linga of Hara. He who asserts any other cause than Isvara (Mahadeva) or (affirms) that there is any (female) not marked by Devi in the three worlds, including all things movable or immovable, let that fool be thrust out. Know everything which is male to be Isara, and all that is female to be Uma ; for this whole world, movable and immovable, is pervaded by (these) two bodies."

The Greek Philosopher Zenophanes insists that polytheism or plurality of Gods is inconceivable and contradictory. That the only true doctrine was monotheism. Considered from a philosophical point of view, Zenophanes might be right. But from the historical point of view both are natural. Monotheism is natural where society is a single community. Where society is a federation of many communities polytheism is both natural and inevitable. Because every ancient community consisted not merely of men but of men and its Gods it was impossible for the various communities to merge and coalesce except on one condition that its God is also accepted by the rest. This is how polytheism has grown.

Consequently the existence of many Gods among the Hindus is quite understandable because the Hindu Society has been formed by the conglomeration of many tribes and many communities each of whom had their own separate Gods. What strikes one as a strange phenomenon is the sight of the Hindu Gods, struggling one against the other, their combats and feuds and the ascriptions by one God to the other, all things that are a shame and disgrace to common mortals. This is what requires explanation.

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RIDDLE NO. 11

WHY DID THE BRAHMINS MAKE THE HINDU GODS SUFFER TO RISE AND FALL ?

The Hindus are accused of idolatry. But there is nothing wrong in idolatry. Making an idol is nothing more than having a photograph of the deity and if there can be no objection to keeping a photograph what objection can there be to having an image. Real objection to Hindu idolatry is that it is not mere photography, not mere production of an image. It is more than that. The Hindu idol is a living being and is endowed with all the functions of a human being. A Hindu idol is given life by means of a ceremony called *Pranapratishtha*. The Buddhists also are idolatrous in as much as they too worship Buddha's idol. But the idol they worship is only a photograph, a mere image. There is no soul in it. Why the Brahmins endowed the Hindu Gods with souls and made them living beings opens out an inquiry which is bound to be revealing. But this inquiry is outside the scope of this Chapter.

The second charge generally levelled against the Hindus is that they are polytheists i.e., they worship many Gods. Here again the Hindus are not the only people who are guilty of the practice of Polytheism. Other communities have also been known to have practised polytheism. To mention only two. The Romans and the Greeks were essentially polytheists. They too worshipped many Gods. There is therefore no force in this charge.

The real charge which can be levelled against the Hindus most people seem to have missed. That charge is that the Hindus are never steadfast in their devotion to their Gods. There is no such thing as

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This is a 43-page typed MS having corrections and modifications in the handwriting of the author. The concluding para, however, is written in pen by the author himself. The original title on the Chapter was 'The Rise and Fall of the Gods'. This title was scored out in blue pencil, which was normally used by the author for scoring out the matter.—Ed.

loyalty or attachment or faith in one God. In the history of Hindu Gods one finds it a very common experience that some Gods have been worshipped for a time and subsequently their worship has been abandoned and the Gods themselves have been thrown on the scrap-heap. Quite new Gods are adopted and their worship goes with an intensity of devotion which is full and overflowing. Again the new Gods are abandoned and are replaced by a fresh crop of new Gods. So the cycle goes on. In this way the Hindu Gods are always undergoing rise and fall—a phenomenon which is unknown in the history of any other community in the world.

The statement that the Hindus treat their Gods with such levity may not be accepted without demur. Some evidence on this point is therefore necessary. Fortunately there is abundance of it. At present the Hindus worship four Gods (1) Shiva, (2) Vishnu, (3) Rama and (4) Krishna. The question that one has to consider is : are these the only Gods the Hindus have worshipped from the beginning ?

The Hindu Pantheon has the largest number of inmates. The Pantheon of no religion can rival it in point of population. At the time of the Rig-Veda the number of its inmates was colossal. At two places the Rig-Veda[1] speaks of three thousand three hundred and nine Gods. For some reasons, which it is not possible for us now to know, this number came to be reduced to thirty-three[2]. This is a considerable reduction. Nevertheless with thirty three, the Hindu Pantheon remains the largest.

The composition of this group of thirty-three Gods is explained by the Satapatha Brahmana[3] as made up of 8 Vasus, 11 Rudras and 12 Adityas, together with Dyasus and Prithvi (heaven and earth).

Of greater importance than the question of numbers is the question of their relative rank. Was their any distinction between the 33 Gods in point of their rank ? There is a verse in the Rig-Veda which seems to suggest that these thirty-three Gods were divided for purposes of honours and precedence into two classes, one being great and small and the other being young and old. This view seems to be against an earlier view also contained in the Rig-Veda. The old rule says :

> "None of you O ! Gods ! is small
> or young : You are all great".

This is also the conclusion of Prof. Max Muller :

> "When these individual gods are invoked, they are not conceived as limited by the power of others, as superior or inferior in rank. Each god is to the mind of the supplicants as good as all the gods.

[1] Rig-Veda iii, 99 : X 52 : 6, Vaj, S. 33, 7, Muir V, p. 12.
[2] Rig-Veda 1, 139, II, iii, 6, 9 ; VIII 28.1, VIII 30,2, VIII 35.3, Muir V. p. 10.
[3] S. B. IV 5, 7, 2, Muir V, p. II.

He is felt, at the time, as a real divinity, as supreme and absolute, in spite of the necessary limitations which, to our mind, a plurality of gods must entail on every single god. All the rest disappear for a moment from the vision of the poet, and he only, who is to fulfil their desires stands in full light before the eyes of the worshippers."

"Nowhere is any of the Gods
represented as the slave of others".

This is of course true only for a time. A change seems to have come in the old angle of vision towards the Gods. For one finds numerous hymns of the Veda in which some gods are represented as supreme and absolute.

In the first hymn of the second Mandala, Agni is called the ruler of the Universe, the Lord of men, the wise king, the father, the brother, the son, the friend of men ; nay, all the powers and names of the others are distinctly ascribed to Agni.

Then a second god came to be elevated above Agni. He is Indra. Indra is spoken of as the strongest god in the hymns as well as in the Brahmanas, and the burden of one of the songs of the Tenth Book is : *Visvasmad Indra Uttarah* 'Indra is greater than all'.

Then a third god is raised to the highest level. He is Soma. Of Soma, it is said that he was born great and that he conquers every one. He is called the king of the world, he has the power to prolong the life of men, and in one verse he is called the maker of heaven, and earth, of Agni, of Surya, of Indra and of Vishnu. Then Soma was forgotten and a fourth God was elevated. He is Varuna. Varuna was made the highest of all Gods. For what more could human language do than to express the idea of a divine and supreme power, than what the Vedic poet says of Varuna ; 'Thou art Lord of all, of heaven, and earth' or, as is said in another hymn (ii. 27, 10), Thou art the king of all ; of those who are gods, and of those who are men."

From this evidence it is clear that out of the 33 Vedic Gods four Gods, Agni, Indra, Soma and Varuna had emerged as the principal Gods. Not that other gods had ceased to be gods. But these four had become elevated above the rest. At a later stage a change seems to have taken place at the time of the Satapatha Brahmana in the relative position of the different gods. Soma and Varuna had lost their places as the principal gods while Agni and Indra had retained their positions. A new god has emerged. He is Surya. The result is that instead of Agni, Indra, Soma and Varuna ; Agni, Indra and Surya became the principal gods. This is evident from the Satapatha Brahmana which says :

"Originally the gods were all alike, all pure. Of them being all alike, all pure, three desired, 'May we become superior' viz., Agni, Indra and Surya (the sun).

"2. .....

"3. Originally there was not in Agni the same flame, as this flame which is (now) in him. He desired : 'May this flame be in me'. He saw this grahs, he took it ; and hence there became this flame in him.

4. Originally there was not in Indra the same vigour, etc. (as in para 3).

5. Originally there was not in Surya the same lustre etc."

For how long these three Gods continued to hold their places of superiority over the rest it is difficult to say. But that at a later stage a change in the scene has taken place is beyond doubt. This is evident by a reference to the Chula-Niddessa. The Chula Niddessa is a treatise which belongs to the Buddhist literature. Its approximate date is.... *(left incomplete).*

The Chula-Niddessa gives a list of sects which were then prevalent in India. Classified on the basis of creeds and cults. They may be listed as follows :

I. CREEDS

Sr. No.	Name of the Sect	
1.	Ajivika Shravaka[1]	Ajivika[2]
2.	Nigatta Shravakas	Nigantha[3]
3.	Jatil Shravakas	Jatila[4]
4.	Parivrajaka Shravakas	Parivrajaka[5]
5.	Avarudha Shravakas	Avarudhaka

II. CULTS

Sr. No.	Name of the Sect	The deity which is worshipped
1.	Hasti Vratikas[6]	Hasti[7]
2.	Ashva Vratikas	Ashva[8]
3.	Go Vratikas	Go[9]

[1] Shravaka means a disciple.

[2] Mendicants following special rules with regard to livelihood.

[3] Mendicants who are free from all ties and hindrances.

[4] Mendicants who twist their hair on the head.

[5] Mendicants who escape from society.

[6] Vratikas means a devotee.

[7] Elephant.

[8] Horse.

[9] Cow.

II. CULTS *contd.*

Sr. No.	Name of the Sect	The deity which is worshipped
4.	Kukur Vratikas	Kukku[1]
5.	Kaka Vratikas	Kaka[2]
6.	*Vasudeo* Vratikas	Vasudeo
7.	Baldeo Vratikas	Baldeo
8.	Puma Bhadra Vratikas	Puma Bhadra
9.	Mani Bhadra Vratikas	Mani Bhadra
10.	*Agni* Vratikas	Agni
11.	Naga Vratikas	Naga
12.	Suparna Vratikas	Suparna
13.	Yaksha Vratikas	Yaksha
14.	Asura Vratikas	Asura
15.	Gandharva Vratikas	Gandharva
16.	Maharaja Vratikas	Maharaja
17.	Chandra Vratikas	Chandra
18.	*Surya* Vratikas	Surya
19.	*Indra* Vratikas	Indra
20.	*Brahma* Vratikas	Brahma
21.	Deva Vratikas	Deva
22.	Deesha Vratikas	Deesha

Comparing the position as it stood at the time of the Satapatha Brahmana with that arising from the Chula-Niddessa the following propositions may be said to be well-established : (1) Firstly, that the worship of Agni, Surya and Indra continued up to the time of the Chula Niddessa. (2) Secondly, the Cults of Agni, Surya and Indra although they had not ceased, had lost their places of supremacy. Others and quite a number of cults had come into being as rivals and had won the affection of the people. (3) Thirdly, of the new cults there are two which later on became very prominent. They are the cults of Vasudeo (i.e. Krishna) and Brahma and (4) Fourthly the cults of Vishnu, Shiva and Rama had not come into being.

What is the present position as compared with that found in the Chula-Niddessa ? Here again, three propositions are well-established. *First :* the cults of Agni, Indra, Brahma and Surya have disappeared. *Second :* Krishna has retained his position. *Three :* The cults of Vishnu, Shiva and

1 Dog.

2 Crow.

Rama are new cults which have come into existence since the time of the Chula-Niddessa. Given this situation it raises three questions for considerations : *One* is why have the old cults of Agni, Indra, Brahma and Surya disappeared ? Why was the worship of these Gods abandoned ? *Second* is what are the circumstances that gave rise to the new cults of Krishna, Rama, Shiva and Vishnu. *Third* what is the relative position of these new Gods, Krishna, Rama, Shiva and Vishnu ?

For the first question we can find no answer. The Brahmanic literature gives us no clue whatsoever as to why the Brahmins abandoned the worship of Agni, Indra, Surya and Brahma. There is some explanation as to why the cult of Brahma disappeared. It rests in a charge which is found to be levelled in the Brahmanic literature against Brahma. The charge is that he committed rape on his own daughter and hereby made himself unworthy of worship and devotion. Whatever be the truth in the charge it could not be regarded as sufficient to account for the abandonment of Brahma and for two reasons. In the first place, in that age such conduct was not unusual. In the second place, Krishna was guilty of greater immoralities than were charged to Brahma and yet they continued to worship him.

While there is something to speculate about the abandonment of Brahma there is nothing to account for the abandonment of the others. The disappearance of Agni, Indra, Surya and Brahma is thus a mystery. This is no place to solve this mystery. It is enough to say that the *Gods* of the Hindus had ceased to be Gods—a terrible thing.

The second question is also enveloped in mystery. Brahmanic literature, to account for the importance of the cults of these new Gods, Krishna, Vishnu, Shiva and Rama, is full and overflowing. But there is nothing in the Brahmanic literature to account for the rise of these new Gods. Why these new Gods were brought into action is thus a mystery. The mystery however deepens when one finds that some of the new Gods were definitely anti-Vedic.

Let us take the case of Shiva.

That Shiva was originally an Anti-Vedic God is abundently clear. The following two incidents recorded in the Bhagvata Purana (and also in the Mahabharata) throw a flood of light on the subject. The first incident shows how enmity arose between Shiva and his father-in-law Daksha. It appears that the Gods and Rishis were assembled at a sacrifice celebrated by the Prajapatis. On the entrance of Daksha, all the personages who were present, rose to salute him, except Brahma and Shiva. Daksha, after making his obeisance to Brahma, sat down by his command ; but was offended at the treatment he received from Shiva. This is how he addressed Shiva[1] :

[1] Bhagwat Purana quoted in Chapter IV pp. 379-80.

"Beholding Mrida (Shiva) previously seated, Daksha did not brook his want of respect ; and looking at him obliquely with his eyes, as if consuming him, thus spake : 'Hear me, ye Brahman rishis, with the Gods and the Agnis, While I, neither from ignorane nor from passion, describe what is the practice of virtuous persons. But this shameless being (Siva) detracts from the reputation of the guardians of the world, he by whom, stubborn as he is, the course pursued by the good is transgressed. He assumed the position of my disciple, inasmuchas, like a virtuous person, in the face of Brahmans and of fire, he took the hand of my daughter, who resembled Savitri. This monkey-eyed (god), after having taken of (my) fawn-eyed (daughter), has not even by word shown suitable respect to me whom he ought to have risen and saluted. Though unwilling, I yet gave my daughter to this impure and proud abolisher of rites and demolisher of barriers, like the word of the Veda to a Sudra. He roams about in dreadful cemeteries, attended by hosts of ghosts and spirits, like a madman, naked, with dishevelled hair, laughing, weeping, bathed in the ashes of funeral piles, wearing a garland of dead men's (skulls), and ornaments of human bones, pretending to be Siva (auspicious) but in reality Asiva (in-auspicious), insane, beloved by the insane the lord of Pramathas and Bhutas (spirits), beings whose nature is essentially darkness. To this wicked-hearted lord of the infuriate, whose purity has perished. I have, alas ! given my virtuous daughter, at the instigation of Brahma'. Having thus reviled Girisa (Siva), Who did not oppose him, Daksha having then touched water, incensed, began to curse him (thus) : 'Let this Bhava (Siva), lowest of the gods, never, at the worship of the gods, receive any portion along with the gods Indra, Upendra (Vishnu), and others.' Having delivered his malediction, Daksha departed."

The enmity between the father-in-law and son-in-law continues. Daksha being elevated by Brahma to the rank of the Chief of the Prajapatis decided to perform a great Sacrifice called Vrihaspatisava. Seeing the other Gods with their wives going to this Sacrifice, Parvati pressed her husband, Shiva, to accompany her thither. He refers to the insults which he had received from her father, and advises her not to go. She, however (sect. 4), being anxious to see her relatives, disregards his warning and goes ; but being sighted by her father, Daksha, she reproaches him for his hostility to her husband, and threatens to abandon the corporeal frame by which she was connected with her parent. She then voluntarily gives up the ghost. Seeing this, Shiva's attendants, who had followed her, rush on Daksha to kill him. Bhrigu, however, throws an oblation into the southern fire, pronouncing a Yajus text suited to destroy the destroyers of sacrifice *(yajna-ghnena yajusha dakshinagnau*

juhavaha). A troop of Ribhus in consequence spring up, who put Shiva's followers to flight. Shiva is filled with wrath when he hears of the death of Sati (sect. 5). From a lock of his hair, which he tore out, a gigantic demon arose, whom he commended to destroy Daksha and his sacrifice. This demon proceeds with a troop of Shiva's followers, and they all execute the mandate. How they executed the mandate is described in the Bhagvat Purana[1] in the following terms :

> "Some broke the sacrificial vessels, others destroyed the fires, others made water in the ponds, others cut the boundary-cords of the sacrificial ground ; others assaulted the Munis, others reviled their wives ; others seized the gods who were near, and those who had fled.... 19. The divine Bhava (Siva) plucked out the beard of Bhrigu, who was offering oblations with a ladle in his hand, and who had laughed in the assembly, showing his beard. He also tore out the eyes of Bhaga, whom in his wrath he had felled to the ground, and who, when in the assembly, had made a sign to (Daksha when) cursing (Siva) He moreover knocked out the teeth of Pushan (as Bala did the king of Kalinga's), who (Pushan) had laughed, showing his teeth, when the great god was being cursed. Tryambaka (Siva, or Virabhadra, according to the commentator) then cuts off the head of Daksha, but not without some difficulty. The gods report all that had passed to Svayambhu (Brahma), who, with Vishnu, had not been present (sect. 6). Brahma advises the gods to propitiate Siva, whom they had wrongfully excluded from a share in the sacrifice. The deities, headed by Aja (Brahma), accordingly proceed to Kailasa, when they see Siva "bearing the linga desired by devotees, ashes, a staff, a tuft of hair, an antelope's skin, and a digit of the moon, his body shining like an evening cloud". Brahma addresses Mahadeva "as the eternal Brahma, the lord of Sakti and Siva, who are respectively the womb and the seed of the universe,—who, in sport, like a spider, forms all things from Sakti and Siva, who are consubstantial with himself, and preserves and reabsorbs them" (A similar supremacy is ascribed to Vishnu in sect. 7). Brahma adds that it was this great being who had instituted sacrifice, and all the regulations which Brahmans devoutly observe and entreat him, who is beyond all illusion, to have mercy on those who, overcome by its influence, had wrongly attached importance to ceremonial works, and to restore the sacrifice of Daksha, at which a share had been refused to him by evil priests. Mahadeva partly relents (sect. 7)"

There can be no better evidence to prove that Shiva was an anti-vedic God than his destruction of Daksha's Yajna.

[1] Quoted in Muir IV. p. 383-84.

Now let us take Krishna.

There are four persons who go by the name *Krishna*. One Krishna is the son of Satyavati and father of Dhratarashtra, Pandu and Vidur. Second Krishna is the brother of Subhadra and friend of Arjuna. Third Krishna is the son of Vasudeva and Devaki and was resident of Mathura. Fourth Krishna is the one brought up by Nanda and Yeshoda at Gokul and it was he who killed Shishupal. If the Krishna of the Krishna cult is the same as the Krishna son of Devaki there can be no doubt that Krishna originally also was anti-Vedic. From the Chhandogya Upanishad it appears that he was a pupil of Ghora Angiras. What did Ghora Angiras teach him ? This is what the Chhandogya Upanishad says on the subject :

> "Ghora, the descendant of Angiras, having declared this (the preceding mystical lore) to Krishna the son of Devaki, said to him that (which, when he heard) he became free from thirst (i.e. desire), viz., 'let a man at the time of his death have recourse to these three texts, 'Thou art the undecaying, thou art the imperishable, thou art the subtle principle of breath."

The commentator on this text of the Upanishad explains :

> "A person, Ghora by name, and an Angirasa by family, having declared this doctrine of sacrifice to Krishna the son of Devaki, his pupil, then said etc. The connexion of the last word 'said', is with the words which occur some way below, 'these three etc., And having heard this doctrine he became free from desire for any kinds of knowledge. In this manner he praises this knowledge of the Purusha-sacrifice by saying that it was so distinguished that it destroyed all thirst in Krishna, the son of Devaki, for any other knowledge. He now tells us that Ghora Angirasa said after declaring this knowledge to Krishna. It was this : 'Let him who knows the aforesaid sacrifice, at the time of his death have recourse to, mutter, these three texts, *pranasamsitam* means, 'thou art the very minute, and subtle principle of breath."

Obviously the doctrine taught by Ghora Angiras to Krishna was opposed to the Vedas and the Vedic sacrifices as a means of spiritual salvation. On the contrary Vishnu is a Vedic God. Yet his cult is established much later than that of Shiva. Why there has been so much neglect of Vishnu it is difficult to understand.

Similarly Rama though not anti-vedic is unknown to the Vedas. What was the necessity of starting his cult and that too at so late a stage in the history of the country ?

We may now take up the third question—namely what is the relative position of these new Gods to the old Pauranic Gods.

The rise and fall of Bramha, Vishnu and Shiva has already been told in a previous chapter called *Gods at War*. Whatever happened, the struggle for place and power was confined to these three Gods. They were not dragged below any other. But a time came when they were placed below the Devi by name Shri. How this happened is told in the Devi Bhagwat[1]. The Devi Bhagwat says that a Devi by name *Shri* created the whole world and that it is this Goddess who created Bramha, Vishnu and Shiva ! The Devi Bhagwat goes on to state that the Devi desired to rub her palms. The rubbing of palms produced a blister. Out of this blister was born Bramha. When Bramha was born the Devi asked him to marry her. Bramha refused saying she was his mother. The Devi got angry and burned Bramha alive by her wrath and Bramha was reduced to ashes then and there. Devi rubbed her palms a second time and had a second blister. Out of this second blister a second son was born. This was Vishnu. The Devi asked Vishnu to marry her. Vishnu declined saying that she was his mother. Devi got angry and burned down Vishnu to ashes. Devi rubbed her palms a third time and had a third blister. Out of this third blister was born a third son. He was Shiva. The Devi asked Shiva to marry her. Shiva replied : 'I will, provided you assume another body'. Devi agreed. Just then Shiva's eyes fell on the two piles of ashes. Devi replied 'they are the ashes of his two brothers and that she burnt them because they refused to marry her.' On this Shiva said, 'How can I alone marry ? You create two other women so that we all three can marry'. The devi did as she was told and the three Gods were married to the Devi and her female creations. There are two points in the story. One is that even in doing evil Shiva did not wish to appear more sinning than Bramha and Vishnu for fear that he may appear more degraded than his other two competitors. The more important point however is that Bramha, Vishnu and Shiva had fallen in rank and had become the creatures of the Devi.

Having dealt with the rise and fall of Bramha, Vishnu and Shiva, there remains the vicissitudes in the cults of the two new Gods, Krishna and Rama.

Obviously there is a certain amount of artificiality in the cult of Krishna as compared with the cult of Brahma, Vishnu and Shiva. Bramha, Vishnu and Mahesh were born gods. Krishna was a man who was raised to godhood. It is probably to confer godhood on him that the theory was invented that he was the incarnation of Vishnu. But even then his godhood remained imperfect because he was regarded to be only a partial[2] avatar of Vishnu largely because of his debaucheries

[1] Summarised in Satyartha Prakash.

[2] On this point see references in Muir IV pp. 49.

with the *gopis* which would have been inexcusable if he had been a full and perfect *avatar* of Vishnu.

Notwithstanding this humble beginning Krishna became elevated to the position of a supreme God above all others. How great a God he became can be seen by a reference to Chapter X and XIV of the Bhagvat Geeta. In these chapters Krishna says :

"Well then, O best of the Kauravas I will state to you my own divine emanations ; but (only) the chief (ones) for there is no end to the extent of my (emanations). I am the self. O Gudakesa seated in the hearts of all beings ; I am the beginning and the middle and the end also of all beings. I am Vishnu among the Adityas, the beaming Sun among the shining (bodies); I am Marichi among the Maruts, and the Moon among the lunar mansions. Among the Vedas, I am the Sama-veda. I am Indra among the Gods. And I am mind among the senses. I am consciousness in (living) beings. And I am Shankara among the Rudras, the Lord of Wealth among Yakshas and Rakshasas. And I am *fire* among the Vasus, and Meru among the high-topped (mountains). And know me, O Arjuna to be Brihaspati, the chief among domestic priests. I am Skanda among generals. I am the ocean among reservoirs of water. I am Bhrigu among the great sages. I am the Single syllable (Om) among words. Among sacrifices I am the *Gapa* sacrifice ; the Himalaya among the firmly fixed (mountains) ; the Asvattha among all trees, and Narada among divine sages : Chitraratha among the heavenly *choristers,* the sage Kapila among the Siddhas. Among horses know me to be Uchhaissravas, brought forth by (the labour for) the nectar ; and Airavata among the great elephants, and the ruler of men among men. I am the thunderbolt among weapons, the wish-giving (cow) among cows. And I am love which generates. Among serpents I am Vasuki. Among Naga snakes I am Ananta ; I am Varuna among aquatic beings. And I am Aryaman among the manes, and Yama among rulers. Among demons, too, I am Pralhada. I am the king of death (kala, time) among those that count.

"Among beasts I am the lord of beasts, and the son of Vinata among birds. I am the wind among those that blow. I am Rama among those that wield weapons. Among fishes I am Makara, and among streams the Janhavi. Of created things I am the beginning and the end and the middle also. O Arjuna, among sciences, I am the science of the Adhyatma, and I am the argument of controversialists. Among letters I am the letter A, and among the group of compounds the copulative compound. I myself am time inexhaustible and I the creator whose faces are in all directions. I

am death who seizes all, and the source of what is to be. And among females, fame, fortune, speech, memory, intellect, courage, forgiveness. Likewise among Saman hymns, I am the Brihat-saman, and I the Gayatri among metres. I am Margasirsha among the months, the spring among the seasons, of cheats, I am the game of dice ; I am the glory of the glorious ; I am victory. I am industry, I am the goodness of the good. I am Vasudeva among the descendants of Vrishni and Arjuna among the Pandvas. Among sages also, I am Vyasa ; and among the discerning ones, I am the discerning Usanas. I am the rod of those that restrain, and the policy of those that desire victory. I am silence respecting secrets. I am the knowledge of those that have knowledge. And O Arjuna ! I am also that' which is the seed of all things. There is nothing movable or immovable which can exist without me."

"Know that glory (to be) mine which, dwelling in the Sun, lights up the whole world, or in the moon or fire. Entering the earth, I by my power support all things; and becoming the juicy moon, I nourish all herbs. I becoming the fire, and dwelling in the bodies of (all) creatures, and united with the upward and downward life-breaths cause digestion of the four-fold food. And I am placed in the heart of all."

"From me (come) memory, knowledge, and their removal ; I alone am to be learnt from all the Vedas ; I am the author of the Vedantas ; and I alone know the Vedas. There are these two beings in the world, the destructible and the indestructible. The destructible (includes) all things. The unconcerned one is (what is) called the indestructible. But the being supreme is yet another, called the highest self, who as the inexhaustible lord, pervading the three worlds, supports (them). And since I transcend the destructible, and since I am higher also than the indestructible therefore am I celebrated in the world and in the Vedas as the best of things."

It is therefore clear that so far as the Gita is concerned there is no God greater than Krishna. He is, Alla ho Akbar. He is greater than all other Gods.

Let us now turn to the Mahabharata. What do we find ? We find a change in the position of Krishna. There is a rise and fall in his position. In the first place we find Krishna elevated above Shiva. Not only that, Shiva is made to admit and acknowledge the greatness of Krishna. Along with this we also find Krishna degraded to a rank below that of Shiva and is made to acknowledge the greatness of Shiva.

As a piece of evidence in support of the elevation of Krishna above Shiva the following passage from the *Amisasana-Parvan*[1] is very illuminating :

"Superior even to Pitamaha (Bramha) is Hari, the eternal Purusha, Krishna, brilliant as gold, like the sun risen in a cloudless sky, ten-armed, of mighty force, slayer of the foes of the gods, marked with the *srivatsa,* Hrishikesa, adored by all the gods. Bramha is sprung from his belly and I (Mahadeva) from his head, the luminaries from the hair of his head, the gods, and Asuras from the hairs of his body, and the rishis as well as everlasting worlds, have been produced from his body. He is the manifest abode of Pitamaha, and of all the deities. He is the creator of this entire earth, the lord of the three worlds, and the destroyer of creatures, of the stationary and the moveable. He is manifestly the most eminent of the gods, the lord of the deities, the vexer of his foes. He is omniscient, intimately united (with all things), omnipresent facing in every direction, the supreme spirit, Hrishikesa all-pervading, the mighty Lord. There is none superior to him in the three worlds. The slayer of Madhu is eternal, renowned as Govinda. He, the conferer of honour, born to fulfil the purposes of the gods, and assuming a human body, will slay all the kings in battle. For all the hosts of the gods, destitute of Trivikrama (the god who strode thrice), are unable to effect the purposes of the gods, devoid of a leader. He is the leader of all creatures, and worshipped by all creatures.

"Of this lord of the gods, devoted to the purposes of the gods, who is Brahma, and is the constant refuge of gods and rishis, Brahma dwells within the body, abiding in his face, and all the gods are easily sheltered in his body. This god is lotus-eyed, the producer of Sri, dwelling together with Sri ... For the welfare of the gods, Govinda shall arise in the family of the great Manu, possessed of eminent intelligence and (walking) in the excellent path of the Prajapati Manu, characterized by righteousness (Govinda's ancestors are then detailed). In this family, esteemed by Brahmans, of men renowned for valour, distinguished by good conduct and excellent qualities, priests, most pure, this sura, the most eminent of Kshatriya heroic, renowed, conferring honour, shall beget a son Anakadundubhi, the prolonger of his race, known as Vasudev to him shall be born a four-armed son, Vasudeva, liberal, a benefactor of Brahmans, one with Brahma, a lover of Brahmans."

"You the gods, should, as is fit, worship this deity, like the eternal Brahma, approaching him with reverential and excellent garlands of

[1] Muir IV pp. 273-74.

praise. For the divine and glorious Vasudev should be beheld by him who desires to see me and Brahma and Parent. In regard to this, I have no hesitation, that when he is seen I am seen, or the Parent (Brahma), the lord of the gods : know this ye whose wealth is austerity."

We shall now see how Krishna after having been elevated to the position being highest among the Gods is being degraded.

The Mahabharata is so full of incidents and occasions which demonstrate Krishna's inferiority to Shiva that it is difficult to recite the whole of them. One must be content with a few.

The first incident relates to the view taken by Arjuna to slay Jayadratha on the following day. After the vow, Arjuna became very dejected thinking that Jayadratha's friends would do their utmost to save him and that unless he had sure weapons he would not be able to fulfil his vow. Arjuna goes to Krishna for advice. Krishna suggests to Arjuna that he should supplicate to Mahadeva for the Pasupata weapon with which Mahadev himself had formerly destroyed all the Daityas and which, if he obtained it, he would be sure to kill Jayadrath.

The Drone-Parvan which relates the story proceeds to say :

"The righteous Vasudeva (Krishna) then, together with the son of Pritha (Arjuna), reciting the eternal Veda, bowed his head to the ground, beholding him the source of the worlds, the maker of the universe, the unborn, the imperishable lord, the supreme source of mind, the sky, the wind, the abode of the luminaries, the creator of the oceans, the supreme substance of the earth, the framer of gods, Danavas, Yakshas and men, the supreme Brahma of meditative systems, the satisfied, the treasure of those who know Brahma, the creator of the world and also its destroyer, the great impersonated destructive Wrath, the original of the attributes of Indra and Surya. Krishna then reverenced him with voice, mind, understanding and act. Those two (heroes) had recourse to Bhava (Mahadeva) as their refuge,—to him whom the wise, desiring the subtle spiritual abode, attain,—to him the unborn cause. Arjuna, too, again and again reverenced that deity, knowing him to be the beginning of all beings, the source of the past, the future, and the present. Beholding those two, Nara and Narayana, arrived Sarva (Mahadeva), then greatly gratified, said, as if smiling : 'Welcome, most eminent of men, rise up freed from fatigue, and tell me quickly, heroes, what your mind desires. Shall I accomplish for you the object for which you have come ? Choose what is most for your welfare. I will give you all."

Krishna and Arjuna then recite a hymn in honour of Mahadeva,

in the course of which he is designated as the soul of all things, the creator of all things, and the pervader of all things. Arjuna now, after reverencing both Krishna and Mahadeva, asks the latter for the celestial weapon. They are thereupon sent by Mahadeva to a lake where he says he had formerly deposited his bow and arrows. They there saw two serpents, one of which was vomiting flames, and approached them, bowing to Mahadeva and uttering Satarudriya. Through the power of Mahadeva, the serpents change their shape and become a bow and arrow, which Krishna and Arjuna bring to Mahadeva. Eventually Arjuna receives as a boon from Mahadeva the Pasupata weapon, with the power of fulfilling his engagement to slay Jayadratha after which they both return to their camp."

The Anusasana-Parvan of the Mahabharata contains a dialogue between Yudhishthira and Bhishma. Yudhishthira asks Bhishma to tell him the attributes of Mahadeva. This is what Bhishma says in reply :

"I am unable to declare the attributes of the wise Mahadeva, who is an all-pervading god, yet is nowhere seen, who is the creator and the lord of Brahma, Vishnu and Indra, whom the gods, from Brahma to the Pisachas, worship, who transcends material natures as well as spirit (Purusha), who is meditated upon by rishis versed in contemplation (yoga), and possesing an insight into truth, who is the supreme, imperishable Brahma, that which is both non-existent, and at once existent and non-existent. Having agitated matter and spirit by his power, this god of gods and lord of creatures (Prajapati) thence created Bramha. What human being like me, who has been subject to gestation in the womb, and to birth, and is liable to decay and death, can declare the attributes of Bhava, the supreme lord—(who can do this) except Narayana, the bearer of the shell, the discus, and the cub ? This Vishnu, wise, eminent, in qualities, very hard to overcome, with divine insight, of mighty power, beholds (him) with the eye of contemplation. Through his devotion to Rudra, the world is pervaded by the mighty Krishna. Having then propitiated that deity (Mahadeva) at Badari, he (Krishna) obtained from the golden-eyed Mahesvara the quality of being in all worlds more dear than wealth. This Madhava (Krishna) performed austerity for a full thousand years, propitiating Siva, the god who bestows boons, and the preceptor of the world. But in every mundane period (yuga) Mahesvara has been propitiated by Krishna and has been gratified by the eminent devotion of that great personage. This unshaken Hari (Krishna) when seeking, for offspring, has beheld distinctly of what character is the glory of that great parent of the world. Than him I behold none higher. This

large-armed (Krishna) is able to recount fully the names of the god of gods, to describe the qualities of the divine (being) and the real might of Mahesvara in all its extent".

This dialogue between Yudhishthira and Bhishma took place in the presence of Krishna. For immediately after his reply Bhishma calls upon Krishna to celebrate the greatness of Mahadeva. And this supreme God Krishna proceeds to do so without feeling any offence and says :

"The course of the deeds of Isa (Mahadeva) cannot be really known. He whose essence neither the gods headed by Hiranyagarbha, nor the great rishis with Indra, nor the Adityas, the perceivers of the minutest objects, understand,—how can he, the refuge of saints, be known by any mere man ? I shall declare to you exactly some of the attributes of that divine slayer of the Asuras. of the lord of religious ceremonies."

Here not only do we find that Krishna acknowledges his inferiority to Shiva but we also find Shiva conscious of the fact that Krishna has been beaten down and is no longer his superior, indeed is not even his equal. This is evident from Sauptika-parvan where Mahadeva says to Asvathaman[1] :

"I have been duly worshipped by Krishna, the energetic in action, with truth, purity, honesty, liberality, austerity, ceremonies, patience, wisdom, self-control, understanding and words : Wherefore no one is dearer to me than Krishna".

Krishna from being above Shiva, above every God, indeed a Parmeshwar is reduced to the position of being a mere follower of Shiva, begging for petty boons.

This does not complete the story of the degradation of Krishna. He is made to undergo further humiliation. Krishna not only accepted a position of inferiority *vis-a-vis* Shiva but he is sunk so low that he became a disciple of Upamanyu who was a great devotee of Shiva and took Diksha from him in Shaivism. Krishna himself says :

"On the 8th day I was initiated by that Brahamana (Upamanyu) according to the Shastras. Having shaved my entire head, anointing myself with ghee, and taking the staff and kusa grass in my arms I dressed myself in bark fastened with the *mekhala* (the waist string)."

Krishna then performs penance and has a sight of Mahadeo.

Can there be a more glaring instance of so great a rise and so much of a fall in the status of a God ? Krishna who was a Parmeshwar as compared to Shiva who was only an Ishwar does not even remain an Ishwar. He actually becomes a devotee of Shiva and seeks initiation in Shaiva Shastras from a common Brahmin like Upamanyu.

[1] Quoted in Muir p.

The case of Rama as a God is much more artificial than that of Krishna. Rama himself was unware of the fact that he was a God. After recovering Sita on the defeat and death of Ravana, Sita was suspected of unchastity, Rama felt very dejected on hearing the words of those who thus spoke about Sita. The Ramayana says :

> "Then King Kuvera, and Yama with the Pitris and Indra, Lord of the gods, and Varuna, lord of the waters, and the glorious three-eyed Mahadeva, whose ensign is a bull, and Bramha, the creator of the whole world, the most eminent of the knowers of the Veda : (and that King Dasaratha, moving in the air on a celestial car, arrived in that region, equal in lustre to the king of the gods); these all having come on cars brilliant as the Sun, and arrived in the city of Lanka, came near to Raghava (Rama). Then these most eminent gods, holding the large arms of Rama, adorned with armlets, addressed him as he stood with joined hands : How dost thou, the maker of the whole universe, the most eminent of the wise, the pervading, disregard Sita's throwing herself into the fire ? How dost thou not perceive thyself to be the chief of the host of the gods ? (Thou wast) formerly the Vasu Ritadhaman, and the Prajapati of the Vasus. Thou art the primal maker of the three worlds, the self dependent lord, the eighth Rudra of the Rudras, and the fifth of the Sadhyas. The Asvins are thine ears, the Moon and Sun thine eyes."

"Thou, vexer of thy foes, art seen in the end and at the beginning of created beings. And yet thou disregardest Sita like a common man".

On being thus addressed by these Gods, Rama became surprized and replied :

> "I regard myself as a man, Rama, son of Dasharath : do you, divine being tell me who and whence I am".

On this, Brahma replying to Rama said :

> "Hear my true word, O being of genuine power. Thou art the god, the glorious lord, Narayana, armed with the discus. Thou art the one-horned boar, the conqueror of thy foes, past and future, the true, imperishable Brahma, both in the middle and end. Thou art the supreme righteousness of the worlds, Vishvaksena, the four-armed ; the bearer of the bow, Saranga, Hrishikesa (lord of the senses). Purusha (the male), the highest of Purushas, the unconquered, sword-wielding, Vishnu, and Krishna of mighty force, the general, the leader the true. Thou art intelligence, thou art patience, and self-restraint. Thou art the source of being and cause of destruction, Upendra (the younger Indra), the Madhusudana. Thou art Mahendra (the elder Indra) fulfilling the function of Indra,

he from whose navel springs a lotus, the ender of battles. The great divine rishis call thee the refuge, the resort of suppliants. Thou art the hundred-horned, composed of the Veda, the thousand-headed the mighty. Thou art the primal maker of the three worlds, the self-dependent lord, and the refuge of the Siddhas and Sahyas, O thou primevally born. Thou art sacrifice, thou art the vashatkara, and the omkara, higher than the highest. Men know not who thou art, the source of being, or the destroyer. Thou art seen in all creatures, in Brahmans and in cows, in all the regions, in the mountains and rivers, thousand-footed, glorious, hundred-headed, thousand-eyed. Thou sustainest creatures, and the earth with its mountains ; thou art seen Rama, at the extremity of the earth, in the waters, a mighty serpent supporting the three worlds, gods, Gandharvas, and Danavas. I am thy heart, Rama, the goddess Sarasvati is thy tongue. The gods have been made by Brahma the hairs on thy limbs. The night is called the closing, and the day the opening, of thine eyes. The Vedas are thy thoughts. This (universe) exists not without thee. The whole world is thy body ; the earth is thy stability. Agni is thine anger, Soma is thy pleasure, O thou whose mark is the Srivatsa. By thee the three worlds were traversed of yore with thy three paces, and Mahendra was made king after thou hadst bound the terrible Bali. That which is known as the chiefest light, that which is known as the chiefest darkness, that which is the higher than the highest— thou art called the highest Soul. It is thou who art hymned as that which is called the highest, and is the highest. Men call thee the highest source of continuance, production and destruction."

Obviously, there is the same degree of artificiality in the cult of Rama. Like Krishna he was a man who was made God. Unlike Brahma, Vishnu and Mahesh, he was not one who was born God. It is probably to make his Godhood perfect that the theory was invented that he was the incarnation of Vishnu and that Sita his wife was the incarnation of Lakshmi the wife of Vishnu.

In another respect, Rama was fortunate. He did not have to suffer degradation to other Gods as did Brahma, Vishnu and Krishna. There was however an attempt to degrade him below Parasurama the hero of the Brahmins. The story is told in the Ramayana which says :

"When King Dasaratha was returning to his capital, after taking leave of Janaka, the King of Mithila, whose daughter Sita had just been married to Rama he was alarmed by the ill-omened sounds by certain birds, which however were counteracted, as the sage Vasishta assured the king by the auspicious sign of his being perambulated by the wild animals of the forest. The alarming event indicated was the

arrival of Parasurama, preceded by hurricane which shook the earth and prostrated the trees, and by thick darkness which veiled the Sun. He was fearful to behold, "brilliant as fire, and bore his axe and a bow on his shoulder. Being received with honour, which he accepted, he proceeded to say to Rama, the son of Dasaratha that he has heard of his prowess in breaking the bow produced by Janak and had brought another which he asked Rama to bend, and to fit an arrow on the string ; and if he succeeded in doing so, he (Parasurama) would offer to engage with him in single combat."

"Rama replied that though his warlike qualities are condemned by his rival, he will give him a proof of his powers. He then snatches, in anger, the bow from the hand of Parasurama, bends it, fits an arrow on the string ; and tells his challenger that he will not shoot at him because he is a Brahman, and for the sake of his kinsman Visvamitra ; but will either destroy his superhuman capacity of movement, or deprive him of the blessed abodes he has acquired by austerity. The gods now arrive to be witnesses of the scene. Parasurama becomes disheartened and powerless and humbly entreats that he may not be deprived of his faculty of movement lest he should be incapacitated from fulfilling his promise to Kasyappa to leave the earth every night but consents that his blissful abodes may be destroyed."

With this exception Rama had no rivalry with any of the other Gods. He managed to be where he was. With regards to other Gods there is a different story to tell. Poor creatures they became nothing more than mere toys in the hands of the Brahmins. Why did the Brahmins treat the Gods with so scant a respect ?

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RIDDLE NO. 12

WHY DID THE BRAHMINS DETHRONE THE GODS AND ENTHRONE THE GODDESSES ?

The worship of Gods is a thing common to all. But the worship of Goddesses is quite uncommon. The reason is that Gods are generally unmarried and have no wives who can be elevated to the position of Goddesses. How repugnant is the idea of a God being married is well illustrated by the difficulties which early Christians had in persuading the Jews to accept Jesus as the son of God. The Jews retorted saying God is not married and how can Jesus be the son of God.

With the Hindus the position is quite otherwise. They not only worship Gods they also worship Goddesses. This is so from the very beginning.

In the Rig-Veda several Goddesses are mentioned such as *Prithvi, Aditi, Diti, Nishtigri, Indrani, Prisni, Usha, Surya, Agnayi, Varunani, Rodasi, Raka, Sinivali, Sradha, Aramati, Apsaras and Sarasvati.*

Prithvi is a very ancient Aryan Goddess. She is represented either as wife of *Dyaus* heaven or of *Parjanya.* Prithvi is an important Goddess because she is said to be the mother of many Gods.

Aditi is chronologically one of the older Vedic Goddesses. She is described as the mighty mother of the Gods. The Gods, *Mitra, Aryaman* and *Varuna* are her sons. To whom Aditi was married does not appear from the Rig-Veda. We do not know much about *Diti* except that she is mentioned as a goddess along with and in contrast to *Aditi* and that the *Daityas* who were regarded in later Indian mythology as the enemies of the Devas were her sons.

The original title of the Chapter was 'Vedic and non-Vedic Goddesses'. From the subject dealt with in this chapter and from the concluding para, we have placed this at Riddle No. 12 in accordance with the subject mentioned in the Table of Contents. This is a 21-page typed copy having some modifications and also concluding para in the handwriting of the author.—Ed.

The goddess *Nishtigri* is the mother of Indra and the goddess *Indrani* is the wife of Indra. Prisni is the mother of Maruts. *Usha* is described as the daughter of the sky, the sister of *Bhaga* and the kinswoman of *Varuna* and the wife of Surya. The goddess *Surya* is the daughter of *Surya* and the wife of the Gods *Asvins* or *Soma*.

The goddesses *Agnayi, Varunani* and *Rodasi* are the wives of *Agni, Varuna* and *Rudra* respectively. Of the rest of the goddesses are mere personifications of rivers or are mentioned without any details.

From this survey two things are clear. One is that a Hindu God can enter a married state and neither the God nor his worshipper need feel any embarrassment on account of the God acting as though he was no better than a common man. The second is that the God's wife automatically becomes a goddess worthy of worship by the followers of the God.

Leaving the Vedic times and coming to the Pauranic times we come across the names of various Goddesses such as *Devi, Uma, Sati, Ambika, Parvati, Haimavati, Gauri, Kali, Nirriti, Chandi* and *Katyayini, Durga, Dassbhuja. Singhavahini, Mahishasuramardini, Jagaddhatri, Muktakesi, Tara, Chinnamustaka, Jagadgauri, Pratyangira, Annapurna, Ganeshjanani, Krishnakrora* and *Lakshmi*. It is very difficult to construct a who is who of these Goddesses. In the first place it is difficult to say whether each name stands for a distinct and separate Goddess or they are the names of one Goddess. It is equally difficult to be sure of their parentage. Nor can any one say with certainty as to who their husbands are.

According to one account *Uma, Devi, Sati, Parvati, Gauri* and *Ambika* are different names of the same Goddess. On the other hand *Devi* is said by some to be the daughter of Daksha, *Ambika* to be the sister of Rudra. Regarding *Parvati* the Varaha Purana in describing her origin says[1]:

> "Brahma when on a visit to Siva on Mount Kailasa is thus addressed by him : "Say, quickly, O, Brahma, what has induced you to come to me ?' Brahma replies, 'There is a mighty Asura named Andhaka (Darkness), by whom all the gods, having been distressed, came for protection, and I have hastened to inform you of their complaints'. Brahma then looked intently at Siva, who by thought summoned Vishnu into their presence. As the three deities looked at each other, 'from their three refulgent glances sprang into being a virgin of celestial loveliness, of hue cerulean, like the petals of a blue lotus, and adorned with gems, who hashfully bowed before Brahma, Vishnu and Siva. On their asking her who she was, and why she was

[1] Quoted in Wilkins "Hindu Mythology" pp. 290-91.

distinguished by the three colours black, white and red, she said, 'From your glances was I produced : do you not know your own omnipotent energies ?' Brahma then praising her said, 'Thou shalt be named the goddess of three times (past, present and future), the preserver of the universe, and under various appellations shalt thou be worshipped, as thou shalt be the cause of accomplishing the desires of thy votaries. But, O goddess, divide thyself into three forms, according to the colours by which thou art distinguished. She then, as Brahma had requested, divided herself into three parts ; one white, one red, and one black. The white was 'Saraswati of a lovely, felicitious form, and the co-operator with Brahma in creation ; the red was Lakshmi, the beloved of Vishnu, who with him preserves the universe ; the black was Parvati endowed with many qualities and energy of Siva."

Here is an attempt to suggest that *Saraswati, Lakshmi* and *Parvati* are different forms of one and the same divinity. When one remembers that *Sarasvati* is the wife of Brahma, Lakshmi is the wife of Vishnu and Parvati is the wife of Shiva, and also that Brahma, Vishnu and Shiva were at war, this explanation given by the Varah Puran seems very odd.

Who is Gauri ? The Purana says that Gauri is another name for Parvati. The reason how Parvati was called Gauri[1] is that when Shiva and Parvati lived on mount Kailasa, occasionally there were quarrels between them, and on one occasion Shiva reproached her for the blackness of her skin. This taunt so grieved her that she left him for a time, and, repairing to a deep forest, performed a most severe course of austerities, until Brahma granted her as a boon that her complexion should be golden and for this circumstance she is known as Gauri.

Taking the other Goddesses it is not quite certain whether they are different names for one and the same Goddess or whether they are different Goddesses. In the Mahabharata there is a hymn sung by Arjuna to Durga in which he says[2] :

"Reverence be to thee, Siddha-Senani (generalaless of the Siddhas), the noble, the dweller on Mandara, Kumari (Princess), Kali, Kapali, Kapila, Krishna-pingala. Reverence to thee, Bhadrakali ; reverence to thee, Maha Kali, Chandi, Chanda, Tarini (deliveress), Varavarini (beautiful-coloured). O fortunate, Kalyani, O Karali, O Vijaya, O Jaya (victory), younger sister of the chief of cowherds (Krishna), delighting always in Mahisha's blood'. O Uma, Sakambhari, thou white one, thou black one, O destroyer of

[1] Wilkins pp. 289-90.

[2] Quoted in Wilkins pp. 306-07.

Kaithabha ! Of science, thou art the science of Brahma (or of the Vedas), the great sleep of embodied beings. O mother of Skanda (Kartikeya), divine Durga, dweller in wildernesses'. Thou, great goddess, art praised with a pure heart. By thy favour let me ever be victorious in battle."

From this hymn it does appear that some of the Goddesses listed above are simply different names of Durga. Similarly, Dasabhuja, Singhavahini, Mahishamardini, Jagaddhatri, Chinnamustaka, Jagadgauri, Pratyangiri, Annapurna are the same as Durga or different forms of *Durga*.

There are thus two principal Goddesses. One is *Parvati* and the other is *Durga*. The rest are mere names. Parvati is the daughter of Daksha Prajapati and the wife of Shiva and Durga is the sister of Krishna and the wife of Shiva. The relationship of *Durga* and *Kali* is not quite clear. According to the hymn sung by Arjuna, Durga and Kali would appear to be one and the same. But the Linga Purana seems to suggest a different view. According to it[1], Kali is distinct from Durga.

A comparison between the Vedic Goddesses and the Puranic Goddesses cannot be avoided by a student whose business it is not merely to write history but to interpret history. On one point there is a striking contrast, between the two. The worship of the Vedic Goddesses was worship by *courtesy*. They were worshipped only because they were the wives of Gods. The worship of the Puranic Goddesses stand on a different footing. They claim worship in their own right and not because they are wives of Gods. This difference arises because the Vedic Goddesses never went to the battlefield and never performed any heroic deed. The Puranic Goddesses on the other hand went to the battlefield and performed great heroic deeds. Their worship was not by courtesy. It was based upon their heroic and thundering deeds.

There was a great battle, it is said, between Durga and the two *asuras* which brought renown to Durga. The story is told in the Markandeya Purana in full details. It says[2]:

At the close of the Treta Age, two giants, named Sumbha and Nishumbha performed religious austerities for 10,000 years, the merit of which brought Shiva from heaven, who discovered that by this extraordinary devotion, they sought to obtain the blessing of immortality. He reasoned long with them, and vainly endeavoured to persuade them to ask for any other gift. Being denied what they specially wanted, they entered upon still more severe

[1] Wilkins *Ibid.,* pp. 313.

[2] Wilkins *Ibid.,* pp. 302-306.

austerities for another thousand years, when Shiva again appeared, but still refused to grant what they asked. They now suspended themselves with their heads downwards over a slow fire, till the blood streamed from their necks ; they continued thus for 800 years. The Gods began to tremble, lest, by performing such rigid act of holiness, these demons should supplant them on their thrones. The king of the Gods thereupon called a council, and imparted to them his fears. They admitted that there was ground for anxiety, but asked what was the remedy.

Acting upon the advice of Indra, Kandarpa (the God of love), with Rambha and Tilotama, the most beautiful of the celestial nymphs, were sent to fill the minds of the giants with sensual desires. Kandarpa with his arrow wounded both ; upon which, awaking from their absorption, and seeing two beautiful women, they were taken in the snare, and abandoned their devotions. With these women they lived for 5000 years; after which they saw the folly of renouncing their hopes of immortality for the sake of sensual gratifications. They suspected this snare must have been a contrivance of Indra ; so, driving back the nymphs to heaven, they renewed their devotions, cutting the flesh off their bones, and making burnt offerings of it to Shiva. They continued in this way for 1000 years till at last they became mere skeletons ; Shiva again appeared and bestowed upon them his blessing—that in riches and strength they should excel the Gods.

Being exalted above the Gods, they began to make war upon them. After various successes on both sides, the giants became everywhere victorious ; when Indra and the Gods, reduced to a most deplorable state of wretchedness, solicited the interference of Brahma and Vishnu. They referred them to Shiva, who declared that he could do nothing for them. When, however, they reminded him that it was through his blessing they had been ruined, he advised them to perform religious austerities to Durga. They did so : and after some time the goddess appeared, and gave them her blessing ; then disguising herself as a common female carrying a pitcher of water, she passed through the assembly of the gods. She, then assumed her proper form, and said, 'They are celebrating my praise'.

'This new goddess now ascended Mount Himalaya where Chanda and Manda, two of Sumbha and Nisumbha's messengers resided. As these demons wandered over the mountain, they saw the goddess ; and being exceedingly struck with her charms, which they described to their masters, advised them to engage her affections, even if they

gave her all the glorious things which they had obtained in plundering the heavens of the gods.

Sumbha sent Sugriva as messenger to the goddess, to inform her that the riches of the three worlds were in his palace ; that all the offerings which used to be presented to the gods were now offered to him ; and that all these offerings, riches, etc., would be hers, if she would come to him. The goddess replied that the offer was very liberal, but that she had resolved that the person she married must first conquer her in war, and destroy her pride. Sugriva, unwilling, _ to return unsuccessful, pressed for a favourable answer, promising that he would conquer her in war, and subdue her pride ; and asked in an authoritative strain ; 'Did she know his master, before whom none of the inhabitants of the worlds had been able to stand, whether gods, demons, or men ? How then could she, a female think of resisting his offers ? If his master had ordered him, he would have compelled her to go into his presence immediately. She agreed that this was very correct, but that she had taken her resolution, and exhorted him, therefore to persuade his master to come and try his strength with her.

The messenger went and related what he had heard. On hearing his account, Sumbha was filled with rage, and, without making any reply, called for Dhumlochana his commander-in-chief and gave him orders to go to Himalaya and seize the goddess and bring her to him, and, if any attempted a rescue, utterly to destroy them.

The commander went to Himalaya, and acquainted the goddess with his master's orders. She, smiling, invited him to execute them. On the approach of this hero, she set up a dreadful roar, by which he was reduced to ashes. After which she destroyed the army of the giant, leaving only a few fugitives to communicate the tidings. Sumbha and Nisumbha, infuriated, sent Chanda and Manda, who on ascending the mountain, perceived a female sitting on an ass, laughing. On seeing them she became enraged, and drew to her ten, twenty or thirty of their army at a time, devouring them like fruit. She next seized Manda by the hair, cut off his head and holding it over her mouth, drank the blood. Chanda, on seeing the other commander slain in this manner, himself came to close quarters with the goddess. But she, mounted on a lion, sprang on him, and, despatching him as she had done Manda, devoured part of his army, and drank the blood of the slain.

The giants no sooner heard this alarming news than they resolved to go themselves, and collecting their forces, an infinite number of giants, marched to Himalaya. The gods looked down with

astonishment on this vast army, and the goddesses descended to help Mahamaya (Durga), who, however, soon destroyed her foes, Raktavija, the principal commander under Sumbha and Nishumbha, seeing all his men destroyed encountered the goddess in person. But though she covered him with wounds, from every drop of blood which fell to the ground a thousand giants, arose equal in strength to Raktavija himself. Hence innumerable enemies surrounded Durga, and the gods were filled with alarm at the amazing sight. At length Chandi, a goddess, who had assisted Kali (Durga) in the engagement, promised that if she would drink the giant's blood before it fell to the ground, she (Chandi) would engage him and destroy the whole of his strangely formed offspring. Kali consented, and the commander and his army were soon despatched.

Sumbha and Nishumbha, in a state of desperation, next engaged the goddess in single combat, Sumbha making the first onset. The battle was inconceivably dreadful on both sides, till at last both the giants were slain, and Kali sat down to feed on the carnage she had made. The gods and the goddesses chanted the praises of the celestial heroine, who in return bestowed a blessing on each."

The Markandeya Purana also gives a short account of the valorous deeds of Durga done in the various forms it took. It says :

> "As Durga she received the message of the giants ; As Dasabhuja (the ten-armed) she slew part of their army ; As Singhavahini (seated on a lion) she fought with Raktavija ; As Mahishamardini (destroyer of a buffalo) she slew Sumbha in the form of a buffalo ; As Jagaddhatri (the mother of the world) she overcame the army of the giants ; As Kali (the black woman) she slew Raktavija ; As Muktakesi (with flowing hair) she overcame another of the armies of the giants ; As Tara (the saviour) she slew Sumbha in his own proper shape ; As Chinnamastaka (the headless) she killed Nisumbha ; As Jagadgauri (the golden-coloured lady renowned through the world) she received the praises and thanks of the gods."

A comparison between the Vedic and Puranic Goddesses raises some interesting questions. One of them is quite obvious. Vedic literature is full of references to wars against the Asuras. The literature known as Brahmanas replete with them. But all these wars against the Asuras are fought by the Vedic Gods. The Vedic Goddesses never took part in them. With the Puranic Goddesses the situation has undergone a complete change. In the Puranic times there are wars with the Asuras as there were in the Vedic times. The difference is that while in the Vedic times the wars with the Asuras are left to be fought by the Gods in the Puranic times they are left to be fought by the Goddess. Why is

that Puranic Goddesses had to do what the Gods in Vedic times did ? It cannot be that there were no Gods in Puranic times. There were Brahma, Vishnu and Shiva gods who ruled in the Puranic times. When they were there to fight the Asuras why were the Goddesses enrolled for this purpose. This is a riddle which requires explanation.

The second question is what is the source of this power which the Puranic Goddesses possessed and which the Vedic Goddesses never had ? The answer given by the Puranic writers is that this power was the power of the Gods which dwelt in the Goddesses. The general theory was that every God had energy or power which was technically called *Sakti* and that the *Sakti* of every God resided in his wife the Goddess. This had become such an accepted doctrine that every goddess is called a *Sakti* and those who worship the Goddess only are called *Saktas*.

With regard to this doctrine there are one or two questions that call for a reply.

First is this. We may now take it that notwithstanding the many names of the Goddesses as we find in the Puranas we have really five Puranic Goddesses before us—namely, *Sarasvati, Lakshmi, Parvati, Durga* and *Kali*. Sarasvati and Lakshmi are the wives of Brahma and Vishnu who along with Shiva are recognized as the Puranic Gods. Parvati, Durga and Kali are the wives of Shiva. Now *Sarasvati* and *Lakshmi* have killed no Asura and have in fact done no deed of valour. Question is why ? Brahma and Vishnu had *Sakti* which in conformity with the theory must have dwelt in their wives. Why then did *Sarasvati* and *Lakshmi* not take part in the battle with the Asuras ? This part is only reserved for the wives of Shiva. Even here Parvati's role is quite different from that of Durga. Parvati is represented as a simple woman. She has no heroic deeds to her credit like the ones claimed for Durga. Like Durga, Parvati is also the Sakti of Shiva. Why was Shiva's Sakti dwelling in Parvati so dull, so dormant, and so inactive as to be non-existent ?

The second point is that though this doctrine may be a good justification for starting the worship of Goddesses independently of Gods, it is difficult to accept either the logical or historical basis of the doctrine. Looking at it purely from the point of view of logic if every God has *Sakti* then even the Vedic Gods must have had it. Why then was this doctrine not applied to the wives of the Vedic Gods ? Looking at it from the point of view of history, there is no justification for saying that the Puranic Gods had *Sakti* in them.

Further the Brahmins do not seem to have realized that by making Durga the heroine who alone was capable of destroying the Asuras,

they were making their own Gods a set of miserable cowards. It seems that the Gods could not defend themselves against the Asuras and had to beg of their wives to come to their rescue. One illustration from the Markandeya Purana is enough to prove how imbecile the Puranic Gods were shown by the Brahmins against the Asuras. Says the Markandeya Purana :

> "Mahisha, king of the giants, at one time overcame the gods in war, and reduced them to such a state of want that they wandered through the earth as beggars. Indra first conducted them to Brahma, and then to Siva ; but as these gods could render no assistance, they turned to Vishnu, who was so grieved at the sight of their wretchedness, that streams of glory issued from his face, whence came a female figure named Mahamaya (another name of Durga). Streams of glory issued from the faces of the other gods also, which in like manner entered Mahamaya ; in consequence of which she became a body of glory, like a mountain of fire. The gods then handed their weapons to this dreadful being, who with a frightful scream ascended into the air, slew the giant, and gave redress to the gods."

How can such cowardly Gods have any prowess ? If they had none, how can they give it to their wives. To say that Goddesses must be worshipped because they have *Sakti* is not merely a riddle but an absurdity. It requires explanation why this doctrine of Sakti was invented. Was it to put it a new commodity on the market that the Brahmins started the worship of the Goddesses and degraded the Gods ?

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RIDDLE NO. 13

THE RIDDLE OF THE AHIMSA

Any one who compares the habits and social practices of the latter-day Hindus with those of the Ancient Aryans he will find a tremendous change almost amounting to a social revolution.

The Aryans were a race of gamblers. Gambling was developed to science in very early days of the Aryan Civilization so much so that they had even devised certain technical terms. The Hindus used the words Krita, Treta, Dwapara and Kali as the names of the four Yugas or periods into which historical times are divided. As a matter of fact originally these are the names of the dices used by the Aryans at gambling . The luckiest dice was called Krita and the unluckiest was called Kali. Treta and Dwapara were intermediate between them. Not only was gambling well developed among the ancient Aryans but the stakes were very high. Gambling with high money stakes have been known elsewhere. But they are nothing as compared with those which are known to have been offered by the Aryans. Kingdoms and even their wives were offered by them as stakes at gambling. King Nala staked his kingdom and lost it. The Pandavas went much beyond. They not only staked their kingdom they also staked their wife Draupadi and lost both. Among the Aryans gambling was not the game of the rich. It was a vice of the many. So widespread was gambling among the Ancient Aryans that the burden of all the writers of the Dharma Sutras (Shastras ?) was to impress upon the King the urgency of controlling it by State Authorities under stringent laws.

The original Table of Contents shows Riddle No. 13 as 'How the Brahmins who were once cow-killers became the worshippers of the Cow ?' This chapter is not found in the papers. However, few pages entitled 'Riddle of Ahimsa' have been found. The Riddle has been placed here as it seems to deal with the same topic. This chapter consisting of 10 typed pages is obviously incomplete as the remaining text is missing.—Ed.

The relation of the sexes among the Aryans were of a loose sort. There was a time when they did not know marriage as a permanent tie between a man and a woman. This is evident from the Mahabharata where Kunti the wife of Pandu refers to this in her reply to Pandu's exhortation to go to produce children from some one else. There was a time when the Aryans did not observe the rule of prohibited degrees in their sex relations. There are cases among them of brother cohabiting with sister, son with mother, father with daughter and grand-father with grand-daughter. There was a communism in women. It was a simple communism where many men shared a woman and no one had a private property in or exclusive right over a woman. In such a communism the woman was called Ganika, belonging to many. There was also a regulated form of communism in women among the Aryans. In this the woman was shared among a group of men but the day of each was fixed and the woman was called *Warangana* one whose days are fixed. Prostitution flourished and has taken the worst form. Nowhere else have prostitutes consented to submit to sexual intercourse in public. But the practice existed among the Ancient Aryans. Bestiality also prevailed among the Ancient Aryans and among those who were guilty of it are to be reckoned some of the most reverend Rishis.

The Ancient Aryans were also a race of drunkards. Wine formed a most essential part of their religion. The Vedic Gods drank wine. The divine wine was called Soma. Since the Gods of the Aryans drank wine the Aryans had no scruples in the matter of drinking. Indeed to drink it was a part of an Aryan's religious duty. There were so many Soma sacrifices among the Ancient Aryans that there were hardly any days when Soma was not drunk. Soma was restricted to only the three upper classes, namely the Brahmins, the Kshatriyas and the Vaishas. That does not mean the Shudras were abstainers. Who were denied Soma drank Sura which was ordinary, unconsecrated wine sold in the market. Not only the male Aryans were addicted to drinking but the females also indulged in drinking. The Kaushitaki Grihya Sutra I. 11-12 advises that four or eight women who are not widowed after having been regaled with wine and food should be called to dance for four times on the night previous to the wedding ceremony. This habit of drinking intoxicating liquor was not confined to the Non-Brahmin women. Even Brahmin women were addicted to it. That drinking was not regarded as a sin ; it was not even a vice, it was quite a respectable practice. The Rig-Veda says :

> "Worshipping the sun before drinking madira (wine)".

The Yajur-Veda says :

> "Oh, Deva Soma ! being strengthened and invigorated by Sura (wine), by thy pure spirit, please the Devas ; give juicy food to the sacrificer and vigour to Brahmanas and Kshatriyas."

The Mantra Brahmana says :

> "By which women have been made enjoyable by men, and by which water has been transformed into wine (for the enjoyment of men)," etc.

That Rama and Sita both drank wine is admitted by the Ramayana. Uttar Khand says :

> "Like Indra in the case (of his wife) Shachi, Ramachandra saw that Sita drank purified honey called wine. Servants brought for Ramahandra meat and sweet fruit.

So did Krishna and Arjuna. The Udyoga Parva of the Mahabharata says :

> "Arjuna and Shrikrishna drinking wine made from honey and being sweet-scented and garlanded, wearing splendid clothes and ornaments, sat on a golden throne studded with various jewels. I saw Shrikrishna's feet on Arjuna's lap, and Arjuna's feet on Draupadi and Satyabhama's lap."

The greatest change that has taken place is in the diet. The present day Hindus are very particular about their diet. There are twofold limitations on commensality. A Hindu will not eat food cooked by a Non-Hindu. A Hindu will not eat food cooked even by a Hindu unless he is a Brahmin or a man of his caste. The Hindu is not only particular on the question of whose food he should eat, he is also particular to what he should eat. From the point of view of diet Hindus may be divided into two main classes.

(1) Those who are vegetarians.

(2) Those who are non-vegetarians.

The non-vegetarians again fall into several sub-divisions :

Those who will eat all kinds of flesh and fish.

Those who will eat only fish.

Those who will eat flesh are sub-divided into following categories :

(*i*) Those who will eat the flesh of any animal except the cow.

(*ii*) Those who will eat the flesh of any animal including that of the cow.

(*iii*) Those who will eat flesh but not of a cow (whether dead or slaughtered) nor of chicken.

Classifying the Hindu Population from the point of view of its diet the Brahmins are divided into two classes (1) Pancha Gauda and (2) Panch Dravida.

Of these Panch Dravida are completely vegetarian. The Panch Gauda's with the exception of one section namely Gauda Saraswatas are also completely vegetarian. The Untouchables who are at the other *end* of the Hindu Society are non-vegetarian. They eat meat, not merely of goats and fowls but also of the cow irrespective whether it is dead or slaughtered. The Non-Brahmins who are midway between the Brahmins and the Untouchables have different ways. Some like the Brahmins are Vegetarians. The rest unlike the Brahmins are non-vegetarians. All of them are alike in one thing namely that all of them are opposed to eating the cow's flesh.

There is one other aspect of the question which needs to be mentioned. It is the question of killing an animal for purposes of food. On this the Hindu mind is more or less united. No Hindu will kill an animal not even for food. Except for a small caste known as Khatiks there are no butchers among the Hindus. Even the Untouchables will not kill. He eats the flesh of a dead cow. But he will not kill a cow. In India today the butcher is a Musalman and any Hindu who wants to kill an animal for his food has to seek the services of a Musalman. Every Hindu believes in Ahimsa.

Since when did vegetarianism come into India ? When did Ahimsa become an established belief ? There are Hindus who do not understand the propriety of this question. They hold that vegetarianism and Ahimsa are not new things in India.

The evidence in support of the contention that the ancient Aryans the ancestors of present-day Hindus were not only meat-eaters but. beef-eaters is really overwhelming. As evidences in support of this view it is enough to draw attention to the following facts :

They are quite indisputable.

Take the case of Madhuparka.

Among the ancient Aryans there was well established procedure of reception to be given to a guest which is known as Madhuparka the detailed descriptions regarding which will be found in the various Grihya Sutras. According to most of the Grihya Sutras there are six persons who deserve Madhuparka. Namely (1) Ritvij or the Brahmin called to perform a sacrifice, (2) Acharya, the teacher, (3) the Bridegroom, (4) The King, (5) The Snatak, the student who has just finished his studies at the Gurukul and (6) Any person who is dear to the host. Some add Atithi to this list. Except in the case of the Ritvij, King and Acharya, Madhuparka is to be offered to the rest once in a year. To the Ritvij, King and Acharya it is to be offered each time they come. The procedure consisted first in washing by the host the feet of his guest, then the offer of the Madhuparka and the drinking of it by the quest accompanied by certain Mantras.

What were the components of the Madhuparka ? Madhuparka literally means a ceremony in which honey is shed or poured on the hand of a person. This is what Madhuparka was in its beginning. But in course its ingredients grew and included much more than honey. At one time it included three ingredients—curds honey and butter. There was a time when it was made of five things curds, honey, ghee, yava and barley. Then it came to be a mixture of nine items. The Kausika Sutra speaks of nine kinds of mixtures, viz. *Brahma* (honey and curds), *Aindra* (of *payasa), Saumya* (curds and ghee), *Mausala* (saine and ghee, this being used only in *Sautramani* and *Rajasuya* sacrifices), *Varuna* (water and ghee). *Sravana* (sesame oil and ghee). *Parivrajaka* (sesame oil and oil cake). Then we come to the time of the Manava Grahya Sutra which says that the Veda declares that the Madhuparka must not be without flesh and so it recommends that if the cow is let loose, goat's meat *or payasa* (rice cooked in milk) may be offered ; The *Hir* gr. i. 13.14 says that other meat should be offered ; *Baud.* gr. says (1.2.51-54) that when the cow is let off. the flesh of a goat or ram may be offered or some forest flesh (of a deer & c.,) may be offered, as there can be no Madhuparka without flesh or if one is unable to offer flesh one may cook ground grains. But in the final stage flesh became the most essential part of Madhuparka. In fact some of the Grihya Sutras go to the length of saying that there can be no Madhuparka without flesh. This they base upon an express injunction contained in the Rig-Veda (VIII. 101.5) which says "Let the Madhuparka not be without flesh".

Flesh eating was thus quite common. From the Brahmins to the Shudras everybody ate meat. In the Dharmasutras numerous rules are given about the flesh of beasts and birds and about fishes. Gaut. 17.27-31. Ap. Dh. S. 1.5.17.35 Vas. Dh. S. 14.39-40. Yaj. I. 177. Vishnu Dh. S. 51.6. Sankha (quoted by Apararka p. 1167). Ramayana (Kiskindha 17.39). Markendey Purana (35.2-4) prescribe that one should avoid the flesh of all five-nailed animals except of porcupine, hare, svavidh (a boar of hedgehog), iguana, rhinoceros and tortoise (some of these works omit the rhinoceros). Gautama adds that one should also avoid the flesh of all animals with two rows of teeth in the two jaws, of hairy animals, of hairless animals (like snakes), of village cocks and hogs and of cows and bulls. Ap. Dh. S. 1.5.17. 29-31 first forbids the flesh of animals with one hoof only, of camels, of gavaya (Gayal), of the village hog, of the sarabha and of cows, but adds the exception that the flesh, of milch cows and of bulls may be eaten as the Vajasaneyaka declares the flesh of these to be pure. Ap. Dh. S. (II.2.5.15) forbids the use of flesh to a teacher of the Veda in the

(INCOMPLETE. FURTHER TEXT MISSING)

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RIDDLE NO. 14

FROM AHIMSA BACK TO HIMSA

"From Himsa to Ahimsa" is only a part of the story of Ahimsa. There is another part of the story which can only be described, under the heading "From Ahimsa back to Himsa". The second part of the story will be clear if only one were to note the religious practices of the Tantras and Tantraism to which a reference has already been made.

The essentials of Tantrik worship are the five Makars. These five Makars consists of:

1. The drinking of wine and liquors of various kinds ... (Madya);
2. The eating of meat ..... (Mansa);
3. The eating of fish ..... (Matsya);
4. The eating of parched or fried grain ..... (Mudra);
5. The sexual union ..... (Maithuna).

It is unnecessary to say at this stage anything about Maithuna or Sexual intercourse having been made an element of religious worship.

It is sufficient to take note of Madya and Mansa.

With regard to the first four of these acts the Tantras prescribe twelve sorts of liquors, three sorts of wine, and three sorts of meat. Pulastya, one of the ancient sages who is the supposed author of certain law-books, also enumerates twelve kinds of liquors, as follows:

"1. Liquor extracted from the bread fruit (panasa), called Jack-liquor;

2. From grapes (draksha);

3. From date-palm (kharjuri);

4. From common palm (tali), or toddy:

5. From coconut (narikela);

6. From sugarcane (ikshu);

7. From Madhavika plant;

The chapter seems to be a continuation of the previous chapter on 'Ahimsa'. There are six typed pages with few corrections and having the title written by the author himself- Ed.

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8. Long-pepper liquor (saira);

9. Soap-berry liquor (arishta);

10. Honey-liquor (madhuka);

11. A kind of rum or liquor prepared from molasses, etc. (called Gaudi, or sometimes Maireya);

12. Arrack, or liquor prepared from rice and other grain (sura or Varuni, or paishti).

Besides the above twelve kinds of spirituous drink others are frequently mentioned, for example, *Tanka,* made from wood-apple, Koli, made from the jujbe; and *Kadambari;* the last being the favourite beverage of Bala-Rama.

The meat may be that of birds, beasts, or fish. The parched grain is eaten, like dry biscuit, as a relish with the wine and spirituous liquors. The drinking of each kind of drink is supposed to be attended with its own peculiar merit and advantage. Thus one liquor gives salvation, another learning, another power, another wealth, another destroys enemies, another cures diseases, another removes sin, another purifies the soul."

The Tantrik worship had gone deep into Bengal. Referring to his own experience Rajendra Lal Mitra says[1]:

> "I knew a highly respectable widow lady, connected with one of the most distinguished families in Calcutta, who belonged to the Kaula sect, and had survived the 75th birthday, who never said her prayers (and she did so regularly every morning and evening) without touching the point of her tongue with a tooth-pick dipped in a phial of arrack, and sprinkling a few drops of the liquor on the flowers which she offered to her god. I doubt very much if she had ever drunk a wine-glassful of arrack at once in all her life, and certain it is that she never had any idea of the pleasures of drinking; but, as a faithful Kaula, she felt herself in duty-bound to observe the mandates of her religion with the greatest scrupulousness. That thousands of others do so, I have every reason to believe. In some parts of Bengal, where arrack is not easily accessible, such female votaries prepare a substitute by dropping the milk of a coconut in a bell-metal pot, or milk in a copper vessel, and drink a few drops of the same. Men are, however, not so abstemious, and the Tantras ordain a daily allowance of five cupsful, the cup being so made as to contain five tolas, or two ounces, i.e. they are permitted to take ten ounces or about a pint of arrack daily".

This Tantrik worship was not confined to the small corner of Bengal. As is pointed out by Mahamahopadhyaya Jadaveshwara Tarkaratna[2]:

[1] Rajendralal Mitra — Indo-Aryans Vol. pp. 405-6.

[2] Quoted by Avalon in his principles of Tantra Part-I. Introduction p. XXXVIII.

"Just as the Bengalis of the higher castes are divided into Shaktas, Vaishnavas, and Shaivas, so it is with the peoples of Kamarupa, Mithila, Utkala, and Kalinga, and the Kashmirian pandits. The Shakti Mantra, Shiva Mantra, and Vishnu Mantra, are each Tantrik. Amongst Dakshinatyas, Mahamahopadhyaya Subramanya Shastri, and many others, are Shaktas. The late Mahamahopadhyaya Rama Mishra Shastri, Bhagavatacharya, and many others, were and are Vaishnavas. Mahamahopadhyaya Shivakumara Shastri, and a number of others, are Shaivas. In Vrindavana there are many Shaktas as well as Vaishnava Brahmanas, though amongst the higher castes in Maharashtra and other Southern Indian countries, Shaivas and Vaishnavas are more numerous than Shaktas. Followers of the Pashupata and Jangama cults are Shaivas whereas those of Madhavacharya and Ramanujacharya are Vaishnavas. Many in the North-West are initiated in the Rama-Mantra, which is to be found only in the Tantra. It is still more remarkable that, according to this author, the pandas of Shri Purushottama are all Shaktas, and the priests of Kamakhya Devi are all Vaishnavas."

Although it is not possible to give the exact date when the Tantras and Tantra worship came into existence there is no doubt that their date is after Manu. This fact makes the rise of the Tantra worship a matter of great surprize. The Tantras not only lifted the prohibition enacted by Manu against wine and flesh but they made drinking and flesh eating articles of faith.

The surprising thing is the part that the Brahmins have played in furthering the Tantra and Tantra worship. The Tantras had no respect for the Vedas. The Tantrikas said that the Vedas were like a common woman open to all but that the Tantra was like a high-born woman kept secluded. The Tantra was never repudiated by the Brahmins. On the other hand they recognized it as a fifth Veda. So orthodox a Brahmin as Kulluka-Bhatt the celebrated Commentator on Manu Smriti says that Shruti is of two kinds, Vaidik and Tantrik. Not only did the Brahmins not repudiate the Tantras but actually promoted the Tantrik worship. The Matrika Bheda Tantra makes Shiva address his wife Parvati as follows[1]:

"O sweet speaking goddess, the salvation of Brahmanas depends on drinking wine. I impart to you a great truth, O mountain born, when I say that the Brahman who devotes himself to drinking and its accompaniments, forthwith becomes a Siva. Even as water mixes with water, and metal blends with metal; even as the confined

1Quoted by Rajendralal Mitra in Indo-Aryans Vol. p.

space in a pitcher merges into the great body of the confining vessel, and air mingles with air, so does a Brahman melt into Brahma, the universal soul".

"There is not the least doubt about this. Likeness to the divinity and other forms of beatitude are designed for Kshatriyas and others; but true knowledge can never be acquired without drinking spirituous liquor; therefore should Brahmans always drink. No one becomes a Brahman by repeating the Gayatri, the mother of the Vedas: he is called a Brahman only when he has knowledge of Brahma. The ambrosia of the gods is their Brahma, and on earth it is arrack (or liquor distilled from rice); and because one attains through it the condition of a god (suratva), therefore is that liquor called sura."

Why did the Brahmins repudiate father Manu and start again drinking liquor and flesh eating which Manu had stopped? This is a riddle.

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RIDDLE NO. 15

HOW DID THE BRAHMINS WED AN AHIMSAK GOD TO A BLOODTHIRSTY GODDESS ?

Having started drinking and flesh eating the Brahmins did not hesitate to write puranas advocating animal sacrifices. One such Purana requires a special mention. It is called the Kali Purana. This Purana is written with the express purpose of propagating the worship of the goddess Kali. In this Purana there is an adhhyaya called Rudhir Adhhyaya which means the bloody chapter.

I give below a summary of the Rudhir Adhhyaya. In this chapter[1] the God Shiva addresses his three sons Betal, Bhairawar, and Bhairava in the following terms:

> "I will relate you, my sons, the ceremonies and rules to be observed in sacrifices which being duly attended to are productive of the divine favour.
>
> "The forms laid down in the Vaishnaivi Tantra, are to be followed on all occasions and may be observed by sacrifices to all Deities."
>
> "Birds, tortoise, allegators, fish, nine species of wild animals, buffaloes, bulls, he-goats, inchneumons, wild boars, rhinoceroses, antelopes, guanas, reindeer, lions, tigers, men and blood drawn from the offerer's own body, are looked upon as proper oblations to the Goddess Chandica, the Bhairavas &c."
>
> "It is through sacrifices that princes obtain bliss, heaven, and victory over their enemies."
>
> "The pleasure which the Goddess receives from an oblation of the fish and tortoises is of one month's duration, and three from that of a crocodile. By the blood of the nine specifies of wild animals the Goddess is satisfied nine months, and for that space of time

[1]The chapter is translated in English by Mr. W. C. Blaquiere and will be found in the Asiatic Researches vol. pp.

This is a 16-page typed MS having modifications by the author himself. All the pages are numbered serially and the treatment of the subject seems complete.—Ed.

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continues propitious to the offerer's welfare. The blood of the wild bull and Guana give pleasure for one year, and that of the antelope and wild boar for twelve years. The Sarabhas blood satisfies the Goddess for twenty-five years, and buffalo's and rhinoceros's blood for a hundred, and that of the tiger an equal number. That of the lion, reindeer, and the human species produces pleasure, which lasts a thousand years. The flesh of these, severally, gives the pleasure for the same duration of time as their blood. Now attend to the different fruits attending an offering of the flesh of a rhinoceros or antelope, as also of the fish called Rohita."

"The flesh of the antelope and rhinoceros pleases the Goddess five hundred years and the Rohita fish and *Bardhrinasa* give my beloved (i.e. the Goddess Cali) delight for three hundred years."

"A spotless goat, who drinks only twice in twenty-four hours, whose limbs are slender, and who is the prime among a herd, is called *Bardhrinasa,* and is reckoned as the best of Havyas (i.e. offerings to the Deities) and Cavyas, (i.e. offerings to the deceased progenitors)."

"The bird whose throat is blue and head red and legs black with white feathers, is called also *Barshrinasa,* and is king of the birds, and the favourite of me and Vishnu."

"By a human sacrifice attended by the forms laid down, Devi is pleased one thousand years and by sacrifice of three men, one hundred thousand years. By human flesh, Camachya, Chandica, and Bhairava who assumes my shape, are pleased one thousand years. An oblation of blood which has been rendered pure by holy texts, is equal to ambrosia; the head also afford much delight to the Goddess Chandica. Let therefore the learned when paying adoration to the Goddess, offer blood and the head, and when performing the sacrifices to fire, make oblations of flesh."

"Let the performer of the sacrifice be cautious never to offer bad flesh, as the head and blood are looked upon by themselves equal to ambrosia."

"The gourd, sugar cane, spirituous liquors, and fermented liquors are looked upon as equivalent to other offerings, and please the Goddess for the same duration of time as the sacrifice of a goat."

"The performance of the sacrifice, with a Chandrahasa, or Gatri, (two weapons of the king) is reckoned the best mode, and with a hetcher or knife, or a sangeul, the second best, and the beheadings

with a hoe a Bhallac (an instrument of the spade kind) the inferior mode."

"Exclusive of these weapons no others of the spear of arrow kind ought ever to be used in performing a sacrifice, as the offering is not accepted by the Goddess, and the giver of it dies. He who, with his hands, tears off the head of the consecrated animal, or bird, shall be considered equally guilty with him who has slain a Brahman, and shall undergo great sufferings.

"Let not the learned use the axe, before they have invoked it by holy texts, which have been mentioned heretofore, and framed by the learned for the occasion; let those I now tell you, be joined to them and the axe invoked, and particularly so, where the sacrifice is to be made to the Goddesses Durga and Camachya."

"Let the sacrificer repeat the word Kali twice, then the words '*Devi Bajreswari, the Lawha Dandayai, Namah!*' which words may be rendered *'Hail! Cali, Cali! Hail! Devi! goddess of thunder, Hail Iron sceptered Goddess!'* Let him then take the axe in his hand, and again invoke the flame by the Calratriya text as follows:

"Let the sacrificer say: '*Hrang Hring. Cali, Cali.'* O horrid toothed Goddess: eat, cut, destroy all the malignant, cut with this axe, bind; seize; drink blood; *spheng* secure, Salutations to Cali." Thus ends the Calratriya Mantra."

"The Charge (the axe) being invoked by this text called the Calratriya Mantra, Calratri (the Goddess of darkness) herself presides over the axe uplifted for the destruction of the sacrificer's enemies."

"The sacrificers must make use of all the tests directed previous to the sacrifice, and also of the following, addressing himself to the victim."

"Beasts were created by the self existing, himself to be immolated at sacrifices. I therefore immolate thee, without incurring any sin in depriving thee of life."

"Let the sacrificer then name the Deity to whom the sacrifice is made, and the purpose for which it is performed; and by the above text immolate the victim, whose face is to be towards the north, or else let the sacrificer turn his own face to the north, and the victim's to the east; Having immolated the victim, let him without fail mix salt &c., as before mentioned with the blood."

"The vessel in which the blood is to be presented, is to be according to the circumstances of the offerer, of gold, silver, copper, brass, or leaves sewed together, or of earth, or of *tutenague,* or of any of the species of wood used in sacrifices."

"Let it not be presented in an iron vessel, nor in one made of the hide of an animal, or the bark of tree; nor in a pewter, tin, or leaden vessel. Let not the blood be represented in the holy vessel named Srub and Sruch, nor on the ground. Let it not be presented in the Ghata (i.e. an earthern-jar always used in other religious ceremonies). Let it not be presented by pouring it on the ground, or into any of the vessels used at other times for offering food to the Deity, Let not the good man who wishes for prosperity, offer the blood in any of these vessels. Human blood must always be presented in a metallic or earthern vessel; and never on any account in a vessel made of leaves, or similar substance.

"The offering of a horse, except at the Aswamedha sacrifice, is wrong, as also offering an elephant, except at the Gaja Medha; Let therefore the ruler of men observe never to offer them except on those occasions. And on no account whatsoever let him offer them to the Goddess Devi, using the wild bull called Chanrara as a substitute for the horse, when the occasion required one."

"Let not the Brahman ever offer a lion or a tiger, or his own blood, or spirituous liquors to the Goddess Devi. If a Brahmen sacrifices either a lion, a tiger, or a man, he goes to hell, and passes but a short time in this world attended with misery and misfortune."

"If a Brahman offers his own blood, his guilt is equal to that of the slayers of a Brahman; and if he offers spirituous liquors he is no longer a Brahman."

"Let not a Cshectree offer an entelope; if he does, he incurs the guilt of a Brahmin slayer where the sacrifice of lions, or tigers, or of the human species is required, let the three first classes act thus; having formed the image of the lion, tiger, or human shape with butter, paste, or barley meal, let them sacrifice the same as if a living victim, the axe being first invoked by the text Nomo, &c.

"Where the sacrifice of a number of animals is to take place it is sufficient to bring and present two or three to the Deity, which serves as a consecration of the whole. I have now related to you, O Bhairava, in general terms, the ceremonies and forms of sacrifices attend now to the different texts to be used on the several different occasions."

"When a buffalo is presented to Devi, Bhairavee, or Bhairava let the sacrificer use the following Mantra in invoking the victim."

"In the manner that thou destroyest, Horses, in the manner that thou earnest Chandica, destroy my enemies, and bear prosperity to me, O Buffalo!"

"O steed of death, of exquisite and unperishable form, produce me long life and fame. Salutation to thee, o buffalo!"

"Now attend to the particulars relative to the offering of human blood."

"Let a human victim be sacrificed at a place of holy worship, or at a cemetery where dead bodies are burried. Let the oblation be performed in the part of the cemetery called Heruca, which has been already described, or at a temple of Camachya, or on a mountain. Now attend to the mode."

"The cemetery represents me, and is called Bhairava, it has also a part called Tantarange; the cemetery must be divided into these two division, and a third called Heruca."

"The human victim is to be immolated in the east division which is sacred to Bhairava, the head is to be presented in the south division, which is looked upon as the place sculls sacred to Bhairavi, and the blood is to be presented in the west division, which is denominated Heruca."

"Having immolated a human victim, with all the requisite ceremonies at a cemetery or holy place, let the sacrificer be cautious not to cast eyes upon the victim."

"On other occasion also, let not the sacrificer, cast eyes upon the victim immolated, but present the head with eyes averted."

"The victim must be a person of good appearance, and be prepared by ablutions, and requisite ceremonies, such as eating consecrated food the day before, and by abstinance from flesh and venery; and must be adorned with chaplets of flowers and besmeared with sandal wood."

"Then causing the victim to face the north, let the sacrificer worship the several deities presiding over the different parts of the victims body; let the worship be then paid to the victim himself by his name."

"Thus let the sacrificer worship the victim, adding whatever other texts are applicable to the occasion, and have been before mentioned.

"Let not the female, whether quadruped or bird, or a woman be ever sacrificed; the sacrificer of either will indubitably fall into hell, where the victim of either the beasts or birds creation, are very numerous, the immolation of a female is excusable; but this rule does not hold good, as to the human species."

"Let not a Brahman or a Chandala be sacrificed; nor a prince; nor that which has already been presented to a Brahmen, or a deity; nor the offspring of a prince, nor who has conquered in battle; nor

the offspring of a Brahman, or of a Cshettree; nor a childless brother, nor a father, nor a learned person, nor one who is unwilling, nor the maternal uncle of the sacrificer. Those not here named, and animals, and birds of unknown species are unfit. If these named are not forthcoming, let their place be supplied by a male ass or camel. If other animals are forthcoming, the sacrifice of a tiger, camel, or ass must be avoided."

"Having first worshipped the victim, whether human, beast, or bird, as directed, let the sacrificer, immolate him uttering the Mantra directed for the occasion, and address the deity with the text laid down before."

"Let the head and blood of a human victim be presented on the right side of Devi, and the sacrificer address her standing in front. Let the head and blood of birds be presented on the left and the blood of a person's own body in front. Let the ambrosia proceeding from the heads of carnivorous animals and birds be presented on the left hand, as also the blood of all aquatic animals."

"Let the antelope's head and blood, and that of the tortoise, rhinoceros and hare and crocodile, and fish be presented in front." "Let a lion's head and blood, be presented on the right hand, and the rhinoceros's also; let not, on any account, the head or blood of a victim ever be presented behind the Deity, but on the right, left and in front."

"Let the consecrated lamp, be placed either on the right hand, or in front but on no account, on the left. Let incense be burnt on the left, and in front, but not on the right hand. Let perfumes, flowers and ornaments, be presented in front; with respect to the different parts of the circle, where to present the offerings, the mode already laid down may be observed. Let Madira (spirituous liquor) be presented behind other liquids on the left."

"Where it is absolutely necessary to offer spirits, let the three first classes of men supply their place, by coconut juice in a brass vessel, or honey in a copper one. Even in a time of calamity, let not a man of the three first classes, offer spirituous liquor, except that made from flowers, or stewed dishes. Let princes, ministers of state, counsellors, and vendors of spirituous liquors, make human sacrifices, for the purpose of attaining prosperity and wealth."

"If a human sacrifice is performed, without the consent of the prince, the performer incurs sin. In cases of imminent danger or war, sacrifices may be performed at pleasure, by princes themselves and their ministers, but by none else."

"The day previous to a human sacrifice, let the victim be prepared by the text Manastac, and three Devi Gandha Sucthas, and the texts Wadrang; and by touching his head with the axe, and besmearing the axe with sandal &c, perfumes, and then taking some of the sandal, &c, from off the axe, and besmearing the victim's neck therewith."

"Then let the text Ambe Ambica, &c, and the Towdra and Bhairava texts be used, and Devi herself will guard the victim who, when thus purified, malady does not approach him, nor does his mind suffer any derangement from grief and similar causes, nor does the death or birth of a kinsman render him impure."

* * * * *

"Having secured the victim with cords, and also with (Mantras) let him strike off the head, and present it to Devi, with due care. Let him make these sacrifices in proportion to the increase or decrease of his enemies, chopping off the heads of victims for the purpose of bringing destruction on his foes, infusing, by holy texts, the soul of the enemy into the body of the victim, which will when immolated, deprive the foe of life also."

"The blood must be drawn for the express purpose of an oblation, and from a man pure in body and mind, and free from fear; it must be caught in the petal of lotus and presented. It may be presented in a gold, silver, brass or iron vessel, with the due from, the texts recited."

"The blood, if drawn by incision made with a knife, axe or sangeul, gives pleasure, in proportion to the size of the weapon."

"The sacrificer may present one fourth of the quantity which a lotus petal will contain, but he must not give more on any account; nor cut his body more than is necessary. He who willingly offers the blood of his body and his own flesh, the size of a grain of linseed, Masha, tila, or mudya, with zeal and fervency, obtains what he desires in the course of six months."

He who performs sacrifices according to these rules, obtains, his wishes to the utmost extent."

* * * * *

This is the Dharma which the Kali Purana preaches.

After centuries of Ahimsa ordained by Manu here is Himsa in full blast sanctioned by the Tantras in its worst and all inclusive form—

animal and human Himsa. These Himsa practices preached in the sanguinary chapter of Kali Purana had become quite widespread. As to the revival of animal sacrifice what happens at the Kali Temple in Calcutta furnishes unmistakable proof. That this temple should have become a perfect slaughter house where daily hundreds of goats are sacrificed to appease the Goddess Kali can only be explained by the teachings of the Kali Purana. Today human beings are not sacrificed to the Goddess Kali. But it does not mean that it never happened. On the contrary there is abundant evidence to show that human sacrifice like animal sacrifice was practised as taught by the Kali Purana. Dr. Rajendralal Mitra says[1]:

> "The fact is well known that for a long time the rite (of Human Sacrifice) was common all over Hindustan; and persons are not wanting who suspect that there are still nooks and corners in India, where human victims are occasionally slaughtered for the gratification of the Devi. In old families which belong to the sect of the Vamacharis, and whose ancestors formerly offered human victims at the Durga and the Kali Pujas, a practice still obtains of sacrificing an effigy, in lieu of a living man. The effigy, a foot long, is made of dried milk (khira), and sacrified according to the formula laid down in the Kalika Purana the only addition being a few mantras designed typically to vivify the image. A friend of mine, Babu Hemachandra Ker, Deputy Magistrate of twenty four Pergunnahs and author of an excellent work on the culture of Jute in Bengal informs me that in the eastern districts of Bengal this sacrifice is frequently performed; but the image instead of being slaughtered by a single individual, is cut up simultaneously by all the grown up members of the family, either with separate knives, or with a single knife held jointly by all. This is known by the name of Satruball or "sacrifice of any enemy". The sacrifice, both in the case of Nara Bali and the Satru Bali is performed secretly, generally at midnight. The Satrubali, however, is a distinct rite, apart from the Narabali of the Kalika Purana, and authority for it occurs in the *Vrihannila Tantra,* in which it is said, after performing certain other rites therein described, "a king should sacrifice his enemy (in an effigy) made with dried milk (khira). He should slaughter it himself, looking at it with a fiery glance, striking deep, and dividing it into two with a single stroke. This should be done after infusing life into it by the rite of Prana Pratishtha, and repeating the name of the person to be destroyed. O consort of Mahesa, he doubtless destroys thereby his enemies."

[1]Indo-Aryans Vol. II. pp. 109-111.

Now the important point to note in this connection is that Kali is the wife of Shiva. The question that arises is does Shiva accept animal sacrifice? The answer to this question is that at one time Shiva did live on animal sacrifice. This statement may come as a surprise to the present day worshippers of Shiva. But it is a fact and those who need any evidence in support of it, have only to refer to the Ashvalayan Grihya-Sutra which gives a most elaborate description of a bull-sacrifice for the appeasement of Shiva. I give below the actual text from the Ashavalayan Grihya Sutra[1]. This is what it says:

1. "Now the spit-ox (sacrificed to Rudra).
2. In autumn or in spring, under the (Nakshatra) Ardra.
3. The vest of his herd.
4. (An ox) which is neither leprous nor speckled.
5. One with black spots, according to some.
6. If he likes, a black one, if its colour incline to copper-colour.
7. He sprinkles it with water, into which he has thrown rice and barley.
8. From head to tail.
9. With (the formula), 'Grow up, agreeable to Rudra the great god'.
10. He should let it grow up. When it has cut its teeth, or when it has become a bull.
11. To a quarter (of the horizon) which is sacrificially pure.
12. At a place which cannot be seen from the village.
13. After midnight.
14. According to some, after sunrise.
15. Having caused a Brahman who is versed in learning and knows the practice (of this sacrifice), to sit down, having driven a fresh branch with leaves into the ground as a sacrificial post, (having taken) two creeping plants or two kusa ropes as two girdles, and having wound the one round the sacrificial post, and tied the other round the middle of the animal's head, he binds it to the sacrificial post or to the girdle (which he had tied to that post) with (the formula), 'Agreeable to him to whom adoration (is brought), I bind thee'.
16. The sprinkling with water and what follows is the same as at the animal sacrifice.
17. We shall state what is different.
18. Let him sacrifice the omentum with the Patri or with a leaf-thus it is understood (in the Sruti).

[1]S. B. of East. Vol. XXIX p. 255-259 (Max-Muller).

19. With (the formula), 'To Hara, Mrida, Sarva, Siva, Bhava, Mahadeva, Ugra, Bhima, Pasu-pati, Rudra, Sankara, Isana svaha'!
20. Or with the last six (parts of that formula).
21. Or with (the formula), 'To Rudra svaha'!
22. Let him make Bali offerings towards the four quarters (of the horizon, to each on four rings of Kusa net-work, with the formulas), 'The hosts, Rudra, which thou hast towards the estern direction, to them this (offering is brought). Adoration to thee! Do no harm to me ! 'In this way the assigning (of the offerings is performed) according to the different quarters (of the horizon).
23. With the following four hymns he should worship the four quarters, viz., 'what shall we do Rudra,' 'These prayers to Rudra,' 'To thee, O father,' 'These songs to Rudra with the strong bow.' (Rig-Veda I,43, 114; II, 33; VII, 46).
24. (This) worship to the quarters (of the horizon (is performed) at all sacrifices to Rudra.
25. The husks and chaff (of the rice), the tail, the skin, the head, the feet (of the sacrificial animal) he should throw into the fire.
26. He should turn the skin to some use according to Samvatya.
27. To the north of the fire, on rows of Darbha grass, or on rings of Kusa network, he should pour out the blood (of the sacrificial animal) with (the formula) 'Hissing ones! Noisy ones! Searching ones ! Seizing ones ! Serpents ! What here belongs to you, take that.'
28. Then, turning to the north (he assigns it) to the serpents (in the words) 'Hissing ones! What here belongs to you take that'.

    Then the serpents take whatever has flowed down there of blood or of the contents of stomach and entrails.
29. All names, all hosts, all exaltations belong to him—to a sacrificer who knows that, he gives joy.
30. Even to a man who only with words sets forth (some part) of that (ceremony), he will do no harm; thus it is understood (in the Sruti).
31. He should not partake of that (sacrifice).
32. They should not take anything belonging to it into the village. For this God will do harm to (human) creatures.
33. He should keep away his people from the vicinity (of the place where he has sacrificed).
34. On an express injunction, however, he should partake (of that sacrificial food) for it will bring luck.
35. This split-ox sacrifice procures wealth, (open) space, purity, sons, cattle, long life, splendour.
36. After he has sacrificed, he should let loose another (animal).

37. He should not be without such an animal.
38. Then he will not be without cattle—thus it is understood (in the Sruti).
39. Muttering the Santatiya hymn, he should go to his house.
40. If disease befalls his cattle, he should sacrifice to that same God in the midst of his cow-stable.
41. A mess of cooked food, which he sacrificed in its entirety.
42. Having thrown the sacrificial grass and the Agya into the fire, he should lead his cows through the smoke.
43. Murmuring the Santatiya hymn, he should go in the midst of his cattle.
44. Adoration to Saunaka; Adoration to Saunaka!"

Today Shiva does not accept animal sacrifice. This change in the form of worship of Shiva is the result of the acceptance by the principle of Ahimsa. Having changed from *himsa* to *Ahimsa* the Brahmans changed Shiva from a *Himsak* God to an *Ahimsak* God. The cult of Kali has come into being long after Shiva had become an Ahimsak God. Never the less Kali his wife was made an himsak Goddess. The result is that we have a cruel contrast of a bloodless god having a blood-thirsty Goddess as his wife. Isn't it a riddle? Why did the Brahmins do such a thing?

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APPENDIX I

THE RIDDLE OF THE VEDAS

The Vedas are the sacred Books of the Hindus. There are several questions that arise in connection with them. What is their origin, who is their author, what is their authority, these are some of them (questions).

To begin with the first. According to the Hindus they are *Sanatana* which means that they are "eternally pre-existing". There is no justification for this view unless it be based upon a statement which occurs in the Atharva-Veda. It says[1]:

"From Time the Rig verses sprang; the Yajus sprang from Time". But there are other views quite opposed to this.

Starting from the Atharva-Veda it must be noted that besides this view there are two other views propounded in that Veda. The first of these is not very intelligent and may be given in its own language which runs as follows[2]:

"Declare who that Skambha (supporting principle) is in whom the primeval rishis, the rich, saman, and yajush, the earth, and the one rishi, are sustained .... 20. Declare who is that Skambha from whom they cut off the rich verses, from whom they scraped off the yajush, of whom the saman verses are the hairs and the verses of Atharvan and Angiras the mouth".

The second explanation given in the Atharva-Veda is that the Vedas sprang from Indra[3].

Explanation of the Rig-Veda is to be found in the Purusha-Sukta. According to it there was a universal sacrifice in which the victim was the mystical being called Purusha and it is out of the sacrifice of this

[1] Atharva-Veda XIX 54, 3.

[2] Quoted in Muir's Sanskrit Texts vol. III, p. 3.

[3] Quoted in Muir Sanskrit Texts, p.

This is a consolidated chapter on the Riddle of the Vedas dealing with most of the subjects discussed by the author in the earlier chapter Nos. 2 to 6 of this book. In all there are 61 typed pages bearing no corrections at all. This copy is a typed carbon copy.—Ed.

Purusha that the three Vedas namely Rig, Saman and Yajur came into being.

The Sam-Veda and the Yajur-Veda make no reference to the origin of the Vedas.

Proceeding to the writings called Brahmanas we find attempts to explain the origin of the Vedas in the Satapatha Brahmana, the Taitteriya Brahmana, Aitareya Brahmana and Kaushitaki Brahmana.

The Satapatha Brahmana has a variety of explanations. It attributes the origin of the Vedas to Prajapati. According to it Prajapati by his austerity created three worlds—Earth, Air and Sky. He infused warmth into these three worlds. From them, thus heated, three lights were produced,— Agni (fire), Vayu (wind) and Surya (the sun). From them so heated the three Vedas were produced,- the Rig-Veda from Agni, the Yajur-Veda from Vayu and Sam-Veda from the Sun.

This is also the explanation given by the Aitereya and the Kaushitaki Brahmana.

The Satapatha Brahmana gives another variant[1] of this explanation of the origin of the Veda from Prajapati. The explanation is that Prajapati created the Vedas from waters. Says the Satapatha Brahmana—

> "This Male Prajapati, desired, 'May I multiply, may I be propagated'. He toiled in devotion he practised austere-fervour. Having done so he first of all created sacred knowledge, the triple Vedic science. This became a basis for him. Wherefore men say, 'sacred knowledge is the basis of this universe.' Hence after studying the Veda a man has a standing ground: for sacred knowledge is his foundation. Resting on this basis he (Prajapati) practised austere fervour. 9. He created the waters from Vach (speech), as their world. Vach was his; she was created. She pervaded all this whatever exists. As she pervaded (apnot), waters were called 'apah'. As she covered (avrinot) all, water was called 'var'. 10. He desired, 'May I be propagated from these waters.' Along with this triple Vedic science he entered the waters. Thence sprang an egg. He gave it an impulse; and said, 'let there be, let there be, let there be again'. Thence was first created sacred knowledge, the triple Vedic science. Wherefore men say, 'Sacred knowledge is the first-born thing in this universe. Moreover, it was sacred knowledge which was created from that Male in front, wherefore it was created as his mouth. Hence they say of a man learned in the Veda, He is like Agni; for the sacred knowledge is Agni's mouth?".

[1] Muir Sanskrit Texts. III p. 8.

> "As from a fire made of moist wood various modifications of smoke proceed, so is the breathing of this great being; the Rig-Veda, the Yajur-veda, the Sama-veda, the Atharv-angirases, the Itihasas, Puranas, science, the Upanishads, verses (slokas), aphorisms, comments of different kings—all these are his breathings".

There is a third explanation[1] given in the Satapatha Brahmana:

> "I settle thee in the ocean as they seat" Mind is the ocean. From the mind-ocean with speech for a shovel the gods dug out the triple Vedic science. Hence this verse has been uttered: 'May the brilliant deity to-day know where they placed that offering which the gods dug out with sharp shovels. Mind is the ocean; speech is the sharp shovel; the triple Vedic science is the offering. In reference to this the verse has been uttered. He settles it in Mind".

The Taitteriya-Brahmana has three explanations to offer. It speaks of the Vedas as being derived from Prajapati. It also says Prajapati created King Soma and after him the three Vedas were created[2]. This Brahmana has another explanation[3] quite unconnected with Prajapati. According to it:

> "Vach (speech) is an imperishable thing, and the first-born of the ceremonial, the mother of the Vedas, and the centre-point of immortality. Delighting in us, she came to the sacrifice. May the protecting goddess be ready to listen to my invocation, she whom the wise rishis, the composers of hymns, the gods, sought by austere-fervour, and by laborious devotion."

To crown all this the Taitteriya Brahmana offers a third explanation. It says that the Vedas came from the beard of Prajapati.

Legends regarding the origin of the Vedas are also to be found in the Upanishads.

The legend recorded in the Chhandogya Upanishad is the same as that found in the Satapatha Brahmana—namely that the Rig-Veda originated from Agni, Yajus from Vayu and Sam from the Sun.

The Brahad Aranyaka Upanishad which is a part of the Satapatha Brahmana, records quite a different legend. It says:

> "Prajapati (identified with Death, or the Devourer) is said to have produced Vach (speech), and through her, together with soul, to have created all things, including the Vedas."

> "By that speech and that soul he created all things whatsoever, rich, yajush, and saman texts, metres, sacrifices, creatures, and animals. The three Vedas are (identifiable with) these three things (speech, mind and breath). Speech is the Rig-veda, mind the Yajur-veda, and breath the Sama-veda."

[1] Muir I pp. 9-10.

[2] *Muir* I p. 8.

[3] *Ibid.* I p. 10.

Coming to the Smritis there are two theories as to the origin of the Vedas to be found in the Manu Smriti. In one place it is said that the Vedas were created by Brahma:

> "He (Brahma) in the beginning fashioned from the worlds of the Veda the several names, functions and separate conditions of all (creatures). That Lord also created the subtle host of active and living deities, and of Sadhyas, and eternal sacrifice, he drew forth from Agni, from Vayu, and from Surya, the triple eternal Veda, distinguished as Rich, Yajush, and Saman."

In another place he seems to accept the story of Prajapati being the originator of the Vedas as would be evident from the following:

> "Prajapati also milked out of the three Vedas the letters *a, u* and *m,* together with the words *bhuh, bhuvah* and *svar*. The same supreme Prajapati also milked from each of the three Vedas one of the (three) portions of the text called *savitri* (or gayatri), beginning with the word *tat* …….. The three great imperishable particles (*bhuh, bhuvah, svar*) preceded by *om,* and the *gayatri* of three lines, are to be regarded as the mouth of Brahma".

It is also interesting to note what the Puranas have to say about the origin of the Vedas. The Vishnu Purana says:

> "From his eastern mouth Brahma formed the *gayatri,* the rich verses, the *trivrit,* the *samarathantara,* and of sacrifices, the *agnishtoma*. From his southern mouth he created the yajush verses the *trishtubh* metre, the *panchadasa stome,* the *vrihat-saman* and the *ukthya*. From his western mouth he formed the *saman* verses, the *jagati metre,* the *saptadasa-stome,* the *vairupa,* and the *atiratra*. From his northern mouth he framed the *ekavinsa,* the *atharvan,* the *aptoryaman,* with the *annushtubh* and *biraj metres."*

The Bhagvat Purana says:

> "Once the Vedas sprang from the four-faced creator, as he was meditating 'how shall I create the aggregate world as before?' …… He formed from his eastern and other mouths the Vedas called *rich, yajush, saman,* and *atharvan,* together with praise, sacrifice, hymns, and expiration".

The Markandeya Purana says :

> "From the eastern mouth of Brahma, who sprang by an imperceptible birth from that divided egg, there suddenly issued first of all the *Rich* verses, 2. resembling China roses, brilliant in appearance, internally united, though separated from each other, and characterized by the quality of passion (*rajas*). *3.* From his southern mouth came, unrestrained, the *Yajush* verses of the colour of gold, and disunited. 4. From the western mouth of the supreme

Brahma appeared the *Saman* verses and the metres. 5 and 6. From the northern mouth of the Vedas (Brahma) was manifested the entire Atharvana of the colour of black bees and collyrium, having a character at once terrible and not terrible, capable of neutralising the arts of enchanter pleasant, characterized by the qualities both of purity and darkness, and both beautiful and the contrary. The verses of the *Rich* are distinguished by the quality of passion (*rajas*), those of the *Yajush* by purity (*satva*) those of the *Saman* by darkness (*tamas*), and those of the *Atharvan* by both darkness and purity."

The Harivamsa supports both theories that of Brahma and Prajapati:

"For the emancipation of the world, Brahma, sunk in contemplation, issuing in a luminous form from the region of the moon, penetrated into the heart of Gayatri, entering between her eyes. From her there was then produced a quadruple being in the form of a Male, lustrous as Brahma, undefined, eternal, undecaying devoid of bodily senses or qualities, distinguished by the attribute of brilliancy, pure as the rays of the moon, radiant, and emboidied in letters. The god fashioned the Rigveda, with the Yajush from his eyes, the Sama-veda from the tip of his tongue, and the Atharvan from his head. These Vedas, as soon as they are born, find a body (kshetra). Hence they obtain their character of Vedas, because they find (vindanti) that abode. These Vedas then create the pre-existent eternal brahma (sacred science), a Male of celestial form, with their own mind-born qualities".

It also accepts Prajapati as the origin. It says that when the Supreme being was intent on creating the Universe, Hiranyagarbha, or Prajapati, issued from his mouth, and was desired to divide himself—a process which he was in great doubt how he should effect; the Harivamsa proceeds:

"While he was thus reflecting, the sound 'om' issued from him, and resounded through the earth, air, and sky. While the god of gods was again and again repeating this, the essence of mind, the vashatkara proceeded from his heart. Next, the sacred and transcendent *vyahritis,* (*bhuh, bhuvah, svar*), formed of the great smiriti, in the form of sound, were produced from earth, air, and sky. Then appeared the goddess, the most excellent of metres, with twenty-four syllables (*the gayatri*). Reflecting on the divine text (beginning with) "tax", the Lord formed the *savitri*. He then produced all the Vedas, the *Rich. Saman, Atharvan,* and *Yajush,* with their prayers and rites."

Here we have eleven different explanations regarding the origin of the Vedas—(1) as originating from the mystical sacrifice of Purusha, (2) as resting on Skambha (3) as cut of scrapped off from him, as being his hair, and his mouth, (4) as springing from Indra, (5) as produced from Time, (6) as produced from Agni, Vayu and Surya, (7) as springing from Prajapati, and the Waters, (8) as being the breath of Brahma, (9) as being dug by the Gods out of the mind-ocean, (10) as being the hair of Prajapati's beard and (11) as being the Offspring of Vach.

This bewildering multiplicity of answers to a simple question is a riddle. The writers who have come forward to furnish these answers are all Brahmins. They belong to the same Vaidic School of thought. They alone were the guardians of the ancient religious lore. Why should such a coherent body of scholars should have given such incoherent and chaotic answers to a very simple question?

II

Who is the author of the Vedas? The belief of the Hindus is that the Vedas are supernatural productions. To use the technical term the Vedas are *Apaurusheya* i.e. made by a non-human agency.

What is the evidence in support of this dogma? Among the Ancient Sanskrit literature there is a class of works called *Anukramanis*. They are systematic indices to various portions of the Ancient Vedic literature. Every Veda has an Anukramani, sometimes more than one Anukramani. Seven Anukramanis for the Rig-Veda are known to be in existence, five by Shaunaka, one by Katyayana and one by an unknown author. For the Yajur-Veda there exist three Anukramanis, one for each of the three Shakhas, Atreyi, Charayaniyas, and Madhyandina. For the Sam-Veda there are two Anukramanis, one is called Arsheya-Brahmana and the other is known by the name Parishistas. One Anukramani to the Atharya-Veda is known to exist. Its title is Brihat-Sarvanukramani.

The most perfect Anukramani according to Prof. Max-Muller is Katyayana's Sarvanukramani to the Rig-Veda. Its importance lies in the fact that it gives (1) the first words of each hymn, (2) the number of verses, (3) the name and the family of the Rishi who composed it, (4) the names of the deities and (5) the metres of every verse. What emerges from a reference to the Sarvanukramani is that the Rishis are the Authors of the hymns which make up the Rig-Veda. The Rig-Veda therefore on the evidence of the Anukramani cannot but be regarded as a man-made work. The same must be the conclusion regarding the other Vedas.

That the Anukramanis are realistic is proved by many passages in the Rig-Veda in which the Rishis describe themselves as the composers of the hymns.

Below are given a few of such passages:

"The Kanvas make a prayer to you; hear well their invocations."

"Thus, O Indra, yoker of steeds, have the Gotamas made hymns for thee efficaciously."

"This hymn has efficaciously been made to you, O opulent Asvins, by the Manas."

"These magnifying prayers, (this) hymn, O Asvins, the Gritsamadas have made for you."

"Aspiring to heaven, the sage Kusikas have made a hymn with praises to thee, O Indra."

"Nodhas, descendant of Gotama, fashioned this new hymn for (thee), Indra, who art of old, and who yokest thy steeds."

"Thus, O hero, have the Gritsamadas, desiring succour, fashioned for thee a hymn, as men make works."

"The sages generated an efficacious production and a prayer of Indra."

"These hymns, Agni, generated for thee, celebrate thy bounty in cows and horses."

"Our father hath discovered (or invented) this great, seven-headed hymn, born of sacred truth; Ayasya, friend of all men, celebrating Indra, has generated the fourth song of praise."

"We, the Rahuganas, have uttered to Agni honied speech; we incessantly laud him with eulogies."

"Thus, all ye Adityas, Aditi, and ye ruling powers, has the wise son of Plati magnified you. The celestial race has been lauded by the immortal Gaya."

"He it is whom they call a rishi, a priest, a pious sacrificer, a chaunter of prayers, a reciter of hymns; he it is who knows the three bodies of the brilliant (Agni),—the man who is most prominent in bestowing gifts."

Apart from the evidence of the Anukramanis there is another sort of evidence which mistakes against the theory of the Vedas being Apaurushya. The Rishis themselves have treated the Vedas as a human and as a historical product. The hymns of Rig-Veda distinguish between ancient and modern Rishis. Here are a few of them:

"Agni, who is worthy to be celebrated by former, as well as modern rishis, will bring the gods hither."

"The former rishis who invoked thee for succour."

"Hear the hymn of me this modern sage, of this modern (sage)."

"Indra, as thou hast been like a joy to former worshippers who praised thee, like waters to the thirsty, I invoke thee again and again with this hymn."

"The ancient rishis, resplendent and sage, have placed in front of them (Brihaspati) with gladdening tongue".

"Neither the ancients nor later men, nor any modern man, has attained to (conceive) thy prowess, O Madhavan."

"As (Indra's) former worshippers were (may we be) blameless, irreproachable, and unharmed."

"For now, O energetic god, men are thy worshippers, as the ancients born of old and the men of the middle and later ages have been thy friends. And, O much-invoked, think of the most recent of all".

"To Him (Indra) our ancient fathers, the seven Navagva sages, desiring food, (resorted) with their hymns."

"Glorified by our newest hymn, do thou bring to us wealth and food with progeny."

A close study of the Rig-Veda will show that the Rig-Veda itself makes a distinction between old hymns and new hymns. Some of them are given below:

"Glorified by our newest hymn, do thou bring to us wealth and food with progeny."

"Agni, thou hast announced (or do thou announce) among the gods this our offering, our newest hymn".

"Through our new hymns, do thou, vigorous in action, destroyer of cities, sustain us with invigorating blessings."

"I bring to Agni, the son of strength, a new and energetic hymn, a production of thought uttered by the voice (vachah)".

"I present to the mighty protector a mental production, a new utterance (now) springing up".

"May the new prayer impel thee, the heroic, well-accounted; the loud-thundering to succour us."

"I seek life, the ancients, to stimulate thee the ancients, with a new hymn."

"May the new hymns made to praise you, may these prayers gratify you."

"Sing, O Sobhari, with a new hymn to these youthful, vigorous, and brilliant (gods)."

"Indra, slayer of Vrittra, thunderer, invoked of many, we (thy) numerous (worshippers) bring to thee, as thy hire, hymns which never before existed."

> "I will address to this ancient (deity) my new praised, which he desires; may he listen to us."

> "Desiring horses, cattle and wealth, we invoke thee to approach us."

Given this abundance of evidence to prove the human origin of the Vedas it is a riddle to find that the Brahmins should so strenuously propagate so extravagent view that the Vedas are of supernatural origin. What made the Brahmins propagate such a view?

III

What is the authority of the Vedas? With regard to this there prevail two distinct dogmas amongst the Hindus. The first is that the Vedas are eternal. Stopping to examine this dogma the question is what justification is there for such a view? If the Hindus believed that the Vedas were the most ancient works in the world no one can have any quarrel with them. But there is nothing to justify the extraordinary proposition that they are eternal in the sense that they had no beginning in time. Once it is established that the Rishis are the makers of the Vedas it needs no additional proof to establish that the Vedas have a beginning in time which must coincide with the existence of the Rishis. Given that the Rishis are the authors of the Vedas the dogma as to their eternal character is an absurdity.

The dogma is sought to be sustained by a series of reasoning which is no less absurd.

In the first place let it be noted that this dogma does not rest on the ground that the Vedas are created by God. That was the view of one school of philosophers called Naiyayiks. But strange as it may appear Jaimini the author of the Purva Mimansa whose views on this subject have become the dogmas of the Hindus was not prepared to accept this ground. The following quotation from the Mimansakas is worthy of note:

> "But (asks the Mimansaka) how can the Veda have been uttered by the incorporeal Paramesvara (God), who has no palate or other organs of speech, and therefore cannot be conceived to have pronounced the letters (of which it is composed)? This object (answers the Naiyayika) is not happy, because, though Parameshvara is by nature incorporeal, he can yet, by way of sport, assume a body, in order to show kindness to his devoted worshippers. Consequently the arguments in favour of the doctrine that the Veda had no personal author are inconducive.

"I shall now (says the Mimansaka) clear up all these difficulties. What is meant by this Paurusheyatva ('derivation from a personal author') which it is sought to prove? Is it (1) mere procession from a person (purusha) like the procession of the Veda from persons such as ourselves, when we daily utter it? or (2) is it the arrangement—with a view to its manifestation—of knowledge acquired by other modes of proof, in the sense in which persons like ourselves compose a treatise? If the first meaning be intended, there will be no dispute. If the second sense be meant, I ask whether the Veda is proved (to be authoritative) in virtue (*a*) of its being founded on inference, or (*b*) of its being founded on supernatural information? The former alternative (*a*) (i.e. That the Veda derives its authority from being founded on inference) cannot be correct, since this theory breaks down, if it be applied to the sentences of the Malati Madhava or any other secular poem (which may contain inferences destitute of authority). If, on the other hand, you say (*b*) that the contents of the Veda are distinguished from those of other books having authority, this explanation also will fail to satisfy a philosopher. For the word of the Veda is (defined to be) a word which proves things that are not provable by any other evidence. Now if it could be established that this Vedic word did nothing more than prove things that are provable by other evidence, we should be involved in the same sort of contradiction as if a man were to say that his mother was a barren woman. And even if a man were conceded that (in that case) he should perceive things beyond the reach of the senses, from the want of any means of apprehending objects removed from him in place, in time, and in nature. Nor is it to be thought that his eyes and other senses alone would have the power of producing such knowledge since men can only attain to conceptions, corresponding with what they have perceived. This is what has been said by the Guru (Prabhakara) when he refutes (this supposition of) an omniscient author: 'Whenever any object is perceived (by the organ of sight) in its most perfect exercise, such perception can only have reference to the vision of something very distant or very minute, since no organ can go beyond its own proper objects, as e.g. the ear can never become cognizant of form. Hence the authority of the Veda does not arise in virtue of any supernatural information (acquired by the Deity) in a corporeal shape."

What is then the reasoning on which this dogma of the eternity of the Veda is founded? The reasoning can be best appreciated if I give it in the very words of Jaimini's Purva Mimansa.

"In the preceding aphorism it was declared that the connection of words and their meanings is eternal. Desiring now to prove that this (eternity of connection) is dependent on the eternity of words (or sound), he begins by setting forth the first side of the question, viz., the doctrine of those who maintain that sound is not eternal."

"Some, i.e. the followers of the Nyaya philosophy, say that sound is a product, because we see that it is the result of effort, which it would not be if it were eternal."

"That it is not eternal, on account of its transitoriness, i.e. because after a moment it ceases to be perceived."

"Because, we employ in reference to it the expression 'making', i.e. we speak of 'making' a sound".

"Because it is perceived by different persons at once, and is consequently in immediate contact with the organs of sense of those both far and near, which it could not be if it were one and eternal".

"Because sounds have both an original and a modified form; as e.g. in the case of dadhi atra, which is changed into dadhya atra, the original letter being altered into by the rules of permutation. Now, no substance which undergoes a change is eternal. Because sound is augmented by the number of those who make it. Consequently the opinion of the Mimansaka, who say that sound is merely manifested, and not created, by human effort, is wrong, since even a thousand manifesters do not increase the object which they manifest, as a jar is not made larger by a thousand lamps."

These objections against the Mimansaka theory that sound is manifested, and not created, by those who utter it, are answered in the following Sutras:

"But, according to both schools, viz., that which holds sound to be created, and that which regards it as merely manifested, the perception of it is alike momentary. But of these two views, the theory of manifestation is shown in the next aphorism to be the correct one." The non-perception at any particular time, of sound, which, in reality, perpetually exists, arises from the fact that the utterer of sound has not come into contact with his object, i.e. sound. Sound is eternal, because we recognise the letter k, for instance, to be the same sound which we have always heard, and because it is the simplest method of accounting for the phenomenon to suppose that it is the same. The still atmosphere which interferes with the perception of sound, is removed by the conjunctions and disjunctions of air issuing from a speaker's mouth, and thus sound (which always exists though unperceived) becomes perceptible. This is the reply to the objection of its 'transitoriness'."

"The word 'making' sounds, merely means implying or uttering them".

"One sound is simultaneously heard by different persons, just as one Sun is seen by them at one and the same time. Sound, like the Sun, is a vast, and not a minute object, and thus may be perceptible by different persons, though remote from one another."

"The letter *y,* which is substituted for *i* in the instance referred to under Sutra 10, is not a modification of *i,* but a distinct letter. Consequently sound is not modified."

"It is an increase of 'noise', not of sound, that is occasioned by a multitude of speakers. The word 'noise' refers to the 'conjunctions' and 'disjunctions' of the air which enter simultaneously into the hearer's ear from different quarters; and it is of these that an increase takes place".

"Sound must be eternal, because its utterance is fitted to convey a meaning to other persons. If it were not eternal (or abiding), it would not continue till the hearer had learned its sense, and thus he would not learn the sense, because the cause had ceased to exist."

"Sound is eternal, because it is in every case correctly and uniformly recognized by many persons simultaneously; and it is inconceivable that they should all at once fall into a mistake".

"When the word go (cow) has been repeated ten times, the hearers will say that the word Go has been ten times pronounced, not that ten words having the sound of Go have been uttered; and this fact also is adduced as a proof of the eternity of sound in Sutra 20".

"Because each sound is not numerically different from itself repeated."

"Sound is eternal, because we have no ground for anticipating its destruction."

"But it may be urged that sound is a modification of air, since it arises from its conjunctions, and because the Siksha (or Vedanga treating of pronunciation) says that 'air arrives at the condition of sound' and as it is thus produced from air, it cannot be eternal". A reply to this difficulty is given in Sutra 22—

"Sound is not a modification of air, because, if it were, the organ of hearing would have no appropriate object which it could perceive. No modification of air (held by the Naiyayikas to be tangible) could be perceived by the organ of hearing, which deals only with intangible sound".

"And the eternity of sound is established by the argument discoverable in the vedic text, 'with an eternal voice, O Virupa'.

Now, though this sentence had another object in view, it, nevertheless, declares the eternity of language, and hence sound is eternal".

Reduced to simple syllogism the sound is eternal, the words of the Vedas are sound, therefore words of the Vedas are eternal. Absurdity in reasoning cannot go further. The riddle is why did the Brahmins propound this doctrine of the eternity of the Vedas? Why did the Brahmins adopt such an absurd reasoning in support of their doctrine? Why did the Brahmins refuse to accept the view that the Vedas were the word of God?

The second dogma relating to the authority of the Vedas is that they are not only sacred but they are also infallible.

It is difficult to understand why the Brahmins endeavoured to invest the Vedas with infallibility?

There is no law in the Vedas in the strict sense of the term law.

The Vedas do not preach Dharma in the sense of morality. The three following extracts from the Vedas can hardly be said to be consonant with morality.

"(Yami speaks). I invite my friend to friendship, having come o'er the vast and desert ocean; may Vedhas, after reflecting, place in the earth the offspring (of thee) the father, endowed with excellent qualities".

"(Yama speaks). Thy friend desires not this friendship, for although of one origin, she is of a different form; the hero sons of the great Asura (are) the upholders of heaven, enjoying vast renown."

"(Yami speaks). The immortals take pleasure in (a union) like this which is forbidden to every mortal; let thy mind then concur with mine, and as the progenitor (of all) was the husband (of his daughter), do thou enjoy my person."

"(Yama speaks). We have not done what was done formerly; for how can we who speak truth, utter now that which is untrue? Gandharva (the Sun) was in the watery (firmament), and the water was his bride. She is our common parent, hence our near affinity."

"(Yami speaks). The divine omniform generator Twashtri, the progenitor, made us two, husband and wife, even in the womb; none frustrate his undertaking; earth and heaven are conscious of this our (union)."

"(Yama speaks). Who knows anything of this (his) first day (of existence)? Who has beheld it? Who has here revealed it? The dwelling of Mitra and of Varuna is vast. What saysest thou, who punishest men with hell?"

"(Yami speaks). The desire of Yama hath approached me Yami, to lie with him in the same bed; I will abandon my person as a wife to her husband; let us exert ourselves in union like the two wheels of a waggon."

"(Yama speaks). The spies of the Gods, which wander upon earth, never stop, never close their eyes. Associate quickly, destructress, with some other than with me, and exert yourselves in union, like the two wheels of a waggon."

"(Yami speaks). To him (Yama) let every worshipper sacrifice both day and night, on him let the eye of the Sun repeatedly rise; (for him may) the kindred pair (day and night unite) with heaven and earth. Yami will adhere to the non-affinity of Yama".

"(Yama speaks). The subsequent ages will come, when sisters will choose one who is not a brother (as a husband); therefore, auspicious one, choose another husband that me, and make thine arm a pillow for thy mate."

"(Yami speaks). Is he a brother whose sister has no lord? Is she a sister (whose brother) misfortune approaches? Overcome by desire, I strongly urge this one request; unite thy person with mine."

"(Yama speaks). I will not unite my person with thine; they call him who approaches a sister, a sinner. Enjoy pleasure with some other than me; thy brother, auspicious one, has no such desire."

"(Yami speaks). Alas, Yama, thou art feeble; we understand not thy mind or thy heart. Some other female embraces thee as a girth a horse, or as a creeper a tree."

"(Yama speaks). Do thou, Yami, embrace another; and let another embrace thee as a creeper a tree; seek his affection, let him seek thine; and make a happy union".

"May Agni, the destroyer of the Rakshasas consenting to our prayer, drive hence (the evil spirit) who (in the form of) sickness assails thine embryo, who, as the disease durnaman, assails thy womb."

"May Agni, concurring in our prayer, destroy the cannibal who is sickness, assails thine embryo, who as the disease durnaman, assails thy womb."

"May we exterminate from hence (the evil spirit) who destroys the impregnating energy, the germ as it settles, the moving embryo, who seeks to destroy (the babe) when born."

"May we exterminate from hence (the evil spirit) who separate thy thighs, who lies between husband and wife, who, entering thy womb, devours (the seed)."

"May we exterminate from hence (the evil spirit), who in the form of brother, husband, or paramour, approaches thee, and seeks to destroy thy offspring."

"May we exterminate from hence (the evil spirit) who, having beguiled thee by sleep or darkness, approaches thee, and seeks to destroy thy offspring."

The Vedas contain two things. In the first place they contain the hopes and wishes of the Aryans as expressed by the Rishis. As observed by Mr. Muir:

"The whole character of these compositions, and the circumstances under which, from internal evidence, they appear to have arisen, are in harmony with the supposition that they were nothing more than the natural expression of the personal hopes and feelings of those ancient bards by whom they were first recited. In these songs the Aryan sages celebrated the praises of their ancestral gods (while at the same time they sought to conciliate their goodwill by a variety of oblations supposed to be acceptable to them), and besought of them all the blessings which men in general desire— health, wealth, long life, cattle, offspring, victory over their enemies, forgiveness of sin, and in some cases also celestial felicity."

This is also the view of Yaska the author of Nirukta who says:

"(Of the four kinds of verses specified in the preceding section) (*a*) those which address a god as absent, (*b*) those which address him as present, and (*c*) those which address the worshippers as present and the god as absent, are the most numerous, while those (*d*) which refer to the speaker himself are rare. It happens also that a god is praised without any blessing being invoked, as in the hymn (R. V. i. 32). 'I declare the heroic deeds of Indra', etc. Again blessings are invoked without any praise being offered, as in the words, 'May I see well with my eyes, be resplendent in my face, and hear well with my ears'. This frequently occurs in the Adhvaryava (Yajur), and in the sacrificial formula. Then again we find oaths and curses as in the words (R. V. vii. 104, 15), 'May I die to-day, if I am a Yatudhana,' etc. Further, we observe the desire to describe some particular state of things, as in the verse (R. V. x. 129, 2), 'Death was not then, nor immortality,' etc. Then there is lamentation, arising out of a certain state of things, as in the verse (R. V. x. 95, 14), 'The beautiful god will disappear and never return,' etc. Again, we have blame and praise, as in the words (R. V. x. 117, 6), 'The man who eats alone, sins alone, etc. So, too, in the hymn to dice (R. V. x. 34, 13) there is a censure upon dice, and a commendation of agriculture. Thus the objects for which the hymns were seen by the rishis were very various."

SUKTA XII (CLXIII)

The deity is the cure of Phthisis; the Rishi is Vivrihan, the son of Kasyapa; the metre is Anushtubh.

1. I banish disease from thine eyes, from thy head, from thy nose, from thy ears, from thy chin, from thy brain, from thy tongue.
2. I banish disease from thy neck, from thy sinews, from thy bones, from thy joints, from thy upper arms, from thy shoulders, and from thy fore-arms.
3. I banish disease from thine entrails, from thy anus, from thine abdomen, and from thy heart, from thy kidneys, from thy liver, from thy (other viscera).
4. I banish disease from thy thighs, from thy knees, from thy heels, from thy toes, from thy loins, from thy buttocks, from thy private parts.
5. I banish disease from thy urethra, from thy bladder, from thy hair, from thy nails, from thy whole person.
6. I banish disease from each limb, from each hair, from each joint where it is generated, from thy whole person.

As Prof. Wilson observes there is in the Rig-Veda (which is the stock Veda) scarcely any indication of doctrinal or philosophical speculation, no allusion to the later notions of the several schools, nor is there any hint of metempsychosis, or of the doctrine intimately allied to it, of the repeated renovation of the world. The Vedas may be useful as a source of information regarding the social life of the Aryans. As a picture of primitive life it is full of curiosity but there is nothing elevating. There are more vices and a few virtues.

Given the nature and substance of the contents of the Vedas it is a riddle why the Brahmins claimed infallibility for such superstitious writings as the Vedas.

There would have been some justification for this doctrine of infallibility if the Rishis who made the hymns had claimed it for themselves. But it is quite clear that the Rishis have made no such pretentions. On the contrary they have occasionally confessed their ignorance of matters in which they had interest and curiosity. Compare the following utterances of the Rishis as given in the Rig-Veda:

> "Ignorant, not knowing in my mind, I enquire after these hidden abodes of the gods; the sages have stretched out seven threads for a hoof over the yearling calf (or over the sun, the abode of all things).
>
> 6. Not comprehending, I ask those sages who comprehend this matter; unknowing (I ask) that I may know; what is the one thing, in the form of the uncreated one, who has upheld these six worlds?

37. I do not recognize if I am like this; I go on perplexed and bound in mind. When the first born sons of sacrifice (or truth) come to me, then I enjoy a share of that word."

"What was the forest, what the tree, out of which they fashioned heaven and earth, which continue to exist undecaying, whilst days, and many dawns have passed away?

"Which of these two (Heaven and Earth) is the first? Which is the last? How were they produced? Who, o sages, knows?"

"How many fires are there? How many suns ? how many dawns ? How many waters ? I do not, fathers, say this to you in jest; I really ask you, sages, in order that I may know". 5. "There ray (or cord), obliquely extended, was it below, or was it above? There were generative sources, and there were great powers, *svadha* (a self-supporting principle) below, and effort above. 6. Who knows, who hath here declared, whence this creation was produced, whence (it came) ? The gods were subsequent to the creation of this universe; who then knows whence it sprang. 7. When this creation sprang, whether any one formed it or not, he who, in the highest heavens, is the overseer of this universe,— he indeed knows or he does not know."

There are other points with regard to this dogma of infallibility which are noteworthy.

IV

The first point is, is this dogma original or is this a new contention raised at sometime later in the history of India. The general view is that it is the original doctrine. A reference to the Dharma Sutras which are the earliest law books which deal with this subject go to show that this is not a correct view. The Gautama Dharma Sutra lays down the following rule on the question of the infallibility of the vedas.

"The Veda is the source of the sacred law". I.1.

"And the tradition and practice of those who know the (Veda)"— I.2.

"If (authorities) of equal force are conflicting (either may be followed at) pleasure". I.4.

The Vashishta Dharma Sutra propounds the following view:

"The Sacred law has been settled by the revealed texts and by the tradition of the sages" I.4. "On the failure of (rules given in) these (two sources) the practice of Shistas has authority." I.5.

"He whose heart is free from desire (is called) a shista". I.6. The views of Baudhayana are given below:

Prasna 1, Adhyaya 1, Kandika 1.

1. The sacred law is taught in each Veda.
2. We will explain (it) in accordance with that.
3. (The sacred law), taught in the Tradition (Smriti, stands) second.
4. The practice of the Sishtas (stands) third.
5. Sishtas, forsooth, (are those) who are free from envy, free from pride, contented with a store of grain sufficient for ten days, free from covetousness, and free from hypocrisy, arrogance, greed, perplexity, and anger.
6. '(Those are called) Sishtas who, in accordance with the sacred law, have studied the Veda together with its appendages, know how to draw references from that, (and) are above to adduce proofs perceptible by the senses from the revealed texts'.
7. On failure of them, an assembly consisting at least of ten members (shall decide disputed points of law).
8. Now they quote also (the following verses): 'Four men, who each know one of the four Vedas, a Mimansaka, one who knows the Angas, one who recites (the works on) the sacred law, and three brahamanas belonging to (three different) order, (constitute) an assembly consisting, at least of ten members'.
9. 'There may be five, or there may be three, or there may be one blameless man, who decides (questions regarding) the sacred law. But a, thousand fools (can) not (do it).'
10. 'As an elephant made of wood, as an antelope made of leather, such an unlearned Brahmana; those three having nothing but the name (of their kind)'.

The view taken by the Apastamba Dharma Sutra is clear from the following extract from that Sutra:

"Now, therefore, we will declare the acts productive of merit which form part of the customs of daily life". I.1.

"The authority (for these duties) is the agreement (samaya) of these who know the law". I.2.

"And (the authorities for the latter are) the Vedas alone". I.3.

A review of the Dharma Sutras show how this dogma of the infallibility of the Veda is a historical product. It shows that the (1) Veda, (2) Tradition (Smriti), (3) Practice of Sishta and (4) Agreement in an Assembly were the four different authorities about which the controversy as to which of these should be regarded as infallible. It also shows that there was a time when the Vedas were not the sole infallible authorities. That was the time represented by the Dharma Sutras of Vasistha and Baudhayana. It is only in the time of Gautama

that the Vedas came to be regarded as the only authority. There was a time when an agreed decision of the Assembly was admitted as one source of authority. That is the period represented by Baudhayana. Lastly the review shows that there was a time when the Veda was not at all regarded as a book of authority and when the only recognized source of authority was an agreement arrived at in an assembly of the learned. That is the period when Apastamba[1] wrote his Dharma Sutras i.e. somewhere between 600 and 200 B.C.[2]

It is thus obvious that there was a deliberate attempt to invest the Vedas with an infallible authority which they did not at one time possess and the question is what were the circumstances and the motives which led the Brahmins to propagate the sole and final authority of the Vedas.

The second point connected with this subject of infallibility of the Vedas relates to the discrimination made by the Brahmins in limiting the virtue of infallibility to certain Vedic writings only and not extending it to the whole range of them. To understand this point it is necessary to know what is meant by the phrase Vedic literature.

The phrase Vedic literature can be used in two senses. In its limited sense it includes (1) The Samhita, (2) The Brahmanas, (3) Aranyakas, (4) Upanishads and (5) Sutras. When used in an extended sense it includes two other heads (6) Itihasas and (7) Puranas.

The first thing to note is that there was a time when all these writings were classed in the same category, and no distinction was made between them on the basis of revealed and profane or on the basis of supernatural and human or on the basis of authoritative and non-authoritative. This is clear from the view expressed in the Satapatha Brahmana which says:

> "This Male, Prajapati, desired, 'May I multiply, may I be propagated.' He toiled in devotion; he practised austere-fervour. Having done so he first of all created sacred knowledge the triple Vedic science. This became a basis for him. Wherefore men say, sacred knowledge is the basis of this universe.' Hence after studying the veda a man has a standing ground; for sacred knowledge is his foundation. Resting on this basis he (Prajapati) practised austere-fervour. (9) He created the waters from Vach (speech) as their world. Vach was his: She was created. She pervaded all this whatever exists. As she pervaded (apnot) waters were called "apah". As she covered (avrinot) all, water was called 'var'. (10) He desired,

[1] The reference to the Vedas in the Apastamba Dharma Sutras must not be misunderstood. Apastamba does not invest the Vedas with any authority at all. Knowledge of Vedas is made by him as an electoral qualification for membership of the Assembly whose agreed decision is the law and the only law.

[2] This is the period assigned to the Sutras by Prof. Max-Muller. The Apastamba being the oldest.

May I be propagated from these waters. Along with this triple Vedic science he entered the waters. Thence sprang an egg. He gave it an impulse; and said, "Let there be, let there be, let there be again. Thence was first created sacred knowledge, the triple Vedic science. Wherefore men, say, 'Sacred knowledge is the first-born thing in this universe. Moreover, it was sacred knowledge which was created from that Male in front, wherefore it was created as his mouth. Hence they say of a man learned in the Veda,' 'He is like Agni; for sacred knowledge is Agni's Mouth'."

"As from a fire made of moist wood various modifications of smoke proceed, so is the breathing of this great being. The Rig-Veda, the Yajur-veda, the Sama-veda, the Atharvan-girases, the Itihasas, Puranas, science, the Upanishads, verses (slokas), aphorims, comments of different kinds—all these are his breathings."

But when the Brahmans sought to establish their dogma of infallibility they made a distinction and divided the Vedic writings in two classes (1) Shruti and (2) Non-Shruti. In the first division they placed only two of them (1) Sanhitas and (2) the Brahmanas and invested them with infallibility. The rest they declared as non-Shruti therefore of no authority. When this distinction, was first made it is not possible to say. One can well understand why the last two categories were excluded from the Shruti part division of the Vedic literature. They were too elementary and too undeveloped and in all probability included in the Brahmanas.

One can well understand why the Aranyakas are not specifically mentioned as a part of the Shruti. They are part of the Shruti and must be for the simple reason that they are a part of the Brahmanas. The position of the Upanishads is not clear. But if they are not included in the Shruti one can well understand why they were excluded. But the case of the Sutras stands on a different footing. They are definitely excluded from the category of Shruti and for reasons, which it is not possible to comprehend. If there were good reasons for including the Brahmanas in the category of Shruti the same reasons could not fail to justify the inclusion of the Sutras. As Prof. Max Muller observes:

"We can understand how a nation might be led to ascribe a superhuman origin to their ancient national poetry, particularly if that poetry consisted chiefly of prayers and hymns addressed to their gods. But it is different with the prose compositions of the Brahamanas. The reason why the Brahmanas, which are evidently so much more modern than the Mantras, were allowed to participate in

the name of Sruti, could only have been because it was from these theological compositions, and not from the simple old poetry of the hymns, that a supposed divine authority could be derived for the greater 'number of the ambitious claims of the Brahmans. But, although we need not ascribe any weight to the arguments by which the Brahmans endeavoured to establish the contemporaneous origin of the Mantras and Brahmanas there seems to be no reason why we should reject as equally worthless the general opinion with regard to the more ancient date of both the Brahmanas and Mantras, if contrasted with the Sutras and the profane literature of India. It may easily happen, where there is a cannon of sacred books, that later compositions become incorporated together with more ancient works, as was the case with the Brahmanas. But we can hardly imagine that old and genuine parts should ever have been excluded from a body of sacred writings, and a more modern date ascribed to them, unless it be in the interest of a party to deny the authority of certain doctrines contained in these rejected documents. There is nothing in the later literature of the Sutras to warrant a supposition of this kind. We can find no reason why the Sutras should not have been ranked as Sruti, except the lateness of their date, if compared with the Brahmanas, and still more with the Mantras. Whether the Brahmanas themselves were aware that ages must have elapsed between the period during which most of the poems of their rishis were composed, and the times which gave rise to the Brahmanas, is a question which we need hardly hesitate to answer in the affirmative. But the recklessness with which Indian theologians claim for these Brahmanas the same title and the same age as for the Mantras, shows that the reasons must have been peculiarly strong which deterred them from claiming the same divine authority for the Sutras."

The third point relates to the changes that took place in the scope of the term Shruti and in their infallibility. Manu excludes[1] the "Brahamanas" from the category of Shruti as may be seen from the following extract from his Smriti:

"By Sruti is meant the Veda, and by Smriti the institutes of law; the contents of these are not to be questioned by reason, since from them (a knowledge of) duty has shown forth. The Brahman who, relying on rationalistic treatises, shall contemn these two primary

[1] some may dispute this on the ground that the word Veda includes 'Brahmana' also. This of course is a fact. But it seems to me that Manu uses the term Shruti in a restricted sense so as to exclude the Brahmanas. This is supported by the fact that there is in the Manu Smriti no reference to the Brahmanas except in one place (iv. 100) where he says that only the Mantra portion need be studied.

sources of knowledge must be excommunicated by the virtuous as a sceptic and reviler of the Vedas .....13. To those who are seeking a knowledge of duty, the Sruti is the supreme authority."

The fourth point relates to the claim put forth in the Puranas for precedence over the Vedas in the order of creation.

The Vayu Purana says[1]:

"First of all the Shastras, the Purana was uttered by Brahma. Subsequently the vedas issued from his mouth".

The Matsya Purana not only claims priority of creation for the Puranas as against the Vedas, but also the qualities of eternity and identity with sound, which was once predicated of the Vedas alone. It says[2]:

"Pitamaha (Brahma), first of all the immortals, took shape; then the Vedas with their Angas and Upangas (appendages and minor appendages), and the various modes of their textual arrangement, were manifested. (3) The Purana, eternal, formed of sound, pure, extending to the length of a hundred crores of verses, was the first of the Sastras which Brahma uttered; and afterwards the Vedas, issued from his mouth; and also the Mimansa and the Nyaya with its eightfold system of proofs. (5) From him (Brahma), who was devoted to the study of the Vedas, and desirous of offspring, sprang mind-born sons, so called because they were at first created by his mind."

The Bhagwat Purana claims equality of authority with the Vedas. It says:

"(Bramharatra) declared the Purana called the Bhagavata, which stands on an equality with the Veda."

The Brahma-Vaivartta Purana has the audacity to claim superiority over the Vedas. It says:

"That about which venerable sage, you have inquired, and which you desire, is all known to me, the essence of the Puranas, the pre-eminent Brahma-Vaivarta, which refutes the errors of the Puranas and Upapuranas, and the Vedas."

This survey discloses a number of riddles in regard to the Vedas. In addition to the three riddles namely why did the Brahmins insist that the Vedas were eternally pre-existing, that they were non-man, non-God made, that they were infallible. There are other riddles regarding the Vedas which are equally puzzling—The Vedas at one time did not have any precedence or infallibility. Why did the

[1] Quoted in Muir Sanskrit Texts Vol. III p. 27.

[2] *Ibid.,* p. 28.

Brahmins feel it necessary to give the Vedas this infallibility, why did the Brahmins exclude the Sutras from the term Sruti and why did the Brahmins give up the infallibility of the Vedas and sought to give infallibility to the Puranas?

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APPENDIX II

THE RIDDLE OF THE VEDANTA

Of the six schools of philosophy which were expounded by the ancient philosophers of India the most famous is of course the Vedanta philosophy. Not only has it the name but it has also a hold on the Hindus which none of its rivals has ever had. Every follower of the Vedas is proud of the Vedanta. He not only owns it but regards it as the most valuable contribution which India has made to the philosophic thought of the world. He regards Vedanta philosophy as embodying the end or aim of the teachings of the Vedas, a sort of culmination or flowering of the teachings of the Veda. He never suspects that there was any time in the history of India when the Vedanta Philosophy was regarded as repugnant and hostile to the Vedas. He would never believe that there was a time when the word Vedanta had a totally different meaning than the meaning which is now current and according to which the word Vedanta far from being used in the sense of culmination of Vedic thought was used to designate a body of thought contained in a body which was outside the range of the cannonical part of the Vedic literature. Yet that was in fact the case.

It is true that this repugnance between the Vedas and the Vedanta does not become manifest from the word Upanishad which is the generic name of the literature on which the Vedanta philosophy came to be built up and about the etymology of which there is a considerable difference of opinion.

Most European scholars are agreed in deriving Upanishad from the root *sad,* to sit down, preceded by the two prepositions *ni,* down, and *upa,* near, so that it would express the idea of session, or assembly of public sitting down near a person. As Prof. Max Muller points out there are two objections to the acceptance of this derivation. Firstly such a word, it would seem, would have been applicable to any other

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This is a 21-page typed first copy entitled 'The Riddle of the Vedanta'. The chapter seems complete and does not contain any modifications by the author.—Ed.

portion of the Veda as well as to the chapters called Upanishad, and it has never been explained how its meaning came thus to be restricted. Secondly the word Upanishad, in the sense of session or assembly has never been met with. Whenever the word occurs, it has the meaning of doctrine, secret doctrine, or is simply used as the title of the philosophic treatises which contains the secret doctrine. There is a third explanation noted by Prof. Max Muller proposed by Sankara in his commentary on the Taittiriya-Upanishad II, 9, is that the highest bliss is contained in the Upanishad (*param sreyo'syam nishannam*). Regarding this Prof. Max Muller says:

> "The Aranyakas abound in such etymologies, which probably were never intended as real as plays on words, helping to account somehow for their meaning."

Prof. Max Muller however favours a derivation of the word Upanishad from the root *sad* to destroy and meant knowledge which destroys ignorance, the cause of Samsara, by revealing the knowledge of Brahma as a means of salvation. Prof. Max Muller points out that this is the meaning which the native scholars have unanimously given to the word Upanishad.

If it be granted that this is the true derivation of the word Upanishad it would be one piece of evidence in support of the thesis that there was a time in the history of India when Vedanta was regarded as a system of thought which was repugnant to the Vedas. But it is not necessary to depend upon the help of etymology to support the thesis. There are other evidences better and more direct. In the first place the word Vedanta was never used to denote "the last books of the Vedas" which they are. As observed by Prof. Max Muller[1]:

> "Vedanta as a technical term, did not mean originally the last portions of the Veda, or chapters placed, as it were, at the end of a volume of Vedic literature, but the end, i.e. the object, the highest purpose of the Veda. There are, of course, passages, like the one in the Taittirya-Aranyaka (ed. Rajendra Mitra p. 820), which have been misunderstood both by native and European scholars, and where Vedanta means simply the end of the Veda : *yo vedadu svarah prokto vedante ka pratishthitah,* 'the Om which is pronounced at the beginning of the Veda, and has its place also at the end of the Veda". Here Vedanta stands simply in opposition to Vadadu, it is impossible to translate it, as Sayana does, by Vedanta or Upanishad. Vedanta, in the sense of philosophy, occurs in the Taittiriya-Aranyaka (p. 817), in a verse of the Narayania-Upanishad, repeated in the Mundak-Upanishad III, 2, 6 and

[1] The Upanishads (S.B.E.) Vol. I, Introduction p. Ixxxvi.

elsewhere *Vedantavignansuniskitarhah,* 'those who have well understood the object of the knowledge arising from the Vedanta,' not 'from the last books of the Veda', and *Svetasvatara-up.* VI, 22, *vedante paramam guhyam,* 'the highest mystery in the Vedanta'. Afterwards it is used in the plural also, e.g. Kshurikopanishad, 10 (bibl. Ind. p. 210) *pundariketi vedantesfau nigadyate,* 'it is called pundarika in the Vedantas', i.e. in the Khandogya and other Upanishads, as the commentator says, but not in the last books of each Veda."

More direct evidence on the point is that which is contained in the Gautama Dharma Sutras. In Chapter **XIX** verse 12 speaks of purification and says[1]:

"The purificatory (texts are), the Upanishads, the Vedantas, the Samhita text of all the Vedas" and so on.

From this it is clear that at the date of Gautama the Upanishads were distinguished from Vedantas and were not acknowledged as a part of the Vedic literature. Hardatta in his commentaries says "those parts of the Aranyakas which are not (Upanishads) are called Vedantas". This is unimpeachable proof that the Upanishads did not come within the range of the Vedic literature and were outside the cannon.

This view is also supported by the use of the Veda in the Bhagwat Gita. The word Veda is used in the Bhagwat Gita at several places. And according to Mr. Bhat[2] the word is used in a sense which shows that the author did not include the Upanishads in the term.

That the Upanishads were excluded from the cannonical literature of the Vedas is provided by the opposition of the Upanishads to the views preached in the Vedas that the religious observances and sacrifices were the only means of salvation. A few citation from some of the Upanishads will suffice to show their opposition to the Vedas.

The Mundaka Upanishad says:

"Brahma was produced the first among the gods, maker of the universe, the preserver of the world. He revealed to his eldest son Atharva, the science of Brahma, the basis of all knowledge. (2) Atharvan of old declared to Angis this science, which Brahma had unfolded to him; and Angis, in turn, explained it to Satyavaha, descendent of Bharadvaja, who delivered this traditional lore, in succession, to Angiras. (3) Mahasala Saunaka, approaching Angiras with the proper formalities, inquired, 'What is that, O venerable sage, through the knowledge of which all this (universe) becomes known?' (4) (Angiras) answered, 'Two sciences are to be known— this is what the sages versed in sacred knowledge declared— the superior and the inferior. (5) The inferior (consists of) the Rig-veda,

[1] Sacred Books of the East Vol. II. p. 275.

the Yajur-veda, the Sama-veda, the Atharva-veda, accentuation, ritual, grammar, commentary, prosody, and astronomy. The superior science is that by which the imperishable is apprehended."

The Chhandoyaga Upanishad says:

"(1) Narada approached Sanatkumara, saying, 'Instruct me, venerable sage'. He received for answer, 'Approach me with (tell me) that which thou knowest; and I will declare to thee whatever more is to be learnt.' (2) Narada replied, 'I am instructed, venerable sage, in the Rig-veda, the Sama-Veda, the Yajur-veda, the Atharva-veda (which is) the fourth, the Itihasas and Puranas (which are) the fifth Veda of the Vedas, the rites of the pitris, arithmetic, the knowledge of portents, and of great periods, the art of reasoning, ethics, the science of the gods, the knowledge of scripture, demonology, the science of war, the knowledge of the stars, the science of serpents and deities; this is what I have studied. (3) I, venerable man, know only the hymns (mantras), while I am ignorant of soul. But I have heard from reverend sages like thyself that 'the man who is acquainted with soul overpasses grief'. Now, I venerable man, am afflicted; but do thou transport me over my grief. Sanatkumara answered, 'That which thou hast studied is nothing but name. (4) The Rig-veda is name; and so are the Yajur-veda, the Sama-veda, the Atharvana, which is the fourth and the Itihasas and Puranas, the fifth Veda of the Vedas, etc. (all the other branches of knowledge are here enumerated just as above), all these are but names; worship name. (5) He who worships name (with the persuasion that it is) Brahma, ranges as it were at will over all which that name comprehends;—such is the prerogative of him who worships name (with the persuation that it is) Brahma. 'Is there anything venerable man' asked Narada, 'Which is more than name?', 'There is,' replied (Sanatkumara), 'something which is more than name'. 'Tell it to me', rejoined Narada."

The Brahadarnyaka Upanishad says:

"In that (condition of profound slumber) a father is no father, a mother is no mother, the words are no words, the gods are no gods, and the Vedas are no Vedas, sacrifices are no sacrifices. In that condition a thief is no thief, a murderer of embryos is no murderer of embryos, a Paulakasa no Paulakasa, a Chandala no Chandala, a Sramana no Sramana, a devotee no devotee; the saint has then no relation, either of advantage or disadvantage, to merit or to sin; for he then crosses over all griefs of the heart."

This is what the Katha Upanishad has to say:

"This soul is not to be attained by instruction, nor by understanding, nor by much scripture. He is attainable by him

whom he chooses. The soul chooses that man's body as his own abode".

"Although this soul is difficult to know, still it may easily be known by the use of proper means. This is what (the author) proceeds to say. This soul is not to be attained, known by instruction, by the acknowledgement of many Vedas; nor by understanding, by the power of recollecting the contents of books; nor by much scripture alone. By what, then, is it to be attained? This he declares".

How great was the repugnance to the Upanishads and the philosophy contained in them will be realized if one takes note of the origin of the words Anuloma and Pratiloma which are usually applied to the marriage tie among the Hindus. Speaking of their origin Mr. Kane points out that[1]:

"These two words Anuloma and Pratiloma (as applied to marriage or progeny) hardly ever occur in the Vedic literature. In the Br. Up. (II. 1.15) and Kausitaki Br. Up. IV. 18 the word 'Pratiloma' is applied to the procedure adopted by a Brahmana of going to a Kshatriya for knowledge about *"Brahman"*.

Anuloma means according to the heir that is in the natural order of things. Pratiloma means against the heir that is contrary to the natural order. Reading the observations of Mr. Kane in the light of the definition of the word Pratiloma it is obvious that the Upanishads far from being acknowledged as part of the Vedic literature were if not despised, held in low esteem by the Vedic Brahmins. It is a riddle to find that the Brahmins who were opponents of the Vedanta should become subsequently the supporters and upholders of the Vedanta.

II

This is one riddle of the Vedanta. There is another. The Vedantists were not the only opponents of the Vedas and its doctrine of ritualism as a means of salvations. Madhava Acharya the author of the Sarva Darshana Sangraha mentions two other opponents of the Vaidikas, Charvaka and Brahaspati. Their attack on the Vaidikas was quite formidable in its logic and its .....

The opposition of Charvaka can be seen from the following quotation which reproduces his line of argument against the Vaidikas[2]:

"If you object that, if there be no such thing as happiness in a future world, then how should men of experienced wisdom engage

[1] History of Dharmasastra Vol. II. Part I p. 52.

[2] Sarva Darshan Sangraha (Translated by Cowell) p. 64.

in the agnihotra and other sacrifices, which can only be performed with great expenditure of money and bodily fatigue. Your objection cannot be accepted as any proof to the contrary, since the agnihotra, &c, are only useful as means of livelihood, for the Veda is tainted by three faults of un-truth, self-contradiction, and tautology; then again the impostors who call themselves Vedic pundits are mutually destructive as the authority of the Jnan-kanda is overthrown by those who maintain authority of the Jnan-kanda reject that of the Karmakanda; and lastly, the three Vedas themselves are only the incoherent rhapsodes of knaves, and to this effect runs the popular saying:

'The Agnihotra, the three Vedas, the ascetic's three staves, and smearing oneself with ashes, Brihaspati says, these are but means of livelihood for those who have no manliness nor sense'.

rahaspati was far more bold and militant in his opposition to Vaidism. As reported by Madhava Acharya Brihaspati argued[1]:

"There is no heaven, no final liberation, nor any soul in another world,

Nor do the actions of the four castes, orders &c, produce any real effect.

The Agnihotra, the three Vedas, the ascetic's three staves and smearing oneself with ashes,

Were made by Nature as the livelihood of those destitute of knowledge and manliness.

If a beast slain in the Jyotishtoma rite will itself go to heaven, Why then does not the sacrificer forthwith offer his own father?

If the Sraddha produces gratification to beings who are dead, Then here, too, in the case of travellers when they start, it is needless to give provisions for the journey.

While life remains let a man live happily, let him feed on ghee even though he runs in debt.

When once the body becomes ashes, how can it ever return again?

If he who departs from the body goes to another world,

How is that he comes not back again, restless for love of his kindred ?

Hence it is only as a means of livelihood that Brahmans have established here.

All these ceremonies for the dead,—there is no other fruit anywhere.

The three authors of the Vedas were buffoons, knaves and demons.

[1] Sarva Darshan Sangraha p. 10.

All the well-known formulas of the Pandits, jarphari, turphari,

And all the obscene rites for the queen commanded in the Aswamedha,

These were invented by buffoons, and so all the various kinds of presents to the priests,

While the eating of flesh was similarly commended by night prowling demons."

Why did the Vedic Brahmans compromise with the Vedantists but did not compromise with Charvak and Brihaspati. It is a riddle that awaits explanation.

III

A third riddle remains to be mentioned. This is its most appropriate place for it has reference to the Vedas and Vedantas, not in their crude form but in the philosophical garb which was given to them by two masters of the art of systematization whose names are quite well known in the history of Sanskrit Literature namely Jaimini and Badarayana, the former as the author of Mimansa and the latter as the author of Brahma Sutras. To them and to their work a reference has already been made in the earlier pages and some idea has been given of their place in the formulation of the Vedik beliefs and Vedantik speculations. What remains to be done is to compare and contrast the attitude which one has towards the philosophy of the other.

Starting on this inquiry one is struck by the parallelism between Jaimini and Badarayana in the presentation of the subject matter. As Prof. Belvalkar points out the Vedant Sutras are very closely modelled upon the Karma Sutras. In the matter of methodology and terminology Badarayana very carefully follows Jaimini. He accepts Jaimini rules of interpreting the text of the Shruti. He uses Jaimini's technical terms in the sense in which they have been used by Jaimini. He uses the very illustrations which are employed by Jaimini.

The parallelism shows that Badarayana must have felt that he was the exponent of a rival philosophy which was being attacked by Jaimini and that in replying to the attack he must follow Jaimini's technique.

Question is did Badarayana take the stand of an opponent of Jaimini ?

That Jaimini was his opponent Badarayana himself admits, the attitude of Jaimini towards Vedanta. It is stated by Badarayana in his Sutras 2-7 and explained by Shankaracharya in his commentary.

Jaimini contends that:

> "No one undertakes a sacrificial act unless he is conscious of the fact that he is different from the body and that after death he will go to heaven, where he will enjoy the results of his sacrifices. The Texts dealing with self-knowledge serve merely to enlighten the agent and so are subordinate to sacrificial acts."

In short Jaimini says that all that Vedanta teaches is that self is different from the body and outlives the body. Such a knowledge is not enough. The Self must have the aspiration to go to Heaven. But it can't go to heaven unless it performs Vedic sacrifices which is what his Karmakand teaches. Therefore his Karmakand is the only way of Salvation and that the Jnankand from that point of view is quite useless. For this Jaimini relies on the conduct of men who have believed in Vedanta[1]:

> "Janaka, emperor of Videha performed a sacrifice in which gifts were freely distributed" (Brih. 3.1.1); "I am going to perform a sacrifice, sirs" (Ch. 5.11.5). Now both Janaka and Asvapati were knowers of the Self. If by this knowledge of the Self they had attained Liberation, there was no need for them to perform sacrifices. But the two texts quoted show that they did perform sacrifices. This proves that it is through sacrificial acts alone that one attains Liberation, and not through the knowledge of the Self as the Vedantins hold."

Jaimini makes a positive assertion that the scriptures unmistakably declare[2] "that knowledge of the Self stands in a subordinate relation to sacrificial acts."

Jaimini justifies it because he says[3]:

> "the two (knowledge and work) go together (with the departing soul to produce the results.)"

Jaimini refuses to give an independent position to Badarayana's Jnana kanda. He takes his stands on two grounds.

First[4] "Knowledge of the Self does not independently produce any result."

Second[5] according to the authority of the Vedas "Knowledge (of Self) stands in a subordinate relation to work."

This is the position of Jaimini towards Badaryana's Jnanakanda. What is the position of Badarayana towards Jaimini and his Karma Kanda? This is explained by Badarayana in Sutras 8 to 17.

The first position[6] taken up by Badarayana is that the Self spoken of by Jaimini is the limited self i.e. the soul and is to be distinguished

1. See Badarayana Sutra 3 and Sankara's comment.
2. Badarayana Sutra 4.
3. See Badarayana Sutra 5.
4. Badarayana Sutra 6. Shankar's commentary.
5. See Badarayana Sutra 7. Shankar's commentary.
6. See Badarayana Sutra 8. Shankar's commentary.

from the supreme soul and that the supreme soul is recognized by the Scriptures.

The second[1] position taken by Badarayana is that the Vedas support both knowledge of Self as well as Sacrifices.

The third[2] position taken up by Badarayana is that only those who believe in the Vedas are required to perform Sacrifices. But those who follow the Upanishadas are not bound by that injunction. As Shankaracharya explains:

> "Those who have read the Vedas and known about the sacrifices are entitled to perform work (sacrifice). No work (sacrifice) is prescribed for those who have knowledge of the Self from the Upanishads. Such a knowledge is incompatible with work."

The fourth[3] position taken up by Badarayana is that Karmakanda is optional to those who have attained Bramhadnan. As Shankaracharya explains:

> "That some have of their own accord given up all work. The point is that after knowledge some may choose to work to set an example to others, while others may give up all work. There is no binding on the knowers of the Self as regards work".

His last and final[4] position is that:

> "Knowledge of the Self is antagonistic to all work and so cannot possibly be subsidiary to work."

And as evidence in support of it he relies[5] on the scriptures which recognizes Sannyasa the fourth Ashram and relieves the Sannyasi from performing sacrifices prescribed by the Karma Kand.

Many such Sutras can be found in Badarayana indicating the attitude of the two schools of thought towards each other. But the one given above is enough as it is so very typical. If one stops to consider the matter the position wears a strange appearance. Jaimini denounces Vedanta as a false Shastra, a snare and a delusion, something superficial, unnecessary and unsubstantial. What does Badarayana do in the face of this attack? Does he denounce the Karmakanda of Jaimini as a false Shastra, a snare and a delusion, something superficial unnecessary and insubstantial? No. He only defends his own Vedanta Shastra. But one would expect him to do more. One would expect from Badarayana a denunciation of the Karmakanda of Jaimini as a false religion. Badarayana shows no such courage. On the contrary he is very apologetic. He concedes that Jaimini's Karmakanda

1. See Badarayana Sutra 9.
2. See Badarayana Sutra 12.
3. See Badarayana Sutra 15.
4. See Badarayana Sutra 16.
5. See Badarayana Sutra 17.

based on the scriptures and the scriptures have authority and sanctity which cannot be repudiated. All that he insists on is that his Vedanta doctrine is also true because it has also the support of the scriptures.

This is not all. What Badarayana does is to use the term Vedanta to cover these senses. He uses it so as to emphasize that the Upanishads do form a part of the Vedic literature. He used it also to emphasize what Vedanta or the Dnyanakanda of the Upanishads is not opposed to the Karmakanda of the Vedas that the two are complimentary. Indeed this is the foundation on which Badarayana has raised the whole structure of his Vedanta Sutras.

This thesis of Badarayana—which underlies his Vedanta Sutras and according to which the Upanishads are a part of the Veda and there is no antagonism between the Vedas and Upanishads—is quite contrary to the tenor of the Upanishads and their relation to the Vedas. Badarayana's attitude is not easy to understand. But it is quite obvious that Badarayana's is a queer and a pathetic case of an opponent who begins his battle by admitting the validity of the premises of his adversary.? Why did Badarayana concede to Jaimini on the question of infallibility of the Vedas which were opposed to the Upanishads ? Why did he not stand for truth, the whole truth and nothing but the truth. This is a riddle that requires explanation.

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APPENDIX III

THE RIDDLE OF THE TRIMURTI

To say that Hindu Religion is made up of sects is no less true than to say that Hindu Society is made up of castes. But not half the attention paid to the study of castes has been paid to the study of sects. This is as unfortunate as it is strange. Sects have played as great a part in India's history as castes have done. Indeed some sects just as some castes have made the history of India what it is.

The sects which make up the Hindu Religion are of course legion. It is impossible to explore the origin of all and compare and contrast their cults within the compass of a chapter. All that can be done is to take the most important ones and to present some of problems connected with them. The most important of these sects in the history of India have been three, one believing in the cult of God Brahma, second believing in the cult of Vishnu and the third believing in the cult of Shiva or Mahesha. The following are some of the questions, which cannot but puzzle the student who has studied the origin and history of these cults.

The Chula-Niddessa a Buddhist treatize refers to various sects which were at one time prevalent in India. Classified on the basis of creeds and cults they may be listed as follows:

I CREEDS

Serial No.	Name of the Sect		Essence of the creed
1	Ajivika Shravaka[1]	..	Ajivika[2]
2	Nigatta Shravakas	..	Nigautha[3]

[1] Shravaka means a disciple.

[2] Mendicants following special rules with regard to livelihood.

[3] Mendicants who are free from all ties and hindrances.

This Riddle may be read along with the Riddle No. 11 which deals with The Rise and Fall of Gods. This title 'The Riddle of the Trimurti' however does not find place in the original Table of Contents, nor was it available in the MS received by the Govt. This copy has been spared by Shri S. S. Rege—Ed.

I CREEDS—*contd.*

Serial No.	Name of the Sect		Essence of the creed
3	Jatil Shravakas	..	Jatila[1]
4	Parivrajaka Shravakas	..	Parivrajaka[2]
5	Avarudha Shravakas	..	Avarudhaka

II CULTS

Serial No.	Name of the Sect		The deity which is worshipped
1	Hasti Vratikas[3]	..	Hasti[4]
2	Ashva Vratikas	..	Ashva[5]
3	Go Vratikas	..	Go[6]
4	Kukur Vratikas	..	Kukku[7]
5	Kaka Vratikas	..	Kaka[8]
6	Vasudeo Vratikas	..	Vasudeo
7	Baldeo Vratikas	..	Baldeo
8	Purna Bhadra Vratikas	..	Purna Bhadra
9	Mani Bhadra Vratikas	..	Mani Bhadra
10	Agni Vratikas	..	Agni
11	Naga Vratikas	..	Naga
12	Suparna Vratikas	..	Suparna
13	Yaksha Vratikas	..	Yaksha
14	Asura Vratikas	..	Asura
15	Gandharva Vratikas	..	Gandharva
16	Maharaja Vratikas	..	Maharaja
17	Chandra Vratikas	..	Chandra
18	Surya Vratikas	..	Surya
19	Indra Vratikas	..	Indra
20	Brahma Vratikas	..	Brahma
21	Deva Vratikas	..	Deva
22	Deesha Vratikas	..	Deesha

[1] Mendicants who twist their hair on the head.

[2] Mendicants who escape from society.

[3] Vratika means a devotee.

[4] Elephant.

[5] Horse.

[6] Cow.

[7] Dog.

[8] Crow.

Comparing the cults of the three Gods with the cults of the various Gods mentioned in the list, two conclusions are obvious. One conclusion is that the cults of Vishnu and Mahesha are new fabrications, later in origin than those mentioned in the Chula Niddessa. The second conclusion is that all the old cults have disappeared. Searching for the causes of this strange phenomenon it is quite clear that New Cults could not have come into being unless the Brahmins had taken up the cause of propagating these new cults. Similarly old cults could not have disappeared if the Brahmins had not ceased to propagate them. The question that puzzles the student of history is why did the Brahmins fabricate these new cults? Why did they give up the old cults ? The question not only puzzles but staggers the student when the God that has vanished in this revolution is no other than Indra. Indra is a Vedic God. He is the greatest of the Vedic Gods. The Brahmins worshipped Indra and praised him as the supreme God for hundreds if not thousands of years. What made the Brahmins give up Indra and become the devotees of Brahma, Vishnu and Mahesh? Were the reasons for transfer of loyalties by the Brahmins spiritual or commercial?

Who is this Shiva whom the Brahmins adopted as their God in preference to Indra? The story of Daksha Prajapati's Yajna and the part played by Shiva throws great light on Shiva. The story is that somewhere in the Himalayas king Daksha was performing an Yajna. This Yajna was attended by all Devas, Danavas, Pishachas, Nagas, Rakshasas and Rishis. But Shiva absented as Daksha did not give him invitations. Dadhichi one of the Rishis scolded Daksha for his failure to invite Shiva and to perform his puja. Daksha refused to call Shiva and said " I have seen many of your Rudras. Go away, I don't recognize your Shiva." Dadhichi replied "You have all conspired against Shiva, take care, your Yajna will never reach a successful finis." Mahadeo coming to know of this created a Rakshasas from his mouth and this Rakshasas destroyed the Yajna started by Daksha. This shows that there was a time when Brahmins refused to recognize Shiva as the God to be worshipped or it shows that Shiva was against the Yajna system of the Brahmanas.

The difference between the Aryans and the Non-Aryans was cultural and not racial. The cultural difference centred round two points. The Aryans believed in Chaturvarna. The Non-Aryans were opposed to it. *The Aryans* believed in the performance of Yajna as the essence of their religion. The Non-Aryans were opposed Yajna. Examining the story of Daksha's Yajna in the light of these facts it is quite obvious that Shiva was a Non-Vedic and a Non-Aryan God. The question is

why did the Brahmins, the pillars of Vedic culture, adopt Shiva as their God?

The third question that puzzles the student is the reformation and transformation which the Brahmins have made in the original format of Shiva and Vishnu.

The Hindus are not aware that Shiva is a non-Vedic, non-Aryan God. They identify him with God Rudra mentioned in the Vedas. So that to the Hindus Rudra is the same as Shiva. Now in the Taiteriya Samhita of the Yajur-Veda there is a hymn in praise of Rudra. In this hymn Rudra i.e. Shiva is described as the lord of thieves, robbers, dacoits, as the King of the degraded, of potters and blacksmiths. The question is how did the Brahmins venture to accept this king of thieves and robbers as their supreme God?

There is another reformation in the character of Rudra which the Brahmins have made while accepting him as their God Shiva. In the Ashvalayan Grihya Sutra the proper way of worshipping Rudra is prescribed. According to it the worship of Rudra was to be the sacrifice of a bull. The Sutra gives details of the season, and the Nakshatra for performing this sacrifice. It tells the householder to select the best bull from the stable. It prescribes its colour. It recommends that it should be fat. It should be consecrated with rice water or barley water. Then it should be slaughtered and offered to the Rudra addressing him by all his names and his tail, hide, head and feet should be thrown into the fire. Evidently Rudra was a 'himsak' God to whom animal sacrifice was necessary. Shiva on the other hand has been an Ahimsaka God. He is not offered animal sacrifice. Question is what compelled the Brahmins to make Shiva give up his meat diet and be a vegetarian.

Hindus all over India accept without shame or remorse the virtue of Linga Puja—Phallus worship. This phallus worship is associated with Shiva and it is commonly held that the true way of worshipping Shiva is to worship the Shiva Linga. Was Linga puja always associated with Shiva? Some very interesting facts are brought to light by Prof. Dandekar in his essay on "Vishnu in the Veda". Says Prof. Dandekar:

> "The most significant word in this connection is *Sipivista,* which is exclusively employed in the Veda with reference to Vishnu. The passages where the word occurs in RV (VII. 99.7; VII. 100. 5-6) seems to have been kept obscure with a purpose. The Vedic poets evidently sought to make a guarded and casual reference to that aspect of Vishnu's personality which was indicated by the word, *Sipivista.* Many attempts have been made to explain the word, but few satisfy the requirements of philosophy and none brings out the

true nature of Vishnu. It is not possible to separate philologically the word Sepa (*Penis*) from sipi. Other similar *idg*. forms are Sipha (a root pkt. chepa, lat. oippus, seipio (staff) etc. Even Nirukta (V. 7) seems to be vaguely supporting this view though its further explanation is not clear. Added to that word is a form from the root viz., thus making the whole word mean 'the changing phallus; the swelling and diminishing penis'. We may now easily understand why the Vedic poets speak in such guarded and obscure way about this form of Vishnu. In this connection it is very significant to note what Nirukta (V. 8-9) says of this name of Vishnu: The word sipivista has thus unmistakably preserved Vishnu's ancient phallic nature. There are also many other incidental references to Vishnu in the Vedic hymns and ritual, which clearly associate him with the notion of fertility, productivity and self life."

"One of the obscure features of the Vedic Shraddha-ritual is that the Angustha, without nail, is to be dipped into the offering intended for the *pitars*. This action is accompanied by an invocation to Vishnu. The Angustha is undoubtedly a symbol of the phallus. Vishnu is, in this rite, clearly connected with the phallic aspect of the Vedic ritual. In later literature we find Vishnu actually identified with the thumb. In the I.S. passage (VI. 2.4.2) we find another piece of evidence in this regard. Vishnu's entering into the mother earth is a symbolical description of a fertility rite. The words, *Tanvardhanah,* used with reference to Vishnu's (VII. 99.1; VIII. 100.2) may further be understood to be indicative of his phallic nature. Vishnu is significantly identified, in later literature, with Hiranyagarbha, and Narayana. Vishnu's close connection with Sinivali (AV. VII. 46.3), the 'broad-hipped' divinity protecting the feminine sex-functions, throws considerable light on this aspect of Visnu's personality. According to the Sankhyana-grahyasutra (I. 22.13), the Mantra (X. 184.1) accompanies the garbha-ceremony, thus suggesting that Vishnu is the efficacious protector of the embryos. In AV (VII. 17.4), Vishnu is clearly connected with sex-functions. The two epithets of *Vishnu Nisiktapa* (VII. 36.9) 'protector of the semen', and *Sumajjani* (I. 156.2) 'facilitating easy birth' speak for themselves. The word, *Paumsya* 'manly vigour' is significantly used with reference to Vishnu in RV (E. 155.3-4). In the Vrsakapi-hymn (X. 86), Indra is said to have been exhausted, when a bold, lascivious monkey administered to him some medicine, through which Indra regained his manly power. This Vrsakapi is identified, in later literature, with Vishnu, the word-being also mentioned as one of his names "in the Vishnusahasranama."

On the evidence produced by Prof. Dandekar phallus worship was in its origin connected with Vishnu. In the Puranas we do not find the Phallus worship associated with Vishnu. In the Puranas it is associated with Shiva. This is a most astounding transformation. Vishnu who was from the beginning associated with the Linga worship was dissociated from it and Shiva who had no association with the Linga worship has come to be identified with it. Question is what made the Brahmins dissociate Vishnu from Linga worship and fasten it on to Shiva?

There remains the last and the important question. It relates to the inter-relations of Brahma, Vishnu and Mahesha.

Nothing probably sums up so well the inter-relations between Brahma, Vishnu and Mahesha as does the story of the birth of the God Dattatraya. Briefly the story is that one afternoon when Sarasvati, Laxmi and Parvati, the wives of the three Gods were sitting together chit-chatting, Narada, the sage on eternal tour, came to visit them. In the course of the conversation a question arose as who was the most chaste woman in the land. Narada held out that Anusuya the wife of Rishi by name Atri—as the purest and most chaste woman. This was violently disputed by the three, each one of whom claimed to have that title. Narada disproved their claim by recounting the many acts of adultery which one of them was guilty of. They were silenced but they became very angry. They wanted to retrieve their position *vis-a-vis* Anusuya. In their wisdom they decided that the only way by which this could be done was to have Anusuya seduced to illicit intercourse. Having decided upon their plan of action the three women told to their husbands when they returned in the evening what Narada said about them in the afternoon and scolded them by saying that they were the cause of their wives humiliation. For if they had committed adultery with Anusuya she and they would have been on the same level and Narada would not have found cause to humiliate them. They asked their husbands whether they cared for their wives and if they did were they not in duty bound to proceed forthwith to invade the chastity of Anusuya and to pull her down from the high pedestle of purity and chastity on which Narada had placed her. The Gods were convinced that what was suggested by their wives was their duty and that they could not shirk the task.

The three Gods started on an expedition to rob Anusuya of her honour and marched on to the hutment of Atri. The three Gods disguised themselves as three Brahmin Mendicants. When they arrived Atri was away. But Anusuya welcomed them and prepared food for them. When the meal was ready she asked them to sit and partake of

the meal. The three Gods replied that they would take food at her house only if she agreed to serve them food in a naked condition. The rule of hospitality in ancient India was that Brahmin guest must not depart dissatisfied. Everything he asked must be given to him. In obedience to this rule Anusuya agreed to serve them naked. While she was serving food to them in this naked condition Atri arrived. On seeing Atri the three Gods who were taking food with Anusuya standing naked took the form of new born babes. The three Gods in the form of babes were placed by Atri in a craddle. In the craddle their bodies having become integrated into one and their heads having remained separate there arose the God Dattatraya who has one body and three heads representing the three Gods, Brahma, Vishnu and Mahesha.

The story has a stink of immorality in it and the close of it may have been deliberately designed so as to cover up the actual fact of Brahma, Vishnu and Mahesha having outraged Anusuya to lower her down to the level of their wives. Be that as it may the story illustrates the view once prevalent among the Hindus that three Gods Brahma, Vishnu and Mahesha were co-equal in status and their functions are complimentary and not competitive. They were spoken of as forming Trimurti—three in one and one in three, all sustaining the world, Brahma by creating it, Vishnu by preserving it and Shiva by destroying it.

This state of harmony did not last long. The Brahmins who were the propagandists of these three Gods divided themselves into three camps each becoming devoted to one to the exclusion of the other two. The result of this was a systematic campaign of villification and degradation by the Brahmins devoted to one God of the other Gods.

It is interesting as well as instructive to note what the Brahmins have done to Brahma. There was a time when the Brahmins raised Brahma to the highest pinnacle of power and glory. They presented him as the creator of the Universe—the first Prajapati. He was their sole supreme God. The Brahmins had developed the theory of *Avatar* which holds that God when necessary incarnates into different forms, human or animal. This they use for twofold purpose, firstly to elevate the supremacy of a God in whom they are interested and secondly to reconcile the conflict between Gods as different personalities.

The Brahmins have run riot with this theory of *Avatar* and different Puranas have given different lists of Avatars as will be seen from the following:

	According to Hari Vamsha	According to Narayani Akhyan	According to Varaha Purana	According to Vayu Purana	According to Bhagwat Purana
1	Varaha	Hansa	Kurma	Narasinha	Sanatkumar
2	Narasinha	Kurma	Matsya	Vaman	Boar
3	Vaman	Matsya	Varaha	Varaha	
4	Parshuram	Varaha	Narasinha	Kurma	Nara-Narayan
5	Rama	Narasinha	Vaman	Sangram	Kapila
6	Krishna	Vaman	Parshuram	Adivaka	Dattatraya
7		Parshuram	Rama	Tripurari	Jadna
8		Rama	Krishna	Andhakarh	Rashabha
9		Krishna	Buddha	Dhvaja	Prithi
10		Kalkin	Kalkin	Varta	Matsya
11				Halahal	Kurma
12				Kolhahal	Dhanwantri
13					Mohini
14					Narasinha
15					Vaman
16					Parshuram
17					Ved Vyas
18					Naradeo
19					Rama
20					Krishna
21					Buddha
22					Kalkin

These Avatars are all said by these Puranas to be the Avatars of Vishnu. But to begin, with when the Avatars had begun to be coined the story of the two Avatars—of the Boar[1] and the Fish[2]—which in later times given to Vishnu was given by the Brahmins to Brahma. Again even when the Brahmins admitted Shiva and Vishnu as co-equal with Brahma they maintained the supremacy of Brahma over Shiva and Vishnu. The Brahmins made him the progenitor of Shiva[3] and propagated the view that if Vishnu[4] became the preserver of the world it was because of the command of the Brahma. With the plurality of Gods, conflicts between them were always present and some God to act as Arbitrator and settler of disputes was necessary.

[1] Ramayana—Quoted in Muir's Sanskrit Texts Vol. IV p. 33.

[2] Mahabharata—Vana Parva & Linga Purana—Muir *Ibid.,* pp. 38-39.

[3] Vishnu Purana—Muir *Ibid* p. 392.

[4] Ramayana—Muir *Ibid* p. 477.

Puranas are full of such conflicts, even wars among Gods. There were conflicts between Rudra and Narayana[1], between Krishna and Shiva[2]. In these conflicts the Brahmins have made Brahma the Arbitrator.

The same Brahmins who elevated Brahma to such pre-eminence turned against him, started degrading him and mud-slinging him. They started propagating the view that Brahma was really inferior to Vishnu and Shiva. Contrary to their previous utterances the Brahmins said that Brahma was born from Shiva[3] and some said that he was born from Vishnu[4].

The Brahmins completely inverted the relation between Shiva and Brahma. Brahma was no longer the God who could give salvation. The God who could give salvation was Shiva and they reduced Brahma to the position of a common devotee worshipping Shiva and Linga in the hope of getting salvation[5]. They reduced him to the position of servant of Shiva by making him the charioteer of Shiva[6].

The Brahmins did not stop with degrading Brahma. They villified him in the worst manner possible. They broadcast the story of his having committed rape on his own daughter Sarasvati which is repeated in the Bhagwat Purana[7]:

> "We have heard, O Kshatriya, that Svayambhu (Brahma) had a passion for Vach, his slender and enchanting daughter, who had no passion for him. The Munis, his sons, headed by Marichi, seeing their father bent upon wickedness, admonished him with affection: 'This is such a thing as has never been done by those before you, nor will those after you do it,—that you, being the lord, should sexually approach your daughter, not restraining your passion. This, O preceptor of the world, is not a laudable deed even in glorious personages, through imitation of whose actions men attain felicity. Glory to that divine being (Vishnu) who by his own lustre revealed this (universe) which abides in himself,—he must maintain righteousness'. Seeing his sons, the Prajapatis, thus speaking before him, the lord of the Prajapatis (Brahma) was ashamed, and abandoned his body. This dreadful body the regions received, and it is known as foggy darkness."

The result of this degrading and defamatory attacks on Brahma was to damn him completely. No wonder that his cult disappeared from the face of India leaving him a nominal and theoretical member of the Trimurti.

[1] Mahabharat Shanti Parva Quoted in Muir Vol. IV. p. 240.

[2] Mahabharat Shanti Parva *Ibid.* p. 279.

[3] Mahabharat Anushasan Parva—Muir *Ibid.* p. 188.

[4] Bhagwat Purana—*Ibid.* p. 43.

[5] Mahabharat quoted in Muir's Sanskrit Texts Vol. IV p. 192.

[6] *Ibid,* p. 193.

[7] Muir's Sanskrit Texts Vol. IV p. 47.

After Brahma was driven out of the field there remained two parties of Brahmanas, one engaged in favour of Shiva and the other engaged in favour of Vishnu. Let us see what they did as protagonists of their rival deities. Neither party succeeded in driving out the cult of its rival God. The cult of Shiva and the cult of Vishnu have continued to exist and flourish. Notwithstanding the many cults that have subsequently come into existence they have not been eclipsed. This is largely due to the propaganda and counter-propaganda carried on by the Brahmin protagonists of Shiva and Vishnu. How well matched the propaganda and counter propaganda was, can be seen from the following few illustrations.

Vishnu is connected with the Vedic God Sun. The worshippers of Shiva connect him with Agni. If one has Vedic origin the other must have Vedic origin as well. One cannot be inferior to the other in the matter of nobility of origin.

Shiva must be greater than Vishnu and Vishnu must not be less than Shiva. Vishnu has thousand names[1]. So Shiva must have thousand names and he has them[2]. Vishnu has his emblems[3]. So must have Shiva and he has them[4].

In the performance of deeds of glory the propaganda in favour of one is fully matched by counter-propaganda in favour of the other. One illustration of this is the story regarding the origin of the holy river Ganges[5]. The devotees of Shiva attribute its origin to Shiva. They make it take its origin from Shiva's hair. But the Vaishnavas will not allow it. They have manufactured another legend. According to the Vaishnavite legend the blessed and the blessing river flowed originally out of Vaikunth (the abode of Vishnu) from the foot of Vishnu, and descending upon Kailasa fell on the head of Shiva. There is a two-fold suggestion in the legend. In the first place Shiva is not the source of the Ganges. In the second place Shiva is lower than Vishnu and receives on his head water which flows from the foot of Vishnu.

Another illustration is furnished by the story which relates to the churning of the oceans by the Devas and the Asuras. They used the Mandara mountain as the churning rod and huge serpent Shesha as a rope to whirl the mountain. The earth began to shake and people became afraid that the world was coming to an end. Vishnu took the Avatar of Kurma (tortoise) and held the earth on his back and prevented the earth from shaking while the churning was going on.

[1] *See* Vishnu Sahasranama.

[2] They are mentioned in the Padma Purana.

[3] *See* above.

[4] They are (1) Flowing Ganges (2) Chandra i.e. Moon and (3) Shesh (snake) and (4) Matted hair.

[5] Moore; Hindu Pantheon pp. 40-41.

This story is told in glorification of Vishnu. To this the Shaivites add a supplement. According to this supplement the churning brought out fourteen articles from the depth of the ocean which are called fourteen jewels. Among these fourteen a deadly poison was one. This deadly poison would have destroyed the earth unless somebody drank it. Shiva was the only person who came to drink it. The suggetion is that Vishnu's act was foolish in allowing the rivals the Gods and Demons to bring out this deadly poison. Glory to Shiva for he drank it and saved the world from the evil consequences of the folly of Vishnu.

Third illustration is an attempt to show that Vishnu is a fool and that it is Shiva who with his greater wisdom and greater power saves Vishnu from his folly. It is the story of Akrurasura[1]. Akrur was a demon with the face of a bear, who, nevertheless, was continuously reading the Vedas and performing acts of devotion. Vishnu was greatly pleased and promised him any boon that he would care to ask. Akrurasura requested that no creature, then existing in the three worlds, might have power to deprive him of life, and Vishnu complied with his request; but the demon became so insolent that the Devatas, whom he oppressed, were obliged to conceal themselves, and he assumed the dominion of the world; Vishnu was then sitting on a bank of the Kali, greatly disquieted by the malignant ingratitude of the demon; and his wrath being kindled, a shape, which never before had existed, sprang from his eyes. It was Mahadeva, in his destructive character, who dispelled in a moment the anxiety of the Vishnu.

This is countered by the story of Bhasmasura intended to show that Shiva was a fool and Vishnu saved him from his folly. Bhasmasura having propitiated Shiva asked for a boon. The boon was to be the power to burn any one on whose head Bhasmasura laid his hands. Shiva granted the boon. Bhasmasura tried to use his boon power against Shiva himself. Shiva became terrified and ran to Vishnu for help. Vishnu promised to help him. Vishnu took the form of a beautiful woman and went to Bhasmasura who became completely enamoured of her. Vishnu asked Bhasmasura to agree to obey him in everything as a condition of surrender. Bhasmasura agreed. Vishnu then asked him to place his hands on his own head which Bhasmasura did with the result that Bhasmasur died and Vishnu got the credit of saving Shiva from the consequences of his folly.

The rivalry and the consequent enmity among these Gods is best illustrated by the legend as to which of them is the first born. The story as related in the Skand Purana[2] says that one time Vishnu lay

[1] The story is told in Vishnu Agama and is quoted in Moore's Hindu Pantheon pp. 19-20.

[2] Quoted in Moore's Hindu Pantheon pp. 17-18.

extended asleep on the bosom of Devi, a lotus arose from his navel, and its ascending flower soon reached the surface of the flood, Brahma sprang from that flower, and looking round without any creature on the boundless expanse, imagined himself to be the first born, and entitled to rank above all future beings; yet, resolved to investigate deep and to ascertain whether any being existed in its universe who could controvert his pre-eminence, he glided down the stock of the lotus and finding Vishnu asleep, asked loudly who he was ? 'I am the first born' answered Vishnu; and when Brahma denied his primogeniture, they had an obstinate battle, till Mahadeo pressed between them in great wrath, saying 'It is I who am truly the first born. But I will resign my place to either of you, who shall be able to reach behind the summit of my head, or the soles of my foot. Brahma instantly ascended; but having fatigued himself to no purpose in the regions of immensity, yet loath to abandon his claim, returned to Mahadeo, declaring that he had attained and seen the crown of his head, and called as his witness the first born cow. For this union of pride and falsehood, the angry God ordained, that no sacred Shiva rites should be performed to Brahma and that the mouth of cow should be defiled. When Vishnu returned, he acknowledged that he had not been able to see the feet of Mahadeo, who then told him that he was the first born among the Gods, and should be raised above all. It was after this Mahadeo cut off the fifth head of Brahma who thus suffered the loss of his pride, his power and his influence.

According to this story Brahma's claim to be the first born was false. He was punished by Shiva for making it. Vishnu gets the right to call himself the first born. But that is allowed to him by the grace of Shiva. The followers of Brahma had their revenge on Vishnu for stealing what rightfully belonged to him with the help of Shiva. So they manufactured another legend[1] according to which Vishnu emanated from Brahma's nostrils in the shape of a pig and grew naturally into a boar—a very mean explanation of Vishnu's avatar as a boar.

The rivalry among these Gods had taken the shape of rivalry among traders and results in indecent abuse of Shiva by Vishnu and of Vishnu by Shiva.

Such are the facts about the Trinity and its subsequent history.

There is nothing new in the conception of Trinity.

The conception of Trinity is an old one, older than Yaska. To reduce the chaos of innumerable Gods the early Brahmins were engaged to select some Gods and to make them pre-eminent over the rest. The number of such pre-eminent Gods was fixed at three. Of these Agni

[1] Quoted by Moore, *Ibid.* p. 184.

and Surya were two. For the third place there was rivalry between Vayu and Indra. Consequently one finds the Trinity of Agni, Indra and Surya or Agni, Vayu and Surya. The new trinity is identical in its conception with the old though different in its personnel. Every member of this Trinity is new. It seems after the first Trinity was dissolved no new Trinity existed for a considerable time. In the Chulla Nidessa there is mention only of Brahma Vratikas. There is no mention of Vishnu Vratikas or Shiva Vratikas. This means that at the time of the Chula Nidessa the cult of Vishnu and the cult of Shiva had not come into being. They were later on added to the cult of Brahma and constituted into a Trinity. Several questions rise in one's mind when one considers the part played by the Brahmins in the evolution and confounding of the Trinity.

The first that arises is the faithlessness of the Brahamins to their Gods, the easy manner in which they abandon one set of Gods for another. In this connection one is reminded of the Jewish priests and Nebuchad-Nez-Zar.

> " Neb-U-Chad-Nez-Zar[1] the king made an image of gold, whose height was three score cubits, and the breadth thereof six cubits he set it up in the plain of Du-ra, in the province of Bab-y-lon.
>
> " 2. Then Neb-u-chad-nez-zar the king sent to gather together the princes (satraps), the governors (deputies), and the captains (governors), the judges, the treasurers, the counsellors, the sheriffs, and all the rulers of the provinces, to come to the dedication of the image which Neb-u-chad-nez-zar the king had set up.
>
> "3. Then the princes, the governors, and the captains, the judges, the treasurers, the counsellors, the sheriffs, and all the rulers of the provinces, were gathered together unto the dedication of the image that Neb-u-chad-nez-zar the king had set up; and they stood before the image that Neb-u-chad-nez-zar had set up.
>
> 4. "Then an herald cried aloud, To you it is commanded, O people, nations, and languages.
>
> 5. That at what time ye hear the sound of the cornet, flute, harp, sackbut, psaltery, dulcimer, and all kinds of musick, ye fall down and worship the golden image that Neb-u-chad-nez-zar the king hath set up;
>
> 6. And whoso falleth not down and worshippeth shall the same hour be cast into the midst of a burning fiery furnace.
>
> 7. Therefore at that time, when all the people heard, the sound of the cornet, flute, harp, sackbut, psaltery, and all kinds of musick, all the people, the nations, and the languages, fell down and

[1] Old Testament—Daniel Chap. 3. verses 1-23.

worshipped the golden image that Neb-u-chad-nez-zar the king had set up."

8. Wherefore at that time certain Chal-de-ans came near, and, accused the Jews.

9. They spake and said to the king Neb-u-chad-nez-zar, "O King, live for ever."

10. "Thou, O King, hast made a decree, that every man that shall hear the sound of the cornet, flute, harp, sackbut, psaltery, and dulcimer, and all kinds of musick, shall fall down and worship the golden image."

11. "And whoso falleth not down and worshippeth, that he should be cast into the midst of a burning fiery furnace."

12. "There are certain Jews whom thou hast set over the affairs of the province of Bab-y-lon, Sha-dra*ch*, Me-sha*ch* and A-bed-ne-go; these men, O king, have not regarded thee; they serve not thy gods, nor worship the golden image which thou hast set up."

13. "Then Neb-u-chad-nez-zar in his rage and fury commanded to bring O Sha-dra*ch*, Me-sha*ch,* and A-bed-ne-go. Then they brought these men before the king.

14. Neb-u-chad-nez-zar spake and said unto them, "Is it true, O Sha-dra*ch*, Me-sha*ch,* and A-bed-ne-go, do not ye serve my gods, nor worship the golden image which I have set up?"

15. "Now if ye be ready that at what time ye hear the sound of the cornet, flute, harp, sackbut, psaltery, and dulcimer, and all kinds of musick, ye fall down and worship the image which I have made; well; but if ye worship not, ye shall be cast the same hour into the midst of a burning fiery furnace; and who is that God that shall deliver you out of my hands?"

16. Sha-drach, Me-shach, and A-bed-ne-go, answered and said to the king, "O Neb-u-chad-nez-zar, we are not careful to answer thee in this matter."

17. "If it be so, our God whom we serve is able to deliver us from the burning fiery furnace, and he will deliver us out of thine hand, O king."

18. "But if not, be it known unto thee, O king, that we will not serve thy gods, nor worship the golden image which thou hast set up."

19. "Then was Neb-u-chad-nez-zar full of fury, and the form of his visage was changed against Sha-drach, Me-shach and A-bed-ne- go; therefore he spake, and commanded that they should heat the furnace one seven times more than it was wont to be heated.

20. And he commanded the most mighty men that were in his army to bind Sha-drach, Me-shach, and A-bed-ne-go and to cast them into the burning fiery furnace.

21. Then these men were bound in their coats, their hosen, and their hats, and their other garments, and were cast into the midst of the burning fiery furnace.

22. Therefore because the king's commandment was urgent, and the furnace exceeding hot, the flame of the fire slew those men that took up Sha-drach, Me-shach, and A-bed-ne-go.

23. And these three men, Sha-drach, Me-shach, and A-bed-ne-go, fell bound into the midst of the burning fiery furnance."

Why did the Brahmins give up the first Trinity? There is no indication that they were compelled to foreswear those Gods. Was it love of gain or lucre?

The second question is why did the Brahmins who became the votaries of the three Gods follow the principle of live and let live? Why was one sect bent on destroying the other. There was no doctrinal difference between these sects worth the name. Their theology, cosmology and philosophy were all one and the same. The riddle becomes all the great. Was this sectarian quarrel political? Did the Brahmins make religion a matter of politics? Otherwise what is the explanation of this quarrel ?

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APPENDIX IV

II SMARTH DHARMA

The Sacred literature of Smarth Dharma consists of the *Smritis* or the Law Books. These law books contain what may be called the Canon Law. This Canon Law as will be seen later on is vast in its compass and treats of such subjects as law, government, civic rights and duties of the different classes in society, penances for sins and punishments for offences. The purely secular part of this Dharma is not relevant for the purpose in hand. What is relevant is that part, of it which is accepted as belonging strictly to religion.

The Smarth Dharma i.e. Dharma based on Smritis is based on five dogmas. The first dogma of Smarth Dharma is the belief in Trinity of Gods, composed of three Gods: Brahma, Vishnu and Mahesh or Shiva. In this Trinity, Brahma is the creator of the world, Vishnu is the preserver and Shiva is the destroyer. Instead of the thirty-three Gods of the Srauta Dharma, Smarth Dharma limits the pantheon to only three.

The second dogma of the Smarth Dharma is the recognition of the purificatory ceremonies which are called Sanskaras or sacraments. According to the Smarth Dharma every householder must perform certain ceremonies. If he does not he becomes a *patit* i.e. one who is fallen from grace and therefore.....

(*The above text is on a typed Page No. 21. Further pages of this chapter are missing. The following text is from the loose sheets enumerated in blue pencil from page No. 55 to 65 only, except page No. 56. All these pages have corrections and instructions in the handwriting of the author.*)—Ed.

There are few loose pages on ' Smarth Dharma and Tantrik Dharma'. Smarth Dharma is numbered as Part II while Tantrik Dharma is numbered as Part III. It seems that Part I consisted of Srauta Dharma. There is only one page of Smarth Dharma numbered as 21. The Tantrik Dharma starts from page 55 and ends at page 65 except page No. 56 with three more handwritten pages added by the author.—Ed.

Punishments and Penances occupy very prominent place in Pauranik Dharma. In the Srauta Dharma Yama has nothing to do with the future punishment of the wicked. The idea of penal retribution after death for sins committed during life is unknown. But the Puranas have considerably enlarged the Powers of Yama in this respect.

> "Yama fulfils the office of judge of the dead, as well as sovereign of the damned; all that die appearing before him, and being confronted with Chitragupta, the recorder, by whom their actions have been registered. The virtuous are thence conveyed to Swarga, or Elysium, whilst the wicked are driven to the different regions of Naraka, or Tartarus".

> " The dreadful Chitragupta with a voice like that issuing from the clouds at the mundane dissolution, gleaming like a mountain of collyrium, terrible with lightning like weapons, having thirty-two arms, as big as three yojans, red-eyed, long-nosed, his face furnished with grinders and projecting teeth, his eyes resembling oblong ponds, bearing death and diseases."

Sin will be punished after death. So also there is expiation for sin if the- sinner wishes by performing certain penances for removing sin.

But what is sin? According to the Pauranik Dharma it does not mean the commission of a moral wrong. It means the non-performance of the observances prescribed by the Puranas. Such is Pauranik Dharma.

III TANTRIK DHARMA

What is known as the Tantrik Dharma centres round the worship of *Shakti*. Shakti literally means power or energy. But in Tantrism it means the female partner of a male God. The literature of the Tantrik Dharma is quite vast and forms quite a separate branch of the Hindu Religious literature. It is necessary to observe that the Shakta form of Hinduism is equipped with a vast mythological personnel of its own, an immense array of female personalities, constituting a distinct division of the Hindu Pantheon.

In its origin the Tantrik Dharma is only an extension of the Pauranik Dharma. It is the Puranas which first began with the recognition of the female unmarried goddesses or as objects of worship. This was followed by the recognition of married females who were the wives of the Gods. It is in support of their recognition of the right of the wives of the Gods to be worshipped as goddesses that the Puranas set out the principle of Shaktism. According to the Puranas

a deity though single has a dual character. In one it is quiescent, in the other active. The active nature of the deity is called his Shakti (i.e. his power). This *Shakti* of the deity is personified by the Puranas as the wife of the deity. This is the foundation of what is called Shaktism or the worship of the wife of certain deities.

The essence of Shaktism lies in the exclusive worship of the female deity in her most comprehensive character as the great power (Sakti) of Nature, the one mother of the Universe (Jagan-Mata, Jagad-Amba)—the mighty mysterious Force whose function is to direct and control two quite distinct operations; namely, first, the working of the natural appetites and passions, whether for the support of the body by eating and drinking, or for the propagation of living organisms through sexual cohabitation; secondly, the acquisition of supernatural faculties and magical powers (siddhi), whether for a man's own individual exaltation or for the annihilation of his opponents.

And here it is necessary to observe that the Sakta form of Hinduism is equipped with a vast mythological Personnel of its own—an immense array of female personalities, constituting a distinct division of the Hindu Pantheon.

Yet the whole array of the Tantrik female Pantheon spreading out as it does into countless ramifications, Shaktism has its root in the wife of Shiva. By common consent she is held to be the source or first point of departure of the entire female mythological system. She also stands at its head; and it is remarkable that in every one of the male God Shiva's characteristics, his consort is not only his counterpart, but a representation of all his attributes intensified. We have already pointed out how it came to pass that the male God gradually gathered under his own personality the attributes and functions of all other divinities, and thus became to his own special worshippers the great God (Mahadevah) of Hinduism. Similarly and in a much greater degree did his female counterpart become the one great goddess (Maha-devi) of the Sakta hierarchy: representing in her own person all other female manifestations of Brahma, Vishnu and Shiva, and absorbing all their functions. For this reason even the wives of Brahma and Vishnu were said to be her daughters. As to the opposite and contradictory qualities attributed to her, these are no source of difficulty to a Hindu mind. She is simply in all respects a duplicate of her husband but a duplicate painted in deeper or more vivid colours.

And just as Shiva is at one time white (Sveta, Sukla) both in complexion and character, at another black (Kala); so his female

nature also became one half white (whence one of her names Gauri) and the other half black (whence her name Kali).

Then, again, each of these opposite characters became variously modified and endlessly multiplied. The white or mild nature ramified into the Saktis called Uma, Gauri, Lakshmi, Sarasvati, etc., the black or fierce nature into those called Kali, Durga, Candi, Camunda, etc. And just as Shiva has 1008 names or epithets, so his wife possesses a feminine duplicate of nearly everyone of his designations. At least one thousand distinct appellations are assigned to her, some expressive of her benignant, some of her ferocious character. Notably it is declared in the Tantras that if any one repeats eight of her names containing the letter *m,* kings will become his servants, all men will love him, and all his difficulties come to a happy termination.

In short, all the other Saktis came to be included by the Saktas under the *Sakti* or female energy of Shiva, which eventually developed into innumerable separate manifestations and personifications.

But it began in a rather modest way by starting the worship of the Durga along with Shiva, Laxmi along with Vishnu, Radha along with Krishna and Sita along with Rama. The number of Shaktis was not defined.

Sometimes only eight Saktis are enumerated and sometimes nine, viz, Vaishnavi, Brahmani, Raudri, Mahesvari, Narasinhi, Varahi, Indrani, Karttiki, and Pradhana. Others reckon fifty forms of the Sakti of Vishnu, besides Laxmi; and fifty of Siva or Rudra, besides Durga or Gauri. Sarasvati is named as a Sakti of Vishnu and Rudra, as well as Brahma. According to the Vayu-purana, the female nature of Rudra (Siva) became two-fold, one half Asita or white, and the other half Sita or black, each of these again becoming manifold. The white or mild nature includes the Saktis Uma, Gauri, Laxmi, Sarasvati, &c, the black or fierce nature includes Durga, Kali, Candi, Camunda, &c.

Soon however all the Shaktis were universalized under the Shakti or female energy which eventually developed into innumerable separate manifestations and personifications.

These personifications, following the analogy of some of Vishnu's incarnations, are sometimes grouped according to a supposed difference of participation in the divine energy, such for example as the full energy (*purna sakti*), the partial (*ansarupini*) the still more partial (*kala-rupini*), and the partial of the partial (kalansa-rupini), this last including mortal women in various degrees, from Brahman

women downwards, who are all worshipped as forms of the divine mother manifesting herself upon earth; for it must not be forgotten that in the Sakta creed every female is a present divinity.

The more usual classification, however, begins with the Mahavidyas. These are held to be ten in number, that number being probably selected to match the ten chief incarnations of Vishnu. They are called Mahavidyas as sources of the goddess' highest knowledge; that is to say, of the knowledge which confers preternatural powers. They have all different attributes, and are thus designated: (1) Kali (sometimes called Syama), black in colour, fierce and irascible in character. (2) Tara, a more benign manifestation, worshipped especially in Kashmir. (3) Shodasi, a beautiful girl of sixteen (also called Tripura worshipped in Malabar). (4) Bhuvanesvari. (5) Bhairavi. (6) Chinna-mastaka, a naked goddess holding in one hand a blood-stained scimitar and in the other her own severed head, which drinks the warm blood gushing from her headless trunk. (7) Dhumavati, in the form of smoke. (8) Vagala or Bagala, having the face of crane. (9) Matangi, a woman of the Bhangi caste. (10) Kamalatmika. Of these the first two are especially Mahavidyas, the next five vidyas, and the last three Siddhavidyas.

The next class of personifications or manifestations of the goddess are the Matris or Matrika (or Maha-matris), the great mothers of the Universe. These are more important than the Mahavidyas in their connexion with the prevalence of Mother-worship, a form of religion which, among the peasantry of India, often takes the place of every other creed. This will be more fully explained in the chapter on tutelary deities.

The Matris or Mothers are: 1. Vaishnavi, 2. Brahmi or Brahmani, often represented with four faces or heads like the God Brahma, 3. Karttikeyi, sometimes called Mayuri, 4. Indrani, 5. Yami, 6. Varahi, connected with the boar incarnation of Vishnu, 7. Devi or Isani, represented with a trident in one hand as wife of Shiva. 8. Laxmi. Each of these divine Mothers is represented with a child in her lap.

Closely related to the Mothers is a class of female personifications called the eight Nayikas or mistresses. These, of course, are not necessarily mothers. In fact no other idea is connected with them than that of illegitimate sexual love. They are called Balini, Kamesvari, Vimala, Aruna, Medini, Jayini. Sarvesvari and Kaulesi.

Another class of manifestations is that of the Yoginis. These are sometimes represented as eight fairies or sorceresses created by and attendant on Durga, sometimes as mere forms of that goddess, sixty

or sixty-five in number, and capable of being multiplied to the number of ten millions.

Other classes not worth enumerating are the Dakinis and Sakinis. These are simply female friends or ogresses of most repulsive habits, and are not so much manifestations of the goddess as impish servants always attendant on her.

But it is in the form Kali—the form under which the goddess is worshiped at Calcutta—that she is most terrible.

The following is a free translation of two passages in the Tantras descriptive of Kali's appearance:

> "One should adore with liquors and oblations that Kali who has a terrible gaping mouth and uncombed hair : who has four hands and a splendid garland formed of the heads of the giants she has slain and whose blood she has drunk; who holds a sword in her lotus-like hands; who is fearless and awards blessings; who is as black as the large clouds and has the whole sky for her clothes; who has string of skulls round her neck and a throat besmeared with blood; who wears ear-rings (consisting of two dead bodies); who carries two dead bodies in her hands; who has terrible teeth and smiling face; whose form is awful and who dwells in burning-grounds (for consuming corpses); who stands on the breast of her husband Maha-deva."

(*Page Nos. 63-64 are missing. The script of Page No. 65 only is given below along with the concluding para written in the handwriting of the author.*)

The Tantrik worship is altogether different from Srauta or Pauranik worship. It is in keeping with its central philosophy namely the best form of worship is the fullest satisfaction of the carnal desires of man. The Tantrik worship is summed up in what are called five *Makaras,* The five Makaras are:

(i) The drinking of *Madya* (i.e. wine and liquors of various kinds).

(ii) The eating of *Mansa* (meat).

(iii) The eating of *Matsya* (fish).

(iv) The eating of *Mudra* (parched or fried grain).

(v) The performance of *Maithun* (sexual intercourse with a woman).

The Tantrik Puja consists in the performance of these acts. It is not necessary to draw attention to the fact that whatever is declared as *nishidha* (prohibited) is allowed in the Tantrik worship even sexual intercourse with a woman being prescribed as part of the Puja. Such is the growth of the Hindu Religion. On reading this history a student of

true religion is forced to ask: Where is the place of morality in the Hindu Religion?

Religion no doubt started its career by asking many questions:

> "What am I?" "Who made the Universe?" "If God made it what is the relation of Ego to God?" "What is the right way to propitiate God ?" " What is the relation between I and the Non-I i.e. between man and universe?" "What constitutes good life or that will please God?" etc.

Most of these questions have been taken over by theology, metaphysics, philosophy and ethics, into which religion has become split. But there is one question that remains with religion to preach and propagate namely what constitutes good life. A religion which does not do so is no religion at all.

Why have the Brahmins made the Hindu religion so nude; so devoid of morality? The Hindu religion is nothing but worshipping so many Gods and Goddesses, worshipping so many trees, visiting so many places of pilgrimage and making offerings to the Brahmins. Was the religion formulating for enabling the Brahmins to earn their living? Did they ever think that morality is the foundation of society and that unless morality is imbedded in religion it (has no driving)* force. These are questions which the Brahmins must answer.

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*The words are introduced by us as this portion of the page is moth-eaten.

APPENDIX V

THE INFALLIBILITY OF THE VEDAS

The Hindus are enjoined to study the Vedas every day the Satapatha Brahmana explains the reasons for it. It says:

"There are only five great sacrifices, which are the great ceremonies, viz., the offering to living creatures,[1] the offering to men, the offering to the fathers, the offering to the gods, and the Veda-offering (*Brahma-yajna*). *2.* Let an oblation be daily presented to living creatures. Thus the offering to them is fulfilled. Let (hospitality) be daily bestowed even down to the bowl of water; Thus is the offering to men fulfilled. Let the oblation to the gods be daily presented[2] as far as the faggot of wood. Thus is the offering to the gods fulfilled. 3. Next is the Veda-offering. This means private study[3] (of the sacred books). In this Veda-sacrifice speech is the *juhu,* the soul the *upabhrit,* the eye the *dhruva,* intelligence the sruva,[4] truth the ablution, and paradise the conclusion. He who, knowing this, daily studies the Veda, conquers an undecaying world more than thrice as great as that which he acquires who bestows this whole earth filled with riches. Wherefore the Veda should be studied. 4. Verses of the Rig-veda are milk-oblations to the Gods. He who, knowing this, daily reads these verses satisfies the gods with milk-oblations; and they being satisfied, satisfy him with property, with breath, with generative power, with complete bodily soundness, with all excellent blessings. Streams of butter, streams of honey flow as svadha-oblations to the fathers. 5. Yajush-verses are

[1] This sacrifice, as I learn from Prof. Aufrecht, consists in scattering grain for the benefit of birds, etc. See Bohtlingk and Roth's Lexicon, s. v. bali. In regard to the other sacrifices see Colebrooke's Misc. Essays, i. pp. 150, 153, 182 ff., 203 ff.

[2] In explanation of this Prof. Aufrecht refers to Katyayana's Srauta Sutras, iv. 1, 10 and Manu, iii. 210, 214, 218.

[3] Svadhyayah sva-sakhadhyanam " Reading of the Veda in one's own sakha."—comm.

[4] These words denote sacrificial spoons or ladles of different kinds of wood. See the drawings of them in Prof. Muller's article on the funeral rites of the Brahmans, Journ. of the Germ. or. Sec. Vol. ix. pp. Ixxviii and Lxxx.

This is a six-page typed copy on 'The Infallibility of the Vedas' having no corrections or instructions by the author. The latter portion of this chapter is not available.—Ed.

offerings of butter to the gods. He who, knowing this, daily reads these verses, satisfies the gods with offerings of butter; and they, being satisfied, satisfy him, etc. (as in the preceding paragraph). 6. Saman-verses are soma-libations to the gods. He who, knowing this, daily reads these verses, satisfies the gods with soma-libations; and they being satisfied, satisfy him, etc. (as above). 7. Verses of Atharvan and Angiras (atharvangirasah[1]) are oblations of fat to the gods. He who, knowing this, daily reads these verses, satisfies the gods with oblations of fat; and they etc. (as above). 8. Prescriptive and scientific treatises, dialogues, traditions, tales, verses and eulogistic texts are oblations of honey to the gods. He who, knowing this, daily reads these, satisfies the gods with oblations of honey; and they etc. (as above). 9. Of this Veda-sacrifice there are four Vashatkaras when the wind blows, when it lightens, when it thunders, when it crashes; wherefore when it blows, lightens, thunders, or crashes, let the man, who knows this, read, in order that these *Vashatkaras* may not be interrupted[2]. He who does so is freed from dying a second time, and attains to an union with Brahma. Even if he cannot read vigorously, let him read one text relating to the gods. Thus he is not deprived of his living creatures."

xi. 5, 7, 1 : "Now comes an encomium upon Vedic study. Study and teaching are loved. He (who practises them) becomes composed in mind. Independent of others, he daily attains his objects, sleeps pleasantly, becomes his own best physician. Control of his senses, concentration of mind, increase of intelligence, renown, capacity to educate mankind [are the results of study]. Increasing intelligence secures for the Brahman the four attributes of saintliness, suitable conduct, renown, and capacity for educating mankind. When so educated, men guarantee to the Brahman the enjoyment of the four prerogatives which are his due, reverence, the receipt of gifts, freedom from oppression, and from death by violence. 2. Of all the modes of exertion, which are known between heaven and earth, study of the Veda occupies the highest rank, (in the case of him) who, knowing this, studies it. Wherefore this study is to be practised. 3. On every occasion when a man studies the Vedic hymns he (in fact) performs a complete *ceremonial of sacrifice,* i.e. whosoever, knowing this, so studies. Wherefore this study, etc., etc. 4. And even when a man perfumed with unguents adorned with jewels, satiated with food, and reposing on a comfortable couch, studies the Veda he (has all the merit of one who) performs penance

[1] The Atharva Samhita is so called.

[2] See Bothlingk and Roth's Lexicon, s. v. chhambat.

(left) to the very tips of his nails[1]: (such is the case with him) who, knowing this, studies. Wherefore etc. 5. Rig-veda-verses are honey, Sama-verses butter, Yajus-verses nectar (*amrita*). When a man reads dialogues (*vakovakya*) and legends these two sorts of composition are respectively oblations of cooked milk and cooked flesh. 6. He who, knowing this, daily reads Rig-veda verses, satisfies the gods with honey; and they, when satisfied, satisfy him with all objects of desire, and with all enjoyments. 7. He who, knowing this, daily reads Sama-verses, satisfies the gods with butter; and they, when satisfied, etc. (as before). 8. He who, knowing this, daily reads Yajus-verses, satisfies the gods with nectar; and they, etc. (as before). 9. He who, knowing this, daily studies dialogues and the different classes of ancient stories, satisfies the gods with milk—and flesh-oblations; and they, etc. (as before). 10. The waters move. The Sun moves. The Moon moves. The constellations move. The Brahman who on any day does not study the Veda, is on that day like what these moving bodies would be if they ceased to move or act. Wherefore such study is to be practised. Let a man therefore present as his offering a verse of the Rig-veda, or the Saman, or the Yajush, or a Gatha, or a Kumvya, in order that the course of his observances may not be interrupted."

Manu also supports the Satapatha Brahmana. He says:

"The Veda is the eternal eye of the fathers, of Gods, and of men; it is beyond human power and comprehension; this is a certain conclusion. Whatever traditions are apart from the Veda, and all heretical views, are fruitless in the next world, for they are declared to be founded on darkness. All other (books) external to the Veda, which arise and pass away, are worthless and false from their recentness of date. The system of the four castes, the three worlds, the four states of life, all that has been, now is, or shall be, is made manifest by the Veda. The objects of touch and taste, sound, form, and odour, as the fifth, are made known by the Veda, together with their products, qualities, and the character of their action. The eternal Veda supports all beings; hence I regard it as the principle instrument of well-being to this creature, man. Command of armies, royal authority, the administration of criminal justice, and the sovereignty of all worlds, he alone deserves who knows the

[1] This sentence is differently rendered by Professor Weber, Ind. Stud. x. p. 112, as follows: "He burns (with sacred fire) to the very tips of his nails." In a later page of the same Essay we are told that according to the doctrine of a teacher called Naka Maudgaly as stated in the Taittiriya Aranyaka, the study and teaching of the Veda are the real tapas svadhyaya-pravachane eva tad hi tapah). In the text of the Aranyaka itself, vii. 8, it is declared that study and teaching should always accompany such spiritual or ritual acts as satyam, tapas, dama, sama the *agnihotra* sacrifice, etc. See Indische Studien, ii. 214, and x. 113.

Veda. As fire, when it has acquired force, burns up even green trees, so he who knows the Veda consumes the taint of his soul which has been contracted from works. He who comprehends the essential meaning of the Veda, in whatever order of life he may be, is prepared for absorption into Brahma, even while abiding in this lower world."

Manu however is not satisfied with this. He goes much beyond and enunciates the following new doctrine—

"By Sruti is meant the Veda, and by Smriti the institutes of law: the contents of these are not to be questioned by reason, since from them (a knowledge of) duty has shone forth. The Brahman who, relying on rationalistic treatises[1], shall contemn these two primary sources of knowledge, must be excommunicated by the virtuous as a sceptic and reviler of the Vedas . . . . . 13. To those who are seeking a knowledge of duty, the sruti is the supreme authority."

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[1] This, however, must be read in conjunction with the precept in xii. 106, which declares arsham dharmopadesam cha veda-sastravirodhina yas tarkenanusandhatte sa dharman veda naparah "He, and he only is acquainted with duty, who investigates the injunctions of the rishis, and the precepts of the smriti, by reasonings which do not contradict the Veda."

PART II
Social

According to the original Table of Contents by the author Part I and Part III are classified as Religious and Political respectively while Part II is not given any classification. However, this part is classified as 'Social' on one of the pages from Riddle No. 21. This Part contained six riddles including 'The Riddle of Women' entitled 'Why did the Brahmins degrade the Indian Women ?'. This chapter has already been included in Vol. No. 3 of this series under the title 'Revolution and Counter-Revolution' vide Ch. 17. Hence it is excluded from this volume.

RIDDLE NO. 16

THE FOUR VARNAS—ARE THE BRAHMINS SURE OF THEIR ORIGIN?

It is the cardinal faith of every Hindu that the Hindu Social Order is a Divine Order. The prescriptions of this Divine Order are three. *First* Society is permanently divided into four classes namely (1) Brahmins, (2) Kshatriyas, (3) Vaishyas and (4) Shudras. *Second* the four classes in point of their mutual status are linked together in an order of graded inequality. The Brahmins are at the head and above all others. The Kshatriyas below the Brahmins but above the Vaishyas and the Shudras. The Vaishyas below the Brahmins and the Kshatriyas but above the Shudras and the Shudras below all. *Third* the occupations of the four classes are fixed. The occupation of the Brahmins is to acquire learning and to teach. The occupation of the Kshatriyas is to fight, that of the Vaishyas to trade and that of the Shudras to serve as menials to the other three classes above him. This is called by the Hindus the Varna Vevastha. It is the very soul of Hinduism. Without Varna Vevastha there is nothing else in Hinduism to distinguish it from other religions. That being so it is only proper that an enquiry should be made into the origin of this Varna system.

For an explanation of its origin we must have recourse to what the ancient Hindu literature has to say on the subject.

I

It would be better to collect together in the first place the views expressed in the Vedas.

This is a 33-page typed script having all necessary corrections and additions incorporated by the author. There are two concluding pages written by the author himself. All the pages of the chapter are loose sheets tagged together with a title page in the handwriting of the author.—Ed.

The subject is referred to in the Rig-Veda in the 90th Hymn of the 10th Book. It runs as follows:

> "1 Purusha has a thousand heads, a thousand eyes, a thousand feet. On every side enveloping the earth, he overpassed (it) by a space of ten fingers. 2. Purusha himself is this whole (universe), whatever has been and whatever shall be. He is also the lord of immortality since (or, when) by food he expands. 3. Such is his 'greatness, and Purusha is superior to this. All existences are a quarter of him; and three-fourths of him are that which is immortal in the sky. 4. With three quarters Purusha mounted upwards. A quarter of him was again produced here. He was then diffused everywhere over things which eat and things which do not eat. 5. From him was born Viraj, and from Viraj, Purusha. When born, he extended beyond the earth, both behind and before. 6. When the Gods performed a sacrifice with Purusha as the oblation, the spring was its butter, the summer its fuel, and the autumn its (accompanying) offering. 7. This victim Purusha, born in the beginning, they immolated on the sacrificial grass. With him the gods, the Sadhyas, and the rishis sacrificed. 8. From that universal sacrifice were provided curds and butter. It formed those aerial (creatures) and animals both wild and tame. 9. From the universal sacrifice sprang the *rich* and *saman* verses, the *metres* and the *yajush*. 10. From it sprang horses, and all animals with two rows of teeth; kine sprang from it; from it goats and sheep. 11. When (the gods) divided Purusha, into how many parts did they cut him up? What was his mouth? What arms (had he)? What (two objects) are said (to have been) his thighs and feet? 12. The Brahman was his mouth; the Rajanya was made his arms; the being (called) the Vaisya, he was his thighs; the Sudra sprang from his feet. 13. The moon sprang from his soul (manas), the sun from his eye, Indra and Agni from his mouth, and Vayu from his breath. 14. From his navel arose the air, from his head the sky, from his feet the earth, from his ear the (four) quarters; in this manner (the gods) formed the worlds. 15. When the gods, performing sacrifice, bound Purusha as a victim, there were seven sticks (struck up) for it (around the fire), and thrice seven pieces of fuel were made. 16. With sacrifice the gods performed the sacrifice. These were the earliest rites. These great powers have sought the sky, where are the former Sadhyas, gods."

This hymn is known by its general name Purusha Sukta and is supposed to embody the official doctrine of Varna.

How far do the other Vedas support this theory?

The Sama-Veda has not incorporated the Purusha Sukta among its hymns. Nor does it give any other explanation of the Varna.

The Yajur-Veda has two branches—the *White Yajur-Veda* and the *Black Yajur-Veda.*

The Black Yajur-Veda is known to have three Sanhitas or collection of Mantras, the *Kathaka Sanhita,* the *Maitriyani Sanhita* and *Taitterriya Sanhita.*

The White Yajur-Veda has only one Sanhita which is known as Vajasaneya Sanhita.

The Maitriyani Sanhita and the Kathak Sanhita of the Black Yajur-Veda do not make any reference to the Purusha Sukta of the Rig-Veda; nor do they attempt to give any other explanation of the origin of the Varna system.

It is only Taitterriya Sanhita of the Black Yajur-Veda and the Vajasaneya Sanhita of the White Yajur-Veda that have spoken something relating to the Varna system.

The Vajasaneya Sanhita contains one explanation of the origin of the Varna System. The Taitterriya Sanhita on the other hand contains two explanations. There are two things to be noted about these two explanations contained in the Taitterriya Sanhita. The first is that these two do not agree with each other in the least; they are quite different. The second is that one of them agrees completely with that contained in the Vajasaneya Sanhita of the White Yajur-Veda. The following is the text of the Taitterriya Sanhita which may be taken as an independent explanation :

"He (the Vratya) became filled with passions thence sprang the Rajanya".

> " Let the king to whose house the Vratya who knows this, comes as a guest, cause him to be respected as superior to himself. So doing he does no injury to his royal rank, or to his realm. From him arose the Brahman (Brahman) and the Kshattra (Kshatriya). They said, 'Into whom shall we enter, etc."

The explanation contained in the Vajasaneya Sanhita which tallies with the second[1] explanation given by the Taitterriya Sanhita reads as follows:

> "He lauded with one. Living beings were formed. Prajapati was the ruler. He lauded with three: the Brahman was created: Brahmanaspati was the ruler. He lauded with five; existing things were created : Brahmanaspati was the ruler. He lauded with seven; the seven rishis were created; Dhatri was the ruler. He lauded

[1] Khanda IV. Prapathaka III Verses X following-

with nine; the Fathers were created: Aditi was the ruler. He lauded with eleven: the seasons were created: the Artavas were the rulers. He lauded with thirteen: the months were created: the year was the ruler. He lauded with fifteen: the Kshattra (the Kshattriya) was created: Indra was the ruler. He lauded with seventeen: animals were created: Brihaspati was the ruler. He lauded with nineteen; the Sudra and the Arya (Vaisya) were created: day and night were the rulers. He lauded with twenty-one : animals with undivided hoofs were created: Varuna was the ruler. He lauded with twenty-three: small animals were created: Pushan was the ruler. He lauded with twenty-five; wild animals were created: Vayu was the ruler (compare R.V.x. 90, 8). He lauded with twenty-seven: heaven and earth separated: Vasus, Rudras, and Adityas separated after them: they were the rulers. He lauded with twenty-nine: trees were created: Soma was the ruler. He lauded with thirty-one: living beings were created: The first and second halves of the month were the rulers. He lauded with thirty-one; existing things were tranquilized; Prajapati Parameshthin was the ruler."

Here it should be noted that not only there is no unanimity between the Rig-Veda and the Yajur-Veda but there is no agreement between the two Samhitas of the Yajur-Veda on so important a subject as the origin of the Varnas.

Let us turn to the Atharva-Veda. The Atharva-Veda has also two explanations to give. It incorporates the Purusha Sukta though the order of the verses varies from the order in which they stand in the Rig-Veda. What is however important to note is that the Atharva-Veda is not content with the Purusha Sukta. It offers other explanations also. One such explanation reads as follows[1]:

"The Brahman was born the first, with ten heads and ten faces. He first drank the *soma*; he made poison powerless".

"The Gods were afraid of the Rajanya when he was in the womb. They bound him with bonds when he was in the womb. Consequently this Rajanya is born bound. If he were unborn unbound he would go on slaying his enemies. In regard to whatever Rajanya any one desires that he should born unbound, and should go on slaying his enemies, let him offer for him this Aindra-Birhaspatya oblation. A Rajanya has the character of Indra, and a Brahman is Brihaspati. It is through the Brahman that any one releases the Rajanya from his bond. The golden bond, a gift, manifestly releases from the bond that fetters him."

[1] Muir's Sanskrit Texts Vol. I pp. 21-22.

The other explanation speaks of people being descended from Manu and is to be found referred to in the following passages[1]:

> " Prayers and hymns were formerly congregated in the Indra, in the ceremony which Atharvan, father Manu, and Dadhyanch celebrated". " Whatever prosperity or succour father Manu obtained by sacrifices, may we gain all that under thy guidance, O Rudra."
>
> "Those pure remedies of yours, O Maruts, those which are most auspicious, ye vigorous gods, those which are beneficient, those which our father Manu chose, those, and the blessing and succour of Rudra, I desire."
>
> "That ancient friend hath been equipped with the powers of the mighty (gods). Father Manu has prepared hymns to him, as portals of success to the gods."
>
> "Sacrifice is Manu, our protecting father."
>
> "Do ye (gods) deliver, protect and intercede for us; do not lead us far away from the paternal path of Manu."
>
> "He (Agni) who abides among the offspring of Manu as the invoker (of the gods), is even the lord of these riches."
>
> "Agni, together with the gods, and the children of Manush, celebrating a multiform sacrifice with hymns, etc." "Ye gods, Vajas, and Ribhukshans, come to our sacrifice by the path travelled by the gods, that ye, pleasing deities, may institute a sacrifice among these people of Manush on auspicious days".
>
> " The people of Manush praise in the sacrifices Agni, the invoker."
>
> "Whenever Agni, lord of the people, kindled, abides gratified among the people of Manush, he repels all Rakshasas."

Stopping for a moment to take stock so to say of the position it is quite clear that there is no unanimity among the Vedas on the origin of the four Varnas. None of the other Vedas agree with the Rig-Veda that the Brahamin was created from the mouth of the Prajapati, the Kshatriyas from his arms, the Vaishyas from his thighs and the Shudras from his feet.

II

Let us now turn to the writings called the Brahmanas and see what they have to say on this question.

The explanation given by the Sathpatha Brahmana is as follows[2]:

> "(Uttering) '*bhuh'* Prajapati generated this earth. (Uttering) '*bhuvah*' he generated the air, and (uttering) '*svah*', he generated

[1] Muir's Sanskrit Texts Vol. I pp. 162-165.

[2] Muir Sanskrit Texts Vol. I p. 17.

the sky. This Universe is co-extensive with these worlds. (The fire) is placed with the whole. Saying *'bhuh',* Prajapati generated the Brahman; (saying) *'bhuvah'* he generated the Kshattra; (and saying) '*svah'* he generated the Vis. The fire is placed with the whole, (saying) '*bhuh',* Prajapati generated himself; (saying) '*bhuvah*' he generated offspring; (saying) '*svah*', he generated animals. This world is so much as self, offspring, and animals. (The fire) is placed with the whole."

The Sathpatha Brahmana also gives another explanation. It reads as follows[1]:

"Brahma (here, according to the commentator, existing in the form of Agni, and representing the Brahman caste) was formerly this (universe), one only. Being one, it did not develop. It energetically created an excellent form, the Kshattra, viz., those among the gods who are powers (kshattrani), Indra, Varuna, Soma Rudra, Parjanya, Yama, Mrityu, Isana. Hence nothing is superior to the Kshattra. Therefore the Brahman sits below the Kshattriya at the Rajasuya-sacrifice; he confers that glory on the Kshattra (the royal power). This, the Brahma, is the source of the Kshattra; hence, although the king attains supremacy, he at the end resorts to the Brahma as his source. Whoever destroys him (the Brahman) destroys his own source. He becomes most miserable, as one who has injured a superior. 24. He did not develop. He created the Vis, those classes of gods who are designated by troops, Vasus, Rudras, Adityas, Visvadevas, Maruts, 25. He did not develop. He created the Sudra class, Pushan. This earth is Pushan; for she nourishes all that exists. 26. He did not develop. He energetically created an excellent form, Justice (Dharma). This is the ruler (kshattra) of the ruler (kshattra), namely justice. Hence nothing is superior to justice. Therefore the weaker seeks (to overcome) the stronger by justice, as by a king. This justice is truth. In consequence they say of a man who speaks truth, ' he speaks justice;' or of a man who is uttering justice, 'he speaks truth.' For this is both of these. 27. This is the Brahma, Kshattra, Vis and Sudra. Through Agni it became Brahma among the gods, the Brahman among men, through the (divine) Kshatriya a (human) Kshattriya, through the (divine) Vaisya a (human) Vaisya, through the (divine) Sudra a (human) Sudra. Wherefore it is in Agni among the gods and in a Brahman among men, that they seek after an abode."

The Taittiriya Brahmana offers three explanations. First is in the following terms[2]:

[1] Muir Sanskrit Text Vol. I p. 20.

[2] Muir I p. 17.

"This entire (universe) has been created by Brahma. Men say that the Vaisya class was produced from Rick-verses. They say that the Yajur-Veda is the womb from which the Kshattriya was born. The Sama-Veda is the source from which the Brahmans sprang. This word the ancients declared to the ancients."

The second says[1]:

"The Brahman caste is sprung from the gods; the Sudra from the Asuras".

The third is as follows[2]:

"Let him at his will milk out with a wooden dish. But let not a Sudra milk it out. For this Sudra has sprung from non-existence. They say that which a Sudra milks out is no oblation. Let not a Sudra milk out the Agnihotra. For they do not purify that. When that passes beyond the filter, then it is an oblation".

Again looking at the testimony of the Brahmanas how far do they support the Purusha Sukta? Not one of them do.

III

The next thing would be to see what the Smritis have to offer some explanation of the origin of the Varna system. It is worthwhile taking note of them. This is what Manu has to say on the subject[3].

"He (the self-existent) having felt desire, and willing to create various living beings from his own body, first created the waters, and threw into them a seed. 9. That seed became a golden egg, of lustre equal to the Sun; in it he himself was born as a Brahma, the parent of all the worlds. 10. The waters are called *narah,* for they are sprung from Nara; and as they were his first sphere of motion he is therefore called Narayana. 11. Produced from the imperceptible eternal, existent and non-existent, cause, the male (Purusha) is celebrated in the world as Brahma. 12. After dwelling for a year in the egg, the glorious being, himself, by his own contemplation, split it in twain."

"That the worlds might be peopled, he caused the Brahman, the Kshattriya, the Vaisya, and the Sudra to issue from his mouth, his arms, his thighs, and his feet. 32. Having divided his own body into two parts, the lord (Brahma became), with the half of male (purusha), and with the half, a female; and in her he created Viraj. 33. Know, O most excellent twice-born men, that I, whom that male, (Purusha) Viraj, himself am the creator of all this world.

[1] Muir's Sanskrit Texts Vol. I p. 21.

[2] *Ibid* p. 21.

[3] *Ibid* pp. 36-37.

34. Desiring to produce living creatures, I performed very arduous devotion and first created ten Maharshis, Great rishis, lords of living beings, 35. viz., Marichi, Atri, Angiras, Pulastya, Pulaha, Kratu, Prachetas, Vasishtha, Bhrigu, and Narada. 36. They, endowed with great energy, created other seven Manus, gods, and abodes of gods, and Maharshis of boundless might; 37. Yakshas. Rakshases, Pisachas, Gandharvas, Apsaras, Asuras, Nagas, Serpents, great birds, and the different classes of pitris; 38. Lightnings, thunderbolts, clouds, portentous atmospheric sounds, comets, and various luminaries; 39. Kinnars, apes, fishes, different sorts of birds, cattle, deer, men, beasts with two rows of teeth; 40. small and large reptiles mouths; lice, flies, fleas, all gadflies, and gnats, and motionless things of different sorts. 41. Thus by my appointment, and by the force of devotion, was all this World both motionless and moving, created by those great beings, according to the (previous) actions of each creature."

There is also another view expressed by Manu in his Smriti as to the basic reasons for dividing men into four classes[1] :

> "I shall now declare succinctly in order the states which the soul reaches by means of each of these qualities. 40. Souls endowed with the *Satlva* quality attain to godhead: those having the rajas quality become men; whilst those characterized by tamas always become beasts—such is the threefold destination..... 43. Elephants, horses, Sudras and contemptible Mlenchhas, lions, tigers, and boars form the middle dark condition..... 46. Kings, Kshattriyas, a King's priests (purohitah), and men whose chief occupation is the war of words, compose the middle condition of passion.... 48. Devotees, ascetics, Brahmans, the deities borne on aerial cars, constellations, and Daityas, constitute the lowest condition of goodness. 49. Sacrificing priests, rishis, Gods, the Vedas, the celestial luminaries, years, the fathers, the Sadhyas, form the second condition of goodness. 50. Brahma, the creators, righteousness, the Great one (*mahat*) the Unapparent One (*avyakta*) compose the highest condition of goodness."

Manu of course agrees with the Rig-Veda. But his view is of no use for comparison. It is not original. He is merely repeating the Rig-Veda.

IV

It will be interesting to compare with these views those contained in the Ramayana and the Mahabharata.

[1] Muir's Sanskrit Texts Vol. I p. 41.

The Ramayana says that the four Varnas are the offspring of Manu, the daughter of Daksha and the wife of Kasyapa[1].

> "Listen while I declare to you from the commencement all the Prajapatis (lord of creatures) who came into existence in the earliest time. Kardama was the first, then Vokrita, Sesha, Samsraya, the energetic Bahuputra, Sthanu, Marichi, Atri, the strong Kratu, Pulastya, Angiras, Prachetas, Pulaha, Daksha, then Vivasvat, Arishtanemi, and the glorious Kasyapa, who was the last. The Prajapati Daksha is famed to have had sixty daughters. Of these Kasyapa took in marriage eight elegant maidens, Aditi, Diti, Danu, Kalaka, Tamra, Krodhavasa, Manu and Anala. Kasyapa pleased, then said to these maids, 'ye shall bring forth sons like me, preservers of the three worlds. Aditi, Diti, Danu and Kalaka assented; but the others did not agree. Thirty-three gods were born by Aditi, the Adityas, Vasus, Rudras, and the two Asvins. Manu (wife) of Kasyapa, produced men—Brahmans, Kshattriyas, Vaisyas, and Sudras. 'Brahmans were born from the mouth, Kshattriyas from the breast, Vaisyas from the thighs, and Sudras from the feet,' So says the Veda. Anala gave birth to all trees with pure fruits."

Strange, very strange that Valmiki should have credited the creation of the four Varnas to Kassyapa instead of to Prajapati. His knowledge was evidently based only on hearsay. It is clear he did not know what the Vedas had said.

Now the Mahabharata gives four different explanations in four different places. The first runs as follows:

> "Born all with splendour, like that of great rishis, the ten sons of Prachetas, reputed to have been virtuous and holy; and by them the glorious beings were formerly burnt up by fire springing from their mouths. From them was born Daksha Prachetas, and from Daksha, the parent, of the world (were produced), these creatures. Cohabiting with Virini, the Muni Daksha begot a thousand sons like himself, famous for their religious observances, to whom Narada taught the doctrine of final liberation, the unequalled knowledge of the Sankhya. Desirous of creating offspring, the Prajapati Daksha next formed fifty daughters of whom he gave ten to Dharma, thirteen to Kasyapa, and twenty-seven, devoted to the regulation of time, to Indu (Soma) . . . . . on Dakshayani, the most excellent of his thirteen wives, Kasyapa, the son of Marichi, begot the Adityas, headed by Indra and distinguished by their energy, and also Vivasvat. To Vivasvat was born a son, the mighty Yama Vaivasvata. To Martanda (i.e. Vivasvat, the Sun) was born the wise

[1] Muir's Sanskrit Texts Vol. I pp. 116-117.

and mighty Manu, and also the renowned Yama, his (Manu's) younger brother. Righteous was this wise Manu, on whom a race was founded. Hence this (family) of men became known as the race of Manu. Brahmans, Kshattriyas, and other men sprang from this Manu. From him O King, came the Brahman conjoined with the Kshatriya."

The theory propounded here is very much the same as that contained in the Ramayana with this difference, namely, the Mahabharata makes Manu, the progenitor of the four Varnas and secondly it does not say that the four Varnas were born from the different parts of Manu.

The second explanation[1] given by the Mahabharata follows what is given in the Purusha Sukta of the Rig-Veda. It reads thus:

"The King should appoint to be his royal priest a man who will protect the good, and restrain the wicked. On this subject they relate this following ancient story of a conversation between Pururavas the son of Ila and Matarisvan (Vayu, the windgod). Pururavas said: " You must explain to me whence the Brahman, and whence the (other) three castes were produced, and whence the superiority (of the first) arises." Matarisvan answered: "The Brahman was created from Brahma's mouth, the Kshatriya from his arms, the Vaisya from his thighs, while for the purpose of serving these three castes was produced the fourth class, the Sudra, fashioned from his feet. The Brahman, as soon as born, becomes the lord of all beings upon the earth, for the purpose of protecting the treasure of righteousness. Then (the creator) constituted the Kshattriya the controller of the earth, a second Yama to bear the rod, for the satisfaction of the people. And it was Brahma's ordinance that the Vaisya should sustain these three classes with money and grain, and that the Sudra should serve them." The son of Ila then enquired: "Tell me, Vayu to whom the earth, with its wealth rightfully belongs, to the Brahman or the Kshattriya?" Vayu replied: "All this, whatever exists in the world is the Brahman's property by right of primogeniture; this is known to those who are skilled in the laws of duty. It is his own which the Brahman eats, puts on, and bestows. He is the chief of all the castes, the first-born and the most excellent. Just as a woman when she has lost her (first) husband, takes her brother in law for a second; so the Brahman is thy first resource in calamity; afterwards another may arise".

The third view is expounded in the Shantiparva of the Mahabharata[2]:

[1] Muir's Vol. I p.

[2] *Ibid* pp. 139-40.

Bhrigu replied: 'Brahma thus formerly created the Prajapatis, penetrated by his own energy, and in splendour equalling the sun and fire. The lord then formed truth, righteousness austere fervour, and the eternal Veda (or sacred science), virtuous practice, and purity for (the attainment of) heaven. He also formed the Gods, Danavas, Gandharvas, Daityas, Asuras, Maharagas, Yakshas, Rakshasas, Nagas, Pisachas, and men, Brahmans, Kshatriyas, Vaisyas, and Sudras, as well as all other classes (varna) of beings. The colour (varna) of the Brahmans was white; that of the Kshattriyas red; that of the Vaishyas yellow, and that of the Sudras black.' Bharadvaja here rejoins: 'If the caste (varna) of the four classes is distinguished by their colour (varna), then a confusion of all the castes is observable. Desire, anger, fear, cupidity, grief, apprehension, hunger, fatigue, prevail over us all, by what then, is caste discriminated? Sweat, urine, excrement, phlegm, bile and blood (are common to all) the bodies of all decay; by what then is caste discriminated ? There are innumerable kinds of things moving and stationary how is the class (varna) of these various objects to be determined?' Bhrigu replies: "There is no difference of castes":"

The fourth explanation is also contained in the same Shantiparva. It says:

"Bharadvaja again enquires: 'What is that in virtue of which a man is a Brahman, a Kshattriya, a Vaisya, or a Sudra; tell me, O most eloquent Brahman rishi'. Bhrigu replies: 'He who is pure, consecrated by the natal and other ceremonies, who has completely studied the Veda, lives in the practice of the six ceremonies, performs perfectly the rites of purification, who eats the remains of oblations, is attached to his religious teacher, is constant in religious observances, and devoted to truth. — is called a Brahman. He in whom are seen truth, liberality inoffensiveness, harmlessness, modesty, compassion, and austere fervour—is declared to be a Brahman. He who practises the duty arising out of the kingly office, who is addicted to the study of the Veda, and who delights in giving and receiving, is called a Kshattriya. He who readily occupies himself with cattle, who is devoted to agriculture and acquisition, who is pure, and is perfect in the study of the Veda,—is denominated a Vaisya. He who is habitually addicted to all kinds of food, performs all kinds of work, who is unclean, who has abandoned the Veda, and does not practise pure observances,—is traditionally called a Sudra. And this (which I have stated) is the mark of a Sudra, and it is not found in a Brahman: (such) a Sudra will remain a Sudra, while the Brahman (who so acts) will be no Brahman."

Except in one place the Mahabharata gives no support to the Rig-Vedic origin of the Varna System.

V

Let us inquire what the Puranas have to say on the origin of the Varna System.

To begin with the Vishnu Purana. There are three theories propounded in the Vishnu Purana on the origin of the Chaturvarna.

According to one the origin is to be ascribed to Manu. Says the Vishnu Purana[1]:

> "Before the mundane egg existed the divine Brahma Hiranyagarbha, the eternal originator of all worlds, who was the form of essence of Brahma, who consists of the divine Vishnu, who again is identical with Rik, Yajush, Saman and Atharva Vedas. From Brahma's right thumb was born the Prajapati Daksha; Daksha had a daughter Aditi; from her was born Vivasvat; and from him sprang Manu. Manu had sons called Ikshvaku, Nriga, Dhrishta, Saryati, Narishanta, Pramsu, Nabhagandishta, Karusha and Prishadhra. From Karusha the Karushas, Kshattriyas of great power, were descended. Nabhaga, the son of Nedishta, became a Vaisya."

This explanation is incomplete. It only explains the origin of Kshatriyas and Vaishyas. It does not explain the origin of Brahmanas and Sudras. There is also another and a different version in the Vishnu Purana. It says:

> "Desirous of a son, Manu sacrificed to Mitra and Varuna; but in consequence of a wrong invocation through an irregularity of the hotri (priest) a daughter called Illa was born. Then through the favour of Mitra and Varuna she bore to Manu a son called Sudyumna. But being again changed into a female through the wrath of Isvara (Mahadeva) she wandered near the hermitage of Budha the son of Soma (the Moon); who becoming enamoured of her had by her a son called Pururavas. After his birth, the God who is formed of sacrifice of the Rik, Yajush, Saman, and Atharva Vedas, of all things, of mind, of nothing, he who is in the form of the sacrificial Male, was worshipped by the rishis of infinite splendour who desired that Sudyumna should recover his manhood. Through the fervour of this God Ila became again Sudhumna."
>
> "According to the Vishnu Purana, Atri was the son of Brahma, and the father of Soma (the Moon), whom Brahma installed as the

[1] Muir I pp. 220-221.

sovereign of plants, Brahmans and stars. After celebrating the Rajasuya sacrifice. Soma became intoxicated with pride, and carried up Tara (Star), the wife of Brihaspati, the preceptor of the gods, whom, although admonished and entreated by Brahma, the gods, and rishis, he refused to restore. Soma's part was taken by Usanas; and Rudra, who had studied under Angiras, aided Brihaspati. A fiery conflict ensued between the two sides, supported respectively by the gods and the Daityas, etc. Brahma interposed, and compelled Soma to restore Tara to her husband. She had, however, in the meantime become pregnant and bore a son Budha (the planet Mercury), of whom, when strongly urged, she acknowledged Soma to be the father. Pururavas, as has been already mentioned, was the son of this Budha by Illa, the daughter of Manu.

"Pururavas had six sons, of whom the eldest was Ayus. Ayus had five sons: Nahusha, Kshattra-vriddha, Rambha, Raji, and Anenas."

"Kshattravriddha had a son Sunahotra, who had three sons, Kasa, Lesa, and Gritsamada. From the last sprang Saunaka, *who originated the system of four castes*. Kasa had a son Kasiraja, of whom again Dirghatamas was the son as Dhanvantari was Dirghatamas."

The third version ascribes[1] the origin to Brahma. It says:

"Maitreya[2] says: 'You have described to me the Arvaksrotas, or human creation; declare to me, O Brahman, in detail the manner in which Brahma formed it. Tell me how and with what qualities, he created the castes, and what are traditionally reputed to be the functions of the Brahmans and others'. Parasara replies: 3. When, true to his design, Brahma became desirous to create the world, creatures in whom goodness (*sattva*) prevailed sprang from his mouth: 4. Others in whom passion (*rajas*) predominated came from his breast; other in whom both passion and darkness (*tamas*) were strong, proceeded from his thigh; 5. Others he created from his feet, whose chief characteristic was darkness. Of these was composed the system of four castes, Brahmans, Kshatriyas, Vaisyas and Sudras, who had respectively issued from his mouth, breast, thighs, and feet."

Herein the Vishnu Purana has given the Rig-Vedic theory supported by the Sankhya Philosophy.

In the Harivamsa are to be found two theories. One[3] upholds the theory of the origin of the Varnas as being born from one of the

[1] Muir's Sanskrit Texts Vol. I pp. 61-62.

[2] The Vishnu Purana is cast in the form of a dialogue between Maitreya the student who asks questions and Rishi Parashara who answers his questions.

[3] Muir's Sanskrit Texts Vol. I p. 227.

descendents of Manu as the stock of descent than the one mentioned by the Vishnu Purana:

> "The son of Gritsamada was Sunaka, from whom sprang the Saunakas, Brahmanas, Kshattriyas, Vaisyas, and Sudras."
>
> "Vitatha was the father of five sons, Suhotra, Suhotri, Gaya, Garga, and the great Kapila. Suhotra had two sons, the exalted Kasaka, and King Gritsamati. The sons of the latter were Brahmans, Kshattriyas and Vaisyas."

The other version speaks of their being formed by Vishnu who sprang from Brahma and had become Prajapati Daksha and is as follows[1]:

> "Janmejaya[2] says: ' I have heard, O Brahman the (description of the) Brahma Yuga, the first of the ages. I desire also to be accurately informed both summarily, and in detail, about the age of the Kshattriyas, with its numerous observances, illustrated as it was by sacrifice, and described, as it has been by men skilled in the art of narration.' Vaisamapayana replied. 'I shall describe to you that age revered for its sacrifices and distinguished for its various works of liberality, as well as for its people. Emancipation, practising unobstructed ceremonies, both in action and in abstinence from action constantly intent upon Brahma, united to Brahman as the highest object,—Brahmans glorious and sanctified in their conduct, leading a life of continence, disciplined by the knowledge of Brahman,—Brahmans complete in their observances, perfect in knowledge, and contemplative,—when at the end of a thousand yugas, their majesty was full, these Munis became involved in the dissolution of the world. Then Vishnu, sprung from Brahma, removed beyond the sphere of sense, absorbed in contemplation, became the Prajapati Daksha, and formed numerous creatures. The Brahmans, beautiful (or, dear to Soma), were formed from an imperishable (*akshara*), the Kshattriyas from a perishable (*kshara*), element, the Vaisyas from alteration, the Sudras from a modification of smoke. While Vishnu was thinking upon the castes (*varnan*) Brahmans were formed with white, red, yellow, and blue colour (varnaih). Hence in the world men have become divided into castes, being of four descriptions, Brahmans, Kshattriyas, Vaisyas and Sudras, one in form, distinct in their duties, two-footed, very wonderful, full of energy(?), skilled in expedients in all their occupations. Rites are declared to be prescribed by the Vedas for the three (highest) castes. By that contemplation practised by the being

1 Muir's Vol. I pp. 152-153.

2 The Harivamsa is a dialogue between Janmejaya and Vaishampayan.

sprung from Brahma—by that practised in his character as Vishnu—the Lord Prachetasa (Daksha), i.e. Vishnu the great contemplator (Yogin), passed through his wisdom and energy from that state of meditation into the sphere of works. Next the Sudras, produced from extinction, are destitute of rites. Hence they are not entitled to be admitted to the purificatory ceremonies, nor does sacred science belong to them. Just as the cloud of smoke which rises from the fire on the friction of the fuel, and is dissipated, is of no service in the sacrificial rite, so too the Sudras wandering over the earth, are altogether (useless for purposes of sacrifice) owing to their birth, their mode of life devoid of purity and their want of the observances prescribed in the Veda."

The Bhagwat[1] Purana has also an explanation as to the origin of the Varnas, It says:

"At the end of many thousand years the living soul which resides in time, action, and natural quality gave life to that lifeless egg floating on the water. Purusha then having burst the egg, issued from it was a thousand thighs, feet, arms, eyes, faces and heads. With his members the sages fashion the worlds, the seven lower worlds with his loins etc., and the seven upper worlds with his groin, etc. The Brahman was the mouth of Purusha, the Kshattriya his arms, the Vaishya was born from the thighs, the Sudra from the feet of the divine being. The earth was formed from his feet, the air from his navel; the heaven by the heart, and the mahaloka by the breast of the mighty one."

Lastly the Vayu Purana. What does it say? It takes up the theory of Manu as the originator of the Varna System.

"The son of Gritsamada was Sunaka, from whom sprang Saunaka. In his family were born Brahmanas, Kshattriyas, Vaisya, and Sudras, twice-born men with various functions."

VI

What a chaos? Why could the Brahmins not give a uniform, and consistent explanation of the origin of the four Varnas?

On the issue of who created them, there is no uniformity. The Rig-Veda says the four Varnas were created by Prajapati. It does not mention which Prajapati. One would like to know which Prajapati it was who created the four Varnas. For there are so many Prajapatis. But even on the point of creation by Prajapati there is no agreement. One says they were created by Brahman. Another says they were created by Kassyapa. The third says they were created by Manu.

[1] Muir's Sanskrit Texts Vol. I p. 156.

On the issue how many Varnas, the creator—whoever he was— created, again there is no uniformity. The Rig-Veda says four Varnas were created. But other authorities say only two Varnas were created, some say Brahmans and Kshatriyas and some say Brahmana and Shudras.

On the issue the relations intended by the creator for binding together the four Varnas the Rig-Veda lays down the rule of graded inequality based on the importance of the part of the creation from which the particular Varna was born. But the white Yajur-Veda denies this theory of the Rig-Veda. So also the Upanishad, Ramayana, Mahabharata, and Puranas. Indeed the Hari Vansha goes to the length of saying that the Shudras are twice born.

This chaos seems to be the result of concoction of the theory of Chaturvarna which the Brahmins quietly singled into the Rig-Veda contrary to established traditions?

What was the purpose, what was the motive of the Brahmins who concocted this theory?

●●

RIDDLE NO. 17

THE FOUR ASHRAMAS—THE WHY AND HOW ABOUT THEM

The division of society into four orders called Varnas is not the only peculiar feature of Hindu Society. What is called Ashram Dharma is another. There is however one point of difference between the two. The Varna Dharma is a theory of the organization of society. The Ashram Dharma on the other hand is a theory of regulating the life of an individual.

The Ashram Dharma divides the life of an individual into four stages (1) Brahmacharya, (2) Grahasthashram, (3) Vanaprastha and (4) Sannyas. The state of Brahmacharya has both *de jure* and *de facto* connotation in that it means an unmarried state of life. Its *de jure* connotation means the stage of study under a teacher. Grahasthashram is the stage of a householder, a stage of a married family life. The stage of Sannyas is a stage of renunciation of civic rights and responsibilities. It is a stage of civic death. The stage of Vanaprastha is in between Grahasthashram and Sannyas. It is a stage in which one belongs to society but is bound to live away from society. As the name implies it prescribes dwelling in forest.

The Hindus believe that this institution of Ashram Dharma is as vital as that of the Varna Dharma for the well-being society. They call the two by a joint name of Varnashram Dharma as though they were one and integral. The two together form the steel-frame of the Hindu Society.

To begin with it would be better to have a full understanding of the Ashram Dharma before inquiring into its origin and its purpose and its peculiarities. The best source for an exposition of the Ashram system is the Manu Smriti from which the following relevant extracts are reproduced:

This is an 18-page Manuscript. This is the typed first copy with a title written in the author's handwriting.—Ed.

"In the eighth year after conception, one should perform the initiation (*upanayana*) of a Brahmana, in the eleventh after conception (that) of a Kshatriya, but in the twelfth that of a Vaisya[1]."

"A twice-born man who, not having studied the Veda, applies himself to other (and worldly study), soon falls, even while living, to the condition of a Sudra and his descendants (after him)."[2]

"The vow of the three Vedas under a teacher must be kept for thirty-six years or for half that time, or for a quarter, or until the (student) has perfectly learnt them."

"Who has studied in due order the three Vedas, or two, or even one only, without breaking the (rule of) studentship, shall enter the order of householder."[3]

"The student, the householder, the hermit, and the ascetic, these (constitute) four separate orders, which all spring from (the order of) householders."

"But all (or) even (any of) these orders, assumed successively in accordance with the Institutes (of the sacred law), lead the Brahmana who acts by the preceding (rules) to the highest state."

"And in accordance with the precepts of the Veda and of the Smriti, *the housekeeper is declared to be superior to all of them;* for he supports the other three[4]."

"A Twice-born *Snataka,* who has thus lived according to the law in the order of householders, may, taking a firm resolution and keeping his organs in subjection, dwell in the forest, duly (observing the rules given below):

"When a householder sees his (skin) wrinkled and (his hair) white, and the sons of his sons, then he may resort to the forest[5]."

"But having thus passed the third part of (a man's natural term of) life in the forest, he may live as an ascetic during the fourth part of his existence, after abandoning all attachment to worldly objects."

"He who after passing from order to order, after offering sacrifices and subduing his senses, becomes tired with (giving alms and offerings of food), as ascetic, gains bliss after death."

"When he has paid the three debts, let him apply his mind to (the attainment of) final liberation; he who seeks it without having paid (his debts) sinks downwards."

[1] Manu Smriti Chapter II 36.

[2] *Ibid.,* II 168.

[3] *Ibid.* III 1-2.

[4] *Ibid.,* VI 87-89.

[5] *Ibid,* VI 1-2.

"Having studied the Vedas in accordance with the rule, having begot sons according to the sacred law, and having offered sacrifices according to his ability, he may direct his mind to (the attainment of) final liberation."

"A twice-born man who seeks final liberation, without having studied the Vedas, without having begotten sons, and without having offered sacrifices, sinks downwards[1]."

From these rules it is clear that according to Manu there are three features of the Ashram Dharma. First is that it is not open to Shudras and women. The second is Brahmacharya which is compulsory, so is Grahasthashram. Vanaprastha and Sannyas are not compulsory. The third is that one must pass from one stage to another in the order in which they stand namely first Brahmacharya, then Grahasthashram, then Vanaprastha and lastly Sannyas. No one can omit one and enter the next stage.

A cursory reflection on this system of stages which may well be called a system of planned economy of the life of the individual raises many questions. First is what forced Manu to have such a system of planned economy. Referring to the Vedas, the theory of stages in life is quite unknown. The Vedas speak of Brahmachari. But there is nothing to show that Brahmacharya was regarded as the first and inescapable stage in life. Why did the Brahmins make Brahmacharya as the compulsory stage in the life of an individual? This is the first riddle about the Ashram Dharma.

The second question is why Manu made it obligatory to observe the order of sequence in the following of the different stages of life by the individual. Now there is no doubt that there was a time when it was open to a Brahmachari to enter any of the three Ashrams! He may become a Grahasthashrami or he may at once become a Sannyasi without becoming a Grahasthashrami. Compare what the authors of the Dharma Sutras have to say on the point.

Vasistha Dharma Sutra[2] says:

"There are four orders viz. (that of) the student, (that of) the householder, (that of) the hermit, and (that of) the ascetic".

"A man who has studied one, two or three Vedas without violating the rules of studentship, *may enter any of these* (orders) *whichsoever he pleases*."

Gautama Dharma Sutra[3] says:

"Some (declare, that) he (who has studied the Veda) *may make his choice* (which) among the orders (he is going to enter.)"

[1] Manu Smriti. Chapter VI. 33-37.

[2] *Ibid* Chapter VII verses 1, 2, 3.

[3] *Ibid* Chapter III verses 1 and 2.

"The four orders are, (that of) the student (that of) the householder, (that) of the ascetic (*bhikshu*) (and that of) the hermit in the woods (*Vaikhanasa*)."

It is obvious from the views expressed by the Dharma Shastras that there was a time when the married state was an optional state. After Brahmacharya one would straight enter the stage of Vanaprastha or Sannyasa. Why did Manu remove the option and make the married state an obligatory state, why did he make the married state a condition precedent to the stage of hermit and the stage of hermit a condition precedent to the stage of a Sannyas?

After Grahasthashram there remain two stages to complete the round of life—Vanaprastha and Sannyas. The question is why Manu felt the necessity of life of the individual after Grahasthashram into two stages. Why was one stage of Sannyas not enough? The rules of regulating the life of the Vanaprastha and the Sannyasi as laid down in Manu are so alike that they give some point to the question.

In the following table a comparative study is made of the Codes for the Vanaprastha and the Sannyasa as prescribed by Manu:

The Code for Vanaprastha	The Code for Sannyasi
"Abandoning all food raised by cultivation and all his belongings, he may depart into the forest, either committing his wife to his sons, or accompanied by her." Ch. VI-3.	"Having performed the Ishti, sacred to the Lord of creatures (Pragapati) where (he gives) all his property as the sacrificial fee, having reposited the sacred fires in himself, a Brahmana may depart from his house, (as an ascetic)." Ch. VI-38.
"Taking with him the sacred fire and the implements required for domestic (sacrifices) he may go forth from the village into the forest and reside there, duly controlling his senses." Ch. VI-4	"Worlds, radiant in brilliancy, become (the portion) of him who recites (the texts) regarding Brahman and departs from his house (as an ascetic), after giving a promise of safety to all created beings." Ch. VI-39.
"Let him offer those five great sacrifices according to the rule, with various kinds of pure food fit for ascetics, or with herbs, roots and fruit." VI-5.	"For that twice-born man, by whom not the smallest danger even is caused to created beings, there will be no danger from any (quarter) after he is freed from his body." Ch. VI-40.

The Code for Vanaprastha	The Code for Sannyasi
"Let him wear a skin or a tattered garment; let him bathe in the evening or in the morning and let him always wear (his hair in) braids the hair on his body, his beard, and his nails (being unipped)." VI-6.	"Departing from his house fully provided with the means of purification (Pavitra), let him wander about absolutely silent, and caring nothing for enjoyments that may be offered (to him)." Ch. VI-41.
"Let him perform the Bali-offering with such food as he eats and give alms according to his ability; let him honour those who come to his hermitage with alms consisting of water roots and fruit." VI-7.	"Let him always wander alone, without any companion, in order to attain (final liberation) fully understanding that the solitary (man, who) neither forsakes nor is forsaken, gains his end." Ch. VI-42
"Let him be always industrious in privately reciting the Veda; let him be patient of hardships, friendly (towards all), of collected mind, ever liberal and never a receiver of gifts, and compassionate towards all living creatures." VI-8.	"He shall neither possess a fire, nor a dwelling, is may go to a village for his food, (he shall be) indifferent to everything, firm of purpose, meditating (and) concentrating his mind on Brahman." Ch. VI-43.
"Let him offer, according to the law, the Agnihotra with three sacred fires, never omitting the new-moon and full-moon sacrifices at the proper time." VI-9.	"A potsherd (instead of an alms-bowl) the roots of trees (for a dwelling), coarse worn-out garments, life in solitude and indifference towards everything, are the marks of one who has attained liberation. Ch. VI-44.
"Let him also offer the Nakshatreshti, the Agrayana; and the Katurmasya (sacrifices), as well as the Turayana and likewise the Dakshayana, in due order." VI-10.	" Let him not desire to die, let him not desire to live, let him wait for (his appointed) time, as a servant (waits) for the payment of his wages." Ch. VI-45.
"With pure grains, fit for ascetics, which grow in spring and in autumn, and which he himself has collected, let him severally prepare the sacrificial cakes (*purodasa*) and the boilded messes (karu), as the law directs." VI-11.	"Delighting in what refers to the Soul, sitting (in the postures prescribed by the Yoga), independent (of external help) entirely abstaining from sensual enjoyments, with himself for his only companion, he shall live in

The Code for Vanaprastha	The Code for Sannyasi
	this world, desiring the bliss (of final liberation." Ch. VI-49.
"Having offered those most pure sacrificial viands, consisting of the produce of the forest, he may use the remainder for himself (mixed with) salt prepared by himself." VI-12.	"Neither by (explaining) prodigies and omens, nor by skill in astrology and palmistry nor by giving advice and by the exposition (of the Sastras) let him, ever seek to obtain alms." Ch. VI-50.
"Let him eat vegetables that grow on dry land or in water, flowers, roots and fruits, the productions of pure trees, and oils extracted from forest-fruits." VI-13.	"Let him not (in order to beg) go near a house filled with hermits, Brahmanas, birds, dogs or other mendicants." Ch. VI-51.
"Let him avoid honey, flesh and mushrooms growing on the ground (or elsewhere, the vegetables called) Bhustrina, and Sigruka, and the Sleshmantaka fruit." VI-14.	"His hair, nails and beards being clipped carrying an alms-bowl, a staff, and a water-pot, let him continually wander about controlling himself and not hurting any creature." Ch. VI-52.
"Let him throw away in the month of Asvina the food of ascetics, which he formerly collected, likewise his worn-out clothes and his vegetables, roots and fruit." VI-15.	"His vessels shall not be made of metal, they shall be free from fractures, it is ordained that they shall be cleansed with water, like (the cups, called) Kamasa, at a sacrifice." Ch. VI-53.
"Let him not eat anything (grown on) ploughed (land), though it may have been thrown away by somebody, nor roots and fruit grown in a village, though (he may be) tormented (by hunger)." VI-16.	"A gourd, a wooden bowl, an earthen (dish), or one made of split cane, Manu the son of Svayambhu, has declared (to be) vessels (suitable) for an ascetic." Ch. VI-54.
"He may eat either what has been cooked with fire, or what has been ripened by time; he either may use a stone for grinding or his teeth be his mortar." VI-17.	"Let him go to beg once (a day), let him not be eager to obtain a large quantity (of alms); for an ascetic who eagerly seeks, alms, attaches himself also to sensual enjoyments." Ch. VI-55.

[1] Manu Smriti, Chapter VI verses 38-45.

[2] *Ibid,* Chapter VI 207.

[3] *Ibid,* Chapter VI 208.

The Code for Vanaprastha	The Code for Sannyasi
"He may either at once (after his daily meal) cleanse (his vessel for collecting food), or lay up a store sufficient for a month, or gather what suffices for six months or for a year." VI-18.	"When no smoke ascends from (the kitchen), when the pestle lies motionless, when the members have been extinguished, when the people have finished their meal, when the remnants in the dishes have been removed, let the ascetic always go to beg." Ch. VI-56.
"Having collected food according to his ability he may either eat at night (only) or in the daytime (only), or at every fourth mealtime, or at every eighth." VI-19.	"Let him not be sorry when he obtains nothing, nor rejoice when he obtains (something), let him (accept) so much only as will sustain life, let him not care about the (quality of his) utensils." Ch. VI-57.
"Or, he may live according to the rule of the lunar penance (Kandrayana), daily diminishing the quality of his food in the bright (half of the month) and (increasing it in the dark (half); or he may eat on the last days of each fortnight once (a day only), boiled barley-gruel." VI-20.	"Let him disdain all (food) obtained in consequence of humble salutations, (for) even an ascetic who has attained final liberation, is bound (with the fetters of the Samsara) by accepting (food given) in consequence of humble salutations." Ch. VI-58.
"Or, he may constantly subsist on flowers, roots, and fruit alone, which have been ripened by time and have fallen spontaneously following the rule of the (Institutes) of *Vikhanas*." VI-21.	"By eating little, and by standing and sitting in solitude, let him restrain his senses, if they are attracted by sensual objects." Ch. VI-59.
"Let him either roll about on the ground, or stand during the day on tiptoe, (or) let him alternately stand and sit down; going at the *Savanas* (at sunrise, at midday, and at sunset) to water in the forest (in order to bathe)." VI-22.	"By the restraint of his senses, by the destruction of love and hatred, and by the abstention from injuring the creatures, he becomes fit for immortality." Ch. VI-60.

[1] Manu Smriti Chap. VI 209.

The Code for Vanaprastha	The Code for Sannyasi
"In summer let him expose himself to the heat of five fires, during the rainy season live under the open sky, and in winter be dressed in wet clothes, (thus) gradually increasing (the rigour of) his austerities." VI-23.	"When by the disposition (of his heart) he becomes indifferent to all objects, he obtains eternal happiness both in this world and after death." Ch. VI-80.
"When he bathes at the three Savanas (Sunrise, midday and Sunset), let him offer libations of water to the manes and the gods, and practising harsher and harsher austerities, let him dry up his bodily frame." VI-24.	" He who has in this manner gradually given up all attachments and is freed from all the pairs (of opposites), reposes in Brahman alone." Ch. VI-81.
"Having reposited the three sacred fires in himself, according to the prescribed rule, let him live without a fire, without a house wholly silent, subsisting on roots and fruit." VI-25.	"All that has been declared (above) depends on meditation; for he who is not proficient in the knowledge of that which refers to the Soul reaps not the full reward of the performance of rites." Ch. VI-82.
"Making no effort (to procure) things that give pleasure, chaste, sleeping on the bare ground, not caring for any shelter, dwelling at the roots of trees. VI-26.	"Let him constantly recite (those texts) of the Veda which refer to the sacrifice, (those) referring to the deities, and (those) which treat of the Soul and are contained in the concluding portions of the Veda (Vedanta)." Ch. VI-83.
"From Brahmanas (who live as) ascetics let him receive alms, (barely sufficient) to support life, or from other householders of the twice-born (castes) who reside in the forest." VI-27.	"That is the refuge of the ignorant, and even that (the refuge) of those who know (the meaning of the Veda); that is (the protection) of those who seek (bliss in) heaven and of those who seek endless (beatitude)." Ch. VI-84.
"Or (the hermit who dwells in the forest) may bring food from a village, receiving it either in a hollow dish (of leaves), in (his naked) hand, or in a broken earthen dish, and may eat eight mouthfuls." VI-28	"A twice-born man who becomes an ascetic, after the successive performance of the above-mentioned acts, shakes off sin here below and reaches the highest Brahman." Ch. VI-85.

The Code for Vanaprastha	The Code for Sannyasi
"These and other observances must a Brahmana who dwells in the forest diligently practise, and in order to attain complete (union with) the (supreme) Soul, (he must study) the various sacred texts contained in the Upanishads." VI-29.	

Comparing the Vanaprastha with Sannyas and Grahasthashram with Vanaprastha one sees some very striking resemblances between them. Comparing Vanaprastha with Sannyas there are only a few differences in the modes of life prescribed for them. Firstly a Vanaprastha does not abandon his wife or his rights over his property. But a Sannyasi must abandon both. Secondly, a Vanaprastha can have a fixed dwelling although it must be in a forest. But a Sannyasi cannot have a fixed dwelling not even in a forest. He must keep on wandering from place to place. Thirdly, a Sannyasi is debarred from expounding the Shastras while the Vanaprastha is not expressly placed under such a disability. As for the rest their mode of life is identical.

The resemblance between Grahasthashram and Vanaprastha is also very close. The Vanaprasthi is a Grahasthashrami for all essential purposes. Like the Grahasthashrami be continues to be a married man. Like, the Grahasthashrami he continues to be the owner of his property. Like the Grahasthashrami he does not renounce the world and like the Grahasthashrami he follows the Vedic religion. The only points of difference between the Vanaprasthi and the Grahasthashrami are three. (1) the Grahasthashrami is not bound to observe abstinence in his food and clothing to which a Vanaprasti is subject. (2) The Grahasthashrami dwells in the midst of society while the Vanaprasthi is required to live in a forest. (3) The Vanaprasti is free to study the Vedanta while the Grahasthashrami is confined to the study of the Vedas. As for the rest their modes of life are identical.

Having regard to these close resemblances between Grahasthashram and Vanaprastha and between Vanaprastha and Sannyas it is difficult to understand why Manu recognized this third ashram of Vanaprastha in between Grahasthashram and Sannyas as an ashram distinct and separate from both. As a matter of fact, there could be only three ashrams: (1) Brahmacharya, (2) Grahasthashram and (3) Sannyas. This seems to be also the view of Shankaracharya who in his Brahma Sutra in defending the validity of Sannyas against the Purva Mimansa School speaks only of three ashramas.

Where did Manu get this idea of Vanaprastha Ashram? What is his source? As has been pointed out above, Grahasthashram was not the next compulsory stage of life after Brahmacharya. A Brahmachari may at once become Sannyasi without entering the stage of Grahasthashram. But there was also another line of life which a Brahmachari who did not wish to marry immediately could adopt namely to become *Aranas* or *Aranamanas*[1]. They were Brahmacharies who wish to continue the life of Study without marrying. These Aranas lived in hermitages in forests outside the villages or centres of population. The forests where these *Arana* ascetics lived were called *Aranyas* and the philosophical works of these *aranas* were called *Aranyakas*. It is obvious that Manu's Vanaprastha is the original *Arana* with two differences (1) he has compelled Arana to enter the marital state and (2) the arana stage instead of being the second stage is prescribed as the third stage. The whole scheme of Manu rest in the principle that marriage is compulsory. A Brahmachari if he wishes to become a Sannyasi he must become a Vanaprastha and if he wishes to become a Vanaprastha he must become a Grasthashrami i.e., he must marry. Manu made escape from marriage impossible. Why?

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[1.] Radha Kumud mookerjee—Ancient India Education p-6.

RIDDLE NO. 18

MANU'S MADNESS OR THE BRAHMANIC EXPLANATION OF THE ORIGIN OF THE MIXED CASTES

A reader of the Manu Smriti will find that Manu for the purposes of his discussion groups the various castes under certain specific heads namely (1) Aryan Castes, (2) Non-Aryan Castes, (3) Vratya Castes, (4) Fallen Castes and (5) Sankara Castes.

By Aryan Castes he means the four varnas namely Brahmana, Kshatriya, Vaishya and Shudra. In other words, Manu regards the system of Chaturvarna to be the essence of Aryanism. By Non-Aryan Castes he means those communities who do not accept the creed of Chaturvarna and he, cites the community called Dasyu as an illustration of those whom he regards as a Non-Aryan community[1]. By Vratyas he means those castes who were once believers in the Chaturvarna but who had rebelled against it.

The list of Vratyas given by Manu includes the following castes:

Vratya Brahmanas	Vratya Kshatriyas	Vratya Vaishyas
1. Bhrigga Kantaka	1. Jhalla	1. Sudhanvana
2. Avantya	2. Malla	2. Acharya
3. Vatadhana	3. Lacchavi	3. Karusha
4. Phushpada	4. Nata	4. Vijanman
5. Saikha	5. Karana	5. Maitra
	6. Khasa	6. Satvata
	7. Dravida.	

[1] Manu X. 45. This verse is of great significance for two reasons. In the first place, it shows Shudra as different from Dasyu. In the second place, it shows that a Shudra is an Arya.

This is about 20-page MS on 'the origin of the mixed castes'. Through the original typed MS several handwritten pages are inserted by the author and the text has been modified with several amendments pasted on the pages.—Ed.

In the list of Fallen Castes Manu includes those Kshatriyas who have become Shudras by reason of the disuse of Aryan rites and ceremonies and loss of services of the Brahmin priests. They are enumerated by Manu as under:

1. Paundrakas
2. Cholas
3. Dravidas
4. Kambhojas
5. Yavanas
6. Sakas
7. Paradas
8. Pahlvas
9. Chinas
10. Kiratas
11. Daradas

By Sankara Castes Manu means Castes the members of which are born of parents who do not belong to the same caste.

These mixed castes he divides into various categories (1) Progeny of different Aryan Castes which he subdivides into two classes (a) Anuloma and (b) Pratiloma, (2) Progeny of Anuloma and Pratiloma Castes and (3) Progeny of Non-Aryan and the Aryan Anuloma and Pratiloma Castes. Those included by Manu under the head of mixed castes are shown below under different categories:

1. PROGENY OF MIXED ARYAN CASTES

Father	Mother	Progeny known as	Anuloma or Pratiloma
Brahman	Kshatriya	?	
Brahman	Vaishya	Ambashta	Anuloma
Brahman	Shudra	Nishad (Parasava)	Anuloma
Kshatriya	Brahman	Suta	Pratiloma
Kshatriya	Vaishya	?	
Kshatriya	Shudra	Ugra	Anuloma
Vaishya	Brahman	Vaidehaka	Pratiloma
Vaishya	Kshatriya	Magadha	Pratiloma
Vaishya	Shudra	Karana	Anuloma
Shudra	Brahman	Chandala	Pratiloma
Shudra	Kshatriya	Ksattri	Pratiloma
Shudra	Vaishya	Ayogava	Pratiloma

2. PROGENY OF ARYAN CASTES WITH ANULOMA-PRATILOMA CASTES

Father	Mother	Progeny known as
1. Brahman	Ugra	Avrita
2. Brahman	Ambashta	Abhira
3. Brahman	Abhira	Dhigvana
4. Shudra	Nishada	Kukutaka

3. PROGENY OF MIXED MARRIAGES BETWEEN ANULOMA AND PRATILOMA CASTES

Father	Mother	Progeny known as
1. Vaideha	Ayogava	Maitreyaka
2. Nishada	Ayogava	Margava (Das) Kaivarta
3. Nishada	Vaideha	Karavara
4. Vaidehaka	Ambashta	Vena
5. Vaidehaka	Karavara	Andhra
6. Vaidehaka	Nishada	Meda
7. Chandala	Vaideha	Pandusopaka
8. Nishada	Vaideha	Ahindaka
9. Chandala	Pukkassa	Sopaka
10. Chandala	Nishada	Antyavasin
11. Kshattari	Ugra	Swapaka

To Manu's list of Sankar (mixed) Castes additions have been made by his successors. Among these are the authors of Aushanas Smriti, Baudhayana Smriti, Vashistha Smriti, Yajnavalkya Smriti and the Suta Sanhita.

Of these additions four have been made by the Aushanas Smriti. They are noted below:

Name of the mixed caste	Father's caste	Mother's caste
1. Pulaksa	Shudra	Kshatriya
2. Yekaj	Pulaksa	Vaishya
3. Charmakarka	Ayogava	Brahmin
4. Venuka	Suta	Brahmin

The following four are added by the Baudhayana Smriti:

Name of the mixed caste	Father's caste	Mother's caste
1. Kshatriya	Kshatriya	Vaishya
2. Brahmana	Brahmana	Kshatriya
3. Vaina	Vaidehaka	Ambashta
4. Shvapaka	Ugra	Kshatriya

The Vashishta Smriti adds one to the list of Manu, namely:

Name of the mixed caste	Father's caste	Mother's caste
Vaina	Shudra	Kshatriya

The Yajnavalkya Smriti adds two new castes to Manu's list of mixed castes.

Name of the mixed caste	Father's caste	Mother's caste
1. Murdhavasika	Brahmin	Kshatriya
2. Mahisya	Kshatriya	Vaishya

The Additions made by the author of the Suta Sanhita are on a vast scale. They number sixty-three castes.

	Name of the mixed caste	Father's caste	Mother's caste
1.	Ambashteya	Kshatriya	Vaishya
2.	Urdhvanapita	Brahman	Vaishya
3.	Katkar	Vaishya	Shudra
4.	Kumbhkar	Brahman	Vaishya
5.	Kunda	Brahman	Married Brahmin
6.	Golaka	Brahman	Brahmin Widow
7.	Chakri	Shudra	Vaishya
8.	Daushantya	Kshatriya	Shudra
9.	Daushantee	Kshatriya	Shudra
10.	Pattanshali	Shudra	Vaishya
11.	Pulinda	Vaishya	Kshatriya
12.	Bahyadas	Shudra	Brahmin
13.	Bhoja	Vaishya	Kshatriya
14.	Mahikar	Vaishya	Vaishya
15.	Manavika	Shudra	Shudra
16.	Mleccha	Vaishya	Kshatriya
17.	Shalika	Vaishya	Kshatriya
18.	Shundika	Brahmin	Shudra
19.	Shulikha	Kshatriya	Shudra
20.	Saparna	Brahman	Kshatriya
21.	Agneyanartaka	Ambashta	Ambashta
22.	Apitar	Brahman	Daushanti
23.	Ashramaka	Dantakevala	Shudra

Name of the mixed caste		Father's caste	Mother's caste
24.	Udabandha	Sanaka	Kshatriya
25.	Karana	Nata	Kshatriya
26.	Karma	Karana	Kshatriya
27.	Karmakar	Renuka	Kshatriya
28.	Karmar	Mahishya	Karana
29.	Kukkunda	Magadha	Shudra
30.	Guhaka	Swapach	Brahman
31.	Charmopajivan	Vaidehika	Brahman
32.	Chamakar	Ayogava	Brahmani
33.	Charmajivi	Nishad	Karushi
34.	Taksha	Mahishya	Karana
35.	Takshavriti	Ugra	Brahman
36.	Dantakavelaka	Chandala	Vaishya
37.	Dasyu	Nishad	Ayogava
38.	Drumila	Nishad	Kshatriya
39.	Nata	Picchalla	Kshatriya
40.	Napita	Nishada	Brahmin
41.	Niladivarnavikreta	Ayogava	Chirkari
42.	Piccahalla	Malla	Kshatriya
43.	Pingala	Brahmin	Ayogava
44.	Bhaglabdha	Daushanta	Brahmani
45.	Bharusha	Sudhanva	Vaishya
46.	Bhairava	Nishada	Shudra
47.	Matanga	Vijanma	Vaishya
48.	Madhuka	Vaidehika	Ayogava
49.	Matakar	Dasyu	Vaishya
50.	Maitra	Vijanma	Vaishya
51.	Rajaka	Vaideha	Brahman
52.	Rathakar	Mahishya	Karana
53.	Renuka	Napita	Brahman
54.	Lohakar	Mahishya	Brahmani
55.	Vardhaki	Mahishya	Brahmani
56.	Varya	Sudhanva	Vaishya
57.	Vijanma	Bharusha	Vaishya
58.	Shilp	Mahishya	Karana
59.	Shvapach	Chandala	Brahmani
60.	Sanaka	Magadha	Kshatriya
61.	Samudra	Takashavrati	Vaishya
62.	Satvata	Vijanma	Vaishya
63.	Sunishada	Nishad	Vaishya

Of the five categories of castes it is easy to understand the explanation given by Manu as regards the first four. But the same cannot be said in respect of his treatment of the fifth category namely the *Sankar* (mixed) caste. There are various questions that begin to trouble the mind. In the first place Manu's list of mixed castes is a perfunctory list. It is not an exhaustive list, stating all the possibilities of *Sankar*.

In discussing the mixed castes born out of the mixture of the Aryan castes with the Anuloma-Pratiloma castes, Manu should have specified the names of castes which are the progeny of each of the four Aryan castes with each of the 12 Anuloma-Pratiloma castes. If he had done so we should have had a list of forty-eight resulting castes. As a matter of fact he states only the names of four castes of mixed marriages of this category.

In discussing the progeny of mixed marriages between Anuloma-Pratiloma castes given the fact that we have 12 of them, Manu should have given the names of 144 resulting castes. As a matter of fact, Manu only gives a list of 11 castes. In the formation of these 11 castes, Manu gives five possible combinations of 5 castes only. Of these one (Vaideha) is outside the Anuloma-Pratiloma list. The case of the 8 are not considered at all.

His account of the Sankar castes born out of the Non-Aryan and the Aryan castes is equally discrepant. We ought to have had first a list of castes resulting from a combination between the Non-Aryans with each of the four Aryan castes. We have none of them. Assuming that there was only one Non-Aryan caste—Dasyu—we ought to have had a list of 12 castes resulting from a conjugation of Dasyus with each of the Anuloma-Pratiloma castes. As a matter of fact we have in Manu only one conjugation.

In the discussion of this subject of mixed castes Manu does not consider the conjugation between the Vratyas and the Aryan castes, the Vratyas and the Anuloma-Pratiloma castes, the Vratyas and the Non-Aryan castes.

Among these omissions by Manu there are some that are glaring as well as significant. Take the case of Sankar between Brahmins and Kshatriyas. He does not mention the caste born out of the Sankar between these two. Nor does he mention whether the Sankar caste begotten of these two was a Pratiloma or Anuloma. Why did Manu fail to deal with this question. Is it to be supposed that such a Sankar did not occur in his time? Or was he afraid to mention it? If so, of whom was he afraid ?

Some of the names of the mixed castes mentioned by Manu and the other Smritikaras appear to be quite fictitious.

For some of the communities mentioned as being of bastard origin have never been heard of before Manu. Nor does any one know what has happened to them since. They are today non-existent without leaving any trace behind. Caste is an insoluble substance and once a caste is formed it maintains its separate existence, unless for any special reason it dies out. This can happen but to a few.

Who are the *Ayogava, Dhigvana, Ugra, Pukkasa, Svapaka, Svapacha, Pandusopaka, Ahindaka, Bandika, Matta, Mahikar, Shalika, Shundika, Shulika, Yekaj, Kukunda* to mention only a few. Where are they? What has happened to them?

Let us now proceed to compare Manu with the rest of Smritikars. Are they unanimous on the origin of the various mixed castes referred to by them? Far from it compare the following cases.

	Smriti	Father's caste	Mother's caste
		I AYOGAVA	
1.	Manu	Shudra	Vaishya
2.	Aushanas	Vaishya	Kshatriya
3.	Yajnavalkya	Shudra	Vaishya
4.	Baudhayana	Vaishya	Kshatriya
5.	Agni Purana	Shudra	Kshatriya
		II UGRA	
1.	Manu	Kshatriya	Shudra
2.	Aushanas	Brahman	Shudra
3.	Yajnavalkya	Kshatriya	Vaishya
4.	Vashishtha	Kshatriya	Vaishya
5.	Suta	Vaishya	Shudra
		III NISHADA	
1.	Manu	Brahmana	Shudra
2.	Aushanas	Brahmana	Shudra
3.	Baudhayana	Brahmana	Shudra
4.	Yajnavalkya	Brahmana	Shudra
5.	Suta Sanhita	Brahmana	Vaishya
6.	Suta Sanhita	Brahmana	Shudra
7.	Vashishta	Vaishya	Shudra
		IV PUKKASA	
1.	Manu	Nishada	Shudra
2.	Brihad-Vishnu	Shudra	Kshatriya
3.	Brihad-Vishnu	Vaishya	Kshatriya

	Smriti	Father's caste	Mother's caste
		V MAGADHA	
1.	Manu	Vaishya	Kshatriya
2.	Suta	Vaishya	Kshatriya
3.	Baudhayana	Shudra	Vaishya
4.	Yajnavalkya	Vaishya	Kshatriya
5.	Brihad Vishnu	Vaishya	Kshatriya
6.	Brihad Vishnu	Shudra	Kshatriya
7.	Brihad Vishnu	Vaishya	Brahmana
		VI RATHAKAR	
1.	Aushanas	Kshatriya	Brahmana
2.	Baudhayana	Vaishya	Shudra
3.	Suta	Kshatriya	Brahmana
		VII VAIDEHAKA	
1.	Manu	Shudra	Vaishya
2.	Manu	Vaishya	Brahmana
3.	Yajnavalkya	Vaishya	Brahmana

If these different Smritikaras are dealing with facts about the origin and genesis of the mixed castes mentioned above how can such a wide difference of opinion exist among them? The conjugation of two castes can logically produce a third mixed caste. But how the conjugation of the same two castes produce a number of different castes ? But this is exactly what Manu and his followers seem to be asserting. Consider the following cases:

I. Conjugation of Kshatriya father and Vaishya mother.

1. Baudhyayana says that the caste of the progeny is *Kshatriya*.
2. Yajnavalkya says it is *Mahishya*.
3. Suta says it is *Ambashta*.

II. Conjugation of Shudra father and Kshatriya mother—

1. Manu says the Progeny is *Ksattri*.
2. *Aushanas says it is Pullaksa*.
3. Vashishta says it is *Vaina*.

III. Conjugation of Brahmana father and Vaishya mother.

1. Manu says that the progeny is called Ambashta.
2. Suta once says it is called *Urdhava Napita* but again says it is called *Kumbhakar*.

IV. Conjugation of Vaishya father and Kshatriya mother—

1. Manu says that the progeny is called *Magadha*.

2. Suta states that (1) Bhoja, (2) Mleccha, (3) Shalik and (4) Pulinda are the Progenies of this single conjugation.

V. Conjugation of Kshatriya father and Shudra mother—

1. Manu says that the progeny is called Ugra.
2. Suta says that (1) Daushantya, (2) Daushantee and (3) Shulika are the progenies of this single conjugation.

VI. Conjugation of Shudra father and Vaishya mother—

1. Manu says the progeny is called Ayogava.
2. Suta says the progeny is (1) Pattanshali and (2) Chakri.

Let us take up another question. Is Manu's explanation of the genesis of the mixed castes historically true?

To begin with the Abhira. According to Manu the Abhiras are the bastards born of Brahmin males and Ambashta females. What does history say about them? History says that the Abhiras (the corrupt form of which is Ahira) were pastoral tribes which inhabited the lower districts of the North-West as far as Sindh. They were a ruling independent Tribe and according to the Vishnu Purana[1] the Abhiras conquered Magadha and reigned there for several years.

The *Ambashta*[2] says Manu are the bastards born of Brahmana male and Vaishya female. Patanjali speaks of Ambashtyas as those who are the natives of a country called Ambashta. That the Ambashtas were an independent tribe is beyond dispute. The Ambashtas are mentioned by Megasthenes the Greek Ambassador at the Court of Chandragupta Maurya as one of the tribes living in the Punjab who fought against Alexander when he invaded India. The Ambashtas are mentioned in the Mahabharata. They were reputed for their political system and for their bravery.

The *Andhras*[3] says Manu are bastards of second degree in so far as they are the progeny of Vaidehaka male and Karavara female both of which belong to bastard castes. The testimony of history is quite different. The Andhras are a people who inhabited that part of the country which forms the eastern part of the Deccan Plateau. The Andhras are mentioned by Megasthenes. Pliny the Elder (77 A.D.) refers to them as a powerful tribe enjoying paramount sway over their land in the Deccan, possessed numerous villages, thirty walled towns defended by moats and lowers and supplies their king with an immense army consisting of 1,00,000 infantry, 2,000 cavalry and 1,000 elephants.

[1] Book IV Chapter 24.

[2] For Ambashtas see Jaiswal's Hindu Polity—Part-I, pp. 73-74.

[3] For the Andhras see—Early Dynasties of Andhradesa—by Bhavaraju Venkata Krishnarao. They are also called Satavahanas.

According to Manu the *Magadhas*[1] are bastards born of Vaishya male and Kshatriya female. Panini the Grammarian gives quite a different derivation of 'Magadha'. According to him "Magadha" means a person who comes from the country known as Magadha. Magadha corresponds roughly to the present Patna and Gaya districts of Bihar. The Magadhas have been mentioned as independent sovereign people right from the earliest times. They are first mentioned in the Atharva-Veda. The famous Jarasandha was the king of Magadha who was a contemporary of the Pandavas.

According to Manu the *Nishadas* are the bastards born caste from Brahmin males and Shudra females. History has quite a different tale to tell. The Nishadas were a native tribe with its own independent territory and its own kings. They are a very ancient tribe. The Ramayana mentions Guha as the King of Nishadas whose capital was Sringaverapura and who showed hospitality to Rama when he was undergoing excile in the forest.

As to the *Vaidehaka* Manu says that they are the bastards born of Vaishya Male and Brahmin female. Etymologically Vaidehaka means a person who is a native of the country called Videha[2]. Ancient *Videha* corresponds to the modern districts of Champaran and Darbhanga in Bihar. The country and its people have been known to history from a very remote antiquity. The Yajur-Veda mentions them. Ramayana refers to them. Sita the wife of Rama is the daughter of Janak who was the king of Videha and whose capital was Mithila.

Many more cases could be examined. Those that have been are quite sufficient to show how Manu has perverted history and defamed the most respectable and powerful tribes into bastards. This wholesale bastardization of huge communities Manu did not apply to the Vratyas. But his successors carried the scheme further and bastardized the Vratyas also. Karma in Manu is Vratya. But the Brahma Vaivarta Purana makes them Bastards and says that they are the progeny of Vaishya father and Shudra mother. Paundraka in Manu is Vratya. But in the Brahmavaivarta Purana he is a bastard born of Vaishya father and Chundi mother. Malla in Manu is Vratya. But in the Brahma Vaivarta Purana he is a bastard born of Letta father and Tibara mother. The Vharjjakautakas are Vratya Brahmanas according to Manu. But in the Gautama Sanhita they are bastards born from a Brahman father and Vaishya mother. The Yavanas were declared by Manu as Vratya Kshatriya. But in Gautama Sanhita they are shown as bastards born of a Kshatriya father and Shudra mother.

[1] For the History of Magadha see Chapter IV of Ancient Indian Tribes by B.C. Law.

[2] For the History of the Videhas see part II Chapter I of Kshatriya clans in Buddhist India by B.C. Law.

The Kiratas are according to Manu Vratya Kshatriyas. But the Ballalacharitta makes them bastards born from Vaishya father and Brahmin mother.

It is quite clear that some of the communities mentioned by Manu as being bastard in origin far from being bastard were independent in origin and yet Manu and the rest of the Smratikara's call them Bastards. Why this madness on their part ? Is there a method in their madness?

Having regard to all these considerations it is a riddle why Manu at all raised the question of mixed castes and what he wanted to say about them?

It is possible that Manu had realized that the Chaturvarna had failed and that the existence of a large number of castes which should neither be described as Brahmanas, Kshatriyas, Vaishyas and Shudras was the best proof of the break down of the Chaturvarna and that he was therefore called upon to explain how these castes who were outside the Chaturvarna came into existence notwithstanding the rule of Chaturvarnas.

But did Manu realize how terrible is the Explanation which he has given? What does his explanation amount to?

What a reflection on the character of men and particularly of women. It is obvious that the unions of men and women must have been clandestine because prohibited by the rule of Chaturvarna. Such clandestine unions could take place only here and there. They could not have taken place on a wholesale scale. But unless one assumes a wholesale state of promiscuity how can one justify the origin of the Chandals or untouchables as given by Manu.

The caste of Chandala is said by Manu to be the progeny of illegitimate intercourse between a Shudra male and a Brahman female. Can this be true? It means that Brahmin women must have been very lax in their morality and must have had special sexual attraction for the Shudra[1]. This is unbelievable.

So vast is the Chandala population that even if every Brahmin female was a mistress of a Shudra it could not account of the vast number of Chandalas in the country.

Did Manu realize by propounding his theory of the origin of the mixed castes he was assigning an ignoble origin to a vast number of the people of this country leading to their social and moral degradation. Why did he say that the castes were mixed in origin, when as a matter of fact they were independent in their existence?

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1 Megasthenes records that the ancient Brahmins were distrustful of their wives and did not communicate their metaphysical doctrine to women on the ground that being talkative they would communicate their knowledge to those who had no right to it which probably means the Shudras.

RIDDLE No. 19

THE CHANGE FROM PATERNITY TO MATERNITY. WHAT DID THE BRAHMINS WISH TO GAIN BY IT?

Mr. Mayne in his treatise on Hindu law has pointed out some anomalous features of the rules of Kinships. He says:

"No part of the Hindu Law is more anomalous than that which governs the family relations. Not only does there appear to be a complete break of continuity between the ancient system and that which now prevails, but the different parts of the ancient system appear in this respect to be in direct conflict with each other. We find a law of inheritance, which assumes the possibility of tracing male ancestors in an unbroken pedigre extending to fourteen generations; while coupled with it is a family law, in which several admitted forms of marriage are only euphemisms for seduction and rape, and in which twelve sorts of sons are recognized, the majority of whom have no blood relationship to their own father."

The existence of this anomaly is a fact and will be quite clear to those who care to study the Hindu Law of marriage and paternity.

The Hindu Law recognizes eight different forms of marriage, namely (1) Brahma, (2) Daiva, (3) Arsha, (4) Prajapatya, (5) Asura, (6) Gandharva, (7) Rakshasa and (8) Paisacha.

The Brahma marriage is the gift of a daughter, clothed and decked to a man learned in the Veda, whom her father voluntarily invites and respectfully receives.

The Daiva marriage consists of the giving of the daughter by father to the family priest attending a sacrifice at the time of the payment of the sacrificial fee and in lieu of it.

Arsha marriage is characterized by the fact that the bridegroom has to pay a price for the bride to the father of the bride.

Prajapatya form of marriage is marked by the application of a man for a girl to be his wife and the granting of the application by the

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This is an eleven-page typed chapter. Except the title of the chapter no other additions are found in the handwriting of the author.—Ed.

father of the girl. The difference between Prajapatya and Brahma marriage lies in the fact that in the latter the gift of the daughter is made by the father voluntarily but has to be applied for. The fifth or the *Asura* form of marriage is that in which the bridegroom having given as much wealth as he can afford to the father and paternal kinsmen and to the girl herself takes her as his wife. There is not much difference between *Arsha* and Asura forms of marriage. Both involve sale of the bride. The difference lies in this that in the Arsha form the price is fixed while in the Asura form it is not.

Gandharva marriage is a marriage by consent contracted from non-religious and sensual motives. Marriage by seizure of a maiden by force from her house while she weeps and calls for assistance after her kinsmen and friends have been slain in battle or wounded and their houses broken open, is the marriage styled *Rakshasa*.

Paisacha marriage is marriage by rape on a girl either when she is asleep or flushed with strong liquor or disordered in her intellect.

Hindu Law recognized thirteen kinds of sons. (1) Aurasa, (2) Kshetraja, (3) Pautrikaputra, (4) Kanina, (5) Gudhaja, (6) Punarbhava, (7) Sahodhaja, (8) Dattaka, (9) Kritrima, (10) Kritaka, (11) Apaviddha, (12) Svayamdatta and (13) Nishada.

The *Aurasa* is a son begotten by a man himself upon his lawfully wedded wife.

Putrikaputra means a son born to a daughter. Its significance lies in the system under which a man who had a daughter but no son could also have his daughter to cohabit with a man selected or appointed by him. If a daughter gave birth to a son by such sexual intercourse the son became the son of the girl's father. It was because of this that the son was called Putrikaputra. Man's right to compel his daughter to submit to sexual intercourse with a man of his choice in order to get a son for himself continued to exist even after the daughter was married. That is why a man was warned not to marry a girl who had no brothers.

Kshetraja literally means son of the field i.e., of the wife. In Hindu ideology the wife is likened to the field and the husband being likened to the master of the field. Where the husband was dead, or alive but impotent or incurably diseased the brother or any other *sapinda* of the deceased was appointed by the family to procreate a son on the wife. The practice was called *Niyoga* and the son so begotten was called *Kshetraja*.

If an unmarried daughter living in the house of her father has through illicit intercourse given birth to a son and if she subsequently was married the son before marriage was claimed by her husband as his son. Such a son was called *Kanina*.

The *Gudhaja* was apparently a son born to a woman while the husband had access to her but it is suspected that he is born of an adulterous connection. As there is no proof by an irrebutable presumption so to say the husband is entitled to claim the son as his own. He is called *Gudhaja* because his birth is clouded in suspicious, Gudha meaning suspicion.

Sahodhaja is a son born to a woman who was pregnant at the time of her marriage. It is not certain whether he is the son of the husband who had access to the mother before marriage or whether it is the case of a son begotten by a person other than the husband. But it is certain that the *Sahodhaja,* is a son born to a pregnant maiden and claimed as his son by the man who marries her.

Punarbhava is the son of a woman who abandoned by her husband and having lived with others, re-enters his family. It is also used to denote the son of a woman who leaves an impotent, outcaste, or a mad or diceased husband and takes another husband.

Parasava[1] is the son of a Brahmin by his Shudra wife.

The rest of the sons are adopted sons as distinguished for those who were claimed as sons.

Dattaka is the son whom his father and mother give in adoption to another whose son he then becomes.

Kratrima is a son adopted with the adoptee's consent only.

Krita is a son purchased from his parents.

Apaviddha is a boy abandoned by his parents and is then taken in adopted and reckoned as a son.

Svayamdatta is a boy bereft of parents or abandoned by them seeks a man shelter and presents himself saying 'Let me become thy son' when accepted he becomes his son.

It will be noticed how true it is to say that many forms of marriage are only euphemisms for seduction and rape and how many of the sons have no blood relationship to their father. These different forms of marriage and different kinds of sons were recognized as lawful even up to the time of Mana and even the changes made by Manu are very minor. With regard to the forms of marriage Manu[2] does not declare them to be illegal. All that he says that of the eight forms, six, namely, Brahma, Daiva, Arsha, Prajapatya, Asura, Gandharva, Rakshasa and Paisachya are lawful for a Kshatriya, and that three namely Asura, Gandharva and Paisachya are lawful for a Vaishya and a Shudra.

[1] He was also called Nishad. Jimutvahana seems to make a difference between Parasava and Nishad. Parasava he says is the son of a Brahmin by an unmarried Shudra woman while Nishad is the son of a Brahmin by his Shudra wife.

[2] Manu III. 23.

Similarly he does not disaffiliate any of the 12 sons. On the contrary he recognises their kinship. The only change he makes is to alter the rules of inheritance by putting them into two classes (1) heirs and kinsmen and (2) kinsmen but not heirs. He says[1] :

159. "The legitimate son of the body, the son begotten on a wife, the son adopted, the son made, the son secretly born, and the son cast off (are) the six heirs and kinsmen."

160. "The son of an unmarried damsel, the son received with the wife, the son bought, the son begotten on a remarried woman; the son self-given and the son of a Sudra female (are) the six (who are) not heirs, (but) kinsmen."

162. "If the two heirs of one man be a legitimate son of his body and a son begotten on his wife, each (of the two sons), to the exclusion of the other, shall take the estate of his (natural) father."

163. "The legitimate son of the body alone (shall be) the owner of the paternal estate; but, in order to avoid harshness, let him allow a maintenance to the rest."

There is another part of the law of consanguinity which has undergone a profound change but which has hardly been noticed by anybody. It relates to the determination of the Varna of the child. What is to be the Varna of the child? Is it to be the father's Varna or the mother's Varna? According to the law as it prevailed in the days before Manu the Varna of the child was determined by the Varna of the father. The Varna of the mother was of no account. A few illustrations will suffice to prove the thesis.

	Father		Mother		Child	
	Name	Varna	Name	Varna	Name	Varna
1.	Shantanu	Kshatriya	Ganga	Unknown	Bhishma	Kshatriya
2.	Parashara	Brahmana	Matsyagandha	Fisherman	Krishna Dwaya	Brahman
3.	Vashishtha	Brahmana	Akshamala		Payan	
4.	Shantanu	Kshatriya	Matsyagandha	Fisherman	Vichitravirya	Kshatriya
5.	Vishwamitra	Kshatriya	Menaka	Apsara	Shakuntala	Kshatriya
6.	Yayati	Kshatriya	Devayani	Brahmin	Yadu	Kshatriya
7.	Yayati	Kshatriya	Sharmishtha	Asuri	Druhya	Kshatriya
8.	Jaratkaru	Brahman	Jaratkari	Naga	Astika	Brahmin

[1] Manu IX. 159-160: 162-163: pp. 359-60.

What does Manu do? The changes made by Manu in the law of the child's Varna are of a most revolutionary character. Manu[1] lays down the following rules:

> 5. "In all castes (varna) those (children) only which are begotten in the direct order on wedded wives, equal (in caste) and married as (virgins) are to be considered as belonging to the same caste (as their fathers)."
>
> 6. " Sons, begotten by twice-born men on wives of the next lower castes, they declare to be similar (to their fathers, but) blamed on account of the fault (inherent) in their mothers."
>
> 14. "Those sons of the twice-born, begotten on wives of the next lower castes, who have been enumerated in due order, they call by the name Anantaras (belonging to the next lower caste) on account of the blemish (inherent) in their mothers"
>
> 41. "Six sons, begotten (by Aryans) on women of equal and the next lower castes (Anantara), have the duties of twice-born men; but all those born in consequence of a violation of the law are, as regards their duties, equal to Sudras."

Manu distinguishes the following cases:

(1) Where the father and mother belong to the same Varna.

(2) Where the mother belongs to a Varna next lower to that of the father e.g., Brahman father and Kshatriya mother, Kshatriya father and Vaishya mother, Vaishya father and Shudra mother.

(3) Where the mother belongs to a Varna more than one degree lower to that of the father, e.g., Brahmin father and Vaishya or Shudra mother, Kshatriya father and Shudra mother.

In the first case the Varna of the child is to be the Varna of the father. In the second case also the Varna of the child is to be the Varna of the father. But in the third case the child is not to have the father's Varna. Manu does not expressly say what is to be the Varna of the child if it is not to be that of the father. But all the commentators of Manu Medhatithi, Kalluka Bhatt, Narada and Nandapandit—agree

saying what of the course is obvious that in such cases the Varna of the child shall be the Varna of the mother. In short Manu altered the law of the child's Varna from that of Pitrasavarna—according to father's Varna to Matrasavarna—according to mother's Varna.

This is most revolutionary change. It is a pity few have realized that given the forms of marriage, kinds of sons, the permissibility of Anuloma marriages and the theory of Pitrasavarnya, the Varna system notwithstanding the desire of the Brahmins to make it a closed system remained an open system. There were so many holes so to say in the

[1] Manu Chap. X verses 5, 6, 14 and 41, pp. 402, 403, 404 and 412.

Varna system. Some of the forms of marriage had no relation to the theory of the Varna. Indeed they could not have. The Rakshas and the Paisachya marriages were in all probability marriages in which the males belonged to the lower varnas and the females to the higher varnas. The law of sonship probably left many loopholes for the sons of Shudra to pass as children of the Brahmin. Take for instances sons such as Gudhajas, Sahodhajas, Kanina. Who can say that they were not begotten by Shudra or Brahmin, Kshatriya or Vaishya. Whatever doubts there may be about these the Anuloma system of marriage which was sanctioned by law combined with the law of Pitrasavarnya had the positive effect of keeping the Varna system of allowing the lower Varnas to pass into the higher Varna. A Shudra could not become a Brahmin, a Kshatriya or a Vaishya. But the child of a Shudra woman could become a Vaishya if she was married to a Vaishya, a Kshatriya if she was married to a Kshatriya and even a Brahmin if she was married to a Brahmin. The elevation and the incorporation of the lower orders into the higher orders was positive and certain though the way of doing it was indirect. This was one result of the old system. The other result was that a community of a Varna was always a mixed and a composite community. A Brahmin community might conceivably consist of children born of Brahmin women, Kshatriya women, Vaishya women, and Shudra women all entitled to the rights and privileges belonging to the Brahmin community. A Kshatriya community may conceivably consist of children born of Kshatriya women, Vaishya women and Shudra women all recognized as Kshatriya and entitled to the rights and privileges of the Kshatriya community. Similarly the Vaishya community may conceivably consist of children born of Vaishya women and Shudra women all recognized as Vaishyas and entitled to the rights and privileges of the Vaishya community.

The change made by Manu is opposed to some of the most fundamental notions of Hindu Law. In the first place, it is opposed to the Kshetra-Kshetraja rule of Hindu Law. According to this rule, which deals with the question of property in a child says that the owner of the child is the *de jure* husband of the mother and not the *de facto* father of the child. Manu is aware of this theory. He puts it in the following terms[1]:

> "Thus men who have no marital property in women, but sow in the fields owned by others, may raise up fruit to the husbands, but the procreator can have no advantage from it. Unless there be a special agreement between the owners of the land and of the seed

[1] Mayne Hindu Law p. 83.

the fruit belongs clearly to the landowner, for the receptacle is more important than the seed."

It is on this that the right to the 12 kinds of sons is founded.

This change was also opposed to the rule of Patna Potestas. Hindu family is a Patriarchal family same as the Roman family. In both the father possessed certain authority over members of the family. Manu is aware of this and recognized it in most ample terms. Defining the authority of the Hindu father, Manu says:

> "Three persons, a wife, a son, and a slave, are declared by law to have in general no wealth exclusively their own; the wealth which they may earn is regularly acquired for the man to whom they belong."

They belong to the head of the family—namely the father. Under the Patna Potestas the sons earnings are the property of the father. The change in the law of paternity mean a definite loss to the father.

Why did Manu change the law from Pitra-savarnya to Matra-savarnya ?

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RIDDLE No. 20

KALI VARJYA OR THE BRAHMANIC ART OF SUSPENDING THE OPERATION OF SIN WITHOUT CALLING IT SIN

Few have heard of the Brahmanic dogma called Kali Varjya. It must not be confused with another Brahmanic Dogma of Kali Yuga. The dogma of Kali Varja prescribes that customs and usages which are valid and good in other yugas are not to be observed in the Kali Age. The references to these instructions are scattered in the different Puranas. But the Adityapurana has codified them and brought them together[1]. The practices which are Kali Varjya are given below :

(1) To appoint the husband's brother for procreating a son on a widow.

(2) The remarriage of a (married) girl (whose marriage is not consummated) and of one (whose marriage was consummated) to another husband (after the death of the first.

(3) The marriage with girls of different Varna among persons of the three twice-born classes.

(4) The killing even in a straight fight of Brahmanas that have become desperadoes.

(5) The acceptance (for all ordinary intercourse such as eating with him) of a twice-born person who is in the habit of voyaging over the sea in a ship even after he has undergone a *prayascitta*.

(6) The initiation for a *sattra*.

(7) The taking of a *Kamandali* (a jar for water).

(8) Starting on the Great Journey.

(9) The killing of a cow in the sacrifice called *Gomedha*.

(10) The partaking of wine even in the *Srautmani* sacrifice.

[1] I have taken them from Mahamahopadhya Kane's Paper on the subject.

This is a nine-page typed copy with several corrections by the author himself. For Notes on all 43 Kali Varjyas, please see Notes to Appendix I of this part.—Ed:

(11-12) Licking the ladle (sruc) after the Agnihotra Hoama in order to take off the remains of the offerings and using the ladle in the Agnihotra afterwards when it has been so licked.

(13) Entering into the stage of forest hermit as laid down in sastras about it.

(14) Lessening the periods of impurity (due to death and birth) in accordance with the conduct and Vedic learning of a man.

(15) Prescribing death as the penance *(prayascitta)* for Brahmans.

(16) Expiation (by secretly performed *prayascittas)* of the mortal sins other than theft (of gold) and the sin of contact (with those guilty of Mahapatakas).

(17) The act of offering with Mantras animal flesh to the bridegroom, the guest and the pitras.

(18) The acceptance as sons of those other than the aurasa (natural) and adopted sons.

(19) Ordinary intercourse with those who incurred the sin of (having intercourse with) women of higher castes, even after they had undergone the *prayascitta* for such sin.

(20) The abandonment of the wife of an elderly person or of one who is entitled to respect) when she has had intercourse with one with whom it is severely condemned.

(21) Killing oneself for the sake of another.

(22) Giving up food left after one has partaken of it.

(23) Resolve to worship a particular idol for life (in return for payment).

(24) Touching the bodies of persons who are in impurity due to death after the charred bones are collected.

(25) The actual slaughter by Brahmanas of the sacrificial animal.

(26) Sale of the Soma plant by Brahmanas.

(27) Securing food even from a Sudra when a Brahmana had no food for six times of meals (i.e., for three days).

(28) Permission to (a Brahmana) householder to take cooked food from Sudras if they are his *dasas,* cowherds, hereditary friends, persons cultivating his land on an agreement to pay part of the produce.

(29) Going on a very distant pilgrimage.

(30) Behaviour of a pupil towards his teacher's wife as towards a teacher that is declared (in Smritis).

(31) The maintenance by Brahmanas in adversity (by following unworthy avocations) and the mode of livelihood in which a Brahmana does not care to accumulate for tomorrow.

(32) The acceptance of *aranis* (two wooden blocks for producing fire) by Brahmanas in the *Homa* at the time of *Jatakarma* in order that all the ceremonies for the child from *Jatakarma* to his marriage may be performed therein.

(33) Constant journeys by Brahmanas.

(34) Blowing of fire with the mouth (i.e., without employing a bamboo dhamani).

(35) Allowing women who have become polluted by rape, etc., to freely mix in the caste (when they have performed prayascitta) as declared in the sastric texts.

(36) Begging of food by a sannyasin from persons of all Varnas (including Sudra).

(37) To wait (i.e., not to use) for ten days water that has recently been dug in the grounds.

(38) Giving fee to the teacher as demanded by him (at the end of study) according to the rules laid down in the sastra.

(39) The employment of Sudras as cooks for Brahmanas and the rest.

(40) suicide of old people by falling from a precipice of into fire.

(41) Performing *acamana* by respectable people in water that would remain even after a cow has drunk it to its heart's content.

(42) Fining witnesses who depose to a dispute between father and son.

(43) Sannyasin should stay where he happens to be in the evening.

The strange thing about this code of Kali-Varjya is that its significance has not been fully appreciated. It is simply referred to as a list of things forbidden in Kali Yug. But there is more than this behind this list of don'ts. People are no doubt forbidden to follow the practice listed in the Kali Varjya Code. The question however, is: Are these practices condemned as being immoral, sinful or otherwise harmful to society? The answer is no. One likes to know why these practices if they are forbidden are not condemned? Herein lies the riddle of the Kali Varjya Code. This technique of forbidding a practice without condemning it stands in utter contrast with the procedure followed in earlier ages. To take only one illustration. The Apastambha Dharma Sutra forbids the practice of giving all property to the eldest son. But he condemns it. Why did the Brahmins invent this new technique, forbid but not condemn? There must be some special reason for this departure. What is that reason?

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APPENDIX I

THE RIDDLE OF THE VARNASHRAM DHARMA

Reference has already been made to the two dogmas of *Varna Dharma* and *Asharm Dharma,* which are called by the collective names of *Varnashram Dharma* and which form so fundamental a part of Hinduism. It cannot but be instructive to know the views expressed by the ancient writers on these strange dogmas.

I

To begin with Varna Dharma. It would be better to collect together in the first place the views expressed in the Vedas.

The subject is referred to in the Rig-Veda in the 90th Hymn of the 10th Book. It runs as follows:—

> "1. Purusha has a thousand heads, a thousand eyes, a thousand feet, on every side enveloping the earth he overpassed (if) by a space of ten fingers. 2. Purusha himself is this whole (universe), whatever has been and whatever shall be. He is also the lord of immortality since (or, when) by food he expands. 3. Such is his greatness, and Purusha is superior to this. All existences are a quarter of him; and three-fourths of him are that which is immortal in the sky. 4. With three quarters Purusha mounted upwards. A quarter of him was again produced here. He was then diffused everywhere over-things which eat and things which do not eat. 5. From him was born Viraj, and from Viraj, Purusha. When born, he extended beyond the earth, both behind and before. 6. When the Gods performed a sacrifice

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This is a consolidated version of Riddle No. 16 & 17 entitled 'Varnashram Dharma'. This title does not find place in the original Table of Contents. Hence this is placed as Appendix. It is difficult to identify which of the two versions is later. Quotations have been retained in both the texts while the interpretation seems to be modified at various places. This is a 55-page typed copy without having any corrections by the author.—Ed.

with Purush as the oblation, the spring was its butter, the summer its fuel, and the autumn its (accompanying) offering. 7. This victim, Purush, born in the beginning, they immolated on the sacrificial grass. With him the gods, the Sadhyas, and the rishis sacrificed. 8. From that universal sacrifice were provided curds and butter. It formed those aerial (creatures) and animals both wild and tame. 9. From the universal sacrifice sprang the *rich* and *saman* verses, the *metres* and the *yajush*. 10. From it sprang horses, and all animals with two rows of teeth; kine sprang from it; from it goats and sheep. 11. When (the Gods) divided Purusha, into how many parts did they cut him up ? What was his mouth ? What arms (had he) ? What (two objects) are said (to have been) the thighs and feet ? 12. The Brahmana was his mouth; the Rajanya was made his arms; the being (called) the Vaisya, he was his thighs; the Sudra sprang from his feet. 13. The moon sprang from his soul (manas), the sun from his eye, Indra and Agni from his mouth, and Vayu from his breath. 14. From his navel arose the air, from his head the sky, from his feet the earth, from his ear the (four) quarters; in this manner (the Gods) formed the worlds. 15. When the Gods, performing sacrifice, bound Purusha as a victim, there were seven sticks (struck up) for it (around the fire), and thrice seven pieces of fuel were made. 16. With sacrifice the Gods performed the sacrifice. These were the earliest rites. These great powers have sought the sky, where are the former Sadhyas, gods".

This hymn is known by its general name Purusha Sukta and is supposed to embody the official doctrine of Varna and Caste.

The first thing to do is to inquire which of the other Vedas accept the theory of the origin of the Varna system as propounded in the Purusha Sukta of the Rig-Veda. Examining the different Vedas from this point of view the result appears to be very striking.

The Sama-Veda has not incorporated the Purusha Sukta among its hymns. Nor does it give any other explanation of the Varna Dharma.

The Yajur-Veda discloses a very great degree of diversity of opinion on this issue. Taking up the case of the White Yajur-Veda separately from that of the Black Yajur-Veda the position as it emerges from a comparison of its three available Sanhitas stands thus. Of the three Sanhitas the Kathaka Sanhita and Maitreyani Sanhita do not make any reference to the Purusha Sukta of the Rig-Veda nor do they make any attempt to give any other explanation of the Varna system. The Vajaseniya Sanhita is the only Sanhita of the Yajur-Veda which incorporates the Purusha Sukta but not without transposition of the verses. But the Vajasaneya Sanhita gives a new and original

explanation of the Varna system quite different from what is given in the Purusha Sukta[1]:

> " He lauded with one Living beings were formed; Prajapati was the ruler. He lauded with three: the Brahman (Brahman) was created: Brahmanaspati was the ruler. He lauded with five; existing things were created: Bhutanampati was the ruler. He lauded with seven; the seven rishis were created: Dhatri was the ruler. He lauded with nine; the Fathers were created: Aditi was the ruler. He lauded with eleven: the seasons were created: The Artavas were the rulers. He lauded with thirteen: the months were created : the year was the ruler. He lauded with fifteen: the Kshattra (the Kshattriya) was created: Indra was the ruler. He lauded with seventeen: animals were created: Brihaspati was the ruler. He lauded with nineteen: the Sudra and the Arya (Vaisya) were created: day and night were the rulers. He lauded with twenty-one: animals with undivided hoofs were created: Varuna was the ruler. He lauded with twenty-three; small animals were created: Pushan was the ruler. He lauded with twenty-five: wild animals were created: Vayu was the ruler (compare R.V. x. 90, 8). He lauded with twentyseven: heaven and earth separated: Vasus, Rudras, and Adityas separated after them: they were the rulers. He lauded with twentynine; trees were created: Soma was the ruler. He lauded with thirty-one: living beings were created: The first and second halves of the month were the rulers. He lauded with thirty one: existing things were tranquillized; Prajapati Parameshthin was the ruler."

Turning to the Black Yajur-Veda there is only one Sanhita of it which is available. It is called Taitterriya Sanhita. This Sanhita offers two explanations. The first explanation[2] is the same which is given in the Vajaseniya Sanhita as its own original explanation. The second explanation is its own particular explanation and is not to be found in the Vajaseniya Sanhita. It reads as follows[3]:

> "He (the Vratya) became filled with passions thence sprang the Rajanya".
>
> "Let the king to whose house the Vratya who knows this, comes as a guest, cause him to be respected as superior to himself. So doing he does no injury to his royal rank, or to his realm. From him arose the Brahman (*Brahman*) and the Kshattra (*Kshatriya*). They said, 'Into whom shall we enter', etc."

The important point is that while the Vajaseniya Sanhita incorporates the Purusha Sukta from the Rig-Veda the Taiterriya Sanhita altogether omits to take any notice of it whatsoever.

[1] Muir Sanskrit Texts. Vol. I. P. 18.

[2] See Khanda IV. Prapathaka III verses X following.

[3] *Ibid* I p. 22.

The Atharva-Veda incorporates the Purusha Sukta. But the order of the verses varies from the order in which they stand in the Rig-Veda. But like the Vajaseniya Sanhita and the Taitterriya Sanhita of the Yajur-Veda the Atharva is not content with the Purusha Sukta. It offers other explanations. They are not as complete and as universal as the Purusha Sukta but they are special to it[1]:

> "The Brahman was born the first, with ten heads and ten faces. He first drank the *soma;* he made poison powerless".
>
> "The Gods were afraid of the Rajanya when he was in the womb. They bound him with bonds when he was in the womb. Consequently this Rajanya is born bound. If he were unborn unbound he would go on slaying his enemies. In regard to whatever Rajanya any one desires that he should be born unbound, and should go on slaying his enemies, let him offer for him this Aindra-Birhaspatya oblation. A Rajanya has the character of Indra, and a Brahman is Brihaspati. It is through the Brahman that any one releases the Rajanya from his bond. The golden bond, a gift, manifestly releases from the bond that fetters him."

Purusha as the origin of the four Varnas is not the only explanation of the origin of the Varna system that is to be found in the Vedas. There is another explanation. It speaks of people being descended from Manu and is to be found referred to in the following passages[2]:

> "Prayers and hymns were formerly congregated in the Indra, in the ceremony which Atharvan, father Manu, and Dadhyanch celebrated".

Whatever prosperity or succour father Manu obtained by sacrifices, may we gain all that under thy guidance, o Rudra."

> "Those pure remedies of yours, O Maruts, those which are-most auspicious, ye vigorous gods, those which are beneficient, those which our father Manu chose, those, and the blessing and succour of Rudra, I desire."
>
> "That ancient friend hath been equipped with the powers of the mighty (gods). Father Manu has prepared hymns to him, as portals of success to the gods."
>
> "Sacrifice is Manu, our protecting father."
>
> "Do ye (gods) deliver, protect, and intercede for us; do not lead us far away from the paternal path of Manu."
>
> "He (Agni) who abides among the offspring of Manu as the invoker (of the gods), is even the lord of these riches."
>
> "Agni, together with the gods, and the children of Manush, celebrating a multiform sacrifice with hymns etc."

[1] Muir's Sanskrit Texts Vol. I. p. 21-22.

[2] *Ibid.,* pp. 162-165.

"Ye gods, Vajas, and Ribhukshans, come to our sacrifice by the path travelled by the gods, that ye, pleasing deities, may institute a sacrifice among these people of Manush on auspicious days."

"The people of *Manush* praise in the sacrifices Agni the invoker."

"Whenever Agni, lord of the people, kindled, abides gratified among the people of Manush, he repels all Rakshasas."

Let us now turn to the writing called the Brahmanas and take note of what they have to say on this question.

The explanation given by the Sathapatha Brahmana is as follows[1]:

"(Uttering) 'bhuh', Prajapati generated this earth. (Uttering) 'bhuvah' he generated the air, and (uttering) 'svah', he generated the sky. This universe is co-extensive with these worlds. (The fire) is placed with the whole. Saying 'bhuh', Prajapati generated the Brahman (saying) 'bhuvah' he generated the Kshattra; (and saying) 'svah', he generated the Vis. The fire is placed with the whole. (Saying) 'bhuh', Prajapati generated himself; (saying 'bhuvah' he generated offspring; (saying) 'svah' he generated animals. This world is so much as self, offspring, and animals. (The fire) is placed with the whole."

Besides this there is another explanation to be found in this Brahmans[2]:

"Brahma (here, according to the commentator, existing in the form of Agni, and representing the Brahman caste) was formerly this (universe), one only. Being one, it did not develope. It energetically created an excellent form, the Kshattra, viz, those among the gods who are powers (kshattrani), Indra, Varuna, Soma, Rudra, Parjanya, Yama, Mrityu, Issana. Hence nothing is superior to the Kshattra. Therefore the Brahman sits below the Kshattriya at the rajasuya-sacrifice; he confers that glory on the kshattra (the royal power). This, the Brahma, is the source of the Kshattra; Hence, although the king attains, supremacy, he at the end resorts to the Brahma as his source. Whoever destroys him (the Brahman) destroys his own source. He becomes most miserable, as one who has injured a superior. 24. He did not develope. he created the Viz-Viz, those classes of gods who are designated by troops, Vasus, Rudras, Adityas, Visvedevas, Maruts; 25. He did not develope. He created the Sudra class, Pushan. This earth is Pushan; for she nourishes all that exists. 26. He did not develope. He energetically created an excellent form, Justice (Dharma). This is the ruler (kshattra) of the ruler (kshattra), namely Justice, hence nothing is

[1] Quoted by Muir Sanskrit Texts Vol. I. p. 17.

[2] Muir's Sanskrit Texts. Vol. I p. 20.

superior to justice. Therefore the weaker seeks (to overcome) the stronger by justice, as by a king. This justice is truth. In consequence they say of a man who speaks truth, 'he speaks justice;' or of a man who is uttering justice, 'he speaks truth.' For this is both of these. 27. This is the Brahma, Kshattra, Viz. and Sudra.

"Through Agni it became Brahma among the gods, the Brahman among men, through the (divine) Kshattriya a (human) Kshattriya, through the (divine) Vaisya a (human) Vaisya, through the (divine) Sudra a (human) Sudra. Wherefore it is in Agni among the gods and in a Brahman among men, that they seek after an abode."

The Taittiriya Brahmana has the following explanations to offer. First is in the following terms[1]:

"This entire (universe) has been created by Brahma. Men say that the Vaisya class was produced from rich-verses. They say that the Yajur-Veda is the womb from which the Kshattriya was born. The Sama-Veda is the source from which the Brahmans sprang. This word the ancients declared to the ancients."

The second refers only two varnas—only Brahman and Sudra and says[2]:

"The Brahman caste is sprung from the gods; the Sudra from the Asuras"

The third explains the origin of the Sudras in the following terms[3]:

"Let him at his will milk out with a wooden dish. But let not a Sudra milk it out. For this Sudra has sprung from non-existence. They say that that which a Sudra milks out is no oblation. Let not a Sudra milk out the Agnihotra. For they do not purify that. When that passes beyond the filter, then it is an oblation"

The next thing would be to see what explanation the Smritis have to offer for the origin of the Varna system. This is what Manu has to say in his Smriti[4]:—

"He (the self-existent) having felt desire, and willing to create various living beings from his own body, first created the waters, and threw into them a seed. 9. That seed became a golden egg, of lustre equal to the sun; in it he himself was born as a Brahma, the parent of all the worlds. 10. The waters are called narah, for they are sprung from Nara: and as they were his first sphere of motion he is therefore called Narayana. 11. Produced from the imperceptible eternal, existent and non-existent, cause, they male (purusha) is celebrated in the world as Brahma. 12. After dwelling for a year in the egg, the glorious being, himself, by his own contemplation, split

[1] Muir I. p. 17

[2] & [3] Muir's Sanskrit Texts Vol. I p. 21.

[4] Muir's Vol. I pp. 36 and 37.

it in twain. That the worlds might be peopled, he caused the Brahman, the Kshattriya, the Vaisya, and the Sudra to issue from his mouth, his arms, his thighs, and his feet. 32. Having divided his own body into two parts, the lord (Brahma) became, with the half a male (purusha) and with the half, a female; and in her he created Viraj. 33. Know, o most excellent twice-born men, that I, whom that male, (purusha) Viraj, himself created, am the creator of all this world. 34. Desiring to produce living creatures, I performed very arduous devotion, and first created ten Maharshis (great rishis), lords of living beings, (35) viz. Marichi, Atri, Angiras, Pulastya, Pulaha, Kratu, Prachetas, Vasistha, Bhrigu, and Narada. 36. They, endowed with great energy, created other seven Manus, gods, and abodes of gods, and Maharshis of boundless might; (37) Yakshas, Rakshases, Pishchas, Gandharvas, Apsaras, Asuras, Nagas, Serpents, great Birds, and the different classes of Pitris; (38) lightnings, thunderbolts, clouds, portentous atmospheric sounds, comets, and various luminaries; (39) Kinnars, apes, fishes, different sorts of birds, cattle, deer, men. beasts with two rows of teeth; (40) small and large reptiles, mouths, lice, flies, fleas, all gadflies, and gnats, and motionless things of different sorts. 41. Thus by my appointment, and by the force of devotion, was all. This world Both Motionless and Moving, created by those great beings, according to the (previous) actions of each creature."

There is also another view expressed by Manu in his Smriti as to the basic reasons for dividing men into four classes[1]:

"I shall now declare succinctly in order the states which the soul reaches by means of each of these qualities. 40. Souls endowed with the Sattva quality attain to godhead; those having the rajas quality become men; whilst those characterized by tamas always become beasts— such is the threefold destination. 43. Elephants, horses, Sudras and contemptible Mlechhas, lions, tigers, and boars form the middle dark condition..... 46. Kings, Kshattriyas, a King's priests (purohitah), and men whose chief occupation is the war of words, compose the middle condition of passion.... 48. Devotees, ascetics, Brahmans, the deities borne on aerial cars, constellations, and Daityas, constitute the lowest condition of goodness. 49. Sacrificing priests, rishis, gods, the vedas, the celestial luminaries, years, the fathers the Sadhyas, form the second condition of goodness. 50. Brahma, the creators, righteousness, the Great one (mahat) the Unapparent One (avyakta) compose the highest condition of goodness."

[1] Muir's Sanskrit Texts Vol. pp. 41.

It is interesting to compare with these views: those contained in the Ramayana and the Mahabharata.

The Ramayana says that the four Varnas are the offspring of Manu, the daughter of Daksha and the wife of Kasyappa[1].

> "Listen while I declare to you from the commencement all the Prajapatis (lord of creatures) who came into existence in the earliest time. Kardama was the first, then Vokrita, Sesha, Samsraya, the energetic Bahuputra, Sthanu, Marichi, Atri, the strong Kratu, Pulastya, Angiras, Prachetas, Pulaha, Daksha, then Vivasvat, Arishtanemi, and the glorious Kasyapa, who was the last. The Prajapati Daksha is famed to have had sixty daughters. Of these Kasyapa took in marriage eight elegant maidens, Aditi, Diti, Danu, Kalaka, Tamra, Krodhavasa, Manu and Anala. Kasyapa pleased, then to these maids, ' ye shall bring forth sons like to me, preserves of the three worlds'. Aditi, Diti, Danu and Kalaka assented; but the others did not agree. Thirty-three gods were born by Aditi, the Adityas, Vasus, Rudras, and the two Asvins. Manu (wife) of Kasyapa, produced men, Brahmans, Kshattriyas, Vaisyas, and Sudras. ' Brahmans were born from the mouth, Kshattriyas from the breast, Vaisyas from the thighs, and Sudras from the feet,' so says the Veda. Anala gave birth to all trees with pure fruits."

The Mahabharata gives the following explanation[2]:

> "Born all with splendour, like that of great rishis, the ten sons of Prachetas are reputed to have been virtuous and holy; and by them the glorious beings were formerly burnt up by fire springing from their mouths. From them was born Daksha Prachetas, and from Daksha, the Parent of the world (were produced), these creatures. Cohabiting with Virini, the Muni Daksha begot a thousand sons like himself, famous for their religious observances, to whom Narada taught the doctrine of final liberation, the unequalled knowledge of the Sankhya. Desirous of creating offspring, the Prajapati Daksha next formed fifty daughters of whom he gave ten to Dharma, thirteen to Kasyapa, and twenty-seven, devoted to the regulation of time, to Indu (Soma)..... On Dakshayani, the most excellent of his thirteen wives, Kasyapa, the son of Marichi, begot the Adityas, headed by Indra and distinguished by their energy, and also Vivasvat. To Vivasvat was born a son, the mighty Yama Vaivasvata. To Martanda (i.e. Vivasvat, the sun) was born the wise and mighty Manu, and also the renowned Yama, his (Manu's) younger brother. Righteous was this wise Manu, on whom a race

[1] Muir's Sanskrit Texts Vol. I pp. 116-117.

[2] Muir's Sanskrit Texts Vol. I. pp. 125.

was founded. Hence this (family) of men became known as the race of Manu. Brahmans, Kshattriyas, and other men sprang from this Manu. From him o king, came the Brahman conjoined with the Kshatriya."

In another place the Mahabharata gives the origin as it is given in the Purusha Sukta:

"The king should appoint to be his royal priest a man who will protect the good, and restrain the wicked. On this subject they relate this following ancient story of a conversation between Pururavas the son of Illa, and Matarisvan (Vayu, the Windgod). Pururavas said: You must explain to me whence the Brahman, and whence the (other) three castes were produced, and whence the superiority (of the first) arises. Matarisvan answered: the Brahman was created from Brahman's mouth, the Kshatriya from his arms, the Vaisya from his thighs, while for the purpose of serving these three castes was produced the fourth class, the Sudra, fashioned from his feet. The Brahman, as soon as born, becomes the lord of all beings upon the earth, for the purpose of protecting the treasure of righteousness. Then (the creator) constituted Kshatriya the controller of the earth, a second Yama to bear the rod, for the satisfaction of the people. And it was Brahma's ordinance that the Vaisya should sustain these three classes with money and grain, and that the Sudra should serve them. The son of Illa then enquired : Tell me, Vayu, to whom the earth, with its wealth, rightfully belongs, to the Brahman or the Kshatriyya ? Vayu replied: All this, whatever exists in the world, is the Brahman's property by right of primogeniture; this is known to those who are skilled in the laws of duty. It is his own which the Brahman eats, puts on, and bestows. He is the chief of all the castes, the first-born and the most excellent. Just as a woman when she has lost her (first) husband, takes her brother in law for a second; so the Brahman is the first resource in calamity; afterwards another may arise".

There is a third view maintained in the Shantiparva of Mahabharata[1]:—

"Bhrigu replied: 'Brahma thus formerly created the Prajapatis, Brahmanic, penetrated by his own energy, and in splendour equalling the sun and fire. The lord then formed truth, righteousness austere fervour, and the eternal veda (or sacred science), Virtuous practice, and purity for (the attainment of) heaven. He also formed the gods, Danavas, Gandharvas, Daityas, Asuras, Mahoragas, Yakshas, Rakshasas, Nagas, Pisachas, and men, Brahmans,

[1] Muir's Sanskrit Texts Vol. I pp. 139-140.

Kshatriyas, Vaisyas, and Sudras, as well as all other classes (varnah) of beings. The colour (varna) of the Brahmans was white; that of the Kshatriyas red; that of the Vaishyas yellow; and that of the Sudra black.' Bharadvaja here rejoins: ' If the caste (varna) of the four classes is distinguished by their colour (varna), then a confusion of all the castes is observable. Desire, anger, fear, cupidity, grief, apprehension, hunger, fatigue, prevail over us all, by what then, is caste discriminated ? Sweat, urine, excrement, phlegm, bile and blood (are common to all) the bodies of all decay; by what then is caste discriminated? There are innumerable kinds of things moving and stationary, how is the class (varna) of these various objects to be determined ?"

Bhrigu replies: There is no difference of castes :

In the same Shantiparva there is a fourth theory[1]:

"Bharadvaja again enquires: 'What is that in virtue of which a man is a Brahman, a Kshattriya, a Vaisya, or a Sudra; tell me, o, most eloquent Brahman rishi'. Bhrigu replies: 'He who is pure, consecrated by the natal and other ceremonies, who has completely studied the Veda, lives in the practice of the six ceremonies, performs perfectly the rites of purification, who eats the remains of oblations, is attached to his religious teacher, is constant in religious observances, and devoted to truth is called a Brahman. He in whom are seen truth, liberality, inoffensiveness, harmlessness, modesty compassion, and austere fervour,—is declared to be a Brahman. He who practises the duty arising out of the kingly office, who is addicted to the study of the Veda, and who delights in giving and receiving, is called a Kshattriya. He who readily occupies himself with cattle, who is devoted to agriculture, and acquisition, who is pure, and is perfect in the study of the Veda,— is denominated a Vaisya. He who is habitually addicted to all kinds of food, performs all kinds of work, who is unclean, who has abandoned the Veda, and does not practise pure observances,— is traditionally called a Sudra. And this (which I have stated) is the mark of a Sudra, and it is not found in a Brahman: (such) a Sudra will remain a Sudra, while the Brahman (who so acts) will be no Brahman".

Let us inquire what the Puranas have to say on the origin of the Varna System.

To begin with the Vishnu Purana. There are two theories propounded in the Vishnu Purana on the origin of the Chaturvarna.

According to one ascribes the origin to Manu[2]:

[1] Muir's Sanskrit Texts Vol. I pp. 141-142.

[2] Muir's Sanskrit Text Vol. I pp. 220-221.

"Before the mundane egg existed the divine Brahma Hiranyagarbha, the eternal originator of all worlds, who was the form of essence of Brahma, who consists of the divine Vishnu, who again is identical with Rik, Yajush, Saman and Atharva Vedas. From Brahma's right thumb was born the Prajapati Daksha; Daksha had a daughter Aditi; from her was born Vivasvat; and from him sprang Manu. Manu had sons called Ikshvaku, Nriga, Dhrishta, Saryati, Narishanta, Puramsu, Nabhagandishta, Karusha, and Prishadhra."

"From Karusha the Karushas, Kshattriyas of great power, were descended."

"Nabhaga, the son of Nedishta, became a Vaisya".

Of this explanation ascribing the origin to Manu there is another and a different version in the Vishnu Purana:

"Desirous of a son, Manu sacrificed to Mitra and Varuna; but in consequence of a wrong invocation through an irregularity of the hotri-priest, a daughter called Illa was born. Then through the favour of Mitra and Varuna she became to Manu a son called Sudyumna. But being again changed into a female through the wrath of Isvara (Mahadeva) she wandered near the hermitage of Budha the son of Soma (the Moon); who becoming enamoured of her had by her a son called Pururavas. After his birth, the god who is formed of sacrifice, of the Rik, Yajush, Saman, and Atharva-Vedas, of all things, of mind, of nothing, he who is in the form of the sacrificial Male, was worshipped by the rishis of infinite splendour who desired that Sudyumn should recover his manhood. Through the favour of this god Ila became again Sudhumna."

"According to the Vishnu Purana, Atri was the son of Brahma, and the father of Soma (the moon), whom Brahma installed as the sovereign of plants, Brahmans and stars. After celebrating the rajasuya sacrifice, Soma became intoxicated with pride, and carried off Tara (Star) the wife of Brihaspati the preceptor of the gods, whom, although admonished and entreated by Brahma, the gods, and rishis, he refused to restore, Soma's part was taken by Usanas; and Rudra, who had studied under Angiras, aided Brihaspati. A fierce conflict ensued between the two sides, supported respectively by the gods and the Daityas, etc. Brahma interposed, and compelled Soma to restore Tara to her husband. She had, however, in the meantime become pregnant, and borne a son Budha (the planet Mercury), of whom, when strongly urged, she acknowledged Soma to be the father. Pururavas, as has been already mentioned, was the

son of this Budha by Illa, the daughter of Manu. The loves of Pururavas and the Apsara Urvasi are related in the Satapatha Brahmana, xi. 5, 1, 1 in the Vishnu Purana, iv. 6, 19 ff; in the Bhagavata Purana, ix, 14; and in the Harivamsa, section 26. The Mahabharata, Adip. sect. 75, alludes to Pururavas as having been engaged in a contest with the Brahmanas. This passage will be quoted hereafter. According to the Vishnu Purana, iv, 7, 1, Pururavas had six sons, of whom the eldest was Ayus. Ayus had five sons: Nahusha, Kshatra-vriddha, Rambha, Raji, and Anenas."

"Kshattravriddha had a son Sunahotra, who had three sons, Kasa, Lesa, and Gritsamada. From the last sprang Saunaka, who progenited the system of four castes. Kasa had a son Kasiraja, of whom again Dirghatamas was the son as Dhanvantri was Dirghatamas."

The second ascribes the origin to Brahma as the following extract from the Vishnu Purana shows[1]:

"Maitreya[2] says: You have described to me the Arvaksrotas, or human creation; declare to me, o Brahman, in detail the manner in which Brahma formed it. Tell me how and with what qualities, he created the castes, and what are traditionally reputed to be the functions of the Brahmans and others. Parasara replies: 3. When, true to his design, Brahma became desirous to create the world, creatures in whom goodness (sattva) prevailed sprang from his mouth; 4. Others in whom passion (rajas) predominated came from his breast; others in whom both passion and darkness (tamas) were strong, proceeded from his thigh; (5) others he created from his feet, whose chief characteristic was darkness. Of these was composed the system of four castes, Brahmans, Kshatriyas, Vaisyas, and Sudras, who had respectively issued from his mouth, breast, thighs, and feet. 6. Brahma formed this entire fourfold institution of classes for the performance of sacrifices, the gods nourish mankind by discharging rain. Sacrifices, the causes of prosperity, (8) are constantly celebrated by virtuous men, devoted to their duties, who avoid wrong observances, and walk in the right path. 9. Men, in consequence of their humanity, obtain heaven and final liberation; and they proceed to the world which they desire".

In the Harivamsa are to be found two theories. It upholds the theory of the origin of the Varnas as being born from one of the descendents of Manu as the stock of descent than the one mentioned by the Vishnu Purana[3]:

[1] Muir's Sanskrit Texts Vol. I pp. 61-62.

[2] The Vishnu Purana is cast in the form of a dialogue between Maitreya the student who asks questions and Rishi Parashara who answers his questions.

[3] Muir's Sanskrit Text Vol. I p. 227.

"The son of Gritsamada was Sunaka, from whom sprang the Saunakas, Brahmanas, Kshattriyas, Vaisyas, and Sudras."

"Vitatha was the father of five sons, Suhotra, Suhotri, Gaya, Garga, and the great Kapila. Suhotra had two sons, the exalted Kasaka, and King Gritsamati. The sons of the latter were Brahmans, Kshattriyas, and Vaisyas."

The other version speaks of their being formed by Vishnu who sprang from Brahma and had become Prajapati Daksha and is as follows[1];

"Janmejaya[2] says: I have heard, o Brahman the (description of the) Brahma Yuga, the first of the ages. I desire also to be accurately informed both summarily, and in detail, about the age of the Kshattriyas, with its numerous observances, illustrated as it was by sacrifice, and described, as it has been by men skilled in the art of narration. Vaisamapayana replied: I shall describe to you that age revered for its sacrifices and distinguished for its various works -of liberality, as well as for its people. Those Munis of the size of a thumb had been absorbed by the Sun's rays. Following a rule of life leading to final emancipation, practising unobstructed cremonies, both in action and in abstinence from action constantly intent upon Brahma, united to Brahman as the highest object,—Brahmans glorious and sanctified in their conduct, leading a life of continence, disciplined by the knowledge of Brahman,—Brahmans complete in their observances, perfect in knowledge, and contemplative, when at the end of a thousand yugas, their majesty was full, these Munis became involved in the dissolution of the world. Then Vishnu sprung from Brahma, removed beyond the sphere of sense, absorbed in contemplation, became the Prajapati Daksha, and formed numerous creatures. The Brahmans, beautiful (or, dear to Soma), were formed from an imperishable (akshara); the Kshattriyas from a perishable (kshara), element; the Vaisyas from alteration; the Sudras from a modification of smoke. While Vishnu was thinking upon the castes (varna) Brahmans were formed with white, red, yellow, and blue colours (varanaih). Hence in the world men have become divided into castes, being of four descriptions, Brahmans, Kshattriyas Vaisyas, and Sudras, one in form, distinct in their duties, "two-footed, very wonderful, full of energy(?), skilled in expedients in all their occupations. Rites are declared to be prescribed by the Vedas for the three (highest) castes. By that contemplation practised by the being sprung from

[1] Muir's Vol. I pp. 152-153

[2] The Harivamsa is a dialogue between Janmejaya and Vaishampayan.

Brahma— by that practised in his character as Vishnu—, the Lord Prachetasa (Daksha), i.e. Vishnu the great contemplator (yogin), passed through his wisdom and energy from that state of meditation into the sphere of works. Next the Sudras, produced from extinction, are destitute of rites. Hence they are not entitled to be admitted to the purificatory ceremonies, nor does sacred science belong to them. Just as the cloud of smoke which rises from the fire on the friction of the fuel, and is dissipated, is of no service in the sacrificial rite, so too the Sudras wandering over the earth, are altogether (useless for purposes of sacrifice) owing to their birth, their mode of life devoid of purity and their want of the observances prescribed in the Veda."

Lastly the Bhagwat Purana[1]:

"At the end of many thousand years the living soul which resides in time, action, and natural quality gave life to that lifeless egg floating on the water. Purusha then having burst the egg, issued from it was a thousand thighs, feet, arms, eyes, faces and heads. With his members the sages fashion the worlds, the seven lower worlds with his loins etc., and the seven upper worlds with his groin, etc. The Brahman (was) the mouth of Purusha, the Kshattriya his arms, the Vaishya was born from the thighs, the Sudra from the feet of the divine being. The earth was formed from his feet, the air from his navel; the heaven by the heart, and the mahaloka by the breast of the mighty one".

The Vayu Purana takes up the theory of Manu but says:

"The son of Gritsamada was Sunaka, from whom sprang Saunaka. In his family were born Brahamanas, Kshattriyas, Vaisyas, and Sudras, twice-born men with various functions".

What does this survey show ? If it shows anything it shows what a chaotic state has been created by the Brahmans in trying to explain the origin of the Varna system. There is no uniformity or consistency in the explanations they have offered. One and the same authority gives a variety of explanations. One and the same authority gives explanations some of which are mythical, some of which are mystical and rationalistic all intended to serve the same purpose namely to explain the origin of the Varna system.

The Vedas attempt to explain the Varnas as having arisen from Purusha, from Manu, from Prajapati, from Vratya and from Soma.

The Brahmanas show a marked divergence from the Vedas. They do not acknowledge Purusha, Manu, Vratya or Soma as the originators of the four varnas. They vacilliate between Prajapati and Brahma

[1] Muir's Sanskrit Texts Vol. I p. 156.

which is a new importation. The Taitteriya Brahmana sports with an altogether new theory. It speaks of Brahmins born of Gods and Sudras from Asuras.

The Manu Smriti offers two explanation mythological and rational. The mythological explanations ascribes the origin to Brahma and the rational ascribes it to the constitutional make up of the individual. The Ramayana, the Mahabharata and the Puranas seem to be in support of the theory of Manu as the progenitor of the four Varnas. In the handling of the theme of Manu they have made a complete mess of him. In the Ramayana this Manu is a female a daughter of Daksha and wife of Kasyappa. In the Mahabharata Manu is a male and not a female. He is the son of Vivasvat who is the son of Kasyappa. In the Mahabharata the wife of Kasyappa is not Manu but is Dakshayani who is also said to be the daughter of Daksha. The Puranas while expounding the theory of Manu as the originator of the four varnas have introduced into it many divergent elements. The Vishnu Purana instead of ascribing the origin to Manu proceeds to ascribe it to his sons. But in hurry explains the origin of the two Varnas only, namely, Brahmins and Sudras from two of Manu's eight sons and forgets to give an explanation of the two other varnas. In another place the same Vishnu Purana expounds another theory by which origin of the four Varnas through Manu in the female line of his daughter Ila. According to the second theory Ila married Pururavas who had six sons the eldest of whom was Ayus. From Ayus to Kshatravridha, from him Sunahotra, from him Gritsamada. The four varnas were originated from Gritsamada. The Vayu Purana does not admit this. It says that the four varnas were born from Saunaka the grandson of Gritsamada. The Harivamsa in one place agrees with the Vishnu Purana that the progenitor was Gritsamada with this difference that the Sudras did not spring but from whom gives no explanation. In another place it says that the four varnas sprang from Sunaka the son of Gritsamada thus differing from itself, from the Vishnu Purana and from the Vayu Purana.

These explanations are like effusions of the imbeciles. They show how hard the Brahmins were put to for the defence of the Varna system. The question is why were the Brahmins not able to give a consistent and uniform unimpeachable, convincing and rational explanation of the Varna system of which they have been such strong protagonists ?

Of these numerous explanations there are two on which the Varna system is defended by the Brahmins of today.

The first is the origin of the four Varnas from Purusha the theory that is propounded in the Purusha Sukta of the Rig-Veda. It is not a historical explanation. It would be something if it were mythological for mythology is history even if it is history in hyperbole. But it is not. The explanation is purely mystic. It is a fantastic dream of a troubled mind. That is why it was never regarded as the explanation and that is why there were so many other rival explanations. That it was treated with scant courtesy even by the Vedic writers is obvious from two circumstances. In the first place it occurs in the miscellaneous portion of the Rig-Veda. In the second place it does not occur in the Kathak and Maitreyani Sanhita of the White Yajur-Veda and the Taitteriya Sanhitas of the Black Yajur-Veda do not adopt it. The Sam-Veda incorporates only 5 Mantras of the Purusha Sukta from the Rig-Veda and what is important is that in adopting these five Mantras omit those which speak of the four Varnas springing from the four parts of the body of the Purusha. It is of course a very late composition and has been interpolated after all the four Vedas had taken their present shape. But apart from that it has all the marks showing its authors were not very sure of their explanation carrying conviction. It is probably an allegory, figurative narration which the Brahmins attempted to convert into a literal statement of hard fact. It does not solve the riddle. On the contrary it creates a riddle— which is, why were the Brahmins interested in supporting the theory of Chaturvarna.

The rational explanation has behind it the authority of the Bhagwat Geeta. Krishna, the God of the Hindus, explains that he created the system of Chaturvarna and propounds the theory that it is a system of difference of Guna: innate virtue. This theory of difference of Guna is derived from the Sankhya Philosophy of Kapila. Krishna offers this explanation of Chaturvarna in a commanding spirit as though it was incontrovertible. The Sankhya Philosophy no doubt asserts as a fundamental proposition that matter has got three Gunas-Raj, Tama and Satva. Matter is not inert. It is instable equilibrium when all the three Gunas are coequal in their power. Matter becomes dynamic when the equilibrium is disturbed when one Guna becomes masterful over others. Krishna was of course very clever in seeking to give scientific explanation of the Varna system by applying the Sankhya Theory of Guna dharma. But in doing so Krishna has really made a fool of himself. He did not realize that there are four Varnas and three Gunas and whatever ingenuity he might claim to have he could not account for the four Varnas with a theory which did not require more than three Gunas. Here again what appears to be a rational explanation is an absurd explanation. It does not solve the riddle. It

creates one. Why were the Brahmins fighting so hard to justify the Chaturvarna ?

II

The Ashram Dharma divides the life of an individual into four stages (1) Brahmcharya, (2) Grahasthashram, (3) Vanaprastha and (4) Sannyas. The state of Brahmacharya has both a *de jure* and *de facto* connotation. Its *de facto* connotation is that it means an unmarried state of life. Its *de jure* connotation means the stage of study under a teacher. Grahasthashram is the stage of a householder—a stage of married family life. The stage of Sannyas is a stage of renunciation of civic rights and responsibilities. It is a stage of civic death. The stage of Vanaprastha is in between Grahasthashram and Sannyas. It is a stage in which one belongs to society but is bound to live away from society. As the name implies it prescribes dwelling in forest.

The Hindus believe that this institution of Ashram Dharma is as old as that of the Varna Dharma. They call the two by a joint name of Varnashram Dharma as though they were one and integral, and the two together form the steelframe of the Hindu Society.

To begin with it would be better to have a full understanding of the Ashram Dharma before inquiring into its origin and its purpose and its peculiarities. The best source for an exposition of the Ashram system is the Manu Smriti from which the following relevant extracts are reproduced:

Ch. II-36. In the eighth year after conception, one should perform the initiation (upanayana) of a Brahmana, in the eleventh after conception (that) of a Kshatriya, but in the twelfth that of a Vaisya.

Ch. II-168. A twice-born man who, not having studied the Veda, applies himself to other (and wordly study), soon falls, even while living, to the condition of a Sudra and his descendants (after him).

Ch. III-1. The vow of the three Vedas under a teacher must be kept for thirty-six years or for half that time, or for a quarter, or until the (student) has perfectly learnt them.

Ch. III-2. Who has studied in due order the three Vedas, or two, or even one only, without breaking the (rule of) studentship, shall enter the order of householder.

Ch. VI-8. The student, the householder, the hermit, and the ascetic, these (constitute) four separate orders, which all spring from (the order of) householders.

Ch. VI-88. But all (or) even (any of) these orders, assumed successively in accordance with the Institutes (of the sacred law), lead the Brahmana who acts by the preceding (rules) to the highest state.

Ch. VI-89. And in accordance with the precepts of the Veda and of the Smriti, the housekeeper is declared to be superior to all of them; for he supports the other three.

Ch. VI-1. A twice-born Snataka, who has thus lived according to the law in the order of householders, may, taking a firm resolution and keeping his organs in subjection, dwell in the forest, duly (observing the rules given below).

Ch. VI-2. When a householder sees his (skin) wrinkled and (his hair) white, and the sons of his sons, then he may resort to the forest.

Ch. VI-33. But having thus passed the third part of (a man's natural term of) life in the forest, he may live as an ascetic during the fourth part of his existence, after abandoning all attachment to worldly objects.

Ch. VI-34. He who after passing from order to order, after offering sacrifices and subduing his senses, becomes, tired with giving alms and offerings of food, an ascetic, gains bliss after death.

Ch. VI-35. When he has paid the three debts, let him apply his mind to (the attainment of) final liberation; he who seeks it without having paid (his debts) sinks downwards.

Ch. VI-36. Having studied the Vedas in accordance with the rule, having begot sons according to the sacred law, and having offered sacrifices according to his ability, he may direct his mind to (the attainment of) final liberation.

Ch. VI-37. A twice-born man who seeks final liberation, without having studied the Vedas, without having begotten sons and without having offered sacrifices, sinks downwards."

For these rules it is clear that according to Manu there are three features of the Ashram Dharma. First is that it is not open to Shudras and Women. The second is Brahmacharya which is compulsory, so is Grahasthashram. Vanaprastha and Sannyas are not compulsory. The third is that one must pass from one stage to another in the order in which they stand namely first Brahmacharya, then Grahasthashram, then Vanaprastha and lastly Sannyas. No one can omit one and enter the next stage.

Judging what Manu says in the light of history there are several questions which arise. Referring to the Vedas the theory of stages in life is quite unknown. The Vedas speak of Brahmachari. But there is nothing to show that Brahmarcharya was regarded as an inescapable stage in life. There is reference to 'Yatis' in the Rig-Veda. That again was not regarded as a stage in life. Indeed unlike the Sannyasi the Yati in the Rig-Vedic times is a hated institution. In fact there are many hymns in the Rig-Veda where Indra is spoken of as having thrown the Yatis to the wolves. Why did the Brahmins formulate this theory of the four Ashramas? This is the first riddle about the Asbram Dharma.

The second riddle relates to the order of sequence among the four Ashramas. Now there is no doubt that there was a time when it was open to a Brahmachari to enter any of the three Ashrams. He may become a Grahasthashrami or he may at once become a Sannyasi without becoming a Grahasthashrami. Compare what the authors of the Dharma Sutras have to say on the point.

Vashishta Dharma Sutra says[1] :

> "There are four orders, viz. (that of) the student, (that of) the householder, (that of) the hermit, and (that of) the ascetic."
>
> "A man who has studied one, two, or three Vedas without violating the rules of studentship, may enter any of these (orders), whichsoever he pleases."

Gautama Dharma Sutra says[2]:

> "Some (declare, that) he (who has studied the Veda) may make his choice (which) among the orders (he is going to enter)."
>
> "(The four orders are, that of) the student (that of) the householder, (that of) the ascetic (Bhikshu), (and that of) the hermit in the woods (vaikhanasa).

Why did Manu remove the option and make the married state an obligatory state, why did he make the married state a condition precedent to the stage of hermit and the stage of hermit a condition precedent to the stage of a Sannyasi?

If the four stages of life have been devised to serve some important end it is difficult to understand why the two classes Shudras and women were excluded? The Shudras and women can only be householders according to the scheme of Manu. Why can they not be Brahmachari, Vanaprasthi or Sannyasi? What harm can there be either to them or to society if the Ashram Dharma was open to them ?

There are other riddles about the system of Ashram Dharma.

[1] S.B.E. Vol. XIV. p. 40. Chapter VII. verses 1, 2, 3.

[2] S.B.E. Vol. II, p. 192. Chapter III. verses 1, 2.

First relates to the distinctions which Manu makes among the Brahmacharis.[1]

Ch. II-41. Let students according to the order (of their castes), wear (as upper dresses) the skins of black antelopes, spotted deer, and he-goats, and (lower garments) made of a hemp, flax or wool.[1]

Ch. II-42. The girdle of a Brahmana shall consist of a triple cord of Munga grass, smooth and soft; (that) of a Kshatriya, of a bowstring, made of Murva fibres; (that) of a Vaisya, of hempen threads.

Ch. II-43. If Munga grass (and so forth) be not procurable, (the girdles) may be made of Kusa, Asmantaka, and Balbaga (fibres), with a single threefold knot, or with three or five (knots according to the custom of the family).

Ch. II-44. The sacrificial string of a Brahmana shall be made of cotton, (shall be) twisted to the right, (and consist) of three threads, that of a Kshatriya of hempen threads, (and) that of a Vaisya of woolen threads.

Ch. II-45. A Brahmana shall (carry), according to the sacred law, a staff of Bilva or Palasa a Kshatriya, or Vata or Khadira; (and) a Vaisya, of Pilu or Udumbara.

Ch. II-46. The staff of a Brahmana shall be made of such length as to reach the end of his hair; that of a Kshatriya, to reach his forehead; (and) that of a Vaisya, to reach (the tip of his) nose.

Ch. II-47. Let all the staves be straight, without a blemish, handsome to look at, not likely to terrify men, with their bark perfect, unhurt by fire.

Ch. II-48. Having taken a staff according to his choice, having worshipped the sun and walked round the fire, turning his right hand towards it, (the student) should beg alms according to the prescribed rule.

Ch. II-49. An initiated Brahmana should beg, beginning (his request with the word) lady (bhavati); a Kshatriya, placing (the word) Lady in the middle, but a Vaisya placing it at the end (of the formula).

The Brahmacharis all belong to the same class, namely they are twiceborn. Why should it be necessary to make a distinction in the material of their upper garment ? Why should it be necessary to make a distinction in the material of their sacred thread ? Why should it be necessary to make a distinction in their staffs ? Why should it be necessary to make a distinction in the syntax of the formula for begging alms ? Why should a Brahman Brahmachari say “Bhagvati Bhikshyam Dehi” ? Why should a Kshatriya Brahmachari say “Bhikshyam Bhavati Dehi”? Why should a Vaishya Brahmachari say “Bhikshyam dehi bhavati”?

[1] S.B.E. Vol. XXV Manu pp. 37-39.

The Ashram Dharma is a peculiar institution of the Hindus and they are very proud of it. It is true that it has no parallel anywhere. But it is equally true that it is without any merit. Compulsory Brahmacharya appears very attractive since it has the look of compulsory education for children. It was certainly not universal. Shudras and women were excluded from it. Having regard to the fact that the Shudras and women form nearly 9/10ths of the Hindu Society it is obvious that the scheme was the result of cunningness rather than wisdom. It certainly was tainted by discrimination against the masses. It was scheme for the education of the governing classes. Compulsory marriage to say the least is a most stupid rule that can be imagined. To compel everyone to marry irrespective of money or health is to open the road to ruination both for the individual and the nation unless it is accompanied by a scheme whereby the state undertakes to guarantee subsistence to everybody. The most non-sensical stages are those of Vanaprastha and the Sannyasi. Let me quote the rules regarding these two.

The following is the code prescribed by Manu for the Vanaprastha[1]:

Ch. VI-3. Abandoning all food raised by cultivation, and all his belongings, he may depart into the forest, either committing his wife to his sons, or accompanied by her.

Ch. VI-4. Taking with him the sacred fire and the implements required for domestic (sacrifices) he may go forth from the village into the forest and reside there, duly controlling his senses.

Ch. VI-5. Let him offer those five great sacrifices according to the rule, with various kinds of pure food fit for ascetics, or with herbs, roots and fruit.

Ch. VI-6. Let him wear a skin or a tattered garment; let him bathe in the evening or in the morning and let him always were (his hair in) braids, the hair on his body, his beard, and his nails (being unclipped).

Ch. VI-7. Let him perform the Bali-offering with such food as he eats, and give alms according to his ability; let him honour those who come to his hermitage with alms consisting of water roots and fruit.

Ch. VI-8. Let him be always industrious in privately reciting the Veda; let him be patient of hardships, friendly (towards all), of collected mind, ever liberal and never a receiver of gifts, and compassionate towards all living creatures.

Ch. VI-9. Let him offer, according to the law, the Agnihotra with three sacred fires, never omitting the new-moon and full-moon sacrifices at the proper time.

[1] S.B.E. VOL XXV, pp. 199-203.

Ch. VI-10. Let him also offer the Nakshatreshti, the Agrayana, and the Katurmasya (sacrifices), as well as the Turayana and likewise the Dakshayana, in due order.

Ch. VI-11. With pure grains, fit for ascetics, which grow in spring and in autumn, and which he himself has collected, let him severally prepare the sacrificial cakes (purodasa) and the boiled messes (karu), as the law directs.

Ch. VI-12. Having offered those most pure sacrificial viands, consisting of the produce of the forest, he may use the remainder for himself, (mixed with) salt prepared by himself.

Ch. VI-13. Let him eat vegetables that grow on dry land or in water, flowers, roots and fruits, the productions of pure trees, and oils extracted from forest fruits.

Ch. VI-14. Let him avoid honey, flesh and mushrooms growing on the ground (for elsewhere, the vegetables called) Bhustrina, and Sigruka, and the Sleshmantaka fruit.

Ch. VI-15. Let him throw away in the month of Asvina the food of ascetics, which he formerly collected, likewise his worn-out clothes and his vegetables, roots, and fruits.

Ch. VI-16. Let him not eat anything (grown on) ploughed (land), though it may have been thrown away by somebody, nor roots and fruit grown in a village, though (he may be) tormented (by hunger).

Ch. VI-17. He may eat either what has been cooked with fire, or what has been ripened by time; he either may use a stone for grinding, or his teeth may be his mortar.

Ch. VI-18. He may either at once (after his daily meal) cleanse (his vessel for collecting food), or lay up a store sufficient for a month, or gather what suffices for six months or for a year.

Ch. VI-19. Having collected food according to his ability he may either eat at night (only) or in the day-time (only), or at every fourth meal-time, or at every eighth.

Ch. VI-20. Or he may live according to the rule of the lunar penance (Kandrayana, daily diminishing the quantity of his food) in the bright (half of the month) and (increasing it) in the dark (half); or he may eat on the last days of each fortnight, once (a day only), boiled barley-gruel.

Ch. VI-21. Or he may constantly subsist on flowers, roots, and fruit alone, which have been ripened by time and have fallen spontaneously, following the rule of the (Institutes) of Vikhanas.

Ch. VI-22. Let him either roll about on the ground, or stand during the day on tiptoe, (or) let him alternately stand and sit down; going at the Savanas (at sunrise, at midday, and at sunset) to water in the forest (in order to bathe).

Ch. VI-23. In summer let him expose himself to the heat of five fires, during the rainy season live under the open sky, and in winter be dressed in wet clothes, (thus) gradually increasing (the rigour of) his austerities.

Ch. VI-24. When he bathes at the three Savanas (sunrise, midday, and sunset), let him offer libations of water to the manes and the gods and practising harsher and harsher austerities, let him dry up his bodily frame.

Ch. VI-25. Having reposited the three sacred fires in himself, according to the prescribed rule, let him live without a fire, without a house, wholly silent, subsisting on roots and fruit.

Ch. VI-26. Making no effort (to procure) things that give pleasure, chaste, sleeping on the bare ground, not caring for any shelter, dwelling at the roots of trees.

Ch. VI-27. From Brahmanas (who live as) ascetics let him receive alms, (barely sufficient) to support life, or from other householders of the twiceborn (castes) who reside in the forest.

Ch. VI-28. Or (the hermit who dwells in the forest may bring food) from a village, receiving it either in a hollow dish (of leaves), in (his naked) hand, or in a broken earthen dish, and may eat eight mouthfuls.

Ch. VI-29. These and other observances must a Brahmana who dwells in the forest diligently practise, and in order to attain complete (union with) the (supreme) soul, (he must study) the various sacred texts contained in the Upanishadas.

The rules for a Sannyasi prescribed in the Manu Smriti are as follows[1]:

Ch. VI-38. Having performed the Ishti, sacred to the Lord of creatures (pragapati) where (he gives) all his property as the sacrificial fee, having reposited the sacred fires in himself, a Brahmana may depart from his house (as an ascetic).

Ch. VI-39. Worlds, radiant in brilliancy, become (the portion) of him who recites (the texts regarding) Brahman and departs from his house (as an ascetic), after giving a promise of safety to all created beings.

Ch. VI-40. For that twice-born man, by whom not the smallest danger even is caused to created beings, there will be no danger from any (quarter) after he is freed from his body.

Ch. VI-41. Departing from his house fully provided with the means of purification (Pavitra), let him wander about absolutely silent, and caring nothing for enjoyments that may be offered (to him).

Ch. VI-42. Let him always wander alone, without any companion, in order to attain (final liberation), fully understanding that the solitary (man, who) neither forsakes nor is forsaken, gains his end.

[1] S.B.E. Vol. XXV. Ch. VI verses 38-45 pp. 205-206;

Ch. VI-43. He shall neither possess a fire, nor a dwelling, he may go to a village for his food, (he shall be) indifferent to everything, firm of purpose, meditating (and) concentrating his mind on Brahman.

Ch. VI-44. A potsherd (instead of an alms-bowl), the roots of trees (for a dwelling), coarse worn-out garments, life in solitude and indifference towards, everything, are the marks of one who has attained liberation.

Ch. VI-45. Let him not desire to die, let him not desire to live, let him wait for (his appointed) time, as a servant (waits) for the payment of his wages.

Ch. VI-49. Delighting in what refers to the Soul, sitting (in the postures prescribed by the Yoga), independent (of external help) entirely abstaining from sensual enjoyments, with himself for his only companion, he shall live in this world, desiring the bliss (of final liberation).

Ch. VI-50. Neither by (explaining) prodigies and omens, nor by skill, in astrology and palmistry, nor by giving advice and by the exposition (of the Sastras), let him ever seek to obtain alms.

Ch. VI-51. Let him not (in order to beg) go near a house filled with hermits, Brahmanas, birds, dogs, or other mendicants.

Ch. VI-52. His hair, nails, and beards being clipped, carrying an alms bowl, a staff, and a water-pot let him continually wander about controlling himself and not hurting any creature.

Ch. VI-53. His vessels shall not be made of metal, they shall be free from fractures, it is ordained that they shall be cleansed with water, like (the cups, called) Kamasa, at a sacrifice.

Ch. VI-54. A gourd, a wooden bowl, an earthen (dish), or one made of split cane, Manu, the son of Svayambhu, has declared (to be) vessels (suitable) for an ascetic.

Ch. VI-55. Let him go to beg once (a day), let him not be eager to obtain a large quantity (of alms); for an ascetic who eagerly seeks, alms, attaches himself also to sensual enjoyments.

Ch. VI-56. When no smoke ascends from (the kitchen), when the pestle lies motionless, when the embers have been extinguished, when the people have finished their meal, when the remnants in the dishes have been removed, let the ascetic always go to beg.

Ch. VI-57. Let him not be sorry when he obtains nothing, nor rejoice when he obtains (something), let him (accept) so much only as will sustain life, let him not care about the (quality of his) utensils.

Ch. VI-58. Let him disdain all (food) obtained in consequence of humble salutations, (for) even an ascetic who has attained final

[1] S.B.E. Chapter VI pp. 207-209.

liberation, is bound (with the fetters of the Samsara) by accepting (food given) in consequence of humble salutations.

Ch. VI-59. By eating little, and by standing and sitting in solitude, let him restrain his senses, if they are attracted by sensual objects.

Ch. VI-60. By the restraint of his senses, by the destruction of love and hatred, and by the abstention from injuring the creatures, he becomes fit for immortality.

Ch. VI-80. [1]When by the disposition (of his heart) he becomes indifferent to all objects, he obtains eternal happiness both in this world and after death.

Ch. VI-81. He who has in this manner gradually given up all attachments and is freed from all the pairs (of opposites), reposes in Brahman alone.

Ch. VI-82. All that has been declared (above) depends on meditation; for he who is not proficient in the knowledge of that which refers to the Soul reaps not the full reward of the performance of rites.

Ch. VI-83. Let him constantly recite (those texts of) the Veda which refer to the sacrifice (those) referring to the deities, and (those) which treat of the Soul and are contained in the concluding portions of the Veda (Vedanta).

Ch. VI-84. That is the refuge of the ignorant, and even that (the refuge) of those who know (the meaning of the Veda); that is (the protection) of those who seek (bliss in) heaven and of those who seek endless (beatitude).

Ch. VI-85. A twice-born man who becomes an ascetic, after the successive performance of the above-mentioned acts, shakes off sin here below and reaches the highest Brahman.

Comparing the Vanaprastha with the Sannyasi the resemblance in this observances is so close that one is led to ask why these two stages are created as separate stages. There appear to be only a few differences. Firstly a Vanaprastha may take his wife with him and a Sannyasi cannot. Secondly a Vanaprastha is required only to leave his property behind, and a Sannyasi has to divest himself of it. Thirdly a Vanaprastha must make his dwelling in a forest and a Sannyasi cannot have a fixed dwelling but keep on wandering from place to place. As for the rest their mode of life is identical. Why did the Brahmins recognize an additional stage such as that of a Vanaprastha when the stage of Sannyas would have sufficed for both. But the question remains—namely what good these two stages serve. They cannot be cited as examples of self sacrifice. The Vanaprastha and Sannyasi cannot but be old men. Manu is very positive as to the

[1] S.B.E. Vol. XXV versus 80-85 pp. 213-14.

period when a Man can become Vanaprastha. The time ripe for it is after wrinkles which is of course quite an advanced age. The Sannyasi must be still more advanced in age. To exhibit such people who have enjoyed all the pleasures of life as instances of self-sacrifice because they choose to give up their pleasures at a stage of life when they are incapable of enjoying them must be nothing short of folly. Admittedly this abandonment of home and family is not for the purpose of rendering social service to suffering humanity. The purpose is to enable them to perform austerities and to wait peaceful death. It seems to be a height of folly to cut of old and aged men from him and family and die in jungles uncared and unwept for so insignificant and trivial a purpose.

The Ashram system is an ancient attempt of planned economy produced by the Brahmins. It is so stupid that it is a riddle to understand the causes and the motives which have led the Brahmins to devise it.

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APPENDIX II

COMPULSORY MATRIMONY

Manu prescribes that an individual's life on earth be divided into four stages. The four stages are: (1) Brahmacharya, (2) Grahasthashram, (3) Vanaprastha and (4) Sanyas. The stage of Brahmacharya is the stage of studentship—a period devoted to the study of the Vedas. The stage of Grahasthashram is the stage of married state or as Manu calls it the state of being an householder marrying and rearing a family. In the Vanaprastha stage the Vanaprastha ceases to be an householder in as much as he abandons his house. He, however, does not abandon his wife. He lives in jungle but does not give up his right to his property. He is dead in so far as the religious duties of an householder are concerned but he is not civilly dead. The stage of Sanyas is the stage in which a person breaks his marital tie, abandons his wife, gives up his wordly goods and leaves his household and does not follow the religious injunctions enjoined upon a householder and goes and lives in jungle to meditate upon Brahma. He is deemed to have committed civil death.

The division of man's life into stages is an idea older than Manu. What is important is the changes Manu has made in the scheme.

The first change Manu has made is that he has made marriage compulsory. A Brahmachari after he has finished his study must marry. This is the rule laid down by Manu as may be seen from the following:

> III. 2 (A student) "Who has studied in due order the three Vedas, or two, or even one only, without breaking (the rules of) studentship *shall* enter the order of householder."
>
> III. 4 "Having bathed, with the permission of his teacher, and performed according to the rule the Samavartana (the rite on returning home), a twice-born man shall marry a wife of equal caste who is endowed with auspicious marks."

This chapter may be read along with the Riddle on 'The Four Ashramas'.—Ed.

The second change Manu has made is to prohibit entry into the order of Sanyas for a Brahmachari who had not married. Marriage is made by Manu a condition precedent to Sanyas. He declares entry into Sanyas without having undergone the stage of marriage to be a sin.

VI. 35 "When he has paid the three debts, let him apply his mind to (the attainment of) final liberation; he who seeks it without having paid (his debts) sinks downwards."

VI. 36 "Having studied the Vedas in accordance with the rule, having begot sons according to the sacred law, and having offered sacrifices according to his ability, he may direct his mind to (the attainment of) final liberation."

VI. 37 "A twice-born man who seeks final liberation, without having studied the Vedas, without having begotten sons, and without having offered sacrifices, sinks downwards."

VI. 38 "Having performed the Ishti, sacred to the Lord of creatures (Prajapati), where (he gives) all his property as the sacrificial fee, having reposited the sacred fires in himself, a Brahmana may depart from his house (as an ascetic)."

The third change made by Manu is to prohibit an householder from becoming a Sannyasi without first entering the stage of Vanaprastha.

VI. 1 "A twice-born Snataka, who has thus lived according to the law in the order of householders, may, taking a firm resolution and keeping his organs in subjection, dwell in the forest, duly (observing the rules given below)."

VI. 2. "When a householder sees his (skin) wrinkled, and (his hair) white, and the sons of his sons, then he may resort to the forest.

VI. 3. "Abandoning all food raised by cultivation, and all his belongings, he may depart into the forest, either committing his wife to his sons or accompanied by her."

These changes made by Manu are of course revolutionary changes as compared with the rules which governed them before the time of Manu. On this point, I will only quote the relevant rules contained in two of the Dharma Shastras, the Vasistha Dharma Sutra and the Gautama Dharma Sutra.

Vasistha Dharma Sutra[1] says:

"There are four orders viz., (that of) student, (that of) the householder, (that of) the hermit, and (that of) the ascetic."

"A man who has studied one, two or three Vedas without violating the rules of studentship, *may enter any of these* (orders) *whichsoever he pleases."*

[1] Chapter VII. Verses 1, 2, 3.

Gautama Dharma Sutra[1] says:

> " Some (declare, that) he (who has studied the Veda) *may make his choice* (which) among the orders (he is going to enter)."

> " (The four orders are, that) the student (that of) the householder, (that) of the ascetic (bhikshu) (and that of) the hermit in the woods (Vaikhanasa)."

As is clear from the two Dharma Shastras what order a person should enter after completing the stage of Brahmacharya is a matter which was left to his choice. If he wished he might marry and become as householder; or without entering into the marital state he might if so inclined straightaway enter into the order of a Sannyasi. That Manu in making matrimony a condition precedent for entry into the order of Vanaprashtha and Sannyas has made a revolutionary change is therefore quite obvious.

There is another change Manu seems to have made. One does not see why to reach Sannyasa after matrimony it was necessary to go through Vanaprastha. Why one could not straightaway become a Sannyasi. After all is there any difference between a Vanaprastha and a Sannyasi which can be called to be fundamental? In an excursus to this Chapter, I have collected together the rules made by Manu for regulating the conduct of the Vanaprastha and the Sannyasi. From a perusal of these rules it will be found that there is hardly any difference. Except the fact that the Vanaprastha is required to perform some of the religious duties and observances which are prescribed for the householders there is in substance no difference between men who have entered the two orders. It is equally true that the ends to be realized by the Vanaprastha and the Sannyasi are the same. How similar are the ends to be achieved by them can be seen by reference to the following texts from Manu.

ENDS TO BE ACHIEVED

Vanaprastha	Sannyasi
VI. 29 "These and other observances must a Brahmana who dwells in the forest diligently practise, and in order to *attain complete* (*union with) the Supreme Soul,* (he must study) the various sacred texts contained in the Upanishads.	VI. 85 "A twice-born man who becomes an ascetic after the successive performance of the abovementioned acts, shakes off sin here below and *reaches the highest Brahmin.*

[1] Chapter III. Verses 1 and 2.

Why then Manu carved out Vanaprastha as a separate stage from Grahasthashram and from Sannyas? Regarding Vanaprastha it can be said that such a class existed before Manu. They were called Aranas. According to Prof. Radha Kumud Mookerji[1]:

> "Brahmacharis, who wanted to continue as such, without marrying in pursuit of knowledge, were called *Aranas* or *Aranamans*. These *Aranas* lived in hermitages in the forests outside the villages or centres of population. The forests where these *Arana* ascetics lived were, called *Aranyas*. The philosophical speculations of these learned ascetics regarding such ultimate problems as Brahma, Creation, Soul, or Immortality are embodied in works called Aranyakas."

To these old Aranas Manu gave the name Vanaprasthas which has the same meaning as Aranas. Manu has not only made a change in names he has introduced another change of considerable significance. In between Brahmacharya and Vanaprastha he has introduced a married state. While the original Vanaprastha or Arana was an unmarried person, Manu's Vanaprastha was necessarily a married man. In the old system Brahmacharya was followed by Vanaprastha or by Grahasthashram depending upon the choice of the individual. Manu changed the order, so that no one could become a Vanaprastha unless he was first married.

The old system, the two stages of Vanaprastha or Sannyasi, did not involve any hardship or cruelty to wives and children. The new system introduced by Manu did. For to force a person to marry and then to permit him to abandon his wife is nothing short of cruelty if it did not involve criminality. But Manu did not care for such considerations. He was bent on making matrimony compulsory for all.

Why did Manu do it? Why did he make Grahasthashram compulsory for a Vanaprastha or Sannyasi? Manu recognizes the married state as a superior stage the foundation of all other states. As he says:

> VI. 87 "The student, the householder, the hermit and the ascetics, these (constitute) four separate orders, which all spring from (the order of) householders.
>
> VI. 88 "But all (or even any of) these orders, assumed successively in accordance with the Institutes (of the sacred law), lead the Brahmana who acts by the preceding (rules) to the highest state.
>
> VI. 89 "And in accordance with the precepts of the Veda and of the Smriti, the housekeeper is declared to be superior to all of them; for he supports the other three.

[1] Education in Ancient India p. 6.

VI. 90 "As all rivers, both great and small, find a resting-place in the ocean, even so men of all orders find protection with householders."

Granting the truth of this statement the question still remains why did Manu insist upon marriage as a condition precedent to Vanaprastha or Sannyas? The only answer is that he wanted to discourage persons, from becoming Sannyasi. Why did Manu dislike the order of Vanaprastha or Sannyasi? The answer is that the religion ofBuddhawas largely supported and propagated by Sannyasis called Bhikshus. It was easy for unmarried persons to become Bhikshus. Manu was anxious to stop this. Hence the condition of marriage.

EXCURSUS

COMPARATIVE CODE FOR VANAPRASTHA AND SANNYASI

I. Connection with the household on entry into the order

Vanaprastha	Sannyasi
VI. 3 "Abandoning all food raised by cultivation and all his belongings he may depart into the forest, either committing his wife to his sons, or accompanied by her."	VI. 38 "Having performed the Ishti, sacred to the Lord of creatures (Pragapati) where (he gives) all his property as the sacrificial fee, having reposited the sacred fires in himself, a Brahmana may depart from his house (as an ascetic)."

II. Rules Regarding Dwelling

Vanaprastha	Sannyasi
VI. 4 "Taking with him the sacred fire and the implements required for domestic (sacrifices) he may go forth from the village into the forest and reside there, duly controlling his senses."	VI. 41 "Departing from his house fully provided with the means of purification (Pavitra), let him wander about absolutely silent, and caring nothing for enjoyments that may be offered (to him)."
	VI. 42 " Let him always wander alone, without any companion, in order to attain (final liberation) fully understanding that the solitary man who neither forsakes nor is forsaken, gains his end."

II. Rules Regarding Dwelling—contd.

Vanaprastha	Sannyasi
	VI. 43 "He shall neither possess a fire, nor a dwelling he may go to a village for his food, (he shall be) indifferent to everything, firm of purpose, meditating (and) concentrating his mind on Brahman."

III. Rules as to Mode of Life

Vanaprastha	Sannyasi
VI. 6 "Let him wear a skin or a tattered garment; let him bathe in the evening or in the morning and let him always wear (his hair in) braids, the hair on his body, and his nails (being unclipped)."	VI. 44 "A potsherd (instead of an alms-bowl) the roots of trees (for a dwelling), coarse worn-out garments, life in solitude and indifference towards, everything are the marks of one who has attained liberation."
	VI. 52 "His hair, nails and beard being clipped carrying an alms-bowl, staff, and a water-pot let him continually wander about controlling himself and not hurting any creature."
	VI. 53 "His vessels shall not be made of metal, they shall be free from fractures, it is ordained that they shall be cleansed with water, like (the cups called) Kamasa, at a sacrifice."
	VI. 54 "A gourd, a wooden bowl, an earthen (dish) or one made of split cane, Manu the son of Swayambhu, has declared (to be) vessels (suitable) for an ascetic."

IV. Rules as to Means of Livelihood

Vanaprastha	Sannyasi
VI. 11 "With pure grains, fit for ascetics, which grow in spring, and in autumn and which he himself	VI. 49 " Delighting in what refers to the Soul sitting in the posture prescribed by the Yoga,

IV. Rules as to Means of Livelihood—contd.

Vanaprastha	Sannyasi
has collected, let him severally prepare the sacrificial cakes (purodasa) and the boiled messes (Karu) as the law directs."	independent (of external help) entirely abstaining from sensual enjoyment with himself for his only companion he shall live in this world desiring the bliss (of final liberation)."
VI. 12 "Having offered those most pure sacrificial viands, consisting of the produce of the forest, he may use the remainder for himself (mixed with) salt prepared by himself."	VI. 50 "Neither by explaining prodigies and omens, nor by skill in astrology and palmistry nor by giving advice and by the exposition (of the Sastras) let him, ever seek to obtain alms."
VI. 26 "Making no effort (to procure) things that give pleasure chaste, sleeping on the bare ground, not caring for any shelter, dwelling at the roots of trees."	VI. 51 "Let him not (in order to beg) go near a house filled with hermits, Brahmanas, birds, dogs, or other mendicants."
VI. 27 "From Brahmans (who live as) ascetics; let him receive alms, (barely sufficient) to support life, or from other householders of the twice-born (castes) who reside in the forest."	
VI. 28 "Or (the hermit) who dwells in the forest) may bring (food) from a village, receiving it either in a hollow dish (of leaves) in (his naked) hand, or in a broken earthern dish, and may eat eight mouthfuls."	

V. Rules as to Food

Vanaprastha	Sannyasi
VI. 13 "Let him eat vegetables that grow on dry land or in water, flowers, roots and fruits, the productions of pure trees and oils extracted from forest-fruits."	VI. 55 "Let him go to beg once a day, let him not be eager to obtain a large quantity (of alms); for an ascetic who eagerly seeks alms, attaches himself also to sensual enjoyments."
VI. 14 " Let him avoid honey, flesh and mushrooms growing on the	VI. 56 " When no smoke ascends from (the kitchen) when the pestle

V. Rules as to Food—contd.

Vanaprastha	Sannyasi
ground (or elsewhere, the vegetables called) Bhustrina and Sigruka, and the Sleshmantaka fruits."	lies motionless, when the members have been extinguished, when the people have finished their meal, when the remnants in the dishes have been removed let the ascetic always go to beg."
VI. 15 "Let him throw away in the mouth of Asvina the food of ascetics, which he formerly collected, likewise his worn-out clothes and his vegetables, roots and fruit."	VI. 57 " Let him not be sorry when he obtains nothing, nor rejoice when he obtains (something), let him (accept) so much only as will sustain life, let him not care about the (quality of his) utensils.
VI. 16 "Let him not eat anything (grown on) ploughed (land), though it may have been thrown away by somebody, nor roots and fruit grown in a village, though (he may be) tormented (by hunger)."	
VI. 17 "He may eat either what has been cooked with fire, or what has been ripened by time; he either may use a stone for grinding or his teeth may be his mortar."	VI. 58 "Let him disdain all (food) obtained in consequence of humble salutations, (for) even an ascetic who has attained final liberation, is bound (with the fetters of the Samsara) by accepting (food given) in consequence of humble salutations."
VI. 18 "He may either at once (after his daily meal) cleanse (his vessel for collecting food), or lay up a store sufficient for a month, or gather what suffices for six months or for a year."	
VI. 19 "Having collected food according to his ability, he may either eat at night (only), or in the day-time (only) or at every fourth meal-time or at every eighth."	
VI. 20 "Or, he may live according to the rule of the lunar penance (Kandrayana, daily diminishing the	

V. Rules as to Food—contd.

Vanaprastha	Sannyasi
quantity of his food) in the bright (half of the month) and (increasing it) in the dark (half); or he may eat on the last days of each fortnight once (a day only), boiled barley-gruel."	
VI. 21 "Or he may constantly subsist on flowers, roots, and fruit alone, which have been ripened by time and have fallen spontaneously, following the rule of the (Institutes) of Vikhanas."	
VI. 22 "Let him either roll about on the ground, or stand during the day on tiptoe, (or) let him alternately stand and sit down; going at the Savanas (at sunrise, at midday, and at sunset) to water in the forest (in order to bathe).	

VI. Duties to be performed

Vanaprastha	Sannyasi
VI. 5 "Let him offer those five great sacrifices according to the rule, with various kinds of pure food fit for ascetics, or with herbs, roots, and fruit."	VI. 65 "By deep meditation let him recognize the subtle nature of the Supreme Soul, and its presence in all organisms, both the highest and the lowest."
VI. 7 "Let him perform the Balioffering with such food as he eats', and give alms according to his ability; let him honour those who come to his hermitage with alms consisting of water, roots, and fruit."	VI. 83 "Let him constantly recite (those texts) of the Veda which refer to the sacrifice (those) refering to the deities and (those) which treat of the soul and are contained in the concluding portions of the Veda (Vedanta)."
VI. 8 "Let him be always industrious in privately reciting the Veda; let him be patient of hardships, friendly (towards all), of collected mind, ever liberal and never a receiver of gifts,	

VI. Duties to be performed—contd.

Vanaprastha	Sannyasi
and compassionate towards all living creatures."	
VI. 9 "Let him offer, according to the law, the Agnihotra with three sacred fires, never omitting the new-moon and full-moon sacrifices at the proper time."	
VI. 10 "Let him also offer the Nakshatreshti, the Agrayana, and the Katurmasya (sacrifices), as well as Turayana and likewise the Dakshayana, in due order."	
VI. 23 "In Summer let him expose himself to the heat of the five fires, during the rainy season live under the open sky, and in winter be dressed in wet clothes, (thus) gradually increasing (the rigour of) his austerities."	
VI. 24 "When he bathes at the three Savanas (sunrise, midday and sunset), let him offer libations of water to the manes and the Gods, and practising harsher and harsher austerities, let him dry up his bodily frame."	
VI. 25 "Having reposited the three sacred fires in himself, according to the prescribed rule, let him live without a fire, without a house wholly silent, subsisting on roots and fruit."	

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PART III

Political

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RIDDLE NO. 21

THE THEORY OF MANVANTARA

The Brahmins had a theory of the Government of their country from Heaven. This seems to be the idea underlying what is called a Manvantara.

The idea underlying a *Manvantara* is related to the political Government of the country. It is founded on the belief that the Government of the world is entrusted to a corporation for a fixed period. This corporation consists of an officer called Manu and Saptarishis (seven Rishis) and one Indra conducting the affairs of the country from their seats in Heaven without consulting the people or ascertaining their wishes. The period of the reign by one corporation is called a Manvantara after Manu the premier authority in the ruling set. When the reign of one Manu is over he is succeeded by another Manu and so on. As in the case of the Yugas, the Manvantaras also move in cycles. Fourteen Manvantaras make one cycle.

The Vishnu Purana gives us an idea of these Manvantaras which is as follows:

> "Then Brahma created himself the Manu Swayambhuva, born of, and identical with, his original self, for the protection of created beings; and the female portion of himself he constituted Satarupa, whom austerity purified from the sin (of forbidden nuptials), and whom the divine Manu Swayambhuva took to wife.

Stopping here for the moment one might ask—What does this mean? Does it mean that Brahma was a hermaphrodite? Does it mean that Manu Swayambhu married his sister Satarupa? How very strange if this is true as the Vishnu Purana seems to suggest.

The Vishnu Purana proceeds to say:

> "From these two are born two sons, Priyavrata and Uttanpada, and two daughters, named Prasuti and Akuti graced with loveliness

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This is an 11-page MS of which last four pages are in the handwriting of the author.—Ed.

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and exhalted merit. Prasuti he gave to Daksha and gave Akuti to the Patriarch Ruchi, who espoused her. Akuti bore to Ruchi twins, Yajna and Dakshina, who afterwards became husband and wife (again a case of a brother marrying his sister) and had twelve sons, the deities called Yamas, in the Manvantara of Swayambhuva."

"The first Manu was Swayambhuva, then came Swarochisha, then Auttami, then Tamasa, then Raivata, then Chakshusha; these six Manus have passed away. The Manu who presides over the seventh Manvantara, which is the present period, is Vaivaswata the son of the sun."

"I will now, enumerate, says the author of the Vishnu Purana, the presiding Gods, Rishis, and sons of the Manu Swarochisha. The deities of this period (or the second Manvantara) were called Paravatas and Tushitas; and the King of the gods was the mighty Vipaschit. The seven Rishis were Urja, Stambha, Prana, Dattoli, Rishabha, Nischara, and Arvarivat. And Chaitra, Kimpurusha, and others were the Manu's sons.

"In the third period, or Manwantara of Auttamin, Susanti was the Indra, the king of the gods, the orders of whom were the Sudhamas, Satyas, Sivas, Pradersanas, and Vasavertis; each of the five orders consisting of twelve divinities. The seven sons of Vasishtha were the seven Rishis; and Aja, Parasu, Divya, and others were the sons of Manu.

"In the period of Tamasa, the fourth Manu, the Surupas, Haris, Satyas, and Sudhis were the classes of Gods, each comprising twenty-seven. Sivi was the Indra, also designated by his performance of a hundred sacrifices (or named Satakratu). The seven Rishis were Jyotirdhama, Prithu, Kavya, Chaitra, Agni, Vanaka and Pivara. The sons of Tamasa were the mighty kings Nara, Khyati, Santhaya, Janujangha and others."

"In the fifth interval (Manvantara) the Manu was Raivata; the Indra was Vibhu, the classes of gods, consisting of fourteen each, were the Amitbhas, Abhutarasas, Vaikunthas, and Sumedhas; the seven Rishis were Hiranyaroma, Vedasri, Urddhabahu, Vedabahu, Sudhaman, Parjanya and Mahamuni; the sons of Raivata were Balabandhu, Susambhavya, Satyaka, and other valiant kings."

"These four Manus, Swarochisha, Auttami, Tamasa, and Raivata, were all descended from Priyavrata, who in consequence of propitiating Vishnu by his devotions, obtained these rules of the Manvantaras for his posterity.

"Chakshusha was the Manu of the sixth period in which the Indra was Manojva; the five classes of Gods were the Adyas,

Prastutas, Bhavyas, Prithugas, and the magnanimous Lekhas eight of each Sumedhas, Virajas, Havishmat, Uttama, Madhu, Abhinaman and Sahishnu were the seven sages; the kings of the earth, the sons of Chaksusha, were the powerful Uru, Puru, Satadhumna and others."

"The Manu of the present seventh Manvantara is the wise lord of obsequies, and illustrious offspring of the sun called Manu Vaivaswata and deities are the Adityas, Vasus and Rudras; their sovereign is Purandara; Vasishtha, Kasyapa, Atri, Jamadagni, Gautama, Viswamitra and Bharadwaja are the seven Rishis; and the nine pious sons of Vaivaswata Manu are the kings of Ikshwaku, Nabhanidishta, Karusha, Prishadhra, and the celebrated Vasumat."

So far the particulars of seven Manvantaras which are given by the Vishnu Purana relate to Manvantaras which had run out at the time when the Vishnu Purana was written. Whether the rule of the Manvantaras was an external one the Brahmins have been silent. But the author of the Vishnu Purana knew that seven more Manvantaras were to come. Below are given the particulars of these seven.

Sanjana, the daughter of Vishwakarman was the wife of the sun, and bore him, three children, the Manu (Vaivaswata), Yama and the goddess Yami (or the Yamuna river). Unable to endure the fervours of her lord, Sanjana gave him Chhaya as his handmaid, and repaired to the forests to practise devout exercises. The sun, supposing Chhaya to be his wife Sanjana, begot by her three other children Sanaischara (Saturn), another Manu (Savarni) and a daughter Tapati (the Tapti river). Chhaya upon one occasion, being offended with Yama, the son of Sanjana, denounced an imprecation upon him, and thereby revealed to Yama and to the sun that she was not in truth Sanjana, the mother of the former. Being further informed by Chhaya that his wife had gone to the wilderness the sun beheld her by the eye of meditation engaged in austerities, in the figure of a mare (in the region of Uttara Kuru). Metamorphosing himself into a horse, he rejoined his wife, and begot three other children, the two Aswins, and Revanta, and then brought Sanjana back to his own dwelling. To diminish his intensity, Vishwakarman placed the luminary on his lathe to grind off some of his effulgence; and in this manner reduced it an eighth; for more than that was inseparable. The parts of the divine Vaishnava splendour, residing in the sun, that were filed off by Viswakarma fell blazing down upon the earth, and the artist constructed of them the discuss of Vishnu, the trident of Shiva, the weapon of the god of wealth, the lance of Kartikeya, and the weapons of the other gods; all these Viswakarman fabricated from the superflous rays of the sun."

"The son of Chhaya, who was called also a Manu was denominated Savarni, from being of the same caste (Savarni) as his elder brother, the Manu Vaivaswata. He presides over the ensuing or eighth Manvantara; the particulars of which and the following, I will now relate. In the period in which Savarni shall be the Manu, the classes of the gods will be Sutapas, Ambitabhas and Mukhyas; twenty-one of each. The seven Rishis will be Diptimat, Gaiava, Rama, Kripa, Drauni; my son Vyasa will be the sixth and the seventh will be Rishyasringa. The Indra will be Bali, the sinless son of Virochana who through the favour of Vishnu is actually sovereign of part of Pataia. The royal progeny of Savarni will be Virajas, Arvarivas, Nirmoha, and others."

"The ninth Manu will be Dakshasavarni. The Paras, Marichigarbhas and Sudharmas will be the three classes of divinities; each consisting of twelve, their powerful chief will be the Indra Adbhuta Savana, Dyutimat, Bhavya, Vasu, Medhatithi, Jyotishaman and Satya, will be the seven Rishis. Dhritketu, Driptiketu, Panchahasta, Nirmaya, Prithusrava, and others will be the sons of the Manu.

"In the tenth Manwantara the Manu will be Brahma-savarni; the gods will be the Sudhamas, Virudhas, and Satasankhyas; the Indra will be the mighty Santi; the Rishis will be Havishaman, Sukriti, Satya, Appammurthi, Nabhaga, Apratimaujas and Satyaketu; and the ten sons of the Manu will be Sukshetra, Uttamaujas, Harishena and others."

"In the eleventh Manwantara the Manu will be Dharma-savarni; the principal classes of gods will be the Vihangamas. Kamagamas, and the Nirmanaratis, each thirty in number; of whom Vrisha will be the Indra; the Rishis will be Nischara, Agnitejas, Vapushaman, Vishnu, Aruni, Havishaman, and Anagha; the kings of the earth, and sons of the Manu, will be Savarga, Sarvadharma, Devanika, and others."

"In the twelfth Manvantara the son of Rudra-Savarni, will be the Manu: Ritudhama will be the Indra; and the Haritas, Lohitas; Sumanasas and Sukramas will be the classes of gods, each comprising fifteen Tapaswi, Sutapas, Tapomurti Taporti, Tapodhriti, Tapodyuti and Tapodhana will be the Rishis; and Devas, Upadeva, Devasreshtha and others will be the manu's sons, and mighty monarchs on the earth."

"In the thirteenth Manvantara the Manu will be Rauchya; the classes of gods, thirty-three in each, will be Sudhamanas, Sudharmans and Sukarmanas, their Indra will be Divaspati;

the Rishis will be Nirmoha, Tatwadersin, Nishprakampa, Nirutsuka, Dhritimat, Avyaya and Sutapas; and Chitrasena, Vichitra, and others will be the kings."

"In the fourteenth Manvantara, Bhautya will be the Manu; Suchi, the Indra; the five classes of gods will be the Chakshushas, the Pavitras, Kanishthas Bhrajiras and Vavriddhas; the seven Rishis will be Agnibahu, Suchi, Sikra, Magadha, Gridhra, Yukta and Ajita; and the sons of the Manu will be Uru, Gabhir, Gabhira, Bradhna and others who will be kings, and will rule over the earth."

Such is the theory of Manvantaras. We now hear of the Dictatorship of the Proletariat. The Brahmanic theory was just the opposite of it. It was a theory of the Dictatorship over the Proletariat by the Heavenly fathers.

Be that as it may the question that primarily comes to one's mind is:

How these fourteen Manus who succeeded one another rule the people ? What laws did they make for the governance of the people ? The only place where one can get an answer is the Manusmriti.

Referring to the first chapter of Manusmriti we get the following answers:

Ch. I.1. The great sages approached Manu, who was seated with a collected mind, and, having duly worshipped him spoke as follows:

2. Deign, divine one, do declare to us precisely and in due order the sacred laws of each of the (four chief) castes (Varna) and of the intermediate ones.

3. For thou, O Lord, alone knowest the purport of the rites and knowledge of the Soul taught in this whole ordinance of the Swayambhu (Manu) which is unknowable and unfathomable.

Manu replies to them saying:

5. This universe existed in the shape of darkness unperceived, destitute of distinctive marks, unattainable by reasoning, unknowable, wholly immersed as it were in deep sleep.

8. Swayambhu Manu desiring to produce beings of many kinds from his own body, first with a thought created the waters and placed his seed in them.

9. That (Seed) became a golden egg, in brilliancy equal to the sun; in that Egg he himself was born as Brahman, the progenitor of the whole world.

34. Then, I, desiring to produce created beings performed very difficult austerities and thereby called into existence ten great sages, lords of created beings.

35. Marichi, Atri, Angiras, Pulastya, Pulaha, Kratu, Prachetas, Vashishta, Bhrigu and Narada.

58. But he having composed these Institutes of the sacred law, himself taught them, according to rule, to me alone in the beginning: next I taught them to Marichi and the other sages.

59. Bhrigu will fully recite to you these Institutes; for that sage learned the whole in its entirety from me.

From this it appears that the only Manu who made laws was the Swayambhu Manu. According to Vishnu Purana, each Manvantara had its own Manu. Why did they not make laws for their own Manvantara. Or was it the laws made by Swayambhu Manu were to be Eternal. If so, why did the Brahmins have separate Manvantara.

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RIDDLE NO. 22

BRAHMA IS NOT DHARMA. WHAT GOOD IS BRAHMA?

There are various forms of Government known to history—Monarchy, Aristocracy and Democracy to which may be added Dictatorship.

The most prevalent form of Government at the present time is Democracy. There is however no unanimity as to what constitutes Democracy. When one examines the question one finds that there are two views about it. One view is that Democracy is a form of Government. According to this view where the Government is chosen by the people that is where Government is a representative Government there is Democracy. According to this view Democracy is just synonymous with Representative Government which means adult suffrage and periodical elections.

According to another view a democracy is more than a form of Government. It is a form of the organization of Society. There are two essential conditions which characterize a democratically constituted society. First is the absence of stratification of society into classes. The Second is a social habit on the part of individuals and groups which is ready for continuous readjustment or recognition of reciprocity of interests. As to the first there can be no doubt that it is the most essential condition of Democracy. As Prof. Dewey[1] has observed:

[Quotation referred to by the author is not recorded in the original MS from 'Democracy and Education', by Dewey p. 98.]

The second condition is equally necessary for a democratically constituted society. The results of this lack of reciprocity of interests

[1] Democracy & Education p. 98.

This chapter consists about 20 pages out of which first two pages and the concluding six are in the handwriting of the author. The rest are typed pages with all necessary modifications by Dr. Ambedkar.—Ed.

among groups and individuals produce anti-democratic results which have been well described by Prof. Dewey[1] when he says:

[Quotation from 'Democracy and Education' of page 99 referred to by the author is not recorded in the original MS.]

Of the two views about democracy there is no doubt that the first one is very superficial if not erroneous. There cannot be democratic Government unless the society for which it functions is democratic in its form and structure. Those who hold that democracy need be no more than a mere matter of elections seem to make three mistakes.

One mistake they make is to believe that Government is something which is quite distinct and separate from society. As a matter of fact Government is not something which is distinct and separate from Society. Government is one of the many institutions which Society rears and to which it assigns the function of carrying out some of the duties which are necessary for collective social life.

The Second mistake they make lies in their failure to realize that a Government is to reflect the ultimate purposes, aims, objects and wishes of society and this can happen only where the society in which the Government is rooted is democratic. If society is not democratic, Government can never be. Where society is divided into two classes governing and the governed the Government is bound to be the Government of the governing class.

The third mistake they make is to forget that whether Government would be good or bad democratic or undemocratic depends to a large extent up on the instrumentalities particularly the Civil Service on which every where Government has to depend for administering the Law. It all depends upon the social milieu in which civil servants are nurtured. If the social milieu is undemocratic the Government is bound to be undemocratic.

There is one other mistake which is responsible for the view that for democracy to function it is enough to have a democratic form of Government. To realize this mistake it is necessary to have some idea of what is meant by good Government.

Good Government means good laws and good administration. This is the essence of good Government. Nothing else can be. Now there cannot be good Government in this sense if those who are invested with ruling power seek the advantage of their own class instead of the advantage of the whole people or of those who are downtrodden.

Whether the Democratic form of Government will result in good will depend upon the disposition of the individuals composing society. If the mental disposition of the individuals is democratic then the

[1] Democracy & Education p. 99.

democratic form of Government can be expected to result in good Government. If not, democratic form of Government may easily become a dangerous form of Government. If the individuals in a society are separated into classes and the classes are isolated from one another and each individual feels that his loyalty to his class must come before his loyalty to every thing else and living in class compartments he becomes class conscious bound to place the interests of his class above the interests of others, uses his authority to pervert law and justice to promote the interests, of his class and for this purpose practises systematically discrimination against persons who do not belong to his caste in every sphere of life what can a democratic Government do. In a Society where classes clash and are charged with anti-social feelings and spirit of aggressiveness, the Government can hardly discharge its task of governing with justice and fairplay. In such a society, Government even though it may in form be a government of the people and by the people it can never be a Government for the people. It will be a Government by a class for a class. A Government for the people can be *had* only where the attitude of each individual is democratic which means that each individual is prepared to treat every other individual as his equal and is prepared to give him the same liberty which he claims for himself. This democratic attitude of mind is the result of socialization of the individual in a democratic society. Democratic society is therefore a prerequisite of a democratic Government. Democratic Governments have toppled down in largely due to the fact that the society for which they were set up was not democratic.

Unfortunately to what extent the task of good Government depends upon the mental and moral disposition of its subjects has seldom been realized. Democracy is more than a political machine. It is even more than a social system. It is an attitude of mind or a philosophy of life.

Some equate Democracy with equality and liberty. Equality and liberty are no doubt the deepest concern of Democracy. But the more important question is what sustains equality and liberty? Some would say that it is the law of the state which sustains equality and liberty. This is not a true answer. What sustains equality and liberty is fellow-felling. What the French Revolutionists called fraternity. The word fraternity is not an adequate expression. The proper term is what the Buddha called, Maitree. Without Fraternity Liberty would destroy equality and equality would destroy liberty. If in Democracy liberty does not destroy equality and equality does not destroy liberty, it is because at the basis of both there is fraternity. Fraternity is therefore the root of Democracy.

The foregoing discussion is merely a preliminary to the main question. That question is—wherein lie the roots of fraternity without which Democracy is not possible? Beyond dispute, it has its origin in Religion.

In examining the possibilities of the origin of Democracy or its functioning successfully one must go to the Religion of the people and ask—does it teach fraternity or does it not? If it does, the chances for a democratic Government are great. If it does not, the chances are poor. Of course other factors may affect the possibilities. But if fraternity is not there, there is nothing to built democracy on. Why did Democracy not grow in India? That is the main question. The answer is quite simple. The Hindu Religion does not teach fraternity. Instead it teaches division of society into classes or varnas and the maintenance of separate class consciousness. In such a system where is the room for Democracy ?

The Hindu social system is undemocratic not by accident. It is designed to be undemocratic. Its division of society into *varnas* and castes, and of castes and outcastes are not theories but are decrees. They are all barricades raised against democracy.

From this it would appear that the doctrine of fraternity was unknown to the Hindu Religious and Philosophic thought. But such a conclusion would not be warranted by the facts of history. The Hindu Religious and Philosophic thought gave rise to an idea which had greater potentialities for producing social democracy *than* the idea of fraternity. It is the doctrine of Brahmaism[1].

It would not be surprising if some one asked what is this Brahmaism? It is something new even to Hindus. The Hindus are familiar with Vedanta. They are familar with Brahmanism. But they are certainly not familiar with Brahmaism. Before proceeding further a few words of explanation are necessary.

There are three strands in the philosophic and religious thought of the Hindus. They may be designated as (1) *Brahmaism* (2) *Vedanta* and (3) *Brahmanism*. Although they are correlated they stand for three different and distinct ideologies.

The essence of Brahmaism is summed up in a dogma which is stated in three different forms. They are—

(i) *Sarvam Khalvidam Brahma*—All this is Brahma.

(ii) *Aham Brahmasmi*—Atmana (Self) is the same as Brahma.

Therefore I am Brahma.

(iii) *Tattvamasi*—Atmana (Self) is the same as Brahma.

Therefore thou art also Brahma.

[1] have borrowed this word from Prof. Hopkin's–The Epics of India.

They are called Mahavakyas which means Great Sayings and they sum up the essence of Brahmaism.

The following are the dogmas which sum up the teachings of Vedant—

I Brahma is the only reality.

II The world is maya or unreal.

III Jiva and Brahma are—

(i) according to one school identical;

(ii) according to another not identical but are elements of him and not separate from him;

(iii) according to the third school they are distinct and separate.

The creed of *Bramhanism* may be summed up in the following dogmas—

(i) Belief in the chaturvarna.

(ii) Sanctity and infallibility of the Vedas.

(iii) Sacrifices to Gods the only way to salvation.

Most people know the distinction between the Vedanta and Brahmanism and the points of controversy between them. But very few people know the distinction between Brahmaism and Vedanta. Even Hindus are not aware of the doctrine of Brahmaism and the distinction between it and Vedanta. But the distinction is obvious. While Brahmaism and Vedanta agree that Atman is the same as Brahma. But the two differ in that Brahmaism does not treat the world as unreal, Vedanta does. This is the fundamental difference between the two.

The essence of Brahmaism is that the world is real and the reality behind the world is Brahma. Everything therefore is of the essence of Brahma.

There are two criticisms which have been levelled against Brahmaism. It is said that Brahmaism is piece of impudence. For a man to say "I am Brahma" is a kind of arrogance. The other criticism levelled against Brahmaism is the inability of man to know Brahma. 'I am Brahma' may appear to be impudence. But it can also be an assertion of one's own worth. In a world where humanity suffers so much from an inferiority complex such an assertion on the part of man is to be welcomed. Democracy demands that each individual shall have every opportunity for realizing its worth. It also requires that each individual shall know that he is as good as everybody else. Those who sneer at *Aham Brahmasmi* (I am Brahma) as an impudent utterance forget the other part of the *Maha Vakya* namely *Tatvamasi* (Thou art also Brahma). If *Aham Brahmasmi* has stood alone without the conjunct of *Tatvamasi* it may not have been possible to sneer at it. But

with the conjunct of *Tatvanmsi* the charge of selfish arrogance cannot stand against Brahmaism.

It may well be that Brahma is unknowable. But all the same this theory of Brahma has certain social implications which have a tremendous value as a foundation for Democracy. If all persons are parts of Brahma then all are equal and all must enjoy the same liberty which is what Democracy means. Looked at from this point of view Brahma may be unknowable. But there cannot be slightest doubt that no doctrine could furnish a stronger foundation for Democracy than the doctrine of Brahma.

To support Democracy because we are all children of God is a very weak foundation for Democracy to rest on. That is why Democracy is so shaky wherever it made to rest on such a foundation. But to recognize and realize that you and I are parts of the same cosmic principle leaves room for no other theory of associated life except democracy. It does not merely preach Democracy. It makes democracy an obligation of one and all.

Western students of Democracy have spread the belief that Democracy has stemmed either from Christianity or from Plato and that there is no other source of inspiration for democracy. If they had known that India too had developed the doctrine of Brahmaism which furnishes a better foundation for Democracy they would not have been so dogmatic. India too must be admitted to have a contribution towards a theoretical foundation for Democracy.

The question is what happened to this doctrine of Brahmaism ? It is quite obvious that Brahmaism had no social effects. It was not made the basis of Dharma. When asked why this happened the answer is that Brahmaism is only philosophy, as though philosophy arises not out of social life but out of nothing and for nothing. Philosophy is no purely theoretic matter. It has practical potentialities. Philosophy has its roots in the problems of life and whatever theories philosophy propounds must return to society as instruments of re-constructing society. It is not enough to know. Those who know must endeavour to fulfil.

Why then Brahmaism failed to produce a new society? This is a great riddle. It is not that the Brahmins did not recognize the doctrine of Brahmaism. They did. But they did not ask how they could support inequality between the Brahmin and the Shudra, between man and woman, between casteman and outcaste ? But they did not. The result is that we have on the one hand the most democratic principle of Brahmaism and on the other hand a society infested with castes, sub-outcastes, primitive tribes and criminal tribes. Can there be

a greater dilemma than this ? What is more ridiculous is the teaching of the Great Shankaracharya. For it was this Shankarcharya who taught that there is Brahma and this Brahma is real and that it pervades all and at the same time upheld all the inequities of the Brahmanic society. Only a lunatic could be happy with being the propounder of two such contradictions. Truely as the Brahmin is like a cow, he can eat anything and everything as the cow does and remain a Brahmin.

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RIDDLE NO. 23

KALI YUGA—WHY HAVE THE BRAHMINS MADE IT UNENDING?

If there is any notion widespread among the Hindus and understood by every man and woman adult or old, mature or immature it is that of the Kali Yuga. They are all aware of the fact that the present Yuga is Kali Yuga and that they are living in the Kali Yuga. The theory of Kali Yuga has a psychological effect upon the mind of the people. It means that it is an unpropitious age. It is an immoral age. It is therefore an age in which human effort will not bear any fruit. It is therefore necessary to inquire as to how such a notion arose. There are really four points which require elucidation. They are (1) What is "Kali Yuga?, (2) When did Kali Yuga begin ?, (3) When is the Kali Yuga to end ? and (4) Why such a notion was spread among the people.

I

To begin with the first point. For the purposes of this inquiry it is better to split the words Kali Yuga and consider them separately. What is meant by Yuga ? The word Yuga occurs in the Rig-Veda in the sense of age, generation or tribe as in the expressions *Yuge Yuge* (in every age), *Uttara Yugani* (future ages), Uttare Yuge (later ages) and *Purvani Yugani* (former ages) etc. It occurs in connection with Manushy, Manusha, Manushah in which case it denotes generations of men. It just meant ages. Various attempts are made to asertain the period the Vaidikas intended to be covered by the term 'Yuga'. *Yuga* is derived from the Sanskrit root *Yuj* which means to join and may have had the

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This chapter contains 45 typed pages. Only 9 pages of this chapter at the beginning are numbered. While no other pages are numbered. Howsoever the text of this chapter has been found to be complete and without any loss of material.—Ed.

same meaning as the astronomical term 'conjunction'. Prof. Weber suggests that the period of time known as *Yuga* was connected with four lunar phases.

Following this suggestion Mr. Rangacharya[1] has advanced the theory that "in all probability the earliest conception of a Yuga meant the period of a month from new-moon when the Sun and the Moon see each other i.e., they are in conjunction". This view is not accepted by others. For instance, according to Mr. Shamshastry[2] the term Yuga is in the sense of a single human year as in the Setumahatmya which is said to form part of the Skanda Purana. According to the same authority it is used in the sense of a Parva or half a lunation, known as a white or dark half of a lunar month.

All these attempts do not help us to know what was the period which the Vaidikas intended to be covered by a Yuga.

While in the literature of the Vaidikas or theologians there is no exactitude regarding the use of the term Yuga in the literature of the astronomers (writers on Vedanga Jyotish) as distinguished from the Vaidikas the word Yuga connotes a definite period. According to them, a Yuga means a cycle of five years which are called (1) Samvatsara, (2) Parivatsara, (3) Idvatsara, (4) Anuvatsara and (5) Vatsara.

Coming to *Kali* it is one of the cycles made up of four *Yugas: Krita, Treta, Dwapar* and *Kali*. What is the origin of- the term *Kali* ? The terms Krita, Treta, Dwapar and Kali are known to have been used in the three different connections. The earliest use of the term Kali as well as of other terms is connected with the game of dice.

From the Rig-Veda it appears that the dice piece that was used in the game was made of the brown fruit of the Vibhitaka tree being about the size of a nutmeg, nearly round with five slightly flattened sides. Later on the dice was made of four sides instead of five. Each side was marked with the different numerals 4, 3, 2 and 1. The side marked with 4 was called Krita, with 3 Treta, with 2 Dwapara and with 1 Kali. Shamshastry gives an account of how a game of dice formed part of sacrifice and how it was played. The following is his account[3]:

> "Taking a cow belonging to the sacrificer, a number of players used to go along the streets of a town or village, and making the cow the stake, they used to play at dice in different batches with those who deposited grain as their stake. Each player used to throw on the ground a hundred or more *Cowries* (shells), and when the

[1] The Yugas: A question of Hindu Chronology and History p. 19.

[2] Drapsa: The Vedic cycle of Eclipses (1938) p. 88.

number of the Cowries thus cast and fallen with their face upwards or downwards, as agreed upon, was exactly divisible by four then the sacrificer was declared to have won; but if otherwise he was defeated. With the grain thus won, four Brahmans used to be fed on the day of sacrifice."

Professor Eggling's references[1] to the Vedic literature leave no doubt about the prevalence of the game of dice almost from the earliest time. It is also clear from his references that the game was played with five dice four of which were called *Krita* while the fifth was called Kali. He also points out that there were various modes in which the game was played and says that according to the earliest mode of playing the game, if all the dice fell uniformly with the marked sides either upwards or downwards then the player won the game. The game of dice formed part of the Rajasuya and also of the sacrificial ceremony connected with the establishment of the sacred fire.

These terms—Krita, Treta, Dwapara and Kali—were also used in Mathematics. This is clear from the following passage from Abbayadevasuri's Commentary on Bhagvati Sutra a voluminous work on Jaina religion.

"In mathematical terminology an even number is called 'Yugma', and an odd number 'Ojah'. Here there are, however, two numbers deserving of the name 'Yugma' and two numbers deserving of the name 'Ojah'. Still, by the word 'Yugma' four Yugmas i.e., four numbers are meant. Of them i.e., Krita-yugma: Krita means accomplished, i.e., complete, for the reason that there is no other number after four, which bears a separate name (i.e., a name different from the four names Krita and others). That number which is not incomplete like Tryoja and other numbers, and which is a special even number is Kritayugma. As to Tryoja: that particular odd number which is uneven from above a Krityugma is Tryoja. As the Dwaparayugma:—That number which is another even number like Krityugma, but different from it and which is measured by two from the beginning or from above a Krityugma is Dwaparayugma— Dvapara is a special grammatical word. As to Kalyoja:—That special uneven number which is odd by Kali, i.e., to a Kritayugma is called Kalyoja. That number etc. which even divided by four, ends in complete division, Krityugma. In the series of numbers, the number four, though it need not be divided by four because it is itself four, is also called Krityugma."

Shamshastry[2] mentions another sense in which these terms are used. According to him, they are used to mean the Parvas of those names,

[1] See his note on the subject in his edition of Satpatha Brahmana. Vol. IV p. 107.

[2] Shamshastry, Drapsa pp. 92-93

such as Krita Parva, Treta Parva, Dwapara Parva and Kali Parva. A Parva is a period of 15 tithis or days otherwise called Paksha. For reasons connected with religious ceremonies the exact time when a Parva closed was regarded as important. It was held that the Parvas fell into four classes according to the time of their closing. They were held to close either (1) at Sunrise, (2) at one quarter or Pada of the day, (3) after 2 quarters or Padas of the day or (4) at or after three quarters or Padas of the day. The first was called *Krita* Parva, the second *Treta* Parva, the third *Dwapara* Parva and the fourth *Kali* Parva.

Whatever the meaning in which the words *Kali* and *Yuga* were used at one time, the term *Kali Yuga* has long since been used to designate a unit in the Hindu system of reckoning time. According to the Hindus there is a cycle of time which consists of four Yugas of which the Kali Yuga forms one. The other Yugas are called *Krita, Treta* and *Dwapar*.

II

When did the present Kali Yuga begin ? There are two different answers to the question.

According to the Aitereya Brahmana it began with Nabhanedishta son of Vaivasvata Manu. According to the Puranas it began on the death of Krishna after the battle of Mahabharata.

The first has been reduced to time term by Dr. Shamshastry[1] who says that Kali Yuga began in 3101 B.C. The second has been worked out by Mr. Gopal Aiyer with meticulous care. His view is that the Mahabharat War commenced on the 14th of October and ended on the night of 31st October 1194 B.C. He places the death of Krishna 16 years after the close of the war basing his conclusion on the ground that Parikshit was 16 when he was installed on the throne and reading it with the connected facts namely that the Pandavas went of Mahaprasthan immediately after installing Parikshit on the throne and this they did on the very day Krishna died. This gives 1177 B.C. as the date of the commencement of the Kali Yuga.

We have thus two different dates for the commencement of the Kali Yuga 3101 B.C. and 1177 B.C. This is the first riddle about the Kali Yuga. Two explanations are forthcoming for these two widely separated dates for the commencement of one and the same Yuga. One explanation is 3101 B.C. is the date of the commencement of the Kalpa and not of Kali and it was a mistake on the part of the copyist who misread Kalpa for Kali and brought about this confusion. The other

[1] Gavam Ayana.

explanation is that given by Dr. Shamshastry. According to him there were two Kali Yuga Eras which must be distinguished, one beginning in 3101 B.C. and another beginning in 1260 or 1240. B.C. The first lasted about 1840 or 1860 years and was lost.

III

When is the Kali Yuga going to end ? On this question the view of the great Indian Astronomer Gargacharya in his *Siddhanta* when speaking of Salisuka Maurya the fourth in succession from Asoka makes the following important observation[1]:

"Then the viciously valiant Greeks, after reducing Saketa, Panchala country to Mathura, will reach Kusumadhwaja (Patna): Pushpapura being taken all provinces will undoubtedly be in disorder. The unconquerable Yavanas will not remain in the middle country. There will be cruel and dreadful war among themselves. Then after the destruction of the Greeks at the end of the Yuga, seven powerful Kings reign in Oudha."

The important words are "after the destruction of the Greeks at the end of the Yuga". These words give rise to two questions (1) which Yuga Garga has in mind and (2) when did the defeat and destruction of the Greeks in India take place. Now the answers to these questions are not in doubt. By Yuga he means Kali Yuga and the destruction and defeat of the Greeks took place about 165 B.C. It is not mere matter of inference from facts. There are direct statements in chapters 188 and 190 of the Vanaparva of the Mahabharata that the Barbarian Sakas, Yavanas, Balhikas and many others will devastate Bharatvarsna '*at the end of the Kali Yuga*'.

The result which follows when the two statements are put together is that the Kali Yuga ended in 165 B.C. There is also another argument which supports this conclusion. According to the Mahabharata, Kali Yuga was to comprise a period of one thousand years[2]. If we accept the statement that the Kali Yuga began in 1171 B.C. and deduct one thousand years since then we cannot escape the conclusion that Kali Yuga should have ended by about 171 B.C. which is not very far from the historical fact referred to by Garga as happening at the close of the Kali Yuga. There can therefore be no doubt that in the opinion of the chief Astronomer[3], Kali Yuga came to end by about 165 B.C. What is however the position ? The position is that according to the Vaidika Brahman's Kali Yuga has not ended. It still continues. This is clear

[1] Quoted by R. C. Dutt in his 'Civilization in Ancient India'.

[2] Chronology of Ancient India p. 117.

[3] Garga's statement seems to be corroborated by the statement in the Mahabharata that the period of Kali Yuga is 1000 years. For we add 171 to 1000 we get 1171 which is said to be the beginning of Kali.

from the terms of *Sankalpa* which is a declaration which every Hindu makes even today before undertaking any religious ceremony. The Sankalpa is in the following terms[1]:

> "On the auspicious day and hour, in the second Parardha of First Bramha, which is called the Kalpa of the *White* Boar, in the period of *Vaivasvata* Manu, *in the Kali Yuga,* in the country of Jambudvipa in Bharatavarsha in the country of Bharat, in the luni-solar cycle of the sixty years which begins with Pradhava and ends with Kshaya or Akshaya and which is current, as ordained by Lord Vishnu, in the year (name), of the cycle, in the Southern or the Northern Ayana, as the case may be, in the white or dark half, on the Tithi, I (name) begin to perform the rite (name) the object of pleasing the Almighty."

The question we have to consider is why and how the Vedic Brahmins manage to keep the *Kali* Yuga going on when the astronomer had said it was closed. The first thing to do is to ascertain what is the original period of the *Kali Yuga* ? According to the Vishnu Purana:

> "The Kritayuga comprises 4000 years, the Treta 3000; the Dwapara 2000 and the Kali 1000. Thus those that know the past have declared."

Thus Kali Yuga originally covered a period of 1000 years only. It is obvious that even on this reckoning the Kali Yuga should have ended long ago even according to the reckoning of the Vedic Brahmins. But it has not. What is the resason ? Obviously, because the period originally covered by the Kali Yuga came to be lengthened. This was done in two ways.

Firstly, it was done by adding two periods called Sandhya and Sandhyamsa before and after the commencement and the end of a Yuga. Authority for this can be found in the same passage of the Vishnu Purana already referred to and which reads as follows:

> "The period that precedes a Yuga is called *Sandhya*..... and the period which comes after a Yuga is called *Sandhyamsa,* which lasts for a like period. The intervals between these Sandhyas and Sandhyamsas are known as the Yugas called Krita, Treta and the like."

What was the period of Sandhya and Sandhyamsa ? Was it uniform for all the Yugas or did it differ with the Yuga. Sandhya and Sandhyamsa periods were not uniform. They differed with each Yuga. The following table gives some idea of the four Yugas and their Sandhya and Sandhyamsa—

[1] Shamshastry. Drapsa p. 84

Unit of a Mahayuga		Period	Dawn	Twilight	Total
Krita Yuga	..	4000	400	400	4800
Treta Yuga	..	3000	300	300	3600
Dwapara Yuga	..	2000	200	200	2400
Kali Yuga	..	1000	100	100	1200
Maha Yuga		..	..	..	12000

The Kali Yuga instead of remaining as before a period of 1,000 years was lengthened to a period of 1,200 years by the addition of Sandhya and Sandhyamsa.

Secondly a new innovation was made. It was declared that the period fixed for the Yugas was really a period of divine years and not human years. According to the Vedic Brahmins one divine day was equal to one human year so that the period of Kali Yuga which was 1,000 years plus 200 years of Sandhya and Sandhamsa i.e. 1,200 years in all became (1200 × 360) equal to 4,32,000 years. In these two ways the Vedic Brahmins instead of declaring the end of Kali Yuga in 165 B.C. as the astronomer had said extended its life to 4,32,000 years. No wonder Kali Yuga continues even to-day and will continue for lakhs of years. There is no end to the Kali Yuga.

IV

What does the *Kali Yuga* stand for ? The *Kali Yuga* means an age of *adharma,* an age which is demoralized and an age in which the laws made by the King ought not to be obeyed. One question at once arises. Why was the Kali Yuga more demoralized than the preceding Yugas? What was the moral condition of the Aryans in the Yuga or Yugas preceding the present Kali Yuga? Anyone who compares the habits and social practices of the later Aryans with those of the ancient Aryans will find a tremendous improvement almost amounting to a social revolution in their manners and morals.

The religion of the Vedic Aryans was full of barbaric and obscene observances. Human sacrifice formed a part of their religion and was called Naramedhayagna. Most elaborate descriptions of the rite are found in the Yajur-Veda Samhita, Yajur-Veda Brahmanas, the Sankhyana and Vaitana Sutras. The worship of genitals or what is called Phallus worship was quite prevalent among the ancient Aryans. The cult of the phallus came to be known as Skambha and was

recognized as part of Aryan religion as may be seen in the hymn in Atharva-Veda X.7. Another instance of obscenity which disfigured the religion of the Ancient Aryans is connected with the Ashvamedha Yajna or the horse sacrifice. A necessary part of the Ashvamedha was the introduction of the *Sepas* (penis) of the Medha (dead horse) into the Yoni (vagina) of the chief wife of the Yajamana (the sacrificer) accompanied by the recital of long series of Mantras by the Brahmin priests. A Mantra in the Vajasaneya Samhita (xxiii. 18) shows that there used to be a competition among the queens as to who was to receive this high honour of being served by the horse. Those who want to know more about it will find it in the commentary of Mahidhara on the Yejur-Veda where he gives full description of the details of this obscene rite which had formed a part of the Aryan religion.

The morals of the Ancient Aryans were no better than their religion. The Aryans were a race of gamblers. Gambling was developed by them into a science in very early days of the Aryan civilization so much so that they had even devised the dice and given them certain technical terms. The luckiest dice was called Krit and the unluckiest was called Kali. Treta and Dwapara were intermediate between them. Not only was gambling well developed among the ancient Aryans but they did not play without stakes. They gambled with such abandon that there is really no comparison with their spirit of gambling. Kingdoms and even wives were offered as stakes at gambling. King Nala staked his kingdom and lost it. The Pandvas went much beyond. They not only staked their kingdom but they also staked their wife, Draupadi, and lost both. Among the Aryans gambling was not the game of the rich. It was a vice of the many.

The ancient Aryans were also a race of drunkards. Wine formed a most essential part of their religion. The Vedic Gods drank wine. The divine wine was called Soma. Since the Gods of the Aryans drank wine the Aryans had no scruples in the matter of drinking. Indeed to drink it was a part of an Aryan's religious duty. There were so many Soma sacrifices among the ancient Aryans that there were hardly any days when Soma was not drunk. Soma was restricted to only the three upper classes, namely, the Brahmins, the Kshatriyas and the Vaishyas. That does not mean the Shudras were abstainers. Those who were denied Soma drank Sura which was ordinary, unconsecrated wine sold in the market. Not only the Male Aryans were addicted to drinking but the females also indulged in drinking. The Kaushitaki Grihya Sutra . I.11.12 advises that four or eight women who are not widowed after having been regaled with wine and food should be called to dance for four times on the night previous to the wedding ceremony. This habit

of drinking intoxicating liquor was not confined to the Non-Brahmin women. Even Brahmin women were addicted to it. Drinking was not regarded as a sin. It was not even a vice, it was quite a respectable practice. The Rig-Veda says:

> "Worshipping the Sun before drinking Madira (wine)."

The Yajur-Veda says:

> " Oh, Deva Soma! being strengthened and invigorated by Sura (wine), by thy pure spirit please the Devas; give juicy food to the sacrificer and vigour to Brahmanas and Kshatriyas."

The Mantra Brahmana says:

> "By which women have been made enjoyable by men, and by which water has been transformed into wine (for the enjoyment of men), etc."

That Rama and Sita both drank wine is admitted by the Ramayana. Utter Khand says:

> "Like Indra in the case of (his wife) Shachi, Rama Chandra made Sita drink purified honey made wine. Servants brought for Rama Chandra meat and sweet fruits."

So did Krishna and Arjuna. In the Udyoga Parva of the Mahabharat Sanjaya says:

> "Arjuna and Shri Krishna drinking wine made from honey and being sweet-scented and garlanded, wearing splendid clothes and ornaments, sat on a golden throne studded with various jewels. I saw Shrikrishna's feet on Arjuna's lap, and Arjuna's feet on Draupadi and Satyabhama's lap."

We may next proceed to consider the marital relations of men and women. What does history say? In the beginning there was no law of marriage among the Aryans. It was a state of complete promiscuity both in the higher and lower classes of the society. There was no such thing as a question of prohibited degrees as the following instances will show.

Brahma married his own daughter *Satarupa*. Their son was Manu the founder of the Pruthu dynasty which preceded the rise of the *Aiksvakas* and the *Ailas*.

Hiranyakashpu married his daughter Rohini. Other cases of father marrying daughters are Vashishtha and Shatrupa, Janhu and Jannhavi, and Surya and Usha. That such marriages between father and daughters were common is indicated by the usage of recognizing *Kanin* sons. Kanin sons mean sons born to unmarried daughter. They were *in law* the sons of the father of the girl. Obviously they must be sons begotten by the father on his own daughter

There are cases of father and son cohabiting with the same woman, Brahma is the father of Manu and Satarupa is his mother. This Satarupa is also the wife of Manu. Another case is that of *Shradha*. She is the wife of Vivasvat. Their son is Manu. But Shradha is also the wife of Manu thus indicating the practice of father and son sharing a woman. It was open for a person to marry his brother's daughter. Dharma married 10 daughters of Daksha though Daksha and Dharma were brothers. One could also marry his uncle's daughter as did Kasyapa who married 13 wives all of whom were the daughters of Daksha and Daksha was the brother of Kasyapa's father Marichi.

The case of Yama and Yami mentioned in the Rig-Veda is a notorious case, which throws a great deal of light on the question of marriages between brothers and sisters. Because Yama refused to cohabit with Yami it must not be supposed that such marriages did not exist.

The Adi Parva of the Mahabharata gives a geneology which begins from Brahmadeva. According to this geneology Brahma had three sons Marichi, Daksha and Dharma and one daughter whose name the geneology unfortunately does not give. In this very geneology it is stated that Daksha married the daughter of Brahma who was his sister and had a vast number of daughters variously estimated as being between 50 and 60. Other instances of marriages between brothers and sisters could be cited. They are Pushan and his sister Acchoda and Amavasu. Purukutsa and Narmada, Viprachiti and Simhika, Nahusa and Viraja, Sukra-Usanas and Go, Amsumat and Yasoda, Dasaratha and Kausalya, Rama and Sita; Suka and Pivari; Draupadi and Prasti are all cases of brothers marrying sisters.

The following cases show that there was no prohibition against son cohabiting with his mother. There is the case of Pushan and his mother Manu and Satrupa and Manu and Shradha. Attention may also be drawn to two other cases, Arjuna and Urvashi and Arjuna and Uttara. Uttara was married to Abhimanyu son of Arjuna when he was barely 16. Uttara was associated with Arjuna. He taught her music and dancing. Uttara is described as being in love with Arjuna and the Mahabharata speaks of their getting married as a natural sequel to their love affair. The Mahabharata does not say that they were actually married but If they were, then Abhimanyu can be said to have married his mother. The Arjuna Urvasi episode is more positive in its indication.

Indra was the real father of Arjuna. Urvashi was the mistress of Indra and therefore in the position of a mother to Arjuna. She was a tutor to Arjuna and taught him music and dancing. Urvasi became

enamoured of Arjuna and with the consent of his father, Indra, approached Arjuna for sexual intercourse. Arjuna refused to agree on the ground that she was like mother to him. Urvashi's conduct has historically more significant than Arjuna's denial and for two reasons. The very request by Urvashi to Arjuna and the consent by Indra show that Urvashi was following a well established practice. Secondly, Urvashi in her reply to Arjuna tells him in a pointed manner that this was a well recognized custom and that all Arjuna's forefathers had accepted precisely similar invitations without any guilt being attached to them.

Nothing illustrates better than the complete disregard of consanguity in cohabitation in ancient India than the following story which is related in the second Adhyaya of the Harivamsha. According to it Soma was the son of ten fathers—suggesting the existence of Polyandry—each one of whom was called Pralheta. Soma had a daughter *Marisha*—The ten fathers of *Soma* and *Soma* himself cohabited with Marisha. This is a case of ten grand-fathers and father married to a woman who was a grand-daughter and daughter to her husbands. In the same Adhyaya the story of Daksha Prajapati is told. This Daksha Prajapati who is the son of Soma is said to have given his 27 daughters to his father, Soma for procreation. In the third Adhyaya of Harivamsha the author says that Daksha gave his daughter in marriage to his own father Brahma on whom Brahma begot a son who became famous as Narada. All these are cases of cohabitation of Sapinda men, with Sapinda women.

The ancient Aryan women were sold. The sale of daughters is evidenced by the Arsha form of marriage. According to the technical terms used the father of the boy gave *Go-Mithuna* and took the girl. This is another way of saying that the girl was sold for a *Go-Mithuna*. Go-Mithuna means one cow and one bull which was regarded as a reasonable price of a girl. Not only daughters were sold by their fathers but wives also were sold by their husbands. The Harivamsha in its 79th Adhyaya describes how a religious rite called Punyaka-Vrata should be the fee that should be offered to the officiating priest. It says that the wives of Brahmins should be purchased from their husbands and given to the officiating priest as his fee. It is quite obvious from this that Brahmins freely sold their wives for a consideration.

That the ancient Aryans let their women on rent for cohabitation to others is also a fact. In the Mahabharata there is an account of the life of Madhavi in Adhyayas 103 to 123. According to this account Madhavi was the daughter of King Yayati. Yayati made a gift of her to Galawa. Galva who was a Rishi as a fee to a priest. Galva rented her

out to three kings in succession but to each for a period necessary to beget a son on her. After the tenancy of the third king terminated Madhavi was surrendered by Galva to his Guru Vishvamitra who made her his wife. Vishvamitra kept her till he begot a son on her and gave her back to Galva. Galva returned her to her father Yayati.

Polygamy and Polyandry were raging in the ancient Aryan society. The fact is so well known that it is unnecessary to record cases which show its existence. But what is probably not well known is the fact of promiscuity. Promiscuity in matters of sex becomes quite apparent if one were only to examine the rules of Niyoga which the Aryan name for a system under which a woman who is wedded can beget on herself a progeny from another who is not her husband. This system resulted in a complete state of promiscuity for it was uncontrolled. In the first place, there was no limit to the number of Niyogas open to a woman. Madhuti had one Niyoga allowed to her. Ambika had one actual Niyoga and another proposed. Saradandayani had three. Pandu allowed his wife Kunti four Niyogas. Vyusistasva was permitted to have 7 and Vali is known to have allowed as many as 17 Niyogas, 11 on one and 6 on his second wife. Just as there was no limit to the number of Niyogas so also there was no definition of cases in which Niyoga was permissible. Niyoga took place in the lifetime of the husband and even in cases where the husband was not overcome by any congenital incapacity to procreate. The initiative was probably taken by the wife. The choice of a man was left to her. She was free to find out with whom she would unite a Niyoga and how many times, if she chose the same man. The Niyogas were another name for illicit intercourse between men and women which might last for one night or twelve years or more with the husband a willing and a sleeping partner in this trade of fornication.

These were the manners and morals of common men in the ancient Aryan Society. What were the morals of the Brahmins ? Truth to tell they were no better men than those of the common men. The looseness of the morals among the Brahmins is evidenced by many instances. But a few will suffice. The cases showing that the Brahmins used to sell their wives has already been referred to. I will give other cases showing looseness. The Utanka is a pupil of Veda (the Purohita of Janmejaya III). The wife of Veda most calmly requests Utanka to take the place of her husband and 'approach' her for the sake of virtue. Another case that may be referred to in this connection is that of Uddalaka's wife. She is free to go to other Brahmins either of her own free will, or in response to invitations. Shwetketu is her son by one of her husband's pupils. These are not mere instances of laxity or adultery. These are

cases of recognized latitudes allowed to Brahmin women. Jatila-Gautami was a Brahmin woman and had 7 husbands who were Rishis. The Mahabharata says that the wives of the citizens admire Draupadi in the company of her five husbands and compare her to Jatila Gautami with her seven husbands. *Mamata* is the wife of *Utathya*. But Brahaspati the brother of Utathya had free access to Mamata during the life time of Utathya. The only objection Mamata once raises to him is to ask him to wait on account of her pregnancy but does not say that approaches to her were either improper or unlawful.

Such immoralities were so common among the Brahmins that Draupadi when she was called a cow by Duryodhana for her polyandry is said to have said she was sorry that her husbands were not born as Brahmins.

Let us examine the morality of the rishis. What do we find?

The first thing we find is the prevalence of bestiality among the rishis. Take the case of the rishi called *Vibhandaka*. In Adhyaya 100 of the Vana Parva of the Mahabharata it is stated that he cohabited with a female deer and that the female deer bore a son to him who subsequently became known as Rishi Shranga. In Adhyaya 1 as well as in 118 of the Adi Parva of the Mahabharata there is a narration of how Pandu the father of the Pandavas received his curse from the Rishi by name Dama. Vyas says that the Rishi Dama was once engaged in the act of coitus with a female deer in a jungle. While so engaged Pandu shot him with an arrow before the rishi was spent as a result of it Dama died. But before he died Dama uttered a curse saying that if Pandu ever thought of approaching his wife he would die instantly. Vyas tries to gloss this bestiality of the rishi by saying that the Rishi and his wife had both taken the form of deer in fun and frolic. Other instances of such bestiality by the rishis it will not be difficult to find if a diligent search was made in the ancient religious literature in India.

Another heinous practice which is associated with the rishis is cohabitation with women in the open and within the sight of the public. In Adhyaya 63 of the Adi Parva of the Mahabharata a description is given of how the Rishi Parashara had sexual intercourse with Satyavati, alias Matsya Gandha a fisherman's girl. Vyas says that he cohabited with her in the open and in public. Another similar instance is to be found in Adhyaya 104 of the Adi Parva. It is stated therein that the Rishi Dirgha Tama cohabited with a woman in the sight of the public. There are many such instances mentioned in the Mahabharata. There is, however, no need to encumber the record with them. For the word *Ayonija* is enough to prove the general existence

of the practice. Most Hindus know that Sita, Draupadi and other renowned ladies are spoken of *Ayonija*. What they mean by *Ayonija* is a child born by immaculate conception. There is however no warrant from etymological point of view to give such a meaning to the Ayoni. The root meaning of the word Yoni is house. *Yonija* means a child born or conceived in the house. *Ayonija* means a child born or conceived outside the house. If this is the correct etymology of Ayonija it testifies to the practice of indulging in sexual intercourse in the open within the sight of the public.

Another practice which evidences the revolting immorality of the rishis in the Chandyogya Upanishad. According to this Upanishad it appears that the rishis had made a rule that if while they were engaged in performing a *Yajna* if a woman expressed a desire for sexual intercourse with the rishi who was approached should immediately without waiting for the completion of the Yajna and without caring to retire in a secluded spot proceeded to commit sexual intercourse with her in the Yajna Mandap and in the sight of the public. This immoral performance of the rishi was elevated to the position of a Religious observance and given the technical name of *Vamadev- Vrata* which was later on revived as *Vama-Marga*.

This does not exhaust all that one finds in the ancient sacredotal literature of the Aryans about the morality of the rishis. One phase of their moral life remains to be mentioned.

The ancient Aryans also seem to be possessed with the desire to have better progeny which they accomplished by sending their wives to others and it was mostly to the rishis who were regarded by the Aryas as pedigree cattle. The number of rishis who figure in such cases form quite a formidable number. Indeed the rishis seemed to have made a regular trade in this kind of immorality and they were so lucky that even kings asked them to impregnate the queens. Let us now take the Devas[1].

The Devas were a powerful and most licentious community. They even molested the wives of the rishis. The story of how Indra raped Ahalya the wife of Rishi Gautama is well known. But the immoralities they committed on the Aryan women were unspeakable. The Devas as a community appears to have established an overlordship over the Aryan community in very early times. This overlordship had become degenerated that the Aryan women had to prostitute themselves to

[1] One does not know what to say of the scholar who first translated the Sanskrit word *Deva* by the English word God. It was the greatest blunder which has resulted in confusion and has prevented a proper understanding of the social life of the Aryans as revealed in the Vedic literature. That Deva was the name of a community is beyond question. That Rakshas, Daityas, Danavas are also names of different communities in the same manner as the words Arya and Dasyu are must also be accepted without question.

satisfy the lust of the Devas. The Aryans took pride if his wife was in the keeping of a Deva and was impregnated by him. The mention is in the Mahabharata and in the Harivamsha of sons born to Arya women from Indra, Yama, Nasatya, Agni, Vayu and other Devas is so frequent that one is astounded to note the scale on which such illicit intercourse between the Devas and the Arya women was going on.

In course of time the relations between the Devas and the Aryans became stablized and appears to have taken the form of feudalism. The Devas exacted two boons[1] from the Aryans.

The first boon was the *Yajna* which were periodic feasts given by the Aryans to the Devas in return for the protection of the Devas in their fight against the Rakshasas, Daityas and Danavas. The Yajnas were nothing but feudal exactions of the Devas. If they have not been so understood it is largely because the word Deva instead of thought to be the name of a community is regarded as a term for expressing the idea of God which is quite wrong at any rate in the early stages of Aryan Society.

The second boon claimed by the Devas against the Aryans was the prior right to enjoy Aryan woman. This was systematized at a very early date. There is a mention of it in the Rig-Veda in X. 85.40. According to it the first right over an Arya female was that of Soma, second of Gandharva, third of Agni and lastly of the Aryan. Every Aryan woman was hypothecated to some Deva who had a right to enjoy her first on becoming puber. Before she could be married to an Aryan she had to be redeemed by getting the right of the Deva extinguished by making him a proper payment. The description of the marriage ceremony given in the 7th Khandika of the 1st Adhyaya of the Ashvalayan Grahya Sutra furnish the most cogent proof of the existence of the system. A careful and critical examination of the Sutra reveals that at the marriage three Devas were present. *Aryaman, Varuna* and *Pushan,* obviously because they had a right of prelibation over the bride. The first thing that the bride-groom does, is to bring her near a stone slab and make her stand on it telling her 'Tread on this stone, like a stone be firm. Overcome the enemies; tread the foes down'. This means that the bridegroom does it to liberate the bride from the physical control of the three Devas whom he regards as his enemies. The Devas get angry and march on the bridegroom. The brother of the bride intervenes and tries to settle the dispute. He brings parched gram with a view *to* offer it the Angry Deva with a view to

[1] Whether the relations between the Devas and the Aryans were of the nature of the feudal relations between the Lord and the Vellein has not yet been investigated largely because the Devas are not considered as a community of men. The boons claimed by the Devas from the Aryans are the same as those claimed by the Lord from his Vellein. (1) First fruits and (2) Prima Noctis.

buy off their rights over the bride. The brother then asks the bride to join her palms and make a hollow. He then fills the hollow of her palm with the parched grain and pours clarified butter on it and asks her to offer it to each Deva three times. This offering is called *Avadana*. While the bride is making this Avadana to the Deva the brother of the bride utters a statement which is very significant. He says "This girl is making this Avadana to Aryaman Deva through Agni. Aryaman should therefore relinquish his right over the girl and should not disturb the possession of the bridegroom". Separate Avadanas are made by the bride to the other two Devas and in their case also the brother alters the same formula. After the Avadan follows the Pradakshana round the Agni which is called SAPTAPADI after which the marriage of the bride and bridegroom becomes complete valid and good. All this of course is very illuminating and throw a flood of light on the utter subjection of the Aryans to the Devas and moral degradation of Devas as well as of the Aryans.

Lawyers know that Saptapadi is the most essential ceremony in a Hindu marriage and that without it there is no marriage at Law. But very few know why Saptapadi has so great an importance. The reason is quite obvious. It is a test whether the Deva who had his right of prelibation over the bride was satisfied with the Avadana and was prepared to release her. If the Deva allowed the bridegroom to take the bride away with him up to a distance covered by the Saptapadi it raised an irrebutable presumption that the Deva was satisfied with the compensation and that his right was extinguished and the girl was free to be the wife of another. The Saptapadi cannot have any other meaning. The fact that Saptapadi is necessary in every marriage shows how universally prevalent this kind of immorality had been among the Devas and the Aryans.

This survey cannot be complete without separate reference to the morals of Krishna. Since the beginning of Kali Yuga which is the same thing is associated with his death his morals became of considerable importance. How do the morals of Krishna compare with those of the others? Full details are given in another place about the sort of life Krishna led. To that I will add here a few. Krishna belonged to the Vrasni (Yadava family). The Yadavas were polygamous. The Yadava Kings are reported to have innumerable wives and innumerable sons— a stain from which Krishna himself was not free. But this Yadava family and Krishna's own house was not free from the stain of parental incest. The case of a father marrying daughter is reported by the Matsya Purana to have occurred in the Yadav family. According to Matsya Purana, King Taittiri an ancestor of Krishna married his own

daughter and begot-on her a son by name Nala. The case of a son cohabiting with his mother is found in the conduct of *Samba* the son of Krishna. The Matsya Purana tells how Samba lived an illicit life with the wives of Krishna his father and how Krishna got angry and cursed Samba and the guilty wives on that account. There is a reference to this in the Mahabharata also. Satyabhama asked Draupadi the secret of her power over her five husbands. According to the Mahabharata Draupadi warned her against talking or staying in private with her step-sons. This corroborates what the Matsya Purana has to say about *Samba*. Samba's is not the only case. His brother Pradyumna married his foster mother *Mayavati* the wife of Sambara.

Such is the state of morals in the Aryan Society before the death of Krishna. It is not possible to divide this history into definite Yugas and to say that what state of morals existed in the Krita, what in Treta and what in Dwapara Yuga which closed at the death of Krishna If, however, we allow the ancient Aryans a spirit of progressive reform it is possible to say that the worst cases of immorality occurred in earliest age i.e. the Krita age, the less revolting in the Treta and the least revolting in the Dwapara and the best in the Kali age.

This line of thinking does not rest upon mere general development of human society as we see all over the world. That instead of undergoing a moral decay the ancient Aryan society was engaged in removing social evils by undertaking bold reforms is borne out by its history.

Devas and the rishis occupied a very high place in the eyes of the common Aryan and as is usual the inferior always imitate their superior. What the superior class does forms a standard for the inferior. The immoralities which were prevalent in the Aryan Society were largely the result of the imitation by the common man of the immoral acts and deeds of the Devas and the rishis. To stop the spread of immoralities in society the leaders of the Aryan Society introduced a reform of the greatest significance. They declared that acts and deeds of the Devas and the rishis are not to be cited[1] or treated as precedents. In this way one cause and source of immorality was removed by a bold, and courageous stroke.

Other reforms were equally drastic. The Mahabharata refers to two reformers Dirghatama and Shwetaketu. It was laid down by Shwetketu that the marriage is indissoluble and there was to be no divorce. Two reforms are attributed to Dirghatama. He stopped polyandry and declared that a woman can have only one husband at

[1] The rules that Rishis' conduct is not to be cited or treated as precedent is laid down in Gautama Dharma Sutra *Na Deva Charitama Chareta* has reference to the bar enacted against treating the acts and deeds of the Devas as precedent. It is a floating verse whose source it has not been possible to locate.

a time. The second reform he is said to have carried out was to lay down conditions for regulating Niyog. The following were the most important of these conditions.

(i) The father or brother of the widow (or of the widow's husband) shall assemble the Gurus who taught or sacrificed for the deceased husband and his relatives and shall appoint her to raise issue for the deceased husband[1].

(ii) (1) The husband, whether living or dead, must have no sons; (2) The Gurus in a family council should decide to appoint the widow to raise issue for her husband; (3) The person appointed must be either the husband's brother or a sapinda, or sagotra of the husband or (according to Gautama) a sapravara or a person of the same caste. (4) The person appointed and the widow must be actuated by no lust but only by a sense of duty; (5) The person appointed must be anointed with ghee or oil (Narada Stripumsa, 82) must not speak with or kiss her or engage in the sportive dalliance with the women; (6) This relationship was to last till one son was born (or two according to some); (7) The widow must be comparatively young, she should not be old or sterile, or past child-bearing or sickly or unwilling or pregnant (Baud. Dh. S. II. 2.70, Narad, Stripumsa 83.84); (8) After the birth of a son they were to regard themselves as father-in-law and daughter-in-law (Manu IX, 62). It is further made clear by the texts that if a brother-in-law has intercourse with his sister-in-law without appointment by elders or if he does so even when appointed by elders but the other circumstances do not exist (e.g., if the husband has a son), he would be guilty of the sin of incest."

There are other reforms carried out by the ancient Aryan Society necessary to improve its morals. One was to establish the rule of prohibited degrees for purposes of marriage to prevent recurrence of father-daughter, brother-sister, mother-son, grandfather-grand daughter marriages. The other was to declare sexual intercourse between the wife of the Guru and the pupil a heinous sin. Equally clear is the evidence in support of an attempt to control gambling. Every treatise in the series called Dharma Sutras contain references to laws made throwing on the King the duty and urgency of controlling gambling by State authorities under stringent laws.

All these reforms had taken effect long before the Kali Yuga started and it is natural to hold that from the point of view of morality the Kali Yuga was a better age. To call it an age in which morals were declining is not only without foundation but is an utter perversion.

[1] Kane Vol. II part 1 p. 601.

This discussion about the Kali Yuga raised many riddles in the first place. How and when did the idea of mahayuga arise? It is true that all over the world the idea of a golden age lying in the past has been prevalent. But the idea of a Mahayuga is quite satisfied with the idea of a golden past prevelent elsewhere in India. Elsewhere the golden past is deemed to return. It is gone for ever. But in the idea of the Mahayuga the golden past is not gone for ever. It is to return after the cycle is complete.

The second riddle is why was the Kali Yuga not closed in 165 B.C. When according to the astronomer it was due to end why was it continued. Third riddle is the addition of Sandhya and Sandhyamsa periods to the *Kali Yuga*. It is quite obvious that these were later additions. For the Vishnu Purana states them separately. If they were original parts of Kali Yuga they would not have been stated separately why were these additions made. A fourth riddle is the change in the counting of the period. Originally the period of the Kali Yuga was said to be human years. Subsequently it was said to be a period of divine years with the result of the Kali Yuga being confined to 1200 years became extended to 4,32,000 years. That this was an innovation is quite obvious. For the Mahabharata knows nothing about this calculation in term of divine years. Why was this innovation made? What was the object of the Vedic Brahmins in thus indefinitely extending the period of the Kali Yuga? Was it to blackmail some Shudra Kings that the theory of Kali Yuga was invented and made unending so as to destroy his subjects from having any faith in his rule?

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RIDDLE NO. 24

THE RIDDLE OF THE KALI YUGA

The Units into which time is broken up for the purposes of reckoning it which are prevalent among the Hindus have not deserved the attention which their extraordinary character call for. This is a matter which forms one of the principal subject matter of the Puranas. There are according to the Puranas five measures of time (1) Varsha, (2) Yuga, (3) Maha Yuga, (4) Manwantara and (5) Kalpa. I will draw upon the Vishnu Purana to show what these units are.

To begin with the Varsha. This is how the Vishnu Purana explains it[1] :

> "Oh best of sages, fifteen twinklings of the eye make a *Kashtha;* thirty Kalas, one *Muhurtta;* thirty Muhurttas constitute a day and night of mortals : thirty such days make a month, divided into two half-months : six months form an *Ayana* (the period of the Sun's progress north or south of the ecliptic): and two Ayanas compose a year."

The same is explained in greater details at another place in the Vishnu Purana[2].

> "Fifteen twinklings of the eye *(Nimedhas)* make a *Kashtha;* thirty Kashthas, a *Kala;* Thirty Kalas, a *Muhurtta* (forty-eighty minutes); and thirty Muhurttas, a day and night; the portions of the day are longer or shorter, as has been explained; but the Sandhya is always the same in increase or decrease, being only one Muhurtta. From the period that a line may be drawn across the Sun (or that half his orb is visible) to the expiration of three Muhurttas (two hours and twenty-four minutes), that interval is called Pratar (morning),

[1] Wilson's Vishnu Purana pp. 22-23.

[2] *Ibid.*

This is another version entitled 'The Riddle of the Kali Yuga'. The copy available with us is a carbon copy having no corrections or modifications by the author. This chapter contains 40 pages.—Ed.

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forming a fifth portion of the day. The next portion, or three Muhurttas from morning, is termed *Sangava* (forenoon): the three next Muhurttas constitute mid-day; the afternoon comprises the next three Muhurttas; the three Muhurttas following are considered as the evening; and the fifteen Muhurttas of the day are thus classed in five portions of three each."

"Fifteen days of thirty Muhurttas each are called a *Paksha* (a lunar fortnight); two of these make a month; and two months, a solar season; three seasons a northern or southern declination *(Ayana);* and those two compose a year."

The conception of Yuga is explained by the Vishnu Purana in the following terms[1] :

"Twelve thousand divine years, each composed of (three hundred and sixty) such days, constitute the period of the four Yugas, or ages. They are thus distributed : the Krita age has four thousand divine years; the Treta three thousand; the Dwapara two thousand; and Kali age one thousand; so those acquainted with antiquity have declared.

"The period that precedes a Yuga is called a *Sandhya,* and it is of as many hundred years as there are thousand in the Yuga; and the period that follows a Yuga, termed the *Sandhyansa,* is of similar duration. The interval between the Sandhya and the Sandhyasana is the Yuga, denominated, Krita, Treta, &c."

The term Yuga is also used by the Vishnu Purana to denote a different measure of time. It says[2] :

"Years, made up of four kinds of months, are distinguished into five kinds; and an aggregate of all the varieties of time is termed a Yuga, or cycle. The years are severally, called Samvatsara, Idvatsara, Anuvatsara, Parivatsara, and Vatsara. This is the time called a Yuga."

The measure of Maha Yuga is an extension of the Yuga. As the Vishnu Purana points out[3] :

"The Krita, Treta, Dwapara, and Kali constitute a great age, or aggregate of four ages : a thousand such aggregates are a day of Brahma."

The Manwantara is explained by the Vishnu Purana in the following terms[4] :

"The interval, called a Manwantara, is equal to seventy-one times, the number of years contained in the four Yugas, with some additional years."

[1] Wilson's Vishnu Purana. p. 23.

[2] Wilson's Vishnu Purana. p. 23.

[3] Wilson's Vishnu Purana. p. 23.

[4] Wilson's Vishnu Purana pp. 24.

What is Kalpa is stated by the Vishnu Purana in the following brief text :

"Kalpa (or the day) of Brahma."

These are the periods in which time is divided. The time included in these periods may next be noted.

The *Varsha* is simple enough. It is the same as the year or a period of 365 days. The Yuga, Maha Yuga, Manwantara and Kalpa are not so simple for calculating the periods. It would be easier to treat Yuga, Maha Yuga etc., as sub-divisions of a Kalpa rather than treat the Kalpa as a multiple of Yuga. Proceeding along that line the relation between a Kalpa and a Maha Yuga is that in one Kalpa there are 71 Maha Yugas while one Maha Yuga consists of four Yugas and a Manwantara is equal to 71 Maha Yugas with some additional years.

In computing the periods covered by these units we cannot take Yuga as our base for computation. For the Yuga is a fixed but not uniform period. The basis of computation is the Maha Yuga which consists of a fixed period.

A Maha Yuga consists of a period of four Yugas called (1) Krita, (2) Treta, (3) Dwapara and (4) Kali. Each Yuga has its period fixed. Each Yuga in addition to its period has a dawn and a twilight which have fixed-duration. Actual period as well as the period of the dawn and the twilight are different for the different Yugas.

Yug		Period	Dawn	Twilight	Total
Krita	..	4000	400	400	4800
Treta	..	3000	300	300	3600
Dwapara	..	2000	200	200	2400
Kali	..	1000	100	100	1200
Maha Yuga		.....	...	...	12000

This computation of the Maha Yuga is in terms of divine years i.e. 12000 divine years or years of Brahma make up one Maha Yuga at the rate of one year of men being equal to one divine day the Maha Yuga in terms of human or mortal years comes to (360 × 12000) 43,20,000 years.

Seventy-one Maha Yugas make one Kalpa. This means that a Kalpa is equal to (43,20,000 × 71) 3,06,72,000.

Coming to Manwantaras one Manvantara is equal to 71 Maha Yugas plus something more. The period of a manvantara is equal to

that of a Kalpa i.e. 3,06,72,000 *plus* something more. The period of a Manvantara is bigger than the period included in a Kalpa.

The conception of a *Varsha* is in accord with astronomy and is necessary for the purpose of calculating time.

The conception of a Kalpa is both mythological and cosmological and is based upon the belief that the Universe undergoes the process of creation and dissolution; at the hands of Brahma and the period between creation and dissolution is called Kalpa. The first book of the Vishnu Purana is occupied with this. It begins with the details of creation. Creation is of twofold character, (1) primary (sarga) i.e. the origin of the universe from Prakriti or eternal crude matter; (2) Secondary (Pratisarga) i.e. the manner in which forms of things are developed from elementary substances previously evolved, or the manner in which they reappear after their temporary destruction. Both these creations are periodical, but the termination of the first occurs only at the end of the life of Brahma, when not only all the Gods and all other forms are annihilated, but the elements are again merged into primary substance, besides which one only spiritual being exists; the later takes place at the end of every Kalpa or day of Brahma, and affects only the forms of inferior creatures, and lower worlds, leaving the substance of the universe entire, and sages and Gods unharmed. Such is the conception underlying Kalpa.

The conception underlying Manvantara is mythological if not historical. It starts with the belief that Brahma gave rise to creation, inanimate as well as animate. But the animates did not multiply themselves. Brahma then created other 9 mind born sons but they were without desire or passion, inspired with holy, wisdom, estranged from the universe, and undesirous of progeny. Brahma having perceived this was filled with wrath. Brahma then converted himself into two persons, the first male, or Manu Swayambhuva and the first woman, or Satarupa. Manu Swayambhuva married Satarupa. Thus began the first Manvantara which is called Manvantara Swayambhuva. The fourteen Manvantaras are described as follows[1]

> "Then, Brahma created himself the Manu Swayambhuva, born of, and identical with, his original self, for the protection of created beings, and the female portion of himself he constituted Satarupa, whom austerity purified from the sin (of forbidden nuptials), and whom the divine Manu Swayambhuva took to wife. From these two were born two sons, Priyavrata and Uttanapada, and two daughters, named Prasuti and Akuti graced with loveliness and exalted merit. Prasuti he gave to Daksha, after giving Akuti to the Patriarch Ruchi, who espoused her. Akuti bore to Ruchi twins, Yajna and

Dakshina, who afterwards became husband and wife; and had twelve sons, the deities called Yamas, in the Manwantara of Swayambhuva."

"[1]The first Manu was Swayambhuva, then came Swarochisha, the Auttami, then Tamasa, then Raivata, then Chakshusha : these six Manus have passed away. The Manu who presides over the seventh Manwantara, which is the present period, is Vaivaswata, the son of the Sun."

"The period of Swayambhuva Manu, in the beginning of the Kalpa, has already been described by me, together with the gods, Rishis, and other personages, who then flourished. I will now, therefore, enumerate the presiding gods, Rishis, and sons of the Manu, *in the Manwantara of Swarochisha.* The deities of this period (or the second Manvantara) were the classes called Paravatas and Tushitas; and the king of the gods was the mighty Vipaschit. The seven Rishis were Urja, Stambha, Praria, Dattoli, Rishabha, Nischara, and Arvarivat; and Chaitra, Kimpurusha and others, were the Manu's sons.

"In the *third period,* Or Manwantara of Auttami, Susanti was the Indra, the king of the gods the orders of whom were the Sudhamas, Satyas, Sivas, Pradersanas, and Vasavertis; each of the five orders consisting of twelve divinities. The seven sons of Vasishtha were the seven Rishis; and Aja, Parasu, Divya and others, were the sons of the Manu.

"The Surupas, Haris, Satyas, and Sudhis were the classes of gods, each comprising twenty-seven, in the period of Tamasa, the *fourth Manu.* Sivi was the Indra, also designated by his performance of a hundred sacrifices (or named Satakratu). The seven Rishis were Jyotirdhama, Prithu, Kavya, Chaitra, Agni, Vanaka, and Pivara. The sons of Tamasa were the mighty kings Nara, Khyati, Santahaya, Janujangha, and others."

"In the *fifth* interval the Manu was Raivata; the Indra was vibhu : the classes of gods, consisting of fourteen each, were the Amitabhas, Abhutarajasas, Vaikunthas, and Sumedhasas; the seven Rishis were Hiranyaroma, Vedasri, Urdohabahu, Vedabahu, Sudhaman, Parjanya, and Mahamuni : the sons of Raivata were Balabandhu Susambhavya, Satyaka, and other valiant kings."

"These four Manus, Swarochisha, Auttami, Tamasa, and Raivata, were all descended from Priyavrata, who in consequence of propitiating Vishnu by his devotions, obtained these rulers of the Manwantaras for his posterity.

"Chakshusha was the Manu of the *sixth period* in which the Indra was Janojava; the five classes of gods were the Adya,

Prastutas, Bhavyas, Prithugas, and the magnanimous Lekhas, eight of each : Sumedhas, Virajas, Havishmat, Uttama, Madhu, Abhinaman, and Sahishnu were the seven sages; the kings of the earth, the sons of Chakshusha, were the powerful Uru, Puru, Satadhumna, and others."

"The Manu of the *present* is the wise lord of obsequies, the illustrious offspring of the sun; the deities are the Adityas, Vasus, and Rudras; their sovereign is Purandra : Vasistha, Kasyapa, Atri, Jamadagni, Gautama, Viswamitra, and Bharadwaja are the seven Rishis; and the nine pious sons of Vaivaswata Manu are the kings Ikshwaku, Nabhaga, Dhrishta, Sanyati, Narishyanata Nabhanidishta, Karusha, Prishadhra, and the celebrated Vasumat."

So far the particulars of seven Manvantaras which are spoken of by the Vishnu Purana as the past Manwantaras. Below are given the particulars of other seven[1] :

"Sanjana, the daughter of Viswakarman, was the wife of the Sun, and bore him three children, the Manu (Vaivaswata), Yama, and the goddess Yami (or the Yamuna river). Unable to endure the fervours of her lord, Sanjana gave him. Chhaya as his handmaid, and repaired to the forests to practise devout exercises. The Sun, supposing Chhaya to be his wife Sanjana, begot by her three other children, Sanaischara (Saturn), another Manu (Savarni), and a daughter Tapati (the Tapti river). Chhaya, upon one occasion, being offended with Yama, the son of Sanjana, denounced an imprecation upon him, and thereby revealed to Yama and to the Sun that she was not in truth Sanjana, the mother of the former. Being further informed by Chhaya that his wife had gone the wilderness, the Sun beheld her by the eye of meditation engaged in austerities, in the figure of a mare (in the region of Uttara Kuru). Metamorphosing himself into a horse, he rejoined his wife, and begot three other children, the two Aswins, and Revanta, and then brought Sanjana back to his own dwelling. To diminish his intensity, Viswakarman placed the luminary on his lathe to grind off some of his effulgence; and in this manner reduced it an eight, for more than that was inseparable. The parts of the divine Vaishnava slendour, residing in the Sun, that were filed off by Viswakarman, fell blazing down upon the earth, and the artist constructed of them the discuss of Vishnu, the trident of Siva, the weapon of the god of wealth, the lance of Kartikeya, and the weapons of the other gods : all these Viswakarman fabricated from the superfluous rays of the sun.

[1] Wilson's Vishnu Purana pp. 266-69.

"The son of Chhaya, who was called also a Manu was denominated Savarni, from being of the same caste (Savarni) as his elder brother, the Manu Vaivaswata. He presides over the ensuing or *eighth Manwantara;* the particulars of which, and the following, I will now relate. In the period in which Savarni shall be the Manu, the classes of the gods will be Sutapas, Amitabhas, and Mukhyas; twentyone of each. The seven Rishis will be Diptimat, Galava, Rama, Kripa, Drauni; my son Vyasa will be the sixth, and the seventh will be Rishyasringa. The Indra will be Bali, the sinless son of Virochan who through the favour of Vishnu is actually sovereign of part of Patala. The royal progeny of Savarni will be Virajas, Arvariva, Nirmoha, and others."

"The *ninth Manu* will be Daksha-Savarni. The Paras, Marichigarbhas, and Sudharmas will be the three classes of divinities, each consisting of twelve; their powerful chief will be the Indra, Abhuta. Savana, Dyutimat, Bhavya, Vasu, Medhatithi, Jyotishaman, and Satya will be the seven Rishis. Dhritketu, Driptiketu, Panchahasta, Niramaya, Prithusraya, and others will be the sons of the Manu."

"In the *tenth Manwantara* the Manu will be Brahma-savarni; the gods will be the Sudhamas, Viruddhas, and Satasankhyas; the Indra will be the mighty Santi; the Rishis will be Havishaman, Sukriti, Satya, Appammurti, Nabhaga, Apratimaujas and Satyaketu; and the ten sons of the Manu will be Sukshetra, Uttamaujas, Harishena and others."

"In the *eleventh Manwantara* the Manu will be Dharma-savarni; the principal classes of gods will be the Vihangama Kamagamas, and the Nirmanaratis, each thirty in number; of whom Vrisha will be the Indra : the Rishis will be Nischara, Agnitejas, Vapushaman, Vishnu, Aruni, Havishaman, and Anagha; the kings of the earth, and sons of the Manu, will be Savarga, Sarvadharma, Devanika, and others."

"In the *twelfth Manwantara* the son of Rudra, Savarni, will be the Manu : Ritudhama will be the Indra; and the Haritas, Lohitas : Sumanasas, and Sukrmas will be the classes of gods, each comprising fifteen Tapaswi, Sutapas, Tapomurti, Taporati, Tapodhriti, Tapodyuti and Tapodhana will be the Rishis; and Devavan, Upadeva, Devasreshtha and others, will be the Manu's sons, and mighty monarchs on the earth."

"In the *thirteenth Manwantara* the Manu will be Rauchya; the classes of gods thirty-three in each will be the Sudhamanas, Sudharmans, and Sukarmanas, their Indra will be Divaspati; the

Rishis will be Nirmoha, Tatwadersin, Nishprakampa, Nirutsuka, Dhritimat, Avyaya, and Sutapas; and Chitrasena, Vichitra, and others, will be the kings."

> "In the fourteenth Manwantara, Bhautya will be the Manu; Suchi, the Indra : the five classes of gods will be the Chakshushas, the Pavitras. Kanishthas, Bhrajiras, and Vavriddhas; the seven Rishis will be Agnibahu, Suchi, Sukra, Magadha, Gridhra, Yukta and Ajita; and the sons of the Manu will be Uru, Gabhira, Bradhna, and others, who will be kings, and will rule over the earth."

The scheme of Manwantaras seems to be designed to provide a governing body for the universe during the period of a Manwantara. Over every Manwantara there presides a Manu as the legislator, Deities to worship, seven Rishis and a King to administer the affairs.

As the Vishnu Purana says[1]:

> "The deities of the different classes receive the sacrifices during the Manwantaras to which they severally belong; and the sons of the Manu themselves, and their descendants, are the sovereigns of the earth for the whole of the same term. The Manu, the seven Rishis, the gods, the sons of the Manu, who are kings, and Indra, are the beings who preside over the world during each Manwantara."

But the scheme of chronology called the Maha Yuga is a most perplexing business.

Why Kalpa should have been divided into Maha Yugas and why a Maha Yuga should have been sub-divided into four Yugas, Krita, Treta, Dwapara and Kali is a riddle which needs explanation. It is not based on mythology and unlike the era it has no reference to any real or supposed history of the Hindus.

In the first place why was the period covered by a Yuga so enormously extended as to make the whole chronoloy appear fabulous and fabricated

In the Rig-Veda the word *Yuga* occurs at least 38 times. It is used in the sense of age, generation, yoke or tribe. In a few places it appears to refer to a very brief period. In many places it appears to refer to a very brief period and Sayana even goes so far as to render the term yuge yuge by pratidinam i.e. every day.

In the next place the conception of four Yugas is associated with a deterioration in the moral fibre in society. This conception is well stated in the following extract from the Mahabharata[2] :

"The Krita is that age in which righteousness is eternal. In the time of that most excellent of Yugas (everything) had been done

[1] Wilson's Vishnu Purana pp. 269-70.

[2] Muir's Sanskrit Text Vol. I pp. 144-146.

(Krita) and nothing (remained) to be done. Duties did not then languish, nor did the people decline. Afterwards, through (the influence of) time, this yuga fell into a state of inferiority. In that age there were neither Gods, Danavas, Gahdharvas, Yakshas, Rakshasas, nor Pannagas; no buying or selling went on; the Vedas were not classed as Saman, Rich, and Yajush; no efforts were made by men: the fruit (of the earth was obtained) by their mere wish : righteousness and abandonment of the world (prevailed). No disease or decline of the organs of sense arose through the influence of the age; there was no malice, weeping, pride, or deceipt; no contention, and how could there be any lassitude ? No hatred, cruelty, fear affliction, jealousy, or envy. Hence the Supreme Brahma was the transcendent resort of those Yogins. Then Narayana the soul of all beings, was white, Brahmans, Kshatriyas, Vaishyas and Shudras possessed the characteristics of Krita. In that age were born creatures devoted to their duties. They were alike in the object of their trust, in observances and in their knowledge. At that period the castes, alike in their functions, fulfilled their duties, were unceasingly devoted to one deity, and used one formula (mantra), one rule and one rite. Though they had separate duties, they had but one Veda, and practised one duty. By works connected with the four orders, and dependent on conjunctures of time, but unaffected by desire, or (hope of) reward, they attained to supreme felicity. This complete and eternal righteousness of the four castes during the Krita was marked by the character of that age and sought after union with the supreme soul. The Krita age was free from the three qualities. Understand now the Treta, in which sacrifice commenced, righteousness decreased by a fourth, Vishnu became red; and men adhered to truth, and were devoted to a righteousness dependent on ceremonies. Then sacrifices prevailed, with holy acts and a variety of rites. In the Treta men acted with an object in view, seeking after reward for their rites and their fights, and no longer disposed to austerities and to liberality from (a simple feeling of) duty. In this age, however, they were devoted to their own duties, and to religious ceremonies. In the Dwapara age righteousness was diminished by two quarters, Vishnu became yellow, and the Veda fourfold. Some studied four Vedas, others three, others two, others one, and some none at all. The scriptures being thus divided, ceremonies were celebrated in a great variety of ways; and the people being occupied with austerity and the bestowal of gifts; became full of passion (rajasi). Owing to ignorance of the one Veda, Vedas were multiplied. And now from the decline of goodness (Sattva) few only adhered to

> truth. When men had fallen away from goodness, many diseases, desires and calamities, caused by destiny, assailed them, by which they were severely afflicted, and driven to practice austerities. Others desiring enjoyment and heavenly bliss, offered sacrifices. Thus, when they had reached the Dwapara, men declined through unrighteousness. In the Kali righteousness remained to the extent of one fourth only. Arrived in that age of darkness, Vishnu became black; practices enjoined by the Vedas, works of righteousness, and rites of sacrifice, ceased. Calamities, diseases, fatigue, faults, such as anger, etc., distresses, anxiety, hunger, fear, prevailed. As the ages revolve, righteousness again declines. When this takes places the people also decline. When they decay, the impulses which actuate them also decay. The practices generated by this declension of the Yugas frustrate men's aims. Such is the Kali Yuga which has existed for a short time. Those who are long lived act in conformity with the character of the age."

This is undoubtedly very strange. There is reference to these terms in the ancient vedic literature. The words Krita, Treta, Dwapara and Askanda occur in the Taittiriya Sanhita and in the Vajasaneyi Sanhita, in the Aiteriya Brahmana and also in the Satapatha Brahmana. The Satapatha Brahmana refers "to Krita as one who takes advantage of mistakes in the game; to the Treta as one who plays on a regular plan; to the Dwapara as one who plans to over reach his fellow player to Askanda a post of the gaming room". In the Aiteriya Brahmana and the Taiteriya Brahmana the word Kali is used in place of Askanda. The Taiteriya Brahmana speaks of the Krita as the master of the gaming hall, to the Treta as one who takes advantage of mistakes, to the Dwapara as one who sits outside, to the Kali as one who is like a post of the gaming house i.e. never leaves it. The Aiteriya Brahmana says :

There is every success to be hoped; for the unluckiest die, the Kali is lying, two others are slowly moving and half fallen, but the luckiest, the Krita, is in full motion." It is clear that in all these places the words have no other meaning than that of throws or dice in gambling.

The sense in which Manu uses these terms may also be noted. He says[1]

> "The Krita, Treta, Dwapara and Kaliyugas are all modes of a King's action; for a King is called a Yuga; while asleep he is Kali; waking he is the Dwapra age; he is intent upon action he is Treta, moving about he is Krita."

[1] Manu IX 301-302.

Comparing Manu with his predecessors one has to admit that a definite change in the connotation of these words have taken place-words which formed part of the gamblers jargon have become terms of Politics having reference to the readiness of the King to do his duty and making a distinction between various types of kings, those who are active, those who are intent on action, those who are awake and those who are sleeping i.e. allowing society to go to dogs.

The question is what are the circumstances that forced the Brahmins to invent the theory of Kali Yuga ? Why did the Brahmins make Kali Yuga synonymous with the degraded state of Society ? Why Manu calls a sleeping ruler King Kali ? Who was the King ruling in Manu's time ? Why does he call him a sleeping King ? These are some of the riddles which the theory of Kali Yuga gives rise to.

There are other riddles besides these which a close examination of the Kali Yuga theory presents us with. When does the Kali age actually commence ?

There are various theories about the precise date when the Kali Yuga began. The Puranas have given two dates. Some say that it commenced about the beginning of the XIV century B.C. Others say that it began on the 18th February 3102 B.C. a date on which the war between the Kauravas and Pandavas is alleged to have been found. As pointed out by Prof. Iyengar there is no evidence to prove that the Kali era was used earlier than the VII century A.D. anywhere in India. It occurs for the first time in an inscription belonging to the reign of Pulakeshi II who ruled at Badami between 610 and 642 A.D. It records two dates the Saka date 556 and the Kali date 3735. These dates adopt 3102 B.C. as the starting date of Kali Yuga. This is wrong. The date 3102 B.C. is neither the date of the Mahabharata war nor is the date of the commencement of the Kali Yuga. Mr. Kane has conclusively proved. According to the most positive statements regarding the king of different dynasties that have ruled from Parikshit the son of the Pandavas the precise date of the Mahabharata War was 1263 B.C. It cannot be 3102 B.C. Mr. Kane has also shown that the date 3102 B.C. stands for the beginning of the Kalpa and not for the beginning of Kali and that the linking up of Kali with the date 3102 B.C. instead of with the Kalpa was an error due to a misreading or a wrong transcription the term *Kalpadi* into *Kalyadi*. There is thus no precise date which the Brahmins can give for the commencement of the Kali Age. That there should be precise beginning which can be assigned to so remarkable an event is a riddle.

But there are other riddles which may be mentioned.

There are two dogmas associated with the Kali Age. It is strongly held by the Brahmans that in the Kali Age there are only two Varnas— the first and the last—the Brahmins and the Shudras. The two middle ones Kshatriyas and Vaishyas they say are non-existent. What is the basis of this dogma ? What does this dogma mean ? Does this mean that these Varnas were lost to Brahmanism or does this mean that they ceased to exist ?

Which is the period of India's history which in fact accords with this dogma ?

Does this mean that the loss of these two Varnas to Brahmanism marks the beginning of Kali Yuga ?

The second dogma associated with the theory of the Kali Yuga is called Kali Varjya—which means customs and usages which are not to be observed in the Kali Age. They are scattered in the different Puranas. But the Adityapurana has modified them and brought them in one place. The practices which come under Kali Varjya are given below[1] :

1. To appoint the husband's brother for procreating a son on a widow[2].

"2. The remarriage of a (married) girl (whose marriage is not consummated) and of one (whose marriage was consummated) to another husband (after the death of the first)."[3]

3. [4]The marriage with girls of different Varna among persons of the three twice-born classes."[5]

"4. [6]The killing even in a straight fight of Brahmanas that have become desperadoes.[7]"

"5. The acceptance (for all ordinary intercourse such as eating with him) of a twice-born person who is in the habit of voyaging over the sea in a ship, even after he has undergone a prayascitta[8].

[1] Kali Varjya, P. V. Kane, pp. 8-16.

[2] This refers to the practice of *niyoga,* which was allowed by Gautama (18-9-14, Narada stripuma verse 58), Yajnavalkya (I. 68-69) though it was condemned by Manu (9.64-68), and Brahaspati.

[3] This refers to re-marriage of widows. Narada (stripumsa, verses 98-100) allowed re-marriage of even Brahmana widows in certain calamities and Parasara did the same while Vasistha (17.74) and Baudhayana-dharma-sutra (IV. 1.18) allow the re-marriage of a girl whose first marriage was not consummated.

The passage is read 'balikaksatayonysca' also; in that case it will mean only 'a married girl whose marriage has not been consummated' while the other reading refers to two kinds of widows (whose marriage is consummated and whose marriage is not so).

[4] Kali Varjya, P. V. Kane, pp. 8-16.

[5] Most ancient smritis allowed anuloma marriages e.g. Baudhayanadharmasutra I. 8. 2-5, Vashishtha I. 24-27, Manu III 14-19, Yajnavalkya 1. 56-57.

[6] Kali Varjya, P. V. Kane, pp. 8-16.

[7] This is a subject which very much exercised the minds of writers on dharma; Manu (8.350.351) Vishnu V. 180-80, Vashishtha (III. 15-18) permit the killing of an atatayibrahmans, while Sumantu says 'there is no sin in killing an attatayin, except a brahmana and a cow', and so forbids the killing even of an atatayi-brahmana. Vide Mitaksara on Yaj. II. 21 for a discussion on this.

[8] Baudhayana-dharmasutra 1.1.20 mentions voyage as a practice peculiar to Brahmanas of Northern India and condemns it, by placing it first among Pataniyas (II. 1.41). Some writers say that prohibition applies to one who often crosses the sea as the compound 'nauyathu' shows. Ausanasa says that 'samudraga' is patita (p. 525, of Jivananada).

"6. The initiation for a sattra.

"7. The taking a Kamandalu (a jar for water[1])"

"8. Starting on the Great Journey."[2]

"9. The killing of a cow in the sacrifice called Gomedha;"[3]

"10. The partaking of wine even in the Srautmani sacrifice."[4]

11-12. Licking the ladle (sruc) after the Agnihotra Homa in order to take off the remains of the offerings and using the ladle, in the agnihotra afterwards when it has been so licked."[5]

"13. Entering into the stage of forest hermit as laid down in sastras about it."[6]

"14. Lessening the periods of impurity (due to death and birth) in accordance with the conduct and vedic learning of a man."[7]

"15. Prescribing death as the penance (Prayascitta) for Brahmanas."[8]

"16. Explanation (by secretly performed Prayascittas) of the mortal sins other than theft (of gold) and the sin of contact (with those guilty of Mahapatakas)."[9]

"17. The act of offering with Mantras animal flesh to the bridegroom, the guest, and the pitrs."[10]

[1] Baudhayana-dharmasutra (1.3-4) prescribes among the observances of Snatakas (those who have finished their study and have married or are about to marry) that they should carry a (earthen or wooden) pot filled with water Vashishtha 12.14 and Manu 4.36 and Yaj. I 132 also do the same. The Madanaparijata (pp. 15-16) while 'quoting some of these verses says that 'Kamandaluvidharana' refers to perpetual studenthood, but that is not correct, since in the Naradiya-purana quoted above note 5,) the two are separately mentioned as forbidden.

[2] This refers to the practice of starting towards the north-east in the case of those who had become forest-dwellers (vide Manu VI. 31 and Yaj. 111. 55) and the practice of old men killing themselves by starting on the great journey till the body falls, by falling from a percipice or by entering the Ganges at a holy place like Prayaga or by entering fire. Vide Apararka p. 536 where the Smriti passages allowing this are quoted. Note that Sudraka, the reputed Author of the Mreccchakatika, is said to have entered fire and vide Raghuvamsa 8,94; Atri, verses 218-219 which are quoted even by Medhatithi on Manu V. 88; E. instances of kings throwing themselves into the Ganges at Prayaga.

[3] Vide Sankhayana-srauta 14.15.1, Katyayanasrauta XXII, 11.3-4 and Manu XI. 74.

[4] This is a sacrifice principally to Sutraman (i.e. Indra) in which three cups of wine were offered to the Asvins, Sarasvati and Indra and a Brahmana had to be hired for drinking the remnants of wine offered. Vide Taittiriya—Brahmana 1. 8.6.2, Sankhayana-Srauta 15.15-1-14 and Sabara on Purva mimansa-sutra 111. 5. 14-15.

[5] Vide Tai-Br. II. 1.4. and Satyasadhastrauta for this.

[6] Ap. Dharma-sutra. 11. 9.21. 18. II. 9. 23.2, Manu VI. 1-32, Vashishtha IX. I-II contain elaborate rules about this stage.

[7] Vide Parasara quoted above saying that a Brahmana who is endowed with both vedic learning and agnihotra has to observe Assucha (mourning) only for one day and he who is only learned has to observe it for three days. Vide also Brahaspati quoted by Haradatta on Gautama 14.1. In Kali a flat rule of ten days for all came to be prescribed. Visvarupa on Yaj. III. 30 has an eleborate discussion on this text and ultimately gets rid of it by saying that it is only an arthavada meant to praise the absence of greed and presence of excellent conduct. It is not quite unreasonable to infer that if Visvarupa had attached any value to or known these verses on Kalivarjya he would not have failed to make use of them for explaining away Parasara.

[8] Manu (II. 89 and 146) says that for wilfully killing a Brahmana and drinking wine the Prayachitta is death Gautama 21, 7 says-the same, following Manu.

[9] Manu XI, 54 enumerates contact with those guilty of the four mahapataka, as a fifth mahapataka. Gautama 24 and Vashishtha 25 prescribe secret prayascittas even for mahapatakas like Brahmahatya. This rule says that there are no secret prayascittas in Kali for Brahmahatya, or drinking wine and for incest. Vide Apararka p. 1212 for rules as to who was entitled to secret prayascittas.

[10] Madhuparka was offered to honoured guests among whom the bridegroom was included. Vide Gautama V, 25-35, Yaj. 1. 109. The offering of flesh of various animals in Sraddha was supposed to conduce to the enjoyment of pitrs. Vide Yaj. I. 258-260, Manu III. 123. According to Asvalayana Grhyasutra 1. 24-26 Madhuparka could not be offered without flesh. Vide Vashishtha IV. 5-6.

"18. [1]The acceptance as sons of those other than the *aurasa* (natural) and adopted sons."[2]

"19. Ordinary intercourse with those who incurred the sin of (having intercourse with) women of higher castes, even after they had undergone the Prayascitta for such sin."[3]

"20. The abandonment of the wife of an elderly person (or of one who is entitled to respect) when she has had intercourse with one with whom it is severely condemned."[4]

"21. [5]"Killing oneself for the sake of another."[6]

"22. Giving up food left after one has partaken of it."[7]

"23. Resolve to worship a particular idol for life (in return for payment)"[8].

"24. Touching the bodies of persons who are in impurity due to death after the charred bones are collected"[9].

"25. The actual slaughter by Brahmanas of the sacrificial animal."

"26. [10]Sale of the Soma plant by Brahamanas."[11]

"27. Securing food even from a Shudra when a Brahamana has had no food for six times of meals (i.e. for three days)."[12]

"28. Permission to (a Brahamana) householder to take cooked food from Shudras if they are his dasas, cowherds, hereditary friends, persons cultivating his land on an agreement to pay part of the produce."[13]

[1] Kane's Kalivarjya pp. 8-16.

[2] Manu 9. 165-80, Yaj. II. 128-132 and others speak of twelve kinds of sons.

[3] Gautama (IV. 20 and 22-23) severely condemns the intercourse of men of lower castes with women of higher castes and holds that their progeny is *dharmahina*.

[4] Vashishtha 21.10 says 'four kinds of women viz. one who has intercourse with a pupil or with the husband's teacher, or one who kills her husband or commits adultery with a man or degraded caste, should be abandoned.

Yaj. (III. 296-297) is against and says that even such women should be kept, near the house and given starving maintenance. Vide Atri V. 1-5.

[5] Kane's Kalivarjya pp. 8-12.

[6] The Smritis say that a man should run the risk of life for cows and Brahmanas; vide Manu XI. 79 and Vishnu III. 45.

[7] Vashishtha 14.20-21 says that food left after one has partaken of it from what was taken out for oneself or food touched by such leaving should not be eaten. Or this may mean 'giving to another the leavings of food': some smritis permit giving Ucchista to Shudras and the like, which is forbidden here. Vide Gautama X. 61 and Manu X. 125.

[8] Manu III. 152 makes a Brahmana performing worship for money unfit for invitation in sraddha and 'devakrtya'.

[9] Collection of charred bones took place on the fourth day after cremation. Vishnu 19, 10-12; Vaikhanasa-Smartasutra V. 7; Samvarta, verses 38-39.

[10] Kane's Kalivarjya p. 13.

[11] Katyayana Srauta (VII. 6.2-4) says that Soma should be purchased from a Brahmana of the Kautsa gotra or a Shudra; but Manu X. 88 forbids a Brahmana the sale of Soma along with many other things even though living by agriculture and the avocations of a Vaishya and Manu (III. 158 and 170) condemns a Brahmana who sells Soma as unfit for being invited at a Sraddha.

[12] Manu XI. 16 allows a Brahmana who has had no food for three-days to take food for one day from one whose actions are low and so does Yaj. III. 43. if we read 'hinakarmana' it would mean 'even by doing what is low' (i.e. by begging or theft or by such actions as are described in Narada, abhyupetya-susrusa, vv. 5-7).

[13] Manu smritis allow a Brahmana to have cooked food from Shudras if they are that Brahmana's dasas, barber, cowherd, or cultivator of his land, hereditary, friends. Vide Gautama 17.6, Manu IV. 253, Yaj. 1. 166 (where the first half is the same as here). Angiras 120, Parasara XI.

"29. [1]Going on a very distant pilgrimage."

"30. Behaviour of a pupil towards his teacher's wife as towards a teacher that is declared in smrtis"[2].

"31. The maintenance by Brahamanas in adversity (by following unworthy avocations) and the mode of livelihood in which a Brahmana does not care to accumulate for tomorrow."[3]

"32. [4]The acceptance of *aranis* (two wooden blocks for producing fire) by Brahmanas (in the Homa at the time of *jatakarma)* in order that all the ceremonies for the child from *jatakarma* to his marriage may be performed therein."[5]

"33. Constant journeys by Brahamanas."

"34. Blowing of fire with the mouth (i.e. without employing a bamboo *dhamni."*[6]

"35. Allowing women who have become polluted by rape, &c, to freely mix in the caste (when they have performed *prayascitta*) as declared in the sastric texts."[7]

"36. [8]Begging of food by a *sannayasin* from persons of all Varnas (including sudra)."[9]

"37. To wait (i.e. not to use) for ten days water that has recently been dug in the ground."

"38. Giving fee to the teacher as demanded by him (at the end of study) according to the rules laid down in the sastra."[10]

"39. "The employment of sudras as cook for Brahmanas and the rest."[12]

"40. Suicide of old people by calling from a precipice or into fire."[13]

[1] Kane's Kalivarjya p. 14.

[2] Manu 11. 210 prescribes that the wives of one's teacher, if they are of the same Varna as the teacher, are to be honoured like the teacher and if they are not of the same Varna then by rising to receive them and by saluting them.

[3] Gautama VII. 1-7, Ap. Dh. S. I. 7.20. 11-17, 21. 4, Yaj. III. 35.44 and others allow a Brahmana to live by the occupations of a Kshatriya or Vaishya in adversity. Manu IV. 7 places before a Brahmana the ideal that he should not accumulate more corn than what is required for three days or for the current day. Both these extremes are forbidden here.

[4] Kane's Kalivarjya p. 14.

[5] The Samsakarya-kaustubha quotes a grhyaphrisista for this.

[6] In Manu IV. 53 also the same prohibition occurs. In Vedic passages blowing at the fire with breath from the mouth direct was allowed. Vide Haradatta on Ap. Dh. S. 1.5.15.20.

[7] Even so late a smrti a Devala's (verse 47) allows a woman raped even by Mlecchas to become pure after prayaschitta for three days. The Adityapurana appears to be most harsh on innocent and unfortunate women.

[8] Kane's Kalivarjya p. 15.

[9] Baudhayana-dharma-sutra II. 10 allows a Sannyasin to beg food from all Varnas, while Manu (VI. 43) and Yaj. 111. 59 prescribe that he should beg in a village in the evening and Vashishtha also (X. 7) requires him to beg at seven houses not selected beforehand. But Vasishta says a little later on (X. 24) that he should subsist on what he would get at the houses of Brahmanas.

[10] Yaj. I. 51 prescribes that a student after finishing Vedic study and performing vratas should give fees to the teacher as the latter desires and should perform the ceremonial bath.

[11] Kane's Kalivarjya p. 15.

[12] The Apastamba-dharmasutra II. 2.3.4 allowed sudras to be cooks for the three higher Varnas under the supervision of aryas.

[13] Vide Item No. 8 above.

"41. Performing Acamana by respectable people in water that would remain even after a cow has drunk it to its heart's content."[1]

"42. Fining witnesses who depose to a dispute between father and son."[12]

"43. Sannyasin should stay where he happened to, be in the evening."[13]

These are the Kali Varjyas set out in the adityapurana.

The strange thing about this code of Kali Varjya is that its significance has not been fully appreciated, it is simply referred to as a list of things forbidden in the Kali Yuga. But there is more than this behind this list of don'ts. People are no doubt forbidden to follow the practices listed in the Kali Varjya Code. The question however is : Are these practices condemned as being immoral, sinful or otherwise harmful to society ? The answer is no. One likes to know why these practices if they are forbidden are not condemned ? Herein lies the riddle of the Kali Varjya Code. This technique of forbidding a practice without condemning it stands in utter contrast with the procedure followed in earlier ages. To take only one illustration. The Apastamba Dharma Sutra forbids the practice of giving all property to the eldest son. But he condemns it. Why did the Brahmins invent this new technics forbid but not condemn ? There must be some special reason for this departure. What is that reason ?

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[1] Vashishtha III. 35 says that water accumulated in a hole on the ground would be fit for *acamana* if it is as much as would quench the thirst of a cow. Vide Manu V. 128 and Yaj I. 192.

[2] Yaj. II. 239 prescribes a fine of three panas for witnesses in disputes between father and son.

[3] This may also mean 'a sannyasin should be at the houses in the evening'.

APPENDIX I

THE RIDDLE OF RAMA AND KRISHNA

Rama is the hero of the Ramayana whose author is Valmiki. The story of the Ramayana is a very short one. Besides it is simple and in itself there is nothing sensational about it.

Rama is the son of Dasharatha the king of Ayodhya the modern Benares. Dasharatha had three wives, Kausalya, Kaikeyi and Sumitra besides several hundred concubines. Kaikeyi had married Dasharatha on terms which were at the time of marriage unspecified and which Dasharatha was bound to fulfil whenever he was called upon by Kaikeyi to do so. Dasharatha was childless for a long time. An heir to the throne was ardently desired by him. Seeing that there was no hope of his begetting a son on any of his three wives he decided to perform a Putreshti Yajna and called the sage Shrung at the sacrifice who prepared pindas and gave the three wives of Dasharatha to eat them. After they ate the pindas three wives became pregnant and gave birth to sons. Kausalya gave birth to Rama, Kaikeyi gave birth to Bharata and Sumitra gave birth to two sons Laxman and Satrughana. In due course Rama was married to Sita. When Rama came of age, Dasharatha thought of resigning the throne in favour of Rama and retiring from kingship. While this was being settled Kaikeyi raised the question of rendering her satisfaction of the terms on which she had married Dasharatha. On being asked to state her terms she demanded that her son Bharata should be installed on the throne in preference to Rama and Rama should live in forest for 12 years. Dasharatha with great reluctance agreed. Bharata became king of Ayodhya and Rama accompanied by his wife Sita and his step brother Laxman went to live in the forest. While the three living in the forest Ravana the king of Lanka kidnapped Sita and took her away and kept her in his palace

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This is a 49-page typed copy placed in a well-bound file along with the MS of 'Symbols of Hinduism'. This riddle does not find place in the original Table of Contents. Hence this is included as an Appendix to this part.—Ed.

Note: Government does not concur with the views expressed in this Chapter.

intending to make her one of his wives. Rama and Laxman then started search of Sita. On the way they meet Sugriva and Hanuman two leading personages of the Vanara (monkey) race and form friendship with them. With their help the place of the abduction was located and with their help they marched on Lanka, defeated Ravana in the battle and rescued Sita. Rama returns with Laxman and Sita to Ayodhya. By that time twelve years had elapsed and the term prescribed by Kaikeyi was fulfilled with the result that Bharata gave up the throne and in his place Rama became the king of Ayodhya.

Such is in brief the outline of the story of the Ramayana as told by Valmiki.

There is nothing in this story to make Rama the object of worship. He is only a dutiful son. But Valmiki saw something extraordinary in Rama and that is why he undertook to compose the Ramayana. Valmiki asked Narada the following question[1] :

> "Tell me Oh ! Narada, who is the most accomplished man on earth at the present time ?"

and then goes on to elaborate what he means by accomplished man. He defines his accomplished man as :

> "Powerful, one who knows the secret of religion, one who knows gratitude, truthful, one who is ready to sacrifice his self interest even when in distress to fulfil a religious vow, virtuous in his conduct, eager to safeguard the interests of all, strong pleasing in appearance with power of self-control, able to subdue anger, illustrious, with no jealousy for the prosperity of others, and in war able to strike terror in the hearts of Gods."

Narada then asks for time to consider and after mature deliberation tells him that the only person who can be said to possess these virtues is Rama, the son of Dasharatha.

It is because of his virtues that Rama has come to be deified.

But is Rama a worthy personality of deification ? Let those who accept him an object worthy of worship as a God consider the following facts.

Rama's birth is miraculous and it may be that the suggestion that he was born from a pinda prepared by the sage Shrung is an allegorical glass to cover the naked truth that he was begotten upon Kausalya by the sage Shrung although the two did not stand in the relationship of husband and wife. In any case his birth if not disreputable in its origin is certainly unnatural.

There are other incidents connected with the birth of Rama the unsavory character of which it will be difficult to deny.

[1] Balakanda Sarga I. slokas 1-5.

Valmiki starts his Ramayana by emphasizing the fact that Rama is an Avatar of Vishnu and it is Vishnu who agreed to take birth as Rama and be the son of Dasharatha. The God Brahma came to know of this and felt that in order that this Rama Avatar of Vishnu be a complete success arrangement shall be made that Rama shall have powerful associates to help him and cooperate with him. There were none such existing then.

The Gods agreed to carry out the command of Brahma and engaged themselves in wholesale acts of fornication not only against Apsaras who were prostitutes not only against the unmarried daughters of Yakshas and Nagas but also against the lawfully wedded wives of Ruksha, Vidhyadhar, Gandharvas, Kinnars and Vanaras and produced the Vanaras who became the associates of Rama.

Rama's birth is thus accompanied by general debauchery if not in his case certainly in the case of his associates. His marriage to Sita is not above comment. According to Buddha Ramayana, Sita was the sister of Rama, both were the children of Dasharatha. The Ramayana of Valmiki does not agree with the relationship mentioned in Buddha Ramayana. According to Valmiki Sita was the daughter of the king Janaka of Videha and therefore not a sister of Rama. This is not convincing for even according to Valmiki she is not the natural born daughter of Janaka but a child found by a farmer in his field while ploughing it and presented by him to king Janaka and brought up by Janaka. It was therefore in a superficial sense that Sita could be said to be the daughter of Janaka. The story in the Buddha Ramayana is natural and not inconsistent with the Aryan rules[1] of marriage. If the story is true, then Rama's marriage to Sita is no ideal to be copied. In another sense Rama's marriage was not an ideal marriage which could be copied. One of the virtues ascribed to Rama is that he was monogamous. It is difficult to understand how such a notion could have become common. For it has no foundation in fact. Even Valmiki refers[2] to the many wives of Rama. These were of course in addition to his many concubines. In this he was the true son of his nominal father Dasharatha who had not only the three wives referred to above but many others.

Let us next consider his character as an individual and as a king.

In speaking of him as an individual I will refer to only two incidents one relating to his treatment of Vali and other relating to his treatment of his own wife Sita. First let us consider the incident of Vali.

[1] Among the Aryans marriages between brothers and sisters were allowed.

[2] Ayodhyakanda Sarga VIII sloka 12.

Vali and Sugriva were two brothers. They belonged to the Vanar race and came from a ruling family which had its own kingdom the capital of which was Kishkindha. At the time when Sita was kidnapped by Ravana, Vali was reigning at Kishkindha. While Vali was on the throne he was engaged in a war with a Rakshasa by name Mayavi. In the personal combat between the two Mayavi ran for his life. Both Vali and Sugriva pursued him. Mayavi entered into a deep cavity in the earth, Vali asked Sugriva to wait at the mouth of the cavity and himself went inside. After sometime a flood of blood came from inside the cavity. Sugriva concluded that Vali must have been killed by Mayavi and came to Kishkindha and got himself declared king in place of Vali and made Hanuman his Prime Minister.

As a matter of fact, Vali was not killed. It was Mayavi who was killed by Vali. Vali came out of the cavity but did not find Sugriva there. He proceeded to Kishkindha and to his great surprise he found that Sugriva had proclaimed himself king. Vali naturally became enraged at this act of treachery on the part of his brother Sugriva and he had good ground to be. Sugriva should have ascertained, should not merely have assumed that Vali was dead. Secondly Vali had a son by name Angad whom Sugriva should have made the king as the legitimate heir of Vali. He did neither of the two things. His was a clear case of usurpation. Vali drove out Sugriva and took back the throne. The two brothers became mortal enemies.

This occurred just after Ravana had kidnapped Sita. Rama and Laxman were wandering in search of her. Sugriva and Hanuman were wandering in search of friends who could help them to regain the throne from Vali. The two parties met quite accidentally. After informing each other of their difficulties a compact was arrived at between the two. It was agreed that Rama should help Sugriva to kill Vali and to establish him on the throne of Kishkindha. On the part of Sugriva and Hanuman it was agreed that they should help Rama to regain Sita. To enable Rama to fulfil his part of the compact it was planned that Sugriva should wear a garland in his neck as to be easily distinguishable to Rama from Vali and that while the dual was going on Rama should conceal himself behind a tree and then shoot an arrow at Vali and kill him. Accordingly a dual was arranged, Sugriva with a garland in his neck and while the daul was on, Rama standing behind a tree shot Vali with his arrow and opened the way to Sugriva to be the king of Kishkindha. This murder of Vali is the greatest blot on the character of Rama. It was a crime which was thoroughly unprovoked, for Vali had no quarrel with Rama. It was most cowardly act for Vali was unarmed. It was a planned and premeditated murder.

Consider his treatment of his own wife Sita. With the army collected for him by Sugriva and Hanuman, Rama invades Lanka. There too he plays the same mean part as he did as between the two brothers Vali and Sugriva. He takes the help of Bibhishana the brother of Ravana promising him to kill Ravana and his son and place him on the vacant throne. Rama kills Ravana and also his son Indrajit. The first thing Rama does after the close of the fight is to give a decent burial to the dead body of Ravana. Thereafter he interests himself in the coronation of Bibhishana and it is after the coronation is over that he sends Hanuman to Sita and that took to inform her that he, Laxman and Sugriva are hale and hearty and that they have killed Ravana.

The first thing he should have done after disposing of Ravana was to have gone to Sita. He does not do so. He finds more interest in the coronation than in Sita. Even when the coronation is over he does not go himself but sends Hanuman. And what is the message he sends ? He does not ask Hanuman to bring her. He asks him to inform her that he is hale and hearty. It is Sita who expresses to Hanuman her desire to see Rama, Rama does not go to Sita his own wife who was kidnapped and confined by Ravana for more than 10 months. Sita is brought to him and what does Rama say to Sita when he sees her ? It would be difficult to believe any man with ordinary human kindness could address to his wife in such dire distress as Rama did to Sita when he met her in Lanka if there was not the direct authority of Valmiki. This is how Rama addressed her[1] :

> "I have got you as a prize in a war after conquering my enemy your captor. I have recovered my honour and punished my enemy. People have witnessed my military prowess and I am glad my labours have been rewarded. I came here to kill Ravana and wash off the dishonour. I did not take this trouble for your sake."

Could there be anything more cruel than this conduct of Rama towards Sita ? He does not stop there. He proceeded to tell her :

> "I suspect your conduct. You must have been spoiled by Ravana. Your very sight is revolting to me. On you daughter of Janaka, I allow you to go anywhere you like. I have nothing to do with you. I conquerred you back and I am content for that was my object. I cannot think that Ravana would have failed to enjoy a woman as beautiful as you are."

Quite naturally Sita calls Rama low and mean and tells him quite plainly that she would have committed suicide and saved him all this trouble if when Hanuman first came he had sent her a message that he had abandoned her on the ground that she was kidnapped. To, give

[1] Yudhakanda Sarga II5 slokas 1-23.

him no excuse Sita undertakes to prove her purity. She enters the fire and comes out unscathed. The Gods satisfied with this evidence proclaim that she is pure. It is then that Rama agrees to take her back to Ayodhya.

And what does he do with her when he brings her back to Ayodhya. Of course, he became king and she became queen. But while Rama remained king, Sita ceased to be a queen very soon. This incident reflects great infamy upon Rama. It is recorded by Valmiki in his Ramayana that some days after the coronation of Rama and Sita as king and queen Sita conceived. Seeing that she was carrying some residents of evil disposition began to calumniate Sita suggesting that she must have conceived from Ravana while she was in Lanka and blaming Rama for taking such a woman back as his wife. This malicious gossip in the town was reported by Bhadra, the Court joker to Rama. Rama evidently was stung by this calumny. He was overwhelmed with a sense of disgrace. This is quite natural. What is quite unnatural is the means he adopts of getting rid of this disgrace. To get rid of this disgrace he takes the shortest cut and the swiftest means—namely to abandon her, a woman in a somewhat advanced state of pregnancy in a jungle, without friends, without provision, without even notice in a most treacherous manner. There is no doubt that the idea of abandoning Sita was not sudden and had not occurred to Rama on the spur of the moment. The genesis of the idea the developing of it and the plan of executing are worth some detailed mention. When Bhadra reports to him the gossip about Sita which had spread in the town Rama calls his brothers and tells them his feelings. He tells them Sita's purity and chastity was proved in Lanka, that Gods had vouched for it and that he absolutely believed in her innocence, purity and chastity. "All the same the public are calumniating Sita and are blaming me and putting me to shame. No one can tolerate such disgrace. Honour is a great asset, Gods as well as great men strive to maintain it in tact. I cannot bear this dishonour and disgrace. To save myself from such dishonour and disgrace I shall be ready even to abandon you. Don't think I shall hesitate to abandon Sita."

This shows that he had made up his mind to abandon Sita as the easiest way of saving himself from public calumny without waiting to consider whether the way was fair or foul. The life of Sita simply did not count. What counted was his own personal name and fame. He of course does not take the manly course of stopping this gossip, which as a king he could do and which as a husband who was convinced of his wife's innocence he was bound to it. He yielded to the public gossip

and there are not wanting Hindus who use this as ground to prove that Rama was a democratic king when others could equally well say that he was a weak and cowardly monarch : Be that as it may that diabolical plan of saving his name and his fame he discloses to his brothers but not to Sita the only person who was affected by it and the only person who was entitled to have notice of it. But she is kept entirely in the dark. Rama keeps it away from Sita as a closely guarded secret and was waiting for an opportunity to put his plan into action. Eventually the cruel fate of Sita gives him the opportunity he was waiting for. Women who are carrying exhibit all sorts of cravings for all sorts of things. Rama knew of this. So one day he asked Sita if there was anything for which she felt a craving. She said yes. Rama said what was it. She replied that she would like to live in the vicinity of the Ashrama of sage on the bank of the river Ganges and live on fruits and roots at least for one night. Rama simply jumped at the suggestion of Sita and said "Be easy my dear I shall see that you are sent there tomorrow". Sita treats this as an honest promise by a loving husband. But what does Rama do ? He thinks it is a good opportunity for carrying through his plan of abandoning Sita. Accordingly he called his brothers to a secret conference and disclosed to them his determination to use this desire of Sita as an opportunity to carry out his plan of abandonment of Sita. He tells his brothers not to intercede on behalf of Sita, and warns them that if they came in his way he would look upon them as his enemies. Then he tells Laxman to take Sita in a chariot next day to the Ashram in the jungle on the bank of the river Ganges and to abandon her there. Laxman did not know how he could muster courage to tell Sita what was decided about Sita by Rama. Sensing his difficulty Rama informs Laxman that Sita had already expressed her desire to spend some time in the vicinity of an Ashrama on the bank of the river and eased the mind of Laxman. This confabulation took place at night. Next morning Laxman asked Sumanta to yoke the horses to the chariot. Sumanta informs Laxman of his having done so. Laxman then goes into the palace and meets Sita and reminds her of her having expressed her desire to pass some days in the vicinity of an Ashrama and Rama having promised to fulfil the same and tells her of his having been charged by Rama to do the needful in the matter. He points to her the chariot waiting there and says 'let us go!' Sita jumps into the chariot with her heart full of gratitude to Rama. With Laxman as her companion and Sumanta as coachman the chariot proceeds to its appointed place. At last they were on the bank of the Ganges and were ferried across by the fishermen. Laxman fell at Sita's feet, and with hot tears issuing

from his eyes he said 'Pardon me, O, blameless queen, for what I am doing. My orders are to abandon you here, for the people blame Rama for keeping you in his house."

Sita abandoned by Rama and left to die in a jungle went for shelter in the Ashrama of Valmiki which was near about. Valmiki gave her protection and kept her in his Ashram. There in course of time Sita gave birth to twin sons, called Kusa and Lava. The three lived with Valmiki. Valmiki brought up the boys and taught them to sing the Ramayana which he had composed. For 12 years the boys lived in the forest in the Ashrama of Valmiki not far from Ayodhya where Rama continued to rule. Never once in those 12 years this model husband and loving father cared to inquire what had happened to Sita whether she was living or whether she was dead. Twelve years after Rama meets Sita in a strange manner. Rama decided to perform a Yadna and issued invitation to all the Rishis to attend and take part. For reasons best known to Rama himself no invitation was issued to Valmiki although his Ashram was near to Ayodhya. But Valmiki came to the Yadna of his own accord accompanied by the two sons of Sita introducing them as his disciples. While the Yadna was going on the two boys used to perform recitations of Ramayana in the presence of the Assembly. Rama was very pleased and made inquiries when he was informed that they were the sons of Sita. It was then he remembered Sita and what does he do then ? He does not send for Sita. He calls these innocent boys who knew nothing about their parents' sin, who were the only victims of a cruel destiny to tell Valmiki that if Sita was pure and chaste she could present herself in the Assembly to take a vow thereby remove the calumny cast against herself and himself. This is a thing she had once done in Lanka. This is a thing she could have been asked to do again before she was sent away. There was no promise that after this vindication of her character Rama was prepared to take her back. Valmiki brings her to the Assembly. When she was in front of Rama, Valmiki said, 'O, son of Dasharatha, here is Sita whom you abandoned in consequence of public disapprobation. She will now swear her purity if permitted by you. Here are your twin-born sons bred up by me in my hermitage.' 'I know,' said Rama 'that Sita is pure and that these are my sons. She performed an ordeal in Lanka in proof of her purity and therefore I took her back. But people here have doubts still and let Sita perform an ordeal here that all these Rishis and people may witness it."

With eyes cast down on the ground and with hands folded Sita swore "As I never thought of any man except Rama even in my mind, let mother Earth open and bury me. As I always loved Rama in words,

in thoughts, and in deed, let mother Earth open and bury me ! As she uttered the oath, the earth verily opened and Sita was carried away inside seated on a golden *simhasana* (throne). Heavenly flowers fell on Sita's head while the audience looked on as in a trance.

That means that Sita preferred to die rather than return to Rama who had behaved no better than a brute.

Such is the tragedy of Sita and the crime of Rama the God.

Let me throw some search light on Rama the King.

Rama is held out as an ideal King. But can that conclusion be said to be founded in fact ?

As a matter of fact Rama never functions, as a King. He was a nominal King. The administration as Valmiki states were entrusted to Bharata his brother. He had freed himself from the cares and worries about his kingdom and his subjects. Valmiki has very minutely described[1] the daily life of Rama after he became King. According to that account the day was divided into two parts. Up to forenoon and afternoon. From morning to forenoon he was engaged in performing religious rites and ceremonies and offering devotion. The afternoon he spent alternately in the company of Court jesters and in the Zenana. When he got tired of the Zenana he joined the company of jesters and when he got tired of jesters he went back to the Zenana[2]. Valmiki also gives a detailed description of how Rama spent his life in the Zenana. This Zenana was housed in a park called Ashoka Vana. There Rama used to take his meal. The food according to Valmiki consisted of all kinds of delicious viands. They included flesh and fruits and liquor. Rama was not a teetotaller. He drank liquor copiously and Valmiki records that Rama saw to it that Sita joined with him in his drinking bouts[3]. From the description of the Zenana of Rama as given by Valmiki it was by no means a mean thing. There were Apsaras, Uraga and Kinnari accomplished in dancing and singing. There were other beautiful women brought from different parts. Rama sat in the midst of these women drinking and dancing. They pleased Rama and Rama garlanded them. Valmiki calls Rama as a 'Prince among women's men'. This was not a day's affair. It was a regular course of his life.

As has already been said Rama never attended to public business. He never observed the ancient rule of Indian kings of hearing the wrongs of his subjects and attempting to redress them. Only one occasion has been recorded by Valmiki when he personally heard the grievance of his subjects. But unfortunately the occasion turned out to be a tragic one. He took upon himself to redress the wrong but. in

[1] Uttara Kanda Sarga 42 sloka 27.

[2] Uttara Kanda Sarga 43 sloka 1.

[2] *Ibid.,* Sarga 42 sloka 8.

doing so committed the worst crime that history has ever recorded. The incident is known as the murder of Sambuka the Shudra. It is said by Valmiki that in Rama's reign there were no premature deaths in his kingdom. It happened, however, that a certain Brahman's son died in a premature death. The bereaved father carried his body to the gate of the king's palace, and placing it there, cried aloud and bitterly reproached Rama for the death of his son, saying that it must be the consequence of some sin committed within his realm, and that the king himself was guilty if he did not punish it; and finally threatened to end his life there by sitting *dharna* (hunger-strike) against Rama unless his son was restored to life. Rama thereupon consulted his council of eight learned Rishis and Narada amongst them told Rama that some Shudra among his subjects must have been performing Tapasya (ascetic exercises), and thereby going against Dharma (sacred law); for according to it the practice of Tapasya was proper to the twice-born alone, while the duty of the Shudras consisted only in the service of the twice-born. Rama was thus convinced that it was the sin committed by a Shudra in transgressing Dharma in that manner, which was responsible for the death of the Brahmin boy. So, Rama mounted his aerial car and scoured the countryside for the culprit. At last, in a wild region far away to the south he espied a man practising rigorous austerities of a certain kind. He approached the man, and with no more ado than to enquire of him and inform himself that he was a Shudra, by name Sambuka who was practising Tapasya with a view to going to heaven in his own earthly person and without so much as a warning, expostulation or the like addressed to him, cut off his head. And lo and behold ! that very moment the dead Brahman boy in distant Ayodhya began to breathe again. Here in the wilds the Gods rained flowers on the king from their joy at his having prevented a Shudra from gaining admission to their celestial abode through the power of the Tapasya which he had no right to perform. They also appeared before Rama and congratulated him on his deed. In answer to his prayer to them to revive the dead Brahman boy lying at the palace gate in Ayodhya, they informed him that he had already come to life. They then departed. Rama thence proceeded to the Ashrama which was nearby of the sage Agastya, who commended the step he had taken with Sambuka, and presented him with a divine bracelet. Rama then returned to his capital.

Such is Rama.

II

Now about. Krishna.

He is the hero of the Mahabharata. Really speaking the Mahabharata is principally connected with the Kauravas and the Pandavas. It is the story of the war fought by the two for right to the kingdom which belonged to their ancestors. They should be the principal characters. But they are not. It is Krishna who is the hero of the epic. This is a little strange thing. But what is stranger still is the possibility not being a contemporary of the Kauravas and Pandavas. Krishna was the friend of the Pandavas who had their empire. Krishna was the enemy of Kansa who also had his empire. It does not seem possible that two such empires should subsist side by side at once and at the same time. Secondly, in the Mahabharata there is nothing to show that there was any intercourse between the two empires. The two stories of Krishna and the Pandavas have been mixed together at some later date in order to provide Krishna with a larger theater to play a bigger part. The mixture of the two stories is the result of a deliberate design on the part of Vyas to glorify Krishna and to raise him above all.

In the hands of Vyas Krishna is God among men. That is why he is made the hero of the Mahabharata. Does Krishna really deserve to be called God among men ? A short sketch of his life alone will help to give a correct answer. Krishna was born at Mathura at midnight on the 8th day of the month of Bhadra. His father was Vasudeva of the Yadu race, and his mother Devaki, daughter of Devaka, the brother of Ugrasen, king of Mathura. Ugrasen's wife had an illicit connection with Drumila the Danava king of Saubha. From this illicit connection was born Kansa who was in a sense the cousin of Devaki. Kansa imprisoned Ugrasen and usurped the throne of Mathura. Having heard from Narada or *Daivavani,* a voice from Heaven that Devaki's eighth child would kill him, Kansa imprisoned both Devaki and her husband and killed six of their children as they were born one after another. The seventh child, Balarama, was miraculously transferred from Devaki's womb to that of Rohini, another wife of Vasudeva. When the eighth child, Krishna, was born, he was secretly borne by his father to the other side of the river Yamuna, where Nanda and his wife Yasoda, natives of Vraja, were then living. The Yamuna rolled back her waters to make way for the divine child, the Ananta, the chief of serpents protected him with his ample hood from the heavy torrent of rain that was then falling. By a previous arrangement, Vasudeva exchanged his son for Nanda's newly born daughter, Yogindra or Mahamaya, and

presented the latter to Kansa as his eighth child, but she flew away, telling him that the child which is being brought up by Nanda and Yasoda would kill him. This led Kansa to make a series of unsuccessful attempts to kill the child Krishna. With this object he sent to Vraja a number of Asuras in various forms. The killing of these Asuras and number of other heroic deeds, impossible for an ordinary human child, are the chief staple of the Puranic account of Krishna's early life. Some of them are mentioned in the Mahabharata also. As might be expected, the authorities differ largely in their narration of these facts. I mention only some of them, following chiefly the later authorities.

The first or one of the first of these is the killing of Putana. She was Kansa's nurse and was sent by him to kill Krishna in the form of a female vulture, according to Harivamsa, and of a beautiful woman according to the Bhagavata. As she pretending to suckle Krishna, put her poisoned breast into his mouth, he sucked it so powerfully as to draw out her very life-blood so that she fell down with an yell and died.

Krishna performed another of these feats when he was only three months old. It was the breaking of a *Sakata,* a cart which was used as a cupboard and had several jars and pans, full of milk and curd, ranged on it. According to the Harivamsa Sakata was an Asura sent by Kansa and had entered the cart intending to crush the infant Krishna by its weight. However, Yasoda had placed the boy under the cart and gone to bathe in the Yamuna. On her return she was told that he had kicked against it and broken it to pieces with all that lay on it. This event surprised and frightened Yasoda, and she offered pujas to avert the evils threatened by it.

When Putana and Sakata's attempts to kill Krishna having failed, Kansa sent another of his emissaries an asura named Trinavarta, to attempt the same task. He came in the form of a bird and carried aloft the divine child, then only a year old. But he soon dropped down dead with the child safe and holding his throat tightly.

The next feat was the breaking of two arjuna trees growing side by side. They are described as the bodies of two Yakshas who were converted into this form by a curse, and who were released by this feat of Krishna. When he had learnt to crawl about and could hardly be kept out of mischief Yasoda tied him with a rope to a wooden mortar and went to mind her household duties. When she was out of sight, Krishna began to drag the mortar after him till it stuck fast between the trees. Still pulling the heavy weight after him, he uprooted the trees and made them fall down with a tremendous noise, himself remaining unhurt by them.

Now these events filled Nanda with fear, and he seriously thought of leaving Vraja and moving to another settlement. While he was thus thinking, the place was infested with wolves which made great havoc among the cattle and made it quite unsafe. This fixed the wavering intention of the nomads and they moved with all their belongings to the pleasant woodland named Vrindavan. Krishna was then only seven years old.

After his removal to this new settlement, Krishna killed quite a large number of Asuras. One of them was Aristha, who came in the form of a bull; another, Kesin, who was disguised as a horse. Five others, Vratrasura, Bakasura, Aghasura, Bhomasura and Sankhasura, the last a Yaksha. More important than these was Kaliya, a snake chief, who lived with his family in a whirlpool of the Yamuna and thus poisoned its water. Krishna one day threw himself on Kaliya's hood and danced so wildly as to make him vomit blood. He would thus have killed him, but on the intervention of the snake's family, he spared him and allowed him to move away to another abode.

The subjugation of Kaliya was followed by Vastra-harana, the carrying away of clothes, a hard nut to crack for worshippers and admirers of the Puranic Krishna. The whole narration is so obscene, that even the merest outlines will, I fear, be felt to be indelicate. But I must give them in as decent a form as is possible, to make my brief account of Krishna's doings as full as I can. Some Gopies had dived into the waters of the Yamuna for a bath, leaving their clothes on the banks, as is said to be still the custom in some parts of the country. Krishna seized the clothes and with them climbed upon a tree on the riverside. When asked to return them, he refused to do so unless the women approached the tree and each begged her own dress for herself. This they could do only by coming naked out of the water and presenting themselves naked before Krishna. When they did this, Krishna was pleased and he gave them their clothes. This story is found in the Bhagavata.

The next of Krishna's feats was the uplifting of the Govardhan Hill. The Gopas were about to celebrate their annual sacrifices to Indra, the God of rain, and began to make grand preparations for it. Krishna pointed out to them that as they were a pastoral and not an agricultural tribe, their real Gods were kine, hills and woods, and them only they should worship, and not such Gods as the rain-giving Indra. The Gopas were convinced, and giving up their intention of worshipping Indra celebrated a grand sacrifice to the hill Govardhan, the nourisher of kine, accompanied with feasting and dancing. Indra was as he could not but be greatly enraged at this affront offered to him, and as

punishment, he poured rain on the Gopa settlement for seven days and nights continually. Krishna, nothing daunted, uprooted the hill and held it up as an umbrella over the settlement and thus protected the Gopas and their cattle from the ruinous effects of Indra's wrath. As to the jealousy between Indra and the Krishna of the Rig-Veda and that between the former and the Vishnu of the Satapatha Brahmana, I have already spoken in my first lecture.

Krishna's youthful career was full of illicit intimacy with the young women of Brindaben which is called his Rasalila. Rasa is a sort of circular dance in which the hands of the dancers, men and women, are joined together. It is said to be still prevalent among some of the wild tribes of this country. Krishna, it is stated, was in the habit of often enjoying this dance with the young Gopis of Brindaben, who loved him passionately. One of these dances is described in the Vishnu Purana, the Harivamsa and the Bhagavata. All these authorities interpret the Gopi's love for Krishna as piety—love to God, and see nothing wrong in their amorous dealings with him—dealings which, in the case of any other person, would be highly reprehensible according to their own admission. All agree as to the general character of the affair—the scene, the time and season, the drawing of the women with sweet music, the dance, the amorous feelings of the women for Krishna, and their expression in various ways. But while the Vishnu Purana tries— not always successfully—to keep within the limits of decency, the Harivamsa begins to be plainly indecent, and. the Bhagavata throws away all reserve and revels in indecency.

Of all his indecencies the worst is his illicit life with one Gopi by name Radha. Krishna's illicit relations with Radha are portrayed in the Brahmavaivarta Purana. Krishna is married to Rukmani the daughter of King Rukmangad. Radha was married to ..... . Krishna who abandons his lawfully wedded wife Rukmini and seduces Radha wife of another man and lives with her in sin without remorse.

Krishna was also a warrior and a politician even at a very early age, we are told, when he was in his twelfth year. Every one of his acts whether as a warrior or as a politician was an immoral act. His first act in this sphere was the assassination of his maternal uncle Kamsa. 'Assassination' is not too strong a term for it, for though Kamsa had given him provocation, he was not killed in the course of a battle or even in a single combat. The story is that having heard God Krishna's youthful feats at Brindaban, Kamsa got frightened and determined to secure his death by confronting him with a great athelete in an open exhibition of arms. Accordingly he announced the celebration of a *dhanuryajna* a bow sacrifice, and invited Krishna, Balarama and their

Gopa friends to it. Akrura, an adherent of Krishna, but an officer of Kamsa, was deputed by the latter to bring the brothers to Mathura. They came, determined to kill Kamsa. He had provoked not only them, but other Yadavas also, whom his persecution had compelled to leave Mathura. The brothers were therefore supported by a conspiracy against him. Having arrived at Mathura, they desired to change their simple Gopa dress for a more decent one, and asked for clothes from Kamsa's washerman, whom they met in the street. As the man behaved insolently with them, they killed him and took from his stock whatever clothes they liked. They then met Kubja, a hunch-backed woman who served as Kamsa's perfumer. At their request she annointed them with sandal paste and in return was cured by Krishna of her bodily deformity. The Bhagvata makes him visit her on a subsequent occasion and describes his union with her with its characteristic indecency. However, on the present occasion, the brothers annointed by Kubja and garlanded by Sudama, a flower-seller, entered the place of sacrifice and broke the great bow to which the sacrifice was to be offered. The frightened Kamsa sent an elephant named Kuvalayapida to kill them. Krishna killed the elephant and entered the arena. There the brothers encountered Kamsa's chosen athletes, Chanura, Mustika, Toshalaka and Andhra. Krishna killed Chanura and Toshalaka and Balarama the other two. Frustrated in his plan of securing Krishna's death by stratagem Kamsa ordered the brothers and their Gopa friends to be turned out and banished from his kingdom, their herds to be confiscated and Vasudeva, Nanda and his own father Ugrasen to be assassinated. At this Krishna got upon the platform on which Kamsa was seated, and seizing him by the hair, threw him down on the ground and killed him. Having consoled Kamsa's weeping wives he ordered a royal cremation for him, and refusing the kingdom offered him by Ugrasen, installed the latter on the throne and invited his banished relatives to return to Mathura.

The next episode is Krishna's fight with Jarasandha, emperor of Magadha, and Kalayavana. Jarasandha was the son-in-law of Kamsa. Enraged by Krishna's assassination of Kamsa, his son-in-law, Jarasandha is said to have invaded Mathura seventeen times and to have been every time repulsed by Krishna. Fearing, however, that an eighteenth invasion would be disastrous to the city, Krishna removed the Yadavas to Dwarka at the west end of Gujarat Peninsula. After the removal of the Yadavas from Mathura, the city was besieged by Kalayavana at the instigation of Jarasandha. While pursuing the unarmed Krishna, however, out of the city, the invader was burnt to ashes, by fire issuing from the eyes of king Muchakunda, who had

been sleeping in a mountain cave and whom he had awakened with a kick mistaking him for Krishna. Krishna defeated the army of Kalayavana but while flying to Dwaraka with the booty, he was overtaken by Jarasandha. He, however, evaded his enemy by climbing a hill and flying to Dwaraka after jumping down from it.

Krishna was now, for the first time, married. He married Rukmini, daughter of Bhishmaka, king of Vidarbha. Her father, at Jarasandha's advice, was making preparations to get her married to Sishupala, Krishna's cousin and king of Chedi. But Krishna carried her off on the day before the proposed marriage. The Bhagavata says she had fallen in love with Krishna and had addressed a love letter to him. This does not seem to be true. For Krishna did not remain a true and faithful husband of Rukmini. Rukmini was gradually followed by an enormously vast army of co-wives till the number of Krishna's consorts rose to sixteen thousand one hundred and eight. His children numbered one lakh and eighty-thousand. The chief of his wives were the well-known eight, Rukmini, Satyabhama, Jambavati, Kalindi, Mitrabinda, Satya, Bhadra, and Lakshmana. The remaining sixteen thousand and one hundred were married to him on the same day. They belonged originally to the harem of king Naraka of Pragjyotish whom Krishna defeated and killed at the invitation of Indra, whose mother's ear-rings had been carried away by Naraka. While paying a visit after the battle to Indra's heaven in company with Satyabhama, this lady took fancy to Indra's famous parijat tree. To oblige his wife, Krishna had to fight with the God whom he had just favoured. Indra, though the chief of the Vedic Gods, and though he was helped by the latter on this occasion was indeed no match for the 'Incarnation of the Supreme Being' and was forced to part with his favourite flower-tree, which was thus carried to Dwarka and planted there. The story of how he obtained his chief eight wives is very interesting. The story of how he got Rukmini is already told. Satyabhama was the daughter of Satyajit, a Yadava chief who gave her away in marriage to Krishna because he was afraid of him and wished to buy his favour. Jambavati was the daughter of Jambavna, a bear chief, against whom Krishna waged a long war to recover a previous gem he had taken away from a Yadava. Jambavana was defeated and presented his daughter to Krishna, as a peace-offering. Kalindi went through a series of austerities in order to get Krishna as her husband and her devotion was rewarded by the marriage she had sought. Mitrabinda was a cousin of Krishna and was carried off by him from the Svayamvara grounds. Satya was the daughter of Nagnajit, king of Ayodhya and was won by Krishna when he had achieved a brave feat of arms, namely, killing a number of

naughty bulls belonging to Nagnajit. Bhadra was another cousin of Krishna and was married by him in the usual way. Lakshmana was the daughter of Brihatsena, king of Madra. and was carried off by him from the Swayamavara grounds.

Krishna's part in Arjuna's marriage with Subhadra, sister of Balarama and Krishna's half sister is noteworthy. In the course of his travels Arjuna arrived at the holy place of Prabhasa, and was received by Krishna on the hill of Raivataka. There he was enamoured of Subhadra and asked Krishna how he could get her. Krishna advised him to carry her off as a brave Kshatriya without depending upon the chances of a Svayamvaram, the usual Kshatriya form of marriage. The Yadavas were at first enraged at this outrage, but when Krishna convinced them that Arjuna would be a very worthy husband for Subhadra, and that by carrying her off he had done nothing unworthy of a hero, they consented to the union. And how could they do otherwise ? Krishna did not simply argue like us, poor talkers. He, as we have already seen, had backed his precepts by his example.

It is interesting to note how Krishna disposed of Jarasandha and Sishupala who created trouble at the Rajasuya performed by Yudhisthira. Jarasandha had imprisoned a large number of kings and intended to sacrifice them to Rudra. Unless he was killed and the imprisoned princes released and given an opportunity to pay homage to Yudhisthira, the latter's claim as emperor could not be established. Krishna therefore proceeded with Bhima and Arjuna to Rajagriha, Jarasandha's capital, and challenged him to a single combat with anyone of them he might choose. Such a challenge could not be refused by a Kshatriya, and Jarasandha, at the anticipation of death at his opponent's hand, declared his son Sahadev as his heir apparent and chose Bhima as his opponent. The combat lasted thirteen days, and Jarasandha at length met with a painful death at his rival's hand. Having put Sahadev on his father's throne, and invited the released princes to attend Yudhisthira's Rajasuya, Krishna and his friends returned to Indraprastha.

In due course the Rajasuya came off. Of the various functions and duties connected with the ceremony, Krishna is said to have taken charge of washing the feet of the Brahmans. This is a sure indication of the comparative modernness of the Mahabharata, at any rate, of this story. For in ancient times, even when the supremacy of the Brahmans had been established, the Kshatriyas never paid them any servile honour. However when the sacrifice was over, the time came for Yudhisthira to make presents to the assembled princes, priests and other persons deserving honour. To whom must honour be paid first ?

Yudhisthira having asked Bhishma's opinion on the matter, the latter replied that Krishna was the person to be honoured first. Accordingly Sahadeva at Yudhishtira's command presented the Arghya, the mark of honour, to Krishna, and the latter accepted it. This upset Sishupala, who made a long speech, challenging Krishna's right to the honour and abusing the Pandavas for paying any honour and Krishna for accepting it. Bhishma made another speech narrating Krishna's exploits and achievements at length, and declaring his divinity. Sishupala rose again, rebutted Bhishma's arguments one after another, and grossly abused him. It is pointed out by Krishna's recent biographers, that of the charges brought against Krishna by Sishupala, there is no mention of his dealings with the Brindaban Gopis, a sure indication, according to them, that when the Mahabharatha was composed, the story of these dealings of Krishna, a story made so much of by the writers of the Puranas and the later poets, was not conceived. However, at the end of Sishupala's speech Bhishma, who saw that Yudhishtira was afraid lest Sishupala and his followers might obstruct the completion of the ceremony, said, addressing them that if they were resolved to die they might challenge the divine Krishna himself to fight. At this Sishupala challenged Krishna, who rose in response and narrated his opponent's numerous misdeeds. Then with the words, "At the request of his mother, my aunt, I have pardoned a hundred of Sishupala's offences. But I cannot pardon the insulting words he has spoken of me before the assembled princes : I kill him before you all". He threw his chakra at him and cut off his head.

Actions of Krishna during the Mahabharata War may now be reviewed. The following are some of them :

1. When Satyaki, Krishna's friend, was hard pressed by Bhurisrava, son of Somadatta, Krishna induced Arjuna to cut off his arms, and thereby made it easy for Satyaki to kill him.

2. When Abhimanyu was unfairly surrounded and killed by seven Kaurava warriors, Arjuna vowed the death of the ring leader, Jayadratha, next day before sunset, or, failing that his own death by entering into fire. When the Sun was about to set, and Jayadratha remained unslain, Krishna miraculously hid the Sun, on which Jayadratha, having come out Krishna uncovered the Sun, and Arjuna killed Jayadratha when he was unaware.

3. Despairing of Drona being ever killed by fair means Krishna advised the Pandavas to kill him unfairly. If he could be made to cast down his arms, he could, Krishna said, be killed easily. This could be done if he was told that his son, Asvathama was dead. Bhima tried the suggested device. He killed an elephant named after

Drona's son and told him that Asvathama was killed. The warrior was somewhat depressed by the news, but did not quite believe it. At this juncture he was hard pressed by a number of sages to cease fighting and prepare himself for heaven with meditations worthy of a Brahmana. This checked the hero still more and he applied to the truthful Yudhisthira for correct information about his son. Finding Yudhisthira unwilling to tell a lie, Krishna overcame his reluctance by a long exhortation, in the course of which he announced his ethics of untruth in the following edifying text from Vasishtha's Smriti.

"In marriage, in amorous dealings, when one's life is in danger, when the whole of one's possession is going to be lost, and when a Brahman's interest is at stake, untruth should be told. The wise have said that speaking untruth on these five occasions is not a sin." Yudhisthir's scruples were stifled, and he said to his preceptor, "Yes, Asvathama is killed" adding in a low voice, "that is, an elephant" which last words, however were not heard by Dron. His depression was complete, and on hearing some bitterly reproachful words from Bhima, he gave up his arms, and while sitting in a meditative posture, was killed by Dhristhadyumna.

4. When Bhima was unsuccessfully fighting with Duryodhana by the side of the Dvaipayana Lake Krishna reminded him through Arjuna that he had vowed the breaking of his opponent's thighs. Now striking a rival below the navel was unfair, but as Duryodhana could not be killed except by such an unfair means, Krishna advised Bhima to adopt the same and Bhima did."

The death of Krishna throws a flood of light on his morals. Krishna died as the Ruler of Dwaraka. What was this Dwaraka like and what sort of death awaited him ?

In founding his city of Dwaraka he had taken care to settle thousands of 'unfortunates' there. As the Harivamsa said : 'O, hero having conquerred the abodes of the Daityas (giants) with the help of brave Yadus, the Lord settled thousands of public women in Dwaraka". Dancing, singing and drinking by men and women married and prostitutes filled the city of Dwaraka. We get a description of a seatrip in which these women formed a principal source of enjoyment. Excited by their singing and dancing, the brothers Krishna and Balarama joined in the dancing with their wives. They were followed by the other Yadava chiefs and by Arjuna and Narada. Then a fresh excitement was sought. Men and women all fell into the sea and at Krishna's suggestion, the gentlemen began a jalakrida water sport, with the ladies, Krishna leading one party, and Balarama another,

while the courtesans added to the amusement by their music. This was followed by eating and drinking and this again by a special musical performance in which the leaders themselves exhibited their respective skill in handling various musical instruments. It will thus be seen what a jolly people these Yadavas were, and with what contempt they would have treated the objections urged nowadays by the Brahmans and such other purists against nautch parties and the native theatres. It was in one of these revels—a drunken revel—that the Yadavas were destroyed. They, it is said, had incurred the displeasure of a number of sages by a childish trick played on the latter by some of their boys. These boys disguised Samba, one of Krishna's sons, as a woman with child, tying an iron pestle below his navel, and asked the sages to say what child the 'woman' would give birth to. The enraged sage said 'she' would produce an iron pestle which would be the ruin of the Yadavas. Fearing the worst consequences from this curse, the boys took the pestle to the sea-side and rubbed it away. But its particles came out in the form of *erakas,* a kind of reeds and its last remaining bit, which had been thrown into the sea, was afterwards recovered and used by a hunter as the point of an arrow; Now it was with these erakas that the Yadavas killed themselves. They had gone in large parties to the holy place of Prabhasa. They indulged in drinking there and this proved their ruin. The evils of drinking there had been found out at length by Krishna and some other Yadava leaders, and it was prohibited on pain of death by a public notification. But the prohibition had no effect. The drunken Yadavas at first quarrelled and then began to fight and kill one another. When some of Krishna's own sons were killed he himself joined in the fight and killed a large number of his own people. He then went in search of Balarama. He found him in meditative posture and saw his spirit passing out of his body in the form of a large serpent i.e., Sesha Naga, the divine snake whom he had incarnated. Krishna now felt that it was time for him also to pass away. He then bade farewell to his father and his wives, telling them that he had sent for Arjuna, who would take charge of them. Then he seated himself under a tree, hidden by its leafy and outstretching branches, and composed his mind in meditation. While thus sitting, a hunter named Jara mistook him for a deer and hit him with an arrow, one pointed with the last remaining bit of the fatal pestle. Discovering his mistake, the man fell at Krishna's feet and was pardoned and flew away to heaven, illumining all sides by its dazzling light. Arjuna came and proceeded towards Hastinapur with the surviving Yadavas—men and women. But his good genius having left him he had lost the power of his hitherto mighty arm and his

unrivalled skill as an archer. A number of Ahiras, armed only with lathis, attacked his party and carried off many of the women, and he reached Hastinapur only with a small remnant. After Arjuna's departure the sea engulfed Dwaraka, and nothing was left to speak of the Yadavas, their glories, their domestic broils and their revels.

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Specimen of Dr. Ambedkar's handwriting from the Riddle No. 22 entitled 'Brahma is not Dharma'.

To support Democracy because we are
all children of God is a very weak
foundation for Democracy to rest on
That is why Democracy is so shaky
wherever it made to rest on such
a foundation. But to recognize &
realize that you and I are parts
of the same cosmic principle leaves
room for no other theory of associated
life except democracy. It does
not merely preach Democracy.
It makes democracy an obligation
of one and all.

Western students of Democracy have
~~enterprised~~ spread the belief that
Democracy has stemmed either from
Christianity or from Plato ~~and that~~
TO

there is no other source of inspiration for Democracy. If they had known that India too had developed the doctrine of Brahmaism which furnishes a better foundation for Democracy they would not have been so dogmatic. India too must be admitted to have a contribution towards a theoretical foundation for Democracy. ~~and~~

The question is what ~~has~~ happened to this doctrine of Brahmaism? It is quite obvious that Brahmaism had no social effects. It was not made the basis of Dharma. When asked why this happened the answer is that Brahmaism is only philosophy & as though philosophy arises not out of social life but out of nothing and for nothing.

Philosophy is no purely theoretic matter. It has practical potentialities. Philosophy has its roots in the problems of life and whatever theories philosophy propounds must return to society as instruments of re-constructing society. It is not enough to know. Those who know must endeavour to fulfil.

Why then Brahmaism failed to produce a new society? This is a great riddle. It is not that the Brahamins did not recognize the doctrine of Brahmaism. They did. But they did not ask ~~this question~~ how they could support inequality between the Brahamin & the Shudra?

between man and ~~man~~ woman
between Caste man and outcastes?
But they did not. The result
is that we have on ~~the~~ one hand
the most democratic principle of
Bramhaism and on the other hand
a society infested with castes,
sub-castes, outcastes, primitive tribes
and criminal tribes. Can there
be a greater dilemma than this
What is ~~most~~ more ridiculous is
the teaching of ~~Shankar~~ the Great
Shankaracharya. ~~than whom there~~
~~cannot be a greater idiot~~. For it
was this Shankarackarya who taught
that there is Bramha and this
Bramha is real and that it pervades
all and at the same time upheld

all the inequities of the Brahmane Society. Only a lunatic could be happy with ~~two such contradictions~~ ~~Chair~~ being the propounder of two such contradictions. ~~How the Brahmins killed Brahmanism is a riddle that calls for a solution explanation.~~

Finally as the Brahamin is like a Cow. He can eat any thing and every thing as the Cow does and remain a Brahamin.

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13	1	conjeries	congeries
16	7	means	mean
29	7	these	thee
	15	are	art
	25	Raghuanas	Rahuganas
35	29	help	held
38	13	ascetic	ascetic's
	23	stages	staves
42	24	exbrances	embraces
45	1	lightening	lightning
46	4	serpants	serpents
65	39	Pulkasa	Paulakasa
69	2	Bramhanand	Brahmadnan
77	37	serpant	serpent
81	27	Dyasus	Dyaus
85	33	abundently	abundantly
86	4	ignorane	ignorance
	8	inasmuchas	in-as-much as
87	4	commended	commanded
92	14	moveable	movable
94	21	possesing	possessing
98	15	destory	destroy
99	13	Usha	Ushas
103	38	messangers	messengers
112	30	Markendey	Markandeya
113	8	consists	consist
114	4	molasess	molasses
120	5	earthern-jar	earthen-jar
	10	earthern	earthen
	25	entelope	antelope
123	22	vessle	vessel
126	7	estern	eastern
131	34	expiration	expiation
132	19	emboidied	embodied
	37	smiriti	smriti
133	3	of scrapped	or scraped
134	31	chaunter	chanter
135	31	well-accounted	well-accourted
	33	life	like
136	1	praised	praises
	7	extravagent	extravagant
138	17-18	into dadhya atra, the original letter being altered into by	into *dadhy atra,* the original letter 'i' being altered into 'y' by
140	41	saysest	sayest
141	15	that	than
	39	separate	separates
145	33	these	those
147	14	aphorims	aphorism
148	11	cannon	canon
151	17	cannonical	canonical
	31	modofications	modifications
152	6	treatises	treatise
153	21	cannon	canon
	26	cannonical	canonical

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165	34	ephithets	epithets
172	18	Shiva	*delete*
183	1	the	The
195	17	what the	what explanation. The
213	21	be	he
228	3	irrebutable	irrebuttable
	5	suspicious	suspicion,
229	29	Dwaya	Dwayapayana
	30	Payan	*delete*
233	13	first	first).
235	19	of into	or into
276	39	rules	rulers
277	2	each	each,
278	38	manu's	Manu's
279	6	Kanishthas	Kanishthas,
283	36-37	fellow-felling. What	fellow-feeling what
284	10	built	build
	28	familar	familiar
	32	designaged	designated
286	1	Tatvanmsi	Tatvamasi
	14	and realize	and to realize
288	20	asertain	ascertain
298	42	Galawa.	*delete*
303	24	irrebutable	irrebuttable
307	19	(forty-eighty	(forty-eight
308	22	Sandhyasana	Sandhyamsa
311	4	the	then
	32	vibhu	Vibhu
318	15	modified	codified
322	21	technics	technique,
323	12	Shrung at the sacrifice who prepared	Shrung to perform the sacrifice. The sage Shrung at the sacrifice prepared"
324	41	of which	*delete*
326	34 & 36	dual	duel
	37	daul	duel
329	32 & 39	Sumanta	Sumantra
332	3	Valmiki	Valmiki[1] Foot-Note :[1] "On Rama-Rajya and the Slave—mentality of our Orthodox—An Expostulatory Letter to the Greatest Hindu of the Age from a Critical Co-religionsist" by Shri S. D. Nadkarni, Published by Samaj Samata Sangh, Bombay, 1932—p. (as instructed in the handwritten MS).
351	9	inciples.	Principles

* *Corrected from the handwritten MS.*—Ed.

Babasaheb Dr. B.R. Ambedkar

(14th April 1891 - 6th December 1956)

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No one can hope to make any effective mark upon his time and bring the aid that is worth bringing to great principles and struggling causes if he is not strong in his love and his hatred. I hate injustice, tyranny, pompousness and humbug, and my hatred embraces all those who are guilty of them. I want to tell my critics that I regard my feelings of hatred as a real force. They are only the reflex of the love I bear for the causes I believe in.

—*Dr. B. R. Ambedkar*

in his Preface to
'Ranade, Gandhi and Jinnah

DR. BABASAHEB AMBEDKAR
WRITINGS AND SPEECHES
VOL. 5

Compiled
by
Vasant Moon

Editorial Sub-committee

Dr. P. T. Borale

Dr. B. D. Phadke

Shri S. S. Rege

Shri Daya Pawar

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Vol. 5

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Kumari Selja

सत्यमेव जयते

Minister for Social Justice and Empowerment
& Chairperson, Dr. Ambedkar Foundation

MESSAGE

Babasaheb Dr. B.R. Ambedkar, the Chief Architect of Indian Constitution was a scholar par excellence, a philosopher, a visionary, an emancipator and a true nationalist. He led a number of social movements to secure human rights to the oppressed and depressed sections of the society. He stands as a symbol of struggle for social justice.

The Government of Maharashtra has done a highly commendable work of publication of volumes of unpublished works of Dr. Ambedkar, which have brought out his ideology and philosophy before the Nation and the world.

In pursuance of the recommendations of the Centenary Celebrations Committee of Dr. Ambedkar, constituted under the chairmanship of the then Prime Minister of India, the Dr. Ambedkar Foundation (DAF) was set up for implementation of different schemes, projects and activities for furthering the ideology and message of Dr. Ambedkar among the masses in India as well as abroad.

The DAF took up the work of translation and publication of the Collected Works of Babasaheb Dr. B.R. Ambedkar published by the Government of Maharashtra in English and Marathi into Hindi and other regional languages. I am extremely thankful to the Government of Maharashtra's consent for bringing out the works of Dr. Ambedkar in English also by the Dr. Ambedkar Foundation.

Dr. Ambedkar's writings are as relevant today as were at the time when these were penned. He firmly believed that our political democracy must stand on the base of social democracy which means a way of life which recognizes liberty, equality and fraternity as the principles of life. He emphasized on measuring the progress of a community by the degree of progress which women have achieved. According to him if we want to maintain democracy not merely in form, but also in fact, we must hold fast to constitutional methods of achieving our social and economic objectives. He advocated that in our political, social and economic life, we must have the principle of one man, one vote, one value.

There is a great deal that we can learn from Dr. Ambedkar's ideology and philosophy which would be beneficial to our Nation building endeavor. I am glad that the DAF is taking steps to spread Dr. Ambedkar's ideology and philosophy to an even wider readership.

I would be grateful for any suggestions on publication of works of Babasaheb Dr. Ambedkar.

Selja

(Kumari Selja)

Collected Works of Babasaheb Dr. Ambedkar (CWBA)

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FOREWORD

This is the fifth volume of the writings of Dr. B. R. Ambedkar, a jurist and constitutionalist par excellence of the modern India. The present volume brings together the unpublished writings of Dr. Ambedkar on Untouchables and Untouchability. India has rightly been called a sociological museum in which are exhibited cheek by jowl items that are contemporaneous with items that are noncontemporaneous. Dr. Ambedkar has pointed out the irrelevance of the caste system and its essential iniquity arising out of the emphasis on status by birth. It was Sir Henry Maine who in his "Ancient Law" has pointed out that the movement of progressive societies is from status to contract. The Constitution of India enshrines fundamental rights and provides for the machinery for their enforcement against the State, thereby preserving the dignity of the individual as the primary object of socio-economic progress. The writings of Dr. Ambedkar, therefore, have contemporary relevance in the context of the new social order which the Indian Constitution envisages.

The Indian Constitution is a mid-20th century phenomenon and it has drawn heavily on the experience of other nations in working democratic institutions. Judging by the experience, it must be said that the Constitution has worked well.

The State today is committed to the establishment of the just social order and in all walks of life there is evidence of new activities with a view to improving the lot of the common man. The evolution from status to contract, from immobility to mobility, from the tendency to look to the past as the ideal to the belief in bright future sustained by socialist ideals of equality and fraternity—these are some of the conspicuous features of the socio-economic scenes of the free India in the making of which the philosophy and the ideals of Dr. Ambedkar have played a critical part.

It is a matter of some satisfaction that there is evidence of withering away of the caste in urban areas but even then, there is no reason for complacency and our efforts must continue to eradicate the evils of caste. I must, however, admit that vestiges of untouchability are still surviving in rural areas. It is the village which is still the unit of our administration and it is there that our future work lies.

The unpublished writings of Dr. Ambedkar now brought together in this 5th volume will provide inspiration for sustained work of social education to those who attach primacy and importance to social problems over political issues. Whereas politics is a matter of democratic pressures and aspirations, social education brings about a silent revolution in values and attitudes in furtherance of the human understanding. I am sure, the present volume will fulfil the needs of such social workers and intellectuals in Maharashtra as well as those outside.

(SHARAD PAWAR)

14th April 1989 *Chief Minister of Maharashtra*

PREFACE

'A good book' says Milton, "is a precious life-blood of a master spirit embalmed and treasured up on purpose to a life beyond life."

Publication of unpublished writings of Dr. B. R, Ambedkar is a humble tribute of the State Government to the constitutionalist and jurist who has been hailed as Dr. Johnson of India by critics and observers overseas.

The unpublished writings of Dr. Ambedkar brought together in this volume constitute significant material and wealth of data for social research and investigation of those phenomena of social life which were produced by the contact of Indian people with the Western civilization, its heritage of liberal values, its critical spirit of enquiry, its genius for scientific analysis and quest for progress.

Dr. Ambedkar combined in his personality all that is best in the critical western tradition and deep understanding of the philosophy of the East. He was a constructive critic of the Hindu society committed to its reformation and shared the philosophy of social reforms with such kindred spirits as Justice Ranade, Mahatma Phule and Gokhale. In a sense, therefore, Ambedkar was a representative of the spirit of rennaisance in Maharashtra.

Untouchability has been the scourge of Hindu society and its existence militated against the basic humanistic philosophy of tolerance which typified and marked the Ancient India. The reform of Hindu Law in the Hindu Succession Act of 1956 was a great triumph of legislation over custom. India had always been the laboratory of legislative experiments for the British rulers.

The success of legislation in many areas of social life of the last century is an encouraging sign which shows law is a powerful instrument of education. The Constitution of India is an experiment in social engineering and gives legal recognition to some of the basic jural postulates of civilization. The writings of Dr. Ambedkar now being published in this volume provide material for thought and constitute a preface to a programme of socio-economic measures to realise the ideals of equality and freedom.

I am sure, both the average reader and the intellectual will find the material worthy of his attention.

(Kamalkishor Kadam)
Minister for Education
Maharashtra State

Dr. Babasaheb Ambedkar Source Material Publication Committee, Maharashtra State

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EDITORIAL

The members of Dr. Babasaheb Ambedkar Source Material Publication Committee are pleased to present this 5th volume of Dr. Babasaheb Ambedkar's writings to readers on behalf of the Government of Maharashtra. This volume is significant and unique in several respects. Firstly, the contents of this volume were hitherto unknown. These are the unpublished writings of Dr. Ambedkar which were in the custody of the Administrator General and the custodian of Dr. Ambedkar's property. The students of Dr. Ambedkar's writings and his devoted followers were anxious to read these writings. Some of the followers of Dr. Ambedkar had even gone to the court to secure permission for the printing of these writings although the manuscripts were not in their possession. Thus, these writings had assumed such significance that it was even feared that they had been destroyed or lost.

There is a second point which is significant for this volume. This volume encompasses various aspects of the problem of Untouchables and Untouchability in India. Although Dr. Ambedkar had dwelt upon the theory of the origin of Untouchables in his book 'entitled the Untouchables', the essays in the present volume discuss various aspects; of this subject which is a scourge of the Hindu society. The humanity has witnessed several types of slavery existed in the world. Dr. Ambedkar discusses and answers as to how the slavery in other parts of the world is vanished and why it still exists in India.

Dr. Ambedkar's analysis of caste system, untouchability and Hindu social order was intended to bring about a homogenious Hindu society on the basis of the human values of equality, liberty, justice and universal brotherhood.

It would not be out of place to note down a few words about the transfer of these papers to the Committee for publication. During his life time, Dr. Ambedkar published many books, but also planned many others. He had also expressed his intention to write his autobiography, the life of Mahatma Phule and the History of the Indian Army, but left no record of any research on these subjects.

After his death, in 1956, all the papers including his unpublished writings were taken into custody by the custodian of the High Court of Delhi. Later, these papers were transferred to the Administrator General of the Government of Maharashtra. Since then, the boxes containing the unpublished manuscripts of Dr. Ambedkar and several other papers were in the custody of the Administrator General.

It was learnt that Shri J. B. Bansod, an Advocate from Nagpur, had filed a suit against the Government in the High Court Bench at Nagpur, which was later transferred to the High Court of Judicature at Bombay. The petitioner had made a simple request seeking permission from the court to either allow him to publish the unpublished writings of Dr. Ambedkar or to direct the Government to publish the same as they had assumed national significance. This litigation was pending before the Bombay High Court for several years.

After the formation of this Committee and after the appointment of Shri V. W. Moon as Officer on Special Duty in January 1978, it was felt necessary to secure the unpublished writings of Dr. Ambedkar and to publish them as material of historical importance. Shri Moon personally contacted the legal heirs of Dr. Ambedkar and the Administrator General. Shri Bansod, Advocate, was also requested to cooperate. It must be noted with our appreciation that Smt. Savita B. Ambedkar, Shri Prakash Y. Ambedkar and his family members and Shri Bansod, Advocate, all showed keen interest, consented to the Government project for publication and agreed to transfer all the boxes containing the Ambedkar papers to the Government. At last, the Administrator General agreed to transfer all the papers contained in five iron trunks to the Government. Accordingly, Shri Vasant Moon took possession of the boxes on behalf of the Government of Maharashtra on 18th September 1981. All the five trunks are since stored safely in one of the Officer's chambers in the Education Department of Mantralaya.

Shri M. B. Chitnis, who, as a close associate of Dr. Ambedkar, was intimately familiar with the latter's handwriting. He was at that time Chairman of the Editorial Board. On receipt of the papers, he spent a fortnight identifying which of the papers were Dr. Ambedkar's manuscripts. This basic process of identification having been accomplished, there remained the stupendous task of reading, interpreting and collating the vast range of MS material in the collection, to decide in what form and in what order it should be presented to the public.

In 1981, Shri Moon, OSD, set to work on this project. This work of matching and sorting was a delicate and difficult one as well as immensely time-consuming. Many of the works what Dr. Ambedkar had evidently intended to complete, were scattered here and there in an incomplete state in the manuscript form. It was therefore necessary to retrieve and collate the fragments in order to place them in proper order. Only after very many hours of reading, selecting and reflecting not only on the contents of these papers but also what was already

known of Dr. Ambedkar's work and thought, did Shri Moon arrive at the present selection and arrangement of those MS.

This task was not merely strenuous at the intellectual level but also at the physical one due to the condition of the papers themselves. These had been stored in the closed boxes for more than 30 years. They were fumigated with insecticides, with the result that a most poisonous foul odour emitted from these papers. Shri Moon and his staff had to suffer infection of the skin and eyes and required medical treatment.

After two years of strenuous work, Shri Moon had submitted a detailed report to the Editorial Board on 17th September 1983 containing recommendations as to the proper arrangement of the three volumes which were to come out, out of unpublished writings and presentation of the papers as they were to appear in a published form. The present volume consisting of various essays on Untouchables and Untouchability is substantially in accordance with these recommendations.

After the proposed arrangements had been approved by the Dr. Babasaheb Ambedkar Source Material Publication Committee in its meeting dated 23rd September 1986, Shri Moon and his staff took on the task associated with publication, i.e. editing, proof reading, indexing etc.

Execution of this laborious work for this 5th volume, like all the previous volumes, has been carried out by Mr. Vasant Moon with the assistance of his staff consisting of Shri L. R. Meher, Shri S. A. Waghmare and Smt. Usha Nevarekar.

In the papers that the Editorial Board scrutinised, we have come across 51 titles of unpublished writings (including 31 of 'Riddles in Hinduism'). In addition to these, we have received several unpublished essays of Dr. Ambedkar from Shri S. S. Rege, the Ex-Librarian of the Siddharth College, Bombay. The essays received from Shri Rege are shown by asterisk in the list mentioned below. Not all these essays are complete. All the essays have been divided into three volumes as under:

VOLUME 3 :

1. Philosophy of Hinduism
2. The Hindu Social Order : Its Essential Principles
3. The Hindu Social Order : Its Unique Features
4. Symbols of Hinduism
5. Ancient India on Exhumation
6. The Ancient Regime—The State of the Aryan Society
7. A Sunken Priesthood
8. Reformers and Their Fate

*9. The Decline and Fall of Buddhism
10. The Literature of Brahminism
*11. The Triumph of Brahmanism
12. The Morals of the House—Manusmriti or the Gospel of Counter-Revolution
13. The Philosophic Defence of Counter-Revolution: Krishna and His Gita
14. Analytical notes of Virat Parva and Uddyog Parva
15. Brahmins Vs Kshatriyas
16. Shudras and the Counter-Revolution
17. The Woman and the Counter-Revolution
18. Buddha or Karl Marx
19. Schemes of books.

VOLUME 4 :

Riddles in Hinduism (In all 32 Riddles including one from Shri S. S. Rege and eight appendices).

VOLUME 5 :

1. The Untouchables or the Children of India's Ghetto
2. Civilisation or Felony
*3. The House the Hindus have built
*4. The Rock on which it is built
*5. Touchables v/s Untochables
6. The Curse of Caste
*7. From Millions to Fractions
8. The Revolt of the Untouchables
9. Held at Bay
10. Their wishes are Laws unto us
*11. Under the Providence of Mr. Gandhi
*12. Gandhi and His Fast
13. A Warning to the Untouchables
14. Away from the Hindus
15. Caste and Conversion
*16. Christianizing the Untouchables
*17. The Condition of the Convert

In this Introduction we propose to deal with all the questions raised about these manuscripts in order to clear the air about the publication of all Dr. Ambedkar's extant writings.

It is generally believed by the followers of Dr. Ambedkar that Dr. Ambedkar had completed the books entitled : (1) Riddles of Hinduism, (2) The Buddha and Karl Marx and (3) Revolution and Counter-Revolution. The manuscripts of "Riddles of Hinduism" have been found in separate chapters bundled together in one file. These

chapters contain corrections, erasures, alterations, etc. by the hands of Dr. Ambedkar himself. Fortunately, the introduction by Dr. Ambedkar is also available for this book. We, however, regret that the final typed manuscript of this volume has not been found. The Committee has accepted the title "Riddles in Hinduism", given by Dr. Ambedkar in his Introduction to the Book.

"The Buddha and Karl Marx " was also said to have been completed by Dr. Ambedkar, but we have not come across such a book among the manuscripts. There is, however, a typed copy of a book entitled "Gautam the Buddha and Karl Marx" (A Critique and Comparative Study of their Systems of Philosophy) by LEUKE—Vijaya Publishing House, Colombo) (year of publication not mentioned). One short essay of 34 pages by Dr. Ambedkar entitled "Buddha or Karl Marx" was however found and being included in the third volume. A third book, viz., "Revolution and Counter-Revolution", was also believed to have been completed by Dr. Ambedkar. A printed scheme for this treatise has been found in the papers received by the Committee. It appears that Dr. Ambedkar had started working on various chapters simultaneously. Scattered pages have been found in the boxes and are gathered together.

We are tempted here to present the process of writing of Dr. Ambedkar which will give an idea of the colossal efforts he used to make while writing of a book. He had had his own discipline. He used to make a blue-print of the book before starting the text. The Editorial Board found many such blue-prints designed by him, viz., "India and Communism", "Riddles in Hinduism", "Can I be a Hindu ?", "Revolution and Counter-Revolution", "What Brahmins have done to the Untouchables", "Essays on Bhagvat Gita", "Buddha and Karl Marx", etc. But some of these were not even begun and those which were begun were left incomplete.

It will be interesting to present an illustration. Dr. Ambedkar had prepared a blue-print for a book entitled "India and Communism". The contents are as follows :

Part—I The Pre-requisites of Communism

Chapter 1—The Birth-place of Communism

Chapter 2—Communism & Democracy

Chapter 3—Communism & Social Order

Part—II India and the Pre-requisites of Communism

Chapter 4—The Hindu Social Order

Chapter 5—The Basis of the Hindu Social Order

Chapter 6—Impediments to Communism arising from the Social Order.

Part—III What then shall we do?

Chapter 1—Marx and the European Social Order

Chapter 2—Manu and the Hindu Social Order

Dr. Ambedkar could complete only Chapters 4 and 5 of the scheme viz., "The Hindu Social Order" and "The Basis of the Hindu Social Order". It appears that when it struck to him that he should deal with two more topics in Part III he added those two topics in his own handwriting on the typed page. In the same well-bound file of typed material, there appears a page entitled "Can I be a Hindu?" which bears his signature in pencil and a table of contents on the next page as follows :

Introduction

Symbols of Hinduism

Part-I—Caste

Part-II—Cults—Worship of Deities

Part-III—Superman

The third page bears sub-titles of the chapters as follows:

1. Symbols represent the soul of a thing
2. Symbols of Christianity
3. Symbols of Islam
4. Symbols of Jainism
5. Symbols of Buddhism
6. Symbols of Hinduism
7. What are the Symbols of Hinduism?

Three

1. Caste.
2. Cults—
   (1) Rama
   (2) Krishna
   (3) Shiva
   (4) Vishnu

3. Service of Superman

The plan as designed above remains incomplete except for the chapter on, "Symbols of Hinduism".

The 24 riddles as proposed in his original plan were changed often in blue-print by Dr. Ambedkar. The seriatim of the contents and chapters and the arrangement of the file did not synchronize. The chapters have been arranged according to the table of contents in Vol. 4.

At the end we are confident that our time and our pains will not go unrewarded when Dr. Babasaheb Ambedkar's hitherto unpublished works will be brought in a proper form before the general public as well as interested scholars.

We place on record our sense of gratitude to Smt. Savita B. Ambedkar, Shri Prakash Y. Ambedkar and his family members for having granted permission to the Government for publication of complete writings of Dr. Ambedkar.

The present volume consists those unpublished writings which have been received from the Administrative General who along with Shri J. B. Bansod deserve our thanks for smoothening the process of transfer of these manuscripts.

We express our sincere gratitude to Shri Sharad Pawar, the Hon'ble Chief Minister, Kamalkishor Kadam, the Education Minister, and Prof. Javed Khan, the Minister of State for Education, Maharashtra State for their decision to publish all the remaining volumes before the birth centenary day of Dr. Ambedkar. We are thankful to Shri V. R. Dravid, Secretary, Education Department and Shri R. S. Jambhule, Director of Education, M.S., for their cooperation and also Shri R. R. Pardeshi, Dy. Director and Shri E. M. Meshram, Junior Administrative Officer, all from Education Department for showing interest in the process of publication.

Shri S. S. Rege spared the manuscripts of 8 essays of Dr. Ambedkar for this volume which had been in his possession for many years. These essays have enriched the material. The members of the committee are most indebted to Shri Rege.

Shri B. Bracken, Director; Shri P. S. More, Dy. Director; Shri R. J. Mahatekar, Manager in-charge; Shri J. S. Nagvekar, Operator, Film Setter, and the staff of the Department of Printing and Stationery deserve full appreciation and thanks for their expeditious printing with utmost care and sincerity.

EDITORS
Dr. Babasaheb Ambedkar Source
Material Publication Committee
Maharashtra State

Bombay
14th April 1989

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BOOK 1

Untouchables or The Children of India's Ghetto

This is a 208-page MS (Second copy) under the title "Untouchables or The Children of India's Ghetto". The whole MS forms an independent book by itself. It has a 'Table of Contents' divided into 4 parts, which are further sub-divided into 14 chapters. Slight modifications had to be made in the arrangement of the chapters to bring them in conformity with that of 'Table of Contents'. Except few corrections in the titles of the chapters, the text is untouched by the author.—Ed.

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PART I

What it is to be an Untouchable

CHAPTER 1

UNTOUCHABILITY—ITS SOURCE

It is usual to hear all those who feel moved by the deplorable condition of the Untouchables unburden themselves by uttering the cry "We must do something for the Untouchables". One seldom hears any of the persons interested in the problem saying 'Let us do something to change the Touchable Hindu'. It is invariably assumed that the object to be reclaimed is the Untouchables. If there is to be a Mission, it must be to the Untouchables and if the Untouchables can be cured, untouchability will vanish. Nothing requires to be done to the Touchable. He is sound in mind, manners and morals. He is whole, there is nothing wrong with him. Is this assumption correct ? Whether correct or not, the Hindus like to cling to it. The assumption has the supreme merit of satisfying themselves that they are not responsible for the problem of the Untouchables.

How natural is such an attitude is illustrated by the attitude of the Gentile towards the Jews. Like the Hindus the Gentiles also do not admit that the Jewish problem is in essence a Gentile problem. The observations of Louis Goulding on the subject are therefore very illuminating. In order to show how the Jewish problem is in its essence a Gentile problem, he says:

> "I beg leave to give a very homely instance of the sense in which I consider the Jewish Problem in essence a Gentile Problem. A close acquaintance of mine is a certain Irish terrier of mixed pedigree, the dog Paddy, who is to my friend John Smith as the apple of both his eyes. Paddy dislikes Scotch terriers; it is enough for one to pass within twenty yards of Paddy to deafen the neighbourhood with challenges and insults. It is a practice which John Smith deplores, which, therefore, he does his best to check—all the more as the objects of Paddy's detestation are often inoffensive creatures, who seldom speak first. Despite all his affection for Paddy, he considers, as I do, that Paddy's unmannerly behaviour is due to some measure of original sin in Paddy. It has not yet been suggested to us that what is here involved is a Scotch Terrier Problem and that when Paddy attacks a neighbour who is peacefully engaged in inspecting

the evening smells it is the neighbour who should be arraigned for inciting to attack by the fact of his existence."

There is here a complete analogy between the Jewish Problem and the problem of the Untouchables. What Paddy is to the Scotch Terrier, the Gentile is to the Jews, and the Hindu is to the Untouchables. But there is one aspect in which the Jewish Problem stands in contrast to the Gentile Problem. The Jews and the Gentiles are separated by an antagonism of the creeds. The Jewish creed is opposed to that of the Gentile creed. The Hindus and the Untouchables are not separated by any such antagonism. They have a common creed and observe the same cults.

The second explanation is that the Jews wish to remain separate from the Gentiles. While the first explanation is chauvinistic the second seems to be founded on historical truth. Many attempts have been made in the past by the Gentiles to assimilate the Jews. But the Jews have always resisted them. Two instances of this may be referred.

The first instance relates to the Napoleonic regime. After the National Assembly of France had agreed to the declaration of the 'Rights of man' to the Jews, the Jewish question was again reopened by the guild merchants and religious reactionaries of Alsace. Napoleon resolved to submit the question to the consideration of the Jews themselves. He convened an Assembly of Jewish Notables of France, Germany and Italy in order to ascertain whether the principles of Judaism were compatible with the requirements of citizenship as he wished to fuse the Jewish element with the dominant population. The Assembly consisting of 111 deputies, met in the Town Hall of Paris on the 25th of July 1806, and was required to frame replies to twelve questions relating mainly to the possibility of Jewish patriotism, the permissibility of inter-marriage between Jew and Non-Jew, and the legality of usury. So pleased was Napoleon with the pronouncements of the Assembly that he summoned a Sanhedrin after the model of the ancient council of Jerusalem to convert them into the decree of a Legislative body. The Sanhedrin, comprising of 71 deputies from France, Germany, Holland and Italy met under the presidency of Rabbi Sinzheim, of Strassburg on 9th February 1807, and adopted a sort of Charter which exhorted the Jews to look upon France as their fatherland, to regard its citizens as their brethren, and to speak its language, and which also pressed toleration of marriages between Jews and Christians while declaring that they could not be sanctioned by the synagogue. It will be noted that the Jews refused to sanction intermarriages between Jews and non-Jews. They only agreed to tolerate them.

The second instance relates to what happened when the Batavian Republic was established in 1795. The more energetic members of the Jewish community pressed for a removal of the many disabilities under which they laboured. But the demand for the fuller rights of citizenship made by the progressive Jews was at first, strangely enough, opposed by the leaders of the Amsterdam community, who feared that civil equality would militate against the conservation of Judaism and declared that their co-religionists renounced their rights of citizenship in obedience to the dictates of their faith. This shows that the Jews preferred to live as strangers rather than as members of the community.

Whatever the value of their explanations the Gentiles have at least realized that there rests upon them a responsibility to show cause for their unnatural attitude towards the Jews. The Hindu has never realised this responsibility of justifying his treatment of the Untouchables. The responsibility of the Hindus is much greater because there is no plausible explanation he can offer in justification of untouchability. He cannot say that the Untouchable is a leper or a mortal wretch who must be shunned. He cannot say that between him and the Untouchables, there is a gulf due to religious antagonism which is not possible to bridge. Nor can he plead that it is the Untouchable who does not wish to assimilate with the Hindus.

But that is not the case with the Untouchables. They too are in a different sense an eternal people who are separate from the rest. But this separateness, their segregation is not the result of their wish. They are punished not because they do not want to mix. They are punished because they want to be one with the Hindus. In other words, though the problem of the Jews and of the Untouchables is similar in nature—inasmuch as the problem is created by others—it is essentially different. The Jew's case is one of the voluntary isolation. The case of the Untouchables is that of compulsory segregation. Untouchability is an infliction and not a choice.

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CHAPTER 2

UNTOUCHABLES—THEIR NUMBERS

Before one tries to know what it is to be an Untouchable one would like to know what is the total population of the Untouchables of India. For this one must go to the Census Report.

The first general census of India was taken in the year 1881. Beyond listing the different castes and creeds and adding up their numbers so as to arrive at the total figure of the population of India the Census of 1881 did nothing. It made no attempt to classify the different Hindu castes either into higher and lower or touchable and untouchable. The second general census of India was taken in the year 1891. It was at this census that an attempt to classify the population on the basis of caste and race and grade was made by the Census Commissioner for the first time. But it was only an attempt.

The third general census of India was taken in 1901. At this census a new principle of classification was adopted namely "Classification by Social precedence as recognised by native public opinion". To this serious opposition was raised by high caste Hindus to the enumeration by caste in the Census Report. They insisted on the omission of the question regarding caste.

This objection did not have any effect on the Census Commissioner. In the opinion of the Census Commissioner enumeration by caste was important and necessary. It was argued by the Census Commissioner that "whatever view may be taken of the advantages or disadvantages of caste as a social institution, it is impossible to conceive of any useful discussion of the population questions in India in which caste would not be an important element. Caste is still 'the foundation of the Indian social fabric' and the record of caste is still 'the best guide to the changes in the various social strata in the Indian Society'. Every Hindu (using the term in its most elastic sense) is born into a caste and his caste determines his religious, social, economic and domestic life from the cradle to the grave. In western countries the major factors which determine the different strata of society viz. wealth, education and vocation are fluid and catholic and tend to modify the rigidity of birth and hereditary position. In India spiritual and social community

and traditional occupation override all other factors. Thus where in censuses of western countries an economic or occupational grouping of the population affords a basis for the combination of demographic statistics, the corresponding basis in the case of the Indian population is the distinction of religion and caste. Whatever view may be taken of caste as a national and social institution it is useless to ignore it, and so long as caste continues to be used as one of the distinguishing features of an individual's official and social identity it cannot be claimed that a decinnial enumeration helps to perpetuate an undesirable institution.

This Census of 1901 did not result in fixing the total population of the Untouchables at any exact figure. This was due to two reasons. In the first place no exact tests were applied to determine who is an Untouchable. Secondly a class of the population which was economically and educationally backward but not Untouchable was mixed up with those who were actually Untouchables.

The Census of 1911 went a step further and actually laid down ten tests to mark off the Untouchables from those who were Touchables. Under these, tests the Census Superintendents made a separate enumeration of castes and tribes who (1) denied the supremacy of the Brahmins; (2) did not receive the Mantra from Brahmana or other recognized Hindu Guru; (3) denied the authority of the Vedas; (4) did not worship the great Hindu Gods; (5) were not served by good Brahmanas; (6) have no Brahmin priests at all; (7) have no access to the interior of the ordinary Hindu temple; (8) cause pollution; (9) bury their dead and (10) eat beef and do not reverence the cow.

The separation of the Untouchables from the Hindus was insisted upon by the Muslims in a memorial to the Government dated 27th January 1910 in which they claimed that their representation in the political bodies of the country should be in proportion to the population of Touchable Hindus and not Hindus as a whole because they contended that the Untouchables were not Hindus.

Be that as it may the Census of 1911 marks the beginning of the ascertainment of the population of the Untouchables. Efforts in the same direction were continued at the Census of 1921 and 1931.

As a result of these efforts the Simon Commission which came to India in 1930 was able to state with some degree of surety that total population of Untouchables in British India was 44.5 millions.

Suddenly, however, in 1932 when the Lothian Committee came to India to investigate the question of franchize for the reformed Legislatures and began its investigation, the Hindus adopted a challenging mood and refused to accept the figure given by the Simon Committee as a true figure of the Untouchables of India. In some

provinces the Hindus went to the length of denying that there were any Untouchables at all. This is due to the fact that the Hindus had by now realized the danger of admitting the existence of the Untouchables. For it meant that a part of the representation enjoyed by the Hindus will have to be given up by them to the Untouchables.

The Census of 1941 must be left out of consideration. It was taken during the war and it was a sort of a rough measure.

The latest Census is that of 1951. The following figures are taken from the statement issued by the Census Commissioner. The Census Commissioner gives the population of the Scheduled Castes in India as 513 lakhs.

The total population of India, as shown by the 1951 census is 3,567 lakhs, excluding 1.35 lakhs, the enumeration records in whose case were destroyed by fire in the Census Tabulation Office at Jullundur.

Out of the total population of 3,567 lakhs, 2,949 lakhs live in rural areas and 618 lakhs in the urban areas. The Scheduled Castes in rural areas total 462 lakhs and in urban areas their figures are 51 lakhs.

Non-agricultural classes for the whole population total 1,076 lakhs, the Scheduled Castes 132 lakhs.

Cultivators of land, wholly or mainly owned, and their dependents total 1,674 lakhs for the whole population, 174 lakhs for the Scheduled Castes.

Cultivators of land, wholly or mainly unowned and their dependants are 316 lakhs for the whole of India, 56 lakhs for the Scheduled Castes.

Cultivating labourers and their dependants are 448 lakhs for the whole of India, 148 lakhs for the Scheduled Castes.

Figures for non-agricultural classes are as follows :

Production other than Cultivation: Total 377 lakhs, Scheduled Castes 53 lakhs.

Commerce: Total 213 lakhs, Scheduled Castes 9 lakhs.

Transport: Total 56 lakhs. Scheduled Castes 6 lakhs.

Other services and miscellaneous sources: Total 430 lakhs, Scheduled Castes 64 lakhs.

Out of a total Scheduled Caste population of over 513 lakhs, 114 lakhs live in North India (Uttar Pradesh); 128 lakhs in East India (Bihar, Orissa, West Bengal, Assam, Manipur and Tripura); 110 lakhs in South India (Madras, Mysore, Travancore-Cochin and Coorg); 31 lakhs in West India (Bombay, Saurashtra and Kutch); 76 lakhs in Central India (Madhya Pradesh, Madhya Bharat, Hyderabad, Bhopal and Vindhya Pradesh); and 52 lakhs in North-West India (Rajasthan, Punjab, Patiala and East Punjab States Union, Ajmer, Delhi, Bilaspur and Himachal Pradesh).

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CHAPTER 3
SLAVES AND UNTOUCHABLES

Far from being ashamed of untouchability, the Hindus try to defend it. The line of their defence is that the Hindus have never upheld slavery as other nations have done and that in any case, untouchability is not worse than slavery. This argument was used by no less a person than the late Lala Lajpat Rai in his book called 'Unhappy India'. It would have been unnecessary to waste one's time in refuting this countercharge had it not been that on account of its plausibility the world at large not having witnessed anything worse than slavery is likely to believe that untouchability cannot be worse than slavery.

The first reply to the counter-charge is that it is quite untrue that slavery was not recognised by the Hindus. Slavery is a very ancient institution of the Hindus. It is recognised by Manu, the Hindu lawgiver and has been elaborated and systematized by the other Smriti writers who followed Manu. Slavery among the Hindus was never merely ancient institution which functioned only in some hoary past. It was an institution which continued throughout Indian history down to the year 1843 and if it had not been abolished by the British Government by law in that year, it might have continued even today.

As to the relative merits of slavery and untouchability, the best way to meet the counter-charge is to compare and contrast untouchability with slavery as it existed in ancient Rome and in modern America.

What was the *de facto* condition of the slaves in the Roman Empire? The best description I know of is to be found in Mr. Barrow's *Slavery in the Roman Empire*. Says[1] Mr. Barrow:

> "Hitherto, it is the repulsive side of household slavery that has been sketched. There is also another aspect. The literature reveals the vast household as normal. It is, of course, the exception. Large slave staffs undoubtedly existed, and they are generally to be found in Rome. In Italy and the Provinces there was less need of display; many of the staff of the Villa were engaged in productive work connected with land and its produce. The old-fashioned relationship

[1] Slavery in the Roman Empire, pp. 47-49.

between foreman and slave remained there; the slave was often a fellow worker. The kindliness of Pliny towards his staff is well-known. It is in no spirit of self-righteousness, and in no wish to appear in a favourable light in the eyes of the future generations which he hoped would read his letters that he tells of his distress at the illness and death of his slaves. The household (or Pliny) is the slaves' republic. Pliny's account of his treatment of his slaves is sometimes regarded as so much in advance of general or even occasional practice as to be valueless as evidence. There is no reason for this attitude.

From reasons both of display and genuine literary interest, the rich families attached to their households, slaves trained in literature and art. Clavisices Sabinus is said by Seneda to have had eleven slaves taught to recite Homer, Hesioid, and nine lyric poets by heart. 'Book cases would be cheaper', said a rude friend. 'No, what the household knows the master knows' was the answer. But, apart from such abuses, educated slaves must have been a necessity in the absence of printing;.... The busy lawyer, the dilettante poet, the philosopher and educated gentlemen of literary tastes and need of copyists and readers and secretaries. Such men were naturally linquistic also; a *librarius* who dies at the age of twenty boasts that he was 'literatus Graecis Latinis'. *Amanuenses* were common enough; librarians are to be found in public and private libraries.... Shorthand writing was in common use under the Empire, and slave *Notarii* were regularly employed. Many freemen, rhetoricians and grammarians are collected by Snetonius in a special treatise. Verrius Flaccus was tutor to Austus's grandsons, and at death was publicly honoured by a statue. Scribonius Aphrodisius was the slave and disciple of Orbilius and was afterwards freed by Scribenia. Hyginus was librarian of the Palatine Library, in which office he was followed by Julius Modestus, his own freeman. We hear of freemen historians of a slave philosopher who was encouraged to argue with his master, friends of slaves and freed architects. Freemen as doctors occur frequently in the inscriptions, some of them specialists, they had been trained in big households as slaves, as is shown by one or two examples; after Manumission they rose to eminence and became notorious for their high fees."

The tastes of some section of society demanded that dancers, singers, musicians, montebanks, variety artists, athletic trainers and messieurs should be forthcoming. All these are to be found in slavery, often trained by teachers who had acquired some reputation[1].

[1] Slavery in the Roman Empire, p. 63.

The age of Augustus was the beginning of a period of commercial and industrial expansion….slaves had indeed been employed (in arts and crafts) before, but the sudden growth of trade.... their employment in numbers that would otherwise have been unnecessary. Romans engaged more freely and more openly in various forms of commercial and industrial venture. Yet, even so, the agent became more important, for commercial activities became more widespread; and such agents were almost necessarily slaves.... (this is so) because the bonds of slavery (are elastic). (They could be) so relaxed as to offer an incentive to the slave to work by the prospect of wealth and freedom, and so tightened as to provide a guarantee to the master against loss from the misconduct of his slave. In business contracts between slave and master or third person seem to have been common, and the work thus done, and no doubt, the profits were considerable.... Renting of land to the slave has already been noticed.... and in industry much the same system was used in various forms; the master might lease a bank, or a business of the use of a ship, the terms being a fixed return or the slave being paid on a commission basis[1].

The earnings of the slave became in law his peculium was saved it might be used to a variety of purpose. No doubt in many cases this fund was expended in providing food or pleasure. But peculium must not be regarded merely as petty savings, casually earned and idly spent. The slave who made his master's business yield profits, to his own profit too, very often, had a keen sense of the best use to make up his own money. Often he reinvested it in his master's business or in enterprises entirely unrelated to it. He could enter into business relations with his master, from whom he came to be regarded as entirely distinct, or he could make contracts with a third person. He could even have procurators to manage his own property and interests. And so with the peculium may be found not only land, houses, shops, but rights and claims.

The activities of slaves in commerce are innumerable; numbers of them are shopkeepers selling every variety of food, bread, meat, salt, fish, wine, vegetables, beans, aupine-seed, honey, curd, ham, ducks and fresh fish; others deal in clothing—sandals, shoes, gowns and mantles. In Rome, they plied their trade in the neighbourhood of the Circus Mamimus, or the Porticus Trigemimus; or the Esquiline Market, or the Great Mart (on the Caolian Hill) or the Suburra[2]….

[1] Slavery in the Roman Empire, pp. 101-102.

[2] *Ibid.,* p. 105.

The extent to which slave secretaries and agents acted for their masters is shown very clearly in the receipts found in the house of Caecillius Jucundus at Pompei[1].

That the State should possess slaves is not surprising; war, after all, was the affair of the State and the captive might well be State-property. What is surprising is the remarkable use made of public slaves under the Empire and the extraordinary social position occupied by them....

> " 'Public slave' came to mean before the Empire a slave of the State employed in its many offices, and the term implied a given occupation and often social position. The work of slaves of the State, slaves of the townships, and slaves of Caesar comprises much of what would now fall to parts of the higher and the whole of the lower branches of the civil services and of the servants of Municipal Corporations, working both with head and hands.... In the subordinate levels (of the Treasury) there worked numbers of clerks and financial officers, all freedmen and slaves. The business dealt with must have been of vast range.... The Mint.... the immediate head was a knight, in charge of the minting processes.... a freedman was placed; under him served freedmen and slaves.... From one branch of State service, at any rate, slaves were rigorously excluded, except on one or two occasions of exceptional stress. They were not allowed to fight in the Army because not thought worthy of honour. Doubtless other motives were present also; it would be dangerous experiment to train too many slaves systematically in the use of Arms. If, however, slaves served rarely in the fighting line, they are regularly to be found in great numbers behind it employed as servants, and in the commissariat and transport. In the fleet slaves were common enough[2]."

II

Let us turn to the *de facto* position of the Negro in the United States during the period in which he was slave in the eye of the law. Here are some facts[3] which shed a good deal of light on his position:

> "Lafayette himself had observed that white and black seamen and soldiers had fought and messed together in the Revolution without bitter difference. Down in Granville County, North Carolina, a full blooded Negro, John Chavis, educated in Princeton University, was conducting a private school for white students and was a licentiate

[1] Slavery in the Roman Empire, p. 106.

[2] *Ibid.,* pp. 130-147.

[3] Charles C. Johnson's 'The Negro in American Civilization'.

under the local Preshytary, preaching to white congregations in the State. One of his pupils became Governor of North Carolina, another the State's most prominent Whig senator. Two of his pupils were sons of the Chief Justice of North Carolina. The father of the founder of the greatest military Academy of the State attended his school and boarded in his home ..... Slave labour was used for all kinds of work and the more intelligent of the Negro slaves were trained as artisans to be used and leased. Slave artisans would bring twice as much as an ordinary field hand in the market. Master craftsmen owned their staff. Some masters, as the system became more involved, hired slaves to their slave artisans. Many slave artisans purchased their freedom by the savings allowed them above the normal labour expected."

"The advertisements for runaways and sales are an index to this skill. They received the same or better wages than the poor white labourer and with the influence of the master got the best jobs. The Contractors for masons' and carpenters' work in Athens, Georgia in 1838 were petitioned to stop showing preference to Negro labourers. "The white man is the only real, legal, moral, and civil proprietor of this country and state. The right of his proprietorship reached from the date of the studies of those whitemen, Copernicus and Galileo, who indicated the sphericity of the earth; which sphericity hinted to another white man, Columbus, the possibility by a westerly course of sailing, of finding land. Hence by whitemen alone was this continent discovered, the whitemen alone, aye, those to whom you decline to give money for bread or clothes for their famishing families, in the logical manner of withholding work from them defending Negroes too in the bargain." In Atlanta in 1858 a petition signed by 2 white mechanics and labourers sought protection against the black slave artisans of masters who resided in other sections. The very next year sundry white citizens were aggrieved that the City Council tolerated a Negro dentist to remain and operate in their midst. 'In justice to ourselves and the community it ought to be abated. We, the residents of Atlanta, appeal to you for justice'. A Census of free Negroes in Richmond County, Georgia, in 1819 showed carpenters, barbers, boatcorkers, saddlers, spinners, millwrights, holsters, weavers, harness makers, sawmill attendants and steamboat pilots. A Negro shoe-maker made by hand the boots in which President Munrow was inaugurated. Harriet Martineau marvelled at the slave workmanship in the delicately tiled floors of Thomas Jefferson's home at Monticello. There still stands in the big house of the old plantation, heavy marks of the hands of these

Negro craftsmen, strong mansions built of timber hewn from the original oak and pinned together by wooden pins. Negro women skilled in spinning and weaving worked in the mills. Buckingham in 1839 found them in Athens, Georgia, working alongside with white girls without apparent repugnance or objection. Negro craftsmen in the South, slave and free fared better than their brothers in the North. In 1856 in Philadelphia, of 1637 Negro craftsmen recorded, less than two-thirds could use their trades; 'because of hostile prejudice'. The Irish who were pouring into America from the very beginning of the nineteenth century were being used in the North on approximately the same motives of preference which governed Negro slavery. 'An Irish Catholic, it was argued in their favour, seldom attempts to rise to a higher condition than that in which he is placed, while the Negro often makes the attempt with success. Had not the old Puritan Oliver Cromwell, while the traffic in black slaves was on, sold all the Irish not killed in the Drogheda Massacre, into Barbados? Free and fugitive Negroes in New York and Pennsylvania were in constant conflict with this group and the bitter hostility showed itself most violently in the draft riots of the New York. These Hibernians controlled the hod carrying and the common labour jobs, opposing every approach of the Negro as a menace to their slight hold upon America and upon a means of livelihood."

III

Such was the *de facto* condition of the Roman slave and the American Negro slave. Is there anything in the condition of the Untouchables of India which is comparable with the condition of the Roman slave and the American Negro slave? It would not be unfair to take the same period of time for comparing the condition of the Untouchables with that of the slaves under the Roman Empire. But I am prepared to allow the comparison of the condition of the slaves in the Roman Empire to be made with the condition of the Untouchables of the present day. It is a comparison between the worst of one side and the best of the other, for the present times are supposed to be the golden age for the Untouchables. How does the *de facto* condition of the Untouchables compare with the *de facto* condition of the slaves? How many Untouchables are engaged as the slaves in Rome were, in professions such as those of Librarians, Amanuenses, Shorthandwriters ? How many Untouchables are engaged, as the slaves in Rome were, in such intellectual occupations as those of rhetoricians,

grammarians, philosophers, tutors, doctors and artists? How many Untouchables are engaged, as the slaves in Rome? Can any Hindu dare to give an affirmative answer to anyone of these queries? The Untouchables are completely shut out from any of these avenues in which the slaves found so large a place. This proves how futile is the line of defence adopted by the Hindus to justify untouchability. The pity of the matter is that most people condemn slavery simply because they hold that for one man or class to have by law the power of life and death over another is wrong. They forget that there can be cruel oppression, tyranny, and persecution, with the train of misery, disappointment and desperation even when there is no slavery. Those who will take note of the facts stated above relating to the *de facto* condition of the slaves will admit that it is idle to condemn slavery lightly or hurriedly on the mere *de jure* conception of it. What the law permits is not always evidence of the practices prevalent in society. Many a slave would readily have admitted that they owed everything to slavery, and many did so whether they would have admitted it or not.

Slavery, it must be admitted, is not a free social order. But can untouchability be described as a free social order? The Hindus who came forward to defend untouchability no doubt claim that it is. They, however, forget that there are differences between untouchability and slavery which makes untouchability a worse type of an unfree social order. Slavery was never obligatory. But untouchability is obligatory. A person is *permitted* to hold another as his slave. There is no compulsion on him if he does not want to. But an Untouchable has no option. Once he is born an Untouchable, he is subject to all the disabilities of an Untouchable. The law of slavery permitted emancipation. Once a slave always a slave was not the fate of the slave. In untouchability there is no escape. Once an Untouchable always an Untouchable. The other difference is that untouchability is an indirect and therefore the worst form of slavery. A deprivation of a man's freedom by an open and direct way is a preferable form of enslavement. It makes the slave conscious of his enslavement and to become conscious of slavery is the first and most important step in the battle for freedom. But if a man is deprived of his liberty indirectly he has no consciousness of his enslavement. Untouchability is an indirect form of slavery. To tell an Untouchable 'you are free, you are a citizen, you have all the rights of a citizen', and to tighten the rope in such a way as to leave him no opportunity to realize the ideal is a cruel deception. It is enslavement without making the Untouchables conscious of their enslavement. It is slavery though it is untouchability. It is real though it is indirect. It is enduring because it is unconscious. Of the two orders, untouchability is beyond doubt the worse.

Neither slavery nor untouchability is a free social order. But if a distinction is to be made—and there is no doubt that there is distinction between the two—the test is whether education, virtue, happiness, culture, and wealth is possible within slavery or within untouchability. Judged by this test it is beyond controversy that slavery is hundred times better than untouchability. In slavery there is room for education, virtue, happiness, culture, or wealth. In untouchability there is none. Untouchability has none of the advantages of an unfree social order such as slavery. It has all the disadvantages of a free social order. In an unfree social order such as slavery there is the advantage of apprenticeship in a business, craft or art or what Prof. Mures calls 'an initiation into a higher culture'. Neither the crushing of untouchability nor the refusal of personal growth was necessary inherent in slavery, especially slavery as it existed in Roman Empire. It is therefore overhasty to say that slavery is better than untouchability.

This training, this initiation of culture was undoubtedly a great benefit to the slave. Equally it involved considerable cost to the master to train his slave, to initiate him into culture. 'There can have been little supply of slaves educated or trained before enslavement. The alternative was to train them when young slaves in domestic work or in skilled craft, as was indeed done to some extent before the Empire, by Cato, the Elder, for example. The training was done by his owner and his existing staff.... indeed the household of the rich contained special pedagogue for this purpose. Such training took many forms, industry, trade, arts and letters'.

The reason why the master took so much trouble to train the slave and to initiate him in the higher forms of labour and culture was undoubtedly the motive of gain. A skilled slave as an item was more valuable than an unskilled slave. If sold, he would fetch better price, if hired out he would bring in more wages. It was therefore an investment to the owner to train his slave.

In an unfree social order, such as slavery, the duty to maintain the slave in life and the body falls upon the master. The slave was relieved of all responsibility in respect of his food, his clothes and his shelter. All this, the master was bound to provide. This was, of course, no burden because the slave earned more than his keep. But a security for boarding and lodging is not always possible for every freeman as all wage-earners now know to their cost. Work is not always available even to those who are ready to toil and a workman cannot escape the rule according to which he gets no bread if he finds no work. This rule—no work no bread—has no applicability to the slave. It is the

duty of the master to find bread and also to find work. If the master fails to find work, the slave does not forfeit his right to bread. The ebbs and tides of business, the booms and depressions are vicissitudes through which all free wage-earners have to go. But they do not affect the slave. They may affect his master. But the slave is free from them. He gets his bread, perhaps the same bread, but bread whether it is boom or whether it is depression.

In an unfree social order, such as slavery, the master is bound to take great care of the health and well-being of the slave. The slave was property of the master. But this very disadvantage gave the slave an advantage over a freeman. Being property and therefore valuable, the master for sheer self-interest took great care of the health and well-being of the slave. In Rome, the slaves were never employed on marshy and malarial land. On such a land only freemen were employed. Cato advises Roman farmers never to employ slaves on marshy and malarial land. This seems strange. But a little examination will show that this was quite natural. Slave was valuable property and as such a prudent man who knows his interest will not expose his valuable possession to the ravages of malaria. The same care need not be taken in the case of freeman because he is not valuable property. This consideration resulted into the great advantage of the slave. He was cared for as no one was.

Untouchability has none of the three advantages of the unfree social order mentioned above. The Untouchable has no entry in the higher arts of civilization and no way open to a life of culture. He must only sweep. He must do nothing else. Untouchability carries no security as to livelihood. None from the Hindus is responsible for the feeding, housing and clothing of the Untouchable. The health of the Untouchable is the care of nobody. Indeed, the death of an Untouchable is regarded as a good riddance. There is a Hindu proverb which says 'The Untouchable is dead and the fear of pollution has vanished'.

On the other hand, untouchability has all the disadvantages of a free social order. In a free social order the responsibility for survival in the struggle for existence lies on the individual. This responsibility is one of the greatest disadvantages of a free social order. Whether an individual is able to carry out this responsibility depends upon fair start, equal opportunity and square deal. The Untouchable, while he is a free individual, had neither fair start, nor equal opportunity nor square deal. From this point of view, untouchability is not only worse than slavery but is positively cruel as compared to slavery. In slavery, the master has the obligation to find work for the slave. In a system of

free labour workers have to compete with workers for obtaining work. In this scramble for work what chances has the Untouchable for a fair deal ? To put it shortly, in this competition with the scales always weighing against him by reason of his social stigma he is the last to be employed and the first to be fired. Untouchability is cruelty as compared to slavery because it throws upon the Untouchables the responsibility for maintaining himself without opening to him fully all the ways of earning a living.

To sum up, the Untouchables unlike the slaves are owned by the Hindus for purposes which further their interests and are disowned by them, when owning them places them under burden. The Untouchables can claim none of the advantages of an unfree social order and are left to bear all the disadvantages of a free social order.

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CHAPTER 4

THE INDIAN GHETTO—THE CENTRE OF UNTOUCHABILITY— Outside the Fold

What is the position of the Untouchables under the Hindu social order? To give a true idea of their position is the main purpose of this chapter. But it is not easy to strike upon the best means of conveying a realistic and concrete picture of the way the Untouchables live or rather are made to live under the Hindu social order to one who has no conception of it. One way is to draw a model plant so to say of the Hindu social order and show the place given to the Untouchables therein. For this it is necessary to go to a Hindu village. Nothing can serve our purpose better. The Hindu village is a working plant of the Hindu social order. One can see there the Hindu social order in operation in full swing. The average Hindu is always in ecstasy whenever he speaks of the Indian village. He regards it as an ideal form of social organization to which he believes there is no parallel anywhere in the world. It is claimed to be a special contribution to the theory of social organization for which India may well be proud of.

How fanatic are the Hindus in their belief in the Indian village as an ideal piece of social organisation may be seen from the angry speeches made by the Hindu members of the Indian Constituent Assembly in support of the contention that the Indian Constitution should recognize the Indian village as its base of the constitutional pyramid of autonomous administrative units with its own legislature, executive and judiciary. From the point of view of the Untouchables, there could not have been a greater calamity. Thank God the Constituent Assembly did not adopt it. Nevertheless the Hindus persist in their belief that the Indian village is an ideal form of social organization. This belief of the Hindus is not ancestral belief, nor does it come from the ancient past. It is borrowed from Sir Charles Metcalfe—a civil servant of the East India Company. Metcalfe, who was a revenue officer, in one of his Revenue Papers described the Indian village in the following terms[1]:

> "The village communities are little republics, having nearly everything they want within themselves and almost independent of

[1] Quoted by Baden Powell in his "Land System of British India"—Vol. I.

> any foreign relations. They seem to last when nothing else lasts. Dynasty after dynasty tumbles down, revolution succeeds to revolution; Hindu, Pathan, Moghul, Maratha, Sikh, English, all are masters in turn, but the village communities remain the same. In times of trouble they arm and fortify themselves. An hostile army passes through the country, the village communities collect their cattle within their walls and let the enemy pass unprovoked. If plunder and devastation be directed against themselves, and the forces employed be irresistible, they flee to friendly villages at a distance; but when the storm has passed over, they return and resume their occupations. If a country remains for a series of years the scene of continued pillage and massacre so that the villages cannot be inhabited, the scattered villagers nevertheless return whenever the power of peaceable possession revives. A generation may pass away, but the succeeding generation will return. The sons will take the place of their fathers; the same site for the village, the same position for their houses, the same lands will be reoccupied by the descendants of those who were driven out when the village was repopulated; and it is not a trifling matter that will drive them out, for they will often maintain their post through times of disturbances and convulsion, and acquire strength sufficient to resist pillage and oppression with success. This union of the village communities, each one forming a little state in itself, has, I conceive, contributed more than any other cause to the preservation of the people of India, through all the revolutions and changes which they have referred, and is in a high degree conducive to their happiness and to the enjoyment of a great portion of freedom and independence."

Having read this description of an Indian village given by a high-placed member of the governing class, the Hindus felt flattered and adopted his view as a welcome compliment. In adopting this view of the Indian village, the Hindus have not done any justice to their intelligence or their understanding. They have merely exhibited the weakness common to all subject people. Since many foreigners are led to accept this idealistic view of the Indian village, it would be better to present a realistic picture of the Society as one finds it in an Indian village.

The Indian village is not a single social unit. It consists of castes. But for our purposes, it is enough to say—

I. The population in the village is divided into two sections—(*i*) Touchables and (*ii*) Untouchables.

II. The Touchables form the major community and the Untouchables a minor community.

III. The Touchables live inside the village and the Untouchables live outside the village in separate quarters.

IV. Economically, the Touchables form a strong and powerful community, while the Untouchables are a poor and a dependent community.

V. Socially, the Touchables occupy the position of a ruling race, while the Untouchables occupy the position of a subject race of hereditary bondsmen.

What are the terms of associated life on which the Touchables and Untouchables live in an Indian village? In every village the Touchables have a code which the Untouchables are required to follow. This code lays down the acts of omissions and commissions which the Touchables treat as offences. The following is the list of such offences:

1. The Untouchables must live in separate quarters away from the habitation of the Hindus. It is an offence for the Untouchables to break or evade the rule of segregation.
2. The quarters of the Untouchables must be located towards the South, since the South is the most inauspicious of the four directions. A breach of this rule shall be deemed to be an offence.
3. The Untouchable must observe the rule of distance pollution or shadow of pollution as the case may be. It is an offence to break the rule.
4. It is an offence for a member of the Untouchable community to acquire wealth, such as land or cattle.
5. It is an offence for a member of the Untouchable community to build a house with tiled roof.
6. It is an offence for a member of an Untouchable community to put on a clean dress, wear shoes, put on a watch or gold ornaments.
7. It is an offence for a member of the Untouchable community to give high sounding names to their children. Their names be such as to indicate contempt.
8. It is an offence for a member of the Untouchable community to sit on a chair in the presence of a Hindu.
9. It is an offence for a member of the Untouchable community to ride on a horse or a palanquin through the village.
10. It is an offence for a member of the Untouchable community to take a procession of Untouchables through the village.
11. It is an offence for a member of the Untouchable community not to salute a Hindu.
12. It is an offence for a member of the Untouchable community to speak a cultured language.

13. It is an offence for a member of the Untouchable community, if he happens to come into the village on a sacred day which the Hindus treat as the day of fast and at or about the time of the breaking of fast; to go about speaking, on the ground that their breath is held to foul the air and the food of the Hindus.

14. It is an offence for an Untouchable to wear the outward marks of a Touchable and pass himself as a Touchable.

15. An Untouchable must conform to the status of an inferior and he must wear the marks of his inferiority for the public to know and identify him such as—

(*a*) having a contemptible name.

(*b*) not wearing clean clothes.

(*c*) not having tiled roof.

(*d*) not wearing silver and gold ornaments.

A contravention of any of these rules is an offence.

Next come the duties which the Code requires members of the Untouchable community to perform for the Touchables. Under this head the following may be mentioned:

1. A member of an Untouchable community must carry a message of any event in the house of a Hindu such as death or marriage to his relatives living in other villages no matter how distant these villages may be.
2. An Untouchable must work at the house of a Hindu when a marriage is taking place, such as breaking fuel, and going on errands.
3. An Untouchable must accompany a Hindu girl when she is going from her parent's house to her husband's village no matter how distant it is.
4. When the whole village community is engaged in celebrating a general festivity such as Holi or Dasara, the Untouchables must perform all menial acts which are preliminary to the main observance.
5. On certain festivities, the Untouchables must submit their women to members of the village community to be made the subject of indecent fun.

These duties have to be performed without remuneration.

To realise the significance of these duties, it is important to note why they have come into being. Every Hindu in the village regards himself as a superior person above the Untouchables. As an overlord, he feels it absolutely essential to maintain his prestige. This prestige he cannot maintain unless he has at his command a retinue to dance attendance on him. It is in the Untouchable that he finds a ready retinue which is

at his command and for which he does not have to pay. The Untouchables by reason of their helplessness cannot refuse to perform these duties and the Hindu villager does not hesitate to exact them since they are so essential to the maintenance of his prestige.

These offences are not to be found in the Penal Code, enacted by the British Government. Nonetheless so far as the Untouchables are concerned, they are real. A breach of any of them involves sure punishment for the Untouchables. How they are enforced will be clear from Chapter 5 & 6.

Another important thing to note is that the punishment for these offences is always collective. The whole community of Untouchables is liable for punishment though the offence may have been committed by an individual.

How do the Untouchables live? How do they earn their living? Without a knowledge of the ways of earning a livelihood which are open to the Untouchables it would not be possible to have a clear idea of their place in the Hindu Society.

In an agricultural country, agriculture can be the main source of living. But this source of earning a living is generally not open to the Untouchables. This is so for a variety of reasons. In the first place purchase of land is beyond their means. Secondly even if an Untouchable has the money to purchase land he has no opportunity to do so. In most parts the Hindus would resent an Untouchable coming forward to purchase land and thereby trying to become the equal of the Touchable class of Hindus. Such an act of daring on the part of an Untouchable would not only be frowned upon but might easily invite punishment. In some parts they are disabled by law from purchasing land. For instance in the Province of Punjab there is a law called the Land Alienation Act. This law specifies the communities which can purchase land and the Untouchables are excluded from the list. The result is that in most part the Untouchables are forced to be landless labourers. As labourers they cannot demand reasonable wages. They have to work for the Hindu farmer for such wages as their masters choose to give. On this issue the Hindu farmers can combine to keep the wages to the lowest level possible for it is to their interests to do so. On the other hand the Untouchables have no holding power. They must earn or starve. Nor have they any bargaining power. They must submit to the rate fixed or suffer violence.

The wages paid to the Untouchables are either paid in cash or in corn. In parts of the Uttar Pradesh the corn given to the Untouchables as their wages is called “Gobaraha” . “Gobaraha” means privy corn or corn contained in the dung of an animal. In the month of March or

April when the crop is fully grown, reaped and dried, it is spread on the threshing floor. Bullocks are made to tread over the corn in order to take the corn out of husk by the pressure of their hooves. While treading over the corn, the bullocks swallow up the corn as well as the straw. As their intake is excessive they find it difficult to digest the corn. Next day, the same corn comes out of their stomach along with their dung. The dung is strained and the corn is separated and given to the Untouchable workmen as their wages which they convert into flour and make into bread.

When the agricultural season is over the Untouchables have no employment and no means of earning a living. In such seasons they subsist by cutting grass and firewood from the jungle and sell it in a nearby town. Even when it is open it depends upon the forest guard. Only if he is bribed he will let them take some grass and firewood from the Government forest. When it is brought to the town they have always to face a buyer's market. The Hindus who are the main body of buyers will always conspire to beat down the wages. Having no power to hold out, the Untouchables have to sell their stuff for whatever is offered to them. Often times they have to walk 10 miles each way from the village to the town and back to sell their stuff.

There is no trade in which they are engaged themselves as a means of earning a livelihood. They have not the capital for it and even if they had, no one would buy from them.

All these sources of earning are obviously precarious and fleeting. There is no security. There is only one secure source of livelihood open to the Untouchables in some parts of the country known to me. It is the right to beg food from the Hindu farmers of the village. Every village has its machinery of administration. The Untouchables of the village are hereditary menials employed in the village administration. As part of their remuneration the whole body of Untouchables get a small parcel of land assigned in the ancient past which is fixed and is never increased and which the Untouchables prefer to leave uncultivated because of its excessive fragmentations. Coupled with this is given to them the right to beg for food.

Shocking as it may seem, this has become a customary right of the Untouchables and even Government takes into account the value of the food obtained by the Untouchables by begging in fixing the remuneration of an Untouchable if he were to be employed in Government job.

This right to beg for food from the Touchables is now the principal means of livelihood for 60 millions of Untouchables in India. If anyone were to move in a village after the usual dinner time, he will meet with

a swarm of Untouchables moving about the village begging for food and uttering the formula.

This statutory beggary as a means of livelihood for the Untouchables has been reduced to a system. The Untouchable families are attached to different Touchable families in the village as did the serfs and villeins to the Lords of the Manors in Medieval Europe. The Untouchable families attached to the Touchable families are at the command of the latter. This relationship has become so personal that one always hears a Touchable speaking of an Untouchable as 'my man' as though he was his slave. This relationship has helped to systematize this matter of begging food by the Untouchables from the Touchable households.

This is the Village Republic of which the Hindus are so proud. What is the position of the Untouchables in this Republic? They are not merely the last but are also the least. He is stamped as an inferior and is held down to that status by all ways and means which a majority can command. This inferiority is the destiny not merely of an individual but of the whole class. All Untouchables are inferior to all Touchables irrespective of age or qualification. A Touchable youth is above an aged Untouchable and an educated Untouchable must rank below an illiterate Touchable.

The established order is the law made by the Touchables. The Untouchables have nothing to do with it except to obey it and respect it.

The Untouchables have no rights against the Touchables. For them there is no equal right, no justice by which that which is due to the Untouchables is allowed to them. Nothing is due to them except what the Touchables are prepared to grant. The Untouchables must not insist on rights. They should pray for mercy and favour and rest content with what is offered.

This established order is a hereditary order both in status as well as in function. Once a Touchable, always a Touchable. Once an Untouchable, always an Untouchable. Once a Brahmin, always a Brahmin. Once a sweeper, always a sweeper. Under it, those who are born high, remain high; those who are born low, remain low. In other words, the established order is based on an inexorable law of karma or destiny which is fixed once for all and can never be changed. This destiny has no relation to the merits of the individuals living under it. An Untouchable however superior he may be mentally and morally, is below a Touchable in rank, no matter how inferior he may be mentally or morally. A Touchable however poor he may be, must always take rank above an Untouchable, however rich he may be.

Such is the picture of the inside life in an Indian village. In this Republic, there is no place for democracy. There is no room for equality. There is no room for liberty and there is no room for fraternity. The Indian village is the very negation of a Republic. If it is a republic, it is a republic of the Touchables, by the Touchables and for the Touchables. The republic is an Empire of the Hindus over the Untouchables. It is a kind of colonialism of the Hindus designed to exploit the Untouchables. The Untouchables have no rights. They are there only to wait, serve and submit. They are there to do or to die. They have no rights because they are outside the village republic and because they are outside the so-called republic, they are outside the Hindu fold. This is a vicious circle. But this is a fact which cannot be gainsaid.

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CHAPTER 5

UNFIT FOR HUMAN ASSOCIATION

The Untouchables as explained in the last Chapter are outside the Hindu fold. The question however remains: How far removed are they from the Hindus? What respect, what consideration do the Hindus show to them as human beings if not as Hindus? Without an answer to these questions, one cannot get a complete picture of the life of the Untouchables. The answer is there for anyone who cares to note it. The only difficulty is how to present it. There are two ways of presenting it. Either in the form of a statement or by citation of cases. I will adopt the latter. I do not wish to weary the reader with many cases. I will cite only a few which are quite telling.

The first case is from the State of Madras.

In the year 1909 an appeal was filed in the Madras High Court by Mr. Venkata Subba Reddy and others all of whom were Hindus against their conviction by the Magistrate under section 339, Indian Penal Code, for causing obstruction to the complainant and his party who were also caste Hindus. The judgment[1] of the Madras High Court which gives the facts of the case and illustrates the position of the Untouchables vis-a-vis the Hindus in a very striking manner. The judgment is therefore worth quoting. It is as follows:

> "The Appellants (Venkata Subba Reddy and others) have been convicted of wrongful restraint for having caused certain Pariahs[2] to stand in the public street in the vicinity of a temple with the object of preventing the complainant from conducting a procession from the temple through the street. It is found that the complainant, deterred by fear of the pollution which he would have suffered had he passed near the *Pariahs,* did not conduct the procession, and that the accused maliciously caused the *Pariahs* to take up their positions in the street with the sole object of deterring the complainant from going where he had a right to go.
>
> We do not think that the accused have committed the offence of wrongful restraint; in our opinion this act did not amount to

[1] It is reported in 11 Criminal Law Journal, p. 263.

[2] The Pariahs are an Untouchable community in Madras.

an obstruction within the meaning of section 339. The Pariahs were no obstruction; in fact there was nothing to prevent the complainant from taking his procession past them and they had a right to be where they were; and it is not suggested that their presence was intended to cause fear of physical injury or any fear that anything would happen to the complainant except the pollution of the procession by their presence.

It was not the presence of the *Pariahs* but the complainant's own disinclination to go near them which prevented him from going where he would; it was his own choice which kept him from leaving the temple as Mr. Kuppuswami Aiyer put it, it was with his own consent that he remained there and there was no fear of injury within the meaning of the Penal Code which would prevent that consent from being a free consent. If it were otherwise, it would follow that a person in the position of the complainant would be justified in complaining of wrongful restraint against any *Pariah,* who having been lawfully in the public street on his own business, refused to move when directed to remove himself to a distance, knowing that if he remained, the complainant would be deterred by fear of pollution from passing near him.

It is clear that there would be no wrongful restraint in such a case and we think, it makes no difference that the *Pariahs* were posted by the accused[1].

We therefore set aside the conviction and sentence and direct refund of the fines if paid."

The case is very illuminating. There were in this case two parties. Venkata Subba Reddy was the leader of one party. Both parties were caste Hindus. The quarrel between the parties was over the right to take out a procession. Venkata Subba Reddy wanted to stop his opponents from taking out a procession and did not know how best to do it. It struck him that the effective way would be to get a few Untouchables and ask them to stand on the road and hold fast to it. The trick succeeded and his opponents could not dare to go in the procession for fear of being polluted. The fact that the Madras High Court gave a judgment to the effect that making the *Pariahs* stand on the road does not constitute obstruction in the legal sense of the term is another matter. The fact remains that the mere presence of the *Pariahs* was enough to drive the Hindus away. What does this mean? It means that the Hindus have an absolute feeling of revulsion towards the Untouchables.

[1.] The trial Magistrate had held that the posting of the Pariahs was enough to cause obstruction and had held the accused guilty.

The next case is equally illuminating. It is a case of an Untouchable school teacher in a village in Kathiavar and is reported in the following letter which appeared in the *'Young India'* a journal published by Mr. Gandhi in its issue of 12th December 1929. It expresses the difficulties he had expressed in persuading a Hindu doctor to attend to his wife who had just delivered and how the wife and child died for want of medical attention. The letter says:

> "On the 5th of this month a child was born to me. On the 7th, she fell ill and suffered from loose stools. Her vitality seemed to ebb away and her chest became inflamed. Her breathing became difficult and there was acute pain in the ribs. I went to call doctor—but he said he would not go to the house of a Harijan nor was he prepared to examine the child. Then I went to Nagarseth and Garasia Darbar and pleaded them to help me. The Nagarseth stood surety to the doctor for my paying his fee of two rupees. Then the doctor came but on condition that he would examine them only outside the Harijan colony. I took my wife out of the colony along with her newly born child. Then the doctor gave his thermometer to a Muslim, he gave it to me and I gave it to my wife and then returned it by the same process after it had been applied. It was about eight o'clock in the evening and the doctor on looking at the thermometer in the light of a lamp said that the patient was suffering from pneumonia. Then the doctor went away and sent the medicine. I brought some linseed from the bazaar and used it on the patient. The doctor refused to see her later, although I gave the two rupees fee. The disease is dangerous and God alone will help us.
>
> The lamp of my life has died out. She passed away at about two o'clock this afternoon."

The name of the Untouchable school teacher is not given. So also the name of the doctor is not mentioned. This was at the request of the Untouchable teacher who feared reprisals. The facts are indisputable.

No explanation is necessary. The doctor, who in spite of being educated refused to apply the thermometer and treat an ailing woman in a critical condition. As a result of his refusal to treat her, the woman died. He felt no qualms of conscience in setting aside the code of conduct which is binding on his profession. The Hindu would prefer to be inhuman rather than touch an Untouchable.

The third case is taken from '*Prakash*' of 23rd August 1932:

> "In the village of Jagwal, tahsil Jafarwal on the 6th August, a calf fell into a well. Rammahashaya, a Dom[1] by caste was standing nearby. He at once jumped into the well and caught the calf in his arms. On three or four men coming to help, the calf was safely

[1] Dom is an Untouchable community of U.P. and Bihar.

rescued from the well. The Hindus of the village, however, raised a hue and cry that their well had been defiled and victimised the poor man. Fortunately, a barrister had come to the scene. He soundly rebuked the men who were tormenting Sadhuram and thus brought them to their senses. Thus, the man's life was saved otherwise no one knows what might have happened."

What is important: saving of the calf by the Untouchable and his polluting the well or the death of the calf and saving the well from being polluted by the Untouchable? From the point of view of the Hindus, it would be better if the calf had died than an Untouchable even for the purpose of saving the calf should have polluted the well.

Another case of similar sort is reported in the ' *Bombay Samachar*' of 19th December 1936:

" In Kaladi, a village of Calicut, the child of a young woman fell into a well. The woman raised an alarm but none present dared to go down the well. A stranger who was passing by jumped into the well and rescued the child. Later, when the people asked the benefactor who he was, he said, he was an Untouchable. Thereupon instead of being thankful, the man was fully abused and assaulted as he had polluted the well."

How unclean and unfit for association an Untouchable is to a Hindu be evident from the following incident reported in the ' *Adi Hindu*' of Lucknow for July 1937: It says:

"An employee of the Madras Holmes Company, who claimed to be one of the high caste persons, passed away recently. When at the cremation ground his pyre was set fire to, his friends and kinsmen threw rice on it. Among these friends unfortunately there was an Untouchable, an Adi-Dravida of Madras. He also joined in the throwing of the rice. At this, the high caste Hindus rebuked him for defiling the pyre. This led on to a heated argument and the upshot was that two men were stabbed in the stomach, one of them died at once upon reaching the hospital and the condition of the other one is said to be critical."

There is one other incident more telling than this. On the 6th of March 1938, a meeting of the Bhangis was held at Kasarwadi (behind Woollen Mills) Dadar, Bombay, under the Chairmanship of Mr. Indulal Yadnik. In this meeting, one Bhangi boy narrated his experience in the following terms:

"I passed the Vernacular Final Examination in 1933. I have studied English up to the 4th Standard. I applied to the Schools Committee of the Bombay Municipality for employment as a teacher but I failed as there was no vacancy. Then, I applied to the

Backward Classes Officer, Ahmedabad, for the job of a Talati (village Patwari) and I succeeded. On 19th February 1936, I was appointed a Talati in the office of the Mamlatdar of the Borsad Taluka in the Kheda District

Although my family originally came from Gujarat, I had never been in Gujarat before. This was my first occasion to go there. Similarly, I did not know that untouchability would be observed in Government offices. Besides in my application the fact of my being a Harijan was mentioned and so I expected that my colleagues in the office would know before hand who I was That being so, I was surprised to find the attitude of the clerk of the Mamlatdar's office when I presented myself to take charge of the post of the Talati.

The Karkun contemptuously asked, "Who are you?" I replied, "Sir, I am a Harijan"; He said, 'Go away, stand at a distance. How dare you stand so near me. You are in office, if you were outside I would have given you six kicks, what audacity to come here for service!" Thereafter, he asked me to drop on the ground my certificate and the order of appointment as a Talati. He then picked them up. While I was working in the Mamlatdar's office at Borsad I experienced great difficulty in the matter of getting water for drinking. In the verandah of the office there were kept cans containing drinking water. There was a waterman incharge of these water cans. His duty was to pour out water to clerks in office whenever they needed it. In the absence of the waterman they could themselves take water out of the cans and drink it. That was impossible in my case. I could not touch the cans for my touch would pollute the water, I had therefore to depend upon the mercy of the waterman. For my use there was kept a small rusty pot. No one would touch it or wash it except myself. It was in this pot that the waterman would dole out water to me. But I could get water only if the waterman was present. This waterman did not like the idea of supplying me with water. Seeing that I was coming for water he would manage to slip away with the result that I had to go without water and the days on which I had no water to drink were by no means few.

I had the same difficulties regarding my residence. I was a stranger in Borsad. No caste Hindu would rent a house to me. The Untouchables of Borsad were not ready to give me lodgings for the fear of displeasing the Hindus who did not like my attempt to live as a clerk, a station above me. Far greater difficulties were with regard to food. There was no place or person from where I could get my meals. I used to buy 'Bhajhas' morning and evening, eat them in

some solitary place outside the village and come and sleep at night, on the pavement of the verandahs of the Mamlatdar's office. In this way, I passed four days. All this became unbearable to me. Then I went to live at Jentral, my ancestral village. It was six miles from Borsad. Every day I had to walk eleven miles. This I did for a month and a half.

Thereafter the Mamlatdar sent me to a Talati to learn the work. This Talati was in charge of three villages, Jentral, Khapur and Saijpur. Jentral was his headquarters. I was in Jentral with this Talati for two months. He taught me nothing and I never once entered the village office. The headman of the village was particularly hostile. Once he had said ' you fellow, your father, your brother are sweepers who sweep the village office and you want to sit in the office as our equal? Take care, better give up this job.'

One day the Talati called me to Saijpur to prepare the population table of the village. From Jentral I went to Saijpur. I found the Headman and the Talati in the village office doing some work. I went, stood near the door of the office and wished them 'good morning' but they took no notice of me. I stood outside for about 15 minutes. I was already tired of life and felt enraged at being thus ignored and insulted. I sat down on a chair that was lying there. Seeing me seated on the chair the Headman and the Talati quietly went away without saying anything to me. A short while after, people began to come and soon a large crowd gathered round me. This crowd was led by the Librarian of the village library. I could not understand why an educated person should have led this mob. I subsequently learnt that the chair was his. He started abusing me in the worst terms. Addressing the Ravania (village servant) he said 'who allowed this dirty-dog of a Bhangi to sit on the chair?' The Ravania unseated me and took away the chair from me. I sat on the ground. Thereupon the crowd entered the village office and surrounded me. It was a furious crowd raging with anger, some abusing me, some threatening to cut me to pieces with Dharya (a sharp weapon like the sword). I implored them to excuse me and to have mercy upon me. That did not have any effect upon the crowd. I did not know how to save myself. But an idea came to me of writing to the Mamlatdar about the fate that had befallen me and telling him how to dispose of my body in case I was killed by the crowd. Incidentally, it was my hope that if the crowd came to know that I was practically reporting against them to the Mamlatdar they might hold their hands. I asked the Ravania to give me a piece of

paper which he did. Then with my fountain pen I wrote the following on it in big bold letters so that everybody could read it:

"To

The Mamlatdar, Taluk Borsad.

Sir,

Be pleased to accept the humble salutations of Parmar Kalidas Shivram. This is to humbly inform you that the hand of death is falling upon me today. It would not have been so if I had listened to the words of my parents. Be so good as to inform my parents of my death."

The Librarian read what I wrote and at once asked me to tear it off, which 1 did. They showered upon me innumerable insults. 'You want us to address you as our Talati? You are a Bhangi and you want to enter the office and sit on the chair? I implored for mercy and promised not to repeat this and also promised to give up the job. I was kept there till seven in the evening when the crowd left. Till then the Talati and the Mukhiya had not come. Thereafter I took fifteen days' leave and returned to my parents in Bombay."

There is another facet of the social outlook of the Hindus towards the Untouchables which cannot be neglected. This outlook is best illustrated by a study of the following cases. In the '*Alfzal*' of 8th September 1943:

"It was reported from Nasik on 1st September that the Hindus of a village attacked an Achchut family; tied the hands and feet of an elderly woman, placed her on a pile of wood which was subsequently set on fire. All this because they thought she was the cause of the Cholera in the village."

The ' *Times of India*' of August 29, 1946.

"The Harijan quarters of a village in Kaira District are reported to have been raided by Caste Hindus on suspicion that the Harijans were causing the death of cattle by witchcraft.

It is alleged that about 200 villagers armed with sticks raided the Harijan quarters and tying an old woman to a tree, burnt her feet. Another woman is reported to have been belaboured.

The Harijans evacuated the village in panic, but Mr. Chhotabhai Patel, Secretary of the District Harijan Sevak Sangh who was apprized of the incidents has brought back the Harijans to the village and applied to the authorities for their protection.

A similar incident is reported from another village, where Harijans are alleged to have been severely belaboured."

The matter did not end there. There was a recurrence of violence in which the whole body of Hindus are reported to have taken part in

general assault on the Untouchables. The news appeared in the '*Bharat Jyoti*' of 22nd September 1946 which is reproduced below:

> "Five Harijans, including one woman, were injured seriously when a crowd of villagers attacked them with dhahas and lathis in a village in Borsad Taluka in Kaira District according to a report received by the Secretary of the Borsad Taluka Harijan Sevak Sangh. The attack was a sequel to the death of about seven buffaloes which the villagers attributed to black-magic practised by the Harijans.
>
> The injured have been sent to hospital. Police rushed to the spot, and some persons have been arrested.
>
> The villagers, it is learnt, are threatening the Harijans that if they make any complaints to the authorities they would be burnt alive.
>
> Such incidents often occur in Kaira villages, and the District Magistrate of Kaira has instructed all police and other executive officers to take strong measures against such harassment of Harijans."

The tale told by these cases is clear and simple. No comment is necessary. To the average Hindu, the Untouchable is not fit even for human association. He is the carrier of evil. He is not a human being. He must be shunned.

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PART II

CHAPTER 6

UNTOUCHABILITY AND LAWLESSNESS

There are many people who must be wondering as to how such an established order so full of inequalities could have survived. What are the forces which go to support it? Of the forces which sustain the system the most important is the determination of the Hindus to maintain it at all cost. The Hindus are prepared to use every means to suppress the Untouchables whenever the Untouchables try to upset it even in the slightest degree. The ordinary non-violent Hindu will not hesitate to use the utmost violence against the Untouchables. There is no cruelty which he will not practice against them to sustain the established order. Not many will readily believe this. But this is a fact. For those who have any doubt on the point, I reproduce below some cases of tyrannies and oppressions practised by the Hindus against the Untouchables as have been reported from time to time in the newspapers:

I

The following news item appeared in the "*Tej*" of Delhi in its issue of 4th September 1927:

> "The Shiv Temple of Vykom has been desecrated by the Harijans by their coming too near to the temple. Now the Hindus of that area have decided that the ceremony of purifying the temple should be elaborately performed at great expense before the place is fit for worship again."

The correspondent of '*Pratap*' reports the following incident which appears in its issue of 2nd September 1932:

> "Meerut August 1932. On the day of Janmashtami some Harijans tried to gain admittance into Caste Hindu Temple but nothing came except widespread troubles and unrest. This year the local Dalit Association has decided that if the doors of the temples are not opened to them, they will undertake Satyagraha. When the Hindus came to know of this, they started making plans to defeat the moves of the Harijans. At last on the night of Janmashtami, the members

of the Harijan community came in the form of a procession and tried to gain access to the temple Gods. The priests, however, refused them permission to enter and said, "You can have audience of the Gods standing outside on the street." Upon this a great crowd gathered at the place. The priests tried to enter the temple and thus a clash took place between the two parties and blows were freely exchanged."

The Hindus do not allow the Untouchables to enter the Hindu temples. It would be thought that they would allow the Untouchables to have their own temples and install therein the image of God. That is a mistake. The Hindus will not allow even that. It is enough to quote two instances. One is from the '*Pratap*' of 12th February 1923:

"In the District of Agra, a Chamar who had seen a Brahmin worshipping the image of Vishnu in his hous'e, began to do the same himself. When the Brahmin came to know of this he was most indignant and with the help of a number of villagers caught hold of the ill-fated Harijan, gave him a sound beating saying, 'How dare you try to win over the God Vishnu'. Finally, they stuffed his mouth with filth and left him. In sheer desperation the Chamar abandoned the Hindu faith and embraced Islam."

The other is from the '*Hindu*' of 4th July 1939:

"A meeting of the Bellary District Harijan Advisory Board was held on 29th June 1939 at the Collector's Bunglow. Mr. A. D. Crombie, CIE., ICS., President of the Committee and Collector presided.

With regard to the grievances of the Harijans of Narayanadevarakeri including allegations of extraction of forced labour from them and harassment by money-lenders, the Committee decided to call for official report, with a view to taking action, if necessary.

The religious disabilities of the Harijans residing in Kudathini village were brought to the notice of the Committee. It was alleged that though the Harijans constructed a temple in their colony as long as twelve years ago, they could not install the image of God which was also ready in the temple, owing to the objections raised by a section of the Caste Hindus in the place to the Harijans taking out the image in procession in the village before the installation."

II

How any attempt to take water from the Hindu well is dealt with by the Hindus can be seen from the following instances. The first one appeared in the '*Pratap*' of 12th February 1923:

"Mahashaya Chhedi Lalji has reported that a Chamar was going for idol worship, when on the way he felt thirsty. He cast his own iron pail into a well and drew out some water. Upon this he was rebuked by a high caste Hindu and then soundly beaten and locked up in a room. As it happened, I was passing by and when I enquired why this man was being kept under lock and key, the Diwan Saheb replied that this man cast his own pail into our well and wants to profane religion."

That even the Hindu women will not hesitate to take part in the assaults committed by the Hindus against the Untouchables who dare to take water from the Hindu well is a fact. Compare the following report which appeared in the '*Pratap*' of 26th February 1932:

"On 19th February 1932, a very tragic incident took place in the village of Pul Bajwan. This happened when Mahashaya Ramlal went to fetch some water from a well, the same well at which on 13th January 1932 some Rajputs had belaboured Mahashaya Ramlal and his companion, Pandit Bansilal. At that time, a crowd of Rajput women came up armed with all sorts of bats and sticks and gave such a sound beating to the Mahashaya that it is difficult to describe. All his body was covered with blood by the time the Rajput women had done with him. At this time, he is admitted in the hospital of Phuklian."

That even the support of an officer of Government in the exercise of their right to take water from the well will not save the Untouchables from assault is clear from the following incident which appeared in the '*Milap*' of 7th June 1924:

"Some days ago, an officer of the Canal Department came to the village of Rahian in Tehsil Sabha and he ordered some Megha Untouchables to help in drawing out water from a well. At first they refused but the officer rebuked them sternly and forced them to draw water. The next day the Hindus gathered at the well and sent for the Megha through a Chowkidar and asked them why they dared to climb up to the well. One Megha replied that they were obliged to do so and it was no fault of theirs. For this cheek he was attacked by the Hindus with sticks and hands and until the time of writing this, he is lying unconscious. Although the doctor has declared that the injuries are minor ones, a report of attempted murder and unlawful assembly has been filed with the Police. This however has been ignored and the indifference of the police has created a feeling of great insecurity among the Megha people. The villagers are persecuting the Meghas very much, even their cattle are not allowed to drink water and all wells and ponds have been closed to them."

The Untouchables cannot take water from the Hindu well is not all. They must not build a pucca brick well for themselves even though they may have the money to do so. For having a pucca well for themselves means an attempt to raise themselves to the status of the Hindus which is contrary to the Established Order.

The '*Milap*' of 6th June 1934 reports the following incidents:

> "Lala Ram Prashadji, Secretary of the Achhut Udharak Committee, Punjab, has written to the following effects:
>
> "During this hot season, complaints are being received from everywhere that the supply of water is becoming a great problem. The Depressed Class people, who have no wells of their own sit near the well with their vessels in their hands. If someone is kind enough to pour out some water, well and good, otherwise they sit helpless. In some places, however, no one is allowed to pour out water to these people even for money and if anyone does so, mortal fights ensue. Not only is the use of the village wells forbidden to them, but they are not even allowed to make wells of their own with their own money."

To the same effect is the incident reported in the "*Tej*" of 21st April 1924:

> "The Chamars of the village, Opad, numbered about 250. About a month and half ago, they gave up drinking water out of the leather bags of the Muslim water carriers (on the suggestions of the Arya Samaj Pandits?) and now they are in great difficulties about their water supply. The Jats of the village not only refuse to let them draw water out of the village wells but do not even let them make wells of their own. The poor Chamars are living on water from ponds and ditches. Yesterday, Dr. Sukhdevji, Secretary of Dalit Sudhar (Harijan Uplift) Committee came to make investigations in Upad and saw everything with his own eyes. He found the condition of the Chamars abject beyond words and their persecution by the Jats a real fact."

The following is from the '*Times of India*' dated 9th May 1931:

> "In the Baroda State the Untouchables are supposed to be better treated than in the adjoining British territory, because the State has made laws recognising the equality of the Antyaja with caste people. And yet in Padras Taluka the other day the standing crop of a poor Antyaja woman was fired and she herself brutally assaulted, because she dared to send her little son to the local primary school. Now comes a tale of woe from Chanasma in Kadi Prant where an artisian well has been sunk and built with the labour of the Antayajas who were promised the use of the well. But when the well was ready for

use they were first flatly told it was not for them, and when they complained to the Punch the latter generously allowed them to lay a pipe 500 feet long at the end of which they could have a tap all for themselves. Now an unexpected owner of the land at the tap had cropped up, so the pipe line was taken somewhere near to the local tank, but this meant pollution of the tank and therefore of the dirty linen washed there. So the tap was accommodated elsewhere. But did this mean the end of the trouble? No, the enraged caste people have cut the pipe line several times and the Antyajas are without water to drink. How very 'adequate' to use Mr. Gandhi's term, must the Untouchables feel the treatment given to them by their coreligionists."

Mr. Sanjana in a letter to the '*Times of India*' of the 7th November 1928 reports what Mr. Thakkar saw in the year 1927 regarding the awful plight of the Untouchables in the matter of water.

"In Balsad Taluk, Mr. Thakkar saw a Bhangi woman waiting near a well for some merciful 'people' to give her some water. She had waited from morning till noon, and none had given her any. But the most exquisite touch of spirituality is revealed in the manner of giving water to the Bhangis; it cannot be poured direct into their pots—any 'people' doing so would get polluted. Says, Mr. Thakkar, 'once our teacher Chunibhai had shown the temerity of pouring water direct from his bucket into a Bhangi's pot and he had received a stern warning in consequence 'Master this sort of thing won't be (tolerated) here'. A small cistern is built below the slope of the well. Anyone who is moved by pity may pour some water in the cistern. A bamboo pipe just out of the cistern, and the Bhangi women must put her pot under the pipe, and it may get filled in an hour or so. For, adds Mr. Thakkar, it is only the unwanted water remaining over in the bucket of the woman drawing it that is as a rule thrown into the cistern, and that too if she takes pity on the waiting Bhangi woman."

III

Under the established order, the Untouchables have no right to education and certainly have no right to be admitted to the village school. Those Untouchables who have dared to make a breach in these rules of the Established Order have been severely punished by the Hindus. The following are only a few of the numerous cases that have happened:

From the '*Arya Gazette*' of Lahore dated 30th June 1921:

"A Mahashaya wrote an article in the paper '*Young India*', in which he reported that in district Surat there is a village called Sisodri. In a very short span of time it has made such progress on the path of nationalism, that it could be held up as a model of non-cooperation. With all this, however, the old contempt for the Harijan remains. The writer says that in the nationalist school of that place, 1 saw a Dhed caste child sitting all apart in one corner of the class room and proclaiming by his very looks that he was an untouchable. I asked the students why they did not let this boy sit with them and they replied: that this could not be until the Harijan left drinking wine and eating meat. The Harijan boy at once said that he had already given these up. The high caste students could say nothing now."

From the '*Pratap*' of 12th February 1923:

"Mahashaya Santramji has reported :

It happened recently that a Brahmin teacher was appointed by the Government to go and teach in a village school for Chamar boys. When he came there, the Brahmins, Kshatrias and others boycotted the teacher saying, 'You have come here to teach the Chamars and raise them to our level. Have You?"

From the '*Tej*' of 11th April 1924:

"Swami Shradhanandji has written:

There was a nationalist school in Khatsayas which I visited towards the end of November 1921. When 1 enquired how many Harijan children read there, I was told only three and they too, sit outside the class room in the verandah. In my lecture I objected to this procedure and said that in a nationalist institution, it was only proper that these boys should be allowed to sit inside the class room. The manager of the school acted on my advice. The next day the benches of the school were all deserted and till this day the Grand building of that nationalist school stands locked out and dreary."

From "Milap" dated 18th April 1924:

"Here is an incident from Hoshungabad. The district Council sent a circular letter to the schools that the Harijan children should be educated in the schools. The headmasters began to act on the orders. When one of the schools admitted some Harijan children the Honorary Magistrate took great offence at it and withdrew his children from that school; other guardians also followed suit and all together got a meeting of the school committee convened and resolutions passed in it, that the education of Harijans in the school

is against the Public wishes. They said that after coming into contact with Harijans, the Brahmin children change their Janayu (a religious thread) therefore this school committee could not undertake the education of Harijan children."

From "*Pratap*" dated 3rd April 1932:

"Ahmedabad, 1st April 1932: A report has been received from the village of Nawagaon, Baroda State, that ever since the Harijan schools were closed down and permission given to the Harijans to enter the ordinary village schools, the villagers have been subjecting the Harijans to endless persecution. It is reported that the thousand stacks of hay belonging to Harijan farmers, were burnt down, Kerosine oil has been sprinkled into the Harijan wells and attempts made to set fire to their houses. A Harijan boy was assaulted on his way to school and a general boycott of the Harijans has been declared."

The "*Hindustan Times*" in its issue of 26th May 1939 says:

"Several persons are reported to have raided a night school in village Catipore in the district where Kisans and others used to be taught. The teacher was caught hold of by them, and asked to close the school on the ground that the boys of the Untouchables, after acquiring education will begin to assert themselves to treat them on a footing of equality. When the teacher refused to do so he was belaboured and the students were asked to disperse."

The last instance I would like to refer occurred in the year 1935 in the village of Kavitha in Dholka Taluka of the Ahmedabad District of the Bombay Presidency. The incident occurred on 8th August 1935.

As the Bombay Government had issued orders requiring the admission of the children of the Untouchables in public schools, the Untouchables of village Kavitha thought of taking advantage of the order. What happened to them is reported below:

"On 8-8-1935, the Untouchables of the village Kavitha took four of their children to be admitted in the village school. Many caste Hindus from the village had gathered near the school to witness this. This occasion for admission passed off quietly and nothing untoward happened. From the next day however the caste Hindus of the village withdrew their children from the school as they did not like their children sitting with those of the Untouchables and getting themselves polluted."

"Some time thereafter an Untouchable from the village was assaulted by a Brahmin on 13th August 1935. The male members of the Untouchables of the village had come to Dholka to file a criminal complaint against the Brahmin in the court of the

Magistrate. Coming to know that the adult members of the Untouchables were absent the Hindus of the village invaded the quarters of the Untouchables. They were armed with sticks, spears and swords. Among the invaders were caste Hindu women. They started attacking the old men and women of the Untouchables. Some of the victims fled into the jungle, some shut themselves up. These invaders directed their vehemence against those Untouchables who were suspected to have taken a lead in the matter of the admission of their children in the village school. They broke open their doors and not finding them in, they broke the tiles and the rafters of the roofs over their houses.

"Terror-stricken these Untouchables men and women who were assaulted and beaten were anxious about the safety of those of their elders who had gone to Dholka and who were expected back that night. The caste Hindus knowing that the leaders of Untouchables who had gone to Dholka would be returning had concealed themselves behind the bushes and shrubs on the way to the village. Having come to know of this, an old Untouchable woman sneaked out of the village in the dark, met the leaders who were returning and informed them that armed gangs of caste Hindus were hiding themselves to waylay them and that therefore they should not come into the village. They refused to listen fearing that the caste Hindus might do greater mischief in their absence. At the same time, they were afraid that if they did enter they might be assaulted. They therefore decided to wait outside the village in the field till after midnight. In the meantime, the gang of caste Hindus who were in ambush waited and waited and finally gave up the game and retired. The leaders of the Untouchables entered the village after about 3 a.m. in the night. If they had come earlier and met the murderous gang they would probably have been done to death. On seeing the harm done to person and property they left the village for Ahmedabad before day break, and informed the Secretary of the Harijan Sevak Sangh, a body organized by Mr. Gandhi to look after the welfare of the Untouchables. But the Secretary was helpless. Not only did the caste Hindus use physical violence, but they conspired to make the life of the Untouchables intolerable. They refused to engage them as labourers; they refused to sell them foodstuffs. They refused to give them facilities for grazing their cattle and they used to commit stray assaults on Untouchable men and women. Not only this, but the caste Hindus in their frenzy poured kerosine oil in the well from which the Untouchables used to get their supply of drinking water. This, they did for days together. The result was that the Untouchables of the

village had no water. When things reached this stage the Untouchables thought of filing criminal complaint before a Magistrate which they did on 17th October, making some of the caste Hindus as the accused."

"The strange part of the case is the part played by Mr. Gandhi and his henchman, Sardar Vallabhbhai Patel. With all the knowledge of tyranny and oppression practised by the caste Hindus of Kavitha against the Untouchables all that Mr. Gandhi felt like doing was to advise the Untouchables to leave the village. He did not even suggest that the miscreants should be hauled up before a court of law. His henchman Mr. Vallabhbhai Patel, played a part which was still more strange. He had gone to Kavitha to persuade the caste Hindus not to molest the Untouchables. But they did not even give him a hearing. Yet this very man was opposed to the Untouchables hauling them up in a court of Law and getting them punished. The Untouchables filed the complaint notwithstanding his oppostion. But he ultimately forced them to withdraw the complaint on the caste Hindus making some kind of a show of an understanding not to molest, an undertaking which the Untouchables can never enforce. The result was that the Untouchables suffered and their tyrants escaped with the aid of Mr. Gandhi's friend, Mr. Vallabhbhai Patel.

IV

The Untouchables are claimed by the Hindus as Hindus. But the dead body of an Untouchable cannot be cremated in the Hindu cremation ground.

The "*Free Press*" of 7th June 1946 reports the following:

"Citing a recent criminal case in which two Madura Harijans were sentenced to four months rigorous imprisonment for doing an act which was likely to wound the feelings of others, Mr. A. S. Vaidyanatha Iyer in a communication to the press draws the attention of the public to the 'cruel suffering which the Harijans have to bear by reason of Untouchability.'

Mr. Vaidyanatha Iyer says: 'A Madura Harijan who had lost his eldest child cremated the body in the Madura municipal burning ghat in a shed which is said to be set apart for caste Hindus instead of in the one reserved for Harijans. The Harijan's plea was, he did not know of any such reservation, that it was drizzling and that the former place was better. No caste Hindu raised any objection nor was there any proof that anyone's feelings were wounded. The incident came to the notice of the Madura police who prosecuted the father of the child and another near relation on the ground that such act was likely to wound the feelings of others because the Harijans were Untouchables.

Mr. Iyer adds, "he brought this case to the notice of the Madras Ministry."

The '*Savadhan*' of 22nd April 1945 says:

> "On 18th March 1945, a sweeper died in the village Floda, District Muzaffarnagar. The Sweepers of the village took the dead body to the cremation grounds. This enraged the Tyagi Brahmins of the village who abused the sweepers for their audacity in bringing their dead to the caste Hindu grounds. The sweepers protested that they were Hindus and would cremate the dead. But the Brahmins were not at all amenable to reason and told the sweepers that irrespective of their being Hindus and Muslims they must bury their dead and if they failed to do it they (Brahmins) would themselves bury the dead body. When the poor sweepers were thus threatened and were also afraid of being beaten they buried the dead body."

This is not all. There is a further point to be noted. The Touchable Hindus dispose of the dead body by cremating it. Just because it is a presumption on the part of the Untouchables to initiate the ways of the Hindus which are marks of their superior status, the Untouchables must necessarily bury their dead even if they do not wish to do so.

An instance of this compulsory burial was reported in the '*Milap*' of 6th June 1924:

> "The chief cause of the awakening among the Untouchables is the tyranny of the Hindus. I was not aware of this but the reports that I have received from various workers has caused me much pain. From one place I am informed that the Untouchables of that place are not allowed to even burn their dead. This, however it seems has created a new spirit among the sweepers of the place. They have started burying their dead with the head downwards probably to distinguish themselves from others who bury the corpse in a lying position. The Sweepers think that if they also act in imitation of others, it is derogatory."

V

The wearing of the sacred thread is evidence of noble birth. The Untouchables with the idea of ennobling themselves thought of wearing the sacred thread. The atrocities committed by the caste Hindus on the Untouchables of the village Ringwari in Garhwal District in U. P. are reported in the '*National Herald*' of 6th June:

> "After leading a fugitive life for well nigh two months as a result of persecution at the hands of the caste Hindus, ten families consisting of 33 Harijans have now been able to return to their homes in village Ringwari of Chandkot with the help of the district

authorities of Garhwal. These Harijans, it may be recalled, had taken full advantage of the social movement started for their uplift by Mahatma Gandhi and the late Swami Shradhanand. They had taken the sacred thread and made it a part of their duty to perform 'Sandhya'. But this was resented very much by the caste Hindus of Garhwal as according to them it amounted to a virtual invasion of their 'right and privileges'. The resentment found expression in a number of assaults on Harijans and persistent social persecution. They were asked to desist from using 'polies' and 'palkies' in their marriage procession and four of them were compelled at one place to kill a buffalo and eat its flesh. At Ringwari these atrocities reached a climax, when all the water springs, grazing grounds and other public places were closed to the Harijans who refused to submit to the caste Hindus. In consequence the abovementioned ten families had to leave their villages at dead of night, in order to avoid further persecution."

Other instances of similar sort are given below:

1. "Some Arya Samajists managed to raise the caste of some Untouchables and gave them the sign of the caste, namely, the religious thread worn round the neck. But the mass of the Sanatanists could not bear even this because their religion does not allow the Untouchables to wear the thread. This is why thread-wearing Untouchables are daily persecuted by the high caste Hindus."

2. "Bhagat Harichand of Moila, District Mirpur, Jammu State was purified by the Arya Samajists and given the thread to wear. The Hindu Jats of the place began to victimize him and ask him to put off the thread. Harichand however remained steadfast on his religion. At last one day when the Bhagat Harichand had finished the Gaitri Path, he was caught hold of by the Hindu Jats and severely beaten and his thread broken. The cause of their incensement was this that wheareas before the Shudh, Shudha Meghs had addressed the Jats as 'Gharib Nawaz' (the benefactors of the poor), now they only use 'Namastey'."

From the *Arya Gazette* dated 14th September 1929:

"The Hindu Rajputs of the village Ramani, near the town Berhampur, Distt. Gurdaspur, called the Untouchables of their villages from their homes and ordered them to put off the holy thread at once and swear never to put it on again otherwise their lives were in danger. Upon this Untouchables calmly replied 'Maharaj why are you angry with us. Your own brothers, the Arya Samajists have very kindly put these threads round our necks and

have ordered us to always protect them for they are the true symbols of the Hindu faith. If you take objection to them, you can tear them off our bodies with your own hands'. Upon this the Rajputs fell upon the poor men with their lathis and kept on thrashing them for a long time. The Untouchables put up with this persecution with great fortitude and refused to resist or protest. But their torments took no pity on their helpless condition and three or four Rajputs actually tore the holy thread off the body of a Harijan named Gori Ram and bruised his body with a hoe in mock imitation of the sign of the thread."

From the 'Milap' dated 12th October 1929:

"The Rajputs of the village Bahmani have from time past launched a programme against the Untouchables. There is a case going on in the court about the breaking of a holy thread and there is another case too, about an Untouchable woman who was going on to the field to cut the harvest on 7th October 1929 when a Rajput severely thrashed her and caused serious bruises. The woman was brought home on a bed."

VI

What happens to an Untouchable if he remains seated on a cot in the presence of a Hindu can be seen from the following incident reported in '*Jivan*' of July 1938:

"Nanda Ram and Mangali Prasad of village Pachhahera, Police Post Margaon, Tehsil and District Sitapur, invited their friends and relatives for a communal feast. When the guests were sitting on cots and smoking, Thakkur Sooraj Baksh Singh and Harpal Singh, Zamindars of the village, came there, sent for Nanda Ram and Mangali Prasad and asked who the people sitting and smoking were and why they were sitting on cots. Mangali Prasad said that they were his friends and relatives and asked if only Thakkurs could sit on cots. Enraged by this, the Thakkurs beat both the brothers and their men beat the guests severely as a result of which one man and one woman became senseless and others sustained serious injuries."

VII

The Untouchables are Hindus. They are also citizens with the same civic rights. But the Untouchables cannot claim the right of the citizenship if it conflicts with any rules of the Established Order.

For instance, no Untouchable can claim lodging in an inn even though it be public. In '*Jivan*' of August 1938, is reported the experience of an Untouchable named Kannhaiya Lal Jatav of Fetegarh:

"When I went to stay in Dharmashala near Allahabad Junction on 15th August 1938 at 10 p.m. there was no difficulty and I laid down on a cot after paying an advance of Re. 1. But at 11 p.m. when the lodgers went to the Manager of the Dharmashala to note down their addresses, and while noting down my address I put down my caste as Jatav, the Manager got wild and said that the Dharmashala was not meant for the stay of low caste people and asked me to get out at once. I pointed out to him that according to the rules of the Dharmashala, it was meant for Hindus only and there was no ban on Untouchables and asked if I was not a Hindu that he was asking me to leave. I also pleaded that being resident of Farrukabad and not acquainted with anyone in Allahabad there was no place where I could go at 11 p.m. On this, the Manager got furious and repeating the couplet from Ramayan (Shudras illiterate, cattle and women all these deserve to be beaten) said that in spite of being a low-caste he dared to talk about rules and law and will not get out unless he is beaten. Then suddenly he got my bedding etc., threw out of the Dharmashala and all of them were ready to beat me. In the face of such odds, I at once left the Dharmashala and lay down on a plank of wood in front of a shop facing the Dharmashala and had to pay annas 2 as rent to the shopkeeper for a night. I therefore appeal to my Scheduled Caste brethren to hold meetings everywhere and request Government to construct separate Dharmashalas for our people in every town or to get all the existing Dharmashalas opened for us."

VIII

Under the Established Order, the work of lifting and removing dead cattle as well as doing the scavenger's work is beneath the dignity of the Hindus. It must be done by the Untouchables. The Untouchables have also begun to think that it is derogatory to their status and are refusing to do it. The Untouchables, however, are forced by the Hindus to do it against their will. The '*jivan*' of June 1938 reports:

"One day, in May 1938, Bhajju Ram Jatav of village Bipoli, Police post Barla, District Aligarh was sitting in his house at about 11 a.m. when some Brahmins namely Prithik, Hodal, Sita Ram, Devi and Chuni, all of whom had lathis came and tried to force him to lift dead cattle; and when he refused saying that he was not used to that work and asked them to go to some one who does that sort of work, he was mercilessly belaboured with lathis."

The same journal in its issue of October 1938 gives the following news item:

> "On 24th October 1938, some cattle of a Brahmin of village Lodhari, Tehsil Sadabad, District Muttra, died. The Scheduled Caste people of the village who were asked to lift it refused to do so. This enraged the caste Hindus so much that they have asked the Scheduled Caste people not to go to their fields for ablutions nor to allow their cattle to graze in their (caste Hindus) fields."

IX

The Untouchables must not wear decent and clean clothes and they must not wear gold or silver ornaments. If the Untouchables defy these rules, the Hindus will not hesitate to bring them to book. The Untouchables have been trying to defy these rules, with what consequences will be seen from the following incidents which have been reported in the newspapers:

> "Until 1922, the Untouchable caste of Dalai in Berar District of Bundi, were forbidden to eat wheat. In February 1922, a Chamar woman was put on the Rock in Sakatgarh, Jaipur, simply because she was wearing silver ornaments on her feet. The reason given was this that only men of the high castes were allowed to wear silver or to eat wheat. The low caste people should not dare to aspire to these things. So far we had been thinking that such antiquated ideas were supposed to have had probably died out by this time."

The '*Times of India*' in its issue of 4th January 1928 reports the tyranny and oppression practised upon the Balais who form an Untouchable community in Central India for their daringness to wear clean clothes and golden ornaments. Says the 'Times':

> "In May (1927) high caste Hindus viz., Kalotas Rajputs and Brahmins including the Patils and Patwaris of villages Kanaria, Bicholee Hafsi, Bicholi Mardana and of about 15 other villages in the Indore district informed the Balais of their respective villages that if they wished to live among them, they must conform to the following rules:
>
> 1. Balais must not wear gold lace bordered pugrees;
> 2. They must not wear dhoties with coloured or fancy borders;
> 3. They must convey intimation of the death of any Hindu to relatives of the deceased—no matter how far away these relatives may be living;
> 4. In all Hindu marriages, the Balais must play music before the processions, and during the marriages;
> 5. The Balai women must not wear fancy gowns for jackets;

6. Balai women must attend all cases of confinement of Hindu women;
7. The Balais must render services without demanding remuneration, and must accept whatever a Hindu is pleased to give;
8. If the Balais do not agree to abide by these terms, they must clear out of the villages.

The Balais refused to comply; and the Hindu element proceeded against them. Balais were not allowed to get water from the village wells; they were not allowed to let their cattle to graze. Balais were prohibited from passing through land owned by a Hindu; so that if the field of a Balai was surrounded by fields owned by Hindus, the Balai could have no access to his own field. The Hindus also let their cattle graze down the fields of Balais.

The Balais submitted petitions to the Darbar of Indore against these persecutions, but as they could get no timely relief, and the oppression continued, hundreds of Balais with their wives and children, were obliged to abandon their homes in which their ancestors lived for generations, and to migrate to adjoining states, viz. to villages in Dhar, Dewas, Bagli, Bhopal, Gwalipr and other states.

Only a few days ago the Hindus of Reoti village barely 8 miles to the North of Indore city ordered the Balais to sign a stamped agreement in accordance with the rules framed against the Balais by the Hindus of other villages. The Balais refused to comply. It is alleged that some of them were beaten by the Hindus; and one Balai was fastened to a post, and was told that he would be let go, on agreeing to sign the agreement. He signed the agreement, and was released".

The next is from the '*Arya Gazette*' dated 21st January 1928:

"Up till now the tales of woe that were usually related of the persecution of the Harijans were mostly from the Madras province, but now thanks to the treatment of the Maharana of the Simla Hills, one has not to go so far to search for these stories. In the Simla district, there dwells a caste called '*Collie*' whose members are very handsome and hard working. The Hindus of that area consider them to be Untouchables although they do not engage in any such work which should render them objectionable in the eyes of the Hindu religion. The members of this caste are not only powerful and well-built but intelligent also. Almost all the songs that the dwellers of the Simla Hills sing are composed by the '*Collies*'. These people labour all day long and venerate the Brahmins excessively but still they cannot so much as pass near the house of a Brahmin. Their children cannot read in schools and

'Pathashalas' (religious monastic schools). Their women folk cannot wear gold ornaments. It has even been reported that some Collies have gone to the Punjab and earned some money with which they have bought gold rings and ear-rings. When however they have brought these back to their homes, they have been cast into the jail and not freed until the ornaments had passed into the pockets of the State Officers."

The following letter appeared in the '*Pratap*' of 23rd June 1926:

"Swami Ramanandji Sanyasi writes:

On the 23rd of March 1926, in the evening a Chamar came to me who had recently managed to escape from the clutches of the Jats. He related to me a moving tale of the sufferings that his caste had to put up with in the village of Kheri near Faridabad in the District of Gurgaon. On the morning of 24th March I reached Faridabad in the District of Gurgaon, so as to investigate the state of affairs myself. The result of my enquiries is briefly as follows:

"On the 5th of March the marriage took place of the daughter of a Chamar called Gorkhi. The financial condition of the Chamar was comparatively good and he entertained his guests in the same way as people of the high castes do. Moreover, before handing away his daughter, he gave her three gold ornaments. This news spread amongst the Jats and was widely discussed. It was decided finally that the high castes had been insulted by the fact that the lower castes have started vieing with them. Till the 20th of March nothing untoward happened but on the morning of the 21st the Jats called a meeting of the Panchayat (village council) to consider the matter. Just at that moment a party of the Chamars of which the greater portion was composed of boys, girls and women was setting out for Faridabad on its daily duty. The party had just gone out of the village as far as the Dharmashala when the Jats attacked it. All the men of the party were belaboured and the women were thrashed with shoes. The backs of some were broken and of some the arms. Not only this, even their implements were robbed. A Muslim happened to pass along that way and the Jats took hold of him also and robbed him of his big gold ear-rings as well as of twenty-eight rupees. On the 22nd of March some groups of the Jats went into the fields of the Chamar and played havoc with them. The crop thus destroyed was estimated at about a thousand rupees. At that time, Nanwa, the son of Kori, was working in the fields. The Jats gave him also a thorough beating. On the 22nd of March again a party of the Jats sallied forth armed with flaming torches dipped in Kerosene oil, with the intention of setting fire to the houses of the Chamars

but later came away. On the 23rd of March at midnight a house was set on fire belonging to the grandfather of that married girl who has been mentioned above. The house is now a heap of ashes. It contained sixteen skins ready to be made into shoes and worth 90 rupees. They also got burnt up together with the other household goods. The general situation now is that the Jats have surrounded the town and no Chamar is allowed to go out. The Baniyas also, out of fear of the Jats, have refused to sell anything to the Chamars. For three days the Chamars as well as their cattle have been starving."

The following is a more recent occurrence. It has happened in Malabar. The facts of the case are revealed by the following resolution passed at the first Chirakal Taluka Harijan Conference held at Cherukunn in Malabar on 5th June 1945 with Shri K. Kannan, M.L.A., presiding:

"This Conference invites the urgent attention of the Government and the public to the increasing cases of inhuman oppressions of the Scheduled Castes of Malabar by Hindus, Muslims and Christians, particularly to the severest type of oppression now going on, almost with impunity, in the Nattika Firka, Ponnani Taluk, where something like a regular Harijan hunting is taking place every day as a result of the Harijans trying to wear gold ornaments and use clean clothes and umbrellas. In addition to numerous cases of assaults a Harijan marriage party was way-laid and assaulted and the shirts of men and the sarees of women removed by force and a Harijan student mercilessly beaten in Vadanpilly on 27th May 1945. This Conference while congratulating the progressive Thiya youths of the place under the enlightened leadership of Messrs. C. S. Gopalan, M. S. Sankaranarayan and P. C. Ramakrishna Vydier for their magnificient efforts to help the Harijans, most emphatically protests against the callous indifference of the local authorities, particularly of the Police Department in that the ill-treated Harijans did not get any timely protection from them.

This conference desires to state that almost in all cases of the above-said oppressions, the aggrieved Harijans have received neither protection nor justice from the police. There are instances where poor Harijans were even beaten by the Police for their coming forward to give evidence in such cases. In so far as these events have reduced the Harijans of Malabar to a very miserable plight and the situation, if left alone, is likely to develop into a crisis endangering the lives of all progressive Harijans who are trying to break the shackles of caste and economic exploitation of the vested interests in Malbar. This Conference most earnestly appeals to the

Government of India, the Hon'ble Dr. B. R. Ambedkar and all the enlightened people in the country to see that the Harijans are allowed to live in this land as free citizens of a democratic country unmolested by any people and promptly protected by the administration whenever they are oppressed by others."

X

The Untouchables must not eat rich food even if they can afford it. It is an offence for the Untouchables to live above their station in life. The '*Pratap*' of 26th February 1928. relates the following occurrence:

"In the State of Jodhpur at a place Chandayal, you will still see men who do not think that the Harijans have even the right to eat Halva. One of the Untouchable castes is that of Sargaroes. Sometime back on the occasion of the Marriage ceremony of two or three girls, Halva was prepared for the members of the marriage party. For this purpose, maida (white flour) was brought from the Thakur Sahib. At mealtime, the marriage party came for meals but just at that time the Kanwar Sahib of Chandawala sent orders to the Saragaroes that they could not eat Halva. Some cringing sycophants negotiated a compromise in this way that the Kanwar Sahib be presented with Rs. 200 and then permission will be given to eat Halva. At this the Sargaroes got infuriated and refused to pay the money."

XI

To lead a marriage procession through the main streets of the village is the right of every caste Hindu. It is also in evidence that the community which enjoys this right is accepted as a respectable community. The Untouchables have no such right. But they have been seeking to establish such a right by taking their marriage procession through the main streets of the village with the object of establishing their social status. The following incidents show how the Hindus have dealt with this claim.

From the '*Adi-Hindu*' dated July 1927:

"Bangalore, 27th May 1927: Seven Brahmins were sentenced to pay a fine of hundred rupees each, by the First Class Magistrate. These men had wantonly attacked a procession of the well-known Pariah Untouchable caste when it was passing along the Mallkot Road where only Brahmins live."

From the '*Pratap*' dated 25th October 1931:

"In the village of Hargaon, district Garhwal when the high caste Hindus heard that a marriage party of the Untouchables was coming and the bridegroom was sitting in a palanquin they sallied forth in great numbers and surrounded the party and gave it a severe beating. In intense cold they held up the marriage party and kept it without food for 24 hours. The members of the party were inhumanly treated and were only rescued from this difficult situation by the coming of the Police."

From the '*Satya Samwad*' Lahore dated 3rd November 1931:

"A marriage party was passing near Delhi, carrying the bridegroom in a palanquin. The high caste Hindus took offence at this for they thought it to be an insult to them. They held up the party for two days and gave it nothing either to eat or drink. At last the police came and chased away these tyrants and rescued the marriage party."

The '*Jivan*', a Hindu journal for June 1938 reports:

1. "In village Sevra, the Golas (Purva Thakurs) who boast of being Congressites, have so mercilessly beaten with spears and lathis the unarmed Jatavs of that village that five of them were lying wounded in the hospital with arms and ribs broken. Bansi has sustained fracture of the skull bone and is still unconscious in the hospital. All this happened because when a marriage party came to the village the bridegroom was wearing a glittering crown (Pukka Mohar) which offended the Thakurs, who wanted to attack the marriage party; but desisted because of the party's superior strength and were therefore content with only insulting the marriage party within the Zamindari at that time."

2. "In village Dorra, Tehsil Fatechand, District Agra, a marriage party came to the house of Moti Ram Jatav from village Rampur. The bridegroom was wearing a glittering crown and the party also brought a band music and fireworks. The Caste Hindus objected to the party proceeding with the music band playing and displaying fireworks. Moti Ram protested against this and said that they were also as good human beings as any others. On this, the caste Hindus caught hold of Moti Ram and gave him a severe beating and also attacked the marriage party. A sum of Rs. 15-1-0 tied in Moti Ram's turban was also removed."

3. "While a marriage party was on its way to the house of Prem Singh and Girvar Singh, Jatavs of village Khurva, Police post

Sakini, District Aligarh, it was prevented by the caste Hindus from proceeding further unless the music band stopped playing, and the procession was threatened to be killed and looted if the music was not stopped. Caste Hindus were also enraged for refusal by the Jatavs to do 'Begar' and for the audacity to have music band playing with a marriage party. On the marriage party's refusal to stop music, the caste Hindus were so much enraged that they threw brick-bats and stones at the party."

The '*Hindustan Times*' of the 24th of March 1945 reports the following incident relating to the same subject:

"A Shilpakar marriage party of the village of Dhanuri in Lands down sub-division carrying the bridegroom in a 'palki' was proceeding to the bride's house in the village of Mall Dhangu. A man introducing himself as an agent of the Patwari of Mall Dhangu advised the party to go through an out of the way route to avoid 'disturbance by caste Hindus.

The party, accordingly, took a forest path and when they were at a lonely spot a whistle brought out about 200 caste Hindus who, it is alleged, attacked the party and carried away the 'palki'.

The Shilpakar party reached the bride's house two days later and the marriage was, it is reported, performed in the presence of the Sub-divisional Magistrate and a police party brought by him.

The Patwari has been suspended in this connection."

The *Civil and Military Gazette of Lahore* in its issue of 24th June 1945 reports:

"A party of Rajputs, armed with axes, lathis and daggers, attacked yesterday Harijans of a village in Gwalior State, killing one and inflicting serious injuries on four.

The Rajputs and the Harijans of the village were on hostile terms for some time past ever since the Harijans took out a procession to celebrate the birth of an heir apparent to the Gwalior Darbar. The Rajputs strongly protested against it, as according to them, Harijans were not entitled to the privileges of such celebrations.

Last month, a proclamation was issued by the Maharaja giving equal rights to the Harijans."

Here are a few cases to show how the Hindus treat with violence any attempt on the part of the Untouchables to imitate the ways and manners of the Hindus and to have a little pride in themselves. The following is from the '*Bombay Samachar*' of 4th November 1936:

"At Uttapalam (in Malabar) an Ezhava by caste named Sivaraman, aged 17, went to the shop of a caste Hindu to buy salt and asked in the Malayalam language for 'uppu'. In Malabar,

according to custom, caste Hindus alone can use the word 'uppu' for salt; being only a Harijan he ought to have used the word 'pulichatan'. Consequently, the high caste grocer was very angry and is alleged to have thrashed Sivaraman so severely that the latter died."

The following instances are collected from the '*Samata*':

(1) "At Kathi (District Poona) the people have begun to persecute the Untouchables because the latter have begun saying 'Ram, Ram and Namaskar'. Be it known to the unintimated that these are salutations which only the higher castes have the right to employ; the Mahars, etc. must say 'Johar' or 'Paya Lagu' (I touch your feet) to the people.

(2) The Untouchables of Tanoo (District Poona) tried to behave 'like Touchable Hindu people'; the result of this impudent encroachment is that many of them have had to leave the village and some have migrated to Bavda.

(3) At Valapur (District of Sholapur) the Mahars are persecuted because they have dared to refuse to address Touchables as 'Saheb' and to say 'Paya Lagu' ('I touch your feet') in salutation.

(4) At Jambad (District Sholapur) the Untouchables refused to make 'Nautch' and 'Tamasha' for the diversion of their Touchable lords. Therefore these Untouchables were thrashed, their huts were burnt down or pulled down, and they were driven out of the village, limits.

(5) At Bavda (District Poona) some Untouchables exhorted their fellow-outcastes to give up eating the leavings of higher caste people, dead animals, etc., and to refuse to do the dirty work of the people. The elders of the village have told these Mahars with new fanglad notions that it is their 'Dharma' to eat what they have always been eating and do what they have been doing. Those Mahars who do not follow their ancient and eternal 'Dharma' have been thrashed by the people and threatened with expulsion from the village."

XII

The Hindu treats the Untouchables as being born to serve the Hindu community. It being his duty to serve, the Untouchables cannot refuse to serve the Hindu whenever the latter call upon to do so. The Hindus of the village hold the belief that they can commandeer the labour of the Untouchables. The system is known as '*Begar*', or forced labour. A few instances will show that dire consequences follow from the refusal of the Untouchables to submit to the system.

The '*Jivan*' of December 1938 reports the following incidents:

"On 29th November 1938, the Jatavs of village Kohana, district Muttra were seriously tortured by the Jats and Brahmins for refusing Begar.

The Thakkurs and the Brahmins of this village used to extract Begar from the Jatavs and to harass them. The latter decided not to do Begar and do only that work for which wages were paid. Recently, a bullock died in the village and the Thakkurs and other caste Hindus tried to force the Jatavs to lift it, but they said that they could do that only if they were paid. This enraged the caste Hindus so much that they asked a sweeper to fill the Jatavs' well with excreta and make them not to go to their fields for ablutions and decided to tease them in every way. When the Jatavs prevented the Sweeper from putting excreta in their well, he called the Jats, Thakkurs and Brahmins who were all ready for an attack. They attacked the Jatavs with lathis and seriously belaboured them and also set fire to their houses as a result of which six houses were burnt to ashes and 18 Jatavs were wounded seriously and a lot of their household property was taken away by the rowdies."

"The same *Journal* in its issue of February 1939 reports:

"The Jats of village Abhaipura, tehsil Kirvali, district Agra, are used to extract Begar (Forced labour) from the poor Scheduled Caste people and beat them on demanding wages. Some three months back Sukhi Jat forced Sukh Ram, Ghanshyam and Humka, Jatavs to do work for them and did not pay any wages. These persons are so much fed up with such high-handedness that they have left the villages and lived with their relatives in other villages, while their untensils and other household goods have been taken away by the Jats and concealed in some barn."

The '*Savadhan*' in its issue of 3rd June 1945 reports the following incident:

"Mehraji Kori, a Scheduled Caste woman has filed a complaint in the court of Mr. Mahboob Alam, City Magistrate under Sections 376, 341 and 354-A against Brahma Singh, Suleman and Aftab, constables of Jubi Police post. It is alleged that at about 10-30 p.m. on 2nd May 1945 these three constables, Sumar, Kahar, Kallu Bibis son and some others came and searched her house and then took her to the police station and kept her there for the whole night. In the early hours of the morning these constables took her to a small room bolted it and then all three of them violated her modesty one by one. Then she was removed to another small room where charcoal and pieces of paper were filled in her private part and they

put their private organs in her mouth. Her clothes were torn and saturated with blood. The following day her mother was forced to do begar work for the whole day and then both of them were left off at 10 p.m.

Murala, wife of Maharaji's husband's younger brother has also filed a similar complaint. She has alleged that the same constables took her to the police post the same night and returned her to her house. On the way she was caught by Madari Teli, near Kumar Tola, to the ruins of a house and her modesty violated. Messrs. Munna Lal, Bhushan and Ram Bharose, advocates are appearing for the complainant."

In the '*Hindustan Times*' of 15th April 1945 Occurs the following news item:

"For refusal to do forced labour, it is alleged, a large number of Harijans in the village of Dukheri in Ambala District were recently assaulted by a party of Rajputs. A man and a woman, both Harijans, were killed. It is also alleged that a large number of houses belonging to Harijans were set on fire. Telegrams have been sent to the Commissioner and the Deputy Inspector General of Police to inquire into the matter."

From these instances, it will be clear to anyone that the Hindus do not hesitate to use violence to hold down the Untouchables and maintain the established order and even to commit murder.

Mr. Lajpat Rai in his book 'Unhappy India' in which he tried to reply to and refute the charges levelled by Miss Mayo in her 'Mother India' gives a lengthy and lucid description of the lynchings of the Negroes in the United States and the atrocities committed upon them by the members of the Ku Klux Klan and asks:

"What however is very relevant to her to ask is: is the unjustifiable and cruel attitude of the Brahmins towards the *Pariah* more unjustifiable and more cruel than that of the Klansmen of America towards the Negroes?"

"What are the caste cruelties of India put by the side of what the whiteman has done to the non-white people?"

Lala Lajpatrai, if he had cared to investigate could have found that the cruelties and atrocities practised by the Hindus against the Untouchables were no less than those practised by the Americans upon the Negroes. If these atrocities are not so well known to the world as are those practised upon the Negro, it is not because they do not exist. They are not known because there is no Hindu who will not do his best to conceal truth in order to hide his shame.

Some might think that this description of the Established Order and the rules made thereunder are matters of ancient past. This is a complete mistake. The Established Order subsists even today and the rules are as operative today as they were when they were made. This will be evident from the two following statements on the condition of the Untouchables which have appeared in the '*Hindustan Times*'. The first appeared in the issue of 8th March 1945. The first one is written by one Kesarilalji Bordia, Headmaster of a school called Vidya Bhuwan in Udaipur. It reads as follows:

> "Many are the disabilities under which the Harijans in Mewar live. They cannot enter temples, nor can they draw water from public wells. They cannot join the caste Hindus in festivals and processions. They have to take out their Rath Yatra or Doll procession through a different route and on a different day. And they cannot ride through the village.
>
> Even silver ornaments, let alone gold ones on their person are resented by the caste Hindus. The result is, they have to content themselves with tin and brass articles. Age-old usage prevents them from using butter or gur in wedding feasts.
>
> In Schools and other public places, Harijan boys cannot sit with the children of caste Hindus. They are asked to absent themselves on the inspection day in order to save the Inspector from embarrassment.
>
> A memorandum has been submitted to the State Government. If the Government chooses to declare in unequivocal terms the disapproval of these disabilities, the hands of non-official bodies which are fighting untouchability will be strengthened."

The second is in the form of a statement issued by the President of the *Harijan Sevak Sangh* and refers to the condition of the Untouchables in the State of Mewar. It reads as under:

> "The Mewar Harijan Sevak Sangh has sent a Memorandum to the Mewar Government drawing their attention to the various disabilities of Harijans in the State and their consequent hardships. The Memorandum brings out how civil liberties of Harijans are curtailed in several ways by the orthodoxy and prejudices of caste Hindus.

I enumerate below some of the unjust practices which still persist in the State and for the rectification of which the State has taken no effective measures. They are as follows:

1. Harijans have no liberty in the selection of clothes to wear. The form of dress must follow the age-long pattern; personal tastes and desires have no place in the choice of the dress.

2. At wedding feasts they have no choice in the selection of food materials. Even on payment they cannot use costly articles.
3. They cannot ride the village on a horse.
4. They are not allowed accommodation in public vehicles.
5. On religious festivals they cannot take out procession of their idols except through specified routes.
6. They have no access to wells and temples."

The writer adds:

"Three years ago in company with Thakkur Bapa, I travelled all over the State and placed before the Government and public my impressions of the conditions obtaining there and pleaded for reform. On perusal of the abovementioned memorandum and other reports sent to me, I find that the past few years have hardly brought any change and conditions are more or less static.

It is heart-breaking to find that passage of time cuts no ice with us. The result is that there is hardly any change in our age-long practices and prejudices. This perversity which blinds us to the tyranny and injustices of our ways also makes us impervious to the incalculable harm we have already suffered as a result of it. Even if the ignorant prejudice of the common man is unshaken the enlightened Governments of the twentieth century ought to be more alive to their responsibilities."

The dates of these communications are important. They are of the year 1945. None can say that this Hindu Established Order is a thing of the ancient past. The fact that these latest accounts refer to the Indian States should not be understood to mean that the established Order has vanished from British India. The chapters to follow will present enough evidence to show that the same Established Order is very much alive in British India.

In the '*Times of India*' of 31st August 1950 occurs the following news item:

"The following facts of a case revealed in the hearing of an appeal in the Allahabad High Court, are illustrative of the socio-economic conditions of lower castes in the rural areas:

Chiranji, a dhobi of the village of Sarras in the District of Etah, went out as a military employee in the last war and remained out of his village for four or five years. When he was discharged, he returned to his home. He stopped washing clothes and used to go about in the village in his military uniform. This coupled with the fact that he refused to wash clothes even for the men of the Raja of Sarras the sole zamindar in the village, was resented by the villagers.

On December 31, 1947, when the dhobi was washing his clothes, four villagers, including the Raja's servants, approached him and asked him to wash their clothes which he refused. The villagers took Chiranji to the Raja's house and gave him a beating. His mother and mother's sister went there to intercede on his behalf but they too were assaulted.

The attackers then went away leaving Chiranji in the custody of one Ram Singh; finding him alone, Chiranji was alleged to have slapped him and run away. Ram Singh and other servants of the Raja chased him to his house where he had taken shelter. The villagers insisted upon his opening the door but when there was no response, his house was set on fire. A number of other huts were also reduced to ashes.

The dhobi lodged a complaint with the Police who disbelieved his story and wanted to prosecute him for a false report. He then filed a complaint in a Magistrate's Court. The accused were convicted and sentenced to three years' imprisonment each. The High Court upheld the sentences imposed by the Magistrate.

The following news item has appeared in the '*Indian News Chronicle*' dated 31st August 1950.

Inhuman Treatment towards Harijans in Pepsu: Depressed Classes League's Memorandum to Government.

Patiala, August 1950: "The unprovoked thrashing of the Backward Class people, inhuman insults heaped upon their women folk, indiscriminate ejectment of the Harijans from the lands, the virtual confinement of the Harijans and their cattle in their mud houses for days together without any fault is a long tale of suffering whose echoes are rising in proportion to the diminishing echoes of crime in general," says a memorandum presented by the PEPSU Provincial Depressed Classes League to the State Government.

"While crime in PEPSU is on the decrease due to the vigorous efforts of the police," the memorandum adds, "it is a pity that the sector of the Backward Class should be deprived of the protection from the un-social elements". The Backward Classes economically handicapped as they are, find it very difficult to ventilate their day-to-day grievances to the authorities concerned who could immediately come to their rescue, and are perforce, compelled to submit to their lot, to the encouragement of the aggressor, and thus the wail of disgust against the present state of affairs grows still louder which in its turn is made stock of by the interested parties."

The Provincial Depressed Classes League further quoted an instance to show how much inhuman treatment was being meted out

to Harijans in PEPSU. Chand Singh a Harijan of village Katu, district Bernala, was made to go round the village on the back of donkey with face blackened for the fault of having drunk water at the well of a high caste zamindar. " In the changed atmosphere of free India, the members of the Scheduled Castes in the PEPSU are daily finding themselves put in a tight corner as a result of the unprecedented repression let loose upon them by the members of high castes."

The Provincial Depressed Classes League has further suggested formation of district and central special commissions in the State with wide powers to deal with the complaints on Harijans on the spot and afford them other facilities.

Concluding, the League has urged upon the State Government that pending an all-India enactment in this connection, it may, temporarily be provided that the Harijans have equal rights in the village common, to ease the situation from further deterioration.

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CHAPTER 7

WHY LAWLESSNESS IS LAWFUL?

The foregoing discussion must have made clear two things which must be borne in mind. One is the sharp division between the touchables and untouchables, the other is the deep antagonism between the two.

Every village has two parts, the quarters of the touchables and the quarters of the untouchables. Geographically the two are separate. There is always appreciable distance between the two. At any rate there is no contiguity or proximity between them. The untouchables quarters have a distinct name such as Maharwada, Mangwada, Chamrotti, Khatkana, etc. *De jure* for the purposes of Revenue Administration or Postal Communication, the quarters of the untouchables are included in the village. But *de-facto* it is separate from the village. When the Hindu resident of a village speaks of the village he means to include in it only the caste Hindu residents and the locality occupied by them. Similarly when the untouchable speaks of the village he means to exclude from it the untouchables and the quarters they occupy. Thus in every village the touchables and untouchables form two separate groups. There is nothing common between them. They do not constitute a folk. This is the first thing which must be noted.

The second thing to note with regard to this division of the village into two groups is that these groups are real corporations which no one included within them can escape. As has been well said the American or European belongs to groups of various kinds, but he "joins" most of them. He of course is born into a family, but he does not stay in it all his life unless he pleases. He may choose his own occupation, residence, wife, political party, and is responsible generally speaking for no one's acts but his own. He is an "individual" in

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This essay has been received from Shri S. S. Rege. It is included here as the title is identical with the earlier chapter and also seems to be continuation of the discussion in the said chapter.—Ed.

a much fuller sense because all his relationships are settled by himself for himself. The touchables or untouchables are in no sense individuals because all or nearly all of his relationship are fixed when he is born in a certain group. His occupation, his dwelling, his gods and his politics are all determined for him by the group to which he belongs. When the touchables and untouchables meet they meet not as man to man, individual to individual but as members of groups or as nationals of two different States.

This fact has an important effect upon the mutual relationship between the touchables and untouchables in a village. The relationship resembles the relationship between different clans in primitive society. In primitive society the member of the clan has a claim, but the stranger has no standing. He may be treated kindly, as a guest, but he cannot demand "justice" at the hands of any clan but his own. The dealing of clan with clan is a matter of war or negotiation, not of law; and the clanless man is an 'outlaw', in fact as well as in name and lawlessness against the strangers is therefore lawful. The untouchable not being a member of the group of touchables is a stranger. He is not a kindred. He is an outlaw. He cannot claim justice. He cannot claim rights which the touchable is bound to respect.

The third thing to note is that the relationship between the two, the touchables and the untouchables, has been fixed. It has become a matter of status. This status has unmistakably given the untouchables a position of inferiority vis-a-vis the touchables. This inferiority is embodied in a Code of Social conduct to which the untouchables must conform. What kind of a code it is, has already been stated. The untouchable is not willing to conform to that Code. He is not prepared to render unto Ceasar what belongs to Ceasar. The untouchable wants to have his relationship with the touchables by contract. The touchable wants the untouchables to live in accordance with the rules of status and not rise above it. Thus the two halves of the village, the touchables and the untouchables are now struggling for resettling what the touchable thinks is settled for ever. The conflict is centered round one question—What is to be the basis of this relationship? Shall it be contract or shall it be status?

This raises some very interesting questions. How did the untouchables come to have the status of the lowliest and the low? Why has the Hindu cultivated this hostility and contempt for the untouchables? Why does the Hindu indulge in lawlessness in suppressing the untouchables as though such lawlessness is lawful?

To give an adequate answer to these questions one has to go to the law of the Hindus. Without a working knowledge of the rules of the

Hindu Law, it would be impossible to give any satisfactory answer to this question. For our purpose, it is not necessary to cover the whole field of Hindu Law in all its branches. It is enough to know that branch of the Hindu law which may be called the law of persons—or to put it in non-technical language—that part of the Hindu law which deals with differences of right, duty or capacity which result from differences of status.

It is therefore proposed to give a catalogue of the rules of the Hindu Law which relate to the law of persons. These rules are collected from the Law Books of Manu, Yajnavalkya, Narada, Vishnu, Katyayana etc. who are some of the principal law givers recognised by the Hindus as persons having authority to lay down the law. A mere reproduction of the rules however interesting cannot be helpful in enabling a person who goes through them to have an idea of the basic conceptions which underlie the Hindu Law of Persons. For that purpose mere reproduction of the rules will not do. Some order is evidently necessary. What is therefore done is to group these rules under certain heads. The whole thing is cast in the form of a digest divided into sections, each section being an assembly of rules dealing with one definite matter.

DIFFERENT CLASSES : THEIR ORIGIN AND THEIR DUTIES

1. This (Universe) existed in the shape of Darkness, unperceived destitute of distinctive marks, untenable by reasoning, unknowable, wholly immersed, as it were in a deep sleep."

2. Then the divine self existent (Svayambhu, himself) indiscernible (but) making (all) this, the great elements and the rest, discernible, appeared with irresistible (creative) power, dispelling the darkness.

3. But for the sake of the prosperity of the worlds, he caused the Brahmana, the Kshatriya, the Vaishya, and the Shudra to proceed from his mouth, his arms, his thighs and his feet.

4. But in order to protect this Universe He, the most resplendant one, assigned separate (duties and) occupations to those who sprang from his mouth, arms, thighs and feet.

5. To the Brahmans he assigned teaching and studying (the veda), sacrificing (performing sacrificial ceremonies) for their own benefit and for others, giving and accepting (of alms).

6. The Kshatriya he commanded to protect the people, to bestow gifts, to offer sacrifices, to study (the Veda), and to abstain from attaching himself to sensual pleasures.

(I) Manu 1.5; (2) *Ibid.,* 1.6; (3) *Ibid.,* 1.31; (4) *Ibid.,* 87; (5) *Ibid.,* 1.88; (6) *Ibid..* 1.89.

7. The Vaishya to tend cattle, to bestow gifts, to offer sacrifices, to study (the Veda), to trade, to lend money and to cultivate the land.

8. One occupation only the lord prescribed to the Shudra, to serve meekly even these (other) three castes.

9. A student, an apprentice, a hired servant, and fourthly, an official: these must be regarded as labourers. Slaves are those who are born in the house and the rest.

10. The Sages have distinguished five sorts of attendants according to law. Among these are four sorts of labourers (mentioned above). The slaves (are the fifth category, of which there are) fifteen species.

11. One born at (his master's) house; one purchased; one received (by gift); one obtained by inheritance; one maintained during a general famine; one pledged by his rightful owner.

12. One released from a heavy debt; one made captive in a fight; one won through a wager; one who has come forward declaring 'I am thine' an apostate from asceticism; one enslaved for a stipulated period.

13. One who has become a slave in order to get a maintenance; one enslaved on account of his connection with a female slave; and oneself sold. These are fifteen classes of slaves as declared in law.

14. Among these the four named first cannot be released from bondage, except by the favour of their owners. Their bondage is hereditary.

15. The Sages have declared that the state of dependence is common to all these; but that their respective position and an income depends on their particular caste & occupation.

EQUALITY BEFORE LAW

1. When two persons abuse each other, their punishment shall be equal if they are equals in caste; if one is inferior to the other, his punishment shall be double; for a superior, half (of the ordinary punishment) is ordained.

2. When persons equal in caste and qualities abuse one another, the punishment ordained for them in the system of law is thirteen Panas and a half.

3. For a Brahman abusing a Kshatriya, the fine shall be half a hundred (Fifty Panas); for abusing a Vaishya, half of fifty (twenty-five Panas); for abusing a Shudra, twelve & a half.

(7) Manu 1.90; (8) *Ibid.,* 1.91: (9) Narad V. 3; (10) *Ibid.,* V.2; (11) *Ibid.,* V.26: (12) *Ibid.,* V.27; (13) *Ibid.,* V.28; (14) *Ibid.,* V. 29; (15) *Ibid.* V. 4.

(1) Brihaspati XX.5; (2) *Ibid.,* XX.6; (3) *Ibid.,* XX.7.

4. This punishment has been declared for (abusing) a virtuous Shudra who has committed no wrong; no offence is imputable to a Brahman for abusing (a Shudra) devoid of virtue.

5. A Vaishya shall be fined a hundred (Panas) for reviling a Kshatriya, a Kshatriya reviling a Vaishya shall have to pay half of that amount as a fine.

6. In the case of a Kshatriya reviling a Shudra, the fine shall be twenty Panas; in the case of a Vaishya, the double amount is declared to be the proper fine by persons learned in law.

7. A Shudra shall be compelled to pay the first fine for abusing a Vaishya; the middling fine (for abusing) a Kshatriya; the highest fine (for abusing) a Brahman.

8. A Kshatriya having defamed a Brahmana shall be fined one hundred (panas); a Vaishya one hundred and fifty or two hundred; a Shudra shall suffer corporal punishment.

9. A Brahmana shall be fined fifty (panas) for defaming a Kshatriya; in (the case of) a Vaishya the fine shall be twenty-five panas; in (the case of) a Shudra twelve.

10. A once born man (a Shudra), who insults a twice born man with gross invective, shall have his tongue cut out; for he is of low origin.

11. If he mentions the names and castes (Jati) of the (twice-born) with contumely an iron nail, ten fingers long, shall be thrust red hot into his mouth.

12. If he arrogantly teaches Brahmans their duty, the King shall cause hot oil to be poured into his mouth and into his ears.

13. For mutual abuse by a Brahmana and a Kshatriya a fine must be imposed by a discerning (King), on the Brahmana the lowest amercement, but on the Kshatriya the middle most.

14. With whatever limb a man of a low caste does hurt to (a man of three) highest (castes) even that limb shall be cut off; that is the teaching of Manu.

15. He (low caste man) who raises his hand or a stick, shall have his hand cut off; he who in anger kicks with his foot, shall have his foot cut off.

16. A low caste man who tries to place himself on the same seat with a man of a high caste, shall be branded on his hip and be banished, or (the King) shall cause his buttock to be gashed.

(4) Brahaspati XX.8: (5) *Ibid.,* XX.9: (6) *Ibid.,* XX. 10: (7) *Ibid.,* XX.11: (8) Manu VIII.267: (9) *Ibid.* 268: (10) *Ibid.,* VIII.270: (II) *Ibid.,* VIII.271: (12) *Ibid.,* VIII.272: (13) *Ibid.,* V1II.276; (14) *Ibid.,* VIII.279: (15) *Ibid.,* VIII.280; (16) *Ibid.,* VIII.281.

17. If out of arrogance he spits (on a superior) the King shall cause both his lips to be cut off, if he urinates (on him), the penis; if he breaks wind (against him) the anus.

18. If he lays hold of the hair (of a superior), let the (King) unhesitatingly cut off his hands, likewise (if he takes him by the feet) the beard, the neck or the scrotum.

STATUS, DIGNITY AND POSITION OF EACH CLASS

1. Man is stated to be purer above the navel (than below); hence the self existent (Swayambhu) has declared the purest (part) of him to be his mouth.

2. As the Brahmana sprang from the mouth, as he was the first-born and as he possesses the Veda, he is by right the lord of his whole creation.

3. For the self existent (Swayambhu) having performed austerities, produced him first from his own mouth, in order that the offerings might be conveyed to the gods and manes and that this universe might be preserved.

4. What created being can surpass him, through whose mouth the gods continually consume the sacrificial viands and the manes the offerings of the dead.

5. Of created beings the most excellent are said to be those who are animated; of the animated, those who subsist by intelligence; of the intelligent mankind, and of men the Brahmanas.

6. A Brahmana coming into existence is born as the highest on earth, the lord of all created things.

7. Whatever exists in the world is the property of the Brahmana; on account of the excellence of his origin the Brahmana is indeed, entitled to all.

8. A Brahmana be he ignorant or learned is a great divinity, just as the fire, whether carried forth (for the performance of a burnt oblation) or not carried forth, is a great divinity.

9. Thus though Brahmans employ themselves in all (sorts of) mean occupations, they must be honoured in every way; for (each of) them is a great divinity.

10. But let (the father perform or) cause to be performed the Namadheya (the right of naming the child) on the tenth or twelfth (day after birth), or on a lucky lunar day, in a lucky Muhurta, under an auspicious constellation.

(17) Manu V111.282: (18) *Ibid.,* VIII.283.

(1) Manu 1.92: (2) *Ibid.,* 1.93: (3) *Ibid.,* 1.94: (4) *Ibid.,* 1.95: (5) *Ibid.,* 1.96: (6) *Ibid.,* 1.99: (7) *Ibid.,* 1.100: (8) *Ibid.,* IX.317: (9) *Ibid.,* IX.319: (10) *Ibid.* 11.30.

11. Let (the first part of) a Brahman's name (denote something) auspicious, a Kshatriya's be connected with power, and a Vaishya's with wealth, but a Shudra's (express something) contemptible.
12. (The second part of) a Brahmana's (name) shall be (a word) implying happiness, of a Kshatriya's (a word) implying protection, of a Vaishya's (a term) expressive of thriving and of a Shudra's (an expression) denoting service.
13. Let him (a Brahmana) not dwell in a country where the rulers are Shudras, nor in one which is surrounded by unrighteous men, nor in one which has become subject to heretics, nor in one swarming with men of the lowest castes.
14. When the King cannot himself decide the causes (of litigants) then he should appoint thereto a Brahmana learned in the various Shastras.
15. Where a Brahmana (endowed with the qualities enumerated) cannot be had (the King) should appoint a Kshatriya or a Vaishya, proficient in the Sacred law, but the (the King) should carefully avoid a Shudra as a Judge.
16. Whatever is done by others (as Judges) than these must be regarded as done wrongly, even if they be officers (of the King) and even if by chance the decision is according to the Sacred texts.
17. A Brahmana who subsists only by the name of his caste (Jati), or one who merely calls himself a Brahmana (though his origin be uncertain), may, at the King's pleasure interpret the law to him, but never a Shudra.
18. The Kingdom of that Monarch, who looks on while a Shudra settles the law, will sink (low), like a cow in a morass.
19. A Brahmana who knows the law need not bring any (offence) to the notice of the King, by his own power alone he can punish those men who injure him.
20. His own power is greater than the power of the King; the Brahmana therefore, may punish his foes by his own power alone.
21. The Brahmana is declared (to be) the creator (of the world), the punisher, the teacher, (and hence) a benefactor (of all created beings); to him let no man say anything unpropitious, nor use any harsh words.

INTER-RELATIONSHIP BETWEEN THE CLASSES

I

1. In the inverse order of the four castes slavery is not ordained.

(11) Manu 11.31; (12) *Ibid.,* 11.32; (13) *Ibid.,* IV.61; (14) Katyayana 63; (15) *Ibid.,* 67; (16) *Ibid.,* 68; (17) Manu VI1I.20; (18) *Ibid.,* VIII.21; (19) *Ibid.,* XI.31; (20) *Ibid.,* XI.32; (21) *Ibid.,* XI.35.

(1) Narada V.39.

2. Members of three Varnas can become slaves but a Brahman can never become a slave. Slavery in the case of the (three) Varnas viz., Kshatriyas, Vaishyas and Shudras is in their direct order and not in their inverse order. A Shudra could be the slave of any master of the four castes, a Vaishya of any master of the first three castes but not of a Shudra Master, a Kshatriya could be the slave of a Brahman or Kshatriya Master but not of a Vaishya or Shudra Master.

3. Even one of the same caste (i.e. a Brahman) should not make a Brahmana work as a Slave ….. A man who is Kshatriya, Vaishya or Shudra may occasionally do the work of slave for a man of the same caste (as his own) but a Brahman should never be made to do the work of a slave.

II

4. For the first marriage of twice born men (wives) of equal caste are recommended; but for those who through desire proceed (to marry again) the following females (chosen) according to the (direct) order (of the castes), are most approved.

5. It is declared that a Shudra woman alone (can be) the wife of a Shudra, she and one of his own caste (the wives) of a Vaishya, those two and one of his own caste (the wives) of a Kshatriya, those three and one of his own caste (the wives) of a Brahmana.

6. If twice born men wed women of their own and of other (lower castes), the seniority, honour and habitation of those (wives) must be (settled) according to the order of the castes (Varna).

7. Among all (twice born men) the wife of equal caste alone, not a wife of a different caste by any means, shall personally attend her husband and assist him in his daily sacred rights.

8. A Shudra who has inter-course with a woman of a twice born caste, guarded or unguarded (shall be punished in the following manner); if she was unguarded, he loses the part (offending) and all his property; if she was guarded, everything (even his life).

9. (For inter-course with a guarded Brahmani) a Vaishya shall forfeit all his property after imprisonment for a year; a Kshatriya shall be fined one thousand (panas) and be shaved with the urine (of an ass).

10. If a Vaishya or a Kshatriya has connexion with an unguarded Brahmani, let him fine the Vaishya five hundred (panas) and the Kshatriya one thousand.

(2) Katyayana 715-716: (3) *Ibid.,* 717-718: (4) Manu 111.12: (5) *Ibid.,* 111.13: (6) *Ibid.,* IX.85: (7) *Ibid.,* IX.86: (8) *Ibid.,* VIII.374: (9) *Ibid.,* VIII.375: (10) *Ibid.,* VIII.376.

11. If a Vaishya approaches a guarded female of the Kshatriya caste, or a Kshatriya a (guarded) Vaishya woman, they both deserve the same punishment as in the case of an unguarded Brahmana female.

12. A Brahmana shall be compelled to pay a fine of one thousand (panas) if he has inter-course with guarded (females of) those two (castes); for (offending with) a (guarded) Shudra female a fine of one thousand (panas shall be inflicted) on a Kshatriya or a Vaishya.

13. For (intercourse with) an unguarded Kshatriya (female) a fine of five hundred (panas shall fall) on a Vaishya; but (for the same offence) a Kshatriya shall be shaved with the urine (of a donkey) or (pay) the same fine.

14. A Brahmana who approaches unguarded females (of the) Kshatriya or Vaishya (castes), or a Shudra female, shall be fined five hundred (panas); but (for intercourse with) a female (of the) lowest (castes), one thousand.

III

15. But let (a house holder) offer, in accordance with the rule, to a guest who has come (of his own accord) a seat and water, as well as food, garnished (with seasoning) according to his ability.

16. But a Kshatriya (who comes) to the house of a Brahman is not called a guest (atithi), nor a Vaishya, nor a Shudra, nor a personal friend, nor a relative, nor the teacher.

17. But if a Kshatriya comes to the house of a Brahman in the manner of a guest, (the householder) may feed him according to his desire, after the Brahmans have eaten.

18. Even a Vaishya and a Shudra who have approached his house in the manner of quests, he may allow to eat with his servants, showing (thereby) his compassionate disposition.

DUTIES—PRIVILEGES—IMMUNITIES—DISABILITIES

(I)

1. Brahmans who are intent on the means (of gaining union with) Brahman and firm in (discharging) their duties, shall live by duly performing the following six acts, (which are enumerated) in their (proper) order.

(11) Manu VIII.382: (12) *Ibid.,* VIII.383: (13) *Ibid.,* VIII.384: (14) *Ibid.,* VIII.385: (15) *Ibid.,* 111.99: (16) *Ibid.,* III.110: (17) *Ibid.,* III.111: (18) *Ibid.,* 111.112.

(1) Manu X.74.

2. Teaching, studying, sacrificing for himself, sacrificing for others, making gifts and receiving them are the six acts (prescribed) for a Brahmana.
3. But among the six acts (ordained) for him three are his means of subsistence, (viz.) sacrificing for others, teaching and accepting gifts from pure men.
4. (Passing) from the Brahman to the Kshatriya, three acts (incumbent on the former) are forbidden (viz.,) teaching, sacrificing for others, and thereby, the acceptance of gifts.
5. The same are likewise forbidden to a Vaishya that is a settled rule; for Manu, the lord of creatures (Prajapati), has not prescribed them for (men of) those two (castes).
6. To carry arms for striking and for throwing (is prescribed) for Kshatriyas as a means of subsistence; to trade, (to rear) cattle, and agriculture for Vaishyas; but their duties are liberality, the study of the Veda and the performance of sacrifices.
7. Among the several occupations the most commendable are, teaching the Veda for a Brahamana, protecting the people for a Kshatriya and trade for a Vaishya.
8. The service of Brahmanas alone is declared (to be) an excellent occupation for a Shudra; for whatever else besides this he may perform will bear him no fruit.

(II)

9. But a Brahmana unable to subsist by his peculiar occupations just mentioned, may live according to the law applicable to the Kshatriyas; for the latter is next to him in rank.
10. If it be asked "How shall it be, if he cannot maintain himself by either (of these occupations? the answer is) he may adopt a Vaishya's mode of life, employing himself in agriculture, and rearing cattle.
11. A Kshatriya who has fallen into distress may subsist by these means (open to the Vaishya).
12. A Vaishya who is unable to subsist by his own duties, may even maintain himself by a Shudra's mode of life, avoiding (however) acts forbidden (to him), and he should give it up, when he is able to do so.
13. But a Shudra being unable to find service with the twice-born and threatened with the loss of his sons and wife (through hunger), may maintain himself by handicrafts.

(2) Manu X.75; (3) *Ibid.,* X.76; (4) *Ibid.,* X.77; (5) *Ibid.,* X.78: (6) *Ibid.,* X.79; (7) *Ibid.,* X.80; (8) *Ibid.,* X.123: (9) *Ibid.,* X.81; (10) *Ibid.* X.82: (11) *Ibid.,* X.95; (12) *Ibid.,* X.98; (13) *Ibid.,* X.99.

(III)

14. A Kshatriya must never arrogantly adopt the mode of life (prescribed for his) betters (that is for the Brahmanas).

15. (The King) should order a Vaishya to trade, to lend money, to cultivate the land, to lend cattle and the Shudra to serve the twice born castes.

16. (The King) should carefully compel Vaishyas and Shudras to perform the work (prescribed) for them; for if these two (castes) swerved from their duties, they would throw this (whole) world into confusion.

(IV)

1. A blind man, an idiot, (a cripple) who moves with the help of a board, a man full seventy years old, and he who confers benefits on Srotriyas, shall not be compelled by any (king) to pay a tax.

2. Though dying (with want) a King must not levy a tax on Srotriyas, and no Srotriya residing in his kingdom must perish from hunger.

3. Let the King make the common inhabitants of his realm who live by traffic, pay annually some trifle, which is called a tax.

4. Mechanics and artisans, as well as Shudras who subsist by manual labour, he (the king) may cause to work (for himself) one (day) in each month.

5. Tonsure (of the head) is ordained for a Brahmana (instead of capital punishment); but men of other castes shall suffer capital punishment.

6. Let him (the King) never slay a Brahmana though he have committed all (possible) crimes; let him banish such an (offender) leaving all his property (to him) and (his body) unhurt.

7. No greater crime is known on the earth than slaying a Brahmana: a King, therefore, must not even conceive in his mind the thought of killing a Brahmana.

8. When a learned Brahmana has found treasure deposited in former (times), he may take even the whole (of it); for he is master for everything.

9. When the King finds treasutre of old concealed in the ground, let him give one half to the Brahmanas and place the (other) half in his treasury.

(14) Manu X.95; (15) *Ibid.,* VIII.410: (16) *Ibid.,* V111.4I8.

(1) Manu VIII.394: (2) *Ibid.,* VII.133: (3) *Ibid.,* VII. 137: (4) *Ibid.,* VII.138: (5) *Ibid.,* VIII.379: (6) *Ibid.,* VIII.380: (7) *Ibid.,* VIII.381: (8) *Ibid.,* VIII.37: (9) *Ibid.,* VIII.38.

MODE OF LIFE

1. (A Shudra who is) pure, the servant of his betters, gentle in his speech, and free from pride, and always seeks a refuge with Brahmanas, attains (in the next life) a higher caste.
2. But let a Shudra serve Brahmanas, either for the sake of heaven, or with a view to both (this life and the next); for he who is called the servant of a Brahmana thereby gains all his ends.
3. If a Shudra (unable to subsist by serving Brahmanas) seeks a livelihood, he may serve Kshatriyas, or he may also seek to maintain himself by attending on a wealthy Vaishya.
4. They must allot to him out of their own family (property) a suitable maintenance, after considering his ability, his industry, and the number of those whom he is bound to support.
5. The remnants of their food must be given to him, as well as, their old clothes, the refuse of their grain and their old household furniture.
6. No collection of wealth must be made by a Shudra, even though he be able (to do it); for a Shudra who has acquired wealth, gives pain to the Brahamana.
7. Shudras who live according to the law, shall each month shave (their heads); their mode of purification (shall be) the same as that of Vaishyas and their food the fragments of an Aryan's meal. As has been said the society for which the ancient law givers laid down their ordinances consisted of two parts—one part consisted of those who were comprised *within* the system of Chaturvarna. The other part consisted of those who were without the pale of Chaturvarna. They are spoken of in Manu as Bahyas i.e. outside the pale of Chaturvarna. They are spoken of as low castes. The origin of these low castes is a subject with which I am not concerned for the moment. It is enough to say that according to these ancient law givers of Hindus these low castes are the result of the progeny of intermarriages between those four classes—the Brahmanas-Kshatriyas-Vaishyas-Shudras—who are included within the system of Chaturvarna. How far this is true will be examined at another time. We are primarily concerned with social relationship and not with origin. So far the ordinances relating to those who were within the Chaturvarna have been given. It now remains to give the ordinances which relate to those who were outside the Chaturvarna or who were called the low castes. The ordinances which regulate the life of the low castes are strange to say very few. Few though they be they give them such a short shrift that one does not find any necessity for more detailed code of ordinances. They are as follows :

(1) Manu IX.335; (2) *Ibid.,* X.122; (3) *Ibid.,* X.121: (4) *Ibid.,* X.124; (5) *Ibid.,* X.125; (6) *Ibid.,* X.129: (7) *Ibid.,* V.140.

1. All those tribes in this world, which are excluded from (the community of) those born from the mouth, the arms, the thighs, and the feet (of Brahman), are called Dasyus, whether they speak the language of the Mlenchhas (barbarians) or that of the Aryans.

2. Near well-known trees and burial ground, on mountains and in groves, let these (tribes) dwell, known (by certain marks), and subsisting by their peculiar occupations.

3. But the dwelling of the Chandalas and Shwapakas shall be outside the village, they must be made Apapatras and their wealth (shall be) dogs and donkeys.

4. Their dress (shall be) the garments of the dead, (they shall eat) their food from broken dishes, black iron (shall be) their ornaments, they must always wander from place to place.

5. A man who fulfils a religious duty, shall not seek intercourse with them; their transactions (shall be) among themselves, and their marriages with their equals.

6. Their food shall be given to them by others (than an Aryan giver) in a broken dish; at night they shall not walk about in villages and in towns.

7. By day they must go about for the purpose of their work, distinguished by marks at the King's command, and they shall carry out the corpses (of persons) who have no relatives, that is a settled rule.

8. By the King's order they shall always execute the Criminals in accordance with the law, and they shall take for themselves the clothes, the beds and the ornaments of (such) criminals.

9. He who has had connection with a woman of one of the lowest castes shall be put to death.

10. If one who (being a member of the Chandala or some other low caste) must not be touched, intentionally defiles by his touch one who (as a member of a twice born caste) may be touched (by other twice born persons only) he shall be put to death.

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(1) Manu X.45 (2) *Ibid.,* X.50; (3) *Ibid.,* X.51; (4) *Ibid.,* X.52; (5) *Ibid.,* X.53; (6) *Ibid.,* X.54; (7) *Ibid.,* X.55. (8) *Ibid.,* X.56; (9) Vishnu V.43: (10) Vishnu V.104.

PART III

Roots of the Problem

CHAPTER 8

PARALLEL CASES

I. Slavery in Rome. II. Villeinage in England. III. Jews and Servility. IV. Negroes and slavery.

Social inequality is not confined to Hindus only. It prevailed in other countries also and was responsible for dividing society into higher and lower, free and unfree, respectable and despised. It would be interesting to compare the condition and status of the untouchables in India with the condition and status of the unfree and the despised classes in other countries ancient and modern. For an intelligent understanding of the differences and similarities it is essential to have some idea of the history of such parallel cases before any comparison can be instituted. It is not possible to give a survey of all such classes in all parts of the world. Nor is it necessary. A few typical cases can only be taken as illustrations.

In studying the relationship between the Hindus and the Untouchables three questions at once come to one's mind. Why has untouchability not vanished? Why does the Hindu regard lawlessness against the Untouchables as legitimate and lawful? Why does the Hindu feel no qualms of conscience in his dealings with the Untouchables?

I

Classes which like the Untouchables were lowly and despised have at one time existed in other societies also. For instance, they existed in once ancient Rome. The population of ancient Rome fell into five classes: (1) Patricians, (2) Plebians, (3) Clients, (4) Slaves and (5) Freemen.

The Patricians were the ruling class. They were the civics in every sense. The rest were all servile in status. The Plebs and the Clients were

destroyed by war. Those of the new comers who invoked the protection of the heads of Patrician families of repute and were ready to become their vassals were known as clients. Those who were too independent to brook submission to a private patron put themselves under the direct protection of the sovereign and became royal tenants and were known as Plebians. The Plebians had the right to hold property both movable and immovable to transfer it by quirtian modes of conveyance, and to have the protection for it of the tribunals. But the Plebian had no share in the Government of the City. He was a half-fledged citizen—*civies sine suffragio*. The Plebs were denied any participation in the religion of the city and as men to whom the suspicia were incompetent, any intermarriage between the Patrician and the Plebian was out of question. The client had to look to his Patrician patron for support and maintenance. The Patrician patron had to provide all that was necessary for his sustenance and that of his wife and children. This relation was a hereditary one, a client passed on from father to son. The client had not only to depend upon his Patrician patron for his maintenance but he had also to depend upon him for his legal protection. Not being a civic, a client had no right of suit and his Patrician patron had to assist his client in his redress for him for his injuries and represent him before the tribunals when he became involved in litigation.

As to the slaves there were millions of them. A single rich landholder might own hundreds and even thousands, and it was a poor man that did not have several at least. They were just things to be owned. They were not persons in the eye of the law and had therefore no rights. They received kind treatment from a few humane masters. But generally they were treated with the greatest cruelty. "If a slave coughs or sneezes during a meal, if he lets a key fall noisy to the floor, we fall into a great rage..... often we strike too hard and shatter a limb or break a tooth," said Senecca. One rich Roman used to punish his slaves for carelessness by casting them into a fish pond as food for lamprays. The slaves who displeased their masters were ordinarily sent to an underground prison. During the day, they had to work loaded with heavy iron chains. Many were branded with red hot iron. The mill where the slaves had to work is thus described by a Roman author; 'Gods! what poor shrunken up men? With white skins striped with blows of the whip..... They were only the shreds of tunis; bent forward, head shaved, the feet held in a chain, the body deformed by the heat of the fire, the eyelids eaten away by the fumes, everything covered with grain dust'.[1]

[1] Seignbbos—History of Ancient Civilization.

English society also had at one time its servile classes. One has only to turn to the Domesday Book to see what the state of English Society was at the time of the Norman conquest.

The Domesday Book which is a social survey of the land in England and its various kinds of tenants made by William the Conqueror immediately after his conquest in 1086 shows the following classes in which the population was divided:

1.	Gentry & Clergy	made up of	Tenants in Chief	1,400	9,300
			Under tenants	7,900	
2.	Freeholders Yeomen	made up of	Freemen	12,000	44,000
			Socmen	32,000	
3.	Half-free or Unfree	made up of	Villeins	169,000	259,000
			Cottars and Borders	90,000	
4.	Slaves				25,000

Out of a total of 3,37,000 souls as many as 2,84,000 were either unfree or slaves.

These are examples of servility in which race or religion played no part. But examples of servility by reason of race or religion are not wanting in history. The principal one is that of the Jews. On account of the belief that the Jews were responsible for the death of Christ, the Jews have been subjected to persecution. During the Middle ages in almost all the European towns, the Jews were compelled to reside within a restricted quarter in a separate part of the town, and this Jewish quarter came to be known as the 'Ghetto'. A Council held in Coyanza in Australia in 1050 enacted 'that no Christian shall reside in the same house with Jews, nor partake of the food; whoever transgresses this decree shall perform penances for seven days, or, refusing to do it, if a person of rank, he shall be excommunicated for a year; if of an inferior degree, he shall receive 100 lashes." The Council of Falencia in 1388 enacted that "Christians must not dwell within the quarters assigned to the Jews and Moors, and those that resided within them were to remove therefrom within two months after the publication of this decree in the Cathedral and if they did not, were to be compelled by Ecclesiastical censure." In the Middle ages the Jews were obliged to have communal baths. No Jewish community could be

destitute of such baths because the State often forbade the Jews to bathe in the rivers which the Christians used. In the fourteenth Century the Jews of Augers were readmitted to the town on several onerous conditions, one being that they would not bathe in the river Maine. The State also levied certain taxes upon the Jews. They were of three kinds—poll taxes, and particular fines and dues for individual transactions and privileges. The age at which Jews or Jewesses became liable to the poll tax varied considerably but the age was very young, and in Spain, as in England in 1273, every Jew above the age of ten was rateable. The billeting of soldiers on Jews in times of peace was a frequent species of exaction. So many were the vexatious dues exacted from the Jews everywhere throughout the Middle ages that it would be impossible to enumerate them all. To crown all this Pope Innocent III decided in 1215 that thenceforward the Jews must be marked off from the Christians by a badge prominently fastened to their outermost garment. Clear and emphatic in its demand that the Jews must wear badges, the Laternan council nevertheless avoided details. It left the definition of the size, colour, and character of the degrading mark to the taste of local Governors and States. Each Governor and State devised a badge of its own pattern. On account of the extraordinary number of modification, size and shape the badge sometimes became obsolete and the Jews managed to evade it. As the badge was often hidden, in 1525 Pope Clement VII changed it for a yellow hat or bonnet.

A consideration of the position of the Untouchables reminds one of the position of the Catholics in England. The Catholics were subjected to many disabilities. The catalogue of their disabilities is given below[1]:

"1. That of Catholic marriages or of marriages Catholics celebrated by Catholic priests being deemed invalid by the existing laws, so that if one of the parties quit the other *quicumque de causa* (from any reason whatsoever), the deserted party receives no relief from the parish, nor redress from the law of his or her country. The priest, also it is said, may be transported, or put in prison and condemned to transportation for having married the parties.

2. That of foundations or of moneys appropriated for the maintenance of priests, or to support the Catholic worship, being deemed by the existing laws to be appropriated to *superstitious purposes* and as such are liable to confiscation; and when alienated or seized upon by malevolent person cannot be recovered by law; Instances of such alienations and seizures might be adduced.

3. That of Catholics serving in His Majesty's Army and Navy being withheld from attending Divine Service according to the rite

of their own religion on Sundays and festivals, and of their being compelled to go to Protestant Churches on those days against their will—an evil which leads brave and loyal subjects to complain and be discontented at a time when every heart and hand should be united to oppose the enemy; and the United Kingdom should be as one man.

4. By the 13th Charles II. commonly called the Corporation Act, their whole body is excluded from offices in cities and corporations.

5. By the 25th Charles II, commonly called the Test Act, their whole body is excluded from civil and military offices.

6. By the 7th and 8th William III, c. 27 Roman Catholics are liable to be prevented from voting at elections.

7. By the 30th Charles II, s. 2. c. 1, Roman Catholic peers are prevented from filling their hereditary seats in Parliament.

8. By the same statute Roman Catholics are prevented from sitting in the House of Commons.

9. By several statutes Roman Catholics are disabled from presenting to advowsons, a legal incident of property which the law allows even to the Jew.

10. Though a considerable proportion of His Majesty's fleets and armies was Catholic, not only is no provision made for their religious comforts etc., but by the articles of war they are liable to the very heaviest pains and penalties for refusing to join in those acts of conformity to the religious rites of the Established Church. By the articles of war, section 1, a soldier absenting himself from Divine service and sermon is liable, for the first offence, to forfeit one Shilling, and for the second and every other offence, to forfeit one Shilling and to be put in irons. By the same articles section 2, article 5, 'if he shall disobey any lawful command of his superior (and of course if he shall disobey any lawful command of his superior to attend Divine Service and Sermon) he shall suffer death or such punishment as by general court martial shall be awarded.

11. In common with the rest of his Majesty's subjects the Roman Catholics contribute to the support of the Established Religion; they have also to support their own religious functionaries; and thus have a double religious establishment to defray. Of course, however, they do not complain; but they think it a serious grievance that their own religious endowments are not legalized like those of the Protestant Dissenters.

12. In hospitals, workhouses, and other public institutions the attendance of the ministers of their own communion is sometime denied to the poor of the Roman Catholic religion, and the children

of the Roman Catholic poor are sometimes forced into Protestant schools under the eyes of their parents."

Like Catholics, the Untouchables also suffer from certain disabilities.

II

[*The following essay has been received from Shri S. S. Rege. As it deals with 'Negroes & Slavery' (One of the subjects of the scheme of this Chapter) which has not been dealt with in the above discussion, it has been included here*—Ed.]

Providence it seems has inexorably doomed the continent of Africa to be only a nursery of slaves for the free and civilized peoples of Asia and Europe. The Negro was imported as a slave by the Arabs into Asia long before he was introduced as a slave by the Europeans into America. Although this is so, Negro slavery in America and in the English Colonies has had a sorrowful history which has made people forget the importation of the Negro as a slave in Asia—and quite naturally—because Negro slavery in America as carried on by the Europeans was a most revolting thing. It began in the first decade of the 16th Century and lasted till the middle of the 19th Century.

In the half century after Columbus first landed in the Bahama Island in 1492, the Spaniards conquered and partly occupied a huge area stretching from Mexico through Peru to Uruguay and including all the larger west Indian Islands, while in 1531 the Portuguese began the colonization of Brazil. At once the new comers, the Portuguese and the Spaniards, set themselves to exploit the great natural wealth of their acquisitions, to work the gold and silver mines on the main land and to lay out plantations of tobacco indego and sugar in the rich soil of the island. But they were soon confronted by the difficulty of procuring the requisite supply of labour. A great deal of it was needed, and the cost of white men's wages and the heat of the tropical sun made it virtually impossible for the Europeans to provide it for themselves. The only labour supply of a non-European character available on the spot consisted of the native Indians. The Portuguese and the Spaniards had massacred many Indians during the conquest. Many had fled to the mountains and forest from the scourge of the invadors. Those that were available were made slaves and made to work in the mines. Under the lash of the Portuguese and the Spaniards and the relentless labour that was exacted from them in the mines and in the fields the Indians sickened and died.

The conquistadors—as the Spanish pioneers in South America were called—under the leadership of Nicholas de Ovando who followed promptly the trail of Columbus, brought with them a young priest

Batrolome' de Las Casas who was well known for his piety. Las Casas was charged by the Court of Spain to deal lovingly with the Indians in the hope of bringing them to a knowledge of the sacred Christian faith. Las Casas was the first Bishop of Mexico. In performing the duty with which he was charged Las Casas while in Haiti witnessed the cruelties that were practised by the conquistadors upon the Indians and engaged himself passionately to the end of his life in preserving the pitiable remnants of the Caribbeans as the Indians of Haiti were called, from the inevitable destruction at the hands of their masters. The Caribbeans were a gentle, unoffending and hospitable race. They numbered no less than 1,000,000 persons when Columbus found them, formed into kingdoms and ruled peacefully by their caciques. Under the systematic cruelty of these Spanish adventurers who came after Columbus their numbers were reduced to a bare 60,000. It is recorded that entire villages committed suicide inviting others to join them as the only way of escaping this scourge and this tyranny. Las Casas was a spectator to many of these scenes of self immolations. He protested in righteous anger. But his protests went in vain and were bound to go in vain. The clearing of the forest, the tilling of the soil and the working of the mines had to go on. Without this the kingdom given by God could not become the Paradise of man. Las Casas realized this. But he was also overwhelmed with grief at the thought of what the Indians would have to go through if this plan was to be realized. His benevolent instincts led him to petition the King of Spain to allow the free importation of Negroes. The Spanish Government in 1511 decreed that a large number of Negroes should be transported to the New World. In pursuance of this there came ships laden with African Negroes as cargo to make the New World a Paradise for man. For a few years both worked under the Conquistadors, Indians as well as Negroes. The sturdiness of the Negroes as compared with the Indians was soon proved. One of the Conquistadors has testified that when he prepared his timbers for the four brigautines that pass through the Isthmus from the Atlantic to the waters which flowed into the Pacific, he had used several hundred Indians and thirty Negroes, and, in the execution of this task, he found that 500 Indians perished and the thirty Negroes survived. The Negroes not only survived but prospered so much that it came to be a common opinion "that unless a Negro should happen to be hanged he would never die; for as yet, none had been known to perish from infirmity". The Negro by his own conduct and character gave evidence that he was a more efficient tool than the Indian. The result was that the Indian was let go and the Negro was preferred for the labour, the former because God made him less sturdy

and the latter because God made him more sturdy. The result was that the Indian escaped slavery and the Negro took over the destiny which was intended by the Conquistadors to apply to him—a destiny to which he was invited by the pious and benevolent priest Las Casas and for which the Negro showed his own credentials of fitness.

Having found that "one Negro does more work than four Indians" there was opened at once a regular market for trading in Negroes. The market which was opened by the Portuguese on the West Coast of Africa began immediately to show its profits and quite naturally because the exploitation of the untold wealth of the New World was impossible without Negro labour. People became so engrossed in this new business in human beings that the search for a new route to the East, which began it all, was abandoned.

There was a keen competition between the various nations of Europe for a share in this new line in commerce. A papal Bull of demarcation had created for Spain and Portugal a monopoly on the wealth flowing in from the New World. The English and the Dutch feared there was danger to all Europe in this monopoly of American resources and were determined not to allow it.

The English took a good hand in securing this trade for the benefit of their nation. The first deal took place in 1553 when 24 Negroes were brought from the Coast of Africa and quietly sold in the English market. The most intrepid, and who later became the most heartless of man stealers known to history was John Hawkins. Under Elizabeth he sailed forth in the good ship *Jesus* to get Negroes from Africa whom he sold into the Spanish Colonies. Bent on breaking the monopoly of Spain Sir Francis Drake followed Hawkins. International disputes over the pirating of these adventures arose which culminated in the clash and destruction of the Spanish Armada. It is interesting to bear in mind that in these disputes each nation shamelessly asserted that these acts of piracy committed by their subjects in stealing Negro slaves were "no private but public actions" supported by the respective states.

As though the irony involved in using the Ship *Jesus* for carrying the Negroes for enslavement was not enough there occurred another event which also was full of irony. It was the simultaneous landing of the Pilgrim Fathers on Plymouth Rock in the *Mayflower,* and the landing of twenty Negroes at Jamestown in Virginia from a barnacled and sea worn brig which sailed up the James river and brought them for the use of the gentlemen adventurers of the first successful English Colony of Virginia in America.

Thus were introduced into America the Negroes and the Pilgrim Fathers who stepped into it almost at the same time, the Pilgrim Fathers for preserving their liberty and the Negro for losing his freedom. For a long time the Negro formed a dominant element in the population of the American Colonies so far as numbers were considered. In a real sense America including its islands was settled chiefly from Africa and by Negroes. Before 1800 the number of Negroes brought in America was more than twenty times that of all Europeans combined. This was inevitable. The population of Europe was small, reduced further by its long wars and just emerging itself from a backward culture. For a long time the status of the imported Negro was undefined. The twenty Negroes brought by the Dutch and who landed in Jamestown were not immediately stamped in the Colony as slaves. They were accepted on much the same basis as the indentured servants. It has been found that in the muster rolls of the Colony of Virginia in 1624 and 1625 there were recorded 23 Negroes all of whom were listed as 'servants' as were the whites of the same class. It is also recorded that thirty-four years after the arrival of the twenty Negroes one of them Anthony Johnson got a judgment from the Court sustaining his claim to perpetual service of John Caster, another Negro. The status of slavery was not crystalized for fifty years and steps by which it became crystalized were very gradual.

To begin with there was the law of servitude which applied to all servants whether they were Negroes or whites. In course of time a distinction came to be made in the treatment of the Negroes and white servants due to the fear of an alien and pagan people which as they became traditional and gained the sanction of custom, gradually modified the status of the African and transformed Negro servitude into Negro slavery. The slavery of the Negro in the American Colonies grew by the gradual addition of incidents modifying the law and custom of servitude. In this transition from servitude to slavery there are two principal steps. The first step in the transition was taken when the custom of holding Negroes "servants for life" was recognized. As has been observed, the distinguishing mark of the state of slavery is not the loss of liberty, political and civil but the perpetuity and absolute character of that loss, whether voluntary or involuntary in origin. It differs then from other forms of servitude limited in place or time, such as medieval vassalage, villeinage, modern serfdom, and technical servitude, in degree rather than in kind. The efforts of the planters to lengthen the terms of the service of their servants which failed with the white servants succeeded with the black. Public opinion supported the change because the blacks were regarded as dangerous if left

uncontrolled. The second step by which Negro servitude was converted into Negro slavery was taken when the condition and status of the mother was extended to and continued in her offspring. The transmission from mother to child of the conditions of slavery for life grew naturally out of the fact that the master necessarily controlled the child, controlling the mother. It was evident that parents, under an obligation of life service, could make no valid provision for the support of their offspring and that a just title to the service of the child might rest on the master's maintenance. This change which had undoubtedly been effected in custom long before it was formally sanctioned by law was recognized by statute in the different states of America between 1662 and 1741.

This is how the Negro who was originally only a servant became a slave. It is to be noted that slavery in Africa the home of the Negro is a native institution and is very ancient. The most common ways of becoming a slave were: (1) By being born a slave, (2) by being sold into slavery for debt, (3) by becoming a slave through capture in war and (4) by kidnapping individuals and selling them into slavery due to revenge or greed and gain. The Negro was really familiar with the slave system and tasted the pleasures of a slave owner. One therefore may not feel the same sympathy with the Negro when he was made to give up the status of a master and made to occupy the position of a slave. But looked at even as a case of retribution well deserved, his condition as a slave in the New World to which he was transplanted, cannot fail to excite a righteous indignation for the miseries to which he was subjected by his new and alien masters.

How great were the miseries of the Negro in the New World when he became subject to the system of slavery, it is not possible for the inhabitants of Europe or Asia to imagine. They may be described under three heads. The miseries of his capture, the miseries of travel and the miseries of his toil. First as to the ways of capturing Negroes for enslavement. In the early days Negroes could be rounded up by sudden landings on the coast; but in time the Negroes learned to watch for the coming of the ships and take refuge in the bush; and, though adventurous traders sometimes penetrated inland themselves, their usual custom was to do business with professional native or half-caste dealers who took the cheap goods they had bought from Europe—cloth, beads, hardware, muskets and powder, spirit—and bartered them for slaves with chiefs up-country. There is nothing to show that the chiefs, of the stronger tribes at any rate, resisted or wanted to resist the fascination of these wares, especially the guns and drink. Enslavement within a tribe, it was observed, became the penalty for

less and less serious offences; and inter-tribal warfare with slaves for its motive as well as the kindnapping of women and children in peacetime became a more or less constant feature of African life, spreading steadily into the interior of the continent with the steady infilteration of the trade.

Secondly as to the mode of transporting the Negro to America. Having bought his slaves, the dealer marshalled them, men, women and children, in a caravan for the march, sometimes a very long march to the coast. Usually fetters were put on them to prevent escape and often they were locked in the "slave stick"—a long pole with a crutch at the end for fastening round the neck. They carried on their heads the loads of foodstuffs and other baggage required for the journey or the ivory or other native produce which the dealer might have bought. The rigours of the march were often too much for the weaker members of the party. Slaves who fell sick were killed or left to die. The more frequented slavetracks were strewn with human bones. Arrived at the coast, they were stowed on board the slave ships, which were specially fitted for their transport. The hold was divided horizontally by decks about three feet apart with a gangway down the middle. On these shelves the slaves were laid, handcuffed in pairs, men and women in separate holds. Since the bigger the cargo, the bigger the profit, they were some times packed so tightly that they could scarcely turn round. In a ship of 150 tons as many as 600 slaves were carried. The direct voyage to Brazil was fairly short, but the so-called "Middle Passage" to the West Indies—the main centre of distribution—might be protracted for several weeks by adverse or dropping winds. If it was calm enough, the slaves were brought up on deck and urged or forced to dance for exercise. In rough weather conditions of the slaves in the hold may be imagined. Disease of course, was rife on board. Though instruments were provided for forcibly feeding those who refused to eat, it was reckoned in the latter eighteenth century that on the average at least one-sixth of a cargo died on the voyage. As the end of the voyage approached, the slaves were examined and prepared for sale. Wounds, caused by storm or ill usage, were doctored up and as far as possible concealed. But the agents at the ports often complained that the "parcels of Negroes" landed were "bad" or "mean" or "much abused". Finally, on ship board or in the public slave market, the slaves were put up for sale by "scramble" or auction. The price of a healthy man rose as high as £ 60 during the eighteenth century. The sick and injured were lumped with feeble women and children and sold off cheap as "refuse". Even when at last they reached the plantations, the slaves had to face one more ideal before they settled down to

endure what was left to them of life. The first months of employment were known as the period of "seasoning" and during it no less on an average of one third of the novices failed to adjust themselves in body or spirit to the new conditions of climate or food or labour and died. Taking all the deaths together—in the slave-catching wars or raids, on the march to the sea, during the "Middle Passage" and in "seasoning"—it has been moderately reckoned that for every African Negro who became "seasoned" at least one other Negro was killed.

Thirdly as to the actual conditions of life which a "seasoned "Negro slave had to undergo. The Negro slavery gave the Master two rights which were indisputably established, the right to own and the right to punish. The right to own was given a wide meaning. By virtue of it the Master had not merely a right to the services of the Negro as a servant, but he had also the right to sell those services, to transmit by inheritance and to alienate them in any way he liked. The effect of this conception of the right was "to completely confound and identify the person of the slave with the thing owned." The conception of the slave as property made the Negro liable to be seized in payment of his master's debts. Even after such slaves had been emancipated they were still liable to seizure for the payment of debts contracted prior to their emancipation. The conception of a slave as property rather than as person added further disability to the legal or civil status. He could neither own nor enjoy property in his own right. This was unlike the Roman Law which did allow the slaves to own property which was called peculium. It was a limited right but it was still an important right because it shows that the Roman Law did recognize that a slave though property was also a person. Not being a person a Negro as a slave could neither engage in trade nor marry. The right of the Master to punish a slave was also given a very cruel interpretation in its application to the Negro. In a case which arose in the state of North Carolina Court in 1829 the Cheif Justice in acquitting the Master who was indicted for beating his slave observed:

> "It was a mistake to say that the relations of Master and slave were like those of parent and child. The object of the parent in training his son was to render him fit to live the life of a free man, and, as a means to that end, he gave him moral and intellectual instruction. With the case of the slave it was very different. There could be no sense in addressing moral considerations to a slave. The end of slavery is the profit of the Master, his security and public safety; the subject, one doomed in his own person and his posterity to live without knowledge and without capacity to make anything his own, and to toil that neither may reap the fruits. What moral

consideration shall be addressed to such a being to convince him, that it is impossible, but that the most stupid must feel and know can never be true—that he is thus to labour on a principle of natural duty, or for the sake of his own personal happiness? Such services can only be expected from one who has no will of his own, who surrenders his will in implicit obedience to that of another. Such obedience is the consequence only of uncontrolled authority over the body. There is nothing else which can operate to produce the effect. The power of the Master must be absolute to render the submission of the slave perfect."

The result of such an interpretation of the Master's right to punish was that for a long time in the U.S.A. if a Negro slave chanced to die as a consequence of " a lawful correction" it was regarded by law as a lamentable and accidental homicide. How mercilessly this right to punish was exercised by the masters will be realized by a perusal of the extracts from letters written by a resident in Antigna in 1787. Says the writer—

"The Negroes are turned out at sunrise, and employed in gangs from twenty to sixty or upwards, under the inspection of white overseers, generally poor scotch lads, who by their assiduity and industry frequently become masters of the plantations, to which they make out as indentured servants. Subordinate to these overseers are drivers, who are mostly black or mulatto fellows of the worst dispositions; these men are furnished with whips, while on duty, which they are obliged on pain of severe punishment to have with them, and are authorized to flog wherever they see the least relaxation from labour; nor is it a consideration with them, whether it proceeds from idleness, or inability, paying at the same time, little or no regard to age or sex. At twelve they are turned in (that is leave off work) to get what they can to refresh nature with; at half past one the bell rings, when they turn out and resume their labour until sunset.....

* * *

"The punishments inflicted on slaves in this island, are various and tormenting..... Among which is the thumbacrew, a barbarious invention to fasten the thumbs together, which appears to cause excuciating pain. The "iron necklace" is a ring, locked and rivetted about the neck; to these, collars are frequently added..... which prevent the wearers from laying down their heads with any degree of comfort. The "boots" are strong iron rings, full four

> inches in circumference; closed just above the ankles; to these some owners prefix chain, which the miserable sufferers, if able to work, must manage as well as they can, and it is not unfrequent to see in the streets of this town, at midday, Negroes chained together by these necklaces, as well as the boots. ... The 'spurs' are rings of iron, similar to the boots, to which are added spikes from three to four inches long, placed horizontally. A chain fastened about the body with a pedlock is another mode of tormenting this oppressed race of being."

It would be a great mistake of judging a whole class of slave owners by the vice of individuals. Often enough, the attitude of slaves to their Masters was quite friendly and equally often the attitude of the Masters to their slaves was kindly. None the less the system was a system founded on a purely economic basis making it inevitable that human being be created as mere tools to be used without being influenced by any considerations of humanity.

It is unnecessary to adduce any more cases to illustrate the fact that the lowly, unfree and unprivileged classes have existed in the past in countries other than India. What is of importance is that these unfree, unprivileged classes have disappeared as a separate class and have become part and parcel of the great Society. The question is: Why has untouchability not disappeared ?

There are various reasons. They are discussed in the following Chapters.

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CHAPTER 9

HINDUS AND WANT OF PUBLIC CONSCIENCE

The cases in which the Hindus have indulged in violence against the Untouchables are cases of fight for equal freedom to all. If the Untouchables want to go in procession, they have no objection to the Hindus doing the same. If the Untouchables want to wear gold and silver ornaments, they do not object to the Hindus having the same right. If the Untouchables want to send their children to schools, they are not against the children of the Hindus having full freedom for education. If the Untouchables wish to draw water from the well, they have no objection to the Hindus exercising their right to take water. One can go on *ad infinitum*. But it is unnecessary. The point is easy and simple to grasp. It is that whatever freedom the Untouchables claim is not exclusive to them and is not inconsistent with the right of the Hindus to equal freedom. Why then does the Hindus use violence to put down such innocent and perfectly lawful acts? Why does he regard his lawlessness as lawful? Who cannot see that the acts and omissions, of the Hindus in his dealings with the Untouchables cannot be called by any other name except that of social wrongs. The acts and omissions are not mere inequities; they are not mere indignities. They are gross instances of man's inhumanity to man. For a doctor not to treat a patient because the patient is an Untouchable, for a body of Hindu villages to burn the houses of the Untouchables, to throw human excreta in their well if these are not acts of inhumanity, I wonder what can be? The question is why has the Hindu no conscience?

There is only one answer to these questions. The class composition in other countries were based on economic and social considerations. Slavery and serfdom had no foundation in religion. Untouchability though it can give and does economic advantages to the Hindus, is primarily based on religion. There is nothing sacrosanct in economic and social interests. They yield to time and circumstances. This is the broad explanation why slavery and serfdom have vanished and why untouchability has not. The same is the answer to the two other

questions. If the Hindu observes untouchability it is because his religion enjoins him to do so. If he is ruthless and lawless in putting down the Untouchables rising against his Established Order, it is because his religion not only tells him that the Established Order is divine and therefore sacrosanct but also imposes upon him a duty to see that this Established Order is maintained by all means possible. If he does not listen to the call of humanity, it is because his religion does not enjoin him to regard the Untouchables as human beings. If he does not feel any qualms of conscience in assaulting, looting, burning and other acts of atrocities against the Untouchables, it is because his religion tells him that nothing is sin which is done in defence of the social order.

Many Hindus would regard this as a travesty of their religion. The best way to meet the charge is to quote Chapter and verse from Manu who is the architect of Hindu Society. Let anyone, who denies what I have said, read the following Commands of Manu regarding untouchability. Untouchables and the duties of the Hindus in regard to them :

"1. All those tribes in this world, which are excluded from (the community of) those born from the mouth, the arms, the thighs, and the feet (of Brahman), are called Dasyus, whether they speak the language of the Mlenchhas (barbarians) or that of the Aryans.

2. Near well known trees and burial ground, on mountains and in groves, let these (tribes) dwell, known (by certain marks), and subsisting by their peculiar occupations.

3. But the dwellings of the Chandalas and Shwapakas shall be outside the village, they must be made Apatras and their wealth (shall be) dogs and donkeys.

4. Their dress (shall be) the garments of the dead, (they shall eat) their food from broken dishes, black iron (shall be) their ornaments, they must always wander from place to place.

5. A man who fulfils a religious duty, shall not seek intercourse with them ; their transactions (shall be) among themselves, and their marriages with their equals.

6. Their food shall be given to them by others (than an Aryan giver) in a broken dish; at night they shall not walk about in villages and in towns.

7. By day they must go about for the purpose of their work, distinguished by marks at the king's command, and they shall carry out the corpses (of persons) who have no relatives, that is a settled rule.

(1) Manu X. 45: (2) *Ibid*. X. 50: (3) *Ibid*. X. 51: (4) *Ibid*.. X. 52: (5) *Ibid*. X. 53: (6) Manu X. 54: (7) *Ibid*. X. 65.

8. By the king's order, they shall always execute the criminals in accordance with the law, and they shall take for themselves the clothes, the beds and the ornaments of (such) criminals.

9. He who has had connection with a woman of one of the lowest castes shall be put to death.

10. If one who (being a member of the Chandalas, or some other low caste) must not be touched, intentionally defiles by his touch one who (as a member of a twice born caste) may be touched (by the other twice born persons only) he shall be put to death."

Can anybody, who reads these Commandments of Manu deny that it is Hindu religion which is responsible for the perpetuation of untouchability and for the lawlessness and want of conscience on the part of the Hindus towards the Untouchables? Indeed, if the acts of omission and commission which have been detailed in the earlier Chapters of this book were correlated to these ten Commandments, it will be found that the Hindus in committing these acts are merely following the Commandments of Manu. If the Hindu will not touch an Untouchable and regards it as an offence if an Untouchable touches him, it is because of the Commandments Nos. 5 and 10. If the Hindus insist upon the segregation of the Untouchables, it is because of Commandment No. 3. If the Hindu will not allow the Untouchable to wear clean clothes, gold ornaments, he is only following Commandment No. 8. If the Hindu will not tolerate an Untouchable acquiring property and wealth, he is only following Commandment No. 3.

It is really unnecessary to labour the matter further. It is incontrovertible that the main cause which is responsible for the fate of the Untouchables is the Hindu religion and its teachings. A comparison between Paganism and Christianity in relation to slavery and Hinduism in relation to untouchability reveals how different has been the influence of the two religions on human institutions, how elevating has been the influence of the former and how degrading that of the latter. Those who are fond of comparing slavery with Untouchability do not realize that they are facing a paradox. Legally the slave was not a freeman. Yet, socially he had all the freedom necessary for the growth of his personality. Legally the Untouchable is a freeman. Yet, socially he has no freedom for the growth of his personality.

This is indeed a very glaring paradox. What is the explanation of this paradox? There is only one explanation of this paradox. It is that while religion was on the side of the slave, religion has been against

(8) Manu X. 56: (9) Vishnu V. 43: (10) Vishnu V. 104.

the Untouchables. The Roman Law declared that the slave was not a person. But the religion of Rome refused to accept that principle, at any rate, refused to extend that principle to social field. It treated him as a human being fit for comradeship. The Hindu Law declared that the Untouchable was not a person. Contrary to Paganism, the Hindu religion not only accepted the principle but extended it to the social field. As the Hindu Law did not regard the Untouchable a person, Hinduism refused to regard him as a human being fit for comradeship.

That the Roman religion saved the slave from the social degradation consequent upon his legal degradation is beyond question. It saved him from such degradation in three different ways. One way by which the Roman religion saved the slave was to keep the most sacred place open for the slave to occupy. As has been observed:

> ".....Roman religion was never hostile to the slave. It did not close the temple doors against him; it did not banish him from its festivals. If slaves were excluded from certain ceremonies the same may be said of freemen and women—men being excluded from the rites of Bona Dea, Vesta and Ceras, women from those of Hercules at the Ara Maxima. In the days when the old Roman divinities counted for something, the slave came to be informally included in the family, and could consider himself under the protection of the Gods of the household..... Augustus ordered that freed women should be eligible as priestesses of Vesta. The law insisted that a slave's grave should be regarded as sacred and for his soul Roman Mythology provided no special heaven and no particular hell. Even Juvenal agrees that the slave's soul and body, is made of the same stuff as his master."

The second way in which the Roman religion helped the slave was equivalent to lodging a complaint before the City Prefect whose duty it became to hear cases of wrong done to slaves by their masters. This was a secular remedy. But the Roman religion had provided another and a better remedy. According to it, the slave was entitled to throw himself before the altar and demand that he should be sold to a kinder master.

The third way in which the Roman religion saved the slave by preventing the Roman Law from destroying the sanctity of his personality as a human being. It did not make him unfit for human association and comradeship. For the Roman slave this was the greatest saving grace. Suppose Roman society had an objection to buy vegetables, milk, butter or take water or wine from the hands of the slave; suppose Roman society had an objection to allow slaves to touch them, to enter their houses, travel with them in cars, etc., would

it have been possible for the master to train his slave to raise him from semi-barbarism to a cultured state? Obviously not; it is because the slave was not held to be an Untouchable that the master could train him and raise him. We again come back therefore to the same conclusion, namely, that what has saved the slave is that his personality was recognised by society and what has ruined the Untouchable is that Hindu society did not recognize his personality, treated him as one whose personality was unclean which rendered him as unfit for human association and common dealing.

There was no gulf, social or religious, which separated the slave from the rest of the society. In outward appearance he did not differ from the freeman; neither colour nor clothing revealed his condition; he witnessed the same games as the freeman; he shared in the life of the Municipal towns and got employed in the State service, engaged himself in trade and commerce as all freemen did. Often apparent equality in outward things counts far more to the individual than actual identity of rights before the law. Between the slave and the freed there seems often to have been little social barrier. Marriage between the slave and freed and even freed and slave was very common. The slave status carried no stigma on the man in the slave. He was Touchable and even respectable. All this was due to the attitude of the Roman religion towards the slave.

There is no space to describe at length the attitude of Christianity to slavery. But it was different from Paganism. It is not known to many that during the period of slavery in America, Christian priests were not prepared to convert Negro slaves to Christianity because of their view that it would degrade Christianity if the convert remained a slave. In their opinion, one Christian could not hold another Christian as a slave. He was bound to offer him fellowship.

To sum up, Law and Religion are two forces which govern the conduct of men. At times, they act as handmaids to each other. At other times, they act as check and counter-check. Of the two forces, Law is personal while religion is impersonal. Law being personal it is capable of being unjust and inequitous. But religion being impersonal, it can be impartial. If religion remains impartial, it is capable of defeating the inequity committed by law. This is exactly what happened in Rome in regard to the slave. That is why religion is believed to ennoble man and not to degrade him. Hinduism is an exception. It has made the Untouchable sub-human. It has made the Hindu inhuman. There is no escape to either from the established order of the sub-human and the inhuman.

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CHAPTER 10

HINDUS AND THEIR WANT OF SOCIAL CONSCIENCE

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Everyone who feels moved by the deplorable condition of the Untouchables begins by saying: "We must do something for the Untouchables". One seldom hears any of the persons interested in the problem saying: "Let us do something to change the Hindu." It is invariably assumed that the object to the reclaimed is the Untouchables as though untouchability was due to his depravity and that he alone is responsible for his condition. If there is to be a Mission, it must be to the Untouchables. Nothing requires to be done to the Hindu. He is sound in mind, manners and morals. He is whole, there is nothing wrong with him. He is not the Sinner.

What is the real state of affairs? This argument that there is nothing wrong with the Hindus and that the Untouchable is responsible for whatever wrong he suffers is very much the argument that is used by the Christians for defending themselves against the inhuman treatment accorded by them to the Jews. A very crushing reply has been given by Mr. Louis Goulding to the Christians on behalf of the suffering Jews. In discussing the source of the Jewish Problem Mr. Louis Goulding says:

> "I beg leave to give a very homely instance of the sense in which I consider the Jewish Problem in essence a Gentile Problem. A close acquaintance of mine is a certain Irish Terrier of mixed pedigree, the dog Paddy, who is to my friend John Smith as the apple of both his eyes. Paddy dislikes Scotch terriers; it is enough for one to pass within twenty yards of Paddy to deafen the neighbourhood with challenges and insults. It is a practice which John Smith deplores, which, therefore, he does his best to check—all the more as the object of Paddy's detestation are often inoffensive creatures, who seldom speak first. Despite all his affection for Paddy, he considers, as 1 do, that Paddy's unmannerly behaviour is due to some measure

of original sin in Paddy. It has not yet been suggested to us that what is here involved is a Scotch Terrier Problem and that when Paddy attacks a neighbour who is peacefully engaged in inspecting the evening smells it is the neighbour who should be arraigned for inciting to attack by the fact of his existence."

If we equate Paddy to the Hindu and Scotch Terrior to the Untouchable the argument of Goulding will apply to the Hindus no less than it does to the Christians. If for the reasons given by Mr. Goulding the Jewish Problem is in reality a Christian Problem then the Problem of the Untouchables is primarily a Hindu Problem.

Are the Hindus conscious, do they recognise that the Untouchables are a problem to them? Are they worried about it? Is it weighing on their minds? Certain obvious tests may be applied in order to ascertain the truth. One test is the volume of literature on the subject. One can take the volume of literature issued on the Negroes of America as a standard measure. One is amazed at the huge amount of printed material that exists in the United States on the subject of the Negroes. It is said that a really complete bibliography on the Negro Problem would run up to several hundred thousand titles. The literature is really immeasurable. This proves as nothing else can, how much it is a problem to the Whites. It has disturbed through several generations all classes of people in America, the religious moralists, the political philosophers, the Statesmen, the philanthropists, the social scientists, the politicians, the businessmen and the plain ordinary citizen as well.

What is the amount of literature on the Untouchables that exists in India? Not more than half a dozen pamphlets!

Another test would be the test of social behaviour. I give below two cases reported in the papers. One is from the '*Pratap*' of 5th March 1926. It gives the following news:

"On the 23rd of February at about 11 o'clock in the day, a group of about 12 or 13 were digging earth in Begumganj, Lucknow when the quarry collapsed and they were all buried under heaps of earth. One boy and six women were rescued after the earth had been removed out of whom only one woman turned out to be alive, who belonged to Mirpur. She had received grievous injuries and her condition was very critical. The Hindu inhabitants of Begumganj however refused to give a bed to lay that woman on. At last a Muslim offered a bed; now there was no Hindu prepared to help to carry the poor woman as far as her house. At last, a sweeper was called and he undertook to carry the woman to her home as she lay on the bed."

The best illustration of the absence of conscience in the Hindu towards the Untouchables is to be found in the following incident which is reported by the Correspondent of the '*Sangram*' and published in its issue of 10th July 1946. The correspondent says:

> "A woman died on the 8th of July 1946 in the Anath Ashram (Beggars Home) called Azil situated in a village called Mhapse (in Goa) and maintained by Christians. The woman was believed to be a Hindu. She was alone and had no relations. Seeing that there was no one to dispose of the dead body and to perform funeral rites, the Hindus of the village came together and raised a subscription for the purpose. They brought the dead body out of the Beggars' Home. Just about that time some Untouchables, who knew the woman came there and recognized the dead body. The moment the Hindus came to know that the woman belonged to the Untouchables the Hindus who had gathered there deserted the dead body and started walking away. The Untouchables who had come requested the Hindus to give them the amount they had collected for buying the coffin and the shroud. The Hindus refused to part with the money saying that the money was collected from the subscribers on the representation that the deceased woman was a Hindu woman. As she is not a Hindu but an Untouchable, they can't spend the money on her funeral. The Untouchables had to do their best to dispose of their dead body. The Untouchables had good evidence of the love and affection the Hindus bear towards them. The following is from the '*Milap*' of 2nd October 1925. Its correspondent reports:

> "News has been received from Ruddurprayag that one evening in the first week of September a Harijan came to the Dharmashala (or monastery) of Ruddurprayag. When he learnt that a tiger came there every night, he requested the pastor of the Dharmashala to let him lie hidden in some corner of the Dharmashala for the night, so that he may remain safe from the tiger. The callous pastor, however, paid no heed to the request and closed the gates of the Dharmashala. The ill-starred Harijan laid himself down outside in one corner, full of apprehensions of the tiger. Towards the end of the night the tiger came and attacked the Harijan. As the man was quite strong and healthy and despair made him fearless, he caught hold of the tiger's neck and shouted 'I have grabbed the tiger. Come and kill him'. But the high caste pastor did not open the door, nor did he offer any sort of help, so that very soon the grip of the Harijan loosened and the tiger also ran away. At present the man is lying wounded in Shrinagar (Garhwal) where he is getting himself treated. His condition is said to be critical."

The heartlessness disclosed by these instances shows that the Hindu does not bother about what he does to the Untouchables or about what happens to the Untouchables.

A third test would be the test of service and sacrifice for the uplift of the Untouchables. Here again, one may adopt the service and sacrifice of the Americans for raising the Negroes as our standard measure. Here are some figures.

Consider the bequests[1] made by the Whites for the benefit of the Negro education.

Testator	Amount (in Dollars)	Testator	Amount (in Dollars)
Kane	50,000	Mason	1,00,000
Harton	5,000	Naunbert	40,000
Troughton	1,60,600	Harrison	2,30,000
Ottinger	500	Munger	75,000
Gambrille	35,000	Corliss	45,000
Jarepki	1,000	Rosenbanin	1,000
Strock	500	Burton	1,000
Kidder	5,000	Conroy	1,00,000
Clodin	10,000	Kent	10,000
Wood	500	Duke	1,40,000
Harkness	12,50,000	Marciliat	5,000
Beatie	2,90,000	Masey	25,000
Marquant	5,000	Nicholas	20,000
Newton	5,000	Garretson	15,00,000
Hummington	25,000	Hatcher	20,000
Phelps-Stokes	2,80,000	Wright	10,000
Butler	30,000		

These figures relate to the period before 1930. They do not take account of residuary bequests.

Compare the Educational funds[2] that exist for the advancement of education among the Negroes. They are:

(*i*) The Avery Fund.

(*ii*) The Vilas Bequest.

(*iii*) The African Fund.

(*iv*) The Buckingham Fund.

(*v*) The George Washington Educational Fund.

(1) This Table is prepared from the list given in the 'Negro Year Book' 1931-32, p. 202.

(2) *Ibid.,* pp. 213-18.

(*vi*) The Miner Fund.

(*vi*) The Steward Missionary Foundation.

(*viii*) The Daniel Hand Fund.

(*ix*) The John Slater Fund.

(*x*) The Phelps-Stokes Fund.

In addition to this, there are general Funds such as the Carnegie Corporation Julius Rosenwald Fund and the Rockfeller Foundation which also help the Negroes. The amounts distributed by these funds is not known. But they must be amounting to millions.

Compare the amount spent by Religious organizations on the education of the Negroes. Here are some interesting[1] figures.

	Annual Expenditure (In Dollars)	Permanent fund for Negro Education (In Dollars)	Value of school plants, etc. (In Dollars)
American Baptist Home Mission Board	116,247	1,597,700	3,594,251
American Church Institute for Negroes (Episcopal)	185,100	450,000	3,000,000
American Missionary Association	368,057	3,228,421	3,200,000
Church of Christ (Disciples) United Christian Missionary Society	91,072	....	500,000
Lutheran Evangelical Synodical Conference of North America Board Colored Mission	74,900	....	175,000
Methodist Episcopal Church Board of Education. Institutions for Negroes	259,264	1,962,729	5,000,000
Methodist Episcopal Church Woman's Home Missionary Society of	104,975		360,000
Presbyterian Church in the U.S.A. Division of Missions for Colored People	405,327	1,994,032	3,560,000
United Presbyterian Church Board of of Mission for Freemen	98,000	645,000	1,000,000

It is estimated that the total amount spent for the religious and philanthropic organizations between 1865 and 1930 comes to 135,000,000 dollars on the advancement of the Negroes. Of this amount, 85,000,000 dollars have been contributed by the Whites.

What is the measure of service and sacrifice of the Hindus for the elevation of the Untouchables. The only organization the Hindus can

[1] This Table is prepared from the list given in the 'Negro Year Book' 1931-32. p. 213.

boast of is the Harijan Sevak Sangh[1]. Its capital fund does not probably go beyond 10 lakhs. Its annual expenditure does not go beyond a few thousand rupees on petty and insignificant and insubstantial purposes. The Fund is not a welfare fund. It is essentially a Political Fund intended to make the Untouchables vote with the Hindus.

Why is this difference? Why do the Americans exert so much in service and sacrifice for the elevation of the Negroes and why have the Hindus cared to do nothing for the elevation of the Untouchables? The answer is that the Americans have a social conscience while the Hindus have none. It is not that the Hindus have no sense of right and wrong, good and bad, moral and immoral. What is wrong with the Hindu is that his sense of moral obligation towards others is restricted to a limited class of people, namely, the members of his caste. As Mr. H. J. Paton says[2]:

> "Clearly a man may be a good member of a limited society without being a morally good man. There seem indeed to be already shadows or anticipations of moral excellence even in the man who carries out coherently an individual policy of life; and we begin to find something which we may almost mistake for virtue itself, when we consider the man who is a loyal member of any society, even of a gang of thieves. Yet although there must be honour among thieves, a thief is not therefore an honourable man. The morally good man seems to be the man who is good as a member not of a limited society but of an unlimited society—of a society of societies whose purpose includes all purposes, and beyond which there is no other society to be a source of conflicting claims of duties."

The Untouchable does not belong to the society of the Hindus and the Hindu does not feel that he and the Untouchables belong to one society. This is the reason why the conduct of the Hindu is marked by a moralistic unconcernedness.

Not having conscience, the Hindu has no such thing in him as righteous indignation against the inequities and injustices from which the Untouchable has been suffering. He sees no wrong in these inequities and injustices and refuses to budge. By his absence of conscience the Hindu is a great obstacle in the path of the removal of untouchability.

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[1] For details see my Book "What Congress and Gandhi have done to the Untouchables."

[2] The "Good Will" by H. J. Paton. p. 281.

CHAPTER 11

THE HINDU AND HIS BELIEF IN CASTE

Among the Hindu social reformers there is a moderate section. This section holds that untouchability is separate from the caste system. Following this ideology they hold that it is possible to remove untouchability without attacking the caste system. The religious minded Hindu is as opposed to the removal of untouchability as he is to the removal of the caste system. He is as opposed to dealing with social reform in two stages as he is in dealing with it in one stage. But the politically-minded Hindu is tremendously fond of the idea. That is obviously for two reasons. In the first place, it gives the Hindu the chance of showing himself in international world as a better specimen of democracy than he really is. Secondly, by leaving caste alone there is no risk of the caste Hindus forsaking the Congress.

Those who propose to deal with untouchability without damaging the caste system, rest their case on verse 4 of Chapter X of the Manu Smriti. In the verse, Manu says that there are only four varnas and that there is no fifth varna. This verse is interpreted to mean that the untouchables are included in the fourth varna, that they are part of the Shudras and as there is no objection to touching the Shudras there could be no objection to touching the Untouchables. However pleasing this construction may be to the politically minded Hindu, it does accord with the intention of what Manu wanted to convey. The verse is open to another construction. It may mean that Manu was not prepared to enlarge the Chaturvarnya and make it a Panchavarnya by recognising these communities which were outside the four varnas as constituting the fifth varna. In saying that there is no fifth varna what he means to suggest is that he did not want to incorporate those outside the four varnas into the Hindu society by making the Hindu society consist of five varnas instead of four. That he wanted to convey the latter intention is abundantly clear by speaking of a category of people as Bahyas[1] or Varna Bahyas which means those outside the varna system. If Manu wanted to include all persons within the four varnas there was no reason for speaking of some people as varna Bahyas. Indeed, he recognises two sub-divisions within the class of Varna Bahyas. He calls them Hinas[2] and Antayevasins[3]. Given these

[1] Manu X. 28. [2] Manu X. 31. [3] Manu X. 39.

facts, it is obvious that the construction sought to be placed in the verse in the Manu Smriti will not deceive the orthodox Hindu into accepting that the maintenance of untouchability is contrary to the Manu Smriti and that its abolition is not therefore contrary to the tenets of the Hindu religion.

The argument based on the interpretation of Manu's text is too intellectual for the ordinary uneducated Hindu. He knows only two things. One thing he knows is that there are three barriers in the matter of social intercourse which he must observe. They are (1) prohibition against inter-dining, (2) prohibition against inter-marriage, while in untouchability there is third barrier added and (3) prohibition against physically touching certain class of people. The first two barriers make up the caste. The third forms untouchability. The caste Hindu does not bother about the number of barriers. He is particular about the observance of the barrier. When he is asked not to observe, he turns round and asks why not? His argument is that, if I am free to observe the first two barriers, what is wrong if I observe the third? Psychologically, caste and untouchability are one integral system based on one and the same principle. If the caste Hindus observe untouchability it is because they believe in caste.

Looked at from this point of view, the idea of hoping to remove untouchability without destroying the caste system is an utter futility. The underlying idea that caste and untouchability are two different things is founded on a fallacy. The two are one and are inseparable. Untouchability is only an extension of the caste system. There can be no severence between the two. The two stand together and will fall together.

There is another reason why untouchability cannot disappear by a stratagem, legal or rational. As has already been pointed out, the Hindu social order is based on the principle of graded inequality. It may not be an exaggeration to say that not many people understand the significance of this principle. The social system based on inequality stands on a different footing from a social system based on graded inequality. The former is a weak system which is not capable of self-preservation. The latter on the other hand, is capable of self-preservation. In a social system based on inequality, the low orders can combine to overthrow the system. None of them have any interest to preserve it. In a social system based on graded inequality the possibility of a general common attack by the aggrieved parties is nonexistent. In a system of graded inequality, the aggrieved parties are not on a common level. This can happen only when they are only high and low. In the system of graded inequality there are the highest (the Brahmins). Below the highest are the higher (the Kshatriyas). Below the higher are those who are high (Vaishya). Below the high are the low (Shudra) and below the low are those who are lower (the

Untouchables). All have a grievance against the highest and would like to bring about their down fall. But they will not combine. The higher is anxious to get rid of the highest but does not wish to combine with the high, the low and the lower lest they should reach his level and be his equal. The high wants to over-throw the higher who is above him but does not want to join hands with the low and the lower, lest they should rise to his status and become equal to him in rank. The low is anxious to pull down the highest, the higher and the high but he would not make a common cause with the lower for fear of the lower gaining a higher status and becoming his equal. In the system of graded inequality there is no such class as completely unprivileged class except the one which is at the base of the social pyramid. The privileges of the rest are graded. Even the low is a privileged class as compared with the lower. Each class being privileged, every class is interested in maintaining the social system.

Untouchability may be a misfortune to the Untouchables. But there is no doubt that it is a good fortune to the Hindus. It gives them a class which they can look down upon. The Hindus do not want a system in which nobody will be anybody. They also do not want a system in which everybody may be somebody. They want a system in which they will be somebodies and others will be nobodies. The Untouchables are nobodies. This makes the Hindus some bodies. The system of untouchability sustains the natural pride of the Hindus and make them feel as well as look big. This is an additional reason why the Hindus are not likely to give up untouchability particularly those large majority who are small men.

Untouchability will vanish only when the whole of the Hindu Social Order, particularly the caste system will be dissolved. Is this possible? Every institution is sustained by some sort of a sanction. There are three kinds of sanction which supply life-force to an institution. They are legal, social and religious. The vitality of the institution depends upon the nature of the sanction. What is the nature of the sanction behind the caste system? Unfortunatley, the sanction behind the caste system is the religious sanction, for, the caste as a new form of the Varna system derives its sanction from the Vedas which form the sacred book of the Hindu religion and which are infallible. I say unfortunately because anything which has a religious sanction becomes by virtue of it sacred and eternal. To the Hindu, caste is sacred and caste is eternal. If caste cannot vanish what hope is there for untouchability to disappear?

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PART IV

What the Untouchables have to face

CHAPTER 12

ANTAGONISM OF THE ADMINISTRATION

Section 2 of the Indian Penal Code reads as follows:

> " Every person shall be liable to punishment under this Code and not otherwise for every act or omission contrary to the provisions thereof, of which he shall be guilty within British India."

The Law Commissioners who prepared the draft Penal Code in their address to the Secretary of State thought it necessary to draw pointed attention to the words 'Every Person'. In the course of their observation, they said:

> "Your Lordship in Council will see that we have not proposed to except from the operation of this Code any of the ancient sovereign houses of India residing within the Company's territories. Whether any such exception ought to be made is a question which, without a more accurate knowledge that we possess of existing treaties, of the sense in which those treaties have been understood, of the history of negotiations, of the temper and of the power of particular families, and of the feeling of the body of the people towards those families, we could not venture to decide. We will only beg permission most respectfully to observe that every such exception is an evil; that is an evil that any man should be above the law; that it is still greater evil that the public should be taught to regard as a high and enviable distinction the privilege of being above the law; that the longer such privileges are suffered to last, the more difficult it is to take them away; that there can scarcely even be a fairer opportunity for taking them away than at the time when the Government promulgates a new Code binding alike on persons of different races and religions; and that we greatly doubt whether any consideration, except that of public faith solemnly pledged, deserves to be weighed against the advantages of equal justice."

It might have been thought that this principle of equal justice would strike a death blow to the Established Order. As a matter of fact, far from suffering any damage the Established Order has continued to

operate in spite of it. It might be asked why the principle of equal justice has failed to have its effect. The answer to this is simple. To enunciate the principle of justice is one thing. To make it effective is another thing. Whether the principle of equal justice is effective or not must necessarily depend upon the nature and character of the civil services who must be left to administer the principle. If the civil service is by reason of its class bias the friend of the Established Order and the enemy of the new Order, the new Order can never come into being. That a civil service in tune with the new order was essential for the success of the new order was recognized by Karl Marx in 1871 in the formation of the Paris Commune and adopted by Lenin in the constitution of Soviet Communism. Unfortunately, the British Government never cared about the personnel of the Civil Service. Indeed it opened the gates of the administration to those classes who believed in the old Established Order of the Hindus in which the principle of equality had no place. As a result of this fact, India has been ruled by the British but administered by the Hindus. A few statistics of the composition of the Civil Service will fully-demonstrate this fact.

From the capital of India down to the village the whole administration is rigged by the Hindus. The Hindus are like the omnipotent almighty pervading all over the administration in all its branches having its authority in all its nooks and corners. There is no loophole for anyone opposed to the old order to escape. No matter what the Department, whether it is Revenue, Police or Justice it is manned by the Hindu. If the Established Order has continued to exist, it is because of the unfailing support it received from the Hindu officials of the State. The Hindu officials are not merely administering the affairs on their merit. They are administering them with an eye to the parties. Their principle is not equal justice to all. Their motto is justice consistent with the Established Order. This is inevitable. For they carry over into administration the attitude towards different classes in society under the Established Order. This is well illustrated by the attitude of the State officials towards the Untouchables in the field of administration.

As every Untouchable will be able to testify, if an Untouchable goes to a police officer with a complaint against the caste Hindu, instead of receiving any protection he will receive plenty of abuses. Either he will be driven away without his complaint being recorded or if it is recorded, it would be recorded quite falsely to provide a way of escape to the Touchable aggressors. If he prosecutes his offenders before a Magistrate the fate of his proceedings could be foretold. The

Untouchables will never be able to get Hindus as witnesses because of the conspiracy of the villagers not to support the case of the Untouchables, however just it may be. If he brings witnesses from the Untouchables, the Magistrate will not accept their testimony because he can easily say that they are interested and not independent witnesses, or, if they are independent witnesses the Magistrate has an easy way of acquitting the accused by simply saying that the Untouchables compliment did not strike him as a truthful witness. He can do this fearlessly knowing full well that the higher tribunal will not reverse his finding because of the well-established rule which says that an appellate court should not disturb the finding of the trial Magistrate based upon the testimony of witness whose demeanour he had no opportunity to observe:

That such a discrimination is practised has now been admitted even by Congressmen. The annual Report of the Tamil Nad Harijan Sevak Sangh for the year ending September 30, 1937 says[1]:

> "The political consciousness of the Harijans having been roused by the rights in the remotest villages where it is only the policeman that reign, it is not always possible for the Harijan to do this, for the assertion of his rights means a clash between him and the castemen, in which it is always the latter that have the upper hand. The natural consequences of this scuffle is a complaint either to the police or the Magistrate. The latter course is beyond the means of a Harijan while the former resort is worse than useless. The complaints are in many cases not inquired into at all, while in others a verdict favourable to the castemen is entered. Our complaints to the Police also meet with similar fate. The trouble seems to us to be that there is no change in the mentality of the lower policeman. Either he is unaware of the rights of the Harijans of which he is supposed to be the guardian or he is influenced by caste men. Or, it may also be that he is absolutely indifferent. In other cases, corruption is responsible for his taking the side of the richer caste men."

This shows how the Hindu official is anti-Untouchable and pro-Hindu. Whenever he has any authority or discretion, it is always exercised to the prejudice of the Untouchables.

The police and the Magistrate are sometimes corrupt. If they were only corrupt, things would not perhaps be so bad because an officer who is corrupt is open to purchase by either party. But the misfortune is that the Police and Magistrates are often more partial than corrupt. It is this partiality to the Hindus and his antipathy to the Untouchables

[1] See 'Hindu' of March 7. 1938.

which results in the denial of protection and justice to the Untouchables. There is no cure for this partiality to the one and antipathy to the other, because it is founded in the social and religious repugnance which is inborn in every Hindu. The Police and the Magistrates by reason of their motives, interest and their breeding, do not sympathise with the living force operating among the Untouchables. They are not charged with the wants, the pains, the cravings and the desires which actuate the Untouchables. Consequently, they are openly hostile and inimical to their aspirations, do not help them to advance, disfavour their cause and snap at everything that smacks of pride and self respect. On the other hand, they share the feelings of the Hindus, sympathise with them in the attempt to maintain their power, authority, prestige and their dignity over the Untouchables. In any conflict between the two, they act as the agents of the Hindus in suppressing this revolt of the Untouchables and participate quite openly and shamefacedly in the nafarious attempt of all Hindus to do everything possible by all means, fair or foul, to teach the Untouchables a lesson and hold them down in their own places.

The worst of it is that all this injustice and persecution can be perpetrated within the limits of the law. A Hindu may well say that he will not employ an Untouchable, that he will not sell him anything, that he will evict him from his land, that he will not allow him to take his cattle across his field without offending the law in the slightest degree. In doing so, he is only expressing his right. The law does not care with what motive he does it. The law does not see what injury it causes to the Untouchable. The police may misuse his power and his authority. He may deliberately falsify the record by taking down something which has not been stated or by taking down some thing which is quite different from what has been stated. He may disclose evidence to the side in which he is interested. He may refuse to arrest. He may do a hundred and one things to spoil the case. All this he can do without the slightest fear of being caught. The loopholes of law are many, and he knows them well. The Magistrate has vested in him an enormous amount of discretion. He is free to use it. The decision of a case depends upon the witnesses who can give evidence. But the decision of the case depends upon whether the witnesses are reliable or not. It is open to the Magistrate to believe one side and disbelieve the other side. He may be quite arbitrary in believing one side, but it is his discretion, and no one can interfere with it. There are innumerable cases in which this discretion has been exercised by the Magistrates to the prejudice of the Untouchables. However truthful the witnesses of

the Untouchables the Magistrates take a common line by saying 'I disbelieve the witnesses', and nobody has questioned that discretion. What sentence to inflict is also a matter of discretion with the Magistrate. There are sentences which are non-appealable. An appeal is a way of getting redress. But this way may be blocked by a Magistrate by refusing to give an appealable sentence.

If the Hindu society plays its part in maintaining the Established Order, so does the Hindu officials of the State. The two have made the Established Order impregnable.

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CHAPTER 13
PROBLEM OF DISCRIMINATION

To the Untouchables the problem of discrimination in order of seriousness is only next to the problem of recovering their manhood. The discrimination against the Untouchables is practised by the Hindus on a scale, the extent of which it is impossible for an outsider to imagine. There is no field of life in which the Untouchables and the Hindus come into competition and in which the former is not subjected to discrimination. It is also of the most virulent type.

In the matter of social relationship, it takes the form of barriers against dancing, bathing, eating, drinking, wrestling, worshipping. It puts a ban on all common cycles of participation.

In the use of public facilities, the spirit of discrimination manifests itself in the exclusion of Untouchables from schools, wells, temples and means of conveyance. Public administration is most deeply drenched by the spirit of discrimination against the Untouchables. It has affected Law Courts, Government Departments, Co-operative Banks, particularly the Police. Discrimination against Untouchables in the matter of securing land, credit, jobs exist in the most rampant form. It is in service that discrimination shows itself most strongly. Though there are no regulations, there are well-recognized rules which govern the entry and promotion of the Untouchables in the matter of service. Most often an Untouchable will not get an entry. Whole departments are closed to them. The weaving side of the Textile Mills—the whole of Army—is closed to the Untouchables. If he did, there is a well-set limit beyond which the Untouchable may not rise, no matter what his efficiency or length of service. The principle in general is maintained that the Untouchables shall not be placed in administrative authority over the Hindus. The consequence is that unless some entire branch of service is turned over the Untouchables, there are very few posts of consequence which the Untouchables are allowed to fill. To put it concretely, the only field of service in which there is no discrimination against the Untouchables is scavanging. There is no need for discrimination in this field because the whole of it is made over to the Untouchables and there is no competition from the Hindus. Even here

discrimination steps in the matter of higher posts. All unclean work is done by the Untouchables. But all supervisory posts which carry higher salary and which do not involve contact with filth are all filled by Hindus. In this situation rights of citizenship cannot mean the rights of the Untouchables. Government of the people and for the people cannot mean Government for the Untouchables; equal opportunity for all cannot mean equal opportunity for the Untouchables; equal rights for all cannot mean equal rights for the Untouchables. All over the country in every nook and corner the Untouchable faces handicaps, suffers discriminations, is meted injustices to the Untouchables, the most unprivileged people in India. The extent to which this is true is known only to the Untouchables who labour under the disadvantages. This discrimination is the strongest barrier against the Untouchables. It prevents them from rising out of it. It has made the life of the Untouchables one of the constant fear of one thing or another, of unemployment, assault, persecution, etc. It is a life of insecurity.

There is another form of discrimination which though subtle is nonetheless real. Under it a systematic attempt will be made to lower the dignity and status of a meritorious Untouchable. A Hindu leader would be described merely as a great Indian leader. No one would describe him as the leader of Kashmiri Brahmin even though he be one. If a leader who happens to be an Untouchable is to be referred to he will be described as so and so, the leader of the Untouchables. A Hindu doctor would be described as a great Indian doctor. No one would describe him as a Iyengar even though he be one. If a doctor happens to be an Untouchable doctor, he would be referred to as so and so, the Untouchable doctor. A Hindu singer would be described as a great Indian singer. If the same person happens to be an Untouchable he would be described as an Untouchable singer. A Hindu wrestler would be described as a great Indian Gymnast. If he happens to be an Untouchable he would be described as an Untouchable gymnast.

This type of discrimination has its origin in the Hindu view that the Untouchables are an inferior people and however qualified, their great men are only great among the Untouchables. They can never be greater nor even equal to the great men among the Hindus. This type of discrimination, though social in character, is no less galling than economic discrimination.

Discrimination is merely another name for absence of freedom. For as Mr. Tawney says[1]: "There is no such thing as freedom

[1] We mean freedom in what labour can do? pp. 83-85.

in the market, divorced from the realities of a specific time and place. Whatever else it may or may not imply, it involves the power of choice between alternatives—a choice which is real, not merely nominal, between alternatives which exist in fact, not only on paper. It means, in short, the ability to do—or refrain from doing definite things, at a definite moment, in definite circumstances, or it means nothing at all. Because a man is most a man when he thinks, wills and acts, freedom deserves the outline things which poets have said about it; but, as a part of the prose of every day life, it is quite practical and realistic. Every individual possesses certain requirements—ranging from the material necessities of existence to the need to express himself in speech and writing, to share in the conduct of affairs of common interests, and to worship God in his own way or to refrain from worshipping Him—the satisfaction of which it is necessary to his welfare. Reduced to its barest essential, his freedom consists in the opportunity secured by him, within the limits set by nature and the enjoyment of similar opportunities by his fellows, to take the action needed to order to ensure that these requirements are satisfied."

It is not my intention to add yet another catalogue of essential rights to the liberties of such lists which already exist; but these are two observations which apply to all of them. In the first place, if the rights are to be an effective guarantee of freedom, they must not be merely formed, like the right of all who can afford it to dine at the Ritz. They must be such that, whenever the occasion arises to exercise them, they can in fact be exercised. The rights to vote and to combine, if not wholly valueless, are obviously attentuated, when the use of the former means eviction and of the latter the sack; the right to the free choice of an occupation, if the expenses of entering a profession are prohibitive; the right to justice, if no poor man can pay for it; the right to life, liberty, and the pursuit of happiness, if the environment is such as to ensure that a considerable proportion of those born will die within twelve months, and that the happiness—investments of the remainder are a gambling stock. In the second place, the rights which are essential to freedom must be such as to secure the liberties of all, not merely of a minority. Some sage has remarked that marriage would not be regarded as a national institution if, while 5 per cent of the population were polygamous, the majority passed their lives unsolved and unencumbered by husbands or wives. The same is true of freedom. A society in which some groups can do much what they please, while others can do little of what they ought, may have virtues of its own; but freedom is not one of them. It is free in so far, and only in so far,

as all the elements composing it are able in fact, and not merely in theory, to make the most of their powers, to grow to their full stature, to do what they conceive to be their duty, and—since liberty should not be too austere—to have their fling when they feel like it. In so far as the opportunity to lead a life worthy of human beings is restricted to a minority, what is commonly described as freedom would more properly be called privilege.

The discriminations against the Untouchables are merely the reflections of that deep and strong Hindu sentiment which is carried over in law and administration which justifies the making of distinctions between Hindus and Untouchables to the disadvantage of the Untouchables. Those discriminations have their roots in fear of the Hindus that in a free field, the Untouchables may rise above the prescribed station in life and become a menace to the Hindu Social Order the cardinal principle of which is the maintenance of Hindu superiority and Hindu domination over the Untouchables. So long as the Hindu Social Order lasts, discriminations against the Untouchables continue to exist.

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CHAPTER 14
PROBLEM OF ISOLATION

Why has the movement of the Untouchables not succeeded? Have they no allies? If there are allies why do they not help and co-operate with the Untouchables? This is a very pertinent question and it is necessary that it should be properly understood. For answering this question, it is essential to have a very clear idea of the Hindu social organisation and the classes of which it is composed. The structure of Hindu society is a very complicated one and it would be difficult for one, whose life has not been woven into it, to know the pattern. Perhaps, a diagramatic presentation may be helpful. I give below one which, in my judgment, facilitate the understanding of the social structure of the Hindus:

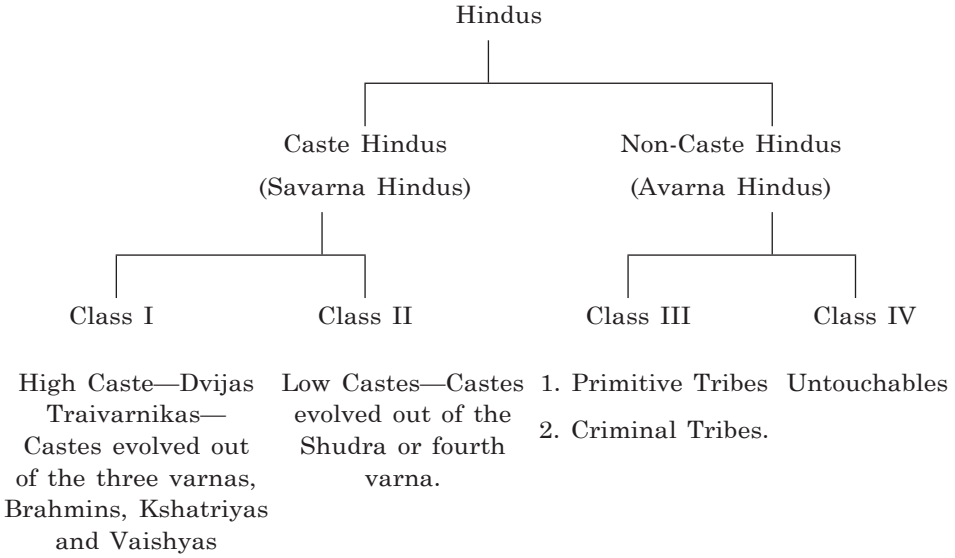

The diagram shows that although there are innumerable castes among the Hindus, they can all be grouped under four classes. Of these four, Class I forms the *Herenfolk* or the Ruling Class, Classes III and IV form the subject people.

Let us now consider which of these classes can be the natural ally of the Untouchables.

Those in Class I form the privileged classes of the Hindu society. The Hindu social order was created by them. They alone benefit by it while the aim of these in Class I is to save it. Neither by community of interest nor by reason of ideological affinity can the two friends and allies disagree.

What about the Criminal and Primitive Tribes ? They have the strongest ground for over-throwing the Hindu Social Order.

What about the Shudras?

The laws of the Hindu Social Order are as repulsive to Class II, the Shudras as they are to Class IV, the Untouchables. It is interesting to know the status of the Shudras in the Hindu society as prescribed by Manu the Law-giver and the Architect of Hindu society. For an easy understanding of the subject, the rules regarding the status of the Shudras are set out below under separate heads:

Manu asks the householders of the Brahmans, Kshatriyas and Vaishyas:

> IV. 61 "Let him not dwell in a country where the rulers are Shudras."

A Shudra is not to be deemed to be a respectable person. For Manu enacts that :

> XI. 24. "A Brahmin shall never beg from a Shudra, property for (performing) a sacrifice i.e., for religious purposes."

All marriages with the Shudra were proscribed. Marriage with a woman belonging to any of three other classes was forbidden. A Shudra was not to have a connection with a woman of the higher classes and an act of adultery committed by a Shudra with her was considered by Manu to be an offence involving capital punishment.

> VIII. 374. "A Shudra who has an intercourse with a woman of the higher caste guarded or unguarded shall be punished in the following manner; if she was unguarded, he loses the offending part; if she was guarded then he should be put to death and his property confiscated."

VIII. 20. A Brahmana who is only a Brahman by decent i.e., one who has neither studied nor performed any other act required by the Vedas may, at the king's pleasure, interpret the law to him i.e., act as the judge, but never a Shudra (however learned he may be).

VIII. 21. The Kingdom of that monarch, who looks on while a Shudra settles the law, will sink low like a cow in the morass.

VIII. 272. If a Shudra arrogantly presumes to preach religion to Brahmins, the king shall have poured burning oil in his mouth and ears.

In the matter of acquiring learning and knowledge Manu ordains as follows:

III. 156. He who instructs Shudra pupils and he whose teacher is a Shudra shall become disqualified for being invited to a Shradha.

IV. 99. He must never read the Vedas in the presence of the Shudras.

Manu's successors went much beyond him in the cruelty of their punishment of the Shudra for studying the Veda. For instance, Katyayana lays down that if a Shudra overheard the Veda or ventured to utter a word of the Veda, the King shall cut his tongue in twain and pour hot molten lead in his ears.

As to property by the Shudra, Manu enjoins as follows:

X. 129. No superfluous collection of wealth must be made by a Shudra, even though he has power to make it, since a servile man, who has amassed riches, becomes proud, and, by his insolence or neglect, gives pain to Brahmins.

VIII. 417. A Brahman may seize without hesitation, if he be in distress for his subsistence, the goods of his Shudra. The Shudra can have only one occupation. This is one of the inexorable laws of Manu. Says Manu:

I. 91. One occupation only, the Lord prescribed to the Shudra, to serve meekly these other three castes (namely Brahmin, Kshatriya and Vaishya).

X. 121. If a Shudra, (unable to subsist by serving Brahmana), seeks a livelihood, he may also seek to maintain himself by attending on a wealthy Vaishya.

X. 122. But let a (Shudra) serve Brahmans, either for the sake of heaven, or with a view to both (this life and the next) for he who is called the servant of a Brahman thereby gains all his ends.

X. 123. The service of Brahmans alone is declared (to be) an excellent occupation for a Shudra for whatever else besides this he may perform will bear him no fruit.

Service by Shudra is not left by Manu to be regulated as a free contract. If the Shudra refused to serve, there is a provision for conscription which runs as follows:

VIII. 413. A Brahmana may compel a Shudra, whether bought or unbought, to do servile work for he is created by the creator to be the slave of a Brahmana.

X. 124. They must allot to him out of their own family (property) a suitable maintenance, after considering his ability, his industry, and the number of those whom he is bound to support.

X. 125. The remnants of their food must be given to him as well as their old household furniture.

A Shudra is required by Manu to be servile in his speech and manner towards the other classes.

VIII. 270. A Shudra who insults a twice born man with gross invectives shall have his tongue cut out; for he is of low origin.

VIII. 271. If he mentions the names and castes of the (twice born) with contumely, an iron nail, ten fingers long, shall be thrust red hot into his mouth.

Manu is not satisfied with this. He wants this servile status of the Shudra to be expressed in the names and surnames of persons belonging to that community. Manu says:

II. 31. Let the first part of a Brahman's name denote something auspicious, a Kshatriya's be connected with power, and a Vaishya's with wealth but a Shudra's express something contemptible.

II. 32. The second part of a Brahmin's name shall be a word implying happiness, of a Kshatriya's (a word) implying protection, of a Vaishya's a term expressive of thriving and of a Shudra's an expression denoting service."

It is obvious that these three classes are naturally allies. There is every ground for them to combine for the destruction of the Hindu Social Order. But they have not. It is not that no attempt has been made to unite them. The non-Brahmin Party which held the field between 1919-1935 was an attempt to unite them into one political organization to destroy the dominance of the Brahmins who are the architects of the Hindu Social Order and being the chief beneficiaries of it are its strongest supporters.

This was not the only attempt to bring about solidarity among the three classes. Another attempt is being made by the labour leaders particularly the Communists. They preached that there is an identity of interest of the working class, no matter to what community they belong. There must be developed in them class consciousness and class unity. Once united they could employ the terrifying power of their numbers to break down the economic order and once the economic order falls to the ground the social order of the Hindus is bound to go to pieces. What has been the result? The result is that the solidarity has failed to come. The Shudras and the Criminal and Primitive Tribes are more hostile to the Untouchables than they are to the Brahmins. Indeed it is the Shudras who act as the police force of the Brahmins for repelling the attack of the Untouchables on the Hindu social order. This is a strange phenomenon. But it is a fact. The atrocities that are committed upon the Untouchables, if they commit any breach of the

rules and regulations of the established order and of which description has been given in earlier chapters are all the doings of the Shudras.

The reasons for this want of solidarity is not far to seek. It is to be found in the system of graded inequality whereby the Brahmin is above everybody, the Shudra is below the Brahmin and above the Untouchable. If the Hindu social order was based on inequality, it would have been over-thrown long ago. But it is based on graded inequality so that the Shudra while he is anxious to pull down the Brahmin, he is not prepared to see the Untouchable raised to his level. He prefers to suffer the indignities heaped upon him by the Brahmins to join the Untouchables for a general levelling down of the social order. The result is that, there is nobody to join the Untouchable in his struggle. He is completely isolated. Not only is he isolated he is opposed by the very classes who ought to be his natural allies. This isolation is one more obstacle in the removal of untouchability.

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[1]*APPENDICES TO BOOK 1*

APPENDIX I

[2]MATTERS MADE WORSE BY UNTOUCHABILITY

A correspondent from Jaipur reports the following incident which occured in June 1953:

> "Jaipur, June 25: The guinea worm, called *nahru* or *bala* by people here, is a disease prevalent in the State which keeps the patient suffering for months, sometimes for a year or two. Many lose the use of a limb as a result of this disease.

The disease spreads through the medium of drinking water. The only preventive steps doctors advice is that water should be drunk after boiling and filtering.

The disease frequently occurs as the rains set in, which is also the time for sowing with the result that at a time when he should be preparing to earn his living a villager is confined to bed.

On investigation in the village of Kopra near Banswara it was found that in 57 families there were 125 sufferers from guinea worm. There were six members in a Harijan family, five of whom had guinea worm. They had only a few bits of dry meat to eat.

Often the trouble is thrust on these people by society. A pond from which Harijans drink water was so dirty that it must have been a nursery for the guinea worm. When showed to the Collector of Banswara he was shocked and ordered the pond closed immediately.

Nearby, was a pucca well from which water could be taken by entering into it. Hindu were entreated to permit Harijans, to take water from this well but they would not agree. The Collector asked them if they would drink the water from the pond, if told to. They admitted that the water was unfit for human use, yet they would not allow Harijans use of the pucca well.

Conditions are bad and Harijans are the worst sufferers. The law has made untouchability a crime. The Harijan Sevak Sangh has long been working for its oblition, but it cannot be said that the hearts and minds of caste Hindus in the countryside have undergone a change. The State Governments have not been able to do much in this connexion.

[1]*All Press news-reports printed in Appendices to the Book I, have been found at the end of M.S. of this book.*—E.d.

[2] It approved in the Statesman of June 27, 1953.

APPENDIX II

From 'Sunday Times', March 9, 1952

WHERE WEARING A SHIRT IS AN OFFENCE
Woes of Harijans in S. India
A Social Worker's Experience

(By Swami Anand Thirth, Regional Officer,
All India Harijan Sevak Sangh)

It is sad to notice that the various civil disabilities of Harijans still continue to exist in our villages in spite of the Civil Disabilities Removal Act which came into force about five years ago. It is now 9 months since the All India Harijan Sevak Sangh started its intensive work for the removal of social disabilities of Harijans in Melur Taluk in Mathurai district. Several disabilities of Harijans regarding tea shops, barber saloons, wells, tanks, chavadies, etc., have been brought to light during this period. In some places it is the Village Munsifs who were expected to give wide publicity to the Act and enforce it, that are very reactionary forces standing in the way of the poor Harijans exercising their elementary rights. A few instances are cited below to show how deep-rooted is the prejudice against the Harijans in our society.

In Parli near Natham, a Harijan youth who refused to take tea in a cocoanut shell and desired to be served in the glass tumbler was kicked and shoed on the head by a caste Hindu who was subsequently convicted and fined only Rs. 10 by the Sub-Magistrate, Melur. At Melavalvoo, when I went to a tea shop with two Harijan boys, a group of people threatened to assault me and drove away the boys. A glass tumbler was wantonly broken by the tea shopkeeper and they all demanded that I must pay for it on penalty of being thrashed. I, however, took shelter in an Elementary School nearby and the crowd disappeared only on the intervention of the President of the Panchayat Board.

At Kelavalvoo, the Harijans take water from a dirty pond in which men bathe and cattle are washed. The Harijans were encouraged to go to the public Oorani (protected water tank), but they were abused and threatened by the caste Hindus so that they dare not take water from the Oorani. There is a Police Station at Kelavalvoo, but the police here are indifferent towards the disabilities of the Harijans. In Attukulam the caste Hindus put night-soil in the public well because they could not physically obstruct the Harijans who took water from it under our directions. In Ettimangalam, the caste Hindus destroyed the paddy

seedlings raised by some Harijans in Government poromboke and because the Harijans had got into the chavadi during a public meeting held in the village. No action was taken by the police on the complaint given by the poor Harijans.

In Tiruvadur when we directed Harijans to take water from the Oorani, a caste Hindu youth assaulted a pregnant Harijan woman and broke her pot as well. The caste Hindu was charged by the police and convicted by the Sub-Magistrate to pay a fine of only Rs. 15 and thereafter the Harijans are freely taking water from this Oorani. In Kottagudi, a village barber, who refused hair-cut to a Harijan boy was charged by the police and convicted by the Sub-Magistrate. But thereafter, the Harijans were summoned by the caste Hindus to the chavadi and warned that in case they sought the service of this barber, a collective fine would be imposed on them.

In Kidaripatti, the Harijans are not allowed to take the corpse through the public foot path and they are also not permitted to ride on cycle through the village streets. A case regarding the alleged obstruction of a Harijan from riding on cycle is pending trial in the Sub-Magistrate's Court, Melur. In Nundikovilpatti, only three furlongs from the Taluk Office, Melur, the Harijans were taking drinking water from a dirty channel because they had no access to the Oorani. Two complaints were given to the police regarding this and now the caste Hindus dare not obstruct the Harijans. In Thekkitheru, when the Harijans sat on the Manthai chavadi during a public meeting held at the chavadi, pebbles were thrown at them till they quitted the place out of fear.

In Navinipatti about two miles from Melur, the village Munsif himself is alleged to have taken objection to the Harijans wearing-decent dress on Pongal festival day and made two Harijan youths to remove their shirts and upper cloth. The youths were made to do Kumbidal (full prostration on the ground) and go away in loin-cloth only.

The most painful oppression has been in Mankulam, about ten miles from Mathurai city, where the village Munsif took a hostile attitude. Two Harijan youths went to tea shop and as they were denied admission, they complained to the police. For this, one of them was tied to a pillar and mercilessly beaten by a caste Hindu boy under instructions from the elders. Another Harijan was assaulted with a knife by a servant of the village Munsif. The Harijans were socially boycotted and denied labour because they took water from the public Oorani. The shopkeepers refused to sell provisions to them and they were put to starvation for two days. The situation improved only after the intervention of the Revenue Divisional Officer.

Recently, two Harijans and myself were brutally attacked by a band of caste Hindus and beaten with firewood cudgels for having bathed in the tank and gone into a coffee club in front of the chavadi. We were admitted and treated in the Government Hospital in Mathurai. I sustained a fracture in the right foot due to which I cannot use the right leg and walk. Sixteen persons including the village Munsif have been charged by the police for rioting. Some Congress-men are, however, trying for a compromise because some of their relations are involved in this. These friends are also known to have approached the authorities in this connection. Mahatmaji had desired us to consider the Harijans as blood brothers, but alas ! blood is thicker than water.

One feels so dejected and disheartened at the attitude of the caste Hindus towards the Harijans in spite of the great sacrifices of Mahatmaji, who won Swaraj for us and desired us to concede freedom to these down-trodden people as well. The Revenue and police authorities can do a lot to remove the disabilities of the Harijans. Mahatmaji's son Manilal is offering satyagraha in South Africa for the civil disabilities of Indians. But we are denying similar liberties to the Harijans whom Mahatmaji owned as his kith and kin. Let the caste Hindus and Congressmen who adore Mahatmaji remember that his spirit will not rest in peace till the curse of untouchability is wiped out, root and branch, from the nook and corner of our land. The Government must realise the deed for greater efforts to remove this bane from our society.

APPENDIX III

LYNCH LAW AGAINST HARIJANS

(Painful and shameful atrocities in Thumbapatti)
Stop the Chavadi Courts in our Villages

The Chavadi Courts:

It is a well known fact that though the Harijans are denied entry in the public chavadies in the villages in Tamilnad, they are tried by the caste Hindus at these chavadies and victimised to such an extent that they always live in fear of the caste Hindus. One of the reasons why the Harijans in the villages do not respond to our movement of the removal of their civil disabilities is their constant fear of this victimisation by the caste Hindus under the leadership of the village Periambalagar, the chief of the caste Hindus. In several places, the villagers run these chavadi courts under the colour of holding Panchayats. The poor Harijans are summoned to the chavadi and tried like slaves. If any of them go against the order of the Periambalagar then the Lynch Law is put into operations and they are subjected to

merciless beating and torture with a view to strike terror in them and to demonstrate the absolute power of the Periambalagar. The victimisation of the Harijans at the chavadi takes place in various forms according to the circumstances and the whims of the Periambalagar and his council—public whipping, imposition of heavy fines and confiscation of their properties on failure to pay the same, foisting of false cases, economic boycott by denying labour and with holding wages, social ostracism by prohibiting their taking part in social functions and religious ceremonies, denial of water by preventing access to tanks and wells, denial of foodstuffs by banning sale of articles to them in the village-shops etc. etc. The liberation of the Harijans is possible only if the Government takes strong measure against the villagers for holding these illegal and unlawful courts in the name of the village panchayat. No civilised Government can tolerate the persecution of a backward and minority community by the villages in the various manners mentioned above.

Atrocities in Thumbapatti:

The following account of the trial of Harijans at Thumbapatti on 1st August 1953 would make any heart bleed. This village is 22 miles from Madurai and it is the native place of Shri P. Kakkan, M. P., one of the prominent Harijan Leaders of Tamilnad. It is learnt that all the adults in the Harijan cherri were summoned to the mandai (common place) in front of the chavadi. The caste Hindus did obeisance to the Periambalagar and his council, in the usual manner, by doing full prostration, their belly touching the ground to pick up the dust. About a dozen Harijan youths were then picked out for trial on the charge they were suspected of the various petty thefts occurring in the village. It is however learnt that youths who were a bit assertive and not usually submissive to the caste Hindus had been singled out for punishment. They were given blows with sticks and were asked to admit having committed the thefts. The other Harijans were questioned and under fear of victimisation they are said to have thrown all the thefts on the accused. Judgement was passed that the youths were guilty and some of them were handcuffed for being duly punished. It is learnt that one of them however remonstrated and tried to escape on some plea. This disrespect to the chavadi court was immediately resented by the villagers and it is learnt that the Periambalagar promulgated the chavadi ordinance that the Harijan youths be severely dealt with. The Lynch law was put into operation and a most merciless attack was made on the Harijan youths. All those who had some grudge or prejudice against the Harijans got the opportunity to wreak vengeance on them with impunity. The Harijan youth who had tried to escape was dragged by his legs over the rough and stony ground. The others were beaten with sticks and tied to the trees and again beaten so mercilessly till their bones were almost

broken. There they were made to stand, tied to the trees for about eight hours, as the pitable objects of public scorn. The Harijans in general appear to have been warned that they should not co-operate with the Harijan workers.

False Case Foisted:

What the villagers did thereafter is still more shameful. It is the usual practice to foist cases on the Harijans and to get the police to take immediate action. When it was discovered that the Harijans had sustained serious injuries, the villagers realised that they would get into trouble. It is learnt that Shri Poosari Kakkan, the Eighty-years old father of Shri P. Kakkan, M.P., who is working as the village Thotti, was therefore asked to give a false complaint that some articles in the Harijan temple were found missing since the previous evening and a report was sent to the Police by the village Munsif, that these articles were recovered from the Harijan youths. Shri Poosari Kakkan, and his relation, another village Thotti named Etti Kakkan, are said to have brought these articles and given to the village Munsif. Immediately on receipt of the report the Police came, arrested the Harijan youths on a charge of theft and sent them to the Hospital as they were found wounded. We do not propose to publicly criticise the action of the Police. Enough to say, the atrocities on the Harijans by the villagers, did not catch the official eye of the Police!

The Truth Known:

The villagers were good enough to send a mass petition supporting their action to Shri A. Vaidyanatha Iyer, President, Tamilnad Harijan Sevak Sangh. It was forwarded to me for enquiry and report. A small committee consisting of the President of Melur Taluk Congress Committee, the Secretary of Melur Taluk Harijan Sevak Sangh, the Secretary of the Seva Samaj, Melur and myself accordingly enquired into the matter and found that the villagers had made a merciless attack on the Harijan youths and kept them tied to the trees for about eight hours till the arrival of the Police. The complaint given by Shri Poosari Kakkan and the Periambalagar were examined by Shri Vaidyanath Iyer and they admitted to him that the complaint given to the Police was a false and concocted one. The Periambalagar also expressed regret for the wrongs done to the Harijans. Meanwhile the police also investigated into the complaint given by Shri Poosari Kakkan and referred the case as 'undetectable'. No case was however taken against the villagers. It appears the bones of the Harijans youths had not actually broken. The marks of beatings with sticks and of the rope-tie were visible on their bodies for several days. Two of them were kept at the hospital for two days and their legs were X-rayed to make sure if their bones were broken. They were sent out with plaster bandages on their legs. They were not able to walk properly for a fortnight.

Two enquiries conducted:

An enquiry was conducted by the Dy. Welfare Officer, Madurai under orders from the Dy. Collector and another enquiry was recently conducted by the Revenue Divisional Officer, Madurai under orders from the Government. The result is yet to be known.

Civil Disabilities in Thumbapatti:

There was terrible opposition from the villagers of Thumbapatti when the Harijans took water from the public Oorani in 1948. Till then the Harijans were taking water from a dirty pond where cattle are washed and men bathe. Some Harijan youths were severely beaten and an attempt was made to set fire to Harijan houses. The village Munsif and others are said to have been warned by the authorities in this connection. One case, where a Harijan was denied coffee in the glass tumbler in a tea shop in Thumbapatti, was reported to the Police on 19th August 1953 and the tea shopkeeper was convicted and sentenced to pay a fine of Rs. 10 by the Sub-Magistrate. The village barber declares that he is willing to serve Harijans. Yet the Harijans do not go to him probably because of the secret warning given to them by the caste Hindus. Some Harijans had gone to the barber on 1st July 1953 and there is reason to believe that the trial of the Harijan youths on 1st August 1953 was an arrangement made to strike terror in the Harijans.

Our general experience:

It is our general experience that when the Harijans make bold to asset their elementary rights, the villagers summon them to the chavadi and persecute them in one form or other. Such happenings took place in Mangulam. Kuruvankulam, Adanoor, Pathiettamgudi and Karugakottai. The higher officials of the Police were good enough to visit these places. In some places, the Harijans were summoned to the chavadi and warned as at Kottagudi, Kidaripatti and Pullipatti. The subordinate Police officials usually support the caste Hindus and thus the latter get the freedom to apply their Lynch law and bring the Harijans to a sense of their social servility.

Can we tolerate this:

The question before us is whether we can tolerate this kind of public lynching and humilitation of the Harijans in these days when we had revolted against the atrocities of the Dyers at Jallianwalla bagh. In Jallianwala, the atrocities were committed by foreign bureaucrats on men and women who had assembled in a gathering. Here similar atrocities were committed by our villagers on a few Harijan youths who were tried at the chavadi with a view to strike terror in the Harijans in general.

What the Government must do:

Village Panchayats consisting of elected members including Harijans, have been formed by the Government in the villages. One wonders why the caste Hindus should be allowed to run their chavadi courts in parallel to these Government recognised Panchayats. These chavadi courts are a menace to the social, economic and political progress of the poor backward class communities in the villages. There can be no salvation or freedom to the Harijans in the villages unless these chavadi courts are banned by the Government. All our efforts for the removal of the civil disabilities of Harijans will go in vain till the chavadi courts are prohibited from dealing with the Harijans. Before spending 3 lakhs of rupees for the eradication of untouchability, the Government must take necessary measures to stop the victimisation of the Harijans at the chavadi and enable them to raise their heads as human beings. Untouchability in public places has become a thing of the past in Kerala because of the non-existence of these chavadi courts in that part of the country.

An Appeal:

It was Mahatma Gandhi who made us realise the great injustice we do to poor Harijans in the villages by treating them as low castes and slaves. But for him the Harijans in the various parts of the country would have gone out of the Hindu fold because of the unbearable sufferings under the caste Hindus. It is now 21 years since Mahatma Gandhi observed the Epic Fast at Poona to create public opinion in favour of the Harijans. No doubt there has been a great awakening during the last decades and there is now general sympathy towards the Harijan movement. The Government is pledged to the removal of all the social and civil disabilities of Harijans and it is giving full cooperation to all peaceful and legitimate efforts to improve the status of the Harijans. But we have to admit that there is still, lot of prejudice towards the Harijans in the villages. We appeal to all public workers to bring about a change of heart of the caste Hindus in the villages so that the Harijans are no longer treated as a separate Untouchable class. We appeal to all leaders to work for the eradication of untouchability and to see that the Harijans are treated as part and parcel of the Hindu society.

Southern Range,
Head Office: Melur.

Swami Anand Tirth, M.A.,
Regional Officer,
All India Harijan Sevak Sangh.

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BOOK II

SOCIAL

Besides the consolidated scheme on "Untouchables or children of India's Ghetto" included in Book 1 in this Volume, there are several other essays by Dr. Ambedkar which deal with the subject of 'Untouchables and Untouchability'. These essays are divided into three categories viz., Social, Political and Religious. In Book II, five essays have been included under "Social".

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CHAPTER 15

CIVILIZATION OR FELONY

I. Another cross section view of India's population. II. Sunken classes seen through it : (a) Primitive Tribes, (b) Criminal Tribes and (c) Untouchables. III. Effect of Hindu Civilization on the condition of these classes. IV. Difference in the problems of these classes.

The population of India is generally classified on a linguistic or on religious basis. These are the only two ways of classifying the people of India which have been persistently in vogue for a long time. The effect is that outsiders get the impression that, what is of interest and importance to know about the peoples of India is the religions they profess or the languages they speak. Limited by this interest, they remain content with a knowledge they get about the religions and languages that are prevalent in India. All that the outsider cares to hold in his head is that, in India there are people who are either Hindus or Mahomedans, if he is interested in religion or that there are people in India some of whom speak Marathi, some speak Gujarathi, some Bengali and some Tamil, etc.

Of the two ways of classifying people of India the religious classification is the one which is more impressive and arresting for the foreigner. He is more interested in the religions than in the languages. But even he is not aware of all the religious communities in India. He knows only of Hindus and Mahomedans. He sometimes hears of the Sikhs, very seldom of Christians although they are a growing community and never of the Buddhists who are of course non-existent so far as India of today is concerned[1].

The impression of the foreigner is that there are only Hindus and Musalmans in India and that there are none others worth bothering about. That this should be his impression is quite natural. The air is filled with the din and noise of the Hindu-Moslem conflict. How grave

[1]There is a very feeble attempt at revival carried on by the Maha Bodhi Society of Calcutta. (This and other information is taken from Census of India, 1931, Vol. 1 Part. 3)

the conflict is, can be seen from the number of Hindu-Moslem riots that have taken place in recent years and the casualties and deaths that resulted from them.

But this struggle is a struggle for establishing an empire. There are Hindus who are agitating for establishing in India a Hindu Raj with Mahomedans as subject only. There are Mahomedans who are dreaming of Pan Islamism and of making India a part of a Muslim Empire with a choice for the Hindus between the sword and the Koran. In between these two extremists, there are sober persons who are for a state in which both Hindus and Muslims can live as equal partners. Whether the extremists will succeed or the moderates will succeed time alone can show. In the meantime the extremes in both the ; camps are making headlines by their blood baths. But, be that as it may, I venture to think that there are many who will not feel much interest in this struggle between the Hindus and the Mahomedans. ; After all it is a struggle for mastery for dominance. It is a struggle for liberation. It is a struggle for establishing an empire of one over the other. They will be more interested in the struggles of the down trodden, of those who are fighting to obtain the title deeds to respectable humanity. In describing the old quarrel between the Whigs and Tories in England, Francis Place in describing the political policy of the Whigs said, they were out to crush the king on the one hand and the people on the other hand and establish the aristocracy of the governing class. Those Hindus and Musalmans who are now fighting have the same policy in Indian politics. They want to establish their classes from them as the governing body. The masses whether of the Hindus or of the Musalmans are merely used for establishing the ascendency of the classes. This struggle that is going on is really a struggle of the classes. It is not a struggle of the masses.

Those who are interested in the struggle of the masses must learn to look at the population of India from another point of view. They must cease to look at it purely from the point of view of religion. They must look at the population of India from the social and economic point of view. This does not mean that one need not care to know how religion has affected the economic and social life of the people of India. Indeed no study of the Indian people, be they Hindus or Musalmans, can give an adequate picture of their life if religion is kept out of consideration. Because religion is supreme in India as was the Roman Catholic Church in the Middle Ages in Europe. Bryce[1] has described the dominance of the Church over the lives of the people in terms that are worth recording "A life in the Church, for the Church, through the

[1]Holy Roman Empire. P. 367.

Church; a life which she blessed in mass at morning and sent to peaceful rest by the vesper hyme; a life which she supported by the constantly recurring stimulus of the sacraments, relieving it by confession, purifying it by penance, admonishing it by the presentation of visible objects for contemplation and worship, this was the life which many of the Middle Ages conceived of as the rightful life of the man; it was the actual life of many, the ideal of all".

The dominance of religion on the life of the people of India today is no whit less than the dominance of the Church over the lives of the people in the Middle Ages. It would therefore be a mistake to leave religion out of consideration. But it is equally true to say that a purely religious point of view would give only a superficial picture. What is important to know is how the masses and the classes in India live? What are the social and economic terms of their associated life ? To what extent are these influenced by religion? The answer to this question is given by the condition in which we find certain classes who fall within the Hindu fold.

II

It is a pity that Prof. Max Muller did not visit India. On seeing the contrast between theory and practice he might have explained the contrast. For the present the contrast remains a riddle.

This is so in spite of the doctrine of Bramha, asserted by the Brahmins to be residing and pervading every human being. If there is Bramha in a Brahmin so also it is in a Primitive man, in a Criminal Tribes man and so also in an Untouchable ? How are these two facts to be reconciled—the theory of Bramha and as against it the existence of the Primitive Tribes, the Criminal Tribes and the Untouchables ?

This sunken humanity falls into three distinct categories. One such category is comprised of people who are called Primitive Tribes. Communities listed as Criminal classes form a second and separate category and the third category is the one which covers what are called the Untouchables.

The total population of persons who fall into these three categories is by no means small. The population of the Primitive Tribes in India according to the Census of 1931 comes in round figures to 25 millions. The total population of the Criminal classes now listed as Criminal is somewhere about 4½ millions. The total population of the Untouchables according to the Census of 1931 is 50 millions in India as a whole. The total of these classes comes to 79½ millions. And the question is what is the position of these 79½ million souls ?

First as to the Primitive Tribes. In what state of civilization are they?

The name Primitive Tribes is expressive of the present state of people who are called by that name. They live in small scattered huts in forests. They live on wild fruits, nuts and roots. Fishing and hunting are also resorted to for the purpose of securing food. Agriculture plays a very small part in their social economy. Food supplies being extremely precarious they lead a life of semi-starvation from which there is no escape. As to clothes they economize them to a vanishing point. They move almost in a state of complete nakedness. There is a tribe which is known as "Bonda Porajas" which means "naked Porajas". Of these people it is said that, the women wear a very narrow strip which serves as a petticoat almost identical with what is worn by the Momjak Nagas in Assam, the ends hardly meeting at the top on the left thigh. These petticoats are woven at home out of the fibre of a forest tree. Girls wear a fillet of beads and of palmyra leaf and an enormous quantity of beads and neck ornaments extremely like those worn by many Komjak women. Otherwise the women wear nothing. The women shave their heads entirely ..... Of the Chenchus, a tribe residing near Farhabad in the Nizam's Dominions it is said that "their houses are conical, rather slight in structure made of bamboos sloping to the central point and covered with a thinnish layer of thatch..... They have very little indeed in the way of material effects, the scanty clothes they wear, consisting of a langoti and a cloth in the case of men and a short bodice and a petticoat in the case of women, being practically all, besides a few cooking pots and a basket or two which perhaps sometimes contains grain. They keep cattle and goats and in this particular village do a little cultivation, elsewhere subsisting on honey and forest produce which they sell". Regarding the Morias another Primitive Tribe, it is stated the men generally wear a single cloth round the waist with a flap coming down in the front. They also have a necklace of beads and when they dance, put cock's plums and peacock's feathers in their turbans. Many girls are profusely tattooed, especially on their faces, and some of them on their legs as well. The type of tattooing is said to be according to the taste of the individual and it is done with thorns and needles. In their hair, many of them stick the feathers of jungle cocks and their heads are also adorned with combs of wood and tin and brass.

These Primitive Tribes have no prohibition against eating anything, even worms and insects and in fact there is very little meat that they will not eat, whether the animal has died a natural death or has been killed four days or more before by a tiger.

The religion of these Primitive Tribes is the worship of demons of all denominations and dead ancestors of all antiquity. Witchcraft, sorcery, animal and human sacrifice make up their religion. Without education, with no idea of Science or of the knowledge of the working of nature, steeped in ignorance and superstition, these Primitive Tribes have been living on the outskirts and in close conformity with civilization in a savage stage which has been their lot for ages. Instead of marching along, they are where they have been all along doing nothing but marking time.

The Criminal Classes at one time included such well organized confederacies of Professional Criminals as the Pindharies and the Thugs.

The Pindharies were a predatory body of armed gangsters. Their organization was an open military organization of freebooters who could muster 20,000 fine horse and even more. They were under the command of brigand chiefs. Chitu, one of the most powerful commanders had under his single command 10,000 horse, including 5,000 good cavalry, besides infantry and guns. The Pindharies had no military projects for employing their loose hands of irregular solidiery, which developed into bodies of professional plunderers. The Pindharies aimed at no conquests. Their object was to secure booty and cash for themselves. General loot and rapine was their occupation. They recognized no rulers. They were subject of none. They rendered loyalty to none. They respected none and plundered all high and low rich and poor without fear or compunction.

The Thugs[1] were a well organized body of professional assassins, who in gangs of from 10 to 200 travelled in various guises throughout India, worked themselves into the; confidence of Wayfarers of the, wealthier class and, when a favourable opportunity occurred, strangled them by throwing a handkerchief or noose round their necks and then plundered and buried them. All this was done according to certain ancient and rigidly prescribed forms and after the performance of special religious rites, in which was the consecration of the pickaxe and the sacrifice of sugar. They were staunch worshippers of Kali, the Hindu Goddess of destruction. Assassination for gain was with them a religious duty, and was considered a holy and honourable profession. They had in fact no idea of doing wrong, and their moral feelings did not come into play. The will of the goddess by whose command and in whose honour they followed their calling was revealed to them through a very complicated system of omens. In obedience to these, they often travelled hundreds of miles in company with, or in the wake of their

[1] Encyclopeadia Britannica. 11th Ed.. Vol. XXVI. p. 896.

intended vicitims before a safe opportunity presented itself for executing their design; and when the deed was done, rites were performed in honour of that tutelary deity, and a goodly portion of the spoil was set apart for her. The Thugs had also a jargon of their own, as well as certain signs by which its members recognized each other in the remotest part of India. Even those, who from age or infirmities could no longer take an active part in the operations used to aid the cause as watchmen, spies or dressers of food. It was owing to their thorough organization, the secrecy and security with which they went to work, but chiefly to the religious garb in which they shrouded their murders, that they could continue for centuries to practise their craft. The extraordinary fact was that Thugee was regarded as a regular profession by the Indian Rulers both Hindu and Mahomedans. The Thugs paid taxes to the State and the State left them unmolested.

It was not until the British became rulers of the country that any attempt was made to suppress the Thugs. By 1835, 382 Thugs were hanged and 986 were transported or imprisoned for life. Even as late as 1879 the number of registered Thugs was 344 and the Thuggee and the Dacoity department of the Government of India continued to exist until 1904 when its place was taken by the Central Criminal Intelligence Department.

While these open and professional criminals have been suppressed and are no more to exact their toll and disturb the peace, there are still in India communities whose occupation is crime and who are listed by Government as Criminal Tribes.

The Criminal Tribes live in the plains in close proximity, if not in the midst of, civilized life. Because they subsist by organized robbery and dacoity, they are for this reason proscribed by the Government of India as Criminal Tribes. Hollius in his "Criminal Tribes of the United Provinces" gives an account of their activities. They live entirely by crime. A few may be ostensibly engaged in agriculture but this is only to cover up their real activities. Their nefarious practices found most scope in dacoity or robbery by violence, but being a community organized for crime nothing came amiss to them. On deciding to commit a dacoity in any particular locality, spies would be sent out to select a suitable victim, study the general habits of the villagers and the distance from any effective aid, and enumerate the number of men and firearms. The raid usually took place at midnight. Acting on the information given by the spies, men would be posted at various points in the village and by firing off their guns, attract attention from the main gang which would attack the particular house or houses previously appointed. The gang would usually consist of 30 to 40 men.

It is essential to emphasize the great part played by crime in the general life of these peoples. A boy is initiated into crime as soon as he is able to walk and talk. No doubt the motive is practical to a great extent in so far as it is always better to risk a child in petty theft, who if he were caught, would probably be cuffed, while an adult would immediately be arrested. An important part is also played by women, who, although they do riot participate in the actual raids, have many heavy responsibilities. Besides disposing of most of the stolen property, they are also expert shoplifters.

Like the Criminal Tribes the Untouchables also live in the midst of civilized Hindu Society and possess a degree of culture and morality which completely separate them from the Primitive Tribes and the Criminal Tribes. The Untouchables have the culture[1] of the Hindu Community. They observe the religious rites of the Hindu Community. They recognize the sacred as well as the secular laws of the Hindus. They celebrate the Hindu festivities. But they derive no benefit from this. On the contrary they are segregated and shunned because their physical contact is held by the Hindus to cause pollution. There is therefore an interdict on all social intercourse with them except for unavoidable purposes. They live on the outskirts of a village and not in the midst of it. Every village has its Untouchable quarters, they are attached to the village but are not a part of the village. Segregated from the rest of the Hindu population they are bound down to a code of behaviour which is appropriate to a servile state. According to this code, an Untouchable may not do anything which raise him above his appointed station in life. He should not dress in style superior to that of his status, nor should the untouchable woman adorn herself with ornaments after the fashion of the higher class Hindu women. He should not have a house better or bigger than the houses of the rest of the Hindus in the village. In any case he must not have a tiled roof over his house. An Untouchable must not sit in the presence of a Hindu and must always salute him first. An Untouchable must not wear clean clothes, must not use brass or copper pots and must not wear gold or silver ornaments. When some one dies in the family of a Hindu, an Untouchable must go miles to convey the message of the death to the relatives of the family, no matter how far away they might be living, because a Hindu in a village feels disgraced in the eyes of his relatives if he has to communicate such messages by postal communication. An Untouchable must accompany the women folk of the Hindus on their journey from their homes to their parents and *vice versa*. Their dignity requires that they should have a retinue and the Untouchable is the only available class from which such a retinue can

be drawn without any cost. At every ceremony at the house of a Hindu, the Untouchables must come and do menial work An Untouchable must not own and cultivate land and lead an independent life. For his livelihood he must depend upon stale remnants of food left over by the Hindu households and upon meat of cattle that die in the village. These remnants of food he must collect from door to door. For he must goon his begging round every evening. Similarly an Untouchable must carry the dead animals out of the village. Indeed he alone must carry them because no Hindu will agree to do scavenging. An Untouchable should not take to such services as would give him authority and power over caste Hindus. He must be humble and must not ask for more than his lot under this code. It is true that some of the Untouchables have risen above the low status prescribed by this customary code of conduct and have acquired high place, but the majority of them are still socially in the most servile position and ~ economically in abject poverty.

Such is the condition of the 79½ millions of people. The problem of these deadened, if not dead, souls is no small problem. The total population of these three classes comes to over 60% of the population of the United States but exceeds the population of the whites in the British Empire by 9½ millions. It also exceeds the population of Japan by 9½ millions. It exceeds the population of Italy by 37 millions. It exceeds the population of Germany by 13½ millions and of France by 37½ millions. It is ten times the population of Belgium and twenty times the population of Denmark. What a colossal total of sunken humanity?

III

The saddening and if, one may say, annoying part of the story is that the state of these unfortunate human beings should be what it is although they are surrounded and fed by a high civilization. But it must strike any impartial observer that there must be something very radically wrong with a civilization which has failed to elevate to their manhood 79½ millions of human beings.

Civilization as comprising and accumulated store of knowledge of man and nature, of arts and crafts, an ethical code regulating the conduct of man towards his fellows, a social code laying down the forms and conventions to be observed by individuals, a civil code prescribing the rights and duties of the rulers and the ruled and a religious creed relating the natural to the supernatural—is a rare prize. It has not been the good fortune of all races to develop it in all its fullness. Many have stood where they were at the start. Many took one or two steps and have been at a halt. Others have only revolved round and round. The primitive races of Australia and Polenasia, when they

were first discovered a few generations ago, were found to have developed articulate speech and to know how to make fire. They had not advanced beyond the middle stage of savagery. The Alliapascous, a Primitive Tribe of the Hudson Bay Territory and the Indians of the valley of Columbia had not gone beyond the stage of the Bow and the Arrow. They knew nothing of pottery, domestication of animals or of the smelting of iron. The civilization of Egypt, Babylonia, Assyria and even of Rome and Greece had only been a revolving civilization. Their progress and achievements are only the elaboration of the details of methods and intentions handed down by man when he was in a Barbaric state. They added nothing revolutionary to the sum total of civilization to which they were heirs. They merely did better what used to be done crudely by their predecessors. Nor have the stages of advancement followed in quick succession. That man was for long ages a savage before he made sufficient progress to be called a Barbarian admits of no doubt. Equally little in doubt is it that other long ages of Barbarism have preceded the final ascent to the lowest stage of civilization. The precise period of time covered by these successive 'ages' is of course only conjectural; but something like one hundred thousand years may perhaps be taken as a safe minimum estimate.

Civilization is indeed no easy gain. But civilization is a very vital thing, not for one gereration but also for the next. The civilization of one generation, when inherited becomes the equipment of the next. This social heritage is absolutely essential for each generation. All progress will die out if this social heritage is destroyed. As has been well put, "If the earth were struck by one of Mr. Wells' comets, and if in consequence every human being now alive were to lose all the knowledge and habits which he had acquired from preceding generations (though retaining unchanged all his own powers of invention and memory, and habituation) nine-tenths of the inhabitants would be dead in a month and 99 per cent of the remaining tenth would be dead in six months. They would have no language to express their thoughts but vague reverie. They would not read notices or drive motor cars or horses. They would wander about, led by the inarticulate cries of a few naturally dominant individuals, drowning themselves, as thirst came on, in hundreds at the riverside landing places. Men could not invent in time to preserve their lives, methods of growing food or taming animals or making fire or clothing themselves. Life would have to be begun over again from the primitive stage. Like the primitive races a generation which has lost its social heritage would have to begin life on wild fruits and worms until they had accumulated a new social heritage. After some thousands of generations they would

probably possess some thing which would be recognized as language, and perhaps some art of taming animals and cultivating land. They might or might not have created what we should call a religion or a few of our simpler mechanical inventions and political expedients. They might or might not have such general ideas as law, liberty, justice. This is the difference which social heritage makes and the difference is no doubt vast.

It is true that civilization is not the privilege of all and even to those who are fortunate to have it, it is a matter of slow growth marked by long and monotonous halts. But it is also true that to those who are possessed of civilization, their civilization may be a hindrance rather than a help. It might have gone on a wrong track, it might have based itself on false values and false premises. Such a civilization might easily cause stagnation of the Community and the stunting of the individual. It would be better to be without civilization than to be burdened and enshakled by such a civilization.

It is the boast of every patriotic Hindu that the Hindu or the Vedic Civilization is the oldest in the world. One often hears with firesome repetitions a Hindu stating with a certain degree of malicious pride that India had reached a very high degree of civilization when other people were leading a primitive life and moving naked. One also hears a Hindu say that his civilization has inherent strength because it has survived while all other ancient civilization such as Egypt, Babylon, Judea, Rome and Greece have vanished. Such a view however legitimate misses the main point. The main point is not whether the civilization is ancient and whether it has survived.[1] The main point is what are the merits of a civilization ? What is its worth, if it has survived, on what plain? In other words the principal question is, is this Hindu civilization, the social heritage a burden or a benefit ? What does it offer by way of growth and expansion to classes and to individuals ?

What is the contribution of Hindu Civilization to the knowledge of man and nature ? Many patriotic Hindus like to believe that the knowledge of man and nature began with the Hindus. Granting that it is so it certainly did not advance beyond the most rudimentary stage. Can any Hindu doubt that the Hindu Philology, right or wrong, has remained where Panini and Katyayana left it ? Can he deny that Philosophy right or wrong has remained where Kapila and Gautama left it? Can he doubt that literature remained where Vyasa and Valmiki left it. In Metaphysics the Hindus are said to have reached the

[1] See my 'Annihilation of Caste'

stage of perfection. This is what Prof. Har Dayal has to say of Hindu Metaphysics[1] —

> "Metaphysics has been the curse of India. It has blighted her history and compassed her ruin. It has converted her great men into miserable quibblers, and led them into useless channels of inquiry and effort. It has been the dangerous will-o'-the-wisp of Indian intellect during many centuries. It has elevated sophistry to the rank of an Art, and substituted vain fancies for a knowledge. It has condemned Indians intellect to run in the same old roove for hundreds of years. It has blinded her seers and led them to mistake phantoms for realities ..... Arrogant, pretentious, verbose and purblind, it has taken its cackling for an oracle and its fantastic word towers for solid piles of thought masonry....."
>
> ".....The Upanishads claim to expound 'that by knowing which every thing is known'. This mediaeval quest for 'the absolute' is the basis of all the superior metaphysics of India. The treatises are full of absurd conceits, quaint fancies, and chaotic speculations. And we have not yet learned that they are worthless. "Samadhi" or trance is regarded as the acme of spiritual progress ! How strange it is that a capacity for swooning away should be considered the mark of wisdom ! It is very easy to lose consciousness if one has strong emotions and a feeble intellect. That is why ladies faint so often on the slightest provocation. But in India Samadhi is the eighth stage of Yoga, which only '*paramahans*' can reach. These be thy Gods, O, Israel! To look upon an abnormal psychological condition produced by artificial means as the sign of enlightenment was a folly reserved for Indian Philosophers."

In the domain of science, Arts and crafts the contribution of the Hindu Civilization is of the most primitive character. Except in some spheres such as weaving, spinning, etc., the Hindu Civilization has not evolved any technical equipment which can aid man in his struggle against nature to make a bare living that can be said to be higher than that of the brute. It is because of the complete absence of scientific and technical equipment and with all the transcendental nonsense that is being perpetrated that famines are desolating the land in all ages. Ignorance, superstition and disease which affect the mind, malaria and plague diseases which affect the body, have hung like a pall over the country throughout the ages.

In the field of Religion and Ethics the Hindus have made their greatest efforts. Of their contributions, these are the most elaborately developed. They are undoubtedly the most vital to man for the simple reason that they help to install in man the springs of thought and

[1] Modem Review. July 1912.

action. They are responsible for the outlook which man has on life. They are responsible for the attitude one holds towards his fellow man. They prescribe principles which govern conduct, mould character and implant in man that mysterious thing called conscience which acts as his sentinel and prevents him from going wrong.

It is when one comes to examine this Hindu Civilization in the matter of its religious content, the way of life it prescribes, that one begins to doubt whether this Hindu Civilization is at all an advantage to the generations who are fated to. inherit it. What does this civilization offer to the 25 millions of Primitive Tribes who are living on its frontiers ? What does it offer to the 5 millions of Criminal Tribes who are living in the midst of that civilization? What does it offer to the 50 millions of Untouchables who are not only living in the midst of that civilization but are required to sustain it ? What would the Primitive Tribes say of a civilization which has made no effort to adopt them in its fold ? What would the Criminal Tribes say of a civilization which has driven them to take to criminal ways for earning their livelihood ? Would it be unjust if they said that this is not Civilization, this is infamy ?

As to the Untouchables, theirs has been a fate of degradation and destitution in the past and for whom under the Hindu Civilization there seems to be no escape in the future. Even Indians do not seem to realize the extent of degradation and destitution that is involved in this system of Untouchability. The observations of the Committee appointed by the Government of Bombay to inquire into the grievances of the Depressed Classes and Aboriginal Tribes in 1928 are very pertinent. It said.

> "There is nothing strange in the idea that an unclean person or thing causes repulsion which underlies the idea of pollution. But what is regrettable about it as applied to the (UNTOUCHABLES), is its irrationality. It stamps an individual as untouchable by the mere accident of his birth. A person born Untouchable, remains Untouchable however superior he may be in personal cleanliness to the so-called touchable, and there is no way open to him by which he can escape his fate. What is surprizing in all this is that an Orthodox Hindu, notwithstanding the differences between his religious notions and mode of living and outlook in life and those of the Mahomedans, Parsis and Christians treat them as touchables. This has resulted in further aggravating the position of the (Untouchables). For this unjust discrimination on the part of the Orthodox Hindus, in some cases being influenced by the Orthodox Hindus especially in villages, even the Mahomedans, Parsis and

> Christians observe untouchability towards the (Untouchables) though their religions teach contrariwise. What we are concerned most to point out are the evils attributable to it in so far as Untouchability includes isolation and inferiority. But there are evils specifically attributable to untouchability as such. Pressed to its logical limit, in an Orthodox Hindu Society it would prevent the (Untouchables) from obtaining entry into a public school though it is maintained at the expense of the state, it would prevent them from entering the public services though they may be qualified for it, except for the services customarily allotted to them. It would also prevent them from taking water from the public watering places maintained out of public funds. Looked at from this point of view untouchability is not merely a social problem. It is a problem of the highest political importance and affects the fundamental question of the civic rights of the subjects of the state."

This states the hardships only of the Untouchables. But untouchables are not the only people who are subjected to this life of ignominy. There are classes who are placed in a worse position. Untouchables are those who cause pollution only by a physical touch. There are people who cause pollution if they come within a certain distance. They are known as unapproachables. Again there are people who are in a worse position than the unapproachables. They cause pollution if they come within sight. They are known as unseeable. It is said of the Nayadis[1]—a people who fall into the category of the unapproachables, "that they are the lowest caste among the Hindus—the dogeaters. They are the most persistent in their clamour for charity, and will follow at a respectful distance, for miles together any person walking, driving or boating. If any thing is given to them, it must be laid down, and after the person offering it has proceeded a sufficient distance, the recipient comes timidly forward, and removes it." Of the same people Mr. Thurston says "The subject (i.e. the Nayadis) whom I examined and measured at Shoranur, though living only about three miles off had, by reason of the pollution which they traditionally carry with them to avoid walking over the long bridge which spans the river, and follow a circuitous route of many miles".

In the Tinnevalley District of the Madras Presidency, there is a class of unseeables called Purada Vannas. Of them it is said, "that they are not allowed to come out during day time because their sight is enough to cause pollution. These unfortunate people are 'compelled' to follow the nocturnal habits, leaving their dens after dark and scuttling home at the false dawn like the badger, hyaena, aordvark."

[1] Malabar Manual.

What must be the hardships of the unapproachables and unseeables ? How must they be passing their lives ? If their sight or their approach even is not tolerated, what work can they obtain ? What else can they do except to beg and live on dog's meat ? Surely no civilization can be guilty of greater cruelty! It is indeed a great mercy that the population of the unapproachables and of the unseeables is so small. But are 50 millions of Untouchables entitled to any civilization ?

An Untouchable cannot escape his fate for he cannot pass off as a Touchable. In the village where he resides he is of course known and there is no room for impersonation while he is there. If he leaves his village and comes to a town there is a chance for him to pass off as Touchable. But he knows what would be his fate if he were discovered.

The following incident which was reported in the papers will give some idea of the risk involved in any attempt to impersonate:

** Orthodoxy Run Mad.

Alleged Barbarious Treatment of "Untouchables": Crime of being Mahars.

Mr. Keshavji Ranchhodji Vaghela from Ahmedabad has informed Dr. B. R. Ambedkar, President, Bahishkrit Hitkarani Sabha as follows:

One Bapoorao Laxman and his brother Kaurao have been residents of Ahmedabad during the last six years. They used to mix with some people from the Deccan belonging to Maratha caste. Kaurao's two sons, viz, Damoo and Laxman, used to take part in the Bhajan parties of the Marathas. The latter, however, recently came to know that the brothers Damoo and Laxman were Mahars by caste and in order to ascertain this, two Mahars employed in the parcel train between Surat and Ahmedabad were specially called to identify Damoo and Laxman. After it was ascertained that Damoo and Laxman were Mahars they were called at a Bhajan party at Kalupur, Bhandari Pole, at midnight on the 11th instant. Asked as to what caste they belonged to, Damoo and Laxman replied that they were Somavanshis. This reply enraged the Marathas, who freely abused them for having defiled their persons and places. The Mahar brothers were assaulted by the Marathas. One of the brothers had a gold ring on his person. It was forcibly taken away from him and sold for Rs. 11. Out of this amount Rs. 6 was paid to the Mahar who had been called from Surat to identify the brothers. Damoo and Laxman entreated and Marathas were requested to allow them to return to their homes, but the latter refused to do so unless a fine of Rs. 500 was paid. On the Mahar brothers

** Bombay Chronicle 25th Feb. 1938.

> pleading their inability to pay such a heavy sum, one of the Marathas suggested that the Mahar brothers should be fined only Rs. 125. But then one of the Marathas opposed the proposal for fine saying that they should not be satisfied with fine, but should punish the Mahars severely for their crime of concealing their caste. Having decided upon the course, the Mahar brothers were detained and at about 9 o'clock in the morning they were subjected to barbarous indignities, their moustaches in the left side and eyebrows on the right side were shaved, their bodies besmeared with soot mixed in oil and also with dirt, garlands made of old shoes were put around their necks, and one of them was asked to hold a broom in his hand and the other to hold a placard on which it was written that the punishment was meted out to the culprits for venturing to touch high caste people. The Mahar brothers were taken in procession consisting of about 75 people, a drum being beaten in the front.

A complaint has been lodged with the Police by the said two Mahar brothers. The accused in their statement have admitted that Damoo and Laxman were treated in the alleged manner, but pleaded that the complainants had willingly agreed to undergo the punishment. Obviously Damoo and Laxman were helpless when they were abused, assaulted and threatened with severe punishment and actually subjected to barbarious indignities. This case has created a great sensation among the people belonging to the so called Untouchables castes, and efforts are being made to give proper legal aid to the complainants. But the rules of this Hindu Civilization are so meticulous in regard to untouchability as to leave no possibility for an Untouchable to pose as a Touchable. Consequently there exist rules in certain areas where Untouchables are required to bear a black thread so as to be easily identifiable and to proclaim by word of mouth that he is an Untouchable to prevent a Touchable touching him in ignorance and thereby getting himself polluted. In the town of Dwarka (in the Bombay Presidency) which is famous as being the shrine of the great Hindu God Krishna it is a rule that every Untouchable while walking in the streets has to clap his hands and say "Post, Post" so as to proclaim the fact that he is an Untouchable and let the Touchables beware of him. The following is recorded of the Cherumans of the Madras Presidency:

> "Very low is indeed the social position of these miserable beings. When a Cheruman meets a person of superior caste he must stand at a distance of thirty feet. If he comes within this prohibited distance, his approach is to cause pollution, which is removed only by bathing in water. A Cheruman cannot approach a Brahmin village or

> temple or tank. If he does so, purification becomes necessary. Even while using the public road, if he sees his lord and master, he has to leave the ordinary way and walk, it may be in the mud, to avoid his displeasure by accidently polluting him. To avoid polluting the passerby, he repeats the unpleasant sound, "O, Oh, O"—In some places i.e. Palghat, one may see a Cheruman with a dirty piece of cloth spread on the road side, and yelling in a shrill voice, "Ambrane, Ambrane, give me some pice and throw them on the cloth". His position is intolerable in the Native States of Cochin and Travancore, where the Brahaman influence is in the ascendent, while in the Palghat Taluka the Cherumans cannot, even to this day enter the bazaar. In Malabar it is stated that ** "The man of high caste shouts occasionally as he goes along, so that the low caste man can go off the road, and allow him to pass unpolluted. And those of the lowest castes shout, as they go, to give notice of their Pollution bearing presence, and learning the command of the man of high caste, move away from the road. It is common to see people of inferior caste travelling parallel to the road, but not daring to go along it".

What a degradation for these unfortunate souls who have been turned by this Hindu Civilization into social lepers! To be called an Untouchable is enough of a misfortune. But to require an Untouchable to proclaim by his own mouth his shame that he is an Untouchable is a cruelty to which in my opinion there is no parallel. What would an Untouchable say of this Hindu Civilization ? Would it be wrong if he said that it is felony and not civilization?

That the condition of the Primitive Tribes, of the Criminal Tribes and of the Untouchables is the result of fundamental doctrines of Hindu Civilization there can be no manner of doubt.

Why have there been no missions to bring these Primitive Tribes into the Hindu fold?

Why has crime become an occupation for certain tribes ? Why have certain classes been treated as unfit for human association, as Untouchables ?

The answer to each of these questions will have reference to some basic principle of the Hindu Civilization.

To the first question the answer is that the caste system prevents the Hindu Religion from becoming a missionary religion and caste is a fundamental part of the Hindu Civilization. To the second question the answer is that the system of Chaturvarna limits the opportunities which a person can have for earning an honourable living. All learned are the preserve of the Brahmins; all warlike services are the monopoly

**Thurston—Tribes and castes of Southern India, Vol. 5, p. 196.

of the Kshatriya class; trade is open only to Vaishya, services to the Shudras. Those outside, there being nothing honourable left, have been driven to dishonourable and criminal ways of earning a livelihood. This is the result of Chaturvarna and Chaturvarna is again a fundamental part of Hindu Civilization.

To the third question the answer is that untouchability is part of the Hindu law as contained in the Smritis which are again a fundamental part of the Hindu Civilization.

IV

It is true that as for the past the state of degradation has been the common fate of all the three categories of these 79½ millions of India's population. But it cannot be said that their future destiny will also be common to them. That is because although their condition is apparently similar, their position is essentially different.

The first thing to note is that the Primitive Tribes and the Criminal Tribes are not afflicted by this system of untouchability. To. a Hindu they do not cause pollution. Indeed these Primitive and Criminal Tribes observe untouchability towards the Untouchables. The situation is full of humour when one sees members of these Primitive and Criminal Tribes feeling that they would be polluted if they would touch an Untouchable. They are poor, filthy, superstitious, ignorant, far more than the Untouchables yet they pride themselves as socially superior to the Untouchables. This of course is the result of the contagion which they have from the Hindus. But the point to note is that the Hindu does not treat them as Untouchable. That is an advantage which they have over the Untouchables and which makes their future assured. If the Primitive Tribes have no opportunities for advancement it is because they choose to live in isolation. But once they come out of their forest recesses and take part in civilization, there is nothing that will stand in their way. Similarly the Criminal Tribes have their future assured. Government have established settlements where these Criminal Tribes are kept and taught useful trades. There is no doubt that in a very short time they will be completely weaned from their vicious habits.

The case of the Untouchables stands on quite a different footing altogether. Their disabilities are imposed upon them. Their isolation is really segregation which is enforced upon them. The problem of the Untouchables is different from the problem of the Primitive Tribes because in their case the evils of segregation are aggravated by the fact of untouchability and the result is that while in the case of the

Primitive Tribes the problem is due to geographical isolation combined with lack of desire to avail themselves of the opportunities for betterment, in the case of the Untouchables the problem is due to positive denial of opportunities.

There does not seem to be much hope for the emancipation of the Untouchables, at any rate their emancipation is far more problematical and distant than the emancipation of the Primitive Tribes. The problem of the slaves was one of denial of political or economic rights. If the problem of the Untouchables was one of denial of political and economic rights it could be solved by legal and constitutional methods. The denial of political and economic rights is the result of the social psychology of the Hindus. The problem for the Untouchables arises directly out of the social behaviour of the Hindus. Untouchability will vanish only when Hindus will change their mentality. The problem is how to make the Hindus unlearn their way of life. It is no small matter to make a whole nation give up its accustomed way of life. Besides the way of life the Hindus are accustomed to, is a way which is sanctified by their religion, at any rate they believe it to be so. To change their way of life is almost to change their religion.

How can this happen ? Only when it is realised that what is tragedy for the Untouchables is the crime of the Hindus. How long shall the Untouchables have to wait for this revolution in the religious psychology of the Hindus? Let those who have a gift for prophecy answer. In the meantime it would be desirable to describe their condition and to state the problems which they arid their friends have to face.

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CHAPTER 16

THE HOUSE THE HINDUS HAVE BUILT

1

Is there any thing peculiar in the social organization of the Hindus? An unsophisticated Hindu who is unaware of investigations conducted by scholars will say that there is nothing peculiar, abnormal or unnatural in the organization of the society to which he belongs. This is quite natural. People who live their lives in isolation are seldom conscious of the peculiarities of their ways and manners. People have gone on from generation to generation without stopping to give themselves a name. But how does the social organization of the Hindu strike the outsiders, non-Hindus? Did it appear to them as normal and natural?

Megasthenese who came to India as the ambassador of the Greek King Seleukos Nickator to the Court of Chandragupta Maurya some time about the year 305 B.C. did feel that the social organization of the Hindus was of a very strange sort. Otherwise he would not have taken such particular care to describe the peculiar features of the Hindu social organization. He has recorded :

> "The population of India is divided into seven parts. The philosophers are first in rank, but form the smallest class in point of number. Their services are employed privately by persons who wish to offer sacrifices or perform other sacred rites, and also publicly by the kings at what is called the Great Synod, wherein at the beginning of the new year all the philosophers are gathered together before the King at the gates, when any philosopher who may have committed any useful suggestion to writing, or observed any means for improving the crops and the cattle, or for promoting the public interests, declares it publicly. If any one is detected giving false information thrice, the law condemns him to be silent for the rest of his life, but he who gives sound advice is exempted from paying any taxes or contributions.

"The second caste consists of the husbandmen, who form the bulk of the population, and are in disposition most mild and gentle. They are exempted from military service, and cultivate their lands undisturbed by fear. They never go to town, either to take part in its tumults, or for any other purpose. It therefore not unfrequently happens that at the same time, and in the same part of the country, men may be seen drawn up in array of battle, and fighting at risk of their lives, while other men close at hand are ploughing and digging in perfect security, having these soldiers to protect them. The whole of the land is the property of the King, and the husbandmen till it on condition of receiving one-fourth of the produce.

"The third caste consists of herdsmen and hunters, who alone are allowed to hunt, and to keep cattle, and to sell draught animals or let them out on hire. In return for clearing the land of wild beasts and fowls which devour the seeds sown in the fields, they receive an allowance of grain from the king. They lead a wandering life and live under tents.

"The fourth class, after herdsmen and hunters, consists of those who work at trades, of those who vend wares, and of those who are employed in bodily labour. Some of these pay tribute, and render to the State certain prescribed services. But the armour-makers and shipbuilders receive wages and their victuals from the king, for whom alone they work. The general in command of the army supplies the soldiers with weapons, and the admiral of the fleet lets out ships on hire for the transport both of passengers and merchandise.

"The fifth class consists of fighting men, who when not engaged in active service, pass their time in idleness and drinking. They are maintained at the King's expense, and hence they are always ready, when occasion calls, to take the field, for they carry nothing of their own with them but their own bodies.

"The sixth class consists of the overseers, to whom is assigned the duty of watching all that goes on, and making reports secretly to the King. Some are entrusted with the inspection of the city, and others with that of the army. The former employ as their coadjutors the courtezans of the city, and the latter the courtezans of the camp. The ablest and most trustworthy men are appointed to fill these offices.

"The seventh class consists of the councillors and assessors of the king. To them belong the highest posts of government, the tribunals of justice, and the general administration of public affairs. No one is allowed to marry out of his own caste, or to exchange one

profession or trade for another, or to follow more than one business. An exception is made in favour of the philosopher, who for his virtue is allowed this privilege."

Alberuni who wrote an account of his travels in India some time about 1030 A.D. must have been struck by the peculiarity of the Hindu Social Organization. For he too has not omitted to make a note of it. He observed:

"The Hindus call their castes varna, i.e. colours, and from a genealogical point of view they call them jataka, i.e. births. These castes are from the very beginning only four.

I. The highest caste are the Brahmana, of whom the books of the Hindus tell that they were created from the head of Brahman. And a Brahman is only another name for the force called nature, and the head is the highest part of the animal body, the Brahmana are the choice part of the whole genus. Therefore the Hindus consider them as the very best mankind.

II. The next caste are the Kshatriya, who were created, as they say, from the shoulders and hands of Brahman. Their degree is not much below that of the Brahmana.

III. After them follow the Vaisya, who were created from the thigh of Brahman.

IV. The Sudra, who were created from his feet.

"Between the latter two classes there is no very great distance. Much, however, as these classes differ from each other, they live together in the same towns and villages, mixed together in the same houses and lodgings.

"After the Sudra follow the people called Antyaja, who render various kinds of services, who are not reckoned amongst any caste, but only as members of a certain craft or profession. There are eight classes of them who freely intermarry with each other, except the fuller, shoemaker and weaver, for no others would condescend to have anything to do with them. These eight guilds are the fuller, shoemaker, juggler, the basket and shield maker, the sailor, fisherman, the hunter of wild animals and of birds, and the weaver. The four castes do not live together with them in one and the same place. These guilds live near the villages and towns of the four castes, but outside them.

"The people called Hadi, Doma (Domba), Candala and Badhatau (sic) are not reckoned amongst any caste or guild. They are occupied with dirty work, like the cleansing of the villages and other services. They are considered as one sole class, and distinguished only by their occupations. In fact, they are considered like illegitimate

children; for according to general opinion they descend from a Sudra father and a Brahmani mother as the children of fornication; therefore they are degraded outcaste.

"The Hindus give to every single man of the four castes characteristic names, according to their occupations and modes of life, e.g. the Brahman is in general called by this name as long as he does his work staying at home. When he is busy with the service of one fire, he is called Ishtin; if he serves three fires, he is called Agnihotrin; if he besides offers an offering to the fire, he is called Dikshita. And as it is with the Brahmana, so is it also with the other castes. Of the classes beneath the castes, the Hadi are the best spoken of, because they keep themselves free from everything unclean. Next follow the Doma, who play on the lute and sing. The still lower classes practise as a trade killing and the inflicting of judicial punishments. The worst of all are the Badhatau, who not only devour the flesh of dead animals, but even of dogs and other beasts.

"Each of the four castes, when eating together, must form a group of themselves, one group not being allowed to comprise two men of different castes. If, further, in the group of the Brahmana there are two men who live at enmity with each other, and the seat of the one is by the side of the other, they make a barrier between the two seats by placing a board between them, or by spreading a piece of dress, or in some other way; and if there is only a line drawn between them, they are considered as separated. Since it is forbidden to eat the remains of a meal, every single man must have his own food for himself; for if any one of the party who are eating should take of the food from one and the same plate, that-which remains in the plate becomes, after the first eater has taken part, to him who wants to take as the second, the remains of the meal, and such is forbidden."

Alberuni did not merely content himself with recording what struck him as peculiar in the Hindu Social organization. He went on to say:

"Among the Hindus institutions of this kind abound. We Muslims, of course, stand entirely on the other side of the question, considering all men as equal, except in piety; and this is the greatest obstacle which prevents any approach or understanding between Hindus and Muslims."

Duarte Barbosa who was Portuguese official in the service of the Portuguese Government in India from 1500 to 1517 has left a record of his impressions of Hindu Society. This is what struck him:

"And before this kingdom of Guzerate fell into the hands of the Moors, a certain race of Heathen whom the Moors called Resbutos

dwelt therein, who in those days were the knights and wardens of the land, and made war wheresoever it was needful. These men kill and eat sheep and fish and all other kinds of food; in the mountains there are yet many of them, where they have great villages and obey not the king of Guzerate, but rather wage daily war against him: who, do what he may, is yet not able to prevail against them, nor will do so, for they are very fine horsemen, and good archers, and have besides divers other weapons to defend themselves withal against the Moors, on whom they make war without ceasing; yet have they no king nor lord over them.

"And in this kingdom there is another sort of Heathen whom they call Baneanes, who are great merchants and traders. They dwell among the Moors with whom they carry on all their trade. This people eat neither flesh nor fish, nor anything subject to death; they slay nothing, nor are they willing even to see the slaughter of any animal; and thus they maintain their idolatry and hold it so firmly that it is a terrible thing. For often it is so that the Moors take to them live insects or small birds, and make as though to kill them in their presence, and the Baneanes buy these and ransom them, paying much more than they are worth, so that they may save their lives and let them go. And if the King or a Governor of the land has any man condemned to death, for any crime which he has committed, they gather themselves together and buy him from justice, if they are willing to sell him, that he may not die. And divers Moorish mendicants as well, when they wish to obtain alms from this people, take great stones wherewith they beat upon their shoulders and bellies as though they would slay themselves before them, to hinder which they give them great alms that they may depart in peace. Others carry knives with which they slash their arms and legs, and to these too they give large alms that they may not kill themselves. Others go to their doors seeking to kill rats and snakes for them, and to them also they give much money that they may not do so. Thus they are much esteemed by the Moors !

"When these Baneanes meet with a swarm of ants on the road they shrink back and seek for some way to pass without crushing them. And in their houses they sup by daylight, for neither by night nor by day will they light a lamp, by reason of certain little flies which perish in the flame thereof; and if there is any great need of a light by night they have a lantern of varnished paper or cloth, so that no living thing may find its way in, and die in the flame. And if these men breed many lice they kill them not, but when they trouble them too much they send for certain men, also Heathen, who live

among them and whom they hold to be men of a holy life; they are like hermits living with great abstinence through devotion to their gods. These men louse them, and as many lice as they catch they place on their own heads and breed them on their own flesh, by which they say they do great service to their Idol. Thus one and all they maintain with great self-restraint their law of not killing. On the other hand they are great usurers, falsifiers of weights and measures and many other goods and of coins; and great liars. These heathen are tawny men, tall and well looking, gaily attired, delicate and moderate in their food. Their diet is of milk, butter, sugar and rice, and many conserves of divers sorts. They make much use of dishes of fruit and vegetables and pot herbs in their food. Wheresoever they dwell they have orchards and fruit gardens and many water tanks wherein they bathe twice a day, both men and women; and they say when they have finished bathing that they are clear of as many sins as they have committed up to that hour. These Baneanes grow very long hair, as women do with us, and wear it twisted up on the head and made into a knot, and over it a turban, that they may keep it always held together; and in their hair they put flowers and other sweet scented things.

"They use to annoint themselves with white sandalwood mixed with saffron and other scents. They are very amorous people. They are clad in long cotton and silken shirts and are shod with pointed shoes of richly wrought cordwain; some of them wear short coats of silk and brocade. They carry no arms except certain very small knives ornamented with gold and silver, and this for two reasons: First, because they are men who make but little use of weapons; and secondly, because the Moors defend them.

"Bramenes. And there is here another class of Heathen whom they call Bramenes, who are priests among them and persons who manage and rule their houses of prayers and idol-worship, which are of great size and have great revenues; and many of them also are maintained by alms. In these houses are great numbers of wooden Idols, and others of stone and copper and in these houses or monasteries they celebrate great ceremonies in honour of these idols, entertaining them with great store of candles and oil lamps, and with bells after our fashion. These Bramenes and Heathen have in their creed many resemblances to the Holy Trinity, and hold in great honour the relation of the Triune Three, and always make their prayers to God, whom they confess and adore as the true God, Creator and maker of all things, who is three persons and one God and they say that there are many other gods who are rulers under

him, in whom also they believe. These Bramenes and heathen wheresoever they find our churches enter them and make prayers and adorations to our Images, always asking for Santa Maria, like men who have some knowledge and understanding of these matters; and they honour the Church as is our manner, saying that between them and us there is little difference. These men never eat anything subject to death, nor do they slay anything. Bathing they hold to be a great ceremony and they say that by it they are saved.

"There is also in this same Kingdom of Calicut a caste of people called Bramenes who are priests among them (as are the clergy among us) of whom I have spoken in another place.

"These all speak the same tongue, nor can any be a Bramene except he be the son of a Bramene. When they are seven years of age they put over their shoulder a strip of two fingers in breadth of untanned skin with the hair on it of a certain wild beast which they call Cryvamergam, which resembles a wild ass. Then for seven years he must not eat betel for which time he continues to wear this strap. When he is fourteen years old they make him a Bramene, and taking off their leather strap they invest him with the cord of three strands which he wears for the rest of his life as a token that he is a Bramene. And this they do with great ceremonial and rejoicings, as we do here for a cleric when he sings his first mass. Thereafter he may eat betel, but not flesh or fish. They have great honour among the Indians, and as I have already said, they suffer death for no cause whatsoever, their own headman gives them a mild chastisement. They marry once only in our manner, and only the eldest son marries, he is treated like the head of an entailed estate. The other brothers remain single all their lives. These Bramenes keep their wives well guarded, and greatly honoured, so that no other men may sleep with them; if any of them die, they do not marry again, but if a woman wrongs her husband she is slain by poison. The brothers who remain bachelors sleep with the Nayre women, they hold it to be a great honour, and as they are Bramenes no woman refuses herself to them, yet they may not sleep with any woman older than themselves. They dwell in their own houses and cities, and serve as clergy in the houses of worship, whither they go to pray at certain hours of the day, performing their rituals and idolatries.

"Some of these Bramenes serve the Kings in every manner except in arms. No man may prepare any food for the King except a Bramene or his own kin; they also serve as couriers to other countries with letters, money or merchandise, passing wherever they

wish to go in safety, and none does them any ill, even when the Kings are at war. These Bramenes are learned in their idolatry, and possess many books thereof. The Kings hold them in high esteem.

"I have already spoken many times of the Nayres, and yet I have not hitherto told you what manner of men they are. You are to know that in this land of Malbar there is another caste of people, called Nayres, and among them are noble men who have no other duty than to serve in war, and they always carry their arms whithersoever they go, some swords and shields, others bows and arrows, and yet others spears. They all live with the King, and the other great Lords; nevertheless all receive stipends from the King or from the great Lords with whom they dwell. None may become a Nayre, save only he who is of Nayre lineage. They are very free from stain in their nobility. They will not touch any one of low caste, nor eat, nor drink save in the house of a Nayre.

"These men are not married, their nephews (sisters' sons) are their heirs. The Nayre women of good birth are very independent, and dispose of themselves as they please with Bramenes and Nayres, but they do not sleep with men of caste lower than their own under pain of death. When they reach the age of twelve years their mothers hold a great ceremony. When a mother perceives that her daughter has attained that age, she asks her kinsfolk and friends to make ready to honour her daughter, then she asks of the kindred and especially of one particular kinsman or great friend to marry her daughter; this he willingly promises and then he has a small jewel made, which would contain a half ducat of gold, long like a ribbon, with a hole through the middle which comes out on the other side, string on thread of white silk. The mother then on a fixed day is present with her daughter gaily decked with many rich jewels, making great rejoicings with music and singing, and a great assembly of people. Then the Kinsman or friend comes bringing that jewel, and going through certain forms, throws it over the girl's neck. She wears it as a token all the rest of her life, and may then dispose of herself as she will. The man departs without sleeping with her inasmuch as he is her kinsman; if he is not, he may sleep with her, but is not obliged to do so. Thenceforward the mother goes about searching and asking some young man to take her daughter's virginity; they must be Nayres and they regard it among themselves as a disgrace and a foul thing to take a woman's virginity. And when any one has once slept with her, she is fit for association with men. Then the mother again goes about enquiring among other young Nayres if they wish to support her daughter, and take her as

a Mistress so that three or four Nayres agree with her to keep her, and sleep with her, each paying her so much a day; the more lovers she has the greater is her honour. Each one of them passes a day with her from midday on one day, till midday on the next day and so they continue living quietly without any disturbance nor quarrels among them. If any of them wishes to leave her, he leaves her, and takes another, and she also if she is weary of a man, she tells him to go, and he does so, or makes terms with her. Any children they may have stay with the mother who has to bring them up, for they hold them not to be the children of any man, even if they bear his likeness, and they do not consider them their children, nor are they heirs to their estates, for as I have already stated their heirs are their nephews, sons of their sisters, (which rule whosoever will consider inwardly in his mind will find that it was established with a greater and deeper meaning than the common folk think) for they say that the Kings of the Nayres instituted it in order that the Nayres should not be held back from their service by the burden and labour of rearing children.

"In this Kingdom of Malabar there is also another caste of people whom they call Biabares, Indian Merchants, natives of the land. They were there ere foreign nations had sailed to India. They deal in goods of every kind both in the seaports and inland, wheresoever their trade is of most profit. They gather to themselves all the pepper and ginger from the Nayres and husbandmen, and ofttimes they buy the new crops beforehand in exchange for cotton clothes and other goods which they keep at the seaports. Afterwards they sell them again and gain much money thereby. Their privileges are such that the King of the country in which they dwell cannot execute them by legal process.

"There is in this land yet another caste of folk known as Cuiavem. They do not differ from the Nayres, yet by reason of a fault which they committed, they remain separate from them. Their business is to make pottery and bricks for roofing the houses of the Kings and idols, which are roofed with bricks instead of tiles; only these, for as I have already said, other houses are thatched with branches. They have their own sort of idolatry, and their separate idols.

"There is another Heathen caste which they call Mainatos, whose occupation is to wash clothes for the Kings, Bramenes and Nayres. By this they live, and may not take up any other.

"There is another lower caste than these which they call Caletis, who are weavers who have no other way of earning save by weaving

of cotton and silk cloths, but they are low caste folk and have but little money, so that they clothe the lower races. They are apart by themselves and have their own idolatry.

"Besides the castes mentioned above, there are eleven others lower than they within whom the others do not associate, nor do they touch them under pain of death; and there are great distinctions between one and another of them, preserving them from mixture with one another. The purest of all these low, simple folk they call Tuias. Their work is mainly that of tending the palm-groves, and gathering the fruit thereof, and carrying it away for wages on their backs, for there are no beasts of burden in the land.

"There is another caste still lower than these whom they call Manen (Mancu in the printed text) who neither associate with others nor touch them, nor do the others touch them. They are washermen for the common people, and makers of sleeping mats, from which occupations all but they are barred; their sons must perforce follow the same trade; they have their own separate idolatry.

"There is another caste in this land still lower whom they call Canaqus. Their trade is making buckles and umbrellas. They learn letters for purposes of astronomy, they are great astrologers, and foretell with great truth things that are to come; there are some lords who maintain them for this cause.

"There is also another lower caste, also Heathens, called Ageres. They are masons, carpenters, smiths, metal workers and some are goldsmiths, all of whom are of a common descent, and a separate caste, and have their idols apart from other folk. They marry, and their sons inherit their property, and learn their fathers' trade.

"There is another caste still lower in this country called Mogeres, they are almost the same as the Tuias, but they do not touch one another. They work as carriers of things belonging to the Royal State when it moves from one place to another, but there are very few of them in this land; they are a separate caste; they have no marriage law; the most of them gain their living on the sea, they are sailors, and some of them fishers; they have no idols. They are as well slaves of the Nayres.

"There is another caste yet lower whom they call Monquer, fishers who have no other work than fishing, yet some sail in the Moors' ships and in those of other heathens, and they are very expert seamen. This race is very rude. They are shameless thieves; they marry and their sons succeed them, their women are of loose character, they sleep with any one-soever, and it is held no evil. They have thier own idolatry.

"In this land of Malabar there is another caste of Heathen even lower than these, whom they call Betunes. Their business is salt making and rice growing, they have no other livelihood.

"They dwell in houses standing by themselves in the fields away from the roads, whither the gentlefolk do not walk. They have their own idolatry. They are slaves of the Kings and Nayres and pass their lives in poverty. The Nayres make them walk far away from them and speak to them from afar off. They hold no intercourse with any other caste.

"There is another caste of Heathen, even lower and ruder, whom they call Paneens, who are great sorcerers, and live by no other means.

"There is another caste lower and ruder than they, named Revoleens, a very poor folk, who live by carrying firewood and grass to the towns, they may touch none, nor may any touch them under pain of death. They go naked, covering only their private parts with scant and filthy rags, the more part of them indeed with leaves of certain trees. Their women wear many brass rings in their ears; and on their necks, arms and legs necklaces and bracelets of heads.

"And there is yet another caste of Heathens lower than these whom they call Poleas, who among all the rest are held to be accursed and excommunicate; they dwell in the fields and open campaigns in secret lurking places, whither folk of good caste never go save by mischance, and live in huts very strait and mean. They are tillers of rice with buffaloes and oxen. They never speak to the Nayres save from off, shouting so that they may hear them, and when they go along the roads they utter loud cries, that they may be let past, and whosoever hears them leaves the road, and stands in the wood till they have passed by: and if any one, whether man or woman, touches them his kinsfolk slay them forthwith, and in vengeance therefore they slay Poleas until they are weary without suffering any punishment.

"Yet another caste there is even lower and baser called Pareens, who dwell in the most desert places away from all other castes. They have no intercourse with any person nor any one with them they are held to be worse than devils, and to be damned. Even to see them is to be unclean and out-caste. They eat yams and other roots of wild plants. They cover their middles with leaves, they also eat the flesh of wild beasts.

"With these end the distinctions between the castes of the Heathen, which are eighteen in all, each one separate and unable to

> touch others or marry with them; and besides these eighteen castes of the Heathen who are natives of Malabar, which I have now related to you, there are others of outlandish folk, merchants and traders in the land, where they possess houses and estates, living like the natives, yet with customs of their own."

These foreigners were not able to give a full and detailed picture of caste. This is understandable. For to every foreigner the private life of the Hindu is veiled and it is not possible for him to penetrate it. The social organism of India, the play of its motive forces, is moreover, regulated infinitely more by custom, varying according to locality and baffling in its complexity, than by any legal formula which can be picked out of a legal text book. But there is no doubt that caste did appear to the foreigners as the most singular and therefore the most distinguishing feature of Hindu Society. Otherwise they would not have noted its existence in the record they made of what they observed when they came to India.

Caste therefore is something special in the Hindu Social organization and marks off the Hindus from other peoples. Caste has been a growing institution. It has never been the same at all time. The shape and form of caste as it existed when Magasthenes wrote his account was very different from what the shape and form it has taken when Alberuni came and the appearance it gave to the Portuguese was different from what it was in the time of Alberuni. But to understand caste one must have more exact idea of its nature than these foreigners are able to give.

To follow the discussion of the subject of caste it is necessary to familiarize the readers with some basic conceptions which underlie the Hindu Social organization. The basic conception of social organization which prevails among the Hindus starts with the rise of our classes or varnas into which Hindu society is believed to have become divided. These four classes were named: (1) Brahmins, the priestly and the educated class, (2) The Kshatriyas, the Military Class, (3) The Vaishyas, the trading class and, (4) The Shudras, the servant class. For a time these were merely classes. After a time what were only Classes (Varnas) became Castes (Jatis) and the four castes became four thousand. In this way the modern Caste System was only the evolution of the ancient Varna System.

No doubt the caste system is an evolution of the Varna System. But one can get no idea of the caste system by a study of the Varna System. Caste must be studied apart from Varna.

2

An old agnostic is said to have summed up his philosophy in the following words:

> "The only thing I know is that I know nothing; and I am not quite sure that I know that"

Sir Denzil Ibbetson undertaking to write about caste in the Punjab said that the words of these agnostic about his philosophy expressed very exactly his own feelings regarding caste. It is no doubt true that owing to local circumstances there does appear a certain diversity about caste matters and that it is very difficult to make any statement regarding any one of the castes absolutely true as it may be as regards one locality which will not be contradicted with equal truth as regards the same caste in some other area.

Although this may be true yet it cannot be difficult to separate the essential and fundamental features of caste from its non-essential superficial features. For easy approach to this to ascertain by asking what are the matters for which a person is liable to be excluded from caste. Mr. Bhattacharya has stated the following as causes for expulsion from caste: (1) Embracing Christianity or Islam, (2) Going to Europe or America, (3) Marrying a widow, (4) Publicly throwing the sacred thread, (5) Publicly eating beef, pork or foul, (6) Publicly eating *Kaccha* food prepared by a Mahomedan, Christian or low caste Hindu, (7) Officiating at the house of a very low caste Sudra, (8) By a female going away from home for immoral purposes and (9) By a widow becoming pregnant. This list is not exhaustive and omits the two most important causes which entail expulsion from caste. They are (10) intermarrying outside caste, (11) Interdining with persons of another caste, (12) Change of occupation. The second defect in the statement of Mr. Bhattacharya is that it does not make any distinction between essentials and (un)*essentials. Of course when a person is expelled from his caste the penalty is uniform. His friends, relatives, and fellow men refuse to partake of his hospitality. He is not invited to entertainments in their houses. He cannot obtain brides or bridegrooms for his children. Even his married daughters cannot visit him without running the risk of being excluded from caste. His priest, his barber and washerman refuse to serve him. His fellow castemen sever their connection with him so completely that they refuse to assist him even at the funeral of a member of his household. In some cases the man excluded from caste is debarred access to public temples and to the cremation or burial ground.

* *The original word in the MS was 'essentials'. The editors felt it to be 'unessentials' and therefore corrected it accordingly.* — Ed.

These reasons for expulsion from caste indirectly show the rules and regulations of the caste. But all regulations are not fundamental. There are many which are unessential. Caste can exist even without them. The essential and unessential can be distinguished by asking another question. When can a Hindu who has lost caste regain his caste. The Hindus have a system of *Prayaschitas* which are penances and which a man who has been expelled from caste must perform before he can be admitted to caste fellowship. With regard to these *Prayaschitas* or Penances certain points must be remembered. In the first place there are caste offences for which there is no *Prayaschita*. In the second place the *Prayaschitas* vary according to the offence. In some cases the *Prayaschita* involves a very small penalty. In other cases the penalty involved is a very severe one.

The existing of a *Prayaschita* and its absence have a significance which must be clearly understood. The absence of *Prayaschita* does not mean that any one may commit the offence with impunity. On the contrary it means that the offence is of an immeasurable magnitude and the offender once expelled is beyond reclamation. There is no reentry for him in the caste from which he is expelled. The existence of a *Prayaschita* means that the offence is compoundable. The offender can take the prescribed *Prayaschita* and obtain admission in the caste from which he is expelled.

There are two offences for which there is no penance. These are (1) change from Hindu Religion to another religion, (2) Marriage with a person of another caste or another religion. It is obvious if a man loses, caste for these offences he loses it permanently.

Of the other offences the *Prayaschitas* prescribed are of the severest kind are two: (1) Interdining with a person of another caste or a non-Hindu and (2) Taking to occupations which is not the occupation of **the** caste. In the case of the other offences the penalty is a light one almost nominal.

The surest clue to find out what are the fundamental rules of caste and what caste consists in is furnished by the rules regarding *Prayaschitas*. Those for the infringement of which there is no *Prayaschita* constitute the very soul of caste and those for the infringement of which the *Prayaschita* is of the severest kind make up the body of caste. It may therefore be said without any hesitation that there are four fundamental rules of caste. A caste may be defined as a social group having (a) belief in Hindu Religion and bound by certain regulations as to, (b) marriage, (c) food and (d) occupation. To this one more characteristic may be added namely a social group having a common name by which it is recognized.

In the matter of marriage the regulation lays down that the caste must be endogamous. There can be no intermarriage between members of different castes. This is the first and the most fundamental idea on which the whole fabric of the caste is built up.

In the matter of food the rule is that a person cannot take food from and dine with any person who does not belong to his caste. This means that only those who can intermarry can also interdine. Those who cannot intermarry cannot interdine. In other words caste is an endogamous unit and also a communal unit.

In the matter of occupation the regulation is that a person must follow the occupation which is the traditional occupation of his caste and if the caste has no occupation then he should follow the occupation of his father.

In the matter of status of a person it is fixed and is hereditary. It is fixed because a person's status is determined by the status of the caste to which he belongs. It is hereditary because a Hindu is stamped with the caste to which his parents belonged, a Hindu cannot change his status because he cannot change his caste. A Hindu is born in a caste and he dies a member of the caste in which he is born. A Hindu may lose his status if he loses caste. But he cannot acquire a new or a better or different status.

What is the significance of a common name for a caste? The significance of this will be clear if we ask two questions which are very relevant and a correct answer to each is necessary for a complete idea of this institution of caste. Social groups are either organized or unorganized. When the membership of the group and the process of joining and leaving the groups, are the subject of definite social regulations and involve certain duties and privileges in relation to other members of the group then the group is an organized group. A group is a voluntary group in which members enter with a full knowledge of what they are doing and the aims which the association is designed to fulfil. On the other hand there are groups of which an individual person becomes a member without any act of volition, and becomes subject to social regulation and traditions over which he has no control of any kind.

Now it is hardly necessary to say that caste is a highly organized social grouping. It is not a loose or a floating body. Similarly it is not necessary to say that caste is an involuntary grouping. A Hindu is born in a caste and he dies as a member of that caste. There is no Hindu without caste, cannot escape caste and being bounded by caste from birth to death he becomes subject to social regulations and traditions of the caste over which he has no control.

The significance of a separate name for a caste lies in this — namely it makes caste an organized and an involuntary grouping. A separate and a distinctive name for a caste makes caste asking to a corporation with a perpetual existence and a seal of separate entity. The significance of separate names for separate castes has not been sufficiently realized by writers on caste. In doing that they have lost sight of a most distinctive feature of caste social groups there are and there are bound to be in every society. Many social groups in many countries can be equated to various castes in India and may be regarded as their equivalent. Potters, Washermen, Intellectuals as social groups are every where. But in other countries they have remained as unorganized and voluntary groups while in India they have become organized and involuntary i.e. they have become castes is because in other countries the social groups were not given name while in India they did. It is the name which the caste bears which gives it fixity and continuity and individuality. It is the name which defines who are its members and in most cases a person born in a caste carries the name of the caste as a part of his surname. Again it is the name which makes it easy for the caste to enforce its rules and regulations. It makes it easy in two ways. In the first place, the name of the caste forming a surname of the individual prevents the offender in passing off as a person belonging to another caste and thus escape the jurisdiction of the caste. Secondly, it helps to identify the offending individual and the caste to whose jurisdiction he is subject so that he is easily handed up and punished for any breach of the caste rules.

This is what caste means. Now as to the caste system. This involves the study of the mutual relations between different castes. Looked at as a collection of caste the caste system presents several features which at once strike the observer. In the first place there is no inter-connection between the various castes which form a system. Each caste is separate and distinct. It is independent and sovereign in the disposal of its internal affairs and the endorcement of caste Regulations. The castes touch but they do not interpenetrate. The second feature relates to the order in which one caste stands in relation to the other castes in the system. That order is vertical and not horizontal.

In other words castes are not equal in status. Their order is based on inequality. One caste is higher or lower in relation to another. Castes form an hierarchy in which one caste is at the top and is the highest, another at the bottom and it is the lowest and in between there are castes every one of which is at once above some caste and below some caste. The caste system is a system of gradation in which every caste

except the highest and the lowest has a priority and precedence over some other caste.

How is this precedence or this superiority determined? This order of superiority and inferiority or this insubordination is determined by Rules (1) which are connected with religious rites and (2) which are connected with commensality.

Religion as a basis of Rules of precedence manifests itself in three ways. Firstly through religious ceremonies, secondly through incantations that accompany the religious ceremonies and thirdly through the position of the priest.

Beginning with the ceremonies as a source of rules of precedence it should be noted that the Hindu Scriptures prescribe sixteen religious ceremonies. Although those are Hindu ceremonies every Hindu Caste cannot by right claim to perform all the sixteen ceremonies. Few can claim the right to perform all. Some are allowed to perform certain ceremonies, some are not allowed to perform certain of the ceremonies. For instance take the ceremony of Upanayan, wearing the sacred thread. Some castes can't. Precedence follows this distinction in the matters of right to perform the ceremonies. A caste which can claim to perform all the ceremonies is higher in status than the caste which has a right to perform a few.

Turning to the Mantras it is another source for rules of precedence. According to the Hindu Religion the same ceremony can be performed in three different ways: (1) Vedokta, (2) Shastrokta and (3) Puranokta. In the Vedokta form the ceremony is performed with Mantras (incantations) from the Vedas. In the Shastrokta form the ceremony is performed with Mantras (incantations) from the Shastras. In the Puranokta form the ceremony is performed with Mantras (incantations) from the Puranas. Hindu Religious Scriptures fall into three distinct categories: (1) The Vedas which are four, (2) The Shastras which are six and (3) The Puranas which are eighteen. Although they are all respected as scriptures they do not all have the same sanctity. The Vedas have the highest sanctity. The Shastras stand next in order of sanctity and the Puranas have the lowest sanctity. The way the Mantras give rise to social precedence will be obvious if it is borne in mind that not every caste is entitled to have the ceremony performed in the Vedokta form. Three castes may well claim the right to the performance of one of the sixteen ceremonies. But it well be that one of it is entitled to perform it in the Vedokta form, another in the Shastrokta form and the third only in the Puranokta form. Precedence goes with the kind of Mantra that a caste is entitled to use in the performance of a religious ceremony. A caste which is entitled to use

Vedic Mantra is superior to a caste which is entitled to use Shastrik Mantra and a caste which is entitled to use Shastrik Mantras is higher than a caste which is entitled to use only Puranokta Mantras.

Taking the priest as third source of precedence connected with Religion Hinduism requires the instrumentality of a priest for the derivation of the full benefit from the performance of a religious ceremony. The priest appointed by the scriptures is the Brahmin. A Brahmin therefore is indispensible. But the scriptures do not require that a Brahmin shall accept the invitation of any and every Hindu irrespective of his caste to officiate at a religious ceremony. The invitation of which caste he will accept and of which he will refuse is a matter left to the wishes of the Brahmin. By long and well established custom it is now settled at which caste he will officiate and at which caste he will not. This fact has become the basis of precedence as between castes. The caste at which a Brahmin will officiate is held as superior to a caste at whose religious functions a Brahmin will not officiate.

The second source for rules of precedence is commensality. It will be noticed that rules of marriage have not given rise to rules of precedence as rules of commensality have. The reason lies in the distinction between the rules prohibiting intermarriage and interdining. That difference is obvious. The prohibition on intermarriage is such that it can not only be respected but it can be carried out quite strictly. But the prohibition of interdining creates difficulties. It cannot be carried out quite strictly in all places and under all circumstances. Man migrates and must migrate from place to place. In every place he happens to go he may not find his castemen. He may find himself landed in the midst of strangers. Marriage is not a matter of urgency but food is. He can wait for getting himself married till he returns to the society of his castemen. But he cannot wait for his food. He must find it from somewhere and from someone. Question arises from which caste he can take food if he has to. The rule is that he will take food from a caste above his but will not take food from a caste which is below his. There is no way of finding how it came to be decided that a Hindu can take food from one caste and not from another. By long series of precedent every Hindu knows from what caste he can take food and from what caste he cannot. This is determined chiefly by the rule followed by the Brahmin. A caste is higher or lower according as the Brahmin takes from it food or not. In this connection the Brahmin has a very elaborate set of rules in the matter of food and water. (1) He will take only water from some and not from others. (2) A Brahmin will not take food cooked in water by any caste. (3) He will take only

food cooked in oil from some castes. Again he has as a set of rules in the matter of the vessel, in which he will accept food and water. He will take food or water in an earthen vessel from some caste, only in metallic vessel from some and only in glass vessel from others. This goes to determine the level of the caste. If he takes food cooked in oil from a caste its status is higher than the caste from which he will not. If he takes water from a caste it is higher than the caste from which he will not. If he takes water in a metallic vessel that caste is higher than the caste from which he will take water in an earthen vessel and the caste from which he will take water in an earthen vessel is higher than the caste from which he will take water in a glass vessel. Glass is a substance which is called *Nirlep* (which conserves no stain) therefore a Brahmin can take water in it even from the lowest. But other metals do conserve stains. Contaminating character of the stain depends upon the status of the person who has used it. That status depends upon the Brahmin's will to accept water in that vessel.

These are some of the factors which determine the place and status of a caste in this Hindu hierarchial system of castes.

Such is caste and such is caste system. Question is, is this enough to know the Hindu Social Organization. For a static conception of the Hindu Social Organization an idea of the caste and the caste system is enough. One need not trouble to remember more than the facts that the Hindus are divided into castes and that the castes form a system in which all hang on a thread which runs through the system in such a way that while encircling and separating one caste from another it holds them all as though as it was a string of tennis balls hanging one above the other. But this will not be enough to understand caste as a dynamic phenomenon. To follow the workings of caste in action it is necessary to note one other feature of caste besides the caste system, namely class-caste system.

The relationship between the ideas of caste and class has been a matter of lively controversy. Some say that caste is analogous to class. Others hold that the idea of caste is analogous to class and that there is no difference between the two. Others hold that the idea of caste is fundamentally opposed to that of class. This is an aspect of the subject of caste about which more will be said hereafter. For the present it is necessary to emphasize one feature of the caste system which has not been referred to hereinbefore. It is this. Although caste is different from and opposed to the notion of class yet the caste-system as distinguished from caste—recognizes a class system which is somewhat different from the graded status referred to above. Just as the Hindus are divided into so many castes, castes are divided into different classes

of castes. The Hindu is caste conscious. He is also class conscious. Whether he is caste conscious or class conscious depends upon the caste with which he comes in conflict. If the caste with which he comes in conflict is a caste within the class to which he belongs he is caste conscious. If the caste is outside the class to which he belongs he is class conscious. Any one who needs any evidence on this point may study the Non-Brahmin Movement in the Madras and Bombay Presidency. Such a study will leave no doubt that to a Hindu caste periphery is as real as class periphery and caste consciousness is as real as class consciousness.

Caste, it is said, is an evolution of the Varna System. I will show later on that this is nonsense. Caste is a perversion of Varna, at any rate it is an evolution in the opposite direction. But while Caste has completely perverted the Varna System it has borrowed the class system from the Varna System. Indeed the Class-Caste System follows closely the class cleavages of the Varna System.

Looking at the caste system from this point of view one comes across several lines of class cleavage which run through this pyramid of castes dividing the pyramid into blocks of castes. The first line of cleavage follows the line of division noticeable in the ancient Chaturvarna system. The old system of Chaturvarna made a distinction between the first three Varnas, the Brahmins, Kshatriyas, Vaishyas, and the forth Varna namely the Shudras. The three former were classes as the Regenerate classes. The Shudra was held as the unregenerate class: This distinction was based upon the fact that the former were entitled to wear the sacred thread and study the Vedas. The Shudra was entitled to neither and that is why he was regarded as the unregenerate class. This line of cleavage is still in existence and forms the basis of the present day class division separating the castes which have grown out of the vast class of Shudras from those which have grown out of the three classes of Brahmins, the Kashatriyas and Vaishyas. This line of class cleavage is the one which is expressed by the terms High Castes and Low Castes and which are short forms for High Class Castes and Low Class Castes.

Next after this line of cleavage there runs through the pyramid a second line of class cleavage. It runs just below the Low Class Castes. It sets above all the castes born out of the four Varnas i.e. The High Castes as well as the Low Castes above the remaining Castes which I will merely describe as the 'rest', This line of class cleavage is again a real one and follows the well defined distinction which was a fundamental principle of the Chaturvarna System. The Chaturvarna System as is pointed out made a distinction between the four Varnas

putting the three Varnas above the fourth. But it also made an equally clear distinction between those within the Chaturvarna and those outside the Chaturvarna. It had a terminology to express this distinction. Those within the Chaturvarna—high or low, Brahmins or Shudras were called *Savarna* i.e. those with the stamp of the Varna. Those outside the Chaturvarna were called Avarna i.e. those without the stamp of Varna. All the Castes which have evolved out of the four Varnas are called Savarna Hindus—which is rendered in English by the term caste Hindus. The 'rest' are the *Avarnas* who in present parlance spoken of by Europeans as Non-Caste Hindus i.e. those who are outside the 4 original castes or Varnas.

Much that is written about the Caste System has reference mostly to the Caste-System, among the Savarna Hindus. Very little is known about the Avarna Hindus. Who are these Avarna Hindus, what is their position in Hindu Society, how are they related to the Savarna Hindus, are questions to which no attention has so far been paid. I am sure that without considering these questions no one can get a true picture of the social structure the Hindus have built. To leave out the Class cleavage between the Savarna Hindus and the Avarna Hindus is to relate Grimm's Fairy Tale which leaves out the witches, the goblins and the ogres.

The Avarna Hindus comprise three divisions (1) Primitive Castes, (2) Criminal Castes and (3) The Untouchable Castes. The total population of persons comprising these three classes is by no means small. The population of the Primitive Tribes in India according to the Census of 1931 is stated to be about 25 millions. The total population of persons listed as Criminal is somewhere about 4½ millions. The total population of Untouchables in 1931 was about 50 millions. The grand total of these three comes to 79½ millions.

What is the relation of the Savarna Castes to the Avarna Castes? The cleavage between the Savarna Castes and the Avarna Castes is not uniform in its consequences with the result that the position created is not easy to grasp. The line of the cleavage running between the Savarna Castes and the Avarna Castes produces a relationship between the Savarna Castes and the two Avarna Castes—the Primitive and the Criminal Castes which is different from the relationship which it produces between the Savarna Castes and the last of the Avarna Castes namely the Untouchables. This line of cleavage between the Savarna Castes and the first two of the Avarna Castes is a cleavage between kindred and friends. It does not make intercourse on respectful terms between the two impossible. The cleavage between the Savarna Castes and the Untouchables is of a different kind. It is

a cleavage between two non-kindred and hostile groups. There is no possibility of friendly intercourse on respectable terms.

What is the significance of this line of cleavage? On what is it based? Although the cleavage is definite the basis of it has not been defined. But it seems that the basis of cleavage is the same as that which exists between the Dwijas and the Shudras. Like the Shudras the Avarna Castes are composed of unregenerate people. They are not twice born and have no right to wear the sacred thread. This also brings out two facts which otherwise are lost sight of. The first fact is that the difference between the Shudra Castes of the Savarna division of castes and the Primitive and the Criminal Castes of the Avarna division is very thin. Both are touchables and both are unregenerate. The difference is one of cultural development. But although the cultural difference between the two sections is great—as great as there is between a highly cultured and the unmitigated barbarian—from the point of view of the orthodox Hindu, the difference between them is one of degree. It is to mark this difference in culture that the Hindus invented a new terminology which recognized two classes of Shudras, (1) Sat-Shudras and (2) Shudras. Calling the old body of Shudras as Sat Shudras or cultured Shudras and using the term Shudras to those comprizing the Primitive Castes who had come within the pale of Hindu Civilization. The new terminology did not mean any difference in the rights and duties of Shudras. The distinction pointed out those Shudras who were fit for associated life with the Dwijas and those who were less fitted for it.

What is the relation of Avarna Castes to one another? Do they exist as mere collection of castes or have they any class cleavages ? They are certainly mere collection of Castes. There are certainly lines of class clevages running through this block of Avarna Castes. Whether there is a line of class clevage running between the Primitive Castes and the Criminal Castes may be a matter of some doubt. Perhaps the line is faint. But there is no doubt that there is a very definite a very broad and a very emphatic line of clevage between the Primitive Castes and the Criminal Castes and the Untouchables. The former two have a very clear notion that they are the higher classes and the Untouchables are the lower classes within this block of Avarna Castes.

The discussion carried on so far reveals three characteristic features of Hindu Social Organization: (1) Caste, (2) A hierarchial System of Castes and (3) A Class System cutting into the Caste System. Undoubtedly the structure is a very complicated one and it is perhaps difficult for one who has not been woven into it to form a true mental picture of the same. Perhaps a diagramatic presentation may be

helpful. I give below one such representation which in my judgment is calculated to give the idea of this social structure of the Hindus.

A Caste Hindus Savarna Castes	C Caste Hindus Savarna Castes	E Non-Caste Hindus Avarna Castes	G Non-caste Hindus
Class I	Class II	Class III	Class IV
High Castes	Low Caste	Primitive Castes	Untouchables
Dwijas—Castes evolved out of the three Varnas, Brahmins, Kshatriyas and Vaishas.	Shudras—Castes evolved out of the 4th Varna namely Shudras.	Criminal Castes	
B	D	F	H

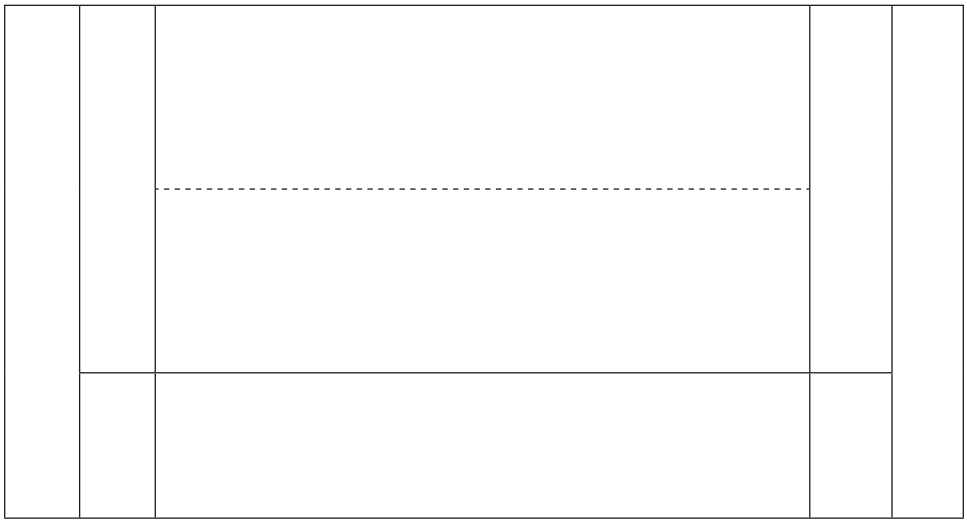

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This diagram presents a Class-Caste-System of the Hindus and is so drawn as to give a true and a complete picture of their social

organization. This diagram brings out several of its important features. It shows that there are two divisions of Hindus (I) Savarna Hindus and (II) Avarna Hindus. It shows that within the first division there are two classes of Castes (I) Dwijas and (2) Shudras and within the second division there are two Classes of castes (1) Primitive and Criminal Castes and (2) The Untouchable Castes. The next thing to note is that each caste is enclosed and separated from the rest—a fact which is not shown in the diagram—each of the four classes of Castes is grouped together and placed within a class enclosure. This enclosure segregates a class of a Caste and marks it off from another class. A class of Castes is not as organized as a Caste is. But a feeling of Class is there. The third thing to note is the nature of partitions used for the enclosures. They are of various strengths, some are permanent, some are temporary. The partition between the Dwijas Castes and the Shudras Castes is not a partition at all. It is only a curtain. It is not a partition at all. It is intended to keep them aloof. It is not intended to cut them as under. The line of cleavage between the Shudra Castes and the first two of the Avarna Castes is a regular partition. But it is both thin and small. It can be jumped over. The partition separates but does not cause severance. But the partition between these three classes and the Untouchables is a real and irremovable partition. It is a barbed wire fence and its intention is to mark a severance. To express the same thing in a different way the first three enclosures are so placed that they are one within the other. The first partition between the Dwijas and the Shudra Castes may be removed the two become the occupants of one enclosure instead of two separate enclosures. Similarly the second partition may be removed in which case the Castes which are Dwija, Shudra, Primitive and Criminal form one whole—if not a single whole—occupying one single enclosure. But the third partition can never be removed. Because all three Classes of Castes are united on one issue namely that they shall not be *one* (*This space is left blank in the typed copy of MS. The word 'one' is introduced by us.*—Ed.) with the Untouchables as one united body of people. There is a bar sinister, which serves the Untouchables from the rest and compells them to be apart and outside.

The diagram shows the different Classes of Castes one above the other. This is done to mark the hierarchy which is an important feature of the Caste System. I have described the two classes of the Savarna Castes as High Class Castes and Low Class Castes. But I have not described the other two classes of Avarna Castes as lower Class Castes and lowest Class Castes. In a sense this would have been correct. In general social esteem they are no doubt lower and lowest in

status. But in another sense this would not be appropriate. The terminology of high, low, lower and lowest assumes that they are parts of one whole. But are the Avarna Castes and the Savarna Castes parts of one whole? They were not. The Primitive and the Criminal Castes were not in contemplation when the plan of the Varna System, the parent of the present caste system, was laid. Consequently nothing is said about their status and position in the rules of the Varna System. But that is not the case with the Untouchables. They were within the contemplation of the Varna System and the Rule of the Varna System with regard to the Untouchables is very clear and very definite. The rule as laid down by Manu the Hindu Law giver is that there are only four Varnas and that there is not to be a fifth Varna. The reformers who are friends of Mr. Gandhi in his campaign for removal of Untouchability are endeavouring to give a new meaning to the statement of Manu. They say that Manu has been misunderstood. According to Manu there is no fifth Varna and therefore he intended to include the Untouchables into the 4th Varna namely the Shudras. But this is an obvious perversion. What Manu meant was there were originally four Varnas and four they must remain. He was not going to admit the Untouchables into the House the ancient Hindus had built by enlarging the Varna System to consist of five Varnas. That is what he meant when he said that there is not to be a fifth Varna. That he wanted the Untouchables to remain out of the Hindu social structure is clear from the name by which he describes the Untouchables. He speaks of them as Varna—Bahyas (those outside the Varna System). That is the diference between the Primitive and Criminal Castes and the Untouchables. There being no positive injunction against their admission in Hindu Society they may in course of time become members of it. At present they are linked to Hindu Society and hereafter they may become integrated into it and become part of it. But the case of the Untouchables is different. There is positive injunction against their incorporation in Hindu Society. There is no room for reform. They must remain separate and segregated without being a part of the Hindu Society. The Untouchables are not a part of the Hindu Society. And if they are a part they are a part but not of the whole. The idea showing the connection between the Hindus and the Untouchables was accurately expressed by Ainapure Shastri the leader of the orthodox Hindus at a Conference held in Bombay. He said that the Untouchables were related to the Hindus as a man is to his shoe. A man wears a shoe. In that sense it is attached to man and may be said to be a part of the man. But it is not part of the whole for two things that can be attached and detached can't be said to form parts of one whole. The analogy though is none the less accurate.

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CHAPTER 17
THE ROCK ON WHICH IT IS BUILT

Hindu Society is a house of Castes. Hindus are not a people. They are the aggregates of groups of people formed into castes. This is its peculiarity. This is what has struck the stream of foreigners who have visited India in the course of history. Notwithstanding this there are however people who endeavour to say that there is nothing peculiar about caste. For instance Prof. Baines remarks:

> "There is little in the system which is not to be found, or which has not at some time or other existed, in other countries, even of the West, though it has there been long ago worn away by other influences. The crystalization of certain bodies into definite orders or classes, for instance, is a common, almost a universal, trait and among them the tendency to become hereditary and as exclusive or aspiring as circumstances allow may almost be called natural".

The argument may be strengthened by reference to the social organization of Primitive peoples. In Primitive Society man is never found alone.

The commonest and therefore the most natural condition of men is to live in groups. This social grouping has taken many forms in the course of history. The family is one such social group which is universal and which has survived. The group larger than the immediate family was the clan. In its lowest terms, the clan (which also called kin, sept or sib) was supposed to be a group of individuals related to one another either through the mother or through the father. Far distant cousins might be considered in the relationship, and were regarded as members of the group. Again, the relationship may be purely fictitious, but from the social point of view this was as real a bond as that made by common blood. The next larger division than the clan is a soical grouping of the clans. When the clans are organized into two groups each group is called a moiety. When it is organized in more than two groups each is called a phratry. This dual system was not by any means world-wide in distribution and the functions which the phratry or the moiety was intended to perform are not quite definitely known. But there is no doubt that each moiety and phratry was a social grouping

in which there was a feeling of brotherhood between the members of clans associated together. The tribal groups come next. There were wide differences in the nature, character and structure of tribes. Tribes may be made up of village communities with no divisions into clans or moieties. They may have clans and no moieties, or moieties and no clans; or they may have both moieties and clans. Tribal consciousness was sometimes strong or some time weak. Although in the formation of tribal groups there was neither a definite rule nor a single line of evolution, there were certain common features present namely a common dialect, common customs, a more or less definite territory and some form of Government to which the whole tribe was present. Larger than the tribe was the confederacy or union of Tribes. But this was very uncommon. A loose and informal alliance to meet some specific danger may bring about a union of tribes. It is very seldom that a definite compact is found among the primitive peoples. The famous Iroquois confederacy is one of the exceptions.

These are social groups based either upon the idea of kindred or on that of locality. There were groups among primitive peoples, where the cleavage is along other lines. These other lines of grouping took as its basis sex, age or some other criteria. As a form of social grouping there is nothing new or nothing peculiar in this institution of caste. A caste is like a clan and like the clan it is only a form of social grouping.

The analogy between caste and clan may be admitted although it must be strongly insisted that as to meaning and purpose, caste is antagonistic to clan. There is no clan system comparable to the caste system. There is no gradation of clans as there is no Class-Clan System to match the Class-Caste System. Indeed the clan organization of the Primitive people is a complete antithesis of the caste organization of the Hindus. I admit the analogy only to drive my point. To my mind the question whether the institution of caste is natural or unnatural, peculiar or common is no doubt an interesting and instructive. But it is not as important as the question I want to raise. That question is why has caste endured, remained in tact when similar social groupings which were existing in other countries have vanished with the growth of civilization.

The Romans had a Social organization very similar to the Hindus.

When all similar institutions have vanished why has caste alone endured ? Why do people obey its rules, what is the sanction for Caste ?

Obedience by men to rules of society is everywhere secured by means of four sanctions. They are (1) the natural, (2) popular, (3) legal and (4) religious. Which of these supports the caste system? But before going into that question it would be desirable to describe the manner each of these sanctions operates.

The natural sanction operates through habit. When a person is habituated to act in a certain way nothing is required to force him to act in that way. He becomes an automation and the regularity of the act is guaranteed as a matter of routine.

Popular sanction works through public opinion. It was the sense of approbation and disapprobation prevalent in Society in relation to certain ways and practices. A certain way becomes folkway and Acts in conformity with an established folkway, receives approbation and an Act contrary to it is regarded with disapprobation.

There is nothing special either in the natural sanction or popular sanction. They are to be found everywhere and behind everything that is social in its import. Their native force is precarious and wherever it possesses more than its ordinary efficacy it is only when they are derived from either of the other two sanctions. Legal sanction and Religious sanction are the only two sanctions which are capable of sustaining any given institution.

There is no doubt that caste had the sanction of Hindu Law. Every Hindu Law Book has recognized Caste as a legal institution—a breach of which was an offence and entailing punishment. The Law Book of Manu called Manav Dharma Shastra is the oldest and the most authoritative Law Book of the Hindus. It would be enough to quote from it texts showing that Caste was recognized by Law.

Manu, the Hindu Law giver gives legal recognition to the institution of the four Varnas. To lay down the law of the four Varnas seems to be the principal object of Manu's code. This is clear from the opening verses of the Code. They state that:

> I.1. The great sages approached Manu, who was seated with a collected mind, and, having duly worshipped him, spoke as follows:
>
> I.2. "Deign, divine one, to declare to us precisely and in due order the sacred laws of each of the (four chief) castes (varna) and of the intermediate ones.".

Not only he gives it his legal sanction, he makes it incumbent upon the King to uphold the institution:

> VII.35. The king has been created (to be) the protector of the castes (varna) and orders, who, all according to their rank, discharge their several duties.".
>
> VIII.24. All castes (varna) would be corrupted (by intermixture), all barriers would be broken through, and all men would rage (against each other) in consequence of mistakes with respect to punishment.".

Manu makes breach of Caste a sin and prescribes three different punishments to one who has become a Patit by loss of caste.

The first punishment is punishment after death. Manu says:

> "XII.60. He who has associated with outcasts, he who has approached the wives of other men, and he who has stolen the property of a Brahmana becomes Brahmarakshasa.".

In this life the punishment which a Patit has to undergo was twofold. One was excommunication. The nature and character of excommunication prescribed by Manu has been prescribed by him in the following terms:

> "XI. 181. He who associates with an outcast, himself becomes an outcast after a year, not by sacrificing for him, teaching him, or forming a matrimonial alliance with him, but by using the same carriage or seat, or by eating with him.
>
> "XI.182. He who associates with any one of those outcasts, must perform, in order to atone for (such) intercourse, the penance prescribed for that (sinner).
>
> "XI.183. The Sapindas and Samanodakas of an outcast must offer (a libation of) water (to him, as if he were dead), outside (the village), on an inauspicious day, in the evening and in the presence of the relatives, officiating priests, and teachers.
>
> "XI.184. A female slave shall upset with her foot a pot filled with water, as if it were for a dead person; (his Sapindas) as well as the Samanodakas shall be impure for a day and a night.
>
> "XI.185. But thenceforward it shall be forbidden to converse with him, to sit with him, to give him a share of the inheritance, and to hold with him such intercourse as is usual among men.". The other was disinheritance.
>
> "IX.201. Eunuchs and outcasts, (persons) born blind or deaf, the insane, idiots and the dumb, as well as those deficient in any organ (of action or sensation), receive no share.".
>
> "XI.186. And (if he be the eldest) his right of primogeniture shall be withheld and the additional share, due to the eldest son, and in his stead a younger brother, excelling in virtue, shall obtain the share of the eldest.".

The only way to avoid these two punishments of excommunication and disinheritance was to do penance in the prescribed form. Penance was the only remedy. Says Manu:

> "XI.187. But when he has performed his penance, they shall bathe with him in a holy pool and throw down a new pot, filled with water.
>
> "XI.188. But he shall throw that pot into water, enter his house and perform, as before, all the duties incumbent on a relative".

There was a distinction between a male Path and a female Patit. Neither was exempt. The Rule applies to both, for Manu says:

> "XI.189. Let him follow the same rule in the case of female outcast; but clothes, food, and drink shall be given to them, and they shall live close to the (family) house.".

There can be no doubt that the legal sanction was powerful sanction.

The punishment prescribed by law for breach of Caste was two-fold. It involved excommunication and loss of right to inherit. How formidable these punishments were has been well described by Sir Thomas Strange in his treatise on Hindu Law. Referring to the subject he says:

> "It remains to consider one case, that may be said to be, with reference to personal delinquency, *instar omnium*—occurring in every enumeration on the subject as a cause of exclusion, namely: degradation, or the case of the outcaste. Accompanied with certain ceremonies, its effect is, to exclude him from all social intercourse, to suspend in him every civil function, to disqualify him for all the offices, and all the charities of life;—he is to be deserted by his connexions, who are from the moment of the sentence attaching upon him, to desist from speaking to him, from sitting in his company, from delivering to him any inherited, or other property, and from every civil or usual attention, as inviting him on the first day of the year, or the like, so that a man under these circumstances, might as well be dead; which, indeed, the Hindu Law considers him to be, directing libations to be offered to Manes, as though he were naturally so. This system of privations, mortifying as it must be, was enforced under the ancient law, by denouncing a similar fate to any one, by whose means they were endeavoured to be eluded; but this severity was moderated at the beginning of the present age, in which it is said "the sinner alone bears his guilt", the law deeming so seriously of non-intercourse, that if one who ought to associate at meals with another, refuses to do so, without sufficient cause, he is punishable. And, in the Bombay reports, there is an instance of an action of damages, for a malicious expulsion from caste. The analogy between degradation by the Hindu law, and excommunication, as it prevailed formerly among us, holds, not merely in the general nature and effect of the proceeding, but in the peculiar circumstance of the one and the other being two-fold. As, with us, there was the less, and the greater excommunication, so, of offences considered with reference to their occasioning exclusion from inheritance among the Hindus, they may also be regarded in a two-fold point of view. This we learn from a case that was before

the Sudder Dewanny Adawlut of Bengal, in 1814, in which the official Pundits, having been referred to, distinguished between "those which involve partial and temporary degradation, and those which are followed by loss of caste",—observing that "in the former state, that of partial degradation, when the offence which occasions it is expiated, the impediment to succession is removed; but in the latter, where the degradation is complete, although the sinfulness of the offence may be removed by expiatory penance, yet the impediment to succession still remains, because a person finally excluded from his tribe must ever continue to be an outcaste." In the case alluded to, the party in question having been guilty of a series of profligate and abandoned conduct, having been shamefully addicted to spirituous liquors, having been in the habit of associating and eating with persons of the lowest description, and most infamous character; having wantonly attacked and wounded several people at different times; having openly cohabited with a woman of the Mahomedan persuation; and having set fire to the dwelling house of his adoptive mother, whom he had more than once attempted to destroy by other means", the Pundits declared that "of all the offences proved to have been committed by Sheannauth, one only, namely, that of cohabiting with a Mahomedan woman, was of such a nature, as to subject him to the penalty of expulsion from his tribe irrevocably," and of this opinion was the Court. The power to degrade is, in the first instance, with the Castes themselves, assembled for the purpose, from whose sentence, if not acquiesced in, there lay an appeal to the King's Courts. In the case that has been cited, the question arose incidentally, upon a claim of inheritance, and that case shews that the power amounts to a species of Censorship, applicable to the morals of the people, in instances to which the law, strictly speaking, would not perhaps otherwise extend. The sentences can be inflicted only for offences committed by the delinquent in his existing state; and, where the offence is of an inferior nature, to justify it, it must have been repeated. What distinguishes degradation from other causes of exclusion is, that it extends its effects to the son, who is involved in his father's forfeiture, if born subsequent to the act occasioning it. Born before, he is entitled to inherit, and takes, as though his father were dead. Whereas, in every other instance of exclusion, the son, if not actually in the same predicament with his father, succeeds, maintaining him; the same right extending as far as the great grandson. And, with regard to the father, or delinquent himself, where the exclusion from inheriting is not for natural

defects, the cause must have arisen, previous to the division, or descent of the property; if it do not occur till after, the succession is not divested by it. Hence, adultery in the wife during coverture, bars her right of inheritance; divesting it also, after it has vested; the Hindu widow resembling, in this respect, the condition of ours in most instances of copyhold dower, and holding it, like her, *Dum casta fuerit* only; according to an opinion of great respectability, that for loss of caste, unexpiated by penance, and unredeemed by atonement, it is forfeited. In general, the law of disqualification applies alike to both sexes.

"It appearing, then, that the incapacity to inherit, except in the instance of the outcaste, is personal merely; that one excluded may be said, in every case, to be entitled to be maintained; and that, in most, it is in his power, at any time, to restore himself to his rights;—whatever may be thought of the wisdom of some of these provisions, it cannot be said that they are universally destitute of justice, or, in any instance, totally devoid of humanity. Nor, in comparing this part of the law with our own, ought we to forget, that the latter has made none, for preventing the absolute disinheriting of children by will.

"It will appear, in a subsequent chapter, that, on entry into either of the two religious orders, the DEVOTEE (like the professed monk with us before the Reformation) becomes *Civiliter mortuus;* and the next heir succeeds, as though he were naturally deceased, AND, as the devotee himself, abdicating secular concerns, is incapacitated from inheriting, so is the religious PRETENDER, and the eventual Apostate. Under the former term may be included Hypocrites and Impostors, used synonymously for those who, usurping sacred marks, practise austerities with an interested design.

The remaining cause of exclusion to be noticed, is, an Incompetent marriage; that is, where the husband and wife are descended from the same Stock. Such a marriage being incongruous, the issue of it cannot inherit, excepting among Shudras. And the consequence is the same, where the marriage has not been according to the order of Class.

"The heir, or heirs, under no disability, having succeeded to the inheritance, it is next to be seen, to what Charge this is liable."

Has Caste also a religious sanction? The Vedas recognize Caste.

The Rig Vedas recognized Caste and also explains its origin in the following passage:

"1. Purusha has a thousand heads, a thousand eyes, a thousand feet. On every side enveloping the earth, he overpassed (it) by a space of ten fingers.

2. Purusha himself is this whole (universe), whatever has been and whatever shall be. He is also the lord of immortality, since (or, when) by food he expands.

3. Such is his greatness, and Purusha is superior to this. All existences are a quarter of him; and three fourths of him are that which is immortal sky.

4. With three quarters Purusha mounted upwards. A quarter of him was again produced here. He was then diffused everywhere over things which eat and things which do not eat.

5. From him was born Viraj, and from Viraj, Purusha. When born, he extended beyond the earth, both behind and before.

6. When the gods performed a sacrifice with Purusha as the oblation, the spring was its butter, the summer its fuel, and autumn its (accompanying) offering.

7. This victim, Purusha, born in the beginning, they immolated on the sacrificial grass. With him the gods, the Sadhyas, and the rishis sacrificed.

8. From that universal sacrifice were provided curds and butter. It formed those aerial (creatures) and animals both wild and tame.

9. From that universal sacrifice sprang the *rich* and *saman verses,* the *metres,* and *yajush.*

10. From it sprang horses, and all animals with two rows of teeth; kine sprang from it; from it goats and sheep.

11. When (the gods) divided Purusha, into how many parts did they cut him up ? What was his mouth ? What arms (had he) ? What (two objects) are said (to have been) his thighs and feet?

12. The Brahman was his mouth; the Rajanya was his arms; the being (called) the Vaishya, he was his thighs, the Shudra sprang from his feet.

13. The moon sprang from his soul (manas), the sun from his eye, Indra and Agni from his mouth, and Vayu from his breath.

14. From his navel arose the air, from his head the sky, from his feet the earth, from his ear the (four) quarters; in this manner (the gods) formed the worlds.

15. When the gods, performing sacrifice, bound Purusha as a victim, there were seven sticks (stuck up) for it (around the fire), and thrice seven pieces of fuel were made.

16. With sacrifice the gods performed the sacrifice. These were the earliest rites. These great powers have sought the sky, where are the former Sadhyas, gods."

The Brahmanas also recognize Caste. In the Satapatha-Brahmanas Caste is mentioned in the following terms:

"23. Brahma (here, according to the commentator, existing in the form of Agni, and representing the Brahman caste was formerly this (universe), one only. Being one, it did not develope. It energetically created an excellent form, the Kshattra, viz., those among the gods, who are powers (Kshattrani), Indra, Varuna, Soma, Rudra, Parjanya, Yama, Mrityu, Isana. Hence nothing is superior to the Kshattra. Therefore the Brahman sits below the Kshattriya at the rajasuya-sacrifice; he confers that glory on the Kshattra (the royal power). This, the Brahma, is the source of Kshattra. Hence, although the king attains supremacy, he at the end resorts to the Brahman as his source. Whoever destroys him (the Brahman) destroys his own source. He becomes most miserable, as one who has injured a superior.

24. He did not develope. He created the Vis.—viz., those classes of gods who are designated by troops, Vasus, Rudras, Adityas, Visvedevas, Maruts.

25. He did not develope. He created the Shudra Class, Pushan. This earth is Pushan; for she nourishes all that exists.

26. He did not develope. He energetically created an excellent form, Justice (Dharma). This is the ruler (kshattra) of the ruler (kshattra), namely Justice. Hence nothing is superior to justice. Therefore the weaker seeks (to overcome) the stronger by justice, as by a king. This justice is truth. In consequence they say of a man who speaks truth, 'he speaks justice'; or of man who is uttering justice, 'he speaks truth'. For this is both of these.

27. This is the Brahma, Kshattra, Vis and Sudra. Through Agni it became Brahma among the gods, the Brahman among men, through the (divine) Kshattriya a (human) Kshattriya, through the (divine), Vaishya a (human) Vaisya, through the (divine) Sudra a (human) Sudra. Wherefore it is in Agni among the gods and in a Brahman among men, that they seek after an abode."

Taittiriya Brahmana, i. 2, 6, 7.—*daivyo vai varno brahmanh assuryyo sudrah*. "The Brahman caste is sprung from the gods; the Sudra from the Asuras."

It must be admitted that the legal and the religious sanction were both powerful engines to keep caste going. But there is no doubt that the religious sanction was the primary sanction and caste has been maintained solely by the force of Religious Sanction. This is clear from two circumstances. That the legal sanction was very seldom invoked will have to be admitted. That means that the maintenance of caste

was secured by other means. Secondly this legal sanction was in use only till 1850. It was lifted or rather done away with by the Caste Disabilities Removal Act passed in that year by the British Government. Although the legal sanction is withdrawn, caste has gone on without abatement. That could not have happened if caste had not in the Religious Sanction another and more powerful sanction independent of the legal sanction.

That the Religious Sanction is the highest sanction which an institution or a belief can have to support and sustain it, is beyond question. Its power is boundless in its measure and tremendous in its curb. But it is very seldom understood how and whence this Religious Sanction gets this high-grade horse-power. To appreciate this it is necessary to note that the soure of authority behind the Religious Sanction is two-fold.

In the first place what is Religious is also Social. To quote Prof. Durkheim.[1]

> "The really religious beliefs are always common to a determined group, which makes profession of adhereing to them and of practising the rites connected with them. They are not merely received individually by all the members of this group; they are something belonging to the group, and they make its unity. The individuals which compose it feel themselves united to each other by the simple fact that they have a common faith."

In the second place what is Religious is Sacral. To quote Durkheim again :[2]

> "All known religious beliefs whether simple or complex, present one common characteristic; they presuppose a classification of all the things, real and ideal, of which men think, into two classes or opposed groups, generally designated by two distinct terms which are translated well enough by the words *profane and sacred*..... In all the history of human thought there exist no other example of two categories of things so profoundly differentiated or so radically opposed to one another. The traditional opposition of good and bad is nothing besides this; for the good and the bad are only two opposed species of the same class, namely morals, just as sickness and health are two different aspects of the same order of facts, life, while the Sacred and the profane have always and everywhere been conceived by the human mind as two distinct classes, as two worlds between there is nothing in common..... Religious beliefs are the representations which express the nature of sacred things and the

[1] Elementary Forms of Religious Life. pp. 37-40.

[2] *Ibid.,* p. 43.

relations which they sustain, either with each other or with profane things (while) rites are the rules of conduct which prescribe how a man should comfort himself in the presence of these Sacred objects."

From this it will be clear that the Social, Religious and Sacral beliefs are closely knit. Religious is social though all that is social is not religious. Sacral is social though all that is social is not sacral. On the other hand the religious is both social and sacral.

One soure of authority behind the religious sanction comes from the fact, that is, religion is social and the religious beliefs are social beliefs. Religious beliefs are enforced on the individual by the group in the same manner and for the same reasons which leads it to enforce its other non-religious and purely social beliefs. The object is to maintain the integrity of the group and as the integrity of the group is more closely bound up with its religious beliefs, the strictness and severity with which a group punishes the breach of a religious belief is usually greater than the degree of strictness and severity it employs for the chastizement of a person guilty of a breach of a non-religious belief. Social force has an imperative authority before which the individual is often powerless. In the matter of a religious belief the imperative authority of the social force is tempered as steel is by the feeling that it is a breach of a graver kind and gives religious sanction a far greater force than a purely social sanction has.

The Sacral source of the authority behind religious sanction comes primarily from the individual and only secondarily from the group. That is the noteworthy peculiarity of the social source of religious sanction. It prepares the individual to uphold the religious beliefs. It dispenses with the necessity of the group using its social group. That is why the sacral source of its authority makes religious sanction of such high order as to supersede all other sanctions indeed to dispense with them. That is why the Religious Sanction alone becomes sufficient to maintain the integrity of religious beliefs which even time and circumstances have proved powerless to affect. The way this happens is easy to follow. The Sacred inspires in the individual the sentiment of reverence and deference which he certainly has not for the profane. To use the language of Durkheim,

"The simple defence inspired by men with high social functions is not different in nature from religious respect (for the sacred). It is expressed by the same movements: a man keeps at a distance from high personage; he approaches him only with precautions; in conversing with him, he used other gestures and language than that used with ordinary mortals."

The Sacred creates the sentiment of Reverence. It also creates the sentiment that it is inviolate. When a belief becomes consecrated as a Sacred thing, it is forbidden to touch it, to deny it or to contest it. There is a prohibition of criticism of the Sacred. The Sacred is 'untouchable and above discussion'. When an individual is saturated with these sentiments, when these sentiments become a part of his being, he himself becomes an upholder and protector of what he is taught to regard as something sacred.

This is exactly what the Hindus have done in the matter of Caste. They have given caste a place in the Vedas. Caste has thereby become sacred because the Vedas are Sacred. It would be wrong to say that the Vedas are sacred because they are religious. The position is that they are religious because they are sacred.

It might appear that the Hindus have no name for the Veda directly expressing the feeling of sacredness which the Hindu entertains towards the Vedas. Veda simply means knowledge. That may be so. But there can be no doubt that they regard the Vedas as sacred. Indeed the term they apply to Vedas expresses a far greater degree of reverence than the word sacred does. They call the Vedas *Shruti*—which means the word of God heard by (i.e. revealed to) man. In the primitive religion the Sacred is what man has made. In the Hindu religion the Sacred is what God has appointed it to be.

The Hindus regard the Vedas as the Sacred Book of their religion. They put the Vedas in a class by themselves. The Hindus hold[1] that there are cycles of creations called *Kalpas*. At the end of every cycle there is a deluge and a new cycle of creation begins. At the end of a Kalpa, the Vedas are destroyed in the deluge. At the beginning of every Kalpa they are revealed by God. Accordingly the *Vedas* were destroyed in the deluge at the end of the last *Kalpa* and that the beginning of the present *Kalpa* commencing with the *Krita Yug,* they were revealed by God to the *Rishis*. The Vedas are regarded by the Hindus as *Nitya* (enternal) *Anadi* (beginningless) and *Apaurusheya* (not made by man), In short the Vedas are the words of God and constitute God's ordinances to man.

Even if the Vedas were not called *Shruti* they would have had the imperativeness of the 'Sacred'. Religions have been variously classified by Prof. Max Muller.[2] Natural as against Revealed is one way of classifying them. Individual as against National is another way. The third way of classifying them is to call them Atheistic, Deitistic, Dualistic, Polytheistic, Monotheistic, Henotheistic and Animistic. True

[1] M. Krishnamachariar—Classical Sanskrit Literature. Introduction, pp. vii-viii and p. 836.

[2] Introduction to the Science of Religion.

and False is also another way of classifying Religions. Bookless Religions and Religions with books are two classes into which Religion could be grouped. This probably does not exhaust the ways of classifying Religions. For there remains one more distinction to be made, namely Religions which have founders and religions which have no founders.

These distinctions have social significance except two. They are the distinctions between Natural and Revealed and that between Bookless Religion and Book Religion. They differ in their function although that difference is not often noted.

The Book religion has a definite advantage over a Bookless religion. A Book religion is a Religion with a written constitution. A Bookless Religion is a Religion without a written constitution. A book religion creates the impression that it is true which a bookless religion cannot. By comparison with a book religion, a bookless religion wears the inferiority complex of being false. In the language of Max Muller Religions with books are alone "considered as real religions, and though they may contain false doctrines, they are looked upon as a kind of aristocracy to whom much may be forgiven, while the vulgar crowd of bookless or illiterate religions are altogether out of Court ".[1] It is easy to understand the superiority accorded to a religion with a book over a bookless religion. When 'black on white' has become synonymous with true, it may seem very natural that a religion which is written, which is something black on white is not false. The Book serves as the voucher for truth. A religion without a book has no voucher.

The social significance of a religion with a book lies in the fact that it controls the mind of the people by giving them the impression that the religion contained in the book is true. It gives Religion authority over people and induces willing obedience in them.

But however a Religion may appear to be true by reason of the fact that it is a book religion, such appearance cannot save Religion from going under, if beliefs and rites empirically erroneous have crept into it. Man may go wrong in theory but his practical instincts will seldom allow him to go after a wrong theory for a long time. Unless therefore the religious beliefs of a social group are true, practically Religion must in the long run give way.

Herein comes the social significance of the distinction between Natural Religion and Revealed Religion. A Revealed Religion has superiority over Natural Religion. Natural Religion is used by several writers to certain historical forms of religion. Something which has grown along with the growth of people—as a result of the interaction

[1] Natural Religion, p. 549.

between the needs of the peoples and the environment in which they are placed. A natural religion is made by man. Its sanction is the sense of truth and the voice of conscience that is to be found in man. A Revealed Religion does not rest on the authority of man. It is not man-made, it is God-made. Its sanction is God who is absolute truth and absolute good. The function of Revealed Religion is to make religion sacred therefore inviolate and immune from criticism.

The Vedas have the characteristics of both. They have the advantage which a Religion with a book has over the Bookless Religion. They have the advantage which a Revealed Religion has over Natural Religion.

This discussion is intended to enforce the conclusion that Caste being preached by the Vedas, it automatically gets the authority of the written book and the sanctity of the divine word. As a scheme propounded by the Veda it is doubly protected. Every one must accept Caste because it is divine truth and no body must attack it as an error without being guilty of sacrilege because it is sacred.

This is the Hindu view of Caste and the average Hindu is not impressed by the modern explanation of it by Risley with his racial theory, by Senart with his occupational theory, by Nesfield with his functional theory. He knows and he believes that Caste must have been created by God, because it is mentioned in the Vedas which is *Shruti* or the word of God. It is therefore eternal and true.

That Caste is. divine, that caste is sacred and that caste must therefore remain eternal has been the line of defence adopted by the Brahmins whenever they have been called out to defend 'Caste' against the criticism of its opponents. This view of Caste comes out in its luminous colours in the controversy that once raged on the subject of Caste between Brahmins on the one hand and Buddha and his followers, on the other i.e.:

> "If the belief was once established, that not only the simple effusions of the Rishis, but the pointed doctrines of the Brahmanas also, emanated from a divine source, and could not therefore be attacked by human reasoning, it is clear that every opposition to the privileges which the Brahmans claimed for themselves, on the sacred authority of the Veda, became heresy; and where the doctrines of the Brahmans were the religion of the people, or rather of the king, such opposition was amenable to the hierarchical laws of the state. The Brahmans themselves cared much more to see the divine authority of the Sruti as such implicitly acknowledged, than to maintain the doctrines of the Rishis in their original simplicity and purity. In philosophical discussions, they allowed the greatest

[1] *Soure of the following quotations upto page 167 is not mentioned in the M.S.*—Ed.

possible freedom; and, although at first three philosophical systems only were admitted as orthodox (the two Mimansas and the Nyaya), their number was soon raised to six, so as to include the Vaiseshika, Sankhya, and Yoga-schools. The most conflicting views on points of vital importance were tolerated as long as their advocates succeeded, no matter by what means, in bringing their doctrines into harmony with passages of the Veda, strained and twisted in every possible sense. If it was only admitted that besides the perception of the senses and the induction of reason, revelation also, as contained in the Veda, furnished a true basis for human knowledge, all other points seemed to be of minor importance. Philosophical minds were allowed to exhaust all possible views on the relation between the real and transcendental world, the Creator and the created, the divine and the human nature. It was not from such lucubrations that danger was likely to accrue to the caste of the Brahmans. Nor was the heresy of Buddha Sakya Muni found so much in his philosophical doctrines, many of which may be traced in the orthodox atheism of Kapila. His real crime lay in his opposition to the exclusive privileges and abuses of the Brahmans. These abuses were sanctioned by the divine authority of the Veda, and particularly of the Brahmans. In attacking the abuses, Buddha attacked the divine authority on which they were founded, and the argument was short: he is a heretic; anathema etc.

" Buddha was Kshatriya. He was of principal origin, and belonged to the nobility of the land. He was not the first of his caste who opposed the ambition of the Brahmans. Several centuries before Buddha, Visvamitra, who, like Buddha, was a member of the royal caste, had to struggle against the exclusiveness of the priests. At that early time, however, the position of the Brahmans was not yet impregnable; and Visvamitra, although a Kshatriya, succeeded in gaining for himself and his family the rights for which he struggled, and which the Brahmans had previously withheld from all but their own caste. King Janaka of Videha again, whose story is given in the Brahmanas, refused to submit to the hierarchical pretensions of the Brahmans, and asserted his right of performing sacrifices without the intercession of priests. However great the difference may have been between the personal character of these two men and of Buddha, the first principle of their opposition was the same. All three were equally struggling against the over-weening pretensions of a selfish priesthood.

"But while Visvamitra contented himself with maintaining the rights of his tribe or family, and became reconciled as soon as he

was allowed to share in the profits of the priestly power, while King Janaka expressed himself satisfied with the homage paid to him by Yajnavalkya and other Brahmans, while, in short, successive reformers as they appeared were either defeated or gained over to the cause of the Brahmans,—the seeds of discontent were growing up in the minds of the people. There is a dark chapter in the history of India, the reported destruction of all the Kshatriyas by Parsurama. It marks the beginning of the hierarchical supremacy of the Brahmans. Though the Brahmans seem never to have aspired to the royal power, their caste, as far as we know the history and traditions of India, has always been in reality the ruling caste. Their ministry was courted as the only means of winning divine favour, their doctrines were admitted as infallible, their gods were worshipped as the only true gods, and their voice was powerful enough to stamp the simple strains of the Rishis, and the absurd lucubrations of the authors of the Brahmans, with a divine authority. After this last step, however, the triumph of Brahmanism was preparing its fall. In India, less than in any other country, would people submit to a monopoly of truth; and the same millions who were patiently bearing the yoke of a political despotism threw off the fetters of an intellectual tyranny. In order to overthrow one of the oldest religions of the world, it was sufficient that one man should challenge the authority of the Brahmans, the gods of the earth (Bhudeva), and preach among the scorned and degraded creatures of God the simple truth that salvation was possible without the mediation of priests, and without a belief in books to which these very priests had given the title of revelation. This man was BUDDHA, a SAKYA MUNI. Now if we inquire how Buddha's doctrines were met by the Brahmans, it is true that here and there in their philosophical works, they have endeavoured to overthrow some of his metaphysical axioms by an appeal to reason. An attempt of this kind we have, for instance, in Vachaspati Misra's commentary on the Vedanta Sutras. In commenting on the tenets of Buddha, that "ideas like those of being, and not being, &c, do not admit of discussion", Vachaspati observes that the very fact of speaking of these ideas, includes the possibility of their conception; nay, that to affirm they do not admit of reasoning, involves an actual reasoning on them, and proves that the mind can conceive the idea of being as different from that of not-being.

"Such, however, were not the usual weapons with which Brahmanism fought against Buddhism. The principal objection has always been, that Buddha's teaching could not be true, because it

did not derive its sanction from Sruti or revelation. The Brahmans, as a caste, would readily have allowed being and not being, and the whole of Buddha's philosophy, as they did the Sankhya philosophy, which on the most important points is in open opposition to the Vedanta. But while Kapila, the founder of the Sankhya school, conformed to the Brahmanic test by openly proclaiming the authority of revelation as paramount to reasoning and experience, Buddha would not submit to this, either for his philosophical (abhidharma), or for his much more important moral and religious doctrines (vinaya). No doubt it would have been easy for him to show how some of his doctrines harmonised with passages of the Veda, as in the Veda all possible shades of the human mind have found their natural reflection. If he had done so only for some of his precepts, such, for instance, as, "Thou shall not murder", "Thou shall not drink", "Thou shall eat standing", the Brahmans would readily have passed over other doctrines, even such as came into practice after Buddha's death, like "Who longs for heaven, shall worship the holy sepulchre", "He shall pull out his hair", &c. As he refused to do so, the line of argument taken by the Brahmans was simply confined to an appeal to revelation, in disproof of the possibility of the truth of Buddha's doctrines.

"There must be something very tempting in this line of argument, for we see that in later times the Buddhists also endeavoured to claim the same divine character for their sacred writings which the Brahmans had established for the Veda. A curious instance of this is given in the following discussion, from Kumarila's Tantra-varttika. Here the opponent (purva-paksha) observes, that the same arguments which prove that the Veda is not the work of human authors, apply with equal force to Sakya's teaching. His authority, he says, cannot be questioned, because his precepts are clear and intelligible; and as Sakya is not the inventor, but only the teacher of these precepts, and no name of an author is given for Sakya's doctrines, the frailties inherent in human authors affect them as little as the Veda. Everything, in fact, he concludes, which has been brought forward by the Mimansakas to prove the authority of the Veda, proves in the same way the authority of Buddha's doctrine, Upon this, the orthodox Kumarila grows very wroth, and says: "These Sakyas, Vaiseshikas, and other heretics who have been frightened out of their wits by the faithful Mimansakas, prattle away with our own words as if trying in lay hold of a shadow. They say that their sacred works are eternal; but they are of empty minds, and only out of hatred they wish to deny that the Veda is the most

ancient book. And these would-be logicians declare even, that some of their precepts (which they have stolen from us,) like that of universal benevolence, are not derived from the Veda, because most of Buddha's other sayings are altogether against the Veda. Wishing, therefore, to keep true on this point also, and seeing that no merely human precept could have any authority on moral and supernatural subjects, they try to veil their difficulty by aping our own argument for the eternal existence of the Veda. They know that the Mimansakas have proved that no sayings of men can have any authority on supernatural subjects; they know also that the authority of the Veda cannot be controverted, because they can bring forward nothing against the proofs adduced for its divine origin, by which all supposition of a human source have been removed. Therefore, their hearts being gnawed by their own words, which are like the smattering of children, and having themselves nothing to answer, because the deception of their illogical arguments has been destroyed, they begin to speak like a foolish suitor who came to ask for a bride, saying, 'My family is as good as your family'. In the same manner they now maintain the eternal existence of their books, aping the speeches of others. And if they are challenged and told that this is our argument, they brawl, and say that we, the Mimansakas have heard and stolen it from them. For a man who has lost all scheme, who can talk away without any sense, and tries to cheat his opponent, will never get tired, and will never be put down!" Towards the end of this harangue, Kumarila adds, what is more to the point, that the Buddhas, who ascribe to everything a merely temporary existence, have no business to talk of an eternal revelation."

From the foregoing discussion it will be seen that Caste is born in religion which has consecrated it and made it Sacred so that it can be rightly and truly said that Religion is the Rock on which the Hindus have built their social structure.

Does this not show that Caste is a very peculiar institution not to be compared with other forms of social grouping? I venture to say that any one who maintains that there is nothing strange in caste simply does not know what Caste is. I repeat that Caste is Sacred, which is its distinguishing feature. Caste is Sacred, which is what makes it abiding.

Prof. Max Muller makes some very instructive observations on the effects of Religion with Sacred books on the progress of Society. Says Max Muller:

"History, however, teaches us another lesson, namely that codes of law are apt to become a kind of fetish, requiring an implicit and

unquestioning submission, that their historical or natural origin is often completely forgotten, and that the old ideas of what is right and just are almost absorbed, nay, almost annihilated, in the one idea of what is written and legal.

"The study of Eastern religions teaches us the same lesson. Sacred books often become a kind of fetish, requiring an implicit and unquestioning faith; their historical or natural origin is often completely forgotten, and the old ideas of what is true and divine are almost absorbed in the one idea of what is written and orthodox.

"And there is a third lesson which history teaches us. The sense of responsibility of every citizen for the law under which he lives is in great danger of becoming deadened, when law becomes a profession and is administered with mechanical exactness rather than with a strong human perception of what is right and what is wrong. Nor can it be denied that the responsibility of every believer for the religion under which he lives is in the same danger of becoming deadened, when religion becomes a profession, and is administered with ceremonial exactness rather than with a strong human perception of what is true and what is false.

"My object, however, is not to show the dangers which arise from sacred books, but rather to protest against the prejudice which prevails so widely against religions which have no sacred books.

"There is great difference between book-religions and bookless religions, and the difference offers, from an historical point of view, a very true ground of division. But because the book-religions, have certain advantages, we must not imagine that the bookless religions are mere outcasts. They have their disadvantages, no doubt; but they have a few advantages also.

"A Blackfoot Indian, when arguing with a Christian missionary, described the difference between his own religion and that of the white man in the following words:

'There were two religions given by the Great Spirit, one in a book for the guidance of the white men who, by following its teachings, will reach the white man's heaven; the other is in the hands of the Indians, in the sky, rocks, rivers, and mountains. And the red men who listen to God in nature will hear his voice, and find at last the heaven beyond.'

"Now that religion which is in the head and in the heart, and in the sky, the rocks, the rivers and the mountains is what we call Natural Religion. It has its roots in nature, in human nature, and in that external nature which to us is at the same time the veil and the

revelation of the Divine. It is free, it grows with the growth of the human mind, and adapts itself to the requirements of every age. It does not say, 'Thou shalt', but rather, 'I will'. These natural or bookless religions are not entirely without settled doctrines and established customs. They generally have some kind of priesthood to exercise authority in matters of faith, morality, and ceremonial. But there is nothing hard and unchangeable in them, nothing to fetter permanently the growth of thought. Errors when discovered, can be surrendered, a new truth, if clearly seen and vigorously defended, can be accepted. If, however, there is once a book, something black on white, the temptation is great, is almost irresistible, to invest it with a more than human authority in order to appeal to it as infallible, and as beyond the reach of human reasoning. We can well understand what the ancient poets of the Veda meant by calling their hymns God-given, or by speaking of them as what they had seen or heard, not what they had elaborated themselves. But a new generation gave a new meaning to these expressions, and ended by representing every thought and word and letter of the Veda as 'God-given,' or revealed. This was the death-blow given to the Vedic religion, for whatever cannot grow and change must die. From this danger the bookless religion are exempt."

Similar observations are made by Sir William Muir. Speaking of Islam he has given powerful expression to the dangers arising from Sacred Codes of Religion. Sir William Muir says:

" From the stiff and rigid shroud in which it is thus swathed, the religion of Mahomed cannot emerge. It has no plastic power beyond that exercised in its earliest days. Hardened now and inelastic, it can neither adapt itself, nor yet shape its votaries, nor even suffer them to shape themselves, to the varying circumstances, the wants and developments of mankind" . (Quoted by E de Bunsen in an article in the Asiatic Quarterly Review, April, 1889, Mahomed's Place in the Church, p. 287.)

Every one who is interested in the progress of humanity cannot fail to echo these sentiments regarding the social consequences of Sacred Codes of Religion. But it seems to me that a further distinction is possible within the Class of Religion with Sacred Codes. It is a pity that Prof. Max Muller did not pursue the matter further. But it is worth pursuing because it discloses a difference which is very real which marks off the Hindus as a people with a Sacred Code of Religion from other people also possessing a Sacred Code of Religion. The difference will be clear if one begins to examine the different religions to find out what are the objects which religions have sought to consecrate.

Such an examination will show that there are instances where Society has consecrated inanimate things and inculcated on the minds of its members the religious belief that they are sacred. There are cases where stones, rivers, trees are made gods and goddesses. There are instances where Society has consecrated living things and inculcated on the minds of its members the religious belief that they are sacred. There are cases of animals which have become clan totems. There are instances where Society has consecrated human beings and inculcated the religious beliefs that they are sacred. But there are no instances where a particular Social Order has been consecrated by Religion and made Sacred. The primitive world had its clan order and its tribal order. But the clan or the tribal order was only a social order and was never consecrated by religion and made sacred and inviolate. The ancient world countries like Egypt, Persia, Rome, Greece etc., each had its social order in which some were free and some were slaves, some were citizens, some were aliens, some of one race, some of another. This class order again was only a social order and was never consecrated by religion and made sacred and inviolate. The modern world has its order, in some it is Democracy, in some Fascism, in some Nazism and in some Bolshevism. But here again the order is only Social order. It is not consecrated by religion and made sacred and inviolate.

Nowhere has Society consecrated its occupations, the ways of getting a living. Economic activity has always remained outside the sanctity of religion. Hunting society was not without religion. But hunting as an occupation was not consecrated by religion and made sacred. Pastrol Society was not without religion. But pasturage was not consecrated by religion and made sacred. Farming as an occupation did not become consecrated by religion and made sacred. Feudalism with its gradations, with its Lords, villiens and serfs was a purely social in character. There was nothing sacred about it.

The Hindus are the only people in the world whose Social order—the relation of man to man is consecrated by religion and made sacred eternal and inviolate. The Hindus are the only people in the world whose economic order—the relation of workman to workman—is consecrated by religion and made sacred, eternal and inviolate.

It is not therefore enough to say that the Hindus are a people with a sacred code of Religion. So are the Zoroastrians, Israelites, Christians and Muslims. All these have sacred codes. They consecrate beliefs and rites and make them sacred. They do not prescribe, nor do they consecrate a particular form of social structure—the relationship between man and man in a concrete form—and make it sacred

inviolate. The Hindus are singular in this respect. This is what has given caste its abiding strength to defy the ravages of time and the onslaughts of time.

There is one other respect in which Hindus differ from other folk possessing codified religions similar to that of the Hindus. The Hindu Code of Religion is a revelation from God. That is why the Vedas are called Shruti (what is heard). So are the Codes of Religions accepted by the Zoroastrians, Jews, Christians and Muslims. Ask to whom this God's word sent to the Zoroastrian, Jews, Christians, and Muslims was revealed, who heard this word of God ? The Zoroastrian will say that the word of God contained in their Religious Code was heard by Zoroaster. The Jews will say it was heard by Moses, Christians will say it was heard by Jesus and Muslims will say it was heard by Muhammad. Now ask the Hindu who heard the word of God contained in the Vedas, to whom was it revealed. The Hindu has no answer. He cannot name the person who heard this word of God. Now the Mantras contained in the Vedas have their authors mentioned in the Vedas themselves. But the Hindus will not say that these are the persons who heard the word of God which is contained in the Vedas. This difference goes a great way to protect the sacred character of the Vedas. For the Bible as a Sacred Book can be attacked by attacking the character of Moses or Jesus. Similarly the Koran as a Sacred Book can be attacked by attacking the character of Mahomed. But the Veda cannot be attacked by attacking the character of the messenger or the founder. For the simple reason that there is none.

As I have said Religion is the Rock on which the Hindus have built their house. It will now be seen that it is not an ordinary sort of hard Rock. It is granite.

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CHAPTER 18
TOUCHABLES V/S UNTOUCHABLES

I

A relationship of touchables against untouchables may cause surprize. Such a surprize will not be altogether without reason. The touchables are not one uniform body of people. They are themselves divided into innumerable castes. Each Hindu is conscious of the caste to which he belongs. Given this heteroginity it does seem that to include all the touchable castes into one group and put them as forming a block against the untouchables is to create a division which can have no meaning. But although this division of touchables against untouchables may require explanation, the division so far as modern India is concerned is real and substantial.

The explanation of how the touchables have now become one block and are conscious of their being different from the untouchables means nothing but recounting the mutual relationship of the four Varnas.

At the outset it must be borne in mind that those who like Mr. Gandhi accept the Chaturvarna as an ideal form of society, either do not know the history of the mutual relations of the four Varnas or are cherishing an illusion or conjuring up a vision for purposes which they are out to serve. For, the fact is that the four Varnas never formed a society based on loving brotherhood or on economic organization based on cooperative effort. The four Varnas were animated by nothing but a spirit of animosity towards one another. There would not be the slightest exaggeration to say that the social history of the Hindus is a history not merely of class struggle but class war fought with such bitterness that even the Marxist will find it difficult to cite parallel cases to match.

It seems that the first class-struggle took place between the Brahmins, Kshatriyas and Vaishyas on the one hand and the Shudras on the other.

In Katyayana's Srauta Sutras, it is said, that "men with the exception of those whose members are defective, who have not read the Veda, eunuchs, and Shudras, have a right to sacrifice. It is Brahmanas,

Rajanyas and Vaishyas (only who) according to the Veda (possess this privilege)".

We are told by Manu that *(Quotation not given in the MS.).**

Manu also says that *(Quotation not given in the MS.).*

Compare with this the following instances and statements relating to the status of the Shudra occurring in the Vedic literature of a period earlier than Manu and even earlier than Katyayana.

Prof. Max Muller calls attention to two instances showing that Shudras were admitted to great sacrifices such as "*gavedhukacharu ".* One is that of Rathakara and the other of Nishadasthapati, both Shudras.

It might however be supposed that this was a concession made to the exceptional men from the Shudras. That it was not a mere concession but a right enjoyed by the Shudras is beyond question. In the Satapatha Brahmana which is a part of the Veda, the formula for the Brahmin Priest to call the sacrificer to come and make the oblation is given. He is asked to say *ehi,* come, in the case of a Brahman; *Agahi* 'come hither', in the case of a Vaishya; *Adrava,* 'hasten hither' in the case of a Kshatriya and *Adhava,* 'run hither' in the case of a Shudra.

This passage is of very great importance. It shows that the Shudra had at one time the right to sacrifice. Otherwise a form of address for a Shudra sacrificer could not have found a place in the Vedic precept. If the Shudra had a right to sacrifice, they also must have had a right to study the Vedas.

For, according to Katyayana, only those who had the right to read the Vedas were entitled to perform the sacrifice. That the Shudras were at one time entitled to read the Vedas is a fact which is well supported by tradition which is referred to in the Shanti Parva of the Mahabharat, where the sage Bhrigu answers the question "How is Varna to be determined ?" in the following terms:

> "There is no difference of castes; this world, having been at first created by Brahma entirely Brahmanic, became (afterwards) separated into castes in consequence of works. 6940. Those Brahmans (lit. twice born men), who were fond of sensual pleasure, fiery, irascible, prone to violence, who had forsaken their duty, and were red-limbed, fell into the condition of Kshatriyas. Those Brahmans, who derived their livelihood from kine, who were yellow, who subsisted by agriculture, and who neglected to practise their, duties, entered into the state of Vaisyas. Those Brahmans, who were addicted to mischief and falsehood, who were covetous, who lived

* *Attention of the reader is however, drawn to Chapter 16 of Vol. 3 of the present series which deals with Laws of Manu relating to the degradation of the Shudras and which seems relevant at this place.*—Ed.

> by all kinds of works, who were black and had fallen from purity, sank into the condition of Sudras. Being separated from each other by these (works, the Brahmans became divided into different castes. Duty and the rites of sacrifice have not been always forbidden to (any of) them. Such are four classes for whom the Brahmanic Sarasvati was at first designed by Brahma, but who through their cupidity fell into ignorance."

Interpreting the word "Brahmanic Sarasvati" the Commentator says:

> "Sarasvati, consisting of the Veda, was formerly designed by Brahma for all the four castes; but the Shudras having through cupidity fallen into 'ignorance i.e. of darkness,' lost their right to the Veda."

After the Shudra was reduced came the turn of the Vaishya.

The bitterest class war took place between the Brahmins and the Kashatriyas. The classical literature of the Hindus abounds in reference to class wars between these two Varnas.

First was the conflict between the Brahmins and King Vena.

> "There was formerly a Prajapati (lord of creatures), a protector of righteousness, called Anga, of the race of Atri, and resembling him in power. His son was the Prajapati Vena, who was but indifferently skilled in duty, and was born of Sunitha, the daughter of Mritya. This son of the daughter of Kala (death), owing to the taint derived from his maternal grandfather, threw his duties behind his back and lived in covetousness under the unfluence of desire. This king established an irreligious system of conduct; transsgresing the ordinances of the Veda, he was devoted to lawlessness. In his reign men lived without study of the sacred books and without the vashatkara, and the gods had no Soma-libations to drink at sacrifices. 'I', he declared, 'am the object, and the performer of sacrifice, and the sacrifice itself, it is to me that sacrifice should be presented, and oblations offered.' This transgressor of the rules of duty, who arrogated to himself what was not his due, was then addressed by all the great rishis, headed by Marichi: 'We are about to consecrate ourselves for a ceremony which shall last for many years, practice not unrighteousness, o Vena; this is not the eternal rule of duty. Thou art in very deed a Prajapati of Atri's race, and thou hast engaged to protect thy subjects.' The foolish Vena, ignorant of what was right, laughingly answered those great rishis who had so addressed him: ' Who but myself is the ordainer of duty? or whom ought I to obey? Who on earth equals me in sacred

knowledge, in prowess, in austere fervour, in truth? Ye who are deluded and senseless know not that I am the source of all beings and duties. Hesitate not to believe that I, if I willed, could burn up the earth, or deluge it with water, or close up heaven and earth'. When owing to his delusion and arrogance Vena could not be governed, then the mighty rishis becoming incensed, seized the vigorous and struggling king, and rubbed his left thigh. From this thigh, so rubbed, was produced a black man, very short in stature, who, being alarmed, stood with joined hands. Seeing that he was agitated, Atri said to him 'Sit down' (nishida). He became the founder of the race of the Nishadas, and also progenitor of the Dhivaras (fisherman), who sprang from the corruption of Vena. So too were produced from him the other inhabitants of the Vindhya range, the Tukharas and Tumburas, who are prone to lawlessness. Then the mighty sages, excited and incensed, again rubbed the right hand of Vena, as men do the Arani wood, and from it arose Pritha, respondent in body, glowing like the manifested Agni."

"The son of Vena (Prithu) then, with joined hands, addressed the great rishis: 'A very slender understanding for perceiving the principles of duty has been given to me by nature; tell me truly how I must employ it. Doubt not that I shall perform whatever you shall declare to me as my duty, and its object.' Then those gods and great rishis said to him: 'Whatever duty is enjoined perform it, without hesitation, disregarding what thou mayest like or dislike, looking on all creatures with an equal eye, putting far from the lust, anger, cupidity, and pride. Restrain by the strength of thine arm all those men who swerve from righteousness, having a constant regard to duty. And in thought, act, and word take upon thyself, and continually renew, the engagement to protect the terrestrial Brahman (Veda or Brahmans?)..... And promise that thou wilt exempt the Brahmans from punishment, and preserve society from the confusion of Castes'. The son of Vena then replied to the gods, headed by the rishis: 'The great Brahmans, the chief of men, shall be reverenced by me'. 'So be it,' rejoined those declares of the Veda. Sukra, the depository of divine knowledge, became his purohita; the Balakhilyas and Sarasvetyas his ministers; and the venerable Garga, the great rishi, his astrologer."

The second conflict took place between the Brahmins and the Kshatriya king Pururavas. A brief reference to it occurs in the Adiparva of the Mahabharat.

> "Subsequently the wise Pururavas was born of 11, who, as we have heard, was both his father and his mother. Ruling over thirteen islands of the ocean, and surrounded by being who were all superhuman, himself a man of great renown, Pururavas, intoxicated by his prowess, engaged in a conflict with the Brahmans, and robbed them of their jewels, although they loudly remonstrated. Sanatkumara came from Brahma's heaven, and addressed to him an admonition, which, however, he did not regard. Being then straightway cursed by the incensed rishis, he perished, this covetous monarch, who, through pride of power, had lost his understanding. This glorious being (virat), accompanied by Urvasi, brought down for the performance of sacred rites the fires which existed in the heaven of the Gandharvas, properly distributed into three."

A third collision is reported to have occurred between the Brahmins and King Nahusha. The story is given in great details in the Udyogaparva of the Mahabharata. It is there recorded:

> "After his slaughter of the demon Vrittra, Indra became alarmed at the idea of having taken the life of a Brahmin (for Vrittra was regarded as such), and hid himself in waters. In consequence of the disappearance of the king of gods, all affairs, celestial as well as terrestrial, fell into confusion. The rishis and gods then applied to Nahusha to be their king. After at first excusing himself on the plea of want of power, Nahusha at length, in compliance with their solicitations, accepted the high function. Up to the period of his elevation he had led a virtuous life, but he now became addicted to amusement and sensual pleasure; and even aspired to the possession of Indrani, Indra's wife, whom he had happened to see. The queen resorted to the Angiras Vrihaspati, the preceptor of the gods, who engaged to protect her. Nahusha was greatly incensed on hearing of this interference; but the gods endeavoured to pacify him, and pointed out the immorality of—appropriating another person's wife. Nahusha, however, would listen to no remonstrance, and insisted that in his adulterous designs he was no worse than Indra himself; 373. The renowned Ahalya, a rishi's wife, was formerly corrupted by Indra in her husband's lifetime; Why was he not prevented by you? 374. And many barbarous acts, and unrighteous deeds, and frauds, were perpetrated of old by Indra; Why was he not prevented by you? The gods, urged by Nahusha, then went to bring Indrani; but Vrihaspati would not give her up. At his recommendation, however, she solicited Nahusha for some delay, till she should

ascertain what had become of her husband. This request was granted. The gods next applied to Vishnu on behalf of Indra; and Vishnu promised that if Indra would sacrifice to him, he should be purged from his guilt, and recover his dominion, while Nahusha would be destroyed. Indra sacrificed accordingly; and the result is thus told; "Having divided the guilt of Brahmanicide among trees, rivers, mountains, the earth, women, and the elements, Vasava (Indra), lord of the gods, became freed from suffering and sin, and self-governed." Nahusha was by this means, shaken from his place. But (unless this is said by way of prelepsis, or there is some confusion in the narrative) he must have speedily regained his position, as we are told that Indra was again ruined, and became invisible. Indrani now went in search of her husband; and by the help of Upasruti (the goddess of night and revealer of secrets) discovered him existing in a very subtle form in the stem of a lotus growing in a lake situated in a continent within an ocean north of the Himalaya. She made known to him the wicked intention of Nahusha, and entreated him to exert his power, rescue her from danger, and resume his dominion. Indra declined any immediate interposition on the plea of Nahusha's superior strength; but suggested to his wife a device by which the usurper might be hurled from his position. She was recommended to say to Nahusha that "if he would visit her on a celestial vehicle borne by rishis, she would with pleasure submit herself to him". The question of the gods accordingly went to Nahusha, by whom she was graciously received, and made this proposal: "I desire for thee, king of the gods, a vehicle hitherto unknown, such as neither Vishnu, nor Rudra, nor the asuras, nor the rakshases employ. Let the eminent rishis, all united, bear thee, lord, in a car: this idea pleases me". Nahusha receives favourably this appeal to his vanity, and in the course of his reply thus gives utterance to his self-congratulation: "He is a personage of no mean prowess who makes the munis his bearers. I am a fervid devotee of great might, lord of the past, the future and the present. If I were angry the world would no longer stand; on me everything depends.... Wherefore, O goddess, I shall, without doubt, carry out what you propose. The seven rishis, and all the Brahman-rishis, shall carry me. Behold beautiful goddess, my majesty, and my prosperity.." The narrative goes on: "Accordingly this wicked being, irreligious, violent, intoxicated by the force of conceit, and arbitrary in his conduct, attached to his car the rishis, who submitted to his commands, and compelled them to bear him". Indrani then again resorts to Vrihaspati, who assures her that

vengeance will soon overtake Nahusha for his presumption; and promises that he will himself perform a sacrifice with a view to the destruction of the oppressor, and the discovery of Indra's lurking place. Agni is then sent to discover and bring Indra to Vrihaspati; and the latter, on Indra's arrival, informs him of all that had occurred during his absence. While Indra with Kuvera, Yama, Soma, and Varuna, was devising means for the destruction of Nahusha, the sage Agastya came up, congratulated Indra on the fall of his rival, and proceeded to relate how it had occurred: Wearied with carrying the sinner Nahusha, the eminent divine rishis, and the spotless brahman-rishis asked that divine personage Nahusha (to solve) a difficulty; ' Dost thou, a Vasava, most excellent of conquerors, regard as authoritative or not those Brahmana texts which are recited at the immolation of kine?' 'No', replied Nahusha, whose understanding was enveloped in darkness. The rishis rejoined: 'Engaged in unrighteousness, thou attainest not unto righteousness: these texts, which were formerly uttered by great rishis, are regarded by us as authoritative.' The (proceeds Agastya) disputing with the munis, Nahusha, impelled by unrighteousness, touched me on the head with his foot. In consequence of this the king's glory was smitten and his prosperity departed. When he had instantly become agitated and oppressed with fear, I said to him,'Since thou, O fool, contemnest that sacred text, always held in honour, which has been composed by former sages, and employed by brahman-rishis, and hast touched my head with thy foot, and employest the Brahma—like and irresistible rishis as bearers to carry thee,—therefore, shorn of thy lustre and all thy merit exhausted, sink down, sinner, degraded from heaven to earth. For then thousand years thou shalt crawl in the form of a huge serpent. When that period is completed, thou shalt again ascend to heaven'. So fell that wicked wretch from the sovereignty of the gods."

Next there is reference to the conflict between King Nimi and the Brahmins. The Vishnu Puran relates the story as follows:

"Nimi had requested the Brahman-rishi Vashishtha to officiate at a sacrifice, which was to last a thousand years, Vashishtha in reply pleaded a pre-engagement to Indra for five hundred years, but promised to return at the end of that period. The king made no remark, and Vashishtha went away, supposing that he had assented to this arrangement. On his return, however, the priest discovered that Nimi had retained Gautama (who was, equally with Vashishtha a Brahman-rishi) and others to perform the sacrifice; and being

incensed at the neglect to give him notice of what was intended, he cursed the king, who was then asleep, to lose his corporeal form. When Nimi awoke and learnt that he had been cursed without any previous warning, he retorted, by uttering a similar curse on Vashishtha, and then died. "In consequence of this curse" (proceeds Vishnu Purana, iv. 5, 6) "the vigour of Vashishtha entered into the vigour of Mitra and Varuna. Vashishtha, however, received from them another body when their seed had fallen from them at the sight of Urvashi". Nimi's body was emblamed. At the close of the sacrifice which he had begun, the gods were willing, on the intercession of the priests, to restore him to life, but he declined the offer, and was placed by the deities, according to his desire, in the eyes of all living creatures. It is in consequence of this fact that they are always opening the shutting (Nimishas means "the twinkling of the eye")".

Manu mentions another conflict between the Brahmins and King Sumukha. But of this no details are available.

These are instances of conflict between the Brahmins and the Kshatriya Kings. From this it must not be supposed that the Brahmins and the Kshatriyas as two classes did not clash. That there were clashes between these two classes as distinguished from conflicts with kings is abundantly proved by material the historic value of which cannot be doubted. Reference may be made to three events.

First is the contest between the Vishvamitra the Kshatriya and Vashishtha the Brahmin. The issue between the two was whether a Kshatriya can claim Brahminhood.

The story is told in Ramayana and is as follows :

"There was formerly, we are told, a king called Kusa, son of Prajapati, who had a son called Kushanabha, who was father of Gadhi, the father of Vishvamitra. The latter ruled the earth for many thousand years. On one occasion, when he was making a circuit of the earth, he came to Vashistha's hermitage, the pleasant abode of many saints, sages, and holy devotees, where, after at first declining he allowed himself to be hospitably entertained with his followers by the son of Brahma. Vishvamitra, however, coveting the wondrous cow, which had supplied all the dainties of the feast, first of all asked that she should be given to him in exchange for a hundred thousand common cows, adding that "she was a gem, that gems were the property of the king, and that, therefore, the cow was his by right". On this price being refused the king advances immensely in his offers, but all without effect. He then proceeds—very ungratefully and tyrannically, it must be allowed—to have the

cow removed by force, but she breaks away from his attendants, and rushes back to her master, complaining that he was deserting her. He replies that he was not deserting her, but that the king was much more powerful than he. She answers, "Men do not ascribe strength to a Kshatriya: the Brahmans are stronger. The Strength of Brahmans is divine, and superior to that of Kshatriya. Thy strength is immeasurable. Vishvamitra, though of great vigour, is not more powerful than thou. Thy energy is invincible. Commission me, who have been acquired by thy Brahmanical power, and I will destroy the pride, and force, and attempt of this wicked prince". She accordingly by her bellowing creates hundreds of Pahalvas, who destroy the entire host of Vishvamitra, but are slain by him in their turn. Sakas and Yavans, of great power and valour, and well armed, were then produced, who consumed the king's soldiers, but were routed by him. The cow then calls into existence by her bellowing, and from different parts of her body, other warriors of various tribes, who again destroyed Vishvamitra's entire army, foot soldiers, elephants, horses, chariots, and all. A hundred of the monarch's sons, armed with various weapons, then rushed in great fury on Vashishtha, but were all reduced to ashes in a moment by the blast of that sage's mouth. Vishvamitra, being thus utterly vanquished and humbled, appointed one of his son to be regent, and travelled to the Himalaya, where he betook himself to austerities, and thereby obtained a vision of Mahadeva, who at his desire revealed to him the science of arms in all its branches, and gave him celestial weapons with which, elated and full of pride, he consumed the hermitage of Vashishtha, and put its inhabitants to flight. Vashishtha then threatens Vishvamitra and uplifts his Brahmanical mace. Vishvamitra too, raises his fiery weapon and calls out to his adversary to stand. Vashishtha bids him to show his strength, and boasts that he will soon humble his pride. He asks: "What comparison is there between a Kshatriya's might, and the great might of a Brahman? Behold, thou contemptible Kshatriya, my divine Brahmanical power. The dreadful fiery weapon uplifted by the son of Gadhi was then quenched by the rod of the Brahman, as fire is by water." Many and various other celestial missiles, as the nooses of Brahma, Kala (time), and Varuna, the discuss of Vishnu, and the trident of Siva, were hurled by Vishvamitra at his antagonist, but the son of Brahma swallowed them up in his all-devouring mace. Finally, to the intense consternation of all the gods, the warrior shot off the terrific weapon of Brahma (brahmastra); but this was equally ineffectual against the Brahmanical sage.

Vashishtha had now assumed a direful appearance: "Jets of fire mingled with smoke darted from the pores of his body; the Brahmanical mace blazed in his hand like a smokeless mundane conflagration, or a second sceptre of Yama." Being appeased, however by the munis, who proclaimed his superiority to his rival, the sage stayed his vengeance; and Vishvamitra exclaimed with a groan: "Shame on a Kshatriya's strength: the strength of a Brahman's might alone is strength: by the single Brahmanical mace all my weapons have been destroyed." No alternative now remains, to the humiliated monarch, but either to acquiesce in this helpless inferiority, or to work out his own elevation to the Brahmanical order. He embraces the latter alternative: "Having pondered well this defeat, I shall betake myself, with composed senses and mind, to strenuous austere fervour, which shall exalt me to the rank of a Brahman". Intensely vexed and mortified, groaning and full of hatred against his enemy, he travelled with his queen to the south, and carried his resolution into effect; and we are first of all told that three sons Havishyanda, Madhusyanda, and Dridhanetra were born to him. At the end of a thousands years Brahma appeared, and announced that he had conquered the heaven of royal sages (rajarshis); and, in consequence of his austere fervour, he was recognised as having attained that rank. Vishvamitra, however, was ashamed, grieved, and incensed at the offer of so very inadequate a reward, and exclaimed; "I have practised intense austerity, and the gods and rishis regard me only as a rajarshi. Austerities, it appears, are altogether fruitless". Notwithstanding this disappointment, he had ascended one grade, and forthwith recommenced his work of mortification.

"At this point of time his austerities were interrupted by the following occurrences: King Trisanku, one of Ikshvaku's descendants, had conceived the design of celebrating a sacrifice by virtue of which he should ascend bodily to heaven. As Vashishtha, on being summoned, declared that the thing was impossible (asakyam), Trisanku travelled to the south, where the sage's hundred sons were engaged in austerities, and applied to them to do what their father had declined. Though he addressed them with the greatest reverence and humility, and added that "the Ikshvaku regarded their family-priests as their highest resource in difficulties, and that, after their father, he himself looked to them as his tutelary deities" he received from the haughty priests the following rebuke for his presumption: "Asakyam" "Fool, thou hast been refused by thy truth speaking preceptor. How is it that, disregarding his

authority, thou hast resorted to another school (sakha). The family priest is the highest oracle of all the Ikshvakus; and the command of that veracious personages cannot be transgressed. Vashishtha, the. divine rishi, has declared that 'the thing cannot be'; and how can we undertake thy sacrifice? Thou art foolish king; return to thy capital. The divine (Vashishtha) is competent to act as priest of the three worlds; how can we shew him disrespect ? " Trisanku then gave them to understand, that as his preceptor and "his preceptor's sons had declined compliance with his requests, he should think of some other expedient." In consequence of his venturing to express this presumptuous intention, they condemned him by their imprecation to become a Chandala. As this curse soon took effect, and the unhappy king's form was changed into that of a degraded outcast, he resorted to Vishvamitra (who, as we have seen, was also dwelling at this period in the south), enlarging on his own virtues and piety, and bewailing his fate. Vishvamitra commiserated his condition, and promised to sacrifice on his behalf, and exalt him to heaven in the same Chandala-form to which he had been condemned by his preceptor's curse. "Heaven is now as good as in thy possession, since thou hast resorted to the son of Kusika". He then directed that preparations should be made for the sacrifice, and that all the rishis, including the family of Vashishtha, should be invited to the ceremony. The disciples of Vishvamitra, who had conveyed his message, reported the result on their return in these words: "Having heard your message, all the Brahmans are assembling in all the countries, and have arrived, excepting Mahodaya (Vashishtha). Hear what dreadful words those hundred Vashishthas, their voices quivering with rage, have uttered: 'How can the gods and rishis consume the oblation at the sacrifice of that man, especially if he be a Chandala, for whom a Kshatriya is officiating priest ? How can illustrious Brahmans ascend to heaven, after eating the food of a Chandala, and being entertained by Vishvamitra ? "These ruthless words all Vashisthas, together with Mahodaya, uttered, their eyes inflamed with anger. Vishvamitra, who was greatly incensed on receiving this message, by a curse doomed the sons of Vashishtha to be reduced to ashes, and reborn as degraded outcasts (mritapah) for seven hundred births, and Mahodaya to become a Nishada. Knowing that this curse had taken effect, Vishvamitra thereafter eulogizing Trisanku, proposed to the assembled rishis that the sacrifice should be celebrated. To this they assented, being actuated by fear of the terrible sage's wrath. Vishvamitra himself officiated at the sacrifice as yajakas; and the other rishis as priests (ritvijah) with

other functions performed all the ceremonies. Vishvamitra next invited the gods to partake of the oblations: "When, however, the deities did not come to receive their portions, Vishvamitra became full of wrath, and raising aloft the sacrificial ladle, thus addressed Trisanku: 'Behold, O monarch, the power of austere fervour acquired by my own efforts. I myself, by my own energy, will conduct thee to heaven. Ascend to that celestial region which is so arduous to attain in an earthly body. I have surely earned some reward of my austerity'." Trisanku ascended instantly to heaven in the sight of munis. Indra, however, ordered him to be gone, as person who, having incurred the curse of his spiritual preceptors, was unfit for the abode of the celestials;—and to fall down headlong to earth. He accordingly began to descend, invoking loudly, as he fell, the help of his spiritual patron. Vishvamitra, greatly incensed, called out to him to stop: "Then by the power of his divine knowledge and austere fervour created, like another Prajapati, other Seven Rishis (a constellation so called) in the southern part of the sky. Having proceeded to this quarter of the heavens, the renowned sage, in the midst of the rishis, formed another garland of stars, being overcome with fury. Exclaiming, 'I will create another Indra, or the world shall have no Indra at all,' he began, in his rage, to call gods also into being. The rishis, gods (Suras), and Asuras now became seriously alarmed and said to Vishvamitra, in a conciliatory tone, that Trisanku, "as he had been cursed by his preceptors, should not be admitted bodily into heaven, until he had undergone some lustration". The sage replied that he had given a promise to Trisanku, and appealed to the gods to permit his protege to remain bodily in heaven, and the newly created stars to retain their places in perpetuity. The gods agreed that "these numerous stars should remain, but beyond the Sun's path, and that Trisanku, like an immortal, with his head downwards should shine among them, and be followed by them," adding "that his object would be thus attained, and his renown secured, and he would be like a dweller in heaven". Thus was this great dispute adjusted by a compromise, which Vishvamitra accepted.

"This story of Trisanku, it will have been observed, differs materially from the one quoted above from the Harivamsa; but brings out more distinctly the character of the conflict between Vashishtha and Vishvamitra.

"When all the gods and rishis had departed at the conclusion of the sacrifice, Vishvamitra said to his attendant devotees; "This has been a great interruption (to our austerities) which has occurred in

the southern region: we must proceed in another direction to continue our penances". He accordingly went to a forest in the west, and began his austerities anew. Here the narrative is again interrupted by the introduction of another story, that of king Ambarisha, king of Ayodhya, who was, according to the Ramayana, the twentyeighth in descent from Ikshvaku, and the twentysecond from Trisanku. Vishvamitra is nevertheless represented as flourishing contemporaneously with both of these princes. The story relates that Ambarisha was engaged in performing a sacrifice, when Indra carried away the victim. The priest said that this ill-omened event had occurred owing to the king's bad administration; and would call for a great expiation, unless a human victim could be produced. After a long search the royal rishi (Ambarisha) came upon the Brahman-rishi Richika, a descendant of Bhrigu, and asked him to sell one of his sons for a victim, at the price of a hundred thousand cows. Richika answered that he would not sell his eldest son; and his wife added that she would not sell the youngest: "eldest sons," she observed, "being generally the favourites of their fathers, and youngest sons of their mothers". The second son, Sunassepa, then said that in that case he regarded himself as the one who was to be sold, and desired the king to remove him. The hundred thousand cows, with the millions of gold-pieces and heaps of jewels, were paid down, and Sunassepa carried away. As they were passing through Puskara Sunassepa beheld his maternal uncle Vishvamitra who was engaged in austerities there with other rishis, threw himself into his arms, and implored his assistance, urging his orphan, friendless, and helpless state, as claims on the sage's benevolence. Vishvamitra soothed him; and pressed his own sons to offer themselves as victims in the room of Sunassepa. This proposition met with no favour from Madhushyanda and the other sons of the royal hermit, who answered with haughtiness and derision: "How is it that thou sacrificest thine own sons, and seekest to rescue those of others ? We look upon this as wrong, and like the eating of one's own flesh". The sage was exceedingly wroth at this disregard of his injunction, and doomed his sons to be born in the most degraded classes, like Vasishtha's sons, and to eat dog's flesh, for a thousand years. He then said to Sunassepa: "When thou art bound with hallowed cords, decked with a red garland, and annointed with ungents, and fastened to the sacrificial post of Vishnu, then address thyself to Agni, and sing these two divine verses (gathas), at the sacrifice of Ambarisha; then shall thou attain the fulfilment (of thy desire)".

Being furnished with the two gathas, Sunassepa proposed at once to king Ambarisha that they should set out for their destination. When bound at the stake to be immolated, dressed in a red garment, "he celebrated the two gods, Indra and his younger brother (Vishnu), with the excellent verses. The thousand-eyed (Indra) was pleased with the secret hymn, and bestowed long life on Sunassepa". King Ambarisha also received great benefits from this sacrifice. Visvamitra meanwhile proceeded with his austerities, which he prolonged for a thousand years.

"At the end of this time the gods came to allot his reward; and Brahma announced that he had attained the rank of a rishi, thus apparently advancing an additional step. Dissatisfied, as it would seem, with this, the sage commenced his task of penance anew. After a length of time he beheld the nymph (Apsara) Menka, who had come to bathe in the lake of Pushkara. She flashed on his view, unequalled in her radiant beauty, like lightning in a cloud. He was smitten by her charms, invited her to be his companion in his hermitage, and for ten years remained a slave to her witchery, to the great prejudice of his austerities. At length he became ashamed of this ignoble subjection, and full of indignation at what he believed to be a device of the gods to disturb his devotion; and, dismissing the nymph with gentle accents, he departed for the northern mountains, where he practised severe austerities for a thousand years on the banks of the Kausiki river. The gods became alarmed at the progress he was making, and decided that he should be dignified with the appellation of great rishi (maharshi); and Brahma, giving effect to the general opinion of the deities, announced that he had conferred that rank upon him. Joining his hands and bowing his head, Visvamitra replied that he should consider himself to have indeed completely subdued his senses, if the incomparable title of Brahman-rishi were conferred upon him. Brahma informed him in answer, that he had not yet acquired the power of perfectly controlling his senses; but should make further efforts with that view. The sage then began to put himself through a yet more rigorous course of austerities, standing with his arms erect, without support, feeding on air, in summer exposed to five fires (i.e. one on each of four sides, and the sun overhead), in the rainy season remaining unsheltered from the wet, and in winter lying on a watery couch night and day. This he continued for a thousand years. At last Indra and the other deities became greatly distressed at the idea of the merit he was storing up, and the power which he was thereby acquiring; and the chief of the celestials desired the nymph Rambha

to go and bewitch him by her blandishments. She expressed great reluctance to expose herself to the wrath of the formidable muni, but obeyed the repeated injunction of Indra, who promised that he and Kandarpa (the god of love) should stand by her, and assumed her most attractive aspect with the view of overcoming the sage's impassability. He, however, suspected this design, and becoming greatly incensed, he dommed the nymph by a curse to be turned into stone and to continue in that state for a thousand years. The curse took effect, and Kandarpa and Indra slunk away. In this way, though he resisted the allurements of sensual love, he lost the whole fruit of his austerities by yielding to anger; and had to begin his work over again. He resolved to check his irascibility, to remain silent, not even to breathe for hundreds of years; to dry up his body; and to fast and stop his breath till he had obtained the coveted character of a Brahman. He then left the Himalaya and travelled to the east, where he underwent a dreadful exercise, unequalled in the whole history of austerities, maintaining silence, according to a vow, for a thousand years. At the end of this time he had attained to perfection, and although thwarted by many obstacles, he remained unmoved by anger. On the expiration of this course of austerity, he prepared some food to eat; which Indra, coming in the form of a Brahman, begged that he would give him. Visvamitra did so, and though he had none left for himself, and was obliged to remain fasting, he said nothing to the Brahman, on account of his vow of silence. As he continued to suspend his breath, smoke issued from his head, to the great consternation and distress of the three worlds. The gods, rishis, etc., then addressed Brahma: "The great muni Visvamitra has been allured and provoked in various ways, but still advances in his sanctity. If his wish is not conceded, he will destroy the three worlds by the force of his austerity. All the regions of the universe are confounded, no light anywhere shines; all the oceans are tossed, and the mountains crumble, the earth quakes, and the wind blows confusedly. We cannot, O Brahma, guarantee that mankind shall not become atheistic..... Before the great and glorious sage of fiery form resolves to destroy (everything) let him be propitiated." The gods, headed by Brahma, then addressed Visvamitra: " Hail Brahman rishi, we are gratified by thy austerities; O Kausika, thou hast, through their intesity, attained to Brahmanhood. I, O Brahman, associated with the Maruts, confer on thee long life. May every blessing attend thee; depart wherever thou wilt.' The sage, delighted, made his obeisance to the gods, and said : 'If I have obtained Brahmanhood, and long life, then let the mystic

monosyllable (omkara) and the sacrificial formula (vashatkara) and the Vedas recognise me in that capacity. And let Vasishtha, the son of Brahma, the most eminent of those who are skilled in the Kshattra-veda, and the Brahma-veda (the knowledge of the Kshatriya and the Brahmanical disciplines), address me similarly.'..... Accordingly Vasishtha, being propitiated by the gods, became reconciled to Visvamitra, and recognised his claim to all the prerogatives of a Brahman rishi..... Visvamitra, too, having attained the Brahmanical rank, paid all honour to Vasishtha."

The second event has reference to the slaughter of the Brahmins by, the Kshatriyas. It is related in the Adiparva of the Mahabharat from which the following account is taken:

There was a king named Kritvirya, by whose liberality the Bhrigus, learned in the Vedas, who officiated as his priests, had been greatly enriched with corn and money. After he had gone to heaven, his descendants were in want of money, and came to beg for a supply from the Bhrigus, of whose wealth they were aware. Some of the latter hid their money under ground, others bestowed it on Brahmans, being afraid of the Kshatriyas, while others again gave these last what they wanted. It happened, however, that a Kshatriya, while digging the ground, discovered some money buried in the house of a Bhrigu. The Kshatriyas then assembled and saw this treasure, and, being incensed, slew in consequence all the Bhrigus, whom they regarded with contempt, down to the children in the womb. The widows, however, fled to the Himalaya mountains. One of them concealed her unborn child in her thigh. The Kshatriyas, hearing of its existence from a Brahmani informant, sought to kill it; but it issued forth from its mother's thigh with lustre, and blinded the persecutors. After wandering about bewildered among the mountains for a time, they humbly supplicated the mother of the child for the restoration of their sight; but she referred them to her wonderful infant Aurva into whom the whole Veda, with its veda Vyas had entered, as the person who (in requisition of the slaughter of his relatives) had robbed them of their eyesight, and who alone could restore it. They accordingly had recourse to him, and their eyesight was restored. Aurva, however, meditated the destruction of all living creatures, in revenge for the slaughter of the Bhrigus, and entered on a course of austerities which alarmed both gods, asuras, and men; but his progenitors (Pitris) themselves appeared, and sought to turn him from his purpose by saying that they had no desire to be revenged on the Kshatriyas: "It was not from weakness that the devout Bhrigus overlooked the massacre perpetrated by the

murderous Kshatriyas. When we became distressed by old age, we ourselves desired to be slaughtered by them. The money which was buried by some one in a Bhrigu's house was placed there for the purpose of exciting hatred, by those who wished to provoke the Kshatriyas. For what had me, who were desiring heaven, to do with money ?" They added that they hit upon this device because they did not wish to be guilty of suicide, and concluded by calling upon Aurva to restrain his wrath; and abstain from the sin he was meditating: "Destroy not the Kshatriyas, O son, nor the seven worlds. Suppress thy kindled anger which nullifies the power of austere-fervour." Aurva, however, replies that he cannot allow his threat to remain unexecuted. His anger, unless wreaked upon some other object, will, he says, consume himself. And he argues on grounds of justice, expediency, and duty, against the clemency which his progenitors recommend. He is, however, persuaded by the Pitris to throw the fire of his anger into the sea, where they say it will find exercise in assailing the watery element, and in this way his threat will be fulfilled."

The third event has reference to the slaughter of the Kshatriyas by the Brahmins. This story is told in several places in the Mahabharata.

"The magnificent and mighty Kartavirya, possessing a thousand arms, was lord of this whole world, living in Mahishmati. This Haihaya of unquestioned valour ruled over the whole sea-girt earth, with its oceans and continents". He obtained boons from the muni Dattatreya, a thousand arms whenever he should go into battle power to make the conquest of the whole earth, a disposition to rule it with justice and the promise of instruction from the virtuous in the event of his going astray. "Then ascending his chariot glorious as the resplendent sun, he exclaimed in the intoxication of his prowess, 'Who is like me in fortitude, courage, fame, heroism, energy, and vigour?' At the end of this speech a bodiless voice in the sky addressed him: 'Thou knowest not, O fool, that a Brahman is better than a Kshatriya. It is with the help of the Brahman that the Kshatriya rules his subjects.' Arjuna answers : 'If I am pleased, I can create, or, if displeased, annihilate, living beings; and no Brahman is superior to me in act, thought or word. The first proposition is that the Brahmans are superior; the second that the Kshatriyas are superior; both of these thou hast stated with their grounds, but there is a difference between them (in point of force). The Brahmans are dependent on the Kshatriyas and not the Kshatriyas are beaten up by the Brahmans, who wait upon them, and only make the Vedas a pretence. Justice, the protection of the

people, has its seat in the Kshatriyas. From them the Brahmans derived their livelihood; how then can the latter be superior? I always keep in subjection to myself those Brahmans, the chief of all beings, who subsist on alms, and who have a high opinion of themselves. For truth was spoken by that female the Gayatri in the sky. I shall subdue all those unruly Brahmans clad in hides. No one in the three worlds, god or man, can hurl me from my royal authority; wherefore I am superior to any Brahman. Now shall I turn the world in which Brahmans have the upper hand into a place where Kshatriyas shall have the upper hand; for no one dares to encounter my force in battle.' Hearing this speech of Arjuna, the female roving in the night became alarmed. Then Vayu hovering in the air, said to Arjuna: 'Abandon this sinful disposition, and do obeisance to the Brahmans. If thou shalt do them wrong, thy kingdom shall be convulsed. They will subdue thee: those powerful men will humble thee, and expel thee from thy country.' The king asks him, 'Who art thou?' Vayu replies, 'I am Vayu, the messenger of the gods, and tell thee what is for thy benefit.' Arjuna rejoins, 'Oh, thou displayest today a great warmth of devotion to the Brahmans. But say that a Brahman is like (any other) earth-born creature."

This king came into conflict with Parasuram the son of a Brahman sage Jamadagni. The history of this conflict is as follows :

"There lived a king of Kanyakubja, called Gadhi, who had a daughter named Satyavati. The marriage of this princess to the rishi Richika, and the birth of Jamadagni, are then told in nearly the same way as above narrated. Jamadagni and Satyavati had five sons, the youngest of whom was the redoubtable Parasuram. By his father's command he kills his mother (who, by the indulgence of impure desire, had fallen from her previous sanctity), after the four elder sons had refused this matricidal offence, and had in consequence been deprived of reason by their father's curse. At Parasuram's desire, however, his mother is restored by his father to life, and his brothers to reason; and he himself is absolved from all the guilt of murder; and obtains the boon of invincibility and long life from his father. His history now begins to be connected with that of king Arjuna (or Kartavirya). The latter had come to Jamadagni's hermitage, and had been respectfully received by his wife; but he had requited this honour by carrying away by force the calf of the sage's sacrificial cow, and breaking down his lofty trees. On being informed of this violence, Parasurama was filled with indignation, attacked Arjuna. cut off his thousand arms, and slew

him. Arjuna's sons, in return, slew the peaceful sage Jamadagni, in the absence of Parasurama."

"Rama, after performing, on his return, his father's funeral obsequies, vowed to destroy the whole Kshatriya race; and executed his threat by killing first Arjuna's sons and their followers. Twentyone times did he sweep away all the Kshatriyas from the earth, and formed five lakes of blood in Samantapanchaka; in which he satiated the manes of the Bhrigus, and beheld face to face (his grand-father), Richika, who addressed himself to Rama. The latter gratified Indra by offering to him a grand sacrifice, and gave the earth to the officiating priests. He bestowed also a golden altar, ten fathoms long and nine high, on the mighty Kasyapa. This, by his permission, the Brahmans divided among themselves, deriving thence the name of Khandavavanas. Having given away the earth to Kasyapa, Parasurama himself dwells on the mountain Mahendra. Thus did enmity arise between him and Kshatriyas, and thus was the earth conquered by Rama of boundless might."

The Kshatriyas who were slain by Parasuram are described in the Dronaparvan of the Mahabharat as of various provinces, viz., Kasmiras, Darads, Kuntis, Kshudrakas, Malavas, Angas, Vangas, Kalingas, Videhas, Tamraliptakas, Marttikavatas, Sivis and other Rajanyas.

The means by which the Kshattriya race was restored is also told as part of this story of annihilation of the Kshatriyas by the Brahmins. It is said:

"Having one and twenty times swept away all the Kshatriyas from the earth, the son of Jamadagni engaged in austerities on Mahendra the most excellent of mountains. After he had cleared the world of Kshatriyas, their widows came to the Brahmans, praying for offspring. The religious Brahmans, free from any impulse of lust, cohabited at the proper seasons with these women, who in consequence became pregnant, and brought forth valiant Kshatriya boys and girls, to continue the Kshatriya stock. Thus was the Kshatriya race virtuously begotten by Brahmans on Kshatriya women, and became multiplied and long-lived. Thence there arose four castes inferior to the Brahmans."

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CHAPTER 19
THE CURSE OF CASTE

As I have said in the first Essay[1] there cannot be a caste in the single number. Caste can exist only in the plural number. Caste to be real can exist only by disintegrating a group. The genius of caste is to divide and to disintegrate. It is also the curse of caste. Few, however, realize how great is this curse of caste. It is therefore necessary to illustrate the vastness of this curse by reference to the disintegration brought about by caste. It is impossible to deal with each caste to show the evolution of its disintegration. One must content himself with presenting the caste history of one caste. I take the case of the Brahmins who have been the originators and upholders of caste to show how they themselves have been overwhelmed by what I call the curse of caste. The Brahmins of India are divided into two distinct fraternities. One fraternity is called the Dravidas and the other fraternity is called the Gaudas.

It must not, however, be supposed that the Dravidas and Gaudas are single homogeneous unit. They are divided and sub-divided in units so numerous that it is difficult to imagine their numbers unless one has actual lists of their sub-divisions before his eye. In the following pages an attempt is made to give the list of castes and sub-castes into which each sub-division of the fraternity is divided.

I
THE DRAVIDA BRAHMINS

The fraternity of Dravidas consists of five sub-divisions who are collectively styled the Panch Dravidas. The five sub-divisions are called:

(1) The Maharashtrians

(2) The Andhras

(3) The Dravidians (proper)

(4) The Karnatakas

(5) The Gurjaras

[1] *This has a reference to ' The Castes in India'. published in Vol. I of this series.*—Ed.

We may next proceed to note the castes and sub-castes into which each of these sub-divisions of the Panch Dravidas have disintegrated.

I. THE MAHARASHTRA BRAHMINS

The Maharashtra Brahmins have among them the following castes and sub-castes:

(1) The Deshasthas, (2) The Konkanasthas, (3) The Karhadas, (4) The Kanvas, (5) The Madhyandinas, (6) The Padhyas, (7) The Devarukhas, (8) The Palashas, (9) The Kirvantas, (10) The Tirgulas, (11) The Javalas, (12) The Abhiras, (13) The Savashas, (14) Kastas, (15) The Kunda Golakas, (16) The Randa Golakas, (17) The Brahmana-Jais, (18) The Soparas, (19) The Khistis, (20) The Huseinis, (21) The Kalankis, (22) The Maitrayaniyas, (23) The Varadis-Madhyandin-Yajur-Vedi, (24) The Varadis-Madhyandin-Rig Vedi, (25) The Jhade.

The Shenvis are further divided into nine sub-castes called—

(26) Narvankar, (27) Keloskar, (28) Bardeshkar,
(29) Kudaldeshkar, (30) Pednekar, (31) Bhalavelekar,
(32) Kushasthali, (33) Khadape and (34) Khajule.

2. THE ANDHRA BRAHMINS

The following is the list of castes and sub-castes which make up the Andhra Brahmins—

(1) The Varnasalus, (2) The Kamarukubi, (3) The Karanakamulu, (4) The Madhyandians, (5) The Tailangas, (6) The Murakanadus, (7) The Aradhyas, (8) The Yajnavalkyas, (9) The Kasaranadu, (10) The Velandus, (11) The Venginadus, (12) The Vedinadus, (13) The Samavedis, (14) The Ramanujis, (15) The Madhavacharis, (16) The Niyogis.

3. THE TAMIL BRAHMINS

They consist of the following castes—

(1) The Rig-Vedis, (2) The Krishna Yajur-Vedis, (3) The Shukla Yajur-Vedis—Madhyandinas, (4) The Shukla Yajur-Vedis-Kanvas, (5) The Sama Vedis, (6) The Atharva, (9) The Vaishnavas, (10) The Vira Vaishnavas, (11) The Shri-Vaishnavas, (12) The Bhagvatas, (13) The Shaktas.

4. THE KARNATIK BRAHMINS

They include the following castes—

(1) The Rig Vedis, (2) The Krishna Yajur-Vedis, (3) The Shukla Yajur-Vedis Madhyandinas, (4) The Shukla Yajur-Vedis Kanvas, (5) The Sama Vedis, (6) The Kume Brahmins and (7) The Nagara Brahmins.

5. THE GURJARA BRAHMINS

The list of castes which compose the Gurjara Brahmins is as follows:

I. The Andichya Brahmins. They are divided into the following sub-castes:

(1) Siddhpura Andichya, (2) Sihor Andichya, (3) Tolkiya Andhichya, (4) Kunbigor, (5) Inochigor, (6) Darjigor, (7) Grandhrapagor, (8) Koligor, (9) Marwadi Andichya, (10) Kachhi Andichya, (11) Vagdiya Andichya.

II. The Nagar Brahmins. The following are the sub-castes of the Nagar Brahmins:

(12) The Vadanagar Brahmins, (13) The Vishalnagar Brahmins, (14) The Sathodra Brahmins, (15) The Prashnoras, (16) The Krishnoras, (17) The Chitrodas, (18) The Baradas.

There are also three other divisions among the Nagar Brahmins.

They are called—

(19) Gujarathi Nagars, (20) Sorathi Nagars and (21) Nagars of other Towns.

III. The Girnar Brahmins. They are divided among the following castes:

(22) The Junagadhya Girnars, (23) The Chorvada Girnars,

(24) The Ajakiyas.

IV. The Mevadas Brahmins. They are distributed among the following castes:

(25) The Bhata Mevadas, (26) The Trivadi Mevadas, (27) The Charosi Mevadas.

V. The Deshavala Brahmins. They have one sub-caste which is called:

(46) The Deshavala Brahman Surati.

VI. The Rayakavala Brahmins. They are divided into two sub-castes :

(47) The Navas (new ones) and (48) The Mothas (old ones).

VII. The Khedvala Brahmins. They are divided into five sub-castes :

(49) The Khedvala Bajas, (50) The Khedvala Bhitaras, (51) The Khedva Bajas, (52) The Khedva Bhitaras.

VIII. The Modha Brahmins. They are divided into eleven sub-castes :

(53) The Trivedi Modhas, (54) The Chaturvedi Modhas, (55) The Agihans Modhas, (56) The Tripal Modhas, (57) The Khijadiya Sanvana Modhas, (58) The Ekadashdhra Modhas, (59) The Tandulotha Modhas, (60) The Utanjaliya Modhas, (61) The Jethimal Modhas, (62) The Chaturvedi Dhinoja Modhas, (63) The Dhinoja Modhas.

IX. The Shrimali Brahmins. The Shrimali Brahmins are divided into the following castes:

(64) The Marwadi Shrimali, (65) The Mevadi Shrimali, (66) The Kachhi Shrimali, (67) The Kathiavadi Shrimali, (68) The Gujarathi Shrimali.

The Gujarathi Shrimali are further sub-divided into—

(69) Ahamadabadi Shrimali, (70) Surati Shrimali, (71) Ghoghari Shrimali and (72) The Khambhati Shrimali. The Khambhati Shrimali are again sub-divided into—

(73) Yajurvedi Khambhati Shrimali, (74) Samavedi Khambhati Shrimali.

X. The Chovisha Brahmins. They are divided into two sub-castes :

(75) Mota (Great ones), (76) Lahana (small ones).

XI. The Sarasvata Brahmins. They are divided into two sub-castes :

(77) Sorathiya Sarasvata, (78) Sindhava Sarasvata.

XII. The following is the list of castes of Gujaratha Brahmins which have not developed sub-castes:

(79) The Sachora Brahmins, (80) The Udambara Brahmins, (81) The Narsipara Brahmins, (82) The Valadra Brahmins, (83) The Pangora Brahmins, (84) The Nandodra Brahmins, (85) The Vayada Brahmins, (86) The Tamil (or Dradvida) Brahmins, (87) The Rodhavala Brahmins, (88) The Padmivala Brahmins, (89) The Gomativala Brahmins, (90) The Itavala Brahmins, (91) The Medhatavala Brahmins, (92) The Gayavala Brahmins, (93) The Agastyavala Brahmins, (94) The Pretavala Brahmins, (95) The Unevala Brahmins, (96) The Rajavala Brahmins, (97) The Kanojiya Brahmins, (98) The Sarvariya Brahmins, (99) The Kanoliya Brahmins, (100) The Kharkheliya

Brahmins, (101) The Parvaliaya Brahmins, (102) The Sorathiya Brahmins, (103) The Tangamadiya Brahmins, (104) The Sanodiya Brahmins, (105) The Motala Brahmins, (106) The Jhalora Brahmins, (107) The Rayapula Brahmins, (108) The Kapila Brahmins, (109) The Akshayamangala Brahmins, (110) The Gugli Brahmins, (111) The Napala Brahmins, (112) The Anavala Brahmins, (113) The Valmika Brahmins, (114) The Kalinga Brahmins, (115) The Tailinga Brahmins, (116) The Bhargava Brahmins, (117) The Malavi, (118) The Banduan Brahmins, (119) The Bharathana Brahmins, (120) The Pushkarana Brahmins, (121) The Khadayata Brahmins, (122) The Maru Brahmins, (123) The Dahima Brahmins, (124) The Chovisa Brahmins, (125) The Jambu Brahmins, (126) The Maratha Brahmins, (127) The Dadhicha Brahmins, (128) The Lalata Brahmins, (129) The Valuta Brahmins, (130) The Borshidha Brahmins, (131) The Golavala Brahmins, (132) The Prayagvala Brahmins, (133) The Nayakvala Brahmins, (134) The Utkala Brahmins, (135) The Pallivala Brahmins, (136) The Mathura Brahmins, (137) The Maithila Brahmins, (138) The Kulabha Brahmins, (139) The Bedua Brahmins, (140) The Ravavala Brahmins, (141) The Dashahara Brahmins, (142) The Karnatika Brahmins, (143) The Talajiya Brahmins, (144) The Parashariya Brahmins, (145) The Abhira Brahmins, (146) The Kundu Brahmins, (147) The Hirayajiya Brahmins, (148) The Mastava Brahmins, (149) The Sthitisha Brahmins, (150) The Predatvala Brahmins, (151) The Rampura Brahmins, (152) The Jila Brahmins, (153) The Tilotya Brahmins, (154) The Durmala Brahmins, (155) The Kodva Brahmins, (156) The Hanushuna Brahmins, (157) The Shevada Brahmins, (158) The Titraga Brahmins, (159) The Basuladas Brahmins, (160) The Magmarya Brahmins, (161) The Rayathala Brahmins, (162) The Chapila Brahmins, (163) The Baradas Brahmins, (164) The Bhukaniya Brahmins, (165) The Garoda Brahmins, (166) The Taporana Brahmins.

II

THE GAUDA BRAHMINS

Like the Dravida Brahmins the Gauda Brahmins also consist of a fraternity of five different groups of Brahmins. These five groups are known as:

(1) The Sarasvata Brahmins, (2) The Kanyakubja Brahmins, (3) The Gauda Brahmins, (4) The Utkala Brahmins, (5) The Maithila Brahmins.

An inquiry into the internal structure of each of these five groups of Panch Gaudas reveals the same condition as is found in the case of the five groups which form the fraternity of Panch Dravidas. The only question is whether the internal divisions and sub-divisions are fewer or larger than are found among the Panch Dravidas. For this purpose it is better to take each group separately.

THE SARASVATA BRAHMINS

The Sarasvata Brahmins fall into three territorial sections:

(1) The Sarasvatas of the Punjab, (2) The Sarasvatas of Kashmir and (3) The Sarasvatas of Sindh.

1. THE SARASVATAS OF PUNJAB

There are three sub-sections of the Sarasvatas of the Punjab:

(A) Sarasvatas of the districts of Lahore, Amritsar, Batala, Gurdaspur, Jalandar, Multan, Jhang and Shahpur.

They are again divided into High Caste and Low Caste.

HIGH CASTES

(1) Navale, (2) Chuni, (3) Ravade, (4) Sarvaliye, (5) Pandit, (6) Tikhe, (7) Jhingan, (8) Kumadiye, (9) Jetle, (10) Mohle or Mole, (11) Tikhe-A'nde, (12) Jhingan-Pingan, (13) jetli-Petli, (14) Kumadiye-Lumadiye, (15) Mohle-Bohle, (16) Bage, (17) Kapuriye, (18) Bhaturiye, (19) Maliye, (20) Kaliye, (21) Sanda, (22) Pathak, (23) Kural, (24) Bharadwaji, (25) Joshi, (26) Shori, (27) Tiwadi, (28) Marud, (29) Datta, (30) Mujhal, (31) Chhibar, (32) Bali, (33) Mohana, (34) Lava, (35) Vaidya, (36) Prabhakar, (37) Shame-Potre, (38) Bhoja-Potre, (39) Singhe-Potre, (40) Vatte-Potre, (41) Dhannan-Potre, (42) Dravade, (43) Gaindhar, (44) Takht Laladi, (45) Shama Dasi, (46) Setpal (or Shetpal), (47) Pushrat, (48) Bharadvaji, (49) Katpale, (50) Ghotke, (51) Pukarne.

LOWER CLASSES

(52) Diddi, (53) Shridhara, (54) Vinayaka, (55) Majju, (56) Khindariye, (57) Harad, (58) Prabhakar, (59) Vasudeva,

(60) Parashara, (61) Mohana, (62) Panjan, (63) Tivara, (64) Kapala, (65) Bharkhari, (66) Sodhi, (67) Kaijar, (68) Sangad, (69) Bharadvaji, (70) Nage, (71) Makavar, (72) Vashishtha, (73) Dangaval, (74) Jalap, (75) Tripane, (76) Bharathe, (77) Bansale, (78) Gangahar, (79) Jotashi, (80) Rikhi (or Rishi), (81) Mandar, (82) Brahmi, (83) Tejpal, (84) Pal, (85) Rupal, (86) Lakhanpal, (87) Ratanpal, (88) Shetpal, (89) Bhinde, (90) Dhami, (91) Chanan, (92) Randeha, (93) Bhuta, (94) Rati, (95) Kundi, (96) Hasadhir, (97) Punj, (98) Sandhi, (99) Bahoye, (100) Virad, (101) Kaland, (102) Suran, (103) Sudan, (104) Ojhe, (105) Bramha-Sukul, (106) Hariye, (107) Gajesu, (108) Bhanot, (109) Tinuni, (110) Jalli, (111) Tole, (112) Jalap, (113) Chitchot, (114) Padhe or Pandhe, (115) Marud, (116) Laladiye, (117) Tote, (118) Kusarit, (119) Ramtal, (120) Kapale, (121) Masodare, (122) Ratniye, (123) Chandan, (124) Churavan, (125) Mandahar, (126) Madhare, (127) Lakarphar, (128) Kund, (129) Kardam, (130) Dhande, (131) Sahajpal, (132) Pabhi, (133) Rati, (134) Jaitke, (135) Daidriye, (136) Bhatare, (137) Kali, (138) Jalpot, (139) Maitra, (140) Sankhatre, (141) Ludra, (142) Vyasa, (143) Paltu, (144) Kirar, (145) Puje, (146) Isar, (147) Latta, (148) Dhami, (149) Kalhan, (150) Madarkhamb, (151) Bedesar. (152) Salvahan, (153) Dhande, (154) Marud, 0155) Bature, (156) Joti, (157) Soyari, (158) Tejpal, (159) Kuralpal, (160) Kates, (161) Jalap, (162) Tinmani, (163) Tanganivate, (164) Jalpot, (165) Pattu, (166) Jasrava, (167) Jayachand, (168) Sanwal, (169) Agnihotri, (170) Agraphakka, (171) Ruthade, (172) Bhaji, (173) Kuchhi, (174) Saili, (175) Bhambi, (176) Medu, (177) Mehad, (178) Yamye, (179) Sangar, (180) Sang, (181) Nehar, (182) Chakpaliye, (183) Bijraye, (184) Narad, (185) Kutwal, (186) Kotpal, (187) Nabh, (188) Nad, (189) Parenje, (190) Kheti, (191) A'ri, (192) Chavhe, (193) Bibde, (194) Bandu, (195) Machhu, (196) Sundar, (197) Karadage, (198) Chhibbe, (199) Sadhi, (200) Tallan, (201) Karddam, (202) Jhaman, (203) Rangade, (204) Bhog, (205) Pande, (206) Gande, (207) Pante, (208) Gandhe, (209) Dhinde, (210) Tagale, (211) Dagale, (212) Lahad, (213) Tad, (214) Kayi, (215) Ludh, (216) Gandar, (217) Mahe, (218) Saili, (219) Bhagi, (220) Pande, (221) Pipar, (222) Jathee.

(B) Sarasvata Brahamins of Kangada and the adjacent Hill Country. These too are divided into High Class and Low Class.

HIGH CASTES

(1) Osdi, (2) Pandit Kashmiri, (3) Sotri, (4) Vedve, (5) Naga, (6) Dikshit, (7) Misri Kashmiri, (8) Madihatu, (9) Panchkarn, (10) Raine, (11) Kurudu, (12) A'Chariye.

LOWER CLASSES

(13) Chithu, (14) Panyalu, (15) Dumbu, (16) Dehaidu, (17) Rukhe, (18) Pambar, (19) Gutre, (20) Dyabhudu, (21) Maite, (22) Prot (Purohita) Jadtotrotiye, (23) Visht Prot, (24) Padhe Saroj, (25) Padhe Khajure, (26) Padhe Mahite, (27) Khajure, (28) Chhutwan, (29) Bhanwal, (30) Rambe, (31) Mangrudiye, (32) Khurvadh, (33) Galvadh, (34) Dangmar, (35) Chalivale.

(C) Sarasvata Brahmins of Dattarpur, Hoshyarpur and the adjacent Country.

These are also divided into High Class and Low Class.

I. HIGH CASTES

(1) Dogre, (2) Sarmayi, (3) Dube, (4) Lakhanapal, (5) Padhe Dholbalvaiya, (6) Padhe Ghohasniye, (7) Padhe Dadiye, (8) Padhe Khindadiya, (9) Khajurive.

II. LOWER CLASSES

(10) Kapahatiye, (11)Bharadhiyal, (12) Chaprohiye, (13) Makade, (14) Kutallidiye, (15) Sarad, (16) Dagadu, (17) Vantade, (18) Muchle, (19) Sammol, (20) Dhose, (21) Bhatol, (22) Rajohad, (23) Thanik, (24) Panyal, (25) Chibbe, (26) Madote, (27) Misar, (28) Chhakotar, (29) Jalreiye, (30) Lahad, (31) Sel, (32) Bhasul, (33) Pandit, (34) Changhial, (35) Lath, (36) Sand, (37) Lai, (38) Gadottare, (39) Chirnol, (40) Badhle, (41) Shridhar, (42) Patdu, (43) Juwal, (44) Maite, (45) Kakliye, (46) Tak, (47) Jhol, (48) Bhadoe, (49) Tandik, (50) Jhummutiyar, (51) A'l,' (52) Mirat, (53) Mukati, (54) Dalchallie, (55) Bhatohaye, (56) Tyahaye, (57) Bhatare.

2. THE SARASVATAS OF KASHMIR

There are two sub-sections of the Sarasvatas of Kashmir.

(A) Sarasvata Brahamans of Jammu, Jasrota and the neighbouring Hill Country.

They are divided into three classes, High, Middle and Low.

I. HIGH CASTES

(1) Amgotre, (2) Thappe, (3) Dube, (4) Sapoliye Padhe, (5) Badiyal, (6) Kesar, (7) Nadh, (8) Khajure Prahot, (9) Jamval Pandit, (10) Vaidya, (11) Lava, (12) Chibar, (13) aliye, (14) Mohan, (15) Bambhaval.

II. MIDDLE CASTES

(16) Raine, (17) Satotre, (18) Katotre, (19) Lalotre, (20) Bhangotre, (21) Samnotre, (22) Kashmiri Pandit, (23) Pandhotre, (24) Vilhanoch, (25) Badu, (26) Kernaye Pandit, (27) Danal Padhe, (28) Mahite, (29) Sudhraliye, (30) Bhatiad, (31) Puroch, (32) Adhotre, (33) Mishra, (34) Parashara, (35) Bavagotre, (36) Mansotre, (37) Sudathiye.

III. LOWER CLASSES

(38) Sudan, (39) Sukhe, (40) Bhure, (41) Chandan, (42) Jalotre, (43) Nabhotre, (44) Khadotre, (45) Sagdol, (46) Bhuriye, (47) Baganachhal, (48) Rajuliye, (49) Sangde, (50) Munde, (51) Surnachal, (52) Ladhanjan, (53) Jakhotre, (54) Lakhanpal, (55) Gauda Purohita, (56) Shashgotre, (57) Khanotre, (58) Garoch, (59) Marotre, (60) Upadhe, (61) Khindhaiye Padhe, (62) Kalandari, (63) Jarad, (64) Udihal, (65) Ghode, (66) Basnotre, (67) Barat, (68) Chargat, (69) Lavanthe, (70) Bharangol, (71) Jaranghal, (72) Guhaliye, (73) Dhariancha, (74) Pindhad, (75) Rajuniye, (76) Badakulive, (77) Sirkhandiye, (78) Kirpad, (79) Balli, (80) Salurn, (81) Ratanpal, (82) Banotre, (83) Yantradhari, (84) Dadorich, (85) Bhaloch, (86) Chhachhiale, (87) Jhangotre, (88) Magdol, (89) Phaunphan, (90) Saroch, (91) Gudde, (92) Kirle, (93) Mansotre, (94) Thammotre, (95) Thanmath, (96) Bramiye, (97) Kundan, (98) Gokuliye Gosain, (99) Chakotre, (100) Rod, (101) Bargotre, (102) Kavde, (103) Magdiyaliye, (104) Mathar, (105) Mahijiye, (106) Thakure Purohita, (107) Galhal, (108) Cham, (109) Rod, (110) Labhotre, (111) Redathiye, (112) Patal, (113) Kamaniye, (114) Gandhargal, (115) Prithvipal, (116) Madhotre, (117) Kambo, (118) Sarmayi, (119) Bachhal, (120) Makhotre, (121) Jad, (122) Batialiye, (123) Kudidab, (124) Jambe, (125) Karanathiye, (126) Suthade,

(127) Sigad, (128) Garadiye, (129) Machhar, (130) Baghotre, (131) Sainhasan, (132) Utriyal, (133) Suhandiye, (134) Jhindhad, (135) Battal, (136) Bhainkhare, (137) Bisgotre, (138) Jhalu, (139) Dabb, (140) Bhuta, (141) Kathialu, (142) Paladhu, (143) Paladhu, (144) Jakhotre, (145) Pange, (146) Solhe, (147) Suguniye, (148) Sanhoch, (149) Duhal, (150) Bando, (151) Kanungo, (152) Jhavdu, (153) Jhaphadu, (154) Kaliye, (155) Khaphankho.

(B) THE SARASVATAS OF KASHMIR[1]

The following is a list of Kashmiri Brahmins.

(1) Kaul, (2) Rajdan, (3) Guriti, (4) Jitish, (5) Dar, (6) Trakari, (7) Mujhi, (8) Munshi, (9) Butal, (10) Javi, (11) Bajai, (12) Rei, (13) Hundo, (14) Dipti, (15) Chhichvali, (16) Rugi, (17) Kail, (18) Sum, (19) Hanji, (20) Hastivali, (21) Mutu, (22) Tikku, (23) Gais, (24) Gadi, (25) Brari, (26) Ganj, (27) Vangan, (28) Vagana, (29) Bhut, (30) Bhairava, (31) Madan, (32) Dina, (33) Shargal, (34) Hakchar, (35) Hak, (36) Kukar, (37) Chhatari, (38) Saunpuri, (39) Matti, (40) Khush, (41) Shakdar, (42) Vaishnava, (43) Kotar, (44) Kak, (45) Kachari, (46) Tote, (47) Saraph, (48) Gurah, (49) Thanthar, (50) Khar, (51) Thaur, (52) Teng, (53) Saiyad, (54) Trupuraya, (55) Muthi, (56) Saphai, (57) Bhan, (58) Vanya, (59) Garial, (60) Thapal, (61) Nauri, (62) Masaldan, (63) Mushran, (64) Turki, (65) Photedar, (66) Kharu, (67) Karbangi, (68) Bhath, (69) Kichilu, (70) Chhan, (71) Mukdam, (72) Khapari, (73) Bulaki, (74) Kar, (75) Jelali, (76) Saphayu, (77) Batphali, (78) Hukhi, (79) Kukpari, (80) Kali, (81) Jari, (82) Ganj, (83) Kim, (84) Mundi, (85) Jangal, (86) Jati, (87) Rakhyas, (88) Bakayi, (89) Geri, (90) Gari, (91) Kali, (92) Panji, (93) Bangi, (94) Sahib, (95) Belab, (96) Rayi, (97) Galikarap, (98) Chan, (99) Kababi, (100) Yachh, (101) Jalpuri, (102) Navashahari, (103) Kisi, (104) Dhusi, (105) Gamkhar, (106) Tholal, (107) Pista, (108) Badam, (109) Trachhal, (110) Nadir, (111) Lidarigari, (112) Pyal, (113) Kabi, (114) Chhatri, (115) Vanti, (116) Vatlilu, (117) Khari, (118) Vas, (119) i ati, (120) Sabanj, (121) Dandi, (122) Raval, (123) Misari, (124) Sibbi, (125) Singari, (126) Mirje,

[1] There is a difference of opinion about the Kashmir Brahamins being Sarasvatas. Some say they are. Others say they are not.

(127) Mail (128) Variki, (129) Jan, (130) Lutari, (131) Parim, (132) Hali, (133) Nakaib, (134) Main, (135) Ambaradar, (136) Ukhal, (137) Kanth, (138) Bali, (139) Jangali, (140) Duli, (141) Parava, (142) Harkar, (143) Gagar, (144) Pandit, (145) Jari, (146) Langi, (147) Mukki, (148) Bihi, (149) Padaur, (150) Pade, (151) Jand, (152) Teng, (153) Tund, (154) Drabi, (155) Dral, (156) Phambbi, (157) Sajavul, (158) Bakhshi, (159) Ugra, (160) Nichvi, (161) Pathan, (162) Vichari, (163) Unth, (164) Kuchari, (165) Shal, (166) Babi, (167) Makhani, (168) Labari, (169) Khanya, (170) Khanyakati, (171) Shah, (172) Pir, (173) Khurdi, (174) Khunki, (175) Kalposh, (176) Pishan, (177) Bishan, (178) Bui, (179) Choki, (180) Chak, (181) Rai, (182) Priti, (183) Pati, (184) Kichili, (185) Kahi, (186) Jiji, (187) Kilmak, (188) Salman, (189) Kadalbaju, (190) Kandahari, (191) Bali, (192) Manati, (193) Bankhan, (194) Hakim, (195) Garib, (196) Mandal, (197) Manjaha, (198) Shair, (199) Nun, (200) Teli, (201) Khalasi, (202) Chandra, (203) Gadir, (204) Jarabi, (205) Sihari, (206) Kalvit, (207) Nagari, (208) Mungvuch, (209) Khaibari, (210) Kulli, (211) Kabi, (212) Khosa, (213) Durani, (214) Tuli, (215) Garib, (216) Gadi, (217) Jati, (218) Rakhsas, (219) Harkar, (220) Grad, (221) Vagari, etc. etc.

3. THE SARASVATAS OF SINDH

The Sarasvatas of Sindh are sub-divided as follows:

(1) Shikarpuris, (2) Barovis, (3) Ravanjahis, (4) Shetpalas and (5) Kuvachandas, (6) Pokharana.

II. THE KANYAKUBJA BRAHMINS

The Kanuakubjas take their name from the town Kanoj which was the capital of the Empire of.....They are also called Kanoujas. There are two denominations of the Kanyakubja Brahamins. One is called the *Sarvariyas* and the other is called the *Kanyakubjas*. The Sarvariyas got their name from the ancient river Saryu to the east of which they are principally found. They are a provincial offset from the Kanaujas, with whom they do not now intermarry. The sub-divisions among the Sarvariyas are generally the same as those found among the Kanaujas. It is therefore enough to detail the sub-divisions among the Kanaujas.

There are ten divisions of the Kanyakubja Brahmins:

(1) The Mishra, (2) The Shuklas, (3) The Tivaris, (4) The Dubes, (5) The Pathaks. (6) The Pande, (7) The Upadhya, (8) The Chaubes, (9) The Dikshitas, (10) The Vajapeyis.

Each of these sub-divisions has many sub-divisions. They are mentioned below:

1. THE MISHRAS

The Mishras consist of the following sections:

(1) The Madhbani, (2) The Champaran, (3) The Patlal or Patlayala, (4) The Ratanvala, (5) The Bandol, (6) The Matol or Matevala, (7) The Katariya of the same Veda, (8) The Nagariya of the Vatsa Gotra, (9) The Payasi of the Vatsa Gotra, (10) The Gana, (11) The Teunta or the Tevanta, (12) The Marjani, (13) The Gurha, (14) The Markara, (15) The Jignya, (16) The Parayana, (17) The Pepara, (18) The Aterva or A tharva, (19) The Hathepara, (20) The Suganti, (21) The Kheta, (22) The Grambasi, (23) The Birha, (24) The Kausi, (25) The Kevati, (26) The Raisi, (27) The Bhahajiya, (28) The Belva, (29) The Usraina, (30) The Kodiya, (31) The Tavakpuri, (32) The Jimalpuri, (33) The Shringarpuri, (34) The Sitapuri, (35) The Putavha, (36) The Sirajpuri, (37) The Bhampuri, (38) The Terka, (39) The Dudhagaumi, (40) The Ratnapuri, (41) The Sunhanla.

2. THE SHUKLAS

The Shuklas consist of the following sections:

(1) The Khakhayijkhor named from two villages, (2) The Mamkhor named from two villages, (3) The Tipthi, (4) The Bhedi, (5) The Bakaruva, (6) The Kanjahi, (7) The Khandail, (8) The Bela, (9) The Change the Avasthi, (10) The Tevarasi Parbhakar, (11) The Mehuliyar, (12) The Kharbahiya, (13) The Chanda, (14) The Grga, (15) The Gautami, (16) The Parasa, (17) The Tara, (18) The Barikhpuri, (19) The Karyava, (20) The Ajmadgadhya, (21) The Pichaura, (22) The Masauvas, (23) The Sonthianva, (24) The Aukin, (25) The Bir, (26) The Gopinath.

3. THE TIVARIS

The Tivaris consist of the following sections:

(1) The Lonakhar, (2) The Lonapar, (3) The Munjauna, (4) The Mangraich, (5) The Jhunadiya, (6) The Sohgaura, (7) The Tara, (8) The Gorakhpuriya, (9) The Daurava, (10) Pendi, (11) The Sirjam, (12) The Dhatura, (13) The Panauli, (14) The Nadauli or Tandauli, (15) The Burhiyabari, (16) The Gurauli, (17) The Jogiya,

(18) The Dikshita, (19) The Sonaura, (20) The Agori, (21) The Bhargava, (22) The Bakiya. (23) The Kukurgariya, (24) The Dama, (25) The Gopala, (26) The Govardhana, (27) The Tuke, (28) The Chattu, (29) The Shivali, (30) The Shakharaj, (31) The Umari, (32) The Manoha, (33) The Shivarajpur, (34) The Mandhna, (35) The Sape, (36) The Mandan Tirvedi, (37) The Lahari Tirvedi, (38) The Jethi Tirvedi.

4. THE DUBES

The Dube's consist of the following sections:

(1) The Kanchani, (2) The Singhva, (3) The Belava, (4) The Parava, (5) The Karaiya, (6) The Bargainya, (7) The Panchani, (8) The Lathiahi, (9) The Gurdvan, (10) The Methiber, (11) The Barhampuriya, (12) The Singilava, (13) The Kuchala, (14) The Munjalva, (15) The Paliya, (16) The Dhegava, (17) The Sisra, (18) The Sinani, (19) The Kudavarye, (20) The Kataiya, (21) The Panva.

5. THE PATHAKS

The following are the sections composing of the Pathakas:

(1) The Sonaura, (2) The Ambatara, (3) The Patakhavaliya, (4) The Dhigavach, (5) The Bhadari.

6. THE PANDES

The Pande's are divided into the following sections:

(1) The Tirphala or Triphala, (2) The Jorava, (3) The Matainya, (4) The Toraya, (5) The Nakchauri, (6) The Parsiha, (7) The Sahankol, (8) The Barhadiya, (9) The Gegas, (10) The Khoriya, (11) The Pichaura, (12) The Pichaura Payasi, (13) The Jutiya or Jatya, (14) The Itar or Intar, (15) The Beshtaul or Beshtavala, (16) The Charpand, (17) The Sila, (18) The Adhurj, (19) The Madariya, (20) The Majgaum, (21) The Dilipapar, (22) The Payhatya, (23) The Nagav, (24) The Talava, (25) The Jambu.

7. THE UPADHYAS

There are five sections among the Upadhyas:

(1) The Harainya or Hiranya, (2) The Devarainya, (3) The Khoriya, (4) The Jaithiya, (5) The Dahendra, (6) The Gorat, (7) The Ranisarap, (8) The Nizamabad, (9) The Dudholiya, (10) The Basgava.

8. THE CHAUBES

The principal sub-divisions of the Chaube's are:

(1) The Nayapuras, (2) The Rargadis, (3) The Chaukhar, (4) The Katayas, (5) The Rampuras, (6) The Paliyas, (7) The Hardaspuras, (8) The Tibaiyas, (9) The Jamaduvas, (10) The Gargeya.

9. THE DIKSHITAS

The Dikshitas have the following sub-divisions:

(1) The Devagaum, (2) The Kakari, (3) The Nevarshiya, (4) The Anter, (5) The Sukanta, (6) The Chaudhari, (7) The Jujatvatiyas.

10. THE VAJAPEYIS

The Vajapeyi's consist of the following sub-divisions:

(1) The Unche, or the High, (2) The Niche or the Low.

Besides the divisions and sub-divisions of the Kanyakubjas mentioned above there are Kanyakubjas who are regarded as inferior and therefore isolated from the main divisions and sub-divisions. Among them are the following:

(I) The Samdariya, (2) The Tirguvati, (3) The Bhaurha, (4) The Kabisa, (5) The Kevati, (6) The Chandravala, (7) The Kusumbhiya, (8) The Bisohya, (9) The Kanhali, (10) The Khajuvai, (11) The Kisirman, (12) The Paihtiya, (13) The Masonad, (14) The Bijara, (15) The Ansnaura.

III. THE GAUDA BRAHMINS

The Gauda Brahmins derive their name from the Province and (now ruined) city of Gauda, for long the capital of Bihar and Bengal (the seat of the *Angas* and *Vangas* or *Bangas).* The sub-divisions among the Gauda Brahmins are very considerable in number. The most conspicuous of them are the following:

(1) The Gaudas or Kevala Gaudas, (2) Adi-Gaudas, (3) Shuklavala Adi-Gaudas, (4) Ojhas, (5) Sanadhya Gauda, (6) Chingalas, (7) Khandevalas, (8) Daymias, (9) Shri-Gaudas, (10) Tamboli Gaudas, (11) Adi-Shri Gaudas, (12) Gurjar Gaudas, (13) Tek Bara Gaudas, (14) Chamar Gaudas, (15) Hariyana Gaudas, (16) Kirtanya Gaudas, (17) Sukul Gaudas.

IV. THE UTKAL BRAHMINS

Utkal is the ancient name of Orissa and Utkal Brahmins means Brahmins of Orissa. They are divided into:

(1) The Shashani Brahmins, (2) The Shrotriya Brahmins, (3) The Panda Brahmins, (4) The Ghatiya Brahmins, (5) The Mahasthana Brahmins, (6) The Kalinga Brahmins.

The *Shashani* Brahmins have the following sub-divisions.

(1) The Savanta, (2) The Mishra, (3) The Nanda, (4) The Pate, (5) The Kara, (6) The Acharya, (7) The Satapasti, (8) The Bedi, (9) The Senapati, (10) The Parnagrahi, (11) The Nishank, (12) The Rainipati.

The *Shrotriya Brahmins* have the four following sub-divisions:

(1) Shrotriyas, (2) Sonarbani, (3) Teli, (4) Agrabaksha.

V. THE MAITHILYA BRAHMINS

The Maithilya Brahmins derive their designation from Mithila, an ancient division of India and which includes a great portion of the modern districts of Tirhut, Saran, Purnea and also parts of the adjacent tracts of Nepal.

The following are the sub-divisions of the Maithilya Brahmins:

(1) The Ojhas, (2) The Thakurs, (3) The Mishras, (4) The Puras, (5) The Shrotriyas, (6) The Bhuiharas.

Of these the Mishras have the following sub-sections:

(1) The Chandharis, (2) The Rayas, (3) The Parihastas, (4) The Khanas, (5) The Kumaras.

III

OTHER BRAHMINS

The Panch Dravidas is a generic name for Brahmins living below the Vindhya and the Panch Gaudas is a generic name for Brahmins living above the Vindhyas. In other words, Panch Gauda is a name for Northern Brahmins and Panch Dravidas, a name for Southern Brahmins. What is, however, to be noted is that the five divisions of Brahmins composing the Northern Fraternity and Southern Fraternity of Brahmins do not exhaust all the divisions of Brahmins living in Northern or Southern India. To complete the subject it is necessary not only to refer to them but also to record their sub-divisions.

OTHER BRAHMINS OF SOUTH INDIA

In this category fall the following:

(1) The Konkani Brahmins[1], (2) The Hubu[2], (3) The Gaukarna[3], (4) The Havika[4], (5) The Tulva[5], (6) The Amma Kodaga[6], (7) The Nambudri[7].

The Nambudri Brahmins are the principal group of Brahmins living in Malabar. Besides the Nambudris there are also other sections of Brahmins. They are:

(1) The Pottis, (2) The Muttadus, (3) The Fledus, (4) The Ramnad-writ Parasahas, (5) The Pattaras, (6) The Ambalvasis.

OTHER RAJPUTA BRAHMINS

The Varieties of Rajputa Brahmins not mentioned in the list of Gurjar Brahmins are:

(1) The Shrimalis Brahmins, (2) The Sachoda Brahmins, (3) The Pallivalar Brahmins, (4) The Nandanas Brahmins, (5) The Pushakars Brahmins, (6) The Pokhar Sevakas Brahmins, (7) The Medatvala, (8) The Parikha Brahmins, (9) The Lavanas Brahmins, (10) The Dakotas Brahmins, (11) The Garudiyas Brahmins, (12) The Acharjas, (13) The Bura Brahmins, (14) The Kapidas, (15) The Dahimas, (16) The Khandelvalas, (17) The Divas, (18) The Sikavadas, (19) The Chamatvalas, (20) The Marus, (21) The Shrivantas, (22) The Abhiras, (23) The Bhartanas, (24) The Sanacadas, (25) The Vagadis, (26) The Mewadas, (27) The Rajgurus, (28) The Bhats, (29) The Charanas.

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[1] The Konkani Brahmins are to be distinguished from the Konkansthas who belong to Maharashtra. The Konkani Brahmins belong to the Portuguese territory of Goa.

[2] They come from Karwar.

[3] They come from.(*Place not mentioned in MS.* — Ed.)

[4] They are to be found in the vicinity of Tellicheri.

[5] They arc to be found near about Udipi.

[6] They arc to be found in Coorg.

BOOK III

Political

Seven essays on the political issues previously not published have been included under the category 'Political' in this Book.

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CHAPTER 20

FROM MILLIONS TO FRACTIONS

I. Population of the Untouchables long unknown. II. The Census of 1911 and the first attempt at separate enumeration. III. Confirmation of the findings of 1911 Census. IV. Lothian Committee and the Hindu cry of "no Untouchables". V. Reasons for the cry. VI. Attitude of the Backward Classes and the Muslims.

I

What is the total population of the Untouchables of India? This is bound to be the first question that a person who cares to know anything about them is sure to ask. It is now easy to answer this question. For the Census of India taken in 1931 gives it as 50 millions. While it is possible now to give more or less exact figures of the Untouchable population in India it was not possible to do so for a long time.

This was due to various causes. Firstly untouchability is not a legal term. There is no exact legal definition of untouchability whereby it could be possible to define who is an Untouchable and who is not. Untouchability is a social concept which has become embodied in a custom and as custom varies so does untouchability. Consequently there is always some difficulty in the way of ascertaining the population of the Untouchables with mathematical exactitude. Secondly there has always been serious opposition raised by high caste Hindus to the enumeration by caste in the Census Report. They have insisted on the omission of the question regarding caste from the schedules and the suppression of the classification of the population by caste and tribe. A proposal to this effect was made in connection with the 1901 Census mainly on the ground that the distribution of various castes and tribes in the population changed at large intervals and that it was not necessary to obtain figures at each decennial enumeration.

These grounds of objection did not have any effect on the Census Commissioner. In the opinion of the Census Commissioner enumeration by caste was important and necessary. It was argued by the Census Commissioner that,

> "Whatever view may be taken of the advantages or disadvantages of caste as a social institution, it is impossible to conceive of any useful discussion of the population questions in India in which caste would not be an important element. Caste is still 'the foundation of the Indian social fabric,' and the record of caste is still 'the best guide to the changes in the various social strata in the Indian Society'. Every Hindu (using the term in its most elastic sense) is born into a caste and his caste determines his religious, social, economic and domestic life from the cradle to the grave. In western countries the major factors which determine the different strata of society, viz, wealth, education and vocation are fluid and catholic and tend to modify the rigidity of birth and hereditary position. In India spiritual and social community and traditional occupation override all other factors. Thus, where in censuses of western countries, an economic or occupational grouping of the population affords a basis for the combination of demographic statistics, the corresponding basis in the case of the Indian population is the distinction of religion and caste. Whatever view may be taken of caste as a national and social institution, it is useless to ignore it, and so long as caste continues to be used as one of the distinguishing features of an individual's official and social identity, it cannot be claimed that a decennial enumeration helps to perpetuate an undesirable institution."

The objections to the enumeration by castes in the census were urged with greater force on the occasion of the census of 1911 when the special questionnaire containing ten tests was issued for the purpose of grouping together castes which satisfied those tests. There was no doubt that those tests were such as would mark off the Depressed Classes from the Caste Hindus. It was feared by the Caste Hindus that this circular was the result of the Muslim Memorial to the Secretary of State and its aim was to separate the Depressed Classes from the Hindus and thereby to reduce the strength of the Hindu Community and its importance.

This agitation bore no fruit and the objection of separately enumerating in the Census Report those castes which satisfied those ten tests was carried out. The agitation however did not die out. It again cropped up at the Census of 1920. At this time, effort was made to put forth the objection to the caste return in a formal manner. A resolution was tabled in the Imperial Legislative Council in 1920 attacking the caste inquiry on the grounds (a) that it was undesirable to recognize and perpetuate, by official action, the system of caste differentiation and (b) that in any case the returns were inaccurate and worthless, since the lower castes took the opportunity of passing themselves as belonging to groups of higher status. If this resolution

had been carried, it would not have been possible to know the population of the Untouchables. Fortunately owing to the absence of the mover, the resolution was not discussed and the Census Commissioner of 1921 remained free to carry out his inquiries in the usual manner.

Thirdly no attempt was made for a separate enumeration of the Untouchables by any of the Census Commissioners previous to the year 1911. The first general Census of India was taken in the year 1881. Beyond listing the different castes and creeds and adding up their numbers so as to arrive at the total figure of the population of India, the Census of 1881 did nothing. It made no attempt to classify the different Hindu castes either into higher and lower or Touchable and Untouchable. The second general Census of India was taken in the year 1891. It was at this census that an attempt to classify the population on the basis of caste and race and grade was made by the Census Commissioner for the first time.

The third general Census of India was taken in 1901. At this census a new principle of classification was adopted namely "Classification by Social precedence as recognized by native public opinion." For a society like the Hindu society which does not recognize equality and whose social system is a system of gradation of higher and lower, this principle was the most appropriate one. Nothing can present a more intelligible picture of the social life and grouping of that large proportion of the people of India which is organized admittedly or tacitly on the basis of caste as this principle of social precedence.

II

The first attempt of a definite and deliberate kind to ascertain the population of the Untouchables was made by the Census Commissioner in 1911.

The period immediately preceding the Census of 1911 was a period during which the Morley-Minto Reforms were in incubation. It was a period when the Mahomedans of India had started their agitation for adequate representation in the legislatures by separate electorates. As a part of their propaganda, the Mahomedans waited upon Lord Morley, the then Secretary of State for India in Council, in deputation and presented him a Memorial on the 27th January 1909. In that memorial there occurs the following statement:

(The statement is not recorded in the MS.—Ed.)

Whether there was any connection between what the Muslim deputation had urged in their memorial regarding the Untouchables in 1907 and the idea of the Census Commissioner four years after to make a separate enumeration of the Untouchables, is a matter on which nothing definite can be said. It is possible that what the Census Commissioner proposed to do in 1911 was only a culmination of the

ways adopted by his predecessors in the matter of the demographic study of the population. Be that as it may, there was a great uproar on the part of the Hindus when the Census Commissioner announced his plan of separate enumeration of the Untouchables. It was said that this attempt of the Census Commissioner was the result of a conspiracy between the Musalmans and the British Government to divide and weaken the Hindu Community. It was alleged that what was behind this move was not a genuine desire to know the population of the Untouchables but the desire to break up the solidarity of the Hindu Community by separating the Untouchables from the Touchables. Many protest meetings were held all over the country by the Hindus and condemned in the strongest terms this plan of the Census Commissioner.

The Commissioner of Census however undaunted by this storm of protest decided to carry out his plan. The procedure adopted by him for a separate enumeration of the Untouchables was of course a novel one. The Census Superintendents for different Provinces were instructed by the Census Commissioner to make separate enumeration of castes and tribes classed as Hindus but who did not conform to certain standards or who were subject to certain disabilities.

Under these tests the Census Superintendents made a separate enumeration of castes and tribes who (1) denied the supremacy of the Brahmins, (2) did not receive the Mantra from Brahmana or other recognized Hindu Guru, (3) denied the authority of the Vedas, (4) did not worship the great Hindu Gods, (5) were not served by good Brahmanas, (6) have no Brahman priests at all, (7) have no access to the interior of the ordinary Hindu temple, (8) cause pollution, (9) bury their dead and (10) eat beef and do not revere the cow.

The investigation conducted by the Census Commissioner left no room for guessing. For he found as a fact what the population of the Untouchables was. The table below gives the population of the Untouchables, province by province, as found by the Census Commissioner of 1911.[1]

Province		Total population in millions	Population of Depressed Classes in millions	Total Seats	Seats for the Depressed Classes
Madras	..	39.8	6.3	120	2
Bombay	..	19.5	0.6	113	1
Bengal	..	45.0	9.9	127	1
United Provinces	..	47.0	10.1	120	1
Punjab	..	19.5	1.7	85	...
Bihar and Orissa	..	32.4	9.3	100	1
Central Provinces	..	12.0	3.7	72	1
Assam	..	6.0	0.3	54	.. .
		221.2	41.9	791	7

[1] *This table is reprinted from 'Dr. Babasaheb Ambedkar Writings & Speeches lot. 2, Education Department, Government of Maharashtra, Bombay, p. 364. It is not recorded in the MS.* — Ed.

An outsider might not realize the significance and the bearing of these tests. They might ask what all this got to do with untouchability. But he will realize the significance and the bearing on the question of ascertaining the population of the Untouchables. As has been said there is no legal definition of untouchability and there cannot be any. Untouchability does not express itself through the hair of the head or the colour of the skin. It is not a matter of blood. Untouchability expresses itself in modes of treatment and observance of certain practices. An Untouchable is a person who is treated in a certain way by the Hindus and who follows certain practices which are different from the Hindus. There are definite ways in which the Hindus treat the Untouchables in social matters. They are definite practices which are observed by the Untouchables. That being so the only method of ascertaining who are Untouchables is to adopt their ways and practices as the criteria and find out the communities which are subject to them. There is no other way. If the outsider bears this in mind, he will understand that even though the tests prescribed by the Census Commissioner do not show any colour of untouchability, they are in fact the hall marks of untouchability. That being so, there can be no manner of doubt that the procedure was proper and the tests were correct. Consequently it can be truly said, the results of this investigation were valuable and the figures obtained were accurate as far they can be in a matter of this sort.

III

The findings of the Census Commissioner of 1911 regarding the total population of the Untouchables were confirmed by the Census Commissioner of 1921.

The Census Commissioner of 1921 also made an investigation to ascertain the population of the Untouchables. In this Report Part I para 1931 the Census Commissioner observed:

> "It has been usual in recent years to speak of certain section of the community as 'depressed classes'. So far as I am aware, the term has no final definition nor is it certain exactly whom it covers. In the Quinquennial Review on the Progress of Education from 1912/17 (Chapter XVIII paragraph 505)—the depressed classes are specifically dealt with from the point of view of Educational assistance and progress and in Appendix XIII to that Report a list of the castes and tribes constituting this section of the Community is given. The total population classed according to these lists as

depressed amounted to 31 million persons or 19 per cent of the Hindu and Tribal population of British India. There is undoubtedly some danger in giving offence by making in a public report social distinction which may be deemed invidious; but in view of the lists already prepared and the fact that the "Depressed Classes" have, especially in South India, attained a class consciousness and a class organization, are served by special missions, "raised" by philanthrophic societies and officially represented in the Legislative Assemblies, it certainly seems advisable to face the facts and to attempt to obtain some statistical estimate of their numbers. I therefore asked Provincial Superintendents to let me have an estimate based on census figures of the approximate strength of the castes who were usually included in the category of "depressed".

"I received lists of some sort from all provinces and states except the United Provinces, where extreme delicacy of official sentiment shrank from facing the task of attempting even a rough estimate. The figures given are not based on exactly uniform criteria, as a different view is taken of the position of the same groups in different parts of India, and I have had in some cases to modify the estimates on the basis of the figures in the educational report and of information from the 1911 reports and tables. They are also subject to the general defect, which has already been explained, that the total strength of any caste is not recorded. The marginal statement gives however a rough estimate of the *minimum* members which may be considered to form the "depressed classes" of the Hindu community. The total of these provincial figures adds up to about 53 millions. This, however, must be taken as a low and conservative estimate since it does not include (1) the full strength of the castes and tribes concerned and (2) the tribal aborigines more recently absorbed in Hinduism, many of whom are considered impure. We may confidently place the numbers of these depressed classes all of whom are considered impure, at something between 55 and 60 millions in India proper."

Then came the inquiry by the Simon Commission which was appointed by the British Parliament in 1929 to examine the working of the Reforms introduced by the Government of India Act of 1919 and to suggest further reforms.

At the time when the reforms which subsequently became embodied in the Act of 1919 were being discussed, the authors of the Montague-Chelmsford Report clearly recognized the problem of the Untouchables and the authors pledged themselves to make the best arrangement for their representation in the Legislatures. But the

Committee that was appointed under the chairmanship of Lord Southborough to devise the franchise and the electoral system ignored them altogether. The Government of India did not approve of this attitude and made the following comments:

> "They (Untouchables) are one fifth of the total population and have not been represented at all in the Morley-Minto Councils. The Committee's report mentions them (Untouchables) twice, but only to explain that in the absence of satisfactory electorates they have been provided for by nomination. It does not discuss the position of these people, or their capacity for looking after themselves. Nor does it explain the amount of nomination which it suggests for them..... The measure of representation which they propose..... suggested that one fifth of the entire population of British India should be allotted seven seats out of practically eight hundred. It is true that in all the Councils there will be roughly speaking a one-sixth proportion of officials who may be expected to bear in mind the interests of the (Untouchables); but that arrangement is not, in our opinion, what the Report on reforms aims at. The authors stated that the (Untouchables) also should learn lessons of self protection. It is surely fanciful to hope that this result can be expected from including a single member of the community in an assembly where there are sixty or seventy caste Hindus. To make good the principles of the Report we must treat the outcastes more generously".

The Government recommended that the seats allotted to the Untouchables by the Committee should be doubled. Accordingly in place of seven they were given fourteen seats. It will be seen that the generosity of the Government of India when put into practice did not amount to much. It certainly did not do to the Untouchables the justice that was their due.

Among the problems that were not properly settled in 1919, was the problem of the Untouchables, which was bound to loom large before the Simon Commission. Quite unexpectedly the problem received a special emphasis at the hands of the late Lord Birkenhead who was then the Secretary of State for India. In a speech which he made on [1]..... just before the appointment of the Simon Commission he said — *(Left blank in the MS.*—Ed.).

. . . . . .

Naturally the problem became a special task of the Simon Commission. Although the problem as presented was one of providing representation—and in that sense a political problem at the bottom

[1] *Date not cited in the Ms-* Ed.

it was a problem, of ascertaining the population of the untouchables. Because unless the population was ascertained, the extent of representation in the legislature could not be settled.

The Simon Commission had therefore to make a searching inquiry into the population of the untouchables. It called upon the various provincial governments to furnish returns showing the numbers of untouchables residing in their area and it is well known that the provincial governments took special care in preparing these returns. There can therefore be no question regarding the accuracy of the figure of the total population of the untouchables. The *following table*[1] gives the figures for the population of the untouchables as found by the Southborough Committee and by the Simon Commission.

IV

It is thus clear that the population of the Untouchables has been estimated to be somewhere about 50 millions. That this is the population of the Untouchables had been found by the Census Commissioner of 1911 and confirmed by the Census Commissioner of 1921 and by the Simon Commission in 1929. This fact was never challenged by any Hindu during the twenty years it stood on the record. Indeed in so far as the Hindu view could be gauged from the reports of the different Committees appointed by the Provincial and Central Legislatures to cooperate with the Simon Commission, there can be no doubt that they accepted this figure without any demur.

Suddenly however in 1932, when the Lothian Committee came and began its investigation, the Hindus adopted a challenging mood and refused to accept this figure as the correct one. In some provinces the Hindus went to the length of denying that there were any Untouchables there at all. This episode reveals the mentality of the Hindus and as such deserves to be told in some details.

The Lothian Committee was appointed in consequence of the recommendations made by the Franchise Sub-Committee of the Indian Round Table Conference. The Committee toured the whole of India, visited all the Provinces except Central Provinces and Assam. To aid the Committee, there were constituted in each Province by the provincial Government, Provincial Committees comprising, so far as possible, spokesmen of the various schools of thought and of the various political interests existing in each Province. These Provincial Committees were in the main composed of members of the Provincial Councils with non-officials as Chairmen. With a view to concentrating discussion, the Indian Franchise Committee issued a questionnaire

[1] *Table not given in the Ms*—Ed.

covering the field included in its terms of reference. The procedure laid down by the Franchise Committee was that Provincial Governments should formulate their own views on the points raised in the questionnaire and discuss them with the Committee and that the Provincial Committees who were regarded as the authoritative advisers should independently formulate their views and should at their discretion conduct a preliminary examination of witnesses on the basis of their written statements. The Report of the Indian Franchise Committee was therefore a thorough piece of work based upon detailed investigation.

The letter of instruction sent by the Prime Minister to Lord Lothian as Chairman of the Indian Franchise Committee and which constituted the terms of reference of the Committee contained the following observation :

> "It is evident from the discussions which have occurred in various connections in the (Indian Round Table) Conference that the new constitution must make adequate provision for the representation of the depressed classes and that the method of representation by nomination is no longer regarded as appropriate. As you are aware, there is a difference of opinion whether the system of separate electorates should be instituted for the depressed classes and your committee's investigation should contribute towards the decision of this question by indicating the extent to which the depressed classes would be likely, through such general extension of the Franchise as you may recommend, to secure the right to vote in ordinary electorates. On the other hand, should it be decided eventually to constitute separate electorates for the depressed classes, either generally or in those Provinces in which they form a distinct and separate element in the population, your Committee's inquiry into the general problem of extending the franchise should place you in possession of facts which would facilitate the devising of a method of separate representation for the depressed classes".

Accordingly in the questionnaire that was issued by the Indian Franchise Committee there was included the following Question:

> "What communities would you include as belonging to Depressed Classes? Would you include classes other than Untouchables, and if so which"?

I was a member of the Indian Franchise Committee. When I became a member of the Committee, I was aware that the principal question on which I should have to give battle with the Caste Hindus was the question of joint versus separate electorates for the Untouchables. I knew, that in the Indian Franchise Committee, the odds would be

heavily against them. I was to be the only representative of the Untouchables in the Committee as against half a dozen of the Caste Hindus. Against such an unequal fight I had prepared myself. Before accepting membership of the Indian Franchise Committee, I had stipulated that the decision of the question whether the Untouchables should have joint or separate electorates should not form part of the terms of reference to the Committee. This was accepted and the question was excluded from the purview of the Indian Franchise Committee. I had therefore no fear of being out voted on this issue in the Committee— a strategy for which the Hindu Members of the Committee did not forgive me. But there arose another problem of which I had not the faintest idea. I mean the problem of numbers. The problem of numbers having been examined between 1911 to 1929 by four different authorities, who found that the population of Untouchables was somewhere about 50 millions, I did not feel that there would be any contest over this issue before the Indian Franchise Committee.

Strange as it may appear the issue of numbers was fought out most bitterly and accrimoniously before the Indian Franchise Committee. Committee after Committee and witness after witness came forward to deny the existence of the Untouchables. It was an astounding phenomenon with which I was confronted. It would be impossible to refer to the statement of individual witnesses who came forward to deny the existence of such a class as the Untouchables. It would be enough if I illustrate my point by referring to the views of the Provincial Franchise Committees and their members relating to the question of the population of the Untouchables.

PUNJAB

Opinion of the Punjab Government.

"The Punjab Government is of opinion that the enfranchisement of the tenant will give the vote to a considerable number of the Depressed Classes and to that extent will give them influence in the election of representatives to the Council."[1]

"As regards the Depressed Classes, the Punjab Government has no reason to depart from the view which it has already expressed in para 25 of the Memorandum containing the opinions of the official members of the Government on the recommendations of the Indian

[1] Memorandum by the Punjab Government to Indian Franchise Committee-I.F.C, Vol. 111. p. (not cited in the Ms)

Statutory Commission, that these classes are not a pressing problem in the Punjab and will get some representation as tenants."[1]

Opinion of the Punjab Provincial Franchise Committee.

"K. B. Din Mahomed and Mr. Hansraj (who represented the Untouchables on the Committee) held that, while there are no depressed classes among the Musalmans, there exist depressed classes among the Hindus and Sikhs Their total number being 1,310,709.

Mr. Hansraj considers this list incomplete."

"They held that provision should be made for separate representation by treating the depressed classes as a separate community. Mr. Nazir Husain, Rai Bahadur Chaudhri Chhotu Ram, Mr. Own Roberts, K. B. Muhammad Hayat, Mr. Qureshi, Mr. Chatterji, Sardar Bhuta Singh and Pandit Nanak Chand held that it is impossible to say that there are depressed classes in the Punjab in the sense that any person by reason of his religion suffers any diminution of civic rights.....The Chairman, Pandit Nanak Chand and Sardar Bhuta Singh are of opinion that the depressed classes do not exist in the sense in which they exist in Southern India, and that, while there are in the villages certain classes who occupy a very definitely inferior economic and social position, it is not possible to differentiate the Hindu leather worker or Chamar who is claimed as a depressed class from the Musalman leather worker or Mochi who no one alleges belongs to a separate class."[2]

It will thus be seen that the Punjab Provincial Government avoided to answer the question. The Punjab Provincial Committee by a majority denied that there existed a class such as depressed or untouchable.

UNITED PROVINCES

Opinion of the Provincial Franchise Committee.

"The United Provinces Franchise Committee is of opinion that only those classes should be called "depressed" which are untouchable. Judged by this test, the problem of untouchability is non-existent in these provinces except in the case of Bhangis, Doms and Dhanuks, whose total population, including those sections which are touchable is only 582,000."[3]

Babu Ram Sahai, a member of the United Provinces Pronvincial Franchise Committee representing the untouchable classes, in his minute of dissent gave the numbers[4] of the Untouchables in U. P. as

[1] Supplementary Memorandum by the Punjab Government, I.F.C., Vol. III, p. 29.

[2] Memorandum by the Punjab Provincial Franchise Committee, I.F.C., Vol. III, p. 35.

[3] I.F.C. Vol. III, p. 398.

[4] *Ibid.,* p. 440.

11,435,417. Rai Sahib Babu Ramcharan another member of the United Provinces Provincial Franchise Committee representing the Depressed Classes in his minute of dissent gave the numbers[1] of the Depressed Classes in U.P. as 20 millions.

The Government of the United Provinces reported[2] that the maximum estimate amounts to 17 million persons; the minimum something less than one million. In its opinion the least number was 6,773,814.

BENGAL

The Bengal Provincial Franchise Committee in its first Report[3] said.

> "The Committee could come to no decision on this question and resolved to put it back for consideration along with the Central Committee."

In its final Report the same Committee said—

> "According to the criterion laid down viz, untouchability and unapproachability, as these terms are understood in other parts of India, the Committee consider that, except Bhuimalis only, there is no such class in Bengal."[4]

Mr. Mullick who was a representative of the Depressed Classes on the Bengal Provincial Franchise Committee in his minute of dissent gave a list of 86 castes as belonging to the Untouchable Classes.

BIHAR AND ORISSA

The population of the Depressed Classes in Bihar and Orissa according to the Census of 1911 was 9,300,000[5] and according to the Census of 1921 was 8,000,000[6].

But the Bihar and Orissa Provincial Franchise Committee in its provincial memorandum[7] observed—

> "It is difficult to give an exhaustive list of the castes or sects who come under the definition of Depressed Classes. The only classes which can be called depressed are *Mushahars, Dusadhs, Chamars, Doms* and *Mehtars*. Their number is not sufficiently large to justify their being grouped in a separate electoral roll. The problem of Depressed Classes is not so acute in Bihar as in Bombay or South India. The Committee considers that there is no need for special representation of the Depressed Classes."

[1] I.F.C., Vol. III, p. 285.

[2] *Ibid.,* pp. 297-98.

[3] *Ibid.,* p. 189.

[4] *Ibid.* p. 230.

[5] *Quoted from 'Dr. Babasaheb Ambedkar Writings & Speeches'. Vol. 2. p. 437—Ed.*

[6] *Ibid.,* p. 431—Ed.

[7] I.F.C., Vol. III, p. 129.

The same Committee in its final report[1] said :

> "The classes which are commonly regarded as Untouchables are Chamar, Busadh, Dom, Halalkhor, Hari, Mochi, Mushahar, Pan Pasi.....The majority of the Committee, however consider that there is no need for special representation as the Depressed Classes as their grievances are not so acute here as in Bombay or South India".

Why did the Hindus suddenly turn to reduce the population of the Untouchables from millions to fractions ? The figure of 50 millions had stood on the record from 1911. It had not been questioned by any one. How is it that in 1932 the Hindus made so determined an effort without any regard to the means to challenge the accuracy of this figure ?

The answer is simple. Up to 1932 the Untouchables had no political importance. Although they were outside the pale of Hindu Society which recognizes only four classes namely Brahmins, Kshatriyas, Vaishyas and Shudras, yet for political purposes they were reckoned as part of the Hindu Society. So that for political purposes such as representation in the Legislature etc., the question of the population of the Untouchables was of no consequence. Up to 1932 the political question was one of division of seats in the Legislature between Hindus and Musalmans only and as there was no question of the seats that came to the lot of the Hindus being partitioned between the Touchables and the Untouchables and as the whole share went to the Touchables they did not care to inquire what the population of the Untouchables was. By 1932 the situation had completely altered. The question of partition was no longer a question between Hindus and Musalmans. The Untouchables had begun to claim that there should not only be a partition between the Hindus and Musalmans but that the share allotted to the Hindus should be further partitioned and the share of the Untouchables given to them to be enjoyed by them exclusively. This claim to separation was recognized and the Untouchables were allowed to be represented by members of their own class at the Indian Round Table Conference. Not only was the separate existence of the Untouchables thus recognized but the Minorities Sub-Committee of the Indian Round Table Conference had accepted the principle that under the new Constitution the depressed classes should be given representation in all Legislatures in proportion to their population. It is thus that the population of the Untouchables became a subject of importance. The less the population of the Untouchables the greater the share of the political representation that would go to the Touchable Hindus. This will explain why the Touchables who

[1] I.F.C. Vol. III, p. 188.

before 1932 did not care to quarrel over the question of the population of the Untouchables, after 1932 began denying the very existence of such a class as Untouchables.

The ostensible grounds urged by the Hindus before the Lothian Committee for reducing the population of the Untouchables were two. One was that the figures given by the Census Commissioner were for Depressed Classes and not for Untouchables and that Depressed Classes included other classes besides Untouchables. The second ground urged by them was that, the definition of the word should be uniform throughout all India and should be applied in all Provinces in determining the population of the Untouchables. In other words they objected to a local test of untouchability.

The first contention was absolutely untrue. The term Depressed Classes was used as a synonym for Untouchables and the term Depressed Classes was used instead of the term Untouchables because the latter, it was felt, would give offence to the people meant to be included under the term. That, it was used to denote only the Untouchables and it did not include the Aboriginals or the Criminal Tribes was made clear in the debate that took place in the Imperial Legislative Council in 1916 on the Resolution moved by the Honourable Mr. Dadabhoy. The second contention of the caste Hindus was that the test of untouchability should be uniform. The object of putting forth this contention was to reduce the number of Untouchables. It is well known that there are variations in the forms which untouchability assumes in different parts of India. In some parts of India, Untouchables are unseeables i.e. they cause pollution if they come within the sight of a Touchable Hindu. In some parts Untouchables are unapproachables i.e. they cause pollution if they come within a certain distance of a Touchable Hindu. Of these unapproachables there are two classes. There is a class of unapproachables who cannot come within a certain fixed distance of a Touchable Hindu. There is another class of unapproachables who cannot come so near a Hindu as to let his shadow fall upon him. In some parts of India an Untouchable is not an unseeable or unapproachable. It is only his physical contact which causes pollution. In some parts an Untouchable is one who is not allowed to touch water or food. In some parts an Untouchable is one who is not allowed to enter a temple. With these variations it is clear, that if unseeability was taken as the only test of untouchability, then the unapproachables would have to be excluded from the category of Untouchables. If unapproachability was taken as a test, then those whose touch only caused pollution will have to be excluded from the category of

Untouchables. If causing pollution by touch be taken as a test, then those whose disability is that they are not allowed to touch water or food or those whose only disability is that they are not allowed to enter the temple, shall have to be excluded. This is what the Hindus wanted to do. By insisting upon uniform test they wanted to eliminate certain classes from the category of Untouchables and thereby reduce the population of the Untouchables. Obviously their point of view was fallacious. Untouchability is an outword expression of the inner repulsion which a Hindu feels towards a certain person. The form which this repulsion takes is comparatively a matter of small moment. The form merely indicates the degree of repulsion. Wherever there is repulsion there is untouchability. This simple truth the Hindus knew.

But they kept on insisting upon uniformity of test because they wanted somehow to reduce the population of the Untouchables and to appropriate to themselves a larger share of political representation.

VI

This struggle between the Hindus and the Untouchables constituted undoubtedly the main episode. But within this episode there was another which, though of a smaller character, was yet full of significance. It was the struggle between the Backward Classes and the Untouchables. The representatives of the Backward Classes contended that the category known as Depressed Classes should not only include Untouchables in the strict sense of that term but should also include those classes which are economically and educationally backward. The object of those that wanted, that not only the Untouchables but also those who are educationally and economically backward shall also be given separate representation, was a laudable one. In putting forth this contention they were not asking for anything that was new. Under the reformed constitution that came into operation in 1920, the right of the economically and educationally backward communities was recognized in the two provinces of India namely Bombay and Madras. In Bombay the, Marathas and allied castes and in Madras the Non-Brahmins were given separate representation on the only ground that they were economically and educationally backward. It was feared that if special representation was not given to those communities, they would be politically suppressed by the minority of high caste Hindus such as Brahmins and allied castes. There are many communities in other Provinces who are in the same position and who need special political representation to prevent their being suppressed by the higher castes. It was therefore perfectly proper for the representatives of the Backward

Classes from the Hindus to have claimed special representation for themselves.[1] If their point of view had been accepted the total number of Depressed Classes would have swelled to enormous proportions. But they received no support either from the Untouchables or from the high caste Hindus. The Hindus were opposed to the move which was calculated to increase the population of the Depressed Classes. The Untouchables did not want to be included in their category any class of people who were not really Untouchables. The proper course for these backward communities was to have asked to make a division of Touchable Hindus into advanced and backward and to have claimed separate representation for the Backward. In that effort the Untouchables would have supported them. But they did not agree to this and persisted in being included among the Depressed Classes largely because they thought that this was easier way of securing their object. But as the Untouchables opposed this the backward communities turned and joined the Hindus in denying the existence of Untouchables, more vehemently than the Hindus.

In this struggle between the Touchables and Untouchables the latter did not get any support from the Mahomedans. It will be noticed that in the Punjab Provincial Franchise Committee, only one Mahomedan supported the representative of the Untouchables in his assertion that there are in the Punjab communities which are treated as Untouchables. The rest of the Mahomedan members of the Committee did not join. In Bengal the Hindu and the Mahomedan members of the Bengal Provincial Franchise Committee agreed not to express any view on the matter. It is rather strange that the Mahomedans should have kept mum. It was in their interest that the Untouchables should be recognized as a separate political community. This separation between the Touchables and the Untouchables was to their benefit. Why did they not help the Untouchables in this struggle for numbers? There were two reasons why the Mahomedans took this attitude. In the first place the Mahomedans were asking for more than their population ratio of representation. They were asking for what in Indian political parlance is known as weightage. They knew that their weightage must involve a loss to the Hindus and the only question was which section of the Hindus should bear the loss. The Touchable Hindus would not

[1] The necessity for making such provision for the Backward Classes in U. P. from which this demand mainly came was amply demonstrated by what the Government of U. P. said in its Memorandum to the Simon Commission. Regarding the composition of the U. P. Legislature it said — "In the Province as a hole the four leading Hindu Castes, Brahman, Thakur, Vaishya and Kayastha form 21.5 per cent of the total Hindu population, but these four castes have supplied no less than 93 per cent of the Hindu Members of Council. The Jats, with 1.8 per cent of the population, have contributed another 5 per cent to the Hindu Membership; and all the millions included in the multitude of other Hindu Castes, including the real agricultural castes, though they amount to over 76 per cent of the Hindu population have only succeeded in supplying 2 per cent of the representation", p. 560.

mind the weightage if it could be granted without reducing their share. How to do this was the problem and the only way out of it was to reduce the share of the Untouchables. To reduce the share meant to reduce the population. This is one reason why the Mahomedans did not help the Untouchables in this struggle for numbers. The second reason why the Mahomedans did not help the Untouchables was the fear of exposure by the Hindus. Although Islam is the one religion which can transcend race and colour and unite diverse people into a compact brotherhood, yet Islam in India has not succeeded in uprooting caste from among the Indian Musalmans. Caste feeling among the Musalmans is not so verulent as it is among the Hindus. But the fact is that, it exists. That this caste feeling among the Musalmans leads to social gradation, a feature of the Muslim Community in India, has been noticed by all those who have had an occasion to study the subject. The Census Commissioner for Bengal in his report says: (*The quotation is not recorded in the MS.*—Ed.)

These facts are quite well known to the Hindus and they were quite prepared to cite them against the Muslims if the Muslims went too far in helping the Untouchables in this struggle for numbers and thereby bringing about a dimunition of the seats for Caste Hindus in the Legislature. The Mahomedans knew their own weak points. They did not wish to give an excuse to the Hindus to rake up the social divisions among the Musalmans and thought that their interest would be best served by their taking a non-partisan attitude.

The Untouchables were thus left to themselves to fight for their numbers. But even they could not be depended upon to muster for the cause. When the Hindus found that they could not succeed in reducing the number of the Untouchables, they tried to mislead the Untouchables. They began telling the Untouchables that Government was making a list of the Untouchable communities and it was wrong to have a community's name entered in such list because it would perpetuate untouchability. Acting on this advice, many communities who were actually an Untouchable community would send a petition stating that it was not classed as Untouchable and should not be listed. Much effort had to be made to induce such communities to withdraw such petitions by informing them that the real purpose was to estimate their numbers in order to fix their seats in the Legislature.

Fortunately for all, this struggle is now over and the controversy is closed and the population of the Untouchables can never be open to dispute. The Untouchables are now statutorily defined. Who are Untouchables is laid down by a schedule to the Government of India Act 1935 which describes them as Scheduled Castes. But the struggle

reveals a trait of Hindu character. If the Untouchables make no noise, the Hindu feels no shame for their condition and is quite indifferent as to their numbers. Whether they are thousands or millions of them, he does not care to bother. But if the Untouchables rise and ask for recognition, he is prepared to deny their existence, repudiate his reponsibility and refuse to share his power without feeling any compunction or remorse.

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CHAPTER 21

THE REVOLT OF THE UNTOUCHABLES

The movement of the Untouchables against the injustice of the Hindu Social Order has a long history behind it, especially in Maharashtra. This history falls into two stages. The first stage was marked by petitions and protests. The second stage is marked by open revolt in the form of direct action against the Hindu Established Order. This change of attitude was due to two circumstances. In the first place it was due to the realization that the petitions and protests had failed to move the Hindus. In the second place Governments had declared that all public utilities and public institutions are open to all citizens including the Untouchables. The right to wear any kind of clothes or ornaments are some of the rights which the British Indian Law gives to the Untouchables along with the rest. To these were added the rights to the use of public utilities and institutions, such as wells, schools, buses, trams, Railways, Public offices, etc., were now put beyond the pale of doubt. But owing to the opposition of the Hindus the Untouchables cannot make any use of them. It is to meet the situation, the Untouchables decided to change the methods and to direct action to redress their wrongs. This change took place about 1920.

I

Of such attempts at direct action only few can be mentioned so as to give an idea of the revolt of the Untouchables against the Hindu Social Order. Of the attempts made to vindicate the right to use the public roads, it is enough to mention one, most noteworthy attempt in this behalf was that made by the Untouchables of Travencore State in 1924 to obtain the use of the roads which skirted the temple at Vaikom. These roads were public roads maintained by the State for the use of everybody, but on account of their proximity to the temple building, the Untouchables were not allowed to use certain sections which skirted the temple too closely. Ultimately as a result of Satyagraha, the temple compound was enlarged and the road was realigned so that there the Untouchables even if they used it were no longer within the polluting distance of the temple.

II

Of the attempts made to vindicate the right to take water from the public watering places, it is enough to mention the case of the Chawdar Tank.

This Chawdar Tank is situated in the town of Mahad in the Kolaba District of Bombay Presidency. The tank is a vast expanse of water mainly fed by the rains and a few natural springs. The sides of the tank are embanked. Around the tank there are s nail strips of land on all sides belonging to private individuals. Beyond this strip of land lies the Municipal road which surrounds the tank and beyond the road are houses owned by the Touchables. The tank lies in the heart of the Hindu quarters and is surrounded by Hindu residence.

This tank is an old one and no one knows who built it or when it was built. But in 1869 when a Municipality was established by the Government for the town of Mahad, it was handed over to the Municipality by the Government and has since then been treated as a Municipal i.e., public tank.

Mahad is a business centre. It is also the headquarters of a taluk. The Untouchables either for purposes of doing their shopping and also for the purpose of their duty as village servants had to come to Mahad to deliver to the taluka officer either the correspondence sent by village officials or to pay Government revenue collected by village officials. The Chawdar tank was the only public tank from which an outsider could get water. But the Untouchables were not allowed to take water from this tank. The only source of water for the Untouchables was the well in the Untouchables quarters in the town of Mahad. This well was at some distance from the centre of the town. It was quite choked on account of its neglect by the Municipality.

The Untouchables therefore were suffering a great hardship in the matter of water. This continued till matters got going. In 1923 the Legislative Council of Bombay passed a resolution to the effect that the Untouchable classes be allowed to use all public watering places, wells, Dharmashalas which are built and maintained out of public funds, or are administered by bodies appointed by Government or created by Statutes as well as public schools, courts, offices and dispensaries. Government accepted the resolution and issued the following orders:

> "In pursuance of the foregoing Council Resolution the Government of Bombay are pleased to direct that all heads of offices should give effect to the resolution so far as it related to the public places, institutions belonging to and maintained by

Government. The Collectors should be requested to advise the local bodies in their jurisdiction to consider the desirability of accepting the recommendations made in the Resolution."

In accordance with this order of the Government, the Collector of Kolaba forwarded a copy thereof to the Mahad Municipality for consideration. The Mahad Municipality passed a resolution on 5th January 1924 to the effect that the Municipality had no objection to allow the Untouchables to use the tank. Soon after this resolution was passed there was held at Mahad, a Conference of Untouchables of the Kolaba District over which I presided. The Conference met for two days, the 18th and 20th March 1927. This was the first Conference of the Untouchables held in the Kolaba District. Over 2,500 Untouchables attended the Conference and there was great enthusiasm. On the first day of the Conference, I delivered my presidential address in which I exhorted them to fight for their rights, give up their dirty and vicious habits and rise to full manhood. Thereafter high caste Hindus who were present and, who held out that they were the friends of the Untouchables, addressed the gathering and told the Untouchables to be bold and exercise the right that is given to them by law. With this, the proceedings of the first day were closed. The subject committee met at night to consider the resolution to be moved in open conference the next day. In the Subject Committee, attention was drawn by some people to the fact that there was great difficulty at Mahad for the Untouchables in the matter of obtaining water for drinking purposes, and that this difficulty was felt particularly by the members of the Reception Committee of the Conference which had to spend Rs. 15 an enormous amount to employ caste Hindus to dole out water in sufficient quantity to satisfy the needs of those who had attended the Conference.

Next day on the 20th, the Conference met about 9 in the morning. The resolutions agreed upon in the Subject Committee were moved and passed by the Conference. It took about three hours in all. In the end one of my co-workers in moving a vote of thanks to the President and others who had helped to make the Conference a success referred to the question of the difficulty in the matter of getting water and exhorted the Untouchables present to go to the tank and exercise their right to take water from Chawdar tank, especially as the Municipality had by resolution declared it open to the Untouchables and that their Hindu friends were ready to help them. The Hindus who had exhorted them to be bold and begin fearlessly to exercise their rights, instantly realised that this was a bombshell and immediately ran away. But the effect upon the Untouchables was very different. They were electrified

by this call to arms. To a man they rose and the body of 2,500 Untouchables led by me and my co-workers marched in a procession through the main streets. The news spread like wild fire while crowds thronged the streets to witness it.

The Hindu inhabitants of the town saw the scene. They were taken by storm. They stood aghast witnessing this scene which they had never seen before. For the moment they seemed to be stunned and paralized. The procession in form of fours marched past and went to the Chawdar tank, and the Untouchables for the first time drank the water. Soon the Hindus, realizing what had happened, went into frenzy and committed all sorts of atrocities upon the Untouchables who had dared to pollute the water. These atrocities will be narrated in their proper places.

The assault committed by the Hindus on the Untouchables at Mahad when they entered the Chawdar tank was undoubtedly a challenge to the Untouchables. The Untouchables on the other hand were determined not to be satisfied with merely exercising their right but to see it established. They naturally felt that they must take up the challenge thrown at them by the Hindus. Accordingly a second Conference of the Untouchables was called. The Untouchables were told that they must come fully prepared for all eventualities for Satyagraha (i.e., for civil disobedience and even for going to gaol).

The Hindus, when they came to know of this, applied to the District Magistrate of Kolaba for issuing an order under Section 144 of the Criminal Procedure Code against the Untouchables, prohibiting them from entering the Chawdar Tank and polluting its water. The District Magistrate refused and said that the tank was a public tank open to all citizens and he could not by law prevent the Untouchables from taking water therefrom. He advised them to go to a Court of law and get their right of exclusive user established. The dates fixed for the Conference were 25th, 26th, 27th of December 1927. As these dates drew near, and as they heard that the Untouchables were quite in earnest, and knowing that the District Magistrate had refused to come to their rescue, they did the only thing that was open to them, namely, to get their right to exclude the Untouchables from a public tank established by law. Accordingly, nine Hindus drawn from different castes joined as Plaintiffs in filing on 12th December 1927 a suit No. 405 of 1927 as representatives of the Hindus, in the Court of Sub-Judge of Mahad. I and four others were made defendants as representing the Untouchables. The suit was for obtaining a declaration 'that the said Chawdar tank is of the nature of private property of the Touchable classes only and that the Untouchable classes have no right to go to

that tank nor take water therefrom and also for obtaining a perpetual injunction restraining the defendants from doing any of those acts.' On the same day on which the suit was filed, the plaintiffs applied to the Court for a temporary injunction against the defendants restraining them from going to the tank and taking water therefrom pending the decision of the suit. The judge holding that it was a fit case, granted a temporary injunction against me and the other defendants on the 14th December 1927.

The temporary injunction issued by the Judge was sent to Bombay and was served upon me two or three days before the Conferences actually met. There was no time to have consultation and no time to postpone the Conference either. I decided to leave the matter to the Conference to decide.

The Conference was called with the specific object of establishing the right to take water from the tank which was challenged by the Hindus last time. The District Magistrate had left the way open. But here was a Judge who had issued an order banning such action. Naturally, when the Conference met, the first question it was called on to consider was whether to disobey the order of injunction issued by the Court and enter the tank. The District Magistrate who had been favourable to the Untouchables now took a different view. He explained his view very clearly to the Conference which he came and addressed personally. He said that if the Civil Court had not issued an injunction, he would have helped the Untouchables in their attempt to enter the tank as against the caste Hindus, but that as the Sub-Judge had issued his order, his position had become different. He could not allow the Untouchables to go to the tank because such an act would amount indirectly to help them to break the order of His Majesty's Court with impunity. He therefore felt bound to issue an order prohibiting the Untouchables, should they insist on going to the tank notwithstanding the injunction—not because he wanted to favour the Hindus but because he was bound to maintain the dignity of the Civil Court by seeing to it that its order was respected.

The Conference took what the Collector had said into its consideration and also the reaction of the Hindus to the attempt of the Untouchables going to the tank in defiance of the order of the Court which they had obtained. In the end, the Conference came to the conclusion that it was better and safer for them to follow law and see how far it helped them to secure their rights. It was therefore decided to suspend civil disobedience of the order of the Judge till the final decision of the suit.

The occasion for civil disobedience never came because the Untouchables won the suit and the Hindus lost it. One of the principal reasons which led the Untouchables to follow law and suspend civil disobedience was that they wanted to have a judicial pronouncement on the issue whether the custom of untouchability can be recognized by the Court of law as valid. The rule of law is that a custom to be valid must be immemorial, must be certain and must not be opposed to morality or public policy. The Untouchables' view is that it is a custom which is opposed to morality and public policy. But it is no use unless it is declared to be so by a judicial tribunal. Such a decision declaring the invalidity of the custom of untouchability would be of great value to the Untouchables in their fight for civil rights because it would seem illegal to import untouchability in civic matters. The victory of the Untouchables in the Chawdar tank dispute was very great. But it was disappointing in one way that the Bombay High Court did not decide the issue whether the custom of untouchability was valid or not. They decided the case against the Hindus on the ground that they failed to prove that the custom alleged by them in respect of the tank was not immemorial. They held that the custom itself was not proved. The tank became open to the Untouchables. But the Untouchables cannot be said to have gained their point. The main issue was whether the custom of untouchability was a legal custom. Unfortunately the High Court avoided to give judgment on that issue. The Untouchables had to continue their struggle.

IV

The next item in this history of direct action which is worthy of mention relates to the entry in the famous Hindu Temple at Nasik known as the Kala Ram Temple. These are instances of direct action aimed to achieve specific objects. The movement includes two cases of direct action aimed at the demolition of the Hindu Social Order by applying dynamite to its very foundations. One is the burning of the Manu Smriti and the second is the mass refusal by the Untouchables to lift the dead catties belonging to the Hindus and to skin them.

The Burning of Manu Smriti took place at Mahad on the 20th of December 1927. The function was a part of the campaign for establishing the right to take water from the Chawdar tank. The Burning of the Manu Smriti took place publicly and openly in a Conference of Untouchables. Before burning the Manu Smriti, the Conference passed certain resolutions. As these resolutions form a land

mark in the history of the movement of the Untouchables they are given below:

"Resolution 1.—*Declaration of the rights of a Hindu.*

This conference is firmly of opinion that the present deplorable condition of the Hindu Community is only an illustration of how a community becomes fallen by reason of its tolerating social injustice, following erroneous religious beliefs and supporting economic wrongs. The fall of the Hindu community is due entirely to the fact that the masses have not cared to know what are the birth-rights of a human being and much less have they cared to see that they are recognised and not set at naught the base acts and deeds of selfish people. To know what are these birth-rights of man and to endeavour to see that they are not trampled upon in the struggle between man and man and class and class, are the sacred duties of every person. In order that every Hindu may not know what are in the opinion of the Conference the inalienable birthrights of man, this Conference resolves to issue the following proclamation containing a list thereof—

(*i*) All Hindus have the same social status from birth. This equality of social status is an attribute which they retain till death. There may be distinctions and differences between them in point of their functions in society. But that must not cause differences in their social status. This Conference is therefore opposed to any action—whether in the political, economic or social field of life—which would result in producing a difference in social status.

(*ii*) The ultimate aim of all political, economic or social changes should be to maintain intact the equal status of all Hindus. That being the view of the Conference, the Conference strongly disapproves of all literature of the Hindus, whether ancient or modern, which supports in any way the pernicious doctrine of inequality underlying the Hindu social system.

(*iii*) All power is derived from the people. The privileges claimed by any class or individual have no validity if they are not granted by the people. This Conference therefore repudiates the social and religious privileges enjoyed by some classes of Hindus in as much as they are founded upon the Vedas, Smritis and Puranas and not upon the free consent of the people.

(*iv*) Every person is entitled as his birth-right to liberty of action and speech. This liberty could be limited only for the purpose of saving the right of another person to his liberty and for no other purposes. Further this limitation can be imposed only with the sanction of the people and not by any injunction of

the Hindu Shastras. This Conference therefore repudiates all restraints on religious, social and economic freedom imposed upon the thought and action of the Hindus in as much as they are imposed by the Shastras and not by the people.

(*v*) Hindus can be deprived of their rights other than their birth-rights only by law. What is not prohibited by law, a Hindu must be free to do and what is not obligatory by law, a Hindu must not be forced to do. For this reason there must be no obstruction to persons using public roads, public wells and tanks, public temples and all other public utilities. Persons, causing obstruction in matters where law has laid down no prohibition, are in the opinion of this Conference enemies of the public.

(*vi*) Law is not a command of an individual or a body of individuals. Law is the peoples prescription for change. That being so, law to be respected, must be made with the consent of all and must have equal application to all without any distinction. Social divisions if they are necessary for the ends of society can only be made on the basis of worth and not of birth. This Conference repudiates the Hindu caste-system firstly as being detrimental to society, secondly as being based on birth and thirdly as being without any sanction from the people."

The Second Resolution passed by the Conference was worked as follows:

> *"Resolution No. 2.*—Taking into consideration the fact that the laws which are proclaimed in the name of Manu, the Hindu lawgiver, and which are contained in the Manu Smriti and which are recognised as the Code for the Hindus are insulting to persons of low caste, are calculated to deprive them of the rights of a human being and crush their personality. Comparing them in the light of the rights of men recognised all over the civilized world, this conference is of opinion that this Manu Smriti is not entitled to any respect and is undeserving of being called a sacred book to show its deep and profound contempt for it, the Conference resolves to burn a copy thereof, at the end of the proceedings, as a protest against the system of social inequality it embodies in the guise of religion."

A cursory reading of these resolutions will show the line which the Conference adopted. Although the Conference met to redress a particular wrong, it showed that it was not going to be satisfied with the redress of petty wrongs. The Conference felt that the time had arrived for laying down the goal of the Untouchables. The goal laid down by it was far-reaching. The Conference proclaimed that the Untouchables wanted a complete overhauling of the Hindu social

system. It proclaimed that this reconstruction must not be on the old foundation of Shastras. It proclaimed that whatever character of the new foundations, they must be consonant with justice and equity between Hindu and Hindu and to leave no doubt that in the matter of this reconstruction, they would not consent to the Hindu shastras being drawn upon. The Conference not only repudiated them but actually went to the length of burning them to ashes.

It was an echo of Voltare's denunciation of the Catholic Church of his time. For the first time a cry was raised against the Hindu Social Order "*Ecraze la Infame*". It is also clear that these resolutions were absolutely revolutionary in character.

The rock on which the Hindu Social Order has been built is the Manu Smriti. It is a part of the Hindu Scriptures and is therefore sacred to all Hindus. Being sacred it is infallible. Every Hindu believes in its sanctity and obeys its injunctions. Manu not only upholds caste and untouchability but gives them a legal sanction. The burning of the Manu Smriti was a deed of great daring. It was an attack on the very citadel of Hinduism. The Manu Smriti embodied the spirit of inequality which is at the base of Hindu life and thought just as the Bastille was the embodiment of the spirit of the Ancient regime in France. The burning of the Manu Smriti by the Untouchables at Mahad in 1927 is an event which has the same significance and importance in the history of the emancipation of the Untouchables which the Fall of Bastille had in the liberation of the masses in France and Europe.

The second instance of direct action against the frame of the Hindu Social Order itself is the refusal to skin the dead animals belonging to the Hindus and carrying them.

One often hears the Untouchables being condemned for having brought upon themselves the curse of untouchability. The main ground on which this accusation rests is the adoption by the Untouchables as their occupation, the carrying of the dead animals of the Hindus and skinning them and eating the carrion.

Even so great a friend of the downtrodden as the Abe. Dubois writing about the *Pariahs* of the Madras Presidency said:

> "What chiefly disgusts other natives is the revolting nature of the food which the Pariahs eat. Attracted by the smell, they will collect in crowds round any carrion and contend for the spoil with the dogs, jackals, crows and other carnivorous animals. They then divide the semi-putrid flesh and carry it away to their huts, where they devour it, often without rice or anything else to disguise the flavour. That the animal should have died of disease is of no

> consequence to them, and they sometimes secretly poison cows or buffaloes so that they may subsequently feast on the foul, putrifying remains. The carcasses of animal's that die in a village belong by right to the *thoti* or scavenger, who sells the flesh at a very low price to the other Pariahs in the neighbourhood. When it is impossible to consume in one day the stock of meat thus obtained, they dry the remainder in the sun, and keep it in their huts until they run short of their food. There are few Pariah houses where one does not see festoons of these horrible fragments hanging up; and though the Pariahs themselves do not seem to be affected by the smell, travellers passing near their village quickly perceive it and can tell at once the caste of the people living there....
>
> Is it to be wondered at, after what has been just stated that other castes should hold this in abhorrence? Can they be blamed for refusing to hold any communication with such savages, or for obliging them to keep themselves aloof and to live in the separate hamlets? . . . . . ."

It is true that this occupation has created a feeling of repugnance against the Untouchables in the mind of the Hindus. But the Abe or those who adopt his reasoning forget to raise two very important questions. First is why do the Untouchables eat carrion? Will the Hindus allow the Untouchables the freedom to give up skinning and carrying their dead animals? The answer to the question why the Untouchables eat carrion has already been given in a previous chapters.

No one would prefer carrion to flesh meat if it is available. If the Untouchables have been living on carrion it is not because they like it. They eat carrion, because there is nothing else on which they can live. This will be clear to anyone who realizes that on account of untouchability they have no way left to earn a living. All professions have been closed to them. There is no land on the produce of which they can live. There is no trade which they can engage in. Their main stay is therefore the food they collect from the villagers and the carrion which is left to them. Without carrion they would literally die of starvation. It is therefore clear that the fault does not lie with the Untouchables. If the Untouchables eat carrion it is because the Hindus have left no honourable way of earning a living open to them.

To the second question the answer is equally clear. If the Untouchables skin and carry the dead animals of the Hindus, it is because the Untouchables have no choice. They are forced to do it. They would be penalized if they refused to do it. The penalty is legal. In some provinces the refusal to do this dirty work is a breach of contract. In other provinces it is a criminal offence involving fines. In

Provinces like Bombay the Untouchables are village servants. In their capacity as village servants they have to serve the Government as well as the Hindu public. In return for this service they are given lands which they cultivate and on the produce of which they maintain themselves. One of the duties of the Untouchables is to skin and carry the dead animals of the Hindus in the villages. If the Untouchables refuse to perform these duties to the Hindu public, the land which they live on is liable to be confiscated. They have to choose between doing the dirty work or facing starvation.

In Provinces like the United Provinces, refusal to do scavenging by sweeper is made an offence. The United Provinces Municipalities Act II of 1916 contains the following provisions:

> *Section 201*(1).—"Should a sweeper who has a customary right to do the house-scavenging of a house of building (hereinafter called the customary sweeper) fail to perform such scavenging in a proper way, the occupier of the house or building or the board may complain to a Magistrate."
>
> (2) "The Magistrate receiving such complaint shall hold an inquiry and should it appear to him that the customary sweeper has failed to perform the house-scavenging of the house or building in a proper way or at a reasonable intervals, he may impose upon such a sweeper a fine which may extend to ten rupees, and upon a second or any later conviction in regard to the same house or building, may also direct, the right of the customary sweeper to do the house scavenging the house or building to be forfeited and thereupon such right shall be forfeited."

Exactly similar provision is to be found in Section 165 of the Punjab Municipalities Act of 1911. The Punjab Act is an advance over the U. P. Act, in as much as it provides for punishment of a sweeeper who is not customary sweeper but a contract-sweeper. The Punjab Act adds:

> "(3) Should any sweeper (other than a customary sweeper), who is under a contract to do house-scavenging of a house or a building, discontinue to do such house-scavenging without fourteen days' notice to his employer or without reasonable cause, he shall on conviction be punishable with a fine which may extend to Rs. ten."
>
> "227. Every order of forfeiture under Section 165 shall be subject to an appeal to the next superior court, but shall not be otherwise open to appeal."

People may be shocked to read that there exists legal provision which sanctions forced labour. Beyond doubt, this is slavery. The difference between slavery and free labour lies in this. Under slavery

a breach of contract of service is an offence which is punishable with fine or imprisonment. Under free labour a breach of contract of service is only a civil wrong for which the labourer is liable only for damages. Judged in the light of this criterion, scavenging is a legal obligation imposed upon the Untouchables which they cannot escape.

Given these conditions, how can the Untouchables be accused of doing these dirty work voluntarily?

The question whether the Untouchables can be accused of having invited the curse of untouchability upon themselves for doing the dirty work of the Hindus is really beside the point. What is important to note is that the Conference of the Untouchables which met in Mahad resolved that no Untouchable shall skin the dead animals of the Hindus, shall carry it or eat the carrion. The object of these resolutions was two-fold. The one abject was to foster among the Untouchables self-respect and self-esteem. This was a minor object. The major object was to strike a blow at the Hindu Social Order. The Hindu Social Order is based upon a division of labour which reserves for the Hindus clean and respectable jobs and assigns to the Untouchables dirty and mean jobs and thereby clothes the Hindus with dignity and heaps ignominy upon the Untouchables. The resolution was a revolt against this part of the Hindu Social Order. It aimed at making the Hindus do their dirty jobs themselves.

This is a brief summery of the history of the revolt of the Untouchables against the established order of the Hindu. It originated in Bombay. But it has spread to all parts of India.

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CHAPTER 22
HELD AT BAY

I. Hindu reaction to the revolt of the untouchables. II. Lawless means for ruthless repression. III. Untouchables, a weak force. IV. Officers who are shameless partisans. V. A weapon which is made blunt.

I

The story of the revolt of the Untouchables tells how the old is ringing out and the new is ringing in. What is the reaction of the Hindus to this revolt? No one who knows anything about it can have any hesitation in answering this question. For it is clear that his attitude is one of opposition. It might be difficult to understand why the Hindus should oppose. But there can be no manner of doubt that he is opposed.

The reasons why the Hindus are opposed to this fight for rights of the untouchables for their rights will not be difficult to understand if certain important features of the relationship that is now subsisting between the Caste Hindus and the Untouchables are borne in mind.

The first and foremost consideration that must never be forgotten is the sharp division between the Touchables and the Untouchables. Every village has two parts, the quarters of the Touchables and quarters of the Untouchables. Geographically the two are separate. There is always an appreciable distance between the two. At any rate there is no contiguity or proximity between them. The Untouchables have a distinct name for their quarters such as Maharwada, Mangwada, Chamrotti, Khaykana, etc. *De Jure* for the purposes of revenue administration or postal communication the quarters of the Untouchables are included in the village. But *de facto* it is separate from the village. When the Hindu resident of a village speaks of the village he means to include in it only the Caste Hindu residents and the locality occupied by them. Similarly when the Untouchable speaks of the village he means to exclude from it the Untouchables and

the quarters they occupy. Thus, in every village the Touchables and Untouchables form two separate groups. There is nothing common between them. They do not constitute a folk. This is the first thing which must be noted.

The second thing to note with regard to this division of the village into two groups is that these groups are real corporations which, no one included within them, can escape. As has been well said the American or European belongs to groups of various kinds, but he "joins" most of them. He of course is born into a family, but he does not stay in it all his life unless he pleases. He may choose his own occupation, residence, wife, political party, and is responsible, generally speaking, for no one's acts but his own. He is an "individual" in a much fuller sense because all his relationships are settled by himself for himself. The Touchables or Untouchables are in no sense individuals because all or nearly all of their relationships are fixed when they are born in a certain group. Their occupation, their dwelling, their gods and their politics are all determined for them by the group to which they belong. When the Touchables and Untouchables meet, they meet not as man to man, individual to individual, but as members of groups or as nationals of two different states.

This fact has an important effect upon the mutual relationship between the Touchables and Untouchables in a village. The relationship resembles the relationship between different clans in primitive society. In primitive society the member of the clan has a claim, but the stranger has no standing. He may be treated kindly, as a guest, but he cannot demand "justice" at the hands of any clan but his own. The dealing of clan with clan is a matter of war or negotiations, not of law; and the clanless man is an outlaw, in fact as well as in name, and lawlessness against the stranger is therefore lawful. The Untouchable, not being a member of the group of Touchables, is a stranger. He is not a kindred. He is an outlaw. He cannot claim justice nor any rights which the Touchable is bound to respect.

The third thing to note is that the relationship between the two, the Touchables and the Untouchables, has been fixed. It has become a matter of status. This status has unmistakably given the Untouchables a position of inferiority *vis-a-vis* the Touchables. This inferiority is embodied in a code of social conduct to which the Untouchables must conform. What kind of code it is, has already been stated. The Untouchable is not willing to conform to that code. He is not prepared to render unto Caesar what is claimed by Caesar. The Untouchable wants to have his relationship with the Touchables by contract. The

Touchable wants the Untouchables to live in accordance with the rules of status and not rise above it. Thus, the two halves of the village, the Touchables and the Untouchables, are now struggling for resettling what the Touchable thinks is settled for ever. The conflict is centered round one question—What is to be the basis of this relationship? Shall it be contract or shall it be status?

That is the question which is agitating the Hindus. The Hindu does not look at the revolt of the Untouchables as an attempt on the part of the latter for social and economic improvement of their people. He looks at it as an attempt directed against him, an attempt to equalize. That is why he is opposed.

II

The opposition of the Hindus is a determined opposition bent on stamping out the revolt at any cost. In this, they are prepared to use any means and to go to any length. This revolt of the Untouchables has been met with equally determined attack on the part of the Hindus. How cruel the Hindus can be in suppressing this revolt of the Untouchables will appear from one or two cases.

On the occasion of the entry of the Untouchables in the Chawdar Tank at Mahad, in the exercise of their right to take water from a public place, the assault made upon the Untouchables who had attended the Conference and taken part in the march upon the Tank has been described in the Bombay Chronicle in the following terms:

> "The procession was a most peaceful one and everything passed off quietly. But after about two hours some evil minded leaders of the town raised a false rumour that the depresssed classes were planning to enter the temple of Vireshwar, whereupon a large crowd of riffraff had collected all armed with bamboo sticks. The crowd soon became aggressive and the whole town at once became a surging mass of rowdies, who seemed to be out for the blood of the depressed classes.
>
> The depressed classes were busy in taking their meal before dispersing to their village. When a large part of them had left the town, the rowdies entered the kitchen where the depressed classes were taking their food. There would have been a regular battle between the two forces, but the depressed classes were held back by their leaders, and thus a far more serious riot was averted. The rowdies, finding no occasion for provocation, began patrolling the main street and assaulting the members of the depressed classes who, in stray batches, were passing along on their way to their

villages, and committed trespass in the houses of several depressed class people and gravely assaulted them. In all, the number of wounded among the depressed classes is supposed to be as large as 20. In this, the attitude of the Depressed classes was as commendable as the attitude of many of the upper classes was unworthy. The depressed classes assembled vastly outnumbered the upper classes. But as the object of their leaders was to do everything in a non-violent and absolutely constitutional manner, they set their faces against any aggression on the part of the depressed classes. It speaks a great deal in favour of the depressed classes, that, although the provocation given to them was immense, they kept their self control. The Mahad Conference has shown that the upper classes are not willing to allow the depressed classes to enjoy such elementary civic rights as taking water from public water sources.

The most reprehensible part of the conduct of the upper caste Hindus in Mahad and Kolaba district was that, messages were sent immediately to the different villages asking the upper class people there to punish the delegates of the Conference as soon as they returned to their respective villages. In obedience to this mandate, assaults were committed on a number of Mahars returning from the Conference either before or after they reached their villages, where the depressed classes have the disadvantage of being overwhelmingly outnumbered by the upper caste Hindus. The leaders of the Depressed Classes have appealed to the authorities for protection and the District officials, including the District Superintendent of Police are making inquiries on the spot. It must, however be stated that, if the Resident Magistrate had not allowed two precious hours to pass without doing anything, the riot would have probably been averted."

The assault committed on the Untouchables as a result of the Kalaram Temple Satyagraha was no less severe.

The third instance is more recent and occurred in the year 1935 in the village of Kavitha in Dholka Taluka of the Ahmedabad District of the Bombay Presidency.

The Bombay Government having issued orders requiring the admission of the children of the Untouchables in public schools, it is reported that[1]:

"On August 8th, 1935, the Untouchables of the village Kavitha took four of their children to be admitted in the village school. Many caste Hindus from the village had gathered near the school to

[1] This account of the incident is a translation of the Statement sent to me by the Secretary of the Nava Yuga Mandal of Dholka.

witness this. This occasion for admission passed off quietly and nothing untoward happened."

The next day however the caste Hindus of the village withdrew their children from the school, as they did not like their children sitting with those of the Untouchables and getting themselves polluted.

Some time thereafter, an Untouchable from the village was assaulted by a Brahmin. On August 12th, the male members of the Untouchables of the village had come to Dholka to file a criminal complaint against the Brahmin in the Court of the Magistrate. Coming to know that the adult members of the Untouchables were absent, the Hindus of the village invaded the quarters of the Untouchables. They were armed with sticks, spears and swords. Among the invaders were caste Hindu women. They started attacking the old men and women of the Untouchables. Some of these victims fled to the jungles, some shut themselves up. These invaders directed their vehemance against those Untouchables who were suspected of having taken a lead in the matter of the admission of their children in the village school. They broke open their doors and not finding them in, they broke the tiles and rafters of the roofs over their houses.

Terror-stricken, these Untouchable men and women who are assaulted and beaten were anxious about the safety of those of their elders who had gone to Dholka and who were expected back that night. The caste Hindus knowing that the leaders of the Untouchables who had gone to Dholka would be returning sometime in the night, went out of the village fully armed to assault them and had concealed themselves behind the bushes and shrubs on the way to the village. Having come to know of this, an old Untouchable woman crept out of the village in the dark, met the leaders who were returning and informed them that armed gangs of caste Hindus were hiding themselves to waylay them and that therefore they should not come into the village. They refused to listen, fearing that the caste Hindus might do greater mischief in their absence. At the same time they were afraid that if they did enter they might be assaulted. They therefore decided to wait outside the village in the fields till after midnight. In the meantime, the gang of caste Hindus who were in ambush waited and waited and finally gave up the game and retired. The leaders of the Untouchables entered the village after about 3 a.m. in the night. If they had come earlier and met the murderous gang they would probably have been done to death. On seeing the harm done to person and property, they left the village for Ahmedabad before day break and informed the Secretary of the Harijan Seva Sangh, a body organized by Gandhi to look after the welfare of the Untouchables. But the

Secretary was helpless. Not only did the caste Hindus use physical violence, but they conspired to make the life of the Untouchables intolerable. They refused to engage them as labourers; they refused to sell them foodstuff. They refused to give them facilities for grazing their cattle and they committed stray assaults on Untouchable men and women. Not only this, but the caste Hindus in their frenzy poured kerosene oil in the well from which the Untouchables had to get their supply of drinking water. This they did for days together. The result was that the Untouchables of the village had no water. When things reached this stage, the Untouchables thought of filing a criminal complaint before a Magistrate which they did on 17th October, making some of the caste Hindus as the accused.

The strange part of the case is the part played by Gandhi and his Lieutenant, Sardar Vallabhbhai Patel. With all the knowledge of tyranny and oppression practised by the caste Hindus of Kavitha against the Untouchables, all that Mr. Gandhi felt like doing, was to advise the Untouchables to leave the village. He did not even suggest that the miscreants should be hauled up before a Court of Law. His henchman, Mr. Vallabhbhai Patel, played a part which was still more strange. He had gone to Kavitha to persuade the caste Hindus not to molest the Untouchables. But they did not even give him a hearing. Yet this very man was opposed to the Untouchables hauling them up in a court of law and getting them punished. The Untouchables filed the complaint notwithstanding his opposition. But he ultimately forced them to withdraw the complaint against the caste Hindus making some kind of a show of an undertaking not to molest, an undertaking which the Untouchables can never enforce. The result was that the Untouchables suffered and their tyrants escaped with the aid of Mr. Gandhi's friend, Mr. Vallabhbhai Patel.

This systematic suppression of the Untouchables is resorted to by the caste Hindus even in small matters such as the wearing of better clothes or the wearing of jewellery. Two such instances may be cited.

III

To whom the victory will go in the end is an interesting speculation, and those who are leading the movement of the Untouchables, are carefully watching the situation. Whatever the ultimate result, one thing is plain, that in this struggle, the odds are heavily against the Untouchables.

In this conflict with the Hindus, the Untouchables are always at bay. As against caste lawlessness, the Untouchables are always helpless. The

question is, why are the Untouchables always beaten, why are they always at bay? The question is an important question and needs to be answered.

The reasons why the Untouchables are at bay in this struggle with the caste Hindus are quite obvious. The first reason is that the two groups are unequally matched so far as numbers are concerned. In no village do the Untouchables constitute a considerable body of people as compared with the Caste Hindus. Most often they are composed of a few families and their number is very small, too small to give them any power to repel an attack of the caste Hindus. Although the Untouchables number 50 millions, which appears in lump to be a formidable figure, in fact they are scattered all over the villages in India so that in each village they form a small minority pitted against a great majority of the caste Hindus. Strategically speaking the forces are so badly distributed that they cannot but be overwhelmed by the caste Hindus.

The Mahomedans in the village of some provinces are in the same position as the Untouchables so far as numbers are concerned. They are also scattered throughout the villages and in some villages the population of the Mahomedans is much smaller than the population of the Untouchables. Yet the Mahomedans are not subjected by the Hindus to the disabilities and the indignities to which the Untouchables are subjected. This is rather strange, because there is as deep an antagonism between the Hindus and the Muslims as there is between the Hindus and the Untouchables. This difference in treatment is due to an advantage which the Muslims have but which the Untouchables do not have.

It was a rule in all ancient societies that a stranger was sacred. His person must be guarded from insult and injury. The Romans had their *dii hospitales* and the duties towards a stranger were even more stringent than those towards a relative. " He who has a spark of caution in him," says Plato "will do his best to pass this life without sinning against the stranger." It is strange that so much sanctity should have been attached to the person of a stranger. There is no doubt that this sanctity of the stranger's person was not due to pure kindness. The whole conduct of group life is opposed to a general spirit of consideration for those who are outside the group. The real reason why the stranger was treated as sacred and his person inviolate was because he belonged to a hostile group, and any injury to him was sure to lead to bloodshed. It was the fear of a blood feud which was the cause of this attitude towards the stranger.

The same thing applies to the Mahomedan in a village. In the eyes of the Hindus he is a stranger. But the Hindus dare not molest him because they know that any injury to him will be avenged by Muslims in a blood feud with the Hindus. The communal riots between the Hindus and Mahomedans are really blood feuds and they are caused by some injury done to a Mahomedan or to some Mahomedan interests. It is this fear of a blood feud which makes the life of a Muslim in a Hindu village safe.

There is nobody to avenge an injury done to an Untouchable. There is no fear of a blood feud. The Hindus therefore can commit any wrong against the Untouchables with impunity. This is because the Mahomedans are a solid mass, held together with a deep consciousness of kind, ready to act as one man to vindicate any wrong to the community or to a member thereof. The Untouchables, on the other hand, are a disunited body, they are infested with the caste system in which they believe as much as does the caste Hindu. This caste system among the Untouchables has given rise to mutual rivalry and jealousy and it has made common action impossible. The Mahomedans have also a caste system among themselves. Like the Untouchables they are also scattered all over the country. But their religion is a strong unifying force which gives them the feeling that, if they are parts, they are parts of one Muslim Community. There is nothing to instil such a feeling among the Untouchables. In the absence of any unifying force, the Untouchables are just fragments with no cement to bind them and their numbers are therefore of no advantage to them.

A large majority of the Untouchables in the villages are either village servants or landless labourers. As village servants, they depend upon the Hindus for their maintenance, and go from door to door every day and collect bread or cooked food from the Hindus in return for certain customary services rendered by them to the Hindus. This is a part of their remuneration. A part also of their remuneration consists in quantities of grain given to them by the Hindus at the harvest time. Whenever there is a disagreement between the Hindus and the Untouchables, the first thing the Hindus do is to stop giving bread, stop the payment of the harvest share and stop employing the Untouchables on any job. The result is that the struggling hoards of the Untouchables are face to face with starvation.

The Untouchables have no way of earning a living open to them in a village. He cannot do any business such as selling milk or vegetables. Because he is an Untouchable no one will buy these things from him. He cannot take to any trade because, all trades being hereditary, no one will accept his service. His economic dependence upon the Hindu

is complete and the Hindu takes a complete advantage of it whenever the Untouchables prove arrogant, or naughty in the eyes of the Touchables.

Not only is the Untouchable dependent upon the Touchable for earning his livelihood but the Untouchable is also dependent upon the Touchables for the purchase of his necessaries of life. In a village all shops belong to the Touchables. Trade is, and must necessarily be, in the hands of the Touchables. An Untouchable has to depend upon the Touchable shopkeepers for their shopping. If the Touchable shopkeeper is willing to sell, the Untouchables can obtain the necessaries of life. If the shopkeeper refuses to sell, the Untouchable must starve although they might have money to live on. Now whenever any dispute arises between the Touchables and the Untouchables the one thing the Touchables never fail to do is to command the shopkeepers not to sell anything to the Untouchables. The Touchables constitute an organized conspiracy to bring about a cessation of all economic relationship with Untouchables. A war is proclaimed against the Untouchables. The means used for reducing the "enemy" is to send a "punitive expedition" consisting of rascals into the Untouchable quarters who ruthlessly carry on arson of destruction of property and shamelessly commit acts of violence against all including women and children.

The more common and the more effective weapons is the declaration of complete boycott against the offending Untouchables. The horrors of the boycott, which is merely another name for Gandhi's "non-cooperation", can hardly be adequately described. The Committee appointed by the Government of Bombay to inquire into the grievances of the Backward Classes speaks of the social boycott in the following terms:

> "Although we have recommended various remedies to secure to the Untouchables their rights to all public utilities we fear that there will be difficulties in the way of their exercising them for a long time to come. The first difficulty is the fear of open violence against them by the orthodox classes. It must be noted that the Untouchables are a small minority in every village, opposed to which is a great majority of the orthodox who are bent on protecting their interests and dignity from any supposed invasion by the Untouchables at any cost. The danger of prosecution by the police has put a limitation upon the use of violence by the orthodox classes and consequently such cases are rare.
>
> The second difficulty arises from the economic position in which the Untouchables are found today. The Untouchables have no

economic independence in most parts of the Presidency. Some cultivate lands of the orthodox classes as their tenants at will. Others live on their earnings as farm labourers employed by the orthodox classes, and the rest subsist on the food or grain given to them by the orthodox classes in lieu of service rendered to them as village servants. We have heard of numerous instances where the orthodox classes have used their economic power as a weapon against those Depressed classes in their villages, when the latter have dared to exercise their rights and have evicted them from their land, and stopped their employment and discontinued their remuneration as village servants. The boycott is often planned on such an extensive scale as to include the prevention of the Untouchables from using the commonly used paths and the stoppage of the sale of the necessaries of life by the village bania or shopkeeper. According to the evidence small causes suffice for the proclamation of a social boycott against the Untouchables. Frequently it follows on the exercise by the Untouchables of their right to the use of the common well, but cases have been by no means rare where stringent boycott has been proclaimed simply because an Untouchable man has put on a sacred thread, has bought a piece of land, has put on good clothes or ornaments, or has led a marriage procession with the bride-groom on the horse through the public street.

We do not know of any weapon more effective than this social boycott which could have been invented for the suppression of the Untouchables. The method of open violence pales away before it, for it has the most far reaching and deadening effects. It is the more dangerous because it passes as a lawful method consistent with the theory of freedom of contract. We agree that this tyranny of the majority must be put down with a firm hand if we are to guarantee to the Untouchables the freedom of speech and action necessary for their uplift."

IV

The third circumstance which adds to the helplessness of the Untouchables is the impossibility for the Untouchables to obtain any protection from the police or justice from the courts. The police are drawn from the ranks of the caste Hindus. The Magistracy is drawn from the ranks of the Caste Hindus. The police and the magistracy are the kith and kin of the caste Hindus. They share the sentiments and the prejudices of the caste Hindus against the Untouchables. If an Untouchable goes to a police officer with a complaint against the caste

Hindus instead of receiving any protection he will receive plenty of abuse. Either he will be driven away without his complaint being recorded or, if it is recorded, it would be recorded quite falsely to provide a way of escape to the Touchable aggressors. If he prosecutes his offenders before a Magistrate the fate of his proceedings could be foretold. He will never get Touchable witnesses because of the conspiracy of the villagers. If he brings witnesses from the Untouchables the Magistrate will not accept their testimony because they are interested and not independent witnesses or, if they are independent witnesses, the Magistrate has an easy way of acquitting the accused by simply saying that the complainant Untouchable did not strike him as a truthful witness. He can do this fearlessly because he knows full well that the higher tribunal will not reverse his finding because of the well-established rule which says that an appellate court should' not disturb the finding of a Magistrate based upon the testimony of witness whose demeanour he had observed. This fact has now been admitted even by Congress workers among the Untouchables.

The Annual Report of the Tamil Nad Harijan Sevak Sangh for the year ending September 30, 1937, says: "The political consciousness of the Harijan having been roused by the rights, in the remotest villages where it is only the policeman that reigns, it is not always possible for the Harijan to do this, for the assertion of his rights means a clash between him and the castemen, in which it is always the latter that have the upper hand. The natural consequence of this scuffle is a complaint either to the police or the magistrate. The latter course is beyond the means of a Harijan, while the former resort is worse than useless. The complaints are in many cases not inquired into at all, while in others a verdict favourable to the castemen is entered. Our complaints to the police also meet with similar fate. The trouble seems to us to be this: there is no change in the mentality of the lower policemen. Either he is unaware of the rights of the Harijans of which he is supposed to be the guardian, or he is influenced by castemen. Or it may also be that he is absolutely indifferent. In other cases corruption is responsible for this taking the side of the richer castemen". (Hindu, March 7, 1938).

This means that the official is anti-Untouchable and pro-Hindu. Whenever he has any authority or discretion it is always exercised to the prejudice of the Untouchable.

The police and the magistrate are sometimes corrupt. If they were only corrupt, things would not perhaps be so bad because an officer who is corrupt is open to purchase by either party. But the additional

misfortune is that the police and magistrates are often more partial than corrupt. It is this partiality to the Hindus and his antipathy to the Untouchables which results in the denial of protection and justice to the Untouchables. There is no cure to this partiality to the one and antipathy to the other. It is founded in the social and religious repugnance which is inborn in every Hindu. The police and the Magistrate by reason of their motives, interest and their breeding do not sympathize with the living forces operating among the Untouchables. They are not charged with the wants, the pains, the cravings and the desires which actuate the Untouchables. Consequently they are openly hostile and inimical to their aspirations, do not help them to advance, disfavour their cause and snap at everything that smacks of pride and self respect. On the other hand they share the feelings of the Hindus, sympathize with them in the attempt to maintain their power, authority, prestige and their dignity over the Untouchables. In any conflict between the two they act as the agents of the Hindus in suppressing this revolt of the Untouchables and participate quite openly and without shame in the nefarious attempt of all Hindus to do everything possible by all means, fair or foul, to "teach the Untouchables a lesson", and hold them down in their own place.

The worst of it is that all this injustice and persecution can be perpetrated within the limits of the law. A Hindu may well say that he will not employ an Untouchable, that he will not sell him anything, that he will evict him from his land, that he will not allow him to take his cattle across his field, without offending the law in the slightest degree. In doing this he is only exercising his right. The law does not care with what motive he does it. The law does not see what injury it causes to the Untouchable. The police may misuse his power and his authority. He may deliberately falsify the record by taking down something which has not been stated or by taking down something which is quite different from what has been stated. He may disclose evidence to the side in which he is interested. He may refuse to arrest. He may do a hundred and one things to spoil the case. All this he can do without the slightest fear of being brought to book. The loopholes of law are many, and he knows them well. The magistrate has vested in him an enormous amount of discretion. He is free to use it. The decision of a case depends upon the witnesses who can give evidence. But the decision of the case depends upon whether the witnesses are reliable or not. It is open to the magistrate to believe one side and disbelieve the other side. He may be quite arbitrary in believing one side, but it is his discretion, and no one can interfere with it. There are

innumerable cases in which this discretion has been exercised by the Magistrate to the prejudice of the Untouchables. However truthful the witnesses of the Untouchables, the magistrates have taken a common line by saying " I disbelieve the witnesses", and no body has questioned that discretion. What sentence to inflict is also a matter of discretion with the magistrate. There are sentences which are appealable and there are sentences which are non-appealable. An appeal is a way of getting redress. But this way may be blocked by a magistrate by refusing to give an appealable sentence.

Such are the forces which are arrayed against the struggling Untouchables. There is simply no way to overcome them because there is no legal way of punishing a whole society which is organized to set aside the law.

V

One way of lessening these difficulties—they certainly cannot be overcome—was open to the Untouchables. That way lay through politics and through effective use of political power. But in this matter the Untouchables have been foiled.

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CHAPTER 23

THEIR WISHES ARE LAWS UNTO US

I. Adharma for Dharma. II. Manu and Dharma. III. Modern Counterparts. IV. Effect of Dharma on character and outlook.

Any one who reads of the lawlessness of the Hindus in suppressing the movement of the untouchables, I am sure will be shocked. Why does the Hindu indulge in this lawlessness is a question he is sure to ask and none will say that such a question will not be a natural question and in the circumstances of the case a very pertinent question—Why should an untouchable be tyrannized if he wears clean clothes ? How can it hurt a Hindu. Why should an untouchable be molested because he wants to put a tiled roof on his house ? How can it injure a Hindu? Why should an untouchable be persecuted because he is keen to send his childen to school? How does a Hindu suffer thereby? Why should an untouchable be compelled to carry dead animals, eat carrion, and beg his food from door to door? Where is the loss to the Hindu if he gives these things up. Why should a Hindu object if an untouchable desires to change his religion ? Why should his conversion annoy and upset a Hindu? Why should a Hindu feel outraged if an untouchable calls himself by a decent, respectable name? How can a good name taken by an untouchable adversely affect the Hindu? Why should the Hindu object if an untouchable builds his house facing the main road? How can he suffer thereby? Why should the Hindu object if the sound made by an untouchable falls upon his ears on certain days? It cannot deafen him. Why should a Hindu feel resentment if an untouchable enters a profession, obtains a position of authority, buys land, enters commerce, becomes economically independent and is counted among the well-to-do ? Why should all Hindus whether officials or non-officials make common cause to suppress the untouchables? Why should all castes otherwise quarreling among themselves combine to make, in the name Hinduism, a conspiracy to hold the untouchables at bay?

All this of course sounds like a fiction. But one who has read the tales of Hindu tyranny recounted in the last chapter will know that beneath these questions there is the foundation of facts. The facts, of course, are stranger than fiction. But the strangest thing is that these deeds are done by Hindus who are ordinarily timid even to the point of being called cowards. The Hindus are ordinarily a very soft people. They have none of the turbulence or virulence of the Muslims. But, when so soft a people resort without shame and without remorse to pillage, loot, arson and violence on men, women and children, one is driven to believe that there must be a deeper compelling cause which maddens the Hindus on witnessing this revolt of the untouchables and leads them to resort to such lawlessness.

There must be some explanation for so strange, so inhuman a way of acting. What is it?

If you ask a Hindu, why he behaves in this savage manner, why he feels outraged by the efforts which the untouchables are making for a clean and respectable life, his answer will be a simple one. He will say: "What you call the reform by the untouchables is not a reform. It is an outrage on our Dharma". If you ask him further where this Dharma of his is laid down, his answer will again be a very simple one. He will reply, "Our Dharma is contained in our Shastras". A Hindu in suppressing what, in the view of an unbiased man, is a just revolt of the untouchables against a fundamentally wrong system by violence, pillage, arson, and loot, to a modern man appears to be acting quite irreligiously, or, to use the term familiar to the Hindus, he is practising *Adharma*. But the Hindu will never admit it. The Hindu believes that it is the untouchables who are breaking the *Dharma* and his acts of lawlessness which appear as Adharma are guided by his sacred duty to restore Dharma. This is an answer, the truth of which cannot be denied by those who are familiar with the psychology of the Hindus. But this raises a further question: What are these Dharma which the Shastras have prescribed and what rules of social relationship do they ordain ?

II

The word *Dharma* is of Sanskrit origin. It is one of those Sanskrit words which defy all attempts at an exact definition. In ancient times the word was used in different senses although analogous in connotation. It would be interesting to see how the word *Dharma* passed through transitions of meaning[1]. But this is hardly the place for it. It is sufficient to say that the word dharma soon acquired a definite

[1] *See* P. V. Kane—History of Dharma Shastra, pp. 1-2.

meaning which leaves no doubt as to what it connotes. The word Dharma means the privileges, duties and obligations of a man, his standard of conduct as a member of the Hindu community, as a member of one of the castes, and as a person in a particular stage of life.

The principal sources of Dharma, it is agreed by all Hindus, are the Vedas, the Smritis and customs. Between the Vedas and Smritis, so far as Dharma is concerned, there is however this difference. The rules of Dharma, as we see them in their developed form, have undoubtedly their roots in the Vedas, and it is therefore justifiable to speak of the Vedas as the source of Dharma. But the Vedas do not profess to be formal treatises on *Dharma*. They do not contain positive precepts (*Vidhis*) on matters of Dharma in a connected form. They contain only disconnected statements on certain topics concerned with *Dharma*. On the other hand, Smritis are formal treatises on Dharma. They contain enactments as to the Dharma. They form the law of the Dharma in the real sense of the term. Disputes as to what is Dharma and what is not Dharma (Adharma) can be decided only by reference to the text of the law as given in the Smritis. The Smritis form, therefore, the real source of what the Hindu calls Dharma, and, as they are the authority for deciding which is Dharma and which is not, the Smritis are called Dharmashastras (scriptures) which prescribe the rules of Dharma.

The number of Smritis which have come down from ancient times have been variously estimated. The lowest number is five and the highest a hundred. What is important to bear in mind is that all these Smritis are not equal in authority. Most of them are obscure. Only a few of them were thought to be authoritative enough for writers to write commentaries thereon. If one is to judge of the importance of a Smriti by the test as to whether or not it has become the subject matter of a commentary, then the Smritis which can be called standard and authoritative will be the Manu Smriti, Yajnavalkya Smriti and the Narada Smriti. Of these Smritis the Manu Smriti stands supreme. It is pre-eminently the source of all Dharma.

To understand what is the Dharma for which the Hindu is ready to wage war on the untouchables, one must know the rules contained in the Smritis, particularly those contained in the Manu Smriti. Without some knowledge of these rules, it would not be possible to understand the reaction of the Hindus to the revolt of the untouchables. For our purpose it is not necessary to cover the whole field of Dharma in all its branches as laid down in the Smritis. It is enough to know that branch of the Dharma which in modern parlance is called the law of persons, or to put it in non-technical language, that part of the Dharma which deals with right, duty or capacity as based on status.

I therefore propose to reproduce below such texts from Manu Smriti as are necessary to give a complete idea of the social organization recognized by Manu and the rights and duties prescribed by him for the different classes comprised in his social system.

The social system as laid down by Manu has not been properly understood and it is therefore necessary to utter a word of caution against a possible misunderstanding. It is commonly said and as commonly believed that what Manu does is to prescribe a social system which goes by the name of Chaturvarna—a technical name for a social system in which all persons are divided into four distinct classes. Many are under the impression that this is all that the Dharma as laid down by Manu prescribes. This is a grievous error and if not corrected is sure to lead to a serious misunderstanding of what Manu has in fact prescribed and what is the social system he conceived to be the ideal system.

I think this is an entire misreading of Manu. It will be admitted that the divisions of society into four classes comprized within Chaturvarna is not primary with Manu. In a sense this division is secondary to Manu. To him it is merely an arrangement *inter se* between those who are included in the Chaturvarna. To many, the chief thing is not whether a man is a Brahman, Kshatriya, Vaishya or Shudra. That is a division which has existed before him. Manu added, accentuated and stratified that difference. The division did not originate with him. But what did originate with Manu is a new division between (1) those who are within the pale of Chaturvarna and (2) those who are outside the pale of Chaturvarna. This new social division is original to Manu. This is his addition to the ancient Dharma of the Hindus. This division is fundamental to Manu because he was the first to introduce it and recognize it by the stamp of his authority.

The texts which have a bearing on the subject must therefore be arranged under two heads (1) texts relating to those who are within the Chaturvarna and (2) texts relating to those who are outside the Chaturvarna.

1. *Those within the Pale of the Chaturvarna. Their origin and their duties*

(1) This (Universe) existed in the shape of Darkness, unperceived, destitute of distinctive marks, untenable by reasoning, unknowable, wholly immersed, as it were in a deep sleep.

(1) Manu I. 5.

(2) Then the divine self existent (Svayambhu, himself) indiscernible (but) making (all) this, the great elements and the rest discernible, appeared with irresistible (creative) power, dispelling the darkness.

(3) But for the sake of the prosperity of the worlds, he caused the Brahmana, the Kshatriya, the Vaishya, and the Shudra to proceed from his mouth, his arms, his thighs and his feet.

(4) But in order to protect this Universe. He, the most resplendant one, assigned separate (duties and) occupations to those who sprang from his mouth, arms, thighs and feet.

(5) To the Brahmans he assigned teaching and studying (the Vedas), sacrificing (performing sacrificial ceremonies) for their own benefit and for others, giving and accepting (of alms).

(6) The Kshatriya he commanded to protect the people, to bestow gifts, to offer sacrifices, to study (the Veda), and to abstain from attaching himself to sensual pleasures.

(7) The Vaishya to tend cattle, to bestow gifts, to offer sacrifices, to study (the Veda), to trade, to lend money and to cultivate the land.

(8) One occupation only the lord prescribed to the Shudra, to serve meekly even these (other) three castes.

(9) A student, an apprentice, a hired servant, and fourthly an official; these must be regarded as labourers. Slaves are those who are born in the house and the rest.

(10) The sages have distinguished five sorts of attendants according to law. Among these are four sorts of labourers (mentioned above). The slaves (are the fifth category, of which they are) fifteen species.

(11) One born at (his master's) house; one purchased; one received by gift; one obtained by inheritance; one maintained during a general famine; one pledged by his rightful owner.

(12) One released from a heavy debt; one made captive in a fight; one won through a wager, one who has come forward declaring 'I am thine' an apostate from asceticism; one enslaved for a stipulated period.

(13) One who has become a slave in order to get a maintenance; one enslaved on account of his connection with a female slave; and one self sold. These are fifteen classes of slaves as declared in law.

(14) Among these the four named first cannot be released from bondage, except by the favour of their owners. Their bondage is hereditary.

(15) The sages have declared that the state of dependence is common to all these; but that their respective position and income depends on their particular caste and occupation.

(2) Manu I. 6; (3) *Ibid.,* 1. 31; (4) *Ibid.,* I. 87; (5) *Ibid.,* I. 88; (6) *Ibid.,* I. 89; (7) *Ibid.,* I. 90; (8) *Ibid.,* 1. 91; (9) Narad V. 3; (10) *Ibid..* V. 2; (11) *Ibid.,* V. 26; (12) *Ibid.,* V. 27; (13) *Ibid.,* V. 28; (14) *Ibid.,* V. 29; (15) *Ibid,* V. 4.

2. Those outside the Pale of Chaturvarna. Their origin and their duties.

This is what Manu has to say about their origin and their position.

(1) All those tribes in this world, which are excluded from (the community of) those born from the mouth, the arms, the thighs, and the feet (of Brahman), are called Dasyus, whether they speak the language of the Mlekkhas (barbarians) or that of the Aryans.

(2) Near well-known trees and burial ground, on mountains and in groves, let these (tribes) dwell, known (by certain marks), and subsisting by their peculiar occupations.

(3) But the dwellings of the Chandalas and Shwapakas shall be outside the village, they must be made apapatras and their wealth (shall be) dogs and donkeys.

(4) Their dress (shall be) the garments of the dead, (they shall eat) their food from broken dishes, black iron (shall be) there ornaments, they must always wander from place to place.

(5) A man who fulfils a religious duty, shall not seek intercourse with them; their transactions (shall be) among themselves and their marriages with their equals.

(6) Their food shall be given to them by others (than an Aryan giver) in a broken dish; at night they shall not walk about in villages and in towns.

(7) By day they must go about for the purpose of their work, distinguished by marks at the King's command, and they shall carry out the corpses (of persons) who have no relatives, that is a settled rule.

(8) By the King's order they shall always execute the Criminals in accordance with the law, and they shall take for themselves the clothes, the beds and the ornaments of (such) criminals.

(9) He who has had connection with a woman of one of the lowest castes shall be put to death.

(10) If one who (being a member of the Chandalas or some other low caste) must not be touched, intentionally defiles by his touch one who (as a member of a twice born caste) may be touched (by other twice born persons only) he shall be put to death.

I have already said, that to Manu, this division between those who are within the pale of Chaturvarna and those who are outside of it was a division which was real. It was so real that Manu calls those who were outside the pale of Chaturvarna by the name *Bahayas* which means excluded i.e. excluded from or outside of the system of Chaturvarna. It was a division to which he attached far reaching

(1) Manu X. 45, (2) *Ibid*.. X. 50; (3) *Ibid*.. X. 51; (4) *Ibid*.. X. 52; (5) *Ibid*.. X. 53; (6) *Ibid*.. X. 54; (7) *Ibid*.. X. 55; (8) *Ibid*.. X. 56; (9) Vishnu V. 43; (10) *Ibid*.. V. 104.

consequences. This division was intended to result in a difference of status and citizenship. It is true that all those who are within the pale of Chaturvarna are not all on the same level. Within the Chaturvarna there are the Brahmins, Kshatriyas, Vaishyas, Shudras and Slaves all unequal in status. Still they are within the Chaturvarna. Those within the Chaturvarna have a status in the eye of the law of Manu and a respect in the eye of the public. Those outside it have no respect in the eye of that society. The difference is also one of citizenship. Those within the Chaturvarna have rights to enjoy and remedies to enforce them. Those outside the Chaturvarna have no rights and no remedies.

This difference between those who are within the Chaturvarna and those outside of it have a kind of resemblance to the difference between *civics* i.e. citizens and *preregenis* or *hostis* i.e. non-citizens in the early Roman Law. The early law of Rome was essentially personal—not territorial. A man enjoyed the benefit of its institutions and of its protection, not because he happened to be within Roman territory, but because he was a citizen—one of those by whom and for whom its law was established. The story of the early *jus getium* was that a man sojourning within the bounds of a foreign state was at the mercy of the latter and its citizens; that he himself might be dealt with as a slave, all that belonged to him appropriated by the first comer. For he was outside the pale of the law. Under the *jus civile* the private rights which were peculiar to a Roman citizen were summed up in three abstract terms, *Conubium, Commercium* and *Actio. Conubium* was the capacity to enter into a marriage which would be productive of the *palua potestas* and agnation which in their turn were the foundation of intestate succession, guardianship etc. *Commercium* was the capacity for acquiring or alienating property. *Actio* was the capacity to bring a suit in a Court of law for the vindication, protection, or enforcement of a right either included in or flowing from *connubium* or *commercium,* or directly conferred by *statute*. These three capacities were enjoyed only by the Roman Citizens. A non-citizen was entitled to none of these rights.

III

The division between classes who are within the Chaturvarna and those who are without it though real and fundamental is undoubtedly archaic in its terminology. The system of Chaturvarna is no longer operative as law. It is therefore somewhat academic to speak of classes being within Chaturvarna and without Chaturvarna. The question will be asked, what are the modern counterparts of these ancient classes ? The question is perfectly legitimate especially as I have to explain how

the ancient law of Manu is responsible for the present day lawlessness of the Hindus. Although I am using archaic language, two things will show that my thesis is true. The first is that the ancient social divisions of Manu are not without their counterpart in modern times. The modern counterparts of those ancient divisions are Hindus and untouchables. Those whom Manu included within the Chaturvarna correspond to the modern composite class called Hindus. Those whom Manu called Bahayas (outside the Chaturvarna) correspond to the present day untouchables of India. The dividing line between the four classes—Brahman, Kshatriya, Vaishya and Shudra—included within Chaturvarna have in modern times become some what blurred and there has been some degree of amalgamation between them. But the line which Manu drew between those within the Chaturvarna from those outside the Chaturvarna is still clear and is not allowed to be effaced or crossed. That line is the line which at present separates the Hindus from the untouchables. The first thing that is clear is that the ancient divisions have descended to modern times. The only change is the change of names.

The second question is, has the law as laid down by Manu for the Bahayas any counterpart in the present day social relationship between the Hindus and the Untouchables ? To those who doubt I ask to take the following case into consideration. The incident has occurred in the Ramnad District of the Madras Presidency.

In December 1930 the Kallar in Ramanad propounded eight prohibitions, the disregard of which led to the use of violence by the Kallar against the untouchables whose huts were fired, whose granaries and property were destroyed, and whose livestock was looted. These eight prohibitions were as follows :—

"(i) that the Adi-Dravidas shall not wear ornament of gold and silver;

(ii) that the males should not be allowed to wear their clothes below their knees or above the hips;

(iii) that their males should not wear coats or shirts or baniyans;

(iv) No Adi-Dravida should be allowed to have his hair cropped.

(v) that the Adi-Dravidas should not use other than earthenware vessels in their homes;

(vi) their women shall not be allowed to cover the upper portion of their bodies by clothes or ravukais or thavanies;

(vii) their women shall not be allowed to use flowers or saffron paste; and

(viii) the men shall not use umbrellas for protection against sun and rain nor should they wear sandals".

In June 1931, the eight prohibitions not having been satisfactorily observed by the exterior castes in question, the Kallar met together and framed eleven prohibitions, which went still further than the original eight, and an attempt to enforce these led to more violence. These eleven prohibitions were :—

"1. The Adi-Dravidas and Devendrakula Vellalars should not wear clothes below their knees.

2. The men and women of the above-said depressed classes should not wear gold jewels.

3. The women should carry water only in mud pots and not in copper or brass vessels. They should use straw only to carry the water pots and no clothes should be used for that purpose.

4. Their children should not read and get themselves literate or educated.

5. The children should be asked only to tend the cattle of the Mirasdars.

6. Their men and women should work as slaves of the Mirasdars, in their respective Pannais.

7. They should not cultivate the land either on waram or lease from the Mirasdars.

8. They must sell away their own lands to Mirasdars of the village at very cheap rates, and if they don't do so, no water will be allowed to them to irrigate their lands. Even if something is grown by the help of rain water, the crops should be robbed away, when they are ripe for harvest.

9. They must work as coolies from 7 a.m. to 6 p.m. under the Mirasdars and their wages shall be for men Rs. 0-4-0 per day and for women Rs. 0-2-0 per day.

10. The abovesaid communities should not use Indian Music (melam etc.,) in their marriages and other celebrations.

11. They must stop their habit of going on a horse in procession before tying the Thali thread in marriage and they must use their house doors as palanquins for the marriage processions, and no vehicle should be used by them for any purpose".

Compare these prohibitions laid down by the Hindus of Ramnad with the prohibitions contained in the texts of Manu quoted earlier in this chapter against the untouchables.

Is there any difference between the law laid down by Manu for the *Bahayas* and the conditions imposed upon the untouchables by the Kallars in 1931 ? After this evidence, who can doubt that the Hindu in doing what appears to be an Adharma to a non-Hindu is merely asking the untouchables to follow the Dharma as prescribed by Manu.

Take another case. Those of the Balais of the Central India. The Balais are an untouchable community. About the year 1927, the Balais started a compaign of social improvement of their community and had made rules prescribing that the members of their community should not do certain kinds of work which is degrading and should dress in a certain manner. These rules did not in any way affect the interests of the Caste Hindus. But the Caste Hindus took offence at this effort of the Balais to raise themselves above the status prescribed by custom and they decided to deal a deadly blow to what they regarded as the insolence of the Balais. The following is the report which appeared in the papers of how the Caste Hindus dealt with the rebelious Balais.[1]

Tyranny of Hindus

Rules for Balais

Mode of Life Laid Down

"Last May (1927) High Caste Hindus, viz, Kalotas, Rajputs and Brahmins, including the patels and putwaris of villages Kanaria, Bicholee Hafsi, Mardana and of about 15 other villages in the Indore District, informed the Balais of their respective villages that if they wished to live among them, they must conform to the following rules :—

> (1) Balais must not wear gold lace bordered pugrees; (2) they must not wear dhoties with coloured or fancy borders; (3) they must convey intimation of the death of any Hindu to relatives of the deceased—no matter how far away these relatives might be living; (4) in all Hindu marriages, the Balais must play music before the processions, and during the marriage; (5) the Balai women must not wear gold or silver ornaments; they must not wear fancy gowns, or jackets; (6) Balai women must attend all cases of confinement of Hindu women; (7) the Balais must render services without demanding remuneration, and must accept whatever a Hindu is pleased to give; (8) if the Balais do not agree to abide by these terms, they must clear out of the villages.

BALAIS REFUSE COMPLIANCE

"The Balais refused to comply; and the Hindu element proceeded against them. Balais were not allowed to get water from the village wells, they were not allowed to let their cattle graze. Balais were prohibited from passing through land owned by a Hindu; so that if the

[1] The report is taken from the Times of India of 10-2-38 & 1-4-38.

field of a Balai was surrounded by fields owned by Hindus, the Balai could have no access to his own field. The Hindus also led their cattle to graze down the fields of Balais. The Balais submitted petitions to the Darbar against these persecutions; but as they could get no timely relief, and the operation continued, hundreds of Balais, with their wives and children, were obliged to abandon their homes in which their ancestors lived for generations and migrate to adjoining States, viz., to villages in Dhar, Dewas, Bhopal, Gwalior and other States.

COMPULSORY AGREEMENT

"Only a few days ago the Hindus of Reoti village, barely seven miles to north of Indore City, ordered the Balais to sign a stamped agreement in accordance with the rules framed against the Balais by the Hindus of other villages. The Balais refused to comply. It is alleged that some of them were beaten by the Hindus; and one Balai was fastened to a post, and was told that he would be let go on agreeing to sign the agreement. He signed the agreement and was released. Some Balais from this village ran up to the Prime Minister the next day, i.e. on the 20th December, and made a complaint about the ill treatment they received from the Hindu villagers of Reoti. They were sent to the Subha of the district. This officer, with the help of the police, made inquiries at the village, and recommended that action be taken against the Hindus under section 342 and 147 and against the Balais under section 147, Indian Penal Code.

Balais leave villages

Caste Tyranny

Ignorance of law a handicap

"There has been no improvement in the treatment of the Balais by the Hindu residents of certain villages. Balais, it has already been reported, have been ill treated by the higher caste Hindus. From the Dopalpur Pargana alone, Indore District, a large number of Balais have had to leave their homes and find shelter in adjoining States. The villages from which Balais have been forced to clear out are Badoli, Ahirkharal, Piploda, Morkhers, Pamalpur, Karoda, Chatwada, Newri, Pan, Sanauda, Ajnoti, Khatedi and Sanavada. Pamalpur village has been altogether deserted and not a Balai man, woman or child is to be found there. Nanda Balai a resident of one of the above villages, it is alleged, was severely beaten by the Hindus of the village. In one village, the report goes, the Hindus burnt down all the dwellings of the Balais but the offenders have not yet been traced.

> "Balais are ignorant village folk, who are ignorant of legal procedure and think that if a petition is sent to the Sirkar all that is required will be done for them. They have not the knowledge; or the means and practices, to pursue a complaint to its end; and, as they, it is said in some cases, failed to attend or produce witnesses in support of their allegations, the magistrate had no alternative but to dismiss their complaint."

Looked at from the point of view of Dharma and Adharma, can it be doubted that underneath the lawlessness and ruthlessness of the Hindus in suppressing the revolt of the untouchables, they are actuated by what they think a noble purpose of preventing an outrage upon their Dharma ?

IV

It may well be asked how much of this Dharma of Manu now remains ? It must be admitted that as law in the sense of rules which a Court of Judicature is bound to observe in deciding disputes, the Dharma of Manu has ceased to have any operative force-except in matters such as marriage succession etc.—matters which affect only the individual. As Law governing social conduct and civic rights it is inoperative. But if it has gone out as law, it remains as custom.

Custom is no small a thing as compared to Law. It is true that law is enforced by the state through its police power; custom, unless it is valid it is not. But in practice this difference is of no consequence. Custom is enforced by people far more effectively than law is by the state. This is because the compelling force of an organized people is far greater than the compelling force of the state.

Not only has there been no detriment to its enforceability on account of its having ceased to be law in the technical sense but there are circumstances which are sufficient to prevent any loss of efficacy to this Dharma of Manu.

Of these circumstances the first is the force of custom. There exists in every social group certain (habits*) not only to acting, but of feeling and believing, of valuing, of approving and disapproving which embody the mental habitudes of the group. Every new comer whether he comes in the group by birth or adoption is introduced into this social medium. In every group there goes on the process of persistently forcing these mental habitudes of the group upon the attention of each new member of the group. Thereby the group carries on the socialization of the individual of the shaping of the mental and practical habits of the new comer. Being dependent upon the

* Inserted by Ed.

group he can no more repudiate the mental habitudes of the group than he can the condition and regulation of his physical environment. Indeed, so dependent the individual is on the group that he readily falls in line and allows the current ways of esteeming and behaving prevailing in the community, to become a standing habit of his own mind. This socializing process of the individual by the group has been graphically described by Grote. He says—

> "This aggregate of beliefs and predispositions to believe, ethical, Religious, Aesthetical, and Social respecting what is true, or false, probable or improbable, just or unjust, holy or unholy, honourable or base, respectable or contemptible, pure or impure, beautiful or ugly, decent or indecent, obligatory to do, or obligatory to avoid, respecting the status and relations of each individual in the society, respecting even the admissible fashions of amusement and recreation—this is an established fact and condition of things, the real origin of which for the most part unknown, but which each new member of the group is born to and finds subsisting.....It becomes a part of each person's nature, a standing habit of mind, or fixed set of mental tendencies, according to which particular experience is interpreted and particular persons appreciated..... The community hate, despise or deride any individual member who proclaims his dissent from their social creed..... Their hatred manifests itself in different ways..... At the very best by exclusion from that amount of forbearance, good will and estimation without which the life of an individual becomes insupportable."[1]

But what is it that helps to bring about this result ? Grote has himself answered this question. His answer is that, this is due to— "Nomos (Law and Custom), King of all" (which Herodotus cites from Pindar) exercises plenary power, spiritual and temporal, over individual minds, moulding the emotions as well as the intellect, according to the local type.... and reigning under the appearance of habitual, self suggested tendencies.

What all this comes to is that, when in any community, the ways of acting, feeling, believing, or valuing or of approving and disapproving have become cystalized into customs and traditions, they do not need any sanction of law for their enforcement. The amplitude of plenary powers which the group can always generate by mass action is always ready to see that they are not broken.

The same thing applies to the Dharma laid down by Manu. This Dharma of Manu, by reason of the governing force which it has had for centuries, has become an integral and vital part of the customs and

[1] Grote : Plato and the other Companions of Socrates, Vol. I, p. 249.

traditions of the Hindus. It has become ingrained and has given colour to their life blood. As law it controlled the actions of the Hindus. Though now a custom, it does not do less. It moulds the character and determines the outlook of generation after generation.

The second thing which prevents the Dharma of Manu from fading away is that the law does not prevent its propagation. This is a circumstance which does not seem to be present to the minds of many people. It is said that one of the blessings of the British Rule is that Manu Smriti has ceased to be the law of the land. That the Courts are not required to enforce the provisions contained in Manu Smriti as rules of law is undoubtedly a great blessing—which might not be sufficiently appreciated except by those who were crushed beneath the weight of this "infamous" thing. It is as great a blessing to the untouchables as the Reformation was to the peoples of Europe. At the same time it must be remembered that the Reformation would not have been a permanent gain if it had been followed by what is called the Protestant Revolution. The essential features of the Protestant Revolution as I understand them are: (1) That the state is supreme and the Church is subordinate to the state. (2) The doctrine to be preached must be approved by the state. (3) The clergy shall be servants of the state and shall be liable to punishment not only for offences against the general law of the land but also liable for offences involving moral turpitude and for preaching doctrines not approved of by the state. I am personally a believer in the "Established Church". It is a system which gives safety and security against wrong and pernicious doctrines preached by any body and every body as doctrines of religion. I know there are people who are opposed to the system of an "Established Church". But whether the system of an "Established Church" is good or bad, the fact remains that there is no legal prohibition against the propagation of the Dharma laid down by Manu. The courts do not recognize it as law. But the law does not treat it as contrary to law. Indeed every village every day. When Pandits are preaching it to parents and parents preach it to their children, how can Manu Smriti fade away ? Its lessons are reinforced every day and no body is allowed to forget that untouchability is a part of their Dharma.

This daily propagation of the Dharma of Manu has infected the minds of all men and women young and old. Nay, it has even infected the minds of the judges. There is a case reported[1] from Calcutta. A certain Dome (untouchable) by name Nobin Dome was prosecuted for theft of a goat. He was found to be not guilty. He filed a complaint for defamation against the complaint. The magistrate dismissed the

[1] 2 W.R. (Cr.) 35. Queen v/s Nobin Dome.

complaint on the ground that as he was low caste man he had no reputation. The High Court had to intervene and direct the Magistrate that he was wrong in his view and that under the Penal Code all persons were equal. But the question remains, how did the Magistrate get the idea that an untouchable had no reputation ? Surely from the teaching of the Manu Smriti.

The Dharma of Manu had never been a mere past. It is as present as though it were enacted today. It bids fair to continue to have its sway in the future. The only question is whether its sway will be for a time or for ever.

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CHAPTER 24

UNDER THE PROVIDENCE OF MR. GANDHI

(I) His work through the Congress

I. A Strange Welcome. II. The Great Repudiation. III. A Charge Sheet. IV. The Basis of the Charge Sheet. V. The Tragedy of Gandhi. VI. His Legacy to India and the Untouchables.

On the 28th December 1931, Mr. Gandhi returned to India from London where he had gone as a delegate to attend the second Session of the Indian Round Table Conference. At the Round Table Conference, Mr. Gandhi had been an utter, ignominous failure both as a personality and as a politician. I know that my opinion will not be accepted by the Hindus. But the unfortunate part is that my opinion in this respect coincides with the opinion of Mr. Gandhi's best friend. I will cite the opinions of two. This is what Mr. Ewer, who was closely associated with Mr. Gandhi during the Round Table Conference, wrote about the role Mr. Gandhi played at the Round Table Conference in London.

> "Gandhi in the St. James' Palace has not fulfilled the unwise expectation of those who saw him bestriding the Conference like a colossus
>
> .....He was out of his elements."

* * *

> "His first speech, with its sentimental appeal, its over-stressing of humility, its reiteration of single-minded concern for the dumb suffering millions, was a failure. No one questioned its sincerity. But somehow it rang false. It was the right thing, perhaps, but it was in the wrong place. Nor were his later interventions on the whole more successful. A rather querulous complaint that the British Government had not produced a plan for the new Indian Constitution shocked some of Gandhi's colleagues, who had hardly expected to see the representative of the National Congress appealing to British Ministers for guidance and initiative. The protest against the pegging of the rupee to the pound was

> astonishingly ineffective. The contributions to the discussions on franchise and kindred matters were of little importance. Behind the scenes he was active enough in the Hindu-Moslem negotiations, but here, too, results were intangible. Not for a moment did Gandhi take the lead or materially influence the course of committee work. He sat there, sometimes speaking, sometimes silent, while the work went on, much as it would have gone on without him."[1]

This is what Bolton has to say about Mr. Gandhi's achievement at the Round Table Conference.

How did Mr. Gandhi fare as a statesman and a politician?

At the close of the first session of the Round Table Conference there were three questions which had not been settled. The question of minorities, the question of the Federal structure and the question of the status of India in the Empire, were the three outstanding problems which were the subject matter of controversy. Their solution demanded great statesmanship. Many said that these questions were not settled because the wisdom and authority of the Congress was not represented at the Round Table Conference. At the second session, Mr. Gandhi came and made good the deficiency. Did Mr. Gandhi settle any of these unsettled problems? I think it is not unfair to say that Mr. Gandhi created fresh disunity in the Conference. He began the childish game of ridiculing every Indian delegate. He questioned their honesty, he questioned their representative character. He taunted the liberals as arm-chair politicians and as leaders without any followers. To the Muslims he said that he represented the Muslim masses better than they did. He claimed that the Depressed Class delegates did not represent the Depressed Classes and that he did. This was the refrain which he repeated *ad nauseum* at the end of every speech. The non-Congress delegates deserve the thanks of all honest people for their having tolerated this nonsense and arrogance of Mr. Gandhi and collaborated with him to save him and to save the country from his mistake. Apart from this discourtesy to fellow-delegates, did Mr. Gandhi stand up for the cause he came to champion? He did not. His conduct of affairs was ignominious. Instead of standing up and fighting he began to yield on issues on which he ought never to have ceased fire. He yielded to the Princes and agreed that their representatives in the Federal legislature should be nominated by them and not elected, as demanded by their subjects. He yielded to the conservatives and consented to be content with provincial autonomy and not to insist upon central responsibility for which many lakhs of Indians went to gaol. The only people to whom he would not yield

[1] "Gandhi in London" — Asia, February 1932.

were the minorities — the only party to whom he could have yielded with honour to himself and advantage to the country.

Nothing has helped so much to shatter the prestige of Mr. Gandhi as going to the Round Table Conference. The spectacle of Mr. Gandhi at the Round Table Conference must have been painful to many of his friends. He was not fitted to play the role he undertook to play. No country has ever sent a delegate to take part in the framing of the constitution who was so completely unequipped in training and in study. Gandhi went to the Round Table Conference with a song of the saint Narsi Mehta on his tongue. It would have been better for him and better for his country if he had taken in his arm pit a volume on comparative constitutional law. Devoid of any knowledge of the subject he was called upon to deal with, he was quite powerless to destroy the proposals put forth by the British or to meet them with his alternatives. No wonder Mr. Gandhi, taken out of the circle of his devotees and placed among politicians, was at sea. At every turn he bungled and finding that he could not even muddle through, he gave up the game and returned to India.

How was Mr. Gandhi received when he landed on the Indian soil? It may sound strange to outsiders and to those who are not the devotees of Mr. Gandhi but it is a fact that when the *S. S. Pilsner* of the Lloyd Triestino entered the harbour of Bombay at 8 a.m. in the morning of the 28th December 1931 there came to receive him an enthusiastic crowd of men, women and children who had assembled at the Pier in tens of thousands to greet him, to welcome him back and to have his *Durshan*. The following extracts from the *Times of India* and the *Evening News* of Bombay will serve to give a vivid idea of the grandeur of this reception.

> "The Pilsner was escorted into the harbour by Desh Sevikas (women volunteers of the Congress) in saffron coloured sarees who went out in launches some distance from the pier.
>
> "The Congress Committee had asked the Bombay Flying Club to fly an Aeroplane or two over the Pilsner and drop garlands as she came along side the pier, but the Flying Club, sanely preferring to keep out of politics, refused to grant the Congress demand.
>
> "The spacious Central Hall at Ballard Pier was decorated with festoons and Congress flags and a large dais was put up at the centre with chairs placed on all sides for representatives of various organizations, local and upcountry, who were given passes for admission.

"Both the approaches to the reception hall from the wharf and from the city were lined by Desh Sevikas waving national flags and the duty of guarding the dais and of regulating and directing the assembly inside the hall was also entrusted to the women volunteers.

"Mr. Gandhi reached the dais escorted by the Congress leaders and received an ovation. Hardly had he stepped on the dais when he began to be flooded with telegraph messages (presumably of welcome) which arrived one after another.

"Standing on the dais he was garlanded in turn by representatives of the public bodies who had assembled and whose names were called out from a long printed list of which copies were previously distributed.

"The proceedings inside the reception hall terminated with the garlanding.

"A procession was then formed in four, in place of the carriage which was intended to be the conveyance for Mr. Gandhi. He was seated in a gaily decorated motor car, with Mr. Vallabhbhai Patel to his left and Mr. Vitthalbhai Patel to his right and Mr. K. F. Nariman, President of the Bombay Provincial Congress Committee, on the front seat.

"Preceded by a pilot car and followed by others containing the Congress Working Committee members, the procession passed through the Ballard Pier Road, Hornby Road and Kalbadevi which had been decorated by the citizens at the instance of the Congress Committee and lined on either side by cheering crowds, five to ten deep till the party reached "*Mani Bhuvan,* Gamdevi".

At no stage of this welcome did Mr. Gandhi open his lips to acknowledge it. This man of vows was under his Sunday vow of silence which had not run out till then and nor did he think that etiquette, good manners or respect for those who had assembled required that he should terminate his vow earlier.

The official historian of the Congress describes[1] this reception given to Mr. Gandhi in the following terms:

"There were gathered in Bombay representatives of all parts and Provinces in India to accord a fitting welcome to the Tribune of the people. Gandhi greeted the friends that went on board the steamer to welcome him, patting many, thumping a few and pulling the venerable Abbas Tyabji by his beard. There was a formal welcome in one of the Halls of Customs House and then a procession in the streets of Bombay which kings might envy in their own country".

[1] Pattabhi Sitaramayya — History of the Congress, p. 857.

On reading this account one is reminded of the Irish Sein Fein Delegates who in 1921, just 10 years before, had gone to London at the invitation of Mr. Lloyd George for the settlement of the Irish Home Rule question. As is well known the Irish Delegates secured from the British Cabinet a treaty which was signed on the 8th December 1921. The Treaty was subsequently submitted for approval to the Dail, the Parliament of the Sein Fein Party which met from 14th December 1921 to 7th January 1922. On the 7th January a division was taken. There were 64 votes for ratifying the treaty and 57 against. And what was the reception given to the Irish delegates who secured this treaty? Arthur Griffith — who was the head of the Irish Delegation and Michael Collins who was his most prominent colleague, were both of them shot by the anti-treaty Sein Feiners, the former on the 12th and the latter on the 22nd August 1922. The reason for sending them to such cruel death was that the treaty which they signed did not secure the inclusion of Ulster and a republic for Ireland. It is true the treaty did not grant this. But if it is remembered that negotiations were opened on the express understanding on the part of both sides that these two questions were outside the scope of negotiations it will be granted that if the treaty did not include these it was no fault of the Irish Delegates. The fury and ferocity of the anti treaty Sein Feiners against the Irish Delegates had no moral foundation and the fate that befell Arthur Griffith and Michael Collins can by no stretch of imagination be said to be one which they deserved.

Be that as it may, this welcome to Mr. Gandhi will be regarded as a very strange event. Both went to win Swaraj, Griffith and Collins for Ireland, Gandhi for India, Griffith and Collins succeeded, almost triumphed; Gandhi failed and returned with nothing but defeat and humiliation. Yet Collins and Griffith were shot and Gandhi was given a reception which kings could have envied !! What a glaring and a cruel contrast between the fate that awaited Collins and Griffith and the reception arranged for Gandhi? Are the Indian Patriots different from the Irish Patriots? Did the masses render this welcome out of blind devotion or were they kept in darkness of the failure of Mr. Gandhi by a mercenary Press? This is more than I can answer.[1]

II

While this great welcome was being accorded to Mr. Gandhi the Untouchables of Bombay had come to the Pier to repudiate

[1] The official historian of the Congress perhaps realizing that this welcome to Mr. Gandhi on the ground of his political achievement says—(Sitaramayya's statement not given in the Ms. —Ed.).

Mr. Gandhi. Referring to this demonstration, the newspaper reports said:

> "Just outside the gate of Ballard Pier, the scene was most exciting. On one side were drawn up Depressed Class volunteers in uniform, weaving black flags to the accompaniment of derisive shouts against Mr. Gandhi and laudatory cries in praise of their leader, while on the other side Congress followers kept up a din of counter shouts."

This Untouchable demonstration included men and women. The demonstrators numbered thousands, all waving Black Flags as a mark of repudiation of Mr. Gandhi. They were a determined crowd and, despite intimidation by the superior forces of the Congress assembled there to welcome Mr. Gandhi, were bent on showing that they repudiated Mr. Gandhi. This led to a clash and blood was split. There were forty casualties on each side.

For the first time Mr. Gandhi was made aware that there could be black flags even against him. This must have come to him as a shock. When he was asked about it later in the day, he said he was not angry, the Untouchables being the flesh of his flesh and bone of his bone. This is of course the Mahatmaic way of concealing the truth. One would not mind this convenient and conventional lie if there were behind it a realization that the crowd could not always be trusted to be loyal to its hero. Congressmen in India sadly lack the realism of a man like Cromwell. It is related that when Cromwell returned after a great battle, an enormous crowd came out to greet him. A friend sought to impress upon him the immensity of the crowd. But Cromwell dismissed the subject with the leconic remark,: "Oh yes, I know many more will come to see me hanged."!! No Congress leader feels the realism of Cromwell. Either he believes that the day will never come when he will be hanged or he believes that the Indian crowd will never become a thinking crowd. That part of the Indian crowd does think was shown by the representatives of the Untouchables who assembled on the 28th to greet Mr. Gandhi with black flags.

Why did the Untouchables repudiate Mr. Gandhi ? The answer to this question will be found in a statement issued by the organizers of these demonstrations which was printed and circulated on that day. The following are extracts from it.

> **"Our Charge sheet against Gandhiji and Congress"**
>
> **"Enough of patronising attitude and lip sympathy. We ask for justice and fair play."**

1. In spite of the fact that the removal of untouchability has been included in the constructive programme of the Congress,

practically nothing has so far been done by that body to achieve that object, and in our fights against untouchability at Mahad and Nasik most of the local Congress leaders have been our bitter opponents.

2. The attitude of Gandhiji at the Round Table Conference in London with regard to the demands of the Depressed Classes as put forward by their accredited and trusted leader Dr. Ambedkar, was most unreasonable, obstinate and inexplicable.

3. Gandhiji was prepared to concede on behalf of the Congress the special claims of the Mohamedans and the Sikhs including their demand for separate representation on "historic grounds", but he was not willing even to concede reserved seats in general electorates to the Depressed Classes, although he knew, or should have known, what sort of treatment they would get, should they be thrown upon at the mercy on caste Hindus.

* * * * *

9. Gandhiji has said in opposing the claims of the Depressed Classes for separate representation that he does not want the Hindu Community to be subjected to vivisection or dissection. But the Congress is now dissecting the community of Untouchables by playing one section against another. Gandhiji and the Congress are not playing the fair game. Open enemies are far better than treacherous friends.

10. Attempts are being made to show that Gandhiji and the Congress alone represent the Depressed Classes by presenting addresses through a handful of hirelings and dupes. Is it not our duty to demonstrate the fact by coming out in thousands and proclaiming the truth? This is our charge sheet against Gandhiji and the Congress.

Let those who are not blind hero worshippers and blind partisans judge and give their verdict.

General Secretary,
Depressed Classes Institute.

III

Is this charge sheet true? Mr. Gandhi is known to the world not merely as the Political leader of India, but also as the Champion of the Untouchables. It is perhaps true that the outside world takes more interest in Mr. Gandhi because he is the champion of the Untouchables than because he is a political leader. For instance the Manchester Guardian very recently devoted an editorial to the work of Mr. Gandhi for the Untouchables.

In the face of this, the charge appears to be quite unfounded. For, has not Mr. Gandhi made the Congress pledge itself to remove

untouchability ? The Congress before it came into the hands of Mr. Gandhi had refused to allow any social problem to be placed before it for consideration. A clear cut distinction was made between political and social question, and scrupulous attempt was made to confine the deliberations and activities of the Congress to purely political questions. The old Congress refused to take notice of the Untouchables. It was with great difficulty that the Congress in 1917* for the first time allowed the question of the Untouchables to be placed before it and condescended to pass the following resolution:

> "The Congress urges upon the people of India the necessity, justice and righteousness of removing all disabilities imposed by custom upon the Depressed Classes, the disabilities being of a most vexatious and oppresssive character, subjecting those classes to considerable hardship and inconvenience."[1]

The Congress fell onto the hands of Mr. Gandhi in 1920 and the Congress at its ordinary session held at Nagpur passed the following resolution :

INTERCOMMUNAL UNITY

> "Finally, in order that the Khilafat and the Punjab wrongs may be redressed and Swarajya established within one year, this Congress urges upon all public bodies, whether affiliated to the Congress or otherwise, to devote their exclusive attention to the promotion of non-violence and non-cooperation with the Government and, inasmuch as the movement of non-cooperation can only succeed by complete co-operation amongst the people themselves, this Congress calls upon public associations to advance Hindu-Muslim unity and the Hindu delegates of this Congress call upon the leading Hindus to settle all disputes between Brahmins and Non-Brahmins, wherever they may be existing, and to make a special effort to rid Hinduism of the reproach of untouchability, and respectfully urges the religious heads to help the growing desire to reform Hinduism in the matter of its treatment of the suppressed classes."

Again did not Mr. Gandhi make the removal of untouchability a condition precedent for achieving Swaraj ? In the *Young India* of December 29, 1920, Mr. Gandhi wrote:

> "Non-cooperation against the Government means cooperation among the governed, and if Hindus do not remove the sin of

* Year not mentioned in the Ms.—Ed.

[1] This quotation has been reproduced from page I of ' What Congress and Gandhi have done to the Untouchables' by the author. This was not typed in the MS of this essay.—Ed.

untouchability, there will be no Swaraj in one year or one hundred years....”

Writing again on the conditions of Swaraj in the issue of *Young India* for February 23, 1921, he said:

> “Swaraj is easy of attainment before October next if certain simple conditions can be fulfilled. 1 ventured to mention one year in September last because 1 knew that the conditions were incredibly simple and 1 felt that the atmosphere in the country was responsive. The past five months experience has confirmed me in the opinion. I am convinced that the country has never been so ready for establishing Swaraj as now.”
>
> “But what is necessary for us as accurately as possible to know the conditions. One supreme indispensible condition is the continuance of non-violence.”
>
> “The next condition is..... establishing a Congress Agency in every village.”
>
> “There are certain things that are applicable to all. The potent thing is Swadeshi. Every home must have the spinning wheel and every village can organize.... and become self supporting.”
>
> “Every man and woman can give some money—be it even a pice—to the Tilak Swaraja Fund. And we need have no anxiety about financing the movement.....”
>
> “We can do nothing without Hindu-Moslem unity and without killing the snake of untouchability.....”
>
> “Have we honest, earnest, industrious, patriotic workers for this very simple programme ? If we have, Swaraj will be established in India before next October.”

What more did the Untouchables want? Here is Mr. Gandhi who had held himself out as the friend of the Untouchables. He prides himself on being their servant. He claims and fought for being accepted as their representative. Why should the Untouchables show such a lack of confidence in Mr. Gandhi ?

On the basis of words, the charge perhaps appears unfounded. But does it appear equally unfounded if we have regard to deeds? Let me examine Mr. Gandhi’s deeds.

The work which is claimed by Mr. Gandhi and his friends to have been done by him and the Congress for the Untouchables falls into two periods, the period which precedes the Poona Pact and the period which follows the Poona Pact. The first period may be called the period of the Bardoli Programme. The second period may be called the period of the Harijan Sevak Sangh.

FIRST PERIOD

I

To begin with the Bardoli Programme period. The Bardoli Programme or what is called the Constructive Programme of the Congress was the direct outcome of the new line of action adopted by the Congress in securing the political demands of the country. At the session of the Congress held at Nagpur in 1920 the Congress declared :

> "Whereas the people of India are now determined to establish Swaraj; and
>
> "Whereas all methods adopted by the people of India prior to the last special session of the Indian National Congress have failed to secure due recognition of their rights and liberties;

"Now this Congress while reaffirming the resolution on non-violent non-cooperation passed at the Special Session of the Congress at Calcutta declares that the entire or any part or parts of the scheme of non-violent non-cooperation, with the renunciation of voluntary association with the present Government at one end and the refusal to pay taxes at the other, should be put in force at a time to be determined by either the Indian National Congress or the All India Congress Committee and in the meanwhile to prepare the Country for it",....

At the session of the Congress held at Ahmedabad in 1921 it was declared that:

> "This Congress is further of opinion that Civil Disobedience is the only civilized and effective substitute for an armed rebellion.... and therefore advises all Congress Workers and others.... to organize individual civil disobedience and mass civil disobedience".....

It is to give effect to this policy of non-cooperation and civil disobedience and to prepare the people to take part in them that the Working Committee of the Congress met at Bardoli in February 1922 and drew up the following programme of action.

> "The Working Committee advises all Congress organisations to be engaged in the following activities :
>
> (1) To enlist at least one crore of members of the Congress.
>
> (2) To popularise the spinning wheel and to organise the manufacture of hand-spun and handwoven khaddar.
>
> (3) To organise national schools.
>
> (4) To organise the Depressed Classes for a better life, to improve their social, mental and moral condition to induce them

to send their children to national schools and to provide for them the ordinary facilities which the other citizens enjoy.

Note : Whilst therefore where the prejudice against the Untouchables is still strong in places, separate schools and separate wells must be maintained out of Congress funds, every effort should be made to draw such children to national schools and to persuade the people to allow the Untouchables to use the common wells.

(5) To organise the temperance campaign amongst the people addicted to the drink habit by house-to-house visits and to rely more upon appeal to the drinker in his home than upon picketing.

(6) To organise village and town Panchayats for the private settlement of all disputes, reliance being placed solely upon the force of public opinion and the truthfulness of Panchayat decisions to ensure obedience to them.

(7) In order to promote and emphasize unity among all classes and races and mutual goodwill, the establishment of which is the aim of the movement of non-cooperation, to organise a social service department that will render help to all, irrespective of differences, in times of illness or accident.

(8) To continue the Tilak Memorial Swaraj Fund collections and call upon every Congressman or Congress sympathiser to pay at least a one-hundredth part of his annual income for 1921. Every province to send every month twenty-five per cent of its income from the Tilak Memorial Swaraj Fund to the All-India Congress Committee.

The above resolution shall be brought before the forthcoming session of the All-India Congress Committee for revision if necessary."

This programme was placed before the All-India Congress Committee at its meeting at Delhi on 20th February 1922 and was confirmed by the same. The programme is a very extensive programme and I am not concerned with what happened to the whole of it, how it was received and how it was worked out. I am concerned with only one item and that which relates to the Depressed Classes.

After it was confirmed by the All-India Congress Committee, the Working Committee met at Lucknow in June 1922 and passed the following resolution :

"This Committee hereby appoints a committee consisting of Swami Shraddhanandji, Mrs. Sarojini Naidu and Messrs. I. K. Yajnik and G. B. Deshpande to formulate a scheme embodying practical measures to be adopted for bettering the condition of the

so-called Untouchables throughout the country and to place it for consideration before the next meeting of this Committee, the amount to be raised for the scheme to be Rs. 2 lacs for the present."

This resolution was placed before the All-India Congress Committee at its meeting in Lucknow in June 1922. It accepted the resolution with the amendent that "the amount to be raised for the scheme should be 5 lacs for the present", instead of 2 lacks as put forth in the resolution of the Working Committee. How did this programme fare, what practical measures did the Committee suggest and how far were these measures given effect to ? These questions one must ask in order to assess the work of Mr. Gandhi and the Congress for the Untouchables.

It seems that before the resolution appointing the Committee was adopted by the Working Committee, one of its Members Swami Shradhanand tendered his resignation of the membership of the Committee. For one finds that at the very sitting at which the Working Committee passed this resolution, another resolution to the following effect was passed by the Working Committee :

"Read letter from Swami Shradhanandji, dated 8th June 1922 for an advance for drawing up a scheme for depressed classes work. Resolved that Mr. Gangadharrao B. Deshpande be appointed convener of the sub-committee appointed for the purpose and he be requested to convene a meeting at an early date, and that Swami Shradhanand's letter be referred to the sub-committee."

The Working Committee met again in July 1922 in Bombay and passed the following Resolution :

"That the General Secretary be asked to request Swami Shradhanand to reconsider his resignation and withdraw it and a sum of Rs. 500/- be remitted to the Convener, Shri G. B. Deshpende, for the contingent expenses of the Depressed Classes Sub-Committee."

The year 1922 thus passed away without anything being done to further that item of the Bardoli Programme which related to the Depressed Classes. The year 1923 came on. The Working Committee met at Gaya in January 1923 and passed the following resolution :

"With reference to Swami Shraddhanand's resignation, resolved that the remaining members of the Depressed Classes Sub-Committee do form the Committee and Mr. Yajnik be the convener."

The All-India Congress Committee met in Feb. 1923 at Bombay and seeing that nothing was done as yet, recorded the following resolution :

"Resolved that the question of the condition of the Untouchables be referred to the Working Committee for necessary action."

What did the Working Committee do then? It met at Poona on the 17th April 1923 and resolved as follows:

> "Resolved that while some improvement has been effected in the treatment of the so-called Untouchables in response to the policy of the Congress this Committee is conscious that much work remains yet to be done in this respect and inasmuchas this question of untouchability concerns the Hindu community particularly, it requests the All-India Hindu Mahasabha also to take up this matter and to make strenuous efforts to remove this evil from amidst the Hindu community."

Thus came to an end the Constructive Programme undertaken by Mr. Gandhi and the Congress for the Untouchables. The Bardoli programme for the Untouchables was in no sense a revolutionary programme. It did attempt to abolish untouchability. It does not attempt to break up caste. There is no mention of intermarriage or interdinning. It accepts the principle of separate wells and separate schools for Untouchables. It was purely an ameliorative programme. And yet such a harmless programme the Congress failed to carry through.

It must further be remembered that this was a time when the Congress was on the war path. It was determined to fight British Imperialism and was most anxious to draw every community towards itself and make all disaffected towards the British. This was the time when the Congress could have been expected to show to the Untouchables that the Congress stood for them and was prepared to serve them in the same way that it was prepared to serve the Musalmans. There could be no more propitious circumstance which could make the Hindus overcome their antipaty towards the Untouchables and undertake to serve. But even such propitious circumstance did not prove sufficient to energize Congressmen to do this small bit for the Untouchables. How hard must be the anti-social feelings of the Hindus against the Untouchables that even the highest bliss and the greatest stimulant, namely the prospect of winning, Swaraj, were not sufficient to dissolve that spirit. The tragedy and the shamelessness of this failure by the Congress to carry through their programme for the Untouchables is aggravated by the way in which the matter was disposed of.

The work of the amelioration of the Untouchables could not have been left in worse hands. If there is any body which is quite unfit for addressing itself to the problem of the Untouchables, it is the Hindu Mahasabha. It is a militant Hindu organization. Its aim and object is to conserve in every way everything that is Hindu, religious and

culture. It is not a social reform association. It is a purely political organization whose main object and aim is to combat the influence of the Muslims in Indian politics. Just to preserve its political strength it wants to maintain its social solidarity and its way to maintain social solidarity is not to talk about caste or untouchability. How such a body could have been selected by the Congress for carrying on the work of the Untouchables passes my comprehension. This shows that the Congress wanted somehow to get rid of an inconvenient problem and wash its hands of it. The Hindu Mahasabha, of course, did not come forth to undertake the work and the Congress had merely passed a pious resolution recommending the work to them without making any promise for financial provision. So the project came to an inglorious and ignominious end. Yet there will not be wanting thousands of Congressmen who would not be ashamed to boast that the Congress has been fighting for the cause of the Untouchables and what is worse is that there will not be wanting hundreds of foreigners who are ready to believe it under the false propaganda carried on by men like Charles F. Andrews, who is the friend of Mr. Gandhi and who thinks that to popularize Gandhi in the Western World is his real mission in life.[1]

It is not enough to know that the effort failed and had to be wound up. It is necessary to inquire why Swami Shradhanand resigned and refused to serve on the proposed Committee. There must be some good reason for it. For the Swami was the most enlightened Arya Samajist and very conscientiously believed in the removal of untouchability. On this point, the correspondence that passed between the Swami and the General Secretary to the All India Congress Committee throws a flood of light on the mentality of the Congressmen and I make no apology for reproducing below the whole of it.

SWAMIJI'S LETTER

The General Secretary,
All-India Congress Committee,
Camp Delhi.

I acknowledge, with thanks, receipt of your letters No. 331 and 332 embodying resolutions of the working committee and of the A.I.C.C. about untouchability. I observe with pain, that the resolution of the A.I.C.C. as at present worded, does not include the whole of what was passed by the committee.

[1] Mr. Andrews once went to the length of defending the Caste system.

The facts are these. I sent the following letter to Mr. Vithalbhai Patel, the then General Secretary on 23rd May 1922, which was also published by the principal dailies of the country.

> "My dear Mr. Patel, there was a time (vide *Young India* of 25th May, 1921) when Mahatmaji put the question of untouchability in the forefront of the Congress Programme. I find now that the question of raising the Depressed Classes has been relegated to an obscure corner. While Khadi claims the attention of some of our best workers and liberal sum has been earmarked for it, for the year, while a strong sub-committee has been appointed to look after national education and a special appeal for funds is to be made for the same, the question of the removal of untouchability has been shelved by making small grants to Ahmedabad, Ahmednagar and Madras. I am of opinion that with a majority of 6 crores of our brethren set against us by the beauracracy even the Khadi Scheme cannot succeed completely. The Members of the Working Committee, perhaps, do not know that on this side our suppressed brethren are leaving off Khadi and taking to buying cheap foreign cloth. I want to move the following resolution in the meeting of the A.I.C.C, which comes off on the 7th of June next at Lucknow.
>
> "That a Sub-committee, consisting of three members of the A.I.C.C, be appointed to give effect to the resolution about the so-called Depressed Classes, that a sum of five Lakhs of rupees be placed at their disposal for propaganda work and that in future all applications for grants be referred to the said Sub-committee for disposal."

My proposal was amended by the Working Committee and ran as follows :

> "This Committee hereby appoints a committee consisting of Swami Shradhanand, Mrs. Sarojini Naidu and Messrs. G. B. Deshpande and I. K. Yajnik to formulate a scheme embodying practical measures to be adopted for bettering the condition of the so-called Untouchables throughout the country and to place it for consideration before the next meeting of the Working Committee, the amount to be raised for the scheme to be Rs. 2 lakhs for the present."

Mr. Patel asked me to accept the Working Committee's proposed resolution in toto. I refused to accept the Working Committee's resolution and in the very first sitting of the All India Congress Committee substituted 5 lakhs for 2 lakhs with the condition that one lakh of the same be allotted by the A.I.C.C, out of the funds in its hands, in cash and an appeal be made for the balance.

Mr. Rajagopalachariar, on behalf of the Working Committee proposed that instead of fixing the amount to be allotted out of the

Congress funds now, it should be provided that when the Scheme was accepted by the Working Committee, that Committee should allot as much cash as it could then spare for this purpose. I do not recollect the exact words but the support of the amendment as given above is, to my knowledge, true.

On this an uproar arose and the query was pressed from all sides that the cash balance in the hands of the A.I.C.C. ought to be announced. The President called me aside and told me in confidence that the Congress possessed very little cash balance and if pressed to disclose the true state of affairs, it would harm the movement as outsiders and even C.I.D. people were also present. On this I accepted the amendment of Mr. Rajgopalchariar in spite of protests from my seconder and supporters. But my surprise was great when I found the resolution in the dailies, as reported by the associated press, shorn of Mr. Rajagopalchariar's amendment.

After the above resolution was passed, some members suggested that a convener of the Sub-committee ought to be appointed, serveral members proposed me as the convener. On this Mr. Vithalbhai Patel (the then General Secretary) got up and said, "As Swami Shradhanand's name occurs first, naturally he will be the convener and therefore there was no need of moving any fresh resolution at all."

Members from all parts of the country began to give information to me about untouchability in their provinces and pressed me to visit their parts. On this I made some promises. Then, I thought, that without some cash for preliminary expenses no enquiries, on the spot could be made and hence no proper scheme formulated. I also learnt that Rs. 25,000/- had been voted by the Working Committee for "*the Independent*" of Allahabad and that an application for grant of Rs. 10,000/- to the Urdu daily "*Congress*" of Delhi had been placed by Hakim Ajmal Khan and Dr. Ansari before the Working Committee. So, considering, that after all, the Congress might not be so hard pressed for cash, I wrote a letter addressed to the President asking him to give the Untouchability Sub-Committee an advance of Rs. 10,000/- for preliminary expenses.

After all this, the following resolution of the Working Committee forwarded by your letter No. 331 is very interesting reading:

> "Read letter from Swami Shradhanand dated 8th June 1922 for an advance for drawing up a scheme for Depressed Class work—Resolved that Mr. Gangadharrao B. Deshpande be appointed convener of the Sub-committee appointed for the purpose and he be requested to convene a meeting at an early date, and that Swami Shradhanand's letter be referred to the Sub-committee."

There is another matter which is inexplicible. After my first letter had been acknowledged I addressed the following letter from Hardwar on 3rd June 1922 :

> "My dear Mr. Patel, I shall leave Hardwar the day after tomorrow and reach Lucknow on the morning of June 6th. You know, by now, that I feel the most for the so-called Depressed Classes. Even in the Punjab I find that no attention worth the name has been paid to this item of the constructive programme. In the U.P. of course it will be an uphill work. But there is another very serious difficulty.

The Bardoli programme, in its note under item 4, lays down that where prejudice is still strong, separate wells and separate schools must be maintained out of the Congress funds. This leaves a loophole for those Congress workers who are either prejudiced against the Depressed Classes or are weak, and no work can be done in inducing people to agree to allow the Untouchables to draw water from common wells. In the Bijnoor District, I learn, there was no restriction and the Untouchables drew water freely from common wells. But in some places fresh prejudice is being engendered under the aegis of the Bardoli resolution note. In my recent visits to Ambala Cantt., Ludhiana, Batala, Lahore, Amritsar and Jandiala, I found that the question of the removal of disabilities of the Untouchables is being ignored. In and near Delhi it is the Dalitodhar Sabha, of which I am the President, rather than the Congress which is doing appreciable work. I think that unless item (4) of the Bardoli constructive programme is amended in proper form, the work, which I consider to be the most important plank in the Congress programme, will suffer.

Kindly place the following proposal before the President and if he allows it to be placed before the next meeting of the A.I.C.C. I shall move it there—"Instead of the Note under item (4) of the Bardoli resolution, substitute the following Note : "The following demands of the Depressed Classes ought to be complied with at once namely that (a) they are allowed to sit on the same carpet with citizens of other classes, (b) they get the right to draw water from common wells and (c) their children get admission into National schools and Colleges and are allowed to mix freely with students drawn from the so-called higher castes. I want to impress upon the members of the A.I.C.C. the great importance of this item. I know of cases where the Depressed Classes are in open revolt against tyranny of the so-called upper castes and unless the above demands are conceded to them they will succumb to the machinations of the bureaucracy." After my first proposals were passed in the A.I.C.C. Meeting on June 7th at Lucknow, I asked Mr. Patel to put my proposed amendmant of Note to item (4) of

Bardoli resolution before the meeting. He told me that the Working Committee would refer it to the Sub-committee and asked me not to press it there. I agreed. But I have not received copy of any resolution of the Working Committee referring my proposal to the Untouchability Sub-committee.

The untouchability question is very acute in and near Delhi and I have to grapple with it at once. But the Sub-committee cannot begin work off-hand because the Working Committee has to take several other political situations in the country into consideration before deciding upon any scheme of practical measures to be adopted for uprooting untouchability on behalf of the Congress. Under these circumstances I cannot be of any use to the Sub-committee and beg to resign from membership.

Yours sincerely,

Delhi, Jan. 30. Shradhanand Sanyasi.

SECRETARY'S REPLY

Dear Swamiji,

Your letter dated June 1922 received in my office on the 30th of that month has, by a resolution of the Working Committee passed in Bombay on the 18th instant, been referred to me with instructions to explain facts and request you to be good enough to reconsider your resignation from the Depressed Classes Sub-Committee.

As you are aware, I have no personal knowledge of the facts which happened prior to my release from the jail. But I was present at the meeting of the Working Committee which passed the resolution dated 10th June 1922 appointing Mr. Deshpande as the Convener of the Sub-committee. It was not then mentioned that there was any understanding about any particular member acting as the Convener of the Sub-committee and the whole resolution was passed merely to complete the necessary formalities in regard to the payment of money. It was felt that a formal resolution of the Sub-committee was necessary before any expenditure could be sanctioned. Mr. Deshpande was accordingly appointed as the convener and a sum of Rs. 500/- was voted for the expenses of these preliminary steps. By an oversight the resolution as drafted omitted to mention the sanction of Rs. 500/-. You will thus observe that it was not due to the unwillingness of Working Committee to sanction Rs. 10,000/- for untouchability, but the true reason for framing the resolution in the manner it was framed was what I have explained above. Nothing could be farther from the intention of the Working Committee than a desire to understand the

importance of the work your Sub-committee was called upon to do or in any way to ignore the valuable advice tendered by you. On your letter being placed before the last meeting of the Working Committee the omission of the grant of Rs. 500/- was supplied, and I was instructed to communicate with you on the subject. It will be a great pity if the Sub-committee is deprived of the benefit of your experience and special knowledge of the whole question of untouchability and I will ask you therefore in the public interest to reconsider your decision and wire to my office at Allahabad withdrawing your resignation from the Sub-Committee. I need hardly add that any resolutions arrived at by your Sub-Committee will receive all the consideration they deserve at the hands of the Working Committee.

As to the alteration in the Working Committee's resolution in regard to separate wells and schools, the best course would be for your Sub-Committee to recommend the change and for the Working Committee to adopt it.

I am afraid you are under a misapprehension as regards the grant to '*The Independent*', of Allahabad, and "*The Congress*" of Delhi. In reference to the former, all that has been done is to sanction the application of the U. P. Provincial Committee to advance as a loan to the "*nationalist journals*" Ltd., Rs. 25,000 from the funds already granted to that committee and in reference to the latter, the application for a grant of a loan was wholly rejected.

Yours sincerely,
Motilal Nehru.
Bombay, July 23, 1922. General Secretary.

SWAMIJI'S REJOINDER

Dear Pandit Motilalji,

I received your letter of 23rd July 1922 addressed from Bombay on my resignation from the Untouchability Sub-Committee. I am sorry I am unable to reconsider it because some of the facts brought out by me in my first letter have simply been ignored.

(1) Kindly enquire of Mr. Rajagopalchariar whether I did not first propose that at least one lakh should be given in cash out of the funds in the hands of the A.I.C.C, whether he did not move an amendment substituting words for the above which purported to promise that when the plan of work formulated by the Sub-Committee was accepted by the Working Committee, that Committee would allot as much money for the untouchability department as it could then spare

and whether I did not accept his amendment when the President called me aside and explained the exact financial position at the time. If this is the fact then why did the amendment not appear with the resolution?

(2) Did you enquire of Mr. Vithalbhai J. Patel whether the members of the A.I.C.C. did not propose me as the convener of the Sub-Committee and whether he did not then say — "As Swami Shradhanand's name occurs first, naturally he will be the convener and therefore there was no need of moving any fresh resolution at all" I enquired about this from Dr. Ansari and he wrote back to me on June 17th, 1922 saying that I was appointed convener. Dr. Ansari is with you and you can verify it from him. I hope Mr. Patel has not forgotten all about it.

(3) Then the immediate work among the Untouchables here is very urgent and I can not delay it for any reason whatever. Kindly have my resignation accepted in the next meeting of the Working Committee, so that I may be free to work out my own plan about the removal of untouchability. This was my position at the end of July last. My experience in the Amritsar and Mianwali jails and the information I gathered there, have confirmed me in the belief that unless sexual purity (Brahmacharya) is revived on the ancient Aryan lines and the curse of untouchability is blotted out of the Indian society, no efforts of the Congress nor of other patriotic organisations out of the Congress will avail in their efforts for the attainment of Swaraj. And as national self realization and virile existence is impossible without Swaraj, I, as a Sanyasi, should devote the rest of my life to this sacred cause—the cause of sexual purity and true national unity.

Delhi, July 23, 1922. Shradhananda Sanyasi.

This shows what heart Congressmen had in the uplift work of the Untouchables.

2

So much for what Congressmen volunteered to do. How much did congressmen or Mr. Gandhi help the Untouchables who were working independently for the uplift of their own people. This was the period when the Untouchables themselves were on the warpath. They too were engaged in offering civil disobedience against the Hindus for the purpose of acquiring their civic and social rights. This was the period during which the Untouchables of Bombay Presidency had launched their Satyagraha at Mahad for establishing their right to take water

from the public tank and at Nasik for establishing their right to enter a Hindu temple. How did Mr. Gandhi look upon this Satyagraha movement started by the Untouchables against the caste Hindus ? The attitude of Mr. Gandhi to say the least was extremely queer.

In the first place Mr. Gandhi condemned this Satyagraha by the Untouchables against the caste Hindus. He would not support it. In this controversy the Untouchables were perfectly logical. They argued that if Civil Disobedience was the weapon which, according to Mr. Gandhi, the Hindus could legitimately use against the British for securing their freedom, why were the Untouchables not justified in using the same wapon gainst the caste Hindus for securing their emancipation. However good this logic Mr. Gandhi would have none of it. He tried to meet their logic by his logic. He argued that Untouchability was the sin of the Hindus. It is the Hindus who must therefore do penance. It is they who must offer Satyagraha for the removal of untouchability. Satyagraha was not the business of the Untouchables because they were not sinners, far from being sinners they were sinned against. This was of course not Aristotalian logic. It is a Mahatmian logic which is another name for casuistry. But it was apparent that this Mahatmian logic was simply nonsense. The Untouchables replied that if that was the view of Mr. Gandhi—namely that Satyagraha is penance which is for the sinner to offer—then why should he call upon the Hindus to offer Satyagraha against the British. British Imperialism was the sin of the British and therefore according to his logic the Satyagraha must be offered by the British and not by the caste Hindus. The Untouchables had destroyed his logic. It was clear that there was either a fallacy or insincerity in this attitude of Mr. Gandhi to Satyagraha by the Untouchables against caste Hindus. But the Untouchables could not dislodge Mr. Gandhi from the position of hostility which he had adopted.

There is another incosistency in the attitude which Mr. Gandhi showed towards the Satyagraha by the Untouchables against Caste Hindus at Mahad and Nasik and the attitude he showed against similar Satyagraha by the Untouchables at Vaikom. Mr. Gandhi was in favour of the Satyagraha at Vaikom. He blessed it and encouraged it. Why then was Mr. Gandhi opposed to the Satyagraha at Mahad and Nasik ? Was there any difference between the two ? Yes, there was. The Vaikom Satyagraha was carried on by the Untouchables under the auspices of the Congress. The other two were launched by the Untouchables independently of the Congress. Had the opposition of Mr. Gandhi something to do with this difference ? As Mr. Gandhi has given no answer I must leave the reader to make the best guess.

Perhaps Mr. Gandhi was not prepared to protect the lambs who would not accept him as their shepherd. When Mr. Gandhi refused to give his blessings to the Satyagraha by the Untouchables it was a foregone conclusion that no Congressmen would or could come and help the Untouchables in their struggle against the orthodox Hindus. Indeed this attitude of Mr. Gandhi enabled Congress Hindus to join the orthodox Hindus—they are kith and kin and the line that divides the two is very thin—and batter the heads of the Untouchables with a clear conscience. This was not the only mischief Mr. Gandhi did by his most illogical if not perverse attitude. He came out openly against all non-Hindus and prohibited them from helping the Untouchables in their Satyagraha struggle against the caste Hindus. He was not only against Mahomedans, Christians, Parsis and Jews rendering any help, but he went to the length of objecting to the Sikhs—who are no more than militant and protestant Hindus—coming to help the Untouchables. Here again his argument was queer. Untouchability is the sin of the caste Hindus. It is they who must do penance. Help to the Untouchables being a penance and penance being the obligation of the sinner, only the sinner could offer Satyagraha and help it. The Mahomedans, Christians, Parsis, Jews and Sikhs were not sinners in the matter of untouchability and therefore they could not help the Satyagraha for the removal of untouchability. Mr. Gandhi of course would not see it from the point of view of the Untouchables. He would not see that what was sin for the caste Hindus was slavery for the Untouchables. If the sinner was bound to do penance, the slave was entitled to break his bonds and every person who believed in freedom, no matter what his caste or his creed, was bound to help and free to join in the struggle. This is exactly the point of view which Mr. Gandhi had adopted with regard to the Khilafat question. The Musalman wanted Khilafat and the territorial integrity of Turkey. The demand for territorial integrity of Turkey was a most impossible demand because it involved the subjugation of the Arabs by the Turks. Still the Musalmans insisted upon it and Mr. Gandhi brought round the whole of the Congress and the Hindus to support this impossible and impious demand of the Musalmans. Mr. Gandhi then argued that if the Musalmans think it their religious duty to fight for the territorial integrity of Turkey, then it was the obligation of the Hindus to help the Muslims to fulfil their duty.[1]

[1] At the special session of the Congress held at Calcutta in 1920 a resolution was passed of which the following is a part :

"In view of the fact that on the Khilafat question both Indian and Imperial Governments have signally failed in their duty towards the Musalmans of India, and the Prime Minister has deliberately broken his pledged word given to them, and that it is the duty of every non-Moslem India in every legitimate manner to assist his Musalman brother in his attempt to remove the religious calamity that has overtaken him.

* * * * *

The benefit of this logic Mr. Gandhi was not prepared to extend to the Untouchables. He was firm. Non-Hindus may help Hindus. Hindus may help non-Hindus. But none should help the Untouchables.[1] Friends of Mr. Gandhi were anxious to soften the rigour of his logic by pointing out that a distinction was necessary to be made on the basis of the nature of the disabilities of the Untouchables. They argued[1] that certain disabilities of the Untouchables were civic, certain were religious and that so far as the civic disabilities were concerned even non-Hindus should be allowed to help the Untouchables to carry on the Satyagraha. Even to this Mr. Gandhi was not prepared to listen. His interdict was applicable to all cases and there was no distinction possible. With this interdict on outside help Mr. Gandhi— the "friend of the Untouchables"— completely cut off the supplies of the Untouchables and left them without any sinews of war.

3

So far I have explained how the Congress without any qualm of conscience abandoned the idea of uplifting the Untouchables. It did not even undertake it. Secondly I have explained how Mr. Gandhi failed to support the Untouchables in their Satyagraha against the caste Hindus but by his queer logic found justification for not helping them and for preventing help reaching them. There now remains to record the third and the last event which belongs to this period. Though last in point of time it is undoubtedly the first in point of importance. That incident is the touchstone by which Mr. Gandhi's claim as a friend of the Untouchables must stand or fall.

The incident relates to the demand made by the Representatives of the Depressed Classes at the Indian Round Table Conference for political safeguards being embodied in the new Constitution and the attitude of Mr. Gandhi to these demands. The most important of these demands related to representation of the Depressed Classes in the Legislatures. The demand submitted by the representatives of the Depressed Classes was in the following terms—

Adequate Representation in the Legislatures.

The Depressed Classes must be given sufficient political power to influence legislative and executive action for the purpose of securing their welfare. In view of this they demand that provisions shall be made in the electoral law to give them :

(1) Right to adequate representation in the Legislatures of the Country, Provincial and Central.

[1] Young India.

(2) Right to elect their own men as their representatives,

(a) by adult suffrage and

(b) by separate electorates for the first ten years and thereafter by joint electorates and reserved seats, it being understood that joint electorates shall not be forced upon the Depressed Classes against their will unless such joint electorates are accompanied by adult suffrage."

It is this particular demand by the Depressed Classes which raised such a storm and which became so serious ar issue that the solution of it almost shook the foundation of Indian politics and of Hindu Society.

This demand of the Depressed Classes was founded on the recommendation of the Simon Commission. After a careful survey of the problem of the Depressed Classes, the Simon Commission had reported to the following effect regarding their place under the new Constitution :

> "It is clear that even with a considerable lowering of the franchize ..... there would be no hope of the Depressed Classes getting their own representatives elected in general constituencies without special provision being made to secure it ..... Ultimately we should hope to see them maintaining their ground in joint electorates without special protection..... They will make no headway, however, in this direction as long as they are represented solely by nomination, for nomination provides no opportunities for training them in politics. There are, even with the present restricted franchise, a sufficient number of Depressed Class voters to make methods of election possible .....
>
> Our object, therefore, is to make a beginning which will bring the Depressed Classes within the circle of elected representation. How is this to be done ? Most of the Depressed Class associations which appeared before us favoured separate electorates, with seats allocated on the basis of population ..... separate electorates would no doubt be the safest method of securing the return of an adequate number of persons who enjoy the confidence of the Depressed Classes; but we are averse from stereotyping the difference between the Depressed Classes and the remainder of the Hindus by such a step, which we consider would introduce a new and serious bar to their ultimate political amalgamation with others .....
>
> Our proposal, therefore, is that in all the eight Provinces there should be some reservation of seats for the Depressed Classes..... The result of our Scheme would be that spokesmen of the Depressed Classes would be returned as elected members in each of

the Provinces ..... As to the number of seats to be reserved, this should obviously bear some proportion to the total number of the Depressed Classes in the province ..... We propose that ..... the proportion of the number of such reserved seats to the total seats in all the Indian General constituencies should be three quarters of the proportion of the Depressed Classes population to the total population of the electoral area of the province." .....[1]

As a matter of fact there was nothing new in this demand of the Depressed Classes for separate political representation for themselves by themselves and through themselves and the Simon Commission in conceding it cannot be said to have made a new departure.

This demand was put forth in 1919.

At the time when the reforms which subsequently became embodied in the Act of 1919 were being discussed, the authors of the Montague Chelmsford Report clearly recognized the problem of the Untouchables and the authors pledged themselves to make the best arrangement for their representation in the Legislatures. But the Committee that was appointed under the Chairmanship of Lord Southborough to devise the franchise and the electoral system ignored them altogether. The Government of India did not approve of this attitude and made the following comments :

"They (Untouchables) are one-fifth of the total population and have not been represented at all in the Morley-Minto Councils. The Committee's report mentions the Untouchables twice, but only to explain that in the absence of satisfactory electorates they have been provided for by nomination. It does not discuss the position of these people, or their capacity for looking after themselves. Nor does it explain the amount of nomination which it suggests for them ..... The measure of representation which they propose ..... suggested that one-fifth of the entire population of British India should be allotted seven seats out of practically eight hundred. It is true that in all the Councils there will be, roughly speaking, a one-sixth proportion of officials who may be expected to bear in mind their interests; but that arrangement is not, in our opinion, what the Report on reforms aims at. The authors stated that the Untouchables also should learn the lesson of self-protection. It is surely fanciful to hope that this result can be expected from including a single member of the community in an assembly where there are sixty or seventy caste Hindus. To make good the principles of the Report we must treat the outcastes more generously."

[1] Report. Vol. II. pp. 65-66.

The Government recommended that the seats allotted to the Untouchables by the Committee should be doubled. Accordingly in place of seven, they were given fourteen seats.

Again in 1923, the Secretary of State appointed a Committee which is known as the Muddiman Committee. The principal object of the Committee was to find out how far the constitution established by the Act of 1919 could be expanded by alterations in the Rules and without altering the Act. The Committee made certain recommendations and pointed out the necessity of increasing the representation of the Depressed Classes in the Legislatures. This recommendation was accepted by the Secretary of State who increased the number of seats.

Thus the right of the Depressed Classes to special representation in the Legislature had become a principle which was not only accepted but adopted in the Constitution. So well was this principle recognized that it had been extended even to District Local Boards, School Boards and Municipalities.

A claim which had been given legal recognition in 1919 and which had thereby become a right and which had become perfected by user the representatives of the Depressed Classes felt could not be disputed by any body. There was no reason to fear that the Congress would come forward seriously to dispute this right of the Depressed Classes. Because although the Nehru Committee in 1929 in the Swaraj Constitution which it was asked to frame had denied this right to the Depressed Classes, the report of that Committee was not binding on the Congress. The Congress was bound by nothing except its own resolution which was passed in 1920, at its Nagpur Session to allay the fears of the Sikhs, and which had declared its policy to treat all minorities alike in the matter of representation in the Legislature[1].

The representatives of the Depressed Classes were therefore justified in hoping that their demand would go through without any difficulty whatsoever from any quarters.

At the first Round Table Conference things went very smoothly. There was no trouble of any kind and although there was no agreement on the minorities question, the right of the Depressed Classes to special representation was accepted by all sections that were represented at the Round Table Conference. The conclusions reached by the Minorities Sub-Committee were embodied in its report which

[1] The text of the resolution is as follows :

The Sikhs

"In view of the fact that misunderstanding exist among the Sikhs as to the position of their community in the future polity of India, this Congress assures the Sikhs that their interests will receive the same protection in any Scheme of Swaraj for India as is provided for Mahomedan and other minorities in provinces other than the Punjab."

was presented to the General Conference. The following are the extracts from that report :

> "There was general agreement with the recommendation of Sub-Committee No. II (Provincial Constitution) that the representation on the Provincial Executives of important minority communities was a matter of the greatest practical importance for the successful working of the new constitution, and it was also agreed that, on the same grounds, Mohammadans should be represented on the Federal Executive. On behalf of the smaller minorities a claim was put forward for their representation, either individually or collectively, on the Provincial and Federal Executives, or that, if this should be found impossible, in each Cabinet there should be a Minister specially charged with the duty of protecting minority interests. (Dr. Ambedkar and Sardar Ujjal Singh would add the words "and other important minorities" after the word Mohammadans in line 6).

The difficulty of working jointly responsible Executives under such a scheme as this was pointed out."

> "The discussion in the Sub-Committee has enabled the Delegates to face the difficulties involved in the schemes put up, and though no general agreement has been reached, its necessity has become more apparent than ever."

> "It has also been made clear that the British Government cannot, with any chance of agreement, impose upon the communities an electoral principle which, in some feature or other, would be met by their opposition. It was therefore plain, that, failing an agreement, separate electorates, with all their drawbacks and difficulties, would have to be retained as the basis of the electoral arrangements under the new constitution. From this the question of proportions would arise. Under these circumstances, the claims of the Depressed Classes will have to be considered adequately."

> "The Sub-Committee, therefore, recommend that the Conference should register an opinion that it was desirable that an agreement upon the claims made to it should be reached, and that the negotiations should be continued between the representatives concerned, with a request that the result of their efforts should be reported to those engaged in the next stage of these negotiations."

Mr. Gandhi was not present at the first Round Table Conference because the Congress had boycotted it. He came for the Second Round Table Conference. What attitude did Mr. Gandhi take to this claim of the Depressed Classes ?

Every body expected that Mr. Gandhi would be more interested in seeing that the constitution that was likely to emerge from these deliberations and negotiations was a constitution which gave India *Purna Swaraj* i.e. complete independence and he would not interest himself in so unimportant a subject as the allocation of seats among the different minorities. But events completely falsified these hopes. Mr. Gandhi completely gave up his fight against British Imperialism altogether. He forgot that he had come with a mandate[1] to secure a constitution which contained *Purna Swaraj*. He left that issue and started fighting the minorities and what is so strange he concentrated all his fire upon the representatives of the Untouchables for daring to put forth the claim for special representation. Mr. Gandhi opposed tooth and nail the representatives of the Depressed Classes. He was not even prepared to look at their claim. He was annoyed at their impudence and the whole Conference was astonished by his opposition. They could not understand how a man like Mr. Gandhi who posed himself as the friend of the Untouchables could in fact be so great an enemy of their interests. His friends were completely baffled. Mr. Gandhi was prepared to recognize a similar right claimed by the Musalmans and to the Sikhs and although he was not prepared to recognize a similar claim by Christians, Europeans and Anglo-Indians he was not going to oppose their claim. Mr. Gandhi's friends could not understand how he could deny a similar right to the Untouchables. The Mohamedans, Sikhs, Christians, Europeans and Anglo-Indians were far better off than the Untouchables. The former were economically far better placed. The latter were poorest of the poor. The former were educationally advanced, the latter were educationally most backward. The former were socially well respected, the latter were socially despised. The former enjoyed a position of free citizens. The latter were suffering from certain disabilities. The former were not subjected to social tyranny and social boycott but social tyranny and social boycott were the every day lot of the latter. Having regard to this difference in status there could never be any doubt that if there was any section of the Indian people whose case called forth

[1] The following resolution embodies the mandate which the Congress imposed upon Mr. Gandhi when he was chosen by the Congress as its delegate. (This was a resolution passed at the Karachi Congress).

"This Congress, having considered the provisional settlement between the Working Committee and the Government of India, endorses it, and desires to make it clear that the Congress goal of Purna Swaraj, meaning complete independence, remains intact. In the event of a way remaining otherwise open to the Congress to be represented at any conference with the representatives of the British Government, the Congress delegation will work for this goal, and in particular so as to give the nation control over the army, external affairs, finance, fiscal and economic policy, and to have a scrutiny by an impartial tribunal of the financial transactions of the British Government in India, and to examine and assess the obligations to be undertaken by India or England and the right to either party to end the partnership at will; provided, however, that the Congress delegation will be free to accept such adjustments as may be demonstrably necessary in the interests of India."

special protection, they were the Untouchables. When his European friends tried thus to argue with Mr. Gandhi, Mr. Gandhi used to fly into temper and his relations with two of the best of them to my knowledge had become quite strained on this account.

Mr. Gandhi's anger was largely due to the fact he could give no rational answer which could convince his opponents that his opposition to the claim of the Depressed Classes was sincere and was founded upon the best interests of the Depressed Classes. He nowhere gave a consistent explanation of his opposition to the Depressed Classes. Reading his speeches in London while he was there one can see that he was using three arguments in support of his position. Speaking as a member of the Federal Structure Committee of the Round Table Conference Mr. Gandhi said :

> "The Congress has from its very commencement taken up the cause of the so-called "untouchables". There was a time when the Congress had at every annual session as its adjunct the Social Conference, to which the late Ranade had dedicated his energies, among his many activities. Headed by him, you will find in the programme of the Social Conference, reform in connection with the Untouchables taking a prominent place. But in 1920, the Congress took a large step, and brought the question of the removal of untouchability as a plank on the political platform, and made it an important item of the political programme. Just as the Congress considered Hindu-Muslim Unity, thereby meaning unity amongst all classes, to be indispensable for the attainment of Swaraj, so also did the Congress consider the removal of the curse of untouchability as an indispensable condition for the attainment of full freedom."

At the minorities Sub-Committee of the Round Table Conference Mr. Gandhi used another argument. He said :

> "I can understand the claims advanced by other minorities, but the claims advanced on behalf of the untouchables is to me the "unkindest cut of all". It means the perpetual barsinister. I would not sell the vital interests of the untouchables even for the sake of winning the freedom of India. I claim myself, in my own person, to represent the vast mass of the untouchables. Here I speak not merely on behalf of the Congress, but I speak on my own behalf, and I claim that I would get, if there was a referendum of the untouchables, their vote, and that I would top the poll. And I would work from one end of India to the other to tell the untouchables that separate electorates and separate reservation is not the way to remove this bar-sinister, which is the shame, not of them, but of orthodox Hinduism. Let this committee and let the whole world

know that today there is a body of Hindu reformers who are pledged to remove this blot of untouchability. We do not want on our register and on our census, untouchables classified as a separate class. Sikhs may remain as such in perpetuity, so may Moslems, so may Europeans. Will untouchables remain untouchables in perpetuity ? I would far rather than Hinduism died than that untouchability lived. Therefore, with all my regard for Dr. Ambedkar, and for his desire to see the untouchables uplifted, with all my regard for his ability I must say, in all humility, that here is a great wrong under which he has laboured and, perhaps, the bitter experiences he has undergone have for the moment warped his judgment. It hurts me to have to say this but I would be untrue to the cause of untouchables, which is as dear to me as life itself, if I did not say it. I will not bargain away their rights for the kingdom of the whole world. I am speaking with a due sense of responsibility, when I say it is not a proper claim which is registered by Dr. Ambedkar when he seeks to speak for the whole of untouchables in India. It will create a division in Hinduism which I cannot possibly look forward to with any satisfaction whatsoever, I do not mind the untouchables being converted into Islam or Christianity. I should tolerate that but I cannot possibly tolerate what is in store for Hinduism if there are these two divisions set forth in the villages. Those who speak of political rights of untouchables do not know India and do not know how Indian society is today constructed. Therefore, I want to say with all the emphasis that I can command that if I was the only person to resist this thing I will resist it with my life."

At a meeting at the Friends House in London Mr. Gandhi relied upon quite a different argument. He is reported to have said[1]:

"I have told you what is agitating my mind. You may take the Congress to be incapable of bartering away the minorities rights. The untouchables, I know, as one can claim to know. It would be equal to killing them if separate electorates were given them. They are at present in the hands of the superior classes. They can suppress them completely and wreck vengence upon the untouchables who are at their mercy and it is because I want to prevent that thing happening that I would fight the demand for separate electorates for them. Whilst I am saying this, I know, I am opening out my shame to you. But in the existing state of things how could I invite destruction for them ? I would not be guilty of that crime.[2]

[1] Young India—Nov. 19, 1931.

[2] From this, one is likely to get the impression that Mr. Gandhi was opposed only to separate electorates and that Mr. Gandhi was prepared to give to the untouchables joint electorates AND RESERVED seats being granted to the untouchables was made clear by him at the Round Table Conference. I give below the following extract from his speech in the minorities sub-Committee :

"I would like to repeat what I have said before, that while the Congress will always accept any solution that may be acceptable to the Hindus, the Musalmans and the Sikhs, the Congress will be no party to special reservation or special electorates for any other minorities."

Dr. Ambedkar, as able as he is, has unhappily lost his head over this question. I repudiate his claim to represent them."

None of his arguments carried any conviction. Indeed they could not. They were all spacious and they had the ring of special pleadings.

His first argument, that the Congress was pledged to look after the untouchables, to remove their untouchability—Was this argument founded in truth ? Mr. Gandhi has been telling the world that the whole body of Congress has been pledged to remove untouchability and his friends have been giving him credit for getting the Congress to do what the Congress before him was not prepared to do. I am surprised how so false a view could have been given such a wide currency. I have read and re-read the Resolution passed by the Congress in 1920 at Nagpur which is the basis of such an assertion as is made by Mr. Gandhi and his friends, and I am sure every one who reads that resolution will agree that the text of the resolution gives no warrant for such an assertion. The resolution is a very clever piece of Gandhian tactics. Mr. Gandhi has been very anxious from the very beginning to keep the untouchables a close preserve of the Hindus. He did not want Musalmans or Christians to be interested in them. He wanted that the Untouchables who were attached to the British should be detached from them and attached to the Hindus. The second object could be achieved only if the resolution in favour of the removal of untouchability was passed from the Congress platform. To achieve this it was necessary to confine this duty only to the Hindus. This is what the resolution does. It is a clever move on the part of a cunning politician. The resolution does not put the Congress as a whole behind this resolution. Secondly, in what it does there is nothing that is obligatory in it. There is no pledge, there is no vow. There is only moral exhortation. It only recommends to the Hindus that removal of untouchability is their duty. Once Mr. Gandhi tried to alter the conditions for membership of the Congress. Instead of the payment of four annas per annum being the condition of membership Mr. Gandhi wanted to lay down two conditions : (1) removal of untouchability and (2) spinning yarns. Congressmen were prepared to accept spinning of yarn as a condition of membership. But they were not prepared to accept removal of untouchability as a condition. Congressmen told Mr. Gandhi that if he insisted upon it all Congress Committees will have to be closed down. So strong was the opposition that Mr. Gandhi had to withdraw his proposal. That being the case for Mr. Gandhi to have urged before the Round Table Conference that the Congress was pledged to remove untouchability and that the untouchables could safely be left to the mercy of the Hindus shows that even Mr. Gandhi is capable of economising truth to a vanishing point.

The next argument of Mr. Gandhi that the removal of untouchability was made by the Congress a condition precedent to Swaraj urged to prove the sincerity of the Congress could not be taken at its face value by the obvious insincerity of the Congress and Mr. Gandhi. Untouchability was as it had been, yet the Congress and Mr. Gandhi had come forth to demand independence. This was enough to show that Mr. Gandhi did not believe in what he said on this point. No one in India, at any rate no one from among the Untouchables believed in this declaration of Mr. Gandhi and his Congress that for them removal of untouchability was a condition precedent to Swaraj. Long before the Round Table Conference Mr. Gandhi was questioned to test his sincerity on two occasions and the answers he gave on both left no doubt that even he did not believe this declaration.

In 1920 a correspondent asked Mr. Gandhi the following question[1]:

> "Should not we the Hindus wash our bloodstained hands before we ask the English to wash theirs ?"

To this Mr. Gandhi gave the following reply :

> "A correspondent indignantly asks me in a pathetic letter reproduced elsewhere what I am doing for the (untouchables). I have given the letter with the correspondent's own heading. 'Should not we the Hindus wash our bloodstained hands before we ask the English to wash theirs ?' This is a proper question reasonably put. And if a member of a slave nation could deliver the suppressed classes from their slavery without freeing myself from my own, I would so do today. But it is an impossible task ....."

Does this show that Mr. Gandhi and the Congress were sincere when they said that removal of untouchability was a condition precedent to Swaraj ? That this is not the argument of a sincere man is shown by the fact that at a later time Mr. Gandhi himself has ridiculed a correspondent who urged upon Mr. Gandhi the desirability of keeping aside the question of the Untouchables until the Hindus had won Swaraj.

The second occasion on which Mr. Gandhi was questioned was when he went to Dandi in March in 1930 to make Salt Satyagraha contrary to law. Some Untouchables went to Dandi and questioned him. They asked him what happened to his declaration that removal of untouchability was condition precedent to Swaraj. Mr. Gandhi's reply as reported to me was this :

> "The Untouchables are a part of a whole. I am working for the whole and I therefore believe that I am therefore working for the Untouchables who are a part of the whole."

[1] Young India, 27th Oct. 1920.

There is nothing to prove this except what was reported to me by those who had been to see Mr. Gandhi at Dandi. But I have no doubt that Mr. Gandhi must have said something to that effect. For what he is reported to have said tallies with what he has said in his reply in Young India referred to above in reply to the same correspondent. This is what Mr. Gandhi then said :

> "..... though the *Panchama* Problem is as dear to me as life itself, I rest satisfied with the exclusive attention to non-cooperation. I feel sure that the greater includes the less."

Are these the answers of a sincere man ? Can a sincere man believe that the untouchables are a part of a whole.

As to his argument that special representation to the untouchables would perpetuate the existing separation between the touchables and the untouchables was an argument which was absolutely hollow. The way to remove untouchability is to introduce intermarriage and interdining. The way to remove the disabilities of the untouchables is to admit them to the use of the common well and common school. It is difficult to understand that special representation can come in the way of intermarriage, interdinning and the use of a common well and a common school. On the other hand the introduction of these would be only way of disproving the necessity of special representation. Had Mr. Gandhi and the Congress done anything in this direction ? The explanatory note added to the Bardoli resolution shows how far Gandhi and the Congress were prepared to go in this direction. The note says :

> "Whilst therefore where the prejudice against the untouchables is still strong in places, separate schools and separate wells must be maintained out of Congress funds, every effort should be made to draw such children to national schools and to persuade the people to allow the untouchables to use the common wells."

Can it lie in the mouth of persons who want to maintain separate wells, separate schools to say that they object to separate representation because it will cause separation ? It is only persons who are bent on breaking down barriers who can speak against separate representation and ask to be believed in the sincerity of their argument.

Mr. Gandhi's last argument was a fantastic argument. If the superior classes can suppress the untouchables and wreck vengence upon them then there is all the greater reason why they should be given special representation so that they may protest themselves against the tyranny of the superior classes. Mr. Gandhi had become desparate and had lost his equanimity and balance to such an extent that he did not know where his arguments would lead him. In using this argument he

evidently forgot that he was arguing for the perpetual enslavement of the Untouchables by the Hindus. Mr. Gandhi's argument in short was "don't ask for freedom, because it will enrage your master and he will illtreat you". If such an argument had been advanced by any one else he would have been told that he was purile and insincere.

Having failed to demolish the justice of the claim of the Untouchables Mr. Gandhi decided to isolate the representatives of the Depressed Classes, to see that they got no support from any other quarter, Gandhi planned to break a possible compact between the Depressed Classes and the Muslims. A part of the plan was to win over the Musalmans to his side and for that purpose he offered to enter into a pact with them. A copy of this pact which was circulated among the Muslim delegates came into my hands and I reproduce the same here. *(This text is reproduced below from Dr. Ambedkar's "What Congress and Gandhi have done to the Untouchables", pp. 72-73 which is not typed in the MS.*—Ed.)

"DRAFT OF GANDHI-MUSLIM PACT[1]

Muslim Delegation to the Round Table Conference[2]

Tel. : VICTORIA 2360
Telegrams "COURTLIKE" LONDON

QUEEN'S HOUSE,
57, ST. JAMES' COURT,
BUCKINGHAM GATE,
LONDON, S. w. 1
6th October 1931.

The following proposals were discussed by Mr. Gandhi and the Muslim Delegation at 10 p.m. last night. They are divided into two parts—The proposals made by the Muslims for safeguarding their rights and the proposals made by Mr. Gandhi regarding the Congress policy. They are given herewith as approved by Mr. Gandhi, and placed for submission to the Muslim Delegation for their opinion.

MUSLIM PROPOSALS	MR. GANDHI'S PROPOSALS
1. In the Punjab and Bengal bare majority of one per cent. of Musalmans but the question of whether it should be by means of joint electorates and reservation of 51 per cent. of the whole house should be referred to the Musalman voters before the new constitution comes into force and their verdict should be accepted.	1. That the Franchise should be on the basis of adult suffrage. *2. No special reservations to any other community save Sikhs and Hindu Minorities. (Italics are not in the original).*

[1] This document was printed by me in my *Thoughts on Pakistan* as Appendix in 1939. It was the first time it saw the light of the day. Its genuineness has never been questioned. I was able to get a copy from a Hindu Delegate to the Round Table Conference who was privileged by the Muslim League to share the secret.

[2] 'This shows that the document was typed on the stationery of the Muslim League Delegation.'

MUSLIM PROPOSALS

2. In other provinces where the Musalmans are in a minority the present weightage enjoyed by them to continue, but whether the seats should be reserved to a joint electorate, or whether they should have separate electorates should be determined by the Musalman voters by a referendum under the new constitution, and their verdict should be accepted.

3. That the Musalman representatives to the Central Legislature in both the houses should be 26 per cent. of the total number of the British India representatives, and 7 per cent. at least by convention should be Musalmans, out of the quota that may be assigned to Indian States, that is to say, one-third of the whole house when taken together.

4. That the residuary power should vest in the federating Provinces of British India.

5. That the other points as follows being agreed to :

1. Sindh.[1]
2. N.W.F.P.[2]
3. Services.[3]
4. Cabinet.[4]
5. Fundamental rights and safeguards for religion and culture.
6. Safeguards against legislation affecting any community.

MR. GANDHI'S PROPOSALS

The Congress demands:

A. Complete Independence.

B. Complete control over the defence immediately.

C. Complete control over external affairs.

D. Complete control over Finance.

E. Investigation of public debts and other obligations by an independent tribunal.

F. As in the case of a partnership, right of either party to terminate it.

[1] Stands for separation of Sindh.

[2] Stands for Provincial Autonomy and Responsible Government for the N.W.F. Province.

[3] Stands for Representation in Services.

[4] Stands for Representation in the Cabinet.

This is the agreement which Mr. Gandhi was prepared to enter with the Musalmans. By this agreement Mr. Gandhi was prepared to give to the Musalmans the fourteen points they had been demanding. In return Mr. Gandhi wanted the Musalmans among other things to agree to continue the benefit of the principle of special representation to Hindus, Muslims and Sikhs. Some one might ask what is wrong in such an agreement. Has not the Congress said that they will not agree to extend communal representation to others besides these three ? Such a view cannot but be treated as a superficial view. Those who see nothing wrong in it must answer two questions. First is this. Where was the necessity for Mr. Gandhi to get the Musalmans to agree to the Congress policy of not extending the benefit of special representation to other minorities and the untouchables. Mr. Gandhi could have said as the Congress had been saying to the other minorities he was not prepared to agree to their claim. Why did he want the Musalmans to join him in resisting their claim ? And if this was not his object why did he make it a term of the agreement which the Musalmans were to perform in return for what he agreed to do for them.

Secondly why did Mr. Gandhi come forward to give the Musalmans their fourteen demands at this particular juncture. These fourteen political demands of the Musalmans rightly or wrongly were rejected by all. They were rejected by the Hindu Maha-Sabha. They were rejected by the Simon Commission. They were rejected by the Congress. There was no support for these 14 demands of the Musalmans from any quarter whatsoever. Why did Mr. Gandhi become ready to grant them except with the object of buying the Musalmans so that with their help he could more effectively resist the demand of the other minorities and the untouchables ?

In my view Mr. Gandhi was not engaged in making any bona-fide agreement. He was inducing the Musalmans to join in a conspiracy with him to resist the claim of the smaller minorities and the untouchables. It was not an agreement with the Musalmans. It was a plot against the Untouchables. It was worse, it was a stab in the back.

This so-called agreement fell through because among other reasons it was impossible for the Mahomedans to agree to the exclusion of the Untouchables from the benefit of special representation. How could the Muslims agree to such a project ? They were fighting for special representation for Muslims. They were not only fighting for special representation, they were fighting for weightage in representation. They knew that the case for Muslims rested only on the ground that India was once ruled by the Musalmans, that they had political importance to maintain and as Hindus are likely to discriminate

against Muslims in elections to the Legislatures, there may not be sufficient Muslims returned to the Legislature, that the Muslims will sink politically and that to prevent such a calamity they must be given special representation. As against this one ground in favour of Muslims there were a hundred grounds in favour of the claim by the Untouchables. With what face could the Musalmans oppose this demand of the Untouchables ?

The Musalmans had not lost their balance or their sense of shame. They refused to be party to such a deal—a deal which they could not publicly defend. Mr. Gandhi still kept on pestering the Musalmans. When he could not induce them to accept the price he offered—namely the grant of fourteen points—because they felt that the world would not call it price but would call it the wages of sin, Mr. Gandhi sought to appeal to the religious scruples of the Musalmans. The day before the *13th November*[1] 1931 when the *minorities pact*[2] was presented to the Minorities Sub-Committee of the Round Table Conference Mr. Gandhi took a copy of the Koran and went to the Ritz Hotel in Piccadilly where the Rt. Hon. H. H. Aga Khan was staying to meet the Muslim delegates who had assembled there. To Muslim delegates he asked—"Why are you dividing the Hindu Community which you are doing by recognizing the claim of the Untouchables for separate representation ? Does the Koran sanction such a deed ? Show me where it does ? If you cannot, will you not stop perpetrating such a crime upon your sister Community ?" I do not know how the Muslim delegates answered this question of Mr. Gandhi. It must have been a very difficult question for them to answer. Such a contingency could not have been present to the mind of the Holy Prophet and he could not have provided for it specifically. His followers knew that contingencies would arise for which he had given no directions and they had therefore asked him what they should do, and the Prophet had given them this general direction. He said to them, "in such a case see what the Kaffirs are doing and do just the opposite of it"[3]. Whether the Muslim delegates relied upon this to answer Mr. Gandhi is more than I can say. What I have stated is what I have heard and my source is the most authentic source. Here again Mr. Gandhi failed because the next day in the open Committee when Mr. Gandhi let loose his fury against the Untouchables, the Mahomedans were silent.

What can one say of this conduct of Mr. Gandhi ? Mr. Bernard Shaw has said that the British do everything on principle.

[1] *See* Ambedkar, B. R., "What Congress and Gandhi have been done to the Untouchables", p. 67.—Ed.

[2] *Ibid.* . Appendix III, pp. 307-11.

[3] *See* Koran.

Similarly Mr. Gandhi says he does everything on the principle of morality and good faith. Can the acts of Mr. Gandhi be justified by tests of justice and good faith ? I wonder. Let me state a few facts. Before I left for London for the first Round Table Conference I had met Mr. Gandhi in Bombay. At that meeting I had informed Mr. Gandhi that at the Round Table Conference I would be asking for special representation for the Untouchables. Mr. Gandhi would not consent. But he also told me that he would not oppose. I felt that it was just a case of difference of opinion. At the second Round Table Conference I met Mr. Gandhi twice, once alone and second time along with the representatives of the smaller minorities. At the first meeting Mr. Gandhi was spinning and I was talking. I spoke for an hour during the whole of which he did not utter even a word. At the end he just said this much.

'I have now heard you. I will think over what you have said.' At the second interview he again heard me and the representatives of the smaller minorities and he told me that he was not prepared to agree to the claim I was making on behalf of the Untouchables. Thereafter the Minorities Sub-Committee was convened on 28th September 1931. At the meeting of the Sub-Committee on 1st October 1931, the following motion was made by Mr. Gandhi :

> *"Prime Minister, after consultation with His Highness the Aga Khan and other Muslim friends last night, we came to the conclusion that the purpose for which we meet here would be better served if a week's adjournment was asked for. I have not had the opportunity of consulting my other colleagues, but I have no doubt that they will also agree in the proposal I am making."

The proposal was seconded by the Aga Khan. I at once got up and objected to the motion and in support of my objection made the following statement*[1] :

> *"*Dr. Ambedkar:* I do not wish to create any difficulty in our making every possible attempt to arrive at some solution of the problem with which this Committee has to deal, and if a solution can be arrived at by the means suggested by Mahatma Gandhi, I, for one, will have no objection to that proposal.
>
> "But there is just this one difficulty with which I, as representing the Depressed Classes, am faced. I do not know what sort of committee Mahatma Gandhi proposes to appoint to consider this question during the period of adjournment, but I suppose that the Depressed Classes will be represented on this Committee.

Mr. Gandhi : Without doubt.

*[1] *Following extracts up to p. 305 ending with words 'informal meetings' are reproduced from "What Congress and Gandhi have done to the Untouchables". pp. 60-62. not typed in the MS.*— Ed.

Dr. Ambedkar : Thank you. But I do not know whether in the position in which I am today it would be of any use for me to work on the proposed Committee. And for this reason. Mahatma Gandhi told us on the first day that he spoke in the Federal Structure Committee that as a representative of the Indian National Congress he was not prepared to give political recognition to any community other than the Muhammadans and the Sikhs. He was not prepared to recognize the Anglo-Indians, the Depressed Classes, and the Indian Christians. I do not think that I am doing any violence to etiquette by stating in this Committee that when I had the pleasure of meeting Mahatma Gandhi a week ago and discussing the question of the Depressed Classes with him, and when we, as members of the other minorities, had the chance of talking with him yesterday, in his office, he told us in quite plain terms that the attitude that he had taken in the Federal Structure Committee was a firm and well considered attitude. What I would like to say is that unless at the outset I know that the Depressed Classes are going to be recognised as a community entitled to political recognition in the future Constitution of India, I do not know whether it will serve any purpose for me to join the committee that is proposed by Mahatma Gandhi to be constituted to go into this matter. Unless, therefore, I have an assurance that this Committee will start with the assumption that all those communities which the Minorities Sub-Committee last year recommended as fit for recognition in the future constitution of India will be included, I do not know that I can wholeheartedly support the proposition for adjournment, or that I can whole-heartedly co-operate with the Committee that is going to be nominated. That is what I wish to be clear about.

* * *

"*Dr. Ambedkar :* I should like to make my position further clear. It seems that there has been a certain misunderstanding regarding what I said. It is not that I object to adjournment; it is not that I object to serving on any Committee that might be appointed to consider the question. What I would like to know before I enter upon this Committee, if they give me the privilege of serving on it, is : What is the thing that this Committee is going to consider ? Is it only going to consider the question of the Muhammadans *vis-a-vis* the Hindus ? Is it going to consider the question of the Muhammadans *vis-a-vis* the Sikhs in the Punjab ? Or is it going to consider the question of the Christians, the Anglo-Indians and the Depressed Classes ?

"If we understand perfectly well before we start that this committee will not merely concern itself with the question of the Hindus and the Muhammadans, of the Hindus and the Sikhs, but will also take upon itself the responsibility of considering the case of the Depressed Classes, the Anglo-Indians and the Christians, I am perfectly willing to allow this adjournment resolution to be passed without any objection. But I do want to say this, that if I am to be left out in the cold and if this interval is going to be utilised for the purposes of solving the Hindu-Muslim question, I would press that the Minorities Committee should itself grapple with the question and consider it, rather than allow the question to be dealt with by some other informal Committee for arriving at a solution of the communal question in respect of some minorities only."

The Prime Minister as Chairman of the Committee called upon Mr. Gandhi to explain his position and Mr. Gandhi made the following statement in reply[1]:

"Prime Minister and friends, I see that there is some kind of misunderstanding with reference to the scope of the work that some of us have set before ourselves. I fear that Dr. Ambedkar, Colonel Gidney and other friends are unnecessarily nervous about what is going to happen. Who am I to deny political status to any single interest or class or even individual in India ? As a representative of the Congress I should be unworthy of the trust that has been reposed in me by the Congress if I were guilty of sacrificing a single national interest. I have undoubtedly given expression to my own views on these points. I must confess that I hold to those views also. But there are ways and ways of guaranteeing protection to every single interest. It will be for those of us who will be putting our heads together to try to evolve a scheme. Nobody would be hampered in pressing his own views on the members of this very informal conference or meeting.

"I do not think, therefore, that anybody need be afraid as to being able to express his opinion or carrying his opinion also. Mine will be there equal to that of every one of us; it will carry no greater weight; I have no authority behind me to carry my opinion against the opinion of anybody. I have simply given expression to my views in the national interest, and I shall give expression to these views whenever they are opportune. It will be for you, it is for you to reject or accept these opinions. Therefore please disburse your minds, to everyone of us, of the idea that there is going to be any

[1] *See* "What Congress and Gandhi have done to the Untouchables", p. 62.
(both the above extracts are not mentioned in the MS.).—Ed.

steam-rolling in the Conference and the informal meetings that I have adumbrated. But if you think that this is one way of coming closer together than by sitting stiffly at this table, you will not carry this adjournment motion but give your whole-hearted co-operation to the proposal that I have made in connection with these informal meetings."

* * *

I then withdrew my objection.

Now here is a definite word given by Mr. Gandhi in open Conference—namely that if all others agreed to recognize the claim of the Untouchables he would not object. And after having given this word Mr. Gandhi went about inducing the Musalmans not to recognize the claim of the Untouchables and to bribe them to resile and take back their plighted word!! Is this good faith or is this treachery ? If this is not treachery I wonder what else could be called treachery.

I was pilloried because I signed what is called the Minorities Pact. I was depicted as a traitor. I have never been ashamed of my signature to the pact. I only pity the ignorance of my critics. They forget that the minorities could have taken the same attitude that Ulster took towards Irish Home Rule. Redmond was prepared to offer any safeguard to Ulstermen. The Ulstermen's reply was, "Damn your safeguards we don't wish to be ruled by you". The Hindus ought to thank the minorities that they did not take any such attitude. All the Pact contained were safeguards and nothing more. Instead of thanking them Mr. Gandhi poured his vials of wrath upon the pact and its authors. He said :

"Coming to this document[1], I accept the thanks that have been given to me by Sir Hubert Carr. Had it not been for the remarks that I made when I shouldered that burden, and had it not been for my utter failure to bring about a solution, Sir Hubert Carr rightly says he would not have found the very admirable solution that he has been able, in common with the other minorities, to present to this Committee for consideration and finally for the consideration and approval of His Majesty's Government."

"I will not deprive Sir Hubert Carr and his associates of the feeling of satisfaction that evidently actuates them, but, in my opinion, what they have done is to sit by the carcass, and they have performed the laudable feat of dissecting that carcass."

[1] Reference is to the Minorities Pact.

Had Mr. Gandhi any right to be indignant ? Had he any right to feel morally offended ? Was he entitled to throw stones at the Minorities ? Mr. Gandhi forgot that he was as much a sinner as the Minorities and worse he was a sinner without a sense of justice. For if the Minorities were dividing the carcass what was Mr. Gandhi himself doing ? He too was busy in dividing the carcass. The only difference between Mr. Gandhi and the Minorities was this—Mr. Gandhi wanted that the carcass should be divided among three only, Hindus, Musalmans and Sikhs. The Minorities wanted that others also should be given a share, and which of these two can claim to have justice on its side, Mr. Gandhi who wanted that the division of the carcass should be to strong sturdy well-nourished wolves or the minorities who pressed that the lean and hungry lambs should also be given a morsel ? Surely in this controversy justice was not on the side of Mr. Gandhi.

Mr. Gandhi was the man who claimed to be the Champion of the Untouchables better than those who belonged to the Untouchables themselves. Claiming to be their champion he refused without any regard to morality, justice and necessity, their claim to representation which could be their only way to protection against social tyranny and social oppression while he was prepared to give to the Musalmans, the Hindus and the Sikhs a goodly share of political power. When others far better placed were claiming for power, Mr. Gandhi wanted the Untouchables to live under his providence and that of the Congress without any means of protection knowing full well that their lives were exposed to danger and humiliation every moment and when he came to know that the Untouchables were seeking outside aid in support of their claim Mr. Gandhi resorted to a terrible act of treachery. Were the Untouchables unjustified in presenting to the world their charge sheet against Mr. Gandhi when he arrived in Bombay from the Round Table Conference ?

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CHAPTER 25
GANDHI AND HIS FAST

I. Poona Pact. II. Harijan Sevak Sangh. III. Temples and Untouchables. IV. The Gandhian Way.

I

The Communal question was the rock on which the Indian Round Table Conference suffered a shipwreck. The Conference broke up as there could be no agreement between the majority and minority communities. The minorities in India insisted that their position under Swaraj should be safeguarded by allowing them special representation in the Legislatures. Mr. Gandhi as representative of the Congress was not prepared to recognize such a claim except in the case of the Muslims and the Sikhs. Even in the case of the Muslims and Sikhs, no agreement was reached either on the question of the number of seats or the nature of the electorates.

There was a complete deadlock. As there was no possibility of an agreement, the hope lay in arbitration. On this everybody was agreed except myself and it was left to Mr. Ramsay Macdonald, the Prime Minister to decide upon the issue.

When at the first Round Table Conference, the Indian delegates did not agree upon a solution of the Communal question, followers of Mr. Gandhi said that nothing better could be expected from them. It was said that they were unrepresentative and responsible to nobody and were deliberately creating disunity by playing into the hands of the British whose tools and nominees they were. The world was told to await the arrival of Mr. Gandhi, whose statesmanship it was promised would be quite adequate to settle the dispute. It was therefore a matter of great humiliation for the friends of Mr. Gandhi that he should have acknowledged his bankruptcy and joined in the request to the Prime Minister to arbitrate.

But if the Conference failed the fault is entirely of Mr. Gandhi. A more ignorant and more tactless representative could not have been

sent to a Conference which was convened to forge a constitution which was to reconcile the diverse interests of India. Mr. Gandhi was thoroughly ignorant of Constitutional Law or Finance. He does not believe in intellectual equipment. Indeed he has a supreme contempt for it and his contributions to the solutions of the many difficulties is therefore nil. He was tactless because he annoyed almost all the delegates by constantly telling them that they were nonentities and he was the only man who counted and who could deliver the goods. At the first Round Table Conference the delegates did not agree upon a solution of the communal problem. But it is equally true that they were very near agreeing to it and when they departed they had not given up hope of agreeing. But at the end of the second Round Table Conference, so much bad blood was created by Mr. Gandhi that there was no chance of reconciliation left and there was no way except arbitration.

The Prime Minister's decision on the communal question was announced on 17th August 1932. The terms of the decision in so far as they related to the Untouchables were as follows :[1]

Communal Decision by His Majesty's Government 1932

In the statement made by the Prime Minister on 1st December last on behalf of His Majesty's Government at the close of the second session of the Round Table Conference, which was immediately afterwards endorsed by both Houses of Parliament, it was made plain that if the communities in India were unable to reach a settlement acceptable to all parties on the communal questions which the Conference had failed to solve, His Majesty's Government were determined that India's constitutional advance should not on that account be frustrated, and that they would remove this obstacle by divising and applying themselves a provisional scheme.

2. On the 19th March last His Majesty's Government, having been informed that the continued failure of the communities to reach agreement was blocking the progress of the plans for the framing of a new Constitution, stated that they were engaged upon a careful re-examination of the difficult and controversial question

The following text of the Communal Award is not typed in the MS. This is reproduced from 'What Congress and Gandhi Have Done to the Untouchables' by the author. (*Thacker and Co. Ltd. . 1st Ed. June 1945, pp. 80-82*).—*Ed.*

which arise. They are now satisfied that without a decision of at least some aspects of the problems connected with the position of minorities under the new Constitution, no further progress can be made with the framing of the Constitution.

3. His Majesty's Government have accordingly decided that they will include provisions to give effect to the scheme set out below in the proposals relating to the Indian Constitution to be laid in due course before Parliament. The scope of this scheme is purposely confined to the arrangements to be made for the representation of the British Indian communities in the Provincial Legislatures, consideration of representation in the Legislature at the Centre being deferred for the reason given in paragraph 20 below. The decision to limit the scope of the scheme implies no failure to realize that the framing of the Constitution will necessitate the decision of a number of other problems of great importance to minorities, but has been taken in the hope that once a pronouncement has been made upon the basic questions of method and proportions of representation the communities themselves may find it possible to arrive at *modus vivendi* on other communal problems, which have not received the examination they require.

4. His Majesty's Government wish it to be most clearly understood that they themselves can be no parties to any negotiations which may be initiated with a view to the revision of their decision, and will not be prepared to give consideration to any representation aimed at securing the modification of it which is not supported by all the parties affected. But they are most desirous to close no door to an agreed settlement should such happily be forthcoming. If, therefore, before a new Government of India Act has passed into law, they are satisfied that the communities who are concerned are mutually agreed upon a practicable alternative scheme, either in respect of any one or more of the Governors' Provinces or in respect of the whole of the British India, they will be prepared to recommend to Parliament that that alternative should be substituted for the provisions now outlined.

5. * * * * *

6. * * * * *

7. * * * * *

8. * * * * *

9. Members of the "depressed classes" qualified to vote will vote in a general constituency. In view of the fact that for a considerable period these classes would be unlikely, by this means alone, to secure any adequate representation in the Legislature, a number of

special seats will be assigned to them as shown in the table. These seats will be filled by election from special constituencies in which only members of the "depressed classes" electorally qualified will be entitled to vote. Any person voting in such a special constituency will, as stated above, be also entitled to vote in a general costituency. It is intended that these constituencies should be formed in selected areas where the depressed classes are most numerous, and that, except in Madras, they should not cover the whole area of the Province.

In Bengal it seems possible that in some general constituencies a majority of the voters will belong to the Depressed Classes. Accordingly, pending further investigation no number has been fixed for the members to be returned from the special Depressed Class constituencies in that Province. It is intended to secure that the Depressed Classes should obtain not less than 10 seats in the Bengal Legislature.

The precise definition in each Province of those who (if electorally qualified) will be entitled to vote in the special Depressed Class constituencies has not yet been finally determined. It will be based as a rule on the general principles advocated in the Franchise Committee's Report. Modification may, however, be found necessary in some Provinces in Northern India where the application of the general criteria of untouchability might result in a definition unsuitable in some respects to the special conditions of the Province.

His Majesty's Government do not consider that these special Depressed Classes constituencies will be required for more than limited time. They intend that the Constitution shall provide that they shall come to an end after 20 years if they have not previously been abolished under the general powers of electoral revision referred to in paragraph 6.

So far as the other minority communities were concerned the Communal Award was accepted and the sore of disunity and discord was closed. But so far as the Untouchables were concerned it remained open. Mr. Gandhi would not allow it to be healed. On his return to India from the Round Table Conference Mr. Gandhi was put behind the bars by the British Government. But though in the Yeravada gaol Mr. Gandhi had not forgotten that he had to prevent the Untouchables from getting their claim to special representation recognized by the British Government. He feared that the British Government might grant them this right notwithstanding the threat he had held out while at the Round Table Conference to resist it with his

own life. Consequently he took the earliest opportunity to be in communication with the very British Government which had incarcerated him.

On the 11th March 1932 Mr. Gandhi addressed the following letter to Sir Samuel Hoare, the then Secretary of State for India :

Dear Sir Samuel,

You will perhaps recollect that at the end of my speech at the Round Table Conference when the minorities' claim was presented, I had said that I should resist with my life the grant of separate electorates to the Depressed Classes. This was not said in the heat of the moment nor by way of rhetoric. It was meant to be a serious statement. In pursuance of that statement I had hoped on my return to India to mobilize public opinion against separate electorate, at any rate for the Depressed Classes. But it was not to be.

From the newspapers I am permitted to read, I observe that any moment His Majesty's Government may declare their decision. At first I had thought, if the decision was found to create separate electorates for the Depressed Classes, I should take such steps as I might then consider necessary to give effect to my vow. But I feel it would be unfair to the British Government for me to act without giving previous notice. Naturally, they could not attach the significance I give to my statement.

Separate Electorates harmful

I need hardly reiterate all the objections I have to the creation of separate electorates for the Depressed Classes. I feel as if I was one of them. Their case stands on a wholly different footing from that of others. I am not against their representation in the legislatures. I should favour every one of their adults, male and female, being registered as voters irrespective of education or property qualification, even though the franchise test may be stricter for others. But I hold that separate electorates is harmful for them and for Hinduism, whatever it may be from the purely political standpoint. To appreciate the harm that separate electorates would do them one has to know how they are distributed amongst the so-called Caste Hindus and how dependent they are on the latter. So far as Hinduism is concerned, separate electorate would simply vivisect and disrupt it.

For me the question of these classes is predominantly moral and religious. The political aspect, important though it is, dwindles into significance compared to the moral and religious issue.

You will have to appreciate my feelings in this matter by remembering that I have been interested in the condition of these classes from my boyhood and have more than once staked my all for their sake. I say this not to pride myself in any way. For, I feel that no penance that the Hindus may do can in any way compensate for the calculated degradation to which they have consigned the Depressed Classes for centuries.

"Shall fast unto Death"

But I know that separate electorate is neither a penance nor any remedy for the crushing degradation they have groaned under. I, therefore, respectfully inform His Majesty's Government that in the event of their decision creating separate electorate for the Depressed Classes, I must fast unto death.

I am painfully conscious of the fact that such a step whilst I am a prisoner, must cause grave embarrassment to His Majesty's Government, and that it will be regarded by many as highly improper on the part of one holding my position to introduce into the political field methods which they would describe as hysterical if not much worse. All I can urge in defence is that for me the contemplated step is not a method, it is part of my being. It is the call of conscience which I dare not disobey, even though it may cost whatever reputation for sanity I may possess. So far as I can see now, my discharge from imprisonment would not make the duty of fasting any the less imperative. I am hoping, however, all my fears are wholly unjustified and the British Government have no intention whatever of creating separate electorate for the Depressed Classes.

……

The following reply was sent to Mr. Gandhi by the Secretary of State :

India Office, Whitehall,
April 13, 1932.

Dear Mr. Gandhi,

I write this in answer to your letter of 11th March, and I say at once I realize fully the strength of your feeling upon the question of separate electorates for the Depressed Classes. I can only say that we intend to give any decision that may be necessary solely and only upon the merits of the case. As you are aware, Lord Lothian's Committee has not yet completed its tour and it must be some weeks before we can receive any conclusions at which it may have arrived. When we receive that report we shall have to give most

careful consideration to its recommendations, and we shall not give a decision until we have taken into account, in addition to the view expressed by the Committee, the views that you and those who think with you have so forcibly expressed. I feel sure if you were in our position you would be taking exactly the same action we intend to take. You would await the Committee's report, you would then give it your fullest consideration, and before arriving at a final decision you would take into account the views that have been expressed on both sides of the controversy. More than this I cannot say. Indeed I do not imagine you would expect me to say more.

.....

After giving this warning Mr. Gandhi slept over the matter thinking that a repetition of his threat to fast unto death was sufficient to paralyse the British Government and prevent them from accepting the claim of the untouchables for special representation. When on the 17th August 1932 the terms of the Communal Award were announced Mr. Gandhi found that his threat had failed to have any effect. He first tried to get the terms of the Communal Award revised. Accordingly he addressed the following letter to the Prime Minister :

Yervada Central Prison,
August 18, 1932.

Dear friend,

There can be no doubt that Sir Samuel Hoare has showed you and the Cabinet my letter to him of 11th March on the question of the representation of the Depressed Classes. That letter should be treated as part of this letter and be read together with this.

Decision to fast

I have read the British Government's decision on the representation of Minorities and have slept over it. In pursuance of my letter to Sir Samuel Hoare and my declaration at the meeting of the Minorities Committee of the Round Table Conference on 13th November, 1931, at St. James' Palace, I have to resist your decision with my life. The only way I can do so is by declaring a perpetual fast unto death from food of any kind save water with or without salt and soda. This fast will cease if during its progress the British Government, of its own motion or under pressure of public opinion, revise their decision and withdraw their scheme of communal electorates for the Depressed Classes, whose representatives should be elected by the general electorate under the common franchise no matter how wide it is.

The proposed fast will come into operation in the ordinary course from the noon of 20th September next, unless the said decision is meanwhile revised in the manner suggested above.

I am asking the authorities here to cable the text of this letter to you so as to give you ample notice. But in any case, I am leaving sufficient time for this letter to reach you in time by the slowest route.

I also ask that this letter and my letter to Sir Samuel Hoare already referred to be published at the earliest possible moment. On my part, I have scrupulously observed the rule of the jail and have communicated my desire or the contents of the two letters to no one, save my two companions, Sardar Vallabhabhai Patel and Mr. Mahadev Desai. But I want, if you make it possible, public opinion to be affected by my letters. Hence my request for their early publication.

Not to compass Release

I regret the decision I have taken. But as a man of religion that I hold myself to be, I have no other course left open to me. As I have said in my letter to Sir Samuel Hoare, even if His Majesty's Government decided to release me in order to save themselves from embarrassment, my fast will have to continue. For, I cannot now hope to resist the decision by any other means; And I have no desire whatsoever to compass my release by any means other than honourable.

It may be that my judgment is warped and that I am wholly in error in regarding separate electorates for the Depressed Classes as harmful to them or to Hinduism. If so, I am not likely to be in the right with reference to other parts of my philosophy of life. In that case my death by fasting will be at once a penance for my error and a lifting of a weight from off these numberless men and women who have childlike faith in my wisdom. Whereas if my judgment is right, as I have little doubt it is, the contemplated step is but due to the fulfilment of the scheme of life which I have tried for more than a quarter of a century, apparently not without considerable success.

I remain,
Your faithful friend,
M. K. Gandhi.

The Prime Minister replied as under :

10, Downing Street,
September 8th, 1932

Dear Mr. Gandhi,

I have received your letter with much surprise and, let me add, with very sincere regret. Moreover, I cannot help thinking that you

have written it under a misunderstanding as to what the decision of His Majesty's Government as regards the Depressed Classes really implies. We have always understood you were irrevocably opposed to the permanent segregation of the Depressed Classes from the Hindu community. You made your position very clear on the Minorities Committee of the Round Table Conference and you expressed it again in the letter you wrote to Sir Samuel Hoare on 11th March. We also knew your view was shared by the great body of Hindu opinion, and we, therefore, took it into most careful account when we were considering the question of representation of the Depressed Classes.

Government Decision Explained

Whilst, in view of the numerous appeals we have received from Depressed Class organisations and the generally admitted social disabilities under which they labour and which you have often recognized, we felt it our duty to safeguard what we believed to be the right of the Depressed Classes to a fair proportion of representation in the legislatures, we were equally careful to do nothing that would split off their community from the Hindu world. You yourself stated in your letter of March 11, that you were not against their representation in the legislatures.

Under the Government scheme the Depressed Classes will remain part of the Hindu community and will vote with the Hindu electorate on an equal footing, but for the first twenty years, while still remaining electorally part of the Hindu community, they will receive through a limited number of special constituencies, means of safeguarding their rights and interests that, we are convinced, is necessary under present conditions.

Where these constituencies are created, members of the Depressed Classes will not be deprived of their votes in the general Hindu constituencies, but will have two votes in order that their membership of the Hindu community should remain unimpaired.

We have deliberately decided against the creation of what you describe as a communal electorate for the Depressed Classes and included all Depressed Class voters in the general or Hindu constituencies so that the higher caste candidates should have to solicit their votes or Depressed Class candidates should have to solicit the votes of the higher castes at elections. Thus in every way was the unity of Hindu society preserved.

Safeguard Temporary

We felt, however, that during the early period of responsible government when power in the Provinces would pass to whoever

possessed a majority in the legislatures, it was essential that the Depressed Classes, whom you have yourself described in your letter to Sir Samuel Hoare as having consigned by Caste Hindus to calculated degradation for centuries, should return a certain number of members of their own choosing to legislatures of seven of the nine provinces to voice their grievances and their ideals and prevent decisions going against them without the legislature and the Government listening to their case — in a word, to place them in a position to speak for themselves which every fair-minded person must agree to be necessary. We did not consider the method of electing special representatives by reservation of seats in the existing conditions, under any system of franchise which is practicable, members who could genuinely represent them and be responsible for them, because in practically all cases, such members would be elected by a majority consisting of higher caste Hindus.

The special advantage initially given under our scheme to the Depressed Classes by means of a limited number of special constituencies in addition to their normal electoral rights in the general Hindu constituencies is wholly different in conception and effect from the method of representation adopted for a minority such as the Moslems by means of separate communal electorates. For example, a Moslem cannot vote or be a candidate in a general constituency, whereas any electorally qualified member of the Depressed Classes can vote in and stand for the general constituency.

Reservation Minimum

The number of territorial seats allotted to Moslems is naturally conditioned by the fact that it is impossible for them to gain any further territorial seats and in most provinces they enjoy weightage in excess of their population ratio; the number of special seats to be filled from special Depressed Classes constituencies will be seen to be small and has been fixed not to provide a quota numerically appropriate for the total representation of the whole of the Depressed Class population, but solely to secure a minimum number of spokesmen for the Depressed Classes in the legislature who are chosen exclusively by the Depressed Classes. The proportion of their special seats is everywhere much below the population percentage of the Depressed Classes.

As I understand your attitude, you propose to adopt the extreme course of starving yourself to death not in order to secure that the Depressed Classes should have joint electorates with other Hindus, because that it already provided, nor to maintain the unity of

Hindus, which is also provided, but solely to prevent the Depressed Classes, who admittedly suffer from terrible disabilities today, from being able to secure a limited number of representatives of their own choosing to speak on their behalf in the legislatures which will have a dominating influence over their future.

In the light of these very fair and cautious proposals, I am quite unable to understand the reason of the decision you have taken and can only think you have made it under a misapprehension of the actual facts.

Government Decision Stands

In response to a very general request from Indians after they had failed to produce a settlement themselves the Government much against its will, undertook to give a decision on the minorities question. They have now given it, and they cannot be expected to alter it except on the conditions they have stated. I am afraid, therefore, that my answer to you must be that the Government's decision stands and that only agreement of the communities themselves can substitute other electoral arrangements for those that Government have devised in a sincere endeavour to weigh the conflicting claims on their just merits.

You ask that this correspondence, including your letter to Sir Samuel Hoare of March 11th, should be published. As it would seem to me unfair if your present internment were to deprive you of the opportunity of explaining to the public the reason why you intend to fast, I readily accede to the request if on reconsideration you repeat it. Let me, however, once again urge you to consider the actual details of Government's decision and ask yourself seriously the question whether it really justifies you in taking the action you contemplate.

I am,
Yours very sincerely,
J. Ramsay MacDonald.

Finding that the Prime Minister would not yield he sent him the following letter informing him that he was determined to carry out his threat of fast unto death :

Yeravada Central Prison,
September 9th, 1932.

Dear friend,

I have to thank you for your frank and full letter telegraphed and received this day. I am sorry, however, that you put upon the

contemplated step an interpretation that never crossed my mind. I have claimed to speak on behalf of the very class, to sacrifice whose interests you impute to me a desire to fast myself to death. I had hoped that the extreme step itself would effectively prevent any such selfish interpretation without arguing, I affirm that for me this matter is one of pure religion. The mere fact of the Depressed Classes having double votes does not protect them or Hindu society in general from being disrupted. In the establishment of separate electorate at all for the Depressed Classes I sense the injection of poison that is calculated to destroy Hinduism and do no good whatever to the Depressed Classes. You will please permit me to say that no matter how sympathetic you may be, you cannot come to a correct decision on a matter of such vital and religious importance to the parties concerned.

I should not be against even over-representation of the Depressed Classes. What I am against is their statutory separation even in a limited form, from the Hindu fold, so long as they choose to belong to it. Do you realize that if your decision stands and the constitution comes into being, you arrest the marvellous growth of the work of Hindu reformers who have dedicated themselves to the uplift of their suppressed brethren in every walk of life ?

Decision Unchanged

I have, therefore, been compelled reluctantly to adhere to the decision conveyed to you.

As your letter may give rise to a misunderstanding, I wish to state that the fact of my having isolated for special treatment the Depressed Classes question from other parts of your decision does not in any way mean that I approve of or am reconciled to other parts of the decision. In my opinion, many other parts are open to very grave objection. Only I do not consider them to be any warrant for calling from me such self immolation as my conscience has prompted me to, in the matter of the Depressed Classes.

I remain,
Your faithful friend,
M. K. Gandhi.

Accordingly on the 20th September 1932 Mr. Gandhi commenced his "fast unto death" as a protest against the grant of separate electorates to the Untouchables.

The story of this fast has been told by Mr. Pyarelal in a volume which bears the picturesque and flamboyant title of "The Epic

Fast". In the pages of this *lours Boswelliana* the curious will find all he wants to know about the happenings in India during these mad days and I need say nothing about it here. Suffice it to say that although Mr. Gandhi went on fast unto death he did not want to die. He very much wanted to live.

The fast therefore created a problem and that problem was how to save Mr. Gandhi's life. The only way to save his life was to alter the Communal Award so as not to hurt Mr. Gandhi's conscience. The Prime Minister had made it quite clear that the British Cabinet would not withdraw it or alter it of its own but that they were ready to substitute for it a formula that may be agreed upon by the Caste Hindus and the Untouchables. As I had the privilege of representing the Untouchables at the Round Table Conference it was assumed that the assent of the Untouchables would not be valid unless I was a party to it. At the moment my position as the representative of the Untouchables of India was not only not questioned but was accepted as a fact. All eyes naturally turned to me as the man or rather as the villain of the piece. Mr. Gandhi's life as he himself said was in my hands.

It is no exaggeration to say that no man was placed in a greater and graver dilemma than I was then. It was a baffling situation. I had to make a choice between two different alternatives. There was before me the duty which I owed as a part of common humanity to save Gandhi from sure death. There was before me the problem of saving for the Untouchables the political rights which the Prime Minister had given them. I responded to the call of humanity and saved the life of Mr. Gandhi by agreeing to alter the Communal Award in a manner satisfactory to Mr. Gandhi. This agreement is known as the Poona Pact.

The terms of the Poona Pact were as under :

1. There shall be seats reserved for the Depressed Classes out of general electorates. Seats in Provincial Legislatures shall be as follows :

Madras	..	30
Bombay with Sind	..	15
Punjab	..	8
Bihar and Orissa	..	18
Central Provinces	..	20
Assam	..	7
Bengal	..	30
United Provinces	..	20
Total	..	148

[1] This number of 148 seats was raised to 151 in making adjustments on seats for Bihar and Orissa.

These figures are based on the total strength of the Provincial Councils announced in the Prime Minister's decision.

2. Election to these seats shall be by joint electorates subject, however, to the following procedure :

   All members of the Depressed Classes registered in the general electoral roll of a constituency, will form an electoral college which will elect a panel of four candidates belonging to the Depressed Classes, for each of such reserved seats by the method of single vote and four persons getting the highest number of votes in such primary election, shall be the candidates for election by the general electorates.

3. Representation of the Depressed Classes in the Central Legislature shall likewise be on the principle of joint electorates and reserved seats by the method of primary election in the manner provided for in clause 2 above for their representation in Provincial Legislatures.

4. In the Central Legislature 18 per cent of the seats allotted to the general electorate for British India in the said legislature shall be reserved for the Depressed Classes.

5. The system of primary election to panel of candidates for election to the Central and Provincial Legislatures, as hereinbefore mentioned, shall come to an end after the first ten years unless terminated sooner by mutual agreement under the provision of Clause 6 below.

6. The system of representation of the Depressed Classes by reserved seats in the Provincial and Central Legislatures as provided for in clauses 1 and 4 shall continue until determined by mutual agreement between the communities concerned in this settlement.

7. The franchise for the Central and Provincial Legislature for the Depressed Classes shall be as indicated in the Lothian Committee Report.

8. There shall be no disabilities attaching to anyone on the ground of his being a member of the Depressed Classes in regard to any elections to local bodies or appointment to public service.

   Every endeavour shall be made to secure a fair representation of the Depressed Classes in these respects subject to such educational qualifications as may be laid down for appointment to public services.

9. In every province out of the educational grant an adequate sum shall be earmarked for providing educational facilities to members of the Depressed Classes.

The terms of the Pact were accepted by Mr. Gandhi and given effect to by Government by embodying them in the Government of India Act.

This fast unto death was a great gamble on the part of Mr. Gandhi. He perhaps felt that the mere threat to fast unto death would make me and other Depressed Classes who were with me just shiver and yield. But he soon found that he was mistaken and that the Untouchables were equally determined to fight to the last for their rights. No one except his own followers was convinced that Mr. Gandhi's fast had any moral basis and if Gandhi got a second lease of life, he owes it entirely to the generosity and goodwill shown towards him by the Untouchables.

Question however is what advantage the Untouchables have got by entering into the Poona Pact. To understand this one must examine the results of the elections to the Legislatures. The Government of India Act came into operation on 1st April 1937. In February 1937 the elections to the new legislatures as defined in the Act took place. So far as the Untouchables are concerned the elections which took place in February 1937 were elections in accordance with the Poona Pact. The following is the analysis of the results of that election to the seats reserved for the Untouchables in the different Provincial Assemblies.

TABLE[1]

Province		Total Seats Reserved for the Untouchables	Total Seats Captured by the Congress
United Provinces	..	20	16
Madras	..	30	26
Bengal	..	30	6
Central Provinces	..	20	7
Bombay	..	15	4
Bihar	..	15	11
Punjab	..	8	Nil
Assam	..	7	4
Orissa	..	6	4
Total	..	151	78

[1] *This Table is reprinted from Dr. Ambedkar's 'What Congress and Gandhi have done to the Untouchables' at page 94. This table was not typed in the M.S.*—Ed.

This analysis reveals certain facts which make one ask whether the Untouchables have got anything of any value by entering into the Poona Pact and saving the life of Mr. Gandhi and whether the Poona Pact has not made the Untouchables the Bondsmen of the Caste Hindus.

This analysis shows that a large majority of them have been elected as Congressmen. It is my firm conviction that for the Untouchables to merge in the Congress or for the matter of that in any large political party cannot but be fatal for them.

The Untouchables need a movement if they are to remain conscious of their wrongs and if the spirit of revolt is kept alive amongst them. They need a movement because the Caste Hindus have to be told that what is tragedy of the Untouchables is their crime. The Congress may not be a red-blooded Hindu body so far as the Musalmans are concerned. But it is certainly a full-blooded and blue-blooded Hindu body inasmuch as it consists of Caste Hindus. A movement of the Untouchables must mean an open war upon the Caste Hindus. A movement of the Untouchables within the Congress is quite impossible. It must mean an *inter necine* within the party. The Congress for its own safety cannot allow it.

The Congress has strictly forbidden the Untouchables who have joined the Congress to carry on any independent movement of the Untouchables not approved of by the High Command. The result is that in those Provinces where the Untouchables have joined the Congress the movement of the Untouchables as such is dead.

The Untouchables must retain their right to freedom of speech and freedom of action on the floor of the Legislature if they are to ventilate their grievances and obtain redress of their wrongs by political action. But this freedom of speech and action has been lost by the representatives of the Untouchables who have joined the Congress. They cannot vote as they like, they cannot speak what they think. They cannot ask a question, they cannot move a resolution and they cannot bring in a Bill. They are completely under the control of the Congress Party Executive. They have only such freedom as the Congress Executive may choose to allow them. The result is that though the tale of woes of the Untouchables is ever-increasing, the untouchable members of the Legislature are unable even to ask a question about them. So pitiable has their condition become that the Congress Party sometimes requires them to vote against a measure that may in the opinion of the Untouchable members of the Legislature be beneficial to the Untouchables. A recent instance of this occurred in Madras. Rao Bahadur Raja a member of the Madras Legislature brought in

a Bill to secure the entry of the Untouchables into Hindu Temples in the Madras Presidency. The Congress Government had promised to support it at first. Subsequently the Congress Government in Madras changed its opinion and opposed the measure. It was a dilemma for the Untouchable members of the Madras Legislature. But they had no choice. The whip was applied and they in a body voted against the measure. The representatives of the Untouchables were supposed to be the watch-dogs of the Untouchables. But by reason of having joined the Congress they are muzzled dogs. Far from biting they are not even able to bark. This loss of freedom of speech and action by these Untouchable members is entirely due to their having joined the Congress and subjected themselves to the discipline of the Congress.

The third disadvantage arising from the Untouchables joining the Congress lies in their being unable to secure any real benefit to the Untouchables. This is due to two reasons. First of all the Congress is not a radical party. The Congress has the reputation of being a revolutionary organization. Its idea of complete independence, the movement of civil disobedience and non-payment of land revenue which the Congress once launched have undoubtedly given that reputation. But many people forget that a revolutionary party is not necessarily a radical party. Whether a revolutionary party is also a radical party must depend upon the social and emotional realities which bring on or induce the revolutionary activity. The Barons of England who under Simon de Mandfort rose against King John in 1215 and compelled him to sign the *Magna Charta* must be classed as revolutionaries along with the Peasants of England who in 1381 rose in rebellion under Wat Tyler against their masters and who were all hanged for their rebellious acts. But who can say that the Barons because they were revolutionaries were also radical? The Barons rebelled because they wanted the rights of their class against the King and the peasants established. The Barons revolt was fed by the social emotion of those who were frustrated of power. The emotions behind the peasants revolt were those who were oppressed and who were hungering for food and freedom and that is why the peasants were both revolutionary as well as radical. The revolt of the Congress is more like the revolt of the Peasants. The Congress under Gandhi is as radical as the Barons were under Simon de Mandfort. Just as the Barons revolt was fed by the social emotions of those who were frustrated of power and not by the emotions of those who were toiling and hungering so was the Congress revolt against the British. It is true that the Congress gathered a large following from the masses but that was by appealing to their anti-British feeling which is natural to all

Indians. It is also true that emotions of these were those who were frustrated of food and freedom. But their emotions were in conflict of those socially advanced and the propertied classes. And the latter had all along been the governing class in the Congress. The masses have been camp followers. It is their emotions which has all along determined the character of the Congress. Their emotions are of those who are frustrated of power. That is why the Congress has been only revolutionary body and has not been a radical party. The truth of this can be seen by any one who cares to examine the record of the Congress Governments. Their achievement since they have taken over are just a miscellaneous collection of trifling trinkets. They have shot down the workers more readily than the British and have released criminals sentenced by the High Courts on no other ground than that they have the authority to do it. It is a surprize to me—it is not me— that the Congress has so soon shown that it is just a counter-part of the Tories in England. The governing class in the Congress has lost all its fervour for revolution, for driving the British out. Having now got a field to exploit the masses they want to stick on the power and authority to do the job thoroughly and do not wish to be disturbed by any thought of anti-imperialism at all.

Not being radical party the Congress cannot be trusted to undertake a radical programme of social and economic reconstruction without which the Untouchables can never succeed in improving their lot. For the Untouchables to join such a party is a futile and senseless thing. The Congress will not do anything for them but will only use them as they have done.

The Congress might do something for the Untouchables if it was compelled to do by force of circumstances. There is only one circumstance in which the Congress would feel such a compulsion—that is when the Congress finds itself dependent upon the representatives of the Untouchables for its majority in the Legislature. Then the Untouchables would be in a position to dictate their terms to the Congress and the Congress would be bound to accept them. In such a contingency it would be worth the while of the Untouchables to join the Congress in a coalition. It would be real bargain. But today the Congress has everywhere such large majorities that in the legislatures it is its own master. It is not dependent on any outside support. The Untouchables who are in it are at the end of the tail and the tail so lengthened that it cannot wag. This is the second reason why joining the Congress can be of no benefit to the Untouchables.

Such are the disadvantages that have arisen from the Untouchables having joined the Congress. They are not merely disadvantages. I call

them dire consequences. All social movement has become dead. All political power has become migratory. It is understatement to say that under the new Constitution the Untouchables are marking time. The fact is that they have been put in chains.

But the question will undoubtedly be asked and it is this—If such are the consequences of joining the Congress why did these Untouchables join it ? Why did they not fight their elections independently and in opposition to the Congress ? Some of the Untouchables who stood on the Congress ticket were just careerists, men on the make who wanted to climb into the Legislature so as to be within call when the places of office of profit come for distribution. They did not care by whose ladder they climbed. The Congress being the biggest party and its pass the surest way of being admitted into the Legislature these careerists felt that to join the Congress was the easiest way of electoral success. They did not want to take any chance. This however explains their object. It does not explain the cause which forced them to join the Congress. I am sure even these careerists would not have joined the Congress if it was possible for them to have got themselves elected independently of the Congress. They joined the Congress only because they found that that course was impossible. Why were they compelled to join the Congress ? The answer is that it was due to the system of joint electorates which caused the mischief which was introduced by the Poona Pact.

A joint electorate for a small minority and a vast majority is bound to result in a disaster to the minority. A candidate put up by the minority cannot be successful even if the whole of the minority were solidly behind him. The fact that a seat is reserved for a minority merely gives a security that the minority candidate will be declared elected. But it cannot guarantee that the minority candidate declared elected will be a person of its choice if the election is to be by a joint electorate. Even if a seat is reserved for a minority, a majority can always pick up a person belonging to the minority and put him up as a candidate for the reserved seat as against a candidate put up by the minority and get him elected by helping its nominee with the superfluous voting strength which is at its command. The result is that the representative of the minority elected to the reserved seat instead of being a champion of the minority is really the slave of the majority.

In the system of electorates now formed for election to the Legislature, the Untouchable voters as against the caste Hindu voters are placed in a hopeless minority. A few instances will show how great is the discrepancy in the relative voting strength of the Untouchables and the caste Hindus in the different constituencies.

The power to do mischief in elections which a joint electorate gives to a majority is increased immensely if the electoral system is based on the principle of a single member constituency.

In a system of joint electorates with reserved seats for a minority a constituency must always be a plural member constituency i.e. there must be one seat for the minority and at least one seat for the majority. In other words it must be what is called a plural member constituency. This plural member constituency must be small one i.e. the majority community may have just two seats as against the one assigned to the minority. It may be a large one i.e. the majority may have a larger number of seats assigned to it. This is an important consideration because the smaller the number of seats the greater the power of mischief which the majority gets. This will be clear if it is borne in mind that when a majority has fewer seats it can release a large portion of its voting strength to get its own nominee from the minority elected to the reserved seats and defeat the nominee of the minority. On the other hand if the majority is assigned a larger number of seats, there a competition among the candidates is greater, the voters of the majority community are for the most part (busy)* in fighting out the election to the seats assigned to the majority and very few at all can be released to help the nominee of the majority for the minority seat. In a joint electorate the safety of the minority lies in the majority having a larger number of seats to contest. Otherwise it is sure to be overwhelmed by the majority.

In the electoral system now framed for the caste Hindus the principle that is adopted is that of the single member constituency. It is true that on the face of it the constituency taken as a whole appear to be a plural member constituency. But, in fact, the constituency so far as the caste Hindus are concerned are single member constituencies. The consequence of this single member constituency system for Caste Hindus is that the Hindus are able to release an enormous lot of their superfluous votes and flood the election for the seats reserved for the Untouchables and keep their nominee for the reserved seat afloat.

The Hindus were anxious to forge further means for nullifying the benefit of the Poona Pact. The Poona Pact having been concluded in a hurry, it left many things undefined. Of the things that were left undefined and about which there arose subsequently a keen controversy were the following : (1) Does the 'panel of four' to be elected at the primary election imply four as a maximum or a minimum ? (2) What was to be the method of voting in the final joint electorate with the Hindus ? The Hammond Committee which had to decide upon these issues found that there were two diametrically

*Inserted by Editors.

opposite views in regard to these two questions, one view held by the Caste Hindus and the other held by the Untouchables. It was contended on behalf of the Caste Hindus that the panel of four was intended to be a minimum. If four candidates are not forthcoming there could be no primary election and therefore there can be no election for the reserved seat, which they said must remain vacant and the Untouchables should go without representation. The Untouchables contended that four was the maximum. Four in the Poona Pact meant "not more than four". It did not mean "not less than four". On the question of voting the caste Hindus contended that the compulsory distributive vote was the most appropriate. The Untouchables on the other hand insisted that the cumulative system of voting was the proper system to be introduced.

The Hammond Committee accepted the view propounded by the Untouchables and rejected those of the Caste Hindus. All the same it is interesting to know why the caste Hindus put forth their contentions.

The reason why the Hindus wanted four in the panel and not less was quite obvious. The object of the Hindus is to get elected in the final election such a representative of the Untouchables as would be most ready and willing to compromise with Hindus and Hinduism. To get him elected in the final election he must first come in the Panel. A most compromising Untouchable can come in the Panel only when the panel is a large panel.

If there is only one candidate in the Panel then he would be the staunchest representative of the Untouchable and worst from the standpoint of the Hindus. If there are two, the second will be less staunch than the first and therefore good from the standpoint of the Hindus. If there are three, the third will be less staunch than the second and therefore better from the standpoint of the Hindus. If there be four, the fourth will be less staunch than the third and therefore best from the point of view of the Hindus. The Panel of four gives the Hindus the best chance of getting into the Panel such representative of the Untouchables as is most compromising in his attitude towards Hindus and Hinduism and that is why they insisted that the Panel should be at least of four.

The object of insisting upon the system of compulsory distributive vote was just supplementary to the idea of having the Panel of not less than four. Under the cumulative vote the elector has as many votes as there are seats, but may plump them all for one candidate or distribute them over two or more candidates as he may desire. Under the distributive system of voting the elector has also as many votes as there are seats, but he can give only one vote to any one candidate.

Although the two look different yet in effect there may be no difference because even under the cumulative vote a voter is not prevented from distributing his votes. He is free to give one vote to one candidate. But the Hindus did not want to take any chance. Their main object was to flood the election to the seat reserved for the Untouchables in the joint electorate by using the surplus votes of the caste Hindus in favour of the Untouchable candidate who happens to be their nominee. The object was to outnumber the Untouchable voters and prevent them from electing their own nominee. This cannot be done unless the surplus votes of the caste Hindu voters were divested from the caste Hindu candidate towards the Untouchable candidates. There is a greater chance of the diversion of these surplus votes under the distributive system than there is under the cumulative system. Under the former the caste Hindu voter can give only one vote to the caste Hindu candidate. The other vote not being of use to the caste Hindu candidate is usable only for an Untouchable candidate. With the distributive system there was more chance of flooding the election to the seat reserved for the Untouchables and this is why they preferred it to the system of cumulative vote. But they want to take a chance. Even the distributive system from their point of view was not foolproof. Under the distributive system there was no compulsion upon the voter to use all his votes. He may use one vote for the caste Hindu candidate and not use the rest of his votes. If this happens the purpose of getting in their untouchable nominee would be defeated. Not to leave things to chance the Hindus wanted that the distributive system of voting should be made compulsory so that a caste Hindu voter whether he wants it or not can have no option but to vote for the untouchable candidate who may be the nominee of the Hindus.

The two proposals were thus a part of a deep conspiracy on the part of the Hindus. They were rejected by the Hammond Committee. But there are enough elements of mischief in the Poona Pact itself that the rejection of these two proposals has in no way weakened the power of the Hindus to render nugatory the right of special representation granted to the Untouchables.

Notwithstanding the political disaster which has overtaken the Untouchables and which is the result of the Poona Pact, there are not wanting friends of Mr. Gandhi who hold out the Poona Pact as a great boon to the Untouchables.

Firstly it is alleged that the Poona Pact gave the Untouchables larger number of seats than was given to them by the Communal Award. It is true that the Poona Pact gave the Untouchables 151 seats while the Award had only given them 78. But to conclude from this that the

Poona Pact gave them more than what was given by the Award is to ignore what the Award had in fact given to the Untouchables.

The Communal Award gave the Untouchables two benefits : (*i*) a fixed quota of seats to be elected by separate electorates for Untouchables and to be filled by persons belonging to the Untouchables, (*ii*) Double vote, one to be used through separate electorates and the other to be used in the general electorates.

Now if the Poona Pact increased the fixed quota of seats it also took away the right to the double vote. This increase in seats can never be deemed to be a compensation for the loss of the double vote. The second vote given by the Communal Award was a priceless privilege. Its value as a political weapon was beyond reckoning. The voting strength of the Untouchables in each constituency is one to ten. With this voting strength free to be used in the election of caste Hindu candidates, the Untouchables would have been in a position to determine, if not to dictate, the issue of the General Election. No Caste Hindu candidate could have dared to neglect the Untouchables in his constituency or be hostile to their interest if he was made dependent upon the votes of the Untouchables. Today the Untouchables have a few more seats than were given to them by the Communal Award. But this is all that they have. Every other member is indifferent if not hostile. If the Communal Award with its system of double voting had remained, the Untouchables would have had a few seats less but every other member would have been a member for the Untouchables. The increase in the number of seats for the Untouchables is no increase at all.

Admitting for the sake of argument that the Poona Pact did give to the Untouchables a few more seats, the question still remains of what use are these additional seats. Ordinarily a right to vote is deemed to be sufficient as a means of political protection. But it was felt that in the case of the Untouchables mere right to vote would not be enough. It was feared that a member elected on the votes of the Untouchables, if he is himself not an Untouchable, might play false and might take no interest in them. It was held that the grievances of the Untouchables must be ventilated in the Legislature and that the surest way of ensuring it would be to provide that a certain number of seats shall be reserved for them so that the Untouchables shall be represented by Untouchables in the Legislature. It is now evident that this hope has not been fulfilled. The Communal Award no doubt gave fewer seats. But they would have been all of them freemen. The Poona Pact gave more but they are all filled by bondsmen. If to have a platoon of bondsmen is an advantage then the Poona Pact may be said to be advantage.

The second argument in favour of the Poona Pact is that in abolishing separate electorates it saved the Untouchables from being eternally branded as Untouchables. In one of his speeches delivered in London Mr. Gandhi said :

> "Muslims and Sikhs are all well organized. The 'untouchables' are not. There is very little political consciousness among them and they are so horribly treated that I want to save them against themselves. If they had separate electorates their lives would be miserable in villages which are the strongholds of Hindu orthodoxy. It is the superior class of Hindus who have to do penance for having neglected the 'untouchables' for ages. That penance can be done by active social reform and by making the lot of the 'untouchables' more bearable by acts of service, but not by asking for separate electorates for them. By giving them separate electorates you will throw the apple of discord between the 'untouchables' and the orthodox. You must understand I can tolerate the proposal for special representation of the Musalmans and the Sikhs only as a necessary evil. It would be a positive danger for the 'untouchables'. I am certain that the question of separate electorates for the 'untouchables' is modern manufacture of ..... . Government. The only thing needed is to put them on the voters' list, and provide for fundamental rights for them in the constitution. In case they are unjustly treated and their representative is deliberately excluded, they would have the right to special election tribunal which would give them complete protection. It should be open to these tribunals to order the unseating of an elected candidate and the election of the excluded man."
>
> "Separate electorates to the 'untouchables' will ensure them bondage in perpetuity. The Musalmans will never cease to be Musalmans by having separate electorates. Do you want the 'untouchables' to remain 'untouchables' for ever ? Well, the separate electorates would perpetuate the stigma. What is needed is destruction of untouchability, and when you have done it, the bar sinister which has been imposed by an insolent 'superior' class upon an 'inferior' class will be destroyed. When you have destroyed the bar sinister, to whom will you give the separate electorates ? Look at the history of Europe. Have you got separate electorates for the working classes or women ? With adult franchise, you give the 'untouchables' complete security. Even the orthodox would have to approach them for votes."
>
> "How then, you ask, does Dr. Ambedkar, their representative, insist on separate electorates for them ? I have the highest regard for

Dr. Ambedkar. He has every right to be bitter. That he does not break our heads is an act of self-restraint on his part. He is today so much saturated with suspicion that he cannot see anything else. He sees in every Hindu a determined opponent of the 'untouchables', and it is quite natural. The same thing happened to me in my early days in South Africa, where I was hounded out by the Europeans wherever I went. It is quite natural for him to vent his wrath. But the separate electorates that he seeks will not give him social reform. He may himself mount to power and position but nothing good will accrue to the 'untouchables'. I can say all this with authority, having lived with the 'untouchables' and having shared their joys and sorrows all these years."

His argument it is true derives some support from the Simon Commission which also observed :

(*The following extracts are not quoted in the MS. They are reproduced here from Dr. Ambedkar's 'What Congress and Gandhi have done to the Untouchables', Appendix VI, p. 327.*—Ed.)

(Extracts from the Report of the Simon Commission, Vol. II)

78. ... ... In no other province has it been possible to get an estimate of the number of the depressed classes who are qualified to vote. It is clear that even with a considerable lowering of the franchise—which would no doubt increase the proportion of the depressed class voters—there would be no hope of the depressed classes getting their own representatives elected in general constituencies without special provision being made to secure it. In the long run the progress of the depressed classes, so far as it can be secured by the exercise by them of political influence, will depend on their getting a position of sufficient importance for other elements to seek their support and to consider their needs.

* * *

80. ... ... It will be seen, therefore, that we do not recommend allocating seats to the depressed classes on the basis of their full population ratio. The scale of reserved representation suggested will secure a substantial increase in the number of the M.L.C.s drawn from the depressed classes. The poverty and want of education which so widely prevail amongst them make it extremely doubtful whether a large number of adequately equipped members could be at once provided, and it is far better that they should be represented by qualified spokesmen rather than by a larger number of ineffectives who are only too likely to be subservient to higher castes. The re-distribution of seats which is now being attempted among different kinds of representatives cannot be permanent, and

provision must be made for its revision. But we think that our proposal is adequate for the present, especially as the representation of opinion by reservation of seats does not exclude the possibility of the capture of other seats not so reserved.

* * *

But that this argument is silly there can be no doubt about it. To put a man in a separate category from others is not necessarily an evil. Whether the affixing of a label is good or bad depends upon the underlying purpose. If the object is to deprive him of rights then such a labelling would no doubt be a grievous wrong. But if the purpose is to mark off as a recipient of a privilege then far from being a wrong it would be a most beneficial measure. To enrol an untouchable in a separate electoral roll would be objectionable if the object was to deprive him of the right of franchise. To enrol him in a separate electoral roll for giving him the benefit of special representation would certainly be an advantage to him. Looked at from the point of view of ultimate purpose it is difficult to see how any person who claims to be the friend of the untouchables could object to separate electorates for them. Not only the argument of Gandhi against separate electorate was silly it was also insincere. Gandhi objected to separate electorates because it involved labelling of the Untouchables. But how is this labelling avoided in joint electorates it is difficult to understand. The reservation of a seat for the Untouchables in a joint electorate must and does involve such labelling for the candidate claiming the benefit of the reserved must in law declare that he is an untouchable. To that extent there is certainly a labelling involving in the Joint Electorate and Mr. Gandhi should have objected to joint electorates as violently as he did to separate electorates. Either Mr. Gandhi was insincere or that he did not know what he was talking about.

Friends of Mr. Gandhi do not stop to consider how far under the Poona Pact the Untouchables have been able to send independent men to represent them in the Legislature and whether these representatives have been putting up any fight and how well they are succeeding. If they stopped to do it they would be ashamed to sing the praises of the joint electorates and the Poona Pact. The Congress and the Hindus have shamefully abused their power and their resources as a majority community. Not only have they prevented the Untouchables from electing persons of their choice, not only have they got their own nominees elected by the use of their surplus votes, they have done something for which any decent party in any part of the world ashamed of itself. The selection of the candidates from the

untouchables made by the Congress to fill the seats reserved for the Untouchables was a most cowardly and a blackguardly act.

It was open to the Congress—which is simply a political surname for Hindus—to allow the Untouchables the benefits of more seats than those fixed for them by the Poona Pact. They could have done that by adopting untouchable candidates to contest general seats. There was nothing in law to prevent them from doing so. The Congress did nothing of the kind. This shows that if no seat had been reserved to the Untouchables, the Hindus would never have cared to see that an untouchable was returned to the legislature. On the other hand when seats were reserved, the Hindus came forward to spoil the effect of the reservation by seeing to it that the seats went to such untouchables as agreed to be their slaves.

Thus there has been a tragic end to this fight of the untouchables for political rights. I have no hesitation in saying that Mr. Gandhi is solely responsible for this tragedy.

Mr. Gandhi's cry against the Communal Award on the ground that it prescribed separate electorates was absolutely false and if the Hindus had not become maddened by his fast they would have seen that it was so. The Communal Award had also a provision for joint electorates in addition to separate electorates. The second vote given to the Untouchables was to be exercised in a general electorate in the election of a Caste Hindu candidate. This was undoubtedly a system of joint electorates. The difference between the Communal Award and the Poona Pact does lie in the nature of electorates. Both provide for joint electorates. The difference lies in this, joint electorate of the Communal Award was intended to enable the Untouchables to take part and influence the election of the Caste Hindu candidate while the joint electorate of the Poona Pact is intended to enable the caste Hindus to take part and influence the election of the Untouchable candidates. This is the real difference between the two.

What would a friend of the Untouchables wish? Would he support the joint electorates of the Communal Award or the joint electorates of the Poona Pact ? There can be no doubt that the real salvation of the Untouchables lies in making the Hindus dependent upon the suffrages of the Untouchables. This is what the Communal Award did. To make the Untouchables depend upon the suffrages of the Hindus is to make them the slaves of the Hindus which they already are. This is what the Poona Pact does. The Communal Award was intended to free the Untouchables from the thraldom of the Hindus. The Poona Pact is designed to place them under the domination of the Hindus.

This 'Fast unto Death' of Mr. Gandhi was described in glorious terms by his friends and admirers both in India and outside. It was described as 'second crucifixion', as 'martyrdom' and as ' Triumphal struggle'. An American friend of Mr. Gandhi assured the Americans that in laying down his life Mr. Gandhi was neither a 'trickster' nor a stick demagogue. Another American in his ecstasy went to the length of describing him as the incarnation of '*one against the world*'. Of course I was held out as the villain of the piece. I had of course my own view of Gandhi's fast. I described it as a political stunt. His utterances had to me always the ring of falsity and even of insincerity.

I had always the feeling that what actuated Mr. Gandhi to fast against the Communal Award was not any desire to liberate the Untouchables as to save the Hindus from disruption. He was prepared to do that at any cost, even at the cost of political enslavement of the Untouchables. His disapproval of the Poona Pact was very much like the disapproval of the enfranchisement of the Negro by the Southerners after the civil war. The 'Statesman' and 'Nation' came to the same conclusion. It said: (*Quotation not mentioned in the MS nor could it be traced elsewhere*—Ed.)

At the time there was this one solitary instance of a view agreeing with mine. Even some of the prominent untouchables backed Mr. Gandhi. A curious case was that of Mr. Raja whose grievance was that although he was a member of the Central Assembly nominated to represent the Depressed Classes he was not selected as a delegate for the Round Table Conference. He was fighting for separate electorates. Suddenly he changed sides and took up the cudgels on behalf of Mr. Gandhi and fulminated both against me for demanding and against the British Government for granting separate electorates. He developed such a strong love for Mr. Gandhi and such a strong faith in the Hindus that no one could suspect that he was doing the work of a mere hireling. This is what Mr. Raja said in the course of a speech delivered by him on an adjournment motion moved in the Central Legislature on September 13th, 1932 relating to Gandhi's fast.

> "Never in the annals of the history of India has the issue of the Depressed Classes assumed importance as it has today, and for this we of the Depressed Classes must for ever be grateful to Mahatma Gandhi. He has told the world, in words which cannot be mistaken, that our regeneration is the fundamental aim of his life. If world conscience cannot be roused even now to the realization of the position of the Depressed Classes, then we can only conclude that all instincts of humanity are dead in the world today."
>
> * * *
>
> "The question before the House is the situation created by Mahatma Gandhi opposing the grant of communal electorates to

the Depressed Classes. I am sure there is no honourable member in this House who will not regret that circumstances should have forced such a great personality to take a vow to play on his life, but sir, the correspondence shows that Government had enough warning. If they did not attach full importance to our considered views expressed in our conferences and in the Rajah-Moonje Pact I had signed with the President of Hindu Mahasabha, they should have taken at least the grave warning given by Mahatma Gandhi and desisted from the course of creating separate electorates."

* * *

"Indeed this is my chief attack on the Premier's letter to Mahatma Gandhi. He tells us that he has given separate electorates for twenty years to enable us to get the minimum number of seats to place our views before the Government and legislature of the day. I contend that this privilege we have already enjoyed under the Montford reforms which have enabled us to get representation in numerous local bodies and in legislatures both provincial and central. We are sufficiently organized for that purpose and do not need either special pleading or special succour. In future what we do need as real remedy for our uplift is definite power to elect our representatives from the general constituencies and hold them responsible to us for their actions. I do not know why the Prime Minister calls the scheme of joint electorates with reservation of seats as impracticable. It is already in force in local bodies in Madras and some other provinces and has worked very satisfactorily. I contend, sir, that the scheme enunciated in the communal decision involves our segregation and makes us politically untouchables. I am surprised at the argument of the Prime Minister that there is no segregation because we can vote for Caste Hindus who will have to solicit our votes. But, sir, how can we bring about common ideal of citizenship when Depressed Class representatives are not to solicit votes of higher castes?"

* * *

"The sufferings which my community has undergone at the hands of Caste Hindus have been acknowledged by Caste Hindus themselves, and I am prepared to admit that there are a large number of reformers among them who are doing everything possible to improve our status and position. I am convinced that there is a change of heart and a change in the angle of vision of Caste Hindus. We, Depressed Classes, feel ourselves as true Hindus as any Caste Hindu can be, and we feel that the moral conscience of the Hindus has been roused to the extent that our salvation lies in bringing

about a change from within the main body of Hindu society and not segregating ourselves from them. The course adopted by the Government would certainly arrest the progress of this most laudable movement. I must say, sir, that the Prime Minister's letter in its entire conception, and expression has disappointed me."

* * *

"The crisis that faces us today is very grave. There hangs in the balance the life of the greatest Indian of our time, and there hangs in the balance the future of millions of the down-trodden people of this country. Is Government going to take the responsibility for killing the one and reducing the other to perpetual servitude? Let it make its choice well and wisely."

* * *

Mr. Raja not only backed the Poona Pact and fought for distributive vote which as I pointed out was nothing but a part of the design of the Hindus to make the political enslavement of the Untouchables fool-proof and knave-proof. Mr. Raja was so much enamoured of his new faith in Gandhi and Hindus that he was not satisfied by the disposal of the matter by the Hammond Committee. He reopened the matter after election by moving a resolution in the Madras Assembly in favour of the distributive vote[1].

But today after seeing the results of the Poona Pact Mr. Raja seems to have been disillusioned. How long he will remain faithful to the truth he has discovered is more than I can say. But he has declared himself openly as a bitter opponent of the Poona Pact. In a letter to Mr. Gandhi, dated 25th August 1938, Mr. Raja says:

"You remember how, when most of my people were in favour of separate electorates so that they may express themselves faithfully and effectively in the legislatures, you staked your life on bringing them into the Hindu fold not only politically but socially and religiously. And I was in no small measure responsible for my people going in for a joint electorate with Caste Hindus on the express understanding that there was to be no interference with our choosing men who would faithfully represent our grievances and wishes. It was with this object that the panel election was instituted.

"All this you know as well as I do. But my object in recalling the fact is to show that while on our part we faithfully adhered to the Poona Pact, giving up agitating for a separate electorate, the Congress Party men in Madras representing the Caste Hindus deviated from the Pact, so much so, that our community in the Legislative Assembly have to follow the Caste Hindus blindly in

[1] Madras Legislative Assembly Debates.

every measure the Ministry may bring and vote with them even in matters which deeply affect the interests of the community.

"You perhaps remember that at the beginning of the elections I protested against the Congress Committee setting up candidates for the panel election among the Depressed Classes. You were good enough to say that I might allow my community joining the Congress on certain conditions placed before us by Mr. S. Satyamurti. One of these conditions was that in matters affecting their community, the Depressed Class members of the Congress Party need not vote with the Congress members but vote according to their judgment.

"The recent debate on the Temple Entry Bill in the Madras Legislative Assembly has exposed the ugly fact that all Depressed Class Members driven by the discipline of the Congress Party in the Assembly voted solidly against my motion for referring the Bill to a Select Committee. Could anything be more unnatural and more humiliating, proving as it did the subjugation of my community by the Caste Hindus represented by Mr. Rajagopalachariar ?

"You know the provisions of the Bill. It was only a piece of permissive legislation making it possible for a majority of worshippers of a temple to allow Harijans to worship in the temple. There was no element of compulsion or coercion in it. This Bill had your blessing. It was drafted by Mr. Rajagopalachariar himself and approved by you.

"At a previous session of the Assembly I introduced the Bill with the consent of Mr. Rajagopalachariar, who promised his full support to the measure. When I suggested that the Bill might be introduced by him as a Government measure, he wanted me to introduce it. When I met him last, on the 12th July 1938 and informed him that I was giving notice of a motion for referring the Bill to a Select Committee he did not object.

"I do not know what happened in the meantime but two days before my motion for referring the Bill to the Select Committee came up before the house, Mr. Rajagopalachariar sent for me and quietly asked me to withdraw the Bill, which I refused to do. When in due course, I moved for the consideration of the Bill, Mr. Rajagopalachariar stood up and opposed the Bill and requested me to withdraw it, saying that he would introduce a Temple Entry Bill on the same lines, only for Malabar and not for other Districts.

"The effect of Mr. Rajagopalachariar's speech was to defeat my motion with my own community men registering their votes against the measure, introduced to secure their social and religious

elevation. One effect of Mr. Rajagopalachariar's opposition will be to strengthen the opposition in the country to temple entry as a whole.

"All this makes me uneasy about the wisdom of our having been parties to the Poona Pact in the full belief that the Congress would really help in our attempt to secure social and religious freedom. I am forced to think that our entering the joint electorate with the caste Hindus under the leadership of the Congress, far from helping us, has enabled the Congress, led by Caste Hindu leaders to destroy our independence and to use us to cut our own throats.

"In the course of the debate, I asked Mr. Rajagopalachariar whether he had obtained your approval of the attitude which he so suddenly and unexpectedly assumed and the Speaker said that Mr. Rajagopalachariar will be given an opportunity to answer the question after I had done. Though he was given the privilege of speaking after me, he avoided the question and did not answer it at all.

"I trust that you will give your most serious consideration to this question of the attitude of the Congress Ministry in Madras towards Harijan uplift, especially with regard to temple entry and let me have your view before I answer my community men who are very much exercised over this question and are contemplating a repudiation of the Poona Pact and an agitation for a separate electorate accompanied by direct action of some kind."

Mr. Rajah also wired to Mahatma Gandhi, Wardha on 12th September 1938 as follows:

"Agitation against Ministry rejection my bill growing difficult withstand pressure upon me—Anxiously awaiting reply."

Mr. Gandhi replied to Mr. Rajah on 14th September 1938:

"Dear friend,

I must apologise for the delay in replying to your letter, I have been overwhelmed with work. Now I have your wire.

I wish you would trust C. Rajagopalachariar to do his best. He should be allowed to do the thing in his own way. If you cannot trust, naturally you will take the course which commends itself to you. All I know is that Harijans have no better friend than him. Go to him, reason with him and if you cannot persuade him, bear with him. That is my advice."

Mr. Rajah wrote a letter dated 21st September 1938 to Mr. Gandhi stating:

"I should request you on the other hand to give more serious consideration to the pledges given to my community during the

Yeravada Fast and to the way in which they are carried out by your plenipotentiary in Madras. That fast was undertaken by you in order to change the Communal Award providing separae electorates for my people and to bring them into joint electorate with Caste Hindus by promising to spare no efforts to remove untouchability. And you have more than once said that temple entry is of the very essence of the removal of untouchability.

"So the question of our being in a joint electorate with Caste Hindus and the attitude of the Congress Ministry towards the raising of the social and religious status of the community are mutually and vitally connected.

"If we are not free to enter into Hindu Temples, we are no Hindus, and if we are not Hindus why should we be in a joint electorate with them? Is it for swelling their numbers as against Muslims and other communities?

"If you look at the situation in Madras from this point of view, you will realise that the rejection of the Temple Entry Bill is a gross betrayal of the Depressed Classes by the Congress Government in Madras.

"Any amount of money spent out of public funds or even from private resources for the amelioration of the economic condition of my community will be no substitute for the removal of untouchability through temple entry. As you yourself once said temple entry is the acid test of the sincerity of the caste Hindus in espousing the cause of the Depressed Classes.

"Mr. Rajagopalachariar's Temple Entry Bill, besides involving the tactical choice of a difficult district makes our community subservient to the will of Caste Hindus, a policy which is given a further effect to, in the appointment of Advisory Boards to assist the Labour Commissioner in which Caste Hindus of the Harijan Sevak Sanghs in this Province are given Government facilities for guiding the destinies of my people. I do not expect you to agree with my views on the measures recently introduced by Mr. Rajagopalachariar after rejecting the Madras Temple Entry Bill; but I expect you to give more serious consideration to the situation in Madras as regards the Depressed Classes in the light of the pledges given to the Depressed Classes during your memorable fast.

"You are morally bound to make this a matter of conscience and not merely one of political strategy. I assure that if you should seek 'inner light' on this subject of untouchability and temple entry you will speak out more plainly and make the necessary sacrifice to educate your followers.

"I propose to send this correspondence to the press, but I shall wait for any further word from you till the end of this month."

Mr. Gandhi replied to the above on 5th October 1938:

> "Dear friend,
>
> "I am working under great difficulty. Even this I am writing in the train taking me to Peshawar.
>
> "Of course you will publish the correspondence between us whenever you think it necessary.
>
> "Your last letter shows that you are in the wrong. I am not partial to Rajaji. But I know that he is as firm on untouchability as I am myself. I must, therefore, trust his judgment as to how to do the thing. From this distance, I can't judge his action. Do you not see that the whole of the movement is one of conversion of the Sanatani heart ? You cannot force the pace except to the extent that reforms immolate themselves. This process is going on vigorously.
>
> "This temple entry question is a mighty-religious reform. I would like you to apply your religious mind to it, If you will, you will give your whole hearted support to Rajaji and make his move a thorough success."

The Untouchables of U.P. have also expressed their hostility to the Poona Pact. In a Memorandum submitted to Col. Muirhead the Under Secretary of State in India they said: (*Memorandum not typed in the MS.*— Ed.)

All over India the Untouchables have realized that the Poona Pact has been a trap and the change of the British Government's Communal Award by Gandhi's Poona Pact is a change which in reality a change from freedom to bondage.

The Poona Pact was signed on the 24th September 1932. On the 25th September 1932 a public meeting of the Hindus was held in Bombay to accord to it their support. At that meeting the following resolution was passed:

> "This Conference confirms the Poona agreement arrived at between the leaders of the Caste Hindus and Depressed Classes on September 24, 1932, and trusts that the British Government will withdraw its decision creating separate electorates within the Hindu community and accept the agreement in full. The Conference urges that immediate action be taken by Government so as to enable Mahatma Gandhi to break his fast within the terms of his vow and before it becomes too late. The Conference appeals to the leaders of the communities concerned to realize the implications of the agreement and of this resolution and to make earnest endeavour to fulfil them.

> This Conference resolves that henceforth, amongst Hindus, no, one shall be regarded as an untouchable by reason of his birth, and that those who have been so regarded hitherto will have the same right as other Hindus in regard to the use of public wells, public schools, public roads, and all other public institutions. This right shall have statutory recognition at the first opportunity and shall be one of the earliest Acts of the Swaraj Parliament, if it shall not have received such recognition before that time.
>
> It is further agreed that it shall be the duty of all Hindu leaders to secure, by every legitimate and peaceful means, an early removal of all social disabilities now imposed by custom upon the so-called untouchable classes, including the bar in respect of admission to temples."

Mr. Gandhi felt that an organization which will devote itself exclusively to the problem of the Untouchables was necessary. Accordingly there was established on 28th September 1932 the All-India Anti-Untouchability League. The name, Gandhi thought, did not smell well. Therefore in December 1932 it was given a new name—The Servants of the Untouchables Society. That name again was not as sweet as Mr. Gandhi wished it to be. He changed and called it the Harjan Sevak Sangh.

The first change which Mr. Gandhi has brought about is this change in the name. Instead of being called Untouchables they are now called *Harijans*. To call, the Untouchables say that Mr. Gandhi is selfish and has given the name Harijan to the Untouchables to blaster up Vaishnavism. They want the Untouchables to be called Harjans the followers of Shiva. Mr. Gandhi replies that the term is used to mean God and not Vishnu and that Harijan simply means 'children of God'.

The Untouchables simply detest the name Harijan. Various grounds of objection are urged against the name. In the first place it has not bettered their position. It has not elevated them in the eyes of the Hindus. The new name has become completely identified with the subject matter of the old. Every body knows that Harijans are simply no other than the old Untouchables. The new name provides no escape to the Untouchables from the curse of untouchability. With the new name they are damned as much as they were with the old. Secondly the Untouchables say that they prefer to be called Untouchables. They argue that it is better that the wrong should be called by its known name. It is better for the patient to know what he is suffering from. It is better for the wrong doer that the wrong is there still to be redressed. Any concealment will give a false sense of both as to existing facts. The new name in so far as it is a concealment is fraud upon the

Untouchables and a false absolution to the Hindus. Thirdly there is also the feeling that the name Harijan is indicative of pity. If the name meant 'chosen people of God' as the Jews claimed themselves to be it would have been a different matter. But to call them 'children of God' is to invite pity from their tyrants by pointing out their helplessness and their dependent condition. The more manly among the Untouchables resent the degrading implications of this new name. How great is the resentment of the Untouchables against this new name can be seen from the fact that whole body of the representatives of the Untouchables in the Bombay Legislative Assembly walked out of the House in protest when the Congress Government introduced a measure giving to the name Harijan the sanction of law.

This new name Harijan will remain until the downfall of Mr. Gandhi and the overthrow of the Congress Governments which are his creatures. That it was forced upon the Untouchables and that it has done no good are however facts which cannot be disputed.

Having discussed the blessings of this new name I must now proceed to examine the work of the Harijan Sevak Sangh. The Sangh is spoken of as a memorial to Gandhi's labours in the cause of the Untouchables. What are the achievements of the Sangh.

The Sangh is an All-India Organization. It has a Central Board. Then there are Provincial Boards and under the Provincial Boards there are District and Local Committees. The number of Provincial Boards and Local Committees is given below:

	1932-33	1933-34	1934-35
Provincial Boards	26	26	29
District & Local Committees	213	313	372

The financial resources of the Sangh are mainly drawn from the collections made on an All-India tour specially undertaken for the purpose by Mr. Gandhi between November 1933 to July 1934. The total amount collected on this tour came to about 8 lacs of Rupees and is known as the Gandhi Purse Fund and forms the principal reserve for the Sangh to draw upon. The rest of the resources are made up of annual donations.

The total expenditure of the Sangh under all heads from year to year is as follows:

	1932-33	1933-34	1934-35	1935-36
Rs.	2,31,039.00	3,31,791.00	4,48,422.00	3,99,354.00

In his report for 1934-35 the General Secretary reported that " almost the whole of the Gandhi Purse Fund, which stood at over 8 lacs in July 1934, will be spent away by the end of the current year, i.e. by the end of September 1936." In the fifth Annual Report the Secretary says, "As compared to the expenditure of the previous year, there has been a reduction of more than a lac in the total expenditure. This was partly owing to the gradual exhaustion of the Gandhi Purse Fund, dislocation in the realization of local collections owing to general elections and other contributory causes. The finances of the Central office were far from satisfactory. The total expenditure of the Central office (including grants made to branches) amounted to Rs. 86,610-14-8, as against an income of Rs. 42,485-4-9 thus leaving a deficit of Rs. 44,125-9-11 which was met from the general fund. Donations for general fund amounted to only Rs. 26,173-4."

It is obvious that the Harijan Sevak Sangh is a small affair and but for the running advertisement it gets from the Press it would not even be heared off. India is a vast continent with something like 6,96,831* villages. The Untouchables are spread out all throughout these 6,96,831 villages. There is no village without its untouchables. How many Untouchables can be reached by 372 Committees. It is a tiny peck in a vast ocean. Not only its capacity to cope with the problem is limited but its resources are too meagre to permit any relief being granted to the Untouchables on an adequate scale. The Sangh has now no permanent fund. What it had it has spent. It has to depend upon annual subscriptions. That source is also drying up leaving the Sangh with heavy deficit. The Sangh is in an exhausted condition. Its affairs in fact would have been wound up on account of its bankruptcy. If the Sangh is still existing, it is not because its endeavours are sustained by Hindu charity directed to the uplift of the Untouchables. It exists because the Congress Governments which are now established in the different Provinces have come to the rescue of the Sangh. They have handed over to the Sangh certain social welfare work which former Governments carried out through Government Departments or Government Officials with the money grants. Thus the Sangh is now living on Government funds. As an institution maintained by the Hindus with the help of Hindu Charity for the Untouchables the Sangh simply does not exist.

The din and noise which was created by Mr. Gandhi's fast was simply deafening. The readiness to make sacrifices to save his life was great and the eagerness shown to befriend the Untouchables was surprizing and overwhelming. All this has vanished leaving the

*Census Report, 1931. (*Inserted, as the figures are not shown in the MS.*—Ed.)

Untouchables high and dry. If the desire to contribute towards the maintenance of the Sangh—which the Hindus founded as an earnest of their acceptance of their obligation towards the Untouchables—is any measure of the reality of the change of heart then it must be admitted that the change has died with the occasion which caused it. Gandhi broke his fast and the Hindu lost his new-born love for the Untouchables.

The premature decay of the Sangh should make it unnecessary for me to consider the work it did. But the Sangh is held out as a great monument to Mr. Gandhi. It is therefore proper that I should examine the work done by the Sangh and the policy underlying that work.

The work of the Sangh follows certain well defined lines.

In the field of education the Sangh has sought to encourage higher education among the Untouchables by instituting scholarships for the Arts, technical and professional courses. The Sangh also gives scholarships to High School students. The Sangh also maintained Hostels for Untouchable students attending colleges and High Schools. The great part of the educational activities of the Sangh is taken up in maintaining separate schools for primary stage children where there were no common schools in the vicinity or where common schools we're closed to them.

Next comes the welfare activities of the Sangh. The medical aid which the Sangh undertakes to render to the Untouchables falls under this head. This is done by intenerant workers of the Sangh who go in Harijan quarters to give medical aid to the sick and ailing among the Untouchables. The Sangh also maintains a few dispensaries for the use of the untouchables. This is a very small activity of the Sangh.

The more important part of the welfare activity of the Sangh relates to water supply. The Sangh does this by (1) sinking new wells or installing tube wells and pumps for the use of the untouchables, (2) repairing old ones and (3) persuading local Governments and bodies to sink and repair wells for the Untouchables.

The third line of activity undertaken by the Sangh is economic. The Sangh seems to run a few industrial schools and it is claimed that the industrial schools run by the Sangh produced a number of trained artizans who have taken to independent living. But according to the report, more successful and substantial work was done by way of organizing and supervising cooperative societies among the Untouchables.

Such is in brief the record of the work done by the Sangh. It is largely directed by the Caste Hindus. There are very few Untouchables who have any voice in directing the activities of the Sangh. I have had

no connection with the Sangh. But I might mention that when the Sangh was started I was invited to join. I had great desire to cooperate with the Hindus for the removal of untouchability. I had my own views regarding the policy and programme which the Sangh should adopt for accomplishing this task. Immediately after the Sangh was established I had to go to London to attend the Round Table Conference and had no opportunity to talk the matter over with the other members of the Sangh. But I posted a letter to the General Secretary of the Sangh Mr. Thakkar on the 14th November 1932 on Board the Ship *M. V.* "*Victoria*". Excepting a short introductory para which I omit, the following is the full text of the letter:

> "In my opinion there can be two distinct methods of approaching the task of uplifting the Depressed Classes. There is a school which proceeds on the assumption that the fate of the individual belonging to the Depressed Classes is bound up with his personal conduct. If he is suffering from want and misery it is because he must be vicious and sinful. Starting from this hypothesis, this school of social workers concentrates all its efforts and its resources on fostering personal virtue by adopting a programme which includes items such as temperance, gymnasium, co-operation, libraries, schools etc., which are calculated to make the individual a better and virtuous individual. In my opinion there is also another method of approach to this problem. It starts with the hypothesis that the fate of the individual is governed by his environment and the circumstances he is obliged to live under and if an individual is suffering from want and misery it is because his environment is not propitious.
>
> "I have no doubt that of the two views the latter is the more correct. The former may raise a few stray individuals above the level of the class to which they belong. It cannot lift the class as a whole. My view of the aim of the Anti-Untouchability League is that it has come into existence not for helping a few individuals at random or a few selected boys belonging to the Depressed Classes but for raising the whole class to a higher level. Consequently I would not like the League to dissipate its energies one programme calculated to foster private virtue. I would like the Board to concentrate all its energies on a programme that will effect a change in the social environment of the Depressed Classes. Having stated in general terms my views I venture to place some concrete proposals for work to be undertaken by the League.
>
> "I think the first thing that the League should undertake is a campaign all over India to secure to the Depressed Classes the enjoyment of their civic rights such as taking water from the village

wells, entry in village schools, admission to village chawdi, use of public conveyance etc.

"Such a programme if carried into village will bring about the necessary social revolution in the Hindu society without which it will never be possible for the Depressed Classes to get equal social status. The Board must however know what difficulties it will have to face if this campaign of civic rights is to be carried through. Here I can speak from experience because I as President know what happened when the Depressed Classes Institute and the Social Equality League launched such a plan in the Kolaba and Nasik Districts of the Bombay Presidency.

"First of all there will be riots between the Depressed Classes and the Caste Hindus which will result in breaking heads and in criminal prosecutions of one side or the other. In this struggle the Depressed Classes will suffer badly. There has not been a single case in the course of the social struggle carried on in these two districts in which the Police and the Magistracy have come to the rescue of the Depressed Classes even when justice was on their side. Secondly the villages will proclaim a complete boycott of the Depressed Classes the moment they see that the latter are trying to reach a status of equality along with them.

"I have mentioned only two of the many obstacles which the League will have to overcome if this campaign of civic rights is to be successful and the League will have to have an army of workers in the rural parts who will encourage the Depressed Classes to fight for their rights and who will help them in any legal proceedings arising therefrom to a successful issue. It is true that this programme involves social disturbances and violent scuffle. But I do not think that it can be avoided. I know the alternative policy of adopting the line of least resistance. I am convinced that it will be ineffective in the matter of uprooting untouchability.

"The silent infiltration of rational ideas among the ignorant mass of Caste Hindus cannot, I am sure, work for the salvation of the Depressed Classes. First of all the Caste Hindu like all human beings follows his customary conduct in observing untouchability towards the Depressed Classes. Ordinarily, people do not give up their customary mode of behaviour because somebody is preaching against it.

"The salvation of the Depressed Classes will come only when the Caste Hindu is made to think and is forced to feel that he must alter his ways. For that you must create a crisis by direct action against his customary code of conduct. The crisis will compel him to think

and once he begins to think he will be more ready to change than he is otherwise likely to be.

"The great defect in the policy of least resistence and silent infiltration of rational ideas lies in this that they do not 'compel' for they do not produce crisis. The direct action in respect of the Chowdar tank in Mahad, the Kalaram temple in Nasik and the Guruvayur temple in Malabar have done in a few days what million days of preaching by reformers would never have done.

"The second thing I would like the Anti-Untouchability League to work for is to bring about equality of opportunity for the Depressed Classes. Much of the misery and poverty of the Depressed Classes is due to the absence of equality of opportunity which in its turn is due to Untouchability. I am sure you are aware that the Depressed Classes in villages and even in towns cannot sell vegetables, milk or butter—ways of earning a living which are open to all and sundry. A Caste Hindu, will buy these things from a Non-Hindu, but he will not buy them from the Depressed Classes. In the matter of employment his condition is the worst.

"Like the Negro in America he is the last to be employed in days of prosperity and the first to be fired in days of adversity. And even when he gets a foothold what are his prospects ? In the Cotton Mills in Bombay and Ahmedabad he is confined to the lowest paid department where he can earn only Rs. 25 per month. More paying departments like the weaving department are permanently closed to them. The place of the boss is reserved for the caste Hindu while the Depressed Class worker must slave as his underdog no matter how senior or how efficient.

"Depressed Class women working in the winding or reeling departments have come to me in hundreds complaining that the Naikins, instead of distributing the raw material to all women employees equally or in fair proportion, give all of it to the caste Hindu women and leave them in the cold."

"I think it would be fit and proper if the Anti-Untouchability League were to take up this question by creating public opinion in condemnation of it and establishing Bureaus to deal with urgent cases of inequality.

"Lastly I think the League should attempt to dissolve that nausea which the touchables feel towards the untouchables and which is the reason why the two sections have remained so much apart as to constitute separate and distinct entities. In my opinion the best way of achieving it is to establish closer contact between the two. Only a common cycle of participation can help people to overcome that

strangeness of feeling which one has when brought into contact with the other. Nothing can do this more effectively in my opinion than the admission of the Depressed Classes to the houses of the caste Hindus as guests or servants.

"The live contact thus established will familiarize both to a common and associated life and will pave the way for that unity which we are all striving after. I am sorry that many caste Hindus who have shown themselves responsive are not prepared for this.

"During those ten days of the Mahatma's fast that shook the Indian world there were cases in Ville Parle and in Mahad where the caste Hindu servants had struck work because their masters had abrogated the rules of untouchability by fraternizing with the Untouchables. I expected that they would end the strike and teach a lesson to the erring masses by filling the vacancies by employing Depressed Classes in their places. Instead of doing that they capitulated with the forces of orthodoxy and strengthened them. I do not know how far such fair-weather friends of the Depressed Classes would be of help to them.

"People in distress can have very little consolation from the fact that they have sympathisers if those sympathisers will do nothing more than sympathise and I may as well tell the League that the Depressed Classes will never be satisfied of the bona fides of these caste Hindu sympathisers until it is proved that they are prepared to go to the same length of fighting against their own kith and kin in actual warfare if it came to that for the sake of the Depressed Classes as the Whites of the North did against their own kith and kin namely the Whites of the South for the sake of the emancipation of the Negro.

"The League will have to employ a very large army of workers to carry out its programme. The appointment of social workers might perhaps be looked upon as a minor question. Speaking for myself, I attach very great importance to the selection of a proper agency to be employed in this behalf. There can always be found workers to do a particular piece of work or any other for the matter of that if they are paid for it. I am sure such mercenary workers will not serve the purpose of the League. As Tolstoy said "Only those who love can serve". In my opinion that test is more likely to be fulfilled by workers drawn from the Depressed Classes. I should therefore like the League to bear this aspect of the question in mind in deciding upon whom to appoint and whom not to appoint. I do not suggest that there are hot scoundrels among the Depressed Classes who have not made social service their last refuge. But largely speaking

you can be more sure that a worker drawn from the Depressed Classes will regard the work as love's labour a thing which is so essential to the success of the League.

"Secondly there are agencies which are already engaged in some sort of social service without any confines as to class or purpose and may be prepared to supplement their activity by taking up the work of the Anti-Untouchability League in consideration of a grant-in-aid. I am sure this hire-purchase system of work, if I may use that expression, can produce no lasting good. What is wanted in an agency is a single-minded devotion to one task only. We want bodies and organizations which have deliberately chosen to be narrow-minded in order to be enthusiastic about their cause. The work if it is to be assigned must be assigned to those who would undertake to devote themselves exclusively to the work of the Depressed Classes.

"Before closing this I wish to say just this. It was Balfour, I think, who said that what could hold the British Empire together was love and not law. I think that observation applies equally well to the Hindu society.

"The touchables and the untouchables cannot be held together by law, certainly not by any electoral law substituting joint electorates for separate electorates. The only thing that can hold them together is love.

"Outside the family, justice alone, in my opinion can open the possibility of love, and it should be the duty of the Anti-Untouchability League to see that the touchable does, or failing that, is made to do justice to the untouchable. Nothing else in my opinion can justify the project or the existence of the League."

This letter was not even acknowledged by the Secretary. That not a single suggestion of mine was accepted goes without saying. Even my suggestion that the workers of the Sangh should be drawn largely from the Untouchables themselves was not accepted. Indeed when the attention of Mr. Gandhi was drawn to the fact that the Harijan Sevak Sangh had become the hive of mercenary Hindus, he defended it on the ground which are clever if not honest.

[1] He said to the deputation of the Untouchables;

"The welfare work of the Untouchables is a penance which the Hindus have to do for the sin of Untouchability. The money that has been collected has been contributed by the Hindus. From both points of view the Hindus alone must run the Sangh. Neither ethics

[1] This quotation is taken from Dr. Ambedkar's book 'What Congress & Gandhi have done to the Untouchables', p. 142. (*This extract are not mentioned in the MS.*—Ed.)

nor right would justify Untouchables in claiming a seat on the Board of the Sangh."

Not only were all my proposals rejected by Mr. Gandhi and his advisers but in framing the constitution of the Sangh, aims and objects were adopted which are quite opposed to those which I had suggested.[1] At the meeting held in Cowasjee Jehangir Hall in Bombay on the 30th September 1932 the aims of the organization were stated to be:

> "Carrying propaganda against Untouchability and taking immediate steps 'to secure as early as practicable that all public wells, dharmashalas, roads, schools, crematoriums, burning ghats and all public temples be declared open to the Depressed Classes, provided that no compulsion or force shall be used and that only peaceful persuasion shall be adopted towards this end'."

But in the statement issued by Mr. G. D. Birla and Mr. A. V. Thakkar on the 3rd November, two months after its inauguration it was stated:

> "The League believes that reasonable persons among the Sanatanists are not much against the removal of Untouchability as such, as they are against inter-caste dinners and marriages. Since it is not the ambition of the League to undertake reforms beyond its own scope, it is desirable to make it clear that while the League will work by persuasion among the caste Hindus to remove every vestige of Untouchability, the main line of work will be constructive, such as the uplift of Depressed Classes educationally, economically and socially, which itself will go a great way to remove untouchability. With such a work even a staunch Sanatanist can have nothing but sympathy. And it is for such work mainly that the League has been established. Social reforms like the abolition of the caste system and inter-dinning are kept outside the scope of the League."

These aims and objects are described in one of the Annual Reports of the Sangh. It says:[2]

> "According to its constitution the aim and object of the Society is the abolition of untouchability by reason of birth and the acquisition of equal rights of access of public temples, wells, schools and other public institutions for Harijans as enjoyed by other Hindus.
>
> The achievement of this object has led the Society to undertake work of a two-fold kind. First, the Society has to bring about such a radical change in the sentiments and opinions of Caste Hindus that they may willingly, as a matter of course, allow the enjoyment of all civic rights to Harijans. Secondly, the society has to put forth its

[1] *Reprduced from 'What Congress ..... etc.' pp. 140-41 as the page in the MS is left blank.*—Ed.

[2] Report for 1932-33, p. 1.

efforts and devote its funds for the educational, economic and social uplift of Harijans."

The work done and the aims formulated when put side by side raise two questions. Firstly is this record something of which the Sangh can be proud of? Secondly is its work consistent with the aims of the Sangh? The record is very poor. It is much cry and little wool. Certainly as compared with the record of work done by the Christian Missions with which the Sangh competes, it is not a record of which the Sangh can be proud of. But this is a mere matter for sorrow and nothing more. The second question is fundamental and therefore one for anxious consideration. It is well that the Sangh undertakes to labour in the interests of the Untouchables. But its labours must be so planned that out of it will come the destruction of untouchability.

Examined in the light of this consideration what is one to say of the work that is being done by the Sangh? The Sangh is openly and without abashment supporting *separate* schools, *separate* hostels, *separate* dispensaries, and *separate* wells for the Untouchables. I should have thought that that was the surest way of perpetuating untouchability. It is surprizing that Mr. Gandhi who threatened to fast unto death against separate electorates on the ground that it involved segregation of the untouchables should himself sanction a line of activity which perpetuates this segregation. In undertaking to render this social service to the Untouchables, Mr. Gandhi and his Sangh should have forgotten what the Untouchables want. What the Untouchables want is not education, but the right to be admitted to common schools. The Untouchables do not want medical aid; what they want is the right to be admitted to the general dispensary on equal terms. The Untouchable does not want water. What he wants is the right to draw water from a common well. The Untouchables do not want their suffering to be relieved. They want their personality to be respected and their stigma removed. Once their stigma is removed their sufferings will go. This the Harijan Sevak Sangh does not seem to have realized. The Sangh is said to be the friend of the Untouchables and the orthodox Hindu the enemy of the Untouchables. One fails to understand what the friend has done which the enemy would not do. The orthodox Hindu insists that the Untouchables shall have *separate* schools, *separate* dispensaries and *separate* wells, the Sangh says—*Thy will shall be done*. Except the fact the orthodox Hindu believes in untouchability and Harijan Sevak Sangh does not, what is the difference in practice between the friend and the foe ? Under both, the untouchable is condemned to *separate* schools, *separate* hostels and *separate* wells. If this is so, it is difficult to understand why

Mr. Gandhi and the Harijan Sevak Sangh should pick up a quarrel with the orthodox Hindu if he and his Sangh are not prepared to force the issue. Whether the Hindu Shastras recognize untouchability or not is only an academic quarrel between Mr. Gandhi and the orthodox Hindu. It can do no practical good. On the contrary I am prepared to say that it had done positive harm to the Untouchables. In the first place it has created enmity between the Untouchables and the orthodox Hindus. Before Gandhi picked up this needless quarrel the relations between the Untouchables and the Hindus were non-social. The quarrel has made them anti-social. Secondly if there was no such quarrel, if instead of untouchability being made the issue—which Mr. Gandhi does not intend to fight it out—an appeal was made to the orthodox Hindu to remove the suffering of the Untouchables, many an orthodox Hindu I know would have come forward to help to remove the suffering. Mr. Gandhi has reaped the glory for having established the Sangh. But the Sangh has neither sought to remove untouchability nor has it helped to alleviate the sufferings of the Untouchables.

Why has the Sangh failed ? My answer is quite definite. I say the Sangh has failed because of its wrong politics.

It has often been said that the Harijan Sevak Sangh is a political organization. Mr. Gandhi has always resented such an allegation and repudiated it as being false. The General Secretary of the Sangh has also protested against it. To use his own words "the Sangh, though a sequel of a Political Pact, has no politics".

I do not see any reason for the resentment of Mr. Gandhi nor for the protests of his Secretary. I wish very much that the Sangh was a political organization. The untouchables have obtained a share of political power. But power which is not conscious of itself is no power. Again power which is not organized is no power. The Harijan Sevak Sangh would have been of great use if it had helped the Untouchables to organize independent political parties to fight the elections and make their political power effective. Nor can I accept the statement of Mr. Gandhi and his Secretary that the Sangh has no politics. On the contrary I insist that not only the Sangh has a definite line of politics and that that line of politics is wrong because it is prejudicial to the cause of the Untouchables.

Since Mr. Gandhi does not admit that the Sangh has politics, one must go to circumstances for proof. Circumstantial proof is always better than oral testimony because as is well said man may lie but circumstances cannot. In this connection I want to rely upon a clause in the constitution of the Sangh as a piece of evidence in support of my contention. The clause relates to the means to be adopted by the Sangh

for removing untouchability and for securing equal rights to the Untouchables along with the Caste Hindus. The clause reads as follows:

> "That no compulsion is to be used for securing rights, but that peaceful persuation is to be adopted as the *only* means."

This is a basic principle of the Sangh. It has struck me as strange and I am sure it will strike all others as strange. I want to ask the question—Why has the Sangh limited itself to peaceful persuation of the caste Hindus as the one and the only means of removing Untouchability ?

Most social reformers, whether religious or rational, seem to imagine that men of power will immediately check their pretentions and their exactions as soon as they have been told that their actions and attitudes are anti-social. But as Prof. Neibhur points out[1] what these reformers overlook is an understanding of the brutal character of the behaviour of all human groups and the power of self interest and collective egoism which dominate all group relations. They also forget the fact that races, nations and classes are less moral than individuals which compose them and that justice between groups can therefore not be achieved purely by educational means. If conscience and reason can be insinuated into the resulting struggle they can only qualify, never abolish, the injustice. If injustice is to be abolished it must be resisted and when injustice proceeds from collective power, whether in the form of imperialism or class domination, it must be challenged by power. A class entrenched behind its established power can never be dislodged unless power is raised against it. That is the only way of stopping the exploitation of the weak by strong.

Why has Mr. Gandhi and the Harijan Sevak Sangh limited their means of resistance to the Caste Hindu domination to peaceful persuation? Why do they not resist the injustice of the Caste Hindus by direct action? I can understand that in organizing resistance to injustice, the problem is to find forms of resistence which will not destroy the meagre resources for rational and moral action which groups do possess. But there can be no difficulty on that account. Satyagraha or passive resistance has been found by Mr. Gandhi as a form of resistence which is morally beyond cavil. Why does not Mr. Gandhi ask the Sangh to launch Satyagraha by the Untouchables against the Caste Hindus for the abolition of the injustice against the Untouchables. He asked the people of India to offer Satyagraha against British Imperialism. Why does he not want to use the same means against the caste Hindus in the interests of the Untouchables ?

[1] Moral Man and Immoral *Society/passim*.

What is the answer of Mr. Gandhi to this question? The only answer I can see is that it comes in the way of *his* politics. Mr. Gandhi must remain at the head of the nation. I wonder if life would be worthwhile to him if for some reason he ceased to be at the head of the nation. He is, I think, the most ambitious politician. I know, he regards as his rivials those whom he calls as friends. To be at the head of the nation means that he must preserve the integrity of the Congress. The Congress is ninety nine per cent composed of Hindus. How can Gandhi succeed in maintaining the integrity of the Congress if he were to direct the Sangh to carry on Satyagraha against the Hindus for the sake of the Untouchables. The Hindus would leave the Congress and the Congress would disrupt. This is detrimental to the interests of Mr. Gandhi . This is the explanation why Mr. Gandhi and the Sangh have adopted peaceful persuation as the only means of removing untouchability. It is a means which is least likely to hurt the Hindus and the Congress. Not only in big matters but even in small matters the Sangh is careful to see that the Hindus are not hurt or annoyed. I am told that in distributing scholarships for instance the Sangh makes inquiries into the political affiliations of the applicant and if it is found that the applicant belongs to a community which is against the Congress or the Hindus, he gets no aid from the funds of the Sangh.

I wonder if any one will have any doubts left that Mr. Gandhi and the Sangh in limiting themselves to peaceful persuations were controlled by political considerations of not annoying the Hindus and disrupting the Congress. This is what I meant when I said that the Sangha's politics and that its failure is due to wrong politics. I am sure I am using mild language when I describe it as wrong politics. It is treachery if the surrender of the interests of his ward by his guardian can be described as treachery.

Mr. Gandhi is often compared with Jesus Christ both by his Indian and European friends. What may be the justification for so strange a comparison? In one thing I see a complete contrast between the two. Both Jesus and Gandhi claimed to serve the lowly. This befriending attitude of both was resented by the upper classes. How did the two react? When Jesus was taunted by the Pharasees he retorted by saying—" They that are whole have no need of the physician, but they that are sick ". How sharp is the contrast between this attitude of Jesus and that of Mr. Gandhi. Jesus did not worry about those who were 'whole'. Gandhi is devoted to those who are 'whole' and who are sinning at the cost of those who are sick and who are sinned against. Gandhi is no physician to the untouchables. At best a sympathiser and nothing more.

Even as a sympathizer of the Untouchables his sympathy for them is limited by two considerations. It is limited by his social aims. Secondly it is also limited by his politics. Lest this statement should be doubted, I wish to give two instances, one of each which have occurred recently. They have occurred not far from Shegaon in Central provinces where Mr. Gandhi resides.

As an instance of the first I refer to what is known in India as the Khare episode. In 1938 last there was a ministerial crisis in the Central Provinces where the ministry was a Congress Ministry. The Prime Minister Dr. Khare fell out with his colleagues. As Prime Minister he demanded the resignation of other ministers which they were not prepared to give without the consent of the Congress Parliamentary Board. But Dr. Khare forced them to give their resignations which they ultimately did. Thereupon Dr. Khare formed another Congress cabinet and filled the ministerial offices with men of his choice. In his new cabinet Dr. Khare included an untouchable as a minister. Dr. Khare's conduct in dissolving the old cabinet and forming a new one without consulting the Congress Parliamentary Board came up for investigation before the Congress Working Committee. Dr. Khare was found guilty of breach of party discipline and was deposed from his primiership. One of the accusations levelled against Dr. Khare by Mr. Gandhi was that he included an untouchable in his new Ministry. The following is the full text of what Mr. Gandhi said to Dr. Khare on this point and reduced to writing by Dr. Khare for my sake:

> "Mahatmaji took me to task for including a Harijan in my second cabinet. I retorted by saying that it was a Congress programme of uplift of Harijans for which Mahatmaji fasted unto death and that I did what I could in furtherance of that programme when opportunity offered itself and I think I have done nothing wrong in doing so. Thereupon Mahatmaji charged me of doing this for my selfish ambition. I repudiated this charge saying that any selfish motive is disproved by my resignation. Then Mahatmaji said that by my action I have thrown an apple of discord among the members of that simple community and have rendered disservice to the Congress cause by throwing this temptation in their way."[1]

That this is true and that Gandhi objected to the untouchable being included in the Cabinet is evidenced by the fact that when a new Congress Ministry was formed in Central Provinces this untouchable who functioned as a minister for a day was excluded. He should have been included as a matter of form, at least to keep up

[1] This statement was repeated by Dr. Khare at a meeting held in Servants of India Society's Hall in Bombay in support of his cause.

appearances. That he was not, shows that Gandhi was opposed to his inclusion on principle.

This is baffling because the Untouchable member of the Central Provinces Assembly who was chosen by Dr. Khare for ministership is a graduate, is a Congressman and is a strong party-man. Why should Mr. Gandhi have any objection to the inclusion of such a person in the Congress Cabinet. As a matter of fact if Mr. Gandhi was genuine in his professions regarding the untouchables he should have instructed all Congress Prime Ministers to include at least one untouchable in their Cabinets, if for nothing else, at least for its psychological effect upon the Untouchables and upon the Hindus. He should have done this irrespective of the party affiliations. Gandhi is not averse to congress making coalitions with other non-congress parties in provinces where it is not in a majority in order to secure offices. In such coalitions he has allowed Congress to include non-congressmen as ministers in their cabinets. If Gandhi can allow the congress to do this without losing its caste and its colour why Gandhi did not instruct the Congress Prime Ministers to include untouchables in the Congress Ministries if he wanted that when he talks about his love for the Untouchables he should be believed. But the case in the Central Provinces stand on a different footing. Here the Untouchable who was taken as a minister was a Congressman and a graduate. There could be no objection on the ground of his want of qualification or want of political faith. Why did Mr. Gandhi object to his inclusion? A crowd of Untouchables went to Shegaon to Mr. Gandhi for an explanation. Anticipating this Mr. Gandhi had started observing silence, so that no explanation could be had. Then the untouchables started Satyagraha against Mr. Gandhi for not including an Untouchable in the Central Provinces Congress Cabinet. To escape that embarassment Mr. Gandhi left Shegaon and went on a tour to the North Western Frontier Provinces for teaching non-violence to the Pathans. I am sure Gandhi's silence on this occasion was not to commune with God. It was taken on as a convenient excuse for not being driven under the fire of cross examination to disclose his inner-most thoughts about the Untouchables. In any case we have no answer to this question from Mr. Gandhi. To my mind there can be only one answer and that even if Gandhi had opened his mouth he could give no better. That answer is that Mr. Gandhi's ideal for the untouchable is a very low ideal and that all that he cares for is that the untouchable should be touched and that if he is touched without anybody taking a bath nothing further need be done about them. If Gandhi had tried and failed he would have been excused. But how can he be excused for entertaining so low an aim? Not failure but low aim is a crime.

As an instance of the second I refer to what is known as the Bachuma incident. If the first instance is baffling this second is gruesome. How gruesome it is can be seen from the brief summary of fact which I am giving. Bachuma, a small girl, 12 years old and belonged to an untouchable family which was living in *Wardha (This name is inserted as it was not mentioned in the MS.*—Ed.). One evening she was decoyed into the house of a Mahomedan who was the Sub-Inspector of Police. She was kept in his house and during the night this small child was raped by three Mahomedans, one was the Superintendent of Police himself, second a Sub-Inspector of Education and third a Lawyer. The three Mahomedans were tried in a Court of Law and two of them were sentenced to two years rigorous imprisonment and the lawyer was acquitted as the girl was not able to identify him. The two who were convicted appealed to the High Court but the High Court rejected their appeals and confirmed their convictions and sentences. From gaol they sent to the Governor-in-Council petitions for mercy. But they were also rejected. This happened before the Congress came into office. After the Congress came into office they submitted fresh applications for mercy to the Minister-in-charge. The Minister-in-charge, who was also a Mahomedan thought that there was nothing wrong in a Mahomedan committing rape on an untouchable girl and decided to set the culprits free. He granted the application of one—that of the Inspector of Education who is now a free man and is employed on a big job in the Education Department of a Mahomedan State. He was to release the other culprit also but in the meantime the agitation against him was so great that he had to resign his office. Every body expressed his resentment against the shameless act of the Minister but Mr. Gandhi has kept mum. So far he has not uttered a word of condemnation against this Minister. On the contrary he is even now engaged in the confabulations that are going on over the question of the reinstatement of this dismissed minister in his office which is still kept vacant. One likes to ask if Gandhi would have remained so silent and so unmoved if the little girl Bachuma who was raped by the three Mahomedans instead of being the daughter of an Untouchable had been Mr. Gandhi's own daughter. Why is Gandhi not able to make Bachuma's case his daughter's case? There are two answers. One is that Mr. Gandhi is not an untouchable. One must be born to it. Secondly Mr. Gandhi feels that by condemning the Muslim Minister for the sake of Bachuma he might destroy Hindu-Moslem Unity the maintenance of which is a fundamental creed of Congress politics. Does this now show that Mr. Gandhi's sympathies for the Untouchables are limited by his politics ?

What good is a man who is not even free to sympathize according to his conscience.

III

And now the temple entry. This is advertized as another of Mr. Gandhi's boons to the Untouchables.

This question of temple entry is the outcome of the resolution passed at the public meeting of the Hindus held on 25th September 1932 which also was the originating cause which gave birth to the Harijan Sevak Sangh. This resolution mentioned some of the liabilities of the Hindus towards the Untouchables. This list included the removal of the bar against the Untouchables in respect of admissions to Hindu temples.

Although the promise of temple entry was there in the Resolution the Untouchables did not insist upon its being fulfilled forthwith. The untouchables, at any rate a vast majority of them have not been keen for temple entry. When asked by Mr. Gandhi what I thought about temple entry I gave my opinion on it in the form of a statement which was issued to the Press on February 10*, 1933, and which is reproduced below:

STATEMENT ON TEMPLE ENTRY

Although the controversy regarding the question of temple entry is confined to the Sanatanists and Mahatma Gandhi, the Depressed Classes have undoubtedly a very important part to play in it, in so far as their position is bound to weigh the scales one way or the other, when the issue comes for final settlement. It is, therefore necessary, that their view point should be defined and stated so as to leave no ambiguity about it.

To the Temple Entry Bill of Mr. Ranga Iyer as now drafted, the Depressed Classes cannot possibly give their support. The principle of the Bill is that if a majority of Municipal and Local Board voters in the vicinity of any particular temple on a Referendum decide by a majority that the Depressed Classes shall be allowed to enter the temple, the Trustees or the Manager of that temple shall give effect to that decision. The principle is an ordinary principle of majority rule and there is nothing radical or revolutionary about the Bill and if the Sanatanists were a wise lot, they would accept it without demur.

The reasons why the Depressed Classes cannot support a Bill based upon this principle are two. One reason is that the Bill cannot hasten

**This statement is shown as of 14th February 1933 in Dr. Ambedkar's 'What Congress .....etc.' at pp. 108-13.*-Ed.

the day of Temple Entry for the Depressed Classes any nearer than would otherwise be the case. It is true that under the Bill the minority will not have the right to obtain an injunction against the Trustee or the Manager who throws open the temple to the Depressed Classes in accordance with the decision of the majority. But before one can draw any satisfaction from this clause and congratulate the author of the Bill, one must first of all feel assured that when the question is put to the vote there will be a majority in favour of the Temple Entry. If one is not suffering from illusions of any kind, one must accept that the hope of a majority voting in favour of Temple Entry will be rarely realised, if at all. Without doubt the majority is definitely opposed to day—a fact which is conceded by the Author of the Bill himself in his correspondence with the Shankaracharya. What is there in the situation as created after the passing of the Bill, which can lead one to hope that the majority will act differently? I find nothing. I shall, no doubt, be reminded of the results of the Referendum with regard to the Guruvayur Temple. But I refuse to accept a referendum so overweighed as it was by the Life of Mahatma Gandhi as the normal result. In any such calculations, the life of the Mahatma must necessarily be deducted. Secondly, the Bill does not regard untouchability in temples as a sinful custom. It regards untouchability merely as a social evil not necessrily worse than social evils of other sorts. For, it does not declare untouchability as such to be illegal. Its binding force is taken away only if a majority decides to do so. Sin and immorality cannot become tolerable because a majority is addicted to them or because the majority chooses to practice them. If untouchability is a sinful and an immoral custom, then in the view of the Depressed Classes it must be destroyed without any hesitation, even if it was acceptable to the majority. This is the way in which all customs are dealt with by Courts of Law, if they find them to be immoral and against public policy. This is exactly what the Bill does not do. The author of the Bill takes no more serious view of the custom of untouchability than does the temperance reformer of the habit of drinking. Indeed, so much is he impressed by the assumed similarity between the two that the method he has adopted is a method which is advocated by temperance reformers to eradicate the evil habit of drinking, namely by local option. One cannot feel much grateful to a friend of the Depressed Classes who holds untouchability to be no worse than drinking. If Mr. Ranga Iyer had not forgotten that only a few months ago Mahatma Gandhi had prepared himself to fast unto death if untouchability was not removed, he would have taken a more serious view of this curse and proposed a most thorough-going reform

to ensure its removal lock, stock and barrel. Whatever its shortcomings may be from the standpoint of efficacy, the least that the Depressed Classes could expect is for the Bill to recognise the principle that untouchability is a sin. I really cannot understand how the Bill satisfies Mahatma Gandhi who has been insisting that untouchability is a sin. It certainly does not satisfy the Depressed Classes. The question whether this particular Bill is good or bad, sufficient or insufficient, is a subsidiary question. The main question is; do the Depressed Classes desire Temple Entry or do they not ? This main question is being viewed by the Depressed Classes by two points of view. One is the materialistic point of view. Starting from it, the Depressed Classes think that the surest way for their elevation lies in higher education, higher employment and better ways of earning a living. Once they become well placed in the scale of social life they would become respectable and once they become respectable the religious outlook of the orthodox towards them is sure to undergo change, and even if this did not happen it can do no injury to their material interest. Proceeding on these lines the Depressed Classes say that they will not spend their resources in such an empty thing as Temple Entry. There is also another reason why they do not care to fight for it. That argument is the argument of 'self respect'. Not very long ago there used to be boards in club doors and other social resorts maintained by Europeans in India, which said "*Dogs and Indians not allowed*". The Temples of the Hindus carry similar boards today, the only difference is that the boards on the Hindu temples practically say "*All Hindus and all animals including dogs are admitted only Untouchables not admitted*". The situation in both cases is on a parity. But the Hindus never begged for admission in those places from which the Europeans in their arrogance had excluded them. Why should an untouchable beg for admission in a place from which he has been excluded by the arrogance of the Hindus ? This is the reasoning of the Depressed Class man who is interested in his material welfare. He is prepared to say to the Hindus, "To open or not to open your temples is a question for you to consider, and not for me to agitate. If you think, it is bad manners not to respect the sacredness of human personality, open your temples and be a gentleman. If you rather be a Hindu than be gentleman, then shut the doors and damn yourself, for I don't care to come."

> "I found it necessary to put the argument in this form, because I want to disabuse the minds of men like Pandit Madan Mohan Malaviya of their belief that the Depressed Classes are looking forward expectantly for their patronage. The second point of view is the spiritual one. As religiously minded people, do the Depressed

Classes desire temple entry or do they not? That is the question. From the spiritual point of view, they are not indifferent to temple entry as they would be, if the material point of view alone were to prevail. But their final answer must depend upon the reply which Mahatma Gandhi and the Hindus give to the following question:

What is the drive behind this offer of temple entry? Is temple entry to be the final goal of the advancement in the social status of the Depressed Classes in the Hindu fold ? Or is it only the first step and if it is the first step, what is the ultimate goal? Temple entry as a final goal the Depressed Classes can never support. Indeed they will not only reject it, but they would then regard themselves as rejected by Hindu Society and free to find their own destiny elsewhere. On the other hand, if it is only to be a first step in the direction, they may be inclined to support it. The position would then be analogous to what is happening in the politics of India today. All Indians have claimed Dominion Status for India. The actual constitution will fall short of Dominion Status and many Indians will accept it. Why? The answer is that as the goal is defined, it does not matter much if it is to be reached by steps and not in one jump. But if the British had not accepted the goal of Dominion Status, no one would have accepted the partial reforms which many are now prepared to accept. In the same way if Mahatma Gandhi and the reformers were to proclaim what the goal which they set before themselves is for the advancement of the social status of the Depressed Classes in the Hindu fold, it would be easier for the Depressed Classes to define their attitude towards temple entry. The goal of the Depressed Classes might as well be stated here for the information and consideration of all concerned. What the Depressed Classes want is a religion, which will give them equality of social status. To prevent any misunderstanding, I would like to elaborate the point by drawing a distinction between social evils which are the results of secular causes and social evils which are founded upon the doctrines of religion. Social evils can have no justification whatsoever in a civilised society. But nothing can be more odious and vile than that admitted social evils should be sought to be justified on the ground of religion. The Depressed Classes may not be able to overthrow inequities to which they are being subjected. But they have made up their mind not to tolerate a religion that will lend its support to the continuance of these inequities. If the Hindu religion is to be their religion then it must become a religion of Social Equality. The mere amendment of Hindu religious code by the mere inclusion in it of a provision to permit temple entry for all, cannot make it a religion of

Equality of social status. All that it can do is to recognise them as nationals and not aliens, if I may use these terms which have become so familiar in politics. But that cannot mean that they would thereby reach a position where they would be free and equal without being above or below any one else, for the simple reason that the Hindu religion does not recognise the principle of equality of social status; on the other hand fosters inequality by insisting upon grading people as Brahmins, Kashatriyas, Vaishyas and Shudras which now stand towards one another in an ascending scale of hatred and descending scale of contempt. If the Hindu religion is to be a religion of social equality then an amendment of its code to provide temple entry is not enough. What is required is to purge it of the doctrine of Chaturvarna. That is the root cause of all inequality and also the parent of the caste system and untouchability which are merely forms of inequality. Unless it is done not only will the Depressed Classes reject temple entry, they will also reject the Hindu faith. Chaturvarna and the caste system are incompitable with the self respect of the Depressed Classes. So long it continues to be the cardinal doctrine, the Depressed Classes must continue to be looked upon as low. For the Depressed Classes to say that they are Hindus is to admit their inferiority of status by their own mouth. They can call themselves as Hindus only when the theory of Chaturvarna and caste system is abandoned and expunged from the Shastras. Do the Mahatma and the Hindu reformers accept this as their goal and will they show the courage to work for it ? I shall look forward to their pronouncements on this issue as I have stated it with great concern. But whether Mahatma Gandhi and the Hindus are prepared for this or not, let it be known once for all that nothing short of this will satisfy the Depressed Classes and make them accept temple entry. To accept temple entry and be content with it, is to temporize with evil and barter away the sacredness of human personality that dwells in them.

There is however one argument which Mahatma Gandhi and the reforming Hindus may advance against the position I have taken. They may say, "acceptance by the Depressed Classes of Temple entry now, will not prevent them from agitating hereafter for the abolition of Chaturvarna and caste". If that is their goal, I like to meet this argument right at this stage with a view to clinch the issue and clear the road for future developments. My reply is that it is true that my right to agitate for the abolition of Chaturvarna and caste system will not be lost, if I accept Temple Entry now. But the question is on what side will Mahatma Gandhi be at the time when

the question is put. If he will be in the camp of my opponents I must tell him that I cannot be in his camp now. If he will be in my camp, he ought to be in it now".

My friend Dewan Bahadur R. Srinivasan expressed himself almost in the same terms on the question of temple entry. He said:

> "When a Depressed Classes member is permitted to enter into the Caste Hindu temples he would not be taken into any one of the four castes, but treated as man of fifth or the last or the lowest caste, a stigma worse than the one to be called an untouchable. At the same time he would be subjected to so many caste restrictions and humiliations. The Depressed Classes shun the one who enters like that and exclude him as Casteman. The crores of Depressed Classes would not submit to caste restrictions. They will be divided into sections if they do.
>
> Temple entry cannot be forced by law. The village castemen openly or indirectly defy the law. To the village Depressed Classman it would be like a scrap of paper on which word "sugar" was written and placed in his hands for him to taste.
>
> The above facts are placed before the public in time to save confusion and disturbance in the country."

But Mr. Gandhi felt otherwise that securing temple entry to the untouchables was a liability of the Hindus which ought to be liquidated first. Accordingly immediately after the Poona Pact he started a campaign among the Hindus for opening the doors of their temples to the Untouchables.

How far has Mr. Gandhi succeeded in this matter is a question that may legitimately be asked. But it is difficult to know the truth. As a result of the fast, many temples were reported to have been thrown open by the Hindus to the Untouchables. How far this was true and how far it is a part of lying propaganda which the Congressman is so good at it is difficult to say. That many of the temples that were opened as a sequel to the fast were purified and closed to the Untouchables is beyond dispute. Again the opening of a temple may be quite a meaningless act. There are hundreds and thousands of temples in which there is no worship. They are occupied by only donkies. Instances of such temples can be seen at places of pilgrimage such as Nasik and Wai. If such a temple is declared to be open it is not only a meaningless act but it is an insult to the Untouchables. Again a temple may be opened to the Untouchable. But if it is abandoned by the Caste Hindus as a place of worship it cannot be said that it is open in the sense that they are welcomed to it by the Hindus. There is yet another possibility which must be taken into account in arriving at the truth.

A temple may be open to the untouchables in the same sense as the Ritz Hotel in London is open to all. We however know that the Ritz Hotel is not in fact open to all. It is open only to those who can afford. In the same way a temple may be open to the untouchables yet in fact it is open only to those untouchables who can afford to enter. If the cost of temple entry is assault or social boycott then the cost will be prohibitive and the temple though nominally open is really closed. Assault and social boycott are a matter of course with the Hindus and it would not be too much to assume that in some case the Hindus would resort to such means to prohibit the Untouchables who dare to enter a temple which is declared to be open to them. If the case is one like this then it is a fraud.

Which of the two classes of cases are more numerous, it is difficult to say accurately. But a guess may be made on the basis of certain facts. There are two classes of Hindus now in India—the orthodox Hindus who care more for religion than for politics and the Congress Hindus who care more for politics and less for religion. The former who have no political ends to subserve can be honest i.e. true to their convictions however wrong they may be. The latter who have to serve political ends cannot always take an honest view but are prone to adopt dishonest ways. The first method of abandonment though honest brings discredit upon the Hindu community in the eyes of the world and is therefore politically unsuitable. The second method of opening the temple nominally and closing it really by *Hindus* (*This word is inserted by us against the blank space of MS.*—Ed.) is politically highly advantageous. It has the merit of a system which shows to the world that credit is opened and which clandestinely but without the world knowing prevents its being drawn upon by the person in whose favour it is declared to be opened. The Congress Hindus are more numerous than the orthodox Hindus. That being the case I should think that the second classes of cases must be more numerous than the first.

That genuine cases of opening of temples are very few and that most of the published reports of opening of temples is just false propaganda is clear from the fate of the Temple Entry Bill of Mr. Ranga Iyer brought by him in the Central Legislature in 1934. Of that Bill I will speak of at a later occasion.

With this I would have closed this discussion of the subject. But Mr. Gandhi insists that a spiritual awakening has taken place among the Hindus and relies upon the Temple Entry Proclamation of Travancore. I am therefore obliged to deal with this claim.

The success of temple entry cannot be determined by the number of temples opened. It can be determied only by reference to the motive with which it is done. Is the motive spiritual ? That can be the only test.

Now I say that temple entry is not a spiritual act. It is a political manouver.

Is Mr. Gandhi acting from spiritual motive? In appealing to the Hindus Mr. Gandhi said:

> "I have adressed this appeal to you, which proceeds out of my soul's agony. I ask you to share that agony and shame with me and cooperate with me, for I have no other end to serve than to see *Sanatoria Dharma* revivified and lived in its reality in the lives of millions who at present seem to me to deny it."

This soul's agony was born after the Poona Pact. What did Mr. Gandhi think of the Problem of Temple Entry before the Poona Pact? Before the Poona Pact Mr. Gandhi was of different opinion. That opinion was expressed not very long before the Poona Pact and not long before this appeal was addressed to the Hindus from which I have..... It was expressed in Gandhi Shikshan, Vol. II, p. 132. Mr. Gandhi then held the opinion that separate temples should be built for the use of Untouchables.

Mr. Gandhi said:[1]

> "How is it possible that the Antyajas (Untouchables) should have the right to enter all the existing temples? As long as the law of caste and ashram has the chief place in Hindu Religion, to say that every Hindu can enter every temple is a thing that is not possible today."

It is obvious that Temple Entry is not original with him and therefore not spiritual. The agony is caused by the grave and sudden provocation brought about by the demand of the untouchables for separate electorates. Mr. Gandhi was afraid of the principle underlying separate electorates. He felt that this principle may be extended and may ultimately lead to separation and cessation of the Untouchables from the Hindu fold. It was to counter this move that he changed his opinion and started the temple entry move. The motive of Mr. Gandhi is political and there is nothing spiritual about it.

I do not wish this conclusion to rest merely upon this evidence of change of front on the part of Mr. Gandhi. There is abundance of other evidence in support of it.

I will refer first to the Guruvayur Temple Satyagraha which was started by a caste Hindu by name Kellappan to secure entry into the Guruvayur Temple for the Untouchables. A few facts regarding this episode may be interesting.

[1] Quoted from 'What Congress & Gandhi have done to the Untouchables', p. 107 (Not in MS).

The point to note is the attitude that Mr. Gandhi finally adopted in this matter when he was challenged by the leaders of the orthodox Hindus. Mr. Gandhi became ready for a compromise with the orthodox. The terms of the compromise were as follows. I give them in Mr. Gandhi's own words as reported in the papers.[1]

> "During certain hours of the day the Guruvayur Temple should be thrown open to the Harijans and other Hindus, who have no objection to the presence of the Harijans and during certain other hours it should be reserved for those, who have scruples against the entry of the Harijans. There should be no difficulty whatsoever in the acceptance of this suggestion, seeing that in connection with the Krithikai Ekadashi festival in Guruvayur, the Harijans are allowed to enter side by side with the Hindus and then the temple or the idol undergoes purification."

Asked if his suggestion was that the temple might undergo purification daily after the entry of the Harijans, Mr. Gandhi replied:

> "Personally, I am opposed to purification at all. But if that would satisfy the conscience of the objectors I would personally in this case, raise no objection to purification. If purification has any value, then there are so many possibilities of daily defilement from a variety of causes referred to in various texts that there should be a daily purification, whether the Harijans are allowed to enter or not."

This attitude is not spiritual. It is purely commercial. This is almost admitted by Mr. Gandhi. Asked if the compromise suggested by him did not still maintain a distinction between the Untouchables and the Caste Hindus Mr. Gandhi is reported to have said :

> "The Harijans' attitude should be this, 'if there is a person who objects to my presence, I would like to respect his objection so long as he (the objector) does not deprive me of the right that belongs to me and so long as I am permitted to have my legitimate share of the days of offering worship side by side with those, who have no objection to my presence, I would be satisfied'."

I do not know if any self respecting Untouchable would adopt this attitude of Mr. Gandhi. On these terms even dogs and cats are admitted in all temples when there are no human beings present in them. To divide the House of God in time or in space for worship for reconciling the rival claims of two opposing classes is in itself a quaint or grotesque idea. Mr. Gandhi evidently forgot that worshipping in the same temple is quite different from worshipping in common. Temple entry if it is to be spiritual must mean the latter. The former accepts that the presence of one class is repugnant to the other and proceeds to

[1] Times of India, 3rd January 1933.

reconcile the interests of the two. The latter presupposes that there is no repugnance between the two classes and that they accept the common denominator of humanity as being present in both.

This shows that Mr. Gandhi is least motivated by spiritual considerations. He is in a hurry to bring the Untouchables within the Hindu stables so as to prevent their running away.

Another piece of evidence which goes to disprove Mr. Gandhi's claim that he is acting from spiritual consideration is furnished by his conduct with reference to Mr. Ranga Iyer's '*Temple Entry Bill*'. It shows that the soul's agony is only a picturesque phrase and not a fact.

Some history of this Bill is necessary to understand the tragedy which ultimately befell Mr. Ranga Iyer the author of it.

Since the new constitution came into operation two Acts have been passed in two Provinces by the Congress Governments. One in Bombay and another in Madras. There is no substance in the Acts. They do not declare the Temples to be open. They permit the Trustees of the Temples under their management if they desire and as there is nothing to compel the Trustees to do so the Acts are just scraps of paper and nothing more. But the Madras Act has a history which is somewhat puzzling. The Madras Prime Minister who got the Act passed is Mr. Rajagopalachariar. He occupies a very high place in the Congress, so high indeed that he is called Deputy Mahatma. If one can solve the puzzle the solution will reveal the mind of the Author and therefore of Mr. Gandhi who is the living spirit behind all this.

Let me turn to the Travancore Temple Entry. The proclamation of 12th November 1936 issued by the Maharaja opening the Temple open to the Untouchables is a gorgeous document. It reads as follows:

> "Profoundly convinced of the truth and validity of our religion, believing that it is based on divine guidance and on all-comprehending toleration, knowing that in its practice it has throughout the centuries adapted itself to the need of the changing times, solicitous that none of our Hindu subjects should, by reason of birth, caste or community, be denied the consolation and solace of the Hindu faith, we have decided and hereby declare, ordain and command that, subject to such rules and conditions as may be laid down and imposed by us for preserving their proper atmosphere and maintaining their rituals and observances, there should henceforth be no restriction placed on any Hindu by birth or religion on entering or worshipping at temples controlled by us and our Government."

What spirituality underlies this proclamation?

The proclamation was issued by the Maharaja of Travancore in his name. But the real active force behind the scene was the Prime Minister Sir C. P. Ramaswami Iyer. It is his motives that we must understand. In 1933 Sir C. P. R. Iyer was also the Prime Minister of Travancore. In 1933 Mr. Gandhi was fighting to get the Guruvayur Temple opened to all Untouchables. Among the many who took part in the controversy over the issue of Temple entry was Sir C. P. Ramaswami Iyer. No body seems now to remember this fact. But it is important to recall it because it helps us to understand the motives which prompted him to press the Maharaja to issue this proclamation. What attitude did Sir C. P. Ramawasmi Iyer have regarding this issue in 1933? It will be clear from the following statement which he issued to the press[1] :

> "Personally I do not observe caste rules. I realise there are strong, though not very articulate, feelings in this matter in the minds of men who believe that the present system of temple worship and its details are based on divine ordinances. The problem can be permanently solved only by a process of mutual adjustment and by the awakening of religious and social leaders of Hindu society to the realities of the present situation and to the need for preserving the solidarity of the Hindu community.
>
> "Shock tactics will not answer the purpose and direct action will be even more fatal in this sphere than in the political. I have the misfortune to differ from Mr. Gandhi when he says that the problem of temple entry can be divorced from such topics as interdining and I agree with Dr. Ambedkar that the social and economic uplift of the Depressed Classes should be our immediate and urgent programme."

This statement shows that in 1933 spiritual considerations did not move Sir C. P. Ramaswami Iyer. Spiritual considerations have become operative after 1933. Is there any particular reason why these spiritual considerations should have been thought of in 1936?

This qustion can be answered only if one bears in mind the fact that in 1936 there was held in Travancore a Conference of the Yezawa Community to consider the issue of conversion which was raised by me at Yeola in 1935. The Yezawas are an untouchable community spread over Malabar. It is an educated community and economically quite strong. It is also a vocal community and has been carrying on agitation in the state for social, religious and political rights. The Yezawas form a very large community. The cessation of so large a community would

[1] *The statement is reproduced from Dr. Ambedkar's, 'What Congress & Gandhi have done to the Untouchables', p. 318. This was not mentioned in the MS.*—Ed.

be a deathknell to the Hindus and the Conference had made the danger real as well as immediate. It was this which brought about a change in the attitude of Sir C. P. Ramaswami Iyer. The spiritual considerations are just an excuse. They did not form the motives.

How far did this Proclamation change facts and how far it has remained a show? It is not possible to get real facts as they exist in Travancore. In the course of the discussion on the *Malabar Temple Entry Bill* in the Madras Legislative Assembly certain facts relating to Travancore were mentioned by Sir T. Pannirselvam, which if true would show that the whole thing is hollow.

Sir T. Pannirselvam said:

> "One of the arguments advanced by the Premier in support of the measure was that temples in Travancore had been thrown open to the "Untouchables". A Maharaja vested with autocratic powers did so by an order. But how was it working there ? From representations received, he was led to believe that after the first flush of enthusiasm, Harijans had left off going to temples, and people who used to worship previously before Harijans were allowed to enter the temples, had stopped worshipping in temples. He would ask the Government to tell them if the measure was really a success in Travancore."

On the third reading of the Bill, Sir T. Pannirselvam made a statement which must have come as a surprize to many. He said:

> "He wanted to know whether it was a fact that the private temples of the Senior Maharani were excluded from the proclamation. What was the reason for it? Again during the celebration of the marriage of the daughter of the Senior Maharani it was found necessary, so he was told, to perform purificatory ceremony of the temple. If such a purification of temples took place, what happened to the proclamation?"

These facts were not challenged by the Prime Minister. Evidently they cannot be challenged. If they are incontrovertible then the less said about the Malabar Temple Entry proclamation as a spiritual testament the better.

It would not be proper to close this discussion without adverting to the fear which some Untouchables entertain regarding this Temple entry movement. It is just a movement of social reform or is it a strategy ?

The special privileges which the Untouchables have got in the matter of politics, in the matter of education, in the matter of services are founded upon the fact that they are Untouchables. If they cease to be Untouchables their claim to these special privileges could at once be

challenged. If untouchability goes then they would be just poor and backward. But as poor and backward they would not be entitled to any special privileges which they have as untouchables. What is the plan of these protagonists of Temle Entry? Is it just to open temples or aim is ultimately to take away the privileges ? This fear is lurking in the minds of many a thinking Untouchables. That the fear is a real fear is clear from what is happening in Travancore itself. A correspondent of mine who represents the All Travancore Pulayar Cheramar Aykia Maha Sangham writes to me as follows in a letter, dated 24th November 1938. I give below the full text of the letter sent by him to me.

To Camp Mayyanad, 24-11-1938
Dr. Ambedkar, Quilon.
Bombay.

Respected Sir,

I have unaffected pleasure to draw your attention to the following facts for obtaining the valuable advice from you. Being the leader of a Harijan Community of the Travancore State, I think, it is my paramount duty to suggest you definitely all the grievances that the Harijans of this state are enduring.

1. The Temple Entry Proclamation issued by the H. H. The Maharaja is indeed a boon to Harijans; but the Harijans are enjoying all the other social disabilities except the temple entry. The proclamation is a check to the further concessions to us. The Government do not take any step for the amelioration of the Harijans.

2. Among 15 lakhs of Harijans, there are a few graduates, half a dozen undergraduates and 50 school finals and more than two hundred vernacular certificate holders. Though the Government have appointed a Public Service Commission, appointments of the Harijans are very few. All the appointments are given to Savarnas. If a Harijan is appointed it will be for one week or two weeks. According to the rules of the recruitment in Public Service the applicant is allowed to apply only after a year again, while a Savarna will be appointed for a year or more. When the list of the appointments is brought before the assembly, the number of appointments will be equal to the communal representation; but the duration of the post of all the Harijans will be equal to one Savarna. This kind of fraud is associating with the officials. Thus the public service is a common property of the Savarnas. No Harijan is benefitted by it.

3. There was a proclamation from H. H. the Maharaja, a few years ago that three acres of ground should be given to each Harijan to live in; but the Officials are Savarnas who are always unwilling to carry out the proclamation. Even though the Government is willing to grant large extent of ground for pasturing near Towns not a piece of the ground is given to the Harijans. The Harijans are still living in the compounds of the Savarnas and are undergoing manyfold difficulties. Though large extents of ground lay in "Reserve", the applications of the Harijans for granting grounds are not at all regarded with importance or listen to. The most parts of the lands are benefited by the Savarnas.

4. The Government nominates every year of the election of members of the Assembly one member from each Harijan Community. Though they are elected to present the grievances of the Harijans before the Assembly, they are found to be the machinery of the Government viz., the toys of the Savarna officers, who are benefited by them. Thus the grievances of the Harijans cannot be redressed any way.

5. All the Harijans of Travancore are labourers in the fields and compounds. They are the servants of the Savarnas who behave them as beasts—no body to look after or protection—every Harijan gets only 2 chs (one anna) as the wage in the most parts of the State. The social disabilities are the same to them even after the temple entry. The workers in the factories in various parts of the State of Travancore and the Officers of the State are all Savarnas and they are at present agitating for responsible Government. Now the Harijans are demanding jobs in Government and in factories but the agitation in Travancore is a Savarna agitation by which the Savarnas are making arrangements to get rid of Harijans in Public Service and factories. They plead for higher salaries and more privileges. They pay the least care to the Harijan labourers while the people of Travancore are maddened with the agitation of the workers in the factories. The standard of salary of Harijan worker is very low while the standard of a factory worker is thrice the former.

6. Due to starvation and proper means of livelihood the heads of the children of Harijans are heated as a result of which they are likely to fail in school. Before proclamation the duration of concession in high schools was for 6 years, now, it has reduced to three years by which a good number of students stopped their education after their failure.

7. There is a department for the Depressed Classes and the head of which is Mr. C. O. Damodaran (the protector of the Backward Communities). Though every year a big amount is granted

> for the expenditure, at the end of the year, 2/3 of the sum is lapsed by its sagacity. He is used to submit reports to the Government that there is no way of spending the amount. 95 per cent of the sum allotted for the Depressed Class is spent as the salary of the officials who are always Savarna and 5 per cent is benefited. Now the Government is going to make some colonies in three parts of Travancore. The officers are Savarnas. This scheme is, in my opinion, not a success for the Government do not pay greater to it. I regret that Travancore Government spends one anna for the Harijan cause, while Cochin State spends a rupee for the same.

The majority of the subjects of Travancore are now agitating strongly for Responsible Government under an organization "The State Congress". The leaders of this popular organization belong to the four major communities of the State namely, the Nair, Mohamedan, Christian and Ezhava community. The President of the State Congress Mr. Thanu Pillai issued a statement in which he stressed that special concessions would be given to the Depressed Class. All the leaders of the Depressed Class have been waiting for a time to see the attitude of the State Congress. Now we come to understand that there is no reality in the promises of these leaders.

Now I am sure that the leaders have neglected the cause of the Depressed Class. The State Congress was started on the principles of nationalism and now it has become an institution of communalism. Communal spirit is now working among the leaders. In every public speech, statement or article, the leaders mention only these four major communities, while they have no thought on us. I fear, if this is the case of the leaders of the political agitation of Travancore, the situation of the Depressed Class will be more deplorable when the Responsible Government is achieved, for the entire possession of the Government will be then within the clutches of the abovementioned communities and the Depressed Classes' rights and privileges will be devoured by the former. In the meetings of the working committee of the State Congress 2/3 of the time had devoted in discussion concerning the strike of the Alleppey Coir Factories; but nothing was mentioned in the meeting about the Harijan workers who are undergoing manyfold difficulties. The workers in Factories are Savarnas and the agitation for obtaining Responsible Government is a kind of anti Harijan movement. The motive of every leader of the State Congress is to improve the situation (circumstance) of the Savarna. The leaders of the major communities have some mercinary attitude who are going to sacrifice the Depressed Class for their progress.

These are the conditions of the Depressed Class of the State. What are the ways by which we have to establish our rights in the State ? I humbly request you to be good enough to render me your advice at this occasion. I am awaiting for the reply.

Excuse me for the trouble,

Yours faithfully,
Srinarayanswami."

If the plan of Temple Entry is ultimately to deprive the Untouchables of their statutory rights then the movement is not only not spiritual but it is positively mischievous and it would be the duty of all honest people to warn the Untouchables, '*Beware of Gandhi*'.

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CHAPTER 26

A WARNING TO THE UNTOUCHABLES

Revolt and rebellion against the Established order is a natural part of the history of the poor in all countries of the world. A student of their history cannot but be struck by the thought entertained by them, of the way victory would come. In the theological age, the poor lived by the hope that spiritual forces would ultimately make the meek inherit the earth. In the secular age, otherwise called modern times, the poor live by the hope that the forces of historical materialism will automatically rob the strong of their strength and make the weak take their place.

In the light of this psychology, when one begins to think of the Untouchables in their role of rebels against the Hindu Social Order one feels like congratulating them on their realization that neither spiritual forces nor historical forces are going to bring the millenium. They know full well that if the Hindu Social Order is to fall to the ground, it can happen only under two conditions. Firstly, the social order must be subjected to constant fire. Secondly, they can't subject it to constant fire unless they are independent of the Hindus in thought and in action. That is why the Untouchables are insistent upon separate electorates and separate settlements.

The Hindus on the other hand are telling the Untouchables to depend upon the Hindus for their emancipation. The Untouchables are told that the general spread of education will make the Hindus act in a rational manner. The Untouchables are told that the constant preaching of reformers against Untouchability is bound to bring about a moral transformation of the Hindus and the quickening of his conscience. The Untouchables should therefore rely on the good will and sense of duty of the Hindus. No Untouchable believes in this facile proposition. If there are any who do, they are hypocrites who are prepared to agree to whatever the Hindus have to say in order that by their grace they may be put in places reserved for the Untouchables. They are a predatory band of Untouchables who are out to feather their nests by any means open to them.

The Untouchables are not deceived by such false propaganda and false hopes. It is therefore unnecessary to comment on it. At the same time, the propaganda is so alluring that it may mislead the unwary Untouchables into being ensnared by it. A warning to the Untouchables is therefore necessary.

Two agencies are generally relied upon by the social idealists for producing social justice. One is reason, the other is religion.

The rationalists who uphold the mission of reason believe that injustice could be eliminated by the increasing power of intelligence. In the mediaeval age social injustice and superstition were intimately related to each other. It was natural for the rationalists to believe that the elimination of superstition must result in the abolition of injustice. This belief was encouraged by the results. Today it has become the creed of the educationists, philosophers, psychologists and social scientists who believe that universal education and the development of printing and press would result in an ideal society, in which every individual would be so enlightened that there would be no place for social injustice.

History, whether Indian or European, gives no unqualified support to this dogma. In Europe, the old traditions and superstitions which seemed to the eighteenth century to be the very root of injustice, have been eliminated. Yet social injustice has been rampant and has been growing ever and anon. In India itself, the whole Brahmin community is educated, man, woman and child. How many Brahmins are free from their belief in untouchability ? How many have come forward to undertake a crusade against untouchability? How many are prepared to stand by the side of the Untouchables in their fight against injustice? In short, how many are prepared to make the cause of the Untouchables their own cause? The number will be appalingly small.

Why does reason fail to bring about social justice? The answer is that reason works so long as it does not come into conflict with one's vested interest. Where it comes into conflict with vested interests, it fails. Many Hindus have a vested interest in untouchability. That, vested interest may take the shape of feeling of social superiority or it may take the shape of economic exploitation such as forced labour or cheap labour, the fact remains that Hindus have a vested interest in untouchability. It is only natural that that vested interest should not yield to the dictates of reason. The Untouchables should therefore know that there are limits to what reason can do.

The religious moralists who believe in the efficacy of religion urge that the moral insight which religion plants in man whereby it makes him conscious of the sinfulness of his preoccupation with self and

thereby of the duty to do justice to his fellows. Nobody can deny that this is the function of religion and to some extent religion may succeed in this mission. But here again there are limits to what religion can do. Religion can help to produce justice *within a community*. Religion cannot produce justice *between* communities. At any rate, religion has failed to produce justice between Negroes and Whites, in the United States. It has failed to produce justice between Germans and French and between them and the other nations. The call of nation and the call of community has proved more powerful than the call of religion for justice.

The Untouchables should bear in mind two things. Firstly, that it is futile to expect the Hindu religion to perform the mission of bringing about social justice. Such a task may be performed by Islam, Christianity, or Buddhism. The Hindu religion is itself the embodiment of inequity and injustice to the Untouchables. For it, to preach the gospel of justice is to go against its own being. To hope for this is to hope for a miracle. Secondly, assuming that this was a task which Hinduism was fitted to perform, it would be impossible for it to perform. The social barrier between them and the Hindus is much greater than the barrier between the Hindus and their men. Religion, however efficacious it may be within a community or a nation, is quite powerless to break these barriers and (make)* them one whole.

Apart from these agencies of reason and religion the Untouchables are asked to trust the enlightened self-interests of the Hindu privileged classes and the fraternity of the Hindu proletarian.

As to the privileged classes it be wrong to depend upon for anything more than their agreeing to be benevolent despots. They have their own class interests and they cannot be expected to sacrifice them for general interests or universal values. On the other hand, their constant endeavour is to identify their class interests with general interests and to assume that their privileges are the just payments with which society rewards specially useful and meritorious functions. They are a poor company to the Untouchables as the Untouchables have found in their conflict with the Hindus.

For Untouchables to expect to gain help from the Hindu proletariat is also a vain hope. The appeal of the Indian Communists to the Untouchables for solidarity with the Hindu proletariat is no doubt based on the assumption that the proletarian does not desire advantages for himself which he is not willing to share with others. Is this true ? Even in Europe the proletarian are not a uniform class. It is marked by class composition, the higher and the lower. This is reflected in their attitudes towards social change, the higher are

**Inserted.*—Ed.

reformist and the lower are revolutionary. The assumption therefore is not true. So far as India is concerned it is positively false. There is very little for a common front. Socially, there is bound to be antagonism between them. Economically, there cannot be much room for alliance.

What must the Untouchables strive for ? Two things they must strive for is education and spread of knowledge. The power of the privileged classes rests upon lies which are sedulously propagated among the masses. No resistance to power is possible while the sanctioning lies, which justify that power are accepted as valid. While the lie which is the first and the chief line of defence remains unbroken there can be no revolt. Before any injustice, any abuse or oppresssion can be resisted, the lie upon which it is founded must be unmasked, must be clearly recognized for what it is. This can happen only with education.

The second thing they must strive for is power. It must not be forgotten that there is a real conflict of interests between the Hindus and the Untouchables and that while reason may mitigate the conflict it can never obviate the necessity of such a conflict. What makes one interest dominant over another is power. That being so, power is needed to destroy power. There may be the problem of how to make the use of power ethical, but there can be no question that without power on one side it is not possible to destory power on the other side. Power is either economic or political. Military power is no power today. Because it is not free power. The economic power of the working class is the power inherent in the strike. The Untouchables as a part of the working class can have no other economic power. As it is, this power is not adequate for the defence of the interests of the working class. It is maimed by legislation and made subject to injunctions, arbitrations, martial law and use of troops. Much more inadequate is the Untouchables' power to strike.

The Untouchable is therefore under an absolute necessity of acquiring political power as much as possible. Having regard to his increasingly inadequate power in social and economic terms the Untouchable can never acquire too much political power. Whatever degree of political power he acquires, it will always be too little having regard to the vast amount of social, economic and political power of the Hindus.

The Untouchable must remember that his political power, no matter how large, will be of no use if he depends for representation in the Legislature on Hindus whose political life is rested in economic and social interests which are directly opposed to those of the Untouchables.

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BOOK IV

Religious

One of the schemes of Dr. Ambedkar is "The Conversion of the Untouchables". This scheme includes the following chapters:

(1) Hinduism as a Missionary Religion.

(2) Christianizing the Untouchables.

(3) The Condition of the Convert.

(4) The Eternal Verity.

(5) The Untouchables and Their Destiny.

From these essays, Sr. Nos. 2 and 3 have been received from Shri S. S. Rege and Sr. No. 1 has been found in our papers under the title 'Caste and Conversion', which was originally published in the Telagu Samachar Special No. of November 1926. One more typed essay entitled "way from the Hindus", which also deals with religious conversion of the Untouchables, has been found and included in this Book. Rest of the titles mentioned in the above scheme have not been found.—Ed.

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CHAPTER 27

AWAY FROM THE HINDUS

A large majority of Untouchables who have reached a capacity to think out their problem believe that one way to solve the problem of the Untouchables is for them to abandon Hinduism and be converted to some other religion. At a Conference of the Mahars held in Bombay on 31st May 1936 a resolution to this effect was unanimously passed. Although the Conference was a Conference of the Mahars[1], the resolution had the support of a very large body of Untouchables throughout India. No resolution had created such a stir. The Hindu community was shaken to its foundation and curses imprecations and threats were uttered against the Untouchables who were behind this move.

Four principal objections have been urged by the opponents against the conversion of the Untouchables:

(1) What can the Untouchables gain by conversion ? Conversion can make no change in the status of the Untouchables.

(2) All religions are true, all religions are good. To change religion is a futility.

(3) The conversion of the Untouchables is political in its nature.

(4) The conversion of the Untouchables is not genuine as it is not based on faith.

It cannot take much argument to demonstrate that the objections are puerile and inconsequential.

To take the last objection first. History abounds with cases where conversion has taken place without any religious motive. What was the

[1] The Conference was confined to Mahars because the intention was to test the intensity of feeling communitywise and to take soundings from each community.

The typed pages with Sr. Nos. from 279 to 342 have been found in this script which is titled as Chapter XX under the heading 'Away from the Hindus'. The whole script consists of 64 pages.—Ed.

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nature of its conversion of Clovis and his subjects to Christianity ? How did Ethelbert and his Kentish subjects become Christians ? Was there a religious motive which led them to accept the new religion ? Speaking on the nature of conversions to Christianity that had taken place during the middle ages Rev. Reichel says:[1]

> "One after another the nations of Europe are converted to the faith; their conversion is seen always to proceed from above, never from below. Clovis yields to the bishop Remigius and forthwith he is followed by the Baptism of 3,000 Franks. Ethelbert yields to the mission of Augustine and forthwith all Kent follows his example; when his son Eadbald apostatises, the men of Kent apostatise with him. Essex is finally won by the conversion of King Sigebert, who under the influence of another king, Oswy, allows himself to be baptised. Northumberland is temporarily gained by the conversion of its king, Edwin, but falls away as soon as Edwin is dead. It anew accepts the faith, when another king, Oswald, promotes its diffusion. In the conversion of Germany, a bishop, Boniface, plays a prominent part, in close connection with the princes of the country, Charles Martel and Pepin; the latter, in return for his patronage receiving at Soissons the Church's sanction to a violent act of usurpation. Denmark is gained by the conversion of its kings, Herald Krag, Herald Blastand and Canute, Sweden by that of the two Olofs; and Russian, by the conversion of its sovereign, Vladimir. Everywhere Christianity addresses itself first to kings and princes; everywhere the bishops and abbots appear as its only representatives.
>
> Nor was this all, for where a king had once been gained, no obstacle by the Mediaeval missionaries to the immediate indiscriminate baptism of his subjects. Three thousand warriors of Clovis following the example of their king, were at once admitted to the sacred rite; the subjects of Ethelbert were baptised in numbers after the conversion of their prince, without preparation, and with hardly any instruction. The Germans only were less hasty in following the example of others. In Russia, so great was the number of those who crowded to be baptised after the baptism of Vladimir, that the sacrament had to be administered to hundreds at a time."

History records cases where conversion has taken place as a result of compulsion or deceit.

Today religion has become a piece of ancestral property. It passes from father to son so does inheritance. What genuineness is there in such cases of conversion ? The conversion of the Untouchables if it did take place would take after full deliberation of the value of religion

[1] The Sea of Rome, pp. 143-45.

and the virtue of the different religions. How can such a conversion be said to be not a genuine conversion ? On the other hand, it would be the first case in history of genuine conversion. It is therefore difficult to understand why the genuineness of the conversion of the Untouchables should be doubted by anybody.

The third objection is an ill-considered objection. What political gain will accrue to the Untouchables from their conversion has been defined by nobody. If there is a political gain, nobody has proved that it is a direct inducement to conversion.

The opponents of conversion do not even seem to know that a distinction has to be made between a gain being a direct inducement to conversion and its being only an incidental advantage. This distinction cannot be said to be a distinction without a difference. Conversion may result in a political gain to the Untouchables. It is only where a gain is a direct inducement that conversion could be condemned as immoral or criminal. Unless therefore the opponents of conversion prove that the conversion desired by the Untouchables is for political gain and for nothing else their accusation is baseless. If political gain is only an incidental gain then there is nothing criminal in conversion. The fact, however, is that conversion can bring no new political gain to the Untouchables. Under the constitutional law of India every religious community has got the right to separate political safeguards. The Untouchables in their present condition enjoy political rights similar to those which are enjoyed by the Muslims and the Christians. If they change their faith the change is not to bring into existence political rights which did not exist before. If they do not change they will retain the political rights which they have. Political gain has no connection with conversion. The charge is a wild charge made without understanding.

The second objection rests on the premise that all religions teach the same thing. It is from the premise that a conclusion is drawn that since all religions teach the same thing there is no reason to prefer one religion to other. It may be conceded that all religions agree in holding that the meaning of life is to be found in the pursuit of 'good'. Up to this point the validity of the premise may be conceded. But when the premise goes beyond and asserts that because of this there is no reason to prefer one religion to another it becomes a false premise.

Religions may be alike in that they all teach that the meaning of life is to be found in the pursuit of 'good'. But religions are not alike in their answers to the question 'What is good ?' In this they certainly differ. One religion holds that brotherhood is good, another caste and untouchability is good.

There is another respect in which all religions are not alike. Besides being an authority which defines what is good, religion is a motive force for the promotion and spread of the 'good'. Are all religions agreed in the means and methods they advocate for the promotion and spread of good ? As pointed out by Prof. Tiele[1], religion is:

> "One of the mightiest motors in the history of mankind, which formed as well as tore asunder nations, united as well as divided empires, which sanctioned the most atrocious and barbarous deeds, the most libinous customs, inspired the most admirable acts of heroism, self renunciation, and devotion, which occasioned the most sanguinary wars, rebellions and persecutions, as well as brought about the freedom, happiness and peace of nations—at one time a partisan of tyranny, at another breaking its chains, now calling into existence and fostering a new and brilliant civilization, then the deadly foe to progress, science and art."

Apart from these oscillations there are permanent differences in the methods of promoting good as they conceive it. Are there not religions which advocate violence ? Are there not religions which advocate nonviolence ? Given these facts how can it be said that all religions are the same and there is no reason to prefer one to the other.

In raising the second objection the Hindu is merely trying to avoid an examination of Hinduism on its merits. It is an extraordinary thing that in the controversy over conversion not a single Hindu has had the courage to challenge the Untouchables to say what is wrong with Hinduism. The Hindu is merely taking shelter under the attitude generated by the science of comparative religion. The science of comparative religion has broken down the arrogant claims of all revealed religions that they alone are true and all others which are not the results of revelation are false. That revelation was too arbitrary, too capricious test to be accepted for distinguishing a true religion from a false was undoubtedly a great service which the science of comparative religion has rendered to the cause of religion. But it must be said to the discredit of that science that it has created the general impression that all religions are good and there is no use and purpose in discriminating them.

The first objection is the only objection which is worthy of serious consideration. The objection proceeds on the assumption that religion is a purely personal matter between man and God. It is supernatural. It has nothing to do with social. The argument is no doubt sensible. But its foundations are quite false. At any rate, it is a one-sided view of religion and that too based on aspects of religion which are purely historical and not fundamental.

[1] Quoted by Crowley, 'Tree of life', p. 5.

To understand the function and purposes of religion it is necessary to separate religion from theology. The primary things in religion are the usages, practices and observances, rites and rituals. Theology is secondary. Its object is merely to nationalize them. As stated by Prof. Robertson Smith:[1]

> "Ritual and practical usages were, strictly speaking the sum total of ancient religions. Religion in primitive times was not a system of belief with practical applications; it was a body of fixed traditional practices, to which every member of society conformed as a matter of courage, Men would not be men if they agreed to do certain things without having a reason for their action; but in ancient religion the reason was not first formulated as a doctrine and then expressed in practice, but conversely, practice preceded doctrinal theory."

Equally necessary it is not to think of religion as though it was super-natural. To overlook the fact that the primary content of religion is social is to make nonsense of religion. The Savage society was concerned with life and the preservation of life and it is these life processes which constitute the substance and source of the religion of the Savage society. So great was the concern of the Savage society for life and the preservation of life that it made them the basis of its religion. So central were the life processes in the religion of the Savage society that every thing which affected them became part of its religion. The ceremonies of the Savage society were not only concerned with the events of birth, attaining of manhood, puberty, marriage, sickness, death and war but they were also concerned with food. Among the pastoral peoples the flocks and herds are sacred. Among agricultural peoples seedtime and harvest are marked by ceremonies performed with some reference to the growth and the preservation of the crops. Likewise drought, pestilence, and other strange irregular phenomena of nature occasion the performance of ceremonials. As pointed out by Prof. Crawley, the religion of the savage begins and ends with the affirmation and consecration of life.

In life and preservation of life therefore consists the religion of the savage. What is true of the religion of the savage is true of all religions wherever they are found for the simple reason that constitutes the essence of religion. It is true that in the present day society with its theological refinements this essence of religion has become hidden from view and is even forgotten. But that life and the preservation of life constitute the essence of religion even in the present day society is beyond question. This is well illustrated by Prof. Crawley, when

[1] The Religion of the Semites, p.

speaking of the religious life of man in the present day society he says how:

> "man's religion does not enter into his professional or social hours, his scientific or artistic moments; practically its chief claims are settled on one day in the week from which ordinary worldly concerns are excluded. In fact, his life is in two parts; but the moiety with which religion is concerned is the elemental. Serious thinking on ultimate questions of life and death is, roughly speaking, the essence of his Sabbath; add to this the habit of prayer, the giving of thanks at meals, and the subconscious feeling that birth and death, continuation and marriage are rightly solemnized by religion, while business and pleasure may possibly be consecrated, but only metaphorically or by an overflow of religious feeling."

Students of the origin and history of religion when they began their study of the Savage society became so much absorbed in the magic, the tabu and totem and the rites and ceremonies connected therewith they found in the Savage society that they not only overlooked the social processes of the savage as the primary content of religion but they failed even to appreciate the proper function of magic and other supernatural processes. This was a great mistake and has cost all concerned in religion very dearly. For it is responsible for the grave misconception about religion* which prevails today among most people. Nothing can be a greater error than to explain religion as having arisen in magic or being concerned only in magic for magic sake. It is true that Savage society practises magic, believes in tabu and worships the totem. But it is wrong to suppose that these constitute the religion or form the source of religion. To take such a view is to elevate what is incidental to the position of the principal. The principal thing in the religion of the savage are the elemental facts of human existence such as life, death, birth, marriage, etc., magic, tabu and totem are not the ends. They are only the means. The end is life and the preservation of life. Magic, tabu, etc. are resorted to by the Savage society not for their own sake but to conserve life and to exercise evil influence from doing harm to life. Why should such occasions as harvest and famine be accompanied by religious ceremonies ? Why are magic, tabu and totem of such importance to the savage ? The only answer is that they all affect the preservation of life. The process of life and its preservation form the main purpose. Life and preservation of life is the core and centre of the religion of the Savage society. That today God has taken the place of magic, does not alter the fact that God's place in religion is only as a means for the

* *The word 'religion' inserted here is not in the original MS.*—Ed.

conservation of life and that the end of religion is the conservation and consecration of social life.

The point to which it is necessary to draw particular attention and to which the foregoing discussion lends full support is that it is an error to look upon religion as a matter which is individual, private and personal. Indeed as will be seen from what follows, religion becomes a source of positive mischief if not danger when it remains individual, private and personal. Equally mistaken is the view that religion is the flowering of special religious instinct inherent in the nature of the individual. The correct view is that religion like language is social for the reason that either is essential for social life and the individual has to have it because without it he cannot participate in the life of the society.

If religion is social in the sense that it primarily concerns society, it would be natural to ask what is the purpose and function of religion. The best statement regarding the purpose of religion which I have come across is that of Prof. Charles A Ellwood[1]. According to him:

> "religion projects the essential values of human personality and of human society into the universe as a whole. It inevitably arises as soon as man tries to take valuing attitude toward his universe, no matter how small and mean that universe may appear to him. Like all the distinctive things in human, social and mental life, it of course, rests upon the higher intellectual powers of man. Man is the only religious animal, because through his powers of abstract thought and reasoning, he alone is self-conscious in the full sense of that term. Hence he alone is able to project his values into the universe and finds necessity of so doing. Given, in other words, the intellectual powers of man, the mind at once seeks to universalise its values as well as its ideas. Just as rationalizing processes give man a world of universal ideas, so religious processes give man a world of universal values. The religious processes are, indeed, nothing but the rationalizing processes at work upon man's impulses and emotions rather than upon his precepts. What the reason does for ideas, religion does, then, for the feelings. It universalizes them; and in universalizing them, it brings them into harmony with the whole of reality."

Religion emphasizes, universalizes social values and brings them to the mind of the individual who is required to recognize them in all his acts in order that he may function as an approved member of the society. But the purpose of religion is more than this. It spiritualizes them. As pointed out by Prof. Ellwood :[2]

[1] "The Religious Reconstruction", pp. 39-40.

[2] *Ibid.,* pp. 45-46.

"Now these mental and social values, with which religion deals, men call 'spiritual'. It is something which emphasizes as we may say, spiritual values, that is, the values connected especially with the personal and social life. It projects these values, as we have seen, into the universal reality. It gives man a social and moral conception of the universe, rather than a merely mechanical one as a theatre of the play of blind, purposeless forces. While religion is not primarily animistic philosophy, as has often been said, nevertheless it does project mind, spirit, life, into all things. Even the most primitive religion did this; for in 'primitive dynamism' there was a feeling of the psychic, in such concepts as *mana* or *manitou*. They were closely connected with persons and proceeded from person, or things which were viewed in an essentially personal way. Religion, therefore, is a belief in the reality of spiritual values, and projects them, as we have said, into the whole universe. All religion—even so-called atheistic religions—emphasizes the spiritual, believes in its dominance, and looks to its ultimate triumph."

The function of religion in society is equally clear. According to Prof. Ellwood[1] the function of religion:

"is to act as an agency of social control, that is, of the group controlling the life of the individual, for what is believed to be the good of the larger life of the group. Very early, as we have seen, any beliefs and practices which gave expression to personal feelings or values of which the group did not approve were branded as 'black magic' or baleful superstitions; and if this had not been done it is evident that the unity of the life of the group might have become seriously impaired. Thus the almost necessarily social character of religion stands revealed. We cannot have such a thing as purely personal or individual religion which is not at the same time social. For we live a social life and the welfare of the group is, after all, the chief matter of concern."

Dealing with the same question in another place, he says[2]:

"the function of religion is the same as the function of Law and Government. It is a means by which society exercises its control over the conduct of the individual in order to maintain the social order. It may not be used consciously as a method of social control over the individual. Nonetheless the fact is that religion acts as a means of social control. As compared to religion, Government and Law are relatively inadequate means of social control. The control through law and order does not go deep enough to secure the

[1] "The Religious Reconstruction", pp. 42-43.

[2] "Society in its Psychological aspects" (1913), pp. 356-57.

stability of the social order. The religious sanction, on account of its being supernatural has been on the other hand the most effective means of social control, far more effective than law and Government have been or can be. Without the support of religion, law and Government are bound to remain a very inadequate means of social control. Religion is the most powerful force of social gravitation without which it would be impossible to hold the social order in its orbit."

The foregoing discussion, although it was undertaken to show that religion is a social fact, that religion has a specific social purpose and a definite social function it was intended to prove that it was only proper that a person if he was required to accept a religion should have the right to ask how well it has served the purposes which belong to religion. This is the reason why Lord Balfour was justified in putting some very straight-questions to the positivists before he could accept Positivism to be superior to Christianity. He asked in quite trenchent language.

"what has (positivism) to say to the more obscure multitude who are absorbed, and well nigh overwhelmed, in the constant struggle with daily needs and narrow cares; who have but little leisure or inclination to consider the precise role they are called on to play in the great drama of 'humanity' and who might in any case be puzzled to discover its interest or its importance ? Can it assure them that there is no human being so insignificant as not to be of infinite worth in the eyes of Him who created the Heavens, or so feeble but that his action may have consequences of infinite moment long after this material system shall have crumbled into nothingness ? Does it offer consolation to those who are bereaved, strength to the weak, forgiveness to the sinful, rest to those who are weary and heavy laden ?"

The Untouchables can very well ask the protagonists of Hinduism the very questions which Lord Balfour asked the Positivists. Nay the Untouchables can ask many more. They can ask: Does Hinduism recognize their worth as human beings ? Does it stand for their equality ? Does it extend to them the benefit of liberty ? Does it at least help to forge the bond of fraternity between them and the Hindus ? Does it teach the Hindus that the Untouchables are their kindred ? Does it say to the Hindus it is a sin to treat the Untouchables as being neither man nor beast ? Does it tell the Hindus to be righteous to the Untouchables ? Does it preach to the Hindus to be just and humane to them ? Does it inculcate upon the Hindus the virtue of being friendly to them ? Does it tell the Hindus to love them, to respect them and to do

them no wrong. In fine, does Hinduism universalize the value of life without distinction ?

No Hindu can dare to give an affirmative answer to any of these questions ? On the contrary the wrongs to which the Untouchables are subjected by the Hindus are acts which are sanctioned by the Hindu religion. They are done in the name of Hinduism and are justified in the name of Hinduism. The spirit and tradition which makes lawful the lawlessness of the Hindus towards the Untouchables is founded and supported by the teachings of Hinduism. How can the Hindus ask the Untouchables accept Hinduism and stay in Hinduism ? Why should the Untouchables adhere to Hinduism which is solely responsible for their degradation ? How can the Untouchables stay in Hinduism ? Untouchability is the lowest depth to which the degradation of a human being can be carried. To be poor is bad but not so bad as to be an Untouchable. The poor can be proud. The Untouchable cannot be. To be reckoned low is bad but it is not so bad as to be an Untouchable. The low can rise above his status. An Untouchable cannot. To be suffering is bad but not so bad as to be an Untouchable. They shall some day be comforted. An Untouchable cannot hope for this. To have to be meek is bad but it is not so bad as to be an Untouchable. The meek if they do not inherit the earth may at least be strong. The Untouchables cannot hope for that.

In Hinduism there is no hope for the Untouchables. But this is not the only reason why the Untouchables wish to quit Hinduism. There is another reason which makes it imperative for them to quit Hinduism. Untouchability is a part of Hinduism. Even those who for the sake of posing as enlightened reformers deny that untouchability is part of Hinduism are to observe untouchability. For a Hindu to believe in Hinduism does not matter. It enhances his sense of superiority by the reason of this consciousness that there are millions of Untouchables below him. But what does it mean for an Untouchable to say that he believes in Hinduism ? It means that he accepts that he is an Untouchable and that he is an Untouchable is the result of Divine dispensation. For Hinduism is divine dispensation. An Untouchable may not cut the throat of a Hindu. But he cannot be expected to give an admission that he is an Untouchable and rightly so. Which Untouchable is there with soul so dead as to give such an admission by adhering to Hinduism. That Hinduism is inconsistent with the self-respect and honour of the Untouchables is the strongest ground which justifies the conversion of the Untouchables to another and nobler faith.

The opponents of conversion are determined not to be satisfied even if the logic of conversion was irrefutable. They will insist upon asking further questions. There is one question which they are always eager to ask largely because they think it is formidable and unanswerable; what will the Untouchables gain materially by changing their faith ? The question is not at all formidable. It is simple to answer. It is not the intention of the Untouchables to make conversion an opportunity for economic gain. The Untouchables it is true will not gain wealth by conversion. This is however no loss because while they remain as Hindus they are doomed to be poor. Politically the Untouchables will lose the political rights that are given to the Untouchables. This is, however, no real loss. Because they will be entitled to the benefit of the political rights reserved for the community which they would join through conversion. Politically there is neither gain nor loss. Socially, the Untouchables will gain absolutely and immensely because by conversion the Untouchables will be members of a community whose religion has universalized and equalized all values of life. Such a blessing is unthinkable for them while they are in the Hindu fold. The answer is complete. But by reason of its brevity it is not likely to give satisfaction to the opponents of conversion. The Untouchables need three things. First thing they need is to end their social isolation. The second thing they need is to end their inferiority complex. Will conversion meet their needs ? The opponents of conversion have a feeling that the supporters of conversion have no case. That is why they keep on raising questions. The case in favour of conversion is stronger than the strongest case. Only one does wish to spend long arguments to prove what is so obvious. But since it is necessary to put an end to all doubt, I am prepared to pursue the matter. Let me take each point separately.

How can they end their social isolation ? The one and the only way to end their social isolation is for the Untouchables to establish kinship with and get themselves incorporated into another community which is free from the spirit of caste. The answer is quite simple and yet not many will readily accept its validity. The reason is, very few people realize the value and significance of kinship. Nevertheless its value and significance are very great. Kinship and what it implies has been described by Prof. Robertson Smith in the following terms[1] :

> "A kin was a group of persons whose lives were so bound up together, in what must be called a physical unity, that they could be treated as parts of one common life. The members of one kindred looked on themselves as one living whole, a single animated mass of

[1] "Religion of the Semites", p. 273.

blood, flesh and bones, of which no member could be touched without all the members suffering."

The matter can be looked at from the point of view both of the individual as well as from that of the group. From the point of the group, kinship calls for a feeling that one is first and foremost a member of the group and not merely an individual. From the point of view of the individual, the advantages of his kinship with the group are no less and no different than those which accrue to a member of the family by reason of his membership of the family. Family life is characterized by parental tenderness. As pointed out by Prof. McDougall[1] :

> "From this emotion (parental tenderness) and its impulse to cherish and protect, spring generosity, gratitude, love, pity, true benevolence, and altruistic conduct of every kind; in it they have their main and absolutely essential root, without which they would not be."

Community as distinguished from society is only an enlarged family. As such it is characterised by all the virtues which are found in a family and which have been so well described by Prof. McDougall. Inside the community there is no discrimination among those who are recognized as kindred bound by kinship. The community recognizes that every one within it is entitled to all the rights equally with others. As Professors Dewey and Tufts have pointed out :

> "A State may allow a citizen of another country to own land, to sue in its courts, and will usually give him a certain amount of protection, but the first-named rights are apt to be limited, and it is only a few years since Chief Justice Taney's dictum stated the existing legal theory of the United States to be that the Negro 'had no rights which the white man was bound to respect'. Even where legal theory does not recognize race or other distinctions, it is often hard in practice for an alien to get justice. In primitive clan or family groups this principle is in full force. Justice is a privilege which falls to a man as belonging to some group—not otherwise. The member of the clan or the household or the village community has a claim, but the Stranger has nothing standing. It may be treated kindly, as a guest, but he cannot demand 'justice' at the hands of any group but his own. In this conception of rights within the group we have the prototype of modern civil law. The dealing of clan with clan is a matter of war or negotiation, not of law; and the clanless man is an 'outlaw' in fact as well as in name."

[1] "Introduction to Social Psychology", p.

Kinship makes the community take responsibility for vindicating the wrong done to a member. Blood-flood which objectively appears to be a savage method of avenging a wrong done to a member is subjectively speaking a manifestation of sympathetic resentment by the members of the community for a wrong done to their fellow. This sympathetic resentment is a compound of tender emotion and anger such as those which issue out of parental tenderness when it comes face to face with a wrong done to a child. It is kinship which generates, this sympathetic resentment, this compound of tender emotion and anger. This is by no means a small value to an individual. In the words of Prof. McDougall :

> "This intimate alliance between tender emotion and anger is of great importance for the social life of man, and the right understanding of it is fundamental for a true theory of the moral sentiments; for the anger evoked in this way is the germ of all moral indignation and on moral indignation justice and the greater part of public law are in the main founded."

It is kinship which generates generosity and invokes its moral indignation which is necessary to redress a wrong. Kinship is the will to enlist the support of the kindred community to meet the tyrannies and oppressions by the Hindus which today the Untouchables have to bear single-handed and alone. Kinship with another community is the best insurance which the Untouchable can effect against Hindu tyranny and Hindu oppression.

Anyone who takes into account the foregoing exposition of what kinship means and does, should have no difficulty in accepting the proposition that to end their isolation the Untouchables must join another community which does not recognise caste.

Kinship is the antithesis of isolation. For the Untouchables to establish kinship with another community is merely another name for ending their present state of isolation. Their isolation will never end so long as they remain Hindus. As Hindus, their isolation hits them from front as well as from behind. Notwithstanding their being Hindus, they are isolated from the Muslims and the Christians because as Hindus they are aliens to all—Hindus as well as Non-Hindus. This isolation can end only in one way and in no other way. That way is for the Untouchables to join some non-Hindu community and thereby become its kith and kin.

That this is not a meaningless move will be admitted by all those who know the disadvantages of isolation and the advantages of kinship. What are the consequences of isolation ? Isolation means social segregation, social humiliation, social discrimination and social

injustice. Isolation means denial of protection, denial of justice, denial of opportunity. Isolation means want of sympathy, want of fellowship and want of consideration. Nay, isolation means positive hatred and antipathy from the Hindus. By having kinship with other community on the other hand, the Untouchables will have within that community equal position, equal protection and equal justice, will be able to draw upon its sympathy, its good-will.

This I venture to say is a complete answer to the question raised by the opponents. It shows what the Untouchables can gain by conversion. It is however desirable to carry the matter further and dispose of another question which has not been raised so far by the opponents of conversion but may be raised. The question is : why is conversion necessary to establish kinship ?

The answer to this question will reveal itself if it is borne in mind that there is a difference between a community and a society and between kinship and citizenship.

A community in the strict sense of the word is a body of kindred. A society is a collection of many communities or of different bodies of kindreds. The bond which holds a community together is called kinship while the bond which holds a society together is called citizenship.

The means of acquiring citizenship in a society are quite different from the means of acquiring kinship in a community. Citizenship is acquired by what is called naturalization. The condition precedent for citizenship is the acceptance of political allegiance to the State. The conditions precedent for acquiring kinship are quite different. At one stage in evolution of man the condition precedent for adoption into the kindred was unity of blood. For the kindred is a body of persons who conceive themselves as spring from one ancestor and as having in their veins one blood. It does not matter whether each group has actually and in fact spring from a single ancestor. As a matter of fact, a group did admit a stranger into the kindred though he did not spring from the same ancestor. It is interesting to note that there was a rule that if a stranger intermarried with a group for seven generations, he became a member of the kindred. The point is that, fiction though it be, admission into the kindred required as a condition precedent unity of blood.

At a later stage of Man's Evolution, common religion in place of unity of blood became a condition precedent to kinship. In this connection it is necessary to bear in mind the important fact pointed out by Prof. Robertson Smith[1] that in a community the social body is

[1] The Religion of the Semites. Lecture II. Prof. Smith makes this distinction as though it was a distinction between ancient society and modern society. It is of wider importance. In reality, it is a distinction which marks off a community from a society.

made not of men only, but of gods and men and therefore any stranger who wants to enter a community and forge the bond of kinship can do so only by accepting the God or Gods of the community. The Statement in the Old Testament such as those of Naomi to Ruth saying : "Thy sister is gone back into her people and unto her gods" and Ruth's reply "Thy people shall be my people, and thy God my God" or the calling of the Mobites the sons and daughters of Chemosh are all evidences which show that the bond of kinship in a community is the consequence of their allegiance to a common religion. Without common religion there can be no kinship.

Where people are waiting to find faults in the argument in favour of conversion it is better to leave no ground for fault-finders to create doubt or misunderstanding. It might therefore be well to explain how and in what manner religion is able to forge the bond of kinship. The answer is simple. It does it through eating and drinking together.[1] The Hindus in defending their caste system ridicule the plea for inter-dining. They ask : What is there in inter-dining ? The answer from a sociological point of view is that is everything in it. Kinship is a social covenant of brotherhood. Like all convenants it required to be signed, sealed and delivered before it can become binding. The mode of signing, sealing and delivery is the mode prescribed by religion and that mode is the participation in a sacrificial meal. As said by Prof. Smith[2] :

> "What is the ultimate nature of the fellowship which is constituted or declared when men eat and drink together ? In our complicated society fellowship has many types and many degrees; men may be united by bonds of duty and honour for certain purposes, and stand quite apart in all other things. Even in ancient times—for example, in the Old Testament—we find the sacrament of a common meal introduced to seal engagements of various kinds. But in every case the engagement is absolute and inviolable; it constitutes what in the language of ethics is called a duty of perfect obligation. Now in the most primitive society there is only one kind of fellowship which is absolute and inviolable. To the primitive man all other, men fall under two classes, those to whom his life is sacred and those to whom it is not sacred. The former are his fellows; the latter are strangers and potential foemen, with whom it is absurd to think of forming any inviolable tie unless they are first brought into the circle within which each man's life is sacred to all his comrades."

If for the Untouchables mere citizenship is not enough to put an end to their isolation and the troubles which ensue therefrom, if kinship is

[1] On this subject see Smith, The Religion of the Semites, pp. 270-71. [2] *Ibid.,* pp. 271-72.

the only cure then there is no other way except to embrace the religion of the community whose kinship they seek.

The argument so far advanced was directed to show how conversion can end the problem of the isolation of the Untouchables. There remain two other questions to be considered. One is, will conversion remove their inferiority complex ? One cannot of course dogmatize. But one can have no hesitation in answering the question in the affirmative. The inferiority complex of the Untouchables is the result of their isolation, discrimination and the unfriendliness of the social environment. It is these which have created a feeling of helplessness which are responsible for the inferiority complex which cost him the power of self-assertion.

Can religion alter this psychology of the Untouchables ? The psychologists are of opinion that religion can effect this cure provided it is a religion of the right type; provided that the religion approaches the individual not as a degraded worthless outcastes but as a fellow human being; provided religion gives him an atmosphere in which he will find that there are possibilities for feeling himself the equal of every other human being there is no reason why conversion to such a religion by the Untouchables should not remove their age-long pessimism which is responsible for their inferiority complex. As pointed out by Prof. Ellwood :[1]

> "Religion is primarily a valuing attitude, universalizing the will and the emotions, rather than the ideas of man. It thus harmonizes men, on the side of will and emotion, with his world. Hence, it is the fee of pessimism and despair. It encourages hope, and gives confidence in the battle of life, to the savage as well as to the civilized man. It does so, as we have said, because it braces vital feeling; and psychologists tell us that the reason why it braces vital feeling is because it is an adaptive process in which all of the lower centres of life are brought to reinforce the higher centres. The universalization of values means, in other words, in psycho-physical terms, that the lower nerve centres pour their energies into the higher nerve centres, thus harmonizing and bringing to a maximum of vital efficiency life on its inner side. It is thus that religion taps new levels of energy, for meeting the crisis of life, while at the same time it brings about a deeper harmony between the inner and the outer."

Will conversion raise the general social status of the Untouchables ? It is difficult to see how there can be two opinions on this question.

The oft-quoted answer given by Shakespeare to the question what is

[1] The Reconstruction of Religion, pp. 40-41.

in a name hardly shows sufficient understanding of the problem of a name. A rose called by another name would smell as sweet would be true if names served no purpose and if people instead of depending upon names took the trouble of examining each case and formed their opinions and attitudes about it on the basis of their examination. Unfortunately, names serve a very important purpose. They play a great part in social economy. Names are symbols. Each name represents association of certain ideas and notions about a certain object. It is a label. From the label people know what it is. It saves them the trouble of examining each case individually and determine for themselves whether the ideas and notions commonly associated with the object are true. People in society have to deal with so many objects that it would be impossible for them to examine each case. They must go by the name that is why all advertisers are keen in finding a good name. If the name is not attractive the article does not go down with the people.

The name 'Untouchable' is a bad name. It repels, forbids, and stinks. The social attitude of the Hindu towards the Untouchable is determined by the very name 'Untouchable'. There is a fixed attitude towards 'Untouchables' which is determined by the stink which is imbedded in the name 'Untouchable'. People have no mind to go into the individual merits of each Untouchable no matter how meritorious he is. All untouchables realize this. There is a general attempt to call themselves by some name other than the 'Untouchables'. The Chamars call themselves Ravidas or Jatavas. The Doms call themselves Shilpakars. The Pariahs call themselves Adi-Dravidas, the Madigas call themselves Arundhatyas, the Mahars call themselves Chokhamela or Somavamshi and the Bhangis call themselves Balmikis. All of them if away from their localities would call themselves Christians.

The Untouchables know that if they call themselves Untouchables they will at once draw the Hindu out and expose themselves to his wrath and his prejudice. That is why they give themselves other names which may be likened to the process of undergoing protective discolouration.

It is not seldom that this discolouration completely fails to serve its purpose. For to be a Hindu is for Hindus not an ultimate social category. The ultimate social category is caste, nay sub-caste if there is a sub-caste. When the Hindus meet 'May I know who are you' is a question sure to be asked. To this question 'I am a Hindu' will not be a satisfactory answer. It will certainly not be accepted as a final answer. The inquiry is bound to be further pursued. The answer

'Hindu' is bound to be followed by another; 'What caste ?'. The answer to that is bound to be followed by question : "What sub-caste ?" It is only when the questioner reaches the ultimate social category which is either caste or sub-caste that he will stop his questionings.

The Untouchable who adopts the new name is a protective discolouration finds that the new name does not help and that in the course of relentless questionings he is, so to say, run down to earth and made to disclose that he is an Untouchable. The concealment makes him the victim of greater anger than his original voluntary disclosure would have done.

From this discussion two things are clear. One is that the low status of the Untouchables is bound upon with a stinking name. Unless the name is changed there is no possibility of a rise in their social status. The other is that a change of name within Hinduism will not do. The Hindu will not fail to penetrate through such a name and make the Untouchable and confer himself as an Untouchable.

The name matters and matters a great deal. For, the name can make a revolution in the status of the Untouchables. But the name must be the name of a community outside Hinduism and beyond its power of spoliation and degradation. Such name can be the property of the Untouchable only if they undergo religious conversion. A conversion by change of name within Hinduism is a clandestine conversion which can be of no avail.

This discussion on conversion may appear to be somewhat airy. It is bound to be so. It cannot become material unless it is known which religion the Untouchables choose to accept. For what particular advantage would flow from conversion would depend upon the religion selected and the social position of the followers of that religion. One religion may give them all the three benefits, another only two and a third may result in conferring upon them only one of the advantages of conversion. What religion the Untouchables should choose is not the subject matter of this Chapter. The subject matter of this Chapter is whether conversion can solve the problem of untouchability. The answer to that qustion is emphatically in the affirmative.

The force of the argument, of course, rests on a view of religion which is somewhat different from the ordinary view according to which religion is concerned with man's relation to God and all that it means. According to this view, religion exists not for the saving of

souls but for the preservation of society and the welfare of the individual. It is only those who accept the former view of religion that find it difficult to understand how conversion can solve the problem of untouchability. Those who accept the view of religion adopted in this Chapter will have no difficulty in accepting the soundness of the conclusion.

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CHAPTER 28
CASTE AND CONVERSION[1]

The instinct of self-preservation is responsible for the present upheaval in the Hindu Community. There was a time when the elite of the society had no fear about its preservation. Their argument was that the Hindu community was one of the oldest communities that has withstood the onslaught of many adverse forces and therefore there must be some native strength and stamina in its culture and civilization as to make it survive. They were therefore firm in their belief that their community was destined ever to survive. Recent events seem to have shaken this belief. In the Hindu-Muslim riots that have taken place all over the country in recent times it has been found that a small band of Muslims can beat the Hindus and beat them badly. The elite of the Hindus are therefore reflecting afresh upon the question whether such a kind of survival in the struggle for existence is of any value. The proud Hindu who always harped upon the fact of survival as a proof of his fitness to survive never stopped to think that survival was of many types and not all are of equal value. One can survive by marching against the enemy and conquering him. Or one can survive by beating a retreat and hiding oneself in a position of safety. In either case there would be survival. But certainly the value of the two survivals is measures apart. What is important is not the fact of survival but the plane of survival ? Survive the Hindus may, but whether as free men or slaves is the issue. But the matter seems so hopeless that granting that they manage to survive as slaves it does not seem to be altogether certain that they can survive as *Hindus*. For they are not only beaten by the Muslims in the *physical struggle* but they seem also to be beaten in the *cultural struggle*. There is in recent days a regular campaign conducted vigorously by the Muslims for the spread of Islamic culture, and by their conversion movement, it is alleged, they have made vast additions to their numerical strength by winning over members of the Hindu faith. Fortunately for the Muslims there is a large mass of non-descript population numbering about seven crores which is classed as Hindus but which has no particular affinity to the

[1] Originally published in the 'Telugu Samachar Special Number', Nov. 1926.

Hindu faith and whose position is made so intolerable by that faith that they can be easily induced to embrace Islam. Some of these are going over to Islam and yet more may go.

This is sufficient to cause alarm among the elite of the Hindus. If with a superiority of numbers the Hindus are unable to face the Muslims what would be their fate if their following was depleted by conversions to Islam ? The Hindus feel that they must save their people from being lost to them and their culture. Herein lies the origin of the *Shudhi Movement* or the movement to reclaim people to the Hindu faith.

Some people of the orthodox type are opposed to this movement on the ground that Hindu religion was never a proselytising religion and that Hindu must be so by birth. There is something to be said in favour of this view. From the commencement of time to which memory or tradition can reach back, proselytism has never been the practising creed of the Hindu faith. Prof. Max Muller, the great German Savant and Oriental Scholar in an address delivered by him in the name of the Westminster Abbey on the 3rd of December 1873 Day of Intercession for Missions, emphatically declared that the Hindu Religion was a non-missionary religion. The orthodoxy which refuses to believe in expediency may therefore feel well grounded in its opposition to Shudhi, as a practice directly opposed to the most fundamental tenets of the Hindu faith. But there are other authorities of equally good repute to support the promoters of the Shudhi movement, for it is their opinion that the Hindu Religion has been and can be a missionary religion. Prof. Jolly in an article '*DIE AUSBREITUNG DER INDISCHEN FULTUR',* gives a graphic description of the means and methods adopted by the ancient Hindu Rulers and Priests to spread the Hindu Religion among the aborigines of the country. The late Sir Alfred Lyall who wrote in reply to Prof. Max Muller also sought to prove that the Hindu religion was a missionary religion. The probability of the case seems to be definitely in favour of Jolly and Lyall. For unless we suppose that the Hindu Religion did in some degree do the work of proselytization, it is not possible to account for its spread over a vast continent and inhabited by diverse races which were in possession of a distinct culture of their own. Besides, the prevalence of certain *YAJNAS* and *YAGAS* cannot be explained except on the hypothesis that there were ceremonies for the Shudhi of the Vratya. We may therefore safely conclude that in ancient times the Hindu religion was a missionary religion. But that owing to some reason it ceased to be so long back in its historical course.

The question that I wish to consider is why did the Hindu religion cease to be a missionary religion. There may be various explanations for this, and I propose to offer my own explanation for what it is worth. Aristotle has said that man is a social being. Whatever be the cogency of the, reasons of Aristotle in support of his statement this much is true that it is impossible for any one to begin life as an individualist in the sense of radically separating himself from his social fellows. The social bond is established and rooted in the very growth of self-consciousness. Each individual's apprehension of his own personal self and its interest involves the recognition of others and their interests; and his pursuit of one type of purposes, generous or selfish, is in so far the pursuit of the other also. The social relation is in all cases intrinsic to the life, interests, and purposes of the individual; he feels and apprehends, the vitality of social relations in all the situations of his life. In short, life without society is no more possible for him than it is for a fish out of water.

Given this fact it follows that before a society can make converts, it must see to it that its constitution provides for aliens being made its members and allowed to participate in its social life. It must be used to make no difference between individuals born in it and individuals brought into it. It must be open to receive him in the one case as in the other and allow him to enter into its life and thus make it possible for him to live and thrive as a member of that society. If there is no such provision on conversion of an alien the question would at once arise where to place the convert. If there is no place for the convert there can be no invitation for conversion nor can there be an acceptance of it.

Is there any place in the Hindu society for a convert to the Hindu faith ? Now the organisation of the Hindu society is characterized by the existence bf castes. Each caste is endogamous and lives by antogony. In other words it only allows individuals born in it to its membership and does not allow any one from outside being brought into it. The Hindu Society being a federation of castes and each caste being self-enclosed there is no place for the convert for no caste will admit him : The answer to the question why the Hindu Religion ceased to be a missionary religion is to be found in the fact that it developed the caste system. Caste is incompatible with conversion. So long as mass conversion was possible, the Hindu Society could convert for the converts were large enough to form a new caste which could provide the elements of a social life from among themselves. But when mass conversion's were no more and only individual converts could be had, the Hindu Religion had necessarily to cease to be missionary for its social organisation could make no room for the incoming convert.

I have not propounded this question as to why the Hindu Religion ceased to be missionary simply to find an opportunity for obtaining credit for originality of thought by offering a novel explanation. I have propounded the question and given an answer to it because I feel that both have a very important bearing upon the Shudhi movement. Much as I sympathise with the promoters of that movement, I must say that they have not analysed the difficulties in the way of the success of their movement. The motive behind the Shudhi movement is to increase the strength of the Hindu Society by increasing its numbers. Now a society is strong not because its numbers are great but because it is solid in its mass. Instances are not wanting where a solid organised band of fanatics have routed a large army of disorganised crusaders; Even in the Hindu-Muslim riots it has been proved that the Hindus are beaten not only where they are weak in numbers, but they are beaten by the Muslims even where the Hindus preponderate. The case of Moplahs is in point. This alone ought to show that the Hindus suffer not from want of numbers but from want of solidarity. To increase solidarity of the Hindu Society one must tackle the forces which have brought about its disintegration. My fear is that mere Shudhi, instead of integrating the Hindu Society, will cause greater disintegration and will annoy the Muslim Community without any gain to the Hindus. In a society composed of castes, Shudhi brings in a person who can find no home and who is therefore bound to lead an isolated and separate existence with no attachment or loyalty to any one in particular. Even if Shudhi were to bring into the Hindu fold a mass like the Malkana catch of Shradhanand, it will only add one more caste to the existing number. Now the greater the castes the greater the isolation and the greater the weakness of the Hindu society. If the Hindu society desires to survive it must think not of adding to its numbers but increasing its solidarity and that means the abolition of caste. The abolition of castes is the real Sanghatan of the Hindus and when Sanghatan is achieved by the abolishing of castes, Shudhi will be unnecessary and if practised, will be gainful of real strength. With the castes in existence, it is impossible and if practised would be harmful to the real Sanghatan and solidarity of the Hindus. But somehow the most revolutionary and ardent reformer of the Hindu society shies at the idea of abolition of the caste and advocates such puerile measures as the reconversion of the converted Hindu, the changing of the diet and the starting of Akhadas. Some day it will dawn upon the Hindus that they cannot save their society and also preserve their caste. It is to be hoped that that day is not far off.

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CHAPTER 29

CHRISTIANIZING THE UNTOUCHABLES

I. Growth of Christianity in India. II. Time and money spent in Missionary effort. III. Reasons for slow growth.

I

How old is Christianity in India ? What progress has it made among the people of India ? These are questions which no one who is interested in the Untouchables can fail to ask. The two questions are so intimately connected that the endeavour for the spread of Christianity would be hopeless if there were not in India that vast body of untouchables who, by their peculiar circumstances, are most ready to respond to the social message of Christianity.

The following figures will give some idea of the population of Indian Christians as compared with other communities in India according to the Census of 1931.

INDIA AND BURMA

Population by Religion	1891 Census	1921 Census	1931 Census	Increase# Decrease—
Hindu		216,734,586	239,195,140	#10.4
Muslims		68,735,233	77,677,545	#13
Buddhist		11,571,268	12,786,806	#10.5
Sikh		3,238,803	4,335,771	#33.9
Primitive Religions		9,774,611	8,280,347	— 15.3
Christian		4,754,064	6,296,763	#32.5
Jain		1,178,596	1,252,105	# 6.2
Zoroastrian		101,778	109,752	# 7.8
Jews		21,778	24,141	#10.9
Unreturned		18,004	2,860,187	. . . .
	Total . .	316,128,721	352,818,557	#10.6

It is true that during the 1921 and 1931 Christianity has shown a great increase. From the point of growth Sikhism takes the first place. Christianity comes second and Islam another proselytizing religion comes third. The difference between the first and the second is so small that the second place occupied by Christianity may be taken to be as good as first. Again the difference between the second and the third place occupied by Islam is so enormous that Christians may well be proud of their having greatly outdistanced so serious a rival.

With all this the fact remains that this figure of 6,296,763 is out of a total of 352,818,557. This means that the Christian population in India is about 1.7 p.c. of the total.

II

In how many years and after what expenditure ? As to expenditure it is not possible to give any accurate figures. Mr. George Smith in his book on "The Conversion of India" published in 1893 gives statistics which serve to give some idea of the resources spent by Christian Nations for Missionary work in heathen countries. This is what he says :

> "We do not take into account their efforts, vigorous and necessary, especially in the lands of Asia and North Africa occupied by the Eastern Churches for whom Americans do much, nor any labours for Christians by Christians of a purer faith and life. Leaving out of account also the many wives of missionaries who are represented statistically in their husbands, Rev. J. Vahl, President of the Danish Missionary Society, gives us these results. We accept them as the most accurately compiled, and as almost too cautiously estimated where estimate is unavoidable. In Turkey and Egypt only work among the Musalmans is reckoned.

	1890	1891
Income (English Money)	£2,412,938	£2,749,340
Missionaries	4,652	5,094
Missionaries unmarried ladies	2,118	2,445
Native Ministers	3,424	3,730
Other Native helpers	36,405	40,438
Communicants	966,856	1,168,560

> We abstain from estimating in detail the results for 1892, as they are about to appear, and still less for the year 1893, but experts can do this for themselves. This only we would say, that the number of

> native communicants added in those two years has been very large, especially in India. Allowing for that, we should place them now at 1,300,000 which gives a native Christian community of 5,200,000 gathered out of all non-Catholic lands.
>
> Dean Vahl's statistics are drawn from the reports of 304 mission societies and agencies in 1891, beginning with Cromwell's New England Company, for America, in 1649. On the following page the details are summarised from seventeen lands of Reformed Christendom. The amount raised in 1891 by the 160 Mission Churches and Societies of the British Empire was £ 1,659,830 and by the 57 of the United States of America £786,992. Together the two great English speaking peoples spent £2,446,822 on the evangelisation of the non-Christian world. The balance 302,518 was contributed by Germany and Switzerland, Netherlands, Denmark, France, Norway, Sweden, Finland and in Asia."

It is not possible to give any idea of the resources now utilized in the cause because they are not published. But we have sufficient data to know how many years it has taken to produce these 6 millions of converts.

Of the first missionary to India who came and sowed there the seed of Christianity there is no record. It is believed that Christianity in India is of apostolic origin and it is suggested that the apostle Thomas was the founder of it. The apostolic origin of Christianity is only a legend notwithstanding the existence of what is called St. Thomas's Mount near Madras which is said to be the burial place of the Apostle. There is no credible evidence to show that the Gospel was even preached in India during the first Century. There is some evidence to show that in the second century the Gospel had reached the ears of the dwellers on the Southern Indian Coast, among the pearl fishers of Ceylon and the cultivators on the coasts of Malabar and Coromondel. This news when brought back by the Egyptian Mariners spread among the Christians of Alexandria. Alexandria was the first to send a Christian Missionary to India, whose name is recorded in history. He was Pantoenus, a Greek stoic who had become a Christian and was appointed by Demetrius, the bishop of Alexandria as the principal and sole catechist of the school of the Catechumens, which had been established for the instruction of the heathen in the facts and doctrines of Christianity. At some time between the years 180 and 190 the Bishop of Alexandria received an Appeal from the Christians in India to send them a Missionary and Pantoenus was accordingly sent. How long he was in India, how far inland he travelled and what work he actually did, there is no record to show. All that is known is that he

went back to Alexandria, and took charge of his school and continued to be its principal till 211 A.D.

Little is known of the progress of the Gospel on Indian soil through the third century. But there is this fact worthy of notice. It is this that when the Council of Nicaca was held in 325 A.D. after the conversion of the Emperor Constantine Johannes, one of the Assembled prelates described himself as "Metropolitan of Persian and of the Great India". This fact seems to indicate that there was at that time a Christian Church of some bulk and significance planted on the Indian Coast. On the other hand this probably implied little more than an episcopal claim to what had always, as in the Book of Esther, been considered a province of the Persian Empire.

The scene shifts from Alexandria to Antioch and from the beginning of the third to the end of the fifth century. It is Antioch which took the burden of Christian enterprize upon its own shoulder.

The sixth century was the last peaceful year for Christian propaganda. This seems to mark the end of one epoch. Then followed the rise of the Saracens who carried the Koran and Sword of Mahammad all over Western Asia and Northern Africa, then threatened Europe itself up to Vienna and from Spain into the heart of France. The result was that all the Christian people were distracted and their Missionary effort was held up for several centuries.

The voyage of Vasco de Gama in the year 1497 to India marks the beginning of a new epoch in the history of Christian Missionary effort in India and the most serious and determined effort commenced with the arrival of the great Missionary Francis Xavier in the year 1542. The Portuguese were the first European power in the East and the earliest efforts of modern times in the direction of Christianizing the natives of India were made under their auspices. The conversions effected under the auspices of the Portuguese were of course conversions to the Roman Catholic faith and were carried out by Roman Catholic Missions.

They were not, however, left long without rivals. The Protestants soon came into the field. The earliest Protestant propaganda was that of the Lutherans who established themselves in Tranquebar in 1706 under the patronage of the King of Denmark. The able and devoted Schwartz, who laboured in Trichinopoly and Tanjore throughout the second half of the 18th Century was a member of this mission, which has since, to a great extent, been taken over by the Society for the propagation of the Gospel.

Next came the Baptist Mission under Carey who landed in Calcutta in 1793. Last came the Anglican Church which entered the Missionary

field in 1813 and since then the expansion of Missionary enterprize was rapid and continuous.

Thus Christian propaganda has had therefore a long run in India. It had had four centuries before the rise of the Saracens who caused a break in the Mission Activity. Again after subsidence of the Saracens it has had nearly four centuries. This total of six millions is the fruit gathered in eight centuries. Obviously this is a very depressing result. It depressed Francis Xavier. It even depressed Abbe Dubois who, writing in 1823 some three hundred years after Xavier, declared that to convert Hindus to Christianity was a forlorn hope. He was then criticized by the more optimistic of Christian Missionaries. But the fact remains that at the end of this period there are only about 6 million Christians out of a total population of about 358 millions. This is a very slow growth indeed and the question is, what are the causes of this slow growth.

III

It seems to me that there are three reasons which have impeded the growth of Christianity.

The first of these reasons is the bad morals of the early European settlers in India particularly Englishmen who were sent to India by the East India Company. Of the character of the men who were sent out to India Mr. Kaye, an Appologist of the Company and also of its servants speaks in the following terms in his "Christianity in India":

"Doubtless there were some honest, decent men from the middle classes amongst them . . . .. But many, it appears from contemporary writers, were Society's hard bargains—youngsters, perhaps, of good family, to which they were a disgrace, and from the bosom of which therefore they were to be cast out, in the hope that there would be no prodigals return from the 'Great Indies'. It was not to be expected that men who had disgraced themselves at home would lead more respectable lives abroad.

* * *

"There were, in truth, no outward motives to preserve morality of conduct, or even decency of demeanour; so from the moment of their landing upon the shore of India, the first settlers cast off all these bonds which had restrained them in their native villages; they regarded themselves as privileged beings—privileged to violate all the obligations of religion and morality and to outrage all the

decencies of life. They who went thither were often desperate adventurers, whom England, in the emphatic language of the Scripture, had spud out; men who sought those golden sands of the East to repair their broken fortunes; to bury in oblivion a sullied name; or to bring, with lawless hand from the weak and unsuspecting, wealth which they had not the character or capacity to obtain by industry at home. They cheated; they gambled; they drank; they revelled in all kinds of debauchery. Associates in vice, linked together by a common bond of rapacity, they still often pursued one another with desperate malice, and, few though they were in numbers, among them there was no fellowship, except a fellowship of crime."

"All this was against the new comer; and so, whilst the depraved met with no inducement to reform the pure but rarely escaped corruption. Whether they were there initiated, or perpetrated in destructive error, equally may they be regarded as the victims of circumstance .....

How bad were the morals and behaviour of the early Christians can be gathered from the following instances quoted by Mr. Kaye.

"The Deputy-Governor of Bombay was in 1669 charged as under :

That he hath on the Sabbath day hindered the performance of public duty to God Almighty at the accustomary hour, continuing in drinking of health; detaining others with him against their wills; and whilst he drank, in false devotions upon his knees, a health devoted to the Union, in the time appointed for the service belonging to the Lord's day, the unhappy sequel showed it to be but the projection of a further disunion.

"That to the great scandal of the inhabitants of the island, of all the neighbours round about, both popists and others that are idolators, in dishonour of the sobriety of the Protestant religion, he hath made frequent and heavy drinking meetings, continuing some times till two or three of the clock in the morning, to the neglecting of the service of God in the morning prayers, and the service of the Company in the meantime had stood still while he slept, thus perverting and converting to an ill private use, those refreshment intended for the factory in general."

On these charges he was found guilty.

In the factories of the East India Company there was enough of internecine strife and the factors of the Company committed scandalous outrages in general defiance both of the laws of God and the decencies of man. They fought grievously among themselves; blows following words; and the highest persons in the settlement settling an example of pugnacity with their inferiors under the potent influence of drink.

The report of the following incident is extracted from the records of the Company's factory at Surat[1]:

> "We send your honours our consultation books from the 21st of August 1695 to 31st December 1696, in which does appear a conspiracy against the President's life, and a design to murder the guards, because he would have opposed it. How far Messrs. Vauxe and Upphill were concerned, we leave to your honours to judge by this and depositions before mentioned. There is strong presumption that it was intended first that the President should be stabbed and it was prevented much through the vigilence of Ephraim Bendall; when hopes of that failed by the guards being doubled, it seems poison was agreed on, as by the deposition of Edmund clerk and all bound to secrecy upon an horrid imprecation of damnation to the discoverer, whom the rest were to fall upon and cut off."

In the same document is recorded the complaint of Mr. Charles Peachey against the President of the Council at Surat—

> "I have received from you (i.e. the President) two cuts on my head, the one very long and deep, the other a slight thing in comparison to that. Then a great blow on my left arm, which has enflamed the shoulder, and deprived me (at present), of the use of that limb; on my right side a blow on my ribs just beneath the pap, which is a stoppage to my breath, and makes me incapable of helping myself; on my left hip another, nothing inferior to the first; but above all a cut on the brow of my eye."

Such was the state of morality among the early English Settlers who came down to India. It is enough to observe that these settlers managed to work through the first eighty years of the seventeenth century without building a Church. Things did not improve in the 18th Century. Of the state of morality among Englishmen in India during the 18th Century this is what Mr. Kaye has to say—

> "Of the state of Anglo Indian Society during the protracted Administration of Warren Hastings, nothing indeed can be said in praise ..... those who ought to have set good example, did grievous wrong to Christianity by the lawlessness of their lives ..... Hastings took another man's wife with his consent; Francis did the same without it ..... It was scarcely to be expected that, with such examples before them, the less prominent members of society would be conspicuous for morality and decorum. In truth, it must be acknowledged that the Christianity of the English in India was, at this time, in a sadly depressed state. Men drank hard and gamed high, concubinage with the women of the country was the rule

[1] Quoted by Kaye, Christianity in India, p. 106.

rather than the exception. It was no uncommon thing for English gentlemen to keep populous zenanas. There was no dearth of exciting amusement in those days. Balls, masquerades, races and theatrical entertainments, enlivened the settlements, especially in the cold weather; and the mild excitement of duelling varied the pleasures of the season. Men lived, for the most part, short lives and were resolute that they should be merry ones."

* * *

The drunkenness, indeed, was general and obstrusive. It was one of the besetting infirmities—the fashionable vices—of the period……. At the large Presidency towns—especially at Calcutta—public entertainments were not frequent. Ball suppers, in those days, were little less than orgies. Dancing was impossible after them, and fighting commonly took its place. If a public party went off without a duel or two, it was a circumstance as rare as it was happy. There was a famous club in those days, called Selby's Club, at which the gentlemen of Calcutta were wont to drink as high as they gamed, and which some times saw drunken bets of 1,000 gold mohurs laid about the merest trifles. Card parties often sat all through the night, and if the night chanced to be a Saturday, all through the next day.

* * *

Honourable marriage was the exceptional state ……. The Court of Directors of the East India Company ……. were engaged in the good work of reforming the morals of their settlements; and thinking that the means of forming respectable marriages would be an important auxiliary, they sent out not only a supply of the raw material of soldiers' wives, but some better articles also, in the shape of what they called gentle women, for the use of such of their merchants and factors as might be matrimonially inclined. The venture, however, was not a successful one. The few who married made out indifferent wives, whilst they who did not marry,—and the demand was by no means brisk,—were, to say the least of it, in an equivocal position. For a time they were supported at the public expense, but they received only sufficient to keep them from starving, and co it happened naturally enough that the poor creatures betook themselves to vicious courses, and sold such charms as they had, if only to purchase strong drink, to which they became immoderately addicted, with the wages of their prostitution.

> The scandal soon became open and notorious; and the President and Council at Surat wrote to the Deputy Governor and Council at Bombay, saying : "Whereas you give us notice that some of the women are grown scandalous to our native religion and Government, we require you in the Honourable Company's name to give them all fair warning that they do apply themselves to a more sober and Christian conversation : otherwise the sentence is that they shall be deprived totally of their liberty to go abroad, and fed with bread and water, till they are embarked on board ship for England."[1]

How bad were the morals and behaviour of the early Christians can be gathered from the three following instances which are taken from contemporary records.

Captain Williamson in his 'Indian Vade Mecum' published about the year 1809 says—

> "I have known various instances of two ladies being conjointly domesticated, and one of an elderly military character who solaced himself with no less than *sixteen* of all sorts and sizes. Being interrogated by a friend as to what he did with such a member, "Oh", replied he, 'I give them little rice, and let them run about'. This same gentleman when paying his addresses to an elegant young woman lately arrived from Europe, but who was informed by the lady at whose house she was residing, of the state of affairs, the description closed with 'Pray, my dear, how should you like to share a sixteenth of Major ?"

Such was the disorderliness and immorality among Englishmen in India. No wonder that the Indians marvelled whether the British acknowledged any God and believed in any system of morality. When asked what he thought of Christianity and Christians an Indian is reported to have said in his broken English—"Christian religion, devil religion; Christian much drunk; Christian much do wrong; much beat, much abuse others"—and who can say that this judgment was contrary to facts ?

It is true that England herself was not at the relevant time over burdened with morality. The English people at home were but little distinguished for the purity of their lives and there was a small chance of British virtue dwarfed and dwindled at home, expending on foreign soil. As observed by Mr. Kaye[2] "The courtly licentiousness of the Restoration had polluted the whole land. The stamp of Whitehall was upon the currency of our daily lives; and it went out upon our adventurers in the Company's ships, and was not, we may be sure, to be easily effaced in a heathen land". Whatever be the excuse for this immorality of Englishmen in the 17th and 18th Century the fact

[1] Kaye, Christianity in India, p. 106. [2] *Ibid.,* p. 44.

remains that it was enough to bring Christianity into disrepute, and make its spread extremely difficult.

The second impediment in the progress of Christianity in India was the struggle between the Catholic and Non-catholic Missions for supremacy in the field of proselytization.

The entry of the Catholic Church in the field of the spread of Christianity in India began in the year 1541 with the arrival of Francis Xavier. He was the first Missionary of the new Society of Jesus formed to support the authority of the Pope. Before the Catholic Church entered this field there existed in India particularly in the South a large Christian population which belonged to the Syrian Church. These Syrian Christians, long seated on the coast of Malabar, traced their paternity to the Apostle Thomas, who it is said "went through Syria and Cilicia conforming the Churches". They looked to Syria as their spiritual home. They aknowledged the supremacy of the Patriarch of Babylon. Of Rome and the Pope they knew nothing. During the rise of the Papacy, the Mahomedan power, which had overrun the intervening countries, had closed the gates of India against the nations of the West. This had saved the Syrian Churches in India from the Roman Catholic Church. As to the question whether the Christianity of the Catholic Church was the true form of Christianity or whether the Christianity of the Syrian Church was the true form I am not concerned here. But the facts remain that the Portuguese who represented the Catholic Church in India were scandalized at the appearance of the Syrian Churches which they declared to be heathen temples scarcely disguised. The Syrian Christians shrank with dismay from the defiling touch of the Roman Catholics of Portugal and proclaimed themselves Christians and not idolators. The other is that the Malabar Christians had never been subject to Roman supremacy and never subscribed to the Roman doctrine.

The elements of a conflict between the two Churches were thus present and the inquisition only gave an occasion for the conflagration.

The inquisitors of Goa discovered that they were heretics and like a wolf on the fold, down came the delegates of the Pope upon the Syrian Churches. How great was the conflict is told by Mr. Kaye in his volume already referred to.

The first Syrian prelate who was brought into antagonism with Rome, expiated his want of courage and sincerity in the dungeons of the Inquisition. The second shared the same fate. A third, whose sufferings are more worth of commiseration, died after much trial and tribulation in his diocese, denying the Pope's supremacy to the last. The churches were now without a Bishop, at a time when they more

than ever needed prelatical countenance and support; for Rome was about to put forth a mighty hand and a stretched-out arm. Don Alexis de Menezes was appointed Archbishop of Goa. It was his mission less to make new converts than to reduce old ones to subjection; and he flung himself into the work of persecution with an amount of zeal and heroism that must have greatly endeared him to Rome. Impatient of the slow success of his agents, he determined to take the staff into his own hand. Moving down to the South, with an imposing military force, he summoned the Syrian Churhes to submit themselves to his authority. The Churhes were under an Archdeacon, who, sensible of the danger that impended over them, determined to temporize, but at the same time to show that he was prepared to resist. He waited on the Archbishop. An escort of three thousand resolute men who accompanied him on his visit to Menezes, were with difficulty restrained, on the first slight and delusive sign of violence, from rushing on their opponents and proving their burning zeal in defence of their religion. It was not a time for Menezes to push the claims of the Romish Church. But no fear of resistance could divert him from his purpose; and he openly denounced the Patriarch of Babylon as a pestilent schismatic, and declared it a heresy to acknowledge his supremacy. He then issued a decree forbidding all persons to acknowledge any other supremacy than that of the Roman Pontiff, or to make any mention of the Syrian Patriarch in the services of their Church; and, this done, he publicly excommunicated the acknowledged head of the Syrian Churches, and called upon the startled Archdeacon to sign the writ of excommunication. Frightened and confused, the wretched man put his name to the apostate document; and it was publicly affixed to the gates of the church.

This intolerable insult on the one hand—this wretched compromise on the other—roused the fury of the people against the Archbishop, and against their own ecclesiastical chief. Hard was the task before him, when the latter went forth to appease the excited multitude. They would have made one desperate effort to sweep the Portuguese intruders from their polluted shores; but the Archdeacon pleaded with them for forbearance; apologised for his own weakness; urged that dissimulation would be more serviceable than revenge; promised, in spite of what he had done, to defend their religion; and exhorted them to be firm in their resistance of Papal aggression. With a shout of assent, they swore that they would never bow their necks to the yoke, and prepared themselves for the continuance of the struggle.

But Menezes was a man of too many resources to be worsted in such a conflict. His energy and perseverance were irresistible; his craft was

too deep to fathom. When one weapon of attack failed, he tried another. Fraud took the place of violence; money took the place of arms. He bribed those whom he could not bully, and appealed to the imaginations of men when he could not work upon their fears. And, little by little, he succeeded. First one Church fell, and then another. Dangers and difficulties beset them. Often had he to encounter violent resistence, and often did he beat it down. When the strength of the Syrian Christians was too great for him, he called in the aid of the native princes. The unhappy Archdeacon, weary of resistance and threatened with excommunication, at last made submission to the Roman Prelate. Menezes issued a decree for a synod; and, on the 20th June 1599, the Churches assembled at Diamper. The first session passed quietly over, but not without much secret murmuring. The second, at which the decrees were read, was interrupted at that trying point of the ceremony where, having enunciated the Confession of Faith, the Archbishop renounced and anathematized the Patriarch of Babylon. The discontent of the Syrians here broke out openly; they protested against the necessity of a confession of Faith, and urged that such a confession would imply that they were not Christians before the assembling of the Synod. But Menezes allayed their apprehensions and removed their doubts, by publicly making the confession in the name of himself and the Eastern Churches. One of the Syrian priests, who acted as interpreter, then read the confession in the Malabar language, and the assembled multitude repeated it after him, word for word, on their knees. And so the Syrian Christians bowed their necks to the yoke of Rome.

Resolute to improve the advantages he had gained, Menezes did not suffer himself to subside into inactivity, and to bask in the sunshine of his past triumphs. Whether it was religious zeal or temporal ambition that moved him, he did not relax from his labours; but feeling that it was not enough to place the yoke upon the neck of the Syrian Christians, he endeavoured, by all means, to keep it there. The Churches yielded sullen submission; but there were quick-witted, keen-sighted men among them, who, as the seventeenth century began to dawn upon the world, looked hopefully into the future, feeling assured that they could discern even then unmistakable evidences of the waning glories of the Portuguese in the East. There was hope then for the Syrian churches. The persecutions of Menezes were very grievous—for he separated priests from their wives; excommunicated, on trifling grounds, members of the churches; and destroyed all the old Syriac records which contained proofs of the early purity of their faith.

The irreparable barbarism of this last act was not to be forgotten or forgiven; but, in the midst of all other sufferings, there was consolation in the thought, that this tyranny was but for a time. "Sixty years of servitude and hypocrisy," writes Gibbon, "were patiently endured, but as soon as the Portuguese empire was shaken by the courage and industry of the Dutch, the Nestorians asserted with vigour and effect the religion of their fathers. The Jesuits were incapable of defending the power they had abused. The arms of forty thousand Christians were pointed against their falling tyrants; and the Indian Archdeacon assumed the character of Bishop till a fresh supply of Episcopal gifts and Syriac missionaries could be obtained from the Patriarch of Babylon". Such briefly narrated, were the results of the oppression of Menezes. In the course of six months that ambitious and unscrupulous prelate reduced the Syrian church to bondage, and for sixty years they wore the galling chains of Rome. But Menezes trusted in his own strength; he came as an earthly conqueror, and his reliance was on the arm of temporal authority. "His example," writes Mr. Hough, "should be regarded as a beacon to warn future Christian missionaries from the rock on which he foundered. Without faith and godliness nothing can ensure a church's prosperity. Failing in these, the prelate's designs, magnificent as they were deemed, soon came to nothing; and it deserves special remark, as an instructive interposition of Divine Providence, that the decline of the Portuguese interest in India commenced at the very period when he flattered himself that he had laid the foundation of its permanency."

There was no such open conflict between the Catholic Church and the Protestant Missionaries. There was however sufficient rivalry between them to prevent cooperation and conceited activity the lack of which also prevented a rapid growth of Christianity.

The third reason which is responsible for the slow growth of Christianity was the wrong approach made by the Christian Missionaries in charge of Christian propaganda. The early Christian Missionary started his campaign by inviting public disputations with learned Brahmins on the comparative merits of the Christian and the Hindu religions. This was a strange way of going about his task. But there was a plan behind it. The Christian Missionary felt that his task of converting the masses would be easy of achievement if he succeeded in converting the Brahmin and the higher classes of Hindus. For they and the Brahmins held sway over the masses. And the easiest way of converting the Brahmin was to defeat in disputation and to show him that his religion was an error. The Christian Missionary wanted to get at the Brahmin. Nothing can explain why the Missionaries started so

many schools, colleges, hospitals etc., except this namely the Christian Missionary wanted to establish a contact with the Brahmin. That the Christian Missionary has been deceived is now realized by many. The Brahmin and the higher classes have taken full advantage of the institutions maintained by the Christian Missions. But hardly any one of them has given any thought to the religion which brought these institutions into existence.

There is nothing strange in this. The pursuit of the Brahmin and the higher classes of Hindus by the Christian Missionaries was doomed to fail. There would be no common ground for the disputation between Hinduism and Christianity and where there is a common ground the Hindu could always beat the Christian.

That there could be no common ground for disputation between Hindus and Christians is due to the fact that the two have a totally different attitude to the relations of theology to philosophy. As has been well observed by Mr. Burn,[1]

> "The Educated Hindu, when he considers religious questions, refuses to separate theology from philosophy and demands what shall appear to him a reasonable cosmogony. It has been shown in dealing with Hinduism that its prevailing tendency is pantheistic, and although for at least two thousand years sects have constantly been forming which asserted the duality of God and Spirit, there has always been a tendency to relapse into pantheism, and to regard the present world as an illusion produced by *Maya*. The average Christian however gets on with very little philosophy and regards that as a rule as more speculative than essential to his religious beliefs. The methods of thought which a man has been brought up to regard, inevitably affect the conclusions at which he arrives, and it appears to me that this forms one of the reasons why to the majority of educated Hindus the idea of accepting Christianity is incredible. To take a single concrete example, the ordinary educated Hindu laughs at the belief that God created the Universe out of nothing. He may believe in a creation, but he also postulates the necessity for both a material cause, *matter* and an efficient cause, the *creator*. Where his belief is purely pantheistic, he also has no regard for historical evidences. A further difficulty on a fundamental point is caused by the belief in transmigration, which is based on the idea that a man must work out his own salvation and thus conflicts entirely with the belief in Divine atonement."

Thus the Hindu speaks in terms of philosophy and the Christian speaks in terms of theology. There is thus no common ground for evaluation, or commendation or condemnation. In so far as both have

[1] Census of India, 1901 Vol. XVI, N. W. Pandbudh. Report Part I, p. 98.

theology the Christians with their God and Jesus as his son and the Hindus with their God and his Avatars, the superiority of one over the other, depends upon the miracles performed by them. In this the Hindu theology can beat the Christian theology is obvious enough and just as absence of philosophy in Christianity is responsible for its failure to attract the Brahmin and the Educated Hindu. Similarly the abundance of miracles in Hindu theology was enough to make Christian theology pale off in comparison. Father Gregory a Roman Catholic priest seems to have realized this difficulty and as his view is interesting as well as instructive I give below the quotations from Col. Sleeman's book in which it is recorded. Says Col. Sleeman[1].

> "Father Gregory, the Roman Catholic priest, dined with us one evening, and Major Godby took occasion to ask him at table, 'What progress our religion was making among the people'?
>
> "Progress"? said he, "why, what progress can we ever hope to make among a people who, the moment we begin to talk to them about the miracles performed by Christ, begin to tell us of those infinitely more wonderful performed by Krishna, who lifted a mountain upon his little finger, as an umbrella, to defend his shepherdesses at Govardhan from a shower of rain.
>
> "The Hindoos never doubt any part of the miracles and prophecies of our scripture—they believe every word of them and the only thing that surprises them is that they should be so much less wonderful than those of their own scriptures, in which also they implicitly believe. Men who believe that the histories of the wars and amours of Ram and Krishna, two of the incarnations of Vishnu, were written some fifty thousand years before these wars and amours actually took place upon the earth, would of course easily believe in the fulfilment of any prophecy that might be related to them out of any other book; and, as to miracles, there is absolutely nothing too extraordinary for their belief. If a Christian of respectability were to tell a Hindoo that, to satisfy some scruples of the Corinthians, St. Paul had brought the sun and moon down upon the earth, and made them rebound off again into their places, like tennis balls, without the slightest injury to any of the three planets (sic), I do not think he would feel the slightest doubt of the truth of it; but he would immediately be put in mind of something still more extra-ordinary that Krishna did to amuse the milkmaids, or to satisfy some sceptics of his day, and relate it with all the naivete imaginable."

[1] Rambles and Recollections Vol. 1, Ch. 53. p. 407.

As events in India have shown this was a wrong approach. It was certainly just the opposite to the one adopted by Jesus and his disciples. Gibbon has given a description of the growth of Christianity in Rome which shows from what end Christ and his disciples began. This is what he says—

> "From this impartial, though imperfect, survey of the process of Christianity, it may, perhaps seem probable that the number of its proselytes has been excessively maginified by fear on one side and by devotion on the other. According to the irreproachable testimony of Origen, the proportion of the faithful was very inconsiderable when compared with the multitude of an unbelieving world; but, as we are left without any distinct information, it is impossible to determine, and it is difficult even to conjecture, the real numbers of the primitive Christians. The most favourable calculation, however, that can be deduced from the examples of Antioch and of Rome will not permit us to imagine that more than a twentieth part of the subjects of the empire had enlisted themselves under the banner of the cross before the important conversion of Constantine. But their habits of faith, of zeal, and of union seemed to multiply their numbers; and the same causes which contributed to their future increase served to render their actual strength more apparent and more formidable.
>
> "Such is the constitution of civil society that, whilst a few persons are distinguished by riches, by honours, and by knowledge, the body of the people is condemned to obscurity, ignorance and poverty. The Christian religion, which addressed itself to the whole human race, must consequently collect a far greater number of proselytes from the lower than from the superior ranks of life. This innocent and natural circumstance has been improved into a very odious imputation, which seems to be less strenuously denied by the apologists than it is urged by the adversaries of the faith; that the new sect of Christians was almost entirely composed of the dregs of the populace, of peasants and mechanics, of boys and women, of beggars and slaves; the last of whom might sometimes introduce the missionaries into the rich and noble families to which they belonged. These obscure teachers (such was the charge of malice and infidelity) are as mute in public as they are loquacious and dogmatical in private. Whilst they cautiously avoid the dangerous encounter of philosophers, they mingle with the rude and illiterate crowd, and insinuate themselves into those minds, whom their age, their sex, or their education has the best disposed to receive the impression of superstitious terrors.

"This favourable picture, though not devoid of a faint resemblance, betrays, by its dark colouring and distorted features, the pencil of an enemy. As the humble faith of Christ diffused itself through the world, it was embraced by several persons who derived some consequences from the advantages of nature or fortune. Aristides, who presented an eloquent apology to the emperor Hadrian, was an Athenian philosopher. Justin Martyr had sought divine knowledge in the schools of Zeno, or Aristotle, of Pythogoras, and of Plato, before he fortunately was accosted by the old men, or rather the angel, who turned his attention to the study of the Jewist prophets. Clemens of Alexandria had acquired much various reading in the Greek, and Tertullian in the Latin language; Julius Africanus and Origen possessed a very considerable share of the learning of their times; and, although the style of Cyprian is very different from that of Lactantius, we might almost discover that both those writers had been public teachers of rhetoric. Even the study of philosophy was at length introduced among the Christians, but it was not always productive of the most salutary effects; knowledge was as often the parent of heresy as of devotion, and the description which was designed for the followers of Artemon may, with equal propriety, be applied to the various sects that resisted the successors of the apostles. 'They presume to alter the holy scriptures, to abandon the ancient rule of faith, and to form their opinion according to the subtile precepts of logic. The science of the church is neglected for the study of geometry, and they lose sight of Heaven while they are employed in measuring the earth. Euclid is perpetually in their hands. Aristotle and Theophrastus are the objects of their admiration; and they express an uncommon reverence for the works of Galen. Their errors are derived from the abuse of the arts and sciences of the infidels, and they corrupt the simplicity of the Gospel by the refinements of human reason.'

"Nor can it be affirmed with truth that the advantages of birth and fortune were always separated from the profession of Christianity. Several Roman citizens were brought before the tribunal of Pliny, and he soon discovered that a great number of persons of every order of men in Bithynia had deserted the religion of their ancestors. His unsuspected testimony may, in this instance, obtain more credit than the bold challenge of Tertullian, when he addresses himself to the fears as well as to the humanity of the proconsul of Africa, by assuring him. that, if he persists in his cruel intentions, he must decimate Carthage, and that he will find among the guilty many persons of his own rank, senators and matrons of

noblest extraction, and the friends or relations of his most intimate friends. It appears, however, that about forty years afterwards the emperor Valerian was persuaded of the truth of this assertion, since in one of his rescripts he evidently supposes that senators, Roman knights, and ladies of quality were engaged in the Christian sect. The church still continued to increase its outward splendour as it lost its internal purity; and in the reign of Diocletian the palace, the courts of justice, and even the army concealed a multitude of Christians who endeavoured to reconcile the interests of the present with those of a future life.

And yet these exceptions are either too few in number, or too recent in time, entirely to remove the imputation of ignorance and obscurity which has been so arrogantly cast on the first proselytes of Christianity. Instead of employing in our defence the fictions of later ages, it will be more prudent to convert the occasion of scandal into a subject of edification. Our serious thoughts will suggest to us that the apostles themselves were chosen by providence among the fishermen of Galilee, and that the lower we depress the temporal condition of the first Christians, the more reason we shall find to admire their merit and success. It is incumbent on us diligently to remember that the kingdom of heaven was promised to the poor in spirit, and that minds afflicted by calamity and the contempt of mankind cheerfully listen to the divine promise of future happiness; while, on the contrary, the fortunate are satisfied with the possession of this world; and the wise abuse in doubt and dispute their vain superiority of reason and knowledge."

Similarly Hallam in his 'History of the Middle Ages' speaks of the class from which the early Christians were drawn.

The reason why Christianity became the religion of all citizens of Rome i.e. of the higher classes as well was because of two extraneous reasons. The first reason was the making of Christianity state religion which meant the proscribing every other religion. The second reason was the change in the law of inheritance by the Roman Emperors after they became converts to Christianity a preferential right to inherit the property of the parents over a child which had remained pagan.

This only shows that the people to whom Christianity made a natural appeal were the poorer classes and it is among them that Christianity first spread without the help of law or other extraneous advantage.

The early Christian Missionary began by reversing this natural order of things. I call it natural because it befits human psychology. Prof. Thorndyke[1] a great authority on Psychology says—"*That* a man

[1] Psychology, Vol. 1.

thinks is a biological fact. But *What* he thinks is a sociological fact". This profound observation, the early Christian Missionary absolutely overlooked. Every kind of thought is not aggreeable to every person. This is evident from the fact that capitalism appeals to the rich and does not appeal to the poor. On the contrary socialism appeals to the poor but does not appeal to the rich. This is beause there is a very intimate connection between the interests of a man and the thoughts which have an adverse effect on his interests. He will not give them any quarters in his mind. Applying this annalysis of the working of the human mind it is clear that the Brahmin and the higher classes could never be receptive to the Christian doctrine. It preaches brotherhood of man and when applied leads to equality of man. Now the interests of the Brahmin and the higher classes is to maintain the system of Chaturvarna—which is a system based upon inequality and which in the scale gives them a higher rank, greater opportunity to dominate and exploit the others. How can they be expected to accept Christianity ? It means a surrender of their power and prestige. To have pursued them has been a vain effort and if the pursuit had been continued I am sure there would have been no Christians in India at all. The number of Christians we see in India today is due to the fact that some Christian Missionaries saw the futility of this. If they had not realized this error and started to win over the lower classes, there would have been no Christians in India at all. Even today hundreds and thousands of high caste Hindus take advantage of Christian schools, Christian colleges and Christian hospitals. How many of those who reap these benefits become Christian ? Every one of them takes the benefit and runs away and does not even stop to consider what must be the merits of a religion which renders so much service to humanity.

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CHAPTER 30
THE CONDITION OF THE CONVERT

I. Gandhi and his opposition to Christianity.

II. Christianity and social service. III. Christianity and Paganism.

IV. Christianity and the spirit of the Convert.

V. Christian Community and its social standing.

I

In 1928, there was held a meeting of the International Fellowship, a body devoted to promoting fellow feeling among persons of different faiths. It was attended by Christian missionaries as well as by Hindus and Moslems. Mr. Gandhi was also present. At this meeting the question was raised as to how far the fellowship could remain true to its ideal, if those who belonged to it wished to convert others to their own faith. In the debate that followed, Mr. Gandhi spoke. His friend Mr. C. F. Andrews, writes concerning the discussion as follows :[1]

> "At the back of this question, there was a definite challenge to the whole Christian Missionary position in India. Missionaries of a liberal type of mind had been finding great joy in the Fellowship ..... Then came Mahatma Gandhi's declaration. He stated that in doing so, or in joining the Fellowship, if there was the slightest wish, or even the slightest thought at the back of the mind, to influence, or convert, any other member of the Fellowship, then the spirit of the movement could be destroyed. Any one who had such a wish ought to leave the Fellowship".

On being further questioned by Christian Missionaries 'Whether if they possessed the greatest treasure in the World, they would be wrong in wishing to share it', Mr. Gandhi was quick to rebuff their presumption. Mr. Andrews says—"he was adamant". "Even the idea of such a desire was wrong", he said emphatically; "and he would not move from that position at all".

[1] "The Basis of Inter-Religious Fellowship" by C. F. Andrews in "The Young Men of India, Burma and Ceylon." June 1928, Vol. XI, No. 6.

Mr. Gandhi's opposition to Christian conversion is by now quite well known. And since 1936 he has become quite a virulent adversary of all missionary propaganda. He particularly objects to the missionaries spreading the Christian Gospel among the Untouchables. His antagonism to Christian Missions and the conversion of Untouchables to Christianity is based on certain propositions which have been enunciated by him in quite unmistakable terms. I think the following four propositions may be taken to sum up his position. I give them in his own words. He says :

I. "My position is that all religions are fundamentally equal. We must have the same innate respect for all religions as we have for our own. Mind you, not mutual toleration but equal respect."[1]

II. "All I want them (the Missionaries) to do is to live Christian lives, not to annotate them.[2] Let your lives speak to us. The blind who do not see the rose, perceive its fragrance. That is the secret of the Gospel of the rose. But the Gospel that Jesus preached is more subtle and fragrant than the Gospel of the rose. If the rose needs no agents, much less does the Gospel of Christ need agents".[3]

As to the work of the Christian Missions he says :

III. "The social work of the missions is undertaken not for its own sake, but as an aid to the salvation of those who receive social service.[4] ..... While you give medical help, you expect the reward in the shape of your patients becoming Christians."[5]

As to the Untouchables he says—

IV. "I do maintain .... that the vast masses of Harijans and for that matter of Indian humanity, cannot understand the presentation of Christianity, and that, generally speaking, conversion, wherever it has taken place, has not been a spiritual act in any sense of the term. They are conversions of convenience.[6] They (the Harijans) can no more distinguish between the relative merits (words omitted ?) than can a cow. Harijans have no mind, no intelligence, no sense of difference between God and no-God."[7]

Gandhi advises the Christian Missions in the following somewhat offensive terms as to what would be proper for them to do. He says—

"If Christian Missions will sincerely play the game ..... They must withdraw from the indecent competition to convert the Harijans .....

"Just ..... forget that you have come to a country of heathens and (to) think that they are as much in search of God as you are; just ..... feel that you are not going there to give your spiritual

[1] Harijan, 1936, p. 330. [2] Harijan, 1936, p. 353. [3] Harijan, April 1937. p. 86. [4] Harijan for 1937, p. 137. [5] Harijan, 18th July 1936, p. 178. [6] Harijan for 1936, pp. 140-41. [7] Harijan for 1936, p. 360.

goods to them, but that you will share worldly goods of which you have a good stock. You will then do your work without mental reservation and thereby you will share your spiritual treasures. The knowledge that you have this mental reservation, i.e. you are expecting a man to be a convert in return for service, creates a barrier between you and me."

"The history of India would have been written differently if the Christians had come to India to live their lives in our midst and permeate ours with their aroma, if there was any."[2]

This hostility of Mr. Gandhi to Christian Missions and their work is of very recent origin. I do not know if it can be traced beyond the Yeola Decision.

It is as recent as it is strange. I do not know of any declaration made by Mr. Gandhi expressing in such clear and determined manner opposition to the conversion of the Untouchables to Islam. The Muslims have made no secret of their plan to convert the Untouchables. The plan was given out openly from the Congress platform by the late Maulana Mohomed Ali when he presided over the annual session of the Congress held at Coconada in 1923. In his Presidential address the Maulana pointed out in clear terms that :

"The quarrels (between Hindus and Musalmans) about *Alams* and *pipal* trees and musical processions are truly childish; but there is one question which can easily furnish a ground for complaint of unfriendly action if communal activities are not amicably adjusted. This is the question of the conversion of the suppressed classes, if Hindu Society does not speedily absorb them. The Christian missionary is already busy and no one quarrels with him. But the moment some Muslim missionary society is organized for the same purpose there is every likelihood of an outcry in the Hindu press. It has been suggested to me by an influential and wealthy gentleman who is able to organize a (Muslim) missionary society on a large scale for the conversion of the suppressed classes, that it should be possible to reach a settlement with leading Hindu gentlemen and divide the country into separate areas where Hindu and Muslim missionaries could respectively work, each community preparing for each year, or longer unit of time, if necessary, an estimate of the numbers it is prepared to absorb, or convert. These estimates would, of course, be based on the number of workers and funds each had to spare, and tested by the actual figures of the previous period. In this way each community would be free to do the work of absorption and conversion, or rather of reform, without chances of collision with one another".

Nothing can be more explicit than this. Nothing can be more businesslike and nothing can be more materialistic than this pronouncement from the Congress platform. But I am not aware that Mr. Gandhi has ever condemned it in the way in which he now condemns the endeavour of Christian Missions to convert the Untouchables. Nobody from Gandhi's camp protested against this outrageous suggestion. Probably they could not because the Congress Hindus believed that it was their duty to help the Musalmans to fulfil what they regarded as their religious duty, and that conversion is a religious duty with the Musalman nobody can deny. At any rate the Hindu leaders of Congress, as stated by George Joseph in 1920, held "that it was the religious duty of the Hindus to help Muslims in the maintenance of the Turkish Khilafat over the Arabs in the Jazirut-al-Arab because Muslim theologians and political leaders assured us that it was their religious duty. It went against the grain because it meant the maintenance of a foreign Government over Arabs; but Hindus had to stomach it because it was urged on them as part of the religious duty of the Hindus[1]. If this is true why should Gandhi not help the Christians to carry on conversion because conversion is also a fulfilment of their religious duty.

Why there should be a different measuring rod today because it is the Christians that are involved is more than one can understand. Mr. George Joseph was well within bounds when he said :

> "The only difference is that there are 75 millions of Muslims and there are only 6 millions of Christians. It may be worth-while making peace with Muslims because they can make themselves a thorn in the side of Nationalism : Christians do not count, because they are small in numbers."

That Mr. Gandhi is guided by such factors as the relative strength of the Musalmans and Christians, their relative importance in Indian politics, is evident from the terms he uses in condemning what he calls "propaganda by vilification". When such a propaganda emanates from Christian missionaries he uses the following language to condemn it. (*Quotation is not there in the MS.*—Ed.).

On the other hand when he comes out against a propaganda emanating from the Muslim all that he says :[2]

> "It is tragic to see that religion is dragged down to the low level of crude materialism to lure people into mission which the most cherished sentiments of millions of human beings are trodden under foot.

[1] Harijan, 8th February 1936, p. 415.

[2] Harijan, August 8, 1936.

> "I hope that the pamphlet has no support from thoughtful Musalmans who should read it to realize the mischief such pamphlets can create.
>
> "My correspondent asks me how to deal with the menace. One remedy I have applied, viz, to bring hereby the villifying propaganda to the notice of the responsible Muslim world. He himself can claim the attention of the local Musalman leaders to the publication. The second and the most important thing to do is purification from within. So long as the position of untouchability remains in the Hindu body it will be liable to attacks from outside. It will be proof against such attacks only when a solid and impregnable wall of purification is erected in the shape of complete removal of untouchability."

The ferocity of the former and the timidity and softness of the latter are obvious enough. Surely Gandhi must be regarded as an astute "respecter of persons".

But apart from this difference in his attitude towards Muslim and Christian propaganda, have Mr. Gandhi's arguments against Christian Missions, which I have summarized above, any validity ? They are just clever. There is nothing profound about them. They are the desperate arguments of a man who is driven to wall. Mr. Gandhi starts out by making a distinction between equal tolerance and equal respect. The phrase "equal respect" is a new phrase. What distinction he wants to make thereby is difficult to recognize. But the new phraseology is not without significance. The old phrase "equal tolerance" indicated the possibility of error. "Equal respect" on the other hand postulates that all religions are equally true and equally valuable. If I have understood him correctly then his premise is utterly fallacious, both logically as well as historically. Assuming the aim of religion is to reach God—which I do not think it is—and religion is the road to reach him, it cannot be said that every road is sure to lead to God. Nor can it be said that every road, though it may ultimately lead to God, is the right road. It may be that (all existing religions are false and) the perfect religion is still to be revealed. But the fact is that religions are not all true and therefore the adherents of one faith have a right, indeed a duty, to tell their erring friends what they conceive to be the truth. That Untouchables are no better than a cow is a statement which only an ignoramus, or an arrogant person, can venture to make. It is arrant nonsense. Mr. Gandhi dares to make it because he has come to regard himself as so great a man that the ignorant masses will not question his declarations and the dishonest intelligentsia will uphold him in whatever he says. Strangest part of his argument lies in wishing to

share the material things the Christian Missions can provide. He is prepared to share their spiritual treasures provided the Missionaries invite him to share their material treasures "without obligation".* (What he minds is an exchange.) It is difficult to understand why Mr. Gandhi argues that services rendered by the Missionaries are baits or temptations, and that the conversions are therefore conversions of convenience. Why is it not possible to believe that these services by Missionaries indicate that service to suffering humanity is for Christians an essential requirement of their religion ? Would that be a wrong view of the process by which a person is drawn towards Christianity ? Only a prejudiced mind would say, Yes.

All these arguments of Mr. Gandhi are brought forth to prevent Christian Missionaries from converting the Untouchables. No body will deny to Mr. Gandhi the right to save the Untouchables for Hinduism. But in that case he should have frankly told Missions "Stop your work, we want now to save the Untouchables, and ourselves. Give us a chance !" It is a pity that he should not have adopted this honest mode of dealing with the menace of the Missionaries. Whatever anybody may say I have no doubt, all the Untouchables, whether they are converts or not, will agree that Mr. Gandhi has been grossly unjust to Christian Missions. For centuries Christian Missions have provided for them a shelter, if not a refuge.

This attitude of Mr. Gandhi need not deter either the missionaries or the Untouchables. Christianity has come to stay in India and, unless the Hindus in their zeal for nationalism misuse their political, social and economic power to suppress it, will live and grow in numbers and influence for good.

II

What Christianity has achieved in India therefore becomes a proper subject for examination from the points of view both of Christian Missions and of the Untouchables.

That Christian Missions have been endeavouring to provide the *corpus sanum* for the people of India and to create the *Mens Sana* among those who have entered the fold is undeniable. It would be difficult in this place to describe all the activities carried on by Christian Missions in India. The work done by the Missionaries falls under five heads : (1) among children, (2) among young men, (3) among the masses, (4) among women and (5) among the sick.

The work done is vast. The following figures will give an idea of the scale on which the work for education and relieving sickness is being carried on.

I. CHRISTIAN MEDICAL WORK[1]

1.	Hospitals	..	256
2.	Dispensaries	..	250
3.	Sanatoriums	..	10
4.	Leper Homes	..	38
5.	Medical Schools	..	3
6.	Number of Hospital Beds	..	12,000
7.	Number of Sanatorium Beds	..	755
8.	Doctors, Foreign	..	350
9.	Doctors, National	..	390
10.	Nurses, Foreign	..	300
11.	Nurses, National	..	900
12.	Student Nurses	..	1,800
13.	Operations, Major	..	44,000
14.	Obstretrics, Total	..	32,000
15.	In—Patients	..	285,000
16.	Out—Patients	..	2,600,000

II. CHRISTIAN EDUCATION[2]

		Institutions	Students
1.	Elementary Schools	13,330	611,730
2.	Secondary Schools	302	67,229
3.	Colleges	31	11,162
4.	Theological Colleges and Training Schools	25	556
5.	Bible Training Schools	74	2,855
6.	Teacher Training Schools	63	3,153

What have the Hindus to show as against this? Historically speaking, service to humanity is quite foreign to Hinduism and to Hindus. The Hindu religion consists primarily, of rituals and observances. It is a religion of temples. Love of man has no place in it. And without love of man how can service to man be inspired? This is well reflected in the purposes and objects for which Hindu charities are given. Very few people, even in India, know the extent to which caste determines the scope and objects of charities provided by the Hindus. It is difficult to get full and precise facts relating to Hindu Charities. However, data collected several years ago, in the City of Bombay, throws a flood of light on the subject. (*Data not typed in the MS.*)

[1] In India, Burma and Ceylon.

[2] In India.

That caste can influence doctors in the ministration to the sick was a charge made among certain doctors in Bombay in 1918 during the influenza epidemic.

Comparatively speaking, the achievements of Christian Missions in the field of social service are very great. Of that no one except a determined opponent of every thing Christian can have any doubt. Admitting these great services, one may raise two questions. Are these services required for the needs of the Indian Christian Community? Are there any needs of the Indian Christian Community which have not been attended to by Missions?

It is necessary to bear in mind that Indian Christians are drawn chiefly from the Untouchables and, to a much less extent, from low ranking Shudra castes. The Social Services of Missions must, therefore, be judged in the light of the needs of these classes. What are those needs?

The services rendered by the Missions in the fields of education and medical relief are beyond the ken of the Indian Christians. They go mostly to benefit the high caste Hindus. The Indian Christians are either too poor or too devoid of ambition to undertake the pursuit of higher education. High schools, colleges and hostels maintained by the Missions are, therefore, so much misplaced and misapplied expenditure from the point of view of the uplift of Indian Christians. In the same way much of the medical aid provided by the Missions goes to the Caste Hindus. This is especially the case with regard to hospitals.

I know many missionaries realize this. None the less this expenditure is being incurred from year to year. The object of these services is no doubt to provide occasion for contact between Christian Missionaries and high caste Hindus. I think it is time the Missionaries realized that the pursuit of the Caste Hindus in the hope of converting them to Christianity is a vain pursuit which is sure to end in complete failure. Mr. Winslow, I think, is correct when he concludes his survey of the attitude of the intelligentsia of India towards Christianity by saying:

> "…. . Whilst the work of Duff and the Serampore Missionaries resulted in some notable conversions and it seemed for a time as though English education were going to lead to many and rapid accessions to the Christian Church from amongst those who received it, a reaction soon set in and the movement died down. Its place was taken by the Theistic Samajes, and in particular by the Brahmo Samaj in Bengal, which enabled those Hindus who through the influence of Western thought had become dissatisfied with idolatry and caste to surrender these without forfeiting entirely their

place within the Hindu system. For many years Christian missionaries hoped and believed that the Brahmo Samaj would prove a half-way house to Christianity and that many of its members would in course of time become dissatisfied with an intermediate position and accept the Christian Faith, but this hope has in the main been disappointed, though a few notable converts have come from the rank of the Samajes. .... .

* * * * *

What then, does the educated Indian of today, more particularly the Brahman, think of Christ? It is perhaps foolish to try to generalize ..... Yet there are certain broad features in the picture which may be safely described ..... There is a wide-spread acceptance of the main principles of Christ's teaching, particularly of His ethical teaching. It would be generally conceded that the Sermon on the Mount, while not necessarily containing any thing which might not be paralleled from other sources, is unsurpassable as a directory for human conduct ..... Side by side with this widespread acceptance of Christ's teaching goes a very general reverence for His life and character .....

On the other hand, the claim that Christ was, and is, in a *unique* sense divine is not one which the majority of Hindus, even of those deeply attracted by His life, would be prepared to accept ..... (They) would set Him side by side with (their) own great Prophet, the Buddha. But the Christian claim that He, and He only, is God Incarnate, and that salvation is to be won through faith in Him, and Him alone, (they) reject as exclusive and narrow ..... Thus the Christian claim to possess the one way of salvation arouses in India an almost instinctive repugnance ..... The characteristic religious attitude of the educated Hindu to day (is) still, whilst he greatly reverences Christ, and accepts the main principles of His teaching, he is quite content to remain a Hindu."

I have no doubt that this correctly sums up the position. If this is so then the money and energy spent by the Christian Missions on education and medical relief is misapplied and do not help the Indian Christians.

The Indian Christians need two things. The first thing they want is the safeguarding of their civil liberties. The second thing they want is ways and means for their economic uplift. I cannot stop to discuss these needs in all their details. All I wish to point out is that this is a great desideratum in the social work the Christian Missions are doing in India.

While what has been accomplished by Christian Missionaries in the field of education and medical aid is very notable and praisewrothy there still remains one question to be answered. What has Christianity achieved in the way of changing the mentality of the Convert? Has the Untouchable convert risen to the status of the touchable? Have the touchable and untouchable converts discarded caste ? Have they ceased to worship their old pagan gods and to adhere to their old pagan superstitions? These are far-reaching questions. They must be answered and Christianity in India must stand or fall by the answers it can give to these questions.

The following extracts taken from the memorandum submitted by the Christian Depressed Classes of South India to the Simon Commission throw a flood of light on the position of the Untouchables who have gone into the Christian fold so far as the question of caste is concerned.

> "We are by religion Christians, both Roman Catholics and Protestants. Of the total population of Indian Christians of the Presidency the converts from the Depressed Classes form about sixty per cent. When the Christian religion was preached in our lands, we, the Pallas, Pariahs, Malas, Madigas, etc., embraced Christianity. But others of our stock and origin were not converted and they are known to be the Hindu Depressed classes, being all Hindus or adherants to the Hindus in religion. In spite, however, of our Christian religion which teaches us fundamental truths the equality of man and man before God, the necessity of charity and love for neighbours and mutual sympathy and forbearance, we, the large number of Depressed class converts remain in the same social condition as the Hindu Depressed Classes. Through the operation of several factors, the more important of them being the strong caste retaining Hindu mentality of the converts to Christianity, and the indifference, powerlessness and apathy of the Missionaries, we remain today what we were before we became Christians—Untouchables—degraded by the laws of social position obtaining in the land, rejected by caste Christians, despised by Caste Hindus and excluded by our own Hindu Depressed Class brethren.
>
> "The small proportion of the Christians of South India, whose representatives are found in the Legislative Council, say, in Madras, are caste Christians, a term which sounds a contradiction, but which, unfortunately, is the correct and accepted description of high caste converts from Hinduism, who retain all the rigour and

exclusiveness of caste. Particularly in the Mofussil parts and the villages, they who ought to be our fellow Christians follow all the orthodox severity and unreason of caste exclusion; they damn us as "Panchamas or Pariahs" and ignore our Christian claims and in the fulness of their affluence, power, prestige and position exclude us poorer Christians from society, ... Frequent outbursts of anti-Panchama activity are the scandal of the South Indian Christian life, and the least attempt on our part to better our lot, forward our progress and assert our elementary rights call down the wrath and fury of every man—official and non-official—Christian or Hindu, who claims a foolish superiority of birth. Denying the very foundations of Christianity, contrary to all love and charity and brotherhood, our "fellow-Christians" treat us even in the Churches as Untouchables and Unapproachables, and relegate us to separate accommodation removed from their precincts and barricade their portions by means of iron rails and walls and fencings. There are several such churches.

"In the matter of reception of sacraments, a most ridiculous segregation is practised to avoid pollution; our claims to educate our children and train them for life are ruthlessly denied and through sheer prejudice our children are denied access to schools, convents, hostels, boarding houses, or if admitted, are assigned an ignominous separate accommodation. Tracing his descent from high caste Hindu progenitors the caste Christian looks for social status and position and finds favour in the eyes of his fellow caste-men, the Hindus. He treats the Depressed Class Christians in the same way as the Hindu Depressed Classes are treated by the Hindu Caste people".

What is stated here in general terms may be made concrete by reference to the two following incidents. (*Incidents not mentioned in the MS.—Ed.*).

This is a terrible indictment. It is a relief to know that it does not apply to all parts of India nor does it apply to all denominations of Christians. The picture is more true of the Catholics than of the Protestants. It is more true of Southern India than it is of the Northern or even Central India. But the fact remains that Christianity has not succeeded in dissolving the feeling of caste from among the converts to Christianity. The distinction between touchables and untouchbles may be confined to a corner. The Church School may be open to all. Still there is no gainsaying the fact that caste governs the life of the Christians as much as it does the life of the Hindus. There are Brahmin Christians and Non-Brahmin Christians. Among Non-Brahmin Christians there are Maratha Christians, Mahar Christians, Mang Christians and Bhangi Christians. Similarly in the South there are

Pariah Christians, Malla Christians and Madiga Christians. They would not intermarry, they would not inter-dine. They are as much caste ridden as the Hindus are.

There is another thing which shows that Christianity has not been effective in wiping paganism out of the converts. Almost all the converts retain the Hindu forms of worship and believe in Hindu superstition. A convert to Christianity will be found to worship his family Gods and also the Hindu gods such as Rama, Krishna, Shankar, Vishnu, etc. A convert to Christianity will be found to go on a pilgrimage to places which are sacred to the Hindus. He will go to Pandharpur, and make offerings to Vithoba. He will go to Jejuri and sacrifice a goat to the blood-thirsty god, Khandoba. On the Ganesh Chaturthi he will refuse to see the moon, on a day of eclipse he will go to the sea and bathe—superstitions observed by the Hindus. It is notorious that the Christians observe the social practices of the Hindus in the matter of births, deaths and marriages. I say nothing about the prevalence of the Hindu social practices among the Christians. In as much as these social practices have no religious significance it matters very little what they are. But the same cannot be said of religious observances. They are incompatible with Christian belief and Christian way of life. The question is why has Christianity not been able to stamp them out?

The answer is that the Christian Missionaries although they have been eager to convert persons to Christianity have never put up a determined fight to uproot paganism from the Convert. Indeed they have tolerated it.

The retention by the Converts to Christianity of Paganism is primarily the legacy of the Jesuit Missions which were the earliest to enter the field in modern times. The attitude of the Catholic mission towards paganism has come down from the outlook and the ways and means adopted by the Madura Mission. This Mission was founded by an Italian Jesuit Father Robert de Nobili. He came to India in 1608. Having learned of the failure of Francis Xavier he worked out a new plan. He decided to follow the footsteps of the Apostle Paul who observed that he must bring all things to all men that he might save some. Fortified with this belief he went to the Court of Ferumal Naik King of Madura and founded the famous Madura Mission. The way he started is graphically told by Dr. J. N. Ogilvie in his 'Apostles of India' in the following passage:

> "Through Madura there ran one day a striking piece of news. It was told how a strange ascetic from some far land had arrived, drawn to the holy city by its great repute, and that he had taken up

his abode in the Brahman quarter of the city. Soon visitors flocked to the house of the holy man to see what they should see, but only to find that the Brahman's servants would not permit their entrance. 'The master,' they said, 'is meditating upon God. He may not be disturbed.' This merely helped to whet the people's desire and increase the fame of the recluse. The privacy was relaxed, and daily audiences were granted to a privileged few.

"Seated cross legged on a settee the Sanyasi was found by his visitors, conforming in every thing to Brahman usage. Over his shoulder hung the sacred cord of five threads, three of gold to symbolise the Trinity, and two of silver representing the body and soul of our Lord, and from the cord was suspended a small cross. Conversation revealed the Sanyasi's learning, and observation and keen inquiry certified to this frugal and holy life. One meal a day, consisting of a little rice and milk and acid vegetables, was all his food. Soon not only ordinary Brahmins came to see him, but nobles also; and a great bound in his reputation took place when, on being invited to the palace by the King, the Sanyasi declined the invitation lest on going forth the purity of his soul should be sullied by his eyes lighting upon a woman! Never was a holier saint seen in Madura. Where the life bore such testimony to his holiness, how could his teaching be other than true! His statement that he was a "Roman Brahman" of the highest caste was accepted, and to remove any possible doubts that might linger, an ancient discoloured parchment was produced, which showed how the "Brahmans of Rome" had sprung direct from the god Brahma, and were the noblest born of all his issues. To the genuineness of the document the Sanyasi solemnly swore, and with open minds the people listened to his teaching.

"Book after book was written by the able and daring writer, in which he grafted a modified Christian doctrine on the Hindu stem. Most notable of all such efforts was the forging of a "Fifth Veda" to complete and crown the four Vedas received by Brahmans as direct revelations from heaven. It was an amazing piece of daring as bold and hazardous as it would be for a Hindu to forge for Christian use a fifth Gospel. Yet the forgery held its place for one hundred and fifty years."

"Brahman disciples were soon freely won; baptisms became fairly numerous, though the identity of the rite with the baptism administered by earlier European Missionaries was disguised; and so far as outward tokens went, the new Missionary method was proving a success. Without a doubt progress was greatly facilitated by the highly significant concessions that were made to Hinduism,

especially in connection with Caste. According to de Nobili, caste had little signification. To him it was in the main a social observance, and so regarding it he saw no reason for compelling his converts to break with their caste fellowship or observances. His converts retained the 'Shendi' or tuft of hair which marked the caste Hindu, they wore a sacred cord indistinguishable from that of their Hindu neighbours, and they bore an oval caste mark on their brow, the paste composing or being made of the ashes of sandalwood instead of as formerly of the ashes of cow dung.

"For forty years de Nobili lived his life: a life of daily hardship, sacrifice and voluntary humiliation, such as has seldom been paralleled. On February 16, 1656, he died, having reached his eightieth year. Nearly one hundred thousand converts have been attributed to him, directly or indirectly, and allowing for much exaggeration their number must have been very great.

"In 1673, John de Britto, belonging to one of the noblest families of Portugal, sailed for India. He is now a saint in the Roman Catholic Church. William Robinson of the London Missionary Society and belonging to our own day said of him, "His eminence as a disciple, intrepid, selfless and enduring in all great qualities that add to the vigour of the Christian life, is assured.

"He and the Christian converts, after the disruption of the Kingdom of Madura and the establishment of petty Kingdoms, were mercilessly persecuted.

"Yet in spite of all that enemies could do, the worker went steadily on with his accepted duty, and wherever he journeyed the same tale of success was told. To the power of the message was added the charm of the messenger, and his converts were numbered by thousands. When by his hands a prince of Marava, Tadia Tevar, was baptized, measures were quickly taken to secure de Britto's death. He was mercilessly done to death on February 4, 1693.

"Father Joseph Beschi, an Italian priest and successor to de Britto, reached India in 1707. Beschi adhered to the policy of the "Roman Brahmans," but in his missionary practice differed considerably from his predecessors. De Nobili, so long as it had been possible, acted the part of a devout recluse, a holy Guru; de Britto had been chiefly the wandering Sanyasi, the holy pilgrim and in their personal life both had practised the greatest asceticism and simplicity. But Father Beschi followed a new line. If Hinduism had its ascetics, it had also its high priests, who lived in luxurious comfort, and whose outward surroundings were marked by pomp and circumstance. This was the line chosen by Beschi by

magnificence he would dazzle the people. When he travelled it was a costly palanquin. In advance went an attendant bearing an umbrella of purple silk, at each side ran servants with gorgeous fans of peacock's feathers, and in the palanquin, upon a splendid tiger skin and clad in rich and picturesque robes, reclined the mighty Guru! But Beschi was no empty headed poseur. His method was adopted with a full understanding of the people and with many it worked well. Nor does his fame rest on these extravagances; it is based upon his wonderful scholarship. A born linguist he attained so complete a mastery over Tamil that he became the ablest Tamil scholar of his time. No native scholar was his equal. "High" Tamil as well as "Low", the Tamil of the scholarly Brahman as well as the colloquial language of the people, were equally familiar to Beschi. Dictionaries, grammars, works of poetry and treatises in prose issued from his busy pen, and they are read and valued to the present day. When first issued they delighted the native world of Southern India. So charmed with his learning was Chanda Sahib, the Nabob of Vellore, that he appointed him to high office in the State, and for his support presented him with four villages in the Trichinopoly district, which brought in a revenue of 12,000 rupees. All this fame and material prosperity Beschi loyally used for the furtherance of the Mission. Its palmiest days were in his time, and its rapid decline, leading to its ultimate collapse, dates from about the period of Father Beschi's death, which occurred in 1742."

These Madura Missionaries, in their anxiety to present Christianity to the convert free from any Western customs that might give offence had tolerated among their converts several Hindu Customs as concessions to the converts. Among these concessions were the retention of the sacred thread and the mark on the forehead; the marrying of children before they attained puberty; the refusal of the sacraments to females at certain times, bathing as a ceremonial purification, and other points; and the refusal to marry and dine outside caste. These were called the "Malbar Rites". They were abrogated on 12th September 1744, by the Bull *Omnium sollicitudinum* issued[1] By Pope Benedict XIV and since then every Roman Catholic Missionary is required to take an oath to obey this Bull. All the same the tradition remained that pagan ways and pagan beliefs were not incompatible with Christian faith.

It is no doubt true that a great obstacle in the way of the Missionaries in the 16th Century was not only the evil example shown by bad Europeans but also the dislike with which European customs

[1]Krishna District Manual, p. 282.

were viewed by Hindus and Musalman alike. A wicked European of course caused Scandal, but a devout European, who ate beef and drank spirits, offended against Brahmanical and Mohammadan tenets and shocked native prejudices. Thus Christianity was despised as the religion of the 'Feringis' as Europeans were contemptuously termed. To have cleansed the Christian Missionaries of these impurities and infirmities was very necessary and not only justifiable but commendable. But it was quite shameful and sinful for these Jesuit Missionaries in their zeal for conversion to have gone to the length they did namely, not to mind what the convert thought and did and how he lived so long as he was ready to be baptized, acknowledge Jesus as his saviour and call himself a Christian.

What was the attitude of the Luthern Mission which came into the field soon after the Madura Mission to this great question. Swartz the greatest missionary in India who by his piety became the peace maker between warring kings was not a protagonist of the view adopted by the Madura Mission. But did he believe that Caste and Christianity were two incompatible things and that a true Christian could not believe in Caste much less could he make it a plan of his life ? Whatever was his view of the question he certainly did not carry on a campaign in support of it.

What about the Protestant Missions? What attitude did they take towards this question ? They have first of all an excuse on their side to plead if they wish to. That they came late on the scene. So far as history goes there is truth behind the assertion that they were prevented from joining the field until 1813. This is due entirely to the attitude taken by the East India Company towards Mission work in their territories in India.

The attitude of all the European powers who went to India were in the beginning of their career greatly fired with an enthusiasm for the conversion of the Indians to the Christian Faith.

Speaking of the Portuguese they were of course the most resolute in their propagation for Christianity and suppression of paganism. Albuquerque suppressed Suti within Portuguese India in 1510 and anticipated William Bentick by fully three hundred years. As soon as Francis Xavier called out in despair the aid of John III of Portugal for forcible conversion it was given. In the Dutch East Indies the Dutch Government which was a protestant power, similar enthusiasm was displayed and strong, if not drastic, measures were adopted. The principle of state aid for Christian propaganda was accepted in Ceylon right from 1643 when the Dutch occupied that island. The erection of temples and pagan pilgrimages were forbidden, Government

appointments were reserved for Christians and non-attendance at religious schools treated as state offence. By 1685, 3,20,000 Cinhalese had yielded to these methods. The same religious fervour was shown by the East India Company. In 1614, an young Indian had been brought to London by the Captain of the Company's ship. The Company educated him at its own expense 'to be an instrument in converting some of his nation'. His baptism was performed at Poplar. The Lord Mayor of London and the Directors of the Company attended the baptism. King James I chose for him the name of Peter and the priest who baptised him presented him to the Audience as 'the first fruit of India'. In 1617 there took place in Surat the conversion of a Mahomedan. Thus the career of the Company began with conversions at both ends. In 1657 the Directors applied to the Universities of Cambridge and Oxford for a Chaplain 'the Company having resolved to endeavour the advance and spreading of the Gospel in India'. In 1698 the Company very readily accepted a clause in her Charter which required the Company's Chaplains 'should apply themselves to learn the languages of the countries, the better to enable them to instruct the Gentoos, who should be the servants of the Company or their agents, in the Protestant religion'.

Suddenly after 1698 the attitude of the Company seems to have undergone a significant though gradual change. While the Portugal and the Dutch Governments were going on with top speed the East India Company was slowing down. In the very year the Company seems to have been of two minds on this question. While it accepted an obligation to train its chaplains in vernaculars of India so as to make them potent instruments of propaganda it allowed a prayer to be drawn up for the Company which said 'that, we adorning the Gospel of our Saviour in all things, these Indian natives among whom we dwell, beholding our good works, may be won over'. This prayer continued to be offered, certainly till 1750. A close scrutiny of the wording of the prayer suggests if it does not avow the complete abandonment of the original idea of active proselytising. This attitude of the Company soon became a matter of controversy. Friends of conversion were waiting for an opportunity to force the Company to give up this attitude. The Regulating Act of 1773 and Pitt's East India Act had put an end to a 'State disguised as a Merchant' and brought the Company the chartered agent of Parliament to carry on the Government of the Indian Territories. It was provided under the Act that the charter of the Company should be only for 20 years and should be renewed thereafter. The year 1793 was of immense importance since the revision of the charter of the Company was to fall due in that year.

To those who favoured the diffusion of Christian knowledge the task seemed quite easy. Wilberforce, who was in charge of the matter had secured the support of important persons in Parliament. He had obtained Archbishop Moore's blessing, and still more important he had won a promise of support from the minister in charge of the East India Company's Charter Bill. As a preliminary to the passing of this Bill matters to be incorporated in the charter were put in the form of resolutions to be passed by the House of Commons. One of the resolutions passed ran as follows:

> "That it was the peculiar and bounden duty of the British Legislature to promote, by all just and prudent means, the interest and happiness of the inhabitants of the British Dominions in India; and that for these ends such measures ought to be adopted as may generally tend to their advancement in useful knowledge and to their religious and more improvement."
>
> "Be it therefore further enacted, that the said Court of Directors shall be and are hereby empowered and required to appoint and send out, from time to time, a sufficient number of fit and proper persons for carrying into effect the purposes aforesaid, by acting as schoolmasters, missionaries, or otherwise every such person, before he is so appointed or sent out, having produced to the said Court of Directors, a satisfactory testimonial or certificate from the Archbishop of Canterbury, or the Bishop of London for the time being, or from the Society in London for the promotion of Christian Knowledge, or from the Society in Scotland for propagating Christian Knowledge, of his sufficiency for these purposes.
>
> And be it further enacted, that the said Court of Directors are hereby empowered and required to give directions to the governments of the respective presidencies in India, to settle the destination and to provide for the necessary and decent maintenance of the persons to be sent out as aforesaid; and also to direct the said governments to consider of and adopt such other measures according to their discretion, as may appear to them most conducive to the ends aforesaid."

It was largely due to the support of Dundas that the House accepted the resolution without demur. Wilberforce was deeply moved. 'The hand of Providence', he wrote in his journal, 'was never more visible than in his East Indian Affair.' This confidence was premature. Because, on the third reading of the Bill, the clause was struck out with the consent of Dundas. Wilberforce wrote his friend Gisborne "My clauses thrown out ....., Dundas most false and double....."

This change of front was brought about by the Directors of the East India Company. The East India trade was a monopoly of the Company and no Englishman could enter the territories of the East India Company in India without license from the Directors of the Company and any Englishman found in the territories of the Company without a license was liable to be deported. The Company did not take long to realize what the effect of the new clause would be. It knew that the clause would require them to open the gates of India to the flood of the Missionaries and their propaganda. Should the Missionaries be allowed a free hand, was the question of the hour. As was natural this became a subject of a most interesting, instructive and bitter controversy and those who care to know it in its details may usefully refer to the pages of the Edinborough Review and the .....of the day.

There were three parties to this controversy. There were the Directors of the East India Company whose primary interest was to protect its shareholders who were clamouring for dividends. The second party to the controversy was the English Middle Class which was living on the East India trade and whose sons were finding new avenues for lucrative careers in the territories. Thirdly there was the Church Missionary Society formed in the year .....for the purpose of spreading the Christian faith. The interests of the first two coincided. They were for the maintenance of the Empire and therefore wanted peace and tranquility. The third did care for peace but was keen on the substitution of Indian superstition by the Christian faith. The first made a powerful combination and obliged all the forces against the third. The result was that they triumphed and the Church Missionary Society lost. The arguments advanced by the controversialist on the triumphant side are of course the most important and the most instructive part of the controversy.

To the argument that the propaganda in favour of the Christian faith should begin at once, that it was wrong to hold that the truth though sacred should be doled out in such a way and in such bits as to avoid all risk, the reply given by Sydney Smith was a stunning reply. This is what he said :

> "When we consider for how many centuries after Christ, Providence allowed the greater part of mankind to live and die without any possibility of their attaining to the knowledge of the sacred truths by any human exertion, we must be satisfied that the rapid and speedy conversion of the whole world forms no part of the scheme of its Almighty Governor, and that it can give no offence in His eyes if we do not desert our domestic duties and expose the

lives and worldly happiness of multitudes of our fellow country men to hazard in our attempt to their conversion."

* * *

"The Directors would be doing their duty neither to the shareholders nor the British Nation if they allowed 'itinerant tinkers to preach the natives into insurrection..... The natives must be taught a better religion at a time and in a manner that will not inspire them with a passion for political change.' ..... Our duties to our families and Country are set before us by God Himself. We are not at liberty to desert them in order to give a remote chance of conferring greater benefits on strangers at a distance."

It is arguments such as those which prevailed with Parliament and led to the rejection of the Clause in 1793. Wilberforce twitted members of Parliament by reminding them with, their Christianity was not a religion of convenience but it was a religion established by law. But as has been well pointed out, "for the major portion of those 'counted' in the eighteenth century the religion accepted by the State and Society as a convenience was something to be used with fact and discretion at home. There was no need to diffuse it recklessly abroad. The general atmosphere, as has often been pointed out, was remarkably like that of Augustan Rome. To the statesman, thinking imperially, all religions were equally useful, each in its proper place."[1]

The attempt to open the door to the Missionaries failed and the Missionary was shut out from India till 1813. Not only was he shut out but the Company's Government kept a strict vigil upon the activities of such stray missionaries who contrived to go to India without their license.

In 1793 Dr. Carey went as an interloper without license. As he was not allowed to enter Calcutta being without license, he made Serampore, 14 miles away from Calcutta as his base of operation. Serampore was a Danish settlement and the Danes had placed no restrictions on missionaries or mission propaganda. On the contrary the Governor of Serampore actively helped them. Carey and his Mission was always suspect in the eyes of the Company's Government. In 1798 the Serampore Mission decided to engage four missionaries who arrived in the year 1800. They went to reside in the Danish settlement of Serampore. As a matter of fact the Governor General had nothing to do with them. But the unconcealed residence of those unlicensed enthusiasts was too much for the Company's Governor General and Lord Wellesley wrote to the Governor of Serampore, "Would His Excellency see to the expulsion of these interlopers who

[1] Mayhew- Christianity and the Government of India, p. 51.

might at any moment violate the territories of the British East India Company", to which the Danish Governor replied that he would do nothing of the kind[1]. Similar action was taken in 1806 when Captain Wickes brought two more Missionaries in the '*Crieterion*' which anchored off Calcutta. Sir George Barlow was then the Governor General. He took a most extra-ordinary action to prevent the landing of these two missionaries. He ordered that the Captain be not given his clearance papers unless he agreed to take back the two missionaries. Although they had gone to live in Serampore and were in fact under the protection of the Danish Crown. This was not only a more unreasonable attitude towards missionaries but it was also an attitude which could not but be regarded as hostile[2].

The Vellore Mutiny among Indian Soldiers which took place in 1806 was quite erroneously attributed to missionary propaganda and Sir George Barlow in a panicky condition proceeded to put the following restrictions on the activities of the Serampore Missionaries:

1. The Missionaries remain at Serampore.
2. They must not preach openly in the bazar.
3. Native converts might preach provided they are not sent forth as emissaries from Serampore.

The vehemence with which the Government of Bengal came down upon the Serampore Mission in 1807 for issuing a tract on Islam in which quite inadvertently the prophet Mahomed was called an imposter also furnishes further evidence of the attitude of hostility which Government of the Company bore towards the Missionaries.

The Government of Bengal refused to be satisfied with the apologies of Dr. Carey and insisted upon the transfer of the Press from Serampore to Calcutta in order that Government may be in a better position to control the literature issued therefrom. The news caused dismay for it meant the disruption of the mission. As usual, the Governor of the Danish settlement came to their rescue and told the frightened Serampore Missionaries that he would fight their battle if the Government of Bengal forcibly removed the Press to Calcutta. Subsequently matters were settled and the order was withdrawn[3]. But the fact remains that the Government of the Company was not a friend of the Missionaries.

So much for the excuse which they can legitimately plead. But what attitude did they take when they were allowed after 1813 to operate in the field ? Did they take the line that caste must go from the thought and life of the Convert? The earliest pronouncement of a Protestant Missionary does not warrant an affirmative answer.

[1]J. C. Marshman. Life & Times of Carey, Marshman and word. Vol. 1, p. [2] *Ibid.,* p. 307.

Missionaries intolerating caste : Dr. Heyne in 1814 wrote : Missionaries, in many instances, have fallen into a mistake of a very injurious nature to their rapid or even ultimate success. In converting a Hindu to Christianity, they oblige him to adopt a line of conduct by which he loses his caste; this, in India is considered such a disgrace, that it must present a powerful obstacle to conversion. But the political division of the Hindus is no part of their religious tenets, though it has been so mistaken by the most enlightened. In giving to the Hindus the Christian religion, allow them to retain their caste, and they could be found to embrace it without reluctance, and in considerable numbers."[1]

But I do not wish to judge the attitude of the Protestant Missions to so important a question from so stray a pronouncement of a solitary individual. There is evidence to show that the Protestant Missions were once early in their career called upon to make up their mind on this important issue so that it can be said that the view maintained by the Protestant Mission is a considered view. The time when this issue was discussed seriously was the time when Rev. Heber was appointed the Bishop of Calcutta. He assumed his duties in the year 1823. During his episcopate he toured extensively in the whole of India and in Ceylon. In the course of his tour, he became aware of the sharp conflict of opinion among Protestant Missionaries to the question of toleration of caste among converts. He decided to resolve this difference. How he went about the business is told in the words of Mr. Kaye who has succintantly narrated it:

> "There was strife, therefore, among the missionaries, which Heber was anxious to allay. The question had been brought before him, before he quitted Bengal. He had there sought to arm himself with all the information that he could obtain, respecting not only the practice of the earlier Protestant missionaries, but the true nature of the institution of Caste. There was then in Bishop's College a Christian convert, known as Christian David. He had been a pupil of Schwartz; and was truly a remarkable man. No less distinguished for his intelligence than for his piety, he was regarded by the good Bishop as the one of all others to whom he might most expediently refer for the solution of his doubts. Heber drew up, therefore, a series of questions, which he submitted to the native Christian, and received from him a series of replies, stated not only in excellent English, but with a force and precision which could not be easily surpassed.

[1] Krishna District Manual, p. 282.

"First, with regard to the nature of Caste, it was declared by Christian David, that it was, among the natives of Southern India, "purely a worldly idea"— "not connected in their minds with any notion of true or false religion," that the native converts, drawn from the higher castes, were disinclined to intercourse With low-caste proselytes, not on religious or superstitious grounds, but simply for social reasons; that there were certain distinctions between high-caste and low-caste persons not by any means ideal, and that these distinctions were not to be gilded over merely by the acquisition of worldly wealth. He specially set forth that low-caste people indulged habitually in an unseemly mode of speech—frequently using coarse or indecent expressions very revolting to the feelings of high-caste men; and that they were altogether less decorous and self respectful in their way of life. Learning, he said, might elevate them; and if a Pariah became learned he was called a pundit, and respected by the Church; and then his brother converts would associate with him, but still they would not "from worldly fear or pride" eat with him from the same dish. From the days of Ziegenbalg downwards they had been wont to sit at Church in two separate divisions, and had communicated separately at the Lord's table, drinking out of the same cup, but the high-caste converts drinking first. As a proof, however, that these were regarded as merely worldly distinctions, Christian David said that high-caste and low-caste, among the Christian congregations of the South, were buried in a common burial ground, and took part promiscuously in the funeral ceremonies, "as if with the consciousness, contrary to the heathen nations, that death levelled all distinctions."

"Rather by mild remonstrance and persuasion than by the enactment of any stringent rules, which might have proved great obstructions to Christianity, the elder missionaries had sought to mitigate the evil; and Christian David declared that under the ministration of Schwartz the evil had considerably diminished. But Mr. Rhenius, of the Church Missionary Society, a truly conscientious and devout Christian, had taken other views of the duties of Christian teachers, and had gained over to his opinions the younger missionaries in the South; so that they agreed, as I have said, among themselves, to make the total repudiation of Caste, even in its mere social aspect, an essential condition of admittance to the Christian Church; and they had, moreover, spoken and preached against the elder missionaries—even the most venerated of their predecessors—denouncing them as "corrupters of the Gospel" for having permitted such things to soil the purity of Christianity.

Of all this Christian David spoke with profound regret. His own opinions were naturally inclined towards the doctrine and the practice of his old master Christian Schwartz. The mild interference and affectionate advice of the Bishop might, he thought, dispose the hearts of the younger missionaries towards greater toleration and forbearance.

"Very earnestly and very conscientiously did Heber revolve this important subject in his mind. It is in accordance with all that we know of the character of the man, that he should have inclined towards the more conciliatory practices of the elder missionaries. But he deferred any final decision, until the opportunity should arrive for the collection of further information and the delivery of a sounder and fuller judgment on the spot. When, therefore, he visited the Southern Presidency, he wrote letters of inquiry to some of the principal missionaries and instituted a select committee of the Christian Knowledge Society for the purpose of making further investigation into the subject. From one letter written to the Rev. D. Schrievogel, though little more than a series of questions, the bent of his opinions may be derived. It appeared to him, after much deliberate consideration, that Caste, as represented to exist among the Christian converts on the Coast was in reality an institution differing little in its essential features from the social exclusiveness prevailing in Christian countries. Is there no such thing, he asked himself, as Caste in Europe? Is there no such thing as Caste in America? Do not the high and the low sit apart in our English churches ? Do not our well-dressed high-caste folks go up first to the altar to communicate? Do high and low sit down to meat together—do their children attend the same schools? Are there no Pariahs amongst us? In other civilized countries, is there not a prevailing sense of Caste, apart from all associations of worldly distinction? Does not the Spanish hidalgo wear his Caste bravely beneath his threadbare cloak? Is the wealthiest mulatto fit companion for the poorest white? It may be called blood, or anything else in another; but in its essential features the one thing differs but little from the other. It is an intelligible and appreciable Christian principle that all men in the sight of God are equal. But it is equally certain that all are not equal in the sight of Man; and it is a fair presumption that God never intended them to be equal. Social distinctions exist every where; and if, argued the Bishop, the distinctions which exist among the converts on the Southern coast are merely social distinctions, why should we endanger the success of our efforts by endeavouring to enforce a law of equality, which is maintained among no other classes of men?

> "In this wise thought Bishop Heber. He had said from the first, that if he could be of any service to the Christian cause in India, it would be as a moderator—that by a conciliatory course, smoothing down the asperities of the over-zealship, he might hope to do much good as the chief missionary; and now he believed that it was his duty to cast in the weight of his authority upon the side of those who had resolved not to. pour too much of new wine into the old bottles."

This view was more forcefully expressed by another Protestant Missionary Rev. Robert Noble who came out to India in 1841 and was in charge of the Church of England Mission Work in Masulipatam made it a rule to exclude Pariahs, leather workers and scavengers from his school. Defending himself against the charge of introducing caste in the Christian fold he defended himself in the following terms: "The humblest and most pious Christian parents in England would not allow their sons, much less their daughters, to be educated with their footmen, with their cooks and their scullery maids. Perhaps I was punished oftener by my pious father for stealing away to play with the boys of the village than on any other account; while in the best ordered Christian family I have ever seen, the children were not allowed to converse with the servants or to descend the second step of the stairs into the kitchen. My father would not have allowed us to mix with the" cook's or stable boy's children; nor can I see it right to require of Brahmins that before we will teach them the Gospel, they must sit down on the same form with the pariah and the sweeper. The requirement is to me unreasonable and unchristian."

It is true that many wise and devout Christians since Heber's time believed that he was altogether wrong; and that Bishop Wilson at a later period reversed his decision emphatically pronouncing against all toleration for the inequities of caste on the ground that it was an ingrained part of Hindu religion. But the fact remained not only the official but also the general view of the Protest Missions' in India regarding the place of caste in Indian Christianity.

Thus all Missionaries agreed that Christianity should be made easy in order that it may spread among India. On this point there seems to be difference of kind among Catholics, Lutherners or Protestants. Such difference as exists is one of degree. If there exists Caste and other forms among Christian converts it is the result of this policy—

[1]An exception must however be made in favour of the Protestant Missionaries of America. In July 1847 the American Missionaries passed the following resolution regarding this question—

> "That the Mission regards caste as an essential part of heathenism, and its full and practical renunciation, after instruction, as essential to satisfactory evidence of piety: and that renunciation of caste implies at least readiness to eat. under proper circumstances, with Christians of any caste.",

policy of making Christianity easy. In adopting this policy the Missionaries never thought that some day, somebody would ask them 'What good is Christianity for a Hindu if it does not do away with his Caste'. They misunderstood their mission and thought that making a person Christian was the same thing as making him a follower of Christ.

V

Let us take the second part of the question. Has Christianity been able to save the convert from the sufferings and the ignominy which is the misfortune of every one who is born an untouchable? Can an untouchable after his conversion to Christianity take water from a public well? Are his children admitted to a public school? Can he enter a hotel or tavern which was not open to him ? Can he enter a shop and buy things from inside? Will a barber shave him? Will a washerman wash his clothes? Can he travel in a bus? Will he be admitted in Public offices without compunction ? Will he be allowed to live in the touchable quarters of the village? Will the Hindus take water from him ? Will they dine with him ? Will not the Hindu take a bath if he touches him ? I am sure the answer to every one of these questions must be in the negative. In other words conversion has not brought about any change in the social status of the untouchable convert. To the general mass of the Hindus the untouchable remains an untouchable even though he beomes a Christian.

The question is, why has Christianity not succeeded in raising the status of the untouchable convert? What are the reasons for this failure? I am not sure that my reasons will be accepted by all those who are interested in the problem. But I will state them for what they are worth. To understand and appreciate what I am going to say I must begin by pointing out that a change in the social status of the convert Can be the result of a two-fold change. There must be a change in the attitude of the Hindus. Secondly there must be a change in the mentality of the convert. Status is a dual matter, a matter *inter se* between two persons and unless both move from their old position there can be no change. What has been done by those who are in charge of Christian endeavour to make the parties move on? A consideration of this question will enable us to understand why Christianity has failed to raise the status of the untouchable convert.

Let us consider the question in parts. What has Christianity done to make the Hindus move on? I find they have done nothing. They seem to be depending upon an idea doing the miracle. The faith in an idea

doing the work has been well expressed by the late Duke of Argyle when he said:

> "There is no method of reform so powerful as this. If alongside any false or corrupt belief, or any vicious or cruel system, we place *one incompatible idea,*—then without any noise of controversy or clash of battle, those beliefs and customs will wave an idea. It was thus that Christianity, without one single word of direct attack, killed off one of the greatest and most universal curses of the pagan world,—the ever deepening curse of slavery."[1]

Whatever may be the importance of an idea, I am sure, history does not bear out the conclusion of the Duke of Argyle. It is debatable question whether the end of slavery in the Roman Empire was due to the influence of Christianity. It is beyond doubt that serfdom continued in Europe although Christianity was an established institution for several hundred years. It is an incontrovertible fact that Christianity was not enough to end the slavery of the Negroes in the United States. A civil war was necessary to give the Negro the freedom which was denied to him by the Christians.

The dependence of those in charge of Christian endeavour upon planting of an idea and leaving it to work a miracle is therefore one of the reasons why the untouchable has remained an untouchable notwithstanding his Christian faith.

Let me take the other part of the question. Does Christianity inspire the untouchable to move on ? I am constrained to say that (it)does not. So far as I am able to see, Christian preaching to the untouchable is less centered on 'practical' reforms and more centered around the development of Christian social attitudes. Christians who desire the conversion of the untouchables insist on regarding Christianity as purely "spiritual". To teach that Christians have an obligation to love others is no doubt very valuable. But to stop there and argue that spiritual life expressed in a social attitude is quite unrelated to material life and Christians can have nothing to do with it, is in my judgment to preach an empty doctrine. What is the use of a daily exhortation to a wrong doer to be good and just if the exhortation is not followed by action to make the wrong doer just and good. The Christian Missionaries have never thought that it was their duty to *act* and get the injustice that pursues the untouchables even after his conversion to Christianity removed. That Missions should be so inactive in the matter of the social emancipation of the untouchable is of course a very sad thing. But far more painful is the inaction of the untouchable who becomes a convert to Christianity. It is the saddest thing. He

[1] Quoted by C. F. Andrews. Christ and Labour, p. 25.

continues to suffer from the Hindus the same disabilities which were his lot before conversion. It is an extraordinary thing that the movement for the redress of wrongs is carried on by the untouchables who have not become converts to Christianity. I have never noticed the untouchable Christians meeting in Conferences for the redress of their social wrongs. That they have grievances is beyond question. That there are many who are educated enough to lead them in their struggle is also well known. Why is it then there has been no movement for the redress of their wrongs?

I see three reasons why the Christian untouchables have failed to raise a movement.

The first reason is to be found in the complete absence of desire on the part of the educated among the Christians to take up the cause of the community and fight for it. This is due in my judgment to the fact that within the Christian Community the educated class and the mass has no kinship. The Christian Community is a composite community. In some places it is divided into touchables and untouchables. In all places it is divided into high class and low class. The educated class is largely drawn from the touchable or the higher class. This educated class being detached from the lower or the untouchable class of Christians is not charged with the wants, the pains, cravings, desires, aspirations of the latter and does not care for their interest. The untouchable Christians are therefore leaderless and therefore unable to mobilize for the redress of their wrongs.

The second reason why there is no movement among the untouchable Christians is due to certain faults in the mental make-up of the convert. The mental make-up of the untouchable Christian is characterized by a complete absence of any urge to break his bonds. What is the reason for this absence of any urge in the untouchable Christian ? It seems to me that there are two reasons which account for this. One reason is to be found in the antecedent of the untouchable who becomes a Christian. An untouchable becomes a Christian for some advantage or he becomes a Christian because he *likes* the teaching of the Bible. But the case is very rare of an untouchable becoming a Christian because of a positive discontent or dislike of the Hindu religious teachings. The result is that Christianity becomes only an addendum to his old faith. It does not become a substitute for his old faith. He cherishes both and observes them on occasions appropriate to each.

The second reason for the absence of any urge is due I am afraid to the teachings of the Christian Church. The Christian Church teaches that the fall of man is due to his original Sin and the reason why one

must become Christian is because in Christianity there is promise of forgiveness of sins. Whatever may be the theological and evangelistic basis of this doctrine there is no doubt that from a sociological point of view it is a doctrine which is fraught with disaster. This Christian teaching is a direct challenge to sociology which holds that the fall of man is due to an unpropitious environment and not to the sins of man. There is no question that the sociological view is the correct view and the Christian dogma only misleads man. It sets him on a wrong trail. This is exactly what has happened with the untouchable Christians. Instead of being taught that his fall is due to a wrong social and religious environment and that for his improvement he must attack that environment he is told that his fall is due to his sin.

The consequence is that the untouchable convert instead of being energized to conquer his environment contents himself with the belief that there is no use struggling, for the simple reason that his fall is due to the sin committed not by him but by some remote ancestor of his called Adam. When he was a Hindu his fall was due to his Karma. When he becomes a Christian he learns that his fall is due to the sins of his ancestor. In either case there is no escape for him. One may well ask whether conversion is a birth of a new life and a condemnation to the old.

VI

Does the Indian Christian Community count in India? What importance, what influence does it have in settling the affairs of the country. It ought to have importance and influence both in the country and society. It is undoubtedly the most educated and enlightened community in India. Not only the percentage of literacy among Indian Christians is relatively larger than in many other communities in India but the University Graduate, Doctors, lawyers are far in excess than can be found in communities which are vastly superior to them in number. Not only the men are educated but also women are educated. With all this light and learning the Christians as a community, it must be said, counts for very little—if at all—in the affairs of India. There may be difference of opinion on this. But this is the conclusion I have arrived at after as close and as impartial a study as I have been able to make. My opponent might say that I am mistaken or that I am misrepresenting. But I take comfort in the fact that there are some Indian Christians who share my view and also my regret. Here are two letters which I take from Young India.

The first is from an Indian Christian to Mr. Gandhi and published in the *Young India,* August 25, 1921. This is what he says:

> "I am sorry to say that you do not take us Indian Christians as the people of India, as I have seen many times Young India mentioning Mussalmans, Hindus, Sikhs, etc., but omitting the Christians.
>
> "I should like you to believe that we Indian Christians are also people of India, and take much interest in India's own affairs." The following is the comment made by Mr. Gandhi on this letter. He says:
>
> "I assure the correspondent and other Indian Christians that non-cooperation is no respector of creeds or races. It invites and admits all to its fold. Many Indian Christians have contributed to the Tilak Swaraj Fund. There are some noted Indian Christians as non-cooperators in the front rank. There is constant mention of Musalmans and Hindus, as they have hitherto regarded one another as enemies. Similarly there always has been some cause when any race has been specially mentioned in these columns."

Apart from the question whether it is true that many Indian Christians have contributed to the Tilak Swaraj Fund and whether it is true or not that noted Christians were front rank non-cooperators, the answer given by Mr. Gandhi to the main question of the correspondent is incorrect if not misleading. If Musalmans are mentioned only because they regard the Hindus as their enemies why were Sikhs mentioned? Surely they did not regard the Hindus as their enemies. Why were they mentioned? The Sikhs were not only mentioned but were treated as an important party without whose active cooperation it was felt that the struggle for Swaraj could not be carried on. And be it remembered that the cooperation given by the Sikhs was not given unconditionally. As is well known the Sikhs had put down two conditions in return for their cooperation[1]. One condition was that in designing a national flag for India the Sikh colour which they said was black should find a place in it. Their second demand was that they should be guaranteed by the Congress representation in the legislature. It is thus clear that Sikhs were not mentioned but placated. But the Christians were not even mentioned. Now there are only two explanations for not mentioning the Indian Christians. Either they were with the Congress in the struggle for Swaraj or that they were not worth mentioning as being too insignificant. That they were not with the Congress in this struggle for Swaraj cannot be gainsaid. The following letter written by an Indian Christian written to the Editor of the *Indian Social Reformer* and reproduced in the *Young India* expresses the attitude of the Indian Christians to Swaraj:

> "We have positive evidence to show that as early as the second century of Christian era there were Christian settlements in India. Such

[1] Young India. Aug. 4. 1921.

being the case, Christians in India can claim to have existed in India some centuries earlier than the very birth of Islam. How comes it then that the Indian Christian born and bred on the soil of India and of ancestry purely Indian, has not learnt to cherish the ancient history of this country, its culture and to look upon its people, however different in their religious persuations, as his bone and of his flesh ? Whence is it that unlike him Hindu or Mahomedan fellow citizen he has not watched for, aspired to and eagerly welcomed every stage that adds a cubit to the cultural, social or political statute of his motherland. Why is it that *Vande Mataram* is a national outpouring of the Hindus and Mahomedans only and till now ignored by the Indian Christian ?

Again how comes it that both Hindus and Mahomedans regard the Indian Christian sentiment towards their aspirations as lukeworm if not positively hostile and conversely why is it that the ever-growing height of the national spirit in India makes the Indian Christian feel dwarfed and helpless and suspicious of his security in the future."[1]

Notwithstanding Mr. George Joseph, K. T. Paul, and Dr. S. K. Datta there is no doubt that the Indian Christian Community far from taking active part in the struggle for Swaraj was really afraid of it and that this letter depicts truly the prevailing attitude of the Indian Christians. The reason why the Indian Christians were not mentioned along with the Musalmans and the Sikhs is therefore clear. The omission to mention them is certainly not due to their being friends of Swaraj. The only conclusion that one can draw for such a omission is that they did not count. It is a sad thing that so enlightened a community should have no importance and no influence in the affairs of the country.

What can be the reasons for such a position ? The most obvious reason is of course, the smallness of its numbers. The weight of its numbers is too small to make its existence felt as a force in public life as can be the case with the Musalmans or with the Depressed Classes. But this cannot wholly account for their insignificance. There must be other factors to account for this. I see two.

One is this. The Indian Christians are living in sheltered waters. They are, at any rate, a large majority of them are living in the laps of the missionaries. For their education, for their medical care, for religious ministration and for most of their petty needs they do not look to Government. They look to the Missions. If they were dependent upon Government they would be required to mobilize, to agitate, educate, and organize their masses for effective political action. For without such organization no Government would care to attend to their needs and their requirements. They are not in the current and not being in the current they care not for public life, and therefore no recognized place in the public.

[1] Young India. 21st Dec. 1922.

The second reason is that the Indian Christian is a disjointed—it is a better word than the word disunited—Community. All that it has in common is a common source of inspiration. Barring this one thing which they have in common everything else tends to keep them apart. Indian Christians like all other Indians are divided by race, by language and by caste. Their religion has not been a sufficiently strong unifying force as to make difference of language, race and caste as though they were mere distinctions. On the contrary their religion which is their only cement is infected with denominational differences. The result is that the Indian Christians are too disjointed to have a common aim, to have a common mind and to put a common endeavour. To an Indian Christian from Tamil, a Hindu from Tamil is much nearer than an Indian Christian from the Punjab; An Indian Christian from U.P. feels greater kinship for a Hindu from U.P. than he does for an Indian Christian from say Maharashtra. In short, the term Indian Christian is just a statistical phrase. There is no community feeling behind this phrase. Indian Christians are not bound together by what is consciousness of kind which is the test of the existence of a community.

I do not know what Indian Christians will think of what I have said of the weaknesses which infect their life. One thing I can say. It is this—I am deeply interested in Indian Christians because a large majority of them are drawn from the untouchable classes. My comments are those of a friend. They are not the strictures of an adversary. I have drawn attention to their weaknesses because I want them to be strong and I want them to be strong because I see great dangers for them ahead. They have to reckon with the scarcely veiled hostility of Mr. Gandhi to Christianity taking its roots in the Indian Social structure. But they have also to reckon with militant Hinduism masquerading as Indian Nationalism. What this militant Hinduism will do to Christians and Christianity can be seen from what happened at Brindaban very recently. If newspaper reports are true[1] a crowd of mild Hinduism quietly went and burned down the Mission buildings in Brindaban and warned the missionary that if he rebuilt it they would come and burn it down again?! This may be the solitary instance of misguided patriots or this may be just a piece of what the Hindus are planning to get rid of Christians and Christianity. If it is the shadow of events to come then Indian Christians must be prepared to meet them. How can they do that except by removing the weaknesses I have referred to? Let all Indian Christians ponder.

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[1]Indian witness.

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●●

(That he minds is an exchange exchange.) But one has still to understand why Mr. Gandhi argues that services rendered by the Missionaries are baits, temptations, and that the conversions are therefore conversions of convenience. Why is it not possible to believe that these services rendered by the Missionaries indicate that they feel that Christianity which serving to suffering humanity is an essential thing. Would that be a wrong view of the process by which a person is drawn towards Christianity ? Only a prejudiced mind would say, Yes.

All these arguments of Mr. Gandhi are brought forth to prevent the Christian Missionaries from converting the Untouchables. No body will deny to Mr. Gandhi the right to save the Untouchables for Hinduism. But in that case he should have frankly told the Missions "Stop your work, we want now to save the Untouchables, and ourselves, give us a chance!" It is a pity that he should not have adopted this honest mode of dealing with the menace of the Missionaries. Whatever any body may say I have no doubt all the Untouchables, whether they are converts or not, will agree that Mr. Gandhi has been grossly unjust to the Christian Missions. For centuries it is the Christian Missions which have been their shelter, if not their refuge.

Very few seem to have any idea of what the Christian Missionaries are doing to remove ignorance and illness from the mass of Indian humanity. The following [1] will give some idea of their effort :-

---

1. Saving Millions P. 217.

11

~~10-a~~

This attitude of Mr. Gandhi need not deter either the Missionaries or the Untouchables. Christianity has come to stay in India and, unless the Hindus in their zeal for nationalism misuse their political, social and economic power to supress it, Christianity will give ~~in India~~ and grow in strength & number. ~~in the same way as Hinduism and Islam. It will not only live but~~ and influence for good, ~~so long~~ as untouchability remains and ~~so long as~~ Untouchables have not found another way for their emancipation, Christianity will ~~have a large prospect for its growth~~ ~~though~~ ~~it~~ ~~may~~ ~~grow~~ ~~in~~ *

II.

What Christianity has achieved in India therefore becomes both a proper subject for examination ~~both~~ from the points of view of the Christian Missions ~~as well~~ and of the Untouchables.

That the Christian Missions have been endeavouring to provide the corpus sanum for the people of India and to create the Mens Sana among these who have ~~gone into~~ entered the fold is undeniable. It would be difficult in this place to describe all the activities carried on by the Christian Missions in India. The work done by the Missionaries falls under five heads. (1) Work among children, (2) Work among young men, (3) Work among the masses, (4) Work among women, and (5) Work among the sick.

The extent of the work done is ~~indeed very~~ vast. The following figures will give ~~some~~ an idea of the scale on which the work for ~~spreading~~ education and relieving sickness is being carried on:

(Specimen of 2 typed pages corrected in the handwriting of Dr. Ambedkar from an essay entitled, ' The Condition of the Convert.')

* This paragraph as it stands is too involved and is weak. I suggest that I have written a more simple & better written in some other medium comment.

?? question the value of these Latin words here.

ERRATA

Page	Line	Incorrect	..	Correct
117	foot note 1	new-reports 1	..	news-reports
117	do. 2	approved ..	..	appeared
157	29	(un)*essentials	..	essentials
157	foot note	The original .... accordingly-Ed	..	*delete*
158	8	to cast fellowship	..	to caste fellowship
194	8	“Brahmanic” Sarasvati	..	“Brahmanic Saraswati,”
337	36	shoud have ..	..	should hve
347	11	office or profit	..	office of profit
363	21	Harjan Sevak Sangh	..	Harijan Sevak Sangh
379	41	now show ..	..	not show
397	8	rationalist who	..	rationalists who
407	4	nationalise ..	..	rationalise
412	28	Hinduism are to observe	..	Hinduism observe
417	19	all convenants	..	all covenants
420	17	and confer himself	..	confer himself
425	26	catch of Shradhanand	..	caste of Shradhanand
431	14	to reform, the pure	..	to reform the pure

Babasaheb Dr. B.R. Ambedkar
(14th April 1891 - 6th December 1956)

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Grammar of Anarchy

We must hold fast to constitutional methods of achieving our social and economic objectives. It means that we must abandon the method of civil disobedience, non-co-operation and satyagraha. When there was no way left for constitutional methods for achieving economic and social objectives, there was some justification for unconstitutional methods for achieving economic and social objectives. But where constitutional methods are open there can be no justification for these unconstitutional methods. These methods are nothing but the Grammar of Anarchy and the sooner they are abandoned the better for us.

—*Dr. B. R. Ambedkar*
in the Constituent Assembly
on 25th November 1949

DR. BABASAHEB AMBEDKAR
WRITINGS AND SPEECHES
Vol. 6

Compiled
by
Vasant Moon

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Kumari Selja

Minister for Social Justice and Empowerment
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MESSAGE

Babasaheb Dr. B.R. Ambedkar, the Chief Architect of Indian Constitution was a scholar par excellence, a philosopher, a visionary, an emancipator and a true nationalist. He led a number of social movements to secure human rights to the oppressed and depressed sections of the society. He stands as a symbol of struggle for social justice.

The Government of Maharashtra has done a highly commendable work of publication of volumes of unpublished works of Dr. Ambedkar, which have brought out his ideology and philosophy before the Nation and the world.

In pursuance of the recommendations of the Centenary Celebrations Committee of Dr. Ambedkar, constituted under the chairmanship of the then Prime Minister of India, the Dr. Ambedkar Foundation (DAF) was set up for implementation of different schemes, projects and activities for furthering the ideology and message of Dr. Ambedkar among the masses in India as well as abroad.

The DAF took up the work of translation and publication of the Collected Works of Babasaheb Dr. B.R. Ambedkar published by the Government of Maharashtra in English and Marathi into Hindi and other regional languages. I am extremely thankful to the Government of Maharashtra's consent for bringing out the works of Dr. Ambedkar in English also by the Dr. Ambedkar Foundation.

Dr. Ambedkar's writings are as relevant today as were at the time when these were penned. He firmly believed that our political democracy must stand on the base of social democracy which means a way of life which recognizes liberty, equality and fraternity as the principles of life. He emphasized on measuring the progress of a community by the degree of progress which women have achieved. According to him if we want to maintain democracy not merely in form, but also in fact, we must hold fast to constitutional methods of achieving our social and economic objectives. He advocated that in our political, social and economic life, we must have the principle of one man, one vote, one value.

There is a great deal that we can learn from Dr. Ambedkar's ideology and philosophy which would be beneficial to our Nation building endeavor. I am glad that the DAF is taking steps to spread Dr. Ambedkar's ideology and philosophy to an even wider readership.

I would be grateful for any suggestions on publication of works of Babasaheb Dr. Ambedkar.

(Kumari Selja)

Collected Works of Babasaheb Dr. Ambedkar (CWBA)

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PREFATORY

In presenting the 6th volume of the writings and speeches of late Dr. B. R. alias Babasaheb Ambedkar, the State Government has the satisfaction of fulfilling its promise and commitment though not in a full measure but substantially. The volume contains reprints of (1) Problem of the Rupee, (2) Evolution of Provincial Finance in British India and it also contains a unique document which is almost a graphic socio-economic balance-sheet of the British rule in India viz. his dissertation on the administration and finance of the East India Company. It is, as readers will judge for themselves, an outstanding achievement for a young man of 24 years that was Dr. Ambedkar in 1915

Apart from these writings, the volume also contains occasional essays, reviews and other miscellaneous reflections on socio-economic topics of the day. In all these writings, Dr. Ambedkar emerges as a profound thinker with strong awareness of his immediate environment. He could see the Indian society of his time in contact with the liberal influences of Western education and like other eminent Indians of the day, he recognised the need for synthesis and assimilation of Western critical outlook with the emerging social ethos of democracy and the welfare state.

The objectivity and criticality of outlook of Dr. Ambedkar may be summed up in the words of Edwin R. A. Seligman of Columbia University, New York. Writes Seligman : "The value of Mr. Ambedkar's contribution to this discussion lies in the objective recitation of the facts and the impartial analysis of the interesting development that has taken place in his native country."

Dr. Ambedkar's exposition of the Problem of the Rupee evoked appreciation of Edwin Cannan, the eminent economist, who frankly acknowledges the gifts of objectivity which Dr. Ambedkar displayed. He writes, "I do not share Mr. Ambedkar's hostility to the system nor accept most of his arguments against it and its

advocates. But he hits some nails very squarely on the head." Indeed, it is needless to quote words of appreciation of Englishmen who were impressed by the critical faculties of analysis of Dr. Ambedkar.

The life of Dr. Ambedkar was spent in the service of the Indian society to the restructuring of which he gave unremittingly all his intellectual and moral gifts which Providence granted him in a generous measure.

He dreamt of India in which every citizen would be Indian first and Indian last. While expressing himself on the Constitution of the Government of Bombay Presidency before the Indian Statutory Commission, he said, "For, I am of opinion that the most vital need of the day is to create amongst the mass of the people the sense of a common nationality, the feeling not that they are Indians first and Hindus, Mohamedans or Sindhis and Canarese afterwards but they are Indians first and Indians last. If that be the ideal, then it follows that nothing should be done which will harden local patriotism and group consciousness."

Progress of mankind is the progress of ideas and march of ideals. Law itself embodies ideal. For Dr. Ambedkar, the ideal was equality, liberty and fraternity. The present generation has much to be indebted to this great son of India.

(Sharad Pawar)

Chief Minister of Maharashtra

INTRODUCTION

This is the 6th volume of the writings and speeches of Dr. Babasaheb Ambedkar consisting of the reprints of his works viz.

(1) The Evolution of Provincial Finance in British India ;

(2) The Problem of the Rupee

and his unpublished dissertation on ' Administration and Finance of the East India Company' submitted to the Columbia University, U.S.A. for his M.A. degree. It also contains his evidence before the Royal Commission on Indian Currency and Finance. His contributions, reviews and prefaces on matters, economic and financial, are also included so as to bring together in the sequence of a single volume his writings on the subject.

His published works (1) Evolution of Provincial Finance in British India and (2) Problem of the Rupee have been out of print for quite some time and the present generation has little or no knowledge of his contributions to the subject of public finance or economics and these will be found useful and instructive as introduction to the evolution of the present federal structure of the Indian polity.

Dr. Ambedkar had the unique distinction of being closely associated with the events and policies that eventually climaxed into the political federation with strong Centre and autonomous states after the inauguration of the Constitutional Government in India in 1950.

His evidence before the Royal Commission on Indian Currency shows a new facet of his multi-dimensional personality as an expert in public finance whose words evoked appreciation and attention of English scholars of his time. His dissertation on the finances of the East India Company is a memorable document that finds place in the present volume for which thanks are due to the University of Columbia. Dr. Ambedkar was then 24 years of age. It may perhaps interest the readers to know his reactions to the finance of the East India Company. There are flashes of his genius and his acute mind could consider pros and cons in a balance. It is difficult to resist the temptation to quote his words from the said dis-sertation of 1915, which constitute the balance-sheet of the British Empire. Writes Dr. Ambedkar:

> "It remains, however, to estimate the contribution of England to India. Apparently the immenseness of India's contribution to England is as much astounding as the nothingness of England's contribution to India. Both are, however, true statements if looked at from economic points of

view. But from another point of view, if India's tribute cannot be weighed in the scales of justice and humanity then England's contribution cannot be weighed in the scales of gold and silver. The last statement is both literally as well as figuratively true. England has added nothing to the stock of gold and silver in India ; on the contrary, she has depleted India— 'the sink of the world.'

"Her contribution lies in an uneconomic realm: but just the same, it is too great to be measured in terms of coin.

"Englishmen can look back on their work in India, if not with unalloyed satisfaction, at least with some legitimate pride. They have conferred on the people of India what is the greatest human blessing—Peace. They have introduced Western education, bringing an ancient civilized nation in touch with modern institutions and life. They have built up an administration which, though it requires reform with the progress of the times, is yet, strong and efficacious. They have framed wise laws, and have established Courts of Justice, the purity of which is as absolute as in any country on the face of the earth. These are results which no honest critic of British work in India regards without high admiration.

> " **But whether mere animal peace is to be preferred to economic destitution, let every one decide for himself."** (emphasis supplied)

In the present volume as in the previous ones, there are several passages that show the varied aspects of the charismatic personality of Dr. Ambedkar. He was a pragmatist par excellence, a stylist of high order, and a profound social philosopher who never allowed himself to be swayed by abstract ideas and dogmas. He was a patriot and nationalist whose commitment to the welfare of the Indian society divided by castes and creeds, is transparent in all his writings and speeches which, as in the above passage brings out antinomies of life in all their varieties and complexities.

The present volume thus fulfils a long-felt need to have in compact form thoughts and views of Dr. Ambedkar on matters, economic and financial. It will also serve as a source of material of contemporary historical relevance. We hope that the layman as well as the research worker will both benefit by the present publication.

(Kamalkishor Kadam)
Education Minister

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Book 1

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ADMINISTRATION AND FINANCE OF THE EAST INDIA COMPANY

By
Bhimrao R. Ambedkar

Submitted in partial fulfilment of the requirements of the degree of Master of Arts

May 15,1915

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Administration and Finance of the East India Company

The copy of this dissertation was secured from the Columbia University by Dr. Frank F. Conlon of the Department of History, University of Washington, U.S.A. and was presented to Mr. Vasant Moon of Dr. Ambedkar Research Institute, Nagpur, in 1979.

The editors are grateful to the University of Columbia, U.S.A. for their kind permission to publish this unpublished dissertation which is in their ownership and possession. They also appreciate Dr. Conlon's gesture of generosity and the assistance of Dr. Ambedkar Research Institute, Nagpur, for making this paper available for printing to the Government of Maharashtra.

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I

WITHOUT going into the historical development of it, the administration of the East India Company may be conveniently described as follows :

I. The Court of Proprietors

It was "composed of the shareholders of the East India stock to a certain amount, who elect from their own body by ballot a certain number of representatives (twenty-four) to whom the proprietory confide the planning and carrying into effect whatever measures may be deemed most conducive to the interests of India and England, reserving to themselves a surveillance and limited control over the proceedings of the delegated authority."

The requirements of a seat and a vote in this Court were as follows :

A proprietor of	£ 500 stock was entitled to a seat in this Court.
A proprietor of	£ 1,000 stock was entitled to one vote.
A proprietor of	£ 3,000 stock was entitled to two votes.
A proprietor of	£ 6,000 stock was entitled to three votes.
A proprietor from	£ 10,000 to £ 1,00,000 and upward stock was entitled to four votes.

Besides this, the stock must have been held for at least one year before voting. There was no voting by proxy and minors were ruled as incapable of voting.

The voters counted Lords, Commoners, women, clergy, and officers civil and military, both of the king and the company.

The sessions of the Court were quarterly—March, June, September, December. Nine qualified proprietors were quite sufficient to ask for a special session of the Court. The speaker was ex-officio the chairman who presided at the session, brought forward all motions requiring the sanction of the Court, and laid before the members the accounts of the Company's transactions.

The Court was authorized—

(1) To elect qualified persons to constitute what is known as the Court of Directors.

(2) To declare the dividends on the capital stock of the company within certain parliamentary restrictions.

(3) To frame, alter, or repeal such of the by-laws as hinder the good government of the East India Company, provided they do not conflict with the Acts of Parliament.

(4) To control in general any increase in a salary or pension above £ 200 a year, or over any gratuity beyond £600.

(5) To confer pecuniary reward for good service.

II. The Court of Directors

It consisted of twenty-four members. The Directors were elected by such of the Proprietors as were qualified for a vote. The qualification of a candidate for the Court of Directors were :

(1) He must be a natural, or naturalized subject of Great Britain.

(2) He must possess £ 2,000 stock (no matter for what previous period).

(3) He must not be a director of the Bank of England or the South Sea Company.

(4) He must be a resident of England for two years after holding office in the Court.

(5) He must not have held any maritime office in the Service of the Company for two years previous to his proposed election.

(6) He must not have under any plea or pretence whatsoever, endeavored to obtain, directly or indirectly, a vote for the election of himself or any other person to be a Director.

(7) He must take an oath

(a) not to carry on any private trade.

(b) not to have any dealing with the company except as a private individual.

(c) not to hold any place or office of emolument under the Crown.

In order to fulfill the various duties, the work was assigned to several Committees into which the Court was sub-divided. They were:

1. Secret Committee
2. Correspondence Committee
3. Treasury Committee
4. Govt. Troops and Stores Committee
5. Legal Proceedings Committee
6. Military Proceedings Committee
7. Accounts Committee
8. buying committee
9. Warehouses Committee
10. India House Committee
11. Shipping Committee
12. Private Trade Committee
13. Civil College
14. Military College

All appointments such as writers, cadets, and assistant surgeons etc. were made by the Directors. The Civil and Military Services were recruited from the graduates of the two colleges which were merely a burden on the revenues of the Company.

III. The Board of Commissioners for the Affairs of India (The Board of Control).

The powers of the Board are :

(1) "The superintendence and control over all the British territorial possessions in the East Indies, and over the affairs of the United Company of merchants trading thereto."

(2) "To superintend, direct and control all acts, operations, and concerns, which in any wise relate to the civil or military government or revenues of the British territorial possessions in the East Indies, in the manner hereinafter directed."

"All the members of the said Board, at all convenient times, have access to all palers and muniments of the said United Company, and are furnished with such extracts, or copies thereof, as they require. The Court of Directors are directed to deliver to the Board copies of all minutes, orders, resolutions, and other proceedings of all General or Special Courts of Proprietors of the Company, and of the Court of Directors, so far as relate to the civil or military government or revenues of the British territorial possessions in the East Indies, within eight days after the holding of such respective Courts; and also copies of ail despatches which the Directors receive from any of their servants in the East Indies, immediately after the arrival thereof; also copies of all letters, orders and instructions whatsoever, relating to the civil and military government or revenues of the British territorial possessions in the East Indies, proposed to be sent or despatched by the Court of Directors to any of the servants of the Company in the East Indies; the Court of Directors are required to pay due obedience to, and to be governed and bound by

> such orders and directions as they shall, from time to time, receive from the Board, touching the civil or military government and revenues of the British territorial possessions in the East Indies."
>
> "Whenever the Court of Directors neglect to transmit to the Board their intended despatches on any subject, within fourteen days after requisition is made, it is lawful for the Board to prepare and send to the Directors (without waiting for the receipt of the copies of despatches intended to be sent by the said Court of Directors, as aforesaid), any orders or instructions to any of the governments or presidencies aforesaid, concerning the civil or military government of the British territories and possessions in the East Indies : and the Directors are required to transmit despatches, in the usual form (pursuant to the tenor of the said orders and instructions to be transmitted to them), to the respective governments and presidencies in India, unless on any representation made by the Directors to the Board, touching such orders or instructions, the Board shall direct any alteration to be made in the same, which directions the Court of Directors are bound to conform to."

The Board of Control was sub-divided into six departments to answer its functions : (1) Accounts, (2) Revenue, (3) Judicial, (4) Military, (5) Secret and Political, (6) Foreign and Public.

The mode of local administration in India was as follows :—

The country was divided into three presidencies namely, Bengal, Madras and Bombay, the seat of government being respectively at Fort William, Fort St. George, and Bombay itself.

In the beginning the Supreme Local Administration of India was distributed among these three governments, each one enjoying coordinate status. With a view to centralization, the Supreme Local Administration of India was vested in the Governor of Fort William in Bengal, making the other two Governors subordinate to that of Bengal who was made the Governor-General of India.

The appointment of the Governor-General was made by the Court of Directors subject to the approval of the Crown. The Governor-General was aided by a Council known as the Supreme Council, originally composed of four members, three of whom necessarily had to be the servants of the Company in India of at least ten years' standing. The fourth one must not have belonged to the Company's Service. The Commander-in-Chief of forces in India was an ex-officio member of the Governor-General's office. This Supreme Council of five members was expanded by adding to it in 1853, six Legislative members who were authorized only to sit and vote on the framing of Laws and Regulations. Four of these six Legislative members were required to be the Civil Servants of the Company of ten years' standing in Bombay, Madras, Bengal and the North-Western Provinces. The two remaining places were filled up by the Chief Justice and one other Judge of the Supreme Court of Calcutta. The Governor-General was authorized to add two more members to this Council of eleven, under Section 22 of Statute 16 and 17 Victoria Chapter 95, but the power was not exercised at best up to the time of the mutiny.

This Supreme Council of India, therefore, was composed of six members including the Governor-General and the Commander-in-Chief for the purposes of Executive Government and twelve members for the purposes of the Legislatures : seven members were deemed sufficient to form a quorum.

The power of the Governor-General was so great that he was nearly an autocrat. He could not only veto all legislation in the Council but could initiate and carry out measures independently of the Council. All "political" appointments including those of the Residents to the native States and the Commissioners to the non-regulated provinces were made by him. He could appoint the Lieutenant-Governor of Bengal and of the North-West Provinces and the judges of the lower courts and controlled military patronage in Bengal and the North-West provinces.

All districts not included within the limits of any of the four Subordinate Governments were under the direct jurisdiction of the Governor-General in Council who also exercised such power over the native states as accrued to him through treaty obligation. The official staff of the Governor-General was divided into four departments, each one represented by a Secretary. These were :

(1) The Foreign Department (foreign in relation to the native states).

(2) The Home Department, handling the judicial and revenue correspondence.

(3) The Financial Department.

(4) The Military Department.

Besides these the Political and Finance Secretaries had their respective Secret Departments which were entrusted with secret despatches.

The Subordinate Governments of Madras and Bombay were administered thus : Each had its respective Governors and Councils consisting of three members (including the Commander-in Chief). Both the Governors and the Councillors were appointed by the Court of directors. Bengal and the North-west Provinces were each governed by the Lieutenant-Governors who were appointed by the Governor-General. The Subordinate Governments were denied the power of legislation or creating any new office, nor could they "grant any salary, gratuity, or allowance without the previous sanction of the Governor-General of India in Council." This extreme strictness though required by law was not required by custom : in order not to overburden the Governor-General, minor matters were executed by the Governor who submitted a quarterly report of the same to the higher authorities who reviewed it and as a matter of fact sanctioned it. The Bombay and Madras Governments were privileged to hold direct correspondence with the Court of Directors and did send the abstracts of their proceedings to the Court and to the Government of India. The instruments of Indian Government were furnished by what was and is known as the Civil (covenanted and uncovenanted), the Military, the Naval and the Ecclesiastical Service. The collection of revenue and administration of justice were relegated to the Civil Service.

For Civil and Military recruitment, the East India Company had maintained two colleges in England (1) the Haileburg College and (2) the Adiscombe Academy : Each student cost the Company about £ 96 a year during his period of training.

All revenue was collected in the name of the Supreme Government of India and was transferred to and controlled by the Supreme Treasury. There was absolutely no local fiscal autonomy : the deficit in one province was made up by the surplus in another and the entire India revenue was held responsible for the debts borrowed for wars in one particular province : in short, both Finance and Administration were absolutely centralized as in France under the ancienne regime.

So much for the pure system of Administration. The criticism of it we will postpone till we come to the next chapter.

The last chapter must have made it clear how and why Western Europe was at a death grapple for the control of India. We followed the armies of the different leaders of different nations— fighting for a country the people of which had very little to choose in the final destiny—the Cama, the Albuquerques, the Busseys, the Lallys, the Clives, the Malcolms, the lakes and the shores as though enacting the train of ghosts of Banquo's line all that terrified Shakespeare's Macbeth out of his senses.

II

In this chapter we have more particularly to deal with the East India Company as a Political Sovereign and the Finances without dilating upon its development from a Commercial Concern into a Political Sovereign.

There is nothing strange in the fact that the East India Company succeeded in establishing its suzerainty over India as might have been seen from our past discussion. Having gotten a foothold in the various provinces it extended its rule over the entire peninsula and established by law what is known as the British Government in India : in other words, it established the State and carried on the political and commercial functions jointly. As a result of this combined activity the fiscal administration of the Company in India was an entangled phenomenon. The commercial and

revenue returns were merged together without any attempt at distinction. Any student of finance, therefore, has to pass over the entire period ending in 1814 when by an Act of Parliament the Company was compelled to keep separate accounts of Finance and Commerce.

With this caution we will now turn to the heads of Revenue.

(1) The Land Revenue

In spite of the early industrialization in parts of India, the country as a whole maybe classed as an agricultural country and land, today as in former times, furnished the state with a major part of its revenue.

The British Government rightly or wrongly established the principle of state landlordship versus the principle of private property and regulated its land revenue system in keeping with that policy.

There are different systems of land revenue in India : It may be well to describe them in the words of Parliamentary Blue-Books.

(I) The Zemindary Settlement of Cornwallis

The most obvious feature of advantage in this system is the facility of collection, as it is a much more simple thing to obtain the revenue of a large district from a certain moderate number of Zemindars or contributors, than it is to perform the collection in details by the officers of the government themselves, and another advantage undoubtedly is the greater degree of certainty in the result of 1831 C. 3339.

This system of land tenure arose thus : When the East India Company came into possession of the revenues of the Dewanee of Bengal, Behar and Orissa, they found the land revenue collected through the mediation of officers (subhedars) under the Mohamedan government, who had charge of districts sometimes of more, sometimes of less extent, with various titles, such as Zemindars and Talookdars, and who paid the revenue into the treasury in one sum, for which they were found managing considerable districts whose obligations consisted in paying a certain annual amount to the Government. Many of them held their districts or estates under this condition hereditarily. [2. cf.

1831 C. 3114, 3115, 3215.] On the East India Company becoming possessed of the Bengal territory, great abuses were found to prevail, and to be practised by the different sorts of people employed in the collection of the revenue. The detail of the business was so great, that it frightened Lord Cornwallis and the Government of the day, and they conceived that no better method for the protection of the Ryots or small cultivators, could be invented, than to create a species of landlords, from whom they expected much benefit to arise : the ground upon which they principally went was this, that those zemindars, having a permanent interest in the land assigned to them, would have an interest in the prosperity of the Ryots, in the same manner as a landlord in England feels an interest in the prosperity of his tenants. This was expected to produce two good effects, to create a landed aristocracy in the country, and above all to afford protection to the Ryots or small cultivators, from the kind of paternal feeling that was expected to pervade the zemindars. [1. cf. 1831 C. 3136.] With a view to the protection of the whole mass of agricultural population, and with the best motives, the zemindars in 1793, whether cultivators or officers in actual charge of districts, hereditary or by special appointment, were created landholders of the country by which a property in the soil was vested in them, in nearly as full a sense as it is to the holder of a fee-simple in England. The sum which a zemindar had been in the habit of paying was ascertained by the observation of a few prior years, the assessment or tax was *fixed forever,* and an engagement was made that this amount of land revenue should never be raised on him. Such is the nature of the settlement known by the name of "the Zemindary or Permanent Settlement". [2. cf. 1831. C. 3115, 3116, 3136, 3215; 1832. R.C. p. 21.]

II. Village Land Revenue System

The institution of village community was and is mainly to be found in northern India. The proprietary right of land is vested in the entire community residing in the village. The administration of the village is handed over to a headman elected by the villagers and is subject to their removal. Under this system the lands are let out to men sometimes in the same village, sometimes in the

neighbouring village, while certain portions and certain rights are possessed by the different craftsmen or artisans of the village, such as the schoolmaster, the washerman, the barber, the carpenter, the blacksmith, the watchman, the village accountant, etc. who have each a right to a certain portion set aside for certain recognized expenses of the village, and for defraying its hospitality towards strangers [1. cf. 1830, L. 398, 399, 405, 406, 529.] These village communities are little republics, having nearly everything that they want within themselves, and almost independent of any foreign relations. Dynasty after dynasty tumbles down : revolution succeads revolution. Hindoo, Pathan, Mogul, Maratha, Sikh, English, are all masters in turn, but the village communities remain the same. In times of trouble they arm and fortify themselves; [2. cf. 1832 Commons' Rev. Committee, p. 29.] It is difficult to state the proportion of the produce of the village paid to the Government: the authorities know little of the precise property of any of the proprietors; it is not the interest or the wish of the village that the Government should scrutinize and know their possessions, therefore if any one of the brotherhood fails to pay his proportion, that is a matter for the villagers at large to settle, and they will often come forward to pay it for him, but these are all private arrangements kept to themselves : and the Moceadim has no power from the Government to enforce this assessment, what each man in the village has to pay is an internal arrangement, which it is desirable for the Government not to interfere in, the villagers settling among themselves what each has to pay, the total assessment being calculated after enquiry into the state of prosperity in the village : what it has hitherto paid : what it is capable of paying : the state of the village lands, and what assessment they ought to bear with reference to the produce. [3. cf. 1830 L. 401, 402, 404, 528, 583, 584.]

Surveys of considerable expense have been made by the Government : a minute account taken of the state of the land in each village, the fields examined in the presence of surveying officers with all the assistance they can procure, not only from their own servants, but from the village communities, the people themselves interested, and also the ryots and people of the

neighbouring villages who are invited to attend. The exact limits of the village are put down, and even the details of land within the village, the productions, the houses, fruit-bearing trees, and son on : the assessment is grounded upon these particulars [1. cf. 1831 C. 3492.]

III. The Ryotwar System

The peculiar principle of the third sort of assessment termed Ryotwar is to fix a maximum of assessment upon all the lands of the country [2. cf. 1831 C. 45, 65.] The money rent of each individual oultivator for the fields in his occupation is defined with as much permanency as possible, the aggregate of such rents making the total assessment, which varies each year with the increase or decrease of cultivation. Another main principle of the Ryotwar system is to protect the rights of all ryots or cultivators, as they now exist in every village, from infringement: and to prevent all encroachment upon those rights [3 cf. 1831. C. 5156 :] Thus, in the Ryotwar system, the details of the interest of the respective Ryots are known completely, and not at all in the zemindary system; and the former effectually does what the latter proposes to do, but never has done, and never can do, that is, fix an assessment upon all lands in the country. Under the Ryotwar system, the assessment goes from land to the aggregate : it respects property of every class, that of the largest landholder, and that of the smallest: it measures and assess every portion of an estate, and thus facilitates the transfer of landed property, as the first question when taken into market is—What is the amount of public demand upon the land ? [4 cf. 1831 C. 4565, 4567, 4568.] The Ryotwar Settlement is applicable in every state of things : where there are proprietors it may be concluded with farmers or cultivators : it may be equally made for the largest or for the smallest quantity of land, for millions of acres or for only a few. The owner of a single field may make his terms directly with the Government, and turn to his cultivation, knowing that he cannot be called on to pay more than a certain sum : for although the assessment under this system varies according to the value of the land, difference of soil, population, situation, and other localities : and although inferior land, paying a lower assessment, becomes

liable when sufficiently improved to pay the higher assessment, there is nevertheless, a maximum for the best land beyond which all produce is for the benefit of the landholder, and there are remissions in cases of urgent distress. [1. cf. 1832 C.R. P. No. 20.] Another advantage which the Ryotwar system possesses over the Zemindary is in the creation of a great body of independent proprietors, instead of a few who are proprietors only in name : and there is an advantage for the great mass of the people, but in the case of the Zamindary they accumulate for the benefit of the few, while in the Ryotwar system there is also tendency in a considerable degree to the accumulation of capital. [2. cf. 1831 C. 4577, 4578, 4579.]

Such was and is the system of land revenue in India under the regime of the East India Company. A critical estimation of the system we will reserve for the future.

The next important head of revenue is the *Opium revenue*. The opium revenue yielded next in amount to the land revenue and was levied in two different ways :

(1) "By an exclusive system of cultivation and sale carried on by the Government in Bengal."

(2) "By a high export duty levied in Bombay on opium grown in the native states of Malwa and shipped from Bombay."

By Regulation VI of 1799 section 3, poppy cultivation was prohibited in Bengal, and in the North-West Provinces by Regulation XLI of 1803 Section 2.

> "Annual engagements are entered into by the Government with the Ryots in certain selected districts, to sow a certain quantity of land with the white poppy, under a system of pecuniary advances, the produce to be delivered in the form of opium to the Government at a fixed rate.....The total net receipts from the opium monopoly in Bengal amounted in 1856 to 2,767,136."

The revenue derived from transit of opium has a pretty little history : prior to 1831 the British used to buy the opium from the native states (to keep a strict monopoly of the article) through the Resident and hammer it out at Bombay or at Calcutta. But to prevent the large smuggling into the Portuguese Settlements the

monopoly policy was given up in favour of the transit duties recovered by way of "passes" at a specified rate to cover the transportation cost to Bombay. The transit duty was at first fixed at Rs. 175 per chest of 140 lbs. each. This process showed a diminution in the returns, consequently the rate was reduced to Rs. 125 per chest.

The conquest of Sindh closed the additional gate of smuggling the opium into the Portuguese territories : consequently it was hoped and rightly that a higher transit duty would give added return as the change in the direction of the trade was impossible. So in 1843 October, the rate was increased to Rs. 200 per chest, in 1845 to Rs. 300 per chest and in 1847 to Rs. 400 per chest.

III. The Salt Tax

Salt is obtained in India in different ways and is taxed in different ways in different parts of the country.

It is obtained either by boiling sea water as in Bengal, or by solar evaporation as in Bombay and Madras or from natural resources such as the salt mines in Punjab and the salt lakes in Rajputana.

In Bengal the Company had a salt monopoly. It was manufactured by the natives who contracted to deliver ail manufactured salt to the Government at a fixed low price. The Government then sold this quantity of salt at six different agencies, Hidgelee, Tumlook, Chittagong, Hiracan, Cuttack, Balasore and Khoredah, at a price which was composed of the actual cost plus the additional amount equivalent to the duty levied on imported salt. As a result of this "the average retail price to the consumer" amounted to about a penny per pound.

The private manufacture of salt was also allowed at Calcutta under a system of excise only equal in amount to the import duty.

But on the recommendation of the select committee of the House of Commons in 1836, there was introduced the system of fixed prices, and open warehouses, at which the sales, instead of being as before periodical "were constantly going on."

In Madras, salt was manufactured on behalf of the Government and was sold for internal consumption. The duty on imported foreign salt was lowered from Rs. 3 per pound to equal the difference between the cost price and the sale price of the article.

In Bombay the salt manufacture was handed over to the individuals under the system of an excise duty equivalent to the import duty on the article. The salt mines of Punjab were worked by the Government and the salt was sold on the spot.

The North-West Provinces depended upon the Lower Provinces of Bengal, the Sambhur Salt lake in Rajputana and parts of western India for their supply of salt. The duties were so arranged that the salt from all parts when it reached the North-West Provinces tended to be equal in price.

IV. Customs

There were innumerable transit or inland duties levied at every town and on every road in the shape of tolls. But they were abolished in Bengal by Act 14 of 1836 : in Bombay by Act 1 of 1838 : and in Madras by Act 6, of 1844 : and uniform system of customs was established all through British India. The evil effects of these inland transit duties will be discussed later on.

There remained two sources of customs revenue :

(1) The sea customs on exports and imports, the former on salt and indigo.

(2) The land customs levied mainly on articles crossing the frontier lines between the native and British territories.

V. Besides the salt and opium monopolies the East India Company had the tobacco monopolies as another source of revenue.

VI. *Abkarree* or revenue obtained from the sale of monopolies to sell spirits and liquors. Licences were sold to the highest bidder who contracted to sell at his own price, the hours of business and the location of the shop being regulated by the Government.

VII. The Wheel-tax was levied upon hackneys, carts, buggys, etc.

VIII. The "Sayer duties" was a collective name for unclassified taxes. In different parts of the country it included different taxes. Once it included the irregular collections made by native revenue officers. In Madras it included the transit duties, in Bengal the pilgrim tax was included under this head. In the Deccan "this source of revenue" was "divided into two great heads the first denominated mohturfa, which embraces taxes on shops, trades,

etc.: the other ballootah,* which "comprehended" taxes upon the fees in kind received by the village artisans from the cultivators, and upon their *enam* (rent free) lands when they hold them. In one instance, the percentage upon bad coins was found to be included under the head Sayer."

IX. The Judicial Fees were realized in the form of stamps requisite in cases of different amounts in order to defray legal charges; the value of stamps varied with the amount of the suit.

Suits ranging up to Rs. 16	...	the stamps amounted to Re. 1
From Rs. 16 to Rs. 32	...	Rs. 2
From Rs. 32 to Rs. 64	...	Rs. 4
From Rs. 64 to Rs. 150	...	Rs. 8
From Rs. 150 to Rs. 300	...	Rs. 16
From Rs. 300 to Rs. 800	...	Rs. 32
From Rs. 800 to Rs. 1,600	...	Rs. 50
From Rs. 1,600 to Rs. 3,000	...	Rs. 100
From Rs. 5,000 to Rs. 10,000	...	Rs. 250
From Rs. 10,000 to Rs. 25,000	...	Rs. 500
From Rs. 25,000 to Rs. 50,000	...	Rs. 750
From Rs. 50,000 to Rs. 1,00,000	...	Rs. 1,000
From Rs. 1,00,000 and above	...	Rs. 2,000

Besides this the exhibits filed, summons, answers, replications, rejoinders, supplemental pleadings, the authorization to a lawyer to plead (sanad) are required to be stamped, the stamp only varying according to the status of the court.

X. The Stamp Duties first established in Bengal in 1797 were incumbent on all instruments such as contracts, deeds, conveyances, leases, powers of attorney, policies of insurance, promissory notes, receipts, bail bonds, and legal proceeding generally (bills of exchange under Rs. 25 and receipts under Rs. 50 were being exempted).

In Madras stamp paper was first introduced in 1808, chiefly on legal proceedings: and in 1816 the duties were extended to bonds, deeds, leases, mortgages, bills of exchange and receipts.

In Bombay the tax was first introduced in 1815.

The English mode of distributing stamps was adopted in India.

* *In the Ms. the word is typed as 'balloobeh'*—Ed.

"The stamp vendors receive their supply from the collector: the vendors give security for the stamps, and distribute them to the parties by whom they are required, receiving a percentage on the sales".

XI. The Mint Revenue was collected in the shape of a seignorage for coining of two percent on the produce, after allowing for the difference of standard and deducting the charges of refining when such were chargeable.

XII. The Marine Revenue was recovered by means of the port and anchorage dues, etc. in order to keep up the useful establishments at Calcutta, Madras and Bombay.

XIII. Subsidies from the native states payable under treaty obligations, amounting to about a half million pounds.

These were the thirteen sources of revenue under the East India Company, many of which continue to be so even today.

III

It will be also interesting to note the entire revenue raised from the different sources and the percentage ratio of each to the whole.

First **the land tax** : its yield and ratio to the entire revenue of British India.

Periods		Land Tax Average Annual Revenue	Ratio of Land Tax to Total Revenue (Per cent)
1792-93 to 1796-97	...	4,068,000	50.33
1797-98 to 1801-02	...	4,126,000	42.02
1802-03 to 1806-07	...	4,582,000	31.99
1807-08 to 1811-12	...	5,078,000	31.68
1812-13 to 1816-17	...	9,018,000	52.33
1817-18 to 1821-22	...	13,263,000	66.17
1822-23 to 1826-27	...	13,567,000	61.83
1827-28 to 1831-32	...	13,112,000	60.90
1832-33 to 1836-37	...	11,942,000	57.00
1837-38 to 1841-42	...	12,380,000	59.05
1842-43 to 1846-47	...	13,432,000	55.85
1847-48 to 1851-52	...	14,947,000	56.06
1852-53 to 1855-56	...	16,183,000	55.40
1792-93 to 1855-56	...	10,349,000	54.07

The Opium Revenue : its yield and ratio to the entire revenue of British India.

Periods		Average Annual Revenue	Ratio to the Total Revenue (Per cent)
1792-93 to 1796-97	...	264,000	3.27
1797-98 to 1881-82	...	312,000	3.18
1802-03 to 1806-07	...	579,000	4.04
1807-08 to 1811-12	...	767,000	4.79
1812-13to 1816-17	...	958,000	5.56
1817-18 to 1821-22	...	1,090,000	5.44
1822-23 to 1826-27	...	1,641,000	7.47
1827-28 to 1831-32	...	1,747,000	8.12
1832-33 to 1836-37	...	1,677,000	8.00
1837-38 to 1841-42	...	1,547,000	7.38
1842-43 to 1846-47	...	2,965,000	12.33
1847-48 to 1851-52	...	3,840,000	14.50
1852-53 to 1855-56	...	4,943,000	16.91
1792-93 to 1855-56	...	1,667,000	8.71

The Salt Tax : its yield and ratio to the entire revenue of British India

Period		Average Annual Revenue	Ratio to the Total Revenue (Per cent)
1792-93 to 1796-97	...	1,207,000	14.93
1797-98 to 1801-02	...	1,188,000	12.10
1802-03 to 1806-07	...	1,589,000	11.09
1807-08 to 1811-12	...	1,785,000	11.14
1812-13to 1816-17	...	1,882,000	10.92
1817-18 to 1821-22	...	2,256,000	11.25
1822-23 to 1826-27	...	2,603,000	11.87
1827-28 to 1831-32	...	2,590,000	12.03
1832-33 to 1836-37	...	2,036,000	9.72
1837-38 to 1841-42	...	2,593,000	12.37
1842-43 to 1846-47	...	2,798,000	11.65
1847-48 to 1851-52	...	2,438,000	9.14
1852-53 to 1855-56	...	2,677,000	9.17
1792-93 to 1855-56	...	2,118,000	11.07

Customs Revenue : its yield and ratio to the entire revenue of British India.

Periods		Average Annual Revenue	Ratio to the Total Revenue (Per cent)
1792-93 to 1796-97	...	192,000	2.38
1797-98 to 1881-82	...	304,000	3.10
1802-03 to 1806-07	...	596,000	4.16
1807-08 to 1811-12	...	807,000	5.04
1812-13 to 1816-17	...	1,159,000	6.68
1817-18 to 1821-22	...	1,667,000	8.32
1822-23 to 1826-27	...	1,663,000	7.58
1827-28 to 1831-32	...	1,747,000	8.12
1832-33 to 1836-37	...	1,506,000	7.19
1837-38 to 1841-42	...	1,418,000	6.76
1842-43 to 1846-47	...	1,449,000	6.02
1847-48 to 1851-52	...	1,439,000	5.40
1852-53 to 1855-56	...	1,611,000	5.52
1792-93 to 1855-56	...	1,190,000	6.22

Miscellaneous Revenue : its yield and ratio to the Entire Revenue of British India.

Periods		Average Annual Revenue	Ratio to the Total Revenue (Per cent)
1792-93 to 1796-97	...	2,315,000	28.64
1797-98 to 1801-02	...	3,809,000	38.79
1802-03 to 1806-07	...	6,857,000	47.87
1807-08 to 1811-12	...	7,452,000	46.49
1812-13 to 1816-17	...	3,990,000	23.16
1817-18 to 1821-22	...	1,392,000	6.94
1822-23 to 1826-27	...	1,986,000	9.05
1827-28 to 1831-32	...	1,789,000	8.31
1832-33 to 1836-37	...	3,059,000	14.60
1837-38 to 1841-42	...	1,434,000	6.84
1842-43 to 1846-47	...	1,636,000	6.80
1847-48 to 1851-52	...	1,977,000	7.40
1852-53 to 1855-56	...	1,575,000	5.39
1792-93 to 1855-56	...	3,043,000	15.90

This much for the sources of revenue and amounts raised from each one of them and their proportions to the whole.

On the expenditure side we note the following heads :

(1) Charges incident to the collection of revenue.

(2) Military and naval charges.

(3) Civil, judicial and police.

(4) Public works.

(5) Interest on Bond Debt in India.

(6) Allowances and assignments to native princes under treaties and their engagements.

(7) Home charges which included :

(a) Interest on Home Bond Debt.

(b) Dividends to Proprietors of East India stock.

(c) Payments on account of Her Majesty's Troops and establishment.

(d) Charges of the East India House and Board of Control.

A tabular arrangement of the expenditure in chronological sequence may be of some value.

Selecting the period 1800 to 1857 we my take every tenth year as a representative year and mark the percentage ratio of Charges to the Revenue of that particular year.

	Net Revenue	Charges	Military Charges	Interest of Debt.	Civil & Political Charges	Judicial Charges	Provincial Police Charges	Bldgs. & Fortifications
	£	£	%	%	%	%	%	%
1809-10 ...	11,238,000	11,076,000	58,877	18,010	7.221	7.525	1.991	1.639
1819-20 ...	13,016,000	12,934,000	64,290	12.805	8.900	6.800	2.093	1.756
1820-30 ...	14,200,000	13,107,000	53,754	12.124	9.575	7.107	1.535	2.810
1830-40 ...	13,742,000	13,004,000	57,721	9.756	12.296	9.565	2.062	1.428
1840-50 ...	19,510,000	16,404,000	51,662	10.512	8.902	7.100	2.062	1.661
1857 ...	33,303,000	28,079,000	45,55	7.19	9.62	9.38		

Public Works

According to Professor Adams the finances of a country are to be judged from the viewpoint of developmental expenditure : and

among the developmental expenditure of a country the Public Works take a prominent position.

Applying the same criterion we are compelled to condemn the entire fiscal system of the East India Company.

Before 1853 the administration was engaged in war operations and not only did not project any new scheme of public works, but it allowed the old ones to fall rapidly into decay.

Dr. Spray in his "Modern India" (1837) says "It is in the territories of the independent native chiefs and princes that great and useful works are found and maintained. In our territories the canals, bridges and reservoirs, wells, groves, etc., the works of our predecessors from revenues expressly appropriated for such undertakings are going fast to decay."

Speaking of the Public Works in India, Mr. John Bright said "With regard to public works, if I were speaking for the natives of India, I would state this fact, that in a single English country there are more roads—more travelable roads—than are to be found in the whole of India; and I would say also, that the single city of Manchester, in the supply of its inhabitants in the single article of water, has spent a larger sum of money than the East India Company has spent in the fourteen years—from 1834 to 1848— in public works of every kind throughout the whole of its dominions. I would say that the real activity of the Indian Government has been an activity of conquest and annexation."

Before the "Department of Public Works" was made uniform for all the Presidencies of India the important branch of administration was conducted in various ways.

In Bombay it was conducted by the Military Board : Though subordinate, the Superintendent of Roads and Tanks was outside the Military Board.

In Bengal the Military Board had the entire control.

In Madras the administration of this department was threefold : There was—

(1) The Public Works Department of the Board of Revenue.

(2) The Superintendent of Roads.

(3) The Military Board.

This variety in the system was reduced to uniformity by Lord Dulhousie who created a separate department of the state for dealing with questions connected with Public Works.

We will review in brief the Public Works that were executed under the regime of the East India Company.

(1) Canals

Ganges Canal—449 1/2 miles.

East and West Jumna Canal—445 miles of the West Jumna Canal were completed.

Punjab Canals—425 miles of the Boree-Doab Canal in the Punjab were executed in May, 1856.

Madras Irrigation Works—Tanks, reservoirs, and "annicuts" or dams, across the beds of the Cauvery, Godavery, and Kistna Rivers.

(2) Truck Roads	miles	cost
From Calcutta to Peshawar	1,423	1,423,000
From Calcutta to Bombay	1,002	500,000
From Madras to Bangalore	200	37,121
From Bombay to Agra	734	243,676
From Rangoon to Prome	200	160,000
(3) Railways		
From Calcutta to Burdwan	120	
From Bombay to Wassind	50	
From Bombay to Compooie	10	
From Madras to Vellore	81	
(4) Electric Telegraphs		
From Calcutta to Peshawar	in all about 4000 miles	
From Agra to Bombay		
From Bombay to Madras		

Mr. Hendricks says "Comparative to area and population, the extension of these works has not been either so great or so continuous as might be desired. If we exclude those undertakings that are of a purely military character, and review the items which may be classed under Land and Water Channels of Communication and Irrigation Works, or in other words, the Revenue—productive Public Works, in recent years of most activity, it

appears that an outlay of about one million and a half sterling has been the maximum for one year. If we take the most immediately productive works, viz.: of Canalization, Irrigation, it will be seen that not more than 738,015 in the year 1853-54, and 543,333 in the year 1854-55, was thus expended.

> "The condition of the Revenue, as preventing a more rapid and extensive outlay, has hitherto been an answer to those who might have been disposed to urge that even these amounts are insignificant, when the British Indian territory of 837,000 square miles, and its 132,000,000 of souls are considered. This answer resolves itself purely into one of alleged difficulty. That this difficulty is only apparent, and might be remedied, is evident, not only from the practical testimony of the productive results of such expenditure in the instances before adverted to, but also from the history and policy of the other branches of the Colonial Empire of this country. And the history of the East India Company, or of the trading companies of other countries, has shown no exception to the general rule, that expenditure on carefully selected objects of enterprise may often appear lavish and purposeless when it is but showing the field whose harvest is the proof of the wise economy of that expenditure."

The Pressure of the Revenue

This branch of our study is entirely out of question : not that it is beyond our scope but there are innumerable drawbacks in our way. First and foremost is, that we have no absolutely correct statistics regarding population. Census was never known at that period and any estimate of the population is at nest a guess too broad and vague to be made the basis of any scientific conclusion.

Another serious handicap in the way of such a study is the fact that every year the East India Company saw its territory extended by several units of miles and one often wonders whether the swell in the revenue is due to the high rate of taxation or the extension of territory.

Thirdly, the Revenue accounts of the East India Company are anything but perfect. As noticed before, they were mixed with the

commercial accounts till 1813 and when they were separated by the Parliamentary mandate they were hardly made intelligible.

These serious handicaps consequently compel us to leave aside this important phase of our study. Certain detached statements if grouped together may *convey* to us some idea regarding the pressure of the Revenue. Speaking about the Land Tax alone, Mr. R: C. Dutt, besides whom there is no better authority on the subject, says, "The Land Tax levied by the British Government is not only excessive, but, what is worse, it is fluctuating and uncertain in many provinces. In England, the Land Tax was between one shilling and four shillings in the pound, i.e. between five and twenty percent of the rental, during a hundred years before 1798, when it was made perpetual and redeemable by William Pitt. In Bengal the Land Tax was fixed at over ninety percent of the rental, and in Northern India at over eighty percent of the rental, between 1793 and 1822. It is true that the British Government only followed the precedent of the previous Mohamedan rulers who also claimed an enormous Land Tax. But the difference was this, that what the Mohamedan rulers claimed they could never fully realize : what the British rulers claimed they realized with rigor. The last Mohamedan ruler of Bengal, in the last year of his administration (1764) realized a land revenue of £817,553 : within thirty years the British rulers realized a land revenue of £ 2,680,000 in the same Province. In 1802 the Nawab of Oudh ceded Allahabad and some other rich districts in Northern India to the British Government. The land revenue which was claimed by the British rulers within three years of the cessation was £ 1,682,306. In Madras, the Land Tax first imposed by the East India Company was one-half the gross produce of the land. In Bombay, the land revenue of the territory conquered from the Marattas in 1817 was 800,000 in the year of the conquest: it was raised to 1,500,000 within a few days of the British rule : and it has been continuously raised since. "No native prince demands the rent which we do," wrote Bishop Heber in 1826, after travelling all through India, and visiting British and native states. "A Land Tax which now exists in India," wrote Colonel Briggs in 1830, "professing to absorb the whole of the landlord's rent, was never known under any government in Europe or Asia."

> "The people of Bengal and of Northern India gradually obtained some relief from the heavy land assessment of the early years of the British rule. In Bengal the assessment was made permanent; and it has not been raised with the extension of cultivation, it now bears (including Road and Public Works assessments, which have been since imposed on the rental) a ratio of about 35 per cent on the rental. In Northern India the assessment was not made permanent, but was reduced to slightly over 50 per cent including all assessments, in 1855. But new assessments were added : calculations were made not on the current, but on the prospective rental until the tax rose to close upon 60 per cent on the rental."

In Bombay and Madras things remained pretty much the same. In both these Presidencies the Ryotwar Settlement prevails. The working of this Ryotwar system of land tenure during the regime of the East India Company is best described by Mr. Fullerton (member of the Madras Government)—"Imagine," he says, "the whole landed interest—that is, all the landlords of Great Britain, and even the capital farmers, at once swept away from off the face of the earth : imagine a rent fixed on every field in the kingdom, *seldom under, generally above* its means of payment: imagine the land so rented, lotted out to the villagers according to the number of their cattle and ploughs, to the extent of forty or fifty acres each. Imagine the revenue rated as above, leviable through the agency of one hundred thousand revenue officers, collected or remitted at their discretion, according to their idea of the occupant's means of paying, whether from the produce of his land or his separate property : and in order to encourage every man to act as a spy on his neighbour, and report his means of paying, that he may eventually save himself from extra demand; imagine all the cultivators of a village liable at all times to a separate demand, in order to make up for the failure of one or more individuals of the parish. Imagine collectors to every country acting under the orders of a board, on the avowed principle of destroying all temptation to labour, by a general equalization of assessment: seizing and sending back runaways to each other: and lastly, imagine the collector, the sole magistrates, or justice of the peace

of the country, through the medium and instrumentality of whom alone, any criminal complaint of personal grievance suffered by the subject can reach the superior courts. Imagine, at the same time, every subordinate officer, employed in the collection of the land revenue to be a police officer, vested with the power *to fine, confine,* put in *the stocks,* and flog any inhabitant within his range, on any charge, without oath of the accuser, or sworn recorded evidence in the case."

To this Mr. Martin adds, "If anything could open the eyes of those who uphold the Ryotwar System at Madras, these torture revelations ought to do so. The late Mr. Sullivan, member of Council at Madras, declared to the author, that when he saw the cartloads of silver leaving his cutchery (treasury) for Madras, and remembered the poverty of the people from whom it was collected, he shuddered at the thought of their prospect during the ensuing year, as the demands of the government were inexorable and a certain amount of money must be forthcoming."

The Pressure of Inland Transit duties will be considered later when we come to the economic condition of India during the Company's rule.

As over against this pressure of taxation we have *very* little information regarding the income of the people.

Nothing gives a better idea of the pressure of the tax than its comparison with the income : but our knowledge of the income of the people is *very* scanty. According to Munro the average wages of an agricultural laborer was between 4s. and 6s. monthly and that the cost of subsistence was between 18s. and 27s. a head per annum.

What was the pressure of the tax we do not know. Circumstantial evidence goes to prove that it must have been great.

IV

Mr. Martin sums up the entire financial history most succinctly as follows :—

> "The expectations raised by Clive of the prosperity which would follow the territorial acquisitions of the Company, were so far from being fulfilled, that it was found on this (when the Dewanee of Bengal and Behar was granted to the Company) and on subsequent occasions, that increase of revenue was almost invariably attended with more than commensurate

increase of expenditure : the cost of government by Europeans, the growth of a standing army in each Presidency, and other sources of legitimate or illegitimate expense, swallowing up all the anticipated surplus, and leaving nothing for the development of the resources of the country or even the maintenance of roads, canals, and other public works constructed by native rulers."

Strange to say, the financial afairs of the Company were woefully mismanaged. A writer of the time said, "We have an army officered by British soldiers, manoeuvered according to European tactics. The spirit and much of the letter of the English law pervades our jurisprudence : our assessments for revenue are supposed to be based upon the doctrines laid down by Adam Smith and his followers (?). Our finance alone is Indian. Our military men study the strategy of Jomini : Blackstone and Bentham, Mills and Ricardo are the text-books of our civilians, but the system of our financiers is almost the same now as that of Abul Fazal, Akbar's minister some three centuries ago."

Year			Gross Revenue	Gross Expenditure
			£	£
1792-93	...	...	5,512,761	3,873,859
1793-94	...	...	8,276,770	6,593,129
1794-95	...	...	8,026,193	6,567,808
1795-96	...	...	7,866,094	6,888,997
1796-97	...	...	8,018,171	7,508,038
1797-98	...	...	8,059,880	8,015,327
1798-99	...	...	8,652,033	9,139,363
1799-1800	...	...	9,736,672	9,955,390
1800-01	...	...	10,485,059	11,468,185
1801-02	...	...	12,163,589	12,410,045
1802-03	...	...	13,464,537	12,326,880
1803-04	...	...	13,271,385	14,395,405
1804-05	...	...	14,949,395	16,115,183
1805-06	...	...	15,403,409	17,421,418
1806-07	...	...	14,535,739	17,508,864
1807-08	...	...	15,669,905	15,850,290
1808-09	...	...	15,525,055	15,392,889
1809-10	...	...	15,655,985	15,534,711
1810-11	...	...	16,679,197	13,909,981
1811-12	...	...	16,605,615	13,220,966
1812-13	...	...	16,336,290	13,515,828
1813-14	...	...	17,228,711	13,617,725

Year			Gross Revenue	Gross Expenditure
			£	£
1814-15		...	17,297,280	15,955,006
1815-16	...	...	17,237,819	17,059,968
1816-17	...	...	18,077,578	17,304,162
1817-18	...	...	18,375,820	18,046,194
1818-19	...	...	19,459,017	20,396,587
1819-20	...	...	19,230,462	19,689,107
1820-21	...	...	21,352,241	20,057,252
1821-22	...	...	21,803,108	19,856,489
1822-23	...	...	21,171,701	20,083,741
1823-24	...	...	21,280,384	20,853,997
1824-25	...	...	20,750,183	22,504,156
1825-26	...	...	21,128,388	24,168,013
1826-27	...	...	22,383,497	23,312,295
1827-28	...	...	22,863,263	24,053,837
1828-29	...	...	22,740,691	21,718,560
1829-30	...	...	21,695,208	20,568,358
1830-31	...	...	22,019,310	20,233,890
1831-32	...	...	18,317,237	17,048,173
1832-33	...	...	18,477,924	17,514,720
1833-34	...	...	18,267,368	16,924,332
1834-35	...	...	28,856,647	16,684,496
1835-36	...	...	. 20,148,125	15,994,804
1836-37	...	...	20,999,130	17,363,368
1837-38	...	...	20,858,820	17,553,525
1838-39	...	...	21,158,099	21,306,232
1839-40	...	...	20,124,038	22,228,011
1840-41	...	...	20,851,073	22,546,430
1841-42	...	...	21,837,823	23,534,446
1842-43	...	...	22,616,487	23,888,526
1843-44	...	...	23,586,573	24,925,371
1844-45	...	...	23,666,246	24,293,647
1845-46	...	...	24,270,608	25,662,738
1846-47	...	...	26,084,681	26,916,188
1847-48	...	...	24,908,302	26,747,474
1848-49	...	...	25,396,386	26,766,848
1849-50	...	...	27,522,344	26,960,988
1850-51	...	...	27,625,360	27,000,624
1851-52	...	...	27,832,237	27,098,462
1852-53	...	...	28,609,109	27,976,735
1853-54	...	...	28,277,530	30,240,435
1854-55	...	...	29,133,050	30,753,456
1855-56	...	...	30,817,528	31,637,530
1856-57	...	...	31,691,015	31,608,875
1857-58	...	...	31,706,776	41,240,571

Taking into account the period between 1792 to 1857 Mr. Romesh Chandra Dutt says, "It will be seen that if there were fourteen years of deficit, there were thirty-two years of surplus; and if the deficit amounted altogether to nearly seventeen millions the surplus amounted to nearly forty-nine millions. The net financial results of Indian administration was therefore a surplus of thirty-two millions during forty-six years. But this money was not saved in India, nor devoted to irrigation or other works of improvement. It went as a continuous tribute to England to pay dividends to the Company's shareholders; and as the flow of the money from India was not sufficient to pay the dividends, there was an increasing debt called the Public Debt of India." [1. R. C. Dutt. "India under Early British Rule." p. 408.]

There were two distinct ways in which loans were raised in England and in India.

In India when the government was in need of money it advertized that the Treasury was open to receive money upon loan at certain rates specified in the advertisement and upon the conditions there contained. So long as the loans remained open, parties were admitted to make what payments they pleased, and to receive what are called loan notes in acknowledgment, and these to any amount. The money raised on loan was all raised in India.

In England a different mode operated. The only mode, it was so stipulated by the Parliament, by which the East India Company was able to raise loan there was analogous to that of other corporations viz. on bonds, and all the Home debt was raised on bonds.

The Public Debt of India, at least under the Company's rule was entirely the creation of war.

We will follow the progress of these two debts separately.

The Indian Debt

In 1792 the Indian Debt was a little over £7,000,000 : within seven years it had risen to £10,000,000. In 1800 it was £ 14,625,384 carrying a total interest of £ 1,342,854. Now came the wars of Wellesely with the Marathas and in one sweep he

raised the Indian Debt to the amount of £ 30,098,857 in 1807-08 bearing a total annual interest of £ 2,339,087. After the conclusion of peace, attempts were made to lower the debts by redemptions : as a consequence of this policy the Indian Debt was brought down in 1810-11 to £ 22,545,843 and the interest to £ 1,503,434. But wars were the rule and peace the exception : and in 1819-20 by the Nepal War and the First Maratha War the Indian Debt was raised to £ 31,338,855. By 1823-24, as a result of the intervening peace, the debt was reduced but the next year the First Burmese War of 1824-25 raised it to £ 38,316,486. In 1835-36 the debt was reduced to £ 31,821,118 : but a train of military operations were awaiting India. The Afghan War, the Sindh War, the two Sikh Wars, the Second Burmese War increased the debt which in 1852-53 amounted to £52,313,094 and the interest to £2,479,133. In 1853-54, however, the Indian Debt was reduced to £49,762,876. In 1853-54 the Public Works policy was inaugurated and as a consequence of it the Indian Debt increased to £ 55,546,650 in 1855-56. The year 1857-58 witnessed what is known as the Indian Mutiny or the War of Independence, raising the Indian Debt *to* £ 60,704,084.

The Home Bond Debt (in England)

In 1800, the Home Bond Debt amounted to £ 1,487,112 at 5 % interest. But the wars of Wellesly also told upon the Home Debt and increased to £ 4,205,275 in 1807-08 : in 1811-12 the Home Bond Debt reached its maximum limit of £ 6,565,900 at 5 %. In 1816-17 the rate of interest was reduced to 4 % and it never rose above it. In 1814-15 the Home Bond Debt was reduced to £4,376,976. By occasional reductions it lowered to £ 1,734,300 in 1840-41. As a result of the Afghan War and the Mutiny the Home Bond Debt rose to £ 3,894,400, besides £ 40,000,000 as the cost of the Mutiny.

It is likely to be a matter of surprise when one sees the smallness of the Indian Home Bond Debt as compared with the Indian Debt. But the surprise will no longer exist when we know that the capacity of the East India Company to borrow in England was strictly limited by Parliamentary Regulations. The Parliament

was ever eager to obtain the advantages of the rule of the Company without its disadvantages. It was eager to obtain command of the Indian Empire, but till the end was achieved always looked upon it as problematical and did not want to jeopardize the interests of the country in a project which in spite of its apparent success looked anything but certain of beneficial results. Hence, the Parliament put a strict embargo on the Company's raising the loans beyond a certain limit lest the Company lose its hold upon India and bring ruin on England by jeopardizing English capital.

V

INDIA AND THE ACT OF 1858

The East India Company in spite of the fact that she was a source of great prosperity to England suffered great humiliation at the hands of the British Parliament and people.

The East India Company was jealous of her monopoly of the Indian trade and the British were determined to derive as large a gain as possible for allowing her that privilege. Every weakness in the administration was made an excuse for extortion and interference : and renewal of charter was often an occasion to disgorge her of her wealth accumulated by the monopoly of Indian trade.

Very early in the history of the Company a controversy as to this monopoly of trade had arisen and pros and cons were acrimoniously discussed. Up to 1833 the Company, by means fair or foul, managed to win over the English statesmen to continue her monopoly. But in that year the cry against her monopoly had grown so loud that both the Company and the Ministers had to give in and the East India trade was thrown open to all the English public.

By the Act of 1834 the Company ceased to be a commercial corporation. How the obligations of the Company were met may be seen from the following :

> "The tangible commercial property sold under the Act of 1834, realised £15,223,480 which was thus disposed of :

> £8,191,366 towards discharges of India Debt : £2,218,831 was applied in payment of territorial charges in England : £ 1,788,525 was applied in liquidation of part of the Home Bond Debt : £ 2,000,000 was paid into the Bank of England, for investment in the funds, to provide a "Security fund" at compound interest, for the ultimate redemption of the capital stock of the Company (6,000,000) in 1874 : £561,600 was applied in compensations to ship-owners and other persons : and the remainder of £ 463,135 was retained in England, as an available cash balance for the purposes of government in India. The unavailable assets claimed as commercial by the Company—viz. the India House in Leaden Hall Street, one ware-house retained for a military store department, and house property in India, the whole valued at £ 635,445—remains in the hands of the Company but applicable to the uses of the Indian Government."

Though as a trading body the Company disappeared, she continued her existence as a political sovereign of her territories in India. Unfortunately for the Company her days were fast being numbered.

It is an error to suppose that the East India Company was abolished because of her inefficiency as manifested in the Mutiny of 1857. On the contrary, before the mutiny had actually taken place, the discussion about the direct assumption of the Government of India by the Crown was set afloat, which is indicative of the fact that mutiny or no mutiny, the British statesmen were impatient to have direct control over the "leaves and the fishes" that came but indirectly from their rule in India by a process of disgorging a corporation which directly fed them on beef fat.

This round about process was tiresome and mentally exhausting for impatient minds. Lord Palmerston having been returned by a strong majority in 1857 as a result of his success in the Crimean War immediately notified the Directors of the Company to their great surprise that he proposed to introduce a Bill for the abolition of the Company and the resumption of the direct Government of India by the Crown.

Unfortunately, the mutiny did occur in 1857 and gave a strong impetus to the abolition movement already in full swing.

On the 31st day of December, 1857, the Chairman and the Deputy Chairman of the Company replied to the notification of Palmerston urging that "an intermediate, non-political, and perfectly independent body" similar to the Company was a necessity for the administration of India.

Besides this the Company sent a formal petition to both Houses of Parliament. John Stuart Mill who drafted the petition showed the fallacy in the arguments of the mover of the Bill for the abolition of the Company. From the very beginning the Crown had exercized its control over the Indian Government through its Minister presiding over the Board of Control. Between the Government in India and the Crown Minister there was the Court of Directors which the new Bill wanted to do away with. Mill argued that this Court of Directors (the organ of the East India Company), the embodiment of experience was a good guide for the Crown Minister who really controlled the entire administration of India, and said that if evils have really arisen from the mode of administration the remedy that was sought viz. of doing away with the Court of Directors and thus making the Crown Minister an autocrat was worse than the disease. "To believe that the administration of India would have been more from error had it been conducted by a Minister of the Crown without the aid of the Court of Directors, would be to believe that the Minister, with full powers to govern India as he pleased, has governed ill, because he had the assistance of experienced and responsible advisers."

A diversity of opinion prevailed as to the future connection of India with England.

The Stanlay Review, an important newspaper in England argued that the East India Company be maintained to keep India away from English politics. It made quite a point of the fact that Englishmen who went over to India became autocrats and that in it there was a danger to democracy. It boldly proclaimed that "India, like a colossal torpedo, will paralyze the beneficient activities and benumb the free moral life of England"..... and if....."brought full in sight of England, will serve her as a great

school, in which she may learn the principles of the King of Naples and the practices of Mrs. Stowe's Legree."

Others, notably a certain Richard Congreve, a disciple of Conte pleaded that India should be left to work out her own destiny. He maintained that the rule of one people by another is demoralizing and not wise for the better development of humanity. In order to prevent any other nation from stepping into India after the English had left he proposed that an international board be appointed to regulate the administration which was ultimately to devolve upon the Indians when they became capable of self-government.

None of these views, however, fall in with those of the British Parliamentarians who decided differently. They were determined to abolish the East India Company and take the government of India immediately-under the Crown : they desired to substitute direct government for the double government. As a result of this neither the petition nor the independent public opinion proved of any effect and Palmerston introduced his Bill for the Abolition of the Company and the future government of India. Before the Bill was passed, the Conspiracy Bill threw out the government of Palmerston which was succeeded by a conservative one under the leadership of Lord Derby. After Lord Palmerston's Bill had gone out by his overthrow, Benjamin Disraeli, the Chancellor under Lord Derby introduced his India Bill. John Stuart Mill's comparison of the merits of the two bills is very instructing and later events have borne out his contentions. He says :—

> "The means which the Bills provide for overcoming these difficulties (of the government of one nation by another) consist of the unchecked power of a minister. There is no difference of moment in this respect between the two Bills. The minister, it is true, is to have a Council. But the most despotic rulers have Councils. The difference between the Council of a despot, and a Council which prevents the ruler from being a despot is, that the one is dependent on him, the other independent; that the one has some power of its own, the other has not. By the first Bill (Lord Palmerston's Bill) the whole Council is nominated by the minister; by the second (Disraeli's Bill) one half of it is nominated by him. The functions to be entrusted to it are left, in

both, with some slight exceptions, to the minister's own discretion."

Disraeli's Bill suffered worse fate than the one of Lord Palmerston. It simply fell. A new bill was therefore introduced in August, 1858, and passed designated as an "Act for the better government of India."

The Provision of this Act (of Section 75) which still largely regulate the administration of India may be divided into classes according to their nature :

(1) Those dealing with the past affairs.

(2) Those dealing with the future affairs.

We will first consider those that deal with the past affairs—mainly the settlement of the fiscal and commercial obligations of the Company. Section 42 of this Act "provided that the dividend on the capital stock of the East India Company, should be charged and chargeable upon the revenues of India alone."

Amidst all the questions between India and England that had to be settled with equity none was more prominent than the question of the Indian debt. Who should bear the burden of the Indian debt was the burning question of the time. The crux of the question was who was responsible for it and what was its purpose ?

The most enlightening commentary on the problem is that of Major Wingate who immediately after the mutiny argued :

> "Have the people of India had a voice in the management of their affairs, or have the taxation and expenditure of the Indian Government been regulated with a view to the welfare of India alone, without intervention or interference on the part of the government of this country ? By no means, the Government of India, whether viewed with reference to its forms or powers, has been, from the first hour of its existence up to the present time, the creation of the British Parliament. The power vested in the Government of India to contract debt, was a delegation of authority from the British Parliament, which, up to this hour, as in the case of the last debenture loan, exerts a right of interference over its exercise..... The East India Company have been declared by Parliament to have been simply trustees for the British nation, which, in accordance with this

view, altered the conditions of their trust from time to time, and finally relieved the trustees of its exercise altogether. When the subject is carefully examined, it will be found that the Government of India, so far from being the Government of a distinct state, has been, from the first, simply a *department of the British Government*. The British ministry, acting through the President of the Board of Control, formed the real motive power which decided the policy of successive Indian administrations, and the East India Company was simply a convenient screen..... If the facts be so, then, and they cannot be gainsaid, we seem to be shut up to the conclusion that the acts of the Government of India, from first to last, have been the acts of the British nation. India has never had even the shadow of a constitution, or of a national government, but has been ruled as a conquered country, according to the views of successive British Parliaments and the British administrations. **The Indian debt has really been incurred by the Government of this country : and how, then, can we possibly shake ourselves free of Indian liabilities ?"**

Mr. Wingate also appealed to the humane part of the British public by dwelling upon the advantages to England and the injuries to India :

"In proceeding to consider these advantages, there is one most important fact, which should ever be present to the mind of the reader, and that is, that those advantages, be they great or small, have cost the nation nothing to acquire. This may sound as a startling assertion in the ears of Englishmen of this generation, who have not yet forgotten the heavy bills which they have had to pay for Canada rebellions, Caffre wars, Ceylon insurrections, and many manumissions of West Indian Slaves; and who are annually reminded of the cost of governing, or protecting our colonies and dependencies, by the financial estimates submitted to Parliament; but the assertion, nevertheless, is strictly and liberally correct. "Strange," may we wonderingly exclaim, "that we, who have spent so much on our colonial possessions, and have waged so many costly wars for thankless foreigners, should have laid out no money in the

acquisition or improvement of our great Indian Empire. The thing cannot be : it is too astounding for belief." Astounding indeed it is : but there is something still more astonishing behind; for not only is it a fact that India has been acquired without the expenditure of a single shilling on the part of this country, but it is equally a fact that, so far from involving outlay, India has regularly paid to Great Britain a heavy tribute, which there is reason for thinking has not fallen far short of the almost incredible sum of a hundred millions sterling in the course of the present century."..... " The Indian tribute, whether weighed in the scales of justice, or viewed in the light of our own true interest, will be found to be at variance with humanity, with common sense, and with the received maxims of economical science."

Touching the grievances of India, Mr. Wingate asked the English public :

"Has our policy in India been determined out of pure, unselfish, and benevolent regard for the welfare of the people of that country, and without the smallest regard for the manner in which it may affect our own away ? Was this the principle which guided us in imposing prohibitive duties upon Indian manufactures imported into this country, and merely nominal duties upon British manufactures imported into India ? Was it out of pure regard for India that cotton exported to Great Britain from India, is exempt from duty, while it is taxed on exportation to all parts of the world besides ? Was it Indian interest which dictated the fixing of import duties upon goods brought to India in British ships, at one-half of the amount levied upon similar goods brought in ships to any other country ? Were native interests solely concerned in the exemption of Europeans in India from the jurisdiction of the ordinary courts of criminal justice, by which native redress for British wrong-doing, has been made a practical impossibility in ninety-nine cases out of a hundred ? Was it out of consideration for the tax paying Hindoo and Mohamedan, that the official European in India was provided with a costly ecclesiastical establishment before anything else was done for their education or enlightment ?

> Was it unselfish regard for the natives that dictated the policy of obtaining, upholding and extending British dominion in the East, by means of taxes raised in India, in opposition to the rule obtaining in all other British dependencies, of providing for the costs of their military defence from the British Exchequer ? And lastly, were the arrangements for defraying what is styled "the home charges," out of the Indian revenues, under which nearly one hundred millions sterling of taxes collected in India, have been transferred to Great Britain in the course of the present century, devised for the purpose of benefiting the people of India alone ? Let the candid reader thoughtfully and conscientiously answer these questions for himself, and then say whether British interest as well as Indian interests have not had a share in determining the course of our Indian policy."

All the arguments legal and humanitarian failed to win the day. The English Parliament flatly refused to share in the Indian Debt which created the acquisition of the Empire. The entire heavy load of the debt of the East India Company amounting to £ 69,473,484—mostly unproductive—was placed on the shoulders of the poverty-stricken natives who had *no* voice in the doings of the Company. This was not all : the unfortunate mutiny had cost £ 40,000,000, and as a legitimate expenditure for the acquisition of an empire, England in justice ought to have paid the cost of the mutiny. John Bright who often expoused the cause of the Indian tax-payers appealed to the Parliament saying "that the forty millions which the revolt will cost is a grievous burden to place upon the people of India. It has come from the mismanagement of the Parliament and the people of England. If every man had what was just, no doubt that forty millions would have to be paid out of the taxes levied upon the people of this country (England)."

The practical outcome of these unjust arrangements was that the people of India purchased the empire at many millions for the debt was only a part of the cost, and made an offering of it to the British Crown : in other words, the Empire was either a gift or a trust.

The arrangements regarding the stock of the East India Company are in the same iniquitous strain. The stock of the Company was redeemed by a loan which was also added to the already enormous debt consolidated into what is known as the India Government Debt.

What the Act really did was to annihilate the Board of Control : the Company though legally extinct continues to live for all practical purposes and enjoys her dividends even to this day in the shape of interest paid out of Indian revenues. The astounding result of this policy was **gains to England and costs to India.** When every effort at giving justice to India failed in the British Parliament, Lord Derby moved that this enormous debt of India be guaranteed by the Parliament so that on the security of it the interest rate be lowered and the Indian tax-payer be relieved. He said :

> "I am aware that the uniform policy of the Parliament and the Government of this country has been to decline all responsibility in regard to the debt of India, which has been held to be a charge only on the Indian Exchequer. Dealing with the present state of affairs I may say at once that I am not going to recommend any change in that policy. I know well the alarm which any such proposition would create and I know the refusal which it would inevitably receive. But this is a question which will recur again and again, and which will have to be considered in the future as well as in the present.
>
> I would likewise ask the House to bear in mind that if ever the time should come when the established policy in this respect should undergo a change, and when a national guarantee should be given for those liabilities, that guarantee would operate to reduce the interest paid upon the Indian Debt by no less than £ 750,000 or even £ 1,000,000 which, formed into a sinking fund, would go far to pay off the whole."

John Bright who through sheer short-sightedness opposed said :

> "I object to an Imperial guarantee on this ground—if we left the services of India, after exhausting the resources of India, to put their hands into the pockets of the English people, the

people of England having no control over Indian expenditure, it is impossible to say to what lengths of unimagined extravegance they would not go : and in endeavoring to save India, may we not go far towards ruining England ?"

Not only was there no warrant for Mr. Bright to magnify this danger so much, but he failed "to see that the people of England would have very soon ceased to neglect the affairs of India, and would have obtained a real control over Indian expenditure, if some share of the liability of the Indian Debt had been thrown on them."

The discussions were all abortive and did not even recompense the breath that was wasted and in no sense did the natives get any relief from "the direful spring of woes unnumbered."

Let us now see what the Act willed for the future. Section 55 said, "excepting for preventing or repelling actual invasion of her Majesty's Indian possessions, or under other sudden and urgent necessity, the revenues of India shall not, without the consent of both Houses of Parliament, be applicable to defray the expenses of any military operation carried on beyond the external frontiers of such possessions by her Majesty's forces charged upon such revenues."

With profound respect for the intellect of Mr. R. C. Dutt, one, however, cannot understand on what ground does he characterise this section as "one salutary financial provision". That it was an improvement over the financial administration of the East India Company no one can doubt. But it is by no means salutary in that the revenues of India have been spent outside India for non-Indian purposes, even after the Act. The fatal error lay in this,—the excepting clause in the above section which sanctions the expenditure of Indian revenue outside of India omits the vital word previous. The clause in order to be salutary in effect ought to run—"the revenues of India shall not, without the previous consent of both Houses of Parliament, be applicable etc....." and not in the way it does. An unknown writer says, "in all probability that essential proviso was comprised in the original draft, but afterwards eliminated by the

same mischievous hand which contrived in Sections 26,27,28 to secure the entire immunity, irresponsibility, and personal autocracy of the secretary of state."

After showing that Lord Stanely and the Earl of Derby who had so much to do with the framing of the statute were united in including the neglected proviso the writer quotes the opinion of Mr. Gladstone regarding Section 55 as follows :—

> In my view it was the purpose of this clause to require the **Preliminary** consent of parliament to the issue of Indian money for the purpose of operations carried on by the forces charged upon India beyond the Indian frontier, except in certain special cases, which were very carefully defined. It was, in fact, to prevent the use of Indian money for military operations. I remember this; for I myself was the author of the clause, and the present Lord Derby, who was Secretary of State for India at the time, concurred with me as to its objects."

The same writer goes on to say :

> "There are few, if any causes, that have brought more disaster and financial damage to "India of the Queen" than has the utter disregard of the safeguards ostensibly ordained under these despised and neglected provisions of the Act. We are well aware that, even had the saving word "previous" been included in the Section, the clamour on behalf of pseudo-Imperial interests, or the exigencies of party schemes, might have sufficed to override the claims and rights of the Indian people. **But that word would, at least, have secured an invaluable respite, during which the voice of reason might have been heard."**

The non-fiscal sections of this Act were :—

(1) The territories of the East India Company were vested in her Majesty, the Queen, and the powers exercised by the East India Company and the Board of Control were vested in the Secretary of State for India. He was to have a Council of fifteen members who would hold office during good behaviour, and each member was to have a salary of £ 1200 a year out of the revenues of India. The pay of the Secretary of State and all his establishment would similarly be charged to India.

(2) The Secretary of State was empowered to act against the majority of the Council except in certain specified matters. And on questions of peace and war (which had hitherto been dealt with by the Board of Control through the Secret Committee of the Court of Directors), the Secretary of State was empowered to send orders to India without consulting his council, or communicating them to the members.

(3) The Governor-General of India and the Governors of Madras and Bombay would henceforth be appointed by Her Majesty the Queen; and the appointments of Lieutenant-Governors would be made by the Governor-General subject to the approbation of Her Majesty. Rules should be framed by the Secretary of State for admission into the Civil Service of India by competition.

The evil tendencies of the administrative section above referred to have been attested to be (1) autocracy, (2) secrecy, and (3) irresponsibility, all of which are inimical to the good administration of the country. It is lementable that the Act made no provision for enlisting the voice of the natives in the administration of their own country. In this vital respect, can any one say that the administration of the Company differed very much from the administration of the Crown ?

In order to give publicity to the provisions of this Act, Queen Victoria asked Lord Derby (apparently not being satisfied with the first draft of it) to issue a Proclamation which, as she said, "should breathe feelings of generosity, benevolence, and religious toleration, and point out the privileges which the Indians will receive in being placed on an equality with the subjects of the British Crown, and the prosperity following in the train of civilization."

This Proclamation was read out in India and has been regarded as the Magna Charta of India not that the Magna Charta contained the rights of people but that it was a Great Document.

It remains, however, to estimate the contribution of England to India. Apparently the immenseness of India's contribution to England is as much astounding as the nothingness of England's

contribution to India. Both are, however true statements if looked at from economic points of view. But from another point of view, if India's tribute cannot be weighed in the scales of justice and humanity then England's contribution cannot be weighed in the scale of gold and silver. The last statement is both literally as well as figuratively true. England has added nothing to the stock of gold and silver in India : on the contrary, she has depleted India— "the sink of the world."

Her contribution lies in an uneconomic realm : but just the same, it is too great to be measured in terms of coin.

> "Englishmen can look back on their work in India, if not with unalloyed satisfaction, at least with some legitimate pride. They have conferred on the people of India what is the greatest human blessing—Peace. They have introduced Western education, bringing an ancient civilized nation in touch with modern institutions and life. They have built up an administration which, though it requires reform with the progress of the times, is yet, strong and efficacious. They have framed wise laws, and have established Courts of Justice, the purity of which is as absolute as in any country on the face of the earth. These are results which no honest critic of British work in India regards without high admiration."

But whether mere animal peace is to be preferred to economic destitution, let every one decide for himself.

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Book 2

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THE EVOLUTION OF PROVINCIAL FINANCE IN BRITISH INDIA

A STUDY IN THE PROVINCIAL DECENTRALIZATION OF IMPERIAL FINANCE

By

B. R. Ambedkar

Sometime Professor of Political Economy at the Sydenham College of Commerce and Economics, Bombay

Author of "The Problem of the Rupee," "Castes in India," "Small-Holdings in India and their Remedies"

WITH A FOREWORD BY

EDWIN R. A. SELIGMAN

Professor of Economics, Columbia University, New York

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Dedicated to

HIS HIGHNESS SHRI SAYAJIRAO GAIKAWAD

MAHARAJA OF BARODA

AS A TOKEN OF MY GRATITUDE FOR HIS HELP IN THE MATTER OF MY EDUCATION

PREFACE

For a long time to come students will be saved the conventional humiliation of making an apology for presenting a study of Indian Finance or Economics. But it will, on the other hand, be necessary, I fear, for an equally long period, for them to tender an apology for the shortcomings of their respective investigations. Even when the treatment of a subject is analytical, a good analytical study often requires an historical setting. Unfortunately no spade-work has been done in the field of Indian Finance. Consequently the difficulties which beset a pioneer in that field are immense. There is occasionally the difficulty owing to the antecedents of some point not having been quite completely elucidated. Often there is the apprehension of some error having crept in, and, when there is hardly anyone to save the student from it, there is nothing but to smart under a sense of irritating affliction. Not very seldom does it happen that a pioneer student is jubilant over his find of material bearing on his subject, but it is not without a long and wearisome search that he is able to sift the grain from the chaff. Again, sources sometimes prove false guides, so that a perusal of them only ends in a considerable waste of time and energy.

Precisely these have been the difficulties besetting the present task. There are no books to prepare the student for his work and hardly any savant to lighten his labour or set him on the proper track. Notwithstanding such odds, an attempt is made to make this study thorough without being too detailed. This has rendered the undertaking quite a laborious one. But I do not wish to speak of the labour that is involved, nor do I wish to astonish the reader with what might appear to be a formidable list of books and documents consulted in the preparation of this monograph. What I am anxious to speak of are its shortcomings. There are indeed many of them which a well-versed critic may spot out. It is my hope that they are not of such a character as seriously to impair the value which this

monograph may otherwise be said to possess. My regrets are with regard to only a few of them. I have specified a date as to when Local Decentralization of Finance commenced in India; but I feel that that date may not be the earliest and that there may be a date earlier than that one given by me. I wish I had settled that point finally. But that would have been a task analogous to that of searching for a needle in a haystack, and it is doubtful whether the value of that result would have been commensurate with that labour. Besides, although I am not confident of my date, my feeling is that later researches may after all confirm my statement. Another matter which I have not dealt with, but which I would have liked to have dealt with, was the inter-relation of Provincial and Local Finance. This l had originally planned to do, but left pursuing it because I found that the chief subject I was dealing with, namely, the Provincial Decentralization of Imperial Finance, began to be overlaid by facts and arguments not germane to that topic. These shortcomings will, however, be removed by a supplementary monograph on Local Finance in British India, which is well under way and which I hope to publish before long. Occasional repetitions may also be pointed out as a defect of this monograph. That they should be avoided is all very well. But where economy in the words of explanation are likely to obscure, repetitions such as are unavoidable must be justified, for the interests of clarification should always outweigh the tedium they involve.

I cannot conclude this preface without thanking Mr. Robinson, the Financial Secretary at the India Office, for many valuable suggestions and for the loan of many important documents bearing on the subject. I am also thankful to Prof. Cannan, of the University of London, who has read the rough draft of a small part of the manuscript. My debt to Prof. Seligman, my teacher at Columbia University, is of course immense : for from him I learned my first lessons in the theory of Public Finance. I am obliged to my friend Mr. C. S. Deole for assistance afforded in the dreary task of reading the proofs.

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FOREWORD

The problem discussed by Mr. Ambedkar in his excellent dissertation is one that is arousing a growing interest in all parts of the world. From the very beginning we find fiscal burdens imosed by both central and local governments. As soon as there was a political organization, the conduct of war on the one hand and the provision of local protection and convenience on the other called for expenditures on the part of both state and local authorities. It was only at a later period that there was interpolated between the local and the central political organizations the intermediate form which Mr. Ambedkar calls the provincial government. The names applied to these various classes of expenditure differ with the authorities themselves. In India we speak of local, provincial, and imperial expenditure; in Germany, of local, state, and imperial expenditure; in the United States and Switzerland, of local, state, and federal expenditure; in Australia, of local, state, and commonwealth expenditure; in South Africa and Canada, of local, provincial, and federal expenditure; and in France, of local, departmental, and general expenditure. In some cases, as in the British Empire, there is being developed a still more comprehensive class of expenditures, borne by the empire at large.

The character and importance of these various classes of expenditure and the relations between them are undergoing a continual change, due to an alteration in the functions of government. This is itself largely due to a change in the general economic conditions, resulting in a gradual modification either of political structure or of administrative activity. In some countries, as in Canada, Argentine and Brazil, the provinces are really a creation of the central government; in other countries, as in the United States, Germany, and Switzerland, the federal government is the creation of the originally sovereign states. In some countries the intermediate (provincial or state) government is suffering a loss of importance as compared with the local or central governments; in other countries, the reverse is true.

With the increasing pressure of taxation and the development under modern democracies of augmented governmental functions, the problem of the equitable distribution of burden among

these various forms of government is becoming more or less acute. What Mr. Ambedkar calls assignments, assigned revenue, and share revenue, is symptomatic of the choice of methods in all countries. One of three fundamental plans must be pursued. Either the central or the provincial government may be maintained by the other, according to the relative degree of strength : in former times, in the United States, and in Germany the states were supposed to support the central government, either wholly or in large measure; in modern times, in Canada and Australia, the reverse is true. Or, secondly, distinct revenues may be allocated to the separate governments : until recently the federal government in the United States, Germany, and Switzerland was supported primarily by indirect taxes; the state governments by direct taxes. Or, thirdly, the revenues may be collected by one government and a portion of the proceeds allotted to the other : there are many instances of a state or provincial tax being shared with the federal government, and still more examples of a federal or central tax being shared with the state or provincial government. In the United States at present the proper disposition of the inheritance tax as between state and federal government is fast becoming a burning question; in Germany the fiscal relations of state and federal government are in the forefront of political discussion.

The value of Mr. Ambedkar's contribution to this discussion lies in the objective recitation of the facts and the impartial analysis of the interesting development that has taken place in his native country. The lessons are applicable to other countries as well; nowhere, to my knowledge, has such a detailed study of the underlying principles been made.

It is true that only half of the picture is presented. For the situation has everywhere been complicated by the entrance of the local authorities into the field; and by their claims to fiscal consideration as compared with both state (provincial) and general (federal) demands. In the United States, for instance, the now widely debated problem of financing the schools is largely dependent for its solution on the proper answer to be given to the question of fiscal interrelations. To this question Mr. Ambedkar proposes to devote himself in a subsequent study. If he succeeds in illumining that situation as successfully as he here deals with the initial problem, he will lay us all under still deeper obligations.

EDWIN R. A. SELIGMAN

COLUMBIA UNIVERSITY, NEW YORK,
October, 1924

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INTRODUCTION

DEFINITION AND OUTLINE OF THE SUBJECT

A student of Indian Finance has two chief sources of information and guidance open to him. One is the Annual Budget Statement, and the other is the annual volume of Finance and Revenue Accounts. Though separately issued, the two are really companion volumes inasmuch as the financial Statement forms, so to speak, an exhaustive explanatory memorandum of the annual financial transactions, the details of which are recorded in the volume of Finance and Revenue Accounts.

Helpful as these sources are, they are not without their puzzles. A reference to the latest volume of Finance and Revenue Accounts will show that the accounts therein are classified under four different categories :—(1) Imperial, (2) Provincial, (3) Incorporated Local, and (4) Excluded Local. But this is by no means uniformly so. For instance, a volume of the same series before 1870 will not be found to contain the accounts called "Provincial", nor will the accounts styled "Local" be found in any volume prior to 1863. Similarly, any volume of the Financial Statements before 1870 will be found to divide the financial transactions covered therein into—Imperial and Local only. But a volume of the same series after 1908 curiously enough groups the accounts not under Imperial and Local but under (1) Imperial, and (2) Provincial, while the financial Statements after 1921 cover only the Imperial Transactions. Nothing is more confusing to a beginner than the entrance of the new, and the exit of the old, categories of accounts.[1] The

[1] It is surprising that the category of accounts, called "Excluded Local," which is to be found in the volume of Finance and Revenue Accounts, never appears in the Financial Statement. The author has not been able to trace the reason for its exclusion. In the *Madras Manual* (Vol. I, Chapter V, pp. 467-9) it is argued that the ground for the exclusion is technical and consists in the circumstance that the Excluded Funds are not collected by the ordinary revenue collecting agency of the Central Government and are not subject to its interference. Another technical ground may also be found in a ruling given in the third edition of the Civil Account Code (p. 137), according to which Funds were called Excluded, i.e. from the Financial Statement, because they were not required to be lodged in the Government Treasury. But a ruling on the same point given in the seventh and latest edition (p. 122) of the same seems to imply that every public fund must of necessity be lodged in a Government Treasury. The more probable explanation is that given in the *Moral and Material Progress Report* for 1882-3 (Part I, p. 107), where it is said that these funds have no place in General Finance because they "consist chiefly of special trusts and endowments."

natural question that he will ask is, how did these different categories evolve, and how are they related to one another ?

In the present study an endeavour is made to explain the rise and growth of one of them, namely, the "Provincial." But in order that there may be no difficulty in following the argument it is deemed advisable to preface this study with an outline defining its subject-matter and indicating the interrelations of the parts into which it is divided. To facilitate a thorough understanding of the subject the study is divided into four parts, *each* one dealing with the Origin, Development and Organization of Provincial Finance and the final form in which it was cast by the constitutional changes of 1919. In Part I a somewhat thorny, untrodden and yet necessary ground has been covered in order to give a complete idea of the origin of Provincial Finance. While due homage is paid to the adage which requires students of the present to study the past, nothing more than the past of the present has been dealt with. In Chapter I, Part I, an attempt is made to present a picture of the system of Finance as it existed before the inauguration of the Provincial Finance and to state the causes that called for a change in its organization. In Chapter II a rival system of Finance proposed during the period of reconstruction is brought to light and shown why it failed of general acceptance. Chapter III is devoted to the discussion of a plan which was a compromise between the existing system and its rival, and the circumstances which forced its reception.

Having explained the Origin in Part I, the Development of Provincial Finance is made the subject of Part II. How far the arrangement followed in Part I is helpful must in the absence of anything to compare with it be left to the opinion of the reader. In regard to Part II, however, it is to be noted that the arrangement is different from what is adopted in the only fragmentary sketch published on the subject of Provincial Finance in 1887 by the late Justice Ranade. As will be seen from a perusal of Part II, one of the features of Provincial Finance was that the revenues and charges incorporated into the Provincial Budgets were revised every fifth year. Justice Ranade in his pamphlet, which simply covers the ground traversed in Part II of this study, and that too up

to 1882 only, has taken this feature as a norm by which to mark off the different stages in the growth of Provincial Finance from one to another. Consequently, each quinquennial period to him becomes a stage, and in his hands the history of Provincial Finance falls into as many stages as the quinquenniums into which it can be divided. It may, however, be submitted that if every revision had changed the fundamentals of Provincial Finance, such an arrangement would not have been illogical. But as a matter of fact, Provincial Finance did not change its hue at every revision. What the revisions did was to temper the wind to the shorn lamb. If the history of the development of Provincial Finance is to be divided into stages according to the changes in the fundamental basis thereof, then emphasis has to be laid on features altogether different in character. Writers on the theory of Public Finance seem to conceive the subject as though it were primarily a matter of equity in taxation and economy in expenditure. But to a Chancellor of the Exchequer finance is eminently practical with a problem to solve, namely, how to bring about an equilibrium in the Budget. If we scan the history of Provincial Finance in British India with a view to discover the method of meeting the problem of equilibrium in Provincial Budgets and the changes introduced in it from time to time, we shall find that Provincial Finance has evolved through three distinct stages, each with its own mode of supply, namely, Assignments, Assigned Revenues and Shared Revenues. Consequently, instead of following the mechanical plan of Justice Ranade, it is believed to be more logical and instructive to divide the stages in the growth of Provincial finance according to the method of supply to the Provincial Governments adopted by the Government of India. Consequently, Part II, which deals with the Development of Provincial Finance, is divided into three Chapters : (1) Budget by Assignment, (2) Budget by Assigned Revenues, and (3) Budget by Shared Revenues.

This discussion of the Origin and Development of Provincial Finance is followed in Part III by an examination of its Organization. Chapter VII in Part III is devoted to the analysis of the hitherto neglected rules of limitations on the financial powers of Provincial

Governments primarily to bring out the fact that Provincial Finance was not independent in its organization. The analysis of the true position of Provincial Finance is, however, reserved for Chapter VIII, in which the conclusion is fortified by a reference to the character of these limitations, that, notwithstanding the high-sounding appellation of Provincial Finance, there were neither provincial revenues nor provincial services as separate from Imperial revenues and Imperial services, so that instead of being federal in its organization the system remained essentially Imperial. Chapter IX discusses how far it was possible to enlarge the scope of Provincial Finance without jeopardy to the constitutional responsibilities of the Government of India under the old law.

Part IV is a discussion of the changes introduced into the mechanism of Provincial Finance by the Reforms Act of 1919. Chapter X of this Part is devoted to the analysis of the causes which led to these changes. In Chapter XI a full description of the changes effected by the new law is given, while Chapter XII forms a critique of the new regime.

In view of the fact that students of Indian Finance ordinarily content themselves with the phrase "Decentralization of finance," to indicate Provincial Finance, a word of explanation in justification of what may rather be called the too cumbersome title of this study. No student of Indian Finance, who is sufficiently acquainted with the branching off of the system in different directions, will fail to mark the inadequacy of the phrase Decentralization of Finance to mean Provincial Finance. If there were in the Indian system only the Provincial Decentralization there would have been no necessity to labour for a new title. As a matter of fact, the starting points of decentralization are by no means the same, and the systems evolved through it are quite different in character. For instance, the centre of decentralization and the systems evolved by the policy of decentralization brought into operation in 1855 were different from the centre and the systems evolved therefrom by the policy of decentralization initiated in 1870. Again, the centre which is gradually being decentralized since 1892, be it noted, is different from those affected by the decentralization of 1855 or 1870. To put

it more clearly, the decentralization of 1855 was the decentralization of *Indian* Finance resulting in—

(I) the separation of Local from Imperial Finance.

The decentralization of 1870 was the decentralization of Imperial Finance resulting in—

(II) the separation of Provincial from Imperial Finance. And the decentralization commencing from 1882 is the decentralization of *Provincial* Finance resulting in—

(III) the separation of Local from Provincial Finance.

Obviously then, "Decentralization of finance" far from being indicative of Provincial Finance, is a general name for this variegated and multifarious process of decentralization described above, and it cannot but be confusing to use as a title to the study of one line of decentralization a phrase which can be generically applied to all the three lines of decentralization distinguished above. In order, therefore, that this study may not be taken to pertain to a line of decentralization other than the one it purports to investigate, it has been thought proper to designate it "The Evolution of Provincial Finance in British India" with a sub-title, "A Study in the Provincial Decentralization of Imperial Finance," where the words Provincial and Imperial must be read with the emphasis due to them. How careless the phraseology often is may be instanced by the fact that Justice Ranade's pamphlet referred to above is styled "Decentralization of Provincial Finance." Although it deals with the development of Provincial Finance, it is likely to be passed over by the student, for its title implies that its subject-matter must be the growth of Local Finance. If Justice Ranade had been conscious of the varieties of decentralization, he would have probably realized that the title of his pamphlet was false to its contents.

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PART I

PROVINCIAL FINANCE : ITS ORIGIN

CHAPTER I

THE IMPERIAL SYSTEM

ITS GROWTH AND ITS BREAKDOWN

The Imperial system of Government in India dates from the year 1833.

Of the two chief motives which led Parliament to establish it, one was to replace the existing multiplicity in the systems of justice and police by a uniform system of the same, common as far as possible to the whole of India with its varieties classified and systematized. Under the existing system then prevailing such multiplicity was inevitable, for not only the civil and military government and the ordering and management of the revenues of each of the three Presidencies, Bengal,[1] Madras,[2] and Bombay,[3] were vested in their respective Governors in Council, but each Governor in Council was also empowered to make and issue such rules, ordinances and regulations for the good order and civil government of the territories he individually commanded, provided that they were just and reasonable and not repugnant to the laws of the British realm. To the codes of law promulgated by these authorities must be added the whole body of English Statute law introduced in India so far as it was applicable, by the charter of George I in 1726 and such other English Acts subsequent to that date as were expressly extended to particular parts of the country.

The work of administering such a diverse body of laws proved so embarrassing that it was the view of the supreme Court of Calcutta that

> "no one person can pronounce an opinion or form a judgment... upon any disputed right of persons, respecting which doubt and confusion may not be raised by those who may choose to call it in question; for very few of the public or persons

[1] 13 Geo. III, c. 63. s. 36.

[2] 39 and 40 Geo. Ill, c. 79, s. 11.

[3] 47 Geo. Ill, Sess. 2, c. 68, s. 3.

> in office at home, not even the Law Officers, can be expected to have so comprehensive and clear a view of the Indian system of law, as to know readily and familiarly the bearings of each part of it on the rest."[1]

The other motive was to create a strong central government to deal effectively with the European settlers in the country. It is to be noted that if the native population suffered under the uncertainties of law, the British population lived under the most galling restrictions. The revelations of oppressions by Englishmen practised, in the early days of British Rule, contained in the report of the Secret Committee of the House of Commons appointed in 1771 to inquire into the affairs of the East India Company, were followed by very stringent laws governing the entry and residence of private British subjects in India. No British subject of European birth was allowed to reside in India beyond 10 miles from any one of the principal settlements without having previously obtained a special license from the Company or the Governor-General of India or the Governor of the principal settlement in question.[2] The Court of Directors of the Company, subject to revision of the Board of Control,[3] were empowered to refuse such licenses[4] and the Governments in India were strictly enjoined not to sanction the residence of British subjects on their own authorities except under special circumstances[5] and were authorized, in cases they deemed proper, to declare licenses otherwise valid as void.[6] Counterfeiting licenses[7] and unlicensed residence[8] were made crimes punishable with fine or imprisonment; and persons who were dismissed from, and who had resigned service, were declared guilty of illicit trade if they lingered beyond the 10-mile limit after their time had expired.[9] Unlicensed British subjects were made liable to be deported,[10] and such as were licensed were required to register themselves in the court of the district in which they resided.[11] Subjected as they were to the regulations of the Local Government[12] they were made amenable to justice in India as well as in Great Britain for all illegal acts done in British

[1] Quoted in Herbert Cowell's *The History of the Constitution of Courts and Legislative Authorities in India,* Calcutta.

[2] 33 Geo III, c. 52, s. 98.
[3] *Ibid, s.* 38.
[4] *Ibid,* s. 33.
[5] *Ibid.,* s. 37.
[6] 53 Geo. III, c. 155, s. 36.
[7] *Ibid.,* s. 120.
[8] 33 Geo. III, c. 52, s. 131.
[9] *Ibid.,* s. 134.
[10] 53 Geo III, c. 155, s. 104.
[11] *Ibid.,* s. 108.
[12] *Ibid.,* s. 35.

India,[1] or in Native States.[2] To render them impotent to cause complications, they were not allowed to lend money to or be concerned in raising any for native princes[3] or foreign companies or foreign European merchants. Similarly to protect the natives from their oppression they were forbiden to lend money to the latter at a rate of interest exceeding 12 per cent. per annum on penalty of forfeiting for every offence treble the value,[4] and they were placed under the jurisdiction of the Justices of the Peace in all cases involving assault or trespass[5] on, and small debts[6] due to, the natives of India. Moreover, every British subject of European birth was required to register in the office of his district the name, etc., of his native stewards, agents, and partners,[7] on penalty of being disentitled to recover or receive any sum or sums of money by reason of the joint concern or to compel an account thereof by any suit in law or equity in any court within the provinces.[8]

The ruling race had long chafed at these restrictions, under which it was placed, without much avail. They were evidently aimed at keeping out an element dangerous to the stability of the Indian Empire, but, as time went on, and as the Indian Empire was consolidated by successive victories over the native princes, there was raised against these restrictions such a storm of indignant criticism that even those who had acquiesced in their virtue were forced to admit that they had outlived their purpose. While the British Parliament could not help abiding by the sentiments of the time, it refused to disregard the consequences which it thought would inevitably attend upon the free ingress of British subjects of European birth under the then existing system of government. It realized that a harmonious treatment of the immigrants and an effective control over them was absolutely essential. Parliament was afraid that the different governments armed as they were with co-equal and independent powers of legislation and administration by exercising these powers with regard to the immigrants entering their respective territories, with different views and according to inconsistent principles might integrate the whole mass of them into a disaffected body difficult to be dealt with. Besides the

[1] 24 Geo, III, c. 25, s. 44.
[2] 26 Geo. Ill, c. 57, s. 67.
[3] 37 Geo. Ill, c. 142, s. 28.
[4] 13 Geo. Ill, c. 63, s. 30.
[5] 53 Geo. Ill, c. 155, s. 105.
[6] *Ibid.,* s. 106.
[7] 21 Geo. ill, c. 70, s. 13.
[8] *Ibid.,* s. 16

necessity of a harmonious treatment based on uniform principles, the fears of Parliament that the ingress of British immigrants would result in the revival of oppression on the natives were not completely allayed. As its recrudescence was felt to be a likely event, Parliament desired to subject them to a strong and uniform central control, so that the offender in one jurisdiction might not be able to find an asylum in another. Thus, whether considered from the standpoint of bringing about uniformity of laws or securing stringency of control over elements subversive of order, the then existing system of government with its divided jurisdiction was ill-suited for the purpose held in view. An all-powerful Central Government legislating for and controlling the affairs of India as a whole was deemed to be the only solution for the emergency. Accordingly there came to be enacted in 1833 that

> "the Governor-General in Council (at Fort William in Bengal) shall have power to make laws and regulations for repealing, amending, or altering any laws or regulations, whatever, now in force or hereafter to be in force in the said territories or any part thereof, and to make laws and regulations for all persons, whether British or native, foreigners or others, and for all Courts of Justice, whether established by His Majesty's Charters or otherwise and the jurisdictions thereof, and for all places and every part of the said territory, and for all servants of the said Company within the dominions of princes and states in alliance with the said Company. . . . ;"[1]

A Central government was thus created by vesting the legislative power exclusively in the Governor-General of India in Council. But it could not have been all-powerful had the two Presidencies of Madras and Bombay remained as heretofore invested, by law, with the civil and military government of their respective territories. On the other hand, if Parliament had stopped short of divesting them, there would have ensued the possibility of a conflict between these governing authorities and the sole legislative authority newly created. Being responsible for peace, order and good government, the former could have refused to govern according to laws made by the latter, and all the gain expected to arise from the institution of a central and strong government would have been lost. To eliminate this element of weakness in the Indian polity

[1] Sec. 43 of 3 and 4 Will. IV, c. 85, an Act for effecting an arrangement with the East India Company, and for the better government of His Majesty's Indian territories.

newly established, Parliament proceeded to divest the presidencies of Bombay and Madras of the high status which they hitherto occupied as *responsible* governments, so that according to the new Constitution

> ".....the Executive Government of each of the several Presidencies ..... (was to be) *administered* by (not vested in as heretofore) a Governor and three Councillors"[1]

While

> ".....the Superintendence, Direction, and Control of the whole civil and military government of all the.....territories and Revenues in India (was) vested in a Governor General and councillors styled the Governor-General of India in Council."[2]

Thus came to be established in India the Imperial system of government. It is true that long before its establishment the Government of Bengal[3] had the supreme power, not only of superintending and controlling the government and management of the Presidencies of Madras and Bombay in the matter of commencing hostilities, or declaring or making war against any Indian prince or power, or for negotiating or concluding any treaty of peace or other treaty with them, except in case of emergency, but it also possessed by a later enactment the power of superintendence in all such points as related to the collection or application of revenues, or to the forces employed, or to the civil or military government of the said presidencies.[4] But it must not be supposed, as is often done, that before 1833 the two Presidencies were in any real sense subordinate to Bengal in their domestic affairs. The fact that Madras and Bombay were required constantly and diligently to transmit to the Government of Bengal true and exact copies of all orders and resolutions and their acts in Council, and were enjoined to pay due obedience to the orders of the Government of Bengal, must not be construed to mean any subordination in their internal affairs. For, barring the extra territorial authority vested in the Government of Bengal, it must be borne in mind that,

[1] Sec. 43 of 3 and 4 Will. IV, c. 85, an Act for effecting an arrangement with the East India Company, and for the better government of His Majesty's Indian territories.

[2] *Ibid.,* s. 56. By sec. 57 power was given to reduce the number of councillors at the Presidencies or suspend them altogether, leaving the Executive Government at the Presidency to be carried on by a Governor alone. This power was exercised in 1833 by reducing the executive councillors at Bombay and Madras from three to two respectively.

[3] and 4 Will. IV, c. 85, s. 39

[4] 13 Geo. III, c. 52, s. 40.

equally with Bengal,[1] the Governments of Madras and Bombay were *vested each*[2] with the civil and military government and also with the ordering and management of all territorial acquisitions and their revenues. Along with the Government of Bengal they possessed as stated before co-equal and independent powers of legislation within their respective jurisdictions. A truer view therefore seems to be that they forwarded the copies of their proceedings to the Government of Bengal for information rather than for orders. At any rate, such seems to have been the view taken by the Government of Bengal itself, for, though it had the power to issue orders and compel obedience to them it had in practice confined its supervision and control "to pointing out an irregularity and requesting that it be not repeated." More than this was thought inadvisable[3] and it is doubtful[4] whether it would have been constitutional.

The Imperial system of Government was necessarily accompanied by the Imperial system of Finance. Before the inauguration of the Imperial system of Administration the several Presidencies were like separate clocks each with its own mainspring in itself. Each possessed the powers of sovereignty, such as the legislative, the penal, and the taxing powers. They were independent in their finance. Each was responsible for the maintenance of services essential for peace, order and good government within its jurisdiction and was free to find money by altering or levying taxation or borrowing on credit to meet its obligations. For their ways and means they often drew upon the resources of one another, not, however, because their exchequers were not distinct, but because they were parts of a common exchequer belonging to the East India Company. All this was changed by the Act of 1833, which vested the revenues and the government of the different territories in the Governor-General of India in Council. The revenues and the services became by law the revenues and the services of the Government of India. The provinces became the collecting and the spending agencies of the Government of India. They ceased to levy any new taxes or to collect the old ones

[1] 13 Geo. III, c. 63, s. 7.

[2] 33 Geo. III, c. 52, s. 24.

[3] Of. Min. on the Constitution of the Indian Government by the Governor-General, Lord William Bentinck, dated September 14, 1831. Also Memorandum *re* the same by the Secretary to the Government of Bengal accompanying the despatch of Lord Canning dated December 9, 1859, published in H. of C. Return 307 of 1861.

[4] Cf. the despatch of the Court of Directors to the Government of Bengal No. 44 dated December 10, 1834, *original* draft in the India Office Records.

in their own name. In like manner the services they administered became a charge of the Government of India, which distributed among the various provinces sums from the consolidated fund for the maintenance of the services. It was by law provided that without the previous sanction of the Government of India the provinces were not to spend the fund allowed to them in creating any new office or granting any salary, gratuity, or allowance.[1] The public debt was no longer a charge upon the revenues of any particular Presidency alone, nor did there remain any question of primary or secondary liability as between the revenues of the other Presidencies. All the provincial debts became the debts of the Government of India and were charged to the revenues of India as a whole. In short, the financial system which was roughly analogous to the system of separation of sources and contributions from the yield was changed into a system of aggregation of sources and distribution of the yield; for, as observed in a Government Resolution by virtue of the Act of 1833,

> "British India, though for the sake of convenience subdivided into Presidencies under separate locally controlled governments, (became) in reality one sole grand Power in dependence on Great Britain, having undivided interests, a single exchequer, and controlled in all essential and general principles by one Government—the Governor-General in Council.....The entire resources of India (were) applicable to one purpose only, the discharge of its engagements and those connected with its management in England, and to whatever section of British India funds (were) wanting, funds (were) supplied, as a matter of course, without any reference to the particular source from which they were derived."[2]

So comprehensive did the system of Imperial Finance become in time that when in 1858 the Crown took over from the Company the government of India it was found that

> "no province had any separate power of legislation, any separate financial resources, or practically any power of creating or modifying any appointments in the public service; and the references to the Government of India which this last restriction involved gave that Government the opportunity of interference with all the details of provincial administration."[3]

[1] 3 and 4 Will. IV, c. 85, s. 59.

[2] Government of India, Financial Department Resolution, dated November 22, 1843.

[3] *Report of the Royal Commission on Decentralization in British India,* p. 24.

Whatever may have been the merits of the Imperial system of Government from the military, political, legislative, or administrative points of view, it is a melancholy fact that as a system of finance it proved unequal to the strain imposed upon it. From its very start it suffered from the fatal disease of financial inadequacy, and it was only occasionally that the efforts of the Finance Ministers were successful in restoring an equilibrium and staving off the hour of crisis. How chronic the deficits were may be seen from the following figures :—[1]

INSUFFICIENCY OF IMPERIAL FINANCES

Year	Surplus	Deficit	Year	Surplus	Deficit
	£	£		£	£
1834-35	...	194,477	1846-47	...	971,322
35-36	1,441,513	...	47-48	...	1,911,986
36-37	1,248,224	...	48-49	...	1,473,225
37-38	780,318	...	49-50	354,187	...
38-39	...	381,787	50-51	415,443	...
39-40	...	2,138,713	51-52	531,265	...
40-41	...	1,754,852	52-53	424,257	...
41-42	...	1,771,603	53-54	...	2,044,117
42-43	...	1,346,011	54-55	...	1,707,364
43-44	...	1,440,259	55-56	...	972,791
44-45	...	743,893	56-57	...	143,597
45-46	...	1,496,865	57-58	...	7,864,222

Anyone who ponders upon this pitiable story of Indian Finance as revealed by these deficits can hardly fail to wonder with Disraeli who remarked in the House of Commons that—

> "able as has ever been the administration of India, considerable and distinguished as have been the men whom that administration had produced, and numerous as have been the great Captains, the clever diplomatists, and able administrators of large districts with whom the Government has abounded, the v state of the finances of India has always been involved in perplexity, and India that has produced so many great men, seems never to have produced a Chancellor of the Exchequer."[2]

[1] From the Financial Statement of British India for 1860-1 by Mr. Wilson. H. of C Return 33 of 1860, p. 100.

[2] *Sir Charles Woods' Administration,* by West, pp. 65-6.

The causes of this collapse, however, are not far to seek. The inadequacy of Indian Finances is mainly to be ascribed to an unsound fiscal policy. The policy was unsound for various reasons. In matters of state economy it is usual to argue that the expenditure to be incurred should determine the magnitude of revenue to be raised. But experience has shown that this stock maxim has proved ruinous wherever its limitations have failed to receive their due weight. It cannot be too often said that the growing expenditure of the State can only be sustained from the growing wealth of the society. Nor can it be too strongly emphasized that the test of sound finance does not merely consist in being capable of raising the requisite amount of revenue. It must be remembered that the *mode* of raising the revenue is an aspect of the question which is fraught with tremendous consequences for the stability and productivity of the nation. It is too obvious to be denied that a tax system by its unequal incidence may cause social upheavals, just as by its unwise incidence on trade and industry it may impoverish society by setting out of gear its economic mechanism and technique and eventually beggar the State by impairing the productive powers of society. Wisdom therefore requires that those who are entrusted with the financial management of the State should look beyond the more immediate object of raising and spending of money, for the "hows" of finance are very important, and can be seldom neglected in practice with impunity. The wealth of society is the only patrimony on which the State can draw, and the State that damages it cannot but end in damning itself. History abounds with instances of States wrecked by the unwise neglect of these evident truths, but if an illustration be wanted in further proof thereof, the system of Imperial Finance established in India is matchless for the purpose.

The land tax was the heaviest impost of the Imperial revenue system in operation. The underlying doctrine of the tax in India has been that it is of the nature of rent paid by the cultivator to the State in virtue of the theory that the land in India has from immemorial times been regarded as the property owned by the State. The cultivator is not the proprietor, but is the occupier of the land. The land is let to him and the State is therefore justified in claiming the whole of the economic rent arising from the land. On this assumption the land tax has been imposed irrespective of the question of necessity or justice.

Besides this legal fiction of State landlordism there was also another economic principle which was taken to be the justification for the enhancement of the land revenue. There is reason to believe that the Physiocratic doctrine of *produit net* had its influence in the management and fixing of the land tax in India. We find high officials in India arguing in the early stages of the revenue management that "whether or not the principle of the French Economists of laying all the taxes on the land be.....erroneous or otherwise, it is certainly conformable to the prevalent system in India; nor is that theory supported by the French alone, but by respectable authorities in England, who contend that all taxes fall ultimately on the products of the soil, and that in advancing a different doctrine the eminent author of *The Wealth of Nations* is at variance with himself, inasmuch as his previous data lead to that conclusion."[1] Whatever may have been the reasons for augmenting the land tax, few can deny that a heavy consolidated impost on the first exertions of any species of industry absorbing the whole or nearly the whole of its profits in ruinous and impolitic. It becomes an effectual bar to the creation of that produce on which the future exertions might be profitably employed and through the medium of which individual wealth and public revenue may be increased to an almost inconceivable extent. A land tax of this nature was sure to blast the very production of that wealth which industry would have otherwise brought into being. The land tax was so heavy that the system of tax prevailing in India might well have been called a near approach to the single tax system.[2]

[1] For this remarkable controversy, which has escaped even the comprehensive eye of Baden Powell, see House of Commons paper 306 of 1812-13.

[2] The ratio of the land revenue to the total revenues of India was as given below :—

Year	Ratio	Year	Ratio	Year	Ratio
1792-3 to 1796-7	50.33	1817-8 to 1821-2	66.17	1842-3 to 1846-7	55.85
1797-8- to 1801-2	42.02	1822-3 to 1826-7	61.83	1847-8 to 1851-2	56.06
1802-3 to 1806-7	31.99	1827-8 to 1831-2	60.90	1852-3 to 1855-6	55.40
1807-8 to 1811-2	31.68	1832-3 to 1836-7	57.00	Average, for 64 years	54.07
1812-3 to 1816-7	52.33	1837-8 to 1841-2	59.05		

While the land tax prevented the prosperity of the agricultural industry the customs taxes hampered the manufactures of the country. There were internal customs and external customs, and both were equally injurious to trade and industry. The internal customs[1] were made up of transit and town duties. For the purposes of transit duties the country was artificially divided into a number of small customs areas. Goods may be manufactured and consumed *ad libitum* within each customs area, but the moment they left their own division they became liable to duty. The injurious effects of this regulation, though concealed, were none the less real. The transit duties held up trade, which in its turn reacted adversely on the manufacturers of the country. Adam Smith has told us how the growth of industry depends upon the extent of the market. Here for the purposes of the transit duties the whole country was cut up into small bits after the manner of squares on a chess board. What wonder is there if trade, and its handmaid, industry, both languished to a serious extent. The adverse effect on the transit duties was also felt in another way. In every country somewhat industrially advanced there is not only a social division of labour, but there is also a territorial division of labour, otherwise called localization of industry. Evidence is not wanting to show that the localization of industry formed a prominent feature of Indian economy.[2] Under it each locality in India specialized in a particular art or industry; for instance, cotton was grown in one locality, woven in another, and bleached in a third place. But it often happened that these localities were situated in different customs areas, and a raw good might have had to pay the transit duty many a time before it reached its finished stage. To avoid this each locality was obliged to waste its energies along unprofitable lines in order to escape the transit duties.

The town duties, which formed a part of the internal customs, also worked in their effects towards de-urbanization. Commercial entrepots are admittedly vast instruments of the trade of a country. The opportunity of ready purchase and sale of almost every kind of commodity in any quantity, accumulated capital, extended

[1] Mr. Travelyan, who closely studied the system, was so much horrified by its injurious effects that he wrote "although we now have ocular demonstration of its existence, yet when it has once been abolished the world will find it difficult to believe that such a system could have been tolerated by us for the better part of a century."—*System of Transit and Town Duties in the Bengal Presidency,* p. 6.

[2] *See* M. Martin's *Eastern India,* 3 vols.

credit, general information all meet here as in a centre. They support, encourage and give lift to commerce and to the trade of a country. But the direct effect of the town duty was to distract and drive away trade, for under the system every article which was subject to it had, after the payment of transit duty, to pay on entry, in the town, the town duty and, if it underwent any change of form by manufacture within the town of entry, it could not have been furnished to any neighbouring place without a second impost being paid upon it under the transit duty system, enhanced in proportion to the increase of value it might have acquired from the labour and the skill bestowed upon it, The consequence was that towns dwindled both in trade and industry owing to the reason that merchants ceased to frequent them and that no manufactures of articles subject to the transit duty were capable of being established in them except for their own supply.

It was in this depressed condition that the Indian industries were called upon to meet foreign competitors. But the external customs cannot be said to have protected, much less fostered them. As a rule commercial tariffs are based upon what is called commodity competition. The import tariffs are designed to check by means of higher duties the importation of such foreign commodities as are likely to interfere in the successful manufacture of the same commodities at home and the export tariffs are framed principally with a view to give bounties to such of the home commodities as have a chance of securing a foothold in foreign markets. But the theory of external customs in India had no connection with the theory of commodity competition. In comparison with the policy actually adopted even a protectionist would have preferred to see trade left perfectly free, for the tariff was based on political rather than economic considerations. The Indian Import Tariff varied not with the nature of the imports but with the origin of the imports and the bottom on which they were shipped. Being political in character it was preferential in design and in its framework. It is to be regretted all the more that the preference involved an unmitigated loss to the people and to the government. It was excusable to have admitted into India goods of English origin and shipped on English bottoms at a rate half of what goods of foreign origin and shipped on foreign bottoms were charged with. But nothing can extenuate the sacrifice imposed upon the Indian industries by letting in British goods at lower rates than what the Indian goods had to pay under

the internal customs; and this was done when, be it remembered, England was prohibiting by high tariff the entry of India-made goods and India-built ships ! But while the import tariff made it easy for the foreigners to compete successfully with Indian manufactures burdened as they heavily were by the weight of the internal customs, Indian goods found it considerably difficult to compete in foreign markets under the incubus of export duties which formed one of the most lamentable features of the Indian tariff and which endured long into the nineteenth century.[1] Thus the customs laws internal and external blockaded trade and smothered industry. The comparatively paltry revenues derived from them is the best proof of their ruinous effects.[2]

When these resources failed the Government resorted to some very questionable means of raising revenue.

On an impartial survey of the revenue system as prevailed under the Imperial regime one is constrained to say that justice in taxation was conspicuous by its absence. It was a cruel satire, or at best an idle maxim, for the lancet was directed not where the blood was thickest but to that part of the body politic which on account of its weakness and poverty most meekly bore the pang. The landlords who passed their lives in conspicuous consumption and vicarious leisure on the earnings of the poor tenants, or the

[1] It is difficult to cite references to every statement made above. The tariff history of India is yet unwritten, but ample evidence bearing on the point will be found in the Parliamentary Committee on Trade in 1821 and the Evidence submitted to the Committees appointed by Parliament to investigate into the affairs of the East India Company in 1813 and 1853. Particular attention is invited to the Report and Evidence of the Committee on East India Produce, 1846.

[2] The following table gives the ratio of the Customs Revenue to the total revenue :—

Year	Ratio	Year	Ratio	Year	Ratio
1792-3 to 1796-7	2.38	1817-8 to 1821-2	8.32	1842-3 to 1846-7	6.02
1797-8 to 1801-2	3.10	1822-3 to 1826-7	7.58	1847-8 to 1851-2	5.40
1802-3 to 1806-7[J]	4.16	1827-8 to 1831-2	8.12	1852-3 to 1855-6	5.52
1807-8 to 1811-12	5.04	1832-3 to 1836-7	7.19	Average for 64 years	6.22
1812-13 to 1816-17	6.68	1837-8 to 1841-2	6.76		

Hendricks, *op. cit.,* p. 286.

many European civil servants who fattened themselves on pay and pickings, were supremely exempted from any contribution towards the maintenance of the Government whose main activities were directed towards the maintenance of pomp and privilege. On the other hand, the salt tax[1] and the Moturpha,[2] and other oppressive taxes[3] continued to harass the industrious poor. It is indeed true that many petty and vexatious taxes prevalent under the native rule were abolished; there is, however, enough evidence to show that the revenue thus lost was made up by enhancing those that were continued to be levied, particularly the land tax. The latter charge has always been officially denied,[4] but none the less it remains true that the land tax has been consolidated and increased concurrently with, if not consequently upon,

[1] The percentage ratio of the salt revenue to the total revenue at different times was as follows :—

Year	Ratio	Year	Ratio	Year	Ratio
1792-3 to 1796-7	14.13	1817-8 to 1821-2	11.25	1842-3 to 1846-7	11.65
1797-8 to 1801-2	12.10	1822-3 to 1826-7	11.87	1847-8 to 1851-2	9.14
1802-3 to 1806-7	11.09	1827-8 to 1831-2	12.03	1852-3 to 1855-6	9.17
1807-8 to 1811-2	11.14	1832-3 to 1836-7	9.72	Average, for 64) years	11.07
1812-3 to 1816-7	10.92	1837-8 to 1841-2	12.37		

Hendricks, *op. cit., p.* 283.

[2] In a petition drawn up by the Madras Native Association to the House of Commons in 1858 it was described as "a tax on trades and occupations embracing weavers, carpenters, all workers in metals, all salesmen whether possessing shops which are also taxed separately, or vending by the road-side, etc., some paying imposts on their tools, others for permission to sell, extending to the most trifling articles of trade, and the cheapest tools the mechanics can employ, the cost of which is frequently exceeded six times over by the Moturpha, under which the use of them is permitted." Quoted by Raghuvaiyangar in his *Progress of the Madras Presidency,* 1893, p. 113.

[3] Dr. Francis Buchanan in his *Journey from Madras,* Vol. II, notes that" at Sati-Mangalam in Coimbatore, South India, a new stamp duty of $\frac{3}{4} + \frac{1}{3}$ of a Vir-Raya Fanam, or about $5\frac{1}{4}d$, has been levied on every two pieces of fine cloth; and of $\frac{3+\frac{3}{4}}{8}$ of a Vir-Raya Fanam, or of about $2\frac{3}{4}$, on every two pieces of coarse cloth. The weavers in consequence have given up work, and gone in a body to the Collector, to represent their case. The tax is levied in place of a duty of 4 or 5 Fanams a year, that was formerly levied on every loom; by the weavers it is considered as heavier"—pp. 240-1. He also notes "at Dodara Pallyam which contains 50 houses of weavers, the weavers are quite clamorous about the new stamp duty; which, they say, will for every loom cost them 20 Fanams in place of 5 which they formerly paid." *Ibid.,* p. 242.

[4] Parliamentary papers, Vol. V of 1831, Minutes of Evidence on the East India Company's affairs, Q. 3864-66.

the abolition of such other taxes as being raised from the poor cost the Government more than their yield.

Under the injurious revenue system described above, the taxing capacity of the people decayed so that notwithstanding its numerous resources[1] from which it derived its revenues the Imperial Government was unable to make both ends meet. It ought to serve as an object lesson to all financiers to show that when their revenue laws are harmful to the resources of the people they must blame none but themselves for their empty treasury.

[1] The following is a conspectus of the taxes levied :—

Source of Revenue	Amount o Revenue raised in Millions	Period		Locality and Date of Commencement
		No. of Years	Dates	
Land Revenue	662.308	64	1792-3 to 1855-6	Throughout the period in Bengal, Bombay and Madras since 1834-5 in N.W.P. and 1849-50 in the Punjab.
Sekyer & Abkary	9.729	20	1836-7 to 1855-6	Throughout the period in Bengal, N.W.P., Madras and Bombay, and since 1849-50 in Punjab.
Excise	4.987	,,	,,	Bengal accounts exclusively.
Moturpha	6.455	,,	,,	Madras accounts exclusively.
Salt	135.532	64	1792-3 to 1855-6	Bengal since 1792, Madras 1822, Bombay 1822, N.W.P. 1839.
Opium	106.707	,,	,,	Bengal since 1792, Bombay since 1820.
Post Office	8.888	,,	,,	Bengal and Madras since 1792, Bombay since 1813, Punjab 1849, N.W.P. 1835.
Stamps	16.697	59	1797-8 to 1855-6	Bengal from 1797, Madras from 1813, Bombay from 1819, N.W.P. from 1834, Punjab from 1849.
Customs Duties *Internal :* 1. Transit 2. Town *External :* 1. Import 2. Export	76.179	64	1792-3 to 1855-6	Bengal, Madras and Bombay from 1792-3, N.W.P. from 1834-5, Punjab since 1849-50.
Mint Revenue	3.221	,,	,,	Bengal from 1792, Madras and Bombay from 1813.
Tobacco	1.437	18	1836-7 to 1853-4	Madras 1836 on.
Miscel-laneous	194.777	64	1792-3 to 1855-6	Same as under land revenue.

Was the money raised by such injurious taxes without reference to their effect on the productive powers of the country spent on such public utilities as were calculated to enrich and elevate the economic life of the tax-paying population ? A glance at the following table giving the distribution of the expenditure by decades on the different services will show how the money was spent :—

Distribution of the Expenditure*

Percentage Ratio of Total Expenditure on	In the Year					
	1809-10	1819-20	1829-30	1839-40	1849-50	1857
Military ...	58.877	64.290	53.754	57.721	51.662	45.55
Interest on debt ...	18.010	12.805	12.124	9.756	10.512	7.19
Civil and Political ...	7.221	8.900	9.575	12.296	8.902	9.62
Judicial ...	7.525	6.800	7.107	9.565	7.180	
Provincial Police ...	1.991	2.093	1.535	2.062	2.062	} 9.38
Buildings, Fortifications, etc.	1.639	1.756	2.810	1.428	1.661	} . . .

* "Past, Present and Prospective Financial Condition of British India," by Colonel Sykes, *Journal of the Royal Statistical Society,* 1859, Vol. XXII, p. 457.

Prominent among this array of figures are those on the military expenditure and though they have dwindled in years they have invariably consumed more than one half of the total revenues of the country. But the stupendous figures opposite military do not represent the true burden of that expenditure. To them must be added the figures for the interest charge on debt, for the debt incurred was entirely a war debt. India was all throughout this period a battle-ground between the Country Powers and the East India Company. The two Mahratta Wars, the three Mysore Wars, the two Burmese Wars, the two Afghan Wars, and the Carnatic Wars, not to speak of the numerous other minor engagements, were fought in the interests of adding India to the dominions of the Company and of the Crown. While Parliament claimed that the dominions of the East India Company were the dominions of the Crown it must be borne in mind that it refused to pay a farthing of the purchase money. On the other hand, the entire cost of these wars was borne by India as so much dead weight on her scanty resources. The charges shown separately under buildings and fortifications must also be included in the military expenditure, to which category they really belonged. On making these needful additions we find the unparalled fact of a country wasting between 52 to 80 per cent. of its precious little money on war services. It

may, perhaps be argued on the other hand that much of the military expenditure, large though it was, went back into the coffers of the Indians themselves as they formed the bulk of the forces employed in the country. The Indians of course, formed a very large portion of the military,[1] and if the scales of salaries fixed for the European and native forces were equal the result would have been favourable to the natives of the country, though it cannot be said to have excused that huge military expenditure. But the scales of salaries for the Europeans and natives were so grossly unequal[2] that one European drew on an average more than the salaries of four natives put together. So this expenditure, whether from the standpoint of public utility or private employment, did not benefit the population which contributed to the revenues of the State.

[1] This may be seen from the following figures :—

STRENGTH OF THE INDIAN ARMY BEFORE THE MUTINY*

		European	Native	Total
Artillery	...	6,419	9,138	15,577
Sappers	...	110	3,043	3,153
Cavalry	...	3,456	30,533	32,989
Infantry	...	29,760	188,660	218,420
Total	...	38,745	231,374	270,119

*Report of Major-General Hancock on the Reorganization of the Indian Army, Parliamentary paper of the year 1859, p. 21.

[2] This is indicated by the following table :—

COST OF AN INFANTRY REGIMENT PER MONTH

European							
	Details				Total		
Officers	Rs.	As.	Ps.		Rs.	As.	Ps.
37 Officers	14,734	14	3	}			
Staff and Establishment	4,515	12	4	}	21,779	2	7
Command and other allowances	2,528	8	0	}			
Men							
117N.CO.S.	2,289	4	5	}			
950 Privates	11,203	8	4	}			
Rations, clothing and other charges	12,506	11	3	}	25,999	8	0
Total					47,778	10	7

The civil and political charges which absorbed nearly 10 per cent. of the revenue can hardly be said to be recuperative in their effect. This part of the expenditure again was not shared by the native population which bore its burden. As a result of conquest the natives naturally came to occupy a secondary position; but the conquest had done more than merely degrade their status. It had engendered a certain sense of distrust for the natives in the minds of Englishmen. Conquered and distrusted the natives since the commencement of British rule had come to be excluded from the higher administrative posts of the country.[1] It was to remove this injustice that Parliament in the Act of 1833 provided

> "that no native of the said territories, nor any natural-born subject of His Majesty resident therein, shall, by reason only of his religion, place of birth, descent, colour or any of them be disabled from holding any place, office, or employment under the said Company" (sec. 87).

Native							
		Details			Total		
	Officers	Rs.	As.	Ps.	Rs.	As.	Ps.
26 Europeans	... ...	9,861	2	1	13,527	8	7
20 Natives	... ...	940	0	0			
Staff and Establishment	... ...	1,209	1	4			
Command and other allowances	...	1,517	5	*2*			
	Men						
140 N.C.O.s.	... ...	1,780	0	0	9,606	14	0
1,000 Sepoys	... ...	7,000	0	0			
Charges	... ...	826	14	0			
	Total				23,134	6	7

It is evident from this table that if we deduct the salary of 26 European officers and command and other allowances shown under the heading "Native" which amounts to Rs. 11,378 7. 3. we shall find that 1,104 Europeans drew Rs. 47,778 10. 7. while 1,160 natives drew only Rs. 11,755 15. 4.

[1] Before 1833 the very meagre scale on which they were employed is disclosed by the following figures :—

Native Civil Servants of the 1st Class attached to the Secretariat of the 3 Precidencies Receiving per Month Salaries of :—	Bengal		Madras		Bombay		Total	
	No.	Total Salary Drawn	No.	Total Salary Drawn	No.	Total Salary Drawn	No.	Total Salary Drawn
Rs. 500 and upwards	5	2,700	...	...	5	2,500		
Rs. 400 "	2	800	...	...	1	400		
Rs. 350 "	4	1,400	1	350	1	350		
Rs. 300 "	3	900	...	...	2	600		
Rs. 250 "	5	1,250	...	...	1	250	89	20,690
From Rs. 250 to 200	17	3,460	5	1,155	1	200		
From Rs, 200 to 150	10	1,590	4	682½	...	...		
From Rs. 100 to 150	5	550	5	525	5	330		
Below Rs. 100	6	470	1	87½	2	140		
Total	57	13,120	16	2,800	16	4,770		

But, as a matter of fact, till after the Mutiny not one of the natives was appointed to any office except such as they were eligible for before this Statute was passed, because the Court of Directors in interpreting it advised the Government of India at the very start that by this enactment

> "practically.....no very marked difference of results will be occasioned. The distinction between the situations allotted to the convenanted service and all other situations of any official or public nature will remain generally as at present."[1]

The Judicial and police charges, which together absorbed something like 10 per cent. of the total revenue raised, can only be regarded as protective in their character. Thus the bulk of the money raised by injurious taxes was spent in unproductive ways. The agencies of war were cultivated in the name of peace, and they absorbed so much of the total funds that nothing practically was left for the agencies of progress. Education formed no part of the expenditure incurred and useful public works were lamentably few. Railways, canals for navigation or irrigation and other aids to the development of commerce and industry for a long time found no corner in the Imperial budget. For a total area of 837,000 square miles there were constructed a few miles of railways, 2,157 miles of land ways, 580 miles of waterways and 80 miles of telegraph. Or speaking in terms of money spent, we find that for the entire period of fifteen years from 1837-8 to 1851-2 the average expenditure of a productive character amounted only to £ 299,732

[1] Despatch to Bengal No. 44 dated December 10, 1834, para. 107.

*Report of the Civil Finance Committee on Native Establishment at the three Presidencies,—Bengal Financial Consultations dated April 13, 1830. India Office Records. The subordinate establishments of uncovenanted Christian and native servants attached to the several presidencies were divided by the Committee into four classes, (1) comprehending Head clerks, Registrars, Managers and their assistants, Examiners, Investors, etc., employed under the Secretaries in superintending and conducting the business of the office; (2) Current Business Writers, and permanent Copyists; (3) Sectioners or copyists paid by piece work, and (4) all inferior servants. The Committee found that

Para. 35. The salaries received by the Current Business Writers in Calcutta vary from Rs. 20 to Rs. 300 per mensem, an average for each individual Rs. 104; in Bombay they vary from Rs. 15 to 120, an average Rs. 48; at Madras it is an established rule that the average remuneration to servants of this description in the Secretariat at that Presidency is Rs. 27½ , which is distributed at various rates from 10½ to 87½, rupees, according to the claims of the individuals from length of service and utility.....

Sectioners in the Secretariat office, Bengal, were paid at the rate of 750 words per rupee; while at the other two Presidencies it was about 1333 words for a rupee.

Para. 51. The present charge for servants attached to the Secretariat in Bengal is Rs. 1,142 per month; at Madras, including mochies (cobblers), Rs. 455; and at Bombay, Rs. 261. In Bengal there were 186 servants; in Madras 56; and in Bombay 42.

a year.[1] There is a principle well known to farmers that constant cropping without manuring ends in the exhaustion of the soil. It is, however, capable of wider application, and had it been observed in the State economy of India the taxing capacity of the country would have grown to the benefit of the treasury and the people. Unfortunately it was lost upon the financiers of India to the detriment of both.

But if the chance of augmenting the resources by judicious taxes and productive expenditure to cover the chronic deficits was forfeited, there was at least the way open for economy in expenditure. As might be supposed, a strong Central Government of the kind established in 1833 was capable of effecting economy wherever possible. As a matter of fact, the centralization was of the weakest kind. *De jure* there was an Imperial system of administration, but the *de facto* administration was conducted as though the primary units of executive government were the Provinces and that the Government of India was only a co-ordinating authority. This was obvious from a variety of circumstances. Legislation was, it is true, centred in the Government of India; none the less the laws that were passed by the Government of India were passed *for* the different provinces as though the initiative in legislation still lay in the Provinces and that the Government of India was only a sanctioning authority. Each Province had its own customs, internal as well as external, a survival of their sovereign status. Each Province continued to have its own Army. Notwithstanding centralization, the account system still remained provincial, sustaining the sense of their financial independence. The work of administration and collection of revenue being still conducted by them, the provinces behaved as though they were the lawful authorities charged with the responsibilities of Government. This spirit of independence bred insubordination, and some of the Provinces, particularly Bombay and Madras, endeavoured to resist the attempts of the Government of India to tax the people under their jurisdiction when the cost of the mutiny compelled it to levy fresh burdens. The point to be borne in mind is that the Act of 1833 made an unfortunate divorce between the legal and administrative responsibility. The Imperial Government were responsible in law but did not administer the country. The Provincial

1 *Statistical paper relative to British India.* Edited by Thornton, 1853.

Governments administered the country but had no responsibility in law. This divorce had a fatal effect on the economy in the finances of the country. As was inevitable extravagance in expenditure had become the rule in practice and it was inherent in the Imperial system itself. Economy is begotten of responsibility, and responsibility is obtained where a government has to *find* the resources to meet the charges it desires to incur. Prior to the inauguration of the Imperial system the Provincial Government had the obligation to raise money for the charges included in their budgets. Consequently they had to be economical. But under the Imperial system, while the budgets for the various services were prepared by the provincial authorities, the responsibility for finding the ways and means rested on the Government of India. Formerly they knew the limits of the purse they had to draw upon, but under the Imperial system they

> "had no means of knowing the measure by which their annual demands upon the Government of India ought to be regulated. They had a purse to draw upon of unlimited because of unknown depth. They saw on every side the necessity for improvements, and their constant and justifiable desire was to obtain for their own provinces as large a share as they could persuade the Government of India to give them out of the general revenues of the Empire. They found by experience that the less economy they practised, and the more importunate their demands, the more likely they were to persuade the Government of India of their requirements. In representing these requirements, they felt that they did what was right, and they left to the Government of India, which had taken upon itself, the responsibility of refusing to provide the necessary means."[1]

To these extravagant demands the Government of India had often to yield; for, till very late, it did not possess the machinery to appraise the demands and to control the expenditure on them. It is not usual to expect much efficiency from any Imperial system of administration, much less when it covers not a department, not a province, but a country as big as a continent. Merely from being huge it is slow to move. Much slower would it necessarily be if it were a system as unorganized and unconsolidated as the Indian system was. First of all, the Imperial system in India was without

[1] The *Administration of the Earl of Mayo, as Viceroy and Governor-General of India— a Minute by the Honourable John Strachey,* a member of the Council and late acting Governor-General, dated April 30, 1872. Calcutta Office of the Superintendent of Government Printing, 1872, p. 46.

its executive machinery of control. The Act which created it must be said to have grievously erred in uniting into one the Government of Bengal and the Government of India. As a result of this fusion the machinery was overstrained. Its duties as the Government of Bengal left it very little time to attend to its duties as the Government of India. There was not only a common executive, but there was also a common Secretariat charged with the work of the two Governments. Overworked as the Secretariat was, its efficiency was considerably lowered by the absence of any officer specially charged with the duty of handling the finance of the country till 1843. It was in that year that Lord Ellenborough, the then Viceroy of India, separated the Secretariat of Bengal from that of India,[1] and attached to the latter a distinct office called the Financial Secretary to the Government of India,[2] unencumbered with the details of any other Department of State except that of finance. But while the want of a scrutinizing officer was thus made good by this appointment of a distinct Secretary of Finance, it was not possible for him to enforce economy in expenditure in the absence of a centralized system of audit and account and of an appropriation budget. Notwithstanding the establishment of the Imperial system of finance, the officers of audit and account remained attached to the Secretariats of the various Provincial Governments. They were not accountable to the supreme Government on whom the responsibility for the ordering and the management of the revenues of India had by law devolved. Being attached to the provincial Secretariat the Government of India could issue orders with regard to the accounts and the audits not directly but only through, and with the interpretation of, the Local Government concerned. Secondly, the budget system, though good enough for the purposes of mercantile accounts, that is, record, was useless for the first and elementary purpose of all good State accounts, namely, check. There were indeed three estimates (sketch, regular, and budget) prepared for the purposes of the financial administration of the country showing the amount of money required for the carrying on of each of the different services. But this distribution of public money on the different services was not held to mean appropriation. It was only treated as cash requirements. Owing to this fact the grants were never carefully prepared nor was the limit set on them observed in

[1] Government of India Resolution, Home Department, April 29, 1843.

[2] Government of India Resolution dated January 4, 1843.

practice. As there was no budget of specific votes or sanctions for each of the services the audit and account was simply concerned with noting whether record was kept of all the money that was received and paid through the public treasury. It is evident that in the absence of an appropriation budget the primary object of all State accounts and audit, namely check on the spending authority to abide by the sanction, was never achieved. The Provincial Governments, extravagant in their demands, were also careless in the matter of expenditure. So long as the Government of India remained without an appropriation budget and a centralized system of audit and account, it continued to be only a titular authority in the matter of financial control, and the provinces, though by law the weakest of authorities in financial matters, were really the masters of the situation.

To its inability to curb the extravagant habits of the provincial authorities generated by a financial irresponsibility on the part of the Provincial Governments and inefficiency on the part of the Central Government must be added the general spirit of apathy which marked the Executive Council of the Government of India in matters of finance. While it was true that nothing could be spent from the revenues of India without the specific vote of the Executive Council, it does not appear that the Council from its way of working could have taken any keen interest in promoting economy in expenditure. The Council acted collectively, and there was no distribution of executive work among the different members which composed it. With the exception of the Department of War and Legislation the whole work of the Government was brought before the Governor-General and his Councillors. As a result of its collective working

> "every case actually passed through the hands of each member of the Council, circulating at a snail's pace in little mahogany boxes from one Councillor's house to another."[1]

Under such a system nobody was a Chancellor of the Exchequer to urge economy, because everybody was supposed to be one. The result was that finance in being everybody's business

1 W. W. Hunter, Life of Mayo, Vol. I, p. 190.

suffered from being nobody's business, so that funds were distributed not according to the genuine needs of the services, but according to the relative claims and persistency of the clamour made for them.

Sufficient evidence has been given to show that the collapse of the Imperial system was due to a faulty fiscal system marked by injurious taxes and unproductive and extravagant expenditure. It must not, however, be supposed that this faulty fiscal policy commenced with the inauguration of the Imperial system. On the other hand, it was a heritage which descended to the Imperial system from the past. None the less it is obvious that a timely revision of the fiscal policy and the strengthening of central control would have solidified the foundation of the Imperial system. But a much too long continuance thereof undermined its financial foundations, and as it could get no more money to meet its rising expenditure from a people whom it had beggared, the Imperial system succumbed to the shock of the Mutiny, never to rise again in its original garb.

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CHAPTER II
IMPERIALISM *V.* FEDERALISM

As the result of the cost of the Mutiny of 1857 the already precarious condition of the Imperial Finance became so grave that no problem during the succeeding decade can be said to have engrossed the attention of responsible authorities as the one relating to the rehabilitation of that tottering system. Although the controversy as to the proper line of reconstruction to be adopted was long drawn out, the causes of the collapse were so patent that all those who had anything to do with Indian Finance unmistakably laid their finger on one supreme defect in the system whose breakdown they had witnessed, namely, the irresponsible extravagance it engendered in the Provincial Governments. To obviate this evil it was sought on the one hand by some responsible authorities

> "to make the Local Governments partners in the great joint stock of Indian Finances, and, so to enlist their interest and animated co-operation with the Government of India, instead of keeping them on the footing of agents and servants, who, having no motive for economy and using the means of their masters, think only of enhancing their own demands by comparisons more or less well founded, with the indulgence conceded to others."[1]

This view gradually led to the formation of a considerable body of well-trained opinion for changing united India into the United States of India,[2] by making the provinces into separate and sovereign States. The aim was to substitute a Federal system for the Imperial system and to assimilate the financial position of the Central authority in India to that of the Central authority in the

[1] Minute by H.E. Sir W. R. Mansfield, Commander-in-Chief, dated October 17, 1867. *Papers, etc. on the extension of Financial Powers to Local Governments,* pp. 99-103.

[2] Cf. the Note of Col. R. Strachey dated August 17, 1867, in J. F. Finlay's History of *Provincial Financial Arrangements,* List of extracts, p. 3.

United States. For the consummation of the Federal plan it was urged that the revenues of India should not be dealt with as one income, collected into the Imperial Treasury and thence distributed among the different Provincial Governments. According to the plan each province was to be allowed to keep its revenues and meet its charges from them. The Central Government was to have its own separate resources and, if need be, supplemented by contributions from the provinces as their share of the expenditure of the Central Government based on some equitable standard. Thus under the Federal plan the consolidated Imperial Budget with its formal division between Imperial and Provincial was sought to be replaced by the creation of distinctly separate budgets, Central and Provincial, based on a genuine division of services and allocation of revenues.

Many advantages were claimed in favour of the Federal plan. First it was believed that the separation of the revenues and services would lead the ways and means of the Central as well as of the Provincial Governments to be clearly defined, so that each one of them would be responsible for administering its affairs within the funds allotted to it. Heretofore the Provincial Governments sent up their estimates of revenue and expenditure as returns unconnected with each other, and the task of balancing them was left to be done by the Supreme Government upon the aggregate of the different provincial estimates submitted to it. Under the Federal plan the provincial estimates would have to be balanced accounts of receipts and charges made over to them. Though primary it was not the only advantage which the Federalists claimed for their plan, for it was advanced not only as a measure to set bounds to the extravagant expenditure of the Local Governments by limiting the funds on which they were to draw, but also as a measure for setting bounds to the growing expenditure of the Central Government as well. The Federalists did not conceal the fact that the Central Government, being in a position to draw upon the total resources of India as a whole, was inclined to be extravagant in its own expenditure. They therefore thought that the Federal plan, involving as it did the allocation of revenues and services, would result in enforcing economy on the Central as well as on the Provincial Government.

The Federal plan was not only proposed by its advocates in the interests of economy and responsibility, but also in the interests of plenty. The Federalists denied that India offered few sources of revenue for the growing expenditure of the State. Though the Indian Finance ferry was water-logged, it was their view that there were many sources of taxation with the outpourings of which it could be set afloat. But they argued that these available sources were left untapped, as the Imperial Government, which could tap them, would not do so because of their restricted *locale;* and Provincial Government, which would like to tap them, because of their restricted *locale* could not do so under the existing constitutional law. But if the Provincial Governments were vested or rather re-vested with the powers of taxation as they would be under the Federal plan, such sources of taxation as were given up for being too regional-in character by the Imperial Government would be used by the Provincial Government to the great relief of Indian Finance as a whole.

Not only was Federalism advocated in the interests of economy and plenty, but also in the interests of equity. It was contended that the existing system resulted in an iniquitous treatment of the different provinces. If we take public works of provincial utility and the expenditure incurred upon them in the different provinces as the criterion, the criticism of the Federalists cannot be said to have been unfounded. On the other hand, the following figures go to substantiate a very large part of their arguments :—

OUTLAY ON PUBLIC WORKS

Average for the years 1937-8 to 1845-6

Province	Population in thousands	Area in sq. miles	Revenues in hundreds of Rs.	Expenditure on Public works in hundreds of Rs.
Bengal	40,000,000	1,65,443	10,239,500	1,79,812
N.W. P.	23,200,000	71,985	5,699,200	1,41,450
Madras	22,000,000	1,45,000	5,069,500	30,300

Complied from *Calcutta Review,* 1851, Vol. XVI, p. 466.

Thus the outlay on public works was in Bengal 1$^{3}/_{4}$ per cent.; in North-Western Provinces, 2½ per cent.; and in Madras a little over ½ per cent. of their respective revenues. This favoured treatment of some provinces as against the others was justified by the Imperial Government, which distributed the funds, on the ground that the favoured provinces showed surpluses in their accounts. But the Federalists pointed out these deficits and surpluses ascribed to the different provinces were grossly fictitious. They were the result of a bad system of accounts. The system was bad for the reason that it continued to show the accounts of the financial transactions of the country not according to Heads of Account but according to the provinces in which they occurred as used to be the case before 1833 when there was no common system of finance. With the passing of the Act of 1833 this system of accounts had become quite out of keeping with the spirit and letter of that Act. This would not have mattered very much if the All-India items were separated from the purely provincial items in the General Heads of Account. In the absence of this the evils of the system were aggravated by entering exclusively into the accounts of a province the charges for what was really an All-India Service, so that it continued to show deficits, while others which escaped continued to show surpluses and claim in consequence the favoured treatment given to them. The Presidency of Bombay offered to the Federalists a case in point. The demands of the Presidency were invariably received with scant courtesy by the Government of India, for in its history Bombay seldom showed any surplus in her accounts. But, if it had been realized that the deficits were caused by the barbarous system of accounts which kept on charging the Presidency with the cost of the Indian Navy, it undoubtedly would have fared better. Such vicious ways of appointment were not the only evil features of the system of accounts. Under it it was quite common to charge one Presidency with the cost of a service and to credit another with the receipts thereof. How the deficits found in the Madras accounts were inflicted upon it by the erroneous system of accounts may be seen

from the following :—

Cost of the Army of Occupation.		Revenues derived from the Occupied Territory		
Debited to	Amount	Credited to		Amount
	Rs.			Rs.
Madras	79,83,000	Bombay	...	20,00,000
		Bengal	...	1,04,22,870

Compiled from *ibid,* p. 475.

Taking into consideration the iniquities involved in such a system of accounts, it is beyond dispute that the advantage claimed by the Federalists for their plan was neither fictitious nor petty. A division of functions between the Federal and Provincial Governments would have in itself been an advantage by comparison with the existing chaos. And, if it did not result in equity, it had at least the merit of opening a way for it.

When however the Federal plan was put before the authorities in the form of a practical proposal, it gave rise to a determined opposition. The challenge was at once taken up by the supporters of the Imperial system who, be it noted, were mostly military men in civil employ. They opened their attack on the Federal plan from two sides, that of practicability and expediency.

Is it possible, asked the Imperialists, to localize the revenues and charges of India as belonging distinctively to one particular province ? They insisted that

> "from the commencement of (the British) power (in India).....the interests and affairs of (the) presidencies and the provinces have been interwoven and interlaced—one often overlapping the other, and vice versa—in a manner from which extrication or disentanglement is now impossible, without making changes which would entail inconveniences greater than any entailed by the existing system..... The army of Bengal Presidency is quartered not in the rich districts of the Lower Ganges, but mainly in the poorer districts of the Punjab. Thus placed, that army defends virtually the whole Presidency. The Madras army is not kept within that Presidency, but holds, besides the Madras country, the Deccan, the Central Provinces, and British Burma. Similarly the Bombay army holds,

besides its own Presidency, the State of Rajputana and of Malwa. The Lower Provinces or Bengal proper are in themselves rich; but besides their own revenues they receive large customs receipts, which belong partly to them, but largely also to the other Divisions of the Bengal Presidency. Even Bengal opium does not entirely belong to Bengal, a large portion being raised in the North-Western Provinces. In Bombay the opium revenue does not, strictly speaking, belong to that Presidency at all, being raised beyond its limits, in the territories which, if included in any Presidency at all, would pertain to that of Bengal. Some of the Salt Duties, both of Madras and of Bombay, are raised on salt destined for consumption in Central India, and, in strictness, should be credited to the Government of India. Instances might be multiplied; but it becomes instantly evident that, if an adjustment of these matters with a view to complete localization of finance were to be attempted, many difficulties, perhaps even disputes, would arise....."[1]

Arguing in the same strain, Lord Lawrence, the then Viceroy of India, wrote :

"Experience has shown that it is convenient that the resources of British India should be considered in the aggregate and not with reference to the particular province in which it is raised. If the rule were otherwise, we must enter into the question—what are the revenues which each province may fairly claim? What are the items of expenditure which may justly be charged to each ? Is the Punjab, for instance, to be charged for all the British troops located in the hills for sanitary considerations ? Is the whole of the force ranged against the North-Western border to be similarly debited ? Are the troops quartered in Rajputana to be charged to the Bombay Presidency to which they belong, or in what manner is their cost to be arranged for ? On the other hand, we may be asked, why should not Bengal in particular—which, having no foreign neighbours, and a docile and timid population, requires only a minimum garrison—have the benefit of her surplus revenues ? Why on the

[1] Note by Sir Richard Temple dated November 7, 1868, Papers, etc., *on the extension of Financial Powers to Local Governments,* pp. 197-208.

> opposite view of the question should not Bengal bear her share of the cost of the troops located in the North-Western Provinces, the Punjab and Central India, which guard her from such invasions as those of the Rohillas, the Mahrattas and the Pindaries of former times ? These are all questions which would require solution if each were to have a financial system of its own."[1]

and in his opinion the question was impossible of solution.

But the Imperialists went further than this and argued that, even if it were possible to distinguish and localize the charges and the revenues into provincial and central, it was inexpedient to do so. Under the existing system of finance, they held that

> "the Imperial Government, disposing of financial resources of the whole of India, can carry those resources at once where they are most needed. There are objects which have a truly national importance, though they may appear chiefly beneficial to a particular district. There may be evils, necessities and dangers in particular districts, which it is the duty of the supreme Government to correct and remedy at the charge of the whole. The creation or improvement of a part may have a national importance, though the expenditure on it may seem unfairly beneficial to a particular locality. A road, a canal, a railway from a cotton district or a coffee district, or a tea district, may have a vital significance to the whole people and commerce of India; and yet the expenditure on such a work be out of all proportion to the present revenue of the district which it is destined to develop..... or the supreme Government may find it necessary to lay out, for moral and social purposes, larger sums on recently conquered, savage, or dissatisfied provinces than the revenues of those provinces seemed to warrant, in order to remove causes of disturbances or dangers, and to force those provinces into some degree of harmony with the long settled, pacified, reclaimed portions of the Empire..... The old provinces of the Empire conquer the new provinces. The old are bound in duty to civilize what they conquer. We have no right to

Minute dated November 22, 1867, *op. cit.,* pp. .104-7.

> annex a country and then throw it on its own resources. Conquest has its own duties as well as its rights."
>
> "I venture to demur," wrote Lord Napier of Merchiston, President of the Council of Madras," to the policy of those who would restrict the benefits of the supreme Government to its receipts, and who would measure out in a parochial spirit to every province appropriations proportional to its specific returns. On the contrary, it ought to be a satisfaction to the rich to help the poor; to the old to protect the young ; to the good to improve the bad; for thus all can co-operate in building up the glorious fabric of a—United India. Such ends can only be attained by a Central Government disposing of the financial resources of a whole Empire"[1]

It is evident that arguments or sermons such as the above by themselves could never have supported the cause of the Imperialists. Notwithstanding the emphasis laid upon the difficulty of separating the revenues and charges into Imperial and Provincial, it must be conceded that the task was by no means so insuperable as the Imperialists made it out to be. The difficulty of apportioning the military charges could have been easily obviated by centralizing the military and making it a charge of the Central Government. On the same basis all those services charged to a particular Presidency or Province, but which from their nature benefited the whole Empire, could have been easily incorporated into the budget of the Central Government. Similarly it was possible in practice to allocate the existing sources of revenue between the Central and the Local Governments. The Central Government could have been allowed to retain for its use such sources of revenue the *locale* of which extended beyond the limits of a Presidency or the maximum yield of which depended upon a uniform administration of the same throughout the country. While on the other hand the Provincial Government could have been allowed to appropriate such sources which were restricted in their *locale* or the yield of which depended upon local vigilance. For instance, the customs duties could have been easily made a central resource, not only because their incidence was wider, but because they required a common and uniform policy of legislation and administration. The opium revenue could have been treated

[1] Cf. his Minute dated February 15, 1868, para. 9, op. cit., pp. 186-90.

as a central source of revenue, and the same treatment could have been granted to the salt revenue. Of course it would have been difficult to effect a separation of the sources of revenue in such a way as would have granted to each of the several Governments concerned resources adequate to meet the charges devolving upon them. A certain adjustment of funds by contributions from the provinces to the Central Government or from the Central Government to the provinces would have been inevitable; neither could it have been possible to obviate the adoption of principles more or less arbitrary in the matter of apportionment of revenues or of charges. But admitting the difficulties and arbitrariness involved in the problem of separating the Imperial Budget into a Central and several Provincial Budgets, it must still be said that it was quite capable of satisfactory solution. Colonel Chesney in response to the challenge thrown out by the Imperialists had made a notable attempt to distinguish the existing heads of charges into Imperial and Provincial. In his Indian Polity he says :

> "The items of Imperial expenditure for which contributions would be required consist apparently of—(1) the Home Establishment and charges disbursed by the Secretary of State ; (2) interest on Indian debt; (3) Establishments of the Government of India ; (4) Diplomatic establishment; (5) Army ; (6) Imperial Services—Post Office and Telegraph Department ; (7) interest guaranteed on railway capital; to which must be added (8) grants in aid to some of the poorer provinces (which do not at present pay their expenses)."

This and other efforts convinced the Imperialists that their argument from practicability was bound to fail. Consequently they shifted their emphasis from the argument from practicability to that from expediency. Expediency furnished a better ground for attacking the Federal plan. Can a Federal Government be as efficient as the Imperial Government ? Can its credit be as high ? Can its prestige be as great as that of the existing Imperial system ? It must be premised that it was fresh in the minds of the people that it was the Imperial system with a strong power of control that had saved the country to the British from the hands of the mutineers of 1857. The survival value of the Imperial system had been proved in the struggle. By a clever manoeuvre the Imperialists turned to e authorities and asked them to consider what had sustained the

Imperial system throughout the struggle. They did not fail to emphasize the point that it was because the Imperial system of finance had given into the hands of the Imperial Government the control over the management of the revenues and disbursements of the Empire that the latter, in an emergency like the Mutiny, could stimulate every source of income, close every avenue of outlet, and concentrate all its expenditure on the capital object at stake—the energetic prosecution of hostilities. They showed that, without the Imperial system of finance, the Imperial Government would have had to deal with lukewarm, reluctant, hesitating or even hostile partners, perhaps not directly concerned in the struggle or convinced of its necessity, and solicitous for exoneration or delay. Further they made out that the Imperial management of finance was vital not only in heightening the efficiency of government, but also in maintaining the high state of credit. Credit, it was argued, depended upon the magnitude of the revenue, and to disintegrate the revenues was tantamount to lowering the credit. The Federal plan was also accused of abrogating the European tradition which has given prestige a very high place in its code for Asian government. It was inconceivable to the Imperialists that the Central Government could maintain its prestige without centralization in finance, for it was the system of Imperial Finance which, having collected the leading strings in political and administrative matters into the hands of the Imperial Government, enabled that Government to dictate a policy and have it executed to its own satisfaction. But who could uphold the prestige of the Central Government, if it became a pensioner of the Local Governments subordinate to it?

Looked at from the vantage ground of detachment from the time of the controversy one may wonder what strength there was in the argument from expediency which gave the Imperialists such an easy victory over the Federalists. Federal Governments such as those existing in America, Germany or elsewhere do not lend support to the view that in their working there is bound to be a loss of efficiency, credit, or prestige. Their history has belied all these gloomy forebodings. But it should be remembered that at the time the controversy raged in India, much of the history of Federalism was a blank page, for Federalism was itself in its infancy. People, however, sided with the Imperialists, not because they could not

draw upon the history of Federalism for arguments in its favour, but because the events of the time had inclined them to support the Imperial system. The Imperial system had saved India from the hands of the Mutiny of 1857, and when their fears of its repetition were not yet allayed it was too soon to expect them to consent to disrupt a machine that had just then proved its worth in the great contest. Conscious though they were of its defects, people recoiled from any attempt to tamper with it. So strong was the partiality of the people for the Imperial system that, notwithstanding the many defects which to their knowledge detracted from the efficiency of the system, they could give a sympathetic hearing to the Hon'ble Major-General Sir H. M. Durand, who wrote :

> "..... I assert confidently that at present there is absolutely no ground whatever for the allegation that the financial control of the Government of India goes to undue lengths in what it attempts, and miscarries miserably..... On the contrary, any partial miscarriage of control..... is no proof whatever that the rules are faulty, but that their relaxation is highly inexpedient, and that more rigid subordination of them should be enforced both by the Government of India and the Home Government. To subvert the financial control of the Central Government because one out of nine administrations has proved rather refractory, is about as sensible a procedure, to my mind, as to annul the articles of. War and the powers of the Commander-in-Chief because a regiment should somewhat happen to misbehave. I venture to doubt the statesmanship of ruling either India or armies in this way."[1]

Notwithstanding the victory of the Imperialists, it must be said the Federalists lost a cause which was bound to succeed. For the sentiment of the time, however favourable to the retention of the Imperial system, was powerless to resist the force of events. The Imperial Government had to be extricated from the state of chronic penury in which it had fallen, and if statesmanship did not favour the system of Federal Finance as a means, financiers soon learnt that the system of Imperial Finance was doubtful as an end.

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[1] Minute dated October 7, 1867, *vide* op. cit., pp. 94-7.

CHAPTER III

THE COMPROMISE

IMPERIAL FINANCE WITHOUT IMPERIAL MANAGEMENT

If the Federalists failed to carry the day, they at least led their opponents to improve the system by removing some of the most radical defects from which it suffered. Attention was mainly directed towards revising the revenue laws and improving the machinery of control so that more revenues be obtained and less wastefully spent. With the primary object of making the Imperial system strong and prosperous, serious attempts were made about the close of the rule of the East India Company to do away with the oppressive taxes which had so long retarded the prosperity of the people and consequently of the Government. The internal custom duties were done away with, and the country was not only freed from all restrictions which hampered the growth of trade and industry, but positive encouragement was given to them by introducing the element of protection in the import tariff and trade was facilitated by equalizing the duties on English and foreign shipping. Articles of export were also relieved from the handicap of export duties and efforts were made to improve the cultivation and pressing of cotton, tea and other staples which commanded a great market in Europe and elsewhere.

The administrative machinery was next subjected to revision. Advantage was taken of the Indian Councils Act of 1861 authorizing the Viceroy "to make from time to time rules and orders for the more convenient transaction of business in his Council," to bring legally to an end the system under which the whole Council was supposed to take part collectively in the disposal of all the business of the Government by assigning to each member of the Council the charge of a separate department of administration; the Council was thus virtually converted into a Cabinet of which the Governor-General became the head. In this manner a place for a

Chancellor of the Exchequer was created to which was appointed the well-Known financier, Mr. James Wilson. The attention of Mr. Wilson was directed first of all to the improvements in the machinery of fiscal administration. The credit of establishing in India a uniform system of accounts, centralization of civil and military audit, and the introduction of an appropriation budget, rightly belongs to him. With the improvement in the revenue laws and the check on waste through improved and efficient administration was combined the policy of retrenchment in expenditure,[1] and the budget and audit rules were

> "so framed as to leave to the head of each Local Government or of each branch of administration a much larger (*sic*) discretionary power than..... heretofore..... allowed in rearranging the details of expenditure"[2]

if that led to retrenchment. So drastic was the economy practised that, soon after the inauguration of the policy of spreading education throughout the country initiated by the dispatch of the Secretary of State in 1854, a stop was put to any increase of expenditure on education.[3]

But notwithstanding all these efforts at betterment howsoever diligently sustained, they did not improve the finances of India materially; at any rate. Mr. Wilson in his Financial Statement for 1860-1, by way of summing up the financial situation, said:

> "we have a deficit in the last three years of £ 30,547,488; we have a prospective deficit in the next year of £ 6,500,000; we have already added to our debt £ 38,410,755."

To meet this huge deficit Mr. Wilson was obliged to augment the stamp duties, double the external customs, and impose an income tax, hitherto unknown to the people. Even the yield of these "three tremendous taxes" did not help Mr. Samuel Laing, the successor of Mr. Wilson, to a prosperous condition, for he too in his Financial Statement for 1861-2 wanted £ 500,000 fairly to weather his deficit and get into smooth waters with a small surplus. A few years of financial prosperity intervened. But Mr. Massey, who relieved Mr. Laing in 1866,

[1] Cf. Finance Department Resolution No. 126 of November 19, 1860, published in the Appendix to the *Calcutta Gazette* dated November 24, 1860, p. 35.

[2] *Ibid,* para. 20.

[3] Notifications, *Calcutta Gazette,* August 14, 1858, p. 1642.

> "upon a review of the financial condition of the Empire and the increasing demands made upon its resources..... deemed it expedient to make provision for a permanent addition of a million sterling at the least to the existing revenue."[1]

Why the efforts of these successive Finance Ministers were not crowned with success is to be explained chiefly by the fact that the administrative and public needs of the country had grown beyond measure. After the Mutiny

> "thousands of Englishmen, not only soldiers, but Englishmen of almost every class, poured into India. Ten thousand things were demanded which India had not got, but which it was felt must be provided. The country (had to be) covered with railways and telegraphs, roads and bridges. Canals (had to be) made to preserve the people from starvation. Barracks (had to be) built for a great European army, and every sort of sanitary arrangement which would benefit the troops (had to be) carried out. This was not only true in regard to matters of Imperial concern. Demands for improvements similar to those which fell upon the Central Government cropped up in every town and in every district controlled by the Local Government. The demands for improved administration also made themselves effective. The police was in a shameful condition throughout India..... and the inadequacy of the pay given to native judges and other subordinate officers employed in the posts of importance in the courts was declared by Lord Lawrence when he was Viceroy to be a public scandal. Among more than four thousand of these officers in the Bengal Presidency, the highest paid of all, and these were very few, received £180 a year. The great majority received from £12 to £24 a year sums less than those earned in many parts of India by common bricklayers and carpenters. All these had to be put on a completely new footing."[2]

While the needs for expenditure were thus growing, economy in expenditure became difficult of achievement. Comparatively easy at first, each successive measure of economy became directly, as well as relatively, more arduous than its predecessor. The growing

[1] Circular letter to the Local Governments dated February 21, 1866.

[2] The above is taken with some alterations of a purely literary character from the "Observations on some Questions of Indian Finance," by Sir John Strachey. House of Commons Return 326 of 1874.

needs of improvements, hitherto neglected, and the contracting scope for economy, combined to demand an ever-increasing scale of taxation. The dangers of increased taxation by an alien Government of a people not interested in obtaining the amenities of life, much less at the cost of a tax, were uppermost in the minds of the three great financiers who were sent out from England in succession to rehabilitate the finances of India on a sound and stable basis. They realized that unless bounds were set to these demands for improved administration and improved material and moral conditions, the immediate benefits of which were enjoyed more by the European than the native population, taxation howsoever high would be inadequate for financial solvency, besides being dangerous to the political stability of the Empire. Under the existing system of barren uniformity and pedantic centralization their object was thought to be impossible of achievement; for the Local Governments, on which alone the Central Government could depend for economy, rendered at best to that Government not only a cold and languid support in financial vigilance and *reform,* but too often exhibited a passive resistance, and even countenanced evasions of regulations intended to be conducive to economy. The only way to make Local Governments economical in their ways was to give them the power and responsibility of managing their own affairs. As a matter of administrative experience the financiers had found that while some of the branches of revenue and expenditure were truly imperial, there was a wide field of both of them which was properly local in character, and ought to have been entrusted to Local Governments. They were convinced that there could be no standard of economy until the requirements of the Local Government were made absolutely dependent upon known means, and nothing they thought would serve to make known to the Local Governments the means available for their outlay than to carve out from the Imperial purse a separate purse of definite magnitude for the use of Local Governments and to throw on them the responsibility of meeting their demands and maintaining an equilibrium in their finance.

Thus they were led to the same conclusion as the Federalists. However, to make the plan acceptable to the Imperialists, they

made certain concessions without seriously compromising the working of the plan. The Federal plan required a change in the constitution of the system of government in India. It necessitated a *legal* partition of the revenues and charges of India between the Central and the several Provincial Governments. While all, including the Imperialists, recognized in the Federal plan a powerful measure for enforcing financial responsibility and economy, the chief objection to it arose from the fact that it sought *legally and permanently* to divest the Central Government of the resources of India. The financiers as practical politicians soon found out a way to obviate this defect in the Federal plan. By virtue of their experiences of the working of the British Parliament they found that there was no necessity to resort to a constitutional change. Convention was deemed to be as good as law and, once established, can seldom be altered without disturbance. Separation of charges and revenues between the Central and Provincial Governments was therefore proposed to be made a matter of convention which could be upheld so long as it was profitable for the parties concerned to do so. This gave all the advantages of the Federal plan without legally divesting the Central Government of its control over the resources of India. In its nature it was a compromise between constitutional Imperialism and constitutional Federalism. It meant Imperial finance without Imperial management. Under the compromise the revenues and charges remained Imperial in their status, but their management was to be provincialized, so that each of the Provincial Governments was given to administer a part of the Imperial charges incurred in its territory within the limits of a part of the Imperial revenues collected within its territory. This was the essence of the new plan. It differed from the Federal plan in retaining to the Imperial Government the supreme controlling, councilling and regulating authority in all matters pertaining to Indian Finance, without its being actually engaged in the details of the administration of a *part* thereof.

In the essence of the plan as described above all the three finance ministers who were called upon to undertake the task of reconstruction had agreed. They differed, however, in the scale on which it was to be carried out. Whether Mr. Wilson had ever

elaborated his own skeleton of the plan is doubtful; but that the idea of it had occurred to him seems pretty certain. The Income Tax Act XXXII of 1860, imposed by him

> "was meant to consist of two parts—first, a variable tax, originally fixed at 3 per cent on incomes, which percentage it was intended should be raised or lowered as the general exigencies of the Empire required, and which might if the state of the finance should ever permit, be entirely remitted; and secondly, a permanent tax of 1 per cent., which was to be at the disposal of the local administration, and to be expended on roads, canals, and other reproductive public works, within the area which paid the tax (*vide* sections 190-4 of the Act). This portion of the tax was never intended to be remitted. It was always to be kept up, not only to meet the charges to which it was applicable, but in order to maintain the machinery of the tax so that at any moment of exigency, after a temporary remission the other portion of the tax, applicable in aid of the general finances, might be re-imposed without agitation, discussion, or trouble."[1]

But, as Mr. Wilson did not live long enough to elaborate his ideas into a scheme, it is difficult to say to what extent he intended to work them out in practice.

Mr. Laing, the successor of Mr. Wilson, put it in a much more definite shape. His budget for 1861-2 was for a deficit caused chiefly by the pressing demands of the Local Governments for useful public works, and his sense of financial safety compelled him

> "to curtail roads, canals and other useful works of this description, to the allotment on which they (had) been carried on or rather..... starved, since the Mutiny."

But his anxiety to promote the useful public works, the urgency of which he fully recognized, led him to propose to the Provincial Governments a method of supplementing the scanty Imperial grants made to them. He said to them :

> "Take what we are able to give you, and for the residue take certain powers of taxation and raise it yourself..... for there are certain subjects which can be dealt with far better by local than by Imperial taxation..."

[1] Minute by Sir B. Frere dated November 25,1866, para. 30. *Papers, etc., on the extension of the Financial Powers of the Local Governments,* p. 42.

His object was to enact local budgets "not merely to meet a temporary difficulty but to inaugurate a permanent improvement," to the relief of the Imperial treasury and the benefit of the Provincial Governments. This scheme involving the management of the public works charges by the Local Government with an allotment from the Imperial revenues supplemented by the power to tax had secured a general approval. But at the time when the scheme was put forward the Local Government was without the requisite machinery for carrying into execution the powers of legislation necessary to impose the taxes proposed to be given to them. The execution of the scheme had therefore to be postponed pending the enactement of local legislative councils then undertaken by Parliament. But, the ensuing years having been years of financial prosperity, the interest in the scheme relaxed and it was consequently dropped *sine die*.

This spell of prosperity, however, proved to be only a passing phase and the stress of returning adversity which beset Mr. Massey compelled him to revive the scheme in a much more enlarged form.[1] He proposed that:

> "In considering the ways and means by which the additional amount (of one million sterling) should be raised .....the most convenient mode of proceeding would be by a partial transfer of charges of a local character from Imperial to local account."

As the annual produce of local funds applicable to local purposes in India did not much exceed two million sterling, it was proposed to make the moderate addition to this amount of £1,200,000 in round numbers to be raised in rateable proportions in the several Presidencies and Local Governments, and applied in relief of a corresponding amount of charge for local services then borne by the Imperial revenues. The above-mentioned sum of £1,200,000 was arrived at by an assessment of 4 per cent on the estimated revenues of the several Local Governments (except Burma) for the current year, after excluding customs duties and the income tax.[2] The heads of charges to which the proceeds of the new funds were applicable were (1) education, (2) police, (3) district jails, (4) public works, (5) repairs and maintenance of roads. The list of taxes suggested to provide ways and means

[1] Demi-official letter dated February 25, 1866, to the Local Governments. *Papers, etc., on the extension of Financial Powers of Local Governments,* p. 67.

[2] *Ibid,* para. 8.

included (1) a license tax on trades and professions, (2) a house tax, (3) an octroi duty in towns, and (4) a succession duty on lands which did not pay revenue. The Local Governments were to be left free, subject to the approval of the Government of India in Council, to select the particular tax most suited for being levied in their respective territories so as to yield the full amount required, after deducting the cost of collection, and spend the proceeds on the services mentioned above, *on* all or any of them, according to their discretion.

The replies of the Local Governments and administrations addressed in connection with this scheme, indicated a general agreement as to the practicability of such a transfer of charges being made and being met by new local taxation, though there was also a general disposition to object to the transfer of charges without a simultaneous transfer of revenue with which to meet the expenditure on them. Under the circumstances the Government of India agreed to reduce the expenditure to be transferred to the Local Governments to £ 800,000 and to transfer to them the proceeds of the license tax as a means for making adequate provision for the same.[1] The favourable reception accorded to the scheme and the sympathetic criticism to which it was subjected led Mr. Massey to extend and modify it. In his exposition[2] of the new and enlarged scheme Mr. Massey wrote :

> "my first object has been to select, for the first series of charges to be transferred to local authorities, those items of expenditure which being least susceptible of control by the Government of India, give as a whole, an amount of such dimensions as will not be difficult to manage, and yet will be of sufficient importance to indicate that the measure is intended to be a reality, and a step towards the more complete transfer of the financial administration to the local government. Taking the civil estimates..... it seems to me, plainly, the most convenient method of proceeding to transfer a few entire grants or section of grants, in preference to selecting special items from several

[1] Circular letter dated September 19, 1867. *Op. Cit.,* p. 67.

[2] The new scheme was outlined at the request of Mr. Massey by Col. R. Strachey in Note on the Transfer to Local Governments of the Control over Certain Portions of Public Expenditure, *ibid,* pp. 51-62.

grants..... By adopting the plan..... no change whatever in the system of accounts will be called for; and the only alteration will be, that certain sections of the grants for various purposes, will be provided in a special manner. The only exception to this rule..... is in dealing with a head 'Miscellaneous' which..... is rather an incongruous collection of charges. Among these will be retained, for transfer to local management, all those items which would reasonably be termed local..... and the residue..... could easily be classed under some of the other main heads of charge. The most important of the charges which I should propose to transfer is that for 'Jails' subordinate to 'Law and Justice,' which may... be taken in lump. The charges for ' Registration 'and' Tulubana' also under 'Law and Justice' follow. These are met from special fees credited under the head of 'Law and Justice'. To set off against these charges, a transfer of the revenue under 'Law and Justice' is also proposed... Under 'Education' the 'Miscellaneous' charges are proposed to be transferred to the corresponding transfer of the revenue credited under 'Education'. Next follows the whole of the charges under 'Medical Services' except the fixed 'Medical Establishments and Chemical Examiners'. The entire charge under 'Stationery and Printing' is also taken. Under 'Police' the charges met by contributions from local sources are transferred, including the Railway Police. Against this is set off the receipts under 'Police'. 'Besides the above it is proposed to transfer a portion of the charges, for the collection of the Land Revenue and of the Income Tax and License Tax, which... I have assumed as likely to be levied in future. It has been necessary to assign a sum sufficient to cover the general charges which would be transferred and the propriety of transferring a corresponding portion of the cost of collection seems apparent. Under the designation of charges of collection of the Land Revenue were not included the cost of the Revenue Survey or Settlement as they were exceptional and variable, though the charges under 'Allowances to Village Officers' were included.

* * * *

"The first and principal transfer of revenue will be a portion of the Land Revenue, which I propose to fix at $^{1}/_{16}$th or one anna in

the rupee. The same rate will govern the proportion of the charges for collection transferred.....

"The next item of revenue which I assume at one-fourth of the Income Tax and License Tax, which I shall suppose to be raised.[1]

"It is next proposed to transfer the whole of the receipts under the following heads : (1) Law and Justice, (2) Police, (3) Education, (4) Miscellaneous, except items of a financial nature, and also (5) all income under Police Works excepting that derived from Irrigation. The items of expenditure under Public Works proposed to be transferred are (1) Roads, (2) Repairs of Civil Buildings, (3) Miscellaneous works both new and repairs, and (4) Tools and Plant."

The scheme thus enlarged was discussed at length from various points of view. But though it won the approval of cautious critics[2] the scheme was too large for the Imperialists. And as the two greatest of them, Lord Lawrence, the Viceroy of India, and Lord Napier of Merchistoun, Governor of Madras, disapproved of it, it failed to materialize in consequence of their opposition.

But unfortunately for the Imperialists, throughout this decade during which they were stubbornly objecting to any surgical operation on their patient—the Imperial system of Finance—it did not show any sign of convalescence. On the other hand, the delay in the operation aggravated its ills. Notwithstanding the constant enhancement in taxation and the reduction in expenditure, the three Chancellors of the Indian Exchequer sent from England could point to only three years of surplus during the decade between 1860 to 1870. On the other hand, to the embarrassments due to constant deficits was added the bewildering breakdown of the budget system created to bring about order and economy in

[1] In thus calculating the share Mr. Massey wrote, "The Income Tax I have taken at 2 per cent, and I have conceived that it will cease below incomes of 2,000 rupees. The Licence Tax I have supposed to be a trade tax beginning at the existing limit and going upwards to meet the Income Tax."

[2] Sir Stafford Northcote declared—"We must take care that the solidarity of Indian Finance is not shaken, and we must provide safeguards against reckless expenditure. We have a system which has raised the credit of India to the highest pitch, and therefore I should be the last to disturb it, and would be slow and cautious in introducing any change. Nevertheless, I repeat that in the principles of Mr. Massey's suggestions I concur."—*Hansard's Parliamentary Debates,* Vol. 191, April 23, 1868.

the public finances of the country. Not to speak of its efficiency as an instrument of economy, the budget system under the strain due to excessive centralization proved useless even as an instrument of order. The finances fell into a chaos. Notwithstanding the elaborate circulars and orders issued with regard to the accuracy in the framing of the budget estimates, it was an extraordinary phenomenon which confronted the Finance Ministers when the budgets, which were begun with large estimated surpluses, strangely enough closed with large actual deficits. To what extent the actuals erred from the estimates may be seen from the following table :

DERANGEMENT OF GOVERNMENT FINANCES [1]

Year	Estimate Deficit— Surplus	Actual Deficit— Surplus
	£	£
1866-67	—66,700	—2,307,700
1867-68	1,628,522	— 923,720
1868-69	1,893,508	— 2,542,861
1869-70	48,263	— 1,650,000(est.)

From the above table it is clear that the estimates for 1868-9 and for 1869-70, which were based on the revised estimates of 1868-69, were expected to end with an estimated surplus of £1,893,508 and £48,263 respectively. But when the actuals of the year 1868-69 showed that instead of a surplus there was to be a large deficit, Lord Mayo, who was in the meantime appointed to the Viceroyalty of India, became convinced that if his budget was recast on the basis of these results, it would close with an actual deficit instead of the estimated surplus. This financial surprise threw his budget into confusion, and to restore order he was obliged to adopt the

[1] Hunter, W.W., *Life of Mayo,* Vol. II, pp. 7-8.

The figures for actual deficits given in the Table differ from those given by Mr. Chapman, Offg. Secretary to the Government of India, F.D., in his Circular letter of 17-8-1870 to the Government of Bombay communicating to the latter Lord Mayo's scheme. According to Mr. Chapman the figures for deficit (actual) are as follows:—

In	1866-67	the actual deficit was	...	...	£2,517,491
”	1967-68	” ”	...	...	£1,007,695
”	1968-69	” ”	...	...	£2,774,031

—*cf. Papers, etc., on the extension of Financial Powers of the Local Governments,* p. 243, for the Circular letter referred to.

unusual procedure of addition to taxation and the reduction of expenditure in the midst of the fiscal year.

The following is a synopsis of the measures he adopted :—

			£
I.	Additional Taxation		
	(1) Income Tax raised from 1 to 2½ per cent		320,000
	(2) Enhanced Salt Duty (in Madras and Bombay)		180,000
	Total	...	500,000
II.	Reduction of Expenditure—		
	(1) Education	...	350,000
	(2) Public Works	...	800,000
	Total	...	1,150,000
	Estimated Deficit	...	1,650,000

So grave was the crisis that with all these measures he could do nothing more than close his budget with an estimated deficit of £1,650,000 which would have been inevitable had it not been for certain windfalls such as the recovery of the value of supplies in the Abyssinian War and the adjustment of other large outstanding accounts which enabled him to convert his large deficit into a small surplus. Happy as he was over the immediate results of his efforts, Lord Mayo was convinced that there was something rotten in the system of Imperial Finance and, while anxious not to end it, he courageously set forth to mend it by inaugurating the scheme of Provincial Finance represented by the compromise the growth of which will be the subject-matter of Part II of this study.

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PART II

PROVINCIAL FINANCE : ITS DEVELOPMENT

CHAPTER IV

BUDGET BY ASSIGNMENTS

1871-72 TO 1876-77

The origins which led to the formulation of the scheme of Provincial Budget having been presented in the foregoing part of this study, we may now proceed to examine the constitution of the scheme as it was introduced and the changes which it underwent from time to time.

With his sureness of instinct Lord Mayo traced the financial deficits and surprises to the inefficiency of the Imperial and the irresponsibility of the Provincial Governments, and was led to the conclusion that the inauguration of Provincial Budgets was the only remedy equal to the malady. But it must be recalled that the situation was yet dominated by Imperialistic considerations, and while every one in charge of the affairs was desirous, even anxious, to ease the situation by some means or other, few were willing to do so at the cost of Imperial control. Even Lord Mayo was not without his Imperialistic leanings. But the force of the baffling circumstances compelled him to break through the hitherto prevailing spirit of hesitation and indecision, although the steps he took in determining the constitution of the Provincial Budget were slow and cautious.

The scheme which actually came to be introduced from the financial year 1871-2 was first adumbrated in a confidential circular of the Home Department of the Government of India, dated February 21, 1870. Enlarging upon the policy of retrenchment by which the road grant for 1869-70 fixed in the beginning at £ 1,236,000 came to be reduced at the close of the year to £1,021,178 and that estimated for 1870-1 at £ 1,000,000 came to be finally settled at £ 784,839 supplemented by £ 29,110 for Miscellaneous Public Improvements, the circular gave the Provincial Governments

> "to understand that the diminution that has been made in the Imperial grant for communications and roads is not a temporary diminution caused by present financial pressure. It is the result

> of a settled policy, deliberately adopted, independently of temporary considerations, and it is far more probable that in future years the special grant for these purposes will be reduced than that it will be increased. It therefore becomes a matter of very urgent necessity that no time should be lost in providing from local sources the funds necessary for the maintenance of the existing provincial and district roads, and for the construction of the new lines of communications which become every day more necessary."

That local wants should be met by local resources had been the ideal of Indian financiers during the entire period of its reconstruction. But that the view had by that time passed beyond the stage of academic discussion is obvious, for the Circular stated that "the Governor-General in Council had fully resolved that he will insist on full effect being given to this principle" in future. Many of the Local Governments took the sentiments of the Government of India conveyed in the Circular in all the seriousness in which they were meant to be taken and had begun to develop their local resources. In the Bombay Presidency a cess of 6¼ per cent. on the Land Revenue was levied and two-thirds of it was set aside for roads and works of public utility. The Madras Government under an old Act of 1866 levied a cess of one-half of an anna on every rupee of annual rental equal to 3⅛ per cent. on the Land Revenue for purposes of district roads. The Bengal Government had declared its intention to follow the Madras Presidency. Encouraged by the steps taken by these Local Governments the Circular urged upon other Local Governments and Administrations in Northern India, namely, North-Western Provinces, Punjab, Oudh and Central Provinces, to consider the expediency of increasing their road cesses on the land revenue to 5 per cent. The object of the move evidently was to relieve the Imperial treasury of the road grant, once the Provincial Governments were in possession of adequate local revenues.

In this way the Circular contemplated a very meagre scheme of Provincial Budget, incorporating only the charges on local public improvements and the revenues derived from local resources to meet them. But before it could be set into operation the financial difficulties of the Government of India called for a larger measure of relief. Bad as the position already was, there was little confidence to be placed in the stability of the opium revenue; and,

while there was practised a retrenchment in expenditure, the charges for interest on public debt was found to swell enormously. In the midst of such a percarious situation the Government of India decided to reduce the hitherto prevailing rate of the income tax in order to silence the outcry raised against it by the richer classes. As a possible method of ways and means to meet the additional deficit of £1,000,000 that was expected to arise from the reduction in the income tax rate, the Government of India issued another Confidential Circular, dated August 17, 1870, in which a much wider scope was given to the contemplated scheme of provincial Budgets. It was stated in this Circular that

> "If the income tax was to be reduced, the ways and means of government must be otherwise recruited..... preferably..... through the agency of Local Governments, and by adopting such methods of taxation as are considered most suitable to each province and least burdensome to the people."

The method of throwing the burden on Local Governments consisted in making over to them charges of certain departments of the administration more or less local in character with a net grant on them for 1870-1 reduced by a million sterling.[1] It was proposed to distribute this sum among the various provinces in the proportion which the net provincial grant of each bore to the total net grant and leave them free to make up their respective quota of retrenchment either by redistribution, retrenchment, or taxation.

After the concurrence of the Provincial Governments had been obtained to the plan of the Circular, it was announced by the famous Financial Resolution of December 14, 1870, as being adopted for execution from the commencement of the Financial year 1871-2.

We will now proceed to analyse the constitution of the Provincial Budgets as framed by this Resolution. Taking first the expenditure side of the Provincial Budget, it may be noted that the charges for the following Imperial services were incorporated into it:—

*1. Jails.

[1] Net grant means total expenditure on a service minus the receipts from the service.

*Appendix B of the Resolution gives a schedule of certain works for which separate funds were to be provided from the Imperial Revenue. They were Buildings and Offices of the following Departments :—

Opium (not including the Board of Revenue's office in Calcutta).
Mint and Currency.
Post Office.
Telegraph.
Offices of the Supreme Government.
Viceregal Residences.
Imperial Museum.
Stamp and Stationery Office } Calcutta.
Treasury Buildings
Bhishop's Palace
Godavery Works } Reserved as Imperial for the present.
Karachi Harbour Improvements
Such Military Roads as have been till the current year provided for from the grant for "Military Works".

2. Registration.
3. Police.
4. Education.
5. Medical services (except Medical establishments).
6. Printing.
7. Roads.
8. Miscellaneous, Public Improvements.
9. Civil Buildings.

To provide the Provincial Governments with funds to meet the above charges incorporated into their budgets the Government of India surrendered to them the receipts which accrued from services handed over to them with an additional assignment from the Imperial fisc to bring about an equilibrium. The receipts surrendered and assignments granted to the Local Governments were as follows:—

Assignments made to Provincial Governments for services incorporated into their Budgets by the Financial Resolution No. 3334 dated December 14, 1870.

Services incorporated into Prov. Budgets	Imperial Assignments for Services								
	Oudh	C.P.	BL Burma	Bengal	N.W.P.	Punjab	Madras	Bombay	Total
	£	£	£	£	£	£	£	£	£
Jails ...	26,922	27,881	32,777	218,210	88,394	58,204	91,983	73,440	617,811
Registration ...	...	3,509	...	36,609	20,129	11,623	22,970	25,372	120,212
Police ...	103,269	130,607	139,253	555,757	348,135	289,950	350,730	388,703	2,306,409
Education ...	26,056	27,864	10,998	234,385	103,528	64,909	90,052	118,271	676,063
Medical services (except Medical establishments)	5,049	11,770	6,460	89,713	27,607	24,935	61,696	74,852	302,532
Printing ...	7,609	3,640	3,000	41,732	25,302	14,106	25,840	27,050	148,279
Roads and misc. public improvements	32,900	63,403	63,000	157,800	82,636	84,200	123,880	121,900	729,819
Civil buildings ...	20,090	14,406	23,959	111,370	63,341	39,710	58,506	107,500	438,882
Public Works Establishments	13,777	20,230	22,635	69,984	37,954	32,217	47,421	59,644	303,862
Tools and Plant ...	1,060	1,556	1,741	5,383	2,920	2,478	3,648	4,588	23,374
Total ...	237,182	304,866	303,923	1,520,943	799,946	622,332	876,726	1,001,320	5,667,243
Estimated Receipts of the Services									
Jails ...	1,575	6,000	9,420	110,385	11,154	...	7,300	664	146,498
Registration ...	...	5,500	...	40,000	35,030	20,694	34,000	30,141	165,356
Police ...	10,566	12,520	18,671	70,363	51,730	41,724	32,350	14,000	251,944
Education ...	1,482	...	500	42,012	11,050	5,000	6,900	10,480	77,424
Printing ...	1,080	...	...	2,000	2,160	...	1,260	...	6,500
Total ...	14,723	24,020	28,591	264,760	111,124	67,418	81,810	55,285	647,731
Grand Total of net assignments	222,459	280,846	275,332	1,256,183	688,822	554,914	794,916	946,040	5,019,512

Constituted on the basis of figures given in the Resolution of December 14, 1870

These would have been the total assignments to the Provincial Governments for meeting the charges on the incorporated services, had it not been for the fact that the Government of India desired to obtain relief by way of retrenchment of the provincial resources to make up for the deficits expected to follow the reduction in the income tax. The relief originally fixed at £1,000,000 was reduced to £350,000, distributed rateably among the various provinces. Taking account of these retrenchments the permanent assignments made to the provinces were as shown below:—

Provinces	Next Assignments	Proportion of Retrenchment	Permanent Assignments
	£	£	£
Oudh ...	222,459	15,511	206,948
C.P. ...	280,846	19,583	261,263
Burma ...	275,332	19,199	275,332
Bengal ...	1,256,183	87,591	1,168,592
N.W.P. ...	688,822	48,030	640,792
Punjab ...	554,914	38,693	516,221
Madras ...	794,916	55,428	739,488
Bombay ...	946,040	65,965	880,075
Total	5,019,512	350,000	4,688,711

For conversion into Rupees, £1 equal to Rs. 10.

Before the commencement of the time appointed to carry the scheme into practice the Government of India incorporated the following additional services[1] into the Provincial Budgets :—The Charges for Petty Construction and Repair of Buildings in the Civil Department excepting the Opium Department in Bengal, the Salt Department outside the Lower Provinces of Bengal and Medical Services such as (1) Salaries of Medical Officers of Medical Colleges and Central Jails, and of Lunatic Asylums at the Presidency towns; (2) Extra allowance to Medical Officers for the Medical charge of Lunatic Asylums in the mofussil, and of Colleges, Central Jails, etc., also extra allowances to Medical Officers for the executive charge of jails, and (3) charges for sub-assistant Surgeons and Apothecaries employed in other than civil medical charge of the sudder stations or districts, and for all other subordinate medical establishments. Side by side with these transfers the Government of India withdrew the Calcutta

[1] Finance Department Resolution No. 1659 of March 20, 1871.

IMPERIAL ASSIGNMENTS FOR 1871—72[1]

	Oudh.	C.P.	Bt. Burma	Bengal	N.W.P.	Punjab	Madras	Bombay	Total
	£	£	£	£	£	£	£	£	£
Assignment as per Resolution of December 14,1870 ...	1,69,355	205,271	192,488	1,176,406	613,095	463,727	643,271	707,693	4,171,306
Add—									
Official Postage ...	1,551	5,093	...	4,893	10,840	8,031	4,163	4,311	38,882
Transfer from Medical Services ...	2,139	1,767	745	6,649	5,624	2,828	7,597	8,500	35,849
Transfer of petty construction and repairs of Civil Buildings	699	1,778	420	6,508	2,555	1,908	1,050	4,050	18,968
Other items net	...	...	...	7,866	1,485	...	...	4,600	13,753
					633,599				4,278,758
Deduct—									
Transfer of Ajmere charges to Government of India ...	...	...	...	...	28,714	...	...	...	28,714
Total ...	173,744	213,909	193,653	1,202,124	604,885	476,494	656,081	729,154	4,250,044
Deduct—									
Receipts per budget of 1870-1	14,723	24,020	28,591	260,578	109,992	67,418	81,810	55,285	642,417
Net charge in Civil Department	159,021	189,889	165,062	941,546	494,893	409,076	574,271	673,869	3,607,627
Add budget grant for P. W. as per Res. of 14-12-1870, viz—									
Roads and miscellaneous public improvements ...	32,900	63,403	63,100	157,800	82,636	84,200	23,880	121,900	729,819
Civil Buildings	20,090	14,406	23,959	111,370	63,341	39,710	58,506	107,500	438,882
P.W. Establishments	13,777	20,230	22,635	69,984	37,954	32,217	47,421	49,644	303,862
Tools and Plants	1,060	1,556	1,741	5,383	2,920	2,478	3,648	4,588	23,374
Total public works ...	67,827	99,595	111,435	344,537	186,851	158,605	233,455	293,632	1,495,937
Grand total ...	226,848	289,484	276,497	1,286,083	681,744	567,681	807,726	967,501	5,103,564
Deduct—									
Proportion of £350,000	15,557	19,853	...	88,199	46,753	38,931	55,394	66,351	331,038
Revised permanent assignment	211,291	269,631	276,497	1,197,884	634,991	528,750	752,332	901,150	4,772,526
Or in round numbers	211,300	269,600	276,500	1,197,900	635,000	528,800	752,300	901,200	4,772,600
[2]Add—India	...	...	...	...	...	...	...	...	26,700
								Total ...	4,799,300

[1] Based on the Fin. Dept. Resolution No. 1660 of March 20,1871.

[2] The item opposite to" India" in the above table is for the Calcutta University and for Prov. services (not including Public Works) in Coorg, Ajmere and other district under immediate administration of the Government of India.—Sir Richard Temple's Financial Statement for 1871-2.

University from the Provincial to the Imperial Budget.[1] To take account of the revision of charges for Official Postage,[2] and Bengal Police,[3] and the additions and withdrawals of services referred to above, the Imperial assignments to Provincial Governments for the year 1871-2 were further altered so that they stood as shown in the table on the preceding page.(Page 117)

Besides these assignments for the fiscal year 1871-2, the Government of India gave the Local Governments a special donation of £200,000 in the year 1870-1 in order that they "may be able to inaugurate the plan successfully, and to have as it were a fair start." Taking round numbers then, the several Provincial Governments had the following resources[4] at their disposal in the year 1871-2 to meet the expenditure incorporated in their budgets :—

Provincial Budget for	Resources		Total
	Receipts surrendered by the Imperial Government	Assignments from the Imperial Treasury	
	£	£	£
Oudh	14,700	211,300	226,000
Central Provinces	24,000	269,600	293,000
Burma	28,600	276,500	305,100
Bengal	264,800	1,197,900	1,462,700
N.W. Provinces	110,000	635,000	745,000
Punjab	67,400	528,800	596,200
Madras	81,890	752,300	834,100
Bombay	55,300	901,200	956,500

Having analysed the constitution of the Provincial Budgets and noted the receipts and charges incorporated into them, we will proceed to inquire into the peculiarity which marks their constitution as framed in 1870-1. No method of ascertaining this peculiarity would be more direct in its approach towards the question raised above than to ask ourselves what problem the framers of the Provincial Budgets were presented with and how it

[1] Letter from the Secretary to the Government of India, Finance Department, No. 1683 dated March 21, 1871.

[2] Finance Department Resolution No. 1659 of March 20, 1871.

[3] Finance Department Resolution No. 1587 of March 20, 1871.

[4] Financial Statement of 1871-2.

was solved. From our knowledge of the history of the controversy that raged over the creation of Provincial Budgets we can say that what items of expenditure to incorporate into Provincial Budgets was no longer a prominent question of the time. Long since it was settled that there were charges in the Imperial Budget of a purely local character. By common consent they were regarded as the most unsatisfactory part of the Imperial Budget. It was admitted on all hands that, knowing nothing about these charges, the Government of India was either obliged to sanction an unnecessary charge which may have been carelessly endorsed by the head of a department having no immediate interest in guarding against the waste of public money, or by a too cautious spirit of a random parsimony, or by parsimony regulated only by the state of public revenue, refuse its sanction and check prudent and profitable expenditure. As either procedure was likely to cause mischief, it was commonly agreed that such matters over which the Central Government by its supreme ignorance was powerless to exercise any control, should be transferred from the direct purview of the Imperial Government to the immediate control and responsibility of the Provincial Government. One side of the problem had thus been solved by sheer force of circumstances. The matter on which all attention was mainly concentrated was the problem of providing the Provincial Governments with funds sufficient to meet the charges incorporated into their budgets. It was allowed on all hands to be reasonable that the receipts arising from the incorporated services should be appropriated by the Provincial Governments. Two good reasons were advanced for adopting such a procedure. It is laid down as a canon of good finance that tax administration and tax appropriation should go as far as possible together. On this principle it was but proper to have allowed the Provincial Governments to appropriate the receipts from the services which they administered. But there was also another weighty reason which influenced this decision. The main idea in the inauguration of Provincial Budgets was to interest the Provincial Governments in a judicious and economical management of the finances, and one way of sustaining their interest in the same was to have given them the receipts of the services they managed. The receipts, however, were so small a portion of the total funds necessary to meet the provincialized expenditure that the problem of balancing the Provincial Budgets remained unsolved notwithstanding. Two possible ways of solution were before the Government of India at the time : either to transfer for provincial uses

certain sources of Imperial revenue or to give a lump assignment from the Imperial treasury. It was difficult for a time to decide which was the more suitable of the two, for they were not only of unequal merits, but they made different appeals to the different parties concerned. To the Provincial Government assignment of revenues was preferable to fixed assignments as giving greater elasticity to their finances. To the Government of India, on the other hand, assignment of revenues seemed to be fraught with grave consequences. The past and the existing financial condition of India did not warrant the Central Government to alienate the sources of revenue it then possessed with equanimity and safety for the future. On the other hand, its prospective condition looked as precarious as its past, and it therefore desired to retain its control over the sources the mobilization of which alone could enable it to stave off any impending crisis. The second alternative, on the other hand, was just such a one as to give the provinces sufficient funds without the Government of India forfeiting its control over its resources. It must not be forgotten that the Government of India by reason of its constitutional position had the sole authority to manage and appropriate the revenues of India. Any solution for financing the provinces had therefore to be in accord with its interests as conceived by itself. This being the situation the method of assignments was adopted in preference to that of assigned revenues in solving the principal problem that arose in connection with the constitution of provincial budgets.

It is because assignment of funds from the Imperial treasury was adopted as a method of supply to balance the Provincial Budgets that the system instituted in 1871-2 has been characterized in this study as a system of Budget by Assignments.

This principle on which the Provincial Budgets were constructed in 1871-2 endured till 1876-7. The assignment made to the Provincial Governments for the year 1871 -2 had been declared to be fixed and recurring. Recurring they were, but fixed they were not; for, every year, since the start, the Government of India kept on adding to and withdrawing from Provincial Budgets items of charge already incorporated in them. In accordance with these modifications in the incorporated charges the Imperial assignments had to be either reduced or augmented as necessity dictated. The progressive changes in the assignments from 1871-2 to 1876-7 with the specific purposes for which they were granted are entered in the following tables :—

Statement of Imperial Assignments to the Provinces for the year 1871-72

Purpose of the Assignment	Amount Assigned	
	Details	Total
	Rs.	Rs.
Original Assignment		1,19,79,000
Add—		
For Cemetery establishments	4,000	
„ Compensation for Agra Brick Factory	28,000	1,14,000
„ Office and House Rent	82.000	
		1,20,93,000
Deduct—		
For transportation charges for convicts	15,000	
,, fees for licensing cargo-boats	2,600	1,24,690
,, receipts of public Works Departments	1,07,000	
		1,19,68,310
Special Grants		
Add—		
For Calcutta University	60,000	
„ Midnapore Civil Court Buildings	31,680	3,41,680
,, Calcutta Small Causes Court Building	2,50,000	
		1,23,09,990
Total Assignments for 1871-72 ...		1,23,09,990

Statement of Imperial Assignments to the Provinces for the year 1872-73

Purpose of the Assignment	Amount Assigned	
	Details	Total
	Rs.	Rs.
Original Assignment		1,19,79,000
Add—		
Permanent additions in 1871-2 (as above)	1,14,000	
For Miscellaneous services	2,67,070	3,88,936
,, books and publications	7,600	
,, ground-rent of Orphan School at Howrah ...	266	
		1,23,67,936
Deduct—		
Permanent deductions in 1871-2 (as above)	1,24,680	1,30,390
For repairing charges of University	5,700	
		1,22,37,546
Special Grants		
Add—		
For Burdwan Fever Relief	1,00,000	
Compensation for Sudder Court Building	4,00,000	9,66,670
Capital value of annual, rent of Rs. 21,000 for public offices	4,66,670	
		1,32,04,216
Deduct fractions		380
Total Assignments for 1872-3 ...		1,32,03,836

Statement of Imperial Assignments to the Provinces for the year 1873-74

Purpose of the Assignment	Amount Assigned	
	Details	Total
	Rs.	Rs.
Permanent Assignment for 1872-3 as above ...		1,22,37,546
Add—		
For payment of Medical Officers in charge of Civil stations	3,85,000	4,85,000
For Land Revenue Sub-divisional establishments ...	1,00,000	
		1,27,22,546
Deduct—		
Reduction of rent for public offices	21,000	21,000
		1,27,01,546
Sanctioned for 1873-4		1,27,01,000
Add for—		
Ground rent for Howrah Orphan School	266	
Charges on account of European vagrants	11,500	18,066
Ground rent charges	6,300	
Deduct—		
For pay of medical pupils withdrawn from provincial to Imperial.		5,400
For pay of medical officers in charge of civil stations ... ... withdrawn from provincial to imperial.	3,85,000	3,90,400
Special Grants.		1,23,28,666
Add—		
For rent of Small Cause Court		14 400
Total Assignment ...		1,23,43,066

Statement of Imperial Assignments to the Provinces for the year 1874-75

Purpose of the Assignment	Amount Assigned	
	Details	Total
	Rs.	Rs.
Permanent Assignment for 1873-4 as above ...		1,23,28,666
Add—		
Assignment for encouragement of Mohammedan education	50,000	50,000
Sanctioned assignment		1,23,78,000
Add—		
Grant on account of Model Farm	7,000	8,180
Additional grant for ground-rent	1,180	
		1,23,86,180
Deduct—		
Reduction of outlay on account of churches and burial grounds	14,314	
Reduction on account of Assam transferred	13,30,000	13,44,580
For ground rent Howrah Orphan School	266	
Total Assignment sanctioned ...		1,10,41,600

Statement of Imperial Assignments to the Provinces for the year 1875-76

Purpose of the Assignment	Amount Assigned	
	Details	Total
	Rs.	Rs.
Permanent Assignment for 1874-5 as above ...		1,10,41,000
Add—		
Grant for Botanical gardens	52,500	53,680
" " Ground rents	1,180	
		1,10,94,680
Deduct—		
Public Works charges on account of the Salt Department	13,683	
Assignments on account of lighthouses and ships withdrawn	1,769	33,163
Assignment on account of Town Improvement Fund of Assam		17,711
Total Assignment ...		1,10,61,517

Statement of Imperial Assignments to the Provinces for the year 1876-77

Purpose of the Assignment	Amount Assigned	
	Details	Total
	Rs.	Rs.
Original Assignment for 1875-6		1,10,41,000
Add—		
For ground rents	1,180	
" Botanical Gardens	52,500	53,680
		1,10,94,680
Deduct—		
Public Works charges for Salt Department		13,683
		1,10,80,997
Deduct—		
For Form Store Department	8,034	
Add—		6,034
For Exhibitions and Fairs	2,000	
Total ...		1,10,74,963
Assignment as sanctioned		1,10,75,000
Add—		
Grant on account of Bankee and Ungool Estates ...	3,271	
Cost of the snake-poison commission, establishments and contingencies.	6,000	58,753
Grant on account of census registers	49,482	
		1,11,33,753
Deduct—		
Assignment on account of lighthouses and lightships withdrawn.	1,769	
Assignment of Town Improvement Fund, Assam ...	17,711	22,180
Annual cost of lunatics transferred to Tezpore Lunatic Asylum.	2,700	
Total Assignment ...		1,11,11,573

This completes the account of the services incorporated from time to time and the assignments made for them by the Imperial exchequer during the period in which the system of budget by assignments remained in force. It now remains to consider whether the system under the assignment plan was a success. What constitutes success is a question which is always open to discussion, for what may seem successful from one point of view may be the reverse of it from another standpoint. A discussion, however, of this aspect of the question cannot be avoided, for it was on the results of one stage that an advance towards the second was made to depend all throughout the expansion of Provincial Finance. As the definition of success varies with the standpoints, we must first ascertain them for the purpose of our investigation. Let us therefore inquire into the possible parties whose standpoints counted in the moulding of Provincial Finance, and without whose satisfactory opinion about the results achieved, a new step in advance could not have been taken. The Government of India and the Provincial Governments were obviously the two principal parties. Naturally their standpoints were different, if not antagonistic. The question prominent in the mind of the Government of India was how big was the gain to the imperial treasury on the transfer. On the other hand, the Provincial Governments were concerned to know whether the resources offered by the Government of India were adequate enough for their safely accepting the responsibility of managing the incorporated expenditure. It is obvious the Provincial Governments would not undertake the responsibility of managing the Imperial expenditure within a certain assignment unless they were sure that the assignments were adequate. Similarly, the Imperial Government would see no advantage in making the transfer unless the Provincial Governments undertook to manage the expenditure at a sum less than what it cost under the direct management of the Imperial Government. Adequacy to the provinces and gain to the Imperial treasury were therefore the two chief considerations which prevailed in the determination of the continuance and expansion of the scheme. The people of the Provinces may also be conceived of as a third possible party whose concurrence may have been deemed a necessary factor in the situation. What their view-point would have been is not altogether a matter of guess. On the other hand, anyone sufficiently acquainted with the nature of popular

demands for political advancement could easily imagine that the most urgent concern of the taxpayers would have been neither the well-being of the Imperial nor that of the Provincial Governments, but the distribution of the money they paid along the different channels of expenditure; and if their approval of the results of the scheme had been made a necessary condition of advance, it is probable that the development of Provincial Finance would have been along different lines.

There was a suggestion even at that time that the people of the country should have some voice in the financial arrangements of the country. In paragraph 19 of its Resolution of December 14, 1870, announcing the scheme of Provisional finance, the Government laid down that

> "Each local Government will publish its own Provincial Service Estimates and Accounts in the local Gazette, together with a financial exposition (which should, where possible, be made before the local Legislative Council) analogous to that annually made in the Legislative Council of the Governor-General."

If this suggestion had materialized, the Indian taxpayer would have obtained a voice in determining the financial arrangements between the Government of India and the Provincial Governments. There were, however, certain legal difficulties in the way of giving effect to this suggestion. If the Budget was introduced in the Council and debate had followed upon it, such a proceeding would have offended against Section 38 of the Indian Councils Act (24 and 25 Vic. c. 67) and would have, therefore, been illegal unles the Budget involved some proposal for tax legislation. For, that Act had provided that the activity of the legislative Council should not be called into play except for strictly legislative purposes. If, on the other hand, there was to be no debate, there was no advantage in this mode of giving publicity to the Budget which was not equally secured by its publication in the official Gazette. As a solution of these difficulties, the Government of Madras proposed[1] to the Government of India.

> "that the Provincial Budget should form a schedule to an Appropriation Bill, the contents of which would, after all the necessary explanation and discussion, be voted section by section."

But the Government of India, which had first broached the subject, was shocked by this suggestion as being revolutionary. In reply[2] it observed:—

[1] Letter to the Government of India, Finance Department, No. 147 of April 18, 1871.

[2] Legislative Letter to Madras dated July 11, 1871, No. 765.

> "2. His Excellency in Council does not..... consider that the plan proposed..... for bringing the annual financial statement within the terms of the Indian Council's Act, would be appropriate or possible. The passing of the Appropriation Bill in the House of Commons is a proceeding by which authority is given to carry into effect the Resolutions of the House in Committee of Supply which till the passing of the Appropriation Bill are not law. The Bill enumerates every grant that has been made during the whole session, and authorizes the several sums voted by the Committee of Supply to be issued and applied to each separate service. It also contains a provision that the various aids and supplies shall not be issued or applied to any other uses than those mentioned.
>
> "3. Such a proceeding would, His Excellency in Council considers, be out of place in India, and might have the effect of transferring from the Executive to the Legislative Council, the power of disposing of all public moneys. His Excellency, therefore does not consider that the introduction of an Appropriation Bill would be advisable."

Against this ruling the Government of Madras appealed to the Secretary of State[1] and pleaded that either the proposal of an Annual Appropriation Act be approved or

> "such an alteration in the Council's Act be made as will allow the financial statement to be legally made and discussed in the Local Legislative Council."

But the Secretary of State upheld the decision of the Government of India[2] on the ground that

> "such mode of procedure is only applicable in a representative assembly, which has full powers of control over the Executive, and any such powers Parliament has advisedly withheld from the Legislative Council of India."

The suggestion was therefore dropped and was not given effect to till 1921. As the voice of the people did not prevail[3] in the framing of the financial contracts between the Imperial and Provincial

[1] Letter from the Government of Madras, Financial Department, dated September 19, 1871, to the Secretary of State and the whole of the correspondence accompanying it.

[2] Legislative Despatch No. 4 to the Government of India, dated January 18, 1872.

[3] In fact the point that decentralization should not be extended unless it was followed by devolution of political and financial power on the representatives of the people was not specifically raised till 1908, and that too only by the late Hon. Mr. Gokhale in his evidence before the Royal Commission on decentralization of India, *q.v.*

Government, it is of no immediate advantage to seek for results that would have interested them to know, if they had been allowed their say in the matter. In so far then the results of the past influenced the policy of the future we have only to lay ourselves out to seek for results in which the two remaining parties to the contract were primarily interested, namely, gain to the Imperial treasury and adequacy to the Provincial Governments. Applying ourselves first to the test of adequacy to the provinces the results of the period may be gauged from the annual surpluses and deficits in the finances of each of the different provinces brought within the pale of the system of Provincial Budgets.

PROVINCIAL SURPLUSES AND DEFICITS

Province	1871-2	1872-3	1873-4	1874-5	1875-6	1876-7
	£	£	£	£	£	£
C.P. ...	20,988	—8,423	2,268	13,108	8,307	16,800
Bt. Burma ...	27,634	33,832	—9,922	—21,889	—5,471	5,100
Assam ...	...	...	...	5,159	590	9,833
Bengal ...	180,622	74,622	393,955	271,044	27,397	46,978
N.W.P. and Oudh	31,595	64,036	36,358	11,693	20,945	128,501
Punjab ...	109,828	28,008	—33,347	—117,644	—92,724	26,908
Madras ...	40,787	—19,264	—56,381	4,303	—14,210	504
Bombay ...	65,553	128,805	—64,373	9,929	—18,354	—140,718

Compiled from the annual Finance and Revenue Accounts of the Government of India for the respective years.

It is evident from these figures that the surpluses outnumber the deficits in frequency and magnitude to such an extent that the deficit could have been easily met from the accumulated balances without seriously exhausting them. Care, however, must be taken in explaining the cause of this apparent prosperity of Provincial Governments. Did the province succeed in building up their balances from the savings from the assignments and receipts made over by the Imperial Government is what we have to find out. The answer to this question cannot be given in a categorical form, for the total resources and changes to which the above figures refer include more than the receipts and assignments set apart for provincial management. Besides Imperial assignments and receipts of incorporated services they include a part of what hitherto were known as Local Funds. It must be recalled that long before the separation of provincial from

Imperial Finance there was created since the year 1855 a separation between the Imperial and Local Finance in British India. The Local Funds when separated were under the immediate management of the several Provincial Governments and comprised of two different classes : (a) those which by law or custom were required to be spent within the districts in which they were collected and on the specific objects for which they were collected; and (b) those collected all throughout the province and over the disposal of which the Provincial Government possessed unrestricted discretion. When the scheme of provincial Finance was inaugurated it was deemed natural to merge the second class of Local Funds into the Provincial Funds. The total addition made thereby to the provincial resources it is difficult to ascertain. But it ' was the opinion of Sir John Strachey, the Finance Minister of the time,[1] that such addition was " inconsiderable" and could not therefore have affected materially the financial consequences of the new system[2] .

The question of estimating the gain to the Imperial treasury need not detain us very long. The indirect gain due to the economical management of the services by the Provincial Governments will come for discussion when we come to consider the influences that played a prominent part in bringing about the second state in the evolution of Provincial Finance. The direct gain made by the Imperial treasury was effected throughout the retrenchment in provincial assignments already referred to. It may be recalled that the Government of India had planned to obtain relief to the extent of one million sterling annually on the services transferred,[3] but the Government of India soon realized that all this retrenchment would necessitate some taxation by the provincial authorities. The burden had already grown since the Mutiny, and being anxious not to add to it directly by Imperial levy or indirectly through provincial levies, it decided to reduce the relief it sought by lowering the retrenchment on provincial assignments from £ 1,000,000 to £350,000, or more accurately to £ 350,801 if we deduct, as we must, the sum of £ 19,199 restored to Burma, being its quota of relief owing to the special circumstances of that province.

[1] See his Minute, dated March 15, 1877, appended to the Financial Statement for 1877-8.

[2] This amalgamation was, however, abandoned with effect from 1876 to enable the Government of India to ascertain the financial consequences of the new system as compared with the old.

Summing up the results of the period, the Government of India, it must be said, realized full share of the benefits it had contrived to obtain by the annual relief of £330,801, though not without causing an insufficiency, however small, in the Provincial finance. But notwithstanding the burden thrown on the Provinces their position as disclosed by the results cannot by any means be called unhappy.

One unwelcome feature marred the inauguration of Provincial Finance. That feature consisted in the large increase in the levy of rates and cesses for purposes of local improvement.

***Receipts from New Resources of Income and Cesses enhanced since* 1870**

	1870-1	1871-2	1872-3	1973-4	1874-5	1875-6
	£	£	£	£	£	£
Oudh—						
Ord. cesses on :						
Land Revenue ...	38,813	29,018	34,354	34,259	33,208	33,146
Margin Fund ...	7,363	3,461	...	...	...	...
Local rate ...	...	36,810	42,535	42,883	41,097	41,461
Total ...	46,176	69,289	76,889	77,142	74,305	74,607
Assam—						
Ord. cess on land:						
Rev. Old Fund ...	6,506	4,333	711	1,916	17,149	...
New Fund ...	...	...	...	...	15,267	16,300
Total ...	6,506	4,333	711	1,916	32,416	16,300
Bengal—						
Road Cess Fund: ...	...		22,917	59,039	120,128	158,516
N. W. Provinces ...	168,532	201,548	216,818	213,672	215,968	150,619
Punjab ...	58,330	214,441	216,194	208,063	211,862	193,573
Madras—Road Cess ...	212,813	234,567	377,031	368,031	371,311	369,325
Madras—Tolls Cess ...	...	...	12,144	12,234	14,860	26,531
Grand Total ...	492,357	724,178	922,704	940,333	1,040,850	980,545

*Balances recovered from Bengal on account of Road and Government Estates Improvement Fund.

For the new resources of income and cesses given above, refer to *Papers, etc., on the extension of the Financial Powers of the Local Governments,* p. 494.

This shows an increase in 1875-6 over 1870-1 of £488,188, chiefly by raising the cesses in the North-West Provinces, the Punjab and the Madras Presidency to 6¼ per cent. on Land Revenue in the two last mentioned, to about 5 per cent, in the North-Western Provinces (after deducting the rural police charge); by a road cess in Bengal and by granting an assignment

to Assam, at the Imperial charge, of 6¼ per cent. instead of 3 per cent. on Land Revenue pending the levy of a cess of a corresponding amount on the ryots. In the Bombay Presidency the 6¼ per cent. was imposed some years before and hence is not included in the above table. The only province which did not levy any additional cess was the Central Province, though a cess of 6¼ per cent, on the Land Revenue was in 1870 considered practicable but not opportune.

Of what benefit, a cynic may say, was the institution of Provincial Finance if it did not obviate the necessity for further taxation ? If further taxation was unavoidable, why did the Imperial Government throw the onus of facing it on the Provincial Government under the garb of Provincial Budgets when it would have done that itself ? It must be said in reply that the merits of Provincial Finance are to be looked for in other directions, and it will be shown in its proper place that they justified its institution, even though a certain amount of enhanced taxation followed in its wake. It would indeed be unwise to decry against taxation in general, for no benefit can be obtained without a charge. But it would be equally unjust not to protest against the kind of taxation resorted to, for what really mattered was not the increase of taxation but the inequity of taxation. The method of taxation resorted to to make up the deficit in the Provincial Finance was an imposition of rates and cesses on the already over-burdened class of tax-payers, namely the landholders. Now the services incorporated into the Provincial Budgets, for whose support these rates and cesses were levied, though called local, were not more local in the sense of their being beneficial to the particular localities than those retained by the Imperial Government. On the other hand, the former were from the standpoint of the localities as onerous to them as the latter, and yet they were financed by rates and cesses levied from the localities as though they were directly beneficial to them, which as a matter of fact they were not. This is all the more lamentable when it is recalled that the necessity for retrenchment which caused the levy of these rates and cesses was occasioned by the abolition of the income tax. As a matter of justice we should have expected the continuance of the income tax to the relief of the State and the ratepayers. But justice was for a long time absent from the Financial Secretariat of the Government of India. A few cared for it in the abstract, but none looked upon it as an element worthy of consideration in providing for the exigencies of provincial or local finance; and as it was unrecognized, its violation by the Provincial Governments was no bar to the development of Provincial Finance.

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CHAPTER V

BUDGET BY ASSIGNED REVENUES

1877-78 TO 1881-82

The scheme of Provincial Budgets, the second stage of which we shall presently study, was launched not without mixed feelings. Boundless hopes were entertained, though not unmingled with a sense of misgiving. Just what was expected of the scheme may be correctly gauged from the remarks of Sir Richard Temple, who, when introducing the scheme in 1870, said :—

"We hope that this concession (of increased control over revenues and expenditure) will give the Local Governments an additional interest in the study and the enforcement of economy in expenditure; will afford them a just inducement to supplement their local receipts from time to time by methods either most acceptable to the people or least fraught with popular objection; will cause a more complete understanding to arise between the executive authorities and the tax-paying classes respecting the development of fiscal resources; will teach the people to take a practical share in the Provincial Finance, and lead them up gradually towards a degree of local self-government; and will thus conduce to administrative as well as financial improvement."[1]

While entertaining these hopes he also took the opportunity of asking the Council to be prepared for disappointment, for he went on to remark:

> "the hopes which I am expressing, however sanguinely, or confidently entertained, are after all but hopes, and like all other hopes may or may not be fairly realized. But let all this eventuate as it may, sure I am with certainty free from shade of doubt, that the measure is advantageous to the Imperial Budget of British India. For it will have the direct effect of definitely limiting, for the present, the expenditure from the general Exchequer on certain important branches of civil expenditure, the very branches indeed, where, from the progressive state of the age, the demands for increased outlet have most arisen,

[1] Annual financial statement for the official years 1860-1 to 1873-4, with Appendices : Calcutta, Office of the Superintendent of Government Printing, 1873, p. 348.

and in which from the nature of the case the supreme Central Authority is least able to check the requirements of the local authorities."

The actual results, however, far surpassed these very moderate hopes and were more than necessary to dispel the misgivings that still lingered in the minds of those who looked upon the institution of Provincial Finance as a project of doubtful utility. Confining ourselves to the issues immediately affecting the Government of India or the Provincial Governments, it was abundantly proved that Provincial management was more economical than Imperial management. If we compare the expenditure incurred upon the services while they were an Imperial charge with the expenditure on them after they were provincialized, the superior economy of provincial management is overwhelmingly proved.

Year	Total excess Expenditure on all Transferred Services except Registration over Total Receipts from them inclusive of all Contributions other than those for Bengal Famine under Imperial management	Year	Total excess Expenditure on all Transferred Services except Registration over Total Receipts from them inclusive of all Contributions other than those for Bengal Famine under Provincial management
	£		£
1863-4	5,111,297	1871-2	4,835,238
1864-5	5,606,248	1872-3	4,964,407
1865-6	5,587,779	1873-4	5,329,180
1867-8	5,821,438	1874-5	5,379,509
1868-9	6,030,214	1875-6Est.	5,135,677
1869-70	5,856,310		
1870-1	5,197,250		

Complied from an official volume of Notes on Imperial, Provincial and Local Finance, 1876.

It was therefore with confirmed belief in its utility and even with a sense of relief that the Government of India proceeded to incorporate into the Provincial Budgets additional services local in character or more amenable to local control. But these additions to the incorporated services made the problem of a supply of funds to Provincial Governments assume greater proportions. In the first period the gap between the receipts of incorporated services and the total charges for them was comparatively smaller than what it was found to be the case on the present occasion. The mode of bridging the gap entirely by assignments was deemed to be ill-fitted for the success of the scheme in its enlarged form. The most radical defect in the system of budget by assignment consisted in its rigidity. The provinces did not favour it as a mode of supply for the reason that while the outlay on the services under

their management continued to expand the assignments made to them remained fixed in amount. Sir John Strachey, to whom belonged the credit of carrying the scheme a stage further, was particularly alive to this weakness of the system. In place of fixed assignments he desired to give the provinces certain sources of revenue, the yield of which largely depended upon good management. His primary object in doing this, no doubt, was to make better and more elastic provision for the growing needs of the provincialized services. But he had also another, and, as he conceived it, a far more important reason in the substitution for assignments of assigned revenues. That economy was the fruit of good management had by that time become a commonplace, but few were sure as to what good management consisted in. it was Sir John Strachey who, for the first time, defined in unmistakable language his notion of good management, which was since his time applied in an everincreasing degree in the development of Provincial Finance. To him good management of finance was to be had

> "not by any action which gentlemen of the Financial Department or by any other department of the supreme Government can take whilst sitting hundreds or thousands of miles away in their offices in Calcutta or Simla; not by examining figures or writing circulars, but by giving to the Local Governments..... a direct and, so to speak, a personal interest in efficient management."[1]

And in this he had the strong support of recent experience; for, taking the results of the past stage the provinces not only managed the services at a lesser cost to the revenue than was the case under the Imperial regime, but the services yielded increased revenue under the more immediate and fostering care of the provinces than they did under the remote, uninformed, and therefore impotent vigilance of the Imperial Government.

Sir John Strachey had long held to the view that so long as the Provinces collected the revenues *for* the Government of India they did not care to check evasion, which they would have surely done if they had collected them for their immediate benefit, or, as he put it,

> "when the Local Governments feel that good administration of branches of revenues will give *them,* and not to the Government of India alone, increased income and increased means of carrying out the improvements which they have at

[1] Financial Statement, 1877-8.

RECEIPTS FROM INCORPORATED SERVICES

Allocated Services		Under Imperial Management					Under Provincial Management				
		1865-6	1867-8	1868-9	1869-70	1870-1	1871-2	1872-3	1873-4	1874-5	1875-6
		£	£	£	£	£	£	£	£	£	£
Jails	...	89,260	96,910	141,218	133,806	128,773	149,888	195,755	271,915	297,198	326,023
Police	...	140,166	231,859	277,179	287,529	270,855	203,624	97,735	90,708	80,509	89,895
Education	...	53,256	66,869	67,207	72,848	60,740	76,789	80,869	101,306	99,537	101,909
Registration	...	86,997	127,070	153,488	165,048	147,152	155,262	171,735	121,470	172,111	184,461
Printing	...	3,333	3,282	2,803	3,718	9,244	10,923	14,383	21,174	18,220	18,066
Medical	...	...	...	...	...	3,273	20,594	30,649	36,370	43,097	26,583
Miscellaneous	...	4,070	5,666	4,076	4,489	6,116	20,991	31,345	32,396	39,666	36,234

Compiled from the same source referred to above.

heart, then, and not till then, was to be had the good administration that every one desired."

This evidence of the expanding receipts of provincialized services were therefore a pleasant surprise which went a great way in confirming the view he had advocated. It was therefore for a double purpose, of augmenting the revenues and of introducing elasticity in Provincial Finance, that Sir John Strachey substituted assigned revenues for assignments as a mode of supply to the provinces.

The plan adopted by Sir John Strachey was not new, neither was it brought forward for the first time. It was present in the minds of the people who took part in the discussions of Provincial Finance in 1870, and was actually advocated by Sir John Strachey as early as 1872.[1] That the Government of India did not look upon the plan with favour in 1870 was due to the fact that it was afraid to permanently alienate the sources of revenue on the growth of which its stability depended. By now, however, the financial position of the Government of India had a bit improved, and the six years' trial of provincial management had also engendered a greater confidence in the scheme in the minds of those who had never completely accepted the administrative utility of the project. To this was added the prospect of the plan being a means of increased productivity in their resources as it had been of increased economy in expenditure. The force of all these factors combined to bring a new stage in the evolution of Provincial Finance which, because of the distinct mode of supply adopted, may be well designated as a stage of Budget by Assigned Revenues.

To be sure, assignments still formed a part of the new system. But that was because of the difficulty of assigning such revenues the yield of which would have been precisely equal to the incorporated expenditure. Under any circumstances there was sure to be some difference. It happened that the normal estimated yield of the ceded revenues fell short of the requirements and the margin of difference had to be made up by some adjusting assignment in the case of each province.

The method of fixing the adjusting assignment for the different Provinces was on the whole a little too complicated, and may therefore be conveniently explained before proceeding to examine the constitution of the Provincial Budgets of the different Provinces as laid down under the second stage of their growth.

[1] See his Minute dated July 27, 1872.

It must be borne in mind that the total resources of the Provinces were made up under this system of (1) the receipts accruing from the incorporated services, (2) the yield of the revenues assigned, and (3) the adjusting assignment. How to fix upon an adjusting assignment for a particular Province was a question involving nice calculations. Before arriving at a definite figure for the adjusting assignments it was obviously necessary to have settled the normal yield of the receipts of incorporated services and of the revenues made over. The assessment of the normal yield was a contentious matter. As a rough and ready method the Government of India took the average yield of each over a series of years as the normal yield, and made it the basis from which to calculate the assignments. Similarly on the basis of the annual growth of the revenues in the past years it assumed a certain normal rate of increase for each of the sources, so that the normal for the succeeding years exceeded the normal for the preceding year at the normal rate of annual progression assumed. And as the normal yield of the assigned revenues increased at their assumed normal rate of growth the assignments fixed for the subsequent years diminished in like proportion. This normal rate of growth assumed for the assigned revenues was sometimes an assumption unjustified by their past productivity. At all events, as a higher rate of increase meant lessened assignments, the Provinces questioned its magnitude. To pacify the Provinces and to make due allowances for errors of estimating, the Government of India made a very ingenious concession. It agreed that if the actual results showed deviations from the estimated normal yield, either below or above, they should be equally divided between the provincial and Imperial Governments. If the actual yield was greater than the normal the adjusting assignment from the Imperial Government fixed for the year would be reduced by half the excess, and if it were less than the normal the assignment would be increased by half the deficit.

All this very delicate mechanism was adopted primarily for the advantageous manner in which it enabled the Government of India to adjust the assignments without undue hardship being inflicted on either party. But there was also another advantage which, though unperceived at the time, was none the less effective. The consent secured from the Provinces to bear half the

burden of a possible deficit in the normal estimate directly put a premium on economical and judicious administration of the ceded revenues. If the Government of India had agreed to bear the whole of the deficit below the estimated normal, it is doubtful whether the Provinces would have exerted themselves sufficiently to develop their resources to such a degree as to bring their yield to the level of the normal. But the fear that their obligation to bear half the deficit might assume a larger proportion, which would undoubtedly be the case if there was a great falling off in the revenue, compelled them to bestow greater vigilance than they would otherwise have done. Whilst an effectual check on relaxation was thus provided the scheme was not wanting in a stimulus to exertion. The prospect of gaining half the excess over the normal gave a more direct stimulus to the Provinces to develop their resources beyond the normal than would have been the case if the total excess had been entirely appropriated by the Imperial Government. In short, the deterrent effect of a deficit to bear and the stimulating effect of a gain to reap made the mechanism of Provincial Finance as perfect as it could be made from the standpoint of economy in expenditure and productiveness in resources.

Having noted the factors that led to the conception and execution of this new step in Provincial Finance and the features which marked its novelty, we may now proceed to the study of the constitution of Provincial Budgets and the revenue and charges that were incorporated into them. Unfortunately it is impossible to present a conspectus of Provincial Budgets as a whole, for the charges were not uniformly incorporated in all the Provincial Budgets. Each Province was treated individually. This compels us to enter upon the analysis of the Provincial Budgets as they were reconstituted in 1877-8 separately for each of the different provinces.

North-Western Provinces and Oudh[1]

The budget of the Province was recast rather than enlarged by additions to the already allocated items, as was the case with regard to some other Provinces. In its new form the budget of the Province incorporated the following heads of expenditure and revenue:—

[1] Financial Department Notification No. 1807, Gazette of India, Part I, March 31, 1877, p. 172.

	Heads of Charges		Heads of Revenue
3.	Refunds of all Assigned Revenues.		
4.	Land Revenue (excepting settlements, allowances to district and village officers, and Bahbar estates and and special temporary compensations to covenanted civil servants in N.W.P.)	I	Land Revenue—collections from the Terai the Dudi estate in Mirzapore and from slone quarries.
6.	Excise	IV	Excise.
10.	Stamps.	IX	Stamps.
14.	Administration (excepting Account and and Currency Officers).		
16.	Law and Justice (excepting special temporary allowances to covenanted civil servants in N.W.P.)	XIII	Law and justice.
17.	Police.	XIV	Police.
19.	Education	XVI	Education.
21.	Medical (excepting the pay of Medical Officers in charge of civil stations).		
22.	Stationery and Printing.		
28.	Miscellaneous (excepting remittance of treasure and any unenumerated item exceeding Rs. 10,000).	XX	Miscellaneous (excepting "Gain by Exchange," "Premium on Bills," unclaimed Bills and unenumerated items exceeding Rs. 10,000 each).
	Public Works Ordinary; Roads and miscellaneous public improvements, civil buildings (except opium, post office and telegraph buildings) and tools and plants; also whole of the Public Works establishment of the P.W.D. excepting that in the Military works and irrigation branches; the imperial government paying towards their cost 20 per cent on the outlay from the imperial funds and works and repairs executed by the establishment.		*Public Works Receipt* such as appertained to the Public Works charges incorporated into the Provincial Budget.

In assigning the heads of revenue the Government of India added the proviso that

> "the Governments of North-Western Provinces and Oudh must surrender to the Imperial treasury half of any sum by which the net revenue from Excise, Stamps, and Law and Justice (omitting Jails and Registration), deducting Refunds under these heads and the charges under 6, Excise and 10, Stamps, exceeded Rs. 83,75,000"

and agreed to reimburse the province with a sum equal to half the deficit if the yield fell below the above sum. This adjustment was effected by operating upon the balances of the Province so that if the expenditure of the North-Western Provinces and Oudh upon the incorporated services exceeded the enumerated revenues plus any Provincial contribution in support of them by less than Rs. 83,75,000, the difference was to be added to; and if such excess expenditure was more than Rs. 83,75,000 the difference was to

be deducted from the balances of the Government of the Northwestern Provinces and Oudh in the Imperial treasury.

Bengal

Items of Expenditure incorporated in the Bengal Budget	Grant as existing in 1877-8	Retrench-ment	Proposed Consolidated Grant
3. Refunds of Revenue from Excise, Stamps, Law and Justice, and of Deposits.	4,91,000	...	4,91,000
4. Land Revenue (Collectors, Deputy Commissioners, etc. Establishments and charges on account of Land Revenue Collections).	22,62,000	...	22,62,000
6. Excise on spirits and drugs ...	2,92,000	...	2,92,000
8. Customs ...	6,93,000	...	6,93,000
9. Salt ...	39,000	...	39,000
11. Stamps ...	2,38,000	...	2,38,000
15. Administration (excepting Account Office, Allowances to Presidency Banks, Stationery Office at Presidency and stationery purchased in the country).	12,61,000	...	12,61,000
16. Minor Departments (excepting meteorological and archaeological departments, census and gazeteers).	1,68,000	...	1,68,000
17. Law and Justice (excepting Law Officers).	63,97,000	1,00,000	62,97,000
18. Marine ...	10,92,000	...	10,92,000
23. Political (Govt. House Police Guard).	7,000	...	7,000
26. Miscellaneous (excepting remittance of treasure).	25,000	...	25,000
Stationery and Stamps ...	4,98,000	50,000	4,48,000
27. Provincial allotment as now existing	1,10,59,000	4,40,000	1,06,19,000
Maintenance of Bishop's Palace, etc.	7,000	...	7,000
Total ...	2,45,29,000	5,90,000	2,39,39,000

The budget of the Province of Bengal[1] was enlarged rather than recast by additions to the already incorporated heads of revenue and expenditure. For the second stage of the scheme the Government of Bengal was made responsible for the charges shown in the above table.

[1] *Gazette of India,* Part I, March 31, 1877, p. 174.

To meet these charges the following revenues were handed over to Bengal for its use :—

ASSIGNED REVENUES (ooo omitted)

Heads of Revenue		Estimated Yield in 1876-7	Estimated Yield at the assumed Rate of Growth				
			1877-8	1878-9	1879-80	1880-1	1881-2
		Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
IV	Exercise in spirits and drugs	6,300	6,400	6,500	6,600	6,700	6,800
VI	Customs (see, Customs Misc. and Warehouses and Wharf rents).	3,600	3,600	3,600	3,600	3,600	3,600
VII	Salt (Rents of Warehouses, fines and forfeitures and misc.).	220	220	220	220	220	220
IX	Stamps	10,300	10,575	10,850	11,125	11,400	11,675
XIII	Law and Justice						
XIV	Marine (pilotage receipts, registration and other fees and misc.).	1,091	1,084	1,084	1,084	1,084	1,084
XVI	Misc. (all except premium on bills, unclaimed bills, and any unenumerated item exceeding Rs. 10,000).	771	792	792	792	792	792
	Total ...	...	22,671	23,076	23,421	23,596	24,171

Complied from statements in the *Gazette of India* referred to above.

But as the revenues assigned were not sufficient for meeting the incorporated charges transferred, after taking account of the excesses over normal to be paid to the Government of India, the Government agreed to make the following assignments from the Imperial treasury to the Government of Bengal:—

Year	Assignments
	Rs.
1877-78	48,32,000
1878-79	44,57,000
1879-80	40,82,000
1880-81	37,07,000
1881-82	33,32,000

Central Provinces[1]

In the case of the Central Provinces the following additional items were incorporated in its budget:—

Heads of Charge	Grants as already fixed for 1877-78	Retrenchment	Proposed Net Consolidated Grants
	Rs.	Rs.	Rs.
Refunds of Excise, Stamp, Law and Justice and Miscellaneous.	47,000	...	47,000
Excise	52,000	...	52,000
Stamps	14,000	...	14,000
Land Revenue exclusive of settlement charges	6,66,000		
Administration (exclusive of Account and Currency Office).	3,39,000		
Minor Departments (exclusive of Meteorology and Archaeology).	4,000	90,000	17,74,000
Law and Justice	6,91,000		
Stationery and Stamps	69,000		
Miscellaneous (excepting Remittance of Treasure and Discount on Supply Bills.	5,000		
Add—			
Existing allotment for provincial ... services	27,73,000	...	27,73,000
Total Grant for Services to be borne upon the Central Provinces Budget.	46,60,000	...	45,70,000

To meet these charges the Government of Central Provinces was authorized to appropriate the yield of the following sources of revenue :—

Heads of Revenue Assigned	Estimated Yield in 1876-7	Estimated Yield at the Assumed Rate of Growth in		
		1877-8	1878-9	1979-80
	Rs.	Rs.	Rs.	Rs.
Excise	13,90,000	14,50,000	15,10,000	15,70,000
Stamps	9,70,000	9,75,000	9,80,000	9,85,000
Law and Justice	1,67,000	1,75,000	1,83,000	1,91,000
Miscellaneous (excepting Premium on Bills, undrawn Bills of Exchange and any unenumerated items exceeding Rs. 10,000 each).	7,000	7,000	7,000	7,000
Total ...	...	26,07,000	26,80,000	27,53,000

Compiled from the *Gazette* referred to above.

[1] *Gazette of India,* Part I, dated June 2, 1877, p. 274.

As these revenues were insufficient the Government of India undertook to supplement them by the following assignments from the Imperial exchequer:—

Year	Assignments
	Rs.
1877-78	19,63,000
1878-79	18,90,000
1879-80	18,17,000

These assignments were, however, subject to change because of the proviso applying to the assigned revenues. By virtue of that proviso the Government of India was to claim half the net increase of their combined annual yield over the estimated normal and was to bear half the deficit if their actual combined yield failed short of the normal. If there was an increase above the normal the assignments were to be reduced by a sum equal to half the increase, and if there was a decrease the assignments were to be increased by a sum equal to half the decrease.

Bombay

Coming to the Provincial Budget[1] of the Bombay Government we find the following charges were incorporated in it:—

Heads of Charge	Grant as already fixed for 1877-8	Retrenchment	Consolidated Grant
	Rs.	Rs.	Rs.
3. Refunds	1,10,000		
4. Land Revenue	65,07,000		
6. Excise	80,000		
7. Customs	8,09,000		
8. Salt	5,69,000		
14. Administration	11,43,000		
15. Minor Departments	1,13,000		
16. Law and Justice	43,12,000	5,67,000	2,13,96,000
18. Marine	31,000		
20. Ecclesiastical	3,25,000		
21. Medical	2,68,000		
22. Stationery and Stamp	2,29,000		
24. Allowances and Assignments ...	64,81,000		
26. Superannuation allowances	8,00,000		
28. Miscellaneous	28,000		
Add—			
Existing allotment for provincial services	1,04,54,000	...	1,04,54,000
Total ...	3,24,17,000	5,67,000	3,18,50,000

[1] *Gazette of India,* Part I, dated August 4, 1877, p. 468

Besides the receipts accruing from the already incorporated services the Government of India assigned to the Government of Bombay the following sources of revenue :—

ASSIGNED REVENUES (ooo omitted)

Heads of revenue assigned	Estimated Yield in 1876-77	Estimated Yield at the Assumed Rate of Growth in				
		1877-8	1978-9	1979-80	1880-1	1881-2
	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
I Land Revenue (receipts of Inamdari adjustments and service commutations).	5,199	6,624	6,624	6,624	6,624	6,624
IV. Excise	3,946	4,000	4,100	4,200	4,300	4,400
Stamps	4,186	4,300	4,350	4,500	4,550	4,600
Law and Justice	277	270	270	270	270	270
Total ...	...	8,570	8,720	8,970	9,120	9,270
Miscellaneous (excepting gain by exchange, premium on Bills, and on Money Orders, lapsed Money Orders, Sales, Proceeds of Durbar Presents and unenumerated items—exceeding Rs. 10,000 each).	52	70	70	70	70	70
Total ...	...	15,264	15,414	15,664	15,814	15,964

Compiled from the *Gazette of India*.

The adjusting assignments to cover the difference between the expenditure and revenue incorporated in the Bombay Budget were as follows :—

Year	Assignments
	Rs.
1877-78	1,53,20,000
1878-79	1,51,70,000
1879-80	1,49,20,000
1880-81	1,47,70,000
1881-82	1,46,20,000

These assignments, it must be noted, were subject to the same proviso as obtained in the case of the Central Provinces.

Punjab

The only remaining Provincial Budget that was framed on the principle of assigned revenues was that of the Punjab.

The heads of charge incorporated in this budget were as hereinafter specified—

Heads of Incorporated Expenditure	Grant as Settled for 1877-8	Retrench-ment	Proposed Net Consolidated Grant
	Rs.	Rs.	Rs.
Refunds	65,000		
Land Revenue, exclusing settlement charges ...	16,21,000		
Excise	58,000		
Stamps	72,000		
Administration (excluding Account and Currency Offices and settlement Secretary).	9,74,000		
Minor Departments	16,00,000	2,24,000	51,38,000
Law and Justice	20,94,000		
Superannuation and Retired Allowances, Compasionate Allowances and Gratuities.	3,38,000		
Miscellaneous, excluding Remittances of Treasure.	41,000		
Stationery and Stamps	83,000		
Add—			
Existing allotments for provincial services ...	54,22,000	...	54,22,000
Total ...	1,07,84,300	2,24,000	1,05,60,000

To defray these charges it was proposed to assign the following revenues to the Government of the Punjab :—

Heads of Revenues Assigned	Net Revenue in 1876-7	Estimated Net Yield in		
		1877-8	1878-9	1879-80
	Rs.	Rs.	Rs.	Rs.
Assessed Taxes	...	...	12,00,000	12,00,000
Stamps	...	24,85,000	25,05,000	25,25,000
Law and Justice	...	4,15,000	4,15,000	4,15,000
Excise	...	10,30,000	10,50,000	10,70,000
	...	39,30,000	39,70,000	40,10,000
Miscellaneous (excluding gain by Exchange, premium on Bills, and unclaimed Bills of Exchange).	...	60,000	60,000	60,000
Total ...	...	39,90,000	52,30,000	52,70,000

In making over these revenues the Government of India had reserved to itself a share of the improvement in the net yield from Stamps, Law and Justice, and Excise. The estimated net yield

having fallen short of the estimated expenditure the Government of India agreed to make the following assignments to the Government of the Punjab in order to restore balance in its budget:—

Year	Assignment	Less Share of Improvement in Net Revenue from Excise, Stamp, Law and Justice	Net Assignment
	Rs.	Rs.	Rs.
1877-8	65,70,000	107,000	64,63,000
1878-9	53,40,000	85,000	52,55,000
1879-80	53,10,000	...	53,10,000

It should be noted that the Government of Madras refused to undertake the responsibility of a provincial Budget based upon the new principle of assigned revenues. It preferred to remain on the old basis. Provincial Budgets of Assam and Burma are not included in this chapter. As the principle involved in their constitution appertains to the study undertaken in the following chapter it is deemed expedient not to include them in the present.

Before closing the study of the second stage in the development of Provincial Budgets it is advisable to take stock of the results achieved during its prevalence from the standpoint of sufficiency to the Provincial Governments and gain to the Imperial exchequer. The following is illustrative of the results of this stage from the standpoint of sufficiency to the provinces :—

Provinces	Annual Surpluses or deficits				
	1877-8	1878-9	1879-80	1880-1	1881-2
	£	£	£	£	£
C.P.	5,992	7,049	—28,133	2,956	95,221
Bengal ...	173,380	158,932	82,523	—11,313	255,189
N.W.P. and Oudh ...	4,469	237,100	320,729	280,790	667,613
Punjab ...	18,578	48,195	7,017	59,497	135,979
Bombay ...	—609,672	61,249	—11,201	37,855	418,783

Compiled from the Finance and Revenue Accounts of the Government of India.

From this it is clear that except in Bombay the funds provided by the Imperial Government proved not only sufficient for the purpose of carrying on the services incorporated in the Provincial Budgets, but were such as to afford a safe margin of revenue over

expenditure. That the provinces had enough and to spare is clearly proved by the assistance which they gave without much detriment to their finances to the Imperial Government in the years 1879-80 and 1880-1. In the year 1879 the financial position of the Imperial Government had become rather critical. The fall in the value of the rupee and the commencement of hostilities with the Afghans were expected to bring about a deficit estimated in 1879-80 at £ 1,395,000. As the first line of defence the Government of India urged on the several Local Governments and Administrations the necessity of reducing the ordinary expenditure of the country within the narrowest possible limits and directed that measures for suspending or postponing all optional expenditure, whether Imperial, Provincial, or Local, should be adopted forthwith and that no proposals for increase of salaries or establishments should be entertained without real necessity.[1] As a second line of defence the Government of India ordered that until further—

> "arrangements could be settled with the Local Governments... no new work estimated to cost more than Rs. 2,500 shall be commenced at the cost of the Imperial or Provincial Funds, even though it may already have received the sanction of the Government"[2]

and decided to make large reductions in the expenditure on productive public works. When it was discovered that these restraints on expenditure were not enough to bring about an equilibrium in the Imperial Budget the Government of India adopted a plan of levying benevolences on the provincial balances as a better alternative to increased, taxation. It was, of course, an abrogation of one of the most fundamental conditions of Provincial Finance that the Provincial Balances, though in possession of the Imperial Government, were a sacred trust to be released only when required by the provinces. But the solvency of India was deemed to be more sacred than the sanctity of the terms of Provincial Finance. Accordingly the following sums were appropriated by the Imperial Government from the balances of the provincial Governments :—

[1] Resolution of the Financial Department, No. 4063, dated November 9, 1878.

[2] Finance Department Resolution of May 1, 1879, *Gazette of India,* Part I, May 3,1879, p. 329.

Province	Contributions to the Imperial Government		
	1879-80	1880-1	Total in Lakhs.
	Rs.	Rs.	Rs.
N.W.P.	10	10	20
N.W.P.	7½	7½	15
Bombay	4	4	8
Punjab	3	3	6
Burma	3	3	6
Central Provinces	2½	2½	5
Madras	2	2	4
Assam	1½	1½	3
Total ...	33½	33½	67

These contributions were repaid in 1882-3; but for the time being they were in effect a gain or at least a relief to the Imperial treasury. The real gain to the Imperial treasury consisted in the retrenchments made in assigning allotments for services transferred to provincial management. The amount of retrechment secured in the case of each of the provinces may be summarized as follows :—

Province		Retrenchment
	Rs.	
N.W. Provinces ...	3,54,000	5 per cent. of the total allotment.
Oudh	73,000	,, ,, ,,
Bengal	5,90,000	,, ,, ,,
Central Provinces ...	90,000	,, ,, ,,
Bombay	73,000	,, ,, ,,
Punjab	2,41,000	,, ,, ,,

This does not exhaust the total gain reaped by the Imperial Government. Two other ways of gain must also be mentioned along with this. It should be borne in mind that by taking the standard yield of the assigned revenues at a level higher than what was justified by their history, the Government of India was able to assign reduced sums for the provincial services than what it would have been required to do if the standard yield had been fixed at a lower level. This reduction in assignments owing to abnormal estimates of the ceded revenues was a direct gain. The excesses

above the standard also opened additional possibilities of gain owing to the clause governing the cessation of revenues, although it must be recognized that under the same clause the Government of India stood to lose in the eventuality of the actual revenue falling below the standard. How much it gained from, these conditional channels of gain it is difficult to say. On the whole, it cannot be denied that the gain to the Imperial treasury was substantial.

Thus the results show that the scheme of Provincial Finance on the basis of assigned revenues was a success both from the standpoint of the Provincial and Imperial Governments, so that they agreed mutually to make a further move in the development of the scheme which constitutes its third stage.

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CHAPTER VI

BUDGET BY SHARED REVENUES

1882-83 TO 1920-21

At every step in the direction of enlarging the Provincial Budgets the crucial question, as has already been pointed out, was with regard to the difficulties of balancing the revenues and charges proposed to be incorporated therein. The two steps heretofore taken, one in 1871 and another in 1877, in the direction of the evolution of Provincial Finance, were marked by two distinct methods of balancing the Provincial Budgets. On the former occasion the Imperial Government supplied the Provincial Governments with fixed lump sum assignments from the Imperial treasury. On the latter occasion this mode of supply was partly replaced by assigning certain sources of revenue for the use of provincial Governments. The plan of assigned revenues, though it went a great way to remove the most serious defect of the measures of 1871-2, which transferred to the Local Governments the responsibility of meeting charges which had an undoubted tendency to increase, with income which, although not quite fixed, had little room for development, fell short of the requirements of Provincial Finance from the standpoint of elasticity. Superior to those of 1871 though they were, the measures of 1877 were so short of the fullest requirements of elasticity in finance that the Government of Madras refused to accept the enlarged scheme and preferred to abide by the arrangements of 1871. The scheme of 1877 was not offered to Burma or Assam. But when the Government of India made such an offer in 1879 it was obliged to turn over a new leaf, for, though the difficulty of meeting expanding charges with fixed assignments was overcome in some of the provinces by economy and good management, it was considerably felt by the province of Burma. The expenditure of the province in the seven years preceding the scheme of Provincial Finance aggregated to Rs. 1,98,45,970, while the assignments for the following seven years, aggregated apart from special additions, Rs. 2,20,22,770, showing an excess of Rs. 21,76,800, in all or

about 3 lakhs a year. But the expenditure during the same period amounted to Rs. 2,40,77,885, being an excess of Rs. 42,31,915 in all or about 6 lakhs a year. The difference therefore between the excess assignment of 3 lakhs, and the excess expenditure of 6 lakhs a year, had to be made good by the Imperial Government by special grants averaging $2^3/_4$ lakhs every year to maintain the solvency of the Province.[1] The Government of India while making the supplementary assignments was not unconscious of the demoralizing effect of such doles. In fact it was admitted that it would have been much better to have augmented the provincial assignments to Burma by 22½ lakhs at the start had it foreseen the necessity for it, than to have been obliged to grant an equal amount in the form of supplementary aids so detrimental to economy and good management. The experience of Burma had driven home the fatuity of assignments as a mode of supply and the Government of India had realized that elasticity in revenues was a vital condition for the success of Provincial Finance. To assign revenues to Burma was therefore inevitable. Being overborne by the needs of the Province and by the fact that the Province yielded a substantial surplus to the Imperial treasury, the Government of India conceded that the Province was "entitled to have its real wants supplied more liberally than heretofore."[2] It is in the method adopted for the purpose of giving a liberal treatment to the province of Burma that the new step in the method of supply to the Provinces was taken. In the settlements made in 1877-8 with the five Provinces—Central Provinces, N.W.P. and Oudh, the Punjab, Bombay and Bengal—the Heads of Account under Revenue and Expenditure comprising the Indian Budget were grouped under two distinct categories : (1) wholly Imperial and (2) wholly Provincial. But in the case of Burma the Heads of Account were grouped under three distinct categories : (1) wholly Imperial, (2) wholly Provincial, and (3) jointly Imperial and Provincial.[3] In so far as items of revenue and expenditure were in the exclusive keeping of the Imperial or the Provincial Government, the settlement did not differ in spirit from that obtaining in other provinces. The difference consisted in carving out a third category of Account to be made of *jointly Imperial and Provincial.* By it certain revenues

[1] Finance Department Resolution No. 1488 dated March 26, 1879, para. 2.

[2] *Ibid.,* para. 22.

[3] Financial Statement, 1879-80, para. 24.

and charges were marked off from the rest and were shared between the Imperial and the Provincial in some definitely fixed proportion. The object of the arrangement was to replace rigidity in the Provincial revenues by elasticity. In the finances of the other Provinces there was elasticity in so far as their assignments were replaced by assigned sources of revenue. But to the degree in which their revenues were made up of fixed assignments their finances inevitably suffered from rigidity. In the case of Burma, however, the substitution of shares of growing revenues for fixed assignments gave complete elasticity to the Provincial revenues without which it had become so difficult to shoulder the responsibility of meeting expanding charges.

In recasting the framework of the Provincial Budget of Burma on the principle of shared revenues, all the heads of receipts and charges were made wholly Provincial, with the exception of the following, which were treated as wholly Imperial :—

(1) The Army	...	...	Receipts and Charges.
(2) Post Office	...	...	” ” ”
(3) Telegraph	...	...	” ” ”
(4) Account Department		...	” ” ”
(5) Meteorological Department		...	” ” ”
(6) Political	...	...	” ” ”
(7) Remittance of Treasure and Premium on Bills of Exchange and unclaimed Bills of Exchange.			” ” ”

The third category of revenues and charges, namely, jointly Imperial and Provincial, covered the following items :—

(1) Land Revenue, including capitation tax, but excluding Fisheries, with such Land Revenue Refunds, charges of collection and settlement as cannot be attributed to Fisheries only.

(2) Forest revenue. Expenditure and Refunds.

(3) Export Duty on rice, and Refunds.

(4) Salt Revenue, Expenditure and Refunds.

Items comprising the third category were divided between the Imperial and Provincial Governments in the proportion of five-sixths to the former and one-sixth to the latter. By adopting this method of supply Burma, unlike other provinces, secured funds of an elastic character, for, even though the shares remained fixed the amount they brought in in any one year varied with the variation in the total yield of the revenues assigned or shared. Of course everything depended upon how Burma nursed the revenues

delegated to its control. But if it did its duty, unlike the other provinces, its labours were not to be unrequited.

The same principle of shared revenues was applied to the province of Assam, which had hitherto continued on the old basis of 1871. Although the settlement with that Province had been made after that with Burma had been carried out, the principle of shared revenues as a mode of balancing the Provincial Budget was not adopted on any appreciable scale. The reason for this break in the progressive realization of the principle is not to be attributed to any spirit of hesitation on the part of the Government of India, but is to be ascribed mainly to the necessity of the case. As it was contemplated to reincorporate the province into Bengal it was deemed expedient to frame the Provincial Budget of Assam on the same plan as that of Bengal so that their financial fusion might be as easy as the administrative. Thus the heads of revenue and expenditure which were provincial in Bengal since 1877 were also made provincial in Assam in 1879, including "Law Officers," which for temporary reasons were reserved as Imperial in Bengal. The only point at which the new principle was applied consisted in making the Land Revenue head in Assam a joint head to be shared by the Imperial and the Provincial Governments in the proportion of four-fifths of its net yield to the former and one-fifth to the latter.[1]

The beneficial results of the new settlement with these two Provinces are easily to be seen from the following comparative table of the estimates of their budgets as prepared on the old basis and as recast on the new :—

000 omitted

	Assam Budget Estimates				Bt. Burma Budget Estimates			
	Old Basis		New Basis		Old Basis		New Basis	
	1878-9	1879-80	1878-9	1879-80	1878-9	1879-80	1878-9	1879-80
	£	£	£	£	£	£	£	£
Revenue ...	2115	2110	3657	3596	4013	4078	9459	9673
Expenditure ...	2253	2261	3480	3566	4169	5111	8926	10119
Surplus ...	...	...	177	30	...	...	533	...
Deficit ...	138	151	...	...	156	1033	...	526
Closing Balance ...	206	55	521	555	873	161	1562	1436

From the Resolution of the Government of India in the Department of Finance and Commerce, No. 1249, dated March 13, 1879.

[1] Finance Department Resolution No. 1598, dated April 17, 1879.

Once the new principle of shared revenues was established in the case of Burma and Assam it was not possible for the Government of India to withhold its application from the other Provinces. The settlements made in 1877 with the several Provinces were not only of short duration but were also of unequal durations. It was only in the case of Bengal and Bombay that the settlements were made for five years commencing from 1877-8. In the case of the Central Provinces and the Punjab the period fixed was three years, while in the case of the North-Western Provinces it was as short as two years, from 1877-8. It is evident from this that the settlements with some other Provinces were to have expired soon after those with Burma and Assam had been completed, and would have required to be reconstituted on the basis of shared revenues. The Government of India, however, delayed the process, and in that it did wisely, for it was too soon to make the new principle of shared revenues and charges a basis for universal application. It was nothing but prudent to have regarded it as it were in its experimental stage. Secondly, the disadvantages of the *ex-parte* treatment of the Provincial Budget had come to be realized. It then dawned upon the Government of India that the several provincial Budgets were only parts of an organic whole, viz., the Imperial Budget, and it was manifestly inadvisable to frame the Provincial Budgets each by itself without regard to the claims, needs and exigencies of all others. But in order that this comparative and compromising operation of judging the claims of one in the light of the needs of others be performed with the desired effect of treating the different provinces in an equitable manner, it was essential that all the Provincial Budgets be dealt with simultaneously. The importance of this consideration and the desire to gain time in order to profit by the experiences of Burma and Assam led the Government of India with the consent of the Provincial Governments to extend or shorten, as the case may be, the duration of their financial agreements with the Provinces so as to bring about a synchronous expiry of them all on March 31, 1882.

Financial Settlements of 1882-3

The new settlements made with all the provinces with effect from 1882-3[1] were marked by an extension of the principle applied to Burma since 1878. Certain heads, as few in number as possible, of revenues and charges were wholly, or with minute local excep-

[1] Resolution of the Government of India in the Department of finance and Commerce, No. 3353, dated September 13, 1881.

tions only, grouped as Imperial. Others were classed as wholly Provincial. The remaining were placed in an intermediate category designated as joint and were in most part shared equally between the Imperial and the Provincial Governments. In those cases, however, where the provincialized expenditure exceeded the resources from the provincialized as well as the shared revenues, the balance instead of being provided as heretofore by fixed assignments from the Imperial exchequer was rectified for each Province by a fixed percentage on its land revenue—a wholly Imperial head of revenue except in the case of Burma, where the percentage was extended to the Imperial rice export duty and salt revenue as well.

Along with the enlargement of the scheme of Provincial Finance in 1882 the Government of India was also anxious to introduce simplicity and uniformity in the matter of grouping the different heads of revenue and expenditure under the three catgegories now established. It will be remembered that the agreements effected in 1877 were marked by diversity and intricacy. The same charges were not provincialized in all the Provinces. A charge which was Provincial in one was Imperial in another. Again, in transferring charges a grant was often broken up so that a part was made Provincial and a part reserved as Imperial. On the revenue side the arrangement was not a little intricate. The computations owing to the proviso in respect of the assigned revenues made the calculations far from simple. Both these defects were, however, removed when the settlements were framed in 1882, and it is to indicate what heads of revenue and expenditure were provincialized, what were imperialized, and what were divided and to what extent, that the following attempt is made.

Revenues

		Imperial	Provincial
1	Land Revenue	The whole except as entered in the Provincial Column.	In *Burma,* fisheries; in the *N.W.P. and Oudh* collections from the Terai, Bhabar and Dudhi Estates, Rents of Water-Mills and Stone Quarries; in *Bombay,* Rents of Resumed Service Lands and Service Commutations. In all Provinces, a fixed per-

Revenues—*Contd.*

		Imperial	Provincial
			centage on the Imperial land revenue to cover the difference between Provincial Revenue and Provincial Expenditure.
II	Tributes	The whole.	Nil.
III	Forest	Half.	Half.
IV	Excise	Do.	Do.
V	Assessed Taxes	Do.	Do.
VI	Provincial Rates	Nil.	The whole.
VII	Customs	All except as entered in the Provincial Column.	All items other than Customs Duties; and, in *Burma* only, the same percentage on Export Duties as on the Land Revenue.
VIII	Salt	All except as entered in the Provincial Column.	All items other than Duty on Salt and sale of Salt; and, in *Burma* only, the same per centage on the salt Revenue as on the Land Revenue.
IX	Opium	The whole.	Nil.
X	Stamps	Half.	Half.
XI	Registration	Do.	Do.
XIII	Post Office	Nil.	The whole.
XIV	Minor Departments	Do.	Do.
XVI	Law and Justice	Do.	Do.
XVII	Police	Do.	Do.
XVIII	Marine	As at present.	As at present.
XIX	Education	Nil.	The whole.
XX	Medical	Do.	Do.
XXI	Stationery and Printing.	Nil.	The whole.
XXII	Interest	All except as entered in the Provincial Column.	Interest on Government securities (Provincial).
XXIII	Pensions	Book transfers from the Military and Medical Funds and subscriptions to these Funds.	The remainder.
XXIV	Miscellaneous	Gain by Exchange on Imperial transactions, Premia on Bills and unclaimed Bills of Exchange.	The remainder.
XXV	Railway	As at present.	Whatever is now provincial in each Province.
XXVI	Irrigation and Navigation.	Do.	Do.
XXVII	Other Public Works	Receipts from Military Works.	The remainder.
XXXI	Gain by Exchange on Transactions with London.	The whole.	Nil.

Expenditure

		Imperial	Provincial
1	Interest ...	The whole except as entered in the Provincial Column.	Interest on local Debenture Loans. 4½ per cent. on the capital cost to the commencement of the year, and 2½ per cent. on the capital cost during the year, of all Public Works, whether classified as *Productive Public Works* or not, of which Capital and Revenue Accounts are kept: excepting, always any portion of their cost supplied from the Provincial Revenues or by Local Debenture Loans. The rate of interest on the cost of *Protective Public Works* will be the subject of a special agreement.
2.	Interest on Service Funds and other Accounts.	Interest on Service Funds and deposits in Savings Banks.	The remainder.
3.	Refunds and Drawbacks	Of the Imperial share of revenues.	Of the Provincial share of revenues.
4.	Land Revenues ...	The same percentage on charges for collection of Land Revenue and on the cost of Surveys (including expenditure hitherto charged in the Accounts of the Central Government) and Settlements elsewhere than in *Bombay* and *Madras,* as is retained of Land Revenue.	The remainder.
5.	Forest ...	Half.	Half.
6.	Excise ...	Do.	Do.
7.	Assessed Taxes ...	Do.	Do.
8.	Provincial Rates ...	Nil.	The whole.
9.	Customs ...	Do.	Do.
10.	Salt ...	In *Madras* the whole. Elsewhere the purchase and manufacture of salt; and in *Bengal* the cost of preventive lines and operations; in *Bombay* charges connected with the administration of Salt Revenue in Portuguese India.	The remainder.
11.	Opium ...	The whole.	Nil.
12.	Stamps ...	Half.	Half.
13.	Registration ...	Half.	Half.
15.	Post Office ...	Nil.	The whole.
16.	Telegraph ...	Do.	Do.

Expenditure—*contd.*

		Imperial	Provincial
17	Administration ...	Account and Currency Offices and allowances to Presidency Banks.	The remainder.
18	Minor Depts ...	Archaeological and Meteorological Depts., Census, Gazetteers and Statistical Memoirs.	The remainder.
19.	Law and Justice ...	Nil.	The whole.
20.	Police ...	Frontier Police and Police employed on Imperial State Railways on Salt preventive duties.	The remainder.
21.	Marine ...	Whatever is now Imperial.	Whatever is now Provincial.
22.	Education ...	Do.	Do.
23.	Ecclesiastical ...	The whole.	Nil.
24.	Medical ...	Nil.	The whole.
25.	Stationery and Printing	Stationery purchased for Central Stores.	The remainder, including cost of stationery obtained from Central Stores.
26.	Political ...	The whole.	Nil.
27.	Allowances and Assignment.	The whole except as in the Provincial Column.	In *Bombay,* items now Provincial.
28.	Civil Furlough and Absentee Allowances.	The whole.	Nil.
29.	Superannuations ...	Items not provided for in the A Provincial Column.	pensions and gratuities, except pensions payable from the Military and Medical Funds brought to account in India; each Government being responsible for pensions and gratuities which it now pays, or hereafter grants or recommends, however earned and wherever paid.
30.	Miscellaneous ...	Remittance of treasure, and discount on Supply Bills.	The remainder.
31.	Famine Relief ...	Secondary liability.	Wholly Provincial.
32.	Railways ...	As at present.	Whatever is now Provincial.
33.	Irrigation ...	Do.	Do.
34.	Other Public Works ...	Military Public Works, and except in *British Burma,* Offices of the Supreme Government; Works in the Salt, Opium, Post Office, Imperial Telegraph and Ecclesiastical Depts. and Mint and Currency Offices; and Bengal Surveyor General's Offices.	The remainder.
38.	Loss by Exchange ...	The whole.	Nil.

On the transactions of 1881-82 the Government expected to gain £ 470,000 a year. Of this sum, however, it returned to the Central Provinces £ 77,900, for improving the position of the subordinate civil services and other general purposes; to Madras, £ 20,000, for provincial public works; and to the N.W.P. and Oudh, £326,000, of which £ 10,000 was for additional Kanungoes in Oudh, and the remainder, £ 316,000, for a remission of local taxation. Besides these benefactions the Government of India gave for a favourable start to Bengal, £ 285,000; Burma, £20,000; N.W.P., £ 55,000, to be added to their balances before the close of the year 1881-2. These benefactions, which amounted to £ 496,000 a year, were expected to turn the annual gain of £ 470,000 into an annual loss of £ 26,000 to the Imperial exchequer.[1]

In this connection it must also be recalled that the Government of India reimbursed the Provincial Governments of the amount of the benevolences it had levied on them in the years 1879-80 and 1880-1. But not long after the revision of 1882 the financial position of the Government of India, which had permitted of such a liberal treatment, suffered a reverse, and the necessity for levying benevolences on the balances of the Provincial governments reappeared in 1886-7. In presenting the financial Statement for that year the Finance Member of the Government of India argued :—

> "22. Since the estimates for 1885-6 were presented..... Indian administration and finance have entered on a new phase. The brief period of rest which the country had enjoyed since 1882 had drawn to a close..... By the events of the late years in Central Asia, India finds herself almost in contact with one of the great European Powers, and she cannot hope to escape the necessity which the position imposes on her of increasing her military strength. Events impending have occurred which have changed, as it was known they must change, the face of our estimates, and have thrust us violently out of the peaceful path of internal progress in which we had hoped to have been left undisturbed."

Among the other means employed to weather the storm the Government of India resorted a second time to nibbling at the provincial resources, and gathered a sum of £400,000 in the year 1886-7 by appropriating from their balances the above amount.

[1] Financial Statement for 1882-83, p. 15.

The condition of Provincial Finance during this period may be summarized in the following table :—

Provinces	Annual Surpluses and Deficits				
	1882-3	1883-4	1884-5	1885-6	1886-7
	£	£	£	£	£
C.P. ...	33,775	76,212	18,047	22,080	115,656
Burma ...	171,207	—90,030	—89,725*	†	71,743‡
Assam ...	13,887	—5,216	—40,577	25,299	28,576
Bengal ...	539,611	146,027	48,910	26,777	52,911
N.W.P. & Oudh ...	281,222	357,630	—69,276	—180,060	—12,408
Punjab ...	—110,966	—15,765	—41,545	42,447	3,106
Madras ...	108,421	10,820	—87,284	146,692	—78,689
Bombay ...	—149,894	—2,585	6,006	291,976	—161,369

* No balance left at the close of the year.

† Equilibrium.

‡ Balance obtained by excess of current revenue over current expenditure of the year.

Compiled from the annual Finance and Revenue Accounts of the Government of India.

The settlements entered into with the Provincial Governments in the year 1882-3 not only differed from the preceding settlements in the replacement of fixed assignments by shares in the Imperial revenues, but they also differed in another important respect, namely, their duration. Though the results of the scheme of provincial Finance have been presented in one Table covering the period 1871-7, it must not be supposed that the settlements with the various Provinces were made for the period of six years. On the other hand, the settlements were only annual and lasted up to 1877 by the process of constant renewals. The results have been presented together for a continuous period not because the setttlements were made for that period, but because the principle on which they were based endured for that period. After 1877 the settlements no doubt were made for a longer period. In two cases they were for five years and for the rest the period ranged between two and three years. The short duration system, like the fixed assignment system, was of immense advantage to the Imperial treasury. The object of these settlements, it will be recalled, was firstly to put a definite limit on the demands of the Provincial Governments on the already too scanty resources of the Imperial Government. Evidently this object would have been better served had the duration of the settlements been longer than it was. But a longer duration would have deprived the Imperial treasury of its right to profit by an early revision of the revenue side of the contract. It was this consideration of not remaining too long out of

pocket, that had hitherto prevailed upon the Government of India to shorten the duration of contracts as much as possible. But what was an advantage to the Imperial treasury was from the standpoint of the Provincial Government a serious drawback. Owing to the short durations of the settlements the Provincial Governments were not in a position to distribute the funds at their disposal on the incorporated services so as to open a new page in their financial history. They could not adopt a definite financial policy, for they feared that the new terms on renewal might compel them either to give up the policy or modify it so seriously as to prejudice its results. A single budget may seem nothing more than the conspectus of financial happennings of the year to which it pertains, yet to the financier who frames them year after year they embody a definite policy running towards its consummation. But a policy, however wisely adopted, may be thwarted by an unwise disturbance of the uniformity of conditions on which its fulfilment depends. This was just the flaw that deteriorated the sound working of Provincial Finance. Constant renewals had a general disturbing effect, and the duration between any two of them was indeed too short to give a stable state of conditions. Being impressed by the fact that the advantages of a short-duration-contract to the Imperial treasury were enormously counterbalanced by its disadvantages to Provincial Finance, the Government of India, on the occasion of revising the settlements in 1882-3, made it a definite rule that they shall be quinquennial in duration; that is, they shall not be subject to revision before the end of the fifth year from their commencement.

Revision of 1887-8

By virtue of this rule the settlements made in 1882-3 expired in 1887. The revision then undertaken, as well as the subsequent ones, left as a rule undisturbed the two categories of revenue and expenditure, namely, those wholly Provincial and wholly Imperial. It became almost a convention to leave them as they were since the separation in 1882, when the constitution of Provincial Budgets was thoroughly overhauled and consolidated. The only heads of revenue and expenditure that were revised, as revision fell due, were those that were grouped under the third category, namely, jointly Imperial and Provincial, otherwise known as "Divided Heads."

In the revision of 1887-8 the decisive factor was the unsatisfactory position of the Imperial Finances already referred to. To improve its financial position the shares in the joint heads were altered so that each Local Government was allowed to appropriate three-fourths of the stamps and one-fourth of the excise revenue, and required to bear the expenditure under those heads in like proportion. The proportions of land revenue were also altered so that three-fourths of it was made Imperial, and one-fourth Provincial. But the needs of the Imperial treasury were so great that the Government of India even revised some of the heads of the other two categories, namely, Salt, Customs, Interest, Irrigation and Railways, to its own advantage. The details of the gain to the Imperial treasury are as given below :—

Revenue	Imperial Share Increased —Decreased	Net Gain
Land Revenue	437,500	
Stamps (share reduced from ½ to ¼	—810,000	
Excise (share increased from ½ to $^3/_4$)	947,500	
Salt revenue of Burma imperialized	5,000	
Customs revenue of Burma imperialized	155,000	
Assessed taxes—divided in moieties	—290,000	215,000
State Railways gross earnings—		
Nagpur Chhattisgarh, Patna-Gaya, Cawnpore-Achneyra	—310,000	
Eastern Bengal, provincialized	—540,000	
Expenditure	**Increased —decreased**	**Net Gain**
Land Revenue, entire provincialization of survey and settlement	145,000	
Salt in Bombay imperialized	—90,000	
Customs in Bombay imperialized	—50,000	
State Railways—		
Working expenses:—		
Provincialized	305,000	395,000
Imperialized	—215,000	
Interest—Provincialized	—70,000	
Imperialized	—65,000	
Irrigation—Provincialised. Bengal	65,000	
" " Madras	230,000	
Add—Small items of accounts unenumerated ...	... ...	20,000

This gain to the Imperial treasury was distributed in the following proportion among the various Provinces :—

Provinces	Increase of annual resources under the principal Provincial Heads of Revenue as estimated on comparison of 1882 and 1887			Amount by which Annual Provincial Resources were reduced by the Revision of 1887
	Land Revenue	Stamps and Excise	Total	
	£	£	£	£
C.P. ...	2,200	45,500	47,700	15,600
Burma ...	4,700	9,200	13,000	...
Assam ...	22,300	21,300	43,600	24,600
Bengal ...	19,200	171,550	190,750	103,600
N.W.P. ...	8,000	130,150	138,150	100,000
Punjab ...	32,800	23,100	55,900	...
Madras ...	27,750	142,550	150,300	174,400
Bombay ...	99,000	198,550	297,550	221,900
Total ...	195,950	741,900	937,850	640,100

This would have been the net gain to the Imperial treasury had it not been for the fact that it conceded to Burma the sum of £ 10,000. The net gain was thus reduced to £ 530,100 per annum.

The condition of Provincial Finance during the period of 1887-92 may be judged from the following table presenting the annual surplus and deficit of each of the different Provinces :—

Province	Annual Surpluses and Deficits				
	1887-8	1888-9	1889-90	1890-1	1891-2
	Rs.	Rs.	Rs.	Rs.	Rs.
C.P. ...	13,148	22,583	—12,322	—31,573	17,540
Burma ...	77,028	11,560	64,072	106,216	50,598
Assam ...	7,751	26,343	20,090	—17,871	31,185
Bengal ...	131,007	—65,792	102,547	—120,377	—11,934
N.W.P. & Oudh ...	—53,900	45,949	102,710	—12,544	—4,399
Punjab ...	12,446	32,142	29,264	31,367	—1,719
Madras ...	105,371	113,932	144,571	—136,739	—241,770
Bombay ...	—24,574	18,322	41,361	—123,887	—53,189

Compiled from the annual Finance and Revenue Accounts of the Government of India.

Revision of 1892-3

The next revision of provincial settlements under the rule of quinquennial revisions occurred in 1892-3. The new settlements to commence from that year did not differ in principle from those

of 1887-8. The shares in the Joint Revenue were so readjusted as to give to the Imperial treasury a larger gain from the growing yield of the provincialized sources. The amount resumed by the Imperial Government at this revision through readjustments of shares was estimated as follows:—

Province	Increase of Revenue in 1891-2 (Revised Est.) as compared wih the Estimate for the Contract of 1887-8 to 1891-2	Amount resumed by the Government of India
	Rs.	Rs.
C.P. ...	119,200	22,700
Lower Burma ...	334,900	58,900
Bengal ...	517,700	51,900
N.W.P. & Oudh ...	53,300	56,900
Punjab ...	195,400	41,000
Madras ...	313,200	103,800
Bombay ...	399,200	131,100
Assam ...	99,800	.....
Total ...	2,042,700	466,300

But this gain to the Imperial treasury seriously disturbed the equilibrium between the expenditure of the Provinces estimated as normal for the ensuing period and the normal estimated yield of revenues left to them. To restore equilibrium between their normal expenditure and normal revenue the Government of India reverted to the discarded method of fixed adjusting assignments, so that while the actual revenues and charges deviated from what was estimated as normal for the period of the settlement, the adjusting entry allowed by the Imperial Government to each of the provinces remained fixed throughout the whole period. The following is a statement of estimated normal expenditure and revenues of the different Provinces with their respective adjusting assignments as fixed for the new period :—

Provinces	Provincial Revenues			Provincial Expenditure
	Ordinary Revenue being a share of certain Receipts	Adjusting Assignments	Total	
	Rs.	Rs.	Rs.	Rs.
C.P. ...	567,600	220,500	788,100	788,100
Lower Burma ...	1,427,500	414,300	1,841.800	1,841,800
Assam ...	657,700	—112,700	545,000	545,000
Bengal ...	4,249,300	—143,900	4,105,500	4,105,900
N.W.P. & Oudh ...	3,403,500	—250,000	3,152,900	3,152,900
Punjab ...	1,370,400	348,500	1,718,900	1,718,900
Madras ...	2,479,300	325,400	2,804,700	2,804,700
Bombay ...	3,123,900	771,400	3,895,300	3,895,300

The evil effect of large resumptions and fixed assignments will be clearly seen in the condition of Provincial Finance as indicated by the annual surpluses and deficits over the period of the settlement:—

Province	Annual Surpluses or Deficits				
	1892-3	1893-4	1894-5	18S5-6	1896-7
	Rs.	Rs.	Rs.	Rs.	Rs.
C.P. ...	—21,798	—60,772	—105,108	19,653	—37,408*
Burma ...	66,642	—90,653	—272,319	226,505	780
Assam ...	9,336	28,532	—27,422	30,507	—25,421
N.W.P. & Oudh ...	—16,752	—25,155	—165,987	—139,798	—164,740
Bengal ...	—9,826	36,887	169,796	149,808	—186,558
Punjab ...	—106,050	—22,699	—24,811	—7,156	—64,073
Madras ...	—159,081	33,636	92,328	44,118	—200,579
Bombay ...	—23,883	19,443	—102,472	100,690	—221,119

* No closing balance left.

Complied from the Annual Finance and Revenue Accounts of the Government of India.

It must, however, be admitted that the financial arrangements of the Provinces during this period were considerably disturbed by the outbreak of plague and famine towards the close of the settlements. The expenditure which the Provinces were obliged to incur to meet these two calamities depleted the resources of all and brought the Central Provinces and the North-West Provinces to the verge of bankruptcy, from which they were rescued by the following contributions made by the Government of India in aid of their balances in the year 1896-7 :—

To Central Provinces	...	Rs. 526 lakhs.
To N.W.P. and Oudh	...	Rs. 1,609 lakhs.

Revision of 1896-97

This depression in Provincial Finance was alleviated to some extent at least in the revised settlements of 1896-7 by allowing a higher standard of expenditure and of revenue to the Provinces than was granted to them in 1892. The following table presents the old and the new standard of expenditure with the percentage difference between them :—

Provinces	Standard Net Expenditure		Increase per cent.
	1892	1897	
	Rs.	Rs.	
Central provinces ...	653,300	710,700	8.8
Lower Burma ...	1,064,600	1,206,100	13.3
Assam ...	467,600	564,900	20.8
Bengal ...	2,816,700	3,125,500	10.9
N.W.P. ...	2,215,400	2,428,700	9.6
Punjab ...	1,384,600	1,537,300	11.0
Madras ...	2,054,800	2,238,600	8.9
Bombay ...	2,049,500	2,544,100	5.6
Total ...	13,066,500	14,355,900	9.9

This new and enhanced standard of expenditure called for a revision of the shares of the Imperial and Provincial Governments in the joint revenues. But the revision had to be so devised that while it gave larger resources to the Provinces it obviated the necessity of making fixed assignments as much as possible; for the Government of India had learnt to its cost that fixed assignments on a large scale tended to make the resource side of the Provincial Finance rigid to such an uncomfortable degree that, if the variability of expenditure surpassed the expansibility of the revenue incorporated in the Provincial Budgets, it was perforce obliged to distribute benefactions to ease what would otherwise be a difficult situation. Secondly, these fixed assignments also created a certain degree of inequality as between the backward and the more advanced Provinces. In the advanced Provinces the fixed assignments formed a comparatively smaller part of their resources than they did in the case of the relatively backward Provinces, and, as larger expenditure could be undertaken by the Provinces only when their revenues expanded, the advanced Provinces, a larger part of whose resources were of an expanding nature, obtained a more favourable treatment than the relatively backward Provinces, a large part of whose resources were of a frozen character. This was rightly conceived by the Government of India as the reverse of what ought to have been, having regard to the fact that the needs of the backward Provinces were relatively more imperious than those of the advanced Provinces. To obviate this injustice the Government of India enhanced the shares of the backward provinces in the joint revenues by reducing *per contra* the fixed assignments made at the last revision. To the Punjab it gave .4 and to the Central Provinces .5 of the Land Revenue instead of .25 only. The share of Burma in the Land Revenue was raised to .66, and to make provision for the enhanced expenditure due to the addition of Upper Burma, and in lieu of the railway revenue withdrawn from it, Burma was allowed to appropriate .5 of the Excise instead of .25 only. The financial condition of the North-Western Provinces was not very happy. Its revenue had proved so very unprogressive that it advanced only 2 per cent. between 1892 and 1897. The treatment of the North-Western Provinces at the revision of 1892 was also a little unjust. The revision had left its revenues short by 5 lakhs of its standard expenditure, to be made up by reduction of its balances. To make

amends for this the Government of India re-distributed the shares in the Land Revenue to the advantage of the North-Western Provinces. In addition to this the Government of India gave to that Province a grant of 4 lakhs for the year 1897-8, to enable it to establish district funds on a financially independent footing, a result accomplished long ago in every other Province in British India. To give an equitable treatment to the backward as well as to the advanced Provinces, it realized that an unequal treatment was the only properway. It therefore adopted a less liberal attitude in revising the terms of the settlements with the more advanced Provinces of Bengal, Madras and Bombay. It allowed them a proportionately smaller increase of expenditure than the backward Provinces, as may be seen from the figures given above, and reduced slightly their shares in the revenues.

On the occasion of this revision the gain to the Imperial exchequer was practically negligible. In 1877 its total gain by retrenchment amounted to 40 lakhs a year; in 1882 the Imperial Government was so very prosperous that instead of contriving for a gain it surrendered to the Provinces 26 lakhs of the annual imperial revenue. But in 1887 it resumed 63 lakhs and in 1892,46 lakhs. On this occasion however its gain was nil, for what it got from the advanced Provinces it gave to the backward ones.

Just and liberal as the terms of the settlement were, the abnormal circumstances which disturbed the entire period of the settlement made such heavy demands on the Provincial resources that, ample though they were, they fell far short of the requirements of the Provinces. The famine of 1896 and 1897 affected all the Provinces, although in unequal degree. In the North-Western Provinces and Oudh, the Central provinces, and Burma the effect was most severely felt. In Madras, Bengal and the Punjab it was serious, and in Burma it was slight. On the other hand, the famine of 1899 and 1900 affected Bombay and the Central Provinces most severely, the Punjab very seriously and the rest of the Provinces slightly. And Assam, though unaffected by either of the two famines, suffered very severely from the great earthquake of June, 1897. Besides famine the plague was also making its ravages and taking its toll. As a result of these unforeseen calamities all the Provinces were forced to incur extraordinary expenditure on preventive measures, for which no provision was made in the standard of revenue fixed for the period of settlement. The expenditure on these unforeseen calamities being of an extraordinary nature was treated as imperial and

defrayed from the Imperial exchequer, but even this much succour did not prove equal to the necessity and the Government of India was obliged to make special grants-in-aid of the Provincial Revenues as shown on page 168.

Thus the Government of India was not only obliged to pay for the cost of the famine, but to grant funds to restore equilibrium and to provide for useful public services held up or curtailed by the Provincial Governments owing to the extraordinary circumstances of the time.. All this aid from the Imperial Government was made available because of the very prosperous condition of the Imperial finances throughout this period. While it is better that governments in general should always be in penury, the surpluses in the Imperial Finance proved a timely resource, the utility of which was doubled by the commendable way in which they were spent. Besides giving them grants for useful public works the superfluous funds of the Imperial Government were utilized in carrying out the following additional measures to the relief of the Provinces :

(1) Remission of Imperial Land Revenue Rs. 50,94,000 and reimbursement to the Provinces for their share remitted Rs. 59,81,000; in all Rs. 1,10,75,000.

(2) The abolition of the pandhari tax in the Central Provinces, costing Rs. 7,000 a year.

(3) The reduction of the patwari rate in Ajmere, from 10 per cent. on land revenue to 6¼ per cent.; the amount of the local revenue remitted was—Rs. 13,000, but the contribution paid to the local fund was Rs. 23,000.[1]

Taking into account these various contributions in aid of Provincial Revenues, the following table is presented as indicative of the condition of the Provincial Finances during this period of settlement :—

Provinces	Provincial Surpluses or Deficits						
	1897-8	1898-9	1899-1900	1900-1	1901-2	1902-3	1903-4
	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
C.P. ...	(a)	12,288	—1,22,883	(a)	22,42,408	—705	—7,40,742
Burma ...	1,69.435	4,11,494	26,14.312	15,16,220	7,55,285	...	...
Assam ...	—45,580	86,742	—8,15,488	—86,829	1,47,353	10,08,393	11,40,517
Bengal ...	—3,03,250	2,19.449	7,01,899	4,43,224	6,44,170	6,23,640	87,23,496
N.W.P. ...	(a)	3,28.562	7,53,815	8,04,789	...	...	...
Punjab ...	—2,278	1,15,379	—16,53,794	(a)	14,96,350	10,28,770	6,74,880
Madras ...	—1,57,707	1,60,706	—17,58,029	—3,21,013	40,41,297	—15,810	52,40,809
Bombay ...	—1,29,663	1,00,427	—15,04,271	(a)	58,23,235	—24,23,235	—1,23,000
U.P. of Agra and Oudh	...	...	...	...	—9,63,788	—64,372	37,11,281

(a) No closing balance left because of Budget equilibrium.

Compiled from the Annual Finance and Revenue Accounts of the Government of India.

[1] Financial Statement of the Government of India, 1902-3, para. 146.

IMPERIAL SPECIAL GRANTS-IN-AID TO PROVINCES*

Year		India	C.P.	Assam	Bengal	N.W.P. and Oudh	Punjab	Madras	Bombay	Burma
		Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
1897-98		...	7,72,000	8,00,000		10,27,000	...	...	12,18,000	...
1898-99		...	5,00,000	18,00,000	17,00,000	10,00,000	5,00,000	16,96,000	48,75,000	...
1899-1900		...	19,32,000	...	...	...	95,000	3,49,000	34,37,000	...
1900-01		...	34,15,000	...	...	...	5,98,000	...	64,79,000	...
1901-02		...	26,89,000	2,00,000	...	...	12,40,000	32,14,000	91,00,000	...
			6,50,000	...	...	...	4,00,000	10,00,000	19,50,000	...
1902-03	1		2,00,000	1,00,000	10,00,000	5,00,000	4,00,000	8,00,000	6,00,000	4,00,000
	2	A 70,000	2,00,000	2,80,000	6,00,000	4,50,000	5,00,000	5,50,000	5,50,000	...
	3	B 1,00,000	2,00,000	1,50,000	...	3,50,000	3,00,000	3,50,000	3,50,000	...
1903-04	1	...	2,00,000	1,00,000	10,00,000	5,00,000	4,00,000	8,00,000	6,00,000	4,00,000
	2	...	5,00,000	5,00,000	2,00,000	3,00,000	10,00,000	5,00,000	10,00,000	...
	3	...	1,90,000	1,11,000	...	2,26,000	2,76,000	3,50,000	3,50,000	...

1. For education (recurring).
2. For use Public Works.
3. For improving district and other establishments.

A. Allotment for Public Works in Baluchistan, Rajputana and Central India.

B. Amount taken the "India" estimates for subsequent distribution to the provinces.

* Complied from the annual Financial Statements of the Government of India.

Revision of 1902-3

Settlements made with the Provinces in 1897 should have ended in the ordinary course of time in 1902-3. The central operation in the periodic revision of the settlements was to arrive at the standard provincial expenditure for the ensuing quinquennium and as a rough and ready method of decision the average expenditure during the expiring quinquennium was taken as a standard expenditure for the opening quinquennium. There is nothing grossly erroneous in such a procedure, provided the preceding and succeeding quinquenniums are equally normal with respect to the course of their events. But as we have seen, the events of the past quinquennium were entirely abnormal and could not have been made the basis of any calculations worthy of trust. To be on the safe side the Government of India thought it desirable to await the return of normal times before undertaking wholesale revisions of provincial settlements. The occasion of 1902-3 for revision was therefore postponed save in the case of Burma. For, the last settlement had become unduly favourable to that Province in comparison with the other Provinces, notwithstanding the very nice and equitable calculations on which the settlements of 1896-7 were based. The extent to which the revenues had exceeded its expenditure is indicated in the following table :—

Burma	Estimated Standard for the Settlement of 1897-8 to 1901-2	Estimates for 1902-3	Difference
	Rs.	Rs.	Rs.
Revenues	2,93,81,000	3,73,86,000	80,05,000
Expenditure	2,93,81,000	3,31,86,000	38,05,000
Surplus	...	42,00,000	...

The continuance of such an outcome was deemed unfair to the Imperial and unjust to the other Provincial Governments. The financial settlement of the Province of Burma was accordingly revised notwithstanding the established canon of simultaneous revision, when the occasion presented itself in 1902-3. The revision resulted in the resumption by the Government of India of this surplus by readjusting the shares of the Province in the joint revenues. The share in the Land Revenue was reduced from two-

thirds to one-half and that in the Excise from one-half to one-third, and a few minor heads were added to the already provincialized heads of expenditure. By these changes the standard revenue and expenditure of Burma for the new settlement of 1903 to 1906 assumed the following totals :—

Revenues Rs.	Adjusting Assignment Rs.	Total Revenues Rs.	Total Expenditure Rs.
2,78,31,000	53,02,000	3,31,33,000	3,31,33,000

Another province whose settlement was revised was the Punjab; but the reason of it was different. The territory covered by the North-Western Provinces was divided into the North-Western Frontier Provinces and the United Provinces of Agra and Oudh, usually styled U.P. Along with this some of the districts of the Punjab were separated from it and joined to the newly created North-Western Frontier Province. This caused a readjustment of the provincial revenues and expenditure, but not any wholesale revision of the settlement. The changes were confined to the necessary alterations in the adjusting assignment.

Quasi-Permanent Revision 1904-5

With the exceptions noted above the settlements of 1897 were extended up to the end of the year 1904. The primary cause of the postponement of the revision as explained above was the abnormality of the conditions prevailing in the year 1901-2. But there was also another reason why the Government of India was so very anxious for the return of normal conditions before taking any steps towards revision. It was about this time that the Government of India contemplated to introduce permanency in Provincial Finance. The five-year budget system which in 1881 replaced the annual budget system as the basis of Provincial Finance, though a marked improvement in the direction of continuity and stability, was not deemed to be quite sufficient. Under it the Provincial Governments were left free to enjoy the fruits of their economy in expenditure and of the successful nursing of their resources for the period of five years. Beneficial as far as it went, this time-bar was found to exercise a most pernicious influence on Provincial Finance. Under the quinquennial budget system it so happened that the provincial Governments as the result of feeling their way under the new conditions were parsimonious in the first few years lest their expenditure should prove too much for their revenues,

and extravagant in the last few years lest their expenditure should shrink below the standard and leave large margins to be cancelled by the Government of India on revision of their settlements. No Local Government could be expected to put into execution any carefully matured and well-thought-out scheme of improvement within the short span of a quinquennium. All that it could do was to spend the first two or three years in working out a scheme and utilize the last two or three years in rushing it through, as was done by most of the Provinces. This tendency to undertake such schemes, the only merit of which was that they could be carried through before the revision, and mainly in order to reach the standard expenditure, was a direct consequence of the quinquennial budget system. This is by no means an a priori conclusion. A glance at the annual surplus of the provinces will indicate how they tend to rise in the beginning of the quinquennium and fall at the end of it. To obviate these evils of parsimony and extavagance the only remedy was to do away with the principle of quinquennial revision, and this the Government of India courageously undertook to effect. The right to revise was a much cherished right, and the Government of India had not failed to exercise it in the teeth of all opposition from the Provinces. It was abandoned only because its exercise was deemed to be mischievous.

Taking the year 1903-4 as the normal one, the Government of India decided to revise the provincial settlements of all the different Provinces. The idea was to adjust the revenues between the Imperial and the Provincial Governments on the basis of the total expenditure they respectively controlled. It was found that the aggregate provincial expenditure represented less than one-fourth of the whole, while the Imperial expenditure, which included Army and Home Charges, aggregated in excess of three-fourths. These proportions of expenditure were taken as the basis of the division of revenue between the Imperial and the Provincial, and the following standard shares of revenue and expenditure under the joint heads were agreed upon :—

	Imperial	Provincial
Bengal, U.P., Bombay, Madras	$^{3}/_{4}$	¼
Punjab, Burma	$^{5}/_{8}$	$^{3}/_{8}$
C.P., Assam	½	½

The reasons for adopting different standard rates of division in the case of the Punjab, Burma, C.P. and Assam was to give the backward provinces opportunities of development in the same proportion as lay within the reach of the advanced provinces.

Of the settlements made in 1904-5 the Government of India declared that those made with the Provinces of Bengal, Madras, Assam and U.P. were to be permanent and not subject to revision in future, except when it was found that the financial results were unfair to a Province or to others by comparison, or to the Government of India when it was confronted by an extraordinary calamity. Owing to this proviso their settlements were termed quasi-permanent. To obviate the recrudescence of unfairness during the currency of the settlements the Government of India felt it necessary to enter certain modifications in the standard ratio of division of the joint-heads of revenue and expenditure with regard to the Provinces brought under the quasi-permanent settlement. They were as follows :—

Revenue	Provincial Share		
	Bengal	Madras	U.P.
Excise ...	7/16	...	...
Stamps ...	½	½	½
Registration ...	Wholly	Wholly	...
Irrigation ...	...	...	Wholly

Expenditure	Provincial Share		
	Bengal	Madras	U.P.
Excise ...	7/16	...	...
Stamps ...	½	½	½
Registration ...	Wholly	...	...
Land Revenue ...	Wholly	Wholly	Wholly

Compiled from the Financial Statement of the Government of India for 1904-5, p. 57.

Besides these modifications the Government of india gave them the following grants :—

Bengal	Madras	United Provinces
1. Addition of 4 lakhs to the assessment to improve the pay of Ministerial establishments.	1. Grant of 20 lakhs for Survey and settlements.	1. Irrigation revenue guaranteed up to 40 lakhs.
2. Further addition not exceeding 2½ lakhs for for strengthening the staff of Deputy Collector.	2. Grant of Rs. 75,000 a year recurring for relief of certain local bodies.	2. Grant of 2½ lakhs a year in relief of local bodies.
	3. Rs. 50,000 a year for agricultural experiment.	3. Half a lakh a year to reform District Board Finance.
	4. Undertaking to bear charges for reorganizing district administration.	

Compiled from the same Financial Statement of the Government of India, p. 67.

The standard revenues and expenditure of the quasi-permanently settled provinces, after taking into consideration the alterations in their respective shares in the joint revenues, were as follows :—

STANDARD REVENUES AND EXPENDITURE

(in thousands of rupees).

Province	Expenditure	Revenue		
		Revenues	Assignments	Total
Madras	3,50,48	2,90,82	5,966	3,50,48
Bengal	4,98,87	4,49,84	4,903	4,98,87
U.P.	3,66,64	3,62,64	400	3,66,64
Assam	72,07	60,07	1,200	72,07

The gain to the Imperial treasury on the revenue side brought about by the revision of the quasi-permanently settled Provinces was Rs. 2,06,000. But the revision also over-burdened the Imperial Government with a total charge of Rs. 36,000 hitherto borne by the Provincial Budget. Thus its net gain was only Rs. 1,70,000 a year on the normal.

As in the beginning of the scheme of Provincial Budgets, the government of India thought it advisable to make to the quasi-permanently settled Provinces the following initial grants so as to give them a fair start:—

To Bengal,	Rs.	50 lakhs. (Exclusive of 50 lakhs for Calcutta Universsity.)
To Madras,	Rs.	50 lakhs. (Inclusive of 20 lakhs for survey settlement.)
To U.P.,	Rs.	30 lakhs. (Exclusive of 1¼ lakhs to compensate forexpenditure on the purchase of encumbered estates.)
To Assam,	Rs.	20 lakhs.

Of the remaining Provinces, Bombay and the Punjab were the next to obtain quasi-permanent settlements with effect from 1905-6.

In recasting their settlements the Government of India departed a little from the standard rate of division as applied to the Provinces quasi-permanently settled in 1904-5. With certain exceptions mentioned below the joint heads of revenue and expenditure were

divided half and half, including Irrigation in Bombay, instead of three-fourths and one-fourth between the Imperial and the Provincial. The exceptions to this rule were the following :—

Revenue Heads of Account	Provincial Share		Expenditure Heads of Account	Provincial Share	
	Bombay	Punjab		Bombay	Punjab
Land Revenue	Guaranteed Up to 189¼ lakhs	3/8	Land Revenue	Wholly	Wholly
Registration	Wholly	Wholly	...	...	...
Irrigation	½	3/8 Guaranteed up to 28 lakhs			

Compiled from the Financial Statement of the Government of India

The standard revenue and expenditure of these two provinces under the quasi-permanent settlement was as follows :—

Province	Expenditure	Revenue		
		Revenues	Fixed Assignments	Total
	Rs.	Rs.	Rs,	Rs.
Bombay	4,91,75,000	4,48,98,000	42,77,000	4,91,75,000
Punjab	2,49,50,000	2,46,50,000	3,00,000	2,49,50,000

The raising of the shares and the fixing of assignments on a liberal scale with respect to these famine and plague-stricken Provinces left the Imperial Government a loser on the transaction. On the basis of the new standard of revenues the Government of India lost Rs. 5,95,000 on the two Provinces together. The corresponding increase in the provincial shares of the joint heads of expenditure, however, lessened the Imperial expenditure by Rs. 2,21,000 a year. On the whole, therefore, the Imperial Government sacrificed a normal gain of Rs. 3,74,000 to give permanency and stability to the finances of these two Provinces. This was over and above the initial grant of Rs. 50,00,000 to each of them in order to enable them to set their sails in smooth waters.

A year after, the settlement of the Central Provinces was made quasi-permanent with effect from April 1, 1906. The shares in the joint heads of revenue and expenditure were raised, as they were in the case of Bombay and the Punjab, and particularly because of the addition of Berar, which was hitherto administered directly

by the Imperial Government, from three-fourths and one-fourth to one-half between the Imperial and the Provincial, the share in the land revenue being guaranteed up to 82½ lakhs. The only exception to this rule of even division was the Registration revenue, which was made wholly provincial. To balance the revenue with the expenditure an assignment of Rs. 27,07,007 a year was fixed and an initial grant of Rs. 30,00,000 was given for a fair start.

Along with the settlement of the Central Provinces it became necessary to reorganize the budgets of the quasi-permanently settled Provinces of Bengal and Assam owing to certain administrative changes. The two Provinces were reconstituted into (1) Bengal and (2) Eastern Bengal and Assam. In the revision of its financial settlement the new Province of Bengal was accorded the same proportionate share in the joint revenues as were granted to Bombay and the Punjab—namely, a share of a half in all the joint heads. Registration and that portion of the Land Revenue which was derived from Government Estates under the direct management of the Imperial Government were, however, made wholly provincial. In lieu of this favoured treatment the fixed assignment of the Province was reduced from 49.03 lakhs to 5.72 lakhs.

In the new Province of Eastern Bengal and Assam the principle of even distribution was applied to all joint heads of revenue and expenditure with the exception of Registration, which was made wholly provincial. This enhancement of shares so greatly augmented the resource side of the Provincial Budget that the balance had to be restored by a negative operation of a fixed adjusting assignment from the Provincial to the Imperial funds. The following figures show the standard expenditure and the standard revenue for the three provinces brought under the quasi-permanent settlements :—

Province	Expenditure	Revenue		
		Revenues	Assignments	Total
	Rs.	Rs.	Rs.	Rs.
C.P.	1,76,43,000	1,49,36,000	27,07,000	1,76,43,000
Eastern Bengal and Assam ...	2,12,19,000	2,18,42,000	6,23,000	2,12,19,000
Bengal	4,72,73,000	4,67,01,000	5,72,000	4,72,73,000

Some modifications were later on introduced in the settlement of the Province, so that a positive adjustment had to be made by an assignment from the Imperial to the Provincial of Rs. 60,000 a year.

The only Province which was outside the pale of the quasi permanent system was Burma. The last quinquennial settlement made with it in 1902-3 having expired, the Government of India decided to bring it in uniformity with the other Provinces by giving it a quasi-permanent settlement from April 1, 1907. In a spirit of perfect impartiality it was also given an even share in the principal joint heads of revenue and expenditure, salt being imperialized as in other provinces. It was given an adjusting assignment of Rs. 90,68,000 a year to cover the deficits in its standard expenditure and an initial grant of Rs. 50,00,000.

By the year 1907 all the Provinces were brought within the pale of the quasi-permanent settlement, and we would have expected the scheme of Provincial Finance to run its course undisturbed by any further changes. But it so turned out, as must have been noticed, that the quasi-permanent settlements made with Madras and U.P. in 1904 had become a little unfair to them in comparison with the terms offered to the Provinces subsequently dealt with. To remove this ground of injustice, which was one of those recognized for subjecting the quasi-permanent settlements to revision, the shares of the two Provinces in the joint heads were raised with effect from April 1, 1907, to one-half, with the following exceptions :—

Madras	United Provinces
Revenue	Revenue
1. Registration. Wholly Provincial,	1. Land Revenue. 3/8 Provincial. Minimum of 240 lakhs guaranteed.
2. Land revenue. Minimum receipt of 308 lakhs guaranteed if the provincial share fell below that amount.	2. Irrigation. Minimum receipt of 60 lakhs from major irrigation works guaranteed, if the provincial share fell below that amount.
Expenditure	
1. Registration. Wholly provincial.	
2. Land Revenue. Wholly provincial.	

The fixed assignments to cover the difference between the excess of standard expenditure over standard revenue were :—

To Madras	...	...	Rs. 22,57,000
To U.P.	...	...	Rs. 13,89,000

Thus the scheme of Provincial Finance in British India had advanced by gradual but distinct steps of assignment budgets, assigned revenue budgets and shared revenue budgets to a stage the terms of which were regarded by the parties concerned as

sufficiently final. How far their expectations were fulfilled may be judged from the annual surpluses and deficits in Provincial Finance and from the range in their deviations as indicated in the following table :—

PROVINCIAL SURPLUSES AND DEFICITS

Province	1904-5	1905-6	1906-7	1907-8	1908-9	1909-10	1910-11	1911-12
	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
C.P.* ...	—701000	3235000	1750607	—930617	—3097865	721755	280556	1214573
Burma ...	—1591796	—2613890	1890516	—3129590	—2060678	2515371	1900297	—1260040
Assam† ...	—269316	—3720027	—200140	—2596682	—2357687	549270	5539698	5218802
Bengal ...	—1252818	—1952312	—1877455	—2256994	—1330371	3274065	3960612	6296233
U.P. ...	—869099	—2879192	795600	—3587066	1007260	2045221	3635904	144240
Punjab ...	4794387	—2796052	—661214	—2408818	—1576981	1300559	4199121	3398055
Madras ...	—1402344	220328	1217745	—44992	2025109	1266326	2316383	2938502
Bombay...	4396000	—42892	1752202	—308925	—2618926	7137996	7585460	—541411

* Includes Berar since 1906.

† Eastern Bengal and Assam since 1906.

Compiled from the Annual Finance and Revenue Accounts of the Government of India.

In judging of these results account must also be taken of the various benefactions made by the Government of India to the Provinces by way of grants-in-aid during the same period. These grants were as follows :—

IMPERIAL GRANTS-IN-AID TO THE PROVINCES

Province	1904-5	1905-6	1906-7	1907-8	1908-9	1909-10	1910-11	1911-12
	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
C.P.* ...	2853710	6957793	110500	2752010	2903668	3588270	3465500	2080845
Burma ...	567500	1845000	7219000	682000	215253	1820952	4232742	3605164
Assam ...	...	3362916	327294	280030	2358947	4464435	4608965	6100732
Bengal ...	24794	4806984	475548	1362634	4157393	5753692	6137013	11131276
U.P. ...	136600	4036307	7641697	9879667	8770345	1624329	4513729	3136107
Punjab ...	7526436	2467579	4209531	5541529	6037990	5839014	9592844	3101681
Madras ...	700946	4430714	9980400	9473304	704885	612941	3691426	5008889
Bombay ...	10312928	3427325	4024512	4574284	5726162	5797603	12009360	4935159
Total ...	22122914	31334618	34982982	34543458	30874643	29502286	15475360	39099853

* Includes Berar since 1906.

Compiled from the Annual Finance and Revenue Accounts of the Government of India.

But in taking account of these benefactions it must not be supposed that, barring a solitary case or two, they were necessary in order to preserve the solvency of Provincial finance as it was defined by the terms of the settlement made with the different provinces. Far from being insufficient, the revenues settled upon the different Provinces proved quite ample for their needs if we take the last years, and they are the most typical years, into consideration.

Permanent Settlements of 1912

Soon after the series of quasi-permanent settlements were concluded with the different provinces, the subject of Provincial and

Central Finance in British India among others of a like nature was investigated by the Royal Commission on Decentralization. In its Report issued in 1909 the existing method of allocating revenue and charges between the Imperial and Provincial Governments was upheld in principle. Of the many-adverse criticisms passed by witnesses who appeared before the Commission only two were regarded by it as worthy of consideration : (1) The adjusting assignment and (2) Grants-in-aid, or doles as they were cynically termed. It was urged, and with some truth, that the adjusting assignments impaired the elasticity in provincial revenues by reason of the fact that while charges grew, that part of the provincial resource, which was made up by assignments, and in some cases it formed quite an appreciable part, remained unaltered. Secondly, it was argued that doles were demoralizing and that it would be better to replace them by shares in growing revenue. The Commission seems to have been completely impressed by the disadvantages of large adjusting assignments, but it demurred, and rightly so, to the criticisms with regard to the doles. Every one extolled the benefits of decentralization to the Provinces, but few realized the anxieties that it involved to the Government of India. It must have been clear that by the process of decentralization the Government of India had given the Provinces more or less complete freedom in distributing their funds in any way they liked upon the services delegated to their management, while it had remained responsible for their efficient upkeep by the provisions of the law which governed its constitution. But the freedom which the provinces had obtained in carrying on the financial management of the services made over to their particular control, involved the possibility of their fostering certain services deemed to be of immediate utility to the people of the Provinces, and neglecting others the utility of which, though remote to the Provinces, was nevertheless real to the country as a whole. Neglect of nationally important services such as Education, Sanitation, Police, was especially to be avoided during periods of plague and famine. But the Government of India could not enforce distribution of provincial funds on such services; for one of the vital conditions of Provincial Finance was freedom of appropriation on provincialized services, which were not distinguished into obligatory and optional as is the case in the continental system of local finance.

The Government of India was indeed not as powerless as the Central Government in England which, as is well known, cannot rectify cases of neglect by local authorities without resort to a writ of *mandamus*. But the way to bring a recalcitrant province to order, if easier, was not pleasant. For, the only way to mend such a situation was to end it by suspending the operation of Provincial finance. Rather than resort to such a grave measure the Government of India happily hit upon grants-in-aid of particular services as a powerful and well-tried[1] corrective to the negligence of the Province, and require it to maintain a "national minimum" in those services which it regarded as onerous rather than beneficial.[2] Convinced of the virtue of grants-in-aid as a brake on decentralization degenerating into disintegration, the Commission only recommended that measures be taken to give Provincial Finance the greatest elasticity possible by diminishing the assignments to the smallest magnitude possible.

Following the recommendations of the Commission the Government of India decided to make certain modifications in the existing allocation of revenue and charges and to make the quasi-permanent settlements permanent settlements from the year 1912. The permanent settlements did not differ from the quasi-permanent settlements which they superseded in any material point so far as the principle of allocation was concerned. The only point of difference between them in that respect was a partial replacement of the fixed adjusting assignments by increased shares in the following joint heads of revenue and expenditure :—

Modifications in Shares			
Revenues		Expenditure	
Heads of Account	Provincial Share	Heads of Account	Provincial Share
1. Land Revenue including the portion credited to Irrigation.	$^5/_8$ to Burma ½ Punjab	1. Land Revenue	$^5/_8$ Burma ½ Punjab
2. Excise	Wholly in Eastern Bengal and Assam, Bombay. In C.P., Bengal and U.P., $^3/_4$	2. Excise	Same as in revenue column.
3. Assessed Taxes (P.W.D.)	½	...	...
4. Forest	Wholly.	4. Forest	Wholly
5. Major Irrigation works (excluding portion of Land Revenue credited to it).	½ in Punjab, minimum of 4 lakhs guaranteed.	5. Major Irrigation	½
6. Major and Minor Irrigation.	½ in Bengal	6. Major and Minor Irrigation.	½ in Bengal

[1] It is possible that the system was borrowed from England.

[2] S. Webb, *Grants-in-Aid,* 1911, p. 25.

The effect of these modifications in the shares in the joint heads of revenue and expenditure was to reduce the adjusting assignments to the following figures :—

Province	Assignments in Lakhs of Rupees from Imperial to Provincial	From Provincial to Imperial
Central Provinces	21.40	...
Burma	13.12	...
Eastern Bengal and Assam	13.55	...
Bengal	...	18.40
U.P.	...	19.26
Punjab	6.77	...
Madras	...	21.43
Bombay	...	9.38

During the permanent as during the quinquennial and quasi-permanent settlements the grants-in-aid of specific services, unobjected to as they were by the Decentralization Commission, were continued to be given to the different Provinces throughout the period although, as may be seen from the following figures, in a continually diminishing magnitude :—

Special Grants-in-Aid (in rupees)

Provinces	1912-13	1913-14	1914-15	1915-16	1916-17	1917-18	1918-19
CP. ...	4790480	2643264	5138256	4407802	3795784	3817540	2726008
Burma ...	8538948	2263939	3849763	3869472	216979	—2478482	2490
Assam ...	5530991	3283011	7533878	6577619	2497861	1922252	2444730
Bengal ...	15401885	6480800	7594894	7186436	6538732	7074773	9889717
Bihar & Orissa	6379420	4761028	3526567	4278854	3262214	4235205	4179425
U.P. ...	11470603	8542279	3842624	3229924	2453969	2706164	3590530
Punjab ...	6700924	2424404	3988117	5908923	4925830	4862616	5563665
Madras ...	12277591	5066343	1697803	1220785	1099165	1483708	1577446
Bombay ...	11192723	3996729	1468837	1200254	1065964	1154725	2479510
Total ...	82283565	39461797	38640739	37880069	25856498	24778501	35453521

Compiled from the Annual Finance and Revenue Accounts of the Government of India.

It was natural that the results of the permanent settlement should have been more anxiously awaited for with great interest by the Provinces, for the permanent settlement had the potentiality of a permanent gain or a permanent loss. That their anxiety on that score could not out have been completely allayed is amply supported by the repeated surpluses that meet the eye as it passes over the following figures of annual additions to and deductions from their balances during the

period of its currency :—

PROVINCIAL SURPLUSES OR DEFICITS (IN RUPEES)

Provinces	1912-13	1913-14	1914-15	1915-16	1916-17	1917-18	1918-19
C.P. ...	5085246	1881245	—6544416	—13836	4235704	1870517	920121
Burma ...	8874174	914026	—3729808	1896621	9427702	12067708	4873587
Assam ...	3610494	—2217691	—4550789	658812	6044904	2800634	435872
Bengal ...	14705270	480842	—3967607	1028156	3708638	5280082	732237
Bihar & Orissa	7022199	—920062	—1870264	1133562	5919907	7176786	3643564
UP. ...	9588749	50704	—4611080	—973090	3427808	—2268311	3686945
Punjab ...	7411069	—692512	—3730641	—1133541	500995	—695216	1185930
Madras ...	4330275	—5298411	—1207754	318508	2571241	1042303	—972354
Bombay ...	7083281	1558566	—2639924	—951099	122434	611321	1681066

Compiled from the Annual Finance and Revenge Accounts of the Government of India.

While the condition of Provincial Finance was thus undoubtedly prosperous, the erratic movements in the provincial balances do not quite bear out the hope of orderly progress that was entertained of the permanent settlement. It should be noted, however, that the period during which the permanent settlement was current was not wholly a normal period. Part of the permanent settlement was no doubt a peace period, but it was not even as long as a quinquennium, and it should not on that account detract from the merits of a permanent settlement if it disclosed the faults of the quinquennial settlements. Most of the period covered by the permanent settlement was, however, a period of the Great War, the abnormal events of which could not have had any but disturbing effects on Provincial Finance.

Whether the permanent settlements would have been adequate for the purpose in view if sufficient length of time had been allowed for conditions to have become settled it is not given to us to say. For, from April 1, 1921, provincial Finance in British India entered on an entirely new phase. That phase of it will be dealt with in another part. Here the study of the growth of Provincial Finance as it developed stage by stage under the old phase comes to an end. But this study will not be complete until we deal with the mechanism which inter-related the finances of the Central and Provincial Governments under the old phase. But before we proceed to do so it might be of interest as well as of value that the study of the final stage in the development of Provincial Finance were to close with the following retrospect of provincial revenue and expenditure which shows, as nothing else can, the small beginnings, the large strides and the vast proportions that Provincial Finance had reached during the half century over which it had been allowed to run its course.

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GROWTH OF PROVINCIAL FINANCE

Provinces	Provincial Revenues As a percentage of the total Revenues of India						Provincial Expenditure As a percentage of the total Expenditure of India					
	1871-2	1882-3	1892-3	1904-5	1912-3	1918-9	1871-2	1882-3	1892-3	1904-5	1912-3	1918-9
C.P.	.655	1.055	.863	.905	2.52	1.715	.652	1.008	.87	.984	2.19	1.685
Burma	.572	1.66	2.256	3.023	4.73	3.57	.592	1.914	2.16	3.31	4.14	3.15
Bengal	2.8	5.9	4.72	4.12	5.56	4.00	2.7	6.68	4.52	4.26	4.56	3.84
N.W.P. and Oudh	1.99	4.16	3.6	...	...	...	2.04	4.4	3.32	...	...	...
Punjab	1.66	1.59	1.888	2.08	3.96	3.11	1.55	2.165	2.03	1.83	3.47	2.81
Madras	1.595	3.32	3.3	2.88	6.27	4.75	1.61	3.24	3.4	3.09	6.1	4.53
Bombay	1.8	4.9	4.49	4.05	6.17	5.45	1.836	5.08	4.4	3.77	5.7	5.00
Assam	...	.61	.738	.597	1.38	1.00	...	.505	.617	.618	1.13	.857
U.P.	...	...	...	2.99	5.5	4.15	...	...	...	3.01	4.87	3.94
Bihar and Orissa ...	...	...	...	...	2.6	1.9	...	...	...	...	2.11	1.775
Total Provincial ...	11.11	22.8	21.75	20.4	38.6	29.2	10.8	25.00	21.3	20.8	34.3	27.6

Complied from the Annual Finance and Revenue Accounts of the Government of India.

PART III
PROVINCIAL FINANCE : ITS MECHANISM
CHAPTER VII
THE LIMITATIONS OF PROVINCIAL FINANCE

To those who might be expected to have a knowledge of the anomaly—unparalleled in the annals of administration—involving the existence of provincial Government without there being the necessary complement of Provincial Finance, the study could not but have been of profound interest as disclosing the manner in which the anomaly created in 1833 was rectified or seemed to be rectified in 1870.[1]

[1] There, however, prevails the idea that Provincial Finance existed long before 1870, But this is undoubtedly an error which may as well be corrected in this place by briefly recalling the history of financial decentralization prior to 1870. The year 1855 will always stand preeminent in the history of decentralization of Indian Finance. It is from that year that Local Finance dated its origin. It must not, however, be supposed that prior to 1855 there were no local revenues. On the contrary, there were very small funds such as Ferry Funds, Toll Funds, Cesses, etc., in existence and were spent on improvements of local utility, but the important point to note is that the balances from such funds were not carried to a separate account but as a rule merged in the general balances of the country, with the exception probably of Bengal and North-Western Provinces, where it seems that such balances were carried to separate Local Fund Accounts (cf. *Calcutta Review,* 1851, Vol. 16, pp. 464 and 466). It was by the Financial Resolution of May 11, 1855, that Local Funds were completely separated from Imperial Funds and were treated as "Deposits"—a sub-division of the Account Head "Debt" (cf. *Accountant's Manual,* by Y. Venkatramaiah, Part I, Madras, 1866, p. 79) and by the Resolution of September, 1863, Local Finance was established on a separate footing by the institution for each of the different provinces of a distinct Local Fund Budget as separate from the Imperial Budget. It so happened that in the absence of local authorities the Government of India entrusted the task of the preparation and execution of the Local Funds Budget to the respective Provincial Governments as being more in touch with local wants. It is this accident that has betrayed many into the supposition that this was essentially Provincial Finance. But nothing can be a greater blunder. What existed before 1870 was Local Finance, pure and simple, although *under* the supervision of the Provincial Government, in whose hands the Local Funds were essentially a kind of trust. The mere bringing together by the Provincial Governments of the receipts and charges pertaining to the Local Funds into a Local Fund Account for the whole Province can hardly be interpreted to mean the amount to be at their disposal—and that is the only sense in which Provincial Finance can be a reality—any more than the bringing together of the Local Rates levied in the United Kingdom in the budget of the Chancellor of the Exchequer can give an indication of its financial position. The Local Funds were not at the disposal of the Provincial Governments, for they could not be disposed of on purposes other than those which attached to them. In this sense they constituted Local Finance and not Provincial Finance. Some people mistake it for Provincial Finance probably because the term "Local Government" is used as a synonym for Provincial Government. But, while Local and Provincial Governments are often used as interchangeable terms, it must be remembered Local and Provincial Finance cannot be so used. As a matter of fact, there was a period in the history of Financial organization in India during which there was Local Finance without Local Government to be precise, and there was no Provincial Finance, even though there were Provincial Governments. It is probable that, as long as the habit of speaking of Provincial Government as Local Government continues, this confusion of ideas will not entirely vanish. While some have insisted that Provincial Finance had its being long before 1870, the Resolution of December 14, 1870, which instituted the scheme of Provincial Finance, is called "Resolution on Local Finance" as though it gave rise to Local and not Provincial Finance. Such absurdities can be avoided only by insisting upon precision of terminology.

On a purely a priori consideration of the matter, nothing could have been more natural than to suppose that the system of Provincial Finance thus established in British India was independent in its organization. Indeed it is difficult to imagine how one could emerge from the study of its origin and development without such a faith having silently grown upon him. But if Provincial Finance was independent in its organization, we should find the Provinces in possession of financial powers which are commonly associated with the functioning of independent States. For the immediate purpose of finding out whether or not Provincial Finance was an independent system of finance, we may take the freedom of budgeting and everything that is involved in it as an evidence of the existence of these powers. Independent budget powers would involve the power to determine the services which, according to the needs of the country, a good government should undertake, and to decide upon the mode of raising either by taxation or loan sufficient money to meet the expenditure upon those services. Alongside these powers the budget: system entails the obligation of keeping accounts and submitting them to independent audit.

Applying these tests to the Provincial Budget, the origin and growth of which have been treated in the foregoing parts of this study, we cannot predicate a tithe of the independence which characterizes the budgets of sovereign States. On the contrary, the budget system introuced into India with regard to the different Provinces was accompanied by the most stringent limitations. They were given a budget *without its powers,* and they bore the obligations of accounts and audit just because they were left free within the limits of their budgets. Why these limitations were imposed will be explained when we come to scrutinize the ways of enlarging the scope of Provincial Finance. it must, however, be emphasized that these limitations formed an integral part of the scheme, and the stringency of the former had grown *pari passu* with the scope and proportions of the latter. In fact they defined the law of the Constitution of Provincial Budgets. A complete comprehension of the operation of Provincial Finance in British India is therefore not possible without a thorough knowledge of its rules of government. Such being the importance of these rules it cannot but be to our advantage to analyse them at this stage.

These rules were laid down on various occasions during the interval between 1870, when the scheme of Provincial Finance came into being, and 1912, when the scheme reached through an evolutionary process its final and permanent stage, in the form of Resolutions of the Government of India in the Department of Finance. The rules framed in 1870[1] were few and simple. Nor was there any necessity for a complex code to govern the operation of the very meagre budgets which were then constituted. Many supplementary rules were issued afterwards to dispose of unforeseen cases of order and procedure; but it was not till 1877[2] that we come across a most elaborate set of rules and regulations governing the financial transactions of the provincial Government. The Rules of 1877 were the basis of all those that were subsequently issued. With very small addenda or corrigenda they remained in force for a period of fifteen years, when they were superseded by a new series of Rules promulgated in 1892.[3] But only within a short span of a quinquennium this series was replaced by another issued in 1897,[4] and the latter formed the governing body of Rules till the year 1912, when a new series was brought out to regulate the working of the permanent settlement made in that year.[5] The same was reissued in the Financial Department Resolution No. 361 -E-A. dated July 24, 1916. But as the alterations therein were not in any sense consequential, the series of 1912 may be taken as laying down the final regulations of Provincial Finance.

Recognize as we must the necessity for analysing the rules, we must determine beforehand the point or points of view from which to conduct the analysis. It must be premised at the outset that the object of entering upon the examination of the Rules is twofold : (1) to know what limitations there were and (2) why they were placed. Our immediate interest, it is true, is to state what limitations there were, but this is only a preliminary, if not a minor, object. The second is really the more important of the two. It is only as an aid to the proper understanding of the causes of the necessity for these limitations that a knowledge of them is to be sought. While keeping in our mind the immediate object of stating the limitations, it will be unimaginative not to foresee that in the following chapter,

[1] Financial Department Resolution No. 3334 dated December 14, 1870.

[2] Financial Department Resolution No. 1709 dated March 22, 1877.

[3] Financial Department Resolution No. 1142 of March 17, 1892.

[4] Financial Department Resolution No. 3551 dated August 11, 1897.

[5] Financial Department Resolution No. 249-E.A. dated July 15, 1912.

in which we shall be presently engaged, we will learn that the necessity for these limitations arose from the very peculiar nature of Provincial Finance itself. On the other hand, it is important to anticipate this conclusion, and instead of producing the Rules *seriatim* as they occur, arrange them in such a way that they shall be an external register of the internal conception of Provincial Finance which particularly pervaded the minds of its promotors. For the consummation of this end, the labours of the officials in charge of Provincial Finance who have laid down these rules are of no avail. To them these rules were only instruments of financial control, and it did not therefore matter in what order they were grouped. On the other hand, to get at the conception behind these rules it is necessary to classify and group them according to the purposes they were calculated to subserve. But the cardinal point in the matter of classification lies in defining the likely purposes which the originators of such an interrelated scheme of Provincial Finance as obtained in India must have had in view. Without being at all dogmatic, it may be said that for a successful working of such a scheme rules would have to be laid down for the purposes of defining (1) the Administrative and (2) Financial Powers of the Provincial Government. Each of the two categories may be further subdivided for a clearer understanding of the nature of Provincial Finance. Thus the Rules relating to Administrative Powers may be further subdivided into those pertaining to (i) Services and (ii) Staff. Similarly the Rules defining the Financial Powers may be conveniently grouped under the following subsidiary categories : Those (i) of a general nature and those pertaining to (ii) Provincial revenues; (iii) Provincial Expenditure, (iv) Budget Sanction and (v) Audit and Account.

Taking purpose as the *fundamentum divisionis,* the above categories may be supposed to exhaust the possible purposes that the framers of the scheme may be said to have had in mind. On the basis of these categories we may therefore proceed to reduce the amorphous mass of Rules into a digest which, it may be hoped, will be convenient and instructive at the same time.

I. Limitations on Administrative Powers

(1) *Rules of Inter-Provincial Services*

For regulating the inter-provincial or inter-departmental relations affected by the creation of separate budgets for the different

Provinces, it was ordained that—

(i) No inter-provincial adjustments were to be allowed.

(ii) No service previously rendered to other Departments at the charge of the Department made over to the control of the Provincial Governments was to be abolished, and no service previously rendered to these departments at the charge of other departments was to be increased.

(iii) No line of through communication was to be abandoned or allowed to fall out of repair.

(2) *Rules pertaining to Staff*

As to the staff engaged in the execution of the provincialized services the Provincial Governments were enjoined *not* to—

(i) Create a permanent appointment or augment the pay and allowance of any appointment.

Prior to 1912 this applied to appointments with a pay of Rs. 250 a month and above.[1] But after 1912 it applied only to appointments ordinarily held by a Gazetted Officer or by an officer of the Imperial Service as defined in Article 29-B of the Civil Service Regulations.[2]

(ii) Create a temporary appointments *or* deputation for an Officer.

Prior to 1912 this applied to appointments with a pay of Rs. 250 a month and above.[3] But after 1912 it applied to such of the appointments the remuneration of which exceeded Rs. 2,500 a month, or Rs. 800 a month, if the temporary appointment or deputation was expected to last for more than two years.[4]

(iii) Abolish a permanent appointment or reduce the pay and allowances of such an appointment.

This rule was in the beginning applied to such appointments the remuneration of which exceeded Rs. 250 a month.[5] After 1912 it was confined to such appointments as were held by Gazetted Civil Officers recruited in England or as were defined by Article 29-B of the Civil Service Regulations.[6]

(iv) Grant to a Civil officer in Government employ or in receipt of a service pension.

[1] Rule 4 (3) (*a*) of 1897.

[2] Rule 10(1) of 1912.

[3] Rule 4 (3) (*b*) of 1897.

[4] Rule 10 (4) (*a*) of 1912.

[5] Rule 4 (4) of 1897.

[6] Rule 10 (3) of 1912.

(*a*) *Land,* except where the grant was made under the ordinary revenue rules of the Province concerned without involving any special concession in money or its equivalent beyond the fact that the grantee received the grant in preference to others.[1]

or (*b*) An assignment of Land Revenue when the amount exceeded Rs. 600 a year, or the assignment, though within that amount was not limited to three lives and reduced by one-half on each succession. All grants as assignments of Land Revenue made by Provincial Governments to civil officers were to be confined to cases in which the services were of a very distinguished and exceptional character.[2]

(v) *Revise* (*a*) permanent establishments which involved additional expenditure exceeding Rs. 50,000 a year; or (*b*) rates of substantive pay of any one branch of the service at a cost to that service alone of more than Rs. 25,000 a year, or (*c*) the average pay of a service of which the maximum pay exceeded Rs. 500 a month and raise it above the average rate approved at the last revision of the service by the Secretary of State or the Government of India, or (*d*) the local allowances as compensation for dearness of living or for increase of rents in any localty.[3]

II. Limitations on Financial Powers

(1) *General*

Before actually detailing with the limitations on the financial powers of the Provincial Governments it is necessary to recall that the financial settlements made with the Provinces consisted in handing over to them certain *heads* of revenue and expenditure. From this accidental feature it is not to be supposed that the settlements were a collection of separate settlements for each head of revenue and expenditure incorporated into the Provincial Budget. To obviate such a construction by the Provincial Governments and the consequences thereof, it was ruled that—

(1) The Provincial Governments were to understand that the funds assigned to them formed a consolidated grant for all the services *en masse* entrusted to their respective administration and that no claim could therefore lie against the Imperial

[1] Rule 10 (9) (*a*) of 1912.

[2] Rule 10 (9) (*b*) of 1912.

[3] Rule 10 (6) of 1912.

treasury on the ground that the actual cost of any service exceeded the amount at which it was estimated in the calculations of the consolidated grant.[1]

(2) And they were not to make any extra demands on the Imperial treasury, but were bound to maintain from the funds given to them all the services entrusted to their management in a state of administrative efficiency.[2]

With regard to the powers of the Provincial Governments concerning the custody of their funds it was ruled :—

(3) That the funds allotted for their use were to be lodged in the Imperial treasury, and were not to be removed for investment or deposit elsewhere; nor were the provincial Governments competent to withdraw such money except for expenditure upon the public services.[3]

(2) *Revenue Rules*

Turning from the general limitations to those pertaining to the revenues of the provinces, it should be noted that they were required to maintain themselves within the funds allotted to them by the Central Government at each settlement.

The provinces could not *augment their* resources beyond the yield due to their natural growth by any possible means, for it was provided that Provincial Governments were—

(i) Not to impose any additional taxation or make any change in the existing system of revenue management.[4]

(ii) Not to alter or augment within its area the rates of discount upon the retail of Stamps, Court Fee labels, and duties on spirits and drugs.[5]

(iii) Not to raise *for its own* finances any loans in the open market.[6]

Powerless in the matter of augmenting their resources, the Provincial Governments were not free to will them away to any other authority subordinate to them. To guard against such eventualities it was ruled that Provincial Government were—

[1] Rule 7 of 1877 and 14 of 1897.

[2] Rule7 of 1877 and 14 of 1897.

[3] Rule 1 (8) of 1877, 4 (11) of 1897, and 5 (6) of 1912.

[4] Rule 1 (1) of 1877 and subsequent Resolutions.

[5] Rule 1 (6) of 1877, also embodied in subsequent Resolutions.

[6] Rule 5 (13) of 1912. It is surprising that the various resolutions on the subject of provincial Finance prior to 1912 do not contain this ruling, though it cannot be doubted that it has been in operation since the commencement of provincial Finance. In the absence of a specific ruling prior to 1912, attention may be invited to the Resolution reviewing the Financial Statement for 1879-80, where it is said "so long, therefore, as a Local Government does *not incur debt* (*which is absolutely forbidden*), there is etc., etc." F. S. 1878, Calcutta, p. 5.

(iv) Not to alienate any item credited to the general revenues, Imperial or Provincial, so as to form an asset of a Local or Special Fund.

This provision as regards the non-alienation of the resources of revenue made over to the provinces was a little relaxed by the Rules of 1912 so that it was permissible for them to assign to a local body or special fund, as defined in Article 33 of Civil Service Regulations, constituted by law, petty items of Wholly Provincial Revenue of a recurring character, not derived from the proceeds of general taxation and not yielding on an average more than Rs. 25,000 a year.[1]

(v) Not to make grants, subventions or assignments from the funds at their disposal to Local or Municipal bodies so as to create a permanent charge on the revenues of India.

This by no means prevented grants, subventions or assignments from being made to local or municipal bodies by the Provincial Governments from their funds although the Government of India had sounded to them a note of warning by declining to bind itself to continue the grants after the expiration of the settlements or to provide for them in the succeeding settlements.[2] By the Rules of 1912, however, the power of making such grants was more clearly circumscribed so that a Provincial Government could not make (1) recurring grants to local bodies from provincial revenues exceeding Rs. 1,00,000 a year in any one case,[3] or (2) non-recurring grants to local bodies exceeding Rs. 10,00,000 in any one case,[4] or (3) a grant to a charitable or religious institution other than educational, not being outside India, in excess of Rs. 10,000 , a year if recurring, and Rs. 50,000 if non-recurring.[5]

(vi) Not to make any grants to non-official (1) on political considerations of (a) land, either free of revenue, or on favourable terms, or (b) of assignment of land revenue, if the value of the land or land revenue exceeded Rs. 1,000 a year;[6] (2) on the consideration of injury to himself or to his family in the event of his death during or in consequence of service rendered to Government, or (3) on the

[1] Rule 5 (5) of l912.

[2] Rule 4 (10) of 1897.

[3] Rule 10 (12) (*a*) of 1912.

[4] Rule 10 (12) (*b*) of 1912.

[5] Rule 10 (10) of 1912.

[6] Rule 10 (7) of 1912.

consideration of exceptional services to the Government of a pension exceeding Rs. 1,000 a year or a gratuity exceeding Rs. 3,000 in any one case.[1]

(3) *Rules of Expenditure*

The powers of sanctioning expenditure granted to the Provincial Government were as limited as their revenue powers. While they were free to spend their funds on the services entrusted to them, certain limitations were laid down for the purposes of expressly ruling out certain objects and subjects of expenditure from the provincial domain.

With regard to the *objects* of their expenditure Provincial Governments were required—

(i) Not to sanction any expenditure from public money on anything outside the category of objects of expenditure recognised by the Government of India.[2]

(ii) To confine themselves to the carrying on of the services particularly entrusted to them by the terms of the settlement.

Prior to 1912 they could undertake a "new general service or duty" only if they satisfied the Government of India that they could provide the necessary funds temporarily if it was temporary, and permanently if it was permanent.[3] This provision was altered in 1912 so that a Provincial Government could undertake a new general service or duty provided it was not (*a*) of an unusual nature, or (*b*) devoted to objects outside the ordinary work of administration, or (*c*) likely to involve at a later date expenditure beyond its powers of sanction.[4]

(iii) Not to spend—

(a) On State ceremonies and assemblies, and on the entertainment at the public charge of distinguished visitors to India more than Rs. 1,00,000.[5]

[1] Rule 10 (8) of 1912.

[2] Rule 11 of 1897, also embodied in subsequent Resolutions.

[3] Rule 4 (2) of 1897.

[4] Rule 5 (11) of 1912.

[5] Rule 10(11) of 1912.

(*b*) On Railway Carriages especially reserved for the use of high officials otherwise than in connection with the maintenance of the carriage.[1]

(*c*) On the purchase of a Motor-car or Motor-cycle for the use of an official, or on the maintenance of it otherwise than from the "Contract Grant" with the Head of the province.[2]

(*d*) On the increase of the "Contract Grant" to the Head of the province.[3]

(*e*) On the construction or purchase of a vessel required for inland navigation and for use at ports, the cost of which exceeded Rs. 1,00,000.[4]

(*f*) On an Irrigation or other Public Works projects of which the estimated cost chargeable to the general revenues exceeded Rs. 20,00,000 inclusive of establishments, tools and plants. It was however competent for a Provincial Government to spend up to an amount 10 per cent. in excess of the original sanctioned estimate provided such excess was not more than Rs. 12 ½ lakhs inclusive of establishment, tools and plants.[5]

As to the limitations respecting the subjects of provincial expenditure, it was ruled that in virtue of the application of the general condition precedent to the delegation of all authority to disburse public money, that it shall be bona fide for a public purpose, Provincial Governments could not spend from their funds for benefiting—

(i) Any individual or body of private persons unless in accordance with some declared or established rule or principle recognized by the Government of India.[6]

(ii) Native States, directly beyond Rs. 10,000 a year on any one project or Rs. 50,000 if non-recurring.[7]

[1] Rule 10 (4) of 1912.
[2] Rule 10 (6) of 1912.
[3] Rule 10 (15) of 1912.
[4] Rule 10 (17) of 1912.
[5] Rule 10 (18)of 1912.
[6] Rule 10 of 1877, also embodied in subsequent Resolutions.
[7] Rule 10 (13) of 1912.

(4) *Budgetary Rules*

Besides being subject to the ordinary rules of the Budget System introduced into India for the first time by Mr. Wilson in 1860,[1] by which they were required to submit their budget estimates for sanction to the Government of India, and to observe the rules of appropriation in the execution of the grants, Provincial Governments were further given to understand that without the previous consent of the Government of India they—

(i) Could not exhaust their balances in the Imperial Treasury.

Prior to 1887 a Provincial Government could propose in its budget estimates to draw upon the whole of its balance. But by the Rules then framed the Provincial Government was required to maintain at all time a certain minimum balance in the Imperial treasury, the amount of which varied with each successive settlement.

(ii) Could not budget for a deficit, that is for provincial expenditure in excess of the provincial revenues of the year.

The stringency of this rule[2] was a little softened, so that a Province could after 1912 budget for a deficit, if it satisfied the Government of India that the cause was exceptional and non-recurring,[3] but it was at the same time provided that, if this drawing upon the balances to make up the deficits resulted in reducing the balance below the prescribed minimum, the budget for a deficit would be sanctioned only if the Government of India was able to allow the Provincial Government in question an overdraft to the extent necessary to restore the balance to the required minimum from the general balances to be repaid in such rates of interest and instalments as may be prescribed.[4]

(iii) Could not exceed during the currency of the year the expenditure on any head of account as finally sanctioned for it, for that year, by the Government of India.

[1] Rule 11 of 1892, 13 of 1897, and 19 of 1912.

[2] Rule 8 of 1892.

[3] Rule 21 of 1912.

[4] Rule 21 and 22 of 1912.

It could increase the expenditure only if the increase was counterbalanced by re-appropriation, that is, reduction by the amount of the excess of the sanctioned grant under some other head of account under its control.[1] The powers of reappropriation of Provincial Governments were very extensive, for it could sanction re-appropriation between the grants for provincial expenditure included in its budget, whether under a Wholly Provincial or a Divided Major or Minor Head provided that the aggregate grant of provincial expenditure was not exceeded.[2]

(5) *Rules of Audit and Account*

Though the Provinces were allowed considerable powers of re-appropriation within their budgets there was imposed upon them the obligation of audit and accounts of the money they spent. The important point to note in this connection is the fact that this obligation of the keeping of accounts and submitting them to audit was an obligation which the Provinces did not owe to their legislatures, but was an obligation which they owed to the Government of india, who had conferred upon them the financial power they exercised. Moreover, the Government of India did not leave the Provinces to discharge this obligation according to their own sweet will by employing their own audit and account staff. On the contrary the responsibility of realizing this obligation was entrusted to the imperial officers of audit and account stationed in the different Provinces, who acted as the critics and guides of Provincial Governments in the matter of administration and interpretation of the Rules discussed above. To facilitate their task Provincial Governments were instructed—

(i) Not to make any alterations in the form of procedure of public accounts,[3] or direct the division of a charge between two or more heads of account. In all such matters they were to abide by the decision of the Comptroller General—an officer of the Imperial Government.[4]

[1] Rule 24 of 1912.

[2] Rule 25(1) of 1912

[3] Rule 1 (a) of 1897 also embodied in subsequent Resolutions.

[4] Rule 4 (2) of 1897.

(ii) To transmit the objection of the Imperial audit officer against its appropriation or sanction with regard to expenditure with the explanation of the Provincial Government concerned to the Government of India for final disposal.[1]

Such were the limitations on the Financial Powers of the Provincial Governments. Apart from these specific limitations the Provincial Governments were not altogether the free architects of their own destiny within the sphere allotted to them; for it was provided that the power of supervision and control in any Department still rested in the Governor-General in Council, and that the Provincial Governments should keep him fully informed of their executive and financial proceedings so as to enable the former to discharge its obligations for peace, order and good government.[2] Their general effect on the finaicial freedom of the Provinces could hardly have been concealed. It must therefore have been a most impervious mind which in face of these paralysing limitations had not lost its faith in the independence of the system of Provincial Finance and had not asked what was after all the nature and advantage of this illusive institution ?

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[1] Rule 30 and 31 of 1912.

[2] Rule 5 of 1877; Rule 15 of 1897 ; and Rule 6 and 7 of 1912.

CHAPTER VIII

THE NATURE OF PROVINCIAL FINANCE

The study of Provincial Finance cannot be said to be complete unless it furnishes a true answer to the question which is bound to be asked in the end. What was the resulting financial relationship under the old scheme between the Central and Provincial Governments in British India? The question is an important one, for the validity of the criticisms and proposals with regards to Provincial Finance, or any subject for that matter, depends entirely upon a correct understanding of its nature. Unfortunately it had not received the attention that its importance demanded, and consequently we find the rather distressing fact that no subject was so confidently discussed, and yet none was so grossly misunderstood, as that of the nature of the old system of Provincial Finance in British India. It therefore becomes necessary to explain what was the exact nature of the system of Provincial Finance established in British India.

In an inter-related system of polities, such as is composed of Central and Provincial Governments in British India, it is always difficult to grasp the exact nature of their financial relationship; for, what may appear on the surface may be very different from what it may really be. None the less, the view was commonly held that the Indian system was based on a separation of sources between the Provincial and the Central Governments, and contributions from the yield by the former to the latter, much the same as was found in the federal system of finance which obtained in the German Empire. Whether such a view was wrong or right there were various incidents of the relationship between the Central and Provincial Governments in India, which, there can be no doubt, went a long way to strengthen that view. Among such incidents must be mentioned the division of functions between the Central and Provincial Governments. An onlooker could not fail to observe that in this distribution of functions the former controlled matters pertaining to Military Affairs, Foreign Affairs, General Taxation,

Currency, Debt, Tariffs, Posts and Telegraph, Railways and Adult and Accounts; while the latter administered matters of ordinary internal administration, such as Police, Education, Sanitation, Irrigation, Roads and Buildings, Forests, and the control over Local Bodies. If this incident encouraged the view that there was a separation of services, there was another incident of the relationship which encouraged the view there was also a separation of revenues between the Central and Provincial Governments in British India. That incident was the collection of most of the taxes in India by the agency of Provincial Governments. As observed by the Royal Commission on Indian Expenditure[1]

> "in the United Kingdom the Revenue Administration is centralized..... under the Chancellor of the Exchequer in London. In India the administration of some branches of revenue is centralized, though not always under the Finance Minister (of the Government of India). That of other branches is decentralized. The Land Revenue is under the control of the Central Department at Calcutta, but that department is subject not to the Finance Minister but to the Minister in charge of the Home and Revenue Departments. The Telegraph Department is under the Minister of Public Works. The Central Government controls the collection of part of the Salt duty and of part of the opium revenue, of Post Office revenue and of other revenues..... The remainder of the revenue is collected by the Provincial Governments.... As regards..... a large portion of the revenue, the Provincial Governments are units of administration and are efficiently equipped for their duties."

As a third incident supporting the same view, reference must be made to the peculiar mode of presenting Indian Accounts adopted in official Blue Books. As might have been noticed, to the General Accounts of the Government of India is attached a supplementary account professing to show the distribution of the different heads of receipts and expenditure among the various Provinces into which British India has been divided. This mode of showing the accounts is beyond doubt misleading. It appears as if the aim was to show the financial position of the Provinces. But as a matter of fact the figures given in the columns in which the revenues and charges are shown in their provincial distribution do not represent the respective claims and responsibilities of the different Provinces. Far from showing the financial position of the Provinces, the figures in the columns merely represent the geographical distribu-

[1] Para 25 of the Final Report.

tion of the different agencies through which the financial business of the Government of India is conducted, and through which the revenues are collected and the expenditure is defrayed. The revenue and expenditure, for instance, shown under "Bombay" represent the income and outgo which pass through the books of the Accountant General of the Government of India stationed at Bombay, and the same is true of entries under the heads of other Provincial Governments. The figures really represent the transactions of the Government of India distributed geographically, and there is nothing provincial about them in the least. However, such a system of account bears the impression that the system of finance in India is primarily Federal.

With these three incidents before one's mind it was easy to fall into a federal line of thinking in reasoning about the financial relationship between the Central and Provincial Governments in British India. So deep seated was the view that the Indian system was one of separation of sources and contributions from the yield, that many witnesses giving evidence before the Royal Commissions on Indian Expenditure (1892) and on Decentralization in British India (1909) sallied forth to assail the Commissioners with the criticisms on the inequity of the system and proposals for amending it according to what they considered to be the requirements of justice. Nowhere have they stated the reasons for their assumptions in explicit terms.[1] Yet their proposals are an unmistakable proof that they held that view. Unless they had taken for granted that the Provinces had separate revenues and separate services, they could not be expected to have wasted their energies in directing as they did their efforts to getting redressed what appeared to them as a piece of injustice embodied in the unequal contributions made by the different Provinces form their revenues to the support of the Central Government.

If their view of the financial relationship between the Central and Provincial Governments was acceptable, then a good deal could not but have been conceded in favour of their criticisms and their proposals. Contributions, if the Imperial share could have been conceived of in such a light, as between the different Provinces whether in ratio to their revenues or population, were certainly unequal if calculated on the somewhat questionable but generally accepted hypothesis that all the revenues collected within a Province belonged to the Province.

[1] Cf., however, Indian Expenditure Commission Minutes of Evidence, Vol. 3, Q. 18094, and Decentralization Commission Evidence, Vol. 2, Q. 9497.

PROVINCIAL CONTRIBUTIONS TO THE IMPERIAL GOVERNMENT

Province	Ratio of Amount Surrendered to the Government of India to the Total Revenues raised in the Province.					Ratio of Amount Surrendered to the Government of India per Head to the Population of the Province.				
	1871-2.	1882-3.	1892-3.	1904-5.	1912-13.	1871-2.	1882-3.	1892-3.	1904-5.	1912-13
C.P. ...	.655	.464	.615	.297	.204	.9	.69	1.3	.55	.59
Burma ...	.728	.575	.598	.497	.38	3.4	.39	.7	4.37	3.08
Assam ...	...	.438	.390	.376	...	...	.75	.75	.87	...
Bengal ...	.903	.746	.761	.742	.596	2.4	1.99	2.9	2.29	2.39
N.W.P. and Oudh ...	.785	.617	.435	...	...	1.5	1.24	1.4	...	...
Punjab ...	.768	.648	.726	.512	.391	1.7	1.5	1.4	1.57	1.64
Madras ...	.828	.664	.667	.638	.479	2.3	2.0	2.3	2.34	1.79
Bombay ...	.845	.648	.66	.614	.58	5.0	4.1	5.4	4.75	5.6
U.P. ...	...	...	...	.567	.381	...	...	...	1.48	.93
Bihar and Orissa ...	...	...	...	...	.220	...	...	...	...	.17

Compiled from the Finance and Revenue Accounts of the Government of India and the Decennial Census Reports.

Similarly, whatever may be said of the relative merits of the proposals[1] of changning the system of divided heads of revenue into one of complete separation supplemented in favour of the Central Government by contributions from the Provinces in the form of (1) a fixed sum revisable every few years, or (2) a lump percentage on provincial revenues, or (3) a fluctuating contribution from the provinces on their population, revenues or wealth, there can be no doubt that they were all aimed at reaching some such intelligible basis of distributing the burden of the Imperial exchequer as equality of payment or ability to pay. No one who had cared to scrutinize the true nature of Provincial Finance could have been expected to take these proposals with the same seriousness with which they were offered by their authors. However, strange as it may seem, none of the two Commissions questioned their propriety. The Royal Commission on Decentralization did make it clear, though not quite forcibly, that equal contributions were not necessarily equitable contributions, but neither it nor the Royal Commission on Indian Expenditure challenged the language which spoke of the Provinces as surrendering *their* revenues to make contributions to the Imperial treasury after paying for *their services*. It therefore becomes all the more necessary to examine at some length the grounds which

[1] See *Report of the Royal Commission on Decentralization* (hereafter abbreviated into R.C.D.)

supported that view which argued that the system was based on the principle of separation of sources and contributions from the yield. Indeed the question of equity of contributions would hardly be worth discussion until it is settled that the Provinces had revenues which they could call their own and services for the efficient discharge of which they were primarily liable.

What is the criterion by which to judge whether the provinces had revenues and services which they could call their own? There is, of course, the administrative criterion by which it would be possible to say that anything which a Province administered was provincial. But that criterion cannot be a final criterion. For, whatever may be the view regarding the origin of administrative polities or regarding what their position should be in an ideal organization, yet all regional rights of an administrative polity are in modern times exercised in the main, not in virtue of any social compact or the mere discharge of certain functions, but in virtue of a general law. The question must therefore be decided with reference to the law which defined the status of the Provincial Governments in British India.

Did the Provinces have a legal title to the revenues? Although it is uncertain whether or not those who spoke of Provincial revenues invested the term provincial with a legal status there is no doubt that it had acquired such a connotation in ordinary parlance. Even the Provincial Governments, who ought to have known better, thought and argued that by the provincialization of revenue what the Government of India passed on to them was not the mere usufruct but a title to the revenue. But the Government of India had always been prompt in suppressing such pretences. The facts are patent that provincial settlements were revisable every five years, that the usufruct was not perpetual and that the Government of India could resume it at the end of five years if it wanted. This is made quite clear in answer to the pretensions advanced by the Government of Bengal in a letter No. 284 of January 14, 1882, from which the following is extracted :—

> "For the sake of diminution of friction and other well-known objects which need not be specified, the Imperial Government delegated a share in its administration to Local Governments. It makes a rough calculation that a certain portion of the general income, together with the increment thereon, will suffice to meet

> the expenditure which it retains under its own control, and it hands the rest over to Local Governments, with the obligation to meet out of it certain necessary expenditure.... But it cannot bind itself to this proportion for ever, because the calculation must necessarily be a rough one, and is liable to be vitiated by unforeseen failure of resources, or growths of charges, whether in the share of financial administration which it retains or in that which it delegates. An examination of the appropriation and a readjustment of it in any particular found necessary are indispensable. A surrender of the right to this would be analogous in its nature and effects to the Permanent Settlement of Bengal."

Although anxiety was expressed for the provinces the revisions were primarily conducted in the interests of the Imperial Government as the resumptions incontrovertibly proved, and the Permanent Settlement was delayed because the Government of India did not desire to relinquish its control over its revenues. Under the quinquennial settlement the usufruct was permitted to be undisturbed for five years only. But how tentative was this surrender, which, even for five years, was looked upon as highly impolitic by the Secretary of State,[1] was proved by the Government of India, which did not take back to exercise its inherent right to resume the usufruct of its revenues at any time it liked as is indicated by the not too uncommon levies or benevolences, as they were called, which it forced upon the provincial balances. Not even the Permanent Settlement can be interpreted to mean that the revenues settled upon the different Provinces became their revenues in anything like a legal sense, for in the eye of the law all revenues including those provincialized still remained the constitutional possession of the Government of India. Whether the Government could have effected a legal separation by ivesting itself of the revenues of India in favour of the Provinces is doubtful. The Parliamentary enactment which vests the revenues of India in the Government of India had limited the legislative powers of the Government of India by a clause which prevented it from

> "making any laws or Regulations which shall in any way repeal, vary, suspend or affect any of the provisions of this Act (of 1833).... or the Prerogative of the Crown or the Authority of Parliament."

[1] Cf. Despatches to the Government of India No. 51, dated February 16, 1882, and No. 208, dated July 6, 1882.

At least it is significant that it has required an Act of Parliament to do so. But the Government of India had not made any legal separation of the title to the revenues, and if it could have done that by its own law it could have undone it as well. Nor can it be said that the separation of Provincial revenues involved separate possession. If the Provincial Governments had been allowed to establish their own treasuries to receive the collections from Provincialized revenues, then Provincial revenues in the sense of separate possession could have had a meaning. But by the rules, Provincial Governments were not to deposit their funds elsewhere than in the treasury of the Imperial Government. Consequently the possession of the revenues remained in the hands of the Government of India and the disbursement from the provincial revenues was carried out from the Imperial Treasury by the officers of the Imperial Government. None the less, the view was hard to die. But such an erroneous view was never more confidently stated than by the Honourable Mr. Sayani, and never more forcibly controverted than by Sir James Westland in a passage-at-arms between the two on the occasion of a Budget debate in the Council Hall of the Government of India from which the following is reproduced :—

The Honourable Mr. Sayani said :—

> "The whole theory underlying the system (of Provincial Finance) is that the revenues of the country, far from belonging to the Provinces which raise them or being available for their own requirements.... constitute a common fund to be absolutely at the disposal of the Central Government, out of which it is to dole out what amount it pleases for provincial services."

Catching the condemnatory tone of these comments, the Finance Minister, Sir James Westland, rose to say :—

> "The Honourable Mr. Sayani, if I correctly followed him, stated that the arrangements of the Government of India were made upon the theory that the revenues were not the revenues of the separate Provinces and were not applicable to the expenditure of the several Provinces, but were the revenues of a common fund, the Local Governments being merely the agents of the Government of India for their realization. I think he mentioned the theory in some words like these, only for the purpose of condemning it. Well, I wish to assert that theory in the most positive manner I can. The revenues are the revenues of the Government of India—its Constitutional Possession. The Government of India is a body created by Act of Parliament, and

> if reference be made to that Act of Parliament it will be seen that the revenues of India are the revenues of the Government of India and of that Government alone. Every action that the Local Government takes in respect of them must be justified by a specific order of the Government of India; the Local Governments derive their powers entirely from the Government of India, and apart from that Government they exercise no financial powers whatsoever."[1]

Again, if the financial relationship between the Central and Provincial Governments in India were based upon the principle of separation of sources and contributions from the yield, what ought to have been shown was the existence of legal responsibility of the Provinces for the services they administered. It is true there was a certain division of functions between the Central and Provincial Governments in India analogous to what existed between the Central and State Governments in most of the federal countries. But it must, however, be remembered that this division of functions had no sanction in law and no legal responsibility attached to the provinces for any of the services, not even for those provincialized. The entire responsibility by law rested on the shoulders of the Imperial Government and it could not absolve itself of that responsibility by transferring it on to any of the Provinces. That the Provinces accepted the financial responsibility for some of the Imperial services was their choice. That they could not be compelled to undertake them was proved in a singular manner by Madras refusing to accept such responsibility in 1877. By law it was thus the Government of India which was responsible for peace, order and good government in the country. All services were therefore necessarily Imperial in status undertaken by the Government of India in discharge of its constitutional obligations.

It is therefore obvious that the view which posited that the relationship between the Central and Provincial Governments in British India was one of separation of sources and contributions from the yield was an untenable view. The Government of almost every country in these days is carried on by an inter-related group of polities operating in specific areas and discharging specific public functions ; and it may well be that in any two given countries the number of polities engaged in carrying on the work of government is the same. But it is quite erroneous to argue from that fact that the nature of their inter-relationship must have been alike. It is therefore as well to invite attention to the point that the ordered

[1] Financial Statement, 1897-8, p. 110, etc.

relationship between such inter-related polities depends upon which of them is the law-giving polity. It will be granted that in such group of polities there is one that is supreme in the sense that from a variety of reasons mostly historical it is competent to give law to the other polities. In federal countries it is the State Governments which are the law-giving polities. They occupy a pivotal position. They are the depositories of sovereign powers original as well as residuary. They can claim independent existence, have their own resources and discharge their own functions. The Federal Government, on the other hand, is the creature of the State Governments. It can have no powers and no functions other than those which the States have been pleased to transfer to it by an act of self-abnegation. It is therefore truthful as well as becoming to speak of the financial relationship between the State and Federal governments as one of separation of sources and contributions from the yield.[1] For there the States have their separate resources which they lawfully own and can therefore be spoken of as surrendering their revenues to make contributions to the Central Government after paying for their own services. But the same was inconsistent with the position of the Provincial Governments. Far from pivotal, the Provincial Governments formed the weakest entities in the group of administrative polities functioning in India. Up to 1833 the Provinces had separate rights to surrender in a *foedus* and had the government of India been then organized on a federal basis the position of the Provinces would have been very much the same as those of the States in federal countries. But with the establishment of the Imperial system by the Act of 1833 the last chance of creating a federation in India vanished. By that Act the sovereignty of the Provinces was so entirely crushed that no trace was left of it to permit of a truly federal element ever to enter into their relationship with the Central Government. Since that Act the government of the country has been entrusted to a single authority charged with the sole responsibility for the good government of the country. As no single administration could support the Atlantean load of governing such a vast country with the help of central bureaux, great powers were delegated to the Provincial Governments. But this must not obscure the fact that they were literally the

[1] Of course, it is not necessary that there should be a federal system. A legalized system of decentralization will be equally compatible with separation of sources and contributions from the yield.

"agents of the Government of India." Common usage had elevated the term "Provincial" to a proud position. Along with Provincial Revenues it had been usual to speak of Provincial Services, Provincial Civil Servants, Provincial Courts, etc., as if all these and other things constitutionally belonged to the Provincial Governments. But the usage was full of irony. For, when one recalls the provisions of the constitutional law of the land, so far from thinking of them as Sovereign authorities one felt inclined to say that notwithstanding their high-sounding apparatus of Governors and Councils it was not appropriate to call them Governments. In any case the Provincial Governments had no legal powers or functions which polities designated as Governments have been known to possess. The fact is the Indian system of polity was diametrically opposed to the federal system of polity. It was a centralized system in which there was nothing Provincial; what appeared to be Provincial was but the regional aspect of the Imperial. It was therefore untruthful and overbecoming to speak of the financial relationship between the Provincial and Central Governments in India as being one of separation of sources and contributions from the yield. For here the Provinces had no separate resources which they lawfully owned, and could not therefore be spoken of as surrendering their revenues to make contributions to the Central Government after paying for what may be supposed to have been their own services—a supposition rigorously excluded by the law of the constitution.

If the complex code of limitations discussed in the last chapter had the effect, which it was not unreasonable to expect, of revealing the true nature of Provincial Finance, such a view as the one herein criticized could never have prevailed. That notwithstanding the existence of these limitations there should have been men who instead of wondering as to what remained of Provincial Finance when it was regulated by such limitations, argued with the confidence of the ignorant that the system was independent in its organization, is itself a proof that in their study of Provincial Finance the study of its limitations formed no part. Otherwise a reference to that code would have shown that if the Provinces had separate revenues and separate services they would have had powers of alienating whatever revenues they liked, of spending on any service they desired, of framing their Budget Estimates with

a view to any particular policy they decided to adopt, and of arranging for supplementary grants in any manner they chose. But such powers they never had. Indeed no greater proof could be furnished in support of the view that everything had remained imperial in status after 1870, as it was before 1870, than is afforded by these limitations on the working of Provincial Finance.

If separation of sources and contributions from the yield as a theory of the financial relationship between the Central and Provincial Government in India was incompatible with the facts of the case, what theory was there which could be said to have been compatible with the position as defined by law? We may at once proceed to state that the only theory of financial relationship between the two governments which accorded with facts and agreed with law was that of *aggregation of the sources and distribution of the yield.*

It may seem fallacious to speak of aggregation of sources when what the Government of India gave to the Provinces was assignment of revenues and shares of revenues. To this the reply is not difficult. It has already been made clear that Provincial Finance did not involve a *de jure,* separation of sources. Nor was there a *de facto* separation either. For as has been remarked before, all revenues whether assigned or reserved were collected into the Imperial treasury and were thence paid out on all approved Government transactions. Obviously, when all the revenues are thrown into a common pool, it cannot be said without unduly straining the imagination that what the Provinces were given were revenues.[1] The collections from all sources of revenue being inextricably mixed up, the only proper view is to say that what was given to the Provinces were funds. The expressions Budget by Assignments, Budget by Assigned or Shared Revenues are in a certain sense all fictitious phrases. In all the stages of Provincial Finance what the Provinces were supplied with were funds. Under the assignment stage the supply granted was a definitely fixed sum and the only difference made as a consequence of the replacement of Assignments by Assigned or Shared Revenues was that the supply, instead of being a fixed sum, was a sum

[1] The remarks made by Captain Pretyman, M.P., in his evidence before the Royal Commission on local taxation in England with regard to the revenues assigned to Local Governments may be cited in this connection. He said: "I absolutely hold that it is imposible to say that you give a contribution from Imperial Taxation from a particular source. A man might just as well pour a bucket of water into a pond and then go and hook it out again and say that he had hooked out the same bucket of water. The taxes are paid into the Imperial Exchequer and the contribution is made from the Imperial Exchequer, and to say that you select a particular sum of money as the produce of a particular tax and that you hand that over is, I think a fallacious statement altogether." Vol. 1 of Min. of Evid. C. 8763 of 1898, Q. 9873.

which varied in amount with variations in the yield of the Assigned or Shared Revenues. But all the same it was a supply of funds and nothing more. It is even incorrect to say that the Government of India *gave* funds to the Provincial Governments for meeting the expenditure on the services the responsibility for which was undertaken by them. As a matter of fact, the receiving as well as the disbursing of all public money, including the provincial portion of it, remained in the hands of the Government of India. The only proper expression, if it is to be true to facts, would be to say that Provincial Finances simply meant that the Government of India opened a Provincial Services Account in its Treasury books which varied with the yield of the Assigned or Shared Revenues and on which and to its extent only the Provincial Governments were permitted to draw.

Thus there was a complete aggregation of the sources of revenue in the hands of the Government of India. From this fact it follows that instead of the Provinces contributing from their funds it was the Government of India which distributed the yield of its taxes among the Provinces. The situation could not be otherwise. For it should be recalled that in virtue of the Act of 1833 the financial responsibility for the services undertaken to subserve the ends of peace, order and good government rested upon the Government of India. While some of the services were administered directly by the Government of India, owing to the well-nigh impossibility of managing directly from a central bureau the affairs of a country as vast as the continent of Europe minus Russia, many of the services attaching to the Imperial Government were left to be administered under its supervision by the Provincial Government. The weak point of the situation, as has been remarked, consisted in the fact that the administrative and financial responsibility did not rest on one and the same authority as should have been the case. On the other hand at the end of every financial year all Provincial Governments sent in their estimates of the charges for the services they administered to the Government of India in the Financial Department, leaving the obligation of refusing, curtailing or granting the supply asked for to the Government of India to discharge as best it could. Not having the obligation to

find the money, the Provinces tended to make extravagant demands. And the Government of India, not being in possession of the details, was unable to judge of the true requirements of each service. Being afraid of failure of its responsibility as much by too little trust as by too much trust in the estimates sent to it, it was often obliged to submit to extravagance of the Provinces, which as we saw brought on the crisis of 1859. To avoid this fatality there was instituted the system of Provincial Finance under which the Government of India distributed its funds among the Provinces, and the Provinces in their turn undertook to manage *some* of the services which they administered for the Government of India *within* the sum which came to them severally out of this distribution.

This being the nature of the financial relationship, the criticisms of the system of Provincial Finance on the ground of inequity were quite inapplicable. Contributions must be according to ability, but distribution must be according to needs in order to make it equitable. If the system of Provincial Finance was to be impeached on the ground of inequity, then it was necessary to have shown that the distribution was unfair. Even here it may perhaps be shown that the different Provinces got different amounts if measured by their population or their area. But it must be remembered that the distribution was not primarily among the Provinces, but among the various departments, whether controlled by the Government of India or by the Provincial Governments. This could make a considerable difference in the equity of the distribution; for, the needs of the areas within the jurisdiction of the different administrative polities must be very different and cannot certainly be held to be coterminous with the needs of the departments maintained under them. The distribution of funds by the Government of India was not based upon the principle of each Province according to its needs but upon the principle of each department according to its needs. It was therefore futile to criticize the equity of the system on any other principle.

Thus interpreted, the system of Provincial Finance must strike as of the nature of what may be called Departmental Finance, something quite different from Decentralized Finance or Federal

Finance. This view cannot be far wrong from the true view as supported by the facts of the case. As in the case of Departmental Finance every Department of the State has a certain grant fixed for it in the Budget and it then draws upon the Treasury to the extent of the grant. In the same manner Provincial Governments were given a certain consolidated grant for the departments they managed and for the expense of which they were to draw upon the Imperial Treasury to the extent of the grant. Notwithstanding Provincial Finance, nothing was provincial in its status. The revenues, the services, the Civil Service, were as strictly Imperial in status after 1870, when Provincial Finance came into being, as they were before 1870, when there was no such thing as Provincial Finance in existence. It is therefore no exaggeration to say that Provincial Finance, instead of being an independent system of Finance involving freedom to tax and freedom to spend, was only a matter of accounts, the operations on the debit and credit side of which were subject to stringent control on the part of the Government of India.

This means that there was no change in the nature of the financial relationship between the Central and Provincial Governments as a result of the introduction of the scheme of Provincial Finance. The relationship of aggregation of sources and distribution of the yield was not a new one but was as old as 1833. It was a financial counterpart of the Imperial system then established. It was because there was no alteration in the relationship that Provincial Governments, even with Provincial Finance, far from becoming separate clocks, each with its own mainsprings in itself, remained as before the departments of the Government of India. Such a conclusion is bound to be regarded as somewhat of a startling character. There can, however, be no doubt that it is true and that no other conclusion is possible, given the legal relationship of the Provincial and Central Governments in British India. But if Provincial Finance is only a matter of accounts then, were there no changes that followed in its wake, in the financial organization of the Imperial system? It would be idle to deny that any change took place in the financial organization of Imperial system owing to the introduction of the scheme of Provincial

Finance, and equally idle to assert that some fundamental change had taken place in consequence thereof. To be just, only two changes worth speaking of may be said to have resulted from the introduction of Provincial Finance :—

(1) Before 1870 balances on *all* services lapsed to the Government of India at the close of the financial year. After 1870 all unspent balances on the services delegated to the management of Provincial Governments remained at their disposal and formed a part of their resources for the ensuing year.

(2) Before 1870 Budget estimates on all services had to be sanctioned by the Government of India and the Provinces could not undertake any reappropriations between the different grants for the year, even if it was found necessary, without the previous sanction of the Government of India. After 1870 the Provinces were left to a greater extent free to distribute their expenditure in any way they thought proper among the various services delegated to their management, provided their total expenditure did not exceed the funds lying in the Imperial treasury to their credit respectively.[1] But by the rules they were required to maintain all the services under thier management in a state of administrative efficiency. Similarly after 1870 the Provincial Government had complete freedom which they never enjoyed before to carry on reappropriations between the grants under their management without the sanction of the Government of India, provided their total expenditure did not exceed the amount budgeted for the year.

[1] Whether they could materially alter the distribution of the grants on the different services delegated to them is doubtful. In his despatch No. 30, dated December 10, 1874, in the Revenue Department, on a proposal by the late Lord Hobart, Governor of Madras, to discontinue the grant made from provincial funds for Roads and to devote the money to education, the Secretary of State wrote ; "I am unable to reconcile it with the principles which govern the so-called provincial administration of the revenue. I am not, indeed, of opinion that the same relative proportion which existed, on the introduction of the system, between the services made over and the expenditure upon them, should always be maintained. But I agree with Mr. Sim, that there was an implied engagement to maintain all these departments in full efficiency and integrity and an implied understanding that no one of them should be wholly sacrificed to the others, or to any other. The new financial arrangements in question were most fully discussed, both by the various Indian Governments as constituted at the time, and by the Home Government. During this discussion it was certainly never suggested that an effect of the change might be to put a stop to the construction of new roads in some parts of India; if such an eventuality had been considered probable, I doubt whether the change would have been made."

For the purposes of visualization the financial relationship between the Provinces and the Government of India may be likened to the Hindu Joint Family System with the Patria Potestas vested in the latter. Before 1870 the similarity between the two was more or less exact. Like the family property of the Hindus the revenues of India were jointly enjoyed by all the departments whether under Central or Provincial management without metes and bounds being fixed to the shares of any one of them. After 1870 the only change that took place consisted in the cesser of commensality and the fixing of metes and bounds to the shares of each in the common property according to their respective needs. The system remained a joint family system, although separate accounts were opened by the head of the family, namely the Government of India, to guard against any member overdrawing the amount placed to his credit.

Were these results worth striving for? On the results achieved in consequence of Provincial Finance a variety of opinion has been expressed. But if we judge of the results as we ought to in the light of the antecedents that gave rise to the system in 1870, it cannot be said that the hopes entertained were in any way belied. It is only when critics, solely because of their misunderstanding of the nature of Provincial Finance, sought for results which were never intended by its promotors that an adverse pronouncement came to be made. But if we keep clear of these misunderstandings and never lose sight of the fact that in 1870 what the Provinces wanted was freedom and the Government of India stability, none can assert that this compromise between Imperialism and Federalism was tried in vain. How great was the freedom gained by the provinces can be appreciated only when it is realized that before 1870 the Governor of Bengal could make

> "no alteration in the allowances of the public servants.... establish a new school or augment the pay of a daroga (watchman) to the extent of a Rupee,"[1]

nor could the Governor of Bombay have a lock made[2] without a vote of the Council of India. Nor can the importance of the large

[1] *Calcutta Review,* Vol. 3, p. 169.

[1] Report of the Committee on the Affairs of the East India Co., 1852, Vol. 10.

measure of stability derived from it be fully realized unless it is borne in mind how before 1870 the Government of India was left between the devil and the deep sea by having to refuse or to accept the bewildering demands ranging from dustbins for a Department to education for the people made by the Provinces on its not too large resources. The Provincial Governments had been saved the delay and the indignity in having to depend upon the Government of India for sanction of the meanest of their wants. The Imperial Government on the other hand was saved the fumbling task of scrutinizing the most trivial of demands and grant or reject it, but always under the apprehension of having done wrong by acting either way. The system not only gave freedom to the Provinces and stability to the Government of India, but had replaced the irresponsibility and extravagance which had proved the bane of the Imperial System by economy and responsibility, for by setting bounds to the funds of the Provincial Governments the Government of India had ended in setting bounds to itself. These results, it is true, did not satisfy the critics of Provincial Finance. More in other directions was expected of it, but that could have been possible only if Provincial Finance was a system independent in its organization. So long as Provincial Finance was a part of Imperial Finance, inseparably linked to it, it could have yielded no greater results than have followed from it, and those that have followed are by no means slight.

There, however, remains the question that, although it was not possible to alter the nature of Provincial Finance, whether it would not have been feasible to enlarge its scope by relaxing the limitations imposed upon it by the Government of India without in any way interfering with the due discharge by it of its own responsibilities. That aspect of the question will be examined in the next chapter.

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CHAPTER IX
THE ENLARGEMENT OF THE SCOPE OF PROVINCIAL FINANCE

It used to be made a matter of complaint that the system of Provincial Finance was unjust in that under it the Government of India conscripted, at every revision of the financial settlement, the increases in the revenues given over to the management of the Provinces, either for its own benefit on the pretext of meeting the requirements of the Central Exchequer or for the benefit of such of the Provinces as had by inertia not cared to improve their resources on the pretext of tempering the wind to the shorn lamb. There was a good deal of truth in this complaint in the early period of Provincial Finance. Being the custodian of the funds, the Government of india did often put the consideration of Imperial Services above that for the Provincialized Services. In the early period of Provincial Finance the prevailing idea[1] in the distribution of funds was not how much of the revenues assigned under the expiring settlement could be continued to be usefully spent on heads of expenditure controlled by Provincial Governments, but how much of the general revenues consistently with its obligations, and having regard to the growth of demands upon its resources during the currency of the settlement, could the Government of India surrender for a further period to the Provincial Governments in order to enable them to meet whatever expenditure was essential to the conduct of their administration. This attitude of the Government of India, justifiable as it was by the financial stringency of the period, changed as the financial condition became easy, so that in the latter period

> "the distribution of revenues between the Provincial and Central Governments was made, except on occasions of grave emergency, with direct reference not to the needs of the Central Government but to the outlay which each Province might reasonably claim to incur upon the services which it

[1] Finance Department Resolution No. 458 of January 28, 1881.

> administered. The first step taken in concluding a settlement was to ascertain the needs of the Province and assign revenue to meet them; the residue only of the income of the Province coming into the Imperial Exchequer."[1]

With the shifting of emphasis on the competing needs of the Central and Provincial Governments the complaints on the score of unfair distribution of funds ceased, and no fear of an adverse revision remained when the settlements were declared permanent. There, however, remained the other main objection to the system of Provincial Finance, namely, that the limitations imposed upon it tended to reduce the Provincial Government to a nonentity by restricting the scope of their activity within the field allotted to it.

It was said that if the system of Provincial Finance was inaugurated on the understanding by which the Government of India said to the Provinces

> "Take what we are able to give you, and for the residue take certain powers of taxation and raise it yourself.... for there are subjects which can be dealt with far better by local than by imperial taxation,"

there was no reason why the Provinces should not have been allowed the freedom to tax. Again, if certain resources had been made over to the Provinces, what justification was there in not allowing them to raise loans for promoting purposes of local utility? This restriction was particularly resented; for, it was pointed out that even the humblest Local Authority in India enjoyed the power to raise loans to effect improvements in its respective jurisdiction, while such an important polity as a Provincial Government was deemed unworthy of shouldering such a responsibility. Indeed it was felt as a most galling restriction, for under it it happened that a Provincial Government which was deemed to have enough credit to be accepted as security by the Government of India against loans to other local bodies subordinate to it, was ruled to have no credit to pledge in its own behalf !

What, again, was the justification for limitations on the spending powers of the Provincial Governments in the matter of staff and establishments? If the administration of certain services had been entrusted to the Provincial Governments, why should they have been circumscribed in the matter of

[1] Finance Department Resolution No. 27 dated May 18,1912.

creating new or abolishing old appointments or revising the establishments of their departments? If under the system of Provincial Finance the Provinces were responsible for the services they managed, why should they not have been trusted with powers to make needful changes in the agencies which carried out those services?

Further, it was asked, what justification was there for the limitations on the preparation and execution of the Provincial Budgets ? If separate Budgets had been carved for each of the Provinces out of what once formed an Imperial Budget for the whole of India, why should the Provinces have been required to submit their Budgets to the Government of India? Merely as a matter of conveying information the requirement was comparatively of a trifling character. But why should the Government of India have claimed to alter their estimates and compel them to abide by the grants as fixed by it? Was such a scrutiny of Provincial Budgets a cover for dictating a policy to the Provincial Governments? If this was so, what was the scope for initiative and freedom left to the Provinces which it was the primary object of Provincial Finance to promote and of the permanent settlements to ensure? Again, why should a Provincial Government have been required to come to the Government of India for a supplementary grant as it had to do where the excess over estimates could not be met by reappropriations, even when it had balances to its credit so sufficient as not to be reduced below the required minimum by a draft to meet the excess?

For each of these limitations which fettered the Provincial Governments and contracted the scope of Provincial Finance, the Government of India was of course ready with abundant excuses.[1] In the matter of revenue restrictions it urged that the revenues of India were its constitutional possession for the proper disposal of which it was responsible to the Secretary of State and Parliament. That being the case it was fair that the Government of India should require that the sources assigned to the Provinces should not be alienated nor spent on unauthorized grants or unapproved services. Again, being responsible for all services it followed that the Government of India could not have afforded to weaken its position as to managing the resources of

[1] In this connection, cf. Evidence of Mr. J. S. Meston before the Royal Commission on Decentralization. Mit. of Evid., Vol. X, Q. 44807—45336.

the country by partitioning the taxing or borrowing powers. The field for taxation in India being considerably limited, an indiscriminate levy of taxes by a competing authority, it was feared, would have led either to discontent by additions[1] to the Imperial imposts or to a retrenchment of the field for Imperial taxation. The concentration of borrowing powers in its hands, the Government of India urged, was a natural corollary of the statutory hypothecation of all India revenues to all-India needs. The Government of India could not allow its revenues to be mortgaged by a Provincial Government for its own needs. Besides it was afraid[2] that if this freedom to borrow were granted

> "the temptation to hypothecate revenues in advance might become inconveniently strong, and the future administration of a Province might be starved because a former Government had been in a hurry to proceed with some costly ambitions and non-productive project."

Moreover, the loan market in India, it was said, was as limited as the taxable capacity of the country. Therefore

> "if many buckets are dipping into one well and drought cuts short the supply of water, obviously the chief proprietor of the well must take it upon himself to regulate the drawings."[3]

In the matter of specific restrictions on spending powers with respect to staff and establishments, the defence of the Government of India was that such restrictions were necessary in the interest of uniformity and economy. It was urged that if each province was allowed the freedom to regulate the remuneration of the Public Service which carried on the actual work of administration the result would probably have been unequal pay for equal work. Such a consequence would have engendered discontent in the servants of the State which it was desirable to prevent in the interest of good administration. Again, if the Provinces had been given full freedom to revise establishments it might have resulted in considerable additions to the recurring expenditure of the Provinces, thereby jeopardizing the stability of the Provincial as well as of the Imperial finance, for in the last resort the Government of India was responsible for maintaining the Provincial Governments.

[1] Between 1870 and 18.79, when the Provinces had a freer hand h the matter of local taxation, all of them selected the already overburdened basis of taxation, viz. land for their levy.

[2] *R.C.D.* Mit. of Evid., Vol. X, Q. 45310.

[3] Report on Indian Constitutional Reforms, Cd. 9109 of 1918, p. 94, hereafter called Joint Report.

In the matter of control over the preparation and execution of Provincial Budgets the Government of India urged that the scrutiny was not motivated by a desire to control an unwelcome policy,[1] but was inevitable because of the three important ties by which the Provincial Budgets were bound up with the Budget of the Government of India. These were (1) the incorporation of the income and expenditure of the Provincial Governments into the Budget and the Annual Accounts of the Government of India as an integral part thereof; (2) the system of divided heads of revenue and expenditure, and (3) a common treasury involving a combined "ways and means" for the transaction of the Central and Provincial Governments. The first two points of inter-relation required that the Government of India should examine the Budget Estimates of the Provincial Governments. It was urged[2] that the power to make such alterations was rendered specially necessary by the inveterate tendency of Local Governments to over-estimate their expenditure and under-estimate their revenue. Estimates which departed widely from actuals meant bad finance and also a provision of larger ways and means for the working of the Treasury. But even if this tendency was absent it was incumbent on the Government of India to scrutinize the Provincial Estimates in order to preserve accuracy in the combined accounts. Besides the interests of accuracy, the Government of India had to ascertain by a scrutiny of their estimates that a Province did not impair the stability of its finances by (1) including in its budget expenditure on schemes which had not received due administrative sanction, or was not likely to receive such sanction in time to be incurred during the year; or (2) by entering on an enhanced scale of expenditure a Province was not unduly depleting its balances. But by far the strongest reason why the Government of India needed to scrutinize the Provincial Estimates consisted in the fact that in so far as some of the Heads of Accounts were shared, the ultimate result of the Central Budget, whether there was to be a surplus or deficit, depended upon the accuracy of the estimates. The Government of India, it was urged, was thus directly interested in the Provincial Budgets, and could not have abandoned its right to scrutinize them without exposing its budgetary system to serious

[1] *R.C.D.,* Mit. of Evid., Vol, X, Q. 44981.

[2] *R.C.D.,* Mit. of Evid., Vol. X, Q. 44863.

derangement. The third point of inter-relationship necessitated that the Provincial Governments should work within the grants as fixed finally by the Government of India. To have allowed the Provincial Governments the liberty to exceed the grants because they had ample balances to their credit would have been incompatible[1] with the responsibility of the Imperial Government to provide the ways and means for the whole administration of the country. A provincial balance, it was pointed out, was not a separate balance locked up in a separate provincial chest. It was a part of the general balances on which the Government of India operated daily. If a sudden demand uncontemplated in the Budget were to be made upon these balances, as would have been the case if the Provincial Governments had exceeded their budget grants, it would have disturbed the ways and means transaction and would have involved the Government into insolvency by causing insufficiency of cash.

All these defences of the restrictions on Provincial Governments were plausible defences and could have been decisive if the centralized system of administration in favour of which they were urged could be deemed to have satisfied the ends of good government. But it was not unreasonable to argue as was done by the Provincial Governments[2] that modern tendencies were all moving in the direction of forms of government which placed fullest powers as low down in the administrative scale (i.e. as near the section of population immediately affected) as could be safely arranged. It is reasonable to centralize such powers as could not be efficiently exercised otherwise. But it is equally unreasonable to centralize powers where central control or uniformity is not clearly essential or is impracticable. By centralization all progress tends to be retarded, all initiative liable to be checked and the sense of responsibility of Local Authorities greatly impaired. Besides, centralization involves and must involve a serious sacrifice of elasticity, for it is naturally disagreeable to a central department to have to deal with half a dozen different ways of managing the same branch of administration, and which therefore aims at reducing all types to one. Further centralization conflicts with what may be regarded as a cardinal principle of good government, namely, that when administrative business reached an authority fully competent to deal with it, that authority should deal with it finally. Even when

[1] *R.C.D.,* Mit. of Evid, Vol. X, Q. 44865.

[2] In this connection see the very trenchant memorandum by the Government of Bombay on Decentralization, *R. C. D.,* Mit. of Evid., Vol. VIII, Appendix II.

there is a higher authority equally competent, to pass the business on to it would at best help to transfer power to the hands of the lower ranks of the official hierarchy, by causing congestion of business in the Central Department. Thus centralization, unless greatly circumscribed, must lead to inefficiency. This was sure to occur even in homogeneous states, and above all in a country like India where there are to be found more diversities of race, language, religion, customs and economic conditions than in the whole continent of Europe. In such circumstances there must come a point at which the higher authority must be less competent than the lower, because it cannot by any possibility possess the requisite knowledge of all local conditions. It was therefore obvious that a Central Government for the whole of India could not be said to possess knowledge and experience of all various conditions prevailing in the different Provinces under it. It, therefore, necessarily became an authority less competent[1] to deal with matters of provincial administration than the Provincial Governments, the members of which could not be said to be markedly inferior, and must generally be equal in ability to those of the Central Government, while necessarily superior as a body in point of knowledge.

To these arguments the only reply the Government of India could make was that it concentrated all power in its hands, not from principle but from necessity. That necessarily arose out of its constitutional obligations. The law had invested it with the superintendence, direction, and control of the civil and military government and the ordering and management of the revenues of the country. It could not therefore relax its control over the powers it had delegated to the Provincial Governments. It was, of course, impossible to deny the force of this argument. So long as the Government of India remained the authority solely responsible to Parliament it was reasonable to hold that it should be the controlling authority in all matters pertaining to the administration of the country. But it was equally reasonable to ask whether it would not have been possible in the interests of cordiality

[1] In this connection it may be of interest to draw attention to the semi-serious suggestion made by Mr. A. C. Logan, in which he argued that if decentralization "cannot be effected then there is an alternative method of so remodelling the constitution of the Government of India as to replace the present departments by departments of various local areas each with its own Secretary and Member; thus there should be a department of Bombay with Secretary and Member appointed from that Province dealing with all Bombay questions and the like for other (six) provinces. Thus each Province could govern itself from Calcutta under the supervision of the Governor General,"—*Vide R.C.D.,* Mit of Evid., Vol. VIII, Q. 35531.

between the Central and Provincial Governments to have relaxed such of the restrictions on the financial powers of the Provinces as would not have been incompatible with the due discharge by the former of its own responsibilities. That it was possible so to enlarge the scope of Provincial Finance by a relaxation of the limitations without injury to the position of the Government of India must be said to be evident from the following analysis of the suggestions made by the Provincial Governments. These suggestions were

(i) Power of taxation and borrowing on the security of Provincial Revenues.

(ii) Power of sanctioning expenditure on Staff and Establishments up to a limit higher than that allowed by the Government of India.

(iii) Separation of Provincial Estimates from the Imperial Budget and Accounts.

(iv) Abolition of the system of divided heads of revenue and expenditure and the replacement of it by a system of separation of sources and contributions from the yield.

(v) Power to spend part of their balances up to a defined amount, without the previous sanction of the Government of India in meeting an excess of expenditure over Budget Estimates.

What objections were there, from the standpoint of the constitutional responsibilities of the Government of India, to the grant of these demands? Clearly it was possible for the Government of India to have marked off certain sources of taxation best suited for provincial levy and unconnected with the imperial imposts. Similarly it was possible to have permitted the Provincial Governments to borrow to a limited extent on the security of the revenues assigned to them. To suggest as did the Government of India, that the Provincial Governments would abuse these powers to the extent of causing discontent or jeopardizing the stability of their financial system, was to believe that such legally recognized polities as the Provincial Governments were run by incompetent administrators unmindful of their obligations. The second demand could have been granted with greater ease. It is to be noted that the Civil Service of the country which deals with revenue and general administration has been divided into

(i) The "Indian Civil service" recruited in England by

competitive examination, at which natives of India, like other subjects of His Majesty, can compete; and

(ii) The "Provincial" and "Subordinate" Civil Services, recruited in India, and, as a rule, only open to persons who are natives of the country or domiciled therein.

Each Province has had its own separate "Provincial" and "Subordinate" Services, but while it has a free hand in recruiting for the latter, appointments to the former have been regulated by rules laid down by the Government of India. That being the case it would have been only logical that the Government which had the power of recruiting for an appointment should also have the power of regulating the salary. There can be no reason why the salaries of posts of similar grades should be equal in all Provinces; nor can they be equal having regard to the differences in the economic conditions of the Provinces. A Local Government knows better the economic value of a local man, and should therefore have been trusted with powers up to a limit covered by the Provincial and Subordinate Services. The suggestion of the Government of India that the grant of such powers would have resulted in heavy additions to the recurring expenditure of a Province must be said to be too ungracious to be taken seriously.

The acceptance of the third recommendation could not have in any conceivable way affected the responsibility of the Government of India. The only objection which the Government of India urged was that such a separation would have been unwise. To have published accounts or estimates of the Imperial Government which excluded the accounts of the Provincial Governments, when the items excluded covered such a large magnitude, would have misled the public and rendered a wholly incomplete idea of the financial position of the Government of India.[1] Now it must be granted that if such a separation of accounts could have avoided the scrutiny and the consequent restraint on budget-making by the Provinces, not to have done so was to have put the supposed convenience of the student of Accounts above the administrative convenience of the Provincial Governments. Besides, it is to be pointed out that the sugestion was not a novel one. It was only a revival of the old practice which obtained between 1871 and 1877. During that period of financial decentralization Provincial figures did not apear in the Imperial

[1] *R.C.D.,* Mit. of Evid., Vol. X, Q. 44866, 45179-180.

Budget. The Provincial Budget as framed by the Accountant General was passed by the Provincial Government and no more reference was required to the Government of India except to inform it that the estimate was a probable one and that it was within the limits of the revenues assigned to the Province. It is therefore obvious that there could not have been any constitutional objection to the granting of the demand for a separation of accounts.

The fourth recommendation was of the same class as the third, in that it too could not be said to have involved any infringement of the constitutional responsibilities of the Government of India. The abolition of the divided heads of revenue would have clearly eliminated the interference of the Government of India in the preparation of the Budget Estimates by the Provinces. Similarly the abolition of the divided heads of expenditure would have given the Provinces greater[1] freedom in the matter of spending the revenues assigned to them. Under that system a Provincial Government could not spend more on a particular service if it was a divided head unless the Government of India consented to increase its figure for expenditure under that service. If the Government of India reduced its figure the Provincial Government was perforce obliged to reduce its own. The substitution of a system of separation of sources and contributions from the yield for the system of divided heads would have clearly resulted in a greater freedom to the Provincial Governments, without any evil consequence to the Government of India. The objections which the Government of India was able to oppose to this demand was far from convincing. It was urged[2] that the Provincial Governments under complete separation may cease to take such interest as it took in respect of revenues which were divided. But it is evidently a mistaken view that a Provincial Government could not have been trusted to administer a tax efficiently unless it had a financial interest in the result. This view supposed that the people engaged in the collection of revenue really knew whether it went to the Imperial or the Provincial credit. As a matter of fact the ultimate credit could in no way have affected the collection of the revenue. And even if that view were true the

[1] *R.C.D.,* Mit of Evid., Vol. VIII, Q. 35225-28.

[2] *Ibid.,* Vol. IV. Q. 15100, 16791.

difficulty could easily have been met by each government having its own staff to collect its own revenues. The employing by one Government to execute its functions the agencies of another, as has been the case in India, is obviously a complicated and awkward system. If separation of agencies had resulted from the separation of sources it would have been a reform all to the good. Besides it was overlooked that the fact that the divided heads gave a personal interest to the Provincial Governments was indeed a point against the system rather than in favour of it. A system which created a vested interest in a revenue apart from the interest of the public was a bad system, for such an interest was sure to lead to harshness and rigidity in collection.[1] As an instance of this may be cited the notorious unwillingness of Provincial Governments in the matters of remitting taxation.[2] If humanizing the Provincial Governments was a desirable end, then the abolition of divided heads was a good means. The other objection which the Government of India was able to oppose was that such a change would have given the share of the Government of India from the revenues raised in the provinces the character of a tribute, and the Government of India would have appeared to be the pensioner of the Provincial Governments, depending upon them rather than controlling them. This objection must be ruled out as being sentimental.

The fifth and the last suggesion for the enlargement of the scope of Provincial Finance was least obnoxious to the responsibility of the Government of India. There is no reason why there should have been a single-treasury system for both the Governments, Provincial and Central. It is true that a common treasury permits a high state of economy in the cash balances of the country, which it is the duty of every Government to effect, just as any business firm looks upon it as its duty to economize its till money or floating cash. But if a common treasury hindered the use of the balances the gain in freedom would have more than compensated the loss involved by the increase in the cash balances that would have followed the institution of separate treasuries and separate ways and means. But the demand of the Provincial Governments did not ask for a complete separation of Provincial balances from the balances of the Central Govern-

[1] Cf. in this connection *The Fee System,* by Prof. Urdhal.

2 *R.C.D.,* Mit of Evid., Vol. X, Q. 44866.

ment involving separate treasury system and separate ways and means, probably because they anticipated that as such a proposal meant separate possession of provincial revenues the Government of India would raise a constitutional objection to such a demand. All they asked for was a power to spend part of their balances up to a defined amount without reference to the Government of India. The suggestion was accepted[1] as "reasonable," for its consequences, provided it was not a big amount, would have been not a deprivation of the Government of India's power of control over nor a disturbance in the ways and means, but only a slight increase in the cash balances of the country.

Thus it is clear that the scope of Provincial Finance was unduly restricted by a too narrow and too legalistic an interpretation of the constitutional obligations of the Government of India. From the above analysis of the suggestions made by the Provincial Governments it is clear that without making any breach in the constitutional position of the Government of India it would have been possible, with a more charitable view of their sense of responsibility, to effect the changes they desired. Such concessions would have made Provincial Finance as self-sufficient and as autonomous as it was capable of being made. The system would no doubt have rested on pure convention: none the less its benefits would have been as real as though it was based on law.

But the time had arrived when the financial arrangements could no longer be looked upon as a matter which concerned the Central and Provincial Governments. There arose a third party whose counsels were rejected in 1870 but which now insisted on having a voice in the disposition of the financial resources of the country. It was the Indian taxpayer, and his clamour had grown so strong that it compelled the powers that be to alter the system so as to permit him to take the part he claimed to play.

The changes that followed upon this event will form the subject-matter of Part IV.

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[1] *R.C.D.,* Mit of Evid., Vol. X, Q. 44900.

PART IV
PROVINCIAL FINANCE UNDER THE GOVERNMENT OF INDIA ACT OF 1919
CHAPTER X
THE NECESSITY FOR A CHANGE

As two types of governmental systems, the Presidential and Parliamentary are often contrasted[1] to the advantage of the latter. For the Parliamentary type of government it has been claimed[2] that no other arrangement seems able quite so effectively to place the centre of authority under the control of those who are supposed to represent the popular will : that it means government by consent: that it ensures the exercise of the functions of government by a body of persons who are amenable to and whose views are in accord with those of the majority of the Legislature : that it is the only form of government which provides for a powerful Executive so very necessary for a stable government without rendering it so irresponsible as to endanger the essentials of a good government: that it throws upon the holders of high office the onus of vindicating their acts or, failing, suffer dismissal: it renders the Legislature supreme both in legislation and administration so that it forms a government not only to make life possible but also to make life good. No other form of government, it is urged, can so effectively prevent order degenerating into tyranny or progress blocked in the name of peace. So eminently has Parliamentary Government demonstrated its supreme virtue in securing orderly progress that, though originally developed as an accident in the evolution of the British Constitution, it has been most eagerly adopted as the most fundamental institution by many countries whose political convulsions have required them to prepare anew or alter the existing framework of their governmental systems.

If the fact of the Executive being a part of the Legislature be a sufficient indication of the Parliamentary type of government, then the system of government in India since 1853 may be said to be analogous to the Parliamentary system. Indeed it would

[1] Cf. James Bryce, *The American Commonwealth,* 1910, Vol. I, Chap. XX.

[2] Cf. Sir Sidney Low, *The Goveranance of England,* 1914, Ch. III, *passim*.

hardly be possible to deny this characteristic to the Indian constitution, for the provision of the constitutional law has since then been that the additional (i.e. the Legislative) members *and* the ordinary (i.e. the Executive) members shall *together* form the Legislature for the making of the laws and regulation for the peace, order and good government of British India.[1] But judged in the light of its *de facto* consequences the Indian system falls lamentably below the *de jure* connotation of the class of governmental systems to which it belonged. If in other countries the record of Parliamentary government is one of submission of the Executive to the Legislature, in India it had been one of the Executive thwarting, often of flouting, the legislature. In vain may one search the proceedings of the Legislature to find the Executive ever paying deference to the wishes of the people.[2] Reforms have been incessantly, asked for by the legislature only to be denied with equal tenacity by the Executive.

The reason why the Indian parliamentary system was but an empty form is to be found in the fact that it was a Parliamentary system without a Parliamentary Executive. In other words, the Executive under the system was not responsible to the legislature and was not removable by it. The Indian Legislature could neither make nor unmake the Indian Executive. The Indian Executive made peace or war as it liked without being afraid of dismissal by the Legislature. It taxed as it pleased and spent as it liked, without the slightest compunction as to the wishes of the Legislature, it undertook acts or refused to undertake them according to its own sweet will, but had no fear of a vote of censure from the legislature. The nearest approach to the Indian

[1] Cf. the important note by that eminent lawyer Sir Bhashyam Iyengar on the Reform proposals of Lord Minto in 1908.

[2] The following table from N. C. Kelkar's *The Case for Indian Home Rule,* p. 81, is illustrative of the fact:—

Legislative Council	No. of Resolutions moved	No. of Resolutions withdrawn	No. of Resolutions rejected	No. of Resolutions accepted
Supreme ...	3	2	1	0
Madras ...	32	26	6	0
Bengal ...	38	26	12	0
U. P. ...	22	10	12	0
Bihar and Orissa ...	5	5	0	0
C.P. ...	4	2	2	0

system of parliamentary Government is to be found in the position of the Irish Parliament which existed from 1782 to 1800. The peculiarity of the case lay mainly in the fact that while this Irish Parliament, commonly known as Grattan's Parliament, was during the period it lasted admittedly a sovereign Legislature, the Irish Executive of the time was as regards the Irish Parliament in no sense a Parliamentary Executive. The Irish Executive, instead of being appointed and dismissed by the Irish Legislature, was in reality appointed and dismissed by the Crown on the advice of the English Ministry. In the same manner the Indian Executive was appointed and dismissed by the Crown on the advice of the Secretary of State for India who is a member of the English Ministry and was in no way responsible to the Indian Legislature.

It is true that the Executive in India was ultimately responsible to the Secretary of State for India and through him to the British Parliament. But it must not be forgotten, said Mr. Fisher,[1] that

> "the affairs of India are in the hands of the Government of India.... Proposals may come from the Indian Government to London and be vetoed by the Imperial Government. The large lines of Indian policy may be shaped by a Secretary of State in the India Office, and a powerful Secretary of State may make his influence felt strongly on the direction of Indian affairs if he encounters no serious opposition from the Government of India. But in reality the last word lies with the Indian official opinion (i.e. the Executive in India), that a measure would not be forced upon India against the united opposition of the Indian bureaucracy."

As a matter of fact neither was the Secretary, though all-powerful in Indian affairs, inclined to restrain the Executive in India from doing what the people regarded as evil nor to constrain it to do what he thought to be for the good of the people.[2] Hardly can it be said that the British Parliament, wherein every member

[1] Fisher, H. A. L., on Imperial Administration in his *The Empire and the Future,* 1916, p. 58.

[2] The only two cases in which the Secretary of State is known to have run counter to the wishes of the Executive in India were those concerning the Punjab Drainage and Canal Act and the Indian Tariff Act of 1875. The latter was obviously detrimental to the interests of India.

has been supposed to be a member for India, has made the acts of the Indian Executive a matter of anxious scrutiny.[1] On the other hand, its interference in Indian affairs has on some occasion been positively harmful to the interests of the Indian people.[2] Indeed, there can be no doubt that the interest of Parliament in Indian affairs since the assumption of the Government of the country by the Crown instead of increasing has considerably diminished as compared with the interest it took when the affairs of the country were in charge of the Company.[3] Nay, the influence of the British Parliament over Indian affairs, it may be said, has undergone a decided change for the worse,[4] inasmuch as all its influence is exerted to strengthen the Executive in India against popular clamour rather than restraining it from flying in the face of public opinion.

It is therefore evident that the control of the Secretary of State and of Parliament over the Executive in India was only a nominal control, and the Indian Executive was in reality an uncontrolled body of bureaucrats in the exclusive charge of Indian affairs. How was this trust discharged by this irresponsible Executive ?

The answer to this question may be summed up in the statement that the Indian Executive has sacrificed progress to order. Whether we examine its actions in the field of legislation or finance, the truth of this statement becomes painfully evident.

[1] The salary of the Secretary of State for India being paid out of the revenues of India, Parliament, had no occasion, as it had in the case of the Colonial Secretary, to annually review his actions in the full activity of the parliamentary Session. At the end, generally after the Appropriation Bill had been read a second time, the Indian Budget used to be submitted to Parliament which, after a somewhat desultory discussion, used to pass a Resolution proclaiming in solemn terms that the Indian Accounts show certain totals of income and expenditure ! Many attempts were made to improve the control of Parliament on Indian affairs. But Parliament never cared to increase its control. In 1873 Mr. R. N. Fowler moved "that in the opinion of this House it is desirable that the Statement of the financial affairs of India should be made at a period of the Sessions when it can be fully discussed." Again in 1883 the same motion was brought forward by Mr. Fowler. Both of these attempts to furnish the House with a better opportunity to review Indian affairs fell to the ground. In 1899 the same Resolution was moved by Mr. Cladwell, M.P., with the addition that the Salary of the Secretary of State for India be placed on the British Estimates. It was opposed by Mr. Fowler, who was then the Secretary of State for India, and was in consequence lost. By the provision of the Government of India Act of 1919 the House has a better opportunity to criticize Indian affairs owing to the salary of the Secretary of State having been placed on the British Estimates.

[2] Cf. the Resolutions of the House of Commons in 1877 and 1879 condemning the Indian Tariff policy in the interest of Lancashire.

[3] In support of this may be cited the fact that Parliament never granted a lease of power without making harassing inquiries into the affairs of the East India Company.

[4] Compare the Parliament which subjected the Indian Executive to the Judicature with the Parliament that has freed that Executive from Judicial and Legislative control. Compare the Parliament which laid stringent regulations on the Europeans in India with the Parliament which not only allowed them free ingress but kept them above the control of the Magistracy. Compare the Parliament which impeached Hastings with the Parliament which supported General Dyer.

There are very few countries in the world where there may be said to prevail so many social evils as has been the case in India. Law is a means by which society from time to time repairs its ills in order to effect its conservation. But with very few exceptions[1] the rule of *personal* law of a most pernicious character has been allowed to govern the social relations of the citizens, notwithstanding the fact that enlightened public opinion has long since raised its voice of protest against its perpetuation.[2] So religious has been the regard of the Executive for the preservation of the personal law, notwithstanding the fact that it has disabled millions of its subjects from enjoying the most elementary rights of citizenship, that it has been careful not to allow in cases of conflict the rational provisions of the civil law to override or chasten the irrational rulings of that archaic code.[3] Judged by the modern standard of legislation the Executive must be pronounced to be extremely conservative. In the matter of securing economic rights its response was of a very halting character, and the legislation it has been persuaded to undertake for giving security or fixity of tenure to the agricultural[4] or ease and comfort to the industrial[5] population sank in comparison to what it refused to undertake for liberating the rest from a species of industrial slavery notwithstanding incessant demands for its abolition.[6]

Its financial system was similarly characterized by the desire to preserve peace and order by taxing the masses and exempting the classes. It has been urged that the revenue system be so altered as to give relief to the poorer classes. Indirect taxes are justified as a method of making the poorer classes pay their

[1] Bengal Regulation of 1829 prohibiting *Sati;* Act V of 1843 (prohibiting slavery); XXI of 1850 (re enacting Sec. of Reg. VII of 1832) prohibiting forfeiture of rights or property as a result of loss of caste or religion ; XV of 1856 authorizing the remarriage of Hindu widows ; XXI of 1866 enabling native Converts to Christianity to obtain divorce ; XXVII of 1871 restricting unnatural practices ; III of 1872 providing a form of marriage for all persons who are neither Christians, Jews, Hindus, Mahomedans, Jains, nor Sikhs.

[2] It was first accepted by Warren Hastings in 1772 and was embodied in the East India Company's Act of 1780 (21 Geo. III, c. 70, ss. 17 and 18); the provisions have been incorporated in later Statutes.

[3] Cf. the provisions in favour of the personal law in the Indian Succession Act X of 1865; the Transfer of Property Act IV of 1882, and the Indian Trust Act II of 1882.

[4] Cf. The Tenancy Acts of 1859, 1868, 1881 and 1885 in Bengal; Oudh Rent Act of 1868 in U.P.; the Deccan Agriculturists Relief Act of 1879 in Bombay, and the Central Provinces Tenancy Act of 1883.

[5] The Factory Acts did not begin in India till 1881. The Act of 1881 was amended in 1891 and replaced by another in 1911 which lays down the conditions governing factory labour in India.

[6] Students of Indian economic problems will perceive that the reference is to the scandalous system of indentured labour.

share of the burden of the State without their being sensible of the fact. But there is a limiting principle which forbids the imposition of certain kinds of indirect taxes. It may be said to be agreed by students of public finance that indirect taxes be such that the poor on whom they impinge rather heavily relatively speaking, must be able to adjust the burden of such taxes to their means. When such indirect taxes fall on luxuries it is possible for them to apportion for themselves the burden they need must bear by regulating their purchases. But in those cases where they fall on necessaries of life this elasticity is not possible. The pernicious character of the salt tax in India was urged as a sufficient ground for its elimination from the revenue system of India. But not only did the Executive refuse to accept the demand, it actually increased the salt tax whenever a deficit has occurred instead of tapping some other source of revenue, which it could have done with equal ease and greater justice. In 1886, to cite one example, it was admitted[1] that

> " There can, after all is said and done, be no manner of doubt, but that one great fact remains established, one great blot not only unremoved but aggravated by the course of events in recent years ..... It is that ..... the classes in (India) which derive the greatest security and benefit from the British Government are those who contribute the least towards it."

But in the Budget of 1887-8 the Executive eschewed its own conviction and inceased the salt duty to make up for the deficit caused not by any extraordinary measure of internal improvement but by an enormous act of external aggression, namely the conquest of Burma, as though the income tax of 1886 which left untouched the incomes of the Bengal zamindars, the Assam Tea planters and the Talukdars of Oudh, in making the richer classes pay, made them pay, at the very moderate rates it levied, all they could be made to pay.

But the salt tax is not the only instance of inequity under which the masses paid for the classes. The land revenue as it has been levied in India may be cited as another example of inequity in the Indian Tax System. The sources of inequity are various. There is first of all the glaring fact that in some cases the amount of the tax

[1] Cf. the speech by Sir A. Colvin on the License Tax Amendment Bill in the Supreme Legislative Council on January 4, 1886.

is permanently fixed, while in other cases the amount of the tax payable in respect of land revenue is periodically revised. Now there is no justifying circumstance why some citizens should be exempted from contributing their quota to the growing needs of the State when the same is rigorously exacted from their fellows. This is, however, only one point of injustice to those whose taxable capacity in respect of land revenue is subject to periodical revisions. There is another which consists in the adoption of a wrong measure of capacity to pay. The cardinal feature of this revisable part of the land tax in India is to be found in the basis of the tax which, as is well known to every student of Indian Finance, is a certain unit of land. Now nobody has ever suspected the pernicious effect of the system which bases the tax on a unit of land held ; but surely there can hardly be a system more mistaken in thought or more mischievous in practice. It ignores the commonplace of economists which asserts that taxes are paid not by things but by persons,[1] and if it is persons who ultimately pay the taxes then it is manifest that they must be required to contribute not according to the land they hold but in proportion to the total income derived. On the contrary the system, in undertaking to tax per unit of land, taxes the poor peasant with only one acre to cultivate and the landlord owing hundreds of acres at a *uniform* rate without realizing that as the total incomes of the two must be vastly different this uniformity of taxation must produce a glaring inequity of treatment as between the rich and the poor.

If the revenue thus raised by sacrificing equity to the dictates of order had been spent on services promoting progress there would have been some compensation. But such was not the case.

All the revenue that was collected was spent on Services such as Police, Military and Administration which are calculated to maintain order. Such services as Education, State aid to industries, hardly found any place in the scheme of public expenditure as managed by this irresponsible Executive. But it may be asked as to why the Executive, sovereign as it was, should have stood for order and against progress ? The answer

[1] Cf. the criticism by Prof. Cannan on the Terms of Reference to the Royal Commission on Local Taxation in the Memoranda chiefly relating to the classification and incidence of Imperial and Local Taxation, C. 9528 of 1899, p. 160.

PERCENTAGE OF EXPENDITURE

(Excluding expenditure on commercial services, i.e., Post Office and Telegraph Dept., Railways and Irrigation).
In thousands of rupees.

Periods	District Adminis-tration	Forest	Other Heads, including Opium	Debt Sources	Civil Depts.	Civil Changes	Civil Works	Army (Includeing Military Works and Special Defence Works)	Famine Relief and Insurance	Total
1877-78 to 1881-82	5.2	.8	5.6	8.9	18.7	6.8	5.8	39.2	2.6	93.6
1882-83 to 1886-87	6.0	1.2	6.6	8.2	21.4	7.5	7.6	35.6	2.3	96.4
1887-88 to 1891-92	6.0	1.3	5.4	7.6	22.1	7.5	7.3	37.7	2.8	95.7
1892-93 to 1896-97	6.1	1.3	4.9	6.4	22.5	8.4	6.9	38.5	1.6	96.6
1897-98 to 1901-02	5.8	1.4	5.5	4.3	22.6	7.8	6.8	35.2	4.8	94.2
1902-03 to 1906-07	5.9	1.6	8.2	3.1	23.2	7.3	9	37.1	1.8	97.2
1907-08 to 1911-12	6.3	1.8	7.1	3.5	25.7	7.7	8.5	35.6	2.1	98.3
1912-13 to 1916-17	6.0	1.9	6.2	2.1	28.2	7.3	9.3	35.1	1.5	97.6

From the statistics of British India, Vol. II, Financial Statistics, 1920, p. 7.

is that an irresponsible government, however sovereign, is incapable of progress, for in the exercise of its sovereign powers it is hampered by two very serious limitations.[1] There is first of all the internal limitation which arises from the character, motives and interests of those who are in power. If the Sultan does not abolish Mahomedanism, Pope ban Catholicism, the Brahmin condemn caste, or the British Parliament declare the preservation of blue-eyed babies illegal, it is not because they *cannot* do things, but it is because they *will* not do these things. In the same way if the Executive in India did not do certain things most conducive to progress it was because by reason of its being impersonal[2] and also by reason of its character, motives and interests it could not sympathize with the living forces operating in the Indian Society, was not charged with its wants, its pains, its cravings and its desires, was inimical to its aspirations, did not advance Education, disfavoured Swadeshi or snapped at anything that smacked of nationalism, it was because all these things went against its grain. But an irresponsible government is powerless to do even such things as it may like to do. For its authority is limited by the possibility of external resistance. There are things which it would do but dare not do for the fear of provoking thereby resistance to its authority. Caesar dare not subvert the worship of the Roman people, a modern parliament dare not tax the Colonies, however much they would. For the same reason the Government of India dared not abolish the caste system, prescribe monogamy, alter the laws of succession, legalize intermarriage or venture to tax the tea planters. Progress involves interference with the existing code of social life and interference is likely to cause resistance. None the less

[1] For an illuminating discussion of this, cf. A. V. Dicey, *Law of the Constitution,* 1915, pp. 74-82.

[2] Impersonal because the higher and controlling grades of public services are devoid of Indian element. Although the eligibility of the natives of India for employment in public services was proclaimed as far back as 1833, the regulations made by the Secretary of State for admission to the Public Services in India has had the tendency to exclude them from the employment of the right granted to them by statute. Under the regulations made by the Secretary of State for War, candidates for Commission in the Army were to be of pure European descent and a similar regulation was adopted by the Admiralty for cadetship in the Navy, thereby excluding Indians. As to the Civil Service the Statute (Government of India Act, 1858, s. 32) laid down that all "natural-born subjects" of the Crown be admitted for examination, thereby including the natives of India. But the ruling of the Secretary of State that that examination should be held only in London had indirectly debarred many natives of the country from benefiting themselves under the statute. Regulations for admission to other public services varied. For the Indian Medical Service, candidates were to be natural-born subjects of European or East Indian descent; for the Indian Police Service they were to be British subjects of European descent; for the Forest Service they were to be natural-born British subjects ; for Public Works Department one-tenth might be natives of India who are British subjects.—Cf. in this connection Halsbury, *Laws of England,* Vol. X, pp. 588-9.

a government which is of the people and is not detached from them can venture on the path of progress, because it is in a position to know where obedience will end and resistance will begin. But the Indian Executive not being of the people could not feel the pulse of the people. The gist of the matter is that the irresponsible Executive which had been in power in India was paralysed between these two limitations on its authority and much of what went to make life good was held up. Part of the programme it would not undertake and the other part it could not undertake. As a result of this, so far as the moral and social life of the people was concerned, the change of government by the Moghuls to a government by the British was only a change of rulers rather than a change of system. Owing to the adoption of the principle of non-interference partly by preference and partly by necessity by the British

> "the natives of India found themselves under a government distinguished in no vital respect from those under which they had toiled and worshipped, lived and died through all their weary and forgotten history. From a political standpoint, the change was but the replacement of one despotism by another. It accepted the arrangements as it found them[1] and preserved them faithfully in the manner of the Chinese tailor who, when given an old coat as a pattern, produced with pride an exact replica, rents, patches and all."[2]

That there was some advancement in material progress is not to be denied. But no people in the world can long remain contented with the benefits of peace and order, for they are not dumb brutes. It is foolish to suppose that a people will indefinitely favour a bureaucracy because it has improved their roads, constructed canals on more scientific principles, effected their transportation by rail, carried their letters by penny post, flashed their messages by lightning, improved their currency, regulated their weights and measures, corrected their notions of geography, astronomy and medicine and stopped their internal quarrels. Any people, however patient, will sooner or later demand a government that will be more than a mere engine of efficiency. Under the influence of Western ideas of representative govern-

[1] The poll tax has been continued in Burma simply because it was found to exist there on the day of conquest.

[2] Benard Houghton, *Bureaucratic Government*.

ment the Indian people had for some time been demanding a change in the form of the government. A Parliamentary form of government with a Parliamentary Executive was the goal they had laid before themselves.

The popular agitation for achieving this end assumed such proportions that, in the course of time, there was presented a serious issue for the consideration of the Executive in India. How was the government of the country to be carried on ? By force or by consent, Power seldom commits suicide of its own accord. Rather, when it fails to secure the willing compliance of the people, it resorts to force. That was the resource adopted by the Executive in India. Not satisfied with the aid of the power with which the Executive was endowed by the provisions of the Criminal and Penal Codes to anticipate offences by preventive acts, it besmeared the Indian Statute Book with a set of repressive laws hardly paralleled in any other part of the world. The Criminal Law Amendment Act XIV of 1908 empowered a magistrate with special sanction of the Government to hold an *ex-parte* inquiry without the presence of the accused or of his legal representative and commit him for trial to be conducted without a jury. Under another provision of the same Act the Executive could declare unlawful any association which in its view interfered with the maintenance of law and order. The State Prisoners Regulations[1] and Acts[2] authorizing the Executive to place under restraint any person whom it suspected but against whom it had no proof, constituted by themselves a perpetual suspension of the Habeas Corpus Act :[3] while under another Act[4] the Executive was empowered to proclaim "a State of Siege" or martial law in any area and suspend therein the jurisdiction of the civil courts in favour of the military courts. The Indian Press Act of 1910 put a complete muzzle on the Press. So wide were its provisions that in the opinion of a learned judge[5] of one of the Indian High Courts it was "difficult to see to what length its operation might not be plausibly extended by an ingenious mind"

[1] Bengal Regulation III of 1818 ; Bombay Regulation XXV of 1827 ; Madras Regulation II of 1819.

[2] Act XXIV of 1850 and Act III of 1858.

[3] N. Ghose, *Comparative Administrative Law,* 1918, p. 480.

[4] Act IX of 1857.

[5] Sir Lawrence Jenkins, C. J., *in re* Mahomedali, I.L.R. 40, Cal. 466 (1913), quoted by N. Ghose, *op. cit.,* p. 567.

and "that they would certainly apply to writings that might even command approval" and "much that is regarded as standard literature might undoubtedly be caught." The right of public meeting was suppressed in the same manner and with the same sterness as was the right to personal freedom and the right to freedom of discussion ; for, over and above the restrictive provisions contained in the ordinary law of the land,[1] the executive armed itself with discretionary powers under a special enactment to prohibit any public meeting on the excuse of what it regarded as the interest of the public.

The rigour of this regime of *lettre de cachet* and the *Bastille* was quite untempered by any fear of responsibility on the part of the Executive for any excesses committed in putting these repressive laws into operation. For it is to be noted that the Executive had, coupled with the large grants of these discretionary powers to suppress the liberties of the people in order to preserve law and order, the gift of an equally generous measure of immunity to its agents in carrying out those powers.[2] The Police Acts and the Press Act *all* contained provisions which barred all action in a civil court against these agents for damages to be done in pursuance of these Acts. Officers, and soldiers taking part in the suppression of riots were not criminally responsible for acts done in good faith and were not to be prosecuted for other acts without the sanction of the government.[3] In like manner superior Executive officers could not be prosecuted for crimes committed in discharge of public functions except with the permission of the government and then only in the manner prescribed by government.[4] There is no wonder then if such discretionary powers, exercised extra-judicially, substituted a reign of terror in place of a regime of peace.

But it was soon found out that force was not a sure means of carrying on the government of a country. The verdict of history was well summed up by Burke[5] when he said :

> "The use of force alone is but temporary. It may subdue for a moment, but it does not remove the necessity of subduing again : a nation is not governed which is perpetually to be conquered. (The) next objection to force is its uncertainty. Terror is not always the effect of force, and an armament is not

[1] Sections 108 and 144 of the Criminal Procedure Code and Sections 120A and B, 124A and 153A of the Indian Penal Code.

[2] N. Ghose, *op. cit.,* p. 601.

[3] Code of Criminal Procedure Act V of 1898, Ch. IX, Sections 128, 130 and 132.

[4] *Ibid.,* sect. 197.

[5] Speech on conciliation with America.

> a victory. If you do not succeed, you are without resource ; for conciliation failing, force remains, but force failing, no further hope of reconciliation is left. Power and authority are sometimes bought by kindness, but they can never be begged as alms by ah impoverished and defeated violence. A further objection to force is, that you impair the object by your very endeavours to preserve it. The thing you fought for (to wit the loyalty of the people) is not the thing which you recover, but depreciated, sunk, wasted and consumed in the contest ……"

Government by consent was indeed long ago accepted by the Indian Executive as a principle of political wisdom, and the changes introduced from time to time in the constitution of the Indian Legislature were avowedly for the purpose of making it reflect the popular will. The result for a time was an astonishing degree of accord between the Indian Executive and the Indian Legislature ; so much so that the regime of *lettre de cachet* and the *Bastille* had the sanction of the majority of the *Indian legislature*. But all this government by consent or conciliation was a camouflage. On the other hand, an analysis of the changes introduced from time to time into the constitution of the Indian Legislature clearly shows that the motive behind these changes was to make it an impotent body or a willing tool in the hands of the Executive. A Legislature as distinct from the Executive was first' inaugurated in 1853.[2] But in 1861[3] the constitution of the Legislature then established was altered. The ground urged was that that Legislature was not a body representative of the Indian people.[4] Its members were drawn from the official class representing the several Provincial Governments. In order to make the Legislature representative of the people, the Act of 1861 directed that it should be composed of *nominated* members chosen by the Governor-General from among the public, of course on the advice of the Executive. Again, by the Act of 1892 the Governor-General was directed to nominate such persons to the Legislature as were selected by public bodies in the country.

[1] Up to 1833 the Executive was also the Legislature. In 1833 a law member was added to the Executive Council, whose duties were confined to merely giving assistance to the Executive Council in the matter of making laws. By the Act of 1853 he was merged into the Executive Council.

[2] 16 and 17 Victoria, c. 95.

[3] 24 and 25 Victoria, c. 67.

[4] By the Act of 1853 the Supreme Legislature was composed of nominated members comprising two Judges of the High Court of Bengal and four nominated officials representative of the Bengal, Madras, Bombay and N.W.P. governments in addition to the members of the Executive Council of the Government of India.

These changes in the constitution of the Legislature appear to be aimed at liberalizing it. But was this tendency towards making the Legislature representative accompanied with a tendency to make it more powerful as regards the Executive ? Quite the reverse. As the legislature gained in its representative character it lost in its controlling power. The powers exercised by the Legislature under the Act of 1853 were far vaster than anything possessed by the Legislature under the Act of 1861. Under the former the Indian Legislature modelled itself on the procedure of the House of Commons in England, and not only dealt with matters of legislation, pure and simple, but also with matters of administration. In the words of Sir C. Ilbert, it showed an inconvenient degree of independence by asking questions as to and discussing the propriety of the measures of the Executive Government—deeming itself competent to inquire into abuses and grievances, calling for reports and returns from local administrations, debating long on questions of public interest and introducing motions and resolutions independent of the Executive Government. In a despatch of Lord Canning at the time, he pointed out that the Legislature had become invested with forms and modes of procedure closely imitating those of the House of Commons, that there were 136 standing orders to regulate the procedure of a dozen gentlemen assembled in council, that in short, in the words of Sir Lawrence Peel, they had assumed jurisdiction in the nature of that of a grand inquest of the nation. This was deemed to be a very grave defect (!!) in the Legislature as constituted by the Act of 1853. Its reform was therefore looked upon as very necessary for maintaining the supremacy of the Executive, and its non-popular character was made the ostensible excuse for its reconstruction. Under the pseudo-representative system introduced in 1861 the Legislature was a meek body entirely in the hands of the Executive. Being composed of *nominated* members, division in the Legislature was directly influenced by that fact. In every legislative body a man must sit, unless he has a hereditary right, by what in modern parlance is called a mandate. That mandate usually proceeds from the authority to whom he owes his seat. The nominated

members, official as well as non-official, owed their elevation to the legislature to the pleasure of the Executive, and as such were bound to support the Executive on any measure on which a division was taken. The Executive had always at its command the official block of nominated members, who gave implicit obedience to its mandates either because of its convictions or by reason of its being a part of the same. The nominated non-officials, who may be said to be opposed by conviction to the Executive, were not men of independent character and were largely concerned to make themselves agreeable to the Executive rather than make themselves reckoned with. But had they been men of independent character they could not have made themselves masters of the Executive, for by the provisions of the Constitutional law and the rules of procedure made under it, the Legislature was rendered entirely powerless to compel the Executive to do anything against its wishes. From 1853 to 1861 the Legislature dealt with both legislative and administrative questions. From 1861 the legislature met only for legislative purposes. As a consequence of this limitation the Legislature was debarred from asking a question, moving a resolution or dividing on the Budget. During the first thirty years of its existence the legislature did not even discuss the annual budget on more than sixteen occasions, and that too because some new tax legislation had been called for, and which the Executive could always carry through with the help of the nominated official block as it did every other kind of legislation it deemed necessary. The right of discussing the annual financial statement and the right of asking questions in regard to matters were first conceded to the legislature by the Rules of Procedure framed under the Indian Councils Act of 1892. But it may be doubted whether these concessions of powers to the Legislature amount to a restoration of the position which it occupied and dominance it exercised under the Act of 1853.

Even the reforms of Lord Morley fell short in the matter of according a real measure of independence and power to the Legislature over the Executive. In the reforms which he introduced in 1909 nomination, directly or after selection, was in principle replaced by election as a basis for the constitution of the legislature. At the same time the procedure of the legislature was liberalized so as to give power to the members to put

supplementary questions along with interpellations, to move resolutions on the Financial Statement and on matters of general public interest. But a little analysis is enough to show that even this attempt was of a piece with the old endeavour of liberalizing the Legislature without impairing the supremacy of the Executive.[1] This supremacy of the Executive was maintained (1) by means of a permanent majority of officials of the government nominated to the legislature, and (2) by controlling the rules of procedure. Although election[2] was admitted by the Act of 1892 as a basis of the composition of the Legislature, the elected members were in a minority, so that they could not give effect to the wishes of the people whom they represented. They were entitled to move resolutions if permitted by the Executive[3] but the Executive was not bound to carry them out. They served only as recommendations, and were not binding upon the Executive. This direct thwarting produced irritation between the Executive and the elected members of the Legislature. In a certain sense the reforms of 1909 were a bad piece of engineering. Before 1909 whatever conflict there was was manifested outside the Legislature. For by the rules of election and procedure the Legislature was entirely muzzled : it could do no mischief. By the reforms of 1909, however, an attempt was made to make the Legislature independent and at the same time to muzzle it. This attempt, ingenious as it was, only served to bring to the surface the deep-seated conflict between the Executive and the forces agitating the minds of the people. Election procedure or business procedure governing a legislature is, in the words of Prof. Redlich, as it were a political pressure gauge, indicating the tension in the parliamentary machine and thence in the whole organism of the State.[4] It is possible that this pressure gauge in the first instance may either be badly constructed or may become

[1] It was Lord Morley, of world-wide fame as a champion of Liberalism by supporting the cause of Irish Home Rule, who said in introducing the political reforms in India : "If I knew that my days, either official or corporeal, were twenty times longer than they are likely to be, I should be sorry to set out for the goal of a Parliamentary system in India. The Parliamentary system in India is not the goal to which I for one moment aspire."

[2] It was, however, a system of selection. The only difference between the Act of 1861 and the Act of 1892 was that under the former Act the Executive Government was to nominate anyone it liked to the Legislature. Under the latter the Executive Government was to nominate "upon the advice of such sections of the community as are likely to be capable of assisting in that matter." But as the Government was not bound to appoint the person selected, the second, howsoever concealed, must really be regarded a case of nomination by the Executive as much as the first.

[3] Legally the President of the Council, i.e. the Viceroy ; but he is supposed to be invariably acting on the advice of the executive Council.

[4] Cf. J. Redlich, *Parliamentary Procedure,* Vol. III, p. 198.

worn out so as to give a false reading of the actual tension. But there can be no doubt that in the case of India the Executive, in the alterations which it introduced from time to time and particularly in 1909 in the election and business procedure of the legislature, had all along constructed it badly of purpose and had attempted to conceal thereby dangerous pressure of the steam in the political machine, so as to cause it to give a false reading of the situation. So long as the members of the legislature derived their mandates from the Executive, owing to the fact that all of them were nominated members, such an artifice worked well, with the entry of the elected members holding their mandates from the people, the weakness of the artifice became evident. The mortification of the elected members led them to obstruct and challenge the great fundamental principles recognized as the theoretical basis of procedure. Now if a party complained of inequality among members, of the rules of conducting proceedings, of freedom of speech or of the majority principle, it is a danger signal indicative of the existence of some serious defects in the life of the State. When such a conflict arises it is for a political statesman to judge whether he has to face a reform of the procedure of the representative assembly or a reform in the constitution of the State.

While inside the Legislative Assembly there were signs of hardening opposition and weariness which comes from sterile efforts, outside the Legislature the tide of feeling was rising more quickly, for, all the time the sense of national consciousness and the desire for political power were growing rapidly in the minds of educated Indians, no doubt, because the Legislature with its limited powers was found to be an insufficient safety valve. As a result of the realization of this fact those who had given their thoughts to the political reconstruction of the country agreed that a mere reform of the procedure will not do. Only a reform of the constitution will save the state from anarchy.

There was, however, a considerable diversity in the reforms suggested for effecting an alteration in the constitution of India. One scheme may here be noted in passing and that was the scheme propounded by the Indian National Congress and the Moslem League, shortly known as the Congress-League-Scheme.[1] The scheme demanded a four-fifths majority of elected

[1] This will be found in East India Constitutional Reforms, pp. Cd. 9178 of 1918, p. 98.

members in the Central Legislature. As to the Executive, it demanded that one-half of the total number of the Executive members should be Indians and that they should be elected by the elected members of the Legislature. The Legislature was to have complete financial and legislative powers. Nay, its recommendations, passed in the form of resolutions, were to be binding on the Executive. Such "was the latest, most complete and most authoritative presentation of the claims of the leading Indian political organizations" on behalf of the Indian people. But when we come to analyse the scheme it speaks poorly of the political genius of the Indian politicians. The scheme was formulated as a fulfilment of *responsible* government in British India. But in practice it was not only not a measure of responsible government, but it was deficient even to subserve the ends of good government. The scheme did not ask that the legislature should have the power to make or unmake an Executive as it pleased. If it had asked that, then the scheme would have been a scheme for responsible government. But what it asked for was to compel an Executive, which was irremovable, to conduct the administration of the country according to the orders of the Legislature. The Scheme was of a piece with that of Lord Morley in an enlarged form. He had introduced an Indian element into the Government so that Indian opinion and Indian advice might have some weight with the Executive in addition to what it exercised through the legislative organ of the Government. Those who framed the Congress-League-Scheme merely increased the Indian element in the Executive and the Legislature, and added provisions aimed at converting advice into control without realizing what was to happen if the Executive refused to be bound by the wishes of the Legislature. The essence of the project was an Executive with a divided mandate legally responsible to Parliament, and practically to an elected Legislature. Such a separation of mandates, it was obvious, would have enabled the Legislature to paralyse the Executive without having power to remove it. Being without any constitutional means to change the Legislature in cases of conflict by an appeal to the Electorate it would have been obliged to carry on

the Government even where it did not respect the wishes of the Legislature. The scheme was unsound, like all previous attempts at the reform of the Indian Constitution, because in it the Executive and the legislature derived their mandates from and were responsible to different powers. It was unsound because it overlooked the possibility that two mandates may not agree, in which case there would be a conflict. That conflict is inherent in a non-parliamentary executive. Some form of a Parliamentary government with a Parliamentary executive was the only way of avoiding it.

It is from this standpoint that the announcement of August 20, 1917, forms a landmark in the annals of the development of the Indian Constitution. On that date the Secretary of State for India announced in the House of Commons that—

> "The policy of His Majesty's Government, with which the Government of India are in complete accord, is that of the increasing association of Indians in every branch of the administration and the gradual development of self-governing institutions, with a view to the progressive realization of responsible government in India as an integral part of the British Empire. They have decided that substantial steps in this direction should be taken as soon as possible ……"
>
> " I would add that progress in this policy can only be achieved by successive stages. The British Government and the Government of India, on whom the responsibility lies for the welfare and advancement of the Indian peoples, must be judges of the time and measure of each advance, and they must be guided by the co-operation received from those upon whom new opportunities of service will thus be conferred and by the extent to which it is found that confidence can be reposed in their sense of responsibility."

This momentous announcement marks the end of one epoch and the beginning of a new one. It definitely abandoned the old conception under which the Executive might, as it saw fit, consult the wishes of the legislature, which were only given an increasing share in the administration of the country and increasing opportunities for influencing and criticizing, but never for

controlling, the Government. Under the new conception the aim was to endow the Legislature with the power to make or unmake the government, so that it would be not only a government of the people and for the people, but by the people. The adoption of such a change of policy in the basis of the political institutions of the country involved far-reaching changes in their relations with one another, administrative, legisltive and financial. The changes in the system of Provincial Finance introduced in consequence of the Reforms Act of 1919 were not caused by any inherent defects in the system as it stood at that date. On the other hand, the system was eminently workable. They were effected because the system as a whole was inconsistent with the great revolution which that Act had sought to effect in the governmental system of that country.

The nature of the changes, their extent and their adequacy will form the subject-matter of the two following chapters.

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CHAPTER XI

THE NATURE OF A CHANGE

The announcement of August 20, 1917, spoke of progressive realization of responsible government as the goal of the future British policy in India, and the Montague-Chelmsford Report on Constitutional Reforms surveyed the ways of giving effect to that announcement. One of the merits of that Report consisted in showing that the Congress-League-Scheme of political reforms did not embody the principle for the recognition of which they were agitating so long. Instead of inaugurating a responsible government in India, the scheme would have saddled the country with a non-parliamentary executive under a parliamentary system of government. Being convinced of their error the Congress-League politicians, be it said to their credit, abandoned their scheme in favour of the proposals contained in the Joint Report. But in their turn they demanded the introduction of a more or less complete responsible government in most of the political institutions at one stroke. But the framers of the new constitution pointed out that the emphasis on the word progressive in the announcement was as great if not greater than the emphasis laid on the word responsible.[1]

In consonance with this view it was decided to introduce, as a substantial step in the progress towards the realization of the goal laid down in the announcement, a responsible government of a limited character in the Provincial Governments. The Provincial Governments in India, like the Central Government, were irresponsible governments. The changes made in the constitution of Provincial Legislatures were of the same nature as the changes in the Central Legislature, in that both were calculated to enable the Executive to consult the Legislature without being amenable to its control. Only on one occasion were the frame-works of the two machines of governments, the

[1] Report of the Joint Select Committee on the Government of India Bill, p. 203 of 1919, p.s. para. 7.

Provincial and the Central, constructed on a slightly different basis, and that was in the Morley-Minto Reforms of 1909. Under those reforms the Central Legislature was dominated by *official* members who with the members of the Executive formed a standing majority in the chamber. In the Provincial Legislatures this principle of a standing majority of official members was dispensed with. The second point of departure in the constitution of the Provincial Legislatures as compared with that of the Central Legislature consisted in the Budget procedures in the two governments. In the Central legislature the Finance Member early in each calendar year presented to the Legislature his preliminary estimates accompanied by an explanatory memorandum. On a subsequent day he made such further explanations as he thought necessary. Members of the Legislature could thereupon move resolutions regarding (*a*) any proposed alteration in taxation, (*b*) *any* proposed loan, or (*c*) *any* additional grant to a Local Government. The first stage in the discussion of the Budget of the Government of India was over when once these resolutions were voted upon. The second stage commenced when the estimates were taken into consideration by groups. At this stage also it was open for members to move resolutions on any heads of revenue and expenditure, except those that were declared by rules of procedure to be not open for discussion to the legislature. After the resolutions had been moved and voted upon the Finance Member took the whole discussion into consideration and made such changes as were agreeable to him and then presented his final Budget. At this, the third stage, the Finance Member explained his reasons for the acceptance of some and the non-acceptance of other suggestions made during the course of the Budget debate. A general discussion of the Budget then followed, but no resolution was allowed to be moved upon the final Budget or a vote taken. The Budget procedure in the Provincial Legislatures was a little different. There the first stage commenced with the preparation of a rough draft of the provincial estimates, accompanied by a schedule including in it all projects involving an expenditure of over 5,000 rupees, divided into two parts, the first containing all allotted, i.e. obligatory, items of expenditure and the second containing unallotted, i.e. non-obligatory, items of expenditure. The Government of India to whom this draft Budget was submitted corrected

the estimate of the revenue and determined in consultation with the Provincial government the aggregate expenditure for which the latter should provide, and if need be, altered or added to the items in the first part of the schedule. When the figures of the altered revenue and the aggregate expenditure as fixed by the Government of India were communicated to the Provincial Government it marked the close of the first stage of a Provincial Budget. The second stage commenced when this draft Budget was submitted by the Provincial Government to a committee of the Provincial Legislature. The Committee was composed of officials and non-officials in equal number, the former nominated by Government and the latter elected by their fellows. It was presided over by the member of the Executive in charge of Provincial Finance ; the proceedings of the committee were informal and private and decisions were by majority votes. The Committee concerned itself only with the second part of the Schedule containing non-obligatory items of expenditure and, provided it did not exceed the aggregate expenditure fixed by the Government of India, it was free to make variations and even to insert new items occasionally. On the conclusion of its labours the Committee reported the changes it made to its Government. With this ended the second stage in the Provincial Budget. The third stage began when the Provincial Estimates as a whole were presented to the Provincial Legislature by the member in charge of finance. The Budget was then considered in a committee of the whole House and resolutions moved on each group of estimates discussed. When all resolutions were debated and voted upon the result of the discussions was communicated to the Provincial Government. But the resolutions were not binding. The fourth stage commenced when the Provincial government introduced the final budget and explained its reasons for the acceptance of some and the non-acceptance of the rest of the suggestions made by the Legislature. A debate followed, but no resolutions were in order at this stage ; nor did the Legislature divide upon the Budget. It was adopted as passed by the Executive.

From these differences in the constitution and procedure of the Central and Provincial Governments, it must not be supposed that the provincial Governments were less irresponsible with regard to their Legislatures than the Central Government was

with regard to its own Legislature. The fact that since 1909 there was no majority of official members in the Provincial Legislature as there was in the Central Legislature was a matter of no moment so far as its practical consequences to the Executive were concerned ; for it is to be remembered that in practice the difference between nominated members from among the non-officials and the official members was only superficial. Both had their mandate from the government who gave them their seats in the Legislature, and as nominees of the Government they voted for the Government, so that, though not in theory, in practice the Provincial Government had as much a standing majority in Legislatures as the Central Government had in theory as well as in practice. Nor did the budget procedure of the Provincial Government mark any decided improvement over that adopted in the Central Government in the matter of giving greater control to the Legislature over the Executive. In both cases the aim was to give the members of the Legislature the privilege of discussing *beforehand* the question of such alteration with reference to the necessities of the Budget, only in the case of the Provincial Budget this privilege was allowed to be exercised at an earlier stage than in the case of the Imperial Budget. But in view of the fact that the Resolutions of the Legislature on the Provincial Budget, as those of the Central Ledgislature on the Imperial, were only recommendations to their respective Executives, this difference between the Budget procedure of the two Governments did not impose any greater control over the one Executive than it did on the other. Again, the provision that a committee of the Provincial Legislature had been allowed the privilege of framing the non-obligatory portion of the Provincial Budget did not give the Legislature any appreciable control *over* the Executive. First of all, the Provincial Government could always restrict the scope of this Budget Committee by transferring any head from the class of non-obligatory expenditure to the class of obligatory expenditure. Besides this, the operation of certain other rules of Budget procedure based upon general principles of public finance tended directly to restrict the powers of the committee to put forth schemes of alternative or additional expenditure. It was rightly provided that schemes involving recurring expenditure could only be proposed with due regard to the rate of growth of recurring revenues and recurring

expenditure. Owing to this rule, the committee had to drop proposals which involved recurring expenditure, but which were desirable from its standpoint. On the other hand, similar proposals made by the Executive could be easily carried through by the device freely adopted of obtaining previous sanction of the Government of India. The consequence was that in all the Provincial Budgets presented under the new rules the amount of this "unallotted" fund left to the discretion of the committee bore too insignificant a proportion to the total expenditure in the budget to make the Provincial Executive in any real degree amenable to the Provincial legislature.

No really responsible government could, however, be introduced in the provinces without first of all making a complete change in the mutual relations between the Central Government and the different Provincial Governments in India. The relation between the two which existed before the passing of the Act of 1919 was one of complete subordination of provincial Governments to the Central Government.[1] In this bond of subordination we can discern three strands—legislative, financial, and administrative. Of these three we have seen how tight was the financial strand. The Government of India's control over revenues and expenditure was derived from Parliamentary Statutes which treated the revenues of India as one and applied them to the purposes of the Government of India as a whole. It is true that this provision was not so strictly construed as absolutely to prevent the appropriation of particular sources of income to specific purposes all-India or provincial. Or else the development of the provincial system of finance would have been impossible. But it certainly had the effect of denying to Provincial Governments any inherent legal right to the revenues which they raised. The Government of India completely controlled taxation imposed in British India, apart from the local taxes which were raised by local bodies. Taxation could only be levied by law,[2] but the law had forbidden a Provincial Legislature, without the previous sanction of the Government of India, to consider

> "any law affecting the public debt of India or the customs duties or any other tax or duty for the time being in force and imposed by the authority of the Governor-General in Council for the general purposes of the Government of India."

[1] Report on Indian Constitutional Reforms, Cd. 9109 of 1918, Ch. V.

[2] There is, however, a glaring exception. The land revenue in India has been raised without any legislative sanction. The exclusion of land revenue from the province of the legislature practically removed between 40 and 50 per cent. of the net public revenue from any sort of control.

This is the natural corollary of the statutory hypothecation of all-India revenues to all-India needs. The law would not inhibit a provincial legislature from exploiting for provincial purposes any new source of taxation which it had the ingenuity to discover. But even in that case the project would, before being translated into action, have to secure the assent of the Finance Department of the Government of India, which would not give its sanction without considering closely if it trespassed on the Central Government's sources of taxation. Again, the provision of the law which required that

> " no governor or governor in council (of a province) shall have the power of creating any new office or granting any salary, gratuity or allowance without the previous sanction of the Governor General of India in Council"

had given the Government of India a right of control over expenditure in the Provinces which was exercised through the instrumentality of a series of codes of instructions, such as the Civil Service Regulations, the Civil Account Code, the Public Works Code and the like. These codes partly dealt with the mechanism of finance such as the maintenance of a uniform system of audit and accounts, the custody of public money, remittances, economy, and such matters ; but they also imposed definite restraints upon the powers of Provincial Governments, to create new appointments or raise emoluments and other matter such as recruitment, promotions, leave, foreign service and pensions upon which the codes really constitute a digest of the case-law laid down from time to time by the Government of India which the Provincial Governments must strictly obey. If their powers of taxation and expenditure were strictly controlled the power of borrowing was never conceded to the provinces. It will be recalled that Port Trusts and Municipalities might raise loans within defined limits, but because the revenues of India were legally one and indivisible and were liable for all debts incurred for the purposes of the Government of India, Provincial Governments possessed no separate resources *on* the security of which they could borrow.

Even within the prescribed limits of Provincial Finance the Provincial Governments were not free from the control of the Central Government. Because the provincial settlements were based not on provincial revenues but on provincial needs,

a central control was inevitable. The Government of India could not allow a Province to go bankrupt. But if the Government of India were responsible for provincial solvency they must be in a position to control provincial expenditure. Again, as regards revenues, so long as the Government of India took a share in the proceeds they had a strong motive not only in interfering in the Budget estimates of the provinces, but also in interfering in details of administration. Their interest in land revenue, for example, inevitably led them to close supervision over revenue settlements, and the control tended to become tighter in cases where expansion and development of a source of revenue, such as irrigation, depended on capital outlay.

The legislative powers of the Provincial Governments had in the same manner been made subject to statutory restrictions. There was no doubt an extensive field in which, so far as the substantive provisions of the Statute were concerned, the legislative competence of the provincial Legislatures was legally unfettered. Actually, however, the power of the local legislatures was curtailed in two ways. In the first place, owing to the fact that in their existence all the Provincial Legislatures were younger, and most of them much younger, institutions than the Central Legislature of the Governor-General, a great part of the field that would have otherwise been open to them was covered by acts of that body, which had always retained a concurrent power of legislation for the country at large. But the field yet remaining open for Provincial Governments in the matter of legislation was further restricted by the fact that the power of the Secretary of State and Parliament to control all-Indian legislation was made operative by means of executive directions, which had made it incumbent on Provincial Governments to submit for the previous sanction of the Government of India and the Secretary of State all their projects for legislation before introduction. It is true that these directions did not apply to private members' Bills ; but inasmuch as a Bill could only be introduced with the leave of the Legislature, and the Provincial Government was in most cases in a position if it chose to do so to oppose such a motion successfully, the Government of India by directions to the Provincial Governments were in a position to control all private provincial legislation almost as effectively as the Provincial Government's Bills.

In carrying on the actual work of administration every Provincial Government was by law required to obey the orders of the Government of India and keep that Government constantly and diligently informed of its proceedings and of all matters which ought, in its opinion, to be reported to that Government, or as to which that Government required information. That was because in law every Provincial Government was placed under the superintendence, direction and control in all matters relating to the Government of its Province. This administrative control of the Government of India was exercised by that Government in the interest of uniformity. It is obvious that in many respects India is one single and undivided country, in which much work had to be carried on on uniform lines. The Civil servants who executed the orders of Provincial governments having been recruited from England on terms guaranteed by the Secretary of State, many questions affecting them could not be determined by any Provincial Government. Again, the development of trade, industry and science throughout India similarly favoured the formulation and pursuit of uniform policies by the Government of India. Even with one law for the whole of India business and industry might have been left to their discretion to administer such matters as statistics, patents, copyright, insurance, income tax, explosives and mining, etc. Not only were the provincial Governments subordinated to the Central Government to follow established lines in the matters of administration, but they were not free to initiate any new policy. It was the Government of india which regarded itself as distinctly charged with the duty of framing policy and inspiring reforms for the whole of India by issuing new orders. To make them effective these orders were often accompanied by handsome grants to Provincial Governments strictly earmarked for the purpose of pushing on some particular feature of the new policy. Not seldom did the Government of India appoint new advising or inspecting officers whose task it was to see that the new energy suddently infused into the system was well maintained and well directed to the chosen ends.

So long as the provincial Governments continued to be bound by such strands to the Government of India there could be no responsible government in the Provinces. No government can be made to serve two masters at one and the same time. To

keep the Provincial Governments subordinate to[1] the Government of India and also to make them responsible to popular Legislature would have been inconsistent in theory and vicious in practice. It is quite conceivable that under such a double government the wishes of the Provincial Legislature on certain matters may not coincide with those of the Government of India. On such occasions a Provincial Government may not know whom to obey. If it deferred to the wishes of the Legislature it would be failing in its duty towards the Government of India. Indeed there is on record a case of such a conflict.[2] There was an occasion during the currency of the Morley-Minto Reforms when the Government of Bombay were unsuccessful in their endeavours to persuade the Government of India to sanction certain charges affecting the educational staff. The proposals were locally popular and were again put forward for adoption in a resolution moved in the Bombay Legislature by an elected member. The Bombay Government thereupon accepted the resolution which was carried unanimously, and once more put forward their proposals to the Government of India on the ground that they had the Legislature's entire support. But the Government of India and the Secretary of State held that these tactics were out of order and that it was

> "the duty of the Local Government in dealing with the resolutions to uphold with all their authority the decision of the Government of India,"

i.e. to have opposed the resolution even if it agreed with the Legislature in the principle thereof.

The strong ties of subordination which bound the Provinces to the Central Government were therefore the chief obstacles in the path of Provincial autonomy. In order that the Provincial Government be made subject to Provincial Legislatures, the first thing to do was to curtail the powers which the Government of India possessed of interference in provincial finance, provincial legislation, and provincial administration. As was well observed by the authors of the Report[3] on Constitutional Reforms :

> "We have to demolish the existing structure, at least in part, before we can build the new. Our business is one of devolution, of drawing lines of demarcation, of

[1] The degree of subordination it should be noted varied with the status of the Provinces, for which see Joint Report, pp. 37-45.

[2] Joint Report, pp. 75-6.

[3] Joint Report, p. 101.

cutting long-standing ties. The Government of India must give and the Provinces must receive ; for only so can the growing organism of self-government in the Provinces draw air into its lungs and live."

The path to provincial independence therefore lay through a satisfactory division of functions and finances between the Provincial and Central Governments. Of the two, the task of dividing the functions was comparatively an easier one. For facilitating the necessary division of functions the following principles were laid down by the Government of India.[1]

"7. There are certain subjects which are at present under the direct administration of the Government of India. The Government of India maintain separate staffs for their administration and the Provincial Governments have no share in it. The category is easily recognizable, and for the most part there will not be much room for doubt as to the subjects to be included in it. At the other end of the line are matters of predominantly local interest which, however much conditions must vary between Provinces, will, generally speaking be recognized as proper subjects for provincialization.

"8. Between these extreme categories, however, lies a large indeterminable field which requires further examination before the principles determining its classification can be settled. It comprises all the matters in which the Government of India at present retain ultimate control, legislative and administrative, but in practice share the actual administration in varying degrees with the Provincial Governments. In many cases the extent of delegation practised is already very wide. The criterion which the Government of India apply to these is whether in any given case the Provincial Governments are to be strictly the agents of the Government of India, or are to have (subject to what is said below as to the reservation of powers of intervention) acknowledged authority of their own. In applying this criterion the main determining factor will be not the degree of delegation already practised, which may depend on mere convenience, but the consideration whether the interests of India as a whole (or at all events interests larger than those of one Province), or on the other hand the interests of the Province essentially preponderate.

[1] Memorandum for the Functions Committee by the Government of India, Annexture II to the Report of the Committee Cmd. 103 of 1919.

> " The point is that delegation to an agent may be already extensive, but that circumstance should not obscure the fact of agency or lead to the agent being regarded as having inherent powers of his own."

These principles, in which it was stated that "where extra-provincial interests predominate the subject should be treated as central," while

> "all subjects in which the interests of the provinces essentially predominate should be provincial, and in respect of (which) the Provincial governments (to) have acknowledged authority of their own,"

were accepted by the Functions Committee appointed to make a division between all-India and Provincial subjects. The recommendations made by the Committee were with minor amendments embodied in what are called Devolution Rules under section 45A of the Government of India Act of 1919, which gave effect to the policy of responsible government and are made a part of the constitutional law of the land, so that the subjects thereby devolving upon the Provinces became the services over which the Provinces gained an *acknowledged authority of their own* such as they never had before 1833. According to these Devolution Rules the following were declared to be

PROVINCIAL SUBJECTS

1. Local Self-government, that is to say, matters relating to the constitution and powers of municipal corporations, improvement trusts, district boards, mining boards of health and other local authorities established in a Province for the purpose of local self-government, exclusive of matters arising under the Cantonments Act, 1910 ; subject to legislation by the Indian Legislature as regards—

(*a*) The powers of such authorities to borrow otherwise than from a Provincial Government, and

(*b*) the levying by such authorities of taxation not included in schedule II to the scheduled Taxes Rules.

2. **Medical administration,** including hospitals, dispensaries and asylums, and provision for medical education.

3. **Public Health and Sanitation and Vital Statistics** ; subject to legislation by the Indian Legislature in respect of infectious and contagious diseases to such extent as may be declared by any Act of the Indian Legislature.

4. **Pilgrims within British India.**

5. **Education,** provided that—

(a) The following subjects shall be excluded, viz.:

(i) The Benares Hindu University, and Aligarh Muslim University, and such other universities constituted after the commencement of these rules, as may be declared by the Governor-General in Council to be Central subjects, and

(ii) Chiefs' Colleges and any institution maintained by the Governor-General in Council for the benefit of members of His Majesty's Forces or of other public servants or of the children of such members of servants; and

(b) the following subjects shall be subject to legislation by the Indian Legislature, namely:

(i) The control of the establishment, and the regulation of the constitutions and functions, of universities constituted after the commencement of these rules ; and

(ii) The definition of the jurisdiction of any university outside the Province in which it is situated, and

(iii) For a period of five years from the date of the commencement of these rules, the Calcutta University, and the control and organization of secondary education in the presidency of Bengal.

6. **Public Works** included under the following heads, namely :

(*a*) Construction and maintenance of provincial buildings used or intended for any purpose in connection with the administration of the Province ; and care of historical monuments, with the exception of ancient monuments as defined in Section 2(i) of the Ancient Monuments Preservation Act, 1904, which are for the time being declared to be protected monuments under Section 3(i) of that Act; provided that the Governor-General in Council may by notification in the *Gazette of India,* remove any such monuments from the operation of this exception ;

(*b*) roads, bridges, ferries, tunnels, ropeways, and causeways, and other means of communication, subject to such conditions as regards control over construction and maintenance of means of communication declared by the Governor-General in Council to be of military importance, and as regards incidence of special expenditure connected therewith, as the Governor-General in Council may prescribe ;

(*c*) tramways within municipal areas ; and

(*d*) light and feeder railways and extra-municipal tramways in so far as provision for their construction and management is made by provincial legislation ; subject to legislation by the Indian Legislature in the case of any such railway or tramway which is in physical connection with a main line or is built on the same gauge as an adjacent main line.

7. **Water Supplies,** irrigation and canals, drainage and embankments, water storage and water power; subject to legislation by. the Indian Legislature with regard to matters of inter-provincial concern or affecting the relations of a Province with any other territory.

8. **Land Revenue administration,** as described under the following heads, namely:

(*a*) Assessment and collection of land revenue ;

(*b*) Maintenance of land records, survey for revenue purposes, records of right;

(*c*) Laws regarding land tenures, relations of landlords and tenants, collection of rents ;

(*d*) Courts of wards, incumbered and attached estates ;

(*e*) Land improvement and agricultural loans ;

(*f*) Colonization and disposal of Crown lands and alienation of land revenue ; and

(*g*) Management of Government estates.

9. **Famine relief**

10. **Agriculture,** including research institutes, experimental and demonstration farms, introduction of improved methods, provision for agricultural education, protection against destructive insects and pests and prevention of plant diseases ; subject to legislation by the Indian Legislature in respect of destructive insects and pests and plant diseases, to such extent as may be declared by any Act of the Indian Legislature.

11. **Civil Veterinary Department,** including provision for veterinary training, improvement of stock, and prevention of animal diseases ; subject to legislation by the Indian Legislature in respect to animal diseases to such extent as may be declared by any Act of the Indian Legislature.

12. **Fisheries.**

13. **Co-operative Societies.**

14. **Forests,** including preservation of game therein ; subject to legislation by the Indian Legislature as regards disforestation of reserved forests.

15. **Land acquisition** ; subject to legislation by the Indian Legislature.

16. **Excise,** that is to say, the control of production, manufacture, possession, transport, purchase and sale of alcoholic liquor and intoxicating drugs, and the levying of Excise duties and licence fees on or in relation to such articles, but excluding in the case of opium, control of cultivation, manufacture and sale for export.

17. **Administration of Justice,** including constitution, powers, maintenance and organization of courts of civil and criminal jurisdiction within the Province ; subject to legislation by the Indian Legislature as regards High Courts, Chief Courts, and Courts of Judicial Commissioners, and any courts of criminal jurisdiction.

18. **Provincial Law Reports.**

19. **Administrators-General and Official Trustees** ; subject to legislation by the Indian Legislature.

20. **Non-Judicial Stamps,** subject to legislation by the Indian Legislature, and **Judicial Stamps,** subject to legislation by the Indian Legislature as regards amount of court fees levied in relation to suits and proceedings in the High Courts under their original jurisdiction.

21. **Registration of deeds and documents;** subject to legislation by the Indian Legislature.

22. **Registration of births, deaths, and marriages** ; subject to legislation by the Indian Legislature for such classes as the Indian Legislature may determine.

23. **Religious and Charitable endowments.**

24. **Development of Mineral resources which are Government property** ; subject to rules made or sanctioned by the Secretary of State, but not including the regulation of mines.

25. **Development of industries,** including industrial research and technical education.

26. **Industrial matters** included under the following heads, namely:—

(*a*) Factories;

(*b*) Settlement of labour disputes ;

(*c*) Electricity;

(*d*) Boilers;

(*e*) Gas;

(*f*) Smoke nuisance ; and

(*g*) Welfare of labour, including provident funds, industrial insurance (general health and accident) and housing :

subject as to heads (a), (b), (c), (d), and (g) to legislation by the Indian Legislature.

27. **Stores and Stationery** ; subject in the case of imported stores and stationery to such rules as may be prescribed by the Secretary of State in Council.

28. **Adulteration of food-stuffs and other articles** ; subject to legislation by the Indian Legislature as regards import and export trade.

29. **Weights and Measures** ; subject to legislation by the Indian Legislature as regards standard.

30. **Ports,** except such ports as may be declared by rule made by the Governor-General in Council or by or under Indian legislation to be major ports.

31. **Inland Waterways;** including shipping and navigation thereon so far as not declared by the Governor-General in Council to be Central subjects, but subject as regards inland steam-vessels to legislation by the Indian Legislature.

32. **Police**; including railway police ; subject in the case of railway police to such conditions as regards limits of jurisdiction and railway contributions to cost of maintenance as the Governor-General in Council may determine :

(*a*) Regulation of betting and gambling ;

(*b*) prevention of cruelty to animals ;

(*c*) protection of wild birds and animals ;

(*d*) control of poisons, subject to legislation by the Indian Legislature ;

(*e*) control of motor vehicles, subject to legislation by the Indian Legislature as regards licences valid throughout British India; and

(f) control of dramatic performances and cinematographs, subject to legislation by the Indian Legislature in regard to sanction of films for exhibition.

34. **Control of Newspapers, Books, and Printing Presses** ; subject to legislation by the Indian Legislature.

35. **Coroners.**

36. **Excluded Areas.**

37. **Criminal tribes** ; subject to legislation by the Indian Legislature.

38. **European vagrancy** ; subject to legislation by the Indian Legislature.

39. **Prisons** ; prisoners (except State prisoners) and reformatories ; subject to legislation by the Indian Legislature.

40. **Pounds** and prevention of cattle trespass.

41. **Treasure Trove.**

42. Libraries (except the Imperial Library) and **Museums** (except the Indian Museum, the Imperial War Museum and the Victoria Memorial, Calcutta) and **Zoological Gardens.**

43. **Provincial Government Presses.**

44. **Elections** for Indian and provincial legislature, subject to rules framed under section 64 (i) and 72A (4) of the Act.

45. **Regulations of medical and other professional qualifications and standards**; subject to legislation by the Indian Legislature.

46. **Local Fund audit,** that is to say, the audit by Government agency of income and expenditure controlled by local bodies.

47. **Control** as defined by rule 10, **of members of all-India and Provincial Services** serving within the Province, and control, subject to legislation by the Indian Legislature, of public services within the province, other than all-India services.

48. **Sources of Provincial revenue,** not included under previous heads, whether—

(*a*) Taxes included in the schedules to the scheduled taxes Rules, or

(*b*) Taxes, not included in those schedules, which are imposed by or under provincial legislation which has received the previous sanction of the Governor-General.

49. **Borrowing of money** on the sole credit of the Province, subject to the provisions of the Local Government (Borrowing) Rules.

50. **Imposition** by legislation of punishment by **fine, penalty, or imprisonment,** for enforcing any law of the Province relating to any provincial subject; subject to legislation by the Indian Legislature in the case of any subject in respect of which such a limitation is imposed under these rules.

51. **Any matter** which, though falling within a Central subject, is **declared by the Governor-General in Council to be of a merely local or private nature within the province.**

52. **Matters pertaining to a Central subject in respect of which powers have been conferred by or under any law upon a Local Government.**

The second task that of allocating the revenue resources between the Central and provincial Governments was a comparatively difficult one. As the problem was conceived in the main as one of making the Provinces independent of the Government of India in matters in which it was proposed that they should acquire an authority of their own acknowledged by law it was natural for the authors of the Report on constitutional Reforms to hold that

> "Our first aim.....has been to find some means of entirely separating the resources of the Central Government from those of the Provinces."

The first step in that direction was therefore to abolish the system of "divided heads" or budget by shared revenues, for there was a concensus of opinion that this coparcenary system, in so far as it gave a handle to the Central Government to interfere in the domestic affairs of the Provinces, was a source of friction and was incompatible with provincial independence. But such a system of complete separation was fraught with two main difficulties. The first difficulty was in connection with the disposal

of dividend heads. To whom should they be handed over ? At the time the scheme of complete separation was contemplated the heads of revenue which were divided in all or some of the Provinces were land revenue, stamps, excise, income tax and irrigation. The authors of the Report on Constitutional Reforms proposed[1]

> "……that the revenue from stamp duty should be discriminated under the already well-marked sub-heads *General* and *Judicial*; and that the former should be made an Indian and the latter a provincial receipt. This arrangement will preserve uniformity in the case of commercial stamps where it is obviously desirable to avoid discrepancies of rates ; and it will also give the provinces a free hand in dealing with court-fee stamps and thus provide them with an additional means of augmenting their resources. Excise is at present entirely a provincial head in Bombay, Bengal, and Assam, and we see no valid reason why it should not now be made provincial throughout India…… Land revenue, which is far the biggest head of all, is at present equally shared between the Indian and all the provincial Governments, except that Burma gets rather more than one-half and the United Provinces get rather less…… Now land revenue assessment and collection is so intimately concerned with the whole administration in rural areas that the advantages of making it a provincial receipt are obvious…… Moreover, famine expenditure and expenditure on major irrigation works are for obvious reasons closely connected with land revenue, and if the receipts from that head are made provincial it logically follows that the Provinces should take over the very heavy liability for famine relief and protective works……We were told that in the days of dawning popular government in the Provinces it would be well that the provincial government should be able to fall back on the support of the Government of India (as, if the head were still divided, it would be able to do) when its land revenue policy was atttacked.[2] But it is just because divided heads are not

[1] Report, pp. 165-7.

[2] The land revenue policy of the Government has always been looked upon by the popular leaders, rightly or wrongly, with a certain degree of suspicion, and is always in danger of being attacked. For fear that the policy may be subverted under a popular Provincial Legislature to whose control land revenue as a provincial subject was subjected it provided by the Reservation of Bills Rules under Section 12 (1) of the Government of India Act, 1919, that—The Governor of any Governor's province *shall* reserve for the consideration of the Governor-General any Bill, not having been previously sanctioned by the Governor-General, which has been passed by the legislative Council of the Province and

regarded as merely a financial expedient but are, and so long as they survive will be, viewed as a means of going behind the provincial government to the Government of India, that we feel sure that they should be abolished. We propose therefore to make land revenue together with irrigation wholly provincial receipts. It follows that the Provinces will become entirely liable for expenditure on famine relief and protective irrigation works.....The one remaining head is income tax. We see two very strong reasons for making this an Indian receipt. First, there is the necessity of maintaining a uniform rate throughout the country. The inconveniences, particularly to the commercial world, of having different rates in different Provinces are manifest. Secondly, in the case of ramifying enterprises with their business centre in some big city, the Province in which the tax is paid is not necessarily the Province in which income is earned. We have indeed been told that income tax is merely the industrial or professional complement of the land revenue ; and that to provincialize the latter, while Indianizing the former, means giving those provinces whose wealth is more prominently agricultural, such as the United Provinces and Madras, an initial advantage over a Province like Bombay, which has very large commercial and industrial interests. Another very practical argument is that the tax is collected by provincial agency and that if Provincial Governments are given no inducement, such as a share of the receipts or a commission on the collections which is only such a share in disguise, there will be a tendency to slackness in collection and a consequent falling off in receipts. We admit that these arguments have force; but we are not prepared to let them stand in the way of a complete separation of revenues. Equality of treatment as between one Province and another must be reached so far as it is possible in the settlements as a whole, and it is

is presented to the Governor for his assent, if the Bill appears to the Governor to contain provisions—

(*e*) affecting the land revenue of a Province either so as to

(i) prescribe a period or periods within which any temporary settled estate or estates may not be re-assessed to land revenue, or

(ii) limit the extent to which the assessment to land revenue of such an estate or estates may be made or enhanced, or

(iii) modify materialy the general principles upon which land revenue has hitherto been assessed, if such prescription, limitation or modification appears to the Governor to be likely seriously to affect the public revenues of the province.

not possible to extend the principle of equality to individual heads of revenue. If it should be found that receipts 'fall off, it may be necessary to create an all-India agency for the collection of the tax, but this we should clearly prefer to retaining it as a divided head. To sum up : we propose to retain the Indian and Provincial heads as at present, but to add to the former income tax and general stamps, and to the latter land revenue, irrigation, excise and judicial stamps. No head will then remain divided."

However, when all the existing sources of revenue were completely distributed between the Central and Provincial Governments as proposed, it was inevitable that there should be a deficit in the Budget of the Government of India. How to make up this deficit was therefore the second difficulty that was involved in replacing the system of divided heads by a system of separate heads of revenue. The authors of the Report on Constitutional Reforms were presented with many a plan for the solution of this knotty problem, lathe course of their survey they observed :[1]

"One way of meeting it would be to maintain the basis of the present settlements, but to allot to the Government of India a certain proportion of growing revenue instead of its share of the divided heads. But this device would stereotype all the existing inequalities between the Provinces which by reason of the permanent settlement in some of them are considerable ; while it would also introduce an element of great uncertainty into the Indian Government's finance. A second was that we should take an all-round contribution on a *per capita* basis. But this expedient also would not obviate very undesirable variations between Provinces in the rate of levy owing to the inequality of provincial resources and of provincial needs. A third plan was to take an all-round percentage contribution based on gross provincial revenue. This is open, *inter alia,* to the objection that it would leave several of the Provinces with large deficits. Fourthly, we considered but rejected the proposal that Provinces which had a surplus should temporarily help others as being cumbrous and impracticable."

[1] Report, p. 168.

The plan recommended by the authors of the Report was[1]

> "to assess the contribution from each Province to the Government of India as a percentage of the difference between the gross provincial revenue and the gross provincial expenditure";

in other words, a levy on the surplus of the estimated gross revenue of the Province when all divided heads are separately allotted over its estimated normal expenditure, including expenditure on famine relief and protective irrigation. On the basis of the Budget figures for 1917-18 it was found that it would require a levy of 87 per cent.[2] on the provincial surpluses to make up the deficit of Rs. 1363 lakhs in the Budget of the Government of India found likely to be caused by the abolition of the system of divided heads.[3]

[1] Report, p. 169.

[2] The suggested imposition of an equal rate of levy is somewhat strange, for the authors of the Report had in para. 206 protested that "equality of contribution was impracticable," etc. Para. 206 of the Joint Report makes a confusion. It protests against equality of contributions, which is what it adopts in the plan it recommends.

[3] The way in which the proposed plan would have worked out in practice can be gathered from the following figures given in the Report, Cal. Ed. (p. 134), and based on the Budget figures for 1917-18:—

(In Lakhs of Rupees)

Province	Gross Prov. Revenue	Gross Prov. Expen-diture	Gross Prov. Surplus	Contribu-tion (87 per cent. of Col. 4)	Net Prov. Surplus
1	2	3	4	5	6
Madras ...	13,31	8,40	4,91	4,28	63
Bombay ...	10,01	9,00	1,01	88	13
Bengal ...	7,54	6,75	79	69	10
United Provinces ...	11,22	7,47	3,75	3,27	48
Punjab ...	8,64	6,14	2,50	2,18	32
Burma ...	7,69	6,08	1,61	1,40	21
Bihar and Orissa ...	4,04	3,59	45	39	6
Central Provinces ...	4,12	3,71	41	36	5
Assam ...	1,71	1,50	21	18	3
Total ...	68,28	52,64	15,64	13,63	2,01

N.B.—The Punjab figures in column 5 should be reduced and those in column 6 raised by $3^1/_2$, lakhs in each case to allow for the continued compensation which the province is entitled to receive for the cession of a crore of its balances to the Government of India in 1914.

In making these recommendations the authors of the Report were careful to observe :[1]

> "One caveat we are bound to make. Emergencies may arise which cannot be provided for by immediate raising Government of India taxation ; and in that case it must be open to the Central Government to make a special supplementary levy upon the provisions. We must add that inasmuch as our proposals are based on war figures they should be open to revision hereafter, but not subject to change for a period of say six years, and to avoid intermediate discussion the scheme should in the meantime be regarded as part of the constitutional agreement with the Provinces. It should also be one of the duties of the periodic commission which we propose should be appointed to examine the development of constitutional changes after ten years' experience of their working or of some similar body at that time, to re-investigate the question of the provincial contributions to the Government of India."

These proposals were put before the Provincial Governments, for their opinion. The objections to a plan which appeared to make some Provinces bear a greater burden of the cost of the Central Government than others readily suggested themselves. Madras and the United Provinces seemed to pay 47.4 per cent. and 41.1 per cent, of their surpluses to the Government of India, while Bombay and Bengal appeared to escape with a sacrifice of no more than 9.6 per cent, and 10.1 per cent, of their respective surpluses. The inequity of this treatment seemed to be so very apparent that the Provinces against which a greater burden was set down raised loud protests. So impressed was the Government of India with the justice of this clamour that in its letter[2] to the Secretary of State it observed :

> "We recommended that the initial contributions should be recognized as temporary and provisional, and that steps should be taken as soon as possible to fix a standard and equitable scale of contributions.....The whole question..... requires skilled investigation ; (the difficulty of the position was

1 Report, p. 170.

2 Dated March 5, 1919 (para. 61), on the questions raised in the Report on Indian Constitutional Reforms, pp. Cmd. 123 of 1919.

foreseen in the Report and investigation by the first statutory commission was promised, but) we propose that a Committee on Financial Relations be appointed, either by you or by us, to advise fully upon the subject, so that each province may know exactly how it stands before the new regime starts."

And this recommendation was endorsed[1] by the Joint Select Committee of Parliament which sat on the Reform Bill. Accordingly the Secretary of State appointed a Committee under the chairmanship of Lord Meston to advise on :

(*a*) The contributions to be paid by the various provinces to the Central Government for the financial year 1921 -22;

(*b*) The modifications to be made in the provincial contributions thereafter with a view to their equitable distribution until there ceases to be an all-India deficit;

(*c*) The future financing of the provincial loan accounts ; and

(*d*) Whether the Government of Bombay should retain any share of the revenue derived from income tax.

After about seven weeks of investigation the Committee produced its Report.[2] In advisinng on clause (a) of its terms of reference the Committee expressed its dissatisfaction of the plan set forth in the Joint Report of taking from the Provinces a fixed uniform proportion of their respective surpluses as their contributions to the Central Exchequer. The principal objection urged against the plan was that in some Provinces it left no surplus and in others no adequate surplus after the payment of their respective quotas of contributions. The Committee held, and rightly too, that

"in no case may a contribution be such as would force the province to embark on new taxation *ad hoc,* which to our minds would be an unthinkable sequel to a purely administrative rearrangement of abundant general resources."

The Committee felt itself bound by a limiting consideration in providing the contribution, as a result of which it felt itself obliged

[1] Report of the Joint Select Committee on the Government of India Bill (part V, clause 41, para. 9)—House of Commons Return 203 of 1919, p. 12.

[2] Report of the Committee appointed by the Secretary of State for India to advise on the question of the Financial Relations between the Central and Provincial Governments in India, pp. Cmd. 724 of 1919, Ch. III.

> "to leave each *Province* with a reasonable working surplus"— a surplus which it preferred "to calculate, so far as possible, with some relation to the general financial position of the Province and the more imminent claims upon its resources."
>
> " To be able to comply with the requirements of leaving each Province with a surplus, and of inaugurating the new Councils without the necessity of resort to fresh taxation,"

the Committee deemed that the most equitable plan to be to take, not *equal* contributions as the Joint Report advised,[1] but *unequal* contributions from the surpluses of the Provinces liable to make them.

For the consummation of its plan the Committee held that the augmentation of Provincial Surpluses was an essential step. Without it, it deemed its task to be futile. The only way to augment the provincial surplus was to allocate some other source of Imperial revenue in addition to those already provincialized. To the provincialization of the income tax, a matter which was included in clause (d) of its terms of reference so far as Bombay was concerned, the Committee being impressed by the reasonings of the Joint Report, felt bound to oppose. As an alternative it recommended that *General Stamps* should be provincialized, as means of augmenting provincial surpluses, along with *Judicial Stamps*. The effect of this transfer of *General Stamps* from the all-India list to the provincial list was to increase the provincial resources and diminish those of the Central Government. That deficit the Committee accepted as amounting in the year 1921-2 to ten crore, composed of six crores previously

[1] The Report of the Financial Relations Committee seems to argue that the difference between its plan of levying contributions and that suggested in the Joint Report is a difference in the *basis* of the contributions ; its basis being that of "increased spending power", while that of the Joint Report was "gross provincial surplus." The Financial Repations Committee pointedly criticized the method proposed in the Joint Report to assess the contribution from each province " as a percentage of difference between the gross provincial revenue and the gross provincial expenditure." There does not seem to be much difference between that scheme and the scheme of the Committee consisting of a percentage levy on what is called increased spending power of the provinces under the new distribution of the revenues between the Central and Provincial Governments. That these two are different bases of assessment seems to be the general impression (cf. the speech of the Hon. Rai Bahadur Bakshi Sohan Lal on the Resolution *re* Provincial Contributions to the Central Exchequer, Legislative Assembly Debates, Vol. III, No. 8, p. 508). This of course is an error; for spending power is simply another name for gross surplus. The change made by the Committee was in proposing unequal contribution in place of equal contribution. It kept unchanged the basis of the assessment.

estimated by the Government of India[1] *plus* four crores for the loss of *General Stamps,* the revenue from which the Committee gave to the Provinces. This amount subject to certain adjustments,[2] which when made resulted in a clear deficit of 9,83.06 lakhs net. In strict adherence to the limiting consideration which it felt bound to respect, the Committee proceeded to fix the following ratios in which each of the nine Provinces were to contribute to make up this amount of 9,83 lakhs in the year 1921-2 :—

INITIAL CONTRIBUTIONS (IN LAKHS OF RUPEES)

Provinces	Increased spending power under new distribution of Revenue	Contributions as recommended by the Committee	Increased spending power left after Contributions are paid
Madras ...	5,76	3,48	2,28
Bombay ...	93	56	37
Bengal ...	1,04	63	41
United Provinces ...	3,97	2,40	1,57
Punjab ...	2,89	1,75	1,14
Burma ...	2,46	64	1,82
Bihar and Orissa ...	51	*nil*	51
Central Provinces ...	52	22	30
Assam ...	42	15	27
Total ...	18,50	9,83	8,67

This ratio of initial contributions was not intended in any manner by the Committee "to represent the ideal scale on which the Provinces should have in equity to be called upon to contribute." Indeed in making its recommendations as to initial contributions the Committee paid less attention to equity of contributions and more to

> "established programmes of taxation and expenditure and legislative and administrative expectations and habits, that cannot without serious mischief be suddenly adjusted to a new

[1] Recommendations of the Government of India regarding the Demarcation between Central and Provincial Revenues, Cmd. 334 of 1919, Statement III.

[2] These adjustments were, with regard to the Military Police Force in Burma, the payment of pensions and leave allowances. Cf. Report of the Financial Relations Committee, para. 10.

> and more equitable ratio of contributions widely different (as an equitable ratio must admittedly be) from that of the past. It is accordingly inevitable, if such mischief is to be avoided, that the ratio for initial contributions should bear little relation to that which would be ideally equitable." But the Committee also recognized that "an initial ratio of this nature can only be defended as a measure of transition. It is necessary, but it is necessary only in order to give time to the provinces to adjust their budgets to a new state of affairs; and we are clearly of opinion that no scheme of contribution can be satisfactory that does not provide for a more equitable distribution of the burden of the deficit within a reasonable time."

The Committee therefore proceeded next to consider the question of *standard* contributions as distinguished from *initial* contributions, which were only transitional. As to what should be the ideal basis for such an equitable distribution of the burden the Committee felt quite certain ; for it stated that

> "to do equity between the provinces it is necessary that the total contribution of each to the purse of the Government of India should be proportionate to its capacity to contribute."

Two questions were involved in translating this principle into practice. What is the *total* contribution of a province to the purse of the Government of India ? Secondly, what is the measure of the capacity of a Province to contribute ? With regard to the first the Committee observed that

> "the total contribution of a Province to the purse of the Government of India will consist in future of its direct contributions towards the deficit, together with its indirect contribution (as at present) through the channels of customs, income tax, duties on salt, etc.";

in other words, the pressure of the taxes from within its jurisdiction for the benefit of the Central Government. With regard to the second the Committee held that

> "the capacity of a Province to contribute is its taxable capacity, which is the sum of the incomes of its taxpayers, or the average income of its taxpayers multiplied by their number."

The Committee was frank in its avowal of the fact that the data available was not sufficient for a direct quantitative evaluation either of the total net contribution which a Province made to the Government of India or of its capacity to contribute, and held that it was

> "useless to attempt to state a formula, to serve as a basis for a standard ratio of contributions, capable of automatic application from year to year by reference to ascertained statistics."

None the less the Committee did not abandon the ideal basis it had selected for fixing the standard contributions. For it observed:

> "We are able, after surveying such figures as are available and after close inquiry into the circumstances of each Province, to recommend a fixed ratio of contributions which in our opinion represents a standard and equitable distribution of the burden of any deficit. In arriving at this ratio we have taken into consideration the indirect contributions of the Provinces to the purse of the Government of India, and in particular the incidence of customs duties and of income tax. We have inquired into the relative taxable capacities of the Provinces, in the light of their agricultural and industrial wealth and of all other relevant incidents of their economic positions, including particularly their liability to famine. It should be observed that we have considered their taxable capacities not only as they are at the present time, or as they will be in the immediate future, but from the point of view also of the capacity of each Province for expansion and development agriculturally and industrially, and in respect of imperfectly developed assets such as minerals and forests. We have also given consideration to the elasticity of the existing heads of revenue which will be secured to each Province, and to the availability of its wealth for taxation."

After estimating, to the best of its ability, the weight which should be given to each of these circumstances, the Committee

recommended the following fixed ratio as representing an equitable basis for the relative contributions of the Provinces to meet the deficit in the Budget of the Government of India :—

STANDARD CONTRIBUTIONS

Province ...	Per cent. Contribution to Deficit.
Madras	17
Bombay	13
Bengal	19
United Provinces	18
Punjab	9
Burma	6½
Bihar and Orissa	10
Central Provinces	5
Assam	2½
Total ...	100

The Committee agreed that there should be an interval of time sufficient to enable the Provinces to adjust their budgets to the new conditions before they should in equity be called upon to contribute according to this standard ratio.[1] But the Committee thought that the interval allowed for adjustment should not be unduly prolonged.

> "The initial ratio which," the Committee said, "we have proposed is a practical necessity, but the Provinces which will be called upon to pay thereunder more than they should pay in equity, ought not to be required to bear that burden for a longer period or to a greater extent than is required to prevent dislocation of the provincial budgets."

The Committee therefore proposed

> "that contributions should be made on the standard ratio to any deficit that there may be in the seventh year of

[1] For a good piece of criticism of the basis *adopted by* the Financial Relations Committee in arriving at the standard ratio, see para. 12 of a rather splenetic letter from Rai Bahadur K. V. Raddi to the Reforms Commissioner, Simla, pp. Cmd. 974 of 1920, p. 58.

contribution, and that the process of transition from the initial to the standard ratio should be continuous beginning in the second year of contribution, and proceeding in six equal annual steps."

The following table shows the initial, intermediate, and ultimate ratios of contributions for the seven years in accordance with the recommendations of the Committee :—

PER CENT. CONTRIBUTIONS TO DEFICIT IN SEVEN CONSECUTIVE YEARS BEGINNING WITH THE FLRST YEAR OF CONTRIBUTION
(rounded off to even halves)

Province	1st Year	2nd Year	3rd Year	4th Year	5th Year	6th Year	7th Year
Madras	35½	32½	29½	26½	23	20	17
Bombay	5½	7	8	9½	10½	12	13
Bengal	6½	8½	10½	12½	15	17	19
United Provinces	24½	23½	22½	21	20	19	18
Punjab	18	16½	15	13½	12	10½	9
Burma	6½	6½	6½	6½	6½	6½	6½
Bihar and Orissa	*nil*	1½	3	5	7	8½	10
Central Provinces	2	2½	3	3½	4	4½	5
Assam	1½	1½	2	2	2	2	2½
Total	100%	100%	100%	100%	100%	100%	100%

These recommendations were accepted by the Government of India and the Secretary of State. But when the rules in which they were embodied came before the Joint Select Committee of Parliament appointed to revise the draft rules made under the Government of India Act, for consideration, the Committee made some important alterations in the allocation of revenues and contributions from the Provinces. In its Report[1] the Joint Committee recognized

"the intricacy of the problem with which the Financial Relations Committee had to deal, and the difficulty, amounting

[1] Second Report of the Joint Committee appointed to revise the draft rules made under the Government of India Act, pp. 172 of 1920, pp. 2-3.

almost to impossibility, of arriving at any solution which was likely to be acceptable to all Local Governments..... They believe that such dissatisfaction as the proposals have aroused is inevitable in distributing resources between a Central and Provincial Governments, and that the impossibility of removing by a stroke of the pen inequalities which are the result of long-standing and historical causes have been overlooked." "None the less," the Committee desired, " on grounds of policy, to alleviate the disappointment caused by the restraints which the system of contribution laid on the employment by the provinces of their revenues. As a means of alleviating the burden the Committee suggested :

"(1) That there should be granted to all provinces some share in the growth of revenue from taxation on incomes so far as that growth is attributable to an increase in the amount of income assessed.

"(2) That in no case should the initial contribution payable by any province be increased, but that the gradual reduction of the aggregate contribution should be the sole means of attaining the theoretical standards recommended by the Financial Relations Committee."

Accordingly it is provided in the Devolution Rules that:

(15) There shall be allocated to each Local Government a share in the income tax collected under the Indian Income Tax Act, 1918, within its jurisdiction. The share so allocated shall be three pies on each rupee brought under assessment under the said Act, in respect of which the income tax assessed has been collected. The number of pies to be specified shall be so calculated as to yield at the outset to the Local Governments collectively a sum amounting as near as may be to 400 lakhs.[1]

[1] This arrangement was subject to the following provision attached to Devolution Rule 15:—

(2) In consideration of this allocation, each Local Government shall make to the Governor-General in Council a fixed annual assignment of a sum to be determined by the Governor-General in Council as the equivalent of the amount which would have accrued to the Local Government in the year 1920-21 (after deducting the provincial share of the cost of special income tax establishments in that year) had the pie-rate fixed under sub-rule (1) been applied in that year, due allowance being made for any abnormal delays in the collection of tax.

(3) The cost of special income tax establishments employed within a province shall be borne by the Local Government and the Governor-General in Council in the proportions of 25 per cent, and 75 per cent, respectively.

[contd overleaf]

and that

(17) In the financial year 1921-2 contributions shall be paid to the Governor-General in Council by the Local Governments mentioned below according to the following scale :—

Name of the Province		Contributions (in lakhs of rupees)
Madras	... ...	3,48
Bombay	... ...	56
Bengal	... ...	63
United Provinces	... ...	2,40
Punjab	... ...	1,75
Burma	... ...	64
Central Provinces and Berar	... ...	22
Assam	... ...	15

(18) From the financial year 1922-3 onwards a total contribution of 9,83 lakhs, or such smaller sum as may be determined by the Governor-General in Council, shall be paid to the Governor-General in Council by the Local governments mentioned in the preceding rule. When for any year the Governor-General in Council determines as the total amount of the contribution a smaller sum than that payable for the preceding year, a reduction shall be made in the contributions of those Local Governments only whose last previous annual contribution exceeds the proportion specified below of the smaller sum so determined as the total contribution ; and any reduction so made shall be proportionate to such excess :

Madras	...	...	$\frac{17}{90}$ ths
Bombay	...	...	$\frac{13}{90}$ ths

(4) If in any financial year the total amount payable by a Local Government under sub-rules (2) and (3) in respect of the fixed assignment and the cost of special income tax establishments exceeds the amount of the share of income tax allocated to it under sub-rule (1), the fixed assignment for that year shall be deemed to have been reduced by the amount of such excess.

Bengal	...	...	$\frac{19}{90}$ ths
United Provinces	...	...	$\frac{18}{90}$ ths
Punjab	...	...	$\frac{9}{90}$ ths
Burma	...	...	$\frac{6½}{90}$ ths
Central Provinces and Berar			$\frac{5}{90}$ ths
Assam	...	...	$\frac{2½}{90}$ ths

(19) In cases of emergency the Local Government of any Province may be required by the Governor-General in Council, with the sanction of the Secretary of State, to pay to the Governor-General in Council a contribution for any financial year in excess of the amount required by the preceding rules in the case of that year.

Two more matters had to be settled in order to make the separation between Provincial and Central Finance as complete as possible. Both were connected with capital transactions. One was the question of the Provincial Loan Account. This Account represented the fund from which a Provincial Government advanced agricultural loans, loans to indebted landholders, to municipalities and other local bodies, etc. The capital was provided by the Government of India as required and was returned to it as it was repaid. The province paid the Government of India interest on the average capital outstanding in each year, recouping itself by higher rates of interest which were supposed to compensate it for bad debts. It was commonly agreed that it was the natural result of the Reforms Scheme that the Provinces should for the future finance their own loan transactions, and that joint accounts of this nature between them and the Government of India should be wound up as quickly as possible. The matter was referred to the Financial Relations Committee and on the basis of its recommendations in that behalf it was provided by Rule 23 of the Devolution Rules that:

> "Any moneys which, on the 1st day of April 1921, are owed to the Governor-General in Council on account of advances

made from the provincial loan account of any Province shall be treated as an advance to the Local Government from the revenues of India, and shall carry interest at a rate calculated on the average rate carried by the total amount owed to the Governor-General in Council on this account on the 31st March 1921. The interest shall be payable upon such dates as the Governor-General in Council may fix. In addition, the Local Government shall pay to the Governor-General in Council in each year an instalment in repayment of the principal amount of the advance, and this instalment shall be so fixed that the total advance shall except where for special reasons the Governor-General in Council may otherwise direct, be repaid before the expiry of twelve years. It shall be open to any Local Government to repay in any year an amount in excess to the fixed instalment."

The other was the question of responsibility for capital expenditure on irrigation works. In this as in the matter of Provincial Loan Account it was agreed that it would be incompatible with the scheme of complete separation of Provincial Finance to hand over to the former the control of irrigation works and to make the latter responsible for the capital transaction incurred thereon. Hence the rule[1] that:

(1) The capital sums spent by the Governor-General in Council upon the construction in the various Provinces of productive and protective irrigation works and of such other works financed from loan funds as may from time to time be handed over to the management of Local Governments shall be treated as advances made to the Local Governments from the revenues of India. Such advances shall carry interest at the following rates, namely :

(*a*) In the case of outlay up to the end of the financial year 1916-17, at the rate of 3.3252 *per centum*.

(*b*) In the case of outlay incurred after the financial year 1916-17, at the average rate of interest paid by the Governor-General in Council on loans raised in the open market since the end of that year.

(2) The interest shall be payable upon such dates as the Governor-General in Council may fix.

[1] Devolution Rule 24.

Thus was broken the financial and administrative strand which tied the Provincial Governments to the Central Government and prevented the introduction into them of responsible government. As the Provinces thereby acquired "an acknowledged authority of their own" over the services and sources allocated to them it followed that they should have the freedom to borrow in their own name, which was denied to them heretofore. Consequently the Local Government Borrowing Rules' made under the Reforms Act provided that subject to certain conditions :[2]

"A Local Government may raise loans on the security of the revenues allocated to it for any of the following purposes, namely:

(*a*) To meet capital expenditure on the construction or acquisition (including the acquisition of land, maintenance during construction and equipment) of any work or permanent asset of a material character in connection with a project of lasting public utility, provided that:

(i) the proposed expenditure is so large that it cannot reasonably be met from current revenues, and

(ii) if the project appears to the Governal-General in Council unlikely to yield a return of not less than such percentage as he may from time to time by order prescribe, arrangements are made for the amortization of the debt;

(*b*) to meet any classes of expenditure on irrigation which have under rules in force before the passing of the Act been met from loan funds ;

(*c*) for the giving of relief and the establishment and maintenance of relief works in times of famine or scarcity ;

[1] Rules under Section 2 (*2*) of the Government of India Act, 1919.

[2] The rules required that:

(1) No loan shall be raised by a Local Government without the sanction (in the case of loans to be raised in India) of the Governor-General in Council, or (in the case of loans to be raised outside India) of the Secretary of State in Council, and in sanctioning the raising of a loan the Governor-General in Council or the Secretary of State in Council, as the case may be, may specify the amount of the issue and any or all of the conditions under which the loan shall be raised.

(2) Every application for the sanction of Secretary of State shall be transmitted through the Governor-General in Council.

(*d*) for the financing of the Provincial Loan Account; and

(*e*) for the repayment or consolidation of loans raised in accordance with these rules or the repayment of advance made by the Governor-General in Council."

With the cutting off of the financial and administrative strand there remained only the legislative strand which had so far debarred the growth of provincial autonomy. This legislative strand, as was pointed out before, operated through the principle of requiring previous sanction and subsequent assent of the Government of India. By the rules made under the Reforms Act a field has been marked off for the free exercise of the Legislative powers of the Provinces in which that principle has been dispensed with. So far as the field of tax legislation was concerned it was provided[1] that:

> "The Legislative Council of a Province may, without the previous sanction of the Governor-General, make and take into consideration any law for imposing for the purposes of the Local Government any tax included in Schedule I."

This schedule comprises the following heads of taxation :—

1. A tax on land put to uses other than agricultural.
2. A tax on succession or acquisition by survivorship in a joint family.
3. A tax on any form of betting or gambling permitted by law.
4. A tax on advertisements.
5. A tax on amusements.
6. A tax on any specified luxury.
7. A registration fee.
8. A stamp-duty other than duties of which the amount is fixed by Indian legislation.

In the matter of non-tax legislation the procedure adopted by the rules has been slightly different. In tax legislation the rules stated in what cases previous sanction was not necessary. In non-tax legislation the rules required in what cases previous sanction was necessary. The effect of this difference in the

[1] Rules under Section 10 (3) (a) of the Government of India Act, 1919, Scheduled Taxes Rules.

requirements of the rules of previous sanction' was that while in matters of tax legislation a Provincial Government could only levy certain named taxes, in the matter of non-tax legislation it could do anything provided it did not infringe certain laws. The reasons for this difference are obvious. A widening of the basis of provincial taxation means a narrowing field for imperial taxation. Such a detrimental effect could not flow to the Government in the matter of non-tax legislation, be the non-tax legislative powers of the Provinces howsoever large. The taxing power to be granted to the Provinces had therefore to be more strictly circumscribed than the grant of legislative power. None the less it cannot be denied that the rules regarding previous sanction sufficiently loosened the legislative strand as to permit of the Provinces being autonomous in theory as well as in practice.

This autonomy is well reflected in the new Budget Procedure in the Provinces. Under the old regime the Provincial Budgets had to be passed by the Finance Department of the Government of India, the Provincial Accounts to be supervised by the Accountant-General and audited by the Controller and Auditor-General of the Government of India and appropriation reports submitted to the Finance Department of the Government of India. All this is changed under the new regime. The Provincial Budget, instead of being passed by the Finance Department of the Government of India, is framed by the Finance Department constituted in each Province under the Reforms Act[2] and is voted item by item by the Provincial Legislature.[3] The accounts of the Provinces still continue[4] to be supervised and audited by the

[1] Rules under section 10 (3) (L) of the Government of India Act, 1919, Local Legislature Previous Sanction rules. It should, however, be noted that if a Provincial Bill is such that it does not require previous sanction it does not follow that it can become law under the above rules because it has been assented to by the Provincial Legislation. For, by virtue of another set of Rules made under section 12 (1) of the Government of India Act, 1919, called Reservation of Bills Rules, it is provided that the Governor of a Province *must* reserve some and may reserve other Bills for the subsequent assent of the Governor-General before declaring them law even if the Bills be such as to require no previous sanction.

[2] For the constitution and functions of the Finance Department of the Provinces, see Part III of Devolution rules made under Section I of the Government of India Act, 1919.

[3] See Rules 25 to 32 of the Rules of Business for Provincial Legislative Councils made under Section 11 (5) of the Government of India Act, 1919.

[4] Rules framed under Section 96D (1) of the Government of India Act.

officers of the Government of India, but the important point under the new regime which is the hall-mark of provincial independence is that the appropriation reports, instead of being sent to the Government of India for action, are now sent to the Committee of Public Accounts constituted from amongst the members of the Provincial Legislature which sanctioned the Budget for report that the money voted by the Legislature was spent within the scope of the grants made by the Legislature. Thus is effected the demarcation of the field for the governance of. India into Central and Provincial. Such a demarcation of administrative and financial matters was the dream of many an Indian politician and statesman. It was urged before the Royal Commission on Decentralization and was also urged by the late Mr. Gokhale in his political testament which he left before he died. But all these projects were ill timed and could not be given effect to until the law of the Indian constitution had been altered. Now that such an alteration has been made the ideal of Provincial autonomy bids fair to become real. But before closing this study it may be useful to evaluate the changes of its successful working.

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CHAPTER XII

A CRITIQUE OF THE CHANGE

It is obvious that good administration depends upon good finance; for finance is "the fuel of the whole administrative machine." No aspect of the scheme of Reforms therefore demands a closer and more anxious study than the financial arrangements with which the new system of administration starts. The necessity for such an examination is all the greater because this aspect of the Reforms Scheme has received comparatively little intelligent criticism at the hands either of the public or the expert.

The first question to consider is, can the new financial arrangements be said to be *administratively* workable ? To make administrative polities independent by requiring them to finance themselves entirely out of their own respective resources without having to depend upon one another must always be regarded as a very important end to be kept in view in devising a new financial arrangement. It is true that it is not always possible to realize this end, and it may in some cases be actually helpful to their working that the polities should be made mutually dependent; for interdependence, at least in matters of public finance, instead of being an impediment might conceivably furnish a basis for co-operation and strength. None the less independence in finance for each administrative policy is to be sought for wherever possible. There can be no doubt that from this standpoint the system of contributions is better than the system of divided heads. This is not to condemn the system of divided heads. The existence of several concurrent or overlapping tax jurisdictions must always be a source of difficulty whenever an attempt is to be made to distribute the different sources of revenue among the competing tax jurisdictions so as to allow each a sufficiency of funds. The reason is that this distribution of the sources of revenue must not only be governed by considerations of adequacy, but must also be governed by considerations of suitability. " The problem of efficiency of taxation," as Prof. Seligman observes,[1]

[1] *Essays in Taxation* (8th edition, 1913), Chapter XII, "The Relations of State and Federal Finance."

> "is naturally of vital importance. No matter how well intentioned a scheme may be, or how completely it may harmonize with the abstract principles of justice, if the tax does not work administratively it is doomed to failure."

Whether among the sources of revenue to be partitioned there are any which are naturally more suitable for utilization by one tax jurisdiction rather than by another depends upon what is the basis of the tax. If the basis of the tax is narrow then the argument in favour of its utilization by a narrower tax jurisdiction will be correspondingly stronger. If its basis is wide then the scales would weigh in favour of its utilization by the broader tax jurisdiction. But as a result of following the dictates of suitability it is not always possible to make a partition such as to give each administrative polity revenues adequate for its purposes. For it may happen that a particular tax is suitable for one jurisdiction while its yield, instead of being necessary for that jurisdiction, may be required for another jurisdiction which is unfit to levy it, or may be partially necessary for both. In such a case, how are the ends of adequacy to be subserved ? Two remedies suggest themselves. One is the adoption of the system of divided heads, and the second is to apportion the deficiency among the several component states and require them to make a definite contribution towards meeting it.[1]

The system of divided heads was by no means peculiar to the Indian fiscal system. It has been adopted in some form or other by many other countries. In England, for instance, the inheritance tax is assessed by the Central Government, but a part of the proceeds is allotted to the Local Government. The same is true of some other taxes in England. In Germany, under the Empire, the proceeds of certain indirect taxes were divided between the federal and state governments. In Canada it is well known that a large part of the provincial revenues is derived from proceeds of taxes that are levied by the federal government.

The prejudice in India against the system of divided heads of revenue is particularly regrettable because it is founded on the view that it is opposed to the principle of separation of revenues. People who opposed it said[2] that it involved divided heads of expenditure which fettered the spending powers of the Provinces and enabled the Government of India directly to interfere in their

[1] 1t will be noted that although the new Indian system is largely a system of contributions it is not without an admixture of the system of divided heads so far as the Income tax is concerned.

[2] R.C.D., Mit of Evid., Vol. VI, Q. 25017-25020; Vol. VIII, Q.35531, 35225-29.

Budget estimates and "to have its finger in every pie" of theirs. The system of divided heads was no doubt characterized by these objectionable features. But division of expenditure is not a necessary accompaniment of division of revenue. Nor is it a necessary incident of it that a polity which shared in the yield of a tax but did not administer it should interfere in calculating the estimates of the yield. Chipped of its evil features, the system of divided heads of revenue is simply another name for what Prof. Seligman calls[1] the system of segregation of source and the division of the yield. The essence of the system consists in the exclusive assessment of a particular source of revenue by one tax jurisdiction, coupled, however, with an apportionment of a part of the proceeds to another tax jurisdiction. The system of divided heads of revenue does not cease to be a system of separation of sources merely because there is the division of the yield. In such a system of divided heads there is a separation because the assessment of the tax is segregated—which is the essence of separation—exclusively in the hands of one tax jurisdiction, and the division of the yield can be so regulated that it need not be incompatible with real separation.

The system of contributions does what the system of divided heads aims to do. Like the system of divided heads it answers the tests of suitability as well as of adequacy by allowing the tax to be administered by the jurisdiction most competent to do it, and also of adequacy by making the taxing jurisdiction hand over a sum to the non-taxing jurisdiction. Essentially the system of divided heads and the system of contributions are alike. The only difference between the two is that so far as the apportionment of proceeds are concerned the one is an itemized arrangement while the other is a lump-sum arrangement. There is therefore really nothing much to choose between them. But this is not altogether a case of merely giving a different name to a discredited system in the hope that it might smell more sweet. For the system of contributions has one real point of superiority as compared with the system of divided heads. It does not merely permit of separation of assessment, but it also makes for a greater separation than does the system of divided heads. Under the system of divided heads the receiving party has still

[1] Op. cit., Chapter XI, "Separation of State and Local Revenues," particularly pp. 365-6.

an anxious concern in the assessment and collection of the tax for any laxity in the administration of a divided head of revenues is bound to affect its interests adversely, and may therefore claim a hand in the administration of the tax. But under the system of contributions there is no room for such a possibility. Its quota being assured it is out of the business of assessing and collecting the tax. There is thus a greater separation under the system of contributions than there can be under the system of divided heads.

When we come to analyse the equity of the new financial arrangements we find that great objections are raised to the system of contributions. But many of these objections are misconceived. It will be recalled that the contributions from the Provinces to the Central Government in India are regulated according to their spending powers. In other words, it is the apportionment by expenditure method of dealing with the deficit. That the method subserves the ends of adequacy is of course obvious. But what does not seem to be so obvious, but which all the same is a great virtue of the system of contributions, is that it promotes economy in the giving as well as in the receiving tax jurisdiction; for extravagence in the contributing tax jurisdiction immediately increases its burden, while extravagance in the receiving tax jurisdiction is directly reflected in enhancing the contributions. None the less, the contributions, it is protested, are inequitous, for they are held to be based not on population, nor on area, nor on wealth, nor on the capacity of the Provinces. It is also complained that the system of contributions according to spending powers is unwise, for it tends to check desirable expenditures in the more progressive Provinces. The latter is, of course, a real objection to the apportionment by expenditure method of contributions in its general form. But it may be said, on the other hand, that in the first place if a jurisdiction is willing to undertake the burdens of a larger expenditure for desirable aims, it will scarcely be deterred by the slight additional burden which might result from the increase in the contribution. Secondly, if it were found that the contribution did produce such a result it would be posible to obviate it by adopting the simple expedient of exempting certain kinds of expenditure which might be deemed to be necessary. What these expenditures should be would be a matter of adjustment, which might differ in different provinces. The virtues of the system of apportionment by expenditure method of levying contributions would still be

conserved intact, and its automatic features would work equally well if certain expenditures only, instead of all expenditures, were selected as the basis of calculations.

This objection cannot, however, be urged against the Indian system of contributions. In the first place, the contribution is not a varying sum as is the case in the financial systems of other countries. Because the Provinces are made contributory towards the deficit of the Central Government it is to be remembered that they are not liable to the whole of the central deficit whatsoever it may be from year to year. On the other hand, in ordinary years the Provinces are only liable to make contributions towards meeting what is called the Standard Central Deficit of Rs. 9.83 lakhs. That being the case the contributions do not form an element of uncertainty in the Provincial Budgets. Secondly, the contributions are not a permanent feature of the financial arrangements between the Central and Provincial Governments. The levy of the contributions is contemplated to be only transitional, to allow the Government of India to work out its financial salvation, and the Government of India has promised that they will adopt such a policy as to bring about the extinction of the contributions in as short a time as possible. Lastly, the ratio of the contributions to the standard revenues or expenditure of any of the Provinces is not so great as to place a heavy incubus on their financial system, and not being a varying quantity cannot be said to check useful expenditures by Provinces which propose to incur them.

As a matter of fact whatever may be said against the flaws in the apportionment by expenditure method of levying contributions it would be difficult to deny that the system eminently answers the requirements of equity. It certainly brings about a more equitable[1] distribution of the burden than is possible under other systems. For it may fairly be assumed that expenditures very nearly correspond to the actual abilities of the communities concerned more than do population[2] or area. Not only is the principle equitable in itself, but care has been taken to do equity in its application as between the different Provinces. For we know that the contributions are so regulated as to leave to the Provinces, rich as well as poor, a reserve of spending power in order to enable them to meet such of their pressing needs as may not have been covered by the figure for standard

[1] Cf. Seligman, *op. cit.,* p. 360.

[2] In Germany under the Empire the contributions from the states were apportioned according to population. The same is the case in Switzerland.

expenditure. The main purpose of rejecting equal in favour of unequal contributions was to see that the burden of the contributions did not prevent any of the Provinces from meeting such extra expenditure as may be absolutely necessary. Indeed, no system of contributions can be said to be calculated to produce greater equity than the Indian system.

So far we have examined whether the new financial arrangement is administratively workable and equitable. What we have now to see is : Has the arrangement proved itself to be financially adequate? It will be recalled that the Financial Relations Committee held that the general resources of the country were abundant, and that it required only a wise

(In Thousands of Rupees)

Province		Standard Figures	Revised 1921-2	Budget 1922-3
Madras ...	Revenue	14,98,02	15,58,59	16,76,50
	Expenditure	14,07,20	17.15.93	17,18,55
	Surplus and Deficit	90,82	—1,57,34	—42,05
Bombay ...	Revenue	12,09,70	13,67,13	14,93,06
	Expenditure	11,55,03	16,52,80	15,42,17
	Surplus and Deficit	54,67	—2,85,67	—50,11
Bengal ...	Revenue	8,55,28	8,86,53	10,55,86
	Expenditure	8,61,13	11,10,60	10,36,90
	Surplus and Deficit	—5,85	—2,24,07	18,96
United Provinces ...	Revenue	12,29,88	13,34,31	13,58,67
	Expenditure	12,06,56	14,59,87	13,85,65
	Surplus and Deficit	1,23,32	—1,25,56	—26,98
Punjab ...	Revenue	9,73,51	10,73,76	11,38,26
	Expenditure	9,10,69	12,23,24	12,68,44
	Surplus and Deficit	62,82	—1,49,48	—1,30,18
Burma ...	Revenue	8,24,28	9,99,33	10,00,57
	Expenditure	7,84,78	10,27,51	11,90,70
	Surplus and Deficit	39,50	—28,18	—1,90,13
Bihar and Orissa ...	Revenue	4,30,39	4,46,15	4,62,65
	Expenditure	4,20,70	4,85,97	5,13,80
	Surplus and Deficit	90,69	—39,82	—51,15
Central Provinces ...	Revenue	4,35,37	5,14,80	5,35,23
	Expenditure	4,38,80	5,41,76	5,72,17
	Surplus and Deficit	—3,43	—26,96	—36,94
Assam ...	Revenue	1,81,46	2,01,12	2,08,06
	Expenditure	1,78,25	2,19,45	2,22,58
	Surplus and Deficit	3,21	—18,33	—14,52

plan of distribution in order to leave each Province with a sufficiently large "spending power" or surplus. That the plan recommended by the Committee was calculated to bring about such a result must of course be taken for granted. But when we analyse the Budgets of the different Provinces since the introduction of the Reforms the result appears to be entirely disappointing (see Table, p. 287).

Thus, taking the estimated revenue and expenditure of the nine Provinces for 1922-3, equilibrium between current revenue and expenditure is only to be found in two of them, Burma and Bengal, and in the latter this result could not have been attained but for the temporary remission[1] of its annual contribution to the Central Government, and a programme of taxation calculated to bring in Rs. 140 lakhs. In the rest of the Provinces the deficits of the year aggregated to the large figure of Rs. 7,74 lakhs. This huge deficit was financed by new[2] taxation to the extent of Rs. 3,52 lakhs, and for the rest by drawing on balances and by raising loans from the public and from the Central Government. But as the Secretary of State in his despatch[3] pointed out, this

> "process of financing provincial deficits in part from the accumulated revenue balances of the past will now practically come to an end, as such balances will be generally exhausted by the end of the current financial year ..... If the financial stability of the Provinces is not to be undermined, with ultimate jeopardy to the Government of India itself, it is impossible to contemplate the continuance of a series of Provincial deficits financed by borrowing either direct from the public or from the Central Government."

What is to be the remedy ? At the Conference held in Simla in April, 1922, "to consider various matters connected with the financial arrangements between the Central Government and the Provinces," it was disclosed[4] that the Government of India and the Provinces were divided as to the proper solution for the rehabilitation of Provincial Finance on a stable and secure

[1] *Legislative Assembly Debates,* Vol. Ill, No. 8.

[2] Cf. the letter of the Government of India, Finance Department, No. 13 of July 13, 1922, to the Secretary of State.

[3] Cf. the despatch in reply to the above by the Secretary of State (Financial), No. 17 of November 9, 1922.

[4] For a summary of the result of this Conference, see Letter of the Government of India, *supra,* p. 257.

footing. The Provinces proposed an increase in their resources by revising the financial arrangements made by the Reforms Act. On the other hand, the Secretary of State as a mouthpiece of the Government of India urged that

> "Equilibrium can only be achieved by reduction of expenditure and the adoption of measures which will lead to an increase of revenue."[1]

The Provinces were not, however, unanimous in the suggestions they made for the revison of the arrangements effected by the Act. Some like the Government of Bombay suggested a return to the system of "divided heads" while others were opposed to it. But the majority was for securing relief through the abolition of contributions. This attitude of the Provinces towards the new financial arrangements is on the face of it a very unreasonable attitude. They are opposed both to the system of divided heads and the system of contributions as well. This is to have things both ways, and they could certainly have had it if the existing resources of the country had been properly husbanded. Inadequacy of finance is not always the result of a paucity of revenue resources. National prosperity may be great and growing and the increase of national wealth may be proceeding unchecked. If under such circumstances enough revenue is not obtained the fault does not lie with the social income. Rather it is a fault of the government which must be said to have failed to organize and marshal the national resources for fiscal purposes. The same is to some extent true of the Indian Government.

Surveying the national resources of the country, it becomes evident that there are two sources which the Government has not been able to marshal properly. One is the land revenue. It is notorious that land revenue has been the biggest resource to the Government of India. In the collection of the land revenue every landholder is laid under contribution, but the rate of assessment is not periodically enhanced for every one of them. On the other hand, in Bengal and in other parts of India the rate of assessment is permanently settled. Consequently in such parts of india which by the long period of settled government enjoyed by them, and by the consequent influx of capital, have

[1] The despatch of the Secretary of State, *supra,* p. 257.

attained to a greater advance in prosperity than any others, the land revenue yields practically no increase; the land-owners, with enormously increased incomes, contribute nothing to the increase in the financial burdens of the State. Permanent Settlement has ever since the days of Lord Canning been suggested as a panacea for improving the financial condition of the people. After the severe famine of 1860, Lord Canning, then Viceroy and Governor-General of India, recommended the extension of the Permanent Settlement to all parts of india. Sir John (afterwards Lord) Lawrence supported the recommendation, and the two Secretaries of State for india, Sir Charles Wood and Sir Stafford Northcote, approved of the proposal. Fortunately for the country the proposal for making the Permanent Settlement universal was finally rejected in 1883. Some no doubt regarded the decision as unfortunate, and continued the agitation in favour of the permanent Settlement long after. But the real force, if there was any in the agitation, was derived from the motive of putting a limit on the financial resources of an alien and an irresponsible bureaucracy. Those who then agitated in favour of the Permanent Settlement probably did not realize that some day this irresponsible bureaucracy would give place to a responsible government of the people and the Permanent Settlement which it was desired to be instituted as a curb on the unchartered licence of a bureaucracy would result in placing a fetter on the freedom of a popular government to enter upon the path of orderly progress. A bad government may abuse its financial powers, but a government cannot be a good government if there is a serious limitation on its financial powers. It was therefore a good thing that this evil of a permanent settlement was not allowed to spread to the whole of India. But it would have been better if the new financial arrangements had contrived to replace the permanent settlement system of land revenue by a periodical settlement system. That was one important way of augmenting the general resources of the country and thereby giving adequacy to all the governments concerned. Instead of this the financial arrangements were so conceived as not to

> "subject the permanently settled provinces to financial pressure which would have the practical result of forcing them to reconsider the permanent settlement."[1]

If this had been done it would have augmented the general resources to the benefit of all. As it was, not only provision was

[1] Joint Report, p. 171.

made favouring the retention of the Permanent Settlement, but the Bengal Government, which has the largest number of permanently settled holders of land, was later on exempted from contributing to the Government of India which was compelled to meet its deficit in other ways.

Land Revenue therefore is one source which the Government could have marshalled in the interest of giving adequacy to the new financial arrangements. The other source which the Government refuses to tap is the customs revenue. The kind of fiscal policy that was adopted during the pre-Mutiny days, was, as we know it to be, of a suicidal character. The same is true of the post-Mutiny fiscal policy. From the Mutiny up to the present time, the Government of India has never looked upon the customs revenue as a resource to be used to meet the exigencies of the State, and when it has used it, it is only very reluctantly, and never to the fullest, not to mention the circumstances when it has actually reduced its revenue from this source in spite of the crying needs of the exchequer.[1] While the ostensible reason given in favour of such a fiscal policy is that the customs revenue is wrong in principle, everybody knows that the customs revenue is not raised in India because it is feared that under it Indian industries would be protected against English industries. That the whole policy of India has been dictated by the interests of English manufactures is beyond dispute, and the reason for it is not far to seek. The Secretary of State for India, the supreme executive for India, is directly amenable to the English voters, whose primary concern has been to see that their markets are not closed against them. Whether a protectionist policy is good or bad is another question. For the present it is sufficient to note that the Government of India has been subjected to a pernicious kind of limitation on its fiscal powers which prevents it from using a source of revenue which has everywhere else proved to be most elastic and abundant of financial resources. If these limitations were not there the present financial inadequacy in all probability might not have ensued at all, and there would have been no necessity either for adopting the system of divided heads or for imposing contributions. As it is, owing to these limitations on the taxable resources of the country, a deficit in the Budget of the Central Government is inevitable. Given this fact, the adoption of some method of meeting that deficit was imperative, and there is no doubt that

[1] Financial Statement for 1880-81, para. 74.

the system adopted is better than the system it replaced. In the present circumstances of the finances of the Central Government, contributions must be taken as a settled issue. Nor can it be said that the abolition of contributions would restore stability to Provincial Finance. Such no doubt is the prevalent view of the Provincial Governments and also of non-official politicians. The Resolution moved in the Indian Legislative Assembly on the 14th September, 1922, rested on the same view that if the Government of India were only to dispense with the contributions it would immediately restore equilibrium in the financial position of the Provinces. This belief was strengthened by the assumption that the aggregate estimated deficit of all the Provinces disclosed itself to be 352 lakhs of rupees for the financial year 1922-3; and as the total contribution to the Imperial Government by the Provinces aggregated to the sum of 983 lakhs, a remission of this amount would more than wipe off the deficit in the Provincial Budgets. It must, however, be said that the deficit of 352 lakhs of rupees does not disclose the true position of the Provinces as derived from the financial arrangements made by the Act. If we are to deduce the true position of the Provinces as following from the new arrangement we must take note of the new taxation imposed and of the gain to Bengal through the remission of its contribution to the Imperial exchequer. Making adjustments for these, the position of the Provinces as it would have been without contributions may be seen from the following :—

FINANCIAL POSITION OF THE PROVINCES 1922-3
(In thousands of rupees)

Provinces	Revenue	Expenditure	Surplus or Deficit
	Rs.	Rs.	Rs.
Madras	15,99,00	17,18,55	—1,19,55
Bombay	14,32,06	15,42,17	—1,10,11
Bengal	9,15,86	10,99,90	—1,84,04
U.P.	13,58,67	13,85,65	—26,98
Punjab	11,38,26	12,68,44	—1,30,18
Burma	10,00,57	11,90,70	—1,90,13
Bihar and Orissa	4,62,65	5,13,80	—51,15
Central Provinces	5,35,23	5,72,17	—36,94
Assam	2,05,06	2,22,58	—17,52
Total dificit ...	...	...	—8,66,60

According to this calculation the aggregate deficit of the Provinces would have been about 867 lakhs. But we must make some further adjustments to this account. It has not been possible to deduct from the revenues of the Central Provinces the sum derived from the enhancement of the Excise duty in the Provinces. Secondly, the revenues of the Central Provinces for the year 1922-3 include collections of suspended revenue of previous years. If these adjustments were made the aggregate deficit of the Provinces would give rise to a figure which would be barely covered by the remission of contributions. We must therefore conclude that remission of contributions would have at best been a very inadequate measure for removing the financial stringency of the Provinces, even if the problem of financing the extra deficit caused by such remission in the budget of the Central Government were to be ignored.

But if, remission of contributions cannot improve the difficult situation that has arisen with regard to Provincial Finance, we must go to the root of the matter and inquire what are the causes which have brought on that situation. Is it due to the normal expenditure of the Provinces being under-rated ? Or is it due to the normal revenues of the Provinces being over-estimated ? For this purpose we must first ascertain whether the resources allocated to the Provinces were really inadequate to their normal needs. The following table compares the standard receipts and expenditure and shows the margin left between them for covering a probable advance in expenditure.

STANDARD REVENUE AND STANDARD EXPENDITURE

Provinces	Standard Revenue	Standard Expenditure	Excess or Defect of Standard Revenue over Standard Expenditure
	Rs.	Rs.	Rs.
Madras	14,98,02	14,07,20	90,82
Bombay	12,09,70	11,55,03	54,67
Bengal	8,55,28	8,61,13	—5,85
U.P.	12,29,88	11,06,56	1,23,32
Punjab	9,73,51	9,10,69	62,82
Burma	8,24,28	7,84,78	39,50
Bihar and Orissa	4,30,39	4,20,70	9,69
C. P.	4,35,37	4,38,80	—3,43
Assam	1,81,46	1,78,25	3,21

From this it is obvious that except in the case of two Provinces the standard revenue has left a sufficient margin over standard expenditure. Only in Bengal and Central Provinces there was no margin, owing to the fact that the standard expenditure was slightly in excess of the standard revenue. But this defect was more than remedied in the case of Bengal by the remission of the contributions to the Central Government, and the excess of standard expenditure over standard revenue in the case of Central Provinces was indeed very small. Barring this, in the rest of the Provinces the margin allowed was substantial. Let us now turn to the actual figures and compare them, with the standard figures. First of all, let us take the revenue side of the Provincial Budgets. Has the realized revenue fallen short of the standard revenue ? The following table compares the realized receipts of the Provinces with the standard figure assumed to be the normal in the financial allocation made under the new Act:—

Provincial Revenues[1]

Provinces	Standard Revenues	+ Increase over Standard : — Decrease from Standard.	
		For 1921-2	For 1922-3
	Rs.	Rs.	Rs.
Madras	14,98,02	60,57	40,41
Bombay	12,09,70	1,57,47	2,22,36
Bengal	8,55,28	31,25	60,58
U.P.	12,29,88	1,04,43	1,28,79
Punjab	9,73,51	1,00,15	1,64,75
Burma	8,24,28	1,75,05	1,76,29
Bihar and Orissa	4,30,39	15,76	32,26
C.P.	4,35,37	79,43	99,86
Assam	1,81,46	22,60	23,60

The above table brings out very clearly the fact, not readily admitted, namely that the realized revenue has in no case fallen short of the standard revenue. It may, however, be asked : Has the increase in the realized revenue been equal to the margin allowed under the allocation between the standard revenue and

[1] Exclusive of new taxation.

the standard expenditure of the Provinces ? As throwing some light on that aspect of the question the following table is interesting :—

EXPANSION OF PROVINCIAL REVENUES

Provinces	Standard Margin	Excess or Defect of Realized Margin over Standard Margin	
		For 1921-2	For 1922-3
Madras	90,82	—30,25	—50,41
Bombay	54,67	1,02,80	1,68,19
Bengal	—5,85	25,40	54,73
U.P.	1,23,32	—18,89	5,47
Punjab	62,82	37,33	1,01,93
Burma	39,50	1,35,55	1,36,79
Bihar and Orissa	9,69	6,07	22,57
C. P.	3,43	76,00	96,43
Assam	3,21	19,39	20,39

From these figures it is obvious that except in the case of Madras the realized margin has in no case fallen below the standard margin. The excess of the realized over the standard margin is enormous. It cannot, therefore, be said that the financial deficit in the Provinces is due to provincial revenue having failed to reach the assumed normal. On the other hand, the revenues were more than necessary to cover the normal expenditure of the Provinces. The only conclusion that can fairly be drawn from the facts of the case is that the provincial deficits are due to an extraordinary increase[1] in the expenditure of the Provinces. The following figures furnish enough evidence in support of this view:—

Provinces	Standard Expenditure	+ Increase over Standard : — Decrease from Standard.	
		For 1921-2	For 1922-3
Madras	14,07,20	3,08,73	3,11,35
Bombay	11,55,03	2,97,77	3,87,14
Bengal	8,61,13	2,49,47	1,75,77
U.P.	11,06,56	3,43,31	2,79,09
Punjab	9,10,69	3,12,55	3,57,75
Burma	7,81,78	2,42,73	4,05,92
Bihar and Orissa	4,20,70	65,27	93,10
C. P.	4,38,80	1,02,96	1,23,37
Assam	1,78,25	41,20	44,33

[1] For a brief review of this fact see the summary of it in the letter of the Government of India, *op. cit.*

We are, therefore, led to the view held by the Secretary of State that reduction of expenditure and increase of taxation is the only remedy for placing provincial finance on a sound footing. What chances are there that the Provinces will undertake the reduction of expenditure and increase of taxation so very necessary for their safety ? In this connection it is well to recall the dictum of that great financier, Mr. James Wilson, who once said :

> "Finance is not mere arithmetic; finance is a great policy. Without sound finance no sound government is possible : without sound government no sound finance is possible."

If there is any truth in this, then whether or not the Provincial Governments will undertake economy or face increase of taxation depends upon whether or not the system of government established in the Provinces by the Reforms Act is a sound system. Now, what is the nature of the government that is established in the Provinces under the Reforms Act ? In common parlance the system is known as dyarchy. Under it the Executive of the Province, instead of being composed of the Governor in Council as before, is now divided into the Governor in Council and the Governor in Ministry. Under it the subjects marked off as Provincial from the Central are further divided into "Reserved" and " Transferred" subjects. The former are in charge of the Governor in Council, and the latter in that of the Governor in Ministry. Of these parts of the Provincial Executive the Council in charge of the "reserved" subjects still remains as before irresponsible to the Provincial Legislature, is unremovable by it, and in that sense is a non-parliamentary executive. The other part of the Provincial Executive, namely the Ministry in charge of the "transferred" subjects, is recruited from the elected members of the Provincial Legislature, which is made responsible to the Provincial Legislature which is based on a more or less popular franchise, and is removable by it, and in that sense is a Parliamentary Executive.

The Provincial Legislature is supreme with regard to both the parts of the Provincial Executive. It has not only full powers of legislation, but has also full and unfettered powers of

interpellation. Its powers of sanctioning and voting upon the Provincial Budget are complete, although provision is made in the Reforms Act,[1] which allows that

> "the Local Government shall have power in relation to any such demand (for a money grant) to act as if it had been assented to, notwithstanding the withholding of such assent or the reduction of the amount therein referred to (by the Provincial Legislature), if the demand relates to a reserved subject (which is assigned to the charge of the Governor in Council) and the Governor certified that the Expenditure provided for by the demand is essential to the discharge of his responsibility for the subject."

Can such a government tackle the problems of sound finance? It is obvious that of the two parts of this dyarchical Executive, one, i.e. the Governor in Council, need have very little anxiety for reduction of expenditure or for the increase of taxation. It derives its mandate from Parliament, and as such is free to adopt any policy—backed up as it is by the certification power of the Governor without any regard for the best interests of the taxpayer. The authors of the Joint Report had seen that this certifying power to override the wishes of the Legislature might lead to irresponsible extravagance on the part of the *Governor* in Council, and had proposed to endow the Governor in Ministry with a countervailing power which was to act as a curb on the former. That power was to have consisted in the Proviso which laid down that no taxation even in the interests of the "reserved" subjects should be imposed in any Province without the consent of the ministry.[2] The Extremists—a class of politicians in India who were bent upon minimizing the reforms as being inadequate—disliked the proviso as calculated to make scapegoats of ministers and to bring them into discredit with the people. But their rivals, the "Moderates," now calling themselves "Liberals"—one does not know why—saw clearly what the proviso meant. If this had materialized, there can be no doubt that the ministry would not have been a mere outsider tendering advice to the Council which might be accepted or rejected, but would have obtained a powerful voice in the settlement of the budget.

[1] Government of India Act, 1919, sect. II (2) (a).

[2] Joint Report, para. 256.

Having regard to the fact that no minister unless he was in a position to justify the budget proposals, including even those which pertained to the reserved subjects, would have hoped to persuade the Legislature to agree to a proposal of new taxation, the influence of the ministry on the "reserved" subjects, i.e. on the Council, would have inevitably been in the direction of thrift and retrenchment. The moderates were entirely right in their interpretation of the proviso and also in their insistence upon acquiring power, even at the cost of burdening the country with new taxation[1]. But in the heat of the controversy and their desire to convince the public of the substantiality of the Reforms, they drew some very amusing pictures of how the ministers working under the aegis of the proviso would be able to hold the Council at bay. This alarmed the bureaucracy, which raised the cry that it was dangerous to leave the provision for the "reserved" subjects to the tender mercy of ministers who bore no responsibility for the consequences of refusing adequate Budget provision for those subjects. The authors of the Joint Report[2] had realized the force of this argument, and had confessed that the success of the arrangements depended upon their being worked by reasonable men who would conduct themselves in a reasonable manner. They were probably right in refusing to assume that the ministers would not co-operate, either by reducing their own claims or by imposing taxation, in order to meet expenditure which the Council considered essential for the proper administration of the "reserved" subjects. But the bureaucracy, which had been frightened by the tactless jubilations of the Moderates, insisted that even reasonable men would at times, in all good faith, differ vitally from other reasonable men when it was a question of providing supply for work which one party was responsible for safeguarding and developing, while the other was only concerned in getting a share of the money. In its opinion circumstances could well be imagined in which reasonableness might not prevail. Let us suppose, it was argued, that the Governor in Council finds new and heavy expenditure imperative on some reserved subject, but that he cannot induce ministers to consent to accept less for their

[1] Vineberg, *Separation of State and Local Revenues in Canada,* p. 13, for an instance where military power was bought in Canada by volunteering to pay for the cost of it.

[2] Joint Report, para. 257.

subjects or impose taxation for it. The Governor then, under his exceptional powers, insists on the expenditure being provided for in the next budget, and the result is to leave ministers with inadequate funds for their transferred subjects. What is to happen ? Are ministers to be compelled to raise a tax which is apparently for their own need, but a need which has been created against their will by the Council refusing to curtail their demands ? Such a procedure, it was pointed out, would be tortuous, provocative, and indefensible. Again, let us suppose that ministers consented to raise the necessary money, but the legislature refused to pass their revenue measures. Are the ministers to resign as having lost its confidence? The bureaucracy placed another dilemma before the authors of the Joint Report. Ministers have raised a new tax for some purpose of their own. In the next budget the Governor finds himself compelled to add substantially to the reserved provision for some new necessity, and thus to curtail the provision for "transferred" subjects. Ministers virtually see their new taxation receipts going to finance some development for which they are not responsible, and of which indeed they may disapprove. What are they to do? To avoid these difficulties the proviso was dropped and in its place the following changes were made in the Devolution Rules :—

Taxation And Borrowing

30. All proposals for raising taxation or for the borrowing of money on the revenues of a Province shall in the case of a Governor's Province be considered by the Governor with his Executive Council and ministers sitting together, but the decision shall thereafter be arrived at by the Governor in Council, or by the Governor and Minister or Ministers, according as the proposal originates with the Governor in Council or the Governor and Ministers.

Allocation Of Revenues For The Administration Of Transferred Subjects

31. Expenditure for the purpose of the administration of both reserved and transferred subjects shall, in the first instance, be a charge on the general revenues and balances of each Province, and the framing of proposals for expenditure in regard

to transferred and reserved subjects will be a matter for agreement between that part of the government which is responsible for the administration of transferred subjects and that part of the government which is responsible for the administration of reserved subjects.

Procedure In Event Of Failure To Agree

32. (1) If at the time of the preparation of the budget the Governor is satisfied that there is no hope of agreement within a reasonable time between the members of his Executive Council on the one hand and Ministers on the other as to the apportionment of funds between reserved and transferred departments respectively, he may, by order in writing, allocate the revenue and balances of the Province between reserved and transferred subjects, by specifying the fractional proportions of the revenues and balances which shall be assigned to each class of subjects.

(2) An order of allocation under this rule may be made by the Governor either in accordance with his own discretion or in accordance with the report of an authority to be appointed by the Governor-General in this behalf on the application of the Governor.

Period Of Order Of Allocation

33. Every such order shall (unless it is sooner revoked) remain in force for a period to be specified in the order, which shall be not less than the duration of the then existing Legislative Council, and shall not exceed by more than one year the duration thereof:

Provided that the Governor may at any time, if his Executive Council and Ministers so desire, revoke an order of allocation or make such other allocation as has been agreed upon by them :

Provided, further, that if the order which it is proposed to revoke was passed in accordance with the report of an authority appointed by the Governor-General, the Governor shall obtain the consent of the Governor-General before revoking the same.

Condition Of Order Of Allocation

34. Every order of allocation made under these rules shall provide that, if any increase of revenue accrues during the period of the order on account of the imposition of fresh taxation that increase, unless the legislature otherwise directs, shall be allocated in aid of that part of the Government by which the taxation is initiated.

Preparation Of Budget In Default Of Agreement Of Order Of Allocation

35. If at the time of the preparation of any budget no agreement or allocation such as is contemplated by these rules has been arrived at, the budget shall be prepared on the basis of the aggregate grants respectively provided for the reserved and transferred subjects in the budget of the year about to expire.

Thus rather than depend too implicitly on reasonableness when circumstances must often be provocative effective precaution is taken by these rules against the ministry disapproving the allocation of funds to the "reserved" subjects by allowing the Governor to make such an allocation which is to be binding on both parts of the executive and also by arming him with the power of veto over the Provincial Legislature by allowing the Governor, should he deem it necessary, to restore a Budget grant on a reserved subject if it were refused or reduced by the Provincial Legislature which has the right to determine the Provincial Budget, and thirdly by allowing the Governor in Council equally with the Governor in Ministry to raise new taxation or new loans for the development of the subjects in its own charge. The result is that one part of this dyarchical Executive, namely the Governor in Council, can have little reason to be interested in economy or be over-weighed by considerations of taxation. Its supply being assured its concern in the stability of provincial finance must be deemed to be somewhat remote. The whole burden of meeting the problem of restoring sound finance, therefore, falls upon the Governor in Ministry in charge of the "transferred" subjects. For, under the distribution and certification powers it is the "transferred" subjects which must go without the funds they need, and it is those in charge of them, namely the Ministers, who must bear the brunt of economy or resort to new taxation to bring about an equilibrium in the finances of the Provinces. For it is doubtful that the Governor in Council will choose the onerous task of raising new taxes or practise economy when there are open to them other ways of amply providing themselves for the subjects they have under their control. Will the other half of the Government, namely the Governor in Ministry, consent to practise economy, or if need be undertake the burden of new taxation ? That obviously depends upon the temper of the Legislature.

At the outset it is to be noted that the Legislature will not readily favour projects of increased taxation. It is true, as Burke remarks,[1] that

> "To tell the people that they are relieved by the dilapidation of their public estate, is a cruel and insolent imposition. Statesmen, before they valued themselves on the relief given to the people by the destruction of their revenue, ought first to have carefully attended to the solution of the problem : Whether it be more advantageous to the people to pay considerably, and to gain in proportion ; or to gain little or nothing, and to be disburdened of all contribution ?"

Whatever may be the philosophers' answer to this question, there can be no doubt that in a poor country like India with a very low capacity for bearing the burden of taxation, it is always very unpleasant, if not cruel, to propose an augmentation of that burden. Besides, any proposals for extra taxation would be shunned as likely to prejudice the chances of the legislators at the polls. So long as nomination was the general mode of obtaining a seat in the Legislature it was unnecessary to mind the prejudices of the electors. But when a seat is in the gift of the elector a candidate to the Legislature who proposes to touch his pocket has a small chance of success, even though the new taxes are to result in more than proportionate benefit. Besides, a political party which has won power from a bureaucracy by accusing it of heavy taxation cannot easily consent to disgrace itself by continuing the same policy. This innate aversion to taxation on the part of the Legislature is strengthened by the peculiar attitude of the Legislature towards the "reserved" and " transferred" subjects. The reserved subjects are those which mostly pertain to peace and order, while the transferred subjects are those which largely pertain to progress. But as has already been pointed out, the policy of the bureaucracy before the Reforms was calculated to sacrifice progress to order. It is therefore obvious that under the revised constitution the popular Legislatures should aim at turning the scales in favour of subjects tending towards progress. Their aversion to increase of taxation and their partiality for the transferred subjects will favour them

[1] *Reflections on the Revolution in France.*

to welcome proposals on the part of ministers making drastic reduction in the funds allotted to the reserved subjects. Their attitude towards the ministers will be largely governed by the amount of economy they will be able to effect in the reserved subjects for the benefit of the transferred subjects. Thus in the absence of any very large chances of increase of revenue the two halves of the Executive, the Governor in Council backed by the distribution and certification power and the Governor in Ministry backed by the general Budget powers of a popular Legislature, will compete in the matter of developing their subjects by forcing economy on each other. The Legislature being unwilling to tax, the Governor in Council being in a position to resist retrenchment and the Governor in Ministry anxious to expand, the chances of an early equilibrium in Provincial finance are very small.

It is, therefore, evident that if there is no sound finance in the Provinces it is because dyarchy is not a good form of government. Now, why is dyarchy not a good form of government ? The answer to this question is very simple. Dyarchy is a bad form of government because it is opposed to the principle of collective responsibility. An administrative machine must work smoothly and harmoniously. But in order that it may do so it must recognize the principle of impartibility of governmental work and a collective responsibility of the administrators in the execution thereof. That the work of government is by its nature impartible may not seem to accord with facts : for, in practice the functions of government can be and commonly are partitioned, as they are between local bodies and between departments. Nevertheless it is true that a common thread runs through them all: that no function of government acts *in vacuo* ; that each reacts on some other function, and that the various functions cannot act at all to produce orderly progress unless there is some force to harmonize them. Otherwise a policy enunciated in one department may fail to fructify for want of helpful action on behalf of other departments. That harmonizing force can only be found in the principle of collective responsibility. This is so because under it, as Hearn points out:[1]

> "Each minister acts in his own department as the recognized agent of his colleagues in that particular

[1] *The Government of England,* p. 204

> department, subject, however, to inquiry and control by the whole body. But in all cases on which any difficulty is likely to arise each minister, from motives not merely of prudence but of honour, takes the opinion of the Cabinet. When the precaution is taken the measure becomes the common act of the Ministry."

Right or wrong there is a common co-ordinated policy which guides a unified government based on collective responsibility. But having made a partition of governmental work, dyarchy must be said to have introduced an element of divided responsibility in the Executive. It is true that the partition is not horizontal but vertical. It is also true that in setting the two parts to work it has not been provided that there should be two separate Legislatures for two separate executives ; or that each should make its own laws, control its own finance, frame its own budget, impose its own taxation, and raise its own loans ; or that each should have its separate staff for the administration of subjects allotted to it and have its own methods of recruitment, pay and pension for its services ; so that the two authorities might in fact have clearly defined spheres of their own exclusively within them. The Government of India had indeed suggested that some, if not all, of these concomitants of a typically dual executive should also be made a part of the dyarchical system adopted to carry on the government of the Provinces. Fortunately for the country the framers of the new constitution held[1]

> "that wisdom lies not in equipping each of the different elements with a complete paraphernalia of its own, and trusting to their orbits lying sufficiently apart for collision to be avoided; but in taking every opportunity of bringing the two elements into contact sc as to induce the habits of joint action." "It is our intention," wrote the authors of the Joint Report,[2] "that the Government thus composed and with this distinction of functions shall discharge them as one Government," and that "the Provincial budget should be framed by the Executive Government as a whole."[3]

It was no doubt well to have modified the working of dyarchy by subjecting it to the interplay of two principles, one of division in order to give as clear a definition as possible of the several

[1] Joint Report, p. 199. [2] *Ibid,* p. 180. [3] *Ibid,* p. 207.

responsibilities of the two parts of the government and of union, in order to get association in aims and policy between those parts. For to have equipped each part of the Executive with a separate paraphernalia would have been nothing short of a calamity. But because there is an understanding that when ministers will act in matters of transferred subjects the councillors will advise them, and that when councillors will act in matters of reserved subjects the ministers will advise them, it does not alter the fact that dyarchy is a system of divided responsibility. It is not a system which ensures the work of government being conducted in harmony and in accordance with a common policy. On the other hand, it is a system fraught with organized quarrel. The dividing line between dyarchy and anarchy is very narrow. If such a system is not rent in practice it is because of two transient circumstances. One such circumstance consists in the Provincial Legislature being a weakling sapped of its vitality by political dissensions. The other consists in the tenure of the Ministers not being at the will of the Legislature, but for the duration of the Legislature's existence, and are to hold office during the pleasure of the governor. To allow a governor to choose ministers from among the elected members of the Legislature instead of requiring him to accept ministers who are elected by the Legislature is a grave derogation from the principle of responsible government which was avowedly the object of the Reforms Act. A minister who has the confidence of the governor, and a minister who has the confidence of the Legislature, are two entirely different things. How great is the difference between the two in so far as good government is concerned is writ large in the pages of English political history of the eighteenth and the nineteenth centuries. That such a system should have been adopted against which the whole English constitutional history is a grand protest cannot of course be without some reason. The ostensible reason advanced[1] is that the Legislature

> "had had no experience of the power of dismissing Ministers, or the results attending the exercise of such power. Nobody in India is yet familiar with the obligations imposed by tenure of office at the will of a representative assembly. It is only by actual experience that these lessons can be

[1] Joint Report, p. 181.

> learned ..... By the device of appointing the ministers from the elected members of the (Legislature) and making their tenure of office conditional on the retention of their seats (there is) established at once some measure of responsibility, in the form of responsibility to their constituents and thus (is) put an end to the condition of affairs in which those entrusted with the administration are wholly irresponsible to the constituents who elect the (Legislature)."

It is difficult to believe in the cogency of this piece of reasoning. To argue that nothing can be learned without experience is simply absurd. What is necessary for a proper conduct on the part of an individual or a group is to understand the meanings and values of things. For that it is unnecessary to undergo actual trial. A Legislature composed of responsible persons may be trusted to know the consequences of dismissing a Minister at the start without having to wait to learn it by experience. Again, to argue that the system is not the less responsible because ministers are responsible to their constituents is a shallow piece of pedantry. It was no doubt argued by Austin, in connection with the English Constitution, that the House of Commons was " merely trustee for the body by which they are elected and appointed." It is true that in a political sense the electors are the most important part of, we may even say, are actually, the Sovereign power, since their will is under every representative system of government sure to obtain ultimate obedience. But as Prof. Dicey points out,[2]

> "any expressions which attribute to Parliamentary electors a legal part in the process of law-making are quite inconsistent with the view taken by the law of the position of an elector The sole legal right of electors under the English constitution (and the same is true under the Indian constitution) is to elect members of Parliament. Electors have no legal means of initiating, of sanctioning, or of repealing the legislation of parliament. No court will consider for a moment the argument that a law is invalid as being opposed to the opinion of the electorate":

and this exactly defines the status of the Indian electors. To make the minister responsible to such a nonentity is to make him

[1] *Jurisprudence,* Vol. I, 4th Ed., p. 253.

[2] *Law of the Constitution,* 8th Ed., 1915, p. 57.

virtually irresponsible. That the framers of the constitution were not alive to these considerations in suggesting this particular mode of appointing Ministers it is hard to believe. What is more probable is that this particular mode of appointing ministers was adopted because it permitted to select a man who was more likely to co-operate with those in charge of the reserved subjects and who being irremovable by the Legislature would be less swayed by its wishes. But the Ministers cannot remain altogether immune from the axe of the Legislature. The dangers of the position of a minister who has cultivated friendship with the councillor and has failed to ingratiate himself into the favour of the Legislature, cannot fail to come home to him on budget occasions. The proposals of the minister as embodied in the budget will be liable to be reversed by a vote of the majority of the Legislature, but neither he himself nor the governor will be able to intervene. The minister's only remedy will be to resign.

Anyhow these circumstances which have, so to say, saved dyarchy from failure are only transitory. The political dissensions may be no more than a passing phase, and the ministers from the second term of the reformed Legislature will become amenable to it: so that before long the forces may be organized better than they are, when dyarchy is sure to fail.

Hybrid executives, divided responsibility, division of functions, reservation of powers, cannnot make for a good system of government, and where there is no good system of government there can be little hope for a sound system of finance. The primary solution is that there should be an undivided government with a collective responsibility. That, however, can be achieved only when the whole of government derives its mandate from a common source. That such a consummation should take place as early as possible is devoutly to be wished. In that behalf it is encouraging to know that dyarchy is but a transitional system. The only question is how long and protracted will the period of transition be. The justification for introducing a dyarchical form of government rests on the supposition that India is at present ill-prepared to sustain a system of responsible government in . anything like completeness, for owing to the lack of education and political experience, the Indian electorate will for some time be unable either to formulate their requirements intelligently or

effectively impose a mandate upon their representatives, and that owing to the inveterate social prejudices of the educated classes there is a great danger of their abusing the political power to exploit the masses. This cardinal fact, it was held, must differentiate the degree and the kind of responsibility which can be introduced at the outset from that which will be the eventual resultant of the new system, and must impose the obligation of ensuring that the forces which now hold the people together are not completely withdrawn before satisfactory substitutes are ready to take their place. On the other hand, it has been urged[1] that there is no necessity to wait till the cardinal fact disappears ; for

> "in all countries responsibility in the beginning has been entrusted to a very small section of the people, and government has been in the hands of a small educated minority, who have naturally cared for the interests of the uneducated masses pending the spread of education and the consequent extension of the franchise."

This is of course a familiar line of argument which is usually put forth in India by the political radicals and social tories. If we put aside the painful story of the harsh, cruel and inhuman treatment which the classes in India have accorded to the masses, truth is on their side, for in every country there have been downtrodden communities suffering from social oppression and social injustice, and yet no country has had to be without political power on that account. But those who use this argument forget that if other countries like America with her Negroes and Japan with her Hitas are in possession of political power without having first destroyed social inequality, it is due to the fact of their having been in possession of military power. Military force and moral force are the two chief means to political freedom, and a country which cannot generate the former must cultivate the latter. Thus in India the political problem is entirely a social problem, and a postponement of its solution virtually postpones the day when India can have a free government subject to the mandate of none but her own people.

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[1] Cf. the evidence of the Hon. V. J. Patel and Mr. Madhava Rao before the Joint Select Committee on the Government of India Bill. House of Commons Return 203 of 1919, p. 106.

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THE ECONOMIC JOURNAL
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REVIEW : Page 111

The Evolution of Provincial Finance in British India by B.R. Ambedkar (London : P.S. King & Sons. pp. xxi plus 285, 15 s)

Of this group only two pretend to add anything new to our knowledge of India, the rest are rather text-books for Indian students. Mr. Ambedkar has the facility of making forbidding subjects attractive and has produced a very readable book. Provincial finance in India has so far been almost entirely neglected by writers on finance and little or nothing has been published apart from Government Blue Books and memoranda. The Evolution of Provincial Finance in British India is a useful introduction written rather from the historical point of view. It does not pretend to be exhaustive and is essentially a piece of pioneer work. There are four parts. Part I traces the history from 1833 up to 1873, when a new regime was begun. Centralisation having proved a failure, the opponents of the system wished " to make the Local Governments partners in the great joint stock of Indian Finances..... instead of keeping them on the footing of agents

and servants," thus anticipating the present reforms. Opposition, however, was too strong, and as usual the solution was a compromise, details of which are given in Part II. Various methods are described, such as "Budget by Assignments", "Budget by Assigned Revenues," and "Budget by Shared Revenue." None succeeded in giving the desired results. Part III is analytical, and is an attempt to that, whatever the financial relationship between the Provincial and Central Governments, the former were never in law or fact independent but were closely regulated. It is an interesting piece of work, but does not appear to be so fundamentally important as the author seems to think. Part IV is devoted to finance since the introduction of the new reforms. The treatment here is not so good, probably because the space allotted to it is too small and the subject very complex. The conclusion drawn is that good finance cannot be expected under the present dyarchical system of government. Certainly it will be difficult.

The author is to be congratulated upon the impartial way in which he has discussed an eminently controversial subject.

W. S. THATCHER

Book 3

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THE PROBLEM OF THE RUPEE

ITS ORIGIN AND ITS SOLUTION

B. R. AMBEDKAR
Sometime Professor of Political Economy at the Sydenham College of Commerce and Economics, Bombay.

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1923

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DEDICATED
TO THE MEMORY OF
MY
FATHER AND MOTHER
AS A TOKEN OF MY ABIDING GRATITUDE FOR THE SACRIFICES THEY MADE AND THE ENLIGHTENMENT THEY SHOWED IN THE MATTER OF MY EDUCATION.

Printed in Great Britain by Butler & Tanner Ltd., *Frame and London*

HISTORY OF INDIAN CURRENCY & BANKING

BLANK

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By

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[Reprint of the edition of 1947]

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PREFACE TO THE SECOND IMPRESSION

THE PROBLEM OF THE RUPEE was first published in 1923. Ever since its publication it has had a great demand : so great that within a year or two the book went out of print. The demand for the book has continued, but unfortunately I could not bring out a second edition of the book for the reason that my changeover from economics to law and politics left me no time to undertake such a task. I have, therefore, devised another plan : it is to bring out an up-to-date edition of the History of Indian Currency and Banking in two volumes, of which *The Problem of the Rupee* forms volume one. Volume two will contain the History of Indian Currency and Banking from 1923 onwards. What is therefore issued to the public now is a mere reprint of *The Problem of the Rupee* under a different name. I am glad to say that some of my friends who are engaged in the field of teaching economics have assured me that nothing has been said or written since 1923 in the field of Indian Currency which calls for any alteration in the text of *The Problem of the Rupee* as it stood in 1923. I hope this reprint will satisfy the public partially if not wholly. I can give them an assurance that they will not have to wait long for volume two. I am determined to bring it out with the least possible delay.

B. R. AMBEDKAR

Rajagraha,
Bombay,
7-5-1947.

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PREFACE TO THE FIRST EDITION

In the following pages I have attempted an exposition of the events leading to the establishment of the exchange standard and an examination of its theoretical basis.

In endeavouring to treat the historical side of the matter, I have carefully avoided repeating what has already been said by others. For instance, in treating of the actual working of the exchange standard, I have contented myself with a general treatment just sufficiently detailed to enable the reader to follow the criticism I have offered. If more details are desired they are given in all their amplitude in other treatises. To have reproduced them would have been a work of supererogation ; besides it would have only obscured the general trend of my argument. But in other respects, I have been obliged to take a wider historical sweep than has been done by other writers. The existing treatises on Indian currency do not give any idea, at least an adequate idea, of the circumstances which led to the reforms of 1893. I think that a treatment of the early history is quite essential to furnish the reader with a perspective in order to enable him to judge for himself the issues involved in the currency crisis and also of the solutions offered. In view of this, I have gone into that most neglected period of Indian currency extending from 1800 to 1893. Not only have other writers begun abruptly the story of the exchange standard, but they have popularized the notion that the exchange standard is the standard originally contemplated by the Government of India. I find that this is a gross error. Indeed, the most interesting point about Indian currency is the way in which the gold standard came to be transformed into a gold exchange standard. Some old, but by now forgotten, facts had therefore, to be recounted to expose this error.

On the theoretical side, there is no book but that of Professor Keynes which makes any attempt to examine its scientific basis.

But the conclusions he has arrived at are in sharp conflict with those of mine. Our differences extended to almost every proposition he has advanced in favour of the exchange standard. This difference proceeds from the fundamental fact, which seems to be quite overlooked by Professor Keynes, that nothing will stabilize the rupee unless we stabilize its general purchasing power. That the exchange standard does not do. That standard concerns itself only with symptoms and does not go to the disease : indeed, on my showing, if anything, it aggravates the disease.

When I come to the remedy, I again find myself in conflict with the majority of those who like myself are opposed to the exchange standard. It is said that the best way to stabilize the rupee is to provide for effective convertibility into gold. I do not deny that this is one way of doing it. But, I think, a far better way would be to have an inconvertible rupee with a fixed limit of issue. Indeed, if I had any say in the matter, I would propose that the Government of India should melt the rupees, sell them as bullion and use the proceeds for revenue purposes and fill the void by an inconvertible paper. But that may be too radical a proposal, and I do not therefore press for it, although I regard it as essentially sound. In any case, the vital point is to close the Mints, not merely to the public, as they have been, but to the Government as well. Once that is done, I venture to say that the Indian currency, based on gold as legal tender with a rupee currency fixed in issue, will conform to the principles embodied in the English currency system.

It will be noticed that I do not propose to go back to the recommendations of the Fowler Committee. All those, who have regretted the transformation of the Indian currency from a gold standard to a gold exchange standard, have held that everything would have been all right if the Government had carried out *in toto* the recommendations of that Committee. I do not share that view. On the other hand, I find that the Indian currency underwent that transformation *because* the Government carried out those recommendations. While some people regard that Report as

classical for its wisdom, I regard it as classical for its nonsense. For I find that it was this Committee which, while recommending a gold standard, also recommended and thereby perpetuated the folly of the Herschell Committee, that Government should coin rupees on its own account according to that most naive of currency principles, the requirements of the public, without realizing that the latter recommendation was destructive of the former. Indeed, as I argue, the principles of the Fowler Committee must be given up, if we are to place the Indian currency on a stable basis.

I am conscious of the somewhat lengthy discussions on currency principles into which I have entered in treating the subject. My justification of this procedure is two-fold. First of all, as I have differed so widely from other writers on Indian currency, I have deemed it necessary to substantiate my view-point, even at the cost of being charged with over-elaboration. But it is my second justification, which affords me a greater excuse. It consists in the fact that I have written primarily for the benefit of the Indian public, and as their grasp of currency principles does not seem to be as good as one would wish it to be, an over-statement, it will be agreed, is better than an understatement of the argument on which I have based my conclusions.

Up to 1913, the Gold Exchange Standard was not the avowed goal of the Government of India in the matter of Indian Currency, and although the Chamberlain Commission appointed in that year had reported in favour of its continuance, the Government of India had promised not to carry its recommendations into practice till the war was over and an opportunity had been given to the public to criticize them. When, however, the Exchange Standard was shaken to its foundations during the late war, the Government of India went back on its word and restricted, notwithstanding repeated protests, the terms of reference to the Smith Committee to recommending such measures as were calculated to ensure the stability of the Exchange Standard, as though that standard had been accepted as the last word in the

matter of Indian Currency. Now that the measures of the Smith Committee have not ensured the stability of the Exchange Standard, it is given to understand that the Government, as well as the public, desire to place the Indian Currency System on a sounder footing. My object in publishing this study at this juncture is to suggest a basis for the consummation of this purpose.

I cannot conclude this preface without acknowledging my deep sense of gratitude to my teacher, Prof. Edwin Cannan, of the University of London (School of Economics). His sympathy towards me and his keen interest in my undertaking have placed me under obligations which I can never repay. I feel happy to be able to say that this work has undergone close supervision at his hands, and although he is in no way responsible for the views I have expressed. I can say that his severe examination of my theoretic discussions has saved me from many an error. To Professor Wadia, of Wilson College, I am thankful for cheerfully undertaking the dry task of correcting the proofs.

●●

FOREWORD

By Professor Edwin Cannan

I am glad that Mr. Ambedkar has given me the opportunity of saying a few words about his book.

As he is aware, I disagree with a good deal of his criticism. In 1893, I was one of the few economists, who believed that the rupee could be kept at a fixed ratio with gold by the method then proposed, and I did not fall away from the faith when some years elapsed without the desired fruit appearing (see *Economic Review,* July 1898, pp. 400—403). I do not share Mr. Ambedkar's hostility to the system, nor accept most of his arguments against it and its advocates. But he hits some nails very squarely on the head, and even when I have thought him quite wrong, I have found a stimulating freshness in his views and reasons. An old teacher like myself learns to tolerate the vagaries of originality, even when they resist "severe examination" such as that of which Mr. Ambedkar speaks.

In his practical conclusion, I am inclined to think, he is right. The single advantage, offered to a country by the adoption of the gold-exchange system instead of the simple gold standard, is that it is cheaper, in the sense of requiring a little less value in the shape of metallic currency than the gold standard. But all that can be saved in this way is a trifling amount, almost infinitesimal, beside the advantage of having a currency more difficult for administrators and legislators to tamper with. The recent experience both of belligerents and neutrals certainly shows that the simple gold standard, as we understood it before the war, is not fool-proof, but it is far nearer being fool-proof and knave-proof than the gold-exchange standard. The percentage of administrators and legislators who understand the gold

standard is painfully small, but it is and is likely to remain ten or twenty times as great as the percentage which understands the gold-exchange system. The possibility of a gold-exchange system being perverted to suit some corrupt purpose is very considerably greater than the possibility of the simple gold standard being so perverted.

The plan for the adoption of which Mr. Ambedkar pleads, namely that all further enlargement of the rupee issue should be permanently prohibited, and that the mints should be open at a fixed price to importers or other sellers of gold, so that in course of time India would have, in addition to the fixed stock of rupees, a currency of meltable and exportable gold coins, follows European precedents. In eighteenth-century England the gold standard introduced itself because the legislature allowed the ratio to remain unfavourable to the coinage of silver: in nineteenth-century France and other countries it came in because the legislatures definitely closed the mints to silver, when the ratio was favourable to the coinage of silver. The continuance of a mass of full legal tender silver coins beside the gold would be nothing novel in principle, as the same thing, though on a somewhat smaller scale, took place in France, Germany, and the United States.

It is alleged sometimes that India does not want gold coins. I feel considerable difficulty in believing that gold coins of suitable size would not be convenient in a country with the climate and other circumstances of India. The allegation is suspiciously like the old allegation that the " Englishman prefers gold coins to paper," which had no other foundation than the fact that the law prohibited the issue of notes for less than £ 5 in England and Wales, while in Scotland, Ireland, and almost all other English-speaking countries, notes for £ 1 or less were allowed and circulated freely. It seems much more likely that silver owes its position in India to the decision, which the Company made before the system of standard gold and token silver was accidentally evolved in 1816 in England, and long before it was understood, and that the position has been maintained, not because Indians dislike gold, but because

Europeans like it so well that they cannot bear to part with any of it.

This reluctance to allow gold to go to the East is not only despicable from an ethical point of view. It is also contrary to the economic interest not only of the world at large, but even of the countries, which had a gold standard before the war and have it still or expect soon to restore it. In the immediate future, gold is not a commodity, the use of which it is desirable for these countries either to restrict or to economize. From the closing years of last century it has been produced in quantities much too large to enable it to retain its purchasing power and thus be a stable standard of value, unless it can constantly be finding existing holders willing to hold larger stocks, or fresh holders to hold new stocks of it. Before the war, the accumulation of hoards by various central banks in Europe took off a large part of the new supplies and prevented the actual rise of general prices being anything like what it would otherwise have been, though it was serious enough. Since the war, the Federal Reserve Board, supported by all Americans who do not wish to see a rise of prices, has taken on the new "White Man's Burden" of absorbing the products of the gold mines, but just as the United States failed to keep up the value of silver by purchasing it, so she will eventually fail to keep up the value of gold. In spite of the opinion of some high authorities, it is not at all likely that a renewed demand for gold reserves by the central banks of Europe will come to her assistance. Experience must gradually be teaching even the densest of financiers that the value of paper currencies is not kept up by stories of "cover" or "backing" locked up in cellars, but by due limitation of the supply of the paper. With proper limitation, enforced by absolute convertibility into gold coin which may be freely melted or exported, it has been proved by theory and experience that small holdings of gold are perfectly sufficient to meet all internal and international demands. There is really more chance of a great demand from individuals than from the banks. It is conceivable that the people of some of the countries, which have reduced their paper currency to a laughing stock,

may refuse all paper and insist on having gold coins. But it seems more probable that they will be pleased enough to get better paper than they have recently been accustomed to, and will not ask for hard coin with sufficient insistence to get it. On the whole, it seems fairly certain that the demand of Europe and European-colonized lands for gold will be less rather than greater than before the war, and that it will increase very slowly or not at all.

Thus, on the whole, there is reason to fear a fall in the value of gold and a rise of general prices rather than the contrary.

One obvious remedy would be to restrict the production of gold by international agreement, thus conserving the world's resources in mineral for future generations. Another is to set up an international commission to issue an international paper currency so regulated in amount as to preserve an approximately stable value. Excellent suggestions for the professor's classroom, but not, at present at any rate nor probably for some considerable period of time, practical politics.

A much more practical way out of the difficulty is to be found in the introduction of gold currency into the East. If the East will take a large part of the production of gold in the coming years, it will tide us over the period which must elapse before the most prolific of the existing sources are worked out. After that we may be able to carry on without change or we may have reached the possibility of some better arrangement.

This argument will not appeal to those who can think of nothing but the extra profits which can be acquired during a rise of prices, but I hope it will to those who have some feeling for the great majority of the population, who suffer from these extra and wholly unearned profits being extracted from them. Stability is best in the long run for the community.

EDWIN CANNAN

CHAPTER I
FROM A DOUBLE STANDARD TO A SILVER STANDARD

Trade is an important apparatus in a society, based on private property and pursuit of individual gain ; without it, it would be difficult for its members to distribute the specialized products of their labour. Surely a lottery or an administrative device would be incompatible with its nature. Indeed, if it is to preserve its character, the only mode for the necessary distribution of the products of separate industry is that of private trading. But a trading society is unavoidably a pecuniary society, a society which of necessity carries on its transactions in terms of money. In fact, the distribution is not primarily an exchange of products against products, but products against money. In such a society, money therefore necessarily becomes the pivot on which everything revolves. With money as the focusing-point of all human efforts, interests, desires and ambitions, a trading society is bound to function in a regime of price, where successes and failures are results of nice calculations of price-outlay as against price-product.

Economists have no doubt insisted that "there cannot... be intrinsically a more significant thing than money," which at best is only "a great wheel by means of which every individual in society has his subsistence, conveniences and amusements regularly distributed to him in their proper proportions." Whether or not money values are the definitive terms of economic endeavour may well be open to discussion.* But this much is certain, that without the use of money this "distribution of subsistence, conveniences and amusements," far from being a matter of course, will be distressignly hampered, if not altogether suspended. How can this trading of products take place without

* Cf. W. C. Mitchell. "The Rationality of Economic Activity," *Journal of Political Economy,* 1910, Vol. XVIII, pp. 97 and 197; also "The Role of Money in Economic Theory," by the same, in the *American Economic Review* (Supplement), Vo. VI, No. 1, March 1916.

money ? The difficulties of barter have ever formed an unfailing theme with all economists, including those who have insisted that money is only a cloak. Money is not only necessary to facilitate trade by obviating the difficulties of barter, but is also necessary to sustain production by permitting specialization. For, who would care to specizlize if he could not trade his products for those of others which he wanted ? Trade is the handmaid of production, and where the former cannot flourish the latter must languish. It is therefore evident that if a trading society is not to be out of gear and is not to forego the measureless advantages of its automatic adjustments in the great give-and-take of specialized industry, it must provide itself with a sound system of money.*

At the close of the Moghul Empire, India, judged by the standards of the time, was economically an advanced country. Her trade was large, her banking institutions were well developed, and credit played an appreciable part in her transactions. But a medium of exchange and a common standard of value were among others the most supreme desiderata in the economy of the Indian people when they came, in the middle of the eighteenth century, under the sway of the British. Before the occurrence of this event, the money of India consisted of both gold and silver. Under the Hindu emperors the emphasis was laid on gold, while under the Mussalmans silver formed a large part of the circulating medium.† Since the time of Akbar, the founder of the economic system of the Moghul Empire in India, the units of currency had been the gold *mohur* and the silver *rupee*. Both coins, the mohur and the rupee, were identical in weight, i.e., 175 grs. troy‡ and were "supposed to have been coined without any alloy, or at least intended to be so."§ But whether they constituted a single standard of value or not is a matter of some doubt. It is believed that the mohur and the rupee, which at the time were the common measure

* For the whole of this discussion, cf. H. J. Davenport, *The Economics of Enterprise* (1913), Chapters II and III.

† Princep, J., *Useful Tables,* Calcutta, 1834, pp. 15-16.

‡ Robert Chalmers, *History of Colonial Currency,* 1893, pp. 336, 340.

§ Dr. P. Kelly *The Universal Cambist,* 1811, p. 115.

of value, circulated without any fixed ratio of exchange between them. The standard, therefore, was more of the nature of what Jevons called a parallel standard* than a double standard† That this want of ratio could not have worked without some detriment in practice is obvious. But it must be noted that there existed an alleviating circumstance in the curious contrivance by which the mohur and the rupee, though unrelated to each other, bore a fixed ratio to the *dam,* the copper coin of the Empire.‡ So that it is permissible to hold that, as a consequence of being fixed to the same thing, the two, the mohur and the rupee, circulated at a fixed ratio.

In Southern India, to which part the influence of the Moghuls had not extended, silver as a part of the currency system was quite unknown. The pagoda, the gold coin of the ancient Hindu kings, was the standard of value and also the medium of exchange, and continued to be so till the time of the East India Company.

The right of coinage, which the Moghuls always held as *Inter jura Majestatis,* § be it said to their credit, was exercised with due sense of responsibility. Never did the Moghul Emperors stoop to debase their coinage. Making allowance for the imperfect technology of coinage, the coins issued from the various Mints, situated even in the most distant parts of their Empire¶, did not materially deviate from the standard. The table

* *Money and Mechanism of Exchange* (1890), p. 95.

† Dr. P. Kelly's view is that they circulated at their market ratio (*loc. cit.*). On the other hand, Sir R. Temple says : "In ancient and mediaeval India the relative value of the coins of each metal was fixed by the State, and all were legal tender virtually without any formal limitation" ("General Monetary Practice in India," *Journal of the Institute of Bankers,* Vol. II, p. 406). On another occasion he said :" The earliest Hindu currency was in gold with a single standard. The Mohammendans introduced silver, and in later times up to British rule there was a double standard, gold and silver" (*ibid.,* Vol. XV, p. 9). In contrast to this it may be noted that the Preamble to Currency Regulations XXXV of 1793 and other Currency Regulations of early date make it a point to emphasize that under pre-British regime there was no fixed ratio between the mohur and the rupee.

‡ Cf. Prof. S. V. Venkateswara, on "Moghul Currency and Coinage" in the *Indian Journal of Economics,* July, 1918, p. 169; and F. Atkinson, *The Indian Currency Question* (1894), p. 1.

§ According to the Mohammedan historian, Khafi Khan, it enraged the Emperor Aurangzeb when the East India Company in 1694 coined some rupees at Bombay "with the name of their impure king" (*Imperial Gazetteer of India,* Vol. IV, p. 515).

¶ It is stated in the *Imperial Gazetteer of India* (Vol. IV., p. 514), that in the early days of the Moghul rule, there was only one Mint—at Delhi—which struck the Imperial coins. The Emperor Sher Sha was the first to introduce a plurality of Mints for coniage purposes—a practice continued and extended by the later emperors until between the reigns of Akbar and Bahadur Shah II the Mints numbered about 200. From the *East India Moral and Material Progress Report* for 1872-73 it is clear that not every Mint was open to the coinage of all three metals, gold, silver and copper; but that some Mints coined only gold, others silver, and the rest copper; (see Report, pp. 11-12).

below of the assays of the Moghul rupees shows how the coinage throughout the period of the Empire adhered to the standard weight of 175 grs. pure.*

Name of the Rupee	Weight in pure Grs.	Name of the Rupee	Weight in pure Grs.
Akbari of Lahore	175.0	Delhi Sonat	175.0
Akbari of Agra	174.0	Delhi Alamgir	175.0
Jehangiri of Agra	174.6	Old Surat	174.0
Jehangiri of Allahabad	173.6	Murshedabad	175.9
Jehangiri of Kandhar	173.9	Persian Rupee of 1745	174.5
Shehajehani of Agra	175.0	Old Dacca	173.3
Shehajehani of Ahmedabad	174.2	Muhamadshai	170.0
Shehajehani of Delhi	174.2	Ahmadshai	172.8
Shehajehani of Delhi	175.0	Shaha Alam (1772)	175.8
Shehajehani of Lahore	174.0		

So long as the Empire retained unabated sway, there was advantage rather than danger in the plurality of Mints, for they were so many branches of a single department governed by a single authority. But with the disruption of the Moghul Empire into separate kingdoms these branches of the Imperial Mint located at different centres became independent factories for purposes of coinage. In the general scramble for independence which followed the fall of the Empire, the right to coinage, as one of the most unmistakable insignia of sovereignty, became the right most cherished by the political adventurers of the time. It was also the last privilege to which the falling dynasties clung, and was also the first to which the adventurers rising to power aspired. The result was that the right, which was at one time so religiously exercised, came to be most wantonly abused. Everywhere the Mints were kept in full swing, and soon the country was filled with diverse coins which, while they proclaimed the incessant rise and fall of dynasties, also presented bewildering media of exchange. If these money-mongering sovereigns had kept up their issues to the original standard of the Moghul Emperors, the multiplicity of coins of the same denomination would not have been a matter of much concern. But they seemed to have held that as the money used by their subjects was made by them, they could do what they liked with their own, and proceeded to debase their coinage to the extent

* Prinsep, J., op. cit., p. 18.

each chose without altering the denominations. Given the different degrees of debasement, the currency necessarily lost its primary quality of general and ready accceptability.

The evils consequent upon such a situation may well be imagined. When the contents of the coins belied the value indicated by their denomination they became mere merchandise, and there was no more a currency by tale to act as a ready means of exchange. The bullion value of each coin had to be ascertained before it could be accepted as a final discharge of obligations.* The opportunity for defrauding the poor and the ignorant thus provided could not have been less† than that known to have obtained in England before the great re-coinage of 1696. This constant weighing, valuing, and assaying the bullion contents of coins was, however, only one aspect in which the evils of the situation made themselves felt. They also presented another formidable aspect. With the vanishing of the Empire there ceased to be such a thing as an Imperial legal tender current all through India. In its place there grew up local tenders current only within the different principalities into which the Empire was broken up. Under such circumstances exchange was not liquidated by obtaining in return for wares the requisite bullion value from the coins tendered in payment. Traders had to be certain that the coins were also legal tender of their domicile. The Preamble to the Bengal Currency Regulation XXXV, of 1793, is illuminating on this point. It says :—

> "The principal districts in Bengal, Behar and Orissa, have each a distinct silver currency ..... which are the standard measure of value in all transactions in the districts in which they respectively circulate.

* * * * *

* It was this necessity for ascertaining the true bullion value of the debased coins which gave rise to that class of money-changers known as Shroffs, who specialized in the business of evaluating the coins at their proper discount from the standard purity by means of the dates and other characteristics engraved upon them.

† It is stated that Dr. Roxburgh, who was an eye-witness, was so much impressed by the sufferings of the poor owing to the bad state of the currency that he urged upon A. Dalrymple, in a letter dated June 30, 1791, to give prominence to the evils by inserting a paper in his *Oriental Repertory* (2 vols., London, 1808), "on the current coin in circulation over the Company's Territories which might be productive of the most solid and lasting advantage to the Governing and the Governed," and added, " You may be able to correct the evil, by which you will certainly go to heaven, if the prayers of the poor avail, and I may get a step nearer paradise." *Observations on the Copper Coinage wanted in the Circars,* by A. Dalrymple, London, 1794, p. 1.

> "In consequence of the Ryots being required to pay their rent in a particular sort of rupee they of course demanded it from manufacturers in payment of their grain, or raw materials, whilst the manufacturers, actuated by similar principles with the Ryots, required the same species of rupee from the traders who came to purchase their cloth or their commodities.
>
> "The various sorts of old rupees, accordingly, soon became the established currency of particular districts, and as a necessary consequence the value of each rupee was enhanced in the district in which it was current, for being in demand for all transactions. As a further consequence, every sort of rupee brought into the district was rejected from being a different measure of value from that by which the inhabitants had become accustomed to estimate their property, or, if it was received, a discount was exacted upon it, equal to what the receiver would have been obliged to pay upon exchanging it at the house of a shroff for the rupee current in the district, or to allow discount upon passing it in payment to any other individual.
>
> * * * * *
>
> "From this rejection of the coin current in one district when tendered in payment in another, the merchants and traders and the proprietors and cultivators of land in different parts of the country, are subjected in their commercial dealings with each other to the same losses by exchange, and all other inconveniences that would necessarily result were the several districts under separate and independent governments, each having a different coin."

Here was a situation where trade was reduced, to barter, whether one looks upon barter as characterized by the absence of a common medium of exchange or by the presence of a plurality of the media of exchange ; for in any case, it is obvious that the want of a "double coincidence" must have been felt by people engaged in trade. One is likely to think that such could not have been the case as the medium was composed of metallic counters. But it is to be remembered that the circulating coins on India, by reason of the circumstance attendant upon the diversity in their fineness and legal tender, formed so many

different species that an exchange against a particular species did not necessarily close the transaction ; the coin must, in certain circumstances, have been only an intermediate to be further bartered against another, and so on till the one of the requisite species was obtained. This is sufficient indication that society had sunk into a state of barter. If this alone was the flaw in the situation, it would have been only as bad as that of international trade under diversity of coinages. But it was further complicated by the fact that although the denomination of the coins was the same, their metalic contents differed considerably. Owing to this, one coin bore a discount or a premium in relation to another of the same name. In the absence of knowledge as to the amount of premium or discount, every one cared to receive a coin of the species known to him and current in his territory. On the whole, the obstacles to commerce arising from such a situation could not have been less than those emanating from the mandate of Lycurgus, who compelled the Lacedaemonians to use iron money in order that its weight might prevent them from overmuch trading. The situation, besides being irritating, was aggravated by the presence of an element of gall in it. Capital invested in providing a currency is a tax upon the productive resources of the community. Nevertheless, wrote James Wilson,* no one would question

> "that the time and labour which are saved by the interposition of coin, as compared with a system of barter, form an ample remuneration for the portion of capital withdrawn from productive sources, to act as a single circulator of commodities, by rendering the remainder of the capital of the country so much the more productive."

What is, then, to be said of a monetary system which did not obviate the evil consequences of barter, although enormous capital was widhdrawn from productive sources, to act as a single circulator of commodities ? Diseased money is worse than want of money. The latter at least saves the cost. But society must have money, and it must be good money, too. The task, therefore, of evolving good money out of bad money fell upon the shoulders, of the English East India Company, who had in the meanwhile succeeded to the Empire of the Moghuls in India.

* *Capital Currency and Banking,* 1847, p. 15.

The lines of reform were first laid down by the Directors of the Company in their famous Despatch, dated April 25, 1806,* to the authorities administering their territories in India. In this historic document they observed :—

> "17. It is an opinion supported by the best authorities, and proved by experience, that coins of gold and silver cannot circulate as legal tenders of payment at fixed relative values..... without loss; this loss is occasioned by the fluctuating value of the metals of which the coins are formed. A proportion between the gold and silver coin is fixed by law, according to the value of the metals, and it may be on the justest principles, but owing to the change of circumstances gold may become of greater value in relation to silver than at the time the proportion was fixed, it therefore becomes profitable to exchange silver or gold, so the coin of that metal is withdrawn from circulation ; and if silver should increase in its value in relation to gold, the same circumstances would tend to reduce the quantity of silver coin in circulation. As it is impossible to prevent the fluctuation in the value of the metals, so it is also equally impracticable to prevent the consequences thereof on the coins made from these metals ..... To adjust the relative values of gold and silver coin according to the fluctuations in the values of the metals would create continual difficulties, and the establishment of such a principle would of itself tend to perpetuate inconvenience and loss."

They therefore declared themselves in favour of monometalism as the ideal for the Indian currency of the future, and prescribed :—

> "21..... that silver should be the universal money of account (in India), and that all ..... accounts should be kept in the same denominations of rupees, annas and pice .....

The rupee was not, however, to be the same as that of the Moghul Emperors in weight and fineness The proposal that

> "9 .... the new rupee.....be of the gross weight of—

Troy grains	...	180
Deduct one-twelfth alloy	...	15
And contain of fine silver troy grs.		165"

*H. of C. Return 127 of 1898.

Such were the proposals put forth by the Court of Directors for the reform of Indian currency.

The choice of a rupee weighing 180 grs. troy and containing 165 grs. pure silver as the unit for the future currency system of India was a well-reasoned choice.

The primary reason for selecting this particular weight for the rupee seems to have been the desire to make it as little of a departure as possible from the existing practice. In their attempts to reduce to some kind of order the disorderly currencies bequeathed to them by the Moghuls by placing them on a bimetallic basis, the Governments of the three Presidencies had already made a great advance by selecting out of the innumerable coins then circulating in the country a species of gold and silver coin as the exclusive media of exchange for their respective territories. The weights and fineness of the coins selected as the principal units of currency, with other particulars, may be noted from the summary table I. (Page 344)

To reduce these principal units of the different Presidencies to a single principal unit, the nearest and the least inconvenient magnitude of weight which would at the same time be an integral number was obviously 180 grs., for in no case did it differ from the weights of any of the prevailing units in any marked degree. Besides, it was believed that 180, or rather 179.5511, grs. was the standard weight of the rupee coin originally issued from the Moghul Mints, so that the adoption of it was really a restoration of the old unit and not the introduction of a new one.* Another advantage claimed in favour of a unit of 180 grs. was that such a unit of currency would again become what it had ceased to be, the unit of weight also. It was agreed† that the unit of weight in India had at all times previously been linked up with that of the principal coin, so that the *seer* and the *manual* weights were simply multiples of the rupee, which originally weighed 179.6 grs. troy. Now, if the weight of the principal coin to be established was to be different from 180 grs. troy, it was believed there would be an unhappy deviation from the ancient practice which made the weight of the coin the basis of other weights and measures. Besides, a unit of 180 grs. weight was not only

* Cf. The Despatch, op. cit., para. 8.

† Cf. para. 26-28 of the letter from James Prinsep to the Calcutta Mint Committee, printed in the Appendix to the Indian Tables by John Muller, Calcutta, 1836.

TABLE I

Principal Units of Currency

Issued by the Government of	Territory in which it circulated.	Date and Authority of Issue.	Silver Coins.			Gold Coins.		
			Name.	Gross Weight Troy Grs.	Pure Contents Troy Grs.	Name.	Gross Weight Troy Grs.	Pure Contents Troy Grs.
Bombay	Presidency		Surat Rupee	179.0	164.740	Mohur	179	164.740
Madras	”		Arcot ”	176.4	166.477	Star Pagoda	52.40	42.55
Bengal	Bengal, Bihar and Orissa Cuttock	Regulations XXXV of 1793 XII of 1805	Sicca Rupee (19th Sun)	179.66	175.927	Mohur	190.804	189.40
	Ceded Provinces Conquered Provinces	XLV of 1803	Furrukabad Rupee (Lucknow Sicca of the 45th Sun)	173	166.135	—	—	—
	Benares Provinces	III of 1806	Benares Rupee (Muchleedar)	175	168.875	—	—	—

suitable from this point of view, but had also in its favour the added convenience of assimilating the Indian with the English units of weight.‡

While these were the reasons in favour§ of fixing the weight of the principal unit of currency at 180 grs. troy, the project of making it 165 grs. fine was not without its justification. The ruling consideration in selecting 165 grs. as the standard of fineness was, as in the matter of selecting the standard weight, to cause the least possible disturbance in existing arrangements. That this standard of fineness was not very different from those of the silver coins, recognized by the different Governments in India as the principal units of their currency, may be seen from the following comparative statement.

TABLE II

DEVIATIONS OF THE PROPOSED STANDARD OF FINENESS FROM THAT OF THE PRINCIPAL RECOGNIZED RUPEES

Silver Coins recognized as Principal Units and their Fineness		Standard Fineness of the Propose Silver Rupee Troy Grs.	More valuable than the Proposed Rupee		Less valuable than the Proposed Rupee	
Name of the Coin	Its Pure Contents Troy Grs.		In Grs.	By p.c.	In Grs.	By p.c.
Surat Rupee	164.74	165	...	...	.26	.157
Arcot Rupee	166.477	165	1.477	.887	...	...
Sicca Rupee	175.927	165	10.927	6.211	...	...
Farrukabad R.	166.135	165	1.135	.683	...	...
Benares Rupee	169.251	165	4.251	2.511	...	...

‡ *Ibid.* para. 28. How the English and the Indian systems of weights were made to correspond to each other may be seen from the following :—

Indian				English	
8 ruttees	=	1 massa	=	15 troy	grs.
12 massas	=	1 tola (or sicca)	=	180 troy	grs.
80 tolas	=	1 seer	=	2½ troy	pounds.
40 seers	=	1 maund (or mun)	=	100 troy	pounds.

§ Attention may be drawn in this connection to the dissenting opinion of Captain Jervis on the project of 180 grs. troy as the unit of weight for the rupee. Cf. his most exhaustive treatise called *The Expediency and Facility of establishing the Metrological and Monetary Systems throughout India on a Scientific and Permanent Basis, grounded on an Analytical Review of the Weights, Measures and Coins of India* ..... Bombay, 1836, pp. 49-64.

It will thus be seen that, with the exception of the Sicca and the Benares rupees, the proposed standard of fineness agreed so closely with those of the other rupees that the interest of obtaining a complete uniformity without considerable dislocation overruled all possible objections to its adoption. Another consideration that seemed to have prevailed upon the Court of Directors in selecting 165 grs. as the standard of fineness was that, in conjunction with 180 grs. as the standard weight, the arrangement was calculated to make the rupee eleven-twelfths fine. To determine upon a particular fineness was too technical a matter for the Court of Directors. It was, however, the opinion of the British Committee on Mint and Coinage, appointed in 1803, that* "one-twelfth alloy and eleven-twelfths fine is by a variety of extensive experiments proved to be the best proportion, or at least as good as any which could have been chosen." This standard, so authoritatively upheld, the Court desired to incorporate in their new scheme of Indian currency. They therefore desired to make the rupee eleven-twelfths fine. But to do so was also to make the rupee 165 grs. pure-a content which they desired, from the point of view stated above, the rupee to possess.

Reviewing the preference of the Court of Directors for monometallism from the vantage-ground of latter-day events, one might be inclined to look upon it as a little too short-sighted. At the time, however, the preference was well founded. One of the first measures, the three Presidencies, into which the country was divided for purposes of administration, had adopted on their assuming the government of the country, was to change the parallel standard of the Moghuls into a double standard by establishing a legal ratio of exchange between the mohur, the pagoda, and the rupee. But in none of the Presidencies was the experiment a complete success.

In Bengal† the Government, on June 2, 1766, determined upon the issue of a gold mohur weighing 179.66 grs. troy, and containing 149.92 grs., troy of pure metal, as legal tender at 14 Sicca rupees, to relieve the currency stringency caused

* Cf. The Despatch, op. cit., para. 9.

† F. C Harrison, "The Past Action of the Indian Government with regard to Gold," in *Economic Journal,* Vol. III, p. 54 *et seq*. Also Minute by Sir John Shore, in Bengal Public Consultations, dated September 29, 1796.

largely by its own act of locking up the revenue collections in its treasuries, to the disadvantage of commerce. This was a legal ratio of 16.45 to 1, and as it widely deviated from the market ratio of 14.81 to 1, this attempt to secure a concurrent circulation of the two coins was foredoomed to failure. Owing to the drain of silver on Bengal from China, Madras, and Bombay, the currency stringency grew worse, so much so that another gold mohur was issued by the Government on March 20, 1769, weighing 190.773 grs. troy and containing 190.086 grs. pure gold with a value fixed at 16 Sicca rupees. This was a legal ratio of 14.81 to 1. But, as it was higher than the market ratio of the time both in India (14 to 1) and in Europe (14.61 to 1), this second effort to bring about a concurrent circulation fared no better than the first. So perplexing seemed to be the task of accurate rating that the Government reverted to monometallism by stopping the coinage of gold on December 3, 1788, and when the monetary stringency again compelled it to resume in 1790 the coinage of gold, it preferred to let the mohur and the rupee circulate at their market value without making any attempt to link them by a fixed ratio. It was not until 1793 that a third attempt was made to forge a double standard in Bengal. A new mohur was issued in that year, weighing 190.895 grs. troy and containing 189.4037 grs. of pure gold, and made legal tender at 16 Sicca rupees. This was a ratio of 14.86 to 1, but, as it did not conform to the ratio then prevalent in the market this third attempt to establish bimetallism in Bengal failed as did those made in 1766 and 1769.

The like endeavours of the Government of Madras* proved more futile than those of Bengal. The first attempt at bimetalism under the British in that Presidency was made in the year 1749, when 350 Arcot rupees were legally rated at 100 Star pagodas. As compared with the then market ratio this rating involved an under-valuation of the pagoda, the gold coin of the Presidency. The disappearance of the pagoda caused a monetary stringency, and the Government in December, 1750, was obliged to restore it to currency. This it did by adopting the twofold plan of causing an import of gold on Government account, so as to equalize the mint ratio to the market ratio, and of compelling the receipts and payments of Government treasuries to be exclusively in pagodas. The latter device proved of small value ;

*H. Dodwell, "Substitution of Silver for Gold in South India," in the *Indian Journal of Economics,* January, 1921.

but the former by its magnitude was efficacious enough to ease the situation. Unluckily, the case was only temporary. Between 1756 and 1771 the market ratio of the rupee and the pagoda again underwent a considerable change. In 1756 it was 364 to 100, and in 1768 it was 370 to 100. It was not till after 1768 that the market ratio became equal to the legal ratio fixed in 1749 and remained steady for about twelve years. But the increased imports of silver, rendered necessary for the prosecution of the second Mysore war, once more disturbed the ratio, which at the close of the war stood at 400 Arcot rupees to 100 Star pagodas. After the end of the war, the Government of Madras made another attempt to bring about a concurrent circulation between the rupee and the pagoda. But instead of making the market ratio of 400 to 100 the legal ratio, it was led by the then increasing imports of gold into the Presidency to hope that the market ratio would in time rise to that legally established in 1749. In an expectant mood so induced it decided, in 1790, to anticipate the event by fixing the ratio first at 365 to 100. The result was bound to be different from that desired, for it was an under-valuation of the pagoda. But instead of rectifying the error, the Government proceeded to aggravate it by raising the ratio still further to 350 to 100 in 1797, with the effect that the pagoda entirely went out of circulation, and the final attempt at bimetallism thus ended in a miserable failure.

The Government of Bombay seemed better instructed in the mechanics of bimetallism, although that did not help it to overcome the practical difficulties of the system. On the first occasion when bimetallism was introduced in the Presidency,* the mohur and the rupee were rated at the ratio of 15.70 to 1. But at this ratio the mohur was found to be over-rated, and accordingly, in August, 1774, the Mint Master was directed to coin gold mohurs of the fineness of a Venetian and of the weight of the silver rupee. This change brought down the legal ratio to 14.83 to 1, very nearly, though not exactly, to the then prevailing market ratio of 15 to 1, and had nothing untoward happened, bimetallism would have had a greater success in Bombay than it actually had in the other two Presidencies. But this was not to be, for the situation was completely altered by the dishonesty of the Nawab of Surat, who allowed his rupees, which were of the same weight and fineness as the Bombay

* Report of Dr. Scott on the History of Coinage in the Bombay Presidency, with Appendices, Public Consultations (Bombay, dated January 27, 1801).

rupees, to be debased to the extent of 10, 12, and even 15 per cent. This act of debasement could not have had any disturbing effect on the bimetallic system prevalent in the Bombay Presidency, had it not been for the fact that the Nawab's (or Surat) rupees were by agreement admitted to circulation in the Company's territories at par with the Bombay rupees. As a result of their being legal tender the Surat rupees, once they were debased, not only drove out the Bombay rupees from circulation, but also the mohur, for as rated to the debased Surat rupees the ratio became unfavourable to gold, and the one chance for a successful bimetallic system vahished away. The question of fixing up a bimetallic ratio between the mohur and the rupee again cropped up when the Government of Bombay permitted the coinage of Surat rupees at its Mint. To have continued the coinage of the gold mohur according to the Regulation of 1774 was out of the question. One Bombay mohur contained 177.38 grs. of pure gold, and 15 Surat rupees of the standard of 1800 contained 247.11 grs. of silver. By this Regulation the proportion of silver to gold would have been $\frac{247.11}{177.38}$, i.e. 13.9 to 1. Here the mohur would have been much under-valued. It was therefore resolved to alter the standard of the mohur to that of the Surat rupee, so as to give a ratio of 14.9 to 1. But as the market ratio was inclined towards 15.5 to 1, the experiment was not altogether a success.

In the light of this experience before them, the Court of Directors of the East India Company did well in fixing upon a monometallic standard as the basis of the future currency system of India. The principal object of all currency regulations is that the different units of money should bear a fixed relation of value to one another. Without this fixity of value, the currency would be in a state of confusion, and no precaution would be too great against even a temporary disturbance of that fixity. Fixity of value between the various components of the currency is so essential a requisite in a well-regulated monetary system that we need hardly be surprised if the Court of Directors attached special importance to it, as they may well have done, particularly when they were engaged in the task of placing the currency on a sound and permanent footing. Nor can it be said

that their choice of monometallism was ill-advised, for it must be admitted that a single standard better guarantees this fixity than does the double standard. Under the former it is spontaneous, under the latter it is forced.

These recommendations of the Court of Directors were left to the different Governments in India to be carried into effect at their discretion as to the time and manner of doing it. But it was some time before steps were taken in consonance with these orders, and even then, it was on the realization of those parts of the programme of the Court which pertained to the establishment of a uniform currency that the efforts of the different Governments were first concentrated.

The task of reducing the existing units of currency to that proposed by the Court was first accomplished in Madras. On January 7, 1818, the Government issued a Proclamation* by which its old units of currency—the Arcot rupee and the Star pagoda—were superseded by new units, a gold rupee and a silver rupee, each weighing 180 grs. troy and containing 165 grs. of fine metal. Madras was followed by Bombay six years later by a Proclamation† of October 6, 1824, which declared a gold rupee and a silver rupee of the new Madras standard to be the only units of currency in that Presidency. The Government of Bengal had a much bigger problem to handle. It had three different principal units of silver currency to be reduced to the standard proposed by the Court. It commenced its work of reorganization by a system of elimination and alteration. In 1819, it doscontinued‡ the coinage of the Benares rupee and substituted in its place the Furrukabad rupee, the weight and fineness of which were altered to 180.234 and 135.215 grs. troy respectively. Apparently this was a step away from the right direction. But even here, the purpose of uniformity, so far as fineness was concerned, was discernible, for it made the Furrukabad rupee, like the new Madras and Bombay rupees, eleven-twelfth fine. Having got rid of the Benares rupee, the next step was to assimilate the standard of the Furrukabad rupee to that of Madras and Bombay, as may be seen from the following table.

* Cf. Fort St. George Publc Depart. Consultations, No. 19, dated January 7, 1818.

† Cf. Bombay Financial Consultations, dated October 6, 1824.

‡ Bengal Regulation XI of 1819.

Thus, without abrogating the bimetallic system, substantial steps were taken in realizing the ideal unit proposed by the Court, as may be seen from the following table.

TABLE III

Uniformity of Coinage at the end of ad. 1833

Issued the Government of	Silver Coins			Gold Coins			Legal Ratio
	Denomination	Weight	Fineness	Denomination	Weight	Fineness	
Bengal	Sicca Rupee	192	176 or $\frac{11}{12}$	Mohur	204.710	187.651	1 to 15
	Furrukabad Rupee	180	165 or $\frac{11}{12}$	...	...	...	...
Bombay	Silver Rupee	180	165 or $\frac{11}{12}$	Gold Rupee	180	165 or $\frac{11}{12}$	1 to 15
Madras	Silver Rupee	180	165 or $\frac{11}{12}$	” ”	180	165 or $\frac{11}{12}$	1 to 15

Taking stock of the position as it was at the end of 1833, we find that with the exception of the Sicca rupee and the gold mohur of Bengal, that part of the scheme of the Directors which pertained to the uniformity of coinage was an accomplished fact. Nothing more remained to carry it to completion than to discontinue the Sicca rupee and to demonetize gold. At this point, however, arose a conflict between the Court of Directors and the three Governments in India. Considerable reluctance was shown to the demonetization of gold. The Government of Madras, which was the first to undertake the reform of its currency according to the plan of the Court, not only insisted upon continuing the coinage of gold along with that of the rupee,* but stoutly refused to deviate from the system of double legal tender at a fixed ratio prevalent in its territories,†

* The Court of Directors were willing to permit the coinage and circulation of gold *unlinked* to the rupee, for they had observed in their Despatch :—

“16. Although we are fully satisfied of the propriety of the silver rupee being the principal measure of value and the money of account, yet we are by no means desirous of checking the circulation of gold, but of establishing a gold coin on a principle fitted for general use. This coin in our opinion should be called a gold rupee and be made of the same standard as the silver rupee.”

† Cf. Fort St.George Public Consultations of August 19, 1817, particularly the letter of the Accountant-General entered thereon.

notwithstanding the repeated remonstrances addressed by the Court.* The Government of Bengal clung to the bimetallic standard with equal tenacity. Rather than demonetize the gold mohur, it took steps to alter its standard† by reducing its pure contents‡ from 189.4037 to 187.651 troy grs., so as to re-establish a bimetallic system on the basis of the ratio adopted by Madras in 1818. So great was its adherence to the bimetallic standard that in 1833 it undertook to alter§ the weight and fineness of the Sicca rupee to 196 grs. troy and 176 grs. fine, probably to rectify a likely divergence between the legal and the market ratios of the mohur to the rupee.¶

But in another direction the Government in India wanted to go further than the Court desired. The Court thought a uniform currency (i.e. a currency composed of like but independent units) was all that India needed. Indeed, they had given the Governments to understand that they did not wish for more in the matter of simplification of currency and were perfectly willing to allow the Sicca and the mohur to remain as they were, unassimilated.§§ A uniform currency was no doubt a great advance on the order of things such as was left by the successors of the Moghuls. But that was not enough, and the needs of the situation demanded a common currency based on a single unit in place of a uniform currency. Under the system of uniform currency each Presidency coined its own money, and the money coined at the Mints of the other Presidencies was not legal tender in its territories except at the Mint. This monetary independence would not have been very harmful if there had existed also financial independence between the three Presidencies. As a matter of fact, although each Presidency had its own fiscal system, yet they depended upon one another for the finance of their deficits. There was a regular system of "supply" between them, and the surplus in one was being constantly drawn upon to meet the deficits in others. In the absence of

* Cf. The Public Despatches to Madras dated March 6, 1810 ; July 10, 1811 ; and June 12, 1816.

† Preamble to the Bengal Regulation XIV of 1818.

‡ It, however, increased its weight from 190.895 to 204.710 troy grs.

§ Bengal Regulation VII of 1833.

¶ It may be that this alteration was also intended to make the Sicca rupee eleven-twelfths fine.

§§Cf. Despatch to Bengal dated March 11, 1829.

a common currency this resource operation was considerably hampered. The difficulties caused by the absence of a common currency in the way of the "supply" operation made themselves felt in two different ways. Not being able to use as legal tender the money of other Presidencies, each was obliged to lock up, to the disadvantage of commerce, large working balances in order to be self-sufficient.* The very system which imposed the necessity of large balances also rendered relief from other Presidencies less efficacious. For the supply was of necessity in the form of the currency of the Presidency which granted, it, and before it could be utilized it had to be re-coined into the currency of the needy Presidency. Besides the loss *on* re-coinage, such a system obviously involved inconvenience to merchants and embarassment to the Government.†

At the end of 1833, therefore, the position was that the Court desired to have a uniform currency with a single standard of silver, while the authorities in India wished for a common currency with a bimetallic standard. Notwithstanding these divergent views, the actual state of the currency might have continued as it was without any substantial alteration either way. But the year 1833 saw an important constitutional change in the administrative relations between the three Presidential ‡ Governments in India. In that year by an Act of Parliaments there was set up an Imperial system of administration with a centralization of all legislative and executive authority over the whole of India. This change in the administrative system, perforce, called forth a change in the prevailing monetary systems. It required local coinages to be replaced by Imperial

* The Accountant-General of Bengal, in a letter to the Calcutta Mint Committee, dated November 21, 1823 wrote:—

> "Para. 32. The amount of the balance must also necessarily depend upon the state of the currency. If the Madras, Bombay, and Furrukabad rupees instaed of differing in weight and intrinsic value were coined of one standard weight and value bearing one inscription and in no way differing, the surplus of one Presidency would at all times be available for the deficiency of another, without passing through the Mint, and the balance of India might be reduced in proporion to the increased availability of currency for the disbursements of the three Presidencies" (Bombay Financial Consultations, February 25, 1824).

† The evil of the system had already made itself felt in Bombay, where the Government had been obliged by a Proclamation dated April 9, 1824, to declare the Furrukabad rupee of 1819 standard as legal tender within its territories on a par with the Bombay rupee, in order to facilitate the supply operation from Bengal. Cf. Bombay Financial Consultations, dated April 14, 1824.

‡ 3 & 4 Will, IV, c; 85.

coinage. In other words, it favoured the cause of a common currency as against that of a mere uniform currency. The authorities in India were not slow to realize the force of events. The Imperial Government set up by Parliament was not content to act the part of the Dewans or agents of the Moghuls, as the British had theretofore done, and did not like that coins should be issued in the name of the defunct Moghul emperors who had ceased to govern. It was anxious to throw off the false garb* and issue an Imperial coinage in its own name, which being common to the whole of India would convey its common sway. Accordingly, an early opportunity was taken to give effect to this policy. By an Act of the Imperial Government (XVII of 1835) a common currency was introduced for the whole of India, as the sole legal tender. But the Imperial Government went beyond and, as if by way of concession to the Court—for the Court did most vehemently protest against this common currency in so far as it superseded the Sicca rupee†—legislated "*that no gold coin shall henceforward be a legal tender of payment in any of the territories of the East India Company*." ‡

That an Imperial Administration should have been by force of necessity led to the establishment of a common currency for the whole of India is quite conceivable. But it is not clear why it should have abrogated the bimetallic system after having maintained it for so long. Indeed, when it is recalled how the authorities had previously set their faces against the destruction of the bimetallic system, and how careful they were not to allow their coinage reforms to disturb it any more violently than they could help, the provision of the Act demonetizing gold was a grim surprise. However, for the sudden *volte-face* displayed therein, the Currency Act (XVII of 1835) will ever remain memorable in the annals of the Indian history. It marked the culminating-point of a long and arduous process of monetary reform and placed India on a silver monometallic basis, with a rupee weighing 180 grs. troy and containing 165 grs. fine as the common currency and sole legal tender throughout the country.

No piece of British India legislation has led to a greater

* Cf. the sentiments of Tucker in his *Memorials of Indian Government* (ed. by Kaye), 1853, pp. 17-19.

†Cf. their Financial Despatch to India, No. 9, dated July 27, 1836.

‡ Section 9 of Act XVII of 1835.

discontent in later years than this Act XVII of 1835. In so far as the Act abrogated the bimetallic system, it has been viewed with a surprising degree of equanimity. Not all its critics, however, are aware* that what the Act primarily decreed was a substitution of bimetallism by monometallism. The commonly entertained view of the Act seems to be that it replaced a gold standard by a silver standard. But even if the truth were more generally known, it would not justify any hostile attitude towards the measure on that score. For, what would have been the consequences to India of the gold discoveries of California and Australia in the middle of the nineteenth century, if she had preserved her bimetallic system ? It is well known how this increase in the production of gold relatively to that of silver led to a divergence in the mint and the market ratios of the two metals after the year 1850. The under-valuation of silver, though not very great, was great enough to confront the bimetallic countries with a serious situation in which the silver currency, including the small change, was rapidly passing out of circulation. The United States† was obliged by the law of 1853 to reduce the standard of its small silver coins sufficiently to keep them, dollar for dollar, below their gold value in order to keep them in circulation. France, Belgium, Switzerland, and Italy, which had a uniform currency based on the bimetallic model of the French with reciprocal legal tender,‡ were faced with similar difficulties. Lest a separatist policy on the part of

* To mention only one, cf. S. V. Doraiswami, *Indian Currency,* Madras, 1915. *passim.*

† Laughlin, J. L, *History of Bimetallism,* New York, 1886, pp. 79-83.

‡ The cultural influence of France had led the other countries of Latin origin to adopt the French monetary system. The political independence acquired by Belgium in 1831 was followed by a change in her monetary system. By the law of 1832, Belgium from a monetary point of view, became a satellite of France. By that law she adopted in its entirety the monetary system of France, and even went so far as to give the French gold pieces of 20 and 40 francs and to the French silver 5-franc pieces the power of legal tender in Belgium. In Switzerland, Art. 36 of the Constitution of 1848 had vested in the Federal Government the authority to coin money. The law of May 7, 1850, adopted the French monetary system for Switzerland : Art. 8 declared "that such foreign silver coins as were minted in sufficiently close proximity with the French system might be granted a legal status as regular media for the payment of debts in Switzerland." The various Italian States, prior to unification, had, like the Swiss Cantons, each its own currency. But with the desire for uniformity of coinage consequent upon unification, there arose a problem either of selecting one of the old systems or of adopting a new one which would be common to the whole country. Some form of a grateful memorial to France was uppermost in the minds of the Italians for the help the French gave in the matter of their independence, and the adoption of the French monetary system for Italy was deemed to serve the purpose. Fortunately, Sardinia already possessed the French system, and the law of August 24, 1862, extended it to the whole of Italy, with the lire as the unit, and also conferred legal-tender power on the coins of France, Belgium, and Switzerland, Cf. H.P. Willis, *History of the Latin monetary Union,* Chicago, 1910, pp. 15, 27, 36, 37.

each nation,* to protect their silver currency and particularly the small change, should disrupt the monetary harmony prevailing among them all, they were compelled to meet in a convention, dated November 20, 1865, which required the parties, since collectively called the Latin Union, to lower, in the order to maintain them in circulation, the silver pieces of 2 francs, 1 franc, 50 centimes, and 20 centimes from a standard of $\frac{900}{1000}$ fine to $\frac{835}{1000}$ and to make them subsidiary coins.† It is true that the Government of India also came in for trouble as a result of this disturbance in the relative value of gold and silver, but that trouble was due to its own silly act.‡ The currency law of 1835 had not closed the Mints to the free coinage of gold, probably because the seignorage on the coinage of gold was a source of revenue which the Government did not like to forego. But as gold was not legal tender, no gold was brought to the Mint for coinage, and the Government revenue from seignorage fell off. To avoid this loss of revenue, the Government began to take steps to encourage the coinage of gold. In the first place, it reduced the seignorage§ in 1837 from 2 per cent, to 1 per cent. But even this measure was not sufficient to induce people to bring gold to the Mint, and consequently the revenue from seignorage failed to increase. As a further step in the same direction, the Government issued a Proclamation on January 13, 1841, authorizing the officers in charge of public treasuries to receive the gold coins at the rate of 1 gold mohur equal to 15 silver rupees. For some time no gold was received, as at the rate prescribed by the Proclamation gold was undervalued.¶ But the Australian and Californian gold discoveries altered the situation entirely. The gold mohur, which was undervalued at

* Switzerland was the fifrst to reduce the amount of silver in her small coins in order to keep them in circulation. But these Swiss coins of reduced fineness crossed the national frontier and, as they were legal tender in other countries of Latin origin, began to displace their dearer coins of similar denominations, which contained more silver but which passed current at the same nominal value. This brought forth a decree in France (April 14, 1864) which revoked the legal tender power to a concerted action on the part of all the Latin countries concerned.

† For more particulars of the Latin Union, cf. Laughlin, op. cit, pp. 146-9.

‡Cf. H. of C Return, East Indian (Coinage) 254 of 1860.

§ *Ibid.* p. 8.

¶ *Ibid,* p. 10.

Rs. 15, became overvalued, and the Government which was at one time eager to receive gold, was alarmed at its influx. By adopting the course it did of declaring gold no longer legal tender, and yet undertaking to receive it in liquidation of Government demands, it laid itself under the disadvantage of being open to be embarrassed with a coin which was of no use and must ordinarily have been paid for above its value. Realizing its position, it left aside all considerations of augmenting revenue by increased coinage, and promptly issued on December 25, 1852, another Proclamation withdrawing that of 1841. Whether it would not have been better to have escaped the embarrassment by making gold general legal tender than depriving it of its partial legal-tender power is another matter. But, in so far as India was saved the trials and tribulations undergone by the bimetallic countries to preserve the silver part of their currency, the abrogation of bimetallism was by no means a small advantage. For, the measure had the virtue of fore-arming the country against changes which, though not seen at the time, soon made themselves felt.

The abrogation of bimetallism in India, accomplished by the Act of 1835, cannot therefore be made a ground for censure. But it is open to argument that a condemnation of bimetallism is not *per se* a justification of silver monometallism. If it was to be monometallism it might well have been gold monomentallism. In fact, the preference for silver monometallism is not a little odd when it is recalled that Lord Liverpool, the advocate of monometallism,* whose doctrines the Court had sought to apply to India, had prescribed gold monometallism for similar currency evils then prevalent in England. That the Court should have deviated from their guide in this particular has naturally excited a great deal of hostile comment as to the propriety of this grave departure.† At the outset any appeal to ulterior motives must be baseless, for Lord Liverpool was not a "gold bug," nor was the Court composed of "silver men." As a matter of fact, neither of them at all considered the question from the standpoint as to which was a better standard of value, gold or silver. Indeed, in so far as that was at all a consideration worth attending to, the choice of the Court, according to the opinion of the time, was undoubetdly a better one than that of Lord

* The author of *A Treatise on the Coinage of the Realm* was anticipated by Sir John Shore, the Governor of Bengal, in his Minute, op. cit., par 55.

† Cf. H. M. Dunning, *Indian Currency,* 1898, *passim;* also S. V. Doraiswami, op. cit., *passim.*

Liverpool. Not only were all the theorists, such as Locke, Harris, and Petty, in favour of silver as the standard of value, but the practice of the whole world was also in favour of silver. No doubt, England had placed herself on a gold basis in 1816. But that Act, far from closing the English Mint to the free coinage of silver, left it to be opened by a Royal Proclamation.* The Proclamation, it is true, was never issued, but it is not to be supposed that therefore Englishmen of the time had regarded the question of the standard as a settled issue. The crisis of 1825 showed that the gold standard furnished too narrow a basis for the English currency system to work smoothly, and, in the expert opinion of the time,† the gold standard, far from being the cause of England's commercial superiority, was rather a hindrance to her prosperity, as it cut her off from the rest of the world, which was mostly on a silver basis. Even the British statesmen of the time had no decided preference for the gold standard. In 1826, Huskisson actually proposed that Government should issue silver certificates of full legal tender.‡ Even as late as 1844 the question of the standard was far from being settled, for we find Peel, in his Memorandum§ to the Cabinet, discussing the possibility of abandoning the gold standard in favour of the silver or a bimetallic standard without any compunction or predilection one way or the other. The difficulties of fiscal isolation were evidently not so insuperable as to compel a change of the standard, but they were great enough to force Peel to introduce his famous proviso embodying the Huskisson plan in part in the Bank Charter Act of 1844, permitting the issue of notes against silver to the extent of one-fourth of the total issues.¶ Indeed, so great was the universal faith in the stability of silver that Holland changed in 1847 from what was practically a gold monometallism§§ to silver monometallism because her statesmen believed that

> "it had proved disastrous to the commercial and industrial

* Cf. Dana Horton, *The Silver Pound,* 1887, p. 161.

† Cf. the evidence of A. Baring (afterwards Lord Ashuburton) before the Committee for Coin (1828), H. of C. Return 31 of 1830.

‡ *See* his Memorandum to the Cabinet printed by Gibbs, *A Colloquy on Currency* (1894), Appendix, p. xlvii.

§ For which, see Andreades, *History of the Bank of England,* Supplement I.

¶ For the original purpose of this defunct proviso, *see* Peel's Speech on the Bank Charter Act, dated May 20, 1844, Hansard, Vol. LXXIV, pp. 1334-35.

§§ In theory Holland had adopted bimetallism in 1816. But the legal ratio of 15.873 to 1 had undervalued silver so much that it had made gold the chief circulating medium of Holland.

> interests of Holland to have a monetary system identical with that of England, whose financial revulsions, after its adoption of the gold standard, had been more frequent and more severe than in any other country, and whose injurious effects were felt in Holland scarcely less than in England. They maintained that the adoption of the silver standard would prevent England from disturbing the internal trade of Holland by draining off its money during such revulsions, and would secure immunity from evils which did not originate in and for which Holland was not responsible."*

But stability was not the ground on which either the Court or Lord Liverpool made their choice of a standard metal to rest. If that had been the case, both probably would have selected silver. As it was, the difference in the choice of the two parties was only superficial. Indeed, the Court differed from Lord Liverpool, not because of any ulterior motives, but because they were both agreed on a fundamental proposition that not stability but popular preference should be the deciding factor in the choice of a standard metal. Their differences proceeded logically from the agreement. For, on analysing the compositon of the currency it was found that in England it was largely composed of gold and in India it was largely composed of silver. Granting their common premise, it is easy to account why gold was selected for England by Lord Liverpool and silver for India by the Court. Whether the actual composition of the currency is an evidence of popular preference cannot, of course, be so dogmatically asserted as was done by the Court and Lord Liverpool. So far as England is concerned, the interpretation of Lord Liverpool has been questioned by the great economist David Ricardo. In his *High Price of Bullion,* Ricardo wrote :—

> " For many reasons given by Lord Liverpool, it appears proved beyond dispute that gold coin has been for near a century the principal measure of value; but this is, I think, to be attributed to the inaccurate determination of the mint proportions. Gold has been valued too high ; no silver can therefore remain in circulation which is of its standard weight. If a new regulation

* *Report of the U. S. Silver Commission of* 1876, p. 68.

> were to take place, and silver be valued too high ..... gold would then disappear, and silver become the standard money."*

And it is possible that mint proportions rather than popular preference† could have equally well accounted for the preponderance of silver in India.‡

Whether any other criterion besides popular; preference could have led the Court to adopt gold monometallism is a moot question. Suffice it to say that the adoption of silver monometallism, though well supported at the time when the Act was passed, soon after proved to be a measure quite inadequate to the needs of the country. It is noteworthy that just about this time great changes were taking place in the economy of the Indian people. Such a one was a change from kind economy to cash economy. Among the chief causes contributory to this transformation the first place must be given to the British system of revenue and finance. Its effects in shifting Indian society on to a cash nexus have not been sufficiently realized,§ although they have been very real. Under the native rulers most payments were in kind. The standing military force kept and regularly paid by the Government was small. The bulk of the troops consisted of a kind of militia furnished by Jageerdars and other landlords, and the troops or retainers of these feudatories were in great measure maintained on the grain, forage, and other supplies furnished by the districts in which they were located. The hereditary revenue and police officers were generally paid by grants of land on tenure of service. Wages of farm servants and labourers were in their turn distributed in grain. Most of its officers being paid in kind, the State collected very little of its taxes in cash. The innnovations made by the British in this rude revenue and fiscal system were

* *Works,* p. 271.

† Mr. Dodwell, in his otherwise excellent article, op. cit., seems to convey that silver was substituted for gold in Southern India as a result of the natural preference of the people for the former metal. So eager is he in meeting the contentions of writers like Mr. Doraiswami that he fails to see how his own facts controvert his own thesis.

‡ The total coinage of India from 1800 to 1835 was, according to Mr. F. C. Harrison's estimate in the *Calcutta Review,* July, 1892:—

Gold	...	...	£ 3,845,000 ounces
Silver	...	...	£ 3,781,250,000 ounces

N.B.—In the case of silver, rupees are converted into ounces for comparison. § Cf. the article " The Silver Question as regards India," in the *Bombay Quarterly Review,* April, 1857.

of the most sweeping character. As territory after territory passed under the sway of the British, the first step taken was to substitute in place of the rural militia of the feudatories a regularly constituted and a well-disciplined standing army located at different military stations, paid in cash ; in civil employ, as in military, the former revenue and police officers with their followers, who paid themselves by perquisites and other indirect gains received in kind, were replaced by a host of revenue collectors and magistrates with their extensive staff, all paid in current coin. The payments to the army, police, and other officials were not the only payments which the British Government had placed on a money basis. Besides these charges, there were others which were quite unknown to the native Governments, such as the "Home Charges" and " Interest on Public Debt," all on a cash basis. The State, having undertaken to pay in cash, was compelled to realize all its taxes in cash, and as each citizen was bound to pay in cash, he in his turn stipulated to receive nothing but cash, so that the entire structure of the society underwent a complete transformation.

Another important change that took place in the economy of the Indian people about this time was the enormous increase of trade. For a considerable period, the British tariff policy and the navigation laws had put a virtual check on the expansion of Indian trade. England compelled India to receive her cotton and other manufactures at nearly nominal (2½ per cent.) duties, while at the same time she prohibited the entry of such Indian goods as competed with hers within her territories by prohibitory duties ranging from 50 to 500 per cent. Not only was no reciprocity shown by England to India, but she made a discrimination in favour of her colonies in the case of such goods as competed with theirs. A great agitation was carried on against this unfair treatment,* and finally Sir Robert Peel admitted Indian produce to the low duties levied by the reformed tariff of 1842. The repeal of the navigation laws gave further impetus to the expansion of Indian commerce. Along with this, the demand for Indian produce had also been growing. The Crimean War of 1854 cut off the Russian supplies, the place of which was taken

* Cf. Debates at the East India House on Duties affecting Indian Commerce, vide the *Asiatic Journal and Monthly Register for British and Foreign India, China, Australia* (London, New Series, Vol. XXXVII, January, and Vol. XXXVIII, May, 1842).

by Indian produce, and the failure of the silk crop in 1853 throughout Europe led to the demand for Asiatic, including Indian, silks.

The effect of these two changes on the currency situation is obvious. Both called forth an increased demand for cash. But cash was the one thing most difficult to obtain. India does not produce precious metals in any considerable quantity. She has had to depend upon her trade for obtaining them. Since the advent of the European Powers, however, the country was not able to draw enough for the precious metals. Owing to the prohibitions on the export of precious metals then prevalent in Europe,* one avenue for obtaining them was closed. But there was little chance of obtaining precious metals from Europe, even in the absence of such prohibition ; indeed, precious metals did not flow to India when such prohibitions were withdrawn.† The reason of the check to the inflow of precious metals was well pointed out by Mr. Petrie in his Minute of November, 1799, to the Madras Committee of Reform.‡ According to Mr. Petrie, the Europeans before they acquired their territorial possessions

> "purchased the manufactures of India with the metals of Europe : but they were henceforward to make these purchases with gold and silver of India, the revenues supplied the place of foreign bullion and paid the native the price of his industry with his own money. At first this revolution in the principles of commerce was but little felt, but when opulent and extensive dominions were acquired by the English, when the success of war and commercial rivalship had given them so decided a superiority over the other European nations as to engross the whole of the commerce of the East, when a revenue amounting to millions per annum was to be remitted to Europe in the manufactures of the East, then were the effects of this revolution severely felt in every part of India. Deprived of so copious a stream, the river rapidly retired from its banks and ceased to fertilize the adjacent fields with overflowing water."

The only way open, when the prohibitions were withdrawn

* For the History of those imposed by England, cf. Ruding, *Annals of Coinage,* 3rd. ed. Vol. I, pp. 353-4, 372, 376, 386-7 ; Thomas Violet, *An Appeal to Caesar,* London, 1660, p. 26.

† The following figures of the export of precious metals to India from England are interesting :—

1652-1703	...	£ 1,131,653 (from Mr. Petrie's Minute).
1747-1795	...	£ 1,519,654 " " "

‡ For the proceedings of the Committee, see India Office Records, "*Home Miscellaneous"* Series, Vol. 456.

to obtain precious metals, was to send more goods than this amount of tribute, so that the balance might bring them in. This became possible when Peel admitted Indian goods to low tariff, and the country was for the first time able to draw in a sufficient quantity of precious metals to sustain her growing needs. But this ease in the supply of precious metals to serve as currency was shortlived. The difficulties after 1850, however, were not due to any hindrance in the way of India's obtaining the precious metals. Far from being hindered, the export and import of precious metals was entirely free, and India's ability to procure them was equally great. Neither were the difficulties due to any want of precious metals ; for, as a matter of fact, the increase in the precious metals after 1850 was far from being small. The difficulty was of India's own making, and was due to her not having based her currency on that precious metal, which it was easy to obtain. The Act of 1835 had placed India on an exclusive silver basis. But, unfortunately, it so happened that after 1850, though the total production of the precious metals had increased that of silver had not kept pace with the needs of the world, a greater part of which was then on a silver basis, so that as a result of her currency law India found herself in an embarrasing position of an expanding trade with a contracting currency, as is shown in the Table IV on page 364.

On the face of it, it seems that there need have been no monetary stringency. The import of silver was large, and so was the coinage of it. Why then should there have been any stringency at all ? The answer to this question is not far to seek. If the amount of silver coined had been retained in circulation it is possible that the stringency could not have arisen. India has long been notoriously the sink of the precious metals. But in interpreting this phenomenon, it is necessary to bear in mind the caution given by Mr. Cassels that

> "its silver coinage has not only had to satisfy the requirements of commerce as the medium of exchange, but it has to suply a sufficiency of material to the silversmith and the jeweller. The Mint has been pitted against the smelting-pot, and the coin produced by so much patience and skill by the one has been rapidly reduced into bangles by the other."*

* Minute on Gold Currency for India, dated December 8, 1863, in the *Report of the Bombay Chamber of Commerce,* 1863-64. App. I, p. 189.

TABLE IV*

Trade and Currency

Years	Merchandise.		Treasure. Net Imports of		Total Coinage of		Excess (+) or Defect (—) of Coinage on Net Imports of		Annual Production (in £, 00,000 omitted) of	
	Imports. £	Exports. £	Silver. £	Gold. £	Silver. £	Gold. £	Silver. £	Gold. £	Gold.	Silver.
1850-51	11,558,789	18,164,150	2,117,225	1,153,294	3,557,906	123,717	+ 1,440,681	-1,029,577	8,9	7,8
1851-52	12,240,490	19,879,406	2,865,357	1,267,613	5,170,014	62,553	+ 2,304,657	-1,205,060	13,5	8,0
1852-53	10,070,863	20,464,633	3,605,024	1,172,301	5,902,648	Nil	+ 2,297,624	-1,172,301	36,6	8,1
1853-54	11,122,659	19,295,139	2,305,744	1,061,443	5,888,217	145,679	+ 3,582,473	- 915,764	31,1	8,1
1854-55	12,742,671	18,927,222	29,600	731,490	1,890,055	2,676	+ 1,860,455	- 728,814	25,5	8,1
1855-56	13,943,494	23,038,259	8,194,375	2,506,245	7,322,871	167,863	+ 871,504	-2,338,382	27,0	8,1
1856-57	14,194,587	25,338,451	11,073,247	2,091,214	11,220,014	128,302	+ 146,767	-1,962,912	29,5	8,2
1857-58	15,277,629	27,456,036	12,218,948	2,783,073	12,655,308	43,783	+ 436,360	-2,739,290	26,7	8,1
1858-59	21,728,579	29,862,871	7,728,342	4,426,453	6,641,548	132,273	-1,086,794	-4,294,180	24,9	8,1
1859-60	24,265,140	27,960,203	11,147,563	4,284,234	10,753,068	64,307	- 394,495	-4,219,927	25,0	8,2

* Prepared from figures given in Report Palgrave's "Memorandum on Currency and Standard of Value," Appendix B to Third Report of the *Royal Commission on Depression of Trade and Industry*. C4797 of 1886. Figures for the production of gold and silver, which are for calander years, are added from the "Silver Question and the Gold Question," by R. Barclay.

Now it will be seen from the figures given that all the import of silver was coined and used up for currency purposes. Very little or nothing was left over for the industrial and social consumption of the people. That being the case, it is obvious that a large part of the coined silver must have been abstracted from monetary to non-monetary purposes. The hidden source of this monetary stringency thus becomes evident. To men of the time it was as clear as daylight that it was the rate of absorption of *currency* from monetary to non-monetary purposes that was responsible as to why (to quote from the same authority)

> "notwithstanding such large importations the demand for money has so far exceeded.....that serious embarrassment has ensured and business has almost come to a stand from the scarcity of circulating medium. As fast as rupees have been coined they have been taken into the interior and have there disappeared from circulation, either in the Indian substitute for stocking-foot or in the smelting-pot into bangles."*

The one way open was to have caused such additional imports of silver as would have sufficed both for the monetary as well as the non-monetary needs of the country. But the impors of silver were probably already at their highest. For, as was argued by Mr. Cassels,

> "the annual production of silver of the whole world does not exceed ten million sterling. During the last few years, therefore, India alone has annually taken, and to a great extent absorbed, more of the metal than has been produced by the whole world. It is clear that this cannot long continue without producing serious embarrassment. Either the European markets will be unable or unwilling to supply us, or the value of silver will rise to an extravagant extent. Under such circumstances it is not difficult to foresee that the present crisis must continually recur, and the commerce in this country must be periodically, if not permanently, crippled by the scarcity of the circulating medium."†

Had there been any credit media the contraction of currency

* Minute on Gold Currency for India, dated December 1, 1863. Report, op. cit. p. 184.

† Report, op. cit. p. 189.

might not have been felt as severely as it was. But there was no credit money worth the name. The Government issued interest-bearing Treasury notes, which formed a part of the circulating medium of the country. But, apart from being insignificant in amount,* these Treasury notes had

> "proved a failure, owing, firstly, to the condition that they would not be received in payment of revenue for twelve months; secondly, they would be paid off or received only where issued, so that as the issues were confined to Calcutta, Madras and Bombay, their use and employment for purposes of circulation were limited to those cities ..... and lastly, because their amounts were too large and their period of running at interest too short."†

Nor was banking so widely developed as to satisfy the currency needs of comerce. The chief hindrance to its growth was the attitude of the Court. Being itself a commercial body largely dealing in exchange, the Court was averse to the development of banking institutions lest they should prove rivals. As this traditional policy of hostility continued even after the Court had ceased to be a body of merchant princes, banks did not grow with the growth of trade. Indeed, as late as 1856 banks in India numbered few and their issues were small, as shown in the table on page 367. (Table V)

The insufficiency of silver and the want of credit currency caused such an embrrassment to trade that there grew up a change in the attitude toward the Currency Act of 1835, and people for once, began to ask whether, although it was well to have changed from bimetallism to monometallism, it would not have been better to have preferred gold monometallism to silver monometallism. As more and more of gold was imported and coined, the stronger grew the demand for giving it a legal

* Amount of Indian Treasury notes outstanding :—

On April 30, 1850	£804,988	Extracted from Table No. 2 of the Return relating to East India Revenues, etc., Parliamentary paper 201, VIII, 1858.
On April 30, 1851	802,036	
On April 30, 1852	770,301	
On April 30, 1853	850,432	
On April 30, 1854	850,627	
On April 30, 1855	889,875	
On April 30, 1856	967,711	

† *How to meet the Financial Difficulties of India,* by A. C. B., London, 1859, p. 13. This is in many ways a most remarkable pamphlet, which suggested many of the later reforms in Indian currency and banking.

TABLE V

Banks in India *

Name of the Bank.	Year of Establishment.	Head Offices.	Branches and Agencies.	Capital. Subscribed. £	Capital. Paid up. £	Notes in Circulation. £	Specie in Coffers. £	Bills under Discount. £
Bank of Bengal	1809	Calcutta		1,070,000	1,070,000	1,714,771	851,964	125,251
Bank of Madras	1843	Madras		300,000	300,000	123,719	139,960	59,871
Bank of Bombay	1840	Bombay		522,000	522,000	571,089	240,073	195,836
Oriental Bank.	1851			1,215,000	1,215,000	199,279	1,146,529	2,918,399
Agra and U.P. .	1833	Calcutta	Agra, Madras, Lahore, Canton, and London	700,000	700,000	—	74,362	—
N.W. Bank	1844	”	Bombay, Simla, Mussowri and Agra Agencies in Delhi and Cawnpore	220,560	220,000	—	—	—
London & Eastern Bank	1854			250,000	—	325,000	—	—
Commercial Bank	1854	Bombay	Agents in London, Calcutta, Canton, & Shanghai	1,000,000	456,000	—	—	—
Delhi Bank .	1844	Delhi	Agents in London, Calcutta, Bombay, and Madras	—	180,000	—	—	—
Simla Bank .	1844			—	63,850	—	—	—
Dacca Bank .	1846			30,000	—	—	—	—
Mercantile Bank		Bombay	London, Calcutta, Colombo, Kandy, Canton, and Shanghai	500,000	328,826	777,156	77,239	109,547
India, China and Australian Bank				had not commenced business				

* R. M. Martin, *The Indian Empire,* Vol. 1, p. 665. N.B.—The table in original does not specify dates, but internal evidence shows that it is a about 1856.

status in the existing system of Indian currency.* All were agreed on the principle of a gold currency : whatever difference there was, was confined to the method of its adoption. The introduction of gold on a bimetallic basis was out of the question, for the Government refused to make what it deemed to be the "hopeless attempt" to fix the value of gold and silver and compel their acceptance at that value.† The projects which the Government was willing to consider‡ were : (1) to introduce the "sovereign" or some other gold coin and to let it circulate at its market price from day to day as measured in silver; (2) to issue a new gold coin, bearing the exact value of a given number of rupees, and make it a legal tender for a limited period, when it might be readjusted and again valued, and made a legal tender for a similar period at the new rate ; (3) to introduce the English sovereign as a legal tender for Rs. 10, but limited in legal tender to the amount of Rs. 20 or two sovereigns ; or (4) to substitute a gold standard for the silver standard.

Of these projects, the first three were evidently unsafe as currency expendients. Fixity of value between the various components of the currency is an essential requisite in a well-regulated monetary system. Each coin must define a fixed value, in terms of the others realizable by the most untutored intellect. When it ceases to do so, it becomes a mere commodity, the value of which fluctuates with the fluctuations of the market. This criterion ruled out the first two projects. To have introduced a coin as money, the value of which could not be vouched for—as would have been the case under the first project—from one day to another, apart from the trouble of computing and ascertaining the fluctuations, would have been a source of such embarassment that the Government, it must be said, acted wisely in not adopting it. There was no saving grace in the second project to recommend its adoption in preference to the first. If it had been adopted the result would have been that during the period when a rate remained fixed, gold would have

* The matter was first broached by the native shroffs and merchants of Calcutta in April. 1859, in a letter to the President of the Bengal Chamber of Commerce. Both agreed to urge upon the Government the necessity of a gold currency in India. Cf. *Papers relating to the Introduction of a Gold Currency in India,* Calcutta, 1866, pp. 1-3.

† *Ibid.,* p. 6.

‡ Cf. Minute by the Rt. Hon. James Wilson, dated December 25, 1859, *Ibid.,* p. 23.

been forced into circulation supposing that its market value was lower, and at the end of the year, if it was known that the rate would be revised and the value of the coin be reduced in conformity with the fall of gold, a general struggle to get rid of the overrated gold coin and shift the inevitable loss to the shoulders of others would have certainly ensued. The third was a somewhat strange proposal. It is possible with a low-priced metal to strike coins of less than full value for the purposes of small payments and limit their tender. But this is not possible with a high-priced metal, the *raison d'etre* of which is to facilitate large transactions. The objections to the plan could hardly be concealed. So long as gold was undervalued, it would not circulate at all. But once it became overvalued owing to changes in the market ratio, the rupee would go out of circulation, and shopkeepers and traders would remain possessed of a coin which would be of no use in liquidating large transactions.

The only project free from these faults was the adoption of a gold standard, with silver as a subsidiary currency. The strongest argument, the Government could advance against this demand was that "in a country where all obligations have been contracted to be paid in silver, to make a law by which they could forcibly be paid in anything else would simply be to defraud the creditor for the advantage of the debtor, and to break public faith."* However sound the argument might have been, it was hopelessly inadequate to meet the growing demand to place the Indian *currency on* an expanding basis. Indeed, it cannot be said that the Government was really serious in its opposition to a gold currency. For the strength of its position, it relied not so much on the soundness of its arguments against gold, but on its discovery that a better solution than a gold currency existed at hand. If what was wanted was a supplement to the existing currency, then the remedy proposed by the Government was unassailable. Gold would have been uneconomical and inconvenient. Silver backed by paper would make the currency economical, convenient, and expansive. Indeed, the advantages were so much in favour of the official alternative that this first attempt against the silver standard resulted not in the establishment of a gold standard, but in the introduction of a Government paper currency to supplement the existing silver standard.

* *Ibid,* p. 26.

None the less, the desire for a gold standard on the part of the people was too great to be altogether ignored, though the demand for it was supposed to have been met by the alternative measure. The paper currency, as originally conceived by Mr. Wilson, was a complete counterblast to the gold agitation. But his successor, Mr. Laing, differed from him in what he regarded as the "barbarous" exclusion of gold from Indian currency. He therefore introduced two important provisos in the original Bill, when the task of carrying it through fell upon him, owing to the untimely death of Mr. Wilson. One was to raise the lowest denomination of notes from Rs. 5 to Rs. 20. The other was

> "to authorize the Governor-General in Council from time to time to direct by order to be published in the Gazettes of Calcutta, Madras and Bombay, that notes to an extent not exceeding one-fourth of the total amount of issues represented by coin and bullion ..... be issued in exchange for gold coin..... or bullion computed at rates to be fixed by such order ....."

The Act, which afterwards embodied the Bill, adopted the second proviso *in toto,* and the first after being modified so as to fix Rs. 10 as the lowest denomination of notes to be issued. Although its general tenor is clear, the immediate aim of the second proviso does not become quite clear from a perusal of the official papers. The Select Committee on the Paper Currency Bill seem to have held that the proviso was innocuous, if not good. It thought

> "that on special occasions and in particular transactions it might be a great advantage to the mercantile community to know that gold could be made available as money at a fixed rate. If, on the other hand, at the rate fixed gold did not enter into circulation it would prove that silver, with a secure and convertible paper currency, gave perfect confidence and answered all the wants of the trade and of the community, and the enactment would remain a dead letter and be perfectly harmless."

But there is no doubt that Mr. Laing looked upon it as an easy means of making a transition to the gold standard. In his Minute on Currency and Banking, dated May 7, 1862, he wrote :

> "The object of this proviso was simply to leave the door

> open for cautious and tentative experiments with regard to the future use of gold. The importation of gold already exists and is increasing, and the metal is much appreciated by the native population as generally to command a premium ..... Thus, after a time, if the use of gold becomes more general, and its value more fixed, some further step might be taken."

And such seems to have been the impression of the Secretary of State at the time, for he understood the force of the recommendation in favour of issuing notes against gold was that it would "effectively contribute to the introduction of a gold currency in India."*

But whether conceived as a relief to the mercantile community or as an avenue for introducing a gold currency the proviso was not put into effect. The Secretary of State objected† to any action being taken with regard thereto. In the meantime the paper currency did not prove the panacea, it was avowed to be. The extent it reached and the economy it effected were comparatively insignificant.

TABLE VI

EXTENT AND ECONOMY OF PAPER CURRENCY

Presidencies	Bullion	Coin	Government Securities	Value of Notes in Circulation
Calcutta on Oct. 31, 1863	.....	1,84,55,922	1,10,44,078	2,95,00,000
Madras on Oct. 31, 1863	.....	73,00,000	.....	73,00,000
Bombay on Jan. 4, 1864	1,17,00,000	1,19,00,000	.....	2,36,00,000
Total	1,17,00,000	3,76,55,922	1,10,44,078	6,04,00,000

As was pointed out by Mr. Cassels‡ the currency notes, after three years, had been taken only to the extent of about 6 per cent, of the whole metallic currency, which was then estimated by Mr. Wilson to be £ 100,000,000 in sterling, and that they had actually fulfilled their primary object of releasing the

* Par. 59 of the Secretary of State's Despatch, No. 158, dated September 16, 1862.

† *See* par. 64 of his Despatch, *supra.*

‡ *Cf. his letter to the Government of bombay, dated January 1, 1864.* Vide Papers, etc., on the Introduction of Gold in India, pp. 51-69

reproductive capital of the country only to the extent of a million sterling or 1 per cent, of the whole. Owing to the demand for Indian cotton in the Liverpool market to take the place of American cotton, the export of which was stopped during the Civil War, the growing foreign trade assumed enormous proportions. And as the paper currency gave no relief, the entire stress fell upon silver. The production of silver, however, was not increasing much faster than it did previously, and its absorption by India had not slackened. The inadequacy of a currency medium therefore continued to be felt as acutely as before, notwithstanding the introduction of a paper currency. Not only was gold imported in large quantities, but was employed for monetary purposes, although it was not legal tender. The fact was brought to the notice of the government of India by the Bombay Chamber of Commerce* in a memorial praying for the introduction of a gold currency in India, in which it was pointed out

> "that there is an increasing tendency to the creation of a gold ingot currency, but the natives of this country, as a rude remedy for the defects of the existing silver one,"

and

> "that gold bars, stamped with the mark of Bombay banks, are for this purpose circulated in several parts of the country."

This led to an agitation for requiring the Government to give effect to the proviso in the Paper Currency Act,† and the movement assumed such dimensions that it forced the hands of the Government. On this occasion, the plan for effecting the change was boldly conceived. Sir Charles Trevelyan saw through the weak point of the proviso on which the Government was called upon to act. He argued that the currency notes were payable only in the current coin of the country, which in India was the silver rupee, and to hold a portion of the reserve gold which could not be tendered in payment of the notes was seriously to endanger their convertibility in times of political

* *Report of the Bombay Chamber of Commerce,* 1863-64, App. I, p. 206.

† This time the Government was memorialized by all the Chambers of Commerce— Bengal, Bombay, and Madras. Action was also urged by the Bombay Association and the Manchester Chamber of Commerce. But the movement derived its greatest strength from the support of the Government of Bombay, particularly by Sir William mansfield's famous Minute on Gold Currency for India.

TABLE VII*

Trade and Currency

Years.	Merchandise.		Treasure. Net Imports of		Total Coinage of		Excess (+) or Defeet (—) of Coinage on Net Imports of		Annual Production (in £, 00,000 omitted) of	
	Imports. £	Exports. £	Silver. £	Gold. £	Silver. £	Gold. £	Silver. £	Gold. £	Gold.	Silver.
1860–61	23,493,716	32,970,605	5,328,009	4,232,569	5,297,150	65,038	– 30,859	– 4,167,531	23,9	8,2
1861–62	22,320,432	36,317,042	9,086,456	5,184,425	7,470,030	58,667	– 1,616,426	– 5,125,758	22,8	8,5
1862–63	22,632,384	47,859,645	12,550,155	6,848,156	9,355,405	130,666	– 3,194,750	– 6,717,490	21,6	9,0
1863–64	27,145,590	65,625,449	12,796,717	8,898,306	11,556,720	54,354	– 1,239,997	– 8,843,952	21,4	9,8
1864–65	28,150,923	68,027,016	10,078,798	9,839,964	10,911,322	95,672	+ 832,524	– 9,744,292	22,6	10,3
1865–66	29,599,228	65,491,123	18,668,673	5,724,476	14,639,353	17,665	– 4,029,320	– 5,706,811	24,0	10,4
1866–67	29,038,715	41,859,994	6,963,073	3,842,328	6,183,113	27,725	– 779,960	– 3,814,603	24,2	10,1
1867–68	35,705,783	50,874,056	5,593,961	4,609,466	4,385,080	21,534	– 1,208,881	– 4,587,932	22,8	10,8
1868–69	35,990,142	53,062,165	8,601,022	5,159,352	4,269,305	25,156	– 4,331,717	– 5,134,196	22,0	10,0
1869–70	32,927,520	52,471,376	7,320,337	5,592,016	7,510,480	78,510	+ 190,143	– 5,513,506	21,2	9,5

*Sources same as those used in the case of Table IV.

distrust or commercial panic.* He therefore ventured beyond the scope of the agitation, and pronounced that instead of allowing gold a backdoor entry into the currency system it ought to be made the standard of value in India. He did not agree with Mr. Wilson that the substitution of gold for the silver standard would be "to break faith with the creditor." Nor was he much deterred by the fact that before the silver currency could be reduded to a subsidiary position, the introduction of gold in India would give rise to a double standard for the time being ; for he argued that "all nations must pass through a transition stage of a double standard before they arrive at a single standard." Accordingly he proposed that (1) sovereigns and half-sovereigns of British or Australian standard should be legal tender in India, at the rate of one sovereign for Rs. 10, and that (2) Government currency notes should be exchangeable either for rupees or sovereigns at the rate of one sovereign for Rs. 10, but that they should not be exchangeable for bullion.

His proposals were accepted by the Government of India and were communicated to the Secretary of State† for his sanction. But the Secretary of State, impatient and intolerant of any deviation from a monometallic system, whittled down the whole project with scant courtesy. His reply‡ is a grotesque piece of reasoning and terribly shallow. He was unwilling to allow the measure, because he felt satisfied that the rate of Rs. 10 to a sovereign underrated the sovereign too much to permit its circulation. Here he was on solid ground. The cost of producing a sovereign at a Mint in India was estimated§ at the time to be Rs. 10-4-8 ; while the cost of importing it to Calcutta from England was estimated at Rs. 10-4-10, and from Australia at Rs. 10-2-9. Whichever was the proper rate, it was certain that sovereigns could not circulate at the rate of Rs. 10 to 1. It was

* Cf. his Minute dated June, 20, 1864. *Vide* Papers, etc., on Gold in India p. 147 *et seq*. He was even opposed to holding silver *bullion* in the paper currrency reserve, for this involved on the Currency Department the obligation to get the silver coined, which was a matter of time, having regard to the limited capacity of the Indian Mints at the time, while the notes issued were payable *in coin on demand*. There was a run on the Paper Currency Department, which found itself short of coin.

† Cf. Government of India's Despatch No. 89, dated Simla, July 14, 1864.

‡ Financial Despatch from the Secretary of State, No. 224, dated Setpember 26, 1864.

§ Cf. Letter from the Hon. Claud Brown to the Hon. Sir C. E. Trevelyan, dated Calcutta, May 28, 1864. *Vide* Papers, etc., on Gold, p. 265.

a pity that Sir Charles Trevelyan did not propose a higher ratio* so as to make the circulation of the sovereign an assured event. But the Secretary of State would have been averse to the measure just the same, even if the ratio had been favourable to the sovereign. To the Secretary of State, the measure, based as it was on an unfavourable ratio, was useless. But if based on a favourable ratio it was none the less pernicious, for, it portended the possibility of what he considered as the most vicious system of double standard, however temporary it might have been. The mere contingency of giving rise to a bimetallic system was enough to frighten the Secretary of State into opposition to the whole measure, for he refused to admit that "it may be for the public advantage to pass through a period of double standard in order to change the basis of the currency from silver to gold."

The only concession that the Secretary of State was willing to make was to permit "that gold coin should be received into public treasuries at a rate to be fixed by Government and publicly announced by Proclamation" without making it a general legal tender in India. It will be recalled that this was a revival of that foolish measure which was abandoned in 1852 for having embarrassed the Government. To offer to receive coin which you cannot pay back is to court trouble, and it was to obviate the too-well-known danger inherent in the project that this more complete measure was proposed. But the currency stringency was so great that the Government of India, rather than obstinately cling to their view, consented to avail themselves of the suggestion of the Secretary of State, and issued a Government Notification in November, 1864, which proclaimed that

> "sovereign and half-sovereigns coined at any authorized Royal Mint in England or Australia of current weight, shall until further notice be received in all the Treasuries of British India and its dependencies in payment of sums due to Government, as the equivalent of 10 and 5 Rs. respectively ; and that such sovereigns and half-sovereigns shall, whenever available at any Government Treasury, be paid at the same rates to any person willing to receive them in payment of claims against the Government."

* The reason why he preferred the ratio of 10 to 1 was that that was the prevalent market ratio in India. His argument was that "the sovereign must be rated for circulation in India, not with reference to its English, but to its Indian price estimated in silver." Probably he was unwilling to overrate the sovereign because of his fear that "the existing Indian currency would be rapidly revolutionized and creditors would receive much less than their due." Cf. his Minute dated November 23, 1864 *Vide* Papers, etc. on Gold in India.

The real par, however, was somewhat above Rs. 10 to the sovereign,* and the notification was therefore inoperative. The currency situation, on the other hand, continued to be as acute as ever, and the Government of India was again moved in 1866 by the Bengal Chamber of Commerce to take steps to make the circulation of gold effective. This time the Chamber insisted on the institution of a Commission of Inquiry "as to the expediency of introducing gold into the monetary system of India." But the Government of India held† that " instead of a gold a paper currency has been introduced, in the expectation that it would prove a more convenient and acceptable circulating medium than either of the precious metals," and consequently " it must be shown that paper has not proved and is not likely to prove a circulating medium adequate to the wants and suitable to the habits of the country, before an endeavour is made to introduce gold in supersession of, or in addition to, paper." A commission was therefore appointed to inquire into the "operation of the existing currency arrangements which were established under Act XIX of 1861," and to report as to "what may be the advantage, as based on expediency, of the introduction of the legal tender of gold into India, in addition to that of silver." After an exhaustive investigation, the Commission came to the conclusion‡ that owing to several causes the paper currency had failed to establish itself among the circulating media of the country, but that gold was finding a larger place in the transactions of the people. The Commission ended by urging upon the Government "to cause a legal tender of gold to be a part of the currency arrangements of India." Now it was the turn of the Government to give effect to the recommendation. But, curiously enough, it did not go to the extent of adopting the recommendation of the Commission which it had itself appointed. Instead of making gold legal tender, as advised by the Commission, the only action the Government took was to issue another Notification on October 28, 1868, which simply altered the rate of the sovereign to Rs. 10-8, without doing anything further to avoid the evil consequence attendant upon that one-sided measure. Fortunately for the Government, even this correction of the rate did not induce any flow of gold into

* Cf. Appendix A to the Minute by Sir William Mansfield on Gold Currency for India, H. of C. Return 79 of 1865.

† Resolution in the Financial Department, dated February 3, 1866, in the *Fort William Gazette* of the same date, under Notification No. 592.

‡ For the Report; of the Comission, *see* H. of C. Return 148 of 1868.

the circulation of the country. The currency troubles had by then subsided, and as no new pressure was exerted upon the Government, this proved the last of two abortive attempts the Government made to introduce gold into India.

For the time being, the problem was solved by the natural course of events. But, as subsequent events showed, the change to a gold standard would have been better for India.* and would have been welcomed† in the interests of Europe, which was then suffering from high prices due to the superfluity of gold. At this particular juncture, the Government of India was really at the crossing of ways, and could have averted the misfortunes that were to befall it and its people if it had sided with the forces of change and replaced the silver standard by a gold standard, as it could most easily have done. That those in charge of Indian affairs should have thrown the weight of their authority against the change was no dishonest act deserving of reproach, ‡ but it does furnish one more illustration of those disastrous human ways, which often lead people to regard the situation in which they live as most secure, just when it is most precarious. So secure did they feel about the currency situation that in 1870, when the Mint Law came to be revised and consolidated, they were content, as though nothing had happened or was likely to happen, to allow the silver standard of 1835 to continue pure and unsullied by any admixture of gold.§

Alas ! those, who then said¶ that they were not called upon to take more than a "juridical" view of the Indian currency question, knew very little what was in store for them.

●●

* It is true Prof. J. E. Cairnes was against the introduction of a gold standard in India ; but later he withdrew his objections. Cf. his *Essays in Political Economy* (London, 1873, pp. 88-90).

†Cf. J. R. McCulloch, *Dictionary of Commerce,* Ed. 1869, p. 1131.

‡ Mr. H. B. Russell says that they retained the silver standard because they profited by it on their remittances. Cf. his *International Monetary Conferences,* 1898, p. 32.

§The original Mint and Coinage Bill contained clauses embodying the notification of 1868, compelling the Government to receive sovereigns at Public Treasuries, Cf. *Gazette of India,* Part V, dated July 23, 1870. But such was the degree of indifferences shown that they were afterwards dropped by the Select Committee, which preferred to leave the matter to the discretion of the Executive.

¶ Cf. the speech of the Hon. Mr. Stephen on September 6, 1870, introducing the Coinage and Mint Bill, Vide *Supreme Legislative Council Proceedings* (abbreviated into *S.L.C.P.*), Vol. IX, p. 398.

CHAPTER II

THE SILVER STANDARD AND THE DISLOCATION OF ITS PARITY

It is clear how the evolutionary process with respect to the Indian currency culminated in the establishment of a silver standard and how the agitation for a gold currency ended in the silver standard being supplemented by a paper currency. Before proceeding to inquire into the working of such a mixed system, it would be useful to review briefly the nature of its framework.

The metallic part of it was regulated by Act XXIII of 1870. The coins authorized and legalized thereunder were as shown on p. 379. (Table VIII)

The Act made no innovations either in regard to the number of coins issued by the Mints or their legal-tender powers. Identical though it was with the earlier enactments in the matter of coins,* its juridical provisions were designed to perfect the monetary law of the country as had never been done before. The former Acts which it repealed were very sparing in their recognition of the principle of mint "remedy" or "toleration", as it is called. The point has been largely deemed to be one of mere mint technique. That is so ; but it is not without its monetary significance. When the precious metals were current by weight the question of a mint toleration could not possibly have arisen, for it was open to every one to ascertain the same by weighing the value of his return. But since the invention of coinage, when currency came to be by tale, every one has trusted that the

* This may be seen from the following :—

(a) *Gold Coins,* (i), (ii), and (iii) were authorized by Section VII of Act XVII of 1835. Only (iv) was an addition made by this Consolidating Act of 1870.

(b) *Silver Coins,* (i), (ii), and (iii) were authorized by Section I of Act XVII of 1835. This Act had also authorized the issue of a silver coin called " Double Rupee," but this was discontinued by Section II of Act XIII of 1862, which substituted in its place the silver coin No. iv.

(c) *Copper Coins,* (i), (ii), and (iv) were first authorized by Section I of Act XXI of 1835, which, however, restricted their circulation to the Presidency of Bengal. They were afterwards universalized for the whole of India by Act XXII of 1844. Coin No. (iii) was first introduced by Section II of Act XI of 1854.

TABLE VIII

Denomination of Coins issued by the Mint.	Gross Wt Troy Grs.	Remedy in Weight.	Fineness. Troy Grs.	Remedy in Fineness.	Legal-tender Power.
I. *Gold Coins* (*a*)					
(i) Mohur . .	180	$\frac{2}{1000}$ ths	165	$\frac{2}{1000}$ ths	Not Legal Tender at all.
(ii) Third of a Mohur . .	60	”	65	”	
(iii) Two-thirds of a Mohur .	120	”	110	”	
(iv) Double Mohur . .	360	”	330	”	
II. *Silver Coins* (*b*) . .					
(i) Rupee	180	$\frac{5}{1000}$ ths	165	$\frac{2}{1000}$ ths	Unlimited Legal Tender.
(ii) Half-rupee . . .	90	”	82.5	”	
(iii) Quarter-rupee . .	45	$\frac{7}{1000}$ ths	41.25	$\frac{3}{1000}$ ths	Legal Tender for Fractions of a Rupee only.
(iv) Eighth of a Rupee . .	22.5	$\frac{10}{1000}$ ths	20.625	”	
III. *Copper Coins* (*c*)					
(i) Pice	100	$\frac{1}{40}$ ths	—	—	Legal Tender for $\frac{1}{64}$ th part of a Rupee.
(ii) Double Pice . . .	200	”	—	—	Legal Tender for $\frac{1}{32}$ th part of a Rupee.
(iii) Half-pice . . .	50	”	—	—	Legal Tender for $\frac{1}{128}$ th Part of a Rupee.
(iv) Pie . . .	33.3	”	—	—	Legal Tender for $\frac{1}{192}$ nd Par of a Rupee.

coins contained the value they were certified to contain. The actual value of the coin cannot, however, always be in exact agreement with its certified value. Such differences are bound to exist, and even with all the improvements in the art of coinage it would be difficult to avoid them. What matters is the extent of the deviation from the true mint standard. The mint laws of all countries, therefore contain provisions which declare that coins shall not be legal tender at their certified value if they err from their legal standard beyond a certain margin. Indeed to make coins legal tender without prescribing a limit to their toleration is to open a way to fraud. In so far as the Act laid down a limit of toleration to the coins it authorized to be issued from the Mint, it was a salutary measure. It is to be regretted, however, that the Act instituted no machinery with which to ascertain that the coinage conformed to the law.* Another important improvement made by the Act was the recognition of the principle of free coinage. The principle, though it has not received the attention it deserves, is the very basis of a sound currency in that it has an important bearing on the cardinal question of the quantity of currency necessary for the transactions of the community. Two ways may be said to be open by which this quantity can be regulated. One way is to close the Mint and to leave it to the discretion of the Government to manipulate the currency to suit the needs. The other is to keep the Mint open and to leave it to the self-interest of individuals to determine the amount of currency they require. In the absence of unfailing tests to guide the exercise of discretion necessary in the case of closed Mints, the principle of open Mints has been agreed upon as the superior of the two plans. When every individual can obtain coin for bullion and convert coin into bullion, as would be the case under open Mints, the quantity is automatically regulated. If the increasing demands of commerce require a large amount of circulating medium, it is for the interest of the community to divert a larger quantity of its capital for this purpose ; if, on the contrary, the state of trade is such as to require less, a portion of the coin is

* This machinery is provided in England by what is known as the "Trial of the Pyx." For a history of this in institution and the way it functions, cf. H. of C Return 203 of 1866. During the time of the East India Company the maintenance of the standard purity of the Indian coins always formed a most anxious concern of the Court of Directors. The coins of Indian mintage were regularly required to be sent over to England, where they were tested at a special Trial of the Pyx and the verdict reported back for the future guidance of the Mint Masters in India. Cf. H. of C. Return 14 of 1849. since the winding-up of the Company there is no machinery to bring the Mint Msasters to book.

withdrawn, and applied as any other commodity for purposes other than those of currency. Because the Act of 1870 expressly recognised the principle of open Mint, it is not to be supposed that the Mints were closed before that date. As a matter of fact they were open to the free coinage of both gold and silver, although the latter alone was legal tender. But, strange as it may seem, none of the earlier Acts contained a word as to the obligation of the Mint Master to coin *all* the metal presented to him—a condition which is of the essence of the open mint system. The provisions of the Act on this point are unmistakable. It required :—

> "Section 19. Subject to the Mint-rules for the time being in force, the Mint Master shall receive all gold and silver bullion and coin brought to the Mint:
>
> " Provided that such bullion and coin be fit for coinage.
>
> "Provided also that the quantity so bought at one time by one person is not less, in case of gold, than fifty tolas, and, in the case of silver, than one thousand tolas.
>
> " Section 20. A duty shall be levied at the rate of one rupee per cent, at the Mint on the produce of all gold bullion and on all gold coin brought for coinage to the mint in accordance with the said Mint-rules.
>
> "Section 21. All silver bullion or coin brought for coinage to the Mint, in accordance with the said Mint-rules, shall be subject to a duty at the rate of 2 per cent, on the produce of such from the return to be made to the proprietor.
>
> "Section 22. A charge of one-fourth per mille on gold bullion and coin, and of one per mille on silver bullion and coin, shall also be levied for melting or cutting such bullion and coin so as to render the same fit for receipt into the Mint.
>
> Section 23. All gold and silver bullion and coin brought to the Mint for coinage, and which is inferior to the standard fineness prescribed by this Act, or which, from brittleness or other cause, is unfit for coinage, shall, in case it is refined, be subject, in addition to the duty and charge aforesaid, to such charge on account of the loss and expense of refining as the Governor-General in Council prescribes in this behalf.
>
> "Section 24. The Mint Master, on the delivery of gold or silver bullion or coin into the Mint for coinage, shall grant to the proprietor a receipt which shall entitle him to a certificate from the Assay Master for the net produce of such bullion or coin payable at the General Treasury.

> "Section 25. For all gold bullion and coin, in respect of which the Assay Master has granted a certificate, payment shall be made, as nearly as may be, in gold coins coined under this Act or Act No. XVII of 1835 ; and the balance (if any) due to the proprietor shall be paid in silver, or in silver and copper, coins, in British India."

In the matter of paper currency the Government, it is to be noted, did not proceed upon the principle of freedom of issue, which then obtained in the country. There prevails the erroneous view that before the introduction of the Government paper currency the right of note issue was confined to the three Presidency banks of India. As a matter of fact there existed in India what is called the free banking system, in which every bank was at liberty to issue its notes. It is true that notes of the Presidency banks enjoyed a status slightly superior to that enjoyed by the notes of other banks in that they were received by the Government to some extent in payment of revenue*— a privilege for which the Presidency banks had to submit to a stringent legislative control on their business,† from which other banks whose issues were not so priviliged were immune. But this disadvantage was not sufficient to discourage other banks from indulging in the right of issue which was left open to them by law. However, this freedom of issue does not seem to have

* Cf. F. C. Harrison, *Economic Journal,* 1891, Vol. I, p. 726.

†The reaosns for such control are to be found in the peculiar relationship that subsisted between the Government and the Presidency banks. Prior to 1862, as a safeguard against their insolvency, "the Presidency Bank Charters restricted the kind of business in which they were to engage themselves. Put very briefly the principal restrictions imposed prohibited the banks from conducting foreign-exchange business, from borrowing or receiving deposits payable out of India, and from lending for a longer period than six months, or upon mortgage, or on the security of immovable property, or upon promissory notes bearing less than two independent names, or upon goods unless the goods or title to them were deposited with the banks as security. The Government held shares in the banks and appointed a part of the Directorate. In 1862, when the right of note issue was withdrawn, these statutory limitations on the business of the banks were greatly relaxed, though the Government power of control remained unchanged. But, the banks having in some cases abused their liberty, nearly all the old restrictions of the earlier period were reimposed in 1876 by the Presidency Banks Act, Government, however, abandoning direct interference in the management, ceasing to appoint official directors, and disposing of its shares in the banks. Some of these limitations have been incorporated in Act XLVII of 1920, which amalgamated the three Presidency banks into the Imperial Bank of India. Banks other than Presidency banks have been entirely immune from any legislative control whatsoever, except in so far as they are made amenable to the provisions of the Indian Companies Act. Cf. in this connection Minutes by Sir Henry Maine, No. 47, and the accompanying note by W. Stokes. The control of these banks is one of the important problems of banking legislation in India.

been exercised by any of the banks on any very large scale, not even by the Presidency Banks,* and was taken away from all in 1861,† when there was established a national issue for the whole of India entrusted to the management of a Government Department called the Department of Paper Currency. But if private interest was not allowed to play the same part in determining the quantity of paper currency as was the case with regard to metallic currency, neither was any discretion left to the Government Department in the regulation of the paper currency. The Department of Paper Currency had no more discretion in the matter of paper currency than the Mint Master had in the matter of metallic *currency*.

The Department's duty was confined by law‡ to the issue of notes in exchange for the amount thereof: (1) in current silver coin of the Government of India; (2) in standard silver bullion or foreign silver coin computed according to standard at the rate of 979 rupees per 1,000 tolas of standard silver fit for coinage ; (3) in other notes of the Government of India, payable to bearer on demand of other amounts issued within the same circle ; and (4) in gold coin of the Government of India, or for foreign gold coin or bullion, computed at such ratio and according to such rules and conditions as may be fixed by the Governor-General, provided that the notes issued against gold did not exceed one-fourth of the total amount of issues represented by coin and bullion. The whole of this amount was required by law to be retained as reserve for the payment of notes issued with the exception of a fixed amount which was invested in Government securities, the interest thereon being the only source of profit to the Government. The limit to the sum to be so invested was governed "by the lowest amount to be estimated to which

* It should however, be noted that in 1860 the circulation of notes of the three Presidency banks was larger than their current accounts, as is evident from the following :—

Name of the Bank	Accounts current	Notes in circulation
Bank of Bengal	£ 1,254,875	£ 1,283,946
Bank of Bombay	438,459	765,234
Bank of Madras	161,959	192,291

(Bankers' Magazine, April, 1893, p. 547)

† For a summary of the controversy re.Bank issue *v.* Government issue, see *Report of the Bombay Chamber of Commerce for* 1859-60, Appendix L, pp. 284-318.

‡ Sect. IV of Act XIX of 1861.

according to all reasonable experience, the paper currency might be expected to fall."* Estimating on this basis, the limit to the investment portion was fixed at 4 crores in 1861,† at 6 crores in 1871‡ and at 8 crores in 1890.§ But notwithstanding the growing increase in the investment portion, never was the fiduciary issue based thereon so great¶ as to abrogate the essential principle of the Indian Paper Currency Law, the object of which was to so regulate the volume of paper currency that it should always preseve its value by contracting and expanding in the same manner and to the same extent as its metallic counterpart.

Such was the organisation of the mixed currency that existed in India before it underwent a profound change during the closing years of the nineteenth century. Though of a mixed character, the paper portion formed a comparatively small part of the total. The principal reasons why the paper currency did not assume a large proportion are to be found in the organization of the paper currency itself.§§ One such reason was that the lowest denomination of the notes was too large to displace the metallic currency. By the law of 1861 the denomination of notes ranged upwards from Rs. 10 as the lowest to Rs. 20, 50, 100, 500, and 1,000. In a country where the average range of

* Cf. Sir Richard Temple's speech introducing the Paper Currency Bill, dated March 25, 1870. *Supreme Legislative Council proceedings,* Vol. IX, pp. 151-52.

† Act XIX, Sec. X.

‡Act III, Sec. 16.

§ Act XV, Sec. I.

¶The following table shows the distribution of the paper currency reserve at three different periods :

Period	Note Circulation	Composition of the Reserve				Percentage of each Component of the Reserve to the Total Circulation		
		Silver	Gold	Securities	Total	Silver	Gold	Securities
1862-1871	7.63	4.80	0.03	2.80	7.63	63	...	37
1872-1881	11.82	5.98	...	5.84	11.82	51	...	49
1882-1891	15.74	9.64	...	6.10	15.74	61	...	39

§§ For a clear and concise sketch of the organization of the paper currency in India, *see* the Note of the Government of India in the Report of the U.S. Director, of the Mint, Washington, 1894, pp. 231-33.

transactions did not exceed R. 1 and were as low as 1 anna or even lower, it is impossible to expect that paper currency could, to any great extent, figure in the dealings of the people. Even Rs. 5 notes, the issue of which was first sanctioned in the year 1871,* were not low enough to penetrate into the economic life of the people. The other impediment to the increase of paper currency was the difficulty of encashing notes. One of the infelicitous incidents of the paper currency in India consisted in the fact that they were made legal tender everywhere within a circle, but encashable only at the office of issue. For such a peculiar organization of the paper currency in India, what was largely responsible was the prevalence of internal exchange† in the country. It raised a serious problem for the Government to cope with. If notes were to be made universally encashable it was feared that merchants, instead of using notes as currency, might use them as remittance on different centres to avoid internal exchange, and the Government be obliged to move funds between different centres to and fro, lest it should have to suspend cash payments. To undertake resource operations on such a vast scale between such distant centres when facilities for quick transport were so few, was obviously impossible,‡ and the Government therefore decided to curtail the encashment facilities of notes it issued. For the purposes of the paper currency, the Government divided the country into a number of circles of issue, and each currency circle was further subdivided into sub-circles,§ and the notes issued bore on their face the name of the circle or sub-circle

*See. 3 of Act III.

† It may be pointed out that although the Presidency banks had ceased to issue notes, yet under the agreements made with the Government in virtue of Act XXIV of 1861 the banks were employed by the Government "for superintending, managing and becoming agents for the issue, payment and exchange of promissory notes of the Government of India, and for carrying on the business of an agency of issue" on a renumeration of 3¾ per cent, per annum "on the daily average amount of Government currency notes outstanding and in circulation through the agency of the bank." In the conflict that ensued between the Government of India and the Secretary of State because it believed that it would help the extension and popularization of the notes as to the propriety of thus employing the banks, the former was in favour of the plan, while the latter disliked the arrangement because it seemed to him to compromise the principle of complete separation between the business of issue and the business of banking. Neither of the two, however, grasped the fact that the profit on remittances on different centres owing to the prevalence of internal exchange was so great that the commission allowed to the banks was an insufficient inducement to cause them to promote the circulation of notes by providing facilities at their branches for the free encashment of them. So high was the internal exchange, and so reluctant seemed the banks to popularize the notes, that Government finally discharged them from being their agents for paper currency from January 2, 1866. *See* House of Commons Return, East Indian (Paper Money) 215 of 1862.'

‡ Cf. the speech of the Hon. Mr. Laing on the Paper Currency Bill dated February 16, 1861, *S.L.C.P.,* Vol. VII, pp. 73-74.

§ Each sub-circle had within it a number of agencies of issue ; but the agencies were centres not of encashment but only of issue.

from which they originated. Notes issued from any agency of issue situated in the territory comprised within a circle of issue were not legal tender in the territory of any other currency circle, nor were they encashable outside their own circle. Nay more, the notes issued from sub-circles subject to the same chief circle were legal tender in one another's territory, but were not encashable except at their office of issue or at the issue office of their chief circle. The sub-circle notes could thus be cashed at two places, but the notes of the issue office of the chief circle, though legal tender in the entire territory covered by it, were encashable nowhere except at its own counter, not even at any of its own sub-circles.* This want of universal encashability, though it saved the Government from the possibility of embarrassment, proved so great a hindrance to the popularity of the notes that it may be doubted whether the paper currency could have made a progress greater than it did even if the lowest denomination of the notes had been lower than it actually was.

It must, however, be borne in mind that it was not the intention of the Indian Legislature to make the Indian currency as economical† as was desired by the Executive Government. The Legislature was no doubt appealed to by the original author of the paper *currency* to turn India into a new Peru, where as much currency could be had with as little cost‡ but the Legislature showed a rather prudent reserve on the matter of aiding the consummation of such a policy. As the centres of encashment were so few, and the area included within each so large as to separate the furthest point in a circle by a distance of about 700 miles from the centre of encashment of the circle, it viewed with dread the authorizing of notes of smaller denomination

* For the inconveniences of the "circle" system and the various measures contemplated by Government to facilitate the encashment of notes, see *Report of the Bombay Chamber of Commerce for* 1868-69, Appendix, pp. 309-16.

† Cf. the whole speech of the Hon. Mr. Sconce dated September 22, 1860, *S.L.C.P.,* Vol. p. 1143 *et seq.*

‡Cf. the speech of Mr. Wilson, the originator of paper currency in India, dated March 3, 1860, where he says : " In short, to abstract so much coin from the mere mechanical purpose of the circulation, supplying its place with convertible paper, would be exactly the same in effect as if suddenly, in the centre of the Maidan, a rich silver mine had been discovered which produced silver at little or no cost." *Supreme Legislative Council Proceedings,* Vol. VI, p. 250.

which the poor could not refuse and yet could not cash.* Besides the hardship involved in the want of encashability in the notes, the Legislature feared they would prove a " fugitive treasure" in the hands of the Indian peasant. Not being able to preserve them from rain and ants, he might have had to pay a heavy discount to be rid of the notes he could have been forced to accept †. So opposed was the Legislature to the economizing clauses of the Paper Currency Bill as contrived to drive out metallic currency that it gave the Government an option to choose between legal-tender notes but of higher denomination and lower-denomination notes but of no legal-tender power. ‡ And as the Government chose to have legal-tender notes, the Legislature in its turn insisted on their being of higher denomination. At first it adhered to notes of Rs. 20 as the lowest denomination, though it later on yielded to bring it down to 10, which was the lowest limit it could tolerate in 1861. Not till ten years after that, did the legislature consent to the issue of Rs. 5 notes, and that, too, only when the Government had promised to give extra legal facilities for their encashment.§ On the whole, the desire of the Indian Legislature was to make the Indian currency safer, rather than economical, and such it undoubtedly was.

How did the currency system thus constituted work ? Stability of value is one of the prime requisites of a good currency system. But if we judge the Indian currency from this point of view, we find that there existed such variations in its value that it is difficult to escape the conclusion that the system was a failure.

Taking the rate of discount as an evidence of the adequacy of currency for internal commerce, it was the opinion of such a high financial authority as Mr. Van Den Berg that the unexpected contortions and sudden transitions in the Indian money market were unparalleled in the annals of any other money market in any other part of the world¶. India is

*Cf. the speeches of the Hon. Mr. Forbes, dated July 13, 1861, *S.LC.P.* 1154.

† Cf. the speech of the Hon. Mr. Forbes, dated July 13, 1861. *Supreme Legislative Council Proceedings,* Vol. VII, p. 768.

‡ Cf. speech of the Hon. Mr. Scone, September 22, 1880, *S.L.C.P.,* Vol. VI, p. 1151.

§ For such extra facilities, and measures adopted to materialize them, Cf. the interesting speech of the Hon. Sir Richard Temple on the Paper Currency Bill dated January 13,1871, *S.LC.P.,* Vol. X, pp. 22-25.

¶ *The Money Market and Paper Currency of British India,* Batavia, 1884, p. 3.

pre-eminently a country subject to seasonal swings.* Mid-summer is naturally a period of diminished activity, while autumn brings renewed vigour in all activities of social and economic life. Not production alone is affected by seasons. On the side of consumption, Indian social life is also subject to seasonal variations. There are marriage season, holiday seasons and holy seasons. Even distribution has assumed in India quite a seasonal character. The practice of paying rents, wages, dividends, and settling accounts at stated intervals has been gaining ground as a result of contact with Western economic organization. All these generate a kind of rhythm in the social demand for money, rising at certain periods of the year and falling at others. Having regard to the seasonal character of the economic and social life, the fluctuations caused by the discount rate soaring high during busy months when it should have been low enough to liquidate the transactions, and falling low during

* It should be noted that the slack and the busy seasons are not uniformly distributed over the whole surface of the country. The distribution is roughly as follows :—

Months	Eastern India		Western India Bombay and Karachi	Northern India		Southern India Madras
	Rangoon	Calcutta		Cawnpore	Lahore	
Busy	3 Months	4 Months	6 Months	6 Months	9 Months	6 Months
Slack	9 Months	8 Months	6 Months	6 Months	3 Months	3 Months
January	Busy	Slack	Busy	Slack	Busy	Slack
February	”	”	”	Busy	”	Busy
March	”	”	”	”	”	”
April	Slack	”	”	”	”	”
May	”	”	Slack	Slack	”	”
June	”	”	”	”	”	”
July	”	”	”	”	Slack	”
August	”	Busy	”	”	”	Slack
September	”	,,	”	Busy	”	”
October	”	,,	”	”	Busy	”
November	”	,,	Busy	”	”	”
December	”	Slack	”	Slack	”	”
Busy	Jan. to March	Aug. to Nov.	Nov. to April	Feb. to April	April to June	Feb. to July
Slack	April to Dec.	Dec. to July	May to Oct.	May to Aug.	July to Sept.	April to Dec.
Busy	…	…	…	Sept. to Nov.	Octo. to March	…
Slack	…	…	…	Dec. to Jan.		…

slack months when it should have been high enough to prevent the market from being demoralized, are unavoidable. But what made the contortions of the Indian money market so obnoxious was the circumstance that the seasonal fluctuations in the discount rate were so abnormal.*

The explanation for such a market phenomenon is to be . sought in the irregularity of the money supply of the country. In order that money may be had at a uniform price, its supply should be regulated according to the variations in the demand for it. It is well to recognize that the demand for money is never fixed. But it will avail nothing until it is realized that the changes in the demand for money which take place from year to year with the growth of population, trade, etc., belong essentially to a different category from the fluctuations in the demand for money which occur within the course of a year owing to seasonal influences. In any well-regulated currency it is necessary to distinguish these two categories of changes in monetary demand, the one requiring steadiness and expansibility and the other elasticity. On a comparative view it seems more than plausible that a metallic money is as especially adapted to furnish this element of steadiness and stability as paper money is to furnish that of elasticity. Indeed, so appropriate seem to be their respective functions that it has been insisted† that in an ideal system, these two forms of money cannot interchange their functions without making the currency burdensome or dangerous. The proof of the soundness of this view, it may be said, is found in the fact that, excluding the small transactions which take place by direct barter, the purchasing medium of any commercially advanced country is always a compound of money and credit.

*The rate of discount of the Bank of Bengal for private paper running thirty days and after was altered—

In	1876	16	times,	with	6½	per cent,	as minimum	and	13½	per cent.	as maximum.
”	1877	21	”	”	7½	”	”	”	14½	”	”
”	1878	10	”	”	5½	”	”	”	11½	”	”
”	1879	15	”	”	6½	”	”	”	11½	”	”
”	1880	8	”	”	5½	”	”	”	9½	”	”
”	1881	9	”	”	5½	”	”	”	10½	”	”
”	1882	9	”	”	6½	”	”	”	12½	”	”
”	1883	14	”	”	7½	”	”	”	10½	”	”

(*Van Den Berg, loc. cit.*)

†Cf. Prof. R. P. Falkner in *A Discussion of the Interrogatories of the Monetary Commission of the Indianapolis Convention,* 1898, Publications of the University of Pennsylvania in Political Economy and Public Law, No. 13, pp. 25-26.

On the face of it, the Indian currency is also a compound of money and credit, and as such it may be supposed that it contained provisions for expansibility as well as elasticity. But when we come to analyse it we find that it makes no provision whatever for elasticity. Far from allowing the credit part of it to expand and contract with the seasonal demands, the Paper Currency Act placed a rigid limit upon the volume of its issue regardless of any changes in the volume of the demand. Here, then, is to be found one of the causes for the "convulsions" in the discount rates prevalent in the Indian money market. As was pointed out by Mr. Van Den Berg :—

> "The paper currency established by the Indian legislator fully answers the purpose, so far as business requires an easier means of exchange than gold or silver coin ; but no connection whatever exists between the issue of the fiduciary currency and the wants of the public to have their bills or other commodities converted into a current medium of exchange..... and this is the sole cause of the unexpected convulsions and sudden transitions in the money market so utterly detrimental to business to which the British Indian trade is constantly exposed."*

It may, however, be objected that such a view is only superficial. The Indian Paper Currency Act is a replica of the English Bank Act of 1844 in all its essentials. Like the English Bank Act, it set a definite limit to the fiduciary issue of notes. Like it, it separated the Issue Business from the Banking Business,† and if it made the banks in India mere banks of discount, it is because it copied the Bank Charter Act, which deprived banks in England, including the Bank of England, from being banks of issue. And yet, it cannot be said that the English money market is affected by such "convlusions and sudden transitions" as has been the case with the Indian money market.

* Op. cit., p. 7.

† The Indian Paper Currency Act carried the principle of separation further than did the English Bank Charter Act. It not only prevented the Issue Department being conducted under the aegis of a Banking Department, but also disallowed the two being housed under the same roof. Such an ideal of separation was held out by Sir Charles Wood during the debate on the Bank Charter Act. Cf. *Hansard Parliamentary Debates,* Vol. LXXIV, p. 1363. Though he was then disappointed he did not fail to realize his ideal when he became the Secretary of State for India.

On the other hand, it was the considered opinion of Jevons* that "the Bank of England and bankers generally have just the same latitude in increasing or diminishing their advances now (i.e. under the Act of 1884) as they would have under a [n un] restricted system"; for, as he elsewhere argued, if the limitation on fiduciary issue is arbitrary, and if people want more money, " it is always open to them to use metallic money instead. The limitation is imposed not upon money itself, but upon the representative part."† What, then, is the reason that the Indian Paper Currency Act should produce the evils which its English prototype did not ? *A priori* there need be no such convulsions in a money market subject to such law. The Act, by limiting the isue of notes, did seem to leave no choice but to use metallic money even for seasonal demand. This would be true if notes were the only form in which credit could be used. As a matter of fact, this is not so. Credit could take the form of a promise to pay, issued by a bank, as well as it could take the form of an order on the bank to pay, without making any difference to the social economy of the people who used them. Consequently, if under the provisions of the Act banks are restricted from issuing promises to pay, it does not follow that the only way open to them is a resort "to use metallic money instead," for they are equally free to consent to honour as many orders to pay as they like. Indeed, the success or failure of the Act depends upon which of the two alternatives the banks adopt. It is obvious that those who will submit to the ruling of the Act and resort to metallic money will have to bear the "convulsions," and those who will circumvent the Act by utilizing other forms of credit will escape them. The chief reason, then, why the Act has worked so well in England and so badly in India, is due to the fact that, whereas English banks have succeeded in implanting the order or cheque system of using credit in place of the note system, Indian banks have unfortunately failed. That they should have failed was however, inevitable. A cheque system presupposes a literate population, and a banking system which conducts its business in the vernacular of the people. Neither of these two conditions obtains in India. The

*Cf. his Essay on the "Frequent Autumnal Pressure in the Money Market and the Action of the Bank of England," *Investigations in Currency and Finance* (ed. Foxwell), 1884, p. 179. Italics by Jevons. There is, however, an apparent misprint in the original, which at the close of the quotation reads " as they would have under a restricted system."

† *Money and the Mechanism of Exchange,* Kegan Paul, London, 1890, p. 225.

population is mostly illiterate, and even were it otherwise it could not have availed itself of the cheque system, because Indian banks refuse to conduct their business in any other medium but English. Besides, the growth of the cheque system presupposes a widespread network of banks, a condition which is far from being fulfilled in India. In the absence of banking, a cheque is the worst instrument that could be handled. If not presented within a certain time, a cheque may become stale and valuless, and is therefore inferior to a note as a store of wealth. In such circumstances as these, it is no wonder that in India cheques did not come into being on a sufficiently large scale to amend the inelasticity of the notes.

But even if Indian banks had succeeded in making use of credit in a form other than that of notes, they could not have eased the money market to the same extent as the English banks have been able to do. One of the incidents of banking consists in the liability of banks to pay cash on demand. If all their deposits were received in cash this liability would involve no risk. As a matter of fact, a larger part of their deposits consists of bills which they make it their business to undertake to pay in cash. One of the first things, therefore, that a banker has to look to is the proportion which his cash deposits bear to his credit deposits. Now, this proportion may be adversely affected either by an increase in his credit deposits or by diminution in his cash deposits. In either case his ability to pay cash is *pro tanto* weakened by lowering the ratio of his total cash to his total liabilities. Against an undue expansion of credit a banker may effectually guard himself. But, notwithstanding the development of the cheque system, there is always lurking the possibility of withdrawal of some cash at some time or other. A banker must, therefore, provide by keeping on hand a certain minimum reserve. How large should be the reserve depends upon what the possibilities for the withdrawal of cash are. The point is that to the extent of the reserve the power of the bank to grant credit is curtailed. If the reserve of the bank is already at the minimum it must stop discounting or must strengthen its position by recovering the cash withdrawn from its coffers. Now, it is obvious that if the amount of money withdrawn is kept in the current of business where the banks can get at it, they of course can strengthen their position again immediately, and not only always keep themselves well away from the danger line of minimum reserve, but be always prepared to meet the needs

of the money market. What was the position of the Indian banks from this point of view ? Owing to the absence of a cheque system the possibilities for the withdrawal of cash are great, and the reserve was required to be large in consequence thereof. A large part of their funds being thus held for a reserve, their resources for discounting were small. But there was a further weakening of their position as lenders by reason of the fact that the cash withdrawn did not speedily return to them. The result was that the Indian banks were obliged to curtail their discounts to a far greater extent than were the English banks, in order to preserve a due proportion between their cash and their credits. The absence of branch banking was an important desideratum in this regard. But, even if there were branch banks, the money withdrawn could not have returned, for it was not left in the current channels of business. It was locked up in Government treasuries, whose operations were independent of the banking transactions of the country. Of course, there could be nothing inherently wrong in the maintenance by a Government of an Independent Treasury, and if its operations were to have a resultant connection with the operations of the business community no harm need arise. But the operations of the Indian Treasury ran counter to the needs of business. It locked up when it should have released its hoards, and released its hoards when it should have locked them up.

The causes that "convulsed" the Indian money market had therefore been the inelasticity of the credit media and the working of the Independent Treasury System in so far as they were the prime factors affecting the money supply of the country (see Chart I). The evil effects of such convulsions of the discount rate can hardly be exaggerated.* In an economy in which almost every business man must rely, at certain seasons, if not all the year round, on borrowed capital, the margin of profit may be wiped out by a sudden rise or augmented by a sudden fall in the rate of discount leading to under-trading or over-trading. Such fluctuations increase business risks, lead to higher business expenses and a greater cost to the consumer. They bring about swings in prices, promote speculation, and prepare

*For American experience, cf. E. W. Kemmerer, "Seasonal Variations in the New York Money Market," in *The American Economic Review,* March 1911.

CHART I

Discount Rates in India

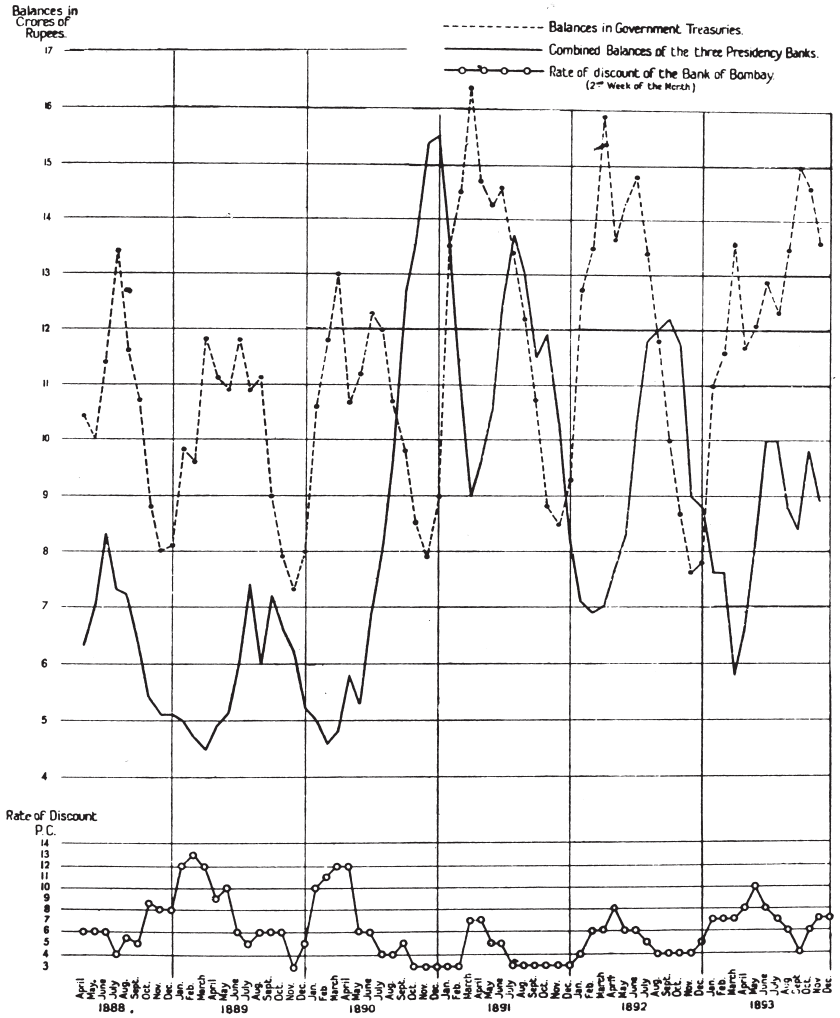

for panics. Evils such as these would have in any other country compelled the authorities to take proper steps to deal with them. But it is a curious fact that in India no serious attempts were made to alleviate the sufferings they inflicted upon the trading community. A reform of the paper currency or the abolition of the Independent Treasury System would have eased the situation, though a reform of both would have been better. The general community, however, was not desirous for a change of the paper currency,* but was anxious for the abolition of the Independent Treasury. The Government, on the other hand, refused to do away with its Independent Treasury System,† and repudiated even its moral obligation to help the business

* Cf. *India in* 1880, by Sir Richard Temple, p. 469 ; Sir Charles Wood's *Administration of Indian Affairs,* p. 89 ; also *The Indian Statesman,* January 15 (1884).

†It should, however, be noted that between 1862 and 1876, at some centres comprising the head offices and branch offices of the Presidency banks, the Independent Treasury System was suspended. By way of compensation for the loss of their right of note issue, the Presidency banks were given certain concession by the Government under agreements entered into in accordance with Act XXIV of 1861. Among the concessions one was the use by the banks of Government balances. The first agreement, that of 1862, conceded to the banks the following privileges in regard to the Government balances : (1) The unrestricted use for banking purposes " of all moneys and balances which but for the agreement would have been received or held at the General Treasury " up to the limit of 70 lakhs in the case of the Bank of Bengal, 40 lakhs in the case of the Bank of Bombay, and 15 lakhs in the case of the Bank of Madras. (2) The option of setting aside the excess over these sums in a separate strong room for production when demanded, or of investing it in Government paper or other authorized securities, the power of investment being subject to the condition that the banks should be "at all times answerable and accountable to Government for the surplus cash balance for the time being." (3) The right to interest from Government on the difference between the actual balance and 50 lakhs in the case of the Bank of Bengal, 30 lakhs in the case of the Bank of Bombay, and 10 lakhs in the case of the Bank of Madras, whenever the balances at these banks fell below these minima. (4) Permission to the banks to use the Government balances at their branches on similar terms, suitable limits being fixed in each case, as in the head office agreements.

A year after the agreements were executed, difficulties arose with the Bank of Bengal, which had locked up the funds to such an extent that it was unable to meet the demands of the Government on the public balances it held. Negotiations were therefore opened in 1863 for the revision of the agreements, and the revised agreements came into force on January 2,1866. They contained the following provisions regarding the public balances : (1) Undertaking by Government to maintain in the hands of the banks at their head offices an "average cash balance" of 70 lakhs at the Bank of Bengal, 40 lakhs at the Bank of Bombay, and 25 lakhs at the Bank of Madras, "so far as the same may conveniently be done." (2) Permission to the banks to use the whole balances for the time being deposited with them for banking purposes. (3) The right to interest from Government when the Government balance at the head offices of the Bank of Bengal, Bank of Bombay, and Bank of Madras fell below the minima of 45 lakhs, 25 lakhs, and 20 lakhs respectively. (4) Permission to employ" the whole of the balances (at branches) however large for the time being "for banking purposes, subject to the condition that each branch should" at all times be ready to meet the drafts of the Government" to the extent of the Government balances at the branch.

community on the somewhat pedantic plea that in locking up currency it did not lock up capital.* Nor is it possible to say, since it was not called upon to enunciate a policy, how far it would have gone to modify the Paper Currency Act so as to relieve the situation. Before, however, this controversy could end in a satisfactory solution for imparting to the currency system that element of elasticity which it needed, there developed another and a greater evil, which affected its metallic counterpart in a degree sufficient to destroy its most vital element of steadiness and stability of value, which it was its virtue to furnish. So enormous did the evil grow, and so pervasive were its effects, that it absorbed all attention to the exclusion of everything else.

These revised agreements were to remain in force till March, 1, 1874. In 1874 the question of the revision of the charters of the Presidency banks was under consideration, and it was the aim of the Government to continue to the banks the right to use the whole Government balances. Just at this time (1874) difficulties occurred with the Bank of bombay and the government could not draw upon their balances. This led to a reconsideration of the policy of merging the Government balances with the bank balances and leaving them in the custody of the banks. After a somewhat lengthy discussion the Government of India reverted to the system of Independent Treasury by instituting what were called Reserve Treasuries at the headquarters of the Presidencies which held the Government balances previously held by the Presidency banks. For a history of this episode see House of Commons Returns 109 and 505 of 1864 ; also J. B. Brunyate, *An Account of the Presidency Banks,* Chap. VII.

*In the despatch of May 6, 1875, sanctioning the re-establishment of the Independent Treasury System, the banks were admonished by the Secretary of State thus :" Capital supplied by Government, and not representing the savings of the community, is a resource on whose permanence no reliance can be placed, and which therefore tends to lead traders into dangerous commitments. It gives ease for a time, and produces prosperity which is at the mercy of an accident. A political exigency suddenly withdraws the adventitious resources, and the commerce which trusted to it finds itself pledged beyond what its own resources can make good." Under the arrangements of 1876 leading to the establishment of the Reserve Treasuries, the Government agreed as before to pay interest to the banks when their balances at the banks fell below certain minima. The Government entered into no formal undertaking as regards maxima, and gave the banks to understand "that the Government will ordinarily not leave with the headquarters of the banks, otherwise than temporarily, more than the following sums ; Bank of Bengal 100 lakhs, Bank of Madras 30 lakhs, and Bank of Bombay 50 lakhs. But this condition will not be inserted in the contract, which will impose no obligation upon the Government to leave any balances whatever with the banks..... The Government will not undertake to give to the banks the exclusive custody of all the public balances where the Government banks with the banks." The question of the amount of balances which the Government would have with the banks in the *ordinary* course being thus settled, the only way left open to give help to the banks to meet seasonal demands was to grant loans to the Presidency banks for its balances held in the Reserve Treasuries. After 1900 it agreed to make such loans of a limited amount at the bank rate. Up to 1913 only six loans were made, which shows that the terms of such loans were rather onerous. The Chamberlain Commission of 1913 recommended loans rather than the abolition of the Independent Treasury system. The war, however, hastened the course of events. It proved the necessity of co-operation between the Presidency banks and the Government, and also the need of a large and powerful Banking Institution. This was accomplished by the amalgamation of the Presidency banks into an Imperial Bank of India (Act XLVII of 1920), with the inauguration of which the Independent Treasury system is again in the process of abolition. For a history of episodes of the Independent Treasury after 1876, see Appendices to the *Interim Report of the Chamberlain Commission,* Vol. I, Cd. 7070 of 1913, Nos. I and II.

What fixity of value between the different units of its currency is to the internal transactions of a country, a par of exchange is to its internal transactions. A par of exchange between any two countries expresses the relative exchange values of their respective currencies in terms of each other. It is obvious from this that the par of exchange between any two countries will be stable if they employ the same metal functioning as their standard money, freely convertible into and exportable as bullion, for in that case they would have as a measure of value a common medium, the value of which could not differ, given freedom of commerce, in the two countries by more than the cost of its transhipment, i.e., within specie points. On the other hand, there can be no fixed par of exchange between two countries, having different metals as their currency standards of value. In that case, their exchange is governed by the relative values of gold and silver, and must necessarily fluctuate with changes in their value relation. The limit to the exchange fluctuations between them will be as wide or as narrow as the limit to fluctuations in the relative values of the two metals may happen to be. When, therefore, two countries such as England and India are separated by differences in their metallic standards, theoretically there could be no possibility for a stable par of exchange between them. But, as a matter of fact, notwithstanding the difference in their metallic standards, the rate of exchange between England and India seldom deviated* from the normal† rate of 1 s. 10½ *d*. for R. 1. So steady was the rate up to 1873 that few people were conscious of the fact that the two countries had different currency standards. After 1873, however, the rupee-sterling exchange suddenly broke loose from this normal parity, and the dislocation it caused was so great and so disorderly (Chart II) that no one knew where it would stop.

*It appears, however, from the chart that the rupee-sterling exchange before 1873 was not quite stable. But the fluctuations in it are to be attributed to quite a different set of factors. It should be noted that the rates of exchange used for reducing the Indian moneys into sterling during the time of the East India Company had been various : moreover, they had so little relation to the intrinsic value of the coins exchanged that the actual rates officially given were far from the actual market rates. As having a bearing on this interesting subject, consult H. of C. Sessional Papers 735 II of 1931-32 ; Appendix No. 20, *Correspondence, etc., relating to the rates of exchange at which the currencies of India are converted into sterling* ;also Tucker, H. St. George, *Remarks on the Plans of Finance, 1821,* passim, and *Memorials of Indian Government,* 1853, by the same, pp. 382-85.

†Normal only if 15½ to 1 be taken as the normal ratio between gold and silver, which was the case for nearly seventy years.

CHART II

FALL OF THE RUPEE-STERLING EXCHANGE

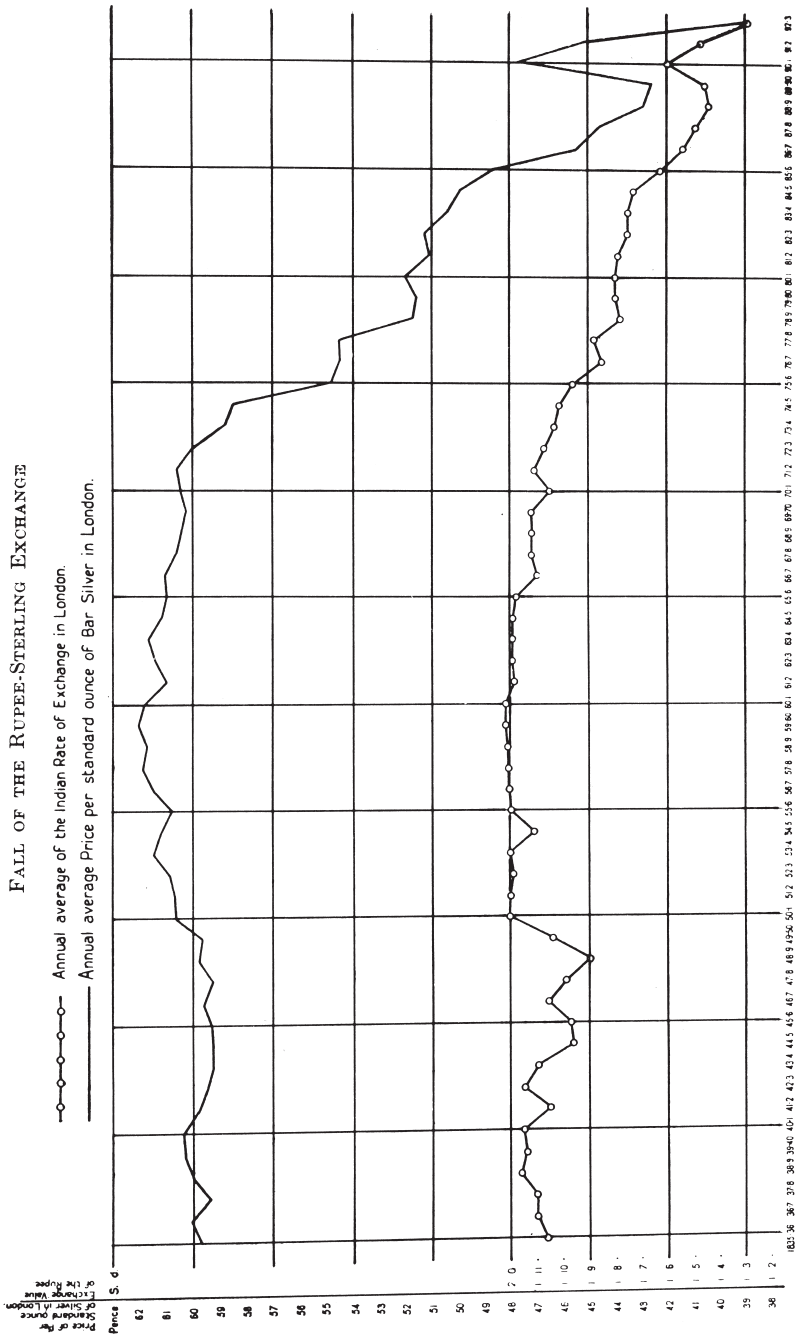

The rupee-sterling exchange was in reality a reflection of the gold-silver exchange. When, therefore, it is said that the rupee-sterling before 1873 was stable at 1s. 10½ *d*., it merely meant that the gold-silver exchange before 1873 was stable at the ratio of 1 to 15½ ; and that the rupee-sterling exchange was dislocated after 1873 meant that the gold-silver exchange lost its old moorings. The question which therefore arises is why was the ratio of exchange between gold and silver disturbed after 1873, as it never was before that year ? Two factors have been appealed to as affording a sufficient explanation of what then appeared as a strange phenomenon. One was the demonetization of silver as the standard money medium by the principal countries of the world. This movement in favour of demonetization of silver was the outcome of an innocent agitation for uniformity of weights, measures, and coinages. In so far as the agitation was aimed at such uniformity, it was in every way beneficial. But it also exemplifies how the pursuit of good sometimes leaves behind a legacy of evils. At the Great Exhibition held in London in 1851 the great difficulty of comparing the different exhibits, owing to the differences of weights, measures, and coinages as between the countries of their origin and other countries, was amply demonstrated to the representatives of the different nations assembled at that exhibition.* The question of international uniformity in weights, measures, and coins was discussed by the various scientific assemblies gathered at this exhibition, and although nothing tangible came out of it, the question was not allowed to be dropped : it was taken up at the Brussels International Statistical Congress held two years after. Opinion had so far advanced that the next Statistical Congress, held at Paris, issued a declaration, which was confirmed by the Vienna Statistical Congress of 1859, strongly urging the necessity of bringing about the desired uniformity in the weights, measures, and coinages of different countries.† Encouraged by the action of England, which had made in 1862 the metric system of weights and measures optional, the 1863 International Statistical Congress of Berlin resolved to invite the different Governments " to send to a special Congress delegates authorized to consider

* *Report of the Royal Commission on International Coinage,* 1868, p. v.

† Cf. Russell, H. B., *International Monetary Conferences,* 1998, pp. 18-25.

and report what should be the relative weights in the.....gold and silver coins, and to arrange the details by which the monetary systems of the different countries might be fixed, upon a single unit decimally subdivided."* The significance of this Congress can hardly be overlooked. It made a departure. At the former Congresses the question debated was largely one of uniformity in weights and measures. But at this Congress " that phase of it was subordinated to uniform coinage and was well-nigh laid aside."† Though the resolution was a departure, it should not have been fraught with serious consequences if the reform had been confined to the question of uniformity of coinage. But there occurred a circumstance which extended its application to the question of currency. When this agitation for uniform coinage grew apace, the French quite naturally wished that their coinage system, which had already been extended over the area comprised by the Latin Union, should be taken as a model to be copied by other countries outside the Union in the interest of uniformity. With this end in view the French Government approached the British Government of the time, but was told in reply that the British Government could not consider the suggestion until France adopted the single gold standard.‡ Far from being taken aback, the French Government, then so anxious to cultivate the goodwill of England, proved so complacent that it felt no compunction in conceding to the British the pre-requisite it demanded, and indeed went so far out of the way, when the Conference met in Paris in 1867, that it actually manoeuvred§ the Assembly into passing a resolution "that for uniform international coinage it was necessary that gold alone should be the principal currency of the world." So much importance was attached to the question of uniformity of coinage that those who passed the resolution seemed not to have noticed what sacrifice they were called upon to make for its achievement. Perhaps it would be more correct to say that they did not know that they were affecting by their decision the currency system of the world. All they thought they were doing at the time was to promote uniformity of coinage and nothing

*Quoted by Russell, op. cit., p. 25.

† Russell, loc. cit.

‡ Cf. evidence of Prof. Foxwell, Q. 23,876, Royal Commission on Agricultural Depression in England, 1892.

§ For which cf. Russell, op., p. 46.

more.* But whatever the extenuating circumstances, the result was disastrous, for when the resolution came to be acted upon by the different countries assembled, the real end of the Conference, namely uniformity of coinage, was completely lost sight of, and the proposed means eventually became the virtual end.

The ball once set rolling, the work of demonetizing silver began to grow apace. First in the field was Germany. Having vanquished France in the war of 1870, she utilized the war indemnity in the reform of her chaotic currency† by hastening to adopt a gold currency for the United Empire of Germany. The law of December 4, 1871, authorized the change, with the mark as the unit of currency. Silver was demonetized by this enactment; but the existing silver coins continued to be legal tender though their further coinage was stopped, along with the new gold coins at the legal ratio of 15 to ½ to 1. This full legal-tender power of the silver coins was taken away from them by the law of June, 9, 1873, which reduced them to the position of a subsidiary currency.‡ This policy was immediately copied by other countries of Germanic culture.§ In 1872 Norway, Sweden, and Denmark formed a Scandinavian Monetary Union, analogous to the Latin Monetary Union, by which they agreed to demonetize silver as was done by Germany. This treaty, which established a gold standard and reduced the existing silver currency to a subsidiary status, was ratified by Sweden and Denmark in 1873 and by Norway in 1875. Holland also followed the same course. Till 1872 she had a pure silver standard. In that year she closed her Mint to the free coinage of silver, although the old silver money continued to be legal tender to any amount. In 1875 she went a step further and opened her Mints to the free coinage of gold. Her policy differed from that of the Germanic countries in that she only suspended the free coinage of silver, while the latter had demonetized it. Even the Latin Union was unable to resist this tide against silver. As a consequence of this exclusion of silver, the Latin Union,

*An honourable exception must be made in the case of Dr. Mees, the representative of Holland, who drew attention to the harm likely to result from this resolution.

† For a history of the movement for the unification of German currency prior to 1870, cf. H.P. Willis, " The Vienna Monetary Treaty of 1857," in the *Journal of Political Economy,* Vol. IV, p. 187 *ett seq*.

‡ For the text of the Laws, see Appendix to *History of Bimetallism,* by Prof. J. L. Laughlin, New York, 1886.

§ Cf. *Report of the Committee on the Depreciation of Silver,* 1876, p. xxix.

enlarged as it was by additional members, naturally desired to take precautionary measures against being flooded by the influx of this depreciated silver. Nor was this fear unfounded, for the silver tendered for coinage at the Belgian Mint in 1873 was three times greater than what was tendered in 1871. Rather than be embarrassed, Belgium, by the law of December 8, 1873, suspended the free coinage of her silver five-franc pieces. This action of Belgium forced the hands of the other members of the Union to adopt similar measures. The delegates of the Union met in Paris in January, 1874, and

> "agreed to a treaty supplementary to that originally framed in 1865, and determined on withdrawing from individuals the full power of free coinage by limiting to a moderate sum the silver five-franc pieces which should be coined by each State of the Union during the year 1874.*

The respective quotas fixed for 1874 were slightly increased in 1875, but were reduced in 1876.† But the actual coinage did not even reach these small quotas. So greatly was the Union perturbed by the silver situation that during 1877 the coinage of silver five-franc pieces was, with the exception of Italy,‡ entirely suspended. This action was, however, only a preliminary to the treaty of November 5, 1878, by which the Latin Union agreed to close its Mints to the free coinage of silver till further action. Though at first *sine die,* the closure proved in the end perpetual.§ Simultaneously with the precautionary measures of the Latin Union, Russia suspended, in 1876, the free coinage

* Laughlin, op. cit., p. 155.

† The quotas fixed at the Conferences for the several members of the Union were :—

In Millions of Francs.

			1874	1875	1876
France	...	...	60	75	54
Belgium	...	...	12	50	36
Italy	...	...	40	15	10
Switzerland	...	...	8	10	7
Greece	...	...	...	...	...
			120	150	110

In 1874 Italy was allotted an extra 20 million francs. *Ibid.,* p. 155.

‡She was allowed to coin 10 millions of them.

§ *Ibid., p.* 158.

of silver except to such an amount as was necessary for the purposes of her trade with China,* and the Imperial Decree of November 22, 1878, directed that all customs duties above 5 roubles and 15 copecks should be payble in gold.† Austria in like manner suspended the free coinage of silver in 1879.‡

On the other side of the Atlantic, an important event had taken place in the United States. In 1870 that Government resolved to consolidate the Mint laws, which had not been revised since 1837, in a comprehensive statute. Since the legislation of 1853, the silver dollar was the only coin which the United States Mints coined freely. But in the new consolidated Mint Statute of 1873, the silver dollar was deleted from the list of coins to be issued from the Mint, so that it virtually amounted to suspension of the free coinage of silver in the United States.§ The silver dollars previously coined continued to circulate as full legal tender, but that power was taken away by the law of June, 1874, which declared that "the silver coins of the United States shall be a legal tender at their nominal value for any amount not exceeding five dollars in any one payment."

The other factor appealed to in explanation of the dislocation of the relative values of gold and silver was the great increase in the production of silver as compared to gold.

TABLE IX

RELATIVE PRODUCTION OF GOLD AND SILVER

(Ounces)

Period	Total Production		Annual Average Production		Index Number for Average Annual Production	
	Gold	Silver	Gold	Silver	Gold	Silver
1493-1600	24,266,320	734,125,960	224,693	6,797,463	100	100
1601-1700	29,330,445	1,197,073,100	293,304	11,970,731	130,5	176,1
1701-1800	61,088,215	1,833,672,035	610,882	18,336,720	271,8	269,7
1801-1840	20,488,552	801,155,495	512,217	20,028,887	227,9	293,1
1841-1870	143,186,224	931,091,326	4,772,876	31,038,378	2,124,1	456,6
1871-1890	106,950,802	1,715,039,955	5,347,545	85,751,998	2,375,4	1,261,5

**Report of the Directors of the Mint,* Washington, 1893, p. 23.

† Cf. P. Willis," Monetary Reform in Russia," in the *Journal of Political Economy,* Vol. V, p. 291.

‡ Cf. F. Wieser, "Resumption of Specie Payment in Austria-Hungary," in Journal of Political Economy, Vol. 1, pp. 380-7.

§ This measure was the subject of a strange controversy. The gold men argued that it was deliberately adopted, while the silver men decried it as a surreptitious act due to a "combination of rascally contrivance and rascally connivance." Prof. Laughlin has well cleared the mystery surrounding this Act. He shows by reference to debates in Congress on the legislation of 1853 that Congress knew that by refusing to alter the ratio between gold and silver it was placing the country on a gold standard. Too much consideration, he thinks, has been wasted on the Act of 1873, which merely took legal notice of the consequences of the Act of 1853. Cf. his *History of Bimetallism,* pp. 80 and 93-95.

The history of the production of the precious metals in modern times begins from the year 1493, a date which marks the discovery of the American continent. Reviewing the results of the production from 1493 to 1893, a period in all of 400 years, we find that during the first hundred years the production of gold and silver rises at a uniform rate of progression. Assuming the annual average production of each during the first century (1493-1600) in the modern history of their production to be 100, it will be seen that in the next century (1601-1700) the index number for the production of gold rises to 130 and that of silver to 176. This rate of progression is also kept up in the succeeding century (1700-1800), during which the figure for both gold and silver approximates to 270, and continues without much disturbance up to 1840, when the respective index numbers stood at 228 for gold and 293 for silver. From this point onwards, the relative production of the two metals underwent a complete revolution. During the next thirty years (1841-70) the production of gold reached unprecedented heights, while that of silver lagged behind, relatively speaking. The index number for silver production advanced only to 450, but that for gold went up to 2,124. This revolution was followed by a counter-revolution, as a result of which the position as it stood at the end of 1870 was well-nigh reversed. The production of gold received a sudden check, and though it had increased enormously between 1840-70 it remained stationary between 1870-93. On the other hand, the production of silver, which was steady between 1841-70, increased threefold between 1870-93, so that the index number for its average annual production during the latter period stood at 1,260.

In the controversy which arose over the reasons, which brought about this dislocation and decline in the value of silver in terms of gold, there were parties to whom one of these two factors was a sufficient cause. One side argued that had suspension or demonetization of silver not taken place, its value could never have fallen. This position was vehemently challenged by the other side, which believed in the over-supply of silver as the primary cause of its depreciation. Now, was the

argument from relative over-supply sufficient to account for the fall in the gold value of silver? On the face of it, the explanation has the plausibility of a simple proposition. It is one of the elementary theorems of political economy that the value of a thing varies inversely with its supply, and if the supply of silver had largely increased, what could be more natural than that its value in terms of gold should fall? The following were the relevant facts which formed the basis of the argument:—

TABLE X

Gold and Silver*

Relative Production and Relative Value

Period	Ratio of Production (by Weight) of Gold to Silver As 1 Grain to:	Ratio of value of Gold to Silver As 1 Grain to	Index Number for the Ratio of Production	Index Number for the Ratio of Value	Correlation between Relative Production and Relative Value	
					Relative Production of Silver Falls — Rises+	Relative Value of Silver Falls — Rises+
1681-1700	31.8	14.95	100	100	. . .	. . .
1701-1720	27.7	15.21	87	101.7	–13	–1.7
1721-1740	22.6	15.10	71	101	– 29	–1.0
1741-1760	21.7	14.70	67	98.3	–33	+1.7
1761-1780	31.5	14.40	99	96.3	– 1	+3.7
1781-1800	49.4	15.08	155.6	100.8	+55.6	–.8
1801-1810	50.3	15.67	158.0	104.8	+58.0	–4.8
1811-1820	47.2	15.68	148.0	104.9	+48.0	–4.9
1821-1830	32.4	15.82	101.9	105.8	+1.9	–5.8
1831-1840	29.4	15.77	92.4	105.4	–7.6	–5.4
1841-1850	14.2	15.81	44.6	105.8	–55.4	–5.8
1851-1855	4.4	15.45	13.8	103.3	–86.2	–3.3
1856-1860	4.5	15.28	14.0	102.2	–86.0	–2.2
1861-1865	5.9	15.42	18.55	103.1	–81.5	–3.1
1866-1870	6.9	15.52	21.7	103.8	–78.3	–3.8
1871-1875	11.3	16,10	35.5	107.6	–64.5	–7.6
1876-1880	13.2	17.79	41.5	119.0	–58.5	–19.0
1881-1886	17.3	18.81	54.4	125.8	–45.6	– 25.8
1886-1890	19.9	20.98	62.6	140.3	–37.4	–40.3
1891-1895	20.0	26.75	62.9	178.9	–37.1	–78.9

* The table is based on figures of M. de Foville of the French Mint, as given by Mr. F. B. Forbes in *The Bimetallist* of July, 1897, pp. 125-28.

CHART III

RELATIVE VALUES AND RELATIVE PRODUCTION OF GOLD AND SILVER

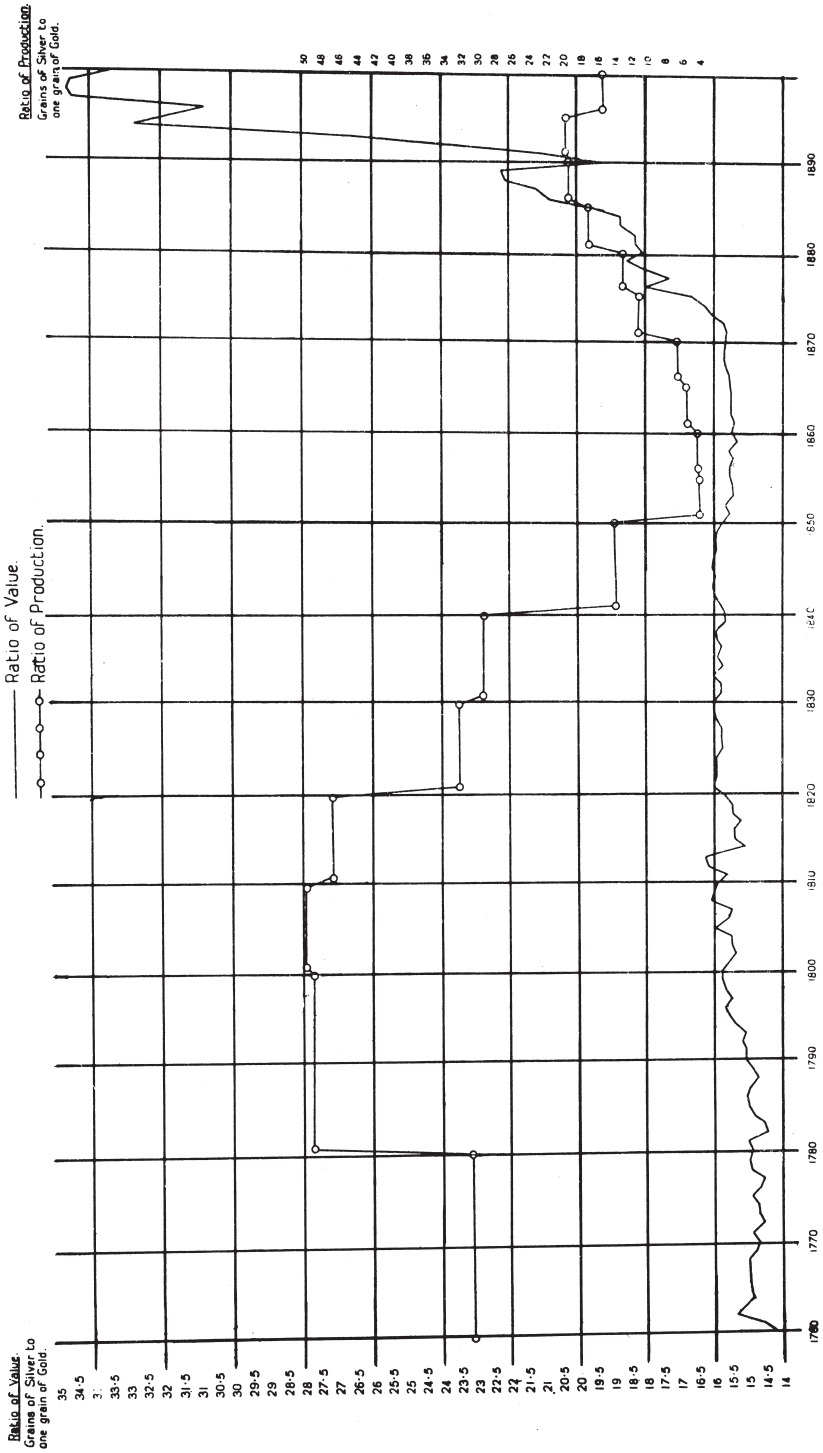

The facts thus presented led to two conclusions. The first is that the supposed enormous increase in the relative production of silver was an assumption which had no foundation in reality. On the contrary, a glance at the figures for relative production discloses the curious fact that since the beginning of the eighteenth century silver, instead of rising, has been falling in proportion. With the exception of the first quarter of the nineteenth century, silver had formed, throughout the two centuries covered by the table, a diminishing proportion as compared with gold.* Indeed, never was the proportion of silver so low as it was in the latter half of the nineteenth century, and even when after 1873 it began to grow it did not reach half the magnitude it had reached in the beginning of the eighteenth century. The second conclusion which these facts were claimed to sustain was that the value of silver in terms of gold did not move in sympathy with its supply relative to that of gold. According to theory, the value of silver should have been rising because the relative volume of its production had been diminishing. On the other hand, a closer examination of the figures of relative values and relative productions, as given in the foregoing table, instead of showing any close correlation (*see* Chart III) between them, pointed to the contrary. Instead of supply and value being inverse in proportion, it showed that as its supply was falling there was also a fall in its value. Such being the facts of history, it was contended that they gave no support to those who rested their case on over-supply rather than on demonetization as a sufficient explanation for the depreciation of silver.

Apart from such minor points, the issue was considerably narrowed by the peculiarity of the events of the twenty years preceding and following the year 1873.† Compare, it was said, the period commencing with 1848 and ending with the year 1870 with the period following 1870, and there emerges the arresting fact that these two periods, though they have been the opposite

* In view of this, it is a matter of some surprise that such an eminent economist as Prof. W. Lexis should have ceased to be bimetallist on the ground that the enormous increase of silver militated against the establishment of a permanently high ratio with gold. Cf. his essay on " The Present Monetary Situation," in the *Economic Studies of the American Economic Association,* 1896, Vol. I, No. 4, pp. 273-77. The habit of measuring the production of silver in terms of value is no doubt largely responsible for this quite unfounded notion.

† Cf. H. S. Foxwell, "Bimetallism : Its Meaning and Aims," in *The* (*Oxford*) *Economic Review* (1893), Vol. III, p. 302.

of each other with reference to the relative values of the two metals, were alike with reference to the changes in their relative supply. The period between 1870 and 1893 on the side of relative production was marked by the preponderance of silver. The period between 1848 and 1870 is an exact parallel to the above period with respect to changes in the relative supply of the two precious metals, only in this case it was gold that had increased in volume. Now, if it is over-supply that governed the value relations of the two metals in the second period (1870-93) the same should be true of their value relations in the first period (1848-70). Was there, then, a disturbance in the relative values of the two metals in the first period anything like what took place in the second period ? It was insisted that the disturbance in the ratios of production of the two metals in the first period was enormously greater than that which occurred in the second period. Indeed, comparatively speaking, the disturbance in the second period was nothing to speak of. And yet their relative value during the first period was well-nigh constant at the ratio of 1 to 15½, while in the second it fluctuated between 16.10 and 26.75. Those, who argued that the value of silver fell after 1873 because of its over-supply, were thus faced with the problem as to why the value of gold did not fall when its supply had become so abundant before 1873. The whole controversy was therefore centred into the question as to what could have made this difference in the two situations ? If the colossal increase in the production of gold in the first period did not raise the value of silver by more than 2 per cent., how was it that a comparatively insignificant rise in the relative production of silver in the second period led to such an enormous rise in the price of gold ? What was the controlling influence present in the one case which was absent in the other ? Those who held that it was demonetization of silver that was responsible for its depreciation argued that, though alike in every way, the two periods differed in one important particuar. What distinguished them was the fact that in the former it was a common practice to define the standard money of a country as a certain quantity of gold *or* a certain quantity of silver. Prior to 1803 the two metals were rated differently in different countries,*but since that date the rating of 1 to 15½ became more uniform, with the result that the monetary standard throughout that period was either 1 gr. of gold *or* 15½ grs. of

* For these ratios, see Appendix, Table B, to *A Colloquy on Currency,* by H. H. Gibbs.

silver. On the other hand, during the second period, the "*or*" which characterized the first period was deleted by the silver-demonetizing and suspending decrees. In other words, the first period was characterized by the prevalence of bimetallism under which the two metals could be used inter-changeably at a fixed given ratio. In the second period they could not be so used owing to the fact that the fixed ratio necessary for interchange had been abrogated. Now, could the existence or non-existence of a fixed ratio be said to be such a powerful influence as to make the whole difference that set the two periods in such marked contrast ? That this was the factor which made the whole difference was the view of the bimetallists. It was said that, by virtue of the monetary system prevalent during the first period, gold and silver were rendered substitutes and were regarded as "one commodity of two different strengths." So related, the conditions of supply had no effect upon their ratio of exchange, as would have been the case in respect of a commodity without a substitute. In the case of commodities which are substitutes, the relative scarcity of one can give it no greater value in terms of the other than that defined by their ratio of exchange, because by reason of the freedom of substitution the scarcity can be made good by the abundance of the other. On the other hand, the relative abundance of one cannot depreciate its value in terms of the other below the ratio of exchange, because its superfluity can be absorbed by the void created in consequence of a paucity of the other. So long as they remain substitutes with a fixed ratio of substitution, nothing originating in demand or supply could disturb their ratio. The two being one commodity, whatever changes take place in the demand or supply of either system beyond the needs of commerce express themselves in the price level exactly as though one of them alone was the money medium ; but their ratio of exchange will be preserved intact in any case

In support of this was cited the authority of Jevons, who said*:—

> " Whenever different commodities are thus applicable to the same purposes their conditions of demand and exchange are not independent. Their mutual ratio of exchange cannot vary much for it will be closely defined by the ratio of their utilities. Beef and mutton differ so slightly that people eat them almost indifferently. But the wholesale price of mutton, on

* *Theory of Political Economy,* 4th ed./, 1911, pp. 134-36.

an average, exceeds that of beef in the ratio of 9 to 8, and we must therefore conclude that people generally esteem mutton more than beef in this proportion, otherwise they would not buy the dear meat..... So long as the equation of utility holds true, the ratio of exchange between mutton and beef will not diverge from that of 8 to 9. If the supply of beef falls off people will not pay a higher price for it, but will eat more mutton ; and if the supply of mutton falls off, they will eat more beef..... We must, in fact, treat beef and mutton as one commodity of two different strengths—just as gold at 18 carats and gold at 20 carats are hardly considered as two but rather as one commodity, of which twenty parts of one are equivalent to eighteen of the other.

"It is upon this principle that we must explain, in harmony with Cairnes' views, the extraordinary permanence of the ratio of exchange of gold and silver, which from the commencement of the eighteenth century up to recent years never diverged much from 15 to 1. That this fixedness of ratio did not depend entirely upon the amount or cost of production is proved by the very slight effect of the Australian and Californian gold discoveries, which never raised the gold price of silver more than about $4^2/_3$ per cent., and failed to have more than a permanent effect of 1½ per cent. This permanence of relative values may have been partially due to the fact that gold and silver can be employed for exactly the same purposes, but that the superior brilliancy of gold occasions it to be preferred, unless it be about 15 or 15½ times as costly as silver. Much more probably, however, the explanation of the fact is to be found in the fixed ratio of 15½ to 1, according to which these metals are exchanged in the currency of France and some other continental countries. The French Currency Law of the year XI established an artificial* equation—

Utility of gold = 15 ½ X utility of silver

* It is this artificiality of the bimetallic system which unfortunately befogs the minds of some people and prejudices those of others. Some do not understand why the price determination of two commodities used as money should be so different from the price determination of any other two commodities as to be governed by a ratio fixed by law. Others are puzzled as to why, if gold and silver are a pair of substitutes, should they require a legal ratio while other pairs of substitutes circulate without a legal ratio, merely on the basis of the ratio of their utility. These difficulties are well explained away by Prof. Fisher thus :

and it is probably not without some reason that Wolowski and other recent French economists attributed to this law of replacement an important effect in preventing disturbance in the relations of gold and silver."

But granting that before 1873 the ratio was preserved owing to the compensatory action of the bimetallic law, can it be said that it would have been maintained after 1873 if the law had not been suspended ? To give an uncompromising affirmative as the bimetallists did is to suppose that bimetallism can work under all conditions. As a matter of fact, though it is workable under certain conditions it is not workable under other conditions. These conditions are well described by Prof. Fisher.* The question under bimetallism is whether the market ratio

".....two forms of money differ from a random pair of commodities in being substitutes. Two substitutes proper are regarded by the consumer as a single commodity. Thus lumping together of the two commodities reduces the number of demand conditions, but does not introduce any indeterminateness into the problem because the missing conditions are at once supplied by a *fixed ratio of substitution.* Thus if ten pounds of cane sugar serve the same purpose as eleven pounds of beet-root sugar, their fixed ratio of substitution is ten to eleven..... In these cases the fixed ratio is based on the relative capacities of the two commodities to fill a common need, and is quite antecedent to their prices..... The substitution ratio is fixed by nature, and in turn fixes the price ratio.

"In the single case of money, however, there is no fixed ratio of substitution..... We have here to deal not with relative sweetening power, nor relative nourishing power, nor with any other capacity to satisfy wants—no capacity inherent in the metals and independent of their prices. We have instead to deal only with relative *purchasing* power. We do not reckon a utility in the metal itself, but in the commodities it will buy. We assign their respective desirabilities or utilities to the sugars..... before we know their prices, but we must inquire the relative circulating value of gold and silver before we can know at what ratio we ourselves prize them. To us the ratio of substitution is incidentally the price ratio. The case of the two forms of money is unique. They are substitutes, but have no natural ratio of substitution, dependent on consumers' preferences.

" The foregoing considerations..... are overlooked by those who imagine that a fixed legal ratio is merely superimposed upon a system of supply and demand already determinate, and who seek to prove thereby that such a ratio is foredoomed to failure..... the..... analogy..... is unsound .....Gold and silver ..... are not completely analogous even to two substitutes because for two forms of money there is no consumers' natural ratio of substitution. There seems, therefore, room for an artificial ratio....."—*Purchasing Power of Money,* 1911, pp. 376-77

* *Elementary principles of Economics,* 1912, pp. 228-29. In the illustrations given by Prof. Fisher he appears, although he does not mean it, to make the success or failure of bimetallism hang upon the question whether *or* not the two metals are maintained in circulation. For in the illustration which he gives to show the failure of bimetallism—Fig. 14 (b)—his film *f* shows gold to be entirely thrown out of circulation ; while in the illustration he gives to show the success of bimetallism—Fig. 15 (b)—his film *f* shows gold to be only partially thrown out of circulation. But there seems to be no reason to suppose that there cannot be a third possibility, namely, that while the position of the film is *f* is as in Fig. 14 (b)—a possibility in which bimetallism succeeds although one of the two metals is entirely pushed out of circulation. For the success of bimetallism it is not necessary that both the metals should remain in circulation. Its success depends upon whether or not the compensatory action succeeds in restoring the relative values of the two bullions to that legally established between the two coins. If it succeeds in achieving that, the ratio would be preserved even if the compensatory action drives one metal entirely out of circulation.

between gold and silver bullion will always be the same as the legal ratio between gold and silver coins freely minted and possessing unlimited legal-tender power. Now supposing the supply of silver bullion has increased relatively to that of gold bullion, the result will obviously be a divergence in the mint and the market ratio. Will the compensatory action of the bimetallic law restore the equilibrium ? It may succeed in doing it or it may not. If the increase in the supply of silver bullion and the decrease in that of gold bullion are such that a decrease in that of silver caused by its inflow into the currency and an increase in that of gold caused by its outflow from currency can restore them to their old levels as bullion, bimetallism would succeed ; in other words, the market ratio of the two bullions would tend to return to the mint ratio. But if the increase in the supply of silver bullion and the decrease in that of gold is such that the outflow of silver bullion into currency reduces the level of the silver bullion to the old level, but the outflow of gold bullion from currency does not suffice to raise the level of the gold bullion to the old level, or if the outflow of gold from currency raises the level of the gold bullion to the old level, but the inflow of silver into currency does not result in the reduction of the level of silver bullion to its old level, bimetallism must fall; in other words, the market ratio of the two bullions will remain diverted from the mint ratio legally established between their coins.

Under which of these two possibilities could the circumstances arising after 1873 have fallen ? That is a question about which no one can say anything definitely. Even Jevons, who admitted the success of the bimetallic law in the earlier period, was not very sanguine about its success in the latter period. It was he who observed*

> " that the question of bimetallism is one which does not admit of any precise and simple answer. It is essentially an indeterminate problem. It involves several variable quantities and many constant quantities, the latter being either inaccurately known or, in many cases, altogether unknown....."

* *Investigations,* etc. (ed. Foxwell), p. 317.

Nonetheless, it is certain that the divergence between the mint ratio and the market ratio under a bimetallic system must be smaller than may be the case where there is no bimetallic systgem. Whenever the market ratio diverges from the mint ratio the compensatory action under the bimetallic law tends to restore the equilibrium, and even where it fails in restoring it, it does succeed in abridging the gulf between the two ratios. That being the case, it is safe to argue that had there been no demonetization of silver after 1873 the ratio between gold and silver would have probably been preserved as it was during the monetary disturbances of the earlier period. At any rate, this much is certain, that the market ratio between the two metals could not have diverged from the mint ratio to the extent it actually did.*

It is therefore a sad commentary on the monetary legislation of the seventies that if it did not actually help to create, for no purpose, a problem unknown before, it certainly helped to make worse a bad situation. Prior to 1870, not all countries had a common currency. There were India and countries of Western Europe which were exclusively on a silver basis, and others, like England and Portugal, which were exclusively on a gold basis, and yet none of them felt the want of a common standard of value in their mutual dealings. So long as there existed the fixed-ratio system in France and the Latin Union the problem was really provided for, for under it the two metals behaved as one and thereby furnished a common standard, although all countries did not use the same metal as their standard money. It was therefore a matter of comparative indifference to most countries which metal they used so long as there was some one country which used either at a certain defined ratio. With the destruction of this fixed ratio what was thus a matter of comparative indifference became a matter of supreme concern. Every country which had before enjoyed the benefits of a common international standard without having a common currency was faced with a crisis in which the choice lay between

* Fisher, *Purchasing Power of Money,* 1911, pp. 134-35.

sacrificing its *currency* to securing a common standard or hugging its currency and foregoing the benefits of a common standard. That exigencies of a common standard ultimately led to its accomplishment was as it should have been, but it was not a fact before a great deal of harm and some heavy burdens had brought home to people what the want of it really meant to them.

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CHAPTER III

THE SILVER STANDARD AND THE EVILS OF ITS INSTABILITY

The economic consequences of this rupture of the par of exchange were of the most far-reaching character. It divided the commercial world into two sharply defined groups, one using gold and the other using silver as their standard money. When so much gold was always equal to so much silver, as was the case previous to 1873, it mattered very little, for the purposes of international transactions, whether a country was on a gold or on a silver standard ; nor did it make any difference in which of the two currencies its obligations were stipulated and realized. But when, owing to the dislocation of the fixed par, it was not possible to define how much silver was equal to how much gold from year to year or even from month to month, this precision of value, the very soul of pecuniary exchange, gave place to the uncertainties of gambling. Of course, all countries were not drawn into this vortex of perplexities in the same degree and to the same extent, yet it was impossible for any country which participated in international commerce to escape from being dragged into it. This was true of India as it was of no other country. She was a silver-standard country intimately bound to a gold-standard country, so that her economic and financial life was at the mercy of blind forces operating upon the relative values of gold and silver which governed the rupee-sterling exchange.

The fall increased the burden of those who were under an obligation to make gold payments. Amongst such, the most heavily charged was the Government of India. Owing to the exigencies of its political constitution, that Government has been under the necessity of making certain payments in England to meet: (1) interest on debt and on the stock of the guaranteed railway companies ; (2) expenses on account of the European troops maintained in India; (3) pensions and non-effective allowances payable in England; (4) cost of the home

administration*; and (5) stores purchased in England for use or consumption in India. England being a gold-standard country, these payments were necessarily gold payments. But the revenues of the Government of India out of which these payments were met were received in silver, which was the sole legal-tender money of the country. It is evident that even if the gold payments were a fixed quantity their burden must increase *pari passu* with the fall in the gold value of silver. But the gold payments were not a fixed quantity. They have ever been on the increase, so that the rupee cost of the gold payments grew both by reason of the growth in their magnitude, and also by reason of the contraction of the medium, i.e. the appreciation of gold, in which they were payable. How greatly this double levy diminished the revenues of India, the figures in Table XI give a convincing testimony.

TABLE XI

Increase in the Rupee Cost of Gold Payments†

Financial Year	Average Rate of Exchange for the Year	Total Excess of Rupees needed to provide for the net Sterling Payments of the Year over those required to meet the Sterling Payments of 1874-75	Amount of this Excess due to	
			(1) Fall in the Rate of Exchange over that of 1874-75	(2) Increase in gold payments over those of the Year 1874-75
	s. d.	R	R	R
1875-76	1 9.626	86,97,980	41,13,723	45,84,257
1876-77	1 8.508	3,15,06,824	1,44,68,234	1,70,38,590
1877-78	1 8.791	1,30,05,481	1,14,58,670	1,15,46,811
1878-79	1 7.794	1,85,23,170	1,04,16,718	81,06,452
1879-80	1 7.961	39,23,570	1,65,37,394	-1,26,13,824
1880-81	1 7.956	3,12,11,981	1,92,82,582	1,19,29,399
1881-82	1 7.895	3,18,19,685	1.98,76,786	-1,19,42,899
1882-83	1 7.525	62,50,518	1,86,35,246	2,48,85,764
1883-84	1 7.536	3,44,16,685	2,33,46,040	1,10,70,645
1884-85	1 7.308	1,96,25,981	2,48,03,423	51,77,442
1885-86	1 6.254	1,82,11,346	2,54,95,337	-4,37,06,683
1886-87	1 5.441	4,69,16,788	4,46,68,299	22,48,489
1887-88	1 4.898	4,63,13,161	4,96,60,537	- 33,47,376
1888-89	1 4.379	9,00,38,166	6,59,71,998	2,40,66,168
1889-90	1 4.566	7,75,96,889	6,06,98,370	1,68,98,519
1890-91	1 6.090	9,06,11,857	4,65,48,302	4,40,63,555
1891-92	1 4.733	10,44,44,529	6,54,52,999	3,89,91,530

* Since the Reform Act of 1920 that part of this cost which was "political" has been placed upon the British Estimates.

† Compiled from figures in Appendix II, p. 270, of the Indian Currency Committee of 1843.

The effect of such a growing burden on the finance of the Government may well be imagined ; the condition of the Government, embarrasing at first, later became quite desperate under this continuously increasing burden. It enforced a policy of high taxation and rigid economy in the finances of the Government. Analysing the resource side of the Indian Budgets from the year 1872-73, we find that there was hardly any year which did not expire without making an addition to the existing imposts of the country. In 1872-73, there commenced the levy of what were called Provincial Rates. The fiscal year 1875-76 witnessed the addition of R. 1 per gallon in the excise duty on spirits. In 1877-78 the Pass Duty on Malwa opium was raised from Rs. 600 to Rs. 650 per chest. An addition of a Licence Tax and Local Rates was made in the year 1878-79, and an increase of Rs. 50 per chest took place in the Malwa Opium Duty in the following year. With the help of these imposts the Government expected to place its finances on an adequate basis. By the end of 1882, it felt quite secure and even went so far as to remit some of the taxes, which it did by lowering the customs duties and the Patwari Cess in the North-Western Provinces. But the rapid pace in the fall of the exchange soon showed that a resort to further taxation was necessary to make up for the increased cost of the sterling payments. To the existing burdens, therefore, was added in 1886 an Income Tax, a duty of 5 per cent. on imported and also on non-illuminating petroleum. The Salt Duty was raised in 1888 in India from Rs. 2 to Rs. 2½ and in Burma from 3 annas to R. 1 per maund. The Patwari Cess of the North-Western Provinces, repealed in 1882, was re-imposed in 1888. The rates of duty on imported spirit and the excise duties on spirits were not only raised in 1890, but were afterwards added to in every province. An excise duty on malt liquor was levied in 1893, and another on salted fish at the rate of 6 annas per maund. The yield of the taxes and duties levied from 1882-83 was* as follows:—

Sources			1882-83	1892-93
			Rs.	Rs.
Salt	...	...	5,67,50,000	8,14,90,000
Excise	...	...	3,47,50,000	4,97,90,000
Customs	...	...	1,08,90,000	1,41,80,000
Assessed Taxes	...	...	48,40,000	1,63,60,000

* *Report of the Indian Currency Committee,* 1893, App. II, p. 263.

All this additional burden was due to the enhanced cost of meeting the gold payments, and "would not have been necessary but for the fall in the exchange."*

Along with this increase of resources the Government of India also exercised the virtue of economy in the cost of administration. For the first time in its history, the Government turned to the alternative of employing the comparatively cheaper agency of the natives of the country in place of the imported Englishmen. Prior to 1870, the scope of effecting economy along this line was *very* limited. By the Civil Service Reforms of 1853† the way was cleared for the appointment of Indians to the posts reserved by the Statute of 1793† for the members of the covenanted Civil Service. But this reform did not conduce to any economy in the cost of the administration, because the Indian members carried the same high scale of salaries as did the English members of the Civil Service. It was when the Statute of 1870 (33 Vic. c. 3) was passed permitting the appointment by nomination of non-covenanted Indians to places reserved for the covenanted Civil Service on a lower scale of salary, that a real scope for economy presented itself to the Government of India. Hard pressed, the Government of India availed itself of the possibilities for economy held out by this statute. So great was the need for economy and so powerful was the interest of the Government in reducing its expenditure that it proceeded, notwithstanding increased demands for efficient administration, to substitute the less expensive agency of non-covenanted civilians in place of the more expensive agency of the convenanted civilians. The scale on which this substitution was effected was by no means small, for we find that between 1874 and 1889 the strength of the convenanted service recruited in England was reduced by more than 22 per cent., and was further expected to be reduced by about 12 per cent., by the employment of unconvenanted Indians to the posts usually reserved for covenanted civilians.§ Besides substituting a cheap for a dear agency in the administration, the Government also sought to obtain relief by applying the pruning knife to the rank growth in departmental

* J.E.O'Conor, *Report of the Indian Currency Committee,* 1898, App. II, p. 182.

† Cf. *Report of the Public Service Commission,* C 5327 of 1887.

‡ This provision of the Act has been re-enacted by the Act of 1861.

§ Cf. evidence of Mr. Jenkins, Q. 12. Mil. of Evid. of the Select Committee on East India (Civil Servants), H. of C. 327 of 1890.

extravagences.* Even with such heroic efforts to increase the revenue and reduce the expenditure the finances of the Government throughout the period of the falling exchange were never in a flourishing state, as is shown in Table XII.

Much more regrettable was the inability of the Government, owing to its financial difficulties, to find money for useful public works. The welfare of the Indian people depends upon turning to best account the resources which the country possesses. But the people have had very little of the necessary spirit of enterprise in them. The task, therefore, has fallen upon the Government of India to provide the country with the two prime requisites of a sustained economic life, namely a system of transport and a network of irrigation. With this object in view the Government had inaugurated a policy of developing what were called "Extraordinary Public Works," financed by capital borrowings. For such borrowings India, as was to be expected, hardly offered any market, the people being too poor and their savings too scanty to furnish a modicum of the required capital outlay. Like all governments of poor peoples, the Government of India had therefore to turn to wealthier countries that had surplus capital to lend. All these countries unfortunately happened to be on the gold standard. As long as it was possible to say that so much gold was equal to so much silver, the English investor was indifferent whether the securities of the Government of India were rupee securities or sterling securities. But the fall in the gold value of silver was also a fall in the gold value of the rupee securities, and what was once a secure investment ceased to be so any more. This placed the Government in a difficult position in the matter of financing its extraordinary public works. Figures in Table XIII are worth study.

The English investor would not invest in the rupee securities. An important customer for the Indian rupee securities was thus lost. The response of the Indian money market was inadequate. To issue sterling securities was the only alternative to enable the Government to tap a bigger and a more constant reservoir for the drawing of capital to India; but as it was bound to increase the burden of the gold payments, which it was the

* Cf. *Calcutta Civil Finance Committee's Report,* 1886 ; also *The Report of the Civil Finance Commissioner* (1887), who completed the work of the Committee after it was dissolved.

TABLE XII

Revenue and Expenditure of the Government of India

Year.	Average Rate of Exchange.	In India.			In England.		Final Result.
		Net Revenue.	Net Expenditure excluding Exchange.	Surplus Revenue.	Net Sterling Revenue.	Exchange.	Surplus (+) or Deficit (-)
	d.	R.	R.	R.	£	R.	R.
1874-75	22.156	39,564,216	25,897,098	13,667,118	12,562,101	1,045,239	59,778
1875-76	21.626	40,053,419	24,541,923	15,511,496	12,544,813	1,377,428.	1,589,255
1876-77	20.508	38,253,366	25,355,285	12,898,081	13,229,646	2,252,611	—2,584,176
1877-78	20.791	39,275,489	27,658,021	11,617,468	13,756,478	2,123,030	—4,262,040
1878-79	19.794	44,415,139	25,778,928	18,636,211	13,610,211	2,891,902	2,134,098
1879-80	19.961	45,258,197	29,384,030	15,874,167	14,223,891	2,878,169	—1,227,893
1880-81	19.956	44,691,119	34,880,434	9,810,085	11,177,231	2,264,848	—3,031,394
1881-82	19.895	45,471,887	27,717,249	17,754,638	11,737,688	2,421,499	3,595,451
1882-83	19.525	42,526,173	25,500,437	17,025,736	13,299,976	3,050,923	674,837
1883-84	19.536	43,591,273	23,566,381	20,024,892	14,770,257	3,375,158	1,879,477
1884-85	19.308	41,585,347	24,763,779	16,821,568	13,844,028	3,363,986	— 386,446
1885-86	18.254	42,635,953	27,352,132	15,283,821	13,755,659	4,329,888	—2,801,726
1886-87	17.441	44,804,774	25,124,335	19,680,439	14,172,298	5,329,714	178,427
1887-88	16,898	45,424,150	25,968,025	19,456,125	15,128,018	6,356,939	—2,028,832
1888-89	16.379	46,558,354	25,051,147	21,507,207	14,652,590	6,817,599	37,018
1889-90	16.566	50,005,810	26,367,855	23,637,955	14,513,155	6,512,767	2,612,033
1890-91	18.090	49,403,819	25,579,727	23,824,092	15,176,866	4,959055	3,688,171
1891-92	16.733	50,023,142	27,013,618	23,009,524	15,716,780	6,825,909	467,535

strongest interest of the Government to reduce, the resort to the London money market, unavoidable as it became, was somewhat restrained,* with the result that the expansion of extraordinary public works did not proceed at a pace demanded by the needs of the country. The effects of this financial derangement, consequent on the fall of the exchange, were not confined to the Government of India. They were immediately felt by the municipalities and other local bodies who were dependent upon the Government for financial aid. So long as the cash balances were overflowing in the treasury of the Government, "one of the most useful ways" to employ them was found in lending a portion of them to these local institutions. As they had just then been inaugurated under the local self-government policy of Lord Ripon's regime, and were looked upon only as an experiment, their taxing and borrowing powers were rigidly limited. Consequently, this financial aid from the Central Government by way of temporary advances was a resource of inestimable value to them. When, however, the cash balances of the Central Government began to diminish owing to the continued losses by exchange, these facilities were severely curtailed,† so that the very vitality of these institutions was threatened just at the moment when they needed all help to foster their growth and strengthen their foundations.

Addressing the Secretary of State, the Government of India, in a despatch of February 2, 1886, observed‡:—

> "10. We do not hesitate to repeat that the facts set forth in the preceding paragraphs are, from the point of Indian interests, intolerable ; and the evils which we have enumerated do not exhaust the catalogue. Uncertainty regarding the future of silver discourages the investment of capital in India, and we find it impossible to borrow in silver except at an excessive cost.
>
> "On the other hand, the Frontier and Famine Railways which we propose to construct, and the Coast and Frontier

* During the period of falling exchange the distribution of the debt of India was as follows:—

		Sterling Debt	Rupee Debt
End of 1873-74	...	41,117,617	66,41,72,900
End of 1898-99	...	124,268,605	1,12,65,04,340

Indian Currency Committee (1898), Appendix II p. 179

† Cf. *Financial Statement,* 1876-77, p. 94.

‡ See C. 4868 of 1886, p. 8.

TABLE XIII

Price Movements of Rupee and Sterling Securities of the Government of India *

Year.	Rates of Exchange.		Price of 4 per cent. Rupee Paper.				Price of Sterling India Stock.					
			In Calcutta.		In London.		4 per cent.		3½ per cent.		3 per cent.	
	Highest.	Lowest.	Highest.	Lowest.	Highest.	Lowest.	Highest.	Lowest.	Highest.	Lowest.	Highest.	Lowest.
	d.	d.										
1873	22 7/8	21 5/8	105	101 7/8	97	94½	106 1/3	101¼				
1874	23 1/8	21 3/4	104½	99½	98	94½	103 3/4	101				
1875	22 3/16	21¼	102 7/8	101 3/4	94	91	106¼	103¼				
1876	22 3/8	18½	101 7/8	98 3/4	89 3/4	78	105 7/8	101 7/8				
1877	22¼	20 9/16	98 7/8	93¼	88½	81	104 5/8	102¼				
1878	21	18 3/4	96 7/8	93½	82½	75 3/8	104 5/8	99				
1879	20 5/8	18 5/8	94 7/8	91¼	80	77¼	105 3/8	100 7/8				
1880	20 3/8	19 3/4	100	92 15/16	81 3/8	77 3/4	105 5/8	102 1/8				
1881	20 1/16	19½	104 5/8	100	86	81¼	106 3/8	103 7/8	103 7/8	100 3/4		
1882	20 6/16	19 1/16	102 1/10	95 5/8	85	81	105 1/8	102 7/8	101 7/8	99 3/4		
1883	19 9/16	19 3/16	101 1/8	97 9/16	82	79 3/4	104 5/8	102 7/16	103 1/8	101 3/8		
1884	19 3/4	18 15/16	100 5/8	95 5/16	81 3/4	78¼	104 3/8	101 5/8	107 1/8	101 3/4	96¼	91 3/4
1885	19 3/16	17 3/3 ½	98 7/16	92¼	77½	73¼	103 1/16	98 3/4	102 3/4	97½	91½	85 3/4
1886	18	16 1/8	97 3/4	97 3/16	73	66¼	103½	101¼	102 3/4	99 3/4	90 1/8	86 5/8
1887	18 3/16	15 5/8	99 3/16	95 5/16	71 11/16	67 7/8	102 3/4	100½	103¼	100¼	92 3/4	95 3/8
1888	17 1/8	16	100 3/16	97 3/4	69 3/8	66¼	102 7/8	100½	107¼	104 5/8	98	95
1889	16 15/16	16	100 3/8	97 1/16	69 1/8	66 3/8			109½	106 7/8	101 1/8	99
1890	20 2/3 9/2	16 7/8	103 7/8	96 13/16	87¼	68 3/4			108½	105¼	100 3/4	95¼
1891	18¼	16 5/8	107 13/16	104 1/16	80 3/4	74¼			109½	105	99	94½
1892	16 11/16	14 5/8	108 15/16	103 11/16	74½	62			109½	106 1/8	98½	94 7/8

* Appendix II to the *Report of the Indian Currency Committee* of 1893, p. 272. These prices differ slightly from those given in Appendix IV to the First Report of the Gold and Silver Commission, 1886, and also from those in the Statistics of British India (First Issue) for 1906-07, Part IV, (a) Finance Tables 7 and 8 of the division called Prices.

defences which we have planned, are imperatively required and cannot be postponed indefinitely.

"We are forced, therefore, either to increase our sterling liabilities, to which course there are so many objections, or to do without the railways required for the commercial development of the country, and its protection against invasion and the effects of famine.

* * * * *

"11. Nor can the difficulties which local bodies experience in borrowing in India be overlooked. The Municipalities of Bombay and Calcutta require large sums for sanitary improvements, but the high rate of interest which they must pay for silver loans operates to deter them from undertaking expensive works, and we need hardly remind your Lordship that it has quite recently been found necessary for Government to undertake to lend the money required for the construction of docks at Calcutta and Bombay, and that when the Port Commissioners of Calcutta attempted to raise a loan of 75 lakhs of rupees in September, 1885, guaranteed by the Government of India, the total amount of tenders was only Rs. 40,200, and no portion of this insignificant amount was offered at par....."

The importation of capital on private account was hampered for similar reasons, to the great detriment of the country. It was urged on all hands, and was even recommended by a Royal Commission,* that one avenue of escape from the ravages of recurring famines, to which India so pitifully succumbed at such frequent intervals, was the diversification of her industries. To be of any permanent benefit, such diversified industrial life could be based on a capitalistic basis alone. But that depended upon the flow of capital into the country as freely as the needs of the country required. As matters then stood, the English investor, the largest purveyor of capital, looked upon the investment of capital in India as a risky proposition. It was feared that once the capital was spread out in a silver country every fall in the price of silver would not only make the return uncertain when drawn in gold, but would also reduce the capital value of his investment in terms of gold, which was naturally the unit

*Cf. *The Report of the Famine Commission of* 1880, Part II, C 2735 of 1880, pp. 175-76.

in which he measured all his returns and his outlays. This check to the free inflow of capital was undoubtedly the most serious evil arising out of the rupture of the par of exchange.

Another group of people, who suffered from the fall of exchange because of their obligation to make gold payments, was composed of the European members of the Civil Service in India. Like the Government to which they belonged, they received their salaries in silver, but had to make gold remittances in support of their families, who were often left behind in England. Before 1873, when the price of silver in terms of gold was fixed, this circumstance was of no moment to them. But as the rupee began to fall the face of the situation was completely altered. With every fall in the value of silver they had to pay more rupees out of their fixed salaries to obtain the same amount of gold. Some relief was no doubt given to them in the matter of their remittances. The Civil Servants were permitted, at a sacrifice to the Government, to make their remittances at what was called the Official Rate of Exchange.* It is true the difference between the market rate and the official rate was not very considerable. None the less, it was appreciable enough for the Civil Servants to have gained by 2½ per cent. on the average of the years 1862-90† at the cost of the Government. The Military Servants obtained a similar relief to a greater degree, but in a different way. Their salary was fixed in sterling, though payable in rupees. It is true the Royal Warrant which fixed their salary also fixed the rate of exchange between the sterling and the rupee for that purpose. But as it invariably happened that the rate of exchange fixed by the Warrant was higher than the market rate, the Military Servants were compensated to the extent of the difference at

* As was explained by Mr. Waterfield before the Select Committee on East India (Civil Servants), H. C. Return 327 of 1890, Q. 1905-17, it was first instituted in 1824 and was arrived at as follows : In December of each year a calculation was made at the India Office of the cost of sending a rupee to India, based on the market price of silver in London, and of the cost of bringing a rupee from India, based on the price of bills on London in Calcutta. A mean between the two was struck and taken as the adjusting rate for the coming official year between the India Office and the British Treasury in regard to such transactions or payments undertaken by one Government as the agent of the other. It was fixed anew for each and formed a fair average rate, although it was sometimes above and sometimes below the market rate of exchange.

† *Ibid,* Q. 1925-26.

the cost of the Indian Exchequer.* This relief was, comparatively speaking, no relief to them. The official or the warrant rates of exchange, though better than the market rates of exchange, were much lower than the rate at which they were used to make their remittances before 1873. Their burden, like that of the Government, grew with the fall of silver, and as their burden increased their attitude became alarmist. Many were the memorialists who demanded from the Government adequate compensation for their losses on exchange.† The Government was warned‡ that

> "the ignorant folk who think India would be benefited by lowering present salaries are seemingly unable to comprehend that such a step would render existence on this reduced pay simply impossible, and that recourse would of necessity be had to other methods of raising money."

Such, no doubt, was the case in the earlier days of the East India Company, when the Civil Servants fattened on pickings because their pay was small,§ and it was to put a stop to their extortions that their salaries were raised to what appears an extra-ordinary level. That such former instances of extortions should have been held out as monitions showed too well how discontented the Civil Service was owing to its losses through exchange.

Quite a different effect the fall had on the trade and industry of the country. It was in a flourishing state as compared with the affairs of the Government or with the trade and industry of a gold-standard country like England. Throughout the period of falling silver there was said to be a progressive decline relatively to population in the employment afforded by various trades and industries in England. The textile manufactures and the iron and coal trade were depressed as well as the other important trades,

* Cf. F. S. 1887-8, pp. 39-40. This cost was as follows :—

1847-75	...	Rs. 6,40,000	1885-86	Rs. 4,00,000	
1884-85	...	Rs. 18,43,000		1886-87	Rs. 5,15,000

† Cf. *Report of the Indian Currency Committee,* 1893, App. I, pp. 185-90 and p. 202, for memorials of the European Civil Servants.

‡ Cf. Col. Hughes-Hallett, M.P., *The Depreciation of the Rupee : its Effect on the Anglo-Indian Official—the Wrong and the Remedy,* London, 1887, p. 14.

§ The connection between the rapacious conduct of the early European Civil Servants and the smallness of their salaries was well brought out by Clive in his speech dated March 30, 1772, during the course of the debate in the House of Commons on the East India Judicature Bill, *Hansard,* Vol. XVII, pp. 334-39.

including the hardware manufactures of Birmingham and Sheffield, the sugar-refining of Greenock, Liverpool, and London, the manufactures of earthenware, glass, leather, paper, and a multitude of minor industries.* The depression in English agriculture was so widespread that the Commissioners of 1892 were " unable to point to any part of the country in which [the effects of the depression] can be said to be entirely absent," and this notwithstanding the fact that the seasons since 1882 "were on the whole satisfactory from an agricultural point of view."† Just the reverse was the case with Indian trade and industry. The foreign trade of the country, which had bounced up during the American Civil War, showed greater buoyancy after 1870, and continued to grow throughout the period of the falling exchange at a rapid pace. During the short space of twenty years the total imports and exports of the country more than doubled in their magnitude, as is shown by Table XIV.

TABLE XIV

IMPORTS AND EXPORTS (BOTH MERCHANDIZE AND TREASURE)§

Year	Exports R.	Imports	Year	Exports R.	Imports
1870-71	57,556,951	39,913,942	1881-82	83,068,198	60,436,155
1871-72	64,685,376	43,665,663	1882-83	84,527,182	65,548,868
1872-73	56,548,842	36,431,210	1883-84	89,186,397	68,157,311
1873-74	56,910,081	39,612,362	1884-85	85,225,922	69,591,269
1874-75	57,984,549	44,363,160	1885-86	84,989,502	71,133,666
1875-76	60,291,731	44,192,378	1886-87	90,190,633	72,830,670
1876-87	65,043,789	48,876,751	1887-88	92,148,279	78,830,468
1877-78	67,433,324	58,819,644	1888-89	98,833,879	83,285,427
1878-79	64,919,741	44,857,343	1889-90	105,366,720	86,656,990
1879-80	69,247,511	52,821,398	1890-91	102,350,526	93,909,856
1880-81	76,021,043	62,104,984	1891-92	111,460,278	84,155,045

§ From Appendix II (Nos. 1 and 2) to the *Report of the Indian Currency Committee of 1898.*

* Report by Dunraven, Farrer, Muntz, and Lubbock in the *Final Report of the Royal Commission on Depression of Trade and Industry, par.,* 54, C. 4893.

† *Final Report of the Royal Commission on Agricultural Depression in England,* C 8540 of 1897, par. 28.

TABLE XV. NATURE OF INDUSTRIAL PURSUITS IN ENGLAND AND INDIA *

	Distribution of *Indian* Exports exclusive of Treasure.					Distribution of *English* Exports exclusive of Treasure.				
	Manufactured Articles.	Raw Materials.	Food Articles.	Unclassified Articles.	Total.	Manufactured Articles.	Raw Materials.	Food Articles.	Unclassified Articles.	Total.
1857	11	34	22	23	100	90.9	4	4.9	.2	100
1858	6	35	26	33	100	91.4	3.4	5.1	.1	100
1859	6.5	40	15.5	38	100	91.5	3.8	4.6	.1	100
1860	5.7	43.6	17.7	33	100	91.9	3.6	4.4	.3	100
1861	5.8	46.5	15.3	32.4	100	90.4	4.8	4.8	—	100
1862	5	52	16	27	100	90.3	4	4.8	.9	100
1863	3.7	58.7	10.6	27	100	91.0	4	4	1.0	100
1864	4	69.2	9.3	17.5	100	92.5	3.7	3.7	.1	100
1865	3.5	68	12	16.6	100	92.1	3.6	3.6	.7	100
1866	4.2	67.2	10.3	18.3	100	92	3.7	3.7	.4	100
1867	4	58	11	27	100	92.2	3.8	3.7	.3	100
1868	4	58.5	11.5	26	100	92	4.4	3.4	.2	100
1869	4.8	60.5	14	20.7	100	92	4.2	31	.7	100
1870	4.4	63.6	9	23	100	91	4	4	1.0	100
1871	3.7	65.3	11	20	100	90	4.4	4.9	.7	100
1872	3.3	61.4	13.5	21.8	100	91.2	5.4	3.5	.9	100

* The figures for India are calculated from the *Statistical Abstract for British India,* Second Number (1857-866), Table No. 34, and the Eighth Number (1864-1873), Table No. 24. Figures for England are taken from Appendix C (Statement 6) to the *First Report of the Royal Commission of the Depression of Trade and Industry,* 1885, with this alteration—that the separate figures in the original under "Manufactured" and "Partially Manufactured" are here grouped under "Manufactured." The "Unclassified Articles" under Indian Exports are for the most part "Jewellery."

TABLE XVI

CHANGES IN INDUSTRIAL PURSUITS OF INDIA*

Years	Imports		Exports	
	Manufactured	Raw	Manufactured	Raw
	Rs.	Rs.	Rs.	Rs.
1879	25,98,65,827	13,75,55,837	5,27,80,340	59,67,27,991
1892	36,22,31,872	26,38,18,431	16,42,47,566	85,52,09,499
Percentage of increase	39	91	211	43
Total Annual	2.8	6.5	15	3

Not only had the trade of India been increasing, but the nature of her industries was also at the same time undergoing a profound change. Prior to 1870, India and England were, so to say, non-competing groups. Owing to the protectionist policy of the Navigation Laws, and owing also to the substitution of man by machinery in the field of production, India had become exclusively an agricultural and a raw-material-producing country, while England had transformed herself into a country which devoted all her energy and her resources to the manufacturing of raw materials imported from abroad into finished goods. How marked was the contrast in the industrial pursuits in the two countries is well revealed by the analysis of their respective exports in Table XV.

After 1870, the distribution of their industrial pursuits was greatly altered, and India once again began to assume the role of a manufacturing country. Analysing the figures for Indian imports and exports for the twenty years succeeding 1870, (*see Table XVI)* we find that the progress in the direction of manufactures formed one of the most significant features of the period.

This change in the industrial evolution was marked by the growth of two principal manufactures. One of them was the

* From Ranade's *Essays on Indian Economics,* p. 104.

manufacture of cotton. The cotton industry was one of the oldest industries of India, but during 100 years between 1750 and 1850 it had failed into a complete state of decrepitude. Attempts were made to resuscitate the industry on a capitalistic basis in the sixties of the ninetenth century and soon showed signs of rapid advance. The story of its progress is graphically illustrated in the following summary in Table XVII:—

TABLE XVII

THE DEVELOPMENT OF INDIAN COTTON TRADE AND INDUSTRY

	Growth of Trade (Average Annual Quantities in each Quinquennium)				
	1870-71 to 1874-75	1875-76 to 1879-80	1880-81 to 1884-85	1885-86 to 1889-90	1890-91 to 1894-95
Imports of raw cotton—thousands or cwts.	23	52	51	74	89
Exports of raw cotton—thousands of cwts.	5,236	3,988	5,477	5,330	4,660
Imports of twist and yarn	33.55	33.55	44.34	49.09	44.79
	Growth of Industry (at end of each fifth year)				
Number of mills	48	58	81	114	143
Number of spindles—000—omitted	1,000	1,471	2,037	2,935	3,712
Number of looms—000—omitted	10	13	16	22	34
Number of persons employed	...	39,537	61,836	99,224	...

Another industry which figured largely in this expansion of Indian manufactures was jute. Unlike the cotton industry of India, the jute industry was of a comparatively recent origin. Its growth, different from that of the cotton industry, was fostered by the application of European capital, European management, and European skill, and it soon took as deep roots as the cotton industry and flourished as well as the latter did, if not better. Its history was one of continued progress as will be seen from Table XVIII.

This increasing trend towards manufactures was not without its indirect effects on the course of Indian agriculture. Prior to 1870 the Indian farmer, it may be said, had no commercial outlook. He cultivated not so much for profit as for individual self-sufficiency. After 1870 farming tended to become a business and crops came more and more to be determined by the course of market prices than by the household needs of the farmer. This is well illustrated by figures in Table XIX.

Such was the contrast in the economic conditions prevalent in the two countries. This peculiar phenomenon of a silver-standard country steadily progressing, and a gold-standard country tending to a standstill, exercised the minds of many of

TABLE XVIII

DEVELOPMENT OF JUTE INDUSTRY AND TRADE

Growth	Average Annual of each Quinquennium				
	1870-71 to 1874-75	1875-76 to 1879-80	1880-81 to 1884-85	1885-86 to 1889-90	1890-91 to 1894-95
Exports-					
Raw, million cwt.	5.72	5.58	7.81	9.31	10.54
Gunny bags, millions	6.44	35.96	60.32	79.98	120.74
Cloth, million yds.	...	4.71	6.44	19.79	54.20
Growth of Industry					
Number of—					
Mills	...	21	21	24	26
Looms, 000 omitted	...	5.5	5.5	7	8.3
Spindles, 000 omitted	...	88	88	138.4	172.4
Persons employed, in thousands	...	38.8	38.8	52.7	64.3

its observers. The chief cause was said to be the inability of the English manufacturers to hold out in international competition. This inability to compete with the European rivals was attributed to the prevalence of protective tariffs and subsidies which formed an essential part of the industrial and commercial code of the European countries. Nothing of the kind then existed

TABLE XIX

GROWTH OF AGRICULTURAL EXPORTS OF INDIA

	1868-69	1873-74	1877-78	1882-83	1887-88	1891-92
Wheat	100	637.41	2,313.47	5,152.36	4,914.37	11,001.44
Opium	100	118.38	123.83	122.47	120.20	116.82
Seeds	100	111.26	305.87	239.97	403.60	480.99
Rice	100	131.66	119.84	203.28	185.55	220.36
Indigo	100	116.91	121.57	142.17	140.76	126.33
Tea	100	169.35	293.17	507.25	775.09	1,075.75
Cofee	100	86.04	69.98	85.31	64.59	74.11

in India, where trade was as free and industry as unprotected as any could have been, and yet the Lancashire cotton-spinner, the Dundee jute manufacturer and the English wheat-grower complained that they could not compete with their rivals in India. The cause, in this case, was supposed to be the falling exchange.* So much were some people impressed by this view that even the extension of the Indian trade to the Far East was attributed to this cause. Already, it was alleged, the dislocation of the par of exchange between gold and silver had produced a kind of segregation of gold-using countries and silver-using countries to the exclusion of each other. In a transaction between two countries using the same metal as standard it was said the element of uncertainty arising from the use of two metals varying in terms of each other was eliminated. Trade between two such countries could be carried on with less risk and less inconvenience than between two countries using different standards, as in the latter case the uncertainty entered into every transaction and added to the expense of the machinery by which trade was carried on. That the Indian trade should have been deflected to other quarters† where, owing to the existence of a common standard the situation trade had to deal with was immune from uncertainties, was readily admitted. But it was contended that there was no reason why, as a part of the segregation of commerce, it should have been possible for the Indian manufacturer to oust his English rival from the Eastern markets to the extent he was able to do (*see* Table XX, p. 432).

The causes which effected such trade disturbances formed the subject of a heated controversy.‡ The point in dispute was whether the changes in international trade, such as they were, were attributable to the monetary disturbances of the time. Those who held to the affirmative explained their position by arguing that the falling exchange gave a bounty to the Indian producer and imposed a penalty on the English producer. The

* Cf. *The Final Report of the Royal Commission on Gold and Silver* Part I, pars. 99-101, for a summary of the argument.

† The distribution of Indian trade during this period was as shown on the page 432 footnote.

‡ *See* the evidence and memoranda by Profs. Marshall and Nicholson before the Royal Commission on Gold and Silver (1886); also Prof. Lexis, " The Agio on Gold and International Trade," in the *Economic Journal,* Vol. V, 1895.

TABLE XX

Exports of Cotton Goods to Eastern Markets

Years	Yarn, lbs. 000 omitted		Piece-goods, yds., 000 omitted	
	From India	From U. K.	From India	From U. K.
1877 ...	7,927	33,086	15,544	394,489
1878 ...	15,600	36,467	17,545	382,330
1879 ...	21,332	38,951	22,517	523,921
1880 ...	25,862	46,426	25,800	509,099
1881 ...	26,901	47,479	30,424	587,177
1882 ...	30,786	34,370	29,911	454,948
1883 ...	45,378	33,499	41,534	415,956
1884 ...	49,877	38,856	55,565	439,937
1885 ...	65,897	33,061	47,909	562,339
1886 ...	78,242	26,924	51,578	490,451
1887 ...	91,804	35,354	53,406	618,146
1888 ...	113,451	44,643	69,486	652,404
1889 ...	128,907	35,720	70,265	557,004
1890 ...	141,950	37,869	59,496	633,606
1891 ...	169,253	27,971	67,666	595,258

† Distribution of Indian Trade

Annual Average for each Quinquennium in Millions of rupees

Countries	1875-76 to 1879-80			1880-81 to 1884-85		
	Imports	Exports	Total	Imports	Exports	Total
United Kingdom ...	323.68	278.15	601.83	434.45	344.22	778.67
China ...	14.05	132.27	146.32	19.23	134.94	154.17
Japan ...	.02	.33	.35	.19	2.09	2.28
Ceylon ...	5.74	22.97	28.71	5.35	16.37	21.72
Straits Settlement	10.83	26.11	36.94	15.88	33.65	49.53

Annual Average for each Quinquennium in Millions of rupees

Countries	1885-86 to 1989-90			1890-91 to 1894-95		
	Imports	Exports	Total	Imports	Exports	Total
United Kingdom ...	510.47	360.59	871.06	526.24	338.40	864.64
China ...	21.64	134.54	156.18	28.69	133.30	161.90
Japan ...	.25	7.27	7.52	1.51	14.44	15.95
Ceylon ...	5.86	20.56	26.42	6.42	31.18	37.60
Straits Settlement	20.09	42.54	62.63	23.32	52.56	75.88

existence of this bounty, which was said to be responsible for the shifting of the position of established competitors in the field of international commerce, was based on a simple calculation. It was said that if the gold value of silver fell the Indian exporter got more rupees for his produce and was therefore better off, while by reason of the same fact the English producer got fewer sovereigns and was therefore worse off. Put in this naive form, the argument that the falling exchange gave a bounty to the Indian exporters and imposed a penalty on the English exporters had all the finality of a rule of arithmetic. Indeed, so axiomatic was the formula regarded by its authors that some important inferences as to its bearing on the trade and industrial situation of the time were drawn from it. One such inference was that it stimulated exports from and hindered imports into the silver-using countries. The second inference was that the fall of exchange exposed some English producers more than others to competition from their rivals in silver-using countries. Now, can such results be said to follow from the fall of exchange ? If we go behind the bald statement of a fall of exchange and inquire as to what determined the gold price of silver the above inferences appear quite untenable. That the ratio between gold and silver was simply the inverse of the ratio between gold prices and silver prices must be taken to be an unquestionable proposition. If therefore the gold price of silver was falling it was a counterpart of the more general phenomenon of the fall of the English prices which were measured in gold, and the rise of the Indian prices which were measured in silver. Given such an interpretation of the event of the falling exchange, it is difficult to understand how it can help to increase exports and diminish imports. International trade is governed by the relative advantages which one country has over another, and the terms on which it is carried on are regulated by the comparative cost of articles that enter into it. It is, therefore, obvious that there cannot be a change in the real terms of trade between countries except as a result of changes in the comparative cost of these goods. Given a fall in gold prices *all round,* accompanied by a rise in silver prices *all round,* there was hardly anything in the monetary disturbance that could be said to have enabled India to increase her exportation of anything except by diminishing her exportation or increasing her importation of something else. From the same view of the question of the falling exchange it follows that such a monetary disturbance

could not depress one trade more than another. If the falling or rising exchange was simply an expression of the level of *general* prices, then the producers of all articles were equally affected. There was no reason why the cotton trade or the wheat trade should have been more affected by the fall of exchange than the cutlery trade.

Not only was there nothing in the exchange disturbance to disestablish existing trade relations in general or in respect of particular commodities, but there was nothing in it to cause benefit to the Indian producer and injury to the English producer. Given the fact that the exchange was a ratio of the two price-levels, it is difficult to see in what sense the English producer, who got fewer sovereigns but of high purchasing power, was worse off than the Indian producer, who got more rupees but of low purchasing power. The analogy of Prof. Marshall was very apt. To suppose that a fall of exchange resulted in a loss to the former and a gain to the latter was to suppose that, if a man was in the cabin of a ship only ten feet high, his head would be broken if the ship sank down twelve feet into a trough. The fallacy consisted in isolating the man from the ship when, as a matter of fact, the same force, acting upon the ship and the passenger at one and the same time, produced like movements in both. In like manner, the same force acted upon the Indian producer and the English producer together, for the change in the exchange was itself a part of the more sweeping change in the general price-levels of the two countries. Thus stated, the position of the English and Indian producer was equally good or equally bad, and the only difference was that the former used fewer counters and the latter a larger number in their respective dealings.

A bounty to the Indian producer and a penalty to the English producer, it is obvious, could have arisen only if the fall of silver in England in terms of gold was greater than the fall of silver in terms of commodities in India. In that case the Indian producer would have obtained a clear benefit by exchanging his wares for silver in England and thus securing a medium which had a greater command over goods and services in India. But *a priori* there could be no justification for such an assumption. There was no reason why gold price of silver should have fallen at a different rate from the gold price of commodities in general, or that there should have been a great difference between the silver prices in England and in India. Statistics show that such *a priori* assumptions were not groundless. (See Table XXI).

TABLE XXI. MOVEMENTS OF PRICES, WAGES AND SILVER BETWEEN INDIA AND ENGLAND *

Net Imports of Silver into India.		Index No. for Gold Price of Silver.	Years.	Index No. for Silver Prices of Commodities in India.	Index No. for Wages in India.	Index No. for Gold Prices of Commod-ties in England.	Index No. for Wages in England.
Years.	Amount Rs.						
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1871-72	6,587,296	99.7	1871	100	—	100	100
1872-73	739,244	99.2	1872	105	—	109	105.8
1873-74	2,530,824	97.4	1873	107	100	111	112
1874-75	4,674,791	95.8	1874	116	101	102	113
1875-76	1,640,445	93.3	1875	103	97	96	111.6
1876-77	7,286,188	86.4	1876	107	98	95	110
1877-78	14,732,194	90.2	1877	138	97	94	109.8
1878-79	4,057,377	86.4	1878	148	99	87	107
1879-80	7,976,063	84.2	1879	135	100	83	105.8
1880-81	3,923,612	85.9	1880	117	99	88	106.5
1881-82	5,381,410	85.0	1881	106	99	85	106.5
1882-83	7,541,427	84.9	1882	105	100	84	106.5
1883-84	6,433,886	83.1	1883	106	102	82	108
1884-85	7,319,581	83.3	1884	114	101	76	109
1885-86	11,627,028	79.9	1885	113	106	72	108
1886-87	7,191,743	74.6	1886	110	105	69	107
1887-88	9,319,421	73.3	1887	111	114	68	108
1888-89	9,327,529	70.4	1888	119	112	70	109.8
1889-90	11,002,078	70.2	1889	125	112	72	113
1890-91	14,211,408	78.4	1890	125	113	72	118
1891-92	9,165,684	74.3	1891	128	118	72	118
1892-93	12,893,499	65.5	1892	141	110	68	117.4
1893-94	13.759,273	58.5	1893	138	119	68	117.4

* Col. (2) is from Appendix II, Table No. 2 of the I.C.C. of 1898. Cols. (3), (5), (6), and (7) are from Atkinson's "Silver Prices in India," in the *Journal of the Statistical Society,* March, 1897. Col. (8) is based on the figures given by W. T. Layton in his *Introduction to the Study of Prices* (1912), Table I, Col. 1, p. 150, re-scaled to 1871 as 100.

It is obvious that if silver was falling faster than commodities, and if silver prices in India were lower than silver prices in England, we should have found it evidenced by an inflow of silver from England to India. What were the facts ? Not only was there no extraordinary flow of silver to India, but the imports of silver during 1871-93 were much smaller than in the twenty years previous to that period.* This is as complete a demonstration as could be had of the fact that the silver prices in India were the same as they were outside, and consequently the Indian producer had very little chance of a bounty on his trade.

Although such must be said to be the *a priori* view of the question, the Indian producer was convinced that his prosperity was due to the bounty he received. Holding such a position he was naturally opposed to any reform of the Indian currency, for the falling exchange which the Government regarded a curse he considered a boon. But however plausible was the view of the Indian producer, much sympathy would not have been felt for it had it not been coupled with a notion, most commonly held, that the bounty arose from the *export trade,* so that it became an article of popular faith that the fall of exchange was a source of gain to the *nation as a whole*. Now was it true that the bounty arose from the export trade ? If it were so, then every fall of exchange ought to give a bounty. But supposing that the depreciation of silver had taken place in India *before* it had taken place in Europe could the fall of exchange thus brought about have given a bounty to the Indian exporter ? As was explained above, the Indian exporter stood a chance of getting a bounty only if with the silver he obtained for his produce he was able to buy more goods and services in India. To put the same in simpler language, his bounty was the difference between the price of his product and the price of his outlay. Bearing this in mind, we can confidently assert that in the supposed case of depreciation of silver having taken place in India first, such a fall in the Indian exchange would have been accompanied by a penalty instead of a bounty on his trade. In that case, the exporter from India would have found that though the Indian exchange, i.e. the gold price of silver, had fallen, yet the ratio which gold prices in England bore to silver prices in India had

* Cf. figures for imports of silver in Chap. I. It will, however, be noted how closely the flow of silver into India between 1872 and 1893 followed the fall in gold price of silver.

fallen more, i.e. the price he received for his product was smaller than the outlay he had incurred. It is not quite established whether silver had fallen in Europe before it had fallen in India.* But even if that were so the possibility of a penalty through the fall of exchange proves that the bounty, it there was any, was not a bounty on the export trade as such, but was an outcome of the disharmony between the general level of prices and the prices of particular goods and services within the country, and *would have existed* even if the country had no export *trade*.

Thus the bounty was but an incident of the general depreciation of the currency. Its existence was felt because prices of *all* goods and services in India did not move in the same uniform manner. It is well known that at any one time prices of certain commodities will be rising, while the general price level is falling. On the other hand, certain goods will decline in price at the same time that the general price-level is rising. But such opposite movements are rare. What most often happens is that prices of some goods and services, though they move in the same direction, do not move at the same pace as the general price level. It is notorious that when general prices fall wages and other fixed incomes, which form the largest item in the total outlay of every employer, do not fall in the same proportion ; and when general prices rise they do not rise as fast as general prices, but generally lag behind. And this was just what was happening in a silver-standard country like India and a gold-standard country like England during the period of 1873-93 (see Chart IV). Prices had fallen in England, but wages had not fallen to the same extent. Prices had risen in India, but wages had not risen to the same extent. The English manufacturer was penalized, if at all, not by any act on the part of his Indian rival, but by reason of the wages of the former's employees having remained the same, although the price of his products had fallen. The Indian producer got a bounty, if any, not because he had an English rival to feed upon, but because he did not have to pay higher wages, although the price of his product had risen.

The conclusion, therefore, is that the falling exchange could not have disturbed established trade relations or displaced the

* *See infra.* Chap. IV,

CHART IV

Prices and Wages in India and England, 1873–93

commodities that entered into international trade. The utmost that could be attributed to it is its incidence in economic incentive. But in so far as it supplied a motive force or took away the incentive, it did so by bringing about changes in the social distribution of wealth. In the case of England, where prices were falling, it was the employer who suffered ; in the case of India, where prices were rising, it was the wage-earner who suffered. In both cases there was an injustice done to a part of the community and an easy case for the reform of currency was made out. The need for a currency reform was recognized in England ; but in India many people seemed averse to it. To some the stability of the silver standard had made a powerful appeal, for they failed to find any evidence of Indian prices having risen above the level of 1873. To others the bounty of the falling exchange was too great a boon to be easily given away by stabilizing the exchange. The falsity of both the views is patent. Prices in India did rise and that, too, considerably. Bounty perhaps there was, but it was a penalty on the wage-earner. Thus viewed, the need for the reform of Indian currency was far more urgent than could have been said of the English currency. From a purely psychological point of view there is probably much to choose between rising prices and falling prices. But from the point of view of their incidence on the distribution of wealth, very little can be said in favour of a standard which changes in its value and which becomes the *via media* of tranferring wealth from the relatively poor to the relatively rich. Scrope said : "Without stability of value money is a fraud." Surely, having regard to the magnitude of the interests affected, depreciated money must be regarded as a greater fraud. That being so, the prosperity of Indian trade and industry, far from being evidence of a sound currency, was sustained by reason of the fact that the currency was a diseased currency. The fall of exchange, in so far as it was a gain, registered a loss to a large section of the Indian people with fixed incomes who suffered from the instability of the silver standard equally with the Government and its European officers.

So much for the fall of silver. But the financial difficulties and social injustices it caused did not sum up the evil effects produced by it. Far more disturbing than the fall were the fluctuations which accompanied the fall (*see* Chart V).

The fluctuations greatly aggravated the embarrassment of the Government of India caused by the fall in the exchange value

CHART V

MONTHLY FLUCTUATIONS OF THE RUPEE-STERLING EXCHANGE

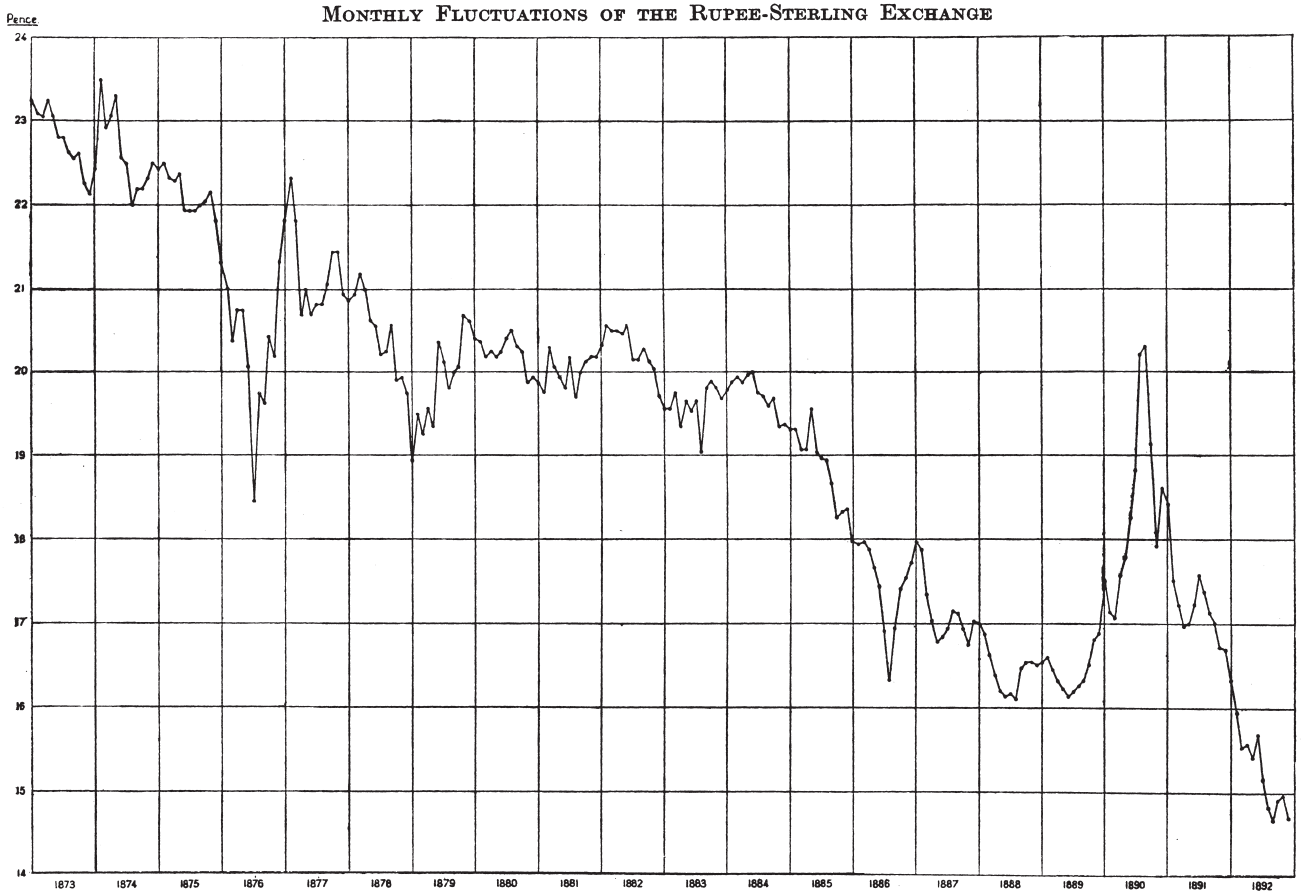

of the rupee. In the opinion of the Hon. Mr. Baring (afterwards Lord Cromer),*

> "It is not the fact that the value of the rupee is, comparatively speaking, low that causes inconvenience. It would be possible, although it might be exceedingly troublesome, to adjust the Indian fiscal system to a rupee of any value. What causes inconvenience alike to Government and to trade is that the value of the rupee is unstable. It is impossible to state accurately in Indian currency what the annual liabilities of the Government of India are. These liabilities have to be calculated afresh every year according to the variations which take place in the relative value of gold and silver, and a calculation which will hold good for even one year is exceedingly difficult to make."

Owing to such fluctuations, no rate could be assumed in the Budget which was likely to turn out to be the true market rate, As matters stood, the rate realized on an average during a particular year differed so widely from the Budget rate that the finances of the Government became, to employ the phraseology of a finance minister, a "veritable gamble." How greatly the annual Budget must have been deranged by the sudden and unprovided-for changes in the rupee cost of the sterling payments Table XXII on page 442 may help to give some idea.

If Government finance was subjected to such uncertainties as a result of exchange fluctuations, private trade also became more or less a matter of speculation. Fluctuations in exchange are, of course, a common incident of international trade. But if they are not to produce discontinuity in trade and industry there must be definite limits to such fluctuations. If the limits are ascertainable, trade would be reasonably certain in its calculation, and speculation in exchange would be limited within the known limits of deviations from an established par. Where, on the other hand, the limits are unknown, all calculations of trade are frustrated and speculation in exchange takes the place of legitimate trading. Now, it is obvious that fluctuations in the exchange between two countries will be limited in extent if the two countries have the same standard of value. Where there is no such common standard of value the limits, though they

* *Financial Statement,* 1883-84, p. 26.

TABLE XXII

Fluctuations of Exchange and Fluctuations in the Rupee Cost of Gold Payments*

Financial Year.	Estimated Rate of Exchange on which the Budget of the Year was framed.		Rate of Exchange actually realized on the Average during the Year.		Changes in the Rupee Cost of Sterling Payments consequent upon Changes between the Estimated and the Realized Rates of Exchange.	
					Increase.	Decrease.
	s.	d.	s.	d.	Rs.	Rs.
1874-75	1	10.375	1	10.156	15,91,764	—
1875-76	1	9.875	1	9.626	19,57,917	—
1876-77	1	8.5	1	8.508	—	76,736
1877-78	1	9.23	1	8.791	38,43,050	—
1878-79	1	8.4	1	7.794	56,87,129	—
1879-80	1	7	1	7.961	—	84,40,737
1880-81	1	8	1	7.956	4,24,722	—
1881-82	1	8	1	7.895	10,17,482	—
1882-83	1	8	1	7.525	37,46,890	—
1883-84	1	7.5	1	7.536	—	3,62,902
1884-85	1	7.5	1	7.308	18,97,307	—
1885-86	1	7	1	6.254	56,82,638	—
1886-87	1	6	1	5.441	65,17,721	—
1887-88	1	5.5	1	4.898	71,90,097	—
1888-89	1	4.9	1	4.379	77,98,400	—
1889-90	1	4.38	1	4.566	—	27,31,892
1890-91	1	4.552	1	6.09	—	2,35,51,744
1891-92	1	5.25	1	4.733	80,09,366	—

* Compiled from figures given in the *Final Report of the Gold and Silver Commission,* p. 40, and in App. II, p. 270, to the *Report of the Indian Currency Committee,* 1893.

exist, are too indefinite to be of much practical use. The rupture of the fixed par of exchange, having destroyed a common standard of value between gold and silver countries, removed the limits on the exchange fluctuations between such countries. As a result of such variations in the value of the standard measure, trade advanced by "rushes and pauses," and speculation became feverishly active.*

That progress of trade depends on stability is a truism which seldom comes home until it is denied in fact. It is difficult to appreciate its importance to healthy enterprise when government is stable, credit is secure, and conditions are uniform. And yet so great is the handicap of instability that everywhere business men have been led by a variety of devices to produce stability in domains enveloped by uncertainty. Everywhere there have grown up business barometers forewarning business men of impending changes and so enabling them to forearm against them by timely changes in their operations. The whole of insurance business is aimed at giving stability to economic life. The necessity which compelled all regularly established Governments to maintain standard measures by which the true proportion between things as to their quantities might be ascertained and dealings in them regulated with certainty was motivated by the same purpose. The meticulous precision with which every civilised country defines its standard measures, and the large machinery it maintains to preserve them from deviation, are only evidences of the great importance that an economic society must continue to attach to the matter of providing precision of expression and assurance of fulfilment with regard to the contracts entered into by its members in their individual or corporate capacities.

Important as are the standard measures of a community, its measures of a community, its measure of value is by far the most important of them all.† The measures of weight, extension, or volume enter only into particular transactions. If the pound, the bushel, or the yard were altered the evils would be comparatively restricted in scope. But the measure of value is all-prevading.

* Evid. Indian Currency Committee, 1898, Q. 6,290, 9,808-10.

† Cf. Harris, *An Essay upon Money and Coins* (reprinted by J. R. McCulloch in his volume of *Scarce Tracts on Money,* Part I, Chap. II, par. 21 ; Part II, Chap. II, pars. 11, 13, and 20).

> "There is no contract," Peel declared.* "public or private, no engagement national or individual, which is unaffected by it. The enterprises of commerce, the profits of trade, the arrangements made in all domestic relations of society, the wages, of labour, pecuniary transactions of the highest amount and of the lowest, the payment of national debt, the provision for national expenditure, the command which the coin of the smallest denomination has over the necessaries of life, are all affected"

by changes in the measure of value. This is because every contract, though ultimately a contract in goods, is primarily a contract in value. It is, therefore, not enough to maintain constancy in the measures of weight, capacity, or volume. A contract as one of goods may remain exact to the measure stipulated, but may nevertheless be vitiated as a contract in values by reason of changes in the measure of values. The necessity of preserving stability in its measure of value falls on the shoulders of every Government of an orderly society. But its importance grows beyond disputes as society advances from status to contract. The conservation of the contractual basis of society then becomes tantamount to the conservation of an invariable measure of value.

The work of reconstituting a common measure of value in some form or other, which those misguided legislators of the seventies helped to destroy, it was found, could not be long delayed with impunity. The consequences that followed in the wake of that legislation, as recounted before, were too severe to allow the situation to remain unrectified. That efforts for reconstruction should have been launched before much mischief was done only shows that a world linked by ties of trade will insist, if it can, that its currency systems must be laid on a common gauge.

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* Cf. his speech dated May 6, 1844, delivered during the Commons debates on the Bank Charter Act. Hansard, Vol. XXXIV, p. 720.

CHAPTER IV
TOWARDS A GOLD STANDARD

The establishment of stable monetary conditions was naturally enough dependent upon the restoration of a common standard of value. Plain as was the aim, its accomplishment was by no means an easy matter. Two ways seemed at first to be open for carrying it out in practice. One was to adopt a common metal as currency, and since all important countries of the world had gone over to the gold standard it meant the silver-standard countries should abandon their standard in favour of gold. The other was to let the gold and silver standard countries keep to their currencies and to establish between them a fixed ratio of exchange so as to make the two metals into a common standard of value.

The history of the agitation for the reform of the Indian currency is a history of these two movements. The movement for the introduction of a gold standard was, however, the first to occupy the field. The failure of the notification of 1868 may be said to have marked the failure of a policy, but the movement for a gold currency in India started in the sixties was not altogether stamped out of the country. That the movement still had life in it is shown by the fact that it was revived four years later by Sir R. Temple, when he became the Finance Minister of India, in a memorandum* dated May 15, 1872. The important particular in which he differed from his predecessors consisted in the fact that while they all aimed to make the British sovereign the principal unit of the gold currency in India, he desired to give that place to the Indian gold coin, the "mohur." Why his predecessors did not do the same when the problem of correctly rating the soverign was said to have baffled them so much is a little surprising when it is recalled that the Indian Mints had been since long past issuing the "mohur", which, as it was possible to rate it correctly, could as well have been made the principal unit of the gold currency in India. That they did not

* Printed as Appendix I, No. 12, to the *Report of the Indian Currency Committee* of 1898.

can only be explained on the assumption that they were anxious to kill two birds with one stone. The adoption of the sovereign, besides supporting a gold currency in India, was also calculated to promote the movement of international uniformity of coinage then in vogue. The utility of the "mohur" was in this respect comparatively inferior to that of the sovereign. But when Sir Richard Temple came upon the scene the prospect of some universal coin being internationally adopted seemed to be fast vanishing. At all events the Report of the English Commission on International Coinage, presided over by Lord Halifax, had pronounced adversely as to any change in the standard of the English sovereign. Untrammelled by any considerations for such a wider issue, Sir R. Temple was free to recommend the adoption of the "mohur" as the unit of currency in place of the sovereign.*

> "We have," he wrote, "gold pieces representing fifteen, ten and five rupees respectively; and believed to represent these several sums very correctly, as regards the relative value of gold and silver ..... that ..... we should take the first opportunity to declare the gold coins legal tender to unlimited amount; that gold pieces should continue to bear the fixed relation to the rupee; that for a time it might be necessary to permit the rupee to remain legal tender to an unlimited amount, which would involve temporarily the difficulty of a double standard; that the transition period of double standard should be as short as possible, silver being reduced to a token coinage, and being made legal tender up to a small amount only; and that gold should be ultimately the one legal standard."

He proposed the ratio of 10 rupees for 120 grs. of standard i.e. 110 grs. of fine gold.† but he did not share the temerity of Sir Charles Trevelyan.‡ So intent was he on the project of a gold currency that he was prepared to alter the ratio so as to make it favourable to gold. The question of ratio, he observed, was one which

> "the Government of India ought to be able to determine.

"Nevertheless, he said," I would not object to make the sovereign a legal tender for 10 rupees and 4 annas. But, the sovereign being worth 10 rupees and a fraction over, there might be some slight trouble of calculation in changing it for silver, and this would be a drawback in respect of the use of the sovereign as currency in India. And if this objection were urged, I would not press for the sovereign being declared legal tender. But we should continue, under any circumstances, to receive the sovereign in our Treasuries at the present rating."

† This was a ratio of 15 : 1, which was a slight undervaluation of gold.

‡ *Supra,* Chap. I.

These are questions which have been determined by every nation that has adopted a gold currency. No doubt it is a difficult and important problem, but it cannot be insoluble, and it ought to be solved."

Such in outline was the first proposal for a gold currency. It was projected before the fall in the value of silver had commenced, and was therefore more a culmination of the past policy than a remedy against the ensuing depreciation of silver. In that consisted, probably, the chief strength of the proposal. It was in good time to avoid the cost of hauling up the currency which later on proved so very deterrent and caused the defeat of so many other projects. Besides, it cannot be said that at the time the memorandum was presented the Government was not warned of the impending crisis; for the wave of demonetizing silver had already commenced two years before.* But, for some reason not known to the public, no action was taken on the proposal.

The second plan for the introduction of a gold currency was that of Colonel J. T. Smith, the able Mint Master of India. His plan was avowedly a remedy for the falling exchange.† The plan was set forth in the first essay in the brouchure, *Silver and the Indian Exchanges,*‡ and may be described in his own words as follows:—

"6. Although it cannot be denied that the difficulty of effecting this object of restoring the Indian exchange to its normal condition is much greater now than it would have been some years ago, owing to the decline which has already taken place, yet there seems to be sufficient ground for belief that, even now, if decided measures were adopted, it would not be too late to restore the currency to its former value for home (India)) payments; and that, too, without any shock or disturbance; the principal step being that of putting a stop to the coinage of silver on private account, at the

* Lord Northbrook, who was the Viceroy of India when this proposal was made, in his evidence before the I.C.C of 1898, Q. 8,447, suggested that the reason for his not adopting it then was that "that was a time when gold was appreciating, and it was impossible to do." This is, of course, historically untrue except on the hypothesis that the propsal came for consideration long after it was submitted.

† Ho had previously taken part in the agitation for the introduction of a gold standard in India during the sixties with the sovereign as the unit. But that was as an advocate of the movement for uniformity of international coinage. Cf. his *Remarks on a Gold Currency for India and Proposal of Measures for the Introduction of the British Sovereign,* etc., etc. London, 1868.

‡ London, Effingham Wilson, 1876.

same time taking measures to discourage the importation, or at the least the circulation, of foreign-made, silver coins, and opening the Mints for the receipt of gold bullion for coinage.

" 7. To explain how this would operate, I must observe that

"8. ... the internal trade of the Empire of India has increased and is increasing.....

"9. Whatever may be the cause, the internal trade of India has, ever since the beginning of this century, required constant and steady additions to her currency, averaging during the last thirty-eight years upwards of five millions of pounds sterling per annum in value. Besides this, the returns show that the balance of imports over exports of gold bullion, during the same period, exceeded an average of two and a half millions sterling annually, having been, during the last twenty years, more than four millions per annum.

"10. Such being the case, it apears to be a necessary consequence that, if the supply of rupees were put a stop to, the remainder must increase in local value, as compared with commodities, till they resumed the position which they held on a par with gold, at the rate of 10 rupees to a sovereign, for the fifteen years previous to 1870.

"11. After that point had been attained, it would be the interest of merchants to take gold into the Indian Mints for coinage; and they would do so, indeed, before the attainment of this improvement of the exchanges, owing to the premium or 'batta' which would at first be obtained for the gold coins.

"12. By this means gold would gradually be brought into India; and, as it has been shown that an addition to the circulating medium of at least five million sterling per annum is necessary, and no more silver coins being admitted (into the currency), it will slowly accumulate there.....

"13. The proposal therefore is that, after due notice, the coinage of silver on behalf of private individuals and advances upon silver bullion should be suspended; that part of the Act 23 of 1870, which makes it incumbent on the Government to receive and coin it, being repealed; the Government retaining in their own hands the power of replenishing the silver currency whenever they may deem it expedient. That

gold bullion should be received by the Government at the mint rate of 38 rupees 14 annas per standard ounce, and coined into sovereigns and half-sovereigns (representing 38 rupees 15 annas), or ten or five rupee-pieces of the same value, which should be declared legal tender, but not demandable, the present silver rupees continuing to be legal tender, as before.'*

At the time the Smith plan was presented, the fall of silver had made itself felt so that a considerable support in favour of the plan was forthcoming. The support of the trading community was embodied in the resolution, dated July 15, 1876, of the Bengal Chamber of Commerce, which urged "that it was expedient, in view of any ultimate measures that the Government may adopt, that Clause 19 of Act XXIII of 1870, making it obligatory on the Mints in India to receive all silver tendered for coinage, and also Section II, Clause (*b*) of Act III of 1871, making it obligatory on the Currency Department to issue notes against silver bullion sent in, be temporarily suspended, at the discretion of Government, and that during each such suspension or till further notice it be not lawful to import coined rupees from any foreign port." A similar feeling was voiced by the Calcutta Trades Association. By this time the fall of exchange had also commenced to tell upon the finances of the Government of India, so much so that Sir William Muir, in his Financial Statement for 1876-77, was led to observe :—

" The sudden depreciation of silver and the consequent enhancement of charge to the Government of India in laying down yearly the sum required in England of about fifteen millions sterling, without doubt cast a grave shadow on the future. In truth, it may be said that the danger, from whatever point of view considered, is the gravest which has yet threatened the finances of India. War, famine, and drought have often inflicted losses on the Exchequer far greater than the charge which threatens us in the present year. But such calamities pass away; the loss is limited; and when it has been provided for the finances are again on sure and stable ground. This is not the case with the present cause of anxiety. Its immediate effects are serious enough. ..... But that which adds significance to it is that the end cannot be seen;

* This was calculated to make the rupee-sterling exchange 2 s. gold. The average rupee-sterling exchange in 1876 was about 1s. 9.645d. This would have placed a small premium on gold which would have no doubt soon disappeared owing to the appreciation of the rupee consequent upon the stoppage of its coinage.

the future is involved in uncertainty.'*

In the face of such a situation nothing would have been more natural than to expect the Government precipitating into some kind of action to save itself, if not others, from an impending calamity. Far from taking immediate steps, the Government not only failed to take any initiative, but showed, when pressed by the Bengal Chamber of Commerce to act upon the foregoing resolution, a surprising degree of academic somnolence only to be expected from an uninterested spectator. No doubt the proposal of the Bengal Chamber was defective in that it did not suggest the opening of the Indian Mints to the coinage of gold. The Government of India was sharp enough to fasten upon this defect. It made plain to the Chamber that if it had proposed the free coinage of gold.

> "such a recommendation would not have been open to the objections that appear fatal, *in limine,* to the adoption of the resolution actually adopted..... viz. to close the Mints temporarily to the free coinage of the one metal into legal-tender money, without simultaneously opening them to the free coinage of the other into legal tender money.'

Did it, then, adopt the proposal of Colonel Smith, which contained such a recommendation ? Not at all! Why did it not, then, adopt a remedy to which it saw no objections ? The reason was that it had arrived at a different diagnosis of the causes of the monetary disturbances. To the Government the possibilities of explaining "the disturbance in the equilibrium of the precious metals" seemed to be many and varied.† (1) The value of gold being unchanged, the value of silver had fallen ; (2) the value of silver being unchanged, the value of gold had risen ; (3) the value of gold had risen, and the value of silver had fallen ; (4) the value of both metals had risen, but the value of gold more than that of silver; (5) the value of both metals had fallen, but the value of silver more than that of gold. In the midst of such possibilities, marked, more by pedantry than logic, the Government warned the currency reformers that

> "the character of the remedies indicated, if the disturbance is found to be due to a rise in the value of gold, will obviously

* P. 93.

† Cf. The Resolution of the Government of India relating to the Depreciation in the Value of Silver, dated September 22, 1876, par. 6, Commons Paper 449 of 1893.

differ from what would be suitable in the case of a fall in the value of silver."*

Out of these possibilities what seemed to it to be proven was that "gold had risen in value since March, 1872,"† and therefore if any reform was to be effected it should fall upon the gold-standard countries to undertake it. Situated as the Government of India then was, it could have suffered itself without incurring much blame to be hurried into some kind of currency reform that promised to bring relief. To have refused to allow the exigencies of a crisis to rule its decisions on such a momentous issue as the reform of currency, need not imply a spirit of obstinacy. On the other hand, it bespeaks a spirit of caution which no reader of that illuminating despatch of October 13, 1876, conveying to the Secretary of State its decision to wait and watch, can fail to admire. But it is hardly possible to speak in a similar commendatory manner of the underlying attitude of the Government of India. Whether it is possible to hold that gold had appreciated but that silver had not depreciated may be left for logician to decide upon. But for a silver-standard country to refuse to undertake the reform of her currency system on the plea that it was gold that had appreciated was no doubt a tactical error. In military matters there is probably such a thing as depending on a position; but in currency matters there cannot be such a thing. The reason is that in the former strength sometimes lies in the weakness of the other. But in the case of the latter the weakness of one becomes the weakness of all. There can be no doubt, therefore, that the Government, in discarding its responsibility to do the needful in the matter, committed the same kind of mistake as a man who, in the words of Prof. Nicholson,‡ "should suppose that the ship cannot sink because there is no leak in the particular cabin in which he happens to sleep."

That the attitude of inaction was unwise was soon brought home to the Government of India. Within a short space of two years it was obliged to reconsider the position taken in 1876. In a despatch dated November 9, 1878,§ the Government of India observed :—

> "5. It was to have been expected that a subject so encompassed with difficulties should not receive any early

* Commons Paper 449 of 1893.

† *Ibid,* par. 16.

‡ *Money and Monetary Problems,* 1895., p. 90.

§ P. P., C. 4868. of 1886, p. 18.

settlement, and it was probably the wisest, as it was certainly the most natural course, to allow further time to elapse before attempting any final solution of the grave problem it involved. The improvement that took place in the value of silver in the year 1877 favoured this policy in action; and it is only now, when a fresh fall has brought down the rupee to a value hardly greater than that which it had in July, 1876, that the serious nature of the risk which our existing currency law entails on us is once more forced on our attention by its practical effects on the Home remittances.

* * *

"21. The uncertainty that has now for some years prevailed with reference to the value of silver, and the consequent disturbances in the exchange, have..... been causes of continued financial difficulty to the Government..... and it is not possible to doubt that similar results must have been produced by these disturbances in the trade transactions of the country, or that investments of foreign capital in India, either for trading or other purposes, must have been very seriously interferred with by their influence.

"23. Such we hold to be a true statement of the present difficulties and prospective risks of maintaining the existing Currency Law, and we feel assured that they have not been in any way overstated. It remains for us to inquire whether any practical remedy could be devised that should not be open to serious objections, or the risks attending the adoption of which should not be so great as to prohibit it. We feel most fully the heavy responsibility that will rest on us in dealing with the currency of India ; but it is plain that the responsibility for doing nothing is no less great. Whether the law is left as it is, or whether it is changed, the result will be equally due to our action, and we cannot, if we would, avoid facing this grave question.

"24. To obtain fixity of exchange by the adoption of a gold standard, and the substitution of a gold for a silver currency through the direct action of Government, has, we think, been conclusively shown to be impracticable by the despatch of the Government of India of October last, and this plan therefore calls for no further notice. The increase in the weight

of the rupee, also noticed in that despatch, is equally undeserving of attention, as in fact, it would give no security for the future, and would entail a heavy charge without accomplishing the esssential point to be aimed at. There remains the simpler, and first proposed suggestion, the limitation of the coinage of silver, which, though rejected in 1876 by the Government of india...; appears to us to call now for a closer examination.

"25. This suggestion in its main features is, that the Coinage Act shall be so far modified as to withdraw the free right of the public to take silver bullion to the Mint for coinage, and either to suspend it entirely in future, or limit it for a time.

"26. It is obviously an essential part of any such scheme, if it is to have the effect of fixing the exchange value of the rupee, that the power of obtaining that coin in future shall be regulated in some manner by a gold payment, and that the relation between sterling and rupee currency shall thus be fixed irrespective of the fluctuations in the relative value of the metals of which the coins are formed.

"27. It is not, on the other hand, an essential part of such a plan that any particular relation of value should be thus fixed at two shillings..... or at any smaller or larger proportion. All that is necessary is that the rate, being once fixed, shall remain for the future unchanged.

* * *

"33. Probably the most important question is ..... whether or not it is practicable to maintain a silver coinage as the principal element in our currency, with a very limited gold coinage, or without a legal-tender gold coinage at all. The Government of India, in its despatch of 1876, expressed an opinion adverse to the possibility of maintaining such a system..... On a full reconsideration of this point, we are led to take the opposite view, and to think that such a system would be perfectly practicable and would lead to no material difficulty. It is true that there is no country in which such a condition of things actually exists. But those countries, and there are many of them, in which an inconvertible paper currency exists or has existed, give proof that the far greater anomaly of a currency devoid of any intrinsic value whatever

is capable of performing the work of a metallic currency satisfactorily, and of maintaining its local exchange value, so long as an excessive issue is only guarded against.

* * * *

"37. (Such) instances (as the British shilling and the French five franc piece) seem to show that neither in the way of surreptitious coinage, nor of discredit from depreciation of intrinsic value, it is probable that there would be any serious difficulty in keeping the rupee in circulation at its present weight, at a nominal value of two shillings, with a gold standard and a partial gold coinage.

* * *

"46. We are thus led to the general conclusion that it will be practicable, without present injury to the community as a whole, or risk of future difficulties, to adopt a gold standard, while retaining the present silver currency of India, and that we may thereby in the future fully protect ourselves from the very real and serious dangers impending over us so long as the present system is maintained. We consequently desire to recommend to Her Majesty's Government the adoption of such a change at the earliest moment possible, and we shall proceed to explain, in all necessary detail, the measures by which we advise that it should be effected.

* * *

"50. It has to be borne in mind that it is not the object of our action to force on India a gold currency, or to displace the silver currency, but rather to avoid such a result, or to check the tendency in that direction, so far as it can be done consistently with the adoption of the gold standard. We are consequently led to the conclusion that, while we give certain facilities for the introduction of gold coins into India, we should not yet go so far as to declare them a general legal tender; and that we should at the same time, make provision for the coining of silver, without limit as to quantity, but on terms that will give no advantage to the introduction of silver in relation to gold.

"51. These objects we propose to attain as follows:—We first take power to receive British or British Indian gold coin in payment for any demands of the Government, at rates to

> be fixed from time to time by the Government, till the exchange has settled itself sufficiently to enable us to fix the rupee value in relation to the pound sterling, permanently at two shillings. Simultaneously with this, the seignorage on the coining of silver would be raised to such a rate as would virtually make the cost of a rupee, to persons importing bullion, equal in amount to the value given to the rupee in comparison with the gold coins above spoken of. We should thus obtain a self-acting system under which silver would be admitted for coinage, at the fixed gold rate, as the wants of the country required; while a certain limited scope would be given for the introcduction and use of gold coin, so far as it was found convenient or profitable."

Such was the scheme outlined by the Government of India. The reason why it rejected the Smith plan, although it was simple, economical, and secure, was because it contemplated a demand by India on the world's dwindling stock of gold. Now, in the circumstances then existing, this was a fatal defect, and the powers-that-be had already decided that at all cost India must be kept out of what was called the " scramble for gold." Therefore, to have proposed an effective gold standard was to have courted defeat. A mild and diluted edition of a gold standard such as was proposed by the Government was all that stood any chance of success. But even this timid attempt did not fare well at the hands of the Committee* appointed jointly by the Secretary of State and the Chancellor of the Exchequer to examine and report upon the proposals. The members of the Committee were " unanimously of opinion that they cannot recommend them for the sanction of Her Majesty's Government."† The reasons which led to the rejection of the proposals we are not permitted to know. Although the Report of the Committee was made public, the proceedings have never seen the light of day. Indeed, there has been a most stern and obstinate refusal on the part of the officials to allow a peep into them. Why they should be regarded as confidential after a lapse of nearly half a century it is difficult to imagine. Enough, however, was revealed by Sir Robert Giffen, who was a member of this

* It was composed of Louis Mallet, Edward Stanhope, T. L. Seccombe, R. E. Welby, T. H. Farrer, R. Giffen, and A. J. Balfour.

† For Report of the Committee, *see* Commons Paper C 4868 of 1886, p. 26.

Committee, in evidence before the Indian Currency Committee of 1898* for us to know the contents of this closely guarded document. It seems that the Committee declared against the proposals because it thought they were calculated to make the Indian currency a "managed" currency. At the time when the Committee delivered its opinion the current prejudice was unanimously against such a system. All acknowledged writers on currency were pronounced opponents of an artificially regulated system.† A naturally automatic currency was their ideal. In addition to being misled by this prejudice, the Committee felt convinced that the situation would soon ease itself by the natural working of economic forces without necessitating a reform of the Indian currency. This conviction on the part of the Committee was founded on the high authority of the late Mr. Walter Bagehot‡ that the disturbance could not but be temporary. His argument was that the depreciation would encourage exports from India, and discourage imports, and the unfavourable balance of trade thus brought about would induce a flow of silver to India, tending to raise its price. He was also of opinion that increased demand for silver would also arise from outside India. He argued that the reduction of demand caused by the demonetization of silver by some countries would be more than compensated for by the adoption of silver by other countries then on a paper basis for their impending resumptions of specie payment.

Whatever might be said with regard to the Committee's preference of a natural to an artificial system of currency, there can be no doubt that in turning down the proposals of the Government, in the hope that silver would recover, it was grossly deceived. The basic assumptions on which the Committee was led to act failed to come true. To the surprise of everybody India refused to absorb this "white dirt." Indeed, it was one of the puzzles of the time to know why, if silver had fallen so much

* Q. 10,025-50

† So novel was the idea at the time that the United States Monetary Commission, 1876, was surprised when some of the witnesses expressed themselves in favour of regulating the principal metallic unit of account in the currency system of a country by Government agency. *See* 44 Congress 2nd Session Senate Document, No. 703 p. 47-48.

‡ Cf. his *some Articles on the Depreciation of Silver, and on Topics connected with it,* London, 1877; pp. 10, 55, and 80; also his evidence before the Select Committee on the Depreciation of Silver, Lords Paper 178 of 1876, Q. 1,361-1,450.

in Europe, it did not go to India in larger quantities. Many blamed the Secretary of State for the sale of his Council Bills.* These bills, it was said, presented an alternative mode of remittance so much better as to prevent the sending of silver to india, and thereby caused a diminution in the demand for it. That this was not a correct view is obvious.† Silver could not have gone to India more than it did even if Council Bills had been abolished. Council Bills must be regarded as ordinary trade bills drawn against services and commodities, and could not be said to have competed with the transmission of bullion in any special manner different to that attributable to the trade bills. The only bearing the Council Bills may be said to have had upon the issue in question lies in the fact that to the extent they figured in the transactions they prevented India from buying other commodities. But there was nothing to prevent her residual buying power left over after paying for the Council Bills from being utilized in the purchase of silver in preference to other commodities. That this buying power would be used in purchasing silver because it was depreciated in Europe was theoretically an unsound assumption on the part of Mr. Bagehot. The deciding factor which could have caused such a diversion of this residual buying power to the purchase of silver was whether it was *appreciated in India*. Only on that condition could there have been a flow of it to India. But as matters then stood, it was the opinion of Prof. Pierson‡ that when the general depreciation of silver commenced all over the world, it had been forestalled in that part of the globe in which India lies. India was already glutted with silver. Under ordinary circumstances India would have sent back a large portion of its silver to Europe. But the general depreciation prevented her from doing so; and now there were two opposing forces, one tending to produce an export of silver from India to Europe and the other tending to produce an export of silver from Europe to India; and, although the latter was the stronger of the two, the former was sufficiently powerful to prevent any considerable quantity of silver from being exported from Europe to India. If the Committee was deceived in one part of its assumptions, it was also disappointed

* This argument was prominently put forth in the *Report* (pp. xxx—xxxv) of the *Select Committee on the Depreciation of Silver.,* 1876; and also by Monometallic Members of the Gold and Silver Commission, 1886, Cf. pp. 77-79 of the final Report, Part II.

† Cf. evidence of Professor Marshall before the Gold and Silver Commission, 1886, Q. 10,164-76.

‡ Cf. his reply to the Circular of the Gold and Silver Commission, 1886. Second Report, App. VII (1), p. 254.

in others. Far from resuming specie payments in terms of silver, as Mr. Bagehot expected the countries then on paper basis to do, they one and all demonetized silver to the great disappointment of all those who adhered to the policy of "wait and see."

The falsification by India and other countries of such anticipations led to a change in the angle of vision of most of the European countries who had theretofore shown no inclination to do anything by way of reducing the chaotic currencies to some kind of order. They were advised by eminent authorities not to hurry. Jevons said* :—

> "We only need a little patience and a little common sense to surmount the pratical difficulties. Within the next few years good harvests in India will, in all probability, enable that country to buy up all our suplus silver, as it has been in the habit of doing, with rare exceptions, since the time of Pliny..... In future years any amount of silver could be got rid of without loss, if it be sold gradually and cautiously."

When, however, it was found that the waiting period would be more painful if not longer than what it pleased the proverbial peasant to undergo, in order to let the stream run dry so as to permit of his forbidding it without wetting his feet, there grew up an agitation in Europe to undertake the necessary reform to prevent the depreciation of silver.

Far from being sentimental, the agitation was real and derived its force from the evils which arose out of the existing currency conditions. The monetary condition of most of these countries was very unhealthy. Their schemes of an effective gold standard with silver as token currency were arrested in the midst of their progress. Germany, when she demonetized silver, had retained her silver thalers as full legal tender at the old ratio with gold, only to get time to be rid of them to the extent necessary to reduce them to a truly subsidiary position. But, before she could do so, her policy of demonetization had commenced to tell upon the value of silver, and the continued fall thereof compelled Germany to retain the thalers as legal tender at their old value, despite the fact that their metallic value was fast sinking. Precisely the same was the result of the action of the Latin Union on their system of currency. They had stopped their further

* Op. cit., p. 354.

coinage of the silver five-franc pieces ; but they could do nothing with those that were already coined except to permit them to circulate at the old mint par, although the metallic par continued to change with changes in the market values of gold and silver. The United States was also involved in similar evils, although they arose from choice rather than from necessity. Yielding to an agitation of the silver men, it passed in 1878 a law called the Bland Allison Act, requiring the Secretary of the Treasury to purchase and coin each month not less than $2,000,000 and not more than $4,000,000 worth of silver bullion into standard silver dollars, which were to be full legal tender for all debts public and private," except where otherwise expressly stipulated in the contract,"* As the metalic value of these dollars fell with every fall, while their legal value remained as before, they became, like the thalers and the francs, overvalued coins. It is clear† that when the stock of a country's currency is not equally good for all purposes it is relatively speaking in an unsatisfactory condition. Though good for internal purposes, these coins were useless for international payments. Besides making the whole currency system unstable and top-heavy, they could not be made to serve the purpose of banking reserves, which it is the *prime* function of a metallic currency to perform in modern times. The possibilities they opened for illicit coinage were immense. But what made their existence such a source of menace was the fact that a large proportion of the total metallic money of these countries was of this sort. The figures given by Ottomar Haupt in Table XXIII (*see* p. 461) prove sufficiently the difficulties that these countries had to face in regulating and controlling such a mass of token currency.

If a gold-standard country like England had escaped these difficulties it was only to meet others equally embarrassing. As has been pointed out before, the continued fall of prices, the reflex part of the appreciation of gold, had produced a depression in the trade and industry of the country never known before in its history. Apart from this, the monetary disturbances affected the yield on capital investment, the mainstay of so many of her people, by reducing the field for its employment. Said the American Commission :—

* *Report of the Monetary Commission of the Indianapolis Convention,* Chicago, 1898,pp. 138-45.

† Cf. the speech of Prof. Pierson, Delegate of the Netherlands at the International Monetary Conference of 1881, *Report of the Delegates of the United States,* Cincinnati, 1881, pp. 77-84.

> "Within twenty years from 1877 to 1897, it could probably be correctly stated that the power of money to earn dividends was reduced to one-half, or in nearly that proportion. That reduction of the earning power of capital affected injuriously everybody who depended upon investments for a living. It affected also the profits and enterprises of the captains of industry and the kings of finance. In England and in France the price of Government securities rose to a point which made it no longer possible for the man of small means to invest in them and acquire an adequate support during his declining years."*

It is, of course, open to doubt whether the conclusion drawn is the right one. But the fact remains that owing to monetary disturbances the field for the investment of English capital had become considerably restricted. And, as a way of getting a living, capital investment was an important resource to the English people.

To mend such a situation there were convened one after another three International Monetary Conferences to establish a bimetallic par between gold and silver. The first International Monetary Conference was convened at Paris in the year 1878 at the invitation of the United States. The second met at the same place in 1881 at the joint call of France and the United States. The third and the last assembled by the wish of United States in Brussels during the year 1892.

From the gravity of the situation nothing could have been more natural than to expect these Conferences to fructify into an agreement upon the consummation of the project for which they were called into being. But, far from reaching any agreement, the deliberations of these Conferences proved to be entirely futile. Only the second Conference showed any sign of agreement. The first and the third marked a strong deviation in the opposite direction. The advance, if any, that was made, as a result of these deliberations, was summed up in the pious opinion that it was necessary to retain and enlarge the monetary use of silver. But so weak on the whole was the response that practice failed to testify as to the sincerity of this solemn declaration.

* Report on the Introduction of the Gold-exchange Standard into China and other Silver-using Countries by the Commission on International Exchange. 58th Congress, 2nd Session, House of Representatives Docment, No. 144, Washington, 1903, p. 101.

TABLE XXIII

Distribution oF the Stock of Money in different Countries *

Countries.	Monetary Circulation at the *Beginning* of 1892.				
	Gold.	Silver.	Uncovered Notes	Fractional Currency.	Billon Money.
Austria . . fl.	65,000,000	197,000,00	601,000,000	40,000,000	14,000,000
England . . .£	118,000,000	—	10,000,000	26,000,000	1,900,000
France . . . fr.	3,900,000,000	3,200,000,000	572,000,000	280,000,000	280,000,000
Germany . . m.	2,500,000,000	430,000,000	450,000,000	457,000,000	57,000,000
Holland . . fl.	64,000,000	135,000,000	98,000,000	7,600,000	1,800,000
Italy . . . li.	485,000,000	81,000,000	847,000,000	150,000,000	75,000,000
Russia . . . .£	59,500,000	—	51,200,000	8,200,000	1,000,000
Spain . . . pes.	160,000,000	646,000,000	548,000,000	190,000,000	157,000,000
U.S.A. . . doll.	671,000,00.0	458,000,000	419,000,000	77,000,000	18,000,000

*The figures are as given by Ottomar Haupt (London: Effingham, Wilson & Co., 1892, p. 160.)

The reasons for the failure of these Conferences to reach a bimetallic agreement have not been properly understood. One cannot read the debates on bimetallism at these Conferences without observing that the opposing parties approached the subject with different objectives. To one the principal objective was the maintenance of a stable ratio of exchange between gold and silver irrespective of the question whether one or both remained in circulation; to the other it was the maintenance of the two metals in concurrent circulation. As a consequence of this difference in the lines of their approach an agreement on a bimetallic project became well-nigh impossible.

The workability of bimetallism in the sense of maintaining a stable ratio between gold and silver is necessarily an indefinite proposition. Nonetheless, it cannot be said, if the debates at these Conferences are taken as a guide, that the possibility of a successful bimetallic system in the stable-ratio sense of the term had been denied by the majority of economic theorists, or by the Governments who met at these Conferences. On the other hand, the Conference of 1881, the most important of the three, was remarkable for its confession regarding the workability of the system. All Governments, barring a few minor ones, were in favour of it. Even the British Government, in consenting to bring into operation the silver clause of the Bank Charter Act, must be said to have given its word of approval.

But what did bimetallism promise, as a piece of mechanism, to maintain the two metals in concurrent circulation ? The bimetallists used to cite the example of France in support of the stability of the double standard. But was there a concurrent circulation of two metals in France under the bimetallic system ? Far from it. For, although it was a virtue of the system that changes in the production of the two metals made no appreciable variations in the fixed ratio of exchange, yet the slightest of such as did occur were sufficient to effect the greatest revolution in the relative circulation of the two metals, as the following table clearly brings out:—

TABLE XXIV

MINTAGE OF GOLD AND SILVER IN FRANCE*

Period		Gold Million Francs	Silver Million Francs	Ratio of Value
1803 to 1820	...	868	1,091	1 : 15.58
1821 to 1847	...	301	2,778	1 : 15.80
1848 to 1852	...	448	543	1 : 15.67
1853 to 1856	...	1,795	102	1 : 15.35
1857 to 1866	...	3,516	55	1 : 15.33
1867 to 1873	...	876	587	1 : 15.62

* Table submitted to the Paris International Monetary Conference of 1881 by M. Pierson, Delegate for the Netherlands.

In mitigation of this, the bimetallists had nothing to offer. There were, no doubt, such schemes as the one proposed by Prof. Marshall, consisting of paper based on a linked bar of gold and silver in certain fixed proportions,* having the object of converting this "either-metallism" into double-metallism. But such schemes apart, the free-mintage-cum-fixed-ratio plan of bimetallism gave no guarrantee against alternation in the circulation. Indeed, under that plan the alternation is the very soul of the mechanism which keeps the ratio from being disturbed. The only thing the bimetallists could say in mitigation of this was that† the alternation in currency would confine itself to bank reserves and would not be extended to the pockets of the people. This was only an eyewash,‡ for how could the banks arrange their reserves except in conformity with the prejudices of the people ? Even international agreement to use gold and silver at a fixed ratio was no guarantee that this concurrent circulation would be maintained. Stability of ratio did depend to a large extent upon an international agreement, for, although it could be maintained by the action of one nation, the deviations of the ratio in that case would probably be greater. But mere international agreement has no virtue of itself to prevent one metal driving out the other. To suppose that Gresham's Law is powerless under international agreement is a gross mistake. Gresham's Law is governed by the relative production of the two metals to the total currency needs of the movement. Supposing the production of one metal relatively to the other was so enormous as to more than suffice for the currency needs, how could international agreement prevent the former from driving the latter entirely out of circulation ? On the other hand, international agreement, far from discouraging, would encourage the process.

In adopting bimetallism, therefore, the nations had to make a choice between a stable ratio and a concurrent circulation, for there might arise a situation in which there was a stable ratio

* Cf. *Contemporary Review* for March, 1887. it is interesting to note that essentially the same plan was suggested 115 years before Prof, marshall by James Stewart when his advice was sought by the East India Company as to the method of reforming the then chaotic currency of Bengal. He refrained from pressing it upon the Company because he thought "mankind were not all philosophers." Cf. his *Principles of Money as applied to the Present State of the Coin of Bengal* (2nd Edition, 1772), pp. 8-11; cf. also William Ward, On Monetary Derangements, in a *Letter addressed to the Proprietors of Bank Stock,* London, 1840, p. 8.

† Cf. Prof. Foxwell, *Oxford Economic Review,* 1893, Vol. III, p. 297.

‡ Cf. the reply by Prof. Cannan, *ibid.,* p. 457.

but no concurrent circulation of both the metals. If the Conferences broke down, it was not because they did not recognize the possibility, which was unanimously upheld by such an impartial tribunal as the Gold and Silver Commission of 1886, of a stable ratio being maintained under a bimetallic regime. They broke down because the bimetallic system did not guarantee the concurrent circulation of the two metals. However, it is certain the impossibility of concurrent circulation could not have been such a drawback if the immediate effect of bimetallism would have been a flow of gold into circulation. But as matters then stood the immediate effect would have been to bring silver into circulation. It was this more than anything else which scared away most of the nations from the adoption of the bimetallic system. Now, it is a curious thing that nations which had assembled together to bring about a stable ratio between gold and silver should have rejected a system which gave a promise of such a stability on the comparatively less significant ground that it had the effect of altering the composition of the circulation from gold to silver. But the fact must be recognized that at the time the question of reconstituting the bimetallic system was agitating the public mind, in most of the European countries gold and silver had ceased to be regarded as equally good for currency purposes. The superiority of gold to silver as a carrier of large value in small bulk was coming more and more to be appreciated in the latter part of the nineteenth century, and no plan of stabilization which did not provide for the unhindered circulation of gold was likely to meet with common approval. This prejudice was in no way confined to a gold-standard country like England. The closing of the Mints by the Latin Union is a proof positive of the change in the attitude of the bimetallic countries. As Jevons argued*:—

> "So long ..... as its operation resulted in substituting a beautiful coinage of napoleons, half-napoleons, and five-franc pieces in gold for the old heavy silver ecus, there was no complaint, and the French people admired the action of their compensatory system. But when [after 1873] it became evident that the heavy silver currency was coming back again ..... the matter assumed a different form."

* *Money and Mechanism of Exchange,* 1890, p. 143.

So great was the prejudice in favour of gold that the interests of the chief Powers in the various Conferences, it may be truly said, waxed and waned with the changes in the volume of their gold reserves.* In 1878, the United States took the lead in calling the Conference because the working of the Bland Allison Act checked the inflow of gold necessary for its cash payments. Germany was indifferent because she had enough gold and was confident of selling off her demonetized silver without loss. In 1881 France and Germany showed more anxiety for reform because the former had lost all her gold and the latter was unable to palm off her silver. By 1892 none was so poorly supplied with gold as was the United States, largely as a result of a reckless policy which did her harm without doing good to anyone else, and she was therefore left alone to support the cause of silver.

Possessed as almost every Government was by this prejudice for gold, it was not an ineradicable prejudice. What the countries wanted was a lead from an influential nation. Throughout the debates at these Conferences one thing stood out very clearly. If England could have brought herself to adopt a bimetallic system, others, like sheep, would have followed suit. But she was too much wedded to her system to make a change, with the result that bimetallism, as a way out of the currency difficulties, became a dead project. The vanishing of the prospect of re-establishing the bimetallic system as a result of her obstinacy was a small matter to the European countries. They had virtually made gold, the international form of money, as the basis of their currency, and were therefore quite indifferent as to the issue ; but it was a terrible blow to the hopes of India. After the proposal of 1878 had been turned down, bimetallism was considered by the Government of India as the remedy, and its advent looked forward to for salvation. It is true that in the beginning of bimetallic discussions the attitude of the Indian Government was rather lukewarm. In a despatch dated June 10, 1881,† to the Secretary of State, it was revealed that the Government of the time was divided in its opinion regarding the merits of bimetallism. The Viceroy and another member of Council refused their support on the ground that bimetallism was unsound in principle,‡ and even the majority who thought

* Cf. *The Report of the Indian Delegation to the International Monetary Conference of* 1881, C 3229 of 1882, p. 7 ; also Russell, op. cit., pp. 374-5.

† P.P.C 3229 of 1882, p. 33 *et seq.*

‡ *Ibid, p.* 37.

differently on this aspect of the question were not then prepared to go to the length of joining a bimetallic union, although they did not see any objection to doing so "if a sufficiently large number of other Governments were prepared to join" in it. With the growth of their financial difficulties, however, this slender faith in bimetallism considerably deepened, so much so that in 1886 the Government addressed to the Secretary of State a despatch* urging him to take the initiative in calling an International Monetary Conference to establish a stable ratio between gold and silver. So intense was its interest in the consummation of bimetallism that it did not hesitate to administer a sharp rebuke to the Treasury when they negatived its suggestion referred to them for consideration by the Secretary of State.† With such feelings of faith and hope the Government of India entered these international Conferences and watched their fortunes. But no Government could have been treated with such suspicion and injustice as was the Government of India. Its admission to the bimetallic union was desired by none of the Powers, not even by England.‡ It was treated as a villain whose advances were nothing but manoeuvres to pounce upon the already dwindling stock of gold. Not only was it planned to keep India out of the bimetallic union, but she was to be required to pledge herself not to take a mean advantage of the union after its efforts had succeeded in establishing a stable ratio by making gold legal tender.§ All these guarantees the Government of India had offered in a pathetic faithfulness to the cause of bimetallism, on the success of which it had depended so much. Consequently, when the attempt failed, the disappointment caused to the Government of India almost broke its heart. It is not too severe to say that the part played by the British authorities in causing this disappointment was highly irresponsible—one might almost say wicked. They forced India against her declared wishes to keep to the silver standard, partly to trail her off from making any demand for gold, and partly to silence the criticisms of other nations that Britain was not taking

* Dated February 2, 1886, see C. 4868 of 1886, p. 5 *et. seq.*

† Cf. the despatch of September 4, 1886, App. II to the *First Report of the Royal Commission on Gold and Silver,* 1886.

‡ Cf. the evidence before the Gold and Silver Commission of 1886 of Mr. S. Smith, Q. 4,825-30 ; also of Mr. Watney, Q. 9,427.

§ Cf. *The Report of the Indian Delegates, p. 12.*

her share in the matter of rehabilitating silver.* This was not the only advantage exacted from a country bound to obey. On the one hand it restrained the Government of India from taking any independent line of action in the matter of currency reform, and on the other such means as were calculated to make good the losses which arose from a depreciating currency were subjected to Parliamentary censure. The House of Commons was twice moved, once in 1877 and again in 1879, to resolve that the Government of India should lower its tariff, ostensibly in the interest of free trade, but really in the interests of relief to the depressed condition of Lancashire. The consequence was that the Government could not tap one important source of its revenue in times of its greatest adversity. The only adequate recompense, the British authorities could have made to a Government so completely paralysed by their dictations, and of whose interests they so loudly claimed to be the lawful trustees, was to have consented to join the bimetallic union, the consummation of which only waited upon their grace. But, as is well known, they did nothing of the kind, so that, after a period of enforced waiting and by no means unavoidable suffering, the Government of India, at the end of 1893, found itself just where it was at the beginning of 1878.

Like all common-sense people who pray and yet do not fail to keep their powder dry, this interval was utilized by the silver-ridden countries, with the exception of the United States, in strengthening their gold basis no less than in attending the deliberation of the Monetary Conferences on the amusing plans for extending the use of silver.† Mr. Goschen, at the Conference of 1878, had quite philosophically remarked that States feared to employ silver because of its depreciation and the depreciation continued because the States feared to employ it. Now, if the first part of the diagnosis was correct, we should have found the States seriously engaged in the task of rehabilitating silver when its price was propped up by the silver legislation of the United States. On the other hand, just so far as the monthly purchases of silver, under the Bland Allison Act of 1878, or the Sherman Act of 1890, held up the price of silver, not only did they not feel anxious to take steps to restore it to its former

* Cf. the speech of Mr. Goschen at the International Monetary Conference of 1878, Third Session. Report of the American Delegates, Senate Executive Document, No. 58, Forty-fifth Congress, Third Session, Washington, 1879, pp. 50-52.

† Cf. for the variety of plans suggested at the Conferences *The Report of the American Delegates to the International Monetary Conference of* 1892, Washington, 1893.

position, but they actually took advantage of the rise to discard it.* And it is not possible to blame them either, for with the prospect of a bimetallic union vanishing into thin air the accumulation of this dead weight would have only ended in a gratutious embarrassment. India alone refused to profit by the squeeze, which the United States took vicariously for other nations, and allowed precious time to slip by, with the result that it was thrown back upon the same remedy, the adoption of which was negatived in 1878.

If it was to be a gold standard it would have been better if it had been done in 1878. The plan then outlined by the Government of India was no doubt too complicated and too flimsy to be practicable. But its rejection should not have altogether suspended the introduction of a gold standard. If it was to be one of an orthodox kind on the English pattern, it would have no doubt involved some cost to the Government in being obliged to sell at a reduced price a part of the silver stock of the country in order to give the rupee a subsidiary position and to fill the void by a gold currency. The cost of this conversion in 1878 would have been inconsiderable, for the fall of silver from its normal gold price was only 12½ per cent. On the other hand, if it was to be on such an unorthodox plan as that of Colonel Smith, it would have involved no cost at all to the Government† beyond that involved in the installation of new machinery for the coinage of gold at the Mint. But in 1893 both

* Cf. Russell, op. cit., p. 410 ; also Prof. F. A. Walker, "The Free Coinage of Silver," in *The Journal of Political Economy* (Chicago), Vol. I, p. 174.

† So evident was this the case that the London *Times,* although it did not agree that any change was then urgently called for, yet observed in the leading article in its issue of October 25, 1876, p. 9, cl. 2 : "The Governor-General in Council dismisses the suggestion of a gold standard on the ground that the present condition of affairs, bad as it is, does not call for so costly a remedy ; but this involves a misconception of the proposal. The substitution of a gold for a silver currency in India would be a most extensive and costly operation, but to refuse to coin silver and to offer to coin gold for all comers would involve no cost beyond that of new machinery. If it was announced that after a certain day the coinage of silver was suspended, and that gold could be coined instead, for whoever might bring it, in coins that would be exchangeable for rupees at a fixed rate, there would be introduced into India the bimetallic system prevailing in France, and a change in the currency would be gradually introduced. At first no gold would be brought to be coined, but as the suspense of the coinage of silver operated to raise the value of the rupees in existence to the par value defined by the fixed rate of exchange of rupees and gold, gold would be more and more brought to the Mint, and would find its way into circulation. The process would be automatic and not costly, but it would be extremely slow, etc."

these processes of bringing about a gold standard seemed quite hopeless. The impossibility of the plan of conversion was quite out of the question. The fall in the value of silver in 1893 was nearly 35 per cent. Even the prospect of the Smith plan did not appear very bright owing to the enormous addition of rupees to the circulation of the country. If it had been adopted in 1878, all the subsequent additions to the currency would have been in gold, with the result that by 1893 the proportion of gold to silver would have been large enough to have endowed the whole currency system with the desired stability in relation to countries on a purely gold basis. In 1893 the mass of silver currency had grown to enormous proportions, so that it looked certain that it would take decades before the stoppage of silver coinage could make the rupee a stable and secure form of currency.

The plans showing a way out of an *impasse* such as this were legion. One was the issue of heavier rupees.* The second was to make silver limited legal tender and to authorize the Secretary of State to sell in London gold or silver Indian stock to the extent of his gold payments, to be liquidated by the Government of India by the issue of unlimited legal-tender notes called "bons."† The third was that England and India should, as between them, adopt a bimetallic standard on a new basis,‡ or to admit the rupee as full legal tender in the United Kingdom.§ The fourth was to regulate the opening and closing of Mints to coinage on the basis of deviations of actual exchange rates from the rate of exchange fixed at the opening of each year for the Council drafts of the Secretary of State. Under this scheme, so long as the actual rate did not exceed the fixed rate by less than 5 per cent., the free coinage of silver was to be suspended.¶ The fifth was to provide that on the one hand the Secretary of State should fix a minimum rate for his drafts, and that the Government of India on the other should levy a duty on all imports of silver equal to the difference between the daily official quotations of bar silver in London and the price of silver corresponding to the rate fixed for the Council drafts.‡‡ The sixth was to introduce a bimetallic coin, to be called the Imperial

* By Aston and also by R. West, I.C.C, 1893. App. III, pp. 281 and 325.

† By Atkins, *ibid.,* p. 282.

‡ By Chapman, *ibid.,* p. 282.

§ By Woodhouse, ibid., p. 33.

¶ By Graham, ibid., p. 305.

‡‡ By M. Schilizz, ibid., p. 319.

florin or rupee, made of the value of 2s. and containing 4 per cent, weight in gold and the balance in silver.* The seventh was to establish independent gold and silver standards without any fixed ratio of exchange between them.† or with some slight inducement for the use of gold in transactions of larger denominations.‡‡ Although the Government of India was not in agreement with these clever if not crazy plans of currency reforms, it agreed in the aim they had in view, namely, to place India on a gold basis without involving the actual use of gold in place of the existing rupees in circulation. With this aim in view it revived for adoption the more simple and more scientific plan of Colonel Smith. As a preliminary, the Government reverted to the policy of the resolution of the Bengal Chamber of Commerce, to the adoption of which it saw such "fatal objections" in 1876. In the despatch dated June 21, 1892, which contained the proposals, the Government of India asked for nothing more. In the words of their author§ they proposed

> " .....That the Indian Mints should be closed to the unlimited coinage of silver, and *no further steps taken* until the effect of closing the Mints had been ascertained.
>
> "The ratio at which the change from silver to the gold standard should be made was subsequently to be settled and it was said that a ratio based on the average price of silver during a limited period before the Mints had been closed would probably be the safest and most equitable. When this ratio had been settled, the Mints were to be opened to the coinage of gold at that ratio, and gold coins were to be made legal tender to any amount."

These proposals were submitted for examination to a Departmental Committee, commonly known as the Herschell Committee. They were said to be defective in one important particular, and that was the absence of due recognition of the necessity of a gold reserve for the maintenance of the value of the rupee. Many people felt doubtful of the success of the proposals unless

* By Stalkart, *ibid,* p. 322 ; also a very similar one by Merington, *ibid,* p. 316.

† By Perry, *ibid,* p. 323.

‡‡ By Claremonth Daniell, *ibid.,* p. 292.

§ Sir David Barbour, *The Standard of Value,* 1912, pp. 202-3. Italics not in the original.

backed by an adequate gold reserve. But the Herschell Committee, after an extended investigation into the working of the currency systems of different countries, reported*:—

> "It is impossible ..... to review foreign systems of currency, without feeling that, however admirable may be the precautions of our own [English] currency system, other nations have adopted different systems which appear to have worked without difficulty, and enabled them to maintain for their respective currencies a gold standard and a substantial parity of exchange with the gold-using countries of the world"

with little or no gold. The Committee, therefore, was completely satisfied with the proposals of the Government of India, and not only sanctioned their adoption,† but added, by way of introducing a modification in them, that

> "The closing of the Mints against the free coinage of silver should be accompanied by an announcement that, though closed to the public, they will be used by the Government for the coinage of rupees in exchange for gold at a ratio to be then fixed, say 1*s*. 4*d*. per rupee, and that at the Government Treasuries gold will be received in satisfaction of public dues at the same ratio."‡

These recommendations were carried into effect on June 26, 1893, which forms as great a landmark in the history of Indian currency as did the year 1835. On that date were promulgated one legislative enactment and three executive notifications, together calculated to accomplish the object in view. The Act (VIII) of 1893 was only a repealing Act. It repealed:—

(i) The Indian Coinage Act, XXIII of 1870.

Sections 19 to 26 (both inclusive), requiring the Mint Masters to coin all silver brought to their Mints for coinage.§

* Report, par. 93.

† Report, par. 155.

‡ Report, par. 156.

§ These sections also contained provisions for the coinage of all gold brought to the Mints for the purpose by private persons. The quantity brought to the Mints was quite trifling, and the gold coins, i.e. the mohurs struck, were not legal tender. As they were to be superseded by sovereigns to be coined at the Mints upon their being subsequently thrown open to the free coinage of gold, it was thought undesirable that any more of these mohurs should be coined Consequently, along with silver, Mints were also closed to gold.

(ii) The Indian Paper Currency, 1882.*

(*a*) Section 11, Clause *(b),* requiring the Paper Currency Department to issue notes against silver coin made under the Portuguese Convention Act, 1881,†

(*b*) Section 11, Clause (a), requiring the Paper Currency Department to issue notes against silver bullion or foreign silver coin.‡

(*c*) Section 13. Only the proviso limiting the gold portion of the Paper Currency Reserve to one-fourth of the Total Reserve.§

These repeals by the Act were supplemented by an executive Notification No. 2663, announcing in conformity with the suggestion of the Herschell Committee that the Government Treasuries would receive sovereigns and half-sovereigns of current weight in payment of public dues at the rate of 15 rupees and 7 rupees 8 annas respectively.

Since gold was not made general legal tender by any of the above measures, it was feared that the Government might be embarrassed by the accumulation in its Treasuries of a stock money which it could not pay out in discharge of its obligations. To enable Government to rid the Treasuries of gold, should it accumulate in them to an inconvenient extent, there followed another Notification, No. 2664, requiring that the Currency Department should issue, on the requisition of the Controller-General, currency notes in exchange for gold coin or gold bullion, at the rate of one Government rupee for 7.53344 grs. trey of fine gold, or sovereigns or half-sovereigns at the rate of 15 rupees and 7 rupees 8 annas respectively.

To give effect to the second modification introduced by the Herschell Committee, there was issued a third Notification, No. 2662, to the effect that

> "The Governor-General in Council hereby announces that, unitil further orders, gold coins and gold bullion will be received by the Mint Masters of the Calcutta and Bombay

* The repeal of these sections of the Act also called for the repeal of other sections depending upon them, such as sections 14 and 15 and alterations in Sections 21 and 28, to bring the whole Act in accord with the policy of a gold standard then inaugurated.

† The Convention had come to an end and the retention of the clause was therefore unnecessary.

‡ The retention of this clause would have been inconsistent with the closure of the Mints.

§ As gold was to be the future standard of India, this limitation was no longer necessary.

Mints respectively, in exchange for Government rupees, at the rate of 7.53344 grs. troy of fine gold for one rupee on the following conditions :—

(1) Such coins or bullion must be fit for coinage.

(2) The quantity tendered at one time must not be less than 50 tolas.

(3) A charge of one-fourth per mille will be made on all gold coin or bullion which is melted or cut so as to render the same fit for receipt into the Mint.

(4) The Mint Master, on receipt of gold coin or bullion into the Mint, shall grant to the proprietor a receipt which shall entitle him to a certificate from the Mint and Assay Masters for the amount of the rupees to be given in exchange for such coin or bullion payable at the General (Reserve) Treasury, Calcutta or Bombay. Such certificates shall be payable at the General Treasury after such lapse of time from the issue thereof as the Comptroller-General may fix, from time to time."

Before the policy adumbrated by these measures was carried to completion there came up a move for the undoing of it. After the failure of the International Monetary Conference of 1892 the United States and France, two countries most heavily burdened with an overvalued stock of silver, opened negotiation with the British Government, asking the latter to agree to certain conditions on the grant of which they were to open their Mints to the free coinage of silver at the ratio of 15½ to 1. These conditions included :*

(1) Opening of the Indian Mints, which had been closed to the free coinage of silver, and an undertaking not to make gold legal tender in India.

(2) Placing one-fifth of the bullion in the Issue Department of the Bank of England in silver.

(3) (a) Raising the legal-tender limit of silver in England to £10.

* Cf. Correspondence respecting the Proposals on Currency made by the Special Envoys from the United States, P.P.C. 8667 of 1897, p. 3.

(*b*) Issuing the 20s. notes based on silver, which shall be legal tender.

(*c*) Retirement, gradual or otherwise, of the 10s. gold pieces, and substitution of paper based on silver.

(4) Agreement to coin annually a certain quantity of silver.

(5) Opening of English Mints to the coinage of rupees and for coinage of British dollars, which shall be full legal tender in Straits Settlements and other silver-standard Colonies, and tender in the United Kingdom to the limit of silver legal tender.

(6) Colonial action, and coinage of silver in Egypt.

(7) Something having the general scope of the Huskisson plan.

In these negotiations the Treasury again reverted to its old pose. It refused to discuss the conditions requiring a change in the British currency, but argued that the opening of the Indian Mints, if brought about, should be regarded as an adequate "contribution which could be made by the British Empire towards any international agreement with the object of securing" a stable monetary par of exchange between gold and silver,* and the representatives of the United States and France seemed to have concurred in that view. The negotiations, however, failed, because of the firm stand taken by the Government of India. The Government had suffered too long to be the scapegoat of the Treasury. Nor did it see any reason why it should be called upon to pull the chestnuts off the fire for the benefit of France and the United States. In a letter commenting upon the proposals, the Government of India observed†:—

> "The changes which are involved in the arrangements proposed to Her Mahesty's Government are the following : France and the United States are to open their Mints to the free coinage of silver, continuing the free coinage of gold and the unlimited legal tender of coins of both metals, the ratio remaining unchanged in France and being altered in the French ratio of 15½ to 1 in the United States. *India is to open*

* Cf. letter dated October 16, 1897, to the Foreign Office, P.P.C. 8667 of 1897, p. 15.

† Despatch dated September 16, 1897, to the Secretary of State, *ibid,* p. 9. Italics not in the original

her Mints to silver, to keep them closed to gold, and to undertake not to make gold legal tender. France and the United States would thus be bimetallic; India would be monometallic (silver) ; whilst most of the other important countries of the world would be monometallic (gold).

* * * * *

"The first result of the suggested measures, if they even temporarily succeed in their object, would be an immense disturbance of Indian trade and industry, by the sudden rise from about 16d. to about 23d. the rupee. Such a rise is enough to kill our export trade, for the time at least ..... such an arrangement as is proposed is an infinitely more serious question for India than for either of the other two countries, for it seems clear that practically the whole risk of disaster from failure would fall on india alone. What would happen in each of the three countries if the agreement broke down and came to an end ? France possesses a large stock of gold, and the United States are at present in much the same situation as France, though the stock of that metal is not so large. It may be admitted that if no precautions were taken these gold reserves might disappear under the operation of the agreement, and in that case, if the experiment ultimately failed, the two countries concerned would suffer great loss. But it is inconceivable that precautions would not be taken, at all events, so soon as the danger of the depletion of the gold reserves manifested itself, and, therefore, it is probable that no particular change would take place in the monetary system of France or the United States, the only effect of the agreement being a coinage of silver which would terminate with the termination of the agreement. Thus the whole cost of the failure, if the experiment should fail, would be borne by India. Here the rupee would rise with great swiftness, it would keep steady for a time, and then, when the collapse came, it would fall headlong. What course could we then adopt to prevent the fluctuation of the exchange value of our standard of value with the fluctuations in the price of silver ? We do not think that any remedy would be open to us, for if the Indian Mints were reopened to silver now, it would ..... be practically impossible for the Government of India to close them again, and even if they were closed it would only be after very large additions had been made to the amont of silver in circulation."

But soon after it had refused to be diverted from the goal it had placed before itself, namely the introduction of a gold standard, it was faced with a crucial problem in its existing monetary arrangements. The rupee stock, the addition to which was stopped since 1893 by the closure of the Mints, was large enough to meet the needs of the people for some considerable time, in the first few years after the closure, the rupee currency was not only abundant but was also redundant. Soon it ceased to be redundant, and indeed by the end of 1898 it became scarce, so much so that the discount rate in the Indian money market rose to 16 per cent., and continued at that pitch during the larger part of the year. Such was the outcry against what was called the policy of "starving" the currency, that the Government was obliged to pass an Act (No. II) of 1898 to permit currency notes issued in India against gold tendered in London to the Secretary of State. The Act was doubly easeful to the then starved condition of the Indian money market. By the measures adopted in 1893 gold was not general legal tender, so it could not be used when the rupee currency fell short of the needs of the time. The new Act, it is true, did not make gold general tender, but permitted it to be used on behalf of the general public* as a backing for the issue of currency notes which were general legal tender. The Act, however, could have required that gold be laid down *in India* before notes could be issued. But as the remittance of gold to India took some three or four weeks, it was feared† that the remedy might" prove too tardy to be effective" unless the interval was done away with by providing that gold with the Secretary of State in London was lawfully tantamount to gold with the Paper Currency Department in India for the purposes of note issue.

In doing this the Act only testified to the urgency of the situation. A sound currency system must be capable of expansion as well as contraction. The Government, by the closure of the Mints in 1893, had contracted the currency to the point of danger. In 1898 it was called upon to undertake measures to provide for its expansion. Now, there were two methods open to bring about this desired result. One was to keep the Mints closed and to permit additions to currency through the use of the gold by making the sovereign general

* By Notification No. 2664 of 1893, notes could be issued against gold only to the Comptroller-General.

† Cf. the speech of the Hon. Sir James Westland introducing the Bill, dated January 14, 1898.

legal tender. This was the plan proposed by the Government of India, in their despatch dated March 8, 1898,* they argued ;—

> "Our present intention is rather to trust to the automatic operations of trade. The amount of coin required for the needs of commerce increases every year: and as we print no increase in the amount of silver coin, we may reasonably expect that the effect of the increasing demand for coin will raise exchange to a point at which gold will flow into the country, and remain in circulation. The position will thus become stronger and stronger as time goes on, but at the beginning at least, gold will not be in circulation in the country *to* more than the *extent* necessary to secure stability of exchange. The mass of the circulation will be a silver circulation, maintained at an appreciated value (just as it is at present), and we can be content to see gold coin remain little more than a margin, retained in circulation by the fact that its remittance out of the country could create a scarcity of coin which would have the effect of raising the exchange value of the silver rupee in such manner as to bring it back, or, at the very best, stop the outward current of remittance. We shall have attained a gold standard under conditions not dissimilar from those prevailing in France, though not a gold circulation in the English sense ; and this last may possibly not be necessary at all."

Besides expanding the currency through the use of gold, there was aisc another mode of effecting the same object. It was urged that this increase of currency might as well take place by Government coining rupees whenever there arose a need for additional currency. Though the Mints were closed, the Government, by Notification No. 2662, had undertaken to give rupees to anyone desiring to have them at the rate of 7.53344 grs. troy of fine gold per rupee.† The Government had only to give effect to that notification to augment the currency to any extent desired. Prominent in the advocacy of this plan of expanding the currency were Mr. Probyn and Mr. A. M. Lindsay. Both claimed that the plan of the Government of India was

* Cf correspondence respecting the Proposals on Currency made by the Government of India, C. 6840 of 1898, p. 3.

† *See supra.*

defective because, although it provided for the expansion of currency by making gold legal tender, it made the rupee entirely inconvertible, and thereby likely to defeat the policy of stabilizing its exchange value. On the other hand, they deemed their plans to be superior to that of the Government of India because they recognized the obligation to provide for the conversion of the rupee currency on certain terms. Although the plans of both of them had contemplated some kind of convertibility, yet they materially differed in the particular mode in which conversion was to be effected. Mr. Probyn proposed*:—

1. That legislative effect should be given to the notification of 1893, under which the public can obtain rupees at the Indian Mints and Reserve Treasuries in exchange for gold, at the rate of 1s. 4d.
2. That the gold so received should be part of the paper currency reserve, and should be held either in the form of full legal-tender gold coins of the United Kingdom, or gold bars representing not less than Rs. 1,000 each.
3. That in order to give the rupee currency automatic power of contraction, Government should be empowered (though not required) so soon as the portion of the paper currency reserve has continuously for one year been less than that held in gold, to give gold in exchange for rupees or rupee notes at the rate of 1s. 4d., if presented for the purpose in quantities of Rs. 10,000.
4. That the existing Rs. 10,000 notes should be called in, and, in future, notes of Rs. 10,000, payable at the option of the holder either in gold or in silver rupees, should be issued in exchange for gold alone, gold in the form of bars being specially reserved to meet any such notes outstanding.

Mr. Lindsay, on the other hand, followed on lines quite different from those adopted by Mr. Probyn. He proposed† that the Government should offer to sell, without limit on the one

* Cf. his *Indian Coinage and Currency,* Effingham Wilson, London, 1897, *passim,* particularly p. 121. Also the summary by Lindsay in the *Economic Journal,* Vol. VII, pp. 574-75.

† The earliest elaboration of his plan is to be found in his article in the *Calcutta Review* for October, 1878, under the title, "A Gold Standard without a Gold Coinage in England and India," and the latest, in his pamphlet called *Ricardo's Exchange Remedy,* Effingham Wilson, 1892. The plan was further developed in the newspaper *Pioneer* of Allahabad (India), dated January 6, 1898, full extracts from which are given in C. 8840 of 1898, p. 13.

hand, rupee drafts on India at the exchange of 16 1/16d. the rupee, and on the other hand, sterling drafts on London at the rate of exchange of $15^{3}/_{4}$d. the rupee. The funds necessary for the transactions were to be kept separate from the ordinary Government balances in "Gold Standard" Offices in London and in India. The London Office was to be kept in funds to meet drafts drawn on it—

(1) by borrowing in gold to the extent of five or ten million sterling;

(2) by the rceipts realized by the sale of drafts on India;

(3) by the receipts realized by the sale of silver bullion in rupee melted down ;* and

(4) when necessary, by further gold borrowing.

The Indian Gold Standard Office was to be kept in funds to meet the drafts drawn on them—

(1) by the receipts realized by the sale of drafts on London ; and

(2) by the coinage when necessary of new rupees from bullion, purchased by the London Gold Standard Office and sent to India.

The principal point of difference between the scheme of currency advocated by the Government of India on the one hand and that put forth by Messrs. Probyn and Lindsay consisted in the fact that the former proposed to establish a gold standard *with* a gold currency, while the latter proposed to establish a gold standared *without* a gold currency.

To adjudicate upon the relative merits of a gold standard with a gold currency and a gold standard without a gold currency, the Secretary of State appointed another departmental Committee, under the chairmanship of Sir Henry Fowler. After taking a mass of important evidence, the Committee observed† :—

> "50. On this scheme [of Mr. Probyn] we remark that, while bullion may be regarded as the international medium of exchange, there is no precedent for its permanent adoption for purposes of internal currency; nor does it accord with

* Mr. Lindsay contemplated that when the demand for gold drafts on London became so great as to indicate the necessity, the volume of the rupee currency should be contracted by melting down the rupees and selling the silver for gold to be deposited in the London "Gold Standard" Office.

† Report of the Committee appointed to inquire into the Indian Currency, P.P. C 9390 of 1899, p. 15.

either European or Indian usage that the standard metal should not pass from hand to hand in the convenient form of current coin. No real support for such a scheme is to be drawn from the purely temporary provisions of "Peel's Act" of 1819, whereby, for a limited period, the Bank of England, as a first step to the resumption of cash payments, was authorized to cash, in stamped gold bars, its notes, when presented in parcels of over £ 200. Little or no demand for gold bullion appears to have been made on the Bank itself in 1321.

* * * * *

"53. It is evident that the arguments which tell against the permanent adoption of Mr. Probyn's bullion scheme, and in favour of a gold currency for India, tell more strongly against Mr. Lindsay's ingenious scheme for what has been termed 'an exchange standard.' We have been impressed by the evidence of Lord Rothschild, Sir John Lubbock, Sir Samuel Montagu and others, that any system without a visible gold currency would be looked upon with distrust. In face of this expression of opinion, it is difficult to avoid the conclusion that the adoption of Lindsay's scheme would check that flow of capital to India upon which her economic future so greatly depends. We are not prepared to recommend Mr. Lindsay's scheme, or the analogous schemes proposed by the late Mr. Raphael and by Major Darwin, for adoption as a permanent arrangement; and existing circumstances do not suggest the necessity for adopting any of these schemes as a provisional measure for fixing the sterling exchange."

The Committee preferred the scheme of the Government of India, and outlined a course of action to be adopted for placing it on a permanent footing, which may be stated in the Committee's own language as follows:—

"54. We are in favour of making the British sovereign a legal tender and a current coin in India. We also consider that, at the same time, the Indian Mints should be thrown open to the unrestricted coinage of gold on terms and conditions such as govern the three Australian branches of the Royal Mint. The result would be that, under identical conditions, the sovereign would be coined and would circulate both at home

> and in India. Looking forward, as we do, to the effective establishment in india of a gold standard and currency, based on the principles of the free inflow and outflow of gold, we recommend these measures for adoption."

These recommendations were accepted by the Secretary of State,* who decided that—

> "the policy of keeping the Indian Mints closed to the unrestricted coinage of silver shall be maintained,"

and called upon the Government of India as soon as it deemed expedient to

> "take the necessary steps for making the British sovereign a legal tender and a current coin, and make preparations for the coinage of gold under the conditions suggested by the Committee."

The first recommendation of the Committee was given effect to by the Government passing an Act commonly called the indian Coinage and Paper Currency Act (XXII) of 1899. That Act made the sovereign and half-sovereign legal tender throughout India at the rate of Rs. 15 and Rs. 7½ respectively, and authorized the issue of currency notes in exchange for them.

Along with placing the Indian currency on a gold basis, the Government was anxious to open a Mint for the free coinage of gold. But as the coin to be issued from the Mint was the English "sovereign" the Government of India was entirely in the hands of the British Treasury. According to the provisions of the English Coinage Act of 1870, it was necessary to issue a Royal Proclamation in order to constitute an Indian Mint a branch of the Royal Mint, a matter entirely dependent on the consent of the Treasury. It was the intention of the Government of India to announce the Proclamation simultaneously with the passing of the Act making the sovereign legal tender. Indeed it held back the legislation pending the arrival of the proclamation.† and proceeded with it reluctantly when it was advised that there was likely to be "some further delay over the Proclamation owing to legal and technical questions." The objections raised by the Treasury, though merely technical, at first seemed to be quite insuperable,‡ and had it not been for the conciliatory attitude of the India Office the negotiations would have broken

* See despatch dated July 25, 1899, No. 140 (Financial), C. 9421 of 1899.

† Cf. the speech of the Hon. Mr. Dawkins on the Indian Coinage and Paper Currency Bill, dated September 8, 1899.

‡ Cf. H. of C. Return 495 of 1913, p. 14.

down. But the Treasury was not willing to give the project a chance. Just when a compromise was arrived at on the technical side of the question, the Treasury turned round and raised the question whether a Mint for gold coinage was at all necessary in India. The Treasury argued :—

> "While expressing their satisfaction that an agreement has now been reached, my Lords think it desirable, before practical steps are taken to carry out the scheme, to invite Lord George Hamilton to review the arguments originally advanced in favour of the coinage of the sovereign in India, and to consider whether the course of events, in the two years which have elapsed since the proposal was made, has not tended to diminish their force, and to render such advantages as are likely to accrue from the establishment of a branch Mint wholly incommensurate with the expense to be incurred... The gold standard is now firmly established, and the public requires no proof of the intention of the Indian Government not to go back on their policy, which is beyond controversy. Sovereigns are readily attracted to India when required under existing conditions... On the other hand the estimates of the Government of India of gold available for coinage in that country are less than was anticipated, nor is any considerable increase expected, at any rate for some time .....
>
> The staff would have to be maintained in idleness for a large part of the year, at a considerable cost to the Indian Exchequer... It is, of course, for Lord George Hamilton to decide whether, in spite of these objections, the scheme is to be proceeded with."

The India Office replied :—

> "The establishment of a Mint for the coinage of gold in India is the clearest outward sign that can be given of the consummation of the new currency system; and to abandon the proposal now must attract attention and provoke criticism and unrest ..... His Lordship is not inclined to abandon the scheme at the stage which it has now reached."

The Treasury sent a trenchant rejoinder, in which it remarked:—

> "Indian currency needs are provided from other sources, and there is no real demand for the local coinage of sovereigns ..... My Lords cannot believe that the position of the Gold Standard in India will be strengthened, or public confidence in the intention of the Government confirmed, by providing machines for obtaining gold coin ..... The large measure of confidence already established is sufficiently indicated by the course of exchange since the Committee's Report and still more by the readiness with which gold has been shipped to India ....."

That the Treasury acted "in a spirit of scarcely veiled hostility to the whole proposal" is unmistakable. But it cannot be denied that the Treasury used arguments that were perfectly sound. It was inconsequential to the working of the gold standard whence the coined sovereigns came. So long as a Mint was open to the free coinage of sovereigns the Indian gold standard would have been complete irrespective of the location of the Mint. Indeed, to have obtained coined sovereigns from London would have not only sufficed, but would have been economical. The anxiety displayed by the government was not, however, on account of the want of a gold Mint. Indeed, so slight was its faith in the necessity of it that in view of the opposition of the Treasury it gracefully consented to drop the proposal. What troubled it most was the peculiar position of the rupee in the new system of currency. Throughout the despatch of the Government of India there ran a strain of regret that it could not see its way to demonetize the rupee and to assimilate the Indian currency to that prevailing in England. A general perusal of the despatch leaves the impression that though it recommended the assimilation of the Indian currency to that of France and the United States, it did so not because it thought that their systems furnished the best model, but because it believed that a better one was not within reach. Having regard to the accepted view of the French and the United States currency systems, it was natural that the Government of India did not feel very

jubilant about its own. According to that view of the currency systems of these two countries, the position of the five-franc piece and the silver dollar has always been presented as being very anomalous. Even so great an authority as Prof. Pierson was unable to assign them a place intelligible in the orthodox scheme of classifying different forms of money.* In a well-ordered system of gold standard of the orthodox type, gold is the only metal freely coined and the only one metal having full legal-tender power; silver, though coined, is coined only on Government account in limited amounts, and being of less intrinsic value than its nominal value, is a limited legal tender. The former type of coins are called standard coins and the latter subsidiary coins, and the two together make up the ideal of a monometallic gold standrd such as has been established in England since 1816. In a scheme of things like this, writers have found it difficult to fit in the dollar or the five-franc piece. Their peculiarity consists in the fact that although their intrinsic value is less than their nominal value they have been inconvertible and are also unlimited legal tender. It is owing to this anomaly that the title of gold standard has been refused to the American and French currency systems. Few can have confidence in what is called the limping standards in which it is said that somehow "the silver coin, though intrinsically of less value than the gold, hobbles along, maintained at equality by being coupled with its stronger associate."‡

But was the French system of currency so very different from the English as to create doubt as to its stability ? Whatever may have been the differences between the two systems a closer analysis shows that they are fundamentally identical. If we read together the French bimetallic law of 1803 and the Mint Suspension Decree of 1878 on the one hand, and on the other the provisions of the English Gold Standard Act of 1816,

* Cf. Principles of Economics, Vol. I, p. 569.

† It was owing to this want of faith that Germany took away, by the law of October 1, 1907, the full legal-tender power from her silver thalers. In the United States the silver dollar is not legal tender if it is specifically excluded by the terms of a contract. Cf. A. C. Whitaker, *Foreign Exchange,* Appleton, New York, 1920, pp. 8. and 477.

‡ C. F. W. Taussig, *Principles,* 2nd ed., 1913, p. 280.

together with the Bank Charter Act of 1844, and compare, do we find any substantial difference between the French and English systems of currency? Prior to 1878 there was an unlimited issue in France of both gold and silver coins of unlimited legal tender. Prior to 1844 there was an unlimited issue in England of both gold sovereigns and Bank of England notes, both of unlimited legal tender, in 1844 England put a limit on the issue of bank notes, but did not deprive the issues of their legal-tender power.* In 1878 France did precisely the same thing as England did with her notes in 1844. By the decree of mint suspension, France virtually, though indirectly, put a limit on the silver five-franc coins without depriving them of their legal-tender power. If we regard the French five-franc coins as notes printed on silver, it is difficult to see what constitutes the difference between the two systems which leads economists to call one a gold standard and the other a limping standard. If the silver franc limps or hobbles along, so does the bank note, and the former can hobble better than the latter because of the two it has a comparatively greater intrinsic value. If, however, it is argued that the bank note is convertible into gold, while the five-franc piece is not, the reply is that the comparison must be made with the fiduciary notes of the bank of England. Those notes are practically inconvertible. For, at any given time, with the gold the Bank of England has in its Issue Department the fiduciary portion of the notes remains uncovered, and may, therefore, be regarded as inconvertible as the delimited issue of the five francs. But even if it is insisted that the fiduciary notes cannot be regarded as inconvertible as the five franc pieces, it must be pointed out that the similarity of the two is not to be determined by considerations of convertibility or inconvertibility. The attribute of convertibility with which the fiduciary notes of the Bank of England are endowed is a superfluous attribute which in no way improves their position as compared with the five-franc pieces. What makes them identical is the fact that they are both subjected to a fixed limit of issue. Thus viewed, the French limping standard and the English gold standard are

* The Bank of England notes were made legal tender by Lord Althorpe's Act of 1833.

nothing but two different illustrations of the "currency principle" in so far as a fixed limit of issue on a fiduciary currency is a cardinal feature of that principle.

Not only is the French monetary system identical with the English in its organization, but the design in both cases was identical. In the controversy which raged over the Bank Charter Act of 1844, the motives of Lord Overstone were not quite clearly grasped by his opponents of the banking school of thought. Lord Overstone was not very much interested in providing a method for preventing the depreciation of the note issue, as his opponents thought him to be. His supreme concern was to prevent gold disappearing from circulation. Starting from a chain of reasoning the solidity of which can hardly be said to be open to question, he came to the conclusion that gold would be driven out of circulation by an increase in the issue of notes. To keep gold in circulation the only remedy was to put a limit on the issue of notes, and this was the purpose of the Bank Charter Act of 1844. Now, precisely the same was the object of France in suspending the coinage of silver. As has already been pointed out, owing to the fall in the value of silver after 1873, gold was being rapidly driven out of circulation by the substitution of this depreciated metal. To prevent this result from assuming a vast proportion, the French adopted the same remedy as that of Lord Overstone, and through their suspension of silver coinage protected their gold from going out of circulation, which would have certainly been the case if no limit had been put on silver issues.

It would not, therefore, be amiss to argue that the plan contemplated by the Government of India, and approved of by the Fowler Committee in being similar to the French system, was based on the same principles as governed the English currency system, which, according to Jevons, were a "monument of sound financial legislation."

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CHAPTER V

FROM A GOLD STANDARD TO A GOLD EXCHANGE STANDARD

For once it seemed that the problem of a depreciating rupee was satisfactorily solved. The anxieties and difficulties that extended over a long period of a quarter of a century could not but have been fully compensated by the adoption of a remedy like the one described in the last chapter. But by an unkind turn of events, the system originally contemplated failed to come into being. In its place there grew up a system of currency in india which was in every way the very reverse of it. Some thirteen years after legislative sanction had been given to the recommendations of the Fowler Committee, the Chamberlain Commission on Indian Finance and Currency reported that

> "in spite of the fact the Government adopted and intended to carry out the recommendations of the Committee of 1898, the Indian currency sysem to-day differs considerably from that contemplated by the Committee, whilst the mechanism for maintaining the exchange has some important features in common with the suggestions made to the Committee by Mr. A. M. Lindsay."*

It will be recalled† that in Mr. Lindsay's scheme Indian currency was to be entirely a rupee currency; the Government was to give rupees in every case in return for gold, and gold for rupees only in case of foreign remittances. The scheme was to be worked through the instrumentality of two offices, one located in London and the other located in India, the former to sell drafts on the latter when rupees were wanted and the latter to sell drafts on the former when gold was wanted. Surprisingly similar is the system prevailing in India to-day-. Corresponding to Mr. Lindsay's proposals, which, be it noted, were rejected in 1898, the Government of India has built up two reserves, one of gold and the other of rupees, out of the cash balances, the paper currency, and the gold-standard reserve. Each of these is, by the nature of the currency system, composite. The cash

* Report, P. P. Cd. 7068 of 1913, p. 13.

† *See* Chap. IV, *supra*.

balances, which are fed from revenue receipts, gather in their net rupees as well as sovereigns, both being legal tender. Notes being issuable against both, the paper-currency reserve always contains sovereigns and rupees. Up to August, 1915, the gold-standard reserve was also held partly in gold and partly in rupees.* By a system of sorting, technically called "transfers," the Government secures the command over rupees and sovereigns necessary for discharging the obligations it has undertaken.† The location of these funds is also very much as designed by Mr. Lindsay. The cash balances, being the till-money of the Government, are necessarily distributed between the Government of India in India and the Secretary of State in London, the portion held by the latter being entirely in gold and that held by the former being in silver. The gold-standard reserve, like the cash balances, is not a statutory reserve. Consequently its location is perfectly within the competence of the Executive. That being so, it has been so arranged that the gold portion of the fund shall be held by the Secretary of State in London, and the rupee portion, so long as it was maintained, by the Government of India in India. The only reserve which did not easily lend itself to currency manipulation was the paper-currency reserve, for the reason that its disposition and location were governed by law. In that behalf, legal power has been taken to alter the location of the gold part of that reserve by making permanent the provision of the temporary Act II of 1898, which authorized the issue of notes in India against gold tendered to the Secretary of State in London. Thus the Secretary of State and the Government of india, under the new system of currency, hold two reserves, one of gold, mainly in the possession of the former and located in London, and the other of rupees, entirely in the possession of the latter and held in India. But the similarity of the existing system to that of Mr. Lindsay is not confined to the maintenance of these funds and their location. It extends even to the modes of operating these two funds. For, as suggested by Mr. Lindsay, when rupees are wanted in India the Secretary of State sells what are called

* The rupee branch has been discontinued since that date, on the recommendation of the Chamberlain Commission.

† Besides, if the Government falls short of rupees, it has the legal power to convert the gold in the paper-currency reserve into *rupees* to replenish the stock.

"Council Bills," encashable into rupees at the Government Treasuries in India, thereby providing the rupee currency in India. When gold is wanted the Government of India sells what are called "Reverse Councils "on the home Treasury in London, which are encashed by the Secretary of State, thereby providing gold for foreign remittances. The result of the sale of "Council Bills" and of the "Reverse Councils" on the two funds has been to transform the Indian currency from being a gold standard with a gold currency, as desired by the Fowler Committee, into what is called a gold standard without a gold currency, as wished for by Mr. Lindsay.

This system which has grown up in place of the system originally contemplated by the Government of india is called the gold-exchange standard. Whatever that designation may mean it was not the plan originally contemplated by the Government of India in 1898. How the departure came about we shall deal with in another place. Here it is enough to state—one may also say necessary, for many writers seem to have fallen into an error on this point—*that the Government did not start to establish a gold-exchange standard.* Rather it was contemplating the establishing of a true gold standard, which, however inadequately understood by the men who framed it, was in essential aggreement with the principles governing the English Bank Charter Act of 1844.

What are we to say about the new system ? The Chamberlain Commission, while reporting that there was a departure from the ideal of a gold standard with a gold currency, observed* :—

> "But to state there has been this departure is by no means to condemn the action taken, or the system actually in force ……"

Now why not ? Is not the system the same as that proposed by the Government in India in 1878 and condemned by the Committee of 1879 ? It is true the arguments urged against that plan by the Committee of 1879 were not of much weight.† Nonetheless the plan was essentially unsound. The material point in the introduction of a gold standard must be said to be one of limitation on the volume of rupees, and it is from this point of view that we must judge the plan. But there was nothing in the plan of 1878 that could be said to have been calculated to bring that about. Far from putting any limitation on the volume

* Report, Par, 46

† See *supra,* Chap. IV.

of rupees, the plan had deliberately left the Mints open to the free coinage of silver. A matter of some interest in the plan was the projection of a system of seignorage so arranged so to make the bullion value of the rupee equal to the gold value given to it. But as a means of limiting the coinage of rupees it was futile. The mere levy of a seignorage cannot be regarded as sufficient in all circumstances to effect a limitation of coinage. Everything would have depended upon how closely the seignorage corresponded with the difference between the mint and market price of silver in terms of gold. If the seignorage fell short of the difference it would have given a direct impetus to increased coinage of rupees until their redundancy had driven them to a discount. In this respect the plan was a reproduction in a worse form of the English Gold Standard Act of 1816. Like the Government of India's plan of 1878, that Act, while purporting to introduce a gold standard, had authorized the opening of the Mint, which was closed, to the free coinage of silver with a seignorage charge. It is not generally recognized how stupid were the provisions of that Act,* the ideal of all orthodox gold monometallists, in so far as they contemplated the free coinage of silver. Fortunately for England the Royal Proclamation, compelling the Mint Master to coin all silver brought to the mint, was never issued. Otherwise the working of the gold standard would have been considerably jeopardized.† The Act of 1816 had at least taken one precaution, and that was a limit on the legal-tender power of silver. In the scheme of the Government of India, not only free coinage of silver was permitted, but silver was conceded the right of full legal tender. In so far, therefore, as the plan did not provide for controlling the volume of rupees it was subversive of the gold standard it had in view.

The only difference between this plan of 1878 and the system now in operation in India is that under the former the Mints were open to the public, while under the latter they are open to the Government alone. In other words, in the one case rupees were coined on behalf of the public, and in the other they are being coined on behalf of the Government. It is not to be supposed that the plan of closing the Mints to the public was not thought of by the Government in 1878. On the other hand, the

* Cf., however, R. G. Hawtrey, *Currency and Credit,* 1919, pp. 302-3.

† Some witnesses before the Lords Committee on Cash payments, appointed in 1819, raised doubts whether, having regard to the silver clause of the Act of 1816, resumption of cash payments was worth while as a means of establishing a gold standard in England. Cf. particularly the evidence of Mr. Fletcher and also Mr. Mushet before the Committee.

Government of India had then considered the feasibility of taking over into its hands the coinage of rupees, and had rejected it on some very excellent grounds. In their despatch outlining the scheme the Government of the day observed :—

> "48. The first point to be guarded in attempting to carry out the proposed change, is to provide for complete freedom for any expansion of the currency which the trade requirements of the country demand. This, we think could not be properly secured if the Mints were wholly closed for the coining of silver for the public. If this measure were adopted, the responsibility for supplying the silver demand would be thrown on the Government, and in the present position of the market for gold and silver bullion in India it would not be possible to accept such a duty.
>
> "49. What might at first sight appear the simplest, and therefore the best way of allowing for the expansion of the Indian silver currency with a gold standard, would be for the Government to undertake to give silver coin in exchange for gold coin to all comers, at the rates fixed by the new system, and to open the Mints for the coinage of gold, while they were closed for silver. But in the absence of any supply of silver in india from which to obtain the necessary material for coinage, such an obligation could not be accepted, without involving the Government in complicated transactions in the purchase and storing of bullion which it would be very inexpedient to enter on."

With these reasons, interesting in so far as they were prophetic of the scandals connected with the recent silver purchases by the India Office,* we are not directly concerned. What is of importance is whether this difference in the mode of issue makes any vital difference to the question of an effective limit on the volume of rupees. Now, there is a great deal of confused thinking as to the precise virtue of the closing of the Mints to the private coinage of silver. It was generally believed, the closing of the Mints having given a monopoly to the Government in the matter of issuing rupees, that this monopoly would somehow sustain the value of the rupees in terms of gold by preventing their over-issue. The closing of the Mints, it must

* See P. P. 400 of 1912.

be admitted, has given the Government the position of a monopolist. But how a monopoly prevents an over-issue is not easy to grasp. The closing of the Mints to the free coinage of silver is the same as depriving banks of the liberty of issuing notes and giving it exclusively to a central bank. But nobody has ever argued that because a central bank has a monopoly of issue it cannot therefore over-issue. Similarly, because the Government of India is a monopolist it would be absurd to argue that it cannot therefore over-issue. Indeed, a monopolist can issue as much as private people put together, if not more. Again, from the standpoint of influence of profits on coinage the present plan is much inferior to that of 1878. It is true in both cases profits depend upon the volume of coinage. But in the former the amount of profit was no incentive to coinage, either to the Government, because it had no power to coin, or to the people who determined the volume of coinage, because the regulation of seignorage practically controlled it by making it unprofitable to bring additional bullion to the Mint. In the present case, the coinage being entirely in the hands of the Government, a hankering after profits, generated by the silly notion of the necessity of a "backing" to the currency, might create an impulse to undertake additional coinage, especially if the price of silver fell very low and produced a wide margin between the Mint and the market price of the rupee.*

If it is argued, as it well may be, that the will of the Government of India as a monopolist, i.e. its desire to see that its currency is not depreciated, may bring about a limitation on the issue of rupees which could not have been possible had the Mints remained open to the public in general, the reply is that this will to limit could be effective only if the Government had the power to refuse to issue. Central banks limit their currencies so far as will is concerned, because they are not obligated to issue to anyone and everyone. But the position of the Government of India is lamentably weak in this respect. It is bound to issue currency when asked for. It is true that every issue does not involve a net addition to the existing volume of

* From this point of view the proposition of Prof. Keynes, that the gold value of the rupee may be fixed irrespective of the cost price of silver, must, having regard to the existing system of currency, be looked upon as a somewhat unsafe position. Cf. his evidence before the Indian Currency Committee of 1919, Q. 2,688.

currency; for a portion of the new issue is a re-issue of what is returned from circulation. Nonetheless, it cannot be said that the Government by reason of its monopoly has put an effective limit on the volume of rupee currency. On the other hand, having no escape from the liability to issue currency, the exercise of this cherished privilege has recoiled on the Government, so much so that this monopoly of issue, instead of strengthening the position of the Government, has weakened it considerably.* The view of the Chamberlain Commission†

> "that while the Government are very large dealers in the exchange market, they are not monopolists (!) and it seems doubtful if they could successfully stand out for any such [fixed minimum rate] at all times of the year,"

is therefore interesting as a confession that the closing of the Mints has not had the virtue of so limiting the coinage of rupees as to enable the Government to dictate at all times the price of the rupee, which none but it alone can manufacture.

Thus the present standard is different from the standard proposed in 1878 only in name. If this one is characterized by the adoption of the rate of exchange as an index for regulating the volume of currency, the same must be said of the former. But as Mr. Hawtrey remarks.‡ whatever means are adopted for the manipulation of the currency,

> "the value of the rupee will be determined by the quantity in circulation."

In other words, what must be said to be essential for the safety of a gold standard is a provision against over-issue of rupees. But, as we saw, neither the plan of 1878 nor the present one can be said to be free from that danger. Consequently we must conclude that, being essentially alike, the arguments that are valid against the former are also valid against the latter.

But the Chamberlain Commission will not allow that the exchange standard is a resuscitation of a condemned plan. On the other hand, it has sought to inspire confidence in that standard by holding out§

> "that the present Indian system has close affinities with other currency systems in some of the great European countries and elsewhere ....."

* The danger involved in this indefinite liability to issue rupee currency was recognized by the Smith Currency Committee of 1919, which recommended that this obligation should be withdrawn. *See* Report, par. 68. Of course its motive was different.

† Report, par. 132.

‡*Currency and Credit,* 1919, p. 341.

§ Report, par. 46.

To get an idea as to what these affinities are, or rather were, we must look into Chapter II of Mr. Keynes's interesting treatise on *Indian Currency and Finance*. In that treatise of his, Mr. Keynes has attempted to show that there is a fundamental likeness between the operations of the Indian currency system and the operations as they used to be of the central banks of some of the important countries of Europe. He found that it used to be the practice of these banks to hold foreign bills of exchange for the purpose of making remittances to foreign countries. Between the selling of such foreign bills and selling of reverse councils by the Government of India he observed a close fundamental likeness, inasmuch as both involved

> "the use of a local currency mainly not of gold, some degree of unwillingness to supply gold locally in exchange for the local currency, but a high degree of willingness to sell foreign exchange for payment in local currency at a certain maximum rate."*

But, as Prof. Kemmerer points out.† it is difficult to see what likeness there is between the Government of India selling reverse councils and the European banks holding foreign bills. Far from being alike, the two practices must be regarded as the opposite of each other. In selling reverse councils

> "the Government sells drafts against its foreign gold credit (i.e. its gold reserve), when money at home is relatively redundant, as evidenced by exchange having reached the gold export point. Thereby it relieves the redundancy through the withdrawing from circulation and locking up the local money received in payment for the drafts. Under the practice of holding foreign bills to protect the money market, the central bank sells its foreign bills, when money at home is relatively scarce, as means of securing gold for importation or preventing its exportation. In the former case, the sale of drafts takes the place of an exportation of gold, and the resulting withdrawal of local money from circulation is in essentials an exportation ; in the latter case the sale of the drafts abroad is part of a process for securing gold for importation, or for preventing its exportation."

The Indian currency system therefore bears no analogy to the European currency systems, as Mr. Keynes would have us believe. But if a parallel is needed, then the true parallel to the

* Kenynes, *Indian Currency and Finance,* p. 29.

† Cf. his review of Keynes in the Quarterly Journal of Economics, February, 1914, p.

Indian system of currency is that system which prevailed in England during the Bank Suspension period (1797-1821). The fundamental likeness between the two systems becomes quite unmistakable if we keep aside for the moment the remittance operations of the Government of India and the Secretary of State, which becloud the true features of the Indian currency system. If we tear this veil and take a close view, the following appear to be the prominent features of the Indian system :—

(1) The gold sovereign is full legal tender.

(2) The silver rupee is also full legal tender.

(3) The Government undertakes to give rupees for sovereigns, but does not undertake to give sovereigns for rupees, i.e. the rupee is an inconvertible currency unlimited in issue.

Turning to the English system of currency during the period of the Bank Suspension, we find :—

(1) The gold sovereign was full legal tender.

(2) The paper notes of the Bank of England circulated as money of general acceptability by common custom if not by law.*

(3) The Bank of England undertook to give notes for gold or mercantile bills or any other kind of good equivalent, but did not give gold for notes, i.e. the notes formed an inconvertible currency unlimited in issue.

Only in one respect can the analogy be said to be imperfect. The Indian Government has undertaken—not, be it noted, as a statutory obligation, but merely as a matter subject to the will of the executive, to convert the rupee into gold at a fixed rate for foreign remittances if the exchange falls below par. This, it must be allowed, the bank of England did not do during the suspension period. Everything, therefore, turns upon the question whether this much convertibility is a sufficient distinction to mark off the Indian currency from the English currency of the suspension period into a separate category and invalidate the analogy herein said to exist between the two systems. To be able to decide one way or the other we must firmly grasp what is the true import of convertibility. Prejudice against an inconvertible currency is so strong that people are easily satisfied with a system which provides some kind of convertibility, however small. But to assume this attitude is to trifle with

* Cf. Andreades, *History of the Bank of England,* p. 198.

a very crucial question. We must keep clear in our mind what it is that essentially marks off a convertible from an incovertible currency. The distinction commonly drawn, that the one is an automatic and the other is a managed currency, must be discarded as a gross error. For, if by a managed currency we mean a currency the issue of which depends upon the discretion of the issuer, then a convertible currency is as much a managed currency as an inconvertible currency is. The only point of contrast lies in the fact that in the management of a convertible currency the discretion as to issue is regulated, while in an inconvertible currency it is unregulated. But even if regulated the issue remains discretionary and to that extent a convertible currency is not so safe as to mark it off from an inconvertible currency. The enlargement of its issue being discretionary and the effect of such issues being to drive specie out of circulation, a convertible currency may easily become inconvertible. The difference between a convertible and an inconvertible currency is therefore ultimately a distinction between a prudent and an imprudent management of the right to issue currency. In other words, convertibility is a brake on the power of issue. Bearing this in mind, and also the fact that a convertible currency by reason of mismanagement has the tendency to become inconvertible, it is possible for us to imagine how severe must be the obligations as to convertibility in order to prevent prudent management of currency from degenerating into an imprudent management resulting in over-issue. If, therefore, it is true that in countries having a convertible currency the affairs were so prudently managed that when specie left the country the paper money not only did not increase to take its place, but actually diminished, and that usually by a greater absolute amount than the gold currency, it was because the obligations as to convertibility were those of "effective absolute immediate convertibility."* We can now appreciate why Prof. Sumner said† that

> "convertibility in the currency is like conscientiousness in a man : it has many grades and is valuable in proportion as it is strict and pure."

* "No single word can convey the full meaning," says Prof. Nicholson, *War Finance,* 2nd ed., 1918, p. 36.

† *A History of American Currency,* New York, 1874, p. 116.

That being so, it would be foolish to assume that we are immune from the consequences of an inconvertible currency until we know what is the grade of the convertibility that is provided. Now, what is the character of the convertibility of the rupee in India ? It is a deferred, delegalized, delocalized, and therefore a devitalized kind of convertibility. Indeed, really speaking it is not a convertibility, but rather it is a moratorium which is a negation of convertibility, for what does the provision for convertibility for foreign remittances mean in practice ? It simply means that *until* a fall of exchange takes place there is a moratorium or inconvertibility in respect of the rupee. Not only is there a moratorium as long as exchange does not fall, but there is no guarantee that the moratorium will be lifted when a fall does occur. It may not be lifted, for it is a matter of conscience and not of law.* Is such a grade of convertibility, if one has a predilection for that term, very far removed from the inconvertibility of the bank notes during the suspension period ? Let those who will say so. For a person not endowed with high and subtle imagination the distinction between such a convertibility and absolute inconvertibility is too thin to persuade him that the two systems are radically different; indeed, when we come to analyse the problem of prices in India and outside India we shall find another piece of evidence to show that they are not different, and that the analogy between the two is perfect enough for all practical purposes.

* The Finance Member of the Viceroy's Council, in his Financial Statement for 1908-09 (p. 23, italics not in the original), observed :— "Had we complied with the demand for issues [of gold] without limit, the whole available supply might have been drawn off in a few weeks ..... *For these reasons we decided to stand by our legal rights. ...We are not bound to give sovereigns in exchange for rupees except at our own convenience.* The currency offices were accordingly instructed *not* to issue gold in larger quantities than £ 10,000 to any individual on any one day." These words were used to explain the attitude of the Government regarding its sense of obligation as to convertibility of the rupee in the exchange crisis of 1907 ! The degree of convertibility being a matter of administrative discretion it is difficult to define the extent to which it is given effect to in practice. Official evidence is inclined to impress upon the public that practically the rupee is convertible. If that is so, why not make it *legally* convertible. For, if convertibility is complete in practice a legal convertibility cannot impose upon the Government greater obligations than what the official evidence suggests the Government to be actually assuming. It is said that Government does not do so because it is afraid that exchange speculators will take advantage of it. But why should they not ? Are they not holders of rupees ? It does not, however, appear to have been adequately realized that this defence implies that the currency is issued so much beyond the point of the "saturation" that its value is always, on the margin of being affected by an element of speculation.

It may, however, he said that an inconvertible currency may be so well managed as not to give rise to a premium on gold, so that there may be little to choose between it and a perfectly convertible currency. But whether an inconvertible currency will be so well managed is a question of practical working. Again, whether the absence of premium on gold suffices to place an inconvertible currency on par with a convertible currency, so far as the price problem is concerned, is also a matter depending on circumstances. All these questions will be considered in their proper places.* What we are considering at this stage are the inherent potentialities of an inconvertible currency. Suffice it to say here that the name Gold Exchange Standard cannot *conceal* the true nature of the Indian Monetary Standard. Its essence consists in the fact that although gold is unlimited legal tender there is alongside an unlimited issue of another form of fiduciary currency well-nigh inconvertible, and also possessing the quality of unlimited legal tender.

It needs no acute power of penetration to see that, so interpreted, the existing currency system in India is the opposite of the system outlined by the Government in 1898 and passed by the Fowler Committee. The two are opposites of each other for the same reason for which the Bank Charter Act was the opposite of the Bank Suspension Act in England. Under both the Acts the currency in England was a mixed currency, partly gold and partly paper. The difference was that by the Bank Suspension Act the issue of gold became limited and that of paper unlimited, while under the Bank Charter Act the process was reversed, so that the issue of paper became limited and that of gold unlimited. In the same manner, under the original scheme of the Government of India, the issue of rupees was to be limited and that of gold unlimited. Under the existing system the issue of gold has become limited while that of rupee has become unlimited.

Was this an improvement on the plan originally contemplated by the Government of India ? The only objection to that plan was that it made the rupee an inconvertible rupee.† But is

* For reasons giving rise to a premium on gold in terms of the rupee, *see* Chap. VI. For reasons explaining how there can be a general depreciation of the rupee without there being a specific depreciation of it in terms of gold, *see* end of Chap. VI and beginning of Chap. VII.

† Both Lindsay and Probyn had attacked the plan of the Government of India on this score, and had claimed that their plans were superior because they had at least provided some sort of convertibility.

convertibility such a necessary condition, and, if so, when ? The idea that convertibility is necessary to maintain the value of a currency is, on the face of it, a preposterous idea. No one wants the conversion of bananas into apples to maintain the value of bananas. Bananas maintain their value by reason of the fact that there is a demand for them and their supply is limited. There is no reason to suppose that currency forms an exception to this rule. Only we are more concerned to maintain the value of currency at a stable level than we are of bananas because currency forms a common measure of value. What is wanted to maintain the value of currency, or of any other thing for the matter of that, is an effective limit on its supply. Convertibility is useful, not because it directly maintains the value of a currency, which is nonsense, but because it has the effect of putting a limit on the supply of currency. But convertibility is not the only way of achieving that object. A plan which lays down an absolute limit on issue has the same effect—indeed, a far more powerful effect—on the supply of currency. Now, had the Mints remained entirely closed to the coinage of rupees there would have been placed an absolute limit on the issue of currency, and all the purposes of convertibility would have been served by such an inconvertible rupee. Nay, more ; such an inconvertible rupee currency would have been infinitely superior* to the kind of pseudo-convertible rupee which we have in India to-day.* With an absolute limit there could have been no danger of a fall in the value of the rupee. If anything there would have been a danger of an indefinite appreciation of the rupee, but that was efectually guarded against by gold having been made general legal tender. A second effect of an absolute limit on the currency would have been to free it from management by reason of the fact that all question regarding the volume of issues had been settled once for all.

In these respects, therefore, the gold-exchange standard is an impairment of the original plan of an inconvertible rupee with fixed limit of issue supplemented by gold. Again, from the standpoint of controlling the price-level, the exchange standard cannot be said to have been an improvement on the original plan. Of course, it is possible to say that such a perversion of the original system is no matter for regret. Whether gold is a standard of value, or whether fiduciary money is a standard of

* In his comparison of the Limping Standard with the Exchange Standard, Prof. Fisher seems entirely to overlook these considerations. Cf. his Purchasing Power, etc., 1911, pp. 131-32.

value, is a matter of infifference, for neither can be said to have furnished a stable standard of value. A gold standard has proved to be as unstable as a paper standard, because both are susceptible of contraction as well as expansion. All this, no doubt, is true. Nevertheless it is to be noted that in any monetary system there is no danger of indefinite contraction.* What is to be guarded against is the possibility of indefinite expansion. The possibility of indefinite expansion, however, varies with the nature of money. When the standard of value is standard metallic money the expansion cannot be very great, for the cost of production acts as a sufficient limiting influence. When a standard of value is a convertible paper money the provisions as to reserve act as a check on its expansion. But when a standard of value consists of a money the value of which is greater than its cost and is inconvertible, the currency must be said to be fraught with the fatal facility of indefinite expansion, which is another name for depreciation or rise of prices. It cannot, therefore, be said that the Bank Charter Act made no improvement on the Bank Restriction Act. Indeed, it was a great improvement, for it substituted a currency less liable to expansion in place of a currency far more liable to expansion. Now the rupee is a debased coin.† inconvertible, and is unlimited legal tender. As such, it belongs to that order of money which has inherent in it the potentiality of idenfinite expansion, i.e. depreciation and rise of prices. As a safeguard against this the better plan was no doubt the one originally designed, namely of putting a limit on the issue of rupees, so as to make the Indian currency system analogous to the English system governed by the Bank Charter Act of 1844.

* Cf. Hawtrey, R. G., op. cit., Chap. I.

† It is difficult to understand why some writers on Indian currency do not like to admit this fact. Cf. the discussion on Mr. Madan's paper at the annual meeting of the Indian Economic Association (*Indian Journal of Economics,* Vol. III, Part 4, Serial No. 12, p. 560). It is true the debasement of the rupee is not so obvious as it would have been had it taken the form of continuing the weight and making it baser, or of preserving the same fineness and making it lighter. But, as Harris points out in his *Essay upon Money and Coins* (Part II, Chap. I, par. 8), the "altering the denominations of the coins, without making any alteration at the Mint or in the coins themselves," "as supposing ninepence, or as much silver as there is in ninepence, should be called a shilling," is a mode of debasement not different from that of the rupee, and is virtually the same as the other two modes of debasement. So viewed it is difficult to avoid the conclusion that the rupee is a debased coin.

If there is any force in the line of reasoning adopted above, then it is not easy to agree with the opinion entertained by the Chamberlain Commission of the Exchange Standard. Indeed, it raises a query whether for all that the Commission said there is not somewhere some weakness in the system likely to bring about its breakdown. It therefore becomes incumbent to examine the foundations of that standard from a fresh point of view.

●●

CHAPTER VI
STABILITY OF THE EXCHANGE STANDARD

It will be recalled that at the time the Indian Mints were closed to the free coinage of silver there were two parties in the country, one in favour of and the other opposed to the closure. Being placed in an embarrassing position by the fall of the rupee, the Government of the day was anxious to close the Mints and raise its value with a view to obtaining relief from the burden of its gold payments. On the other hand it was urged, on behalf of the producing interest of the country, that a rise in the exchange value of the rupee would cause a disaster to Indian trade and industry. One of the reasons, it was argued, why Indian industry had advanced by such leaps and bounds as it did during the period of 1873-1893 was to be found in the bounty given to the Indian export trade by the falling exchange. If the fall of the rupee was arrested by the Mint closure, it was feared that such an event was bound to cut Indian trade both ways. It would give the silver-using countries a bounty as over against India, and would deprive India of the bounty which it obtained from the falling exchange as over against gold-using countries.

Theory had already scoffed at these fears. It is therefore interesting to see that later history has also confirmed the verdict of theory. Indian trade with a gold-standard country like England or a silver-standard country like China did not suffer a setback, notwithstanding an arrest in the fall of the rupee. The following figures furnish sufficient evidence to support the contrary:—

TABLE XXV

TRADE OF INDIA WITH UNITED KINGDOM (BEFORE AND AFTER THE MINT CLOSURE)

Annual Average.	Exports to U.K			Imports from U.K.		
	Merchandise.	Bullion and Specie.	Total.	Merchandise.	Bullion and Specie.	Total.
	£	£	£	£	£	£
I 1889-93	31,569,891	1,180,646	32,750,537	31,837,482	7,694,149	39,531,631
II 1894-98	26,329,764	2,215,049	24,544,813	28,963,180	6,750,736	35,713,916
III 1899-1903	28,709,819	2,089,656	30,799,475	33,498,480	7,301,172	40,799,652
IV 1903-8	36,784,628	2,232,857	39,017,485	47,294,311	9,586,706	56,881,017
Percentage of Increase (+) or Decrease (—) in—						
Period II in comparison with Period I	—16.598	+87.613	—25,055	—9.028	—12.261	—9.657
Period III in comparison with Period II	+ 9.039	—5.661	+25.483	+ 15.659	+ 8.154	+ 14.240
Period IV in comparison with Period III	+28.126	+ 6.853	+26.682	+41.183	+31.304	+ 39.415
Period IV in comparison with Period I	+ 16.518	+89.122	+ 19.135	+48.549	+24.597	+ 43.887

TABLE XXVI

Trade of India with China

Annual Average.	Exports to China.			Imports from China.		
	Merchandise.	Treasure.	Total.	Merchandise.	Treasure.	Total.
	£	£	£	£	£	£
I 1889-93	9,454,014	20,223	9,474,238	1,666,840	1,992,914	3,659,754
II 1893-98	8,509,284	112,105	8,621,389	1,713,529	503,357	2,216,886
III 1898-1903	9,679,830	183,647	9,863,477	1,309,975	798',053	2,108,028
IV 1903-8—	12,461,535	160,879	12,622,414	1,248,822	919,402	2,168,224
Percentage of Increase (+) or Decrease (—) in—						
Period II in comparison with Period I	—9.993	+ 454.333	—9.002	+ 2.801	—74.743	—39.425
Period III in comparison with Period II	+ 13.756	+ 63.817	+ 14.407	—23.551	+58.546	—4.910
Period IV in comparison with Period III	+28.737	—12.398	+27.971	—4.668	+ 15.206	+ 2.856
Period IV in comparison with Period I	+31.812	+695.508	+33.229	—25.078	—53.866	—40.755

That the arrest in the fall of the rupee should have lifted the burden from Indian finances was just as was expected to follow from the closure of the Mints. Notwithstanding important reductions in taxation and large expenditure of social utility, the annual budgets since the mint closure have shown few deficits (see p. 506).

Now there is a tendency among some writers to interpret these facts as unmistakable proofs of the soundness of the currency system. It is argued that if the trade of the country has not received a setback,* and if the finances of the country have improved,† then the implication is that the currency of which such results can be predicated must be good. It is not necessary to warn students of currency that such easy views on the soundness of the currency system, however plausible, are devoid of the logic necessary to carry conviction. Trade no doubt is dependent on good money, but the growth of trade is not a conclusive proof that the money is good. It should be noted that during the periods of debased coinages so common at one time the social misery and nuisance arising therefrom were intolerable, yet during the same periods it was possible for countries to make great advance in trade. Speaking of seventeenth-century England, when that country was afflicted with debased and constantly changing coinage and when there was, besides, a long period of civil war and confusion, Lord Liverpool, who was above all statemen of his day most alive to the evils of a bad currency, remarks :—

> "It is certain, however, that during the whole of this period, when our coins were in so great a state of confusion, the commerce of the kingdom was progressively improving, and the balance of trade almost always in favour of this country."‡

That commerce can increase even when currency is bad is easily supported from the experience of India herself. In no period did Indian trade make such strides as it did between 1873 and 1893. Was the Indian currency of that period good ? On the other hand, it is possible to hold that if trade is good it may be *because* the currency is bad. The trade of India between 1873 and 1893 flourished because it received a bounty. But the bounty was a mulcting of the Indian labourer, whose wages did not rise as fast as prices, so that the Indian prosperity of that

* Keynes, op. cit., p. 3.

† Barbour, D., *The Standard of Value,* p. 224.

‡ *A Treatise on the Coins of the Realm* (reprint of 1880), p. 135.

TABLE XXVII

Finances of the Government

Years.	Surplus + Deficit —	Years.	Surplus + Deficit —	Years.	Surplus + Deficit —	Years.	Surplus + Deficit —	Years.	Surplus + Deficit —
	Rs		£		£		£		£
1893-94	—1,546,998	1898-9	+ 2,640,873	1903-4	+ 2,996,400	1908-9	—3,737,710	1913-14	+ 2,312,423
1894-95	+ 693,110	1899-1900	+ 2,774,623	1904-5	+ 3,456,066	1909-10	+ 606,641	1914-15	-1,785,270
1895-96	+ 1,533,998	1900-1	+ 1,670,204	1905-6	+ 2,091,854	1910-11	+3,936,287	1915-16	-1,188,661
1896-97	—1,705,022	1901-2	+ 4,950,243	1906-7	+ 1,589,340	1911-12	+ 3,940,334	1916-17	+ 7,478,170
1897-98	—5,359,211	1902-3	+ 3,069,549	1907-8	+ 300,615	1912-13	+ 3,107,634	—	—

period was founded not upon production, but upon depredation made possible by the inflation of currency.

Similarly it cannot be granted without reserve that the new currency system must be good because it has obviated the burden of the gold payments and given relief to the Indian taxpayer. Such a view involves a misconception of the precise source of the burden of India's gold payments during the period of falling exchange. It has been widely held that the burden of gold payments was caused by the fall in the gold value of silver, a view which carried with it the necessary implication that if India had been a gold-standard country she would have escaped that heavy burden. That it is an erroneous view hardly needs demonstration.* It is not to be denied that India bore an extra burden arising from the increased value of the gold payments. But what is not sufficiently realized is that it was a burden which weighed on all gold debtors irrespective of the question whether their standard was gold or silver. In this respect the position of a gold-standard country like Australia was not different from a silver-standard country like India. In so far as they were gold debtors they suffered each in the same way from the same cause, namely the appreciation of the standard in which their debts were measured. The fact that one discharged her debts in gold and the other in Silver made no difference in their condition, except that the use of silver by India to discharge her debts served as a refractory medium through which it was possible to see the magnitude of the burden she bore. The fall of silver measured and not caused the burden of India's gold payments. The arrest in the fall of the rupee cannot be accepted as a *prima facie* proof of a relief to the taxpayer and therefore an evidence of the soundness of the currency system. It is possible that the benefit may have been too dearly paid for.

Although favourably impressed by the increase of trade and the buoyancy of Government finances under the exchange standard, the Chamberlain Commission did not care to found its case for it on the basis of such arguments. The chief ground on which it rested was that the currency system was capable of maintaining the exchange value of the rupee at a fixed par with gold.† We must therefore proceed to examine this claim made by the Commission on behalf of the exchange standard. The table No. XXVIII presents the requisite data for an elucidation of the question.

* Cf. evidence of Prof. Marshall before the Gold and Silver Commission, 1886 Q. 10,140-50.

† Report, pp. 18 and 20.

TABLE XXVIII

Gold Value of the Rupee

As expressed in Terms of Foreign Exchange Bates on London. Par R. = ls. 4d.					As expressed in Terms of Gold.													
					Years.	(1) Rupee Price of Sovereigns. Par Rs. 15 = 1 Sovereign.						(2) Rupee Price of Bar Gold Par Tola = Rs. 23-14-4.					
Years.	Highest.		Lowest.			Highest.			Lowest.			Highest.			Lowest.		
	s.	d.	s.	d.		Rs.	A.	P.	Rs.	A.	P.	Rs.	A.	P.	Rs.	A.	P.
1892-93	1	3.969	1	2.625	1893	16	10	6	15	6	0	26	11	0	24	14	0
1893-94	1	4.031	1	1.500	1894	19	0	0	16	1	0	32	4	0	25	9	0
1894-95	1	1.906	1	0.000	1895	19	5	0	18	2	6	30	8	0	27	6	0
1895-96	1	2.875	1	1.000	1896	17	7	0	16	1	0	27	13	6	27	2	0
1896-97	1	3.842	1	1.781	1897	16	10	0	15	3	0	26	12	6	25	4	0
1897-98	1	4.125	1	2.250	1898	15	7	0	15	1	0	24	10	0	24	0	0
1898-99	1	4.156	1	3.094	1899	15	4	0	15	0	0	24	2	0	23	4	0
1899-1900	1	4.375	1	3.875	1900	15	1	3	15	0	0	24	2	0	23	15	6
1900-1901	1	4.156	1	3.875	1901	15	0	0	15	0	0	24	2	0	24	0	0
1901-1902	1	4.125	1	3.875	1902	15	4	6	15	2	6	24	2	6	24	0	0
1902-1903	1	4.156	1	3.875	1903	15	3	0	15	1	6	24	3	0	24	0	0
1903-1904	1	4.156	1	3.875	1904	15	5	0	15	1	3	24	2	0	24	0	3
1904-1905	1	4.156	1	3.970	1905	15	4	0	15	1	6	24	2	0	24	0	0
1905-1906	1	4.156	1	3.937	1906	15	1	0	15	2	0	24	4	6	24	0	0
1906-1907	1	4.187	1	3.937	1907	15	4	0	15	0	0	24	4	0	23	15	6
1907-1908	1	4.187	1	3.875	1908	15	1	0	15	0	0	24	10	0	24	2	0
1908-1909	1	4	1	3.875	1909	Premium between 12 and 3%						24	3	6	23	15	0
1909-1910	1	4.156	1	3.875	1910	15	5	0	15	0	0	24	4	0	23	15	0
1910-1911	1	4.156	1	3.87b	1911	15	0	0	15	0	0	24	0	6	23	14	0
1911-1912	1	4.156	1	3.937	1912	15	0	0	15	0	0	24	0	0	23	14	0
1912-1913	1	4.156	1	3.970	1913	15	0	0	15	0	0	24	0	3		—	
1913-1914	1	4.156	1	3.937	1914	15	14	0	15	2	0	26	10	0	23	15	6
1914-1915	1	4.094	1	3.937	1915	15	13	6	15	5	0	25	14	0	24	8	0

Assuming, for the moment, the criterion laid down by the Commission to be correct, can it be said from the data given above that the rupee has maintained its gold value ? It would be over-confident if not rash to say that the system, even from the narrow point of view of the Commission, has been an unquestioned success.

Between June, 1893, and January, 1917, the rupee was rated to gold at the rate of 1 rupee equal to 7.53344 troy grs. of fine gold. At that rate the sovereign should be equal to 15 rupees, the mint price of gold should be Rs. 23-14-4 per tola (i.e. 180 grs.) of bar gold 100 touch, and the exchange on London should be 1s. 4d., and should have varied within 1s. 4.125 d., the import point, and 1s. 3.906 d., the export point, for gold.

Taking a general survey of the stability of the rupee with regard to its value in terms of gold, it will be noticed that from the date of the Mint closure up to 1898 the rupee was far below par. The depreciation of the rupee, measured in terms of exchange or price of gold or sovereign, ranged somewhere between 25 to 30 per cent. So great was the depreciation that it redoubled the difficulties confronting the Government when the rupee was not fixed to gold. The financing the Home Treasury by the usual means of selling Council Bills became well-nigh impossible.* The Secretary of State found himself in an embarrassing position. Offering to sell below par involved the obloquy of having led the way to the defeat of the policy of stabilizing exchange. Refusing to sell at market rates involved the danger of a dry Treasury. The Government of India suggested that the Secretary should lay down a minimum rate for or a maximum amount of the bills that he put upon the market. The Secretary of State agreed to neither, but consented to reduce his drawings so as not to unduly depress the exchange rate. The drawings of the secretary of State during the first fiscal year since the Mint closure have been the smallest on record :—

TABLE XXIX

Council Drawings

Date of drawing		Amount of Drawings £ 1,000 omitted	Rate at which drawn (Pence per Rupee)
1893.	June ...	2,478	15.039
	July ...	25	15.974
	August ...	78	15.243
	September ...	7	15.350
	October ...	5	15.334
	November ...	617	15.251
	December ...	14	15.242
1894.	January ...	98	14.408
	February ...	1,023	13.787
	March ...	1,915	13.870
	April ...	1,368	13.626

* *See* Commons Paper 7 of 1894, East India (Currency and Sale of Bills).

The curtailment of drawings to save the rate of exchange from being lowered was not an unmitigated good, for it imposed the necessity of a resort to the by no means inexpensive method of sterling borrowings to finance the Home Treasury.* The remittances by drawings fell short of the net disbursements of the Home Treasury in 1893-94 by £6,588,000, which deficit was met by permanent sterling borrowings to the extent of £7,430,000, the interest on which added to the already overheavy burden of the gold payments. Rather than incur such a penalty the Secretary of State gave up the attempt to dominate the market and preferred to follow it. But this let-go policy was not without its cost. The drop in the exchange below 1s. 4d. added to the burden of remittances to the Home Treasury, and also compelled the Government to grant exchange compensation allowance to its European officers, civil and military—an aid which it had so far withheld. The cost to the Government involved by the fall of the rupee below par was quite a considerable sum.†

TABLE XXX

Cost of the Fall of the Rupee

Years	Loss on Council Bills being sold below par	Loss by Exchange Compensation Allowance	Loss by Increase of Pay of British Troops	Total on each Account in each Year	Total on all Counts for three Years	
					In Rupees	In Sterling at 1s. 4d.
					Rs.	£
1894-95 ...	3,74,15,000	78,02,000	37,84,000	4,90,01,000	11,91,86,000	7,945,733
1895-96 ...	3,05,91,000	87,18,000	49,38,000	4,42,47,000		
1896-97 ...	1,66,48,000	48,95,000	44,25,000	2,59,38,000		

In the midst of such a situation it is no wonder if the faith of the Government in the ultimate stability of the rupee had given way, for we find that in October, 1896, the Financial Member of the Council had personally come to the conclusion that it would be better in the interest of stability to substitute 15d. for 16d. as the par of exchange between the rupee and gold.‡ But the suggestion was dropped as the rupee showed signs of reaching the gold par, which it did in January, 1898, after a period of full five years of depreciation from the established par.

* Evidence of Sir H. Waterfield before the Fowler Committee, Q. 4,332-39.

† Evidence of Hon. A. Arthur before the Fowler Committee. Q. 1,806-7.

‡ Cf. Shirras, *Indian Finance and Banking,* p. 168.

Between January, 1898, and January, 1917, twice did the rupee fall below its gold par. The year 1907-8 records the second occasion when the parity of the rupee under the exchange standard broke down. The actual rates of exchange prevailing in the market were as follows:—

TABLE XXXI

RATES OF EXCHANGE, LONDON ON INDIA (FROM "THE TIMES")

Par R. = 1s. 4d.

Date		On Calcutta				On Bombay			
		Highest		Lowest		Highest		Lowest	
1907.	September ...	1	$4^{1}/_{32}$	1	$3^{31}/_{32}$	1	$4^{1}/_{32}$	1	$3^{31}/_{32}$
	October ...	1	$4^{1}/_{32}$	1	$3^{31}/_{32}$	1	$4^{1}/_{32}$	1	$3^{31}/_{32}$
	November ...	1	4	1	$3^{25}/_{32}$	1	$3^{31}/_{32}$	1	$3^{23}/_{32}$
	December ...	1	$3^{15}/_{16}$	1	$3^{27}/_{32}$	1	$3^{15}/_{16}$	1	$3^{27}/_{32}$
1908.	January ...	1	$3^{15}/_{16}$	1	$3^{29}/_{32}$	1	$3^{15}/_{16}$	1	$3^{7}/_{8}$
	February ...	1	$3^{31}/_{32}$	1	$3^{7}/_{8}$	1	$3^{31}/_{32}$	1	$3^{7}/_{8}$
	March ...	1	$3^{29}/_{32}$	1	$3^{27}/_{32}$	1	$3^{29}/_{32}$	1	$3^{27}/_{32}$
	April ...	1	$3^{7}/_{8}$	1	$3^{27}/_{32}$	1	$3^{27}/_{32}$	1	$3^{27}/_{32}$
	May ...	1	$3^{7}/_{8}$	1	$3^{27}/_{32}$	1	$3^{15}/_{16}$	1	$3^{27}/_{32}$
	June ...	1	$3^{29}/_{32}$	1	$3^{27}/_{32}$	1	$3^{7}/_{8}$	1	$3^{27}/_{32}$
	July ...	1	$3^{7}/_{8}$	1	$3^{27}/_{32}$	1	$3^{7}/_{8}$	1	$3^{27}/_{32}$
	August ...	1	$3^{29}/_{32}$	1	$3^{27}/_{32}$	1	$3^{29}/_{32}$	1	$3^{27}/_{32}$
	September ...	1	$3^{31}/_{32}$	1	$3^{29}/_{32}$	1	$3^{31}/_{32}$	1	$3^{7}/_{8}$
	October ...	1	$3^{15}/_{16}$	1	$3^{7}/_{8}$	1	$3^{29}/_{32}$	1	$3^{15}/_{16}$
	November ...	1	$3^{29}/_{32}$	1	$3^{7}/_{8}$	1	$3^{7}/_{8}$	1	$3^{7}/_{8}$
	December ...	1	$3^{15}/_{16}$	1	$3^{29}/_{32}$	1	$3^{31}/_{32}$	1	$3^{7}/_{8}$

After a crisis lasting over a year the rupee recovered to its old gold par and remained fixed at it, though by no means firmly, for another seven years, only to suffer another fall from its parity during the year 1914-15 *(see* table, p. XXXII).

After 1916 the stability of the exchange standard was threatened by a danger arising from quite unsuspected quarters. The Indian exchange standard was based upon the view that the gold value of silver was bound to fall or at least not likely to rise to a level at which the intrinsic value of the rupee became , higher than its nominal value. The price of silver at which the intrinsic value of the rupee equalled its nominal value was 43d. per ounce. So long as the intrinsic value of the rupee remained

TABLE XXXII

Rates of Exchanbe, London on Calcutta (from the National Bank of India)

Month	1914		1915	
	Highest	Lowest	Highest	Lowest
January ...	...	...	1 $3^{15}/_{16}$	1 $3^{15}/_{16}$
February ...	...	...	1 $4^{1}/_{32}$	1 $3^{39}/_{32}$
March ...	...	...	1 4	1 $3^{15}/_{16}$
April ...	...	...	1 $3^{15}/_{16}$	1 $3^{29}/_{32}$
May ...	1 4¼	1 $3^{15}/_{16}$	1 $3^{15}/_{16}$	1 $3^{7}/_{8}$
June ...	1 $3^{31}/_{32}$	1 $3^{15}/_{16}$	1 $3^{7}/_{8}$	1 $3^{27}/_{32}$
July ...	1 $3^{31}/_{32}$	1 $3^{13}/_{16}$	1 $3^{22}/_{32}$	1 $3^{23}/_{32}$
August ...	1 $3^{7}/_{8}$	1 $3^{13}/_{16}$	1 $3^{15}/_{16}$	1 $3^{27}/_{32}$
September ...	1 $3^{15}/_{16}$	1 $3^{13}/_{16}$	1 4	1 $3^{15}/_{16}$
October ...	1 $3^{15}/_{16}$	1 $3^{15}/_{16}$	...	...
November ...	1 $3^{15}/_{16}$	1 $3^{15}/_{16}$	...	...
December ...	1 $3^{15}/_{16}$	1 $3^{15}/_{16}$	...	...

below its nominal value, i.e. the price of silver did not rise above 43d., there was no danger of the rupee circulating as currency. Once the price of silver rose above that point the danger of the rupee passing from currency to the melting-pot was imminent. Now, with the exception of a brief period from September, 1904, to December, 1907, the gold price of silver had since 1872 showed a marked tendency to fall. The decline in its price was so continuous and so steady as to create the general impression that the low price had come to stay. Indeed, so firm was the impression that the framers of the exchange standard had never taken into account the contingency of a rise in the price of silver above 43d. So little was it anticipated, that the system was not criticized on this ground by any of the witnesses who deposed before the successive Committees and Commission on Indian currency. But the unexpected may happen, and unfortunately did happen after 1916, and happened suddently. On February 10, 1914, the cash price in London of silver per ounce of standard fineness was 26 5/8d. It fell to 22 11/16d. on February 10, 1915, and though it jumped to 27d. on the same date in 1916, yet it was below the rupee melting-point. After the last-mentioned date its rise was meteoric. On February 9, 1917, it

rose to 37 5/8 d.; on February 8, 1918, to 43d.; and on the same date in 1919 to 48 7/16d., thereby quite overshooting the rupee melting-point. But the price of silver broke all record when on February 11, 1920, it reached the colossal figure of 89 ½d. per standard ounce.

The rise in the intrinsic value of the rupee above the nominal value at once raised a problem as to how the rupee could be preserved in circulation. Two ways seemed open for the solution of the problem. One was to scale down the fineness of the rupee, and the other to raise its gold parity. All other countries which had been confronted by a similar problem adopted the former method of dealing with their silver coinage—a method which was successfully tried in the Philippines and the Straits Settlements and Mexico in 1904-7, when a rise in those years in the price of silver had created a similar problem in those countries.* The Secretary of State for India adopted the second course of action and kept on altering the rupee par with every rise in the price of silver. The alterations of the rupee par following upon the variations in the price of silver are given below:—

TABLE XXXIII

Date of Alteration of the Rupee Par.	Pitch of the Par.	
	s.	d.
January 3, 1917	1	4¼
August 28, 1917	1	5
April 12, 1918	1	6
May 13, 1919	1	8
August 12, 1919	1	10
September 15, 1919	2	0
November 22, 1919	2	2
December 12, 1919	2	4

After having played with the rupee par, for two years, in this manner, as though such alterations involved no social consequences, the Secretary of State, on May 30, 1919, appointed a new Currency Committee under the chairmanship of Babing-ton Smith, to recommend measures "to ensure a stable gold exchange standard." The majority of the Committee, after half a year of cogitation, reported to the effect† that

* Cf. E. W. Kemmerer, *Modem Currency Reforms,* 1916, pp. 349-354, 445-49, and 535-47.

† *See* Report, P.P.Cd. 527 of 1920, par. 59.

"(i) The object should be to restore stability to the rupee, and to re-establish the automatic working of the currency system at as early a date as practicable.

"(ii) The stable relation to be established should be with gold and not with sterling.

"(iii) The gold equivalent of the rupee should be sufficiently high to give assurance, so far as is practicable, that the rupee, while retaining its present weight and fineness, will remain a token coin, or in other words, that the bullion value of the silver it contains will not exceed its exchange value.

"After most careful consideration" (the Committee said) "we are unanimous (with the exception of one of our members who signs a separate report) in recommending that the stable relation to be established between the rupee and gold should be at the rate of one rupee to 11.30016 grs. of fine gold both for foreign exchange and internal circulation." i.e. the rupee to be equal to 2s. (gold).

The minority report, which harped on the old cry of a stimulus of low exchange and penalty of high exchange, stood out for the maintenance of the old rate of 15 rupees to the gold sovereign or 113.0016 grs. troy of pure gold, and recommended the issue of a two-rupee silver coin of reduced fineness compared with the old rupee, so long as the price of silver in New York was over 92 cents.*

By the announcements of February 2, 1920, the recommendations of the majority of the Committee were accepted by the Secretary of State and also by the Government of India, which abandoned the old parity of 7.53344 grs. per rupee for the new parity of 11.30016 grs. troy. Now, has the rupee maintained its new parity with gold ?

In the matter of ascertaining this fact the exchange quotation on London is no guide, for the value of the rupee was 2s. *gold* and not 2s. sterling. Had gold and sterling been identical the case would have been otherwise. But during the war, owing to the issue of virtually inconvertible money, the pound sterling had depreciated in terms of gold. We must therefore take as our standard a currency which had kept its par with gold. Such a currency was the American dollar, and the exchange quotation

* Report, p. 41.

on New York is therefore more directly helpful in measuring the gold value of the rupee than is the sterling quotation on London. We can also employ the actual rupee-sterling quotation as a measure by comparing it with the amount of sterling the rupee should have purchased, as an equivalent of 11.30016 grs. of fine gold, when corrected by the prevailing cross-rate between New York and London.*

Compared with the par of exchange, the actual exchange, either on New York or on London, indicates a fall of the rupee which is simply staggering (*See* table XXXIV).

Consider, along with the external gold value of the rupee, its internal value in terms of sovereigns and bar gold (*see* table XXXV).

The tables need no comment. The rupee is not only far away from 2s. (gold), but is not even 1s. 4d. (sterling).

Do not the facts furnish an incontrovertible proof of the futility of the exchange standard ? How can a system which fails to maintain its value in terms of gold, which it is supposed to do, be regarded as a sound system of currency ? There must be somewhere some weakness in the mechanism of a system which is liable to such occasional breakdowns. The rupee fell or rather was below par in 1893, and did not reach its parity to any real degree of firmness until 1900. After an interval of seven years the rupee again falls below par in 1907. The year 1914 witnesses another fall of the rupee. A meteoric rise since 1917, and again a fall after 1920. This curious phenomenon naturally raises the question : Why did the rupee fail to maintain its gold parity on these occasions ? A proper reply to this question will reveal wherein lies the weakness of the exchange standard.

* The formula for this computation is as follwos :—

if x pence	=	1 rupee
	=	11.30016 grs. fine gold,
2:3.22 grs. fine gold	=	1 dollar
D dollars	=	1 pound sterling
	=	240 pence.

Then x $\dfrac{11.30016 \times 240}{23.22 \times D} = \dfrac{11{,}680}{D}$ pence.

Cf. Rushforth, F. V., *The Indian Exchange Problem,* 1921, p. 9.

TABLE XXXIV

Actual Gold Value of the Rupee and the new Parity in Terms of Foreign Exchanges

As in the Middle of the Month of—	New York on Bombay in cents.						Bombay on London in s. d.					
	1920.		1921.		1922.		1920.		1921.		1922.	
	Par Rate.	Actual Rate.	Par Rate.	Actual Rate.	Par Rate.	Actual Rate.	Par Rate.	Actual Rate.	Par Rate.	Actual Rate.	Par Rate.	Actual Rate.
January .	0.4866	0.4400	0.4866	0.2925	0.4866	0.2800	2 7½	2 3 5/8	2 7 5/16	1 5 5/8	2 3 5/8	1 3 1/13 6/6
February .	0.4866	0.4850	0.4866	0.2800	0.4866	0.2845	2 10 3½	2 9 1/8	2 5 1/13 6/6	1 4 1/8	2 2 7/32	1 3 9/16
March . .	0.4866	0.4850	0.4866	0.2625	0.4866	0.2787	2 7 2/3 9/2	2 5 3/4	2 5 3/3 1/2	1 3 1/4	2 2 2/3 9/2	1 3 5/16
April . .	0.4866	0.4775	0.4866	0.2625	0.4866	0.2785	2 5 7/16	2 3 3/4	2 5 1/13 6/6	1 3 5/8	2 2½	1 3 1/8
May . . .	0.4866	0.4325	0.4866	0.2675	0.4866	0.2930	2 6 1/3 9/2	2 2 1/8	2 5 7/32	1 3 1/2	2 2¼	1 3 9/16
June . .	0.4866	0.4125	0.4866	0.2525	0.4866	0.2900	2 5 3/3 1/2	1 10 1/13 6/6	2 6 2/3 9/2	1 3 3/8	2 2 1/8	1 3 1/3 9/2
July . . .	0.4866	0.3900	0.4866	0.2400	0.4866	0.2900	2 5 3/3 1/2	1 8 1/16	2 8 9/32	1 3¼	2 2 5/8	1 3 5/8
August . .	0.4866	0.3650	0.4866	0.2475	0.4866	0.2916	2 8 9/32	1 10 1/16	2 7 2/3 9/3	1 4 3/4	2 2 3/16	1 3 1/3 9/2
September .	0.4868	0.3325	0.4866	0.2675	0.4866	0.2875	2 9 9/16	1 10 1/16	2 7 1/3 5/2	1 5 1/16	2 2 6/16	1 3 9/16
October .	0.4866	0.3025	0.4866	0.2825	0.4866	—	2 9 2/3 1/2	1 7 3/4	2 6 1/32	1 5 7/16	—	—
November .	0.4866	0.3025	0.4866	0.2695	0.4866	—	2 10 9/16	1 7 1/8	2 5 1/3 6/2	1 4 1/8	—	—
December .	0.4866	0.2650	0.4866	0.2775	0.4866	—	2 9 9/16	1 5 1/4	2 4	1 3 7/8	—	—

TABLE XXXV

Gold Value of the Rupee and the new Parity in Terms of the Price of Sovereigns and Gold

Months	1920		1921		1922	
	Price of British Sovereigns Par 10 Rs. = 1 Sov.	Price of Bar Gold per Tola 100 touch Par Rs. 15-14-10 = 1 Tola	Price of British Sovereigns Par 10 Rs. = 1 Sov.	Price of Bar Gold per Tola 100 Touch Par Rs. 15-14-10 =1 Tola	Price of British Sovereigns Par 10 Rs. = 1 Sov.	Price of Bar Gold per Tola 100 touch Par Rs. 15-14-10 =1 Tola
	Rs. A. P.	Rs. A. P.	Rs. A. p.	Rs. A. P.	Rs. A. p.	
January ...	Nominal	28 0 0	Nominal	Official Figures not yet published	17 14 0	Official Figures not yet published
February ...	”	22 0 0	”		17 14 0	
March ...	”	24 0 0	”		17 14 0	
April ...	”	24 8 0	18 12 0		...	
May ...	”	22 12 0	19 0 0		...	
June ...	”	22 4 0	19 12 0		...	
July ...	”	23 0 0	20 9 0		...	
August ...	”	21 8 0	20 9 0		...	
September ...	”	25 4 0	19 2 0		...	
October ...	”	27 6 0	18 14 0		...	
November ...	”	28 10 0	18 8 0		...	
December ...	”	27 12 0	18 6 0		...	

The only scientific explanation sufficient to account for the fall of the rupee would be to say that the rupee had lost its general purchasing power. It is an established proposition that a currency or unit of account will be valued in terms of another currency or unit of account for what it is worth, i.e. for the goods which it will buy. To take a concrete example, Englishmen and others value Indian rupees inasmuch and in so far as those rupees will buy Indian goods. On the other hand, Indians value English pounds (and other units of account, for that matter) inasmuch and in so far as those pounds will buy English goods. If rupees in India rise in purchasing power (i.e. if the Indian prices level falls) while pounds fall in purchasing power or remain stationery or rise less rapidly (i.e. if the English price level rises relative to the Indian price-level), fewer rupees would be worth as much as pound, i.e. the exchange value of the rupee in terms of the pound will rise. On the other hand, if rupees in India fall in purchasing power (i.e. if the Indian price-level rises) while pounds rise in purchasing power or remain stationary or fall less rapidly (i.e. if the English price-level falls relative to the Indian price-level), it will take more rupees to be worth as much as a pound, i.e. the exchange value of the rupee in terms of the pound will fall.

On the basis of this theory the real explanation for a fall in the Indian exchange should be sought for in the movement of the Indian price-level. Lest there be any doubt regarding the validity of the proposition let us take each of the occasions of the fall and find out whether or not the fall was coincident with the fall in the purchasing power of the rupee.*

TABLE XXXVI

PERIOD I, 1890-99

Years	Currency in Rupees Circulation + Notes		Index Number of prices in India 1890-94=100	Index Number of prices in England 1890-94 = 100
	Amount in Crores of Rs.	Index Number 1890-94 = 100		
(1)	(2)	(3)	(4)	(5)
1890 ...	120	92	113	104
1891 ...	131	100	106	105
1892 ...	141	108	100	99
1893 ...	132	101	96	99
1894 ...	129	99	85	93
1895 ...	132	101	89	90
1896 ...	127	97	99	89
1897 ...	125	96	120	90
1898 ...	122	93	109	91
1899 ...	131	100	108	94

TABLE XXXVII

PERIOD II, 1900-1908

Years	Currency in Rupees Circulation + Notes		Index Number of prices in India 1890-94 = 100	Index Number of prices in England 1890-94=100
	Amount in Crores of Rs.	Index Number 1890-94 = 100		
(1)	(2)	(3)	(4)	(5)
1900 ...	134	103	126	103
1901 ...	150	115	120	98
1902 ...	143	109	115	96
1903 ...	147	113	111	97
1904 ...	152	116	110	100
1905 ...	164	126	120	100
1906 ...	185	142	134	107
1907 ...	190	145	138	113
1908 ...	181	139	147	104

* The figures for the following tables are taken, unless otherwise stated, from the Report of the Price Inquiry Committee, Calcutta, 1914.

TABLE XXXVIII

Period III, 1909-14*

Years	Currency in Rupees	Circulation + Notes	Index Number of prices in India 1890-94 = 100	Index Number of prices in England 1890-94 = 100
	Amount in Crores of Rs.	Index Number 1890-94 = 100		
(1)	(2)	(3)	(4)	(5)
1909 ...	198	152	138	105
1910 ...	199	152	137	110
1911 ...	209	160	139	114
1912 ...	214	164	147	117
1913 ...	238	182	152	124
1914 ...	237	182	156	124

* Figures for 1913 and 1914 are those of Mr. Shirras given in the Appendix to his Indian Finance and banking. Figures in column 3 are calculated from his figures.

TABLE XXXIX

Period IV, 1915-1921*

Years	Currency in Rupees	Circulation + Notes	Index Number of prices in India 1913=100	Index Number of prices in England 1913=100
	Amount in Crores of Rs.	Index Number 1913 = 100		
(1)	(2)	(3)	(4)	(5)
1915 ...	266	104	112	127.1
1916 ...	297	116	125	159.5
1917 ...	338	132	142	206.1
1918 ...	407	155	178	226.5
1919 ...	463	180	200	241.9
1920 ...	411	160	209	295.3
1921 ...	393	114	183	182.4

* Index numbers of prices are taken from the League of Nations *Memorandum on Currency,* 1913-1921, 2nd Ed. (1922). Table VIII. Figures for Circulation are taken from H. S. Jevon's. *The Future of Exchange and Indian Currency,* 1922, p. 44, Index numbers of circulation are calculated.

Now do these tables confirm, or do they not, the argument that the fall in the gold value of the rupee is coincident with a fall in the general purchasing power of the rupee ? What was the general purchasing power of the rupee when a fall in its gold value occurred ? If we scrutinize the facts given in the above tables in the light of this query there can be no doubt as to the validity of this argument. From the tables it will be seen that the gold value of the rupee improved between 1893-1898 because there was a steady, if not unbroken, improvement in its general purchasing power. Again, on the subsequent occasions when the exchange fell, as it did in 1908, 1914, and 1920, it will be observed that those were the years which marked the peaks in the rising price-level in India ; in other words, those were the years in which there was the greatest depreciation in the general purchasing power of the rupee. A further proof, if it be needed, of the argument that the exchange value of the rupee must ultimately be governed by its general purchasing power is afforded by the movements of the rupee-sterling exchange since 1920 (*see* Table XL).

But, although such is the theoretical view confirmed by statistical evidence of the causes which bring about these periodic falls in the gold value of the rupee (otherwise spoken of as the fall of exchange), it is not shared by the Government of India. The official explanation is that a fall in the gold value of the rupee is due to an adverse balance of trade. Such is also the view of eminent supporters of the exchange standard like Mr. Keynes* and Mr. Shirras.†

No doubt, some such line of reasoning is responsible for the currency fiasco of 1920. How is it possible otherwise to explain the policy of raising the exchange value of the rupee ? Both the Smith Committee on Indian Currency‡ and the Government of India§ were aware of the fact that the rupee was heavily depreciated, as evidenced by the rise of prices in India.

*Op. cit., p. 16.

† op. cit, p. 4.

‡Cf. Report, pp. 19-21.

§ Memorandum from the Government regarding Indian price movements. App. XXVIII to the Report of the Currency Committee of 1919.

TABLE XL

Date			Rupee Prices in India. 1913=100	Sterling Price in England *(Statist)*. 1913=100	Average Rate of Exchange London on Calcutta	Rupee-Sterling Purchasing Power Parity . $16dx \frac{Col.3}{Col.2}$
	(1)		(2)	(3)	(4)	(5)
					d.	d.
1920.	January	...	202	289	27.81	22.89
	February	...	203	306	32.05	24.12
	March	...	194	301	29.66	25.40
	April	...	193	300	27.88	25.95
	May	...	190	298	25.91	25.77
	June	...	192	293	23.63	25.08
	July	...	196	282	22.63	24.49
	August	...	193	263	22.75	24.70
	September	...	188	244	22.31	24.94
	October	...	188	232	19.88	24.00
	November	...	186	215	19.69	22.62
	December	...	179	209	17.44	21.81
1921.	January	...	169	200	17.66	21.96
	February	...	164	191	16.31	20.98
	March	...	162	183	15.53	20.40
	April	...	163	186	15.75	19.63
	May	...	170	182	15.44	17.98
	June	...	172	176	15.53	17.14
	July	...	171	163	15.38	17.40
	August	...	178	161	16.25	16.36
	September	...	178	157	17.22	15.82
	October	...	178	156	17.02	14.65
	November	...	173	161	16.25	14.89
	December	...	169	157	15.94	14.86
1922.	January	...	162	156	15.88	15.41
	February	...	159	156	15.59	16.70
	March	...	160	157	15.34	15.70
	April	...	160	159	15.19	15.90
	May	...	162	159	15.59	15.70
	June	...	169	160	15.63	15.14
	July	...	170	158	15.69	14.87
	August	...	166	153	15.66	14.74

Given this fact, any question of raising the gold value of the rupee to 2s. gold when the rupee had scarcely the power to purchase 1s. 4d. sterling was out of the question. The Committee indulged in loose talk about stabilizing the Indian exchange. But even from this standpoint the Committee's insistence on linking the rupee to gold must be regarded as little grotesque. Stable exchange, to use Prof. Marshall's language, is something like bringing the railway gauges of the world in unison with the main line. If that is what is expected from a stable exchange, then what was the use of linking the rupee to gold which had ceased to be the "main line" ? What people wanted was a stable exchange in terms of the standard in which prices were measured. Linking to gold involved unlinking to sterling, and it is sterling which mattered and not gold. Given this importance of sterling over gold, was any policy of exchange stabilization called for ? First of all it should have been grasped that such a policy could succeed only if it was possible to make sterling and rupee prices move in unison, for then alone could the ratio of interchange between them be the same. What control had the Government of India over the sterling ? They might have so controlled the rupee as to produce the effect desired, but all that might have been frustrated by an adverse move in the sterling. The success of the policy of linking to sterling would have been highly problematical although highly desirable. But was it called for ?

Now the problem of stabilization is primarily a problem of controlling abnormal deviations from the purchasing-power parity between two currencies. In the case of India there were no abnormal deviations from the rupee-sterling purchasing-power parity. On the other hand, the Indian exchange was moving in a more or less close correspondence with it. There was therefore no ground for originating any policy of exchange stabilization. But, supposing there were abnormal deviations and that, owing to some reasons known to it, the Committee believed that the exchange value of the rupee was not likely to return to the point justified by its general purchasing power, in that case the Committee should have fixed the exchange value well within the range of the purchasing power of the rupee. As it was, the value of the rupee fixed by the Committee the rupee never had. In giving a value to the rupee so much above

its purchasing-power parity, it is obvious the Committee originated a solution for the simple problem of stabilizing the rupee which involved the much bigger and quite a different problem of deflation or raising the absolute value of the rupee. How was the object to be attained ? The Committee never considered that problem. And why ? Was it because the price of silver had gone up ? May be. But it is doubtful whether the Committee could have believed firmly that the value of silver was going to be permanently so high as to require a modification of the gold par. Anyone who cared to scrutinize the rise in the price of silver could have found that the rise was largely speculative and could not have been permanent.

TABLE XLI

PRICE OF SILVER IN STERLING (PENCE)*

Year	Highest	Lowest	Average	Range of Variation
1913	$29\frac{3}{8}$	$25\frac{15}{16}$	$27\frac{9}{16}$	$3\frac{7}{16}$
1914	$27\frac{3}{4}$	$22\frac{1}{8}$	$25\frac{5}{16}$	$5\frac{5}{8}$
1915	27¼	$22\frac{5}{16}$	$23\frac{11}{16}$	$4\frac{15}{16}$
1916	$37\frac{1}{8}$	$26\frac{11}{16}$	$31\frac{5}{16}$	$10\frac{7}{16}$
1917	55	$35\frac{11}{16}$	$40\frac{7}{8}$	$19\frac{11}{16}$
1918	49½	42 ½	$47\frac{9}{16}$	7
1919	$79\frac{1}{8}$	$47\frac{3}{4}$	$57\frac{1}{16}$	$31\frac{3}{8}$
1920	89½	$38\frac{7}{8}$	$61\frac{7}{16}$	$50\frac{5}{8}$
1921	$43\frac{3}{8}$	$30\frac{5}{8}$	37	$12\frac{3}{4}$

But supposing that the rise in the price of silver was not speculative, did it follow that the rupee was appreciated ? The diagnosis of the Committee was an egregious blunder. With the facts laid before the Committee it is difficult to understand how anyone with a mere smattering of the knowledge of price movements could have concluded that because silver had appreciated the rupee had therefore appreciated. On the other hand, what had happened was that the rupee had depreciated in terms of general commodities, including gold and silver. Indeed, the appreciation of silver was a depreciation of the rupee. The following (Table XLII) is conclusive evidence of that fact :—

* From Kirkaldy's *British War Finance,* 1921, p. 35. Figures for 1921 are added from the Indian Paper Currency Report.

TABLE XLII

Depreciation of the Rupee

Date			Price of Bar Gold in India (Bombay) per Tola of 180 grs.			Price of Silver in India (Bombay) per 100 Tolas			Index Number for Prices in India 1913=100
				Rs.	A.		Rs.	A.	
1914		...		24	10		65	11	...
1915		...		24	14		61	2	112
1916		...		27	2		78	10	125
1917		...		27	11		94	10	142
1918	August	...	(July)	34	0	(May 16)	117	2	178
”		...				(Nov. 28)	82	10	...
”		...		30	0		...		...
”	Sept.	...		32	4		...		...
1919	March	...		32	0		113	0	200

Thus, the rise in the price of silver was a part of the general rise of prices of the depreciation of the rupee. The Committee desired to raise the gold value of the rupee to 10 rupees per sovereign when it cost twice that number of rupees to purchase a sovereign in the market. So marked was the depreciation of the rupee in terms of gold that a few months before the Committee submitted its report the *Statesman* (a Calcutta paper) wrote:—

> “If you land in the country with a sovereign the Government will take it away from you and give you eleven rupees three annas in return. If you are in the country and happen to have a sovereign and take it to the currency office you will get firfteen rupees for it. On the other hand, if you take it to the bazar you will find purchasers at twenty-one rupees.”

These facts were admitted by the Finance Department of the Government of India to be substantially correct,* and yet in the face of them the Committee recommended the 2s. gold parity for the rupee. The Committee confused the rupee with the silver, and thus failed to distinguish the problem of retaining the rupee in circulation and raising its exchange value in terms of gold. The latter solution was applicable only if the *rupee* had appreciated. But as it was silver that had appreciated in terms

* Cf. the reply of the Hon. Mr. Howard to the question of the Hon. Mr. Sinha on September 23, 1919. *S.L.C.P.,* Vol. LVII, p. 417.

of the rupee, the only feasible solution was to have proposed the reduction of the fineness of the rupee. Had the Committee regarded silver as a commodity distinct from the rupee like any other commodity to be measured in terms of the rupee as a unit of account, probably it might have avoided committing the blunder which it did. But what is more than probable is that the Committee did not think that the general purchasing power of the rupee was a factor of any moment in the consideration of the matter it was asked to report upon. What was of prime importance in its eyes for the maintenance of the exchange value of the rupee was a favourable balance of trade, and that India had at the time the Committee drafted its Report. For the Committee, in the course of its general observations on the exchange standard, remarked :

> "that the system had proved effectual in preventing the fall in the value of the rupee below 1s. 4d., and unless there should have been profound modifications in India's position as an exporting country with a favourable trade balance, there was no reason to apprehend any breakdown in this respect."*

Proceeding on this view of the question it was quite natural for the Committee to have argued that if a favourable balance of trade sustained 1s. gold exchange, why should a similar balance of trade not sustain 2s. gold exchange ?

Again, it is only on some such hypothesis that one can explain why the recommendations of the Committee were adopted at all when the necessity for their adoption had passed away. Even if the intrinsic value of the rupee exceeded its nominal value, there was no danger of a wholesale disappearance of the rupee from circulation in view of the enormous volume of rupees in India.† What would have taken place was not a wholesale melting of rupees, but a constant dribble of an irregular and illegal character leading to the contravention of the orders then issued by the Government of India against the melting or exportation of the rupee coin. At the time when the Committee reported (December, 1919) the price of silver was no doubt high, but it was certainly falling during 1920 when the Government

* Report, par. 33.

† Cf. evidence of Mr. Keynes before the Committee of 1919. Q. 2,665-68.

took action on the Report. Indeed, on August 31, 1920, when the Bill to alter the gold value of the rupee was introduced into the Council, gold was selling at 23¼ rupees to the tola, while if the sovereign was to be equal to 10 rupees, the market price of gold should have been Rs. 15-14-0 per tola, so that there was a difference of Rs. 7½ or 33 per cent. between the market ratio of gold to the rupee and the new mint ratio. Moreover, the price of silver had also gone down in the neighbourhood of 44d., so that there was no danger of the rupee being melted out of circulation.* But, notwithstanding such a disparity, the Government rushed to fix a higher gold parity for the rupee. The financial reason for this rash act was of course obvious. The impending constitutional changes were to bring about a complete separation between provincial and imperial finance in British India. Under the old system of finance it was open for the central Government to levy "benevolences" in the form of contributions on the Provincial Governments to meet such of its imperious wants as remained unsatisfied with the help of its own resources, apart from the lion's share it used to take at every settlement of the provincial finance. Under the new constitution it was to be deprived of this power. The Central Government was therefore in search of some resource to obtain relief without appearing to tax anybody in particular. A high exchange seemed to be just the happy means of doing it, for it was calculated to effect a great saving on the "home charges." But how was this high exchange to be maintained, supposing it was desirable to have a high exchange from the financial point of view ?† Not only had the price and silver gone down and the rupee shown evident marks of depreciation in terms of gold, but the balance of trade had also become adverse to India at the time when the government proceeded to take action on the Report of the Committee. But this enactment, so singular in its rashness, was none the less founded upon the hope that the balance of trade would become favourable in time and thus help to maintain the 2s. gold value of the rupee. That this is a correct

* Cf. the speech of the Hon. Mr. Tata on the Indian Coinage (Amendment) Bill, *S.L.C.P.,* Vol. LIX, p. 112.

† In the recent discussions on the Indian exchange it has been entirely overlooked that this was the underlying motive of raising the Indian exchange to 2s. gold. But it was laid bare by the Finance Member of the Council in his speech on March 10, 1920, in the course of the debate on the resolution *re* Reverse Councils, *S.L.C.P.,* Vol. LVIII, p. 1292.

interpretation of the Government's calculations is borne out by the following extract from the letter which it addressed to the Bengal Chamber of Commerce in explanation of the currency fiasco.* After speaking of the necessity for granting international credits to revive commerce, the letter goes on to say:—

> " But for the rest they [i.e. the Government of India] can now only rely on the natural course of events and the return of favourable export conditions, combined with the reduction of imports..... to strengthen the exchange. Experience has demonstrated that in the present condition of the world trade stability is at present unattainable, but the Government of India see no reason why the operation of natural conditions..... should not allow of the eventual fixation of exchange at the level advocated in the report of the Currency Committee."

Which of the two views is correct ? Is it the low purchasing power of the rupee which is responsible for its fall, or is it due to an adverse balance of trade ? Now, it must at once be pointed out that an adverse balance of trade, as an explanation of the fail of exchange, is something new in Indian official literature. A fall of exchange was a common occurrence between 1873 and 1893, but no official ever offered the adverse balance of trade as an explanation. Again, can the doctrine of the adverse balance of trade furnish an ultimate explanation for the fall that occurred in 1907, 1914, and 1920? First of all, taking into consideration all the items visible and invisible, the balance-sheet of the trade of a country must balance. Indeed, the disquisitions attached to the Indian Paper Currency Reports wherein this doctrine of adverse balance as a cause of fall in exchange is usually to be found, never fail to insist that there is no such thing as a "drain" from India by showing item by item how the exports of India are paid for by the imports, even in those years in which the exchange has fallen. The queer thing is, the same Reports persist in speaking of an adverse balance of trade. Given the admission that all Indian exports are paid for, it is difficult to see what remains to speak of as a balance. Why should that part of trade liquidated by money be spoken of as a "balance" ? One might as well speak of a balance of

* The letter was published in the *Times of India,* November 20, 1920, p. 14, col. 6.

trade in terms of cutlery or any other commodity that enters into the trading operations of the country. The extent to which money enters into the trading transactions of two countries is governed by the same law of relative values as is the case with any other commodity. If more money goes out of a country than did previously, it simply means that relatively to other commodities it has become cheaper. But if there is such a thing as an adverse balance in the sense that commodity imports exceed commodity exports, then there arises the further question : Why do exports fall off and imports mount up ? In other words, given a normal equilibrium of trade, what causes an adverse balance of trade ? For this there is no official explanation. Indeed, the possibility of such a query is not even anticipated in the official literature. But the question is a fundamental one. An adverse balance of trade in the above sense is only another way of stating that the country has become a market which is good to sell in and bad to buy from. Now a market is good to sell in and bad to buy from when the level of prices ruling in that market is higher than the level of prices ruling outside. Therefore, if an adverse balance of trade is the cause of the fall of exchange, and if the adverse balance of trade is caused by internal prices being higher than external prices, then it follows that the fall of exchange is nothing but the currency's fall in purchasing power, which is the same thing as the rise of prices. The adverse balance of trade is an explanation a step short of the final explanation. Try to circumvent the issue as one may, it is impossible to escape the conclusion that the fall in the exchange value of the rupee is a resultant of the fall in the purchasing power of the rupee.

Now what is the cause of the fall in the purchasing power of the rupee ? In that confused, if not absurd, document, the Report of Price Inquiry Committee,* one cause of the rise of prices in India was assigned, among others,† to the decline in supplies relatively to population. In view of the more or less generally accepted theory of quantity of a currency as the chief determinant of its value, the line of reasoning adopted by the

* This Committee was appointed in 1910 to investigate into the rise of prices in India and was composed of Messrs. Datta, Shirras, and Gupta. The first and the last named commissioners being members of the Finance Department of the Government of India, the Committee may be regarded as more or less an official body. The results of its investigations appeared in 1914 in five volumes, Vol. I of which contained the Report signed by Mr. Datta.

† *See* Report, paras. 126-27.

Committee is somewhat surprising. But there is enough reason to imagine why the Committee preferred this particular explanation of the rise of prices. The position of the Government with regard to the management of the Indian currency is somewhat delicate. Already the issue of paper currency was in the hands of the Government. By the Mint closure it took over the management of the rupee currency as well. Having the entire control over the issue of currency, rupee and paper, the Government becomes directly responsible for whatever consequences the currency might be said to produce. It must not, also, be forgotten that the Government is constantly under fire from an Opposition by no means over-scrupulous in the selection of its counts. As a result of this situation the Government walks very warily, and is careful as to what it admits. Lord Castlereagh, in the debate on Horner's resolution of 1811 stating that bank notes were depreciated by over-issue, asked the House of Commons to consider what Napoleon would do if he found the House admitting the depreciation even if it was a fact. The Government of India is in the same position, and had to think what the Opposition would do if it admitted this or that principle. The reason why the Government of India adheres to the adverse balance of trade as an explanation of the fall of exchange is the same which led the Committee to ascribe the rise of prices to the shortage of goods. Both the doctrines have the virtue of placing the events beyond the control of the Government and thus materially absolving the Government from any blame that might be otherwise cast upon it. What can the Government do if the balance of trade goes wrong ? Again, is it a fault of the Government if the supply of commodities declines ? The Government can move safely under the cover of such a heavy armour!* But does the explanation offered by the Committee invalidate the explanation that the cause of the rise of prices in India was excess of currency ? The value of money is a resultant of an equation (of exchange)† between money and goods. To that equation there are obviously

* It may, however, be noted that this explanation of a shortage of goods, which was apparently offered as most likely to absolve the Government from any blame for having inflated the currency, was repudiated by the Government in its resolution reviewing the Report of the Committee, probably because such an admission on its part was likely to be interpreted as an argument to show that under it India was getting poorer. But the Government, in a hurry, did not realize that with the repudiation of this doctrine no other explanation was left except that of an increased issue of money to account for the rise of prices in India.

† *The words in bracket are inserted from the Problem of Rupee.*—Ed.

two sides, the money side and the commodity side. It is an age-worn dispute among economists as to which of the two is the decisive factor when the result of the equation of exchange undergoes a change, i.e. when the general price-level changes. There are economists who when discussing the value or the general purchasing power of money emphasize the commodity side in preference to the money side of the equation as the chief determinant of it. To them if prices in general fall it may not be due to scarcity of money ; on the other hand, it may be due to an increase in the volume of commodities. Again, if prices in general rise they prefer to ascribe it to a decrease in the volume of commodities rather than to an increase in the quantity of money. It is possible to take this position, as some economists choose to do, but to imagine that the quantity theory of money is thereby overthrown is a mistake. As a matter of fact, in taking that position they are not damaging the quantity theory in the least. They are merely stating it differently. The weakness of the position consists in failing to take note of what the effect on the general price-level would be if in speaking of increase or decrease of commodities they *included* a corresponding increase or decrease of currency. If the volume of commodities increases, including the volume of currency, then there is no reason why general prices should fall. Similarly, if the volume of commodities decreases, including the volume of currency, then there is no reason why general prices should fall. Similarly, if the volume of commodities decreases, including the volume of currency, then there is no reason why general prices should rise. The commodity explanation is but the reverse side of the quantity explanation of the value of money. Recasting the argument of the Committee in the light of what is said above, we can say without departing from its language that the rise of prices in India was due to the supply of currency not having diminished along with the diminution in the supply of goods. In short, the rupee fell in purchasing power because of currency being issued in excess, and there is scarcely any doubt that there has been a profuse issue of money in India since the closing of the Mints in 1893.

The first period, from 1893-98 was comparatively speaking the only period marked by a rather halting and cautious policy in respect of currency expansion. The reason no doubt was the well-known fact that at the time the Mints were closed the currency was already redundant. Yet the period was not immune

from currency exapansion.* At the time the Mints were closed the silver bullion then in the hands of the people was depreciated as a result of the fall in its value due to the closure. An agitation was set up by interested parties to compel the Government to make good the loss. Ultimately, the Government was prevailed upon by Sir James Mackay (now Lord Inchcape), the very man who forced Government to close the Mints, to take the silver from the banks. The Government proposed to the Secretary of State that they be allowed to sell the silver even at a loss rather than coin and add to the already redundant volume of currency. The Secretary of State having refused, the silver was coined and added to the currency. The stoppage of Council Bills in 1893-94 had temporarily accumulated a large number of rupees, in their Treasuries, a transaction which practically amounted to a contraction of currency. But the Government later decided to spend them on railway construction—a policy tantamount to an addition to currency. The resumption of Council Bills after 1894 had also the same effect, for a sale of bills involves an addition to currency. In view of the heavy cost of financing the Home Treasury by gold borrowings, the resumption of sale was a pardonable act. But what was absolutely unpardonable was the increase in the fiduciary portion of the paper-currency reserve from 8 to 10 crores,† thereby putting 2 crores of coined rupees into circulation, particularly so because the Finance Minister refused to pay any heed to its incidence on the currency policy, arguing :—

> "I am a little doubtful whether, in discussing the question of the investment of the currency reserve, we are at liberty to look at outside considerations of that kind."‡

All told, the additions to the currency during the first period were negligible as compared to what took place in the second period, 1900-1908. This period was characterized by a phenomenal increase in the volume of currency poured by the Government into circulation. Speaking of the coinage of rupees

* Cf. H. M. Ross, *The Triumph of the Standard,* Calcutta, 1909, pp. 16-17.

† By Act XV of 1896.

‡ Financial Statement, 1896-97, p. 89.

during this period, Mr. Keynes, anything but an unfriendly critic of the Government's policy observed* :—

> "The coinage of rupees recommenced on a significant scale in 1900 a steady annual demand for fresh coinage (low in 1901-2, high in 1903-4, but at no time abnormal), and the Mints were able to meet it with time to spare, though there was some slight difficulty in 1903-4. In 1905-6 the demand quickened, and from July 1905 it quite outstripped the new supplies arising from the mintage of the uncoined silver..... This slight scare, however, was more than sufficient to make the Government lose their heads. Having once started on a career of furious coinage, they continued to do so with little regard to considerations of ordinary prudence..... without waiting to see how the busy seasons of 1906-7 would turn out, they coined heavily throughout the summer months..... During the summer of 1907, as in the summer of 1906, they continued to coin without waiting until the prosperity of the season 1907-8 was assured."

Evidently, in this period the Government framed their policy "as though a community consumed currency with the same steady appetite with which some communities consume beer." The period also witnessed a material expansion of the paper currency. Up to 1903 the use of the currency notes was limited by reason of the fact that they were not only legal tender outside their circle of issue, but also because their encashability was restricted to the offices of the circles of their issue. This was a serious limitation on the extension of paper currency in India. by Act VI of 1903 the Rs. 5 was made universal in British India excepting Burma, i.e. was made legal tender in all circles, and also encashable at all offices of issue. Along with this the fiduciary portion of the paper-currency reserve was increased to Rs. 12 crores by Act III of 1905. The first event was only calculated to enlarge the circulation of the notes, but the second event had the direct effect of lowering the value of the rupee currency.

The third period (1909-14) was comparatively a moderate but by no means a slack period from the standpoint of currency expansion in India. The first three years of the period were, so to say, years of subdued emotion with regard to the rupee coinage. With the exception of the year 1910, when there was no net addition to rupee coinage, and 1911, when the addition

*Op. cit., pp. 131-35.

was a small one, the coinage in the years 1909 and 1912 ranged from 24 to 30 lakhs. But during the last two years of this period there was a sudden burst of rupee coinage, when the total reached 26½ crores. The expansion of paper currency took place also on a great scale during this period. In 1909 the Rs. 5 were universalized in Burma as they had previously been in other parts of India. This process of universalization was carried further during this period, when, under the authority granted by the Paper Currency Act (II of 1910), the Government universalized notes of Rs. 5 and Rs. 50 in 1910, of Rs. 100 in 1911. Along with the stimulus thus given to the increase of paper currency, the Government actually expanded the fiduciary portion of the issue from 12 to 14 crores by Act VII of 1911, thereby throwing into circulation 2 crores of additional rupees.

During the fourth period (1915-1920) all prudential restraints were thrown overboard.* The period coincided with the Great War, which created a great demand for Indian produce and also imposed upon the Government the necessity for meeting large expenditure on behalf of H. M. Government. Both these events necessitated a great increase in the current means of purchase. There were three sources open to the Government to provide for the need: (1) importation of gold; (2) increase of rupee coinage ; and (3) increase of paper currency. It must not be supposed that the Government of India had no adequate means to provide the necessary currency. Whatever expenditure the Government of India incurred in India, the Secretary of State was reimbursed in London. So the means were ample. The difficulty was that of converting them to proper account. Ordinarily, the Secretary of State purchases silver out of the gold at his command to be coined in India into rupees. This usual mode was followed for the first two years of the period, and the currency was augmented by that means. But the rise in the price of silver made that resource less available. The Secretary of State had therefore to choose between sending out gold or issuing paper. Of the two, the former was deemed to be too unpatriotic. Indeed, the Secretary of State believed that from an Imperial point of view it was entirely ungracious even to "earmark" the gold he received in London as belonging to India. But how was demand for additional currency in India to be met ? As a result of deliberation it was agreed that to provide currency in India without employing gold the best plan

* For a view of the currency policy of this period the primary source are the Annual Financial Statements, for these years, of the Government of India.

was for the Secretary of State to invest at one end the gold he received on India's behalf in the purchase of British Treasury bills, and the Indian Government to issue currency notes at the other end on the security of these bills. Such a procedure, it will be observed, involved a profound modification in the basic theory of Indian paper currency. That theory was to increase the fiduciary issue by investing a portion of the metallic reserves only when the proportion of the latter to the total of the notes in active circulation had shown, over a considerable period, a position sufficiently strong to warrant an extension of the invested reserves and a corresponding diminution of the metallic reserves. The main effect of the principle was that the extent of the paper currency was strictly governed by the habits of the people, for whatever the amount of fiduciary issue at any given moment it represented metallic reserves which were once in existence. Under the new scheme the old principle was abandoned and paper currency was issued without any metallic backing, and what is more important is that its magnitude instead of being determined by the habits of the people, was determined by the necessity of the Government and the amount of security it possessed. This fatal and facile procedure was adopted by the Government of India with such avidity that within four years it passed one after another eight Acts, increasing the volume of notes issuable against securities. The following table gives the changes in the limits fixed by the Acts and the total issues actually made under them :—

TABLE XLIII

Issue of Currency Notes

Acts prescribing the Fiduciary Issue of Currency Notes								
I. Limits to fiduciary issues.		Act V of 1915	Act IX of 1916	Act XI of 1917	Act XIX of 1917	Act VI of 1918	Act II of 1919	Act XXVI 1919
		In Lakhs o Rupees:						
(a) Permanent	...	14,00	14,00	14,00	14,00	14,00	14,00	14,00
(b) Temporary	...	6,00	12,00	36,00	48,00	72,00	86,00	106,00
Total limit	...	20,00	26,00	50,00	62,00	86,00	100,00	120,00
II. Total issues of currency notes		61.63	67.73	86,38		99,79	153,46	179,67*
	Silver	32,34	23,57	19,22		10,79	37,39	47,44
	Gold	15,29	24,16	18,67		27,52	17,49	32,70
III. Reserve	Securities	14,00	20,00	48,49		61,48	98,58	99,53

* On November 30, 1919. The rest of the figures are for march 31

But this facile procedure could not be carried on *ad infinitum* except by jeopardizing the convertibility of the notes. Consequently the very increase of paper money, added to the increased demand for currency, compelled the Government to go in for the provision of metallic money for providing current means of purchase and also give a backing to the watered paper issues. The rising price of silver naturally made the Government go in for gold. An Ordinance was issued on June 29, 1917, requiring all gold imported into India to be sold to Government at a price based on the sterling exchange, and opened a gold Mint at Bombay for the coinage of it into mohurs*. Frantic efforts were made to acquire gold from various quarters. The removal of the embargo on the export of gold by the U.S.A. on June 9, 1917, and the freeing of the market for South African and Australian gold, enabled the Government to obtain some supply of that metal. From July 18, 1919, immediate telegraphic transfers on India were offered against deposit at the Ottawa Mint in Canada of gold coin or bullion at a rate corresponding to the prevailing exchange rate, and at New York at competitive tenders from August 22, 1919. Arrangements were also made for the direct purchase of gold in London and U.S.A. Finally, to encourage the private import of gold, the acquisition rate was altered from September 15, 1919, so as to make allowance for the depreciation of the sterling. But the gold thus obtained was a negligible quantity. Besides, the issue of gold did not serve the purpose the Government had in mind—namely its retention in circulation. In the nature of things it was impossible. The rupee was depreciated in terms of gold to an enormous extent, and consequently at the rate of exchange gold passed out of circulation as quickly as it was issued by the Government. What the Government could do was to make the use of gold and silver coins illegal for other than currency purposes and to prevent their exportation, which it did by the Notifications of June 29 and September 3, 1917. Realizing that it could not rely upon gold the Government renewed its efforts to enlarge the rupee coinage. To facilitate the purchase of that metal the import of

*Act XIV of 1918.

silver on private account into India was prohibited on September 3, 1917. This measure, however, removed only a few of the smaller competitors for the world's diminished supply of silver, and the world-demand remained so heavy that the Secretary of State was unable to obtain sufficient supply notwithstanding the great conservation effected in the use of silver by substituting nickel coinage for silver coins of subsidiary order,* and by the isue of notes of denominations as low as that of R. 1† and of R. 2-8.‡ The Government of the United States was therefore approached on the subject of releasing a portion of the silver dollars held in their reserve. The American Government consented and passed the Pittman Act, under which the Government of India acquired a substantial volume at 101½ cents per fine ounce. The total silver purchased during this period was as follows :—

TABLE XLIV

RUPEE COINAGE, 1915—20

Year	Silver purchased in Open Market, Standard Ounces.	Silver purchased from U. S. A., Standard Ounces.	Total Standard Ounces.
1915-16	8,636,000	...	...
1916-17	124,535,000	...	...
1917-18	70,923,000	...	...
1918-19	106,410,000	152,518,000	...
1919-20	14,108,000	60,875,000	...
Total	324,612,000	213,393,000	538,005,000

Now, recalling the fact that from 1900 to 1914 the Government had coined about 532 million standard ounces of silver,§ it means that the coinage of silver by Government during these five years exceeded the amount coined in the fourteen preceding years by five million ounces.

* Act IV of 1918 and XXI of 1919.

† First issued on December 1, 1917.

‡ First put into circulation on January 2, 1918.

§ Cf. the figures given by L. Abrahms in his evidence to the Currency Committee of 1919.—Mit. of Evid., Q. 37-41.

Thus the fall in the gold value of the rupee is an inevitable consequence of the exercise of the power to issue inconvertible currency in unlimited quantities. This is the fate of all inconvertible currencies known to history. But it is said that an exception must be made in the case of the rupee currency, for if the Government has the liberty of issuing it in unlimited quantities it has also resources to counteract the effects of a fall when it does occur. We must therefore turn to an examination of these resources.

The basis of the reasoning is that the rupee is a token currency, and that if the value of a token currency is maintained at par with gold by applying to it the principle of redemption into gold* it should be possible to maintain the value of the rupee at par with gold by adopting a similar mechanism. What is wanted is an adequate gold fund, and so long as the Government has it, we are assured that we need have no anxiety on the score of a possible fall in the value of the rupee. Such a fund the Government of India has, and on all the three occasions when the gold value of the rupee fell below par that fund was operated upon. The process of redemption is carried on chiefly in three ways : (1) The sale of what are called reverse councils, by which the Government receives rupees in India in return for gold in London ; (2) the release of gold internally in; receipt for rupees in India ; and (3) the stoppage of the Secretary of State's council bills to prevent further rupees from going into circulation. The cumulative effect of these, it is said, is to contract the currency and raise its value to par. Although all the three may be employed, the first is by far the most important means adopted by the Government in carrying through this process of redemption. The extent of the redemption effected on the three occasions when it was employed may be seen from the three following tables :—

* *See* the very interesting discussion by Laughlin of the laws of token money in his *Principles of Money,* Chap. XV. It may be said in passing that Laughlin is an opponent of the quantity theory of money, but in his discussion of token money he virtually admits it.

I. Redemption of Currency, 1907-8

TABLE XLV

Date	By the sale of Reverse Councils		By Release of Gold-Diminution of Govt. Stock of Gold during the Month.	Private Export of Gold Coin during the Month.	Drawings of the Secretary of State.
	Amount offered	Amount sold			
	£	£	£	£	£
1907—					
September ...	...	...	152,000	14	858,896
October ...	...	...	254,000	9,109	921,678
November ...	...	...	532,000	3	427,344
December ...	...	...	338,000	2,501	571,905
1908—					
March 26 ...	500,000	70,000	226,000	...	172,669 (for the whole month)
April 2 ...	500,000	449,000			
" 9 ...	500,000	340,000			
" 16 ...	500,000	441,000	461,000	...	66,834
" 23 ...	500,000	329,000			
" 30 ...	500,000	205,000			
May 7 ...	500,000	81,000			
" 14 ...	500,000	145,000	645,000	...	62,764
" 21 ...	820,000	793,000			
" 28 ...	500,000	500,000			
June 4 ...	1,000,000	755,000			
" 11 ...	1,000,000	70,000	334,000	...	169,810
" 18 ...	500,000	Nil			
" 25 ...	500,000	50,000			
July 2 ...	500,000	470,000			
" 9 ...	500,000	304,000			
" 16 ...	500,000	500,000	16,000	...	186,847
" 23 ...	1,000,000	968,000			
" 30 ...	1,000,000	860,000			
Aug. 6 ...	1,000,000	418,000			
" 13 ...	500,000	310,000	354,000	...	262,217
" 20 ...	500,000	Nil			
" 27 ...	500,000	Nil			
Sept. 3 ...	500,000	Nil	502,000	...	1,431,012
" 10 ...	500,000	Nil			
Total ...	15,320,000	8,058,000	4,394,000	249,942	

II. Redemption in 1914-16

TABLE XLVI

Date			Reverse Councils (in £ 000)	Drawings of the S. of S. (in Lakhs of Rs.)
1914.	April	... ...	Nil	270
	May	... ...	”	61
	June	... ...	”	68
	July	... ...	”	66
	August	... ...	2,778	72
	September	... ...	1,515	25
	October	... ...	1,895	41
	November	... ...	1,044	32
	December	... ...	1,250	30
1915.	January	... ...	225	29
	February	... ...	Nil	181
	March	Total ...	”	287
			8,707	1,162
1915.	April	... ...	Nil	1,53
	May	... ...	”	1,03
	June	... ...	651	17
	July	... ...	3,377	8
	August	... ...	815	23
	September	... ...	50	2,17
	October	... ...	Nil	2,25
	November	... ...	”	2,02
	December	... ...	”	3,28
1916.	January	... ...	”	5,26
	February	... ...	”	6,02
	March	Total	”	6,33
		...	4,893	30,37

III. Redemption in 1920

TABLE XLVII

Sale of Reverse Councils (Figures in Thousands of Pounds)

Date of sale.			Amount offered at each Sale.	Amount applied for at each Sale.	Amount sold at each Sale.	Progressive Total of Amount sold.
1920.	January 2	...	1,000	770	770	770
	” 8	...	1,000	8,499	990	1,760
	” 15	...	2,000	300	300	2,060
	” 22	...	2,000	4,890	2,000	4,060
	” 29	...	2,000	1,334	5,000	5,394
	February 5	...	2,000	32,390	2,000	7,394
	” 12	...	2,000	41,312	2,000	12,394
	” 19	...	2,000	122,335	2,000	14,394
	” 26	...	2,000	78,417	2,000	16,394
	March 3	...	2,000	64,931	2,000	18,394
	” 11	...	2,000	117,185	2,000	20,394
	” 18	...	2,000	153,559	2,000	22,394
	” 25	...	2,000	56,295	2,000	24,394
	” 31 }	...	2,000	35,050	1,988	26,382
	April 1 }	...				
	” 8	...	2,000	16,721	2,000	28,382
	” 15	...	2,000	48,270	2,000	30,382
	” 22	...	2,000	59,020	2,000	32,382
	” 29	...	1,000	53,210	1,000	33,382
	May 6	...	1,000	89,514	1,000	34,382
	” 13	...	1,000	101,625	1,000	35,382
	” 20	...	1,000	122,279	1,000	36,382
	” 26	...	1,000	85,620	1,000	37,382
	June 3	...	1,000	101,821	1,000	38,382
	” 10	...	1,000	109,245	1,000	39,382
	” 15	...	1,000	122,991	1,000	40,382
	” 24	...	1,000	73,391	1,000	41,382
	July 1	...	1,000	106,751	1,000	42,382
	” 8	...	1,000	63,690	1,000	43,382
	” 15	...	1,000	101,830	1,000	44,382
	” 22	...	1,000	103,960	1,000	45,382
	” 29	...	1,000	75,486	1,000	46,382
	August 5	...	1,000	101,260	1,000	47,382
	” 12	...	1,000	112,230	1,000	48,382
	” 19	...	1,000	114,767	1,000	49,382
	” 26	...	1,000	117,390	1,000	50,382
	Sept. 2	...	1,000	126,425	1,000	51,382
	” 7	...	1,000	117,200	1,000	52,382
	” 13	...	1,000	115,095	1,000	53,382
	” 21	...	1,000	122,590	1,000	54,382
	” 28	...	1,000	120,050	1,000	55,382

Not only did the Government sell reverse councils on a large scale, but it also sold gold for rupees for internal circulation a thing which it seldom did before.

III. Redemption in 1920

TABLE XLVIII

Sale of Gold

No. of Sale	Date of Sale	Minimum Rate of accepted Tenders			Average Rate of accepted Tenders			Quantity sold (in Tolas)	Price of Country Bar Gold in the Bombay Bazaar		
		Rs.	A.	p.	Rs.	A.	P.		Rs.	A.	P.
1	1919. September 3	25	8	0	26	12	1	3,29,130	28	10	0
2	” 17	24	8	0	24	10	0	3,96,640	26	1	0
3	October 6	25	8	0	25	9	8	3,26,000	27	0	0
4	” 20	26	15	3	27	0	2	3,34,000	28	0	0
5	November 3	27	14	6	27	15	6	3,25,000	28	5	0
6	” 17	26	15	0	27	0	11	5,18,500	28	2	0
7	December 8	26	0	6	26	4	6	10,00,650	27	10	0
8	1920. January 5	26	4	3	26	7	9	7,63,300	27	3	0
g	” 19	26	13	3	26	14	7	8,00,000	27	5	0
10	February 5	25	2	3	25	9	7	7,56,450	25	6	0
11	” 19	16	2	3	21	9	1	9,60,590	23	4	0
12	March 3	18	8	0	18	12	4	12,96,125	21	7	0
13	” 17	21	6	0	21	7	7	12,53,325	22	13	0
14	April 7	22	7	3	22	9	4	12,46,200	24	0	0
15	” 21	23	7	4	23	8	6	10,68,175	24	4	0
16	May 5	20	13	3	21	3	2	11,96,750	21	8	0
17	” 19	21	0	3	21	1	7	12,46,050	21	12	0
18	June 9	21	8	9	21	9	8	11,32,350	22	2	6
19	” 23	20	14	10	21	0	5	12,25,250	21	8	0
20	July 7	21	1	4	22	2	2	12,81,500	21	6	0
21	” 21	22	0	1	22	0	11	12,42,000	22	5	0
22	August 4	22	5	6	22	6	3	12,78,950	22	7	0
23	” 19	23	9	4	23	10	2	5,54,500	23	7	0
24	September 1	22	8	3	22	10	8	8,27,700	23	1	6
25	” 14	23	9	4	23	12	11	2,30,500	23	8	0
					Total			2,15,89,635			

During 1920 no council bills were drawn by the Secretary of State on the Government of India.

The success of this mechanism on the two previous occasions had strengthened the belief that it had the virtue of restoring the value of the rupee. But the failure of this mechanism in the crisis of 1920 compels one to adopt an attitude of reserve towards its general efficacy. It cannot be said that exchange gave way because this mechanism was not brought into operation. On the other hand, the view of the Government regarding the sale of reverse councils in 1920 had undergone a profound modification as compared with the view it held during the crisis of 1907-8. In that crisis the Government behaved like a miser, sitting tight on its gold reserve and refusing to use it for the *very* purpose which it was designed to serve. An Accountant-General had "to go on his knees" to persuade the Government of India to, release its gold.* It was probably because it was rebuked by the Chamberlain Commission for failing to make use of its gold reserve in 1907 that in the crisis of 1920 the policy of selling reverse councils was so boldly conceived. There was a great deal of ignorant criticism of that policy from the general public that it was an "organized loot." But the Finance Minister was undaunted, and argued†:—

> "It is an essential feature of our exchange policy... that we should not only provide for remittances from London to India through council bills at approximately gold point, but from India to London in time of exchange weakness also at gold point, through the sale of sterling remittance known as reverse councils. It is simply an alternative to the export of gold. This is no new matter—we have been selling reverse councils for years..... and unless we do so the exchange policy does not become effective..... This is the reason, and the only reason, why we have sold reverse councils..... It is an effort in fact to maintain exchange as near as posssible to the gold point.... What would be the consequence if we yielded to the pressure placed on us and ceased to sell reverse councils at all ? I can understand a demand that reverse councils should be sold by some different method, or at rates different from those at present in force, but I must confess that I cannot understand the demand that the facilities

* Evidence of Mr. F. C Harrison before the Chamberlain Commission, Q. 10,209.

† Speech on the resolution *re* "Reverse Councils," March 10, 1920. *S.L.C.P.* Vol. LVIII p. 1291.

for the exchange of rupees into external currency should be entirely withdrawn. I see that in Bombay it is urged that we should let exchange find its 'natural level.' That is a catchword which does not impress me. Used in the sense in which that phrase has been recently used, there is no such thing as a 'natural level' in exchange, for, when one translates the internal currency into another currency, there must be some sort of common denominator to which both currencies can be brought; it may be gold, it may be silver, it may be sterling or it may be Spanish pesetas, which we take as our basis. The rupee must be linked on to *something** and if it is so linked, then it must be at some definite rate, and this necessarily involves that we must sometimes be prepared to sell reverse councils in order to maintain that rate. If reverse councils be withdrawn entirely, then we should have neither a gold standard, nor a gold-exchange standard, nor any kind of standard at all."

But that only raises the question: If the sale of reverse councils is efficacious in righting the exchange, why was its effect such a disastrous failure ? The Finance Minister answered the point tersely and cogently when he said :—

"If we have failed in narrowing the gap between the market price and the theoretical gold part of the rupee..... it is not because we have sold too many reverse councils ; it is because we have sold too few. I put it to any member of the commercial community here, and I put it without fear of contradiction, that if our resources had enabled us..... to sell straight away 20, 30, or 40 millions of reverse councils, we should probably have had no gap between the market price of the rupee and the theoretical gold price of the rupee at all. One of our difficulties has been, hot that we have sold too many reverse councils, but that we have been obliged to sell too few."†

* By Ordinance III of June 21,1920, the gold coins referred to in Section 11 of the Indian Coinage Act (III of 1906) ceased to be legal tender in payment or on account, but provision was made for their acceptance by Government at the ratio of Rs. 15 during a moratorium of twenty-one days. This Ordinance continued till September 9, 1920, when by Act XXXVI of 1920 the sovereign was again made legal tender. During this period gold had no legal status in India.

† *Ibid., p.* 1301.

There would have been some force in this argument if the smount of reverse bills sold were "too few." Not 20, 30, or 40 millions, but 55½ millions of reverse councils were sold, besides the large issue of gold internally, and the complete stoppage of council bills, and yet the rupee did not rise above 1s. 4d. sterling, let alone reaching 2s. gold. Why did not the sale of reverse councils suffice to rectify the exchange ? This leads us to examine the whole question of the efficacy of this redemption.

It is necessary to premise at the outset that redemption may result in mere substitution of one form of currency by another, or it may result in the retirement of currency. In so far as it results in substitution it is of no consequence at all, for substitution of currency is not a shrinkage of currency.* To the restoration of the value of a currency what is essential is its shrinkage, i.e. its retirement, cancellation. The important question with regard to this mechanism is not to what extent the currency can be redeemed, but to what extent it can be retired. In the prevalent view of this question it seems to be accepted without question that this extent is determined by the magnitude of the gold resources of the Government of India and the Secretary of State. Let us first make it clear how these gold resources are located and distributed. It will be recalled that these gold resources are distributed between (1) the paper-currency reserve, (2) the gold-standard reserve, and (3) the cash balances of the Secretary of State. It has been the habit to speak of these resources as being three "lines of defence" on which the Government can safely rely when an exchange crisis takes place. But are they ? They can be, for the purposes of retirement, only if they were all "free" resources; in other words, if they were not appropriated resources. To what extent are they unappropriated ? Can the Secretary of State take gold from the paper-currency reserve ? He can, but then he must replace it by something else, or must cancel notes to that extent. Can the Secretary of State take gold out of his cash balances ? He can, but then he must either borrow to fill his Treasury or draw upon the Government of India if there is anyone to buy his bills, which is tantamount to issuing rupee currency. The gold in the paper-currency reserve and that in the cash balances is of no use at all, for it does not permit of the cancellation of the rupee

* The most notable example is that of Americal greenbacks. Under the law of 1875 they were by 1879 retired in sufficient numbers to restore parity with gold. But by a counter-law of 1878, 347,000,000 of them have been kept in circulation. As soon as redeemed, they must be reissued ; they cannot be retired.

currency, which is what is wanted in restoring its value when it suffers a fall. It is therefore sheer nonsense to speak of the effectiveness of redemption as being commensurate with the gold resources of the Secretary of State. The matter is important, and an illustration may not be out of place. Suppose A, a holder of rupees, wants to get gold for them. He can go to three counters; (1) that of the controller in charge of cash balances ; (2) that of the controller of currency in charge of the paper-currency reserve ; or (3) that of the custodian of the gold-standard reserve. If A goes to the first, what is the result ? The cash balance is *pro tanto* reduced. On the assumption that the cash balance is at its minimum, as it should be, the controller must reimburse himself immediately to maintain his solvency by drawing a bill on India and thereby releasing rupees received for gold again in circulation, so that in this case there is no shrinkage of currency. If A goes to the controller of currency, what happens ? The controller gives him gold, but on the assumption that the paper-currency account is a separate statutory account he must put the rupees received from A in place of the gold issued from his reserve, so that here again what happens is that the composition of the reserve undergoes a change, but the total paper currency remains the same. It must therefore be borne in mind that to the extent the gold in the paper-currency reserve and the cash balances are operated upon the result is not a retirement of currency. To speak of them as "lines of defences," as is so often done, is to overlook the fact that these two are not free resources but are appropriated resources.

What is, then, the resource left to the Government to *retire* the rupee currency ? Only the gold-standard reserve. That is the only reserve the amount of which is unappropriated for any particular use. It is free cash, and only to that extent is it possible for the Government to restore the rupee currency when a fall in its gold value eventuates. Of course it is important to bear in mind that this is the extent to which it can retire the currency. Not that it will, for it may not, and there is no want of cases in which it has not. Two instances will suffice. During the first period of the Mint closure, 1893-98, it will be recalled how a large number of rupees had accumulated in the hands of the Government, and in the interest of raising the value of the rupee they should have been locked away. Instead the Government of India released that money in circulation in extending railways

and other public works, as though the spending of rupees by itself producedd an effect different to what would have been produced had they been spent by the public. Similarly irresponsible conduct marked the sale of reverse councils in 1920. To meet these reverse councils the Secretary of State took the gold from the paper-currency reserve. But instead of cancelling notes to the extent of the gold that was taken out of the reserve, the Government took powers under an Act XXI of 1920 to fill the gap by manufacturing securities *ad hoc,* so that although there was redemption there was no retirement, and so much gold was merely wasted, for it produced no effect on prices or the exchange. This Act, passed in March, 1920, was of temporary duration, and would have obliged the Government to retire the currency by October, 1920, when it was to expire. Rather than do this the Government altered the paper-currency law, not temporarily but permanently (Act XLV of 1920), changing the provisions in such a manner as to require the Government to cancel the currency to the smallest degree possible by retiring their "created securities." Even this was not done, owing to deficits in the Government Budget.

But even if such indiscretions were not repeated the fact remains that Government cannot effect a greater retirement than is permitted by the gold-standard reserve. If that reserve fails Government has only two resources left: (1) to melt down the rupees and sell them as bullion for gold and to go on further contracting the currency, in this way till its value is restored : or (2) to borrow gold. Both these are evidently costly methods. To sell rupees as bullion is bound to result in loss unless the bullion in the rupee fetched more at the time of sale than what it cost when it was purchased for manufacturing it into bullion. The second process, that of borrowing, cannot be lightly resorted to for the purpose of creating a reserve fund to retire the currency. Indeed, so costly are such methods, and so complete would be the proof they would afford of the instability of the exchange standard if they were resorted to, that Government has never contemplated them as possible lines of defence in an exchange crisis. It seems certain, however, that Government does recognise that the gold-standard reserve by itself cannot suffice for the imaintenance of exchange. For we find that from the year 1907-8 dates a complete change in the distribution of Government balances between London and India. Up to that period it was the policy of the Secretary of State to

draw only as much as necessary to finance his Home Treasury. After that date the practice was originated of drawing as much as the Government of India could provide, and as the Government of India has been supreme in financial matters it provided large sums for council drawings by increased taxation and budgeting for surpluses. The effect of this was to swell the cash balances of the Secretary of State.* No official explanation of a satisfactory character has ever been given for this novel way of financing the Home Treasury† but we shall not be very) far wrong if we say that the object in accumulating these balances is to provide a second gold reserve to supplement the true gold-standard reserve. Whatever strength the Government may derive for the time being from this adventitious resource, it is obvious that it cannot be permanent. Under a more popular control of Government finances the cash balances will have to be kept down to a minimum necessary to work the Treasury, and the gold-standard reserve will be the only reserve on which the Government will have to depend.

The gold-standard reserve is to the rupee what the paper-currency reserve is to the notes. The purport of both is to prevent the respective currencies they support from falling or going to discount. But the treatment accorded by the Government to the rupee and the paper in respect of reserve shows a remarkable degree of contrast. In the case of the paper, as has been previously noted, the reserve is a statutory reserve, and even when the whole basis of Indian paper currency has been changed the provisions as to reserve are none the less strict and cannot be disregarded by the Government without infringing the law. Now, the rupee is nothing but a note printed on silver.‡ As such, the provisions as to reserve should be analogous to those governing the paper currency. Strange as it may seem, any regulation is conspicuous by its absence in regard to the gold-standard reserve.§ Not only is it not obligatory on the

* For figures, *see* Chap. VII.

† Cf. Memorandum on India Office Balances, Cd. 6619 of 1913.

‡ "We have virtually relegated our rupee currency to the position of a token currency, and we are now practically in the position of bankers who have issued a certain amount of fiduciary currency (whether paper or metal is immaterial), and to maintain the value of this fiduciary currency we are bound to be in a position to exchange it for gold when presented to meet legitimate trade requirements," said the Financial Statement for 1903-4, p. 14.

§The Chamberlain Commission said: "There are disadvantages in restricting the freedom of the Government in a crisis, and it is undersirable that the disposition and amount of the reserve should be stereotyped..... We therefore do not regard that the gold-standard reserve should be regulated by statute."—Report, Sec. 101.

Government to redeem the rupee, but it does not seem that the Government is even bound to maintain the reserve. And that it has maintained such a reserve is no guarantee that it will replace it supposing that the reserve was dissipated.* Such differences apart, is the gold-standard reserve an adequate reserve ? Figures of the magnitude of the gold-standard reserve, as usually given in official publications, are a meaningless array. What is the use of displaying assets without at the same time exhibiting the liabilities ? To be able to judge of the adequacy of that reserve we must know what is the total circulation of rupees. When, however, we compare the circulation of the rupees with the reserve, the proportion between the two is not sufficiently large so as to inspire confidence in the stability of the system (see Table XLIX).

How can a reserve so small as this carry through the process of retirement to any sufficient extent ? That it will not always do it the crisis of 1920 gives abundant proof. But the supporters of the exchange standard maintain that the smallness of the reserve is a matter of no consequence, for the reserve is kept only for the purpose of foreign remittances. That being the case, it is said the reserve need not be large. Granting that it is so, what must govern the magnitude of the reserve in order that it may prove adequate in any and every case ? The only attempt made to enunciate a rule of guidance is that by Prof. Keynes. That rule he finds† in the possible variations in the balance of trade of India.. Now, does this make the problem of regulating the reserve more definite ? As has been explained previously, the adverse balance of trade would be due to the depreciation of the currency, so that Mr. Keynes's statement amounts to this, that the reserve should vary with the depth of the depreciation. But how is a Government to do this ? Only by adverting to the movement of the price level. But in all its currency management the Government of India never pays any attention to the price

* In the course of his speech on the Indian Paper Currency (Temporary Amendment) Bill, dated March 17, 1920, the Finance Minister observed :"..... from a practical point of view, it is desirable to leave the gold-standard reserve until the paper-currency reserve has been re-transferred, in case... the Secretary of State finds it impossible to keep himself in funds by Councils for his heavy home liabilities. He will then be able to use the gold-standard reserve, and we can credit the gold-standard reserve out here. There is a third point, and I think a conclusive one. When you operate against the paper-currency reserve you have to operate within the paper-currency reserve ; when you operate against the gold-standard reserve it disappears ; it melts, and we are under no obligation to replace it; whereas we are under a statutory obligation to replace the paper-currency reserve."—*S.LC.P.* Vol. LVIII, p. 1416.

† Op. cit., pp. 166-7.

TABLE XLIX

Distribution of the Gold-standard Reserve and its Proportion to Rupee Circulation (in Thousands of Pounds Sterling)

March 31 in each Year.	In England.					In India					Total Reserve, England and India.	Volume of Rs. in Circulation in Crores.	Percentage of Reserve to Ra. in Circulation (£ = Rs. 15)*
	Purchase Value of Sterling Securities.	Cash at Short Notice.	Temporary Loan to the Home Treasury.	Gold deposited at the Bank of England.	Total.	Coined Rupees in India.	Outstanding Debt Treasury balances.	Temporary Loan to Treasury Balances.	Gold.	Total.			
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)
1901	—	—	—	—	—	—	1,831	—	1,200	3,031	3,031	143	3.1
02	3,454	—	—	—	3,454	—	—	—	—	—	3,454	138	3.7
03	3,810	—	—	—	3,810	—	1	—	—	1	3,811	136	3.4
04	6,377	—	—	—	6,377	—	167	—	—	167	6,544	144	6.8
05	8,377	—	—	—	8,377	—	152	—	—	152	8,529	152	8.4
06	12,165	—	—	—	12,165	—	287	—	—	287	12,452	164	10.7
07	12,519	—	—	—	12,519	4,000	301	—	22	4,323	16,842	178	10.6
08	13,187	—	1,131	—	14,318	4,000	—	—	—	4,000	18,318	191	11.2
09	7,414	—	470	—	7,884	10,587	—	—	—	10,587	18,471	187	7.1
10	13,219	3,011	—	—	16,230	2,534	—	—	—	2,534	18,764	186	13.8
11	15,849	1,477	—	—	17,326	1,934	—	—	—	1,934	19,260	184	14.8
12	16,748	1,074	—	—	17,822	1,934	—	—	—	1,934	19,956	182	14.9
13	15,946	1,006	—	1,620	18,572	4,000	35	—	—	4,035	22,607	191	14.8
14	17,165	25	—	4,320	21,510	4,000	22	—	—	4,022	25,532	187	17.2
15	12,149	8	—	1,250	13,407	—	70	7,000	5,238	13,308	25,715	204	18.9
16	16,219	5,792	—	—	22,011	—	1	4,000	239	4,240	26,251	212	15.7
17	25,406	6,001	—	—	31,407	—	—	—	103	103	31,510	227	20.8
18	28,453	6,000	—	—	34,453	—	—	—	—	—	34,453	219	23.5
19	29,729	6,016	—	—	35,745	—	—	—	—	—	35,745	228	23.5

* In striking the proportion the rupee portion of the reserve has been omitted.

problem. Indeed, as was pointed out above, its conception of the underlying causes of the fall of exchange is totally at variance with the only true conception, nothing but a firm grasp of which can enable it to avert a crisis. Being ignorant of the true conception it blindly goes on issuing currency until there occurs what is called an adverse balance of trade. All it aims at is to maintain a gold reserve, and so long as it has that reserve it does not stop to think how much currency it issues. The proportion of the issues and the reserve not being correlated the stability of the exchange standard, in so far as it depends upon the reserve, must always remain in the region of vagueness, far too problematical to inspire confidence of the system. Nay, the liability of redemption for foreign remittances, small as it appears, may become so indefinite as entirely to jeopardize the restoration of stability to the exchange standard.

But is a gold reserve such an important thing for the maintenance of the value of a currency ? All supporters of the exchange standard must be said to be believers in that theory. But the view cannot stand a moment's criticism. To look upon a gold reserve as an efficient cause why all kinds of money remain at par with gold is a gross fallacy.* To take such a view is to invert the casual order. It is not the gold reserve which maintains the value of the circulating medium, but it is the limitation on its volume which not only suffices to maintain its own value, but also makes possible the accumulation and retention of whatever gold reserve there is in the country. Remove the limit on the volume of currency, and not only will it fail to maintain its value, but will prevent the accumulation of any gold reserve whatever. So little indeed is the importance of a gold reserve to the cause of the preservation of the value of currency that provided there is a rigid limit on its issue the gold reserve may be entirely done away with without impairing in the least the value of the currency. The Chamberlain Commission recommended that the Government of India should accumulate a reserve to maintain the value of the rupee because it was by means of their reserves that European banks maintained the value of their currencies. Nothing can be a greater perversion of the truth. What the European banks did

* Cf. in this connection the brilliant paper by F. A. Fetter, "The Gold Reserve: its Function and its Maintenance," in the *Political Science Quarterly,* 1896, Vol. XI, No. 2.

was just the opposite of what the Commission recommended. Whenever their gold tended to disappear they reduced their currencies not only relatively but absolutely. It was by limitation of their currencies that they protected the value of the currencies and also their gold reserves.

The existence of a reserve, therefore cannot lend any strength to the gold-exchange standard. On the other hand, if we inquire into the genesis of the reserve, its existence is an enormous source of weakness to that standard. For how does the Government obtain its gold-standard reserve ? Does it increase its reserve in the same way as the banks do, by reducing their issues ? Quite the contrary. So peculiar is the constitution of the Indian gold-standard reserve that in it the assets, i.e., the reserve, and the liabilities, i.e., the rupee, are dangerously concomitant. In other words, the reserve cannot increase without an increase in the rupee currency. This ominous situation arises from the fact that the reserve is built out of the profits of rupee coinage. That being its origin, it is obvious that the fund can grow only as a consequence of increased rupee coinage. What profit the rupee coinage yields depends upon how great is the difference between the cost price of the rupee and its exchange value. Barring the minting charges, which are more or less fixed, the most important factor in the situation is the price of silver. Whether there shall be any profit to be credited to the reserve depends upon the price paid for the silver to be manufactured into rupees.*

Not only is the reserve an evil by the nature of its origin, but having regard to its documentary character the reserve cannot be said to be absolutely dependable in a time of crisis. There is no doubt that the intention of the Government in investing the reserve is to promote its increase by adding to it the interest accruing from the securities in which it is invested. The critics of the Government want a *large* and at the same time a *metallic* reserve. But they do not realize that having regard to the origin of the reserve the two demands are incompatible. If the reserve needs to be large then it must be invested. Indeed, if the reserve had not been invested it would have remained distressingly meagre.‡ But is there no danger in a reserve of this kind ?

* *See* footnote † page 552.

‡ From 1900-1 to 1920-21 the profits on coinage credited to the gold-standard reserve amounted to £ 28,573,606 only ; while during the same period Interest and Discount gave £ 13,306,847 or nearly one-half the profits on coinage, Cf. *East India: Accounts and Estimates,* 1921-22, *Cmd,* 1517 of 1921, p. 20.

† In answer to Mr. M. L Reddi Garu, the following statement was laid on the table :—

* Statement showing the average cost of silver purchased by the—

Year.	Royal Mint Average Cost for Standard Ounce.	India Office Average Cost for Standard Ounce.	Financial Year.
	d.	d.	
1893 ...	$36^{5}/_{16}$	No purchase	1893-94
94 ...	29¼	”	1894-95
95 ...	$30^{3}/_{8}$	”	1895-96
96 ...	$30^{5}/_{16}$	”	18S6-97
97 ...	$27^{7}/_{8}$	”	1897-98
98 ...	27¼	”	1898-99
99 ...	27½	28	1899-1900
1900 ...	28¼	29	1900-01
01 ...	$27\ ^{15}/_{16}$	No purchase	1901-02
02 ...	$24^{5}/_{16}$	22.80	1902-03
03 ...	$23^{11}/_{16}$	27.19	1903-04
04 ...	26 ½	27.14	1904-05
05 ...	$27^{7}/_{16}$	29.74	1905-06
06 ...	$31^{1}/_{16}$	31.59	1906-07
07 ...	$30^{9}/_{16}$	31.27	1907-08
08 ...	$24\ ^{7}/_{16}$	No purchase	1908-09
09 ...	$23^{11}/_{16}$	”	1909-10
10 ...	$24^{7}/_{8}$	”	1910-11
11 ...	$24^{13}/_{16}$	”	1911-12
12 ...	$27^{15}/_{16}$	28.71	1912-1,3
13 ...	$28^{1}/_{16}$	28.71	1913-14
14 ...	$24^{5}/_{8}$	No purchase	1914-15
15 ...	24¼	33.96	1915-16
16 ...	$30^{5}/_{8}$	33.96	1916-17
17 ...	$39^{15}/_{16}$	42.78	1917-18
18 ...	$47^{15}/_{16}$	48.20	1918-19
19 ...	$49^{5}/_{8}$	52.04	1919-20
20 ...	$50^{7}/_{8}$	Silver purchased at special rates from the Baldwin mines and the Perth mint.	920-21

* *Legislative Assembly Debates,* Vol. II, No. 3. September, 10, 1921, p. 181.

In the absence of information whether the price is F.O.B. or C.I.F. it is difficult to say that the Secretary of State has had to pay higher prices for silver than were paid by the Master of the Royal Mint.

The source of a danger in a reserve such as this was well pointed out by Jevons when he said*:

> "..... good government funds and good bills can always be sold at some price so that a banking firm with a strong reserve of this kind might always maintain their solvency. But the remedy might be worse for the community than the disease, and the forced sale of the reserve might create such a disturbance in the money market as would do more harm than the suspension of payment....."

In the same manner, who can say that all the increase of reserve from interest will not be wiped out by a slump in the value of the securities if put upon the market for conversion into gold at a time when there takes place an exchange crisis ? Supposing, however, the full value of the securities, is realized, the number of rupees the reserve will "sink" when occasion for redemption arrives depends upon what is the price at which the rupees are bought back. If the fall of the rupee is small, it may help to retire a large volume of currency and thus restore its value. On the other hand, if the fall is great, it will suffice to retire only a small part of the currency and may fail to restore its value as it did in 1920, so that what may appear to be a big reserve may turn out to be very inadequate. But, apart from considerations of the relative magnitude of the reserve that can be built up, the point that seems to have been entirely overlooked is *that the process of building up the reserves directly involves the process of augmenting the currency*. The Chamberlain Commission was cognizant of the fact that the gold-standard reserve could not be built up except by coining rupees. Indeed, it cautioned those desirous of a gold currency to remember that if gold took the place of "new rupees which it would be necessary otherwise to mint, the effect is to diminish the strength of the gold-standard reserve by the amount of the profit which would have been made from new coinage."† Rather than recommend a policy which "would bring to an end the natural growth of the gold-standard reserve," the Committee permitted the Government to coin rupees. But is there no danger involved in such a reserve ? What is the use of a reserve which creates the very evil which it is supposed afterwards to mitigate ? Indeed, those who have been agitating for an increase in the Indian gold-standard reserve cannot be said to have been alive to the dangers involved in the existence of such a reserve.

* *Money,* p. 227.

† Report, par. 63.

The smaller the gold-standard reserve the better it would be, for there would be no inflation, no fall in the purchasing power of the rupee, and no necessity for its retirement.

Having regard to its origin, the gold-standard reserve, instead of acting as a brake upon reckless issue of rupee currency, is the direct cause of it and tends to aggravate the effects of an inconvertible currency rather than counteract them. Perversity cannot go further. If the fact that a mechanism like that of the gold-standard reserve, set up for the purpose of limiting the currency, cannot be made to function without adding to the currency, does not render the system an unsound currency, one begins to wonder what would. Great names have been invoked in support of the exchange standard. After trying hard to find authoritative precedents for his plan,* Mr. Lindsay claimed before the Fowler Committee that it was founded upon the Report of the Parliamentary Committee on Irish Exchange.† There he was on firm ground. Among other things, the Committee did recommend that for stabilizing the exchange between England and Ireland the Bank of Ireland should open credit at the Bank of England and sell drafts on London at a fixed price. In so far as the exchange standard rests on gold reserve in London, Lindsay must be said to have faithfully copied the plan of the Irish Committee on exchange. But he totally

* In 1876, when Mr. Lindsay first set out his scheme in the pages of his *Calcutta Review,* he mentions no parallel at all. in 1892, in his *Ricardo's Exchange Remedy,* he uttered the name of Ricardo as an authority for his plan, but in 1898 he shifted his ground, so much so that he blamed (*Economic journal, supra*) Probyn for taking Ricardo's gold bar plan as a basis. The reason why he disavowed Ricardo as his authority most probably lies in the fact that Ricardo's general views of currency were rather damaging to his position. In view of the fact that there are so many people who assert, no doubt, from the title of his *Proposals for an Economical and Secure Currency,* that Ricardo wrote against a metallic standard, it is worth while recording the following passage from his *Proposals,* in which he says : "During the late discussion on the bullion questions, it was almost justly contended that a currency, to be perfect, should be absolutely invariable in value. But it was said, too, that ours had become such a currency, by the Bank Restriction Bill; for by that bill we had wisely discarded gold and silver as the standard of our money..... Those who supported this opinion did not see that such a currency, instead of being variable, was subject to the greatest variations— that the only use of a standard is to regulate the quantity, and by the quantity the value of the currency—and that without a standard it would be exposed to all the fluctuations to which the ignorance or the interests of the issuers might subject it."

† The Report, which is a masterly document, was eclipsed by the Bullion Report, though both contain the same doctrine, by reason of its not being printed till 1826. *See* Lords Paper 48 of 1826.

neglected to give prominence to another and the most vital re commendation of the Committee, in which it is observed :* "*But all the benefits proposed by this Mode of Remedies would be of little Avail and very limited Duration if it* (i.e. Bank of Ireland) *did not promise at the same time to cure the Depreciation of Paper in Ireland by diminishing its over issue*." Indeed, so great was the stress laid on the limitation of issue that when Parnell, in his resolution in the House of Commons on the reform of the Irish currency, regretted the non-adoption of the recommendations of the Committee,† Thornton in his reply pointed out that nothing would help to stabilize Irish exchange so long as the vital condition laid down by the Committee was disregarded. The recent experience in pegging the exchanges well illustrates the importance of that vital condition. Pegging the exchange is primarily a device to prevent the external value of the currency falling along with its internal value. The way in which pegging effects this divorce is important to note.‡ The primary effect of the peg is to permit the purchases of foreign goods by procuring foreign currency for home currency at a fixed price, which is higher than would be the case if it were determined by the general purchasing power parity of the two currencies. By enabling people to buy foreign goods with foreign currency obtained at a cheaper price the peg virtually raises foreign prices more to the level of the home prices, so that if the exchange is stable it is not because there is a peg, but because the price-levels in the two countries have reached a new equilibrium. Essentially the exchange is stable because it is an artificial purchasing-power parity. Whether it will continue to be so depends upon the movements in the home prices. If the home prices rise more than the rise brought about by the peg in the foreign prices the mechanism must break. It is from this point of view that the condition laid down by the Irish Committee on exchange regarding the limitation on issue must be held as one of vital character. In omiting to advert to that condition the Indian currency contradicts what is best in that Report of the Irish Committee.

The reason why Mr. Lindsay paid no attention to the question of limitation in setting up his exchange standard is largely that, notwithstanding the great reputation he has achieved as

* Report, p. 16. Italics not in the original.

† See *Hansard Parliamentary Debates,* Vol. XIV, pp. 75-91.

‡ Cf. the succinct statement by T. E. Gregory, *Foreign Exchanges,* p. 85.

an author of a new system, he was profoundly ignorant of the true doctrine regarding the value of a currency. Neither he nor the hosts of currency-mongers who during the nineties exercised their ingenuity to devise plans for remedying Indian exchange troubles,* understood that to stabilize the exchange was essentially a problem of stabilizing the purchasing power of currency by controlling its volume.† The gold-exchange standard ignores the fact that in the long run it is the general purchasing power of a currency that will ultimately govern its exchange value. Its aim is to stabilize exchange and allow the problem of purchasing power to go hang. The true policy should be to stabilize the purchasing power of the currency and let exchange take care of itself. Had the Chamberlain Commission considered the exchange standard from this point of view it could not have called it a sound standard when in its fundamentals it was the very reverse of it.

Now any one who remains unconvinced of this weakness of the exchange standard may say that in examining its stability we have taken only those occasions on which the standard has broken down. Thinking such a treatment to be unfair, he might say: How about the years during which stability was maintained ? Is there nothing to be said in favour of a system that maintained the gold value of the rupee from 1901 to 1907, or from 1909 to 1914 ? The question is a pertinent one, and the position that underlies it is supposed to be so strong that those who hold it have asked the opponents of the exchange standard either to admit that it is a stable standard or to show that under that standard the rupee has *invariably* failed to maintain its gold value.‡

The validity of this position depends upon assumptions so plausible and so widespread that the argument urged so far against the exchange standard will not be of full effect until their futility is fully demonstrated. The first assumption is that there cannot be a depreciation of a currency unless it has depreciated in terms of gold. In other words, if the excess has not produced

* *See* Chap. IV.

† Cf. evidence of Mr. Lindsay before the Fowler Committee, Q. 4,190-95, where he asserted that exchange had nothing to do with the quantity of money in circulation.

‡ Dodwell, "A Gold Currency for India," *Economic Journal,* 1911; *Report on the Enquiry into the Rise of Prices in India, 1914, p. 94.*

a fall in the value of a currency in terms of a particular commodity such as gold, then there has been no excess at all in terms of commodities in general. Now there was a time, particularly during the discussion on the Bullion Report, when the conception of a change in the value of the currency in relation to things in general was not quite clear even to the most informed minds,* and was even pronounced invalid by high authorities.† In view of the absence of the system of index numbers, this simple faith in the summary method of ascertaining depreciation by some one typical article, gold for instance, as a measure of value, was excusable. But the same view is without any foundation to-day. No one now requires to be shown that the price of each commodity has varied to the same extent and in the same direction as prices of commodities in general before admitting that there has been a change in the value of a currency. Why assume a single commodity like gold as a measure of depreciation ? It would be allowable, although it is short-sighted to do so, if the depreciation of gold was an accurate measure of the depreciation of a currency in terms of all other commodities. But such is not the case. Commenting upon the experience of the United States with the greenbacks during the Civil War, Prof. W. C. Mitchell observes‡ :

> "The fluctuations in the price of gold which attracted so much attention were much more moderate than the extreme fluctuations in the prices of commodities. The gold quotations lay all the time well within the outer limits of the field covered by the variations of commodity prices..... During the war gold moved up or down in price more quickly than the mass of commodities..... When gold was rising in price the majority of the commodities followed, but more slowly..... When gold was falling in price the majority of commodities stood still or followed more slowly..... This more sluggish movement of commodity prices appears still more clearly after the war. Rapid as was the fall of prices it was not so rapid as the fall in gold. A more curious fact is that the price-level for

* Canning's castigation of Lord Castlereagh's definition of standard as "a sense of value" during the Bullion debates must be attributed to his ignorance on this matter.

† Ricardo, in his *Proposals for an Economical and Secure Currency* says :"It has indeed been said that we might judge of the value of a currency by its relation not to one but to the mass of the commodities..... Such a test would be of no use whatever..... To determine the value of a currency by the test proposed..... is evidently impossible."

‡ *Gold Prices and Wages under the Greenback Standard,* 1908, pp. 39-41.

commodities continued for ten years to be higher than the price-level for gold."

This shows that the test sought to be applied by the adherents of the exchange standard is a false one and gives an inaccurate reading of the value of a currency. There can be no doubt that people who have urged its application to that standard would not have pressed for it so much as they have done if they had taken proper care to distinguish between *specific* depreciation of a currency in terms of gold and its *general* depreciation in terms of commodities.* The experience of the Bank of England during the suspension period is a capital instance of the phenomenon where a currency is generally depreciated, although it showed no sign of specific depreciation :—

TABLE L

DEPRECIATION OF THE NOTES OF THE BANK OF ENGLAND†

	Percentage Values of Bank Notes in Terms of	
	(1) Gold	(2) Commodities
1797	100.0	110
1798	100.0	118
1799	...	130
1800	107.0	141
1801	109.0	153
1802	...	119
1803	...	128
1804	103.0	122
1805	103.0	136
1806	...	133
1807	...	132
1808	...	149
1809	...	161
1810	...	164
1811	123.9	147
1812	130.2	148
1813	136.4	149
1814	124.4	153
1815	118.7	132
1816	102.9	109
1817	102.2	120
1818	104.6	135

* Cf, Prof. Nicholson's *Principles of Political Economy* (1897), Vol. II, Chap. XV, §4 ; and Walker, F. A., *Money,* 1878, pp. 387-91.

† From Hawtrey's *Credit and Currency,* p. 269. On the values of the notes in terms of gold Prof. Foxwell says :" It is admitted by the severest critics of the bank that there is no substantial ground for complaint as to its conduct during the restriction until 1808-9. There does not seem, indeed, to have been any real depreciation of its paper until that date. The price of £ 4 per ounce, which figures monotonously for the years 1803-9, was really an arbitrary price, fixed by the bank itself as one at which it would purchase foreign gold." *Preface to Andreades,* p. xvi. Some people seem to doubt that there was no specific depreciation of the inconvertible notes of the Bank of England till 1810. Unfortunately data are not available to give direct evidence of the fact. But circumstantial evidence there is. It is to be remembered that the premium on gold was the only method then known of measuring depreciation and that Horner, Ricardo and others were open enemies of the Bank of England. That being the case, it does not seem probable that Horner would have waited to introduce his Resolution in the House of Commons till 1810 if the bank notes had shown signs of specific depreciation before that time.

Which kind of depreciation is the greater evil we will discuss in the next chapter. Dealing for the present with this experience of the Bank of England, we have the fact that there can be a general depreciation without a specific depreciation. In view of this, the upholders of the exchange standard have no reason to be proud of the fact that the rupee has not shown signs of specific depreciation over periods of long duration. That a bank note absolutely inconvertible and unregulated as to issue should have maintained its par for very nearly thirteen years may speak far more in favour of the suspension system than the experience of the rupee can in favour of the exchange standard. There is a greater wonder in the former than there is in the latter, for the value of the rupee is sustained, apart from the fact that gold in terms of which it was measured was itself undergoing a depreciation, as is evident from the foregoing figures of general prices in England, and by a hope in some kind of convertibility, however slight or however remote but which had no place in the case of the Bank of England notes. Yet no one is known to have admired or justified the currency system of the suspension period, although it had not given rise to a specific depreciation for a long time.

This mode of measuring depreciation in terms of gold would be, relatively speaking, a harmless idea if it was not made the basis of another assumption on which the exchange standard is made to rest, that the general and specific depreciations of a currency are unrelated phenomena. As against this it is necessary to urge that the chief lesson to be drawn from this experience of the Bank of England for the benefit of the upholders of the exchange standard consists in demonstrating that although their movements are not perfectly harmonious, yet they are essentially inter-related. That lesson may be summed up in the statement that when the general depreciation of currency has taken place the occurrence of a specific depreciation, other things being equal, is only a matter of time, if the general depreciation proceeds beyond a certain limit. What will be the interval before specific depreciation will supervene upon general depreciation depends upon a variety of circumstances. Like the surface of a rising lake, general depreciation touches different commodities at different times according as they are located in the general scheme of things as determined by the relative strength of demand for them. If there is no demand for gold for currency purposes or for industrial purposes, the

depreciation of the currency in terms of gold may be delayed. It is only to make foreign remittances that the demand for gold first makes itself felt, and it is there that specific depreciation primarily arises. But there again it need not, for everything depends upon whether other commodities equally good, which the foreigner would take as readily as gold, are forthcoming or not. Now, in the case of India all these three factors tending to postpone specific depreciation are more or less operative. The rupee is a full legal-tender currency and can effectively discharge debts without compelling resort to gold. The industrial demand for gold in a poor country like India cannot be very great.* Consequently, the generally depreciated rupee does not show immediate signs of depreciation in the internal trade of the country. As for foreign payments, the position of India is equally strong, not because, as is absurdly supposed, she has a favourable balance of trade, but because she has certain *essential* commodities which a foreigner is obliged to

* The following table regarding the consumption of gold in different countries is interesting:—

§ CONSUMPTION OF GOLD (MILLIONS OF POUNDS STERLING AT 85S. PER FINE OUNCE)

	1915	1916	1917	1918	1919	1920
Industrial Arts (Europe and America).	17.0	18.0	16.0	17.0	22.0	22.0
India (year to March 31 following.	1.4	5.1	19.6	—3.3	27.7	5.1
China ...	—1.7	2.6	2.6	0.04	11.5	—3.7
Egypt ...	—0.8	—0.2	—0.1	—0.0	—0.0	?
Balance available as money (difference).	80.5	68.0	48.2	64.9	13.8	46.6
World ...	96.4	93.5	86.3	79.0	75.0	70.0

§ The figures are those of Mr. Joseph Kitchin in *The Review of Economic Statistics,* Preliminary volume 3, No. 8 for August, 1921, p. 257. If figures previous to 1914 are desired, *see* table ibid., p. 258).

Omitting the abnormal years of 1917 and 1919 and reducing the figures to *per capita* basis the *consumption* of gold by India must be said to be remarkably small. Besides, it is to be noted that figures for India include industrial as well as monetary consumption. Further, in making comparison account must be taken of the difference in the period taken as unit in the case of India and other countries. Of course in these days when gold is so very greatly depreciated in terms of commodities in general, neither is there any necessity to shed tears if its production were to fall off, nor can it be anything but a welcome event if its use were to be extended. It would therefore be unwise to resent an increase, if it were to take place, in the importation and use of gold by India. The greater the use of gold and the less the production of it, the better for the world as it is circumstanced to-day. Cf. in this connection the remarks of Prof. Cannan on Mr. Shirras's Paper in the *J.R.S.S.* for July, 1920, pp. 623-24.

accept* in place of gold. Specific depreciation of the rupee will occur chiefly when the general depreciation has overtaken the commodities that enter into India's foreign trade. That the depreciation should extend to them is inevitable, for, as is well said,†

> "in a modern community the prices of different goods constitute a completely organized system, in which the various parts are continually being adjusted to each other by intricate business process. Any marked change in the price of important goods disturbs the equilibrium of this system, and business processes at once set going a series of readjustments in the prices of other goods to restore it."

It is true that in the case of India the interconnection between production for internal trade and production for external trade is not so closely knit as in the case of other countries. The only difference that this can make in the situation is to moderate the pace of general depreciation so that it does not affect foreign trade commodities too soon. But it cannot prevent its effect from ultimately raising their price, and once their price is risen the foreigner will not accept them, however essential. A demand for gold must arise, resulting in the specific depreciation of the currency. This statement of the case agrees closely with the experience of the Bank of England and that of India as well. In the case of the Bank of England the "great evil," i.e. the specific depreciation of the bank notes, of which Horner complained so much, made its appearance in 1809, some thirteen years after the suspension was declared. Similarly, we find in the case of India specific depreciation tends to appeear at different intervals, thereby completely demonstrating that, even for the purpose of avoiding specific depreciation, it is necessary to pay attention to the general depreciation of a currency.

Having regard to these facts, supported as they are by theory as well as history, the incident that the rupee has maintained its gold value over periods of some duration need not frighten

* Evidence of Prof. Marshall, I.CC. 1898, Q. 11,793.

† Mitchell *Ibid,* p. 258.

anyone into an admission that the exchange standard is therefore a stable standard. Indeed, a recognition of that fact cannot in the least discredit what has been said above. For our position is that in the *long run* general depreciation of a currency will bring about its specific depreciation in terms of gold. That being our position, even if we are confronted with the absence of specific depreciation of the rupee, we are not driven to retract from the opinion that the best currency system is one which provides a brake on the general depreciation of the unit of account. The exchange standard provides no such controlling influence; indeed, its gold reserve, the instrument which controls the depreciation, is the direct cause of such depreciation. The absence of specific depreciation for the time being is not more than a noteworthy and an interesting incident. To read into it an evidence of the security of the exchange standard is to expose oneself, sooner a later, to the consequences that befall all those who choose to live in a fool's paradise.

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CHAPTER VII

A RETURN TO THE GOLD STANDARD

We have examined the exchange standard in the light of the claim made on behalf of it, that it is capable of maintaining the gold parity of the rupee. This was the criterion laid down by the Chamberlain Commission as a fitting one by which to judge the merits or demerits of that standard. But is the adequacy of that criterion beyond dispute ? In other words, supposing the rupee has maintained its gold parity, which it has only as often as not, does it follow that all the purposes of a good monetary system are therefore subserved ?

In the exchange standard, "as the system is now operated, the coinage is manipulated to keep it at par with gold"* as though money is only important for the amount of gold it will procure. But what really concerns those who use money is not how much gold that money is worth, but how much of things in general (of which gold is an infinitesimal part) that money is worth. Everywhere, therefore, the attempt is to keep money stable in terms of commodities in general, and that is but proper, for what ministers to the welfare of people is not so much the precious metals as commodities and services of more direct utility. Stability of a currency in terms of gold is of importance only to the dealers in gold, but its stability in terms of commodities in general affects all, including the bullion-dealers. Even Prof. Keynes, in his testimony before the Indian Currency Committee of 1919, observed† :—

> "I should aim always..... at keeping Indian prices stable in relation to commodities rather than in relation to any particular metallic or particular foreign currency. That seems to me of far greater importance to India."

It is, of course, a little difficult to understand how the remedy of high exchange which he supported was calculated to achieve that object. Raising the exchange was a futile project, in so far

*Fisher, *Purchasing Power of Money,* 1911, p. 340.

†Q. 2,690.

as it was not in keeping with the purchasing power of the rupee. As an influence governing prices it could hardly be said to possess the virtue he attributed to it. The existing price-level it could affect in no way; nor could a high exchange prevent a future rise of prices. It could only change the base from which to measure prices. Future prices could vary as easily from the new high base-line as prices did in the past from the old baseline. In other words, Mr. Keynes seems to have overlooked the fact that exchange was only an index of the price-level, and to control it, it was necessary to control the price-level and not merely give it another name which it cannot bear and will not endure, as was proved in 1920 when the rupee was given in law the value of 2s. (gold) when in practice it could not fetch even 1s. 4d. sterling, with the result that the rupee exchange sank to the level determined by its purchasing power. But, apart from this question, we have the admission of the ablest supporter of the exchange standard that the real merit of a currency system lies in maintaining the standard of value stable in terms of commodities in general.

Given that this is the proper criterion by which to judge a currency system, we must ask what has been the course of prices in India since the Mint closure in 1893 ? This is a fundamental question, and yet not one among the many who have praised the virtues of the exchange standard has paid any attention to it. In vain may one search the pages of Prof. Keynes, Prof. Kemmerer, or Mr. Shirras for what they have to say of the exchange standard from this point of view. The Chamberlain Commission or the Smith Committee on Indian currency never troubled about the problem of prices in India,* and yet without being satisfied on that score it is really difficult to understand how anyone can give an opinion of any value as to the soundness or otherwise of that standard.

In proceeding to consider the exchange standard from the standpoint of prices, it is as well to premise that one of the important reasons why the Indian Mints were closed to the free coinage of silver was that the rupee was a depreciating currency resulting in high prices.† The dosing of the Mints, therefore,

* Perhaps an exception may be made in the case of the latter Committee ; but its object was only to make it a ground for high exchange.

† *See supra,* Chap. III.

should have been followed by a fall of prices in India; for, to adopt the phraseology of Prof. Fisher,* the pipe-connection between the money reservoir and the silver-bullion reservoir was owing to the Mint closure cut off or stopped, thereby preventing the passage of silver from the bullion reservoir to the money reservoir. In other words, the newly mined silver could not become money after the Mint closure and lower the purchasing power of the rupees in circulation. If this is so, then how very disappointing has been the effect of the Mint closure ! From the standpoint of prices the rupee has become a problem as it had never been before. The rise of prices in India since the Mint closure (*See* Chart VI) has been quite unprecedented in the history of the country. Indeed, the rise of prices in India before the Mint closure, when the pipe-connection between the silver-bullion reservoir and the rupee-currency reservoir was intact, must be regarded as very trifling compared with the rise of prices after the Mint closure when the pipe-connection was cut off. From the standpoint of prices the Mint closure has therefore turned out to be a curse rather than a blessing, and literally so, for, under an ever-rising price-level, life in India is rendered quite unbearable. No people have undergone so much misery owing to high prices as the Indian people have done. During the war period the price-level reached such a giddy height that the reports of suicide by men and women who were unable to buy food and clothing were in no way few and far between, ft may, however, be argued that the rise of prices in India would have been greater if the Mints had not been closed and India had remained a purely silver-standard country. A good deal, no doubt, can be said in favour of this view. It is absolutely true that silver, being universally discarded, has become unfit for functioning as a standard of value. To that extent an exchange standard is better than a pure-silver standard. But is it as good as a gold standard ?

On the basis of the doctrine of purchasing power parities as an explanation of actual exchange rates, one may be led to answer the question in the affirmative. For it may be argued

**Purchasing Power of Money,* 1911, p. 128.

that if the gold value of the rupee was maintained it is because gold prices and rupee prices were equal.* This, it may be said, is all that the exchange standard aims at doing and can be claimed to have done, for the fact that the gold-standard reserve was seldom depleted is a proof that the general prices inside India were on the same level as those ruling outside India. On *a priori* considerations such as these, the exchange standard may be deemed to be as good as a gold standard.

One may ask as to why Indian prices should have been kept as high, if they were no higher than gold prices, and whether it would not have been better to have kept Indian prices on a lower level. But we shall not raise that question. We shall be satisfied if Indian prices were only as high as gold prices. Now did Indian prices rise only as much as gold prices ? A glance at the chart reveals the surprising phenomenon that prices in India not only rose as much as gold prices, but rose more than gold prices. Of course in comparing Indian prices with gold prices to test the efficacy of the exchange standard we must necessarily eliminate the war period, for the reason that gold had been abandoned as a standard of value by most of the countries. And, even if we do take that period into account, it does not materially affect the conclusion, for although India was not a belligerent country, yet prices in India were not very much lower than prices in countries with most inflated currencies during the war, and barring a short period were certainly higher than gold prices in U.S.A.

It is obvious that the facts do not agree with the *a priori* assumption made in favour of the exchange standard. So noticeable must be said to be the local rise in Indian prices above the general price level in England that even Prof. Keynes, not given to exaggerate the faults of the exchange standard, was, as a result of his own independent investigation, convinced that†

> "a comparison with Sauerbeck's index number for the United Kingdom shows that the change in India is *much greater* than can be accounted for by changes occuring elsewhere."

* It is, however, to be noted that neither Prof. Kemmerer nor Prof. Keynes has set up this claim in favour of the exchange standard. If anything, both have argued against the assumption of there being equality of *all* prices.

† "Recent Economic Events in India," in *The Economic Journal,* March, 1909, p. 54. Italic not in the original.

What is then the explanation of this discrepancy between the a *priori* assumption and the facts of the case. The explanation is that the actual exchange rates correspond to the purchasing power parities of two currencies not with regard to *all* commodities but with regard to *some* only. In this connection it is better to re-state the doctrine of the relation of the purchasing power parities to exchange rates with the necessary qualification. A rigorously strict formulation of the doctrine should require us to state that Englishmen and others value Indian rupees inasmuch as and in so far as those rupees will buy *such Indian goods as Englishmen want*; while Indians value English pounds inasmuch as and in so far as those pounds will buy *such English goods as the Indians want.* So stated it follows that the actual exchange rates are related to purchasing power parities of the two currencies with regard to such commodities only as are internationally traded. To assume that the actual exchange rate is an exact index of the purchasing power parity of the two currencies with regard to *all* the commodities is to suppose that the variations in the purchasing power of a currency over commodities which are traded and which are not traded are the same.* There is certainly a tendency for movements in the prices of these two classes of goods to influence one another *in the long run;* so that it becomes possible to say that the exchange value of a currency will be determined by its internal purchasing power. The doctrine of purchasing power parity as an explanation of exchange rates is valuable as an instrument of practical utility for controlling the foreign exchanges *and* it is as such that the doctrine was employed in an earlier portion of this study to account for the fall in the gold value of the rupee. But to proceed, on the basis of this relationship between the purchasing power of a currency and its exchange value, to argue that at any given time the exchange is more or less an exact measure of general purchasing power of the two currencies, is to assume what cannot always be true, namely, that the prices of traded and non-traded goods move in sympathy. This assumption is too large and can only be said to be more or less true according to circumstances. Now as Prof. Kemmerer† points out:—

*Prof. Cassel, the modern exponent of this old doctrine of the relation of exchange rates to purchasing power parities, admits that the correspondence between the two depends upon the fulfilment of this assumption, for he says :

> "Our calculation of the purchasing power parity rests strictly on the proviso that the rise in prices in the countries concerned has affected all commodities in a like degree. If that proviso is not fulfilled, then the actual exchange rate may deviate from the calculated purchasing power parities."— *Money and Foreign Exchange after* 1914, London, 1922, p. 154.

†Op. cit., p. 64.

> "While India's exports and imports in the absolute are large, still, in the main, the people of India live on their own products, and a large part of those products run their life history from production to consumption in a very small territory. They have only the remotest connection with foreign trade, gold, and the gold exchanges. In time, of course, any substantial disturbance in the equilibrium of values in the country's import and export trade will make itself felt in these local prices, but allowing for exceptions, it may be said that in a country like India the influences of such disturbances travel very slowly and lose much of their momentum in travelling."

In consequence of the thinness of connection between the two it is obvious that the prices of such Indian goods as do enter into international trade cannot always be said to move in more or less the same proportion as those which do not. Besides this thinness of connection which permits of deviations of the general purchasing power of a currency from the level indicated by the actual exchange rate, it is to be noted that the prices of Indian commodities which largely enter into international trade are not governed by local influences. Such exports of India as wheat, hides, rice and oil seeds are international commodities, not solely amenable to influences originating from changes that may be taking place in the prices of home commodities and services. The combined effect of these two circumstances, except in abnormal events such as the war, is to militate against the prices of traded and non-traded goods moving in quick sympathy.*

If this is true, then, although the maintenance of the exchange standard does imply a purchasing power parity of the rupee with gold, it is not a purchasing power parity of the two currencies with respect to *all* the commodities. All that it implies is that the purchasing power of the rupee over such commodities as entered into international trade was on a par with gold, so that there did not often arise the necessity of exhausting the gold reserve. The preservation of the gold reserve only meant that there was equality of prices so far as internationally traded goods were concerned. Thus interpreted, the fact that the rupee

* This is merely re-stating what has previously been stated to explain why specific depreciation of the rupee does not immediately follow upon its general depreciation.

maintained its gold value does not preclude the possibility of Indian prices being, on the whole, higher than gold prices, thereby vitiating the *a priori* view that the exchange standard is as good as the gold standard.

It should be pointed out* that all changes of prices affect more or less the welfare of the individual. However, the general flexibility of the modern economic organization, with its mobility of capital and labour, free competition, power of choice, inventive genius and intellectual resources of enterpreneurs and merchants, takes care of the normal and temporary fluctuations of prices. But when a change in the price-level is general and persistent in one direction the case is otherwise. Arrangements based on the expectation that the price movement is only temporary, and that there will be a return to the former normal position, constantly come to naught. Suffering endured in holding on for the turn in the movement cannot be offset by gains in another. In short, such a persistent price movement in one direction is bound to confound ordinary business sagacity and so vitiate all calculations for the future as to result in unlimited dislocation or loss and subject the individual to such powerful and at the same time incalculable influences that his economic welfare cannot but escape entirely from his control, and prudence, forethought, and energy become of no avail in the struggle for existence. Perfect stability of value in a monetary standard is as yet only an ideal. 'But the evil consequences of instability are so great that Prof. Marshall, believing as he did that the general prejudice against tampering with the monetary foundations of economic life was a healthy prejudice, yet observed that much may be done towards safeguarding the economic welfare of communities by lessening its variability.† A depreciating standard of value, as gold has been since 1896, is an evil. But can a standard of value, undergoing a continuous depreciation as has been the case with the exchange standard, and that too of a greater depth than the gold standard—in other words, causing a greater rise of prices—be regraded as a good standard of value ?

* What follows is condensed from Mayo-Smith's "Price Movements and Individual Welfare," in the *Political Science Quarterly,* Vol. XV, No. 1 (March, 1900), pp. 14-17.

† Cf." Remedies for Fluctuations of General Prices," in *The Contemporary Review,* March, 1887, *passim*.

In the light of this it is strange that Prof. Keynes, in his treatise on *Indian Currency and Finance,* should have maintained that the exchange standard contained an essential element in the ideal standard of the future*—a view subsequently endorsed by the Chamberlain Commission. If stability of purchasing power in terms of commodities in general is the criterion for judging a system of currency, then few students of economics will be found to agree with Prof. Keynes. Perhaps it is not too sanguine to say that even the Prof. Keynes of 1920 will prefer a gold standard to a gold-exchange standard, for under the former prices have varied much less than has been the case under the latter.

In this connection attention may be drawn to the prevalent misconception that India is a gold-standard country. It will be admitted that the best practical test whether any two countries have the same standard of value is to be found in the character of the movements in their price-levels. So sure is the test that Prof. Mitchell, after a very careful and wise survey of the price-level of different countries and the American price-level during the greenback period, was led to observe† that

> "when two countries have a similar monetary system and important business relations with each other, the movements of their price-levels as represented by index-numbers are found to agree rather closely. This agreement is so strong that similarity of movement is usually found even when comparisons are made with material so crude as index-numbers compiled from unlike lists of commodities and computed on the basis of actual prices in different years." Now, we know that before the war England was a gold-standard country, and we also know that there was no close correpondence between the contemporary movements of the price-levels of India and England. In view of this, it is only a delusion to maintain that India has been a gold-standard country. On the other hand, it is better to recognise that India has yet to become a gold-standard country unless we are to fall into the same error that Prof. Fisher‡ must be said to have

* Op. cit., p. 36.

† *Gold, Prices, and Wages under the Greenback Standard,* 1908, p. 27.

‡ *Purchasing Power,* etc., 1911, p. 340.

committed in attributing the extraordinary rise of prices in India to the existence of a gold standard, when, as a matter of fact, it should have been attributed to the want of a gold standard.

How can she become a gold-standard country ? The obvious answer is, by introducing a gold currency. Prof. Kenyes scoffs at the view that there cannot be a gold standard without a gold currency as pure nonsense.* He seems to hold that a currency and a standard of value are two different things. Surely there he is wrong. Because a society needs a medium of exchange, a standard of value, and a store of value to sustain its economic life, it is positively erroneous to argue that these three functions can be performed by different instrumentalities. On the other hand, as Professor Davenport insists.†

> "all the different uses of money are merely different aspects or emphasis of the intermediate function. Deferred payments ..... are merely deferred payments of the intermediate. So again of the standard aspect; whatever is the general intermediate is by that fact the standard. The functions are not two, but one ....., Clearly, also, the intermediate may be a storehouse of purchasing power. The second half of the barter may be deferred. The intermediate is generalized purchasing power. Delay is one of the privileges which especially the intermediate function carries with it."

Thus the rupee by reason of being the currency is also the standard of value. If we wish to make gold the standard of value in India we must introduce it into the currency of India. But it may be asked what difference could it make to the price level in India if gold were made a part of the Indian currency ? To answer this question it is necessary to lay bare the nature of the rupee currency. Now it will be granted that a standard of value which is capable of expansion as well as contraction is likely to be more stable than one which is incapable of (such a manipulation. The rupee currency is capable of)‡ easy expansion, but is not capable of easy contraction by reason of the fact that it is neither exportable nor meltable, nor is it

* Op. cit., p. 29.

† Op. cit., pp. 255-56 ; cf. also F. A. Walker, *Money in its Relation to Trade,* p. 27 ; and C M. Walsh, *The Fundamental Problem in Monetary Science,* p. 304.

‡*The portion in the bracket is missing in the Evolution of Provincial Finance*—Ed.

convertible at will. The effects of such a currency as compared with those of an exportable currency were well brought out by the late Hon. Mr. Gokhale in a speech in which he observed.*

> "Now, what is the difference if you have an automatic self-adjusting currency, such as we may have with gold or we had with silver before the year 1893, and the kind of artificial currency that we have at present ? Situated as India is you will always require, to meet the demands of trade, the coinage of a certain number of gold or silver pieces, as the case may be, during the export season, that is for six months in the year. When the export season is brisk money has to be sent into the interior to purchase commodities. That is a factor common to both situations, whether you have an artificial currency, as now, or a silver currency, as before 1893. But the difference is this. During the remaining six months of the slack season there is undoubtedly experienced a redundancy of currency, and under a self-adjusting automatic system there are three outlets for this redundancy to work itself off. The coins that are superfluous may either come back to the banks and to the coffers of Government, or they may be exported, or they may be melted by people for purposes of consumption for other wants. But where you have no self-adjusting and automatic currency, where the coin is an artificial token currency, such as our rupee is at the present moment, two out of three of these outlets are stopped. You cannot export the rupee without heavy loss, you cannot melt the rupee without heavy loss, and consequently the extra coins must return to the banks and coffers of the government or they must be absorbed by the people. In the latter case the situation is like that of a soil which is water-logged, which has no efficient drainage, and the moisture from which cannot be removed. In this country the facilities for banking are very inadequate, and therefore our money does not swiftly return back to the banks or Government Treasuries. Consequently, the extra money that is sent into the interior often gathers here and there like pools of water turning the whole soil into a marsh. I believe the fact cannot be gainsaid that the stopping of two outlets out of the three tends to raise prices by making the volume of currency redundant."

Had gold formed a part of the Indian currency it would have not only met the needs for expansion but would have permitted

* *Supreme Legislative Council Proceedings,* Vol. L. p. 642.

contraction of *currency* in a degree unknown to the rupee. Gold would be superior to the rupee as a standard of value for the reason that the former is expansible as well as contractible, while the latter is only expansible but not contractible. This is merely to state in different language what has already been said previously, that the Indian monetary standard, instead of being a gold or a gold-exchange standard, is in all essentials an inconvertible rupee standard like the paper pound of the Bank Suspension period, and the extra local rise of prices which in itself an inconvertible proof of the identity of the two systems, is characteristic of both, is, to use the language of the Bullion Report*

> "the effect of an excessive quantity of a circulating medium in a country which has adopted a currency not exportable to other countries, or not convertible at will into a coin which is exportable."

Therefore, if some mitigation of the rise in the Indian price-level is desirable, then the most essential thing to do is to permit some form of "exportable" currency such as gold to be a counterpart of the Indian monetary system.

The Chamberlain Commission expended much ingenuity in making out a case against a gold currency in India.† The arguments it urged were : (1) Indian people will hoard gold and will not make it available in a crisis: (2) that India is too poor a country to maintain such an expensive money material as gold ; (3) that the transactions of the Indian people are too small to permit of a gold circulation ; and (4) paper convertible into rupees is the best form of currency for the people of India as being the most economical, and that the introduction of a gold currency will militate against the popularity of notes as well as of rupees. The bogy of hoarding is an old one, and would really be an argument of some force if hoarding was something which knew no law. But the case is quite otherwise. Money, being the most saleable commodity and the least likely, in a well-ordered monetary system, to deteriorate in value during short periods, is hoarded continually by all people, i,e, treated as a store of value. But in treating it as a store of value the possessor

* Prof. Cannan's Reprint, p. 17.

† Report, pp. 15-19. The same arguments will be found in Chap. IV of Mr. Keynes's treatise.

of money is comparing the utilities he can get for the money, by disposing of it now, with those he believes he can get for it in the future, and if the highest present utility is not so great as the highest future utility, discounted for risk and time, he will hoard the money. On the other hand, he will not hoard the money if the present use was greater than the future use. That being so, it is difficult to understand why hoarding should be an objection to a gold currency for the Indian people. If they hoard gold that means they do not care to spend it on current purchases or that they have another form of currency which is inferior to gold and which they naturally like to part with first. On the other hand, if they do wish to make current purchases and have no other form of currency they cannot hoard gold. There are instances when precious metals have been exported from India, when occasion had called for it,* showing that the hoarding habit of the Indian peoples is not such an unknown quantity as is often supposed, and if on some occasions† they hoarded an exportable currency when they should have released it, it is not the fault of the people but of the currency system in which the component parts of the total stock of money are not equally good as a store of value. The argument from hoarding, if it is an argument, can be used aginst any people, and not particularly against the Indian people.

The second argument against a gold currency in India has no greater force than the first. If gold were to disappear from circulation then the cause can be nothing else but the over-issue of another kind of money. In the nineties, when the question of establishing a gold standard in India was being considered, some people used to point to the vain efforts made by Italy and the Austrian Empire to promote the circulation of gold. That their gold used to disappear is a fact, but it was not due to their poverty. It was due to their paper issues. Any country can maintain a gold currency provided it does not issue a cheaper substitute.

Again, if gold will not circulate because transactions are too small the proper conclusion is not that there should be no gold circulation but that the unit of currency should be small enough to meet the situation. The difficulties of circulation raises a problem of coinage. But the considerations in respect of coinage

**See* the Memorandum by Mr. Dalai to the Chamberlain Commission Appendices, Vol. III, No. XXXIII, pp. 673-75, for this and other cognate topics.

† In the crisis of 1907-8 the Indian people were accused of this. Yet it must be noted that in that crisis some gold was exported on private account.

cannot be allowed to rule the question as to what should be the standard of value. If the sovereign does not circulate it cannot follow that India should not have a gold currency. It merely means that the sovereign is too large for circulation. The case, if at all there is one, is against the sovereign as a unit and not against the principle of a gold currency. If the sovereign is not small enough the conclusion is we must find some other coin to make the circulation of gold effective.

The fourth argument against a gold currency is one of fact, and can be neither proved nor disproved except by an appeal to evidence whether or not gold currency has the tendency ascribed to it. But we may ask, is there no danger in a system of currency composed of paper convertible into rupees ? Will the paper have no effect on the value of the rupee ? The Commission, if it at all considered that question, which is very doubtful, was perhaps persuaded by the view commonly held, that as the paper currency was convertible it could not affect the value or the purchasing power of the rupee. In holding this view it was wrong ; for, the convertibility of paper currency to the extent it is uncovered does not prevent it from lowering the value of the unit of account into which it is convertible, because by competition it reduces the demand for the unit of account and thus brings about a fall in its value. Thus the paper, although economical as a currency, is a danger to the value of the rupee. This danger would have been of a limited character if the rupee had been freely convertible into gold. But the danger of a convertible paper currency to the value of a unit of account becomes as great as that of an inconvertible paper currency if that unit is not protected against being driven below the metal of ultimate redemption by free convertibility into that metal.* The rupee is not protected by such convertibility, and as the Commission did not want that it should be so protected it should have realized that it was as seriously jeopardizing the prospects of the rupee being maintained at par with commodities in general, and therefore with gold, by urging the extension of a paper currency, be it ever so perfectly convertible, as it could have done by making the paper altogether inconvertible. But so observed was the Commission with considerations of

* For an illuminating discussion on this topic, cf. *Money: Its Connection with Rising and Falling Prices,* by Prof. Cannan, 3rd ed., pp. 47-8.

economy and so reckless was it with considerations of stability of value, that it actually proposed a change in the basis of the Indian paper currency from a fixed issue system to that of a fixed proportion system.* That, at the dictates of considerations of economy, the Commission should have neglected to take account of this aspect of the question, is only one more evidence of the very perfunctory manner in which it has treated the whole question of stability of purchasing power so far as the Indian currency was concerned.

If there is any force in what has been urged above, then surely a gold currency is not a mere mattter of "sentiment" and a "costly luxury," but a necessity dictated by the supreme interest of steadying the Indian standard of value, and thereby to some extent, however slight, safeguarding the welfare of the Indian people from the untoward consequences of a rising price-level.

We now see how very wrong the Chamberlain Commission was from every point of view in upholding the departure from the plan originally outlined by the Government of India and sanctioned by the Fowler Committee. But that raises the question : How did that ideal come to be so ruthlessly defeated ? If the Fowler Committee had proposed that gold should be the currency of India, how is it that gold ceased to be the currency ? It cannot be said that the door is closed against the entry of gold, for it has been declared legal tender. Speaking in the language of Prof. Fisher, the movement of gold in the money reservoir of India is allowed a much greater freedom so far as law is concerned than can be said of silver. Silver, in the form of rupees, is admitted by a very narrow valve which gives it an inlet into that reservoir, but there is no outlet provided for it. On the other hand, gold is admitted into the same reservoir by a pipe-connection which gives it an inlet as well as an outlet. Why, then, does not gold flow into the currency reservoir of India ? A proper understanding on this question is the first step towards a return to the sound system proposed in 1898.

On an examination of the literature which attempts to deal with this aspect of the question, it will be found that two explanations are usually advanced to account for the non-entry of gold into the currency system of India. One of them is the sale of council bills by the Secretary of State. The effect of the sale of council bills, it is said, is to prevent gold from going to India. Mr. Subhedar, said to be an authority on Indian currency,

* Report, Sec. 112.

in his evidence before the Smith Committee (Q. 3,502), observed:—

> "Since 1905 it has been the deliberate attempt of those who control our currency policy to prevent gold going to India and into circulation."

The council bill has a history which goes back to the days of the East India Company.* The peculiar position of the Government of India, arising from the fact that it receives its revenues in India and is obliged to make payments in England, imposes upon it the necessity of making remittances from India to England. Ever since the days of the East India Company the policy has been to arrange for the remittance in such a way as to avoid the transmission of bullion. Three modes of making the remittance were open to the Directors of the East India Company: (1) sending bullion from India to England; (2) receiving money in England in return for bills on the Government of India; and (3) making advances to merchants in India for the purchase of goods consigned to the United Kingdom and repayable in England to the Court of Directors of the Company to whom the goods were hypothecated. Out of these it was on the last two that greater reliance was placed by them. In time the mode of remittance through hypothecation of goods was dropped" as introducing a vicious system of credit, and interfering with the ordinary course of trade." The selling of bills on India survived as the fittest of all the three alternatives,† and was continuned by the Secretary of State in Council—hence the name, council bill—when the Government of India was taken over by the Crown from the Company. In the hands of the Secretary of State the council bill has undergone some modifications. The sales as now effected are

* Cf. the Memorandum by Sir Henry Waterfield relating to the system of effecting remittances from India, Appendix to the Fowler Committee's Report, p. 24 ; also memorandum by F. W. Newmarch on the Sale of Council Bills and Telegraphic Transfers. Appendices to the Interim Report of the Royal Commission on Indian Finance and Currency, Vol. I, No. VIII, p. 217.

† There was a fourth one, viz., the Government of India purchasing sterling bills in India on London and sending them to the Secretary of State for collection. It was employed for a short period of time in 1877, but was afterwards dropped.

weekly sales,* and are managed through the Bank of England, which issues an advertisement on every Wednesday on behalf of the Secretary of State for India, inviting tenders to be submitted on the following Wednesday for bills payable on demand by the Government of India either at Bombay, Madras, or Calcutta. The minimum fraction of a penny in the price at which tenders of bills are received has now† been fixed at $\frac{1}{32}$ nd of a penny. The council bill is no longer of one species as it used to be. On the other hand there are four classes of bills: (1) ordinary bills of exchange, sold every Wednesday, known as *"Councils";* (2) telegraphic transfers, sold on Wednesdays, called shortly "*Transfers*"; ‡ (3) ordinary bills of exchange, sold on any day in the week excepting Wednesday, called "*Intermediates"*; and (4) telegraphic transfers, sold on any day excepting Wednesday, named "*Specials."* Now, in what way does the Secretary of State use his machinery of council bills to prevent gold from going to India ? It is said that the price and the magnitude of the sale are so arranged that gold does not go to India. Before we examine to what extent this has defeated the policy of the Fowler Committee, the following figures (Tables LI and LII, pp. 579 and 582) are presented for purposes of elucidation.

From an examination of these tables two facts at once become clear. One is the enormous amount of council bills the Secretary of State sells. Before the closing of the Mints the sales of council bills moved closely with the magnitude of the home charges, and the actual drawings did not materially deviate from the amount estimated in the Budget. Since the closure of the Mints the drawings of the Secretary of State have not been governed purely by the needs of the Home Treasury. Since the closure, the Secretary of State has endeavoured§ :—

> "(1) To draw from the Treasuries of the Government of India during the financial year the amount that is laid down in the Budget as necessary to carry out the Ways and Means programme of the year.

* From January 22, 1862, when the Sale of Council Bills under the authority of the Secretary of State first took place, up to November, 1862, the sales were effected monthly. From November, 1862, the sales were effected fortnightly ; and in August, 1876, they were made weekly.

† From January to march, 1862, the minimum fraction was a farthing ; it was reduced to $^1/_8$ th of a penny in March 1862, to 1/16th in January 1875, and to 1/32nd in 1882, at which fraction it has continued since then.

‡ First introduced in 1876.

§ Cf. Memorandum on the Sale of Council Bills, by F. W. Newmarch, to the Chamberlain Commission, App. Vol. I, No. VII. p. 222.

TABLE LI

Balance of Trade, Council Drawings and Imports of Gold before 1893

Years.	Balance of Trade (Merchandise : Private Account).	Net Imports of Treasure.		Amount of Council-Bills drawn.	Excess (+) or Deficiency (—) of Bills drawn as compared with Budget Estimate.	Home Charges.	Cash Balances in the Home Treasury.	Minimum Rate for Council Bills.
		Gold.	Silver.					
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
	£	£ 000,000	£ 000,000	£	£	£	£	s. d.
1870-71	20,863,000	2.13	.9	—	—	10,031,261	3,305,972	1 10 $\frac{1}{4}$
1871-72	31,094,000	3.43	6.3	—	—	9,703,235	2,821,091	1 10 $\frac{3}{8}$
1872-73	23,376,000	2.41	.7	13,939,095	+ 939,095	10,248,605	2,998,444	1 10 $\frac{3}{8}$
1873-74	21,160,000	1.29	2.3	13,285,678	- 214,322	9,310,926	2,013,638	1 9 $\frac{1}{2}$
1874-75	20,137,000	1.73	4.3	10,841,615	+ 841,615	9,490,391	2,796,370	1 9 $\frac{3}{4}$
1875-76	19,204,000	1.40	1.4	12,389,613	-1,910,387	9,155,050	919,899	1 9
1876-77	23,573,000	.8	6.1	12,695,800	- 964,200	13,851,296	2,713,967	1 6 $\frac{1}{2}$
1877-78	23,758,000	.1	12.7	10,134,455	-2,115,545	14,048,350	1,076,657	1 8 $\frac{3}{16}$
1878-79	23,167,000	.4	3.3	13,948,565	-3,051,435	13,851,296	1,117,925	1 6 $\frac{5}{8}$
1879-80	26,046,000	1.45	6.5	15,261,810	+ 261,810	14,547,664	2,270,107	1 7
1880-81	21,464,000	3.03	3.2	15,239,677	-1,660,323	14,418,986	4,127,749	1 7 $\frac{1}{2}$
1881-82	32,855,000	4.02	4.5	18,412,429	+ 1,212,429	14,399,083	2,620,909	1 7 $\frac{3}{8}$
1882-83	31,389,000	4.01	6.1	15,120,521	- 221,479	14,101,262	3,429,874	1 7
1883-84	23,611,600	4.44	5.2	17,599,805	+ 1,299,805	15,030,195	4,113,221	1 7 $\frac{7}{8}$
1884-85	20,034,100	3.76	5.8	13,758,909	-2,741,091	14,100,982	2,249,378	1 6 $\frac{3}{4}$
1885-86	21,344,200	2.10	8.8	10,292,692	-3,481,008	14,014,733	4,726,58	1 5 $\frac{7}{8}$
1886-87	19,844,800	1.58	5.2	12,136,279	-1,195,121	14,409,949	5,280,829	1 4 $\frac{1}{8}$
1887-88	18,724,400	2.10	6.5	15,358,577	- 891,423	15,389,065	5,900,697	1 4 $\frac{3}{8}$
1888-89	20,271,900	1.92	6.3	14,262,859	+ 262,859	14,983,221	3,259,933	1 4
1889-90	24,557,800	318	7.6	15,474,496	+ 784,596	14,848,923	5,402,873	1 4
1890-91	20,733,800	4.25	10.7	15,969,034	+ 980,034	15,568,875	3,885,050	1 4 $\frac{15}{16}$
1891-92	27,632,400	1.68	6.3	16,093,854	+ 93,854	15,874,699	4,122,626	1 3 $\frac{1}{16}$
1892-93	29,287,300	1.75	8.0	16,532,215	- 467,785	16,334,541	12,268,388	1 2 $\frac{5}{8}$

"(2) To draw such further amounts as may be required to pay for purchases of silver bought for coinage purposes.

"(3) To draw such further amounts as an unexpectedly prosperous season may enable the Government to spare, to be used towards the reduction or avoidance of debt in England.

"(4) To sell additional bills and transfers to meet the convenience of trade.

"(5) To issue telegraphic transfers on India in payment for sovereigns which the Secretary of State has purchased in transit from Australia or from Egypt to India."

The result of such drawings is that the councils are made to play an enormous part in the adjustment of the trade balance of India and the swelling of balances in the Home Treasury and the locking up of Indian funds in London. The second point to note in comparing the preceding tables is with regard to the price at which the Secretary of State makes his sales. Before the closure of the Mints the price of the council bills was beyond the control of the Secretary of State, who had therefore to accept the price offered by the highest bidder at the weekly sale of his bills. But it is objected that there is no reason why the Secretary of State should have continued the old practice of auctioning the rupee to the highest bidder when the closing of the Mints had given him the sole right of manufacturing it. Availing himself of his monopoly position, it is insisted, the Secretary of State should not have sold his bills below 1s. 4 $1/_{8}$d. or 1s. 4 $3/_{32}$d., which, under the ratio of 15 rupees to the sovereign, was for India the gold-import point. In practice the Secretary of State has willed away the benefit of his position, and has accepted tenders at rates below gold-import point, as may be seen from the minimum rates he has accepted for his bills.

It is said that if the council bills were sold in amounts required strictly for the purposes of the Home Treasury, and sold at a price not below gold-import point, gold would tend to be imported into India and would thus become part of the Indian currency media. As it is, the combined effect of the operations of the

Secretary of State is said to be to lock up Indian gold in London. With the use or misuse of the Indian gold in London we are not here concerned. But those who are inclined to justify the India Office scandals in the management of Indian funds in London, and have offered their services to place them on a scientific footing, may be reminded that a practice on one side of Downing Street which Bagehot said could not be carried on on the other side of it without raising a storm of criticism, would require more ingenuity than has been displayed in their briefs. This much seems to have been admitted on both sides that the operations of the Secretary of State do prevent the importation of gold into India, not altogether, but to the extent covered by their magnitude. Now, those who have held that the ideal of the Fowler Committee has been defeated are no doubt right in their view that the narrowing of the Secretary of State's operation would lead to the importation of gold into India. But what justification is there for assuming that the imported gold would become a part of the currency of India ? The assumption that the abolition of the Secretary of State's financial dealings would automatically make gold the currency of India is simply a gratuitious assumption. Whether the imported gold would become current depends on quite a different circumstance.

The other explanation offered to explain the failure of the ideal of the Fowler Committee is the want of a Mint in India open to the free coinage of gold. The opening of the Mints to the free coinage of gold has been regarded as the most vital recommendation of the Fowler Committee ; indeed, so much so that the frustration of its ideal has been attributed to the omission by the Government to carry it out. The consent given by the Government in 1900 to drop the proposal under the rather truculent attitude of the Treasury has ever since been resented by the advocates of a gold currency. A resolution was moved in 1911 by Sir V. Thackersay, in the Supreme Legislative Council, urging upon the Government the desirability of opening a gold Mint for the coinage of the sovereign if the Treasury consented, and if not for the coinage of some other gold coin. In deference to the united voice of the Council, the Government

TABLE LII

Balance of Trade, Council Drawings and Imports of Gold after 1893

Years.	Balance of Trade (Merchandise: Private Account).	Net Imports of Treasure.		Amount of Council Bills drawn.	Excess (+) or Deficiency (—) of Bills drawn as compared with Budget Estimate.	Home Charges.	Cash Balances in the Home Treasury.	Minimum Rate for Council Bills.
		Gold.	Silver.					
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
	£	£ 000,000	£ 000,000	£	£	£	£	s. d.
1893-94	21,660,500	– .39	8.3	9,530,235	– 9,169,765	15,826,815	1,300,564	1 1.500
1894-95	25,765,000	– 2.7	3.4	16,905,102	– 94,898	15,707,367	1,503,124	1 0.000
1895-96	29,963,800	1.5	3.7	17,664,492	+ 664,492	15,603,370	3,393,798	1 1.000
1896-97	21,333,100	1.4	3.5	15,526,547	– 973,453	15,795,836	2,832,354	1 1.781
1897-98	18,847,000	3.2	5.4	9,506,077	– 3,493,923	16,198,263	2,534,244	1 2.250
1898-99	29,560,700	4.3	2.6	18,692,377	+ 2,692,377	16,303,197	3,145,768	1 3.094
1899-1900	25,509,600	6.3	2.4	19,067,022	+ 2,067,022	16,392,846	3,330,943	1 3.875
1900-01	20,727,400	.5	6.3	13,300,277	- 3,139,723	17,200,957	4,091,926	1 3.875
1901-02	28,630,600	1.3	4.8	18,539,071	+ 2,039,071	17,368,655	6,693,137	1 3.875
1902-03	33,352,600	5.8	4.6	18,499,946	+ 1,999,946	18,361,821	5,767,787	1 3.875
1903-04	45,424,100	6.6	9.1	23,859,303	+ 6,859,303	18,146,474	7,294,782	1 3.875
1904-05	40,548,200	6.5	8.9	24,425,558	+ 7,925,558	19,463,757	10,262,581	1 3.969
1905-06	39,086,700	.3	10.5	32,166,973	+ 14,333,973	18,617,465	8,436,519	1 3.938
1906-07	45,506,600	9.9	16.0	33,157,196	+ 15,357,196	19,208,408	5,606,812	1 3.969
1907-08	31,640,000	11.6	13.0	16,232,062	– 1,867,938	18,487,267	5,738,489	1 3.906
1908-09	21,173,300	2.9	8.0	13,915,426	– 4,584,574	18,925,159	8,453,715	1 3.906
1909-10	47,213,000	14.5	6.3	27,096,586	+ 10,896,586	19,122,916	15,809,618	1 3.906
1910-11	53,685,300	16.0	5.8	26,783,303	+ 11,283,303	19,581,563	18,174,349	1 3.906
1911-12	59,512,900	25.1	3.6	27,058,550	+ 9,900,250	19,957,657	19,463,723	1 3.937
1912-13	57,020,900	22.6	11.5	25,759,706	+ 10,259,706	20,279,572	9,789,634	1 3.969
1913-14	43,753,900	15.6	8.7	31,200,827	+ 10,000,827	20,311,673	3,157,732	1 3.937
1914-15	29,108,500	5.1	5.9	7,748,111	— 12,251,889	20,208,598	7,913,236	1 3.937
1915-16	44,026,600	– .7	3.2	20,354,517	+ 13,354,517	20,109,094	12,803,348	1 3.937
1916-17	60,843,200	8.82	12.5	32,998,095	+ 29,093,095	21,145,627	11,391,993	1 4.031
1917-18	61,420,000	16.8	12.7	34,880,682	+ 34,880,682	26,065,057	16,625,416	1 4.156
1918-19	56,540,000	– 3.7	45.3	20,946,314	+ 20,946,314	23,629,495	14,715,827	1 4.906

of India again asked the Secretary of State to approach the Treasury for its sanction.* The Treasury on this occasion presented the Secretary of State† with two alternatives : (1) That a branch of the Royal Mint be established at Bombay solely for the purpose of coining gold into sovereigns, and exclusively under its control; or (2) that the control of the Mint at Bombay should be entirely transferred to it. Neither of the two alternatives was acceptable to the Government of India ; and the Secretary of State, as a concession to Indian sentiment, sanctioned the issue of a ten-rupee gold coin from the Indian Mint. The Government of India preferred this solution to that suggested by the Treasury, but desired that the matter be dealt with afresh by the Chamberlain Commission then sitting. That Commission did not recommend a gold Mint,‡ but saw no objection to its establishment provided the coin issued was a sovereign, and if the coinage of it was desired by Indian sentiment and if the Government did not mind the expense of coinage.§ This view of the Commission carried the proposition no further than where it was in 1900, until the war compelled the Government to open the Bombay Mint for the coinage of gold as a branch of the Royal Mint. But it was again closed in 1919. Its reopening was recommended by the Currency Committee of 1919,¶ and so enthusiastically was the project received that an Honourable Member of the Supreme Council took the unique step of tempting the Government into adopting that recommendation by an offer to increase the Budget Estimates under "Mint" to enable the Government to bear the cost of it. The Government, however, declined the offer with thanks so we have in India the singular spectacle of a country in which there was a Gold Mint even when Gold was not legal tender, as was the case between 1835-93, while there is no gold Mint, when gold is legal tender, as has been the case since 1893. Just what an open Mint can do in the matter of promoting the ideal of the Fowler Committee it is difficult to imagine; but the following extracts from the evidence of a witness (Mr. Webb), than whom there was no greater advocate of an open gold Mint before the Chamberlain Commission, help to indicate just what is expected from a gold Mint.

**See* Commons Paper 495, of 1913 ; p. 57.

†*Ibid,* p. 64.

‡Report, sees. 69-71.

§ The Commission recommended that if a gold Mint was not established in India Government should renew the notification withdrawn in 1906 to receive refined gold on suitable terms.—Report, sec. 72.

¶ Report, par. 67.

> "The principal advantage which you would expect to derive from a gold Mint is that you would increase the amount of gold coin in circulation ?—That would be one of the tendencies.
>
> "Is there any other advantage ?—The advantage is that the country would be fitted with what I regard as an essential part of its monetary mechanism. I regard it as an essential part of its currency mechanism that it should have a Mint at which money could be coined at the requisition of the public.
>
> "I want to get exactly at your reason why that is essential. Am I right in thinking that you consider it essential to a proper currency system that there should be a gold currency ?— Yes.
>
> "And essential to a gold currency that there should be a gold Mint?—Yes, on the spot in India itself..... It would do away, in a measure, with the management by the Secretary of State of the Foreign Exchanges, in that there would be always the Mint at which the public could convert their gold into legal-tender coins in the event of the Secretary of State taking any action of which the public did not approve. It is a safeguard, so to speak, an additional safeguard, that the people of India can on the spot obtain their own money on presentation of the metal."

Here, again, the assumption that a gold Mint is a guarantee that there will be a gold currency seems to be one as gratuitous as the former assumption that if gold were allowed to be freely imported it would on that account become part of the currency. On the other hand, there are cases where Mints were open, yet there was neither gold coinage nor gold currency. Instances may be cited from the history of the coinage at the Royal Mint in London. The magnitude of gold coinage during the bank suspension period, 1797-1821, or the late war, 1914-18, is instructive from this point of view. The Mint was open in both cases, but what was the total coinage of gold ?Throughout the suspension period the gold coined was negligible, and during the years 1807, 1812, and 1814-16 no gold was coined at all at the Royal Mint.* Again, during the late war the coinage of gold fell off from 1915, and from 1917 it ceased altogether.†

* *See* G. R. Porter, *Progress of the Nation* (Ed. Hirst) p. 568.

† *See* Report of the Deputy Master of the Royal Mint, 1921.

These instances conclusively show that although a Mint is useful institution, yet there is no magic in a Mint to attract gold to it. The historical instances adduced above leave no doubt that the circulation of gold is governed by factors quite independent of the existence or non-existence of a Mint open to the free coinage thereof.

Now, it is an established proposition of political economy that when two kinds of media are employed for currency purposes the bad one drives out the good one from circulation. Applying this principle to the situation in India, it should be evident that so long as there is an unlimited issue of rupees gold cannot circulate in India. This important principle has been so completely overlooked by those who have insisted on the introduction of a gold currency that they have not raised a finger against the unlimited issue of rupees. Mr. Webb, the fiercest opponent of the India Office malpractices, and the staunchest supporter of the view that if only the Secretary of State could be made to contract his drawings gold would flow and be a part of the currency in India, recommended to the Chamberlain Commission that—

> "The sales of Council Drafts should be strictly limited to the sum required to meet the Home Charges, and no allotments should in any circumstances be made below, say, 1s. 4 $^{1}/_{8}$d. to 1s. 4$^{3}/_{32}$d.—i.e. about the present equivalent of specie point for gold imports into India. The sum required in London for Home Charges having been realized, *no further sales of Council Drafts should be made except for the express purpose—duly notified to the public—of purchasing metal for the manufacture of further token coinage*. Such special sales of Council Drafts should not be made at anything below specie point for gold imports."†

Again, Sir V. Thackersay, in the course of his speech on March 22, 1912, moving a resolution in the Legislative Council, asking the Government to open the Mint for the coinage of gold in India, observed :—

> "Let me make myself clear on one point. *I do not suggest that Government should give up the right to coin rupees or refuse to give rupees when people demand the same*. I do

* *See* Report of thc Deputy Master of the Royal Mint, 1921.

† Italics not in the original.

> not propose to touch the gold-standard reserve, which must remain as it is as the ultimate guarantee of our currency policy. My proposal does not interfere with the existing arrangements in any way, but is merely supplementary to them ..... Let the Government of India accumulate gold to the maximum limit of its capacity, but let the surplus gold which it cannot absorb be coined and circulated if the public chooses to do so. With our expanding trade and the balance in our favour, gold will continue to be imported in ordinary time, and *if the facilities of minting are provided in India, it will go into circulation*."*

These are surely not the ways of promoting a gold currency. Indeed, they run counter to it. So long as the coinage of rupees goes on gold will not enter into currency. Indeed, to cry out on the one hand against the huge drawings of the Secretary of State and the consequent transfer of Indian funds to London and their mismanagement by the Secretary of State, and on the other hand to permit him to manufacture additional token coinage of rupees, is to display not only a lamentable ignorance of a fundamental principle of currency, but also to show a complete failure to understand the precise source from which the whole trouble arises. It is true that the Government of India cannot bind the Secetary of State to any particular course of action,† and he often does override the provisions of the Annual Budget. But the question remains. How is it that he is able to draw so much more after 1893 than he ever did before ? It must be remenbered that whatever the Secretary of State does with the funds in London he must pay for his drawings in India. Before 1893 he drew less because his means of payment were less ; after 1893 he drew more because his means of payment were greater. And why were his means of payment greater ? Simply because he had been able to coin rupees. Indeed, the amount of drawings are limited by the demand for them and by his capacity to coin rupees. It is therefore foolish to blame the Secretary of State for betraying the interests of India and at the same time to permit him to coin rupees, the very means by which

* *S.L.C.P.,* Vol. L, pp. 637-38. Italics not in the original.

† The legal position of the Secretary of State and the extent to which he can be bound by the provisions of any law passed by the Government of India were well explained by Sir James Westland in his speech on the Indian Paper Currency (Amendment) Bill, which afterwards became Act II of 1898 ; compare also the peculiar wording of that Act.

he is able to betray. If a gold currency is wanted, and it is wanted because the rupee is a bad standard of value, then what is necessary is not to put a limit on the drawings of the Secretary of State or the opening of a gold Mint, but a short enactment stopping the coinage of rupees. Then only gold—made legal tender, at a suitable ratio with the rupee—will become a part of Indian currency.

That the stoppage of rupee coinage is a sufficient remedy is amply corroborated by the now forgotten episode in the history of Indian currency during the years 1898-1902. Within the short space of a year and a half after gold had been made legal tender the Hon. C. E. Dawkins, notwithstanding the fact that there was no gold Mint, was able, in his Budget speech in March, 1901, to observe :—

> "India has at length emerged from a period of transition in her currency, has reached the goal to which she has been struggling for years, has established a gold standard and a gold currency, and has attained that practical fixity in exchange which has brought a relief alike to the private individual and to the Government finances."*

So great was the plethora of gold that Mr. Dawkins further remarked †:—

> " ..... We have been nearly swamped ..... by gold ....."

The transformation in the currency position which then took place was graphically described by Lord Curzon, the then *Viceroy,* in the following *words*‡ :—

> "Mr. Dawkins ..... has successfully inaugurated the new era under which the sovereign has become legal tender in India, and stability in exchange has assumed what we hope may be a stereotyped form. This great change has been introduced in defiance of the vaticinations of all the prophets of evil, and more especially of the particular prophecy that we could not get gold to come to India, that we could not keep it in our hands if we got it here, but that it would slip so quickly through our fingers that we should have even to borrow to maintain the necessary supply. As a matter of fact, we are almost in the position of the mythological king, who

* *Financial Statement,* 1900-1, p. 14.

† *Ibid.,* p. 19.

‡ *Ibid, p. 167.*

prayed that all he touched might be turned into gold, and was then rather painfully surprised when he found that his food had been converted into the same somewhat indigestible material. So much gold, indeed, have we got, that we are now giving gold for rupees as well as rupees for gold, i.e. we are really in the enjoyment of complete convertibility—a state of affairs which would have been derided as impossible by the experts a year ago."

Compare this state of affairs in 1900-1 with that found to exist in 1910-11, for instance. Speaking of the currency situation as it was in that year, the Hon. Sir James (now Lord) Meston, observed*:—

"We have passed through many changes in currency policy and made not a few mistakables. but the broad lines of our action and our objects are clear and unmistakable, and there has been no great or fundamental sacrifice of consistency in progress towards our ideal. Since the Fowler Committee that progress has been real and unbroken. There is still one great step forward before the ideal can be reached. We have linked India with the gold countries of the world, we have reached a gold-exchange standard, which we are steadily developing and improving. The next and final step is a true gold currency. That, I have every hope, will come in time……"

Leaving aside for the moment the extenuatory remarks of the speaker, the fact remains that in 1900 India had a gold currency. But, taking stock of the position at the end of 1910, it had ceased to have it. What is it that made this difference ? Nothing but the fact that between 1893-1900 no rupees were coined, but between 1900-1910 the number of rupees coined was enormous. During the first period the inducement to coin rupees was very great indeed. The exchange was not quite stable, and the Government had still to find an increasing number of rupees to pay for the "Home Charges." And an Honourable Member† of the Supreme Legislative Council actually asked :—

"Is there any objection to the Government working the Mints on their own account ? Considering the low value of

* *Financial Statement,* 1910-11, p. 346.

† This was no other than the Hon. Fazulbhai Vishram, the well-known financier of Bombay. Cf. his spech in the *Financial Statement,* 1894-95, p. 96

silver and the great margin between the respective prices of bullion and the rupee, would not Government by manufacturing rupees for itself make sufficient profit to meet at least a substantial portion of the present deficit ? It seems to me to be a legitimate source of revenue and one capable of materially easing our finances."

But Sir James Westland, who was then in charge of the finances of India, replied*:—I

"I must confess to a little surprise in finding the proposal put forward by one of the commercial members of your Excellency's Council that we should buy silver at its present low price, and coin it for issue at the appreciated value of the rupee ..... I shall certainly refuse myself to fall into this temptation."

Again, 1898, when some of the followers of Mr. Lindsay desired that Government should coin rupees to relieve the monetary stringency, Sir James Westland remarked†:—

" .....in our opinion the silver standard is now a question of the past. It is a case of *vestigia nulla retrorsum*. The only question before us is how best to attain the gold standard. We cannot go back to the position of the open Mints. There j are only two ways in which we can go back to that position, We can either open the Mints to the public generally, or we can open them to coinage by ourselves. In either case what it means is that the value of the rupee will go down to something approaching the value of silver. If the case is that of opening the Mints to the public, the descent of the rupee will be rapid. If it is that of opening only to coinage by the Government, the descent of the rupee, may be slow but it will be no less inevitable."

The Hon. C. E. Dawkins was equally emphatic in his denunciation of the project of Government coining rupees. When he was tempted to acquiesce in the proposal by holding out the prospects of a profit from coinage, he replied‡:—

"I think I ought ..... to beg my hon. friend not to dangle

* *Financial Statement,* 1894-95, p. 123. † *Ibid.,* 1898-9, p. 169.

‡ *Ibid.,* 1900-1, p. 163.

> the profits on silver too conspicuously before the eyes even of a most virtuous government. Once let these profits become a determining factor in your action, then good-bye stability."

Another instance of the Government's determination not to coin rupees is furnished by inquiring into the reasons as to why it is that the Government has never assumed the responsibility of selling council bills in indefinite amount and at a fixed rate. The Chamberlain Commission argued that the Government cannot undertake such a responsibility because it cannot hold out for a fixed rate, and may have to sell at any rate even lower than par. This is true so far as it is a confession of a position weakened by the Government's folly of indulging in excessive rupee coinage. But this was certainly not the explanation which the Government gave in 1900 when it was first asked to assume that responsibility. The Government knew perfectly well that to keep on selling bills indefinitely was to keep on coining rupees indefinitely. They refused to assume that responsibility because they did not want to coin rupees. That this was the original reason was made quite plain by the Hon. Mr. Dawkins,* who reminded those who asked Government to undertake such a responsibility that

> "the silver coin reserve of Government in consequence rapidly neared a point at which it was impossible to continue to meet unlimited transfers [i.e. council bills]. Therefore the Secretary of State decided to limit the demands by gradually raising the rate, thus meeting the most urgent demands, and weeding out the less urgent, while warning those whose demands were not so urgent to ship gold to India. No other course was practicable. The liability of the Secretary of State to keep the tap turned on indefinitely at 1s. 4 5/32d. has been asserted. But I cannot see that any positive liability exists, and I wonder if those who assert its existence would have preferred that the stability of our currency (whose situation they are well able to appreciate and follow) should have been affected by the reserve of rupees being dangerously reduced ?" [and which could not be augmented except by coining more rupees].

Just at the nick of time, when the ideal of a gold standard with a gold currency was about to be realized, there came on

* Cf. his Budget speech, *Financial Statement,* 1900-1, p. 27.

the scene Sir Edward Law as the Finance Minister of India and tore the whole structure of the new currency to pieces with a piratical nonchalance that was as stupid as it was wanton. His was the Minute of June 28, 1900, which changed the whole course of events.* In that Minute coccurs the following important passage ;—

> "15. As a result of these considerations it must, I think, be admitted that the amount of gold which can safely be held in the currency reserve must for the present be regulated by the same rules as would guide the consideration of the amount by which the proportion invested in government securities could be safely increased. Pending an increase in the note circulation ..... or some other change in existing conditions, I am of opinion that a maximum sum of approximately £ 7,000,000 in gold may now be safely held in the currency reserve. I should not, however, wish to be bound absolutely to this figure, which is necessarily an arbitrary one, and particularly I should not wish any public announcement to be made which might seem to tie the hands of the Government in the event of circumstances, at present unforeseen, rendering its reduction hereafter desirable."

In outlining this Minute, which with modifications in the maximum gold to be held in the currency reserve, remains the foundation of the currency system in India, the author of it never seems to have asked for one moment what was to happen to the ideal of a gold standard and a gold currency ? Was he assisting the consummation of the gold standard or was he projecting the abandonment of the gold standard in thus putting a limit on the holding of gold ? Before the policy of this Minute was put into execution the Indian currency system was approximating to that of the Bank Charter Act of 1844, in which the issue of rupees was limited and that of gold unlimited. This Minute proposed that the issue of gold should be limited and that of rupees unlimited—an exact reversal to the system of the Bank Suspension period. In this lies the great significance of the Minute, which deliberately outlined a policy of substituting rupees for gold in Indian currency and thereby defeating the ideal held out since 1893 and well-nigh accomplished in 1900.

* For a copy of the Minute and the correspondence thereon, *see* Appendix V to the *Interim Report of the Chamberlain Commission,* Cd. 7070 of 1913.

If Sir Edward Law had realized that this meant an abandonment of the gold standard, perhaps he would not have recorded the Minute, but what were the considerations alluded to in the Minute which led him thus to subvert the policy of a gold standard and a gold currency and put a limit on the gold part of the currency rather than on the rupee part of the currency ? They are to be found in a despatch, No. 302, dated September 6, 1900, from the Government of India, which says :—

> "2. ..... the receipts of gold continued and increased after December last. For more than eight months the gold in the currency reserve has exceeded, and the silver has been less, than the limits suggested in the despatch of June 18. By the middle of January the stock of gold in the currency reserve in India reached £5,000,000. The proposal made in that despatch was at once brought into operation ; later on we sent supplies of sovereigns to the larger District Treasuries, with instructions that they should be issued to anyone who desired to receive them in payments due or in exchange for rupees ; and in March we directed the Post Office to make in sovereigns all payments of money orders in the Presidency towns and Rangoon, and we requested the Presidency Banks to make in the Presidency towns and Rangoon payments on Government account as far as possible in sovereigns. These measures were taken, not so much in the expectation that they would in the early future relieve us of any large part of our surplus gold, but in the hope that they would accustom the people to gold, would hasten the time when it will pass into general circulation in considerable quantities, and by so doing, would mitigate in future years the difficulties that we were experiencing from the magnitude of our stock of gold and the depletion of our stock of rupees.
>
> "3. In order to meet these difficulties and to secure, if possible, that we should have enough rupees for payment to presenters of currency notes and tenderers of gold, we began to coin additional rupees .....
>
> * * * * *
>
> "14. We may mention that we have closely watched the result of the measures described in paragraph 2. The issues of gold have been considerable; but much has come back

to us through the Currency Department and the Presidency banks. The Comptroller-General estimated the amount remaining in circulation at the end of June at over a million and a quarter out of nearly two millions issued up to that time ; but there are many uncertain data in the calculation. We are not yet able to say that gold has passed into use as money to any appreciable extent.

"15. It is very desirable that we should feel assured of being able to meet the public demand for rupees, as indicated by the presentation of currency notes and gold. We therefore strongly press on your Lordship the expediency of sanctioning the above proposal for further coinage [of rupees];...

* * * * *

"17. But we do not wish our proposal to be considered as dependent on such arguments as those just stated. We make it primarily on the practical ground that we consider it necessary in order to enable us to fulfil an obligation which, though we are not, and do not propose to be, legally committed thereto, we think it desirable to undertake so long as we can do it without excessive inconvenience ; namely, to pay rupees to all tenderers of gold and to give rupees in encashment of currency notes to all who prefer rupees to sovereigns."

The arguments advanced in this statement of the case for coining rupees are a motley lot. At the outset it is something unheard of that a Government which was proceeding to establish a gold standard and a gold currency should have been so very alarmed at the sight of increased gold when it should have thanked its stars for such an early consummation of its idea. Leaving aside the psychological aspect of the question, the government, according to its own statement, undertook to coin rupees for two reasons : (1) because it felt itself obliged to give rupees whenever asked for, and (2) because people did not want gold. What force is there in these arguments ? Respecting the first argument it is difficult to understand why Government should feel itself obliged to give rupees. The obligation of a debtor is to pay the legal-tender money of the country. Gold had been made legal tender, and the Government could have discharged its obligations by paying out without shame or apology. Secondly, what is the proof that people did

not want gold ? It is said that the fact that the gold paid out by Government returned to it is evidence enough that people did not want it. But this is a fallacy. In a country like India Government dues form a large part of the people's expenditure, and if people used that gold to meet those dues—this is what is meant by the return of gold to Government—then it is an evidence in support of the contention that people were prepared to use gold as currency. But if it is true that people do not want gold, how does it accord with the fact that Government refuses to give gold when people make a demand for it ? Does not the standing refusal imply that there is a standing demand ? There is no consistency in this mode of reasoning. The fact is, all this confused advocacy is employed to divert attention from the truth that the Government was anxious to coin rupees not because people did not want gold, but because Government was anxious to build a gold reserve out of the profits of additional coinage of rupees. That this was the underlying motive is manifest from the minute of Sir Edward Law. That the argument about people disliking gold, and so forth, and so forth, was only a cover for the true motive comes out prominently from that part of the Minute in which its author had argued that:—

> "16. If it be accepted that £ 7,000,000 is the maximum sum which, under existing conditions, can be held in gold in the currency reserve, in addition to the 10 crores already invested, it is evident that such assistance as can be obtained from manipulating the reserve will fail to provide the sum in gold which it is considered advisable to hold in connection with the maintenance of a steady exchange. So far no authority has ventured to name a definite sum which should suffice for this purpose, but there is a general consensus of opinion, in which I fully concur, that a very considerable sum is required. The most ready way of obtaining such a large sum is by gold borrowings, but the opinion of the Currency Commission was strongly hostile to such a course, and the question therefore remains unanswered : How is the necessary stock of gold to be obtained ?
>
> "17. I do not presume to offer any cut-and-dried solution of this difficult problem, but I venture to offer certain suggestions which, if adopted, would, I believe, go

a considerable way towards meeting the difficulty. I propose to create a special 'Gold Exchange Fund,' independent of, but in case of extraordinary requirements for exchange purposes to be used in conjunction with the gold resources of the currency reserve. The foundation of this fund would be the profit to be realized by converting into rupees the excess above £ 7,000,000 now held in gold in the currency reserve."

Can there be any doubt now as to the true cause for coining rupees ? Writers who have broadcasted that rupees were coined because people did not want gold cannot be said to have read correctly the history of the genesis of the exchange standard in India.

But was Sir Edward Law the evil genius who turned a sound system of currency into an unsound one by his disastrous policy of coining rupees ? Opponents of the Government as well as its supporters are all agreed* that this was a departure from the ideal of the Fowler Committee. In what precise respect the Government has departed from the recommendations of the Fowler Committee has, however, never been made clear anywhere in the official or non-official literature on the subject of Indian currency. What were the recommendations of the Fowler Committee ? It is usually pointed out, to the shame of the Government of India, that the Fowler Committee had said (it is as well to repeat it):—

"We are in favour of making the British sovereign a legal tender and a current coin in India. We also consider that, at the same time, the Indian Mints should be thrown open to the unrestricted coinage of gold ..... Looking forward as we do to the effective establishment of a gold standard and currency based on the principles of the free inflow and outflow of gold, we recommend these measures for adoption."

That is true. But those who have blamed the Government have forgotten that same Committee also recommended that—

"The exclusive right to coin fresh rupees must remain vested in the Government of India; and though the existing stock of rupees may suffice for some time, regulations will ultimatedly be needed for providing such additions to the

* Even the Chamberlain Commission said that the Government had denarted from the ideal of the Fowler Committee.

> silver currency as may prove necessary. The Government should continue to give rupees for gold, but fresh rupees should not be coined until the proportion of gold in the currency is found to exceed the requirements of the public. We also recommend that any profit on the coinage of rupees should not be credited to the revenue or held as a portion of the ordinary balance of the Government of India, but should be kept in gold as a special reserve, entirely apart from the paper-currency reserve and the ordinary Treasury balances" [and be made freely available for foreign remittances whenever the exchange falls below specie point.]

Taking the two recommendations of the Committee together, where is the departure ? What the Government has done is precisely what the Committee had recommended. That the Government of India or the Chamberlain Commission should have admitted for a moment that there was a departure is not a little odd, for the very despatch which conveyed the Minute of Sir Edward Law to the Secretary of State opens with remarks which show that Government was earnestly following the recommendations of the Fowler Committee. It runs:—

> "In our despatch No. 301 of August 24, 1899, we wrote with reference to paragraph 60 of the Report of the Indian Currency Committee [i.e. the Fowler Committee], that any profit made on rupee coinage should be held in gold as a special reserve, has not escaped our attention ; but the need for the coinage of additional rupees is not likely to occur for some time, and a decision on this point may be conveninently deferred."

What Sir Edward Law did was to carry that recommendation into effect when the occasion arrived. In view of this it is useless to belabour the Government of India if the ideal of a gold standard with a gold currency was defeated by the coinage of rupees. But, even though the Government has in ignorance taken the blame on itself, it cannot be rightly thrown at its door. If the project has been defeated by the coinage of rupees, the question must be referred to the Fowler Committe. Why did the Committee permit the coinage of rupees ? There is no direct answer, but it may be guessed. It seems the Committee first decided that there should be a gold standard and a gold currency as desired by the Government of India. But then they seemed to have been worried by the question whether in the

ideal they had sketched they had made enough provision for the maintenance of the gold value of the rupee. In the view of the opponents of the Government of India the rupee ought to have been made either convertible as a bank note or a limited legal tender as a shilling. The Committee rejected both these demands as being unnecessary. Stating their ground for refusing to reduce the rupee to the status of a shilling, the Committee argued*:—

> "It is true that in the United Kingdom the silver currency has a fixed limit of 40s., beyond which it cannot be used to pay a debt ..... While it cannot be denied that 40s. limitation tends to emphasize and maintain the subsidiary character of our silver coinage, yet the essential factor in maintaining those tokens at their representative nominal value is not the statutory limit on the amount for which they are a legal tender in any one payment, but the limitation of their total issue. Provided the latter restriction is adequate, there is no essential reason why there need be any limit on the amount for which tokens are a tender by law."

Regarding the necessity for convertibility the Committee observed†:—

> "Outside the United Kingdom there are two principal instances of countries with a gold standard and currency, which admit silver coins to unlimited tender. These countries are France and the United States of Amercia. In France the five-franc piece is an unlimited tender and for all internal purposes is equivalent to gold. The same remark applies in the United States to the silver dollar ..... Both in France and the United States the Mints are now closed to the coinage of silver coins of ultimated tender. In neither country are such coins convertible by law into gold ; in both countries alike they are equivalent to gold for all internal purposes. For international payments, so far as specie is concerned, France and the United States depend ultimately on the international medium of exchange, which is gold. In the last resort, it is their gold which, acting through the foreign exchanges, maintains the whole mass of their currency at its nominal value for internal purposes.

* Report, par. 56.

† Report, pars. 57-60.

> "The position of the currency question in India being such as we have explained in the preceding paragraph, we do not consider it necessary to recommend a different policy in the case of that country from that which is found sufficient in France and the United States, by imposing a legal obligation on the Government of India to give gold for rupees, or, in other words, to substitute the former for the latter on the demand of the holders. This obligation would impose on the Government of India a liability to find gold at a moment's notice to an amount which cannot be defined beforehand, and the liability is one which, in our opinion, ought not to be accepted."

Although confident of its opinions, the Committee was considerably impressed by those who, owing to the large quantity of rupees in circulation, entertained doubts

> "whether the mere closing of the Indian Mints to silver would in practice be attended with such a restriction of the rupee currency as would make the rupee permanently exchangeable for gold at a fixed rate."

So much was the Committee shaken by these doubts that it admitted that*

> "the forces which affect the gold value of the rupee are complicated and obscure in their mode of operation, and we are unable, therefore, to say positively that the mere closing of the Mints to silver will, in practice, lead to such a limitation of the rupee currency, relatively to the demands for it, as will make the rupee permanently exchangeable for gold at a fixed rate."

As a remedy against such a contingency the Committee thought that the Government of India should accept the obligation of convertibility of the rupee into gold for foreign remittances whenever the rupee fell below specie point. Having hit upon such a simple solution the next question was how was the Government to get its gold reserve ? Borrowing for the purposes of such a gold reserve was one way of doing it. But that project was somehow unpalatable to the Committee. Perhaps because

* Report, par. 58.

it had admonished the Government, in another part of its Report,* to

> "husband the resources at their command, exercise a resolute economy, and restrict the growth of their gold obligations,"

or because it was a vicious principle to borrow

> "for the establishment or the maintenance of a gold standard,"†

the Committee was averse to the proposal for gold borrowing. But if a gold reserve was not to be built up by borrowing, how could it be built up otherwise ? The Committee seems to have been considerably troubled over the problem of finding an alternative mode of raising a reserve until some member of it, probably at a moment when his intellect was rather weak, proposed 'Well, why not allow the Governments to coin rupees ? If that were allowed it could easily build up a gold reserve without having to borrow, and can then discharge the obligation of convertibility for foreign remittances.' So innocuous seemed the proposal that the Committee wholeheartedly adopted and incorporated it into its Report with a certain sigh of relief that is unmistakable from the firm language in which it was expressed.

This may or may not be a correct interpretation of the reasoning employed by the Committee in permitting the Government to coin rupees. But the fact remains that the Committee did not realize what was involved in that recommendation. First of all, what was to happen to the gold standard and currency if the coinage of rupees was to go on ? In this regard is it possible to have more respect for a Committee which lays down on the one hand the ideal of a gold standard and currency, and permits on the other hand the coinage of rupees, than Bagehot felt for the Directors of the Bank of England, who on March 25, 1819, passed that notorious resolution :—

> "That the Court cannot refrain from adverting to an opinion, strongly insisted upon by some, that the Bank has only to reduce its issues to obtain a favourable turn in the Exchanges, and a consequent influx of the precious metals; the Court conceives it to be its duty to declare that it is unable to discover any solid foundation for such a sentiment."

* Report, par. 70.

† *See* the Reservations to the Report by Campbell Holland and Muir Report, p. 27.

If the opinions of the Directors were classical for their nonsense, are those of the Fowler Committee less so ? Is there any difference between them ? Bagehot, in commenting upon the sentiments embodied in the resolution, not dissimilar to the recommendations of the Fowler Committee, urged some extenuating circumstances which compel us to forgive the Bank Directors their nonsense. The Directors lived in an age when economic reasoning was in a confused state ; nor were they anxious for the "influx of gold," being perfectly satisfied with paper. None of these circumstances can excuse the nonsense of the Fowler Committee. They framed their recommendations at a time when the contrary of what the Bank Directors had held was an established axiom. Besides, it cannot be said that they were not anxious for the influx of gold into the Indian currency. On the other hand, that was just the thing they were looking forward to. Consequently, they should have carefully weighed their words and allowed nothing that was inconsistent with their main object. In not paying sufficient heed to that elementary principle known as Gresham's Law, the Committee not only made a fool of itself but defeated the principal object it had set forth in the earlier part of its Report.

Secondly, was it necessary to endow the Government with a power to coin rupees ? What was the nature of the problem the Committee was called upon to decide ? Let us re-state it. The Herschell Committee,* by way of modifying the proposals of the Government of India, submitted to it in 1892, had introduced a proviso by which the Mints, although closed to the public, were to remain open to the Government for the coinage of rupees—a proviso which, by the way, reveals that after all that imposing survey the Committee remained supremely ignorant of the secret why, in the monetary systems it investigated, the currency maintained its parity with gold with little or no gold. If it had understood that it was limitation of issue which maintained this parity it would not have introduced the proviso which it did. However pernicious the proviso, the Committee must be excused for that indiscretion, for it was afraid that owing to the Mint closure there might be a sudden contraction of currency, and as it had not made gold general

* *See* Chap. IV, *supra,* p. 471.

legal tender it had to provide for the necessary addition to the currency, and this it thought could best be done by Government having the power to coin rupees. Fortunately for the Government the occasion for an addition did not arise for some time, till 1898,and there was therefore no necessity to exercise, that power. But when such an occasion did arise the Government, as was pointed out before, refused to exercise that power—and held to the view that the additions to Indian currency, instead of being made by further coinage of rupees, should be made by an influx of gold. The government was the strongest opponent of Mr. Lindsay, who was then agitating that it was safe and economical to compel it to make the necessary additions by under taking to coin rupees. It was to adjudicate in the dispute between the Government of India on the one hand and Mr. Lindsay on the other, the former desiring additions by gold coinage and the latter by rupee coinage, that the Fowler Committee was called into being. If the Government was anxious to add to the currency by coining more rupees rather than by the influx of gold, there was no necessity to appoint the Fowler Committee, Such a power had already been given to it by the Hershell Committee. It was because the Government did not want to exercise that ill-charged power that an appeal to a new Committee became necessary. Faced with this immediate problem of how best to expand the currency in relief of monetary stringency, the Committee had solved it in one part of its Report by prescribing that gold should be made legal tender, so that any debtor who was unable to find rupees could have the option of paying his creditors in gold. If gold was allowed to be the general medium of exchange, was not the proposal to coin rupees a superfluous one, quite uncalled for?

Thirdly, could the proposal to coin rupees as a means of building up a gold reserve be justified as calculated to maintain the value of the rupee ? The one thing essential to the maintenance of the value of the rupee was a limitation on its issue. The, Committee talked in a very learned manner about the shilling as being maintained in value in consequence of a limitation in its issue. But did it understand how the shilling was maintained limited in quantity ? If it is true that it is not the limit on legal tender, but the limit on the total volume, that maintains the value of the shilling, why is not the shilling issued in unlimited quantities ? The manufacture of the shilling is profitable in the same way as is the manufacture of the rupee. Why does not

the British Government coin it in unlimited quantities ? Only because shillings cannot be paid out in unlimited quantities ? If the Government could pay its Chancellors of Exchequer, Cabinet Ministers, and the hosts of officials and clerks, and if they in turn could pay their grocers, milkmen, brewers, and butchers in shillings, there could be nothing to prevent the over-issue of shillings. But it is because nobody can pay out shillings in unlimited quantities that nobody will have them in unlimited quantities. It is the absence of a wholesale market, so to say, due to a limit on legal tender, that stops the Government from indulging in the over-issue of shillings. The Committee was therefore wrong in arguing that the limit on legal tender had nothing to do with the maintenance of the value of the shilling. On the other hand, if limitation of issue is the prime condition which maintains the value of a token coin, one means of making such a limit effective is to put a limit on its legal tender.

With regard to its views on convertibility, its reasoning was equally confused. To say what was sufficient for France and America should be sufficient for India, was like the blind leading the blind. It was entirely erroneous to argue that it was not convertibility but their gold

> "which acting through the foreign exchanges, maintains the whole mass of their currency at its nominal value for internal purposes."

Quite the contrary. France and America did not need convertibility to protect their currency because the silver franc and the silver dollar were absolutely limited in quantity. Indeed, far from being protected by the influx of gold, the limitation of isue not only maintained their value, but permitted the retention of whatever gold there was in those countries. Now, the Committee, instead of venturing into long-winded and pointless disquisitions, should have insisted that there was no necessity either to prescribe a limit of tender or convertibility with regard to the rupee, so long as there were other ways of restricting its over-issue. Limitation of legal tender or convertibility can be said to be essential only because they are the means of bringing about a limitation of issue, and if the requisite limitation of issue was provided for in other ways, the purpose for which convertibility or limitation of legal tender were asked for was

accomplished. Now, was not the closing of the Mints a sufficient limitation on the volume of rupees ? Indeed, if the closing of the Mints was not an effective limitation on the issue of rupees, what else could have been ? Was not the closing of the Mints the same thing as regulating the currency on the principle of a fixed-issue system so well known in the matter of regulating paper currencies ? That it was, could hardly be denied. That being so, the only question was whether the volume of rupees already in circulation was distinctly less than the minimum amount of legal-tender money ever necessary for the internal circulation of the country. The Government of India had forseen the volume of rupees in circulation becoming in excess of such a minimum and had accordingly provided against it. In their despatch of March 3, 1898, outlining their plans, the Government observed:—

> "9……. We know now that one of the main reasons of this failure [to maintain the exchange value of the rupee] is that our rupee circulation had before the closing of the Mints been increased to such an extent that it fully, and more than fully, supplied all the demands of trade, and allowed no room for any further addition in the form of gold…… The necessary condition of a fixed rate of exchange between two countries is that, when the currency of one of them becomes redundant as compared with that of the other, the redundancy may be relieved by the withdrawal, for a time, of the excess coin, and we wish, therefore, to reach the condition in which our circulating medium... is not composed wholly of silver coin which has no equal value outside the country, but contains also a margin of gold which is capable of being used elsewhere as coin, and will therefore in natural course flow to where it is most wanted. Our total rupee currency is estimated to be at present somewhere about 120 crores, to which we have to add 10 crores of fiduciary circulation of currency notes.
>
> "10. It is impossible with any exactness to say, and it can only be ascertained by actual experience, by how much this rupee circulation has to be decreased in order to remove its redundancy. ……But some considerations point to the amount being within quite manageable limits. For example, there are twenty-four crores, more or less, of currency notes in circulation, including the amounts held in our Treasuries. If we could imagine that amount of circulation at present

existing in the form of currency notes suddenly converted into £16,000,000 in gold, it seems impossible that Indian trade should be able to get on without having part at least of that amount held in actual circulation, in other words, it would not be possible for that amount of gold coin to be remitted out of the country without the value of the rupee being forced up to a point which would arrest the stream of export. If this is the case, twenty-four crores of rupees is the outside limit of the amount it might be necessary to convert into gold coin in order to introduce a stable exchange of 16d., accompanied by an actual (active or inactive) circulation of gold at that comparative value: and it is more than probable that the amount required may really fall far short of this.

"11. The mere reduction of circulation might be carried out in the same way in which it was effected in 1893, namely, by abstaining from withdrawing council bills, until we have an accumulation of, say, twenty crores in excess of our ordinary balances. But this procedure would be both costly and, as we believe, ineffective ; in the first place the permanent locking up of twenty crores would cost us the interest on that amount, or on the amount of gold borrowed in England during the suspension of drawings, and in the second place the existence of this acumulation of silver coin would be a perpetual menace to the exchange market, and would entirely prevent any confidence in the future of the rupee. We must not only withdraw the amount from circulation, but we must show by the method we adopt that our intention is that it should cease to exist in the form of coin, and that its place, as coin, is to be taken by gold. Our proposal is therefore to melt down existing rupees, having first provided a reserve of gold [by borrowing] both for the practical purpose of taking the place of the silver and in order to establish confidence in the issue of our measures."

At the time the Committee reported the volume of rupees in circulation was not redundant, as was proved by the fact that exchange was rising and gold was flowing in. That the closing of the Mints had therefore brought about an effective limit is beyond dispute, and was even admitted by the Committee.* But

* Report, p. 17.

supposing that the closing of the Mints did not constitute an effective limitation on the volume of rupees in circulation, what was the remedy ? Was the plan of a gold reserve to assure convertibility for foreign remittances calculated to promote that object if the gold reserve was to be got by coining more rupees ? If the limitation of rupees was going to maintain their value, as it did the value of the shilling, was the permission to add to the volume of rupees which the Committee feared was overabundant if not redundant, for the sake of a gold reserve, designed to limit their volume ?

It is difficult to read the report of the Fowler Committee without exasperation. The permission to coin rupees was mischievous in every way. It was destructive of a true gold standard ; it was not wanted as a relief against monetary stringency, and was calculated to lower the value of the rupee. If it was anxious for a gold standard and currency, as it undoubtedly was, it should have absolutely stopped the coinage of rupees and suppressed the notification holding the government ready to give rupees for gold. In failing to do that it not only deprived the country of a sound system, but actually, albeit unwittingly, helped to place the entire Indian currency, including paper currency, on the basis- of an inconvertible rupee. Few people seem to be alive to the precise significance of that pernicious proviso introduced by the Herschell Committee, and remorselessly upheld by the Fowler Committee, that the government shall always be ready to give rupees for gold, but there can be no doubt that in the absence of a counter-proviso, requiring Government to give gold for rupees, the proviso is simply a cover for an authority to the Indian Government to issue inconvertible rupee currency of unlimited legal tender in the same way as the bank restriction was for an authority to the bank of England to issue inconvertible notes in unlimited quantities. The first step in the right direction would be to scrap that Report and make a speedy return to the safe and sound proposals of the Government of India as outlined in the despatch referred to above. The primary condition is to stop the coinage of rupees and not merely close the Mints to the public. Whether it would be necessary to melt a portion of the rupees depends upon what gold value it is desired the rupee should have. Once the total contraction of the rupee is

settled upon and all further coinage is stopped, India will be in a position to have an effective gold standard based on a free inflow and outflow of gold. There will be no necessity to reduce the rupee in legal tender and provide for its convertibility. Its value would be maintained intact by sheer force of its quantity being limited, provided the quantity in circulation has been reduced so far as to be always below the minimum demand.

Supporters of the existing system of rupee currency have ever since its inauguration held out that the currency is economical and secure. Its claim for security, both in terms of gold and commodities, has been tested, and the grounds of it have been analysed in the course of this and previous chapters, wherein is demonstrated how very much wanting it is in the essentials that go to make up a secure currency. We must now endeavour to assess whether it is economical, for if it were really so, then that might be a point of some value against its opponents. We must therefore scrutinize the economy effected by the rupee currency.

Kemmerer says,*

> " A convertible money finds its *raison d'etre* largely in the fact that it economizes the precious metals, and makes possible a saving to the community. If paper money or token money are substituted for primary money, their substitution ruduces the demand for the precious metals by the difference between the amount of metal used in the token money introduced plus that contained in the primary money required for the redemption fund. This economy of the precious metals results in an increased supply being thrown upon the market" [which supply goes abroad and into the arts and increases the non-monetary wealth of the country by an equivalent amount: the gold obtained for the metal economized represents a net gain to the community].

The same kind of gain, says Kemmerer, attaches to the use of inconvertible money, and even on a larger scale, because there is no necessity to use primary money even for a redemption fund, as there is when the money is convertible. Such views as these have led Prof. Keynes to opine that the Indian currency system is a marvel of economy, and that other

* Money and Credit Instruments in Relation to Prices, p. 63.

more advanced countries might usefully follow the lead. We will; not draw from this the uncharitable conclusion that either Prof. Kemmerer of Prof. Keynes would recommend that because an inconvertible paper currency is the most economical currency a country should adopt it without remorse. What we are concerned with is to find out whether the rupee currency is really economical. When the process by which the rupee comes into being is carefully analysed it becomes impossible to take seriously the plea that the Indian currency is economical. First of all, gold is tendered to the Secretary of State in London for his council bills, or gold is tendered to the Government of India in India in payment of taxes or otherwise. Out of this gold the Secretary of State buys silver and coins rupees. As the price of silver is below the ratio, there arises a difference between the cost price of the rupee and its selling price in gold. To the extent of this difference there is, of course, a gain. But this gain or profit on coinage, as it is called, is no benefit to society. It is a hoard, and to that extent represents a useless abstraction of wealth. If the profit is not to be used for any current purposes of society it is as well not to coin rupees. It is therefore obvious that so long as the profits are merely held apart from the revenue resources of India there is no economy in the rupee currency worth naming. From another standpoint the currency of India is a wasteful asset to society. Metallic currency is primarily a capital good representing a form of social investment. Consequently it is necessary to see that the capital value of the currency is maintained. It is a happy circumstance to note that the Government of India is not dead to this aspect of the question with regard to its paper-currency reserve, and has very recently instituted a depreciation fund for the preservation of its capital value.* Now, the considerations that apply to the paper currency should apply also to the rupee currency. Has the rupee currency maintained its capital value ? The gold part of it, called the gold-standard reserve, is invested in interest-bearing securities. Interest is no doubt an additional source of gain, but have the securities maintained their capital value ? Far from it. Turn to the rupee half of the currency. Has the bullion in the rupee maintained its capital value ? There have been endless

* Cf. the Speech of the Finance Minister, Mr. Hailey, on the Indian Paper Currency (Amendment) Bill, dated September 16, 1920, *S.L.C.P.,* Vol. LIX, pp. 308-9.

charts and diagrams drawn by playful economists in which the black line, showing the nominal value of the rupee, has remained up while the red line, showing the bullion value of the rupee, has gone down with the falling gold value of silver. But what does that mean ? Simply that the rupee is a wasting asset and is not worth at a later date what it cost to society when it was manufactured. Surely there was more economy in the project of the mad Chinaman who burnt his house to roast his pig than there is in the Indian rupee currency? The Chinaman's house must have been *very* old and uninhabitable. The same cannot, however, be said of this converting of gold money into silver money, because we know that silver is an inferior kind of investment to gold. Thus viewed, the currency is not in the least economical. It appears to be so because people look only to the rupee. But, adding the cost of the rupee currency to that of the gold-standard reserve, can it be said that India would have required more gold if she had a gold currency in place of a rupee currency ? Bearing in mind that with a fixed limit on the issue of rupees there can be no reason for a gold reserve, the only result of a stoppage of rupee coinage would be that gold, instead of being, as now, part reserved as a sinking fund and part transmuted into a rupee currency, would enter into circulation without being subjected to this baneful and wasteful process.

No more gold would be required in the one case than in the other. We can therefore conclude without fear of challenge that with a complete stoppage of rupee coinage Indian currency would be truly economical, prices would be more stable, and exchange secure, in the only way in which it can really be said to be secure, and the rupee, although inconvertible, will cease to be a problem, which it has been ever since 1873.

But will that be all the advantage to the country ? By no means. In drawing a moral from his comparison of the paper pound of 1797 with the paper pound of 1914, Prof. Cannan* points out that—

> "there can in these days be no doubt that the experiment of entrusting what no community should entrust to any institution, the power of creating money without limit, to the

* *The Paper Pound* 0/1797—1821, Introduction, p. xxxix.

> Bank of England, compares very favourably with the modern plan of entrusting it to the Government itself or to a State bank completely under the control of the Government. In the comparatively short war of 1914-18 currencies 'not convertible at will into a coin which is exportable' were issued by Governments and Government banks in amounts compared with which the 100 per cent, increase in thirteen years, which made the Bullion Committee complain so vigorously in 1810,look absolutely trifling."

There was a time when it could have been said that this indictment did not apply to the Government of India. Few Governments could be said to have been so very anxious to wash their hands of the responsibilities involved in the management of a currency as the Government of India once was. In 1861, when the Government first undertook the issue of paper money in India, the anxiety it displayed was laudable. An impecunious Government, made prostrate by the heavy burdens of the Mutiny, should have welcomed the project of a paper currency as a source of profit. But so great was its sense of responsibility that the Government refused to be content with convertibility as a check on over-issue. One of the principal reasons why the desperate paper-currency scheme, which that straitened financier Mr. Wilson had devised in 1860 to find ways and means for improving the finances of India, was rejected was so well stated by his successor, Mr. Laing, that in these days of frenzied finance his remarks may as well be reproduced in full. He said* :—

> "There was another important reason why he (Mr. Laing) thought that Sir Charles Wood's principle was the soundest. All parties were agreed that a paper currency ought to be identical with the metallic currency which it displaced. But the system of issuing against two-thirds of securities and one-third of specie, as was proposed by Mr. Wilson, would not always ensure this identity, and there was considerable risk that in times of buoyancy and speculation the circulation would be unduly extended. He thought that that was a point of considerable importance, because if we looked at what had taken place in India during the last three years, we should find a great increase in the wages of labour and the prices of commodities, which should warn us as to what the

* His speech on the Paper Currency Bill dated February 16, 1861, *S.L.C.P.,* Vol. VII, pp. 66—7.

consequences might be if we were to accelerate the process already going on so rapidly by any artificial inflation of the currency. If you unnaturally stimulated the rise of prices by an over-issue of paper circulation you ran considerable risk of changing the healthy action of commerce into a feverish excitement which was sure to bring about a reaction. If we continued to go on as we had done for the last two or three years, the result would be that many articles of Indian produce might be driven out of the market by the competition of other countries, and he therefore thought that the Government ought to be exceedingly cautious how it took any step that might unduly accelerate the tendency to a general advance, as might be the case under the system of paper currency which to any considerable extent represented securities and not bullion. Such an advance might even reach a point seriously embarrassing to the Government if the general rise in the rate of wages and cost of living made the present scale of salaries and the pay of troops no longer adequate.* For these reasons he thought it by far the wisest course to adhere to the principle of paper currency adopted in England as laid down in Sir Charles Wood's despatch."

Not only was the Government anxious to put a limit on the issue over and above making it convertible, but it did not want to be vested with the legal authority to issue notes. In a despatch dated April 27,1859,† to the Secretary of State, the Government of the day observed :—

" We believe that the convertibility of the notes on demand would not be a sufficient guarantee against over-issue. When once the paper currency is established in public confidence, the temptation to take dangerous advantage of this confidence will be very great in a time of difficulty, if the power of doing so is left in the hands of the Government of India alone. Restriction by law, either to a certain amount of issue absolutely, or to any amount relative to the balances in India, will, in our opinion, be necessary. We think that such a law ought to be passed by Parliament, and not by the Legislative Council of India."

*During the bank suspension period in England it is to be noted that the Army and the Navy were paid in gold, for fear of causing discontent.

†For a copy of it, see Commons Paper 183, of 1860, p. 1.

Equally sane was the view of the Government in 1876 with regard to the rupee currency. The Bengal Chamber of Commerce, it will be recalled, had urged upon the Government of India to close the Mints to the free coinage of silver, without opening them to the free coinage of gold—a project which practically meant that the Government should undertake the management of the rupee currency. The reply of the Government of India was a sharp rebuke. It declared*:—

> "8. . ...the Chamber invite the Government to take a measure calculated to enhance indenfinitely the value of the rupee by suspending the long-established legal right of all comers to have silver bullion manufactured upon uniform conditions under State supervision into legal-tender coin, and temporarily substituting a system of coinage at the discretion of the State.....
>
> * * * * *
>
> "11. It is essential to a sound system of currency that it be automatic. No man or body of men can ascertain whether at any particular moment the interests of the community as a whole require an increase or diminution of the currency; still less, how much increase or how much decrease is, at any moment, exactly needed. No Government which aspires to keep its currency in a sound condition would be justified in attempting that impossible task, or in leaving the community, even for a short interval, without a fixed metallic standard of value. Under an 'open coinage system' these things regulate themselves without official interference."

Now, compare with this the later pronouncements of the government with regard to the principles governing the paper and rupee currency respectively. During the war, when the Government of India resorted to the enlargement of paper issues, Honourable Members of the Supreme Legislative Council pointed out the effects it would produce on prices in India. But the late Hon. Sir Wm. Meyer, who as a Finance

* Resolution of the Government of India, relating to the Depreciation in the Value of Silver, dated September 22, 1870, Commons Paper 449 of 1893.

Minister piloted the Indian finances during the last war, in the course of a speech on the Indian Paper Currency (Amendment) Bill, dated September 5, 1917, replied*:—

> " The note circulation was sixty crores before the war and is now about a hundred crores. But the Hon. Mr. Sarma shivered at the idea of inflation. I may remind him that one of the accepted (!) doctrines of economists is that artificial inflation of paper currency only exists when the note circulation is not fully covered. Now we have covered every rupee of our note circulation. ..... in securities....." [How could there be an inflation ?]

The change in the Government's view with regard to the rupee currency is equally noteworthy. In 1908, when the exchange value of the rupee fell below par, the Government was reminded that it was the result of the excessive coinage of rupees. But although in 1876 the Government did not think it was possible for it to so increase and decrease the currency to suit the needs of commerce, yet in 1908 the Government advanced the opposite view. The Finance Minister, the Hon. Mr. Baker, in his reply, went on to argue†:—

> " In the first place the whole of the new coinage that we have undertaken during this period has been undertaken solely to meet the demands of trade. Not one single rupee has been added to the circulation except to enable us to meet these demands....."

Now, if it is dangerous to entrust a Government with the power to manage currency, how very dangerous is it to entrust it to the Government of India, which professes to carry out its trust on the basis of doctrines such as these ! No one is so ill-instructed in these days as to suppose that these are sound maxims. If security is enough, what need is there for convertibility ? If currency is issued only in response to trade demand, what fear is there of over-issue ? A Government acting on such a principle may well go on indefinitely increasing the currency without remorse. History abounds with instances of ruin caused by the management of currencies on such naive principles as these. ‡ Happily for the country, the paper currency profoundly

* S.L.C.P., Vol. LVI, p. 35.

† Cf. Financial Statement for 1908-9, p. 229.

‡ Cf. E. R. A. Seligman, Currency Inflation and Public Debts, New York, 1922, passim.

altered in its basis—one might almost say, tampered with—in 1920 by the Government is yet far away from currencies regulated on the theory enunciated by the Finance Minister. It is the rupee currency which has been, ever since the Mint closure, the chief source of danger to the welfare of the Indian people, particularly because of the principle governing its issue. Because that principle has the support, in itself a surprising thing, of such eminent authorities as Prof. Keynes,* Mr. Shirras.† and the Chamberlain Commission. ‡ it cannot alter the case for depriving the Government of this power of managing the rupee currency, for the principle is essentially unsound. The reason why the fallacy in the reasoning, that there could be no excess of rupees because of their being issued in response to trade demand, does not appear on the surface is due to the peculiar nature of money. Money is said to be wanted only because money has a purchasing power. That is no doubt true, but that does not quite explain why people so incessantly want money, even when they know that the value of money is so unstable. Indeed, if purchasing power was the only consideration we should not find such a desire for the current means of purchase. That desire can only be accounted for by the fact that money has a differential advantage over other goods, in that it has in the highest degree what Menger called the quality of saleability. That one can more often buy at a bargain than sell at a bargain is simply another way of stating that every one desires to hold his resources in the most saleable form of money. In this sense it is absolutely true that no more money can be issued than there is demand for. But from that it does not follow that there can be no over-issue of money purely for the currency needs at any given time. All money is acquired in response to trade or services, but all money is not retained in currency. Indeed, all commodities are exchanged for money, because money is supposed to bear the option of being used for non-monetary purposes. In the case of the rupee the option-of-use quality is non-existent. Consequently, although issued in response to trade demand, it remains in currency whether it is

* Op. Cit., p. 111. † Op. cit., p. 39. ‡ Report, par. 66.

wanted or not, and thus tends to bring about its depreciation. That such a depreciation is possible cannot be denied even by those who maintain that rupees are issued only in response to trade demand, otherwise why should they be so very anxious for an increase of the gold reserves of the country. But the danger to the rupee currency does not merely arise from the possibility of indiscretion on the part of the Government. Besides the Government there have been statesmen in India so interested in the welfare of their fellow-subjects that they have rebuked the Government on several occasions for not making the profits on rupee coinage available for the advancement of the moral and material progress of the country.* and in 1907 the profits on rupees were actually employed in the extension of railways. It must fill every one with horror and despair to contemplate the consequences sure to emanate from the manipulation of currency for such ends. Is it not time this source of danger and temptation be removed by depriving the Government of this power to manage the rupee currency ? But what is the means of bringing this about ? If it is desirable to do away with the management then convertibility is an insufficient measure; for with convertibility the rupee will still remain a managed rupee. Only the complete stoppage of rupee coinage will remove the governmental interference in the management of Indian currency; and it is this that we must therefore ask for.

Queer as it may seem, SAFETY LIES IN AN INCONVERTIBLE *Rupee with a fixed limit of Issue.*

●●●

* Such a sober politician as the late Mr. Gokhale took the lead in this matter. Cf. his speech in the Financial Statement for 1907-8, pp. 203-4 ; and the same indiscretion is repeated by Prof. V. G. Kale in his Currency Reform in India, 1919, p. 65.

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Book 4

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MISCELLANEOUS ESSAYS

Statement, Evidence, Reviews, Forewords etc.

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NOTE

The Royal Commission on Indian Currency and Finance visited India in 1924-25 to examine the financial system and to suggest the Reform of the Indian currency. The commission was comprised of the following members.

E. HILTON YOUNG, Chairman
R. N. MOOKERJEE
NORCOT WARREN
R. A. MANT
M. B. DADABHOY
HENRY STRAKOSCH
ALEX R. MURRAY
PURSHOTAMDAS THAKURDAS
J. C. COYAJEE
W. E. PRESTON

G. H. BAXTER
A. AYANGAR
} Secretaries

Dr. Ambedkar explained his views in the statement submitted in reply to the questionnaire issued by the Commission. The statement and his evidence before the Commission are reproduced here along with the questionnaire.

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1

STATEMENT OF EVIDENCE*

Submitted by Dr. B. R. Ambedkar, Bar-at-Law to the Royal Commission on Indian Currency

1. In reply to the questionnaire issued by the Commission I beg to submit the following statement of my views. In dealing with the questionnaire issued by the Commission I will begin with question No. 4 because I believe that is the principal issue on which the Commission is asked to give a definite finding.

2. I am emphatic in my opinion that the Gold Exchange Standard cannot be continued with any advantage to India and for the following reasons :—

(1) *It has not the native stability of the Gold Standard.*— A pure Gold Standard is stable because the value of gold in circulation is so large and the new additions to the supply are so small that the stability of the standard is not thereby appreciably affected. But in the case of the Exchange Standard the new additions are dependent upon the will of the issuer and can be augmented to such an extent that the stability of the standard can be appreciably affected thereby.

(2) *It is discretionary in issue without there being anything in it to regulate the discretion.*—It is sometimes said that the Gold Standard is a hard standard which keeps the changing affairs of mankind tied to the wheel of nature over which human agency can exercise no control and that the Exchange Standard affords an escape from this frigidity. In reply to this it must be said that though a discretionary currency, it is so only when the currency is provided with some means which enables this discretion to be properly exercised. There must be some regulator by which the discretion left to the issuer is regulated. From this point of view an Exchange Standard is inferior to a Convertible Standard. A Convertible Standard and an Exchange Standard are alike in

*Report of the Royal Commission on Indian Currency and Finance, Vol. II, Appendix 29, His Majesty s Stationery Office, London, 1926, pp. 235-39.

this that they both allow the use of discretion in the issue of currency. But a Convertible Standard is superior to the Exchange standard because the discretion of the issuer in the former is *regulated* white the discretion of the issuer in the latter is *unregulated*. It is true that in the Exchange Standard there is what is called regulation by foreign Exchanges. But such a regulation, though it is better than no regulation at all, is only a loose and indirect way of reaching the end and cannot be depended upon in all circumstances of reaching it.

(3) *It is economical. But for that very reason it is insecure.*— There are many writers who are enamoured of the Exchange Standard, because it effects a certain degree of economy in the use of gold. But is the plan secure ? Any plan of currency to be sound must be both economical and secure. It will do if it is not economical; but it will certainly not do if it is not secure. Now I submit that the proposition that to *economise gold as a currency is to impair its utility as a standard of value* is as simple and self-evident as the proposition that to use paper or rupee as a medium is more economical than to use gold. For what does this discarding of gold from currency use mean ? It simply means this : that by economising the use of gold you thereby directly increase its supply and by increasing its supply you lower its value, *i.e.,* gold by reason of this economy in its use becomes a depreciating commodity and, therefore, unfit to that extent to function as a standard of value. *You cannot therefore both economise gold and also use it as a standard.* If you want to economise gold, then you must abandon gold as a standard of value, in other words the economy of the Exchange Standard is incompatible with its security.

3. The choice therefore can *never* be between a Gold Standard and an Exchange Standard. If we do not want a Gold Standard we must either go over to a Compensating Standard of Prof. Fisher or to a Tabular Standard of Prof. Jevons. The choice is really between either of them and the Gold Standard. There is no doubt that the Compensating Standard or the Tabular Standard would be better than a Gold Standard. But mankind must become more philosophical than it is before they can be made workable, and

until that happens I think the Gold Standard must be accepted as the only system of currency which is "knave proof" and "fool proof."

4. The next important question is that of the Gold Reserve. Before discussing matters such as location, composition, etc., of the reserve, it is necessary to determine whether we want it. That question in its turn depends upon another question pertaining to the mode in which the Gold Standard is to be introduced. In this connection I do want to say that there are many people who are under the impression that the introduction of a Gold Standard means merely the starting of a mint and the issuing of a gold coin. Nothing can be more erroneous than this. Gold Standard means not the starting of a gold mint but making provision whereby gold will *become current*. For *currency is the standard*. Now in order that gold may be current, it is necessary that other forms of currency must be limited in their volume. There are two ways by which currency may be limited. One way is to make it convertible and the other is to fix a positive limit on its issue. If you choose to adopt convertibility as a method of limitation then there is reason for maintaining a gold reserve. If you choose fixity of issue as a method of limitation then there is no reason for maintaining a gold reserve. As between the two systems I prefer the fixity of issue system. My reasons are two :—

(1) One of the evils of the Exchange Standard is that it is subject to management. Now a convertible system is also a managed system. Therefore by adopting the convertible system we do not get rid of the evil of management which is really the bane of the present system. Besides a managed currency is to be altogether avoided when the management is to be in the hands of the Government. When the management is by a bank there is less chance of mismanagement. For the penalty for imprudent issue, or mismanagement is visited by disaster directly upon the property of the issuer. But the chance of mismanagement is greater when it is issued by Government because the issue of government money is authorized and conducted by men who are never under any present responsibility for private loss in case of bad judgment or mismanagement.

(2) A fixed issue system besides eliminating management will make provision for a larger use of gold in currency. The use of gold is an important matter. The whole world is suffering from a continuous rise of prices owing to the depreciation of gold. Anything therefore that will tend to appreciate gold will be to the good; and if gold is to appreciate there must be a larger use of gold as *currency*. Besides at the present time there is *no* necessity to economise gold, because there is all over the world such a great plethora of money that the less we economise gold the better. From this point of view the Exchange Standard once a boon, is now a curse. It served a useful purpose for some time. From 1873 the production of gold had fallen off and the economy effected by the Exchange Standard was indeed very welcome because it helped in a period of contraction to expand the money of the countries of the world and thereby maintain the stability of the international price system by preventing the rapid fall in prices, which would have been inevitable if all the countries which based themselves on gold had also adopted gold as a currency. But after 1910 conditions changed and the production of gold increased, with the result that the continuance of the Exchange Standard thereafter not only did not help the countries to check the rise of prices but became a direct cause of the rise of prices. For the economy in the use of gold rendered gold which was already overproduced redundant. During the war the use of paper money on an unprecedented scale led to a still greater depreciation in the value of gold all of which was practically due to the *economy* of gold in its use as currency. Consequently as observed by Prof. Cannan "in the immediate future gold is not a commodity the use of whch it is desirable either to restrict or to economise. From the closing years of last century it has been produced in quantities much too large to enable it to retain its purchasing power and thus be a stable standard of value unless it can constantly be finding existing holders willing to hold larger stocks or fresh holders to hold new stocks of it. Before the war the various central banks in Europe took off a large part of the new supplies and prevented the actual rise of general prices being anything like what it

should otherwise have been, though it was serious enough." In the absence of that demand the next best thing would be the introduction of gold currency in India and the East. This introduction of a gold currency can be better accomplished by adopting the fixed issue system rather than the convertible system. For the former will leave a larger margin for the use of gold in actual currency than will the latter.

5. That being my view of the solution of the problem I am necessarily in favour of the abolition of the Gold Standard Reserve as being of no practical use for maintaining the stability of the currency. There is also another reason why I think the Gold Standard Reserve ought to be abolished. The Gold Standard Reserve is peculiar in one respect, namely this; the assets, i.e., the reserve and the liabilities, i.e., the rupees are dangerously correlated by reason of the fact that the reserve cannot increase without an increase in the rupee currency. This ominous situation arises from the fact that the reserve is built out of the profits of rupee coinage. That being its origin, it is obvious that the fund can grow only as a consequence of an *increase* in the volume of rupee coinage. Now as Prof. Cannan remarks " the percentage of administrators and legislators who understand the Gold Standard is painfully small, but it is and is likely to remain ten or twenty times as great as the percentage which understands the Gold Exchange System. The possibility of a Gold Exchange System being perverted by ignorance or corruption is very considerably greater than the possibility of the simple standard being so perverted. Unfortunately there is abundant proof of such perversion in the history of the currency system in India. Already we have had foolish administrators who had been obsessed with the idea that a reserve was a very essential thing and who had therefore gone in issuing currency without any other consideration but that of augmenting the reserve. Nor has the country been wanting in innumerable foolish business men who have condemned the Exchange Standard without ever knowing anything of currency on the sole ground that Government is not allowing them to use the reserve as though to boom up business was the proper function of a currency reserve. Similarly we have amongst us equally foolish politicians

desiring to advertise themselves as friends of the people who want the reserve to be utilised for educating the masses. Any of these three may easily bring about a calamity in {he guise of a blessing, and all this in sheer ignorance of the principles of currency. It is therefore much better to introduce a currency system which will do away with the Exchange Standard and also the Gold Standard Reserve the maintenance of which may any day be a source of mischief.

6. The following then are the requirements of my plan for the reform of the Indian currency :—

(1) Stop the coinage of rupees by absolutely closing the mints to the Government as they are to the public.

(2) Open a gold mint for the coinage of a suitable gold coin.

(3) Fix a ratio between the gold coin and the rupee.

(4) Rupee not to be convertible in gold and *gold not to be convertible in rupees,* but both to circulate as unlimited legal tender at the ratio fixed by law.

7. What is to become of the existing amount of reserve if it is not wanted for currency purposes ? I myself would like it to be utilized by Government as ordinary revenue surplus for any public purpose that may seem to be urgent. But there will remain sources of weakness in the reformed currency which it is wise to recognise. Unlike the Fowler Committee, I am firm in my belief that the rupee currency once effectively limited will maintain its value without the necessity of any reserve. But there is just this chance that the existing volume of the rupee currency is so large that when there is a trade depression it may become redundant and may by reason of its excess lose its value. As a safeguard against such a contingency I propose that the Government should use part of the Gold Standard Reserve for reducing the rupee currency by a susbstantial margin so that even in times of severe depression it may remain limited to the needs of the occasion. The second source of weakness in the currency arises from the peculiar composition of the Paper Currency Reserve. That weakness lies in the existence of what are called "Created Securities." I should like this portion of the Paper Currency Reserve extinguished as early as possible. For unless this is done the paper currency

cannot with safety be made as elastic as it should be. I would therefore recommend that the remainder of the Gold Standard Reserve be utilised in the cancellation of the "Created Securities" in the Paper Currency Reserve.

8. Having given my views on the nature and form of the change I will now discuss the question next in importance, namely, "the ratio between gold and rupee." As a result of war operations there is not a single country with a Gold Standard which was able to keep its pre-war gold parity. Some of them have erred from it by such a large margin that it is now beyond the capacity of many to approach it with any degree of certainty. But howsoever impossible and impolitic the task, the hankering for a return to the prewar parity seems to be universal. There is but this difference between India and the other countries. The other countries have yet to reach the pre-war parity. India, on the other hand, has in fact overreached the pre-war parity. As a result of the difference the problems before India and the other countries are different. In European countries the problem is one of deflating the currency, i.e., appreciating it; in other words of bringing about a fall in prices. In India the problem becomes one of inflating the currency, i.e., depreciating it; in other words of bringing about a rise in prices. For a change from 1*s* 6*d*. gold to 1*s*. 4*d*. gold means this and nothing else. Should the currency be inflated to reach back the pre-war parity ? There are some people who are under the impression that the restoration of pre-war parity would give justice and would also give us the old price level to which we were so long accustomed. Both these views are fallacious. First : the restoration of pre-war parity is not a restoration of the pre-war price level. For it is to be remembered that 1*s*. 4*d*. gold in 1925 is not the same thing as 1*s*. 4*d*. gold in 1914 if measured in terms of purchasing power. The same ratio of exchange does not necessarily mean the same level of purchasing power. The ratio between two currencies may remain the same though their respective volumes have undergone enormous changes, provided the variations in volumes are equal and in the same sense. This is exactly the result of a mere nominal restoration of the pre-war parity. If by restoring pre-war parity is meant the restoration of the pre-war level of prices then

the ratio instead of being lowered from 1*s*. *6d*. in the direction of 1*s*. *4d*. must be raised in the direction of 2*s*. gold. In other words instead of an inflation there must be a further deflation of the currency. Second : the restoration of pre-war parity even nominally would be unjust. As a standard of deferred payment a currency should not disturb monetary contracts. If all debts now existing had been contracted in 1914 before the war, ideal justice would clearly require the restoration of the pre-war ratio. On the other hand if all existing contracts had been entered into in 1925 justice would require us to keep to the ratio of 1925. Two things must be borne in mind in this connection. Existing contracts include those made at every stage of preceding depreciations and appreciations and to deal fairly with all would demand that each one should be treated separately—a task impossible by reason of its complexity and enormity. Existing contracts are no doubt of various ages. But the great bulk of them are of very recent date and probably not more than one year old; so that it may be said that the centre of gravity of the total contractual obligations is always near the present. Given these two facts the best solution would be to strike an average between 1*s*. *4d*. and 1*s*. *6d.,* and to see that it is nearer 1*s*. *6d*. *and* away from 1*s*. *4d*. This is substantially the view of Prof. Fisher, who observes: "The problem of a just standard of money looks forward rather than backward : *it must take its starting point from the business now current, and not from imaginary pars before the war*. One might as well talk of restoring the original silver pound or returning to the monetary standards of Greece and Rome." In short, in matters of currency the real is the normal and therefore just.

9. As regards the effects of a rising and falling rupee on trade and industry the point often sought to be made is that low exchange confers a bounty on trade and industry. But this is not the important point. The more important point is, supposing that there is a gain arising from low exchange, whence does this gain arise ? It is held out by most business men that it is a gain to the *export trade* and so many people have blindly believed in it that it must be said to have become an article of faith common to all that a low exchange is a source of gain to the *nation as a whole*. Now

if it is realised that low exchange means high internal prices, it will at once become clear that this gain is not a gain to the nation coming from outside, but is a gain from one class at the cost of another class in the country. Now the class that suffers is the poor labouring class, which pays the bounty to the richer or the business class. Such a transference of wealth from the poor to the rich can never be in the general interest of the country. I am therefore strongly opposed to high prices and low exchange, and no righteous Government should be party to such clandestine picking of the pockets of the poorer classes in the country.

10. I now come to the question of providing for the seasonal needs of the money markets in India. A currency system should be stable and elastic, and it is for this reason more than any other that the currency in many countries is a compound of metal and paper. The former is intended to give steadiness and stability and the latter elasticity. Unfortunately in India the plan of the paper currency is not contrived to give it elasticity. In England under a similar paper currency the inelasticity is made good by the development of what is called deposit currency which is issued against good commercial paper. Owing to a variety of causes deposit currency has failed to take root in India and there has been consequently no mitigation of the inelasticity of the paper currency of India. We should therefore make greater provision in our paper currency reserve whereby it could be made possible to convert good commercial paper into currency best suited to the needs of seasonal demands.

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2

Copy of the Memorandum* circulated to Witnesses in India by the Commission

The following memorandum, indicating the main questions which will come under the consideration of the Royal Commission on Indian Currency and Finance under its terms of reference, is published in order to assist intending witnesses in the preparation of their evidence. It is not to be regarded as exhaustive, nor is it desired that each witness should necessarily attempt to deal with all the questions raised :—

(1) Is the time ripe for a solution of the problems of Indian Currency and Exchange by measures for stabilisation of the rupee or otherwise ?

What is the comparative importance of stability in internal prices and in foreign exchanges ?

What are the effects of a rising and a falling rupee, and of a stable high or low rupee, on trade and industry (including agriculture) on national finance ?

(2) In relation to what standard and what rate should the rupee be stabilised, if at all ?

When should any decision as to stabilisation take effect ?

(3) If the rate selected differs materially from the present rate, how should the transition be achieved ?

(4) What measures should be adopted to maintain the rupee at the rate selected ?

Should the Gold Exchange Standard system in force before the war be continued, and with what modifications, if any ?

What should be the composition, size, location, and employment of a Gold Standard Reserve ?

(5) Who should be charged with the control of the note issue, and on what principles ? Should control or management be

*Report of the Royal Commission on Indian Currency and Finance, Vol. III, Appendix 95A, p. 612.

transferred to the Imperial Banks of India, and, if so, what should be the general terms of the transfer ?

(6) What should be the policy as to the minting of gold in India and the use of gold as currency ?

Should the obligation be undertaken to give gold for rupees ?

(7) By what method should the remittance operations of the Government of India be conducted ?

Should they be managed by the Imperial Bank ?

(8) Are any, and, if so, what, measures desirable to secure greater elasticity in meeting seasonal demands for currency ?

Should any, and, if so, what, conditions be prescribed with regard to the issue of currency against hundis ?

(9) Should any change be made in existing methods for the purchase of silver ?

Note.—The above questions were circulated to witnesses in India. As the result of the oral and written evidence received in India, the relative emphasis to be laid on the various matters dealt with has become clearer, and accordingly the attached memorandum and supplementary list of "Questions to be asked by the Chairman" have been prepared for the information of witnesses.

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3

EVIDENCE*

Before the Royal Commission on Indian Currency and Finance on 15th December 1925

Dr. B. R. Ambedkar, Barrister-at-Law, called and examined.

6047. *(Chairman.)* Dr. Ambedkar, you are a Barrister-at-law, and you have been kind enough to furnish the Commission with a memorandum in which your recommendations as regards the Indian currency system are set forth in detail. I think you have also been nominated as one of the representatives of the Institute of Social and Political Science ?—Yes.

6048. Whose opinions have been set forth in another memorandum ?—Yes, that is so.

6049. I understand that you are a close student of these questions ?—I was 2 years before, but since I have been practising of course I have not been able to give sufficient attention to the very recent developments in currency and so probably my facts and figures might sometimes be rather out of date, but I should be able to tackle any point from the theoretical side of the subject, I presume.

6050. You have been a student of political science ?—I was a Professor at the Sydenham College of Science for two years and I have written a book on the Problem of the Rupee.

6051. I should like to ask you a few questions to elucidate a few individual contributions which you make to the subject in the course of your memorandum. In sub-paragraph(i) of paragraph 2 you commence with the statement : "A pure gold standard is stable because the value of gold in circulation is so large" and so on. What are you referring to as "a pure gold standard" in that connection ?—A pure gold standard means a gold currency as the standard of value.

6052. A currency consisting of gold ?—Largely.

6053. Supplemented by some form of token currency ?— By some form of token currency, yes.

*Report of the Royal Commission on Indian Currency and Finance, Vol. IV, Minutes of Evidence, pp. 313-22.

6054. In so far as your opinion is based upon experience, can you refer to any instance in which a country has had a gold standard system with a large proportion of the circulation consisting of gold coins ?—I may refer for instance to a country like Germany, and barring for instance the deposit of currency in England I should also cite the case of England.

6055. In both those cases we must recognise that the actual proportion of the circulating medium which consisted of gold was comparatively small ?—May I say just one thing ? What I want to emphasise there is that the new additions to the supply are so small in comparison with the existing volume in circulation that the new supply does not make much difference to the price level. That is what I really want to say there in that paragraph : but when you have a currency which is merely regulated by the will of the issuer, the issuer may add a new supply to the existing stock of such an amount that he may disturb the price level once established.

6056. The new conditions there referred to are, I take it, the increment of currency rendered necessary by the regular expansion ?—No; I simply say productions of the mines when I talk of new additions to the gold supply.

6057. Then you are dwelling there upon the feature that the annual additions to the quantity of gold in the world are so small ?—That it does not cause any upheaval in the price level to any appreciable extent.

6058. In what respect does that serve to distinguish between any form of currency where the internal unit is related in stability to gold ?—I do not quite follow.

6059. In what respect does the circumstance as to the small proportionate annual addition to the world's gold supply to which you refer serve to distinguish, as regards this matter of stability, between a currency based upon gold in circulation, and a currency based upon the gold exchange standard ? That is the second part of your paragraph ?—There I say that when you start with a certain given price level and if your issue of new currency is entirely dependent upon the will of the issuer, then he may add such a volume of currency to the existing stock

that he may disturb the price level materially. There is nothing to prevent him from doing that. May I give, for instance, an illustration : suppose a government was bankrupt government and it wanted to finance certain of its departments, then it can very easily issue for instance, a token currency of any sort and add to the existing volume of currency as almost all the belligerent countries have done.

6060. Now let us assume a country with a currency of a certain amount of gold in circulation, supplemented by notes in circulation; that is one proposal, I understand, in regard to the point to which you are leading up ?—Yes, in a certain way.

6061. And, on the other hand, a currency based upon a gold exchange standard. Will you expand your recommendation by helping the Commission on this point : why this possibility of what is really inflation is more impossible when you have gold in circulation than when you have a pure exchange standard ?— It is this : the fact that you have the liability of converting your paper currency into gold under a gold currency with paper in circulation is a means whereby the paper currency is kept within limits. You cannot add more paper currency to your circulation than what your reserves for convertibility would permit. But where under the gold exchange standard, as we have had in India, there is no liability upon you to convert your circulating media into gold you are free to issue as much as you like.

6062. Supposing (I start with a supposition) that you were to accept an obligation to convert your internal currency under an exchange standard into gold or the equivalent of gold in a foreign currency, would that, in your opinion, put the two systems in the same position as regards their capacity for resisting inflation?—It depends upon what kind of convertibility you adopt.

6063. I am supposing the acceptance by the currency authority, whatever it was, of a legal obligation to convert the internal currency on presentation into gold or the means of obtaining gold in a foreign currency in a gold standard country ?—If your obligation is to accept to pay gold on tender without question then I think that would be sufficient. If I may say so, I mean that convertibility is like conscience and it might

be of various degrees; and its efficacy to control the volume of currency would depend upon what kind of convertibility you have. If your convertibility is only for the purpose of foreign exchange then my submission is that that would not be a sufficient limitation on the issue of currency.

6064. If the obligation is such as that to which you have just referred, an obligation to convert the internal currency into a means of international payment, either gold or foreign currencies based on gold, why, in your opinion is that not an adequate means of preventing this danger of the inflation of currency with which we are dealing ?—Because a foreign exchange is not necessarily an indication of internal inflation. For instance, in our own experience in India it has been found out, and it has been found out I think by Professor Keynes, that although the rupee remained at the ratio of 1s. 4d. for a long time, the level of prices in India and the level of prices in England were very different. Exchange cannot be said to be in complete harmony with the whole of the price level of a country. Exchange affects only such things as enter into international trade, and everything would really depend upon what is the volume and what is the ratio of the goods that enter into international trade and goods that did not enter. If the country is so situated that its internal trade is much larger than its external trade, in fact, if its external trade is insignificant .....

6065. What do you mean by the internal trade being larger than its external trade ?—I mean that all the goods or all the transactions of a country are not meant for the purpose of foreign trade. In fact a country may have very little foreign trade and consequently the valuation of goods that do enter into foreign trade may not affect the valuation of goods that do not enter; the relations between them may not be very close.

6066. Let me generalise the question somewhat and put it in this way : whether you have a gold standard with notes and gold in circulation, or whether you have an exchange standard by which the internal currency is converted into external, is not the volume of internal currency in both cases controlled by the preservation of a certain ratio between the reserves and the

internal token currency outstanding, and is it any easier to ensure the maintenance of that due relation in the one case than in the other ?—I have been thinking more of prices rather than of exchange ratios. I quite admit that the exchange ratio between two currencies might remain the same and yet the internal price levels in the two countries may differ.

6067. Which two countries ?—Any two countries; take for instance England and India; the ratio between gold and the rupee or sterling and the rupee taking the sterling as equivalent to gold, may remain the same; in fact it did remain the same for a long time; but taking into consideration the price level in the two countries, they did differ; although I admit that after some time the internal price level will assert itself and bring the fofeign exchange ratio in line with itself.

6068. I think you are going a little in advance of the actual point with which I was dealing in my question, although no doubt you are referring to matters which are very relevant. Now let me put it from another point of view. As a matter of fact, if we consider countries in which there has been a currency system more approximate to that which you recommended than India has ever seen, have those countries under the stress of necessity ever felt the slightest difficulty in inflating when they felt the need to do so ? Let me instance what occurred in gold standard countries in the war ? No; as I say, gold itself may be subject to inflation. It was as we found in America itself, subjected to inflation on account of the enormous quantity of gold in circulation then. Might I put it in this way ? That convertibility for the purposes of foreign exchange is insufficient; that is the point I am driving at. Convertibility, if it is to be an effective convertibility, must be convertibility without question; it must be convertibility for all purposes, although if I may just say so I am not in favour of a convertible currency, as you will see from my memorandum.

6069. Possibly a certain confusion may be introduced by the analysis of convertibility into internal and external convertibility. What is essential, is it not, in a sound system of currency, now that gold is to be once more apparently accepted as the world's

international payment, is that the unit of internal currency should be stably related to a definite gold value ?—I do not quite accept that; it may be stable for international purposes ; it might not be stable for internal purposes.

6070. I do not think I managed to make my question quite clear. I understand what is desired by you in your recommendations is that the unit of currency which is used internally should be stably related to a gold value ?—I am really more for the use of gold. I am opposed to any kind of system which will economise gold under the present circumstances. Because I think that economy of gold is incompatible with security of price. My standpoint is very different from the standpoint of other people. I may be a little barbarous in my view.

6071. Not at all. Let us examine what your real idea is. What is your ideal to be attained in the organisation of the currency of a country ? It is not that the internal unit should be stable in relation to gold ?—Oh yes, it should be stable—not in relation to gold but stable in terms of commodities.

6072. By what methods do you recommend that India's internal *currency* should be stabilised, that is, in relation to what, and, secondly, by what methods ?—It should be stabilised more in relation to commodities rather than to gold, which is used only for purposes of internal trade. And I say it should be done by stopping the coinage of rupees altogether, and prescribing the use of gold.

6073. If we reject gold as a standard of reference for the internal currency, what other standard of reference are we to adopt ?—That I have given here. That we should either go to the Compensating Standard of Professor Fisher or to the Tabular Standard of Professor Jevons. If you do not want to use gold and economise gold, then my submission is that you should go to one or other of those two.

6074. I am not sure that I am very intimately acquainted with Professor Fisher's standard, but are these both the same sort of proposals ?—They are very much the same except that Professor Fisher's Compensating Standard—they are really what I should say, I mean, the two sides of the same medal,

so to say. Professor Fisher would, for instance, alter the metal in the gold unit according to a certain index number, and Professor Jevons would allow more units to be given or less units to be given according to a certain index number. But I think those two are too complicated. I personally believe that a gold standard for all practical purposes is sufficient.

6075. Returning to what is practically possible, you are of opinion that the value of India's currency unit should be determined in reference to a certain quantity of gold ?—No, my submission is that India should have gold in currency. Gold should not only act as a unit of reference.

6076. Let me pass from that and ask you another question. Let me now deal with the view which you advance, which I understand is best expressed in paragraph 4 of your memorandum, sub-paragraph (2), where you say : "The whole world is suffering from a continuous rise of prices owing to the depreciation of gold. Anything, therefore, that will tend to appreciate gold will be to the good ; and if gold is to appreciate there must be a larger use of gold as currency." If I understand the precise force of that opinion, it is that the gold exchange standard tends to economise the use of gold, and that what is prudent and advisable is not that the use of gold should be economised and therefore that the gold exchange standard is bad?—Yes.

6077. And that is based upon the view which you take as to the future relation between the demand and the supply of gold in the world ?—Yes.

6078. You are of opinion that the future supply of gold is likely to grow in relation to the demand ?—No, not grow ; it will remain large because other people are not using gold, they are using paper, they are not in a position to use gold, so gold, even if it is not used, will remain large in quantity.

6079. First of all, a preliminary question in regard to that. Are you considering here the interests of India, or are you considering the service which India might render to the rest of the world ?—I have both in view.

6080. You think that, by doing that, India will be serving her

own interests and the interests of the rest of the world at the same time. Do you agree with the not uncommonly held opinion that a gold currency is an expensive system ?—Yes, it is.

6081. So that we have to consider, in the first place, the possible disadvantage to India of the expense involved. What are the advantages to India to set against that expense ?—It is that you get a more stable standard, which as Professor Cannan says is knave-proof and fool-proof.

6082. Now, as regards the prospect. The force of this contention would depend, would it not, upon the realisation of your anticipations as regards the supply of gold in the world at large ?—Yes.

6083. Would you agree that, supposing on the other hand there was to be a relative decrease in the world's gold supply such as might tend to a general rise in world prices, that then it would be to the advantage of India, as of other countries, to economise in the use of gold ?—Well, my reply is that we need not be afraid of an indefinite contraction. We have always got methods for increasing currency. We must guard against indefinite expansion which is always possible.

6084. If you have pegged the Indian currency definitely to gold through the gold standard and there is a relative diminution in the world's gold supplies, then any general fall in prices which must result would make itself felt in India also ?—Yes, but that could be guarded against by increasing our paper currency or otherwise by manipulating the paper currency.

6085. Is not that sacrifice very characteristic of the gold currency system, for which you yourself have selected that system ?—No, I am making gold the currency simply because I want to avoid the possibilities of indefinite expansion. As I say, you can always guard against an indefinite contraction. Falling prices can always be prevented.

6086. Now let me ask you a question as to the opinion you have formed that anything that would tend to appreciate gold would be to the good. Have you been able to arrive at any statistical estimates as to what the future of the relation between the supply and the demand of gold will be in the course of years

to come ?—Well, in my investigations I did some of them in 1923, when I was writing the book I had occasion to read some articles which appeared in the Harvard Business Barometer Series and I rather get the impression that there was no likelihood of any fall in the production of gold. And besides, my point is this, that the countries of the world are using so much paper that whatever gold supply we have is really very large. Those countries therefore that can avoid economising gold might as well do it to their own benefit and to the benefit of the rest of the world.

6087. I am not quite sure that I follow the latter part of your reply ?—What I say is that although the production of gold may not be increased physically from the mines, yet the use of substitutes for gold in modern days is on such a vast scale that the quantity of gold in the present circulation might appear to be large enough for a long period for the transactions of the world even without new additions from the mines.

6088. You have no more statistical calculations which you would care to put before the Commission as to your estimate of the future supply of gold ?—No, I have made no estimates.

6089. This is a matter, of course, which is of great importance for the consideration of the Commission, so let me put to you one or two estimates that I have been supplied with from other sources. These are estimates as to the effect upon general gold prices of the movement of the relation between the demand for gold and the supply of gold for a period of years. They are forecasts made at various dates by authorities, and they are referred to the year 1930. What is done is to measure the effect of the gold supply upon prices by trying to forecast the general level of prices in 1930 by reference to 1913 as the 100 standard, and thus to see what the future of the world in this regard is. I have here an estimate of Sir James Wilson, made in 1921, who estimates that the result of these factors will be that the general price level in 1930 will be stable at 115. That is a substantial fall, you see from the present figure which is round about 158. Then there is that estimate to which you have already referred, the Harvard Business Barometer, in 1922, which estimates that in 1930 the general price level should stand about

150, and should be stable at that figure. Then there is Professor Gregory, who makes an estimate in the near past, May, 1925, who estimates that the general price level will stand about 162 in 1930 and should be rising at that figure. So he is the one who is most of your opinion. And, finally, there is Mr. Joseph Kitchen, an eminent authority, who in July, 1925, made a forecast that in 1930 the general price level should be expressed by a figure of 120 and should be falling at that figure. Of these four attempts to forecast the position, three anticipate that the prices will have fallen at that time ; two believe that they will be stable at that lower level; one, Mr. Kitchen, believes that they will be falling at that lower level, and only one believes that they will be higher than they are now and rising. I will put it in this way. In view of these very careful attempts to estimate the situation does it not teach us the necessity of exercising great caution in making the assumption that it is unnecessary, in order to maintain prices stable, to economise the use of gold ?—I am rather in favour of falling prices rather than rising prices, and I am glad if they do fall and fall rapidly too. I think it is good for the nation that there should be a fall in prices rather than a rise in prices. So these estimates do not really deter me from making my proposal.

6090. Nevertheless, there is some different basis for your opinion ?—I take those opinions for what they are worth. I am not in a position to contradict them because I have never made any estimates. But somehow this is my belief that already the existing amount of gold is so large and the capacity of the countries of the world to use that currency, any currency, is so small that the supply of gold is likely to remain larger for a long period, and there is, in my opinion, not much chance of prices falling.

6091. Then there is a further question. I should preface it by saying that you are dealing here with the abolition of the exchange standard ?—Yes.

6092. In paragraph 5 you say, "The gold standard reserve is peculiar in one respect, namely, this : the assets, *i.e.,* the reserve and the liabilities, *i.e.,* the rupees are dangerously

correlated by reason of the fact that the reserve cannot increase without an increase in the rupee currency." I am going to ask you to expand that a little, and in order to show you what I think needs expansion, I would put these possible questions by a critic. Might not a critic say : you say that the reserve cannot increase without an increase in the rupee currency, and this critic might say, why should it ? He would say, if the rupee currency cannot increase without an increase in the reserve, would that not be a most desirable state of affairs ? Have you followed my point ?—I will explain in this way : for instance, there are the bank issues and the reserves of a bank. If you compare, for instance, the bank reserves with the bank issues and the currency and the gold standard reserves of the Government of India with the rupee issues, you will see this : that when the bank issues are limited, the reserves increase, and *vice versa*. But here you cannot, for instance, reduce the rupee currency without also reducing your reserve.

6093. My point is this. I say, all right, but look at it from the other point of view. However that may be, what appeals to me is that you cannot reduce your reserves without reducing your rupee currency, and that is what I desire to effect ?—Quite true, I admit that. But my submission is this. What is the use of a reserve, really ? Suppose you have an enormous reserve and you have also an enormous rupee circulation. Does the fact that you have a large reserve in store in some safe in any way affect the value of the rupee ? It does not. The value of the rupee will be affected simply by its quantity and the volume of circulation. Its value has nothing to do with the reserve at all. Backing absolutely has no effect on the value of currency except, of course, in times in which it is disorganised. It may lead to some confidence in that currency, but I submit that when currency has come to such a pass that people have to have some confidence, I say that currency has been absolutely inflated.

6094. Accepting no doubt, the proposition that the value of the currency will be ultimately decided by its total volume in relation to the business ?—What I say is this, that this relation

is so dangerously correlated, and I am sure you cannot indefinitely go on coining rupees simply because there is a gold reserve. If you go historically into this matter, my submission is that such has really been the case. In the history of India people who have had to deal with currency were so much infatuated by the idea that they must have some reserve that the coinage of rupees was really initiated for that purpose. The coinage of rupees in India in 1893 and 1898 when the Fowler Committee's Report was brought into operation and reforms were introduced is a point, Sir Edward Law was so much obsessed by the volume of rupees in circulation that he felt that there must be some reserve, and it was on this ground that he proposed to the Secretary of State that the Government should be allowed to coin rupees. If he knew properly that the value of rupees would maintain themselves if they were limited in volume, then he would certainly not have gone on increasing the currency. I am recommending simply what the Government of India recommended to the Secretary of State in 1893.

6095. To turn to the immediate point : the function of a reserve under these conditions is to maintain stability, is it not ?— I think a reserve ought not to be there. A currency is something like any commodity which maintains its value simply because of the law of supply and demand.

6096. Do you reject the proposition that the function of a reserve is to maintain stability ?—Yes, I do. I do not think a reserve has anything to do ; in fact, a reserve maintains itself when the currency is limited ; it does not maintain the currency.

6097. Let us now consider your practical proposals for the reform of the currency. You say :—"The following, then, are the requirements of my plan for the reform of the Indian currency :—

(1) Stop the coinage of rupees by absolutely closing the mints to the Government as they are to the public. (2) Open a gold mint for the coinage of a suitable gold coin. (3) Fix a ratio between the gold coin and the rupee. (4) Rupees not to be convertible in gold and *gold not to be convertible in rupees,* but both to circulate as unlimited legal tender at the ratio fixed by law." A question which does suggest itself to a practical man

there is, under those circumstances, how are you to maintain the ratio between the gold coin and the rupee, and how are you to prevent one going to a discount or a premium in comparison with the fall in accordance with the balance of the country's trade ?—Well, the rupee will maintain its value by reason of the fact that it will be limited in volume ; no more issues of rupees are to be issued.

6098. What is to prevent it going to a premium ?—It cannot at once go to a premium because it has a substitute in gold. Rupees are not to be convertible in gold. The rupee cannot go to a discount because it is limited in volume. No more rupees are to be coined. The rupee cannot go to a premium because there is the alternative of a gold coin functioning as currency.

6099. Then you say :—"But there is just this chance : that the existing volume of the rupee currency is so large that when there is a trade depression it may become redundant and may by reason of its excess lose its value. As a safeguard against such a contingency, I propose that the Government should use part of the gold standard reserve for reducing the rupee currency by a substantial margin so that even in times of severe depression it may remain limited to the needs of the occasion.' How would that operation take place ?—You simply call in rupees and not issue them again—by the process of calling in rupees up to a certain limit.

6100. So that the rupees would not, to that extent, be convertible into gold ?—It will never be convertible into gold, until the limit is reached, so that it will never be in excess even in times of depression—the rupee will not be convertible into gold and gold will not be convertible into rupees. Even as it is, I am not very much afraid that the rupee will go to a discount, but there is just this chance that it might and I therefore propose that safeguard.

6101. Coming then to the question of the ratio, you say : "In European countries the problem is one of deflating the currency, *i.e.,* appreciating it; in other words, of bringing about a fall in prices. In India the problem becomes one of inflating the currency, *i.e.,* depreciating it; in other words, of bringing

about a rise in prices. For a change from 1s. 6d. gold to 1s 4d. gold means this and nothing else. Should the currency be inflated to reach back the pre-war parity ?" Then you point out that the restoration of the pre-war parity is not a restoration of the pre-war price level because there is a change in gold prices ?—Yes.

6102. Further, you point out that : "Two things must be borne in mind in this connection. Existing contracts include those made at every stage of preceding depreciations and appreciations, and to deal fairly with all would demand that each one should be treated separately—a task impossible by reason of its complexity and enormity." I understand that the opinion which you emphasise there is that we have been passing through a period of violent fluctuations in the value of the rupee, that at every stage contracts have been entered into, and that it is impossible, as it were, to fix upon any, definite ratio which will do justice as between all these contracts made at the varying levels ?—Yes.

6103. Then you say that the great bulk of the contracts have been of recent date ?—Well, my information is really based upon a small note made by Professor Cannan in one of his articles in the "Statistical Journal."

6104. Are there any statistics available which would give us a correct estimate of the number of contracts ?—I think it is a guess for what it is worth ; a question of commonsense.

6105. Then you say, "It may be said that the centre of gravity of the total contractual obligations is always near the present." Those premises lead you to the following conclusion, that, given these two facts, the best solution would be to strike an average between 1s. 4d. and 1s. 6d. and say that it is nearer 1s. 6d. than 1s. 4d. I am not sure that I quite follow that. Your trend of reasoning would rather have led me to suppose that you would finally turn out to be a supporter of the 1s. 6d. rate ?—I say it may be nearer 1s. 6d. and away from 1s. 4d.

6106. What ratio would you suggest ?—It is difficult. Of course, I think 1s. 6d. would be just as good. It could not inflict any very great hardship.

6107. Then, finally, as regards the question of a rising and falling rupee ratio, your opinion is summarised in paragraph 9. You say : "Now if it is realised that a low exchange means high internal price, it will at once become clear that this gain is not a gain from one class at the cost of another class in the country." Which class gains and which class loses ?—The business class gains ; the labouring class does not. The price of all factors of production does not change. Wages do not change as rapidly as price and these are the classes who suffer.

6108. Have you any suggestion to make, either from the theoretical or practical point of view, as regards the important provisions as to the currency arrangements to provide elasticity to meet seasonal demands ?—As I hinted, of course, very briefly, if we want to make our currency elastic for seasonal proposes, we must some how see that the commercial paper which has given rise for trade transactions is converted to currency. So that commercial paper should be made more a basis for the issue of the currency than Government bonds. I think it would be to the good of India if we adopt the proposals in the German Imperial Bank. They adopted, of course, more or less the English Banking Act of 1894 with variations so as to suit the seasonal demands.

6109. That is a provision for the extension ?—For the extension for the time being of paper issues under certain regulations.

6110. That is a provision, is it not, for the extension of the fiduciary issue ?—Exactly.

6111. In return for the payment of a proportional tax ?—Yes, I think it is a sufficient safeguard for both.

6112. *(Professor Coyajee.)* The chief merit of the gold standard is, according to you, that it places certain definite limitations against possible fluctuations ?—Exactly.

6113. But, of course, there are certain things, for example, the provision from the mines is not based on how much currency is required by a country ?—Yes ; I may say that I am in favour of a gold standard simply because compensating systems are not workable. If they are workable, I would at once reject the

gold standard. I am not in love with it at all.

6114. Nor does the gold standard ameliorate the consequences of a trade cycle ?—No.

6115. Then there is only one point. In paragraph 5 you observe "I am necessarily in favour of the abolition of the gold standard reserve as being of no practical use for maintaining the stability of the currency." By analogy why not abolish the paper currency reserve also because the value of the paper depends upon its limitations ?—Quite.

6116. Would you abolish that ?—No, for this reason. Because we are not placing a fixed limit on the issue of paper. Under the scheme where I say we should abolish gold standard I am placing a definite limit on the issue of the rupees. In the case of paper currency, we have allowed the Government the discretion.

6117. Do you think that possible ? I will tell you why. Because with limited incomes and things like that, there is more scope as population increases for the use of rupee. Could you say for ever and for ever, we shall be coining gold and no rupees until possibility the quantity of gold in circulation will be ten times that of the rupee ? Would that be convenient to the country ?— I should think it would be. I would rather say that instead of using gold we use notes backed by gold. I do not mean that we should use gold from hand to hand.

6118. *(Sir Norcot Warren.)* Am I to understand from the latter part of paragraph 8 of your memorandum that you are inclined to the rate of 1s. 6d. rather than 1s. 4d. ?—I confess prediliction in favour of 1s. 6d.

6119. *(Sir Alexander Murray.)* There is one point, Dr. Ambedkar, which you referred to in answer to some questions put to you by the Chairman; you seem to suggest that the Government of India were somehow or other prepared to go on coining rupees simply in order that they may make profit between the bullion value and token value of the rupee. I want to know what you are referring to actually ?—I am referring to this : It is a historical bit of thing. When the Government of India, for instance, introduced reforms suggested by the Fowler

Committee, they felt that for a large circulation of the rupee they had not any reserve and the Fowler Committee in paragraph 60 of their Report suggested that if the Government coined rupees and keep profit to itself, that profit should be utilised as a reserve. Sir Edward Law who came on the scene in 1901, the period from which the coinage of rupees commenced, also felt that the volume of rupees was so large that some amount of reserve was necessary ; and I think he went on coining rupees sheerly because he felt that the reserve was wanted and the reserve could not be had in any other way except by coining rupees.

6120. You only *think* that ?—No, my point is this : I have read the despatch very closely and I feel that if Sir Edward Law had disclosed there that the rupee was coined to a premium because people did not want gold or any other thing to use in currency, then I could have understood that the rupee was coined in answer to the demand of the people. But there is not a single thing to that effect to be found in the despatch. He simply says that when we introduced reforms we did not take into account paragraph 60 of the Fowler Committee's Report.

6121. But he also, I think, in that despatch to which you refer laid down that there ought to be a gold reserve which estimated at 7 millions or something like that. Against this you say that he was issuing rupees ?—Quite so. Gold standard reserve is kept in gold. I say no reserve was wanted.

6122. You make a general statement here, Dr. Ambedkar, "Unfortunately there is abundant proof of such perversion in the history of the currency system in India. Already we have had foolish administrators who had been obsessed with the idea that a reserve was a very essential thing and who had therefore gone on issuing currency without any other consideration but that of augmenting the reserve" and you are now repeating it to the Chairman ?—I have used a much milder expression than that used by Professor Cannan himself in his book.

6123. But is it not the case that in 1895 that was actually suggested by a well-known Bombay financier and turned down by the Finance Member at the time ?—I find that in the despatch.

6124. One moment. In your book you actually give the name of the Bombay financier who suggested it and you give the name of the Finance Minister of the Government of India who turned it down ?—Yes.

6125. Then in your book you also give the name of a well-known politician who as recently as 1907-08 suggested the same thing and again it was turned down by the Government of India and as recently as 1919, you give a reference to another well-known economist. Then why do you repeat the statement to the Chairman that the administrators of the Government of India have not thrown overboard or turned down the suggestion when as a matter of fact you know that the administrators of the Government of India have turned it down repeatedly when it has been put forward by well-known Indian financiers ?—My reply to that is this : that somehow if you read the speeches in the budget delivered by every Finance Minister, for instance, I forget the names now, gentlemen who preceded Sir Edward Law; I think I can cite instances.

6126. Sir James Westland and Sir Clinton Dawkins ?—But they never agreed with that.

6127. No; it was suggested by an Indian to Westland who turned it down and again to Dawkins who turned it down ?— With due respect to your interpretation, Sir Edward Law did say that there should be gold standard sufficient to back all the rupees and the notes. I do not deny that. But I simply say this ; that other financiers stated that no reserve was wanted and the rupee would maintain itself and Sir Edward Law stated that the reserve was wanted and he coined rupees because he wanted the reserve. In fact, I have paid sufficient compliments to the training and the notions of Westland and Dawkins for turning down the proposals. I say they were right and Sir Edward Law was certainly wrong.

6128. Sir Edward Law did not say that he coined rupees in order to provide the reserve. He said that he should hold it as a backing against the issue. It is you that put in the interpretation that he did coin rupees for the other purpose ?—He says that in the despatch. Before the Fowler Committee there

were sufficient proposals of having a gold reserve and the Committee found that they were very costly, but slightly hinted that if a reserve was wanted, it might be had by coining rupees. The two gentlemen who preceded Sir Edward Law did not think it was necessary. But Sir Edward Law said it was necessary and coined rupees. I am not making a general charge. I have given praise where it is due. I can give you also the reference.

6129. I can verify all your references. What do you want to find there ?—That although the recommendation of the Fowler Committee was there that the Government of India could provide itself with gold reserve by coining rupees, Westland and Dawkins refused to pay any heed to that proposition, because they firmly believed that gold reserve was not necessary and that the rupee being limited in quantity it could maintain itself. But Sir Edward Law when he became Finance Minister felt that a reserve was necessary.

6130. Westland was the Finance Member before ever the Fowler Committee reported. I think he was away when the recommendations were brought into operation and Dawkins was the member in office when the Fowler Committee reported. But both of them turned down the suggestion which came from Indian politicians ?—There is no difference of opinion on that point.

6131. The only difference is that you are imputing to Sir Edward Law that he coined rupees in order to create a reserve. I say that he did not; that in the actual despatch he said that there was a gold reserve, I think, of 7 millions ?—If so, there is a difference between us.

6132. *(Chairman.)* I cannot see what conceivable advantage it can be to anybody to increase a reserve for the fun of the thing ?—Exactly, and people are under very big notions that a reserve is wanted and without a reserve a currency cannot work. I think it a very common superstition. It is there.

6133. *(Sir Alexnder Murray.)* I will give you the reference, pages 276 to 278 of your book, "The Problem of the Rupee" ?—Yes, Westland was there when the reforms were brought into being, page 276.

6135. What date was that ?—It is the Budget speech of 1898-99 after the reforms were introduced.

6136. It was in 1894-95.—No ; Dawkins comes on the next page. My reference is to the Financial Statement for 1898-99 at page 276. Then the passage from Sir Edward Law occurs on page 278.

6137. Will you excuse me for correcting you. You said your reference was to the Budget speech of 1898-99. As a matter of fact the reference you have made is from the speech of 1894-95 ?— He was also Finance Minister in 1899.

6138. He turned it down in 1894-95 ?—I mean there was no material difference between the Herschell Committee and the Fowler Committee and I am sorry if you think I have made any vile allegation against the gentleman.

6139. *(Sir Alexander Murray.)*—All I am doing is quoting what you say in paragraph 5 of your statement. All I say is there is danger of anybody falling into that trap.

6140. *(Chairman.)* And you maintain that in your book you have vindicated these eminent statesmen ?—Yes.

6141. *(Sir Purshotamdas Thakurdas.)* In paragraph 8 you refer to various countries of the world as "hankering for a return to the pre-war parity" and you say it seems to be universal. Then you go on "There is but this difference between India and the other countries. The other countries have yet to reach the pre-war parity. India on the other hand has in fact over-reached the pre-war parity." Those other countries to which you refer have had their currency very severely depreciated during the war ?—Absolutely.

6142. Not the solvent countries ?—I think these countries also which are very near their old parity find it difficult to go back.

6143. For instance, which countries have you in your mind ?—Well, I am talking of the proceedings of the Genoa Conference, which I do not carry in my mind, but I think for instance a country like Italy. France was at one time within measurable distance of pre-war parity.

6144. France now is perhaps worst off of all; therefore you are there remarking a difference between India and other countries whose currency was severely dislocated during the war period

and who have not yet been able to bring it round ?—My point is,even if we were in a position to go back within a measurable distance it would not be always wise or advisable to go back supposing we could.

6145. I will come to that later on ; I am only trying to point out to you that it may be said the comparison you are stating here between India and the other countries is one which cannot stand as far as currency problems and conditions are concerned. So far as the "could" is concerned, I mean the difference between whether we should and whether we could even if they (those countries with depreciated currencies) wanted to they could not go back ?—Very good; you have put it much better than I could have.

6146. Therefore if you compare India with the countries which got back to pre-war parity you find that those who could did go back to the pre-war parity ?—Yes, for instance England ; but there was also a strong current of opinion even in England that they should not.

6147. I mean in spite of the strong current of opinion you refer to they have reconciled themselves to the pre-war parity and you do not hear much complaint now about having gone back ?—I could not tell.

6148. You do not know, I see ; unless it can be said that those who went back made a mistake, there won't be anything particularly objectionable aganist those in India who want to return to the pre-war parity ?—No, I don't say that. I am really raising the question whether it is desirable.

6149. Now regarding the desirability of it, lower down you say the view is wrong ; you say both these views are fallacious. You say the restoration of pre-war parity is not a restoration of the prewar price level. Now do you think that exchange should be used as a lever for attaining price levels ?—No.

6150. Then, it does not appear to me very fallacious ?—No, I say this, although you cannot always say exchange and price level move together, yet .....

6151. Excuse me, my question was, do you suggest that exchange should be used as a lever for adjusting price levels ?—No, I do not say that.

6152. Therefore a change of ratio from that point of view was not desirable, as a lever for the adjustment of prices ?— Yes, it was not.

6153. No country has done it unless you can show that it was particularly desirable in the case of India as an exception ?— But it has happened in all countries.

6154. Which countries ?—All countries.

6155. If I may make my question clearer ..... ?—I do not think your question was put very clearly.

6156. I sometimes do put my questions not very clearly, admit. Which countries which could attain to pre-war parity did voluntarily go past it in order to adjust their internal price levels ?— No, of course they did not do that.

6157. Therefore where is the fallacy ?—Fallacy in this sense ; some people in doing this imagine they are going back to the old price level. That is a fallacy, because 1s. 4d. in 1914 is not the same as 1s. 4d. in 1925.

6158. But I mean those who do not base the demand for 1s. 4d. on the question of prices at all, they would not be making that fallacy ?—No.

6159. Then lower down you mention another point, I think. "If by restoring pre-wa r parity is meant the restoration of the pre-war level of prices, then the ratio instead of being lowered from 1s. 6d. inthe direcction of 1s. 4d. must be raised in the direction of 2s. gold." Then you say "the restoration of pre-war parity even nominally would be unjust." What have you in your mind by the words "even nominally" ?—Without looking to the price level.

6160. I thought you yourself agreed.....?—Supposing now, in 1925,1s. 4d. is the ratio as compared to 1914, that would be only a nominal change because prices have certainly changed.

6161. Where is the nominalness in regard to those who ask for 1s. 4d. as being the pre-war rate ?—You are asking for a definite change from 1s. 6d. to 1s. 4d. I take my starting point, as I have stated at the end of the statement from what we find actually there. I say, "In short, in matters of currency the real is the normal." I therefore start from 1s. 6d. as the normal.

6162. Now supposing the exchange to-day, when we are discussing the thing, was 1s. 8d., I take it you would urge the same ground for 1s. 8d. being confirmed as you have for 1s. 6d. being confirmed ?—Yes.

6163. So whether exchange had gone up to 1s. 6d. or not the ground would prevail irrespective of what other countries have done ; and irrespective further of how that point was reached ?— May I just explain it in my own way ?

6164. If you please.—The way in which I look upon this problem is this. To-day we have 1s. 6d. That to my mind means a certain price level. If you want us to go back to 1s. 4d., it seems to me we have to raise our prices. Without increasing the volume of currency we certainly cannot reach 1s. 4d., it seems to me we have to raise our prices. Without increasing the volume of currency we certainly cannot reach 1s. 4d. gold. Therefore the complete question to my mind is, shall we raise our prices from what they are today, so that we can go back to 1s. 4d. ? Now I being a member of the labouring community, feel that falling prices are better. That is my view of the matter.

6165. Let me take it the other way. You say, as you put it, that, being a member of the labouring community, that means from the point of view of the labouring class it is undesirable ?—Yes, and I may go further and say that from the national point of view too falling prices are better than rising prices.

6166. Now I suppose you heard the arguments that are being advanced that a high exchange, an exchange which is worked up to a higher point than where it has been 15 or 20 years at a stretch is undersirable in the interests of the producer. What would you say to that ?—All that it means is a depression of profits. I do want to make a distinction,—I do not know how far people will appreciate that,—between depression of industry and depression of profits. I think that distinction was made by Professor Marshal in his evidence before the Gold and Silver Commission. There might be a depression of profits, that is to say, the enterprising class may not get all that they would get if prices were to rise ; but it does not necessarily follow.

6167. Excuse me ; cannot I refer to the producer ? We will come to the investor later if you don't mind. But what about the producer : in his case the higher the exchange the less the number of rupees available to him ?—It does not matter to him at all, because he supends it. His cost of production also falls ; therefore it makes no difference. If he got 15 rupees, and if the 15 rupees purchased a certain amount of goods, and if five years hence he got 10 rupees, and that 10 rupees purchased as much as 15 rupees before, the change is only a change of counters.

6168. When the adjustment is complete ? But until then there is disturbance ?—Yes.

6169. Now let us look at it as far as the present goes. You think that the average Indian cultivator rarely employs any labour and cultivates with his own hands ?—Well, I suppose he does employ a certain amount of labour.

6170. In the ordinary course, for the adjustment to be complete, you would expect that the wages he pays to his labourers also go down ?—Yes. I mean if he wants to get the same amount of profit, I would say yes.

6171. Very well, if the wages of the farmer's labourer have not gone down you would admit that to that extent the farmer has a smaller profit ?—Smaller profit, yes, I admit that.

6172. And in cases where the farmer is just able to make both ends meet he loses ?—No. He does not get profits, but he does not lose. Profit is something else ; it is surplus.

6173. Where a farmer or a class of farmers in a district make just enough to make both ends meet they would be losing, inasmuch as the labour charges have not gone down in proportion ?—I do not know how you define profit. I define profit as surplus income.

6174. After paying all charges of production ?—Yes.

6175. If in 1921 a farmer made both ends meet and in 1924 when exchange was stabilised at 1s. 6d. as far as his produce is concerned and his labour charges have not gone down, he would certainly make less ?—He would lose part of his profits.

6176. He will save so much less ?—I would stick to the word "profit."

6177. He will make less profit ?—Yes; there would be a depression of profit.

6178. To that extent of course the producer will be a loser ?— If you think that he had a legitimate right to that profit, then of course you would be right in saying that he loses ; but not if it was a merely differential gain.

6179. As 1s. 4d. it was merely a differential gain ?—Yes.

6180. Lasting for a period of 25 or 23 years ?—As I say it all depends upon how you define it.

6181. How would you define it yourself ? So long as he is able to recover all that he has spent in production I do not think that he would be a loser.

6182. And you would apply that test to every person ?—I would say that he has made both ends meet.

6183. Do you think that would be the maximum which the average citizen would like to apply in his own ease ?—I can give no opinion upon that, I am afraid.

6184. Now, you mention in paragraph 8 : "Two things must be borne in mind in this connection," and lower down you say : "Existing contracts are no doubt of various ages." What sort of contracts have you in mind there ?—Leases for instance : and other contracts also, such as building contracts and so on.

6185. How would they come in with the question of exchange ?—They are money contracts just the same ; they are all money contracts.

6186. Every contracts, then, you mean ?—Yes.

6187. If a man was putting up a house in a mofussil rural place for 4,000 rupees, that also would come under this ?—Of course ; it is investment of money.

6188. You have in mind everything that involves investment of money in the country ?—Yes ; it has purchasing power.

6189. Then you say : "Given these two facts, the best solution would be to strike an average between 1s. 4d. and 1s. 6d." Why did you mention an average instead of 1s. 6d. ?—I say so because in 1925 there may be some contracts which were made when the ratio was 1s. 4d. Some contracts may be still subsisting made at that period when the purchasing power was at the rate of 1s. 4d.,

and therefore to give justice to all I think that is the best way it could be done.

6190. What about contracts in the shape of debts incurred before 1914 ?—I do not suppose there are many existing now.

6191. You think that all these debts payable by agriculturists to sowers are paid within a certain period ?—My personal opinion is that no commercial contract extends for more than five years, and the proportion of those is very very small. There is no statistical information on this. Professor Fisher has made in his book certain calculations to that effect. He writes there that the rate of interest varies sympathetically with the prices ; so that the rate of interest bears a certain relation to the rise or fall of prices. He then comes to the conclusion that most contracts are very very recent commercially.

6192. You mean about India ?—I mean generally ; I do not know about India in particular; there may be something peculiar in India, but I do not know why it should be so.

6193. Do you think things in India may be different ?—I should not think so unless there was some evidence forthcoming that that was so.

6194. You think that the problems in India are the same as in the West ?—I do not see why they are not.

6195. It would surprise you if they happened to have been admitted to be otherwise ?—It would surprise me.

6196. Regarding the adjustment of price levels, do you think that the adjustment is anything near complete now, owing to the disturbance in the exchange rate from 1s. 4d. to 1s. 6d.?—There would be some disturbance; that would be detrimental to the wage-earners if we went back from 1s. 6d. to 1s. 4d.

6197. The disturbance from the lower to the higher rate from 1s. 4d. to 1s. 6d.....?—Has been favourable to the labouring classes.

6198. Is that adjustment complete, or is there still any mal— adjustment of that ?—I could not say ; that is a matter of statistical investigation which I have not entered into ; but I suppose exchange has been stable at 1s. 6d. for a long time.

6199. How long do you think it has been stable ?—I cannot exactly say ; but certainly it shows signs of stability.

6200. How long ; have you any idea ? Some witnesses have said six months, some eight months.....?—I think somewhere there.

6201. Do you think that six or eight months is a sufficient period for judging this stability ?—I say due weight should be given to it, and therefore you should strike an average.

6202. But I think you have said in the *course* of your oral examination that you would be prepared to agree to 1s. 6d. ?— Yes, because it is nationally better; it would not inflate. That is what I say. If, even after 1s. 6d., the process of adjustment was not complete so as to enable us to say 1s. 6d. was really the level needed, I say we should establish it at that.

6203. Regarding the adjustment in the industries here, have you any idea at all ? Can you give us any opinion ?—None whatever.

6204. *(Mr. Preston) :* In case there should be any misunderstanding with regard to some of the answers which you gave to Sir Alexander Murray, in connection with that unfortunate reserve, the gold standard reserve, it may be well if we put on record some actual facts: the gold standard reserve came into being in the year 1901 and it resulted from profits earned from the previous April in 1900. The balance in the reserve to-day is 40 millions sterling, is it not ?—Yes ; I think it is about that.

6204A. The Finance Minister when he made his report on currency last year made the following statement: "As will be seen from the statement, the bonds and stock purchased are due for repayment within the next few years. Of the amount now standing at the credit of the reserve, £ 27,449,950 represents profits on coinage and the remainder represents accumulated interest on securities held in the reserve." You say that this reserve cannot increase unless there is more rupee coinage. How has that increase of one-third in the last three years come about ?—By interest on investments.

6205. Then if the interest on that reserve is kept being added to it, you are increasing that reserve for a useful purpose without having to adopt those methods which you so very strongly deprecate ?—Yes, undoubtedly.

6206. Just one more point as to the usefulness of that reserve. It will be within your knowledge that in the period of the world's depression in 1908 that had it not been for that very reserve we could never have maintained our external parity; you admit that ?—Yes.

6207. Thank you ?—Although, of course, something has gone in to which I ought to take exception—by saying that I am in favour of increasing the gold standard reserve by investments. If a reserve is invested there is no reserve at all.

6208. *(Sir Reginald Mant.)* I understand your chief desideratum is stability of internal prices ?—Quite.

6209. And you hold that that stability will then be linked to gold prices, will they not ? They will vary with the gold prices ?—Yes.

6210. Internal prices will then be linked to gold prices, will they not ? They will vary with the gold prices ?—Yes.

6211. Now a gold exchange standard without a gold currency has been recommended by several people with the same object in view ; but I understand you to hold that it will not achieve that object ?—I think it has not, so far as India is concerned.

6212. I was not speaking of what has been done in the past; it has been represented to us that if a gold exchange standard were made automatic it could secure those objects ?—I do not know ; there may be some people who hold that view, but I cannot see how it could be held.

6213. I want you to explain why a gold currency would achieve it and the gold exchange standard would not ?—My first ground is this : that the exchange standard depreciates gold and makes it therefore useless as a standard of value. A gold exchange standard causes a redundancy of gold by its economy.

6214. Ought you not to put it the other way, and say that if we introduce a gold currency here we shall appreciate gold ; would not that be a more correct way of putting it ?—You might put it that way, yes. Therefore under the present circumstances gold would behave as a better standard of value. My next submission is this, are we really effecting economy by the exchange standard ?

6215. I was not raising the question of economy. I was trying to get at the reason for your holding that nothing but a gold

currency would effect your object of keeping internal prices linked with gold ?—Stabler than they would be otherwise is what I said. If we adopted a gold standard our prices would be more stable than they would be under an exchange standard. I did not say that under a gold standard they would be perfectly stable because gold itself is not a perfectly stable standard of value ; but certainly it would be more stable than under an exchange standard.

6216. Because simply we should be using more gold ?—Yes.

6217. That is your only reason for differentiation ?—Yes.

6218. *(Sir Maneckji Dadabhoy.)* Let me proceed a step further with regard to the answers you gave to Sir Purshotamdas Thakurdas : in paragraph 8 you say "Existing contracts are no doubt of various ages ; but the great bulk of them are of very recent date and probably not more than one year old ; so that it may be said that the centre of gravity of the total contractual obligations is always near the present." When you are referring to this matter, I understand you are speaking without any definite statistics ?—Yes ; I simply say there has been a calculation made by Professor Fisher.

6219. You state this as a sort of generalisation ?—Yes. I said I had no definite information.

6220. When you speak of a centre of gravity of the total contractual obligations being near the present, it is not a very definite term. Would not that centre of gravity come within the circumference of twelve months ?—Yes, somewhere about that; because I have said one year old.

6221. So that, if a certain ratio prevailed twelve months ago, we would be, according to your reasoning, as much justified in taking that as 1s. 6d. ?—Quite ; yes.

6222. So you would be as much justified in taking that ?—Yes.

6223. Then when discussing this matter and when you expressed your election in favour of the 1s. 6d. ratio. I understand you founded your opinion on the dictum of Professor Fisher ?— Yes.

6224. Now we have got this dictum of Professor Fisher before us ; the words used are :— "The problem of a just standard of money looks forward rather than backward ; it must take its

starting point from the business now current, and not from imaginary pars before the war." ?—Exactly.

6226. Don't you think that Professor Fisher when he laid down that dictum had European conditions before him only ?—Yes, but that would apply almost to any country. It is a general proposition.

6226. My question is did he not have European conditions in view only when he said that ?—I cannot say.

6227. *(Chairman.)* The witness replied that he thought it would apply to any conditions ?—Yes, it is a genera! proposition.

6228. *(Sir Maneckji Dadabhoy.)* Is that conclusion justified by these expressed words ?—I should think it is.

6228A. YOU think it is ?—He says further, he does not only refer to the war,—he says : "One might as well talk of restoring the original silver pound or returning the monetary standards of Greece and Rome."

6229. Now, you know very well that this ratio of 1s. 6d. has continued in India for the last 16 months only. Now, if we take this period 16 months in Indian conditions, what would you say when you think of any imaginary pars before the war ? Do you think in India a period of 16 months would make any substantial difference in coming to a conclusion ? He is referring to the imaginary pars before the war; he takes a longer period ?—No, no. He is simply referring back to 1914, to the parity which existed in 1914. I say, if according to information 1s. 6d., has been in existence for 16 months, then I say it ought to be confirmed.

6230. Yes. But if previous to that, with a brief interval of some years, it has ranged equally for 20 years at 1s. 4d. you would brush aside all those considerations ?—Yes, because there are no contracts now existing that were made 20 years ago. And therefore we need not be concerned about it.

6231. This is your argument ? And you would also brush aside its economic effect both on agriculture and on the industries of the country ?—I say they will be very good. By bringing the ratio to 1s. 6d. I say there might be some depression of profits, but there won't be depression of industry.

6232. Yes. So you don't attach great value to those factors. You think on the whole it will be for the good of the country ?—Yes.

6233. I will put you another question, a little bit imaginary. We will take 6 months to write out our report. Within the next 6 months if the ratio becomes 1s. 8d. I suppose you would be justified in taking that according to you as the basis of your calculation ?— Then I would again say, you should strike an average.

6234. Between 1s. 8d. and 1s. 6d. or 1s. 4d ?—Between 1s. 8d. and 1s. 6d.

6235. And you think that would be a sound financial polity ?—Well I don't know. You have to strike some sort of average. You can't do justice to each individual contract. For instance, if you take the example of the American War of Independence and the monetary fluctuations that took place then, all that the Americans could do was of course to do this kind of thing.—to strike an average and to dissolve all contracts on that basis. They could not do justice to each individual contract. It is impossible.

6236. *(Sir Henry Strakosch.)* Dr. Ambedkar, I want to refer back to some statements which you made in regard to the undesirability of introducing a gold exchange standard. At one period of your evidence you stated that the convertibility into exchange would not limit the issue of the currency and would therefore not produce stability of internal prices. That was one of the objections you raised and then at another point you said that the gold exchange standard is not a desirable standard because prices would be less stable under it than under a full-fledged gold standard ?—Yes.

6237. Now, you are a student of economic affairs and you have no doubt followed the proceedings of the Genoa Conference ?—Well, I did when I was in London. Recently of course I have not. But I know that the gold exchange standard was proposed.

6238. Well, you will remember that the Genoa Conference an International Conference adopted unanimously a proposal enjoining the countries to adopt the gold exchange standard with a view to stabilising the purchasing power of gold and that they recommended for that purpose the co-operation of central banks ?—I don't suppose they did it with a view to stabilising the purchasing power of gold ; they did it to stabilise their own currency.

6239. They stated definitely it was to stabilise the purchasing power of gold. Anyway, you can take it from me that it is so. Now, that is an international body and they have come to that conclusion and they apparently do not share your view that the gold exchange standard does not produce, as great a measure of stability internally as the gold standard ?—Oh no. My submission is that we are comparing the gold exchange standard to a purely inconvertible standard. The belligerent countries had during the war an absolutely inconvertible currency and certainly an inconvertible currency is much worse than an exchange standard because it has some convertibility. As I have stated myself in sub-paragraph (2) to paragraph 2. They were not comparing the gold standard to the gold exchange standard ; they were comparing the gold exchange standard with the paper currency they had.

6240. But I submit they did not compare at all. They made a recommendation ?—But in reference to the circumstances that existed then—I should limit it that way.

6241. Well, anyway, that is a fact. Now, quite apart from that, I am not quite sure what makes you think, apart from a change in the purchasing power of gold itself, why the gold exchange standard should not be as stable as the gold standard. I don't quite follow that, and, before you answer, I should like just to define what I understand by a gold exchange standard. A gold exchange standard is a standard where there is circulating within the country a currency which is not convertible internally, but which is freely convertible externally, and you could make that currency convertible into gold for export purchases. Now, taking that standard, I should be very glad if you would tell us why such a standard is less able to maintain stability than a gold standard ?—I follow your question, Sir. And my reply is this. Convertibility is a means of limiting the volume of currency to the needs of a country. A convertibility which is intended only for external purposes is not of sufficient efficacy to limit the volume of that currency. Consequently you cannot have stable internal prices to such a currency.

6242. Why do you say that it is less efficacious than convertibility for internal purposes ?—Because convertibility to be effective must be absolute.

6243. But it is absolute ?—It is not.

6244. But obviously it is. It is absolute. The difference is only that in the one case you convert into international money for international purposes, and in the other case you convert for either international money which is used internationally or international money which circulates within the country ?—No, no. The point is this. When your obligations to convertibility are imperfect as in the case of the exchange standard you are likely to issue more currency without fear.

6245. But you just said that the obligation to convert limits the issue in both cases ?—Yes, but converting depends upon the efficacy of the means of convertibility. If your convertibility is absolute, that is to say, if an issuer is bound to convert whenever he is presented with his currency, then that convertibility is absolute.

6246. But my proposition was that the gold exchange standard binds the issuing authority to convert the internal token currency into gold for external purposes ?—And not for all purposes.

6247. Now, I want to know why the obligation to convert the token currency for internal purposes should increase the stability of the purchasing power of that money ?—Because the principle is that any commodity, and currency included, maintains itself by the fact that it is limited in volume, in supply. That is the first elementary proposition of political economy ; that any commodity maintains itself by reason of the fact that the supply is limited. If the commodity supplied is not limited, it is bound to depreciate.

6248. Do you then contemplate that in your gold standard with gold currency, there should be nothing but gold coin circulating ?—No, I say that the rupee shall circulate.

6249. And no bank notes ?—Yes, there will be bank notes : why not ?

6250. Then, I don't see how you are limiting more effectively the internal issue in the one case than in the other ?—Because am saying that the mint shall be closed.

6251. What about the issue of bank notes?—They are covered. A covered note issued is not an addition to currency.

Supposing you deposit a certain amount of gold in the bank and you issue so much currency to cover it, that currency is not an addition to the currency.

6252. Oh, you want to have notes covered by 100 per cent, gold ?—Well, I don't say 100 per cent gold.

6253. Then how will you limit it ?—I mean convertibility is a method of limitation. I will have paper currency which is fully, absolutely convertible and not merely for the purposes of external trade. And I will have the rupee absolutely fixed in limit. So that it will maintain its value by reason of the fact that it is limited. The paper currency will maintain its value by reason of the fact that it is convertible.

6254. And how will you manage the seasonal requirements of currency ?—Well, I say you can expand the fiduciary portion of the currency so as to allow for currency being issued against paper during seasonal demand.

6255. Do you not put it here at the discretion and will of the issuer ?—Yes, but there is this convertibility which regulates the discretion. Convertibility is a means by which the will of the issuer is regulated. There will be no danger. Although I admit that even under the gold standard, the gold may absolutely pass out and the country may only be inundated with paper notes.

6256. Would you say that the obligation to convert into an international currency at two given gold points is sufficient to ensure the stability of money, because, if you over-issue internally, your money will depreciate in relation to gold ?—Yes, I admit it, but it will be long after. There will be a long interval before that thing may happen and in the case of some countries, it may not happen.

6257. How was the gold standard worked before the war in Europe and other countries ?—It worked on the basis of convertibility, not only convertibility for external purposes.

6258. But was that standard not in the main worked, by the central banks not converting into gold but holding foreign exchange, and only in the last resort was gold flowing from one centre to another ?—But their arrangements as to convertibility were perfect and absolute.

6259. You also know that a great many of the countries on the Continent of Europe who had perfectly stable currencies had practically no gold in circulation ?—Yes that was so.

6260. *(Chairman.)* We are much obliged to you Doctor, for your very full assistance to-day.

(The witness withdrew.)

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THE PRESENT PROBLEM IN INDIAN CURRENCY-I*

2 Shillings *Versus* 1s. 4*d*. *Ratio*

The Great European War was the most abnormal event within living memory. During its disastrous course it touched nothing which it did not upset. But of all the things it touched none received a more violent shock than did the currency system that today one finds that the German mark, the Austrian crown, the Russian rouble, the French franc and the Italian lira, to mention only a few of the world's chief units of account, have lost their moorings and travelled far and wide from their original parity. Even the British pound succumbed and the rupee which was never in the thick of the war escaped the fasteners contrived by its guardian to keep it steady.

In the course of reconstruction which has followed the close of the War it is natural to find people desirous of a return to the prewar conditions of currency. In sympathy with this universal demand there has arisen to India a party with a definite programme in that behalf. In the opinion of this party Indian currency should be stabilized at the ratio of 1s. 4d. to the rupee which was the pre-war ratio of Indian currency. To this demand the Government of India seems to be opposed, not because that ratio is not good but because in its opinion it is not better. It wants or rather aims at having a 2 shilling ratio for the Indian currency. As every one is aware many Governments in Europe, apart from the wisdom of doing so, would indeed be thankful if they could only restore their currencies to their pre-war ratios—so far are they away from them.Indian currency on the other hand has already reached its pre-war ratio. In view of this the attitude of the Government of India in not being satisfied with a return to the pre-war conditions seems to be that of a naughty child always asking for more.

*The Servant of India — April 1, 1925

It is this controversy that I wish to make the subject matter of this paper. At the outset it is necessary to realise that this controversy involves two distinct questions : (i) Should we stabilize our exchange and (ii) What should be the ratio at which we should stabilise ? These two questions are distinct questions. But when one reads what the two parties have to say one sees that neither the Government nor its opponents have made it clear whether their aim is to alter the worth of our unit of account, i.e. to put a new value on it or to stabilise it at its existing value. I am afraid there can be very little advance in the direction of rehabilitation of our currency until these two questions are completely separated. For, not only is the aim of altering the worth of a currency distinct from that of stabilising true that those who want to alter the worth of the currency wish in the end to stabilise it when the worth desired is attained.

But so far as the transit period is concerned, to say that we are stabilising the currency when we are altering its worth is to create confusion. For, the latter involves a deliberate policy of changing the ratio ; while the former means a deliberate policy of keeping it steady.

Before I enter upon the discussion of these two-distinct questions it is, I think, necessary to make sure that we understand exactly how an exchange ratio is determined. For unless we grasp this, we can never intelligently follow the bearings and implications of the two questions that arise out of this controversy. To put it simply, an exchange ratio between two currencies or units of account means the value of one in terms of the other. Now, a unit of account is value in terms of another unit of account not for its own sake, unless it is wanted as a curio, but for what it will buy ; so that we can say, for the purpose of introducing the subject in a concrete form, that Englishmen will value Indian rupees in as much as and in so far as those rupees will buy Indian goods. On the other hand, Indians will value English pounds in as much as and in so far as those pounds will buy English goods. It, therefore, follows that if rupees in India rise in purchasing power or remain stationary or rise less rapidly while pounds in England fall in purchasing power (i.e. if the Indian price level falls relatively to the

English price level) fewer rupees would be worth as much as a pound. In other words when rupee prices in India will fall the exchange value of the rupee in terms of the pound will rise. Contrariwise if rupees in India fall in purchasing power while pounds in England rise in purchasing power or remain stationary or fall less rapidly (i.e. if the Indian price level rises relatively to the English price level) fewer pounds would be worth as much a rupee. In other words, when rupee prices in India will rise the exchange value of the rupee will fall. From this we can lay down as a general proposition that the exchange ratio of two units of account is on a par with the exchange ratio of their purchasing powers. This is in short the doctrine of Purchasing Power Parity as an explanation of a particular exchange ratio between two currencies or units of account. I insist upon a firm grasp of this doctrine because I find some of our leading lights seem to hold that a particular exchange ratio is the result of the balance of trade. This view is somewhat difficult to understand. For as a matter of fact, in international trade, wherein exports pay for imports, there is never such a thing left as an unpaid balance. It is true that a part of the trade dues are paid for by money; but there is no reason why the part liquidated by money should be spoken of as a balance. All that it means is that money enters into international trade just as other commodities do. There is nothing peculiar about money in that. Nor is there anything peculiar in the variation in the extent to which money enters into international transactions. The extent to which money enters into trading transactions of a country is governed by the same law of relative value as is the case with any other commodity. The commodity which is relatively the cheapest tends most to go out of the country. At one time it may be cutlery and at another it may be oranges and at a third time it may be money. If no one speaks, as one may very well do, of a balance of trade in terms of cutlery or oranges when after a stage of normal equilibrium more of them go out of the country than they did before, there is neither rhyme nor reason in speaking of a balance of trade in terms of money when after a stage of normal equilibrium more money goes out of the country than it did before. This usage is, however, pardonable as being a harmless survival of the mercantilist days.

But what is grossly absurd and foolish is the view that the exchange ratio of a unit of account is determined not by its purchasing power but by the balance of trade. This view is a pure inversion of cause and effect. It is true that a fall in the exchange value is accompanied by an adverse balance of trade and a rise in the exchange value by a favourable balance of trade. But an adverse balance of trade in the sense that commodity exports are falling off while commodity imports are rising evidently means that the particular country has become a market which is good to sell in but bad to buy from. Similarly, a favourable balance of trade in the sense that commodity exports are rising while commodity imports are falling off evidently means that the particular country has become a market which is good to buy from but bad to sell in. Now a market is good to sell in but bad to buy from (typified by the case of a fall in the exchange value accompanied by an adverse balance of trade) when the level or prices ruling in that market is higher than the level of prices ruling outside it. In the same way a market is good to buy from but bad to sell in (typified by the case of a rise in the exchange value accompanied by a favourable balance of trade) when the level of prices ruling in that market is lower than the level of prices ruling outside. This simply is another way of stating that lower prices means a high exchange value and a favourable balance of trade and that higher prices mean low exchange value and adverse balance of trade. The balance of trade is thus the result of the changes in the exchange value and not vice versa, and exchanges in the exchange value are the result of changes in the price level, i.e. changes in the purchasing power of units of account. This is the most fundamental fact and although some might resent the digression as feeding the baby I think it was necessary. For many people talk hopeless nonsense about stabilization of exchange and fixing the exchange at choice ratios as though it had nothing to do with the question of prices. On the other hand changes in exchange are ultimately changes in the price level and as much have profound bearing upon the economic welfare of the people. Remembering then that regulating exchange is the same thing as regulating the purchasing power of the currency, we may proceed to discuss the two questions that arise out of this controversy.

Firstly, should we stabilize the exchange value of our unit of account ? As I have said above, foreign exchanges compare in value of the currency of one country with that of others. It follows that exchange values of two currencies are important only to merchants who do not buy and sell in the same country. Again, it is of no consequence to them what the exchange value is, i.e. whether the rupee is worth 1s. or 2s. provided the figure is always the same and is known in advance. It is only changes or fluctuations in the given exchange value that is of any moment to the merchant. What he wants is this invariability of exchange ; to ensure this invariability is the problem of stabilization. Under the present circumstances can we guarantee this invariability of exchange ratio to our merchants ? To answer this question we must recall the basic conception of the purchasing power parity as an explanation of the exchange ratio. From that doctrine it is clear that if you want to stabilize exchange you must control the purchasing powers of the two currencies concerned so that their movements will be alike in depth as well as in direction. To stabilize exchange we must have therefore some controlling instrument which would act as a common regulator bringing about proportionate changes in the two currencies in the same direction. Hitherto one such good instrument had been found and that was a common gold standard. That standard has now been destroyed all over the world except in the United States. Consequently an automatic stable exchange on the basis of a gold standard is impossible for the present, except with the United States.

Hitherto one such good instrument had been found and that was a common gold standard. That standard has now been destroyed all over the world except in the United States. Consequently an automatic stable exchange on the basis of a gold standard is impossible for the present, except with the United States. As regards countries which are on a paper basis, stabilisation of exchange can be secured only on two terms (i) Since we cannot control the currencies of other countries we must be prepared to manipulate our currency in sympathy with theirs and be ready to appreciate it when they depreciate theirs, (ii) Without manipulating the whole of our currency we should be prepared

to sell and buy foreign exchange at a fixed ratio. Both these projects for securing invariability of exchange must, I think, be rejected as injurious as well as hazardous. There is no doubt that stabilisation will promote, as nothing else can, the revival of international credit and the movement of capital to where it is most required. One of the most vital parts of pre-war organisation would thereby be restored and an element of uncertainty would vanish. Markets given up as lost would be again nursed, which would give an impetus to trade and industry. But there is no doubt that the benefit to be derived will not be worth the cost involved. Our external transactions are infinitesimal as compared to our internal transactions. To dislocate our internal arrangements by constant changes in our price level to preserve external parity is too big a price for a gain which is after all paltry. For, our merchants must remember that though fixity is a great advantage, yet its absence is not an absolute bar to the carrying on of international trade. We have an instance of this in the history of our own currency. For two full decades between 1872-1892 there were the greatest oscillations in Indian currency. Then as now our merchants did clamour against the instability of exchange being an hindrance to trade. But our history shows that even under fluctuating exchange they did thrive and prosper and it may be hoped that their sons may instinctively know how to do the same. Should this fail to carry consolidation, one would recommend the movement of our price level even if it involved the management of our currency, had the Governments of the European countries not been in such an impecunious condition. As it is, by conseting to move our price level in sympathy with theirs we would be committing our welfare to the care of bankrupt governments and their desperate ministers. A currency which is managed on a basis approved by science would no doubt do the best. To be linked up with a currency which is managed solely to meet the exigencies of trade would be tolerable. But it would be an intolerable management of our currency to join hands with a partner who is living on his currency to keep himself going.

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THE PRESENT PROBLEM IN INDIAN CURRENCY*

2 Shillings *Versus* 1s. 4*d*. *Ratio*

So far for the first question. Now I turn to the another question arising out of this controversy, namely, at what rate should we stabilize our currency ? Interpreted in terms of purchasing power, the question reduces itself to this : Shall we bring about a fall in the existing price level, i.e. raise the purchasing power and thereby the exchange value of the rupee ? Now, changes in the value of money, if they affect all transactions and all classes equally, would be of no consequence and such questions as the above would not be worth any discussion. But as we all know, when the value of money changes it does not change in a uniform proportion for all purposes so as to affect a man's incomes and outgoings to the same extent. Consequently before we fix upon the direction in which to move our price level we must make sure whether the incidence on the welfare of the different classes of our society would be such as would be just and proper.

In the present organisation of society a triple classification into the Investing Class, the Business Class and the Earning Class corresponds to a real social cleavage and an actual divergence of interest. As it is, the business class is the centre of all economic activity; on the one hand it borrows money from the investing class and on the other it employs the earning class. There are money contracts, agreements to pay so much money. If after these money contracts have been entered into, the value of money changes one way or the other, it is obvious that the contracts will be falsified. If the value of money decreases, i.e. if prices rise then the investing and the earning classes are injured and the business class is benefited. The investing class and the earning class, it is true, do get from the business class the amount

* The Servant of India, April 16, 1925.

of money contracted for, But it will be seen that when owing to the rise of prices the business man is getting more money for his product than he would have got if the value of money had remained stable, he is not only paying to the other classes, the same amount of money but he also is payable them in money of smaller worth. In the same way if the value of money increases i.e. if prices fall then the business class is injured and the investing and the earning classes are benefited. As before the business man no doubt pays to the investing and earning classes the same amount of money contracted with them. But it will be seen that when owing to the fall of prices the businessman is getting less money for his product than he would have got if the value of money had remained stable, he is not only paying to the other two classes the same amount of money but he is also paying them in money of greater worth.

Clearly then if we move down towards 2s. ratio, i.e. bring about a fall in our prices we shall be favouring the investing and the earning classes of our society. On the other hand if we move up towards 1s. 4d. ratio we shall be favouring the business class of our society. To be just, an exhaustive estimate ought therefore to be made of the volume of outstanding money contracts entered into by the business class including the Governments with the investing and earning classes classified according to their age. It will then be found that the contracts outstanding at any given time include those made at any and every stage of preceding depreciations and appreciations for the last 100 years. To do justice to each and every one of them it would be necessary to fix upon different standards according to the value of money prevailing at the time when they were made. But it would be a physical impossibility to make separate standards, for separate contracts. If all contracts now existing had been entered into in 1914, then ideal justice would clearly require us to restore the pre-war par of currencies by such deflations as would reduce the general level of prices to exactly that of 1914. If, on the other hand, it was found that all contracts now existing happened to have been entered into in 1924, justice would require that we should retain the level of 1924. Undoubtedly the best we can do is to move between these two

extremes. Now the two extremes of the exchange value of our rupee during the period are 1s. 3 $^{7}/_{8}$d. and 1s. 6d. This may be surprising to some. For it is well-known that at one time the rupee had gone to 3 shillings and our statute recognizes the rupee as equivalent to 2s. gold. But in my opinion we must disregard that together. It may at once be said that among the reports published by the various committees, that were appointed from time to time to investigate into Indian currency none was so stupid as the report of the Babington Smith Committee on whose recommendations the statute was framed. It was such an ignorant Committee that it could not understand the problem it was appointed to investigate and consequently it ended by making a mess of things. As is well-known the Committee reported that the value of the rupee should be raised to 2s. gold. That was tantamount to saying that the rupee had appreciated ; that in other words prices in India had fallen. How did the facts stand ? The following table conveniently sums up the whole story.

Date	Price of Bar Gold in India (Bombay) per tola of 180 gr.	Price of silver in India (Bombay) per 100 tolas	Index number for prices in India 1913=100
...	Rs. As.	Rs. As.	
1914 ...	24—10	65—11	...
1915 ...	24—14	61— 2	112
1916 ...	27— 2	78—10	125
1917 ...	27—11	94—10	142
1918 (July) ...	34— 0	117—2	178
" (August) ...	30— 0	...	...
(September) ...	32— 4	...	...
1919 (March) ...	32— 3	113—0	200

From the table it is evident that, far from having appreciated, the rupee had tremendously depreciated. The price of silver had no doubt risen beyond conception and the Committee adopted without much ado the conclusion that the rupee had therefore risen in value. As a matter of fact this very circumstance was proof positive that the rupee had gone down in value : in terms of silver

as well as in terms of commidities in general. If in 1920 more rupees were wanted to purchase the same amount of silver than in 1913 it meant that the rupee had fallen in value. The Committee blundered because it failed to separate the rupee as a currency and measure of value from the rupee as an ingot of silver. The 2s. gold exchange value of the rupee as a measure of value was never a fact and we are therefore perfectly justified in not taking that limit into account in the solution of our present problem. The only justification if it can be held to be a valid justification, that could be urged in favour of 2s. gold ratio consists in this. Some of those who ask for 1s. 4d. ratio do so because in their opinion it means a return to the pre-war conditions. Now if it is a return to the pre-war conditions that is desired then Government may well say that measured in terms of prices 1s. 4d. in 1924 is not the same thing as 1s. 4d. in 1914. Many people do not seem to realize this. But it is an incontrovertible fact. Both in 1924 as well as in 1914 exchange was 1 s. 4d. But the index number of sale prices in India was 176 in December 1924 while in July 1914 it was only 100. It therefore follows that if we want a return to the pre-war conditions then it will not do to have 1s. 4d. as the exchange value of the rupee. For a return to the pre-war conditions, meaning thereby pre-war price, we must reduce our existing prices by 76% i.e. raising the value of the rupee by 76%. This of course ultimately means a ratio of 2s. But it may well be asked why should we return to the pre-war conditions ? There is no necessity to do that. It must be remembered that old contracts are no longer in force. Most of them have been executed and whatever wrong was done to them in their execution cannot now be remedied. Besides, it must not be forgotten that though the monetary contracts outstanding at any given time are of various ages,—some are a day old, some a month old, some a few years old, some a decade old and some even a century old—yet most are of a very recent date. That being so, we must choose our starting point for a new standard from the level of current business and not from the levels operative before the war. To do otherwise simply because it would give us a low level of prices is to dislocate our trade and industry and thereby jeopardise our prosperity. To raise the value of our money by 76%

above its present value will mean to every merchant and every manufacturer not only that his product will fetch 76% less, but that he will have to give 76% more to the investing class from whom he borrowed and to the earning class whom he employed. The burden thus imposed upon the active and working elements of society would be intolerable. I must however guard against a possible misunderstanding. No one should imagine that because I am against lower prices I am for higher prices. All I insist upon is that we must not complain against high prices once that level is established. For things having adjusted themselves they are our normal level. A pre-war level would be abnormal and must therefore be rejected.

We must therefore choose between 1s. 3 $^{7}/_{8}$d. and 1s. 6d. As for choosing one or the other of the two we should be guided by what is fair and just. We want that enterprise be helped against accumulation and we probably wish that the rich should go richer. But I am sure none of us wants that the instinct of having, which is the foundation of capital, should be discounted or that poor should go poorer. But this would exactly be the result of a swing towards 1 s. 6d. On the other hand, though we want capital to grow and the poor to fare better yet none of us wants that industry be set at naught. And yet this would be the result of keeping to 1s. 6d.

I for myself would choose 1s. 6d. as the ratio at which we should stabilize if we can and for the following reasons. (I) It will conserve the position of the investing and the earning classes ; (2) It does not jeopardize our trade and prosperity by putting any extra burden upon the business class ; and (3) being the most recent in point of time, it is likely to give greater justice to the greatest number of monetary contracts most of which must be recent in time.

Fortunately for us we are not dependent upon other countries for the stabilisation of our price level, as we must necessarily be for the stabilization of our exchange. In exchange stabilization we could not even if we would. But in the stabilisation of our prices we could if we would. It would indeed be better if we can stabilize our prices as well as our exchange. But because .other countries cannot, stabilise their price levels there is no reason why we

should not adopt measures that will give us stable prices at home which is really the most that is to be got out of a currency medium. In my opinion we should stabilize our prices forthwith by linking the rupee to gold at 1s. 6d. sterling. European countries will soon realize that it is insane to reach back to pre-war parities with gold and will learn that in matters of currency the real at any given time is the natural and normal. If they learn this earlier than we expect, we would find them stabilizing their currencies in terms of gold at the existing levels. In that case gold will again begin to function as an international standard of value and we shall have a stable exchange. But if before that we have stable prices in terms of gold it certainly cannot do us any harm.

During the course of this controversy there has arisen a new standpoint which would want us to do nothing in the matter of rehabilitation of our currency until we first took measures which should substitute the prevalent system of managed currency by a new system of automatic currency. I have great sympathy with this standpoint, not because I am sure that an automatic currency will always be more stable than a managed currency but because it reminds us that the question ‘ how can we most nearly maintain stability after we have attained it’ is more worthy of our consideration than the question of attaining stability. But to suggest that we must do nothing to stabilize our price level till we have decided between a managed system and an automatic one, is to make hell of the earth because the angels do not consent to make a heaven of it. That was the reason why I thought it was a different matter altogether. Some comments on that might be useful at another time. But not now.

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REVIEW

CURRENCY AND EXCHANGES*

INDIAN CURRENCY AND EXCHANGE, By H. L CHABLANI, M.A. (Oxford University Press, Bombay) 1925. 8 y 2 x 5 y 2 pp. 184 Rs. 4-8-0

THIS brochure is a poor production. Within the small compass of 180 pages devoted by the author to a hurried treatment of a somewhat complicated subject, there is neither sufficiency of information nor sufficiency of illumination. Methodology is conspicuous by its absence. There are so many contradictions and compromises in his book that it is difficult to know what is the exact position of the author. In one place he says gold cannot be circulated in India because India is poor. In another place he says gold does not circulate in India because there are rupees. After devoting one whole chapter to the discussion of the quantity theory of money—in itself the simplest and the most obvious proposition in Political Economy—he says the rise of the Rupee after 1893 was not altogether due to the limitation of its issue ! Similar contradiction appears in his chapter on Foreign Exchanges. There he contrasts the two theories—namely, the Theory of Purchasing Power Parity and the theory of the Balance of Trade—and gives his judgment in favour of the former as being the true theory. Yet throughout the book he argues on the basis of the wrong theory, namely, the Balance of Trade. Again, in his opening chapter he says that there is nothing absurd in reverting back to the silver standard ! Management of currency is according to the findings of the author, one of the greatest defects in our currency. Yet he recommends a convertible Rupee as the remedy for this evil!

* The Servant of India; June 25, 1925

The compromises which the auhtor makes are witnessed by the fact that he agrees with almost every proposal made for the reconstruction of Indian Currency. He sees good in Dr. Fisher's plan, in reverting back to the silver standard, and also in an universalised Gold Exchange Standard. Nevertheless, the author has his own pet plan and that is to have a 'Convertible Rupee', convertible not in gold coins but in gold bullion only. The author does not disclose it, but it is the plan suggested by Ricardo in his "Proposals for an Economical and Secure Currency". Fortunately for England it was not adopted. The reasons were simple. To legislate that notes shall be converted into gold bars of certain weight meant that only those who had notes of the value of the gold bars, could convert. The rest could not. In other words, it was felt that such a system would considerably weaken the effect of convertibility and would thereby give an opening to inflation. The proposal was not therefore deemed to be secure enough. The point whether the proposal was economical was not debated upon at the time, and may here be conveniently dealt with ; since there are so many writers in India—and our author is one of them—who, in order to show themselves civilized, indulge in vituperations against what they call the barbarity of using gold as currency. All these civilized writers on currency spend their energy in demonstrating the self-evident proposition which no one disputes that to use paper as a medium of exchange is more economical than to use gold. But these same writers never care to prove that such a plan besides being economical will also be secure in the sense of ensuring stability of prices. A merely economical plan which does not guarantee security is of no use. The plan to be acceptable must be both economical and secure. It will do, if it is not economical; but it will certainly not do, if it is not secure. Now I submit that the proposition that to economize gold as a currency is to impair its utility as a standard of value is as self-evident as the proposition of the civilized writers that to use paper as a medium is more economical than to use gold. For what does this discarding of gold from currency use mean ? It simply means this; that by economising the use of

gold you thereby increase its supply, and by increasing its supply you lower its value i.e. gold by reason of this economy in its use becomes a depreciating commodity and therefore unfit to that extent to function as a standard of value. It cannot be denied that issues of paper money, or any other substitute for that matter, affect the demand for metallic money. There are no doubt some who make the reservation that the demand for metallic money will or will not be affected by a paper issue according as the paper money is convertible or inconvertible. But this is an error. The test is whether the paper issues are covered or uncovered by a metallic reserve. If they are covered then they will not affect the demand for metallic money. But if they are uncovered, then they will affect the demand for metallic money whether they are convertible or inconvertible. The reason is : covered notes merely represent metallic money ; but uncovered notes add to the stock of value. Therefore you cannot both economize gold and also use it as a standard. If you want to economise gold, you must abandon gold as a standard of value. Besides, in the present day there is no necessity to economise gold, because there is all over the world such a great plethora of money that the less we economise gold the better. From this point of view the Gold Exchange Standard, once a boon, is now a curse. It served a very useful purpose for some time. From 1873 the production of gold had fallen off and the economy effected by the Gold Exchange Standard was indeed very welcome ; because it helped in a period of contraction to expand the money of the countries of the world and thereby maintain the stability of the international price system by preventing the rapid fall in prices, which would have been inevitable if all the countries which established the gold standard had also adopted gold as currency. But after 1910 conditions changed and the production of gold increased, with the result that the continuance of the Gold Exchange Standard thereafter not only did not help the countries to check the rise of prices but actually helped to raise them by causing as a result of the economy in its use a redundancy of the already over-produced gold. The author approvingly quotes Prof. Fisher

and others who blame the Gold Standard for the rise of prices after 1911. But Prof. Fisher forgets to take note of the fact that gold became a bad standard of value because of continuance elsewhere of the Gold Exchange Standard. For if after 1911 the Gold Exchange Standard has been abandoned and countries had used gold instead of economising it, there would have been no redundancy of gold and the rise of prices consequent on it would have been arrested. The Gold Exchange Standard from this point of view has outlived its purpose and is now doing positive harm. In the light of these considerations it is not possible to have any sympathy with projects that economise the use of gold and yet maintain it as a standard of value.

These points must have entirely escaped the author when he conceived his project of a Rupee convertible into gold bullion. But convertibility into gold bars does not embody the whole plan of the author. Along with convertibility he says a limit must be placed on the issue of rupees and small notes, even when they are legally convertible into gold bullion. The currency in India should be allowed to expand annually by only a certain small percentage representing its normal rate of progress in business. Beyond that percentage Government should have no power to increase the currency..... In giving reasons for this fluctuating limit on the issue of rupees and small notes, the author says, "A 'convertible rupee' being small in its denomination, is not adequate safeguard against inflation ; for, as the older economists clearly showed, the de facto suspended convertibility of the small notes makes it practically inconvertible, and its over-issue, is just as likely as that of inconvertible paper." All this is fantastic if not strange. It is strange because the author in one place says "convertibility is the best safety-valve for redundancy of currency: it provides the easiest automatic danger signal to Government which is inflating the currency." Now, if this is so, why is a convertible Rupee not sufficient for the purpose the author has in view ? The author is quite wrong when he says that the older economists believed that convertibility of small notes was not a sufficient safeguard

against over-issue. What the older economists feared was not that convertibility was not enough to maintain gold in circulation if the Banks were allowed to issue notes of small denomination—a view which is quite different from the one ascribed by the author to the older economists. Again to realize their aim the older economists did not urge, as our author represents them to have done, the placing of a limit on their issue. What they urged was a total prohibition of the notes of small denomination. That is why we find the Bank of England prevented by the Charter Act from issuing notes of lesser denomination than £ 5. To be consistent, the author should have recommended that the Government of India should not issue Rupees or silver notes of lesser denomination than Rs. 5. Instead of this he recommends a haphazard and an unworkable plan. Supposing it were possible to fix this percentage—the author has not told us how to do it—is the percentage to be maintained at all times ? Or will it be sufficient if it were found at the end of the financial year that the percentage has not been exceeded ? If the latter is all that the plan demands, then there may be . no limits to the increase and decrease in the volume of currency that may be issued in the course of the year, provided care is taken that at the end of the year the balance errs on the side of an increase equal to the given percentage over the normal. Again, is the normal to be a figure fixed for ever or is it to be revised ? If it is revisable then how is it to be revised and what authority is to revise that normal ? These are some of the questions that have to be answered before the plan can be accepted. But one wonders whether instead of indulging in such ingenuities it would not have been better if the author had played the common role and recommended either a convertible Rupee or an inconvertible Rupee with a fixed limit of issue.

The book consists of lectures delivered by the author in his capacity as a Professor to his students at the Elphinstone College, Bombay, and at the Central Hindu College, Benares, and is divided into two parts. Part I which is mostly informative, the author says, is " intended for candidates preparing for the

pass degree in economics." Part II is mainly critical" and "is meant primarily for the candidates for the Hons. degree." As an examiner in Economics I always wondered why the answers of most of the pass students in Political Economy read like children's recitation of nursery tales and those of the Hons. like garbled versions of borrowed comments. It is now evident that this is due, as the author naively suggests, to the fact that the two sets of students are fed on two different kinds of fare—neither of which is supplied to them in plentitude or certitude.

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7
REVIEW

REPORT OF THE TAXATION ENQUIRY COMMITTEE, 1926*

Report of the Taxation Inquiry Committee 1926-1

COMMISSIONS to report and committees to enquire are a peculiar feature of the English system of government. It is a cardinal principle of English Parliamentary action that in the matter of social and economic legislation it never takes a leap in the dark. Committees and commissions are necessary preliminaries of an Act of Parliament. In this it follows the well known maxim that knowledge is power. One is happy to find that this principle of English Parliamentary action has been followed in India and our politicians, who so often oppose the appointment of Commissions and Committees, cannot be said to be acting in the best interests of the country.

In the case of the Taxation Enquiry Committee, however, it was the Government which was trying to shut it out and when it did institute an enquiry, it was not the one demanded by the Assembly. What the Assembly wanted was an Enquiry into the taxable capacity of the people and this the Government did not want to face for fear that such an enquiry might reveal that the burden of taxation upon the people was disproportionate to their taxable capacity. But when public opinion insisted upon the institution of such an enquiry, it, by a species of circumvention, split the enquiry into two parts : (1) The taxation Enquiry Committee and (2) The Economic Enquiry Committee, with the result that the utility of either committee's report has been considerably diminished.

The terms of reference to the Taxation Enquiry Committee directed it (1) to examine the manner in which the burden of taxation is distributed at present between the different classes of

* The Servant of India. Vol IX, No. 13, April 29, 1926 pp. 163-64.

the population; (2) to consider whether the whole scheme of taxation is equitable and in accordance with economic principles, and, if not, in what respects it is defective ; and (3) to report on the suitability of alternative sources of taxation. In making its Report, the Committee has not been very judicious in the allotment of space to the consideration of these three questions. The first was evidently the most important of the three heads comprized in the whole charge. Yet the space devoted to the consideration of it barely covers 13 pages in a volume of 447 pages. Besides the treatment of the subject is far from satisfactory. The Committee without giving any reason whatsoever divided the population of the country in 11 classes and has discussed the burden they bear in 10 pages and a half without at all touching upon the most important of all questions, viz., the incidence of the individual taxes imposed under the Indian fiscal system. Now one would have liked to know why did the Committee think that 11 was an exhaustive classification ? If it is just a question of may be, then why not 13 ? Again, how can the Committee at all say what is the burden that a merchant bears ? If they had examined the incidence of individual taxes, they would have perhaps found that he bore none ! Take again, another specific instance, that of the Cotton Excise Duty. The Committee has no difficulty in saying that its abolition will benefit the working classes. But is the Committee quite certain that it was shifted on to the consumer ? I do not at all wish to be unfair to the Committee. But I am bound to say that in this respect the Report of the Committee is a most disappointing document. The Committee has devoted a great deal of space to the detailed history of the various sources of taxation in India. So far so good. But it would have been far better if the Committee had devoted half of that space in discussing the incidence of each tax separately. But this the Committee has entirely omitted to do. If that was done, the Committee would have been in a better position to deal with the question of the distribution of the burden of taxation and of the elimination of the iniquitious taxes. That it has not been able to do as well as was to be expected from a Committee which has cost the country nearly Rs. $4^1/_2$ lacs exclusive of printing is due to the fact that it forgot to consider the

question of incidence, which, after all, was the most important part of its enquiry.

This failure of the Committee to tackle the main problem is to be attributed primarily to the personnel of the Committee, which was largely of inexpert people, most of whom, if rumur be true, began to learn the A.B.C. of Punjab Finance after they found themselves nominated on the Committee. There is no wonder if the report emanating from such a body falls flat upon students of the subject. One thing, however, can be said in favour of the Report. It is a document full of common-sense, neatly arranged. If it can not satisfy the student, it will certainly serve as a base for his intellectual operations. Some of the proposals of the Committee I hope to examine in subsequent articles. For the present I propose to stop with this statement of my view on the Report in general.

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8

FOREWORD*

I am glad to respond to the request of Mr. SALVI to write a few words by way of introduction to his book on the Commodity Exchanges in India. It is obvious that his work if it is not a pioneering work is a more exhaustive piece of work than any that has so far appeared in the field. In nine chapters, he has examined the commodity exchanges in all their aspects and has thrown great light on an obscure subject. The subject of commodity exchanges is closely related to agriculture. India is an agricultural country and yet very little attention is paid to that subject. Those who are interested in the betterment of the agriculturists of India cannot but welcome the appearance of this comprehensive and instructive study.

Bombay, 29th December 1946

—B. R. AMBEDKAR

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* COMMODITY EXCHANGE

BY

P.G. SALVI, M.A.

THE CO-OPERATOR'S BOOK DEPOT, 9, BAKEHOUSE LAND, FORT, BOMBAY

1947

9

FOREWORD*

Mr. M. R. IDGUNJI's book on Social Insurance and India is a well planned treatise.

It is divided into two parts. Part-I is general and deals with two main topics (I) the two principal branches of social insurance, viz., (i) Workmen's Compensation (ii) the different Financial aspects of Social insurance such as the Financial resources, the actuarial technique and financial administration. The discussion of the financial aspects of social insurance is aimed to explain the various problems connected with the financial resources required for the working of social insurance schemes, the various systems according to which the resources can be organised so as to have social insurance schemes working on sound lines and the problems of Administration connected with the financial side of social insurance.

Part-II deals with the problem of social insurance in relation to conditions prevalent in India. In this part the provision of the Indian Workmen's Compensation Act 1923, and of sickness Insurance are subjected to critical examination. In addition to this, there is a discussion of the Beveridge plan of Social Security and of the scheme of social security adopted in New Zealand. The discussion ends by an exploration of the possibilities for social security measures in India. The author holds the view that sound social insurance measures are not feasible in India unless certain fundamental difficulties are removed, and the country makes a substantial advance economically and is rid of the stark poverty that prevails in it today. The reasons in support of the stand he has taken are set out clearly and fearlessly. Realizing that India is predominantly an agriculture country and that the agriculture

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*SOCIAL INSURANCE AND INDIA
BY
Manohar R. Idgunji
Thacker & Co. Ltd., Bombay
First published, 1948

population sadly needs protection, the author has suggested a scheme of crop insurance based on the principles of social insurance. If indeed a scheme of crop insurance be evolved on the lines suggested by the author, it should go a long way in bettering the conditions of the rural masses in our country and lessening the terrors of famines.

Social insurance is a new thing in India. The Indian contribution to the literature on the subject is naturally meagre. In the circumstances, Mr. Idgunji's book is sure to be welcomed by all students of the subject both as an addition to the scanty literature thereon and also as a critical examination of the problems arising out of it. His style is lucid and his exposition is very clear.

—B. R. AMBEDKAR

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FOREWORD

The seventh volume of the Writings and Speeches of Dr. Babasaheb Ambedkar contains two of his most memorable contributions to the sociological literature of the modern India, *viz.* (1) 'Who were the Shudras?- How they came to be the Fourth Varna in the Indo-Aryan Society;' and (2) 'The Untouchables- Who Were They and Why They Became Untouchables?' Both these works have influenced the thinking of the present century which has witnessed emergence of the individual as the autonomous unit in the constitutional jurisprudence of equality and liberty. They mark the inauguration of the age of reason in our history and impress upon us the need to rearrange our social institutions in harmony with the dynamics of technological changes which have made it possible for masses to enjoy freedom. The age of reason was the effect of technologies of freedom and mobility inherent in the Railways, Roads, Telegraphs, mass education movements and greater contacts with the liberal culture of the West.

Both the works have a historical orientation and throw a critical light on the problem of the caste as the inhibitory and controlling element in the social organisation and structure. The defect of the Indian social structure was immobility which was institutionalised as the divine dispensation, leading to decay and atrophy. Dr. Ambedkar examines the problem in the light of historical evidence and shows how the caste became the fundamental criterion of social action.

The work 'Who were the Shudras?' is inscribed to the memory of Mahatma Jotiba Fule whom Dr. Ambedkar esteems "as the greatest Shudra of Modern India who made the lower classes of Hindus conscious of their slavery to the higher classes and who preached the gospel that for India social democracy was more vital than

independence from foreign rule." The history of India is a tally of events of caste-discrimination preached and practised in the name of God. It is fair to conclude in retrospect that the caste as the institution is the survival of pre-jural society and the early jurisprudence of India like the jurisprudence of many other countries, was sustained by the belief in supernatural agencies which punish transgression of usages and can be assuaged by the magic charms and rituals. It is due to the role of religion in the early laws that the priest became the most potent instrument of the stability and the *status quo*. In Europe the priest and the supremacy of the Church was challenged by intellectuals but in India the challenge to the priestly class and the tradition came much later when the British Rule for the first time introduced masses to the democratic values which find expression in the Proclamation of 1858 which states: "And it is our further Will that, so far as may be, our subjects of whatever Race or creed, be freely and impartially admitted to offices in our service, the duties of which they may be qualified by their education, ability and integrity to discharge." In a society of institutionalised gradation and hierarchy, this was a revolution in ideas and ideals of equality which Dr. Ambedkar has advocated in a spirit of social democracy. The present constitutional mandate for equality is traceable to this accident of history which brought with the British rule the philosophy of social change that whatever may be birth-mark, education would qualify an individual for a public office or employment. This was the first blow to the doctrine of the caste followed by the Railways which made the static society mobile. The caste is replaced by the ethics of classification which must be reasonable. Article 14 of the Constitution prohibits class legislation but does not forbid reasonable classification for the purpose of legislation as held by the Supreme Court in *'Budhan Vs State of Bihar,* 1955– Supreme Court 1045.'

In a sense, 'Who were the Shudras' may be said to be an invitation by Dr. Ambedkar to a fresh historical research on this subject to know the reality of human nature which is not harmonious: it has two sides: an aggressive self-assertive side which leads to ignoring the expectations of others in the satisfaction of one's own expectations and a co-operative social side which leads to working with others in association and groups of all sorts in recognition of common purposes. The individual needs the force of social control to keep these two sides in balance. Undoubtedly, the struggle for existence, the competition in satisfying expectations or desires whenever acute

because of the limited goods of existence, out of which they can be satisfied, disturbs this balance. In order to maintain the balance men have relied upon religion and upon reason." (Pound - *jurisprudence* Vol. III). For the Indian historical content Dr. Ambedkar shows how the desire for monopoly of social control made the priest the most powerful factor in social control. The caste as a sociological institution resembles a Corporation in which the Board of Directors never changed. It was the law of status which classified men according to their birth and it was fixed and static; ability was not recognised as the means to cross the class-barriers. In theory and in practice the caste is the opposite of liberty, anti-thesis of equality and negation of humanity as it postulates the capacity for thinking incidental to the gift of reason for the chosen few distinguished by the marks of their pedigrees and not by the degrees of excellence evidenced in the free exercise of reason or conscience. The philosophy of the sacred texts in general discouraged the free exercise of reason with the result that the authority of the sacred texts became unquestioned and Truth became a datum and not a problem. This was the cause of intellectual atrophy and social stagnation. One is reminded of the words of Milton :

> "Well knows he who uses to consider, that our faith and knowledge thrives by exercise, as well as our limbs and complexion. Truth is compared in Scripture to a streaming fountain; if her waters flow not in perpetual succession, they sicken into a muddy pool of conformity and tradition. A man may be heretic in the truth and if he believes things only because his Pastor says so, or the Assembly so determines, without knowing other reason, though his belief be true, yet the very truth he holds becomes his heresy."

It is in this context that the works of Dr. Ambedkar will prove to be a frank assessment and a candid critique of the societal norms requiring revision and reformulation which he himself did when the opportunity presented in the Constituent Assembly which framed the noble Constitution in which fundamental rights protect the individual against despotism whether it comes from the State or Society.

'The Untouchables' is a sequel to the work on Shudras. Dr. Ambedkar has in his usual critical style assessed the Indian social system. He is critical of the Indian social system because it did not foster the spirit of critical inquiry. It is, indeed, a matter of regret that Indians could not produce a Voltaire or Milton or Victor Hugo because as a class they did not approve of it. The spirit of inquiry is the *sine-qua-non* of progress. The larger the area of inquiry, the

greater the scope of investigation, the greater are the chances that liberty will thrive and prosper along with tolerance and the existence of dissent. It is in this context that both the works which are brought together in the present volume provide enough material for reflection and action to the layman and will prove to be the source of inspiration to the scholar. The works have to be adjudged in the context in which they were written to shake the average Indian out of his complacency. Today the caste has become irrelevant in the light of modern technological developments. However, social sciences lag behind the technology. It is in this area that our efforts must be concentrated to improve the mind of man, so as to bring it in harmony with the technological progress. Dr. Ambedkar has shown that the caste has become out of place and is a barrier to social progress and individual advancement of freedom. The basic message of his work is that control of minds of men by some powerful individuals is bad as such control retards movement. The best source of practical instruction in the art of life is the opportunity to commit errors and this means responsibility for one's actions and their consequences. That India did not wake to the need to rearrange its social institutions for centuries and it produced Mahatma Fule and Dr. Ambedkar only under the British rule because of its democratic culture of public instruction shows the old truth which has been succinctly expressed by G. B. Shaw in, 'Man, and Superman' that "liberty means responsibility. That's why most men dread it." Modern psychoanalysts and existentialist philosophers have not been able to add to or detract from this statement. In the context of the march of technology, there is a chance of abuse of powers by those in authority and experts or priests of science who control masses by techniques of electronic media. Mind control by mass media and drugs is the awesome reality. Just consider what F. A. Hayek says: *(The Constitution of Liberty) :*

> "The day may not be far off when authority by adding appropriate drugs to our water supply or by some other similar device, will be able to elate or depress, stimulate or paralyse, the minds of whole population."

Today the priesthood is replaced by experts and it is a new class or caste that has emerged. The remedy lies in making knowledge free and in widening the frontiers of practical social wisdom. It is in this context that the rationalism of Dr. Ambedkar is relevant to all of us who prize the liberty to know, to utter and to argue freely according to conscience, above all liberties.

This slightly long Foreword has become necessary to elucidate and emphasise the social context in which they came to be written and with which the post-independence generation of Indians may not be adequately acquainted. The Editorial Board has no doubt that these works will prove to be an invitation to renew our faith in our noble Constitution.

The Editorial Board thanks the Secretary, Education Department for his interest in the project. The Board places on record its appreciation of the assistance it has received from the Officer on Special Duty and his staff as well as Shri P. S. More, Director of Government Printing and Stationery, M.S., Bombay; Shri P. L. Purkar, Manager, Government Photozinco Press, Pune and the staff under them in bringing out the present volume on time.

(Kamalkishor Kadam)
Education Minister and
President of the
Dr. Babasaheb Ambedkar
Source Material Publication Committee,
M.S., Bombay.

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SHUDRAS

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WHO WERE THE SHUDRAS ?

Inscribed to the
Memory of

MAHATMA JOTIBA FULE

(1827—1890)

The Greatest Shudra of Modern India who made the lower classes of Hindus conscious of their slavery to the higher classes and who preached the gospel that for India social democracy was more vital than independence from foreign rule.

WHO WERE THE SHUDRAS?

How they came to be the Fourth Varna in the Indo-Aryan Society

By

B. R. Ambedkar

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Notes : (1) Appendices I to VI are based upon the information contained in the *Maharashtra Dyankosh,* Vol. III.

(2) Map I is taken from the Census Report by Mr. Das. Maps II, III and IV are from Mr. Grant's Book, *The passing of the Great Race,* published by Bell & Sons.

PREFACE

In the present stage of the literature on the subject, a book on the Shudras cannot be regarded as a superfluity. Nor can it be said to deal with a trivial problem. The general proposition that the social organization of the Indo-Aryans was based on the theory of *Chaturvarnya* and that *Chaturvarnya* means division of society into four classes—*Brahmins* (priests), *Kshatriyas* (soldiers), *Vaishyas* (traders) and *Shudras* (menials) does not convey any idea of the real nature of the problem of the Shudras nor of its magnitude. *Chaturvarnya* would have been a very innocent principle if it meant no more than mere division of society into four classes. Unfortunately, more than this is involved in the theory of *Chaturvarnya.* Besides dividing society into four orders, the theory goes further and makes the principle of graded inequality the basis for determining the terms of associated life as between the four *Varnas.* Again, the system of graded inequality is not merely notional. It is legal and penal. Under the system of *Chaturvarnya,* the *Shudra* is not only placed at the bottom of the gradation but he is subjected to innumerable ignominies and disabilities so as to prevent him from rising above the condition fixed for him by law. Indeed until the fifth *Varna* of the Untouchables came into being, the *Shudras* were in the eyes of the Hindus the lowest of the low. This shows the nature of what might be called the problem of the *Shudras.* If people have no idea of the magnitude of the problem it is because they have not cared to know what the population of the *Shudras* is. Unfortunately, the census does not show their population separately. But there is no doubt that excluding the Untouchables the *Shudras* form about 75 to 80 per cent of the population of Hindus. A treatise which deals with so vast a population cannot be considered to be dealing with a trivial problem.

The book deals with the *Shudras* in the Indo-Aryan Society. There is a view that an inquiry into these questions is of no present-day moment. It is said by no less a person than Mr. Sherring in his *Hindu Tribes and Castes*[1] that :

> "Whether the Shudras were Aryans, or aboriginal inhabitants of India, or tribes produced by the union of the one with the other, is of little practical

1 Vol. I, Introduction, P. xxi.

moment. They were at an early period placed in a class by themselves, and received the fourth or last degree of rank, yet at a considerable distance from the three superior castes. Even though it be admitted that at the outset they were not Aryans, still, from their extensive intermarriages with the three Aryan Castes, they have become so far Aryanized that, in some instances as already shown, they have gained more than they have lost, and certain tribes now designated as Shudras are in reality more Brahmins and Kshatriyas than anything else. In short, they have become as much absorbed in other races as the Celtic tribes of England have become absorbed in the Anglo-Saxon race; and their own separate individuality, if they ever had any, has completely vanished."

This view is based on two errors. Firstly, the prsent-day Shudras are a collection of castes drawn from heterogeneous stocks and are racially different from the original Shudras of the Indo-Aryan society. Secondly, in the case of Shudras the centre of interest is not the Shudras as a people but the legal system of pains and penalties to which they are subjected. The system of pains and penalties was no doubt originally devised by the Brahmins to deal with the Shudras of the Indo-Aryan society, who have ceased to exist as a distinct, separate, identifiable community. But strange as it may seem the Code intended to deal with them has remained in operation and is now applied to all low-class Hindus, who have no lock stock with the original *Shudras*. How this happened must be a matter of curiosity to all. My explanation is that the Shudras of the Indo-Aryan Society in course of time became so degraded as a consequence of the severity of the Brahmanical laws that they really came to occupy a very low state in public life. Two consequences followed from this. One consequence was a change in the connotation of the word Shudra. The word Shudra lost its original meaning of being the name of a particular community and became a general name for a low-class people without civilization, without culture, without respect and without position. The second consequence was that the widening of the meaning of the word Shudra brought in its train the widening of the application of the Code. It is in this way that the so-called *Shudras* of the present-day have become subject to the Code, though they are not *Shudras* in the original sense of the word. Be that as it may, the fact remains that the Code intended for the original culprits has come to be applied to the innocents. If the Hindu law-givers had enough historical sense to realize that the original *Shudras* were different from the present-day low-class people, this tragedy—this massacre of the innocents—would have been avoided. The fact, however unfortunate it may be, is that the Code is applied to the present-day

Shudras in the same rigorous manner in which it was applied to the original *Shudras*. How such a Code came into being cannot therefore be regarded as of mere antiquarian interest to the *Shudras* of to-day.

While it may be admitted that a study of the origin of the *Shudras* is welcome, some may question my competence to handle the theme. I have already been warned that while I may have a right to speak on Indian politics, religion and religious history of India are not my field and that I must not enter it. I do not know why my critics have thought it necessary to give me this warning. If it is an antidote to any extravagant claim made by me as a thinker or a writer, then it is unnecessary. For, I am ready to admit that I am not competent to speak even on Indian politics. If the warning is for the reason that I cannot claim mastery over the Sanskrit language, 'I admit this deficiency. But I do not see why it should disqualify me altogether from operating in this field. There is very little of literature in the Sanskrit language which is not available in English. The want of knowledge of Sanskrit need not therefore be a bar to my handling a theme such as the present. For I venture to say that a study of the relevant literature, albeit in English translations, for 15 years ought to be enough to invest even a person endowed with such moderate intelligence like myself, with sufficient degree of competence for the task. As to the exact measure of my competence to speak on the subject, this book will furnish the best testimony. It may well turn out that this attempt of mine is only an illustration of the proverbial fool rushing in where the angels fear to tread. But I take refuge in the belief that even the fool has a duty to perform, namely, to do his bit if the angel has gone to sleep or is unwilling to proclaim the truth. This is my justification for entering the prohibited field.

What is it that is noteworthy about this book? Undoubtedly the conclusions which I have reached as a result of my investigations. Two questions are raised in this book: (1) Who were the *Shudras?* and (2) How they came to be the fourth *Varna* of the Indo-Aryan society? My answers to them are summarised below :

(1) The *Shudras* were one of the Aryan communities of the Solar race.

(2) There was a time when the Aryan society recognized only three *Varnas,* namely, *Brahmins, Kshatriyas* and *Vaishyas*.

(3) The *Shudras* did not form a separate *Varna*. They ranked as part of the Kshatriya *Varna* in the Indo-Aryan society.

(4) There was a continuous feud betwen the *Shudra* kings and the *Brahmins* in which the *Brahmins* were subjected to many tyrannies and indignities.

(5) As a result of the hatred towards the *Shudras* generated by their tyrannies and oppressions, the *Brahmins* refused to perform the *Upanayana* of the *Shudras*.

(6) Owing to the denial of *Upanayana,* the *Shudras* who were Kshatriyas became socially degraded, fell below the rank of the *Vaishyas* and thus came to form the fourth *Varna*.

I must of course await the verdict of scholars on these conclusions. That these conclusions are not merely original but they are violently opposed to those that are current is of course evident. Whether these conclusions will be accepted or not will depend upon the mentality of a person claiming to have a right to sit in judgement over the issue. Of course, if he is attached to a particular thesis he will reject mine. I would not however bother about his judgement for he would be an adversary from whom nothing can be expected except opposition. But if a person is an honest critic, howsoever cautious, however conservative he may be, provided that he has an open mind and a readiness to accept facts, I do not despair of converting him to my view. This expectation may fail to materialize, but about one thing I am quite certain. My critics will have to admit that the book is rich in fresh insights and new visions.

Apart from scholars, how the Hindu public will react may be an interesting speculation. The Hindus of to-day fall into five definite classes. There is a class of Hindus, who are known as orthodox and who will not admit that there is anything wrong with the Hindu social system. To talk of reforming it is to them rank blasphemy. There is a class of Hindus who are known as Arya Samajists. They believe in the *Vedas* and only in the *Vedas*. They differ from the orthodox inasmuch as they discard everything which is not in the Vedas. Their gospel is that of return to the *Vedas*. There is a class of Hindus who will admit that the Hindu social system is all wrong, but who hold that there is no necessity to attack it. Their argument is that since law does not recognize it, it is a dying, if not a dead system. There is a class of Hindus, who are politically minded. They are indifferent to such questions. To them *Swaraj* is more important than social reform. The fifth class of Hindus are those who are rationalists and who regard social reforms as of primary importance, even more important than *Swaraj*.

With the Hindus, who fall into the second category, those who are likely to regard the book as unnecessary, I cannot agree. In a way, they are right when they say that the existing law in British India does not recognize the caste system prevalent in the Hindu society. It is true that, having regard to section 11 of the Civil Procedure Code, it would not be possible for a Hindu to obtain a declaration from a civil court that he belongs to a particular *Varna*. If courts in British India have to consider the question whether a person belongs to a particular *Varna,* it is only in cases of marriage, inheritance and adoption, the rules of which vary according to the *Varna* to which the party belongs. While it is true that the Law in British India does not recognize the four *Varnas* of the Hindus, one must be careful not to misunderstand what this means. To put it precisely: (1) it does not mean that the observance of the *Varna* system is a crime; (2) it does not mean that the *Varna* system has disappeared; (3) it does not mean that the *Varna* system is not given effect to in cases where the observance of its rules are necessary to acquiring civil rights; (4) it only means that the general legal sanction behind the *Varna* system has been withdrawn. Now, law is not the only sanction which goes to sustain social institutions. Institutions are sustained by other sanctions also. Of these, religious sanction and social sanction are the most important. The *Varna* system has a religious sanction. Because it has a religious sanction, the *Varna* system has the fullest social sanction from the Hindu society. With no legal prohibition, this religious sanction has been more than enough to keep the *Varna* system in full bloom. The best evidence to show that the *Varna* system is alive notwithstanding there is no law to enforce it, is to be found in the fact that the status of the *Shudras* and the Untouchables in the Hindu society has remained just what it has been. It cannot therefore be said that a study such as this is unnecessary.

As to the politically-minded Hindu, he need not be taken seriously. His line of approach is generally governed by a short-term view more than by long-range considerations. He is willing to follow the line of least resistance and postpone a matter, however urgent, if it is likely to make him unpopular. It is therefore quite natural if the politically-minded Hindu regards this book as a nuisance.

The book treads heavily on the toes of the Arya Samajists. My conclusions have come in sharp conflict with their ideology at two most important points. The Arya Samajists believe that the four

Varnas of the Indo-Aryan society have been in existence from the very beginning. The book shows that there was a time when there were only three *Varnas* in the Indo-Aryan society. The Arya Samajists believe that the *Vedas* are eternal and sacrosanct. The book shows that portions of the *Vedas* at any rate, particularly the *Purusha Sukta,* which is the mainstay of the Arya Samajists, are fabrications by *Brahmins* intended to serve their own purposes. Both these conclusions are bound to act like atomic bombs on the dogmas of the Arya Samajists.

I am not sorry for this clash with Arya Samajists. The Arya Samajists have done great mischief in making the Hindu society a stationary society by preaching that the *Vedas* are eternal, without beginning, without end, and infallible, and that the social institutions of the Hindus being based on the *Vedas* are also eternal, without beginning, without end, infallible and therefore requiring no change. To be permeated with such a belief is the worst thing that can happen to a community. I am convinced that the Hindu society will not accept the necessity of reforming itself unless and until this Arya Samajists' ideology is completely destroyed. The book does render this service, if no other.

What the Orthodox Hindu will say about this book I can well imagine for I have been battling with him all these years. The only thing I did not know was how the meek "and non-violent looking Hindu can be violent when anybody attacks his Sacred Books. I became aware of it as never before when last year I received a shower of letters from angry Hindus, who became quite unbalanced by my speech on the subject delivered in Madras. The letters were full of filthy abuse, unmentionable and unprintable, and full of dire threats to my life. Last time they treated me as a first offender and let me off with mere threats. I don't know what they will do this time. For on reading the book they are sure to find more cause for anger at what in their eyes is a repetition of the offence in an aggravated form for having brought forth chapter and verse to show that what goes by the name of Sacred Books contains fabrications which are political in their motive, partisan in their composition and fraudulent in their purpose. I do not propose to take any notice of their vilifications or their threats. For I know very well that they are a base crew who, professing to defend their religion, have made religion a matter of trade. They are more selfish than any other set of beings in the world, and are prostituting their intelligence to support the vested

interests of their class. It is a matter of no small surprise that when the mad dogs of orthodoxy are let loose against a person who has the courage to raise his voice against the so-called Sacred Books of the Hindus, eminent Hindus occupying lofty places, claiming themselves to be highly educated and who could be expected to have no interest and to have a free and open mind become partisans and join the outcry. Even Hindu Judges of High Courts and Hindu Prime Ministers of Indian States do not hesitate to join their kind. They go further. They not only lead the howl against him but even join in the hunt. What is outrageous is that they do so because they believe that their high stations in life would invest their words with an amount of terror which would be sufficient enough to cow down any and every opponent of orthodoxy. What I would like to tell these amiable gentlemen is that they will not be able to stop me by their imprecations. They do not seem to be aware of the profound and telling words of Dr. Johnson who when confronted with analogous situation said, 'I am not goint to be deterred from catching a cheat by the menaces of a ruffian.' I do not wish to be rude to these high-placed critics, much less do I want to say that they are playing the part of a ruffian interested in the escape of a cheat. But I do want to tell them two things: firstly that I propose, no matter what happens, to follow the determination of Dr. Johnson in the pursuit of historical truth by the exposure of the Sacred Books so that the Hindus may know that it is the doctrines contained in their Sacred Books which are responsible for the decline and fall of their country and their society; secondly, if the Hindus of this generation do not take notice of what I have to say I am sure the future generation will. I do not despair of success. For I take consolation in the words of the poet Bhavabhuti who said, "Time is infinite and earth is vast, some day there will be born a man who will appreciate what I have said." Whatever that be the book is a challenge to orthodoxy.

The only class of Hindus, who are likely to welcome the book are those who believe in the necessity and urgency of social reform. The fact that it is a problem which will certainly take a long time to solve and will call the efforts of many generations to come, is in their opinion, no justification for postponing the study of that problem. Even an ardent Hindu politician, if he is honest, will admit that the problems arising out of the malignant form of communalism, which is inherent in the Hindu social organization and which the politically minded Hindus desire to ignore or postpone, invariably return to

plague those very politicians at every turn. These problems are not the difficulties of the moment. They are our permanent difficulties, that is to say, difficulties of every moment. I am glad to know that such a class of Hindus exists. Small though they be, they are my mainstay and it is to them that I have addressed my argument.

It will be said that I have shown no respect for the sacred literature of the Hindus which every sacred literature deserves. If the charge be true, I can plead two circumstances in justification of myself. Firstly I claim that in my research I have been guided by the best tradition of the historian who treats all literature as vulgar—I am using the word in its original sense of belonging to the people—to be examined and tested by accepted rules of evidence without recognizing any distinction between the sacred and the profane and with the sole object of finding the truth. If in following this tradition I am found wanting in respect and reverence for the sacred literature of the Hindus my duty as a scholar must serve as my excuse. Secondly, respect and reverence for the sacred literature cannot be made to order. They are the results of social factors which make such sentiments natural in one case and quite unnatural in another. Respect and reverence for the sacred literature of the Hindus is natural to a Brahmin scholar. But it is quite unnatural in a non-Brahmin scholar. The explanation of this difference is quite simple. That a Brahmin scholar should treat this sacred literature with uncritical reverence and forbear laying on it the heavy hands which the detachment of an intellectual as distinguished from the merely educated is what is to be expected. For what is this sacred literature? It is a literature which is almost entirely the creation of the Brahmins. Secondly, its whole object is to sustain the superiority and privileges of the Brahmins as against the non-Brahmins. Why should not the Brahmins uphold the sanctity of such a literature? The very reason that leads the Brahmin to uphold it makes the non-Brahmin hate it. Knowing that what is called the sacred literature contains an abominable social philosophy which is responsible for their social degradation, the non-Brahmin reacts to it in a manner quite opposite to that of the Brahmin. That I should be wanting in respect and reverence for the sacred literature of the Hindus should not surprise any one if it is borne in mind that I am a non-Brahmin, not even a non-Brahmin but an Untouchable. My antipathy to the sacred literature could not naturally be less than that of the non-Brahmin. As Prof. Thorndyke says: that a man thinks is a biological fact what he thinks is a sociological fact.

I am aware that this difference in the attitude of a Brahmin scholar and a non-Brahmin scholar towards this sacred literature— literature which is the main source of the material for the study of the problems of the social history of the Hindus— the former with his attitude of uncritical commendation and the latter with his attitude of unsparing condemnation is most harmful to historical research.

The mischief done by the Brahmin scholars to historical research is obvious. The *Brahmin* scholar has a two-fold interest in the maintenance of the sanctity of this literature. In the first place being the production of his forefathers his filial duty leads him to defend it even at the cost of truth. In the second place as it supports the privileges of the *Brahmins,* he is careful not to do anything which would undermine its authority. The necessity of upholding the system by which he knows he stands to profit, as well as of upholding the prestige of his forefathers as the founders of the system, acts as a silent immaculate premise which is ever present in the mind of the *Brahmin* scholar and prevents him from reaching or preaching the truth. That is why one finds so little that is original in the field of historical research by *Brahmin* scholars unless it be a matter of fixing dates or tracing genealogies. The non-Brahmin scholar has none of these limitations and is therefore free to engage himself in a relentless pursuit of truth. That such a difference exists between the two classes of students is not a mere matter of speculation. This very book is an illustraton in point. It contains an exposure of the real character of the conspiracy against the *Shudras,* which no *Brahmin* scholar could have had the courage to present.

While it is true that a non-Brahmin scholar is free from the inhibitions of the Brahmin scholar he is likely to go to the other extreme and treat the whole literature as a collection of fables and fictions fit to be thrown on the dung heap not worthy of serious study. This is not the spirit of an historian. As has been well said, an historian ought to be exact, sincere, and impartial; free from passion, unbiased by interest, fear, resentment or affection; and faithful to the truth, which is the mother of history, the preserver of great actions, the enemy of oblivion, the witness of the past, the director of the future. In short he must have an open mind, though it may not be an empty mind, and readiness to examine all evidence even though it be spurious. The non-Brahmin scholar may find it difficult to remain true to this spirit of the historian. He is likely to import the spirit of non-Brahmin politics in the examination of the truth or falsity of the

ancient literature which is not justifiable. I feel certain that in my research I have kept myself free from such prejudice. In writing about the *Shudras* I have had present in my mind no other consideration except that of pure history. It is well-known that there is a non-Brahmin movement in this country which is a political movement of the Shudras. It is also well-known that I have been connected with it. But I am sure that the reader will find that I have not made this book a preface to non-Brahmin politics.

I am sensible of the many faults in the presentation of the matter. The book is loaded with quotations, too long and too many. The book is not a work of art and it is possible that readers will find it tedious to go through it. But this fault is not altogether mine. Left to myself, I would have very willingly applied the pruning knife. But the book is written for the ignorant and the uninformed *Shudras,* who do not know how they came to be what they are. They do not care how artistically the theme is handled. All they desire is a full harvest of material—the bigger the better. Those of them to whom I have shown the manuscript have insisted upon retaining the quotations. Indeed, their avidity for such material was so great that some of them went to the length of insisting that besides giving translations in English in the body of the book I should also add the original Sanskrit texts in an Appendix. While I had to deny their request for the reproduction of the original Sanskrit texts, I could not deny their request for retaining the translations on the ground that the material is not readily available to them. When one remembers that it is the *Shudras,* who have largely been instrumental in sustaining the infamous system of *Chaturvarnya,* though it has been the primary cause of their degradation and that only the *Shudras* can destroy the *Chaturvarnya,* it would be easy to realize why I allowed the necessity of educating and thereby preparing the *Shudra* fully for such a sacred task to outweigh all other considerations which favoured the deletion or if not deletion the abridgement of the quotations.

There are three persons to whom I owe my thanks. Firstly to the writer of Adhyaya LX of the Shanti Parva of the Mahabharata. Whether it is *Vyasa, Vaishampayana, Suta, Lomaharshana* or *Bhrigu* it is difficult to say. But whoever he was, he has rendered great service by giving a full description of *Paijavana.* If he had not described *Paijavana* as a *Shudra,* the clue to the origin of the *Shudra* would have been completely lost. I express my gratitude to the writer

for having preserved so important a piece of information for posterity. Without it, this book could not have been written. Secondly, I must thank Prof. Kangle of Ismail Yusuf College, Andheri, Bombay. He has come to my rescue and has checked the translation of Sanskrit shlokas which occur in the book. As I am not a Sanskrit scholar, his help has been to me a sort of an assurance that I have not bungled badly in dealing with the material which is in Sanskrit. The fact that he has helped me does not mean that he is responsible for such faults and errors as may be discovered by my critics. Thanks are also due to Prof. Manohar Chitnis of the Siddharth College, Bombay, who has been good enough to prepare the Index.

I am grateful to Messrs. Charles Scribner's Sons Publishers, New York for their kind permission to reproduce the three maps from Mr. Madison Grant's *Passing of the Great Race* and which form Appendices II, III and IV of this book.

10th October 1946

"Rajgriha,"
Dadar,
Bombay 14.

B. R. AMBEDKAR

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CHAPTER I

THE RIDDLE OF THE SHUDRAS

EVERYBODY knows that the Shudras formed the fourth Varna of the Indo-Aryan society. But very few have cared to inquire who were these Shudras and how they came to be the fourth Varna. That such an enquiry is of first-rate importance is beyond question. For, it is worth knowing how the Shudras came to occupy the fourth place, whether it was the result of evolution or it was brought about by revolution.

Any attempt to discover who the Shudras were and how they came to be the fourth Varna must begin with the origin of the *Chaturvarnya* in the Indo-Aryan society. A study of the *Chaturvarnya* must in its turn start with a study of the ninetieth Hymn of the Tenth Mandala of the Rig Veda—a Hymn, which is known by the famous name of *Purusha Sukta*.

What does the Hymn say? It says[1] :

"1. Purusha has a thousand heads, a thousand eyes, a thousand feet. On every side enveloping the earth he overpassed (it) by a space of ten fingers.

2. Purusha himself is this whole (universe), whatever has been and whatever shall be. He is the Lord of immortality, since (or when) by food he expands.

3. Such is his greatness, and Purusha is superior to this. All existences are a quarter to him; and three-fourths of him are that which is immortal in the sky.

4. With three-quarters, Purusha mounted upwards. A quarter of him was again produced here. He was then diffused everywhere over things which eat and things which do not eat.

5. From him was born Viraj, and from Viraj, Purusha. When born, he extended beyond the earth, both behind and before.

6. When the gods performed a sacrifice with Purusha as the oblation, the spring was its butter, the summer its fuel, and the autumn its (accompanying) offering.

1 Muir's, Original Sanskrit Texts, Vol. I, P. 9.

7. This victim, Purusha, born in the beginning, they immolated on the sacrificial grass. With him the gods, the *Sadhyas,* and the *rishis* sacrificed.
8. From that universal sacrifice were provided curds and butter. It formed those aerial (creatures) and animals both wild and tame.
9. From that universal sacrifice sprang the *rik* and *saman* verses, the metres and the *yajus*.
10. From it sprang horses, and all animals with two rows of teeth; kine sprang from it; from it goats and sheep.
11. When (the gods) divided Purusha, into how many parts did they cut him up? What was his mouth? What arms (had he)? What (two objects) are said (to have been) his thighs and feet?
12. The Brahmana was his mouth, the Rajanya was made his arms; the being called the Vaishya, he was his thighs; the Shudra sprang from his feet.
13. The moon sprang from his soul (manas), the sun from the eye, Indra and Agni from his mouth and Vayu from his breath.
14. From his navel arose the air, from his head the sky, from his feet the earth, from his ear the (four) quarters; in this manner (the gods) formed the worlds.
15. When the gods, performing sacrifices, bound Purusha as a victim, there were seven sticks (stuck up) for it (around the fire), and thrice seven pieces of fuel were made.
16. With sacrifices the gods performed the sacrifice. These were the earliest rites. These great powers have sought the sky, where are the former *Sadhyas,* gods."

The *Purusha Sukta* is a theory of the origin of the Universe. In other words, it is a cosmogony. No nation which has reached an advanced degree of thought has failed to develop some sort of cosmogony. The Egyptians had a cosmogony somewhat analogous with that set out in the *Purusha Sukta*. According to it,[1] it was god *Khnumu*, 'the shaper,' who shaped living things on the potter's wheel, "created all that is, he formed all that exists, he is the father of fathers, the mother of mothers... he fashioned men, he made the gods, he was the father from the beginning... he is the creator of the heaven, the earth, the underworld, the water, the mountains... he formed a male and a female of all birds, fishes, wild beasts, cattle and of all worms." A very, similar cosmogony is found in Chapter I of the Genesis in the Old Testament.

Cosmogonies have never been more than matters of academic interest and have served no other purpose than to satisfy the curiosity of the student and to help to amuse children. This may be true of some parts of the *Purusha Sukta*. But it certainly cannot be true of the whole of it. That is because all verses of the *Purusha Sukta* are not of the same importance and do not have the same significance. Verses

1 Encyclopaedia of Religion and Ethics, Vol. IV, p. 145.

11 and 12 fall in one category and the rest of the verses fall in another category. Verses other than 11 and 12 may be regarded as of academic interest. Nobody relies upon them. No Hindu even remembers them. But it is quite different with regard to verses 11 and 12. *Prima facie* these verses do no more than explain how the four classes, namely, (1) Brahmins or priests, (2) Kshatriyas or soldiers, (3) Vaishyas or traders, and (4) Shudras or menials, arose from the body of the Creator. But the fact is that these verses are not understood as being merely explanatory of a cosmic phenomenon. It would be a grave mistake to suppose that they were regarded by the Indo-Aryans as an innocent piece of a poet's idle imagination. They are treated as containing a mandatory injunction from the Creator to the effect that Society must be constituted on the basis of four classes mentioned in the *Sukta*. Such a construction of the verses in question may not be warranted by their language. But there is no doubt that according to tradition this is how the verses are construed, and it would indeed be difficult to say that this traditional construction is not in consonance with the intention of the author of the *Sukta*. Verses 11 and 12 of the *Purusha Sukta* are, therefore, not a mere cosmogony. They contain a divine injunction prescribing a particular form of the constitution of society.

The constitution of society prescribed by the *Purusha Sukta* is known as *Chaturvarnya*. As a divine injunction, it naturally became the ideal of the Indo-Aryan society. This ideal of *Chaturvarnya* was the mould in which the life of the Indo-Aryan community in its early or liquid state was cast. It is this mould, which gave the Indo-Aryan community its peculiar shape and structure.

This reverence, which the Indo-Aryan Society had for this ideal mould of *Chaturvarnya,* is not only beyond question, but it is also beyond description. Its influence on the Indo-Aryan society has been profound and indelible. The social order prescribed by the *Purusha Sukta* has never been questioned by anyone except Buddha. Even Buddha was not able to shake it, for the simple reason that both after the fall of Buddhism and even during the period of Buddhism there were enough law-givers, who made it their business not only to defend the ideal of the *Purusha Sukta* but to propagate it and to elaborate it.

To take a few illustrations of this propaganda in support of the *Purusha Sukta,* reference may be made to the *Apastamba Dharma Sutra* and the *Vasishtha Dharma Sutra*. The *Apastamba Dharma*

Sutra states:

> "There are four castes—Brahmins, Kshatriyas, Vaishyas and Shudras.
>
> Among these, each preceding (caste) is superior by birth to the one following.[1]
>
> For all these excepting Shudras and those who have committed bad actions are ordained (1) the initiation (*Upanayan* or the wearing of the sacred thread), (2) the study of the Veda and (3) the kindling of the sacred fire (i.e., the right to perform sacrifice).[2]

This is repeated by *Vasishtha Dharma* Sutra which says :

> "There are four castes (Varnas), Brahmins, Kshatriyas, Vaishyas and Shudras. Three castes, Brahmins, Kshatriyas and Vaishyas (are called) twice-born.
>
> Their first birth is from their mother; the second from the investiture with the sacred girdle. In that (second birth) the Savitri is the mother, but the teacher is said to be, the father.
>
> They call the teacher father, because he gives instruction in the Veda.[3]
>
> The four castes are distinguished by their origin and by particular sacraments.
>
> There is also the following passage of the Veda : "The Brahmana was his mouth, the Kshatriya formed his arms, the Vaishya his thighs; the Shudra was born from his feet."
>
> It has been declared in the following passage that a Shudra shall not receive the sacraments."

Many other law-givers have in parrot-like manner repeated the theme of the *Purusha Sukta* and have reiterated its sanctity. It is unnecessary to repeat their version of it. All those, who had raised any opposition to the sanctity of the ideal set out in the *Purusha Sukta,* were finally laid low by Manu, the architect of the Hindu society. For Manu did two things. In the first place, he enunciated afresh the ideal of the *Purusha Sukta* as a part of divine injunction. He said :

> "For the prosperity of the worlds, he (the creator) from his mouth, arms, thighs and feet created the Brahmin, Kshatriya and Vaishya and the Shudra.[4]
>
> The Brahmin, Kshatriya (and) Vaishya (constitute) the three twice-born castes; but the fourth the shudra has only one birth.[5]"

In this he was no doubt merely following his predecessors. But he went a step further and enunciated another proposition in which he said :

> "Veda is the only and ultimate sanction for Dharma.[6]"

Bearing in mind that the Purusha Sukta is a part of the Veda, it cannot be difficult to realize that Manu invested the social ideal of

1 Prasna 1. Patala 1, Khanda 1, Sutras 4-5.

2 Prasna 1, Patala 1, Khanda 1, Sutra 6.

3 Chapter II, Verses 1-4.

4 Manu, Chapter I, Verse 31.

5 *Ibid.,* Chapter X, Verse 4.

6 *Ibid.,* Chapter II, Verse 6.

Chaturvarnya contained in the *Purusha Sukta,* with a degree of divinity and infallibility which it did not have before.

II

A critical examination of the *Purusha Sukta* therefore becomes very essential.

It is claimed by the Hindus that the *Purusha Sukta* is unique. This is no doubt a tall claim for an idea which came to birth when the mind of man was primitive and was without the rich endowment of varied thought available in modern times. But there need not be much difficulty in admitting this claim provided it is understood in what respect the *Purusha Sukta* is unique.

The principal ground for regarding the *Purusha Sukta* as unique is that the ideal of social organization, namely, the ideal of *Chaturvarnya* which it upholds, is unique. Is this a sufficient ground for holding the *Purusha Sukta* as unique? The *Purusha Sukta* would really have been unique if it had preached a classless society as an ideal form of society. But what does the *Purusha Sukta* do? It preaches a class-composed society as its ideal. Can this be regarded as unique? Only a nationalist and a patriot can give an affirmative answer to this question. The existence of classes has been the *de facto* condition of every society, which is not altogether primitive. It is a normal state of society all over the world where society is in a comparatively advanced state. Looking at it from this point of view, what uniqueness can there be in the *Purusha Sukta,* when it does no more than recognize the sort of class composition that existed in the Indo-Aryan society?

Notwithstanding this, the *Purusha Sukta* must be admitted to be unique, though for quite different reasons. The unfortunate part of the matter is that many people do not know the true reasons why the *Purusha Sukta* should be regarded as unique. But once the true reasons are known, people will not only have no hesitation in accepting that the *Purusha Sukta* is a unique production of the human intellect but will perhaps be shocked to know what an extraordinary production of human ingenuity it is.

What are the features of the social ideal of the *Purusha Sukta,* which give it the hall mark of being unique? Though the existence

of classes is the *de facto* condition of every society, nevertheless no society has converted this *de facto* state of affairs into a *de jure* connotation of an ideal society. The scheme of the *Purusha Sukta* is the only instance in which the real is elevated to the dignity of an ideal. This is the first unique feature of the scheme set forth in the *Purusha Sukta*. Secondly, no community has given the *de facto* state of class composition a legal effect by accepting it as a *de jure* connotation of an ideal society. The case of the Greeks is a case in point. Class composition was put forth as an ideal social structure by no less an advocate than Plato. But the Greeks never thought of making it real by giving it the sanction of law. The *Purusha Sukta* is the only instance in which an attempt was made to give reality to the ideal by invoking the sanction of law. Thirdly, no society has accepted that the class composition is an ideal. At the most they have accepted it as being natural. The *Purusha Sukta* goes further. It not only regards class composition as natural and ideal, but also regards it as sacred and divine. Fourthly, the number of the classes has never been a matter of dogma in any society known to history. The Romans had two classes. The Egyptians thought three were enough. The Indo-Iranians also had no more than three classes:[1] (1) The *Athravans* (priests) (2) *Rathaeshtar* (warriors) and (3) the *Vastrya-fshuyat* (peasantry). The scheme of the *Purusha Sukta* makes the division of society into four classes a matter of dogma. According to it, there can be neither more nor less. Fifthly, every society leaves a class to find its place *vis-a-vis* other classes according to its importance in society as may be determined by the forces operating from time to time. No society has an official gradation laid down, fixed and permanent, with an ascending scale of reverence and a descending scale of contempt. The scheme of the *Purusha Sukta* is unique, inasmuch as it fixes a permanent warrant of precedence among the different classes, which neither time nor circumstances can alter. The warrant of precedence is based on the principle of graded inequality among the four classes, whereby it recognizes the Brahmin to be above all, the Kshatriya below the Brahmin but above the Vaishya and the Shudra, the Vaishya below the Kshatriya but above the Shudra and the Shudra below all.

1 Geiger : *Civilization of the Eastern Iranians in Ancient Times,* Vol. II, P.64

III

These are the real reasons why the *Purusha Sukta* is unique. But the *Purusha Sukta* is not merely unique, it is also extraordinary. It is extraordinary because it is so full of riddles. Few seem to be aware of these riddles. But anyone who cares to inquire will learn how real in their nature and how strange in their complexion these riddles are. The cosmogony set out in the *Purusha Sukta* is not the only cosmogony one comes across in the Rig Veda. There is another cosmogony which is expounded in the 72nd Hymn of the Tenth Mandala of the Rig Veda. It reads as follows :[1]

"1. Let us proclaim with a clear voice of the generation of the gods (the divine company), who, when their praises are recited, look (favourably on the worshipper) in this latter age.

2. Brahmanaspati filled these (generations of the gods) with breath as a blacksmith (his bellows); in the first age of the gods the existent was born of the non-existent.

3. In the first age of the gods the existent was born of the non-existent; after that the quarters (of the horizon) were born, and after them the upward-growing (trees).

4. The earth was born from the upward growing (tree), the quarters were born from the earth; Daksha was born from Aditi and afterwards Aditi from Daksha.

5. Aditi, who was thy daughter, Daksha, was born; after her, the gods were born, adorable, freed from the bonds of death.

6. When, gods, you abode in this pool well-arranged, then a pungent dust went forth from you as if you were dancing.

7. When, gods, you filled the worlds (with your radiance) as clouds (fill the earth with rain) then you brought fourth the sun hidden in the ocean.

8. Eight sons (there were) of Aditi who were born from her body; she approached the gods with seven, she sent forth Martanda on high.

9. With seven sons Aditi went to a former generation, but she bore Martanda for the birth and death (of human beings).

The two cosmologies are fundamentally different in principle as well as in detail. The former explains creation *ex nihilo* 'being was born of non-being'. The latter ascribes creation to a being which it calls *Purusha*. Why in one and the same book two such opposite cosmologies should have come to be propounded? Why did the author of the *Purusha Sukta* think it necessary to posit a *Purusha* and make all creation emanate from him?

Any one who reads the *Purusha Sukta* will find that it starts with the creation of donkyes, horses, goats, etc., but does not say anything

1 Wilson's, *Rig Veda,* Vol. VI, p. 129

about the creation of man. At a point when it would have been natural to speak of the creation of man, it breaks off the chain and proceeds to explain the origin of the classes in the Aryan society. Indeed, the *Purusha Sukta* appears to make the explaining of the four classes of the Aryan society to be its primary concern. In doing this, the *Purusha Sukta* stands in complete contrast not only with other theologies but with the other parts of the Rig Veda also.

No theology has made it its purpose to explain the origin of classes in society. Chapter I of the Genesis in the Old Testament, which can be said to be analogous in intention and purpose to the *Purusha Sukta,* does nothing more than explain how man was created. It is not that social classes did not exist in the old Jewish society. Social classes existed in all societies. The Indo-Aryans were no exception. Nevertheless, no theology has ever thought it necessary to explain how classes arise. Why then did the *Purusha Sukta* make the explanation of the origin of the social classes its primary concern?

The *Purusha Sukta* is not the only place in the Rig Veda where a discussion of the origin of creation occurs. There are other places in the Rig Veda where the same subject is referred to. In this connection, one may refer to the following passage in the Rig Veda which reads as follows :[1]

> *Rig Veda,* i.96.2: "By the first *nivid,* by the wisdom of Ayu, he (Agni) created these children of men; by his gleaming light the earth and the waters, the gods sustained Agni the giver of the riches."

In this, there is no reference at all to the separate creation of classes, though there is no doubt that even at the time of the *Rig Veda,* the Indo-Aryan Society had become differentiated into classes; yet the above passage in the *Rig Veda* ignores the classes and refers to the creation of men only. Why did the *Purusha Sukta* think it necessary to go further and speak of the origin of the classes?

The *Purusha Sukta* contradicts the *Rig Veda* in another respect. The *Rig Veda* propounds a secular theory regarding the origin of the Indo-Aryans as will be seen from the following texts:

(1) *Rig Veda,* i.80.16: "Prayers and hymns were formerly congregated in that Indra, in the ceremony which Atharvan, father Manu, and Dadhyanch celebrated."[2]

(2) *Rig Veda,* i.114.2 : "Whatever prosperity or succour father Manu obtained by sacrifice, may we gain all that under thy guidance, O Rudra."[3]

1 Muir, Vol. I. p. 180

2 Muir, *Ibid.,* Vol. I, p. 162.

3 *Ibid.,* p. 163.

(3) *Rig Veda,* ii.33.13 : "Those pure remedies of yours, O Maruts, those which are most auspicious, ye vigorous gods, those which are beneficent, those which our father Manu chose, those and the blessing and succour of Rudra, I desire."[1]

(4) *Rig Veda,* viii.52.1 : "The ancient friend hath been equipped with the powers of the mighty (gods). Father Manu has prepared hymns to him, as portals of access to the gods."[2]

(5) *Rig Veda,* iii.3.6 : "Agni, together with the gods, and the children *(jantubhih)* of Manush, celebrating a multiform sacrifice with hymns."[3]

(6) *Rig Veda,* iv. 37.1 : "Ye gods, Vajas, and Ribhukshana, come to our sacrifice by the path travelled by the gods, that ye, pleasing deities, may institute a sacrifice among these people of Manush *(Manusho vikshu)* on auspicious days."[4]

(7) *Rig Veda,* vi.14.2 : "The people of Manush praise in the sacrifice Agni the invoker."[5]

From these texts it is beyond question that the rishis who were the authors of the hymns of the Rig Veda regarded Manu as the progenitor of the Indo-Aryans. This theory about Manu being the progenitor of the Indo-Aryans had such deep foundation that it was carried forward by the *Brahmanas* as well as the *Puranas*. It is propounded in the *Aitareya Brahmana,*[6] in the *Vishnu Purana*[7] and the *Matsya Purana.*[8]. It is true that they have made Brahma the progenitor of *Manu;* but the *Rig Veda* theory of *Manu* being the progenitor has been accepted and maintained by them.[9] Why does the *Purusha Sukta* make no mention of *Manu* ? This is strange because the author of the *Purusha Sukta* seems to be aware of the fact that Manu Svayambhuva is called *Viraj* and *Viraj* is called *Adi Purusha,*[10] since he too speaks of *Virajo adhi Purushah* in verse five of the *Sukta.*

There is a third point in which the *Purush Sukta* has gone beyond the *Rig Veda*. The Vedic Aryans were sufficiently advanced in their

1 *Muir,* Vol. I. p. 163.

2 *Ibid.,* p. 163.

3 *Ibid.,* p. 165.

4 *Ibid.,* p. 165.

5 *Ibid.,* p. 165.

6 Quoted by Muir, Vol. I, p. 108.

7 Quoted by Muir, Vol. I pp. 105-107.

8 Quoted by Muir, Vol. I. p. 110-112.

9 There is however a great deal of confusion when one comes to details. The *Vishnu Purana* says that Brahma divided his person into two parts: with the one half he became a male, with the other half a female. The female was called *Satarupa* who by incessantly practising austere fervour of a highly arduous description acquired for herself as a husband a Male called *Manu Svayambhuva.* There is no suggestion in the Vishnu Purana of incest by Brahma with his daughter. *The Aitareya Brahmana* and the *Matsya Purana* on the other hand speak of Brahma having begotten Manu by committing incest with his daughter Satarupa; the *Matsya Purana* adds that Manu by his austerity obtained a beautiful wife named *Ananta.* According to the Ramayana (see Muir, I, p. 117) *Manu* was not a male but a female and was a daughter of *Daksha Prajapati* and the wife of *Kasyapa.*

10 *Matsya Purana-* Muir, Vol., 1 p. 111 f.n.

civilization to give rise to division of labour. Different persons among the Vedic Aryans followed different occupations. That they were conscious of it is evidenced by the following verse:

> Rig Veda, 1.113.6 : "That some may go in pursuit of power, some in pursuit of fame, some in pursuit of wealth, some in pursuit of work, Ushas has awakened people so that each may go in pursuit of his special and different way of earning his livelihood."

This is as far as the *Rig Veda* had gone. The *Purusha Sukta* goes beyond. It follows up the notion of division of labour and converts the scheme of division of work into a scheme of division of workers into fixed and permanent occupational categories. Why does the *Purusha Sukta* commit itself to such a perversity?

There is another point in which the *Purusha Sukta* departs from the *Rig Veda*. It is not that the *Rig Veda* speaks only of man. It speaks also of the Indo-Aryan nation. This nation was made up of the five tribes, which had become assimilated into one common Indo-Aryan people. The following hymns refer to these five tribes as moulded into a nation:

> (1) *Rig Veda,* vi.11.4 : "Agni, whom, abounding in oblations, the five tribes, bringing offerings, honour with prostrations, as if he were a man."[1]
>
> (2) *Rig Veda,* vii.15.2 : "The wise and youthful master of the house (Agni) who has taken up his abode among the five tribes in every house."[2]

There is some difference of opinion as to who these five tribes are. *Yaska* in his *Nirukta* says that it denotes *Gandharvas, Pitris, Devas, Asuras and Rakshasas*. *Aupamanyava* says that it denotes the four *Varnas* and the *Nishadas*. Both these explanations seem to be absurd. Firstly, because the five tribes are praised collectively as in the following hymns:

> (1) *Rig Veda,* ii.2.10 : "May our glory shine aloft among the five tribes, like the heaven unsurpassable."[3]
>
> (2) *Rig Veda,* vi.46.7 : "Indra, whatever force or vigour exists in the tribe of Nashusa or whatever glory belongs to the five races bring (for us)."[4]

Such laudatory statements could not have been made if the five tribes included the *Shudras*. Besides, the word used is not *Varnas*. The word used is *Janah*. That it refers to the five tribes and not to the four *Varnas* and *Nishadas* is quite clear from the following verse of the *Rig Veda* :

1 Muir. Vol. I, p. 177.
2 *Ibid.,* Vol. I, p. 178.
3 *Ibid.,* Vol. I, p. 178.
4 *Ibid.,* Vol. I, p. 180.

Rig Veda, i.108.8: "If, O Indra and Agni, ye are abiding among the *Yadus, Turvasas, Druhyus, Anus, Purus,* come hither, vigorous heroes from all quarters, and drink the Soma which has been poured out.[1]

That these five tribes had been moulded into one Aryan people is clear from the Atharva Veda (iii.24.2) which says :

> "these five regions, the five tribes springing from Manu."

A sense of unity and a consciousness of kind can alone explain why the *Rishis* of the *Rig Vedic* hymns came to refer to the five tribes in such manner. The questions are: why did the *Purusha Sukta* not recognize this unity of the five tribes and give a mythic explanation of their origin? Why instead did it recognize the communal divisions within the tribes? Why did the *Purusha Sukta* regard communalism more important than nationalism?

These are some of the riddles of the *Purusha Sukta* , which come to light when one compares it with the *Rig Veda.* There are others, which emerge when one proceeds to examine the *Purusha Sukta* from a sociological point of view.

Ideals as norms are good and are necessary. Neither a society nor an individual can do without a norm. But a norm must change with changes in time and circumstances. No norm can be permanently fixed. There must always be room for revaluation of the values of our norm. The possibility of revaluing values remains open only when the institution is not invested with sacredness. Sacredness prevents revaluation of its values. Once sacred, always sacred. The *Purusha Sukta* makes the *Chaturvarnya* a sacred institution, a divine ordination. Why did the *Purusha Sukta* make a particular form of social order so sacred as to be beyond criticism and beyond change? Why did it want to make it a permanent ideal beyond change and even beyond criticism? This is the first riddle of the *Purusha Sukta* which strikes a student of sociology.

In propounding the doctrine of *Chaturvarnya,* the *Purusha Sukta* plays a double game. It proceeds first to raise the real, namely, the existence of the four classes in the Indo-Aryan Society, to the status of an ideal. This is a deception because the ideal is in no way different from facts as they exist. After raising the real to the status of the ideal, it proceeds to make a show of giving effect to what it regards as an ideal. This again is a deception because the ideal already exists in fact. This attempt of the *Purusha Sukta* to idealize

1 Muir. I. p. 179.

the real and to realize the ideal, is a kind of political jugglery, the like of which, I am sure, is not to be found in any other book of religion. What else is it if not a fraud and a deception? To idealize the real, which more often than not is full of inequities, is a very selfish thing to do. Only when a person finds a personal advantage in things as they are that he tries to idealize the real. To proceed to make such an ideal real is nothing short of criminal. It means perpetuating inequity on the ground that whatever is once settled is settled for all times. Such a view is opposed to all morality. No society with a social conscience has ever accepted it. On the contrary, whatever progress in improving the terms of associated life between individuals and classes has been made in the course of history, is due entirely to the recognition of the ethical doctrine that what is wrongly settled is never settled and must be resettled. The principle underlying the *Purusha Sukta* is, therefore, criminal in intent and anti-social in its results. For, it aims to perpetuate an illegal gain obtained by one class and an unjust wrong inflicted upon another. What can be the motive behind this jugglery of the *Purusha Sukta*? This is the second riddle.

The last and the greatest of all these riddles, which emerges out of a sociological scrutiny of the *Purusha Sukta*, is the one relating to the position of the *Shudra*. The *Purusha Sukta* concerns itself with the origin of the classes, and says they were created by God—a doctrine which no theology has thought it wise to propound. This in itself is a strange thing. But what is astonishing is the plan of equating different classes to different parts of the body of the Creator. The equation of the different classes to different parts of the body is not a matter of accident. It is deliberate. The idea behind this plan seems to be to discover a formula which will solve two problems, one of fixing the functions of the four classes and the other of fixing the gradation of the four classes after a preconceived plan. The formula of equating different classes to the different parts of the body of the Creator has this advantage. The part fixes the gradation of the class and the gradation in its turn fixes the function of the class. The *Brahmin* is equated to the mouth of the Creator. Mouth being the noblest part of the anatomy, the *Brahmin* becomes the noblest of the four classes. As he is the noblest in the scale, he is given the noblest function, that of custodian of knowledge and learning. The *Kshatriya* is equated to the arms of the Creator. Among the limbs of a person, arms are next below the mouth. Consequently, the *Kshatriya* is given an order of precedence next below the *Brahmin* and is given

a function which is second only to knowledge, namely, fighting. The *Vaishya* is equated to the thighs of the Creator. In the gradation of limbs the thighs are next below the arms. Consequently, the *Vaishya* is given an order of precedence next below the *Kshatriya* and is assigned a function of industry and trade which in name and fame ranks or rather did rank in ancient times below that of a warrior. The *Shudra* is equated to the feet of the Creator. The feet form the lowest and the most ignoble part of the human frame. Accordingly, the *Shudra* is placed last in the social order and is given the filthiest function, namely, to serve as a menial.

Why did the *Purusha Sukta* choose such a method of illustrating the creation of the four classes? Why did it equate the *Shudras* to the feet? Why did it not take some other illustration to show how the four classes were created. It is not that *Purusha* is the only stock simile used to explain creation. Compare the explanation of the origin of the Vedas contained in the *Chhandogya Upanishad*. It says:[1]

> "Prajapati infused warmth into the worlds, and from them so heated he drew forth their essences, *viz.,* Agni (fire) from the earth, Vayu (wind) from the air, and Surya (the sun) from the sky. He infused warmth into these three deities, and from them so heated he drew forth their essences,—from Agni the *ric* verses, from Vayu the *yajus* verses and from Surya the *soman* verses. He then infused heat into this triple science, and from it so heated he drew forth its essences—from *ric* verses the syllable *bhuh,* from *yajus* verses *bhuvah,* and from *Saman* verses *svar."*

Here is an explanation of the origin of the Vedas from different deities. So far as the Indo-Aryans are concerned, there was no dearth of them. There were thirty crores of them. An explanation of the origin of the four *Varnas* from four gods would have maintained equality of dignity by birth of all the four classes. Why did the *Purusha Sukta* not adopt this line of explanation?

Again, would it not have been possible for the author of the *Purusha Sukta* to say that the different classes were born from the different mouths of the *Purusha*. Such a conception could not have been difficult because the *Purusha* of the *Purusha Sukta* has one thousand heads, enough to assign one species of creation to one of his heads. Such a method of explaining creation could not have been unknown to the author of the *Purusha Sukta*. For we find it used by the *Vishnu Purana* to explain the origin of the different *Vedas* as may be seen from the following extract:[2]

1 Muir, Vol. m. p.5

2 *Ibid.,* p. 11.

"From his eastern mouth Brahma formed the Gayatri, the *ric* verses, the trivrit, the sama-rathantara and of sacrifices, the agnistoma. From his southern mouth he created the *yajus* verses, the trishtubh metre, the panchadasa stoma, the brihatsaman, and the ukthya. From his western mouth he formed the *saman* verses, the jagati metre, the saptadasa stoma, the Vairupa, and the atiratra. From his northern mouth he formed the ekavimsa, the *atharvan,* the aptoryaman with the anushtubh and viraj metres."

The *Harivamsa* has another way of explanining the origin of the Vedas. According to it:[1]

"The god fashioned the *Rig Veda* with the Yajus from his eyes, the *Sama Veda* from the tip of his tongue, and the *Atharvan* from his head."

Assuming that for some reason the author of the *Purusha Sukta* could not avoid using the body of the Creator and its different parts for explaining the origin and the relation of the four classes, the question still remains as to why he chose to equate the different parts of the *Purusha* to the different classes in the manner in which he does.

The importance of this question is considerably heightened when one realizes that the *Purusha Sukta* is not the only instance in which the different parts of the body of the Creator are used as illustrations to explain the origin of the different classes in society. The same explanation is given by the sage *Vaishampayana* to explain the origin of the various classes of priests employed in the performance of sacrifices. But what a difference is there between the two! The explanation of *Vaishampayana* which is reported in the *Harivamsa* reads as follows :[2]

"Thus the glorious Lord Hari Narayana, covering the entire waters, slept on the world which had become one sea, in the midst of the vast expanse of fluid *(rajas),* resembling a mighty ocean, himself free from passion *(virajaskah),* with mighty arms; Brahmans know him as the undecaying. Invested through austere fervour with the light of his own form and clothed with triple time (past, present and future) the lord then slept. *Purushottama* (Vishnu) is whatever is declared to be the highest. *Purusha* the sacrifice, and everything else which is known by the name of *Purusha.* Here how the *Brahmins* devoted to sacrifice, and called *ritvijas,* were formerly produced by him from his own body for offering sacrifices. The Lord created from his mouth the *Brahman,* who is the chief, and the *udgatri,* who chants the *Saman,* from his arms the *hotri* and the *adhvaryu* . He then... created the *prastotri,* the *maitravaruna,* and the *pratishthatri,* from his belly the *pratiharti* and the *potri,* from his thighs the *achhavaka* and the *neshtri,* from his hands the *agnidhra* and the sacrificial *brahmanya,* from his arms the *gravan* and the sacrificial *unnetri.* Thus did the divine Lord of the

1 Muir, Vol. ID, p. 13.

2 Muir, Vol. I, pp. 154-155

world create the sixteen excellent *ritvijas,* the utterers of all sacrifices. Therefore this *Purusha* is formed of sacrifice and is called the Veda; and all the Vedas with the Vedangas, Upanishads and ceremonies are formed of his essence."

There were altoghether seventeen different classes of priests required for the performance of a sacrifice. It could never be possible for anyone attempting to explain the origin of each by reference to a distinct part of the body of the Creator to avoid using the feet of the *Purusha* as the origin of a class, the limbs of the *Purusha* being so few and the number of priests being so many. Yet what does *Vaishampayana* do? He does not mind using the same part of the Creator's body to explain the origin of more than one class of priests. He most studiously avoids using the feet as the origin of anyone of them.

The situation becomes completely intriguing when one compares the levity with which the *Shudras* are treated in the *Purusha Sukta* with the respect with which the *Brahmins* are treated in the Harivamsa in the matter of their respective origins. Is it because of malice that the *Purusha Sukta* did not hesitate to say that the *Shudra* was born from the feet of the *Purusha* and that his duty was to serve? If so what is the cause of this malice?

IV

The riddles about the Shudras mentioned above are those which arise out of a sociological scrutiny of the *Purusha Sukta*. There are other riddles regarding the position of the *Shudra* which arise out of later developments of the ideal of *Chaturvarnya*. To appreciate these results it is necessary first to take note of these later developments. The later developments of *Chaturvarnya* are mainly two. First is the creation of the fifth class next below the *Shudras*. The second is the separation of the *Shudras* from the first three *Varnas*. These changes have become so integrated with the original scheme of the *Purusha Sukta* that they have given rise to peculiar terms and expressions so well-known that everybody understands what they stand for. These terms are : *Savarnas, Avarnas, Dvijas, non-Dvijas,* and *Traivarnikas*. They stand to indicate the sub-divisions of the original four classes and the degree of separation between them. It is necessary to take note of the relative position of these classes because they disclose a new riddle. If this riddle has not caught the eye of the people, it is because of two reasons. Firstly, because students have not cared to

note that these names are not mere names but that they stand for definite rights and privileges, and secondly, because they have not cared to find out whether the groupings made under these names are logical having regard to the rights and privileges they connote.

Let us therefore see what is the *de jure* connotation of these terms. *Savarna* is generally contrasted with *Avarna*. *Savarna* means one who belongs to one of the four *Varnas*. *Avarna* means one who does not belong to any one of the four *Varnas*. The *Brahmins, Kshatriyas, Vaishyas and Shudras* are *Savarnas*. The Untouchables or *Ati-Shudras* are called *Avarnas,* those who have no *Varna*. Logically, the *Brahmins, Kshatriyas, Vaishyas* and *Shudras* are within the *Chaturvarnya*. Logically, the Untouchables or the *Ati-Shudras* are outside the *Chaturvarnya*. *Dvija* is generally contrasted with *non-Dvija*. *Dvija* literally means twice-born and *non-Dvija* means one who is born only once. The distinction is based on the right to have *Upanayana*. The *Upanayana* is treated as a second birth. Those who have the right to wear the sacred thread are called *Dvijas*. Those who have no right to wear it are called *non-Dvijas*. The *Brahmins, Kshatriyas* and *Vaishyas* have the right to wear the sacred thread. Logically, they are *Dvijas*. The *Shudras* and the *Ati-Shudras* have no right to wear the sacred thread. Logically, they are both *non-Dvijas*. The *Traivarnika* is contrasted with the *Shudra*. But there is nothing special in this contrast. It conveys the same distinction which is conveyed by the distinction between the *Dvijas* and the *non-Dvijas* except the fact that the contrast is limited to the *Shudra* and does not extend to the *Ati-Shudra*. This is probably because this terminology came into being before the rise of the *Ati-Shudras* as a separate class.

Bearing in mind that both the *Shudra* and the *Ati-Shudra* are *non-Dvijas,* why then is the *Shudra* regarded as *Savarna* and the *Ati-Shudra* as *Avarna* ? Why is the former within and why is the latter outside the *Chaturvarnya* ? The *Brahmins, Kshatriyas, Vaishyas* and *Shudras* are all within the four corners of the *Chaturvarnya*. They are all *Savarnas*. Why then is the *Shudra* denied the right of the *Traivarnikas* ?

Can there be a greater riddle than the riddle of the *Shudras* ? Surely, it calls for investigation and explanation as to who they were and how they came to be the fourth *Varna* in the Aryan Society.

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CHAPTER II

THE BRAHMANIC THEORY OF THE ORIGIN OF THE SHUDRAS

HAS the Brahmanic literature any explanation to offer which can account for the origin of the Shudras? There is no doubt that the Brahmanic literature is full of legends regarding creation which touch upon the creation of the universe, of man and of the different Varnas. Whether or not they furnish any clue to discover the origin of the Shudras, there can be no doubt that all such theories should find a place in a book which is concerned with the problem of the Shudras if for no other reason than that of assembling all material relating to the Shudras in one place and making their story complete. It would be better to take each piece of the Brahmanic literature separately, and note what contribution it has to make to the subject.

I

To begin with the *Vedas*. As to the *Rig Veda,* the legend about creation to be found in its *Sukta* known as the *Purusha Sukta* has already been set out in the previous chapter. It now remains to take note of the legends contained in the other *Vedas*.

There are two recensions of the *Yajur Veda* : (1) the White *Yajur Veda* and (2) the Black *Yajur Veda*. To take the White *Yajur Veda* first. The *Vajasaneyi Samhita* of the White *Yajur Veda* sponsors two theories. One is a mere reproduction of the *Purusha Sukta* of the *Rig Veda* with this difference that it has 22 verses, while the original as it occurs in the *Rig Veda* has only 16 verses. The six additional verses in the White *Yajur Veda* read as follows :

17. Brought forth from the waters and from the essence of the earth, he was produced by Vishvakarman in the beginning. Tvashta gives him form; that is the Universe of Purusha on all sides in the beginning.

18. I know this great Purusha, of the colour of the sun, beyond darkness. Only by knowing him does one go beyond death; there is no other path for going.

19. Prajapati moves in the interior of the womb; though unborn, he is born in many forms. Wise men see his source; wise men desire the place of the Marichis.

20. He who shines for the gods, he who is the priest of the gods, he who was born before the gods,—salutation to that shining offspring of Brahma.

21. The gods, generating the shining offspring of Brahma, said in the beginning: "That Brahmin who knows thus,— the gods will be under his control."

22. Sri and Laxmi are his wives; the day and night his sides; the stars his ornament; the Ashwins his bright face. Grant me my desires; grant me that; grant me everything.

The second explanation contained in the *Vajasaneyi Samhita* is quite different from the *Purusha Sukta*. It reads as follows :

V.S., xiv.28.[1]—"He lauded with one. Living beings were formed. He lauded with three: the *Brahman* was created; *Brahmanaspati* was the ruler. He lauded with five: existing things were created; *Bhutanampati* was the ruler. He lauded with seven: the seven rishis were created: *Dhatri* was the ruler. He lauded with nine: the *Fathers* were created: *Aditi* was the ruler. He lauded with eleven: the seasons were created: the *Artavas* were the rulers. He lauded with thirteen: the months were created: the year was the ruler. He lauded with fifteen: the *Kshatra* (the *Kshatriya*) was created: *Indra* was the ruler. He lauded with seventeen: animals were created: *Brihaspati* was the ruler. He lauded with nineteen: the *Shudra* and the *Arya* (*Vaishya*) were created: day and night were the rulers. He lauded with twenty-one: animals with undivided hoofs were created: *Varuna* was the ruler. He lauded with twenty-three: small animals were created: *Pushan* was the ruler. He lauded with twenty-five: wild animals were created: *Vayu* was the ruler (compare R.V., x.90.8). He lauded with twenty-seven: heaven and earth separated: *Vasus, Rudras* and *Adityas* separated after them: they were the rulers. He lauded with twenty-nine: living beings were created: the first and second halves of the month were the rulers. He lauded with thirty one: existing things were tranquillized: *Prajapati Parameshthin* was the ruler."

Now to turn to the Black *Yajur Veda*. The *Taittiriya Samhita* of the Black *Yajur Veda* gives altogether five explanations. The one at iv. 3, 10 is the same as has been put forth by the *Vajasaneyi Samhita* of the White *Yajur Veda* at (xiv.28) and which has been reproduced earlier. Of the rest those which narrate the origin of the Shudra are set out below:

T.S., ii.4.13.1" "The gods were afraid of the *Rajanya* when he was in the womb. They bound him with bonds when he was in the womb. Consequently, this *Rajanya* is born bound. If he were born unbound he would go on slaying his enemies. In regard to whatever *Rajanya* any one desires that he should be born unbound, and should go on slaying his enemies, let him offer for him this *Aindra-Barhaspatya* oblation. A *Rajanya* has the character of *Indra,* and

1 Muir, Vol. I, p. 18.

2 Muir, Vol. I, p. 22.

a Brahman is *Brihaspati*. It is through the *Brahman* that anyone releases the *Rajanya* from his bond. The golden bond, a gift, manifestly releases from the bond that fetters him."

(2) T.S., vii. 1.1.4.[1]—*Prajapati* desired, 'may I propagate.' He formed the Trivrit (stoma) from his mouth. After it were produced the deity Agni, the metre Gayatri, the Saman (called) Rathantara, of men the Brahmin, of beasts the goats. Hence they are the chief *(mukhyah)* because they were created from the mouth *(mukhatah)*. From (his) breast, from his arms, he formed the Panchadasa *(stoma)*. After it were created the god, the Indra, the Trishtubh metre, the Saman (called) Brihat, of men the *Rajanya,* of beasts the sheep. Hence they are vigorous, because they were created from vigour. From (his) middle he formed the Saptadasa (stoma). After it were created the gods (called) the Vishvedevas, the Jagati metre, the Saman called the Vairupa of men the *Vaishya,* of beasts kine. Hence they are to be eaten, because they were created from the receptacle of food. Wherefore they are more numerous than others, for the most numerous deities were created after (the Saptadasa). From his foot he formed the Ekavimsa (Stoma). After it were created the Anushtubh metre, the Saman called Vairaja, of men the *Shudra,* of beasts the horse. Hence these two, born the horse and the *Shudra,* are transporters of (other) creatures. Hence (too) the *Shudra* is incapacitated for sacrifice, because no deities were created after (the *Ekavimsa)*. Hence (too) these two subsist by their feet, for they were created from the foot.

Coming to the *Atharva Veda,* there are altogether four explanations. One of these is the same as the *Purusha Sukta* of the *Rig Veda*. It occurs at xix.6. The others are as stated below :

(1) A.V.,[2] iv.6.1.—The *Brahman* was born the first with ten heads and ten faces. He first drank the soma; he made poison powerless.

(2) A.V.,[3] xv.8.1.—He (the *Vratya)* became filled with passion thence sprang the *Rajanya*.

(3) A.V., [4V]xv.9.1.—Let the king to whose house the *Vratya* who knows this, comes as a guest, cause him to be respected as superior to himself. So doing he does no injury to his royal rank, or to his realm. From him arose the *Brahman* (*Brahmin*) and the *Kshattra* (*Kshatriya*). They said 'Into whom shall we enter,' etc.

II

To proceed to the Brahmanas. The *Satapatha Brahmana* contains six explanations. There are two which concern themselves with the creation of the *Varnas*. Of the two, the one which speaks of the origin of the *Shudras* is given below :

S.B.[5] xiv.4.2.23.—"Brahma (here, according to the commentator, existing in the form of Agni and representing the Brahmana caste) was formerly this

1 Muir, Vol. I, p. 16.
2. Muir, Vol. I, p. 21
3. Muir, Vol. I, p. 22
4. Muir, Vol I, p. 22
5. Muir Vol I, p. 20

(universe), one only. Being one, it did not develope. It energetically created an excellent form, the Kshattra, viz., those among the gods who are powers (Kshattrani), Indra, Varuna, Soma, Rudra, Parjanya, Yama, Mrityu, Isana. Hence nothing is superior to the *Kshatra.* Therefore, the Brahmana sits below the Kshatriya at the Rajasuya sacrifice; he confers that glory on the Kshattra (the royal power). This, the Brahma, is the source of the Kshattra. Hence although the king attains supremacy, he at the end resorts to the Brahman as his source. Whoever destroys him (the Brahman) destroys his own source. He becomes most miserable, as one who has injured a superior. He did not develope. He created the Vis, viz., those classes of gods who are designated by troops, Vasus, Rudras, Adityas, Visvedevas, Maruts. He did not develope. He created the Shudra class Pushan. This earth is Pushani; for she nourishes all that exists. He did not develope. He energetically created an excellent form, Justice (Dharma). This is the ruler (Kshattra) of, the ruler (Kshattra), namely, Justice. Hence nothing is superior to Justice. Therefore the weaker seeks (to overcome) the stronger by Justice, as by a king. This justice is truth. In conseqence they say of a man who speaks truth, 'he speaks justice.' For this is both of these. This is the Brahma, Kshattra, Vis and Shudra. Through Agni it became Brahma among the gods, the Brahmana among men, through the (divine) Kshatriya a (human) Kshatriya, through the (divine) Vaishya a (human) Vaishya, through the (divine) Shudra a (human) Shudra. Wherefore it is in Agni among the gods and in a Brahman among men that they seek after an abode.

The *Taittiriya Brahman* is responsible for the following explanation :

(1) T.B.,[1] i.2.6.7.—"The Brahmana caste is sprung from the gods; the Shudras from the Asuras."

(2) T.B.,[2] iii. 2.3.9.—"This Shudra has sprung from non-existence."

III

Here is a complete collection of all the Brahmanic speculations on the origin of the four classes and of the Shudras. The ancient Brahmins were evidently conscious of the fact that the origin of the four classes was an unusual and uncommon social phenomenon and that the place of the Shudra in it was very unnatural and that this called for some explanation. Otherwise, it would be impossible to account for these innumerable attempts to explain the origin of the *Chaturvarnya* and of the Shudra.

But what is one to say of these explanations? The variety of them is simply bewildering. Some allege that *Purusha* was the origin of

1 Muir, Vol. I, p. 21

2 Muir, Vol. I, p. 21.

the four *Varnas,* and some attribute their origin to Brahma, some to Prajapati and some to Vratya. The same source gives differing explanations. The White *Yajur Veda* has two explanations, one in terms of *Purusha,* the other in terms of *Prajapati*. The Black *Yajur Veda* has three explanations to offer. Two are in terms of *Prajapati,* the third in terms of Brahman. The *Atharva Veda* has four explanations, one in terms of *Purusha,* second in terms of *Brahman,* third in terms of *Vratya* and fourth quite different from the first three. Even when the theory is the same, the details are not the same. Some explanations such as those in terms of Prajapati, or Brahma are theological. Others in terms of Manu or Kasyapa are in humanistic terms. It is imagination running riot. There is in them neither history nor sense. Prof. Max Muller commenting on the *Brahmanas* has said :

> "The Brahmanas represent no doubt a most interesting phase in the history of the Indian mind, but judged by themselves, as literary productions, they are most disappointing. No one would have supposed that at so early a period, and in so primitive a state of society, there could have risen up a literature which for pedantry and downright absurdity can hardly be matched anywhere. There is no lack of striking thoughts, of bold expressions, of sound reasoning, and curious traditions in these collections. But these are only like the fragments of a torso, like precious gems set in brass and lead. The general character of these works is marked by shallow and insipid grandiloquence, by priestly conceit, and antiquarian pedantry. It is most important to the historian that he should know how soon the fresh and healthy growth of a nation can be blighted by priestcraft and superstition. It is most important that we should know that nations are liable to these epidemics in their youth as well as in their dotage. These works deserve to be studied as the physician studies the twaddle of idiots, and the raving of madmen."[1]

On reading these Brahmanic speculations on the origin of the four *Varnas* and particularly of the Shudras one is very much reminded of these words of Prof. Max Muller. All these speculations are really the twaddles of idiots and ravings of madmen and as such they are of no use to the student of history who is in search of a natural explanation of a human problem.

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1 Max Muller, *Ancient Sanskrit Literature* (Panini office edition), p. 200.

CHAPTER III

THE BRAHMANIC THEORY OF THE STATUS OF THE SHUDRAS

SO much for the Brahmanic view of the origin of the Shudra. Turning to the Brahmanic view of the civil status of the Shudra, what strikes one is the long list of disabilities, accompanied by a most dire system of pains and penalties to which the Shudra is subjected by the Brahmanic law-givers.

The disabilities and penalties of the Shudra found in the *Samhitas* and the *Brahmanas* were few, as may be seen from the following extracts:

I. According to the *Kathaka Samhita* (xxxi.2) and the *Maitrayani Samhita* (iv.1.3; i.8.3)

> "A shudra should not be allowed to milk the cow whose milk is used for Agnihotra."

II. The *Satapatha Brahmana* (iii.1.1.10), the *Maitrayani Samita* (vii.1.1.6) and also the *Panchavimsa Brahmana* (vi.1.11) say:

> "The Shudra must not be spoken to when performing a sacrifice and a Shudra must not be present when a sacrifice is being performed."

III. The *Satapatha Brahmana* (xiv.1.31) and the *Kathaka Samhita* (xi.10) further provide that :

> "The Shudra must not be admitted to Soma drink."

IV. The *Aitareya Brahmana* (vii.29.4) and the *Panchavimsa Brahmana* (vi.1.11) reached the culminating point when they say:

> "Shudra is a servant of another (and cannot be anything else)."

But what in the beginning was a cloud no bigger than a man's hand, seems to have developed into a storm, which has literally overwhelmed the Shudras. For, as will be seen from the extracts given from later penal legislation by the *Sutrakaras* like *Apastamba, Baudhayana,* etc. and the *Smritikaras* like Manu and others, the growth of the disabilities of the Shudras has been at a maddening speed and to an extent which is quite unthinkable.

The disabilities are so deadening that it would be impossible to believe them unless one sees them in cold print. They are, however, so numerous that it is impossible to present them in their fullness. To enable those, who do not know them, to have some idea of these disabilities, I have assembled below in one place illustrative statements by the different *Sutrakaras* and *Smritikaras* relating to the disabilities of the Shudras scattered in their Law Books.

II

(i)

(A) *The Apastamba Dharma Sutra* says :

"There are four castes—Brahmanas, Kshatriyas, Vaishyas and Shudras.

Amongst these, each preceding (caste) is superior by birth to the one following[1] :

For all these, excepting Shudras and those who have committed bad actions are ordained (1) the initiation (Upanayana or the wearing of the sacred thread), (2) the study of the Veda and (3) the kindling of the sacred fire (i.e., the right to perform sacrifices).[2]"

(B) This is what the *Vasishtha Dharma Sutra* says:

"There are four castes (Varna) Brahmanas, Kshatriyas, Vaishyas and Shudras.

Three castes, Brahmanas, Kshatriyas and Vaishyas (are called) twice-born.

Their first-birth is from the mother; the second from the investiture with the sacred girdle. In that (second birth) the Savitri is the mother, but the teacher is said to be the father.

They call the teacher father, because he gives instruction in the Veda.[3]

The four castes are distinguished by their origin and by particular sacraments.

There is also the following passage of the Veda: ' The Brahmana was his mouth, the Kshatriya formed his arms: the Vaishya his thighs; the Shudra was born from his feet.[1]

It has been declared in the following passage of the Veda that a Shudra shall not receive the sacraments. 'He created the Brahmana with the Gayatri (metre), the Kshatriya with the Trishtubh, the Vaishya with the Jagati, the Shudra without any metre."[4]

(C) The *Manu Smriti* propounds the following view on the subject :

1. Prasna 1, Patala 1, Khanda 1, Sutras 4-5.
2. Ibid., Sutra 6.
3. Chapter H, Verses 1-4.
4 Chapter IV, Verse 3

"For the prosperity of the worlds, he (the creator) from his mouth, arms, thighs and feet created the Brahmana, Kshatriya, Vaishya and Shudra.[1]

The Brahmans, Kshatriya (and) Vaishya constitute the three twice-born castes, but the fourth, the Shudra has only one birth."[2]

(ii)

(A) The *Apastamba Dharma Sutra* says:

"(A Traivarnika) shall never study (the Veda) in a burial ground nor anywhere near it within the throw of a Samya.

If a village has been built over a burial ground or its surface has been cultivated as a field, the recitation of the Veda in such a place is not prohibited.

But if that place is known to have been a burial ground, he shall not study (there).

A Shudra and an outcaste are (included by the term) burial-ground, (and the rule given, Sutra 6 applies to them).

Some declare, that (one ought to avoid only to study) in the same house (where they dwell).

But if (a student and) a Shudra woman merely look at each other, the recitation of the Veda must be interrupted.[3]

Food touched by a (Brahmana or other high-caste person) who is impure, becomes impure but not unfit for eating.

But what has been brought (be it touched or not) by an impure Shudra must not be eaten.

A Shudra touches him, (then he shall leave off eating)."[4]

(B) The *Vishnu Smriti* says :

"He must not cause a member of a twice born caste to be carried out by a Shudra (even though he be a kinsman of the deceased). Nor a Shudra by a member of a twice-born caste.

A father and a mother shall be carried out by their sons; (who are equal in caste to their parents).

But Shudras must never carry out a member of a twice-born caste, even though he be their father."[5]

(C) The *Vasishtha Dharma Sutra* prescribes :

"Now therefore, we will declare what may be eaten and what may not be eaten.

1 Chapter I, Verse 31.

2 Chapter X, Verse 4

3 Prasna 1, Patala 3, Khanda 9, Sutras 6-11.

4 Prasna 1, Patala 5, Khanda 16, Sutras 21-22.

5 Chapter XIX, Sutras 1-4

Food given by a physician, a hunter, a woman of bad character, a mace-bearer, a thief, an Abhisasta, and eunuch, (or) an outcaste must not be eaten.

Nor that given by a miser, one who has performed the initiatory ceremony of a Srauta-sacrifice, a prisoner, a sick person, a seller of the Soma plant, a carpenter, a washerman, a dealer in spirituous liquor, a spy, an usurer, (or) a cobbler.

Nor that given by a Shudra.[1]

Some call that Shudra race a burial-ground.

Therefore the Veda must not be recited in the presence of a Shudra."

Now they quote also the (following) verses which Yama proclaimed :

The wicked Shudra-race is manifestly a burial-ground. Therefore (the Veda) must never be recited in the presence of a Shudra.[2]

Some become worthy receptacles of gifts through sacred learning, and some through the practice of austerities. But that Brahmana whose stomach does not contain the food of a Shudra, is even the worthiest receptacle of all.[3]

If a Brahmana dies with the food of a Shudra in his stomach, he will become a village pig (in his next life) or be born in the family of that Shudra.

For though a (Brahmana) whose body is nourished by the essence of a Shudra's food may daily recite the Veda, though he may offer (an Agnihotra) or mutter (prayers, nevertheless) he will not find the path that leads upwards.

But if, after eating the food of a Shudra, he has conjugal intercourse, (even) his sons (begotten on a wife of his own caste) will belong to the giver of the food (i.e., to the Shudra) and he shall not ascend to heaven.[4]

(D) The *Manu Smriti* says :

"He (Brahmin) may not dwell in the kingdom of a Shudra nor in one full of unrighteous people, nor in one invaded by hosts of heretics nor in one possessed by low-born men.[5]

A Brahmin who performs a sacrifice for a Shudra should not be invited to dine with other Brahmins at a Shraddha ceremony. His company will destroy all merit that which may otherwise be obtained from such a dinner.[6]

One should carry out by the southern town-gate a dead Shudra, but the twice-born by the western, northern and eastern (gates) respectively.[7]

1 Chapter XIV, Verses 1-4

2 Chapter XVIII, Verses 11-15

3 Chapter VI, Verses 26.

4 Chapter VI, Verses 27-29

5 Chapter IV, Verse 61

6 Chapter III, Verse 178

7 Chapter V Verse 92.

(iii)

(A) The *Apastamba Dharma Sutra* says :

"A Brahmana shall salute stretching forward his right arm on a level with his ear, a Kshatriya holding it on a level with the breast, a Vaishya holding it on a level with the waist, a Shudra holding it low (and) stretching forward the joined hands.[1]

And when returning the salute of (a man belonging) to the first (three) castes, the last syllable of the name of the person addressed is produced to the length of three moras.[2]

If a Shudra comes as a guest (to a Brahmana) he shall give him some work to do. He may feed him, after (that has been performed. To feed him without asking him first to do some work is to do him honour.)

Or the slaves (of the Brahmana householder) shall fetch (rice) from the royal stores, and honour the Shudra as a guest."[3]

(B) The *Vishnu Smriti* prescribes :

"The same punishment (payment of hundred Panas) is also ordained for hospitably entertaining a Shudra or religious ascetic at an oblation to the gods or to the manes."[4]

(C) The *Manu Smriti* enjoins that :

One should consider a Brahmana ten years old and a Kshatriya a hundred years old as father and son; but of them the Brahman (is) the father.

Wealth, kindred, age, sects (and) knowledge as the fifth; those are the causes of respect, the most important (is) the last (mentioned).

In whom among the three (higher) castes the most and the best of (those) five may be he is here worthy of respect; a Shudra (is not worthy of respect on the ground of his wealth or knowledge no matter how high they are. It is only on the ground of his age and that too only if) he has attained the tenth (decade of his life that he becomes worthy of respect and not before.)[5]

1 Prasna 1, Patala 2, Khanda 5, Sutra 16.

2 *Ibid,* Sutra 17.

3 Prasna II, Patala 2, Khanda 4, Sutras 19-20

4 Chapter V. Sutra 115.

5 Chapter II, Verses 135-137.

For not by years, nor by grey hair, not by wealth, nor kindred (is superiority); the seers made the rule—Who knows the Veda completely, he is great among us.

Of Brahmins, superiority (is) by knowledge, but of Kshatriyas by valour, of Vaishyas by reason of property (and) wealth, and of Shudras by age.

One is not, therefore, aged because his head is grey; whoever, although a youth, has perused (the Vedas), him the gods consider an elder.[1]

Now a Kshatriya is not called a guest in a Brahmin's house, nor a Vaishya nor a Shudra; neither is a friend, the kinsman, nor a Guru (of the householder). (That is, a Brahmin has alone the right to have the honour of being treated as a guest in a Brahmin's house).

But if a Kshatriya come as a guest to the house after the said Brahmins have eaten one should give him food (if) he wishes.

If a Vaishya (or) Shudra come to the house as guests, the Brahmin should give them food but with the servants, using kindness."[2]

(iv)

(A) According to the *Apastamba Dharma* Sutra :

He who has killed a Kshatriya shall give a thousand cows (to Brahmins for the expiation of the act).

He shall give, a hundred cows for the killing of a Vaishya, (only) ten for a Shudra.[3]

(B) According to the *Gautama Dharma* Sutra :

"A Kshatriya (shall be fined) one hundred (Karshapanas) if he abuses a Brahmana.

In case of an assault (on a Brahmana) twice as much.

A Vaishya (who abuses a Brahmana, shall pay) one and a half (times as much as a Kshatriya).

But a Brahmana (who abuses) a Kshatriya (shall pay) fifty (Karshapanas).

1 Chapter II, Verses 154-156.

2 Chapter III, Verses 110-112.

3 Prasna I, Patala 9, Khanda 24, Sutras 1-3.

One half of that amount (if he abuses) a Vaishya.

And if he abuses a Shudra nothing."[1]

(C) According to *Brihaspati's Dharma* Shastra :

"For a Brahmin abusing a Kshatriya, the fine shall be half of a hundred (fifty) Panas; for abusing a Vaisya, half of fifty (twenty-five) Panas, for abusing a Shudra twelve and a half.

This punishment has been declared for abusing a virtuous Shudra (i.e., a Shudra who accepts his low status and does willingly the duties attached to that status) who has committed no wrong; no offence is imputable to a Brahmin for abusing a Shudra devoid of virtue.

A Vaishya shall be fined a hundred (Panas) for reviling a Kshatriya; a Kshatriya reviling a Vaishya shall have to pay half of that amount as a fine.

In the case of a Kshatriya reviling a Shudra the fine shall be twenty Panas; in the case of a Vaishya, the double amount is declared to be the proper fine by persons learned in law.

A Shudra shall be compelled to pay the first fine for abusing a Vaishya; the middling fine for abusing a Kshatriya; and the highest fine for abusing a Brahmin."[2]

(D) According to the *Manu Smruti:*

A Kshatriya who reviles a Brahmin ought to be fined one hundred (Panas); a Vaishya one hundred and fifty or two hundred, but a Shudra ought to receive corporal punishment.

A Brahmin should be fined fifty if he has thrown insult on a Kshatriya, but the fine shall be a half of fifty if on a Vaishya and twelve if on a Shudra."[3]

In the murder of a Kshatriya, one fourth (part) of the penance for slaying a Brahman is declared to be the proper penance; an eighth part in the case of a Vaishya; and in (the case of) a Shudra (who) lives virtuously, one sixteenth part must be admitted (as the proper penance).

But if one of the highest of the twice-born (a Brahmin) slay a Kshatriya involuntarily he may, in order to cleanse himself give a thousand cows and a bull.

Or let him for three years (with senses) subdued and locks braided, follow the observances of one who has slain a Brahmin, living in a place rather far from the town, his dwelling place the foot of a tree.

1 Chapter XII, Sutras 8-13.

2 Chapter XX, Verses 7-11.

3 Chapter VIII, Verses 267-268

The highest of a twice-born (the Brahmin) should practise just this expiation for a year on having slain a Vaishya who lives virtuously and give one hundred and one (heads) of cattle.

The slayer of a Shudra should practise exactly all these observances for six months; or he may give to a priest ten white cows and a bull.[1]"

(E) According to the *Vishnu Smriti:*

"With whatever limb an inferior insults or hurts his superior in caste, of that limb the king shall cause him to be deprived.

If he places himself on the same seat with his superior, he shall be banished with a mark on his buttocks.

If he spits on him he shall lose both lips.

If he breaks wind against him, he shall lose his hind parts.

If he uses abusive language, his tongue.

If a low-born man through pride give instruction (to a member of the highest caste) concerning his duty, let the king order hot oil to be dropped into his mouth.

If a Shudra man mentions the name or caste of a superior revilingly, an iron pin ten inches long shall be thrust into his mouth (red hot)."[2]

(v)

(A) According to the *Brihaspati Smriti :*

"A Shudra teaching the precepts of religion or uttering the words of the Veda, or insulting a Brahmin shall be punished by cutting out his tongue."[3]

(B) According to the *Gautama Dharma Sutra :*

"Now if he listens intentionally to (a recitation of) the Veda, his ears shall be filled with (molten) tin or lac.

If he recites (Vedic texts), his tongue shall be cut out. If he remembers them, his body shall be split in twain."[4]

(C) According to the *Manu Smriti:*

One who teaches for hire, also one who learns by paying hire (a Shudra) teacher and one who learns from him are unfit for being invited at the performance in honour of the Devas and Pitris.[5]

1 Chapter XI, Verses 127-131

2 Chapter V, Sutras 19-25

3 Chapter XII, Verse 12.

4 Chapter XX, Sutras 4-6.

5 Chapter III, Verse 156.

One may not give advice to a Shudra, nor (give him) the remains (of food) or of butter that has been offered.

And one may not teach him the law or enjoin upon him religious observances.

For he who tells him the law and he who enjoins upon him (religious) observances, he indeed together with that (Shudra) sinks into the darkness of the hell called Asamvrita.[1]

One should never recite (the Vedas) indistinctly or in the presence of a Shudra; nor having recited the Veda at the end of the night, (though) fatigued may one sleep again."[2]

(vi)

This is what the *Manu Smriti* says :

"A Brahmin may take possession of the goods of a Shudra with perfect peace of mind, for, since nothing at all belongs to this Shudra as his own, he is one whose property may be taken away by his master.[3]

Indeed, an accumulation of wealth should not be made by a Shudra even if he is able to do so, for the sight of mere possession of wealth by a Shudra injures the Brahmin."[4]

(vii)

Here is the advice of the Manu Smriti to the king :

"He who can claim to be a Brahmin merely on account of his birth, or he who only calls himself a Brahmin, may be, if desired, the declarer of law for the king, but a Shudra never.

If a king looks on while a Shudra gives a judicial decision, his realm sinks into misfortune, like a cow in a quagmire.

A realm which consists chiefly of Shudras and is overrun by unbelievers and destitute of twice-born men is soon totally destroyed, oppressed by famine and disease."[5]

(viii)

(A) The *Apastamba Dharma Sutra* says:

"And those who perform austerities, being intent on fulfilling the sacred laws. And a Shudra who lives by washing the feet (of the Brahmin).

1 Chapter IV, Verses 78-81.
2 Chapter IV, Verse 99.
3 Chapter VIII, Verse 417.
4 Chapter X, Verse 129.
5 Chapter VIII, Verses 20-22.

Also blind, dumb, deaf and diseased persons (as long as their infirmities last) are exempt from taxes.[1]

To serve the other three castes is ordained for the Shudra.

The higher the caste which he serves the greater is the merit."[2]

(B) The Manu Smriti has the following:

"Now, for the sake of preserving all this creation, the most glorious (being) ordained separate duties for those who sprang from (his) mouth, arm, thigh and feet.

For Brahmins he ordered teaching, study, sacrifices and sacrificing (as priests) for others, also giving and receiving gifts.

Defence of the people, giving (alms), sacrifice, also study, and absence of attachment to objects of sense, in short for a Kshatriya.

Tending of cattle, giving (alms), sacrifice, study, trade, usury, and also agriculture for a Vaishya.

One duty the Lord assigned to a Shudra—service to those (before-mentioned) classes without grudging."[3]

(ix)

(A) The Apastamba Dharma Sutra says :

"A man of one of the first three castes (who commits adultery) with a woman of the Shudra caste shall be banished.

A Shudra (who commits adultery) with a woman of one of the first three castes shall suffer capital punishment."[4]

(B) The *Gautama Dharma Sutra* says :

If (the Shudra) has criminal intercourse with an Aryan woman, his organ shall be cut off and all his property be confiscated.

If (the woman had) a protector (i.e., she was under the guaradian-ship of some person) he (the Shudra) shall be executed after having undergone the punishments prescribed above.[5]

(C) The *Manu Smriti* says :

If a man (of the Shudra caste) makes love to a girl of the highest caste he deserves corporal punishment.[6]

A Shudra cohabiting with a woman of twice-born castes, whether she be guarded or not guarded, is (to be) deprived of his member and of all his property if she be not guarded and of everything if she is guarded.[7]

1. Prasna II, Patala 10, Khanda 26, Sutras 14-16.
2. Prasna I, Patala I, Khanda I, Sutras 7-8.
3. Chapter I, Verses 87-91.
4. Prasna II, Patala 10, Khanda 27, Sutras 8-9.
5 Chapter XII, Sutras 2-3.
6 Chapter VIII, Verse 366.
7 Chapter VIII, Verse 374.

For twice-born men, at first, a woman of the same caste is approved for marrying; but of those who act from lust, those of lower caste may in order (be wives).

A Shudra woman alone (is) a wife for a Shudra; both she and a woman of his own caste (are) legally (wives) of a Vaishya; they two and also a woman of his own caste (are wives) of a Kshatriya, both they and a woman of his own caste(are wives) of a Brahmin.

A Shudra wife is not indicated in any history for a Brahmin and Kshatriya, even though they be in distress.

Twice-born men marrying a (Shudra) woman out of infatuation will surely bring quickly (their) families and descendants to the condition of Shudras.[1]

A Brahmin having taken a Shudra woman to his bed goes the lower course; having begotten on her a son, he is surely deprived of his Brahminhood.

Now of (a man) whose offerings towards gods, manes, and guests depend on her, the manes and gods eat not that offering nor does he go to heaven.

An expiation is not prescribed for him who has drunk the moisture on a Shudra woman's lips, who has been reached by her breath, and who has also begotten a son on her.[2]

(*x*)

(A) The *Vasishtha Dharma Sutra* says :

"One may know that bearing grudges, envy, speaking untruths, speaking evil of Brahmins, backbiting and cruelty are the characteristics of a Shudra."[3]

(B) The Vishnu Smriti prescribes that :

(The name to be chosen should be) auspicious in the case of a Brahmin.

Indicating power in the case of a Kshatriya.

Indicating wealth in the case of a Vaishya.

And indicating contempt in the case of a Shudra.[4]

(C) The *Gautama Dharma Sutra* says :

"The Shudra belongs to the fourth caste, which has one birth (only).

1. Chapter III, Verses 12-15.
2. *Ibid*, Verses 17-19.
3. Chapter VI, Verse 24.
4. Chapter XXVII, Sutras 6-9.

And serves the higher (castes).

From them he shall seek to obtain his livelihood.

He shall use their cast-off shoes.

And eat the remnants of their food.

A Shudra who intentionally reviles twice-bom men by Criminal abuse, or criminally assaults them with blows, shall be deprived of the limb with which he offends.

If he assumes a position equal to that of twice-born men in sitting, in lying down, in conversation or on the road, he shall undergo (corporal punishment)"[1]

(D) The Manu Smriti follows suit and says :

"But if a Brahmin through avarice, and because he possesses the power, compel twice-born men, who have received the initiation (into the caste order), to do the work of a slave when they do not wish it, he shall be fined six hundred panas by the king.

But a Shudra, whether bought or not bought (by the Brahmin) may be compelled to practise servitude, for that Shudra was created by the self-existent merely for the service of the Brahmin.

Even if freed by his master, the Shudra is not released from servitude; for this (servitude) is innate in him; who then can take it from him.[2]

Just in proportion as one pursues without complaining the mode of life (practised) by the good, so free from blame, he gains both this and the otherworld.[3]

Now the supreme duty of a Shudra and that which ensures his bliss is merely obedience toward clelebrated priests who understand the Veda and live as householders.

If he be pure, obedient to the higher (castes), mild in speech, without conceit, and always submissive to the Brahmin, he attains (in the next transmigration) a high birth.[4]

Now a Shudra desiring some means of subsistence may serve a Kshatriya, so(is the rule); or the Shudra (if) anxious to support life, (may do so by) serving a wealthy Vaishya.

But he should serve the Brahmins for the sake of heaven, or for the sake of both (heaven and livelihood); for by him (for whom) the word Brahmin (is always) uttered is thus attained the state of completing all he ought to do.

1. Chapter X. Sutras 50, 56-59 and Chapter XII, Sutras 1,7.
2. Chapter VIII, Verses 412-414.
3. Chapter X, Verse 128.
4. Chapter IX, Verses 334-335.

Merely to serve the Brahmins is declared to be the most excellent occupation of a Shudra; for if he does anything other than this it profits him nothing.

His means of life should be arranged by those Brahmins out of their own household (goods) in accordance with what is fitting after examining his ability, cleverness, and (the amount) the dependents embrace.

The leaving of food should be given (to him) and the old clothes, so too the blighted part of the grain, so too the old furniture.[1]

Let a Brahmin's name be auspicious, a Kshatriya's full of power, let a Vaishya's mean wealth, a Shudra's however be contemptible.

Let a Brahmin's (distinctive title) imply prosperity, a Kshatriya's safeguard, a Vaishya's wealth, a Shudra's service.[2]

If (a man) of one birth assault one of the twice-born castes with virulent words, he ought to have his tongue cut, for he is of the lowest origin.

If he makes mention in an insulting manner of their name and caste, a red-hot iron rod, ten fingers long, should be thrust into his mouth.

If this man through insolence gives instruction to the priests in regard to their duty, the king should cause boiling hot oil to be poured into his mouth and ear.[3]

If a man of the lowest birth should with any member injure one of the highest station, even that member of this man shall be cut (off); this is an ordinance of Manu.

If he lift up his hand or his staff (against him), he ought to have his hand cut off; and if he smites him with his feet in anger, he ought to have his feet cut off.

If a low-born man endeavours to sit down by the side of a high-born man, he should be banished after being branded on the hip, or (the king) may cause his backside to be cut off.

If through insolence he spit upon him, the king should cause his two lips to be cut off; and if he makes water upon him, his penis, and if he breaks wind upon him, his anus.

If he seize him by the locks, let the king without hesitation cause both his hands to be cut off, (also if he seize him) by the feet, the beard, the neck or the testicles.

1. Chapter X, Verses 121-125.
2. Chapter II, Verses 31-32.
3. Chapter VIII, Verses 270-72.

A man who tears (another's) skin and one who causes blood to be seen ought to be fined five hundred (Panas), if he tears the flesh (he should be fined) six niskas, but if he breaks a bone he should be banished.[1]

(D) The *Narada Smriti* says:

Men of the Shudra caste, who prefer a false accusation against a member of a twice-born Aryan caste, shall have their tongue split by the officers of the king, and he shall cause them to be put on stakes.

A once-born man (or Shudra) who insults members of a twice-born caste with gross invectives, shall have his tongue cut off; for he is of low origin.

If he refers to their name or caste in terms indicating contempt, an iron-rod, ten angulas long, shall be thrust red-hot into his mouth.

If he is insolent enough to give lessons regarding their duty to Brahmins, the king shall order hot oil to be poured into his mouth and ears.

With whatever limb a man of low caste offends against a Brahmin, that very limb of him shall be cut off, such shall be the atonement for his crime.

A low-born man, who tries to place himself on the same seat with his superior in caste, shall be branded on his hip and banished, or (the king) shall cause his backside to be gashed.

If through arrogance he spits on a superior, the king shall cause both his lips to be cut off; if he makes water on him, the penis; if he breaks wind against him, the buttocks."[2]

III

Such were the laws made against the Shudras by the Brahmanic lawgivers. The gist of them may be summarized under the following heads :

(1) That the Shudra was to take the last place in the social order.

(2) That the Shudra was impure and therefore no sacred act should be done within his sight and within his hearing.

(3) That the Shudra is not to be respected in the same way as the other classes.

(4) That the life of a Shudra is of no value and anybody may kill him without having to pay compensation and if at all of small value

1. Chapter VIII, Verses 279-284.
2. Chapter XV, Verses 22-27.

as compared with that of the Brahmana, Kshatriya and Vaishya.

(5) That the Shudra must not acquire knowledge and it is a sin and a crime to give him education.

(6) That a Shudra must not acquire property. A Brahmin can take his property at his pleasure.

(7) That a Shudra cannot hold office under the State.

(8) That the duty and salvation of the Shudra lies in his serving the higher classes.

(9) That the higher Classes must not inter-marry with the Shudra. They can however keep a Shudra woman as a concubine. But if the Shudra touches a woman of the higher classes he will be liable to dire punishment.

(10) That the Shudra is born in servility and must be kept in servility for ever.

Anyone who reads this summary will be struck by two considerations. He will be struck by the consideration that Shudra alone has been selected by the Brahmanic law-givers as a victim for their law-making authority. The wonder must be all the greater when it is recalled that in the ancient Brahmanic literature the oppressed class in the ancient Indo-Aryan society was the Vaishya and not the Shudra. In this connection a reference may be made to the *Aitareya Brahmana*. The *Aitareya Brahmana* in telling the story of King Vishvantara and the Shyaparna Brahmanas refers to the sacrificial drink to which the different classes are entitled. In the course of the story, it speaks of the Vaishya in the following terms :

> "Next, if (the priest brings) curds, that is the Vaishya's draught with it thou shalt satisfy the Vaishyas. One like a Vaishya shall be born in thy line, one who is tributary to another, who is to be used (lit. eaten) by another, and who maybe oppressed at will.[1]

The question is: why was the Vaishya let off and why the fury directed towards the Shudras ?

He will also be struck by the close connection of the disabilities of the Shudra with the privileges of the Brahmin. The Shudra is below the Traivarnikas and is contrasted with the Traivarnikas. That being so, one would expect all the Traivarnikas to have the same rights against the Shudras. But what are the facts? The facts are that the Kshatriyas and Vaishyas have no rights worth speaking of against the Shudras. The only Traivarnika who has special rights and privileges

1 Muir, Vol. 1, p. 436-40.

42 Chapter XII, Sutras 2-3.

is the Brahmin. For instance, if the Shudra is guilty of an offence against the Brahmin, the Brahmin has the privilege of demanding a higher punishment than what a Kshatriya or a Vaishya could. A Brahmin could take the property of the Shudra without being guilty of an offence if he needed it for the purpose of performing a sacrifice. A Shudra should not accumulate property because he thereby hurts the Brahmin. A Brahmin should not live in a country where the king is a Shudra. Why is this so? Had the Brahmin any cause to regard the Shudra as his special enemy?

There is one other consideration more important than these. It is, what does the average Brahmin think of these disabilities of the Shudras? That they are extraordinary in their conception and shameful in their nature will be admitted by all. Will the Brahmin admit it? It would not be unnatural if this catalogue of disabilities may not make any impression upon him. In the first place, by long habit and usage his moral sense has become so dulled that he has ceased to bother about the how and why of these disabilities of the Shudras. In the second place, those of them who are conscious of them feel that similar disabilities have been imposed on particular classes in other countries and there is therefore nothing extraordinary nor shameful in the disabilities of the Shudras. It is the second attitude that needs to be exposed.

This attitude is a very facile one and is cherished bacause it helps to save reputation and slave conscience. It is, however, no use leaving things as they are. It is absolutely essential to show that these disabilities have no parallel anywhere in the world. It is impossible to compare the Brahmanic Law with every other legal system on the point of rights and disabilities. A comparison of the Brahmanic Law with the Roman Law ought to suffice.

IV

It will be well to begin this comparison by noting the classes which under the Roman Law had rights and those which suffered from disabilities. The Roman jurists divided men into five categories: (1) Patricians and Plebians; (2) Freemen and Slaves; (3) Citizens and Foreigners; (4) Persons who were *sui juris* and persons who were *alieni juris* and (5) Chirstians and Pagans.

Under the Roman Law; persons who were privileged were: (1) Patricians; (2) Freemen; (3) Citizens; (4) *Sui juris* and

(5) Christians. As compared to these, persons who suffered disabilities under the Roman Law were: (1) the Plebians; (2) Slaves; (3) Foreigners; (4) Persons who were *alieni juris* and (5) Pagans.

A Freeman, who was a citizen under the Roman Law, possessed civil rights as well as political rights. The civil rights of a citizen comprised rights of *connubium* and *commercium*. In virtue of the *connubium*, the citizen could contract a valid marriage according to the *jus civile*, and acquire the rights resulting from it, and particularly the paternal power and the civil relationship called agnation, which was absolutely necessary to enable him in law to succeed to the property of persons who died intestate. In virtue of the *commercium* he could acquire and dispose of property of all kinds, according to the forms and with the peculiar privileges of the Roman Law. The political rights of the Roman citizen included *jus suffragii* and *jus honorum*, the right to vote in public elections and the right to hold office.

The slave differred from the Freeman in as much as he was owned by the master and as such had no capacity to acquire rights.

Foreigners, who were called *Peregrine*, were not citizens and had none of the political or civil rights which went with citizenship. A Foreigner could obtain no protection unless he was under the protection of a citizen.

The *alieni juris* differed from *sui juris* in as much as the former were subject to the authority of another person, while the latter were free from it. This authority was variously called (1) Potestas, (2) Manus and (3) Mancipium, though they had the same effect. Potestas under the Roman Law fell into two classes. Persons subject to Potestas were (1) slaves, (2) children, (3) wife in Manus,

(4) debtor assigned to the creditor by the Court and (5) a hired gladiator. *Potestas* gave to one in whom it was vested rights to exclusive possession of those to whom it extended and to vindicate any wrong done to them by anyone else.

The correlative disabilities which persons *alieni juris* suffered as a result of being subject to *Potestas* were: (1) they were not free, (2) they could not acquire property and (3) they could not directly vindicate any wrong or injury done to them.

The disabilities of the Pagans began with the advent of Christianity. Originally, when all the Romans followed the same Pagan worship, religion could occasion no difference in the enjoyment of civil rights. Under the Christian Emperors, heretics and

apostates as well as Pagans and Jews, were subjected to vexatious restrictions, particularly as regards their capacity to succeed to property and to act as witnesses. Only orthodox Christians who recognised the decisions of the four oecumenical councils had the full enjoyment of civil rights.

This survey of rights and disabilities of the Roman Law may well give comfort to Hindus that the Brahmanic Law was not the only law which was guilty of putting certain classes under disabilities, although the disabilities imposed by the Roman Law have nothing of the cruelty which characterizes the disabilities imposed by the Brahmanic Law. But when one compares the principles of the Roman Law with those of the Brahmanic Law underlying these disabilities, the baseness of the Brahmanic Law becomes apparent.

Let us first ask: What was the basis of rights and disabilities under the Roman Law. Even a superficial student of Roman Law knows that they were based upon (1) *Caput* and (2) *Existimatio*.

Caput meant the civil status of a person. Civil status among the Romans had reference chiefly to three things; liberty, citizenship and family. The status *libertatis* consisted of being a freeman and not a slave. If a freeman was also a Roman citizen, he enjoyed the *status civitatis*. Upon this quality depended not only the enjoyment of political rights, but the capacity of participating in the jus civile. Finally, the *status familice* consisted in a citizen belonging to a particular family, and being capable of enjoying certain rights in which the members of that family, in their quality of agnates, could alone take part.

If an existing status came to be lost or changed, the person suffered what was called a *capitis diminutio*, which extinguished either entirely or to some extent his former legal capacity. There were three changes of state or condition attended with different consequences, called *maxima, media,* and *minima*. The greatest involves the loss of liberty, citizenship, and family; and this happened when a Roman citizen was taken prisoner in war, or condemned to slavery for his crimes. But a citizen who was captured by the enemy, on returning from captivity, was restored to all his civil rights *jure postliminii*.

The next change of status, consisted of the loss of citizenship and family rights, without any forfeiture of personal liberty; and this occurred when a citizen became a member of another state. He was then forbidden the use of fire and water, so as to be forced to quit the Roman territory, or was sentenced to deportation under the empire.

Finally, when a person ceased to belong to a particular family, without losing his liberty or citizenship, he was said to suffer the least change of state, as for instance, where one *sui juris* came under the power of another by arrogation, or a son who had been under the *patria potestas* was legally emancipated by his father.

Citizenship was acquired first by birth. In a lawful marriage the child followed the condition of the father, and became a citizen, if the father was so at the time of conception. If the child was not the issue of *justoe nuptioe*, it followed the condition of the mother at the time of its birth. Secondly, by manumission, according to the formalities prescribed by law, the slave of a Roman citizen became a citizen. This rule was modified by the laws. *Elia* Sentia and Junia Norbana, according to which, in certain cases, the freedman acquired only the status of a foreigner, *peregrinus dedititius* or of a Latin, *Latinus Junianus*. Justinian restored the ancient principle, according to which every slave, regularly enfranchised, became in full right a Roman citizen. Thirdly, the right of citizenship was often granted as a favour, either to a whole community or to an individual, by the people or the senate during the republic, and by the reigning prince during the empire; and this was equivalent to what the moderns call naturalisation.

Citizenship was lost—Firstly, by the loss of liberty—as, for instance, when a Roman became a prisoner of war; secondly, by renouncing the character of Roman citizen, which took place when anyone was admitted a citizen of another state; thirdly, by a sentence of deportation or exile, as a punishment for crime.

The civil status of a person under the Roman Law may or may not be *civis optimo jure*. *Civis optimo jure* included not only capacity for civil rights but also capacity for political rights such as *jus suffragii et honorum*, i.e., the right to vote and the capacity to hold a public office. Capacity for political rights depended upon *existimatio*. *Existimatio* means reputation in the eye of the law. A Roman citizen may have *caput* as well as *existimatio*. On the other hand, a Roman may have *caput* but may not have *existimatio*. Whoever had *caput* as well as *existimatio* had civil rights as well as political rights. Whoever had *caput* but had no *existimatio* could claim civil rights only. He could not claim political rights.

A person's *existimatio* was lost in two ways. It was lost by loss of freedom or by conviction for an offence. If a person lost his freedom his *existimatio* was completely extinguished. Loss of *existimatio* by

conviction for offence varied according to the gravity of the offence.[1] If the offence was serious the diminution of his *existimatio* was called *infamia*. If the offence was less grave it was called *turpitudo*. *Infamia* resulted in the extinguishment of *existimatio*. Under the Roman Law a defendant, in addition to ordinary damages, was subjected to *infamia*. Condemnation for theft, robbery, *injuria* or fraud, entailed infamy. So a partner, a *mandatarius,* a *depositarins, tutor*, a mortgagee (in *contractus fiducioe*) if condemned for wilful breach of duty, was held to be infamous.

The consequence of *infamia* was exclusion from political rights,[2] not merely from office (honours), but even from the right to vote in elections (*suffragium*).

From this brief survey of the basis of rights and disabilities in Roman Law, it will be clear that the basis was the same for all. They did not differ from community to community. Rights and disabilities according to Roman Law were regulated by general considerations, such as *caput* and *existimatio*. Whoever had *caput* and *existimatio* had rights. Whoever lost his caput and his existimatio suffered disabilities. What is the position under the Brahmanic Law? There again, it is quite clear that rights and disabilities were not based on general uniform considerations. They were based on communal considerations. All rights for the first three *Varnas* and all disabilities for the Shudras was the principle on which the Brahmanic Law was based.

The protagonists of Brahmanic Laws may urge that this comparison is too favourable to Roman Law and that the statement that Roman Law did not distribute rights and liabilities on communal basis is not true. This may be conceded. For so far as the relation between the Patricians and Plebians was concerned the distribution of rights and liabilities was communal. But in this connection the following facts must be noted.

1. Such as robbery, theft, perjury, fraud, appearing on the public stage as an actor or gladiator, ignominious expulsion from the army, gaining a living by aiding in prostitution and other disreputable occupations and other variety of acts involving gross moral turpitude.

2. There were other consequences of *infamia* such as exclusion from the office of attorney, disability to act on behalf of another in a law suit or giving evidence. *Infamia* was inflicted in two ways, either by the censors or by the judgement of a Court of Law. It was in the power of the censors, in superintending public morality, to deprive senators of their dignity, to remove knights from the equestrian order and even to strip a citizen of all his political rights by classing him among the *aerarii*. The censors also put a *nota censoria* opposite to a man's name in the roll of citizens; and this might be done upon their own responsibility; without special inquiry, though they generally acted in accordance with public opinion. The *nota censoria* produced no effect except during the magistracy of the censor who imposed it. In this respect it differed essentially from infamy, which was perpetual, unless the stigma was removed by the prerogative of the people or the Emperor.

In the first place, it must be noted that Plebians were not slaves. They were freemen in as much as they enjoyed *jus commercii* or the right to acquire, hold and transfer property. Their disabilities consisted in the denial of political and social rights. In the second place, it must be noted that their disabilities were not permanent. There were two social disabilities from which they suffered. One arose from the interdict on intermarriage between them and the Patricians imposed by the Twelve Tables.[1] This disability was removed in B.C. 445 by the passing of the Canulenian Law which legalized intermarriage between Patricians and Plebians. The other disability was their ineligibility to hold the office of Pontiffs and Augurs in the Public Temples of Rome. This disability was removed by the Ogulnian Law passed in B.C. 300.

As to the political disabilities of the Plebians they had secured the right to vote in popular assemblies (*jus suffragii*) under the Constitution of Servius Tullius the Sixth King of Rome. The political disabilities which had remained unredressed were those which related to the holding of office. This too was removed in course of time after the Republic was established in B.C. 509. The first step taken in this direction was the appointment of Plebian Tribunes in B.C. 494; the Questorship was opened to them, formally in B.C. 421; actually in B.C. 409; the Consulship in B.C. 367; the curule-aedileship in B.C. 366; the dictatorship in B.C. 356; the Censorship in B.C 351; and the Praetorship in B.C. 336. The Hortensian Law enacted in B.C. 287 marked a complete triumph for the Plebians. By that law the resolutions of the Assembly of the tribes were to be directly and without modification, control or delay, binding upon the whole of the Roman people.

This marks a complete political fusion of Patricians and Plebians on terms of equality.

Not only were the Plebians placed on the same footing as to political capacity and social status with the Patricians but the road to nobility was also thrown open to them. In Roman society, birth and fortune were the two great sources of rank and personal distinction. But in addition to this, the office of Curule Magistracy was also a source of ennoblement to the holder thereof. Every citizen, whether Patrician or Plebian, who won his way to a Curule Magistracy, from that Edile upwards, acquired personal distinction, which was transmitted to his descendants, who formed a class called *Nobiles*, or

1. It was older than the Twelve Tables. The Twelve Tables only recognized it.

men known, to distinguish them from the *ignobiles*, or people who were not known. As the office was thrown open to the Plebians, many Plebians[1] had become nobles and had even surpassed the Patricians in point of nobility.

It may be that the Roman Law did recognise communal distinction in distributing rights and disabilities. The point is that the disabilities of the Plebians were not regarded as permanent. Although they existed they were in course of time removed. That being so, the protagonists of Brahmanic Law cannot merely take solace in having found a parallel in the Roman Law but have to answer why the Brahmanic Law did not abolish the distinction between the Traivarnikas and the Shudras as the Roman Law did by equating the Plebians with the Patricians? One can therefore contend that the Roman Law of rights and disabilities was not communal while the Brahmanic Law was.

This is not the only difference between the Roman Law and the Brahmanic Law. There are two others. One is equality before law in criminal matters. The Roman Law may not have recognized equality in matters of civil and political rights. But in matters of criminal law it made no distinction between one citizen and another, not even between Patrician and Plebian. The same offence the same punishment, no matter who the complainant and who the accused was. Once an offence was proved, the punishment was the same. What do the *Dharma Sutras* and the *Smritis* do? They follow an entirely different principle. For the same offence the punishment varies according to the community of the accused and the community of the complainant. If the complainant is a Shudra and the accused belonged to any one of the three classes the punishment is less than what it would be if the relations were reversed. On the other hand, if the complainant was Traivarnika and the accused a Shudra, the punishment is far heavier than in the first case. This is another barbarity which distinguishes the Brahmanic Law from the Roman Law.

The next feature of the Roman Law which distinguishes it from the Brahmanic Law is most noteworthy. It relates to the extinction of disabilities. Two points need be borne in mind. First is that the disabilities under the Roman Law were only contingent. So long as certain conditions lasted, they gave rise to certain disabilities. The

1. A Plebian who first attained a Curule office and became the founder of a noble family was called by the Remans a *novus homo* or new man.

moment the conditions changed, the disabilities vanished and a step in the direction of equality before law was taken. The second point is that the Roman Law never attempted to fix the conditions for ever and thereby perpetuate the disabilities. On the other hand, it was always ready to remove the conditions to which these disabilities were attached as is evident in the case of the Plebians, the Slaves, the Foreigners and the Pagans.

If these two points about the disabilities under the Roman Law are borne in mind, one can at once see what mischief the *Dharma Sutras* and the *Smritis* have done in imposing the disabilities upon the Shudras. The imposition of disabilities would not have been so atrocious if the disabilities were dependent upon conditions and if the disabled had the freedom to outgrow those conditions. But what the Brahmanic Law does is not merely to impose disabilities but it tries to fix the conditions by making an act which amounts to a breach of those conditions to be a crime involving dire punishment. Thus, the Brahmanic Law not only seeks to impose disabilities but it endeavours to make them permanent. One illustration will suffice. A Shudra is not entitled to perform Vedic sacrifices as he is not able to repeat the Vedic *Mantras*. Nobody would quarrel with such a disability. But the Dharma Sutras do not stop here. They go further and say that it will be a crime for a Shudra to study the Vedas or hear it being pronounced and if he does commit such a crime his tongue should be cut or molten lead should be poured into his ear. Can anything be more barbarous than preventing a man to grow out of his disability? What is the explanation of these disabilities? Why did the Brahmanic Law-givers take such a cruel attitude towards the Shudras? The Brahmanic Law books merely state the disabilities. They say that the Shudras have no right to *Upanayana*. They say that the Shudras shall hold no office. They say that the Shudras shall not have property. But they do not say why. The whole thing is arbitrary. The disabilities of the Shudra have no relation to his personal conduct. It is not the result of infamy. The Shudra is punished just because he was a Shudra. This is a mystery which requires to be solved. As the Brahmanic Law books do not help us to solve it, it is necessary to look for explanation elsewhere.

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CHAPTER IV

SHUDRAS *VERSUS* ARYANS

I

FROM what has been said before, it is clear that the Brahmanic writers do not give us any clue as to who the Shudras were and how they came to be the fourth *Varna*. It is, therefore, necessary to turn to the Western writers and to see what they have to say about the subject. The Western writers have a definite theory about the origin of the Shudras. Though all of them are hot agreed upon every aspect of the theory, there are points on which there seems to be a certain amount of unity among them. They comprise the following :

(1) The people who created the Vedic literature belonged to the Aryan race.

(2) This Aryan race came from outside India and invaded India.

(3) The natives of India were known as Dasas and Dasyus who were racially different from the Aryans.

(4) The Aryans were a white race. The Dasas and Dasyus were a dark race.

(5) The Aryans conquered the Dasas and Dasyus.

(6) The Dasas and Dasyus after they were conquered and enslaved were called Shudras.

(7) The Aryans cherished colour prejudice and therefore formed the *Chaturvarnya* whereby they separated the white race from the black race such as the Dasas and the Dasyus.

These are the principal elements in the Western theory about the origin and position of the Shudras in the Indo-Aryan society. Whether it is valid or not is another matter. But this much must certainly be said about it that after reading the Brahmanic theories with their long and tedious explanations attempting to treat a social fact as a divine dispensation, one cannot but feel a certain amount of relief in having before oneself a theory, which proceeds to give

a natural explanation of a social fact. One can do nothing with the Brahmanic theories except to call them senseless ebullitions of a silly mind. They leave the problem as it is. With the modern theory, one is at least on the road to recover one's way.

To test the validity of the theory, the best thing to do is to examine it piece by piece and see how far each is supported by evidence.

The foundation on which the whole fabric of the theory rests is the proposition that there lived a people who were Aryan by race. It is in the fitness of things therefore to grapple with this question first.

What is this Aryan race? Before we consider the question of Aryan race we must be sure as to what we mean by the word "race". It is necessary to raise this question because it is not impossible to mistake a people for a race. The best illustration of such a mistake is the Jews. Most people believe that the Jews are a race. To the naked eye, they appear to be so. But what is the verdict of the experts ? This is what Prof. Ripley[1] has to say about the Jews :

> "Our final conclusion, then, is this: This is paradoxical yet true, we affirm. The Jews are not a race, but only a people after all. In their faces we read its confirmation; while in respect of their other traits, we are convinced that such individuality as they possess—by no means inconsiderable—is of their own making from one generation to the next, rather than a product of an unprecedented purity of physical descent."

What is a race? A race may be defined as a body of people possessing certain typical traits which are hereditary. There was a time when it was believed that the traits which constitute a race are: (1) the form of the head, (2) the colour of the hair and eyes, (3) the colour of the skin, and (4) the stature. To-day the general view is that pigmentation and stature are traits, which vary according to climate and habitat, and consequently they must be ruled out as tests for determining the race of the people. The only stable trait is the shape of the human head—by which is meant the general proportions of length, breadth and height and that is why anthropologists and ethnologists regard it as the best available test of race.

The use of head-forms for determining the race to which an individual belongs has been developed by anthropologists into an exact science. It is called anthropometry. This science of anthropometry has devised two ways of measuring the head form: (1) cephalic index, and (2) facial index. The index is the mark of the race.

1. Ripley W. E., *The Races of Europe,* p. 400.

Cephalic index is the breadth of the head above the ears expressed in percentage of its length from forehead to back. Assuming that this length is 100, the width is expressed as a fraction of it. As the head becomes proportionately broader— that is more fully rounded, viewed from the top down—this cephalic index increases. When it rises above 80, the head is called brachycephalic. When it falls below 75, the term dolichocephalic is applied to it. Indices between 75 and 80 are characterized as mesocephalic. These are technical terms. They constantly crop up in literature dealing with questions of race and if one does not know what they denote it obviously becomes very difficult to follow the discussion intelligently. It would not therefore be without advantage if I were to stop to give their popular equivalents. The popular equivalent of mesocephalic is medium-headed, having a medium cephalic Index, the breadth of the cranium being between three-fourths and four-fifths of the length. Dolichocephalic means long-headed, having a low cephalic index, the breadth of the cranium being below four-fifths of the length.

Facial index is the correlation between the proportions of the head and the form of the face. In the majority of cases, it has been found that a relatively broad head is accompanied by a rounded face, in which the breadth back of the cheek bones is considerable as compared with the height from forehead to chin. Lack of uniformity in the mode of taking measurements has so far prevented extended observations fit for exact comparison. All the same, it has been found safe to adopt the rule, long head, oval face: short-head and round face.

Applying these measures of anthropometry, Prof. Ripley, an authority on the question of race, has come to the conclusion that the European people belong to three different races in terms of cephalic and facial index. His conclusions are summarized in the table on the next page.[1]

Is there an Aryan race in the physical sense of the term? There seem to be two views on the subject. One view is in favour of the existence of the Aryan race. According to it :[2]

> The Aryan type.. is marked by a relatively long (dolichocephalic) head; a straight finely-cut (leptorrhine) nose; a long symmetrically narrow face; well developed regular features and a high facial angle. The stature is fairly high— and the general build of the figure well-proportioned and slender rather than massive.

1. Ripley, *Races of Europe,* p. 121.
2. *Ibid* Vol. I, p. 121

EUROPEAN RACIAL TYPES

	Head	*Face*	*Hair*	*Eyes*	*Stature*	*Nose*
1. Teutonic	Long	Long	Very light	Blue	Tall	Narrow acquiline
2. Alpine (Celtic)	Round	Broad	Light Chestnut	Hazel Grey	Medium stocky	Variable: rather broad heavy
3. Mediterranean	Long	Long	Dark brown or black	Dark	Medium slender	Rather broad

The other view is that of Prof. Max Muller. According to him, the word is used in three different senses. This is what he, in his lectures on the *Science of Language*, says :

> In *ar* or *ara*, I recognise one of the oldest names of the earth, as the ploughed land, lost in Sanskrit but preserved in Greek as (era) so that Arya would have conveyed originally the meaning of landholder, cultivator of the land, while Vaishya from Vis meant householder, *Ida* the daughter of Manu is another name of the cultivated earth and probably a modification of *Ara*.

The second sense in which it was used was to convey the idea of ploughing or tilling the soil. As to this, Prof. Max Muller makes the following observations :

> I can only state that the etymological signification of Arya seems to be: One who ploughs or tills. The Aryans would seem to have chosen this name for themselves as opposed to the nomadic races, the *Turanians,* whose original name *Tura* implies the swiftness of the horsemen.

In the third sense, the word was used as a general name for the Vaishyas, i.e., the general body of the people, who formed the whole mass of the people. For this, Prof. Max Muller relies on Panini (iii. 1,103) for his authority. Then, there is the fourth sense, which the word got only towards the later period, in which sense it means 'of noble origin'.

What is however of particular importance is the opinion of Prof. Max Muller on the question of the Aryan race. This is what he says on the subject:[1]

> There is no Aryan race in blood; Aryan, in scientific language is utterly inapplicable to race. It means language and nothing but language; and if we speak of Aryan race at all, we should know that it means no more than... Aryan speech.
>
> * * *
>
> I have declared again and again that if I say Aryas, I mean neither blood nor bones, nor hair nor skull; I mean simply those who speak an Aryan language. The same applies to Hindus, Greeks, Romans, Germans, Celts, and Slavs. When I speak of them I commit myself to no anatomical characteristics. The blue-eyed and fair-haired Scandinavians may have been conquerors or conquered, they may have adopted the language of their darker lords or their subjects, or *vice versa.* I assert nothing beyond their language, when I call them Hindus, Greeks, Romans, Germans, Celts and Slavs; and in that sense, and in that sense only, do I say that even the blackest Hindus represent an earlier stage of Aryan speech and thought than the fairest Scandinavians. This may seem strong language, but in matters of such importance we cannot be too decided in our language. To me, an ethnologist who speaks of Aryan race, Aryan blood, Aryan eyes and hair, is as great a sinner as linguist who speaks of a dolichocephalic dictionary or a

1 *Biography* of Words, pp. 89 and 120-21.

> brachycephalic grammar. It is worse than a Babylonian confusion of tongues— it is down-right theft. We have made our own terminology for the classification of language; let ethnologists make their own for the classification of skulls, and hair and blood.

The value of this view of Prof. Max Muller will be appreciated by those who know that he was at one time a believer in the theory of Aryan race and was largely responsible for the propagation of it.

The two views are obviously not in harmony. According to one view, the Aryan race existed in a physiological sense with typical hereditary traits with a fixed cephalic and facial index. According to Prof. Max Muller, the Aryan race existed in a philological sense, as a people speaking a common language.

In this conflict of views one may well ask: what is the testimony of the Vedic literature? As examination of the Vedic literature shows that there occur two words in the Rig Veda—one is Arya (आर्य) with a short 'a' and the other is Arya (आर्य) with a long 'a'. The word Arya (आर्य) with a short 'a' is used in the Rig Veda[1] in 88 places. In what sense is it used? The word[2] is used in four different senses; as (1) enemy, (2) respectable person, (3) name for India, and (4) owner, Vaishya or citizen.

The word (आर्य) with a long 'a' is used in the Rig Veda in 31 places.[3] But in none of these is the word used in the sense of race.

From the foregoing discussion, the one indisputable conclusion which follows is that the terms 'Arya' and 'Arya' which occur in the Vedas have not been used in the racial sense at all.

One may also ask: what is the evidence of anthropometry? the Aryan race is described as long-headed. This description is not enough. For as will be seen from the table given by Prof. Ripley, there are two races which are long-headed. The question which of the two is the Aryan race still remains open.

II

Let us take the next premise—namely, that the Aryans came from outside India, invaded India, and conquered the native tribes. It would be better to take these questions separately.

1. For a list of the references in the Rig Veda, see Apendix 1.

2. For a list of references showing in which place the word is used and in what sense, see Appendix II

3. For a list of references, see Appendix III.

From where did the Aryan race come into India? On the question of locating the original home of the Aryan race, there is a bewildering variety of views and options. According to Benfey, the original home of the Aryan race must be determined by reference to the common vocabulary. His views on the subject have been well summarized by Prof. Isaac Taylor[1] in the following words :

> "The investigation of the vocabulary common to the whole of the Aryan languages might yield a clue to the region inhabited by the Aryans before the linguistic separation. He contended that certain animals, such as the bear and the wolf, and certain trees, such as the beech and the birch with which the primitive Aryans must have been acquainted, are all indigenous to the temperate zone, and above all, to Europe, whereas the characteristic animals and trees of Southern Asia, such as the lion, the tiger and the palm were known only to the Indians and the Iranians. He urged that the absence from the primitive Aryan vocabulary of common names for the two great Asiatic beasts of prey, the lion and the tiger, or for the chief Asiatic beast of transport, the camel, is difficult to explain on the theory of the migration of the Aryans from the region eastward of the Caspian. That the Greeks called the lion by its Semitic name, and the Indians by a name which cannot be referred to any Aryan root, argues that the lion was unknown in the common home of Greeks and Indians.
>
> * * *
>
> Benfey's declaration speedily bore fruit, and Geiger forthwith ranged himself in the same camp, but placing the cradle of the Aryans, not as Benfey had done in the region to the North of the Black Sea, but more to the north-west, in Central and Western Germany. Geiger's contribution to the argument was not without its value. He bases his conclusions largely on the tree names which belong to the primitive Aryan vocabulary. In addition to the fir, the willow, the ash, the alder, and the hazel, he thinks the names of the birch, the beech and the oak are specially decisive. Since the Greek (phegos) which denotes the oak is the linguistic equivalent of the Teutonic *beech* and of the Latin *fague* he draws the conclusion that the Greeks migrated from a land of beeches to a land of oaks, transferring the name which denoted the tree with 'edible' fruit from the one tree to the other."

Another school holds that the original home of the Aryan race was in Caucasia, because the Caucasians like the Aryans are blonds, have a straight, a sharp nose and a handsome face. On this point, the view of Prof. Ripley is worth quoting. This is what Prof. Ripley[2] has to say on the subject :

> The utter absurdity of the misnomer Caucasian, as applied to the blue-eyed and fair-headed 'Aryan' (?) race of Western Europe, is revealed by two indisputable facts. In the first place, this ideal blond type does not occur within many hundred miles of Caucasia; and, secondly, nowhere along the great Caucasian chain is there a single native tribe making use of a purely inflectional or Aryan language.
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> * * *

1 Issac Taylor, *The Origin of the Aryans,* pp. 24-26.

2 Ripley : *Races of Europe,* pp. 436-437.

Even the Ossetes, whose language alone is possibly inflectional, have not had their claims to the honour of Aryan made positively clear as yet. And even if Ossetian be Aryan, there is every reason to regard the people as immigrants from the direction of Iran, not indigenous Caucasians at all. Their head form, together with their occupation of territory along the only highway—the Pass of Darriel—across the chain from the South, give tenability to the hypothesis. At all events, whether the Ossetes be Aryan or not, they little deserve pre-eminence among the other peoples about them. They are lacking both in the physical beauty for which this region is justly famous, and in courage as well, if we may judge by their reputation in yielding abjectly and without shadow of resistance to the Russians.

* * *

It is not true that any of these Caucasians are even 'somewhat typical'. As a matter of fact they could never be typical of anything. The name covers nearly every physical type and family of language of the Eur-Asian continent except, as we have said, that blond, tall, 'Aryan' speaking one to which the name has been specifically applied. It is all false; not only improbable but absurd. The Caucasus is not a cradle—it is rather a grave—of peoples, of languages, of customs and of physical types. Let us be assured of that point at the outset. Nowhere else in the world probably is so heterogeneous a lot of people, languages and religions gathered together in one place as along the chain of the Caucasus mountains."

Mr. Tilak has suggested that the original home of the Aryan race was in the Arctic region. His theory may be summarized in his own words. He begins by taking note of the astronomical and climatic phenomenon in the region round about the North Pole. He finds[1] that there are :

"Two sets of characteristics, or *differentia;* one for an observer stationed exactly at the terrestrial North Pole, and the other for an observer located in the Circum-Polar regions, or tracts of land between the North Pole and the Arctic circle."

Mr. Tilak calls these two sets of *differentia;* as Polar and CircumPolar, and sums them up as follows :

I. The Polar Characteristics

(1) The sun rises in the south.

(2) The stars do not rise and set; but *revolve* or spin round and round, in horizontal planes, completing one round in 24 hours. The northern celestia hemisphere is alone overhead and visible during the whole year; and the souther or lower celestial world is always invisible.

(3) The year consists only of one long day and one long night of six months each.

(4) There is only one morning and one evening, or the sun rises and sets only once a year. But the *twilight,* whether of the morning or of the evening, lasts continuously for about *two months,* or 60 periods of 24 hours each. The ruddy light

1 Tilak B. G., *The Arctic Home in the Vedas,* 58-60.

of the morn, or the evening twilight, is not again confined to a particular part of the horizon (eastern or western) as with us; but moves, like the stars at the place, round and round along the horizon, like a potter's wheel, completing one round in every 24 hours. These rounds of the morning light continue to take place, until the orb of the sun comes above the horizon; and then the sun follows the same course for six months, that is, moves, without setting, round and round the observer, completing one round every 24 hours.

II. The Circum-Polar Characteristics

(1) The sun will always be to the south of the zenith of the observer, but as this happens even in the case of an observer stationed in the temperate zone, it cannot be regarded as a special characteristic.

(2) A large number of stars are *circum-polor,* that is, they are above the horizon during the entire period of their revolution and hence always visible. The remaining stars rise and set as in the temperate zone, but revolve in more oblique circles.

(3) The year is made up of three parts: (i) one long continuous night, occurring at the time of the winter solstice, and lasting for a period, greater than 24 hours and less than six months, according to the latitude of the place; (ii) one long continuous day to match, occurring at the time of the summer solstice; and (iii) a succession of ordinary days and nights during the rest of the year, a nycthemeron, or a day and a night together, never exceeding a period of 24 hours. The day, after the long continuous night, is at first shorter than the night, but goes on increasing until it develops into the long continuous day. At the end of the long day, the night is, at first, shorter than the day, but, in its turn, it begins to gain over the day, until the commencement of the long continuous night, with which the year ends.

(4) The dawn, at the close of the long continuous night, lasts for several days, but its duration and magnificence is proportionally less than at the North Pole, according to the latitude of the place. For places, within a few degrees of the North Pole, the phenomenon of revolving morning light will still be observable during the greater part of the duration of the dawn. The other dawns viz., those between ordinary days and nights, will, like the dawns in the temperate zone, only last for a few hours. The sun, when he is above the horizon during the continuous day, will be seen revolving, without setting, round the observer, as at the Pole, but in oblique and not horizontal circles, and during the long night he will be entirely below the horizon, while during the rest of the year he will rise and set, remaining above the horizon for a part of 24 hours, varying according to the position of the sun in the ecliptic.

Summing up the position as analysed by him, Mr. Tilak concludes by saying :

"Here we have two distinct sets of *differentiae* or special characteristics of the Polar and *Circum-Polar* regions—characteristics which are not found anywhere else on the surface of the globe. Again as the Poles of the earth are the same to-day as they were millions of years ago, the above astronomical characteristics will hold good for all times, though the Polar climate may have undergone violent changes in the Pleistocene period."

Having noted the phenomenon in the Arctic region, Mr. Tilak proceeds to argue that :

> "If a Vedic description or tradition discloses any of the characteristics mentioned above, we may safely infer that the tradition is Polar or Circumi-Polar in origin, and the phenomenon, if not actually witnessed by the poet, was at least known to him by tradition faithfully handed down from generation to generation. Fortunately there are many such passages or references in the Vedic literature, and, for convenience, these may be divided into two parts; the first comprising those passages which directly describe or refer to the long night, or the long dawn; and the second consisting of myths and legends which corroborate and indirectly support the first."

Mr. Tilak is satisfied that the description of natural phenomenon and the myths and legends contained in the Vedas tally with the natural phenomenon as it exists near the North Pole and concludes that the Vedic poets i.e., the Vedic Aryans must have had the Arctic region as their home.

This is of course a very original theory. There is only one point which seems to have been overlooked. The horse is a favourite animal of the Vedic Aryans. It was most intimately connected with their life and their religion. That the queens vied with one another to copulate with the horse in the *Ashvamedha Yajna* [1] shows what place the horse had acquired in the life of the Vedic Aryans. Question is : was the horse to be found in the Arctic region? If the answer is in the negative, the Arctic home theory becomes very precarious.

III

What evidence is there of the invasion of India by the Aryan race and the subjugation by it of the native tribes? So far as the *Rig Veda* is concerned, there is not a particle of evidence suggesting the invasion of India by the Aryans from outside India. As Mr. P. T. Srinivasa Iyengar[2] points out:

> "A careful examination of the *Mantras* where the words Arya, Dasa and Dasyu occur, indicates that they refer not to race but to cult. These words occur mostly in *Rig Veda Samhita* where *Arya* occurs about 33 times in *mantras* which contain 153,972 words on the whole. The rare occurrence is itself a proof that the tribes that called themselves *Aryas* were not invaders that conquered the country and exterminated the people. For an invading tribe would naturally boast of its achievements constantly."

So far the testimony of the Vedic literature is concerned, it is against the theory that the original home of the Aryans was outside India. The language in which reference to the seven rivers is made in

1 *See Yajur Veda* with Madhavachiya's Bhashya.

2 *Life in Ancient India in the Age of the Mantras,* pp. 11-12.

the *Rig Veda* (x.75.5) is very significant. As Prof. D. S. Triveda says[1]—the rivers are addressed as 'my Ganges, my Yamuna, my Saraswati' and so on. No foreigner would ever address a river in such familiar and endearing terms unless by long association he had developed an emotion about it.

As to the question of conquest and subjugation, references can undoubtedly be found in the *Rig Veda* where Dasas and Dasyus are described as enemies of the Aryas and there are many hymns in which the Vedic *rishis* have invited their gods to kill and annihilate them. But before drawing any conclusion from it in favour of conquest and subjugation by the Aryans, the following points must be taken into consideration.

First is the paucity of references in the *Rig Veda* to wars between the Aryans on the one hand and the Dasas or Dasyus on the other. Out of the 33 places in which the word occurs in the *Rig Veda* only in 8 places is it used in opposition to Dasas and only in 7 places is it used in opposition to the word Dasyus. This may show the occurrence of sporadic riots between the two. It is certainly not evidence of a conquest or subjugation.

The second point about the Dasas is that whatever conflict there was between them and the Aryans, the two seem to have arrived at a mutual settlement, based on peace with honour. This is borne out by references in the *Rig Veda* showing how the Dasas and Aryans have stood as one united people against a common enemy. Note the following verses from the *Rig Veda :*

Rig Veda —	vi.	33.3;
	vii.	83.1;
	viii	51.9;
	X	102.3.

The third point to note is that whatever the degree of conflict, it was not a conflict of race. It was a conflict which had arisen on account of difference of religions. That this conflict was religious and not racial is evidenced by the *Rig Veda* itself. Speaking of the Dasyus, it[2] says :

> "They are *avrata,* without (the Arya) rites (R.V., i. 51.8, 9; i.132. 4; iv.41. 2; vi. 14, 3); *apavrata* (R.V., v.42,2), *anyavrata* of different rites (R.V., viii.59, 11; x.22, 8), *Anagnitra* fireless (R.V., v. 189, 3), *ayajyu, ayajvan,* non-sacrifices (R.V., i.131, 44; i.33, 4; viii.59, 11), *abrambha,* without prayers (or also not

1 *The Original Home of the Aryans'* by D. S. Triveda, Annals of the Bhandarkar Oriental Research Institute, Vol. XX, p. 62.

2 Iyengar, *Ibid,,* p. 13.

having Brahmana priest (R.V., iv. 15,9; x.105,8). *anrichah,* without Riks (R.V., x.105, 8), *Brahmadvisha,* haters of prayer (or Brahmans) R.V., v.42,9), and *anindra,* without Indra, despisers of Indra, (R.V., i.133,1: v.2,3; vii 18; 6; x 27, 6; x.48, 7). 'They pour no milky draughts they heat no cauldron' (R.V., iii.53, 4). They give no gifts to the Brahmana (R.V., v.7, 10)."

Attention may also be drawn to the Rig Veda x.22.8 which says :

"We live in the midst of the Dasyu tribes, who do not perform sacrifices nor believe in anything. They have their own rites and are not entitled to be called men. O! thou, destroyer of enemies, annihilate them and injure the Dasas."

In the face of these statements from the *Rig Veda,* there is obviously no room for a theory of a military conquest by the Aryan race of the non-Aryan races of Dasas and Dasyus.

IV

So much about the Aryans, their invasion of India and their subjugation of the Dasas and Dasyus. The consideration so far bestowed upon the question has been from the Aryan side of the issue. It might be useful to discuss it from the side of the Dasas and the Dasyus. In what sense are the names Dasa and Dasyu used? Are they used in a racial sense?

Those who hold that the terms Dasa and Dasyu are used in the racial sense rely upon the following circumstances: (1) The use in the *Rig Veda* of the terms *Mridhravak* and *Anasa* as epithets of Dasyus. (2) The description in the *Rig Veda* of the Dasas as being of Krishna Varna

The term *Mridhravak* occurs in the following places in the *Rig Veda :*

(1)	*Rig Veda,*	i.	174.2;
(2)	*Rig Veda,*	v.	32.8;
(3)	*Rig Veda,*	vii.	6.3;
(4)	*Rig Veda,*	vii.	18.3.

What does the adjective *Mridhravak* mean? *Mridhravak* means one who speaks crude, unpolished language. Can crude unpolished language be regarded as evidence of difference of race? It would be childish to rely upon this as a basis of consciousness of race difference.

The term *Anasa* occurs in *Rig Veda* v.29.10. What does the word mean? There are two interpretations. One is by Prof. Max Muller. The other is by Sayanacharya. According to Prof.. Max Muller, it

means 'one without nose 'or' one with a flat nose' and has as such been relied upon as a piece of evidence in support of the view that the Aryans were a separate race from the Dasyus. Sayanacharya says that it means 'mouthless,' i.e., devoid of good speech. This difference of meaning is due to difference in the correct reading of the word *Anasa*.. Sayanacharya reads it as *an-asa* while Prof. Max Muller reads it as *a-nasa*. As read by Prof. Max Muller, it means without nose. Question is : which of the two readings is the correct one? There is no reason to hold that Sayana's reading is wrong. On the other hand there is every thing to suggest that it is right. In the first place, it does not make non-sense of the word. Secondly, as there is no other place where the Dasyus are described as noseless, there is no reason why the word should be read in such a manner as to give it an altogether new sense. It is only fair to read it as a synonym of *Mridhravak*. There is therefore no evidence in support of the conclusion that the Dasyus belonged to a different race.

Turning to Dasas, it is true that they are described as *Krishna Yoni,* in Rig Veda vi.47.21. But there are various points to be considered before one can accept the inference which is sought to be drawn from it. First is that this is the only place in the Rig Veda where the phrase *Krishna Yoni* is applied to the Dasas. Secondly, there is no certainty as to whether the phrase is used in the literal sense or in a figurative sense. Thirdly, we do not know whether it is a statement of fact or a word of abuse. Unless these points are clarified, it is not possible to accept the view that because the Dasas are spoken of as *Krishna Yoni,* they therefore, belonged to a dark race.

In this connection, attention may be drawn to the following verses from the Rig Veda:

1. Rig Veda, vi.22.10.—"Oh, Vajri, thou hast made Aryas of Dasas, good men out of bad by your power. Give us the same power so that with it we may overcome our enemies."

2. Rig Veda, x.49.3, (says Indra).—"I have deprived the Dasyus of the title of Aryas."

3. Rig Veda, i. 151.8—"Oh, Indra, find out who is an Arya and who is a Dasyu and separate them."

What do these verses indicate? They indicate that the distinction between the Aryans on the one hand and the Dasas and Dasyus on the other was not a racial distinction of colour or physiognomy. That is why a Dasa or Dasyu could become an Arya. That is why Indra was given the task to separate them from the Arya.

That the theory of the Aryan race set up by Western writers falls to the ground at every point, goes without saying. This is somewhat surprising since Western scholarship is usually associated with thorough research and careful analysis. Why has the theory failed? It is important to know the reasons why it has failed. Anyone who cares to scrutinize the theory will find that it suffers from a double infection. In the first place, the theory is based on nothing but pleasing assumptions and inferences based on such assumptions. In the second place, the theory is a perversion of scientific investigation. It is not allowed to evolve out of facts. On the contrary the theory is preconceived and facts are selected to prove it.

The theory of the Aryan race is just an assumption and no more. It is based on a philological proposition put forth by Dr. Bopp in his epoch-making book called *Comparative Grammar* which appeared in 1835. In this book, Dr. Bopp demonstrated that a greater number of languages of Europe and some languages of Asia must be referred to a common ancestral speech. The European languages and Asiatic languages to which Bopp's proposition applied are called Indo-Germanic. Collectively, they have come to be called the Aryan languages largely because Vedic language refer to the Aryas and is also of the same family as the Indo-Germanic. This assumption is the major premise on which the theory of the Aryan race is based.

From this assumption are drawn two inferences: (1) unity of race, and (2) that race being the Aryan race. The argument is that if the languages are descended from a common ancestral speech then there must have existed a race whose mother tongue it was and since the mother tongue was known as the Aryan tongue the race who spoke it was the Aryan race. The existence of a separate and a distinct Aryan race is thus an inference only. From this inference, is drawn another inference which is that of a common original habitat. It is argued that there could be no community of language unless people had a common habitat permitting close communion. Common original habitat is thus an inference from an inference.

The theory of invasion is an invention. This invention is necessary because of a gratuitous assumption which underlies the Western theory. The assumption is that the Indo-Germanic people are the purest of the modern representatives of the original Aryan race. Its first home is assumed to have been somewhere in Europe. These

assumptions raise a question: How could the Aryan speech have come to India: This question can be answered only by the supposition that the Aryans must have come into India from outside. Hence the necessity for inventing the theory of invasion.

The third assumption is that the Aryans were a superior race. This theory has its origin in the belief that the Aryans are a European race and as a European race it is presumed to be superior to the Asiatic races. Having assumed its superiority, the next logical step one is driven to take is to establish the fact of superiority. Knowing that nothing can prove the superiority of the Aryan race better than invasion and conquest of native races, the Western writers have proceeded to invent the story of the invasion of India by the Aryans and the conquest by them of the Dasas and Dasyus.

The fourth assumption is that the European races were white[1] and had a colour prejudice against the dark races. The Aryans being a European race, it is assumed that it must have had colour prejudice. The theory proceeds to find evidence for colour prejudice in the Aryans who came into India. This it finds in the *Chaturvarnya*—an institution by the established Indo-Aryans after they came to India and which according to these scholars is based upon *Varna* which is taken by them to mean colour.

Not one of these assumptions is borne out by facts. Take the premise about the Aryan race. The theory does not take account of the possibility that the Aryan race in the physiological sense is one thing and an Aryan race in the philological sense quite different, and that it is perfectly possible that the Aryan race, if there is one, in the physiological sense may have its habitat in one place and that the Aryan race, in the philological sense, in quite a different place. The theory of the Aryan race is based on the premise of a common language and it is supposed to be common because it has a structural affinity. The assertion that the Aryans came from outside and invaded India is not proved and the premise that the Dasas and Dasyus are aboriginal tribes[2] of India is demonstrably false.

Again to say that the institution of *Chaturvarnya* is a reflexion of the innate colour prejudice of the Aryans is really to assert too much. If colour is the origin of class distinction, there must be four different colours to account for the different classes which comprise *Chaturvarnya*. Nobody has said what those four colours are and who

1. For a discussion as to who the Dasas and Dasyus were, see Chapter 6.

2. For a discussion whether in their origin the European races were white or dark see the observations of Prof. Ripley, *infra,* p. 76.

were the four coloured races who were welded together in *Chaturvarnya*. As it is, the theory starts with only two opposing people, Aryas and Dasas—one assumed to be white and the other assumed to be dark.

The originators of the Aryan race theory are so eager to establish their case that they have no patience to see what absurdities they land themselves in. They start on a mission to prove what they want to prove and do not hesitate to pick such evidence from the Vedas as they think is good for them.

Prof. Michael Foster has somewhere said that 'hypothesis is the salt of science.' Without hypothesis there is no possibility of fruitful investigation. But it is equally true that where the desire to prove a particular hypothesis is dominant, hypothesis becomes the poison of science. The Aryan race theory of Western scholars is as good an illustration of how hypothesis can be the poison of science as one can think of.

The Aryan race theory is so absurd that it ought to have been dead long ago. But far from being dead, the theory has a cosiderable hold upon the people. There are two explanations which account for this phenomenon. The first explanation is to be found in the support which the theory receives from Brahmin scholars. This is a very strange phenomenon. As Hindus, they should ordinarily show a dislike for the Aryan theory with its express avowal of the superiority of the European races over the Asiatic races. But the Brahmin scholar has not only no such aversion but he most willingly hails it. The reasons are obvious. The Brahmin believes in the two-nation theory. He claims to be the representative of the Aryan race and he regards the rest of the Hindus as descendants of the non-Aryans. The theory helps him to establish his kinship with the European races and share their arrogance and their superiority. He likes particularly that part of the theory which makes the Aryan an invader and a conqueror of the non-Aryan native races. For it helps him to maintain and justify his overlordship over the non-Brahmins.

The second explanation why the Aryan race theory is not dead is because of the general insistence by European scholars that the word *Varna* means *colour* and the acceptance of that view by a majority of the Brahmin scholars. Indeed, this is the mainstay of the Aryan theory. There is no doubt that as long as this interpretation of the *Varna* continues to be accepted, the Aryan theory will continue to live. This part of the Aryan theory is therefore very important and

calls for fuller examination. It needs to be examined from three different points of view: (1) Were the European races fair or dark? (2) Were the Indo-Aryans fair? and (3) What is the original meaning of the word *Varna* ?

On the question of the colour of the earliest Europeans Prof. Ripley is quite definite that they were of dark complexion. Prof. Ripley goes on to say:[1]

> "We are strengthened in this assumption that the earliest Europeans were not only long-headed but also dark complexioned, by various points in our enquiry thus far. We have proved the prehistoric antiquity of the living Cro-Magnon type in Southern France; and we saw that among these peasants, the prevalence of black hair and eyes is very striking. And comparing types in the British Isles we saw that everything tended to show that the brunet populations of Wales, Ireland and Scotland constituted the most primitive stratum of population in Britain. Furthermore, in that curious spot in Garfagnana, where a survival of the ancient Ligurian population of Northern Italy is indicated, there also are the people characteristically dark. Judged, therefore, either in the light of general principles or of local details, it would seem as if this earliest race in Europe must have been very dark.... It was Mediterranean in its pigmental affinities, and not Scandinavian."

Turning to the Vedas for any indication whether the Aryans had any colour prejudice, reference may be made to the following passages in the Rig Veda :

In Rig Veda, i. 117.8, there is a reference to *Ashvins* having brought about the marriage between *Shyavya* and *Rushati*. *Shyavya* is black and *Rushati* is fair.

In Rig Veda, i. 117.5, there is a prayer addressed to *Ashvins* for having saved Vandana who is spoken as of golden colour.

In Rig Veda, ii.3.9, there is a prayer by an Aryan invoking the Devas to bless him with a son with certain virtues but of *(pishanga)* tawny (reddish brown) complexion.

These instances show that the Vedic Aryans had no colour prejudice. How could they have? The Vedic Aryans were not of one colour. Their complexion varied; some were of copper complexion, some white, and some black. Rama the son of Dasharatha has been described as *Shyama* i.e., dark in complexion, so is Krishna the descendant of the Yadus, another Aryan clan. The Rishi Dirghatamas, who is the author of many *mantras* of the Rig Veda must have been of dark colour if his name was given to him after his complexion. Kanva is an Aryan rishi of great repute. But according to the description given in Rig Veda—x.31.11—he was of dark colour.

1 Prof. Ripley : *Races of Europe,* p. 466

To take up the third and the last point, namely, the meaning of the word *Varna*[1] Let us first see in what sense it is used in the Rig Veda. The word *Varna* is used[2] in the Rig Veda in 22 places. Of these, in about 17 places the word is used in reference to deities such as Ushas, Agni, Soma, etc., and means lustre, features or colour. Being used in connection with deities, it would be unsafe to use them for ascertaining what meaning the word *Varna* had in the Rig Veda when applied to human beings. There are four and at the most five places in the Rig Veda where the word is used in reference to human beings. They are :

1) i.104.2;
2) i.179.6;
3) ii.12.4;
4) iii.34.5;
5) ix.71.2.

Do these references prove that the word *Varna* is used in the Rig Veda in the sense of colour and complexion?

Rig veda, iii.34.5 seems to be of doubtful import. The expression 'caused Shukla Varna to increase' is capable of double interpretation. It may mean Indra made Ushas throw her light and thereby increase the white colour, or it may mean that the hymn-maker being of white complexion, people of his i.e., of white colour increased. The second meaning would be quite far-fetched for the simple reason that the expansion of the white colour is the effect and lightening of Ushas is the cause.

Rig Veda, ix.71.2 the expression 'abandons Asura Varna' is not clear, reading it in the light of the other stanzas in the *Sukta*. The *Sukta* belongs to Soma Pavamana. Bearing this in mind, the expression 'abandons Asura Varna' must be regarded as a description of Soma. The word Varna as used here is indicative of *roopa*. The second half of the stanza says: 'he throws away his black or dark covering and takes on lustrous covering.' From this it is clear that the word Varna is used as indicative of darkness.

Rig Veda, i.179.6 is very helpful. The stanza explains that Rishi Agastya cohabitated with Lopamudra in order to obtain *praja,* children and strength and says that as a result two Varnas prospered. It is not clear from the stanza, which are the two Varnas referred to in the stanzas, although the intention is to refer to Aryas and Dasas.

1 On what follows, see *Maharashtra Dnyanakosha,* Vol. III pp. 39-42.

2 See Appendix VI, p. 216.

Be that as it may, there is no doubt that the Varna in the stanza means class and not colour.

In Rig Veda, i.104.2 and Rig Veda, ii.12.4 are the two stanzas in which the word Varna is applied to Dasa. The question is: What does the word Varna mean when applied to Dasa? Does it refer to the colour and complexion of the Dasa, or does it indicate that Dasas formed a separate class? There is no way of arriving at a positive conclusion as to which of the two meanings is correct.

The evidence of the Rig Veda is quite inconclusive. In this connection, it will be of great help to know if the word occurs in the literature of the Indo-Iranians and if so, in what sense.[1]

Fortunately, the word Varna does occur in the Zend Avesta. It takes the form of *Varana* or *Varena*. It is used specifically in the sense of "Faith, Religious doctrine, Choice of creed or belief." It is derived from the root *Var* which means to put faith in, to believe in. One comes across the word *Varana* or *Varena* in the Gathas about six times used in the sense of faith, doctrine, creed or belief.

It occurs in Gatha Ahunavaiti—Yasna Ha 30 Stanza 2 which when translated in English reads as follows :

> "Give heed with your ears and contemplate the highest Truth I proclaim; with your illumined mind introspect. Each man for himself must determine his (Avarenao) faith. Before the Great Event, let each individually be awake to the Truth we teach."

This is one of the most famous strophes of the Gatha where Zarathushtra exhorts each one individually to use reasoning faculty and freedom of choice in the selection of his or her faith. The words occurring here are *'Avarenao vichithahya,' Avarenao* meaning faith, belief and *vichi- thahya* meaning 'of discriminating, of selecting of determining'.

It occurs in Gatha Ahunavati—Yasna Ha 31 Stanza 11. The word used is *Vareneng* accusative plural of *Varena* meaning 'belief, faith.' In this stanza, Zarathushtra propounds the theory of the creation of man. After speaking about man's creation being completed, in the last half line Zarathushtra says "voluntary beliefs are given (to man)"

It occurs in Gatha Ushtavaiti— Yasna Ha 45 Stanza 1 in the form of *Varena*. In the last line of this strophe, Zarathushtra says 'owing to sinful belief (or evil faith) the wicked is of evil tongue (or invested tongue)'.

1 The information relating to the meaning of the word 'Varna' in the Indo-Iranian literature, I owe to my friend Dastur Bode, who is well-versed in it.

It occurs in Gatha Ushtavaiti—Yasna Ha 45 Stanza 2 in the same form as above *Varena* in the clear sense of faith, religion, belief, etc. In this stanza, Zarathushtra is propounding his philosophy of good and evil and speaking of dual aspects of human mind. In this stanza, the two mentalities—the good mentality and the evil mentality—are speaking to each other saying "Neither in thought, word, intelligence, faith (or religion or creed) utterance, deed, conscience nor soul do we agree."

It occurs in Gatha Spenta Mainyu,—Yasna Ha 48 Stanza 4 in the form of *Vareneng* meaning religion, faith (root *Vere* Persian *gervidan* = to have faith in). In this stanza Zarathushtra says that "Whosoever will make his mind pure and holy and thus keep his conscience pure by deed and word, such man's desire is in accordance with his faith (religion, belief)."

It occurs in Gatha Spenta Mainyu,—Yasna Ha 49 Stanza 3 as *Varenai* in dative case meaning 'religion'. In the same stanza occurs the word *Thaeshai* which also means religion, creed, religious law. These two words *Varenai* and *Tkaesha* occurring in the same stanza strengthens our argument, as the word *Tkaesha* clearly means religion as is found in the compound *Ahuratkaesha* meaning 'The Ahurian religion'. This word *Tkaesha* is translated in Pahlavi as *Kish* which means religion.

In Vendidad (a book of Zarathushtrian sanitary law written in Avesta language) we come across a word *Anyo Varena*. Here *Anyo* means other and *Varena* means religion, thus a man of different religion, faith, belief is spoken of as *Anyo-Varena*. Similarly, we come across in Vendidad the word *Anyo-Tkaesha* also meaning a man of different religion.

We come across many verbal forms in the Gatha derived from this root, e.g., Ahunavaiti Gatha Yasna Ha, 31, Stanza 3. Zarathushtra declares *Ya jvanto vispeng vauraya;* here the verb *vauraya* means I may cause to induce belief, faith (in God) (in all the living ones). In Yasna Ha, 28: Stanza 5, we come across the verb *vauroimaidi,* 'We may give faith to.' We come across another interesting form of this word in Gatha Vahishtaishtish, Yasna Ha, 53, Stanza 9 *Duz-Varenaish*. It is instrumental plural. The first part *Duz* means wicked, false and *Varenai* means believer. Thus the word means "A man belonging to false or wicked religion or a false or wicked believer."

In the Zarathushtrian Confession of Faith, which forms Yasna Ha, we come across the word *Fravarane* meaning 'I confess my faith,

my belief in *Mazdayasno Zarathushtrish* 'Mazda worshipping Zarathushtrian Religion'. This phrase occurs in almost all the Zarathushtrian prayers. There is yet another form in the Zarathushtrian Confession Yasna, 12, *Ya-Varena*. Here *Ya* is relative pronoun meaning which and *Varena*—faith, religion. Thus, the word means 'the religion to which'. This form *Ya Varena* is used nine times in Yasna 12, and it is used in the clear sense of faith or religion. Here again the word *Varena* is placed along with the word *Tkaesha* which means religion.

A very interesting reference is found in Yasna 16 *Zarathushtrahe varenemcha tkaeshemcha yazamaide*. Here the *Varena* and *Tkaesha* of Zarathushtra is worshipped. It is quite clear from the use of these corresponding and correlative words that the faith and religion of Zarthushtra is meant. The translation of the above line is 'We worhsip the faith and religion of Zarathushtra.'

This evidence from the Zend Avesta as to the meaning of the word Varna leaves no doubt that it originally meant a class holding to a particular faith and it had nothing to do with colour or complextion.

The conclusions that follow from the examination of the Western theory may now be summarized. They are:

(1) The Vedas do not know any such race as the Aryan race.

(2) There is no evidence in the Vedas of any invasion of India by the Aryan race and its having conquered the Dasas and Dasyus supposed to be natives of India.

(3) There is no evidence to show that the distinction between Aryans, Dasas and Dasyus was a racial distinction.

(4) The Vedas do not support the contention that the Aryas were different in colour from the Dasas and Dasyus.

●●

CHAPTER V

ARYANS AGAINST ARYANS

ENOUGH has been said to show how leaky is the Aryan theory expounded by Western scholars and glibly accepted by their Brahmin fellows. Yet, the theory has such a hold on the generality of people that what has been said against it may mean no more than scotching it. Like the snake it must be killed. It is therefore necessary to pursue the examination of the theory further with a view to expose its hollowness completely.

Those who uphold the theory of an Aryan race invading India and conquering the Dasas and Dasyus fail to take note of certain verses in the Rig Veda. These verses are of crucial importance. To build up a theory of an Aryan race marching into India from outside and conquering the non-Aryan native tribes without reference to these verses is an utter futility. I reproduce below the verses I have in mind :

(1) *Rig Veda,* vi. 33.3.—"Oh, Indra, Thou hast killed both of our opponents, the Dasas and the Aryas."

(2) *Rig Veda,* vi.60.3.—"Indra and Agni—these protectors of the good and righteous suppress the Dasas and Aryas who hurt us."

(3) *Rig Veda,* vii.81.1.—"Indra and Varuna killed the Dasas and Aryas who were the enemies of Sudas and thus protected Sudas from them."

(4) *Rig Veda,* viii.24.27.—"Oh you, Indra, who saved us from the hands of the cruel Rakshasas and from the Aryas living on the banks of the Indus, do thou deprive the Dasas of their weapons."

(5) *Rig Veda,* x.38.3.—"Oh you much revered Indra, those Dasas and Aryas who are irreligious and who are our enemies, make it easy for us with your blessings to subdue them. With your help we shall kill them."

(6) *Rig Veda,* x.86.19.—Oh, You Mameyu, you give him all powers who prays you. With your help we will destroy our Arya and our Dasyu enemies.

Anyone who reads these verses, notes what they say calmly and coolly and considers them against the postulates of the Western theory will be taken aback by them. If the authors of these verses of the Rig Veda were Aryas then the idea which these verses convey

is that there were two different communites of Aryas who were not only different but oppose and inimical to each other. The existence of two Aryas is not a mere matter of conjecture or interpretation. It is a fact in support of which there is abundant evidence.

II

The first piece of such evidence to which attention may be invited, is the discrimination which existed for a long time in the matter of the recognition of the sacred character of the different Vedas. All students of the Vedas know that there are really two Vedas: (1) the Rig Veda and (2) the Atharva Veda. The Sama Veda and the Yajur Veda are merely different forms of the Rig Veda. All students of the Vedas know that the Atharva Veda was not recognised by the Brahmins as sacred as the Rig Veda for a long time. Why was such a distinction made? Why was the Rig Veda regarded as sacred? Why was the Atharva Veda treated as vulgar? The answer, I like to suggest, is that the two belonged to two different races of Aryans and it is only when they had become one that the Atharva Veda came to be regarded on a par with the Rig Veda.

Besides this, there is enough evidence, scattered through the whole of the Brahmanic literature, of the existence of two different ideologies, particularly relating to creation, which again points to the existence of two different Aryan races. Reference to one of these has already been made in Chapter 2. It remains to draw attention to the second type of ideology.

To begin with the Vedas. The following ideology is to be found in the Taittiriya Samhita :

> T.S.,[1] vi.5.6.1.—"Aditi, desirous of sons, cooked, a Brahmaudana oblation for the gods, the Sadhyas. They gave her the remnant of it. This she ate. She conceived seed. Four Adityas were born to her. She cooked a second (oblation). She reflected, 'from the remains of the oblation these sons have been born to me. If I shall eat (the oblation) first, more brilliant (sons) will be born to me.' She ate it first; she conceived seed; an imperfect egg was produced from her. She cooked a third (oblation) for the Adityas, repeating the formula 'may this religious toil have been undergone for my enjoyment.' The Adityas said, 'Let us choose a boon; let anyone who is produced from this be ours only; let anyone of his progeny who is prosperous be for us a source of enjoyment.' In consequence the Aditya Vivasvat was born. This is his progeny, namely, men. Among them he alone who sacrifices is prosperous, and becomes a cause of enjoyment to the gods."

1 Muir, Vol. I, p. 26.

Turning to the Brahmanas. The stories of creation contained in the Satapatha Brahmanas are set out below :

S.B.,[1] i.8.1. 1.—In the morning they brought to Manu water for washing, as men are in the habit of bringing it to wash with the hands. As he was thus washing, a fish came into his hands (which spake to him) 'preserve me; I shall save thee.' (Manu enquired) 'From what wilt thou save me?' (The fish replied) 'A flood shall sweep away all these creatures; from it will I rescue thee.' (Manu asked) 'How (shall) thy preservation (be effected)?' The fish said : 'So long as we are small, we are in great peril, for fish devours fish; thou shalt preserve me first in a jar. When I grow too large for the jar, then thou shalt dig a trench, and preserve me in that. When I grow too large for the trench, then thou shalt carry me away to the ocean. I shall then be beyond the reach of danger. Straight, away he became a large fish; for he waxes to the utmost. (He said) 'Now in such and such a year, then the flood will come; thou shalt embark in the ship when the flood rises, and I shall deliver thee from it.' Having thus preserved the fish, Manu carried him away to the sea. Then in the same year which the fish had enjoined, he constructed a ship and resorted to him. When the flood rose, Manu embarked in the ship. The fish swam towards him. He fastened the cable of the ship to the fish's horn. By this means he passed over this northern mountain. The fish said, 'I have delivered thee; fasten the ship to a tree. But lest the water should cut thee off whilst thou art on the mountain, as much as the water subsides so much shalt thou descend after it.' He accordingly descended after it as much (as it subsided). Wherefore also this, viz., 'Manu's descent' is (the name) of the northern mountain. Now the flood had swept away all these creatures, so Manu alone was left here. Desirous of offspring, he lived worshipping and toiling in arduous religious rites. Among these he also sacrificed with the *paka* offering. He cast clarified butter, thickened milk, whey and curds as an oblation into the waters. Thence in a year a woman was produced. She rose up as it were unctuous. Clarified butter adheres to her steps. Mitra and Varuna met her. They said to her 'who art thou?' 'Manu's daughter' (she replied). Say (thou art) ours' (they rejoined). 'No', she said, 'I am his who begot me.' They desired a share in her. She promised that, or she did not promise that; but passed onward. She came to Manu. Manu said to her, 'who art thou?' 'Thy daughter' she replied. 'How, glorious one 'asked Manu,' (art thou) my daughter?' 'Thou hast generated me,' she said,' from those oblations, butter, thick milk, whey and curds, which thou didst cast into the waters. I am a benediction. Apply me in the sacrifice. If thou wilt employ me in the sacrifice, thou shalt abound in offspring and cattle. Whatever benediction thou will ask through me, shall accrue to thee.' He (accordingly) introduced her (as) that (which comes in) the middle of the sacrifice; for that is the middle of the sacrifice which (comes) between the introductory and concluding forms. With her he lived worshipping and toiling in arduous religious rites, desirous of offspring. With her he begot this offspring which is this offspring of Manu. Whatever benediction he asked with her, was all vouchsafed to him. This is essentially that which is Ida. Whosoever, knowing this, lives with Ida, begets

1 Muir, Vol. I, pp. 181-184.

this offspring which Manu begot. Whatever benediction he asks with her, is all vouchsafed to him."

(2) S.B.,[1] vi.1.2.11.— "Wherefore they say, 'Prajapati having created those worlds was supported upon the earth. For him these herbs were cooked as food. That (food) he ate. He became pregnant He created the gods from his upper vital airs, and mortal offspring from his lower vital airs. In whatever way he created, so he created. But Prajapati created all this, whatever exists."

(3) S.B.,[2] vii.5.2.6.— Prajapati was formerly this (universe), one only. He desired.' Let me create food, and be propagated.' He formed animals from his breath, a man from his soul, a horse from his eye, a bull from his breath, a sheep from his ear, a goat from his voice. Since he formed animals from his breaths, therefore men say,' the breaths are animals.' The soul is the first of the breaths. Since he formed a man from his 'soul' therefore they say 'man is the first of the animals, and the strongest.' The soul is all the breaths; for all the breaths depend upon the soul. Since he formed man from his soul, therefore they say,' man is all the animals;' for all these are man's."

(4) S.B.,[3] x.1.3.1.— "Prajapati created living beings. From his upper vital airs he created the gods: from his lower vital airs mortal creatures. Afterwards he created death a devourer of creatures."

(5) S.B.,[4] xiv.4.2.1.— "This universe was formerly soul only, in the form of Purusha. Looking closely, he saw nothing but himself (or soul). He first said,' This is I.' Then he became one having the name of I. Hence even now a man, when called, first says, 'this is I, 'and then declares the other name when he has. In as much as he, before (*purvah*) all this, burnt up (*aushat*) all sins, he (is called), *purusha*. The man who knows this burns up the person who wishes to be before him. He was afraid. Hence a man when alone is afraid. This (being) considered that 'there is no other thing but myself; of what am I afraid?' Then his fear departed. For why should he have feared? It is of a second person that people are afraid. He did not enjoy happiness. Hence a person when alone does not enjoy happiness. He desired a second. He was so much as a man and a woman when locked in embrace. He caused this same self to fall as under into two parts. Thence arose a husband and wife. Hence Yajnavalkya has said that 'this one's self is like the half of a split pea.' Hence the void is filled up by woman. He cohabited with her. From them Men were born. She reflected 'how does he, after having produced me from himself, cohabit with me? Ah! let me disappear'; she became a cow, and the other a bull; and he cohabited with her. From them kine were produced. The one became a mare, the other a stallion, the one a she-ass, the other a male-ass. He cohabited with her. From them the class of animals with undivided hoofs were produced. The one became a she-goat, the other a he-goat, the one a ewe, the other a ram. He cohabited with her. From them goats and sheep were produced. In this manner pairs of all creatures whatsoever down to ants, were produced.

1 Muir. Vol. I, p. 30.

2 Muir. Vol. I. p. 24.

3 Muir, Vol. I, p. 31.

4 Muir. Vol. I, p. 25.

The Taittiriya Brahmana has the following :

T.B.,[1] ii.2.9.1.—"At first this (universe) was not anything. There was neither sky, nor earth, nor air. Being non-existent, it resolved 'let me be.' It became fervent. From that fervour smoke was produced. It again became fervent. From that fervour fire was produced. It again became fervent. From that fervour light was produced. It again became fervent. From that fervour flame was produced. It again became fervent. From that fervour rays were produced. It again became fervent. From that fervour blazes were produced. It again became fervent. It became condensed like a cloud. It clove its bladder. That became the sea. Hence men do not drink of the sea. For they regard it as like the place of generation. Hence water issues forth before an animal when it is being born. After that the Dasahotri (a particular formula) was created. Prajapati is the Dasahotri. That man succeeds, who thus knowing the power of austere abstraction (or fervour) practises it. This was then water, fluid. Prajapati wept (exclaiming). 'For what purpose have I been born, if (I have been born) from this which forms no support.' That which fell into the waters became the earth. That which he wiped away, became the air. That which he wiped away, upward, became the sky. From the circumstance that he wept (*arodit*), these two regions have the name of *rodasi,* (words). They do not weep in the house of the man who knows this. This was the birth of these worlds. He who thus knows the birth of these worlds, incurs no suffering in these worlds. He obtained this (earth as a) basis. Having obtained (this earth as a) basis, he desired. 'May I be propagated.' He practised austere fervour. He became pregnant. He created Asuras from his abdomen. To them he milked out food in an earthen dish. He cast off that body of his. It became darkness. He desired 'May I be propagated.' He practised austere fervour. He became pregnant. He created living beings (*prajah*) from his organ of generation. Hence they are the most numerous because he created them from his generative organ. To them he milked out milk in a wooden dish. He cast off that body of his. It became moonlight. He desired 'May I be propagated.' He practised austere fervour. He became pregnant. He created the seasons from his armpits. To them he milked out butter in a silver dish. He cast off that body of his. It became the period which connects day and night. He desired 'May I be propagated.' He practised austere fervour. He became pregnant. He created the gods from his mouth. To them he milked out Soma in a golden dish. He cast off that body of his. It became day. These are Prajapati's milkings. He who thus knows, milks out offspring. 'Day (diva) has come to us:' this (exclamation expresses) the godhead of the gods. He who thus knows the godhead of the gods, obtains the gods. This is the birth of days and nights. He who thus knows the birth of days and nights, incurs no suffering in the days and nights. Mind (or soul, *manas*) was created from the non-existent. Mind created Prajapati. Prajapati created offspring. All this, whatever exists, rests absolutely on mind. This is that Brahma called Svovasyasa. For the man who thus knows, (Ushas), dawning, dawns more and more bright; he becomes prolific in offspring, and (rich) in cattle; he obtains the rank of Parameshthin."

(3) T.B.,[2] ii.3.8.1.— "Prajapati desired, 'May I propagate.' He practised austerity. He became pregnant. He became yellow brown. Hence a woman when

1 Muir, Vol. I, pp. 28-29.

2 Muir, Vol. I, p. 23.

pregnant, being yellow, becomes brown. Being pregnant with a foetus, he became exhausted. Being exhausted he became blackish-brown. Hence an exhausted person becomes blackish-brown. His breath became alive. With that breath (*asu*) he created Asuras. Therein consists the Asura-nature of Asuras. He who thus knows this Asura-nature of Asuras becomes a man possessing breath. Breath does not forsake him. Having created the Asuras he regarded himself as a father. After that he created the Fathers (Pitris). That constitutes the fatherhood of the Fathers. He who thus knows the fatherhood of the Fathers, becomes as a father of his own; the Fathers resort to his oblation. Having created the Fathers, he reflected. After that he created men. That constitutes the manhood of men. He who knows the manhood of men, becomes intelligent. Mind does not forsake him. To him, when he was creating men, day appeared in the heaven. After that he created the gods. This constitutes the godhead of the gods. To him who thus knows the godhead of the gods, day appears in the heavens. These are the four streams, viz; gods, men, fathers and Asuras. In all of these water is like the air."

(4) T.B.,[1] iii.2.3.9.—"This Shudra has sprung from non-existence."

The following explanation of the origin of creation is given by the Taittiriya Aranyaka :

T.A.,[2] i.12.3.1.— "This is water, fluid. Prajapati alone was produced on a lotus leaf. Within, in his mind, desire arose, 'Let me create this.' Hence whatever a man aims at in his mind, he declares by speech, and performs by act. Hence this verse has been uttered, 'Desire formerly arose in it, which was the primal germ of mind, (and which) sages, searching with their intellect, have discovered in the heart as the bond between the existent and the non-existent' (Rig Veda x.129.4). That of which he is desirous comes to the man who thus knows. He practised austere fervour. Having practised austere fervour, he shook his body. From its flesh the rishis (called) Arunas, Ketus and Vatarasanas arose. His nails became the Vaikhanasas, his hairs the Valakhilyas. The fluid (of his body became) a tortoise moving amid the waters. He said to him ' Thou hast sprung from my skin and flesh.' 'No,' replied the tortoise,' I was here before.' In that (in his having been 'before' *purvam*) consists the manhood of a man (*purusha*). Becoming a man *Purusha* with a thousand heads, a thousand eyes, a thousand feet (R.V.x.90.1) he arose. Prajapati said to him, 'thou wert produced before me; do thou first make this.' He took water from this in the cavity of his two hands and placed it on the east, repeating the text, 'so be it, O Sun.' From thence the sun arose. That was the eastern quarter. Then Aruna Ketu placed (the water) to the south, saying 'so be it, O Agni.' Thence Agni arose. That was the southern quarter. Then Aruna Ketu placed (the water) to the west, saying 'so be it, O Vayu.' Thence arose Vayu. That was the western quarter. Then Aruna Ketu placed (the water) to the north, saying 'so be it, O Indra.' Then arose Indra. That is the northern quarter. Then Aruna Ketu placed (the water) in the centre, saying 'so be it, O Pushan.' Thence arose Pushan. That is this quarter. The Aruna Ketu placed (the water) above saying 'so be it, gods.' Thence arose gods, men,

1 Muir, Vol. I, p. 21.

2 Muir, Vol. I, p. 32.

Fathers, Gandharvas and Apsaras. That is the upper quarter. From the drops which fell apart arose the Asuras, Rakshasas, and Pisachas. Therefore they perished, because they were produced from drops. Hence this text has been uttered; 'when the great waters became pregnant, containing wisdom, and generating Svayambhu, from them were created these creations. All this was produced from the waters. Therefore all this is Brahma Svayambhu.' Hence all this was as it were loose, as it were unsteady. Prajapati was that. Having made himself through himself, he entered into that. Wherefore this verse has been uttered; 'Having formed the world, having formed existing things and all intermediate quarters, Prajapati the first born of the ceremonial entered into himself with himself.' "

VI

The Mahabharata has its own contribution to make to the subject. It propounds the theory of creation by Manu.

The Vanaparvan[1] says:

"There was a great rishi, Manu, son of Vivasvat, majestic, in lustre equal to Prajapati. In energy, fiery vigour, prosperity and austere fervour he surpassed both his father and his grand father. Standing with uplifted arm, on one foot, on the spacious Badari, he practised intense austere fervour. This direful exercise he performed with his head downwards, and with unwinking eyes, for 10,000 years. Once, when, clad in dripping rags, with matted hair, he was so engaged, a fish came to him on the banks of the Chirini, and spake:' Lord, I am a small fish; I dread the stronger ones, and from them you must save me. For the stronger fish devour the weaker; this has been immemorially ordained as our means of subsistence. Deliver me from this flood of apprehension in which I am sinking, and I will requite the deed.' Hearing this, Manu filled with compassion, took the fish in his hand, and bringing him to the water threw him into a jar bright as a moonbeam. In it the fish, being excellently tended, grew; for Manu treated him like a son. After a long time he became very large and could not be contained in the jar. Then, seeing Manu he said again:' In order that I may thrive, remove me elsewhere.' Manu then took him out of the jar, brought him to a large pond, and threw him in. There he continued to grow for very many years. Although the pond was two *yojanas* long and one *yojana* broad, the lotus-eyed fish found in it no room to move; and again said to Manu.' Take me to Ganga, the dear queen of the ocean-monarch; in her I shall dwell; or do as thou thinkest best, for I must contentedly submit to thy authority, as through thee I have exceedingly increased.' Manu accordingly took the fish and threw him into the river Ganga. There he waxed for some time, when he again said to Manu, From my great bulk I cannot move in the Ganga; be gracious and remove me quickly to the ocean.' Manu took him out of the Ganga; and cast him into the sea. Although so huge, the fish was easily borne, and pleasant to touch and smell, as Manu carried him. When he had been thrown into the ocean he said to Manu:' Great Lord, thou hast in every way preserved me; now hear

1 Muir, Vol. I, pp. 199-201.

from me what thou must do when the time arrives. Soon shall all these terrestrial objects, both fixed and moving, be dissolved. The time for the purification of the worlds has now arrived. I therefore inform thee what is for thy greatest good. The period dreadful for the universe, moving and fixed, has come. Make for thyself a strong ship, with a cable attached; embark in it with the seven rishis and stow in it, carefully preserved and assorted, all the seeds which have been described of old by Brahmins. When embarked in the ship, look out for me. I shall come recognizable by my horn. So shalt thou do; I greet thee and depart. These great waters cannot be crossed over without me. Distrust not my word. 'Manu replied,' I shall do as thou hast said. 'After taking mutual leave they departed each on his own way. Manu then, as enjoined, taking with him the seeds' floated on the billowy ocean in the beautiful ship. He then thought on the fish, which knowing his desire, arrived with all speed, distinguished by a horn. When Manu saw the horned leviathan, lofty as a mountain, he fastened the ship's cable to the horn. Being thus attached the fish dragged the ship with great rapidity transporting it across the briny ocean which seemed to dance with its waves and thunder with its waters. Tossed by the tempests, the ship whirled like a reeling and intoxicated woman. Neither the earth nor the quarter of the world appeared; there was nothing but water, air, and sky. In the world thus confounded, the seven rishis, Manu and the fish were beheld. So, for very many years, the fish, unwearied, drew the ship over the waters; and brought it at length to the highest peak of Himavat. He then, smiling gently, said to the rishis,' Bind the ship without delay to this peak.' They did so accordingly. And that highest peak of Himavat is still known by the name of Naubandhana ('the Binding of the Ship'.} The friendly fish (or god, *animisha*) then said to the rishis,' I am the Prajapati Brahma, than whom nothing higher can be reached. In the form of a fish I have delivered you from this great danger. Manu shall create all living beings, gods, asuras, men, with all worlds, and all things moving and fixed. By my favour and through severe austere fervour he shall attain perfect insight into his creative work, and shall not become bewildered.' Having thus spoken, the fish in an instant disappeared. Manu, desirous to call creatures into existence and bewildered in his work, performed a great act of austere fervour; and then began visibly to create all living beings."

The Adi Parvan of the Mahabharata gives a somewhat different version of the story of creation:[1]

"Vaishampayana said : I shall, after making obeisance to Svayambhu relate to thee exactly the production and destruction of the gods and other beings. Six great rishis are known as the mind-born sons of Brahma, viz., Marichi, Atri, Angiras, Pulastya, Pulaha and Kratu. Kasyapa was the son of Marichi: and from Kasyapa sprang these creatures. There were born to Daksha thirteen daughters of eminent rank, Adili, Diti, Danu, Kala, Danayu, Simuka, Krodha, Pradha, Visva, Vinata, Kapila and Muni. Kadru also was of the number. These daughters had valorous sons and grandsons innumerable.

Daksha, the glorious rishi, tranquil in spirit, and great in austere fervour, sprang from the right thumb of Brahma. From the left thumb sprang that great Muni's wife on whom he begot fifty daughters. Of these he gave ten to Dharma,

1 Muir, Vol. I, pp. 122-126.

twentyseven to Indu (Soma), and according to the celestial system, thirteen to Kasyapa. Pitamaha's descendant Manu, the god and the lord of creatures, was his (it does not clearly appear whose) son. The eight Vasus, whom I shall detail, were his sons. Dividing the right breast of Brahma, the glorious Dharma (Righteousness), issued in a human form, bringing happiness to all people. He had three eminent sons, Sama, Kama, and Harsha (Tranquillity, Love, and Joy), who are the delight of all creatures, and by their might support the world .... Arushi, the daughter of Manu, was the wife of that sage (Chyavana, son of Bhrigu)... There are two other sons of Brahma, whose mark remains in the world, Dhatri, and Vidhatri, who remained with Manu. Their sister was the beautiful goddess Lakshmi, whose home is the lotus. Her mind-born sons are the steeds who move in the sky... When the creatures who were desirous of food, had devoured one another, Adharma (Uprighteousness) was produced, the destroyer of all beings. His wife was Nirriti, and hence the Rakshasas are called Nairritas, or the offspring of Nirriti. She had three dreadful sons, continually addicted to evil deeds, Bhaya, Mahabhaya (Fear and Terror) and Mrityu (Death) the ender of beings. He has neither wife, nor any son, for he is the ender."

"Born all with splendour, like that of great rishis, the ten sons of Prachetas are reputed to have been virtuous and holy; and by them the glorious beings were formerly burnt up by the fire springing from their mouths. From them was born Daksha Prachetasa; and from Daksha, the Parent of the world (were produced) these creatures. Cohabiting with Virini, the Muni Daksha begot a thousand sons like himself, famous for their religious observances, to whom Narada taught the doctrine of final liberation, the unequalled knowledge of the Sankhya. Desirous of creating offspring, the Prajapati Daksha next formed fifty daughters, of whom he gave ten to Dharma, thirteen to Kasyapa, and twenty-seven devoted to the regulation of time to Indu (Soma)... On Dakshayani, the most excellent of his thirteen wives, Kasyapa, the son of Marichi, begot the Adityas, headed by Indra and distinguished by their energy, and also Vivasvat. To Vivasvat was born a son, the mighty Yama Vaivasvata. To Martanda (i.e., Vivasvat, the Sun) was born the wise and mighty Manu, and also the renowned Yama, his (Manu's) younger brother. Righteous was this wise Manu, on whom a race was founded. Hence this (family) of men became known as the race of Manu. Brahmins, Kshatriyas, and other men sprang from this Manu. From him, O king, came the Brahmin conjoined with the Kshatriya. Among them the Brahmins, children of Manu, held the Veda with the Vedangas. The children of Manu are said to have been Vena, Dhrishnu, Narishyanta, Nabhaga, Ikshvaku, Karusha, Saryati, IIa the eighth, Prishadra the ninth, who was addicted to the duties of a Kshatriya, and Nabhagarishta, the tenth. Manu had also fifty other sons; but they all, as we have heard, perished in consequence of mutual dissensions. Subsequently, the wise Pururavas was born of IIa, who, we heard, was both his mother and his father."

VII

The Ramayana also deals with the subject of creation. One account of it will be found in the second Kanda.[1] It says :

1 Muir, Vol. I, p. 115.

"Perceiving Rama to be incensed, Vasishtha replied: 'Jabali also knows the destruction and renovation of this world. But he spoke as he did from a desire to induce you to return. Learn from me, lord of the earth, this (account of) the origin of the world. The universe was nothing but water. In it the earth was fashioned. Then Brahma Svayambhu came into existence, with the deities. He next, becoming a boar, raised up the earth, and created the entire world, with the saints, his sons, Brahma, the eternal, unchanging, and undecaying, was produced from the ether (akasa). From him sprang Marichi, of whom Kasyapa was the son. From Kasyapa sprang Vivasvat: and from him was descended Manu, who was formerly the lord of creatures (Prajapati). Ikshvaku was the son of Manu, and to him this prosperous earth was formerly given by his father. Know that this Ikshvaku was the former king in Ayodhya."

There is besides this another story of creation. It occurs in the third Kanda and is in the following terms :[1]

"Having heard the words of Rama, the bird (Jatayu) made known to him his own race, and himself, and the origin of all beings. 'Listen while I declare to you from the commencement all the Prajapatis (lords of creatures) who came into existence in the earliest time. Kardama was the first, then Vikrita, Sesha, Samsraya, the energetic Bahuputra, Sthanu, Marichi, Atri, the strong Kratu, Pulastya, Angiras, Prachetas, Pulaha, Daksha, then Vivasvat, Arishtanemi, and the glorious Kasyapa, who was the last. The Prajapati Daksha is famed to have had sixty daughters. Of these Kasyapa took in marriage eight elegant maidens, Aditi, Diti, Danu, Kalaka, Tamra, Krodhavasa, Manu and Anala. Kasyapa, pleased, then, said to these maids:' ye shall bring forth sons like me, preservers of the three worlds.' Aditi, Dili, Danu and Kalaka assented; but the others did not agree. Thirty-three gods were borne by Aditi, the Adityas, Vasus, Rudras, and the two Asvins. 'Manu, (wife) of Kasyapa, produced men, Brahmins, Kshatriyas, Vaishyas, and Shudras. 'Brahmins were born from the mouth, Kshatriyas from the breast, Vaishyas from the thighs, and Shudras from the feet' so says the Veda. Anala gave birth to all trees with pure fruits."

VIII

As an illustration of what the Puranas have to say, I extract the following passages from the Vishnu Purana :[2]

"Before the mundane egg existed the divine Brahma Hiranyagarbha the eternal originator of all worlds, who was the form and essence of Brahma, who consists of the divine Vishnu, who again is identical with the Rik, Yajus, Saman and Atharva-Vedas. From Brahma's right thumb was born the Prajapati Daksha; Daksha had a daughter Aditi; from her was born Vivasvat; and from him sprang Manu. Manu had sons called Ikshvaku, Nriga, Dhrishta, Saryati, Narishyanta, Pramsu, Nabhaganedishta, Karusha, and Prishadhra. Desirous of a son, Manu sacrificed to Mitra and Varuna. but in consequence of a wrong invocation

1 Muir, I, p. 116.

2 Muir, Vol. I, pp. 220-221.

through an irregularity of the hotri-priest a daughter called Ila was born. Then through the favour of Mitra and Varuna she became to Manu a son called Sudyumna. But being again changed into a female through the wrath of Isvara (Mahadeva) she wandered near the hermitage of Budha the son of Soma (the Moon); who becoming enamoured of her had by her a son called Pururavas. After his birth, the god who is formed of sacrifice, of the Rik, Yajus, Saman, and Atharva Vedas, of all things, of mind, of nothing, he who is in the form of the sacrificial Male, was worshipped by the rishis of infinite splendour who desired that Sudyumna should recover his manhood. Through the favour of this god Ila became again Sudyumna."

The Vishnu Purana then proceeds to give the following particulars regarding the sons of Manu :

"*(i)* Prishadhra became a Shudra in consequence of his having killed his religious preceptor's cow.

(ii) From Karusha the Karushas, Kshatriyas of great power were descended.

(iii) Nabhaga, the son of Nedishta became a Vaishya."

The above is the story of the Solar race. The Vishnu Purana[1] has also a parallel story relating to the Lunar race which according to it sprang from Atri just as the Solar race from Manu :

"Atri was the son of Brahma, and the father of Soma (the moon), whom Brahma installed as the sovereign of plants, Brahmins and stars. After celebrating the *rajasuya* sacrifice, Soma became intoxicated with pride, and carried off Tara (Star), the wife of Brihaspati, the preceptor of the gods, whom, although admonished and entreated by Brahma, the gods, and rishis, Soma refused to restore. Soma's part was taken by Usanas; and Rudra, who had studied under Angiras, aided Brihaspati. A fierce conflict ensued between the two sides supported respectively by the gods and the Daityas, etc., Brahma interposed, and compelled Soma to restore Tara to her husband. She had, however, in the meantime become pregnant, and bore a son Budha (the planet Mercury), of whom when strongly urged, she acknowledged Soma to be the father. Pururavas [2] was the son of this Budha by Ila, the daughter of Manu. Pururavas [3] had six sons, of whom the eldest was Ayus. Ayus had five sons; Nahusha, Kshattravriddha, Rambha, Raji and Anenas.

Kshattravriddha had a son Sunahotra who had three sons, Kasa, Lesa and Gritsamada. From the last sprang Saunaka, who originated the system of four castes. Kasa had a son, Kasiraja, of whom again Dirghatamas was the son, as Dhanvantari was of Dirghatamas."

Compare these ideologies of creation with those set out in Chapter 2 and what do we find? I think the result of comparison may be set down in the following propositions: (1) one is sacerdotal in

1 Muir, Vol. I, pp. 225-226.

2 The loves of Pururavas and the Apsara Urvasi, are related in the *Satapatha Brahmanas,* xi. 5.1.11; in the *Vishnu Purana,* vi. 6.19. ff; in the *Bhagavata Purana,* ix. 14; and in the Harivamsa, section 26. The *Manabharata, Adip,* section 75, alludes to *Pururavas* as having been engaged in a contest with the Brahmins. This passage will be quoted hereafter.

3 Vishnu Purana, iv.7.1.

colour and character, the other is secular; (2) one refers to a human being Manu as the progenitor, the other refers to God Brahma or Prajapati as the originator; (3) one is historical in its drift, the other is supernatural; (4) one speaks of the deluge, the other is completely silent about it; (5) one aims at explaining the four *Varnas,* the other aims at explaining the origin of society only.

These differences are many and fundamental. Particularly fundamental seems to be the difference in regard to *Chaturvarnya*. The sacerdotal ideology recognizes it, but the secular ideology does not. It is true that an attempt is made to combine the two by explaining, as is done in the Ramayana and the Puranas, how Manu's progeny developed into four *Varnas*. But obviously this is an attempt to mould the two ideologies into one. This attempt is deliberate and calculated. But the difference between the two ideologies is so fundamental that inspite of this attempt they persist as two separate ideologies. All that has happened is that instead of one we have two explanations of *Chaturvarnya,* supernatural *Chaturvarnya* produced by Purusha, and natural Chaturvarnya as developed among Manu's sons. That the result should be so clumsy shows that the two ideologies are fundamentally different and irreconcilable. It is a pity that the existence of two such ideologies recorded in the Brahmanic literature has not been noticed by scholars who have dealt with the subject. But the fact of their existence and their significance cannot be ignored. What is the significance of the existence of two such ideologies fundamentally different and irreconcilable? To me, it seems that they are the ideologies of two different Aryan races—one believing in *Chaturvarnya* and the other not believing in *Chaturvarnya*—who at a later stage became merged into one. If this reasoning is well-founded then this difference in ideologies disclosed by the Brahmanic literature furnishes further evidence in support of the new theory.

IX

The third and the most unimpeachable evidence in support of my view comes from the anthropometrical survey of the Indian people. Such a survey was first made by Sir Herbert Risley in 1901. On the basis of cephalic index, he came to the conclusion that the people of India were a mixture of four different races: (1) Aryan, (2) Dravidian, (3) Mongolian, and (4) Scythian. He even went to the length of defining the areas where they were massed. The survey was a very

rough one. His conclusions have been tested by Dr. Guha in 1936. His Report on the subject forms a very valuable document in the field of Indian anthropology. The map[1] prepared by Dr. Guha on which he has plotted so to say the distribution of the Indian people according to their head measurements throws a flood of light on the racial composition of the people of India. Dr. Guha's conclusion is that the Indian people are composed'of two racial stocks: (1) longheaded, and short-headed, and that the long-headed are in the interior of India and the short-headed are on the outskirts.

The evidence of skulls found in different parts of India also goes to confirm this. This is how Dr. Guha sums up the evidence on this point :

> "The accounts of the human remains from prehistoric sites given above, though extremely meagre, with the exception of those of the Indus Valley, enable us nevertheless to visualise the broad outlines of the racial history of India in these times. From the beginning of the 4th Millennium B.C. North-western India seems to have been in the occupation of a long-headed race with a narrow prominent nose. Side by side with them we find the existence of another very powerfully built race also long-headed, but with lower cranial vault, and equally long-faced and narrow nose, though the latter was not so high pitched as that of the former.
>
> A third type with broader head and apparently Armenoid affinities also existed, but its advent occurred probably somewhat later judged by the age of the site as Harappa from which most of these latter type of skulls came."

Speaking in terms of the Alpine and the Mediterranean race, one can say that the Indian people are composed of two stocks: (1) The Mediterranean or the long-headed race, and (2) the Alpine or the short-headed race.

About the Mediterranean race, certain facts are admitted. It is admitted that it is a race which spoke the Aryan language. It is admited that its home was in Europe round about the Mediterranean basin and from thence it migrated to India. From its localization, it is clear that it must have come to India before the entry of the Alpine race.

Similar facts about the Alpine race remain to be ascertained. First is about the home of the Alpine race and second is about its native speech. According to Prof. Ripley, the home of the Alpine race was in Asia somewhere in the Himalayas. His reasons may be given in his own words. Says Prof. Ripley :[2]

1 See Appendix V

2 Races of Europe, pp. 473-74

"What right have we for the assertion that this infiltration of population from the East[1] it was not a conquest, everything points to it as a gradual peaceful immigration, often merely the settlement of unoccupied territory—marks the advent of an overflow from the direction of Asia? The proof of this rests largely upon our knowledge of the people of that continent, especially of the Pamir region, the Western Himalayan highlands. Just here on the ' roof of the world,' where Max Muller and the early philologists placed the primitive home of Aryan civilization, a human type prevails which tallies almost exactly with our ideal Alpine or Celtic European race. The researches of De Ujfalvy, Topinard, and others localize its peculiar traits over a vast territory hereabouts. The Galchas, mountain Tadjiks, and their fellows are grey-eyed, dark-haired, stocky in build, with cephalic indexes ranging above 86 for the most part. From this region a long chain of peoples of a similar physical type extends, uninterruptedly westward over Asia Minor and into Europe. The only point which the discovery of a broad area in Western Asia occupied by an ideal Alphine type settles, is that it emphasises the affinities of this peculiar race. It is no proof of direct immigration from Asia at all, as Tappeiner observes. It does, however, lead us to turn our eyes eastward when we seek for the origin of the broad-headed type. Things vaguely point to an original ethnic base of supplies somewhere in this direction. It could not lie westward, for everywhere along the Atlantic the race slowly disappears, so to speak. That the Alpine type approaches all the other human millions on the Asiatic continent, in the head form especially, but in hair, colour and stature as well, also prejudices us in the matter; just as the increasing long-headedness and extreme brunetness of our Mediterranean race led us previously to derive it from some type parent to that of the African Negro. These points are then fixed; the roots of the Alpine race run eastward; those of the Mediterranean type towards the south."

On the question of its language there is a certain amount of dispute[1] as to who introduced the Aryan language in Europe, whether the Nordics (the purest of the Indo-Germans) or the Alpines. But there is no dispute that the language of the Alpine race was Aryan and therefore it is entitled to be called Aryan race in philological sense.

X

From the foregoing statement of facts, it will be seen that there is a solid foundation in anthropometry and history, in support of the Rig Veda that there were in India two Aryan races and not one. Having regard to this, one cannot refuse to admit that here there is a direct conflict between the Western theory and the testimony of the Rig Veda. Whereas the Western theory speaks of one Aryan race, the Rig

1 Madison Grant, *'The Passing of the Great Race'* (1922), pp. 238-239.

Veda speaks of two Aryan races. The Western theory is thus in conflict with the Rig Veda on a major issue. The Rig Veda being the best evidence on the subject the theory which is in conflict with it must be rejected. There is no escape.

This conflict on the major issue also creates a conflict on the issue of invasion and conquest. We do not know which of the two Aryan races came to India first. But if they belonged to the Alpine race then its home being near the Himalayas, there is no room for the theory of invasion from outside. As to the conquest of the native tribes, assuming it to be a fact, the matter is not quite so simple as Western writers have supposed. On the footing that the Dasas and Dasyus were racially different from the Aryans, the theory of conquest must take account not merely of a possible conquest of Dasas and Dasyus by Aryans but also of a possible conquest of Aryans by Aryans. It must also explain which of the two Aryans conquered the Dasas and Dasyus if they conquered them at all.

The Western theory, it is clear, is only a hurried conclusion drawn from insufficient examination of facts and believed to be correct because it tallied with certain pre-conceived notions about the mentality of the ancient Aryans which they were supposed to have possessed on no other grounds except that their alleged modern descendants, namely, the Indo Germanic races are known to possess. It is built on certain selected facts which are assumed to be the only facts. It is extraordinary that a theory with such a slender and insecure foundation in fact should have been propounded by Western scholars for serious scholars and should have held the field for such a long time. In the face of the discovery of new facts set out in this Chapter the theory can no longer stand and must be thrown on the scrap heap.

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CHAPTER VI
SHUDRAS AND DASAS

IT has been shown how untenable the Western theory is. The only part of the theory that remains to be considered is : who are the Shudras? Mr. A. C. Das[1] says :

> "The Dasas and the Dasyus were either savages or non-Vedic Aryan tribes. Those of them that were captured in war were probably made slaves and formed the Shudra caste."

Mr. Kane,[2] another Vedic scholar and upholder of the Western theory, holds the view that :

> "The word 'Dasa' in later literature means a 'serf or a slave'. It follows that the Dasa tribes that we see opposed to the Aryas in the Rig Veda were gradually vanquished and were then made to serve the Aryas. In the Manusmriti (VIII, 413) the Shudra is said to have been created by God for service *(dasya)* of the Brahmana. We find in the Tai. Samhita, the Tai. Brahmana and other Brahmana works that the Shudra occupied the same position that he does in the Smritis. Therefore it is reasonable to infer that the *Dasas* or *Dasyus* conquered by the Aryans were gradually transformed into the Shudras."

According to this view the Shudras are the same as Dasas and Dasyus and further the Shudras were the non-Aryan original inhabitants of India and were in a primitive and a savage state of civilization. It is these propositions which we must now proceed to examine.

To begin with the first proposition. It is not one proposition but is really two propositions rolled in one. One is that the Dasas and Dasyus are one and the same people. The other is that they and the Shudras are one and the same people.

That the *Dasas* and *Dasyus* are one and the same people is a proposition of doubtful validity. Such references to them as are to be found in the Rig Veda are not decisive. In some places the terms *Dasa* and *Dasyu* are used in a way as though there was no

1 *Rig Vidic Culture,* p. 133.

2 *Dharma Shastra,* II (I). P. 33.

difference between the two. Shambara, Shushna, Vritra and Pipru are described both as Dasas and Dasyus. Both Dasas and Dasyus are described as the enemies of Indra and Devas and specially the Ashvins. The cities of both Dasas as well as of the Dasyus are described to have been levelled down by Indra and Devas. The defeat of both Dasas as well as Dasyus is described as producing the same effect, namely, release of water and the emergence of light. In describing the release of Dabhiti both are referred to, at one place he is said to have been released from the Dasas and at another place he, is said to have been released from the Dasyus.

While these references suggest that the Dasas and Dasyus were the same, there are other references which suggest that they were different. This is clear from the fact that the Dasas are referred to separately in 54 places and Dasyus are referred to separately in 78 places. Why should there be so many separate references if they did not form two distinct entities? The probability is that they refer to two different communities.

About the second proposition that the Shudras are the same as the Dasas and Dasyus, one can definitely say that it is without any foundation whatsoever.

To make out a case that the Shudras are the same as the Dasas and Dasyus an attempt is made to treat the word Shudra as a derivative word. The word is said to be derived from *Shuc* (sorrow) and *dru* (overcome) and means one overcome by sorrow. In this connection reliance is placed on the story told in the Vedanta Sutra (i.3.34) of *Janasruti* who is said to have been overcome by sorrow on hearing the contemptuous talk of the flamingoes about himself.[1] The same derivation is given by the Vishnu Purana.[2]

How far are these statements well-founded? To say that Shudra is not a proper name but is a derivative word is too silly for words. The Brahmanic writers excel everybody in the art of inventing false etymologies. There is no word for which they will not design some sort of etymology. Speaking of the different etymologies of the word Upanishad given by Brahmanic writers, Prof. Max Muller[3] said :

> "These explanations seem so wilfully perverse that it is difficult to understand the unanimity of native scholars. We ought to take into account, however, that very general tendency among half-educated people, to acquiesce in any

1 Referred to in Kane's *Dharma Shastra,* II (I), p. 155.

2 Muir, Vol. 1. p. 97.

3 *Upanishads,* Introduction, pp. lxxix-lxxxi.

etymology which accounts for the most prevalent meaning of a word. The Aranyakas abound in such etymologies, which probably were never intended as real etymologies, in our sense of the word, but simply as plays on words, helping to account somehow for their meaning."

This warning equally well applies to the attempt of the Vedanta Sutra and of the Vayu Purana to make the word Shudra a derivative word suggesting that it meant a 'sorrowful people' and we must therefore reject it as being absurd and senseless.

We have, however, direct evidence in support of the proposition that Shudra is a proper name of a tribe or a clan and is not a derivative word as is sought to be made out.

Various pieces of evidence can be adduced in favour of this proposition. The historians of Alexander's invasion of India have described a number of republics as free, independent and autonomous whom Alexander encountered. These are, no doubt, formed of different tribes and were known by the name borne by those tribes. Among these is mentioned a people called *Sodari*. They were a fairly important tribe, being one of those which fought Alexander though it suffered a defeat at his hands. Lassen identified them with the ancient *Shudras*. Patanjali at 1.2.3 of his Mahabhasya mentions Shudras and associates them with the Abhiras. The Mahabharata in Chapter XXXII of the Sabha parvan speaks of the republic of the Shudras-. The Vishnu Purana as well as the Markandeya Purana and the Brahma Purana refer to the Shudras as a separate tribe among many other tribes and fix their location in the Western part of the country above the Vindhyas.[1]

II

Let us now turn to the second proposition and examine the various elements of which it is composed. There are two elements in the proposition. First is : Are the words Dasyus and Dasas used in the racial sense indicative of their being non-Aryan tribes? The second element is that assuming they were, is there anything to indicate that they were the native tribes of India? Unless and until these two questions are answered in the affirmative, there is no possibility of identifying the Dasyus and Dasas with the Shudras.

About the Dasyus, there is no evidence to show that the term is used in a racial sense indicative of a non-Aryan people. On the other

1 See References in Tribes in Ancient India by B. C. Law, p. 350

hand, there is positive evidence in support of the conclusion that it was used to denote persons who did not observe the Aryan form of religion. In this connection, reference may be made to Verse 23 of Adhyaya 65 of the Shantiparvan of the Mahabharata. It reads as follows :

दृश्यन्ते मानुषे लीके सर्ववर्णेषु दस्यवः।
लिंगान्तरे वर्तमाना आश्रमेषुचतुर्ष्वपि ।।

The verse says : "In all the Varnas and in all the Ashramas, one finds the existence of Dasyus."

What is the origin of the word Dasyu it is difficult to say. But a suggestion[1] has been put forth that it was the word of abuse used by the Indo-Aryans to the Indo-Iranians. There is nothing unnatural or far-fetched in this suggestion. That the two had come into conflict is borne out by history. It is therefore quite possible for the Indo-Aryans to have coined such a contemptuous name for their enemies. If this is true, then Dasyus cannot be regarded as the natives of India.

Regarding the Dasas, the question is whether there is any connection between them and the Azhi-Dahaka of the Zend Avesta. The name Azhi-Dahaka is a compound name which consists of two parts. *Azhi* means serpent, dragon and *Dahaka* comes from root *Dah* meaning ' to sting, to do harm'. Thus *Azhi-Dahaka* meaning a stinging dragon. It is a proper name of a person commonly known in Indo-Iranian traditions as *Zohak*. He is mentioned in Yasht literature many a time. He is credited to have lived in Babylon where he had built a palace. He is also credited to have built a great observatory in Babylon. This mighty devil Azhi-Dahaka was created by the Arch-demon Angra Mainyu in order to destroy the kingdom of holiness of the corporeal world. This Azhi-Dahaka went to war against Yima the renowned king of the Indo-Iranians and not only vanquished him, but killed him in battle.

Yima is always spoken of in Avesta as *Kshaeta* meaning shining or ruling. Root *Kshi* has two meanings, to shine or to rule. There is another ephithet commonly used for Yima and that is *Hvanthwa* meaning 'possessing good flock'. This Avesta Yima Khshaita became in later Persian language *Jamshid*. According to traditions, king Jamshid son of Vivanghvant was the great hero of the Iranian history, the founder of a great Persian civilization. He was a king of the Peshdiadyan dynasty. In Yasna 9 and 5 (Koema Yashi) it is stated

1 I am sorry, I have lost the reference.

that 'Vivanshas' was the first man who unceremoniously pounded Hasma (Sk. Sasma) in this corporeal world and the boon he received was: to him was born a son nobly who was Yima the shining and of good flock, who was most glorious amongst the living ones, who was like a glowing sun amongst mankind, during whose kingship he made noblemen and cattle (animals) immortal, made waters and trees undrying. He possessed undiminishing (ever fresh) divine glory. During the kingship of famous Yima there was neither extreme cold nor extreme heat, there was no old age, death and envy.

Is Dahaka of the Zenda Aveshta the same as Dasa of the Rig Veda? If similarity in name can be relied upon as evidence, then obviously it points to their being the names of one and the same person. Dasa in Sanskrit can easily be Daha in Aveshta since *sa* in the former is natural conversion to *ha* in the latter. If this were the only evidence the suggestion that Dasa of the Rig Veda and Dahaka of the Zenda Avesta are the same could have been no better than a conjecture. But there is other and more cogent evidence which leaves no doubt about their identity. In Yasna Ha 9 (which is the same as Horn Yashe) Azhi-Dahaka is spoken of as 'three mouthed, three-headed and six-eyed'. What is striking is that this physical description of Dahaka in Aveshta is exactly similar to the description of Dasa in Rig Veda (x.99.6) where he is also described as having three heads and six eyes[1] If the suggestion that the Dasa in the Rig Veda is the same as Dahaka in the Aveshta, is accepted, then obviously the Dasas were not native tribes aboriginal to India.

III

Were they savages? The Dasas and Dasyus were not a primitive people. They were as civilized as the Aryans and in fact more powerful than the Aryans. Such is the testimony of the Rig Veda. It is well epitomized by Mr. Iyengar when he says that :

> "The Dasyus lived in cities (R.V., i.53.8; i.103.3) and under kings the names of many of whom are mentioned. They possessed 'accumulated wealth' (R.V., viii.40.6) in the form of cows, horses and chariots (R.V., ii.15.4) which though kept in 'hundred-gated cities' (R.V., x.99.3), Indra seized and gave away to his worshippers, the Aryas (R.V., i.176.4). The Dasyus were wealthy (R.V., i.33.4) and owned property 'in the plains and on the hills' (R.V., x.69.6).They were 'adorned with their array of gold and jewels' (R.V., i.33.8). They owned many

1 For the identification of Dasa with Dahaka I am indebted to the *Maharashtra Dnyana Kosha,* Vol. III. p. 53.

castles (R.V., i.33.13; viii.17.14). The Dasyu demons and the Arya gods alike lived in gold, silver and iron castles (SS.S., vi.23; A.V., v.28.9; R.V., ii.20.8). Indra overthrew for his worshipper, Divodasa, frequently mentioned in the hymns, a 'hundred stone castles' (R.V., iv.30.20) of the Dasyus. Agni, worshipped by the Arya, gleaming in behalf of him, tore and burnt the cities of the fireless Dasyus. (R.V., vii.5.3).Brihaspati broke the stone prisons in which they kept the cattle raided from the Aryas (R.V., iv.67.3). The Dasyus owned chariots and used them in war like the Aryas and had the same weapons as the Aryas (R.V., viii.24.27; iii.30.5; ii.15.4)"

That the Dasas and Dasyus were the same as the Shudras is a pure figment of imagination. It is only a wild guess. It is tolerated because persons who make it are respectable scholars. So far as evidence is concerned, there is no particle of it, which can be cited in support of it. As has been said before, the word Dasa occurs in the Rig Veda 54 times and Dasyu 78 times. The Dasas and the Dasyus are sometimes spoken together. The word Shudra occurs only once and that too in a context in which the Dasas and Dasyus have no place. In the light of these considerations, it is difficult to say how anyone in his senses can say that Shudras are the same as the Dasas and Dasyus. Another fact which is to be noted is that the names Dasas and Dasyus completely disappear from the later Vedic literature. It means they were completely absorbed by the Vedic Aryans. But it is quite different with the Shudras. The early Vedic literature is very silent about them. But the later Vedic literature is full of them. This shows that the Shudras were different from the Dasas and Dasyus.

IV

Were the Shudras non-Aryans? Mr. Kane says:[1]

"A clear line of demarcation was kept between the Arya and the Shudra in the times of the Brahmana works and even in the Dharmasutras. The Tandya Brahmana speaks of a mock fight: 'the Shudra and Arya fight on a hide; out of the two they so arrange that the Arya colour becomes the victor.' The Ap. Dh. S. (I, i.3.40-41) says that a *brahmachari* if he cannot himself eat all the food he has brought by begging, may keep it near an Arya (for his use) or he may give it to a Shudra who is a Dasa (of his teacher). Similarly, Gautama x.69 used the word 'anarya' for Shudra."

On the question of the line of demarcation; between the Shudras and Aryans, the matter needs to be carefully examined.

1 Kane, *Dharma Shastra,* II (I), p. 35.

The strength of the argument that the Shudras were non-Aryans is to be found in the following statements :

A.V., iv.20.4. — "The thousand-eyed god shall put this plant into my right hand; with that do I see everyone, the Shudra as well as the Arya."

Kathaka Samhita, xxxiv.5— "The Shudra and the Arya quarrel about the skin. The gods and the demons quarrelled about the sun; the gods won it (the sun). (By this act of quarrelling with Shudras) the Arya makes the Arya Varna win, makes himself successful. The Arya shall be inside the altar, the Shudra outside the altar. The skin shall be white, circular-the form of the sun."

Vajasaneyi Samhita, xxiii.30-31—"When a deer eats the barley in the field, the (owner of the field) is not pleased with the nourished animal; when a Shudra woman has an Arya as a lover, (the husband) does not long for (the consequent) prosperity."

When a deer eats barley, the (owner of the field) does not approve of the nourished animal. When a Shudra is the lover of an Arya woman, the (husband) does not consent to the prosperity.

These stanzas, which speak of the Shudra and the Arya as separate and opposed form the foundation of the theory that the Shudras are non-Aryans. To say the least, such a conclusion would be a very hasty one. Two considerations must be borne in mind before any conclusion is drawn from the aforementioned statements. In the first place, it must be borne in mind that according to what has been said before and according to the evidence of the Rig Veda, there are two categories of Aryans, the Vedic and the non-Vedic. Given this fact, it would be quite easy for an Arya of one class to speak of an Arya of another class, as though the two were separate and opposed. Interpreted in this way, the above statements, in which Shudras are set against the Aryans, do not mean that they were not Aryas. They were Aryas of a different sect or class.

That this is possible can be seen from the following statements in the sacred literature of the Hindus:

(1) A.V., xix.32.8.— "Make me, Oh, Darbha (grass), dear to the Brahmin, and the Rajanya (i.e., Kshatriya), to the Shudra and to the Arya and to him whom we love and to everyone who is able to see."

(2) A.V., xix.62.1.— "Make me beloved among the gods, make me beloved among the princes; make me dear to everyone who sees, to the Shudra and to the Arya"

(3) *Vajasaneyi Samhita,* xviii.48.— "(Oh, Agni), give to us lustre among Brahmins, give us lustre among kings; lustre among Vaishyas and among Shudras; give to me lustre added to lustre."

(4) *Vajasaneyi Samhita,* xx.17.— "Whatever sin we have committed in the village, in the forest, in the assembly, with our senses, against the Shudra or against the Arya, whatever sin one of us (two, the sacrificer and his wife) has

committed in the matter of his duty (towards the other),— of that sin, you are the destroyer."

(5) *Vajasaneyi Samhita,* xviii.48.—"As I speak these auspicious words to the people, to the Brahmin and the Rajanya, to the Shudra and to the Arya and to my own enemy, may I be dear to the gods and to the giver of *dakshinas* here in this world. May this desire of mine be granted. May that (enemy of mine) be subjected to me."

What do these statements show? The first one makes a distinction between the Brahmins and the Aryas. Can it be said that the Brahmins were non-Aryans? The other statements pray for the love and goodwill of the Shudras. If the Shudra was a primitive aboriginal non-Aryan, is such a prayer conceivable? The statements on which reliance is placed do not prove that the Shudras were non-Aryans.

That the Dharma Sutras call the Shudra Anarya and the statements in the Vajasaneyi Samhita pouring scorn on the Shudra woman, do not mean anything. There are two arguments against accepting the testimony of the Dharma Sutra. In the first place, as will be shown later, the Dharma Sutras and other treatises are books written by the enemies of the Shudra. As such, they have no evidentiary value. It is also doubtful whether such anti-Shudra statements are mere imprecations or statements of facts as they existed. They seem to contradict facts reported in other works.

The Dharma Sutras say that a Shudra is not entitled to the Upanayana ceremony and the wearing of the sacred thread. But in Samskara Ganapati there is an express provision declaring the Shudra to be eligible for Upanayana.[1]

The Dharma Sutras say that a Shudra has no right to study the Vedas. But the Chhandogya Upanishad (iv:l-2) relates the story of one Janasruti to whom Veda Vidya was taught by the preceptor Raikva. This Janasruti was a Shudra. What is more is that Kavasha Ailusha,[2] was a Shudra. He was a Rishi and the author of several hymns of the Tenth Book of the Rig Veda.

The Dharma Sutras say that a Shudra has no right to perform Vedic ceremonies and sacrifices. But Jaimini, the author of the Purva Mimamsa[3] mentions an ancient teacher by name Badari— whose work is lost— as an exponent of the contrary view that even *Shudras* could perform Vedic sacrifices. The Bharadvaja Srauta Sutra (v.28) admits that there exists another school of thought which holds that

1 Referred to by Max Muller, in *Ancient Sanskrit Literature* (1860). p. 207.

2 *Ibid,* p. 58.

3 Adhyaya 6, Pada I, Sutra 27.

a Shudra can consecrate the three sacred fires necessary for the performance of a Vedic sacrifice. Similarly, the commentator of the Katyayana Srauta Sutra (1.4.16) admits that there are certain Vedic texts which lead to the inference that the Shudra was eligible to perform Vedic rites.

The Dharma Sutras say that a Shudra is not entitled to the sacred drink of Soma. But in the story of the Ashvins, there is definite evidence that the Shudra had a right to the divine drink of Soma. The Ashvins, as the story goes, once happened to behold Sukanya when she had just bathed and when her person was bare. She was a young girl married to a Rishi by name Chyavana who at the time of marriage was so old as to be dying almost any day. The Ashvins were captivated by the beauty of Sukanya and said "Accept one of us for your husband. It behoveth thee not to spend thy youth fruitlessly." She refused, saying "I am devoted to my husband." They again spoke to her and this time proposed a bargain: "We two are the celestial physicians of note. We will make thy husband young and graceful. Do thou then select one of us as thy husband." She went to her husband and communicated to him the terms of the bargain. Chyavana said to Sukanya "Do thou so"; and the bargain was carried out and Chyavana was made a young man by the Ashvins. Subsequently, a question arose whether the Ashvins were entitled to Soma, which was the drink of the Gods. Indra objected saying that the Ashvins were Shudras and therefore not entitled to Soma. Chyavana, who had received perpetual youth from the Ashvins, set aside the contention and compelled Indra to give them Soma.[1]

There is another reason why the evidence of the Dharma Sutras that the Shudras are non-Aryans should not be accepted. In the first place, it is contrary to the view taken by Manu. In the decision of the issue whether the Shudra was an Aryan or a non-Aryan, the following verses from Manu require to be carefully considered :

> "If a female of the caste sprung from a Brahmana and a Shudra female, bear (children) to one of the highest castes, the inferior (tribe) attains the highest caste within the seventh generation."
>
> "(Thus) a Shudra attains the rank of a Brahmana and (in a similar manner) a Brahmana sinks to the level of a Shudra; but know that it is the same with the offspring of a Kshatriya or of a Vaishya."
>
> "If (a doubt) should arise, with whom the pre-eminence (is, whether) with him whom an Aryan by chance begot on a non-Aryan female, or (with the son) of

1 V. Fausboll, *Indian Mythology,* pp. 128-134.

a Brahmana woman by a non-Aryan;"

The decision is as follows : 'He who was begotten by an Aryan on a non-Aryan female, may become (like to) an Aryan by his virtues; he whom an Aryan (mother) bore to a non Aryan father (is and remains) unlike to an Aryan.'"[1]

Verse 64 from Manu is also to be found in Gautama Dharma Sutra (uv.22). There seems to be some controversy as to the correct interpretation of this verse. In summing up the different interpretations, Buhler says :

> "According to Medh., Gov., Kull., and Ragh., the meaning is that, if the daughter of a Brahmana and of a Shudra female and her descendants all marry Brahmanas, the offspring of the sixth female descendant of the original couple will be a Brahmana. While this explanation agrees with Haradatta's comment on the parallel passage of Gautama, Nar. and Nan. take the verse very differently. They say that if a Parasava, the son of a Brahmana and of a Shudra female, marries a most excellent Parasava female, who possesses a good moral character and other virtues, and if his descendants do the same, the child born in the sixth generation will be a Brahmana. Nandana quotes in support of his view, Baudhayana i.16.13-14 (left out in my translation of the Sacred Books of the East, ii, p.197)... '(offspring) begotten by a Nishada on a Nishadi, removes within five generations the Shudrahood; one may initiate him (the fifth descendant); one may sacrifice for the sixth.' This passage of Baudhayana the reading of which is supported by a new MS from Madras clearly shows that Baudhayana allowed the male offspring of Brahmanas and Shudra females to be raised to the level of Aryans. It is also not impossible that the meaning of Manu's verse may be the same, and that the translation should be, 'if the offspring of a Brahmana and of a Shudra female begets children with a most excellent (male of the Brahmana caste or female of the Parasava tribe), the inferior (tribe) attains the highest caste in the seventh generation."

Whatever be the interpretation, the fact remains that in the seventh generation[2] a Shudra under certain circumstances could become a Brahmin. Such a conception would have been impossible if the Shudra was not an Aryan.

That the Shudra is a non-Aryan is contrary to the view taken by the school of Arthashastra. As a representative of that school, the opinion of Kautilya on that question is of great value. In laying down the law of slavery, Kautilya says:[3]

> The selling or mortgaging by kinsmen of the life of a Shudra who is not a born slave, and has not attained majority, but is Arya in birth shall be punished

1 Chapter X, verses 64-67.

2 The rule which requires that for establishing his nobility a man must be able to trace his six uninterrupted degrees of unsullied lineage of not merely free-born, but full-born, appears to be a universal rule in ancient times.—See W. E. Hearn, *The Aryan Household,* Chapter VIII.

3 Book HI, Chapter 13.

with a fine of 12 panas.

Deceiving a slave of his money or depriving him of the privileges he can exercise as an Arya *(Aryabhava)* shall be punished with half the fine (levied for enslaving the life of an Arya).

Failure to set a slave at liberty on the receipt of a required amount of ransom shall be punished with a fine of 12 panas; putting a slave under confinement for no reason *(samrodhaschakaranat)* shall likewise be punished.

The offspring of a man who has sold himself off as a slave shall be an Arya. A slave shall be entitled not only to what he has earned himself without prejudice to his master's work but also to the inheritance he has received from his father.

Here is Kautilya, who calls the Shudra an Aryan in the most emphatic and express terms possible.

V

Coming to the question of Shudras having been made slaves, it is nonsense, if not mendacious. It is founded on two assumptions. First is that the Dasas are described as slaves in the Rig Veda. The second is that the Dasas are the same as Shudras.

It is true that the word Dasa is used in the Rig Veda in the sense of slave or servant. But the word in this sense occurs in only 5 places and no more. But even if it did occur more than five times, would it prove that the Shudras were made slaves? Unless and until it is proved that the two were the same people, the suggestion is absurd. It is contrary to known facts.

Shudras participated in the coronation of kings. In the post-vedic or the period of the Brahmanas, the coronation of a king was in reality an offer of sovereignty by the people to the king. This was done by the representatives of the people called Ratnis who played a very important part in the investiture of the king. The Ratnis were so-called because they held the Ratna (jewel), which was a symbol of sovereignty. The king received his sovereignty only when the Ratnis handed over to him the jewel of sovereignty, and on receiving his sovereignty the king went to the house of each of the Ratnis and made an offering to him. It is a significant fact that one of the Ratnis was always a Shudra.[1]

Nilakantha, the author of *Nitimayukha,* describes the coronation ceremony of a later time. According to him, the four chief ministers, Brahmin, Kshatriya, Vaishya and Shudra, consecrated the new king.

1 On this point see Jayasswal, *Hindu Polity* (1943), pp. 200-201.

Then the leaders of each Varna and of the castes lower still, consecrated him with holy water. Then followed acclamation by the twice-born.[1]

That the Shudras were invited to be present at the coronation of the king along with Brahmins is evidenced by the description of the coronation of Yudhishthira, the eldest brother of the Pandavas, which is given in the Mahabharata.[2]

Shudras were members of the two political assemblies of ancient times, namely, the Janapada and Paura and as a member of these the Shudra was entitled to special respect even from a Brahmin.[3]

This was so even according to the Manusmriti (vi.61) as well as to the Vishnu Smriti (xxi.64). Otherwise there is no meaning in Manu saying that a Brahmin should not live in a country where the king is a Shudra. That means Shudras were kings.

In the Shanti Parvan of the Mahabharata,[4] Bhishma in his lessons on Politics to Yudhishthira says :

> "I shall, however, tell thee what kinds of ministers should be appointed by thee. Four Brahmins learned in the Vedas, possessed of a sense of dignity, belonging to the *Snataka* order, and of pure behaviour, and eight Kshatriyas, all of whom should be possessed of physical strength and capable of weilding weapons, and one and twenty Vaishyas, all of whom should be possessed of wealth, and three Shudras, everyone of whom should be humble and of pure conduct and devoted to his daily duties, and one man of the Suta caste, possessed of a knowledge of the Puranas and the eight cardinal virtues should be thy ministers."

This proves that the Shudras were ministers and that they were almost equal to the Brahmins in number.[5]

The Shudras were not poor and lowly. They were rich. This fact is testified by the Maitrayani Samhita (iv.2.7.10) and the Panchavimsa Brahmana (vi.1.11).[6]

There are two other aspects to this question. What significance can there be to the enslavement of the Shudras, assuming it was a fact? There would be some significance if the Aryans did not know slavery or were not prepared to turn the Aryans into slaves. But the fact is that the Aryans knew slavery and permitted the Aryans to be made slaves. This is clear from Rig Veda, (vii.86.7;viii. 19.36 and viii.56.3).

1 See Jayaswal, *Hindu Polity* (1943), p. 223.
2 *Mahabharata,* Sabha Parvan, Chapter XXXIII, Verses 41-42.
3 See Jayaswal, -Hindu Polity, p. 248.
4 Roy's Translation, Vol. II, p. 197
5 Bhishma believed in communal representation.
6 Referred to in the Vedic Index, Vol. II, p. 390.

That being so, why should they particularly want to make slaves of the Shudras? What is more important is why should they make different laws for the Shudra slaves?

In short, the Western theory does not help us to answer our questions, who were the Shudras and how did they become the fourth Varna?

●●

CHAPTER VII
WHO WERE THE SHUDRAS ?

WHO were the Shudras if they were not a non-Aryan aboriginal race? This question must now be faced. The theory I venture to advance may be stated in the following three propositions:

(1) The Shudras were Aryans.

(2) The Shudras belonged to the Kshatriya class.

(3) The Shudras were so important a class of Kshatriyas that some of the most eminent and powerful kings of the ancient Aryan communities were Shudras.

This thesis regarding the origin of the Shudras is a startling if not a revolutionary thesis. So startling it is that not many people will be ready to accept it, even though there may be enough evidence to support it. My obligation is to produce the evidence, leaving the people to judge its worth.

The primary piece of evidence on which this thesis rests is a passage which occurs in Verses 38-40 of Chapter 60 of the Shanti Parvan of the Mahabharata. It reads as follows :

> *"It has been heard by us that in the days of old a Shudra of the name of Paijavana gave a Dakshina (in his own sacrifice) consisting of a hundred thousand Purnapatras according to the ordinance called Aindragni."*

The important statements contained in this passage are three :

(1) that Paijavana was a Shudra, (2) that this Shudra Paijavana performed sacrifices, and (3) the Brahmins performed sacrifices for him and accepted Dakshina from him.

The passage quoted above is taken from Mr. Roy's edition of the Mahabharata. The first thing is to ascertain whether the text is accurate or whether there are any variant readings. As regards the authenticity of his text, this is what Mr. Roy[1] says :

1 Quoted in Sukthankar Memorial Edition, Vol. I, pp. 43-44.

"As far as my edition is concerned it is substantially based on that of Royal Asiatic Society of Bengal, published about forty-five years ago under the superintendence of a few learned Pandits of Bengal aided, as I believe, by an English Orientalist of repute. Manuscripts had been procured from all parts of India (the South unexcepted) and these were carefully collated. Although edited with such care, I have not, however, slavishly followed the Society's edition. I have compared it carefully with the Maharajah of Burdwan's text in the Bengalee character which was edited with still greater care. About 18 manuscripts procured from different parts of India (the South not excepted) were carefully collated by the Burdwan Pandits before they admitted a single *sloka* as genuine."

Prof. Sukthankar, the erudite editor of the critical edition of the Mahabharata, after examining many editions of the Mahabharata, concluded by saying that :[1]

"The *editio princeps* (Calcutta—1856) remains the best edition of the Vulgate, after the lapse of nearly a century."

Although the authenticity of Mr.Roy's edition of the Mahabharata cannot be doubted, it would not be unreasonable if critics were to say that they would like to know what other manuscript support there is behind this text, which is made the basis of this new theory of the origin of the Shudras. In undertaking such an inquiry it is necessary to point to two considerations. One[2] is that there is no such thing as a Mahabharata manuscript in the sense of complete sets of manuscripts covering all the eighteen Parvans. Each Parvan is treated as a separate unit with the result that the number of copies of the different Parvans to be found differ by a vast margin. Consequently, the number of manuscripts to be taken as a basis for deciding which is the correct text must vary with each Parvan.

The second[3] consideration to which attention must be drawn is the fact that the text of the Mahabharata has been handed down in two divergent forms; a Northern and a Southern recension, texts, typical of the Aryavarta and the Dakshinapatha.

It is obvious that an examination of manuscript support must be based upon collation from a fair number of manuscripts and a fair distribution of the manuscripts between the Northern and the Southern recensions. Bearing these considerations in mind, the results

1 Quoted in Sukthankar Memorial Edition, Vol. I, p. 131.

2 Sukthankar, op. cit., p. 14.

3 Ibid., pp. 9-42.

of the collation[1] of the text of *Shloka* 38 of the 60th chapter of the Shanti Parvan of the Mahabharata with which we are primarily concerned from different manuscripts is presented below :

1.	शूद्रः पैजवनो नाम Shudrah Paijavano nama	(K) S
2.	शूद्रः पैलवनो नाम Shudrah Pailavano nama	(M/1:M/2) S
3.	शूद्रः यैलननो नाम Shudrah Yailanano nama	(M/3 : M/4) S
4.	शूद्रः यैजननो नाम Shudrah Yaijanano nama	(F)
5.	शूद्रोपि यजने नाम Shudropi Yajane nama	(L)
6.	शूद्रः पौंजलक नाम Shudrah Paunjalka nama	(TC) S
7.	शूद्धो वैभवनो नाम Shuddho Vaibhavano nama	(G) N
8.	पुरा वैजवनो नाम Pura Vaijavano nama	(A, D/2)
9.	पुरा वैजननो नाम Pura Vaijanano nama	(M) N

Here is the result of the collation of nine manuscripts. Are nine manuscripts enough for constituting a text which has a number of variant readings? It is true that the number of manuscripts taken for the critical edition of the different Parvans of the Mahabharata exceeds nine. For the entire Mahabharata the minimum number of manuscripts taken for constituting the text is only ten.[2] It cannot therefore be contended that nine is an insufficient number. The nine manuscripts fall into two geographical divisions, Northern and Southern. M1, M2, M3, M4 and TC belong to the Southern recension. A, M, G, D2 belong to the Northern recension. The selections of the manuscripts therefore satisfy the two tests which experts have laid down.

1 I am grateful to the Bhandarkar Oriental Research Institute for allowing me to use their collation sheet. Letters in brackets indicate the index number given by the Institute to the manuscript. N or S indicate whether the manuscript comes from the North or South. K is Kumbhakonam.

2 Sukthankar, Vol. I, p. 14.

A scrutiny of the readings shows that :

(1) there is a variation in the description of Paijavana;

(2) there is a variation in the name of Paijavana;

(3) of the nine texts, six agree in describing him as a Shudra. One describes him as Shuddha and two instead of speaking of the class to which he belonged refer to the time when he lived and use the word 'Pura';

(4) with regard to the name, there is no agreement between any two of the nine manuscripts. Each gives a different reading.

Given this result, the question is what is the real text? Taking first the texts relating to the name, it is obvious that this is not a matter in which the question of meaning is involved. It does not raise any questions such as interpretation *versus* emendation or of giving preference to a reading which suggests how other readings might have arisen. The question is which is the correct name and which readings are scriptoral blunders committed by the scribes. There seems to be no doubt that the correct text is Paijavana. It is supported by both the recensions, Southern as well as Northern. For Vaijavano in No.8 is the same as Paijavano. All the rest are variations which are due to the ignorance of the scribes in not being able to read the original copy correctly and then trying to constitute the text in their own way.

Turning to the description of Paijavana, the change from *Shudrah* to *Pura,* it must be granted, is not accidental. It appears to be deliberate. Why this change has occurred it is difficult to say categorically. Two things apear to be quite clear. In the first place, the change appears to be quite natural. In the second place, the change does not militate against the conclusion that Paijavana was a Shudra. The above conclusion will be obvious if the context, in which verses 38-40 occur, is borne in mind. The context will be clear from the following verses which precede them:

> "The Shudra should never abandon his master whatever the nature or degree of the distress into which the latter may fall. If the master loses his wealth, he should with excessive zeal be supported by the Shudra servant A Shudra cannot have any wealth that is his own. Whatever he possesses belongs to his master. Sacrifice has been laid down as a duty of the three other orders. It has been ordained for the Shudra also, O.! Bharata. A Shudra however is not competent to utter *swaha* and *svadha* or any other *mantra.* For this reason, the Shudra, without observing the vows laid down in the Vedas, should worship the gods in minor sacrifices called *Pakayajnas.* The gift called Purnapatra is declared to be the *Dakshina* of such sacrifices."

Taking the verses 38 to 40 in the context of these verses preceding them, it becomes clear that the whole passage deals with the Shudra. The story of Paijavana is a mere illustration. Against this background, it is unnecessary to repeat the word 'Shudra' before Paijavana. This explains why the word Shudra does not occur before Paijavana in the two manuscripts. As to the reason for the use of the word *pura* in place of Shudra it must be remembered that the case of Paijavana had occurred in very ancient times. It was therefore quite natural for the scribe to feel that it was desirable to put this fact in express terms. The writer being aware that there was no necessity for describing Paijavana as Shudra since that was made clear from the context, it was not necessary to emphasize it. On the other hand, knowing that Paijavana had lived in very ancient times and that that fact was not made very clear from the context, the writer thought it more appropriate to add the word *Pura* which was necessary and omit the word *Shudrah* which having regard to the context was unnecessary.

If this explanation is well-founded, we may take it as well established that the person referred to in the passage in the Shanti Parvan of the Mahabharata is Paijavana and that this Paijavana was a Shudra.

II

The next question that falls due for consideration is the identification of Paijavana. Who is this Paijavana?

Yaska's Nirukta seems to give us a clue. In Nirukta ii. 24[1] Yaska Says:

> "The seer Vishvamitra was the purohita of Sudas, the son of Pijavana, Vishvamitra, friend of all. All, moving together. Sudas a bountiful giver. *Paijavana,* son of Pijavana. Again *Pi-javana* one whose speed is enviable or whose gait is inimitable."

From Yaska's Nirukta we get two very important facts :

(1) Paijavana means son of Pijavana, and (2) the person who is the son of Paijavana is Sudas. With the help of Yaska, we are able to answer the question: who is Paijavana referred to in the passage in the Shanti Parvan of the Mahabharata? The answer is that Paijavana is simply another name for Sudas.

The next question is who is this Sudas and what do we know about him? A search in the Brahmanic literature discloses three persons

1 Lakshman Sarup, *The Nighantu and Nirukta,* pp. 35-36.

with the name Sudas. One Sudas is mentioned in the Rig Veda. His family particulars are given in the following stanzas of the Rig Veda :[1]

1. *Rig Veda,* vii.18.21.—"Parashara, the destroyer of hundreds (of Rakshasas), and Vasishtha, they who, devoted to thee, have glorified thee in every dwelling, neglect not the friendship of thee (their) benefactor; therefore prosperous days dawn upon the pious."

2. *Rig Veda,* vii. 18.22.— "Praising the liberality of Sudas, the grandson of Devavata, the son of Paijavana, the donor of two hundred cows, and of two chariots with two wives, I, worthy (of the gift), circumambulate thee, Agni, like the ministrant priest in the chamber (of sacrifice)"

3. *Rig Veda,* vii.18.23.— "Four (horses), having golden trappings, going steadily on a difficult road, celebrated on the earth, the excellent and acceptable gifts (made) to me by Sudas, the son of Pijavana; bear me as a son (to obtain) food and progeny."

4. *Rig Veda,* vii.18.24.— "The seven worlds praise (Sudas) as if he were Indra; him whose fame (spreads) through the spacious heaven and earth; who, munificent, has distributed (wealth) on every eminent person, and (for whom) the flowing (rivers) have destroyed Yudhyamadhi in war."

5. *Rig Veda,* vii. 18.25.— "*Maruts,* leaders (of rites), attend upon this (prince) as you did upon Divodasa, the father of Sudas: favour the prayers of the devout son of Pijavana, and may his strength be unimpaired, undecaying."

The two others are mentioned by the Vishnu Purana. One Sudas is mentioned in Chapter IV as the descendant of Sagara. The genealogical tree connecting this Sudas with Sagara is as follows:[2]

"Sumati, the daughter of Kasyapa and Kesini, the daughter of Raja Vidarbha, were the two wives of Sagara. Being without progeny, the king solicited the aid of the sage Aurva with great earnestness, and the Muni pronounced this boon, that one wife should bear one son, the upholder of his race, and the other should give birth to sixty thousand sons; and he left it to them to make their election. Kesini chose to have the single son; Sumati the multitude; and it came to pass in a short time that the former bore Asamanjas, a prince through whom the dynasty continued; and the daughter of Vinata (Sumati) had sixty thousand sons. The son of Asamanjas was Ansumat.

* * *

The son of Ansumat was Dilipa; his son was Bhagiratha, who brought Ganga down to earth, whence she is called Bhagirathi. The son of Bhagiratha was Sruta; his son was Nabhaga; his son was Ambarisha; his son was Sindhudvipa; his son was Ayutashva; his son was Rituparna, the friend of Nala, skilled profoundly in dice. The son of Rituparna was Sarvakama; his son was Sudasa; his son was Saudasa, named also Mitrasaha."

1 Wilson's *Rig Veda,* Vol. IV (Poona Reprint), p. 146.

2 Wilson's *Vishnu Purana,* pp. 377-380.

Another Sudas is mentioned in Chapter XIX as a descendant of Puru. The genealogical tree connecting this Sudas with Puru is as follows :[1]

"The son of Puru was Janamejaya; his son was Prachinvat; his son was Pravira, his son was Manasyu; his son was Bhayada; his son was Sudhumna; his son was Bahugava; his son was Samyati; his son was Bhamyati; his son was Raudrashva, who had ten sons, Riteyu, Kaksheyu, Sthandileyu, Ghriteyu, Jaleyu, Sthaleyu, Dhaneyu, Vaneyu, and Vrateyu. The son of Riteyu was Rantinara whose sons were Tansu, Aprtiratha, and Dhruva. The son of the second of these was Kanva, and his son was Medhatithi, from whom the Kanvayana Brahmans are descended. Anila was the son of Tansu, and he had four sons, of whom Dushyanta was the elder. The son of Dushyanta was the emperor Bharata;...

Bharata had by different wives nine sons, but they were put to death by their own mothers, because Bharata remarked that they bore no resemblance to him, and the women were afraid that he would therefore desert them. The birth of his sons being thus unavailing, Bharata sacrificed to the Maruts, and they gave him Bharadvaja, the son of Brihaspati by Mamata the wife of Utathya,...

* * *

He was also termed Vitatha, in allusion to the unprofitable *(vitatha)* birth of the sons of Bharata. The son of Vitatha was Bhavanmanyu; his sons were many, and amongst them the chief were Brihatkshatra, Mahavirya, Nara and Garga. The son of Nara was Sankriti; his sons were Ruchiradhi and Rantideva. The son of Garga was Sini; and their descendants called Gargyas and Sainyas, although Kshatriyas by birth, became Brahmins. The son of Mahavirya was Urukshaya, who had three sons, Trayyaruna, Pushkarin and Kapi, the last of whom became a Brahmin. The son of Brihatkshatra was Suhotra, whose son was Hastin, who founded the city of Hastinapur. The sons of Hastin were Ajamidha, Dvimidha and Purumidha. One son of Ajamidha was Kanva, whose son was Medhatithi, his other son was Brihadishu, whose son was Brihadvasu; his son was Brihatkarman; his son was Jayadratha, his son was Vishvajit, his son was Senajit, whose sons were Ruchirashva, Kasya, Dridhadhanush, and Vasahanu. The son of Ruchiraswa was Prithusena; his son was Para; his son was Nipa; he had a hundred sons, of whom Samara, the principal, was the ruler of Kampilya. Samara had three sons, Para, Sampara, Sadashva. The son of Para was Prithu; his son was Sukriti; his son was Vibhratra; his son was Anuha, who married Kritvi, the daughter of Shuka (the son of Vyasa), and had by her Brahmadatta; his son was Vishvaksena; his son was Udaksena; and his son was Bhallata.

The son of Dvimidha was Yavinara; his son was Dhritimat; his son was Satyadhriti; his son was Dridhanemi; his son was Suparshva; his son was Sumati; his son was Sannatimat; his son was Krita, to whom Hiranyanabha taught the philosophy of the Yoga, and he compiled twenty-four Sanhitas (or compendia) for the use of the eastern Brahmins, who study the Sama-Veda. The son of Krita was Ugrayudha, by whose prowess the Nipa race of Kshatriyas was destroyed; his son was Kshemya; his son was Suvira; his son was Nripanjaya; his son was Bahuratha. These were all called Pauravas.

1 Wilson's *Vishnu Purana,* pp. 447-456.

Ajamidha had a wife called Nilini, and by her he had a son named Nila; his son was Santi; his son was Susanti; his son was Purujanu; his son was Chakshu; his son was Haryashva, who had five sons Mudgala, Srinjaya, Brihadishu, Pravira, and Kampilya. Their father said, 'These my five (pancha) sons are able (alam) to protect the countries'; and hence they were termed the Panchalas. From Mudgala descended the Maudgalya Brahmins; he had also a son named Bahvashva, who had two children, twins, a son and daughter, Divodasa and Ahalya.

* * *

The son of Divodasa was Mitrayu; his son was Chyavana; his son was Sudasa; his son was Saudasa, also called Sahadeva; his son was Somaka; he had a hundred sons, of whom Jantu was the eldest, and Prishata the youngest. The son of Prishata was Drupada; his son was Dhrishtadyumna; his son was Drishtaketu.

Another son of Ajamidha was named Riksha; his son was Samvarana; his son was Kuru, who gave his name to the holy district Kurukshetra; his sons were Sudhanush, Parikshit, and many others. The son of Sudhanush was Suhotra; his son was Chyavana; his son was Kritaka; his son was Uparichara the Vasu, who had seven children Brihadratha, Pratyagra, Kushamba, Mavella, Matsya, and others. The son of Brihadratha was Kusagra; his son was Rishabha; his son was Pushpavat; his son was Satyadhrita; his son was Sudhanvan; and his son was Jantu. Brihadratha had another son, who being born in two parts, which were put together *(sandhita)* by a female friend named Jara, he was denominated Jarasandha; his son was Sahadeva; his son was Somapi; his son was Srutasravas, These were kings of Magadha."

The immediate ancestry of the three Sudasas is put below in parallel columns to facilitate the settlement of the question whether they are one or three different persons:

Status in Rig Veda			Sudas in Vishnu Purana	
VII, 18:22	VII, 18:23	VII, 18:25	In the Sagar Family	In the Puru Family
Devavata	Pijavana	Divodasa= Pijavana	Ritupama	Bahvashva
|	|		|	|
Pijavana	Sudas		Sarvakama	Divodasa
|		|	|	|
Sudas		Sudas	Sudas	Milrayu
			|	|
			Saudasa = Mitrasaha	Chyavana
				|
				Sudas
				|
				Saudasa
				|
				Somaka

From the table two things are as clear as day-light. First is that neither Sudas mentioned in the Vishnu Purana has anything to do with the Sudas mentioned in the Rig Veda. The second point which is clear is that if the Paijavana mentioned in the Mahabharata can be identified with anybody who lived in ancient times it can only be with Sudas mentioned in Rig Veda who was called Paijavana because he was the son of Pijavana which was another name of Divodasa.[1]

Fortunately for me my conclusion is the same as that of Prof. Weber. In commenting upon the passage in the Shanti Parvan of the Mahabharata on which my thesis is based Prof. Weber[2] says :

> "Here the remarkable tradition is recorded that Paijavana, i.e., Sudas who was so famous for his sacrifices and who is celebrated in the Rig Veda as the patron of Vishvamitra and enemy of Vasishtha, was a Shudra."

Prof.Weber unfortunately did not realize the full significance of this passage. This is another matter. It is enough for my purpose to find that he too thinks that the Paijavana of the Mahabharata is no other than Sudas of the Rig Veda.

III

What do we know about Sudas, the Paijavana?

The following particulars are available about him:

I. Sudas was neither Dasa nor Arya. Both the Dasas as well as the Aryas were his enemies.[3] This means that he was a Vedic Aryan.

II. The father of Sudas was Divodasa. He seems to be the adopted son of Vadhryashva.[4] Divodasa was a king. He fought many battles against Turvasas and Yadus,[5] Shambara,[6] Parava, and Karanja [7] and

1 Some difficulty is felt about the genealogy of this Sudas in the *Rig Veda,* which is sought to be got over by identifying Devavata with Divodasa. This difficulty has mainly arisen because of the diffirent texts of Stanzas 22, 23 and 25 which nobody seems to have cared to collect properly. Chitrava Shastri's edition of *Rig Veda* has Pijavana throughout. Satavalekar's edition has Paijavana throughout. Wilson has Paijavana in 22 and 23 and Pijavana in 25. Wilson's text seems to be accurate. For even Yaska has noticed the existence of the name Paijavana in his Nirukta which he endeavours to explain. If Wilson's text in 25 is taken as correct no difficulty can arise. Pijavana would then appear to be another name of Divodasa and Paijavana would be another name of Sudas.

2 Muir, Vol. 1, p. 366

3 Rig Veda, VII, 83. 1.

4 Rig Veda, IX, 61.2.

5 Rig Veda,VI. 61. 1; VII 19.8

6 Rig Veda, I. 130. 7

7 Rig Veda, I. 53. 10

Gungu.[1] There was a war between Turyavana and Divodasa and his allies Ayu and Kutsa. The victory went to Turyavana.[2]

It seems that at one time Indra was against him particularly in the battle of Turyavana. His purohita was Bharadvaja,[3] to whom Divodasa gave many gifts.[4] Bharadvaja seems to have played the part of a traitor by joining Turyavana against Divodasa.[5]

There is no reference to the mother of Sudas. But there is a reference to the wife of Sudas. His wife's name is given as Sudevi.[6] It is said that the Ashvins procured her for Sudas.

III. Sudas was a king and his coronation ceremony was performed by the Brahma-rishi, Vasistha.

The Aitareya Brahmana gives the following list of the kings who had the Mahabhisheka ceremony performed and the name of the Purohita who officiated at it.[7]

> "With this ceremony Sharyata, the son of Manu, was inaugurated by Chyavana, the son of Bhrigu. Thence Sharyata went conquering all over the earth, and sacrificed the sacrificial horse, and was even at the sacrificial session held by the gods, the house-father."
>
> "With this ceremony Samasushama, the son of Vajaratna, inaugurated Shatanika, the son of Satrajit. Thence Shatanika went conquering everywhere over the whole earth up to its ends, and sacrificed the sacrificial horse."
>
> "With this ceremony Parvata and Narada inaugurated Ambashthya. Thence Ambashthya went conquering everywhere over the whole earth up to its ends, and sacrificed the sacrificial horse."
>
> "With this ceremony Parvata and Narada inaugurated Yudhamasraushti, the son of Ugrasena. Thence Yudhamasraushti went conquering everywhere over the whole earth up to its ends, and sacrificed the sacrificial horse."
>
> "With this inauguration ceremony Kashyapa inaugurated Vishva-karma, the son of Bhuvana. Thence Vishvakarma went conquering everywhere over the whole earth up to its ends, and sacrificed the sacrificial horse."
>
> "They say that the earth sang to Vishvakarma the following stanza:
>
> 'No mortal is allowed to give me away (as donation).[8] O, Vishva-karma, thou hast given me, (therefore) I shall plunge into the midst of the sea. In vain was thy promise made to Kashyapa.'"
>
> "With this ceremony Vasishtha inaugurated Sudas, the son of Pijavana. Thence Sudas went conquering everywhere over the whole earth up to its ends, and sacrificed the sacrificial horse."

1 Rig Veda, X. 48
2 Rig Veda, I. 53, 8; VI. 18. 13
3 Rig Veda, I. 116. 18.
4 Rig Veda,VI. 16. 5.
5 Rig Veda, VI. 18. 13.
6 Rig Veda, 1. 112. 19.
7 Martin Haug, Vol. II, pp. 523-524.
8 The king had promised the whole earth as gift to his officiating priest.

"With this inauguration ceremony Samvarta, the son of Angiras, inaugurated Maruta, the son of Avikshit. Thence Maruta went conquering everywhere over the whole earth up to its ends, and sacrificed the sacrificial horse."

In this list there is a specific mention of Sudas and of his coronation having been performed by Vasishtha.

Sudas was the hero in the famous Dasharajna Yuddha or the battle of the ten kings described in the *Rig Veda*. References to this famous battle occur in the various Suktas of the Seventh Mandala of the Rig Veda.

Sukta 83 says:

4. "Indra and Varuna, you protected Sudas, overwhelming the yet unassailed Bheda with your fatal weapons; hear the prayers of these Tritsus in time of battle, so that my ministration may have borne them fruit."

6. "Both (Sudas and the Tritsus) call upon you two, (Indra and Varuna), in combats for the acquirement of wealth, when you defend Sudas, together with the Tritsus, when attacked by the ten Rajas."

7. "The ten confederated irreligious Rajas did not prevail, Indra and Varuna, against Sudas; the praise of the leaders (of rites), the offerers of sacrificial food, was fruitful; the gods were present at their sacrifices."

9. "One of you destroys enemies in battle, the other ever protects religious observances; we invoke you, showerers (of benefits), with praises; bestow upon us, Indra and Varuna, felicity."

Sukta 33 says :

2. "Disgracing (Pashadyumna), they brought from afar the fierce Indra, when drinking the ladle of Soma at his sacrifice, to (receive) the libation (of Sudas); Indra hastened from the effused Soma of Pashadyumna, the son of Vayata, to the Vasishthas."

3. "In the same manner was he, (Sudas), enabled by them easily to cross the Sindhu river; in the same manner, through them he easily slew his foes; so in like manner, Vasishthas, through your prayers, did Indra defend Sudas in the war with the ten kings."

"Suffering from thirst, soliciting (rain), supported (by the Tritsus) in the war with the ten Rajas, (the Vasishthas) made Indra radiant as the sun; Indra heard (the praises) of Vasishtha glorifying him, and bestowed a spacious region on the Tritsus."

Sukta 19 says :

3. "Undaunted (Indra), thou hast protected with all thy protections Sudas, the offerer of oblations; thou hast protected, in battles with enemies for the possession of the earth, TRASADASYU, the son of PURUKUTSA, and PURU."

6. "Thy favours, Indra, to Sudas, the donor (of offerings), the presenter of oblations, arc infinite;showerer (of benefits)I yoke for thee (thy vigorous) steeds; may our prayers, reach thee who art mighty, to whom many rites are addressed."

Sukta 18 of the Seventh Mandala says :

5. "The adorable Indra made the well-known deep waters (of the Parushni)

fordable for Sudas, and converted the vehement awakening imprecation of the sacrificer into the calumniation of the rivers."

6. "TURVASHA, who was preceding (at solen rites), diligent in sacrifice, (went to Sudas) for wealth; but like fishes restricted (to the element of water), the Bhrigus and Druhyus quickly assailed them; of these two everywhere going, the friend (of Sudas, Indra) rescued his friend."

7. "Those who dress the oblation, those who pronounce auspicious words, those who abstain from penance, those who bear horns (in their hands), those who bestow happiness (on the world by sacrifice), glorify that Indra, who recovered the cattle of the Arya from the plunderers, who slew the enemies in battle."

8. "The evil-disposed and stupid (enemies of Sudas), crossing the humble Parushni river, have broken down its banks;but he by his greatness pervades the earth, and KAVI, the son of CHAYAMANA, like a falling victim, sleeps (in death)."

9. "The waters followed their regular course to the Parushni, nor (wandered) beyond it; the quick course (of the king) came to the accessible places, and INDRA made the idly-talking enemies, with their numerous progeny, subject among them (to Sudas)."

10. "They who ride on parti-coloured cattle, (the Maruts), despatched by PRISHNI, and recalling the engagement made by them with their friend (Indra), came like cattle from the pasturage, when left without a herdsman; the exulting Niyut steeds brought them quickly (against the foe)."

11. "The hero INDRA created the Maruts (for the assistance of the Raja), who, ambitious of fame, slew one and twenty of the men on the two banks (of the Parushni), as a well looking priest lops the sacred grass in the chamber of sacrifice."

12. "Thou, the bearer of the thunderbolt, didst drown SHRUTA, KAVASHA, VRIDDHA, and afterwards DRUHYU in the waters; for they, Indra, who are devoted to thee, and glorify thee, preferring thy friendship, enjoy it."

13. "Indra, in his might, quickly demolished all their strongholds, and their seven (kinds of) cities; he has given the dwelling of the son of ANU to TRITSU; may we, (by propitiating), (Indra) conquer in battle the ill-speaking man."

14. "The warriors of the ANUS and DRUHYUS, intending (to carry off the) cattle, (hostile) to the pious (SUDAS), perished to the number of sixty-six thousand six hundred and sixty; such are all the glorious acts of INDRA."

15. "These hostile Tritsus, ignorantly contending with INDRA, fled, routed as rapidly as rivers on a downward course, and being discomfited abandoned all their possessions to SUDAS."

16. "INDRA has scattered over the earth the hostile rival of the hero (SUDAS), the senior of INDRA, the appropriator of the oblation; INDRA has baffled the wrath of the wrathful enemy, and the (foe) advancing on the way (against SUDAS) has taken the path of flight."

17. "INDRA has effected a valuable (donation) by a pauper; he has slain an old lion by a goat; he has cut the angles of the sacrificial post with a needle; he has given all the spoils (of the enemy) to SUDAS."

18. "Thy numerous enemies, INDRA, have been reduced to subjugation; effect at some time or other the subjugation of the turbulent BHEDA, who holds men

praising thee as guilty of wickedness; hurl, INDRA, thy sharp thunderbolt against him."

19. "The dwellers on the Yamuna and Tritsus glorified INDRA when he killed BHEDA in battle; the Ajas, the Shigrus, the Yakshas. offered to him as a sacrifice the heads of the horses killed in the combat."

20. "Thy favours, INDRA, and thy bounties, whether old or new, cannot be counted like the (recurring) dawns; thou hast slain DEVAKA, the son of MANYAMANA and of thine own will hast cast down SHAMBARA from the vast (mountain)."

In this batte the kings who fought against Sudas were:[1] (1) Shinyu, (2) Turvasha, (3) Druhyu, (4) Kavasha, (5) Puru, (6) Anu, (7) Bheda, (8) Shambara, (9) Vaikarna, (10) another Vaikarna, (11) Yadu, (12) Matsya, (13) Paktha, (14) Bhalanas, (15) Aleena, (16) Vishanin, (17) Aja, (18) Shiva, (19) Shigru, (20) Yakshu, (21) Yudhyamadhi, (22) Yadva, (23) Devaka Manyamana, (24) Chayamana Kavi, (25) Sutuka, (26) Uchatha, (27) Shmta, (28) Vriddha, (29) Manyu, and (30) Prithu.

Obviously, the war was a much bigger war than its name indicates. The war must have been a very great event in the history of the Indo-Aryans. No wonder the victorious Sudas became a great hero of his time.[2] We do not know what exactly led to this war. Some indication is given by Rig Veda, vii.83.7, where the kings arrayed against Sudas are described as irreligious which suggests that it was probably a religious war.

IV. Sayanacharya, as well as tradition, declare the following hymns of the Rig Veda to have had the under-mentioned kings for their rishis :

"Vitahavya (or Bharadvaja) x.9, Sindhudvipa, son of Ambarisha (or Trisiras, son of Tvashtri) x.75,Sindhukshit, son of Priyamedha; x.133, Sudas, son of Pijavana; x.134, Mandhatri, son of Yuvanasa; x.179, Sibi, son of Usinara, Pratardana, son of Divodasa and king of Kasi, and Vasumanas, son of Rohidasva; and x.148 is declared to have had Prithi Vainya."

It will be noticed that in this list there occurs the name of Sudas as a composer of Vedic hymns.

V. Sudas performed Ashvamedha Yajna. There is reference to this in Rig Veda, iii.53.

9. "The great *RISHI,* the generator of the gods, attracted by the deities, the

1 The list is taken from Chitrava Shastri's *Prachin Charitra Kosh,* p. 624. There is no unanimity whether all the names are of kings. Sayanacharya says that 13-16 are names of the Purohitas. There is also doubt about 27-29.

2 The name of Sudas occurs in the Rig Veda in 27 places. It shows what a great hero he must have been regarded by the Vedic people.

overlooker of the leaders (at holy rites), VISHVA-MITRA arrested the watery stream when he sacrificed for SUDAS; INDRA with the *Kushikas,* was pleased."

11. "Approach, *Kushikas,* the steed of SUDAS; animate (him), and let him loose to (win) riches (for the raja); for the king (of the gods), has slain VRITRA in the East, in the West, in the North, therefore let (SUDAS) worship him in the best (regions) of the earth."

VI. Sudas was known for charity to the Brahmins who called him Atithigva (the doyen) of Philanthrophists. How the Brahmins have praised him for his philanthrophy appears from the following references in the Rig Veda:

i.47.6. "0, impetuous Ashvins, possessing wealth in your car, bring sustenance to Sudas. Send to us from the (aerial) ocean, or the sky, the riches which are much coveted."

i.63.7. "Thou didst then, O,thundering Indra, war against, and shatter, the seven cities for Purukutsa, when thou, O king, didst without effort hurl away distress from Sudas like a bunch of grass, and bestow wealth on Puru."

i. 112.19. "Come, O Ashvins, with those succours whereby ye brought glorious power to Sudas."

vii.19.3. "Though, O fierce Indra, hast impetuously protected Sudas, who offered oblations, with every kind of succour. Thou hast preserved Trasadasyu the son of Purukutsa, and Puru in his conquest of land and in his slaughter of enemies."

vii.20.2 "Indra growing in force slays Vritra; the hero protects him who praises him; he makes room for Sudas (or the liberal sacrificer- Sayana); he gives riches repeatedly to his worshippers."

vii.25.3. "Let a hundred succours come to Sudas, a thousand desirable (gifts) and prosperity. Destroy the weapon of the murderous. Confer renown and wealth on us."

vii.32.10. "No one can oppose or stop the chariot of Sudas. He whom Indra, whom the Marutas, protect, walks in a pasture filled with cattle."

vii.53.3. "And ye, O, Heaven and Earth, have many gifts of wealth for Sudas."

vii.60.8. "Since Aditi, Mitra, and Varuna, afford secure protection to Sudas (or the liberal man), bestowing on him offspring—may we not, O mighty deities, commit any offence against the gods ... May Aryaman rid us of our enemies. (Grant) ye vigorous gods, a wide space to Sudas."

These are the biographical bits regarding Paijavana referred to in the Shanti Parvan of the Mahabharata gleaned from the most authentic source, namely, the Rig Veda. From the Rig Veda, we know that his real name was Sudas, that he was a Kshatriya. He was more than a Kshatriya. He was a king and a mighty king. To this, the Mahabharata adds a fresh and a new detail, namely that he was a Shudra. A Shudra to be an Aryan, a Shudra to be a Kshatriya and a Shudra to be a king!! Can there be a greater revelation? Can there be anything more revolutionary?

This search for biographical details may be closed with a discussion of three important questions: Was Sudas an Aryan? If Sudas is an Aryan what is the tribe to which he belonged? If Sudas is a Shudra, what does Shudra signify?

It might be well to begin with the second. For the determination of this question it is possible to derive some assistance from certain reference in the Rig Veda. The Rig Veda mentions many tribes, most important of which are Tritsus, Bharatas, Turvasas, Durhyus, Yadus, Purus and Anus. But according to the references in the Rig Veda there are only three with whom Sudas was connected. They are Purus, Tritsus and the Bharatas. It is enough to confine ourselves to these three and to find out if possible to which of these tribes he belonged. The most important stanzas bearing on the relation between Tritsus and Sudas are the Rig Veda, i.63.7; i. 130.7; vii.18.15; vii.33.5; vii.33.6; vii.83:4, 6.

In i.63,7,Divodasa is spoken of as the king of the Purus and in i. 130.7, Divodasa is spoken of as Paurve, i.e., belonging to the Purus.

Rig Veda,vii.l8.15 and vii.83.6, suggest that Sudas was not a Tritsu. The first suggests that Sudas raided the camp of Tritsus who ran away and Sudas took possession of their wealth. The second suggests that Tritsus and Sudas were on one side in the war against the ten kings, but they are shown as separate. But in vii.35.5 and in vii.83.4, Sudas becomes fully identified with Tritsus; indeed, in the former Sudas becomes a king of the Tritsus.

On this question of the relation between the Tritsus and the Bharatas and between them and Sudas, we have as our evidence Rig Veda, vii.33.6 and v. 16.4, 6, 19. According to the first, Tritsus are the same as the Bharatas. According to the second, Divodasa the father of Sudas is spoken of as belonging to the Bharatas.

From these references one thing is certain that the Purus, Tritsus and Bharatas were either different branches of one and the same folk or that they were different tribes, who in the course of time became one people, folk. This is not impossible. The only question is: assuming they were different, to whom did Sudas originally belong? To the Purus, the Tritsus or to the Bharatas? Having regard to the connection of the Purus and the Bharatas with Divodasa, his father, it seems natural to suppose that Sudas originally belonged either to the Purus or to the Bharatas—which, it is difficult to say.

Whether he belonged to the Purus or not, there is no doubt that Sudas belonged to the Bharatas if regard is had to the fact that his

father Divodasa is spoken of as belonging to the Bharatas. The next question, is: who were these Bharatas and whether they are the people after whom India got the name Bharata Bhumi or the land of the Bharatas. This question is important because most people are not aware of the true facts. When Hindus talk of the Bharatas they have in mind the Daushyanti Bharatas, Bharatas descended from Dushyanta and Shakuntala and who fought the war which is described in the Mahabharata. Not only are they not aware of any other Bharatas but they believe that the name Bharata Bhumi which was given to India was given after the Daushyanti Bharatas.

There are two Bharatas quite distinct from each other. One tribe of the Bharatas are the Bharatas of the Rig Veda, who were descended from Manu and to whom Sudas belonged. The other tribe of Bharatas are the Daushyanti Bharatas. What is more important is that if India has been named Bharata Bhumi it is after the Bharatas of the Rig Veda and not after the Daushyanti Bharatas. This is made clear by the following stanzas from the Bhagavata Purana:[1]

प्रियंवदो नाम सुतो मनोः स्वायंभुवस्य ह ।
तस्याग्नीघ्रस्ततो नाभिर्ऋषभश्च सुतस्ततः ।।
अवतीर्ण पुत्रशतं तस्यासीद्रह्यपारगम् ।
तेषां वै भरतो ज्येष्ठो नारायणपरायणः ।
विख्यातं वर्षमेतद्यन्नाम्ना भारतमुत्तप्रम् ।।

"Manu, the son of Syavambhu, had a son named Priyamvada; his son was Agnidhra; his son was Nabhi; he had a son Rishabha. He had a hundred sons born to him, all learned in the Veda; of them, Bharata was the eldest, devoted to Narayana, by whose name this excellent land is known as Bharata."

This shows to what illustratious line of kings this Shudra Sudas belonged.

The next thing to find out is whether Sudas was an Aryan. The Bharatas were of course Aryans and therefore Sudas must have been an Aryan. If reference is had to Rig Veda, vii. 18.7, this connection with the Tritsus to the Aryans seems to throw some doubt on his Aryan origin. This stanza says that Indra rescued the cows of the Aryas from the Tritsus and killed the Tritsus, thereby suggesting that the Tritsus were the enemies of the Aryas. Griffiths is very much perturbed by the Tritsus being shown as non-Aryans which is the result of a literal translation of the stanza, and to avoid it he

1 Quoted by Vaidya in *Mahabharatacha Upasamhara,* p. 200.

understands cows to mean comrade.[1] This of course is unnecessary if one bears in mind that the Rig Veda Contains the story of two sorts of Aryas, whether differing in race or religion, it is difficult to say. Interpreted in the light of this fact, all that the stanza means is that at the time when it was written the Tritsus had not become Aryans by religion. It does not mean that they were not Aryans by race. It is therefore indisputable that Sudas, whether taken as a Bharata or as a Tritsu was an Aryan.

And now to the last question, though it is by no means the least. What does Shudra signify? In the light of this new discovery that Sudas was a Shudra, the word now stands in a totally different light. To old scholars to whom the word was just the name of a servile and aboriginal class this new discovery must come as a surprise for which their past researches cannot possibly furnish an answer. As for myself, I am in no better position. The reason is that the social organization of the Vedic Aryans has yet to be studied. We know from the study of primitive societies that they are organized in groups and they act as groups. The groups are of various sorts. There are clans, phratries, moieties and tribes. In some cases, the tribe is the primary unit, in others it is the clan, in others the phratry. In some cases tribes are sub-divided into clans. In other cases there are no clans. It is a single clanless tribe.

The clan embraces the descendants of a single ancestor held together by a sense of common descent. Clans often become associated through common social and ceremonial interests into major units, called phratries or brotherhoods of clans. The bond within the phratry may be relatively loose, that is, the association may not imply more than an informal feeling of preferential friendship. The phratry may become a moiety in which each clan is recognized as part of one of two major units. But moieties may occur without any sub-division, that is, the entire clan may consist of two clans. All these organizations whether it is a clan, a phratry, a moiety or a tribe, are all based on the tie of kinship.

The Vedic Aryans had no doubt some such forms of social organization. That is clear from the nomenclature. As pointed out by Prof. Senart :[2]

1 His rendering is "yet to the Tritsus come the Aryu's comrade, through love of spoil and heros' war, to lead them."

2 'Castes in India" by Emile Senart, p. 192.

"The Vedic hymns arc all too indefinite concerning the details of external and social life. We at least sec from them that the Aryan population was divided into a number of tribes or small peoples *(janas),* subdivided into clans united by the ties of kinship *(visas),* which in their turn were split up into families. The terminology of the Rig Veda, is in this respect somewhat indecisive, but the general fact is clear. *Sajata,* that is to say, 'kinsman' or 'fellow in *Jati,'* of race, seems in the Atharva-Veda to denote fellow in clan *(vis),* Jana, which assumes a wider significance, recalls the Avestic equivalent of the clan, the *zantu,* and the *jati* or caste. A series of terms, *vra, vrijana, vraja, vrata,* appear to be synonyms or subdivisions either of the clan or of the tribes. The Aryan population then lived, at the epoch to which the hymns refer, under the rule of an organization dominated by the traditions of the tribe and the lower or similar groupings. The very variety of names indicates that this organization was somewhat unsettled."

We have, however, no information to determine which of these corresponds to the clan, which to the phratry and which to the tribe.[1] That being so, it is difficult to say whether Shudra was the name of a clan, a phratry or a tribe. It is, however, interesting to refer to the view of Prof. Weber when he comments on the passage from the Satapatha Brahmana (i. 1.4.12) where it says that different modes of address should be adopted inviting the sacrificer to proceed with the sacrifice, addressing him as 'come' if he is a Brahmin, 'hasten hither' if he is a Kshatriya, 'hasten hither' if he is a Vaishya and 'run hither' if he is a Shudra. Prof. Weber says :[2]

"The entire passage is of great importance, as it shows (in opposition to what Roth says in the first Volume of this Journal, p.83) that the Shudras were then admitted to the holy sacrifices of the Aryans, and understood their speech, even if they did not speak it. The latter point cannot certainly be assumed as a necessary consequence, but it is highly probable and I consequently incline to the view of those who regard the Shudras as an Aryan tribe which immigrated into India before the others."

His conclusion that the Shudras were Aryans hits the nail squarely on the head. The only point of doubt is whether the Shudras were a tribe. That they were Aryans and Kshatriyas is beyond doubt.

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1 What we called Aryan tribes appear to be a phratry in view of their changing alliances.

2 Muir. Vol. I, p. 366.

CHAPTER VIII

THE NUMBER OF VARNAS, THREE OR FOUR ?

I

THAT there were from the very beginning four *Varnas* in the Indo-Aryan society is a view which is universally accepted by all classes of Hindus, and also by European scholars. If the thesis advanced in the last chapter, namely, that the Shudras were Kshatriyas is accepted, then it follows that this theory is wrong and that there was a time when there were only three *Varnas* in the Indo-Aryan society, viz., Brahmins, Kshatriyas and Vaishyas. Thus, the thesis, while it solves one problem, at the same time creates another. Whether anybody else sees the importance of this problem or not, I do. Indeed, I am aware of the fact that unless I succeed in proving that there were originally only three *Varnas,* my thesis that the Shudras were Kshatriyas may not be said to be proved beyond the shadow of a doubt.

While it is unfortunate that I should have landed on a thesis, which, while holding out a promise of solving the problem, creates another, I feel fortunate in having strong and cogent evidence to show that there were originally only three Varnas among the Indo-Aryans.

The first piece of evidence I rely upon is that of the Rig Veda itself. There are some scholars who maintain that the Varna system did not exist in the age of the Rig Veda. This statement is based on the view that the Purusha Sukta is an interpolation which has taken place long after the Rig Veda was closed. Even accepting that the Purusha Sukta is a later interpolation, it is not possible to accept the statement that the Varna system did not exist in the time of

the Rig Veda. Such a system is in open conflict with the text of the Rig Veda. For, the Rig Veda, apart from the Purusha Sukta, does mention Brahmins, Kshatriyas and Vaishyas not once but many times. The Brahmins are mentioned as a separate *Varna* fifteen times, Kshatriyas nine times. What is important is that the Rig Veda does not mention Shudra as a separate Varna. If Shudras were a separate *Varna* there is no reason why the Rig Veda should not have mentioned them. The true conclusion to be drawn from the Rig Veda is not that the Varna system did not exist, but that there were only three *Varnas* and that Shudras were not regarded as a fourth and a separate *Varna*.

The second piece of evidence I rely on is the testimony of the two Brahmanas, the Satapatha and the Taittiriya. Both speak of the creation of three *Varnas* only. They do not speak of the creation of the Shudras as a separate.

The Satapatha Brahmana says :[1]

> II. 1.4.11.— "(Uttering), 'bhuh', Prajapati generated this earth. (Uttering) 'bhuvah' he generated the air, and (Uttering) 'svah' he generated the sky. This universe is co-extensive with these worlds. (The fire) is placed with the whole. Saying 'bhuh', Prajapati generated the Brahman; saying 'bhuvah" he generated the Kshattra; (and saying) 'svah', he generated the Vis. The fire is placed with the whole. (Saying) 'bhuh', Prajapati generated himself; (saying) 'bhuvah', he generated offspring : saying 'svah', he generated animals. This world is so much as self, offspring, and animals. (The fire) is placed with the whole."

The Taittirya Brahmana says[2]

> III. 12.9.2.— "This entire (universe) has been created by Brahma. Men say that the Vaishya class was produced from *ric* verses. They say that the Yajur Veda is the womb from which the Kshattriya was born. The Sama Veda is the source from which the Brahmins sprang. This word the ancients declared to the ancients."

Here is my evidence. It consists of an inference from the Rig Veda and two statements from two Brahmanas which in point of authority are co-equal with the Vedas. For both are Shruti both say in definite and precise terms that there were only three *Varnas*. Both agree that the Shudras did not form a separate and a distinct *Varna,* much less the fourth *Varna*. There cannot, therefore, be better evidence in support of my contention that there were originally only three *Varnas*

1 Muir, Vol. 1, p. 17.

2 Quoted by Muir, Vol. I, p. 17.

and that the Shudras were only a part of the second *Varna.*

II

Such is my evidence. On the other side, there is, of course, the evidence contained in the Purusha Sukta of the Rig Veda, which maintains that there were four *Varnas* from the very beginning. The question now is : which of the two should be accepted as the correct? How is this question to be decided? It cannot be decided by applying the rules of Mimamsa. If we did apply it, we will have to admit that both the statements, one in the Purusha Sukta that there were four *Varnas* and the statement in the two Brahmanas that there were three *Varnas,* are true. This is an absurd position. We must decide this matter in the light of the canons of historical criticism, such as sequence of time and intrinsic criticism, etc. The main question is whether the Purusha Sukta is a later composition added to the original Rig Veda. The question has been dealt with on the basis of the language of the Sukta as compared with the language of the rest of the Rig Veda. That it is a late production is the opinion of all scholars. This is what Colebrooke says :[1]

> "That remarkable hymn (the Purusha Sukta) is in language, metre, and style, very different from the rest of the prayers with which it is associated. It has a decidedly more modern tone; and must have been composed after the Sanskrit language had been refined, and its grammar and rhythm perfected. The internal evidence which it furnishes serves to demonstrate the important fact that the compilation of the Vedas, in their present arrangement, took place after the Sanskrit tongue had advanced from the rustic and irregular dialect in which the multitude of hymns and prayers of the Veda was composed, to the polished and sonorous language in which the mythological poems, sacred and profane (puranas and kavyas), have been written."

In the opinion of Prof.Max Muller :[2]

> "There can belittle doubt, for instance, that the 90th hymn of the 10th book... is modern both in its character and in its diction. It is full of allusions to the sacrificial ceremonials, it uses technically philosophical terms, it mentions the three seasons in the order of Vasanta, spring, Grishma, summer and Sharad, autumn; it contains the only passsage in the Rig Veda where the four castes arc enumerated. The evidence of language for the modern date of this composition is equally strong. Grishma, for instance, the name for the hot season, docs not occur in any other hymn of the Rig Veda; and Vasanta also, the name

1 Quoted in Muir, Vol, I, p. 13,

2 *Ibid.,* Vol. I, p. 13.

of spring docs not belong to the earliest vocabulary of the Vedic poets. It occurs but once more in the Rig Veda (x.161.4), in a passage where the three seasons are mentioned in the order of Sharad, autumn; Hemanta, winter; and Vasanta, spring."

Prof.Weber observes :[1]

"That the Purusha Sukta, considered as a hymn of the Rig Veda, is among the latest portions of that collection, is clearly perceptible from its contents. The fact that the Sama Samhita has not adopted any verse from it, is not without importance (compare what I have remarked in my Academical Prelections). The Naigeya school, indeed, appears (although it is not quite certain) to have extracted the first five verses in the seventh prapathaka of the first Archika, which is peculiar to it."

III

This is one line of argument. There is also another line of argument which also helps us to determine whether the Purusha Sukta is an earlier or later production. For this it is necessary to find out how many Samhitas of the Vedas have adopted the Purusha Sukta. Examining the different Vedas and the Samhitas, the position is as follows :

The Sama Veda produces only 5 verses from the Purusha Sukta. As to the White Yajur Veda, the Vajasaneyi Samhita includes it but the difference between the two is great. The Purusha Sukta, as it stands, in the Rig Veda, has only 16 verses. But the Purusha Sukta in the Vajasaneyi Samhita has 22 verses. Of the Black Yajur Veda there are three Samhitas available at present. But none of the three Samhitas, the Taittiriya, the Katha and the Maitrayani, gives any place to the Purusha Sukta. The Atharva Veda is the only Veda which contains a more or less exact reproduction of the Purusha Sukta of the Rig Veda.

The text of the Purusha Sukta, as it occurs in the different Vedas, is not uniform. The six additional verses of the Vajasaneyi Samhita are special to it and are not to be found in the text as it occurs in the Rig Veda, the Sama Veda or the Atharva Veda. There is another difference which relates to verse 16. The 16th verse of the Rig Veda is to be found neither in the Atharva Veda nor in the Sama Veda nor in the Yajur Veda. Similary, the 16th verse of the Atharva Veda is to be found neither in the Rig Veda nor in the Yajur Veda. Of the fifteen

1 Quoted by Muir, Vol. I, p. 14.

verses, which are common to the three Vedas, their texts are not, identical. Nor is the order in which the verses stand in the three Vedas the same as may be seen from the following table :

Yajur Veda	*Rig Veda*	*Sama Veda*	*Atharva Veda*
1	1	3	1
2	2	5	4
3	3	6	3
4	4	4	2
5	5	7	9
6	8	*	10
7	9	*	11
8	10	*	14
9	7	*	13
10	11	*	12
11	12	*	5
12	13	*	6
13	14	*	7
14	6	*	8
15	15	*	15
16†	16	*	16†
17	*	*	*
18	*	*	*
19	*	*	*
20	*	*	*
21	*	*	*
22	*	*	*

The point is that if the Purusha Sukta had been an old, hoary text, sanctified by ancient tradition, could the other Vedas have taken such a liberty with it? Could they have changed it and chopped it as they have done?

The place of the Purusha Sukta in the hymns of the different Vedas is also very significant. In the Rig Veda it occurs in the miscellaneous part and in the Atharva Veda it occurs in what is known as the supplementary part. If it was the earliest composition of the Rig Veda, why should it have been placed in such inconsequential

*Means that these Verses are not to be found.
†Means that they are not identical.

collection? What do these points suggest? They suggest that :

(1) If the Purusha Sukta was not incorporated in the Taittiriya, Kathaka and Maitrayani Samhitas of the Black Yajur Veda, it follows, that the Purusha Sukta was added to the Rig Veda after the Taittiriya Samhita, the Kathaka Samhita, the Maitrayani Samhita of the Black Yajur Veda.

(2) That it had to be put in the miscellaneous and supplementary portions of the Vedas shows that it was composed at a later stage.

(3) That the freedom which the authors of the different Samhitas took in adding, omitting and recording the verses shows that they did not regard it as an ancient hymn, which they were bound to reproduce in its exact original form.

These points go a long way in furnishing corroborative evidence in support of the views held by Prof. Max Muller and others that the Purusha Sukta is a later interpolation.

IV

The difference in the form of the stanzas in the Purusha Sukta is also very noteworthy. Anyone who reads the Purusha Sukta will find that except for these two verses, viz., 11 and 12, the whole of it is in the narrative form. But the two verses, which explain the origin of the four Varnas, are in the form of question and answer. The point is : Why should these verses be introduced in a question form breaking the narrative form? The only explanation is that the writer wanted to introduce a new matter and in a pointed manner. This means that not only the Purusha Sukta is a later addition to the Rig Veda, but these particular verses are much later than even the Purusha Sukta.

Some critics have gone to the length of saying that the Purusha Sukta is a forgery by the Brahmins to bolster up their claim to superiority. Priests are known to have committed many forgeries. The Donations of Constantine and Pseudo-Isidore Decretals are well known forgeries in the history of the Papacy. The Brahmins of India were not free from such machinations. How they changed the original word 'Agre' into 'Agne' to make Rig Veda give support to the burning of widows has been pointed out by no less an authority than Prof.Max Muller. It is well-known how in the time of the East India Company a whole Smriti was fabricated to support the case of a plaintiff. There is, therefore, nothing surprising if the Brahmins did

forge the Purusha Sukta, if not the whole, at least the two verses 11 and 12, at some later stage, long after the fourth *Varna* had come into being, with a view to give the system of *Chaturvarnya* the sanction of the Veda.

V

Is the Purusha Sukta earlier than the Brahmanas? This question is distinct and separate from the first. It may be that the Purusha Sukta belongs to the later part of the Rig Veda. Yet, if the Rig Veda as a whole is earlier than the Brahmanas, the Purusha Sukta would still be earlier than the Brahmanas. The question, therefore, needs to be separately considered.

It is Prof. Max Muller's view that in the growth of the Vedic literature the order was Vedas, then Brahmanas and thereafter the Sutras. If this proposition was adopted, it would mean that the Purusha Sukta must be earlier than the Brahmanas. Question is : Can Prof. Max Muller's proposition be accepted as absolute? If it was accepted as absolute, the proposition would lead to two conclusions:

(1) That in the time of the Rig Veda there were four *Varnas* and at the time of the Satapatha Brahmana they became three; or

(2) that the tradition is not completely recorded in the Satapatha Brahmana.

It is obvious that both these conclusions are absurd and must be rejected. The first is absurd on the face of it. The second is untenable because the theory of the evolution of *Varnas* by the two Brahmanas is different from that set out in the Purusha Sukta and is complete in itself. The absurdity of the result is inevitable if one were to take Max Muller's proposition as absolute. The proposition cannot be taken as absolute to mean that no Brahmana was composed until all the Samhitas had come into being. On the other hand, it is quite possible as pointed out by Professors Belvalkar and Ranade that most of these compositions are composite and synchronous and, therefore, one part of the Vedas can be earlier than another part and that a part of the Brahmanas can be earlier than parts of the Vedas. If this is a correct view then there is nothing inherently improbable in holding that the parts of the Satapatha Brahmana and of the Taittiriya Brahmana, which record the legend that there were at one time only three *Varnas,* are earlier than the Purusha Sukta of the Rig Veda.

What is the conclusion which follows from this examination of the Purusha Sukta? There is only one conclusion, that the Sukta is an addition to the Rig Veda made at a later stage and is, therefore, no argument that there were four Varnas from the very beginning of the Aryan Society.

For the reasons given above, it will be seen that my thesis about the origin of the Shudras creates no problem such as the one mentioned in the beginning of this Chapter. If it did appear to create a problem, it was because of the assumption that the Purusha Sukta was an authentic and genuine record of what it purports to say. That assumption has now been shown to be quite baseless. I, therefore, see no difficulty in concluding that there was a time when the Aryan Society had only three *Varnas* and the Shudras belonged to the second or the Kshatriya *Varna*.

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CHAPTER IX
BRAHMINS *VERSUS* SHUDRAS

THE thesis that the Shudras were Kshatriyas and that if they became the fourth *Varna* it was because they were degraded to that position does not wholly solve the problem. It only raises another problem. This problem is why were the Shudras degraded?

The problem is new. It has never been raised before. The existing literature on the subject cannot, therefore, be expected to contain an answer. The question is raised by me for the first time. As it is a question on which my theory of the Shudras rests, the burden of giving a satisfactory answer must rest on me. I believe, I can give a satisfactory answer to this question. My answer is that the degradation of the Shudras is the result of a violent conflict between the Shudras and the Brahmins. Fortunately for me, there is abundant evidence of it.

I

There is direct evidence of a violent conflict between the Shudra king, Sudas and Vasishtha, the Brahmin rishi. The facts relating to this conflict however are stated in a very confused manner. In the narration which follows, I have made an attempt to state them in a neat and an orderly fashion.

To understand the nature of the conflict, it is necessary first to understand the relations between Vasishtha and Vishvamitra.

Vasishtha and Vishvamitra were enemies and were enemies first and enemies last. There was no incident to which one of them was a party in which the other did not know himself as an opponent. As evidence of their enmity, I will refer to some of the episodes. The first one is that of Satyavrata otherwise called Trishanku. The story

as told in the Harivamsha[1] is as follows:

"Meanwhile Vasishtha, from the relation subsisting between the king (Satyavrata's father) and himself, as disciple and spiritual preceptor, governed the city of Ayodhya, the country, and the interior apartments of the royal palace. But Satyavrata, whether thorough folly or the force of destiny, cherished constantly an increased indignation against Vasishtha, who for a (proper) reason had not interposed to prevent his exclusion from the royal power by his father. 'The formulae of the marriage ceremonial are only binding,' said Satyavrata, 'when the seventh step has been taken, and this had not been done when I seized the damsel; still Vasishtha, who knows the precepts of the law, does not come to my aid.' Thus Satyavrata was incensed in his mind against Vasishtha, who, however had acted from a sense of what was right. Nor did Satyavrata understand (the propriety of) that silent penance imposed upon him by his father... When he had supported this arduous rite, (he supposed that) he had redeemed his family position. The venerable muni Vasishtha did not, however, (as has been said), prevent his father from setting him aside, but resolved to install his son as king. When the powerful prince Satyavrata had endured the penance for twelve years, he beheld, when he was without flesh to eat, the milch cow of Vasishtha which yielded all objects of desire, and under the influence of anger, delusion, and exhaustion, distressed by hunger, and failing in the ten duties he slew... and both partook of her flesh himself, and gave it to Vishvamitra's sons to eat. Vasishtha hearing of this, became incensed against him and imposed on him the name of Trishanku as he had committed three sins. On his return home, Vishvamitra was gratified[2] by the support which his wife had received, and offered Trishanku the choice of a boon. When this proposal was made, Trishanku chose his boon of ascending bodily to heaven. All apprehension from the twelve years' drought being now at an end, the muni (Vishvamitra) installed Trishanku in his father's kingdom and offered sacrifice on his behalf. The mighty Kaushika then, in spite of the resistance of the gods and of Vasishtha exalted the king alive to heaven."

The next episode in which they appear on opposite sides is that of Harishchandra, the son of Trishanku. The story is told in the Vishnu Purana and in the Markandeya Purana. The following account is

1 Quoted by Muir, Vol. I, pp. 377-378..

2 It is stated in the Harivamsha :

"In consequence of the wickedness which had been committed, Indra did not rain for a period of twelve yean, At that time Vishvamitra had left his wife and children and gone to practise austerities on the seashore. His wife, driven to extremity by want, was on the point of selling her second son for a hundred cows, in order to support the others; but this arrangement was stopped by the intervention of Satyavrata who liberated the son when bound, and maintained the family by providing them with the flesh of wild animals and according to his father's injunction, consterated himself for the performance of a silent penance for twelve years."

As stated in another place in the Harivamsha, Trishanku had been expelled from his home by his father for the offence of carrying off the young wife of one of the citizens under the influnece of a criminal passion and Vasishtha did not interfere to prevent his banishment. It is to this that the text refers.

given [1] The story runs :

"On one occasion, when hunting, the king heard a sound of female lamentation which proceeded, it appears, from the sciences who were becoming mastered by the austerely fervid sage Vishvamitra, in a way they had never been before by anyone else; and were consequently crying out in alarm at his superiority. For the fulfilment of his duty as a Kshatriya to defend the weak, and inspired by the god Ganesha, who had entered into him, Harishchandra exclaimed 'What sinner is this who is binding fire in the hem of his garment, while I, his lord, am present, resplendent with force and fiery vigour? He shall to-day enter on his long sleep, pierced in all his limbs by arrows, which, by their discharge from my bow, illuminate all the quarters of the firmament.' Vishvamitra was provoked by this address. In consequence of his wrath the Sciences instantly perished, and Harishchandra, trembling like the leaf of an ashvatlha tree, submissively represented that he had merely done his duty as a king, which he defined as consisting in the bestowal of gifts on eminent Brahmins and other persons of slender means, the protection of the timid, and war against enemies. Vishvamitra hereupon demands a gift as a Brahmin intent upon receiving one. The king offers him whatsoever he may ask: Gold, his own son, wife, body, life, kingdom, good fortune. The saint first requires the present for the Rajasuya sacrifice, On this being promised, and still more offered, he asks for the empire of the whole earth, including everything but Harishchandra himself, his wife, and son, and his virtue which follows its possessor wherever he goes. Harishchandra joyfully agrees. Vishvamitra then requires him to strip off all his ornaments, to clothe himself in the bark of trees, and to quit the kingdom with his wife Shaivya and his son. When he is departing, the sage stops him and demands payment of his yet unpaid sacrificial fee. The king replies that he has only the persons of his wife, his son and himself left. Vishvamitra insists that he must nevertheless pay, and that unfulfilled promises of gifts to Brahmins bring destruction. The unfortunate prince, after being threatened with a curse, engages to make the payment in a month; and commences his journey with a wife unused to such fatigues, amid the universal lamentations of his subjects. While he lingers, listening to their affectionate remonstrances against his desertion of his kingdom, Vishvamitra comes up, and being incensed at the delay and the king's apparent hesitation, strikes the queen with his staff, as she is dragged on by her husband. Harishchandra then proceeded with his wife and little son to Benares, imagining that the divine city, as the special property of Siva, could not be possessed by any mortal. Here he found the relentless Vishvamitra waiting for him, and ready to press his demand for the payment of his sacrificial gift, even before the expiration of the full period of grace, In this extremity, Shaivya the queen suggests with a sobbing voice that her husband should sell her. On hearing this proposal Harishchandra swoons, then recovers, utters lamentations and swoons again, and his wife seeing his sad condition, swoons also. While they are in a state of unconsciousness their famished child exclaims in distress, 'O, father, give me bread; O, mother, mother, give mc food; hunger overpowers mo and my tongue is parched.' At this moment

1 Muir, Vol, 1, pp. 379-387.

Vishvamitra returns, and after recalling Harishchandra to consciousness by sprinkling water over him, again urges payment of the present. The king, again swoons, and is again restored. The sage threatens to curse him if his engagement is not fulfilled by sunset. Being now pressed by his wife, the king agrees to sell her, adding, however, 'If my voice can utter such a wicked word, I do what the most inhuman wretches cannot perpetrate.' He then goes into the city, and in self-accusing language offers his queen for sale as a slave. A rich old Brahmin offers to buy her at a price corresponding to her value, to do his household work. Seeing his mother dragged away the child ran after her, his eyes dimmed with tears, and crying 'mother.' The Brahmin purchaser kicked him when he came up; but he would not let his mother go, and continued crying 'mother, mother.' The queen then said to the Brahmin, 'Be so kind, my master, as to buy also this child, as without him I shall prove to thee but a useless purchase. Be thus merciful to me in my wretchedness, unite me with my son, like a cow to her calf.' The Brahmin agrees: 'Take this money and give me the boy.' After the Brahmin had gone out of sight with his purchases. Vishvamitra again appeared and renewed his demands: and when the afflicted Harishchandra offered him the small sum he had obtained by the sale of his wife and son, he angrily replied, 'If, miserable Kshatriya, thou thinkest this a sacrificial gift befitting my deserts, thou shalt soon behold the transcendent power of my ardent austrere-fervour of my terrible majesty, and of my holy study,' Harishchandra promises an additional gift, and Vishvamitra allows him the remaining quarter of the day for its liquidation. On the terrified and afflicted prince offering himself for sale, in order to gain the means of meeting this cruel demand, Dharma (Righteousness) appears in the form of a hideous and offensive chandala, and agrees to buy him at his own price, large or small. Harishchandra declines such a degrading survitude, and declares that he would rather be consumed by the fire of his persecutor's curse than submit to such a fate. Vishvamitra, however, again comes on the scene, asks why he docs not accept the large sum offered by the Chandala, and when he pleads in excuse his descent from the solar race, threatens to fulminate a curse against him if he docs not accept that method of meeting his liability. Harishchandra implores that he may be spared this extreme of degradation, and offers to become Vishvamitra's slave in payment of the residue of his debt; whereupon the sage rejoins, 'if thou art my slave, then I sell thee as such to the Chandala for a hundred millions of money.' The Chandala, delighted pays down the money, and carries off Harishchandra bound, beaten, confused, and afflicted, to his own place of abode. Harishchandra is sent by the Chandala to steal grave clothes in a cemetery and is told that he will receive two-sixths of the value for his hire; three-sixths going to his master, and one-sixth to the king. In this horrid spot, and in this degrading occupation he spent in great misery twelve months, which seemed to him like a hundred years. He then falls asleep and has a series of dreams suggested by the life he had been leading. After he awoke, his wife came to the cemetery to perform the obsequies of their son, who had died from the bite of a serpent. At first, the husband and wife did not recognize each other, from the change in appearance which had been wrought upon them both by their miseries. Harishchandra, however, soon discovered from the tenor of her lamentations that it is his wife, and falls into a swoon; as the queen docs also when she recognizes her husband. When consciousness returns they both break

out into lamentations, the father bewailing in a touching strain the loss of his son, and the wife, the degradation of the king. She then falls on his neck, embraces him and asks 'whether all this is a dream, or a reality, as she is utterly bewildered'; and adds, that "if it be a reality, then righteousness is unavailing to those who practise it." After hesitating to devote himself to death on his son's funeral pyre without receiving his master' leave. Harishchandra resolves to do so, braving all the consequences and consoling himself with the hopeful anticipation. 'If I have given gifts and offered sacrifices and gratified my religious teachers, then may I be reunited with my son and with thee (my wife) in another world.' The queen determines to die in the same manner. When Harishchandra, after placing his son's body on the funeral pyre, is meditating on the Lord Hari Narayana Krishna, the supreme spirit, all the gods arrive, headed by Dharma (Righteousness); and accomapanied by Vishvamitra. Dharma entreats the king to desist from his rash intention; and Indra announces to him that, he, his wife, and son have conquerred heaven by their good works. Ambrosia, the antidote of death, and flowers are rained by the gods from the sky; and the king's son is restored to life and the bloom of youth. The king adorned with celestial clothing and garlands, and the queen, embrace their son. Harishchandra, however, declares that he cannot go to heaven till he has received his master the Chandala's permission, and has paid him a ransom. Dharma then reveals to the king that it was he himself who had miraculously assumed the form of a Chandala. The king next objects that he cannot depart unless his faithful subjects, who are sharers in his merits, are allowed to accompany him to heaven, at least for one day. This request is granted by Indra; and after Vishvamitra has inaugurated Rohitashva the king's son to be his successor. Harishchandra, his friends and followers, all ascend in company to heaven. Even after this great consummation, however, Vasishtha, the family priest of Harishchandra, hearing, at the end of a twelve years' abode in the waters of the Ganges, an account of all that has occurred, becomes vehemently incensed at the humilation inflicted on the excellent monarch, whose virtues and devotion to the gods and Brahmins he celebrates, declares that his indignation had not been so greatly roused even when his own hundred sons had been slain by Vishvamitra, and in the following words dooms the latter to be transformed into a crane : 'Wherefore that wicked man, enemy of the Brahmins, smitten by my curse, shall be expelled from the society of intelligent beings, and losing his understanding shall be transformed into a Baka.' Vishvamitra reciprocates the curse, and changes Vasishtha into a bird of the species called Ari. In their new shapes the two have a furious fight, the Ari being of the Portentous height of two thousand yojanas= 18,000 miles, and the Baka of 3090 yojanas. They first assail each other with their wings; then the Baka smites his antagonist in the same manner, while the Ari strikes with his talons. Falling mountains, overturned by the blasts of wind raised by the flapping of their wings, shake the whole earth, the waters of the ocean overflow, the earth itself, thrown off its perpendicular slopes downwards to Patala, the lower regions. Many creatures perished by these various convulsions. Attracted by the dire disorder, Brahma arrives, attended by all the gods, on the spot, and commands the combatants to desist

from their fray. They were too fiercely infuriated to regard this injunction; but Brahma put an end to the conflict by restoring them to their natural forms and counselling them to be reconciled."

The next episode in which they came in as opponents is connected with Ambarisha, king of Ayodhya :

"The story[1] relates that Ambarisha was engaged in performing a sacrifice, when Indra carried away the victim. The priest said that this ill-omened event had occurred owing to the king's bad administration; and would call for a great expiation, unless a human victim could be produced. After a long search the royal-rishi (Ambarisha) came upon the Brahmin rishi, Richika, a descendant of Bhrigu, and asked him to sell one of his sons for a victim, at the price of a hundred thousand cows. Richika answered that he would not sell his eldest son and his wife added that she would not sell the youngest; 'youngest sons' she observed, 'being generally the favourites of their mothers.' The second son, Shunasshepa, then said that in that case he regarded himself as the one who was to be sold, and desired the king to remove him. The hundred thousand cows, with ten millions of gold pieces and heaps of jewels, were paid down and Shunasshepa carried away. As they were passing through Pushkara, Shunasshepa beheld his maternal uncle Vishvamitra who was engaged in austerities there with other rishis, threw himself into his arms, and implored his assistance, urging his orphan, friendless and helpless state, as claims on the sage's benevolence. Vishvamitra soothed him; and pressed his own sons to offer themselves as victims in the room of Shunasshepa. This proposition met with no favour from Madhushyanda and the other sons of the royal hermit, who answered with haughtiness and derision: 'How is it that thou sacrificest thine own sons and seekest to rescue those of others? We look upon this as wrong, and like the eating of one's own flesh. 'The sage was exeedingly wroth at this disregard of his injunction, and doomed his sons to be born in the most degraded classes, like Vasishtha's sons, and to eat dog's flesh, for a thousand years. He then said to Shunasshepa: 'When thou art bound with hallowed cords, decked with a red garland, and anointed with unguents and fastened to the sacrificial post of Vishnu, then address thyself to Agni, and sing these two divine verses (gathas), at the sacrifice of Ambarisha: then shalt thou attain the fulfilment (of thy desire)'. Being furnished with the two gathas, Shunasshepa proposed at once to king Ambarisha that they should set out for their destination. When bound at the stake to be immolated, dressed in a red garment, he celebrated the two gods, Indra and his younger brother (Vishnu), with the excellent verses. The thousand-eyed (Indra) was pleased with the secret hymn; and bestowed long life on Shunasshepa."

The last episode recorded in which the two had ranged themselves on opposite sides is connected with king Kalmashapada. The episode is recorded in the Adi Parvan of the Mahabharata:[2]

1 Quoted by Muir, Vol. I. pp. 405-407.

2 Ibid, pp. 415-417.

"Kalmashapada was a king of the race of Ikshvaku. Vishvamitra wished to be employed by him as his officiating priest; but the king preferred Vasishtha. It happened however that the king went out to hunt, and after having killed a large quantity of games, he became very much fatigued, as well as hungry and thirsty. Meeting Shakti, the eldest of Vasishtha's hundred sons, on the road, he ordered him to get out of his way. The priest civilly replied:' The path is mine, O king; this is the immemorial law; in all observations the king must cede the way to the Brahmin.' Neither party would yield, and the dispute waxing warmer, the king struck the muni with his whip, The muni, resorting to the usual expedient of offended sages, by a curse doomed the king to become a man-eater. It happened that at that time enmity existed between Vishvamitra and Vasishtha on account of their respective claims to be priest to Kalmashapada. Vishvamitra had followed the king; and approached while he was disputing with Shakti. Perceiving, however, the son of his rival Vasishtha, Vishvamitra made himself invisible, and passed them, catching this opportunity. The king began to implore Shakti's clemency; but Vishvamitra wishing to prevent their reconciliation, commanded a Rakshasa (a man-devouring demon) to enter into the king. Owing to the conjoint influence of the Brahman-rishi's curse, and Vishvamitra's command, the demon obeyed the injunction. Perceiving that his object was gained, Vishvamitra left things to take their course, and absented himself from the country.The king having happened to meet a hungry Brahmin, and sent him, by the hand of his cook (who could procure nothing else), some human flesh to cat, was cursed by him also to the same effect as by Shakti. The curse, being now augmented in force, took effect, and Shakti himself was the first victim, being eaten up by the king. The same fate befell all the other sons of Vasishtha at the instigation of Vishvamitra. Perceiving Shakti to be dead, Vishvamitra again and again incited the Rakshasa against the sons of Vasishtha and accordingly the furious demon devoured those of his sons who were younger than Shakti as a lion eats up the small beasts of the forest. On hearing the destruction of his sons by Vishvamitra, Vasishtha supported his affliction as the great mountain sustains the earth. He meditated his own destruction, but never thought of exterminating the Kaushikas. This divine sage hurled himself from the summit of Mcru, but fell upon the rocks as if on a heap of cotton. Escaping alive from his fall, he entered a glowing fire in the forest; but the fire, though fiercely blazing, not only failed to burn him, but seemed perfectly cool. He next threw himself into the sea with a heavy stone attached to his neck; but was cast up by the waves on the dry land. He then went home to his hermitage; but seeing it empty and desolate, he was again overcome by grief and sent out; and seeing the river Vipasa which was swollen by the recent rains, and sweeping along many trees torn from its banks, he conceived the design of drowning himself into its waters; he accordingly lied himself firmly with cords, and threw himself in; but the river severing his bonds, deposited him unbound (Vipasa) on dry land ; whence the name of the stream, as imposed by the sage. He afterwards saw and threw himself into the dreadful Satadru (Sutlej), which was full of alligators, etc., and derived its name rushing away in a hundred directions on seeing the Brahmin brilliant as fire. In consequence of this, he was once more stranded; and seeing that he could not kill himself, he went back to his hermitage."

There are particular instances in which Vasishtha and Vishvamitra had come into conflict with each other. But there was more than these occasional conflicts between the two. There was general enmity between them. This general enmity was of a mortal kind so much so that Vishvamitra wanted even to murder Vasishtha as will be seen from the Shalyaparvan of the Mahabharata. Says the author of the Mahabharata :[1]

"There existed a great enmity, arising from rivalry in their austerities, between Vishvamitra and the Brahmin rishi Vasishtha. Vasishtha had an extensive hermitage in Sthanutinha, to the east of which was Vishvamitra's. These two great ascetics were every day exhibiting intense emulation in regard to their respective austerities. But Vishvamitra beholding the might of Vasishtha was the most chagrined; and fell into deep thought. The idea of this sage, constant in duty, was the following : 'This river Sarasvati will speedily bring to me on her current the austere Vasishtha, the most eminent of all utterers of prayers. When that most excellent Brahmin has come, I shall most assuredly kill him.' Having thus determined, the divine sage Vishvamitra, his eyes reddened by anger, called to mind the chief of rivers. She being thus the subject of his thoughts became very anxious, as she knew him to be very powerful and very irascible. Then trembling, pallid and with joined hands, the Saraswati stood before the chief of munis like a woman whose husband has been slain; she was greatly distressed, and said to him 'what shall I do?' The incensed muni replied, 'Bring Vasishtha hither speedily, that I may slay him.' The lotus-eyed goddess, joining her hands trembled in great fear, like a creeping plant agitated by the wind. Vishvamitra, however, although he saw her condition, repeated his command. The Sarasvati, who knew how sinful was his design, and that the might of Vasishtha was unequalled, went trembling and in great dreed of being cursed by both the sages, to Vasishtha and told him what his rival had said. Vasishtha seeing her emaciated, pale and anxious, spoke thus, 'Deliver thyself, O chief of rivers; carry me unhesitatingly to Vishvamitra, lest he curse thee.' Hearing these words of the merciful sage, the Sarasvati considered how she could act most wisely. She reflected, 'Vasishtha has always shown me great kindness, I must seek his welfare.' Then observing the Kaushika sage praying and sacrificing on her brink, she regarded that as a good opportunity, and swept away the bank by the force of her current. In this way the son of Mitra and Varuna (Vasishtha) was carried down; and while he was being borne along, he thus celebrated the river; 'Thou, o Sarasvati, issuest from the lake of Brahma, and pervadest the whole world with thy excellent streams. Residing in the sky, thou discharges! water into the clouds. Thou alone art all waters. By thee we study.' Thou art nourishment, radiance, fame, perfection, intellect, light. Thou art speech, thou art svaha; this world is subject to thee. Thou, in fourfold form, dwellest in all creatures.' Beholding Vasishtha brought near by the Sarasvati, Vishvamitra searched for a weapon with which to make an end of him, Perceiving his anger, and dreading lest Brahmanicidc should ensue, the river

1 Quoted by Muir, Vol. I, pp. 420-422.

promptly carried away, Vasishtha in an easterly direction thus fulfilling the commands of both sages, but eluding Vishvamitra. Seeing Vasishtha so carried away, Vishvamitra, impatient and enraged by vexation, said to her, 'Since thou, o chief of rivers, has eluded me, and hast receded, roll in waves of blood acceptable to the chief of demons' (which are fabled to gloat on blood). The Sarasvati being thus cursed, flowed for a year in a stream mingled with blood. Rakshasas came to the place of pilgrimage where Vasishtha had been swept away, and revelled in drinking to satiety the bloody stream in security, dancing and laughing, as if they had conquered heaven. Some rishis who arrived at the spot some time after were horrified to see the blood-stained water, and the Rakshasas quaffing it, and made the most strenuous efforts to rescue the Sarasvati."

The enmity between Vasishtha and Vishvamitra was not an enmity between two priests. It was an enmity between a Brahmin priest and a Kshatriya priest. Vasishtha was a Brahmin. Vishvamitra was a Kshatriya. He was a Kshatriya of royal lingeage. In the Rig Veda (iii.33.11) Vishvamitra is spoken of as the son of Kushika. The Vishnu Purana[1] gives further details about Vishvamitra. It says that Vishvamitra was the son of Gadhi who was descended from king Pururavas. This is confirmed by the Harivamsha.[2] From the Rig Veda (iii: 1:21) we know that the family of Vishvamitra has been keeping 'fire' kindled in every generation.[3] We also know from the Rig Veda that Vishvamitra was the author of many hymns of that Veda and was admitted to be a Rajarishi. He was the author of the hymn which is held to be the holiest in the whole of the Vedas namely the Gayatri hymn in the Rig Veda (iii.62.10). Another important fact we know about him is that he was a Kshatriya and his family belonged to the clan of the Bharatas.[4]

It seems that about this time a dispute was going on between Brahmins and Kshatriyas on the following points :

(1) The right to receive gifts. Gift means payment made without work. The contention of the Brahmins was that nobody could receive gifts. To receive gifts was the right of the Brahmins only.[5]

(2) The right to teach the Vedas. The Brahmins' contention was that the Khastriya had only the right to study the Vedas. He had no right to teach the Vedas. It was the privilege of the Brahmins only.

1 Quoted in Muir, Vol. I, P. 349.

2 Quoted in Muir, Vol. I, p. 353.

3 Quoted in Muir, Vol. I, p. 316.

4 Quoted in Muir, Vol. I, p. 354.

5 That is why Manu says "if the king wants to make a gift to a Shudra he must make him work."

(3) The right to officiate at a sacrifice. On this point the Brahmins' contention was that Kshatriya had the right to perform sacrifices, but he had no right to officiate as a purohit (priest) at a sacrifice. That was the privilege of the Brahmins.

What is important to note is that even in disputes on these points and particularly on the third point they did not fail to play their part as the opponents of each other. This is confirmed by the story of Trishanku narrated in the Ramayana[1] and which runs as follows :

"King Trishanku, one of Ikshvaku's descendants, had conceived the design of celebrating a sacrifice by virtue of which he should ascend bodily to heaven. As Vasishtha on being summoned, declared that the thing was impossible *(asakyam),* Trishanku travelled to the south, where the sage's hundred sons were engaged in austerities, and applied to them to do what their father had declined. Though he addressed them with the greatest reverence and humility, and added that the Ikshvakus regarded their family-priests as their highest resource in difficulties, and that, after their father, he himself looked to them as his tutelary deities,' he received from the haughty priests the following rubuke for his presumption : "Fool, thou hast been refused by the truth-speaking preceptor. How is it that, disregarding his authority thou hast resorted to another school (shakha)? The family-priest is the highest oracle of all the Ikshvakus; and the command of that veracious personage cannot be transgressed. Vasishtha, the divine rishi, has declared that 'the thing cannot be :' how can we undertake the sacrifice? Thou art foolish, king; return to thy capital. The divine (Vasishtha) is competent to act as priest of the three works; how can we shew him disrespect?"

Trishanku then gave them to understand, that as his preceptor and "his preceptor's sons had declined compliance with his requests, he should think of some other expedient. "In consequence of his venturing to express this presumptuous intention, they condemned him by their imprecation to become a Chandala. As this curse soon took effect, and the unhappy king's form was changed into that of a degraded outcast, he resorted to Vishvamitra (who, as we have seen, was also dwelling at this period in the south), enlarging on his own virtues and piety, and bewailing his fate. Vishvamitra commiserated his condition and promised to sacrifice on his behalf, and exalt him to heaven in the same Chandala form to which he had been condemned by his preceptor's curse. "Heaven is now as good as in the possession, since thou hast resorted to the son of Kushika."' He then directed that preparations should be made for the sacrifice, and that all the rishis, including the family of Vasishtha, should be invited to the ceremony.

The disciples of Vishvamitra who had conveyed his message, reported the result on their return in these words: "Having heard your message, all the Brahmins are assembling in all the countries, and have arrived, excepting Mahodaya (Vasishtha). Hear what dreadful words those hundred Vasishthas, their voices quivering with rage, have uttered: 'How can the gods and rishis consume the oblation at the sacrifice of that man, especially if he be a Chandala,

1 Muir, Vol. I, pp. 401-404.

for whom a Kshatriya is officiating priest? How can illustrious Brahmins ascend to heaven, after eating the food of a Chandala, and being entertained by Vishvamitra?" These ruthless words all the Vasishthas, together with Mahodaya, uttered, their eyes inflamed with anger." Vishvamitra who was greatly incensed on receiving this message, by a curse doomed the sons of Vasishtha to be reduced to ashes, and reborn as degraded outcasts *(mritapah)* for seven hundred births, and Mahodaya to become a Nishada.

Knowing that this curse had taken effect Vishvamitra then, after eulogizing Trishanku, proposed to the assembled rishis that the sacrifice should be celebrated. To this they assented, being actuated by fear of the terrible sage's wrath, Vishvamitra himself officiated at the sacrifice as Yajaka; and the other rishis as priests (ritvijah) (with other functions) performed all the ceremonies."

In this dispute between Vasishtha and Vishvamitra, Sudas seems to have played an important part. Vasishtha was the family priest of Sudas. It was Vasishtha who performed his coronation ceremony. It was Vasishtha who helped him to win the battle against the ten kings. Notwithstanding this, Sudas removed Vasishtha from office. In his place he appointed Vishvamitra as his purohita[1] who performed yajna for Sudas. This is the first deed of Sudas which created enmity between Sudas and Vasishtha. There was another deed which Sudas committed which widened and intensified the enmity. He threw into fire Shakti the son of Vasishtha and burned him alive. The story is reported in the Satyayana Brahmana.[2] The Satyayana Brahmana does not give the reason for such an atrocious act. Some light is thrown on it by Shadgurushishya[3] in his Commentary on Katyayana's Anukramanika to the Rig Veda. According to Shadgurushishya, a sacrifice was performed by Sudas at which there was a sort of public debate between Vishvamitra and Shakti, the son of Vasishtha and in this debate, to use the words of Shadgurushishya:

"The power and speech of Vishvamitra were completely vanquished by Shakti, son of Vasishtha; and the son of Gadhi (Vishvamitra) being so overcome, became dejected."

Here is the reason why Sudas threw Shakti into fire. Obviously, Sudas did it to avenge the dishonour and disgrace caused to Vishvamitra. Nothing could avert a deadly enmity growing up between Sudas and Vasishtha.

1 There is no direct evidence for this, Tradition accepts this as correct which seems to have been based upon Rig Veda, III. 53.9. This is confirmed by Yaska in his Niruktu (II, 24) where he says, "They then relate a story. The rishi Vishvamitra was the purohita of Sudas, the son of Pijavana."

2. This is referred to by Sayana in his introduction to Rig Veda, vii.32 on the authority of the Anukramanika which is quoted by Muir, Vol. I, p, 328.

3 This is referred to by Sayana in his introduction to verses 15 and 16 of Sukta 53 of the Third Mandala of the Rig Veda, which is quoted by Muir, Vol. I, p. 343.

This enmity does not seem to have ended with Sudas and Vasishtha. It appears to have spread to their sons. This is supported by the Taittiriya Samhita which says :[1]

> "Vasishtha, when his son had been slain, desired, 'May I obtain offspring; may I overcome the Saudasas.' He beheld this *ekasmannapanchasa,* he took it and sacrificed with it. In consequence he obtained offspring, and overcame the Saudasas."

This is confirmed by the Kaushitaki Brahmana[2] which says :

> "Vasishtha, when his son had been slain, desired, 'May I be fruitful in offspring and cattle and overcome the Saudasas. He beheld this form of offering, the Vasishtha-sacrifice; and having performed it, he overcame the Saudasas.[3]"

II

The conflict between Sudas and Vasishtha is not the only conflict between kings and the Brahmins. The Puranas record other conflicts also between kings and Brahmins. It is desirable to assemble them here. The first relates to king Vena. The story of his conflict with Brahmins has been told by various authorities. The following account[4] is taken from the Harivamsa :

> "There was formerely a Prajapati (Lord of creatures), a protector of righteousness called Anga, of the race of Atri, and resembling him in power. His son was the Prajapati Vena who was but indifferently skilled in duty, and was born of Sunita, the daughter of Mrityu. This son of the daughter of Kala (Death), owing to the taint derived from his maternal grandfather, threw his duties behind his back, and lived in covetousness under the influence of desire. This king established an irreligious system of conduct; transgressing the ordinances of the Veda, he was devoted to lawlessness. In his reign men lived without study of the sacred books and without the Vashatkara, and the gods had no Soma libations to drink at sacrifices. 'No sacrifice or oblation shall be offered'—such was the ruthless determination of that Prajapati, as the time of his destruction approached. 'I,' he declared,' am the object, and the performer of sacrifice, and the sacrifice itself; it is to me that sacrifice should be presented, and oblations offered.' This transgressor of the rules of duty, who arrogated to himself what was not his due, was then addressed by all the great rishis headed by Marichi: 'We are about to consecrate ourselves for a ceremony which shall last for many

1 Muir, Vol. I, p. 328.

2 *Ibid.*

3 There seems to be some doubt whether this enmity of Vasishtha had developed against Sudas or against the sons of Sudas. This doubt has arisen because the Satyayana and Kaushitaki Brahmanas speak of Saudasa, thereby suggesting that the quarrel of Vasishtha was with the sons of Sudas and not with Sudas. On the other hand, Manu is definite that it was Sudas who was the offender. Shadgurushishya speaks of Sudas and not Saudasas while the Brihaddevta in a similar passage gives Sudas. The difficulty could be solved if Saudasas was interpreted to be the family of Sudas, which includes both Sudas and his sons.

4 Quoted by Muir, Vol. I, p. 302.

years; practise not unrighteousness, O Vena; this is not the eternal rule of duty. Thou art in very deed a Prajapati of Atri's race, and thou hast engaged to protect thy subjects.' The foolish Vena, ignorant of what was right, laughingly answered those great rishis, who had so addressed him; 'who but myself is the ordainer of duty? or whom ought I to obey? Who on earth equals me in sacred knowledge, in prowess, in austere fervour, in truth? Ye, who are deluded and senseless, know not that I am the source of all beings and duties. Hesitate not to believe that I, if I willed, could bum up the earth, or deluge it with water, or close up heaven and earth.' When owing to his delusion and arrogance Vena could not be governed, then the mighty rishis becoming incensed, seized the vigorous and struggling king, and rubbed his left thigh. From this thigh, so rubbed, was produced a black man, very short in stature, who, being alarmed, stood with joined hands. Seeing that he was agitated, Atri said to him 'Sit down' *(nishida)*. He became the founder of the race of the Nishadas, and also progenitor of the Dhivaras (fisherman), who sprang from the corruption of Vena."

The next king who came in conflict with the Brahmins was Pururavas. This Pururavas is the son of Ila and grandson of Manu Vaivasvat. The details of his conflict with the Brahmins are given in the Adi Parvan of the Mahabharata :[1]

"Subsequently, the wise Pururavas was born of Ila, who, as we have heard, was both his father and his mother. Ruling over the thirteen islands of the ocean, and surrounded by beings who were all superhuman, himself a man of great renown, Pururavas, intoxicated by his prowess, engaged in a conflict with the Brahmins, and robbed them of their jewels, although they loudly remonstrated. Sanatkumara came from Brahma's heaven, and addressed to him an admonition, which, however, he did not regard. Being then straight-away cursed by the incensed rishis, he perished, this covetous monarch, who, through pride of power, had lost his understanding."

The third king in this series is Nahusha. This Nahusha is the grandson of Pururavas, the account of whose conflict with the Brahmins has been recounted above. The story of Nahusha and his conflict with the Brahmins has been told in two places in the Mahabharata, once in the Vanaparvan and again in the Udyogaparvan. The account which follows is taken from the Udyogaparvan.[2] It says:

After his slaughter of the demon Vritra, Indra became alarmed at the idea of having taken the life of a Brahmin (for Vritra was regarded as such), and hid himself in the waters. In consequence of the disappearance of the king of the gods, all affairs, celestial as well as terrestrial, fell into confusion. The rishis and gods then applied to Nahusha to be their king. After first excusing himself on the plea of want of power, Nahusha at length, in compliance with their

1 Quoted by Muir, Vol. I, p. 307.

2 Quoted in Muir, Vol. I, pp. 310-313.

solicitations, accepted the high function. Up to the period of his elevation he had led a virtuous life, but he now became addicted to amusement and sensual pleasure; and even aspired to the possession of Indrani, Indra's wife, whom he had happened to see. The queen resorted to the Angiras Brihaspati, the preceptor of the gods who engaged to protect her. Nahusha was greatly incensed on hearing of this interference; but the gods endeavoured to pacify him, and pointed out the immorality of appropriating another person's wife. Nahusha, however, would listen to no remonstrance, and insisted that in his adulterous designs he was no worse than Indra himself. The renowned Ahalya, a rish's wife, was formerely corrupted by Indra in her husband's lifetime. Why was he not prevented by you? And many barbarous acts, and unrighteous deeds, and frauds were perpetrated of old by Indra; why was he not prevented by you?' The gods, urged by Nahusha, went to bring Indrani; but Brihaspati would not give her up. At his recommendation, however, she solicited Nahusha for some delay, till she should ascertain what had become of her husband. This request was granted. Indrani now went in search of her husband; and by the help of Upashruti (the goddess of night and revealer of secrets) discovered him existing in a very subtle form in the stem of a lotus growing in a lake situated in a continent within an ocean north of the Himalayas. She made known to him the wicked intentions of Nahusha, and entreated him to exert his power, rescue her from danger and resume his dominion. Indra declined any immediate interposition on the plea of Nahusha's superior strength; but suggested to his wife a device by which the usurper might be hurled from his position. She was recommended to say to Nahusha that 'if he would visit her on a celestial vehicle borne by rishis, she would with pleasure submit herself to him.'

The queen of the gods accordingly made this proposal:' I desire for thee, king of the gods, a vehicle hitherto unknown, such as neither Vishnu nor Rudra, nor the Asuras, nor the Rakshasas employ. Let the eminent rishis, all united, bear thee, lord, in a car; this idea pleases me'. Nahusha receives favourably this appeal to his vanity, and in the course of his reply thus gives utterance to his self-congratulation; 'He is a personage of no mean prowess who makes the munis his bearers. I am a fervid devotee of great might, Lord of the past, the future, and the present. If I were angry, the world would no longer stand; on me everything depends. Wherefore, O goddess, I shall, without doubt, carry out what you propose. The seven rishis and all the Brahmin rishis, shall carry me. Behold, beautiful goddess, my majesty and my prosperity.'

The narrative goes on :

Accordingly this wicked being, irreligious, violent, intoxicated by the force of conceit, and arbitrary in his conduct, attached to his car the rishis, who submitted to his commands, and compelled them to bear him. Indrani then again resorts to Brihaspati who assures her that vengeance will soon overtake Nahusha for his presumption; and promises that he will himself perform a sacrifice with a view to the destruction of the oppressor, and the discovery of Indra's lurking place. Agni is then sent to discover and bring Indra to Brihaspati and the latter, on Indra's arrival, informs him of all that had occurred during his absence. While

Indra, with Kubera, Yama, Soma and Varuna was devising means for the destruction of Nahusha, the sage Agastya came up, congratulated Indra on the fall of his rival, and proceeded to relate how it had occurred.

Wearied with carrying the sinner, Nahusha, the eminent divine-rishis, and the spotless Brahmin-rishis, asked that divine personage, Nahusha (to solve) a difficulty; 'Dost thou, O Vasava, most excellent of conquerors, regard as authoritative or not those Brahmana texts which arc recited at the immolation of king?' 'No', replied Nahusha, whose understanding was enveloped in darkness. The rishis rejoined; 'Engaged in unrighteousness, thou attainest not unto righteousness; these tests, which were formerely uttered by great rishis, arc regarded by us as authoritative.' Then (proceeds Agastya) disputing with the munis, Nahusha impelled by unrighteousness touched me on the head with his foot. In consequence of this, the king's glory was smitten and his prosperity departed. When he had instantly become agitated and oppressed with fear, I said to him, 'Since thou, a fool, condemnest that sacred text, always held in honour, which has been composed by former sages, and employed by Brahmin-rishis and hast touched my head with thy foot, and employest the Brahma-like and irresistible rishis as bearers to carry thee, therefore, shorn of thy lustre and all thy merit exhuasted, sink down, sinner, degraded from heaven to earth. For ten thousand years thou shalt crawl in the form of a huge serpent. When that period is completed, thou shalt again ascend to heaven.' So fell that wicked wretch from the sovereignty of the gods, Happily, O Indra, we shall now prosper, for the enemy of the Brahmins has been smitten. Take possession of the three worlds, and protect their inhabitants, O husband of Shachi (Indrani), subduing the senses, overcoming thine enemies, and celebrated by the great rishis."

The fourth king to come into conflict with the Brahmins was Nimi. The details of the story are related in the Vishnu Purana[1] which says:

"Nimi had requested the Brahmin-rishi, Vasishtha to officiate at a sacrifice, which was to last a thousand years. Vasishtha in reply pleaded a pro-engagement to Indra for five hundred years, but promised to return at the end of that period. The king made no remark, and Vasishtha went away, supposing that he had assented to his arrangement. On his return, however, the priest discovered that Nimi had retained Gautama (who was, euqally with Vasishtha a Brahmin-rishi) and others to perform the sacrifice; and being incensed, he cursed the King, who was then asleep, to lose his corporeal form. When Nimi awoke and learnt that he had been cursed without any previous warning, he retorted by uttering a similar curse on Vasishtha, and then died. Nimi's body was embalmed. At the close of the sacrifice which he had begun, the gods were willing, on the intercession of the priests, to restore him to life; but he declined the offer; and was placed by the deities, according to his desire, in the eyes of all living creatures. It is in consequence of this that they are always opening and shutting (Nimisha means 'the twinkling of the eye').

These foregoing cases of conflict have been referred to by Manu in his Smriti ;[2]

1 Quoted by Muir, Vol. I, p. 316.

2 Max Muller's, *Sacred Books of the East,* Vol. XXV, p. 222.

> "Through a want of modesty many kings have perished, together with their belongings; through modesty even hermits in the forest have gained kingdoms. Through a want of humility Vena perished, likewise king Nahusha, Sudas, the son of Pijavana, Sumukha, and Nimi."

Unfortunately, the bearing of these cases on the position of the Shudra has not been realized as fully as it should have been. The reason is that nobody has realized that this conflict was a conflict between Brahmins and Shudras. Sudas definitely was a Shudra. The others although they have not been described as Shudras are described as having been descended from Ikshvaku. Sudas is also described as a descendant of Ikshvaku. There is nothing far-fetched in saying that they were all Shudras. Even Manu had no idea of this. He represents these cases as cases of conflict between Brahmins and Kshatriyas. Dr. Muir has failed to realize that Sudas was a Shudra and has in recounting these stories represented that the parties to these conflicts were Brahmins on the one hand and the Kshatriyas on the other. In a sense, it is true that the conflict was between Brahmins and Kshatriyas because the Shudras were also a branch of the Kshatriyas. It would, however, have been far more illuminating if they had been described in more precise terms as conflicts between Brahmins and Shudras. The misunderstanding having been caused, it has remained and has continued to conceal the real nature of so important a part of the history of the Indo-Aryan society. It is to clear this misunderstanding that the hearing given to this Chapter is 'Brahmins *versus* Shudras' and not 'Brahmins *versus* Kshatriyas'. Understood as a history of conflict between Brahmins and Shudras, it helps one to understand how the Shudras came to be degraded from the second to the fourth Varna.

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CHAPTER X
THE DEGRADATION OF THE SHUDRAS

WHAT is the technique which the Brahmins employed to bring about the degradation of the Shudras from the rank of the second to the rank of the fourth Varna?

The discussion has so far centred round two questions as to whether or not the Shudras were originally a part of the second or Kshatriya Varna and whether or not the Brahmins had not received sufficient provocation to degrade the Shudras. It is now necessary to deal with the question, which is logically, next in order of sequence. What is the technique of degradation employed by the Brahmins?

My answer to the question is that the technique employed by the Brahmins for this purpose was to refuse to perform the Upanayana of the Shudras. I have no doubt that it is by this technique that the Brahmins accomplished their end and thereby wreaked their vengeance upon the Shudras.

It is perhaps necessary to explain what Upanayana means and what importance it had in the Indo-Aryan Society. The best way to give an idea of Upanayana is to give a description of the ceremony.

As a rite *Upanayana* was originally a very simple ceremony, The boy came to the teacher with a *samidh* (a grass blade) in his hand and told the teacher that he desired to become a Brahmachari (i.e a student) and begged the teacher to allow him to stay with him for purposes of study. At a later date it became a very elaborate ceremony. How elaborate it had become may be realised from the following description of *Upanayana* in the Ashvalayana Grihya Sutra :[1]

> Let him initiate the boy who is decked, whose hair (on the head) is shaved (and arranged), who wears a new garment or an antelope skin if a Brahmana, rum skin if a Kshatriya, a goat's skin if a Vaishya; if they put on garments they

1 Kane, *History of Dharmashastra,* Vol. II (i), pp. 281-283.

should put on dyed ones, reddish-yellow, red and yellow (for a Brahmana, Kshatriya, Vaishya respectively); they should have girdles and staffs (as described above). While the boy takes hold of (the hand of) his teacher, the latter offers (a homa of clarified butter oblations) in the fire (as described above), and seats himself to the north of the fire with his face turned to the east, while the other one (the boy) stations himself in front (of the teacher) with his face turned to the west. The teacher then fills the folded hands of both himself and of the boy with water and with the verse 'we choose that of Savitri' (Rg.V. 82.1) the teacher drops down the water in his own folded hands on to the water in the folded hands of the boy; having thus poured the water, he should seize with his own hand the boy's hand together with the thumb (of the boy) with the formula' by the urge (or order) of the god Savitri, with the arms of the two Ashvins, with the hands of Pushan, I seize thy hand, oh so, and so,' with the words 'Savitri has seized thy hand, oh so and so' a second time (the teacher seizes the boy's hand) with the words 'Agni is thy teacher oh so and so' a third time. The teacher should cause (the boy, to look at the sun, while the teacher repeats 'God Savitri, this is thy brahmachari protect him, may he not die' and (the teacher should further) say Whose brahmachari art thou? thou art the brahmachari of Prana. Who does initiate thee and whom (docs he initiate)? I give thee to Ka (to Prajapati).' With the half verse (Rg. III.8.4) 'the young man well attired and dressed, come hither' he (the teacher) should cause him to turn round to the right and with his two hands placed over (the boy's) shoulders he should touch the place of the boy's heart repeating the latter half (of Rg. III. 8.4). Having wiped the ground round the fire, the brahmachari should put (on the fire) a fuel stick silently, since it is known (from sruti) 'what belongs to Prajapati is silently done,' and the brahmachari belongs to Prajapati. Some do this (offering of a fuel stick) with a mantra to Agni: 'I Have brought a fuel stick, to the great Jatavedas; by the fuel stick mayest thou increase, Oh agni and may we (increase) through *brahman'* (prayer or spiritual lore), svaha.' Having put the fuel stick (on the fire) and having touched the fire, he (the student) thrice wipes off his face with the words 'I anoint myself with lustre,' it is known (from sruti) for he does anoint himself with lustre. 'May Agni bestow on me, insight, offspring and lustre: on me may Indra bestow insight, offspring and vigour (Indriya) ;on me may the sun bestow insight, offspring and radiance; what thy lustre is, Oh Agni, may I thereby become lustrous; what the strength is, Agni, may I thereby become strong; what thy consuming power is, Agni, may I thereby acquire consuming power.' Having waited upon (worshipped) Agni with these formulae, (the student) should bend his knees, embrace (the teachers feet) and say to him 'recite, Sir, recite, Sir, the Savitri.' Seizing the student's hands with the upper garment (of the student) and his own hands, the teacher recites the Savitri first pada by pada, then hemistich by hemistich (and lastly) the whole verse. He (the teacher) should make him (the student) recite (the Savitri) as much as he is able. On the place of the student's heart the teacher lays his hand with the fingers upturned with the formula 'I place thy heart unto duty to me, may thy mind follow my mind; may you attend on my words single-minded; may Brihaspati appoint thee unto me.' Having tied the girdle round him (the boy) and having given him the staff, the teacher should instruct him in the observances of a brahmachari with the words 'a brahmachari art thou, sip water, do service, do not

sleep by day, depending (completely) on the teacher learn the Veda.' He (the student) should beg (food) in the evening and the morning; he should put a fuel stick (on fire) in the evening and morning. That (which he has received by begging) he should announce to the teacher; he should not sit down (but should be standing) the rest of the day.

The Upanayana ends with the teaching by the Acharya to the boy of the Vedic Mantra known as the Gayatri Mantra. Why the Gayatri Mantra is regarded as so essential as to require the ceremony of Upanayana before it is taught it is difficult to say.

From this description of the Upanayana ceremony two things are clear. First is that the purpose of Upanayana was to initiate a person in the study of the Vedas which commenced with the teaching of Gayatri Mantra by the Acharya to the Brahmachari. The second thing that is clear is that certain articles were regarded as very essential for the Upanayana ceremony. They are (1) two garments one for the lower part of the body technically called *Vasa* and the other for the upper part of the body called *Uttariya,* (2) Danda or wooden staff, (3) Mekhala or a girdle of grass tied across the waist.

Any one who compares this description of Upanayana as it was performed in ancient times with the details of the ceremony as performed in later days is bound to be surprised at the absence of any mention of thread called *Yajnopavita* to be worn by the Brahmachari as a part of his Upanayana. The centre of the modern ceremony of Upanayana is the wearing of this thread and the whole purpose of the Upanayana has come to be the wearing of this *Yajnopavita*[1] So important a part this *Yajnopavita* has come to play that most elaborate rules have come to be framed about its manufacture and its use.

The *Yajnopavita* should have three threads, each thread to be of nine strands well twisted. One *tantu* (strand) stands for one devata (deity).

The *Yajnopavita* should reach as far as the navel,[2] should not reach beyond the navel, nor should it be above the chest.

1. Yajnavalkya (T, 16 and 133) calls It Bramhu Sutra,

2. Kane, D.S. H (i), p. 292.

The nine devatas of the nine *tantus* (strands) according to the Devala Smriti are, Omkara, Agni, Naga, Sema, Pitris, Prajapati, Vayu, Surya, Vishvcdeva. Some change seems to have come about in this view. For Medhatithi (see Kane) says that in *ishtis,* animal sacrifices and soma sacrifices, the Yajnopavita was to have only one thread of three *tantus,* but it was three-fold in three classes *of ahina, ekahu* and *sattra* sacrifices as they required three fires, and in the seven *somasamstha* seven-fold, and five-fold when viewed with reference to the three savanas and two samdhyas.

A brahmachari was to wear only one yajnopavita, and samnyasins, when they kept yajnopavita at all, also wore only one. A snataka (i.e., one who has returned from the teacher's house after brahmacharya) and householder were to wear two, while one who desired long life may wear more than two. A snataka should always wear two yajnopavitas, A householder may wear any number up to ten.

A person could wear more than one *Yajnopavita,*

A man must always wear *Yajnopavita.* If he took his meals without wearing the *Yajnopavita,* or answers the call of nature without having the *Yajnopavita* placed on the right ear, he had to undergo prayascitta, viz., to bathe, to mutter prayers and fast.

Wearing of another's *Yajnopavita* along with several other things (such as shoes, ornament, garland and kamandalu) is forbidden.[1]

Three ways of wearing the *Yajnopavita* are recognized: (1) nivita, (2) pracinavita and (3) upavita. When the cord is carried over the neck, both shoulders and the chest and is held with both the thumbs (of the two hands) lower than the region of the heart and above the navel, it is called *nivita.* Suspending the cord over the left shoulder in such a way that it hangs down on his right side, it becomes *upavita.* Suspending it on his right shoulder in such a way that it hangs down on his left side, it becomes *pracinavita.*

How did this *Yajnopavita* come in? Mr. Tilak offers an explanation[2] which is worth quoting. Mr. Tilak says :

> "Orion or Mrigashiras is called Prajapati in the Vedic works, otherwise called Yajna. A belt or girdle of cloth round the waist of Orion or Yajna will therefore be naturally named after him as *Yajnopavita,* the *upavita* or the cloth of *yajna.*
>
> The term, however, now denotes the sacred thread of the Brahmins, and it may naturally be asked whether it owes its character, if not the origin, to the belt of Orion. I think it docs on the following grounds:
>
> The word yajnopavita is derived by all native scholars from *Yajna* + *Upavita;* but there is a difference of opinion as to whether we should understand the compound to mean an *upavita* for yajna i.e for sacrificial purposes, or, whether it is the 'upavita of Yajnas.' The former is not incorrect, but authority is in favour of the latter. Thus the Prayoga-writers quote a *smriti* to the effect that 'the High Soul is termed *Yajna* by the hotris, this is his *upavita;* therefore it is *yajna-upavita.'* A mantra, which is recited on the occasion of wearing the sacred thread means, 'I bind you with the *upavita* of *yajna",* while the first half of the general formula with which a Brahmin always puts on his sacred thread is as follows:
>
> यज्ञोपवीतं परमंपवित्रं प्रजापतेर्यत्सहजं पुरस्तात्
>
> The Mantra is not to be found in any of the existing Samhitas, but is given in the Brahmopanishad and by Baudhayana. This verse is strikingly similar to the verse quoted above from the Haoma Ycsht. It says, 'yajnopavita is high and sacred; it was born with Prajapati, of old.' The word *purastat* corresponds with *paurvanim* in the Avesta verse and thus decides the question raised by Dr. Haug,

1. Kane. History of Dharmashastra Vol. II, (1), p. 293.

2. *Orion,* pp, 144-146.

while *sahaja,* born with the limbs of Prajapati, conveys the same meaning as *mainyutastem*. The coincidence between these verses cannot be accidental, and it appears to me that the sacred thread must be derived from the belt of Orion. Upavita, from *ve* to weave, literally means a piece of cloth and not a thread. It appears, therefore, that a cloth worn round the waist was the primitive form of *yajnopavita,* and that the idea of sacredness was introduced by the theory that it was to be a symbolic representation of Prajapati's waistcloth or belt."

This explanation by Mr. Tilak is no doubt very interesting. But it does not help to explain some of the difficulties. It does not explain the relation of the *Yajnopavita* to the two garments the *Uttariya,* and the *vasa,* which are necessary for a person to wear while undergoing *Upanayana*. Was the *Yajnopavita* in addition to the two garments? If so, how is it that there is no mention of it in the early description of the ceremony of the *Upanayana?* It does not explain another difficulty. If that thread is a substitute for the cloth, how is it that the wearing of the cloth is retained in the *Upanayana?*

There seems to be another explanation. I offer it for what it is worth. According to it, the wearing of the thread had to do with the adoption of the *gotra*. Its object was to tie oneself to a particular *gotra*. It had nothing to do with the *Upanayana* as such, the object of which was to initiate a person in the study of the Vedas. It is not sufficiently realized that under the Ancient Aryan Law, a son did not naturally inherit the *gotra* of his father. The father had to perform a special ceremony to give his *gotra* to his son. It is only when this ceremony was performed that the son became the same *gotra* as the father. In this connection, reference may be made to two rules observed by the Indo-Aryan Society. One is the rule of impurities. The other is the rule of adoption. With regard to the rule of impurity, brought about by death, the days of impurity vary with the kinship with the dead. If the kinship is very close, the days of impurity are greater than those in the case where the kinship is less close. The impurities attached to the death of a boy who has not been invested with the thread are very meagre,[1] not extending for more than a few days. With regard to the rule of adoption,[2] it lays down that a boy who was invested with the thread was not eligible for adoption. What is the idea behind these rules? The idea seems to be quite clear. The impurities are nominal because there being no thread, the boy had not formally entered into the *gotra* of his father. Adoption means

1. See *Manu Smriti,* Chapter V, Verses 66-70,

2. *Kalikapurana* quoted by Vyavahara Mayukha, edited by Kane, p. 114. This plea hat been taken in various cases in Courts by litigants to which Mr. Kane makes references.

entering into the *gotra* of the adoptive father. Once the thread ceremony had taken place the boy had already and irrevocably entered another *gotra*.

There was no room for adoption left. Both these rules show that the thread ceremony was connected with *gotra* and not with *Upanayana*.

The view that the thread has connection with gotra seems to receive support from Jain literature. Shloka 87 of the fourth Parvan of the Padmapurana by Acharya Ravishena reads as follows :[1]

> "Bhagwan ! you have told us the origin of Kshatriya, Vaishya and Shudra. I am anxious to know the origin of those who wear the thread in their neck."

The words 'those who wear the thread in the neck' are very important. There is no doubt that it is a description of the Brahmins. From this it is clear that there was a time when the Brahmins alone wore the thread and no other class did. Read with the fact that the *gotra* relationship was confined only to the Brahmins, it is clear that the thread ceremony was connected with bringing the boy into— actually tying him up to the *gotra*— of his father, and had nothing to do with *Upanayana* which was connected with the initiation in the teaching of the Vedas.

If this is true, then the thread ceremony and the *Upanayana* ceremony had different purposes to serve. At some later date the two merged into one. The reason for this merger appears to be very natural. The Upanayana without the thread ceremony involved the danger of the Acharya taking the boy in his *gotra*. It was to avoid the danger that the father of the boy performed the thread ceremony before handing him over to the Acharya. This is the probable reason why the two ceremonies came to be performed simultaneously.

Be that as it may, *Upanayana* means the teaching of the Veda by the Vedic Brahmin.

III

While I am convinced that my thesis is sound, it would be over confident to think that there will not be found persons who will not raise objections to it. I anticipate the following :

(1) Is absence of *Upanayana* the test of Shudradom;

(2) Did the Shudra ever have the right to *Upanayana?*

1 Quoted by Nathuram Premi in his *Jain Sahitya our Itihas* (Hindi), p. 55a,

(3) How can the loss of *Upanayana* result in the general degradation of Shudras?

(4) What power did the Brahmins have to deny *Upanayana* to the Shudras?

Having stated the possible objections to my thesis, I like to give my reply to them.

IV

To begin with the first. The best way to deal with this objection is to refer to the judicial decisions in order to find out what the Courts in India have regarded as the surest criterion for determining who is a Shudra.

The first case to which reference may be made is to be found in 7, M.I.A.18.[1] It was decided by the Privy Council in 1837. The question at issue was whether at the relevant time there were in India any Kshatriyas. The contention of one side was that there were. The contention on the other side was that there were none. The latter contention was based upon the theory propagated by the Brahmins that the Brahmin Parashurama had killed all the Kshatriyas and that if any were left they were all exterminated by the Shudra king Mahapadma Nanda, so that thereafter there were no Kshatriyas left and that there were only Brahmins and Shudras. The Privy Council did not accept this theory which they regarded as false and concocted by the Brahmins and held that the Kshatriyas still existed in India. The Privy Council did not however lay down any test by which a Kshatriya could be distinguished from a Shudra. In their view, the question must be determined in each case on its own facts.

The second case on the subject is to be found in I.L.R.10 Cal. 688.[2] The question raised in the case was whether the Kayasthas of Bihar were Kshatriyas or Shudras. The High Court decided that they were Shudras. The partisans of the Kayasthas took the position that the Kayasthas of Bihar were different from the Kayasthas of Bengal, the Upper Provinces and Benares and that while those in the Upper Provinces and Benares were Shudras, the Kayasthas of Bihar were Kshatriyas. The court refused to make this distinction and held that the Kayasthas of Bihar were also Shudras.

1. Chuohirya Run Murdan Syn *Versus* Sahub Purhulad Syn.

2. Raj Coomar Lall *versus* Bissessur Dyal.

The validity of this judgement was not accepted by the Allahabad High Court. In I.L.R.12 All. 328,[1] Justice Mahamood at page 334 observed as follows :

> "I entertain considerable doubts as to the soundness of the view which seems to have been adopted by both the Courts below, that the literary caste of *Kayasthas* in this part of the country, to which the parties belong, falls under the category of *Shudras,* as understood in the division of mankind in the Institute of Manu or elsewhere in authoritative texts of the Hindu Law. The question is one of considerable difficulty not only ethnologically, but also from a legal point of view, so far as the administration of the Hindu Law to this important section of the population is concerned. I do not take the question to be settled by any adjudication of the Lords of the Privy Council either in *Sri Narayan Miner* vs. *Sree Mutty Kishen Soondoory Dassee,*[2] or in *Mahashova Shosinath Ghose* vs. *Srimati Krishna Soondari Dasi*[3] in both of which the cases referred to adoption by Kayasthas of Lower Bengal, who may be distinguishable from the twelve castes of Kayasthas in Upper India, such as the North-western Provinces and Oudh. Nor do I think that the unreported decision of the learned Chief Justice and my brother Tyrell in *Chaudhari Hazari Lai* versus *Bishnu Dial* (First Appeal No. 113 of 1886, decided on the 15th June 1887), which was also an adoption case, settles the question. But I need not pursue the subject any further...."

The third case is reported in (1916) 20 Cal. W.N.901[4]. Here the question raised was whether Kayasthas of Bengal were Kshatriyas or Shudras. The High Court of Calcutta held that they were Shudras. The case was taken to the Privy Council by way of appeal against the decision of the Calcutta High Court. The decision of the Privy Council is reported in (1926) 47 I.A. 140. The question whether the Bengali Kayasthas are Shudras or Kshatriyas was not decided upon by the Privy Council but was left open. In between 1916 and 1926 the Calcutta High Court gave two decisions which held that inter-marriages between Kayasthas of Bengal and *Tantis*[5] and *Domes*[6] two of the low castes, were legal on the ground that both of them were sub-castes of Shudras.

These decisions which caused further deterioration in the position of the Kayasthas were followed by another which is reported in I.L.R. 6 Patna 506.[7] In a most elaborate judgement extending over 47 pages Mr. Justice Jwala Prasad went into every Purana and every

1. Tulsi Ram *versus* Behari Lai.
2. L. R. I. A. Sup., Vol. 149.
3. L. R. 7,1.A., 250.
4. Asita Mohan Ghosh *versus* Nirod Mohan Ghosh Maulik.
5. (1921) 48 Cal. 626. Bishwanath Ghosh versus Srimati Balai Desai.
6. (1924) 51 Cal. 788. Bholanalh Mitter *versus* King Emperor.
7. (1926) Ishwari Prasad *versus* Rai Hari Prasad Lai.

Smriti in which there was a reference to the Kayasthas. He differed from the Calcutta High Court and held that the Kayasthas of Bihar were Kshatriyas.

Next come cases in which the question at issue was whether the Maharattas are Kshatriyas or Shudras. The first case in which this issue was raised is reported in 48 Mad. I.[1] This was an interpleader suit filed by the Receiver of the estate of Raja of Tanjore in which all the descendants as well as the distant agnates and cognates of the Raja were made defendants in the suit. The kingdom of Tanjore was founded by Venkoji, otherwise called Ekoji, who was a Mahratta and the brother of Shivaji the founder of the Mahratta Empire. The judgement in the case covers 229 pages and the question whether the Mahrattas were Kshatriyas was dealt with in a most exhausitve manner. The decision of the Madras High Court was that the Mahrattas were Shudras and not Kshatriyas as was contended by the defendants.

The next case which also relates to the Mahrattas is reported in I.L.R. (1928) 52 Bom.497.[2] The Court decided that :

> "There are three classes among the Mahratthas in the Bombay Presidency: (1) the five families; (2) the ninety-six families; (3) the rest Of these, the first two classes are legally Kshatriyas."

The last case to which reference may be made is reported in I.L.R. (1927) 52 Mad. I.[3] The issue was whether the Yadavas of Madura were Kshatriyas. The Yadavas claimed themselves to be Kshatriyas. But the Madras High Court negatived the claim and held that they were Shudras.

Such is the course of judicial pronouncements on the issue as to how to determine who is a Kshatriya and who is a Shudra. It is a most confusing medley of opinion which settles little and unsettles much. The Kayasthas of Bihar, of the Upper Provinces (now U.P) and Benares are Kshatriyas, while the Kayasthas of Bengal are Shudras!! According to the Madras High Court all Mahrattas are Shudras. But according to the Bombay High Court, Mahrattas belonging to five families and 96 families are Kshatriyas and the rest are Shudras!! The Yadava community to which Krishna belonged is popularly believed to be Kshatriyas. But according to the Madras High Court, the Yadavas are Shudras!!

1. (1924) Maharaja of Kolhapur *versus* Sundaram Ayyar.
2. Subbarao Hambirao Palil vera? Radha Hambirao Patil.
3. Mokka Kone *versus* Ammakutti.

More important for our purpose are the criteria which the courts have adopted in coming to their decisions than the particular decisions in the cases referred to. Among the criteria which the courts have laid down, the following may be noted :

(1) In I.L.R. 10 Cal. 688, the criteria adopted were *(i)* use of Das as surname, *(ii)* wearing the sacred thread, *(iii)* ability to perform the *homa, (iv)* the period of impurity; *(v)* competence or incompetence of illegitimate sons to succeed.

(2) In I.L.R. 6 Patna 606, the criterion seems to be general repute. If a community is Kshatriya by general repute it is to be treated as a Kshatriya community.

(3) In 48 Madras 1, a variety of criteria were adopted. One was the consciousness of the community. The second was undergoing the ceremony of *Upanayana* as distinguished from wearing the sacred thread. The third criterion was that all non-Brahmins are Shudras unless they prove that they are Kshatriyas or Vaishyas.

(4) In I.L.R. Bom. 497, the tests adopted were *(i)* the consciousness of the caste *(ii)* its custom, and *(iii)* the acceptance of that consciousness by other castes.

No one who knows anything about the subject can say that the criteria adopted by the various courts are the right ones. A criterion such as the period of impurity is irrelevant and of no value for determining the question. A criterion such as the capacity for performing *homa* is relevant but not valid. It mistakes effect for a cause. The criterion of consciousness is hardly a fair criterion. A community may have lost its consciousness by long disuse of necessary religious observances due to causes over which it has no control. The criterion of *Upanayana* stands on a different footing. The courts have not put it properly. But there is no doubt that rightly understood and properly put the criterion of *Upanayana* is sound. The Courts have not made any distinction between the *de facto* position of the community and its position *de jure* in regard to *Upanayana,* and have proceeded on the assumption that what is true *de facto* must also be true *de jure*. It is this fault in the application of the criterion of *Upanayana* which has produced anomalies and absurdities, such as one community having one status in one area and quite a different status in a different area—or allowing any pretender community to wear the thread and by continuing its

pretence for a period to acquire a vested right or contrariwise punishing a community by declaring that it had no *de jure* right to wear the thread merely because it has not been wearing it *de facto*. The real criterion is not the wearing of the sacred thread but the right to wear the sacred thread. Understood in its proper sense, it may be said without fear of contradiction that the right to *Upanayana* is the real and the only test of judging the status of a person whether he is a Shudra or a Kshatriya.

V

The second objection is quite untenable. To assume, as the objection does, that from the very beginning the Aryan Society treated its different classes differently in the matter of *Upanayana* is to my mind a very unnatural supposition. Primitive society does not begin with differentiation. It begins with uniformity and ends in diversity. The natural thing would be to suppose that in the matter of the *Upanayana* the ancient Aryan society treated all its classes on the same footing. It may however be argued, on the other side, that such an original tendency in favour of uniformity need not be accepted as being universal, that it may well be that in the ancient Aryan society the Shudras and the women were excluded from *Upanayana*. Fortunately for me, it is not necessary for me to rely on logic alone though I contend that logic is on my side. For there is ample evidence both circumstantial as well as direct to show that both Shudras as well as women had at one time the right to wear the sacred thread.

That the ancient Aryan society regarded *Upanayana* as essential for all will be evident if the following facts are borne in mind.

Upanayana was allowed for the deaf, the dumb, the idiot and even the impotent. A special procedure was prescribed for the *Upanayana* of the deaf and dumb and idiots. The principal points in which their *Upanayana* differs from that of others are that the offering of *Samidh,* treading on a stone, putting on a garment, the tying of *mekhala,* the giving of deer skin and staff are done silently, that the boy does not mention his name, it is the *acharya* himself who makes offering of cooked food or of clarified butter, all the *mantras* are muttered softly by the *acharya* himself. The same procedure is followed as to other persons who are impotent, blind, lunatic, suffering from such diseases as epilepsy, white leprosy or black leprosy, etc.

The six *anuloma* castes were also eligible for *Upanayana;* this is clear from the rules[1] for the Upanayana of Kshatriyas, Vaishyas and of mixed castes like Rathakara, Ambashtha, etc.

Upanayana was permitted to *Patitasavitrikas*. The proper age for the *Upanayana* of a Brahman boy was 8th year from birth, of a Kshatriya 11th year and of a Vaishya 12th year. But a certain latitude was allowed so that the time for *Upanayana* was not deemed to have passed upon the 16th, the 22nd and the 24th year in the case of Brahmins, Kshatriyas and Vaishyas respectively. After these years are passed without *Upanayana* taking place, a person was held to have become incompetent thereafter for learning the Savitri (the sacred Gayatri verse). Such persons were then called *Patitasavitrika* or *savitripatita*. According to the strict interpretation of rules, no *Upanayana* is to be thereafter performed for them, they are not to be taught the Veda, nor is anyone to officiate at their sacrifices and there is to be no social intercourse with them (i.e., no marriage takes place with them). But even in their case, there was readiness to relax the rules [2] subject to certain penances.

Upanayana was permitted in the case of Brahmaghnas. A Brahmaghna is a person whose father or grandfather had failed to perform *Upanayana*. The original rule[3] was that if a person's father and grandfather also had not the *Upanayana* performed for them then they (i.e., the three generations) are called slayers of *brahma* (holy prayers or lore); people should have no intercourse with them, should not take their food nor should enter into marriage alliance with them. But even in their case the rule was relaxed and they were allowed *Upanayana* if they desired, provided they performed the prescribed penance.

1. Baud. Gr. Sutra (II.8). Kane, *History of Dharmashastra,* II (1), p. 299.

2. Ap. Dh. S., I. 1. 1 28-31, prescribes that after the 16th or 24th year, the person should undergo the rules of studenthood two months just as those who meant to study the three vedas and whose Upanayana has been performed, observe (viz., begging for food, etc.) then his Upanayana should be performed, then for one year he should bathe (thrice if possible) every day and then he should be taught the Veda. This is a somewhat easy penance. But others prescribe heavier penalties. Vas. Dh. S. XI. 76-79 and the Vaik. Smarta, 11.3 prescribes that one who is *patitasavitrika* should either perform the Uddalaka vrata or should take a bath along with the performer of an Ashvamedha sacrifice or should perform the Vratyastoma sacrifice. See Kane, *ibid.,* p. 377.

3. Ap. Dh. S., I. 1.1. 32-2. 4. The penance prescribed was that of observing the rules of studenthood one year for each generation (that had not the Upanayana performed) then there is Upanayana and then they have to bathe (thrice or once) every day for a year with certain mantras, viz., the seven Pavamani verses beginning with *'yad ami yacca durake'* (Rg. IX. 67. 21-27), with the Yajus Pavitra (Tai. S., I. 2.1. l=Rg. X. 17. 10) with the *samapavitra* and with the mantras called Angirasa (Rg. IV. 40.5) or one may pour water only with the *Vyahritis*. After all this is done, one must be taught the Veda. See Kane, *ibid.,* p. 378.

A further relaxation was made in the case of a person whose generation beginning with the great grandfather had not the Upanayana performed on them.[1] Even they were allowed to have their Upanayana performed if they desired, provided they performed penance which included studenthood for twelve years and bath with the Pavamani, and other verses. On his Upanayana, instruction in the duties of the householder was imparted to him, and though he himself could not be taught the Veda, his son may have the samskara performed as in the case of one who is himself a *patitasavitrika* so that his son will be 'one like other Arya'.

Upanayana was permitted to the Vratyas. It is difficult to state exactly who the Vratyas were, whether they were Aryans who had for more than three generations failed to perform the Upanayana or whether they were non-Aryans who were never within the Aryan fold and whom the Brahmins wanted to convert to the Aryan faith. It is possible that it included both. Be that as it may, there is no doubt that Upanayana was open to the Vratyas provided they performed Vratyastomas. Vratyas were those who lead the Vratya life, were base and were reduced to a baser state since they did not observe studenthood (brahmacharya) nor did they till the soil nor engage in trade. There were four Vratyastomas, the first of which is meant for all Vratyas, the second is meant for those who are *Abhishasta* who are wicked or guilty of heavy sins and are censured and lead a Vratya life, the third for those who are the youngest and lead a Vratya life and the fourth for those who are very old and yet lead a Vratya life. In each of the four Vratyastomas, Sodasastoma[2] is always performed. It is by the Sodasastoma that they can attain this (superior status). The Sodasastoma was supposed to have the power to remove the guilt of these. By performing the Vratyastoma sacrifice, they should cease to be Vratyas and become eligible for social intercourse with the Orthodox Aryas, to have the sacrament (*samskara* of Upanayana) performed of them and then be eligible to study the Veda.

In the Vratyata-shuddisamgraha[3] provision is made for the purification of Vratyas even after twelve generations subject to appropriate penances.

1. Ap. Dh S., 1.1. 2.5-10.

2. Kane (ibid, p. 385) refers to the Tandya Brahmana 17.1.1 which tells the story that when the gods went to the heavenly world some dependents of theirs who lived the *vratya* life were left behind on the earth. Then through the favour of the gods the dependents got at the hands of Maruts the *Sodasastoma* (containing 16 stotras) and the metre (viz., *anustubh*) and then the dependents secured heaven.

3. Kane, *ibid,* p. 387

Upanayana was so highly thought of that Baudhayana (ii.10) allowed Upanayana for the Asvattha tree.

Given these facts, it is difficult to believe that the women and Shudras were excluded from the Upanayana by the Aryan society from the very beginning. In this connection, attention may be drawn to custom prevalent among the Indo-Iranians who were very closely related to the Indo-Aryans in their culture and religion. Among the Indo-Iranians, not only both men and women but men and women of all classes are invested with the sacred thread. It is for the opponents to prove why the system was different among the Indo-Aryans.

It is, however, not quite necessary to depend upon circumstantial evidence. There is enough direct evidence to show that there was a time when both women and Shudras had the right to Upanayana and did have it performed.

As to the Upanayana of women the statements[1] contained in the Hindu religious books are quite explicit. Anyone who examines them will find that Upanayana was open to women. Women not only learned the Vedas but they used to run schools for teaching the Vedas, are even known to have written commentaries on the Women Purva Mimamsa.

As to the Shudras, the evidence is equally positive. If Sudas was a king, if Sudas was a Shudra, if his coronation ceremony was performed by Vasishtha and he performed the Rajasuya Yaga, then there can be no doubt that the Shudras did at one time wear the sacred thread. In addition to circumstantial evidence and the evidence of the authors mentioned before, the Sanskara Ganapati cited by Max Muller[2] contains an express provision declaring the Shudra to be eligible for Upanayana.

The only difference between the women and the Shudras is that in the case of women there is some plausible explanation given as to why the Upanayana of women was stopped, while there is no such explanation for stopping the Upanayana of the Shudras. It is argued that the Upanayana of women continued as long as the age of Upanayana and the age of marriage continued to be different. It is said that in ancient times the age of Upanayana was 8 and the age for marriage was considerably later. But at a later stage, the age of marriage was brought down to 8, with the result that the Upanayana

1. See *Purushartha* Number for September 1940 where all authorities are collected in one place.

2. *History of Ancient Sanskrit Literature* (1860), p. 207.

as an independent ceremony ceased to exist and became merged in marriage. Whether this explanation is right or wrong is another matter. The point is that in the case of the Shudra, the Upanayana was at one time open to him, that it was closed to him at a later stage and that there is no explanation for this change.

Those who, in spite of the evidence to which I have referred, think that they must insist upon their objection should remember the weakness of their side. Assuming that the Shudras had never had the benefit of Upanayana, the question they have to face is why were the Shudras not allowed the benefit of the Upanayana. The orthodox theory merely states the fact that there is no Upanayana for a Shudra. But it does not say why the Shudra is not to have his Upanayana performed. The explanation that there was no Upanayana of the Shudra because he was a non-Aryan is a modern invention which has been shown to be completely baseless. Either there was once an Upanayana and it was stopped or the Upanayana was from the very beginning withheld. Either may be true. But before one or the other is accepted to be true, it must be accompanied by reasons. There being no reason why the benefit of the Upanayana was withheld from the Shudra, the presumption must be in favour of my thesis which states that they had the right to Upanayana, that they were deprived of it and gives reasons why they were deprived of its validity.

VI

The third objection is no objection at all. Only a person who does not know fully all the incidents of Upanayana can persist in upholding its validity.

The Aryan society regarded certain ceremonies as Samskaras. The Gautama Dharma Sutra (VIII. 14-24) gives the number of Samskaras as forty. They are :

> Garbhadhana Pumsavana, Simantonnayana, Jatakarma, namakarana, annaprasana, caula, Upanayana, the four vratas of the Veda, Snana (or Samavartana), vivaha, five daily mahayajnas (for deva, pitri, manushya, bhuta, and Brahma); seven pakayajnas (viz., astaka, parvanasthalipaka, sraddha sravani, agrahayani, caitri, asvayuji); seven haviryajnas (in which there is burnt offering but no Soma, viz., Agnyadheya, Agnihotra, Darsapurnamasa, Agrayana, Caturmasyas, Nirudhapasubandha and Sautramani); seven soma sacrifices (Agnistoma, Atyagnistoma, Ukthya, Sodasin, Vajapeya, Atiratra, Aptoryama).

At a late stage a distinction appears to have been drawn between Samskaras in the narrower sense and Samskaras in the wider sense. Samskaras in the wider sense were really sacrifices and were therefore not included in the Samskaras in the proper sense, which were reduced to sixteen.

There is nothing strange about the Samskaras. Every society recognises them. For instance, the- Christians regard Baptism, Cofirmation, Matrimony, Extreme Unction, Eucharist, the Lord's Supper and the Holy Communion as sacraments. There however seems to be a difference between the notions of the Indo-Aryans and say the Christians about the Samskaras. According to Christian notions, the Samskara or Sacrament is a purely spiritual matter-drawing in of God's grace by particular rites. It had no social significance. Among the Indo-Aryans the Samskaras had originally a purely spiritual significance. This is clear from what Jaimini the author of the *Purva Mimamsa* has to say about the Samskaras. According to Jaimini the general theory is that Samskaras impart fitness. They act in two ways. They remove taints and they generate fresh qualities. Without such Samskaras, a person may not get the reward of his sacrifice on the ground that he is not fit to perform it. Upanayana was one of the Samskaras and like other Samskaras, its significance was just spiritual. The denial of the Upanayana to the Shudras necessarily brought about a change in its significance. In addition to its spiritual significance it acquired a social significance which it did not have before.

When Upanayana was open to everyone, Aryan or non-Aryan, it was not a matter of social significance. It was a common right of all. It was not a privilege of the few. Once it was denied to the Shudras, its possession became a matter of honour and its denial a badge of servility. The denial of Upanayana to the Shudras introduced a new factor in the Indo Aryan society. It made the Shudras look up to the higher classes as their superiors and enabled the three higher classes to look down upon the Shudras as their inferiors. This is one way in which the loss of Upanayana brought about the degradation of the Shudras.

There are other incidents of Upanayana. Since idea of these can be had if one refers to the rules laid down in the *Purva Mimamsa*[1]. One

1 See Ganganath Jha, *Purva Mimamsa*, pp. 368-369 and 171-172.

of these rules is that all property is meant primarily for the purpose of providing a person with the means of performing a sacrifice. The right to property is dependent upon capacity to sacrifice.[1] In other words, anyone who suffers from an incapacity to perform a sacrifice has no right to property. Capacity to sacrifice depends upon Upanayana. This means that only those who are entitled to Upanayana have a right to own property.

The second rule of the *Purva Mimamsa* is that a sacrifice must be accompanied by Veda mantras. This means that the sacrificer must have undergone a course in the study of the Veda. A person who has not studied the Vedas is not competent to perform the sacrifices. The study of the Veda is open only to those persons who have undergone the Upanayana ceremony. In other words, capacity to acquire knowledge and learning—which is what the study of Veda means-is dependent upon Upanayana. If there is no Upanayana the road to knowledge is closed. Upanayana is no empty ceremony. Right to property and right to knowledge are the two most important incidents of Upanayana.

Those who cannot realise how loss of Upanayana can bring about the degradation of the Shudras should have no difficulty in understanding the matter if they will bear in mind the rules of the Purva Mimamsa referred to above. Once the relation of Upanayana to education and property is grasped, all difficulty in accepting the thesis that the degradation of the Shudra was entirely due to loss of Upanayana must vanish.

It will be seen, from what has been said above, how the sacrament of Upanayana was in the ancient Aryan society fundamental and how the social status and personal rights of persons depended upon it. Without Upanayana, a person was doomed to social degradation, to ignorance and to poverty. The stoppage of Upanayana was a most deadly weapon discovered by the Brahmins to avenge themselves against the Shudras. It had the effect of an atomic bomb. It did make the Shudra, to use the language of the Brahmins, a graveyard.

1 Not a few are unable to understand why the Manu Smriti and other Smritis deny women and Shudra the right to hold property and to study the Vedas. All difficulty, however, vanishes if one bears in mind that the disabilities are the natural consequences of the rule, laid down in the Purva Mimamsa. Women and Shudras cannot hold property, not because they are women and Shudras, but because they are debarred from performing sacrifices.

VII

That the Brahmins possessed the power to deny Upanayana is beyond question. The doubt probably arises from the fact that there is nowhere an express statement showing the conferment of such a power upon the Brahmins. All the same, whatever doubt there may be lurking in the minds of persons who are not aware of the operative parts of the religious system of the Indo-Aryans must vanish if account is taken of two things: (1) the exclusive right of the Brahmin to officiate at the Upanayana and (2) the penalties imposed upon the Brahmin for performing unauthorised Upanayana.

It is probable that in most ancient times it was the father who taught his son the *Gayatri,* with which the study of the Veda begins and for which the ceremony of Upanayana was devised at a later stage. But it is beyond question that from a very early time the function of performing Upanayana had been assigned to a guru or a teacher called the Acharya and the boy went and stayed in the Acharya's house.

The questions as to who should be the Acharya and what should be his qualification have been the subject of discussions from very ancient times.

The Acharya must be a man learned in the Vedas. A Brahmana text[1] says, "he, whom a teacher devoid of learning initiates, enters from darkness into darkness and he also (i.e. an acharya) who is himself unlearned (enters into darkness)."

The Ap. Dh. S. (1.1.1.12—13), lays down that an Acharya selected for performing one's Upanayana should be endowed with learning and should be one whose family is hereditarily learned and who is serene in mind, and that one should study Vedic lore under him up to the end (of brahmacharya) as long as the teacher does not fall off from the path of Dharma.[2]

But the first and foremost qualification of an Acharya is that he must be a Brahmana: It was only in times of difficulty (i.e., when a Brahmana is not available) that a person was allowed to have a

1 Quoted in the Ap. Dh. S., I. i. i. 11, Kane, II (I), p. 324.

2 According to Vyasa (quoted in Sam. p., p. 408) the Acharya should be one who is solely devoted to the Veda, who knows Dharma, is born of a good family, who is pure, is a *shrotriya* that has studied his Vedic sakha and who is not lazy. Shrotriya has been defined as one who has studied one *sakha* of a Veda.

Kshatriya or a Vaishya teacher[1]. This exception was permitted only during the period when the distinction between the right to learn the Vedas and the right to teach the Vedas had not been made. But when that distinction came to be made—and it was made in very early times—in fact the conflict between Vasishtha and Vishvamitra was just on this very point—the Brahmin alone came to possess the right to be an Acharya fit to officiate at an Upanayana.

One thing therefore must be taken as well-established, namely that none but a Brahmin could perform the Upanayana ceremony. Upanayana performed by anybody else is not a valid Upanayana.

The other operative part of the Indo-Aryan religious system is the obligation imposed upon the Brahmin not to do any unauthorized act of a religious character. A Brahmin guilty of any such conduct was liable to punishment or penance. Many such penalties are to be found in the ancient Law Books. I refer to Manu and Parashara.

Manu (III.150ff.), lays down what class of Brahmins are to be deemed unworthy (to partake) of oblations to the gods and manes. In this list he includes :

III. 156.—"He who teaches for a stipulated fee and he who is taught on that condition, he who instructs Shudra pupils and he whose teacher is a Shudra, he who speaks rudely, the son of an adultress, and the son of a widow."

Parashara says :[2]

> "That Brahmana, who for the sake of dakshina (gift of money or fee) offers oblation into fire on behalf of a Shudra, would become a Shudra, would the Shudra (for whom he offers) would become a Brahman;" that, according to Madhava, propounds that the merit of the rite "goes to the Shudra and the Brahmana incurs sin." "

Those who may ask what powers the Brahmins had to deprive the Shudra of his right to Upanayana may consider the combined effect of these two facts : (1) the Brahmin's exclusive right to officiate at an Upanayana, and (2) the penalties to which he is made liable for performing an unauthorized Upanayana. If they do, they will have no doubt that the combined effect of these two factors was to vest in the Brahmin the power of performing as well as of denying Upanayana. It is true that such a power has not been expressly vested in the Brahmin. That was because it was unnecessary to do by express

1 It is curious to note that in such cases the only service a Brahmana student was required to render to his Kshatriya or Vaishya guru was to follow after him; he had not to render bodily service (such as shampooing or washing the feet, etc.). *Vide* Ap. Dh. S., II, 2.4, 25-28 Gaut, 7, 1-3, Baud Dh. S.I.-2, 40-42, Manu, II. 241. It was also premised that a Kshatriya or a Vaishya should teach a Brahmana only when urged by him and not at his sweet will.

2. Quoted by *Vyavahara Mayukha* (edited by Kane, p. 115).

terms what was in fact done by indirect but more effectual means. That the Brahmins are conscious of the possession of this power to deny Upanayana is also beyond doubt. So far as the records go, there are 16 reported cases in which they have threatened various communities by putting it into operation against them. In nine cases, they challenged the Kayasthas, in four they challenged the Panchalas, in one they challenged the Palshes. What is important is that they challenged even two Maratha Kings. These instances have occurred between 556 to 1904 A.D. It is true that they do not belong to ancient times. It must however be remembered that these instances are mere evidences of the exercise by the Brahmins of their power to deny Upanayana. The power itself must have been acquired in much more ancient times. That they have acquired it earlier is not an empty assertion without support. Satyakama Jabali's instance which is very ancient is cited generally to prove that the Varna of a man was determined by his *guna* (mental and moral qualities) and not by his birth. While this is true, it is equally true that Jabali's case proves that even in ancient times the Brahmins had acquired the right to refuse to perform Upanayana.

The enumeration of these cases has very little value for the purpose in hand unless we know the deductions that could be drawn from the decisions arrived at in them. To be able to do this, we must know the details of each case. Unfortunately, in most of them beyond the decision other details are not sufficiently full for the purpose. There is only one case that of the Brahmins *versus* Shivaji in respect of which the details are full and well-known. The case is sufficiently important and it is therefore well worth detailed examination. The deductions deducible from it are not only interesting and instructive but they throw a flood of light on the point under discussion.

VIII

As is well known, Shivaji after having established a Hindu independent kingdom in the western part of Maharashtra thought of proclaiming himself a king by having his coronation performed. It was felt by Shivaji and his friends that the coronation ceremony if it was at all to be of any value must be performed according to Vedic rites. But in carrying out his wishes Shivaji found himself faced with many difficulties. He found that whether his coronation could be performed with Vedic rites depended entirely upon the Brahmins.

Nobody was from religious point of view qualified to perform the ceremony except a Brahmin. Secondly, he found that no such ceremony could be performed unless it was proved that he was a Kshatriya. There was a third difficulty, namely, that even if he was found to be a Kshatriya, he was past the age of Upanayana and without Upanayana there could be no coronation. The third difficulty was a minor one for it could be got over by the performance of the Vratya Stoma ceremony. The first difficulty was the greatest stumbling block. It related to Shivaji's status. The question was, was he a Kshatriya? If that could be got over, the rest was easy. Shivaji's claim that he was Kshatriya was opposed by many. His principal opponents were Brahmins who were led by his own Prime Minister Moro Pant Pingle. Unfortunately for Shivaji even his Maratha Sardars had refused to give him social precedence[1] and had ranged themselves against him. In their view, he was a Shudra. Shivaji's claim was also in direct conflict with the well established thesis long insisted upon by the Brahrnins that there were no Kshatriyas in the Kali age. Shivaji was living in the Kali age. Obviously he could not be a Kshatriya. This objection to his claim for the status of Kshatriya was further strengthened by the non-performance of the ceremony of Upanayana or the investiture of the sacred thread at the proper time, which was fixed by the Sastras to be the eleventh year in the case of the Kshatriyas. This was taken to be evidence of his being a Shudra. He was however fortunate in securing the services of one Gagabhat, a renowned Brahmin, resident of Benares, learned both in the Vedas and Sastras. Gagabhat solved all difficulties and performed Shivaji's coronation[2] on 6th June 1674 at Raigad first after performing the Vratya Stoma and then the Upanayana.

1 Kinkaid has some interesting observations to make as to how the idea of coronation originated. He says :

"For although the high-spirited Deccan nobles gladly followed Shivaji in the field, they were unwilling in private life to concede to him any precedence. And at State dinners they resented that a Bhosle should sit on a seat raised above those assigned to Mohites and Nimbalkars, Savants and Ghorpades. He spoke of the matter to his Secretary, Balaji Avaji Chitnis and the latter urged him to take the royal crown from the hands, not of the Moghul Emperor, but of a Benares priest. The king consulted his mother, Jijabai, the saintly Ramdas and his favourite goddess Bhavani and found them all favourable to his Secretary's suggestions."—*History of Maharashtra,* p. 244.

From this it appears that the ideas behind Vedic coronation was to obtain social precedence and not so much to obtain legal and political sovereignty.

2 It seems that some Brahmins were prepared to perform Shivaji's coronation but with non-Vedic, i.e., with Pauranic rites as is done in the case of Shudras. They predicted all sorts of evils to happen if Shivaji had his coronation performed with Vedic rites. Unfortunately these evils did take place and Shivaji who undoubtedly was superstitious had another coronation performed according to non-Vedic rites. The following account of this second coronation taken from Mr. C. V. Vaidya makes interesting reading :

Shivaji's case is important for several reasons. It is important because it proves that nobody except a Brahmin has the right to perform the Upanayana and that nobody can compel a Brahmin to perform it if he is not prepared to do so. Shivaji was the ruler of an independent kingdom and had already started styling himself Maharaja and Chhatrapati. There were many Brahmins who were his subjects. Yet, Shivaji could not compel anyone of them to perform his coronation.

It is important because it proves that the ceremony to be valid must be performed by a Brahmin. A ceremony performed by a non-Brahmin would be infructuous. It was open to Shivaji to have his coronation performed by a non-Brahmin. But he did not dare[1] to do it. For he knew it would be without any social or spiritual efficacy.

In the third place, it is important because it proves that the power of determining the status of a Hindu depends entirely upon the will of the Brahmins. The decision in favour of Shivaji is sought to be justified by the genealogy which was brought from Mewar by Shivaji's friend, Balaji Avaji, and which connected Shivaji with the Sisodiyas of Mewar who were reckoned as Kshatriyas. It has been alleged that the genealogy was a fabrication got up for the occasion.

"Obstructive and dissatisfied Brahmins there were even then as always. They did not deem the ceremony satisfactory, though it was acclaimed by the whole of Maharashtra. A poem named *Rajyabhisheka Kalpataru,* a copy of which is in the Library of the Bengal Royal Asiatic Society and which has been published from it by Itihas S. Mandal of Poona (Quarterly, Vol. X-I), embodies some objections raised against the coronation ceremony gone through. This poem is not quite contemporary, as it mentions the later idea that Shivaji was an incarnation of Siva (not of Vishnu as represented by the earlier Shivabharata) though it is of the time of Rajaram. It gives an imaginary conversation between Nischalpuri, a learned Brahmin ascetic of Benares who was an opponent of Gagabhat, and Govindbhat Barve as taking place in Konkan. It recounts the ill omens which preceded and followed the coronation, such as the death of Prataprao Gujar, the death of Kashibai, wife of Shivaji, etc., and the wound caused to Gagabhat himself on the nose by the falling of a rafter. The poem expressly says that Gagabhat engaged for the ceremony those Brahmins only who were his followers and refused to employ those recommended by Nischalpuri. Many defects in the ceremony itself, are next mentioned. Thus when Shivaji was getting into the chariot after the ceremony of ascending the throne Gagabhat himself first sat in the chariot and then Shivaji. After seeing the whole ceremony through Nischalpuri left the fort but told Shivaji that bad events would happen on the 13th, 22nd and 55th days. On the 13th day accordingly, Shivaji's mother died. Next a horse-shed was burnt at Pratapgad with good many horses in it and an elephant died on Sinhgad. These incidents induced Shivaji to call Nischalpuri back and through him and his Brahmins Shivaji performed afresh the ceremony of ascending the throne, not with Vedic rites, but Tantrik or magical. This ceremony is also described in detail. There are mentioned some Vedic mantras from Sama Veda as recited; but the ceremony was not Vedic. It was performed on Ashvin Suddha 5 (Lalita Panchami day S, 1596), as is stated at the end of the peom. This ceremony is also mentioned by J and Nischapuri is also spoken of in a Mahomedan record.'—.*Shivaji the Founder of Maratha Swaraj,* pp. 252-253."

1 The Kayasthas had at one time resolved to perform their own ceremonies as a priest against the constant challenge by the Brahmins to their status. But they did not put their resolve into action. The reason must be the same.

Assuming it was not a fabrication,[1] how can it justify the recognition of Shivaji's claim to be a Kshatriya? Far from establishing that Shivaji was a Kshatriya, the genealogy could do no more than raise another question, namely, whether the Sisodiyas were Kshatriyas. The Sisodiyas were Rajputs. There is considerable doubt as to whether the Rajputs are the descendants of the original Kshatriyas who formed the second Varna of the ancient Indo-Aryan community. One view is that they are foreigners, remnants of the Huns who invaded India and established themselves in Rajputana and whom the Brahmins raised to the status of Kshatriyas with the object of using them as means to suppress Buddhism in Central India by a special ceremony before the sacred fire and who were therefore known as the Agnikul Kshatriyas. This view has the support of many erudite scholars who are entitled to speak on the subject. Vincent Smith says :[2]

In this place I want to draw attention to the fact, long suspected and now established by good evidence that the foreign immigrants into Rajputana and the upper Gangetic valley were not utterly destroyed in the course of their wars with the native princes. Many of course perished but many survived and were mixed in the general population of which no inconsiderable part is formed by their descendants. These foreigners like their fore-runners the Sakas and the Yue-chi universally yielded to the wonderful assimilative power of Hinduism and rapidly became Hinduised. Clans or families which succeeded in winning chieftainships were admitted readily into the frame of Hindu polity as Kshatriyas or Rajputs and there is no doubt that the Parihars and many other famous Rajput clans of the north were developed out of the barbarian hordes which poured into India during the fifth and sixth centuries. The rank and file of the strangers became Gujars and the castes ranking lower than Rajputs in their precedence. Further to the south, various indigenous or aboriginal tribes and clans underwent the same process of Hinduised social promotion in virtue of which Gonds, Bhars, Kharwas and so forth emerged as Chandels, Rathors, Gaharwars and other well-known Rajput clans duly equipped with pedigree reaching back to the sun and the moon.

William Crooke[3] says :

Recent research has thrown much light on the origin of Rajputs. A wide gulf lies between the Vedic Kshatriyas and the Rajputs of mediaeval times which it

1 The Sisodiya family of Mewar was important for two reasons (1) They were a branch of the Sisodiyas of Udaipur who were descendants of the family of Lava the eldest son of Rama, the hero of Ramayana. (2) The Sisodiyas of Mewar were pure because they had refused to give their females in marriage to the Moghul emperors and had refused to intermarry with other Rajput families such as Jaipur and Jodhpur who had done so. Was it because of these reasons that this attempt to establish that Shivaji was the descendant of the Sisodiyas of Mewar was made?

2 Quoted by C. V. Vaidya in his *History of Mediaeval India,* Vol. II. P. 8.

3 Quoted by Vaidya, *ibid.,* p. 9.

is now impossible to bridge. It is now certain that the origin of many clans dates from the Saka or Kushan invasions of more certainly from that of the White Huns who destroyed the Gupta empire about 480 A.D. The Gujar tribe connected with the latter people adopted Hinduism and their leaders formed the main stock from which the higher Rajput families sprang. When these new claimants to princely honour accepted the faith and the institution of Brahmanism the attempt would naturally be made to connect them with the heroes of the Mahabharata and the Ramayana. Hence arose the body of legend recorded in these annals by which a fabulous origin from the sun and the moon was ascribed to these Rajput families ... The group denoted by the name Kshatriya or Rajput depended on status rather than on descent and it was therefore possible for foreigners to be introduced into these tribes without any violation of the prejudices of caste, which was then only partially developed. But it was necessary to disguise this admission of foreigners under a convenient fiction. Hence arose the legend how by a solemn act of purification or initiation under the superintendence of the ancient Vedic Rishis, the *fire—born* septs were created to help the Brahmins in repressing Buddhism and other heresies. This privilege was confined to four septs known as Agnikula or fire-born viz., the Parmar, Parihar, Chalukya and Chauhan.

Dr. D. R. Bhandarkar[1] also holds the same view. According to him, the Rajputs are the descendants of Gujars, the Gujars were foreigners and that the Rajputs are therefore the descendants of foreigners.

The Brahmins engaged for the coronation could not have been ignorant of the origin of the Rajputs, and their claim to be descended from the Kshatriyas. But assuming that they did not know this fact they knew that there was already a previous decision of the Brahmins, namely, that there were no Kshatriyas in the Kali age. This was an old, long-standing decision. And if the Brahmins had respect for precedent, they were bound to throw out the claim of Sisodiyas as well as of Shivaji. Nobody would have blamed them, if they had done so. But the Brahmins had never accepted the law of precedent as binding upon them. With them there was no such thing as *stare decisis*.

Fourthly, it is important because it shows that the decisions of the Brahmins on matters of status were open to sale like the indulgences of the Catholic clergy. That the decision of Gagabhat was not an honest decision is obvious from the amount of money which Gagabhat and other Brahmins received as officiating priests. The amount of money spent on the coronation by Shivaji and how much of it went to Gagabhat and the Brahmins will be seen from the

1 Quoted by Vaidya, Ibid., p. 10. Mr. Vaidya combats the view and tries to prove that the Rajputs are not foreigners but are the descendants of original Aryan-Kshatriyas. What Mr. Vaidya says does not appear to be very convincing.

following details collected by Mr. Vaidya. :[1]

> "These ministers were presented each with one lakh of hon, one elephant, one horse, garments and ornaments. Gagabhat was given one lakh of rupees for seeing the whole ceremony through. The Dakshinas granted by Shivaji on the several occasions of the coronation ceremony were very large, as was suited to the occasion. Sabhasad reports that the whole expenditure amounted to one crore and forty-two lakhs of hons or 426 lakhs of rupees.
>
> Sabhasad relates that 50,000 Vaidika Brahmins had collected on the occasion of Shivaji's coronation.[2] Besides these there were Jogis, Sanyasis, etc., by thousands. These were fed or given corn below the fort. It is related in contemporary papers that Shivaji, before coronation, was weighed against gold and almost every other metal as well as auspicious thing. Dutch record describing the ceremony in detail on 3rd October PS. 1684 states that Shivaji weighed 17,000 hons or 160 lbs. and he was also weighed against silver, copper, iron, etc., and against camphor, salt, sugar, butter, various kinds of fruit, betel-nuts, etc., and the value of the whole was distributed amongst Brahmins. On the 7th June, the day after the coronation, Dakshina was given in general and every Brahmin got three to five rupees and everyone else, whether woman or child two rupees and one rupee. In all, the Dakshina amounted to one and a half lakhs of hon[3] in value.
>
> Oxenden also states in his diary from 18th May to 13th June that Shivaji was weighed against gold and the weight 16,000 hons, together with one lakh of hons in addition were distributed as Dakshinas among Brahmins.
>
> The above noted Dutch record further states that for the Vratya ceremony 7,000 hons were given to Gagabhat and 17,000 to other Brahmins. On the 5th of June Shivaji bathed in holy Ganges water and every Brahmin present was given 100 hons."

Can the amount paid to Gagabhat be taken as representing nothing more than a fee[4] properly payable to a priest? There is one circumstance which may be depended upon to show that Gagabhat was not even paid enough. It is that what Gagabhat got was comparatively much less than what the Ministers of Shivaji got. Two facts must however be noted as telling on the other side before any conclusion is drawn from this fact. They completely nullify the argument. The first is that the ministers themselves had made large presents[5] to Shivaji on his coronation. Moropant Pingle the Peshwa or Prime Minister of Shivaji, the Mujamdar had paid 7,000 hons and the other two ministers 5,000 hons each. Deducting these, the

1 *Shivaji, the Founder of Maratha Swaraj,* pp. 248 and 252.

2 Vaidya says this must be a mistake for 5,000. He gives no reason in support of his 'must'.

3 A *Hon* was equal to 3 rupees.

4 It must not be supposed that Gagabhat got only Rs. 1 lakh. He got in addition 7,000 *hons* or 21,000 rupees for Vratya Stoma. Further he must have received some part of the gold and the value of other things against which Shivaji was weighed and which was distributed among the Brahmins.

5 Vaidya, *ibid.,* p. 247.

presents given to them by Shivaji must be said to be much smaller than they appear to be.

The second fact is that these ministers of Shivaji were the greatest opponents of Shivaji in this project of coronation. They were staunch in their view that he was a Shudra and that he was not entitled to have his coronation performed as it was a right which belonged to the Kshatriya only. It is therefore, no surprise if Shivaji gave them large presents with a view to silence them and win them over permanently to his side. The amount of money paid to the ministers by Shivaji is therefore no criterion to determine whether the amount paid to Gagabhat was no more than a fair fee for officiation. Indeed there are so many twists and turns taken by Gagabhat that one is forced to the conclusion that it was more than fair fee and that it included some part as illegal gratification to keep him straight.

In this business of coronation the man who took the most leading part in bringing it about was a Kayastha from Maharashtra by name Balaji Avaji who was the Personal Secretary to Shivaji. The first step Balaji took was to send three Brahmins[1] as messengers from Shivaji to fetch Gagabhat from Benares with full information as to the status and purpose of Shivaji. What did Gagabhat do? He sent back the three messengers with a letter refusing to accept the invitation on the ground that in his. view Shivaji was a Shudra and was therefore not fit for coronation. The next step Balaji took was to collect evidence in support of Shivaji's claim to the status of a Kshatriya. He succeeded in obtaining a genealogy which showed that Shivaji was a Kshatriya descended from the Sisodiyas who were Rajputs and rulers of Mewad. This evidence he sent with another messenger,[2] to Gagabhat. Gagabhat seemed to have been impressed by the evidence for he agreed to come to Raigad to perform the coronation ceremony. What did Gagabhat do on his arrival? He said that he had reexamined the evidence and had come to the conclusion that Shivaji was a Shudra and was therefore unfit for coronation.

This is not the only somersault which Gagabhat took in this business. He took another and a very queer turn and declared that he was prepared to perform the coronation of Balaji Avaji for he was a

1 They were (1) Keshav Bhat, (2) Bhalachandra Bhat, and (3) Somanath Bhat.

2 The name of the messenger was Nilo Yesaji. He was a Kayastha. The three Brahmins who went on the first occasion to fetch Gagabhat were suspected to have commuted a foul play by acting contrary to their instructions and betraying the interest of Shivaji to which as Brahmins they were opposed. It is possible that Balaji felt that the letter brought by them was a piece of manoeuvre. That is why Balaji this lime sent a Kayastha, a man of his own caste.

Kayastha and therefore a Kshatriya but not of Shivaji who was Shudra. Gagabhat did not stop there. He again turned round and gave his opinion that Shivaji was a Kshatriya and that he was prepared to perform his coronation and even went so far as to write a treatise known as Gagabhatti in which he sought to prove that the Kayasthas were bastards.

What do these twists and turns show? Do they not show he was a most unwilling priest and that his willingness has had to be bought by cash? If this argument is sound then there is no doubt that his decision that Shivaji was Kshatriya was sold by him for illegal gratification.[1]

Lastly Shivaji's case is important because it shows that the Brahmins in the matter of status did not recognize as being bound by the principle of *res judicata*. They regard themselves as free to reopen a case already decided by them. For how long did the Brahmins respect their decision that Shivaji was a Kshatriya?

Shivaji started a new era from the day of his coronation, namely, 6th June 1674 which he called the Rajyabhisheka Era. How long did it remain in vogue? Only so long as Shivaji and his descendants remained as active rulers on the throne. The moment effective sovereignty passed into the hands of the Brahmin Peshwas, they issued an order[2] to discontinue it. Not only did they stop the use of the Era, they began using the style of the Muslim Emperors, namely, the Fasli year. The Brahmins did not stop there. They went further and began to question the very status of Shivaji's descendants as Kshatriyas.[3] They could do nothing to the two sons of Shivaji, Sambhaji and Rajaram. Shivaji had their Upanayana performed in his life-time by Brahmins with Vedic rites. They could do nothing to his grandson, Shahu because the Brahmins had no ruling power in their

1 For facts about Gagabhat's twist's and turns stated above, I have drawn on K. S. Thakare's Marathi booklet *Gramanyacha Itihas*. Thakare has in his turn drawn upon the Bakhars or Chronicles. How far they are reliable it is difficult to say. It must however be admitted that the twists and turns of Gagabhat appear to be true because without them it would be difficult to explain certain relevant and disturbing facts. For instance, take the following question : Did Gagabhat change after coming to Raigad and if so, why? The change and the reason for it is to be found in the discovery by Gagabhat that another Brahmin by name' Moropant Pingle who was no less than the Prime Minister of Shivaji was deadly opposed to Shivaji's claim to be a Kshatriya. It is likely that the two Brahmins on meeting together saw eye to eye which make Gagabhat change. Why did Moropant who was a strong opponent became later on a strong supporter of Shivaji's coronation? If it is a fact that Gagabhat did propose that Balaji should be proclaimed king it gives a complete explanation of Moropant's change of front. Balaji being Kayastha and the Kayasthas being the deadliest enemies of the Brahmins, Moropant consented to Shivaji's coronation as a lesser of the two evils.

2 Sardesai, *Marathi Riyasat,* II. p. 363, and Vaidya, *Shivaji,* p. 251

3 What follows is taken from *Siddhanta Vijaya,* edited by Rao Bahadur Dongre.

hands. The moment Shahu transferred his sovereign powers to his Brahmin Peshwa their road to repudiation became clear. There is no evidence whether Ramjee Raje the successor and adopted son of Shahu, who was minor and whose guardians were the Peshwas, had his Upanayana performed and if so, whether it was performed with Vedic rites. But there is definite evidence that the Upanayana ceremony of his successors, Shahu II, who was adopted in 1777 had been performed with *Pauranic* rites and by the direction of the Peshwas.[1] The performance of Upanayana of Shahu II with *Pauranic* rites was tantamount to his being regarded by the Peshwas as a Shudra. For it is only in the case of a Shudra that the ceremonies are performed with *Pauranic* rites. What happened to Maharaja Pratapsing who succeeded Shahu II in 1808 whether or not his Upanayana was performed and if performed whether it was performed with Vedic rites or *Pauranic* rites it is not possible to be definite. One thing, however, is definitely known that in about 1827 the Shankarcharya of Karvir in his judgement about the status of the Kayasthas of Sangli stated[2] *"that there were no Kshatriyas in the Kali age and that documents showing that neither Shivaji, nor Sambhaji nor Shahu were Kshatriyas exist in his Daftar"*. It is alleged that this statement is not to be found in the original judgement but was interpolated by the Brahmin Raja of Sangli. Be that as it may, it was a direct challenge to the status of Pratapsinha as a descent of Shivaji. Pratapsinha had to put the issue to a conference of Brahmins which was held in Satara in 1830. The majority gave a decision in favour and saved Pratapsinha from being degraded to the status of a Shudra.

Foiled in their attempt to level down one line of Shivaji to the status of a Shudra, the Brahmins began their attack on the status of the second line of Shivaji which had established itself at Kolhapur. In the reign of one of the rulers of Kolhapur by name Babasaheb Maharaj, the Palace Priest by name Raghunath Sastri Parvate took into his head to perform all ceremonies in the Palace with *Pauranic* rites. It is said that he was stopped from continuing the practice. Babasaheb died in 1886. From 1886 to 1894, all rulers were minors and the administration was in the hands of the British. There is no direct evidence as to the exact manner and mode of ceremonial performances adopted by the Palace priest. In 1902, the late Shahu Maharaj issued order to the Palace priest to perform all ceremonies

1 Dongre Siddhanta Vijaya, Introduction, p. 6.

2 Dongre, *Ibid.,* Introduction, p. 9.

in the Vedic manner. The priest refused and insisted on performing it in the *Pauranic* manner suggesting thereby that the rulers of Kolhapur were Shudras and not Kshatriyas. The part played by Sankaracharya of Karvir Math in this affair is very noteworthy. At the time of the controversy the head of the Math called Guru, had adopted a disciple (Sishya) by name Brahmanalkar and had given him all the rights of the head of the Math. At first both the Guru and the Sishya were on the side of the Palace Priest and against the Maharaja. Later on, the disciple took the side of the Maharaja and accepted his status as a Kshatriya. The Guru who remained on the side of the Priest excommunicated the Sishya. The Maharaja later on tried to create his own Sankaracharya[1] but he too proved false to the Maharaja.

Shivaji was recognised as a Kshatriya. Obviously, that status was not a personal honour conferred on him. It was a status in tail and belonged to his family as well as to his descendants. Nobody could question it. It could be lost by a particular descendant by doing some act which was inconsistent with it. It could not be lost generally. No act inconsistent with the Kshatriya status was attributed to any of the descendants of Shivaji. Yet the Brahmins came forward to repudiate the decision on their status.

This could happen only because the Brahmins claimed the power to do and undo the status of any Hindu at any time. They can raise a Shudra to the status of a Kshatriya. They can degrade the Kshatriya to the status of a Shudra. Shivaji's case proves that their sovereignty in this matter is without limit and without challenge.

These instances[2] are no doubt drawn from the Bombay Presidency only. But the principles from them are clear and general in their application. They are :

(1) That the Brahmins have the exclusive right to perform the Upanayana. Neither Shivaji, nor Pratap Sinha nor the Kayasthas, Panchals or Palashes wanted the Upanayana to be performed by a non-Brahmin. It is only once that the Kayasthas resolved to have their ceremonies performed by Kayasthas. But it was only a paper resolution.

(2) The Brahmin has the right to say whose Upanayana he will perform and whose he will not perform. In other words, the

1 He is known as Dr. Kurtakoti.

2 For details of each see a Marathi publication, *Gramanyacha Itihas,* by K. S. Thakare, published in 1919.

Brahmin is the sole judge of deciding whether a given community is entitled to Upanayana.

(3) The support of the Brahmins for the performance of Upanayana need not be based on honest grounds. It could be purchased by money. Shivaji got the support of the Brahmin Gagabhat on payment of money.

(4) The denial of Upanayana by the Brahmins need not be on legal or religious ground. It is possible for the denial to be based on purely political grounds. The refusal by the Brahmins of Upanayana to Kayasthas was entirely due to political rivalry between the two.

(5) The right of appeal against the denial of an Upanayana by a Brahmin is only to a Vidvat-Parishad and the Vidvat-Parishad is an assembly for which a Brahmin alone is eligible to be a member.

From the foregoing discussion, it must be clear to all that the Brahmins did possess the power to deny Upanayana. Given the powers and the motive, there is nothing strange if they used it against the Shudras.

●●

CHAPTER XI
THE STORY OF RECONCILIATION

SO far I have attempted to establish the following propositions :

(1) That it is the Brahmins who brought about the fall of the Shudras from the second to the fourth Varna in the Indo-Aryan Society;

(2) That the technique adopted by the Brahmins to degrade the Shudras was to deny them the benefit of the Upanayana;

(3) That this act of degradation was born out of the spirit of revenge on the part of the Brahmins who were groaning under the tyrannies and oppressions and indignities to which they were subjected by the Shudra kings.

While all this is crystal clear, there may be some who may yet have some such questions to ask, namely :

(i) Why should a quarrel with a few kings make the Brahmins the enemies of the whole Shudra community?

(ii) Was the provocation so great as to create a feeling of hatred and desire to seek vengeance?

(iii) Were not the parties reconciled? If they were, then their was no occasion for the Brahmins to degrade the Shudras.

(iv) How did the Shudras suffer this degradation?

These questions I admit have in them enough force and substance to call for serious consideration. It is only proper that they should be answered.

I

The question why the Brahmins, because of their quarrels with a few kings, should proceed to degrade the whole community of Shudras is not only relevant but is also very pertinent. There would, however, be no difficulty to answer this question if two things are borne in mind.

In the first place, the conflicts described in Chapter 9 between the Brahmins and the Shudra kings were not individual conflicts though they appear to be so. On the side of the Brahmins there is no doubt that the whole class was involved. Barring the episode relating to Vasishtha, all other episodes relate to Brahmins in general. On the side of the kings, it is true that the episodes mention individual kings as being involved in this conflict with the Brahmins. But it must not be forgotten that they all belonged to the same line to which Sudas belonged.

In so far as Sudas is concerned, the conflict was between the Brahmins and the Shudra clan of Kshatriyas. Of this, there can be no doubt. We have no direct evidence to say that the other offending kings also belonged to the Shudra clan of Kshatriyas. But we have other evidence which leads to the conclusion that they belonged to the same line of descent as Sudas.

Attention is invited to the following genealogical tree appearing overleaf which is taken from the Adi Parvan of the Mahabharata.[1]

The inter-relationship of the Kshatriya kings who came in conflict with the Brahmins throws some interesting light on the subject, *Pururavas*[2] is the son of Ila and the grandson of Manu Vaivasvata. *Nahusha*[3] is the grandson of Pururavas. *Nimi*[4] is one of the sons of Ikshvaku, who is the son of Manu Vivasvat. *Trishanku* [5] is 28th in descent from Ikshvaku. *Sudas* [6] is descended from Ikshvaku and is 50th in descent from him. *Vena* [7] is the son of Manu Vaivasvata. All of them claimed descent from Manu, some from him and some from Ikshvaku. Being descendants of Manu and Ikshvaku, it is possible to argue that they were all kindred of Sudas. Given the fact that Sudas is a Shudra, it follows logically that all these kings belonged to the Shudra group.

We have no direct evidence, but there would be nothing unnatural in supposing that in these conflicts with the Brahmins, the whole Shudra community, not merely a few Shudra kings, was involved. This conflict, it must be remembered, has taken place in the ancient past when life was tribal in thought and in action, and when the rule

1 Muir, Vol. I, p. 126

2 Muir, Vol. I, p. 126.

3 Muir Vol. I, p. 307.

4 Muir Vol. I, p. 316.

5 Muir Vol. I, p. 362.

6 Muir Vol. I, p. 362.

7 Divodasa, the father of Sudas, is spoken of in the *Rig Veda* as king of Purus and Purus are described as Ikshvakus.

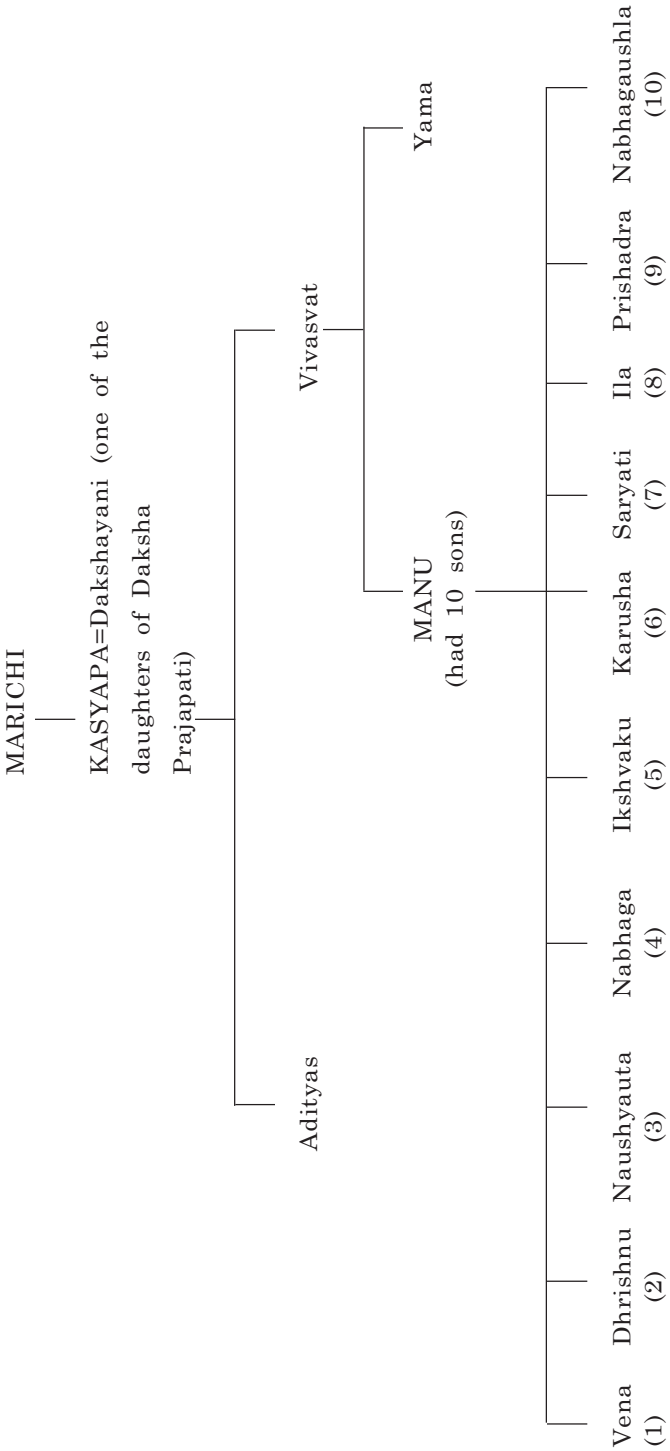
MARICHI
KASYAPA=Dakshayani (one of the daughters of Daksha Prajapati)
Adityas
Vivasvat
Yama
MANU (had 10 sons)
Vena (1)
Dhrishnu (2)
Naushyauta (3)
Nabhaga (4)
Ikshvaku (5)
Karusha (6)
Saryati (7)
Ila (8)
Prishadra (9)
Nabhagaushla (10)

was that what was done by one individual belonging to the tribe was deemed to be done by the whole tribe. In all ancient societies the unit was the tribe or the community and not the individual, with the result that the guilt of the individual was the guilt of the community and the guilt of the community was the guilt of every individual belonging to it. If this fact is borne in mind, then it would be quite natural to say that the Brahmins did not confine their hatred to the offending kings, but extended it to the whole of the Shudra community and applied the ban against Upanayana to all the Shudras.

II

As to whether there was enough provocation, the matter is hardly open to question. Tempers must have risen high on both sides. There was enough combustible material on both sides for an explosion to take place.

On the side of the Brahmins, it is evident that their pretensions to social superiority and their claim for special privileges had become outrageous in character and unbearable in extent.

The following is a catalogue[1] of the pretensions put fourth by the Brahmins :

(i) The Brahmin must be acknowledged to be the guru to all Varnas by the mere fact of his birth;

(ii) The Brahmana has the sole right of deciding upon the duties of all other classes, what conduct was proper to them and what should be their means of livelihood; and the other classes were to abide by his directions and the king was to rule in accordance with such directions;

(iii) The Brahmana is not subject to the authority of the king. The king was the ruler of all except the Brahmana;

(iv) The Brahmana is exempt from (1) whipping; (2) fetters being put on him; (3) the imposition of fines; (4) exile; (5) censure and (6) abandonment.

(v) A Shrotriya (a Brahmana learned in Vedas) is free from taxes.

(vi) A Brahmana is entitled to claim the whole of the treasure trove if he found it. If the king found it he must give half to the Brahmana.

(vii) The property of a Brahmana dying without an heir shall not go to the king, but shall be distributed among Shrotriyas or Brahmanas.

(viii) The king meeting a Shrotriya or a Brahmana on the road must give way to the Brahmana.

(ix) The Brahmana must be saluted first.

(x) The person of a Brahmana is sacred. No death sentence could be passed against a Brahmana even if he is guilty of murder.

1 This summary is based on the catalogue given in Kane's *Dharma Shastra,* Vol. II (I), pp. 138-153.

(xi) Threatening a Brahmana with assault, or striking him or drawing blood from his body is an offence.

(xii) For certain offences the Brahmana must receive a lesser punishment than members of other classes.

(xiii) The king should not summon a Brahmana as a witness where the litigant is not a Brahmana.

(xiv) Even when a woman has had ten former husbands who are not Brahmanas, if a Brahmana marries such a woman, it is he alone who is her husband and not a Rajanya or a Vaishya[1] to whom she may have been married.

After discussing these pretensions and privileges claimed by the Brahmanas, Mr. Kane says :[2]

> "Further privileges assigned to Brahmanas are : free access to the houses of other people for the purpose of begging alms; the right to collect fuel, flowers, water and the like without its being regarded as a theft, and to converse with other men's wives without being restrained (in such conversation) by others; and the right to cross rivers without paying any fare for the ferry-boat and to be conveyed (to the other bank) before other people. When engaged in trading and using a ferry boat, they shall have to pay no toll. A Brahmana who is engaged in travelling, who is tired and has nothing to eat, commits no wrong by taking two canes of sugar or two esculent roots."

These privileges have no doubt grown in course of time and it is difficult to say which of them had become vested rights when these conflicts were raging. But there is no doubt that some of the most annoying ones such as (i), (ii), (iii), (viii) and (xiv) had then come into existence. These were enough to infuriate any decent and self-respecting body of men.

On the side of the Kshatriya kings they could not be supposed to be willing to take things lying low. How could they? It must not be forgotten that most of the Kshatriya kings who came into conflict with the Brahmins, belonged to the solar line.[3] They differed from the Kshatriyas of the lunar line in learning, in pride and in martial spirit. The Kshatriyas who belonged to the solar line were a virile people, while those who belonged to the lunar line were an imbecile lot without any self-respect. The former challenged the Brahmins. The latter succumbed to them and became their slaves. This was as it should be. For while the Kshatriyas of the lunar line were devoid of any learning, those belonging to the solar line were not merely the equals of Brahmins in the matter of learning, they were their

1 No. (xiv) is not mentioned by Kane, but is mentioned in the Atharva Veda V. 17. 8-9; see Muir, Vol. I, p. 280.

2. Ibid., pp. 153-4.

3. Only Pururavas and Nahusha belong to the Lunar line of Kshatriyas as may be seen from

superiors. Several of them were the authors of the Vedic hymns and were known as Rajarishis. This was particularly true of those who came into conflict with the Brahmins.

According to the Anukramanika to the Rig Veda as well as according to tradition the following hymns are said to have been composed by the undermentioned kings :[1]

> "vi.15: Vitahavya (or Bharadvaja); x.9: Sindhuvipa, son of Ambarisha (or Trisiras, son of Tvashtri); x.75: Sindhukshit, son of Priyamedha; x. 133, Sudas son of Pijavana; x. 134, Mandhatri, son of Yuvanasva; x. 179, Sibi, son of Usinara, Pratardana, son of Divodasa and king of Kasi, and Vasumanas, son of Rohidasva; and x. 148 is declared to have had *Prithi Vainya*."

The Matsya Purana also gives the lists[2] of those who composed the hymns of the Rig Veda in a passage which says :

> "Bhrigu, Kashya, Prachetas, Dadhicha, Atmavat, Aurva, Jamadagni, Kripa, Sharadvata, Arshtishena, Yudhajit, Vitahavya, Suvarchas, *Vaina, Prithu, Divodasa*, Brahmasva, Gritsa, Saunaka—these are the nineteen Bhrigus, composers of hymns. Angiras, Vedhasa, Bharadvaja, Bhalandana, Ritabadha, Garga, Siti, Sankriti, Gurudhira, Mandhatri, Ambarisha, Yuvanasva, Purukutsa, Pradyumna, Shravanasya, Ajamidha, Haryashva, Takshapa, Kavi, Prishadashva, Virupa, Kanva, Mudgala, Utathya, Sharadvat, Vajasravas, Apasya, Suvitta, Vamadeva, Ajita, Brihaduktha, Dirghatamas, Kakshivat, are recorded as thirty-three eminent Angirases. These were all composers of hymns. Now learn the Kasyapas... *Vishvamitra*, son of Gadhi, Devaraja, Bala the wise Madhuchhandas, Rishabha, Aghamarshana, Ashtaka, Lohita, Bhritakila, Vedasravas, Devarata, Puranashva, Dhananjaya, the glorious Mithila, Salankayana,—these are to be known as the thirteen devout and eminent Kusikas. Manu Vaivasvata, Ida, king Pururavas, these are to be known as the eminent utterers of hymns among the Kshatriyas. Bhalanda, Vandya, and Sanskirti these are always to be known as the three eminent persons among the Vaishyas who were composers of hymns. Thus ninety-one persons have been declared by whom hymns have been given birth to, Brahmanas, Kshatriyas and Vaishyas.

the following genealogical tree :—

```
Soma=Tara
    |
  Budha=Ila
      |
      Pururav as=Urvashi
            |
            Ayus
              |
              Nahusha
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If it is bome in mind that Ha the mother of Pururavas was the daughter of Manu Vaivasvata it will be seen that they too were the kith and kin of the solar Kshatriyas who came into conflict with the Brahmins.

1. Muir, Vol. I, p. 268
2. Muir Vol. I, p. 279.

In the list of the authors of the Vedic hymns there are not only names of many Kshatriyas, there are names of many of the Kshatriyas who had come into conflict with the Brahmins. The Kshatriyas were the leaders among the Vedic hymn makers. The most famous Vedic hymn namely the Gayatri mantra is the production of Vishvamitra who was a Kshatriya. It was impossible for the Kshatriyas of this calibre not to take up this challenge of the Brahmins.

Their pride which was born out of their prowess and their learning must have been so greatly wounded by the pretensions of the Brahmins that when they did take up the challenge of the Brahmins they did it in a ruthless spirit. They hit the Brahmins hip and thigh. Vena forced them to worship him and no other god; Pururavas looted their wealth. Nahusha yoked them to his chariot and made them drag it through the city. Nimi flouted the exclusive and hereditary right of a family priest to perform all the ceremonies in the family and Sudas went to the length of burning alive the son of Vasishtha who was once his family priest. Surely, there cannot be greater cause to provoke the Brahmins to seek their vengeance upon the Shudras.

III

On the point of possible reconciliation between the Brahmins and the Shudras, there is no doubt some evidence on which some people might rely. Before stating my views upon the worth of this evidence, it is desirable to draw attention to it. The evidence consists of stories of reconciliation which are scattered throughout the Mahabharata and the Puranas.

The first story of reconciliation concerns the two tribes, the Bharatas to whom Vishvamitra belonged and the Tritsus to whom Vasishtha belonged. That the Bharatas were enemies of Vasishtha or Tritsus is clear from the Rig Veda itself which says :[1]

III. 53.24.—"These sons of Bharata, O Indra, desire to avoid (the Vasishthas), not to approach them."

The story of their reconciliation is told in the Adi Parvan of the Mahabharata[2] and runs as follows :

> "And the hosts of their enemies also smote the Bharatas. Shaking the earth with an army of four kinds of forces, the Panchalya chief assailed him having

1. Muir, Vol. I, p. 354.
2. Muir Vol. I, p. 361.

rapidly conquered the earth and vanquished him with ten complete hosts. Then the king Samvarana with his wives, ministers, sons and friends fled from that great cause of alarm and dwelt in the thickets of the great river Sindhu (Indus) in the country bordering on the stream, and near a mountain. There the Bharatas abode for a long time, taking refuge in a fortress. As they were dwelling there, for a thousand years, the venerable rishi Vasishtha came to them. Going out to meet him on his arrival, and making obeisance, the Bharatas all presented him with the *arghya*, offering, showing every honour to the glorious rishi. When he was seated, the king himself solicited him: 'Be thou our priest; let us strive to regain my kingdom,' Vasishtha consented to attach himself to the Bharatas, and as we have heard, invested the descendant of Puru with the sovereignty of the entire Kshatriya race, to be a horn (to have a mastery) over the whole earth. He occupied the splendid city formerly inhabited by Bharata, and made all kings again tributary to himself,"

The second story relates to the conflict between the Bhrigus and the Kshatriya king Kritavirya and their subsequent reconciliation. It occurs in the Adi Parvan of the Mahabharata i[1]

"There was a king named Kritavirya, by whose liberality the Bhrigus, learned in the Vedas, who officiated as his priests, had been greatly enriched with cows and money. After he had gone to heaven, his descendants were in want of money, and came to beg for a supply from the Bhrigus, of whose wealth they were aware. Some of the latter hid their money underground, others bestowed it on Brahmins, being afraid of the Kshatriyas, while others again gave these last what they wanted. It happened, however, that a Kshatriya while digging the ground, discovered some money buried in the house of a Bhrigu. The Kshatriyas then assembled and saw this treasure, and, being incensed, slew in consequence all the Bhrigus, whom they regarded with contempt, down to the children in the womb. The widows, however, fled to the Himalaya mountains. One of them concealed her unborn child in her thigh. The Kshatriyas, hearing of its existence from a Brahmani informant sought to kill it, but it issued forth from his mother's thigh with lustre, and blinded the persecutors. After wandering about bewildered among the mountains for a time, they humbly supplicated the mother of the child for the restoration of their sight; but she referred them to her wonderful infant Aurva, into whom the whole Veda, with its six Vcdangas, had entered, as the person who (in retaliation of the slaughter of his relatives) had robbed them of their eye-sight, and who alone could restore it. They accordingly had recourse to him, and their eye-sight was restored. Aurva, however, mediated the destruction of all living creatures, in revenge for the slaughter of the Bhrigus, and entered on a course of austerities which alarmed both gods, asuras and men; but his progenitors (Pitris), themselves appeared, and sought to turn him from his purpose by saying that they had no desire to be rovenged on the Kshatriyas. It was not from weakness that the devout Bhrigus overlooked the massacre perpetrated by the murderous Kshatriyas. 'When we became distressed by old age, we ourselves desired to be slaughtered by them. The money which was

1. Muir, Vol. I, pp. 448-449

buried by some one in a Bhrigu's house was placed there for the purpose of exciting hatred, by those who wished to provoke the Kshatriyas. For what had we who were desiring heaven, to do with money?' They added that they hit upon this device because they did not wish to be guilty of suicide, and concluded by calling upon Aurva to restrain his wrath, and abstain from the sin he was meditating: 'Destroy not the Kshatriyas, o son, nor the seven worlds. Suppress thy kindled anger which nullifies the power of austere fervour.' Aurva, however, replies that he cannot allow his threat to remain unexecuted. His anger, unless wreaked upon some other object, will, he says, consume himself, and he argues, on grounds of justice, expediency and duty, against the clemency which his progenitors recommended. He is, however, persuaded by the Pltris to throw the fire of his anger into the sea, where they say it will find exercise in assailing the watery element, and in this way his threat will be fulfilled, It accordingly became the great Hayasiras, known to those who are acquainted with the Veda, which vomits forth that fire and drinks up the waters."

The third story concerns the conflict between Arjuna, son of Kritavirya, the king of the Haihayas and Parashurama and the subsequent reconciliation between them. It occurs in the Vanaparvan of the Mahabharata and runs as follows :[1]

"Arjuna, son of Kritavirya and king of the Haihayas, had, we are told, a thousand arms. He obtained from Dattaireya an aerial car of gold, the march of which was irresistible. He thus trod down gods, Yakshas, rishis, and oppressed all creatures. The gods and rishis applied to Vishnu and he along with Indra, who had been insulted by Arjuna, devised the means of destroying the latter. At this time, the story goes on, there lived a king of Kanyakubja, called Gadhi, who had a daughter named Satyavati. The marriage of this princess to the rishi Richika and the birth of Jamadagni, are then told in nearly the same way as above narrated. Jamadagni and Satyavati had five sons, the youngest of whom was the redoubtable Parashurama. By his father's command he kills his mother (who, by the indulgence of impure desire, had fallen from her previous sanctity), after the four elder sons had refused this matricidal office, and had in consequence been deprived of reason by their father's curse. At Parashurama's desire, however, his mother is restored by his father to life, and his brothers to reason; and he himself is absolved from all the guilt of murder; and obtains the boon of invincibility and long life from his father. His history now begins to be connected with that of king Arjuna (or Kritavirya). The latter had come to Jamadagni's hermitage, and had been respectfully received by his wife; but he had requitted this honour by carrying away by force the calf of the sage's sacrificial cow, and breaking down his lofty trees. On being informed of this violence, Parashurama was filled with indignation, attacked Arjuna, cut off his thousand arms, and slew him. Arjuna's son, in return slew the peaceful sage Jamadagni, in the absence of Parashurama. Parashurama incensed at the slaughter of his father, having vowed in consequence to sweep away all • Kshatriyas from the earth, seized his weapons and slaying all the sons and grandsons of Arjuna, with thousands of the Haihayas, he turned the earth into

1. Muir, Vol. I, pp. 449-454

a mass of ensanguined mud. Having thus cleared the earth of Kshatriyas he became penetrated by deep compassion and retired to the forest. After some thousands of years had elapsed, the hero, naturally irascible, was taunted by Paravasu, the son of Raibhaya and grandson of Vishvamitra, in a public assembly in these words : 'Are not these virtuous men, Pratardana and the others, who are assembled at the sacrifice in the city of Yayati—are they not Kshatriyas? Thou hast failed to execute thy threat, and vainly boastest in the assembly. Thou hast withdrawn to the mountain from the fear of those valiant Kshatriyas, while the earth has again become overturn by hundreds of their race,' Hearing these words, Rama seized the weapons. The hundreds of Kshatriyas who had before been spared had now grown powerful kings. Those, however, Parashurama, now slew with their children, and all the numerous infants then unborn as they came into the world. Some, however, were preserved by their mothers. Having twenty-one times cleared the earth of the Kshatriyas, Rama gave her as a sacrificial fee to Kasyapa at the conclusion of an Ashvamedha."

After telling the story of the conflict the author of the Mahabharata proceeds to narrate the story of reconciliation in the following terms :[1]

"Having one and twenty times swept away all the Kshatriyas from the earth, the son of Jamadagni engaged in austerities on Mahendra, the most excellent of mountains. After he had cleared the world of Kshatriyas, their widows came to the Brahmins, praying for offspring. The religious Brahmins, free from any impulse of lust, cohabited at the proper seasons with these women, who in consequence became pregnant, and brought forth valiant Kshatriya boys and girls, to continue the Kshatriya stock. Thus was the Kshatriya race virtuously begotten by Brahmins on Kshatriya women and became multiplied and long-lived. Thence there arose four castes inferior to the Brahmins."

The above instances of conflicts and conciliations between Brahmins and Kshatriyas do not relate to those Kshatriya kings who have figured in history as having declared war on the Brahmins. To turn to instances of their[2] stories of reconciliation with the Brahmins the first is that of Kalmashapada. He is said to be the son of Sudas.[3] The story is given in the Adiparvan of the Mahabharata.[4] That part of the story which narrates the enmity between Kalmashapada and Vasishtha has already been recounted.[5] The part of the story which deals with reconciliation runs as follows :

"After roaming about over many mountains and countries, he (Vasishtha) was followed home by his daughter-in-law Adrisyanti, Shaktri's [6] widow, from whose

1. Muir, Vol. I, pp. 451-452

2. I am not sure that the kings mentioned in the episodes which follow are the same as those mentioned in Chapter IX. I refer to them because they belong to the Ikshvaku family.

3. I am not sure which Sudas he is. From the details he seems to be Paijavana Sudas.

4. Muir, Vol. I, pp. 415-418.

5. See Chapter 9.

6. This is probably a mistake for Shakti.

womb he heard a sound or the recitation of the Vedas, as she was pregnant with a child, which, when born, received the name of Parasara. Learning from her that there was thus a hope of his line being continued, he abstained from further attempts on his own life. King Kalmashapada, however, whom they encountered in the forest, was about to devour them both when Vasishtha stopped him by a blast from his mouth, and sprinkling him with water consecrated by a holy text, he delivered him from the curse by which he had been affected for twelve years. The king then addressed Vasishtha thus: 'Most excellent sage, I am Saudasa, whose priest thou art, what can I do that would be pleasing to thee?' Vasishtha answered : 'This which has happened has been owing to the force of destiny; go, and rule thy kingdom; but, o monarch, never condemn the Brahmins.' The king replied, 'Never shall I despise the most excellent Brahmins; but submitting to thy commands I shall pay thee all honour. And I must obtain from thee the means of discharging my debt to the Ikshvakus. Thou must give me the offspring which I desire.' Vasishtha promised to comply with his request. They then returned to Ayodhya. And Vasishtha having been solicited by the king to beget an heir to the throne, the queen[1] became pregnant by him, and brought forth a son at the end of twelve years."

The second instance occurs in the Anushasanaparvan of the Mahabharata :[2]

"At the time the eloquent king Saudasa sprung from the race of Ikshvaku proceeded, after salutation, to make an enquiry of his family priest Vasishtha, the eternal saint, the most excellent of rishis, who was able to traverse all the world, and was a treasure of sacred knowledge: 'What, o, venerable and sinless man, is declared to be the purest thing in the three worlds, by constantly celebrating which one may acquire the highest merit?' Vasishtha in reply expatiates at great length on the merit resulting from bestowing cows, and ascribes to these animals some wonderful properties so that they are the 'support of all beings,' the present and the future, and describes the cow as 'pervading the universe, mother of the past and the future'. The great self-subduing king, considering that these words of the rishi were most excellent, lavished on the Brahmins very great wealth in the shape of cows and obtained the worlds. So here we find the son of Saudasa extolled as a saint."

The third instance relates to the reconciliation in which there is reference to Sudasa's descendants. It occurs in the Shanti Parvan of the Mahabharata :[3]

"Having received the dominion over the earth, Kasyapa made it an abode of Brahmins, and himself withdrew to the forest. Shudras and Vaishyas then began to act lawlessly towards the wives of the Brahmins, and in consequence of there being no government, the weak were oppressed by the strong, and no one was master of any property. The earth being distressed by the wicked, in

1. Her name was Madayanti, She is referred to in the Anushashana Parvan at the wife of Mitrasaha, which is another name for Kamashapada—See Muir, Vol. I, pp, 418, 423 and 514,

2. Muir, Vol. I, p. 374.

3. *Ibid.*, Vol. I, pp. 455-456.

consequence of that disorder, and unprotected according to rule by the Kshatriyas, the guardians of justice, descended to the lower regions. Perceiving' her moving from place to place in terror, Kasyapa upheld her with his thigh (*uru*). From this circumstance she derives her name of *urvi*. The goddess Earth then propitiated Kasyapa and supplicated him for protection, and for a king. 'I have,' she said, 'preserved among females many Kshatriyas who have been bom in the race of Haihayas; let them be my protectors. There is the heir of Pauravas, the son of Viduratha, who has been brought up by bears on the mountain Rikshavat; let him protect me. So, too, the heir of Saudasa, has been preserved by the tender-hearted and glorious priest, Parasara who had performed, though a Brahmin, all menial offices for him like a Shudra whence the prince's name Sarvakarman. 'After enumerating other kings who had been rescued, the Earth proceeds: 'All these Kshatriya descendants have been preserved in different places, abiding continually among the classes of dyokaras and goldsmiths. If they protect me, I shall continue unshaken. Their fathers and grandfathers were slain on my account by Rama, energetic in action. It is incumbent on me to avenge their cause. For I do not desire to be always protected by an extraordinary person (such as Kasyapa); but I will be content with an ordinary ruler. Let this be speedily fulfilled.' Kasyapa then sent for these Kshatriyas who had been pointed out by the Earth, and installed them in the kingly office."

Such is the evidence. Can anybody accept it as reliable? In my opinion, far from accepting it, one should beware of such evidence.

In the first place, all these stories of reconciliation end, for the Kshatriyas, in peace without honour. In every case, the Kshatriyas are shown to have undergone an abject surrender. The Bharatas are the enemies of Vasishtha. Suddenly there is a famine in their country. They leave the country and lose their kingdom. They implore Vasishtha their age-old enemy and pray that he become their priest and save them from the calamity. In the story of the Bhrigus and the Kshatriyas, the credit is given to the Brahmins as being too proud to fight. In the story of the Haihaya Kshatriyas and the Saudasa such as Kalmashpada, the surrender of the Kshatriyas was so to say purchased by them by offering their women to the victorious Brahmins. The stories are all doctored with a view to glorify the Brahmins and humiliate the Kshatriyas. Who can take such dirty, filthy, abominable and vainglorious stories of reconciliation as true historical facts? Only a supporter of Brahminism can do so.

Such is the general character of the evidence on the question of reconciliation. Coming to the particular case of reconciliation between the Brahmins and the Shudras, the descendants of Sudas, there is ample, evidence to show that no such reconciliation had taken place. In the first place, it cannot be gainsaid that Parasara, the son

of Shakti or Shaktri, the son of Vasishtha, when he heard of the way in which his father had met his death—namely, that he was burnt alive by Sudas, the Shudra king,—determined to execute a general slaughter of all creatures. The general slaughter is, of course, a figurative term. What is meant is that Vasishtha took a vow of general vengeance against the descendants of Sudas, namely, the Shudras. It is no doubt said in the Mahabharata that Vasishtha restrained Parasara and persuaded him not to carry out his threat of vengeance by telling him how the Bhrigus and the Kshatriyas had come into conflict and how the former won against the latter by adopting non-violence. But this story cannot be true; for, like other stories it is doctored with a view to bring glory to the Brahmins.

In the second place, the strongest proof in support of the contention that there was no reconciliation between the Brahmins and the Shudras comes from the legislation enacted by the Brahmins against the Shudras. The laws against the Shudras have already been referred to. Their growth and their extraordinary character have been pointed out. All that remains to do is to say that against this background of black laws any suggestion regarding reconciliation must appear to be wholly untenable. The Brahmins not only did not forgive the Shudras, they pursued even the progeny of the Shudras with the same spirit of relentless revenge. As many people do not seem to have any idea of this, it may be desirable to state a few facts regarding the Chandala and the Nishada.

The Chandala and Nishada are the issues of mixed marriages. Nishada is an anuloma while the Chandala is a Pratiloma. The anulomas[1] are held to be eligible for Upanayana. But curiously enough an exception is made to this rule. Nishada who is the son of Brahman from a Shudra woman, though an anuloma, is held not to be eligible for Upanayana. It is interesting to know why this exception was made. The only answer seems to be that this arbitrary act is an act of revenge against the children of one's enemy.

1 There are six anulomas as shown in the following table :

Father	*Mother*	*Name of the progeny*
Brahmin	Kshatriya	Murdhavasikta
Brahmin	Vaishya	Ambashtha
Brahmin	Shudra	Nishada
Kshatriya	Vaishya	Mahishya
Kshatriya	Shudra	Urga
Vaishya	Shudra	Karana

Turning to the Pratilomas,[1] Manu no doubt calls, all of them as the basest of men. At the same time, the stigma on the Pratilomas is not evenly distributed among all of them. In the matter of rights and privileges, the Ayogava and the Kshattar are treated with incredible consideration, while the Chandala is subjected to unspeakable condemnation. As an illustration of this discrimination one can cite the following provisions in the Manu Smriti :

As to the Ayogava, the *Manu Smriti* merely says :

> Carpenting (shall be the occupation) of an Ayogava.—X.46. As to the Kshattar the *Manu Smriti* says :
>
> ..... catching and killing animals that live in holes (is the occupation) of Kshattar.—x.49.

They are only assigned low occupations.

Compare with this what the Manu Smriti has to say about the Chandala :

> "A Chandala and a boar, a cock and also a dog, and a woman in her courses and an eunuch, may not see the Brahmins eating."—
>
> iii. 239.

One may not abide with outcasts, nor Chandalas, nor Pukkasas, nor idiots, nor proud (people), nor with the low-born (people) nor with Antyavasayins.—iv.79.

One becomes pure by bathing if one has touched a Chandala, or a woman in her courses, an outcaste, also a woman lying-in, a corpse or one who has touched it.—v.85.

Manu declared the flesh of (a beast) killed by dogs (to be pure); also the flesh of an animal killed by other carnivorous (animals) (or) by Chandala (and) other Dasyus.— v. 131.

Two-fold should be the fine of a criminal sentenced within a year, and just as much if one cohabit with a Vratya woman or a Chandala woman.— viii.373.

The man, however, who foolishly allows this to be done by any other (wife) than the one of his own caste when the latter is at hand, has been, of old, looked upon as (no whit better than) a

1 Gaut. Dh, S., IV. 21, quoted by Kane, II, Part I, p. 229.

Father	*Mother*	*Name of the caste*
Shudra	Brahmin	Chandala
Shudra	Kshatriya	Kshattar
Shudra	Vaishya	Ayogava
Vaishya	Brahmin	Suta
Vaishya	Kshatriya	Vaidehaka
Kshatriya	Brahmin	Magadha

Chandala.—ix.87.

The dwelling of Chandalas and Svapacas (should be) outside the village; they should be deprived of dishes (apapatra); their property (consists of) dogs and asses.—x.51.

Moreover, Vishvamitra, well knowing right and wrong, being oppressed by hunger proceeded to eat the ramp of a dog, having it from the hand of a Chandala.—x. 108.

At no time should a Brahmin beg property from a Shudra for the sake of sacrifice, for on offering sacrifice after begging (from a Shudra) he is born after death as a Chandala.-—vi.24.

On having (carnal) intercourse with Chandala women (or low born woman), on eating their food or receiving (presents) from them, a Brahmin (if he has done so) unwittingly, falls; but (if he has done so) wittingly, he comes to an equality (with them).— xi.175.

The slayer of a Brahmin enters the womb of dogs, boars, asses, camels, cows, goats, sheep, (forest) animals, birds, Chandalas and Pukkasas.—xi.55.

How different is the treatment accorded to the Chandala as compared to the treatment accorded to the Ayogava and the Kshattar when all of them are Pratilomas? Why should the Chandala be singled out as the most infamous of the Pratilomas? Only because he is the progeny of the hated Shudra. It is just an act of revenge against the children of one's enemy.

All this leaves no doubt that there was no reconciliation between the Brahmins and the Shudras.

IV

Coming to the last objection, it appears that behind it there is a feeling that the Shudras must have been a very large part of the Indo-Aryan society. With such a feeling it does appear rather strange that the Shudras should have suffered silently the perpetration of such an act as the denial of the Upanayana. Because the Shudras in the Hindu Society form such a vast proportion of the population, so the Shudras of the Indo-Aryan Society must also have formed a very large proportion of the population, can be the only basis for such a feeling. Such an inference is without any foundation, for the Shudras of the Indo-Aryan Society are absolutely different in race from the Shudras of the Hindu Society. The Shudras of the Hindu Society are not the racial descendants of the Shudras of the Indo-Aryan Society.

This confusion has arisen because of the failure to realize that the meaning of the word 'Shudras' in the Indo-Aryan society is quite different from the meaning it has in the Hindu society. In the Indo-Aryans the word Shudra was proper name of one single people. It was the name of a people who belonged to a particular race. The word Shudra, as used in the Hindu society, is not a proper name at all. It is an epithet for a low uncultured class of people. It is a general cognomen of a miscellaneous and heterogeneous collection of tribes and groups, who have nothing in common except that they happen to be on a lower plane of culture. It is wrong to call them by the name Shudras. They have very little to do with their namesakes of the Aryan society, who had offended the Brahmins. It is a pity that these innocent and backward people of later days have been rolled up with the original Shudras and subjected to the same penalties for which they had given no cause.

That the Shudras of the Indo-Aryan and the Shudras of the Hindu Society are different and distinct is a fact which was present at one time to the minds of the Dharma Sutrakaras is quite clear. This is evident from the distinction they made between *Sacchudra* and *Asac-chudra* and between *Aniravasita* Shudras and Niravasita Shudras. *Sachudra* means a cultured Shudra and *asac-chudra* means an uncultured Shudra. Nirvasita Shudra means a Shudra living in the village community. Anirvasita Shudra means a Shudra living outside the village community. It is quite wrong to say as some[1] do that this division indicates that the condition of Shudras in the eyes of the lawgivers was improving, in that some were admitted to social intercourse when formerly none was. The correct interpretation is the Sacchudra and Nirvasita Shudra refer to the Shudras of the Aryan society and the *asac-chudra* and the *Anirvasita* Shudra refer to the Shudras by epithet who had begun to form part of the Hindu society. We are concerned with the Shudra of the Aryan society. They have no connection with the later-day Shudras of the Hindu society. That being so, the fact that the Shudras of the Hindu society form such a large number cannot be made the basis for an argument that the Shudras of the Indo-Aryans must have also been a very large body of people. We do not know exactly whether the Shudras were a tribe, a clan or a moiety or a group of families. But even if they were as

1 Sec Kane, II (I), p. 123. His view that this distinction implies that Shudras were being gradually raised from their low status is quite incorrect.

big as a tribe, they could not have been larger than a few thousand. The Bharatas are being expressly spoken of in the Rig Veda, vii.33.6, as being small in number. The Satapatha Brahmana referring to a horse sacrifice performed by the Panchala king Son Satrasaha[1] says :

> "When Satrasaha makes the Ashvamedha offering the Taurvasas arise, six thousand and six and thirty, clad in mail."

If it is any indication that the tribe of Taurvasas numbered six thousand, the Shudras could not be very many.

Apart from the question of numbers, what could the Shudras have done to prevent the calamity? If some Brahmins whom they had offended refused to perform their Upanayana, could they have got the services of other Brahmins whom they had not offended? Such a possibility would of course depend upon various circumstances. In the first place, we do not know whether all the Brahmins had formed a common front and whether it was possible to break up that front. We do not know that at the time when the issue was a burning issue the Brahmins had become a caste. But it is clear[2] that even in the times of the Rig Veda, Brahmins were a class by themselves, had developed class consciousness and were keen on maintaining class interests. In that event it would have been difficult for the Shudras to break up the conspiracy of the Brahmins. Secondly, it might also be that the performance of Upanayana had become the exclusive right of the family priest. The story of king Nimi[3] shows that the performance of sacrifices had become the exclusive right of the family priest. If there is substance in these suggestions, then obviously the Shudras could not have done much to prevent the common front of the Brahmins operating against them.

Another possibility was the forging of a common front among all the Kshatriyas which might have had the effect of weighing down the opposition of the Brahmins. Whether such a thing was possible can only be a matter of speculation. In the first place, did the Shudras realize what the effect of the loss of Upanayana was going to be on their future status? I am sure they did not. Secondly, were the Kshatriyas a united body of people? I doubt if they were. Thirdly, had the other Kshatriya kings any symapathy for the Shudras? If the story of the Dasharajna Yuddha told in the Rig Veda is true, it is quite

1. Quoted by Oldcnberg, *Life of Buddha*, p. 404.
2. Kane, Vol. H (1) p. 29.
3. *Supra*, p. 175

obvious that there was not much love lost between the Shudras and the other non-Shudra Kshatriyas.

Taking all these circumstances into consideration, there is nothing strange if the Shudras suffered the denial of the Upanayana by the Brahmins to be a fact.

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CHAPTER XII
THE THEORY IN THE CRUCIBLE

I

THE object of this essay was to trace the origin of the Shudras and discover the causes of their degradation. After an examination of historical material and of theories suggested by various writers—orthodox as well as modern—I have put forth a new thesis. In the preceding chapters, it has been presented in parts for the facility of laying the foundation of each part separately. It is time these parts were assembled together for a full and complete understanding of what the thesis is. It may be summarized as follows :

(1) The Shudras were one of the Aryan communities of the Solar race.

(2) The Shudras ranked as the Kshatriya Varna in the Indo-Aryan Society.

(3) There was a time when the Aryan Society recognized only three Varnas, namely, Brahmins, Kshatriyas and Vaishyas. The Shudras were not a separate Varna but a part of the Kshatriya Varna.

(4) There was a continuous feud between the Shudra kings and the Brahmins, in which the Brahmins were subjected to many tyrannies and indignities.

(5) As a result of the hatred towards the Shudras due to their tyrannies and oppressions, the Brahmins refused to invest the Shudras with the sacred thread.

(6) Owing to the loss of the sacred thread the Shudras became socially degraded, fell below the rank of the Vaishyas and came to form the fourth Varna.

It now remains to assess the validity of this thesis. It is usual for the author to leave this to others to do it. I propose to make a departure and myself enter upon the task of putting my thesis to

test. I do so because it gives me an opportunity of vindicating my thesis.

II

I can well imagine my critics to allege that my thesis rests upon a single statement from the Mahabharata in which Paijavana is described as a Shudra; that identification of Paijavana with Sudas is not proved beyond the shadow of doubt; that the description of Paijavana as a Shudra does not occur in any other place except in a single place in the Mahabharata. How can a theory built on such weak foundations be acceptable? They are bound to invoke the usual agreement that a chain is not stronger than its weakest link. I am sure that my thesis cannot be discredited and demolished in such an easy manner.

In the first place, I do not admit that a thesis cannot be built up on a single piece of evidence. It is a well-known principle of the law of evidence that witness must be weighed and not numbered. The number of witnesses is a less important consideration than the weight to be attached to the individual testimony of each or to the sum of the testimonies of all taken together. There is no reason to doubt the truth of the statement that Paijavana was a Shudra. The author of the Mahabharata has no reason to give a false description. Writing after such a long time, no motive, no partiality could be attributed to him. The only conclusion one can draw is that the author was recording a true tradition.

The fact that Paijavana is not described as a Shudra in the Rig Veda does not militate against the truth of the statement which occurs in the Mahabharata. Many explanations can be given for the absence of the word Shudra from the description of Paijavana in the Rig Veda. The first explanation is that it is wrong to expect such a description in the Rig Veda. The Rig Veda is a book of religion. A description such as Shudra could not be expected in a book of religion. It would be irrelevant. But such a description may well be expected to occur in a book of history such as the Mahabharata wherein as a matter of fact it does.

The other explanation for the infrequent mention of the word Shudra in connection with Sudas which I can think of is that it was unnecessary. Descriptions in terms of kula, gotra, tribe, etc., are really speaking marks of identification. Marks of identification are

necessary in the case of lesser people. They are unnecessary in the case of famous men. There is no doubt that Sudas was the most famous man of his time. It was unnecessary to describe him as Shudra for the purpose of identifying him to the people. This is not altogether a mere matter of speculation. One can cite historical instances. Take the case of Bimbisara and Pasenadi, two kings who lived in the time of Buddha. All other kings who were their contemporaries are described in the literature of the time by their *gotra* name. But these two are just spoken of by their personal names. Prof. Oldenberg[1] who noticed this fact explains this on the ground that they were well-known and did not stand in need for being described by their gotra names.

III

But it is really wrong to suppose that my theory is based on the solitary passage in the Mahabharata or on the identification of Paijavana with Sudas. Nothing of the kind. The thesis is not supported by a single chain and therefore the argument that a chain is not stronger than its weakest link does not apply to it. The case is supported by several parallel chains. The weakness of a link in one of them cannot be said to weaken the support. The weakness of one link in one chain throws the whole weight on other chains. Consequently, before concluding that the theory has broken down, it is necessary to prove that the other chains are not able to sustain the weight.

The description of Paijavana as Shudra and the identification of Paijavana with Sudas of the Rig Veda is not the only chain which supports the thesis. There are other chains. One of these is the admission in the Satapatha and Taittiriya Brahmanas that there were only three Varnas and the Shudras did not form a separate Varna. The second consists of evidence that Shudras were kings and ministers of State. The third consists of evidence that the Shudras were at one time entitled to Upanayana. All these are strong chains quite capable of taking all extra weight arising out of a possible breakdown of the first chain.

As far as evidence is concerned, absolute certainty amounting to demonstration is seldom to be had and I do not claim absolute

1 *Lift of Buddha*, p. 414.

certainty for my thesis. But I do claim that the evidence in support of the theory is both direct as well as circumstantial, and where it is conflicting it is supported by strong probabilities in favour of it.

IV

I have shown what strength there is in the thesis I have presented. I will now proceed to show that the thesis is a valid one. There is one test which I think is generally accepted as the right one by which to appraise the validity of a thesis. It is that a thesis which demands acceptance must not only suggest a solution, but must also show that the solution it proposes answers the riddles which surround the problem which it claims to have solved. It is this test that I propose to apply to my thesis.

Let me begin by listing in one place the riddles of the Shudra. The following include the most important of them :

(1) The Shudras are alleged to be non-Aryans, hostile to the Aryans, whom the Aryans are said to have conquered and made slaves. How is it then that the rishis of the Yajur Veda and the Atharva Veda should wish glory to the Shudras and express a desire to be in favour of the Shudras?

(2) The Shudras are said not to have the right to study the Vedas. How is it then that Sudas, a Shudra, was the composer of the hymns of the Rig Veda?

(3) The Shudras are said to have no right to perform sacrifices. How is it that Sudas performed the Ashva-Medha sacrifice? Why does the Satapatha Brahmana treat the Shudra as a sacrificer and give the formula of addressing him?

(4) The Shudras are said not to have the right to Upanayana. If this was so from the very beginning, why should there be a controversy about it? Why should Badari and the Samskara Ganapati say that he has a right to Upanayana?

(3) The Shudra is not permitted to accumulate property. How is it that the Maitrayani and Kathaka Samhitas speak of the Shudras being rich and wealthy?

(6) The Shudra is said to be unfit to become an officer of the State. How is it then that the Mahabharata speaks of Shudras being ministers to kings?

(7) It is said that the duty of the Shudra is to serve, in the capacity of a menial, the three Varnas. How is it then that there were kings among the Shudras as testified by the case of Sudas and other cases mentioned by Sayana?

(8) If the Shudra had no right to study the Vedas, if he had no right to Upanayana, if he had no right to sacrifice, why was he not given the right to have his Upanayana, to read the Vedas and to perform sacrifice?

(9) The performance of Upanayana of the Shudra, his learning to read the Vedas, his performing the sacrifices, whether they were of any value to the Shudra or not, were certainly occasions of benefit to the Brahmins in as much as it is the Brahmins who had the monopoly of officiating at ceremonies and of teaching the Vedas. It is the Brahmins who stood to earn large fees by allowing the Shudra the right to Upanayana, the performance of sacrifices and the reading of the Vedas. Why were the Brahmins so determined to deny these concessions to the Shudras, when granting them would have done no harm and would have increased their own earnings?

(10) Even if the Shudra had no right to Upanayana, sacrifices and Vedas, it was open to the Brahmins to concede him these rights. Why were these questions not left to the free will of the individual Brahmins? Why were penalties imposed upon a Brahmin if he did any of these prohibited acts?

How can these riddles be explained? Neither the orthodox Hindu nor the modern scholar has attempted to explain them. Indeed they do not seem to be aware of the fact that such riddles exist. The orthodox Hindu does not bother about them. He is content with the divine explanation contained in the *Purusha Sukta* that the Shudra was born from the feet of the Purusha. The modern scholar is content with the assumption that the Shudra in his origin is a non-Aryan aboriginal, for whom the Aryan quite naturally prescribed a different code of laws. It is a pity that none of these classes of people have cared to acquaint themselves with the riddles which surround the problem of the Shudra, much less have they thought of suggesting a theory of the origin of the position of the Shudra capable of solving them.

With regard to my thesis it will be seen that it can explain everyone of these riddles. Postulates (1) to (4) explain how the Shudras could be kings and ministers and why the rishis should

praise them and desire to be in their good books. Postulates (5) and (6) explain why there was a controversy over the Upanayana of the Shudra, also why the law not only denied the right to the Shudra but imposed penalties upon a Brahmin, helping to make it effective. Indeed there is no riddle which the thesis does not solve. The thesis, if I may say so, is a close and a perfect fit. Few theses can therefore have a better title deed than this.

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Appendices

APPENDIX I

References to the word "Arya" (अर्य) in the Rig Veda.

I		II		III		IV		V		VI		VII		VIII		IX		X	
H	M	H	M	H	M	H	M	H	M	H	M	H	M	H	M	H	M	H	M
33	3	23	13	43	2	1	7	2	12	14	3	8	1	1	4	23	3	20	4
70	1	23	15			2	12	33	2	15	3	21	5	19	36	61	11	27	8
71	3	35	2			2	18	33	6	16	27	21	9	21	16	79	1	27	19
73	5					4	6	33	9	20	1	31	5	24	221			34	13
81	6					16	19	34	9	24	5	34	18	34	10			42	1
81	9					20	3	54	12	25	7	48	3	39	2			59	3
116	6					24	8			36	5	56	12	48	8			76	2
118	9					29	1			45	33	60	11	49	12			86	1
121	15					38	2			47	9	64	3	52	7			86	3
122	14					48	1			48	16	68	2	54	9			89	3
169	6					50	11			51	2	83	5	55	12			133	3
184	1									59	8	86	7					148	3
185	9											92	4					191	1
												100	5						

APPENDIX II

References to the word "Arya" (आर्य)

(I) In the Rig Veda

I		II		III		IV		V		VI		VII		VIII		IX		X	
H	M	H	M	H	M	H	M	H	M	H	M	H	M	H	M	H	M	H	M
51	8	11	18	34	9	26	2	34	6	18	3	5	6	24	27	63	6	38	3
59	2	11	19			30	18			20	10	18	7	103	1	63	14	43	4
117	21									25	2	83	1					49	3
130	8									33	3							65	11
156	5									60	6							69	6
																		83	1
																		86	19
																		102	3
																		103	3
																		138	3
																		191	1

(II) In the Yajur Veda

IV		V		VI		XVIII		XIX		XX	
H	M	H	M	H	M	H	M	H	M	H	M
20	4	11	3	63	4	1	21	32	8	18	5
20	8							62	1	85	4

(III) Atharva Veda

IV		XX		XXII	
H	M	H	M	H	M
32	1	11	9	63	4
		17	4		
		18	5		
		36	10		
		85	4		
		89	1		
		95	4		

APPENDIX III

Different meanings of the word "Arya" (अर्य) found in the Rig Veda.

Meaning	I		II		III		IV		V		VI		VII		VIII		IX		X	
	H	M	H	M	H	M	H	M	H	M	H	M	H	M	H	M	H	M	H	M
Enemy	70	1					16	19	33	2	14	3	21	9	48	8	79	1	42	1
	73	5									15	3	34	18	49	12			59	3
	118	9									20	1	48	3					76	2
	121	15									36	5	56	22					89	3
	169	6											68	2						
													92	4						
Respectable	33	3	23	15	43	2	1	7	33	6	24	5	8	1	19	36			20	4
Noble	81	6	35	2			2	12	33	9	25	7	21	5	21	16			27	8
	81	9	43	2			4	6	34	9	47	9	31	5	24	22			27	19
	121	14					20	3					86	7	34	10			34	13
	184	1					24	8					100	5	55	12			86	1
							29	1											86	3
							38	2											116	6
							48	1											148	3
																			191	1
Citizen							2	18												
							20	3												

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References to "DASA" in the Rig Veda

I		II		III		IV		V		VI		VII		VIII		IX		X	
H	M	H	M	H	M	H	M	H	M	H	M	H	M	H	M	H	M	H	M
92	8	11	2	34	1	18	9	30	7	20	6	19	2	5	31			22	8
103	3	11	4			28	4	30	8	20	10	83	1	24	27			23	2
104	2	12	4			30	14	30	9	22	10	86	7	32	2			38	3
158	5	20	6			30	15	33	4	25	2	99	4	40	6			49	6
174	7	20	7			30	21	34	6	26	5			51	9			49	7
						32	10			33	3			56	3			54	1
										47	21			70	10			62	10
										60	6							73	7
																		83	1
																		86	9
																		99	6
																		102	3
																		120	2
																		138	3

APPENDIX V

References to "Dasyu" in the Rig Veda

I		II		III		IV		V		VI		VII		VIII		IX		X	
H	M	H	M	H	M	H	M	H	M	H	M	H	M	H	M	H	M	H	M
33	4	11	18	29	9	16	9	4	6	14	3	5	6	6	14	41	2	22	8
33	7	11	19	34	6	16	10	7	10	16	15	6	2	14	14	47	2	47	4
33	9	12	10	34	9	16	12	14	14	18	3	19	4	39	8	88	4	48	2
36	18	13	9	49	2	28	3	29	10	23	2			50	8	92	5	49	3
51	5	15	9			28	4	30	9	24	8			51	2			55	8
51	6	20	9			38	4	31	5	29	6			56	2			73	5
51	8							31	7	31	4			70	11			83	3
53	4							70	3	45	24			98	6			83	6
59	6																	95	7
78	4																	99	7
100	18																	105	11
101	5																		
103	3																	170	2
103	4																		
108	12																		
117	3																		
117	21																		

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References to the word "Varna" in the Rig Veda

I		II		III		IV		V		VI		VII		VIII		IX		X	
H	M	H	M	H	M	H	M	H	M	H	M	H	M	H	M	H	M	H	M
73	7	1	12	34	5	5	13									65	8	3	3
92	10	3	5													71	2	124	7
96	5	4	5													71	8		
104	2	5	5													97	15		
113	2	12	4													104	4		
179	6	34	13													105	40		

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UNTOUCHABLES

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THE UNTOUCHABLES

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THE UNTOUCHABLES

WHO WERE THEY AND WHY THEY BECAME UNTOUCHABLES ?

By

DR. B. R. AMBEDKAR

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Inscribed to the memory of

NANDNAR
RAVIDAS
CHOKHAMELA

THREE RENOWNED SAINTS WHO WERE BORN
AMONG THE UNTOUCHABLES AND WHO BY
THEIR PIETY AND VIRTUE WON THE ESTEEM OF ALL.

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PREFACE

This book is a sequel to my treatise called *The Shudras—Who they were and How they came to be the Fourth Varna of the Indo-Aryan Society* which was published in 1946. Besides the Shudras, the Hindu Civilization has produced three social classes whose existence has not received the attention it deserves. The three classes are :-

(i) The Criminal Tribes who number about 20 millions or so;

(ii) The Aboriginal Tribes who number about 15 millions; and

(iii) The Untouchables who number about 50 millions.

The existence of these classes is an abomination. The Hindu Civilization, gauged in the light of these social products, could hardly be called civilization. It is a diabolical contrivance to suppress and enslave humanity. Its proper name would be infamy. What else can be said of a civilization which has produced a mass of people who are taught to accept crime as an approved means of earning their livelihood, another mass of people who are left to live in full bloom of their primitive barbarism in the midst of civilization and a third mass of people who are treated as an entity beyond human intercourse and whose mere touch is enough to cause pollution?

In any other country the existence of these classes would have led to searching of the heart and to investigation of their origin. But neither of these has occurred to the mind of the Hindu. The reason is simple. The Hindu does not regard the existence of these classes as a matter of apology or shame and feels no responsibility either to atone for it or to inquire into its origin and growth. On the other hand, every Hindu is taught to believe that his civilization is not only the most ancient but that it is also in many respects altogether unique. No Hindu ever feels tired of repeating these claims. That the Hindu Civilization is the most ancient, one can understand and even allow. But it is not quite so easy to understand on what grounds they rely for claiming that the Hindu Civilization is a unique one. The Hindus may not like it, but so far as it strikes non-Hindus, such a claim can rest only on one ground. It is the existence of these classes for which the Hindu Civilization is responsible. That the existence of such classes is a unique phenomenon, no Hindu need repeat, for nobody

can deny the fact. One only wishes that the Hindu realized that it was a matter for which there was more cause for shame than pride.

The inculcation of these false beliefs in the sanity, superiority and sanctity of Hindu Civilization is due entirely to the peculiar social psychology of Hindu scholars.

To-day all scholarship is confined to the Brahmins. But unfortunately no Brahmin scholar has so far come forward to play the part of a Voltaire who had the intellectual honesty to rise against the doctrines of the Catholic Church in which he was brought up; nor is one likely to appear on the scene in the future. It is a grave reflection on the scholarship of the Brahmins that they should not have produced a Voltaire. This will not cause surprise if it is remembered that the Brahmin scholar is only a learned man. He is not an intellectual. There is a world of difference between one who is learned and one who is an intellectual. The former is class-conscious and is alive to the interests of his class. The latter is an emancipated being who is free to act without being swayed by class considerations. It is because the Brahmins have been only learned men that they have not produced a Voltaire.

Why have the Brahmins not produced a Voltaire? The question can be answered only by another question. Why did the Sultan of Turkey not abolish the religion of the Mohammedan World? Why has no Pope denounced Catholicism? Why has the British Parliament not made a law ordering the killing of all blue-eyed babies? The reason why the Sultan or the Pope or the British Parliament has not done these things is the same as why the Brahmins have not been able to produce a Voltaire. It must be recognized that the selfish interest of a person or of the class to which he belongs always acts as an internal limitation which regulates the direction of his intellect. The power and position which the Brahmins possess is entirely due to the Hindu Civilization which treats them as supermen and subjects the lower classes to all sorts of disabilities so that they may never rise and challenge or threaten the superiority of the Brahmins over them. As is natural, every Brahmin is interested in the maintenance of Brahmanic supremacy be he orthodox or unorthodox, be he a priest or a *grahastha,* be he a scholar or not. How can the Brahmins afford to be Voltaires? A Voltaire among the Brahmins would be a positive danger to the maintenance of a civilization which is contrived to maintain Brahmanic supremacy. The point is that the intellect of a Brahmin scholar is severely limited by anxiety to preserve his

interest. He suffers from this internal limitation as a result of which he does not allow his intellect full play which honesty and integrity demands. For, he fears that it may affect the interests of his class and therefore his own.

But what annoys one is the intolerance of the Brahmin scholar towards any attempt to expose the Brahmanic literature. He himself would not play the part of an iconoclast even where it is necessary. And he would not allow such non-Brahmins as have the capacity to do so to play it. If any non-Brahmin were to make such an attempt the Brahmin scholars would engage in a conspiracy of silence, take no notice of him, condemn him outright on some flimsy grounds or dub his work useless. As a writer engaged in the exposition of the Brahmanic literature I have been a victim of such mean tricks.

Notwithstanding the attitude of the Brahmin scholars, I must pursue the task I have undertaken. For the origin of these classes is a subject which still awaits investigation. This book deals with one of these unfortunate classes namely, the Untouchables. The Untouchables are the most numerous of the three. Their existence is also the most unnatural. And yet there has so far been no investigation into their origin. That the Hindus should not have undertaken such an investigation is perfectly understandable. The old orthodox Hindu does not think that there is anything wrong in the observance of Untouchability. To him it is a normal and natural thing. As such it neither calls for expiation nor explanation. The new modern Hindu realizes the wrong. But he is ashamed to discuss it in public for fear of letting the foreigner know that Hindu Civilization can be guilty of such a vicious and infamous system or social code as evidenced by Untouchability. But what is strange is that Untouchability should have failed to attract the attention of the European student of social institutions. It is difficult to understand why. The fact, however, is there.

This book may therefore, be taken as a pioneer attempt in the exploration of a field so completely neglected by everybody. The book, if I may say so, deals not only with every aspect of the main question set out for inquiry, namely, the origin of Untouchability, but it also deals with almost all questions connected with it. Some of the questions are such that very few people are even aware of them; and those who are aware of them are puzzled by them and do not know how to answer them. To mention only a few, the book deals with such questions as : Why do the Untouchables live outside the village?

Why did beef-eating give rise to Untouchability ? Did the Hindus never eat beef ? Why did non-Brahmins give up beef-eating ? What made the Brahmins become vegetarians, etc.? To each one of these, the book suggests an answer. It may be that the answers given in the book to these questions are not all-embracing. Nonetheless it will be found that the book points to a new way of looking at old things.

The thesis on the origin of Untouchability advanced in the book is an altogether novel thesis. It comprises the following propositions :-

(1) There is no racial difference between the Hindus and the Untouchables;

(2) The distinction between the Hindus and Untouchables in its original form, before the advent of Untouchability, was the distinction between Tribesmen and Broken Men from alien Tribes. It is the Broken Men who subsequently came to be treated as Untouchables;

(3) Just as Untouchability has no racial basis so also has it no occupational basis;

(4) There are two roots from which Untouchability has sprung:

(a) Contempt and hatred of the Broken Men as of Buddhists by the Brahmins:

(b) Continuation of beef-eating by the Broken Men after it had been given up by others.

(5) In searching for the origin of Untouchability care must be taken to distinguish the Untouchables from the Impure. All orthodox Hindu writers have identified the Impure with the Untouchables. This is an error. Untouchables are distinct from the Impure.

(6) While the Impure as a class came into existence at the time of the Dharma Sutras the Untouchables came into being much later than 400 A.D.

These conclusions are the result of such historical research as I have been able to make. The ideal which a historian should place before himself has been well defined by Goethe who said[1] :

> "The historian's duty is to separate the true from the false, the certain from the uncertain, and the doubtful from that which cannot be accepted ... ... Every investigator must before all things look upon himself as one who is summoned to serve on a jury. He has

1 Maxims and Reflections of Goethe, Nos. 453, 543.

only to consider how far the statement of the case is complete and clearly set forth by the evidence. Then he draws his conclusion and gives his vote, whether it be that his opinion coincides with that of the foreman or not."

There can be no difficulty in giving effect to Goethe's direction when the relevant and necessary facts are forthcoming. All this advice is of course very valuable and very necessary. But Goethe does not tell what the historian is to do when he comes across a missing link, when no direct evidence of connected relations between important events is available. I mention this because in the course of my investigations into the origin of Untouchability and other inter connected problems I have been confronted with many missing links. It is true that I am not the only one who has been confronted with them. All students of ancient Indian history have had to face them. For as Mount Stuart Elphinstone has observed in Indian history "no *date* of a public event can be fixed before the invasion of Alexander: and no connected relation of the natural transactions can be attempted until after the Mohamedan conquest." This is a sad confession but that again does not help. The question is: "What is a student of history to do? Is he to cry halt and stop his work until the link is discovered?" I think not. I believe that in such cases it is permissible for him to use his imagination and intuition to bridge the gaps left in the chain of facts by links not yet discovered and to propound a working hypothesis suggesting how facts which cannot be connected by known facts might have been inter-connected. I must admit that rather than hold up the work, I have preferred to resort to this means to get over the difficulty created by the missing links which have come in my way.

Critics may use this weakness to condemn the thesis as violating the canons of historical research. If such be the attitude of the critics I must remind them that if there is a law which governs the evaluation of the results of historical results then refusal to accept a thesis on the ground that it is based on direct evidence is bad law. Instead of concentrating themselves on the issue of direct evidence *versus* inferential evidence and inferential evidence *versus* speculation, what the critics should concern themselves with is to examine (*i*) whether the thesis is based on pure conjecture, and (*ii*) whether the thesis is possible and if so does it fit in with facts better than mine does?

On the first issue I could say that the thesis would not be unsound merely because in some parts it is based on guess. My critics should remember that we are dealing with an institution the origin of which is lost in antiquity. The present attempt to explain the origin of Untouchability is not the same as writing history from texts which speak with certainty. It is a case of reconstructing history where there are no texts, and if there are, they have no direct bearing on the question. In such circumstances what one has to do is to strive to divine what the texts conceal or suggest without being even quite certain of having found the truth. The task is one of gathering survivals of the past, placing them together and making them tell the story of their birth. The task is analogous to that of the archaeologist who constructs a city from broken stones or of the palaeontologist who conceives an extinct animal from scattered bones and teeth or of a painter who reads the lines of the horizon and the smallest vestiges on the slopes of the hill to make up a scene. In this sense the book is a work of art even more than of history. The origin of Untouchability lies buried in a dead past which nobody knows. To make it alive is like an attempt to reclaim to history a city which has been dead since ages past and present it as it was in its original condition. It cannot but be that imagination and hypothesis should pay a large part in such a work. But that in itself cannot be a ground for the condemnation of the thesis. For without trained imagination no scientific inquiry can be fruitful and hypothesis is the very soul of science. As Maxim Gorky has said[1] :

> "Science and literature have much in common; in both, observation, comparison and study are of fundamental importance; the artist like the scientist, needs both imagination and intuition. Imagination and intuition bridge the gaps in the chain of facts by its as yet undiscovered links and permit the scientist to create hypothesis and theories which more or less correctly and successfully direct the searching of the mind in its study of the forms and phenomenon of nature. They are of literary creation; the art of creating characters and types demands imagination, intuition, the ability to make things up in one's own mind".

It is therefore unnecessary for me to apologize for having resorted to constructing links where they were missing. Nor can my thesis be said to be vitiated on that account for nowhere is the construction of

1 *Literature and life*. A selection from the writings of Maxim Gorky.

links based on pure conjecture. The thesis in great part is based on facts and inferences from facts. And where it is not based on facts or inferences from facts, it is based on circumstantial evidence of presumptive character resting on considerable degree of probability. There is nothing that I have urged in support of my thesis which I have asked my readers to accept on trust. I have at least shown that there exists a preponderance of probability in favour of what I have asserted. It would be nothing but pedantry to say that a preponderance of probability is not a sufficient basis for a valid decision.

On the second point with the examination of which, I said, my critics should concern themselves what I would like to say is that I am not so vain as to claim any finality for my thesis. I do not ask them to accept it as the last word. I do not wish to influence their judgement. They are of course free to come to their own conclusion. All I say to them is to consider whether this thesis is not a workable and therefore, for the time being, a valid hypothesis if the test of a valid hypothesis is that it should fit in with all surrounding facts, explain them and give them a meaning which in its absence they do not appear to have. I do not want anything more from my critics than a fair and unbiased appraisal.

January 1, 1948
1, Hardinge Avenue,
New Delhi.

B. R. AMBEDKAR

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PART I
A COMPARATIVE SURVEY

Chapter I. Untouchability Among Non-Hindus
Chapter II. Untouchability Among Hindus

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CHAPTER I
UNTOUCHABILITY AMONG NON-HINDUS

WHO are the Untouchables and what is the origin of Untouchability? These are the main topics which it is sought to investigate and the results of which are contained in the following pages. Before launching upon the investigation it is necessary to deal with certain preliminary questions. The first such question is : Are the Hindus the only people in the world who observe Untouchability? The second is: If Untouchability is observed by Non-Hindus also how does Untouchability among Hindus compare with Untouchability among non-Hindus? Unfortunately no such comparative study has so far been attempted. The result is that though most people are aware of the existence of Untouchability among the Hindus they do not know what are its unique features. A definite idea of its unique and distinguishing features is however essential not merely for a real understanding of the position of the Untouchables but also as the best means of emphasising the need of investigating into their origin.

It is well to begin by examining how the matter stood in Primitive and Ancient Societies. Did they recognize Untouchability? At the outset it is necessary to have a clear idea as to what is meant by Untouchability. On this point, there can be no difference of opinion. It will be agreed on all hands that what underlies Untouchability is the notion of defilement, pollution, contamination and the ways and means of getting rid of that defilement.

Examining the social life of Primitive Society[1] in order to find out whether or not it recognized Untouchability in the sense mentioned above there can be no doubt that Primitive Society not only did believe in the notion of defilement but the belief had given rise to a live system of well-defined body of rites and rituals.

1 The facts relating to pollution among non-Hindus are drawn from *"Hastings Encyclopedia of Religion and Ethics",* Vol. X, Article Purification, pp. 455-504.

Primitive Man believed that defilement was caused by

(1) the occurrences of certain events;

(2) contact with certain things; and

(3) contact with certain persons.

Primitive Man also believed in the transmission of evil from one person to another. To him the danger of such transmission was peculiarly acute at particular times such as the performance of natural functions, eating, drinking, etc. Among the events the occurrence of which was held by Primitive Man as certain to cause defilement included the following :—

(1) Birth

(2) Initiation

(3) Puberty

(4) Marriage

(5) Cohabitation

(6) Death

Expectant mothers were regarded as impure and a source of defilement to others. The impurity of the mother extended to the child also.

Initiation and puberty are stages which mark the introduction of the male and the female to full sexual and social life. They were required to observe seclusion, a special diet, frequent ablutions, use of pigment for the body and bodily mutilation such as circumcision. Among the American Tribes not only did the initiates observe a special dietary but also took an emetic at regular intervals.

The ceremonies which accompanied marriage show that marriage was regarded by the Primitive Man as impure. In some cases the bride was required to undergo intercourse by men of the tribe as in Australia or by the chief or the medicine man of the tribe as in America or by the friends of the grooms as among the East African Tribes. In some cases there takes place the tapping of the bride by a sword by the bridegroom. In some cases, as among the Mundas, there takes place marriage to a tree before marriage with the bridegroom. All these marriage observances are intended to neutralize and prepare the individual against the impurity of marriage.

To the Primitive Man the worst form of pollution was death. Not only the corpse, but the possession of the belongings of the deceased were regarded as infected with pollution. The widespread custom of placing implements, weapons, etc., in the grave along with the corpse

indicates that their use by others was regarded as dangerous and unlucky.

Turning to pollution arising out of contact with objects Primitive Man had learned to regard certain objects as sacred and certain others as profane. For a person to touch the sacred was to contaminate the sacred and to cause pollution to it. A most striking example of the separation of the sacred and the profane in Primitive Society is to be found among the Todas, the whole of whose elaborate ritual and (it would not be too much to say) the whole basis of whose social organisation is directed towards securing the ceremonial purity of the sacred herds, the sacred dairy, the vessels, and the milk, and of those whose duty it is to perform connected rites and rituals. In the dairy, the sacred vessels are always kept in a separate room and the milk reaches them only by transfer to and fro of an intermediate vessel kept in another room. The dairyman, who is also the priest, is admitted to office only after an elaborate ordination, which in effect is a purification. He is thereby removed from the rank of ordinary men to a state of fitness for sacred office. His conduct is governed by regulations such as those which permit him to sleep in the village and only at certain times, or that which entails that a dairyman who attends a funeral should cease from that time to perform his sacred function. It has, therefore, been conjectured that the aim of much of the ritual is to avert the dangers of profanation and prepare or neutralise the sacred substance for consumption by those who are themselves unclean.

The notion of the sacred was not necessarily confined to objects. There were certain classes of men who were sacred. For a person to touch them was to cause pollution. Among the Polynesians, the tabu character of a Chief is violated by the touch of an inferior, although in this case the danger falls upon the inferior. On the other hand, in Efate, the 'sacred man' who comes into contact with Namin (ceremonial uncleanliness) destroys his sacredness. In Uganda, before building a temple, the men were given four days in which to purify themselves. On the other hand, the Chief and his belongings are very often regarded as sacred and, therefore, as dangerous to others of an inferior rank. In the Tonga island, anyone who touches a Chief contacted tabu; it was removed by touching the sole of the foot of a superior chief. The sacred quality of the chief in Malaya Peninsula also resided in the Royal Regalia and anyone touching it was invited with serious illness or death.

Contact with strange people was also regarded as a source of Untouchability by the Primitive Man. Among the Bathonga, a tribe in South Africa, it is belived that those who travel outside their own country are peculiarly open to danger from the influence of foreign spirits and in particular from demoniac possession. Strangers are tabu because, worshipping strange gods, they bring strange influence with them. They are, therefore, fumigated or purified in some other way. In the Dieri and neighbouring tribes even a member of the tribe returning home after a journey was treated as a stranger and no notice was taken of him until he sat down.

The danger of entering a new country is as great as that which attaches to those who come from thence. In Australia, when one tribe approaches another, the members carry lighted sticks to purify the air, just as the Spartan kings in making war had sacred fires from the altar carried before them to the frontier.

In the same manner, those entering a house from the outside world were required to perform some ceremony, even if it were only to remove their shoes, which would purify the incomer from the evil with which otherwise he might contaminate those within, while the threshold, door-posts and lintel—important as points of contact with outer world—are smeared with blood or sprinkled with water when any member of household or of the community has become a source of pollution, or a horse-shoe is suspended over the door to keep out evil and bring goodluck.

Of course, the rites and ceremonies connected with birth, death, marriage, etc., do not positively and unequivocally suggest that they were regarded as sources of pollution. But that pollution is one element among many others is indicated by the fact that in every case there is segregation. There is segregation and isolation in birth, initiation, marriage, death and in dealing with the sacred and the strange.

In birth the mother is segregated. At puberty and initiation there is segregation and seclusion for a period. In marriage, from the time of betrothal until the actual ceremony bride and bride-groom do not meet. In menstruation a woman is subjected to segregation. Segregation is most noticeable in the case of death. There is not only isolation of the dead-body but there is isolation of all the relatives of the dead from the rest of the community. This segregation is evidenced by the growth of hair and nail and wearing of old clothes by the relatives of the dead which show that they are not served by

the rest of the society such as the barber, washerman, etc. The period of segregation and the range of segregation differ in the case of death but the fact of segregation is beyond dispute. In the case of defilement of the sacred by the profane or of defilement of the kindred or by intercourse with the non-kindred there is also the element of segregation. The profane must keep away from the sacred. So the kindred must keep away from the non-kindred. It is thus clear that in Primitive Society pollution involved segregation of the polluting agent.

Along with the development of the notion of defilement, Primitive Society had developed certain purificatory media and purificatory ceremonies for dispelling impurity.

Among the agents used for dispelling impurity are water and blood. The sprinkling of water and the sprinkling of blood by the person defiled were enough to make him pure. Among purificatory rites were included changing of clothes, cutting hair, nail, etc., sweat-bath, fire, fumigation, burning of incense and fanning with the bough of a tree.

These were the means of removing impurity. But Primitive Society had another method of getting rid of impurity. This was to transfer it to another person. It was transferred to some one who was already tabu.

In New Zealand, if anyone touched the head of another, the head being a peculiarly 'sacred' part of the body, he became tabu. He purified himself by rubbing his hands on fernroot, which was then eaten by the head of the family in female line. In Tonga, if a man ate tabued food he saved himself from the evil consequences by having the foot of a chief placed on his stomach.

The idea of transmission also appears in the custom of the scapegoat. In Fiji, a tabued person wiped his hands on a pig, which became sacred to the chief, while in Uganda, at the end of the period of mourning for a king a 'scapegoat' along with a cow, a goat, a dog, a fowl and the dust and fire from the king's house was conveyed to the Bunyoro frontier, and there the animals were maimed and left to die. This practice was held to remove all uncleanliness from the king and queen.

Such are the facts relating to the notion of pollution as it prevailed in Primitive Society.

Turning to Ancient Society the notion of pollution prevalent therein was not materially different from what was prevalent in Primitive Society. There is difference as to the sources of pollution. There is difference regarding purificatory ceremonies. But barring these differences the pattern of pollution and purification in Primitive and Ancient Society is the same.

Comparing the Egyptian system of pollution with the Primitive system there is no difference except that in Egypt it was practised on an elaborate scale.

Among the Greeks the causes of impurity were bloodshed, the presence of ghost and contact with death, sexual intercourse, childbirth, the evacuation of the body, the eating of certain food such as pea-soup, cheese and garlic, the intrusion of unauthorised persons into holy places, and, in certain circumstances, foul speech and quarrelling. The purificatory means, usually called *kaopoia* by Greeks, were lustral water, sulphur, onions, fumigation and fire, incense, certain boughs and other vegetative growths, pitch, wool, certain stones and amulets, bright things like sunlight and gold, sacrificed animals, especially the pig and of these specially the blood and the skin; finally, certain festivals and festival rites particularly the ritual of cursing and the scapegoat. One unusual method was the cutting of the hair of the polluted person or sacrificial communion with the deity.

A striking feature of the Roman notion of pollution and purification is to be found in the belief of territorial and communal pollution and purification. Parallel to the *lustratio* of the house is the periodical purificatory ritual applied to a country district (Pagi). The *lustractio pagi* consisted in a religious procession right round its boundaries, with sacrifice. There seems to have been in ancient days a similar procession round the walls of the city, called *amburbium*. In historical times special purification of the City was carried out when a calamity called for it, *e.g.'* after the early disasters in the Second Punic War. The object of all such expiations was to seek reconciliation with the gods. Lustral ceremony accompanied the foundation of a colony. The *Therminalia* protective of boundaries, and the *Compitalia* of streets in the City were also probably lustral in their origin. Down to the late period, priests called *Luperci* perambulated in the boundaries of the earliest Rome, the settlement on the Palatinate. Earlier there was an annual solemn progress round

the limits of the most ancient territory of the Primitive City. It was led by the Archaic priesthood called the *Arval* brotherhood. The ceremony was called *ambravalia* and it was distinctly piacular. When Roman territory was expanded no corresponding extension of the lustral rite seems ever to have been made. These round-about piacular surveys were common elsewhere, inside as well as outside Italy and particularly in Greece. The solemn words and prayers of the traditional chant, duly gone through without slip of tongue, seem to have had a sort of magical effect. Any error in the pronouncement of these forms would involve a need of reparation, just as in the earliest Roman legal system, the mispronunciation of the established verbal forms would bring loss of the lawsuit.

Other forms of quaint ancient ritual were connected with the piacular conception. The *Salii,* ancient priests of Mars, made a journey at certain times round a number of stations in the City. They also had a 'cleaning of the weapons' and a 'cleaning of the trumpets' which testify to a primitive notion that the efficiency of the army's weapons required purification. The 'washing' (lustrum) with which the census ended was in essence military; for it was connected with the *Comitia Centuriata,* which is merely the army in civil garb. *Lustratio exercitus* was often performed when the army was in the field, to remove superstitious dread which sometimes attacked it at other times, it was merely prophylactic. There was also a lustration of the fleet.

Like all Primitive people the Hebrews also entertained the notion of defilement. The special feature of their notion of defilement was the belief that defilement was also caused by contact with the carcass of unclean animals, by eating a carcass or by contact with creeping things, or by eating creeping things and by contact with animals which are always unclean such as "every beast which divideth the hoof, and is not cloven footed, nor cheweth the cud...whatsoever goeth upon his paws, among all manner of beasts that go on all four". Contact with any unclean person was also defilement to the Hebrews. Two other special features of the Hebrew notion of defilement may be mentioned. The Hebrews believed that defilement might be caused to persons by idolatrous practices or to a land by the sexual impurities of the people.

On the basis of this survey, we can safely conclude that there are no people Primitive or Ancient who did not entertain the notion of pollution.

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CHAPTER II
UNTOUCHABILITY AMONG HINDUS

IN the matter of pollution there is nothing to distinguish the Hindus from the Primitive or Ancient peoples. That they recognized pollution is abundantly clear from the Manu Smriti. Manu recognises physical defilement and also notional defilement.

Manu treated birth,[1] death and menstruation[2] as sources of impurity. With regard to death, defilement was very extensive in its range. It followed the rule of consanguinity. Death caused difilement to members of the family of the dead person technically called *Sapindas* and *Samanodakas?* It not only included maternal relatives such as maternal uncle[4] but also remote relatives.[5] It extended even to nonrelatives such as (1) teacher[6], (2) teacher's[7] son, (3) teacher's[8] wife, (4) pupil,[9] (5) fellow[10] student, (6) Shrotriya,[11] (7) king,[12] (8) friend,[13] (9) members of the household,[14] (10) those who carried the corpse,[15] and (11) those who touched the corpse.[16]

Anyone within the range of defilement could not escape it. There were only certain persons who were exempt. In the following verses Manu names them and specifies the reasons why he exempts them :—

1. Chapter V. 58, 61- 63, 71, 77, 79.
2. Chapter III, 45-46 : IV 40-41, 57, 208 ; V. 66,85,108.
3. Chapter V. 58, 60, 75-77, 83-94.
4. Chapter V. 81.
5. Chapter V. 78.
6. Chapter V. 65, 80, 82.
7. Chapter V. 80.
8. Chapter V. 80.
9. Chapter V. 81.
10. Chapter V. 71.
11. Chapter V. 81.
12. Chapter V. 82.
13. Chapter V. 82.
14. Chapter V. 81.
15. Chapter V. 64-65, 85.
16. Chapter V. 64, 85

"V.93. The taint of impurity does not fall on kings and those engaged in the performance of a vow, or of a Sattra; for the first are seated on the throne of India, and the (last two are) ever pure like Brahman.

94. For a king, on the throne of magnanimity, immediate purification is prescribed, and the reason for that is that he is seated (there) for the protection of (his) subjects.

95. (The same rule applies to the kinsmen) of those who have fallen in a riot or a battle, (of those who have been killed) by lightning or by the king, and for cows and Brahmins, and to those whom the king wishes to be pure (in spite of impurity).

96. A king is an incarnation of the eight guardian deities of the world, the Moon, the Fire, the Sun, the Wind, Indra, the Lords of wealth and water (Kubera and Varuna) and Yama.

97. Because the king is pervaded by those lords of the world, no impurity is ordained for him for purity and impurity of mortals is caused and removed by those lords of the world."

From this it is clear that the king, the kinsmen of those who have fallen in a noble cause as defined by Manu and those whom the king chose to exempt were not affected by the normal rules of defilement. Manu's statement that the Brahmin was 'ever pure' must be understood in its usual sense of exhalting the Brahmin above everything. It must not be understood to mean that the Brahmin was free from defilement. For he was not. Indeed besides being defiled by births and deaths the Brahmin also suffered defilement on grounds which did not affect the Non-Brahmins. The Manu Smriti is full of tabus and don'ts which affect only the Brahmins and which he must observe and failure to observe which makes him impure.

The idea of defilement in Manu is real and not merely notional. For he makes the food offered by the polluted person unacceptable.

Manu also prescribes the period of defilement. It varies. For the death of a Sapinda it is ten days. For children three days. For fellow students one day. Defilement does not vanish by the mere lapse of the prescribed period. At the end of the period there must be performed a purificatory ceremony appropriate to the occasion.

For the purposes of purification Manu treats the subject of defilement from three aspects : (1) Physical defilement, (2) notional

or psychological defilement, and (3) ethical defilement. The rule[1] for the purification of ethical defilement which occurs when a person entertains evil thoughts are more admonitions and exhortations. But the rites for the removal of notional and physical defilement are the same. They include the use of water.[2] earth.[3] cow's urine,[4] the kusa grass[5] and ashes.[6] Earth, cow's urine, Kusa grass and ashes are prescribed as purificatory agents for removing physical impurities caused by the touch of inanimate objects. Water is the chief agent for the removal of notional defilement. It is used in three ways (1) sipping, (2) bath, and (3) ablution.[7] Later on *panchagavya* became the most important agency for removing notional defilement. It consists of a mixture of the five products of the cow, namely, milk, urine, dung, curds and butter.

In Manu there is also provision for getting rid of defilement by transmission through a scapegoat[8] namely by touching the cow or looking at the sun after sipping water.

Besides the individual pollution the Hindus believe also in territorial and communal pollution and purification very much like the system that prevailed among the early Romans. Every village has an annual *jatra*. An animal, generally a he buffalo, is purchased on behalf of the village. The animal is taken round the village and is sacrificed, the blood is sprinkled round the village and towards the end toe meat is distributed among the villagers. Every Hindu, every Brahmin even though he may not be a beef eater is bound to accept his share of the meat. This is not mentioned in any of the Smritis but it has the sanction of custom which among the Hindus is so strong that it always overrides law.

II

If one could stop here, one could well say that the notion of defilement prevalent among the Hindus is not different from that which obtained in Primitive and in Ancient Societies. But one cannot stop here. For there is another form of Untouchability observed by

1. Chapter V. 105-109; 127-128.
2. Chapter V. 127.
3. Chapter V. 134-136.
4. Chapter V. 121, 124.
5. Chapter V. 115.
6. Chapter V. 111.
7. Chapter V. 143.
8. Chapter V. 87.

the Hindus which has not yet been set out. It is the hereditary Untouchability of certain communities. So vast is the list of such communities that it would be difficult for an individual with his unaided effort to compile an exhaustive list. Fortunately such a list was prepared by the Government of India in 1935 and is attached to the Orders-in-Council issued under the Government of India Act of 1935. To this Order-in-Council there is attached a Schedule. The Schedule is divided into nine parts. One part refers to one province and enumerates the castes, races or tribes or parts of or groups within steps which are deemed to be Untouchables in that province either in the whole of that province or part thereof. The list may be taken to be both exhaustive and authentic. To give an idea of the vast number of communities which are regarded as hereditary Untouchables by the Hindus. I reproduce below the list given in the Order-in-Council.

SCHEDULE

PART I. - MADRAS

(1) Scheduled Castes throughout the Province :—

Adi-Andhra.
Adi-Dravida.
Adi-Karnataka.
Ajila.
Arunthuthiyar.
Baira.
Bakuda.
Bandi.
Bariki.
Battada.
Bavuri
Bellara.
Bygari
Chachati.
Chakkiliyan.
Chalvadi.
Chamar.
Chandala.
Cheruman.
Dandasi.
Devendrakulathan.
Ghasi.
Godagali.
Godari.
Godda.
Gosangi.
Haddi
Hasla
Holeya.
Jaggali.
Jambuvulu.
Kalladi
Kanakkan
Kodalo.
Koosa.
Koraga.
Kudumban
Kuravan.
Madari.
Madiga.
Maila
Mala.
Mala Dasu.
Matangi.
Moger.
Muchi.
Mundala.
Nalakcyava.
Nayadi.
Paga dai
Paidi.
Painda.
Paky.
Pallan.
Pambada.
Pamidi.
Panchama.
Paniyan.
Panniandi.
Paraiyan.
Parvan.
Pulayan.
Puthirai Vanan.
Raneyar.
Relli.
Samagara.
Samban
Sapari.
Semman.
Thoti.
Tiruvalluvar.
Valluvan.
Valmiki.
Vettuvan.

(2) Scheduled Castes throughout the Provinces except in any special constituency constituted under the Government of India Act, 1935, for the election of a representative of backward areas and backward tribes to the Legislative Assembly of the Province :—

Arnadan.	Kattunayakan.	Kuruman.
Dombo.	Kudiya.	Malasar.
Kadan.	Kudubi.	Mavilan.
Karimpalan.	Kurichchan.	Pano.

PART II.—BOMBAY

Scheduled Castes :—

(1) Throughout the Province :—

Asodi.	Dhor.	Mang Garudi.
Bakad.	Garode.	Maghval, or Menghwar.
Bhambi.	Halleer.	Mini Madig.
Bhangi.	Halsar, or Haslar.	Mukri.
Chakrawadya-Dasar.	Hulsavar.	Nadia.
Chalvadi.	Holaya.	Shenva, or Shindhava.
Chambhar, or Mochi gar, or	Khalpa.	Shinghdav, or Shingadya.
Samagar.	Kolcha, or Kolgha.	Sochi.
Chena-Dasaru.	Koli-Dhor.	Timali.
Chuhar, or Chuhra.	Lingader.	Turi.
Dakaleru.	Madig, or Mang.	Vankar.
Dhed.	Mahar.	Vitholia.
Dhegu-Megu.		

(2) Throughout the Province except in the Ahmedabad, Kaira, Broach and Panch Mahals and Surat Districts—Mochi.

(3) In the Kanara district—Kotegar.

PART III.—BENGAL

Scheduled Castes throughout the Province :—

Agaria.	Bhumij.	Gonrhi.
Bagdi.	Bind.	Hadi.
Bahelia.	Binjhia.	Hajang.
Baiti.	Chamar.	Halalkhor.
Bauri.	Dhcnuar.	Hari.
Bediya.	Dhoba.	Ho.
Beldar.	Doai.	Jalia Kaibartta.
Berua.	Dom.	Jhalo Malo, or Malo.
Bhatiya.	Dosadh.	Kadar.
Bhuimali.	Garo.	Kalpahariya.
Bhuiya.	Ghasi.	Kan.

Kandh.
Kandra.
Kaora.
Kapuria.
Karenga.
Kastha.
Kaur.
Khaira.
Khatik.
Koch.
Konai.
Konwar.
Kora.
Kotal.
Lalbegi,
Lodha.
Lahor.
Mahli.
Mai.
Mahar.
Mallah.
Mech.
Mehtor.
Muchi.
Munda.
Musahar.
Nagesia.
Namasudra.
Nat.
Nuniya.
Oraon.
Paliya.
Pan.
Pasi.
Patni.
Pod.
Rabha.
Rajbanshi.
Rajwar.
Santal.
Sunri.
Tiyar.
Turi.

PART IV.—UNITED PROVINCES

Scheduled Castes :—

(1) Throughout the Province :—

Agariva.
Aheriya.
Badi.
Badhik.
Baheliya.
Bajaniya.
Bajgi.
Balahar.
Balmiki.
Banmanus.
Bansphor.
Barwar.
Basor.
Bawariya.
Beldar.
Bengali.
Berya.
Bhantu.
Bhuiya.
Bhuiyar.
Boriya.
Chamar.
Chero.
Dabagar.
Dhangar.
Dhanuk (Bhangi).
Dharkar.
Dhobi.
Dom.
Domar.
Gharami.
Ghasiya.
Gual.
Habura.
Hari.
Hela.
Khairaha.
Kalabaz.
Kanjar.
Kapariya.
Karwal.
Kharot.
Kharwar (except Benbansi)
Khatik.
Kol.
Korwa.
Lalbegi.
Majhawar.
Nat.
Pankha.
Parahiya.
Pasi.
Patari.
Rawat.
Saharya.
Sanaurhiya.
Sansiya.
Shilpkar.
Tharu.
Turaiha.

(2) Throughout the Province except in the Agra, .Meerut and Rohilkhand divisions—Kori.

PART V—PUNJAB

Scheduled Castes throughout the Province :—

Ad Dharmis.	Marija, or Marecha.	Khatik.
Bawaria.	Bengali.	Kori.
Chamar.	Barar.	Nat.
Chuhra, or Balmiki.	Bazigar.	Pasi.
Dagi and Koli.	Bhanjra.	Perna.
Dhumna.	Chanal.	Sepela.
Od.	Dhanak.	Sirkiband.
Sansi.	Gagra.	Megha.
Sarera.	Gandhila.	Ramdasis.

PART VI.—BIHAR

Scheduled Castes :—

(1) Throughout the Province :—

Chamar.	Halalkhor.	Mochi.
Chaupal.	Hari.	Musahar.
Dhobi.	Kanjar.	Nat.
Dusadh.	Kurariar.	Pasi
Dom.	Lalbegi.	

(2) In the Patna and Tirhut divisions and the Bhagalpur, Monghyr, Palamau and Purnea districts :—

Bauri.	Bhumij.	Rajwar.
Bhogta.	Ghasi.	Turi.
Bhauya.	Pan.	

(3) In the Dhanbad sub-division of the Manbhum district and the Central Manbhum general rural constituency, and the Purulia and Raghunathpur municipalities :—

Bauri.	Ghasi.	Rajwar.
Bhogta.	Pan.	Turi.
Bhuiya.		

PART VH.—CENTRAL PROVINCES AND BERAR

Scheduled Castes	*Localities*
Basor, or Burud ..)	
Chamar ..)	
Dom ..)	
Ganda)	Throughout the Province.
Mang ..)	
Mehtar or Bhangi)	
Mochi ..)	
Satnami ..)	
Audhelia ..	In the Bilaspur district.
Bahna ..	In the Amraoti district

Scheduled Castes		*Localities*
Balahi, or Balai.	..	In the Berar division and the Balaghat, Bhandara Belul, Chanda, Chhindwara, Hoshangabad, Jabbulpore, Mandla, Nagpur, Nimar, Saugor and Wardha districts.
Bedar	..	In the Akola, Amraoti and Buldhana districts.
Chadar	..	In the Bhandara and Saugor districts.
Chauhan	..	In the Durg district.
Dahayat	..	In the Damoh sub-division of the Saugor district.
Dewar	..	In the Bilaspur, Durg and Raipur districts.
Dhanuk	..	In the Saugor district, except in the Damoh sub-division thereof.
Dhimar	..	In the Bhandara district.
Dhobi	..	In the Bhandara, Bilaspur, Raipur and Saugor districts and the Hoshangabad and Seoni-Malwa tahsils of the Hoshangabad district.
Dohar	..	In the Berar division and the Balaghat, Bhandara, Chanda, Nagpur and Wardha districts.
Ghasia	..	In the Berar division and in the Balaghat, Bhandara, Bilsaspur, Chanda, Durg, Nagpur, Raipur and Wardha districts.
Holiya	..	In the Balaghat and Bhandara districts.
Jangam	..	In the Bhandara district.
Kaikari	..	In the Berar division, and in Bhandara, Chanda, Nagpur and Wardha districts.
Katia	..	In the Berar division, in the Balaghat, Betul, Bhandara, Bilaspur, Chanda, Durg, Nagpur, Nimar, Raipur and Wardha districts, in the Hoshangabad and Seoni-Malwa tahsils of the Hoshangabad district, in the Chhindwara district, except in the Seoni sub-division thereof, and in the Saugor district, except in the Damoh sub-division thereof.
Khangar	..	In the Bhadara, Buldhana and Saugor districts and the Hoshangabad and Seoni Malwa tahsils of the Hoshangabad district.
Khatik	..	In the Berar division, in the Balaghat, Bhandara, Chanda, Nagpur and Wardha districts, in the Hoshangabad tahsil of the Hoshangabad district, in the Chhindwara district, except in the Seoni sub-division thereof, and in the Saugor district, except in the Damoh sub-division thereof.
Koli	..	In the Bhandara and Chanda districts.
Kori	..	In the Amraoti, Balaghat, Betul, Bhandara, Buldhana, Chhindwara, Jubbulpore, Mandla, Nimar, Raipur and Saugor districts, and in the Hoshangabad district, except in the Harda and Sohagpur tahsils thereof.
Kumhar	..	In the Bhandara and Saugor districts and the Hoshangabad and Seoni-Malwa tahsils of the Hoshangabad district.

Scheduled Castes		*Localities*
Madgi	..	In the Berar division and in the Balaghat, Bhandara, Chanda, Nagpur and Wardha districts.
Mala	..	In the Balaghat, Betul, Chhindwara, Hoshangabad, Jubbulpore Mandla, Nimar and Saugor districts.
Mehra or Mahar	..	Throughout the Province, except in the Harda and Sohagpur tahsils of the Hoshangabad district.
Nagarchi	..	In the Balaghat, Bhandara, Chhindwara, Mandla, Nagpur and Raipur districts.
Ojha	..	In the Balaghat, Bhandara and Mandla districts and the Hoshangabad tahsil of the Hoshangabad district
Panka	..	In the Berar division, in the Balaghat, Bhandara, Bilaspur, Chanda, Durg, Nagpur, Raipur, Saugor and Wardha districts and in the Chhindwara district, except in the Seoni subdivison thereof.
Pardhi	..	In the Narsinghpura sub-division of the Hoshangabad district.
Pradhan	..	In the Berar division, in the Bhandara, Chanda, Nagpur, Nimar, Raipur and Wardha districts and in the Chhaindwara district, except in the Seoni sub-division thereof.
Rajjhar	..	In the Sohagpur tahsil of the Hoshangabad district

PART VIII. - ASSAM

Scheduled Castes :-

(1) In the Assam Valley :-

Namasudra.	Hira.	Mchtar, or Bhangi.
Kaibartta.	Lalbegi.	Bansphor.
Bania, or Brittial-Bania.		

(2) In the Surma Valley :-

Mali, or Bhuimali.	Sutradhar.	Kaibartta, or Jaliya.
Dhupi, or Dhobi.	Muchi.	Lalbegi.
Dugla, or Dholi.	Patni.	Mehtar, or Bhangi.
Jhalo and Malo, Mahara.	Namasudra.	Bansphor.

PART IX. - ORISSA

Scheduled Castes :-

(1) Throughout the Province :-

Adi-Andhra.	Chamar.	Ghusuria.
Audhelia.	Chandala.	Godagali.
Bariki.	Dandasi.	Godari.
Bansor, or Burud.	Dewar.	Godra.
Bavuri.	Dhoba or Dhobi.	Gokha.
Chachati.	Ganda.	Haddi, or Hari.

Irika.	Mala.	Panchama.
Jaggali.	Mang.	Panka
Kandra.	Mangan.	Relli.
Katia.	Mehra, or Mahar.	Sapari.
Kela.	Mehtar, or Bhangi.	Satnami.
Kodalo.	Mochi or Muchi.	Siyal.
Madari.	Paidi.	Valmiki.
Madiga.	Painda.	
Mahuria.	Pamidi.	

(2) Throughout the Province except in the Khondmals district, the district of Sambalpur and the areas transferred to Orissa under the provisions of the Government of India (Constitution of Orissa) Order, 1936, from the Vizagapatam and Ganjam Agencies in the Presidency of Madras :-

Pan, or Pano.

(3) Throughout the Province except in the Khondmals district and the areas so transferred to Orissa from the said Agencies :-

Dom, or Dambo.

(4) Throughout the Province except in the district of Sambalpur :

Bauro.	Bhumij.	Turi.
Bhuiya.	Ghasi, or Ghasia.	

(5) In the Nawapara sub-division of the district of Sambalpur :-

Kori.	Nagarchi.	Pradhan.

This is a very terrifying list. It includes 429 communities. Reduced to numbers it means that today there exist in India 50-60 millions of people whose mere touch causes pollution to the Hindus. Surely, the phenomenon of Untouchability among primitive and ancient society pales into insignificance before this phenomenon of hereditary Untouchability for so many millions of people which we find in India. This type of Untouchability among Hindus stands in a class by itself. It has no parallel in the history of the world. It is unparalleled not merely by reason of the colossal numbers involved which exceed the number of great many nations in Asia and in Europe but also on other grounds.

There are some striking features of the Hindu system of Untouchability affecting the 429 Untouchable communities which are not to be found in the custom of Untouchability as observed by Non- Hindu communites, primitive or ancient.

The isolation prescribed by Non-Hindu societies as a safeguard against defilement, if it is not rational, is at least understandable. It

is for specified reasons such as birth, marriage, death, etc., But the isolation prescribed by Hindu society is apparently for no cause.

Defilement as observed by the Primitive Society was of a temporary duration which arose during particular times such as the performance of natural functions, eating, drinking, etc. or a natural crisis in the life of the individual such, as birth, death, menstruation, etc. After the period of defilement was over and after the purificatory ceremonies were performed the defilement vanished and the individual became pure and associable. But the impurity of the 50-60 millions of the Untouchables of India, quite unlike the impurity arising from birth, death, etc., is permanent. The Hindus who touch them and become polluted thereby can become pure by undergoing purificatory ceremonies. But there is nothing which can make the Untouchables pure. They are born impure, they are impure while they live, they die the death of the impure, and they give birth to children who are born with the stigma of Untouchability affixed to them. It is a case of permanent, hereditary stain which nothing can cleanse.

In the third place, Non-Hindu societies which believed in defilement isolated the individuals affected or at the most those closely connected with them. But the Untouchability among the Hindus involves the isolation of a class-a class which today numbers about 50 to 60 million people.

In the fourth place, Non-Hindu societies only *isolated* the affected individuals. They did not *segregate* them in separate quarters. The Hindu society insists on segregation of the Untouchables. The Hindu will not live in the quarters of the Untouchables and will not allow the Untouchables to live inside Hindu quarters. This is a fundamental feature of Untouchability as it is practised by the Hindus. It is not a case of social separation, a mere stoppage of social intercourse for a temporary period. It is a case of territorial segregation and of a *cordon sanitaire* putting the impure people inside a barbed wire into a sort of a cage. Every Hindu village has a ghetto. The Hindus live in the village and the Untouchables in the ghetto.

Such is the Hindu system of Untouchability. Who can deny that it is not altogether different from what is found to exist among Non-Hindu societies? That Untouchability among Hindus is a unique phenomenon is beyond question. Persons were treated by non-Hindu communities as impure but as individuals. Never a whole class was treated as impure. But their impurity was of a temporary duration and was curable by the performance of some purificatory rites. There has

never been a case of permanent impunity based on the rule 'once impure always impure'. Persons were treated as impure by Non-Hindu Communities and they were even cut off from social intercourse. But there has never been a case of persons having been put into permanent segregation camps. A whole body of people have been treated as impure by Non-Hindu communities. But they were strangers outside the fold of the kindred. There has never been a case of a people treating a section of their own people as permanently and hereditarily impure.

Untouchability among Hindus is thus a unique phenomenon, unknown to humanity in other parts of the world. Nothing like it is to be found in any other society- primitive, ancient or modern. The many problems that arise out of a study of Untouchability and which call for investigation may be reduced to two :

(1) Why do the Untouchables live outside the village?

(2) What made their impurity permanent, and ineradicable?

The following pages are devoted to finding answers to these two questions.

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PART II

PROBLEM OF HABITAT

Chapter III. Why do the Untouchables Live Outside the Village ?

Chapter IV. Are the Untouchables Broken Men ?

Chapter V. Are there Parallel Cases ?

Chapter VI. How did Separate Settlements for Broken Men Disappear Elsewhere ?

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CHAPTER III

WHY DO THE UNTOUCHABLES LIVE OUTSIDE THE VILLAGE ?

THAT the Untouchables live outside the village is so notorious a fact that it must be taken to be within the cognizance even of those whose knowledge about them is not very profound. Yet, nobody has thought that this was a serious question calling for satisfactory answer. How did the Untouchables come to live outside the village? Were they declared to be Untouchables first and then deported out of the village and made to live outside? Or were they from the very beginning living outside the village and were subsequently declared to be Untouchables? If the answer is that they were living outside the village from the very beginning, there arises a further question, namely, what can be the reason for it ?

As the question of the separate settlement of the Untouchables has never been raised before, naturally there exists no theory as to how the Untouchables came to live outside the village. There is, of course, the view of the Hindu Shastras and if one wants to dignify it by calling it a theory one may do so. The Shastras of course say that the *Antyajas* should live and have their abode outside the village. For instance, Manu says :

> "*X. 51.* But the dwellings of the *Chandalas* and the *Shvapakas* shall be outside the village, they must be made *Apapatras* and their wealth (shall be) dogs and donkeys.
>
> *X. 52.* Their dress (shall be) the garments of the dead, (they shall eat) their food from broken dishes, black iron (shall be) their ornaments and they must always wander from place to place.
>
> *X. 53.* A man who fulfils a religious duty, shall not seek intercourse with them; their transactions (shall be) among themselves and their marriages with their equals.

X. 54. Their food shall be given to them by others (than an Aryan giver) in a broken dish; at night they shall not walk about in village and in towns.

X. 55. By day they may go about for the purpose of their work, distinguished by marks at king's command, and they shall carry out the corpses (of persons) who have no relatives; that is a settled rule.

X. 56. By the King's order they shall always execute the criminals, in accordance with the law, and they shall take for themselves the clothes, the beds, and the ornaments of (such) criminals."

But what conclusion can one draw from these statements of the Shastras? They are capable of double interpretation. When the Shastras say that the Untouchables should stay outside the village, they may be purporting to say no more than that the Untouchables should stay where they have been staying, i.e. outside the village. This is one interpretation. The second interpretation is that those who are declared Untouchables should not be allowed to stay inside the village but should be required to go out of the village and live outside. Following up the alternate interpretations of the Shastras there are two different possibilities which call for consideration. One is that the Untouchability has nothing to do with the Untouchables living outside the village. From the very beginning they lived outside the village. Thereafter when the stigma of Untouchability fell on them they were prohibited from coming to live inside the village. The other possibility is that Untouchability has everything to do with the Untouchables, living outside the village. In other words, the Untouchables originally lived inside the village and that thereafter when the stigma of untouchability fell on them they were forced to vacate and live outside the village.

Which of the two possibilities is more acceptable?

The second possibility is on the face of it absurd and fantastic. One argument is quite enough to expose its absurdity. The phenomenon we are discussing is not confined to a single village or single area. It exists all over India. The transplantation of the Untouchables from within, the village to outside the village is a vast operation. How and who could have carried on an operation of such colossal dimensions? It could not have been carried out except by the command of an Emperor having his sway over the whole of India. Even to him such

a transplantation would have been impossible. But possible and impossible it can only be the work of an Emperor. Who is the Emperor to whom the credit or discredit of this task can be assigned? Obviously, India had no Emperor to perform this task. If there was no Emperor to do the transplantation, then the second possibility must be abandoned.

That those who are called Untouchables lived outside the village from the very beginning even before they became Untouchables and that they continued to live outside the village because of the supervention of untouchability at a later stage is the only possibility worth consideration. But this raises a very difficult question: Why did they live outside the village? What made them or forced them to do so? The answer is that having regard to the factors which are known to students of Sociology to have influenced the transformation of Primitive Society into Modern Society all over the world it is only natural to suppose that the Untouchables should have from the beginning lived outside the village.

Not many will realise why this is natural without some explanation of the factors which have affected the condition of Primitive Society into Modern Society. For a clear understanding of the matter it is necessary to bear in mind that Modern Society differs from Primitive Society in two respects. Primitive Society consisted of nomadic communities while Modern Society consists of settled communities. Secondly, Primitive Society consisted of tribal communities based on blood relationship. Modern Society consists of local communities based on territorial affiliation. In other words there are two lines of evolution along which Primitive Society has proceeded before it became transformed into Modern Society. One line of evolution has led the Primitive Society to become a territorial community from being a tribal community. There can be no doubt that such a change has taken place. Clear traces of the change are to be seen in the official style of kings. Take the style of the English kings. King John was the first to call himself the king of England. His predecessors commonly called themselves kings of the English. The former represent a territorial community. The latter represent a tribal community. England was once the country which Englishmen inhabited. Englishmen are now the people who inhabit England. The same transformation can be seen to have taken place in the style of the French kings who were once called kings of the Franks and later as kings of France. The second line of evolution had led Primitive

Society to become a settled community instead of the Nomadic community which it was. Here again, the change is so definite and so impressive that no illustration is required to convince anybody of its reality.

For the purpose in hand all we need is to confine ourselves to a consideration of the second line of evolution. How did Primitive Society become a settled community? The story of how Primitive Society became a settled community is too long to be detailed in a chapter- much too long to be compressed in a section thereof. It is enough to note two things. The first thing to understand is what made Primitive Society give up its nomadic life and secondly what happened in the transition from nomadic to settled life.

Primitive Society was no doubt nomadic. But it was nomadic not because of any migratory instinct. Nor was it due to any mental trait peculiar to it. It was the result of the fact that the earliest form of the wealth held by Primitive Society was cattle. Primitive Society was migratory because its wealth, namely the cattle, was migratory. Cattle went after new pastures. Primitive Society by reason of its love for cattle, therefore, went wherever its cattle carried it. Primitive Society became fixed in its abode, in other words became a settled-community, when a new species of wealth was discovered. This new species of wealth was land. This happened when Primitive Society learned the art of farming and of cultivating land. Wealth became fixed at one place when it changed its form from cattle to land. With this change Primitive Society also became settled at the same place.

This explains why Primitive Society was at one time nomadic and what led it take to settled life.

The next thing is to note the events that have happened when Primitive Society was on the road to becoming a Settled Society. The problems which faced Primitive Society in its transition from Nomadic life to Settled life were mainly two. One confronted the Settled Community. The other confronted the Broken men. The problem that confronted the Settled community was that of its defence against the Nomadic tribes. The problem which confronted the Broken men was that of the protection and shelter. It may be desirable to elucidate how and why these problems arose.

For an understanding of the problem which confronted the Settled tribes, it is necessary to bear in mind the following facts. All tribes did not take to settled life at one and the same time. Some became settled and some remained nomadic. The second thing to remember

is that the tribes were never at peace with one another. They were always at war. When all tribes were in a Nomadic state the chief causes for intra-tribal warfare were (1) stealing cattle, (2) stealing women, and (3) stealthily grazing of cattle in the pastures belonging to other tribes. When some tribes became settled, the tribes that remained nomadic found it more advantageous to concentrate their fight against the settled tribes. It was more paying than a war against other Nomadic tribes. The Nomadic tribes had come to realize that the Settled tribes were doubly wealthy. Like the Nomadic tribes, they had cattle. But in addition to cattle, they had corn which the Nomadic tribes had not and which they greatly coveted. The Nomadic tribes systematically organized raids on the Settled tribes with the object of stealing the wealth belonging to the Settled tribes. The third fact is mat the Settled tribes were greatly handicapped in defending themselves against these raiders. Being engaged in more gainful occupation, the Settled tribes could not always convert their ploughs into swords. Nor could they leave their homes and go in pursuit of the raiding tribes. There is nothing strange in this. History shows that peoples with civilization but no means of defence are not able to withstand the attacks of the barbarians. This explains how and why during the transition period the Settled tribes were faced with the problem of their defence.

How the problem of the Broken men arose is not difficult to understand. It is the result of the continuous tribal warfare which was the normal life of the tribes in their primitive condition. In a tribal war it often happened that a tribe instead of being completely annihilated was defeated and routed. In many cases a defeated tribe became broken into bits. As a consequence of this there always existed in Primitive times a floating population consisting of groups of Broken tribesmen roaming in all directions. To understand what gave rise to the problem of the Broken men it is necessary to realize that Primitive Society was fundamentally tribal in its origanization. That Primitive Society was fundamentally tribal meant two things. Firstly, every individual in Primitive Society belonged to a tribe. Nay, he must belong to the tribe. Outside the tribe no individual had any existence. He could have none. Secondly tribal organization being based on common blood and common kinship an individual born in one tribe could not join another tribe and become a member of it. The Broken Men had, therefore, to live as stray individuals. In Primitive Society where tribe was fighting against tribe a stray

collection of Broken Men was always in danger of being attacked. They did not know where to go for shelter. They did not know who would attack them and to whom they could go for protection. That is why shelter and protection became the problem of the Broken Men.

The foregoing summary of the evolution of Primitive Society shows that there was a time in the life of Primitive Society when there existed two groups— one group consisting of Settled tribes faced with the problem of finding a body of men who would do the work of watch and ward against the raiders belonging to Nomadic tribes and the other group consisting of Broken Men from defeated tribes with the problem of finding patrons who would give them food and shelter.

The next question is: How did these two groups solve their problems? Although we have no written text of a contract coming down to us from antiquity we can say that the two struck a bargain whereby the Broken Men agreed to do the work of watch and ward for the Settled tribes and the Settled tribes agreed to give them food and shelter. Indeed, it would have been unnatural if such an arrangement had not been made between the two especially when the interest of the one required the co-operation of the other.

One difficulty, however, must have arisen in the completion of the bargain, that of shelter. Where were the Broken Men to live? In the midst of the settled community or outside the Settled community? In deciding this question two considerations must have played a decisive part. One consideration is that of blood relationship. The second consideration is that of strategy. According to Primitive notions only persons of the same tribe, i.e.. of the same blood, could live together. An alien could not be admitted inside the area occupied by the homesteads belonging to the tribe. The Broken men were aliens. They belonged to a tribe which was different from the Settled tribe. That being so, they could not be permitted to live in the midst of the Settled tribe. From the strategic point of view also it was desirable that these Broken men should live on the border of the village so as to meet the raids of the hostile tribes. Both these considerations were decisive in favour of placing their quarters outside the village.

We can now return to the main question, namely, why do the Untouchables live outside the village? The answer to the question can be sought along the lines indicated above. The same processes must have taken place in India when the Hindu Society was passing from

Nomadic life to the life of a settled village community. There must have been in Primitive Hindu society, Settled tribes and Broken Men. The Settled tribes founded the village and formed the village community and the Broken Men lived in separate quarters outside the village for the reason that they belonged to a different tribe and, therefore, to different blood. To put it definitely, the Untouchables were originally only Broken Men. It is because they were Broken Men that they lived outside the village.

This explains why it is natural to suppose that the Untouchables from the very beginning lived outside and that Untouchability has nothing to do with their living outside the village.

The theory is so novel that critics may not feel satisfied without further questioning. They will ask:

(1) Is there any factual evidence to suggest that the Untouchables are Broken Men?

(2) Is there evidence that the process of settlement suggested above has actually taken place in any country?

(3) If Broken Men living outside the village is a universal feature of all societies, how is it that the separate quarters of the Broken Men have disappeared outside India but not in India?

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CHAPTER IV
ARE THE UNTOUCHABLES BROKEN MEN ?

TO the question : Are the Untouchables in their origin only Broken Men, my answer is in the affirmative. An affirmative answer is bound to be followed by a call for evidence. Direct evidence on this issue could be had if the totems of the Touchables and the Untouchables in the Hindu villages had been studied. Unfortunately the study of the totemic organization of the Hindus and the Untouchables has not yet been undertaken by students of anthropology. When such data is collected it would enable us to give a decisive opinion on the question raised in this Chapter. For the present, I am satisfied from such inquiries as I have made that the totems of the Untouchables of a particular village differ from the totems of the Hindus of the village.

Difference in totems between Hindus and Untouchables would be the best evidence in support of the thesis that the Untouchables are Broken Men belonging to a tribe different from the tribe comprising the village community. It may, however, be admitted that such direct evidence as has a bearing on the question remains to be collected. But facts have survived which serve as pointers and from which it can be said that the Untouchables were Broken men. There are two sets of such evidentiary facts.

One set of facts comprise the names *Antya, Antyaja* and *Antyavasin* given to certain communities by the Hindu Shastras. They have come down from very ancient past. Why were these names used to indicate a certain class of people? There seem to be some meaning behind these terms. The words are undoubtedly derivative. They are derived from the root *Anta*. What does the word *Anta* mean? Hindus learned in the Shastras argue that it means one who is born last and as the Untouchable according to the Hindu order of Divine creation is held to be born last, the word *Antya* means an Untouchable. The argument is absurd and does not accord with the

Hindu theory of the order of creation. According to it, it is the Shudra who is born last. The Untouchable is outside the scheme of creation. The Shudra is *Savarna*. As against him the Untouchable is *Avarna, i.e* outside the *Varna* system. The Hindu theory of priority in creation does not and cannot apply to the Untouchable. In my view, the word *Antya* means not end of creation but end of the village. It is a name given to those people who lived on the outskirts of the village. The word *Antya* has, therefore, a survival value. It tells us that there was a time when some people lived inside the village and some lived outside the village and that those who lived outside the village, *i.e.* on the *Antya* of the village, were called *Antyaja*.

Why did some people live on the border of the village? Can there be any other reason than that they were Broken Men who were aliens and who belonged to tribes different from those who lived inside the village? I cannot see any. That this is the real reason is to be found in the use of these particular words to designate them. The use of the words *Antya, Antyaja* and *Antyavasin* has thus double significance. In the first place, it shows that living in separate quarters was such a peculiar phenomenon that a new terminology had to be invented to give expression to it. Secondly, the words chosen express in exact terms the conditions of the people to whom it applied namely that they were aliens.

The second set of facts which shows that the Untouchables were Broken men relates to the position of a community called the Mahars. The Mahar community is a principal Untouchable community in Maharashtra. It is the single largest Untouchable community found in Maharashtra. The following facts showing the relations between the Mahars and the Touchable Hindus are worthy of note: (1) The Mahars are to be found in every village; (2) Every village in Maharashtra has a wall and the Mahars have their quarters outside the wall; (3) The Mahars by turn do the duty of watch and ward on behalf of the village; and (4) The Mahars claim 52 rights against the Hindu villagers. Among these 52 rights the most important are:-

(i) The right to collect food from the villagers;

(ii) The right to collect corn from each villager at the harvest season; and

(iii) The right to appropriate the dead animal belonging to the villagers.

The evidence arising from the position of the Mahars is of course confined to Maharashtra. Whether similar cases are to be found in other parts of India has yet to be investigated. But if the Mahars case

can be taken as typical of the Untouchables throughout India it will be accepted that there was a stage in the history of India when Broken Men belonging to other tribes came to the Settled tribes and made a bargain whereby the Broken men were allowed to settle on the border of the village, were required to do certain duties and in return were given certain rights. The Mahars have a tradition that the 52 rights claimed by them against the villagers were given to them by the Muslim kings of Bedar. This can only mean that these rights were very ancient and that the kings of Bedar only confirmed them.

These facts although meagre do furnish some evidence in support of the theory that the Untouchables lived outside the village from the very beginning. They were not deported and made to live outside the village *because* they were declared Untouchables. They lived outside the village from the beginning *because* they were Broken Men who belonged to a tribe different from the one to which the Settled tribe belonged.

The difficulty in accepting this explanation arises largely from the notion that the Untouchables were always Untouchables. This difficulty will vanish if it is borne in mind that there was a time when the ancestors of the present day Untouchables were not Untouchables *vis-a-vis* the villagers but were merely Broken Men, no more and no less, and the only difference between them and the villagers was that they belonged to different tribes.

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CHAPTER V

ARE THERE PARALLEL CASES ?

ARE there any cases known to history of Broken Men living outside the village? To this question it is possible to give an affirmative answer. Fortunately for us we have two reported cases which show that what is said to have occurred in India particularly has also actually occurred elsewhere. The countries wherein such a development has actually been reported to have taken place are Ireland and Wales.

The organization of the Irish village in primitive times can be seen from the Brehon Laws of Ireland. Some idea of it as revealed in these Laws may be obtained from the following summary given by Sir Henry Maine. Says Sir Henry Maine[1] :-

> "The Brehon Law discloses a stage when the tribe has long been settled, in all probability upon the tribal territory. It is of sufficient size and importance to constitute a political unit, and possibly at its apex is one of the numerous chieftain whom the Irish records call kings. The primary assumption is that the whole of the tribal territory belongs to the whole of the tribe, but in fact large portions of it have been permanently appropriated to minor bodies of tribesmen; A part is allotted in special way to the chief as appurtenant to his office, and descends from chief to chief according to a special rule of succession. Other portions are occupied by fragments of the tribe, some of which are under minor chiefs while others, though not strictly ruled by a chief, have somebody of noble class to act as their representative . All the unappropriated tribelands are in a more special way the property of the tribe as a whole, and no portion can theoretically be subjected to more than a temporary occupation. Such occupations are, however, frequent and among the holders of tribeland, on these terms, are groups of men calling themselves tribesmen, but being in reality associations formed by contract, chiefly for the purpose of pasturing cattle. Much of the common tribeland is not occupied at all, but constitutes, to use the English expression, the 'waste' of the tribe. Still this waste is constantly brought under tillage or permanent pasture by settlements of tribesmen, and upon it *cultivators and servile states are permitted to squat, particularly towards the border.* It is part of the territory over which the authority of the chief tends

1 Early History of Institutions, Lecture HI, pp. 92-93.

steadily to increase, and here it is that he settles his 'fuidhir' or stranger—tenants *a very important class—the outlaws and 'broken men' from other tribes who come to him for protection, and who are only connected with their new tribe by their dependence on its chief, and through the responsibility which he incurs for them."*

Who were the Fuidhirs? According to Sir Henry Maine the Fuidhirs were :

"Strangers or fugitives from other territories, men in fact, who had broken the original tribal bond which gave them a place in the community, and who had to obtain and then as best they might in a new tribe and new place. Society was violently disordered. The result was probably to fill the country with 'Broken Men' and such men could only find a home and protection by becoming Fuidhir tenants.

"The Fuidhir was not a tribesman but an alien. In all societies cemented together by kinship the position of the person who has lost or broken the bond of union is always extraordinarily miserable. He has not only lost his natural place in them but they have no room for him anywhere else."

II

Now as to Wales. The organization of the Welsh village in primitive times is described[1] by Mr. Seebhom. According to Mr. Seebhom a village in Wales was a collection of homesteads. The homesteads were separated into two groups, the homesteads of the Free-tenants and the homesteads of the Unfree-tenants. Mr. Seebhom says that this separation in habitation was a common feature of the primitive village in Wales. Why were these Unfree-tenants made to live in a separate and detached place? The reason for this separation is explained[2] by Mr. Seebhom in the following terms :-

"At first sight there is a great confusion in the class of men mentioned in the ancient Welsh Laws— of tribesmen, *Uchelore bryre* and *innate boneddings* : of non-tribesmen, *talogo Aillte, Alltude,* etc. The confusion vanishes only when the principle underlying the constitution of tribal society is grasped. And this principle would apparently be a very simple one if could be freed from the complications of conquest and permanent settlement of land from the inroads of foreign law, custom, and nomenclature. To begin with there can be little doubt that the ruling principle underlying the structure of tribal society was that of blood relationship among the free tribesmen. No one who did not belong to a kindred could be a member of the tribe, which was in fact, a bundle of Welsh kindred. Broadly then under the Welsh tribal system there were two classes, those of Cymric blood—and those who were stranger in blood. There was

1 The Tribal System in Wales p. 9

2 Ibid pp. 54-55.

a deep, if not unpassable, gulf between these two classes quite apart from any question of land or of conquest. It was a division in blood and it soon becomes apparent that the tenacity with which the distinction was maintained was at once one of the strong distinctive marks of the tribal system and one of the main secrets of its strength."

III

This description of the organisation of the Irish and the Welsh villages in the primitive times leave no doubt that the case of the Untouchables of India is not the only case of a people living outside the village. It proves that in it was exhibited a universal phenomenon, and was marked by the following features :

1. That in primitive times the Village Settlement consisted of two parts. One part occupied by the community belonging to one tribe and another part occupied by the Broken Men of different tribes.
2. The part of the settlement occupied by the tribal community was regarded as the village proper. The Broken Men lived in the outskirts of the village.
3. The reason why the Broken Men lived outside the village was because they were aliens and did not belong to the tribal community.

The analogy between the Untouchables of India and the Fuidhirs of Ireland and the Alltudes of Wales is complete. The Untouchables lived outside the village for the same reason for which the Fuidhirs and Alltudes had to live outside the village in Ireland and Wales. It is, therefore, clear that what is said about the Untouchables on the issue of their living outside the village is not without a parallel elsewhere.

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CHAPTER VI

HOW DID SEPARATE SETTLEMENTS FOR BROKEN MEN DISAPPEAR ELSEWHERE ?

THAT the Fuidhirs of Ireland and the Alltudes of Wales were Broken Men is true. That they lived in separate quarters is also a fact. But it is also true that the separate quarters of those Broken Men disappeared and they became part of the Settled tribe and were absorbed in it. This is somewhat strange. The Broken Men according to the theory set out before were given quarters outside the village because they belonged to a different tribe and, therefore, to different blood. How is it then that they were absorbed by the tribe later on? Why such a thing did not happen in India? These are questions which are natural and which call for an answer.

The question is integrally connected with the process of evolution through which Primitive Society came to be transferred into Modern Society. As has already been said this evolution has proceeded along two different lines. One marked the transformation of Primitive Society from Nomadic into a settled community. The other marked the transformation of Primitive Society from tribal into a territorial community. The question with which we are immediately concerned relates to the second line of evolution. For it is the substitution of common territory for common blood as the bond of union that is responsible for the disappearance of the separate quarters of the Broken Men. Why did Primitive Society substitute common territory for common blood as the bond of union? This is a question for which there is no adequate explanation. The origin of the change is very obscure. How the change was brought about is however quite clear.

At some stage there came into being in Primitive Society a rule whereby a non-tribesman could become a member of the tribe and become absorbed in it as a kindred. It was known as a rule of ennoblement. This rule was that if a non-tribesman lived next to the tribe or married within a tribe for a given number of generations he

became their kindred.[1] Mr. Seebhom gives the following rules for a non-tribesman becoming a tribesman as it was found in the Welsh village system.

(1) Residence in Cymru (Wales) according to the tradition of South Wales made the descendant of a stranger at last, a Cymru, but not until continued to the ninth generation.

(2) Intermarriage with innate Cymraeses generation after generation made the descendent of a stranger an innate Cymru in the *fourth* generation. In other words, the original stranger's great grandson, whose blood was at least seven-eighths Cymric was allowed to attain the right to claim the privileges of a tribesman.

Should not such a thing have happened in India? It could have—indeed it should have. For a rule similar to that which existed in Ireland and Wales also existed in India. It is referred to by Manu. In Chapter X, verses 64-67, he says that a Shudra can be a Brahmin for seven generations (if he marries) within the Brahmin Community. The ordinary rule of *Chaturvarna* was that a Shudra could never become a Brahmin. A Shudra was born a Shudra and could not be made a Brahmin. But this rule of antiquity was so strong that Manu had to apply rule of Untouchability to the Shudra. It is obvious that if this rule had continued to operate in India, the Broken Men of India would have been absorbed in the village community and their separate quarters would have ceased to exist.

Why did this not happen? The answer is that the notion of Untouchability supervened and perpetuated difference between kindred and non-kindred, tribesmen and non-tribesmen in another form; namely; between Touchables and Untouchables. It is this new factor which prevented the amalgamation taking place in the way in which it took place in Ireland and Wales, with the result that the system of separate quarters has become a perpetual and a permanent feature of the Indian village.

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PART III

OLD THEORIES OF THE ORIGIN OF UNTOUCHABILITY

Chapter VII. Racial Difference as the Origin of Untouchability.

Chapter VIII. Occupational Origin of Untouchability.

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CHAPTER VII

RACIAL DIFFERENCE AS THE ORIGIN OF UNTOUCHABILITY

WHAT is the origin of Untouchability? As has been said the field is quite unexplored. No student of Sociology has paid any attention to it. Writers, other than Sociologists, who have written about India and her people have been content with merely recording the custom of Untouchability with varying degrees of disapprobation and leaving it at that. So far as my researches go, I have come across only one author who has attempted to explain how Untouchability has come about. It is Mr.Stanley Rice[1]. According to Mr. Rice—

> *There is a strong probability that the outcasts were the survivors of the conquered peoples,* who, as caste tended to coincide with occupation, became the drum-beating, leather-working, and farm labouring classes to which as serfs they had been relegated from early times. *They were not the races* conquered by the Aryans; the *Paraiyans belonged to the aborigines who were conquered by the Dravidians* and being of a different race they were not admitted to the totem of similar clans with which marriage is always intimately connected, since that would have led to free intercourse and the gradual degradation of race. But this prohibition cannot have been absolute; there are always exceptions. In the course of the centuries, some forty or more, the inevitable miscegenation may very well have obliterated the racial distinctions between aboriginal and early Dravidian. These people have been admitted to a sort of lowly participation in the Hindu system in the atmosphere of which they have lived for so long, for Hinduism is at once the most tolerant and intolerant of creeds. It does not proselytize; you cannot become a Hindu as you can become a Mussalman, and those within the fold are liable to the most rigid restrictions. But it has always been ready to embrace aboriginal tribes who arc willing to submit to its laws, though it may assign to them a very lowly place and they have always been kept at a distance and have been excluded from the temples. It would seem, therefore, that anthropological arguments are in any case not conclusive when we consider these factors which must have profoundly modified the original racial characteristics and must have changed their outlook. *Thus the Dravidians applied to the Paraiyans the same test which the Aryans are assumed to have*

1. Hindu Customs And Their Origins : pp. 113-115. (Italics not in the original.)

applied to the conquered inhabitants. They reduced them to the position of serfs and assigned to them those duties which it was thought beneath their own dignity to perform. Nor was marriage the only consideration. The disabilities of the Paraiyans were due also– and to an even greater degree– to the mystical qualities inherent in Tabu. To admit such a man to the totem family was not only contrary to the social order, it would bring upon the clan the anger of their particular god. But to admit him to the worship of the god within the sacred precincts of a temple was to call clown authentic fire from Heaven, whereby they would be consumed. It would be sacrilege of the same kind as the offering of unconsecrated or unorthodox fire by Koran, Dathan and Abhiram. But though debarred from taking an active part in worship, the Paraiyans might yet do the menial services connected with it, provided that they did not entail the pollution of the sacred building. In Christian terminology the Paraiyan, although he could neither officiate at the altar, nor preach a sermon nor even be one of the congregation, might still ring the bell– on one condition. He could not regard himself as of the communion; he was, in fact, ex-communicate. And as such, he was ceremonially unclean. No washing with water, no cleansing ceremony, could remove that stain which was indelibly fixed by the operation of Tabu. To touch him, to have any dealings with him save as it were, at arm's length, was by a sort of contagious magic a defilement You could employ him to till your field because that entailed no contact of any kind, beyond giving an order, you need have no further communication with him. The seal of pollution was set on his forehead; it was inherent in him as surely as the blood in his veins. And so from being the vile, degraded fellow which Indian opinion had made him, he became viler and more degraded from the kinds of occupation left open to him."

The theory of Mr. Rice really divides itself into two parts. For, according to him, the origin of untouchability is to be found in two circumstances—Race and Occupation. Obviously, they require separate consideration. This Chapter will be devoted to an exaimination of his theory of racial difference as the origin of untouchability.

The racial theory of Mr. Rice contains two elements :–

(1) That the Untouchables are non-Aryan, non-Dravidian aboriginals; and

(2) That they were conquered and subjugated by the Dravidians.

This theory raises the whole question of the invasions of India by foreign invaders, the conquests made by them and the social and cultural institutions that have resulted therefrom. According to Mr. Rice, there have been two invasions of India. First is the invasion of India by the Dravidians. They conquered the non-Dravidian aborigines, the ancestors of the Untouchables, and made them Untouchables. The second invasion is the invasion of India by the Aryans. The Aryans conquered the Dravidians. He does not say how

the conquering Aryans treated the conquered Dravidians. If pressed for an answer he might say they made them Shudras. So that we get a chain. The Dravidians invaded India and conquered the aborigines and made them Untouchables. After Dravidians came the Aryans. The Aryans conquered the Dravidians and made them Shudras. The theory is too mechanical, a mere speculation and too simple to explain a complicated set of facts relating to the origin of the Shudras and the Untouchables.

When students of ancient Indian history delve into the ancient past they do often come across four names, the Aryans, Dravidians, Dasas and Nagas. What do these names indicate? This question has never been considered. Are these names Aryans, Dravidians, Dasas and Nagas the names of different races or are they merely different names for a people of the same race? The general assumption is that they are different races. It is an assumption on which theories like that of Mr. Rice, which seek to explain the social structure of the Hindu Society, particularly its class basis, are built. Before such a theory is accepted it is necessary to examine its foundations.

Starting with the Aryans it is beyond dispute that they were not a single homogeneous people. That they were divided into two[1] sections is beyond dispute. It is also beyond dispute that the two had different cultures. One of them may be called Rig Vedic Aryans and the other the Atharva Vedic Aryans. Their cultural cleavage appears to be complete. The Rig Vedic Aryans believed in Yajna. The Atharva Vedic Aryans believed the Magis. Their mythologies were different. The Rig Vedic Aryans believed in the Deluge and the creation of their race from Manu. The Atharva Vedic Aryans did not believe in Deluge but believed in the creation of their race from Brahma or Prajapati. Their literary developments also lay along different paths. The Rig Vedic Aryans produced Brahmanas, Sutras and Aranyakas. The Atharva Vedic Aryans produced the Upanishads. Their cultural conflict was so great that the Rig Vedic Aryans would not for a long time admit the sanctity of the Atharva Veda nor of the Upanishads and when they did recognize it they called it Vedanta which contrary to the current meaning of the word—namely, essence of the Vedas—originally meant something outside the boundary of the Vedas and, therefore, not so sacred as the Vedas and regarded its study as Anuloma. Whether these two sections of Aryans were two

1. For an exhaustive treatment of the subject see my book "Who Were the Shudras?"

different races we do not know. We do not know whether the word Aryan is a term indicative of race. Historians have therefore made a mistake in proceeding on the assumption that the Aryans were a separate race.

A greater mistake lies in differentiating the Dasas from the Nagas. The Dasas are the same as Nagas. Dasas is merely another name for Nagas. It is not difficult to understand how the Nagas came to be called Dasas in the Vedic literature. Dasa is a Sanskritized form of the Indo-Iranian word Dahaka. Dahaka was the name of the king of the Nagas.[1] Consequently, the Aryans called the Nagas after the name of their king Dahaka, which in its Sanskrit form became Dasa a generic name applied to all the Nagas.

Who were the Nagas? Undoubtedly they were non-Aryans. A careful study of the Vedic literature[2] reveals a spirit of conflict, of a dualism, and a race for superiority between two distinct types of culture and thought. In the Rig Veda, we are first introduced to the Snake-god in the form of Ahi Vitra, the enemy of the Aryan god Indra. Naga, the name under which the Snake-god was to become so famous in later days, does not appear in early Vedic literature. Even when it does for the first time in the Satapatha Brahmana (XI.2,7,12), it is not clear whether a great snake or a great elephant is meant. But this does not conceal the nature of Ahi Vitra, since he is described always in Rig Veda as the serpent who lay around or hidden in waters, and as holding a full control over the waters of heaven and earth alike.

It is also evident from the hymns that refer to Ahi Vitra, that he received no worship from the Aryan tribes and was only regarded as an evil spirit of considerable power who must be fought down.

The mention of the Nagas in the Rig Veda shows that the Nagas were a very ancient people. It must also be remembered that the Nagas were in no way an aboriginal or uncivilized people. History shows a very close association by intermarriage between the Naga people with the Royal families of India. The Devagiri record of the Kadamba king Krisnavarma[3] connects the beginning of the Kadamba-kula with the Nagas. The Royakota[4] grant of 9th Century A.D.

1. On this point see my Volume : "*Who Were the Shudras?*"

2. For the facts stated in the next few pages, see a Paper on the Nagas and the Naga cult in Ancient Indian History by Miss Karunakara Gupta in the Proceedings of the Third Session of the Indian History Congress (1939), p. 214 onwards.

3. I. A. VII. p. 34

4. E.L XV. p. 246

mentions the marriage of Asvathama with a Nagi and the foundation of the Pallava line by Skandasishya, the issue of this marriage. Virakurcha, who according to another Pallava inscription dated in the 9th century A.D. was the ruler of the dynasty, is also mentioned in the same inscription as having married a Nagi and obtained from her the insignia of royalty.'[1] The marriage of Gautamiputra, the son of the Vakataka king Pravarasena, with the daughter of the Bharasiva king Bhava Naga, is a historical fact. So is the marriage of Chandragupta II with princess Kuvera Naga 'of Naga Kula'.[2] A Tamil poet asserts that Kokkilli, an early Chola king, had married a Naga princess.[3] Rajendra Chola is also credited to have won 'by his radiant beauty the hand of the noble daughter of Naga race.'[4] The Navasahasanka Charita describes the marriage of the Paramara king Sindhuraja (who seems to have reigned towards the early part of the 10th Century A. D.) with the Naga princess Sasiprabha, with such exhaustive details in so matter-of-fact-a-manner as to make us almost feel certain that there must have been some historical basis for this assertion.[5] From the Harsha inscription of V.S. 1030-973 A.D. we know that Guvaka I, who was the sixth king in the genealogy upwards from Vigraharaja Chahamana and thus might be supposed to have been ruling towards the middle of the 9th Century was "famous as a hero in the assemblies of the Nagas and other princes." [6] Sanatikara of the Bhaumn dynasty of Orissa, one of whose dates was most probably 921 A.D., is mentioned in an inscription of his son as having married Tribhuana Mahadevi of the Naga family.[7]

Not only did the Naga people occupy a high cultural level but history shows that they ruled a good part of India. That Maharashtra is the home of the Nagas goes without saying. Its people and its kings were Nagas.[8]

That Andhradesa and its neighbourhood were under the Nagas during the early centuries of the Christian era is suggested by evidence from more sources than one. The Satavahanas, and their successors, the Chutu Kula Satakarnis drew their blood more or less from the Naga stock. As Dr. H.C. Roy Chaudhari has pointed out, the

1. S.I. I.II. p. 508
2. E.L XV.p.41
3. EL XV. p. 249
4. I.A. XXII. pp. 144-149
5. E.I.I. p. 229.
6. E.I.I. p. 117
7. J. B. O. R. S. XVI. p.771
8. Rajwade.

Dvatrima Satpukalitta represents Salivahana, the mythological representative of the Satavahana dynasty, as of mixed Brahmana and the Naga origin.[1] This is amply attested to by the typical Naga names which occur in their dynastic lists. That the Naga grew to be very powerful towards the end of the Satavahana rule is also proved by a number of facts. A chief called Skandanaga is found ruling the Bellary district, in the reign of Pulumavi, the last king of the main Satavahana line. Secondly, Naga Mulanika the daughter of a Chutu king, is mentioned as making a gift of a Naga, together with her son, who is called Sivakanda-Naga-Sri. All the known kings of this line bear the same name and thus prove a close association with the Nagas. Thirdly, the name of Uragapura, the capital of Soringoi, suggests not an isolated reign of one Naga king but a Naga Settlement in that locality of tolerably long duration.

From Buddhist tradition of Ceylon and Siam we also know that there was a Naga country called Majerika near the Diamond Sands, i.e. Karachi.[2]

Then during the third and early part of the 4th Century A.D. Northern India also was ruled by a number of Naga kings is clearly proved by Puranic as well as numismaric and epigraphic evidence. Three independent groups of Vidisa, Campavati or Padmavati and Mathura are distinctly mentioned in such a way as to leave little doubt of their importance. The name Bhava Naga, the only known king of the Bharasiva dynasty, also seems to connect him with the Nagas. It is not possible to enter here into a discussion of the coins of the second group, or the question of indentification of Achyuta Ganapati Naga or Nagasena of Allahabad Pillar inscription with these Puranic Naga kings.[3] Of all the Nagas referred to in ancient Indian History, the North Indian Naga houses[4] of the 4th century A.D. stand out as the most prominent and historically the most tangible. We do not know whether Nagabhatta and his son Maharaja Mohesvara Naga of the Lahore Copper Seal[5] belonged to any of these three groups or formed a separate Naga family by themselves. But all this sufficiently justifies the conclusion of Dr. C. C. Roy Chaudhari that the Kushana kingdom of Northern India disappeared in the 4th Century A.D. having been conquered by the Nagas. These Nagas must have been

1. I. P. H. A. I, p. 280
2. Cunningham A. Geo. India, pp. 611-12
3. G. M. I. pp. 23-24
4. P. H. A. I. p. 364
4. G. I. p. 284

ruling over different portions of Uttarapatha till they were themselves swept away before the conquering arms of Samudragupta.

As late as the time of Skandagupta, however we find one Sarvanaga as the governor of Antarvedi[1] In the neighbourhood of Saurashtra and Bharukaccha especially, the Nagas seem to have held a prominent position down to the 6th Century A.D. From the Junagadh inscription Skandagupta appears to have dealt severely with a Naga rebellion.[2] In 570 A. D. Dadda I Gurjara uprooted the Nagas.[3] who have been identified with the jungle tribes ruled over by Brihul laka of Broach.[4] Dhruvasena II's grant of G.S. 334 (645 A.D.) also mentions as Dutaka the Pramatri Srinaga.[5]

The next important revival of the Nagas particularly in Central India seems to date about the 9th Century A.D. In 800 A.D. Maharaja Tivaradeva of Sripura in Kosala most probably defeated a Naga tribe.[6] Sometime after this period, we also note two references to Nagas in the inscription of Bengal. The Ramganj record of Mahamandalika Isvara Ghosha introduces us to a Ghosha Naga family of Dhekkari, which was to be assigned to 11th century[7] A.D. The Bhuvanesvara Prasasti of Bhatta Bhavadeva, the minister of Harivarmadeva in 12th century[8] A.D. also refers to destruction of Naga kings by him. The Ramacharita mentions the conquest of Utkala, the kingdom of Bhava-Bhushana-Santati, by Ramapala, but it is not clear whether in this case the Nagas or the Chandras were meant. The greater probability would however lie in favour of the former, since they were the more well known.

It was in the period 10th-12th Century A.D. that the different branches of the Sendraka, Sinda, or Chindaka family, which called themselves lords of Bhogavati and Nagavamsi gradually spread themselves over different portions of Central India, particularly Baster. The Nagattaras of Begur, too, appear in an inscription of the 10th Century [9] A.D. as having fought against king Viramahendra, on behalf of the W. Ganga king Ereyappa and being distinguished for bravery in the fight. If the evidence of Navashasanka Charita is

1. G. I. p. 68
2. G.I. p. 59
3. I. A. XIII pp. 82
4. B.Gaz. I.i.115
5. ELI. p. 92
6. G.I. p. 298
7. Bhandarkar's List No. 2100
8. Inscription of Bengal III pp. 30 ff.
9. E.I.VI p.45

accepted, then the Naga king, whose daughter Sasiprabha was married to Sindhuraja Paramara, must also have been ruling in Ratnavati on the Narmada at about this period.

Who are the Dravidians? Are they different from the Nagas? Or are they two different names for a people of the same race? The popular view is that the Dravidians and Nagas are names of two different races. This statement is bound to shock many people. Nonetheless, it is a fact that the term Dravidians and Nagas are merely two different names for the same people.

It is not to be denied that very few will be prepared to admit the proposition that the Dravidians and Nagas are merely two different names for the same people and fewer that the Dravidians as Nagas occupied not merely South India but that they occupied the whole of India— South as well as North. Nonetheless, these are historical truths.

Let us see what the authorities have to say on the subject. This is what Mr. Dikshitiar, a well-known South Indian scholar, has to say on the subject in his[1] Paper on *South India in the Ramayana:*

> "The Nagas, another tribe-semi-divine in character, with their totems as serpent, spread throughout India, from Taksasila in the North-West to Assam in the North-East and to Ceylon and South India in the South. At one time they must have been powerful. Contemporaneous with the Yakwas or perhaps subsequent to their fall as a political entity, the Nagas rose to prominence in South India. Not only parts of Ceylon but ancient Malabar were the territories occupied by the ancient Nagas ..... In the Tamil classics of the early centuries after Christ, we hear frequent references to Naganadu..... Remnants of Naga worship are still lingering in Malabar, and the temple in Nagercoil in South Travancore is dedicated to Naga worship even today. All that can be said about them is that they were a sea-faring tribe. Their womenfolk were renowned for their beauty. Apparently the Nagas had become merged with the Cheras who rose to power and prominence at the commencement of the Christian Era."

Further light is thrown on the subject by C. F. Oldham who has made a deep study of it. According to Mr. Oldham:[2]

> "The Dravidian people have been divided, from ancient times, into Cheras, Cholas and Pandyas. Chera, or Sera (in old Tamil Sarai) is the Dravidian equivalent for Naga; Cheramandala, Nagadwipa, or the Naga country. This seems to point distinctly to the Asura origin of the Dravidians of the South. But in addition to this there still exists, widely spread over the Ganges valley, a people who call themselves Cherus or Seoris, and who claim descent from the serpentgods.[3] The Cherus are of very ancient race; they are believed to have

1. Proceedings of the Seventh All-India Oriental Conference, pp. 248-49.
2. The Sun and the Serpent, pp. 157-161.
3. Elliot Sup. Glossary N. W. F.. 135. 136.

once held a great portion of the valley of the Ganges, which, as we have already seen, was occupied in very early times by Naga tribes. The Cherus appear to have been gradually ousted from their lands, during the troublous times of the Mohammedan invasions, and they are now poor and almost landless. There can be little doubt that these people are kinsmen of the Dravidian Cheras.

The Cherus have several peculiar customs and amongst them one which seems to connect them with the Lichhavis, as well as with the Newars of Nepal. This is the election of a raja for every five or six houses, and his investiture, in due form, with the tilak or royal frontal mark.[1] Both Lichavis and Newars had many customs in common with the Dravidians of the South. Each venerated the serpent, Karkotaka Naga being to Nepal what Nila Naga was to Kashmir. A Naga, too, was the tutelary deity of Vaisali, the Lichavi capital. The marital relations of Newars and Lichavis closely resembled those of the Tamil people, and go far to show a common origin.

Property amongst the Newars descended in the female line, as it once did amongst the Arattas, Bahikas or Takhas of the Punjab, whose sisters' sons, and not their own, were their heirs.[2] This is still a Dravidian custom. In short, a recent Dravidian writer, Mr. Balakrishna Nair, says that his people 'appear to be, in nearly every particular, the kinsfolk of the Newars.'[3]

Besides all this, however, there are other links connecting the Naga people of the South with those of the north of India. In an inscription discovered by Colonel Tod at Kanswah near the river Chambal, a Raja, called Salindra, 'of the race of Sarya, a tribe renowned amongst the tribes of the mighty' is said to be ruler of Takhya.[4]

This was evidently the Takhya or Takha kingdom of the Punjab, which was visited by Hiou-en-Tsiang,[5] and which has been already referred to. It seems, therefore, that the Naga people of Takhya were known also by the name of Sarya.

Again, in the outer Himalaya, between the Sutlej and Beas Valleys, is a tract of country called Sara, or Scoraj. In this district the Naga demigods are the chief deities worshipped.

There is another Seoraj in the Upper Chinab Valley, and this too is occupied by a Naga worshiping people.

The name Saraj, or Seoraj, appears to be the same as the Sarya of Colonel Tod's inscription and as Seori, which is the alternative name of the Cherus of the Ganges Valley. It also seems to be identical with Sarai, which we have already seen, is the old Tamil name for the Chera or Naga. Apparently, therefore, the Saryas or Takhya, the Saraj people of the Sutlej Valley, the Seoris or Cherus of the valley of the Ganges, and the Cheras, Seras, or Keralas of Southern India, are but different branches of the same Naga-worshipping people.

It may be noted, too, that in some of the Himalayan dialects, Kira or Kiri means a serpent. This name, from which was perhaps derived the term Kirate

1. Sherring Races of N.W.P., 376,377
2. Mahabharata, Karna, p. xiv
3. Calcutta Review, July, 1896
4. Annals of Rajasthan, i. 795
5. Hiouen Tsiang, Beal, i. 165

so often applied to the people of the Himalayas, is found in the Rajatarangini, where it is applied to a people in or near Kashmir. The Kiras are mentioned by Varaha Mihira, and in a copper plate published by Prof. Kielhorn.[1]

An inscription at the Baijnath temple in the Kangra valley gives Kiragrams as the then name of the place.[2] This, in the local dialect, would mean the village of serpents. The Naga is still a popular deity at Baijnath, and throughout the neighbouring country. The term Kira is thus an equivalent for Naga, and it can scarcely be doubted that the serpent-worshipping Kiras of the Himalayas were closely related to the Dravidian Keras, Cheras or Keralas of the South.

Similarity of name is not always to be trusted, but here we have something more. These people, whose designation is thus apparently the same, are all of Solar race; they all venerate the hooded serpent; and they all worship, as ancestors, the Naga demi-gods.

From the foregoing it would seem tolerably certain that the Dravidians of Southern India were of the same stock as the Nagas or Asuras of the North."

It is thus clear that the Nagas and Dravidians are one and the same people. Even with this much of proof, people may not be found ready to accept the thesis. The chief difficulty in the way of accepting it lies in the designation of the people of South India by the name Dravidian. It is natural for them to ask why the term Dravidian has come to be restricted to the people of South India if they are really Nagas. Critics are bound to ask : If the Dravidians and the Nagas are the same people, why is the name Nagas not used to designate people of South India also. This is no doubt a puzzle. But it is a puzzle which is not beyond solution. It can be solved if certain facts are borne in mind.

The first thing to be borne in mind is the situation regarding language. Today the language of the Southern India differs from that of the people of Northern India. Was this always so? On this question the observations of Mr. Oldham[3] are worth attention.

"It is evident that the old Sanskrit grammarians considered the language of the Dravidian countries to be connected with the vernaculars of northern India; and that, in their opinion, it was especially related to the speech of those people who, as we have seen, were apparently descendants of the Asura tribes. Thus, in the 'Shahasha Chandrika', Lakshmidhara says that the Paisachi language is spoken in the Paisachi countries of Pandya, Kekaya, Vahlika, Sahya, Nepala, Kuntala, Sudesha, Bhota, Gandhara, Haiva and Kanoj; and that these are the Paisachi countries.[4] Of all the vernacular dialects, the paisachi is said to have contained the smallest infusion of Sanskrit.[5]

1. Rajatarangini, Stein, viii. 27, 67, Rapson J. R. A. S., July 1900, 533
2. J. R. A. S., Jan., 1903, p. 37
3. The Sun and the Serpent.
3. and 5. Muir O.S.T. ii.49

That the Asuras originally spoke a language which differred from that of the Aryas seems evident. Several passages are quoted by Prof. Muir, from the Rig Veda, in which the word 'mridavach' is applied to the speech of the Asuras (R.vi.74, 2; v. vi.3; v.vii.6). Of these passages, Professor Muir observes: "The word mridavach, which I have translated "injuriously speaking", is explained by Sayana as meaning "one whose organs of speech are destroyed".[1] The original meaning of the expression was, doubtless that the language of the Asuras was more or less unintelligible to the Aryas. The same explanation will apply to another passage in the Rig Veda, where it is said : 'May we (by propitiating Indra) conquer the ill speaking man.'[2]

From the Satapatha Brahmana we find that 'the Asuras, being deprived of speech, were undone, crying. 'He lava', 'He lava'. Such was the unintelligible speech which they uttered. And he who speaks thus is a Mlecha. Hence, let no Brahman speak barbarous language, since such is the speech of Asuras[3]

We learn from Manu, that 'those tribes who are outside of the classes produced from the mouth, arms, thighs and feet of Brahman, whether they speak the language of the Mlechas or of the Aryas, are called Dasyus.,[4] In the time of Manu, therefore, the Aryan language and that of the Mlechas or Asuras were both in use. At the period described in the Mahabharata, however, the Asura language must have almost died out amongst the Aryanized tribes; as Vidura addressed Yudhishthira in the Mlecha tongue, so as to be unintelligible to all except Yudhishthira.[5]

At a later period than this, however, the grammarian Rama Tarkavagisa refers to 'those who speak like Nagas.'[6] It would seem, therefore, that the unregenerate Asuras retained the language, as well as the religion and customs, of their forefathers long after their converted brethren had discarded them. It was evidently amongst these unregenerate tribes that the Paisachi dialects were in use; and amongst these tribes, as we have just seen, were the Dravidian Pandyas.[7]

This view, that the Tamil and cognate tongues were founded upon the ancient Asura speech, is very strongly confirmed by the fact that the language of the Brahuis, a tribe on the borders of Sind, has been found to be very closely allied to them. Indeed, Dr. Caldwell says: 'The Brahui (language) enables us to trace the Dravidian race, beyond the Indus, to the southern confines of Central Asia. This country, as I have already pointed out, was the home of the Asuras or Nagas, to which race apparently belonged the founders of the Dravidian kingdoms.'

Taking into consideration all the evidence which has been brought forward, the only possible conclusion seems to be, that the Dravidians, of the south of India, were of the same stock as the Asuras or Nagas of the North."

The second thing to be borne in mind is that the word 'Dravida' is not an original word. It is the Sanskritized form of the word Tamil'.

1. Muir, O.S.T. ii. 49
2. Rig Veda, Wilson VII, XVIII, 13
3. Satapatha Br. iii. 2, 1, 23
4. Muir, Haughton x. 45
5. Mahabharata, Adi. Jatagriha, p. cx/vii
6. Muir, O.S.T. ii. 52
7. Ibid. 49

The original word 'Tamil' when imported into Sanskrit became *Damita*[1] and later on *Damilla* became Dravida. The word Dravida is the name of the language of the people and does not denote the race of the people. The third thing to remember is that Tamil or Dravida was not merely the language of South India but before the Aryans came it was the language of the whole of India,[2] and was spoken from Kashmere to Cape Camorin. In fact, it was the language of the Nagas throughout India. The next thing to note is the contact between the Aryan and the Nagas and the effect it produced on the Nagas and their language. Strange as it may appear the effect of this contact on the Nagas of North India was quite different from the effect it produced on the Nagas of South India. The Nagas in North India gave up Tamil which was their mother tongue and adopted Sanskrit in its place. The Nagas in South India retained Tamil as their mother tongue and did not adopt Sanskrit the language of the Aryans. If this difference is borne in mind it will help to explain why the name Dravida came to be applied only for the people of South India. The necessity for the application of the name Dravida to the Nagas of Northern India had ceased because they had ceased to speak the Dravida language. But so far as the Nagas of South India are concerned not only the propriety of calling them Dravida had remained in view of their adherence to the Dravida language but the necessity of calling them Dravida had become very urgent in view of their being the only people speaking the Dravida language after the Nagas of the North had ceased to use it. This is the real reason why the people of South India have come to be called Dravidians.

The special application of the use of the word Dravida for the people of South India must not, therefore, obscure the fact that the Nagas and Dravidas are the one and the same people. They are only two different names for the same people. Nagas was a racial or cultural name and Dravida was their linguistic name.

Thus the Dasas are the same as the Nagas and the Nagas are the same as the Dravidians. In other words what we can say about the races of India is that there have been at the most only two races in the field, the Aryans and the Nagas. Obviously the theory of Mr. Rice must fall to the ground. For it postulates three races in action when as a matter of fact we see that there are only two.

1. B. R. Bhandarkar, Lectures on the Ancient History of India (1919), p: 80 .
2. Ibid pp., 25-28

II

Granting however that there was a third aboriginal race living in India before the advent of the Dravidians, can it be said that these pre-Dravidian aboriginals were the ancestors of the present day Untouchables of India? There are two tests we can apply to find the truth. One is the anthropometric test and the other is the ethnological.

Considered in the light of the anthropometric characteristics of the Indian people Prof. Ghurye has something very striking to say in his volume on 'Caste and Race in India' from which the following is an extract :

> "Taking the Brahmin of the United Provinces as the typical representative of the ancient Aryans we shall start comparisons with him. If we turn to the table of differential indices we find that he shows a smaller differential index as compared with the Chuhra and the Khatri of the Punjab than with any caste from the United Provinces except the Chhatri. The differential index between the Khatri and the Chuhra[1] is the only slightly less than that between the Brahmin of the United Provinces and the Chuhra of the Punjab. This means that the Brahmin of the United Provinces has closer physical affinities with the Chuhra and the Khatri of the Punjab than with any caste from his own province except the very high caste of the Chhatri..... The reality of this close affinity between the United Provinces Brahmin and the Punjab Chuhra is more clearly brought out if we look at the table of differential indices between the United Provinces Brahmin and the Brahmins of other regions. Even the differential index between the United Provinces Brahmin and the Bihar Brahmins, who from what we know about the history of spread of the Aryan culture, is expected to be very nearly allied to the former, is just as high as that between the United Provinces Brahmin and the Chuhra..... On historical ground we expect Bihar to approximate to the United Provinces. On referring to the table we find that the Kurmi comes near to the Brahmin, and the Chamar and the Dom[2] stand much differentiated from him. But the Chamar in this case is not as much distinct from the Brahmin as the United Provinces Chamar is from the United Provinces Brahmin. The table for Bengal shows that the Chandal[3] who stands sixth in the scheme of a social precedence and whose touch pollutes, is not much differentiated from the Brahmin, from whom the Kayasthas, second in rank, can hardly be said to be distinguished. In Bombay the Deshastha Brahmin bears as closer affinity to the Son-Koli, a fisherman caste, as to his own compeer, the Chitpavan Brahmin. The Mahar, the Untouchable of the Maratha region, come next together with the Kunbi, the peasant. Then follow in order the Shenvi Brahmin, the Nagar Brahmin and the high caste Maratha. These results are rather old. Stated in a generalized form they mean that there is no correspondence between social gradation and physical differentiation in Bombay.

1. Chuhra is an Untouchable of the Punjab.
2. Dom is an Untouchable of Bihar.
3. Chandal is an Untouchable of Bengal.

Finally we come to Madras. Here we must treat the different linguistic areas separately for the schemes of social precedence in the various areas are different. According to the average given by Risely and by E. Thurston the order of castes is as follows:

Kapu, Sale, Malla, Golla, Madiga, Fogata and Komati.

According to their social status they are ranked as below:

Brahmin, Komati, Golla, Kapu and others and Sale, Fagota and others. Mala Madiga occupy the lowest rank being the Pariahs of the Telugu country.

In the Canarese the nasal index gives the following order :

Karnatak Smarts, Brahmin, Bant, Billiva, Mandya Brahmin, Vakkaliga, Ganiga, Linga Banajiga, Panchala, Kurha, Holeya, Deshastha Brahmin, Toreya and Bedar.

In the scheme of social precedence the castes are as under:

Brahmin, Bant and Vakkaliga, Toreya, etc., Kuruba and Ganiga, Badaga and Krumba and Solaga, Billiva, Beda Holeya.

The significance of the comparison is enhanced when we remember that the nasal index of the Holeya, the Untouchables of the Canarese region is 75.1 that of the highest of the Brahmin being 71.5 while those of the jungle Krumba and the Solaga, who when Hinduised occupy the rank allotted to them in the list, arc 86.1 and 85.1 respectively.

The Tamil castes may be arranged according to their nasal index as follows:

Ambattan, Vellai, Ediayan, Agamudaiyan, Tamil Brahmin, Palli, Malaiyali, Shanan and Parayan. The Nasal indices of four typical Malayalam castes are: Tiyan, 75; Nambudri 75.5; Nayar 76.7; Charuman 77.2. The order of social precedence among these is: Nambudri, Nayar, Tiyan and Charuman. The nasal index of the Kanikar, a jungle tribe of Tranvancore is 8.46. Thus, the Charuman (an Unapproachable) belonging to the same race as the Brahmin rather than to Kanikar."

To omit from the above extract what is said about other communities and to draw attention to what relates to the Untouchables only, it is clear that the nasal index of the Chuhra (the Untouchables) of the Punjab is the same as the nasal index of the Brahmin of the United Provinces; the nasal index of the Chamar (the Untouchables) of Bihar is not very much distinct from the Brahmin of Bihar; the nasal index of the Holeya (an Untouchable) of the Canarese is far higher than that of the Brahmin of Karnatak and that the nasal index of the Cheruman (an Unapproachable lower than the Pariah) of the Tamil belongs to the same race as the Brahmin of the Tamil Nad. If anthropometry is a science which can be depended upon to determine the race of a people, then the result obtained by the application of anthropometry to the various strata of Hindu society disprove that the Untouchables belong to a race different from the Aryans and the Dravidians. The measurements establish that the Brahmin and the Untouchables belong to the same race.

From this it follows that if the Brahmins are Aryans the Untouchables are also Aryans. If the Brahmins are Dravidians the Untouchables are also Dravidians. If the Brahmins are Nagas, the Untouchables are also Nagas. Such being the facts, the theory propounded by Mr. Rice must be said to be based on a false foundation.

III

The racial theory of Untouchability not only runs counter to the results of anthropometry, but it also finds very little support from such facts as we know about the ethnology of India. That the people of India were once organized on tribal basis is quite well known, and although the tribes have become castes the tribal organization still remains intact. Each tribe was divided into clans and the clans were composed of groups of families. Each group of families had a totem which was some object, animate or inanimate. Those who had a common totem formed an exogamous group popularly known as Gotra or Kula. Families having a common gotra were not allowed to intermarry for they were supposed to be descended from the same ancestor having the same blood running in their veins. Having regard to this fact an examination of the distribution of the totems among the different castes and communities should serve as good a test for determining race as anthropometry has been.

Unfortunately, the study of the totems and their distribution among different communities has been completely neglected by students of sociology. This neglect is largely due to the current view propagated by the Census Commissioners that real unit of the Hindu social system and the basis of the fabric of Hindu society is the sub-caste founded on the rule of endogamy. Nothing can be a greater mistake than this. The unit of Hindu society is not the sub-caste but the family founded on the rule of exogamy. In this sense the Hindu family is fundamentally a tribal organization and not a social organization as the sub-caste is. The Hindu family is primarily guided in the matter of marriage by consideration of *Kul* and *Gotra* and only secondarily by considerations of caste and sub-caste. *Kul* and *Gotra* are Hindu equivalents of the totem of the Primitive Society. This shows that the Hindu society is still tribal in its organization with the family at its base observing the rules of exogamy based on *Kul* and *Gotra*. Castes and sub-castes are social organizations which are superimposed over

the tribal organization and the rule of endogamy enjoined by them does not do away with the rule of exogamy enjoined by the tribal organizations of *Kul* and *Gotra*.

The importance of recognizing the fact that it is the family which is fundamental and not the sub-caste is obvious. It would lead to the study of the names of *Kul* and *Gotra* prevalent among Hindu families. Such a study would be a great help in determining the racial composition of the people of India. If the same *Kul* and *Gotra* were found to exist in different castes and communities it would be possible to say that the castes though socially different were racially one. Two such studies have been made, one in Maharashtra by Risley[1] and another in the Punjab,[2] by Mr. Rose and the result flatly contradict the theory that the Untouchables are racially different from the Aryans or the Dravidians. The main bulk of the population in Maharashtra consists of Marathas. The Mahars are the Untouchables of Maharashtra. The anthropological investigation shows that both have the same *Kul*. Indeed the identity is so great that there is hardly a *Kul* among the Marathas which is not to be found among the Mahars and there is no *Kul* among the Mahars which is not to be found among the Marathas. Similarly, in the Punjab one main stock of people consists of Jats. The Mazabi Sikhs are Untouchables most of them being Chamars by caste. Anthropological investigation shows that the two have the same *Gotras*. Given these facts how can it be argued that the Untouchables belong to a different race? As I have said if totem, kul, and gotra, have any significance it means that those who have the same totem must have been kindred. If they were kindred they could not be persons of different race.

The racial theory of the origin of Untouchability must, therefore, be abondoned.

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1. Census of India 1901. Ethnographical Appendices.
2. Glossary of Tribes and Castes in the Punjab by Rose, Vol., III, p. 76.

CHAPTER VIII

OCCUPATIONAL ORIGIN OF UNTOUCHABILITY

WE may now turn to the occupational theory of the origin of Untouchability. According to Mr. Rice, the origin of Untouchability is to be found in the unclean and filthy occupations of the Untouchables. The theory is a very plausible one. But there are certain difficulties in the way of its being accepted as a true explanation of the origin of Untouchability. The filthy and unclean occupations which the Untouchables perform are common to all human societies. In every human Society there are people who perform these occupations. Why were such people not treated as Untouchables in other parts of the world? The second question is : Did the Dravidians have a nausea against such callings or against persons engaged in them? On this point, there is no evidence. But we have evidence about the Aryans. That evidence shows that the Aryans were like other people and their notions of purity and impurity did not fundamentally differ from those of other ancient people. One has only to consider the following texts from Narada Smriti to show that the Aryans did not at all mind engaging themselves in filthy occupations. In Chapter V Narada is dealing with the subject matter of breach of contract of service. In this Chapter, there occur the following verses :

1. The sages have distinguished five sorts of attendants according to law. Among these are four sorts of labourers; the slaves (are the fifth category of which there are) fifteen species.
2. A student, an apprentice, a hired servant, and fourthly an official.
3. The sages have declared that the state of dependence is common to all these but their respective position and income depends on their particular caste and occupations.

4. Know that there are two sorts of occupations; pure work and impure work; *impure work is that done by the slaves.* Pure work is that done by labourers.
5. *Sweeping the gateway, the privy, the road and the place for rubbish; shampooing the secret parts of the body; gathering and putting away the leaving of food, ordure and urine.*
6. *And lastly, rubbing the master's limbs when desired; this should be regarded as impure work. All other work besides this is pure.*

25. Thus have the four classses of servants doing pure work been enumerated. All the others who do dirty work are slaves, of whom there are fifteen kinds:[1]

It is clear that impure work was done by the slaves and that the impure work included scavenging. The question that arises is: Who were these slaves? Were they Aryans or non-Aryans? That slavery existed among the Aryans admits of no doubt. An Aryan could be a slave of an Aryan. No matter to what Varna an Aryan belonged he could be a slave. A Kshatriya could be a slave. So could a Vaishya. Even a Brahmin was not immune from the law of slavery. It is when *Chaturvarna* came to be recognized as a law of the land that a change was made in the system of slavery. What this change was can be seen from the following extract from the Narada Smriti :

> "39. In the inverse order of the (four) castes slavery is not ordained, except where a man violated the duties peculiar to his caste. Slavery (in that respect) is analogous to the condition of a wife".

Yajnavalkya also says that :

> "183(2) Slavery is in the descending order of the Varnas and not in the ascending order"

This is explained by Vijnaneswara in his Mitakshara, a Commentary on Yajnavalkya Smriti in the following terms:-

> "Of the Varna such as the Brahmin and the rest, a state of slavery shall exist in the descending order (Anulomcyna). Thus, of a Brahmin, a Kshatriya, and the rest may become a slave; of a Kshatriya, the Vaishya and the Shudra; and of a Vaishya, a Shudra; this state of slavery shall operate in the descending order."

1 The fifteen classes of slaves are defined by the Narada Smriti in the following verses ;

V. 26. One born at (his master's) house; one purchased; one received (by gift); one obtained by inheritance; one maintained during a general famine; one pledged by his rightful owner.

V. 27. One released from heavy debt; one made captive in fight; one won through a wager; one who has come forward declaring 'I am thine.' An apostate from asceticism; one enslaved for a stipulated period.

V. 28. One who has become slave in order to get a maintenance; one enslaved on account of his connection with a female slave; and one self-sold. These are 15 classes of slaves as declared by law.

The change was a mere reorganization of slavery and the basis of the principles of graded inequality which is the soul of Chaturvarna. To put it in a concrete form, the new law declared that a Brahmin could have a Brahmin, Kshatriya, Vaishya and a Shudra as his slave. A Kshatriya could have Kshatriya, a Vaishya and a Shudra as his slave. A Vaishya could have a Vaishya and and a Shudra as his slave. A Shudra could have a Shudra only. With all this, the law of slavery remained and all Aryans whether they were Brahmins, Kshatriyas, Vaishyas or Shudras if they become slaves were subject to it.

Having regard to the duties prescribed for the slaves, this change in the law of slavery does not matter at all. It still means that a Brahmin if he was a slave, a Kshatriya if he was a slave, a Vaishya if he was a slave, did the work of a scavenger. Only a Brahmin would not do scavenging in the house of a Kshatriya, Vaishya or a Shudra. But he would do scavenging in the house of a Brahmin. Similarly, a Kshatriya would do scavenging in the house of a Brahmin and the Kshatriya. Only he would not do it in the house of a Vaishya or Shudra and a Vaishya would do scavenging in the house of a Brahmin, Kshatriya and Vaishya. Only he would not do it in the house of a Shudra. It is, therefore, obvious that the Brahmins, Kshatriyas and Vaishyas who are admittedly the Aryans did the work of scavengers which is the filthiest of filthy occupations. If scavenging was not loathsome to an Aryan how can it be said that engaging in filthy occupations was the cause of Untouchability. The theory of filthy occupation as an explanation of Untouchability is, therefore, not tenable.

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PART IV

NEW THEORIES OF THE ORIGIN OF UNTOUCHABILITY

Chapter IX. Contempt for Buddhists as the Root of Untouchability.

Chapter X. Beef-eating as the Root of Untouchability.

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CHAPTER IX

CONTEMPT FOR BUDDHISTS AS THE ROOT OF UNTOUCHABILITY

I

THE Census Reports for India published by the Census Commissioner at the interval of every ten years from 1870 onwards contain a wealth of information nowhere else to be found regarding the social and religious life of the people of India. Before the Census of 1910 the Census Commissioner had a column called "Population by Religion". Under this heading the population was shown (1) Muslims, (2) Hindus, (3) Christians, etc. The Census Report for the year 1910 marked a new departure from the prevailing practice. For the first time it divided the Hindus under three separate categories, (i) Hindus, (ii) Animists and Tribal, and (iii) the Depressed Classes or Untouchables. This new classification has been continued ever since.

II

This departure from the practice of the previous Census Commissioners raises three questions. First is what led the Commissioner for the Census of 1910 to introduce this new classification. The second is what was the criteria adopted as a basis for this classification. The third is what are the reasons for the growth of certain practices which justify the division of Hindus into three separate categories mentioned above.

The answer to the first question will be found in the address presented in 1909 by the Muslim Community under leadership of H.H. The Aga Khan to the then Viceroy, Lord Minto, in which they asked for a separate and adequate representation for the Muslim community in the legislature, executive and the public services.

In the address[1] there occurs the following passage :-

"The Mohamedans of India number, according to the census taken in the year 1901 over sixty-two millions or between one-fifth and one-fourth of the total population of His Majesty's Indian dominions, *and if a reduction be made for the uncivilised portions of the community enumerated under the heads of animist and other minor religions, as well as for those classes who are ordinarily classified as Hindus but properly speaking are not Hindus at all, the proportion of Mohamedans to the Hindu Majority becomes much larger.*[2] We therefore desire to submit that under any system of representation extended or limited a community in itself more numerous than the entire population of any first class European power except Russia may justly lay claim to adequate recognition as an important factor in the State.

"We venture, indeed, with Your Excellency's permission to go a step further, and urge that the position accorded to the Mohamedan community in any kind of representation direct or indirect, and in all other ways effecting their status and influence should be commensurate, not merely with their numerical strength but also with their political importance and the value of the contribution which they make to the defence of the empire, and we also hope that Your Excellency will in this connection be pleased to give due consideration to the position which they occupied in India a little more than hundred years ago and of which the traditions have naturally not faded from their minds."

The portion in italics has a special significance. It was introduced in the address to suggest that in comprising the numerical strength of the Muslims with that of the Hindus the population of the animists, tribals and the Untouchables should be excluded. The reason for this new classification of 'Hindus' adopted by the Census Commissioner in 1910 lies in this demand of the Muslim community for separate representation on augmented scale. At any rate this is how the Hindus understood this demand.[3]

Interesting as it is, the first question as to why the Census Commissioner made this departure in the system of classification is of less importance than the second question. What is important is to know the basis adopted by the Census Commissioner for separating the different classes of Hindus into (1) those who were hundred per cent Hindus and (2) those who were not.

1 For the text of the address see my *Pakistan* p. 431

2 Italics not in the original.

3 This operation came soon after the address given by Muslim community to Lord Minto in 1909 in which they asked for a separate and adequate representation for the Muslim community. The Hindu smelt a rat in it. As the Census Commissioner observed :—

"Incidentally, the enquiry generated a certain amount of heat, because unfortunately it happened to be made at a time when the rival claims of Hindus and Mohammedans to representation on the Legislative Councils were being debated and some of the former feared that it would lead to the exclusion of certain classes from the category of Hindus and would thus react unfavourably on their political importance". Part I. p. 116.

The basis adopted by the Census Commissioner for separation is to be found in the circular issued by the Census Commissioner in which he laid down certain tests for the purpose[1] of distinguishing these two classes. Among those who were not hundred per cent Hindus were included castes and tribes which :–

(1) Deny the supremacy of the Brahmins.

(2) Do not receive the Mantra from a Brahmin or other recognized Hindu Guru.

(3) Deny the authority of the Vedas.

(4) Do not worship the Hindu gods.

(5) Are not served by good Brahmins as family priests.

(6) Have no Brahmin priests at all.

(7) Are denied access to the interior of the Hindu temples.

(8) Cause pollution (a) by touch, or (b) within a certain distance.

(9) Bury their dead.

(10) Eat beef and do no reverence to the cow.

Out of these ten tests some divide the Hindus from the Animists and the Tribal. The rest divide the Hindus from the Untouchables. Those that divide the Untouchables from the Hindus are (2), (5), (6), (7), and (10). It is with them that we are chiefly concerned.

For the sake of clarity it is better to divide these tests into parts and consider them separately. This Chapter will be devoted only to the consideration of (2), (5), and (6).

The replies received by the Census Commissioner to questions embodied in tests (2), (5) and (6) reveal (1) that the Untouchables do not receive the Mantra from a Brahmin; (2) that the Untouchables are not served by good Brahmin priests at all; and (3) that Untouchables have their own priests reared from themselves. On these facts the Census Commissioners of all Provinces are unanimous.[2]

Of the three questions the third is the most important. Unfortunately the Census Commissioner did not realize this. For in making his inquiries he failed to go to the root of the matter to find out: Why were the Untouchables not receiving the Mantra from the Brahmin? Why Brahmins did not serve the Untouchables as their family priests? Why do the Untouchables prefer to have their own priests? It is the 'why' of these facts which is more important than the existence of these facts. It is the 'why' of these facts which must be

1. See Census of India (1911). Pan 1. p. 117

2. See Census of 1911 for Assam p.40; for Bengal, Bihar and Orisa p. 282; for CP.p.73;

investigated. For the clue to the origin of Untouchability lies hidden behind it.

Before entering upon this investigation, it must be pointed out that the inquiries by the Census Commissioner were in a sense one-sided. They showed that the Brahmins shunned the Untouchables. They did not bring to light the fact that the Untouchables also shunned the Brahmins. Nonetheless, it is a fact. People are so much accustomed to thinking that the Brahmin is the superior of the Untouchables and the Untouchable accepts himself as his inferior; that this statement that the Untouchables look upon the Beahmin as an impure person is sure to come to them as a matter of great surprise. The fact has however been noted by many writers who have observed and examined the social customs of the Untouchables. To remove any doubt on the point, attention is drawn to the following extracts from their writings.

The fact was noticed by Abbe Dubois who says[1] :

> "Even to this day a Pariah is not allowed to pass a Brahmin Street in a village, though nobody can prevent, or prevents, his approaching or passing by a Brahmin's house in towns. The Pariahs, on their part will under no circumstances, allow a Brahmin to pass through their *paracherries* (collection of Pariah huts) as they firmly believe it will lead to their ruin".

Mr. Hemingsway, the Editor of the Gazetteer of the Tanjore District says :

> "These castes (Parayan and Pallan or Chakkiliyan castes of Tanjore District) strongly object to the entrance of a Brahmin into their quarters believing that harm will result to them therefrom".[2]

Speaking of the Holeyas of the Hasan District of Mysore, Captain J.S.F. Mackenzie says:-

> "Every village has its Holigiri as the quarters inhabited by the Holiars, formerly agrestic serfs, is called outside the village boundary hedge. This, I thought was because they were considered as impure race, whose touch carries defilement with it"[3]

Such is the reason generally given by the Brahmins who refuse to receive anything directly from the hands of a Holiar, and yet the Brahmins consider great luck will wait upon them if they can manage to pass through the Holigiri without being molested. To this Holiars

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for Madras p. 51; for Punjab p. 109; for U.P. p. 121; for Baroda p.55. for Mysore p.53; for Rajputana pp. 94—105; for Travancore p.198

1. Hindu Manners and Customs (3rd Edition) p. 61 f.n.
2. Gazetteer of Tanjore District (1906) p. 80.
3. Indian Antiquary 1873 11.65.

have a strong objection, and, should a Brahmin attempt to enter their quarters, they turn out in a body and slipper him, in former times, it is said, to death. Members of the other castes may come as far as the door, but they must not enter the house, for that would bring the Holiar bad luck. If, by chance, a person happens to get in, the owner takes care to tear the intruder's cloth, tie up some salt in one corner of it, and turn him out. This is supposed to neutralise all the good luck which might have accrued to the tresspasser, and avert any evil which ought to have befallen the owner of the house.

What is the explanation of this strange phenomenon? The explanation must of course fit in with the situation as it stood at the start, *i.e.* when the Untouchables were not Untouchables but were only Broken Men. We must ask why the Brahmins refused to officiate at the religious ceremonies of the Broken Men? Is it the case that the Brahmins refused to officiate? Or is it that the Broken Men refused to invite them? Why did the Brahmin regard Broken Men as impure? Why did the Broken Men regard the Brahmins as impure? What is the basis of this antipathy?

This antipathy can be explained on one hypothesis. It is that the Broken Men were Buddhists. As such they did not revere the Brahmins, did not employ them as their priests and regarded them as impure. The Brahmin on the other hand disliked the Broken Men because they were Buddhists and preached against them contempt and hatred with the result that the Broken Men came to be regarded as Untouchables.

We have no direct evidence that the Broken Men were Buddhists. No evidence is as a matter of fact necessary when the majority of Hindus were Buddhists. We may take it that they were.

That there existed hatred and abhorrence against the Buddhists in the mind of the Hindus and that this feeling was created by the Brahmins is not without support.

Nilkant in his *Prayaschit Mayukha*[1] quotes a verse from Manu which says :–

> "If a person touches a Buddhist or a flower of Pachupat, Lokayala, Nastika and Mahapataki, he shall purify himself by a bath."

The same doctrine is preached by Apararka in his Smriti.[2] Vradha Harit goes further and declares entry into the Buddhist Temple as sin requiring a purificatory bath for removing the impurity.

1 Edited by Gharpure, p.95.

2 Smriti Sammuchaya I. p. 118.

How widespread had become this spirit of hatred and contempt against the followers of Buddha can be observed from the scenes depicted in Sanskrit dramas. The most striking illustration of this attitude towards the Buddhists is to be found in the Mricchakatika. In Act VII of that Drama the hero Charudatta and his friend Maitreya are shown waiting for Vasantasena in the park outside the city. She fails to turn up and Charudatta decides to leave the park. As they are leaving, they see the Buddhist monk by name Samvahaka. On seeing him, Charudatta says :-

"Friend Maitreya, I am anxious to meet Vasantsena ...

Come, let us go. (After walking a little) Ah ! here's an inauspicious sight, a Buddhist monk coming towards us. (After a little reflection) well, let him come this way, we shall follow this other path. (Exit.)

In Act VIII, the monk is in the Park of Sakara, the King's brother-in-law, washing his clothes in a pool. Sakara accompanied by Vita, turns up and threatens to kill the monk. The following conversation between them is revealing :

"Sakara- Stay, you wicked monk.

Monk- Ah! Here's the king's brother-in-law! Because some monk has offended him, he now beats up any monk he happens to meet.

Sakara- Stay, I will now break your head as one breaks a radish in a tavern. *(Beats him).*

Vita- Friend, it is not proper to beat a monk who has put on the saffron-robes, being disgusted with the world.

Monk- *(Welcomes)* Be pleased, lay brother.

Sakara- Friend, see. He is abusing me.

Vita- What does he say?

Sakara- He calls me lay brother *(upasaka).* Am I a barber?

Vita- Oh! He is really praising you as a devotee of the Buddha.

Sakara- Why has he come here?

Monk- To wash these clothes.

Sakara- Ah! you wicked monk. Even I myself do not bathe in this pool; I shall kill you with one stroke."

After a lot of beating, the monk is allowed to go. Here is a Buddhist Monk in the midst of the Hindu crowd. He is shunned and avoided. The feeling of disgust against him is so great that the people even shun the road the monk is travelling. The feeling of repulsion is so intense that the entry of the Buddhist was enough to cause the exit of the Hindus. The Buddhist monk is on a par with the Brahmin. A Brahmin is immune from death-penalty. He is even free from corporal punishment But the Buddhist monk is beaten and assaulted

without remorse, without compunction as though there was nothing wrong in it.

If we accept that the Broken Men were the followers of Buddhism and did not care to return to Brahmanism when it became triumphant over Buddhism as easily as other did, we have an explanation for both the questions. It explains why the Untouchables regard the Brahmins as inauspicious, do not employ them as their priest and do not even allow them to enter into their quarters. It also explains why the Broken Men came to be regarded as Untouchables. The Broken Men hated the Brahmins because the Brahmins were the enemies of Buddhism and the Brahmins imposed untouchability upon the Broken Men because they would not leave Buddhism. On this reasoning it is possible to conclude that one of the roots of untouchability lies in the hatred and contempt which the Brahmins created against those who were Buddhist.

Can the hatred between Buddhism and Brahmanism be taken to be the sole cause why Broken Men became Untouchables? Obviously, it cannot be. The hatred and contempt preached by the Brahmins was directed against Buddhists in general and not against the Broken Men in particular. Since untouchability stuck to Broken Men only, it is obvious that there was some additional circumstance which has played its part in fastening untouchability upon the Broken Men. What that circumstance could have been? We must next direct our effort in the direction of ascertaining it.

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CHAPTER X

BEEF EATING AS THE ROOT OF UNTOUCHABILITY

WE now take up test No. 10 referred to in the circular issued by the Census Commissioner and to which reference has already been made in the previous chapter. The test refers to beef-eating.

The Census Returns show that the meat of the dead cow forms the-chief item of food consumed by communities which are generally classified as untouchable communities. No Hindu community, however low, will touch cow's flesh. On the other hand, there is no community which is really an Untouchable community which has not something to do with the dead cow. Some eat her flesh, some remove the skin, some manufacture articles out of her skin and bones.

From the survey of the Census Commissioner, it is well established that Untouchables eat beef. The question however is: Has beef-eating any relation to the origin of Untouchability? Or is it merely an incident in the economic life of the Untouchables? Can we say that the Broken Men came to be treated as Untouchables because they ate beef? There need be no hesitation in returning an affirmative answer to this question. No other answer is consistent with facts as we know them.

In the first place, we have the fact that the Untouchables or the main communities which compose them eat the dead cow and those who eat the dead cow are tainted with untouchability and no others. The co-relation between untouchability and the use of the dead cow is so great and so close that the thesis that it is the root of untouchability seems to be incontrovertible. In the second place if there is anything that separates the Untouchables from the Hindus, it is beef-eating. Even a superficial view of the food taboos of the Hindus will show that there are two taboos regarding food which serve as dividing lines. There is one taboo against meat-eating. It divides Hindus into vegetarians and flesh eaters. There is another

taboo which is against beef eating. It divides Hindus into those who eat cow's flesh and those who do not. From the point of view of untouchability the first dividing line is of no importance. But the second is. For it completely marks off the Touchables from the Untouchables. The Touchables whether they are vegetarians or flesh-eaters are united in their objection to eat cow's flesh. As against them stand the Untouchables who eat cow's flesh without compunction and as a matter of course and habit.[1]

In this context it is not far-fetched to suggest that those who have a nausea against beef-eating should treat those who eat beef as Untouchables.

There is really no necessity to enter upon any speculation as to whether beef-eating was or was not the principal reason for the rise of Untouchability. This new theory receives support from the Hindu Shastras. The Veda Vyas Smriti contains the following verse which specifies the communities which are included in the category of Antyajas and the reasons why they were so included.[2]

> L. 12-13 " The *Charmakars* (Cobbler), the *Bhatta* (Soldier), the *Bhilla,* the *Rajaka* (washerman), the *Puskara,* the *Nata* (actor), the *Vrata,* the *Meda,* the *Chandala,* the *Dasa,* the *Svapaka,* and the *Kolika-* these are known as Antyajas as well as others who eat cow's flesh."

Generally speaking the Smritikars never care to explain the why and the how of their dogmas. But this case is exception. For in this case, Veda Vyas does explain the cause of untouchability. The clause "as well as others who eat cow's flesh" is very important. It shows that the Smritikars knew that the origin of untouchability is to be found in the eating of beef. The dictum of Veda Vyas must close the argument. It comes, so to say, straight from the horse's mouth and what is important is that it is also rational for it accords with facts as we know them.

The new approach in the search for the origin of Untouchability has brought to the surface two sources of the origin of Untouchability. One is the general atmosphere of scorn and contempt spread by the Brahmins against those who were Buddhists and the second is the habit of beef-eating kept on by the Broken Men. As has been said , the first circumstance could not be sufficient to account for stigma of

1 The Untouchables have felt the force of the accusation levelled against them by the Hindus for eating beef. Instead of giving up the habit the Untouchables have invented a philosophy which justifies eating the beef of the dead cow. The gist of the philosophy is that eating the flesh of the dead cow is a better way of showing respect to the cow than throwing her carcass to the wind.

2 Quoted in Kane's History of Dharma Shastra-Vol.11, Part 1 p. 71.

Untouchability attaching itself to the Broken Men. For the scorn and contempt for Buddhists spread by the Brahmins was too general and affected all Buddhists and not merely the Broken Men. The reason why Broken Men only became Untouchables was because in addition to being Buddhists they retained their habit of beef-eating which gave additional ground for offence to the Brahmins to carry their newfound love and reverence to the cow to its logical conclusion. We may therefore conclude that the Broken Men were exposed to scorn and contempt on the ground that they were Buddhists the main cause of their Untouchability was beef-eating.

The theory of beef-eating as the cause of untouchability also gives rise to many questions. Critics are sure to ask: What is the cause of the nausea which the Hindus have against beef-eating? Were the Hindus always opposed to beef-eating? If not, why did they develop such a nausea against it? Were the Untouchables given to beef-eating from the very start? Why did they not give up beef-eating when it was abandoned by the Hindus? Were the Untouchables always Untouchables? If there was a time when the Untouchables were not Untouchables even though they ate beef why should beef-eating give rise to Untouchability at a later-stage? If the Hindus were eating beef, when did they give it up? If Untouchability is a reflex of the nausea of the Hindus against beef-eating, how long after the Hindus had given up beef-eating did Untouchability come into being? These questions must be answered. Without an answer to these questions, the theory will remain under cloud. It will be considered as plausible but may not be accepted as conclusive. Having put forth the theory, I am bound to answer these questions. I propose to take up the following heads :-

(1) Did the Hindus never eat beef?

(2) What led the Hindus to give up beef-eating?

(3) What led the Brahmins to become vegetarians?

(4) Why did beef-eating give rise to Untouchability? and

(5) When was Untouchability born?

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PART V

THE NEW THEORIES AND SOME QUESTIONS

Chater XI. Did the Hindus never eat beef ?

Chapter XII. Why did non-Brahmins give up beef-eating ?

Chapter XIII. What made the Brahmins to become vegetarians ?

Chapter XIV. Why should beef-eating make Broken Men Untouchables ?

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CHAPTER XI

DID THE HINDUS NEVER EAT BEEF ?

TO the question whether the Hindus ever ate beef, every Touchable Hindu, whether he is a Brahmin or a non-Brahmin, will say 'no, never'. In a certain sense, he is right. From times no Hindu has eaten beef. If this is all that the Touchable Hindu wants to convey by his answer there need be no quarrel over it. But when the learned Brahmins argue that the Hindus not only never ate beef but they always held the cow to be sacred and were always opposed to the killing of the cow, it is impossible to accept their view.

What is the evidence in support of the construction that the Hindus never ate beef and were opposed to the killing of the cow?

There are two series of references in the Rig Veda on which reliance is placed. In one of these, the cow is spoken of as *Aghnya*. They are Rig Veda 1.164, 27; IV.1.6; V 82-8; VII.69. 71; X.87. *Aghnya* means 'one who does not deserve to be killed'. From this, it is argued that this was a prohibition against the killing of the cow and that since the Vedas are the final authority in the matter of religion, it is concluded that the Aryans could not have killed the cows, much less could they have eaten beef. In another series of references the cow is spoken of as sacred. They are Rig Veda VI.28.1.8. and VIII, 101. 15. In these verses the cow is addressed as Mother of Rudras, the Daughter of Vasus, the Sister of the Adityas and the Centre of Nectar. Another reference on the subject is in Rig Veda VIII. 101. 16 where the cow is called Devi (Goddess).

Raliance is also placed on certain passages in the Brahmanas and Sutras.

There are two passages in the Satapatha Brahmana which relate to animal sacrifice and beef-eating. One is at III. 1.2.21 and reads as follows :-

> "He (the Adhvaryu) then makes him enter the hall. Let him not eat (the flesh) of either the cow or the ox, for the cow and the ox doubtless support everything here on earth. The gods spake, 'verily, the cow and the ox support everything here; come, let us bestow on the cow and the ox whatever vigour belonged to

> other species (of animals); and therefore the cow and the ox eat most. Hence were one to eat (the flesh) of an ox or a cow, there would be, as it were, an eating of everything, or, as it were, a going to the end (or, to destruction)... Let him therefore not eat (the flesh) of the cow and the ox."

The other passage is at 1, 2, 3, 6. It speaks against animal sacrifice and on ethical grounds.

A similar statement is contained in the Apastambha Dharma Sutra at 1, 5, 17, 29. Apastambha lays a general embargo on the eating of cow's flesh.

Such is the evidence in support of the contention that the Hindus never ate beef. What conclusion can be drawn from this evidence?

So far as the evidence from the Rig Veda is concerned the conclusion is based on a misreading and misunderstanding of the texts. The adjective *Aghnya* applied to the cow in the Rig Veda means a cow that was yielding milk and therefore not fit for being killed. That the cow is venerated in the Rig Veda is of course true. But this regard and venerations of the cow are only to be expected from an agricultural community like the Indo-Aryans. This application of the utility of the cow did not prevent the Aryan from killing the cow for purposes of food. Indeed the cow was killed because the cow was regarded as sacred. As observed by Mr.Kane:

> "It was not that the cow was not sacred in Vedic times, it was because of her sacredness that it is ordained in the Vajasaneyi Samhita that beef should be eaten."[1]

That the Aryans of the Rig Veda did kill cows for purposes of food and ate beef is abundantly clear from the Rig Veda itself. In Rig Veda (X. 86.14) Indra says:- "They cook for one 15 plus twenty oxen". The Rig Veda (X.91.14) says that for Agni were sacrificed horses, bulls, oxen, barren cows and rams. From the Rig Veda (X.72.6) it appears that the cow was killed with a sword or axe.

As to the testimony of the Satapatha Bramhana, can it be said to be conclusive? Obviously, it cannot be. For there are passages in the other Bramhanas which give a different opinion.

To give only one instance. Among the Kamyashtis set forth in the Taittiriya Bramhana, not only the sacrifice of oxen and cows are laid down, but we are even told what kind and description of oxen and cows are to be offered to what deities. Thus, a dwarf ox is to be chosen for sacrifice to Vishnu; a drooping horned bull with a blaze on the forehead to Indra as the destroyer of Vritra; a black cow to

1 Dharm Shaslra Vichar (Marathi) p, 180.

Pushan; a red cow to Rudra; and so on. The Taittiriya Bramhana notes another sacrifice called *Panchasaradiya-seva,* the most important element of which was the immolation of seventeen five-year old humpless, dwraf-bulls, and as many dwarf heifers under three year-old.

As against the statement of the Apastamba Dharma Sutra, the following points may be noted.

First is the contrary statement contained in that Very Sutra. At 14, 15, 29, the Sutra says :-

> "The cow and the bull are sacred and therefore should be eaten".

The second is the prescription of Madhuparka contained in the Grahya Sutras. Among the Aryans the etiquette for receiving important guests had become settled into custom and had become a ceremony. The most important offering was Madhuparka. A detailed descriptions regarding Madhuparka are to be found in the various Grahya Sutras. According to most of the Grahya Sutras there are six persons who have a right to be served with Madhuparka namely; (1) Ritwija or the Brahmin called to perform a sacrifice, (2) Acharya, the teacher, (3) The bridegroom (4) The King (5) The Snatak, the student who has just finished his studies at the Gurukul and (6) Any person who is dear to the host. Some add Atithi to this list. Except in the case of Ritvija, King and Acharya, Madhuparka is to be offered to the rest once in a year. To the Ritvija, King and Acharya it is to be offered each time they come.

What was this Madhuparka made of ? There is divergence about the substances mixed in offering Madhuparka. Asv.gr and Ap.gr. (13.10) prescribe a mixture of honey and curds or clarified butter and curds. Others like Par.gr. 13 prescribe a mixture of three (curds, honey and butter). Ap.gr.(13.11-12) states the view of some that those three may be mixed or five (those three with fried *yava* grain and barley). Hir.gr.I, 12, 10-12 give the option of mixing three of five (curds, honey, ghee, water and ground grain). The Kausika Sutra (92) speaks of nine kinds of mixtures, viz., *Brahma* (honey and curds). *Aindra* (of payasa), *Saumya* (curds and ghee), *Pausna* (ghee and mantha), *Sarasvata* (milk and ghee), *Mausala* (wine and ghee, this being used only in Sautramanai and Rajasuya sacrifices), *Parivrajaka* (sesame oil and oil cake). The Madhava gr.I.9.22 says that the Veda declares that the Madhuparka must not be without flesh and so it recommends that if the cow is let loose, goat's meat or payasa (rice cooked in milk) may be offered; the Hir.gr. 1.13, 14 says that other meat should be offered; Baud.gr. (1.2,51-54) says that when the cow is let off, the flesh of a goat or ram may be offered or some forest flesh (of a deer,

etc.) may be offered, as there can be no Madhuparka without flesh or if one is unable to offer flesh one may cook ground grains.

Thus the essential element in Madhuparka is flesh and particularly cow's flesh.

The killing of cow for the guest had grown to such an extent that the guest came to be called 'Go-ghna' which means the killer of the cow. To avoid this slaughter of the cows the Ashvalayana Grahya Sutra (1.24.25) suggests that the cow should be let loose when the guest comes so as to escape the rule of etiquette.

Thirdly, reference may be made to the ritual relating to disposal of the dead to counter the testimony of the Apastamba Dharma Sutra. The Sutra says[1] :-

"1. He should then put the following (sacrificial) implements (on the dead body)

2. Into the right hand the (spoon called) Guhu.

3. Into the left the (other spoon called) Upabhrit.

4. On his right side the wooden sacrificial sword called *Sphya,* on his left side the Agnihotrahavani (i.e., the laddle with which the Agnihotra oblations are sacrified).

5. On his chest the (big sacrificial laddle called) Dhruva. On his head the dishes. On his teeth the pressing stones.

6. On the two sides of his nose, the two smaller sacrificial laddies called *Sruvas.*

7. Or, if there is only one (Sruva), breaking it (in two pieces).

8. On his two ears the two Prasitraharanas (i.e, the vessels into which the portion of the sacrificial food belonging to the Brahmin) is put

9. Or, if there is only one (Prasitraharana), breaking it (in two pieces).

10. On his belly the (vessel called) Patri.

11. And the cup into which the cut-off portion (of the sacrificial food) are put.

12. On his secret parts the (staff called) Samy.

13. On his thighs two kindling woods.

14. On his legs the mortar and the pestle.

15. On his feet the two baskets.

16. Or, if there is only one (basket), breaking it in two pieces.

17. Those of the implements which have a hollow (into which liquids can be poured) are filled with sprinkled butter.

1 Kane's vol. II. Part I p. 545.

18. The son (of the deceased person) should take the under and the upper mill-stone for himself.
19. And the implements made of copper, iron and earthenware.
20. Taking out the omentum of the she-animal he should cover therewith the head and the mouth (of the dead person) with the verse, 'But on the armour (which will protect thee) against Agni, by that which comes from the cows.' (Rig Veda. X.16.7).
21. Taking out the kidneys of the animal he should lay them into the hands (of the dead body) with the verse, escape the two hounds, the sons of Sarma (Rig Veda X 14.10) the right kidney into the right hand and the left into the left hand.
22. The heart of the animals he puts on the heart of the deceased.
23. And two lumps of flour or rice according to some teachers.
24. Only if there are no kidneys according to some teachers.
25. Having distributed the whole (animal), limb by limb (placing its different limbs on the corresponding limbs of the deceased) and having covered it with its hide, he recites when the Pranita water is carried forward (the verse), 'Agni do not overturn this cup,' (Rig Veda, X.16.8).
26. Bending his left knee he should sacrifice Yugya oblation into the Dakshina fire with the formulas 'To Agni Svaha, to Kama Svaha, to the world Svaha, to Anumati Svaha'.
27. A fifth (oblation) on the chest of the deceased with the formula 'from this one verily thou hast been born. May he now be born out of thee. To the heaven worlds Svaha.' "

From the above passage quoted from the Ashvalayan Grahya Sutra it is clear that among the ancient Indo-Aryans when a person died, an animal had to be killed and the parts of the animal were placed on the appropriate parts of the dead body before the dead body was burned.

Such is the state of the evidence on the subject of cow-killing and beef-eating. Which part of it is to be accepted as true? The correct view is that the testimony of the Satapatha Brahmana and the Apastamba Dharma Sutra in so far as it supports the view that Hindus were against cow-killing and beef-eating, are merely exhortations against the excesses of cow-killing and not prohibitions against cow-killing. Indeed the exhortations prove that cow-killing and eating of beef had become a common practice. That notwithstanding these exhortations cow-killing and beef-eating continued. That most often they fell on deaf ears is proved by the conduct of Yajnavalkya, the great Rishi of the Aryans. The first passage quoted above from the

Satapatha Brahmana was really addressed to Yajnavalkya as an exhortation. How did Yajnavalkya respond? After listening to the exhortation this is what Yajnavalkya said :–

> "I, for one, eat it, provided that it is tender"

That the Hindus at one time did kill cows and did eat beef is proved abundantly by the description of the Yajnas given in the Buddhist Sutras which relate to periods much later than the Vedas and the Brahmanas. The scale on which the slaughter of cows and animals took place was colossal. It is not possible to give a total of such slaughter on all accounts committed by the Brahmins in the name of religion. Some idea of the extent of this slaughter can however be had from references to it in the Buddhist literature. As an illustration reference may be made to the Kutadanta Sutta in which Buddha preached against the performance of animal sacrifices to Brahmin Kutadanta. Buddha, though speaking in a tone of sarcastic travesty, gives a good idea of the practices and rituals of the Vedic sacrifices when he said:

> "And further, O Brahmin, at that sacrifice neither were any oxen slain, neither goats, nor fowls, nor fatted pigs, nor were any kind of living creatures put to death. No trees were cut down to be used as posts, no Darbha grasses mown to stress around the sacrificial spot. And the slaves and messengers and workmen there employed were driven neither by rods nor fear, nor carried on their work weeping with tears upon their faces."

Kutadanta on the other hand in thanking Buddha for his conversion gives an idea of the magnitude of the slaughter of animals which took place at such sacrifices when he says :-

> "I, even I betake myself to the venerable Gotama as my guide, to the Doctrine and the Order. May the venerable One accept me as a disciple, as one who, from this day forth, as long as life endures, has taken him as his guide. And I myself, O, Gotama, will have the seven hundred bulls, and the seven hundred steers, and the seven hundred heifers, and the seven hundred goats, and the seven hundred rams set free. To them I grant their life. Let them eat grass and drink fresh water and may cool breezes waft around them."

In the Samyuta Nikaya (III,1-9) we have another description of a Yajna performed by Pasenadi, king of Kosala. It is said that five hundred bulls, five hundred calves and many heifers, goats and rams were led to the pillar to be sacrificed.

With this evidence no one can doubt that there was a time when Hindus –both Brahmins and non-Brahmins –ate not only flesh but also beef.

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CHAPTER XII

WHY DID NON-BRAHMINS GIVE UP BEEF-EATING?

THE food habits of the different classes of Hindus have been as fixed and stratified as their cults. Just as Hindus can be classified on their basis of their cults so also they can be classified on the basis of their habits of food. On the basis of their cults, Hindus are either *Saivites* (followers of Siva) or *Vaishnavites* (followers of Vishnu). Similarly, Hindus are either *Mansahari* (those who eat flesh) or *Shakahari* (those who are vegetarians).

For ordinary purposes the division of Hindus into two classes *Mansahari* and *Shakahari* may be enough. But it must be admitted that it is not exhaustive and does not take account of all the classes which exist in Hindu society. For an exhaustive classification, the class of Hindus called *Mansahari* shall have to be further divided into two sub-classes : (i) Those who eat flesh but do not eat cow's flesh; and (ii) Those who eat flesh including cow's flesh; In other words, on the basis of food taboos, Hindu society falls into three classes : (i) Those who are vegetarians; (ii) Those who eat flesh but do not eat cow's flesh; and (iii) Those who eat flesh including cow's flesh. Corresponding to this classification, we have in Hindu society three classes : (1) Brahmins; (2) Non-Brahmins; and (3) The Untouchables. This division though not in accord with the fourfold division of society called Chaturvarnya, yet it is in accord with facts as they exist. For, in the Brahmins[1] we have a class which is vegetarian, in the non-Brahmins the class which eats flesh but does not eat cow's flesh and in the Untouchables a class which eats flesh including cow's flesh.

This threefold division is therefore substantial and is in accord with facts. Anyone who stops to turn over this classification in his mind

1 The Brahmins of India fall into two divisions (1) Pancha Dravid and (2) Panch Gauda. The former are vegetarians, the latter are not.

is bound to be struck by the position of the Non-Brahmins. One can quite understand vegetarianism. One can quite understand meat-eating. But it is difficult to understand why a person who is a flesh-eater should object to one kind of flesh namely cow's flesh. This is an anomaly which call for explanation. Why did the Non-Brahmin give up beef-eating? For this purpose it is necessary to examine laws on the subject. The relevant legislation must be found either in the Law of Asoka or the Law of Manu.

II

To begin with Asoka. The edicts of Asoka which have reference to this matter are Rock Edict No.I and Pillar Edict Nos.II and V. Rock Edict No.I reads as follows :-

"This pious Edict has been written by command of His Sacred and Gracious Majesty the King. Here (in the capital) no animal may be slaughtered for sacrifice, nor may the holiday feast be held, because His Sacred and Gracious Majesty, the king sees much offence in the holiday feasts, although in certain places holiday feasts are excellent in the sight of His Sacred and Gracious Majesty the king.

"Formerly, in the kitchen of His Sacred and Gracious Majesty the King, each day many hundred thousands of living creatures were slaughtered to make curries. But now, when this pious edict is being written, only three living creatures are slaughtered (daily) for curry, to wit, two peacocks and one antelope: the antelope, however, not invariably. Even those three living creatures henceforth shall not be slaughtered."

Pillar Edict No.II was in the following terms :

"Thus saith His Sacred and Gracious Majesty, the King :-

"The Law of Piety is excellent. But wherein consists the Law of Piety? In these things, to wit, little piety, many good deeds, compassion, liberality, truthfulness and purity.

The gift of spiritual insight I have given in manifold ways: whilst on two-footed and four-footed beings, on birds and the denizens of the waters, I have conferred various favours-even unto the boon of life; and many other good deeds have I done.

For this purpose, have I caused this pious edict to be written, that men may walk after its teaching, and that it may long endure; and he who will follow its teaching will do well."

Pillar Edict V says :

"Thus said His Sacred and Gracious Majesty, the king :

When I had been consecrated twenty-six years the following species were declared *exempt from slaughter,* namely :

Parrots, starlings adjutants, Brahmany ducks, geese, *pandimukhas, gelatas,* bats, queen-ants, female tortoises, boneless fish, *vedaveyakas, gangapuputakas,*

skate, (river) tortoise, porcupines, tree-squirrels, *barasingha* stag, Brahmany bulls, monkeys, rhinoceros, grey doves village pigeons, and *all fourfooted animals which are not utilised or eaten.*

She-goats, ewes, cows, that is to say, those either with young or in milk, are exempt from slaughter as well as their off-spring up to six months of age.

The caponing of cocks must not be done.

Chaff must not be burned along with the living things in it.

Forests must not be burned either for mischief or so as to destroy living creatures.

The living must not be fed with the living. At each of the three seasonal full moons, and at the full moon of the month Tishya (December-January) for three days in each case, namely, the fourteenth and fifteenth days of the first fortnight, and the first day of the second fortnight, as well as on the first days throughout the year, fish is exempt from killing and may not be sold.

"On the same days, in elephant-preserves or fish-ponds no other classes of animals may be destroyed.

On the eighth, fourteenth and fifteenth days of each fortnight, as well as on the Tishya and Punarvasa days and festival days, the castration of bulls must not be performed, nor may he-goats, rams, boars and other animals liable to castration be castrated.

On the Tishya and Punarvasa days, on the seasonal full moon days, and during the fortnights of the seasonal full moons the branding of horses and oxen must not be done.

During the time upto the twenty-sixth anniversary of my consecration twenty-five jail deliveries have been effected."

So much for the legislation of Asoka.

III

Let us turn to Manu. His Laws contain the the following provisions regarding meat-eating :- -

"V.11. Let him avoid all carnivorous birds and those living in villages, and one hoofed animals which are not specially permitted (to be eaten), and the Tithbha (Parra) Jacana.

V.12. The sparrow, the Plava, the Hamsa, the Brahmani duck, the village-cock, the Sarasa crane, the Raggudal, the woodpecker, the parrot, and the starling.

V.13. Those which feed striking with their beaks, web-footed birds, the Koyashti, those which scratch with their toes, those which dive and live on fish, meat from a slaughter-house and dried meat.

V.14. The Baka and the Balaka crane, the raven, the Khangartaka (animals) that eat fish, village-pigs, and all kinds of fishes.

V.l5. He who eats the flesh of any (animals) is called the eater of the flesh of that (particular) creature, he who eats fish is an eater of every (kind of) flesh; let him therefore avoid fish.

V.16. (But the fish called) Pathine and (that called) Rohita may be eaten, if used for offering to the gods or to the manes; (one may eat) likewise Ragivas, Simhatundas, and Sasalkas on all occasions.

V.17. Let him not eat solitary or unknown beasts and birds though they may fall under (the categories of) eatable creatures, not any five-toed (animals).

V.18. The porcupine, the hedgehog, the iguana, the rhinoceros, the tortoise, and the hare they declare to be eatable; likewise those (domestic animals) that have teeth in one jaw excepting camels."

IV

Here is survey of the legislation both by Asoka and by Manu on the slaughter of animals. We are of course principally concerned with the cow. Examining the legislation of Asoka the question is: Did he prohibit the killing of the cow? On this issue there seems to be a difference of opinion. Prof. Vincent Smith is of opinion that Asoka did not prohibit the killing of the cow. Commenting on the legislation of Asoka on the subject, Prof. Smith says:[1]

> "It is noteworthy that Asoka's rules do not forbid the slaughter of cow, which, apparently, continued to be lawful."

Prof. Radhakumud Mookerji joins issue with Prof. Smith and says[2] that Asoka did prohibit the slaughter of the cow. Prof. Mookerji relies upon the reference in Pillar Edict V to the rule of exemption which was made applicable to all four-footed animals and argues that under this rule cow was exempted from killing. This is not a correct reading of the statement in the Edict. The Statement in the Edict is a qualified statement. It does not refer to all four-footed animals but only to four-footed animals, '*which are not utilised or eaten.* 'A cow cannot be said to be a four-footed animal which was not utilized or eaten. Prof. Vincent Smith seems to be correct in saying that Asoka did not prohibit the slaughter of the cow. Prof. Mookerji tries to get out of the difficulty by saying that at the time of Asoka the cow was not eaten and therefore came within the prohibition. His statement is simply absurd for the cow was an animal which was very much eaten by all classes.

It is quite unnecessary to resort as does Prof. Mookerji to a forced construction of the Edict and to make Asoka prohibit the slaughter of the cow as though it was his duty to do so. Asoka had no particular

1. Smith,- Asoka, p. 58
2. Mookerji, Asoka pp. 21, 181, 184

interest in the cow and owed no special duty to protect her against killing. Asoka was interested in the sanctity of all life human as well as animal. He felt his duty to prohibit the taking of life where taking of life was not necessary. That is why he prohibited slaughtering animal for scrifice[1] which he regarded as unnecessary and of animals which are not utilized nor eaten which again would be wanton and unnecessary. That he did not prohibit the slaughter of the cow in specie may well be taken as a fact which for having regard to the Buddhist attitude in the matter cannot be used against Asoka as a ground for casting blame.

Coming to Manu there is no doubt that he too did not prohibit the slaughter of the cow. On the other hand he made the eating of cow's flesh on certain occasions obligatory.

Why then did the non-Brahmins give up eating beef? There appears to be no apparent reason for this departure on their part. But there must be some reason behind it. The reason I like to suggest is that it was due to their desire to imitate the Brahmins that the non-Brahmins gave up beef-eating. This may be a novel theory but it is not an impossible theory. As the French author, Gabriel Tarde has explained that culture within a society spreads by imitation of the ways and manners of the superior classes by the inferior classes. This imitation is so regular in its flow that its working is as mechanical as the working of a natural law. Gabriel Tarde speaks of the laws of imitation. One of these laws is that the lower classes always imitate the higher classes. This is a matter of such common knowledge that hardly any individual can be found to question its validity.

That the spread of the cow-worship among and cessation of beef-eating by the non-Brahmins has taken place by reason of the habit of the non-Brahmins to imitate the Brahmins who were undoubtedly their superiors is beyond dispute. Of course there was an extensive propaganda in favour of cow-worship by the Brahmins. The Gayatri Purana is a piece of this propaganda. But initially it is the result of the natural law of imitation. This, of course, raises another question: Why did the Brahmins give up beef-eating?

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3 See Rock Edict No. I

CHAPTER XIII

WHAT MADE THE BRAHMINS BECOME VEGETARIANS ?

THE non-Brahmins have evidently undergone a revolution. From being beef-eaters to have become non-beef-eaters was indeed a revolution. But if the non-Brahmins underwent one revolution, the Brahmins had undergone two. They gave up beef-eating which was one revolution. To have given up meat-eating altogether and become vegetarians was another revolution.

That this was a revolution is beyond question. For as has been shown in the previous chapters there was a time when the Brahmins were the greatest beef-eaters. Although the non-Brahmins did eat beef they could not have had it every day. The cow was a costly animal and the non-Brahmins could ill afford to slaughter it just for food. He only did it on special occasion when his religious duty or personal interest to propitiate a deity compelled him to do. But the case with the Brahmin was different. He was a priest. In a period overridden by ritualism there was hardly a day on which there was no cow sacrifice to which the Brahmin was not invited by some non-Brahmin. For the Brahmin every day was a beef-steak day. The Brahmins were therefore the greatest beef-eaters. The Yajna of the Brahmins was nothing but the killing of innocent animals carried on in the name of religion with pomp and ceremony with an attempt to enshroud it in mystery with a view to conceal their appetite for beef. Some idea of this mystery pomp and ceremony can be had from the directions contained in the Atreya Brahmana touching the killing of animals in a Yajna.

The actual killing of the animal is preceded by certain initiatory Rites accompanied by incantations too long and too many to be detailed here. It is enough to give an idea of the main features of the Sacrifice. The sacrifice commences with the erection of the Sacrificial post called the Yupa to which the animal is tied before it

is slaughtered. After setting out why the Yupa is necessary the Atreya Brahamana proceeds to state what it stands for. It says:[1]

"This Yupa is a weapon. Its point must have eight edges. For a weapon (or iron club) has eight edges. Whenever he strikes with it an enemy or adversary, he kills him. (This weapon serves) to put down him (every one) who is to be put down by him (the sacrificer). The Yupa is a weapon which stands erected (being ready) to slay an enemy. Thence an enemy (of the sacrificer) who might be present (at the sacrifice) comes of all ill after having seen the Yupa of such or such one."

The selection of the wood to be used for the Yupa is made to vary with the purposes which the sacrificer. wishes to achieve by the sacrifice. The Atreya Brahmana says :

"He who desires heaven, ought to make his Yupa of Khadira wood. For the gods conquered the celestial world by means of a Yupa, made of Khadira wood. In the same way the sacrificer conquers the celestial world by means of a Yupa, made of Khadira wood."

"He who desires food and wishes to grow fat ought to make his Yupa of Bilva wood. For the Bilva tree bears fruits every year; it is the symbol of fertility; for it increases (every year) in size from the roots up to the branches, therefore it is a symbol of fatness. He who having such a knowledge makes his Yupa of Bilva wood, makes fat his children and cattle.

"As regards the Yupa made of Bilva wood (it is further to be remarked), that they call 'light'Bilva. He who has such a knowledge becomes a 'light' among his own people, the most distinguished among his own people.

"He who desires beauty and sacred knowledge ought to make his Yupa of Palasa wood. For the Palasa is among the trees of beauty and sacred knowledge. He who having such a knowledge makes his Yupa of Palasa wood, becomes beautiful and acquires sacred knowledge.

"As regards the Yupa made of Palasa wood (there is further to be remarked), that the Palasa is the womb of all trees. Thence they speak on account of the palasam (foliage) of this or that tree (i.e. they call the foliage of every tree palasam). He who has such a knowledge obtains (the gratification of) any desire, he might have regarding all trees (i.e. he obtains from all trees any thing he might wish for)."

This is followed by the ceremony of anointing the sacrificial post.[2]

"The Adhvaryu says (to the Hotar): "We anoint the sacrificial post (Yupa); repeat the mantra (required)". The Hotar then repeats the verse: "Amjanti tvam adhvare" (3, 8, 1) i.e." The priests anoint thee, O tree! with celestial honey (butler); provide (us) with wealth if thou standest here erected, or if thou art lying on thy mother (earth)." The "celestial honey" is the melted butter (with which the priests anoint the Yupa). (The second half verse from) "provide us" &c. means: " thou mayest stand or lie, provide us with wealth."

1. Atreya Brahmana II pp. 72-74.
2. Atrcy Brahmana (Martin Haug) II pp. 74-78

"(The Hotar then repeats :) "jato jayate sudinatve" &c. (3, 8, 5) i.e., "After having been born, he (the Yupa) is growing (to serve) in the prime of his life the sacrifice of mortal men. The wise are busy in decorating (him, the Yupa) with skill. He, as an eloquent messenger of the gods, lifts his voice (that it might be heard by the gods)." He (the Yupa) is called jata, i.e., bom, because he is born by this (by the recital of the first quarter of this verse). (By the word) vardhamana, i.e., growing, they make him (the Yupa) grow in this manner. (By the words:) punanti (i.e. to clean, decorate), they clean him in this manner. (By the words:) "he as an eloquent messenger, &c." he announces the Yupa (the fact of his existence) to the gods.

The Hotar then concludes (the ceremony of anointing the sacrificial post) with the verse "yuva suvasah parivitah" (3, 8, 4), i.e. "the youth decorated with ribands, has arrived; he is finer (than all trees) which ever grew; the wise priests raise him up under recital of well-framed thoughts of their mind." The youth decorated with ribands, is the vital air (the soul), which is covered by the limbs of the body. (By the words;) "he is finer, "&c. he means that he (the Yupa) is becoming finer (more excellent, beautiful) by this (mantra)."

The next ceremony is the carrying of fire round the sacrificial animal. The Atreya Brahmana gives the following directions on this point. It says[1] :-

"When the fire is carried round (the animal) the Adhvaryu says to the Hotar: 'repeat (thy mantras)'. The Hotar then repeats this triplet of verses, addressed to Agni, and composed in the Gayatri metre: Agnir Hota no adhvare (4.15.1-3) i.e. (1) Agni, our priest, is carried round about like a horse, he who is among gods, the god of sacrifices, (2) Like a charioteer Agni passes thrice by the sacrifice; to the gods he carries the offering, (3) The master of food, the seer of Agni, went round the offering; he bestows riches on the sacrificer.

"When the fire is carried round (the animal) then he makes him (Agni) prosper by means of his own deity and his own metre. 'As a horse he is carried' means: they carry him as if he were a horse, round about. Like a charioteer Agni passes thrice by the sacrifice means; he goes round the sacrifice like a charioteer (swiftly). He is called *vajapati* (master of food) because he is the master of (different kinds of) food.

"The Advaryu says: give Hotar! the additional order for despatching offerings to the gods.

"The Hotar then says : (to the slaughterers) : Ye divine slaughterers, commence (your work), as well as ye who are human! that is to say, he orders all the slaughterers among gods as well as among men (to commence).

Bring hither the instruments for killing, ye who are ordering the sacrifice, in behalf of the two masters of the sacrifice.

1 Atreya Brahmana (Martin Haug) II - pp, 84-86

"The animal is the offering, the sacrificer the master of the offering. Thus he (the Hotar) makes prosper the sacrificer by means of his (the sacrifcer's) own offering. Thence they truly say: for whatever deity the animal is killed, that one is the master of the offering. If the animal is to be offered to one deity only, the priest should say : *Medhapataye* 'to the master of the sacrifice (singular)', if to two deities, then he should use the dual 'to both masters of the offering', and if to several deities, then he should use the plural, 'to the masters of the offering'. This is the established custom.

Bring ye for him fire! For the animal when carried (to the slaughter) saw death before it Not wishing to go to the gods, the gods said to it: Come we will bring thee to heaven ! The animal consented and said: One of you should walk before me. They consented. Agni then walked before it, and it followed after Agni. Thence they say, every animal belongs to Agni, for it followed after him. Thence they carry before the animal fire (Agni).

Spread the (sacred) grass! the animal lives on herbs. He (the Hotar) thus provides the animal with its entire soul (the herbs being supposed to form part of it).

After the ceremony of carrying fire round the animal comes the delivery of the animal to the priests for sacrifice. Who should offer the animal for sacrifice? On this point the direction of the Atreya Brahmana is[1] —

"The mother, the father, the brother, sister, friend, and companions should give this (animal) up (for being slaughtered)! When these words are pronounced, they seize the animal which is (regarded as) entirely given up by its relations (parents, &c.)"

On reading this direction one wonders why almost everybody is required to join in offering the animal for sacrifice. The reason is simple. There were altogether seventeen Brahmin priests who were entitled to take part in performing the sacrifice. Naturally enough they wanted the whole carcass to themselves.[2] Indeed they could not give enough to each of the seventeen priests unless they had the whole carcass to distribute. Legally the Brahmins could not claim the whole carcass unless everybody who could not claim any right over the animal had been divested of it. Hence the direction requiring even the companion of the sacrificer to take part in offering the animal.

Then comes the ceremony of actually killing the animal. The Atreya Brahmana gives the details of the mode and manner of killing the animal. Its directions are[3] :

1. Atreya Brahmana (Martin Haug) II p. 86

2. As a matter of fact the Brahmins took the whole carcass. Only one leg each was given to the sacrificer and his wife.

3. Atreya Brahmana (Martin Haug) II pp. 86-87

"Turn its feet northwards! Make its eye to go to the sun, dismiss its breath to the wind, its life to the air, its hearing to the directions, its body to the earth. In this way he (the Hotar) places it (connects it) with these worlds.

Take off the skin entire (without cutting it). Before operating the naval, tear out omentum. Stop its breathing within (by stopping its mouth). Thus he (the Hotar) puts its breath in the animals.

Make of its breast a piece like an eagle, of its arms (two pieces like) *two hatchets, of its forearms* (two pieces like) *two spikes, of its shoulders* (two pieces like) *two Kashyapas, its loins should be un-broken* (entire); (make of) *its thighs* (two pieces like) *two shields, of the two kneepans* (two pieces like) *two oleander leaves; take out its twenlysix ribs according to their order; preserve every limb of it in its integrity.* Thus he benefits all its limbs."

There remain two ceremonies to complete the sacrificial killing of the animal. One is to absolve the Brahmin priests who played the butcher's part. Theoretically they are guilty of murder for the animal is only a substitute for the sacrificer. To absolve them from the consequences of murder, the Hotar is directed by the Atreya Brahmana to observe the following injuction[1] :

"Do not cut the entrails which resemble on owl (when taking out the omentum), nor should among your children, O slaughterers! or among their offspring any one be found who might cut them. By speaking these words he presents these entrails to the slaughterers among the gods as well as to those among men.

The Hotar shall then say thrice : O *Adhrigu* (and ye others), *kill* (the animal), *do it well;* kill it, O *Adhrigu.*

After the animal has been killed, (he should say thrice:) *Far may it* (the consequences of murder) be (from us). For Adhrigu among the gods is he who silences (the animal) and the *Apapa* (away, away!) is he who puts it down. By speaking those words he surrenders the animal to those who silence it (by stopping its mouth) and to those who butcher it.

The Hotar then mutters (he makes, *Japa);* "O slaughterers! may all good you might do abide by us! and all mischief you might do go elsewhere!" The Hotar Gives by (this) speech the order (for killing the animal), for Agni had given the order for killing (the animal) with the same words when he was the Hotar of the gods.

By those words (the *Japa* mentioned) the Hotar removes (all evil consequences) from those who suffocate the animal and those who butter it, in all that they might transgress the rule by cutting one piece too soon, the other too late, or by cutting a too large, or a too small piece. The Hotar enjoying this happiness clears himself (from all guilt) and attains the full length of his life (and it serves the sacrificer) for obtaining his full life. He who has such a knowledge, attains the full length of his life."

1 Atreya Brahmana (Martin Haug) II pp. 86-90

The Atreya Bramhana next deals with the question of disposing of the parts of the dead animal. In this connection its direction is[1]—

> *"Dig a ditch in the earth to hide its excrements.* The excrements consist of vegetable food; for the earth is the place for the herbs. Thus the Hotar puts them (the excrements) finally in their proper places. *Present the evil spirits with the blood!* For the gods having deprived (once) the evil spirits of their share in the Haviryajnas (such as the Full and New Moon offerings) apportioned to them the husk and smallest grains, and after having them turned out of the great sacrifice (such as the *Soma* and animal sacrifices), presented to them the blood. Thence the Hotar pronounces the words : *present the evil spirits with the blood!* By giving them this share he deprives the evil spirits of any other share in the sacrifice. They say : one should not address the evil spirits in the sacrifice, and evil spirits whichever they might be (Rakshasa, Asuras, etc.): for the sacrifice is to be without (the) evil spirits (not to be disturbed by them). But others say: one should address them; for (he who deprives any one, "entitled to a share of this share, will be punished (by him whom he deprives); and if he himself does not suffer the penalty, then his son, and if his son be spared, then his grandson will suffer it, and thus he resents on him (the son or grandson) what he wanted to resent on you."
>
> "However, if the Hotar addresses them, he should do so with a low voice. For both, the low voice and the evil spirits, are, as it were, hidden. If he addresses them with a loud voice, then such one speaks in the voice of the evil spirits, and is capable of producing Rakshasa sounds (a horrible, terrific voice). The voice in which the haughty man and the drunkard speak is that of the evil spirits (Rakshasas). He who has such a knowledge will neither himself become haughty nor will such a man be among his offspring."

Then follows the last and the concluding ceremony that of offering parts of the body of the animal to the gods. It is called the Manota. According to the Atreya Brahmana[2]—

> "The Adhvaryu says (to the Hotar): recite the verses appropriate to the offering of the parts of the sacrificial animal which are cut off for the Manota. He then repeats the hymn : Thou, O Agni, art the first Manota[3] (6.1)"

There remains the question of sharing the flesh of the animal. On this issue the division was settled by the Atreya Brahmana in the following terms[4] :

> "Now follows the division of the different parts of the sacrificial animal (among the priests). We shall describe it. The two jawbones with the tongue are to be given to the Prastotar; the breast in the form of an eagle to the Udgatar; the throat with the palate to the Pratihartar; the lower part of the right loins to the Hotar: the left to the Brahma; the right thigh to the Maitravaruna; the left to the Brahmanachhamsi; the right side with the shoulder to the Adhvaryu; the

1. Atreya Brahmana (Martin Haug) H p. 87
2. Atreya Brahmana (Martin Haug) II p. 93
3. Manota means the deity to whom the offering is dedicated.
1 Atreya Brahmana (Martin Haug) II, pp. 441-42.

left side to those who accompany the chants; the left shoulder to the Pratipashatar; the lower part of the right arm to the Neshtar; the lower part of the laft arm to the Potar; the upper of the right thigh to the Achhavaka; the left to the Agnidhara; the upper part of the right arm to the Atreya; the left to the Sadasya; the back bone and the urinal bladder to the Grihapati (sacrificcr); the right feet to the Grihapati who gives a feasting; the left feet to the wife of that Grihapati who gives a feasting; the upper lip is common to both (the Grihapati and his wife), which is to be divided by the Grihapati. They offer the tail of the animal to wives, but they should give it to a Brahmana; the fleshy processes *(manikah)* on the neck and three gristles *(kikasah)* to the Gravastut; three other gristles and one-half of the fleshy part on the back *(vaikartta)* to the Unnetar; the other half of the fleshy part on the neck and the left lobe *(kloma)* to the slaughterer, who should present it to a Brahmana, if he himself would not happen to be a Brahmana. The head is to be given to the Subrahmanya, the skin belongs to him (the Subrahmanya), who spoke, *svah sutyam* (tomorrow at the Soma sacrifice); that part of the sacrificial animal at a Soma sacrifice which belongs to Ila (sacrificial food) is common to all the priests; only for the Hotar it is optional.

All these portions of the sacrificial animal amount to thirtysix single pieces, each of which represents the pada (foot) of a verse by which the sacrifice is carried up. The Brihati metre consists of thirtysix syllables; and the heavenly worlds are of the Brihati nature. In this way (by dividing the animal into thirtysix parts) they gain life (in this world) and the heavens, and having become established in both (this and that world) they walk there.

To those who divide the sacrificial animal in the way mentioned, it becomes the guide to heaven. But those who make the division otherwise are like scoundrels and miscreants who kill an animal merely (for gratifying their lust after flesh). This division of the sacrificial animal was invented by the Rishi *(Devabhaga,* a son of *Sruta*). When he was departing from this life, he did not entrust (the secret to anyone). But a supernatural being communicated it to *Cirija,* the son of *Babhru.* Since his time men study it."

What is said by the Atreya Brahmana places two things beyond dispute. One is that the Brahmins monopolised the whole of the flesh of the sacrificial animal. Except for a paltry bit they did not even allow the sacrificer to share in it. The second is that the Brahmins themselves played the part of butchers in the slaughter of the animal. As a matter of principle the Brahmins should not eat the flesh of the animal killed at a sacrifice. The principle underlying Yajna is that man should offer himself as sacrifice to the gods. He offers an animal only to release himself from this obligation. From this it followed that the animal, being only a substitute for the man, eating the flesh of animal meant eating human flesh. This theory was very detrimental to the interest of the Brahmins who had a complete monopoly of the flesh of the animal offered for sacrifice. The Atreya Brahmana which had seen in this theory the danger of the Brahmins being

deprived of the flesh of sacrificial animal takes pains to explain away the theory by a simple negation. It says[1] :

> "The man who is intitiated (into the sacrificial mysteries) offers himself to all deities. Agni represents all deities and Soma represents all deities. When he (the sacrificer) offers the animal to Agni-Soma he releases himself (by being represented by the animal) from being offered to all deities.
>
> They say : "do not eat from the animal offered to Agni-Soma. Who eats from this animal, eats from human flesh; because the sacrificer releases himself (from being sacrificed) by means of the animal". But this (precept) is not to be attended to."

Given these facts, no further evidence seems to be necessary to support the statement that the Brahmins were not merely beef-eaters but they were also butchers.

Why then did the Brahmins change front? Let us deal with their change of front in two stages. First, why did they give up beef-eating?

II

As has already been shown cow-killing was not legally prohibited by Asoka. Even if it had been prohibited, a law made by the Buddhist Emperor could never have been accepted by the Brahmins as binding upon them.

Did Manu prohibit beef-eating? If he did, then that would be binding on the Brahmins and would afford an adequate explanation of their change of front. Looking into the Manu Smriti one does find the following verses :

"V; 46. He who docs not seek to cause the sufferings of bonds and death to living creatures, (but) desires the good of all (beings), obtains endless bliss.

"V. 47. He who does not injure any (creature), attains without an effort what he thinks of, what he undertakes, and what he fixes his mind on.

"V. 48. Meat can never be obtained without injury to living creatures, and injury to sentient beings is detrimental to (the attainment of) heavenly bliss; let him therefore shun (the use of) meat.

1 Atreya Brahmana (Martin Haug) II p. 80

"V. 49. Having well considered the (disgusting) origin of flesh and the (cruelty of) fettering and slaying corporeal beings, let him entirely abstain from eating flesh."

If these verses can be treated as containing positive injunctions they would be sufficient to explain why the Brahmins gave up meat-eating and became vegetarians. But it is impossible to treat these verses as positive injunctions, carrying the force of law. They are either exhortations or interpolations introduced after the Brahmins had become vegetarians in praise of the change. That the latter is the correct view is proved by the following verses which occur in the same chapter of the Manu Smriti. :

"V. 28 : The Lord of creatures (Prajapati) created this whole (world to be) the sustenance of the vital spirit; both the immovable and the movable creation is the food of the vital spirit.

"V. 29. What is destitute of motion is the food of those endowed with locomotion; (animals) without fangs (are the food) of those with fangs, those without hands of those who possess hands, and the timid of the bold.

"V. 30. The eater who daily even devours those destined to be his food, commits no sin; for the creator himself created both the eaters and those who are to be eaten (for those special purposes).

"V. 56. There is no sin in eating meat, in (drinking) spirituous liquor, and in carnal intercourse for that is the natural way of created beings, but abstention brings great rewards.

"V. 27. One may eat meat when it has been sprinkled with water, while Mantras were recited, when Brahmanas desire (one's doing it) when one is engaged (in the performance of a rite) according to the law, and when one's life is in danger.

"V. 31. 'The consumption of meat (is befitting) for scrifices,' that is declared to be a rule made by the gods, but to persist (in using it) on other (occasions) is said to be a proceeding worthy of Rakshasas.

"V. 32. He who eats meat, when he honours the gods and manes commits no sin, whether he has bought it, or himself has killed (the animal) or has received it as a present from others.

"V. 42. A twice-born man who, knowing the true meaning of the Veda, slays an animal for these purposes, causes both himself and the animal to enter a most blessed state.

"V. 39. Swayambhu (the self-existent) himself created animals for the sake of sacrifices; sacrifices (have been instituted) for the good of this whole (world); hence the slaughtering (of beasts) for sacrifice is not slaughtering (in the ordinary sense of the word).

"V. 40. Herbs, trees, cattle, birds, and other animals that have been destroyed for sacrifices, receive (being reborn) higher existences."

Manu goes further and makes eating of flesh compulsory. Note the following verse :

"V. 35. But a man who, being duly engaged (to officiate or to. dine at a sacred rite), refuses to eat meat, becomes after death an animal during twentyone existences."

That Manu did not prohibit meat-eating is evident enough. That Manu Smriti did not prohibit cow-killing can also be proved from the Smriti itself. In the first place, the only references to cow in the Manu Smriti are to be found in the catalogue of rules which are made applicable by Manu to the Snataka. They are set dut below :-

1. A Snataka should not eat food which a cow has smelt.[1]
2. A Snataka should not step over a rope to which a calf is tied.[2]
3. A Snataka should not urinate in a cowpan.[3]
4. A Snataka should not answer call of nature facing a cow.[4]
5. A Snataka should not keep his right arm uncovered when he enters a cowpan.[5]
6. A Snataka should not interrupt a cow which is sucking her calf, nor tell anybody of it[6]
7. A Snataka should not ride on the back of the cow.[7]
8. A Snataka should not offend the cow.[8]
9. A Snataka who is impure must not touch a cow with his hand.[9]

From these references it will be seen that Manu did not regard the cow as a sacred animal. On the other hand, he regarded it as an impure animal whose touch caused ceremonial pollution.

There are verses in Manu which show that he did not prohibit the eating of beef. In this connection, reference may be made to Chapter III. 3. It says :-

"He (Snataka) who is famous (for the strict performance of) his duties and has received his heritage, the Veda from his father, shall be honoured, sitting on couch and adorned with a garland with the present of a cow (the honey-mixture)."

The question is why should Manu recommend the gift of a cow to a Snataka? Obviously, to enable him to perform Madhuparka. If that is so, it follows that Manu knew that Brahmins did eat beef and he had no objection to it.

1 Manu, 209
2 Ibid, 38
3 Ibid, 45
4 Manu, 48
5 Ibid, 58
6 Ibid, 59
7 Manu, 70
8 Ibid, 162
9 Ibid, 142

Another reference would be to Manu's discussion of the animals whose meat is eatable and those whose meat is not. In Chapter V. 18. he says :-

> "The porcupine, the hedgehog, the iguana, the rhinoceros, the tortoise, and the hare they declare to be eatable, likewise those (domestic animals) that have teeth in one jaw only, excepting camels."

In this verse Manu gives general permission to eat the flesh of all domestic animals that have teeth in one jaw only. To this rule Manu makes one exception, namely, the camel. In this class of domestic animals— those that have teeth in one jaw only— falls not only the camel but also the cow. It is noteworthy that Manu does not make an exception in the case of the cow. This means that Manu had no objection to the eating of the cow's flesh.

Manu did not make the killing of the cow an offence. Manu divides sins into two classes (i) mortal sins and (ii) minor sins. Among the mortal sins Manu includes :

> "XI. 55. Killing a Brahmana, drinking (the spirituous liquor called Sura) stealing the (gold of Brahmana) a adultery with a Guru's wife, and associating with such offenders."

Among minor sins Manu includes :

> "XI. 60. Killing the cow, sacrificing for those unworthy to sacrifice, adultery, setting oneself, casting off one's teacher, mother, father or son, giving up the (daily) study of the Veda and neglecting the (sacred domestic) fire."

From this it will be clear that according to Manu cow-killing was only a minor sin. It was reprehensible only if the cow was killed without good and sufficient reason. Even if it was otherwise, it was not heinous or inexplicable. The same was the attitude of Yajnavalkya[1].

All this proves that for generations the Brahmins had been eating beef. Why did they give up beef-eating? Why did they, as an extreme step, give up meat eating altogether and become vegetarians? It is two revolutions rolled into one. As has been shown it has not been done as a result of the preachings of Manu, their Divine Law-maker. The revolution has taken place in spite of Manu and contrary to his directions. What made the Brahmins take this step? Was philosophy responsible for it? Or was it dictated by strategy?

Two explanations are offered. One explanation is that this deification of the cow was a manifestation of the Advaita philosophy

1 Yaj. III. 227 and III 234.

that one supreme entity pervaded the whole universe, that on that account all life human as well as animal was sacred. This explanation is obviously unsatisfactory. In the first place, it does not fit in with facts. The Vedanta Sutra which proclaims the doctrine of oneness of life does not prohibit the killing of animals for sacrificial purposes as is evident from II.1.28. In the second place, if the transformation was due to the desire to realize the ideal of Advaita then there is no reason why it should have stopped with the cow. It should have extended to all other animals.

Another explanation[1] more ingenious than the first, is that this transformation in the life of the Brahmin was due to the rise of the doctrine of the Transmigration of the Soul. Even this explanation does not fit in with facts. The Brahadaranyaka Upanishad upholds the doctrine of transmigration (vi.2) and yet recommends that if a man desires to have a learned son born to him he should prepare a mass of the flesh of the bull or ox or of other flesh with rice and ghee. Again, how is it that this doctrine which is propounded in the Upanishads did not have any effect on the Brahmins upto the time of the Manu Smriti, a period of at least 400 years. Obviously, this explanation is no explanation. Thirdly, if Brahmins became vegetarians by reason of the doctrine of transmigration of the soul how is it, it did not make the non-Brahmins take to vegetarianism?

To my mind, it was strategy which made the Brahmins give up beef-eating and start worshipping the cow. The clue to the worship of the cow is to be found in the struggle between Buddhism and Brahmanism and the means adopted by Brahmanism to establish its supremacy over Buddhism. The strife between Buddhism and Brahmanism is a crucial fact in Indian history. Without the realisation of this fact, it is impossible to explain some of the features of Hinduism. Unfortunately students of Indian history have entirely missed the importance of this strife. They knew there was Brahmanism. But they seem to be entirely unaware of the struggle for supremacy in which these creeds were engaged and that their struggle which extended for 400 years has left some indeliable marks on religion, society and politics of India.

This is not the place for describing the full story of the struggle. All one can do is to mention a few salient points. Buddhism was at one time the religion of the majority of the people of India. It continued to be the religion of the masses for hundreds of years. It attacked Brahmanism on all sides as no religion had done before.

1 Kane's Dharma Shastra II. Part II. P 776

Brahmanism was on the wane and if not on the wane, it was certainly on the defensive. As a result of the. spread of Buddhism, the Brahmins had lost all power and prestige at the Royal Court and among the people. They were smarting under the defeat they had suffered at the hands of Buddhism and were making all possible efforts to regain their power and prestige. Buddhism had made so deep an impression on the minds of the masses and had taken such a hold of them that it was absolutely impossible for the Brahmins to fight the Buddhists except by accepting their ways and means and practising the Buddhist creed in its extreme form. After the death of Buddha his followers started setting up the images of the Buddha and building stupas. The Brahmins followed it. They, in their turn, built temples and installed in them images of Shiva, Vishnu and Ram and Krishna etc.,—all with the object of drawing away the crowd that was attracted by the image worship of Buddha. That is how temples and images which had no place in Brahmanism came into Hinduism. The Buddhists rejected the Brahmanic religion which consisted of Yajna and animal sacrifice, particularly of the cow. The objection to the sacrifice of the cow had taken a strong hold of the minds of the masses especially as they were an agricultural population and the cow was a very useful animal. The Brahmins in all probability had come to be hated as the killer of cows in the same way as the guest had come to be hated as *Gognha,* the killer of the cow by the householder, because whenever he came a cow had to be killed in his honour. That being the case, the Brahmins could do nothing to improve their position against the Buddhists except by giving up the Yajna as a form of worship and the sacrifice of the cow.

That the object of the Brahmins in giving up beef-eating was to snatch away from the Buddhist Bhikshus the supremacy they had acquired is evidenced by the adoption of vegetarianism by Brahmins. Why did the Brahmins become vegetarian? The answer is that without becoming vegetarian the Brahmins could not have recovered the ground they had lost to their rival namely Buddhism. In this connection it must be remembered that there was one aspect in which Brahmanism suffered in public esteem as compared to Buddhism. That was the practice of animal sacrifice which was the essence of Brahmanism and to which Buddhism was deadly opposed. That in an agricultural population there should be respect for Buddhism and revulsion against Brahmanism which involved slaughter of animals including cows and bullocks is only natural. What could the Brahmins do to recover the lost ground? To go one better than the

Buddhist Bhikshus not only to give up meat-eating but to become vegetarians— which they did. That this was the object of the Brahmins in becoming vegetarians can be proved in various ways.

If the Brahmins had acted from conviction that animal sacrifice was bad, all that was necessary for them to do was to give up killing animals for sacrifice. It was unnecessary for them to be vegetarians. That they did go in for vegetarianism makes it obvious that their motive was far-reaching. Secondly, it was unnecessary for them to become vegetarians. For the Buddhist Bhikshus were not vegetarians. This statement might surprise many people owing to the popular belief that the connection between Ahimsa and Buddhism was immediate and essential. It is generally believed that the Buddhist Bhikshus eschewed animal food. This is an error. The fact is that the Buddhist Bhikshus were permitted to eat three kinds of flesh that were deemed pure. Later on they were extended to five classes. Yuan Chwang, the Chinese traveller was aware of this and spoke of the pure kinds of flesh as *San-Ching*. The origin of this practice among the Bhikshus is explained by Mr. Thomas Walters. According to the story told by him[1]—

> "In the time of Buddha there was in Vaisali a wealthy general named Siha who was a convert to Buddhism. He became a liberal supporter of the Brethren and kept them constantly supplied with good flesh-food. When it was noticed abroad that the Bhikshus were in the habit of eating such food specially provided for them, the Tirthikas made the practice a matter of angry reproach. Then the abstemious ascetic Brethren, learning this, reported the circumstances to the Master, who thereupon called the Brethren together. When they assembled, he announced to them the law that they were not to eat the flesh of any animal which they had seen put to death for them, or about which they had been told that it had been slain for them. But he permitted to the Brethern as 'pure' (that is, lawful) food the flesh of animals the slaughter of which had not been seen by the Bhikshus, not heard of by them, and not suspected by them to have been on their account. In the Pali and *Ssu-fen* Vinaya it was after a breakfast given by Siha to the Buddha and some of the Brethren, for which the carcass of a large ox was procured that the Nirgranthas reviled the Bhikshus and Buddha instituted this new rule declaring fish and flesh 'pure' in the three conditions. The animal food now permitted to the Bhikshus came to be known as the 'three pures' or 'three pure kinds of flesh', and it was tersely described as 'unseen, unheard, unsuspected', or as the Chinese translations sometimes have it 'not seen, not heard nor suspected to be on my account'. Then two more kinds of animal food were declared "lawful for the Brethren viz., the flesh of animals which had died a natural death, and that of animals which had been killed by a bird of prey or other savage creature. So there came to be five classes or

1 Yuan Chwang (1904) Vol. I. p. 55

descriptions of flesh which the professed Buddhist was at liberty to use as food. Then the 'unseen, unheard, unsuspected' came to be treated as one class, and this together with the 'natural death' and 'bird killed' made a *san-ching."*

As the Buddhist Bhikshus did eat meat the Brahmins had no reason to give it up. Why then did the Brahmins give up meat-eating and become vegetarians? It was because they did not want to put themselves merely on the same footing in the eyes of the public as the Buddhist Bhikshus.

The giving up of the Yajna system and abandonment of the sacrifice of the cow could have had only a limited effect. At the most it would have put the Brahmins on the same footing as the Buddhists. The same would have been the case if they had followed the rules observed by the Buddhist Bhikshus in the matter of meat-eating. It could not have given the Brahmins the means of achieving supremacy over the Buddhists which was their ambition. They wanted to oust the Buddhists from the place of honour and respect which they had acquired in the minds of the masses by their opposition to the killing of the cow for sacrificial purposes. To achieve their purpose the Brahmins had to adopt the usual tactics of a wreckless adventurer. It is to beat extremism by extremism. It is the strategy which all rightists use to overcome the leftists. The only way to beat the Buddhists was to go a step further and be vegetarians.

There is another reason which can be relied upon to support the thesis that the Brahmins started cow-worship, gave up beef-eating and became vegetarians in order to vanquish Buddhism. It is the date when cow-killing became a mortal sin. It is well-known that cow-killing was not made an offence by Asoka. Many people expect him to have come forward to prohibit the killing of the cow. Prof. Vincent Smith regards it as surprising. But there is nothing surprising in it.

Buddhism was against animal sacrifice in general. It had no particular affection for the cow. Asoka had therefore no particular reason to make a law to save the cow. What is more astonishing is the fact that cow-killing was made a *Mahapataka,* a mortal sin or a capital offence by the Gupta Kings who were champions of Hinduism which recognised and sanctioned the killing of the cow for sacrificial purposes. As pointed out by Mr. D. R. Bhandarkar[1]—

"We have got the incontrovertible evidence of inscriptions to show that early in the 5th century A. D. killing a cow was looked upon as an offence of the

1 Some Aspects of Ancient Indian Culture (1940) pp. 78-79.

deepest turpitude, turpitude as deep as that involved in murdering a Brahman. We have thus a copper-plate inscription dated 465 A.D. and referring itself to the reign of Skandagupta of the Imperial Gupta dynasty. It registers a grant and ends with a verse saying : 'Whosoever will transgress this grant that has been assigned (shall become as guilty as) the slayer of a cow, the slayer of a spiritual preceptor (or) the slayer of a Brahman. A still earlier record placing *go-hatya* on the same footing as *brahma hatya* is that of Chandragupta II, grandfather of Skandagupta just mentioned. It bears the Gupta date 93, which is equivalent to 412 A.D. It is engraved on the railing which surrounds the celebrated Buddhist stupa at Sanchi, in Central India. This also speaks of a benefaction made by an officer of Chandragupta and ends as follows: .. ... "Whosoever shall interfere with this arrangement .. he shall become invested with (the guilt of) the slaughter of a cow or of a Brahman, and with (the guilt of) the five *anantarya."* Here the object of this statement is to threaten the resumer of the grant, be he a Brahminist or a Buddhist, with the sins regarded as mortal by each community. The *anantaryas* arc the five *mahapatakas* according to Buddhist theology. They arc: matricide, patricide, killing an Arhat, shedding the blood of a Buddha, and causing a split among the priesthood. The *mahapatakas* with which a Brahminist is here threatened are only two : viz., the killing of a cow and the murdering of a Brahman. The latter is obviously a *mahapataka* as it is mentioned as such in all the Smritis, but the former has been specified only an upapalaka by Apastamba, Manu, Yajnavalkya and so forth. But the very fact that it is here associated with *brahma-hatya* and both have been put on a par with the *anantaryas* of the Buddhists shows that in the beginning of the fifth century A.D., it was raised to the category of *mahapatakas*. Thus *go-hatya* must have come to be considered a *mahapataka* at least one century earlier, i.e., about the commencement of the fourth century A.D."

The question is why should a Hindu king have come forward to make a law against cow-killing, that is to say, against the Laws of Manu? The answer is that the Brahmins had to suspend or abrogate a requirement of their Vedic religion in order to overcome the supremacy of the Buddhist Bhikshus. If the analysis is correct then it is obvious that the worship of the cow is the result of the struggle between Buddhism and Brahminism. It was a means adopted by the Brahmins to regain their lost position.

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CHAPTER XIV

WHY SHOULD BEEF-EATING MAKE BROKEN MEN UNTOUCHABLES?

THE stoppage of beef-eating by the Brahmins and the non-Brahmins and the continued use thereof by the Broken Men had produced a situation which was different from the old. This difference lay in the face that while in the old situation everybody ate beef, in the new situation one section did not and another did. The difference was a glaring difference. Everybody could see it. It divided society as nothing else did before. All the same, this difference need not have given rise to such extreme division of society as is marked by Untouchability. It could have remained a social difference. There are many cases where different sections of the community differ in their foods. What one likes the other dislikes and yet this difference does not create a bar between the two.

There must therefore be some special reason why in India the difference between the Settled Community and the Broken Men in the matter of beef-eating created a bar between the two. What can that be? The answer is that if beef-eating had remained a secular affair—a mere matter of individual taste-such a bar between those who ate beef and those who did not would not have arisen. Unfortunately beef-eating, instead of being treated as a purely secular matter, was made a matter of religion. This happened because the Brahmins made the cow a sacred animal. This made beef-eating a sacrilege. The Broken Men being guilty of sacrilege necessarily became beyond the pale of society.

The answer may not be quite clear to those who have no idea of the scope and function of religion in the life of the society. They may ask: Why should religion make such a difference? It will be clear if the following points regarding the scope and function of religion are borne in mind.

To begin with the definition[1] of religion. There is one universal feature which characterises all religions. This feature lies in religion being a unified system of beliefs and practices which (1) relate to sacred things and (2) which unite into one single community all those who adhere to them. To put it slightly differently, there are two elements in every religion. One is that religion is inseparable from sacred things. The other is that religion is a collective thing inseparable from society.

The first element in religion presupposes a classification of all things, real and ideal, which are the subject-matter of man's thought, into two distinct classes which are generally designated by two distinct terms the *sacred* and the *profane,* popularly spoken of as secular.

This defines the scope of religion. For understanding the function -of religion the following points regarding things sacred should be noted :

The first thing to note is that things sacred are not merely higher than or superior in dignity and status to those that are profane. They are just different. The sacred and the profane do not belong to the same class. There is a complete dichotomy between the two. As Prof. Durkhiem observes[2] :—

> "The traditional opposition of good and bad is nothing beside this; for the good and the bad are only iwo opposed species of the same class, namely, morals, just as sickness and health are two different aspects of the same order of facts, life, while the sacred and the profane have always and everywhere been conceived by the human mind as two distinct classes, as two worlds between which there is nothing in common."

The curious may want to know what has led men to see in this world this dichotomy between the sacred and the profane. We must however refuse to enter into this discussion as it is unnecessary for the immediate purpose we have in mind.[3]

Confining ourselves to the issue the next thing to note is that the circle of sacred objects is not fixed. Its extent varies infinitely from religion to religion. Gods and spirits are not the only sacred things. A rock, a tree, an animal, a spring, a pebble, a piece of wood, a house, in a word anything can be sacred.

1 This definiton of religion it by Prof. E'nvile Durkhiem. See his The Elementary Forms of the Religious Life' p. 47. For the discussion that follows I have drawn upon the same authority.

2 Prof. Durkhiem's The Elementary Forms of the Religious Life p.38

3 The curious may refer to page 317 of the above book.

Things sacred are always associated with interdictions otherwise called *taboos*. To quote Prof. Durkhiem[1] again :

> "Sacred things are those which the interdictions protect and isolate; profane things, those to which these interdictions are applied and which must remain at a distance from the first."

Religious interdicts take multiple forms. Most important of these is the interdiction on contact. The interdiction on contact rests upon the principle that the profane should never touch the sacred. Contact may be established in a variety of ways other than touch. A look is a means of contact. That is why the sight of sacred things is forbidden to the profane in certain cases. For instance, women are not allowed to see certain things which are regarded as sacred. The word (i.e., the breath which forms part of man and which spreads outside him) is another means of contact. That is why the profane is forbidden to address the sacred things or to utter them. For instance, the Veda must be uttered only by the Brahmin and not by the Shudra. An exceptionally intimate contact is the one resulting from the absorption of food. Hence comes the interdiction against eating the sacred animals or vegetables.

The interdictions relating to the sacred are not open to discussion. They are beyond discussion and must be accepted without question. The sacred is 'untouchable' in the sense that it is beyond the pale of debate. All that one can do is to respect and obey.

Lastly the interdictions relating to the sacred are binding on all. They are not maxims. They are injunctions. They are obligatory but not in the ordinary sense of the word. They partake of the nature of a categorical imperative. Their breach is more than a crime. It is a sacrilege.

The above summary should be enough for an understanding of the scope and function of religion. It is unnecessary to enlarge upon the subject further. The analysis of the working of the laws of the sacred which is the core of religion should enable any one to see that my answer to the question why beef-eating should make the Broken Men -untouchables is the correct one. All that is necessary to reach the answer I have proposed is to read the analysis of the working of the laws of the sacred with the cow as the sacred object. It will be found that Untouchability is the result of the breach of the interdiction against the eating of the sacred animal, namely, the cow.

1 The Elementary Forms of the Religious Life p 41, Interdictions which come from religion must be distinguished from those which proceed from magic to a discussion of this subject see Ibid. p. 300.

As has been said, the Brahmins made the cow a sacred animal. They did not stop to make a difference between a living cow and a dead cow. The cow was sacred, living or dead. Beef-eating was not merely a crime. If it was only a crime it would have involved nothing more than punishment. Beef-eating was made a sacrilege. Anyone who treated the cow as profane was guilty of sin and unfit for association. The Broken Men who continued to eat beef became guilty of sacrilege.

Once the cow became sacred and the Broken Men continued to eat beef, there was no other fate left for the Broken Men except to be treated unfit for association, i.e., as Untouchables.

Before closing the subject it may be desirable to dispose of possible objections to the thesis. Two such objections to the thesis appear obvious. One is what evidence is there that the Broken Men did eat the flesh of the dead cow. The second is why did they not give up beef-eating when the Brahmins and the non-Brahmins abandoned it. These questions have an important bearing upon the theory of the origin of untouchability advanced in this book and must therefore be dealt with.

The first question is relevant as well as crucial. If the Broken Men were eating beef from the very beginning, then obviously the theory cannot stand. For, if they were eating beef from the very beginning and nonetheless were not treated as Untouchables, to say that the Broken Men became Untouchables because of beef-eating would be illogical if not senseless. The second question is relevant, if not crucial. If the Brahmins gave up beef-eating and the non-Brahmins imitated them why did the Broken Men not do the same? If the law made the killing of the cow a capital sin because the cow became a sacred animal to the Brahmins and non-Brahmins, why were the Broken Men not stopped from eating beef? If they had been stopped from eating beef there would have been no Untouchability.

The answer to the first question is that even during the period when beef-eating was common to both, the Settled Tribesmen and the Broken Men, a system had grown up whereby the Settled Community ate fresh beef, while the Broken Men ate the flesh of the dead cow. We have no positive evidence to show that members of the Settled Community never ate the flesh of the dead cow. But we have negative evidence which shows that the dead cow had become an exclusive possession and perquisite of the Broken Men. The evidence consists of facts which relate to the Mahars of the Maharashtra to

whom reference has already been made. As has already been pointed out, the Mahars of the Maharashtra claim the right to take the dead animal. This right they claim against every Hindu in the village. This means that no Hindu can eat the flesh of his own animal when it dies. He has to surrender it to the Mahar. This is merely another way of stating that when eating beef was a common practice the Mahars ate dead beef and the Hindus ate fresh beef. The only questions that arise are : Whether what is true of the present is true of the ancient past? Can this fact which is true of the Maharashtra be taken as typical of the arrangement between the Settled Tribes and the Broken Men throughout India?

In this connection reference may be made to the tradition current among the Mahars according to which they claim that they were given 52 rights against the Hindu villagers by the Muslim King of Bedar. Assuming that they were given by the King of Bedar, the King obviously did not create them for the first time. They must have been in existence from the ancient past. What the King did was merely to confirm them. This means that the practice of the Broken Men eating dead meat and the Settled Tribes eating fresh meat must have grown in the ancient past. That such an arrangement should grow up is certainly most natural. The Settled Community was a wealthy community with agriculture and cattle as means of livelihood. The Broken Men were a community of paupers with no means of livelihood and entirely dependent upon the Settled Community. The principal item of food for both was beef. It was possible for the Settled Community to kill an animal for food because it was possessed of cattle. The Broken Men could not for they had none. Would it be unnatural in these circumstances for the Settled Community to have agreed to give to the Broken Men its dead animals as part of their wages of watch and ward? Surely not. It can therefore be taken for granted that in the ancient past when both the Settled Community and Broken Men did eat beef the former ate fresh beef and the latter of the dead cow and that this system represented a universal state of affairs throughout India and was not confined to the Maharashtra alone.

This disposes of the first objection. To turn to the second objection. The law made by the Gupta Emperors was intended to prevent those who killed cows. It did not apply to the Broken Men. For they did not kill the cow. They only ate the dead cow. Their conduct did not contravene the law against cow-killing. The practice

of eating the flesh of the dead cow therefore was allowed to continue. Nor did their conduct contravene the doctrine of Ahimsa assuming that it has anything to do with the abandonment of beef-eating by the Brahmins and the non-Brahmins. Killing the cow was *Himsa*. But eating the dead cow was not. The Broken Men had therefore no cause for feeling qualms of conscience in continuing to eat the dead cow. Neither the law nor the doctrine of *Himsa* could interdict what they were doing, for what they were doing was neither contrary to law nor to the doctrine.

As to why they did not imitate the Brahmins and the non-Brahmins the answer is two fold. In the first place, imitation was too costly. They could not afford it. The flesh of the dead cow was their principal sustenance. Without it they would starve. In the second place, carrying the dead cow had become an obligaton[1] though originally it was a privilege. As they could not escape carrying the dead cow they did not mind using the flesh as food in the manner in which they were doing previously.

The objections therefore do not invalidate the thesis in any way.

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1 Owing to the reform movement among the Mahars the position has become just the reverse. The Mahars refuse to take the dead animal while the Hindu villagers force them to take it.

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PART VI

UNTOUCHABILITY AND THE DATE OF ITS BIRTH

Chapter XV. The Impure and The Untouchables.
Chapter XVI. When did Broken Men become Untouchables ?

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CHAPTER XV
THE IMPURE AND THE UNTOUCHABLES

I

WHEN did Untouchability come into existence? The orthodox Hindus insist that it is very ancient in its origin. In support of their contention reliance is placed on the fact that the observance of Untouchability is enjoined not merely by the Smritis which are of a later date but it is also enjoined by the Dharma Sutras which are much earlier and which, according to certain authors, date some centuries before B.C.

In a study devoted to exploring the origin of Untouchability the question one must begin with is : Is Untouchability as old as is suggested to be?

For an answer to this question one has to examine the Dharma Sutras in order to ascertain what they mean when they refer to Untouchability and to the Untouchables. Do they mean by Untouchability what we understand by it to-day? Do the class, to which they refer, Untouchables in the sense in which we use the term Untouchables to-day?

To begin with the first question. An examination of the Dharma Sutras no doubt shows that they speak of a class whom they call Asprashya. There is also no doubt that the term Asprashya does mean Untouchables. The question however remains whether the Asprashya of the Dharma Sutras are the same as the Asprashya of modern India. This question becomes important when it is realized that the Dharma., Sutras also use a variety of other terms such as Antya, Antyaja, Antyavasin and Bahya. These terms are also used by the later Smritis. It might be well to have some idea of the use of these terms by the different Sutras and Smritis. The following table is intended to serve that purpose :—

I. Asprashya

Dharma Sutra	Smriti
1. Vishnu V. 104.	1. Katyayana verses 433, 783.

II. Antya

Dharma Sutras	Smriti
1. Vasishta. (16-30)	1. Manu IV. 79; VIII. 68.
2. Apastambha (III.I)	2. Yajnavalkya I. 148. 197.
	3. Atri 25.
	4. Likhita 92.

III. Bahya

Dharma Sutras	Smriti
1. Apastambha 1.2.39.18	1. Manu 28.
2. Vishnu 16. 14	2. Narada I. 155.

IV. Antyavasin

Dharma Sutras	Smriti
1. Gautama XXXI; XXIII 32	1. Manu IV.79; X.39
2. Vasishta XVIII. 3	2. Shanti Parvan of the Mahabharata 141; 29-32
	3. Madhyamangiras (quoted in Mitakshara on Yaj. 3-280

V. Antyaja

Dharma Sutra	Smriti
1. Vishnu 36.7	1. Manu IV. 61; VIII. 279 2. Yajnavalkya 12.73 3. Brihadyama Smriti (quoted by Mitakshara on Yajnavalkya III. 260) 4. Atri. 199 5. Veda Vyas 1. 12. 13.

II

The next question is whether the classes indicated by the terms Antya, Antyaja, Antyavasin and Bahya are the same as those indicated by the term Asprashya which etymologically means an Untouchable. In other words are they only different names for the same class of people?

It is an unfortunate fact that the Dharma Sutras do not enable us to answer this question. The term *Asprashya* occurs in two places (once in one Sutra and twice in one Smriti). But not one gives an enumeration of the classes included in it. The same is the case with the term *Antya*. Although the word *Antya* occurs in six places (in two Sutras and four Smritis) not one enumerates who they are. Similarly, the word *Bahya* occurs in four places (in two Sutras and two Smritis), but none of them mentions what communities are included under this term. The only exception is with regard to the terms Antyavasin and Antyajas. Here again no Dharma Sutra enumerates them. But there is an enumeration of them in the Smritis. The enumeration of the Antyavasin occurs in the Smriti known as Madhyamangiras and that of the Antyajas in the Atri Smriti and Veda Vyas Smriti. Who they are, will be apparent from the following table :—

ANTYAVASIN	ANTYAJA	
Madhyamangiras	Atri	Veda Vyas
1. Chandala.	1. Nata	1. Chandala.
2. Shvapaka.	2. Meda.	2. Shvapaka.
3. Kshatta.	3. Bhilla.	3. Nata.
4. Suta.	4. Rajaka.	4. Meda.
5. Vaidehika.	5. Charmakar.	5. Bhilla.
6. Magadha.	6. Buruda.	6. Rajaka.
7. Ayogava.	7. Kayavarta.	7. Charmakar.
		8. Virat.
		9. Dasa.
		10. Bhatt.
		11. Kolika.
		12. Pushkar.

From this table it is quite clear that there is neither precision nor agreement with regard to the use of the terms Antyavasin and Antyaja. For instance Chandala and Shvapaka fall in both the categories Antyavasin and Antyaja according to Madhyamangiras and Veda Vyas. But when one compares Madhyamangiras with Atri they fall in different categories. The same is true with regard to the term Antyaja. For example while (1) Chandala and (2) Shvapaka are Antyajas according to Veda Vyas, according to Atri they are not. Again according to Atri (1) Buruda and (2) Kayavarta are Antyajas while according to Veda Vyas they are not. Again (1) Virat (2) Dasa

(3) Bhatt (4) Kolika and (5) Pushkar are Antyaja according to Veda Vyas but according to Atri they are not.

To sum up the position reached so far : neither the Dharma Sutras nor the Smritis help us to ascertain who were included in the category of Asprashya. Equally useless are the Dharma Sutras and the Smritis to enable us to ascertain whether the classes spoken of as Antyavasin, Antyaja and Bahya were the same as Asprashya. Is there any other way of ascertaining whether any of these formed into the category of Asprashya or Untouchables? It would be better to collect together whatever information is available about each of these classes.

What about the Bahyas? Who are they? What are they? Are they Untouchables? They are mentioned by Manu. To understand their position, it is necessary to refer to Manu's scheme of social classification. Manu divides the people into various categories. He first[1] makes a broad division between (1) Vaidikas and (2) Dasyus. He then proceeds to divide the Vaidikas into four sub-divisions: (1) Those inside Chaturvarnya (2) Those outside Chaturvarnya (3) Vratya and (4) Patitas or outcastes.

Whether a person was inside Chaturvarnya or outside, was a question to be determined by the Varna of the parents. If he was born of the parents of the same Varnas, he was inside the Chaturvarnya. If, on the other hand, he was born of parents of different Varnas i.e., he was the progeny of mixed marriages or what Manu calls *Varna Samkara,* then he was outside the Chaturvarnya. Those outside Chaturvarnya are further sub-divided by Manu into two classes. (1) Anulomas and (2) Pratilomas. Anulamas[2] were those whose fathers were of a higher Varna and mothers of a lower Varna. Pratilomas, on the other hand, were those whose fathers were of a lower Varna and the mothers of a higher Varna. Though both the Anulomas and Pratilomas were alike for the reason that they were outside the Chaturvarnya. Manu proceeds to make a distinction between them. The Anulomas, he calls *Varna Bahya* or shortly *Bahyas,* while Pratilomas he calls *Hinas*. The Hinas are lower than the Bahyas. But neither the Bahyas nor the Hinas does Manu regard as Untouchables.

1. See Manu 1, 45,

2 Ibid

Antya as a class is mentioned in Manu IV.79. Manu however does not enumerate them. Medhatithi in his commentary suggests that Antya means Mlecha, such as Meda, etc. Buhler translates Antya as a low-caste man.

There is thus nothing to indicate that the Antyas were Untouchables. In all probability, it is the name given to those people who were living in the outskirts or *end* (Anta) of the village. The reason why they came to be regarded as low is to be found in the story narrated in the Brahadaranyaka Upanishad (1.3) to which reference is made by Mr. Kane.[1] The story is that-

> "Gods and Asuras had a strike and the gods thought that they might rise superior to the Asuras by the Udgithana. In this occurs the passage 'this devata (Prana) throwing aside the sin that was death to these devatas (vak, etc.) sent it to ends of these devatas there; therefore one should not go to the people outside the Aryan pale nor to *disam anta* (the ends of the quarters) thinking, otherwise I may fall in with *papmani* i.e., death."

The meaning of Antya turns on the connotation of the phrase 'disam Anta' which occurs in the passage quoted above. If the phrase 'ends of the quarters' can be translated as meaning the end of the periphery of the village, without its being called a far-fetched translation, we have here an explanation of what Antya originally meant. It does not suggest that the Antyas were Untouchables. It only meant that they were living on the outskirts of the village.

As to the Antyajas, what we know about them is enough to refute the view that they were Untouchables. Attention may be drawn to the following facts[2] :

In the Shanti Parvan (109.9) of the Mahabharat there is a reference to Antyajas who are spoken of as Soldiers in the Army. According to Sarasvativiiasa, Pitamaha speaks of the seven cases of Rajakas included in the term Antyaja as Prakritis. That Prakritis mean trade guilds such as of washermen and others is quite clear from the Sangamner Plate of Bhillama II dated Saka 922 which records the grant of a village to eighteen Prakritis. Viramitrodaya says that Srenis mean the eighteen castes such as the Rajaka, etc., which are collectively called Antyajas. In view of these facts how could the Antyajas be said to have been regarded as the Untouchables?

Coming to the Antyavasin, who were they? Were they Untouchables? The term Antyavasin has been used in two different

1. Kane– History of Dharma Shastra II. Part I. p. 167.
2. Kane– History of Dharma Shastra. Vol. II. part I. p. 70

senses. In one sense it was applied to a Brahmachari living in the house of the Guru during his term of studentship. A Brahmachari was referred to as Antyavasin.[1] It probably meant one who was served last. Whatever the reason for calling a Brahmachari Antyavasin it is beyond dispute that the word in that connection could not connote Untouchability. How could it when only Brahmins, Kshatriyas and Vaishyas could become Brahmacharis. In another sense they refer to a body of people. But even in this sense it is doubtful if it means Untouchables.

According to Vas.Dh.Sutra (18.3) they are the offspring of a Sudra father and Vaishya mother. But according to Manu (V.39) they are the offspring of a Chandala father and a Nishad mother. As to the class to which they belong, the Mitakshara says they are a sub-group of the Antyajas which means that the Antyavasin were not different from the Antyajas. What is therefore true of the Antyajas may also be taken as true of the Antyavasin.

III

Stopping here to take stock of the situation as it emerges from such information as we have regarding the social condition of the people called Antyavasin, Antya, Antyaja, as is available from ancient literature, obviously it is not open to say that these classes were Untouchables in the modern sense of the term. However, for the satisfaction of those who may still have some doubt, the matter may be further examined from another point of view. Granting that they were described as Asprashya we may proceed to inquire as to what was the connotation of the term in the days of the Dharma Sutras.

For this purpose we must ascertain the rules of atonement prescribed by the Shastras. From the study of these rules we will be able to see whether the term Asprashya had the same connotation in the times of the Dharma Sutras as it has now.

Let us take the case of the Chandalas as an illustration of the class called Asprashya. In the first place, it should be remembered that the word Chandala does not denote one single homogenous class of people. It is one word for many classes of people, all different from one another. There are altogether five different classes of Chandalas who are referred to in the Shastras. They are (i) the offspring of

1. Amarkosh II Kanda Brahmabarga Verse II.

a Shudra father and a Brahmin mother,[1] (ii) the offspring of an unmarried woman[2] (iii) the offspring of union with a sagotra woman[3] (iv) the offspring of a person who after becoming an ascetic turns back to the householder's life[4] and (v) the offspring of a barber father and a Brahmin mother[5].

It is difficult to say which Chandala calls for purification. We shall assume that purification is necessary in the case of all the Chandalas. What is the rule of purification prescribed by the Shastras?

Gautama in his Dharma Sutra (Chapter XIV, Verse 30) also refers to it in the following terms :—

> "On touching an outcaste, a Chandala, a woman impure on account of her confinement, a woman in her courses, or a corpse and on touching persons who have touched them, he shall purify himself by bathing dressed in his clothes."

Below is the text of the rule given by the Vasishta Dharma Sutra (Chapter IV. Verse 37) :—

> "When he has touched a sacrificial post, a pyre, a burial ground, a menstruating or a lately confined woman, impure men or Chandalas and so forth, he shall bathe, submerging both his body and his head."

Baudhayana agrees with Vasishta for he too in his Dharma Sutra (Prasna 1, Adhyaya 5, Khanda 6, Verse 5) says :—

> "On touching a tree standing on a sacred spot, a funeral pyre, a sacrificial post, a Chandala or a person who sells the Veda, a Brahmin shall bathe dressed in his clothes."

The following are the rules contained in Manu :—

V. 85 : When he (the Brahmin) has touched a Chandala, a menstruating woman, an outcaste, a woman in childbed, a corpse, or one who has touched a (corpse), he becomes pure by bathing.

V. 131 : Manu has declared that the flesh of an animal killed by dogs is pure, likewise (that) of a (beast) slain by carnivorous (animals) or by men of low caste (Dasya) such as Chandalas.

V. 143 : He who, while carrying anything in any manner, is touched by an impure (person or thing), shall become pure, if he performs an ablution, without pulling down that object.

1. According to all Dharma Sutras and Smritis including Manu Smriti.

2& 3 According to Veda Vyas Smriti (1. 910)

4. According to Yama quoted in Parasura Madhavya.

5. Anusasan Parva (29-17). He is also called Matanga.

From these texts drawn from the Dharma Sutras as well as Manu, the following points are clear :—

(1) That the pollution by the touch of the Chandala was observed by the Brahmin only.

(2) That the pollution was probably observed on ceremonial occasions only.

IV

If these conclusions are right then this is a case of Impurity as distinguished from Untouchability. The distinction between the Impure and the Untouchable is very clear. The Untouchable pollutes all while the Impure pollutes only the Brahmin. The touch of the Impure causes pollution only on a ceremonial occasion. The touch of the Untouchable causes pollution at all times.

There is another argument to which so far no reference has been made which completely disproves the theory that the communities mentioned in the Dharma Sutras were Untouchables. That argument emerges out of a comparison of the list of communities given in the Order-in-Council (which is reproduced in Chapter II) with the list given in this chapter prepared from the Smritis. What does the comparison show? As anyone can see, it shows :—

Firstly : The maximum number of communities mentioned in the Smritis is only 12, while the number of communities mentioned in the Order-in-Council comes to 429.

Secondly : There are communities which find a place in the Order-in-Council but which do not find a place in the Smritis.[1] Out of the total of 429 there are nearly 427 which are unknown to the Smritis.

Thirdly : There are communities mentioned in the Smritis which do not find a place in the Order-in-Council at all.

Fourthly : There is only one community which finds a place in both. It is the Charmakar community.[2]

Those who do not admit that the Impure are different from the Untouchables do not seem to be aware of these facts. But they will have to reckon with them. These facts are so significant and so telling that they cannot but force the conclusion that the two are different.

l. Out of the 429 communities mentioned in the Order-in-Council, there are only 3 which are to be found in the list given by the Smritis.

2. There are also two other communities mentioned in both lists (1) Nata and (2) Rajaka. But according to the Order-in-Council they are Untouchables in some parts of the country only. The Chamar is Untouchable throughout India.

Take the first fact. It raises a very important question.

If the two lists refer to one and the same class of people, why do they differ and differ so widely? How is it that the communities mentioned in the Shastras do not appear in the list given in the Order-in-Council? Contrarywise, how is it that the communities mentioned in the Order-in-Council are not to be found in the list given by the Shastras? This is the first difficulty we have to face.

On the assumption that they refer to the same class of people, the question, assumes a serious character. If they refer to the same class of people then obviously Untouchability which was originally confined to 12 communities came to be extended to 429 communities! What has led to this vast extension of the Empire of Untouchability? If these 429 communities belong to the same class as the 12 mentioned by the Shastras why none of the Shastras mention them? It cannot be that none of the 429 communities were not in existence at the time when the Shastras were written. If all of them were not in existence at least some of them must have been. Why even such as did exist find no mention?

On the footing that both the lists belong to the same class of people, it is difficult to give any satisfactory answer to these questions. If, on the other hand, it is assumed that these lists refer to two different classes of people, all these questions disappear. The two lists are different because the list contained in the Shastras is a list of the Impure and the list contained in the Order-in-Council is a list of the Untouchables. This is the reason why the two lists differ. The divergence in the two lists merely emphasizes what has been urged on other grounds, namely, that the classes mentioned in Shastras are only Impure and it is a mistake to confound them with the Untouchables of the present day.

Now turn to the second. If the Impure are the same as the Untouchables, why is it as many as 427 out of 429 should be unknown to the Smritis? As communities, they must have been in existence at the time of the Smritis. If they are Untouchables now, they must have been Untouchables then. Why then did the Smritis fail to mention them?

What about the third? If the Impure and the Untouchables are one and the same, why those communities which find a place in the Smritis do not find a place in the list given in the Order-in-Council? There are only two answers to this question. One is that though Untouchables at one time, they ceased to be Untouchables

subsequently. The other is that the two lists contain names of communities who fall in altogether different categories. The first answer is untenable. For, Untouchability is permanent. Time cannot erase it or cleanse it. The only possible conclusion is the second.

Take the fourth. Why should Chamar alone find a place in the lists? The answer is not that the two lists include the same class of people. If it was the true answer, then not only the Chamar but all others included in the list given by the Smritis should appear in both the lists. But they do not. The true answer is that the two lists contain two different classes of people. The reason why some of those in the list of the Impure appear in the list of the Untouchables is that the Impure at one time became Untouchables. That the Chamar appears in both is far from being evidence to support the view that there is ho difference between the Impure and the Untouchables. It proves that the Chamar who was at one time an Impure, subsequently became an Untouchable and had therefore to be included in both the lists. Of the twelve communities mentioned in the Smritis as Impure communities, only the Chamar should have been degraded to the status of an Untouchable is not difficult to explain. What has made the difference between the Chamar and the other impure communities is the fact of beef-eating. It is only those among the Impure who were eating beef that became Untouchables, when the cow became sacred and beef-eating became a sin. The Chamar is the only beef-eating community. That is why it alone appears in both the lists. The answer to the question relating to the Chamars is decisive on two points. It is conclusive on the point that the Impure are different from the Untouchables. It is also decisive on the point that it is beef-eating which is the root of Untouchability and which divides the Impure and the Untouchables.

The conclusion that Untouchability is not the same as Impurity has an important bearing on the determination of the date of birth of Untouchability. Without it any attempt at fixing the date would be missing the mark.

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CHAPTER XVI

WHEN DID BROKEN MEN BECOME UNTOUCHABLES?

THE foregoing researches and discussions have proved that there was a time when the village in India consisted of a Settled Community and Broken Men and that though both lived apart, the former inside the village and the latter outside it, there was no bar to social intercourse between the members of the Settled Community and the Broken Men. When the cow became sacred and beef-eating became taboo, society became divided into two — the Settled Community became a touchable community and Broken Men became an untouchable community. When did the Broken Men come to be regarded as Untouchables? That is the last question that remains to be considered. There are obvious difficulties in the way of fixing a precise date for the birth of Untouchability. Untouchability is an aspect of social psychology. It is a sort of social nausea of one group against another group. Being an outgrowth of social psychology which must have taken some time to acquire form and shape, nobody can venture to fix a precise date to a phenomenon which probably began as a cloud no bigger than man's hand and grew till it took its final all-pervading shape as we know it today. When could the seed of Untouchability be said to have been sown? If it is not possible to fix an exact date, is it possible to fix an approximate date?

An exact date is not possible. But it is possible to give an approximate date. For this the first thing to do is to begin by fixing the upper time-limit at which Untouchability did not exist and the lower time-limit at which it had come into operation.

To begin with the question of fixing the upper limit the first thing to note is that those who are called Antyajas are mentioned in the Vedas. But they were not only not regarded as Untouchables but they were not even regarded as Impure. The following extract from Kane

may be quoted in support of this conclusion. Says Kane[1]

> "In the early Vedic literature several of the names of castes that are spoken of in the Smritis as Antyajas occur. We have Carmanna (a tanner of hides) in the Rig Veda (VIII.8,38) the Chandala and Paulkasa occur in Vaj. S., the Vepa or Vapta (barber) even in the Rig., the Vidalakara or Bidalakar (corresponding to the Buruda of the Smritis) occurs in the Vaj.S. and the Tai.Br.Vasahpalpuli (washer woman) corresponding to the Rajakas of the Smritis in Vaj.S. But there is no indication in these passages whether they, even if they formed castes, were at all Untouchables."

Thus in Vedic times there was no Untouchability. As to the period of the Dharma Sutras, we have seen that there was Impurity but there was no Untouchability.

Was there Untouchability in the time of Manu? This question cannot be answered offhand. There is a passage[2] in which he says that there are only four varnas and that there is no fifth varna. The passage is enigmatical. It is difficult to make out what it means. Quite obviously the statement by Manu is an attempt by him to settle a controversy that must have been going on at the time he wrote. Quite obviously the controversy was about the status of a certain class in relation to the system of Chaturvarnya. Equally obvious is the point which was the centre of the controversy. To put briefly, the point was whether this class was to be deemed to be included within the Chaturvarnya or whether it was to be a fifth varna quite distinct from The original four varnas. All this is quite clear. What is, however, not clear is the class to which it refers. This is because Manu makes no specific mention of the class involved in the controversy.

The verse is also enigmatical because of the ambiguity in the decision given by Manu. Manu's decision is that there is no fifth Varna. As a general proposition it has a meaning which everybody can understand. But what does this decision mean in the concrete application to the class whose status was the subject-matter of controversy. Obviously it is capable of two interpretations. It may mean that as according to the scheme of Chaturvarna there is no fifth varna the class in question must be deemed to belong to one of the four recognized varnas. But it may also mean that as in the original Varna System there is no provision for a fifth varna the class in question must be deemed to be outside the Varna System altogether.

The traditional interpretation adopted by the orthodox Hindu is that the statement in Manu refers to the Untouchables, that it was the

1. Dharma Shastra Vol II. Part I. p. 165

2. Manu X. 4

Untouchables whose status was in controversy and that it was then-status which is the subject-matter of Manu's decision. This interpretation is so firmly established that it has given rise to a division of Hindus into two classes called by different names, *Savarnas* or Hindus (those included in the Chaturvarna) and *Avarnas* or Untouchables (those excluded from the Chaturvarna). The .question is, is this view correct? To whom does the text refer? Does it refer to the Untouchables? A discussion of this question may appear to be out of place and remote from the question under consideration. But it is not so. For if the text does refer to the Untouchables then it follows that Untouchability did exist in the time of Manu— a conclusion which touches the very heart of the question under consideration. The matter must, therefore, be thrashed out.

I am sure this interpretation is wrong. I hold that the passage does not refer to the Untouchables at all. Manu does not say which was the fifth class whose status was in controversy and about whose status he has given a decision in this passage. Was it the class of Untouchables or was it some other class? In support of my conclusion that the passage does not refer to Untouchables at all I rely on two circumstances. In the first place, there was no Untouchability in the time of Manu. There was only Impurity. Even the Chandala for whom Manu has nothing but contempt is only an impure person. That being so, this passage cannot possibly have any 'reference to Untouchables. In the second place, there is evidence to support the view that this passage has reference to slaves and not to Untouchables. This view is based on the language of the passage quoted from the Narada Smriti in the chapter on the Occupational Theory of Untouchability. It will be noticed that the Narada Smritis peaks of the slaves as the fifth class. If the expression fifth class in the Narada Smriti refers to slaves, I see no reason why the expression fifth class in Manu Smriti should not be taken to have reference to slaves. If this reasoning is correct, it cuts at the very root of the contention that Untouchability existed in the time of Manu and that Manu was not prepared to include them as part of the Varna System. For the reasons stated, the passage does not refer to Untouchability and there is, therefore, no reason to conclude that there was Untouchability in the time of Manu.

Thus we can be sure of fixing the upper limit for the date of the birth of Untouchability. We can definitely say that Manu Smriti did not enjoin Untouchability. There, however, remains one important

question. What is the date of Manu Smriti? Without an answer to this question it would not be possible for the average to relate the existence or non-existence of Untouchability to any particular point in time. There is no unanimity among savants regarding the date of Manu Smriti. Some regard it as very ancient and some regard it as very recent. After taking all facts into consideration Prof. Buhler has fixed a date which appears to strike the truth. According to Buhler, Manu Smriti in the shape in which it exists now, came into existence in the Second Century A.D.[1] In assigning so recent a date to the Manu Smriti Prof. Buhler is not quite alone. Mr. Daphtary has also come to the same conclusion. According to him Manu Smriti came into being after the year 185 B.C. and not before. The reason given by Mr. Daphtary is that Manu Smriti has a close connection with the murder of the Buddhist Emperor Brihadratha of the Maurya dynasty by his Brahmin Commander-in-Chief Pushyamitra Sunga and as even that took place in 185 B.C., he concludes that Manu Smriti must have been written after 185 B.C. To give support to so important a conclusion it is necessary to establish a nexus between the murder of Brihadratha Maurya by Pushyamitra and the writing of Manu Smriti by strong and convincing evidence. Mr. Daphatry has unfortunately omitted to do so. Consequently his conclusion appears to hang in the air. The establishment of such a nexus is absolutely essential. Fortunately there is no want of evidence for the purpose.

The murder of Brihadratha Maurya by Pushyamitra has unfortunately passed unnoticed. At any rate it has not received the attention it deserves. It is treated by historians as an ordinary incident between two individuals as though its origin lay in some personal quarrel between the two. Having regard to its consequences it was an epoch—making event. Its significance cannot be measured by treating it as a change of dynasty-the Sungas succeeding the Mauryas. It was a political revolution as great as the French Revolution, if not greater. It was a revolution— a bloody revolution-engineered by the Brahmins to overthrow the rule of the Buddhist Kings. That, is what the murder of Brihadratha by Pushyamitra means.

This triumphant Brahmanism was in need of many things. It of course needed to make Chaturvarna the law of the land the validity of which, was denied by the Buddhists. It needed to make animal sacrifice, which was abolished by the Buddhists, legal. But it needed

1. Buhler-Laws of Manu (S.B.E.) Vol. XXV. Int. CXN.

more than this. Brahmanism in bringing about this revolution against the rule of the Buddhist Kings had transgressed two rules of the customary law of the land which were accepted by all as sacrosanct and inviolable. The first rule made it a sin for a Brahmin even to touch a weapon. The second made the King's person sacred and regicide a sin. Triumphant Brahmanism wanted a sacred text, infallible in its authority, to justify their transgressions. A striking feature of the Manu Smriti is that it not only makes Chaturvarna the law of the land, it not only makes animal sacrifice legal but it goes to state when a Brahmin could justifiably resort to arms and when he could justifiably kill the King. In this the Manu Smriti has done what no prior Smriti has done. It is a complete departure. It is a new thesis. Why should the Manu Smriti do this? The only answer is, it had to strengthen the revolutionary deeds committed by Pushyamitra by propounding philosophic justification. This interconnection between Pushyamitra and the new thesis propounded by Manu shows that the Manu Smriti came into being some time after 185 B.C., a date not far removed from the date assigned by Prof. Buhler. Having got the date of the Manu Smriti we can say that in the Second Century A.D., there was no Untouchability.

Now to turn to the possibility of determining the lower limit to the birth of Untouchability. For this we must go to the Chinese travellers who are known to have visited India and placed on record what they saw of the modes and manners of the Indian people. Of these Chinese travellers Fah-Hian has something very interesting to say. He came to India in 400 A.D. In the course of his observations occurs the following passage[1] :—

> "Southward from this (Mathura) is the so-called middle-country (Madhyadesa). The climate of this country is warm and equable, without frost or snow. The people are very well off, without poll-tax or official restrictions. Only those who till the royal lands return a portion of profit of the land. If they desire to go, they go; if they like to stop they stop. The kings govern without corporal punishment; criminals arc fined, according to circumstances, lightly or heavily. Even in cases of repeated rebellion they only cut off the right hand. The King's personal attendants, who guard him on the right and left, have fixed salaries. Throughout the country the people kill no living thing nor drink wine, nor do they eat garlic or onion, with the exception of Chandalas only. The Chandalas are named 'evil men' and dwell apart from others; if they enter a town or market, they sound a piece of wood in order to separate themselves; then, men knowing they are, avoid coming in contact with them. In this country they

1. *Buddhist Records in Western* India by Bcal. Introduction p. xxxviii.

do not keep swine nor fowls, and do not deal in cattle; they have no shambles or wine shops in their market-places. In selling they use cowrie shells. The Chandalas only hunt and sell flesh."

Can this passage be taken as evidence of the prevalence of Untouchability at the time of Fah-Hian? Certain parts of his description of the treatment given to the Chandalas do seem to lend support to the conclusion, that is, a case of Untouchability.

There is, however, one difficulty in the way of accepting this conclusion. The difficulty arises because the facts relate to the Chandalas. The Chandala is not a good case to determine the existence or non-existence of Untouchability. The Brahmins have regarded the Chandalas as their hereditary enemies and are prone to attribute to them abominable conduct; hurl at them low epithets and manufacture towards them a mode of behaviour which is utterly artificial to suit their venom against them. Whatever, therefore, is said against the Chandalas must be taken with considerable reservations.

This argument is not based on mere speculation. Those who doubt its cogency may consider the evidence of Bana's Kadambari for a different description of the treatment accorded to the Chandalas.

The story of Kadambari is a very complex one and we are really not concerned with it. It is enough for our purpose to note that the story is told to King Shudraka by a parrot named Vaishampayana who was the pet of a Chandala girl. The following passages from the Kadambari are important for our purpose. It is better to begin with Bana's description of a Chandala settlement. It is in the following terms' :—

"I beheld the barbarian settlement, a very market-place of evil deeds. It was surrounded on all sides by boys engaged in the chase, unleashing their hounds, teaching their falcons, mending snares, carrying weapons, and fishing, horrible in their attire, like demoniacs. Here and there the entrance to their dwellings, hidden by thick bamboo forests, was to be inferred, from the rising of smoke of orpiment. On all sides the enclosures were made with skulls; (627) the dust-heaps on the roads were filled with bones; the yards of the huts were miry with blood, fat, and meat chopped up. The life there consisted of hunting; the food, of flesh; the ointment, of fat; the garments, of coarse silk; the couches, of dried skins; the household attendants, of dogs; the animals for riding, of cows; the men's employment, of wine and women; the oblation to the gods, of blood; the sacrifice, of cattle. The place was the image of all hells."

1 Kadambari (Ridding's Translation) p. 204.

It is from such a settlement that the Chandala girl starts with her parrot to the palace of King Shudraka. King Shudraka is sitting in the Hall of Audience with his Chieftains. A portress enters the Hall and makes the following announcement[1] :—

> "Sire, there stands at the gate a Chandala maiden from the South, a royal glory of the race of that Tricamku who climbed the sky, but fell from it at the order of wrathful Indra. She bears a parrot in a cage, and bids me thus hail your majesty: "Sire, thou, like the ocean, art alone worthy to receive the treasures of whole earth. In the thought that this bird is a marvel and the treasure of the whole earth, I bring it to lay at thy feet, and desire to behold thee. Thou, O king, hast heard her message, and must decide!" so saying, she ended her speech. The king, whose curiosity was aroused, looked at the chiefs around him, and with the words 'Why not? Bid her enter' gave his permission.

Then the portress, immediately on the king's order ushered in the Candala maiden. And she entered."

The King and the Chieftains did not at first take notice of her. To attract attention she struck a bamboo on the mosaic floor to arouse the King. Bana then proceeds to describe her personal appearance.[2]

> "Then the king, with the words, 'Look yonder' to his suite, gazed steadily upon the Candala maiden, as she was pointed out by the portress; Before her went a man, whose hair was hoary with age, whose eyes were the colour of the red lotus, whose joints, despite the loss of youth, were firm from incessant labour, whose form, though that of Matanga, was not to be despised, and who wore the white raiment meet for a court. Behind her went a Candala boy, with locks falling on either shoulder, bearing a cage, the bars of which, though of gold, shone like emerald from the reflection of the parrot's plumage. She herself seemed by the darkness of her hue to imitate Krishna when he guilefully assumed a woman's attire to take away the amrita seized by the demons. She was, as it were, a doll of sapphire walking alone; and over the blue garment, which reached to her ankle, there fell a veil of red silk, like evening sunshine falling on blue lotuses. The circle of her cheek was whitened by the ear-ring that hung from one ear, like the face of night inlaid with the rays of the rising moon; she had a tawny tilaka of gorocana, as if it were a third eye, like Parvati in mountaineer's attire, after the fashion of the garb of Civa.
>
> She was like Cri. darkened by the sapphire glory of Narayana reflected on the robe on her breast; or like Rati, stained by smoke which rose as Madana was burnt by the fire of wrathful Civa; or like Yamuna, fleeing in fear of being drawn along by the ploughshare of wild Balarama; or, from the rich lac that turned her lotus feet into budding shoots, like Durga, with her feet crimsoned by the blood of the Asura Mahisha she had just trampled upon.
>
> Her nails were rosy from the pink glow of her fingers; the mosaic pavement seemed too hard for her touch, and she came forward, placing her feet like tender twigs upon the ground.

1. Kadambari (Ridding's Translation) p. 6.
2. Ibid pp. 8-10.

The rays of her anklets, rising in flame-colour, seemed to encircle her as with the arms of Agni, as though,, by his love for her beauty, he would purify the strain of her birth, and so set the Creator at naught.

Her girdle was like the stars wreathed on the brow of the elephant of Love; and her necklace was a rope of large bright pearls, like the stream of Ganga just tinged by Yamuna.

Like autumn, she opened her lotus eyes; like the rainy season, she had cloudy tresses; like the circle of the Malaya Hills, she was wreathed with sandal; like the zodiac, she was decked with starry gems; like Cri, she had the fairness of a lotus in her hand; like a swoon, she entranced the heart; like a forest, she was endowed with living beauty; like the child of a goddess, she was claimed by no tribe; like sleep, she charmed the eyes; as a lotus-pool in a wood is troubled by elephants, so was she dimmed by her Matanga birth; like spirit, she might not be touched; like a letter, she gladdened the eyes alone; like the blossoms of spring she lacked the jati flower; her slender waist, like the line of Love's bow, could be spanned by the hands; with her curly hair, she was like the Lakshmi of the Yaksha king in Alaka. She had but reached the flower of her youth, and was beautiful exceedingly. And the king was amazed; and the thought arose in his mind, 'Ill-placed was the labour of the Creator in producing this beauty! For if she has been created as though in mockery of her Candala form, such that all the world's wealth of loveliness is laughed to scorn by her own, why was she born in a race with which none can mate? Surely by thought alone did Prajapati create her, fearing the penalties of contact with the Matanga race, else whence this unsullied radiance, a grace that belongs not to limbs sullied by touch? Moreover, though fair in form, by the basenness of her birth, whereby she, like a Lakshmi of the lower world, is a perpetual reproach to the gods, she, lovely as she is, causes fear in Brahma, the maker of so strange a union.' While the king was thus thinking the maiden, garlanded with flowers, that fell over her ears, bowed herself before him with a confidence beyond her years. And when she had made her reverence and stepped on to the mosaic floor, her attendant, taking the parrot, which had just entered the cage, advanced a few steps, and, showing it to the King, said: 'Sire, this parrot, by name Vaicampayana, knows the meaning of all the castras, is expert in the practice of royal policy, skilled in tales, history, and Puranas, and acquinted with songs and with musical intervals. He recites, and himself composes graceful and incomparable modern romances, love-stories, plays, and poems, and the like; he is versed in witticisms and is an unrivalled disciple of the vina, flute, and drum. He is skilled in displaying the different movements of dancing, dextrous in painting, very bold in play, ready in resources to calm a maiden angered in a lover's quarrel, and familiar with the characteristics of elephants, horses, men, and women. He is the gem of the whole earth; and in the thought that treasures belong to thee, as pearls to the ocean, the daughter of my lord has brought him hither to thy feet, O king! Let him be accepted as thine.'

On reading this description of a Chandala girl many questions arise. Firstly, how different it is from the description given by FaHian? Secondly Bana is a Vatsyayana Brahmin. This Vatsyayana Brahmin, after giving a description of the Chandala Settlement, finds

no compunction in using such eloquent and gorgeous language to describe the Chandala girl. Is this description compatible with the sentiments of utter scorn and contempt associated with Untouchability? If the Chandalas were Untouchables how could an Untouchable girl enter the King's palace? How could an Untouchable be described in the superb terms used by Bana? Far from being degraded, the Chandalas of Bana's period had Ruling Families among them. For Bana speaks of the Chandala girl as a Chandala princess[1] Bana wrote some time about 600 A.D., and by 600 A.D. the Chandalas had not come to be regarded as Untouchables. It is, therefore, quite possible that the conditions described by Fa-Hian, though bordering on Untouchability, may not be taken as amounting to Untouchability. It may only be extreme form of impurity practised by the Brahmins who are always in the habit of indulging in overdoing their part in sacerdotalism. This becomes more than plausible if we remember that when Fa-Hian came to India it was the reign of the Gupta Kings. The Gupta Kings were patrons of Brahmanism. It was a period of the triumph and revival of Brahmanism. It is quite possible that what Fa-Hian describes is not Untouchability but an extremity to which the Brahmins were prepared to carry the ceremonial impurity which had become attached to some community, particularly to the Chandalas.

The next Chinese traveller who came into India was Yuan Chwang. He came to India in 629 A.D. He stayed in India for 16 years and has left most accurate records of journeys up and down the country and of the manners and customs of the people. In the course of his description of general characters of the cities and buildings of India, he says[2] :—

> "As to their inhabited towns and cities the quadrangular walls of the cities (or according to one text, of the various regions) are broad and high, while the thoroughfares arc narrow tortuous passages. The shops are on the highways and booths, or (inns) line the roads. Butchers, fishermen, public performers, executioners, and scavengers have their habitations marked by a distinguishing sign. They are forced to live outside the city and they sneak along on the left when going about in the hamlets."

The above passage is too short and too brief for founding a definite conclusion thereon. There is, however, one point about it which is worthy of note. Fa-Hian's description refers to the Chandalas only while the description given by Yuan Chwang applies to communities

1. Kadambari (Ridding's Translation) p. 204.
2. Wallers-Yuan Chwang Vol.I.p. 147.

other than the Chandalas. This is a point of great importance. No such argument can be levelled against the acceptance of a description since it applies to communities other than the Chandalas. It is, therefore, just possible that when Yuan Chwang came to India, Untouchability had emerged.

On the basis of what has been said above we can conclude that while Untouchability did not exist in 200 A.D., it had emerged by 600 A.D.

These are the two limits, upper and lower, for determining the birth of Untouchability. Can we fix an approximate date for the birth of Untouchability? I think we can, if we take beef-eating, which is the root of Untouchability, as the point to start from. Taking the ban on beef-eating as a point to reconnoitre from, it follows that the date of the birth of Untouchability must be intimately connected with the ban on cow-killing and on eating beef. If we can answer when cow-killing became an offence and beef-eating became a sin, we can fix an approximate date for the birth of Untouchability.

When did cow-killing become an offence?

We know that Manu did not prohibit the eating of beef nor did he make cow-killing an offence. When did it become an offence? As has been shown by Dr. D. R. Bhandarkar, cow killing was made a capital offence by the Gupta kings some time in the 4th Century A.D.

We can, therefore, say with some confidence that Untouchability was born some time about 400 A.D. It is born out of the struggle for supremacy between Buddhism and Brahmanism which has so completely moulded the history of India and the study of which is so woefully neglected by students of Indian history.

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Babasaheb Dr. B.R. Ambedkar

(14th April 1891 - 6th December 1956)

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I have an open mind, though not an empty mind. A person with an open mind is always the subject of congratulations. While this may be so, it must, at the same time, be realised that an open mind may also be an empty mind and that such an open mind, if it is a happy condition, is also a very dangerous condition for a man to be in. A disaster may easily overtake a man with an empty mind. Such a person is like a ship without ballast and without a rudder. It can have no direction. It may float but may also suffer a shipwreck against a rock for want of direction. While aiming to help the reader by placing before him all the material, relevant and important, the reader will find that I have not sought to impose my views on him. I have placed before him both sides of the question and have left him to form his own opinion.

–Dr. B. R. Ambedkar
in his Introduction to
Pakistan or the Partition of India

DR. BABASAHEB AMBEDKAR
WRITINGS AND SPEECHES
VOL. 8

Edited
by
Vasant Moon

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Kumari Selja

सत्यमेव जयते

Minister for Social Justice and Empowerment
& Chairperson, Dr. Ambedkar Foundation

MESSAGE

Babasaheb Dr. B.R. Ambedkar, the Chief Architect of Indian Constitution was a scholar par excellence, a philosopher, a visionary, an emancipator and a true nationalist. He led a number of social movements to secure human rights to the oppressed and depressed sections of the society. He stands as a symbol of struggle for social justice.

The Government of Maharashtra has done a highly commendable work of publication of volumes of unpublished works of Dr. Ambedkar, which have brought out his ideology and philosophy before the Nation and the world.

In pursuance of the recommendations of the Centenary Celebrations Committee of Dr. Ambedkar, constituted under the chairmanship of the then Prime Minister of India, the Dr. Ambedkar Foundation (DAF) was set up for implementation of different schemes, projects and activities for furthering the ideology and message of Dr. Ambedkar among the masses in India as well as abroad.

The DAF took up the work of translation and publication of the Collected Works of Babasaheb Dr. B.R. Ambedkar published by the Government of Maharashtra in English and Marathi into Hindi and other regional languages. I am extremely thankful to the Government of Maharashtra's consent for bringing out the works of Dr. Ambedkar in English also by the Dr. Ambedkar Foundation.

Dr. Ambedkar's writings are as relevant today as were at the time when these were penned. He firmly believed that our political democracy must stand on the base of social democracy which means a way of life which recognizes liberty, equality and fraternity as the principles of life. He emphasized on measuring the progress of a community by the degree of progress which women have achieved. According to him if we want to maintain democracy not merely in form, but also in fact, we must hold fast to constitutional methods of achieving our social and economic objectives. He advocated that in our political, social and economic life, we must have the principle of one man, one vote, one value.

There is a great deal that we can learn from Dr. Ambedkar's ideology and philosophy which would be beneficial to our Nation building endeavor. I am glad that the DAF is taking steps to spread Dr. Ambedkar's ideology and philosophy to an even wider readership.

I would be grateful for any suggestions on publication of works of Babasaheb Dr. Ambedkar.

(Kumari Selja)

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FOREWORD

The 8th Volume of the Writings and Speeches of Dr. Babasaheb Ambedkar consists of the reprint of the third edition of his "Pakistan or the Partition of India" published in 1946. The book has the relevance of a historical kaleidoscope of the thoughts and events that led to the partition of the country and the course of the politics of the sub-continent. No serious student of the current political or social events in the sub-continent can offord to ignore it. One may not agree with all that has been said in it. Suffice it to say that Dr. Babasaheb Ambedkar displays rare and original insight into the complex socio-political issues of his time. Presentation of the issues carries conviction with those who care to understand him. It is in this context that the full title of the book needs to be quoted, "Pakistan or the Partition of India : The Indian political what is what". The book evoked a high praise from Mr. Edward Thompson in his "Enlist India for Freedom". Dr. Ambedkar was aware of the significance of his contribution to the subject and in his Preface to the second edition noted that, " the book appears to have supplied a real want. I have seen how the thoughts, ideas and arguments contained in it have been pillaged by authors, politicians and editors of newspapers to support their sides. I am sorry they did not observe the decency of acknowledging the sources even when they lifted not merely the arguments but also the language of the book. But that is a matter I do not mind. I am glad that the book has been of service to Indians who are faced with this knotty problem of Pakistan. The fact that Mr. Gandhi and Mr. Jinnah in their recent talks cited the book as an authority on the subject which might be consulted with advantage bespeaks the worth of the book." It was an analytical presentation of Indian history and Indian politics, containing material large and varied enough to be called "Indian political what is what." Its objectivity and rationality is attested by the fact that it was disowned by the antagonists and unowned by the protagonists of Pakistan. Dr. Ambedkar had drawn a suggestive picture of the

situation that was emerging in the sub-continent and though he was not a political star-gazer, he could read the signs of the future shock for which he wanted the people to be prepared and planned to take the later events and accidents in their strides. Behind the political drama of constitution-making there are sociological factors and historical forces and the task of a statesman is to shape the situation to reduce social miseries and to absorb the shocks of sudden changes in which men lose their intellectual moorings. This in retrospect was the task which Dr. Ambedkar took upon himself as the true nationalist and the saviour of the Indian people. He gave credit to the British for maintaining order and he desired that the change from dependence to independence should be a smooth and peaceful passage to a happy future.

The book has a real merit as an example of a happy presentation of arguments on both sides, in English, which attracts and holds the attention of the reader. Dr. Ambedkar writes with ease and felicity of diction that should be the theme of study by those who are to express themselves in the Queen's English or Fowler's English idioms and phrases. Dr. Ambedkar has at his command a wealth of quotations and statistics to suppport his point of view and the linguistic skills of a trained and sophisticated advocate. He quotes passages from Burke to Augustine Birrell. Here is a passage from Birrell.

"Cooks, warriors, and authors must be judged by the effects they produce; toothsome dishes, glorious victories, pleasant books, these are our demands. We have no desire to be admitted into the kitchen, the council, or the study. The cook may use her saucepans how she pleases, the warrior place his men as he likes, the author handle his material or weave his plot as best he can : when the dish is served we only ask, Is it good ? ; when the book comes out, Does it read ?

"Authors ought not to be above being reminded that it is their first duty to write agreeably. Some very disagreeable men have succeeded in doing so, and there is, therefore, no need for any one to despair. Every author, be he grave or gay, should try to make his book as ingratiating as possible. Reading is not a

duty, and has consequently no business to be made disagreeable. Nobody is under any obligation to read any other man's book."

The book here reprinted reads well and beyond doubt is a piece of literature and of historical relevance. As William Hudson says in his 'Introduction to the History of Literature', "One essential characteristic of any piece of literature is, as we said at the outset, that whatever its theme, it yields aesthetic pleasure by the manner in which such theme is handled. Beyond its intellectual and emotional content, therefore, and beyond its fundamental quality of life, it appeals to us by reason of its form. This means that literature is a fine art and that like all fine arts, it has its own laws and conditions of workmanship." One would treat the book as a fine piece of literature and there are many passages in it that one may commit to memory to learn the secrets of elegant style that Ambedkar learnt from Burke, Gibbon, Carlyle, etc.

It should not be difficult to appreciate that there was a basic similarity between Dr. Ambedkar and Gandhiji. Both wanted peace in the sub-continent. Here is what Dr. Ambedkar says of the value of peace as an adjunct to progress. He quotes Burke : "The use of force alone is temporary. It may endure a moment but it does not remove the necessity of subduing again; a nation is not governed which is perpetually to be conquered. The next objection to force is its uncertanity. Terror is not always the effect of force, and an armament is not a victory. If you do not succeed you are without resource ; for conciliation failing, force remains ; but force failing, no further hope of reconciliation is left. Power and authority are sometimes bought by kindness, but they can never be begged as alms by an impoverished and defeated violence. A further objection to force is that you impair the object by your very endeavours to preserve it. The thing you fought for (to wit the loyalty of the people) is not the thing you recover, but depreciated, sunk, wasted and consumed in the contest."

It is difficult to resist the temptation to quote several such passages of beauty and appeal. Dr. Ambedkar was in excellent company of the mighty minds of yore. He cites Lanepool,

Toynbee, Bryce, Lord Acton to impress on the reader his points of argument. Tables of statistics, statements of figures and citations from official documents are presented in logical sequence supported by contemporary newspaper reports, thereby showing the quality of genuine scholarship that Dr. Ambedkar possessed. He should be the model for an academic don as much as for a practical advocate. However, it must be added that though logic was a strong point with Dr. Ambedkar, it was supported by experience and sometimes by bitter experiences of the hard school of life. But he was not a bitter man. There are flashes of wit and humour in his writings.

His epilogue to the discussion is worth quoting: "Here I propose to stop. For I feel that I have said all that I can say about the subject. To use legal language, I have drawn the pleadings. This I may claim to have done at sufficient length. In doing so, I have adopted that prolix style so dear to the Victorian lawyers, under which the two sides plied one another with plea and replication . . ." He then sets out the issues carefully, showing how the partition could be resolved. Dr. Ambedkar in this exercise analyses the logic of the situation. His was the method of enquiry rooted in experience. It was not only the dialectical skill of an advocate but also a frank recognition of the truth of everyday life that was lived in the sub-continent. Dr. Ambedkar was applying the method which may be best described in the words of Abraham Kaplan in "The Conduct of Inquiry—Methodology for Behavioural Science". Says Kaplan, "It is in the empirical component that science is differentiated from fantasy. The inner coherence, even strict self-consistency, may look a delusional system as well as a scientific one. Paraphrasing Archimedes we may each of us declare, 'Give me a premise to stand on and I will deduce a world'. But it will be a fantasy world except in so far as the premise gives it a measure of reality, it is experience alone that gives us realistic premises. "It is for this reason that Dr. Ambedkar counselled that our premises should be constantly revised. Deductive logic is not sufficient to interpret this. Theories, sentiments, values and prejudices often constitute the intellectual equipment of the average person for sometimes even reasonable men tend to be

guided by such methods of thought. It is such methods of thought that make things good or bad for us but that is only a passing impression and we are shaken out of the fantasy world of our beliefs and prejudices.

"Pakistan or the Partition of India" is a valuable source of historical material. After more than forty-five years, its value as the record of contemporaneous events has increased.

It is hoped that both the research scholar and the lay reader will find it a rich and rewarding experience to read the material presented by Dr. Ambedkar in the perspective of history.

The Editorial Board expresses its thanks to Mr. P. S. More, the Director of Printing and Stationery, Bombay, for his co-operation and records its appreciation of Shri K. S. Banhatti, Manager, Government Press, Nagpur, who took special interest in assisting the editing of this volume. The Secretary, Education, and the Officer on Special Duty and his staff also deserve our appreciation for their strenuous labour in bringing out this book on time.

(Kamalkishor Kadam)
Minister for Education
and President,
Dr. Babasaheb Ambedkar Source
Material Publication Committee,
M. S. Bombay.

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PAKISTAN

Of the many books on the subject there is none which has either the breadth or the depth which this has.

OR

the Indian Political what's what!

The PARTITION OF INDIA

BY B. R. Ambedkar

R FREEDOM "Says :—

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PAKISTAN
OR
THE PARTITION OF INDIA

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PAKISTAN
OR
THE PARTITION OF INDIA

BY

Dr. B. R. AMBEDKAR

"More brain, O Lord, more brain! or we shall mar,
Utterly this fair garden we might win"

Quotation from the title page of
"*Thoughts on Pakistan*." (1st Ed.)

[Reprint of the Edition of 1946]

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INSCRIBED TO THE MEMORY
OF
RAMU

As a token of my appreciation of her goodness of heart, her nobility of mind and her purity of character and also for the cool fortitude and readiness to suffer along with me which she showed in those friendless days of want and worries which fell to our lot.

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PREFACE TO THE SECOND EDITION

The problem of Pakistan has given a headache to everyone, more so to me than to anybody else. I cannot help recalling with regret how much of my time it has consumed when so much of my other literary work of greater importance to me than this is held up for want of it. I therefore hope that this second edition will also be the last. I trust that before it is exhausted either the question will be settled or withdrawn.

There are four respects in which this second edition differs from the first.

*The first edition contained many misprints which formed the subject of complaints from many readers as well as reviewers. In preparing this edition, I have taken as much care as is possible to leave no room for complaint on this score. The first edition consisted only of three parts. Part V is an addition. It contains my own views on the various issues involved in the problem of Pakistan. It has been added because of the criticism levelled against the first edition that while I wrote about Pakistan I did not state what views I held on the subject. The present edition differs from the first in another respect. The maps contained in the first edition are retained but the number of appendices have been enlarged. In the first edition there were only eleven appendices. The present edition has twenty-five. To this edition I have also added an index which did not find a place in the first edition.

The book appears to have supplied a real want. I have seen how the thoughts, ideas and arguments contained in it have been pillaged by authors, politicians and editors of newspapers to support their sides. I am sorry they did not observe the decency of acknowledging the source even when they lifted not merely the argument but also the language of the book. But that is a matter I do not mind. I am glad that the book has been of service to

* In the first edition there unfortunately occurred through oversight in proof correction a discrepancy between the population figures in the different districts of Bengal and the map showing the lay-out of Pakistan as applied to Bengal which had resulted in two districts which should have been included in the Pakistan area being excluded from it. In this edition, this error has been rectified and the map and the figures have been brought into conformity.

Indians who are faced with this knotty problem of Pakistan. The fact that Mr. Gandhi and Mr. Jinnah in their recent talks cited the book as an authority on the subject which might be consulted with advantage bespeaks the worth of the book.

The book by its name might appear to deal only with the X. Y. Z. of Pakistan. It does more than that. It is an analytical presentation of Indian history and Indian politics in their communal aspects. As such, it is intended to explain the A. B. C. of Pakistan also. The book is more than a mere treatise on Pakistan. The material relating to Indian history and Indian politics contained in this book is so large and so varied that it might well be called Indian Political What is What.

The book has displeased both Hindus as well as Muslims though the reasons for the dislike of the Hindus are different from the reasons for the dislike of the Muslims. I am not sorry for this reception given to my book. That it is disowned by the Hindus and unowned by the Muslims is to me the best evidence that it has the vices of neither and that from the point of view of independence of thought and fearless presentation of facts the book is not a party production.

Some people are sore because what I have said has hurt them. I have not, I confess, allowed myself to be influenced by fears of wounding either individuals or classes, or shocking opinions however respectable they may be. I have often felt regret in pursuing this course, but remorse never. Those whom I may have offended must forgive me, in consideration of the honesty and disinterestedness of my aim. I do not claim to have written dispassionately though I trust I have written without prejudice. It would be hardly possible—I was going to say decent—for an Indian to be calm when he talks of his country and thinks of the times. In dealing with the question of Pakistan my object has been to draw a perfectly accurate, and at the same time, a suggestive picture of the situation as I see it. Whatever points of strength and weakness I have discovered on either side I have brought them boldly forward. I have taken pains to throw light on the mischievous effects that are likely to proceed from an obstinate and impracticable course of action.

The witness of history regarding the conflict between the forces of the authority of the State and of anti-State nationalism within, has been uncertain, if not equivocal. As Prof. Friedmann* observes:—

> "There is not a single modern State which has not, at one time or another, forced a recalcitrant national group to live under its authority. Scots, Bretons, Catalans, Germans, Poles, Czechs, Finns, all have, at some time or another, been compelled to accept the authority of a more powerful State whether they liked it or not. Often, as in Great Britain or France, force eventually led to co-operation and a co-ordination of State authority and national cohesion. But in many cases, such as those of Germany, Poland, Italy and a host of Central European and Balkan countries, the forces of Nationalism did not rest until they had thrown off the shackles of State Power and formed a State of their own . . . . . "

In the last edition, I depicted the experience of countries in which the State engaged itself in senseless suppression of nationalism and weathered away in the attempt. In this edition I have added by way of contrast the experience of other countries to show that given the will to live together it is not impossible for diverse communities and even for diverse nations to live in the bosom of one State. It might be said that in tendering advice to both sides I have used terms more passionate than they need have been. If I have done so it is because I felt that the manner of the physician who tries to surprise the vital principle in each paralyzed organ in order to goad it to action was best suited to stir up the average Indian who is complacent if not somnolent, who is unsuspecting if not ill-informed, to realize what is happening. I hope my effort will have the desired effect.

I cannot close this preface without thanking Prof. Manohar B. Chitnis of the Khalsa College, Bombay, and Mr. K. V. Chitre for their untiring labours to remove all printer's and clerical errors that had crept into the first edition and to see that this edition is free from all such blemishes. I am also very grateful to Prof. Chitnis for the preparation of the Index which has undoubtedly enhanced the utility of the book.

1st January 1945,
22, Prithviraj Road, B. R. AMBEDKAR
New Delhi.

**The Crisis of the National State* (1943), p. 4.

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PROLOGUE

It can rightly be said that the long introduction with which this treatise opens leaves no excuse for a prologue. But there is an epilogue which is affixed to the treatise. Having done that, I thought of prefixing a prologue, firstly, because an epilogue needs to be balanced by a prologue, and secondly, because the prologue gives me room to state in a few words the origin of this treatise to those who may be curious to know it and to impress upon the readers the importance of the issues raised in it. For the satisfaction of the curious it may be stated that there exists, at any rate in the Bombay Presidency, a political organization called the Independent Labour Party (abbreviated into I.L.P.) for the last three years. It is not an ancient, hoary organization which can claim to have grown grey in politics. The I.L.P. is not in its dotage and is not overtaken by senility, for which second childhood is given as a more agreeable name. Compared with other political organizations, the I.L.P. is a young and fairly active body, not subservient to any clique or interest. Immediately after the passing of the Lahore Resolution on Pakistan by the Muslim League, the Executive Council of the I.L.P. met to consider what attitude it should adopt towards this project of Pakistan. The Executive Council could see that there was underlying Pakistan an idea to which no objection could be taken. Indeed, the Council was attracted to the scheme of Pakistan inasmuch as it meant the creation of ethnic states as a solution of the communal problem. The Council, however, did not feel competent to pronounce at that stage a decided opinion on the issue of Pakistan. The Council, therefore, resolved to appoint a committee to study the question and make a report on it. The committee consisted of myself as the Chairman, and Principal M. V. Donde, B.A.; Mr. S. C. Joshi, M.A., LL.B., Advocate (O.S.), M.L.C.; Mr. R. R. Bhole, B.Sc., LL.B., M.L.A.; Mr. D. G. Jadhav, B.A., LL.B., M.L.A., and Mr. A. V. Chitre, B.A., M.L.A., all belonging to the I.L.P., as members of the committee. Mr. D. V. Pradhan, Member, Bombay Municipal Corporation, acted as Secretary to the committee. The committee asked me to prepare a report on Pakistan which I did. The same was submitted to the Executive Council of the I.L.P., which resolved that the report should be published. The treatise now published is that report.

The book is intended to assist the student of Pakistan to come to his own conclusion. With that object in view, I have not only assembled in this volume all the necessary and relevant data but have also added 14 appendices and 3 maps, which in my judgment, form an important accompaniment to the book.

It is not enough for the reader to go over the material collected in the following pages. He must also reflect over it. Let him take to heart the warning which Carlyle gave to Englishmen of his generation. He said:

> "The Genius of England no longer soars Sunward, world-defiant, like an Eagle through the storms, 'mewing her mighty youth ,'..... .....the Genius of England—much like a greedy Ostrich intent on provender and a whole skin.....; with its Ostrich-head stuck into ..... whatever sheltering Fallacy there may be, and so awaits the issue. The issue has been slow; but it now seems to have been inevitable. No Ostrich, intent on gross terrene provender and sticking its head into Fallacies, but will be awakened one day—in a terrible a *posteriori* manner if not otherwise! Awake before it comes to that. Gods and men did us awake ! The Voices of our Fathers, with thousandfold stern monition to one and all, bid us awake".

This warning, I am convinced, applies to Indians in their present circumstances as it once did to Englishmen, and Indians, if they pay no heed to it, will do so at their peril.

Now, a word for those who have helped me in the preparation of this report. Mr. M. G. Tipnis, D.C.E. (Kalabhuwan, Baroda), and Mr. Chhaganlal S. Mody have rendered me great assistance, the former in preparing the maps and the latter in typing the manuscript. I wish to express my gratitude to both for their work which they have done purely as a labour of love. Thanks are also due in a special measure to my friends Mr. B. R. Kadrekar and Mr. K. V. Chitre for their labours in undertaking the most uninteresting and dull task of correcting the proofs and supervising the printing.

28th December, 1940,
'Rajagrah,' B. R. AMBEDKAR.
Dadar, Bombay, 14.

INTRODUCTION

The Muslim League's Resolution on Pakistan has called forth different reactions. There are some who look upon it as a case of political measles to which a people in the infancy of their conscious unity and power are very liable. Others have taken it as a permanent frame of the Muslim mind and not merely a passing phase and have in consequence been greatly perturbed.

The question is undoubtedly controversial. The issue is vital and there is no argument which has not been used in the controversy by one side to silence the other. Some argue that this demand for partitioning India into two political entities under separate national states staggers their imagination; others are so choked with a sense of righteous indignation at this wanton attempt to break the unity of a country, which, it is claimed, has stood as one for centuries, that their rage prevents them from giving expression to their thoughts. Others think that it need not be taken seriously. They treat it as a trifle and try to destroy it by shooting into it similes and metaphors. "You don't cut your head to cure your headache," "you don't cut a baby into two because two women are engaged in fighting out a claim as to who its mother is," are some of the analogies which are used to prove the absurdity of Pakistan. In a controversy carried on the plane of pure sentiment, there is nothing surprising if a dispassionate student finds more stupefaction and less understanding, more heat and less light, more ridicule and less seriousness.

My position in this behalf is definite, if not singular. I do not think the demand for Pakistan is the result of mere political distemper, which will pass away with the efflux of time. As I read the situation, it seems to me that it is a characteristic in the biological sense of the term, which the Muslim body politic has developed in the same manner as an organism develops a characteristic. Whether it will survive or not, in the process of natural selection, must depend upon the forces that may become operative in the struggle for existence between Hindus and Musalmans. I am not staggered by Pakistan; I am not indignant about it; nor do I believe that it can be smashed by shooting into

it similes and metaphors. Those who believe in shooting it by similes should remember that nonsense does not cease to be nonsense because it is put in rhyme, and that a metaphor is no argument though it be sometimes the gunpowder to drive one home and imbed it in memory. I believe that it would be neither wise nor possible to reject summarily a scheme if it has behind it the sentiment, if not the passionate support, of 90 p.c. Muslims of India. I have no doubt that the only proper attitude to Pakistan is to study it in all its aspects, to understand its implications and to form an intelligent judgment about it.

With all this, a reader is sure to ask : Is this book on Pakistan seasonable in the sense that one must read it, as one must eat the fruits of the season to keep oneself in health ? If it is seasonable, is it readable ? These are natural queries and an author, whose object is to attract readers, may well make use of the introduction to meet them.

As to the seasonableness of the book there can be no doubt. The way of looking at India by Indians themselves must be admitted to have undergone a complete change during the last 20 years. Referring to India Prof. Arnold Toynbee wrote in 1915:—

> "British statesmanship in the nineteenth century regarded India as a 'Sleeping Beauty,' whom Britain had a prescriptive right to woo when she awoke; so it hedged with thorns the garden where she lay, to safeguard her from marauders prowling in the desert without. Now the princess is awake, and is claiming the right to dispose of her own hand, while the marauders have transformed themselves into respectable gentlemen diligently occupied in turning the desert into a garden too, but grievously, impeded by the British thorn-hedge. When they politely request us to remove it, we shall do well to consent, for they will not make the demand till they feel themselves strong enough to enforce it, and in the tussle that will follow if we refuse, the sympathies of the Indian princess will not be on our side. Now that she is awake, she wishes to walk abroad among her neighbours; she feels herself capable of rebuffing without our countenance any blandishments or threats they may offer her, and she is becoming as weary as they of the thorn-hedge that confines her to her garden.
>
> "If we treat her with tact, India will never wish to secede from the spiritual brotherhood of the British Empire, but it is inevitable that she should lead a more and more independent life of her own, and follow the example of Anglo-Saxon Commowealths by establishing direct relations with her neighbours....."

Although the writer is an Englishman, the view expressed by him in 1915 was the view commonly held by all Indians irrespective of caste or creed. Now that India the "Sleeping Beauty" of Prof. Toynbee is awake, what is the view of the Indians about her ? On this question, there can be no manner of doubt that those who have observed this Sleeping Beauty behave in recent years, feel she is a strange being quite different from the angelic princess that she was supposed to be. She is a mad maiden having a dual personality, half human, half animal, always in convulsions because of her two natures in perpetual conflict. If there is any doubt about her dual personality, it has now been dispelled by the Resolution of the Muslim League demanding the cutting up of India into two, Pakistan and Hindustan, so that these conflicts and convulsions due to a dual personality having been bound in one may cease forever, and so freed from each other, may dwell in separate homes congenial to their respective cultures, Hindu and Muslim.

It is beyond question that Pakistan is a scheme which will have to be taken into account. The Muslims will insist upon the scheme being considered. The British will insist upon some kind of settlement being reached between the Hindus and the Muslims before they consent to any devolution of political power. There is no use blaming the British for insisting upon such a settlement as a condition precedent to the transfer of power. The British cannot consent to settle power upon an aggressive Hindu majority and make it its heir, leaving it to deal with the minorities at its sweet pleasure. That would not be ending imperialism. It would be creating another imperialism. The Hindus, therefore, cannot avoid coming to grips with Pakistan, much as they would like to do.

If the scheme of Pakistan has to be considered, and there is no escape from it, then there are certain points which must be borne in mind.

The first point to note is that the Hindus and Muslims must decide the question themselves. They cannot invoke the aid of anyone else. Certainly, they cannot expect the British to decide it for

them. From the point of view of the Empire, it matters very little to the British whether India remains one undivided whole, or is partitioned into two parts, Pakistan and Hindustan, or into twenty linguistic fragments as planned by the Congress, so long as all of them are content to live within the Empire. The British need not interfere for the simple reason that they are not affected by such territorial divisions.

Further, if the Hindus are hoping that the British will use force to put down Pakistan, that is impossible. In the first place, coercion is no remedy. The futility of force and resistance was pointed out by Burke long ago in his speeches relating to the coercion of the American colonies. His memorable words may be quoted not only for the benefit of the Hindu Maha Sabha but also for the benefit of all. This is what he said:

> "The use of force alone is temporary. It may endure a moment but it does not remove the necessity of subduing again : a nation is not governed which is perpetually to be conquered. The next objection to force is its uncertainty. Terror is not always the effect of force, and an armament is not a victory. If you do not succeed you are without resource; for conciliation failing, force remains; but force failing, no further hope of reconciliation is left. Power and Authority are sometimes bought by kindness, but they can never be begged as alms by an impoverished and defeated violence. A further objection to force is that you impair the object by your very endeavours to preserve it. The thing you fought for (to wit the loyalty of the pepole) is not the thing you recover, but depreciated, sunk, wasted and consumed in the contest."

Coercion, as an alternative to Pakistan, is therefore unthinkable.

Again, the Muslims cannot be deprived of the benefit of the principle of self-determination. The Hindu Nationalists who rely on self-determination and ask how Britain can refuse India what the conscience of the world has conceded to the smallest of the European nations, cannot in the same breath ask the British to deny it to other minorities. The Hindu Nationalist who hopes that Britain will coerce the Muslims into abandoning Pakistan, forgets that the right of nationalism to freedom from an aggressive foreign imperialism and the right of a minority to freedom from an aggressive majority's nationalism are not two different things;

nor does the former stand on a more sacred footing than the latter. They are merely two aspects of the struggle for freedom and as such equal in their moral import. Nationalists, fighting for freedom from aggressive imperialism, cannot well ask the help of the British imperialists to thwart the right of a minority to freedom from the nationalism of an aggressive majority. The matter must, therefore, be decided upon by the Muslims and the Hindus alone. The British cannot decide the issue for them. This is the first important point to note.

The essence of Pakistan is the opposition to the establishment of one Central Government having supremacy over the whole of India. Pakistan contemplates two Central Governments, one for Pakistan and the other for Hindustan. This gives rise to the second important point which Indians must take note of. That point is that the issue of Pakistan shall have to be decided upon before the plans for a new constitution are drawn and its foundations are laid. If there is to be one Central Government for India, the design of the constitutional structure would be different from what it would be if there is to be one Central Government for Hindustan and another for Pakistan. That being so, it will be most unwise to postpone the decision. Either the scheme should be abandoned and another substituted by mutual agreement or it should be decided upon. It will be the greatest folly to suppose that if Pakistan is buried for the moment, it will never raise its head again. I am sure, burying Pakistan is not the same thing as burying the ghost of Pakistan. So long as the hostility to one Central Government for India, which is the ideology underlying Pakistan, persists, the ghost of Pakistan will be there, casting its ominous shadow upon the political future of India. Neither will it be prudent to make some kind of a make-shift arrangement for the time being, leaving the permanent solution to some future day. To do so would be something like curing the symptoms without removing the disease. But, as often happens in such cases, the disease is driven in, thereby making certain its recurrence, perhaps in a more virulent form.

I feel certain that whether India should have one Central Government is not a matter which can be taken as settled; it is a matter in issue and although it may not be a live issue now, some day it will be.

The Muslims have openly declared that they do not want to have any Central Government in India and they have given their reasons in the most unambiguous terms. They have succeeded in bringing into being five provinces which are predominantly Muslim in population. In these provinces, they see the possibility of the Muslims forming a government and they are anxious to see that the independence of the Muslim Governments in these provinces is preserved. Actuated by these considerations, the Central Government is an eyesore to the Muslims of India. As they visualize the scene, they see their Muslim Provinces made subject to a Central Government predominantly Hindu and endowed with powers of supervision over, and even of interference in, the administration of these Muslim Provinces. The Muslims feel that to accept one Central Government for the whole of India is to consent to place the Muslim Provincial Governments under a Hindu Central Government and to see the gain secured by the creation of Muslim Provinces lost by subjecting them to a Hindu Government at the Centre. The Muslim way of escape from this tyranny of a Hindu Centre is to have no Central Government in India at all.*

Are the Musalmans alone opposed to the existence of a Central Government ? What about the Hindus ? There seems to be a silent premise underlying all political discussions that are going on among the Hindus that there will always be in India a Central Government as a permanent part of her political constitution. How far such a premise can be taken for granted is more than I can say. I may, however, point out that there are two factors which are dormant for the present but which some day may become dominant and turn the Hindus away from the idea of a Central Government

The first is the cultural antipathy between the Hindu Provinces. The Hindu Provinces are by no means a happy family. It cannot be pretended that the Sikhs have any tenderness for the Bengalees or the Rajputs or the Madrasis. The Bengalee loves only himself. The Madrasi is bound by his own world. As to the Mahratta, who does not recall that the Mahrattas, who set out to

*This point of view was put forth by Sir Muhammad Iqbal at the Third Round Table Conference.

destroy the Muslim Empire in India, became a menace to the rest of the Hindus whom they harassed and kept under their yoke for nearly a century. The Hindu Provinces have no common traditions and no interests to bind them. On the other hand, the differences of language, race, and the conflicts of the past have been the most powerful forces tending to divide them. It is true that the Hindus are getting together and the spirit moving them to become one united nation is working on them. But it must not be forgotten that they have not yet become a nation. They are in the process of becoming a nation and before the process is completed, there may be a setback which may destroy the work of a whole century.

In the second place, there is the financial factor. It is not sufficiently known what it costs the people of India to maintain the Central Government and the proportionate burden each Province has to bear.

The total revenue of British India comes to Rs. 194,64,17,926 per annum. Of this sum, the amount raised by the Provincial Governments from provincial sources, comes annually to Rs. 73,57,50,125 and that raised by the Central Government from central sources of revenue comes to Rs. 121,06,67,801. This will show what the Central Government costs the people of India. When one considers that the Central Government is concerned only with maintaining peace and does not discharge any functions which have relation to the progress of the people, it should cause no surprise if people begin to ask whether it is necessary that they should pay annually such an enormous price to purchase peace. In this connection, it must be borne in mind that the people in the provinces are literally starving and there is no source left to the provinces to increase their revenue.

This burden of maintaining the Central Government, which the people of India have to bear, is most unevenly distributed over the different provinces. The sources of central revenues are (1) Customs, (2) Excise, (3) Salt, (4) Currency, (5) Posts and Telegraphs, (6) Income Tax and (7) Railways. It is not possible from the accounts published by the Government of India to work out the distribution of the three sources of central revenue, namely

Currency, Posts and Telegraphs and Railways. Only the revenue raised from other sources can be worked out province by province. The result is shown in the following table :—

	Provinces	Revenue raised by Provincial Government from provincial sources	Revenue raised by Central Government from central sources
		Rs.	Rs.
1	Madras	16,13,44,520	9,53,26,745
2	Bombay	12,44,59,553	22,53,44,247
3	Bengal	12,76,60,892	23,79,01,583
4	U.P.	12,79,99,851	4,05,53,030
5	Bihar	5,23,83,030	1,54,37,742
6	C. P. & Berar	4,27,41,280	31,42,682
7	Assam	2,58,48,474	1,87,55,967
8	Orissa	1,81,99,823	5,67,346
9	Punjab	11,35,86,355	1,18,01,385
10	N.W.F.P.	1,80,83,548	9,28,294
11	Sind	3,70,29,354	5,66,46,915

It will be seen from this table that the burden of maintaining the Central Government is not only heavy but falls unequally upon the different provinces. The Bombay Provincial Government raises Rs. 12,44,59,553; as against this, the Central Government raises Rs. 22,53,44,247 from Bombay. The Bengal Government raises Rs. 12,76,60,892; as against this, the Central Government raises Rs. 23,79,01,583 from Bengal. The Sind Government raises Rs. 3,70,29,354; as against this, the Central Government raises Rs. 5,66,46,915 from Sind. The Assam Government raises nearly Rs. 2 1/2 crores; but the Central Government raises nearly Rs. 2 crores from Assam. While such is the burden of the Central Government on these provinces, the rest of the provinces contribute next to nothing to the Central Government. The Punjab raises Rs. 11 crores for itself but contributes only Rs. 1 crore to the Central Government. In the N.W.F.P. the provincial revenue is Rs. 1,80,83,548; its total contribution to the Central Government however is only Rs. 9,28,294. U.P. raises Rs. 13 crores but

contributes only Rs. 4 crores to the Centre. Bihar collects Rs. 5 crores for itself; she gives only 11/2 crores to the Centre. C.P. and Berar levy a total of 4 crores and pay to the Centre 31 lakhs.

This financial factor has so far passed without notice. But time may come when even to the Hindus, who are the strongest supporters of a Central Government in India, the financial considerations may make a greater appeal than what purely patriotic considerations do now. So, it is possible that some day the Muslims, for communal considerations, and the Hindus, for financial considerations, may join hands to abolish the Central Government.

If this were to happen, it is better if it happens before the foundation of a new constitution is laid down. If it happens after the foundation of the new constitution envisaging one Central Government were laid down, it would be the greatest disaster. Out of the general wreck, not only India as an entity will vanish, but it will not be possible to save even the Hindu unity. As I have pointed out, there is not much cement even among the Hindu Provinces, and once that little cement which exists is lost, there will be nothing with which to build up even the unity of the Hindu Provinces. It is because of this that Indians must decide, before preparing the plans and laying the foundations, for whom the constitutional structure is to be raised and whether it is temporary or permanent. After the structure is built as one whole, on one single foundation, with girders running through from one end to the other; if, thereafter, a part is to be severed from the rest, the knocking out of the rivets will shake the whole building and produce cracks in other parts of the structure which are intended to remain as one whole. The danger of cracks is greater, if the cement which binds them is, as in the case of India, of a poor quality. If the new constitution is designed for India as one whole and a structure is raised on that basis, and thereafter the question of separation of Pakistan from Hindustan is raised and the Hindus have to yield, the alterations that may become necessary to give effect to this severance may bring about the collapse of the whole structure. The desire of the Muslim Provinces may easily infect the Hindu Provinces and the spirit of disruption generated by the Muslim Provinces may cause all round disintegration.

History is not wanting in instances of constitutions threatened with disruption. There is the instance of the Southern States of the American Union. Natal has always been anxious to get out from the Union of South Africa and Western Australia recently applied, though unsuccessfully, to secede from the Australian Commonwealth.

In these cases actual disruption has not taken place and where it did, it was soon healed. Indians, however, cannot hope to be so fortunate. Theirs may be the fate of Czechoslovakia. In the first place, it would be futile to entertain the hope that if a disruption of the Indian constitution took place by the Muslim Provinces separating from the Hindu Provinces, it would be possible to win back the seceding provinces as was done in the U.S.A. after the Civil War. Secondly, if the new Indian constitution is a Dominion Constitution, even the British may find themselves powerless to save the constitution from such a disruption, if it takes place after its foundations are laid. It seems to be, therefore, imperative that the issue of Pakistan should be decided upon before the new constitution is devised.

If there can be no doubt that Pakistan is a scheme which Indians will have to resolve upon at the next revision of the constitution and if there is no escape from deciding upon it, then it would be a fatal mistake for the people to approach it without a proper understanding of the question. The ignorance of some of the Indian delegates to the Round Table Conference of constitutional law, I remember, led Mr. Garvin of the *Observer* to remark that it would have been much better if the Simon Commission, instead of writing a report on India, had made a report on constitutional problems of India and how they were met by the constitutions of the different countries of the world. Such a report I know was prepared for the use of the delegates who framed the constitution of South Africa. This is an attempt to make good that deficiency and as such I believe it will be welcomed as a seasonable piece.

So much for the question whether the book is seasonable. As to the second question, whether the book is readable no

writer can forget the words of Augustine Birrell when he said:

> "Cooks, warriors, and authors must be judged by the effects they produce; toothsome dishes, glorious victories, pleasant books, these are our demands. We have nothing to do with ingredients, tactics, or methods. We have no desire to be admitted into the kitchen, the council, or the study. The cook may use her saucepans how she pleases, the warrior place his men as he likes, the author handle his material or weave his plot as best he can; when the dish is served we only ask, Is it good ?; when the battle has been fought, Who won ? ; when the book comes out, Does it read ?
>
> "Authors ought not to be above being reminded that it is their first duty to write agreeably. Some very disagreeable men have succeeded in doing so, and there is, therefore, no need for any one to despair. Every author, be he grave or gay, should try to make his book as ingratiating as possible. Reading is not a duty, and has consequently no business to be made disagreeable. Nobody is under any obligation to read any other man's book."

I am fully aware of this. But I am not worried about it. That may well apply to other books but not to a book on Pakistan. Every Indian must read a book on Pakistan, if not this, then some other, if he wants to help his country to steer a clear path.

If any book does not read well, i.e., its taste be not good, the reader will find two things in it which, I am sure, are good.

The first thing he will find is that the ingredients are good. There is in the book material which will be helpful and to gain access to which he will have to labour a great deal. Indeed, the reader will find that the book contains an epitome of India's political and social history during the last twenty years, which it is necessary for every Indian to know.

The second thing he will find is that there is no partisanship. The aim is to expound the scheme of Pakistan in all its aspects and not to advocate it. The aim is to explain and not to convert. It would, however, be a pretence to say that I have no views on Pakistan. Views I have. Some of them are expressed, others may have to be gathered. Two things, however, may well be said about my views. In the first place, wherever they are expressed, they have been reasoned out. Secondly, whatever the views, they have certainly not the fixity of a popular prejudice. They are

really thoughts and not views. In other words, I have an open mind, though not an empty mind. A person with an open mind is always the subject of congratulations. While this may be so, it must, at the same time, be realized that an open mind may also be an empty mind and that such an open mind, if it is a happy condition, is also a very dangerous condition for a man to be in. A disaster may easily overtake a man with an empty mind. Such a person is like a ship without ballast and without a rudder. It can have no direction. It may float but may also suffer a shipwreck against a rock for want of direction. While aiming to help the reader by placing before him all the material, relevant and important, the reader will find that I have not sought to impose my views on him. I have placed before him both sides of the question and have left him to form his own opinion.

The reader may complain that I have been provocative in stating the relevant facts. I am conscious that such a charge may be levelled against me. I apologize freely and gladly for the same. My excuse is that I have no intention to hurt. I had only one purpose, that is, to force the attention of the indifferent and casual reader to the issue that is dealt with in the book. I ask the reader to put aside any irritation that he may feel with me and concentrate his thoughts on this tremendous issue: Which is to be, Pakistan or no Pakistan ?

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PART I

MUSLIM CASE FOR PAKISTAN

The Muslim Case for Pakistan is sought to be justified on the following grounds :—

(i) What the Muslims are asking for is the creation of administrative areas which are ethnically more homogeneous.

(ii) The Muslims want these homogeneous administrative areas which are predominantly Muslim to be constituted into separate States,

(a) because the Muslims by themselves constitute a separate nation and desire to have a national home, and

(b) because experience shows that the Hindus want to use their majority to treat the Muslims as though they were second-class citizens in an alien State.

This part is devoted to the exposition of these grounds.

BLANK

CHAPTER I

WHAT DOES THE LEAGUE DEMAND ?

I

On the 26th of March 1940, Hindu India was startled to attention as it had never been before. On that day, the Muslim League at its Lahore Session passed the following Resolution :—

"1. While approving and endorsing the action taken by the Council and the Working Committee of the All-India Muslim League as indicated in their resolutions dated the 27th of August, 17th and 18th of September and 22nd of October 1939 and 3rd of February 1940 on the constitutional issue, this Session of the All-India Muslim League emphatically reiterates that the Scheme of Federation embodied in the Government of India Act, 1935, is totally unsuited to, and unworkable in the peculiar conditions of this country and is altogether unacceptable to Muslim India;

"2. It further records its emphatic view that while the declaration dated the 18th of October, 1939 made by the Viceroy on behalf of His Majesty's Government is reassuring in as far as it declares that the policy and plan on which the Government of India Act, 1935, is based will be reconsidered in consultation with the various parties, interests and communities in India, Muslim India will not be satisfied unless the whole constitutional plan is reconsidered *de novo* and that no revised plan would be acceptable to the Muslims, unless it is framed with their approval and consent;

"3. Resolved that it is the considered view of this Session of the All-India Muslim League that no constitutional plan would be workable in this country or acceptable to the Muslims unless it is designated on the following basic principle, viz. that geographically contiguous units are demarcated into regions which should be so constituted with such territorial readjustments as may be necessary, that the areas in which the Muslims are numerically in a majority as in the North-Western and Eastern Zones of India should be grouped to constitute "Independent States" in which the Constituent Units shall be autonomous and sovereign;

"4. That adequate, effective and mandatory safeguards should be specifically provided in the constitution for minorities in these units and in the regions for the protection of their religious, cultural, economic, political, administrative and other rights, and interests in consultation with them; and in other parts of India where the Musalmans are in a minority, adequate, effective and mandatory safeguards shall be specifically provided in the constitution for them and other minorities for the protection of their religious, cultural, economic, political, administrative and other rights, and interests in consultation with them;

> "5. This Session further authorizes the Working Committee to frame a Scheme of Constitution in accordance with these basic principles, providing for the assumption finally by the respective regions of all powers such as defence, external affairs, communication, customs, and such other matters as may be necessary."

What does this Resolution contemplate ? A reference to para 3 of the Resolution will show that the Resolution contemplates that the areas in which Muslims predominate shall be incorporated into independent States. In concrete terms, it means that the Punjab, the North-Western Frontier Province, Baluchistan and Sind in the North-West and Bengal in the East instead of remaining as the provinces of British India shall be incorporated as independent States outside of British India. This is the sum and substance of the Resolution of the Muslim League.

Does the Resolution contemplate that these Muslim provinces, after being in corporated into States, will remain each an independent sovereign State or will they be joined together into one constitution as members of a single State, federal or unitary ? On this point, the Resolution is rather ambiguous, if not self-contradictory. It speaks of grouping the zones into "Independent States in which the Constituent Units shall be autonomous and sovereign." The use of the term "Constituent Units" indicates that what is contemplated is a Federation. If that is so, then, the use of the word "sovereign" as an attribute of the Units is out of place. Federation of Units and sovereignty of Units are contradictions. It may be that what is contemplated is a confederation. It is, however, not very material for the moment whether these Independent States are to form into a federation or a confederation. What is important is the basic demand, namely, that these areas are to be separated from India and formed into Independent States.

The Resolution is so worded as to give the idea that the scheme adumbrated in it is a new one. But, there can be no doubt that the Resolution merely resuscitates a scheme which was put forth by Sir Mahomed Iqbal in his Presidential address to the Muslim League at its Annual Session held at Lucknow in December 1930. The scheme was not then adopted by the League. It was, however, taken up by one Mr. Rehmat Ali who gave it the name, Pakistan,

by which it is known. Mr. Rehmat Ali, M.A.,LL.B., founded the Pakistan Movement in 1933. He divided India into two, namely, *Pakistan* and *Hindustan*. His Pakistan included the Punjab, N. W. F. Province, Kashmir, Sind and Baluchistan. The rest to him was *Hindustan*. His idea was to have an "independent and separate Pakistan" composed of five Muslim provinces in the North as an independent State. The proposal was circulated to the members of the Round Table Conference but never officially put forth. It seems an attempt was made privately to obtain the assent of the British Government, who, however, declined to consider it because they thought that this was a "revival of the old Muslim Empire."*

The League has only enlarged the original scheme of Pakistan. It has sought to create one more Muslim State in the East to include the Muslims in Bengal and Assam. Barring this, it expresses in its essence and general outline the scheme put forth by Sir Mahomed Iqbal and propagated by Mr. Rehmat Ali. There is no name given to this new Muslim State in the East. This has made no difference in the theory and the issues involved in the ideology of Mr. Rehmat Ali. The only difficulty one feels is that the League, while enlarging the facets, has not christened the two Muslim States with short and sweet names as it might have been expected to do. That it did not do and we are left to carry on the discussion with two long jaw-breaking names of Muslim State in the West and Muslim State in the East. I propose to solve this difficulty by reserving the name Pakistan to express the ideology underlying the two-nation theory and its consequent effect, namely, partition, and by designating the two Muslim States in the North-West and North-East as Western Pakistan and Eastern Pakistan.

The scheme not only called Hindu India to attention but it shocked Hindu India. Now it is natural to ask, what is there that is new or shocking in this scheme ?

* Halide Edib—Inside India, p. 355.

II

Is the idea of linking up of the provinces in the North-West a shocking idea ? If so, let it be remembered that the linking of these provinces is an age-old project put forth by successive Viceroys, Administrators and Generals. Of the Pakistan provinces in the North-West, the Punjab and N. W. F. P. constituted a single province ever since the Punjab was conquered by the British in 1849. The two continued to be a single province till 1901. It was in 1901 that Lord Curzon broke up their unity and created the present two provinces. As to the linking up of the Punjab with Sind, there can be no doubt that had the conquest of Sind followed and not preceded the conquest of the Punjab, Sind would have been incorporated into the Punjab, for the two are not only contiguous but are connected by a single river which is the most natural tie between them. Although Sind was joined to Bombay, which in the absence of the Punjab was the only base from which it could be governed, the idea of disconnecting Sind from Bombay and joining it to the Punjab was not given up and projects in that behalf were put forth from time to time. It was first put forth during the Governor-Generalship of Lord Dalhousie; but for financial reasons, was not sanctioned by the Court of Directors. After the mutiny, the question was reconsidered but owing to the backward state of communications along the Indus, Lord Canning refused to give his consent. In 1876, Lord Northbrook was of the opinion that Sind should be joined to the Punjab. In 1877, Lord Lytton, who succeeded Northbrook, sought to create a trans-Indus province, consisting of the six frontier districts of the Punjab and of the trans-Indus districts of Sind. This would have included the six Frontier districts of the Punjab, namely, Hazara, Peshawar, Kohat, Bannu (except the Cis-Indus tracts), Dera Ismail Khan (with the same exception), Dera Ghazi Khan, and trans-Indus Sind (with the exception of Karachi). Lytton also proposed that Bombay should receive the whole or part of the Central Provinces, in order to compensate it for the loss of trans-Indus Sind. These proposals were not acceptable to the Secretary of State. During the Vice-royalty of Lord Lansdowne (1888—94), the same project was revived in its original form, namely, the transfer of Sind to the

Punjab, but owing to the formation of the Baluchistan Agency, Sind had ceased to be a Frontier district and the idea which was military in its motive, lost its force and Sind remained without being incorporated in the Punjab. Had the British not acquired Baluchistan and had Lord Curzon not thought of carving out the N. W. F. P. out of the Punjab, we would have witnessed long ago the creation of Pakistan as an administrative unit.

With regard to the claim for the creation of a National Muslim State in Bengal, again, there is nothing new in it. It will be recalled by many that in 1905, the province of Bengal and Assam was divided by the then Viceroy, Lord Curzon into two provinces : (1) Eastern Bengal and Assam with Dacca as its capital and (2) Western Bengal with Calcutta as its capital. The newly-created province of Eastern Bengal and Assam included Assam and the following districts of the old province of Bengal and Assam: (1) Dacca, (2) Mymensingh, (3) Faridpur, (4) Backer gunge, (5) Tippera, (6) Noakhali, (7) Chittagong, (8) Chittagong Hill Tracts, (9) Rajashahi, (10) Dinajpur, (11) Jalpaiguri, (12) Rangpur, (13) Bogra, (14) Pabna and (15) Malda. Western Bengal included the remaining districts of the old Province of Bengal and Assam with the addition of the district of Sambalpur which was transferred from C. P. to Western Bengal.

This division of one province into two, which is known in Indian history as the Partition of Bengal, was an attempt to create a Muslim State in Eastern Bengal, inasmuch as the new province of Eastern Bengal and Assam was, barring parts of Assam, a predominantly Muslim area. But, the partition was abrogated in 1911 by the British who yielded to the Hindus, who were opposed to it and did not care for the wishes of the Muslims, as they were too weak to make themselves felt. If the partition of Bengal had not been annulled, the Muslim State in Eastern Bengal, instead of being a new project, would now have been 39 years old.*

*Government of India Gazette Notification No. 2832, dated 1st September 1905. The two provinces became separate administrative units from 16th October 1905.

III

Is the idea of separation of Pakistan from Hindustan shocking ? If so, let me recall a few facts which are relevant to the issue and which form the basic principles of the Congress policy. It will be remembered that as soon as Mr. Gandhi captured the Congress, he did two things to popularize it. The first thing he did was to introduce Civil Disobedience.

Before Mr. Gandhi's entry into the politics of India, the parties contending for power were the Congress, the Liberals and the Terrorists of Bengal. The Congress and the Liberals were really one party and there was no distinction between them such as divides them today. We can, therefore, safely say that there were only two parties in India, the Liberals and the Terrorists. In both, the conditions for admission were extremely difficult. In the Liberal Party, the condition for admission was not merely education but a high degree of learning. Without first establishing a reputation for study, one could never hope to obtain admission to the Liberal Party. It effectively excluded the uneducated from rising to political power. The Terrorists had prescribed the hardest test conceivable. Only those who were prepared to give their lives for the cause, not in the sense of dedicating them but in the sense of dying for it, could become members of their organization. No knave could, therefore, get an entry into the Terrorists' organization. Civil disobedience does not require learning. It does not call for the shedding of life. It is an easy middle way for that large majority who have no learning and who do not wish to undergo the extreme penalty and at the same time obtain the notoriety of being patriots. It is this middle path which made the Congress more popular than the Liberal Party or the Terrorist Party.

The second thing Mr. Gandhi did was to introduce the principle of Linguistic Provinces. In the constitution that was framed by the Congress under the inspiration and guidance of Mr. Gandhi, India was to be divided into the following Provinces with the language and headquarters as given below :—

Province		Language		Headquarters
Ajmere-Merwara	...	Hindustani	...	Ajmere.
Andhra	...	Telegu	...	Madras.
Assam	...	Assamese	...	Gauhati
Bihar	...	Hindustani	...	Patna.
Bengal	...	Bengali	...	Calcutta.
Bombay (City)	...	Marathi-Gujarati	...	Bombay.
Delhi	...	Hindustani	...	Delhi.
Gujarat	...	Gujarati	...	Ahmedabad.
Karnatak	...	Kannada	...	Dharwar
Kerala	...	Malayalam	...	Calicut.
Mahakosal	...	Hindustani	...	Jubbulpore.
Maharashtra	...	Marathi	...	Poona.
Nagpur	...	Marathi	...	Nagpur.
N.W.F.P.	...	Pushtu	...	Peshawar.
Punjab	...	Punjabi	...	Lahore.
Sind	...	Sindhi	...	Karachi.
Tamil Nadu	...	Tamil	...	Madras.
United Provinces	...	Hindustani	...	Lucknow.
Utkal	...	Oriya	...	Cuttack.
Vidarbha (Berar)	...	Marathi	...	Akola.

In this distribution no attention was paid to considerations of area, population or revenue. The thought that every administrative unit must be capable of supporting and supplying a minimum standard of civilized life, for which it must have sufficient area, sufficient population and sufficient revenue, had no place in this scheme of distribution of areas for provincial purposes. The determining factor was language. No thought was given to the possibility that it might introduce a disruptive force in the already loose structure of the Indian social life. The scheme was, no doubt, put forth with the sole object of winning the people to the Congress by appealing to their local patriotism. The idea of linguistic provinces has come to stay and the demand for giving effect to it has become so insistent and irresistible that the Congress, when it came into power, was forced to put it into effect. Orissa has already been separated from Bihar.* Andhra is demanding separation from Madras. Karnatak is asking for separation from Maharashtra.† The only linguistic province that is not demanding separation from

* This was done under the Government of India Act, 1935.

† Karnatak also wants some districts from the Madras Presidency.

Maharashtra is Gujarat Or rather, Gujarat has given up for the moment the idea of separation. That is probably because Gujarat has realized that union with Maharashtra is, politically as well as commercially, a better investment.

Be. that as it may, the fact remains that separation on linguistic basis is now an accepted principle with the Congress. It is no use saying that the separation of Karnatak and Andhra is based on a linguistic difference and that the claim to separation of Pakistan is based on a cultural difference. This is a distinction without difference. Linguistic difference is simply another name for cultural difference.

If there is nothing shocking in the separation of Karanatak and Andhra, what is there to shock in the demand for the separation of Pakistan ? If it is disruptive in its effect, it is no more disruptive than the separation of Hindu provinces such as Karnatak from Maharashtra or Andhra from Madras. Pakistan is merely another manifestation of a cultural unit demanding freedom for the growth of its own distinctive culture.

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CHAPTER II

A NATION CALLING FOR A HOME

That there are factors, administrative, linguistic or cultural, which are the predisposing causes behind these demands for separation, is a fact which is admitted and understood by all. Nobody minds these demands and many are prepared to concede them. But, the Hindus say that the Muslims are going beyond the idea of separation and questions, such as what has led them to take this course, why are they asking for partition, for the annulment of the common tie by a legal divorce between Pakistan and Hindustan, are being raised.

The answer is to be found in the declaration made by the Muslim League in its Resolution that the Muslims of India are a separate nation. It is this declaration by the Muslim League, which is both resented and ridiculed by the Hindus.

The Hindu resentment is quite natural. Whether India is a nation or not, has been the subject-matter of controversy between the Anglo-Indians and the Hindu politicians ever since the Indian National Congress was founded. The Anglo-Indians were never tired of proclaiming that India was not a nation, that 'Indians' was only another name for the people of India. In the words of one Anglo-Indian "to know India was to forget that there is such a thing as India." The Hindu politicians and patriots have been, on the other hand, equally persistent in their assertion that India is a nation. That the Anglo-Indians were right in their repudiation cannot be gainsaid. Even Dr. Tagore, the national poet of Bengal, agrees with them. But, the Hindus have never yielded on the point even to Dr. Tagore.

This was because of two reasons. Firstly, the Hindu felt ashamed to admit that India was not a nation. In a world where nationality and nationalism were deemed to be special virtues in a people, it was quite natural for the Hindus to feel, to use the language of Mr. H.G. Wells, that it would be as improper for India to be without a nationality as it would be for a man to be without

his clothes in a crowded assembly. Secondly, he had realized that nationality had a most intimate connection with the claim for self-government. He knew that by the end of the 19th century, it had become an accepted principle that the people, who constituted a nation, were entitled on that account to self-government and that any patriot, who asked for self-government for his people, had to prove that they were a nation. The Hindu for these reasons never stopped to examine whether India was or was not a nation in fact. He never cared to reason whether nationality was merely a question *of calling* a people a nation or was a question of the people *being* a nation. He knew one thing, namely, that if he was to succeed in his demand for self-government for India, he must maintain, even if he could not prove it, that India was a nation.

In this assertion, he was never contradicted by any Indian. The thesis was so agreeable that even serious Indian students of history came forward to write propagandist literature in support of it, no doubt out of patriotic motives. The Hindu social reformers, who knew that this was a dangerous delusion, could not openly contradict this thesis. For, anyone who questioned it was at once called a tool of the British bureaucracy and enemy of the country. The Hindu politician was able to propagate his view for a long time. His opponent, the Anglo-Indian, had ceased to reply to him. His propaganda had almost succeeded. When it was about to succeed comes this declaration of the Muslim League—this rift in the lute. Just because it does not come from the Anglo-Indian, it is a deadlier blow. It destroys the work which the Hindu politician has done for years. If the Muslims in India are a separate nation, then, of course, India is not a nation. This assertion cuts the whole ground from under the feet of the Hindu politicians. It is natural that they should feel annoyed at it and call it a stab in the back.

But, stab or no stab, the point is, can the Musalmans be said to constitute a nation ? Everything else is beside the point. This raises the question : What is a nation ? Tomes have been written on the subject. Those who are curious may go through them and study the different basic conceptions as well as the different aspects of it. It is, however, enough to know the

core of the subject and that can be set down in a few words. Nationality is a social feeling. It is a feeling of a corporate sentiment of oneness which makes those who are charged with it feel that they are kith and kin. This national feeling is a double edged feeling. It is at once a feeling of fellowship for one's own kith and kin and an anti-fellowship feeling for those who are not one's own kith and kin. It is a feeling of "consciousness of kind" which on the one hand binds together those who have it, so strongly that it over-rides all differences arising out of economic conflicts or social gradations and, on the other, severs them from those who are not of their kind. It is a longing not to belong to any other group. This is the essence of what is called a nationality and national feeling.

Now apply this test to the Muslim claim. Is it or is it not a fact that the Muslims of India are an exclusive group ? Is it or is it not a fact that they have a consciousness of kind ? Is it or is not a fact that every Muslim is possessed by a longing to belong to his own group and not to any non-Muslim group ?

If the answer to these questions is in the affirmative, then the controversy must end and the Muslim claim that they are a nation must be accepted without cavil.

What the Hindus must show is that notwithstanding some differences, there are enough affinities between Hindus and Musalmans to constitute them into one nation, or, to use plain language, which make Muslims and Hindus long to belong together.

Hindus, who disagree with the Muslim view that the Muslims are a separate nation by themselves, rely upon certain features of Indian social life which seem to form the bonds of integration between Muslim society and Hindu society.

In the first place, it is said that there is no difference of race between the Hindus and the Muslims. That the Punjabi Musalman and the Punjabi Hindu, the U.P. Musalman and the U.P. Hindu, the Bihar Musalman and the Bihar Hindu, the Bengal Musalman and the Bengal Hindu, the Madras Musalman and the Madras Hindu, and the Bombay Musalman and the Bombay Hindu are racially of one stock. Indeed there is more racial affinity between the Madras Musalman and the Madras Brahmin

than there is 'between the Madras Brahmin and the Punjab Brahmin. In the second place, reliance is placed upon linguistic unity between Hindus and Muslims. It is said that the Musalmans have no common language of their own which can mark them off as a linguistic group separate from the Hindus. On the contrary, there is a complete linguistic unity between the two. In the Punjab, both Hindus and Muslims speak Punjabi. In Sind, both speak Sindhi. In Bengal, both speak Bengali. In Gujarat, both speak Gujarati. In Maharashtra, both speak Marathi. So in every province. It is only in towns that the Musalmans speak Urdu and the Hindus the language of the province. But outside, in the mofussil, there is complete linguistic unity between Hindus and Musalmans. Thirdly, it is pointed out that India is the land which the Hindus and Musalmans have now inhabited together for centuries. It is not exclusively the land of the Hindus, nor is it exclusively the land of the Mahomedans.

Reliance is placed not only upon racial unity but also upon certain common features in the social and cultural life of the two communities. It is pointed out that the social life of many Muslim groups is honeycombed with Hindu customs. For instance, the *Avans* of the Punjab, though they are nearly all Muslims, retain Hindu names and keep their genealogies in the Brahmanic fashion. Hindu surnames are found among Muslims. For instance, the surname Chaudhari is a Hindu surname but is common among the Musalmans of U.P. and Northern India. In the matter of marriage, certain groups of Muslims are Muslims in name only. They either follow the Hindu form of the ceremony alone, or perform the ceremony first by the Hindu rites and then call the Kazi and have it performed in the Muslim form. In some sections of Muslims, the law applied is the Hindu Law in the matter of marriage, guardianship and inheritance. Before the Shariat Act was passed, this was true even in the Punjab and the N. W. F. P. In the social sphere the caste system is alleged to be as much a part of Muslim society as it is of Hindu society. In the religious sphere, it is pointed out that many Muslim *pirs* had Hindu disciples ; and similarly some Hindu *yogis* have had Muslim *chelas*. Reliance is placed on instances of friendship between saints of the rival creeds. At Girot, in the Punjab, the tombs of

two ascetics, Jamali Sultan and Diyal Bhawan, who lived in close amity during the early part of the nineteenth century, stand close to one another, and are reverenced by Hindus and Musalmans alike. Bawa Fathu, a Muslim saint, who lived about 1700 A.D. and whose tomb is at Ranital in the Kangra District, received the title of prophet by the blessing of a Hindu saint, Sodhi Guru Gulab Singh. On the other hand, Baba Shahana, a Hindu saint whose cult is observed in the Jang District, is said to have been the *chela* of a Muslim *pir* who changed the original name (Mihra), of his Hindu follower, into Mir Shah.

All this, no doubt, is true. That a large majority of the Muslims belong to the same race as the Hindus is beyond question. That all Mahomedans do not speak a common tongue, that many speak the same language as the Hindus cannot be denied. That there are certain social customs which are common to both cannot be gainsaid. That certain religious rites and practices are common to both is also a matter of fact. But the question is : can all this support the conclusion that the Hindus and the Mahomedans on account of them constitute one nation or these things have fostered in them a feeling that they long to belong to each other ?

There are many flaws in the Hindu argument. In the first place, what are pointed out as common features are not the result of a conscious attempt to adopt and adapt to each other's ways and manners to bring about social fusion. On the other hand, this uniformity is the result of certain purely mechanical causes. They are partly due to incomplete conversions. In a land like India, where the majority of the Muslim population has been recruited from caste and out-caste Hindus, the Muslimization of the convert was neither complete nor effectual, either from fear of revolt or because of the method of persuasion or insufficiency of preaching due to insufficiency of priests. There is, therefore, little wonder if great sections of the Muslim community here and there reveal their Hindu origin in their religious and social life. Partly it is to be explained as the effect of common environment to which both Hindus and Muslims have been subjected for centuries. A common environment is bound to produce common reactions, and reacting constantly in the same way to the same environment is

bound to produce a common type. Partly are these common features to be explained as the remnants of a period of religious amalgamation between the Hindus and the Muslims inaugurated by the Emperor Akbar, the result of a dead past which has no present and no future.

As to die argument based on unity of race, unity of language and inhabiting a common country, the matter stands on a different footing. If these considerations were decisive in making or unmaking a nation, the Hindus would be right in saying that by reason of race, community of language and habitat the Hindus and Musalmans form one nation. As a matter of historical experience, neither race, nor language, nor country has sufficed to mould a people into a nation. The argument is so well put by Renan that it is impossible to improve upon his language. Long ago in his famous essay on Nationality, Renan observed :—

> "that race must not be confounded with nation. The truth is that there is no pure race; and that making politics depend upon ethnographical analysis, is allowing it to be borne upon a chimera .. . Racial facts, important as they are in the beginning, have a constant tendency to lose their importance. Human history is essentially different from zoology. Race is not everything, as it is in the sense of rodents and felines."

Speaking about language, Renan points out that:—

> "Language invites re-union; it does not force it. The United States and England, Spanish America and Spain speak the same languages and do not form single nations. On the contrary, Switzerland which owes her stability to the fact that she was founded by the assent of her several parts counts three or four languages. In man there is something superior to lauguage,—will. The will of Switzerland to be united, in spite of the variety of her languages, is a much more important fact than a similarity of language, often obtained by persecution."

As to common country, Renan argued that:—

> "It is no more the land than the race that makes a nation. The land provides a *substratum,* the field of battle and work ; man provides the soul; man is everything in the formation of that sacred thing which is called a people. Nothing of material nature suffices for it"

Having shown that race, language, and country do not suffice to create a nation, Renan raises in a pointed manner the question,

what more, then, is necessary to constitute a nation ? His answer may be given in his own words :—

> "A nation is a living soul, a spiritual principle. Two things, which in truth are but one, constitute this soul, this spiritual principle. One is in the past, the other in the present. One is the common possession of a rich heritage of memories; the other is the actual consent, the desire to live together, the will to preserve worthily the undivided inheritance which has been handed down. Man does not improvise. The nation, like the individual, is the outcome of a long past of efforts, and sacrifices, and devotion. Ancestor-worship is therefore, all the more legitimate; for our ancestors have made us what we are. A heroic past, great men, glory,—I mean glory of the genuine kind,—these form the social capital, upon which a national idea may be founded. To have common glories in the past, a common will in the present; to have done great things together, to will to do the like again,—such are the essential conditions for the making of a people. We love in proportion to the sacrifices we have consented to make, to the sufferings we have endured. We love the house that we have built, and will hand down to our descendant. The Spartan hymn, 'We are what you were; we shall be what you are', is in its simplicity the national anthem of every land.
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> "In the past an inheritance of glory and regrets to be shared, in the future a like ideal to be realised; to have suffered, and rejoiced, and hoped together; all these things are worth more than custom houses in common, and frontiers in accordance with strategical ideas; all these can be understood in spite of diversities of race and language. I said just now, 'to have suffered together' for indeed, suffering in common is a greater bond of union than joy. As regards national memories, mournings are worth more than triumphs; for they impose duties, they demand common effort."

Are there any common historical antecedents which the Hindus and Muslims can be said to share together as matters of pride or as matters of sorrow ? That is the crux of the question. That is the question which the Hindus must answer, if they wish to maintain that Hindus and Musalmans together form a nation. So far as this aspect of their relationship is concerned, they have been just two armed battalions warring against each other. There was no common cycle of participation for a common achievement. Their past is a past of mutual destruction—a past of mutual animosities, both in the political as well as in the religious fields. As Bhai Parmanand points out in his pamphlet called "the Hindu National Movement"—"In history the Hindus revere the memory of Prithvi

Raj, Partap, Shivaji and, Beragi Bir, who fought for the honour and freedom of this land (against the Muslims), while the Mahomedans look upon the invaders of India, like Muhammad Bin Qasim and rulers like Aurangzeb as their national heroes." In the religious field, the Hindus draw their inspiration from the Ramayan, the Mahabharat and the Geeta. The Musalmans, on the other hand, derive their inspiration from the Quran and the Hadis. Thus, the things that divide are far more vital than the things which unite. In depending upon certain common features of Hindu and Mahomedan social life, in relying upon common language, common race and common country, the Hindu is mistaking what is accidental and superficial for what is essential and fundamental. The political and religious antagonisms divide the Hindus and the Musalmans far more deeply than the so-called common things are able to bind them together. The prospects might perhaps be different if the past of the two communities can be forgotten by both, Renan points out the importance of forgetfulness as a factor in building up a nation :—

> "Forgetfulness, and I shall even say historical error, form an essential factor in the creation of a nation; and thus it is that the progress of historical studies may often be dangerous to the nationality. Historical research, in fact, brings back to light the deeds of violence that have taken place at the commencement of all political formations, even of those the consequences of which have been most beneficial. Unity is ever achieved by brutality. The union of Northern and Southern France was the result of an extermination, and of a reign of terror that lasted for nearly a hundred years. The king of France who was, if I may say so, the ideal type of a secular crystalliser, the king of France who made the most perfect national unity in existence, lost his prestige when seen at too close a distance. The nation that he had formed cursed him; and today the knowledge of what he was worth, and what he did, belongs only to the cultured.
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> "It is by contrast that these great laws of the history of Western Europe become apparent. In the undertaking which the king of France, in part by his justice, achieved so admirably, many countries came to disaster. Under the crown of St. Stephen, Magyars and Slavs have remained as distinct as they were eight hundred years ago. Far from combining the different elements in its dominions, the house of Hapsburg has held them apart and often opposed to one another. In Bohemia, the Czech element and the German element are superimposed like oil and water in a glass. The Turkish policy of separation of nationalities

according to religion has had much graver results. It has brought about the ruin of the East. Take a town like Smyrna or Salonica; you will find there five or six communities each with its own memories, and possessing among them scarcely anything in common. But the essence of the nation is, that all its individual members should have things in common; and also, that all of them should hold many things in oblivion. No French citizen knows whether he is a Burgundian, an Alan, or a Visigoth; every French citizen ought to have forgetten St. Bartholomew, and the massacres of the South in the thirteenth century. There are not ten families in France able to furnish proof of a French origin; and yet, even if such a proof were given it would be essentially defective, in consequence of a thousand unknown crosses, capable of deranging all genealogical systems."

The pity of it is that the two communities can never forget or obliterate their past. Their past is imbedded in their religion, and for each to give up its past is to give up its religion. To hope for this is to hope in vain.

In the absence of common historical antecedents, the Hindu view that Hindus and Musalmans form one nation falls to the ground. To maintain it is to keep up a hallucination. There is no such longing between the Hindus and Musalmans to belong together as there is among the Musalmans of India.

It is no use saying that this claim of the Musalmans being a nation is an after-thought of their leaders. As an accusation, it is true. The Muslims were hitherto quite content to call themselves a community. It is only recently that they have begun to style themselves a nation. But an accusation, attacking the motives of a person, does not amount to a refutation of his thesis. To say that because the Muslims once called themselves a community, they are, therefore, now debarred from calling themselves a nation is to misunderstand the mysterious working of the psychology of national feeling. Such an argument presupposes that wherever there exist a people, who possess the elements that go to the making up of a nation, there *must* be manifested that sentiment of nationality which is their natural consequence and that if they fail to manifest it for sometime, then that failure is to be used as evidence showing the unreality of the claim of being a nation, if made afterwards. There is no historical support for such

a contention. As Prof. Toynbee points out:—

> "It is impossible to argue a *priory* from the presence of one or even several of these factors to the existence of a nationality; they may have been there for ages and kindled no response and it is impossible to argue from one case to another; precisley the same group of factors may produce nationality here, and there have no effect."

This is probably due to the fact, as pointed out by Prof. Barker, that it is possible for nations to exist and even for centuries, in unreflective silence, although there exists that spiritual essence of a national life of which many of its members are not aware. Some such thing has no doubt happened in the case of the Musalmans. They were not aware of the fact that there existed for them the spiritual essence of a national life. This explains why their claim to separate nationality was made by them so late. But, it does not mean that the spiritual essence of a national life had no existence at all.

It is no use contending that there are cases where a sense of nationality exists but there is no desire for a separate national existence. Cases of the French in Canada and of the English in South Africa, may be cited as cases in point. It must be admitted that there do exist cases, where people are aware of their nationality, but this awareness does not produce in them that passion which is called nationalism. In other words, there may be nations conscious of themselves without being charged with nationalism. On the basis of this reasoning, it may be argued that the Musalmans may hold that they are a nation but they need not on that account demand a separate national existence; why can they not be content with the position which the French occupy in Canada and the English occupy in South Africa ? Such a position is quite a sound position. It must, however, be remembered that such a position can only be taken by way of pleading with the Muslims not to insist on partition. It is no argument against their claim for partition, if they insist upon it.

Lest pleading should be mistaken for refutation, it is necessary to draw attention to two things. First, there is a difference between nationality and nationalism. They are two different psychological states of the human mind. Nationality means

"consciousness of kind, awareness of the existence of that tie of kinship." Nationalism means "the desire for a separate national existence for those who are bound by this tie of kinship." Secondly, it is true that there cannot be nationalism without the feeling of nationality being in existence. But, it is important to bear in mind that the converse is not always true. The feeling of nationality may be present and yet the feeling of nationalism may be quite absent. That is to say, nationality does not in all cases produce nationalism. For nationality to flame into nationalism two conditions must exist. First, there must arise the "will to live as a nation." Nationalism is the dynamic expression of that desire. Secondly, there must be a territory which nationalism could occupy and make it a state, as well as a cultural home of the nation. Without such a territory, nationalism, to use Lord Acton's phrase, would be a "soul as it were wandering in search of a body in which to begin life over again and dies out finding none." The Muslims have developed a "will to live as a nation." For them nature has found a territory which they can occupy and make it a state as well as a cultural home for the new-born Muslim nation. Given these favourable conditions, there should be no wonder, if the Muslims say that they are not content to occupy the position which the French choose to occupy in Canada or the English choose to occupy in South Africa, and that they shall have a national home which they can call their own.

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CHAPTER III

ESCAPE FROM DEGRADATION

"What justification have the Musalmans of India for demanding the partition of India and the establishment of separate Muslim States ? Why this insurrection ? What grievances have they ? "—ask the Hindus in a spirit of righteous indignation.

Anyone, who knows history, will not fail to realize that it has now been a well established principle that nationalism is a sufficient justification for the creation of a national state. As the great historian Lord Acton points out:—

> "In the old European system, the rights of nationalities were neither recognised by Governments nor asserted by the people. The interest of the reigning families, not those of the nations, regulated the frontiers, and the administration was conducted generally without any reference to popular desires. Where all liberties were suppressed, the claims of national independence were necessarily ignored, and a princess, in the words of Fenelon, carried a monarchy in her wedding portion."

Nationalities were at first listless. When they became conscious—

> "They first rose against their conquerors in defence of their legitimate rulers. They refused to be governed by usurpers. Next came a time when they revolted because of the wrongs inflicted upon them by their rulers. The insurrections were provoked by particular grievances justified by definite complaints. Then came the French Revolution which effected a complete change. It taught the people to regard their wishes and wants as the supreme criterion of their right to do what they liked to do with themselves. It proclaimed the idea of the sovereignty of the people uncontrolled by the past and uncontrolled by the existing state. This text taught by the French Revolution became an accepted dogma of all liberal thinkers. Mill gave it his support. 'One hardly knows,' says Mill, 'what any division of the human race should be free to do, if not to determine with which of the various collective bodies of human beings they choose to associate themselves.' "

He even went so far as to hold that—

> "It is in general a necessary condition of free institutions that the boundaries of governments should coincide in the main with those of nationalities."

Thus history shows that the theory of nationality is imbedded in the democratic theory of the sovereignty of the will of a people. This means that the demand by a nationality for a national state does not require to be supported by any list of grievances. The will of the people is enough to justify it.

But, if grievances must be cited in support of their claim, the Muslims say that they have them in plenty. They may be summed up in one sentence, that constitutional safeguards have failed to save them from the tyranny of the Hindu majority.

At the Round Table Conference, the Muslims presented their list of safeguards, which were formulated in the well-known fourteen points. The Hindu representatives at the Round Table Conference would not consent to them. There was an impasse. The British Government intervened and gave what is known as "the Communal decision". By that decision, the Muslims got all their fourteen points. There was much bitterness amongst the Hindus against the Communal Award. But, the Congress did not take part in the hostility that was displayed by the Hindus generally to wards it, although it did retain the right to describe it as anti-national and to get it changed with the consent of the Muslims. So careful was the Congress not to wound the feelings of the Muslims that when the Resolution was moved in the Central Assembly condemning the Communal Award, the Congress, though it did not bless it, remained neutral, neither opposing nor supporting it. The Mahomedans were well justified in looking upon this Congress attitude as a friendly gesture.

The victory of the Congress at the polls in the provinces, where the Hindus are in a majority, did not disturb the tranquillity of the Musalmans. They felt they had nothing to fear from the Congress and the prospects were that the Congress and the Muslim League would work the constitution in partnership. But, two years and three months of the Congress Government in the Hindu Provinces have completely disillusioned them and have made them the bitterest enemies of the Congress. The Deliverance Day celebration held on the 22nd December 1939 shows the depth of their resentment. What is worse, their bitterness is not confined to the Congress. The Musalmans, who at the Round Table Conference

joined in the demand for Swaraj, are today the most ruthless opponents of Swaraj.

What has the Congress done to annoy the Muslims so much ? The Muslim League has asserted that under the Congress regime the Muslims were actually tyrannized and oppressed. Two committees appointed by the League are said to have investigated and reported on the matter. But apart from these matters which require to be examined by an impartial tribunal, there are undoubtedly two things which have produced the clash : (1) the refusal by the Congress to recognize the Muslim League as the only representative body of the Muslims, (2) the refusal by the Congress to form Coalition Ministries in the Congress Provinces.

On the first question, both the Congress and the League are adamant. The Congress is prepared to accept the Muslim League as one of the many Muslim political organizations, such as the Ahrars, the National Muslims and the Jamiat-ul-Ulema. But it will not accept the Muslim League as the only representative body of the Muslims. The Muslim League, on the other hand, is not prepared to enter into any talk unless the Congress accepts it as the only representative body of the Musalmans of India. The Hindus stigmatize the claim of the League as an extravagant one and try to ridicule it. The Muslims may say that if the Hindus would only stop to inquire how treaties between nations are made, they would realize the stupidity of their view. It may be argued that when a nation proceeds to make a treaty with another nation, it recognizes the Government of the latter as fully representing it. In no country does the Government of the day represent the whole body of people. Everywhere it represents only a majority. But nations do not refuse to settle their disputes because the Governments, which represent them, do not represent the whole people. It is enough if each Government represents a majority of its citizens. This analogy, the Muslims may contend, must apply to the Congress-League quarrel on this issue. The League may not represent the whole body of the Muslims but if it represents a majority of them, the Congress should have no compunction to deal with it for the purpose of effecting a settlement of the Hindu-Muslim question. Of course, it is open to the Government

of a country not to recognize the Government of another country where there is more than one body claiming to be the Government. Similarly, the Congress may not recognize the League. It must, however, recognize either the National Muslims or the Ahrars or the Jamiat-ul-Ulema and fix the terms of settlement between the two communities. Of course, it must act with the full knowledge as to which is more likely to be repudiated by the Muslims—an agreement with the League or an agreement with the other Muslim parties. The Congress must deal with one or the other. To deal with neither is not only stupid but mischievous. This attitude of the Congress only serves to annoy the Muslims and to exasperate them. The Muslims rightly interpret this attitude of the Congress as an attempt to create divisions among them with a view to cause confusion in their ranks and weaken their front.

On the second issue, the Muslim demand has been that in the cabinets there shall be included Muslim Ministers who have the confidence of the Muslim members in the Legislature. They expected that this demand of theirs would be met by the Congress if it came in power. But, they were sorely disappointed. With regard to this demand, the Congress took a legalistic attitude. The Congress agreed to include Muslims in their cabinets, provided they resigned from their parties, joined the Congress and signed the Congress pledge. This was resented by the Muslims on three grounds.

In the first place, they regarded it as a breach of faith. The Muslims say that this demand of theirs is in accordance with the spirit of the Constitution. At the Round Table Conference, it was agreed that the cabinets shall include representatives of the minority communities. The minorities insisted that a provision to that effect should be made a part of the statute. The Hindus, on the other hand, desired that the matter should be left to be regulated by convention. A *via media* was found. It was agreed that the provision should find a place in the Instrument of Instructions to the Governors of the provinces and an obligation should be imposed upon them to see that effect was given to the convention in the formation of the cabinets. The Musalmans did not insist upon

making this provision a part of the statute because they depended upon the good faith of the Hindus. This agreement was broken by a party which had given the Muslims to understand that towards them its attitude would be not only correct but considerate.

In the second place, the Muslims felt that the Congress view was a perversion of the real scope of the convention. They rely upon the text of the clause* in the Instrument of Instructions and argue that the words "member of a minority community" in it can have only one meaning, namely, a person having the confidence of the community. The position taken by the Congress is in direct contradiction with the meaning of this clause and is indeed a covert attempt to break all other parties in the country and to make the Congress the only political party in the country. The demand for signing the Congress pledge can have no other intention. This attempt to establish a totalitarian state may be welcome to the Hindus, but it meant the political death of the Muslims as a free people.

This resentment of the Muslims was considerably aggravated when they found the Governors, on whom the obligation was imposed to see that effect was given to the convention, declining to act. Some Governors declined, because they were helpless by reason of the fact that the Congress was the only majority party which could produce a stable government, that a Congress Government was the only government possible and that there was no alternative to it except suspending the constitution. Other Governors declined, because they became active supporters of the Congress Government and showed their partisanship by praising the Congress or by wearing Khadi which is the official party dress of the Congress. Whatever be the reasons, the Muslims discovered that an important safeguard had failed to save them.

The Congress reply to these accusations by the Muslims is twofold. In the first place, they say that coalition cabinets are

*"In making appointments to his Council of Ministers, our Governor shall use his best endeavours to select his Ministers in the following manner, that is to say, to appoint in consultation with the person who in his judgment is most likely to command a stable majority in the Legislature, those persons (including so far as practicable, members of important minority communities) who will best be in a position collectively to command the confidence of the Legislature. In so acting, he shall bear constantly in mind the need for fostering a sense of joint responsibility among his Ministers."

inconsistent with collective responsibility of the cabinets. This, the Musalmans refuse to accept as an honest plea. The English people were the first and the only people, who made it a principle of their system of government. But even there it has been abandoned since. The English Parliament debated* the issue and came to the conclusion that it was not so sacrosanct as it was once held and that a departure from it need not necessarily affect the efficiency or smooth working of the governmental machine. Secondly, as a matter of fact, there was no collective responsibility in the Congress Government. It was a government by departments. Each Minister was independent of the other and the Prime Minister was just a Minister. For the Congress to talk about collective responsibility was really impertinent. The plea was even dishonest, because it is a fact that in the provinces where the Congress was in a minority, they did form Coalition Ministries without asking the Ministers from other parties to sign the Congress pledge. The Muslims are entitled to ask 'if coalition is bad, how can it be good in one place and bad in another ?'

The second reply of the Congress is that even if they take Muslim Ministers in their cabinet who have not the confidence of the majority of the Muslims, they have not failed to protect their interests. Indeed they have done every thing to advance the interests of the Muslims. This no doubt rests on the view Pope held of government when he said:

> "For forms of government let fools contest;
> What is best administered is best."

In making this reply, the Congress High Command seems to have misunderstood what the main contention of the Muslims and the minorities has been. Their quarrel is not on the issue whether the Congress has or has not done any good to the Muslims and the minorities. Their quarrel is on an issue which is totally different. Are the Hindus to be a ruling race and the Muslims and other minorities to be subject races under Swaraj ? That is the issue involved in the demand for coalition ministries. On that, the Muslims and other minorities have taken a definite stand. They are not prepared to accept the position of subject races.

* See the announcement on 22nd January 1932 by the British Prime Minister on the decision of the cabinet to agree to differ on the Tariff Question and the debate on it in Parliament.

That the ruling community has done good to the ruled is quite beside the point and is no answer to the contention of the minority communities that they refuse to be treated as a subject people. The British have done many good things in India for the Indians. They have improved their roads, constructed canals on more scientific principles, effected their transport by rail, carried their letters by penny post, flashed their messages by lightning, improved their currency, regulated their weights and measures, corrected their notions of geography, astronomy and medicine, and stopped their internal quarrels and effected some advancement in their material conditions. Because of these acts of good government, did anybody ask the Indian people to remain grateful to the British and give up their agitation for self-government ? Or because of these acts of social uplift, did the Indians give up their protest against being treated as a subject race by the British ? The Indians did nothing of the kind. They refused to be satisfied with these good deeds and continued to agitate for their right to rule themselves. This is as it should be. For, as was said by Curran, the Irish patriot, no man can be grateful at the cost of his self-respect, no woman can be grateful at the cost of her chastity and no nation can be grateful at the cost of its honour. To do otherwise is to show that one's philosophy of life is just what Carlyle called 'pig philosophy'. The Congress High Command does not seem to realize that the Muslims and other minorities care more for the recognition of their self-respect at the hand of the Congress than for mere good deeds on the part of the Congress. Men, who are conscious of their being, are not pigs who care only for fattening food. They have their pride which they will not yield even for gold. In short "life is more than the meat".

It is no use saying that the Congress is not a Hindu body. A body which is Hindu in its composition is bound to reflect the Hindu mind and support Hindu aspirations. The only difference between the Congress and the Hindu Maha Sabha is that the latter is crude in its utterances and brutal in its actions while the Congress is politic and polite. Apart from this difference of fact, there is no other difference between the Congress and the Hindu Maha Sabha.

Similarly, it is no use saying that the Congress does not recognize the distinction between the ruler and the ruled. If this is so, the Congress must prove its *bona fides* by showing its readiness to recognize the other communities as free and equal partners. What is the test of such recognition ? It seems to me that there can be only one—namely, agreeing to share power with *the effective* representatives of the minority communities. Is the Congress prepared for it ? Everyone knows the answer. The Congress is not prepared to share power with a member of a community who does not owe allegiance to the Congress. Allegiance to the Congress is a condition precedent to sharing power. It seems to be a rule with the Congress that if allegiance to the Congress is not forthcoming from a community, that community must be excluded from political power.

Exclusion from political power is the essence of the distinction between a ruling race and a subject race; and inasmuch as the Congress maintained this principle, it must be said that this distinction was enforced by the Congress while it was in the saddle. The Musalmans may well complain that they have already suffered enough and that this reduction to the position of a subject race is like the proverbial last straw. Their decline and fall in India began ever since the British occupation of the country. Every change, executive, administrative, or legal, introduced by the British, has inflicted a series of blows upon the Muslim Community. The Muslim rulers of India had allowed the Hindus to retain their law in civil matters. But, they abrogated the Hindu Criminal Law and made the Muslim Criminal Law the law of the State, applicable to all Hindus as well as Muslims. The first thing the British did was to displace gradually the Muslim Criminal Law by another of their making, until the process was finally completed by the enactment of Macaulay's Penal Code. This was the first blow to the prestige and position of the Muslim community in India. This was followed by the abridgment of the field of application of the Shariat or the Muslim Civil Law. Its application was restricted to matters concerning personal relations, such as marriage and inheritance, and then only to the extent permitted by the British. Side by side came the abolition, in 1837, of Persian as the official language of the Court and of general administration and the substitution of

English and the vernaculars in place of Persian. Then came the abolition of the Qazis, who, during the Muslim rule, administered the Shariat. In their places, were appointed law officers and judges, who might be of any religion but who got the right of interpreting Muslim Law and whose decisions became binding on Muslims. These were severe blows to the Muslims. As a result, the Muslims found their prestige gone their laws replaced, their language shelved and their education shorn of its monetary value. Along with these came more palpable blows in the shape of annexation of Sind and Oudh and the Mutiny. The last, particularly, affected the higher classes of Muslims, who suffered enormously by the extensive confiscation of property inflicted upon them by the British, as a punishment for their suspected complicity in the Mutiny. By the end of the Mutiny, the Musalmans, high and low, were brought down by these series of events to the lowest depths of broken pride, black despair and general penury. Without prestige, without education and without resources, the Muslims were left to face the Hindus. The British, pledged the neutrality, were indifferent to the result of the struggle between the two communities. The result was that the Musalmans were completely worsened in the struggle. The British conquest of India brought about a complete political revolution in the relative position of the two communities. For six hundred years, the Musalmans had been the masters of the Hindus. The British occupation brought them down to the level of the Hindus. From masters to fellow subjects was degradation enough, but a change from the status of fellow subjects to that of subjects of the Hindus is really humiliation. Is it unnatural, ask the Muslims, if they seek an escape from so intolerable a position by the creation of separate national States, in which the Muslims can find a peaceful home and in which the conflicts between a ruling race and a subject race can find no place to plague their lives ?

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PART II

HINDU CASE AGAINST PAKISTAN

There seem to be three reasons present to the mind of the Hindus who are opposing this scheme of Pakistan. They object to the scheme :—

1. *Because it involves the breaking-up of the unity of India.*
2. *Because it weakens the defence of India.*
3. *Because it fails to solve the communal problem.*

Is there any substance in these objections? This part is concerned with an examination of the validity of these objections.

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CHAPTER IV

BREAK-UP OF UNITY

I

Before the Hindus complain of the destruction of the unity of India, let them make certain that the unity they are harping upon does exist. What unity is there between Pakistan and Hindustan ?

Those Hindus, who maintain the affirmative, rely chiefly upon the fact that the areas which the Muslims want to be separated from India have always been a part of India. Historically this is, no doubt, true. This area was a part of India when Chandragupta was the ruler; it continued to be a part of India when Hsuan Tsang, the Chinese pilgrim, visited India in the 7th century A. D. In his diary, Hsuan Tsang has recorded that India was divided into five divisions or to use his language, there were ' five Indies '* : (1) Northern India, (2) Western India, (3) Central India, (4) Eastern India and (5) Southern India and that these five divisions contained 80 kingdoms. According to Hsuan Tsang, Northern India comprised the Punjab proper, including Kashmir and the adjoining hill States with the whole of Eastern Afghanistan beyond the Indus, and the present Cis-Satlaj States to the west of the Sarasvati river. Thus, in Northern India there were included the districts of Kabul, Jallalabad, Peshawar, Ghazni and Bannu, which were all subject to the ruler of Kapisa, who was a Hindu Kshatriya and whose capital was most probably at Charikar, 27 miles from Kabul. In the Punjab proper, the hilly districts Taxila, Singhapura, Urasa, Punch and Rajaori, were subject to the Raja of Kashmir; while the whole of the plains, including Multan and Shorkot, were dependent on the ruler of Taki or Sangala, near Lahore. Such was the extent of the

*Cunningham's *Ancient Geography of India* (Ed. Majumdar), pp. 13-14. The writers of the Puranas divided India into nine divisions.

northern boundary of India at the time when Hsuan Tsang came on his pilgrimage. But as Prof. Toynbee points out:

> "We must be on our guard against 'historical sentiment', that is against arguments taken from conditions which once existed or were supposed to exist, but which are no longer real at the present moment They are most easily illustrated by extreme examples. Italian newspapers have described the annexation of Tripoli as recovering the soil of the Fatherland because it was once a province of the Roman Empire; and the entire region of Macedonia is claimed by Greek Chauvinists on the one hand, because it contains the site of Pella, the cradle of Alexandar the Great in the fourth century B.C. and by Bulgarians on the other, because Ochrida, in the opposite corner, was the capital of the Bulgarian Tzardom in the tenth century A. D., though the drift of time has buried the tradition of the latter almost as deep as the achievements of the ' Emathian Conqueror' on which the modern Greek nationalists insist so strongly."

The same logic applies here. Here also arguments are taken from conditions which once existed but which are no longer real and which omit to take into consideration later facts which history has to record during practically one thousand years—after the return of Hsuan Tsang.

It is true that when Hsuan Tsang came, not only the Punjab but what is now Afghanistan was part of India and further, the people of the Punjab and Afghanistan were either Vedic or Buddhist by religion. But what has happened since Hsuan Tsang left India ?

The most important thing that has happened is the invasion of India by the Muslim hordes from the north-west. The first Muslim invasion of India was by the Arabs who were led by Mahommad Bin Qasim. It took place in 711 A. D. and resulted in the conquest of Sind. This first Muslim invasion did not result in a permanent occupation of the country because the Caliphate of Baghdad, by whose order and command the invasion had taken place, was obliged by the middle of the 9th century A. D. to withdraw* its direct control from this distant province of Sind. Soon after this withdrawal, there began a series of terrible invasions by Muhammad of Ghazni in 1001 A. D. Muhammad died in 1030 A. D., but within the short span of 30 years, he

* Sind was reoccupied by Mahommed Ghori.

invaded India 17 times. He was followed by Mahommad Ghori who began his career as an invader in 1173. He was killed in 1206. For thirty years had Muhammad of Ghazni ravaged India and for thirty years Mahommad Ghori harried the same country in the same way. Then followed the incursions of the Moghul hordes of Chenghiz Khan. They first came in 1221. They then only wintered on the border of India but did not enter it. Twenty years after, they marched on Lahore and sacked it. Of their in roads, the most terrible was under Taimur in 1398. Then comes on the scene a new invader in the person of Babar who invaded India in 1526. The invasions of India did not stop with that of Babar. There occurred two more invasions. In 1738 Nadirshah's invading host swept over the Punjab like a flooded river " furious as the ocean ". He was followed by Ahmadshah Abdalli who invaded India in 1761, smashed the forces of the Mahrattas at Panipat and crushed for ever the attempt of the Hindus to gain the ground which they had lost to their Muslim invaders.

These Muslim invasions were not undertaken merely out of lust for loot or conquest. There was another object behind them. The expedition against Sind by Mahommad bin Qasim was of a punitive character and was undertaken to punish Raja. Dahir of Sind who had refused to make restitution for the seizure of an Arab ship at Debul, one of the sea-port towns of Sind. But, there is no doubt that striking a blow at the idolatry and polytheism of Hindus and establishing Islam in India was also one of the aims of this expedition. In one of his despatches to Hajjaj, Mahommad bin Qasim is quoted to have said :

> "The nephew of Raja Dahir, his warriors and principal officers have been dispatched, and the infidels converted to Islam or destroyed. Instead of idol-temples, mosques and other places of worship have been created, the Kutbah is read, the call to prayers is raised, so that devotions are performed at stated hours. The Takbir and praise to the Almighty God are offered every morning and evening."*

After receiving the above despatch, which had been forwarded with the head of the Raja, Hajjaj sent the following reply to his general :

> "Except that you give protection to all, great and small alike, make no difference between enemy and friend. God, says, 'Give no quarter to infidels but cut their throats'. Then know that this is the command of the

* *Indian Islam* by Dr. Titus, p. 10.

great God. You shall not be too ready to grant protection, because it will prolong your work. After this give no quarter to any enemy except those who are of rank."*

Muhammad of Ghazni also looked upon his numerous invasions of India as the waging of a holy war. Al' Utbi, the historian of Muhammad, describing his raids writes:

"He demolished idol temples and established Islam. He captured..... cities, killed the polluted wretches, destroying the idolators, and gratifying Muslims. 'He then returned home and promulgated accounts of the victories obtained for Islam.....and vowed that every year he would undertake a holy war against Hind'."†

Mahommed Ghori was actuated by the same holy zeal in his invasions of India. Hasan Nizami, the historian, describes his work in the following terms :

"He purged by his sword the land of Hind from the filth of infidelity and vice, and freed the whole of that country from the thorn of God-plurality and the impurity of idol-worship, and by his royal vigour and intrepidity left not one temple standing. "‡

Taimur has in his Memoir explained what led him to invade India. He says:

"My object in the invasions of Hindustan is to lead a campaign against the infidels, to convert them to the true faith according to the command of Muhammad (on whom and his family be the blessing and peace of God), to purify the land from the defilement of misbelief and polytheism, and overthrow the temples and idols, whereby we shall be *Ghazis* and *Mujahids,* companions and soldiers of the faith before God." §

These invasions of India by Muslims were as much invasions of India as they were wars among the Muslims themselves. This fact has remained hidden because the invaders are all lumped together as Muslims without distinction. But as a matter of fact, they were Tartars, Afghans and Mongols. Muhammad of Ghazni was a Tartar, Mahommed of Ghori was an Afghan, Taimur was a Mongol, Babar was a Tartar, while Nadirshah and Ahmadshah Abdalli were Afghans. In invading India, the Afghan was out to destroy the Tartar and the Mongol was out to destroy the Tartar as well as the Afghan. They were not a loving family cemented by

* Quoted by Dr. Titus—Ibid., p. 10

† Ibid., p. 11.

‡ Ibid., p. 11.

§ Quoted by Lane Poole in *Medieval India,* p. 155.

the feeling of Islamic brotherhood. They were deadly rivals of one another and their wars were often wars of mutual extermination. What is, however, important to bear in mind is that with all their internecine conflicts they were all united by one common objective and that was to destroy the Hindu faith.

The methods adopted by the Muslim invaders of India are not less significant for the subsequent history of India than the object of their invasions.

Mahommad bin Qasim's first act of religious zeal was forcibly to circumcise the Brahmins of the captured city of Debul; but on discovering that they objected to this sort of conversion, he proceeded to put all above the age of 17 to death, and to order all others, with women and children, to be led into slavery. The temple of the Hindus was looted, and the rich booty was divided equally among the soldiers, after one-fifth, the legal portion for the government, had been set aside.

Muhammad of Ghazni from the first adopted those plans that would strike terror into the hearts of the Hindus. After the defeat of Raja Jaipal in A.D. 1001, Muhammad ordered that Jaipal "be paraded about in the streets so that his sons and chieftains might see him in that condition of shame, bonds and disgrace ; and that fear of Islam might fly abroad through the country of the infidels."

> "The slaughtering of 'infidels' seemed to be one thing that gave Muhammad particular pleasure. In one attack on Chand Rai, in A. D. 1019, many infidels were slain or taken prisoners, and the Muslims paid no regard to booty until they had satiated themselves with the slaughter of the infidels and worshippers of the sun and fire. The historian naively adds that the elephants of the Hindu armies came to Muhammad of their own accord, leaving idols, preferring the service of the religion of Islam." *

Not infrequently, the slaughter of the Hindus gave a great setback to the indigenous culture of the Hindus, as in the conquest of Bihar by Muhammad Bakhtyar Khilji. When he took Nuddea (Bihar) the Tabaquat-i-Nasiri informs us that :

> "great plunder fell into the hands of the victors. Most of the inhabitants were Brahmins with shaven heads. They were put to death. Large

* Dr. Titus: *Indian Islam,* p. 22.

number of books were found.....but none could explain their contents as all the men had been killed, the whole fort and city being a place of study." *

Summing up the evidence on the point, Dr. Titus concludes :

"Of the destruction of temples and the desecration of idols we have an abundance of evidence. Mahommad bin Qasim carried out his plan of destruction systematically in Sind, we have seen, but he made an exception of the famous temple at Multan for purposes of revenue, as this temple was a place of resort for pilgrims, who made large gifts to the idol. Nevertheless, while he thus satisfied his avarice by letting the temple stand, he gave vent to his malignity by having a piece of cow's flesh tied around the neck of the idol.

" Minhaj-as-Siraj further tells how Mahommad became widely known for having destroyed as many as a thousand temples, and of his great feat in destroying the temple of Somnath and carrying off its idol, which he asserts was broken into four parts. One part he deposited in the Jami Masjid of Ghazni, one he placed at the entrance of the royal palace, the third he sent to Mecca, and the fourth to Medina."†

It is said by Lane Poole that Muhammad of Ghazni "who had vowed that every year should see him wage a holy war against the infidels of Hindustan" could not rest from his idol-breaking campaign so long as the temple of Somnath remained inviolate. It was for this specific purpose that he, at the very close of his career, undertook his arduous march across the desert from Multan to Anhalwara on the coast, fighting as he went, until he saw at last the famous temple:

" There a hundred thousand pilgrims were wont to assemble, a thousand Brahmins served the temple and guarded its treasures, and hundreds of dancers and singers played before its gates. Within stood the famous linga, a rude pillar stone adorned with gems and lighted by jewelled candelebra which were reflected in rich hangings, embroidered with precious stones like stars, that decked the shrine....Its ramparts were swarmed with incredulous Brahmins, mocking the vain arrogance of foreign infidels whom the God of Somnath would assuredly consume. The foreigners, nothing daunted, scaled the walls; the God remained dumb to the urgent appeals of his servants; fifty thousand Hindus suffered for their faith and the sacred shrine was sacked to the joy of the true believers. The great stone was cast down and its fragments were carried off to grace the conqueror's palace. The temple gates were

* Dr. Titus : *Indian Islam,* p. 22.

† Ibid., pp. 22-23.

set up at Ghazni and a million pounds worth of treasure rewarded the iconoclast" *

The work done by Muhammad of Ghazni became a pious tradition and was faithfully followed by those who came after him. In the words of Dr. Titus †

"Mahommad Ghori, one of the enthusiastic successors of Muhammad of Ghazni, in his conquest of Ajmir destroyed pillars and foundations of the idol-temples, and built in their stead mosques and colleges, and the precepts of Islam and the customs of the law were divulged and established. At Delhi, the city and its vicinity were freed from idols and idol worship, and in the sanctuaries of the images of the Gods mosques were raised by the worshippers of the one God.

"Qutb-ud-Din Aybak also is said to have destroyed nearly a thousand temples, and then raised mosques on their foundations. The same author states that he built the Jami Masjid, Delhi, and adorned it with the stones and gold obtained from the temples which had been demolished by elephants, and covered it with inscriptions (from the Quran) containing the divine commands. We have further evidence of this harrowing process having been systematically employed from the inscription extant over the eastern gateway of this same mosque at Delhi, which relates that the materials of 27 idol temples were used in its construction.

"Ala-ud-Din, in his zeal to build a second Minar to the Jami Masjid, to rival the one built by Qutb-ud-Din, is said by Amir Khusru not only to have dug stones out of the hills, but to have demolished temples of the infidels to furnish a supply. In his conquests of South India the destruction of temples was carried out by Ala-ud-Din as it had been in the north by his predecessors.

"The Sultan Firoz Shah, in his Futuhat, graphically relates how he treated Hindus who had dared to build new temples. 'When they did this in the city (Delhi) and the environs, in opposition to the law of the Prophet, which declares that such are not to be tolerated, under Divine guidance I destroyed these edifices. I killed these leaders of infidelity and punished others with stripes, until this abuse was entirely abolished and where infidels and idolaters worshipped idols, Musalmans now by God's mercy perform their devotions to the true God."

Even in the reign of Shah Jahan, we read of the destruction of the temples that the Hindus had started to rebuild, and the account of this direct attack on the piety of the Hindus is thus solemnly recorded in the Badshah-namah :

"It had been brought to the notice of His Majesty, says the historian, that during the late reign (of Akbar) many idol-temples had been begun

* Lane Poole : *Medieval India,* p. 26.

† Dr. Titus : *Indian Islam,* pp. 23-24.

but remained unfinished at Benares, the great stronghold of infidelity. The infidels were now desirous of completing them. His Majesty, the defender of the faith, gave orders that at Benares and throughout all his dominions in every place all temples that had been begun should be cast down. It was reported from the Province of Allahabad that 76 temples had been destroyed in the district of Benares." *

It was left to Aurangzeb to make a final attempt to overthrow idolatry. The author of '*Ma' athir i-Alamgiri* dilates upon his efforts to put down Hindu teaching, and his destruction of temples in the following terms :

"In April, A. D. 1669, Aurangzib learned that in the provinces of Thatta, Multan and Benares, but especially in the latter, foolish Brahmins were in the habit of expounding frivolous books in their schools, and that learners, Muslims as well as Hindus, went there, from long distances….The 'Director of the Faith' consequently issued orders to all the governors of provinces to destroy with a willing hand the schools and temples of the infidels; and they were enjoined to put an entire stop to the teaching and practising of idolatrous worship….. Later it was reported to his religious Majesty that the Government officers had destroyed the temple of Bishnath at Benares." †

As Dr. Titus observes ‡—

"Such invaders as Muhammad and Timur seem to have been more concerned with iconoclasm, the collection of booty, the enslaving of capatives, and the sending of infidels to hell with the 'proselytizing sword ' than they were with the conversion of them even by force. But when rulers were permanently established the winning of converts became a matter of supreme urgency. It was a part of the state policy to establish Islam as the religion of the whole land.

" Qutb-ud-Din, whose reputation for destroying temples was almost as great as that of Muhammad, in the latter part of the twelfth century and early years of the thirteenth, must have frequently resorted to force as an incentive to conversion. One instance may be noted: when he approached Koil (Aligarh) in A. D. 1194, 'those of the garrison who were wise and acute were converted to Islam, but the others were slain with the sword'.

"Further examples of extreme measures employed to effect a change of faith are all too numerous. One pathetic case is mentioned in the time of the reign of Firoz Shah (A.D. 1351—1388). An old Brahmin of Delhi had been accused of worshipping idols in his house, and of even leading Muslim women to become infidels. He was sent for and his case placed

* Dr. Titus : *Indian Islam,* p. 24.

† Ibid., p. 22

‡ *Void.,* pp. 31-32.

before the judges, doctors, elders and lawyers. Their reply was that the provisions of the law were clear. The Brahmin must either become a Muslim or be burned. The true faith was declared to him and the right course pointed out, but he refused to accept it. Consequently he was burned by the order of the Sultan, and the commentator adds, 'Behold the Sultan's strict adherence to law and rectitude, how he would not deviate in the least from its decrees '."

Muhammad not only destroyed temples but made it a policy to make slaves of the Hindus he conquered. In the words of Dr. Titus:

"Not only was slaughter of the infidels and the destruction of their temples resorted to in earlier period of Islam's contact with India, but as we have seen, many of the vanquished were led into slavery. The dividing up of booty was one of the special attractions, to the leaders as well as to the common soldiers in these expeditions. Muhammad seems to have made the slaughter of infidels, the destruction of their temples, the capturing of slaves, and the plundering of the wealth of the people, particularly of the temples and the priests, the main object of his raids. On the occasion of his first raid he is said to have taken much booty ; and half a million Hindus, 'beautiful men and women', were reduced to slavery and taken back to Ghazni." *

When Muhammad later took Kanauj, in A. D. 1017, he took so much booty and so many prisoners that 'the fingers of those who counted them would have tired '. Describing how common Indian slaves had become in Ghazni and Central Asia after the campaign of A. D. 1019, the historian of the times says † :

"The number of prisoners may be conceived from the fact that each was sold for from two to ten dirhams. These were afterwards taken to Ghazni, and merchants came from far distant cities to purchase them ;.....and the fair and the dark, the rich and the poor were commingled in one common slavery.

"In the year A. D. 1202, when Qutb-ud-Din captured Kalinjar, after the temples had been converted into mosques, and the very name of idolatry was annihilated, fifty thousand men came under the collar of slavery and the plain became black as pitch with Hindus."

Slavery was the fate of those Hindus who were captured in the holy war. But, when there was no war the systematic abasement of the Hindus played no unimportant part in the methods adopted

* Quoted by Dr. Titus—*Indian Islam,* p. 24.

† Ibid.,p. 26.

by the Muslim invaders. In the days of Ala-ud-Din, at the beginning of the fourteenth century, the Hindus had in certain parts given the Sultan much trouble. So, he determined to impose such taxes on them that they would be prevented from rising in rebellion.

> "The Hindu was to be left unable to keep a horse to ride on, to carry arms, to wear fine clothes, or to enjoy any of the luxuries of life." *

Speaking of the levy of Jizyah Dr. Titus says † :

> "The payment of the Jizyah by the Hindus continued throughout the dominions of the sultans, emperors, and kings in various parts of India with more or less regularity, though often, the law was in force in theory only; since it depended entirely on the ability of the sovereign to enforce his demands. But, finally, it was abolished throughout the Moghul Empire in the ninth year of the enlightened Akbar's reign (A. D. 1665), after it had been accepted as a fundamental part of Muslim government policy in India for a period of more than eight centuries."

Lane Poole says that

> "the Hindu was taxed to the extent of half the produce of his land, and had to pay duties on all his buffaloes, goats, and other milch-cattle. The taxes were to be levied equally on rich and poor, at so much per acre, so much per animal. Any collectors or officers taking bribes were summarily dismissed and heavily punished with sticks, pincers, the rack, imprisonment and chains. The new rules were strictly carried out, so that one revenue officer would string together 20 Hindu notables and enforce payment by blows. No gold or silver, not even the betclnut, so cheering and stimulative to pleasure, was to be seen in a Hindu house, and the wives of the impoverished native officials were reduced to taking service in Muslim families. Revenue officers came to be regarded as more deadly than the plague; and to be a government clerk was disgrace worse than death, in so much that no Hindu would marry his daughter to such a man."‡

These edicts, says the historian of the period,

> "were so strictly carried out that the *chaukidars* and *khuts* and *muqaddims* were not able to ride on horseback, to find weapon, to wear fine clothes, or to indulge in betel.....No Hindu could hold up his head.....Blows, confinement in the stocks, imprisonment and chains were all employed to enforce payment."

All this was not the result of mere caprice or moral perversion. On the other hand, what was done was in accordance

* Dr. Titus : *Indian Islam,* p. 29.

† Ibid., p. 30.

‡ Lane Poole : *Medieval India,* p. 104.

with the ruling ideas of the leaders of Islam in the broadest aspects. These ideas were well expressed by the Kazi in reply to a question put by Sultan Ala-ud-Din wanting to know the legal position of the Hindus under Muslim law. The Kazi said :—

> "They are called payers of tribute, and when the revenue officer demands silver from them they should without question, and with all humility and respect, tender gold. If the officer throws dirt in their mouths, they must without reluctance open their mouths wide to receive it.....The due subordination of the Dhimmi is exhibited in this humble payment, and by this throwing of dirt into their mouths. The glorification of Islam is a duty, and contempt for religion is vain. God holds them in contempt, for he says, 'Keep them in subjection'. To keep the Hindus in abasement is especially a religious duty, because they are the most inveterate enemies of the Prophet, and because the Prophet has commanded us to slay them, plunder them, and make them captive, saying, ' Convert them to Islam or kill them, and make them slaves, and spoil their wealth and property'. No doctor but the great doctor (Hanifah), to whose school we belong, has assented to the imposition of jizya on Hindus; doctors of other schools allow no other alternative but 'Death or Islam'." *

Such is the story of this period of 762 years which elapsed between the advent of Muhammad of Ghazni and the return of Ahmadshah Abdalli.

How far is it open to the Hindus to say that Northern India is part of Aryavarta ? How far is it open to the Hindus to say because once it belonged to them, therefore, it must remain forever an integral part of India ? Those who oppose separation and hold to the 'historic sentiment' arising out of an ancient fact that Northern India including Afghanistan was once part of India and that the people of that area were either Buddhist or Hindus, must be asked whether the events of these 762 years of incessant Muslim invasions, the object with which they were launched and the methods adopted by these invaders to give effect to their object are to be treated as though they were matters of no account ?

Apart from other consequences which have flowed from them these invasions have, in my opinion, so profoundly altered the culture and character of the northern areas, which it is now proposed to be included in a Pakistan, that there is not only no unity

* Quoted by Dr. Titus—*Indian Islam,* p. 29.

between that area and the rest of India but that there is as a matter of fact a real antipathy between the two.

The first consequence of these invasions was the breaking up of the unity of Northern India with the rest of India. After his conquest of Northern India, Muhammad of Ghazni detached it from India and ruled it from Ghazni. When Mahommed Ghori came in the field as a conqueror, he again attached it to India and ruled it from Lahore and then from Delhi. Hakim, the brother of Akbar, detached Kabul and Kandahar from Northern India. Akbar again attached it to Northern India. They were again detached by Nadirshah in 1738 and the whole of Northern India would have been severed from India had it not been for the check provided by the rise of the Sikhs. Northern India, therefore, has been like a wagon in a train, which can be coupled or uncoupled according to the circumstances of the moment. If analogy is wanted, the case of Alsace-Lorraine could be cited. Alsace-Lorraine was originally part of Germany, like the rest of Switzerland and the Low Countries. It continued to be so till 1680, when it was taken by France and incorporated into French territory. It belonged to France till 1871, when it was detached by Germany and made part of her territory. In 1918, it was again detached from Germany and made part of France. In 1940, it was detached from France and made part of Germany.

The methods adopted by the invadors have left behind them their aftermath. One aftermath is the bitterness between the Hindus and the Muslims which they have caused. This bitterness, between the two, is so deep-seated that a century of political life has neither succeeded in assuaging it; nor in making people forget it. As the invasions were accompanied with destruction of temples and forced conversions, with spoliation of property, with slaughter, enslavement and abasement of men, women and children, what wonder if the memory of these invasions has ever remained green, as a source of pride to the Muslims and as a source of shame to the Hindus ? But these things apart, this north-west corner of India has been a theatre in which a stern drama has been played. Muslim hordes, in wave after wave, have surged down into this area and from thence scattered themselves in spray

over the rest of India. These reached the rest of India in thin currents. In time, they also receded from their farthest limits ; while they lasted, they left a deep deposit of Islamic culture over the original Aryan culture in this north-west corner of India which has given it a totally different colour, both in religious and political outlook. The Muslim invaders, no doubt, came to India singing a hymn of hate against the Hindus. But, they did not merely sing their hymn of hate and go back burning a few temples on the way. That would have been a blessing. They were not content with so negative a result. They did a positive act, namely, to plant the seed of Islam. The growth of this plant is remarkable. It is not a summer sapling. It is as great and as strong as an oke. Its growth is the thickest in Northern India. The successive invasions have deposited their 'silt' more there than anywhere else, and have served as watering exercises of devoted gardeners. Its growth is so thick in Northern India that the remnants of Hindu and Buddhist culture are just shrubs. Even the Sikh axe could not fell this oak. Sikhs, no doubt , became the political masters of Northern India, but they did not gain back Northern India to that spiritual and cultural unity by which it was bound to the rest of India before Hsuan Tsang. The Sikhs coupled it back to India. Still, it remains like Alsace-Lorraine politically detachable and spiritually alien so far as the rest of India is concerned. It is only an unimaginative person who could fail to take notice of these facts or insist in the face of them that Pakistan means breaking up into two what is one whole.

What is the unity the Hindu sees between Pakistan and Hindustan ? If it is geographical unity, then that is no unity. Geographical unity is unity intended by nature. In building up a nationality on geographical unity, it must be remembered that it is a case where Nature proposes and Man disposes. If it is unity in external things, such as ways and habits of life, that is no unity. Such unity is the result of exposure to a common environment. If it is administrative unity, that again is no unity. The instance of Burma is in point. Arakan and Tenasserim were annexed in 1826 by the treaty of Yendabu. Pegu and Martaban were annexed in 1852. Upper Burma was annexed in 1886. The administrative unity between India and Burma was

forged in 1826. For over 110 years that administrative unity continued to exist. In 1937, the knot that tied the two together was cut as under and nobody shed a tear over it. The unity between India and Burma was not less fundamental. If unity is to be of an abiding character, it must be founded on a sense of kinship, in the feeling of being kindred. In short, it must be spiritual. Judged in the light of these considerations, the unity between Pakistan and Hindustan is a myth. Indeed, there is more spiritual unity between Hindustan and Burma than there is between Pakistan and Hindustan. And if the Hindus did not object to the severance of Burma from India, it is difficult to understand how the Hindus can object to the severance of an area like Pakistan, which, to repeat, is politically detachable from, socially hostile and spiritually alien to, the rest of India.

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CHAPTER V

WEAKENING OF THE DEFENCES

How will the creation of Pakistan affect the question of the Defence of Hindustan ? The question is not a very urgent one. For, there is no reason to suppose that Pakistan will be at war with Hindustan immediately it is brought into being. Nevertheless, as the question is sure to be raised, it is better to deal with it.

The question may be considered under three heads : (1) Question of Frontiers, (2) Question of Resources and (3) Question of Armed Forces.

I

QUESTION OF FRONTIERS

It is sure to be urged by the Hindus that Pakistan leaves Hindustan without a scientific frontier. The obvious reply, of course, is that the Musalmans cannot be asked to give up their right to Pakistan, because it adversely affects the Hindus in the matter of their boundaries. But banter apart, there are really two considerations, which, if taken into account, will show that the apprehensions of the Hindus in this matter are quite uncalled for.

In the first place, can any country hope to have a frontier which may be called scientific ? As Mr. Davies, the author of *North-West Frontier,* observes :

> "It would be impossible to demarcate on the North-West of our Indian Empire a frontier which would satisfy ethnological, political and military requirements. To seek for a zone which traverses easily definable geographical features; which does not violate ethnic considerations by cutting through the territories of closely related tribes; and which at the same time serves as a political boundary, is utopian."

As a matter of history, there has been no one scientific boundary for India and different persons have advocated different boundaries for India. The question of boundaries has given rise to two policies, the "Forward" Policy and the " Back to the Indus " Policy. The " Forward " Policy had a greater and a lesser intent, to use the language of Sir George Macmunn. In its greater intent, it meant active control in the affairs of Afghanistan as an *Etat Tampion* to India and the extension of Indian influence upto the Oxus. In its lesser intent, it was confined to the absorption of the tribal hills between the administered territory (i.e. the Province of N.-W.F.) and Afghanistan as defined by the Durand Line and the exercise of British control right up to that line. The greater intent of the Forward Policy, as a basis for a safe boundary for India, has long been abandoned. Consequently, there remain three possible boundary lines to choose from: (1) the Indus River, (2) the present administrative boundary of the N.-W. F. P. and (3) the Durand Line. Pakistan will no doubt bring the boundary of Hindustan Back to the Indus, indeed behind the Indus, to the Sutlej. But this "Back to the Indus" policy was not without its advocates. The greatest exponent of the Indus boundary was Lord Lawrence, who was strongly opposed to any forward move beyond the trans-Indus foot-hills. He advocated meeting any invader in the valley of the Indus. In his opinion, it would be an act of folly and weakness to give battle at any great distance from the Indus base; and the longer the distance an invading army has to march through Afghanistan and the tribal country, the more harassed it would be. Others, no doubt, have pointed out that a river is a weak line of defence. But the principal reason for not retiring to the Indus boundary seems to lie elsewhere. Mr. Davies gives the real reason when he says that the

> " ' Back to Indus ' cry becomes absurd when it is examined from the point of view of the inhabitants of the modern North-West Frontier Province. Not only would withdrawal mean loss of prestige, but it would also be a gross betrayal of those peoples to whom we have extended our beneficent rule."

In fact, it is no use insisting that any particular boundary is the safest, for the simple reason that geographical conditions are not decisive in the world today and modern technique has

robbed natural frontiers of much of their former importance, even where they are mighty mountains, the broadest streams, widest seas or far stretching deserts.

In the second place, it is always possible for nations with no natural boundaries to make good this defect. Countries are not wanting which have no natural boundaries. Yet, all have made good the deficiencies of nature, by creating artificial fortifications as barriers, which can be far more impregnable than natural barriers. There is no reason to suppose that the Hindus will not be able to accomplish what other countries similarly situated have done. Given the resources, Hindus need have no fear for want of a naturally safe frontier.

II

QUESTION OF RESOURCES

More important than the question of a scientific frontier, is the question of resources. If resources are ample for the necessary equipment, then it is always possible to overcome the difficulties created by an unscientific or a weak frontier. We must, therefore, consider the comparative resources of Pakistan and Hindustan. The following figures are intended to convey an idea of their comparative resources :—

Resources of Pakistan

Provinces	Area	Population	Revenues*
			Rs.
N.-W.F.P . .	13,518	2,425,003	1,90,11,842
Punjab . .	91,919	23,551,210	12,53,87,730
Sind . .	46,378	3,887,070	9,56,76,269
Baluchistan . .	54,228	420,648	. .
Bengal . .	82,955	50,000,000	36,55,62,485
Total . .	288,998	80,283,931	60,56,38,326

*Revenues include revenue raised both by Provincial Government in the Provinces from provincial sources and by the Central Government from Central revenues.

Resources of Hindustan

Provinces	Area	Population	Revenues*
			Rs.
Ajmer-Merwara	2,711	560,292	21,00,000
Assam . .	55,014	8,622,251	4,46,04,441
Bihar . .	69,348	32,371,434	6,78,21,588
Bombay . .	77,271	18,000,000	34,98,03,800
C. P. & Berar . .	99,957	15,507,723	4,58,83,962
Coorg . .	1,593	163,327	11,00,000
Delhi . .	573	636,246	70,00,000
Madras . .	142,277	46,000,000	25,66,71,265
Orissa . .	32,695	8,043,681	87,67,269
U.P. . .	206,248	48,408,763	16,85,52,881
Total . .	607,657	178,513,919	96,24,05,206

These are gross figures. They are subject to certain additions and deductions. Revenues derived by the Central Government from Railways, Currency and Post and Telegraphs are not included in these figures, as it is not possible to ascertain how much is raised from each Province. When it is done, certain additions will have to be made to the figures under revenue. There can be no doubt that the share from these heads of revenue that will come to Hindustan, will be much larger than the share that will go to Pakistan. Just as additions will have to be made to these figures, so also deductions will have to be made from them. Most of these deductions will, of course, fall to the lot of Pakistan. As will be shown later, some portion of the Punjab will have to be excluded from the scheme of Western Pakistan. Similarly, some portion of Bengal will have to be excluded from the proposed Eastern Pakistan, although a district from Assam will have to be added to it. According to me, fifteen districts will have to be excluded from Bengal and thirteen districts shall have to be excluded from the Punjab. Sufficient data are not available to enable any one to give an exact idea of what would be the reduction in the area,

* Revenues include revenue raised both by Provincial Government in the Provinces from provincial sources and by the Central Government from Central revenues.

population and revenue, that would result from the exclusion of these districts. One may, however, hazard the guess that so far as the Punjab and Bengal are concerned, their revenues would be halved. What is lost by Pakistan by this exclusion, will of course be gained by Hindustan. To put it in concrete terms, while the revenues of Western and Eastern Pakistan will be 60 crores *minus* 24 crores, *i.e.,* 36 crores, the revenues of Hindustan will be about 96 crores *plus* 24 crores, *i.e.,* 120 crores.

The study of these figures, in the light of the observations I have made, will show that the resources of Hindustan are far greater than the resources of Pakistan, whether one considers the question in terms of area, population or revenue. There need, therefore, be no apprehension on the score of resources. For, the creation of Pakistan will not leave Hindustan in a weakened condition.

III

QUESTION OF ARMED FORCES

The defence of a country does not depend so much upon its scientific frontier as it does upon its resources. But more than resources does it depend upon the fighting forces available to it.

What are the fighting forces available to Pakistan and to Hindustan?

The Simon Commission pointed out, as a special feature of the Indian Defence Problem, that there were special areas which alone offered recruits to the Indian Army and that there were other areas which offered none or if at all, very few. The facts revealed in the following table, taken from the Report of the Commission, undoubtedly will come as a most disagreeable surprise to many Indians, who think and care about the defence of India :

	Areas of Recruitment		Number of Recruits drawn
1	N.-W. Frontier Province	. .	5,600
2	Kashmir	. .	6,500
3	Punjab	. .	86,000
4	Baluchistan	. .	300
5	Nepal	. .	19,000
6	United Provinces	. .	16,500
7	Rajputana	. .	7,000
8	Central India	. .	200
9	Bombay	. .	7,000
10	Central Provinces	. .	100
11	Bihar & Orissa	. .	300
12	Bengal	. .	Nil
13	Assam	. .	Nil
14	Burma	. .	3,000
15	Hyderabad	. .	700
16	Mysore	. .	100
17	Madras	. .	4,000
18	Miscellaneous	. .	1,900
		Total ...	158,200

The Simon Commission found that this state of affairs was natural to India, and in support of it, cited the following figures of recruitment from the different Provinces of India during the Great War especially because "it cannot be suggested that any discouragement was offered to recruitment in any area " :

Province		Combatant Recruits Enlisted	Non-combatant Recruits Enlisted	Total
Madras	...	51,223	41,117	92,340
Bombay	...	41,272	30,211	71,483
Bengal	...	7,117	51,935	59,052
United Provinces	...	163,578	117,565	281,143
Punjab	...	349,688	97,288	446,976
North-West Frontier	...	32,181	13,050	45,231
Baluchistan	...	1,761	327	2,088
Burma	...	14,094	4,579	18,673
Bihar & Orissa	...	8,576	32,976	41,552
Central Provinces	...	5,376	9,631	15,007
Assam	...	942	14,182	15,124
Ajmer-Merwara	...	7,341	1,632	8,973
Nepal	...	58,904	..	58,904
Total	...	742,053	414,493	1,156,546

These data reveal in a striking manner that the fighting forces available for the defence of India mostly come from areas which are to be included in Pakistan. From this it may be argued, that without Pakistan, Hindustan cannot defend itself.

The facts brought out by the Simon Commission are, of course, beyond question. But they cannot be made the basis of a conclusion, such as is suggested by the Simon Commission, namely, that only Pakistan can produce soldiers and that Hindustan cannot. That such a conclusion is quite untenable will be seen from the following considerations.

In the first place, what is regarded by the Simon Commission as something peculiar to India is not quite so peculiar. What appears to be peculiar is not due to any inherent defect in the people. The peculiarity arises because of the policy of recruitment followed by the British Government for years past. The official explanation of this predominance in the Indian Army of the men of the North-West is that they belong to the Martial Classes. But Mr. Chaudhari* has demonstrated, by unimpeachable data, that this explanation is far from being true. He has shown that the predominance in the Army of the men of the North-West took place : as early as the Mutiny of 1857, some 20 years before the theory of Martial and Non-martial Classes was projected in an indistinct form for the first time in 1879 by the Special Army Committee† appointed in that year, and that their predominance had nothing to do with their alleged fighting qualities but was due to the fact, that they helped the British to suppress the Mutiny in which the Bengal Army was so completely involved. To quote Mr. Chaudhari:

> "The pre-Mutiny army of Bengal was essentially a Brahmin and Kshatriya army of the Ganges basin. All the three Presidency Armies of those days, as we have stated in the first part of this article, were in a sense quite representative of the military potentialities of the areas to which they belonged, though, none of them could, strictly speaking, be correctly described as national armies of the provinces concerned,

* See his series of articles on " The Martial Races of India " published in the *Modern Review* for July 1930, September 1930, January 1931 and February 1931.

† The Questionnaire circulated by the Committee included the following question:—

"If an efficient and available reserve of the Indian Army be considered necessary for the safety of the Empire, should it not be recruited and maintained from those parts of the country which give us best soldiers, rather than amongst the weakest and least warlike races of India ?"…….

as there was no attempt to draw upon any but the traditional martial elements of the population. But they all got their recruits mainly from their natural areas of recruitment, *viz.,* the Madras Army from the Tamil and Telugu countries, the Bombay Army from Western India, and the Bengal Army from Bihar and U. P. and to a very limited extent from Bengal. There was no official restriction on the enrolment of men of any particular tribe or caste or region, provided they were otherwise eligible. Leaving aside for the moment the practice of the Bombay and the Madras Armies, the only exception to this general rule in the Bengal Army was that which applied to the Punjabis and Sikhs, who, inspite of their magnificent military traditions, were not given a fair representation in the Army of Northern India. Their recruitment, on the contrary, was placed under severe restrictions by an order of the Government, which laid down that 'the number of Punjabis in a regiment is never to exceed 200, nor are more than 100 of them to be Sikhs'. It was only the revolt of the Hindustani regiments of the Bengal Army that gave an opportunity to the Punjabis to rehabilitate themselves in the eyes of the British authorities. Till then, they remained suspect and under a ban, and the Bengal Army on the eve of the Mutiny was mainly recruited from Oudh, North and South Bihar, especially the latter, principally Shahabad and Bhojpur, the Doab of the Ganges and Jumna and Rohilkhund. The soldiers recruited from these areas were mostly high-caste men, Brahmins of all denominations, Kshatriyas, Rajputs and Ahirs. The average proportion in which these classes were enrolled in a regiment was:(1) Brahmin 7/24, (2) Rajputs 1/4, (3) Inferior Hindus 1/6, (4) Musalmans 1/6, (5) Punjabis 1/8.

"To this army, the area which now-a-days furnishes the greatest number of soldiers—the Punjab, Nepal, N.-W. F. Province, the hill tracts of Kumaon and Garhwal, Rajputana,—furnished very few recruits or none at all. There was practical exclusion in it of all the famous fighting castes of India,—Sikhs, Gurkhas, Punjabi Musalmans, Dogras, Jats, Pathans, Garhwalis, Rajputana Rajputs, Kumaonis, Gujars, all the tribes and sects, in fact, which are looked upon today as a tower of strength of the Indian Army. A single year and a single rebellion was, however, to change all this. The Mutiny, which broke out in 1857, blew up the old Bengal Army and brought into existence a Punjabized and barbarized army, resembling the Indian Army of today in broad lines and general proportions of its composition.

"The gaps created by the revolt of the Hindustani regiments (of the Bengal Army) were at once filled up by Sikhs and other Punjabis, and hillmen eager for revenge and for the loot of the cities of Hindustan. They had all been conquered and subjugated by the British with the help of the Hindustani soldiers, and in their ignorance, they regarded the Hindustanis, rather the handful of British, as their

real enemies. This enmity was magnificently exploited by the British authorities in suppressing the Mutiny. When the news of the enlistment of Gurkhas reached Lord Dalhousie in England he expressed great satisfaction and wrote to a friend: 'Against the Oudh Sepoys they may confidently be expected to fight like devils'. And after the Mutiny, General Mansfield, the Chief of the Staff of the Indian Army, wrote about the Sikhs: 'It was not because they loved us, but because they hated Hindustan and hated the Bengal Army that the Sikhs had flocked to our standard instead of seeking the opportunity to strike again for their freedom. They wanted to revenge themselves and to gain riches by the plunder of Hindustani cities. They were not attracted by mere daily pay, it was rather the prospect of wholesale plunder and stamping on the heads of their enemies. In short, we turned to profit the *esprit de corps* of the old Khalsa Army of Ranjit Singh, in the manner which for a time would most effectually bind the Sikhs to us as long as the active service against their old enemies may last'.

"The relations thus established were in fact, to last much longer. The services rendered by the Sikhs and Gurkhas during the Mutiny were not forgotten and henceforward the Punjab and Nepal had the place of honour in the Indian Army."

That Mr. Chaudhari is right when he says that it was the Mutiny of 1857 which was the real cause of the preponderance in the Indian Army of the men of the North-West is beyond the possibility of doubt. Equally incontrovertible is the view of Mr. Chaudhari that this preponderance of the men of the North-West is not due to their native superiority in fighting qualities, as the same is amply borne out by the figures which he has collected, showing the changes in the composition of the Indian Infantry before and after the Mutiny.

CHANGES IN THE COMPOSITION OF THE INDIAN INFANTRY

Percentage of men from different Parts

Year	North-west India		North-East India U. P., Bihar	South India	Burma
	Punjab, N.-W. F, Kashmir	Nepal, Garhwal, Kumaon			
1856	Less than 10	Negligible	Not less than 90	. .	Nil
1858	47	6	47	. .	"
1883	48	17	35	. .	"
1893	53	24	23	. .	"
1905	47	15	22	16	"
1919	46	14.8	25.5	12	1.7
1930	58.5	22	11.0	5.5	3

These figures show that in l856, one year before the Mutiny, the men from the North-West were a negligible factor in the Indian Army. But in 1858, one year after the Mutiny, they had acquired a dominant position which has never received a setback.

It will thus be seen that the distinction between Martial and Non-martial Classes, which was put forth for the first time in 1879, as a matter of principle, which was later on insisted upon as a matter of serious consideration by Lord Roberts* and which was subsequently recognised by Lord Kitchener as a principle governing recruitment to the Indian Army, had nothing to do with the origin of this preponderance of the men of the North-West in the Indian Army. No doubt, the accident that the people from North-West India had the good luck of being declared by the Government as belonging to the Martial Class, while most of the classes coming from the rest of India had the ill-luck of being declared Non-martial Classes had important consequences. Being regularly employed in the Army, the people of North-West India came to look upon service in the Army as an occupation with a security and a career which was denied to men from the rest of India. The large number of recruits drawn from North-West India, therefore, indicates nothing more than this—namely, owing to the policy of the British Government, service in the Army has become their occupation and if people in other parts of India do not readily come forth to enlist in the Army, the reason is that Government did not employ them in the Army. People follow their ancestral occupations whether they like it or not. When a people do not take to a new occupation it does not necessarily mean that they are not fit for it. It only means that it is not their ancestral occupation.

This division between Martial and Non-martial Classes is, of course, a purely arbitrary and artificial distinction. It is as foolish as the Hindu theory of caste, making birth instead of worth, the basis for recognition. At one time, the Government insisted that the distinction they had adopted was a real distinction and that

* In his *Forty-One Years* he wrote : " Each cold season, I made long tours in order to acquaint myself with the needs and capabilities of the men of the Madras Army. I tried hard to discover in them those fighting qualities which had distinguished their forefathers during the wars of the last and the beginning of the present century... And I was forced to the conclusion that the ancient military spirit had died in them, as it had died in the ordinary Hindustani of Bengal and the Mahratta of Bombay, and that they could no longer with safety be pitted against warlike races, or employed outside the limit of Southern India."

in terms of fighting qualities, it meant so much fighting value. In fact, this was their justification for recruiting more men from the North-West of India. That this distinction has nothing to do with any difference in fighting qualities has now been admitted. Sir Phillip Chetwode,* late Commander-in-Chief of India, broadcasting from London on the constitution of the Indian Army, took pains to explain that the recruitment of a larger proportion of it from the Punjab, did not mean that the people of the Peninsula were without martial qualities. Sir Phillip Chetwode explained that the reason why men of the North were largely recruited for the Indian Army was chiefly climatic, as the men from the South cannot stand the extremes of heat and cold of North India. No race can be permanently without martial spirit. Martial spirit is not a matter of native instinct. It is a matter of training and anybody can be trained to it.

But apart from this, there is enough fighting material in Hindustan, besides what might be produced by special training. There are the Sikhs, about whose fighting qualities nothing need be said. There are the Rajputs who are even now included in the category of Martial Classes. In addition to these, there are the Mahrattas who proved their calibre as a fighting race during the last European War. Even the people of the Madras Presidency can be depended upon for military purposes. Speaking of the Madrasis as soldiers, General Sir Frederick P. Haines, at one time Commander-in-Chief in India, observed :

> "It has been customary to declare that the Madras Army is composed of men physically inferior to those of the Bengal Army, and if stature alone be taken into consideration, this is true. It is also said that by the force of circumstances the martial feeling and the characteristics necessary to the real soldier are no longer to be found in its ranks. I feel bound to reject the above assertions and others which ascribe comparative inefficiency to Madras troops. It is true that in recent years they have seen but little service ; for, with the exception of the sappers, they have been specially excluded from all participation in work in the field. I cannot admit for one moment that anything has occurred to disclose the fact that the Madras Sepoy is inferior as a fighting man. The facts of history warrant us in assuming the contrary. In drill training and discipline, the Madras

**Indian Social Reformer,* January 27th, 1940.

> Sepoy is inferior to none; while in point of health, as exhibited by returns, he compares favourably with his neighbours. This has been manifested by the sappers and their followers in the Khyber; and the sappers are of the same race as the Sepoys."

Hindustan need, therefore, have no apprehension regarding the supply of an adequate fighting force from among its own people. The separation of Pakistan cannot weaken her in that respect.

The Simon Commission drew attention to three features of the Indian Army, which struck them as being special and peculiar to India. It pointed out that the duty of the Army in India was two-fold; firstly, to prevent the independent tribes on the Indian side of the Afghan frontier from raiding the peaceful inhabitants of the plains below. Secondly, to protect India against invasion by countries lying behind and beyond this belt of unorganized territories. The Commission took note of the fact that from 1850 to 1922, there were 72 expeditions against the independent tribes, an average of one a year, and also of the fact that in the countries behind and beyond this belt of unorganized territory, lies the direction from which, throughout the ages, the danger to India's territorial integrity has come. This quarter is occupied by "States which according to the Commission are not members of the League of Nations" and is, therefore, a greater danger to India now than before. The Commission insisted on emphasizing that these two facts constituted a peculiar feature of the problem of military defence in India and so far as the urgency and extent of the problem is concerned, they are "without parallel elsewhere in the Empire, and constituted a difficulty in developing self-government which never arose in any comparable degree in the case of the self-governing Dominions".

As a second unique feature of the Indian Army, the Commission observed :

> "The Army in India is not only provided and organized to ensure against external dangers of a wholly exceptional character: it is also distributed and habitually used throughout India for the purpose of maintaining or restoring internal peace. In all countries .... the military is not normally employed in this way, and certainly is not

organized for this purpose. But the case of India is entirely different. Troops are employed many times a year to prevent internal disorder and, if necessary, to quell it. Police forces, admirably organized as they are, cannot be expected in all cases to cope with the sudden and violent outburst of a mob driven frantic by religious frenzy. It is, therefore, well understood in India both by the police and by the military—and, what is even more to the point, by the public at large—that the soldiers may have to be sent for... This use of the Army for the purpose of maintaining or restoring internal order was increasing rather than diminishing, and that on these occasions the practically universal request was for British troops. The proportion of the British to Indian troops allotted to this duty has in fact risen in the last quarter of a century. The reason, of course, is that the British soldier is a neutral, and is under no suspicion of favouring Hindus against Mahomedans or Mahomedans against Hindus ..... Inasmuch as the vast majority of the disturbances which call for the intervention of the military have a communal or religious complexion, it is natural and inevitable that the intervention which is most likely to be authoritative should be that which has no bias, real or suspected, to either side. It is a striking fact in this connection that, while in regular units of the Army in India as a whole British soldiers are in a minority of about 1 to 2 1/2, in the troops allotted for internal security the preponderance is reversed, and for this purpose a majority of British troops is employed—-in the troops ear-marked for internal security the proportion is about eight British to seven Indian soldiers."

Commenting upon this feature of the Indian Army the Commission said :

"When, therefore, one contemplates a future for India in which, in place of the existing Army organization, the country is defended and pacified by exclusively Indian units, just as Canada relies on Canadian troops and Ireland on Irish troops, it is essential to realize and bear in mind the dimensions and character of the Indian problem of internal order and the part which the British soldier at present plays (to the general satisfaction of the country-side) in supporting peaceful government."

The third unique feature of the Indian Army, which was pointed out by the Simon Commission, is the preponderance in it of the men from the North-West. The origin of this preponderance and the reasons underlying the official explanation given therefor have already been examined.

But, there is one more special feature of the Indian Army to which the Commission made no reference at all. The commission either ignored it or was not aware of it. It is such an important feature that it overshadows all the three features to which the Commission refers, in its importance and in its social and political consequences.

It is a feature which, if widely known, will set many people to think furiously. It is sure to raise questions which may prove insoluble and which may easily block the path of India's political progress—questions of far greater importance and complexity than those relating to Indianization of the Army.

This neglected feature relates to the communal composition of the Indian Army. Mr. Chaudhari has collected the relevant data in his articles, already referred to, which throws a flood of light on this aspect of the Indian Army. The following table shows the proportion of soldiers serving in the Indian Infantry, according to the area and the community from which they are drawn :

Changes in the Communal Composition of the Indian Army

Area and Communities	Percentage in 1914	Percentage in 1918	Percentage in 1919	Percentage in 1930
I. The Punjab, N.-W. F. P. and Kashmir	47	46.5	46	58.5
(1) Sikhs	19.2	17.4	15.4	13.58
(2) Punjabi Musalmans	11.1	11.3	12.4	22.6
(3) Pathans	6.2	5.42	4.54	6.35
II. Nepal, Kumaon, Garhwal	15	18.9	14.9	22.0
(1) Gurkhas	13.1	16.6	12.2	16.4
III. Upper India	22	22.7	25.5	11.0
(1) U. P. Rajputs	6.4	6.8	7.7	2.55
(2) Hindustani Musalmans	4.1	3.42	4.45	Nil
(3) Brahmins	1.8	1.86	2.5	Nil
IV. South India	16	11.9	12	5.5
(1) Mahrattas	4.9	3.85	3.7	5.33
(2) Madrasi Musalmans	3.5	2.71	2.13	Nil
(3) Tamils	2.5	2.0	1.67	Nil
V. Burma				
(1) Burmans	Nil	Negligible	1.7	3.0

This table brings out in an unmistakable manner the profound changes which have been going on in the communal composition of the Indian Army particularly after 1919. They are (1) a phenomenal rise in the strength of the Punjabi Musalman and the Pathan, (2) a substantial reduction in the position of Sikhs from first to third, (3) the degradation of the Rajputs to the fourth place, and (4) the shutting out of the U. P. Brahmins, the Madrasi Musalmans, and the Tamilians, both Brahmins and Non-Brahmins.

A further analysis of the figures for 1930, which discloses the communal composition of the Indian Infantry and Indian Cavalry, has been made by Mr. Chaudhari in the following table.*

Communal Composition of the Indian Army in 1930

Class	Areas	Percentage in Infantry		Percentage in Cavalry
		Excluding Gurkhas	Including Gurkhas	
1. Punjabi Musalman	Punjab	27	22.6	14.28
2. Gurkhas	Nepal	...	16.4	...
3. Sikhs	Punjab	16.24	13.58	23.81
4. Dogras	North Punjab and Kashmir	11.4	9.54	9.53
5. Jats	Rajputana, U. P., Punjab	9.5	7.94	19.06
6. Pathans	N.-W. F. Province	7.57	6.35	4.76
7. Mahrattas	Konkan	6.34	5.33	...
8. Garhwalis	Garhwal	4.53	3.63	...
9. U. P. Rajputs	U. P.	3.04	2.54	...
10. Rajputana Rajputs	Rajputana	2.8	2.35	...
11. Kumaonis	Kumaon	2.44	2.05	...
12. Gujars	N. E. Rajputana	1.52	1.28	...
13. Punjabi Hindus	Punjab	1.52	1.28	...
14. Ahirs	Do.	1.22	1.024	...
15. Musalmans, Rajputs, Ranghars.	Neighbourhood of Delhi	1.22	1.024	7.14
16. Kaimkhanis	Rajputana	...	...	4.76
17. Kachins	Burma	1.22	1.024	...
18. Chins	Do.	1.22	1.024	...
19. Karens	Do.	1.22	1.024	...
20. Dekhani Musalmans	Deccan	...	...	4.76
21. Hindustani Musalmans	U. P.	...	...	2.38

*This table shows the percentage of men of each eligible class in the Indian Infantry (82 active and 18 training battalions), the Indian Cavalry (21 regiments), and the 20 battalions of the Gurkha Infantry. This table does not include the Indian personnel of (a) the 19 batteries of Indian Mountain Artillery, and (b) 3 regiments of Sappers and Miners, (c) the Indian Signal Corps, and (d) the Corps of Indian Pioneers, all of which are composed of different proportions of the Punjabi Musalmans, Sikhs, Pathans, Hindustani Hindus and Musalmans, Madrasis of all classes and Hazra Afghans, either in class units or class companies. Except that some units in these arms of the service are composed of the Madrasis and Hazras, now enrolled in other units of the Indian Army, the class composition of these units does not materially alter the proportion of the classes as given in the table. This table does not also include the Indian personnel attached to the British Infantry and Artillery units.

Reducing these figures in terms of communities, we get the following percentage as it stood in 1930 :—

Communities	Percentage in Infantry		Percentage in Cavalry
	Including Gurkhas	Excluding Gurkhas	
1. Hindus and Sikhs ..	60.55	50.554	61.92
2. Gurkhas	...	16.4	...
3. Muhammadans ..	35.79	29.974	30.08
4. Burmans	3.66	3.072	...

These figures show the communal composition of the Indian Army. The Musalmans according to Mr. Chaudhari formed 36% of the Indian Infantry and 30% of the Indian Cavalry.

These figures relate to the year 1930. We must now find out what changes have taken place since then in this proportion.

It is one of the most intriguing things in the Military history of India that no information is available on this point after 1930. It is impossible to know what the proportion of the Muslims in the Indian Army at present is. There is no Government publication from which such information can be gathered. In the past, there was no dearth of publications giving this information. It is very suprising that they should have now disappeared, or if they do appear, that they should cease to contain this information. Not only is there no Government publication containing information on this point, but Government has refused to give any information on the point when asked by members of the Central Legislative Assembly. The following questions and answers taken from the proceedings of the Central Legislative Assembly show how Government has been strenuously combating every attempt to obtain information on the point :

There was an interpellation on 15th September 1938, when the following questions were asked and replies as stated below were given :—

*Arrangements for the Defence of India**

* Legislative Assembly Debates, 1938 Vol. VI, page 2462.

Q. 1360: *Mr.Badri Dutt Pande* (on behalf of Mr. Amarendra Nath Chattopadhya).

(a) x x x x

(b) x x x x

(c) x x x x

(d) How many Indians have been recruited during 1937 and 1938 as soldiers and officers during 1937-38 for the Infantry and Cavalry respectively? Amongst the soldiers and officers recruited, how many are Punjabi Sikhs, Pathans, Garhwalis, Mahrattas, Madrasis, Biharis, Bengalis and Hindustanis of the United Provinces and Gurkhas ?

(e) If none but the Punjabi Sikhs, Pathans and Garhwalis have been recruited, is it in contemplation of the Honourable Member to recruit from all the Provinces for the defence of India and give them proper military training ?

(f) Will the Defence Secretary be pleased to state if Provincial Governments will be asked to raise Provincial Regiments, trained and fully mechanised, for the defence of India? If not, what is his plan of raising an efficient army for the defence of India ?

Mr. C.M.G. Ogilvie :

(a) The Honourable Member will appreciate that it is not in the public interest to disclose the details of such arrangements.

(b) 5 cadets and 33 Indian apprentices were recruited for the Indian Air Force during 1937-38.

(c) During 1937-38, 5 Indians have already been recruited to commissioned ranks in the Royal Indian Navy, 4 will be taken by competitive examination in October 1938, and 3 more by special examination of "Dufferin" cadets only. During the same period, 314 Indians were recruited to different non-commissioned categories in the Royal Indian Navy.

(d) During the year ending the 31st March 1938, 54 Indians were commissioned as Indian Commissioned Officers. They are now attached to British units for training, and it is not yet possible to say what proportion will be posted to infantry and cavalry, respectively. During the same period, 961 Indian soldiers were recruited for cavalry, and 7,970 for infantry. Their details by classes are not available at Army Headquarters and to call for them from the recruiting officers all over India would not justify the expenditure of time and labour involved.

(e) No.

(f) The reply to the first portion is in the negative. The reply to the second portion is that India already possesses an efficient army and so far as finances permit, every effort is made to keep it up-to-date in all respects.

Mr. S. Satyamurti : With reference to the answers to clauses *(d)* and *(e)* of the question taken together, may I know whether the attention of Government has been drawn to statements made by many public men that the bulk of the army is from the Punjab and from one community ? Have Government considered those facts and will Government also consider the desirability of making the army truly national by extending recruitment to all provinces and communities, so as to avoid the danger present in all countries of a military dictatorship seizing political power ?

Mr. C. M. G. Ogilvie : I am not sure how that arises from this question, but I am prepared to say that provincial boundaries do not enter into Government's calculations at all. The best soldiers are chosen to provide the best army for India and not for any province, and in this matter national considerations must come above provincial considerations. Where the bulk of best military material is found, there we will go to get it, and not elsewhere.

Mr. S. Satyamurti: May I know whether the bulk of the army is from the Punjab and whether the Government have forgotten the experience of the brave exploits of men from my province not very long ago in the Indian Army, and may I know if Madrasis are practically kept out and many other provinces are kept out of the army altogether ?

Mr. C. M. G. Ogilvie : Madras is not practically kept out of the army. Government gladly acknowledge the gallant services of the Madrasis in the army and they are now recruited to those Units where experience has proved them to be best. There are some 4,500 serving chiefly in the Sappers and Miners and Artillery.

Mr. S. Satyamurti: Out of a total of 120,000 ?

Mr. C. M. G. Ogilvie : About that.

Mr. S. Satyamurti: May I take it, that, that is a proper proportion, considering the population of Madras, the revenue that Madras pays to the Central exchequer, and the necessity of having a national army recruited from all the provinces ?

Mr. C. M. G. Ogilvie: The only necessity we recognise is to obtain the best possible army.

Mr. S. Satyamurti: May I know by what tests Government have come to the conclusion that provinces other than the Punjab cannot supply the best elements in the Indian Army ?

Mr. Ogilvie : By experience.

Dr. Sir Ziauddin Ahmed: May I ask if it is not a fact that all branches of Accounts Department are monopolised by the Madrasis and will Government immediately reduce the number in proportion to their numerical strength in India ?

Mr. Ogilvie: I do not see how that arises from this question either, but the Government are again not prepared to sacrifice efficiency for any provincial cause.

*Indian Regiment consisting of Indians belonging to Different Castes**

Q. 1078 : *Mr. M. Anantasayanam Ayyangar* (on behalf of Mr. Manu Subedar):

(a) Will the Defence Secretary state whether any experiment has ever been made under British rule of having an Indian regiment consisting of Indians recruited from different provinces and belonging to the different castes and sections, such as Sikhs, Mahrattas, Rajputs, Brahmins and Muslims ?

*Legislative Assembly Debates, 1938, Vol. VI, page 2478.

(b) If the reply to part *(a)* be in the negative, can a statement of Government's policy in this regard be made giving reasons why it has not been considered proper to take such action ?

(c) Is His Excellency the Commander-in-Chief prepared to take up this matter with His Majesty's Government ?

(d) Are Government aware that in the University Corps and in the Bombay Scout Movement, and in the Police Forces of the country, there is no separation by caste or creed ?

Mr. C. M. G. Ogilvie :

(a) No.

(b) Government regard it as a fundamental principle of organization that Military Sub-Units, such as companies and squadrons, must be homogeneous.

(c) No, for the reason just mentioned.

(d) Yes.

Mr. S. Satyamurti : May I know the meaning which Government attach to the word "homogeneous" ? Does it mean from the same province or the same community ?

Mr. C.M.G. Ogilvie : It means that they must belong to the same class of persons.

Mr. S. Satyamurti : May I ask for some elucidation of this point ? Do they make distinction between one class and another ?

Mr. C.M.G. Ogilvie : Certainly.

Mr. S. Satyamurti : On what basis ? Is it religious class or racial class or provincial class ?

Mr. C. M. G. Ogilvie : Neither. It is largely racial class.

Mr. S. Satyamurti : Which races are preferred and which are not preferred ?

Mr. C.M.G. Ogilvie : I refer the Honourable Member to the Army List.

*Recruitment to the Indian Army.**

*Legislative Assembly Debates, 1938, Vol. VI, page 2754.

Q. 1162 : *Mr. Brojendra Narayan Chaudhary :* Will the Defence Secretary please state :—

(a) Whether the attention of Government has been drawn to the address of the Punjab's Premier, the Hon'ble Sir Sikander Hyat Khan to his brother soldiers, in these words : "No patriotic Punjabi would wish to impair Punjab's position of supremacy in the Army," as reported by the Associated Press of India in the *Hindustan Times* of the 5th September 1938; and

(b) Whether it is the policy of Government to maintain the supremacy of Punjabis in the army by continuing to recruit the major portion from the Punjab; or to attempt recruitment of the Army from all the provinces without racial or provincial considerations ?

Mr. C. M. G. Ogilvie :

(a) Yes.

(b) I refer the Honourable Member to replies I gave to the supplementary questions arising from starred question No. 1060 asked by Mr. Amarendra Nath Chattopadhyaya on 15th September 1938.

Mr. S. Satyamurti: With reference to the answer to part *(a)* of the question, my Honourable friend referred to previous answers. As far as I remember, they were not given after this statement was brought before this House. May I know if the Government of India have examined this statement of the Punjab Premier, "No patriotic Punjabi would wish to impair Punjab's position of supremacy in the Army" ? May I know whether Government have considered the dangerous implications of this statement and will they take steps to prevent a responsible Minister going about and claiming provincial or communal supremacy in the Indian Army, which ought to remain Indian first and Indian last ?

Mr. C. M. G. Ogilvie: I can only answer in exactly the same words as I answered to a precisely similar question of the Hon'ble Member on the 15th September last. The policy of Government with regard to the recruitment has been repeatedly stated and is perfectly clear.

Mr. S. Satyamurti: That policy is to get the best material and I am specifically asking my Honourable friend—I hope he realises the implications of that statement of the Punjab Premier. I want to know whether the Government have examined the dangerous implications of any provincial Premier claiming provincial supremacy in the Indian Army and whether they propose to take any steps to correct this dangerous misapprehension ?

Mr. C. M. G. Ogilvie : Government consider that there are no dangerous implications whatever but rather the reverse.

Mr. Satyamurti: Do Government accept the supremacy of any province or any community as desirable consideration, even if it is a fact, to be uttered by responsible public men and do not the Government consider that this will give rise to communal and provincial quarrels and jealousies inside the, army and possibly a military dictatorship in this country ?

Mr. C. M. G. Ogilvie : Government consider that none of these forebodings have any justification at all.

Mr. M. S. Aney: Do the Government subscribe to the policy implied in the statement of Sir Sikander Hyat Khan ?

Mr. C. M. G. Ogilvie : Government's policy has been repeatedly stated and made clear.

Mr. M. S. Aney: Is it the policy that the Punjab should have its supremacy in the Army ?

Mr. C. M. G. Ogilvie : The policy is that the best material should be recruited for the Army.

Mr. M.S. Aney: I again repeat the question. Is it the policy of Government that Punjab should have supremacy in the Army ?

Mr. C.M.G. Ogilvie : I have repeatedly answered that question. The policy is that the Army should get the best material from all provinces and Government are quite satisfied that it has the best material at present.

Mr. M. S. Aney : Is it not, therefore, necessary that Government should make a statement modifying the policy suggested by Sir Sikander Hyat Khan ?.

Mr. C. M. G. Ogilvie : Government have no intention whatever of changing their policy in particular.

Another interpellation took place on 23rd November 1938 when the question stated below was asked :—

*Recruitment to the Indian Army from the Central Provinces and Berar**

Q. 1402 : *Mr. Govind V. Deshmukh :* Will the Defence Secretary please state :—

(a) The centres in the Central Provinces and Berar for recruiting men for the Indian Army ;

(b) The classes from which such men are recruited;

(c) The proportion of the men from the C. P. & Berar in the Army to the total strength of the Army, as well as to the population of these provinces ; and

(d) The present policy of recruitment, and if it is going to be revised; if not, why not ?

Mr. C. M. G. Ogilvie :

(a) There are no recruiting centres in the C. P. or Berar. Men residing in the C. P. are in the area of the Recruiting Officer, Delhi, and those of Berar in the area of the Recruiting Officer, Poona.

(b) Mahrattas of Berar are recruited as a separate class. Other Hindus and Mussalmans who are recruited from the C. P. and Berar are classified as "Hindus" or "Musalmans", and are not entered under any class denomination.

(c) The proportion to the total strength of the Army is .03 per cent. and the proportion to the total male population of these provinces is .0004 per cent.

(d) There is at present no intention of revising the present policy, the reasons for which were stated in my reply to a supplementary question arising out of Mr. Satyamurti's starred question No. 1060, on the 15th September 1938, and in answer to part *(a)* of starred question No. 1086 asked by

*Legislative Assembly Debates, 1938, Vol. VII, page 3313.

Mian Ghulam Kadir Muhammad Shahban on the same date, and in the reply of His Excellency the Commander-in-Chief to the debates in the Council of State on the Honourable Mr. Sushil Kumar Roy Chaudhary's Resolution regarding military training for Indians on the 21st February 1938 and on the Honourable Mr. P. N. Sapru's Resolution on the recruitment of all classes to the Indian Army in April 1935.

This was followed by an interpellation on 6th February 1939, when the below mentioned question was asked :—

*Recruitment to the Indian Army**

Q. *129: Mr. S. Satyamurti :* Will the Defence Secretary be pleased to state:

(a) Whether Government have since the last answer on this question reconsidered the question of recruiting to the Indian Army from all provinces and from all castes and communities ;

(b) Whether they have come to any conclusion ;

(c) Whether Government will categorically state the reasons as to why other provinces and communities are not allowed to serve in the army ; and

(d) What are the tests by which they have come to the conclusion that other provinces and other communities than those from whom recruitment is made to the Indian Army to-day cannot come up to the standard of efficiency required of the Indian Army ?

Mr. C.M.G. Ogilvie :

(a) No.

(b) Does not arise.

(c) and *(d)* The reasons have been categorically stated in my replies to starred questions Nos. 1060 and 1086 of 15th September 1938, No. 1162 of 20th September 1938 and No. 1402 of 23rd November 1938 and also in the replies of His Excellency the Commander-in-Chief in the Council of State

*Legislative Assembly Debates, 1939, Vol. I, page 253.

to the debates on the Honourable Mr. P. N. Sapru's Resolution regarding recruitment of all classes to the Indian Army and the Honourable Mr. Sushil Kumar Roy Chaudhary's Resolution regarding Military training for Indians, on the 13th March 1935 and 21st February 1938 respectively.

This conspiracy of silence on the part of the Government of India, was quite recently broken by the Secretary of State for India, who came forward to give the fullest information on this most vital and most exciting subject, in answer to a question in the House of Commons. From his answer given on 8th July 1943 we know the existing communal and provincial composition of the Indian Army to be as follows :—

I. Provincial Composition of the Indian Army

Province	Percentage	Province	Percentage
1. Punjab	50	7. Bengal Presidency	2
2. U.P.	15	8. C.P. & Berar	
3. Madras Presidency	10	9. Assam	5
4. Bombay Presidency	10	10. Bihar	
5. N. W. F. Province	5	11. Orissa	
6. Ajmere & Merwara	3	12. Nepal	8

II. Communal Composition of the Indian Army

1.	Muslims	34 p.c.
2.	Hindus & Gurkhas	50 p.c.
3.	Sikhs	10 p.c.
4.	Christians & The Rest	6 p.c.

The information given by the Secretary of State is indeed very welcome. But, this is the war-time composition of the Indian Army. The peace-time composition must be very different. It rested on the well-known distinction between the Martial and Non-Martial Races. That distinction was abolished during the War. There is, however, no certainty that it will not be revived

now that peace has returned. What we want to know is the peacetime communal composition of the Indian Army. That still remains an unknown fact and a subject of speculation.

Some say that the normal pre-war proportion of Muslims was between 60 and 70 p.c. Others say that it is somewhere in the neighbourhood of 50 p.c. In the absence of exact information, one could well adopt the latter figure as disclosing the true situation especially, when on inquiry, it happens to be confirmed by those who are in a position to form some idea on the matter. Even if the proportion be 50% it is high enough to cause alarm to the Hindus. If this is true, it is a flagrant violation of well established principles of British Army policy in India, adopted after the Mutiny.

After the Mutiny, the British Government ordered two investigations into the organization of the Indian Army. The first investigation was carried out by the Peel Commission which was appointed in 1859. The second investigation was undertaken by a body, called the Special Army Committee, appointed in 1879 to which reference has already been made.

The principal question considered by the Peel Commission was to find out the weaknesses in the Bengal Army, which led to the Mutiny of 1857. The Peel Commission was told by witness after witness that the principal weakness in the Bengal Army which mutinied was that

> "In the ranks of the regular Army men stood mixed up as chance might befall. There was no separating by class and clan into Companies ..... In the lines, Hindu and Mahomedan, Sikh and Poorbeah were mixed up, so that each and all lost to some extent their racial prejudice and became inspired with one common sentiment."*

It was, therefore, proposed by Sir John Lawrence that in organizing the Indian Army care should be taken "to preserve that distinctiveness which is so valuable, and while it lasts, makes the Mahomedan of one country despise, fear or dislike the Mahomedan of another; Corps should in future be provincial, and adhere to the geographical limits within which differences and

*MacMunn and Lovett, *The Armies of India,* pp. 84-85, quoted by Chaudhari.

rivalries are strongly marked. Let all races, Hindu or Mahomedan of one province be enlisted in one regiment and no others, and having created distinctive regiments, let us keep them so, against the hour of need..... By the system thus indicated two great evils are avoided : firstly, that community of feeling throughout the native army and that mischievous political activity and intrigue which results from association with other races and travel in other Indian provinces." *

This proposal was supported by many military men before the Peel Commission and was recommended by it as a principle of Indian Army Policy. This principle was known as the principle of Class Composition.

The Special Army Committee of 1879 was concerned with quite a different problem. What the problem was, becomes manifest from the questionnaire issued by the Committee. The questionnaire included the following question :—

> "If the efficient and available reserve of the Indian Army is considered necessary for the safety of the Empire, should it not be recruited and maintained from those parts of the country which give us best soldiers, rather than among the weakest and least warlike races of India, due regard, of course, being had to the necessity of not giving too great strenght or prominence to any particular race or religious group and with due regard to the safety of the Empire ?"

The principal part of the question is obviously the necessity or otherwise of "not giving too great strength or prominence to any particular race or religious group". On this question official opinion expressed before the Committee was unanimous.

Lt.-General H. J. Warres, Commander-in-Chief of the Bombay Army, stated :—

> "I consider it is not possible to recruit the reserve of the Indian Army altogether from those parts of India which are said to produce best soldiers, without giving undue strength and prominence to the races and religions of these countries."

The Commander-in-Chief, Sir Frederick P. Haines, said:—

> "Distinct in race, language and interests from the more numerous Army of Bengal, it is, in my opinion, eminently politic and wise

*As quoted by Chaudhari.

> to maintain these armies (the Madras and Bombay Armies) as a counterpoise to it, and I would in no way diminish their strength in order that a reserve composed of what is called 'the most efficient fighting men whom it is possible to procure' may be established. If by this it is meant to replace Sepoys of Madras and Bombay by a reserve of men passed through the ranks of the Bengal Army and composed of the same classes of which it is formed, I would say, that anything more unwise or more impolitic could hardly be conceived."

The Lt.-Governor of the Punjab also shared this view. He too declared that he was "opposed to having one recruiting field for the whole armies" in India. "It will be necessary," he added, "for political reasons, to prevent preponderance of one nationality."

The Special Committee accepted this view and recommended that the composition of the Indian Army should be so regulated that there should be no predominance of any one community or nationality in the Army.

These two principles have the governing principles of Indian Army policy. Having regard to the principle laid down by the Special Army Committee of 1879, the changes that have taken place in the communal composition of the Indian Army amount to a complete revolution. How this revolution was allowed to take place is beyond comprehension. It is a revolution which has taken place in the teeth of a well established principle. The principle was really suggested by the fear of the growing predominance of the men of the North-West in the Indian Army and was invoked with the special object of curbing that tendency. The principle was not only enunciated as a rule of guidance but was taken to be rigorously applied. Lord Roberts, who was opposed to this principle because it set a limit upon the recruitment of his pet men of the North-West, had to bow to this principle during his regime as the Commander-in-Chief of India. So well was the principle respected that when in 1903, Lord Kitchener entered upon the project of converting fifteen regiments of Madrasis into Punjab regiments, he immediately set up a counterpoise to the Sikhs and the Punjabi Musalmans by raising the proportion of

the Gurkhas and the Pathans. As Sir George Arthur, his biographer, says :—

> "The Government, mindful of the lesson taught by the Mutiny, was alive to the danger of allowing any one element in the Indian Army to preponderate unduly. An increase in the Punjabee infantry had as its necessary sequel a further recruitment of the valuable Gurkha material and the enlistment of more trans-border Pathans in the Frontier Militia."

That a principle, so unanimously upheld and so rigorously applied upto the period of the Great War, should have been thrown to the wind after the Great War, without ceremony and without compunction and in a clandestine manner, is really beyond comprehension. What is the reason which has led the British to allow so great a preponderance of the Muslims in the Indian Army ? Two explanations are possible. One is that the Musalmans really proved, in the Great War, that they were better soldiers than the Hindus. The second explanation is that the British have broken the rule and have given the Musalmans such a dominating position in the Army because they wanted to counteract the forces of the Hindu agitation for wresting political power from the hands of the British.

Whatever be the explanation, two glaring facts stand out from the above survey. One is that the Indian Army today is predominantly Muslim in its composition. The other is that the Musalmans who predominate are the Musalmans from the Punjab and the N. W. F. P. Such a composition of the Indian Army means that the Musalmans of the Punjab and the N. W. F. P. are made the sole defenders of India from foreign invasion. So patent has this fact become that the Musalmans of the Punjab and the N. W. F. P. are quite conscious of this proud position which has been assigned to them by the British, for reasons best known to them. For, one often hears them say that they are the 'gatekeepers' of India. The Hindus must consider the problem of the defence of India in the light of this crucial fact.

How far can the Hindus depend upon these 'gate-keepers' to hold the gate and protect the liberty and freedom of India ? The answer to this question must depend upon who comes to force the gate open. It is obvious that there are only two foreign countries

which are likely to force this gate from the North-West side of India, Russia or Afghanistan, the borders of both of which touch the border of India. Which of them will invade India and when, no one can say definitely. If the invasion came from Russia, it may be hoped that these gate-keepers of India will be staunch and loyal enough to hold the gate and stop the invader. But suppose the Afghans singly or in combination with other Muslim States march on India, will these gate-keepers stop the invaders or will they open the gates and let them in ? This is a question which no Hindu can afford to ignore. This is a question on which every Hindu must feel assured, because it is the most crucial question.

It is possible to say that Afghanistan will never think of invading India. But a theory is best tested by examining its capacity to meet the worst case. The loyalty and dependability of this Army of the Punjabi and N. W. F. P. Muslims can only be tested by considering how it will behave in the event of an invasion by the Afghans. Will they respond to the call of the land of their birth or will they be swayed by the call of their religion, is the question which must be faced if ultimate security is to be obtained. It is not safe to seek to escape from these annoying and discomforting questions by believing that we need not worry about a foreign invasion so long as India is under the protection of the British. Such a complacent attitude is unforgivable to say the least. In the first place, the last war has shown that a situation may arise when Great Britain may not be able to protect India, although, that is the time when India needs her protection most. Secondly, the efficiency of an institution must be tested under natural conditions and not under artificial conditions. The behaviour of the Indian soldier under British control is artificial. His behaviour when he is under Indian control is his natural behaviour. British control does not allow much play to the natural instincts and natural sympathies of the men in the Army. That is why the men in the Army behave so well. But that is an artificial and not a natural condition. That the Indian Army behaves well under British control is no guarantee of its good behaviour under Indian control. A Hindu must be satisfied that it will behave as well when British control is withdrawn.

The question how this army of the Punjabi and the N. W. F. P. Muslims will behave if Afghanistan invades India, is a very pertinent and crucial question and must be faced, however unpleasant it may be.

Some may say—why assume that the large proportion of Muslims in the Army is a settled fact and that it cannot be unsettled ? Those who can unsettle it are welcome to make what efforts they can. But, so far as one can see, it is not going to be unsettled. On the contrary, I should not be surprised if it was entered in the constitution, when revised, as a safeguard for the Muslim Minority. The Musalmans are sure to make this demand and as against the Hindus, the Muslims somehow always succeed. We must, therefore, proceed on the assumption that the composition of the Indian Army will remain what it is at present. The basis remaining the same, the question to be pursued remains what it was : Can the Hindus depend upon such an Army to defend the country against the invasion of Afghanistan ? Only the so-called Indian Nationalists will say 'yes' to it. The boldest among the realists must stop to think before he can give an answer to the question. The realist must take note of the fact that the Musalmans look upon the Hindus as Kaffirs, who deserve more to be exterminated than protected. The realist must take note of the fact that while the Musalman accepts the European as his superior, he looks upon the Hindu as his inferior. It is doubtful how far a regiment of Musalmans will accept the authority of their Hindu officers if they be placed under them. The realist must take note that of all the Musalmans, the Musalman of the North-West is the most disaffected Musalman in his relation with the Hindus. The realist must take note that the Punjabi Musalman is fully susceptible to the propaganda in favour of Pan-Islamism. Taking note of all these considerations, there can be very little doubt that he would be a bold Hindu who would say that in any invasion by Muslim countries, the Muslims in the Indian Army would be loyal and that there is no danger of their going over to the invader. Even Theodore Morrison*, writing

**Imperial Rule in India,* page 5.

in 1899, was of the opinion that—

> " The views held by the Mahomedans (certainly the most aggressive and truculent of the peoples of India) are alone sufficient to prevent the establishment of an independent Indian Government. Were the Afghan to descend from the north upon an autonomous India, the Mahomedans, instead of uniting with the Sikhs and the Hindus to repel him, would be drawn by all the ties of kinship and religion to join his flag."

And when it is recalled that in 1919 the Indian Musalmans who were carrying on the Khilafat movement actually went to the length of inviting the Amir of Afghanistan to invade India, the view expressed by Sir Theodore Morrison acquires added strength and ceases to be a matter of mere speculation.

How this Army composed of the Muslims of the Punjab and N. W. F. P. will behave in the case of an invasion by Afghanistan is not the only question which the Hindus are called upon to consider. There is another and equally important question on which the Hindus must ponder. That question is: Will the Indian Government be free to use this Army, whatever its loyalties, against the invading Afghans ? In this connection, attention must be drawn to the stand taken by the Muslim League. It is to the effect that the Indian Army shall not be used against Muslim powers. There is nothing new in this. This principle was enunciated by the Khilafat Committee long before the League. Apart from this, the question remains how far the Indian Muslims will, in future, make it their article of faith. That the League has not succeeded in this behalf against the British Government does not mean that it will not succeed against an Indian Government. The chances are that it will, because, however unpatriotic the principle may be from the standpoint of the Hindus, it is most agreeable to the Muslim sentiment and the League may find a sanction for it in the general support of the Muslim community in India. If the Muslim League succeeds in enforcing this limitation upon India's right to use her fighting forces, what is going to be the position of the Hindus ? This is another question which the Hindus have to consider.

If India remains politically one whole and the two-nation mentality created by Pakistan continues to be fostered, the Hindus will find themselves between the devil and the deep sea, so far as the defence of India is concerned. Having an Army, they will not be free to use it because the League objects. Using it, it will not be possible to depend upon it because its loyalty is doubtful. This is a position which is as pathetic as it is precarious. If the Army continues to be dominated by the Muslims of the Punjab and the N. W. F. P., the Hindus will have to pay it but will not be able to use it and even if they were free to use it against a Muslim invader, they will find it hazardous to depend upon it. If the League view prevails and India does not remain free to use her Army against Muslim countries, then, even if the Muslims lose their predominance in the Army, India on account of these military limitations, will have to remain on terms of subordinate co-operation with the Muslim countries on her border, as do the Indian States under British paramountcy.

The Hindus have a difficult choice to make : to have a safe Army or a safe border. In this difficulty, what is the wisest course for the Hindus to pursue ? Is it in their interest to insist that the Muslim India should remain part of India so that they may have a safe border, or is it in their interest to welcome its separation from India so that they may have a safe Army ? The Musalmans of this area are hostile to the Hindus. As to this, there can be no doubt. Which is then better for the Hindus : Should these Musalmans *be without and against or should they be within and against ?* If the question is asked to any prudent man, there will be only one answer, namely, that if the Musalmans are to be against the Hindus, it is better that they should be without and against, rather than within and against. Indeed, it is a consummation devoutly to be wished that the Muslims should be without. That is the only way of getting rid of the Muslim preponderance in the Indian Army.

How can it be brought about ? Here again, there is only one way to bring it about and that is to support the scheme of Pakistan. Once Pakistan is created, Hindustan, having ample resources in men and money, can have an Army which it can call its own and there will be nobody to dictate as to how it should be

used and against whom it should be used. The defence of Hindustan, far from being weakened by the creation of Pakistan, will be infinitely improved by it.

The Hindus do not seem to realize at what disadvantage they are placed from the point of view of their defence, by their exclusion from the Army. Much less do they know that, strange as it may appear, they are in fact purchasing this disadvantage at a very heavy price.

The Pakistan area which is the main recruiting ground of the present Indian Army, contributes very little to the Central Exchequer as will be seen from the following figures :—

Contribution to the Central Exchequer

	Rs.
Punjab	1,18,01,385
North-West Frontier ...	9,28,294
Sind	5,86,46,915
Baluchistan	Nil
Total ...	7,13,76,594

As against this the provinces of Hindustan contribute as follows:—

	Rs.
Madras	9,53,26,745
Bombay	22,53,44,247
Bengal*	12,00,00,000
U.P.	4,05,53,000
Bihar	1,54,37,742
C. P. & Berar	31,42,682
Assam	1,87,55,967
Orissa	5,67,346
Total ...	51,91,27,729

*Only 1/2 revenue is shown because nearly 1/2 population is Hindu.

The Pakistan Provinces, it will be seen, contribute very little. The main contribution comes from the Provinces of Hindustan. In fact, it is the money contributed by the Provinces of Hindustan which enables the Government of India to carry out its activities in the Pakistan Provinces. The Pakistan Provinces are a drain on the Provinces of Hindustan. Not only do they contribute very little to the Central Government but they receive a great deal from the Central Government. The revenue of the Central Government amounts to Rs. 121 crores. Of this, about Rs. 52 crores are annually spent on the Army. In what area is this amount spent ? Who pays the bulk of this amount of Rs. 52 crores ? The bulk of this amount of Rs. 52 crores which is spent on the Army is spent over the Muslim Army drawn from the Pakistan area. Now the bulk of this amount of Rs. 52 crores is contributed by the Hindu Provinces and is spent on an Army which for the most part consists of non-Hindus ! ! How many Hindus are aware of this tragedy ? How many know at whose cost this tragedy is being enacted ? Today the Hindus are not responsible for it because they cannot prevent it. The question is whether they will allow this tragedy to continue. If they mean to stop it, the surest way of putting an end to it is to allow the scheme of Pakistan to take effect. To oppose it, is to buy a sure weapon of their own destruction. A safe Army is better than a safe border.

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CHAPTER VI

PAKISTAN AND COMMUNAL PEACE

Does Pakistan solve the Communal Question is a natural question which every Hindu is sure to ask. A correct answer to this question calls for a close analysis of what is involved in it. One must have a clear idea as to what is exactly meant, when the Hindus and Muslims speak of the Communal Question. Without it, it will not be possible to say whether Pakistan does or does not solve the Communal Question.

It is not generally known that the Communal Question like the "Forward Policy" for the Frontier has a "greater" and a "lesser intent," and that in its lesser intent it means one thing, and in its greater intent it means quite a different thing.

I

To begin with the Communal Question in its "lesser intent". In its lesser intent, the Communal Question relates to the representation of the Hindus and the Muslims in the Legislatures. Used in this sense, the question involves the settlement of two distinct problems :—

(1) The number of seats to be allotted to the Hindus and the Muslims in the different legislatures, and

(2) The nature of the electorates through which these seats are to be filled in.

The Muslims at the Round Table Conference claimed :—

(1) That their representatives in all the Provincial as well as in the Central Legislatures should be elected by separate electorates ;

(2) That they should be allowed to retain the weightage in representation given to Muslim minorities in those Provinces in which they were a minority in the population, and that in addition, they should be given in those Provinces where they were a majority such as the Punjab, Sind, North-West Frontier Province and Bengal, a guaranteed statutory majority of seats.

The Hindus from the beginning objected to both these Muslim demands. They insisted on joint electorates for Hindus and Muslims in all elections to all the Legislatures, Central and Provincial, and on population ratio of representation, for both minorities, Hindus and Muslims, wherever they may be, and raised the strongest objections to a majority of seats being guaranteed to any community by statute.

The Communal Award of His Majesty's Government settled this dispute by the simple, rough and ready method of giving the Muslims all that they wanted, without caring for the Hindu opposition. The Award allowed the Muslims to retain weightage and separate electorates, and in addition, gave them the statutory majority of seats in those provinces where they were a majority in the population.

What is it in the Award that can be said to constitute a problem ? Is there any force in the objections of the Hindus to the Communal Award of His Majesty's Government ? This question must be considered carefully to find out whether there is substance in the objections of the Hindus to the Award.

Firstly, as to their objection to the weightage to Muslim minorities in the matter of representation. Whatever may be the correct measure of allotting representation to minorities, the Hindus cannot very well object to the weightage given to Muslim minorities, because similar weightage has been given to the Hindus in those Provinces in which they are a minority and where there is sufficient margin for weightage to be allowed. The treatment of the Hindu minorities in Sind and the North-West Frontier Province is a case in point.

Secondly, as to their objection to a statutory majority. That again does not appear to be well founded. A system of guaranteed representation may be wrong and vicious and quite unjustifiable on theoretical and philosophical grounds. But considered in the light of circumstances, such as those obtaining in India, the system of statutory majority appears to be inevitable. Once it is granted that the representation to be given to a minority must not reduce the majority to minority, that very provision creates, as a mere counterpart, a system of statutory majority to the majority

community. For, fixing the seats of the minority involves the fixation of the seats of the majority. There is, therefore, no escape from the system of statutory majority, once it is conceded that the minority is not entitled to representation which would convert a majority into a minority. There is, therefore, no great force in the objections of the Hindus to a statutory majority of the Mulsims in the Punjab, the North-West Frontier Province, Sind and Bengal. For, even in the Provinces where the Hindus are in a majority and the Muslims are in minority, the Hindus have got a statutory majority over the Muslims. At any rate, there is a parity of position and to that extent there can be said to be no ground for complaint.

This does not mean that because the objections set forth by the Hindus have no substance, there are no real grounds for opposing the Communal Award. There does exsit a substantial ground of objection to the Communal Award, although, it does not appear to have been made the basis of attack by the Hindus.

This objection may be formulated in order to bring out its point in the following manner. The Muslim minorities in the Hindu Provinces insisted on separate electorates. The Communal Award gives them the right to determine that issue. This is really what it comes to when one remembers the usual position taken, viz., that the Muslim minorities could not be deprived of their separate electorates without their consent, and the majority community of the Hindus has been made to abide by their determination. The Hindu minorities in Muslim Provinces insisted that there should be joint electorates. Instead of conceding their claim, the Communal Award forced upon them the system of separate electorates to which they objected. If in the Hindu Provinces, the Muslim minoroties are allowed the right of self-determination in the matter of electorates, the question arises : Why are not the Hindu minorities in the Muslim Provinces given the right of self-determination in the matter of their electorates? What is the answer to this question ? And, if there is no answer, there is undoubtedly a deep seated inequity in the Communal Award of His Majesty's Government, which calls for redress.

It is no answer that the Hindus also have a statutory majority based on separate electorates* in those Provinces where the Musalmans are in a minority. A little scrutiny will show that there is no parity of position in these two cases. The separate electorates for the Hindu majorities in the Hindu Provinces are not a matter of their choice. It is a consequence resulting from the determination of the Muslim minorities who claimed to have saparate electorates for themselves. A minority in one set of circumstances may think that separate electorates would be a better method of self-protection and may have no fear of creating against itself and by its own action a statutory majority based on separate electorates for the opposing community. Another minority or, for the matter of that, the same minority in a different set of circumstances would not like to create by its own action and against itself a statutory majority based upon separate electorates and may, therefore, prefer joint electorates to separate electorates as a better method of self-protection. Obviously the guiding principle, which would influence a minority, would be : Is the majority likely to use its majority in a communal manner and purely for communal purposes ? If it felt certain that the majority community is likely to use its communal majority for communal ends, it may well choose joint electorates, because it would be the only method by which it would hope to take away the communal cement of the statutory majority by influencing the elections of the representatives of the majority community in the Legislatures. On the other hand, a majority community may not have the necessary communal cement, which alone would enable it to use its communal majority for communal ends, in which case a minority, having no fear from the resulting statutory majority and separate electorates for the majority community, may well choose separate electorates for itself. To put it concretely, the Muslim minorities in choosing separate electorates are not afraid of the separate electorates and the statutory majority of the Hindus, because they feel sure that by reason of their deep-seated differences of caste and race the Hindus will never be able to use their

*It is perhaps not quite correct to speak of a Hindu Electorate. The Electorate is a General Electorate consisting of all those who are not included in any separate electorate. But as the majority in the General Electorate consists of Hindus, it is called a Hindu Electorate.

majorities against the Muslims. On the other hand, the Hindu minorities in the Muslim Provinces have no doubt that, by reason of their social solidarity, the Muslims will use their statutory majority to set into operation a "Resolute Muslim Government", after the plan proposed by Lord Salisbury for Ireland as a substitute for Home Rule ; with this difference, that Salisbury's Resolute Government was to last for twenty years only, while the Muslim Resolute Government was to last as long as the Communal Award stood. The situations, therefore, are not alike. The statutory majority of the Hindus based on separate electorates is the result of the choice made by the Muslim minority. The statutory majority of the Muslims based on separate electorates is something which is not the result of the choice of the Hindu minority. In one case, the Government of the Muslim minority by a Hindu communal majority is the result of the consent of the Muslim minority. In the other case, the Government of the Hindu minority by the Muslim majority is not the result of the consent of the Hindu minority, but is imposed upon it by the might of the British Government.

To sum up this discussion of the Communal Award, it may be said that, as a solution of the Communal Question in its "lesser intent", there is no inequity in the Award on the ground that it gives weightage to the Muslim minorities in the Hindu Provinces. For, it gives weightage also to Hindu minorities in Muslim Provinces. Similarly, it may be said that there is no inequity in the Award, on the ground that it gives a statutory majority to the Muslims in Muslim Provinces in which they are a majority. If there is any, the statutory limitation put upon the Muslim number of seats, also gives to the Hindus in Hindu Provinces a statutory majority. But the same cannot be said of the Award in the matter of the electorates. The Communal Award is iniquitous inasmuch as it accords unequal treatment to the Hindu and Muslim minorities in the matter of electorates. It grants the Muslim minorities in the Hindu Provinces the right of self-determination in the matter of electorates, but it does not grant the same right to the Hindu minorities in the Muslim Provinces. In the Hindu Provinces, the Muslim minority is allowed to choose the kind of electorates it wants and the Hindu majority is not permitted to have

any say in the matter. But in the Muslim Provinces, it is the Muslim majority which is allowed to choose the kind of electorates it prefers and the Hindu minority is not permitted to have any say in the matter. Thus, the Muslims in the Muslim Provinces having been given both statutory majority and separate electorates, the Communal Award must be said to impose upon the Hindu minorities Muslim rule, which they can neither alter nor influence.

This is what constitutes the fundamental wrong in the Communal Award. That this is a grave wrong must be admitted. For, it offends against certain political principles, which have now become axiomatic. First is, not to trust any one with unlimited political power. As has been well said,

> "If in any state there is a body of men who possess unlimited political power, those over whom they rule can never be free. For, the one assured result of historical investigation is the lesson that uncontrolled power is invariably poisonous to those who possess it. They are always tempted to impose their canon of good upon others, and in the end, they assume that the good of the community depends upon the continuance of their power. Liberty always demands a limitation of political authority....."

The second principle is that, as a King has no Divine Right to rule, so also a majority has no Divine Right to rule. Majority Rule is tolerated only because it is for a limited period and subject to the right to have it changed, and secondly because it is a rule of a political majority, i.e., majority which has submitted itself to the suffrage of a minority and not a communal majority. If such is the limited scope of authority permissible to a political majority over a political minority, how can a minority of one community be placed under the perpetual subjection of a majority of another community ? To allow a majority of one community to rule a minority of another community without requiring the majority to submit itself to the suffrage of the minority, especially when the minority demands it, is to enact a perversion of democratic principles and to show a callous disregard for the safety and security of the Hindu minorities.

II

To turn to the Communal Question in its "greater intent". What is it, that the Hindus say is a problem ? In its

greater intent the Communal Question relates to the deliberate creation of Muslim Provinces. At the time of the Lucknow Pact, the Muslims only raised the Communal Question in its lesser intent. At the Round Table Conference, the Muslims put forth, for the first time, the plan covered by the Communal Question in its greater intent. Before the Act of 1935, there were a majority of Provinces in which the Hindus were in a majority and the Muslims in a minority. There were only three Provinces in which the Muslims were in a majority and the Hindus in a minority. They were the Punjab, Bengal and the North-West Frontier Province. Of these, the Muslim majority in the North-West Frontier Province was not effective, because there was no responsible government in that province, the Montagu-Chelmsford Scheme of Political Reforms not being extended to it. So, for all practical purposes, there were only two provinces—the Punjab and Bengal—wherein the Muslims were in majority and the Hindus in minority. The Muslims desired that the number of Muslim Provinces should be increased. With this object in view, they demanded that Sind should be separated from the Bombay Presidency and created into a new self-governing Province, and that the North-West Frontier Province, which was already a separate Province, should be raised to the status of a self-governing Province. Apart from other considerations, from a purely financial point of view, it was not possible to concede this demand. Neither Sind nor the North-West Frontier Province were financially self-supporting. But in order to satisfy the Muslim demand, the British Government went to the length of accepting the responsibility of giving an annual subvention to Sind* and North-West Frontier Province† from the Central Revenues, so as to bring about a budgetary equilibrium in their finances and make them financially self-supporting.

These four Provinces with Muslims in majority and Hindus in minority, now functioning as autonomous and self-governing Provinces, were certainly not created for administrative convenience, nor for purposes of architectural symmetry—the Hindu

*Sind gets an annual subvention of Rs. 1,05,00,000.

†North-West Frontier Province gets an annual subvention of Rs. 1,00,00,000.

Provinces poised against the Muslim Provinces. It is also true that the scheme of Muslim Provinces was not a matter of satisfying Muslim pride which demanded Hindu minorities under Muslim majorities to compensate the humiliation of having Muslim minorities under Hindu majorities. What was then, the motive underlying this scheme of Muslim Provinces ? The Hindus say that the motive for the Muslim insistence, both on statutory majority and separate electorates, was to enable the Muslims in the Muslim Provinces to mobilize and make effective Muslim power in its exclusive form and to the fullest extent possible. Asked what could be the purpose of having the Muslim political power mobilized in this fashion, the Hindus answer that it was done to place in the hands of the Muslims of the Muslim Provinces an effective weapon to tyrannize their Hindu minorities, in case the Muslim minorities in the Hindu Provinces were tyrannized by their Hindu majorities. The scheme thus became a system of protection, in which blast was to be met by counter-blast, terror by terror and tyranny by tyranny. The plan is undoubtedly, a dreadful one, involving the maintenance of justice and peace by retaliation, and providing an opportunity for the punishment of an innocent minority, Hindus in Muslim Provinces and Muslims in Hindu Provinces, for the sins of their co-religionists in other Provinces. It is a scheme of communal peace through a system of communal hostages.

That the Muslims were aware from the very start, that the system of communal Provinces was capable of being worked in this manner, is clear from the speech made by Maulana Abul Kalam Azad as President of the Muslim League Session held in Calcutta in 1927. In that speech the Maulana declared :—

> "That by the Lucknow Pact they had sold away their interests. The Delhi proposals of March last opened the door for the first time to the recognition of the real rights of Musalmans in India. The separate electorates granted by the Pact of 1916 only ensured Muslim representation, but what was vital for the existence of the community was the recognition of its numerical strength. Delhi opened the way to the creation of such a state of affairs as would guarantee to them in the future of India a proper share. Their existing small majority in Bengal and the Punjab was only a census figure, but the Delhi proposals gave them for the first time five provinces of which no less than three (Sind, the Frontier

> Province and Baluchistan) contained a real overwhelming Muslim majority. If the Muslims did not recognise this great step they were not fit to live. There would now be nine Hindu provinces against five Muslim provinces, and whatever treatment Hindus accorded in the nine provinces, Muslims would accord the same treatment to Hindus in the five Provinces. Was not this a great gain ? Was not a new weapon gained for the assertion of Muslim rights ?"

That those in charge of these Muslim provinces know the advantage of the scheme, and do not hesitate to put it to the use for which it was intended, is clear from the speeches made not long ago by Mr. Fazl-ul-Huq, as Prime Minister of Bengal.

That this scheme of Communal Provinces, which constitutes the Communal Question in its larger intent, can be used as an engine of communal tyranny, there can be no doubt. The system of hostages, which is the essence of the scheme of communal provinces, supported by separate electorates, is indeed insupportable on any ground. If this is the underlying motive of the demand for the creation of more Muslim Provinces, the system resulting from it is undoubtedly a vicious system.

This analysis leaves no doubt that the communal statutory majority based on separate communal electorates and the communal provinces, especially constituted to enable the statutory majority to tyrannize the minority, are the two evils which compose what is called, 'the Communal Problem'.

For the existence of this problem the Hindus hold the Muslims responsible and the Muslims hold the Hindus responsible. The Hindus accuse the Muslims of contumacy. The Muslims accuse Hindus of meanness. Both, however, forget that the communal problem exists not because the Muslims are extravagant and insolent in their demands and the Hindus are mean and grudging in their concessions. It exists and will exist wherever a hostile majority is brought face to face against a hostile minority. Controversies relating to separate *vs.* joint electorates, controversies relating to population ratio *vs.* weightage are all inherent in a situation where a minority is pitted against a majority. The best solution of the communal problem is not to have two communities facing each other, one a majority and the other a minority, welded in the steel-frame of a single government.

How far does Pakistan approximate to the solution of the Communal Question ?

The answer to this question is quite obvious. If the scheme of Pakistan is to follow the present boundaries of the Provinces in the North-West and in Bengal, certainly it does not eradicate the evils which lie at the heart of the Communal Question. It retains the very elements which give rise to it, namely, the pitting of a minority against a majority. The rule of the Hindu minorities by the Muslim majorities and the rule of the Muslim Minorities by the Hindu majorities are the crying evils of the present situation. This very evil will reproduce itself in Pakistan, if the provinces marked out for it are incorporated into it as they are, i.e., with boundaries drawn as at present. Besides this, the evil which gives rise to the Communal Question in its larger intent, will not only remain as it is but will assume a new malignity. Under the existing system, the power centered in the Communal Provinces to do mischief to their hostages is limited by the power which the Central Government has over the Provincial Governments. At present, the hostages are at least within the pale of a Central Government which is Hindu in its composition and which has power to interfere for their protection. But, when Pakistan becomes Muslim State with full sovereignty over internal and external affairs, it would be free from the control of the Central Government. The Hindu minorities will have no recourse to an outside authority with overriding powers, to interfere on their behalf and curb this power of mischief, as under the scheme, no such overriding authority is permitted to exist. So, the position of the Hindus in Pakistan may easily become similar to the position of the Armenians under the Turks or of the Jews in Tsarist Russia or in Nazi Germany. Such a scheme would be intolerable and the Hindus may well say that they cannot agree to Pakistan and leave their co-religionist as a helpless prey to the fanaticism of a Muslim National State.

III

This, of course, is a very frank statement of the consequences which will flow from giving effect to the scheme of Pakistan. But care must be taken to locate the source of these consequences. Do

they flow from the scheme of Pakistan itself or do they flow from particular boundaries that may be fixed for it. If the evils flow from the scheme itself, i.e., if they are inherent in it, it is unnecessary for any Hindu to waste his time in considering it. He will be justified in summarily dismissing it. On the other hand, if the evils are the result of the boundaries, the question of Pakistan reduces itself to a mere question of changing the boundaries.

A study of the question amply supports the view that the evils of Pakistan are not inherent in it. If any evil results follow from it they will have to be attributed to its boundaries. This becomes clear if one studies the distribution of population. The reasons why these evils will be reproduced within Western and Eastern Pakistan is because, with the present boundaries, they do not become single ethnic states. They remain mixed states, composed of a Muslim majority and a Hindu minority as before. The evils are the evils which are inseparable from a mixed state. If Pakistan is made a single unified ethnic state, the evils will automatically vanish. There will be no question of separate electorates within Pakistan, because in such a homogeneous Pakistan, there will be no majorities to rule and no minorities to be protected. Similarly, there will be no majority of one community to hold, in its possession, a minority of an opposing community.

The question, therefore, is one of demarcation of boundaries and reduces itself to this : Is it possible for the boundaries of Pakistan to be so fixed, that instead of producing a mixed state composed of majorities and minorities, with all the evils attendant upon it, Pakistan will be an ethnic state composed of one homogeneous community, namely Muslims ? The answer is that in a large part of the area affected by the project of the League, a homogeneous state can be created by shifting merely the boundaries, and in the rest, homogeneity can be produced by shifting only the population.

In this connection, I invite the reader to study carefully the figures given in the Appendices V, X, XI showing the distribution of the population in the areas affected, and also the maps showing how new boundaries can create homogeneous Muslim States. Taking the Punjab, two things will be noted :—

(i) There are certain districts in which the Musalmans predominate. There are certain districts in which the Hindus

predominate. There are very few in which the two are, more or less, evenly distributed; and

(ii) The districts in which Muslims predominate and the districts in which the Hindus predominate are not interspersed. The two sets of districts form two separate areas.

For the formation of the Eastern Pakistan, one has to take into consideration the distribution of population in both the Provinces of Bengal and Assam. A scrutiny of the population figures shows:—

(i) In Bengal, there are some districts in which the Muslims predominate. In others, the Hindus predominate,

(ii) In Assam also, there are some districts in which the Muslims predominate. In others, the Hindus predominate,

(iii) Districts in which the Muslims predominate and those in which the Hindus predominate are not interspersed. They form separate areas.

(iv) The districts of Bengal and Assam in which the Muslims predominate are contiguous.

Given these facts, it is perfectly possible to create homogeneous Muslim States out of the Punjab, Bengal and Assam by drawing their boundaries in such a way that the areas which are predominantly Hindu shall be excluded. That this is possible is shown by the maps given in the appendix.

In the North-West Frontier Province and Sind, the situation is rather hard. How the matter stands in the North-West Frontier Province and Sind may be seen by an examination of the figures given in the appendices VI to IX. As may be seen from the appendices, there are no districts in which the Hindus in the North-West Frointer Province and Sind are concentrated. They are scattered and are to be found in almost every district of the two provinces in small, insignificant numbers. These appendices show quite unmistakably that the Hindus in Sind and the North-West Frontier Province are mostly congregated in urban areas of the districts. In Sind, the Hindus outnumber the Muslims in most of the towns, while the Muslims outnumber the Hindus in villages. In the North-West Frontier Province, the Muslims outnumber the Hindus in towns as well as in villages.

The case of the North-West Frontier Province and Sind, therefore, differs totally from the case of the Punjab and Bengal. In the Punjab and Bengal, owing to the natural segregation of the Hindus and Muslims in different areas, it is possible to create a homogeneous State by merely altering their boundaries, involving the shifting of the population in a very small degree. But in the North-West Frontier Province and Sind, owing to the scattered state of the Hindu population, alteration of boundaries cannot suffice for creating a homogeneous State. There is only one remedy and that is to shift the population.

Some scoff at the idea of the shifting and exchange of population. But those who scoff can hardly be aware of the complications, which a minority problem gives rise to and the failures attendant upon almost all the efforts made to protect them. The constitutions of the post-war states, as well as of the older states in Europe which had a minority problem, proceeded on the assumption that constitutional safeguards for minorities should suffice for their protection and so the constitutions of most of the new states with majorities and minorities were studded with long lists of fundamental rights and safeguards to see that they were not violated by the majorities. What was the experience ? Experience showed that safeguards did not save the minorities. Experience showed that even a ruthless war on the minorities did not solve the problem. The states then agreed that the best way to solve it was for each to exchange its alien minorities within its border, for its own which was without its border, with a view to bring about homogeneous States. This is what happened in Turky, Greece and Bulgaria. Those, who scoff at the idea of transfer of population, will do well to study the history of the minority problem, as it arose between Turky, Greece and Bulgaria. If they do, they will find that these countries found that the only effective way of solving the minorities problem lay in exchange of population. The task undertaken by the three countries was by no means a minor operation. It involved the transfer of some 20 million people from one habitat to another. But undaunted, the three shouldered the task and carried it to a successful end because they felt that the considerations of communal peace must outweigh every other consideration.

That the transfer of minorities is the only lasting remedy for communal peace is beyond doubt. If that is so, there is no reason why the Hindus and the Muslims should keep on trading in safeguards which have proved so unsafe. If small countries, with limited resources like Greece, Turkey and Bulgaria, were capable of such an undertaking, there is no reason to suppose that what they did cannot be accomplished by Indians. After all, the population involved is inconsiderable and because some obstacles require to be removed, it would be the height of folly to give up so sure a way to communal peace.

There is one point of criticism to which no reference has been made so far. As it is likely to be urged, I propose to deal with it here. It is sure to be asked, how will Pakistan affect the position of the Muslims that will be left in Hindustan ? The question is natural because the scheme of Pakistan does seem to concern itself with the Muslim majorities who do not need protection and abandons the Muslim minorities who do. But the point is : who can raise it ? Surely not the Hindus. Only the Muslims of Pakistan or the Muslims of Hindustan can raise it. The question was put to Mr. Rehmat Ali, the protagonist of Pakistan and this is the answer given by him :—

> "How will it affect the position of the forty five million Muslims in Hindustan proper ?
>
> "The truth is that in this struggle their thought has been more than a wrench to me. They are the flesh of our flesh and the soul of our soul. We can never forget them ; nor they, us. Their present position and future security is, and shall ever be, a matter of great importance to us. As things are at present, Pakistan will not adversely affect their position in Hindustan. On the basis of population (one Muslim to four, Hindus), they will still be entitled to the same representation in legislative as well as administrative fields which they possess now. As to the future, the only effective guarantee we can offer is that of reciprocity, and, therefore, we solemnly undertake to give all those safeguards to non-Muslim minorities in Pakistan which will be conceded to our Muslim minority in Hindustan.
>
> "But what sustains us most is the fact that they know we are proclaiming Pakistan in the highest interest of the 'Millet'. It is as much theirs as it is ours. While for us it is a national citadel, for them it will ever be a moral anchor. So long as the anchor holds, everything is or can be made safe. But once it gives way, all will be lost".

The answer given by the Muslims of Hindustan is equally clear. They say, "We are not weakened by the separation of Muslims into Pakistan and Hindustan. We are better protected by the existence of separate Islamic States on the Eastern and Western borders of Hindustan than we are by their submersion in Hindustan." Who can say that they are wrong ? Has it not been shown that Germany as an outside state was better able to protect the Sudeten Germans in Czechoslovakia than the Sudetens were able to do themselves ?*

Be that as it may, the question does not concern the Hindus. The question that concerns the Hindus is: How far does the creation of Pakistan remove the communal question from Hindustan ? That is a very legitimate question and must be considered. It must be admitted that by the creation of Pakistan, Hindustan is not freed of the communal question. While Pakistan can be made a homogeneous state by redrawing its boundaries, Hindustan must remain a composite state. The Musalmans are scattered all over Hindustan—though they are mostly congregated in towns—and no ingenuity in the matter of redrawing of boundaries can make it homogeneous. The only way to make Hindustan homogeneous is to arrange for exchange of population. Until that is done, it must be admitted that even with the creation of Pakistan, the problem of majority *vs.* minority will remain in Hindustan as before and will continue to produce disharmony in the body politic of Hindustan.

Admitting that Pakistan is not capable of providing a complete solution of the Communal Problem within Hindustan, does it follow that the Hindus on that account should reject Pakistan ? Before the Hindus draw any such hasty conclusion, they should consider the following effects of Pakistan.

First, consider the effect of Pakistan on the magnitude of the communal Problem. That can be best gauged by reference to the Muslim population as it will be grouped within Pakistan and Hindustan.

*The leaders of the Muslim League seem to have studied deeply Hitler's bulling tactics against Czechoslovakia in the interest of the Sudeten Germans and also learned the lessons which those tactics teach. See their threatening speeches in the Karachi Session of the League held in 1937.

Muslim Population in Pakistan.			Muslim Population in Hindustan.	
1. Punjab	..	13,332,460	1. Total Muslim Population in British India (Excluding Burma and Aden).	66,442,766
2. N.-W. F. P.	..	2,227,303		
3. Sind	..	2,830,800	2. Muslim Population grouped in Pakistan and Eastern Bengal State.	47,897,301
4. Baluchistan	..	405,309		
5. Eastern Bengal Muslim States :—			3. Balance of Muslims in British Hindustan	18,545,465
(i) Eastern Bengal		27.497,624		
(ii) Sylhet	..	1,603,805		
Total	..	47,897,301		

What do these figures indicate ? What they indicate is that the Muslims who will be left in British Hindustan will be only 18,545,465 and the rest 47,897,301, forming a vast majority of the total Muslim population, will be out of it and will be the subjects of Pakistan States. This distribution of the Muslim population, in terms of the communal problem, means that while without Pakistan the communal problem in India involves 6½ crores of Muslims, with the creation of Pakistan it will involve only 2 crores of Muslims. Is this to be no consideration for Hindus who want communal peace ? To me, it seems that if Pakistan does not solve the communal problem within Hindustan, it substantially reduces its proportion and makes it of minor significance and much easier of peaceful solution.

In the second place, let the Hindus consider the effect of Pakistan on the communal representation in the Central Legislature. The following table gives the distribution of seats in the Central Legislature, as prescribed under the Government of India Act, 1935 and as it would be, if Pakistan came into being.

Name of the Chamber	Distribution of seats. I.—As at present.			Distribution of seats. II.—After Pakistan.		
	Total seats.	Non-Muslim (Hindu) Territorial Seats.	Muslim Territorial Seats.	Total seats.	Non-Muslim (Hindu) Territorial Seats.	Muslim Territorial Seats.
Council of State.	150	75	49	126	75	25
Federal Assembly.	250	105	82	211	105	43

To bring out clearly the quantitative change in the communal distribution of seats, which must follow the establishment of Pakistan, the above figures are reduced to percentage in the table that follows :—

Name of the Chamber.	Distribution of seats.		Distribution of seats.	
	I.—As at present.		II—After Pakistan	
	Percentage of Muslim seats to Hindu seats.	Percentage of Muslim seats to total seats.	Percentage of Muslim seats to Hindu seats.	Percentage of Muslim seats to total seats.
Council of State	33	66	25	$33^1/_3$
Federal Assembly	33	80	21	40

From this table one can see what vast changes must follow the establishment of Pakistan. Under the Government of India Act, the ratio of Muslim seats to the total is 33% in both the Chambers, but to the Hindu seats, the ratio is 66% in the Council of State and 80% in the Assembly—almost a position of equality with the Hindus. After Pakistan, the ratio of Muslim seats to the total seats falls from $33\frac{1}{3}$% to 25% in the Council and to 21% in the Assembly, while the ratio to Hindu seats falls from 66% to $33\frac{1}{3}$% in the Council and from 80% to 40% in the Assembly. The figures assume that the weightage given to the Muslims will remain the same, even after Hindustan is separated from Pakistan. If the present weightage to Muslims is cancelled or reduced, there would be further improvement in the representation of the Hindus. But assuming that no change in weightage is made, is this a small gain to the Hindus in the matter of representation at the Centre ? To me, it appears that it is a great improvement in the position of the Hindus at the Centre, which would never come to them, if they oppose Pakistan.

These are the material advantages of Pakistan. There is another which is psychological. The Muslims, in Southern and Central India, draw their inspiration from the Muslims of the North and the East. If after Pakistan there is communal peace in the North and the East, as there should be, there being no majorities and minorities therein, the Hindus may reasonably

expect communal peace in Hindustan. This severance of the bond between the Muslims of the North and the East and the Muslims of Hindustan is another gain to the Hindus of Hindustan.

Taking into consideration these effects of Pakistan, it cannot be disputed that if Pakistan does not wholly solve the communal problem within Hindustan, it frees the Hindus from the turbulence of the Muslims as predominant partners. It is for the Hindus to say whether they will reject such a proposal, simply because it does not offer a complete solution. Some gain is better than much harm.

IV

One last question and this discussion of Pakistan in relation to communal peace may be brought to a close. Will the Hindus and the Muslims of the Punjab and Bengal agree to redraw the boundaries of their provinces to make the scheme of Pakistan as flawless as it can be made ?

As for the Muslims, they ought to have no objection to redrawing the boundaries. If they do object, it must be said that they do not understand the nature of their own demand. This is quite possible, since the talk that is going on among Muslim protagonists of Pakistan, is of a very loose character. Some speak of Pakistan as a Muslim National State, others speak of it as a Muslim National Home. Neither care to know whether there is any difference between a National State and a National Home. But there can be no doubt that there is a vital difference between the two. What that difference is was discussed at great length at the time of constituting in Palestine a Jewish National Home. It seems that a clear conception of what this difference is, is necessary, if the likely Muslim opposition to the redrawing of the boundaries is to be overcome.

According to a leading authority :—

> "A National Home connotes a territory in which a people, without receiving the rights of political sovereignty, has nevertheless a recognised legal position and receives the opportunity of developing its moral, social and intellectual ideals."

The British Government itself, in its statement on Palestine policy issued in 1922, defined its conception of the National Home in the following terms :—

> "When it is asked what is meant by the development of the Jewish National Home in Palestine, it may be answered that it is not the imposition of a Jewish nationality upon the inhabitants of Palestine as a whole, but the further development of the existing Jewish Community, with the assistance of Jews in other parts of the world, in order that it may become a centre in which the Jewish people as a whole may take, on grounds of religion and race, an interest and a pride. But in order that this community should have the best prospect of free development and provide a full opportunity for the Jewish people to display its capacities, it is essential that it should be known that it is in Palestine as of right and not on sufferance. This is the reason why it is necessary that the existence of a Jewish National Home in Palestine should be internationally guaranteed, and that it should be formally recognized to rest upon ancient historic connection."

From this, it will be clear that there is an essential difference between a National Home and a National State. The difference consists in this: in the case of a National Home, the people who constitute it do not receive the right of Political sovereignty over the territory and the right of imposing their nationality on others also living in that territory. All that they get, is a recognized legal position guaranteeing them the right to live as citizens and freedom to maintain their culture. In the case of a National State, people constituting it, receive the rights of political sovereignty with the right of imposing their nationality upon the rest.

This difference is very important and it is in the light of this that one must examine their demand for Pakistan. What do the Muslim want Pakistan for ? If they want Pakistan to create a National Home for Muslims, there is no necessity for Pakistan. In the Pakistan Provinces, they already have their National Home with the legal right to live and advance their culture. If they want Pakistan to be a National Muslim State, they are claiming the right of political sovereignty over the territory included in it. This they are entitled to do. But the question is: Should they be allowed to retain, within the boundaries of these Muslim States, Non-Muslim minorities as their subjects, with a right to impose upon them the nationality of these Muslim States ? No doubt, such a right is accepted to be an accompaniment of political

sovereignty. But it is equally true that in all mixed States, this right has become a source of mischief in modern times. To ignore the possibilities of such mischief in the creation of Pakistan will be to omit to read the bloody pages of recent history on which have been recorded the atrocities, murders, plunders and arsons committed by the Turks, Greeks, Bulgars and the Czechs against their minorities. It is possible to take away from a state this right of imposing its nationality upon its subjects, because it is incidental to political sovereignty. But it is possible not to provide any opportunity for the exercise of such a right. This can be done by allowing the Muslims to have such National Muslim States as are strictly homogeneous, strictly ethnic states. Under no circumstances can they be allowed to carve out mixed states composed of Muslims opposed to Hindus, with the former superior in number to the latter.

This is probably not contemplated by the Muslims who are the authors of Pakistan. It was certainly not contemplated by Sir M. Iqbal, the originator of the scheme. In his Presidential address to the Muslim League in 1930, he expressed his willingness to agree to " the exclusion of Ambala Division and perhaps of some other districts where non-Muslims predominate" on the ground that such exclusion " will make it less extensive and more Muslim in population". On the other hand, it may be that those who are putting forth the Scheme of Pakistan, do contemplate that it will include the Punjab and Bengal with their present boundaries. To them it must become clear, that to insist upon the present boundaries is sure to antagonize even those Hindus who have an open mind on the question. The Hindus can never be expected to consent to the inclusion of the Hindus in a Muslim State deliberately created for the preservation and propagation of Muslim faith and Muslim culture. The Hindus will no doubt oppose. Muslims must not suppose that it will take long to find them out. Muslims, if they insist upon the retention of the present boundaries, will open themselves to the accusation that behind their demand for Pakistan there is something more sinister than a mere desire to create a National Home or a National State. They will be accused of a design to perfect the scheme of Hindu hostages in Muslim hands

by increasing the balance of Muslim majorities against Hindu minorities in the Muslim areas.

So much, for considerations which ought to weigh with the Muslims in the matter of changing the provincial boundaries to make Pakistan.

Now, as to the considerations which ought to weigh with the Hindus of the Punjab and Bengal. The Hindus are the more difficult of the two parties to the question. In this connection it is enough to consider the reaction of the high caste Hindus only. For, it is they who guide the Hindu masses and form Hindu opinion. Unfortunately, the high caste Hindus are bad as leaders. They have a trait of character which often leads the Hindus to disaster. This trait is formed by their acquisitive instinct and aversion to share with others the good things of life. They have a monopoly of education and wealth, and with wealth and education they have captured the State. To keep this monopoly to themselves has been the ambition and goal of their life. Charged with this selfish idea of class domination, they take every move to exclude the lower classes of Hindus from wealth, education and power, the surest and the most effective being the preparation of scriptures, inculcating upon the minds of the lower classes of Hindus the teaching that their duty in life is only to serve the higher classes. In keeping this monopoly in their own hands and excluding the lower classes from any share in it, the high caste Hindus have succeeded for a long time and beyond measure, it is only recently that the lower class Hindus rose in revolt against this monopoly by starting the Non-Brahmin Parties in the Madras and the Bombay Presidencies and the C. P. Still the high caste Hindus have successfully maintained their privileged position. This attitude of keeping education, wealth and power as a close preserve for themselves and refusing to share it, which the high caste Hindus have developed in their relation with the lower classes of Hindus, is sought to be extended by them to the Muslims. They want to exclude the Muslims from place and power, as they have done to the lower class Hindus. This trait of the high caste Hindus is the key to the understanding of their politics.

Two illustrations reveal this trait of theirs. The Hindus in 1929 opposed the separation of Sind from the Bombay Presidency before the Simon Commission, strenuously and vehemently. But in 1915, the Hindus of Sind put forth the opposite plea and/wanted Sind to be separated from Bombay. The reason in both the cases was the same. In 1915, there was no representative Government in Sind, which, if there was one would have undoubtedly been a Muslim Government. The Hindus advocated separation because in the absence of a Muslim Government, they could obtain jobs in Government in a greater degree. In 1929, they objected to the separation of Sind because they knew that a separate Sind would be under a Muslim Government, and a Muslim Government was sure to disturb their monopoly and displace them to make room for Muslim candidates. The opposition of the Bengali Hindus to the Partition of Bengal is another illustration of this trait of the high caste Hindus. The Bengali Hindu had the whole of Bengal, Bihar, Orissa, Assam and even U. P. for his pasture. He had captured the civil service in all these Provinces. The partition of Bengal meant a diminution in the area of this pasture. It means that the Bengali Hindu was to be ousted from Eastern Bengal to make room for the Bengali Musalman who had so far no place in the civil service of Bengal. The opposition to the partition of Bengal on the part of the Bengali Hindus, was due principally to their desire not to allow the Bengal Musalmans to take their place in Eastern Bengal. Little did the Bengali Hindus dream that by opposing partition and at the same time demanding Swaraj they were preparing the way for making the Musalmans the rulers of both Eastern as well as Western Bengal.

These thoughts occur to one's mind because one fears that the high caste Hindus, blinded by their hereditary trait, might oppose Pakistan for no other reason except that it limits the field for their self-seeking careers. Among the many reasons that might come in the way of Pakistan, one need not be surprised, if one of them happens to be the selfishness of the high caste Hindus.

There are two alternatives for the Hindus of the Punjab and Bengal and they may be asked to face them fairly and squarely. The Muslims in the Punjab number 13,332,460 and the

Hindus, with Sikhs and the rest, number 11,392,732. The difference is only 1,939,728. This means that the Muslim majority in the Punjab is only a majority of 8 p.c. Given these facts, which is better : To retain the unity of the Punjab and allow the Muslim majority of 54 p.c. to rule the Hindu minority of 46 p.c. or to redraw the boundaries, to allow the Muslims and the Hindus to be under separate national states, and thus rescue the whole body of Hindus from the terrors of the Muslim rule ?

The Muslims in Bengal number 27,497,624 and the Hindus number 21,570,407. The difference is only of 5,927,217. This means that the Muslim majority in Bengal is only a majority of 12 p.c. Given these facts, which is better : To oppose the creation of a National Muslim State out of Eastern Bengal and Sylhet by refusing to redraw the boundaries and allow the Muslim majority of only 12 p.c. to rule the Hindu minority of 44 p.c.; or to consent to redraw the boundaries, to have Muslims and Hindus placed under separate National States, and thus rescue the 44 p.c. of the Hindus from the horrors of the Muslim rule ?

Let the Hindus of Bengal and the Punjab consider which alternative they should prefer. It seems to me that the moment has come when the high caste Hindus of Bengal and the Punjab should be told that if they propose to resist Pakistan, because it cuts off a field for gainful employment, they are committing the greatest blunder. The time for successfully maintaining in their own hands a monopoly of place and power is gone. They may cheat the lower orders of the Hindus in the name of nationalism, but they cannot cheat the Muslim majorities in the Muslim Provinces and keep their monopoly of place and power. The resolution of the Hindus—if their cry against Pakistan can be regarded as such— to live under a Muslim majority and oppose self-determination may be a very courageous thing. But it will not be a very wise thing if the Hindus believe that they will be able to maintain their place and power by fooling the Musalmans. As Lincoln said, it is not possible to fool all people for all times. If the Hindus choose to live under a Muslim majority the chances are that they may loose all. On the other hand, if the Hindus of Bengal and the

Punjab agree to separate, true, they will not get more, but they will certainly not lose all.

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PART III

WHAT IF NOT PAKISTAN?

Having stated the Muslim case for Pakistan and the Hindu case against it, it is necessary to turn to the alternatives to Pakistan, if there be any. In forming one's judgment on Pakistan, one must take into account the alternatives to it. Either there is no alternative to Pakistan : or there is an alternative to Pakistan, but it is worse than Pakistan. Thirdly, one must also take into consideration what would be the consequences, if neither Pakistan nor its alternative is found acceptable to the parties concerned. The relevant data, having a bearing on these points, are presented in this part under the following heads :—

1 Hindu alternative to Pakistan.

2 Muslim alternative to Pakistan.

3 Lessons from abroad.

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CHAPTER VII

HINDU ALTERNATIVE TO PAKISTAN

I

Thinking of the Hindu alternative to Pakistan, the scheme that at once comes to one's mind is the one put forth by the late Lala Hardayal in 1925. It was published in the form of a statement which appeared in the *Pratap* of Lahore. In this statement, which he called his political testament, Lala Hardayal said :—

> "I declare that the future of the Hindu race, of Hindustan and of the Punjab, rests on these four pillars: (1) Hindu Sangathan, (2) Hindu Raj, (3) Shuddhi of Moslems, and (4) Conquest and Shuddhi of Afghanistan and the Frontiers. So long as the Hindu nation does not accomplish these four things, the safety of our children and great-grand children will be ever in danger, and the safety of the Hindu race will be impossible. The Hindu race has but one history, and its institutions are homogeneous. But the Musalmans and Christians are far removed from the confines of Hindustan, for their religions are alien and they love Persian, Arab and European institutions. Thus, just as one removes foreign matter from the eye, Shuddhi must be made of these two religions. Afghanistan and the hilly regions of the frontier were formerly part of India, but are at present under the domination of Islam . . . . . Just as there is Hindu religion in Nepal, so there must be Hindu institutions in Afghanistan and the frontier territory; otherwise it is useless to win Swaraj. For mountain tribes are always warlike and hungry. If they become our enemies, the age of Nadirshah and Zamanshah will begin anew. At present English officers are protecting the frontiers; but it cannot always be ..... If Hindus want to protect themselves, they must conquer Afghanistan and the frontiers and convert all the mountain tribes."

I do not know how many Hindus would come forward to give their support to this scheme of Lala Hardayal as an alternative to Pakistan.

In the first place, Hindu religion is not a proselytising religion. Maulana Mahomed Ali was quite right when, in the course of his address as President of the Congress, he said:

> "Now, this has been my complaint for a long time against Hinduism, and on one occasion, lecturing at Allahabad in 1907, I had pointed out

* See *Times of India* dated 25-7-1925, "Through Indian Eyes".

the contrast between Musalmans and Hindus, by saying that the worst that can be said of a Muslim was that he had a tasteless mess which he called a dish fit for kings, and wanted all to share it with him, thrusting it down the throats of such as did not relish it and would rather not have it, while his Hindu brother, who prided himself on his cookery, retired into the privacy of his kitchen and greedily devoured all that he had cooked, without permitting even the shadow of his brother to fall on his food, or sparing even a crumb for him. This was said not altogether in levity ; and in fact, I once asked Mahatma Gandhi to justify this feature of his faith to me."

What answer the Mahatma gave to his question, Mr. Mahmed Ali did not disclose. The fact is that however much the Hindus may wish, Hindu religion cannot become a missionary religion like Islam or Christianity. It is not that the Hindu religion was never a missionary religion. On the contrary, it was once a missionary religion—indeed could not but have been a missionary religion, otherwise it is difficult to explain how, it could have spread over an area so vast as the Indian continent.* But once a missionary religion, Hinduism perforce ceased to be a missionary religion after the time when the Hindu society developed its system of castes. For, caste is incompatible with conversion. To be able to convert a stranger to its religion, it is not enough for a community to offer its creed. It must be in a position to admit the convert to its social life and to absorb and assimilate him among its kindred. It is not possible for the Hindu society to satisfy this prerequisite of effective conversion. There is nothing to prevent a Hindu, with a missionary zeal, to proceed to convert an alien to the Hindu faith. But before he converts the alien, he is bound to be confronted with the question : What is to be the caste of the convert ? According to the Hindus, for a person to belong to a caste he must be born in it. A convert is not born in a caste, therefore he belongs to no caste. This is also an important question. More than political or religious, man is a social animal. He may not have, need not have, religion ; he may not have, need not have, politics. He must have society ; he cannot do without society. For a Hindu to be without caste is to be without society. Where there is no society for the convert, how

*On the question whether the Hindu Religion was a missionary Religion and if it was, why it ceased to be so, see my essay on *Caste and Conversion* in the Annual Number of the *Telugu Samachar* for 1926.

can there be any conversion ? So long as Hindu society is fragmented in autonomous and autogenic castes, Hindu religion cannot be a missionary religion. The conversion of the Afghans and the frontier tribes to Hinduism is, therefore, an idle dream.

In the second place, Lala Hardayal's scheme must call for financial resources the immensity of which it is hardly possible to compute. Who can furnish the funds necessary for the conversion of the Afghans and the Frontier Tribesmen to Hinduism ? The Hindus, having ceased to convert others to their faith for a long time, have also lost the zeal for conversion. Want of zeal is bound to affect the question of finances. Further, Hindu society being moulded in the cast of the *Chaturvarna,* wealth has, from very ancient times, been most unevenly distributed. It is only the Baniya who is the heir to wealth and property among the Hindus. There are, of course, the landlords who are the creation of foreign invaders or native rebels, but they are not as numerous as the Baniya. The Baniya is money-made and his pursuits are solely for private gain. He knows no other use of money except to hold it and to transmit it to his descendants. Spread of religion or acquisition and promotion of culture do not interest him. Even decent living has no place in his budget. This has been his tradition for ages. If money is expected, he is not much above the brute in the conception and manner of life. Only one new service, on the expenditure side, has found a place in his budget. That service is politics. This happened since the entry of Mr. Gandhi as a political leader. That new service is the support of Gandhian politics. Here again, the reason is not love of politics. The reason is to make private gain out of public affairs. What hope is there that such men will spend money on such a bootless cause as the spread of Hindu religion among the Afghans and Frontier Tribes ?

Thirdly, there is the question of facilities for conversion that may be available in Afghanistan. Lala Hardayal evidently thought that it is possible to say in Afghanistan, with the same impunity as in Turkey, that the Koran is wrong or out of date. Only one year before the publication of his political testament by Lala Hardayal, i.e., in 1924, one Niamatulla—a follower

of Mirza Ghulam Ahamed of Quadiyan—who claimed to be the messiah and Mahdi and a prophet of a sort—was stoned to death* at Kabul by the order of the highest ecclesiastical tribunal of Afghanistan. The crime of this man was, as reported by a Khilafat paper, that he was professing and preaching ideas and beliefs, inconsistent with Islam and Shariat. This man, says the same paper, was stoned to death according to the agreeing judgments of the first Shariat (canon) Court, the Central Appellate Court and the Ulema and Divines of the final Appellate Committee of the Ministry of Justice. In the light of these difficulties, the scheme must be said to be wild in its conception and is sure to prove ruinous in its execution. It is adventurous in character and is too fantastic to appeal to any reasonable man except perhaps some fanatical Arya Samajists of the Punjab.

II

The stand taken by Hindu Mahasabha has been defined by Mr. V. D. Savarkar, the President of the Sabha, in his presidential addresses at the annual sessions of the Sabha. As defined by him, the Hindu Maha Sabha is against Pakistan and proposes to resist it by all means. What these means are we do not know. If they are force, coercion and resistance, they are only negative alternatives and Mr. Savarkar and the Hindu Maha Sabha alone can say how far these means will succeed.

It would, however, not be fair to Mr. Savarkar to say that he has only a negative attitude towards the claim put forth by the Muslims of India. He has put forth his positive proposals in reply to them.

To understand his positive proposals, one must grasp some of his basic conceptions. Mr. Savarkar lays great stress on a proper understanding of the terms, Hinduism, Hindutva and Hindudom. He says :†

> "In expounding the ideology of the Hindu movement, it is absolutely necessary to have a correct grasp of the meaning attached to these three terms. From the word "Hindu" has been coined the word "Hinduism" in English. It means the schools or system of Religion the Hindus

* See Report in *Times of India* 27-11 -24, "Through Indian Eyes".

† Speech at the Calcutta Session of the Hindu Maha Sabha held in December 1939, p. 14.

follow. The second word "Hindutva" is far more comprehensive and refers not only to the religious aspects of the Hindu people as the word "Hinduism" does but comprehend even their cultural, linguistic, social and political aspects as well. It is more or less akin to "Hindu Polity" and its nearly exact translation would be "Hinduness". The third word "Hindudom" means the Hindu people spoken of collectively. It is a collective name for the Hindu World, just as Islam denotes the Moslem World."

Mr. Savarkar takes it as a gross misrepresentation to say that the Hindu Maha Sabha is a religious body. In refutation of this misrepresentation, Mr. Savarkar says : *

"It has come to my notice that a very large section of the English . educated Hindus hold back from joining the Hindu Maha Sabha.... under the erroneous idea that it is an exclusively Religious organization— something like a Christian Mission. Nothing could be far from truth. The Hindu Maha Sabha is not a Hindu Mission. It leaves Religious questions regarding theism, monotheism, Pantheism or even atheism to be discussed and determined by the different Hindu schools of religious persuasions. It is not a Hindu Dharma Maha Sabha but a Hindu National Maha Sabha. Consequently by its very constitution it is debarred to associate itself exclusively as a partisan with any particular religious school or sect even within the Hindu fold. As a national Hindu body it will of course propagate and defend the National Hindu Church comprising each and all religions of Hindusthani origin against any non-Hindu attack or encroachment. But the sphere of its activity is far more comprehensive than that of an exclusively religious body. The Hindu Maha Sabha identifies itself with the National life of Hindudom in all its entirety, in all its social, economical, cultural and above all political aspects and is pledged to protect and promote all that contributes to the freedom, strength and glory of the Hindu Nation; and as an indispensable means to that end to attain Purna Swarajya, absolute political Independence of Hindusthan by all legitimate and proper means."

Mr. Savarkar does not admit that the Hindu Maha Sabha is started to counteract the Muslim League and that as soon as the problems arising out of the Communal Award are solved to the satisfaction of both Hindus and Musalmans, the Hindu Maha Sabha will vanish. Mr. Savarkar insists that the Hindu Maha Sabha must continue to function even after India becomes politically free. He says:†

"..... Many a superficial critic seems to fancy that the Maha Sabha was only contrived to serve as a make-weight, as a reaction checkmating

*Speech Ibid., p. 25.

†Ibid, pp. 24-27.

the Moslem League or the anti-Hindu policy of the present leaders of the Congress and will be out of court or cease automatically to function as soon as it is shorne of this spurious excuse to exist. But if the aims and object of the Maha Sabha mean anything it is clear that it was not the outcome of any frothy effusion, any fussy agitation to remove a grievance here or oppose a seasonal party there. The fact is that every organism whether, individual or social which is living and deserves to survive throws out offensive and defensive organs as soon as it is brought to face adversely changing environments. The Hindu Nation too as soon as it recovered and freed itself from the suffocating grip of the pseudo-nationalistic ideology of the Congress brand developed a new organ to battle in the struggle for existence under the changed conditions of modern age. This was the Hindu Maha Sabha. It grew up of a fundamental necessity of the National life and not of any ephemeral incident. The constructive side of its aims and objects make it amply clear that its mission is as abiding as the life of the Nation itself. But that apart, even the day to day necessity of adapting its policy to the ever changing political currents makes it incumbent on Hindudom to have an exclusively Hindu organization independent of any moral or intellectual servility or subservience to any non-Hindu or jointly representative institution, to guard Hindu interests and save them from being jeopardised. It is not so only under the present political subjection of Hindustan but it will be all the more necessary to have some such exclusively Hindu organization, some such Hindu Maha Sabha in substance whether it is identical with this present organization or otherwise to serve as a watchtower at the gates of Hindudom for at least a couple of centuries to come, even after Hindustan is partially or wholly free and a National Parliament controls its political destiny.

"Because, unless something altogether cataclysmic in nature upsets the whole political order of things in the world which practical politics cannot envisage today, all that can be reasonably expected in immediate future is that we Hindus may prevail over England and compel her to recognise India as a self-governing unit with the status contemplated in the Westminster Statute. Now a National Parliament in such a self-governing India can only reflect the electorate as it is, the Hindus and the Moslems as we find them, their relations a bit bettered, perhaps a bit worsened. No realist can be blind to the probability that the extraterritorial designs and the secret urge goading on the Moslems to transform India into a Moslem state may at any time confront the Hindustani state even under self-government either with a Civil War or treacherous overtures to alien invaders by the Moslems. Then again there is every likelihood that there will ever continue at least for a century

to come a danger of fanatical riots, the scramble for services, legislative seats, weightages out of proportion to their population on the part of the Moslem minority and consequently a constant danger threatening internal peace. To checkmate this probability which if we are wise we must always keep in view even after Hindustan attains the status of a self-governing country, a powerful and exclusive organization of Hindudom like the Hindu Maha Sabha will always prove a sure and devoted source of strength, a reserve force for the Hindus to fall back upon to voice their grievances more effectively than the joint Parliament can do, to scent danger ahead, to warn the Hindus in time against it and to fight out if need be any treacherous design to which the joint state itself may unwittingly fall a victim.

"The History of Canada, of Palestine, of the movement of the Young Turks will show you that in every state where two or more such conflicting elements as the Hindus and Moslems in India happen to exist as constituents, the wiser of them has to keep its exclusive organization intact, strong and watchful to defeat any attempt at betrayal or capture of the National State by the opposite party; especially so if that party has extra-territorial affinities, religious or cultural, with alien bordering states."

Having stated what is Hindustan, and what is Hindu Maha Sabha, Mr. Savarkar next proceeds to define his conception of Swaraj. According to Mr. Savarkar :*

"Swaraj to the Hindus must mean only that in which their "Swaraj", their "Hindutva" can assert itself without being overlorded by any non-Hindu people, whether they be Indian Territorials or extra-Territorials— some Englishmen are and may continue to be territorially born Indians. Can, therefore, the overlordships of these Anglo-Indians be a "Swarajya" to the Hindus ? Aurangzeb or Tipu were hereditary Indians, nay, were the sons of converted Hindu mothers. Did that mean that the rule of Aurangzeb or Tipu was a "Swarajya" to the Hindus? No! Although they were territorially Indians they proved to be the worst enemies of Hindudom and therefore, a Shivaji, a Gobindsingh, a Pratap or the Peshwas had to fight against the Moslem domination and establish real Hindu Swarajya."

As part of his Swaraj Mr. Savarkar insists upon two things.

Firstly, the retention of the name Hindustan as the proper name for India.†

"The name "Hindustan" must continue to be the appellation of our

*Speech 1939, Ibid., p. 18.

† Ibid., pp. 19-20.

country. Such other names as India, Hind, etc., being derived from the same original word Sindhu may be used but only to signify the same sense—the land of the Hindus, a country which is the abode of the Hindu Nation. Aryavarta, Bharat-Bhumi and such other names are of course the ancient and the most cherished epithets of our Mother Land and will continue to appeal to the cultured elite. In this insistence that the Mother Land of the Hindus must be called but "Hindustan", no encroachment or humiliation is implied in connection with any of our non-Hindu countrymen. Our Parsee and Christian countrymen are already too akin to us culturally and are too patriotic and the Anglo-Indians too sensible to refuse to fall in line with us Hindus on so legitimate a ground. So far as our Moslem countrymen are concerned it is useless to conceal the fact that some of them are already inclined to look upon this molehill also as an insuperable mountain in their way to Hindu-Moslem unity. But they should remember that the Moslems do not dwell only in India nor are the Indian Moslems the only heroic remnants of the Faithful in Islam. China has crores of Moslems. Greece, Palestine and even Hungary and Poland have thousands of Moslems amongst their nationals. But being there a minority, only a community, their existence in these countries has never been advanced as a ground to change the ancient names of these countries which indicate the abodes of those races whose overwhelming majority owns the land. The country of the Poles continues to be Poland and of the Grecians as Greece. The Moslems there did not or dared not to distort them but are quite content to distinguish themselves as Polish Moslems or Grecian Moslems or Chinese Moslems when occasion arises, so also our Moslem countrymen may distinguish themselves nationally or territorially whenever they want, as "Hindustanee Moslems" without compromising in the least their separateness as Religious or Cultural entity. Nay, the Moslems have been calling themselves as "Hindustanis" ever since their advent in India, of their own accord.

"But if inspite of it all some irascible Moslem sections amongst our countrymen object even to this name of our Country, that is no reason why we should play cowards to our own conscience. We Hindus must -not betray or break up the continuity of our Nation from the Sindhus in Rigvedic days to the Hindus of our own generation which is implied in "Hindustan", the accepted appellation of our Mother Land. Just as the land of the Germans is Germany, of the English England, of the Turks Turkistan, of the Afghans Afghanistan—even so we must have it indelibly impressed on the map of the earth for all times to come a "Hindustan"—the land of the " Hindus".

The second is the retention of Sanskrit as sacred language, Hindi as national language and Nagari as the script of Hindudom.*

"The Sanskrit shall be our "देवभाषा" (Deva Bhasha)§ our sacred language and the "Sanskrit Nishtha"† Hindi, the Hindi which is derived from Sanskrit and draws its nourishment from the latter, is our "राष्ट्रभाषा" (Rashtra Bhasha)‡ our current national language—besides being the richest and the most cultured of the ancient languages of the world, to us Hindus the Sanskrit is the holiest tongue of tongues. Our scriptures, history, philosophy and culture have their roots so deeply imbedded in the Sanskrit literature that it forms veritably the brain of our Race. Mother of the majority of our mother tongues, she has suckled the rest of them at her breast. All Hindu languages current today whether derived from Sanskrit or grafted on to it can only grow and flourish on the sap of life they imbibe from Sanskrit. The Sanskrit language therefore must ever be an indispensable constituent of the classical course for Hindu youths.

"In adopting the Hindi as the National tongue of Hindudom no humiliation or any invidious distinction is implied as regards other provincial tongues. We are all as attached to our provincial tongues as to Hindi and they will all grow and flourish in their respective spheres. In fact some of them are today more progressive and richer in literature. But nevertheless, taken all in the Hindi can serve the purpose of a National Pan-Hindu language best. It must also be remembered that the Hindi is not made a National Language to order. The fact is that long before either the English or even the Moslems stepped in India the Hindi in its general form had already come to occupy the position of a National tongue throughout Hindustan. The Hindu pilgrim, the tradesman, the tourist, the soldier, the Pandit travelled up and down from Bengal to Sind and Kashmere to Rameshwar by making himself understood from locality to locality through Hindi. Just as the Sanskrit was the National Language of the Hindu intellectual world even so Hindi has been for at least a thousand years in the past the National Indian Tongue of the Hindu community.....

"By Hindi we of course mean the pure "Sanskrit Nistha" Hindi, as we find it for example in the "Satyartha Prakash" written by Maharsi Dayananda Saraswati. How simple and untainted with a single unnecessary foreign word is that Hindi and how expressive withal! It may be mentioned in passing that Swami Dayanandaji was about the first Hindu leader who gave conscious and definite expression to the

*Speech 1939, pp. 21,22,23.

§ Language of Gods.

†Basically Sanskrit.

‡National Language.

view that Hindi should be the Pan-Hindu National language of India. "This Sanskrit Nistha" Hindi has nothing to do with that hybrid, the so-called Hindustani which is being hatched up by the Wardha scheme. It is nothing short of a linguistic monstrosity and must be ruthlessly suppressed. Not only that but it is our bounden duty to oust as ruthlessly all unnecessary alien words whether Arabian or English, from every Hindu tongue—whether provincial or dialectical .....

"..... Our Sanskrit alphabetical order is phonetically about the most perfect which the world has yet devised and almost all our current Indian scripts already follow it. The Nagari Script too follows this order. Like the Hindi language the Nagari Script too has already been current for centuries all over India amongst the Hindu literary circles for some two thousand years at any rate in the past and was even popularly nick-named as the " Shastri Lipi" the script of our Hindu Scriptures ..... It is a matter of common knowledge that if Bengali or Gujarathi is printed in Nagari it is more or less understood by readers in several other provinces. To have only one common language throughout Hindustan at a stroke is impracticable and unwise. But to have the Nagari script as the only common script throughout Hindudom is much more feasible. Nevertheless, it should be borne in mind that the different Hindu scripts current in our different provinces have a future of their own and may flourish side by side with the Nagari. All that is immediately indispensable in the common interest of Hindudom as a whole is that the Nagari Script must be made a compulsory subject along with the Hindi language in every school in the case of Hindu students."

What is to be the position of the Non-Hindu minorities under the Swaraj as contemplated by Mr. Savarkar ? On this question, this is what Mr. Savarkar has to say : *

"When once the Hindu Maha Sabha not only accepts but maintains the principles of "one man one vote" and the public services to go by merit alone added to the fundamental rights and obligations to be shared by all citizens alike irrespective of any distinction of Race or Religion .... any further mention of minority rights is on the principle not only unnecessary but self-contradictory. Because it again introduces a consciousness of majority and minority on Communal basis. But as practical politics requires it and as the Hindu Sanghatanists want to relieve our non-Hindu countrymen of even a ghost of suspicion, we are prepared to emphasise that the legitimate rights of minorities with regard to their Religion, Culture, and Language will be expressly guaranteed : on one condition only that the equal rights of the majority also must not in any case be encroached upon or abrogated. Every minority may have separate schools to train up their children in their own tongue, their own

* Ibid., p. 4.

religious or cultural institutions and can receive Government help also for these,—but always in proportion to the taxes they pay into the common exchequer. The same principle must of course hold good in case of the majority too.

"Over and above this, in case the constitution is not based on joint electorates and on the unalloyed National principle of one man one vote, but is based on the communal basis then those minorities who wish to have separate electorate or reserve seats will be allowed to have them,—but always in proportion to their population and provided that it does not deprive the majority also of an equal right in proportion of its population too."

That being the position assigned to the minorities, Mr. Savarkar concludes* that under his scheme of Swaraj:

> "The Moslem minority in India will have the right to be treated as equal citizens, enjoying equal protection and civic rights in proportion to their population. The Hindu majority will not encroach on the legitimate rights of any non-Hindu minority. But in no case can the Hindu majority resign its right which as a majority it is entitled to exercise under any democratic and legitimate constitution. The Moslem minority in particular has not obliged the Hindus by remaining in minority and therefore, they must remain satisfied with the status they occupy and with the legitimate share of civic and political rights that is their proportionate due. It would be simply preposterous to endow the Moslem minority with the right of exercising a practical veto on the legitimate rights and privileges of the majority and call it a "Swarajya". The Hindus do not want a change of masters, are not going to struggle and fight and die only to replace an Edward by an Aurangazeb simply because the latter happens to be born within Indian borders, but they want henceforth to be masters themselves in their own house, in their own Land."

And it is because he wants his Swaraj to bear the stamp of being a Hindu Raj that Mr. Savarkar wants that India should have the appellation of Hindustan.

This structure has been reared by Mr. Savarkar on two propositions which he regards as fundamental.

The first is that the Hindu are a nation by themselves. He enunciates this proposition with great elaboration and vehemence. Says† Mr. Savarkar:

> "In my Presidential speech at Nagpur I had, for the first time in the history of our recent politics pointed out in bold relief that the whole Congress ideology was vitiated *ab initio* by its unwitted assumption that the territorial unity, a common habitat, was the only factor that

* Ibid., p. 16.

† Ibid., pp. 14-17.

constituted and ought to and must constitute a Nation. This conception of a Territorial Nationality has since then received a rude shock in Europe itself from which it was imported wholesale to India and the present War has justified my assertion by exploding the myth altogether. All Nations carved out to order on the Territorial design without any other common bond to mould each of them into a national being have gone to rack and ruin, tumbled down like a house of cards. Poland and Czechoslovakia will ever serve as a stern warning against any such efforts to frame heterogeneous peoples into such hotch-potch Nation, based only on the shifting sands of the conception of Territorial Nationality, not cemented by any cultural, racial or historical affinities and consequently having no common will to incorporate themselves into a Nation. These treaty-Nations broke up at the first opportunity they got: The German part of them went over to Germany, the Russian to Russia, Czechs to Czechs and Poles to Poles. The cultural, linguistic, historical and such other organic affinities proved stronger than the Territorial one. Only those Nations have persisted in maintaining their National unity and identity during the last three to four centuries in Europe which had developed racial, linguistic cultural and such other organic affinities in addition to their Territorial unity or even at times in spite of it and consequently willed to be homogeneous National units—such as England, France, Germany, Italy, Portugal, etc.

"Judged by any and all of these tests which go severally and collectively to form such a homogeneous and organic Nation, in India we Hindus are marked out as an abiding Nation by ourselves. Not only do we own a common Fatherland, a Territorial unity, but what is scarcely found anywhere else in the world, we have a common Holy Land which is identified with our common Fatherland. This Bharat Bhumi, this Hindustan, India is both our पितृभू and पुण्यभू Our patriotism therefore is doubly sure. Then, we have common affinities, cultural, religious, historical, linguistic, and racial which through the process of countless centuries of association and assimilation moulded us into a homogeneous and organic nation and above all induced a will to lead a corporate and common national life. The Hindus are no treaty Nation—but an organic National Being.

"One more pertinent point must be met as it often misleads our Congressite Hindu brethren in particular. The homogeneity that wields a people into a National Being does not only imply the total absence of all internal differences, religious, racial or linguistic, of sects and sections amongst themselves. It only means that they differ more from other people as a national unit than they differ amongst themselves. Even the most unitarian nations of today—say the British or the French— cannot be free from any religious, linguistic, cultural, racial or other differences, sects or sections or even some antipathies existing amongst themselves. National homogeneity connotes oneness of a people in relation to the contrast they present to any other people as a whole.

"We Hindus, in spite of thousand and one differences within our fold, are bound by such religious, cultural, historical, racial, linguistic and other affinities in common as to stand out as a definitely homogeneous people as soon as we are placed in contrast with any other non-Hindu people— say the English or Japanese or even the Indian Moslems. That is the reason why today we the Hindus from Cashmere to Madras and Sindh to Assam will have to be a Nation by ourselves"...

The second proposition on which Mr. Savarkar has built up his scheme relates to the definition of the term Hindu. According to Mr. Savarkar a Hindu is a person :

"..... who regards and owns this Bharat Bhumi, this land from the Indus to the Seas, as his Fatherland as well as his Holy Land ;—i.e., the land of the origin of his religion, the cradle of his faith.

The followers therefore of Vaidicism, Sanatanism, Jainism, Buddhism, Lingaitism, Sikhism, the Arya Samaj, the Brahmosamaj, the Devasamaj, the Prarthana Samaj and such other religions of Indian origin are Hindus and constitute Hindudom, i.e., Hindu people as a whole.

Consequently the so-called aboriginal or hill-tribes also are Hindus: because India is their Fatherland as well as their Holy Land, whatever form of religion or worship they follow. The definition rendered in Sanskrit stands thus:

।। असिंधु सिंध पन्यंता यस्म भारत भूमिका ।।
।। पितृभू : पुण्यभूश्रैव स वै हिंदुरितिस्मृतः ।। १ ।।

This definition, therefore, should be recognized by the Government and made the test of 'Hindutva' in enumerating the population of Hindus in the Government census to come."

This definition of the term Hindu has been framed with great care and caution. It is designed to serve two purposes which Mr. Savarkar has in view. First, to exclude from it Muslims, Christians, Parsis and Jews by prescribing the recognition of India as a Holy Land as a qualification for being a Hindu. Secondly, to include Buddhists, Jains, Sikhs, etc., by not insisting upon belief in the sanctity of the Vedas as an element in the qualifications.

Such is the scheme of Mr. Savarkar and the Hindu Maha Sabha. As must have been noticed, the scheme has some disturbing features.

One is the categorical assertion that the Hindus are a nation by themselves. This, of course, means that the Muslims are a separate nation by themselves. That this is his view, Mr. Savarkar does not leave to be inferred. He insists upon it in no uncertain

terms and with the most absolute emphasis he is capable of. Speaking at the Hindu Maha Sabha Session held at Ahmedabad in 1937, Mr. Savarkar said:—

> "Several infantile politicians commit the serious mistake in supposing that India is already welded into a harmonious nation, or that it could be welded thus for the mere wish to do so. These our well-meaning but unthinking friends take their dreams for realities. That is why they are impatient, of communal tangles and attribute them to communal organizations. But the solid fact is that the so-called communal questions are but a legacy handed down to us by centuries of a cultural, religious and national antagonism between the Hindus and the Muslims. When the time is ripe you can solve them ; but you cannot suppress them by merely refusing recognition of them. It is safer to diagnose and treat deep-seated disease than to ignore it. Let us bravely face unpleasant facts as they are. India cannot be assumed today to be a unitarian and homogeneous nation, but on the contrary these are two nations in the main, the Hindus and the Muslims in India."

Strange as it may appear, Mr. Savarkar and Mr. Jinnah instead of being opposed to each other on the one nation *versus* two nations issue are in complete agreement about it. Both agree, not only agree but insist that there are two nations in India—one the Muslim nation and the other the Hindu nation. They differ only as regards the terms and conditions on which the two nations should live. Mr. Jinnah says India should be cut up into two, Pakistan and Hindustan, the Muslim nation to occupy Pakistan and the Hindu nation to occupy Hindustan. Mr. Savarkar on the other hand insists that, although there are two nations in India, India shall not be divided into two parts, one for Muslims and the other for the Hindus ; that the two nations shall dwell in one country and shall live under the mantle of one single constitution; that the constitution shall be such that the Hindu nation will be enabled to occupy a predominant position that is due to it and the Muslim nation made to live in the position of subordinate co-operation with the Hindu nation. In the struggle for political power between the two nations the rule of the game, which Mr. Savarkar prescribes, is to be one man one vote, be the man Hindu or Muslim. In his scheme a Muslim is to have no advantage which a Hindu does not have. Minority is to be no justification for privilege and majority is to be no ground for penalty. The State will guarantee the Muslims any defined measure of political power in the form

of Muslim religion and Muslim culture. But the State will not guarantee secured seats in the Legislature or in the Administration and, if such guarantee is insisted upon by the Muslims,* such guaranteed quota is not to exceed their proportion to the general population. Thus by confiscating its weightages, Mr. Savarkar would even strip the Muslim nation of all the political privileges it has secured so far.

This alternative of Mr. Savarkar to Pakistan has about it a frankness, boldness and definiteness which distinguishes it from the irregularity, vagueness and indefiniteness which characterizes the Congress declarations about minority rights. Mr. Savarkar's scheme has at least the merit of telling the Muslims, thus far and no further. The Muslims know where they are with regard to the Hindu Maha Sabha. On the other hand, with the Congress the Musalmans find themselves nowhere because the Congress has been treating the Muslims and the minority question as a game in diplomacy, if not in duplicity.

At the same time, it must be said that Mr. Savarkar's attitude is illogical, if not queer. Mr. Savarkar admits that the Muslims are a separate nation. He concedes that they have a right to cultural autonomy. He allows them to have a national flag. Yet he opposes the demand of the Muslim nation for a separate national home. If he claims a national home for the Hindu nation, how can he refuse the claim of the Muslim nation for a national home ?

It would not have been a matter of much concern if inconsistency was the only fault of Mr. Savarkar. But Mr. Savarkar in advocating his scheme is really creating a most dangerous situation for the safety and security of India. History records two ways as being open to a major nation to deal with a minor nation when they are citizens of the same country and are subject to the same constitution. One way is to destroy the nationality of the minor nation and to assimilate and absorb it into the major nation, so as to make one nation out of two. This is done by denying to the minor nation any right to language, religion or culture and by seeking to enforce upon it the language, religion and culture

* It should be noted that Mr. Savarkar is not opposed to separate electorates for the Muslims. It is not clear whether he is in favour of separate electorates for Muslims even where they are in a majority.

of the major nation. The other way is to divide the country and to allow the minor nation a separate, autonomous and sovereign existence, independent of the major nation. Both these ways were tried in Austria and Turkey, the second after the failure of the first.

Mr. Savarkar adopts neither of these two ways. He does not propose to suppress the Muslim nation. On the contrary he is nursing and feeding it by allowing it to retain its religion, language and culture, elements which go to sustain the soul of a nation. At the same time he does not consent to divide the country so as to allow the two nations to become separate, autonomous states, each sovereign in its own territory. He wants the Hindus and the Muslims to live as two separate nations in one country, each maintaining its own religion, language and culture. One can understand and even appreciate the wisdom of the theory of suppression of the minor nation by the major nation because the ultimate aim is to bring into being one nation. But one cannot follow what advantage a theory has which says that there must ever be two nations but that there shall be no divorce between them. One can justify this attitude only if the two nations were to live as partners in friendly intercourse with mutual respect and accord. But that is not to be, because Mr. Savarkar will not allow the Muslim nation to be co-equal in authority with the Hindu nation. He wants the Hindu nation to be the dominant nation and the Muslim nation to be the servient nation. Why Mr. Savarkar, after sowing this seed of enmity between the Hindu nation and the Muslim nation should want that they should live under one constitution and occupy one country, is difficult to explain.

One cannot give Mr. Savarkar credit for having found a new formula. What is difficult to understand is that he should believe that his formula is the right formula. Mr. Savarkar has taken old Austria and old Turkey as his model and pattern for his scheme of Swaraj. He sees that in Austria and Turkey there lived one major nation *juxtaposed* to other minor nations bound by one constitution with the major nation dominating the minor nations and argues that if this was possible in Austria and Turkey, why should it not be possible for the Hindus to do the same in India.

That Mr. Savarkar should have taken old Austria and old Turkey as his model to build upon is really very strange. Mr. Savarkar does not seem to be aware of the fact that old Austria and old Turkey are no more. Much less does he seem to know the forces which have blown up old Austria and old Turkey to bits. If Mr. Savarkar instead of studying the past—of which he is very fond—were to devote more attention to the present, he would have learnt that old Austria and old Turkey came to ruination for insisting upon maintaining the very scheme of things which Mr. Savarkar has been advising his "Hindudom" to adopt, namely, to establish a Swaraj in which there will be two nations under the mantle of one single constitution in which the major nation will be allowed to hold the minor nation in subordination to itself.

The history of the disruption of Austria, Czechoslovakia and Turkey is of the utmost importance to India and the members of the Hindu Maha Sabha will do well to peruse the same. I need say nothing here about it because I have drawn attention to lessons from their fateful history in another chapter. Suffice it to say that the scheme of Swaraj formulated by Mr. Savarkar will give the Hindus an empire over the Muslims and thereby satisfy their vanity and their pride in being an imperial race. But it can never ensure a stable and peaceful future for the Hindus, for the simple reason that the Muslims will never yield willing obedience to so dreadful an alternative.

III

Mr. Savarkar is quite unconcerned about the Muslim reaction to his scheme. He formulates his scheme and throws it in the face of the Muslims with the covering letter ' take it or leave it'.' He is not perturbed by the Muslim refusal to join in the struggle for Swaraj. He is quite conscious of the strength of the Hindus and the Hindu Maha Sabha and proposes to carry on the struggle in the confident hope that, alone and unaided, the Hindus will be able to wrest Swaraj from the British. Mr. Savarkar is quite prepared to say to the Musalmans :

> " If you come, with you, if you don't, without you ; and if you oppose, in spite of you the Hindus will continue to fight for their national freedom as best as they can."

Not so Mr. Gandhi. At the very commencement of his career as a political leader of India when Mr. Gandhi startled the people of India by his promise to win Swaraj within six months, Mr. Gandhi said that he could perform the miracle only if certain conditions were fulfilled. One of these conditions was the achievement of Hindu-Muslim unity. Mr. Gandhi is never tired of saying that there is no Swaraj without Hindu-Muslim unity. Mr. Gandhi did not merely make this slogan the currency of Indian politics but he has strenuously worked to bring it about. Mr. Gandhi, it may be said, began his carrer as a political leader of India with the manifesto dated 2nd March 1919 declaring his intention to launch Satyagraha against the Rowlatt Act and asking those who desired to join him to sign the Satyagraha pledge. That campaign of Satyagraha was a short-lived campaign and was suspended by Mr. Gandhi on 18th April 1919. As a part of his programme Mr. Gandhi had fixed* the 6th March 1919 to be observed all over India as a day of protest against the Rowlatt Act. Mass meetings were to be held on that day and Mr. Gandhi had prescribed that the masses attending the meetings should take a vow in the following terms :

> "With God as witness, we Hindus, and Mahomedans declare that we shall behave towards one another as children of the same parents, that we shall have no differences, that the sorrows of each shall be the sorrows of the other and that each shall help the other in removing them. We shall respect each other's religion and religious feelings and shall not stand in the way of our respective religious practices. We shall always refrain from violence to each other in the name of religion."

There was nothing in the campaign of Satyagraha against the Rowlatt Act which could have led to any clash between the Hindus and Muslims. Yet Mr. Gandhi asked his followers to take the vow. This shows how insistent he was from the very beginning upon Hindu-Muslim unity.

The Mahomedans started the Khilafat movement in 1919. The objective of the movement was two-fold ; to preserve the Khilafat and to maintain the integrity of the Turkish Empire. Both these objectives were unsupportable. The Khilafat could not be saved simply because the Turks, in whose interest this agitation was

* See his Manifesto dated 23rd March 1919.

carried on, did not want the Sultan. They wanted a republic and it was quite unjustifiable to compel the Turks to keep Turkey a monarchy when they wanted to convert it into a republic. It was not open to insist upon the integrity of the Turkish Empire because it meant the perpetual subjection of the different nationalities to the Turkish rule and particularly of the Arabs, especially when it was agreed on all hands that the doctrine of self-determination should be made the basis of the peace settlement.

The movement was started by the Mahomedans. It was taken up by Mr. Gandhi with a tenacity and faith which must have surprised many Mahomedans themselves. There were many people who doubted the ethical basis of the Khilafat movement and tried to dissuade Mr. Gandhi from taking any part in a movement the ethical basis of which was so questionable. But Mr. Gandhi had so completely persuaded himself of the justice of the Khilafat agitation that he refused to yield to their advice. Time and again he argued that the cause was just and it was his duty to join it. The position taken up by him may be summed up in his own words.*

"(1) In my opinion, the Turkish claim is not only not immoral and unjust, but it is highly equitable, only because Turkey wants to retain what is her own. And the Mahomedan manifesto has definitely declared that whatever guarantee may be necessary to be taken for the protection of the non-Muslim and non-Turkish races, should be taken so as to give the Christians theirs and the Arabs their self-government under the Turkish suzerainty ;

(2) I do not believe the Turk to be weak, incapable or cruel. He is certainly disorganised and probably without good generalship. The argument of weakness, incapacity and cruelty one often hears quoted in connection with those from whom power is sought to be taken away. About the alleged massacres a proper commission has been asked for, but never granted. And in any case security can be taken against oppression;

(3) I have already stated that, if I were not interested in the Indian Mahomedans, I would not interest myself in the welfare of the Turks any more than I am in that of the Austrians or the Poles. But I am bound as an Indian to share the sufferings and trials of fellow-Indians. If I deem the Mahomedan to be my brother, it is my duty to help him in his

**Young India,* 2nd June 1920.

hour of peril to the best of my ability, if his cause commends itself to me as just;

(4) The fourth refers to the extent Hindus should join hands with the Mahomedans. It is, therefore, a matter of feeling and opinion. It is expedient to suffer for my Mahomedan brother to the atmost in a just cause and I should, therefore, travel with him along the whole road so long as the means employed by him are as honourable as his end. I cannot regulate the Mahomedan feeling. I must accept his statement that the Khilafat is with him a religious question in the sense that it binds him to reach the goal even at the cost of his own life."

Mr. Gandhi not only agreed with the Muslims in the Khilafat cause but acted as their guide and their friend. The part played by Mr. Gandhi in the Khilafat agitation and the connection between the Khilafat agitation and the Non-co-operation Movement has become obscure by the reason of the fact that most people believed that it was the Congress which initiated the Non-co-operation Movement and it was done as a means for winning Swaraj. That such a view should prevail is quite understandable because most people content themselves with noting the connection between the Non-co-operation Movement and the special session of the Congress held at Calcutta on 7th and 8th September 1920. But anyone, who cares to go behind September 1920 and examine the situation as it then stood, will find that this view is not true. The truth is that the non-co-operation has its origin in the Khilafat agitation and not in the Congress Movement for Swaraj: that it was started by the Khilafatists to help Turkey and adopted by the Congress only to help the Khilafatists : that Swaraj was not its primary object, but its primary object was Khilafat and that Swaraj was added as a secondary object to induce the Hindus to join it will be evident from the following facts.

The Khilafat movement may be said to have begun on 27th October 1919 when the day was observed as the Khilafat Day all over India. On 23rd November 1919 the first Khilafat Conference met at Delhi. It was at this session that the Muslims considered the feasibility of non-co-operation as a means of compelling the British Government to redress the Khilafat wrong. On 10th March 1920 the Khilafat Conference met at Calcutta and decided upon non-co-operation as the best weapon to further the object of their agitation.

On 9th June 1920 the Khilafat Conference met at Allahabad and unanimously reaffirmed their resolve to resort to non-co-operation and appointed an Executive Committee to enforce and lay down a detailed programme. On 22nd June 1920 the Muslims sent a message to the Viceroy stating that they would start non-co operation if the Turkish grievances were not redressed before 1st August 1920. On 30th June 1920 the Khilafat Committee meeting held at Allahabad resolved to start non-co-operation, after a month's notice to the Viceroy. Notice was given on 1st July 1920 and non-co-operation commenced on 1st August 1920. This short resume shows that the non-co-operation was started by the Khilafat Committee and all that the Congress special session at Calcutta did was to adopt what the Khilafat Conference had already done and that too not in the interest of Swaraj but in the interest of helping the Musalmans in furthering the cause of Khilafat. This is clear from the perusal of the Congress Resolution* passed at the special session held at Calcutta.

*"In view of the fact that on the Khilafat question both the Indian and Imperial Governments have signally failed in their duty towards the Muslims of India and the Prime Minister has deliberately broken his pledged word given to them, and that it is the duty of every non-Muslim Indian in every legitimate manner to assist his Muslim brother in his attempt to remove the religious calamity that has overtaken him ;

"And in view of the fact that, in the matter of the events of the April of 1919, both the said Governments have grossly neglected or failed to protect the innocent people of the Punjab and punish officers guilty of unsoldierly and barbarous behaviour towards them, and have exonerated Sir Michael O'Dwyer who proved himself directly responsible for most of the official crimes and callous to the sufferings of the people placed under his administration, and that the debate in the House of Lords betrayed a woeful lack of sympathy with the people of India, and systematic terrorism and frightfulncss adopted in the Punjab, and that the latest Viceregal pronouncement is proof of entire absence of repentance in the matters of the Khilafat and the Punjab ;

"This Congress is of opinion that there can be no contentment in India without redress of the two aforementioned wrongs, and that the only effectual means to vindicate national honour and to prevent a repetition of similar wrongs in future is the establishment of Swarajya.

"This Congress is further of opinion that there is no course left open for the people of India but to approve of and adopt the policy of progressive non-violent non-co-operation inaugurated by Mahatma Gandhi, until the said wrongs are righted and Swarajya is established."

Mrs. Annie Besant says : "It will be remembered that Mr. Gandhi, in March 1920, had forbidden the mixing up of non-co-operation in defence of the Khilafat with other questions ; but it was found that the Khilafat was not sufficiently attractive to Hindus", so at the meeting of the All-India Congress Committee held at Benares on May 30 and 31, the Punjab atrocities and the deficiencies of the Reforms Act were added to the list of provocative causes.—*The Future of Indian Politics,* p. 250.

Although the Non-co-operation Movement was launched by the Khilafat Committee and merely adopted by the Congress primarily to help the Khilafat cause, the person who suggested it to the Khilafat Committee and who identified himself with the Committee and took the responsibility of giving effect to it and who brought about its adoption by the Congress was Mr. Gandhi.

At the first Khilafat Conference held at Delhi on 23rd November 1919 Mr. Gandhi was present. Not only was Mr. Gandhi present but also it was he who advised the Muslims to adopt non-co operation as a method for forcing the British to yield to their demands regarding the Khilafat. The joining of Mr. Gandhi in the Khilafat movement is full of significance. The Muslims were anxious to secure the support of the Hindus in the cause of Khilafat. At the Conference held on 23rd November 1919 the Muslims had invited the Hindus. Again on 3rd June 1920 a joint meeting of the Hindus and the Khilafatist Muslims was held at Allahabad. This meeting was attended among others by Sapru, Motilal Nehru and Annie Besant. But the Hindus were hesitant in joining the Muslims. Mr. Gandhi was the only Hindu who joined the Muslims. Not only did he show courage to join them, but also he kept step with them, nay, led them. On 9th June 1920 when the Khilafat Conference met at Allahabad and formed an Executive Committee to prepare a detailed programme of non- co-operation and give effect to it, Mr. Gandhi was the only Hindu on that Executive Committee. On 22nd June 1920 the Muslims sent a message to the Viceroy that they would start non-co operation if the Turkish grievances were not redressed before 1st August 1920. On the same day Mr. Gandhi also sent a letter to the Viceroy explaining the justice of the Khilafat cause, the reasons why he has taken up the cause and the necessity of satisfying the hands of the Khilafatists. For instance the notice given to the Viceroy on 1st July 1920 that non-co-operation will be started on 1st August was given by Mr. Gandhi and not by the Khilafatists. Again when non-co-operation was started by the Khilafatist on 31st August 1920 Mr. Gandhi was the first to give a concrete shape to it by returning his medal. After inaugurating the Non-co-operation Movement as an active member of the Khilafat Committee Mr. Gandhi next directed his energy

to the cause of persuading the Congress to adopt non-co-operation and strengthen the Khilafat movement. With that object in view Mr. Gandhi toured the country between 1st August and 1st September 1920 in the company of the Ali Brothers who were the founders of the Khilafat movement impressing upon the people the necessity of non-co-operation. People could notice the disharmony in the tune of Mr. Gandhi and the Ali Brothers. As the *Modern Review* pointed out: "Reading between the lines of their speeches, it is not difficult to see that with one of them the sad plight of the Khilafat in distant Turkey is the central fact, while with the other attainment of Swaraj here in India is the object in view". This dichotomy* of interest did not augur well for the success of the ultimate purpose. Nonetheless Mr. Gandhi succeeded in carrying the Congress with him in support of the Khilafat cause.†

For a long time the Hindus had been engaged in wooing the Muslims to their side. The Congress was very anxious to bridge the gulf between itself and the Muslim League. The ways and means adopted in 1916 for bringing about this consummation and which resulted in the Lucknow Pact signed between the Congress and the Muslim League have been graphically told by Swami Shradhanand in his impressions of the Congress Session held in that year at Lucknow. Says the Swami § :

> "On sitting on the dias (Lucknow Congress platform) the first thing that I noticed was that the number of Moslem delegates was proportionately fourfold of what it was at Lahore in 1893. The majority of Moslem delegates had donned gold, silver and silk embroidered chogas (flowing robes) over their ordinary coarse suits of wearing apparel. It was rumoured that these 'chogas' had been put by Hindu moneyed men for Congress Tamasha. Of some 433 Moslem delegates only some 30 had come from outside, the rest belonging to Lucknow City. And of these majority was admitted free to delegate seats, board and lodging. SirSycd Ahmad's anti-Congress League had tried in a public meeting to dissuade

* Mr. Gandhi repudiated the suggestion of the *Modern Review* and regarded it as "cruelest cut". Dealing with the criticism of the *Modern Review* in his Article in *Young India* for 20th October 1921 Mr. Gandhi said "I claim that with us both the Khilafat is the central fact, with Maulana Mahomed Ali because it is his religion, with me because, in laying down my life for the Khilafat, I ensure safety of the cow, that is my religion, from the Musalman knife."

† The Resolution of non-co-operation was carried by 1886 votes against 884. The late Mr. Tairsee once told me that a large majority of the delegates were no others than the taxi drivers of Calcutta who were paid to vote for the non-co-operation resolution.

§ *Liberator,* 22nd April 1926.

> Moslems from joining the Congress as delegates. As a countermove the Congress people lighted the whole Congress camp some four nights before the session began and advertised that that night would be free. The result was that all the "Chandul Khanas" of Lucknow were emptied and a huge audience of some thirty thousand Hindus and Moslems was addressed from half a dozen platforms. It was then that the Moslem delegates were elected or selected. All this was admitted by the Lucknow Congress organisers to me in private.
>
> "A show was being made of the Moslem delegates. Moslem delegate gets up to second a resolution in Urdu. He begins: 'Hozarat, I am a Mahomedan delegate'. Some Hindu delegate gets up and calls for three cheers for Mahomedan delegates and the response is so enthusiastic as to be beyond description."

In taking up the cause of Khilafat Mr. Gandhi achieved a double purpose. He carried the Congress Plan of winning over the Muslims to its culmination. Secondly he made the Congress a power in the country, which it would not have been, if the Muslims had not joined it. The cause of the Khilafat appealed to the Musalmans far more than political safeguards, with the result that the Musalmans who were outside it trooped into the Congress. The Hindus welcomed them. For, they saw in this a common front against the British, which was their main aim. The credit for this must of course go to Mr. Gandhi. For there can be no doubt that this was an act of great daring.

When the Musalmans in 1919 approached the Hindus for participation in the Non-co-operation Movement which the Muslims desired to start for helping Turkey and the Khilafat, the Hindus were found to be divided in three camps. One was a camp of those who were opposed to non-co-operation in principle. A second camp consisted of those Hindus who were prepared to join the Muslims in their campaign of non-co-operation provided the Musalmans agreed to give up Cow Slaughter. A third group consisted of the Hindus who feared that the Mahomedans might extend their non-co-operation to inviting the Afghans to invade India, in which case the movement instead of resulting in Swaraj might result in the subjection of India to Muslim Raj.

Mr. Gandhi did not care for those Hindus who were opposed to joining the Muslims in the Non-co-operation Movement. But with regard to the others he told them that their attitude was unfortunate. To those Hindus who wanted to give their support

on the condition that the Muslims give up cow killing, Mr. Gandhi said*:

> "I submit that the Hindus may not open the Goraksha (cow protection) question here. The test of friendship is assistance in adversity, and that too, unconditional assistance. Co-operation that needs consideration is a commercial contract and not friendship. Conditional co-operation is like adulterated cement which does not bind. It is the duty of the Hindus, if they see the justice of the Mahomedan cause to render co-operation. If the Mahomedans feel themselves bound in honour to spare the Hindu's feelings and to stop cow killing, they may do so, no matter whether the Hindus co-operate with them or not. Though therefore, I yield to no Hindu in my worship of the cow, I do not want to make the stopping of cow killing a condition precedent to cooperation. Unconditional co-operation means the protection of the cow."

To those Hindus who feared to join the Non-co-operation Movement for the reasons that Muslims may invite the Afghans to invade India, Mr. Gandhi said†:

> "It is easy enough to understand and justify the Hindu caution. It is difficult to resist the Mahomedan position. In my opinion, the best way to prevent India from becoming the battle ground between the forces of Islam and those of the English is for Hindus to make non-co-operation a complete and immediate success, and I have little doubt that, if the Mahomedans remain true to their declared intention and are able to exercise self-restraint and make sacrifices, the Hindus will 'play the game' and join them in the campaign of non-co-operation. I feel equally certain that Hindus will not assist Mahomedans in promoting or bringing about an armed conflict between the British Government and their allies, and Afghanistan. British forces are too well organised to admit of any successful invasion of the Indian frontier. The only way, therefore, the Mahomedans can carry on an effective struggle on behalf of the honour of Islam is to take up non-co-operation in real earnest. It will not only be completely effective if it is adopted by the people on an extensive scale, but it will also provide full scope for individual conscience. If I cannot bear an injustice done by an individual or a corporation, and, I am directly or indirectly instrumental in upholding that individual or corporation, I must answer for it before my Maker; but I have done all that is humanly possible for me to do consistently with the moral code that refuses to injure even the wrong-doers, if I cease to

* *Young India,* 10th December 1919.

† *Young India.* 9th June 1920.

support the injustice in the manner described above. In applying, therefore, such a great force, there should be no haste, there should be no temper shown. Non-co-operation must be and remain absolutely a voluntary effort. The whole thing, then, depends upon Mahomedans themselves. If they will but help themselves, Hindu help will come and the Government, great and mighty though it is, will have to bend before the bloodless opposition of a whole nation."

Unfortunately, the hope of Mr. Gandhi that 'no Government can possibly withstand the bloodless opposition of a whole nation' did not come true. Within a year of the starting of the Non-cooperation Movement, Mr. Gandhi had to admit that the Musalmans had grown impatient and that:

"In their impatient anger, the Musalmans ask for more energetic and more prompt action by the Congress and Khilafat organisations. To the Musalmans, Swaraj means, as it must mean, India's ability to deal effectively with the Khilafat question. The Musalmans, therefore, decline to wait if the attainment of Swaraj means indefinite delay of a programme that may require the Musalmans of India to become impotent witnesses of the extinction of Turkey in European waters.

"It is impossible not to sympathise with this attitude. I would gladly recommend immediate action if I could think of any effective course. I would gladly ask for postponement of Swaraj activity if thereby we could advance the interest of Khilafat. I could gladly take up measures outside non-co-operation, if I could think of any, in order to assuage the pain caused to the millions of the Musalmans.

"But, in my humble opinion, attainment of Swaraj is the quickest method of righting the Khilafat wrong. Hence it is, that for me the solution of the Khilafat question is attainment of Swaraj and *vice versa*. The only way to help the affiliated Turks is for India to generate sufficient power to be able to assert herself. If she cannot develop that power in time, there is no way out for India and she must resign herself to the inevitable. What can a paralytic do to stretch forth a helping hand to a neighbour but to try to cure himself of his paralysis ? Mere ignorant, thoughtless and angry outburst of violence may give vent to pent-up rage but can bring no relief to Turkey."

The Musalmans were not in a mood to listen to the advice of Mr. Gandhi. They refused to worship the principle of non-violence. They were not prepared to wait for Swaraj. They were in a hurry to find the most expeditious means of helping Turkey and saving the Khilafat. And the Muslims in their impatience did exactly what the Hindus feared they would do, namely, invite the Afghans to invade India. How far the Khilafatists had

proceeded in their negotiations with the Amir of Afghanistan it is not possible to know. But that such a project was entertained by them is beyond question. It needs no saying that the project of an invasion of India was the most dangerous project and every sane Indian would dissociate himself from so mad a project. What part Mr. Gandhi played in this project it is not possible to discover. Certainly he did not dissociate himself from it. On the contrary his misguided zeal for Swaraj and his obsession on Hindu-Moslem unity as the only means of achieving it, led him to support the project. Not only did he advise* the Amir not to enter into any treaty with the British Government but declared :

"I would, in a sense, certainly assist the Amir of Afghanistan if he waged war against the British Government. That is to say, I would openly tell my countrymen that it would be a crime to help a government which had lost the confidence of the nation to remain in power".

Can any sane man go so far, for the sake of Hindu-Moslem unity ? But, Mr. Gandhi was so attached to Hindu-Moslem unity that he did not stop to enquire what he was really doing in this mad endeavour. So anxious was Mr. Gandhi in laying the foundation of Hindu-Moslem unity well and truly, that he did not forget to advise his followers regarding the national crisis. In an Article in *Young India* of 8th September 1920 Mr. Gandhi said :

"During the Madras tour, at Bezwada I had occasion to remark upon the national crisis and suggested that it would be better to have cries about ideals than men. I asked the audience ro replace Mahatma Gandhi-ki-jai and Mahomed Ali Shoukat Ali-ki-jai by Hindu-Musalman-ki-jai. Brother Shoukat Ali, who followed, positively laid down the law. In spite of the Hindu-Muslim unity, he had observed that, if Hindus shouted Bande Mataram, the Muslims rang out with Allaho Akbar and *vice ersa*. This, he rightly said jarred on the car and still showed that the people did not act with one mind. There should be therefore only three cries recognised. Allaho Akbar to be joyously sung out by Hindus and Muslims, showing that God alone was great and no other. The second should be Bande Mataram (Hail Motherland) or Bharat Mata-ki-jai (Victory to Mother Hind). The third should be Hindu-Musalman-ki-jai without which there was no victory for India, and no true demonstration of the greatness of God. I do wish that the newspapers and public men would take up the Maulana's suggestion and lead the people only to use the three cries. They are full of meaning. The first is a prayer

* *Young India* dated 4th May 1921.

and confession of our littleness and therefore a sign of humility. It is a cry in which all Hindus and Muslims should join in reverence and prayfulness. Hindus may not fight shy of Arabic words, when their meaning is not only totally inoffensive but even ennobling. God is no respector of any particular tongue. Bande Mataram, apart from its wonderful associations, expresses the one national wish—the rise of India to her full height. And I should prefer Bande Mataram to Bharat Mata-ki-jai, as it would be a graceful recognition of the intellectual and emotional superiority of Bengal. Since India can be nothing without the union of the Hindu and the Muslim heart, Hindu-Musalman-ki-jai is a cry which we may never forget.

"There should be no discordance in these cries. Immediately some one has taken up any of the three cries, the rest should take it up and not attempt to yell out their favourite. Those, who do not wish to join, may refrain, but should consider it a breach of etiquette to interpolate their own when a cry has already been raised. It would be better too, always to follow out the three cries in the order given above."

These are not the only things Mr. Gandhi has done to build up Hindu-Moslem unity. He has never called the Muslims to account even when they have been guilty of gross crimes against Hindus.

It is a notorious fact that many prominent Hindus who had offended the religious susceptibilities of the Muslims either by their writings or by their part in the Shudhi movement have been murdered by some fanatic Musalmans. First to suffer was Swami Shradhanand, who was shot by Abdul Rashid on 23rd December 1926 when he was lying in his sick bed. This was followed by the murder of Lala Nanakchand, a prominent Arya Samajist of Delhi. Rajpal, the author of the *Rangila Rasool*, was stabbed by Ilamdin on 6th April 1929 while he was sitting in his shop. Nathuramal Sharma was murdered by Abdul Qayum in September 1934. It was an act of great daring. For Sharma was stabbed to death in the Court of the Judicial Commissioner of Sind where he was seated awaiting the hearing of his appeal against his conviction under Section 195, I. P. C, for the publication of a pamphlet on the history of Islam. Khanna, the Secretary of the Hindu Sabha, was severely assaulted in 1938 by the Mahomedans after the Session of the Hindu Maha Sabha held in Ahmedabad and very narrowly escaped death.

This is, of course, a very short list and could be easily expanded. But whether the number of prominent Hindus killed by fanatic Muslims is large or small matters little. What matters is the attitude of those who count towards these murderers. The murderers paid the penalty of law where law is enforced. The leading Moslems, however, never condemned these criminals.

On the contrary, they were hailed as religious martyrs and agitation was carried on for clemency being shown to them. As an illustration of this attitude, one may refer to Mr. Barkat Alli, a Barrister of Lahore, who argued the appeal of Abdul Qayum. He went to the length of saying that Qayum was not guilty of murder of Nathuramal because his act was justifiable by the law of the Koran. This attitude of the Moslems is quite understandable. What is not understandable is the attitude of Mr. Gandhi.

Mr. Gandhi has been very punctilious in the matter of condemning any and every act of violence and has forced the Congress, much against its will to condemn it. But Mr. Gandhi has never protested against such murders. Not only have the Musalmans not condemned* these outrages but even Mr. Gandhi has never called upon the leading Muslims to condemn them. He has kept silent over them. Such an attitude can be explained only on the ground that Mr. Gandhi was anxious to preserve Hindu-Moslem unity and did not mind the murders of a few Hindus, if it could be achieved by sacrificing their lives.

This attitude to excuse the Muslims any wrong, lest it should injure the cause of unity, is well illustrated by what Mr. Gandhi had to say in the matter of the Mopla riots.

The blood-curdling atrocities committed by the Moplas in Malabar against the Hindus were indescribable. All over Southern India, a wave of horrified feeling had spread among the Hindus of every shade of opinion, which was intensified when certain Khilafat leaders were so misguided as to pass resolutions of

* It is reported that for earning merit for the soul of Abdul Rashid, the murderer of Swami Shradhanand, in the next world, the students and professors or the famous theological college at Deoband finished five complete recitations of the Koran and had planned to finish daily a lakh and a quarter recitations of Koranic verses. Their prayer was "God Almighty may give the marhoom (i.e., Rashid) a place in the 'a' ala-e-illeeyeen (the summit of the seventh heaven)"—*Times of India*. 30-11-27 *Through Indian Eyes* columns.

"congratulations to the Moplas on the brave fight they were conducting for the sake of religion". Any person could have said that this was too heavy a price for Hindu-Moslem unity. But Mr. Gandhi was so much obsessed by the necessity of establishing Hindu-Moslem unity that he was prepared to make light of the doings of the Moplas and the Khilafats who were congratulating them. He spoke of the Moplas as the "brave God-fearing Moplas who were fighting for what they consider as religion and in a manner which they consider as religious". Speaking of the Muslim silence over the Mopla atrocities Mr. Gandhi told the Hindus :

"The Hindus must have the courage and the faith to feel that they can protect their religion in spite of such fanatical cruptions. A verbal disapproval by the Mussalmans of Mopla madness is no test of Mussalman friendship. The Mussalmans must naturally feel the shame and humiliation of the Mopla conduct about forcible conversions and looting, and they must work away so silently and effectively that such a thing might become impossible even on the part of the most fanatical among them. My belief is that the Hindus as a body have received the Mopla madness with equanimity and that the cultured Mussalmans arc sincerely sorry of the Mopla's perversion of the teaching of the Prophet."

The Resolution* passed by the Working Committee of the Congress on the Mopla atrocities shows how careful the Congress was not to hurt the feelings of the Musalmans.

"The Working Committee places on record its sense of deep regret over the deeds of violence done by Moplas in certain areas of Malbar, these deeds being evidence of the fact that there are still people in India who have not understood the message of the Congress and the Central Khilafat Committee, and calls upon every Congress and Khilafat worker to spread the said message of non-violence even under the gravest provocation throughout the length and breadth of India.

"Whilst, however, condemning violence on the part of the Moplas, the working Committee desires it to be known that the evidence in its possession shows that provocation beyond endurance was given to the Moplas and that the reports published by and on behalf of the Government have given a one-sided and highly exaggerated account of the wrongs done by the Moplas and an understatement of the needless destruction of life resorted to by the Government in the name of peace and order.

* The resolution says that there were only three cases of forcible conversion ! ! In reply to a question in the Central Legislature (Debates 16th January 1922) Sir William Vincent replied: "The Madras Government report that the number of forcible conversions probably runs to thousands but that for obvious reasons it will never be possible to obtain anything like an accurate estimate".

"The Working Committee regrets to find that there have been instances of so-called Forcible conversion by some fanatics among Moplas, but warns the public against believing in the Government and inspired versions. The Report before the Committee says :

"The families, which have been reported to have been forcibly converted into Mahomedanism, lived in the neighbourhood of Manjeri. It is clear that conversions were forced upon Hindus by a fanatic gang which was always opposed to the Khilafat and Non-co-operation Movement and there were only three cases so far as our information goes."

The following instances of Muslim intransigence, over which Mr. Gandhi kept mum are recorded by Swami Shradhanand in his weekly journal called the *Liberator*. Writing in the issue of 30th September 1926 the Swamiji says :

"As regards the removal of untouchability it has been authoritatively ' ruled several times that it is the duty of Hindus to expiate for their past sins and non-Hindus should have nothing to do with it. But the Mahomedan and the Christian Congressmen have openly revolted against the dictum of Mr. Gandhi at Vaikom and other places. Even such an unbiased leader as Mr. Yakub Hassan, presiding over a meeting called to present an address to me at Madras, openly enjoined upon Musalmans the duty of converting all the untouchables in India to Islam."

But Mr. Gandhi said nothing by way of remonstrance either to the Muslims or to the Christians.

In his issue of July 1926 the Swami writes :

"There was another prominent fact to which I drew the attention of Mahatma Gandhi. Both of us went together one night to the Khilafat Conference at Nagpur. The Ayats (verses) of the Quran recited by the Maulanas on that occasion, contained frequent references to Jihad and killing of the Kaffirs. But when I drew his attention to this phase of the Khilafat movement, Mahatmaji smiled and said, 'They are alluding to the British Bureaucracy'. In reply I said that it was all subversive of the idea of non-violence and when the reversion of feeling came the Mahomedan Maulanas would not refrain from using these verses against the Hindus."

The Swami's third instance relates to the Mopla riots. Writing in the *Liberator* of 26th August 1926 the Swami says :

"The first warning was sounded when the question of condemning the Moplas for their atrocities on Hindus came up in the Subjects Committee. The original resolution condemned the Moplas wholesale for the killing of Hindus and burning of Hindu homes and

the forcible conversion to Islam. The Hindu members themselves proposed amendments till it was reduced to condemning only certain individuals who had been guilty of the above crimes. But some of the Moslem leaders could not bear this even. Maulana Fakir and other Maulanas, of course, opposed the resolution and there was no wonder. But I was surprised, an out-and-out Nationalist like Maulana Hasrat Mohani opposed the resolution on the ground that the Mopla country no longer remained Dar-ul-Aman but became Dar-ul-Harab and they suspected the Hindus of collusion with the British enemies of the Moplas. Therefore, the Moplas were right in presenting the Quran or sword to the Hindus. And if the Hindus became Mussalmans to save themselves from death, it was a voluntary change of faith and not forcible conversion—Well, even the harmless resolution condemning some of the Moplas was not unanimously passed but had to be accepted by a majority of votes only. There were other indications also, showing that the Mussalmans considered the Congress to be existing on their sufferance and if there was the least attempt to ignore their idiosyncracies the superficial unity would be scrapped as under."

The last one refers to the burning of the foreign cloth started by Mr. Gandhi. Writing in the *Liberator* of 31st August 1926 the Swamiji says:

"While people came to the conclusion, that the burning of foreign cloth was a religious duty of Indians and Messrs. Das, Nehru and other topmost leaders made bon-fire of cloth worth thousands, the Khilafat Musalmans got permission from Mahatmaji to *send all foreign cloth for the use* of the Turkish brethren. This again was a great shock to me. While Mahatmaji stood adamant and did not have the least regard for Hindu feelings when a question of principle was involved, for the Moslem dereliction of duty, there was always a soft corner in his heart."

In the history of his efforts to bring about Hindu-Moslem unity mention must be made of two incidents. One is the Fast, which Mr. Gandhi underwent in the year 1924. It was a fast of 21 days. Before undertaking the fast Mr. Gandhi explained the reasons for it in a statement from which the following extracts are taken:

"The fact that Hindus and Musalmans, who were only two years ago apparently working together as friends, arc now fighting like cats and dogs in some places, shows conclusively that the non-co-operation they offered was not non-violent. I saw the symptoms in Bombay, Chauri Chaura and in a host of minor cases. I did penance then. It had its effects *protanto*. But this Hindu-Muslim tension was unthinkable. It became unbearable on hearing of the Kohat tragedy. On the eve of my

departure from Sabarmati for Delhi, Sarojini Devi wrote to me that speeches and homilies on peace would not do. I must find out an effective remedy. She was right in saddling the responsibility on me. Had I not been instrumental in bringing into being the vast energy of the people ? I must find the remedy if the energy proved self-destructive.

* * *

"I was violently shaken by Amethi, Sambhal and Gulbarga. I had read the reports about Amethi and Sambhal prepared by Hindu and Musalman friends. I had learnt the joint finding of Hindu and Musalman friends who went to Gulbarga. I was writhing in deep pain and yet I had no remedy. The news of Kohat set the smouldering mass aflame. Something had got to be done. I passed two nights in restlessness and pain. On Wednesday I knew the remedy. I must do penance.

"It is a warning to the Hindus and Musalmans who have professed to love me. If they have loved me truly and if I have been deserving of their love, they will do penance with me for the grave sin of denying God in their hearts.

"The penance of Hindus and Mussalmans is not fasting but retracting their steps. It is true penance for a Mussalman to harbour no ill-will for his Hindu brother and an equally true penance for a Hindu to harbour none for his Mussalman brother.

"I did not consult friends—not even Hakim Saheb who was close with me for a long time on Wednesday—not Maulana Mahomed Ali under whose roof I am enjoying the privilege of hospitality.

"But was it right for me to go through the fast under a Mussalman roof? (Gandhi was at the time the guest of Mr. Mahomed Ali at Delhi). Yes, it was. The fast is not born out of ill-will against a single soul. My being under a Mussalman roof ensures it against any such interpretation. It is in the fitness of things that this fast should be taken up and completed in a Mussalman house.

"And who is Mahomed Ali ? Only two days before the fast we had a discussion about a private matter in which I had told him what was mine was his and what was his was mine. Let me gratefully tell the public that I have never received warmer or better treatment than under Mahomed Ali's roof. Every want of mine is anticipated. The dominant thought of every one of his household is to make me and mine happy and comfortable. Doctors Ansari and Abdur Rehman have constituted themselves my medical advisers. They examine me daily. I have had many a happy occasion in my life. This is no less happy than

the previous ones. Bread is not everything. I am experiencing here the richest love. It is more than bread for me.

"It has been whispered that by going so much with Mussalman friends, I make myself unfit to know the Hindu mind. The Hindu mind is myself. Surely I do not live amidst Hindus to know the Hindu mind when every fibre of my being is Hindu. My Hinduism must be a very poor thing if it cannot flourish under influences the most adverse. I know instinctively what is necessary for Hinduism. But I must labour to discover the Mussalman mind. The closer I come to the best of ? Mussalmans, the juster I am likely to be in my estimate of the Mussalmans and their doings. I am striving to become the best cement between the two communities. My longing is to be able to cement the two with my blood, if necessary. But, before I can do so, I must prove to the Mussalmans that I love them as well as I love the Hindus. My religion teaches me to love all equally. May God help me to do so ! My fast among other things is meant to qualify me for achieving that equal and selfless love."

The fast produced Unity Conferences. But the Unity Conferences produced nothing except pious resolutions which were broken as soon as they were announced.

This short historical sketch of the part Mr. Gandhi played in bringing about Hindu-Moslem unity may be concluded by a reference to the attitude of Mr. Gandhi in the negotiations about the Communal Settlement. He offered the Muslims a blank cheque. The blank cheque only served to exasperate the Muslims as they interpreted it as an act of evasion. He opposed the separate electorates at the Round Table Conference. When they were given to the Muslims by the Communal Award, Mr. Gandhi and the Congress did not approve of them. But when it came to voting upon it, they took the strange attitude of neither approving it nor opposing it.

Such is the history of Mr. Gandhi's efforts to bring about Hindu-Moslem unity. What fruits did these efforts bear ? To be able to answer this question it is necessary to examine the relationship between the two communities during 1920-40, the years during which Mr. Gandhi laboured so hard to bring about Hindu-Moslem unity. The relationship is well described in the Annual Reports on the affairs of India submitted year by year to Parliament by the Government of India under the old Government of India Act. It is on these reports* that I have drawn for the facts recorded below.

* The series is known as "India in 1920" & so on.

Beginning with the year 1920 there occurred in that year in Malabar what is known as the Mopla Rebellion. It was the result of the agitation carried out by two Muslim organizations, the Khuddam-i-Kaba (servants of the Mecca Shrine) and the Central Khilafat Committee. Agitators actually preached the doctrine that India under the British Government was Dar-ul-Harab and that the Muslims must fight against it and if they could not, they must carry out the alternative principle of *Hijrat*. The Moplas were suddenly carried off their feet by this agitation. The outbreak was essentially a rebellion against the British Government. The aim was to establish the kingdom of Islam by overthrowing the British Government. Knives, swords and spears were secretly manufactured, bands of desperadoes collected for an attack on British authority. On 20th August a severe encounter took place between the moplas and the British forces at Pirunangdi. Roads were blocked, telegraph lines cut, and the railway destroyed in a number of places. As soon as the administration had been paralysed, the Moplas declared that Swaraj had been established. A certain Ali Mudaliar was proclaimed Raja, Khilafat flags were flown, and Ernad and Wallurana were declared Khilafat Kingdoms. As a rebellion against the British Government it was quite understandable. But what baffled most was the treatment accorded by the Moplas to the Hindus of Malabar. The Hindus were visited by a dire fate at the hands of the Moplas. Massacres, forcible conversions, desecration of temples, foul outrages upon women, such as ripping open pregnant women, pillage, arson and destruction— in short, all the accompaniments of brutal and unrestrained barbarism, were perpetrated freely by the Moplas upon the Hindus until such time as troops could be hurried to the task of restoring order through a difficult and extensive tract of the country. This was not a Hindu-Moslem riot. This was just a Bartholomew. The number of Hindus who were killed, wounded or converted, is not known. But the number must have been enormous.

In the year 1921-22 communal jealousies did not subside. The Muharram Celebrations had been attended by serious riots both in Bengal and in the Punjab. In the latter province in particular, communal feeling at Multan reached very serious heights, and

although the casualty list was comparatively small, a great deal of damage to property was done.

Though the year 1922-23 was a peaceful year the relations between the two communities were strained throughout 1923-24. But in no locality did this tension produce such tragic consequences as in the city of Kohat. The immediate cause of the trouble was the publication and circulation of a pamphlet containing a virulently anti-Islamic poem. Terrible riots broke out on the 9th and 10th of September 1924, the total casualties being about 155 killed and wounded. House property to the estimated value of Rs. 9 lakhs was destroyed, and a large quantity of goods were looted. As a result of this reign of terror the whole Hindu population evacuated the city of Kohat. After protracted negotiations an agreement of reconciliation was concluded between the two communities, Government giving an assurance that, subject to certain reservations, the prosecution pending against persons concerned in rioting should be dropped. With the object of enabling the sufferers to restart their businesses and rebuild their houses, Government sanctioned advances, free of interest in certain instances, amounting to Rs. 5 lakhs. But even after the settlement had been reached and evacuees had returned to Kohat there was no peace and throughout 1924-25 the tension between the Hindu and Musalman masses in various parts of the country increased to a lamentable extent. In the summer months, there was a distressing number of riots. In July, severe fighting broke out between Hindus and Musalmans in Delhi, which was accompanied by serious casualties. In the same month, there was a bad outbreak at Nagpur. August was even worse. There were riots at Lahore, at Lucknow, at Moradabad, at Bhagalpur and Nagpur in British India; while a severe affray took place at Gulbarga in the Nizam's Dominions. September-October saw severe fighting at Lucknow, Shahajahanpur, Kankinarah and at Allahabad. The most terrible outbreak of the year being the one that took place at Kohat which was accompanied by murder, arson and loot.

In 1925-26 the antagonism between the Hindus and the Muslims became widespread. Very significant features of the Hindu-Muslim rioting, which took place during this year were its

wide distribution and its occurrence, in some cases, in small villages. Calcutta, the United Provinces, the Central Provinces and the Bombay Presidency were all scenes of riots, some of which led to regrettable losses of life. Certain minor and local Hindu festivals which occurred at the end of August, gave rise to communal trouble in Calcutta, in Berar, in Gujarat in the Bombay Presidency, and in the United Provinces. In some of these places there were actual clashes between the two communities, but elsewhere, notably at Kankinarah—one of the most thickly populated jute mill centres of Calcutta—serious rioting was prevented by the activity of the police. In Gujarat, Hindu-Muslim feeling was running high in these days and was marked by at least one case of temple desecration. The important Hindu festival of Ramlila, at the end of September, gave rise to acute anxiety in many places, and at Aligarh, an important place in the United Provinces, its celebration was marked by one of the worst riots of the year. The riot assumed such dangerous proportions that the police were compelled to fire in order to restore order, and five persons were killed, either by the police or by riots. At Lucknow, the same festival gave rise at one time to a threatening situation, but the local authorities prevented actual rioting. October saw another serious riot at Sholapur in the Bombay Presidency. There, the local Hindus were taking a car with Hindu idols through the city, and when they came near a mosque, a dispute arose between them and certain Muslims, which developed into a riot.

A deplorable rioting started in Calcutta in the beginning of April as an affray outside a mosque between Muslims and some Arya Samajists and continued to spread until 5th April, though there was only one occasion on which the police or military were faced by a crowd which showed determined resistance, namely, on the evening of the 5th April, when fire had to be opened. There was also a great deal of incendiarism and in the first three days of this incendiarism, the Fire Brigade had to deal with 110 fires. An unprecedented feature of the riots was the attacks on temples by Muslims and on mosques by Hindus which naturally led to intense bitterness. There were 44 deaths and 584 injured. There was a certain amount of looting and business was suspended, with great economic loss to Calcutta. Shops began to reopen soon after the

5th, but the period of tension was prolonged by the approach of a Hindu festival on the 13th of April, and of the Id on the 14th. The Sikhs were to have taken out a procession on the 13th, but Government were unable to give them the necessary license. The apprehensions with regard to the 13th and 14th of April, fortunately, did not materialise and outward peace prevailed until 22nd April when it was abruptly broken as a result of a petty quarrel in a street, which restarted the rioting. Fighting between the mobs of the two communities, generally on a small scale, accompanied by isolated assaults and murders continued for six days. During this period there were no attacks on the temples and mosques and there was little arson or looting. But there were more numerous occasions, on which the hostile mobs did not immediately disperse on the appearance of the police and on 12 occasions it was necessary to open fire. The total number of casualties during this second phase of the rioting was 66 deaths and 391 injured. The dislocation of business was much more serious during the first riots and the closing of Marwari business houses was not without an effect on European business firms. Panic caused many of the markets to be wholly or partially closed and for two days the meat supply was practically stopped. So great was the panic that the removal of refuse in the disturbed area was stopped. Arrangements were, however, made to protect supplies, and the difficulty with the Municipal scavengers was overcome, as soon as the Municipality had applied to the police for protection. There was slight extension of the area of rioting, but no disturbances occurred in the mill area around Calcutta. Systematic raiding of the portions of the disturbed area, the arrest of hooligans, the seizure of weapons and the re-inforcement of the police by the posting of British soldiers to act as special police officers had the desired effect, and the last three days of April, in spite of the continuance of isolated assaults and murders, witnessed a steady improvement in the situation. Isolated murders were largely attributable to hooligans of both communities and their persistance during the first as well as the second outbreak induced a general belief that these hooligans were hired assassins. Another equally persistent feature of the riots, namely, the distribution of inflammatory printed leaflets by both sides,

together with the employment of hired roughs, strengthened the belief that money had been spent to keep the riots going.

The year 1926-27 was one continuous period of communal riots. Since April 1926, every month witnessed affrays more or less serious between partizans of the two communities and only two months passed without actual rioting in the legal sense of the word. The examination of the circumstances of these numerous riots and affrays shows that they originated either in utterly petty and trivial disputes between individuals, as, for example, between a Hindu shopkeeper and a Mahomedan customer, or else, the immediate cause of trouble was the celebration of some religious festival or the playing of music by Hindu processionists in the neighbourhood of Mahomedan places of worship. One or two of the riots, indeed, were due to nothing more than strained nerves and general excitement. Of these, the most striking example occurred in Delhi on 24th June, when the bolting of a pony in a crowded street gave the impression that a riot had started, upon which both sides immediately attacked each other with brickbats and staves.

Including the two outbursts of rioting in Calcutta during April and May 1926,40 riots took place during the twelve months ending with April 1st 1927, resulting in the death of 197 and injuries, more or less severe, to 1,598 persons. These disorders were widespread, but Bengal, the Punjab, and the United Provinces were the parts of India most seriously affected. Bengal suffered most from rioting, but on many occasions during the year, tension between Hindus and Mahomedans was high in the Bombay Presidency and also in Sind. Calcutta remained uneasy throughout the whole of the summer. On 1st June a petty dispute developed into a riot in which forty persons were hurt. After this, there was a lull in overt violence until July 15th on which day fell an important Hindu religious festival. During its celebration the passage of a procession, with bands playing in the neighbourhood of certain mosques, resulted in a conflict, in which 14 persons were killed and 116 injured. The next day saw the beginning of the important Mahomedan festival of Muharram. Rioting broke out on that day and, after a lull, was renewed on the 19th, 20th, 21st and 22nd. Isolated assaults and cases of stabbing occurred on the

23rd, 24th and 25th. The total ascertained casualties during this period of rioting were 28 deaths and 226 injured. There were further riots in Calcutta on the 15th September and 16th October and on the latter day there was also rioting in the adjoining city of Howrah, during which one or two persons were killed and over 30 injured. The April and May riots had been greatly aggravated by incendiarism, but, happily, this feature was almost entirely absent from the later disorders and during the July riots, for example, the Fire Brigade was called upon to deal with only four incendiary fires.

Coming to the year 1927-28 the following facts stare us in the face. Between the beginning of April and the end of September 1927, no fewer than 25 riots were reported. Of these 10 occurred in the United Provinces, six in the Bombay Presidency, 2 each in the Punjab, the Central Provinces, Bengal, and Bihar and Orissa, and one in Delhi. The majority of these riots occurred during the celebration of a religious festival by one or other of the two communities, whilst some arose out of the playing of music by Hindus in the neighbourhood of mosques or out of the slaughter of cows by the Muslims. The total casualties resulting from the above disorders were approximately 103 persons killed and 1,084 wounded.

By far the most serious riot reported during the year was that which took place in Lahore between the 4th and 7th of May 1927. Tension between the two communities had been acute for some time before the outbreak, and the trouble when it came was precipitated by a chance collision between a Mahomedan and two Sikhs. The disorder spread with lightning speed and the heavy casualty list—27 killed 272 injured—was largely swollen, by unorganised attacks on individuals. Police and troops were rushed to the scene of rioting quickly and it was impossible for clashes on a big scale to take place between hostile groups. Casual assassinations and assaults were however, reported, for two or three days longer before the streets and lanes of Lahore became safe for the solitary passerby.

After the Lahore riot in May, there was a lull for two months in inter-communal rioting, if we except a minor incident, which

happened about the middle of June in Bihar and Orissa; but July witnessed no fewer than eight riots of which the most serious occurred in Multan in the Punjab, on the occasion of the annual Muharram celebrations. Thirteen killed and twenty-four wounded was the toll taken by this riot. But August was to see worse rioting still. In that month, nine riots occurred, two of them resulting in heavy loss of life. In a riot in Bettiah, a town in Bihar and Orissa, arising out of a dispute over a religious procession, eleven persons were killed and over a hundred injured, whilst the passage of a procession in front of a mosque in Bareilly in the United Provinces was the occasion of rioting in which fourteen persons were killed and 165 were injured. Fortunately, this proved to be the turning point in inter-communal trouble during the year, and September witnessed only 4 riots. One of these, however, the riot in Nagpur in the Central Provinces on September 4th was second only to Lahore riot in seriousness and in the damage which it caused. The spark, which started the fire, was the trouble in connection with a Muslim procession, but the materials for the combustion had been collected for some time. Nineteen persons were killed and 123 injured were admitted to hospitals as a result of this riot, during the course of which many members of the Muslim community abandoned their homes in Nagpur.

A feature of Hindu-Muslim relations during the year which was hardly less serious than the riots was the number of murderous outrages committed by members of one community against persons belonging to the other. Some of the most serious of these outrages were perpetrated in connection with the agitation relating to *Rangila Rasul* and *Risala Vartman,* two publications containing most scurrilous attack on the Prophet Muhammed and as a result of them, a number of innocent persons lost their lives, sometimes in circumstances of great barbarity. In Lahore a series of outrages against individuals led to a state of great excitement and insecurity during the summer of 1927.

The excitement over the *Rangila Rasul** case had by now travelled far from its original centre and by July had begun to

* *Rangila Rasul* was written in reply to *Sitaka Chinala*—a pamphlet written by a Muslim alleging that Sita, wife of Rama, the hero of Ramayana, was a prostitute.

produce unpleasant repercussions on and across the North-West Frontier. The first signs of trouble in this region became apparent early in June, and by the latter part of July the excitement had reached its height. On the British side of the border, firm and tactful handling of the situation by the local authorities averted, what would have been a serious breach of the peace. Economic boycott of Hindus was freely advocated in the British Frontier Districts, especially in Peshawar, but this movement met with little success, and although the Hindus were maltreated in one or two villages, the arrest of the culprits, together with appropriate action under the Criminal Law, quickly restored order. Across the border however, the indignation, aroused by these attacks on the Prophet, gave rise to more serious consequences. The Frontier tribesmen are acutely sensitive to the appeal of religion and when a well-known Mullah started to preach against the Hindus among the Afridis and Shinwaris in the neighbourhood of the Khyber Pass, his words fell on fruitful ground. He called upon the Afridis and Shinwaris to expel all the Hindus living in their midst unless they declared in writing that they dissociated themselves from the doings of their co-religionists down country. The first to expel their Hindu neighbours were two clans of the Khyber Afridis, namely the Kuikhel and Zakkakhel, on the 22nd July. From these, the excitement spread among their Shinwari neighbours, who gave their Hindu neighbours notice to quit a few days later. However, after the departure of some of the Hindus, the Shinwaris agreed to allow the remainder to stay on. Some of the Hindus on leaving the Khyber were roughly handled. In two cases, stones were thrown, though happily without any damage resulting. In a third case, a Hindu was wounded and a large amount of property carried off, but this was recovered by Afridi Khassadars in full, and the culprits were fined for the offence. Thereafter, arrangements were, made for the picketing of the road for the passage of any Hindu evacuating tribal territory. Under pressure from the Political Agent an Afridi *jirga* decided towards the end of July to suspend the Hindu boycott pending a decision in the Risala Vartman case. In the following week, however, several Hindu families, who had been living at Landi Kotal at the head of the Khyber Pass moved to Peshawar refusing

to accept assurances of the tribal chiefs but leaving one person from each family behind to watch over their interests. All told, between four hundred and fifty Hindus, men, women and children, had come into Peshawar by the Middle of August, when the trouble was definitely on the wane. Some of the Hindus were definitely expelled, some were induced to leave their homes by threats, some left from fear, some no doubt from sympathy with their neighbours. This expulsion and voluntary exodus from tribal territory were without parallel. Hindus had lived there for more generations than most of them could record as valued and respected, and, indeed, as essential members of the tribal system, for whose protection the tribesmen had been jealous, and whose blood feuds they commonly made their own. In all, about 450 Hindus left the Khyber during the excitement; of these, about 330 had returned to their homes in tribal territory by the close of the year 1927. Most of the remainder had decided to settle, at any rate for the present, amid the more secure conditions of British India.

The year 1928-29 was comparatively more peaceful than the year 1927-28. His Excellency Lord Irwin, by his speeches to the Central Legislature and outside, had given a strong impetus to the attempts to find some basis for agreement between the two communities, on those questions of political importance, which were responsible for the strained relations between them. Fortunately the issues arising out of the inquiry by the Simon Commission which was appointed in 1929, absorbed a large part of the energy and attention of the different communities, with the result that less importance came to be attached to local causes of conflict, and more importance to the broad question of constitutional policy. Moreover, the legislation passed during the autumn session of the Indian Legislature in 1927 penalising the instigation of inter-communal hostility by the press, had some effect in improving the inter-communal disturbances. The number of riots during the twelve months ending with March 31st, 1929, was 22. Though the number of riots was comparatively small, the casualties,—swelled heavily by the Bombay riots,—were very serious, no fewer than 204 persons having been killed and nearly a thousand injured. Of these, the fortnight's rioting in Bombay accounts for 149 killed and 739 injured. Seven of these 22 riots,

or roughly one-third of them, occurred on the day of the celebration of the annual Muslim festival of Bakr-i-Id at the end of May. The celebration of this festival is always a dangerous time in Hindu-Muslim relations. The Muslim regard it as a day of animal sacrifice, and as the animal chosen is almost always a cow the slightest tension between the two communities is apt to produce an explosion. Of the Bakr-i-Id riots only two were serious and both of them took place in the Punjab. The first took place in a village in the Ambala District in which ten people were killed and nine injured. The other riot which took place in Softa village in the Gurgaon District in the Southern Punjab, attained considerable notoriety because of its sensational features. The village of Softa is about 27 miles south of Delhi and is inhabited by Muslims. This village is surrounded by villages occupied by Hindu cultivators who, on hearing that the muslims of Softa intended to sacrifice a cow on the 'Id Day', objected to the sacrifice of the particular cow selected on the ground that it had been accustomed to graze in fields belonging to the Hindu cultivators. The dispute over the matter assumed a threatening aspect and the Superintendent of Police of the district accordingly went with a small force of police, about 25 men in all, to try to keep peace. He took charge of the disputed cow and locked it up, but his presence did not deter the Hindu cultivators of a few neighbouring villages from collecting about a thousand people armed with pitchforks, spears and staves, and going to Softa. The Superintendent of Police and an Indian Revenue official, who were present in the village, assured the crowd that the cow, in connection with which the dispute had arisen would not be sacrificed, but this did not satisfy the mob which threatened to burn the whole village if any cow was sacrificed, and also demanded that the cow should be handed over to them. The Superintendent of Police refused to agree to this demand, whereupon the crowd became violent and began to throw stones at the police and to try to get round the latter into the village. The Superintendent of Police warned the crowd to disperse, but to no effect. He, therefore, fired one shot from his revolver as a further warning. Notwithstanding the crowd still continued to advance and the Superintendent had to order his party of police to fire. Only one volley was fired at first, but as this did

not cause the retreat of the mob, two more volleys had to be fired before the crowd slowly dispersed, driving off some cattle belonging to the village.

While the police were engaged in this affair a few Hindu cultivators got into Softa at another place and tried to set fire to the village. They were, however, driven away by the police after they had inflicted injuries on three or four men. In all 14 persons were killed and 33 were injured. The Punjab Government deputed a judicial officer to enquire into this affair. His report, which was published on 6th July, justified the action of the police in firing on the mob and recorded the opinion that there was no reason to suppose that the firing was excessive or was continued after the mob had desisted from its unlawful aggression. Had the police not opened fire, the report proceeds, their own lives would have been in immediate danger, as also the lives of the people of Softa. Lastly, in the opinion of the officer writing the report, had Softa village been sacked, there would certainly have broken up, within 24 hours, a terrible communal conflagration in the whole of the surrounding country-side.

The riots of Kharagpur, an important railway centre not far from Calcutta, also resulted in serious loss of life. Two riots took place at Kharagpur, the first on the occasion of the Muharram celebration at the end of June and the second on the 1st September 1928, when the killing of a cow served as a cause. In the first riot 15 were killed and 21 injured, while in the second riot, the casualties were 9 killed and 35 wounded. But none of these riots is to be compared with those that raged in Bombay from the beginning to the middle of February, when, as we have seen, 149 persons were killed and well over 700 injured.

During the year 1929-30 communal riots, which had been so conspicuous and deplorable a feature of public life during the preceding years, were very much less frequent. Only 12 were of sufficient importance to be reported to Government of India, and of these only the disturbances in the City of Bombay were really serious. Starting on the 23rd of April they continued sporadically until the middle of May, and were responsible for 35 deaths and about 200 other casualties. An event which caused considerable

tension in April was the murder at Lahore of Rajpal, whose pamphlet *Rangila Rasul,* containing a scurrilous attack on the Prophet of Islam, was responsible for much of the communal trouble in previous years, and also for a variety of legal and political complications. Fortunately, both communities showed commendable restraint at the time of the murder, and again on the occasion of the execution and funeral of the convicted man ; and although feelings ran high no serious trouble occurred.

The year 1930-31 saw the eruption of the Civil Disobedience Movement. It gave rise to riots and disturbances all over the country. They were mostly of a political character and the parties involved in them were the police and the Congress volunteers. But, as it always happens in India, the political disturbances took a communal twist. This was due to the fact that the Muslims refused to submit to the coercive methods used by Congress volunteers to compel them to join in Civil Disobedience. The result was that although the year began with political riots it ended in numerous and quite serious communal riots. The worst of these communal riots took place in and around Sukkur in Sind between the 4th and 11th of August and affected over a hundred villages. The outbreak in the Kishoreganj sub-division of Mymensingh District (Bengal) on the 12th/15th of July was also on a large scale. In addition, there were communal disturbances on the 3rd of August in Ballia (United Provinces) ; on the 6th of September in Nagpur, and on the 6th/7th September in Bombay ; and a Hindu-Christian riot broke out near Tiruchendur (Madras) on the 31st of October. On the 12th of February, in Amritsar, an attempt was made to murder a Hindu cloth merchant who had defied the picketers, and a similar outrage which was perpetrated the day before in Benares had very serious consequences. On this occasion, the victim was a Muslim trader, and the attack proved fatal; as a result, since Hindu-Muslim relations throughout most of Northern India were by this time very strained, a serious communal riot broke out and continued for five days, causing great destruction of property and numerous casualties. Among the other communal clashes during this period were the riots at Nilphamari (Bengal) on the 25th of January and at Rawalpindi on the 31st. Throughout Northern

India communal relations had markedly deteriorated during the first two months of 1931, and already, in February, there had been serious communal rioting in Benares. This state of affairs was due chiefly to the increasing exasperation created among Muslims by the paralysis of trade and the general atmosphere of unrest and confusion that resulted from Congress activities. The increased importance which the Congress seemed to be acqiring as a result of the negotiations with the Government aroused in the Muslims serious apprehensions and had the effect of worsening the tension between the two communities. During March, this tension, in the United Provinces at any rate, became greatly increased. Between the 14th and 16th there was serious rioting in the Mirzapur District, and on the 17th, trouble broke out in Agra and continued till the 20th. There was also a communal riot in Dhanbad (Bengal) on the 28th, and in Amritsar District on the 30th ; and in many other parts of the country, the relations between members of the two communities had become extremely strained.

In Assam, the communal riot which occurred at Digboi in Lakhimpur District, resulted in deaths of one Hindu and three Muslims. In Bengal, a communal riot took place in the Asansol division during the Muharram festival. In Bihar and Orissa there was a certain amount of communal tension during the year, particularly in Saran. Altogether there were 16 cases of communal rioting and unlawful assembly. During the Bakr-i-Id festival a clash occurred in the Bhabua sub-division of Shahabad. Some 300 Hindus collected in the mistaken belief that a cow had been sacrificed. The local officers had succeeded in pacifying them when a mob of about 200 Muhammedans armed with lathis, spears and swords, attacked the Hindus, one of whom subsequently died. The prompt action of the police and the appointment of a conciliation committee prevented the spread of the trouble. The Muharram festival was marked by two small riots in Monghyr, the Hindus being the aggressors on one occasion and the Muslims on the other. In the Madras Presidency there were also several riots of a communal nature during the year and the relations between the communities were in places distinctly strained. The most serious disturbance of the year occurred at Vellore on the 8th of June, as a result of the passage of a Muslim procession with Tazias

near a Hindu temple; so violent was the conflict between members of the two communities that the police were compelled to open fire in order to restore order; and sporadic fighting continued in the town during the next two or three days. In Salem town, owing to Hindu-Muslim tension a dispute arose on the 13th of July, as to who had been the victor at a largely attended Hindu-Muslim wrestling match at Shevapet. Another riot occurred in October at Kitchipalaiyam near Salem town ; the trouble arose from a few Muslims disturbing a street game played by some young Hindus. Hindu-Muslim disturbances also arose in Polikal village, Kurnool District, on the 15th of March, owing to a dispute about the route of a Hindu procession, but the rioters were easily dispersed by a small force of police. In the Punjab there were 907 cases of rioting during the year as compared with 813 in 1929. Many of them were of a communal character, and the tension between the two principal communities remained acute in many parts of the Province. In the United Provinces, although communal tension during 1930 was not nearly so acute as during the first 3 months of 1931, and was for a while overshadowed by the excitement engendered by the Civil Disobedience Movement, indications of it were fairly numerous, and the causes of disagreement remained as potent as ever. In Dehra Dun and Bulandshahr there were communal riots of the usual type, and a very serious riot occurred in Ballia city as a result of a dispute concerning the route taken by a Hindu procession, which necessitated firing by the police. Riots also occurred in Muttra, Azamgarh, Mainpuri and several other places.

Passing on to the events of the year 1931-32, the progress of constitutional discussions at the R. T. C. had a definite reaction in that it bred a certain nervousness among the Muslim and other minority communities as to their position under a constitution functioning on the majority principle. The first session of the Round Table Conference afforded the first "close-up" of the constitutional future. Until then the ideal of Dominion Status had progressed little beyond a vague and general conception, but the declaration of the Princes at the opening of the Conference had brought responsibility at the Centre, in the form of a federal government, within definite view. The Muslims, therefore, felt

that it was high time for them to take stock of their position. This uneasiness was intensified by the Irwin-Gandhi settlement, which accorded what appeared to be a privileged position to the Congress, and Congress elation and pose of victory over the Government did not tend to ease Muslim misgivings. Within three weeks of the "pact" occurred the savage communal riots at Cawnpore, which significantly enough began with the attempts of Congress adherents to force Mahomedan shopkeepers to observe a *hartal* in memory of Bhagat Singh who was executed on 23rd March. On 24th March began the plunder of Hindu shops. On the 25th there was a blaze. Shops and temples were set fire to and burnt to cinders. Disorder, arson, loot, murder, spread like wild fire. Five hundred families abandoned their houses and took shelter in villages. Dr. Ramchandra was one of the worst sufferers. All members of his family, including his wife and aged parents, were killed and their bodies thrown into gutters. In the same slaughter Mr. Ganesh Shankar Vidyarthi lost his life. The Cawnpore Riots Inquiry Committee in its report states that the riot was of unprecedented violence and peculiar atrocity, which spread with unexpected repidity through the whole city and even beyond it. Murders, arson and looting were widespread for three days, before the rioting was definitely brought under control. Afterwards it subsided gradually. The loss of life and property was great. The number of verified deaths was 300; but the death roll is known to have been larger and was probably between four and five hundred. A large number of temples and mosques were desecrated or burnt or destroyed and a very large number of houses were burnt and pillaged.

This communal riot, which need never have occurred but for the provocative conduct of the adherents of the Congress, was the worst which India has experienced for many years. The trouble, moreover, spread from the city to the neighbouring villages, where there were sporadic communal disturbances for several days afterwards.

The year 1932-33 was relatively free from communal agitations and disturbances. This welcome improvement was doubtless in some measure due to the suppression of lawlessness generally and the removal of uncertainty in regard to the position of the Muslims under the new constitution.

But in 1933-34 throughout the country communal tension had been increasing and disorders which occurred not only on the occasion of such festivals as Holi, Id and Muharram, but also many resulting from ordinary incidents of every-day life indicated, that there had been a deterioration in communal relations since the year began. Communal riots during Holi occurred at Benares and Cawnpore in the United Provinces, at Lahore in the Punjab, and at Peshawar. Bakr-i-Id was marked by serious rioting at Ayodhya, in the United Provinces over cow sacrifice, also at Bhagalpore in Bihar and Orissa and at Cannanore in Madras. A serious riot in the Ghazipur District of the United Provinces also resulted in several deaths. During April and May there were Hindu-Muslim riots at several places in Bihar and Orissa, in Bengal, in Sind and Delhi, some of them provoked by very trifling incidents, as for instance, the unintentional spitting by a Muslim shopkeeper of Delhi upon a Hindu passer-by. The increase in communal disputes in British India was also reflected in some of the States where similar incidents occurred.

The position with regard to communal unrest during the months from June to October was indicative of the normal, deep-seated antagonism between the two major communities. June and July months, in which no Hindu or Muhammedan festival of importance took place, were comparatively free from riots, though the situation in certain areas of Bihar necessitated the quartering of additional police. A long-drawn-out dispute started in Agra. The Muslims of this city objected to the noise of religious ceremonies in certain Hindu private houses which they said disturbed worshippers at prayers in a neighbouring mosque. Before the dispute was settled, riots occurred on the 20th July and again on the 2nd September, in the course of which 4 persons were killed and over 80 injured. In Madras a riot, on the 3rd September resulting in one death and injuries to 13 persons, was occasioned by a book published by Hindus containing alleged reflections on the Prophet. During the same month minor riots occurred in several places in the Punjab and the United Provinces.

In 1934-35 serious trouble arose in Lahore on the 29th June as a result of a dispute between Muslims and Sikhs about a mosque

situated within the precincts of a Sikh temple known as the Shahidganj Gurudwara. Trouble had been brewing for sometime. Ill-feeling became intensified when the Sikhs started to demolish the Mosque despite Muslim protests. The building had been the subject of prolonged litigation, which has confirmed the Sikh right of possession.

On the night of the 29th June a crowd of 3 or 4 thousand Muslims assembled in front of the Gurudwara. A struggle between this crowd and the Sikhs inside the Gurudwara was only averted by the prompt action of the local authorities. They subsequently obtained an undertaking from the Sikhs to refrain from further demolition. But during the following week, while strenuous efforts were being made to persuade the leaders to reach an amicable settlement, the Sikhs under pressure of extremist influence again set about demolishing the mosque. This placed the authorities in a most difficult position. The Sikhs were acting within their legal rights. Moreover the only effective method of stopping demolition would have been to resort to firing. As the building was full of Sikhs and was within the precincts of a Sikh place of worship, this would not only have caused much bloodshed but, for religious reasons, would have had serious reactions on the Sikh population throughout the Province. On the other hand, inaction by Government was bound to cause great indignation among the Muslims, for religious reasons : and it was expected that this would show itself in sporadic attacks on the Sikhs and perhaps on the forces of Government.

It was hoped that discussions between leaders of the two communities would effect some rapproachment, but mischief-makers inflamed the minds of their co-religionists. Despite the arrest of the chief offenders, the excitement increased. The Government's gesture in offering to restore to the Muslims another mosque which they had purchased years ago proved unavailing. The situation took a further turn for the worse on the 19th July and during the following two days the situation was acutely dangerous. The Central Police station was practically besieged by the huge crowds, which assumed a most menacing attitude. Repeated attempts to disperse them without the use of firearms failed and the troops had to fire twice on the 20th July and

eight times on the 21st. In all 23 rounds were fired and 12 persons killed. Casualties, mostly of a minor nature, were numerous amongst the military and police. As a result of the firing, the crowds dispersed and did not reassemble. Extra police were brought in from other Provinces and the military garrisons were strengthened. Administrative control was re-established rapidly, but the religious leaders continued to fan the embers of the agitation. Civil litigation was renewed and certain Muslim organisations framed some extravagant demands.

The situation in Lahore continued to cause anxiety up to the close of the year. On the 6th November, a Sikh was mortally wounded by a Muslim. Three days later a huge Sikh-Hindu procession was taken out. The organisers appeared anxious to avoid conflict but nonetheless one serious clash occurred. This was followed by further rioting on the next day. But for the good work of the police and the troops, in breaking up the fights quickly, the casualties might have been very large.

On the 19th March 1935 a serious incident occurred in Karachi after the execution of Abdul Quayum, the Muslim who had murdered Nathuramal, a Hindu, already referred to as the writer of a scurrilous pamphlet about the Prophet. Abdul Quayum's body was taken by the District Magistrate, accompanied by a police party, to be handed over to the deceased's family for burial outside the city. A huge crowd, estimated to be about 25,000 strong, collected at the place of burial. Though the relatives of Abdul Quayum wished to complete the burial at the cemetery, the most violent members of the mob determined to take the body in procession through the city. The local authorities decided to prevent the mob entering, since this would have led to communal rioting. All attempts of the police to stop the procession failed, so a platoon of the Royal Sussex Regiment was brought in to keep peace. It was forced to open fire at short range to stop the advance of the frenzied mob and to prevent itself from being overwhelmed. Forty-seven rounds were fired by which 47 people were killed and 134 injured. The arrival of reinforcements prevented further attempts to advance. The wounded were taken to the Civil Hospital and the body of Abdul Quayum was then interred without further trouble.

On the 25th August 1935 there was a communal riot at Secunderabad.

In the year 1936 there were four communal riots. On the 14th April there occurred a most terrible riot at Firozabad in the Agra District. A Muslim procession was proceeding along the main bazar and it is alleged that bricks were thrown from the roofs of Hindu houses. This enraged the Muslims in the procession who set fire to the house of a Hindu, Dr. Jivaram, and the adjacent temple of Radha Krishna. The inmates of Dr. Jivaram's house in addition to 11 Hindus including 3 children were burnt to death. A second Hindu-Muslim riot broke out in Poona in the Bombay Presidency on 24th April 1936. On the 27th April there occurred a Hindu-Muslim riot in Jamalpur in the Monghyr District. The fourth Hindu-Muslim riot of the year took place in Bombay on the 15th October 1936.

The year 1937 was full of communal disturbances. On the 27th March 1937 there was a Hindu-Muslim riot at Panipat over the Holi procession and 14 persons were killed. On the 1st May 1937 there occurred a communal riot in Madras in which 50 persons were injured. The month of May was full of communal riots which took place mostly in the C. P. and the Punjab. One that took place in Shikarpur in Sind caused great panic. On 18th June there was a Sikh-Muslim riot in Amritsar. It assumed such proportions that British troops had to be called out to maintain order.

The year 1938 was marked by two communal riots—one in Allahabad on 26th March and another in Bombay in April.

There were 6 Hindu-Muslim riots in 1939. On the 21st January there was a riot at Asansol in which one was killed and 18 injured. It was followed by a riot in Cawnpore on the 11th February in which 42 were killed, 200 injured and 800 arrested. On the 4th March there was a riot at Benares followed by a riot at Cassipore near Calcutta on the 5th March. On 19th June there was again a riot at Cawnpore over the Rathajatra procession.

A serious riot occurred on 20th November 1939 in Sukkur in Sind. The riot was the culmination of the agitation by the Muslims to take possession, even by force, of a building called Manzilgah

which was in the possession of Government as Government property and to the transfer of which the Hindus had raised objections. Mr. E. Weston—now a judge of the Bombay High Court—who was appointed to investigate into the disturbances gives* the following figures of the murdered and the wounded:

Taluka.	Murders committed.		Persons injured.		Persons subsequently died from injuries.	
	Hindus.	Mdns.	Hindus.	Mdns.	Hindus.	Mdns.
Sukkur Town ...	20	12	11	11	1	...
Sukkur Taluka ...	2	2	23	...	5	...
Shikarpur Taluka ...	5	...	11	...	2	...
Garhi Yasin Taluka ...	24	...	4	...	...	...
Rohri Taluka ...	10	...	3	...	...	...
Pano Akil Taluka ...	6	...	1	...	...	...
Ghorki Taluka ...	1	...	1	...	...	...
Mirpur Mathclo Taluka ...	...	...	1	...	...	...
Ubauro Taluka ...	4	...	3	1	1	...
	142	14	58	12	9	...

Of the many gruesome incidents recorded by him the following may be quoted :

> "The most terrible of all the disturbances occurred on the night of the 20th at Gosarji village which is eight miles from Sukkur and sixteen from Shikarpur. According to an early statement sent by the District Magistrate to Government, admittedly incomplete, 27 Hindus were murdered there that night. According to the witnesses examined the number was 37.
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> "Pamanmal, a contractor of Gosarji states that at the time of satyagraha the leading Hindus of Gosarji came in deputation to the leading zemindar of the locality Khan Sahib Amirbux who was then at Sukkur. He reassured them and said he was responsible for their safety. On the 20th Khan Sahib Amirbux was at Gosarji, and that morning Mukhi Mahrumal was murdered there. The Hindus went to Khan Sahib Amirbux for protection

* Report of the Court of Inquiry appointed under section 3 of the Sind Public Inquiries Act to inquire into the riots which occurred at Sukkur in 1939, p. 65. The total of 142 Hindus under 'murdered' seems to be a mistake. It ought to be 72.

and were again reassured, but that night wholesale murder and looting took place. Of the 37 murdered, seven were women. Pamanmal states that the following morning he went to the Sub-Inspector of Bagerji, which is one mile from Gosarji, but he was abused and driven from the thana. He then went to Shikarpur and complained to the panchayat, but did not complain to any officer there. I may mention that the Sub-Inspector of Bagerji was afterwards prosecuted under section 211, Indian Penal Code, and has been convicted for failure to make arrests in connection with murders at Gosarji.

"As Khan Sahib Amirbux, the zemindar, who was said to have given assurance of protection to the Hindus of Bagerji, was reported to be attending the Court, he was called and examined as a Court witness. He states that he lives half a mile from Gosarji village. The Sub-Inspector of Bagerji came to Gosarji on the 20th after the murder of Mchrumal, and he acted as a mashir. He says that the Hindus did not ask for help and there was no apprehension of trouble. On the night of the 20th he was not well, and he heard nothing of the murders. He admits that he had heard of the Manzilgah evacuation. Later in his evidence he admits that he told the villagers of Gosarji to be on the alert as there was trouble in Sukkur, and he says he had called the panchayat on the evening of the 19th. He went to Gosarji at sunrise on the 21st after the murders. He admits that he is regarded as the protector of Gosarji."

Mr. Weston adds* :—

"I find it impossible to believe the evidence of this witness. I have no doubt that he was fully aware that there was trouble in Gosarji on the night of 20th and preferred to remain in his house."

Who can deny that this record of rioting presents a picture which is grim in its results and sombre in its tone ? But being chronological in order, the record might fail to give an idea of the havoc these riots have caused in any given Province and the paralysis it has brought about in its social and economic life. To give an idea of the paralysis caused by the recurrence of riots in a Province I have recast the record of riots for the Province of Bombay. When recast the general picture appears as follows :

Leaving aside the Presidency and confining oneself to the City of Bombay, there can be no doubt that the record of the city is the blackest. The first Hindu-Muslim riot took place in 1893. This was followed by a long period of communal peace which lasted upto 1929. But the years that have followed have an appalling Story to tell. From February 1929 to April 1938—a period of nine

* Ibid., pp. 66-67.

years—there were no less than 10 communal riots. In 1929 there were two communal riots. In the first, 149 were killed and 739 were injured and it lasted for 36 days. In the second riot 35 were killed, 109 were injured and it continued for 22 days. In 1930 there were two riots. Details as to loss of life and its duration are not available. In 1932 there were again two riots. The first was a small one. In the second 217 were killed, 2,713 were injured and it went on for 49 days. In 1933 there was one riot, details about which are not available. In 1936 there was one riot in which 94 were killed, 632 were injured and it continued to rage for 65 days. In the riot of 1937, 11 were killed, 85 were injured and it occupied 21 days. The riot of 1938 lasted for $2^1/_2$ hours only but within that time 12 were killed and a little over 100 were injured. Taking the total period of 9 years and 2 months from February 1929 to April 1938 the Hindus and Muslims of the City of Bombay alone were engaged in a sanguinary warfare for 210 days during which period 550 were killed and 4,500 were wounded. This does not of course take into consideration the loss of property which took place through arson and loot.

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Such is the record of Hindu-Muslim relationship from 1920 to 1940. Placed side by side with the frantic efforts made by Mr. Gandhi to bring about Hindu-Muslim unity, the record makes most painful and heart-rending reading. It would not be much exaggeration to say that it is a record of twenty years of civil war between the Hindus and the Muslims in India, interrupted by brief intervals of armed peace.

In this civil war men were, of course, the principal victims. But women did not altogether escape molestation. It is perhaps not sufficiently known how much women have suffered in communal hostilities. Data relating to the whole of India are not available. But some data relating to Bengal exist.

On the 6th September 1932 questions were asked in the old Bengal Legislative Council regarding the abduction of women in the Province of Bengal. In reply, the Government of the day stated that between 1922 to 1927, the total number of women

abducted was 568. Of these, 101 were unmarried and 467 were married. Asked to state the community to which the abducted women belonged, it was disclosed that out of 101 unmarried women 64 were Hindus, 29 Muslims, 4 Christians, and 4 non-descript: and that out of 467-married women 331 were Hindus, 122 Muslims, 2 Christians and 12 non-descript. These figures relate to cases which were reported or if reported were not detected. Usually, about 10 p.c. of the cases are reported or detected and 90 p.c. go undetected. Applying this proportion to the facts disclosed by the Bengal Government, it may be said that about 35,000 women were abducted in Bengal during the short period of five years between 1922-27.

The attitude towards women-folk is a good index of the friendly or unfriendly attitude between the two communities. As such, the case which happened on 27th June 1936 in the village of Govindpur in Bengal makes very instructive reading. The following account of it is taken from the opening speech* of the Crown counsel when the trial of 40 Mahomedan accused began on the 10th August 1936. According to the prosecution :

> "There lived in Govindpur a Hindu by name Radha Vallabh. He had a son Harendra. There lived also in Govindpur a Muslim woman whose occupation was to sell milk. The local Musalmans of the village suspected that Harendra had illicit relationship with this Muslim milk woman. They resented that a Muslim woman should be in the keeping of a Hindu and they decided to wreak their vengeance on the family of Radha Vallabh for this insult. A meeting of the Musalmans of Govindpur was convened and Harendra was summoned to attend this meeting. Soon after Harendra went to the meeting, cries of Harendra were heard. It was found that Harendra was assaulted and was lying senseless in the field where the meeting was held. The Musalmans of Govindpur were not satisfied with this assault. They informed Radha Vallabh that unless he, his wife and his children embraced Islam the Musalmans did not feel satisfied for the wrong his son had done to them. Radha Vallabh was planning to send away to another place his wife and children. The Musalmans came to know this plan. Next day when Kusum, the wife of Radha Vallabh, was sweeping the courtyard of her house, some Mahomedans came, held down Radha Vallabh and some spirited away Kusum. After having taken her to some distance two Mahomedans by name Laker and Mahazar raped her and removed

* This is an English version of the report which appeared in the *Savadhan,* a Marathi weekly of Nagpur, in its issue of 25th August 1936.

her ornaments. After some time, she came to her senses and ran towards her home. Her assailants again pursued her. She succeeded in reaching her home and locking herself in. Her Muslim assailants broke open the door, caught hold of her and again carried her away on the road. It was suggested by her assailants that she should be again raped on the street. But with the help of another woman by name Rajani, Kusum escaped and took shelter in the house of Rajani. While she was in the house of Rajani the Musalmans of Govindpur paraded her husband Radha Vallabh in the streets in complete disgrace. Next day the Musalmans kept watch on the roads to and from Govindpur to the Police Station to prevent Radha Vallabh and Kusum from giving information of the outrage to the Police."

These acts of barbarism against women, committed without remorse, without shame and without condemnation by their fellow brethren show the depth of the antagonism which divided the two communities. The tempers on each side were the tempers of two warring nations. There was carnage, pillage, sacrilege and outrage of every species, perpetrated by Hindus against Musalmans and by Musalmans against Hindus—more perhaps by Musalmans against Hindus than by Hindus against Musalmans. Cases of arson have occurred in which Musalmans have set fire to the houses of Hindus, in which whole families of Hindus, men, women and children were roasted alive and consumed in the fire, to the great satisfaction of the Muslim spectators. What is astonishing is that these cold and deliberate acts of rank, cruelty were not regarded as atrocities to be condemned but were treated as legitimate acts of warfare for which no apology was necessary. Enraged by these hostilities, the editor of the *Hindustan*—a Congress paper—writing in 1926 used the following language to express the painful truth of the utter failure of Mr. Gandhi's efforts to bring about Hindu-Muslim unity. In words of utter despair the editor said* :

"There is an immense distance between the India of to-day and India a nation, between an uncouth reality which expresses itself in murder and arson and that fond fiction which is in the imagination of patriotic if self-deceiving men. To talk about Hindu-Muslim unity from a thousand platforms or to give it blazoning headlines is to perpetrate an illusion whose cloudly structure dissolves itself at the exchange of brick-bats and the desecration of tombs and temples. To sing a few pious hymns of peace and goodwill *a la Naidu*..... will not benefit the country. The President of the Congress has been improvising on the theme of Hindu-

* Quoted in "Through Indian Eyes" columns of the *Times of India,* dated 16-8-26.

> Muslim unity, so dear to her heart, with brilliant variations, which does credit to her genius but leaves the problem untouched. The millions in India can only respond when the unity song is not only on the tongues of the leaders but in the hearts of the millions of their countrymen."

Nothing I could say can so well show the futility of any hope of Hindu-Muslim unity. Hindu-Muslim unity upto now was at least in sight although it was like a mirage. Today it is out of sight and also out of mind. Even Mr. Gandhi has given up what, he perhaps now realizes, is an impossible task.

But there are others who notwithstanding the history of the past twenty years, believe in the possibility of Hindu-Muslim unity. This belief of theirs seems to rest on two grounds. Firstly, they believe in the efficacy of a Central Government to mould diverse set of people into one nation. Secondly, they feel that the satisfaction of Muslim demands will be a sure means of achieving Hindu-Muslim unity.

It is true that Government is a unifying force and that there are many instances where diverse people have become unified into one homogeneous people by reason of their being subjected to a single Government. But the Hindus, who are depending upon Government as a unifying force seem to forget that there are obvious limits to Government acting as a unifying force. The limits to Government working as a unifying force are set by the possibilities of fusion among the people. In a country where race, language and religion do not stand in the way of fusion, Government is most effective as a unifying force. On the other hand, in a country where race, language and religion put an effective bar against fusion, Government can have no effect as a unifying force. If the diverse people in France, England, Italy and Germany became unified nations by reason of a common Government, it was because neither race, language nor religion obstructed the unifying process of Government. On the other hand, if the people in Austria, Hungary, Czechoslovakia and Turkey failed to be unified, although under a common Government, it was because race, language and religion were strong enough to counter and nullify the unifying power of Government. No one can deny that race, language and religion have been too dominant in India to permit the people of India to be welded into a nation by the unifying force of a common

Government. It is an illusion to say that the Central Government in India has moulded the Indian people into a nation. What the Central Government has done, is to tie them together by one law and to house them together in one place, as the owner of unruly animals does, by tying them with one rope and keeping them in one stable. All that the Central Government has done is to produce a kind of peace among Indians. It has not made them one nation.

It cannot be said that time has been too short for unification to take place. If one hundred and fifty years of life under a Central Government does not suffice, eternity will not suffice. For this failure the genius of the Indians alone is responsible. There is among Indians no passion for unity, no desire for fusion. There is no desire to have a common dress. There is no desire to have a common language. There is no will to give up what is local and particular for something which is common and national. A Gujarati takes pride in being a Gujarati, a Maharashtrian in being a Maharashtrian, a Punjabi in being a Punjabi, a Madrasi in being a Madrasi and a Bengali in being a Bengali. Such is the mentality of Hindus, who accuse the Musalman of want of national feeling when he says "I am a Musalman first and Indian afterwards". Can any one suggest that there exists anywhere in India even among the Hindus an instinct or a passion that would put any semblance of emotion behind their declaration "*Civis Indianus sum",* or the smallest consciousness of a moral and social unity, which desires to give expression by sacrificing whatever is particular and local in favour of what is common and unifying ? There is no such consciousness and no such desire. Without such consciousness and no such desire, to depend upon Government to bring about unification is to deceive oneself.

Regarding the second, it was no doubt the opinion of the Simon Commission :

> "That the communal riots were a manifestation of the anxieties and ambitions aroused in both the communities by the prospects of India's political future. So long as authority was firmly established in British hands and self-government was not thought of, Hindu-Muslim rivalry was confined within a narrower field. This was not merely because the presence of a neutral bureaucracy discouraged strife. A further reason was that there was little for members of one community to fear from the predominance of the other. The comparative absence

of communal strife in the Indian States today may be similarly explained. Many, who are well acquainted with conditions in British India a generation ago, would testify that at that epoch so much good feeling had been engendered between the two sides that communal tension as a threat to civil peace was at a minimum. But the coming of the Reforms and the anticipation of what may follow them have given new point to Hindu-Muslim competition. The one community naturally lays claim to the rights of a majority and relies upon its qualifications of better education and greater wealth ; the other is all the more determined on those accounts to secure effective protection for its members, and does not forget that it represents the previous conquerors of the country. It wishes to be assured of adequate representation and of a full share of official posts."

Assuming that to be a true diagnosis, asssuming that Muslim demands are reasonable, assuming that the Hindus were prepared to grant them—and these are all very big assumptions—it is a question whether a true union between Hindus and Muslims can take place through political unity, resulting from the satisfaction of Muslim political demands. Some people seem to think that it is enough if there is a political unity between Hindus and Muslims. I think this is the greatest delusion. Those who take this view seem to be thinking only of how to bring the Muslims to join the Hindus in their demands on the British for Dominion Status or Independence as the mood of the moment be. This, to say the least, is a very shortsighted view. How to make the Muslims join the Hindus in the latter's demands on the British is comparatively a very small question. In what spirit will they work the constitution ? Will they work it only as aliens by an unwanted tie or will they work it as true kindreds, is the more important question. For working it as true kindreds, what is wanted is not merely political unity but a true union of heart and soul, in other words, social unity. Political unity is worth nothing, if it is not the expression of real union. It is as precarious as the unity between persons, who without being friends become allies of each other. How very precarious it always is, is best illustrated by what has happened between Germany and Russia. Personally, I do not think that a permanent union can be made to depend upon the satisfaction of mere material interests. Pacts may produce unity. But that unity can never ripen into union. A pact as a basis for a union is worse than useless. As its very nature indicates, a pact is

separative in character. A pact cannot produce the desire to accommodate, it cannot instil the spirit of sacrifice, nor can it bind the parties to the main objective. Instead of accommodating each other, parties to a pact strive to get, as much as possible, out of each other. Instead of sacrificing for the common cause, parties to the pact are constantly occupied in seeing that the sacrifice made by one is not used for the good of the other. Instead of fighting for the main objective, parties to the pact are for ever engaged in seeing that in the struggle for reaching the goal the balance of power between the parties is not disturbed. Renan spoke the most profound truth when he said :

> "Community of interests is assuredly a powerful bond between men. But nevertheless can interests suffice to make a nation ? I do not believe it. Community of interests make commercial treaties. There is a sentimental side to nationality ; it is at once body and soul; a Zollverein is not a fatherland."

Equally striking is the view of James Bryce, another well-known student of history. According to Bryce,

> "The permanence of an institution depends not merely on the material interests that support it, but on its conformity to the deep-rooted sentiment of the men for whom it has been made. When it draws to itself and provides a fitting expression for that sentiment, the sentiment becomes thereby not only more vocal but actually stronger, and in its turn imparts a fuller vitality to the institution."

These observations of Bryce were made in connection with the foundation of the German Empire by Bismarck who, according to Bryce, succeeded in creating a durable empire because it was based on a sentiment and that this sentiment was fostered

> "....most of all by what we call the instinct or passion for nationality, the desire of a people already conscious of a moral and social unity, to see such unity expressed and realize under a single government, which shall give it a place and name among civilized states".

What is it that produces this moral and social unity which gives permanence and what is it that drives people to see such unity expressed and realized under a single government, which shall give it a place and a name among civilized states ?

No one is more competent to answer this question than James Bryce. It was just such a question he had to consider in discussing the vitality of the Holy Roman Empire as contrasted with the

Roman Empire. If any Empire can be said to have succeeded in bringing about political unity among its diverse subjects it was the Roman Empire. Paraphrasing for the sake of brevity the language of Bryce :—The gradual extension of Roman citizenship through the founding of colonies, first throughout Italy and then in the provinces, the working of the equalized and equalizing Roman Law, the even pressure of the government on all subjects, the movements of population, caused by commerce and the slave traffic, were steadily assimilating the various peoples. Emperors, who were for the most part natives of the provinces, cared little to cherish Italy or even after the days of the Antonines, to conciliate Rome. It was their policy to keep open for every subject a career by whose freedom they had themselves risen to greatness. Annihilating distinctions of legal status among freemen, it completed the work, which trade and literature and toleration to all beliefs but one were already performing. No quarrel of race or religions disturbed that calm, for all national distinctions were becoming merged in the idea of a common Empire.

This unity produced by the Roman Empire was only a political unity. How long did this political unity last ? In the words of Bryce :

> "Scarcely had these slowly working influences brought about this unity, when other influences began to threaten it. New foes assailed the frontiers ; while the loosening of the structure within was shown by the long struggles for power which followed the death or deposition of each successive emperor. In the period of anarchy after the fall of Valerian, generals were raised by their armies in every part of the Empire, and ruled great provinces as monarchs apart, owning no allegience to the possessor of the capital. The breaking-up of the western half of the Empire into separate kingdoms might have been anticipated by two hundred years, had there not arisen in Diocletian a prince active and skilful enough to bind up the fragments before they had lost all cohesion, meeting altered conditions by new remedies. The policy he adopted by dividing and localizing authority recognized the fact that the weakened heart could no longer make its pulsations fell to the body's extremities. He parcelled out the supreme power among four monarchs, ruling as joint emperors in four capitals, and then sought to give it a fictitious strength by surrounding it with an oriental pomp which his earlier predecessors would have scorned. . . . The prerogative of Rome was menaced by the rivalry of Nicomedia, and the nearer greatness of Milan."

It is, therefore, evident that political unity was not enough to give permanence and stability to the Roman Empire and as Bryce points out that "the breaking-up of the western half (of the Roman Empire) into separate kingdoms might have been anticipated by two hundred years, had the barbarian tribes on the border been bolder, or had there not arisen in Diocletian a prince, active and skilful enough to bind up the fragments before they had lost all cohesion, meeting altered conditions by new remedies". But the fact is that the Roman Empire which was tottering and breaking into bits and whose political unity was not enough to bind it together did last for several hundred years as one cohesive unit after it became the Holy Roman Empire. As Prof. Marvin points out* :

> "The unity of the Roman Empire was mainly political and military. It lasted for between four and five hundred years. The unity which supervened in the Catholic Church was religious and moral and endured for a thousand years."

The question is what made the Holy Roman Empire more stable than the Roman Empire could ever hope to be ? According to Bryce it was a common religion in the shape of Christianity and a common religious organization in the shape of the Christian Church which supplied the cement to the Holy Roman Empire and which was wanting in the Roman Empire. It was this cement which gave to the people of the Empire a moral and social unity and made them see such unity expressed and realized under a single government.

Speaking of the unifying effect of Christianity as a common religion Bryce says :

> "It is on religion that the inmost and deepest life of a nation rests. Because Divinity was divided, humanity had been divided, likewise ; the doctrine of the unity of God now enforced the unity of man, who had been created in His image. The first lesson of Christianity was love, a love that was to join in one body those whom suspicion and prejudice and pride of race had hitherto kept apart. There was thus formed by the new religion a community of the faithful, a Holy Empire, designed to gather all men into its bosom, and standing opposed to the manifold polytheisms of the older world, exactly as the universal sway

* *The Unity of Western Civiliazation* (4th Ed.,) p. 27.

of the Caesars was contrasted with the innumerable kingdoms and city republics that had gone before it.…"*

If what Bryce has said regarding the instability of the Roman Empire and the comparatively greater stability of its successor, the Holy Roman Empire, has any lesson for India and if the reasoning of Bryce that the Roman Empire was unstable because it had nothing more than political unity to rely on, and that the Holy Roman Empire was more stable, because it rested on the secure foundation of moral and social unity, produced by the possession of a common faith, is valid reasoning and embodies human experience, then it is obvious that there can be no possibility of a union between Hindus and Muslims. The cementing force of a common religion is wanting. From a spiritual point of view, Hindus and Musalmans are not merely two classes or two sects such as Protestants and Catholics or Shaivas and Vaishnavas. They are two distinct species. In this view, neither the Hindu nor the Muslim can be expected to recognize that humanity is an essential quality present in them both, and that they are not many but one and that the differences between them are no more than accidents. For them Divinity is divided and with the division of Divinity their humanity is divided and with the division of humanity they must remain divided. There is nothing to bring them in one bosom.

Without social union, political unity is difficult to be achieved. If achieved, it would be as precarious as a summer sapling, liable to be uprooted by the gust of a hostile wind. With mere political unity, India may be a State. But to be a State is not to be a nation and a State, which is not a nation, has small prospects of survival in the struggle for existence. This is especially true where nationalism—the most dynamic force of modern times—is seeking everywhere to free itself by the destruction and disruption of all

* The Christian Church did not play a passive part in the process of unification of the Holy Roman Empire. It look a very active part in bringing it about. "Seeing one institution after another falling to pieces around her, seeing how countries and cities were being severed from each other by the eruption of strange tribes and the increasing difficulty of communication the Christain Church," says Bryee, "strove to save religious fellowship by strengthening the ecclesiastical organization, by drawing tighter every bond of outward union. Necessities of faith were still more powerful. Truth, it was said, is one, and as it must bind into one body all who hold it, so it is only by continuing in that body that they can preserve it. There is one Flock and one Shepherd."

mixed states. The danger to a mixed and composite state, therefore, lies not so much in external aggression as in the internal resurgence of nationalities which are fragmented, entrapped, suppressed and held against their will. Those who oppose Pakistan should not only bear this danger in mind but should also realize that this attempt on the part of suppressed nationalities to disrupt a mixed state and to found a separate home for themselves, instead of being condemned, finds ethical justification from the principle of self-determination.

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CHAPTER VIII

MUSLIM ALTERNATIVE TO PAKISTAN

I

The Hindus say they have an alternative to Pakistan. Have the Muslims also an alternative to Pakistan ? The Hindus say yes, the Muslims say no. The Hindus believe that the Muslim proposal for Pakistan is only a bargaining manoeuvre put forth with the object of making additions to the communal gains already secured under the Communal Award. The Muslims repudiate the suggestion. They say there is no equivalent to Pakistan and, therefore, they will have Pakistan and nothing but Pakistan. It does seem that the Musalmans are devoted to Pakistan and are determined to have nothing else and that the Hindus in hoping for an alternative are merely indulging in wishful thinking. But assuming that the Hindus are shrewd enough in divining what the Muslim game is, will the Hindus be ready to welcome the Muslim alternative to Pakistan ? The answer to the question must, of course, depend upon what the Muslim alternative is.

What is the Muslim alternative to Pakistan ? No one knows. The Muslims, if they have any, have not disclosed it and perhaps will not disclose it till the day when the rival parties meet to revise and settle the terms on which the Hindus and the Muslims are to associate with each other in the future. To be forewarned is to be forearmed. It is, therefore, necessary for the Hindus to have some idea of the possible Muslim alternative to enable them to meet the shock of it; for the alternative cannot be better than the Communal Award and is sure to be many degrees worse.

In the absence of the exact alternative proposal one can only make a guess. Now one man's guess is as good as that of another, and the party concerned has to choose on which of these he will rely. Among the likely guesses, my guess is that

the Muslims will put forth as their alternative some such proposal as the following :—

"That the future constitution of India shall provide :

(i) That the Muslims shall have 50% representation in the Legislature, Central as well as Provincial, through separate electorates.

(ii) That 50% of the Executive in the Centre as well as in the Provinces shall consist of Muslims.

(iii) That in the Civil Service 50% of the posts shall be assigned to the Muslims.

(iv) That in the Fighting Forces the Muslim proportion shall be one half, both in the ranks and in the higher grades.

(v) That Muslims shall have 50% representation in all public bodies, such as councils and commissions, created for public purposes.

(vi) That Muslims shall have 50% representation in all international organizations in which India will participate.

(vii) That if the Prime Minister be a Hindu, the Deputy Prime Minister shall be a Muslim.

(viii) That if the Commander-in-Chief be a Hindu, the Deputy Commander-in-Chief shall be a Muslim.

(ix) That no changes in the Provincial boundaries shall be made except with the consent of 66% of the Muslim members of the Legislature.

(x) That no action or treaty against a Muslim country shall be valid unless the consent of 66% of the Muslim members of the Legislature is obtained.

(xi) That no law affecting the culture or religion or religious usage of Muslims shall be made except with the consent of 66% of the Muslim members of the Legislature.

(xii) That the national language for India shall be Urdu.

(xiii) That no law prohibiting or restricting the slaughter of cows or the propagation of and conversion to Islam shall be valid unless it is passed with the consent of 66% of the Muslim members of the Legislature.

(xiv) That no change in the constitution shall be valid unless the majority required for effecting such changes also includes a 66% majority of the Muslim members of the Legislature.

This guess of mine is not the result of imagination let loose. It is not the result of a desire to frighten the Hindus into an unwilling and hasty acceptance of Pakistan. If I may say so, it is really an intelligent anticipation based upon available data coming from Muslim quarters.

An indication of what the Muslim alternative is likely to be, is obtainable from the nature of the Constitutional Reforms which are contemplated for the Dominions of His Exalted Highness the Nizam of Hyderabad.

The Hyderabad scheme of Reforms is a novel scheme. It rejects the scheme of communal representation obtaining in British India. In its place is substituted what is called Functional Representation, i.e. representation by classes and by professions. The composition of the Legislature which is to consist of 70 members is to be as follows:—

Elected				*Nominated*		
Agricluture		...	12	Illakas	...	8
Patidars	8			Sarf-i-Khas	2	
Tenants	4			Paigahs	3	
Women	...	...	1			
Graduates	...	...	1	Peshkari	1	
University	...	...	1			
Jagirdars	...	...	2	Salar Jung	1	
Maashdars	...	...	1			
Legal	...	...	2	Samasthans	1	
Medical	...	...	2			
Western	1			Officials		18
				Rural Arts and Crafts		1
Oriental	1			Backward Classes		1
Teaching	...	...	1	Minor Unrepresented		3
Commerce	...	...	1	Classes.		
Industries	...	....	2	Others		6
Banking	...	...	2			
Indigenous	1					
Co-operative and Joint Stock	1					
Organized Labour		...	1			
Harijan	...	...	1			
District Municipalities		...	1			
City Municipality		...	1			
Rural Boards	...	...	1			
Total		...	33	Total	...	37

Whether the scheme of functional representation will promote better harmony between the various classes and sections than communal representation does is more than doubtful. In addition to perpetuating existing social and religious divisions, it may quite easily intensify class struggle by emphasizing class consciousness The scheme appears innocuous but its real character will come out when every class will demand representation in proportion to its numbers. Be that as it may, functional representation is not the most significant feature of the Hyderabad scheme of Reforms. The most significant feature of the scheme is the proposed division of seats between Hindus and Musalmans in the new Hyderabad Legislature. Under the scheme as approved by H. E. H. the Nizam, communal representation is not altogether banished. It is retained along with functional representation. It is to operate through joint electorates. But there is to be equal representation for "the two majority communities" on every* elective body including the legislature and no candidate can succeed unless he secures 40 per cent of the votes polled by members of his community. This principle of equal representation to Hindus and Muslims irrespective of their numbers† is not only to apply to every elective body but it is to apply to both elected as well as nominated members of the body.

In justification of this theory of equal representation it is stated that:

> "The importance of the Muslim community in the state, by virtue of its historical position and its status in the body politic, is so obvious that it cannot be reduced to the status of a minority in the Assembly."

Quite recently there have appeared in the press‡ the proposals formulated by one Mr. Mir Akbar Ali Khan calling himself the

* Besides the Central Legislature there are to be constituted under the scheme of Reforms other popular bodies such as Panchayats, Rural Boards, Municipalities and Town Committees.

†The distribution of population of Hyderabad State (excluding Berar) is according to the census of 1931 as follows:—

Hindus	Untouchables	Muslims	Christians	Others	Total
96,99,615	24,73,230	15,34,666	1,51,382	5,77,255	1,44,36,148

‡See *Bombay Sentinal,* June 22nd. 1940. Mr. Mir Akbar Ali Khan says that he discussed his proposals with Mr. Srinivas Iyengar, ex-President of the Congress and the proposals published by him are really proposals as approved by Mr. Iyengar.

leader of the Nationalist Party as a means of settling the Hindu-Muslim problem in British India. They are as follows :—

(1) The future Constitution of India must rest upon the broad foundation of adequate military defence of the country and upon making the people reasonable military minded. The Hindus must have the same military mindedness as the Muslims.

(2) The present moment offers a supreme opportunity for the two communities to ask for the defence of India being made over to them. The Indian Army must consist of an equal number of Hindus and Muslims and no regiment should be on a communal, as distinguished from regional basis.

(3) The Governments in the Provinces and at the Centre should be wholly National Governments composed of men who are reasonable military minded. Hindu and Muslim Ministers should be equal in number in the Central as well as all Provincial cabinets; other important minorities might wherever necessary be given special representation. This scheme will function most satisfactorily with joint electorates, but in the present temper of the country separate electorates might be continued. The Hindu Ministers must be elected by the Hindu members of the legislature and the Muslim Ministers by the Muslim members.

(4) The Cabinet is to be removable only on an express vote of no-confidence, against the Cabinet as a whole, passed by a majority of 2/3rd of the whole house which majority must be of Hindus and Muslims taken separately.

(5) The religion, language, script and personal law of each community should be safeguarded by a paramount constitutional check enabling the majority of members, representing that community in the legislature to place a veto on any legislative or other measure affecting it. A similar veto must be provided against any measure designed or calculated to affect adversely the economic well-being of any community.

(6) An adequate communal representation in the services must be agreed to as a practical measure of justice in administration and in the distribution patronage.

If the proposals put forth by a Muslim leader of the Nationalist Party in Hyderabad State is an indication of the direction in which the mind of the Muslims in British India is running, then, the guess I have made as to what is likely to be the alternative to Pakistan derives additional support.

II

It is true that in the month of April 1940 a Conference of Muslims was held in Delhi under the grandiloquent name of "The Azad Muslim Conference." The Muslims who met in the Azad Conference were those who were opposed to the Muslim League as well as to the Nationalist Muslims. They were opposed to the Muslim League firstly, because of their hostility to Pakistan and secondly because they did not want to depend upon the British Government for the protection of their rights.* They were also opposed to the Nationalist Musalmans (i.e. Congressites out and out) because they were accused of indifference to the cultural and religious rights of the Muslims.†

With all this the Azad Muslim Conference was hailed by the Hindus as a Conference of friends. But the resolutions passed by the Conference leave very little to choose between it and the League. Among the resolutions passed by the Azad Muslim Conference the following three bear directly upon the issue in question.

The first of these runs as follows:—

> "This conference, representative of Indian Muslims who desire to secure the fullest freedom of the country, consisting of delegates and representatives of every province, after having given its fullest and most careful consideration to all the vital questions affecting the interest of the Muslim community and the country as a whole declares the following:—
>
> "India will have geographical and political boundaries of an individual whole and as such is the common homeland of all the citizens irrespective of race or religion who are joint owners of its resources. All nooks and corners of the country are hearths and homes of Muslims who cherish the historic eminence of their religion and culture which are dearer to them than their lives. From the national point of view every. Muslim is an Indian. The common rights of all residents of the country and

*Mufti Kifayat Ullah, a prominent member of the conference, in the course of his speech is reported to have said: "They had to demonstrate that they were not behind any other community in the fight for freedom. He wished to declare in clear terms that they did not rely on the British Government for the protection of their rights. They would themselves chalk out the safeguards necessary for the protection of their religious rights and would fight out any party, however powerful, that would refuse to accept those safeguards as they would fight the Government for freedom" (Prolonged cheers.) *Hindustan Times,* April 30, 1940.

† See the speeches of Maulana Hafizul Rehman and Dr. K. M. Ashraf in the same issue of the *Hindustan Times.*

their responsibilities, in every walk of life and in every sphere of human activity are the same. The Indian Muslim by virtue of these rights and responsibilities, is unquestionable an Indian national and in every part of the country is entitled to equal privileges with that of every Indian national in every sphere of governmental, economic and other national activities and in public services. For that very reason Muslims own equal responsibilities with other Indians for striving and making sacrifices to achieve the country's independence. This is a self-evident proposition, the truth of which no right thinking Muslim will question. This Conference declares unequivocally and with all emphasis at its command that the goal of Indian Muslims is complete independence along with protection of their religion and communal rights, and that they are anxious to attain this goal as early as possible. Inspired by this aim they have in the past made great sacrifices and are ever ready to make greater sacrifices.

"The Conference unreservedly and strongly repudiates the baseless charge levelled against Indian Muslims by the agents of British Imperialism and others that they are an obstacle in the path of Indian freedom and emphatically declares that the Muslims are fully alive to their responsibilities and consider it inconsistent with their traditions and derogatory to their honour to lag behind others in the struggle for independence."

By this Resolution they repudiated the scheme of Pakistan. Their second Resolution was in the following terms :—

"This is the considered view of this Conference that only that constitution for the future Government of India would be acceptable to the people of India which is framed by the Indians themselves elected by means of adult franchise. The constitution should fully safeguard all the legitimate interests of the Muslims in accordance with the recommendations of the Muslim members of the Constituent Assembly. The representatives of other communities or of an outside power would have no right to interfere in the determination of these safeguards."

By this Resolution the Conference asserted that the safeguards for the Muslims must be determined by the Muslims alone.

Their third Resolution was as under:—

"Whereas in the future constitution of India it would be essential, in order to ensure stability of government and preservation of security, that every citizen and community should feel satisfied, this Conference considers it necessary that a scheme of safeguards as regards vital matters mentioned below should be prepared to the satisfaction of the Muslims.

"This Conference appoints a board consisting of 27 persons. This board, after the fullest investigation, consultation and consideration, shall make its recommendations for submission to the next session of this Conference, so that the Conference may utilise the recommendations as a means of securing a permanent national settlement of the communal question. This recommendation should be submitted within two months. The matters referred to the board are the following:

> "1. The protection of Muslim culture, personal law and religious rights.
>
> "2. Political rights of Muslims and their protection.
>
> "3. The formation of future constitution of India to be non-unitary and federal, with absolutely essential and unavoidable powers for the Federal Government.
>
> "The provision of safeguards for the economic, social and cultural rights of Muslims and for their share in public services.
>
> "The board will be empowered to fill up any vacancy in a suitable manner. The board will have the right to co-opt other members. It will be empowered also to consult other Muslim bodies and if it considers necessary, any responsible organisation in the country. The 27 members of the board will be nominated by the president.
>
> "The quorum for the meeting will be nine.
>
> "Since the safeguards of the communal rights of different communities will be determined in the constituent assembly referred to in the resolution which this Conference has passed, this Conference considers it necessary to declare that Muslim members of this constituent will be elected by Muslims themselves."

We must await the report* of this board to know what safeguards the Azad Muslim Conference will devise for the safety and protection of Muslims. But there appears no reason to hope that they will not be in favour of what I have guessed to be the likely alternative for Pakistan. It cannot be overlooked that the Azad Muslim Conference was a body of Muslims who were not only opposed to the Muslim League but were equally opposed to the Nationalist Muslims. There is, therefore, no ground to trust that they will be more merciful to the Hindus than the League has been or will be.

* This report has not appeared even now.

Supposing my guess turns out to be correct, it would be interesting to know what the Hindus will have to say in reply. Should they prefer such an alternative to Pakistan ? Or should they rather prefer Pakistan to such an alternative ? Those are questions which I must leave the Hindus and their leaders to answer. All I would like to say in this connection is that the Hindus before determining their attitude towards this question should note certain important considerations. In particular they should note that there is a difference between *Macht Politic** and *Gravamin Politic*†; that there is a difference between *Communitas Communitatum* and a nation of nations; that there is a difference between safeguards to allay apprehensions of the weak and contrivances to satisfy the ambition for power of the strong: that there is a difference between providing safeguards and handing over the country. Further, they should also note that what may with safety be conceded to *Gravamin Politic* may not be conceded to *Macht Politic*. What may be conceded with safety to a community may not be conceded to a nation and what may be conceded with safety to the weak to be used by it as a weapon of defence may not be conceded to the strong who may use it as a weapon of attack.

These are important considerations and, if the Hindus overlook them, they will do so at their peril. For the Muslim alternative is really a frightful and dangerous alternative.

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* *Macht Politic* means Power Politics.

† *Gravamin Politic* means in which the main strategy is to gain power by manufacturing grievances.

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CHAPTER IX

LESSONS FROM ABROAD

Hindus who will not yield to the demand of the Muslims for the division of India into Pakistan and Hindustan and would insist upon maintaining the geographical unity of India without counting the cost, will do well to study the fate that has befallen other countries which, like India, harboured many nations and sought to harmonise them.

It is not necessary to review the history of all such countries. It is enough to recount here the story of two, Turkey and Czechoslovakia.

I

To begin with Turkey. The emergence of the Turks in history was due to the fact that they were driven away by the Mongols from their home in Central Asia, somewhere between 1230-40 A. D., which led them to settle in north-west Anatolia. Their career as the builders of the Turkish Empire began in 1326 with the conquest of Brusa. In 1360-61, they conquered Thrace from the Aegean to the Black Sea ; in 1361-62, the Byzantine Government of Constantinople accepted their supremacy. In 1369 Bulgaria followed suit. In 1371-72 Macedonia was conquered. In 1373 Constantiople definitely accepted Ottoman sovereignty. In 1389 Servia was conquered, in 1430 Salonica, in 1453 Constantinople, in 1461 Trebizond, in 1465 Quraman, and in 1475 Kaffa and Tana were annexed. After a short lull, they conquered Mosul in 1514, Syria, Egypt, the Hiaz and the Yaman in 1516-17 and Belgrade in 1521. This was followed in 1526 by victory over the Hungarians at Mohacz. In 1554 took place the first conquest of Baghdad and in 1639 the second conquest of Baghdad. Twice they laid siege to Vienna, first in 1529 and again in 1683 with a view to extend their conquest beyond. But on both occasions they were repulsed with the result that their expansion in Europe

was completely checked forever. Still the countries they conquered between 1326 and 1683 formed a vast empire. A few of these territories the Turks had lost to their enemies thereafter, but taking the extent of the Turkish Empire as it stood in 1789 on the eve of the French Revolution, it comprised (1) the Balkans, south of the Danube, (2) Asia Minor, the Levant and the neighbouring islands (i.e., Cyprus), (3) Syria and Palestine, (4) Egypt, and (5) North Africa from Egypt to Morocco.

The tale of the disruption of the Turkish Empire is easily told. The first to break away *de facto,* if not *de jure,* was Egypt in 1769. The next were the Christians in the Balkans. Bessarabia was taken by Russia in 1812 after a war with Turkey. In 1812 Serbia rebelled with the aid of Russia and the Turks were obliged to place Serbia under a separate government. In 1829 similar concessions were granted to two other Danubian provinces, Moldavia and Wallachia. As a result of the Greek war of independence which lasted between 1822-29, Greece was completely freed from the Turkish rule and the Greek independence was recognised by the Powers in 1832. Between 1875-77 there was turmoil amongst the Balkans. There was a revolt in Bosnia and Herzegovina and the Bulgarians resorted to atrocities against the Turks, to which the Turks replied with atrocities in equal measure. As a result, Serbia and Montenegro declared war on Turkey and so did Russia. By the Treaty of Berlin, Bulgaria was given self-government under Turkey and Eastern Rumania was to be ruled by Turkey under a Christian Governor. Russia gained Kars and Batoum. Dobrudja was given to Rumania. Bosnia and Herzegovina were assigned to Austria for administration and England occupied Cyprus. In 1881 Greece gained Thessaly and France occupied Tunis. In 1885 Bulgaria and Eastern Rumania were united into one state.

The story of the growth and decline of the Turkish Empire upto 1906 has been very graphically described by Mr. Lane Poole in the following words * :—

> "In its old extent, when the Porte ruled not merely the narrow territory now called Turkey in Europe, but Greece, Bulgaria and

* *Turkey,* pp. 363-64.

Eastern Rumania, Rumania, Serbia, Bosnia and Herzegovina, with the Crimea and a portion of Southern Russia, Egypt, Syria, Tripoli, Tunis, Algiers and numerous islands in the Mediterranean, not counting the vast but mainly desert tract of Arabia, the total population (at the present time) would be over fifty millions, or nearly twice that of Europe without Russia. One by one her provinces have been taken away. Algiers and Tunis have been incorporated with France, and this 175,000 square miles and five millioon inhabitants have transferred their allegiance. Egypt is practically independent, and this means a loss of 500,000 miles and over six millions of inhabitants. Asiatic Turkey alone has suffered comparatively little diminution. This forms the bulk of her present dominions, and comprises about 680,000 square miles, and over sixteen millions of population. In Europe her losses have been almost as severe as in Africa where Tripoli alone remains to her. Serbia and Bosnia are administered by Austria and thereby nearly 40,000 miles and three and a half millions of peoples have become Austrian subjects. Wallachia and Moldavia are united in the independent kingdom of Rumania, diminishing the extent of Turkey by 46,000 miles and over five millions of inhabitants. Bulgaria is a dependent state over which the Ports has no real control and Eastern Rumania has lately *de facto* become part of Bulgaria and the two contain nearly 40,000 square miles, and three millions of inhabitants. The kingdom of Greece with its 25,000 miles and two million population has long been separated from its parent. In Europe where the Turkish territory once extended to 230,000 miles, with a population of nearly 20 millions, it now reaches only the total of 66 thousand miles and a population of four and a half millions. It has lost nearly three-fourths of its land, and about the same proportion of its people."

Such was the condition of Turkey in 1907. What has befallen her since then is unfortunately the worst part of her story. In 1908 taking advantage of the revolution brought about by the Young Turks, Austria annexed Bosnia and Herzegovina and Bulgaria declared her independence. In 1911 Italy took possession of Tripoli and in 1912 France occupied Morocco. Encouraged by the successful attack of Italy in 1912, Bulgaria, Greece, Serbia and Montenegro formed themselves into a Balkan League and declared war on Turkey. In this war, known as the first Balkan War, Turkey was completely defeated. By the Treaty of London (1913) the Turkish territory in Europe was reduced to a narrow strip round Constantinople. But the treaty could not take effect because the victors could not agree on the distribution of the spoils of victory. In 1913 Bulgaria declared

war on the rest of the Balkan League and Rumania declared war on Bulgaria in the hope of extending her territory. Turkey also did the same. By the Treaty of Bukharest (1913), which ended the second Balkan War, Turkey recovered Adrianople and got Thrace from Bulgaria. Serbia obtained Northern Macedonia and Greece obtained Southern Macedonia (including Salonika), while Montenegro enlarged her territory at the expense of Turkey. By 1914 when the Great European War came on, the Balkans had won their independence from Turkey and the area in Europe that remained under the Turkish Empire was indeed a very small area round about Constantinople and her possessions in Asia. So far as the African continent is concerned, the Sultan's power over Egypt and the rest of North Africa was only nominal; for the European Powers had established real control therein. In the Great War of 1914 the overthrow of Turkey was complete. All the provinces from the Mediterranean to the Persian Gulf were overrun, and the great cities of Baghdad, Jerusalem, Damascus and Alleppo were captured. In Europe the allied troops occupied Constantinople. The Treaty of Sevres, which brought the war with Turkey to a close, sought to deprive her of all her outlying provinces and even of the fertile plains of Asia Minor. Greek claim for territory was generously allowed at the expense of Turkey in Macedonia, Thrace and Asia Minor and Italy was to receive Adalia and a large tract in the South. Turkey was to be deprived of all her Arab provinces in Asia, Iraq, Syria, Palestine, Hedjaz and Nejd. There was left to Turkey only the capital, Constantinople, and separated from this city, by a " neutral zone of the straits," part of the barren plateau of Anatolia. The treaty though accepted by the Sultan was fiercely attacked by the Nationalist Party under Kamal Pasha. When the Greeks advanced to occupy their new territory, they were attacked and decisively beaten. At the end of the war with Greece, which went on from 1920 to 1922, the Turks had reoccupied Smyrna. As the allies were not prepared to send armies to help the Greeks, they were forced to come to terms with the Nationalist Turks. At the conference at Mudiania the Greeks agreed to revise the terms of the Treaty of Sevres, which was done by the Treaty of Lausanne in 1923

which granted the demands of Turkey except in Western Thrace. The rest of the Treaty of Sevres was accepted by the Turks which meant the loss of her Arab provinces in Asia. Before the War of 1914, Turkey had lost all her provinces in Europe. After the War, she lost her provinces in Asia. As a result of the dismemberment of the old Turkish Empire, what now remains of it is the small state called the Republic of Turkey with an area which is a minute fraction of the old Empire.*

II

Take the case of Czechoslovakia. It is the creation of the Treaty of Trianon which followed the European War of 1914. None of the peace treaties was more drastic in its terms than the Treaty of Trianon. Says Prof. Macartney, "By it Hungary was not so much mutilated as dismembered. Even if we exclude Croatia, Slavonia, which had stood only in a federal relationship to the other lands of the Holy Crown—although one of eight hundred years' standing—Hungary proper was reduced to less than one-third (32.6 per cent.) of her pre-war area, and a little over two-fifths (41.6 per cent.) of her population. Territories and peoples formerly Hungarian were distributed among no less than seven states." Of these states, there was one which did not exist before. It was a new creation. That was the state of Czechoslovakia.

The area of the Republic of Czechoslovakia was 54,244 square miles and the population was about 13,613,172. It included the territories formerly known as Bohemia, Moravia, Slovakia and Ruthenia. It was a composite state which included in its bosom three principal nationalities, (i) Czechs occupying Bohemia and Moravia, (ii) Slovaks occupying Slovakia and (iii) Ruthenians in occupation of Ruthenia.

Czechoslovakia proved to be a very short-lived state. It lived exactly for two decades. On the 15th March 1939 it perished or rather was destroyed as an independent state. It became a protectorate of Germany. The circumstances attending its expiry were

*The area of Turkey is 294,492 square miles exclusive of 3,708 square miles of lakes and swamps. The area of Turkey in Europe is only 9,257 square miles.

of a very bewildering nature. Her death was brought about by the very Powers which had given it birth. By signing the Munich Pact on 30th September 1938—of which the protectorate was an inevitable consequence, Great Britain, France and Italy assisted Germany, their former enemy of the Great War, to conquer Czechoslovakia, their former ally. All the work of the Czechs of the past century to gain freedom was wiped off. They were once more to be the slaves of their former German overlords.

III

What are the reasons for the disruption of Turkey ?

Lord Eversley in his *Turkish Empire** has attempted to give reasons for the decay of Turkey, some internal, some external. Among the internal causes there were two. First the degeneracy of the Ottoman dynasty. The supreme power fell into the hands either of the Vazirs of the Sultans or more often in the hands of women of the harem of the Sultan. The harem was always in antagonism to the official administration of the Porte, which ostensibly carried on the administration of the state under the direction of the Sultan. The officials of every degree from the highest to the lowest were interested in the sale of all offices, civil and military, to the highest bidders. For securing their object, they found it expedient to bribe the inmates of the harem and thereby win the assent of the Sultans. The harem thus bacame the centre from which corruption spread throughout the Turkish Empire and which was one of the main causes of its decay. The second main cause of the decadence of the Turkish Empire was the deterioration of its armies due to two causes. During the last 300 years the army had lost the elan and the daring by which the Ottomans won their many victories in the early period of their career. The loss of this elan and daring by the Turkish army was due to the composition of the army, recruitment to which was restricted to Turks and Arabs, and also to the diminution of opportunities of plunder and the hope of acquiring lands for distribution among the soldiers as an incentive to victory and valour

* See abridgment by Sheikh Abdur Rashid.

in the latter period when the Empire was on the defensive and when it was no longer a question of making fresh conquests, but of retaining what had already been won.

Among the external causes of the disruption of Turkey, the chief one is said to be the rapacity of the European nations. But this view omits to take note of the true cause. The true and the principal cause of the disruption of Turkey was the growth of the spirit of nationalism among its subject peoples. The Greek revolt, the revolts of the Serbs, Bulgarians and other Balkans against the Turkish authority were no doubt represented as a conflict between Christianity and Islam. That is one way of looking at it, but only a superficial way. These revolts were simply the manifestations of the spirit of nationalism by which they were generated. These revolts no doubt had for their immediate causes Turkish misrule, Christian antipathy to Islam and the machinations of European nations. But this does not explain the real force which motivated them. The real motive force was the spirit of nationalism and their revolts were only a manifestation of this inner urge brought on by it. That it was nationalism which had brought about the disruption of Turkey is proved by the revolt of the Arabs in the last war and their will to be independent. Here there was no conflict between Islam and Christianity, nor was the relationship between the two that of the oppressor and the oppressed. Yet, the Arab claimed to be freed from the Turkish Empire. Why ? Because he was moved by Arab nationalism and preferred to be an Arab nationalist to being a Turkish subject.

What is the cause of the destruction of Czechoslovakia ?

The general impression is that it was the result of German aggression. To some extent that is true. But it is not the whole truth. If Germany was the only enemy of Czechoslovakia, all that she would have lost was the fringe of her borderland which was inhabited by the Sudeten Germans. German aggression need have cost her nothing more. Really speaking the destruction of Czechoslovakia was brought about by an enemy within her own borders. That enemy was the intransigent nationalism of the Slovaks who were out to break up the unity of the state and secure the independence of Slovakia.

The union of the Slovaks with the Czechs, as units of a single state, was based upon certain assumptions. First, the two were believed to be so closely akin as to be one people, and that the Slovaks were only a branch of Czechoslovaks. Second, the two spoke a single 'Czechoslovak' language. Third, there was no separate Slovak national consciousness. Nobody examined these assumptions at the time, because the Slovaks themselves desired this union, expressing their wish in 1918 by formal declaration of their representatives at the Peace Conference. This was a superficial and hasty view of the matter. As Prof. Macartney* points out.

> ". . . . 'the central political fact which emerges from the consideration of this history (of the relations between the Czechs and Slovaks) for the purposes of the present age is the final crystallization of a Slovak national consciousness. . . . .' The genuine and uncompromising believers in a single indivisible Czechoslovak language and people were certainly never so large, at least in Slovakia, as they were made to appear. Today they have dwindled to a mere handful, under the influence of actual experience of the considerable differences which exist between the Czechs and the Slovaks. At present Slovak is in practice recognized by the Czechs themselves as the official language of Solvakia. The political and national resistance has been no less tenacious, and to-day the name of 'Czechoslovakia' is practically confined to official documents and to literature issued for the benefit of foreigners. During many weeks in the country I only remember hearing one person use the term for herself; this was a half-German, half-Hungarian girl, who used it in a purely political sense, meaning that she thought irridentism futile. No Czech and no Slovak feels or calls himself, when speaking naturally, anything but a Czech or a Slovak as the case may be."

This national consciousness of the Slovaks, which was always alive, began to burst forth on seeing that the Sudeten Germans had made certain demands on Czechoslovakia for autonomy. The Germans sought to achieve their objective by the application of gangster morality to international politics, saying " Give us what we ask or we shall burst up your shop." The Slovaks followed suit by making their demands for autonomy but with a different face. They did not resort to gangster methods but modulated their demands to autonomy only. They had eschwed all idea of

* C. A. Macartney—*Hungary and Her Successors* (Oxford), 1937, p. 136.

independence, and, in the proclamation issued on October 8 by Dr. Tiso, the leading man in the autonomist movement in Slovakia, it was said " We shall proceed in the spirit of our motto, for God and the Nation, in a Christian and national spirit." Believing in their *bona fides* and desiring to give no room to the *Gravamin Politic* of which the Slovaks were making full use to disturb the friendly relations between the Czechs and the Slovaks, the National Assembly in Prague passed an Act in November 1938—immediately after the Munich Pact—called the "Constitutional Act on the Autonomy of Slovakia." Its provisions were of a far-reaching character. There was to be a separate parliament for Slovakia and this parliament was to decide the constitution of Slovakia within the framework of the legal system of the Czechoslovak Republic. An alteration in the territory of Slovakia was to be with the consent of the two-third majority in the Slovak parliament. The consent of the Slovak parliament was made necessary for international treaties which exclusively concerned Slovakia. Officials of the central state administration in Slovakia were to be primarily Slovaks. Proportional representation of Slovakia was guaranteed in all central institutions, councils, commissions and other organizations. Similarly, Slovakia was to be proportionally represented on all international organizations in which the Czechoslovak Republic was called upon to participate. Slovak soldiers, in peace time, were to be stationed in Slovakia as far as possible. As far as legislative authority was concerned all subjects which were strictly of common concern were assigned to the parliament of Czechoslovakia. By way of guaranteeing these rights to the Slovaks, the Constitution Act provided that the decision of the National Assembly to make constitutional changes shall be valid only if the majority constitutionally required for such changes includes also a proportionate majority of the members of the National Assembly elected in Slovakia. Similarly, the election of the President of the Republic required the consent not merely of the constitutionally determined majority of the members of the parliament, but also of a proportionate majority of the Slovak members. Further to emphasize that the central government must enjoy the confidence of the Slovaks it was provided by

the constitution that one-third of the Slovak members of parliament may propose a motion of 'No Confidence.'

These constitutional changes introduced, much against the will of the Czechs, a hyphen between the Czechs and the Slovaks which did not exist before. But it was done in the hope that, once the relatively minor quarrels between the two were got out of the way, the very nationalism of the Slovaks was more likely to bring them closer to the Czechs than otherwise. With the constitutional changes guaranteeing an independent status to Slovakia and the fact that the status so guaranteed could not be changed without the consent of the Slovaks themselves, there was no question of the Slovaks ever losing their national identity through submergence by the Czechs. The autonomy introduced by the hyphen separated the cultural waters and saved the Slovaks from losing their colour.

The first Slovak parliament elected under the new constitution was opened on January 18, 1939, and Dr. Martin Sokol, the President of the parliament, declared, " The period of the Slovak's struggle for freedom is ended. Now begins the period of national rebirth." Other speeches made on the occasion indicated that now that Slovakia had its autonomy the Slovaks would never feel animosity towards the Czechs and that both would loyally abide by the Czecho-Slovak State.

Not even a month elapsed since the inauguration of the Slovak parliament before the Slovak politicians began their battle against the hyphen and for complete separation. They made excited speeches in which they attacked the Czechs, talked about Czech oppression and demanded a completely independent Slovakia. By the beginning of March, the various forms of separatism in Slovakia were seriously threatening the integrity of the Czechoslovak State. On March 9 it was learnt that Tiso, the Slovak Premier, had decided to proclaim the independence of Slovakia. On the 10th, in anticipation of such an act, troops were moved in Slovakia and Tiso, the Prime Minister, was dismissed along with other Slovak ministers by the President of the Republic, Dr. Hacha. On the next day Tiso, supposed to be under police supervision, telephoned to Berlin and asked for help. On Monday

Tiso and Hitler met and had an hour and a half talk in Berlin. Immediately after the talk with Hitler, Tiso got on the phone to Prague and passed on the German orders.

They were :—

(i) All Czech troops to be withdrawn from Slovakia;

(ii) Slovakia to be an independent state under German protection;

(iii) The Slovak parliament to be summoned by President Hacha to hear the proclamation of independence.

There was nothing that President Hacha and the Prague Government could do except say 'yes' for they knew very well that dozens of divisions of German troops were massed round the defenceless frontiers of Czechoslovakia ready to march in at any moment if the demands made by Germany in the interest of and at the instance of Slovakia were refused. Thus ended the new state of Czechoslovakia.

IV

What is the lesson to be drawn from the story of these two countries ?

There is some difference as to how the matters should be put. Mr. Sydney Brooks would say that the cause of these wars of disruption is nationalism, which according to him is the enemy of the universal peace. Mr. Norman Angell, on the other hand, would say it is not nationalism but the threat to nationalism which is the cause. To Mr. Robertson nationalism is an irrational instinct, if not a positive hallucination, and the sooner humanity got rid of it the better for all.

In whatever way the matter is put and howsoever ardently one may wish for the elimination of nationalism, the lesson to be drawn is quite clear: that nationalism is a fact which can neither be eluded nor denied. Whether one calls it an irrational instinct or positive hallucination, the fact remains that it is a potent force which has a dynamic power to disrupt empires. Whether nationalism is the cause or the threat to nationalism is the cause, is a difference of

emphasis only. The real thing is to recognize, as does Mr. Toynbee, that "nationalism is strong enough to produce war in spite of us. It has terribly proved itself to be no outworn creed, but a vital force to be reckoned with." As was pointed out by him, "the right reading of nationalism has become an affair of life and death." It was not only so for Europe. It was so for Turkey. It was so for Czechoslovakia. And what was a question of life and death to them could not but be one of life and death to India. Prof. Toynbee pleaded, as was done before him by Guizot, for the recognition of nationality as the necessary foundation of European peace. Could India ignore to recognize this plea ? If she does, she will be acting at her peril. That nationalism is a disruptive force is not the only lesson to be learnt from the history of these two countries. Their experience embodies much else of equal if not of greater significance. What that is, will be evident if certain facts are recalled to memory.

The Turks were by no means as illiberal as they are painted. They allowed their minorities a large measure of autonomy. The Turks had gone far towards solving the problem of how people of different communities with different social heritages are to live together in harmony when they are geographically intermingled. The Ottoman Empire had accorded, as a matter of course, to the non-Muslim and non-Turkish communities within its frontiers a degree of territorial as well as cultural autonomy which had never been dreamt of in the political philosophy of the West. Ought not the Christian subjects to have been satisfied with this? Say what one may, the nationalism of Christian minorities was not satisfied with this local autonomy. It fought for complete freedom and in that fight Turkey was slit open.

The Turks were bound to the Arabs by the tie of religion. The religious tie of Islam is the strongest known to humanity. No social confederacy can claim to rival the Islamic brotherhood in point of solidarity. Add to this the fact that while the Turk treated his Christian subjects as his inferior, he acknowledged the Arab as his equal. All non-Muslims were excluded from the Ottoman army. But the Arab soldiers and officers served side by side with Turks and Kurds. The Arab officer class, educated in Turkish

school, served in military and civil capacities on the same terms as the Turks. There was no derogating distinction between the Turk and the Arab, and there was nothing to prevent the Arab from rising to the highest rank in the Ottoman services. Not only politically but even socially the Arab was treated as his equal by the Turk and Arabs married Turkish wives and Turks married Arab wives. Ought not the Arabs to have been satisfied with this Islamic brotherhood of Arabs and Turks based on fraternity, liberty and equality? Say what one may, the Arabs were not satisfied. Arab nationalism broke the bonds of Islam and fought against his fellow Muslim, the Turk, for its independence. It won, but Turkey was completely dismantled.

As to Czechoslovakia, she began with the recognition that both the Czechs and the Slovaks were one people. Within a few years, the Slovaks claimed to be a separate nation. They would not even admit that they were a branch of the same stock as the Czechs. Their nationalism compelled the Czechs to recognize the fact that they were a distinct people. The Czechs sought to pacify the nationalism of the Slovaks by drawing a hyphen as a mark indicating distinctness. In place of Czechoslovakia they agreed to have Czecho-Slovakia. But even with the hyphen the Slovak nationalism remained discontented. The act of autonomy was both, a hyphen separating them from the Czechs as well as a link joining them with the Czechs. The hyphen as making separation was welcome to the Slovaks but as making a link with the Czechs was very irksome to them. The Slovaks accepted the autonomy with its hyphen with great relief and promised to be content and loyal to the state. But evidently this was only a matter of strategy. They did not accept it as an ultimate end. They accepted it because they thought that they could use it as a vantage ground for destroying the hyphen which was their main aim and convert autonomy into independence. The nationalism of the Slovaks was not content with a hyphen. It wanted a bar in place of the hyphen. Immediately the hyphen was introduced, they began their battle to replace the hyphen between the Czechs and the Slovaks by a bar. They did not care what means they should employ. Their nationalism was so wrong-headed and so intense that when they failed they did not hesitate to call the aid of the Germans.

Thus a deeper study of the disruption of Turkey and Czechoslovakia shows that neither local autonomy nor the bond of religion is sufficient to withstand the force of nationalism, once it is set on the go.

This is a lesson which the Hindus will do well to grasp. They should ask themselves : if the Greek, Balkan and Arab nationalism has blown up the Turkish State and if Slovak nationalism has caused the dismantling of Czechoslovakia, what is there to prevent Muslim nationalism from disrupting the Indian State ? If experience of other countries teaches that this is the inevitable consequence of pent-up nationalism, why not profit by their experience and avoid the catastrophe by agreeing to divide India into Pakistan and Hindustan ? Let the Hindus take the warning that if they refuse to divide India into two before they launch on their career as a free people, they will be sailing in those shoal waters in which Turkey, Czechoslovakia and many others have foundered. If they wish to avoid shipwreck in mid-ocean, they must lighten the draught by throwing overboard all superfluous cargo. They will ease the course of their voyage considerably if they—to use the language of Prof. Toynbee—reconcile themselves to making jetsam of less cherished and more combustible cargo.

V

Will the Hindus really lose if they agree to divide India into two, Pakistan and Hindustan ?

With regard to Czechoslovakia it is instructive to note the real feelings of its government on the loss of their territory caused by the Munich Pact. They were well expressed by the Prime Minister of Czechoslovakia in his message to the people of Czechoslovakia. In it he said* :—

> "Citizens and soldiers....I am living through the hardest hour of my life ; I am carrying out the most painful task, in comparison with which death would be easy. But precisely because I have fought and bacause I know under what conditions a war is won, must tell you frankly... that the forces opposed to us at this moment compel us to recognize their superior strength and to act accordingly....

*Alexander Henderson—*Eye-witness in Czechoslovakia* (IIarrap, 1939), pp. 229-30.

"In Munich four European Great Powers met and decided to demand of us the acceptance of new frontiers, according to which the German areas of our State would be taken away. We had the choice between desperate and hopeless defence, which would have meant the sacrifice not only of the adult generation but also of women and chidren, and the acceptance of conditions which in their ruthlessness, and bacause they were imposed by pressure without war, have no parallel in history. We desired to make a contribution to peace; we would gladly have made it. But not by any means in the way it has been forced upon us.

"But we were abandoned, and were alone .... Deeply moved, all your leaders considered, together with the army and the President of the Republic, all the possibilities which remained. *They recognized that in choosing between narrower frontiers and the death of the nation it was their sacred duty to save the life of our people, so that we may not emerge weakened from these terrible times, and so that we may remain certain that our nation will gather itself together again, as it has done so often in the past. Let us all see that our State re-establishes itself soundly within its new frontiers, and that its population is assured of a new life of peace and fruitful labour.* With your help we shall succeed. We rely upon you, and you have confidence in us."

It is evident that the Czechs refused to be led by the force of historic sentiment. They were ready to have narrower frontiers and a smaller Czechoslovakia to the ultimate destruction of their people.

With regard to Turkey the prevalent view was the one that was expressed in 1853 by the Czar Nicholas I, during a conversation with British Ambassador in St. Petersburg in which he said "We have on our hand a sick man—a very sick man .... He may suddenly die upon our hands." From that day the imminent decease of Turkey, the sick man of Europe was awaited by all his neighbours. The shedding of the territories was considered as the convulsions of a dying man who is alleged to have breathed his last by affixing his signature to the Treaty of Severs.

Is this really a correct view to take of Turkey in the process of dissolution ? It is instructive to note the comments of Arnold Toynbee on this view. Referring to the Czar's description of Turkey as the sick man who may suddenly die, he says* :

"In this second and more sensational part of his diagnosis Czar Nicholas went astray because he did not understand the nature of the

* Arnold Toynbee—*Turkey,* p. 141.

symptoms. If a person totally ignorant of natural history stumbled upon a snake in course of shedding its skin, he would pronounce dogmatically that the creature could not possible recover. He could point out that when a man (or other mammal) has the misfortune to lose his skin, he is never known to survive. Yet while it is perfectly true that the leopard cannot change his spots nor the Ethiopian his skin, a wider study would have informed our amateur naturalist that a snake can do both and does both habitually. Doubtless, even for the snake, the process is awkward and uncomfortable. He becomes temporarily torpid, and in this condition he is dangerously at the mercy of his enemies. Yet, if he escapes the kites and crows until his metamorphosis is complete, he not only recovers his health but renews his youth with the replacement of his mortal coils. This is the recent experience of the Turk, and 'moulting snake' is better simile than sick man for a description of his distemper."

In this view, the loss of her possessions by Turkey is the removal of an anomalous excrescence and the gain of a new skin. Turkey is certainly homogeneous and has no fear of any disruption from within.

The Muslim areas are an anomalous excrescence on Hindustan and Hindustan is an anomalous excrescence on them. Tied together they will make India the sick man of Asia. Welded together they will make India a heterogeneous unit. If Pakistan has the demerit of cutting away parts of India, it has also the merit of introducing harmony in place of conflict.

Severed into two, each becomes a more homogeneous unit. The homogeneity of the two areas is obvious enough. Each has a cultural unity. Each has a religious unity. Pakistan has a linguistic unity. If there is no such unity in Hindustan, it is possible to have it without any controversy as to whether the common language should be Hindustani, Hindi or Urdu. Separated, each can become a strong and well-knit state. India needs a strong Central Government. But it cannot have it so long as Pakistan remains a part of India. Compare the structure of the Federal Government as embodied in the Government of India Act, 1935, and it will be found, that the Central Government as constituted under it is an effete ramshackle thing with very little life in it.* As has already been pointed out, this

* For further light on this topic, see my tract on *Federation vs. Freedom*.

weakening of the Central Government is brought about by the desire to placate the Muslim Provinces who wish to be independent of the authority of the Central Government on the ground that the Central Government is bound to be predominantly Hindu in character and composition. When Pakistan comes into being these considerations can have no force. Hindustan can then have a strong Central Government and a homogeneous population, which are necessary elements for the stability of the state and neither of which will be secured unless there is severance of Pakistan from Hindustan.

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PART IV

PAKISTAN AND THE MALAISE

The Hindu-Muslim problem has tow aspects to it. In its first aspect, the problem that presents itself is the problem of two separate communities facing each other and seeking adjustment of their respective right and privileges. In its other aspect, the problem is the problem of the reflex influences which this separation and conflict produces upon each of them. In the course of the foregoing discussion we have looked at the project of Pakistan in relation to the first of the aspects of the Hindu-Muslim problem. We have not examined the project of Pakistan in relation to the second aspect of that problem. Yet, such an examination is necessary because that aspect of the Hindu-Muslim problem is not unimportant. It is a very superficial if not an incomplete view to stop with the problem of the adjustment of their claims. It cannot be overlooked that their lot is cast together : as such they have to participate in a course of common activity whether they like it or not. And if in this commoon activity they face each other as two combatants do, then their actions and reactions are worth study, for they affect both and produce a state of affairs from which if it is a deceased state, the question of escape must be faced. A study of the situation shows that the actions and reactions have produced a malaise which exhibits itself in three ways : (1) Social Stagnation, (2) Communal Aggression, and (3) National Frustration of Political Destiny. This malaise is a grave one. Will Pakistan be a remedy for the malaise ? Or, will it aggravate the malaise ? The following chapters are devoted to the consideration of these questions.

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CHAPTER X

SOCIAL STAGNATION

I

The social evils which characterize the Hindu Society, have been well known. The publication of *Mother India* by Miss Mayo gave these evils the widest publicity. But while *Mother India* served the purpose of exposing the evils and calling their authors at the bar of the world to answer for their sins, it created the unfortunate impression throughout the world that while the Hindus were grovelling in the mud of these social evils and were conservative, the Muslims in India were free from them, and as compared to the Hindus, were a progressive people. That, such an impression should prevail, is surprising to those who know the Muslim Society in India at close quarters.

One may well ask if there is any social evil which is found among the Hindus and is not found among the Muslims ?

Take child-marriage. The Secretary of the Anti-Child-marriage Committee, constituted by the All-India Women's Conference, published a bulletin which gives the extent of the evil of child-marriage in the different communities in the country. The figures which were taken from the Census Report of 1931 are as follows:—

TABLE

MARRIED FEMALES AGED 0-15 PER 1000 FEMALES OF THAT AGE.

		Hindus	Muslims	Jains	Sikhs	Christians
1881	..	208	153	189	170	33
1891	..	193	141	172	143	37
1901	..	186	131	164	101	38
1911	..	184	123	130	88	39
1921	..	170	111	117	72	32
1931	..	199	186	125	80	43

Can the position among the Musalmans so far as child-marriage goes, be considered better than the position among the Hindus ?

Take the position of women. It is insisted by Muslims that the legal rights given to Muslim women, ensure them a greater measure of independence than allowed to other Eastern women, for example, Hindu women, and are in excess of the rights given to women in some Western countries. Reliance is placed on some of the provisions of the Muslim Law.

Firstly, it is said the Muslim Law does not fix any age for marriage, and recognizes the right of a girl to marry any time. Further, except where the marriage is celebrated by the father or the grandfather, a Muslim girl, if given in marriage in childhood, has the power to repudiate her marriage on attaining puberty.

Secondly, it is held out that marriage among the Musalmans is a contract. Being a contract, the husband has a right to divorce his wife and the Muslim Law has provided ample safeguards for the wife which, if availed of, would place the Muslim wife on the same footing as the husband in the matter of divorce. For, it is claimed that the wife under the Muslim Law can, at the time of the marriage, or even thereafter in some cases, enter into a contract by which she may under certain circumstances obtain a divorce.

Thirdly, the Mahomedam Law requires that a wife can claim from her husband, by way of consideration for the surrender of her person, a sum of money or other property—known as her "dower". The dower may be fixed even after marriage and if no amount is fixed, the wife is entitled to proper dower. The amount of dower is usually split into two parts, one is called "prompt" which is payable on demand, and the other "deferred" which is payable on dissolution of marriage by death or divorce. Her claim for dower will be treated as a debt against the husband's estate. She has complete dominion over her dower which is intended to give her economic independence. She can remit it or she can appropriate the income of it as she pleases.

Granting all these provisions of law in her favour, the Muslim woman is the most helpless person in the world. To quote an Egyption Muslim leader :—

> "Islam has set its seal of inferiority upon her, and given the sanction of religion to social customs which have deprived her of the full opportunity for self-expression and development of personality."

No Muslim girl has the courage to repudiate her marriage, although it may be open to her on the ground that she was a child and that it was brought about by persons other than her parents. No Muslim wife will think it proper to have a clause entered into her marriage contract reserving her the right to divorce. In that event, her fate is "once married, always married." She cannot escape the marriage tie, however irksome it may be. While she cannot repudiate the marriage, the husband can always do it without having to show any cause. Utter the word "*Tallak*" and observe continence for three weeks and the woman is cast away. The only restraint on his caprice is the obligation to pay dower. If the dower has already been remitted, his right to divorce is a matter of his sweet will.

This latitude in the matter of divorce destroys that sense of security which is so fundamental for a full, free and happy life for a woman. This insecurity of life, to which a Muslim woman is exposed, is greatly augmented by the right of polygamy and concubinage, which the Muslim Law gives to the husband.

Mahomedam Law allows a Muslim to marry four wives at a time. It is not unoften said that this is an improvement over the Hindu Law which places no restriction on the number of wives a Hindu can have at any given time. But it is forgotten that in addition to the four legal wives, the Muslim Law permits a Mahomedan to cohabit with his female slaves. In the case of female slaves nothing is said as to the number. They are allowed to him without any restriction whatever and without any obligation to marry them.

No words can adequately express the great and many evils of polygamy and concubinage and especially as a source of misery to a Muslim woman. It is true that because polygamy and concubinage are sanctioned, one must not suppose they are indulged in by the generality of Muslims; still the fact remains that they are privileges which are easy for a Muslim to abuse to the misery and unhappiness of his wife. Mr. John J. Pool, no enemy of Islam, observes* :—

> " This latitude in the matter of divorce is very greatly taken advantage of by some Mohamedans. Stobart, commenting on this

* *Studies in Mahomedanism,* pp. 34-35.

subject in his book, *Islam, and its Founder,* says: 'Some Mohamedans make a habit of continually changing their wives. We read of young men who have had twenty and thirty wives, a new one every three months: and thus it comes about that women are liable to be indefinitely transferred from one man to another, obliged to accept a husband and a home whenever they can find one, or in case of destitution, to which divorce may have driven them, to resort to other more degrading means of living. Thus while keeping the strict letter of the law, and possessing only one or certainly not more than four wives, unscrupulous characters may yet by divorce obtain in a lifetime as many wives as they please.

"In another way also a Mohamedan may really have more than four wives, and yet keep within the law. This is by means of living with concubines, which the Koran expressly permits. In that *sura* which allows four wives, the words are added, 'of the slaves which ye shall have acquired.' Then in the 70th *sura,* it is revealed that it is no sin to live with slaves. The very words are: 'The slaves which their right hands possess, as to them they shall be blameless.' At the present day, as in days past, in multitudes of Mohamedan homes, slaves are found; as Muir says, in his *Life of Mahomet* 'so long as this unlimited permission of living with their female slaves continues, it cannot be expected that there will be any hearty attempt to put a stop to slavery in Mohamedan countries.' Thus the Koran, in this matter of slavery, is the enemy of the mankind. And women, as usual, are the greater sufferers.'

Take the caste system. Islam speaks of brotherhood. Everybody infers that Islam must be free from slavery and caste. Regarding slavery nothing needs to be said. It stands abolished now by law. But while it existed much of its support was derived from Islam and Islamic countries.* While the prescriptions by the Prophet regarding the just and humane treatment of slaves contained in the Koran are praiseworthy, there is nothing whatever in Islam that lends support to the abolition of this curse. As Sir W. Muir has well said † :—

"... rather, while lightening, he reverted the fetter.... There is no obligation on a Muslim to release his slaves...."

But if slavery has gone, caste among Musalmans has remained. As an illustration one may take the conditions prevalent among the Bengal Muslims. The Superintendent of the

* Ibid., Chapter XXXIX.

† *The Koran, its Composition and Teaching,* p. 58.

Census for 1901 for the Province of Bengal records the following interesting facts regarding the Muslims of Bengal:—

> " The conventional division of the Mahomedans into four tribes— Sheikh, Saiad, Moghul and Pathan—has very little application to this Province (Bengal). The Mahomedans themselves recognize two main social divisions, (1) Ashraf or Sharaf and (2) Ajlaf. Ashraf means 'noble' and includes all undoubted descendants of foreigners and converts from high caste Hindus. All other Mahomedans including the occupational groups and all converts of lower ranks, are known by the contemptuous terms, 'Ajlaf', 'wretches' or 'mean people': they are also called Kamina or Itar, 'base' or Rasil, a corruption of Rizal, 'worthless'. In some places a third class, called Arzal or 'lowest of all', is added. With them no other Mahomedan would associate, and they are forbidden to enter the mosque to use the public burial ground.
>
> "Within these groups there are castes with social precedence of exactly the same nature as one finds among the Hindus.
>
> I. *Ashraf* or better class Mahomedans.
>
> (1) Saiads.
>
> (2) Sheikhs.
>
> (3) Pathans.
>
> (4) Moghul.
>
> (5) Mallik.
>
> (6) Mirza.
>
> II. *Ajlaf* or lower class Mahomedans.
>
> (1) Cultivating Sheikhs, and others who were originally Hindus but who do not belong to any functional group, and have not gained admittance to the Ashraf Community, e.g. Pirali and Thakrai.
>
> (2) Darzi, Jolaha, Fakir, and Rangrez.
>
> (3) Barhi, Bhathiara, Chik, Churihar, Dai, Dhawa, Dhunia, Gaddi, Kalal, Kasai, Kula Kunjara, Laheri, Mahifarosh, Mallah, Naliya, Nikari.
>
> (4) Abdal, Bako, Bediya, Bhat, Chamba, Dafali, Dhobi, Hajjam, Mucho, Nagarchi, Nat, Panwaria, Madaria, Tuntia.
>
> III. *Arzal* or degraded class.
>
> Bhanar, Halalkhor, Hijra, Kasbi, Lalbegi, Maugta, Mehtar."

The Census Superintendent mentions another feature of the Muslim social system, namely, the prevalence of the "panchayet system" He states :—

> " The authority of the panchayat extends to social as well as trade matters and... marriage with people of other communities is one of

the offences of which the governing body takes cognizance. The result is that these groups are often as strictly endogamous as Hindu castes. The prohibition on inter-marriage extends to higher as well as to lower castes, and a Dhuma, for example, may marry no one but a Dhuma. If this rule is transgressed, the offender is at once hauled up before the panchayat and ejected ignominiously from his community. A member of one such group cannot ordinarily gain admission to another, and he retains the designation of the community in which he was born even if he abandons its distinctive occupation and takes to other means of livelihood .... thousands of Jolahas are butchers, yet they are still known as Jolahas."

Similar facts from other Provinces of India could be gathered from their respective Census Reports and those who are curious may refer to them. But the facts for Bengal are enough to show that the Mahomedans observe not only caste but also untouchability.

There can thus be no manner of doubt that the Muslim Society in India is afflicted by the same social evils as afflict the Hindu Society. Indeed, the Muslims have all the social evils of the Hindus and something more. That something more is the compulsory system of *purdah* for Muslim women.

As a consequence of the *purdah* system a segragation of the Muslim women is brought about. The ladies are not expected to visit the outer rooms, verandahs or gardens, their quarters are in the back-yard. All of them, young and old, are confined in the same room. No male servant can work in their presence. A woman is allowed to see only her sons, brothers, father, uncles and husband, or any other near relation who may be admitted to a position of trust. She cannot go even to the mosque to pray and must wear *burka* (veil) whenever she has to go out. These *burka* women walking in the streets is one of the most hideous sights one can witness in India. Such seclusion cannot but have its deteriorating effects upon the physical constitution of Muslim women. They are usually victims to anaemia, tuberculosis and pyorrhoea. Their bodies are deformed, with their backs bent, bones protruded, hands and feet crooked. Ribs, joints and nearly all their bones ache. Heart palpitation is very often present in them. The result of this pelvic deformity is untimely death at the time of delivery. *Purdah* deprives Muslim women of mental and

moral nourishment. Being deprived of healthy social life, the process of moral degeneration must and does set in. Being completely secluded from the outer world, they engage their minds in petty family quarrels with the result that they become narrow and restricted in their outlook.

They lag behind their sisters from other communities, cannot take part in any outdoor activity and are weighed down by a slavish mentality and an inferiority complex. They have no desire for knowledge, because they are taught not to be interested in anything outside the four walls of the house. *Purdah* women in particular become helpless, timid, and unfit for any fight in life. Considering the large number of *purdah* women among Muslims in India, one can easily understand the vastness and seriousness of the problem of *purdah**

The physical and intellectual effects of *purdah* are nothing as compared with its effects on morals. The origin of *purdah* lies of course in the deep-rooted suspicion of sexual appetites in both sexes and the purpose is to check them by segregating the sexes. But far from achieving the purpose, *purdah* has adversely affected the morals of Muslim men. Owing to *purdah* a Muslim has no contact with any woman outside those who belong to his own household. Even with them his contact extends only to occasional conversation. For a male there is no company of and no commingling with the females except those who are children or aged. This isolation of the males from females is sure to produce bad effects on the morals of men. It requires no psychoanalyst to say that a social system which cuts off all contact between the two sexes produces an unhealthy tendency towards sexual excesses and unnatural and other morbid habits and ways.

The evil consequences of *purdah* are not confined to the Muslim community only. It is responsible for the social segregation of Hindus from Muslims which is the bane of public life in India. This argument may appear far fatched and one is inclined to attribute this segregation to the unsociability of the Hindus rather than to *purdah* among the Muslims. But the Hindus are right when they say that it is not possible to establish social contact

* For the position of Muslim women, see *Our Cause,* edited by Shyam Kumar Nehru.

between Hindus and Muslims because such contact can only mean contact between women from one side and men from the other*

Not that *purdah* and the evils consequent thereon are not to be found among certain sections of the Hindus in certain parts of the country. But the point of distinction is that among the Muslims, *purdah* has a religious sanctity which it has not with the Hindus. *Purdah* has deeper roots among the Muslims than it has among the Hindus and can only be removed by facing the inevitable conflict between religious injunctions and social needs. The problem of *purdah* is a real problem with the Muslims—apart from its origin—which it is not with the Hindus. Of any attempt by the Muslims to do away with it, there is no evidence.

There is thus a stagnation not only in the social life but also in the political life of the Muslim community of India. The Muslims have no interest in politics as such. Their predominant interest is religion. This can be easily seen by the terms and conditions that a Muslim constituency makes for its support to a candidate fighting for a seat. The Muslim constituency does not care to examine the programme of the candidate. All that the constituency wants from the candidate is that he should agree to replace the old lamps of the masjid by supplying new ones at his cost, to provide a new carpet for the masjid because the old one is torn, or to repair the masjid because it has become dilapidated. In some places a Muslim constituency is quite satisfied if the candidate agrees to give a sumptuous feast and in other if he agrees to buy votes for so much a piece. With the Muslims, election is a mere matter of money and is very seldom a matter of social programme of general improvement. Muslim politics takes no note of purely secular categories of life, namely, the differences between rich and poor, capital and labour, landlord and tenant, priest and layman, reason and superstition. Muslim politics is essentially clerical and recognizes only one difference, namely, that existing between Hindus and Muslims. None of the

*It is interesting to note the argument which the Europeans who are accused by Indians for not admitting them to their clubs use to defend themselves. They say, "We bring our women to the clubs. If you agree to bring your women to the club, you can be admitted. We can't expose our women to your company if you deny us the company of your women. Be ready to go fifty-fifty, then ask for entry in our clubs."

secular categories of life have any place in the politics of the Muslim community and if they do find a place —and they must because they are irrepressible—they are subordinated to one and the only governing principle of the Muslim political universe, namely, religion.

II

The existence of these evils among the Muslims is distressing enough. But far more distressing is the fact that there is no organized movement of social reform among the Musalmans of India on a scale sufficient to bring about their eradication. The Hindus have their social evils. But there is this relieving feature about them—namely, that some of them are conscious of their existence and a few of them are actively agitating for their removal. The Muslims, on the other hand, do not realize that they are evils and consequently do not agitate for their removal. Indeed, they oppose any change in their existing practices. It is noteworthy that the Muslims opposed the Child-Marriage Bill brought in the Central Assembly in 1930, whereby the age for marriage of a girl was raised to 14 and of a boy to 18 on the ground that it was opposed to the Muslim canon law. Not only did they oppose the bill at every stage but that when it became law they started a campaign of Civil Disobedience against that Act. Fortunately the Civil Disobedience campaign of the Muslims against the Act did not swell and was submerged in the Congress Civil Disobedience campaign which synchronized with it. But the campaign only proves how strongly the Muslims are opposed to social reform.

The question may be asked why are the Muslims opposed to social reform ?

The usual answer given is that the Muslims all over the world are an unprogressive people. This view no doubt accords with the facts of history. After the first spurts of their activity—the scale of which was undoubtedly stupendous leading to the foundations of vast empires—the Muslims suddenly fell into a strange condition of torpor, from which they never seem to have become

awake. The cause assigned for this torpor by those, who have made a study of their condition, is said to be the fundamental assumption made by all Muslims that Islam is a world religion, suitable for all people, for all times and for all conditions. It has been contended that:—

> "The Musalman, remaining faithful to his religion, has not progressed ; he has remained stationary in a world of swiftly moving modern forces. It is, indeed, one of the salient features of Islam that it immobilizes in their native barbarism, the races whom it enslaves. It is fixed in a crystallization, inert and impenetrable. It is unchangeable; and political, social or economic changes have no repercussion upon it.
>
> "Having been taught that outside Islam there can be no safety; outside its law no truth and outside its spiritual message there is no happiness, the Muslim has become incapable of conceiving any other condition than his own, any other mode of thought than the Islamic thought. He firmly believes that he has arrived at an unequalled pitch of perfection; that he is the sole possessor of true faith, of the true doctrine, the true wisdom; that he alone is in possession of the truth— no relative truth subject to revision, but absolute truth.
>
> " The religious law of the Muslims has had the effect of imparting to the very diverse individuals of whom the world is composed, a unity of thought, of feeling, of ideas, of judgment."

It is urged that this uniformity is deadening and is not merely imparted to the Muslims, but is imposed upon them by a spirit of intolerance which is unknown anywhere outside the Muslim world for its severity and its violence and which is directed towards the suppression of all rational thinking which is in conflict with the teachings of Islam. As Renan observes*:—

> "Islam is a close union of the spiritual and the temporal; it is the reign of a dogma, it is the heaviest chain that humanity has ever borne.... Islam has its beauties as a religion;.... But to the human reason Islamism has only been injurious. The minds that it has shut from the light were, no doubt, already closed in their own internal limits; but it has persecuted free thought, I shall not say more violently than other religions, but more effectually. It has made of the countries that it has conquered a closed field to the rational culture of the mind. What is, in fact essentially distinctive of the Musalman is his hatred of science, his persuasion that research is useless, frivolous, almost impious—the natural sciences, because they are attempts at rivalry with God; the historical sciences, because they apply to times anterior to Islam, they may revive ancient heresies...."

* *Nationality and other Essays.*

Renan concludes by saying:—

> "Islam, in treating science as an enemy, is only consistent, but it is a dangerous thing to be consistent. To its own misfortune Islam has been successful. By slaying science it has slain itself; and is condemned in the world to a complete inferiority."

This answer though obvious, cannot be the true answer. If it were the true answer, how are we to account for the stir and ferment that is going on in all Muslim countries outside India, where the spirit of inquiry, the spirit of change and the desire to reform are noticeable in every walk of life. Indeed, the social reforms which have taken place in Turkey have been of the most revolutionary character. If Islam has not come in the way of the Muslims of these countries, why should it come in the way of the Muslims of India ? There must be some special reason for the social and political stagnation of the Muslim community in India.

What can that special reason be ? It seems to me that the reason for the absence of the spirit of change in the Indian Musalman is to be sought in the peculiar position he occupies in India. He is placed in a social environment which is predominantly Hindu. That Hindu environment is always silently but surely encroaching upon him. He feels that it is de-musalmanazing him. As a protection against this gradual weaning away he is led to insist on preserving everything that is Islamic without caring to examine whether it is helpful or harmful to his society. Secondly, the Muslims in India are placed in a political environment which is also predominantly Hindu. He feels that he will be suppressed and that political suppression will make the Muslims a depressed class. It is this consciousness that he has to save himself from being submerged by the Hindus socially and politically, which to my mind is the primary cause why the Indian Muslims as compared with their fellows outside are backward in the matter of social reform. Their energies are directed to maintaining a constant struggle against the Hindus for seats and posts in which there is no time, no thought and no room for questions relating to social reform. And if there is any, it is all overweighed and suppressed by the desire, generated by pressure of communal tension, to close the ranks and offer a united front to the menace of the Hindus and Hinduism by maintaining their socio-religious unity at any cost.

The same is the explanation of the political stagnation in the Muslim community of India. Muslim politicians do not recognize secular categories of life as the basis of their politics because to them it means the weakening of the community in its fight against the Hindus. The poor Muslims will not join the poor Hindus to get justice from the rich. Muslim tenants will not join Hindu tenants to prevent the tyranny of the landlord. Muslim labourers will not join Hindu labourers in the fight of labour against capital. Why ? The answer is simple. The poor Muslim sees that if he joins in the fight of the poor against the rich, he may be fighting against a rich Muslim. The Muslim tenant feels that if he joins in the campaign against the landlord, he may have to fight against a Muslim landlord. A Muslim labourer feels that if he joins in the onslaught of labour against capital, he will be injuring a Muslim mill-owner. He is conscious that any injury to a rich Muslim, to a Muslim landlord or to a Muslim mill-owner, is a disservice to the Muslim community, for it is thereby weakened in its struggle against the Hindu community.

How Muslim politics has become perverted is shown by the attitude of the Muslim leaders to the political reforms in the Indian States. The Muslims and their leaders carried on a great agitation for the introduction of representative government in the Hindu State of Kashmir. The same Muslims and their leaders are deadly opposed to the introduction of representative governments in other Muslim States. The reason for this strange attitude is quite simple. In all matters, the determining question with the Muslims is how it will affect the Muslims *vis-a-vis* the Hindus. If representative government can help the Muslims, they will demand it, and fight for it. In the State of Kashmir the ruler is a Hindu, but the majority of the subjects are Muslims. The Muslims fought for representative government in Kashmir, because representative government in Kashmir meant the transfer of power from a Hindu king to the Muslim masses. In other Muslim States, the ruler is a Muslim but the majority of his subjects are Hindus. In such States representative government means the transfer of power from a Muslim ruler to the Hindu masses, and that is why the Muslims support the introduction of representative government in one case and oppose it in the other. The

dominating consideration with the Muslims is not democracy. The dominating consideration is how democracy with majority rule will affect the Muslims in their struggle against the Hindus. Will it strengthen them or will it weaken them ? If democracy weakens them, they will not have democracy. They will prefer the rotten state to continue in the Muslim States rather than weaken the Muslim ruler in his hold upon his Hindu subjects.

The political and social stagnation in the Muslim community can be explained by one and only one reason. The Muslims think that the Hindus and Muslims must perpetually struggle ; the Hindus to establish their dominance over the Muslims and the Muslims to establish their historical position as the ruling community—that in this struggle the strong will win, and to ensure strength they must suppress or put in cold storage every thing which causes dissension in their ranks.

If the Muslims in other countries have undertaken the task of reforming their society and the Muslims of India have refused to do so, it is because the former are free from communal and political clashes with rival communities, while the latter are not.

III

It is not that this blind spirit of conservatism which dose not recognize the need of repair to the social structure has taken hold of the Muslims only. It has taken hold of the Hindus also. The Hindus at one time did recognize that without social efficiency no permanent progress in other fields of activity was possible, that, owing to the mischief wrought by evil customs Hindu Society was not in a state of efficiency and that ceaseless efforts must be made to eradicate these evils. It was due to the recognition of this fact that the birth of the National Congress was accompanied by the foundation of the Social Conference. While the Congress was concerned with defining the weak points in the political organisation of the country, the Social Conference was engaged in removing the weak points in the social organisation of the Hindu Society. For some time, the Congress and the

Conference worked as two wings of one common body and held their annual sessions in the same pandal. But soon the two wings developed into two parties, a Political Reform Party and a Social Reform Party, between whom raged fierce controversy. The Political Reform Party supported the National Congress and the Social Reform Party supported the Social Conference. The two bodies bacame two hostile camps. The point at issue was whether social reform should precede political reform. For a decade the forces were evenly balanced and the battle was fought without victory to either side. It was, however, evident that the fortunes of the Social Conference were ebbing fast. The gentlemen who presided over the sessions of the Social Conference lamented that the majority of the educated Hindus were for political advancement and indifferent to social reform and that while the number of those who attended the Congress was very large and the number who did not attend but who sympathized with it even larger, the number of those who attended the Social Conference was very much smaller. This indifference, this thinning of its ranks was soon followed by active hostility from the politicians, like the late Mr. Tilak. In course of time, the party in favour of political reform won and the Social Conference vanished and was forgotten,* With it also vanished from the Hindu Society the urge for social reform. Under the leadership of Mr. Gandhi, the Hindu Society, if it did not become a political mad-house, certainly became mad after politics. Non-co-operation, Civil Disobedience, and the cry for Swaraj took the place which social reform once had in the minds of the Hindus. In the din and dust of political agitation, the Hindus do not even know that there are any evils to be remedied. Those who are conscious of it, do not believe that social reform is as important as political reform, and when forced to admit its importance argue that there can be no social reform unless political power is first achieved. They are so eager to possess political power that they are impatient even of propaganda in favour of social reform, as it means so much time and energy deducted from political propaganda. A correspondent of Mr. Gandhi put the point of

* For a more detailed statement, see my tract on *Annihilation of caste.*

view of the Nationalists very appropriately, if bluntly, when he wrote* to Mr. Gandhi, saying:—

> "Don't you think that it is impossible to achieve any great reform without winning political power ? The present economic structure has got to be tackled? No reconstruction is possible without political reconstruction and I am afraid all this talk of polished and unpolished rice, balanced diet and so on and so forth is mere moonshine."

The Social Reform Party, led by Ranade, died leaving the field to the Congress. There has grown up among the Hindus another party which is also a rival to the Congress. It is the Hindu Maha Sabha. One would expect from its name that it was a body for bringing about the reform of Hindu Society. But it is not. Its rivalry with the Congress has nothing to do with the issue of social reform *vs.* political reform. Its quarrel with the Congress has its origin in the pro-Muslim policy of the Congress. It is organized for the protection of Hindu rights against Muslim encroachment. Its plan is to organize the Hindus for offering a united front to the Muslims. As a body organized to protect Hindu rights it is all the time engaged in keeping an eye on political movements, on seats and posts. It cannot spare any thought for social reform. As a body keen on bringing about a united front of all Hindus, it cannot afford to create dissensions among its elements which would be the case if it undertook to bring about social reforms. For the sake of the consolidation of the Hindu rank and file, the Hindu Maha Sabha is ready to suffer all social evils to remain as they are. For the sake of consolidation of the Hindus, it is prepared to welcome the Federation as devised by the Act of 1935 in spite of its many iniquities and defects. For the same purpose, the Hindu Maha Sabha favours the retention of the Indian States, with their administration as it is. 'Hands off the Hindu States' has been the battle-cry of its President. This attitude is stranger than that of the Muslims. Representative government in Hindu States cannot do harm to the Hindus. Why then should the President of the Hindu Maha Sabha oppose it ? Probably because it helps the Muslims, whom he cannot tolerate.

**Harijan*—11th January 1936.

IV

To what length this concern for the conservation of their forces can lead the Hindus and the Musalmans cannot be better illustrated than by the debates on the Dissolution of Muslim Marriage Act VIII of 1939 in the Central Assembly. Before 1939, the law was that apostasy of a male or a female married under the Muslim law *ipso facto* dissolved the marriage with the result that if a married Muslim woman changed her religion, she was free to marry a person professing her new religion. This was the rule of law enforced by the courts, throughout India at any rate, for the last 60 years.*

This law was annulled by Act VIII of 1939, section 4 of which reads as follows :—

> "The renunciation of Islam by a married Muslim woman or her conversion to a faith other than Islam shall not by itself operate to dissolve her marriage :
>
> Provided that after such renunciation or conversion the woman shall be entitled to obtain a decree for the dissolution of marriage on any of the grounds mentioned in section 2:
>
> Provided further that the provision of this section shall not apply to a woman converted to Islam from some other faith who re-embraces her former faith."

According to this Act, the marriage of a married Muslim woman is not dissolved by reason of her conversion to another religion. All that she gets is a right of divorce. It is very intriguing to find that section 2 does not refer to conversion or apostasy as a ground for divorce. The effect of the law is that a married Muslim woman has no liberty of conscience and is tied for ever to her husband whose religious faith may be quite abhorrent to her.

The grounds urged in support of this change are well worth attention. The mover of the Bill, Quazi Kazmi, M.L.A., adopted a very ingenious line of argument in support of the change. In his speech† on the motion to refer the Bill he said :—

> "Apostasy was considered by Islam, as by any other religion, as a great crime, almost amounting to a crime against the State. It is

*The earliest reported decision was that given by the High Court of the North-West Province in 1870 in the case of *Zabaroast Khan* vs. *His wife*.

†*Legislative Assembly Debates*. 1938. Vol. V. pp. 1098-1101.

not novel for the religion of Islam to have that provision. If we look up the older Acts of any nation, we will find that similar provision also exists in other Codes as well. For the male a severer punishment was awarded, that of death, and for females, only the punishment of imprisonment was awarded. This main provision was that because it was a sin, it was a crime, it was to be punished, and the woman was to be deprived of her status as wife. It was not only this status that she lost, but she lost all her status in society ; she was deprived of her property and civil rights as well. But we find that as early as 1850 an Act was passed here, called the Caste Disabilities Removal Act of 1850, Act XXI of 1850.....

"....by this Act, the forfeiture of civil rights that could be imposed on a woman on her apostasy has been taken away. She can no longer be subjected to any forfeiture of property or her right of Inheritance or anything of the kind. The only question is that the Legislature has come to her help, it has given her a certain amount of liberty of thought, some kind of liberty of religion to adopt any faith she likes, and has removed the forfeiture clause from which she could suffer, and which was a restraint upon her changing the faith. The question is how far we are entitled after that to continue placing the restriction on her status as a wife. Her status as a wife is of some importance in society. She belongs to some family, she has got children, she has got other connections too. If she has got a liberal mind, she may not like to continue the same old religion. If she changes her religion, why should we, according to our modern ideas, inflict upon her a further penalty that she will cease to be the wife of her husband. I submit, in these days when we are advocating freedom of thought and freedom of religion, when we are advocating inter-marriages between different communities, it would be inconsistent for us to support a provision that a mere change of faith or change of religion would entail forfeiture of her rights as the wife of her husband. So, from a modern point of view, I have got no hesitation in saying that we cannot, in any way, support the contrary proposition that apostasy must be allowed to finish her relationship with her husband. But that is only one part of the argument.

" Section 32 of the Parsi Marriage and Divorce Act, 1936, is to the effect that a married woman may sue for divorce on the grounds ' that the defendant has ceased to be a Parsi.....'

"There are two things apparent from this. The first is, that it is a ground for dissolution, not from any religious idea or religious sentiment, because, if two years have passed after the conversion and if plaintiff does not object, then either the male or female has no right to sue for dissolution of marriage. The second thing is, that it is the plaintiff who has got the complaint that the other party has changed the religion, who has got the right of getting the marriage dissolved

..... In addition to this Act, as regards other communities we can have an idea of the effect of conversion on marriage tie from the Native Converts' Marriage Dissolution Act, Act XXI of 1886 .....It applies to all the communities of India, and this legislation recognises the fact that mere conversion of an Indian to Christianity would not dissolve the marriage but he will have the right of going to a law court and saying that the other party, who is not converted, must perform the marital duties in respect of him.....then they are given a year's time and the judge directs that they shall have an interview with each other in the presence of certain other persons to induce them to resume their conjugal relationship, and if they do not agree, then on the ground of desecrtion the marriage is dissolved. The marriage is dissolved no doubt, but not on the ground of change of faith.....So, every community in India has got this accepted principle that conversion to another religion cannot amount to a dissolution of marriage."

Syed Gulam Bikh Nairang, another Muslim member of the Assembly and a protagonist of the Bill, was brutally frank. In support of the principle of the Bill he said* :—

" For a very long time the courts in British India have held without reservation and qualification that under all circumstances apostasy automatically and immediately puts an end to the married state without any judicial proceedings, any decree of court, or any other ceremony. That has been the position which was taken up by the Courts. Now, there are three distinct views of *Hanafi jurists* on the point One view which is attributed to the Bokhara jurists was adopted and even that not in its entirety but in what I may call a mutilated and maimed condition. What that Bokhara view is has been already stated by Mr. Kazmi and some other speakers. The Bokhara jurists say that marriage is dissolved by apostasy. In fact, I should be more accurate in saying—I have got authority for that—that it is, according to the Bokhara view, not dissolved but suspended. The marriage is suspended but the wife is then kept in custody or confinement till she repents and embraces Islam again, and then she is induced to marry the husband, whose marriage was only suspended and not put an end to or cancelled. The second view is that on apostasy a married Muslim woman ceases to be the wife of her husband but becomes his bond woman. One view, which is a sort of corollary to this view, is that she is not necessarily the bond woman of her ex-husband but she becomes the bond woman of the entire Muslim community and anybody can employ her as a bond woman. The third view, that of the Ulema of Samarkand and Balkh, is that the marriage tie is not affected by such apostasy and that the woman still continues to be the wife of the husband. These are the three views. A portion of the first view, the Bokhara view, was taken hold of by the Courts and rulings after rulings were based on that portion.

* *Legislative Assembly Debates,* 1938, Vol. V. pp. 1953-55.

> " This House is well aware that it is not only in this solitary instance that judicial error is sought to be corrected by legislation, but in many other cases, too, there have been judicial errors or conflicts of judicial opinion or uncertainties and vagueness of law. Errors of judicial view are being constantly corrected by legislation. In this particular matter there has been an error after error and a tragedy of errors. To show me those rulings is begging the question. Surely, it should be realized that it is no answer to my Bill that because the High Courts have decided against me, I have no business to come to this House and ask it to legislate this way or that way."

Having regard to the profundity of the change, the arguments urged in support of it were indeed very insubstantial. Mr. Kazmi failed to realize that if there was a difference between the divorce law relating to Parsis, Christians and Muslims, once it is established that the conversion is genuine, the Muslim law was in advance of the Parsi and the Christian law and instead of making the Muslim law retrograde, the proper thing ought to have been to make the Parsi and the Christian law progress. Mr. Nairang did not stop to inquire that, if there were different schools of thought among the Muslim jurists, whether it was not more in consonance with justice to adopt the more enlightened view which recognized the freedom of the Muslim woman and not to replace it by the barbaric one which made her a bonds-woman.

Be that as it may, the legal arguments had nothing to do with the real motive underlying the change. The real motive was to put a stop to the illicit conversion of women to alien faiths, followed by immediate and hurried marriages with some one professing the faith she happened to have joined, with a view to locking her in the new community and preventing her from going back to the community to which she originally belonged. The conversion of Muslim woman to Hinduism and of Hindu woman to Islam looked at from a social and political point of view cannot but be fraught with tremendous consequences. It means a disturbance in the numerical balance between the two communities. As the disturbance was being brought about by the abduction of women, it could not be overlooked. For woman is at once the seed-bed of and the hothouse for nationalism in a degree that man can never be.* These

* The part played by woman in sustaining nationalism has not been sufficiently noticed. See the observations of Renan on this point in his *Essay on Nationality*.

conversions of women and their subsequent marriages were therefore regarded, and rightly, as a series of depredations practised by Hindus against Muslims and by Muslims against Hindus with a view to bringing about a change in their relative numerical strength. This abominable practice of woman-lifting had become as common as cattle-lifting and, with its obvious danger to communal balance, efforts had to be made to stop it. That this was the real reason behind this legislation can be seen from the two provisions to section 4 of the Act. In proviso 1 the Hindus concede to the Musalmans that if they convert a woman who was originally a Muslim she will remain bound to her former Muslim husband notwithstanding her conversion. By proviso 2 the Muslims concede to the Hindus that if they convert a Hindu married woman and she is married to a Musalman, her marriage will be deemed to be dissolved if she renounces Islam and she will be free to return to her Hindu fold. Thus what underlies the change in law is the desire to keep the numerical balance and it is for this purpose that the rights of women were sacrificed.

There are two other features of this malaise which have not been sufficiently noted.

One such feature is the jealousy with which one of them looks upon any reform by the other in its social system. If the effect of such reform is to give it increase of strength for resistance, it at once creates hostility.

Swami Shradhanand relates a very curious incident which well illustrates this attitude. Writing in the *Liberator** his recollections, he refers to this incident. He says:—

> "Mr. Ranade was there .... to guide the Social Conference to which the title of 'National' was for the first and last time given. It was from the beginning a Hindu Conference in all walks of life. The only Mahomedan delegate who joined the National Social Conference was a Mufti Saheb of Barreily. Well! The conference began when the resolution in favour of remarriage of child-widows was moved by a Hindu delegate and by me. Sanatanist Pandits opposed it. Then the Mufti asked permission to speak. The late Baijnath told Mufti Saheb that as the resolution concerned the Hindus only, he need not speak. At this the Mufti flared up.

*26th April 1926.

"There was no loophole left for the President and Mufti Saheb was allowed to have his say. Mufti Saheb's argument was that as Hindu Shastras did not allow remarriage, it was a sin to press for it. Again, when the resolution about the reconversion of those who had become Christians and Musalmans came up, Mufti Saheb urged that when a man abandoned the Hindu religion he ought not to be allowed to come back."

Another illustration would be the attitued of the Muslims towards the problem of the Untouchables. The Muslims have always been looking at the Depressed Classes with a sense of longing and much of the jealousy between Hindus and Muslims arises out of the fear of the latter that the former might become stronger by assimilating the Depressed Classes. In 1909 the Muslims took the bold step of suggesting that the Depressed Classes should not be enrolled in the census as Hindus. In 1923 Mr. Mahomed Ali in his address as the President of the Congress went much beyond the position taken by the Muslims in 1909. He said:—

"The quarrels about ALAMS and PIPAL trees and musical processions are truly childish ; but there is one question which can easily furnish a ground for complaint of unfriendly action if communal activities are not amicably adjusted. It is the question of the conversion of the Suppressed Classes, if Hindu society does not speedily absorb them. The Christian missionary is already busy and no one quarrels with him. But the moment some Muslim Missionary Society is organized for the same purpose there is every likelihood of an outcry in the Hindu press. It has been suggested to me by an influential and wealthy gentleman who is able to organize a Missionary Society on a large scale for the conversion of the Suppressed Classes, that it should be possible to reach a settlement with leading Hindu gentlemen and divide the country into separate areas where Hindu and Muslim missionaries could respectively work, each community preparing for each year, or longer unit of time if necessary, an estimate of the numbers it is prepared to absorb or convert. These estimates would, of course, be based on the number of workers and funds each had to spare, and tested by the actual figures of the previous period. In this way each community would be free to do the work of absorption and conversion, or rather, of reform without chances of collision with one another. I cannot say in what light my Hindu brethren will take it and I place this suggestion tentatively in all frankness and sincerity before them. All that I say for myself is that I have seen the condition of the 'Kali Praja' in the Baroda State and of the Gonds in the Central Provinces and I frankly confess it is a reproach to us all. If the Hindus will not absorb them into their own society, others will and must, and then the orthodox Hindu too will cease to treat them as untouchables. Conversion seems to transmute them by a strong alchemy. But does this not place a premium upon conversion ?"

The other feature is the "preparations" which the Muslims and Hindus are making against each other without abatement. It is like a race in armaments between two hostile nations. If the Hindus have the Benares University, the Musalmans must have the Aligarh University. If the Hindus start Shudhi movement, the Muslims must launch the Tablig movement. If the Hindus start Sangathan, the Muslims must meet it by Tanjim. If the Hindus have the R. S. S. S.,* the Muslims must reply by organizing the Khaksars.† This race in social armament and equipment is run with the determination and apprehension characteristic of nations which are on the war path. The Muslims fear that the Hindus are subjugating them. The Hindus feel that the Muslims are engaged in reconquering them. Both appear to be preparing for war and each is watching the "preparations" of the other.

Such a state of things cannot but be ominous. It is a vicious circle. If the Hindus make themselves stronger, the Musalmans feel menaced. The Muslims endeavour to increase their forces to meet the menace and the Hindus then do the same to equalize the position. As the preparations proceed, so does the suspicion, the secrecy, and the plotting. The possibilities of peaceful adjustment are poisoned at the source and precisely because everyone is fearing and preparing for it that "war" between the two tends to become inevitable. But in the situation in which they find themselves, for the Hindus and the Muslims not to attend to anything, except to prepare themselves to meet the challenge of each other, is quite natural. It is a struggle for existence and the issue, that counts, is survival and not the quality or the plane of survival.

Two things must be said to have emerged from this discussion. One is that the Hindus and the Muslims regard each other as a menace. The second is that to meet this menace, both have suspended the cause of removing the social evils with which they are infested. Is this a desirable state of things ? If it is not how then can it be ended ?

* Short for the Rashtriya Swayam Sevaka Sangh which is a Hindu volunteer corps.

† Khaksar is a Muslim volunteer corps.

No one can say that to have the problems of social reform put aside is a desirable state of things. Wherever there are social evils, the health of the body politic requires that they shall be removed before they become the symbols of suffering and injustice. For it is the social and economic evils which everywhere are the parent of revolution or decay. Whether social reform should precede political reform or political reform should precede social reform may be a matter of controversy. But there can be no two opinions on the question that the sole object of political power is the use to which it can be put in the cause of social and economic reform. The whole struggle for political power would be a barren and bootless effort if it was not justified by the feeling that, because of the want of political power, urgent and crying social evils are eating into the vitals of society and are destroying it. But suppose the Hindus and the Muslims somehow come into possession of political power, what hope is there that they will use it for purposes of social reform ? There is hardly any hope in that behalf. So long as the Hindus and the Muslims regard each other as a menace, their attention will be engrossed in preparations for meeting the menace. The exigencies of a common front by Musalmans against Hindus and by Hindus against Musalmans generate—and is bound to generate—a conspiracy of silence over social evils. Neither the Muslims nor the Hindus will attend to them even though the evils may be running sores and requiring immediate attention, for the simple reason that they regard every measure of social reform as bound to create dissension and division and thereby weaken the ranks when they ought to be closed to meet the menace of the other community. It is obvious that so long as one community looks upon the other as a menace there will be no social progress and the spirit of conservatism will continue to dominate the thoughts and actions of both.

How long will this menace last ? It is sure to last as long as the Hindus and Muslims are required to live as members of one country under the mantle of a single constitution. For, it is the fear of the single constitution with the possibility of the shifting of the balance—for nothing can keep the belance at the point originally fixed by the constitution—which makes the Hindus a menace to the Muslims and the Muslims a menace to the Hindus. If this is so,

Pakistan is the obvious remedy. It certainly removes the chief condition which makes for the menace. Pakistan liberates both the Hindus and the Muslims from the fear of enslavement of and encroachment against each other. It removes, by providing a separate constitution for each, Pakistan and Hindustan, the very basis which leads to this perpetual struggle for keeping a balance of power in the day-to-day life and frees them to take in hand those vital matters of urgent social importance which they are now forced to put aside in cold storage, and improve the lives of their people, which after all is the main object of this fight for Swaraj.

Without some such arrangement, the Hindus and the Muslims will act and react as though they were two nations, one fearing to be conquered by the other. Preparations for aggression will always have precedence over social reform, so that the social stagnation which has set in must continue. This is quite natural and no one need be surprised at it. For, as Bernard Shaw pointed out:—

> "A conquered nation is like a man with cancer; he can think of nothing else.... A healthy nation is as unconscious of its nationality as a healthy man of his bones. But if you break a nation's nationality it will think of nothing else but getting it set again. It will listen to no reformer, to no philosopher, to no preacher until the demand of the nationalist is granted. It will attend to no business, however vital, except the business of unification and liberation."

Unless there is unification of the Muslims who wish to separate from the Hindus and unless there is liberation of each from the fear of domination by the other, there can be no doubt that this malaise of social stagnation will not be set right.

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CHAPTER XI

COMMUNAL AGGRESSION

Even a superficial observer cannot fail to notice that a spirit of aggression underlies the Hindu attitude towards the Muslim and the Muslim attitude towards the Hindu. The Hindu's spirit of aggression is a new phase which he has just begun to cultivate. The Muslim's spirit of aggression is his native endowment and is ancient as compared with that of the Hindu. It is not that the Hindu, if given time, will not pick up and overtake the Muslim. But as matters stand to-day, the Muslim in this exhibition of the spirit of aggression leaves the Hindu far behind.

Enough has been said about the social aggression of the Muslims in the chapter dealing with communal riots. It is necessary to speak briefly of the political aggression of the Muslims. For this political aggression has created a malaise which cannot be overlooked.

Three things are noticeable about this political aggression of the Muslims.

First is the ever-growing catalogue of the Muslim's political demands. Their origin goes back to the year 1892.

In 1885 the Indian National Congress was founded. It began with a demand for good government as distinguished from self-government. In response to this demand the British Government felt the necessity of altering the nature of the Legislative Councils, Provincial and Central, established under the Act of 1861. In that nascent stage of Congress agitation, the British Government did not feel called upon to make them fully popular. It thought it enough to give them a popular colouring. Accordingly the British Parliament passed in 1892 what is called the Indian Councils Act. This Act is memorable for two things. It was in this Act of 1892 that the British Government for the first time accepted the semblance of the principle of popular representation as the basis for the constitution of the Legislatures in India. It was not a

principle of election. It was a principle of nomination, only it was qualified by the requirement that before nomination a person must be selected by important public bodies such as municipalities, district boards, universities and the associations of merchants, etc. Secondly, it was in the legislatures that were constituted under this Act that the principle of separate representation for Musalmans was for the first time introduced in the political constitution of India.

The introduction of this principle is shrouded in mystery. It is a mystery because it was introduced so silently and so stealthily. The principle of separate representation does not find a place in the Act. The Act says nothing about it. It was in the directions—but not in the Act—issued to those charged with the duty of framing regulations as to the classes and interests to whom representation was to be given that the Muslims were named as a class to be provided for.

It is a mystery as to who was responsible for its introduction. This scheme of separate representation was not the result of any demand put forth by any organized Muslim association. In whom did it then originate ? It is suggested* that it originated with the Viceroy, Lord Dufferin, who, as far back as the year 1888, when dealing with the question of representation in the Legislative Councils, emphasized the necessity that in India representation will have to be, not in the way representation is secured in England, but representation by interests. Curiosity leads to a further question, namely, what could have led Lord Dufferin to propose such a plan ? It is suggested† that the idea was to wean‡ away the Musalmans from the Congress which had already been started three years before. Be that as it may, it is certain that it is by this Act that separate representation for Muslims became, for the first time, a feature of the Indian Constitution. It should, however, be noted that neither the Act nor the Regulations conferred any right of selection upon the Muslim community,

* See the speech of Sir Mahomad Shafi in the Minorities Sub-Committee of the first R. T. C. (Indian Edition). p. 57.

† See the speech of Raja Narendranalh, Ibid., p. 65.

‡ The Musalmans had already been told by Sir Sayad Ahmad not to join the Congress in the two speeches, one delivered at Lucknow on 28th December 1887, and the other at Meerut on 16th March 1988. Mr. Mahomed Ali in his presidential address speaks of them as historic speeches.

nor did the Act give the Muslim community a right to claim a fixed number of seats. All that it did was to give the Muslims the right to separate representation.

Though, to start with, the suggestion of separate representation came from the British, the Muslims did not fail to appreciate the social value of separate political rights with the result that when in 1909 the Muslims came to know that the next step in the reform of the Legislative Councils was contemplated, they waited of their own accord in deputation* upon the Viveroy, Lord Minto, and placed before him the following demands:—

(i) Communal representation in accordance with their numerical strength, social position and local influence, on district and municipal boards.

(ii) An assurance of Muhammadan representation on the governing bodies of Universities.

(iii) Communal representation on provincial councils, election being by special electoral colleges composed of Muhammadan landlords, lawyers, merchants, and representatives of other important interests, University graduates of a certain standing and members of district and municipal boards.

(iv) The number of Muhammadan representatives in the Imperial Legislative Council should not depend on their numerical strength, and Muhammadans should never be in an ineffective minority. They should be elected as far as possible (as opposed to being nominated), election being by special Muhammadan colleges composed of landowners, lawyers, merchants, members of provincial councils, Fellows of Universities, etc.

These demands were granted and given effect to in the Act of 1909. Under this Act the Muhammadans were given (1) the right to elect their representatives, (2) the right to elect their representatives by separate electorates, (3) the right to vote in the general electorates as well, and (4) the right to weightage in representation. The following table shows the proportion of representation, secured to the Muslims in the Legislatures by the Act of 1909 and the Regulations made thereunder:—

* Mr. Mahomed Ali in his speech as the President of the Congress said that this deputation was a "command performance."

Composition of Legislative Councils under the Act of 1909 showing Communal Proportion between Hindus and Muslims

Province	Maximum member of Additional members prescribed by the Act of 1909.	Maximum member of Additional Members allowed by Regulations columns 5 and 12	Ex-officio members	Strength of the Council under the Regulations								Total strength columns 4, 5, 12
				Elected Members.			Nominated Members.					
							Officials					
				Total	Non-Muslims	Muslims	Law officers	Others*	Non-officials	Experts	Total	
1	2	3	4	5	6	7	8	9	10	11	12	13
India	60	60	8	27	22	5	...	28	5	...	33	63
Madras	50	45	4	21	19	2	1	16	5	2	24	49
Bombay	50	45	4	21	17	4	1	14	7	2	24	49
Bengal	50	50	4	28	23	5	...	16	4	2	22	54
Bihar	50	41	4	21	17	4	...	15	4	1	20	45
U.P.	50	49	1	21	17	4	...	20	6	2	28	50
Punjab	30	26	1	8	8	none.	...	10	6	2	18	27
Burma	30	17	1	1	1	none.	...	6	8	2	16	18
Assam	30	25	1	11	9	2	...	9	4	1	14	25

*The numbers in column 9 represent the maximum of Official Members permitted under the Regulations.

The provisions were applied to all Provinces except the Punjab and the C. P. It was not applied to the Punjab bacause such special protection was considered unnecessary for the Musalmans of the Punjab and it was not applied to the C. P. because it had no Legislative Council at the time.*

In October 1916, 19 members of the Imperial Legislative Council presented the Viceroy (Lord Chelmsford) a memorandum demanding a reform of the Constitution. Immediately the Muslims came forward with a number of demands on behalf of the Muslim community. These were :—

(i) The extension of the principle of separate representation to the Punjab and the C. P.

(ii) Fixing the numerical strength of the Muslim representatives in the Provincial and Imperial Legislative Councils.

(iii) Safeguards against legislation affecting Muslims, their religion and religious usages.

The negotiations following upon these demands resulted in agreement between the Hindus and the Muslims which is known as the Lucknow Pact. It may be said to contain two clauses. One related to legislation, under which it was agreed that:—

> "No Bill, nor any clause thereof, nor a resolution introduced by a non-official affecting one or other community (which question is to be determined by the members of that community in the Legislative Council concerned) shall be proceeded with, if three-fourths of the members of that community in the particular Council, Imperial and Provincial, oppose the Bill or any clause thereof or the resolution."

The other clause related to the proportion of Muslim representation. With regard to the Imperial Legislative Council the Pact provided :—

> "That one-third of the Indian elected members should be Muhammadans, elected by separate electorates in the several Provinces, in the proportion, as nearly as might be, in which they were represented on the provincial legislative councils by separate Muhammadan electorates."

* The C. P. legislative Council was established in 1914.

In the matter of Muslim representation in the Provincial Legislative Councils it was agreed that the proportion of Muslim representation should be as follows* :—

	Percentage of elected Indian Members to the Provincial Legislature
Punjab	50
United Provinces	30
Bengal	40
Bihar and Orissa	25
Central Provinces	15
Madras	15
Bombay	33

While allowing this proportion of seats to the Muslims, the right to second vote in the general electorates which they had under the arrangement of 1909 was taken away.

The Lucknow Pact was adversely criticized by the Montagu Chelmsford Report. But being an agreement between the parties Government did not like to reject it and to substitute in its place its own decision. Both clauses of the agreement were accepted by Government and embodied in the Government of India Act of 1919. The clause relating to legislation was given effect to but in a different form. Instead of leaving it to the members of the Legislature to oppose it, it was provided† that legislation affecting the religion or religious rites and usages of any class of British subjects in India shall not be introduced at any meeting of either Chamber of the Indian Legislature without the previous sanction of the Governor-General.

The clause relating to representation was accepted by the Government, though in the opinion of the Government the Punjab and Bengal Muslims were not fairly treated.

The effect of these concessions can be seen by reference to the composition of the Legislatures constituted under the Government of India Act, 1919, which was as follows:—

* For some reason the Pact did not settle the proportion of Muslim representation in Assam.

† Government of India Act, 1919, section 67(2)(b).

Composition of the Legislatures

	Statutory Minimum	Elected Members			Nominated Members		Actual Total
		Total	Muslims	Non-Muslims	Officials	Non-Officials	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Legislative Assembly	145	104	52	52	26	15	145
Council of State	60	33	11	22	17	10	60
Madras Provincial Council	118	98	13	85	11	23	132
Bombay Provincial Council	111	86	27	59	19	9	114
Bengal Provincial Council	125	114	39	75	16	10	140
U. P. Provincial Council	118	110	29	71	17	6	123
Punjab Provincial Council	83	71	32	39	15	8	94
Bihar Provincial Council	98	76	18	58	15	12	103
C. P. Provincial Council	70	55	7	48	10	8	73
Assam Provincial Council	53	39	12	27	7	7	53

The extent of representation secured by the Muslims by the Lucknow Pact can be seen from the following table* :—

Legislative Body	Percentage of Muslims to total population of the electoral area (1921 Census)	Percentage of Muslim Members to total No. of Members	Percentage of elected Muslim Members to total No. of elected Indian Members†	Percentage of Muslim Members to total Members in seats filled by election from Indian general (communal) constituencies	Lucknow Pact Percentage
	(1)	(2)	(3)	(4)	(5)
Punjab ...	55.2	40	48.5	50	50
United Provinces	14.3	25	30	32.5	30
Bengal ...	54.6	30	40.5	46	40
Bihar and Orissa	10.9	18.5	25	27	25
Central Provinces	4.4	9.5	13	14.5	15
Madras ...	6.7	10.5	14	16.5	15
Bombay ...	19.8	25.5	35	37	33.3
Assam ...	32.2	30	35.5	37.5	No. provision
Legislative Assembly	24.0	26	34	38	33.3

*Statutory Commission, 1929, Report, Vol. I, p. 189.

†Column 3 includes Indians elected by special constituencies, e.g. Commerce, whose communal proportions may of course vary slightly from time to time. Similarly column 2, including also officials and nominated non-officials, will show slightly different results at different periods.

This table does not show quite clearly the weightage obtained by the Muslims under the Lucknow Pact. It was worked out by the Government of India in their despatch* on the Report of Franchise Committee of which Lord Southborough was the Chairman. The following table is taken from that despatch which shows that the Muslims got a weightage under the Lucknow Pact far in excess of what Government gave them in 1909.

	Muslim per-centage of Population (1)	Percentage of Muslim seats Proposed (2)	Percentage (2) of (1) (3)
Bengal	52.6	40	76
Bihar and Orissa ...	10.5	25	238
Bombay	20.4	33.3	163
Central Provinces ...	4.3	15	349
Madras	6.5	15	231
Punjab	54.8	50	91
United Provinces ...	14.0	30	214

In 1927 the British Government announced the appointment of the Simon Commission to examine the working of the Indian Constitution and to suggest further reforms. Immediately the Muslims came forward with further political demands. These demands were put forth from various Muslim platforms such as the Muslim League, All-India Muslim Conference, All-Parties Muslim Conference, Jamiat-ul-Ulema and the Khilafat Conference. The demands were substantially the same. It would suffice to state those that were formulated by Mr. Jinnah† on behalf of the Muslim League.

* Fifth despatch on Indian Constitutional Reforms (Franchises), dated 23rd April 1919, para 21.

† The demands are known as Mr. Jinnah's 14 points. As a matter of fact they are 15 in number and were formulated at a meeting of Muslim leaders of all shades of opinion held at Delhi in March 1927 and were known as the Delhi Proposals. For Mr. Jinnah's explanation of the origin of his 14 points, see *All-India Register,* 1929, Vol. I., p. 367.

They were in the following terms :—

1. The form of the future Constitution should be federal with residuary powers vested in the provinces.

2. A uniform measure of autonomy should be granted to all provinces.

3. All legislatures in the country and other elected bodies should be reconstituted on the definite principle of adequate and effective representation of minorities in every province without reducing the majority of any province to a minority or even equality.

4. In the Central Legislature, Muslim representation should not be less than one-third.

5. The representation of communal groups should continue to be by means of separate electorates as at present, provided that it should be open to any community at any time to abandon its separate electorate in favour of joint electorates.

6. Any territorial redistribution that might at any time be necessary should not in any way affect the Muslim majority in the Punjab, Bengal and North-West Province.

7. Full religious liberty, that is, liberty of belief, worship, observances, propaganda, association and education should be guaranteed to all communities.

8. No bill or resolution, or any part thereof, should be passed in any legislature or any other elected body if three-fourths of the members of any community in that particular body oppose such bill or resolution or part thereof on the ground that it would be injurious to the interests of that community or, in the alternative, such other method as may be devised or as may be found feasible and practicable to deal with such cases.

9. Sind should be separated from the Bombay Presidency.

10. Reforms should be introduced in the North-West Frontier Province and Baluchistan on the same footing as in other provinces.

11. Provision should be made in the Constitution giving the Muslims an adequate share along with other Indians in all the Services of the State and in self-governing bodies, having due regard to the requirements of efficiency.

12. The constitution should embody adequate safeguards for the protection of Muslim religion, culture and personal law, and the promotion of Muslim education, language, religion, personal laws, Muslim charitable institutions, and for their due share in grants-in-aid given by the State and by self-governing bodies.

13. No Cabinet, either Central or Provincial, should be formed without there being a proportion of Muslim Ministers of at least one-third.

14. No change to be made in the Constitution by the Central Legislature except with the concurrence of the States constituting the Indian Federation.

15. That in the present circumstances the representation of Musalmans in the different legislatures of the country and of the other elected bodies through separate electorates is inevitable, and, further, Government being pledged not to deprive the Musalmans of this right, it cannot be taken away without their consent, and so long as the Musalmans are not satisfied that their rights and interests are safeguarded in the manner specified above (or herein) they would in no way consent to the establishment of joint electorates with or without conditions.

Note:—The question of excess representation of Musalmans over and above their population in the provinces where they are in minority to be considered hereafter.

This is a consolidated statement of Muslim demands. In it there are some which are old, and some which are new. The old ones are included because the aim is to retain the advantages accruing therefrom. The new ones are added in order to remove the weaknesses in the Muslim position. The new ones are five in number: (1) Representation in proportion to population to Muslim majorities in the Punjab and Bengal, (2) One-third representation to Muslims in the cabinets both Central and Provincial, (3) Adequate representation of Muslims in the Services, (4) Separation of Sind from the Bombay Presidency and the raising of N.-W.F. P. and Baluchistan to the status of self-governing provinces, and (5) Vesting of residuary powers in the provinces instead of in the Central Government.

These new demands are self-explanatory except perhaps 1, 4 and 5. The object of demands 1 and 4 was to place, in four provinces, the Muslim community in a statutory majority where it had only communal majority, as a force counteracting the six provinces in which the Hindu community happened to be in a majority. This was insisted upon as a guarantee of good treatment by both the communities of its minorities. The object of demand No. 5 was to guarantee Muslim rule in Sind, N.-W. F. P., the Punjab and Bengal. But a Muslim majority rule in these Muslim Provinces, it was feared, would not be effective if they remained under the control of the Central Government which could not but be in the hand of the Hindus. To free the

Muslim Provinces from the control of the Hindu Government at the Centre was the object for which demand No. 5 was put forth.

These demands were opposed by the Hindus. There may not be much in this. But what is significant is that they were also rejected by the Simon Commission. The Simon Commission, which was by no means unfriendly to the Muslims, gave some very cogent reasons for rejecting the Muslim demands. It said* :—

> " This claim goes to the length of seeking to preserve the full security for representation now provided for Muslims in these six provinces and at the same time to enlarge in Bengal and the Punjab the present proportion of seats secured to the community by separate electorates to figures proportionate to their ratio of population. This would give Muhammadans a fixed and unalterable majority of the general constituency seats in both provinces. We cannot go so far. The continuance of the present scale of weightage in the six provinces could not—in the absence of a new general agreement between the communities—equitably be combined with so great a deparure from the existing allocation in Bengal and the Punjab.
>
> "It would be unfair that Muhammadans should retain the very considerable weightage they enjoy in the six provinces, and that there should at the same time be imposed, in face of Hindu and Sikh opposition, a definite Muslim majority in the Punjab and Bengal unalterable by any appeal to the electorate....."

Notwithstanding the opposition of the Hindus and the Sikhs and the rejection by the Simon Commission, the British Government when called upon to act as an arbiter granted the Muslims all their demands old and new.

By a Notification† *in the Gazette of India* 25th January 1932 the Government of India, in exercise of the powers conferred by sub-section (2) of section 52A of the Government of India Act, 1916, declared that the N.-W. F. Province shall be treated as a Governor's Province.‡ By an Order in Council, issued under

*Report, Vol. II, p. 71.

†Notification No. F. 173/31-R in the *Gazette of India Extraordinary,* dated 25th January 1932.

‡The Simon Commission had rejected the claim saying : "We entirely share the view of the Bray Committee that provision ought now to be made for the constitutional advance of the N.-W. F. P. ..... But we also agree that the situation of the Province and its intimate relation with the problem of Indian defence are such that special arrangements are required. It is not possible, therefore, to apply to it automatically proposals which may be suited for provincial areas in other parts of India." They justified it by saying: " They inherent right of a man to smoke a cigarette must necessarily be curtailed if he lives in a powder magazine."—Report, Vol. II. paras 120-121.

the provisions contained in sub-section (1) of section 289 of the Government of India Act of 1935, Sind was separated from Bombay as from 1st April 1936 and declared to be a Governor's Province to be known as the province of Sind. By the Resolution issued by the Secretary of State for India and published on 7th July 1934 the Muslim share in the public services was fixed at 25 per cent. of all appointments Imperial and Provincial. With regard to residuary powers, it is true that the Muslim demand that they should be vested in the Provinces was not accepted. But in another sense the Muslim demand in this respect may be deemed to have been granted. The essence of the Muslim demand was that the residuary powers should not be vested in the Centre, which, put in different language, meant that they should not be in the hands of the Hindus. This is precisely what is done by section 104 of the Government of India Act, 1935, which vests the residuary powers in the Governor-General to be exercised in his discretion. The demand for 33 1/3 per cent. representation in the Cabinets, Central and Provincial, was not given effect to by a legal provision in the Act. The right of Muslims to representation in the Cabinets was however accepted by the British Government and provision for giving effect to it was made in the Instruments of Instructions issued to the Governors and Governor-General. As to the remaining demand which related to a statutory majority in the Punjab and Bengal, the demand was given effect to by the Communal Award. True, a statutory majority in the whole House has not been given to the Muslims and could not be given having regard to the necessity for providing representation to other interests. But a statutory majority as against Hindus has been given to the Muslims of the Punjab and Bengal without touching the weightages obtained by the Muslim minorities under the Lucknow Pact.

These political grants to the Muslim community by the British Government lacked security and it was feared by the Muslims that pressure might be brought upon them or upon His Majesty's Government by the Hindus to alter the terms of the grants to the prejudice of the Muslims. This fear was due to two reasons. One was the success of Mr. Gandhi in getting that part of the Award which related to the Depressed Classes revised by

means of the pressure of a fast unto death. * Some people encouraged by this success actually agitated for revision of that part of the Award which related to the Muslims and some Muslims were even found to be in favour of entering into such negotiations.† This alarmed the Muslim community. The other reason for the fear of a revision of the terms of the grants arose out of certain amendments in the clauses in the Government of India Bill which were made in the House of Commons permitting such revision under certain conditions. To remove these fears and to give complete security to the Muslims against hasty and hurried revision of the grants, His Majesty's Government authorized the Government of India to issue the following communique‡:—

"It has come to the notice of His Majesty's Government that the impression is prevalent that what is now Clause 304 of the Government of India Bill (numbered 285 in the Bill as first introduced and 299 in the Bill as amended by the Commons in Committee) has been amended during the passage of the Bill through the Commons in such a way as to give His Majesty's Government unfettered power to alter at any time they may think fit the constitutional provisions based upon what is commonly known as Government's Communal Award.

"His Majesty's Government think it desirable to give the following brief explanation both of what they consider is the practical effect of Clause 304 in relation to any change in the Communal Award and of their own policy in relation to any such change.

"Under this Clause there is conferred on the Governments and Legislatures in India, after the expiry of ten years, the right of initiating a proposal to modify the provisions and regulating various matters relating to the constitution of the Legislature, including such questions as were covered by the Communal Award.

" The Clause also imposes on the Secretary of State the duty of laying before Parliament from the Governor-General or the Governor as the case may be his opinion as to the proposed amendment and in particular as to the effect which it would have on the interests of any minority and of informing Parliament of any action which he proposed to take.

" Any change in the constitutional provisions resulting from this procedure can be effected by an Order in Council, but this is subject to the proviso that the draft of the proposed Order has been affirmatively approved by both Houses of Parliament by a resolution. The condition is secured by Clause 305 of the Bill.

* This resulted in the Poona Pact which was signed on 24th September 1932.

† For the efforts to gel the Muslim part of the Award revised, see *All-India Register,* 1932. Vol. II, pp. 281-315.

‡The communique is dated Simla July 2, 1935.

"Before the expiry of ten years there is no similar constitutional initiative residing in the Governments and the Legislatures of India. Power is, however, conferred by the Clause to make such a change by an Order in Council (always with the approval of both Houses of Parliament) even before the end of ten years, but within the first ten years (and indeed subsequently, if the initiative has not come from the Legislatures of India) it is incumbent upon the Secretary of State to consult the Governments and the Legislatures of India who will be affected (unless the change is of a minor character) before any Order in Council is laid before Parliament for its approval.

"The necessity for the powers referred to in the preceding paragraph is due to such reasons as the following:—

" (a) It is impossible to foresee when the necessity may arise for amending minor details connected with the franchise and the constitution of legislatures, and for such amendment it will be clearly disadvantageous to have no method available short of a fresh amending Act of Parliament, nor is it practicable statutorily to separate such details from the more important matter such as the terms of the Communal Award;

"(b) It might also become desirable, in the event of a unanimous agreement between the communities in India, to make a modification in the provisions based on the Communal Award ; and for such an agreed change it would also be disadvantageous to have no other method available than an amending Act of Parliament.

"Within the range of the Communal Award His Majesty's Government would not propose, in the exercise of any power conferred by this Clause, to recommend to Parliament any change unless such changes had been agreed to between the communities concerned.

"In conclusion, His Majesty's Government would again emphasise the fact that none of the powers in Clause 304 can, in view of the provisions in Clause 305, be exercised unless both Houses of Parliament agreed by an affirmative resolution."

After taking into account what the Muslims demanded at the R. T. C. and what was conceded to them, any one could have thought that the limit of Muslim demands was reached and that the 1932 settlement was a final settlement. But, it appears that even with this the Musalmans are not satisfied. A further list of new demands for safeguarding the Muslim position seems to be ready. In the controversy that went on between Mr. Jinnah and the Congress in the year 1938, Mr. Jinnah was asked to disclose his demands which he refused to do. But these demands have come to the surface in the correspondence that passed between

Pandit Nehru and Mr. Jinnah in the course of the controversy and they have been tabulated by Pandit Nehru in one of his letters to Mr. Jinnah. His tabulation gives the following items as being matters of disputes and requiring settlement* :—

(1) The fourteen points formulated by the Muslim League in 1929.

(2) The Congress should withdraw all opposition to the Communal Award and should not describe it as a negation of nationalism.

(3) The share of the Muslims in the state services should be definitely fixed in the constitution by statutory enactment.

(4) Muslim personal law and culture should be guaranteed by statute.

(5) The Congress should take in hand the agitation in connection with the Sahidganj Mosque and should use its moral pressure to enable the Muslims to gain possession of the Mosque.

(6) The Muslims' right to call Azan and perform their religious ceremonies should not be fettered in any way.

(7) Muslims should have freedom to perform cow- slaughter.

(8) Muslim majorities in the Provinces, where such majorities exist at present, must not be affected by any territorial re-distribution or adjustments.

(9) The 'Bande Mataram' song should be given up.

(10) Muslims want Urdu to be the national language of India and they desire to have statutory guarantees that the use of Urdu shall not be curtailed or damaged.

(11) Muslim representation in the local bodies should be governed by the principles underlying the Communal Award, that is, separate electorates and population strength.

(12) The tricolour flag should be changed or alternately the flag of the Muslim League should be given equal importance.

(13) Recognition of the Muslim League as the one authoritative and representative organization of Indian Muslims.

(14) Coalition Ministries should be formed.

* *Indian Annual Register,* 1938, Vol. I, p. 369.

With this new list, there is no knowing where the Muslims are going to stop in their demands. Within one year, that is, between 1938 and 1939, one more demand and that too of a substantial character, namely 50 per cent. share in everything, has been added to it. In this catalogue of new demands there are some which on the face of them are extravagant and impossible, if not irresponsible. As an instance, one may refer to the demand for fifty-fifty and the demand for the recognition of Urdu as the national language of India. In 1929, the Muslims insisted that in allotting seats in Legislatures, a majority shall not be reduced to a minority or equality.* This principle, enunciated by themselves, it is now demanded, shall be abandoned and a majority shall be reduced to equality. The Muslims in 1929 admitted that the other minorities required protection and that they must have it in the same manner as the Muslims. The only distinction made between the Muslims and other minorities was as to the extent of the protection. The Muslims claimed a higher degree of protection than was conceded to the other minorities on the ground of their political importance. The necessity and adequacy of protection for the other minorities the Muslims never denied. But with this new demand of 50 per cent. the Muslims are not only seeking to reduce the Hindu majority to a minority but they are also cutting into the political rights of the other minorities. The Muslims are now speaking the language of Hitler and claiming a place in the sun as Hitler has been doing for Germany. For their demand for 50 per cent. is nothing but a counterpart of the German claims for *Deutschland Uber Alles* and *Lebensraum* for themselves, irrespective of what happens to other minorities.

Their claim for the recognition of Urdu as the national language of India is equally extravagant. Urdu is not only not spoken all over India but is not even the language of all the Musalmans of India. Of the 68 millions of Muslims† only 28 millions speak Urdu. The proposal of making Urdu the national language means that the language of 28 millions of Muslims is to be imposed particularly upon 40 millions of Musalmans or generally upon 322 millions of Indians.

* See point No. 3 in Mr. Jinnah's 14 points.

† These figures relate to the Census of 1921.

It will thus be seen that every time a proposal for the reform of the constitution comes forth, the Muslims are there, ready with some new political demand or demands. The only check upon such indefinite expansion of Muslim demands is the power of the British Government, which must be the final arbiter in any dispute between the Hindus and the Muslims. Who can confidently say that the decision of the British will not be in favour of the Muslims if the dispute relating to these new demands was referred to them for arbitration ? The more the Muslims demand the more accommodating the British seem to become. At any rate, past experience shows that the British have been inclined to give the Muslims more than what the Muslims had themselves asked. Two such instances can be cited.

One of these relates to the Lucknow Pact. The question was whether the British Government should accept the Pact. The authors of the Montagu-Chelmsford Report were disinclined to accept it for reasons which were very weighty. Speaking of the weightages granted to the Muslims by the Lucknow Pact, the authors of the Joint Report observed*:—

> "Now a privileged position of this kind is open to the objection, that if any other community hereafter makes good a claim to separate representation, it can be satisfied only by deducting the non-Muslim seats, or by a rateable deduction from both Muslim and non-Muslim ; and Hindu and Muslim opinion are not likely to agree which process should be adopted. While, therefore, for reasons that we explain subsequently we assent to the maintenance of separate representation for Muhammadans, we are bound to reserve our approval of the particular proposals set before us, until we have ascertained what the effect upon other of interests will be, and have made fair provision for them."

Notwithstanding this grave flaw in the Lucknow Pact, the Government of India, in its despatch referred to above, recommended that the terms of the Pact should be improved in so far as it related to the Muslims of Bengal. Its reasons make a strange reading. It argued that:—

> "The Muhammadan representation which they [the authors of the Pact] propose for Bengal is manifestly insufficient.† It is questionable whether the claims of the Muhammadan population of Eastern Bengal

* Montagu-Chelmsford Report, 1918, para 163.

† The Government of India felt that injustice was done to the Punjab as well. But as there was no such special reason as there was in the case of Bengal, namely, the unsettling of the partition, they did not propose any augmentation in its representation as settled by the Pact.

were adequately pressed when the Congress-League compact was in the making. They are conspicuously a backward and impoverished community. The repartition of the presidency in 1912 came as a severe disappointment to them, and we should be very loath to fail in seeing that their interests are now generously secured. In order to give the Bengal Muslims a representation proportionate to their numbers, and no more, we should allot them 44 instead of 34 seats [due to them under the Pact]."

This enthusiasm for the Bengal Muslims shown by the Government of India was not shared by the British Government. It felt that as the number of seats given to the Bengal Muslims was the result of an agreement, any interference to improve the bargain when there was no dispute about the genuineness of the agreement, could not but create the impression that the British Government was in some special sense and for some special reason the friend of the Muslims. In suggesting this augmentation in the seats, the Government of India forgot to take note of the reason why the Muslims of the Punjab and Bengal were not given by the Pact seats in proportion to their population. The Lucknow Pact was based upon the principle, now thrown to the winds, that a community as such was not entitled to political protection. A community was entitled to protection when it was in a minority. That was the principle underlying the Lucknow Pact. The Muslim community in the Punjab and Bengal was not in a minority and, therefore, was not entitled to the same protection which it got in other Provinces where it was in a minority. Notwithstanding their being in a majority, the Muslims of the Punjab and Bengal felt the necessity of separate electorates. According to the principle underlying the Pact they could qualify themselves for this only by becoming a minority which they did by agreeing to a minority of seats. This is the reason why the Muslims of Bengal and the Punjab did not get the majority of seats they were entitled to on the population basis.*

* There is no doubt that this was well understood by the Muslims who were parties to the Pact. This is what Mr. Jinnah said as a witness appearing before the Joint Select Committee appointed by Parliament on the Government of India Bill, 1919, in reply to question No. 3808 : " The position of Bengal was this: In Bengal the Muslims are in a majority, and the argument was advanced that any section or any community which is in the majority cannot claim a separate electorate: separate electorate is to protect the minority. But the counter-argument was perfectly true that numerically we are in a majority but as voters we are in the minority in Bengal, because of poverty and backwardness and so on. It was said: Very well, then fix 40 per cent., because if you are really put to test you will not get 40 per cent because you will not be qualified as voters. Then we had the advantage in other Provinces."

The proposal of the Government of India to give to the Bengal Muslims more than what they had asked for did not go through. But the fact that they wanted to do so remains as evidence of their inclinations.

The second occasion when the British Government as an arbiter gave the Muslims more than they asked for was when the Communal Decision was given in 1932. Sir Muhammad Shafi made two different proposals in the Minorities Sub-Committee of the R. T. C. In his speech on 6th January 1931, Sir Muhammad Shafi put forth the following proposal as a basis for communal settlement*:—

> "We are prepared to accept joint electorates on the conditions named by me : Firstly, that the rights at present enjoyed by the Musalmans in the minority Provinces should be continued to them; that in the Punjab and in Bengal they should have two joint electorates and representation on a population basis; that there should be the principle of reservation of seats coupled with Maulana Mahomed Ali's condition." †

In his speech on 14th January 1931 before the same Committee he made a different offer. He said‡:—

> " To-day I am authorized to make this offer: that in the Punjab the Musalmans should have through communal electorates 49 per cent. of the entire number of seats in the whole House, and should have liberty to contest the special constituencies which it is proposed to create in that Province : so far as Bengal is concerned that Musalmans should have through communal electorates 46 per cent. representation in the whole House, and should have the liberty to contest the special constituencies which it is proposed to create in that Province; in so far as the minority Provinces are concerned the Musalmans should continue to enjoy the weightage which they have at present through separate electorates, similar weightage to be given to our Hindu brethren in Sind, and to our Hindu and Sikh brethren in the North-West Frontier Province. If at any time hereafter two-thirds of the representatives of any community in any Provincial Legislative Council or in the Central Legislative Council desire to give up communal electorates and to accept joint electorates then thereafter the system of joint electorates should come into being."

* Report of the Minorities Sub-Committee of the first R. T. C. (Indian Edition), p. 96.

† Mr. Mahomed Ali's formula was for Join Electorates and Reserved Seats with this proviso that no candidate shall be declared elected unless he had secured at least 40 per cent. of the votes of his own community and at least 5 or 10 per cent. of the votes of the other community.

‡ Ibid., p. 123.

The difference between the two proposals is clear. "Joint electorates, if accompanied by statutory majority. If statutory majority was refused, then a minority of seats with separate electorates." The British Government took statutory majority from the first demand and separate electorates from the second demand and gave the Muslims both when they had not asked for both.

The second thing that is noticeable among the Muslims is the spirit of exploiting the weaknesses of the Hindus. If the Hindus object to anything, the Muslim policy seems to be to insist upon it and give it up only when the Hindus show themselves ready to offer a price for it by giving the Muslims some other concessions. As an illustration of this, one can refer to the question of separate and joint electorates. The Hindus have been to my mind utterly foolish in fighting over joint electorates especially in Provinces in which the Muslims are in a minority. Joint electorates can never suffice for a basis for nationalism. Nationalism is not a matter of political nexus or cash nexus, for the simple reason that union cannot be the result of calculation of mere externals. Where two communities live a life which is exclusive and self-inclosed for five years, they will not be one, because, they are made to come together on one day in five years for the purposes of voting in an election. Joint electorates may produce the enslavement of the minor community by the major community : but by themselves they cannot produce nationalism. Be that as it may, because the Hindus have been insisting upon joint electorates the Muslims have been insisting upon separate electorates. That this insistence is a matter of bargain only can be seen from Mr. Jinnah's 14 points* and the resolution† passed in the Calcutta session of the All-India Muslim League held on 30th December 1927. Therein it was stipulated that only when the Hindus agreed to the separation of Sind and to the raising of the N.-W. F. P. to the status of a self-governing Province the Musalmans would consent to give up

* See point No. 15 in Mr. Jinnah's points.

† For the resolution and the speech of Mr. Barkat Ali thereon, see the *Indian Quarterly Register,* 1927. Vol. II. pp. 447-48.

separate electorates.* The Musalmans evidently did not regard separate electorates as vital. They regarded them as a good *quid pro quo* for obtaining their other claims.

Another illustration of this spirit of exploitation is furnished by the Muslim insistence upon cow-slaughter and the stoppage of music before mosques. Islamic law does not insist upon the slaughter of the cow for sacrificial purposes and no Musalman, when he goes to Haj, sacrifices the cow in Mecca or Medina. But in India they will not be content with the sacrifice of any other animal. Music may be played before a mosque in all Muslim countries without any objection. Even in Afghanistan, which is not a secularized country, no objection is taken to music before a mosque. But in India the Musalmans must insist upon its stoppage for no other reason except that the Hindus claim a right to it.

The third thing that is noticeable is the adoption by the Muslims of the gangster's method in politics. The riots are a sufficient indication that gangsterism has become a settled part of their strategy in politics. They seem to be consciously and deliberately imitating the Sudeten Germans in the means employed by them against the Czechs.† So long as the Muslims were the aggressors, the Hindus were passive, and in the conflict they suffered more than the Muslims did. But this is no longer true. The Hindus have learned to retaliate and no longer feel any compunction in knifing a Musalman. This spirit of retaliation bids fair to produce the ugly spectacle of gangsterism against gangsterism.

How to meet this problem must exercise the minds of all concerned. There are the simple-minded Hindu Maha Sabha patriots who believe that the Hindus have only to make up their minds to wipe the Musalmans and they will be brought to their senses. On the other hand, there are the Congress Hindu Nationalists whose policy is to tolerate and appease the Musalmans by political and other concessions, because they believe that they cannot reach their cherished goal of independence unless the

*The unfortunate thing for the Hindus is that they did not get joint electorates although the Musalmans got the concessions.

†In the Karachi session of the All-India Muslim League both Mr. Jinnah and Sir Abdullah Haroon compared the Muslims of India to the "Sudeten" of the Muslim world and capable of doing what the Sudeten Germans did to Czechoslovakia.

Musalmans back their demand. The Hindu Maha Sabha plan is no way to unity. On the contrary, it is a sure block to progress. The slogan of the Hindu Maha Sabha President— Hindustan for Hindus— is not merely arrogant but is arrant nonsense. The question, however, is: is the Congress way the right way ? It seems to me that the Congress has failed to realize two things. The first thing which the Congress has failed to realize is that there is a difference between appeasement and settlement, and that the difference is an essential one. Appeasement means buying off the aggressor by conniving at his acts of murder, rape, arson and loot against innocent persons who happen for the moment to be the victims of his displeasure. On the other hand, settlement means laying down the bounds which neither party to it can transgress. Appeasement sets no limits to the demands and aspirations of the aggressor. Settlement does. The second thing the Congress has failed to realize is that the policy of concession has increased Muslim aggressiveness, and what is worse, Muslims interpret these concessions as a sign of defeatism on the part of the Hindus and the absence of the will to resist. This policy of appeasement will involve the Hindus in the same fearful situation in which the Allies found themselves as a result of the policy of appeasement which they adopted towards Hitler. This is another malaise, no less acute than the malaise of social stagnation. Appeasement will surely aggravate it. The only remedy for it is a settlement. If Pakistan is a settlement, it is a proposition worth consideration. As a settlement it will do away with this constant need of appeasement and ought to be welcomed by all those who prefer the peace and tranquillity of a settlement to the insecurity due to the growing political appetite shown by the Muslims in their dealings with the Hindus.

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CHAPTER XII

NATIONAL FRUSTRATION

I

Suppose an Indian was asked, what is the highest destiny you wish for your country, what would be his answer ? The question is important, and the answer cannot but he instructive.

There can be no doubt that other things being equal, a hundred per cent Indian, proud of his country, would say, "An integral and independent India is my ideal of India's destiny". It will be equally true to say that unless this destiny was accepted by both Hindus as well as Muslims, the ideal can only convey a pious wish, and can never take a concrete form. Is it only a pious wish of some or is it a goal to be persued by all ?

So far as profession of political aims goes, all parties seem to be in agreement inasmuch as all of them have declared that the goal of India's political evolution is independence. The Congress was the first to announce that its aim was to achieve political independence for India. In its Madras session, held in December 1927, the creed of the Congress was defined in a special resolution to the effect that the goal of the Indian people* was complete national independence. The Hindu Maha Sabha until 1932 was content to have Responsible Government as the goal of India's political evolution. It made no change in its political creed till 1937 when in its session held at Ahmedabad it declared that the Hindu Maha Sabha believed in "Poorna Swaraj" i.e., absolute independence for India. The Muslim League declared its political creed in 1912 to be the establishment of Responsible Government in India. In 1937 it made a similar advance by changing its creed

* The creed of the Congress was not changed at Madras. It was changed at the Lahore session of the Congress by a resolution passed on 31st December 1929. In the Madras session only a resolution in favour of independence was passed. In the Calcutta session of the Congress held in December 1928 both Mr. Gandhi and the President of the Congress declared themselves willing to accept Dominion Status if it was offered by the British Government by midnight of 31st December 1929.

from Responsible Government to Independence and thereby brought itself in line with the Congress and the Hindu Maha Sabha.

The independence defined by the three political bodies means freedom from British Imperialism. But an agreement on freedom from the yoke of British Imperialism is not enough. There must be an agreement upon maintaining an independent India. For this, there must be an agreement that India shall not only be free and independent of the British but that her freedom and independence shall be maintained as against any other foreign power. Indeed, the obligation to maintain her freedom is more important than merely winning freedom from the British. But on this more important obligation there does not seem to be the same unanimity. At any rate, the attitude of the Muslims on this point has not been very assuring. It is obvious from the numerous utterances of Muslim leaders that they do not accept the obligation to maintain India's freedom. I give below two such utterances.

In a meeting held in Lahore in 1925 Dr. Kitchlew said* :—

> "The Congress was lifeless till the Khilafat Committee put life in it. When the Khilafat Committee joined it, it did in one year what the Hindu Congress had not done in 40 years. The Congress also did the work of uplifting the seven crores of untouchables. This was purely a work for the Hindus, and yet the money of the Congress was spent on it. Mine and my Musalman brethren's money was spent on it like water. But the brave Musalmans did not mind. Then why should the Hindus quarrel with us when we Musalmans take up the Tanzim work and spend on it money that belongs neither to the Hindus nor to the Congress ?
>
> " If we remove British rule from this country and establish Swaraj, and if the Afghans or other Muslims invade India, then we Muslims will oppose them and sacrifice all our sons in order to save the country from the invasion. But one thing I shall declare plainly. Listen, my dear Hindu brothers, listen very attentively ! If you put obstacles in the path of our Tanzim movement, and do not give us our rights, we shall make common cause with Afghanistan or some other Musalman power and establish our rule in this country."

Maulana Azad Sobhani in his speech† made on the 27th January 1939 at Sylhet expressed sentiments which are worthy of

* "Through Indian Eyes". *Times of India* dated 14-3-25.

†The Bengali version of the speech appeared in the *Anand Bazar Patrika*. The English version of it given here is a translation made for me by the Editor of the *Hindustan Standard*.

attention. In reply to the question of a Maulana, Maulana Azad Sobhani said:—

> "If there is any eminent leader in India who is in favour of driving out the English from this country, then I am that leader. In spite of this I want that there should be no fight with the English on behalf of the Muslim League. Our big fight is with the 22 crores of our Hindu enemies, who constitute the majority. Only 4½ crores of Englishmen have practically swallowed the whole world by becoming powerful. And if these 22 crores of Hindus who are equally advanced in learning, intelligence and wealth as in numbers, if they become powerful, then these Hindus will swallow Muslim India and gradually even Egypt, Turkey, Kabul, Mecca, Medina and other Muslim principalities, like Yajuj-Majuj (it is so mentioned in Koran that before the destruction of the world, they will appear on the earth and will devour whatever they will find).
>
> " The English are gradually becoming weak..... they will go away from India in the near future. So if we do not fight the greatest enemies of Islam, the Hindus, from now on and make them weak, then they will not only establish *Ramrajya* in India but also gradually spread all over the world. It depends on the 9 crores of Indian Muslims either to strengthen or to weaken them (the Hindus). So it is the essential duty of every devout Muslim to fight on by joining the Muslim League so that the Hindus may not be established here and a Muslim rule may be established in India as soon as the English depart.
>
> "Though the English are the enemies of the Muslims, yet for the present our fight is not with the English. At first we have to come to some understanding with the Hindus through the Muslim League. Then we shall be easily able to drive out the Engilsh and establish Muslim rule in India.
>
> "Be careful! Don't fall into the trap of Congress Maulvis; because the Muslim world is never safe in the hands of 22 crores of Hindu enemies."

According to the summary of the speech given by the correspondent of the *Anand Bazar Patrika* Maulana Azad Sobhani then narrated various imaginary incidents of oppressions on Muslims in Congress provinces.

> "He said that when the Congress accepted ministry after the introduction of Provincial Autonomy, he felt that Muslim interests were not safe in the hands of the Hindu-dominated Congress; but the Hindu leaders felt indifferently and so he left the Congress and joined the League. What he had feared has been put in reality by the Congress ministers. This forestalling of the future is called politics. He was, therefore, a great politician. He was again thinking that before India became independent some sort of understanding had to be arrived at with

the Hindus either by force or in a friendly way. Otherwise, the Hindus, who had been the slaves of the Muslims for 700 years, would ensalve the Muslims."

The Hindus are aware of what is passing in the mind of the Muslims and dread the possibility of Muslims using independence to enslave them. As a result Hindus are lukewarm towards making independence as the goal of India's political evolution. These are not the fears of those who are not qualified to judge. On the contrary, the Hindus who have expressed their apprehensions as to the wisdom of heading for independence are those who are eminently qualified by their contact with Muslim leaders to express an opinion.

Mrs. Annie Besant says* :—

"Another serious question arises with regard to the Muhammadans of India. If the relation between Muslims and Hindus were as it was in the Lucknow days, this question would not be so urgent, though it would even then have almost certainly arisen, sooner or later, in an Independent India. But since the Khilafat agitation, things have changed and it has been one of the many injuries inflicted on India by the encouragement of the Khilafat crusade, that the inner Muslim feeling of hatred against 'unbelievers' has sprung up, naked and unashamed, as in the years gone by. We have seen revived, as guide in practical politics, the old Muslim religion of the sword, we have seen the dragging out of centuries of forgetfulness, the old exclusiveness, claiming the Jazirut-Arab, the island of Arabia, as a holy land which may not be trodden by the polluting foot of a non-Muslim, we have heard Muslim leaders declare that if the Afghans invaded India, they would join their fellow believers, and would slay Hindus who defended their motherland against the foe: we have been forced to see that the primary allegiance of Musalmans is to Islamic countries, not to our motherland; we have learned that their dearest hope is to establish the ' Kingdom of God', not God as Father of the world, loving all his creatures, but as a God seen through Musalman spectacles resembling in his command through one of the prophets, as to the treatment of unbeliever—the Mosaic *JEHOVA* of the early Hebrews, when they were fighting as did the early Muslims, for freedom to follow the religion given to them by their prophet. The world has gone beyond such so-called theocracies, in which God's commands are given through a man. The claim now put forward by Musalman leaders that they must obey the laws of their particular prophet above the laws of the State in which they live, is subversive of civic order and the stability of the State; it makes them bad citizens for their centre of

**The Future of Indian Politics,* pp. 301-305.

allegiance is outside the nation and they cannot, while they hold the views proclaimed by Maulanas Mahomed Ali and Shaukat Ali, to name the most prominent of these Muslim leaders, be trusted by their fellow citizens. If India were independent the Muslim part of the population—for the ignorant masses would follow those who appealed to them in the name of their prophet—would become an immediate peril to Indian's freedom. Allying themselves with Afghanistan, Baluchistan, Persia, Iraq, Arabia, Turkey and Egypt and with such of the tribes of Central Asia who are Musalmans, they would rise to place India under the Rule of Islam—those in 'British India' being helped by the Muslims in Indian States—and would establish Musalman rule. We had thought that Indian Musalmans were loyal to their motherland, and indeed, we still hope that some of the educated class might strive to prevent such a Musalman rising; but they are too few for effective resistance and would be murdered as apostates. Malabar has taught us what Islamic rule still means, and we do not want to see another specimen of the 'Khilafat Raj' in India. How much sympathy with the Moplas is felt by Muslims outside Malabar has been proved by the defence raised for them by their fellow believers, and by Mr. Gandhi himself, who stated that they had acted as they believed that religion taught them to act I fear that that is true; but there is no place in a civilised land for people who believe that their religion teaches them to murder, rob, rape, burn, or drive away out of the country those who refuse to apostatise from their ancestral faiths, except in its schools, under surveillance, or in its gaols. The Thugs believed that their particular form of God commanded them to strangle people—especially travellers with money. Such 'Laws of God' cannot be allowed to override the laws of a civilised country, and people living in the twentieth century must either educate people who hold these Middle Age views, or else exile them. Their place is in countries sharing their opinions, where they can still use such arguments against any who differ from them—as indeed, Persia and with the Parsis long ago, and the Bahaists in our own time. In fact, Muslim sects are not safe in a country ruled by orthodox Muslims. British rule in India has protected the freedom of all sects: Shiahs, Sunnis, Sufis, Bahaists live in safety under her sceptre, although it cannot protect any of them from social ostracism, where it is in a minority. Musalmans are more free under British rule, than in countries where there are Muslim rulers. In thinking of an Independent India, the menace of Muhammadan rule has to be considered."

Similar fear was expressed by Lala Lajpatrai in a letter* to Mr. C. R. Das:—

"There is one point more which has been troubling me very much of late and one which I want you to think carefully and that is the question of Hindu-Mohamadan unity. I have devoted most of my time during the last six months to the study of Muslim history and Muslim Law and I am inclined to think, it is neither possible nor practicable. Assuming

*Quoted in *Life of Savarkar* by Indra Prakash.

and admitting the sincerity of the Mohamedan leaders in the Non-cooperation movement, I think their religion provides an effective bar to anything of the kind. You remember the conversation, I reported to you in Calcutta, which I had with Hakim Ajmalkhan and Dr. Kitchlew. There is no finer Mohamedan in Hindustan than Hakimsaheb but can any other Muslim leader override the Quran ? I can only hope that my reading of Islamic Law is incorrect, and nothing would relieve me more than to be convinced that it is so. But if it is right then it comes to this that although we can unite against the British we cannot do so to rule Hindustan on British lines, we cannot do so to rule Hindustan on democratic lines. What is then the remedy ? I am not afraid of seven crores in Hindustan but I think the seven crores of Hindustan plus the armed hosts of Afghanistan, Central Asia, Arabia, Mesopotamia and Turkey will be irresistible. I do honestly and sincerely believe in the necessity or desirability of Hindu-Muslim unity. I am also fully prepared to trust the Muslim leaders, but what about the injunctions of the Quran and Hadis ? The leaders cannot override them. Are we then doomed ? I hope not. I hope learned mind and wise head will find some way out of this difficulty."

In 1924 the editor of a Bengalee paper had an interview with the poet Dr. Rabindra Nath Tagore. The report of this interview states* :—

"..... another very important factor which, according to the poet, was making it almost impossible for the Hindu-Mohamedan unity to become an accomplished fact was that the Mohamedans could not confine their patriotism to any one country ..... The poet said that he had very frankly asked many Mohamedans whether, in the event of any Mohamedan power invading India, they would stand side by side with their Hindu neighbours to defend their common land. He could not be satisfied with the reply he got from them. He said that he could definitely state that even such men as Mr. Mahomed Ali had declared that under no circumstances was it permissible for any Mohamedan, whatever his country might be, to stand against any other Mohamedan."

II

If independence is impossible, then the destiny acceptable to a hundred per cent. Indian as the next best would be for India to have the status of a Dominion within the British Empire. Who would be content with such a destiny ? I feel certain that left to themselves the Musalmans will not be content with Dominion Status while the Hindus most certainly will. Such a statement is

* Quoted in "Through Indian Eyes" in the *Times of India* dated 18-4-24.

sure to jar on the ears of Indians and Englishmen. The Congress being loud and vociferous in its insistence of independence, the impression prevails that the Hindus are for independence and the Muslims are for Dominion Status. Those who were present at the R. T. C., could not have failed to realize how strong a hold this impression had taken of the English mind and how the claims and interests of the Hindus suffered an injury because of the twin cries raised by the Congress, namely, independence and repudiation of debts. Listening to these cries, Englishmen felt that the Hindus were the enemies of the British and the Muslims, who did not ask either for independence or repudiation, were their friends. This impression, however true it may be in the light of the avowed plans of the Congress, is a false impression created by false propaganda. For, there can be no doubt that the Hindus are at heart for Dominion Status and that the Muslims are at heart for Independence. If proof is wanted there is an abundance of it.

The question of independence was first raised in 1921. In that year the Indian National Congress, the All-India Khilafat Conference and the All-India Muslim League held their annual sessions in the city of Ahmedabad. Each had a resolution in favour of Independence moved in its session. It is interesting to note the fate which the resolution met at the hands of the Congress, the Khilafat Conference and the Muslim League.

The President of the Congress was Hakim Ajmal Khan who acted for Mr. C. R. Das, who though duly elected could not preside owing to his arrest by Government before the session commenced. In the session of the Congress, Maulana Hasrat Mohani moved a resolution pressing for a change in the creed of the Congress. The following is the summary of the proceedings* relating to the resolution :—

> "Maulana Hasrat Mohani in proposing his resolution on complete independence made a long and impassioned speech in Urdu. He said, although they had been promised Swaraj last year, the redress of the Khilafat and the Punjab wrongs within a year, they had so far achieved nothing of the sort. Therefore it was no use sticking to the programme. If remaining within the British Empire or the British Commonwealth they could not have freedom, he felt that, if necessary, they should not hesitate to go out of it. In the words of Lok. Tilak

* See *The Indian Annual Register,* 1922, Appendix, pp. 64-66.

'liberty was their birth-right', and any Government which denied this elementary right of freedom of speech and freedom of action did not deserve allegiance from the people. Home Rule on Dominion lines or Colonial Self-Government could not be a substitute to them for their inborn liberty. A Government which could clap into jail such distinguished leaders of the people as Mr. Chitta Ranjan Das, Pandit Motilal Nehru, Lala Lajpat Rai and others, had forfeited all claim to respect from the people. And since the end of the year did not bring them Swaraj nothing should prevent them from taking the only course left open to them now, that of winning their freedom free from all foreign control. The resolution reads as follows:—

" 'The object of the Indian National Congress is the attainment of Swaraj or complete independence free from all foreign control by the people of India by all legitimate and peaceful means.' "

After several delegates had spoken in favour of it, Mr. Gandhi came forward to oppose the resolution. In opposing the resolution, Mr. Gandhi said :—

"Friends, I have said only a few words in Hindi in connection with the proposition of Mr. Hasrat Mohani. All I want to say to you in English is that the levity with which that proposition has been taken by some of you has grieved me. It has grieved me because it shows lack of responsibility. As responsible men and women we should go back to the days of Nagpur and Calcutta and we should remember what we did only an hour ago. An hour ago we passed a resolution which actually contemplates a final settlement of the Khilafat and the Punjab wrongs and transference of the power from the hands of the bureaucracy into the hands of the people by certain definite means. Are you going to rub the whole of that position from your mind by raising a false issue and by throwing a bombshell in the midst of the Indian atmosphere? I hope that those of you who have voted for the previous resolution, will think fifty times before taking up this resolution and voting for it. We shall be charged by the thinking portion of the world that we do not know really where we are. Let us understand, too, our limitations. Let Hindus and Musalmans have absolute, indissoluble unity. Who is here who can say today with confidence : 'Yes Hindu-Muslim unity has become an indissoluble factor of Indian Nationalism ?' Who is here who can tell me that the Parsis and the Sikhs and the Christians and the Jews and the untouchables about whom you heard this afternoon—who will tell me that those very people will not rise against any such idea ? Think therefore fifty times before you take a step which will redound not to your credit, not to your advantage, but which may cause you irreparable injury. Let us first of all gather up our strength ; let us first of all sound our own depths. Let us not go into waters whose depths we do not know, and this proposition of Mr. Hasrat Mohani lands you into depths

unfathomable. I ask you in all confidence to reject that proposition, if you believe in the proposition that you passed only an hour ago. The proposition now before you rubs off the whole of the effect of the proposition that you passed only a moment ago are creeds such simple things like clothes which a man can change at will ? For creeds people die, and for creeds people live from age to age. Are you going to change the creed which with all deliberation and after great debate in Nagpur, you accepted ? There was no limitation of one year when you accepted that creed. It is an extensive creed; it takes in all, the weakest and the strongest, and you will deny yourselves the privilege of clothing the weakest amongst yourselves with protection if you accept this limited creed of Maulana Hasrat Mohani, which does not admit the weakest of your brethren. I, therefore, ask you in all confidence to reject his proposition."

The resolution when put to vote was declared to be lost.

The session of the All-India Khilafat Conference was presided over also by Hakim Ajmal Khan. A resolution in favour of independence was also moved in the subjects committee of this Conference. What happened to the resolution is clear from the following summary of its proceedings. The report of the proceedings says* :—

"Before the Conference adjourned at eleven in the night till the next day the President, Hakim Ajmalkhan, announced that the Subjects Committee of the Conference had, on the motion of Mr. Azad Sobhani, supported by Mr. Hasrat Mohani, by a majority resolved to ask all Mohammedans and other communities to endeavour to destroy British imperialism and secure complete independence.

"This resolution stated that whereas through the persistent policy and attitude of the British Government it cannot be expected that British Imperialism would permit the Jazirat-ul-Arab and the Islamic world to be completely free from the influence and control of non-Muslims, which means that the Khilafat cannot be secured to the extent that the Shariat demands its safety, therefore, in order to secure permanent safety of the Khilafat and the prosperity of India, it is necessary to endeavour to destroy British Imperialism. This Conference holds the view that the only way to make this effort is, for the Muslims, conjointly with other inhabitants of India, to make India completely free, and that this Conference is of opinion that Muslim opinion about Swaraj is the same, that is, complete independence, and it expects that other inhabitants of India would also hold the same point of view.

"On the Conference resuming its sitting on the second day, December 27th, 1921, a split was found to have taken place in the camp

**The Indian Annual Register,* 1922, Appendix, pp. 133-34.

over this resolution about independence. When Mr. Hasrat Mohani was going to move his resolution declaring as their goal, independence and the destruction of British Imperialism, objection was taken to its consideration by a member of Khilafat Subjects Committee on the ground that according to their constitution no motion which contemplated a change in their creed could be taken as adopted, unless it was voted for in the Subjects Committee by a majority of two-third.

"The President, Hakim Ajmalkhan, upheld this objection and ruled the independence motion out of order.

"Mr. Hasrat Mohani strongly protested and pointed out that the President had disallowed a similar objection by the same member in the Subjects Committee, while he had allowed it in the open Conference. He said that the President had manoeuvred to rule his motion out of order in order to stand in their way of declaring from that Conference that their Swaraj meant complete independence."

The President of the All-India Muslim League was Maulana Hasrat Mohani. The report of the proceedings of the League bearing on the resolution says* :—

"The Muslim League met at 9 p.m. on 31st December 1921. After it had passed some non-contentious resolutions the President Hasrat Mohani made an announcement amidst applause that he proposed that the decision of the Subjects Committee rejecting his resolution regarding the attainment of independence and destruction of British Imperialism would be held as final and representing the opinion of the majority in the League, but that in view of the great importance of the subject he would allow a discussion on that resolution without taking any vote.

" Mr. Azad Sobhani, who had moved the resolution in the Subjects Committee, also moved it in the League. He said he believed in Hindu-Muslim unity as absolutely essential, in non-violent non-cooperation as the only way to fight their battle and Mr. Gandhi was fully deserving the dictatorship which had been invested on him by the Congress but that he also believed that British Imperialism was the greatest danger to India and the Muslim world and must be destroyed by placing before them an ideal of independence.

"Mr. Azad Sobhani was followed by several speakers who supported him in the same vein.

"The Hon'ble Mr. Raza Ali announced that the reason for the ruling of the President was that the League did not want to take a step which the Congress had not taken. He warned them against saying big things without understanding them and reminded the audience that India was at present not ready for maintaining liberty even if it was attained.

"He asked, who would, for instance, be their Commander-in-Chief if the British left tomorrow. (A voice, 'Enver Pasha'.)

* Ibid., Appendix, p. 78.

"The speaker emphatically declared that he would not tolerate any foreigner. He wanted an Indian Commander-in-Chief."

The question of Independence was again raised at the Congress session held in March 1923 at Coconada but with no success.

In 1924 Mr. Gandhi presiding over the Congress session held in Belgaum said:—

"In my opinion, if the British Government mean what they say and honestly help us to equality, it would be a greater triumph than a complete severance of the British connection. I would, therefore, strive for Swaraj within the Empire but would not hesitate to sever all connection if it became a necessity through Britain's own fault. I would thus throw the burden of separation on the British people."

In 1925 Mr. C. R. Das again took up the theme. In his address to the Bengal Provincial Conference held in May of that year he, with the deliberate object of giving a deadly blow to the idea of independence, took particular pains to show the inferiority of the idea of Independence as compared with that of Dominion Status:—

"..... Independence, to my mind, is a narrowed ideal than that of Swaraj. It implies, it is ture, the negative of the dependence ; but by itself it gives us no positive ideal. I do not for a moment suggest that independence is not consistent with Swaraj. But what is necessary is not mere independence but the establishment of Swaraj. India may be independent tomorrow in the sense that the British people may leave us to our destiny but that will not necessarily give us what I understand by Swaraj. As I pointed out in my Presidential address at Gaya, India presents an interesting but a complicated problem of consolidating the many apparently conflicting elements which go to make up the Indian people. This work of consolidation is a long process, may even be a weary process; but without this no Swaraj is possible.....

" Independence, in the second place, does not give you that idea of order which is the essence of Swaraj. The work of consolidation which I have mentioned means the establishment of that order. But let it be clearly understood that what is sought to be established must be consistent with the genius, the temperament and the traditions of the Indian people. To my mind, Swaraj implies, firstly, that we must have the freedom of working out the consolidation of the diverse elements of the Indian people ; Secondly, we must proceed with this work on National lines, not going back two thousand years ago, but going forward in the light and in the spirit of our national genius and temperament.....

"Thirdly, in the work before us, we must not be obstructed by any foreign power. What then we have to fix upon in the matter of ideal is

what I call Swaraj and not mere independence which may be the negation of Swaraj. When we are asked as to what is our national ideal of freedom, the only answer which is possible to give is Swaraj. I do not like either Home Rule or Self-Government. Possibly they come within what I have described as Swaraj. But my culture somehow or other is antagonistic to the word 'rule'—be it Home Rule or Foreign Rule."

* * * * *

"Then comes the question as to whether this ideal is to be realised within the Empire or outside ? The answer which the Congress has always given is 'within the Empire if the Empire will recognise our right' and 'outside the Empire, if it does not'. We must have opportunity to live our life,—opportunity for self-realization, self-development, and self-fulfilment. The question is of living our life. If the Empire furnishes sufficient scope for the growth and development of our national life the Empire idea is to be preferred. If, on the contrary, the Empire like the Car of Jagannath crushes our life in the sweep of its imperialistic march, there will be justification for the idea of the establishment of Swaraj outside the Empire.

"Indeed, the Empire idea gives us a vivid sense of many advantages. Dominion Status is in no sense servitude. It is essentially an alliance by consent of those who form part of the Empire for material advantages in the real spirit of co-operation. Free alliance necessarily carries with it the right of separation. Before the War it was generally believed that it is only as a great confederation that the Empire or its component parts can live. It is realised that under modern conditions no nation can live in isolation and the Dominion Status, while it affords complete protection to each constituent composing the great Commonwealth of Nations called the British Empire, secures to each the right to realise itself, develop itself and fulfil itself and therefore it expresses and implies all the elements of Swaraj which I have mentioned.

" To me the idea is specially attractive because of its deep spiritual significance. I believe in world peace, in the ultimate federation of the world ; and I think that the great Commonwealth of Nations called the British Empire—a federation of diverse races, each with its distinct life, distinct civilization, its distinct mental outlook—if properly led with statesmen at the helm is bound to make lasting contribution to the great problem that awaits the statesmen, the problem of knitting the world into, the greatest federation the mind can conceive—the federation of the human race. But if only properly led with statesmen at the helm ;—for the development of the idea involves apparent sacrifice on the part of the constituent nations and it certainly involves the giving up for good the Empire idea with its ugly attribute of domination. I think it is for the good of India, for the good of the world that India should strive for freedom within the Commonwealth and so serve the cause of humanity."

Mr. Das not only insisted that Dominion Status was better than Independence but went further and got the Conference to pass the following resolution on the goal of India's political evolution :—

> "1. This Conference declares that the National ideal of Swaraj involves the right of the Indian Nation to, live its own life, to have the opportunity of self-realization, self-development and self-fulfilment and the liberty to work for the consolidation of the diverse elements which go to make up the Indian Nation unimpeded and unobstructed by any outside domination.
>
> "2. That if the British Empire recognises such right and does not obstruct the realisation of Swaraj and is prepared to give such opportunity and undertakes to make the necessary sacrifices to make such rights effective, this Conference calls upon the Indian Nation to realise its Swaraj within the British Commonwealth"

It may be noted that Mr. Gandhi was present throughout the session. But there was no word of dissent coming from him. On the contrary, he approved of the stand taken by Mr. Das.

With these facts, who can doubt that the Hindus are for Dominion Status and the Muslims are for Independence ? But if there be any doubt still remaining, the repercussions in Muslim quarters over the Nehru Committee's Report in 1928 must dissolve it completely. The Nehru Committee appointed by the Congress to frame a constitution for India accepted Dominion Status as the basis for India's constitution and rejected independence. It is instructive to note the attitude adopted by the Congress and the Muslim political organizations in the country towards the Nehru Report.

The Congress in its session held at Calcutta in 1928 passed a resolution moved by Mr. Gandhi which was in the following terms:—

> "This Congress, having considered the constitution recommended by the All-Parties Committee Report, welcomes it as a great contribution towards the solution of India's political and communal problems, and congratulates the Committee on the virtual unanimity of its recommendations and, whilst adhering to the resolution relating to complete independence passed at the Madras Congress approves of the constitution drawn up by the Committee as a great step in political advance, especially as it represents the largest measure of agreement attained among the important parties in the country.
>
> "Subject to the exigencies of the political situation this Congress will adopt the constitution in its entirety if it is accepted by the British

Parliament on or before December 31,1929, but in the event of its non-acceptance by that date or its earlier rejection, Congress will organise a non-violent non-co-operation by advising the country to refuse taxation or in such other manner as may be decided upon. Consistently with the above, nothing in this resolution shall interfere with the carrying on, in the name of the Congress, of the propaganda for complete independence."

This shows that Hindu opinion is not in favour of Independence but in favour of Dominion Status. Some will take exception to this statement. It may be asked what about the Congress resolution of 1927 ? It is true that the Congress in its Madras session held, in 1927 did pass the following resolution moved by Pandit Jawaharlal Nehru:—

"This Congress declares the goal of the Indian people to be complete National Independence".

But there is enough evidence to support the contention that this resolution did not and does not speak the real mind of the Hindus in the Congress.

The resolution came as a surprise. There was no indication of it in the speech of Dr. Ansari* who presided over the 1927 session. The Chairman† of the Reception Committee only referred to it in passing, not as an urgent but a contingent line of action.

There was no forethought about the resolution. It was the result of a coup and the coup was successful because of three factors.

In the first place, there was then a section in the Congress which was opposed to the domination of Pandit Motilal Nehru and Mr. Gandhi, particularly the former. This group was led by Mr. Srinivas Iyengar who was the political rival of Pandit Motilal.

* This is all that Dr. Ansari said about the subject in his speech :

"Whatever be the final form of the constitution, one thing may be said with some degree of certainty, that it will have to be on federal lines providing for a United States of India with existing Indian States as autonomous units of the Federation taking their proper share in the defence of the country, in the regulation of the nation's foreign affairs and other joint and common interests".—*The Indian Quarterly Register,* 1927, Vol. II, p. 372.

† Mr. Muthuranga Mudaliar said :

"We ought to make it known that if Parliament continues in its present insolent mood, we must definitely start on an intensive propaganda for the severance of India from the Empire. Whenever the time may come for the effective assertion of Indian nationalism, Indian aspiration will then be towards free nationhood, untrammelled even by the nominal suzerainty of the King of England. It behoves English statesmanship to take careful note of this fact. Let them not drive us to despair."—Ibid., p. 356.

They were searching for a plan which would destroy the power and prestige of Pandit Motilal and Mr. Gandhi. They knew that the only way to win people to their side was to take a more extreme position and to show that their rivals were really moderates, and as moderation was deemed by Congressmen to be a sin, they felt that this plan was sure to succeed. They made the goal of India the battle-ground, and knowing that Pandit Motilal and Gandhi were for Dminion Status, put forth the goal of Independence. In the second place, there was a section in the Congress which was led by Mr. Vithalbhai Patel. This section was in touch with the Irish Sinn Fein party and was canvassing its help in the cause of India. The Irish Sinn Fein party was not willing to render any help unless the Indians declared that their goal was Independence. This section was anxious to change the goal from Dominion Status to Independence in order to secure Irish help. To these two factors was added a third namely, the speech made by Lord Birkenhead, the then Secretary of State for India, on the occasion of the appointment of the Simon Commission when he taunted the Indians on their incapacity to produce a constitution. The speech was regarded as a great insult by Indian politicians. It is the combination of these three factors which was responsible for the passing of this resolution. Indeed, the resolution was passed more from the motive* of giving a fitting reply to Lord Birkenhead than from the motive of defining the political goal of the country and if Mr. Gandhi and Pandit Motilal Nehru kept quiet it was largely because the storm created by the intemperate language of Lord Birkenhead against Indians was so great that they thought it wise to bow to it rather than engage upon the task of sweeping it off which they would have otherwise easily done.

That this resolution did not speak the real mind of the Hindus in the Congress is beyond doubt. Otherwise, it is not possible to explain how the Nehru Committee could have flouted the Madras resolution of 1927 by adopting Dominion Status as the basis of the constitutional structure framed by it. Nor is it possible to explain how the Congress adopted Dominion Status in 1928 if it

*Mr. Sambamurti in seconding the resolution said :

"The resolution is the only reply to the arrogant challenge thrown by Lord Birkenhead".—*The Indian Quarterly Register,* 1927, Vol. II, p. 381.

had really accepted* independence in 1927 as the resolution says. The clause in the resolution that the Congress would accept Dominion Status if given before 31st December 1929, if not, it would change its faith from Dominion Status to Independence was only a face-saving device and did not connote a real change of mind. For time can never be of the essence in a matter of such deep concern as the political desiny of the country.

That notwithstanding the resolution of 1927, the Congress continued to believe in Dominion Status and did not believe in Independence, is amply borne out by the pronouncements made from time to time by Mr. Gandhi who is the oracle of the Congress. Anyone, who studies Mr. Gandhi's pronouncements on this subject from 1929 onwards, cannot help feeling that Mr. Gandhi has not been happy about the resolution on Independence and that he has ever since felt necessary to wheel the Congress back to Dominion Status. He began with the gentle process of interpreting it away. The goal was first reduced from Independence to substance of Independence. From substance of Independence it was reduced to equal partnership and from equal partnership it was brought back to its original position. The wheel completed the turn when Mr. Gandhi in 1937 gave the following letter to Mr. Pollock for the information of the English people :—

> " Your question is whether I retain the same opinion as I did at the Round Table Conference in 1931. I said then, and repeat now, that, so far as I am concerned, if Dominion Status were offered to India in terms of the Statute of Westminster, i.e., the right to secede at will, I would unhesitatingly accept,"†

Turning to the pronouncements of Muslim political organizations on the Nehru Report it is interesting to note the reasons given by them for its rejection. These reasons are wholly unexpected. No doubt some Muslim organizations such as the Muslim League

* Pandit Jawaharlal Nehru in moving the resolution said :

"It declares that the Congress stands today for complete Independence. Nonetheless it leaves the doors of the Congress open to such persons as may perhaps be satisfied with a lesser goal".—

Ibid., p. 381.

†*Times of India* 1-2-37. In view of this, the declaration made by the National Convention— consisting of the members elected to the new Provincial legislatures under the new constitution— on the 20th March 1937 held at Delhi in favour of independence has no significance. But from his having launched the Quit India movement it may be said that Mr. Gandhi now believes in Independence.

rejected the Report because it recommended the abolition of separate electorates. But that was certainly not the reason why it was condemned by the Khilafat Conference or the Jamiat-ul-Ulema— the two Muslim organizations which went with the Congress through the same fiery ordeal of non-co-operation and civil disobedience and whose utterances expressed far more truly the real opinion of Muslim masses on the issues relating to the political affairs of the country than did the utterances of any other Muslim organization.

Maulana Mahomed Ali set out his reasons for the rejection of the Nehru Report in his Presidential address to the All-India Khilafat Conference held in Calcutta in 1928. He said* :—

> " [I] was a member of the Indian National Congress, its Working Committee, the All-India Muslim League and [I] have come to the Khilafat Conference to express (my views) on the important political issues of the time, which should have the serious attention of the whole Muslim community.
>
> * * * * *
>
> " In the All-Parties Convention he had said that India should have complete independence and there was no communalism in it. Yet he was being heckled at every moment and stopped during his speech at every step.
>
> * * * * *
>
> "The Nehru Report had as its preamble admitted the bondage of servitude.... Freedom and Dominion Status were widely divergent things.....
>
> * * * * *
>
> "I ask, when you boast of your nationalism and condemn communalism, show me a country in the world like your India—your nationalist India.
>
> * * * * *
>
> "You make compromises in your constitution every day with false doctrines, immoral conceptions and wrong ideas but you make no compromise with our communalists — with separate electorates and reserved seats. Twenty-five per cent, is our portion of population and yet you will not give us 33 per cent, in the Assembly. You are a Jew, a Bania. But to the English you give the status of your dominion."

**The Indian Quarterly Register,* 1928, Vol. II, pp. 402-403.

The conference passed a short resolution in the following pithy terms:—

> "This Conference declares once more that complete independence is our goal".

Maulana Hasrat Mohani, as President of the Jamiat-ul-Ulema Conference held in Allahabad in 1931, gave the same reasons for condemning the Nehru Report in words measured but not less scathing. Said* the Maulana :—

> "My political creed with regard to India is now well known to everybody. I cannot accept anything short of complete independence, and, that too, on the model of the United States of America or the Soviet Russia which is essentially (1) democratic, (2) federal and (3) centrifugal, and in which the rights of Muslim minorities are safeguarded.
>
> "For some time the Jamiat-ul-Ulema of Delhi held fast to the creed of complete independence and it was mostly for this reason that it repudiated the Nehru Report which devised a unitary constitution instead of a federal one. Besides, when, after the Lahore session, the Congress, at the instance of Mahatma Gandhi, declared the burial of the Nehru Report on the banks of the Ravi and the resolution of complete independence was unanimously agreed upon, the Delhi Jamiat ventured to co-operate with the Congress and its programme of civil disobedience simply because it was the duty of every Indian, Hindu or Muslim, to take part in the struggle for independence.
>
> "But unfortunately Gandhiji very soon went back upon his words and (1) while yet in jail he told the British journalist Mr. Slocombe that by complete independence he meant only the substance of independence, (2) besides, when he was released on expressing his inclination for compromise he devised the illusory term of 'Purna Swaraj' in place of complete independence and openly declared that in 'Purna Swaraj' there was no place for severance of the British connection, (3) by making a secret pact with Lord Irwin he definitely adopted the ideal of Dominion Status under the British Crown.
>
> "After this change of front by Gandhiji the Delhi Jamiat ought to have desisted from blindly supporting the Mahatma and like the Nehru Report it should have completely rejected this formula of the Congress Working Committee by which the Nehru Report was sought to be revived at Bombay.
>
> "But we do not know what unintelligible reasons induced the Delhi Jamiat-ul-Ulema to adopt 'Purna Swaraj' as their ideal, in spite of the knowledge that it does not mean complete independence but something

**The Indian Quarterly Register,* 1931, Vol. II, pp. 238-39.

even worse than complete independence. And the only explanation for adopting this creed is said to be that, although Gandhiji has accepted Dominion Status, he still insists that Britain should concede the right of secession from the British Empire to the Indians.

"Although it is quite clear that insistence on this right has no better worth than the previous declaration of complete independence, in other words, just as Gandhiji insisted on complete independence with the sole object of forcing the British Government to accede to the demand of Dominion Status, which was the sole ultimate aim of the Mahatma, in the same way the leaders of the Congress insisted upon the right of secession with the object of extorting the largest measure of political rights from the British people who might not go beyond a certain limit in displeasing them. Otherwise Gandhiji and his followers know it full well that even if this right of secession is given to Indians, it would perhaps be never put into practice.

"If someone considers this contention of mine to be based on suspicion and contends that the Congress will certainly declare for secession from the Empire whenever there is need of it, I will ask him to let me know what will be the form of Indian Government after the British connection is withdrawn. It is clear that no one can conceive of a despotic form and a democratic form, whether it be unitary or federal but centripetal, will be nothing more than Hindu Raj which the Musalmans can in no circumstances accept. Now remains only one form, viz., after complete wihdrawal of the British connection India with its autonomous Provinces and States forms into united cetrifugal democratic government on the model of the United States Republic or Soviet Russia. But this can never be acceptable to the Mahasabhaitc Congress or a lover of Britain like Mahatma Gandhi.

" Thus the Jamiat-ul-Ulema of Delhi after washing its hands of complete independence has stultified itself, but thank God the Ulemas of Cawnpore, Lucknow, Badaun, etc., still hold fast to their pledge and will remain so, God willing. Some weak-kneed persons urge against this highest ideal that, when it is not possible for the present to attain it, there is no use talking about it. We say to them that it is not at all useless but rather absolutely necessary, for if the highest ideal is not always kept before view, it is liable to be forgotton.

"We must, therefore, oppose Dominion Status in all circumstances as this is not the half-way house or part of our ultimate aim, but its very negation and rival. If Gandhiji reaches England and the Round Table Conference is successfully concluded, giving India Dominion Status of any kind, with or without safeguards, the conception of complete independence will completely vanish or at any rate will not be thought of for a very long time to come."

The All-India Khilafat Conference and the Jamiat-ul-Ulema were surely extremist bodies avowedly anti-British. But the All-India Muslim Conference was not at all a body of extremists or anti-British Musalmans. Yet the U. P. Branch of it in its session held at Cawnpore on 4th November 1928 passed the following resolution :—

> "In the opinion of the All-Parties U. P. Muslim Conference, Musalmans of India stand for the goal of complete independence, which shall necessarily take the form of a federal republic."

In the opinion of the mover, Islam always taught freedom, and for the matter of that the Muslims of India would fail in their religious duty, if they were against complete independence. Indian Muslims were poor, yet they were, the speaker was sure, devoted to Islam more than any other people on earth.

In this Conference an incident* of some interest occurred in the Subjects Committee when Maulana Azad Sobhani proposed that the Conference should declare itself in favour of complete independence.

Khan Bahadur Masoodul Hassan and some other persons, objected to such declaration, which, in their opinion, would go against the best interests of Musalmans. Upon this, a number of women from their *purdah* gallery sent a written statement to the President saying that if men had not the courage to stand for complete independence, women would come out of *purdah,* and take their place in the struggle for independence.

III

Notwithstanding this difference in their ultimate destiny, an attempt is made to force the Hindus and Muslims to live in one country, as one people, bound by the political ties of a single constitution. Assuming that this is done and that the Muslims are somehow manoeuvered into it, what guarantee is there that the constitution will not break down ?

The successful working of a Parliamentary Government assumes the existence of certain conditions. It is only when these

*See *The Indian Quarterly Register*, 1928, Vo. II, p. 425.

conditions exist that Parliamentary Government can take roots. One such condition was pointed out by the late Lord Balfour when in 1925 he had an occasion to discuss the political future of the Arab peoples in conversation with his niece Blanche Dugdale.

In the course of this conversation he said* :—

> "It is partly the fault of the British nation—and of the Americans; we can't exonerate them from blame either—that this idea of 'representative government' has got into the heads of nations who haven't the smallest notion of what its basis must be. It's difficult to explain, and the Anglo-Saxon races are bad at exposition. Moreover we know it so well ourselves that it does not strike us as necessary to explain it. I doubt if you would *find it* written in any book on the British Constitution that the whole essence of British Parliamentary Government lies in the *intention to make the thing work*. We take that for granted. We have spent hundreds of years in elaborating a system that rests on that alone. It is so deep in us that we have lost sight of it. But it is not so obvious to others. These peoples — Indians, Egyptians, and so on — study our learning. They read our history, our philosophy, and politics. They learn about our parliamentary methods of obstruction, but nobody explains to them that when it comes to the point, all our parliamentary parties are determined that the machinery shan't stop. 'The king's government must go on' as the Duke of Wellington said. But their idea is that the function of opposition is to stop the machine. Nothing easier, of course, but hopeless."

Asked why the opposition in England does not go to the length of stopping the machine, he said:—

> "Our whole political machinery presupposes a people. .... fundamentally at one."

Laski has well summarized these observations of Balfour on the condition necessary for the successful working of Parliamentary Government when he says† :

> "The strength of Parliamentary Government is exactly measured by the unity of political parties upon its fundamental objects."

Having stated the condition necessary for the successful working of the machinery of representative government it will be well to examine whether these conditions are present in India.

How far can we say that there is an intention in the Hindus and the Muslims to make representative government work ? To

**Dugdale's Balfour* (Hutchinson), Vol. II, pp. 363-64.

†*Parliamentary Government in England,* p. 37.

prove the futility and unworkability of representative and responsible government, it is enough even if one of the two parties shows an intention to stop the machinery of government. If such an intention is enough, then it does not matter much whether it is found in the Hindus or in the Muslims. The Muslims being more outspoken than the Hindus, one gets to know their mind more than one gets to know the mind of the Hindus. How the Muslim mind will work and by what factors it is likely to be swayed will be clear if the fundamental tenets of Islam which dominate Muslim politics and the views expressed by prominent Muslims bearing on Muslim attitude towards an Indian Government are taken into consideration. Certain of such religious tenets of Islam and the views of some of the Muslim leaders are given below to enable all those who are capable of looking at things dispassionately, to judge for themselves whether the condition postulated by Balfour can be said to exist in India.

Among the tenets one that calls for notice is the tenet of Islam which says that in a country which is not under Muslim rule wherever there is a conflict between Muslim law and the law of the land, the former must prevail over the latter and a Muslim will be justified in obeying the Muslim law and defying the law of the land.

What the duty of the Musalmans is in such cases was well pointed out by Maulana Mahomed Ali in the course of his statement made in 1921 before the Committing Magistrate of Karachi in answer to the charges for which he was prosecuted by the Government. The prosecution arose out of a resolution passed at the session of the All-India Khilafat Conference held in Karachi on 8th July 1921 at which Mr. Mahomed Ali presided and introduced the resolution in question.

The resolution was as follows :—

> "This meeting clearly proclaims that it is in every way religiously unlawful for a Musalman at the present moment to continue in the British Army, or to enter the Army, or to induce others to join the Army. And it is the duty of all Musalmans in general and of the Ulemas in particular to see that these religious commandments are brought home to every Musalman in the Army."

Along with Maulana Mahomed Ali six other persons* were prosecuted under Section 120-B read with Section 131,I. P. C. and under Section 505 read with Section 114 and Section 505 read with Section 117, I. P. C. Maulana Mahomed Ali in justification of his plea of not guilty, said †:—

> " After all what is the meaning of this precious prosecution. By whose convictions are we to be guided, we the Musalmans and the Hindus of India ? Speaking as a Musalman, if I am supposed to err from the right path, the only way to convince me of my error is to refer me to the Holy Koran or to the authentic traditions of the last Prophet—on whom be peace and God's benediction—or the religious pronouncements of recognized Muslim divines, past and present, which purport to be based on these two original sources of Islamic authority demands from me in the present circumstances, the precise action for which a Government, that does not like to be called satanic, is prosecuting me to-day.
>
> "If that which I neglect, becomes by my neglect a deadly sin, and is yet a crime when I do not neglect it, how am I to consider myself safe in this country ?
>
> "I must either be a sinner or a criminal ..... Islam recognizes one survereignty alone, the sovereignty of God, which is supreme and unconditional, indivisible and inalienable
>
> * * * * *
>
> "The only allegiance a Musalman, whether civilian or soldier, whether living under a Muslim or under a non-Muslim administration, is commanded by the Koran to acknowledge is his allegiance to God, to his Prophet and to those in authority from among the Musalmans chief among the last mentioned being of course that Prophet's successor or commander of the faithful ..... This doctrine of unity is not a mathematical formula elaborated by abstruse thinkers but a work-a-day belief of every Musalman learned or unlettered ..... Musalmans have before this also and elsewhere too, lived in peaceful subjection to non-Muslim administrations. But the unalterable rule is and has always been that as Musalmans they can obey only such laws and orders issued by their secular rulers as do not involve disobedience to the commandments of God who in the expressive language of the Holy Koran is 'the all-ruling ruler'. These very clear and rigidly definite limits of obedience are not laid down with regard to the authority of non-Muslim administration only. On the contrary they are of universal application and can neither be enlarged nor reduced in any case."

This must make anyone wishing for a stable government very apprehensive. But this is nothing to the Muslim tenets which

*Strange enough one of them was the Shankaracharya of Sharda Peeth.

†*The Trial of Ali Brothers,* by R. V. Thandani, pp. 69-71.

prescribe when a country is a motherland to the Muslim and when it is not.

According to Muslim Canon Law the world is divided into two camps, Dar-ul-Islam (abode of Islam) and Dar-ul-Harb (abode of war). A country is Dar-ul-Islam when it is ruled by Muslims. A country is Dar-ul-Harb when Muslims only reside in it but are not rulers of it. That being the Canon Law of the Muslims, India cannot be the common motherland of the Hindus *and* the Musalmans. It can be the land of the Musalmans—but it cannot be the land of the ' Hindus and the Musalmans living as equals'. Further, it can be the land of the Musalmans only when it is governed by the Muslims. The moment the land becomes subject to the authority of a non-Muslim power, it ceases to be the land of the Muslims. Instead of being Dar-ul-Islam it becomes Dar-ul-Harb.

It must not be supposed that this view is only of academic interest. For it is capable of becoming an active force capable of influencing the conduct of the Muslims. It did greatly influence the conduct of the Muslims when the British occupied India. The British occupation raised no qualms in the minds of the Hindus. But so far as the Muslims were concerned, it at once raised the question whether India was any longer a suitable place of residence for Muslims. A discussion was started in the Muslim community, which Dr. Titus says lasted for half a century, as to whether India was Dar-ul'-Harb or Dar-ul-Islam. Some of the more zealous elements, under the leadership of Sayyed Ahmad, actually did declare a holy war, preached the necessity of emigration *(Hijrat)* to lands under Muslim rule, and carried their agitation all over India.

It took all ingenuity of Sir Sayyed Ahmad, the founder of the Aligarh movement, to persuade the Indian Musalmans not to regard India under the British as Dar-ul-Harb merely because it was not under Muslim rule. He urged upon the Muslims to regard it as Dar-ul-Islam, because the Muslims were perfectly free to exercise all the essential rites and ceremonies of their religion. The movement for *Hijrat* for the time being died down. But the doctrine that India was Dar-ul-Harb had not been

given up. It was again preached by Muslim patriots during 1920-21, when the Khilafat agitation was goning on. The agitation was not without response from the Muslim masses and there was a goodly number of Muslims who not only showed themselves ready to act in accordance with the Muslim Canon Law but actually abandoned their homes in India and crossed over to Afghanistan.

It might also be mentioned that *Hijrat* is not the only way of escape to Muslims who find themselves in a Dar-ul-Harb. There is another injunction of Muslim Canon Law called *Jihad* (crusade) by which it becomes " incumbent on a Muslim ruler to extend the rule of Islam until the whole world shall have been brought under its sway. The world, being divided into two camps, Dar-ul-Islam (abode of Islam), Dar-ul-Harb (abode of war), all countries come under one category or the other. Technically, it is the duty of the Muslim ruler, who is capable of doing so, to transform Dar-ul-Harb into Dar-ul-Islam." And just as there are instances of the Muslims in India resorting to *Hijrat,* there are instances showing that they have not hesitated to proclaim *Jihad*. The curious may examine the history of the Mutiny of 1857 and if he does, he will find that, in part, at any rate, it was really a *Jihad* proclaimed by the Muslims against the British, and that the Mutiny so far as the Muslims were concerned was a recrudescence of revolt which had been fostered by Sayyed Ahmad who preached to the Musalmans for several decades that owing to the occupation of India by the British the country had become a Dar-ul-Harb. The Mutiny was an attempt by the Muslims to reconvert India into a Dar-ul-Islam. A more recent instance was the invasion of India by Afghanistan in 1919. It was engineered by the Musalmans of India who led by the Khilafatists' antipathy to the British Government sought the assistance of Afghanistan to emancipate India.* Whether the invasion would have resulted in the emancipation of India or whether it would have resulted in its subjugation, it is not possible to say because the invasion failed to take effect. Apart from this, the fact remains that India, if not exclusively under Muslim

*This interesting and awful episode has been examined in some details, giving the part played therein by Mr. Gandhi, in a series of articles in the issues of the *Maratha,* for the year by Mr. Karandikar.

rule, is a Dar-ul-Harb and the Musalmans according to the tenets of Islam are justified in proclaiming a *Jihad*.

Not only can they proclaim *Jihad* but they can call the aid of a foreign Muslim power to make *Jihad* a success, or if the foreign Muslim power intends to proclaim a *Jihad,* help that power in making its endeavour a success. This was clearly explained by Mr. Mahomed Ali in his address to the Jury in the Sessions Court. Mr. Mahomed Ali said:—

> "But since the Government is apparently uninformed about the manner in which our Faith colours and is meant to colour all our actions, including those which, for the sake of convenience, are generally characterised as mundane, one thing must be made clear, and it is this : Islam does not permit the believer to pronounce an adverse judgment against another believer without more convincing proof; and we could not, of course, fight against our Muslim brothers without making sure that they were guilty of wanton aggression, and did not take up arms in defence of their faith". (This was in relation to the war that was going on between the British and the Afghans in 1919.) "Now our position is this. Without better proof of the Amir's malice or madness we certainly do not want Indian soldiers, including the Musalmans, and particularly with our own encouragement and assistance, to attack Afghanistan and effectively occupy it first, and then be a prey to more perplexity and perturbation afterwards.
>
> "But if on the contrary His Majesty the Amir has no quarrel with India and her people and if his motive must be attributed, as the Secretary of State has publicly said, to the unrest which exists throughout the Mahomedan world, an unrest with which he openly professed to be in cordial sympathy, that is to say, if impelled by the same religious motive that has forced Muslims to contemplate *Hijrat*, the alternative of the weak, which is all that is within our restricted means, His Majesty has been forced to contemplate *Jihad,* the alternative of those comparatively stronger which he may have found within his means; if he has taken up the challenge of those who believed in force and yet more force, and he intends to try conclusions with those who require Musalmans to wage war against the Khilafat and those engaged in *Jihad;* who are in wrongful occupation of the Jazirut-ul-Arab and the holy places ; who aim at the weakening of Islam ; discriminate against it and deny to us full freedom to advocate its cause; then the clear law of Islam requires that in the first place, in no case whatever should a Musalman render anyone any assistance against him ; and in the next place if the *Jihad* approaches my region every Musalman in that region must join the Mujahidin and assist them to the best of his or her power.
>
> "Such is the clear and undisputed law of Islam ; and we had explained this to the Committee investigating our case when it had put to us a

question about the religious duty of a Muslim subject of a non-Muslim-power when *Jihad* had been declared against it, long before there was any notion of trouble on the Frontiers, and when the late Amir was still alive".

A third tenet which calls for notice as being relevant to the issue is that Islam does not recognize territorial affinities. Its affinities are social and religious and therefore extraterritorial. Here again Maulana Mahomed Ali will be the best witness. When he was committed to the Sessions Court in Karachi Mr. Mahomed Ali addressing the Jury said :—

> "One thing has to be made clear as we have since discovered that the doctrine to which we shall now advert is not so generally known in non-Muslim and particularly in official circles as it ought to be. A Musalman' s faith does not consist merely in believing in a set of doctrines and living up to that belief himself; he must also exert himself to the fullest extent of his power, of course without resort to any compulsion, to the end that others also conform to the prescribed belief and practices. This is spoken of in the Holy Koran as *Amribilmaroof* and *Nahi anilmunkar*; and certain distinct chapters of the Holy Prophet's traditions relate to this essential doctrine of Islam. A Musalman cannot say : ' I am not my brother's keeper', for in a sense he is and his own salvation cannot be assured to him unless he exhorts others also to do good and dehorts them against doing evil. If therefore any Musalman is being compelled to wage war against the Mujahid of Islam, he must not only be a conscientious objector himself, but must, if he values his own salvation, persuade his brothers also at whatever risk to himself to take similar objection. Then and not until then, can he hope for salvation. This is our belief as well as the belief of every other Musalman and in our humble way we seek to live up to it; and if we are denied freedom to inculcate this doctrine, we must conclude that the land, where this freedom does not exist, is not safe for Islam."

This is the basis of Pan-Islamism. It is this which leads every Musalman in India to say that he is a Muslim first and Indian afterwards. It is this sentiment which explains why the Indian Muslim has taken so small a part in the advancement of India but has spent himself to exhaustion* by taking up the cause of Muslim countries and why Muslim countries occupy the first place and India occupies a second place in his thoughts.

His Highness the Aga Khan justifies it by saying† :—

*Between 1912 when the first Balkan war began and 1922 when Turkey made peace with the European Powers, the Indian Muslims did not bother about Indian politics in the least. They were completely absorbed in the fate of Turkey and Arabia.

†*India in Transition,* p. 157.

"This is a right and legitimate Pan-Islamism to which every sincere and believing Mahomedan belongs—that is, the theory of the spiritual brotherhood and unity of the children of the Prophet. It is a deep, perennial element in that Perso-Arabian culture, that great family of civilization to which we gave the name Islamic in the first chapter. It connotes charity and good-will towards fellow-believers everywhere from China to Morocco, from the Volga to Singapore. It means an abiding interest in the literature of Islam, in her beautiful arts, in her lovely architecture, in her entrancing poetry. It also means a true reformation— a return to the early and pure simplicity of the faith, to its preaching by persuasion and argument, to the manifestation of a spiritual power in individual lives, to beneficent activity of mankind. The natural and worthy spiritual movement makes not only the Master and His teaching but also His children of all climes an object of affection to the Turk or the Afghan, to the Indian or the Egyptian. A famine or a desolating fire in the Muslim quarters of Kashgar or Sarajevo would immediately draw the sympathy and material assistance of the Mahomedan of Delhi or Cairo. The real spiritual and cultural unity of Islam must ever grow, for to the follower of the Prophet it is the foundation of the life of the soul."

If this spiritual Pan-Islamism seeks to issue forth in political Pan-Islamism, it cannot be said to be unnatural. It is perhaps that feeling which was in the mind of the Aga Khan when he said* :—

"It is for the Indian patriot to recognise that Persia, Afghanistan and possibly Arabia must sooner or later come within the orbit of some — Continental Power—such as Germany, or what may grow out of the break-up of Russia—or must throw in their lot with that of the Indian Empire, with which they have so much more genuine affinity. The world forces that move small States into closer contact with powerful neighbours, though so far most visible in Europe, will inevitably make themselves felt in Asia. Unless she is willing to accept the prospect of having powerful and possibly inimical neighbours to watch, and the heavy military burdens thereby entailed, India cannot afford to neglect to draw her Mahomedan neighbour States to herself by the ties of mutual interest and goodwill.

"In a word, the path of beneficent and growing union must be based on a federal India, with every member exercising her individual rights, her historic peculiarities and natural interests, yet protected by a common defensive system and customs union from external danger and economic exploitation by stronger forces. Such a federal India would promptly bring Ceylon to the bosom of her natural mother, and the further developments we have indicated would follow. We can build a great South Asiatic Federation by now laying the foundations wide and deep on justice, on liberty, and on recognition for every race, every religion, and every historical entity.

**India in Transition*, p. 169.

> "A sincere policy of assisting both Persia and Afghanistan in the onward march which modern conditions demand, will raise two natural ramparts for India in the north-west that neither German nor Slav, Turk nor Mongol, can ever hope to destroy. They will be drawn of their own accord towards the Power which provides the object lesson of a healthy form of federalism in India, with real autonomy for each province, with the internal freedom of principalities assured, with a revived and liberalised kingdom of Hyderabad, including the Berars, under the Nizam. They would see in India freedom and order, autonomy and yet Imperial union, and would appreciate for themselves the advantages of a confederation assuring the continuance of internal self-government buttressed by goodwill, the immense and unlimited strength of that great Empire on which the sun never sets. The British position of Mesopotamia and Arabia also, whatever its nominal form may be, would be infinitely strengthened by the policy I have advocated."

The South Asiatic Federation was more for the good of the Muslim countries such as Arabia, Mesopotamia and Afghanistan than for the good of India,* This shows how very naturally the thoughts of Indian Musalmans are occupied by considerations of Muslim countries other than those of India.

Government is based on obedience to authority. But those, who are eager to establish self-government of Hindus and Muslims, do not seem to have stopped to inquire on what such obedience depends and how far such obedience would be forthcoming in the usual course and in moments of crisis. This is a very important question. For, if obedience fails, self-government means working together and not working under. That may be so in an ideal sense. But in practical and work-a-day world, if the elements brought under one representative government are disproportionate in numbers, the minor section will have to work under the major section and whether it works under the major section or not

*What a terrible thing it would have been if this South Asiatic Federation had come into being? Hindus would have been reduced to the position of a distressed minority. The Indian Annual Register says : "Supporters of British Imperialism in the Muslim community of India have also been active trying by the organization of an Anglo-Muslim alliance to stabilize the rule of Britain in Southern Asia, from Arabia to the Malaya Archipelago, wherein the Muslims will be junior partners in the firm at present, hoping to rise in time to the senior partnership. It was to some such feeling and anticipation that we must trace the scheme adumbrated by His Highness the Aga Khan in his book *India in Transition* published during the war years. The scheme had planned for the setting up of a South Western Asiatic Federation of which India might be a constituent unit. After the war when Mr. Winston Churchill was Secretary of State for the Colonies in the British Cabinet, he found in the archives of the Middle Eastern Department a scheme ready-made of a Middle Eastern Empire"— 1938, Vol. II, Section on "India in Home Polity", p. 48.

will depend upon how far it is disposed to obey the authority of the government carrried on by the major section. So important is this factor in the success of self-government that Balfour may be said to have spoken only part of the truth when he made its success dependent upon parties being fundamentally at one. He failed to note that willingness to obey the authority of Government is a factor equally necessary for the success of any scheme of self-government.

The importance of this second condition, the existence of which is necessary for a successful working of parliamentary government, has been discussed by* James Bryce. While dealing with the basis of political cohesion, Bryce points out that while force may have done much to build up States, force is only one among many factors and not the most important. In creating, moulding, expanding and knitting together political communities what is more important than force is obedience. This willingness to obey and comply with the sanctions of a government depends upon certain psychological attributes of the individual citizens and groups. According to Bryce the attitude which produces obedience are indolence, deference, sympathy, fear and reason. All are not of the same value. Indeed they are relative in their importance as causes producing a disposition to obey. As formulated by Bryce, in the sum total of obedience the percentage due to fear and to reason respectively is much less than that due to indolence and less also than that due to deference or sympathy. According to this view deference and sympathy are, therefore, the two most powerful factors which predispose a people to obey the authority of its government.

Willingness to render obedience to the authority of the government is as essential for the stability of government as the unity of political parties on the fundamentals of the state. It is impossible for any sane person to question the importance of obedience in the maintenance of the state. To believe in civil disobedience is to believe in anarchy.

* *Studies in History and Jurisprudence*, Vol. II. Essay I.

How far will Muslims obey the authority of a government manned and controlled by the Hindus ? The answer to this question need not call for much inquiry. To the Muslims a Hindu is a Kaffir.* A Kaffir is not worthy of respect. He is low-born and without status. That is why a country which is ruled by a Kaffir is Dar-ul-Harb to a Musalman. Given this, no further evidence seems to be necessary to prove that the Muslims will not obey a Hindu government. The basic feelings of deference and sympathy, which predispose persons to obey the authority of government, do not simply exist. But if proof is wanted, there is no dearth of it. It is so abundant that the problem is what to tender and what to omit.

In the midst of the Khilafat agitation when the Hindus were doing so much to help the Musalmans, the Muslims did not forget that as compared with them the Hindus were a low and an inferior race. A Musalman wrote† in the Khilafat paper called *Insaf* :—

> "What is the meaning of Swami and Mahatma? Can Muslims use in speech or writing these words about non-Muslims ? He says that Swami means 'Master', and 'Mahatma' means 'possessed of the highest spiritual powers' and is equivalent to 'Ruh-i-aazam', and the supreme spirit."

He asked the Muslim divines to decide by an authoritative *fatwa* whether it was lawful for Muslims to call non-Muslims by such deferential and reverential titles.

A remarkable incident was reported‡ in connection with the celebration, of Mr. Gandhi's release from gaol in 1924 at the Tibbia College of Yunani medicine run by Hakim Ajmal Khan at Delhi. According to the report, a Hindu student compared Mr. Gandhi to Hazarat Isa (Jesus) and at this sacrilege to the Musalman sentiment all the Musalman students flared up and threatened the Hindu student with violence, and, it is alleged, even the Musalman professors joined with their co-religionists in this demonstration of their outraged feelings.

* The Hindus have no right to feel hurt at being called Kaffirs. They call the Muslims *Mlechas*—persons not fit to associate with.

† See "Through Indian Eyes," *Times of India,* dated 11-3-24.

‡ See " Through Indian Eyes," *Times of India,* dated 21-3-24.

In 1923 Mr. Mahomed Ali presided over the session of the Indian National Congress. In this address he spoke of Mr. Gandhi in the following terms:

> "Many have compared the Mahatma's teachings, and latterly his personal sufferings, to those of Jesus (on whom be peace).....When Jesus contemplated the world at the outset of his ministry he was called upon to make his choice of the weapons of reform.....The idea of being all-powerful by suffering and resignation, and of triumphing over force by purity of heart, is as old as the days of Abel and Cain, the first progeny of man.....
>
> "Be that as it may, it was just as peculiar to Mahatma Gandhi also; but it was reserved for a Christian Government to treat as felon the most Christ-like man of our time (*Shame, Shame*) and to penalize as a disturber of the public peace the one man engaged in public affairs who comes nearest to the Prince of Peace. The political conditions of India just before the advent of the Mahatma resembled those of Judea on the eve of the advent of Jesus, and the prescription that he offered to those in search of a remedy for the ills of India was the same that Jesus had dispensed before in Judea. Self-purification through suffering ; a moral preparation for the responsibilities of government; self-discipline as the condition precedent of Swaraj—this was Mahatma's creed and conviction ; and those of us, who have been privileged to have lived in the glorious year that culminated in the Congress session at Ahmedabad, have seen what a remarkable and rapid change he wrought in the thoughts, feelings and actions of such large masses of mankind. "

A year after, Mr. Mahomed Ali speaking at Aligarh and Ajmere said:

> " However pure Mr. Gandhi's character may be, he must appear to me from the point of view of religion inferior to any Musalman, even though he be without character. "

The statement created a great stir. Many did not believe that Mr. Mahomed Ali, who testified to so much veneration for Mr. Gandhi, was capable of entertaining such ungenerous and contemptuous sentiments about him. When Mr. Mahomed Ali was speaking at a meeting held at Aminabad Park in Lucknow, he was asked whether the sentiments attributed to him were true. Mr. Mahomed Ali without any hesitation or compunction replied*: -

> "Yes, according to my religion and creed, I do hold an adulterous and a fallen Musalman to be better than Mr. Gandhi. "

*" Through Indian Eyes," *Times of India,* dated 21-3-24.

It was suggested* at the time that Mr. Mahomed Ali had to recant because the whole of the orthodox Muslim community had taken offence for his having shown such deference to Mr. Gandhi, who was a Kaffir, as to put him on the same pedestal as Jesus. Such praise of a Kaffir, they felt, was forbidden by the Muslim Canon Law.

In a manifesto† on Hindu-Muslim relations issued in 1928 Khwaja Hasan Nizami declared :

> "Musalmans are separate from Hindus ; they cannot unite with the Hindus. After bloody wars the Musalmans conquered India, and the English took India from them. The Musalmans are one united nation and they alone will be masters of India. They will never give up their individuality. They have ruled India for Hundreds of years, and hence they have a prescriptive right over the country. The Hindus are a minor community in the world. They are never free from internecine quarrels ; they believe in Gandhi and worship the cow ; they are polluted by taking other people's water. The Hindus do not care for self-government; they have no time to spare for it; let them go on with their internal squabbles. What capacity have they for ruling over men ? The Musalmans did rule, and the Musalmans will rule."

Far from rendering obedience to Hindus, the Muslims seem to be ready to try conclusions with the Hindus again. In 1926 there arose a controversy as to who really won the third battle of Panipat, fought in 1761. It was contended for the Muslims that it was a great victory for them because Ahmad Sha Abdali had 1 lakh of soldiers while the Mahrattas had 4 to 6 lakhs. The Hindus replied that it was a victory to them—a victory to vanquished—because it stemmed the tide of Muslim invasions. The Muslims were not prepared to admit defeat at the hands of Hindus and claimed that they will always prove superior to the Hindus. To prove the eternal superiority of Muslims over Hindus it was proposed by one Maulana Akbar Shah Khan of Najibabad in all seriousness, that the Hindus and Muslims should fight, under test conditions, fourth battle on the same fateful plain of Panipat. The Maulana accordingly issued‡ a challenge to Pandit Madan Mohan Malaviya in the following terms:

> "If you Malaviyaji, are making efforts to falsify the result at Panipat, I shall show you an easy and an excellent way (of testing it). Use your

* "Through Indian Eyes", *Times of India,* dated 26-4-24.

† *Ibid.*, dated 14-3-28.

‡ *Ibid.*, dated 20-6-26.

well-known influence and induce the British Government to permit the fourth battle of Panipat to be fought without hindrance from the authorities. I am ready to provide.....a comparative test of the valour and fighting spirit of the Hindus and the Musalmans.....As there are seven crores of Musalmans in India, I shall arrive on a fixed date on the plain of Panipat with 700 Musalmans representing the seven crores of Muslims in India and as there are 22 crores of Hindus I allow you to come with 2,200 Hindus. The proper thing is not to use cannon, machine guns or bombs : only swords and javelins and spears, bows and arrows and daggers should be used. If you cannot accept the post of generalissimo of the Hindu host, you may give it to any descendant of Sadashivrao* or Vishwasrao* so that their scions may have an opportunity to avenge the defeat of their ancestors in 1761. But any way do come as a spectator; for on seeing the result of this battle you will have to change your views, and I hope there will be then an end of the present discord and fighting in the country.....In conclusion I beg to add that among the 700 men that I shall bring there will be no Pathans or Afghans as you are mortally afraid of them. So I shall bring with me only Indian Musalmans of good family who are staunch adherents of Shariat. ”

IV

Such are the religious beliefs, social attitudes and ultimate destinies of the Hindus and Muslims and their communal and political manifestations. These religious beliefs, social attitudes and views regarding ultimate destinies constitute the motive force which determines the lines of their action, whether they will be co-operative or conflicting. Past experience shows that they are too irreconcilable and too incompatible to permit Hindus and Muslims ever forming one single nation or even two harmonious parts of one whole. These differences have the sure effect not only of keeping them as under but also of keeping them at war. The differences are permanent and the Hindu-Muslim problem bids fair to be eternal. To attempt to solve it on the footing that Hindus and Muslims are one or if they are not one now they will be one hereafter is bound to be a barren occupation—as barren as it proved to be in the case of Czechoslovakia. On the contrary, time has come when certain facts must be admitted as beyond dispute, however unpleasant such admission may be.

* They were the Military Commanders on the side of the Hindus in the third battle of Panipat.

In the first place, it should be admitted that every possible attempt to bring about union between Hindus and Muslims has been made and that all of them have failed.

The history of these attempts may be said to begin with the year 1909. The demands of the Muslim deputation, if they were granted by the British, were assented to by the Hindus, prominent amongst whom was Mr. Gokhale. He has been blamed by many Hindus for giving his consent to the principle of separate electorates. His critics forget that withholding consent would not have been a part of wisdom. For, as has been well said by Mr. Mahomed Ali:

> ".....paradoxical as it may seem, the creation of separate electorates was hastening the advent of Hindu-Muslim unity. For the first time a real franchise, however restricted, was being offered to Indians, and if Hindus and Musalmans remained just as divided as they had hitherto been since the commencement of the British rule, and often hostile to one another, mixed electorates would have provided the best battle-ground for inter- communal strifes, and would have still further widened the gulf separating the two communities. Each candidate for election would have appealed to his own community for votes and would have based his claims for preference on the intensity of his ill-will towards the rival community, however, disguised this may have been under some such formula as 'the defence of his community's interest'. Bad as this would have been, the results of an election in which the two communities were not equally matched would have been even worse, for the community that failed to get its representative elected would have inevitably borne a yet deeper grudge against its successful rival. Divided as the two communities were, there was no chance for any political principles coming into prominence during the elections. The creation of separate electorates did a great deal to stop this inter-communal warfare, though I am far from oblivious of the fact that when inter-communal jealousies are acute the men that are more likely to be returned even from communal electorates are just those who are noted for the ill-will towards the rival community."

But the concession in favour of separate electorates made by the Hindus in 1909 did not result in Hindu-Muslim unity. Then came the Lucknow Pact in 1916. Under it the Hindus gave satisfaction to the Muslims on every count. Yet, it did not produce any accord between the two. Six years later, another attempt was made to bring about Hindu-Muslim unity. The All-India Muslim League at its annual session held at Lucknow in March 1923 passed

a resolution* urging the establishment of a national pact to ensure unity and harmony among the various communities and sects in India and appointed a committee to collaborate with committees to be appointed by other organizations. The Indian National Congress in its special session held in September 1923 at Delhi under the presidentship of Maulana Abul Kalam Azad passed a resolution reciprocating the sentiments expressed by the League. The Congress resolved to appoint two committees (1) to revise the constitution and (2) to prepare a draft of a national pact. The report† of the committee on the Indian National Pact was signed by Dr. Ansari and Lala Lajpat Rai and was presented at the session of the Congress held at Coconada in 1923. Side by side with the making of the terms of the Indian National Pact there was forged the Bengal Pact‡ by the Bengal Provincial Congress Committee with the Bengal Muslims under the inspiration of Mr. C. R. Das. Both the Indian National Pact and the Bengal Pact came up for discussion§ in the Subjects Committee of the Congress. The Bengal Pact was rejected by 678 votes against 458. With regard to the National Pact, the Congress resolved¶ that the Committee do call for further opinions on the draft of the Pact prepared by them and submit their report by 31st March 1924 to the A. I. C. C. for its consideration. The Committee, however, did not proceed any further in the matter. This was because the feeling among the Hindus against the Bengal Pact was so strong that according to Lala Lajpat Rai# it was not considered opportune to proceed with the Committee's labours. Moreover, Mr. Gandhi was then released from jail and it was thought that he would take up the question. Dr. Ansari, therefore, contented himself with handing over to the A. I. C. C. the material he had collected.

Mr. Gandhi took up the threads as soon as he came out of the gaol. In November 1924 informal discussions were held in

* For the full text of the resolution of the League, see *Indian Annual Register,* 1923, Vol. I, pp. 395-96.

† For the terms of the Bengal Pact, see Ibid., p. 127.

‡ For the report and the draft terms of the Pact, see Ibid, 1923, Vol. II, supplement, pp. 104-108.

§ For the debate on these two Pacts, see Ibid., pp. 121-127.

¶ For the resolution, see Ibid., p. 122.

#See his statement on the All-Parties Conference held in 1925 in the *Indian Quarterly Register,* 1925, Vol. I, p. 70.

Bombay. As a result of these discussions, an All-Parties Conference was constituted and a committee was appointed to deal with the question of bringing about unity. The Conference was truly an All-Parties Conference inasmuch as the representatives were drawn from the Congress, the Hindu Maha Sabha, the Justice Party, Liberal Federation, Indian Christians, Muslim League, etc. On the 23rd January 1925, a meeting of the committee* appointed by the All-Parties Conference was held in Delhi at the Western Hotel. Mr. Gandhi presided. On the 24th January the committee appointed a representative sub-committee consisting of 40 members (a) to frame such recommendations as would enable all parties to join the Congress, (b) to frame a scheme for the representation of all communities, races and sub-divisions on the legislative and other elective bodies under Swaraj and recommended the best method of securing a just and proper representation of the communities in the services without detriment to efficiency, and (c) to frame a scheme of Swaraj that will meet the present needs of the country. The committee was instructed to report on or before the 15th February. In the interest of expediting the work some members formed themselves into a smaller committee for drawing up a scheme of Swaraj leaving the work of framing the scheme of communal representation to the main committee.

The Swaraj sub-committee under the chairmanship of Mrs. Besant succeeded in framing its report on the constitution and submitted the same to the general committee of the All-Parties Conference. But the sub-committee appointed to frame a scheme of communal representation met at Delhi on the 1st March and adjourned *sine die* without coming to any conclusion. This was due to the fact that Lala Lajpat Rai and other representatives of the Hindus would not attend the meeting of the sub-committee. Mr. Gandhi and Pandit Motilal Nehru issued the following statement†:—

> "Lala Lajpat Rai had asked for a postponement by reason of the inability of Messrs. Jayakar, Srinivas Iyengar and Jai Ram Das to attend. We were unable to postpone the meeting on our own

* For the proceedings of the committee, see the *Indian Quarterly Register,* 1925, Vol. I, pp. 66-77.

† For the proceedings of the committee, see the *Indian Quarterly Register,* 1925, Vol.1, p. 77.

responsibility. We, therefore, informed Lala Lajpat Rai that the question of postponement be placed before the meeting. This was consequently done but apart from the absence of Lala Lajpat Rai and of the gentlemen named by him the attendance was otherwise also too meagre for coming to any decision. In our opinion there was moreover no material for coming to any definite conclusions nor is there likelihood of any being reached in the near future……"

There is no doubt that this statement truly summed up the state of mind of the parties concerned. The late Lala Lajpat Rai, the spokesman of the Hindus on the committee, had already said in an article in the *Leader* of Allahabad that there was no immediate hurry for a fresh pact and that he declined to accept the view that a Hindu majority in some provinces and a Muslim majority in others was the only way to Hindu-Muslim unity.

The question of Hindu-Muslim unity was again taken up in 1927. This attempt was made just prior to the Simon Commission inquiry, in the hope that it would be successful as the attempt made prior to the Montagu-Chelmsford inquiry in 1916 and which had fructified in the Lucknow Pact. As a preliminary, a conference of leading Muslims was held in Delhi on the 20th March 1927 at which certain proposals* for safeguarding the interest of the Muslims were considered. These proposals, which were known as the Delhi proposals, were considered by the Congress at its session held in Madras in December 1927. At the same time, the Congress passed a resolution† authorizing its Working Committee to confer with similar committees to be appointed by other organizations to draft a Swaraj constitution for India. The Liberal Federation and the Muslim League passed similar resolutions appointing their representatives to join in the deliberations. Other organizations were also invited by the Congress Working Committee to send their spokesmen. The All-Parties Conference,‡ as the committee came to be called, met on 12th February 1928 and appointed a sub-committee to frame a constitution. The committee prepared a report with a draft of the constitution—which

* These proposals will be found in the *Indian Quarterly Register,* 1927, Vol.1, p. 33. These proposals subsequently became the basis of Mr. Jinnah's 14 points.

† For the resolution of the Congress on these proposals, see Ibid., 1927, Vol. II, pp. 397-98.

‡ For the origin, history and composition of the All-Parties Convention and for the text of the report, Ibid., 1928, Vol. I, pp. 1-142.

is known as the Nehru Report. The report was placed before the All-Parties Convention which met under the presidentship of Dr. Ansari on 22nd December 1928 at Calcutta just prior to the Congress session. On the 1st January 1929 the Convention adjourned *sine die* without coming to any agreement, on any question, not even on the communal question.

This is rather surprising because the points of difference between the Muslim proposals and the proposals made in the Nehru Committee report were not substantial. This is quite obvious from the speech* of Mr. Jinnah in the All-Parties Convention in support of his amendments. Mr. Jinnah wanted four amendments to be made in the report of the Nehru Committee. Speaking on his first amendment relating to the Muslim demand for 33 ⅓ per cent. representation in the Central Legislature, Mr. Jinnah said :—

> " The Nehru Report has stated that according to the scheme which they propose the Muslims are likely to get one-third in the Central Legislature and perhaps more, and it is argued that the Punjab and Bengal will get much more than their population proportion. What we feel is this. If one- third is going to be obtained by Muslims, then the method which you have adopted is not quite fair to the provinces where the Muslims are in a minority because the Punjab and Bengal will obtain more than their population basis in the Central Legislature. You are going to give to the rich more and keeping the poor according to population. It may be sound reasoning but it is not wisdom……
>
> "Therefore, if the Muslims are, as the Nehru Report suggest, to get one-third, or more, they cannot give the Punjab or Bengal more, but let six or seven extra seats be distributed among provinces which are already in a very small minority, such as, Madras and Bombay, because, remember, if Sind is separated, the Bombay Province will be reduced to something like 8 per cent. There are other provinces where we have small minorities. This is the reason why we say, fix one-third and let it be distributed among Muslims according to our own adjustment."

His second amendment related to the reservation of seats on population basis in the Punjab and in the Bengal, i.e., the claim to a statutory majority. On this Mr. Jinnah said :—

> "You remember that originally proposals emanated from certain Muslim leaders in March 1927 known as the 'Delhi Proposals.' They were dealt with by the A. I. C. C. in Bombay and at the Madras Congress and the Muslim League in Calcutta last year substantially endorsed at least

* See the *Indian Quarterly Register,* 1928, Vol. I, pp. 123-24.

this part of the proposal. I am not going into the detailed arguments. It really reduces itself into one proposition, that the voting strength of Mahomedans in the Punjab and Bengal, although they are in a majority, is not in proportion to their population. That was one of the reasons. The Nehru Report has now found a substitute and they say that if adult franchise is established then there is no need for reservation, but in the event of its not being established we want to have no doubt that in that case there should be reservation for Muslims in the Punjab and Bengal, according to their population, but they shall not be entitled to additional seats."

His third amendment was in regard to residuary powers which the Nehru Committee had vested in the Central Government. In moving his amendment that they should be lodged in the Provincial Government Mr. Jinnah pleaded :—

> "Gentlemen, this is purely a constitutional question and has nothing to do with the communal aspect. We strongly hold—I know Hindus will say Muslims are carried away by communal consideration—we strongly hold the view that, if you examine this question carefully, we submit that the residuary powers should rest with the province. "

His fourth amendment was concerned with the separation of Sind. The Nehru Committee had agreed to the separation of Sind but had subjected it to one proviso, namely, that the separation should come "only on the establishment of the system of government outlined in the report". Mr. Jinnah in moving for the deletion of the proviso said :—

> "We feel this difficulty.....Suppose the Government choose, within the next six months, or a year or two years, to separate Sind before the establishment of a government under this constitution, are the Mahomedans to say, 'we do not want it'..... So long as this clause stands its meaning is that Mahomedans should oppose its separation until simultaneously a government is established under this constitution. We say delete these words and I am supporting my argument by the fact that you do not make such a remark about the N.-W. F. Province.....The Committee says it cannot accept it as the resolution records an agreement arrived at by parties who signed at Lucknow. With the utmost deference to the members of the Committee I venture to say that that is not valid ground.....Are we bound, in this Convention, bound because a particular resolution was passed by an agreement between certain persons ? "

These amendments show that the gulf between the Hindus and Muslims was not in any way a wide one. Yet there was no desire to bridge the same. It was left to the British Government to do what the Hindus and the Muslims failed to do and it did it by the Communal Award.

The Poona Pact between the Hindus and the Depressed Classes gave another spurt to the efforts to bring about unity. * During the months of November and December 1932 Muslims and Hindus did their best to come to some agreement. Muslims met in their All-Parties Conferences, Hindus, Muslims and Sikhs met in Unity Conferences. Proposals and counter-proposals were made but nothing came out of these negotiations to replace the Award by a Pact and they were in the end abandoned after the Committee had held 23 sittings.

Just as attempts were made to bring about unity on political questions, attempts were also made to bring about unity on social and religious questions such as:—

(1) Cow slaughter, (2) music before the Mosques and (3) conversions over which differences existed. The first attempt in this direction was made in 1923 when the Indian National Pact was proposed. It failed. Mr. Gandhi was then in gaol. Mr. Gandhi was released from gaol on the 5th February 1924. Stunned by the destruction of his work for Hindu-Muslim unity, Mr. Gandhi decided to go on a twenty-one days' fast, holding himself morally responsible for the murderous riots that had taken place between Hindus and Muslims. Advantage was taken of the fast to gather leading Indians of all communities at a Unity Conference,† which was attended also by the Metropolitan of Calcutta. The Conference held prolonged sittings from September 26th to October 2nd, 1924. The members of the Conference pledged themselves to use their utmost endeavours to enforce the principles of freedom of conscience and religion and condemn any deviation from them even under provocation. A Central National Panchayet was appointed with Mr. Gandhi as the chairman. The Conference laid down certain fundamental rights relating to liberty of holding and expressing religious beliefs and following religious practices, sacredness of places of worship, cow slaughter, and music before mosques, with a statement of the limitations they must be subject to. This Unity Conference did not produce peace between the two communities. It only produced a

*For an account of these efforts, see the *Indian Quarterly Register,* 1932, Vol. II, p. 296 *et seq.*

† Pattabhi Sitarammaya—*History of the Congress,* p. 532.

lull in the rioting which had become the order of the day. Between 1925 and 1926, rioting was renewed with an intensity and malignity unknown before. Shocked by this rioting, Lord Irwin, the then Viceroy of India, in his address to the Central Legislature on 29th August 1927 made an appeal to the two communities to stop the rioting and establish amity. Lord Irwin's exhortation to establish amity was followed by another Unity Conference which was known as the Simla Unity Conference.* This Unity Conference met on the 30th August 1927 and issued an appeal beseeching both the communities to support the leaders in their efforts to arrive at a satisfactory settlement. The Conference appointed a Unity Committee which sat in Simla from 16th to 22nd September under the chairmanship of Mr. Jinnah. No conclusions were reached on any of the principal points involved in the cow and music questions and others pending before the Committee were not even touched. Some members felt that the Committee might break up. The Hindu members pressed that the Committee should meet again on some future convenient date. The Muslim members of the Committee were first divided in their opinion, but at last agreed to break up the Committee and the President was requested to summon a meeting if he received a requisition within six weeks from eleven specified members. Such a requisition never came and the Committee never met again.

The Simla Conference having failed, Mr. Srinivas Iyengar, the then President of the Congress, called a special conference of Hindus and Muslims which sat in Calcutta on the 27th and 28th October 1927. It came to be known as the Calcutta Unity Conference.† The Conference passed certain resolutions on the three burning questions. But the resolution had no support behind them as neither the Hindu Maha Sabha nor the Muslim League was represented at the Conference.

At one time it was possible to say that Hindu-Muslim unity was an ideal which not only must be realized but could be realized and leaders were blamed for not making sufficient efforts for its realization. Such was the view expressed in 1911 even by

* For the proceedings of this Conference, see the *Indian Quarterly Register,* Vol. II, pp. 39-50.

† For the proceedings of the Conference, see Ibid., pp. 50-58.

Maulana Mahomed Ali who had not then made any particular efforts to achieve Hindu-Muslim unity. Writing in the *Comrade* of 14th January 1911 Mr. Mahomed Ali said * :

> "We have no faith in the cry that India is united. If India was united where was the need of dragging the venerable President of this year's Congress from a distant home? The bare imagination of a feast will not dull the edge of hunger. We have less faith still in the sanctimoniousness that transmutes in its subtle alchemy a rapacious monopoly into fervent patriotism.....the person we love best, fear the most, and trust the least is the impatient idealist Goethe said of Byron that he was a prodigious poet, but that when he reflected he was a child. Well, we think no better and no worse of the man who combines great ideals and a greater impatience. So many efforts, well meaning as well as ill-begotten, have failed in bringing unity to this distracted land, that we cannot spare even cheap and scentless flowers of sentiment for the grave of another ill-judged endeavour. We shall not make the mistake of gumming together pieces of broken glass, and then cry over the unsuccessful result, or blame the refractory material. In other words, we shall endeavour to face the situation boldly, and respect facts, howsoever ugly and ill-favoured. It is poor statesmanship to slur over inconvenient realities, and not the least important success in achieving unity is the honest and frank recognition of the deep-seated prejudices that hinder it and the yawning differences that divide."

Looking back on the history of these 30 years, one can well, ask whether Hindu-Muslim unity has been realized ? Whether efforts have not been made for its realization ? And whether any efforts remain to be made? The history of the last 30 years shows that Hindu-Muslim unity has not been realized. On the contrary, there now exists the greatest disunity between them: that efforts—sincere and persistent—have been made to achieve it and that nothing now remains to be done to achieve it except surrender by one party to the other. If anyone, who is not in the habit of cultivating optimism where there is no justification for it, said that the pursuit of Hindu-Muslim unity is like a mirage and that the idea must now be given up, no one can have the courage to call him a pessimist or an impatient idealist. It is for the Hindus to say whether they will engage themselves in this vain pursuit in spite of the tragic end of all their past endeavours or give up the pursuit of unity and try for a settlement on another basis.

* Quoted in his presidential address at Coconada session of the Congress, 1923.

In the second place, it must be admitted that the Muslim point of view has undergone a complete revolution. How complete the revolution is can be seen by reference to the past pronouncements of some of those who insist on the two-nation theory and believe that Pakistan is the only solution of the Hindu-Muslim problem. Among these Mr. Jinnah, of course, must be accepted as the foremost. The revolution in his views on the Hindu-Muslim question is striking, if not staggering. To realize the nature, character and vastness of this revolution it is necessary to know his pronouncements in the past relating to the subject so that they may be compared with those he is making now.

A study of his past pronouncement may well begin with the year 1906 when the leaders of the Muslim community waited upon Lord Minto and demanded separate electorates for the Muslim community. It is to be noted that Mr. Jinnah was not a member of the deputation. Whether he was not invited to join the deputation or whether he was invited to join and declined is not known. But the fact remains that he did not lend his support to the Muslim claim to separate representation when it was put forth in 1906.

In 1918 Mr. Jinnah resigned his membership of the Imperial Legislative Council as a protest against the Rowlatt Bill.* In tendering his resignation Mr. Jinnah said:

> "I feel that under the prevailing conditions, I can be of no use to my people in the Council, nor consistently with one's self-respect is co-operation possible with a Government that shows such utter disregard for the opinion of the representatives of the people at the Council Chamber and the feelings and the sentiments of the people outside."

In 1919 Mr. Jinnah gave evidence before the Joint Select Committee appointed by Parliament on the Government of India Reform Bill, then on the anvil. The following views were expressed by him in answer to questions put by members of the Committee on the Hindu-Muslim question.

EXAMINED BY MAJOR ORMSBY-GORE

Q. 3806.—You appear on behalf of the Moslem League—that is, on behalf of the only widely extended Mohammedan organisation in India ?—Yes.

* The Bill notwithstanding the protest of the Indian members of the Council was passed into law and became Act XI of 1919 as "The Anarchical and Revolutionary Crimes Act".

Q. 3807.—I was very much struck by the fact that neither in your answers to the questions nor in your opening speech this morning did you make any reference to the special interest of the Mohammedans in India: is that because you did not wish to say anything ?—No, but because I take it the Southborough Committee have accepted that, and I left it to the members of the Committee to put any questions they wanted to. I took a very prominent part in the settlement of Lucknow. I was representing the Musalmans on that occasion.

Q. 3809.—On behalf of the All-India Moslem League, you ask this Committee to reject the proposal of the Government of India ?—I am authorised to say that—to ask you to reject the proposal of the Government of India with regard to Bengal [i.e., to give the Bengal Muslims more representation than was given them by the Lucknow Pact].

Q.3810.—You said you spoke from the point of view of India. You speak really as an Indian Nationalist ?—I do.

Q. 3811.—Holding that view, do you contemplate the early disappearance of separate communal representation of the Mohammedan community?—I think so.

Q. 3812.—That is to say, at the earliest possible moment you wish to do away in political life with any distinction between Mohammedans and Hindus ?—Yes. Nothing will please me more than when that day comes.

Q. 3813—You do not think it is true to say that the Mohammedans of India have many special political interests not merely in India but outside India, which they are always particularly anxious to press as a distinct Mohammedan community? —There are two things. In India the Mohammedans have very few things really which you can call matters of special interest for them—I mean secular things.

Q.3814.—I am only referring to them, of course?—And therefore that is why I really hope and expect that the day is not very far distant when these separate electorates will disappear.

Q. 3815.—It is true, at the same time, that the Mohammedans in India take a special interest in the foreign policy of the Government of India ?—They do ; a very,—No, because what you propose to do is to frame very keen interest and the large majority of them hold very strong sentiments and very strong views.

Q.3816.—Is that one of the reasons why you, speaking on behalf of the Mohammedan community, are so anxious to get the Government of India more responsible to an electorate ?—No.

Q. 3817.—Do you think it is possible, consistently with remaining in the British Empire, for India to have one foreign policy and for His Majesty, as advised by his Ministers in London, to have another?—Let me make it clear. It is not a question of foreign policy at

all. What the Moselms of India feel is that it is a very difficult position for them. Spiritually, the Sultan or the Khalif is their head.

Q. 3818.—Of one community ?—Of the Sunni sect, but that is the largest; it is in an overwhelming majority all over India. The Khalif is the only rightful custodian of the Holy Places according to our view, and nobody else has a right. What the Moslems feel very keenly is this, that the Holy Places should not be severed from the Ottoman Empire— that they should remain with the Ottoman Empire under the Sultan.

Q. 3819.—I do not want to get away from the Reform Bill on to foreign policy.—I say it has nothing to do with foreign policy. Your point is whether in India the Moselms will adopt a certain attitude with regard to foreign policy in matters concerning Moslems all over the world.

Q. 3820.—My point is, are they seeking for some control over the Central Government in order to impress their views on foreign policy on the Government of India ?—No.

EXAMINED BY MR. BENNETT

Q. 3853.—..... Would it not be an advantage in the case of an occurrence of that kind [i.e., a communal riot] if the maintenance of law and order were left with the executive side of the Government ?—I do not think so, if you ask me, but I do not want to go into unpleasant matters, as you say.

Q. 3854.—It is with no desire to bring up old troubles that I ask the question ; I would like to forget them ?—If you ask me, very often these riots are based on some misunderstanding, and it is because the police have taken one side or the other, and that has enraged one side or the other. I know very well that in the Indian States you hardly ever hear of any Hindu-Mohammedan riots, and I do not mind telling the Committee, without mentioning the name, that I happened to ask one of the ruling Princes, "How do you account for this ?" and he told me, "As soon as there is some trouble we have invariably traced it to the police, through the police taking one side or the other, and the only remedy we have found is that as soon as we come to know we move that police officer from that place, and there is an end of it."

Q. 3855.—That is useful piece of information, but the fact remains that these riots have been inter-racial, Hindu on the one side and Mohammedan on the other. Would it be an advantage at a time like that the Minister, the representative of one community or the other, should be in charge of the maintenance of law and order ?—Certainly.

Q. 3856.—It would ?—If I thought otherwise I should be casting a reflection on myself. If I was the Minister, I would make bold to say that nothing would weigh with me except justice, and what is right.

Q. 3857.—I can understand that you would do more than justice to the other side; but even then, there is what might be called the subjective

side. It is not only that there is impartiality, but there is the view which may be entertained by the public, who may harbour some feeling of suspicion ?—With regard to one section or the other, you mean they would feel that an injustice was done to them, or that justice would not be done ?

Q. 3858.—Yes; that is quite apart from the objective part of it?—My answer is this: That these difficulties are fast disappearing. Even recently, in the whole district of Thana, Bombay, every officer was an Indian officer from top to bottom, and I do not think there was a single Mohammedan—they were all Hindus—and I never heard any complaint. Recently that has been so. I quite agree with you that ten years ago there was that feeling what you are now suggesting to me, but it is fast disappearing.

EXAMINED BY LORD ISLINGTON

Q. 3892.—..... You said just now about the communal representation, I think in answer to Major Ormsby-Gore, that you hope in a very few years you would be able to extinguish communal representation, which was at present proposed to be established and is established in order that Mahommedans may have their representation with Hindus. You said you desired to see that. How soon do you think that happy state of affairs is likely to be realized?—I can only give you certain facts : I cannot say anything more than that: I can give you this which will give you some idea: that in 1913, at the All-India Moslem League sessions at Agra, we put this matter to the test whether separate electorates should be insisted upon or not by the Mussalmans, and we got a division, and that division is based upon Provinces ; only a certain number of votes represent each Province, and the division came to 40 in favour of doing away with the separate electorate, and 80 odd—I do not remember the exact number—were for keeping the separate electorate. That was in 1913. Since then I have had many opportunities of discussing this matter with various Mussalman leaders ; and they are changing their angle of vision with regard to this matter. I cannot give you the period, but I think it cannot last very long. Perhaps the next inquiry may hear something about it.

Q.3893.—You think at the next inquiry the Mahommedans will ask to be absorbed into the whole ?—Yes, I think the next inquiry will probably hear something about it.

Although Mr. Jinnah appeared as a witness on behalf of the Muslim League, he did not allow his membership of the League to come in the way of his loyalty to other political organizations in the country. Besides being a member of the Muslim League, Mr. Jinnah was a member of the Home Rule League and also of the Congress. As he said in his evidence before the Joint Parliamentary Committee, he was a member of all three bodies although he

openly disagreed with the Congress, with the Muslim League and that there were some views which the Home Rule League held which he did not share. That he was an independent but a nationalist is shown by his relationship with the Khilafatist Musalmans. In 1920 the Musalmans organized the Khilafat Conference. It became so powerful an organization that the Muslim League went under and lived in a state of suspended animation till 1924. During these years no Muslim leader could speak to the Muslim masses from a Muslim platform unless he was a member of the Khilafat Conference. That was the only platform for Muslims to meet Muslims. Even then Mr. Jinnah refused to join the Khilafat Conference. This was no doubt due to the fact that then he was only a statutory Musalman with none of the religious fire of the orthodox which he now says is burning within him. But the real reason why he did not join the Khilafat was because he was opposed to the Indian Musalmans engaging themselves in extra-territorial affairs relating to Muslims outside India.

After the Congress accepted non-co-operation, civil disobedience and boycott of Councils, Mr. Jinnah left the Congress. He became its critic but never accused it of being a Hindu body. He protested when such a statement was attributed to him by his opponents. There is a letter by Mr. Jinnah to the Editor of the *Times of India* written about the time which puts in a strange contrast the present opinion of Mr. Jinnah about the Congress and his opinion in the past. The letter* reads as follows :—.

> "To the Editor of " The Times of India"
>
> Sir,—I wish again to correct the statement which is attributed to me and to which you have given currency more than once and now again repeated by your correspondent 'Banker' in the second column of your issue of the 1st October that I denounced the Congress as 'a Hindu Institution'. I publicly corrected this misleading report of my speech in your columns soon after it appeared; but it did not find a place in the columns of your paper and so may I now request you to publish this and oblige."

After the Khilafat storm had blown over and the Muslims had shown a desire to return to the internal politics of India, the Muslim League was resuscitated. The session of the League held in

* Published in the *Times of India* of 3-10-25.

Bombay on 30th December 1924 under the presidentship of Mr. Raza Ali was a lively one. Both Mr. Jinnah and Mr. Mahomed Ali took part in it.*

In this session of the League, a resolution was moved which affirmed the desirability of representatives of the various Muslim associations of India representing different shades of political thought meeting in a conference at an early date at Delhi or at some other central place with a view to develop "a united and sound practical activity" to supply the needs of the Muslim community. Mr. Jinnah in explaining the resolution said† :—

> "The object was to organize the Muslim community, not with a view to quarrel with the Hindu community, but with a view to unite and co-operate with it for their motherland. He was sure once they had organized themselves they would join hands with the Hindu Maha Sabha and declare to the world that Hindus and Mahomedans are brothers."

The League also passed another resolution in the same session for appointing a committee of 33 prominent Musalmans to formulate the political demands of the Muslim community. The resolution was moved by Mr. Jinnah. In moving the resolution, Mr. Jinnah‡:—

> "Repudiated the charge that he was standing on the platform of the League as a communalist. He assured them that he was, as ever, a nationalist. Personally he had no hesitation. He wanted the best and the fittest men to represent them in the Legislatures of the land (Hear, Hear and Applause). But unfortunately his Muslim compatriots were not prepared to go as far as he. He could not be blind to the situation. The fact was that there was a large number of Muslims who wanted representation separately in Legislatures and in the country's Services. They were talking of communal unity, but where was unity ? It had to be achieved by arriving at some suitable settlement. He knew, he said amidst deafening cheers, that his fellow-religionists were ready and prepared to fight for Swaraj, but wanted some safeguards. Whatever his view, and they knew that as a practical politician he had to take stock of the situation, the real block to unity was not the communities themselves, but a few mischief makers on both sides."

* Mr. Mahomed Ali in his presidential address to the Congress at Coconada humorously said : Mr. Jinnah would soon come back to us (*cheers*). I may mention that an infidel becomes a Kaffir and a Kaffir becomes an infidel; likewise, when Mr. Jinnah was in the Congress I was not with him in those days, and when I was in the Congress and in the Muslim League he was away from me. I hope some day we would reconcile (*Laughter*). "

† From the report in the *Times of India,* 1st January 1925.

‡ The *Indian Quarterly Register,* 1924, Vol. II, p. 481.

And he did not thus hesitate to arraign mischief makers in the sternest possible language that could only emanate from an earnest nationalist. In his capacity as the President of the session of the League held in Lahore on 24th May 1924 he said* :—

> "If we wish to be free people, let us unite, but if we wish to continue slaves of Bureaucracy, let us fight among ourselves and gratify petty vanity over petty matters, Englishmen being our arbiters."

In the two All-Parties Conferences, one held in 1925 and the other in 1928, Mr. Jinnah was prepared to settle the Hindu-Muslim question on the basis of joint electorates. In 1927 he openly said † from the League platform:—

> "I am not wedded to separate electorates, although I must say that the overwhelming majority of the Musalmans firmly and honestly believe that it is the only method by which they can be sure."

In 1928, Mr. Jinnah joined the Congress in the boycott of the Simon Commission. He did so even though the Hindus and Muslims had failed to come to a settlement and he did so at the cost of splitting the League into two.

Even when the ship of the Round Table Conference was about to break on the communal rock, Mr. Jinnah resented being named as a communalist who was responsible for the result and said that he preferred an agreed solution of the communal problem to the arbitration of the British Government. Addressing‡ the U. P. Muslim Conference held at Allahabad on 8th August 1931 Mr. Jinnah said :—

> "The first thing that I wish to tell you is that it is now absolutely essential and vital that Muslims should stand united. For Heaven's sake close all your ranks and files and stop this internecine war. I urged this most vehemently and I pleaded to the best of my ability before Dr. Ansari, Mr. T. A. K. Sherwani, Maulana Abul Kalam Azad and Dr. Syed Mahmud. I hope that before I leave the shores of India I shall hear the good news that whatever may be our differences; whatever may be our convictions between ourselves, this is not the moment to quarrel between ourselves.
>
> "Another thing I want to tell you is this. There is a certain section of the press, there is a certain section of the Hindus, who constantly misrepresent me in various ways. I was only reading the speech of

* See the *Indian Quarterly Review,* 1924, Vo. 1, p. 658.

† *The Indian Quarterly Register,* 1927, Vol. I, p. 37.

‡ *The Indian Annual Register,* 1931, Vol. II, pp. 230-231.

Mr. Gandhi this morning and Mr. Gandhi said that he loves Hindus and Muslims alike. I again say standing here on this platform that although I may not put forward that claim but I do put forward this honestly and sincerely that I want fair play between the two communities."

Continuing further Mr. Jinnah said: " As to the most important question, which to my mind is the question of Hindu-Muslim settlement—all I can say to you is that I honestly believe that the Hindus should concede to the Muslims a majority in the Punjab and Bengal and if that is conceded, I think a settlement can be arrived at in a very short time.

"The next question that arises is one of separate *vs.* joint electorates. As most of you know, if a majority is conceded in the Punjab and Bengal, I would personally prefer a settlement on the basis of joint electorate. (Applause.) But I also know that there is a large body of Muslims—and I believe a majority of Muslims—who are holding on to separate electorate. My position is that I would rather have a settlement even on the footing of separate electorate, hoping and trusting that when we work our new constitution and when both Hindus and Muslims get rid of distrust, suspicion and fears and when they get their freedom we would rise to the occasion and probably separate electorate will go sooner than most of us think.

"Therefore I am for a settlement and peace among the Muslims first; I am for a settlement and peace between the Hindus and Mahommedans. This is not a time for argument, not a time for propaganda work and not a time for embittering feelings between the two communities, because the enemy is at the door of both of us and I say without hesitation that if the Hindu-Muslim question is not settled, I have no doubt that the British will have to arbitrate and that he who arbitrates will keep to himself the substance of power and authority. Therefore, I hope they will not vilify me. After all, Mr. Gandhi himself says that he is willing to give the Muslims whatever they want, and my only sin is that I say to the Hindus give to the Muslims only 14 points, which is much less than the ' blank cheque ' which Mr. Gandhi is willing to give. I do not want a blank cheque, why not concede the 14 points ? When Pandit Jawaharlal Nehru says: ' Give us a blank cheque ' when Mr. Patel says : ' Give us a blank cheque and we will sign it with a Swadeshi pen on a Swadeshi paper' they are not communalists and I am a communalist! I say to Hindus not to misrepresent everybody. I hope and trust that we shall be yet in a position to settle the question which will bring peace and happiness to the millions in our country.

" One thing more I want to tell you and I have done. During the time of the Round Table Conference,—it is now an open book and anybody who cares to read it can learn for himself—I observed the one and the only principle and it was that when I left the shores of Bombay I said to the people that I would hold the interests of India sacred, and believe me—if you care to read the proceedings of the Conference, I am not bragging because I have done my duty—that I have loyally and faithfully fulfilled

my promise to the fullest extent and I venture to say that if the Congress or Mr. Gandhi can get anything more than I fought for, I would congratulate them.

"Concluding Mr. Jinnah said that they must come to a settlement, they must become friends eventually and he, therefore, appealed to the Muslims to show moderation, wisdom and conciliation, if possible, in the deliberation that might take place and the resolution that might be passed at the Conference."

As an additional illustration of the transformation in Muslim ideology, I propose to record the opinions once held by Mr. Barkat Ali who is now a follower of Mr. Jinnah and a staunch supporter of Pakistan.

When the Muslim League split into two over the question of co-operation with the Simon Commission, one section led by Sir Mahommad Shafi favouring co-operation and another section led by Mr. Jinnah supporting the Congress plan of boycott, Mr. Barkat Ali belonged to the Jinnah section of the League. The two wings of the League held their annual sessions in 1928 at two different places. The Shafi wing met in Lahore and the Jinnah wing met in Calcutta. Mr. Barkat Ali, who was the Secretary of the Punjab Muslim League, attended the Calcutta session of the Jinnah wing of the League and moved the resolution relating to the communal settlement. The basis of the settlement was joint electorates. In moving the resolution Mr. Barkat Ali said* :—

"For the first time in the history of the League there was a change in its angle of vision. We are offering by this change a sincere hand of fellowship to those of our Hindu countrymen who have objected to the principle of separate electorates. "

In 1928 there was formed a Nationalist Party under the leadership of Dr. Ansari.† The Nationalist Muslim Party was a step in advance of the Jinnah wing of the Muslim League and was prepared to accept the Nehru Report, as it was, without any amendments—not even those which Mr. Jinnah was insisting upon. Mr. Barkat Ali, who in 1927 was with the Jinnah wing of the League, left the same as not being nationalistic enough and joined the Nationalist Muslim Party of Dr. Ansari. How great a nationalist Mr. Barkat Ali then was can be seen by his trenchant

* *The Indian Quarterly Register,* 1927, Vol. II, p. 448.

† *The Indian Quarterly Register,* 1929. Vol. II, p. 350.

and vehement attack on Sir Muhammad Iqbal for his having put forth in his presidential address to the annual session of the All-India Muslim League held at Allahabad in 1930 a scheme* for the division of India which is now taken up by Mr. Jinnah and Mr. Barkat Ali and which goes by the name of Pakistan. In 1931 there was held in Lahore the Punjab Nationalist Muslim Conference and Mr. Barkat Ali was the Chairman of the Reception Committee. The views he then expressed on Pakistan are worth recalling.† Reiterating and reaffirming the conviction and the political faith of his party, Malik Barkat Ali, Chairman of the Reception Committee of the Conference, said:

> "We believe, first and foremost in the full freedom and honour of India. India, the country of our birth and the place with which all our most valued and dearly cherished associations are knit, must claim its first place in our affection and in our desires. We refuse to be parties to that sinister type of propaganda which would try to appeal to ignorant sentiment by professing to be Muslim first and Indian afterwards. To us a slogan of this kind is not only bare, meaningless cant, but downright mischievous. We cannot conceive of Islam in its best and last interests as in any way inimical to or in conflict with the best and permanent interests of India. India and Islam in India are identical, and whatever is to the detriment of India must, from the nature of it, be detrimental to Islam whether economically, politically, socially or even morally. Those politicians, therefore, are a class of false prophets and at bottom the foes of Islam, who talk of any inherent conflict between Islam and the welfare of India. Further, howsoever much our sympathy with our Muslim brethren outside India, i.e., the Turks and the Egyptians or the Arabs,—and it is a sentiment which is at once noble and healthy,—we can never allow that sympathy to work to the detriment of the essential interests of India. Our sympathy, in fact, with those countries can only be valuable to them, if India as the source, nursery and fountain of that sympathy, is really great. And if ever the time comes, God forbid, when any Muslim Power from across the Frontier chooses to enslave India and snatch away the liberties of its people, no amount of pan-Islamic feeling, whatever it may mean, can stand in the way of Muslim India fighting shoulder to shoulder with non-Muslim India in defence of its liberties.
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> "Let there be, therefore, no misgivings of any kind in that respect in any non-Muslim quarters. I am conscious that a certain class of narrow-minded Hindu politicians is constantly harping on the bogey of an

* For his speech see *The Indian Annual Register,* 1930, Vol. II. pp. 334-345.

† *Indian Annual Register,* 1931, Vol. II, pp. 234-235.

Islamic danger to India from beyond the N.-W. Frontier passes but I desire to repeat that such statements and such fears are fundamentally wrong and unfounded. Muslim India shall as much defend India's liberties as non-Muslim India, even if the invader happens to be a follower of Islam.

"Next, we not only believe in a free India but we also believe in a united India—not the India of the Muslim, not the India of the Hindu or of the Sikh, not the India of this community or of that community but the India of all. And as this is our abiding faith, we refuse to be parties to any division of the India of the future into a Hindu or a Muslim India. However much the conception of a Hindu and a Muslim India may appeal and send into frenzied ecstasies abnormally orthodox mentalities of their party, we offer our full throated opposition to it, not only because it is singularly unpractical and utterly obnoxious but because it not only sounds the death-knell of all that is noble and lasting in modern political activity in India, but is also contrary to and opposed to India's chief historical tradition.

" India was one in the days of Asoka and Chandragupta and India remained one even when the sceptre and rod of Imperial sway passed from Hindu into Moghul or Muslim hands. And India shall remain one when we shall have attained the object of our desires and reached those uplands of freedom, where all the light illuminating us shall not be reflected glory but shall be light proceeding direct as it were from our very faces.

"The conception of a divided India, which Sir Muhammad Iqbal put forward recently in the course of his presidential utterance from the platform of the League at a time when that body had virtually become extinct and ceased to represent free Islam—I am glad to be able to say that Sir Muhammad Iqbal has since recanted, it—must not therefore delude anybody into thinking that it is Islam's conception of the India to be. Even if Dr. Sir Muhammad Iqbal had not recanted it as something which could not be put forward by any sane person, I should have emphatically and unhesitatingly repudiated it as something foreign to the genius and the spirit of the rising generation of Islam, and I really deem it a proud duty to affirm today that not only must there be no division of India into communal provinces but that both Islam and Hinduism must run coterminously with the boundaries of India and must not be cribbed, cabined and confined within any shorter bounds. To the same category as Dr. Iqbal's conception of a Muslim India and a Hindu India, belongs the sinister proposals of some Sikh communalists to partition and divide the Punjab.

" With a creed so expansive, namely a free and united India with its people all enjoying in equal measure and without any kinds of distinctions and disabilities the protection of laws made by the chosen representatives of the people on the widest possible basis of a true democracy, namely, adult franchise, and through the medium of joint electorates—and an

administration charged with the duty of an impartial execution of the laws, fully accountable for its actions, not to a distant or remote Parliament of foreigners but to the chosen representatives of the land,—you would not expect me to enter into the details and lay before you, all the colours of my picture. And I should have really liked to conclude my general observations on the aims and objects of the Nationalist Muslim Party here, were it not that the much discussed question of joint or separate electorates, has today assumed proportions where no public man can possibly ignore it

"Whatever may have been the value or utility of separate electorates at a time when an artificially manipulated high propertied franchise had the effect of converting a majority of the people in the population of a province into a minority in the electoral roll, and when communal passions and feelings ran particularly high, universal distrust poisoning the whole atmosphere like a general and all-pervading miasma,—we feel that in the circumstances of today and in the India of the future, separate electorates should have no place whatever. "

Such were the views Mr. Jinnah and Mr. Barkat Ali held on nationalism, on separate electorates and on Pakistan. How diametrically opposed are the views now held by them on these very problems ?

So far I have laboured to point out things, the utter failure of the attempts made to bring about Hindu-Muslim unity and the emergence of a new ideology in the minds of the Muslim leaders. There is also a third thing which I must discuss in the present context for reasons arising both from its relevance as well as from its bearing on the point under consideration, namely whether this Muslim ideology has behind it a justification which political philosophers can accept.

Many Hindus seem to hold that Pakistan has no justification. If we confine ourselves to the theory of Pakistan there can be no doubt that this is a greatly mistaken view. The philosophical justification for Pakistan rests upon the distinction between a community and a nation. In the first place, it is recognized comparatively recently. Political philosophers for a long time were concerned, mainly, with the controversy summed up in the two questions, how far should the right of a mere majority to rule the minority be accepted as a rational basis for government and how far the legitimacy of a government be said to depend upon the

consent of the governed. Even those who insisted, that the legitimacy of a government depended upon the consent of the governed, remained content with a victory for their proposition and did not care to probe further into the matter. They did not feel the necessity for making any distinctions within the category of the "governed". They evidently thought that it was a matter of no moment whether those who were included in the category of the governed formed a community or a nation. Force of circumstances has, however, compelled political philosophers to accept this distinction. In the second place, it is not a mere distinction without a difference. It is a distinction which is substantial and the difference is consequentially fundamental. That this distinction between a community and a nation is fundamental, is clear from the difference in the political rights which political philosophers are prepared to permit to a community and those they are prepared to allow to a nation against the Government established by law. To a community they are prepared to allow only the right of insurrection. But to a nation they are willing to concede the right of disruption. The distinction between the two is as obvious as it is fundamental. A right of insurrection is restricted only to insisting on a change in the mode and manner of government. The right of disruption is greater than the right of insurrection and extends to the secession of a group of the members of a State with a secession of the portion of the State's territory in its occupation. One wonders what must be the basis of this difference. Writers on political philosophy, who have discussed this subject, have given their reasons for the justification of a Community's right to insurrection* and of a nation's right to

* Sidgwick justifies it in these words : ".....the evils of insurrection may reasonably be thought to be outweighed by the evils of submission, when the question at issue is of vital importance.... an insurrection may sometimes induce redress of grievances, even when the insurgents are clearly weaker in physical force ; since it may bring home to the majority the intensity of the sense of injury aroused by their actions. For similar reasons, again a conflict in prospect may be anticipated by a compromise ; in short, the fear of provoking disorder may be a salutary check on the persons constitutionally invested with supreme power under a democratic as under other forms of government..... I conceive, then that a moral right of insurrection must be held to exist in the most popularly governed community. "—*Elements of Politics* (1929), pp. 646-47.

demand disruption.* The difference comes to this : a community has a right to safeguards, a nation has a right to demand separation. The difference is at once clear and crucial. But they have not given any reasons why the right of one is limited to insurrection and why that of the other extends to disruption. They have not even raised such a question. Nor are the reasons apparent on the face of them. But it is both interesting and instructive to know why this difference is made. To my mind the reason for this difference pertains to questions of ultimate destiny. A state either consists of a series of communities or it consists of a series of nations. In a state, which is composed of a series of communities, one community may be arrayed against another community and the two may be opposed to each other. But in the matter of their ultimate destiny they feel they are one. But in a state, which is composed of a series of nations, when one nation rises against the other, the conflict is one as to differences of ultimate destiny. This is the distinction between communities and nations and it is this distinction which explains the difference in their political rights. There is nothing new or original in this explanation. It is merely another way of stating why the community has one kind of right and the nation another of quite a different kind. A community has a right of insurrection because it is satisfied with it. All that it wants is a change in the mode and form of government. Its quarrel is not over any difference of ultimate destiny. A nation has to be accorded the right of disruption because it will not be satisfied with mere change in the form of government. Its quarrel is over the question of ultimate

* This is what Sidgwick has to say on the right to disruption : "…..some of those who, hold that a government to be legitimate, must rest on the consent of the governed, appear not to shrink from drawing this inference: they appear to qualify the right of the majority of members of a state to rule by allowing the claim of a minority that suffers from the exercise of this right to secede and form a new state, when it is in a majority in a continuous portion of its old state's territory…….and I conceive that there are cases in which the true interests of the whole may be promoted by disruption. For instance, where two portions of a state's territory are separated by a long interval of sea, or other physical obstacles, from any very active intercommunication, and when, from differences of race or religion, past history, or present social conditions, their respective inhabitants have divergent needs and demands in respect of legislation and other governmental interference, it may easily be inexpedient that they should have a common government for internal affairs ; while if, at the *same* time, their external relations, apart from their union, would be very different, it is quite possible that each part may lose more through the risk of implication in the other's quarrels, than it is likely to gain from the aid of its military force. Under such conditions as these, it is not to be desired that any sentiment of historical patriotism, or any pride in the national ownership of an extensive territory, should permanently prevent a peaceful dissolution of the incoherent whole into its natural parts."—*Elements of Politics* (1929),.pp. 648-49.

destiny. If it will not be satisfied unless the unnatural bond that binds them is dissolved, then prudence and even ethics demands that the bond shall be dissolved and they shall be freed each to pursue its own destiny.

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While it is necessary to admit that the efforts at Hindu-Muslim unity have failed and that the Muslim ideology has undergone a complete revolution, it is equally necessary to know the precise causes which have produced these effects. The Hindus say that the British policy of divide and rule is the real cause of this failure and of this ideological revolution. There is nothing surprising in this. The Hindus having cultivated the Irish mentality to have no other politics except that of being always against the Government, are ready to blame the Government for everything including bad weather. But time has come to discard the facile explanation so dear to the Hindus. For it fails to take into account two very important circumstances. In the first place, it overlooks the fact that the policy of divide and rule, allowing that the British do resort to it, cannot succeed unless there are elements which make division possible, and further if the policy succeeds for such a long time, it means that the elements which divide are more or less permanent and irreconcilable and are not transitory or superficial. Secondly, it forgets that Mr. Jinnah, who represents this ideological transformation, can never be suspected of being a tool in the hands of the British even by the worst of his enemies. He may be too self-opinionated, an egotist without the mask and has perhaps a degree of arrogance which is not compensated by any extraordinary intellect or equipment. It may be on that account he is unable to reconcile himself to a second place and work with others in that capacity for a public cause. He may not be over-flowing with ideas although he is not, as his critics make him out to be, an empty-headed dandy living upon the ideas of others. It may be that his fame is built up more upon art and less on substance. At the same time, it is doubtful if there is a politician in India to whom the adjective incorruptible can be more fittingly applied. Anyone who knows what his relations with the British Government have

been, will admit that he has always been their critic, if indeed, he has not been their adversary. No one can buy him. For it must be said to his credit that he has never been a soldier of fortune. The customary Hindu explanation fails to account for the ideological transformation of Mr. Jinnah.

What is then the real explanation of these tragic phenomena, this failure of the efforts for unity, this transformation in the Muslim ideology ?

The real explanation of this failure of Hindu-Muslim unity lies in the failure to realize that what stands between the Hindus and Muslims is not a mere matter of difference, and that this antagonism is not to be attributed to material causes. It is formed by causes which take their origin in historical, religious, cultural and social antipathy, of which political antipathy is only a reflection. These form one deep river of discontent which, being regularly fed by these sources, keeps on mounting to a head and overflowing its ordinary channels. Any current of water flowing from another source however pure, when it joins it, instead of altering the colour or diluting its strength becomes lost in the main stream. The silt of this antagonism which this current has deposited, has become permanent and deep. So long as this silt keeps on accumulating and so long as this antagonism lasts, it is unnatural to expect this antipathy between Hindus and Muslims to give place to unity.

Like the Christians and Muslims in the Turkish Empire, the Hindus and Muslims of India have met as enemies on many fields, and the result of the struggle has often brought them into the relation of conquerors and conquered. Whichever party has triumphed, a great gulf has remained fixed between the two and their enforced political union either under the Moghuls or the British instead of passing over, as in so many other cases, into organic unity, has only accentuated their mutual antipathy. Neither religion nor social code can bridge this gulf. The two faiths are mutually exclusive and whatever harmonies may be forged in the interest of good social behaviour, at their core and centre they are irreconcilable. There seems to be an inherent antagonism between the two which centuries have not been able to dissolve. Notwithstanding the efforts made to bring the creeds

together by reformers like Akbar and Kabir, the ethical realities behind each have still remained, to use a mathematical phrase, which nothing can .alter or make integers capable of having a common denominator. A Hindu can go from Hinduism to Christianity without causing any commotion or shock. But he cannot pass from Hinduism to Islam without causing a communal riot, certainly not without causing qualms. That shows the depth of the antagonism which divides the Hindus from the Musalmans.

If Islam and Hinduism keep Muslims and Hindus apart in the matter of their faith, they also prevent their social assimilation. That Hinduism prohibits intermarriage between Hindus and Muslims is quite well known. This narrow-minded-ness is not the vice of Hinduism only. Islam is equally narrow in its social code. It also prohibits intermarriage between Muslims and Hindus. With these social laws there can be no social assimilation and consequently no socialization of ways, modes and outlooks, no blunting of the edges and no modulation of age-old angularities.

There are other defects in Hinduism and in Islam which are responsible for keeping the sore between Hindus and Muslims open and running. Hinduism is said to divide people and in contrast Islam is said to bind people together. This is only a half truth. For Islam divides as inexorably as it binds. Islam is a close corporation and the distinction that it makes between Muslims and non-Muslims is a very real, very positive and very alienating distinction. The brotherhood of Islam is not the universal brotherhood of man. It is brotherhood of Muslims for Muslims only. There is a fraternity but its benefit is confined to those within that corporation. For those who are outside the corporation, there is nothing but contempt and enmity. The second defeat of Islam is that it is a system of *social* self-government and is incompatible with *local* self-government, because the allegiance of a Muslim does not rest on his domicile in the country which is his but on the faith to which he belongs. To the Muslim *ibi bene ibi patria* is unthinkable. Wherever there is the rule of Islam, there is his own country. In other words, Islam can never allow a true Muslim to adopt India as his motherland and regard a Hindu

as his kith and kin. That is probably the reason why Maulana Mahomed Ali, a great Indian but a true Muslim, preferred to be buried in Jerusalem rather than in India.

The real explanation of the ideological transformation of the Muslim leaders is not to be attributed to any dishonest drift in their opinion. It appears to be the dawn of a new vision pointing to a new destiny symbolized by a new name, Pakistan. The Muslims appear to have started a new worship of a new destiny for the first time. This is really not so. The worship is new because the sun of their new destiny which was so far hidden in the clouds has only now made its appearance in full glow. The magnetism of this new destiny cannot but draw the Muslims towards it. The pull is so great that even men like Mr. Jinnah have been violently shaken and have not been able to resist its force. This destiny spreads itself out in a concrete form over the map of India. No one, who just looks at the map, can miss it. It lies there as though it is deliberately planned by Providence as a separate National State for Muslims. Not only is this new destiny capable of being easily worked out and put in concrete shape but it is also catching because it opens up the possibilities of realizing the Muslim idea of linking up all the Muslim kindred in one Islamic State and thus avert the danger of Muslims in different countries adopting the nationality of the country to which they belong and thereby bring about the disintegration of the Islamic brotherhood.* With the separation of Pakistan from Hindustan, Iran, Iraq, Arabia, Turkey and Egypt are forming a federation of Muslim countries constituting one Islamic State extending from Constantinople down to Lahore. A Musalman must be really very stupid if he is not attracted by the glamour of this new destiny and completely transformed in his view of the place of Muslims in the Indian cosmos.

So obvious is the destiny that it is somewhat surprising that the Muslims should have taken so long to own it up. There is evidence that some of them knew this to be the ultimate destiny of the Muslims as early as 1923. In support of this, reference may be made to the evidence of Khan Saheb Sardar M. Gul Khan who

*Sir Muhammad Iqbal strongly condemned nationalism in Musalmans of any non-Muslim country including Indian Musalmans in the sense of an attachment to the mother country.

appeared as a witness before the North-West Frontier Committee appointed in that year by the Government of India under the chairmanship of Sir Dennis Bray, to report upon the administrative relationship between the Settled Districts of the N.-W.F. Province and the Tribal Area and upon the amalgamation of the Settled Districts with the Punjab. The importance of his evidence was not realized by any member of the Committee except Mr. N. M. Samarth who was the one member who drew pointed attention to it in his Minority Report. The following extracts from his report illuminate a dark corner in the history of the evolution of this new destiny.* Says Mr. Samarth :—

> "There was not before the Committee another witness who could claim to speak with the authority of personal knowledge and experience of not only the North-West Frontier Province and Independent Territory but Baluchistan, Persia and Afghanistan, which this witness could justly lay claim to. It is noteworthy that he appeared before the Committee as a witness in his capacity as 'President, Islamic Anjuman, Dera Ismail Khan'. This witness (Khan Saheb Sardar Muhammad Gul Khan) was asked by me: 'Now suppose the Civil Government of the Frontier Province is so modelled as to be on the same basis as in Sind, then this Province will be part and parcel of the Punjab as Sind is of the Bombay Presidency. What have you to say to it ?' He gave me, in the course of his reply, the following straight answer: 'As far as Islam is concerned and the Mahommedan idea of the League of Nations goes, I am against it'. On this answer, I asked him some further questions to which he gave me frank, outspoken replies without mincing matters. I extract the pertinent portions below:—
>
> 'Q.—The idea at the back of your Anjuman is the Pan-Islamic idea which is that Islam is a League of Nations and as such amalgamating this Province with the Punjab will be detrimental, will be prejudicial, to that idea. That is the dominant idea at the back of those who think with you ? Is it so ?
>
> 'A.—It is so, but I have to add something. Their idea is that the Hindu-Muslim unity will never become a fact, it will never become *a fait accompli,* and they think that this Province should remain separate and a link between Islam and Britannic Commonwealth. In fact, when I am asked what my opinion is—I, as a member of the Anjuman, am expressing this opinion—we would very much rather see the separation of the Hindus and Muhammadans, 23 crores of Hindus to the south and 8 crores of Muslims to the north. Give the whole portion from Raskumari† to Agra to Hindus and from Agra to Peshawar to Muhammadans, I mean

*Report of the North-West Frontier Inquiry Committee, 1924, pp. 122-23.

† This is as in the original. It is probably a misprint for Kanya Kumari.

transmigration from one place to the other. This is an idea of exchange. It is not an idea of annihilation. Bolshevism at present does away with the possession of private property. It nationalizes the whole thing and this is an idea which of course appertains to only exchange. This is of course impracticable. But if it were practicable, we would rather want this than the other.

'Q.—That is the dominant idea which compels you not to have amalgamation with the Punjab ?

'A.—Exactly.

* * * * *

'Q.—When you referred to the Islamic League of Nations, I believe you had the religious side of it more prominently in your mind than the political side ?

'A.—Of course, political. Anjuman is a political thing. Initially of course, anything Muhammadan is religious, but of course Anjuman is a political association.

'Q.—I am not referring to your Anjuman but I am referring to the Musalmans. I want to know what the Musalmans think of this Islamic League of Nations, what have they most prominently in mind, is it the religious side or the political side ?

'A.—Islam, as you know, is both religious and political.

'Q.—Therefore politics and religion are intermingled ?

'A.—Yes, certainly'.

* * * * *

Mr. Samarth used this evidence for the limited purpose of showing that to perpetuate a separate Pathan Province by refusing to amalgamate the N.-W. F. P. with the Punjab was dangerous in view of the Pathan's affiliations with Afghanistan and with other Muslim countries outside India. But this evidence also shows that the idea underlying the scheme of Pakistan had taken birth sometime before 1923.

In 1924 Mr. Mahomed Ali speaking on the resolution on the extension of the Montagu-Chelmsford Reforms to the N.-W. F. Province, which was moved in the session of the Muslim League held in Bombay in that year is said to have suggested* that the Mahomedans of the Frontier Province should have the right of self-determination to choose between an affiliation with India or with Kabul. He also quoted a certain Englishman who had said that if

*For reference see Lala Lajpatrai's Presidential address to the Hindu Maha Sabha session held at Calcutta on 11th April 1925 in the *Indian Quarterly Register,* 1925, Vol. I, p. 379.

a straight line be drawn from Constantinople to Delhi, it will disclose a Mahomedan corridor right up to Shaharanpur. It is possible that Mr. Mahomed Ali knew the whole scheme of Pakistan which came out in the evidence of the witness referred to by Mr. Samarth and in an unguarded moment gave out what the witness had failed to disclose, namely, the ultimate linking of Pakistan to Afghanistan.

Nothing seems to have been said or done by the Muslims about this scheme between 1924 and 1930. The Muslims appear to have buried it and conducted negotiations with the Hindus for safeguards, as distinguished from partition, on the basis of the traditional one-nation theory. But in 1930 when the Round Table Conference was going on, certain Muslims had formed themselves into a committee with headquarters in London for the purpose of getting the R. T. C. to entertain the project of Pakistan. Leaflets and circulars were issued by the committee and sent round to members of the R. T. C. in support of Pakistan. Even then nobody took any interest in it, and the Muslim members of the R. T. C. did not countenance it in any way.*

It is possible that the Muslims in the beginning, thought that this destiny was just a dream incapable of realization. It is possible that later on when they felt that it could be a reality they did not raise any issue about it because they were not sufficiently well organized to compel the British as well as the Hindus to agree to it. It is difficult to explain why the Muslims did not press for Pakistan at the R. T. C. Perhaps they knew that the sheme would offend† the British and as they had to depend upon the British for a decision on the 14 points of dispute between them and the Hindus, the Musalmans, perfect statesmen as they are and knowing full well that politics, as Bismarck said, was always the game of the possible, preferred to wait and not to show their teeth till they had got a decision from the British in their favour on the 14 points of dispute.

* If opposition to one common central government be taken as a principal feature of the scheme of Pakistan, then the only member of the R. T. C. who may be said to have supported it without mentioning it by name was Sir Muhammad Iqbal who expressed the view at the third session of the R. T. C. that there should be no central government for India, that the provinces should be autonomous and independent dominions in direct relationship to the Secretary of State in London.

† It is said that it was privately discussed with the British authorities who were not in favour of it. It is possible that the Muslims did not insist on it for fear of incurring their displeasure.

There is another explanation for this delay in putting forth the scheme of Pakistan. It is far more possible that the Muslim leaders did not until very recently know the philosophical justification for Pakistan. After all, Pakistan is no small move on the Indian political chess-board. It is the biggest move ever taken, for it involves the disruption of the state. Any Mahomedan, if he had ventured to come forward to advocate it, was sure to have been asked what moral and philosophical justification he had in support of so violent a project. The reason why they had not so far discovered what the philosophical justification for Pakistan is, equally understandable. The Muslim leaders were, therefore, speaking of the Musalmans of India as a community or a minority. They never spoke of the Muslims as a nation. The distinction between a community and a nation is rather thin, and even if it is otherwise, it is not so striking in all cases. Every state is more or less a composite state and there is, in most of them, a great diversity of populations, with varying languages, religious codes and social traditions, forming a congeries of loosely associated groups. No state is ever a single society, an inclusive and permeating body of thought and action. Such being the case, a group may mistakenly call itself a community even when it has in it the elements of being a nation. Secondly, as has been pointed out earlier, a people may not be possessed of a national consciousness although there may be present all the elements which go to make a nation.

Again from the point of view of minority rights and safeguards this difference is unimportant. Whether the minority is a community or a nation, it is a minority and the safeguards for the protection of a minor nation cannot be very different from the safeguards necessary for the protection of a minor community. The protection asked for is against the tyranny of the majority, and once the possibility of such a tyranny of the majority over a minority is established, it matters very little whether the minority driven to ask for safeguards is a community or is a nation. Not that there is no distinction between a community and a nation. The difference indeed is very great, it may be summed up by saying that a community, however different from and however opposed to other communities, major or minor, is one with the rest in the

matter of the ultimate destiny of all. A nation, on the other hand, is not only different from other components of the state but it believes in and cherishes a different destiny totally antagonistic to the destiny entertained by other component elements in the state. The difference appears to me so profound that speaking for myself I would not hesitate to adopt it as a test to distinguish a community from a nation. A people who, notwithstanding their differences accept a common destiny for themselves as well as for their opponents, are a community. A people who are not only different from the rest but who refuse to accept for themselves the same destiny which others do, are a nation. It is this acceptance or non-acceptance of a common destiny which alone can explain why the Untouchables, the Christians and the Parsis are in relation to the Hindus only communities and why the Muslims are a nation. Thus, from the point of view of harmony in the body politic the difference is in the most vital character as the difference is one of ultimate destiny. The dynamic character of this difference is undeniable. If it persists, it cannot but have the effect of rending the State in fragments. But so far as safeguards are concerned, there cannot be any difference between a nation and a community. A community is entitled to claim the same rights and safeguards as a nation can.

The delay in discovering the philosophical justification for Pakistan is due to the fact that the Muslim leaders had become habituated to speaking of Muslims as a community and as a minority. The use of this terminology took them in a false direction and brought them to a dead end. As they acknowledged themselves to be a minority community, they felt that there was nothing else open to them except to ask for safeguards which they did and with which they concerned themselves for practically half a century. If it had struck them that they need not stop with acknowledging themselves to be a minority, but that they could proceed further to distinguish a minority which is a community from a minority which is a nation, they might have been led on to the way to discover this philosophical justification for Pakistan. In that case, Pakistan would, in all probability, have come much earlier than it has done.

Be that as it may, the fact remains that the Muslims have undergone a complete transformation and that the transformation is brought about not by any criminal inducement but by the discovery of what is their true and ultimate destiny. To some, this suddenness of the transformation may give a shock. But those who have studied the course of Hindu-Muslim politics for the last twenty years, cannot but admit feeling that this transformation, this parting of the two, was on the way. For the course of Hindu-Muslim politics has been marked by a tragic and ominous parallelism. The Hindus and Muslims have trodden parallel paths. No doubt, they went in the same direction. But they never travelled the same road. In 1885, the Hindus started the Congress to vindicate the political rights of Indians as against the British. The Muslims refused to be lured by the Hindus into joining the Congress. Between 1885 and 1906 the Muslims kept out of this stream of Hindu politics. In 1906 they felt the necessity for the Muslim community taking part in political activity. Even then they dug their own separate channel for the flow of Muslim political life. The flow was to be controlled by a separate political organization called the Muslim League. Ever since the formation of the Muslim League the waters of Muslim politics have flown in this separate channel. Except on rare occasions, the Congress and the League have lived apart and have worked apart. Their aims and objects have not always been the same. They have even avoided holding their annual sessions at one and the same place, lest the shadow of one should fall upon the other. It is not that the League and the Congress have not met. The two have met but only for negotiations, a few times with success and most times without success. They met in 1916 at Lucknow and their efforts were crowned with success. In 1925 they met but without success. In 1928 a section of the Muslims were prepared to meet the Congress. Another section refused to meet. It rather preferred to depend upon the British. The point is, they have met but have never merged. Only during the Khilafat agitation did the waters of the two channels leave their appointed course and flow as one stream in one channel. It was believed that nothing would Separate the waters which God was pleased to join. But that hope was belied. It was found that there was something in the composition of the two waters which would compel their

separation. Within a few years of their confluence and as soon as the substance of the Khilafat cause vanished—the water from the one stream reacted violently to the presence of the other, as one does to a foreign substance entering one's body. Each began to show a tendency to throw out and to separate from the other. The result was that when the waters did separate, they did with such impatient velocity and determined violence—if one can use such language in speaking of water—against each other that thereafter they have been flowing in channels far deeper and far more distant from each other than those existing before. Indeed, the velocity and violence with which the two waters have burst out from the pool in which they had temporarily gathered have altered the direction in which they were flowing. At one time their direction was parallel. Now they are opposite. One is flowing towards the east as before. The other has started to flow in the opposite direction, towards the west. Apart from any possible objection to the particular figure of speech, I am sure, it cannot be said that this is a wrong reading of the history of Hindu-Muslim politics. If one bears this parallelism in mind, he will know that there is nothing sudden about the transformation. For if the transformation is a revolution, the parallelism in Hindu-Muslim politics marks the evolution of that revolution. That Muslim politics should have run a parallel course and should never have merged in the Hindu current of politics is a strange fact of modern Indian history. In so segregating themselves the Muslims were influenced by some mysterious feeling, the source of which they could not define and guided by a hidden hand which they could not see but which was all the same directing them to keep apart from Hindus. This mysterious feeling and this hidden hand was no other than their pre-appointed destiny, symbolized by Pakistan, which, unknown to them, was working within them. Thus viewed, there is nothing new or nothing sudden in the idea of Pakistan. The only thing that has happened is that, what was indistinct appears now in full glow, and what was nameless has taken a name.

VI

Summing up the whole discussion, it appears that an integral India is incompatible with an independent India or even with

India as a dominion. On the footing that India is to be one integral whole there is a frustration of all her hopes of freedom writ large on her future. There is frustration, if the national destiny is conceived in terms of independence, because the Hindus will not follow that path. They have reason not to follow it. They fear that that way lies the establishment of the domination of the Muslims over the Hindus. The Hindus see that the Muslim move for independence is not innocent. It is to be used only to bring the Hindus out of the protecting shield of the British Empire in the open and then by alliance with the neighbouring Muslim countries and by their aid subjugate them. For the Muslims independence is not the end. It is only a means to establish Muslim Raj. There is frustration if the national destiny is conceived of in terms of Dominion Status because the Muslims will not agree to abide by it. They fear that under Dominion Status, the Hindus will establish Hindu Raj over them by taking benefit of the principle of one man one vote and one vote one value, and that however much the benefit of the principle is curtailed by weightage to Muslims, the result cannot fail to be a government of the Hindus, by the Hindus and therefore for the Hindus. Complete frustration of her destiny therefore seems to be the fate of India if it is insisted that India shall remain as one integral whole.

It is a question to be considered whether integral India is an ideal worth fighting for. In the first place, even if India remained as one integral whole it will never be an organic whole. India may in name continue to be known as one country, but in reality it will be two separate countries—Pakistan and Hindustan—joined together by a forced and artificial union. This will be specially so under the stress of the two-nation theory. As it is, the idea of unity has had little hold on the Indian world of fact and reality, little charm for the common Indian, Hindu or Muslim, whose vision is bounded by the valley in which he lives. But it did appeal to the imaginative and unsophisticated minds on both sides. The two-nation theory will not leave room even for the growth of that sentimental desire for unity. The spread of that virus of dualism in the body politic must some day create a mentality which is sure to call for a life and death struggle for the dissolution of this forced union. If by reason of

some superior force the dissolution does not take place, one thing is sure to happen to India—namely, that this continued union will go on sapping her vitality, loosening its cohesion, weakening its hold on the love and faith of her people and preventing the use, if not retarding the growth, of its moral and material resources. India will be an anaemic and sickly state, ineffective, a living corpse, dead though not buried.

The second disadvantage of this forced union will be the necessity for finding a basis for Hindu-Muslim settlement. How difficult it is to reach a settlement no one needs to be told. Short of dividing India into Pakistan and Hindustan what more can be offered—without injury to the other interests in the country,—than what has already been conceded with a view to bring about a settlement, it is difficult to conceive. But whatever the difficulties, it cannot be gainsaid that if this forced union continues, there can be no political advance for India unless it is accompanied by communal settlement. Indeed, a communal settlement—rather an international settlement for now and hereafter the Hindus and the Muslims must be treated as two nations—will remain under this scheme of forced union a condition precedent for every inch of political progress.

There will be a third disadvantage of this forced political union. It cannot eliminate the presence of a third party. In the first place the constitution, if one comes in existence, will be a federation of mutually suspicious and unfriendly states. They will of their own accord want the presence of a third party to appeal to in cases of dispute. For their suspicious and unfriendly relationship towards each other will come in the way of the two nations ever reaching satisfaction by the method of negotiation. India will not have in future even that unity of opposition to the British which used to gladden the hearts of so many in the past. For the two nations will be more opposed to each other than before, ever to become united against the British. In the second place, the basis of the constitution will be the settlement between the Hindus and the Muslims and for the successful working of such a constitution the presence of a third party, and be it noted, with sufficient armed force, will be necessary to see that the settlement is not broken.

All this, of course, means the frustration of the political destiny, which both Hindus and Muslims profess to cherish and the early

consummation of which they so devoutly wish. What else, however, can be expected if two warring nations are locked in the bosom of one country and one constitution ?

Compare with this dark vista, the vista that opens out if India is divided into Pakistan and Hindustan. The partition opens the way to a fulfilment of the destiny each may fix for itself. Muslims will be free to choose for their Pakistan independence or dominion status, whatever they think good for themselves. Hindus will be free to choose for their Hindustan independence or dominion status, whatever they may think wise for their condition. The Muslims will be freed from the nightmare of Hindu Raj. Thus the path of political progress becomes smooth for both. The fear of the object being frustrated gives place to the hope of fulfilment. Communal settlement must remain a necessary condition precedent, if India, as one integral whole, desires to make any political advance. But Pakistan and Hindustan are free from the rigorous trammels of such a condition precedent and even if a communal settlement with minorities remained to be a condition precedent it will not be difficult to fulfil. The path of each is cleared of this obstacle. There is another advantage of Pakistan which must be mentioned. It is generally admitted that there does exist a kind of antagonism between Hindus and Muslims which if not dissolved will prove ruinous to the peace and progress of India. But, it is not realized that the mischief is caused not so much by the existence of mutual antagonism as by the existence of a common theatre for its display. It is the common theatre which calls this antagonism into action. It cannot but be so. When the two are called to participate in acts of common concern what else can happen except a display of that antagonism which is inherent in them. Now the scheme of Pakistan has this advantage, namely, that, it leaves no theatre for the play of that social antagonism which is the cause of disaffection among the Hindus and the Muslims. There is no fear of Hindustan and Pakistan suffering from that disturbance of peace and tranquillity which has torn and shattered India for so many years. Last, but by no means least, is the elimination of the necessity of a third party to maintain peace. Freed from the trammels which one imposes upon the other by reason of this forced union, Pakistan and

Hindustan can each grow into a strong stable State with no fear of disruption from within. As two separate entities, they can reach their respective destinies which as parts of one whole they never can.

Those who want an integral India must note what Mr. Mahomed Ali as President of the Congress in 1923 said. Speaking about the unity among Indians, Mr. Mahomed Ali said :—

> "Unless some new force other than the misleading unity of opposition unites this vast continent of India, it will remain a geographical misnomer."

Is there any new force which remains to be harnessed ? All other forces having failed, the Congress, after it became the Government of the day, saw a new force in the plan of *mass contact*. It was intended to produce political unity between Hindus and Muslim masses by ignoring or circumventing the leaders of the Muslims. In its essence, it was the plan of the British Conservative Party to buy Labour with "Tory gold". The plan was as mischievous as it was futile. The Congress forgot that there are things so precious that no owner, who knows their value, will part with and any attempt to cheat him to part with them is sure to cause resentment and bitterness. Political power is the most precious thing in the life of a community especially if its position is constantly being challenged and the community is required to maintain it by meeting the challenge. Political power is the only means by which it can sustain its position. To attempt to make it part with it by false propaganda, by misrepresentation or by the lure of office or of gold is equivalent to disarming the community, to silencing its guns and to making it ineffective and servile. It may be a way of producing unity. But the way is despicable for it means supressing the opposition by a false and unfair method. It cannot produce any unity. It can only create exasperation, bitterness and hostility.*

*So sober a person as Sir Abdul Rahim, in his presidential address to the session of the Muslim League held in Aligarh on 30th December 1925, gave expression to this bitterness caused by Hindu tactics wherein he "deplored the attacks on the Muslim community in the form of Shuddhi, Sangathan and Hindu Maha Sabha movements and activities led by politicians like Lala Lajpat Rai and Swami Shradhanand" and said "Some of the Hindu leaders had spoken publicly of driving out Muslims from India as Spaniards expelled Moors from Spain. Musalmans would be too big a mouthful for their Hindu friends to swallow. Thanks to the artificial conditions under which they lived they had to admit that Hindus were in a position of great advantage and even the English had learned to dread their venomous propaganda. Hindus were equally adept in the art of belittling in every way possible the best Musalmans in public positions excepting only those who had subscribed to the Hindu political creed. They had in fact by their provocative and aggressive conduct made it clearer than ever to Muslims that the latter could not entrust their fate to Hindus and must adopt every possible measure of self-defence."—*All-India Register,* 1925, Vol. II, p. 356.

This is precisely what the *mass cantact* plan of the Congress did. For there can be no doubt that this mad plan of mass contact has had a great deal to do with the emergence of Pakistan.

It might be said that it was unfortunate that mass contact was conceived and employed as a political lever and that it might have been used as a force for social unity with greater success. But could it have succeeded in breaking the social wall which divides the Hindus and the Muslims ? It cannot but be matter of the deepest regreat to every Indian that there is no social tie to draw them together. There is no inter-dining and no inter-marriage between the two. Can they be introduced ? Their festivals are different. Can the Hindus be induced to adopt them or join in them ? Their religious notions are not only divergent but repugnant to each other so that on a religious platform, the entry of the one means the exit of the other. Their cultures are different; their literatures and their histories are different. They are not only different, but so distasteful to each other, that they are sure to cause aversion and nausea. Can anyone make them drink from the same fount of these perennial sources of life ? No common meeting ground exists. None can be cultivated. There is not even sufficient physical contact, let alone their sharing a common cultural and emotional life. They do not live together. Hindus and Muslims live in separate worlds of their own. Hindus live in villages and Muslims in towns in those provinces where the Hindus are in a majority. Muslims live in villages and Hindus in towns in those provinces where the Muslims are in a majority. Wherever they live, they live apart. Every town, every village has its Hindu quarters and Muslim quarters, which are quite separae from each other. There is no common continuous cycle of participation. They meet to trade or they meet to murder. They do not meet to befriend one another. When there is no call to trade or when there is no call to murder, they cease to meet. When there is peace, the Hindu quarters and the Muslim quarters appear like two alien settlements. The moment war is declared, the settlements become armed camps. The periods of peace and the periods of war are brief. But the interval is one of continuous tension. What can mass contact do against such

barriers ? It cannot even get over on the other side of the barrier, much less can it produce organic unity.

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PART V

Different people have thought differently of what has been said in the foregoing pages on the question of Pakistan. One set of people have alleged that I have only stated the two sides of the issue and the problems arising out of it but have not expressed my personal views on either of them. This is not correct. Anyone who has read the preceding parts will have to admit that I have expressed my views in quite positive terms, if not on all, certainly on many questions. In particular I may refer to two of the most important ones in the controversy, namely, Are the Muslims a Nation, and Have they a case for Pakistan. There are others whose line of criticism is of a different sort. They do not complain that I have failed to express my personal views. What they complain is that in coming to my conclusions I have relied on propositions as though they were absolute in their application and have admitted no exception. I am told, "Have you not stated your conclusions in too general terms ? Is not a general proposition subject to conditions and limitations ? Have you not disposed of certain complicated problems in a brief and cavalier fashion ? Have you shown how Pakistan can be brought into existence in a just and peaceful manner ?" Even this criticism is not altogether correct. It is not right to say that I have omitted to deal with these points. It may be that my treatment of them is brief, and scattered. However, I am prepared to admit that there is much force in this criticism and I am in duty bound to make good the default. This part is therefore intended and is devoted to the consideration of the following subjects :—

1. What are the limiting considerations which affect the Muslim case for Pakistan ?
2. What are the problems of Pakistan? and what is their solution?
3. Who has the authority to decide the issue of Pakistan?

blank

CHAPTER XIII

MUST THERE BE PAKISTAN ?

I

With all that has gone before, the sceptic, the nationalist, the conservative and the old-world Indian will not fail to ask "Must there be Pakistan ?" No one can make light of such an attitude. For the problem of Pakistan is indeed very grave and it must be admitted that the question is not only a relevant and fair one to be put to the Muslims and to their protagonists but it is also important. Its importance lies in the fact that the limitations on the case for Pakistan are so considerable in their force that they can never be easily brushed aside. A mere statement of these limitations should be enough to make one feel the force they have. It is writ large on the very face of them. That being so, the burden of proof on the Muslims for establishing an imperative need in favour of Pakistan is very heavy. Indeed the issue of Pakistan or to put it plainly of partitioning India, is of such a grave character that the Muslims will not only have to discharge this burden of proof but they will have to adduce evidence of such a character as to satisfy the conscience of an international tribunal before they can win their case. Let us see how the case for Pakistan stands in the light of these limitations.

II

Must there be Pakistan because a good part of the Muslim population of India happens to be concentrated in certain defined areas which can be easily severed from the rest of India ? Muslim population is admittedly concentrated in certain well defined areas and it may be that these areas are severable. But what of that ? In considering this question one must never lose sight of the fundamental fact that nature has made India one single geographical unit. Indians are of course quarrelling and no one can prophesy when they will stop quarrelling. But granting the fact, what does

it establish ? Only that Indians are a quarrelsome people. It does not destroy the fact that India is a single geographical unit. Her unity is as ancient as Nature. Within this geographic unit and covering the whole of it there has been a cultural unity from time immemorial. This cultural unity has defied political and racial divisions. And at any rate for the last hundred and fifty years all institutions—cultural, political, economic, legal and administrative—have been working on a single, uniform spring of action. In any discussion of Pakistan the fact cannot be lost sight of, namely, that the starting point, if not the governing factor, is the fundamental unity of India. For it is necessary to grasp the fact that there are really two cases of partition which must be clearly distinguished. There is a case in which the starting point is a preexisting state of separation so that partition is only a dissolution of parts which were once separate and which were subsequently joined together. This case is quite different from another in which the starting point at all times is a state of unity. Consequently partition in such a case is the severance of a territory which has been one single whole into separate parts. Where the starting point is not unity of territory, i.e., where there was disunity before there was unity, partition—which is only a return to the original—may not give a mental shock. But in India the starting point is unity. Why destroy its unity now, simply because some Muslims are dissatisfied ? Why tear it when the unit is one single whole from historical times ?".

III

Must there be Pakistan because there is communal antagonism between the Hindus and the Muslims ? That the communal antagonism exists nobody can deny. The question however is, is the antagonism such that there is no will to live together in one country and under one constitution ? Surely that will to live together was not absent till 1937. During the formulation of the provisions of the Government of India Act, 1935, both Hindus and Musalmans accepted the view that they must live together under one constitution and in one country and participated in the discussions that preceded the passing of the Act. And what was the state

of communal feeling in India between—say 1920 and 1935 ? As has been recorded in the preceding pages, the history of India from 1920 upto 1935 has been one long tale of communal conflict in which the loss of life and loss of property had reached a most shameful limit. Never was the communal situation so acute as it was between this period of 15 years preceding the passing of the Government of India Act, 1935, and yet this long tale of antagonism did not prevent the Hindus and the Musalmans from agreeing to live in a single country and under a single constitution. Why make so much of communal antagonism now ?

Is India the only country where there is communal antagonism ? What about Canada ? Consider what Mr. Alexander Brady* has to say on the relations between the English and the French in Canada:—

> "Of the four original provinces, three, Nova Scotia, New Brunswick and Ontario had populations substantially of the same Anglo-Saxon stock and traditions. Originally a by-product of the American Revolution, these colonies were established by the 50,000 United Empire Loyalists who trekked north from persecution and cut their settlements out of the wilderness. Previous to the American Revolution, Nova Scotia had received a goodly number of Scotch and American settlers, and in all the colonies after the Revolution the Loyalist settlements were reinforced by immigrants from Great Britain and Ireland."
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> "Very different was the province of Quebec. French Canada in 1867 was a cultural unit by itself, divorced from the British communities, by the barriers of race, language and religion. Its life ran in a different mould. Stirred by a Catholic faith mediaeval in its intensity, it viewed with scant sympathy the mingled Puritanism and other-worldliness of a Protestantism largely Calvinistic. The religious faiths of the two peoples were indeed poles apart. In social, if not always in religious, outlook, English Protestantism tended towards democracy, realism and modernism : the Catholicism of the French leaned to paternalism, idealism and a reverence for the past."
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> "What French Canada was in 1867 it remains substantially today. It still cherishes beliefs, customs, and institutions which have little hold on the English provinces. It has distinctive thought and enthusiasm, and its own important values. Its attitude, for example, on marriage and divorce is in conflict with the dominant view, not merely of the rest of Canada, but of the remainder of Anglo-Saxon North America."

* Canada—Chapter L

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"The infrequency of intercourse between the two peoples is illustrated in Canada's largest city, Montreal. About 63 per cent of the population is French and 24 per cent British. Here, if anywhere, is ample scope for association, but in fact they remain apart and distinct except where business and politics force them together. They have their own residential sections; their own shopping centres, and if either is more notable for racial reserve, it is the English."

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"The English-speaking residents of Montreal, as a whole, have made no effort to know their French-speaking fellow citizens, to learn their language, to understand their traditions and their aspirations, to observe with a keen eye and a sympathetic mind their qualities and their defects. The separation of the two peoples is encouraged by the barrier of language. There is a wealth of significance in the fact revealed by the census of 1921; viz., that about 50 per cent, of the Canadians of French origin were unable to speak English and 95 per cent, of those of British origin were unable to speak French. Even in Montreal, 70 per cent of the British could not speak French and 34 per cent, of the French could not speak English. The absence of a common language maintains a chasm between the two nationalities and prevents fusion.

"The significance of Confederation is that it provided an instrument of government which enabled the French, while retaining their distinct national life, to become happy partners with the British and attain a Canadian super-nationality, embracing a loyalty extending beyond their own group to that of the Dominion as a whole."

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"While the federal system successfully opened the path for a wider nationality in Canada, the co-operation which it sponsored has at times been subjected to severe strain by the violent clash of opinion between the French and the British. The super-nationality has indeed often been reduced to a shadow."

What about South Africa ? Let those who do not know the relationship between the Boers and the British ponder over what Mr. E.H. Brooks* has to say :—

"How far is South African nationalism common to both the white races of South Africa ? There is, of course, a very real and intense Afrikander nationalism ; but it is, generally speaking, a sentiment confined to one of the white races, and characterised, significantly enough, by a love of the Afrikans language, the tongue of the early settlers from Holland, as modified slightly by Huguenot and German influence, and greatly by the passage of time. Afrikander nationalism has a tendency to be exclusive, and has little place for the man who, while in every way a devoted son of South Africa, is wholly or mainly English-speaking."

* *The Political Future of South Africa,* 1927.

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"Is there a South African nation today ?

"There are certain factors in South African life which militate against an affirmative answer."

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"Among English-speaking South Africans there are found many tendencies inclined to hinder the cause of national unity. With all the great virtues of the race they have its one cardinal defect—a lack of imagination, a difficulty in putting one's self in the other man's place. Nowhere does this come out more clearly than in the language question. Until recently comparatively few English-speaking South Africans have studied Afrikans except as a business proposition or (as in the Civil Service) more or less under compulsion; and fewer still have used it conversationally. Many have treated it with open contempt—a contempt in inverse proportion to their knowledge of it—and the majority with mere tolerance, exasperated or amused according to temperament."

Another witness on the same point may be heard. He is Mr. Manfred Nathan.* This is what he has to say on the relations between the Boers and the British in South Africa :—

"They are also, in the main, both of them Protestant peoples—although this is not of too great importance nowadays, when differences of religion do not count for much. They engage freely in commercial transactions with each other."

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"Nevertheless it cannot with truth be said that hitherto there has been absolutely free social intercourse between these two great sections of the white population. It has been suggested that this is partly due to the fact that in the large urban centres the population is predominantly English, and that the townsfolk know little of the people in the country and their ways of life. But even in the country towns, though there is, as a rule, much greater friendliness, and much hospitality shown by Boers to visitors, there is not much social intercourse between the two sections apart from necessary business or professional relationship, and such social functions, charitable or public, as require co-operation."

Obviously India is not the only place where there is communal antagonism. If communal antagonism does not come in the way of the French in Canada living in political unity with the English, if it does not come in the way of the English in South Africa living in political unity with the Dutch, if it does not come in the way of

* *The South African Commonwealth,* p. 365.

the French and the Italians in Switzerland living in political unity with the Germans why then should it be impossible for the Hindus and the Muslims to agree to live together under one constitution in India ?

IV

Must there be Pakistan because the Muslims have lost faith in the Congress majority ? As reasons for the loss of faith Muslims cite some instances of tyranny and oppression practised by the Hindus and connived at by the Congress Ministries during the two years and three months the Congress was in office. Unfortunately Mr. Jinnah did not persist in his demand for a Royal Commmission to inquire into these grievances. If he had done it we could have known what truth there was in these complaints. A perusal of these instances, as given in the reports* of the Muslim League Committees, leaves upon the reader the impression that although there may be some truth in the allegations there is a great deal which is pure exaggeration. The Congress Ministries concerned have issued statements repudiating the charges. It may be that the Congress during the two years and three months that it was in office did not show statesmanship, did not inspire confidence in the minorities, nay tried to suppress them. But can it be a reason for partitioning India ? Is it not possible to hope that the voters who supported the Congress last time will grow wiser and not support the Congress ? Or may it not be that if the Congress returns to office it will profit by the mistakes it has made, revise its mischievous policy and thereby allay the fear created by its past conduct ?

V

Must there be Pakistan because the Musalmans are a nation ? It is a pity that Mr. Jinnah should have become a votary and champion of Muslim Nationalism at a time when the whole world is decrying against the evils of nationalism and is seeking refuge in some kind

* On this point, see Report of the Inquiry Committee appointed by the All-India Muslim League to inquire into Muslim grievances in Congress Provinces popularly known as Pirpur Report. Also Report of the Bihar Provincial Muslim League to inquire into some grievances of Muslims in Bihar and the Press Note issued by the Information Officer, Government of Bihar, replying to some of the allegations contained in these reports published in *Amrita Bazar Patrika* of 13-3-39.

of international organization. Mr. Jinnah is so obsessed with his new-found faith in Muslim Nationalism that he is not prepared to see that there is a distinction between a society, parts of which are disintegrated, and a society parts of which have become only loose, which no sane man can ignore. When a society is disintegrating—and the two nation theory is a positive disintegration of society and country—it is evidence of the fact that there do not exist what Carlyle calls "organic filaments"—*i.e.,* the vital forces which work to bind together the parts that are cut asunder. In such cases disintegration can only be regretted. It cannot be prevented. Where, however, such organic filaments do exist, it is a crime to overlook them and deliberately force the disintegration of society and country as the Muslims seem to be doing. If the Musalmans want to be a different nation it is not because they have been but because they want to be. There is much in the Musalmans which, if they wish, can roll them into a nation. But isn't there enough that is common to both Hindus and Musalmans, which if developed, is capable of moulding them into one people ? Nobody can deny that there are many modes, manners, rites and customs which are common to both. Nobody can deny that there are rites, customs and usages based on religion which do divide Hindus and Musalmans. The question is, which of these should be emphasized. If the emphasis is laid on things that are common, there need be no two nations in India. If the emphasis is laid on points of difference, it will no doubt give rise to two nations. The view that seems to guide Mr. Jinnah is that Indians are only a people and that they can never be a nation. This follows the line of British writers who make it a point of speaking of Indians as the people of India and avoid speaking of the Indian nation. Granted Indians are not a nation, that they are only a people. What of that ? History records that before the rise of nations as great corporate personalities, there were only peoples. There is nothing to be ashamed if Indians are no more than a people. Nor is there any cause for despair that the people of India—if they wish—will not become one nation. For, as Disraeli said, a nation is a work of art and a work of time. If the Hindus and Musalmans agree to emphasize the things that bind them and forget those that separate them there is no reason why in

course of time they should not grow into a nation. It may be that their nationalism may not be quite so integrated as that of the French or the Germans. But they can easily produce a common state of mind on common questions which is the sum total which the spirit of nationalism helps to produce and for which it is so much prized. Is it right for the Muslim League to emphasize only differences and ignore altogether the forces that bind ? Let it not be forgotten that if two nations come into being it will not be because it is predestined. It will be the result of deliberate design.

The Musalmans of India as I have said are not as yet a nation in the *de jure* or *de facto* sense of the term and all that can be said is that they have in them the elements necessary to make them a nation. But granting that the Musalmans of India are a nation, is India the only country where there are going to be two nations ? What about Canada ? Everybody knows that there are in Canada two nations, the English and the French. Are there not two nations in South Africa, the English and the Dutch ? What about Switzerland ? Who does not know that there are three nations living in Switzerland, the Germans, the French and the Italians ? Have the French in Canada demanded partition because thay are a separate nation ? Do the English claim partition of South Africa because they are a distinct nation from the Boers ? Has anybody ever heard that the Germans, the French and the Italians have ever agitated for the fragmentation of Switzerland because they are all different nations ? Have the Germans, the French and the Italians ever felt that they would lose their distinctive cultures if they lived as citizens of one country and under one constitution ? On the contrary, all these distinct nations have been content to live together in one country under one constitution without fear of losing their nationality and their distinctive cultures. Neither have the French in Canada ceased to be French by living with the English, nor have the English ceased to be English by living with the Boers in South Africa. The Germans, the French and the Italians have remained distinct nations notwithstanding their common allegiance to a common country and a common constitution. The case of Switzerland is worthy of note. It is surrounded by countries, the nationalities of which have a close religious and racial affinity with the nationalities of

Switzerland. Notwithstanding these affinities the nationalities in Switzerland have been Swiss first and Germans, Italians and French afterwards.

Given the experience of the French in Canada, the English in South Africa and the French and the Italians in Switzerland, the questions that arise are, why should it be otherwise in India ? Assuming that the Hindus and the Muslims split into two nations, why cannot they live in one country and under one constitution ? Why should the emergence of the two-nation theory make partition necessary ? Why should the Musalmans be afraid of losing their nationality and national culture by living with the Hindus ? If the Muslims insist on separation, the cynic may well conclude that there is so much that is common between the Hindus and the Musalmans that the Muslim leaders are afraid that unless there is partition whatever little distinctive Islamic culture is left with the Musalmans will eventually vanish by continued social contact with the Hindus with the result that in the end instead of two nations there will grow up in India one nation. If the Muslim nationalism is so thin then the motive for partition is artificial and the case for Pakistan loses its very basis.

VI

Must there be Pakistan because otherwise Swaraj will be a Hindu Raj ? The Musalmans are so easily carried away by this cry that it is necessary to expose the fallacies underlying.

In the first place, is the Muslim objection to Hindu Raj a conscientious objection or is it a political objection ? If it is a conscientious objection all one can say is that it is a very strange sort of conscience. There are really millions of Musalmans in India who are living under unbridled and uncontrolled Hindu Raj of Hindu Princes and no objection to it has been raised by the Muslims or the Muslim League. The Muslims had once a conscientious objection to the British Raj. Today not only have they no objection to it but they are the greatest supporters of it. That there should be no objection to British Raj or to undiluted Hindu Raj of a Hindu Prince but that there should be objection to Swaraj for British India on the ground that it is Hindu Raj as though it was not subjected to checks and balances is an attitude the logic of which it is difficult to follow.

The political objections to Hindu Raj rest on various grounds. The first ground is that Hindu society is not a democratic society. True, it is not. It may not be right to ask whether the Muslims have taken any part in the various movements for reforming Hindu society as distinguished from proselytising. But it is right to ask if the Musalmans are the only sufferers from the evils that admittedly result from the undemocratic character of Hindu society. Are not the millions of Shudras and non-Brahmins or millions of the Untouchables, suffering the worst consequences of the undemocratic character of Hindu society ? Who benefits from education, from public service and from political reforms except the Hindu governing class—composed of the higher castes of the Hindus—which form not even 10 per cent. of the total Hindu population ? Has not the governing class of the Hindus, which controls Hindu politics, shown more regard for safeguarding the rights and interests of the Musalmans than they have for safeguarding the rights and interests of the Shudras and the Untouchables ? Is not Mr. Gandhi, who is determined to oppose any political concession to the Untouchables, ready to sign a blank cheque in favour of the Muslims ? Indeed, the Hindu governing class seems to be far more ready to share power with the Muslims than it is to share power with the Shudras and the Untouchables. Surely, the Muslims have the least ground to complain of the undemocratic character of Hindu society.

Another ground on which the Muslim objection to Hindu Raj rests is that the Hindus are a majority community and the Musalmans are a minority community. True. But is India the only country where such a situation exists ? Let us compare the conditions in India with the conditions in Canada, South Africa and Switzerland. First, take the distribution of population. In Canada* out of a total population of 10,376,786 only 2,927,990 are French. In South Africa† the Dutch number 1,120,770 and the English are only 783,071. In Switzerland‡ out of the total population of 4,066,400 the Germans are 2,924,313, the French 831,097 and the Italians 242,034.

* *Canada Year Book,* 1936.

† *South Africa Year Book,* 1941.

‡ *Statesman's Year Book,* 1941.

This shows that the smaller nationalities have no fear of being placed under the Raj of a major community. Such a notion seems to be quite foreign to them. Why is this so ? Is it because there is no possibility of the major nationality establishing its supremacy in those centres of power and authority, namely the Legislature and in the Executive ? Quite the contrary. Unfortunately no figures are available to show the actual extent of representation which the different major and minor nationalities have in Switzerland, Canada and South Africa. That is because there is no communal reservation of seats such as is found in India. Each community is left to win in a general contest what number of seats it can. But it is quite easy to work out the probable number of seats which each nationality can obtain on the basis of the ratio of its population to the total seats in the Legislature. Proceeding on this basis what do we find ? In Switzerland the total representatives in the Lower House is 187. Out of them the German population has a possibility of winning 138, French 42 and Italians only 7 seats. In South Africa out of the total of 153, there is a possibility of the English gaining 62, and the Dutch 94 seats. In Canada the total is 245. Of these the French* have only 65. On this basis it is quite clear that in all these countries there is a possibility of the major nationality establishing its supremacy over the minor nationalities. Indeed, one may go so far as to say that speaking *de jure* and as a mere matter of form in Canada the French are living under the British Raj, the English in South Africa under the Dutch Raj, and the Italians and French in Switzerland under the German Raj. But what is the position *de facto* ? Have Frenchmen in Canada raised a cry that they will not live under British Raj ? Have Englishmen in South Africa raised a cry that they will not live under Dutch Raj ? Have the French and Italians in Switzerland any objection to living under the German Raj ? Why should then the Muslims raise this cry of Hindu Raj ?

Is it proposed that the Hindu Raj should be the rule of a naked communal majority ? Are not the Musalmans granted safeguards against the possible tyranny of the Hindu majority ? Are not the safeguards given to the Musalmans of India wider and better than the safeguards which have been given to the French in Canada, to

* That is for the Province of Quebec.

the English in South Africa and to the French and the Italians in Switzerland? To take only one item from the list of safeguards. Haven't the Musalmans got an enormous degree of weightage in representation in the Legislature ? Is weightage known in Canada, South Africa or Switzerland ? And what is the effect of this weightage to Muslims ? Is it not to reduce the Hindu majority in the Legislature? What is the degree of reduction? Confining ourselves to British India and taking account only of the representation granted to the territorial constituencies, Hindu and Muslim, in the Lower House in the Central Legislature under the Government of India Act, 1935, it is clear that out of a total of 187, the Hindus have 105 seats and the Muslims have 82 seats. Given these figures one is forced to ask where is the fear of the Hindu Raj ?

If Hindu Raj does become a fact, it will, no doubt, be the greatest calamity for this country. No matter what the Hindus say, Hinduism is a menace to liberty, equality and fraternity. On that account it is incompatible with democracy. Hindu Raj must be prevented at any cost. But is Pakistan the true remedy against it ? What makes communal Raj possible is a marked disproportion in the relative strength of the various communities living in a country. As pointed out above, this disproportion is not more marked in India than it is in Canada, South Africa and Switzerland. Nonetheless there is no British Raj in Canada, no Dutch Raj in- South Africa, and no German Raj in Switzerland. How have the French, the English and the Italians succeeded in preventing the Raj of the majority community being established in their country ? Surely not by partition : What is their method ? Their method is to put a ban on communal parties in politics. No community in Canada, South Africa or Switzerland ever thinks of starting a separate communal party. What is important to note is that it is the minority nations which have taken the lead in opposing the formation of a communal party. For they know that if they form a communal political party the major community will also form a communal party and the majority community will thereby find it easy to establish its communal Raj. It is a vicious method of self-protection. It is because the minority nations are fully aware how they will be hoisted on their own petard that they have opposed the formation of communal political parties.

Have the Muslims thought of this method of avoiding Hindu Raj. Have they considered how easy it is to avoid it ? Have they considered how futile and harmful the present policy of the League is ? The Muslims are howling against the Hindu Maha Sabha and its slogan of Hindudom and Hindu Raj. But who is responsible for this ? Hindu Maha Sabha and Hindu Raj are the inescapable nemesis which the Musalmans have brought upon themselves by having a Muslim League. It is action and counter-action. One gives rise to the other. Not partition, but the abolition of the Muslim League and the formation of a mixed party of Hindus and Muslims is the only effective way of burying the ghost of Hindu Raj. It is, of course, not possible for Muslims and other minority parties to join the Congress or the Hindu Maha Sabha so long as the disagreement on the question of constitutional safeguards continues. But this question will be settled, is bound to be settled and there is every hope that the settlement will result in securing to the Muslims and other minorities the safeguards they need. Once this consummation, which we so devoutly wish, takes place nothing can stand in the way of a party re-alignment, of the Congress and the Maha Sabha breaking up and of Hindus and Musalmans forming mixed political parties based on an agreed programme of social and economic regeneration, and thereby avoid the danger of both Hindu Raj or Muslim Raj becoming a fact. Nor should the formation of a mixed party of Hindus and Muslims be difficult in India. There are many lower orders in the Hindu society whose economic, political and social needs are the same as those of the majority of the Muslims and they would be far more ready to make a common cause with the Muslims for achieving common ends than they would with the high caste of Hindus who have denied and deprived them of ordinary human rights for centuries. To pursue such a course cannot be called an adventure. The path along that line is a well trodden path. Is it not a fact that under the Montagu-Chelmsford Reforms in most Provinces, if not in all, the Muslims, the Non-Brahmins and the Depressed Classes united together and worked the reforms as members of one team from 1920 to 1937 ? Herein lay the most fruitful method of achieving communal harmony among Hindus and Muslims and of destroying the danger of a Hindu Raj. Mr. Jinnah could have easily pursued this

line. Nor was it difficult for Mr. Jinnah to succeed in it. Indeed Mr. Jinnah is the one person who had all the chances of success on his side if he had tried to form such a united non-communal party. He has the ability to organize. He had the reputation of a nationalist. Even many Hindus who were opposed to the Congress would have flocked to him if he had only sent out a call for a united party of like-minded Hindus and Muslims. What did Mr. Jinnah do ? In 1937 Mr. Jinnah made his entry into Muslim politics and strangely enough he regenerated the Muslim League which was dying and decaying and of which only a few years ago he would have been glad to witness the funeral. However regrettable the starting of such a communal political party may have been, there was in it one relieving feature. That was the leadership of Mr. Jinnah. Everybody felt that with the leadership of Mr. Jinnah the League could never become a merely communal party. The resolutions passed by the League during the first two years of its new career indicated that it would develop into a mixed political party of Hindus and Muslims. At the annual session of the Muslim League held at Lucknow in October 1937 altogether 15 resolutions were passed. The following two are of special interest in this connection.

Resolution* No. 7 :

"This meeting of the All India Muslim League deprecates and protests against the formation of Ministries in certain Provinces by the Congress parties in flagrant violation of the letter and the spirit of the Government of India Act, 1935, and Instrument of Instructions and condemns the Governors for their failure to enforce the special powers entrusted to them for the safeguards of the interest of the Musalmans *and other important minorities.*"

Resolution* No. 8 :

"Resolved that the object of the All India Muslim League shall be the establishment in India of Full Independence in the form of federation of free democratic states in which the rights and interests of the Musalmans *and other minorities* are adequately and effectively safeguarded in the constitution."

Equal number of resolutions were passed at the next annual session of the League held at Patna in December 1938. Resolution* No. 10 is noteworthy. It reads as follows:—

"The All India Muslim League reiterates its view that the scheme of

* Italics not in the original.

Federation embodied in the Goverment of India Act, 1935, is not acceptable, but in view of the further developments that have taken place or may take place from time to time it hereby authorises the President of the All India Muslim League to adopt such course as may be necessary with a view to explore the possibility of a suitable alternative which will safeguard the interests of the Musalmans and other minorities in India."

By these resolutions Mr. Jinnah showed that he was for a common front between the Muslims and other non-Muslim minorities. Unfortunately the catholicity and statesmanship that underlies these resolutions did not last long. In 1939 Mr. Jinnah took a somersault and outlined the dangerous and disastrous policy of isolation of the Musalmans by passing that notorious resolution in favour of Pakistan. What is the reason for this isolation ? Nothing but the change of view that the Musalmans were a nation and not a community !! One need not quarrel over the question whether the Muslims are a nation or a community. But one finds it extremely difficult to understand how the mere fact that the Muslims are a nation makes political isolation a safe and sound policy ? Unfortunately Muslims do not realize what disservice Mr. Jinnah has done to them by this policy. But let Muslims consider what Mr. Jinnah has achieved by making the Muslim League the only organization for the Musalmans. It may be that it has helped him to avoid the possibility of having to play the second fiddle. For inside the Muslim camp he can always be sure of the first place for himself. But how does the League hope to save by this plan of isolation the Muslims from Hindu Raj ? Will Pakistan obviate the establishment of Hindu Raj in Provinces in which the Musalmans are in a minority? Obviously it cannot. This is what would happen in the Muslim minority Provinces if Pakistan came. Take an all-India view. Can Pakistan prevent the establishment of Hindu Raj at the centre over Muslim minorities that will remain in Hindustan ? It is plain that it cannot. What good is Pakistan then ? Only to prevent Hindu Raj in Provinces in which the Muslims are in a majority and in which there could never be Hindu Raj !! To put it differently Pakistan is unnecessary to Muslims where they are in a majority because there, there is no fear of Hindu Raj. It is worse than useless to Muslims where they are in a minority, because Pakistan or no Pakistan they will have to face a Hindu Raj. Can politics be

more futile than the politics of the Muslim League ? The Muslim League started to help minority Muslims and has ended by espousing the cause of majority Muslims. What a perversion in the original aim of the Muslim League ! What a fall from the sublime to the ridiculous ! Partition as a remedy against Hindu Raj is worse than useless.

VI

These are some of the weaknesses in the Muslim case for Pakistan which have occurred to me. There might be others which have not struck me. But the list as it is, is quite a formidable one. How do, the Muslims propose to meet them ? That is a question for the Muslims and not for me. My duty as a student of the subject extends to setting forth these weaknesses. That I have done. I have nothing more to answer for.

There are, however, two other questions of such importance that this discussion cannot be closed with any sense of completeness without reference to them. The purpose of these questions is to clear the ground between myself and my critics. Of these questions, one I am entitled to ask the critics, the other critics are entitled to ask me.

Beginning with the first question, what I feel like asking the critics is, what good do they expect from a statement of these weaknesses ? Do they expect the Musalmans to give up Pakistan if they are defeated in a controversy over the virtues of Pakistan ? That of course depends upon what method is adopted to resolve this controversy. The Hindus and the Musalmans may follow the procedure which Christian missionaries had set up in early times in order to secure converts from amongst the Hindus. According to this procedure a day was appointed for a disputation, which was open to public, between a Christian missionary and a Brahmin, the former representing the Christian religion and the latter holding himself out as the protagonist of the Hindu religion with the condition that whoever failed to meet the case against his religion was bound to accept the religion of the other. If such a method of resolving the dispute between the

Hindus and the Muslims over the issue of Pakistan was agreed upon there may be some use in setting out this string of weaknesses. But let it not be forgotten that there is another method of disposing of a controversy which may be called Johnsonian after the manner which Dr. Johnson employed in dealing with arguments of Bishop Berkeley. It is recorded by Boswell that when he told Dr. Johnson that the doctrine of Bishop Berkeley that matter was non-existent and that everything in the universe was merely ideal, was only an ingenious sophistry but that it was impossible to refute it, Dr. Johnson with great alacrity answered, striking his foot with mighty force against a large stone, till he rebounded from it saying, "I refute it thus." It may be that the Musalmans will agree, as most rational people do, to have their case for Pakistan decided by the tests of reason and argument. But I should not be surprised if the Muslims decided to adopt the method of Dr. Johnson and say " Damn your arguments ! We want Pakistan." In that event the critic must realize that any reliance placed upon the limitations for destroying the case for Pakistan will be of no avail. It is therefore no use being jubilant over the logic of these objections to Pakistan.

Let me now turn to the other question which I said the critic is entitled to put to me. What is my position regarding the issue of Pakistan in the light of the objections, which I have set out ? I have no doubts as to my position. I hold firmly that, subject to certain conditions, detailed in the chapters that follow, if the Musalmans are bent on having Pakistan then it must be conceded to them. I know my critics will at once accuse me of inconsistency and will demand reasons for so extraordinary a conclusion—extraordinary because of the view expressed by me in the earlier part of this chapter that the Muslim case for Pakistan has nothing in it which can be said to carry the compelling force which the decree of an inexorable fate may be said to have. I withdraw nothing from what I have said as to the weaknesses in the Muslim case for Pakistan. Yet I hold that if the Muslims must have Pakistan there is no escape from conceding it to them. As to the reasons which have led me to that conclusion I shall not hesitate to say that the strength or weakness of the logic of Pakistan is not one of them. In my judgment there are two governing factors which

must determine the issue. First is the defence of India and second is the sentiment of the Muslims. I will state why I regard them as decisive and how in my opinion they tell in favour of Pakistan.

> 'To begin with the first. One cannot ignore that what is important is not the winning of independence but the having of the sure means of maintaining it. The ultimate guarantee of the independence of a country is a safe army—an army on which you can rely to fight for the country at all time and in any eventuality. The army in India must necessarily be a mixed army composed of Hindus and Muslims. If India is invaded by a foreign power, can the Muslims in the army be trusted to defend India ? Suppose invaders are their co-religionists. Will the Muslims side with the invaders or will they stand against them and save India ? This is a very crucial question. Obviously, the answer to this question must depend upon to what extent the Muslims in the army have caught the infection of the two-nation theory, which is the foundation of Pakistan. If they are infected, then the army in India cannot be safe. Instead of being the guardian of the independence of India, it will continue to be a menace and a potential danger to its independence. I confess I feel aghast when I hear some Britishers argue that it is for the defence of India that they must reject Pakistan. Some Hindus also sing the same tune. I feel certain that either they are unaware as to what the determining factor in the independence of India is or that they are talking of the defence of India not as an independent country responsible for its own defence but as a British possession to be defended by them against an intruder. This is a hopelessly wrong angle of vision. The question is not whether the British will be able to defend India better if there was no partition of India. The question is whether Indians will be able to defend a free India. To that, I repeat, the only answer is that Indians will be able to defend a free India on one and one condition alone—namely, if the army in India remains non-political, unaffected by the poison of Pakistan. I want to warn Indians against the most stupid habit that has grown up in this country of discussing the question of Swaraj without reference to the question of the army. Nothing can be more fatal than the failure to realize that a political army is the greatest danger to the liberty of India. It is worse than having no army.

Equally important is the fact that the army is the ultimate sanction which sustains Government in the exercise of its authority inside the country, when it is challenged by a rebellious or recalcitrant element. Suppose the Government of the day enunciates a policy which is vehemently opposed by a section of the Muslims. Suppose the Government of the day is required to use its army to enforce its policy. Can the Government of the day depend upon the Muslims in the army to obey its orders and shoot down the Muslim rebels ? This again depends upon to what extent the Muslims in the army have caught the infection of the two-nation theory. If they have caught it, India cannot have a safe and secure Government.

Turning to the second governing factor the Hindus do not seem to attach any value to sentiment as a force in politics. The Hindus seem to rely upon two grounds to win against the Muslims. The first is that even if the Hindus and the Muslims are two nations, they can live under one state. The other is that the Muslim case for Pakistan is founded on strong sentiment rather than upon clear argument. I don't know how long the Hindus are going to fool themselves with such arguments. It is true that the first argument is not without precedent. At the same time it does not call for much intellignence to see that its value is extremely limited. Two nations and one state is a pretty plea. It has the same attraction which a sermon has and may result in the conversion of Muslim leaders. But instead of being uttered as a sermon if it is intended to issue it as an ordinance for the Muslims to obey it will be a mad project to which no sane man will agree. It will, I am sure, defeat the very purpose of Swaraj. The second argument is equally silly. That the Muslim case for Pakistan is founded on sentiment is far from being a matter of weakness ; it is really its strong point. It does not need deep understanding of politics to know that the workability of a constitution is not a matter of theory. It is a matter of sentiment. A constitution like clothes must suit as well as please. If a constitution does not please, then, however perfect it may be, it will not work. To have a constitution which runs counter to the strong sentiments of a determined section is to court disaster if not to invite rebellion.

It is not realized by the Hindus that, assuming there is a safe army, rule by armed forces is not the normal method of governing a people. Force, it cannot be denied, is the medicine of the body politic and must be administered when the body politic becomes sick. But just because force is the medicine of the body politic it cannot be allowed to become its daily bread. A body politic must work as a matter of course by springs of action which are natural. This can happen only when the different elements constituting the body politic have the will to work together and to obey the laws and orders passed by a duly constituted authority. Suppose the new constitution for a United India contained in it all the provisions necessary to safeguard the interests of the Muslims. But suppose the Muslims said "Thank you for your safeguards, we don't want to be ruled by you" ; and suppose they boycott the Legislatures, refuse to obey laws, oppose the payment of taxes ; what is to happen ? Are the Hindus prepared to extract obedience from Muslims by the use of Hindu bayonets ? Is Swaraj to be an opportunity to serve the people or is it to be an opportunity for Hindus to conquer the Musalmans and for the Musalmans to conquer the Hindus ? Swaraj must be a Government of the people by the people and for the people. This is the *raison d'etre* of Swaraj and the only justification for Swaraj. If Swaraj is to usher in an era in which the Hindus and the Muslims will be engaged in scheming against each other, the one planning to conquer its rival, why should we have Swaraj and why should the democratic nations allow such a Swaraj to come into existence ? It will be a snare, a delusion and a perversion.

The non-Muslims do not seem to be aware that they are presented with a situation in which they are forced to choose between various alternatives. Let me state them. In the first place they have to choose between Freedom of India and the Unity of India. If the non-Muslims will insist on the Unity of India they put the quick realization of India's freedom into jeopardy. The second choice relates to the surest method of defending India, whether they can depend upon Muslims in a free and united India to develop and sustain along with the non-Muslims the necessary will to defend the common liberties of both: or whether it is better to partition India

and thereby ensure the safety of Muslim India by leaving its defence to the Muslims and of non-Muslim India by leaving its defence to non-Muslims.

As to the first, I prefer Freedom of India to the Unity of India. The Sinn Feinners who were the staunchest of nationalists to be found anywhere in the world and who like the Indians were presented with similar alternatives chose the freedom of Ireland to the unity of Ireland. The non-Muslims who are opposed to partition may well profit by the advice tendered by the Rev. Michael O'Flanagan, at one time Vice-President of the Feinns to the Irish Nationalists on the issue of the partition of Ireland. * Said the Rev. Father:—

> "If we reject Home Rule rather than agree to the exclusion of the Unionist parts of Ulster, what case have we to put before the world ? We can point out that Ireland is an island with a definite geographical boundary. That argument might be all right if we were appealing to a number of Island nationalities that had themselves definite geographical boundaries. Appealing, as we are, to continental nations with shifting boundaries, that argument will have no force whatever. National and geographical boundaries scarcely ever coincide. Geography would make one nation of Spain and Portugal; history has made two of them. Geography did its best to make one nation of Norway and Sweden; history has succeeded in making two of them. Geography has scarcely anything to say to the number of nations upon the North American continent; history has done the whole thing. If a man were to try to construct a political map of Europe out of its physical map, he would find himself groping in the dark. Geography has worked hard to make one nation out of Ireland; history has worked against it. The island of Ireland and the national unit of Ireland simply do not coincide. In the last analysis the test of nationality is the wish of the people."

These words have emanated from a profound sense of realism which we in India so lamentably lack.

On the second issue I prefer the partitioning of India into Muslim India and non-Muslim India as the surest and safest method of providing for the defence of both. It is certainly the safer of the two alternatives. I know it will be contended that my fears about the loyalty of the Muslims in the army to a Free and United India arising from the infection of the two nation theory is only an

* Quoted by Sir James O'Connor—*History of Ireland,* Vol. H, p. 257.

imaginary fear. That is no doubt true. That does not militate against the soundness of the choice I have made. I may be wrong. But I certainly can say without any fear of contradiction that, to use the words of Burke, it is better to be ridiculed for too great a credulity than to be ruined by too confident a sense of security. I don't want to leave things to chance. To leave so important an issue, as the defence of India, to chance is to be guilty of the grossest crime.

Nobody will consent to the Muslim demand for Pakistan unless he is forced to do so. At the same time, it would be a folly not to face what is inevitable and face it with courage and common sense. Equally would it be a folly to lose the part one can retain in the vain attempt of preserving the whole.

These are the reasons why I hold that if the Musalman will not yield on the issue of Pakistan then Pakistan must come. So far as I am concerned the only important question is : Are the Musalmans determined to have Pakistan ? Or is Pakistan a mere cry ? Is it only a passing mood ? Or does it represent their permanent aspiration ? On this there may be difference of opinion. Once it becomes certain that the Muslims want Pakistan there can be no doubt that the wise course would be to concede the principle of it.

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CHAPTER XIV

THE PROBLEMS OF PAKISTAN

I

Among the many problems to which the partition of India into Pakistan and Hindustan must give rise will be the following three problems:—

(1) The problem of the allocation of the financial assets and liabilities of the present Government of India,

(2) The problem of the delimitation of the areas, and

(3) The problem of the transfer of population from Pakistan to Hindustan and *vice versa*.

Of these problems the first is consequential, in the sense, that it would be worth while to consider it only when the partition of India has been agreed to by the parties concerned. The two other problems stand on a different footing. They are conditions precedent to Pakistan in the sense that there are many people who will not make up their mind on Pakistan unless they are satisfied that some reasonable and just solution of them is possible. I will, therefore, confine myself to the consideration only of the last two problems of Pakistan.

II

On the question of the boundaries of Pakistan we have had so far no clear and authoritative statement from the Muslim League. In fact it is one of the complaints made by the Hindus that while Mr. Jinnah has been carrying on a whirlwind campaign in favour of Pakistan, which has resulted in fouling the political atmosphere in the country, Mr. Jinnah has not thought fit to inform his critics of the details regarding the boundaries of his proposed Pakistan. Mr. Jinnah's argument has all along been that any discussion regarding the boundaries of Pakistan is premature and that the boundaries of Pakistan will be a matter for discussion when

the principle of Pakistan has been admitted. It may be a good rhetorical answer, but it certainly does not help those who wish to apply their mind without taking sides to offer whatever help they can to bring about a peaceful solution of this problem. Mr. Jinnah seems to be under the impression that if a person is committed to the principle of Pakistan he will be bound to accept Mr. Jinnah's plan of Pakistan. There cannot be a greater mistake than this. A person may accept the principle of Pakistan, which only means the partition of India. But it is difficult to understand how the acceptance of this principle can commit him to Mr. Jinnah's plan of Pakistan. Indeed if no plan of Pakistan is satisfactory to him he will be quite free to oppose any form of Pakistan although he may be in favour of the principle of Pakistan. The plan of Pakistan and the principle of Pakistan are therefore two quite distinct propositions. There is nothing wrong in this view. By way of illustration it may be said that the principle of self-determination is like an explosive substance. One may agree in principle to its use when the necessity and urgency of the occasion is proved. But no one can consent to the use of the dynamite without first knowing the area that is intended to be blown up. If the dynamite is going to blow up the whole structure or if it is not possible to localize its application to a particular part he may well refuse to apply the dynamite and prefer to use some other means of solving the problem. Specifications of boundary lines seem therefore to be an essential preliminary for working out in concrete shape the principle of Pakistan. Equally essential it is for a *bona fide* protagonist of Pakistan not to hide from the public the necessary particulars of the scheme of Pakistan. Such contumacy and obstinacy as shown by Mr. Jinnah in refusing to declare the boundaries of his Pakistan is unforgivable in a statesman. Nevertheless those who are interested in solving the question of Pakistan need not wait to resolve the problems of Pakistan until Mr. Jinnah condescends to give full details. Only one has to carry on the argument on the basis of certain assumptions. In this discussion I will assume that what the Muslim League desires is that the boundaries of the Western Pakistan should be the *present* boundaries of the Provinces of the North-West Frontier, the Punjab, Sind and Baluchistan, and that the boundaries of Eastern

Pakistan should be the boundaries of the *present* Province of Bengal with a few districts of Assam thrown in.

III

The question for consideration therefore is : Is this a just claim ? The claim is said to be founded on the principle of self-determination. To be able to assess the justice of this claim it is necessary to have a clear understanding of the scope and limitations of the principle of self-determination. Unfortunately, there seems to be a complete lack of such an understanding. It is therefore necessary to begin with the question : What is the *de facto* and *de jure* connotation of this principle of self-determination ? The term self-determination has become current since the last few years. But it describes something which is much older. The idea underlying self-determination has developed along two different lines. During the 19th century self-determination meant the right to establish a form of government in accordance with the wishes of the people. Secondly, self-determination has meant the right to obtain national independence from an alien race irrespective of the form of government. The agitation for Pakistan has reference to self-determination in its second aspect.

Confining the discussion to this aspect of Pakistan it seems to me essential that the following points regarding the issue of self-determination should be borne in mind.

In the first place, self-determination must be *by the people*. This point is too simple even to need mention. But it has become necessary to emphasize it. Both the Muslim League and the Hindu Maha Sabha seem to be playing fast and loose with the idea of self-determination. An area is claimed by the Muslim League for inclusion in Pakistan because the people of the area are Muslims. An area is also claimed for being included in Pakistan because the ruler of the area is a Muslim though the majority of the people of that area are non-Muslims. The Muslim League is claiming the benefit of self-determination in India. At the same time the League is opposed to self-determination being applied to Palestine. The League claims Kashmir as a Muslim State because the majority of people are Muslims and also Hyderabad because

the ruler is Muslim. In like manner the Hindu Maha Sabha claims an area to be included in Hindustan because the people of the area are non-Muslims. It also comes forward to claim an area to be a part of Hindustan because the ruler is a Hindu though the majority of the people are Muslims. Such strange and conflicting claims are entirely due to the fact that either the parties to Pakistan, namely, the Hindus and the Muslims do not understand what self-determination means or are busy in perverting the principle of self-determination to enable them to justify themselves in carrying out the organized territorial loot in which they now seem to be engaged. India will be thrown into a state of utter confusion whenever the question of reorganization of its territories comes up for consideration if people have no exact notions as to what self-determination involves and have not the honesty to stand by the principle and take the consequences whatever they be. It is, therefore, well to emphasize what might be regarded as too simple to require mention, namely, that self-determination is a determination by the people and by nobody else.

The second point to note is the degree of imperative character with which the principle of self-determination can be said to be invested. As has been said by Mr. O'Connor* :

> "The doctrine of self-determination is not a universal principle at all. The most that can be said about it is that generally speaking, it is a sound working rule, founded upon justice, making for harmony and peace and for the development of people in their own fashion, which, again generally speaking, is the best fashion. But it must yield to circumstances, of which size and geographical situation are some of the most important. Whether the rule should prevail against the circumstances or the circumstances against the rule can be determined only by the application of one's common sense or sense of justice, or, as a Benthamite would prefer to put it, by reference to the greatest good of the greatest number— all these three, if properly understood, are really different methods of expressing the same thing. In solving a particular case very great difficulties may arise. There are facts one way and facts another way. Facts of one kind may make a special appeal to some minds, little or none to others. The problem may be of the kind that is called imponderable, that is to say, no definite conclusion that will be accepted by the generality of the mankind may be possible. There are cases in which it is no more possible to say that a nation is right in its claim to interfere with the self-determination of another nation than that it is to say that it is wrong. It is a matter of opinion, upon which honest and impartial minds may differ."

**History of Ireland,* Vol. II.

There are two reasons why this must be so. Firstly, nationality is not such a sacrosanct and absolute principle as to give it the character of a categorical imperative, over-riding every other consideration. Secondly, separation is not quite so essential for the maintenance and preservation of a distinct nationality.

There is a third point to be borne in mind in connection with the issue of self-determination. Self-determination for a nationality may take the form of cultural independence or may take the form of territorial independence. Which form it can take must depend upon the territorial layout of the population. If a nationality lives in easily severable and contiguous areas, other things being equal, a case can be made out for territorial independence. But where owing to an inextricable intermingling the nationalities are so mixed up that the areas they occupy are not easily severable, then all that they can be entitled to is cultural independence. Territorial separation in a case like this is an impossibility. They are doomed to live together. The only other alternative they have is to migrate.

IV

Having defined the scope and limitations of the idea of self-determination we can now proceed to deal with the question of boundaries of Pakistan. How does the claim of the Muslim League for the present boundary to remain the boundaries of Pakistan stand in the light of these considerations ? The answer to this question seems to me quite clear. The geographical layout seems to decide the issue. No special pleading of any kind is required. In the case of the North-West Frontier Province, Baluchistan and Sind, the Hindus and the Muslims are intermixed. In these Provinces a case for territorial separation for the Hindus seems to be impossible. They must remain content with cultural independence and such political safeguards as may be devised for their safety. The case of the Punjab and Bengal stands on a different footing. A glance at the map shows that the layout of the population of the Hindus and the Muslims in these two Provinces is totally different from what one finds in the other three Provinces. The non-Muslims in the Punjab and Bengal are not

found living in small islands in the midst of and surrounded by a vast Muslim population spread over the entire surface as is the case with the North-West Frontier Province, Baluchistan and Sind. In Bengal and the Punjab the Hindus occupy two different areas contiguous and severable. In these circumstances, there is no reason for conceding what the Muslim League seems to demand, namely, that the present boundaries of the Punjab and Bengal shall continue to be the boundaries of Western Pakistan and Eastern Pakistan.

Two conclusions necessarily follow from the foregoing discussion. One is that the non-Muslims of the Punjab and Bengal have a case for exclusion from Pakistan by territorial severance of the areas they occupy. The other is that the non-Muslims of North-West Frontier Province, Baluchistan and Sind have no case for exclusion and are only entitled to cultural independence and political safeguards. To put the same thing in a different way it may be said that the Muslim League claim for demanding that the boundaries of Sind, North-West Frontier and Baluchistan shall remain as they are cannot be opposed. But that in the case of the Punjab and Bengal such a claim is untenable and that the non-Muslims of these Provinces, if they desire, can claim that the territory they occupy should be excluded by a redrawing of the boundaries of these two Provinces.

V

One should have thought that such a claim by the non-Muslim minorities of the Punjab and Bengal for the redrawing of the boundaries would be regarded by the Muslim League as a just and reasonable claim. The possibility of the redrawing of boundaries was admitted in the Lahore Resolution of the Muslim League passed in March 1940. The Resolution* said :—

> "The establishment of completely independent States formed by demarcating geographically contiguous units into regions which shall be so constituted, *with such territorial readjustments as may be necessary,* that the areas in which the Musalmans are numerically in a majority, as in the north-western and eastern zones of India, shall be grouped together to constitute independent States as Muslim free national homelands in which the constituent units shall be autonomous and sovereign."

*Italics are mine.

That this continued to be the position of the Muslim League is clear from the resolution passed by the Muslim League on the Cripps Proposals as anyone who cares to read it will know. But there are indications that Mr. Jinnah has changed his view. At a public meeting held on 16th November 1942 in Jullunder Mr. Jinnah is reported to have expressed himself in the following terms:—

> "The latest trick—I call it nothing but a trick—to puzzle and to mislead the ignorant masses purposely, and those playing the game understand it is, why should the right of self-determination be confined to Muslims only and why not extend it to other communities ? Having said that all have the right of self-determination, they say the Punjab must be divided into so many bits; likewise the North-West Frontier Province and Sind. Thus there will be hundreds of Pakistans.

SUB-NATIONAL GROUPS

> "Who is the author of this new formula that every community has the right of self-determination all over India ? Either it is colossal ignorance or mischief and trick. Let me give them a reply, that the Musalmans claim the right of self-determination because they are a national group on a given territory which is their homeland and in the zones where they are in a majority. Have you known anywhere in history that national groups scattered all over have been given a State ? Where are you going to get a State for them ? In that case you have got 14 per cent. Muslims in the United Provinces. Why not have a State for them ? Muslims in the United Provinces are not a national group ; they are scattered. Therefore in constitutional language they are characterized as a sub-national group who cannot expect anything more than what is due from any civilized Government to a minority. I hope I have made the position clear. The Muslims are not a sub-national group ; it is their birthright to claim and exercise the right of self-determination."

Mr. Jinnah has completely missed the point. The point raised by his critics was not with regard to the non-Muslim minorities in general. It had reference to the non-Muslim minorities in the Punjab and Bengal. Does Mr. Jinnah propose to dispose of the case of non-Muslim minorities who occupy a compact and an easily severable territory by his theory of a sub-nation ? If that is so, then one is bound to say that a proposition cruder than his it would

**Eastern Times* (Lahore) of 17th November 1942.

be difficult to find in any political literature. The concept of a sub-nation is unheard of. It is not only an ingenious concept but it is also a preposterous concept. What does the theory of a sub-nation connote ? If I understand its implications correctly, it means a sub-nation must not be severed from the nation to which it belongs even when severance is possible : it means that the relations between a nation and a sub-nation are no higher than the relations which subsist between a man and his chattels, or between property and its incidents. Chattels go with the owner, incidents go with property, so a sub-nation goes with a nation. Such is the chain of reasoning in Mr. Jinnah's argument. But does Mr. Jinnah seriously wish to argue that the Hindus of the Punjab and Bengal are only chattels so that they must always go wherever the Muslims of the Punjab and the Muslims of Bengal choose to drive them ? Such an argument will be too absurd to be entertained by any reasonable man. It is also the most illogical argument and certainly it should not be difficult for so mature a lawyer as Mr. Jinnah, to see the illogicality of it. If a numerically smaller nation is only a sub-nation in relation to a numerically larger nation and has no right to territorial separation, why can it not be said that taking India as a whole the Hindus are a nation and the Muslims a sub-nation and as a sub-nation they have no right to self-determination or territorial separation ?

Already there exists a certain amount of suspicion with regard to the *bana fides* of Pakistan. Rightly or wrongly, most people suspect that Pakistan is pregnant with mischief. They think that it has two motives, one immediate, the other ultimate. The immediate motive, it is said, is to join with the neighbouring Muslim countries and form a Muslim Federation. The ultimate motive is for the Muslim Federation to invade Hindustan and conquer or rather reconquer the Hindu and re-establish Muslim Empire in India. Others think that Pakistan is the culmination of the scheme of hostages which lay behind the demand, put forth by Mr. Jinnah in his fourteen points, for the creation of separate Muslim Provinces. Nobody can fathom the mind of the Muslims and reach the real motives that lie behind their demand for Pakistan. The Hindu opponents of Pakistan if they suspect that the real motives of the Muslims are different from the apparent ones,

may take note of them and plan accordingly. They cannot oppose Pakistan because the motives behind it are bad. But they are entitled to ask Mr. Jinnah, Why does he want to have a communal problem within Pakistan ? However vicious may be the motives behind Pakistan it should possess at least one virtue. The ideal of Pakistan should be not to have a communal problem inside it. This is the least of virtues one can expect from Pakistan. If Pakistan is to be plagued by a communal problem in the same way as India has been, why have Pakistan at all ? It can be welcomed only if it provides an escape from the communal problem. The way to avoid it is to arrange the boundaries in such a way that it will be an ethnic State without a minority and a majority pitched against each other. Fortunately it can be made into an ethnic State if only Mr. Jinnah will allow it. Unfortunately Mr. Jinnah objects to it. Therein lies the chief cause for suspicion and Mr. Jinnah, instead of removing it, is deepening it by such absurd, illogical and artificial distinctions as nations and sub-nations.

Rather than resort to such absurd and illogical propositions and defend what is indefensible and oppose what is just, would it not be better for Mr. Jinnah to do what Sir Edward Carson did in the matter of the delimitation of the boundaries of Ulster ? As all those who know the vicissitudes through which the Irish Home Rule question passed know that it was at the Craigavon meeting held on 23rd September 1911 that Sir Edward Carson formulated his policy that in Ulster there will be a government of Imperial Parliament or a Government of Ulster but never a Home Rule Government. As the Imperial Parliament was proposing to withdraw its government, this policy meant the establishment of a provisional government for Ulster. This policy was embodied in a resolution passed at a joint meeting of delegates representing the Ulster Unionist Council, the County Grand Orange Lodges and Unionist Clubs held in Belfast on 25th September 1911. The Provisional Government of Ulster was to come into force on the day of the passing of the Home Rule Bill. An important feature of this policy was to invest the Provisional Government with a jurisdiction over all "*those districts which they (Ulsterites) could control.*"

The phrase "those districts which they could control" was no doubt meant to. include the whole of the administrative division of Ulster. Now this administrative division of Ulster included nine counties. Of these three were overwhelmingly Catholic. This meant the compulsory retention of the three Catholic counties under Ulster against their wishes. But what did Sir Edward Carson do in the end ? It did not take long for Sir Edward Carson to discover that Ulster with three overwhelmingly Catholic districts would be a liability, and with all the courage of a true leader he came out with a declaration that he proposed to cut down his losses and make Ulster safe. In his speech in the House of Commons on the 18th of May 1920 he announced that he was content with six counties only. The speech that he made on that occasion giving his reasons why he was content only with six counties is worth quoting. This is what he said* :—

> "The truth is that we came to the conclusion after many anxious hours and anxious days of going into the whole matter, almost parish by parish and townland by townland, that *we would have no chance of successfully starting a Parliament in Belfast which would be responsible for the government of Donegal, Caven and Monaghan.* It would be perfectly idle for us to come here and pretend that we should be in a position to do so. We should like to have the very largest areas possible, naturally. That is a system of land grabbing that prevails in all countries for widening the jurisdiction of the various governments that are set up; but there is no use in our undertaking a government which we know would be a failure if we were saddled with these three counties."

These are wise, sagacious and most courageous words. The situation in which they were uttered has a close parallel with the situation that is likely to be created in the Punjab and Bengal by the application of the principle of Pakistan. The Muslim League and Mr. Jinnah if they want a peaceful Pakistan should not forget to take note of them. It is no use asking the non-Muslim minorities in the Punjab and Bengal to be satisfied with safeguards. If the Musalmans are not prepared to be content with safeguards against the tyranny of Hindu majority why should the Hindu minorities be asked to be satisfied with the safeguards against the tyranny of the Muslim majority ? If the Musalmans can say to the Hindus "Damn your safeguards, we don't want to be ruled by you"—an

* Hansard (House of Commons), 1920, Vol. 129, p. 1315. Italics are mine.

argument which Carson used against Redmond—the same argument can be returned by the Hindus of the Punjab and Bengal against the Muslim offer to be content with safeguards.

The point is that this attitude is not calculated to lead to a peaceful solution of the problem of Pakistan. Sabre-rattling or show of force will not do. In the first place, this is a game which two can play. In the second place, arms may be an element of strength. But to have arms is not enough. As Rousseau said : "The strongest is never strong enough to be always master, unless he transforms his might into right, and obedience into duty." Only ethics can convert might into right and obedience into duty. The League must see that its claim for Pakistan is founded on ethics.

VI

So much for the problem of boundaries. I will now turn to the problem of the minorities which must remain within Pakistan even after boundaries are redrawn. There are two methods of protecting their interests.

First is to provide safeguards in the constitution for the protection of the political and cultural rights of the minorities. To Indians this is a familiar matter and it is unnecessary to enlarge upon it.

Second is to provide for their transfer from Pakistan to Hindustan. Many people prefer this solution and would be ready and willing to consent to Pakistan if it can be shown that an exchange of population is possible. But they regard this as a staggering and a baffling problem. This no doubt is the sign of a panic-stricken mind. If the matter is considered in a cool and calm temper it will be found that the problem is neither staggering nor baffling.

To begin with consider the dimensions of the problem. On what scale is this transfer going to be ? In determining the scale one is bound to take into account three considerations. In the first place, if the boundaries of the Punjab and Bengal are redrawn

there will be no question of transfer of population so far as these two Provinces are concerned. In the second place, the Musalmans residing in Hindustan do not propose to migrate to Pakistan nor does the League want their transfer. In the third place, the Hindus in the North-West Frontier Province, Sind and Baluchistan do not want to migrate. If these assumptions are correct, the problem of transfer of population is far from being a staggering problem. Indeed it is so small that there is no need to regard it as a problem at all.

Assuming it does become a problem, will it be a baffling problem ? Experience shows that it is not a problem which it is impossible to solve. To devise a solution for such a problem it might be well to begin by asking what are the possible difficulties that are likely to arise in the way of a person migrating from one area to another on account of political changes. The following are obvious enough : (1) The machinery for effecting and facilitating the transfer of population. (2) Prohibition by Government against migration. (3) Levy by Government of heavy taxation on the transfer of goods by the migrating family. (4) The impossibility for a migrating family to carry with it to its new home its immovable property. (5) The difficulty of obviating a resort to unfair practices with a view to depress unduly the value of the property of the migrating family. (6) The fear of having to make good the loss by not being able to realize the full value of the property by sale in the market. (7) The difficulty of realizing pensionary and other charges due to the migrating family from the country of departure. (8) The difficulty of fixing the currency in which payment is to be made. If these difficulties are removed the way to the transfer of population becomes clear.

The first three difficulties can be easily removed by the two States of Pakistan and Hindustan agreeing to a treaty embodying an article in some such terms as follows:—

> "The Governments of Pakistan and Hindustan agree to appoint a Commission consisting of equal number of representatives and presided over by a person who is approved by both and who is not a national of either.

"The expense of the Commission and of its Committees both on account of its maintenance and its operation shall be borne by the two Governments in equal proportion.

"The Government of Pakistan and the Government of Hindustan hereby agree to grant to all their nationals within their territories who belong to ethnic minorities the right to express their desire to emigrate.

"The Governments of the States above mentioned undertake to facilitate in every way the exercise of this right and to interpose no obstacles, directly or indirectly, to freedom of emigration. All laws and regulations whatsoever which conflict with freedom of emigration shall be considered as null and void."

The fourth and the fifth difficulties which relate to transfer of property can be effectually met by including in the treaty articles the following terms:

"Those who, in pursuance of these articles, determine to take advantage of the right to migrate shall have the right to carry with them or to have transported their movable property of any kind without any duty being imposed upon them on this account.

"So far as immovable property is concerned it shall be liquidated by the Commission in accordance with the following provisions:

(1) The Commission shall appoint a Committee of Experts to estimate the value of the immovable property of the emigrant. The emigrant interested shall have a representative chosen by him on the Committee.

(2) The Commission shall take necessary measures with a view to the sale of immovable property of the emigrant."

As for the rest of the difficulties relating to reimbursement for loss, for payment of pensionary and charges for specifying the currency in which payments are to be made the following articles in the treaty should be sufficient to meet them :

"(1) The difference in the estimated value and the sale price of the immovable property of the emigrant shall be paid in to the Commission by the Government of the country of departure as soon as the former has notified it of the resulting deficiency. One-fourth of this payment may be made in the money of the country of departure and three-fourths in gold or short term gold bonds.

"(2) The Commission shall advance to the emigrants the value of their immovable property determined as above.

"(3) All civil or military pensions acquired by an emigrant at the date of the signature of the present treaty shall be capitalized at the charge of the debtor Government, which must pay the amount to the Commission for the account of its owners.

"(4) The funds necessary to facilitate emigration shall be advanced by the States interested in the Commission."

Are not these provisions sufficient to overcome the difficulties regarding transfer of population ? There are of course other difficulties. But even those are not insuperable. They involve questions of policy. The first question is : is the transfer of population to be compulsory or is it to be voluntary ? The second is : is this right to State-aided transfer to be open to all or is it to be restricted to any particular class of persons ? The third is : how long is Government going to remain liable to be bound by these provisions, particularly the provision for making good the loss on the sale of immovable property ? Should the provisions be made subject to a time limit or should the liability be continued indefinitely ?

With regard to the first point, both are possible and there are instances of both having been put into effect. The transfer of population between Greece and Bulgaria was on a voluntary basis while that between Greece and Turkey was on a compulsory basis. Compulsory transfer strikes one as being *prima facie* wrong. It would not be fair to compel a man to change his ancestral habitat if he does not wish to, unless the peace and tranquility of the State is likely to be put in jeopardy by his continuing to live where he is or such transfer becomes necessary in his own interest. What is required is that those who want to transfer should be able to do so without impediment and without loss. I am therefore of opinion that transfer should not be forced but should be left open for those who declare their intention to transfer.

As to the second point, it is obvious that only members of a minority can be allowed to take advantage of the scheme of State-aided transfer. But even this restriction may not be sufficient to exclude all those who ought not to get the benefit of this scheme. It must be confined to certain well defined minorities who on account of ethnic or religious differences are sure to be subjected to discrimination or victimization.

The third point is important and is likely to give rise to serious difference of opinion. On a fair view of the matter it can be said that it is quite unreasonable to compel a Government to keep

open for an indefinite period the option to migrate at Government cost. There is nothing unfair in telling a person that if he wants to take advantage of the provisions of the scheme of State-aided migration contained in the foregoing articles, he must exercise his option to migrate within a stated period and that if he decides to migrate after the period has elapsed he will be free to migrate but it will have to be at his own cost and without the aid of the State. There is no inequity in thus limiting the right to State-aid. State-aid becomes a necessary part of the scheme because the migration is a resultant consequence of political changes over which individual citizens have no control. But migration may not be the result of political change. It may be for other causes, and when it is for other causes, aid to the emigrant cannot be an obligation on the State. The only way to determine whether migration is for political reasons or for private reasons is to relate it to a definite point of time. When it takes place within a defined period from the happening of a political change it may be presumed to be political. When it occurs after the period it may be presumed to be for private reasons. There is nothing unjust in this. The same rule of presumption governs the cases of civil servants who, when a political change takes place, are allowed to retire on proportionate pensions if they retire within a given period but not if they retire after it has lapsed.

If the policy in these matters is as I suggest it should be, it may be given effect to by the inclusion of the following articles in the treaty:

> "The right to voluntary emigration may be exercised under this treaty by any person belonging to an ethnic minority who is over 18 years of age.
>
> "A declaration made before the Commission shall be sufficient evidence of intention to exercise the right.
>
> "The choice of the husband shall carry with it that of the wife, the option of parents or guardians that of their children or wards aged less than 18 years.
>
> "The right to the benefit provided by this treaty shall lapse if the option to migrate is not exercised within a period of 5 years from the date of signing the treaty.
>
> "The duties of the Commission shall be terminated within six months after the expiration of the period of five years from the date when the Commission starts to function."

What about the cost ? The question of cost will be important only if the transfer is to be compulsory. A scheme of voluntary transfer cannot place a very heavy financial burden on the State. Men love property more than liberty. Many will prefer to endure tyranny at the hands of their political masters than change the habitat in which they are rooted. As Adam Smith said, of all the things man is the most difficult cargo to transport. Cost therefore need not frighten anybody.

What about its workability ? The scheme is not new. It has been tried and found workable. It was put into effect after the last European War, to bring about a transfer* of population between Greece and Bulgaria and Turkey and Greece. Nobody can deny that it has worked, has been tried and found workable. The scheme I have outlined is a copy of the same scheme. It had the effect of bringing about a transfer* of population between Greece and Bulgaria and Turkey and Greece. Nobody can deny that it was worked with signal success. What succeeded elsewhere may well be expected to succeed in India.

The issue of Pakistan is far from simple. But it is not so difficult as it is made out to be provided the principle and the ethics of it are agreed upon. If it is difficult it is only because it is heart-rending and nobody wishes to think of its problems and their solutions as the very idea of it is so painful. But once sentiment is banished and it is decided that there shall be Pakistan, the problems arising out of it are neither staggering nor baffling.

* Those who want more information on the question of transfer of population may consult with great advantage *The Exchange of Minorities, Bulgaria, Greece and Turkey* by Stephen P. Ladas (Mac), 1932, where the scheme for the transfer of population between Greece and Bulgaria and Greece and Turkey has been fully set out.

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CHAPTER XV

WHO CAN DECIDE ?

There are two sides to the question of Pakistan, the Hindu side and the Muslim side. This cannot be avoided. Unfortunately however the attitude of both is far from rational. Both are deeply embedded in sentiment. The layers of this sentiment are so thick that reason at present finds it extremely difficult to penetrate. Whether these opposing sentiments will wither away or they will thicken, time and circumstances alone can tell. How long Indians will have to wait for the melting of the snow no one can prophesy. But one thing is certain that until this snow melts freedom will have to be put in cold storage. I am sure there must be many millions of thinking Indians who are dead opposed to this indefinite postponement of Indian freedom till an ideal and a permanent solution of Pakistan is found. I am one of them. I am one of those who hold that if Pakistan is a problem and not a pose there is no escape and a solution must be found for it. I am one of those who believe that what is inevitable must be faced. There is no use burying one's head in the sand and refusing to take notice of what is happening round about because the sound of it hurts one's sentiments. I am also one of those who believe that one must, if one can, be ready with a solution long before the hour of decision arrives. It is wise to build a bridge if one knows that one will be forced to cross the river.

The principal problem of Pakistan is : who can decide whether there shall or shall not be Pakistan ? I have thought over the subject for the last three years, and I have come to some conclusions as to the proper answer to this question. These conclusions I would like to share with others interested in the solution of the problem so that they may be further explored. To give clarity to my conclusions, I have thought that it would serve the purpose better if I were to put them in the form of an Act of Parliament. The following is the draft of the Act which embodies my conclusions :—

Government of India (Preliminary Provisions) Act

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same as follows :—

I.—(1) If within six months from the date appointed in this behalf a majority of the Muslim members of the Legislatures of the Provinces of the North-West Frontier, the Punjab, Sind and Bengal pass a resolution that the predominantly Muslim areas be separated from British India, His Majesty shall cause a poll to be taken on that question of the Muslim and the non-Muslim electors of these Provinces and of Baluchistan in accordance with the provisions of this Act.

(2) The question shall be submitted to the electors in these Provinces in the following form :—

(i) Are you in favour of separation from British India ?

(ii) Are you against separation ?

(3) The poll of Muslim and non-Muslim electors shall be taken separately.

II.—(1) If on a result of the poll, a majority of Muslim electors are found to be in favour of separation and a majority of non-Muslim electors against separation, His Majesty shall by proclamation appoint a Boundary Commission for the purpose of preparing a list of such districts and areas in these Provinces in which a majority of inhabitants are Muslims. Such districts and areas shall be called Scheduled Districts.

(2) The Scheduled Districts shall be collectively designated as Pakistan and the rest of British India as Hindustan. The Scheduled Districts lying in the North-west shall be called the State of Western Pakistan and those lying in the North-east shall be called Eastern Pakistan.

III.—(1) After the findings of the Boundary Commission have become final either by agreement or the award of an Arbitrator, His Majesty shall cause another poll to be taken of the electors of the Scheduled Districts.

(2) The following shall be the form of the questions submitted to the electors :—

(i) Are you in favour of separation forthwith ?

(ii) Are you against separation forthwith ?

IV.—(1) If the majority is in favour of separation forthwith it shall be lawful for His Majesty to make arrangements for the framing of two separate constitutions, one for Pakistan and the other for Hindustan.

(2) The New States of Pakistan and Hindustan shall commence to function as separate States on the day appointed by His Majesty by proclamation issued in that behalf.

(3) If the majority are against separation forthwith it shall be lawful for His Majesty to make arrangements for the framing of a single constitution for British India as a whole.

V.—No motion for the separation of Pakistan if the poll under the last preceding section has been against separation forthwith and no motion for incorporation of Pakistan into Hindustan if the poll under the last preceding section has been in favour of separation forthwith shall be entertained until ten years have elapsed from the date appointed by His Majesty for putting into effect the new constitution for British India or the two separate constitutions for Pakistan and Hindustan.

VI.—(1) In the event of two separate constitutions coming into existence under Section Four it shall be lawful for His Majesty to establish as soon as may be after the appointed day, a Council of India with a view to the eventual establishment of a constitution for the whole of British India, and to bringing about har-

monious action between the Legislatures and Governments of Pakistan and Hindustan, and to the promotion of mutual intercourse and uniformity in relation to matters affecting the whole of British India, and to providing for the administration of services which the two parliaments mutually agree should be administered uniformly throughout the whole of British India, or which by virtue of this Act, are to be so administered.

(2) Subject as hereinafter provided, the Council of India shall consist of a President nominated in accordance with instructions from His Majesty and forty other persons, of whom twenty shall be members representing Pakistan and twenty shall be members representing Hindustan.

(3) The members of the Council of India shall be elected in each case by the members of the Lower Houses of the Parliament of Pakistan or Hindustan.

(4) The election of members of the Council of India shall be the first business of the Legislatures of Pakistan and Hindustan.

(5) A member of the Council shall, on ceasing to be a member of that House of the Legislature of Pakistan or Hindustan by which he was elected a member of the Council, cease to be a member of the Council: Provided that, on the dissolution of the Legislature of Pakistan or Hindustan, the persons who are members of the Council shall continue to hold office as members of the Council until a new election has taken place and shall then retire unless re-elected.

(6) The President of the Council shall preside at each meeting of the Council at which he is present and shall be entitled to vote in case of an equality of votes, but not otherwise.

(7) The first meeting of the Council shall be held at such time and place as may be appointed by the President.

(8) The Council may act notwithstanding a deficiency in their number, and the quorum of the Council shall be fifteen.

(9) Subject as aforesaid, the Council may regulate their own procedure, including the delegation of powers to committees.

(10) The constitution of the Council of India may from time to time be varied by identical Acts passed by the Legislature of Pakistan and the Legislature of Hindustan, and the Acts may provide for all or any of the members of the Council of India being elected by parliamentary electors, and determine the constituencies by which the several elective members are to be returned and the number of the members to be returned by the several constituencies and the method of election.

VII.—(1) The Legislatures of Pakistan and Hindustan may, by identical Acts, delegate to the Council of India any of the powers of the Legislatures and Government of Pakistan and Hindustan, and such Acts may determine the manner in which the powers so delegated are to be exercisable by the Council.

(2) The powers of making laws with respect to railways and waterways shall, as from the day appointed for the operation of the new constitution, become the powers of the Council of India and not of Pakistan or Hindustan : Provided that nothing in this sub- section shall prevent the Legislature of Pakistan or Hindustan making laws authorising the construction, extension, or improvement of railways and waterways where the works to be constructed are situate wholly in Pakistan or Hindustan as the case may be.

(3) The Council may consider any questions which may appear in any way to bear on the welfare of both Pakistan and Hindustan, and may, by resolution, make suggestions in relation thereto as they may think proper, but suggestions so made shall have no legislative effect.

(4) It shall be lawful for the Council of India to make recommendations to the Legislatures of Pakistan and Hindustan as to the advisability of passing identical Acts delegating to the Council of India the administration of any all-India subject, with a view to avoiding the necessity of administering them separately in Pakistan or Hindustan.

(5) It shall be lawful for either Legislature at any time by Act to deprive the delegation to the Council of India of any powers which are in pursuance of such identical Acts as aforesaid for the time being delegated to the Council and thereupon the powers in question shall cease to be exercisable by the Council of India and shall become exercisable in parts of British India within their respective jurisdictions by the Legislatures and Governments of Pakistan and Hindustan and the Council shall take such steps as may be necessary to carry out the transfer, including adjustments of any funds in their hands or at their disposal.

VIII.—(1) If at the end of ten years after coming into operation of a constitution for British India as prescribed by Section IV—(3) a petition is presented to His Majesty by a majority of the Muslim members representing the Scheduled Districts in the Provincial and Central Legislatures demanding a poll to be taken with regard to the separation of Pakistan from Hindustan, His Majesty shall cause a poll to be taken.

(2) The following shall be the form of the questions submitted to the electors :—

(i) Are you in favour of separation of Pakistan from Hindustan ?

(ii) Are you against the separation of Pakistan from Hindustan ?

IX.— If the result of the poll is in favour of separation it shall be lawful for His Majesty to declare by an

Order-in-Council that from a day appointed in that behalf Pakistan shall cease to be a part of British India, and dissolve the Council of India.

X.—(1) Where two constitutions have come into existence under circumstances mentioned in Section IV it shall be lawful for His Majesty to declare by an Order-in-Council that Pakistan shall cease to be a separate State and shall form part of Hindustan. Provided that no such order shall be made until ten years have elapsed from the commencement of the separate constitution for Pakistan. Provided also that no such declaration shall be made unless the Popular Legislatures of Pakistan and Hindustan have passed Constituent Acts as are provided for in Section X—(2).

(2) The popular Legislatures of Pakistan and Hindustan may, by identical Acts agreed to by an absolute majority of members at the third reading (hereinafter referred to as Constituent Acts), establish, in lieu of the Council of India, a Legislature for United India, and may determine the number of members thereof and the manner in which the members are to be appointed or elected and the constituencies for which the several elective members are to be returned, and the number of members to be returned by the several constituencies, and the method of appointment or election, and the relations of the two Houses if provided for to one another.

XI.—(1) On the date of the union of Pakistan and Hindustan the Council of India shall cease to exist and there shall be transferred to the Legislature and Government of India all powers then exercisable by the Council of India. (2) There shall also be transferred to the Legislature and Government of British India all the powers and duties of the Legislatures and Government of Pakistan and Hindustan, including all powers as to taxation, and those Legislatures and Government shall cease to exist.

XII.—(1) A poll under this Act shall be taken by ballot in the same manner so far as possible as a poll of electors for the election of a member to serve in a Legislature and His Majesty may make rules adopting the election laws for the purpose of the taking of the poll.

(2) An elector shall not vote more than once at the poll, although registered in more than one place.

(3) Elector means every adult male and female residing in the Provinces of North-West Frontier, the Punjab, Sind, and Bengal and in Baluchistan.

XIII.—This Act may be called the Indian Constitution (Preliminary Provisions) Act, 194.

I do not think that any detailed explanation is necessary for the reader to follow and grasp the conclusions I have endeavoured to embody in this skeleton Act. Perhaps it might be advantageous if I bring out some of the salient features of the proposals to which the projected statute of Parliament is intended to give effect by comparing them with the Cripps proposals.

In my opinion it is no use for Indians to ask and the British Parliament to agree to proceed forthwith to pass an Act conferring Dominion Status or Independence without first disposing of the issue of Pakistan. The Pakistan issue must be treated as a preliminary issue and must be disposed of one way or the other. This is why I have called the proposed Act "The Government of India (Preliminary Provisions) Act." The issue of Pakistan being one of self-determination must be decided by the wishes of the people. It is for this that I propose to take a poll of the Muslims and non-Muslims in the predominantly Muslim Provinces. If the Majority of the Muslims are in favour of separation and a majority of non-Muslims are against separation, steps must be taken to delimit the areas wherever it is possible by redrawing provincial boundaries on ethnic and cultural lines by separating the Muslim majority districts from the districts in which the majority consists of non-Muslims. A Boundary Commission is necessary for this purpose. So a Boundary Commission is provided for in the Act. It would be better if the Boundary Commission could be international in its composition.

The scheme of separate referenda of Muslims and non-Muslims is based on two principles which I regard as fundamental. The first is that a minority can demand safeguards for its protection against the tyranny of the majority. It can demand them as a condition precedent. But a minority has no right to put a veto on the right of the majority to decide on questions of ultimate destiny. This is the reason why I have confined the referendum on the establishment of Pakistan to Muslims only. The second is that a communal majority cannot claim a communal minority to submit itself to its dictates. Only a political majority may be permitted to rule a political minority. This principle has been modified in India where a communal minority is placed under a communal majority subject to certain safeguards. But this is as regards the ordinary question of social, economic and political importance. It has never been conceded and can never be conceded that a communal majority has a right to dictate to a communal minority on an issue which is of a constitutional character. That is the reason why I have provided a separate referendum of non-Muslims only, to decide whether they prefer to go in Pakistan or come into Hindustan.

After the Boundary Commission has done its work of delimiting the areas, various possibilities can arise. The Musalmans may stop with the delimitation of the boundaries of Pakistan. They may be satisfied that after all the principle of Pakistan has been accepted—which is what delimitation means. Assuming that the Musalmans are not satisfied with mere delimitation but want to move in the direction of establishing Pakistan there are two courses open to them. They may want to establish Pakistan forthwith or they may agree to live under a common Central Government for a period of say ten years and put the Hindus on their trial. Hindus will have an opportunity to show that the minorities can trust them. The Muslims will learn from experience how far their fears of Hindu Raj are justified. There is another possibility also. The Musalmans of Pakistan having decided to separate forthwith may after a period become so disgusted with Pakistan that they might desire to come back and be incorporated in Hindustan and be one people subject to one single constitution.

These are some of the possibilities I see. These possibilities should in my judgment be kept open for time and circumstances to have their effect. It seems to me to be wrong to say to the Musalmans if you want to remain as part of India then you can never go out or if you want to go then you can never come back. I have in my scheme kept the door open and have provided for both the possibilities in the Act (1) for union after a separation of ten years, (2) for separation for ten years and union there after. I personally prefer the second alternative although I have no strong views either way. It would be much better that the Musalmans should have the experience of Pakistan. A union after an experience of Pakistan is bound to be stable and lasting. In case Pakistan comes into existence forthwith, it seems to me necessary that the separation should not altogether be a severance, sharp and complete. It is necessary to maintain live contact between Pakistan and Hindustan so as to prevent any estrangement growing up and preventing the chances of reunion. A Council of India is accordingly provided for in the Act. It cannot be mistaken for a federation. It is not even a confederation. Its purpose is to do nothing more than to serve as a coupling to link Pakistan to Hindustan until they are united under a single constitution.

Such is my scheme. It is based on a community-wise plebiscite. The scheme is flexible. It takes account of the fact that the Hindu sentiment is against it. It also recognizes the fact that the Muslim demand for Pakistan may only be a passing mood. The scheme is not a divorce. It is only a judicial separation. It gives to the Hindus a term. They can use it to show that they can be trusted with authority to rule justly. It gives the Musalmans a term to try out Pakistan.

It might be desirable to compare my proposals with those of Sir Stafford Cripps. The proposals were given out as a serial story in parts. The draft Declaration issued on 29th March 1943 contained only the following:—

> "His Majesty's Government therefore make the following terms:—
>
> (*a*) Immediately upon cessation of hostilities steps shall be taken to set up in India in manner described hereafter an elected body charged with the task of framing a new constitution for India.

(*b*) Provision shall be made, as set out below, for participation of Indian States in the constitution-making body.

(*c*) His Majesty's Government undertake to accept and implement forthwith the constitution so framed subject only to:

(i) The right of any province of British India that is not prepared to accept the new constitution to retain its present constitutional position, provision being made for its subsequent accession if it so decides.

With such non-acceding provinces should they so desire, His Majesty's Government will be prepared to agree upon a new constitution giving them the same full status as the Indian Union and arrived at by a procedure analogous to that here laid down."

Particulars of accession and secession were given in his broadcast. They were in the following terms :—

"That constitution-making body will have as its object the framing of a single constitution for the whole of India—that is, of British India, together with such of the Indian States as may decide to join in.

"But we realize this very simple fact. If you want to persuade a number of people who are inclined to be antagonistic to enter the same room, it is unwise to tell them that once they go in there is no way out, they are to be forever locked in together.

"It is much wiser to tell them they can go in and if they find they can't come to a common decision, then there is nothing to prevent those who wish, from leaving again by another door. They are much more likely all to go in if they have knowledge that they can by their free will go out again if they cannot agree.

"Well, that is what we say to the provinces of India. Come together to frame a common constitution—if you find after all your discussion and all the give and take of a constitution-making assembly that you cannot overcome your differences and that some provinces are still not satisfied with the constitution, then such provinces can go out and remain out if they wish and just the same degree of self-government and freedom will be available for them as for the Union itself, that is to say complete self-government."

To complete the picture further details were added at the Press Conference. Explaining the plan for accession or secession of provinces Sir Stafford Cripps said :—

"If at the end of the Constituent Assembly proceedings, any province or provinces did not wish to accept the new constitution and join the Union, it was free to keep out—provided the Provincial Assembly of that province, by a substantial vote say not less than 60 per cent., decided against accession. If it was less than 60 per cent., the minority could

claim a plebiscite of the whole province for ascertaining the will of the people. In the case of the plebiscite, a bare majority would be enough. Sir Stafford explained that for completing accession there would have to be a positive vote from the Provincial Assembly concerned. The non-acceding province could, if they wanted, combine into a separate union through a separate Constituent Assembly, but in order to make such a Union practicable they should be geographically contiguous."

The main difference between my plan and that of Sir Stafford Cripps is quite obvious. For deciding the issue of accession or secession which is only another way of saying, will there be or will there not be Pakistan, Sir Stafford Cripps took the Province as a deciding unit. I have taken community as the deciding unit. I have no doubt that Sir Stafford adopted a wrong basis. The Province can be a proper unit if the points of dispute were inter-provincial. For instance, if the points of dispute related to questions such as distribution of taxation, of water, etc., one could understand the Province as a whole or a particular majority in that Province having the right to decide. But the dispute regarding Pakistan is an inter-communal problem which has involved two communities in the same Province. Further the issue in the dispute is not on what terms the two communities will agree to associate in a common political life. The dispute goes deeper and raises the question whether the communities are prepared at all to associate in a common political life. It is a communal difference in its essence and can only be decided by a community-wise plebiscite.

IV

I do not claim any originality for the solution I have proposed. The ideas which underlie it are drawn from three sources, from the Irish Unity Conference at which Horace Plunket presided, from the Home Rule Amending Bill of Mr. Asquith and from the Government of Ireland Act of 1920. It will be seen that my solution of the Pakistan problem is the result of pooled wisdom. Will it be accepted ? There are four ways of resolving the conflict which is raging round the question of Pakistan. First is that the British Government should act as the deciding authority. Second is that

the Hindus and the Muslims should agree. Third is to submit the issue to an International Board of Arbitration and the fourth is to fight it out by a Civil War.

Although India today is a political mad-house there are I hope enough sane people in the country who would not allow matters to reach the stage of Civil War. There is no prospect of an agreement between political leaders in the near future. The A.I.C.C. of the Indian National Congress at a meeting in Allahabad held in April 1942 on the motion of Mr. Jagat Narayan Lal resolved* not to entertain the proposal for Pakistan. Two other ways are left to have the problem solved. One is by the people concerned ; the other is by international arbitration. This is the way I have suggested. I prefer the former. For various reasons this seems to me the only right course. The leaders having failed to resolve the dispute it is time it was taken to the people for decision. Indeed, it is inconceivable how an issue like that of partition of territory and transference of peoples' allegiance from one government to another can be decided by political leaders. Such things are no doubt done by conquerors to whom victory in war is sufficient authority to do what they like with the conquered people. But we are not working under such a lawless condition. In normal times when constitutional procedure is not in abeyance the views of political leaders cannot have the effect which the *fiats* of dictators have. That would be contrary to the rule of democracy. The highest value that can be put upon the views of leaders is to regard them as worthy to be placed on the agenda. They cannot replace or obviate the necessity of having the matter decided by the people. This is the position which was taken by Sir Stafford Cripps. The stand taken by the Muslim League was, let there be Pakistan because the Muslim League has decided to have it. That position has been negatived by the Cripps proposals and quite rightly. The Muslim League is recognized by the Cripps proposals only to the extent of having a right to propose

* The text of the resolution is as follows :—

"The A.I.C.C. is of opinion that any proposal to disintegrate India by giving liberty to any component State or territorial unit to secede from the Indian Union or Federation will be highly detrimental to the best interests of the people of the States and Provinces and the country as a whole and the Congress, therefore, cannot agree to any such proposal."

that Pakistan as a proposition be considered. It has not been given the right to decide. Again it does not seem to have been realized that the decision of an All-India body like the Congress which does not carry with it the active consent of the majority of the people, immediately affected by the issue of Pakistan, cannot carry the matter to solution. What good can it do if Mr. Gandhi or Mr. Rajagopalachariar agreeing or the All-India Congress Committee resolving to concede Pakistan, if it was opposed by the Hindus of the Punjab, or Bengal. Really speaking it is not the business of the people of Bombay or Madras to say, 'let there be Pakistan'. It must be left to be decided by the people who are living in those areas and who will have to bear the consequences of so violent, so revolutionary and so fundamental a change in the political and economic system with which their lives and fortunes have been closely bound up for so many years. A referendum by people in the Pakistan Provinces seems to me the safest and the most constitutional method of solving the problem of Pakistan.

But I fear that solving the question of Pakistan by a referendum of the people howsoever attractive may not find much favour with those who count. Even the Muslim League may not be very enthusiastic about it. This is not because the proposal is unsound. Quite the contrary. The fact is that there is another solution which has its own attractions. It calls upon the British Government to establish Pakistan by the exercise of its sovereign authority. The reason why this solution may be preferred to that which rests on the consent of the people is that it is simple and involves no such elaborate procedure as that of a referendum to the people and has none of the uncertainties involved in a referendum. But there is another ground why it is preferred, namely, that there is a precedent for it. The precedent is the Irish precedent and the argument is that if the British Government by virtue of its sovereign authority divided Ireland and created Ulster why cannot the British Government divide India and create Pakistan ?

The British Parliament is the most sovereign legislative body in the world. De L'home, a French writer on English Constitution, observed that there is nothing the British Parliament cannot do

except make man a woman and woman a man. And although the sovereignty of the British Parliament over the affairs of the Dominions is limited by the Statute of Westminster it is still unlimited so far as India is concerned. There is nothing in law to prevent the British Parliament from proceeding to divide India as it did in the case of Ireland. It can do it, but will it do it ? The question is not one of power but of will.

Those who urge the British Government to follow the precedent in Ireland should ask what led the British Government to partition Ireland. Was it the conscience of the British Government which led them to sanction the course they took or was it forced upon them by circumstances to which they had to yield ? A student of the history of Irish Home Rule will have to admit that the partition of Ireland was not sanctioned by conscience but by the force of circumstances. It is not often clearly realized that no party to the Irish dispute wanted partition of Ireland. Not even Carson, the Leader of Ulster. Carson was opposed to Home Rule but he was not in favour of partition. His primary position was to oppose Home Rule and maintain the integrity of Ireland. It was only as a second line of defence against the imposition of Home Rule that he insisted on partition. This will be quite clear from his speeches both inside and outside the House of Commons. Asquith's Government on the other side was equally opposed to partition. This may be seen from the proceedings in the House of Commons over the Irish Home Rule Bill of 1912. Twice amendments were moved for the exclusion of Ulster from the provisions of the Bill, once in the Committee stage by Mr. Agar-Roberts and again on the third reading by Carson himself. Both the times the Government opposed and the amendments were lost.

Permanent partition of Ireland was effected in 1920 by Mr. Lloyd George in his Government of Ireland Act. Many people think that this was the first time that partition of Ireland was thought of and that it was due to the dictation of the Conservative—Unionists in the Coalition Government of which Mr. Lloyd George was the nominal head. It may be true that Mr. Lloyd George succumbed to the influence of the predominant party in his coalition. But it is not true that partition was thought of in 1920 for the first time. Nor is it true that the Liberal Party had not undergone a

change and shown its readiness to favour partition as a possible solution. As a matter of fact partition as a solution came in 1914 six years before Mr. Lloyd George's Act when the Asquith Government, a purely Liberal Government, was in office. The real cause which led to the partition of Ireland can be understood only by examining the factors which made the Liberal Government of Mr. Asquith change its mind. I feel certain that the factor which brought about this change in the viewpoint of the Liberal Government was the Military crisis which took place in March 1914 and which is generally referred to as the "Curragh Incident". A few facts will be sufficient to explain what the "Curragh Incident" was and how decisive it was in bringing about a change in the policy of the Asquith Government.

To begin at a convenient point the Irish Home Rule Bill had gone through all its stages by the end of 1913. Mr. Asquith who had been challenged that he was proceeding without a mandate from the electorate had however given an undertaking that the Act would not be given effect to until another general election had been held. In the ordinary course there would have been a general election in 1915 if the War had not supervened. But the Ulstermen were not prepared to take their chance in a general election and started taking active steps to oppose Home Rule. They were not always very scrupulous in choosing their means and their methods and under the seductive pose that they were fighting against the Government which was preventing them from remaining loyal subjects of the King they resorted to means which nobody would hesitate to call shameless and nefarious. There was one Maginot Line on which the Ulstermen always depended for defeating Home Rule. That was the House of Lords. But by the Parliament Act of 1911 the House of Lords had become a Wailing Wall neither strong nor high. It had ceased to be a line of defence to rely upon. Knowing that the Bill might pass notwithstanding its rejection by the House of Lords, feeling that in the next election Asquith might win, the Ulstermen had become desperate and were searching for another line of defence. They found it in the Army. The plan was twofold. It included the project of getting the House of Lords to hold up the Annual Army Act so as to ensure that there would be no Army in existence to be used

against Ulster. The second project was to spread their propaganda—That Home Rule will be Home Rule—in the Army with a view to preparing the Army to disobey the Government in case Government decided to use the Army for forcing Home Rule on Ireland. The first became unnecessary as they succeeded easily in bringing about the second. This became clear in March 1914 when there occurred the Curragh Incident. The Government had reasons to suspect that certain Army depots in Ireland were likely to be raided by the Unionist Volunteers. On March 20th, orders were sent to Sir Arthur Paget, Commander-in-Chief of the Forces in Ireland, to take steps to safeguard these depots. His reply was a telegram to the effect that officers were not prepared to obey and were resigning their commissions and it was feared that men would refuse to move. General Sir Hubert Gough had refused to serve against the Ulster Unionists and his example had been followed by others. The Government realized that the Army had become political,* nay, partisan. It took fright and decided in favour of partition acting on the well-known maxim that wisdom is the better part of valour. What made Asquith change his position was not conscience but the fright of the Army rebelling. The fright was so great that no one thereafter felt bold enough to challenge the Army and enforce Home Rule without partition.

Can His Majesty's Government be depended upon to repeat in India what it did in Ireland? I am unable to answer the question. But two things I will say. The first thing is that His Majesty's Government knows full well what have been the consequences of this partition of Ireland. The Irish Free State has become the most irreconcilable enemy of Great Britain. The enmity knows no limits. The wound caused by partition will never be healed so long as partition remains a settled fact. The Partition of Ireland cannot but be said to be morally indefensible inasmuch as it was the result not of the consent of the people but of

* On this point see *Life of Field-Marshal Sir Henry Wilson* by Major General Sir C. E. Callwell, Vol. I., Chapter IX; also Parliamentary Debates (House of Lords), 1914, Vol. 15, pp. 998-1017, on Ulster and the Army. This shows that the Army had been won over by the Ulsterites long before the Curragh Incident. It is possible that Mr. Asquith decided in 1913 to bring in an Amending Bill to exclude Ulster from Home Rule for six years because he had become aware that the Army had gone over to Ulster and that it could not be used for enforcing Home Rule.

superior force. It was as bad as the murder of Duncan by Macbeth. The blood stains left on His Majesty's Government are as deep as those on Lady Macbeth and of which Lady Macbeth said that "All the perfumes of Arabia" had failed to remove the stink. That His Majesty's Government does not like to be responsible for the execution of another deed of partition is quite clear from its policy with the Jew-Arab problem in Palestine. It appointed the Peel Commission to investigate. The Commission recommended partition of Palestine. The Government accepted* it in principle as the most hopeful line of solving the deadlock. Suddenly the Government realized the gravity of forcing such a solution on the Arabs and appointed another Royal Commission called the Woodhead Commission which condemned partition and opened an easy way to a Government which was anxious to extricate itself from a terrible position. The partition of Ireland is not a precedent worthy to be followed. It is an ugly incident which requires to be avoided. It is a warning and not an example. I doubt very much if His Majesty's Government will partition India on its own authority at the behest of the Muslim League.

And why should His Majesty's Government oblige the Muslim League ? In the case of Ulster there was the tie of blood which made a powerful section of the British politicians take the side of Ulster. It was this tie of blood which made Lord Curzon say "You are compelling Ulster to divorce her present husband, to whom she is not unfaithful and you are compelling her to marry someone else who she cordially dislikes, with whom she does not want to live." There is no such kinship between His Majesty's Government and the Muslim League and it would be a vain hope for the League to expect His Majesty's Government to take her side.

The other thing I would like to say is that it would not be in the interests of the Muslim League to achieve its object by invoking the authority of His Majesty's Government to bring about the partition of India. In my judgment more important than getting Pakistan is

*See Parliamentary Debates (Commons), 1938-39, Vol. 341, pp. 1987-2107 ; also (Lords) 1936-37, Vol. 106, pp. 599-674.

the procedure to be adopted in bringing about Pakistan if the object is that after partition Pakistan and Hindustan should continue as two friendly States with goodwill and no malice towards each other.

What is the procedure which is best suited for the realization of this end ? Everyone will agree that the procedure must be such that it must not involve victory to one community and humiliation to the other. The method must be of peace with honour to both sides. I do not know if there is another solution better calculated to achieve this end than the decision by a referendum of the people. I have made my suggestion as to which is the best course. Others also will come forth with theirs. I cannot say that mine is the best. But whatever the suggestion be unless good sense as well as a sense of responsibility is brought to bear upon the solution of this question it will remain a festering sore.

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EPILOGUE

Here I propose to stop. For I feel that I have said all that I can say about the subject. To use legal language I have drawn the pleadings. This I may claim to have done at sufficient length. In doing so, I have adopted that prolix style so dear to the Victorian lawyers, under which the two sides plied one another with plea and replication, rejoinder and rebutter, surrejoinder and surrebutter and so on. I have done this deliberately with the object that a full statement of the case for and against Pakistan may be made. The foregoing pages contain the pleadings. The facts contained therein are true to the best of my knowledge and belief. I have also given my findings. It is now for Hindus and Muslims to give theirs.

To help them in their task it might be well to set out the issues. On the pleadings the following issues seem to be necessary issues:

(1) is Hindu-Muslim unity necessary for India's political advancement ? If necessary, is it still possible of realization notwithstanding the new ideology of the Hindus and the Muslims being two different nations ?

(2) If Hindu-Muslim unity is possible, should it be reached by appeasement or by settlement ?

(3) If it is to be achieved by appeasement, what are the new concessions that can be offered to the Muslims to obtain their willing co-operation, without prejudice to other interests ?

(4) If it is to be achieved by a settlement, what are the terms of that settlement? If there are only two alternatives, (i) Division of India into Pakistan and Hindustan, or (ii) Fifty-fifty share in Legislature, Executive and the Services, which alternative is preferable ?

(5) Whether India, if she remained one integral whole, can rely upon both Hindus and Musalmans to defend her independence, assuming it is won from the British ?

(6) Having regard to the prevailing antagonism between Hindus and Musalmans and having regard to the new ideology demarcating them as two distinct nations and postulating an opposition in their ultimate destinies, whether a single constitution for these two nations can be built in the hope that they will show an intention to work it and not to stop it ?

(7) On the assumption that the two-nation theory has come to stay, will not India as one single unit become an incoherent body without organic unity, incapable of developing into a strong united nation bound by a common faith in a common destiny and therefore likely to remain a feeble and sickly country, easy to be kept in perpetual subjection either of the British or of any other foreign power ?

(8) If India cannot be one united country, is it not belter that Indians should help India in the peaceful dissolution of this incoherent whole into its natural parts, namely, Pakistan and Hindustan ?

(9) Whether it is not better to provide for the growth of two independent and separate nations, a Muslim nation inhabiting Pakistan and a Hindu nation inhabiting Hindustan, than pursue the vain attempt to keep India as one undivided country in the false hope that Hindus and Muslims will some day be one and occupy it as the members of one nation and sons of one motherland ?

Nothing can come in the way of an Indian getting to grips with these issues and reaching his own conclusions with the help of the material contained in the foregoing pages except three things : (1) A false sentiment of historical patriotism, (2) a false conception of the exclusive ownership of territory and (3) absence of willingness to think for oneself. Of these obstacles, the last is the most difficult to get over. Unfortunately thought in India is rare and free thought is rarer still. This is particularly true of Hindus. That is why a large part of the argument of this book has been addressed to them. The reasons for this are obvious. The Hindus are in a majority. Being in a majority, their view point must count. There is not much possibility of peaceful solution if no attempt is made to meet their objections rational or sentimental. But there are special reasons which have led me to address so large a part of the argument to them and which may not be quite so obvious to others. I feel that those Hindus who are guiding the destinies of their fellows have lost what Carlyle calls "the Seeing Eye" and are walking in the glamour of certain vain illusions, the consequences of which must, I fear, be terrible for the Hindus. The Hindus are in the grip of the Congress and the Congress is in the grip of Mr. Gandhi. It cannot be said that Mr. Gandhi has given the Congress the right lead. Mr. Gandhi first sought to avoid facing the issue by taking refuge in two things. He started by saying that to partition India is a moral wrong and a sin to which he will never be a party. This is a strange argument.

India is not the only country faced with the issue of partition or shifting of frontiers based on natural and historical factors to those based on the national factors. Poland has been partitioned three times and no one can be sure that there will be no more partition of Poland. There are very few countries in Europe which have not undergone partition during the last 150 years. This shows that the partition of a country is neither moral nor immoral. It is unmoral. It is a social, political or militay question. Sin has no place in it.

As a second refuge Mr. Gandhi started by protesting that the Muslim League did not represent the Muslims and that Pakistan was only a fancy of Mr. Jinnah. It is difficult to understand how Mr. Gandhi could be so blind as not to see how Mr. Jinnah's ... influence over the Muslim masses has been growing day by day and how he has engaged himself in mobilizing all his forces for battle. Never before was Mr. Jinnah a man for the masses. He distrusted them.* To exclude them from political power he was always for a high franchise. Mr. Jinnah was never known to be a very devout, pious or a professing Muslim. Besides kissing the Holy Koran as and when he was sworn in as an M.L.A., he does not appear to have bothered much about its contents or its special tenets. It is doubtful if he frequented any mosque either out of curiosity or religious fervour. Mr. Jinnah was never found in the midst of Muslim mass congregations, religious or political. Today one finds a complete change in Mr. Jinnah. He has become a man of the masses. He is no longer above them. He is among them. Now they have raised him above themselves and call him their Qaid-e-Azam. He has not only become a believer in Islam, but is prepared to die for Islam. Today, he knows more of Islam than mere *Kalama*. Today, he goes to the mosque to hear *Khutba* and takes delight in joining the *Id* congregational prayers. Dongri and Null Bazaar once knew Mr. Jinnah by name. Today they know him by his presence. No Muslim meeting in Bombay begins or ends without Allah-ho-Akbar and Long Live Qaid-e-Azam. In this Mr. Jinnah has merely followed King Henry IV of France—the unhappy father-in-law of the English

* Pandit Jawaharlal Nehru in his autobiography says that Mr. Jinnah wanted the Congress to restrict its membership to matriculates.

King Charles I. Henry IV was a Huguenot by faith. But he did not hesitate to attend mass in a Catholic Church in Paris. He believed that to change his Huguenot faith and go to mass was an easy price to pay for the powerful support of Paris. As Paris became worth a mass to Henry IV, so have Dongri and Null Bazaar become worth a mass to Mr. Jinnah and for similar reason. It is strategy ; it is mobilization. But even if it is viewed as the sinking of Mr. Jinnah from reason to superstition, he is sinking with his ideology which by his very sinking is spreading into all the different strata of Muslim society and is becoming part and parcel of its mental make-up. This is as clear as anything could be. The only basis for Mr. Gandhi's extraordinary view is the existence of what are called Nationlist Musalmans. It is difficult to see any real difference between the communal Muslims who form the Muslim League and the Nationalist Muslims. It is extremely doubtful whether the Nationalist Musalmans have any real community of sentiment, aim and policy with the Congress which marks them off from the Muslim League. Indeed many Congressmen are alleged to hold the view that there is no different between the two and that the Nationalist Muslim inside the Congress are only an outpost of the communal Muslims. This view does not seem to be quite devoid of truth when one recalls that the late Dr. Ansari, the leader of the Nationalist Musalmans, refused to oppose the Communal Award although it gave the Muslims separate electorates in teeth of the resolution passed by the Congress and the Nationalist Musalmans. Nay, so great has been the increase in the influence of the League among the Musalmans that many Musalmans who were opposed to the League have been compelled to seek for a place in the League or make peace with it. Anyone who takes account of the turns and twists of the late Sir Sikandar Hyat Khan and Mr. Fazlul Huq, the late Premier of Bengal, must admit the truth of this fact. Both Sir Sikandar and Mr. Fazlul Huq were opposed to the formation of branches of the Muslim League in their Provinces when Mr. Jinnah tried to revive it in 1937. Notwithstanding their opposition, when the branches of the League were formed in the Punjab and in Bengal within one year both were compelled to join them. It is a case of those coming to scoff

remaining to pray. No more cogent proof seems to be necessary to prove the victory of the League.

Notwithstanding this Mr. Gandhi instead of negotiating with Mr. Jinnah and the Muslim League with a view to a settlement, took a different turn. He got the Congress to pass the famous Quit India Resolution on the 8th August 1942. This Quit India Resolution was primarily a challenge to the British Government. But it was also an attempt to do away with the intervention of the British Government in the discussion of the Minority question and thereby securing for the Congress a free hand to settle it on its own terms and according to its own lights. It was in effect, if not in intention, an attempt to win independence by bypassing the Muslims and the other minorities. The Quit India Campaign turned out to be a complete failure. It was a mad venture and took the most diabolical form. It was a scorch-earth campaign in which the victims of looting, arson and murder were Indians and the perpetrators were Congressmen. Beaten, he started a fast for twenty-one days in March 1943 while he was in gaol with the object of getting out of it. He failed. Thereafter he fell ill. As he was reported to be sinking the British Government released him for fear that he might die on their hand and bring them ignominy. On coming out of gaol, he found that he and the Congress had not only missed the bus but had also lost the road. To retrieve the position and win for the Congress the respect of the British Government as a premier party in the country which it had lost by reason of the failure of the campaign that followed up the Quit India Resolution, and the violence which accompanied it, he started negotiating with the Viceroy. Thwarted in that attempt, Mr. Gandhi turned to Mr. Jinnah. On the 17th July 1944 Mr. Gandhi wrote to Mr. Jinnah expressing his desire to meet him and discuss with him the communal question. Mr. Jinnah agreed to receive Mr. Gandhi in his house in Bombay. They met on the 9th September 1944. It was good that at long last wisdom dawned on Mr. Gandhi and he agreed to see the light which was staring him in the face and which he had so far refused to see.

The basis of their talks was the offer made by Mr. Rajagopalachariar to Mr. Jinnah in April 1944 which, according to the

somewhat incredible* story told by Mr. Rajagopalachariar, was discussed by him with Mr. Gandhi in March 1943 when he (Mr. Gandhi) was fasting in gaol and to which Mr. Gandhi had given his full approval. The following is the text of Mr. Rajagopalachariar's formula popularly spoken of as the C. R. Formula:—

(1) Subject to the terms set out below as regards the constitution for Free India, the Muslim League endorses the Indian demand for Independence and will co-operate with the Congress in the formation of a provisional interim government for the transitional period.

(2) After the termination of the war, a commission shall be appointed for demarcating contiguous districts in the north-west and east of India, wherein the Muslim population is in absolute majority. In the areas thus demarcated, a plebiscite of all the inhabitants held on the basis of adult suffrage or other practicable franchise shall ultimately decide the issue of separation from Hindustan. If the majority decide in favour of forming a sovereign State separate from Hindustan, such decision shall be given effect to, without prejudice to the right of districts on the border to choose to join either State.

(3) It will be open to all parties to advocate their points of view before the plebiscite is held.

(4) In the event of separation, mutual agreements shall be entered into for safeguarding defence, and commerce and communications and for other essential purposes.

(5) Any transfer of population shall only be on an absolutely voluntary basis.

(6) These terms shall be binding only in case of transfer by Britain of full power and responsibility for the governance of India.

The talks which began on the 9th September were carried on over a period of 18 days till 27th September when it was announced that the talks had failed. The failure of the talks

*The formula was discussed with Mr. Gandhi in March 1943 but was not communicated to Mr. Jinnah till April 1944.

produced different reactions in the minds of different people. Some were glad, others were sorry. But as both had been, just previous to the talks, worsted by their opponents in their struggle for supremacy, Gandhi by the British and Jinnah by the Unionist Party in the Punjab, and had lost a good deal of their credit the majority of people expected that they would put forth some constructive effort to bring about a solution. The failure may have been due to the defects of personalities. But it must however be said that failure was inevitable having regard to certain fundamental faults in the C. R. Formula. In the first place, it tied up the communal question with the political question in an indissoluble knot. No political settlement, no communal settlement, is the strategy on which the formula proceeds. The formula did not offer a solution. It invited Mr. Jinnah to enter into a deal. It was a bargain— "If you help us in getting independence, we shall be glad to consider your proposal for Pakistan." I don't know from where Mr. Rajagopalachariar got the idea that this was the best means of getting independence. It is possible that he borrowed it from the old Hindu kings of India who built up alliance for protecting their independence against foreign enemies by giving their daughters to neighbouring princes. Mr. Rajagopalachariar forgot that such alliances brought neither a good husband nor a permanent ally. To make communal settlement depend upon help rendered in winning freedom is a very unwise way of proceeding in a matter of this kind. It is a way of one party drawing another party into its net by offering communal privileges as a bait. The C. R. Formula made communal settlement an article for sale.

The second fault in the C. R. Formula relates to the machinery for giving effect to any agreement that may be arrived at. The agency suggested in the C. R. Formula is the Provisional Government. In suggesting this Mr. Rajagopalachariar obviously overlooked two difficulties. The first thing he overlooked is that once the Provisional Government was established, the promises of the contracting parties, to use legal phraseology, did not remain concurrent promises. The case became one of the executed promise against an executory promise. By consenting to the establishment of a Provisional Government, the League would have

executed its promise to help the Congress to win independence. But the promise of the Congress to bring about Pakistan would remain executory. Mr. Jinnah who insists, and quite rightly, that the promises should be concurrent could never be expected to agree to place himself in such a position. The second difficulty which Mr. Rajagopalachariar has overlooked is what would happen if the Provisional Government failed to give effect to the Congress part of the agreement. Who is to enforce it ? The Provisional Government is to be a sovereign government, not subject to superior authority. If it was unwilling to give effect to the agreement, the only sanction open to the Muslims would be rebellion. To make the Provisional Government the agency for forging a new Constitution, for bringing about Pakistan, nobody will accept. It is a snare and not a solution. The only way of bringing about the constitutional changes will be through an Act of Parliament embodying provisions agreed upon by the important elements in the national life of British India. There is no other way.

There is a third fault in the C. R. Formula. It relates to the provision for a treaty between Pakistan and Hindustan to safeguard what are called matters of common interests such as Defence, Foreign Affairs, Customs, etc. Here again Mr. Rajagopalachariar does not seem to be aware of obvious difficulties. How are matters of common interest to be safeguarded ? I see only two ways. One is to have a Central Government vested with Executive and Legislative authority in respect of these matters. This means Pakistan and Hindustan will not be sovereign States. Will Mr. Jinnah agree to this ? Obviously he does not. The other way is to make Pakistan and Hindustan sovereign States and to bind them by a treaty relating to matters of common interests. But what is there to ensure that the terms of the treaty will be observed ? As a sovereign State Pakistan can always repudiate it even if it was a Dominion. Mr. Rajagopalachariar obviously drew his inspiration in drafting this clause from the Anglo-Irish Treaty of 1922. But he forgot the fact that the treaty lasted so long as Ireland was not a Dominion and that as soon as it became a Dominion it repudiated the treaty and the British Parliament stood silent and grinned, for it knew that it could do nothing.

One does not mind very much that the talks failed. What one feels sorry for is that the talks failed giving us a clear idea of some of the questions about which Mr. Jinnah has been observing discreet silence in his public utterances, though he has been quite outspoken about them in his private talks. These questions are— (1) Is Pakistan to be conceded because of the Resolution of the Muslim League ? (2) Are the Muslims, as distinguished from the Muslim League, to have no say in the matter ? (3) What will be the boundaries of Pakistan ? Whether the boundaries will be the present administrative boundaries of the Punjab and Bengal or whether the boundaries of Pakistan will be ethnological boundaries ? (4) What do the words "subject to such territorial adjustments as may be necessary" which occur in the Lahore Resolution mean ? What were the territorial adjustments the League had in mind ? (5) What does the word "finally" which occurs in the last part of the Lahore Resolution mean ? Did the League contemplate a transition period in which Pakistan will not be an independent and sovereign State ? (6) If Mr. Jinnah's proposal that the boundaries of Eastern and Western Pakistan are to be the present administrative boundaries, will he allow the Scheduled Castes, or, if I may say so, the non-Muslims in the Punjab and Bengal to determine by a plebiscite whether they wish to be included in Mr. Jinnah's Pakistan and whether Mr. Jinnah would be prepared to abide by the results of the plebiscite of the non-Muslim elements in the Punjab and Bengal ? (7) Does Mr. Jinnah want a corridor running through U. P. and Bihar to connect up Eastern Pakistan to Western Pakistan ? It would have been a great gain if straight questions had been put to Mr. Jinnah and unequivocal answers obtained. But instead of coming to grips with Mr. Jinnah on these questions, Mr. Gandhi spent his whole time proving that the C. R. Formula is substantially the same as the League's Lahore Resolution— which was ingenious if not nonsensical and thereby lost the best opportunity he had of having these questions clarified.

After these talks Mr. Gandhi and Mr. Jinnah have retired to their pavilions as players in a cricket match do after their game is over, as though there is nothing further to be done. There is no indication whether they will meet again and it so when. What next ? is not a question which seems to worry them. Yet it is difficult to see how

India can make any political advance without a solution of the question which one may refuse to discuss. It does not belong to that class of questions about which people can agree to differ. It is a question for which solution will have to be found. How ? It must be by agreement or by arbitration. If it is to be by agreement, it must be the result of negotiations—of give and take and not of surrender by one side to the other. That is not agreement. It is dictation. Good sense may in the end prevail and parties may come to an agreement. But agreement may turn out to be a very dilatory way. It may take long before good sense prevails. How long one cannot say. The political freedom of India is a most urgent necessity. It cannot be postponed and yet without a solution of the communal problem it cannot be hastened. To make it dependent on agreement is to postpone its solution indefinitely. Another expeditious method must be found. It seems to me that arbitration by an International Board is the best way out. The disputed points in the minorities problem including that of Pakistan should be remitted to such a Board. The Board should be constituted of persons drawn from countries outside the British Empire. Each statutory minority in India—Muslims, Scheduled Castes, Sikhs, Indian Christians—should be asked to select its nominee to this Board of Arbitration. These minorities as also the Hindus should appear before the Board in support of their demands and should agree to abide by the decision given by the Board. The British should give the following undertakings:—

(1) That they will have nothing to do with the communal settlement. It will be left to agreement or to a Board of Arbitration.

(2) They will implement the decision of the Board of Arbitration on the communal question by embodying it in the Government of India Act.

(3) That the award of the International Board of Arbitration would be regarded by them as a sufficient discharge of their obligations to the minorities in India and would agree to give India Dominion Status.

The procedure has many advantages. It eliminates the fear of British interference in the communal settlement which has been

offered by the Congress as an excuse for its not being able to settle the communal problem. It is alleged that, as there is always the possibility of the minorities getting from the British something more than what the Congress thinks it proper to give, the minorities do not wish to come to terms with the Congress. The proposal has a second advantage. It removes the objection of the Congress that by making the constitution subject to the consent of the minorities, the British Government has placed a veto in the hands of the minorities over the constitutional progress of India. It is complained that the minorities can unreasonably withhold their consent or they can be prevailed upon by the British Government to withhold their consent as the minorities are suspected by the Congress to be mere tools in the hands of the British Government. International arbitration removes completely every ground of complaint on this account. There should be no objection on the part of the minorities. If their demands are fair and just no minority need have any fear from a Board of International Arbitration. There is nothing unfair in the requirement of a submission to arbitration. It follows the well known rule of law, namely, that no man should be allowed to be a judge in his own case. There is no reason to make any exception in the case of a minority. Like an individual it cannot claim to sit in judgment over its own case. What about the British Government ? I cannot see any reason why the British Government should object to any part of this scheme. The Communal Award has brought great odium on the British. It has been a thankless task and the British should be glad to be relieved of it. On the question of the discharge of their responsibilities for making adequate provision for the safety and security of certain communities in respect of which they have regarded themselves as trustees before they relinquish their sovereignty what more can such communities ask than the implantation in the constitution of safeguards in terms of the award of an International Board of Arbitration ? There is only one contigency which may appear to create some difficulty for the British Government in the matter of enforcing the award of the Board of Arbitration. Such a contingency can arise if any one of the parties to the dispute is not prepared to submit its case to arbitration. In that case the question will be : will the British Government be

justified in enforcing the award against such a party ? I see no difficulty in saying that the British Government can with perfect justice proceed to enforce the award against such a party. After all what is the status of a party which refuses to submit its case to arbitration ? The answer is that such a party is an aggressor. How is an aggressor dealt with? By subjecting him to sanctions. Implementing the award of the Board of Arbitration in a constitution against a party which refuses to go to arbitration is simply another name for the process of applying sanctions against an agressor. The British Government need not feel embarrassed in following this process if the contingency should arise. For it is a well recognized process of dealing with such cases and has the imprimatur of the League of Nations which evolved this formula when Mussolini refused to submit to arbitration his dispute with Abyssinia. What I have proposed may not be the answer to the question : What next ? I don't know what else can be. All I know is that there will be no freedom for India without an answer. It must be decisive, it must be prompt and it must be satisfactory to the parties concerned.

●●

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APPENDIX I

Population of India by Communities

Communities	British India	Indian States and Agencies	Total
1. Hindus	150,890,146	55,227,180	206,117,326
2. Muslims	79,398,503	12,659,593	92,058,096
3. Scheduled Castes* ...	39,920,807	8,892,373	48,813,180
4. Tribal	16,713,256	8,728,233	25,441,489
5. Sikhs	4,165,097	1,526,350	5,691,447
6. Christians:			
(*i*) Indian Christians ...	1,655,982	1,413,808	3,069,790
(*ii*) Anglo-Indians ...	113,936	26,486	140,422
(*iii*) Others	75,751	7,708	83,459
7. Jains	578,372	870,914	1,449,286
8. Buddhists	167,413	64,590	232,003
9. Parsees	101,968	12,922	114,890
10. Jews	19,327	3,153	22,480
11. Others	371,403	38,474	409,877
Total ...	294,171,961	89,471,784	383,643,745

* This is a statutory designation given to the untouchables by the Government of India Act, 1935.

NOTE.—The figures for the Scheduled Castes both for British India and Indian States do not give the correct totals. The figures for Ajmer-Merwara in British India and for Gwalior State are not included in the totals. The Census Reports for 1940 fail to give these figures.

APPENDIX II

Communal Distribution of Population by Minorities in the Provinces of British India

	Provinces	Total Population	Muslims		Scheduled Castes		Indian Christians		Sikhs	
			Population	Per-centage	Popula-tion	Per-centage	Popula-tion	Per-centage	Popula-tion	Per-centage
1.	Ajmere-Merwara	583,693	89,899	15.4	Nil (?)	..	3,895	.8	867	.15
2.	Andaman Nicobar	33,768	8,005	23.7	Nil	..	779	2.3	744	2.2
3.	Assam	10,204,733	3,442,479	33.7	676,291	6.6	37,750	.4	3,464	.03
4.	British Baluchistan	501,631	438,930	87.5	5,102	1.0	2,633	.5	11,918	2.3
5.	Bengal	60,306,525	33,005,434	54.7	7,878,970	13.0	110,923	.2	16,281	.03
6.	Bihar*	36,340,151	4,716,314	12.9	4,840,379	13.3	24,693	.07	13,213	.04
7.	Bombay	20,849,840	1,920,368	9.2	1,855,148	8.9	338,812	1.6	8,011	.04
8.	Central Provinces & Berar† ...	16,813,584	783,697	4.7	3,051,413	18.1	48,260	.3	14,996	.09
9.	Coorg	168,726	14,780	8.8	25,740	15.3	3,309	2.0	Nil	..
10.	Delhi	917,939	304,971	33.2	121,693	13.3	10,494	1.1	16,157	1.8
11.	Madras	49,341,810	3,896,452	7.9	8,068,492	16.4	2,001,082	4.06	418	.001
12.	N.-W. F. P.	3,038,067	2,788,797	91.8	Nil	..	5,426	.2	57,989	1.9
13.	Orissa	8,728,544	146,301	1.7	1,238,171	14.2	26,584	.3	232	.003
14.	Punjab	28,418,819	16,217,242	57.0	1,248,635	4.4	486,038	1.7	3,757,401	13.2
15.	Panth Piploda	5,267	251	4.8	918	17.4	216	4.1	Nil	..
16.	Sind	4,229,221	3,054,635	72.2	191,634	4.5	13,232	.3	31,011	.7
17.	United Provinces @ ...	55,020,617	8,416,308	15.3	11,717,158	21.3	131,327	.2	232,445	.4
	Total ...	295,502,935	79,344,863	26.9	40,919,744	13.9	3,245,453	1.0	4,155,147	1.0
*	Bihar	28,823,802	4,168,470	14.4	3,919,619	13.6	12,651	.04	3,204	.01
	Chota Nagpur	7,516,349	547,844	7.3	420,760	5.6	12,042	.2	10,009	.1
+	C. P.	13,208,718	448,528	3.4	2,359,836	17.9	42,135	.3	12,766	.1
	Berar	3,604,866	335,169	9.3	691,577	19.2	6,125	.2	2,230	.05
@	Agra	40,906,147	6,231,062	15.2	8,018,803	19.6	120,549	.3	226,096	.5
	Oudh	14,114,470	2,185,246	15.5	3,698,355	26.2	10,778	.08	6,349	.05

APPENDIX III

Communal Distribution of Population by Minorities in Indian States

	States and Agencies	Total Population	Muslims		Scheduled Castes		Indian Christians		Sikhs	
			Population	Per-centage	Population	Per-centage	Population	Per-centage	Population	Per-centage
1.	Assam	725,655	31,662	4.4	265	0.04	25,913	3.6	381	.05
2.	Baluchistan	356,204	346,251	97.2	65	0.02	40	.01	126	.04
3.	Baroda	2,855,010	223,610	7.8	230,794	8.1	9,182	.3	566	.02
4.	Bengal	2,144,829	372,113	17.3	269,729	12.6	564	.03	28	.001
5.	Central India	7,506,427	439,850	5.9	1,027.009	13.7	7,582	.1	2,731	.04
6.	Chattisgarh	4,050,000	28,773	0.7	483,132	11.9	11,820	.3	507	.01
7.	Cochin	1,422,875	109,188	7.7	141,154	9.9	399,394	28.1	9	..
8.	Deccan (and Kolhapur) ...	2,785,428	182,036	6.5	306,898	11.0	17,236	.6	22	.001
9.	Gujarat	1,458,702	58,000	3.9	55,204	3.8	4,215	.3	182	.01
10.	Gwalior	4,006,159	240,903	6.0	..	..	1,352	.03	2,342	.06
11.	Hyderabad	16,338,534	2,097,475	12.8	2,928,048	17.9	215,989	1.3	5,330	.03
12.	Kashmir and Feudatories ...	4,021,616	3,073,540	76.4	113,464	2.8	3,079	.08	65,903	1.6
13.	Madras	498,754	30,263	6.0	83,734	16.8	20,806	4.2	5	..
14.	Mysore	7,329,140	485,230	6.6	1,405,067	19.2	98,580	1.3	269	.004
15.	N.-W.F.P.	46,267	22,068	47.7	Nil	..	571	1.2	4,472	9.1
16.	Orissa	3,023,731	14,355	0.47	352,088	11.6	2,249	.07	151	.005
17.	Punjab	5,503,554	2,251,459	40.9	349,962	6.4	6,952	.1	1,342,685	24.4
18.	Punjab Hill	1,090,644	46,678	4.3	238,774	21.9	188	.02	17,739	1.6
19.	Rajputana	13,670,208	1,297,841	9.5	..	..	4,349	.03	81,896	.6
20.	Sikkim	121,520	83	0.07	76	06	34	.03	1	..
21.	Travancore	6,070,018	434,150	7.2	395,952	6.5	1,958,491	32.3	31	..
22.	UP.	928,470	273,625	29.5	152,927	16.5	1,281	.1	731	.08
23.	Western India	4,904,156	600,440	12.2	358,038	7.3	3,105	.06	239	.005
	Total ...	91,810,571	15,733,133	16.59	8,892,373	9.7	2,794,959	3.1	1,526,350	1.7

APPENDIX IV

Communal Distribution of Population in the Punjab by Districts

Districts	Total Population	Muslims		Scheduled Castes		Indian Christians		Sikhs		Hindus	
		Population	Per-centage	Population	Per-centage	Population	Per-centage	Population	Per-centage	Population	Per-centage
1. Hissar	1,006,709	285,208	28.3	128,240	12.7	1,235	.1	60,731	6.0	524,602	52.1
2. Rohtak	956,399	166,569	17.4	135,103	14.1	1,026	.1	1,466	.2	645,371	57.5
3. Gurgaon	851,458	285,992	33.6	119,250	14.0	1,457	.2	637	.07	441,287	51.8
4. Karnal	994,575	304,346	30.6	136,713	13.7	1,223	.1	19,887	2.0	529,588	53.2
5. Ambala	847,745	268,999	31.7	124,006	14.6	4,892	.6	153,543	18.1	288,652	34.0
6. Simla	38,576	7,022	18.2	7,092	18.4	508	1.3	1,032	2.7	22,374	58.0
7. Kangra	899,377	43,249	4.8	121,622	13.5	590	.07	4,809	.5	725,909	80.7
8. Hoshiyarpur ...	1,170,323	380,759	32.5	170,855	14.6	6,060	.5	198,194	16.9	413,837	35.4
9. Jullundar ...	1,127,190	509,804	45.2	154,431	13.7	5,971	.5	298,744	26.5	156,579	13.9
10. Ludhiana	818,615	302,482	36.9	68,469	8.4	1,632	.2	341,175	41.7	106,246	12.9
11. Ferozpore	1,423,076	641,448	45.1	73,504	5.1	11,031	.8	479,486	33.7	216,229	15.2
12. Lahore	1,695,375	1,027,772	60.6	32,735	1.9	67,686	4.0	310,648	18.3	252,004	14.9
13. Amritsar	1,413,876	657,695	46.5	22,750	1.6	25,330	1.8	510,845	36.1	194,727	13.8
14. Gurdaspur	1,153,511	589,923	51.1	45,839	4.0	40,262	4.4	221,251	19.2	244,935	21.2
15. Sialkot	1,190,497	739,218	62.1	65,354	5.5	73,846	6.2	139,409	11.7	165,965	13.9
16. Gujranwalla	912,235	642,706	70.5	7,485	.8	60,380	6.6	99,139	10.9	100,630	11.0
17. Shakhupura	852,508	542,344	63.6	22,438	2.6	59,985	7.0	160,706	18.9	66,744	7.8
18. Gujarat	1,104,952	945,609	85.6	4,621	.4	4,391	.4	70,233	6.3	80,022	7.2
19. Shahapur	998,921	835,918	83.7	9,693	1.0	12,690	1.3	48,046	4.8	92,479	9.2
20. Jhealam	629,658	563,033	89.4	771	.1	730	.1	24,680	3.9	40,117	6.4
21. Rawalpindi ...	785,231	628,193	80.0	4,233	.5	4,212	.5	64,127	8.2	78,245	10.0
22. Attock	675,875	611,128	90.4	1,015	.1	504	.09	20,102	3.0	42,194	6.2
23. Mianwali	506,321	436,260	86.2	1,008	.2	324	.06	6,865	1.3	61,806	12.2
24. Montgomery ...	1,329,103	918,564	69.1	43,456	3.2	24,101	1.9	175,064	13.2	167,510	12.6
25. Lyallpore	1,396,305	877,518	62.8	68,222	4.9	51,694	3.7	262,737	18.8	135,637	9.7
26. Jhang	821,631	678,736	82.6	1,943	.2	744	.1	12,238	1.5	127,946	15.6
27. Multan	1,484,333	1,157,911	78.0	24,530	1.7	13,270	.9	61,628	4.1	225,342	15.2
28. Muzaffargarh	712,849	616,074	86.4	2,691	.4	218	.03	5,882	.8	87,952	12.3
29. Dera Gazi Khan	581,350	512,678	88.1	1,059	.2	46	.01	1,072	.2	66,348	11.4
30. Transfrontier Tract	40,246	40,084	99.6	Nil	..	Nil	..	2	..	160	.4
Total ...	28,418,820	16,217,242	57.1	1,592,320	5.6	486,038	1.7	3,757,401	13.2	6,301,737	22.2

APPENDIX V

Communal Distribution of Population in Bengal by Districts

Districts	Total Population	Muslims		Scheduled Castes		Hindus		Indian Christians	
		Population	Per-centage	Population	Per-centage	Population	Per-centage	Population	Per-centage
1. Burdwan	1,890,732	336,665	17.8	430,300	22.8	963,520	51.0	3,280	.2
2. Birbhum	1,048,317	287,310	27.4	280,254	26.7	406,182	38.8	344	.03
3. Bankura	1,289,640	55,564	4.3	355,290	27.5	723,269	56.1	1,216	.1
4. Midnapore	3,190,647	246,559	7.7	339,066	10.6	2,342,897	73.4	3,834	.1
5. Hooghly	1,377,729	207,077	15.0	245,810	17.8	853,734	61.9	543	.04
6. Howrah	1,490,304	296,325	19.9	184,318	12.4	1,000,548	67.1	994	.06
7. 24-Parganas	3,536,386	1,148,180	32.5	743,397	21.0	1,566,599	44.3	20,823	.6
8. Calcutta	2,108,891	497,535	23.6	55,228	2.6	1,476,284	70.0	16,431	.8
9. Nadia	1,759,846	1,078,007	61.3	143,682	8.2	514,268	29.2	10,749	.6
10. Murshidabad	1,640,530	927,747	56.6	167,184	10.2	517,803	31.6	394	.02
11. Khulna	1,943,218	959,172	49.4	470,550	24.2	507,143	26.1	3,538	.2
12. Rajashahi	1,571,750	1,173,285	74.6	75,650	4.8	253,580	16.1	1,166	.07
13. Dinajpur	1,926,833	967,246	50.2	399,410	20.7	375,212	19.5	1,448	.07
14. Jalpaiguri	1,089,513	251,460	23.1	325,504	29.9	226,143	20.8	2,589	.2
15. Darjeeling	376,369	9,125	2.4	28,922	7.7	149,574	39.7	2,599	.7
16. Rangpur	2,877,847	2,055,186	71.4	495,462	17.2	307,387	10.7	389	.01
17. Bogra	1,260,463	1,057,902	83.9	61,303	4.9	126,229	10.0	286	.02
18. Pabna	1,705,072	1,313,968	77.1	114,738	6.7	269,017	15.8	285	.02
19. Malda	1,232,618	699,945	56.7	75,535	6.1	390,143	31.6	466	.04
20. Dacca	4,222,143	2,841,261	67.3	409,905	9.7	950,227	22.5	15,846	.4
21. Mymensingh	6,023,758	4,664,548	77.4	340,676	5.7	955,962	15.9	2,322	.04
22. Faridpur	2,888,803	1,871,336	64.4	527,496	18.3	478,742	16.6	9,549	.3
23. Bakargunj	3,549,010	2,567,027	72.3	427,667	12.1	480,962	13.6	9,357	.2
24. Tippera	3,860,139	2,975,901	77.1	227,643	5.9	652,318	16.9	428	.01
25. Naokhali	2,217,402	1,803,937	81.3	81,817	3.7	330.494	14.9	535	.02
26, Chittagong	2,153,296	1,605,183	74.5	57,024	2.6	401,050	18.6	395	.02
27. Chittagong Hill Tracts ..	247,053	7,270	2.9	283	.1	4,598	1.9	60	.02
28. Jessore	1,828,216	1,100,713	60.2	314,856	17.2	406,223	22.2	1,057	.06
Total ..	60,306,525	33,005,434	54.7	7,378,970	12.2	17,630,054	29.3	110,923	.2

APPENDIX VI

Communal Distribution of Population in Assam by Districts

Districts	Total Population	Muslims		Scheduled Castes		Indian Christians		Sikhs		Hindus	
		Population	P.C.	Population	P.C.	Population	P.C.	Population	P.C.	Population	P.C.
Surma Valley											
1. Kachahar ..	641,181	232,950	36.3	51,961	8.1	3,744	.6	..	..	173,855	27.1
2. Sylhet ..	3,116,602	1,892,117	60.7	364,510	11.7	2,590	.08	..	..	785,004	25.2
3. Khasi and Jantia Hills ..	118,665	1,555	1.3	63	.05	120	.1	..	..	12,676	10.7
4. Naga Hills ..	189,641	531	.2	45	.02	9	..	..	..	4,153	2.2
5. Lushai Hills ..	152,786	101	.06	22	.01	Nil	..	..	..	2,425	1.6
Assam Valley											
6. Goalpara ..	1,014,285	468,924	46.2	23,434	2.3	269	.03	..	..	282,789	27.9
7. Kamrup ..	1,264,200	361,522	39.1	59,092	4.7	1.038	.08	..	..	637,457	50.4
8. Darang ..	736,791	120,995	16.4	19,475	2.6	6,367	.8	..	..	328,283	44.6
9. Nowgong ..	710,800	250,113	35.2	59,214	8.3	4,049	.6	..	..	229,137	32.2
10. Sibsagar ..	1,074,741	51,769	4.8	50,184	4.7	15,268	1.4	..	..	593,007	55.2
11. Lakmipur ..	894,842	44,579	5.0	43,527	4.9	3,786	.4	..	..	457,509	51.1
12. Garo Hills ..	233,569	10,398	4.5	789	.3	1	..	..	..	13,518	5.8
13. Sadiya Frontier Tract ..	60,118	864	1.4	3,991	6.6	486	.8	..	..	14,605	24.3
14. Balipara Frontier Tract ..	6,512	61	.9	74	1.1	23	.4	..	..	2,514	38.6
Total ..	10,204,733	3,442,479	33.7	676,291	6.6	37,750	.4	3,464	.03	3,536,932	34.6

APPENDIX VII

N.-W. F. Province

Proportion of Muslim Population by Districts

Districts	Total Population	Total Muslim Population	P. C. of Muslim Population to Total	Total Non-Muslim Population	P. C. of Non-Muslim to Total
Hazara	796,230	756,004	94.9	40,226	5.1
Mardan	506,539	483,575	96.5	22,964	4.5
Peshawar	851,833	769,589	90.4	82,244	9.6
Kohat	289,404	266,224	92.0	23,180	8.0
Bannu	295,930	257,648	87.1	38,282	12.9
D. I. Khan	298,131	255,757	85.8	42,374	14.2

APPENDIX VIII

N.-W. F. Province

Proportion of Muslim to Non-Muslim Population in Towns

C = Cantonment. M = Municipality. N.A. = Notified Area.

Towns by Districts			Total Population	Total Muslim Population	Percentage of Muslims to Total	Total Non-Muslim Population	Percentage of Non-Muslims to Total
	Hazara						
1.	Abbottabad	... C.	13,866	3,331	24	10,535	7.6
2.	Abbottabad	... M.	13,558	8,861	66.1	4,697	33.9
3.	Haripur	... M.	9,322	5,174	55.5	4,148	44.5
4.	Baffa	... N.A.	7,988	7,166	89.7	822	10.3
5.	Nawanshehr	... N.A.	6,414	5,075	79.1	1,339	20.9
6.	Kot Najibullah	...	5,315	4,228	79.5	2,087	20.5
7.	Mansehra	... ...	10,217	8,141	79.7	1,076	20.3
	Mardan						
8.	Mardan	... M.	39,200	28,994	73.9	10,206	26.1
9.	Mardan	... C.	3,294	1,307	39.7	1,987	60.3
	Peshawar						
10.	Peshawar	... M.	1,30,967	1,04,650	79.9	26,317	20.1
11.	Peshawar	... C.	42,453	18,322	43.2	24,131	56.8
12.	Nowshera	... N.A.	17,491	16,976	97	515	3
13.	Nowshera	... C.	26,531	11,256	42.4	15,275	57.6
14.	Risalpur	... C.	9,009	3,506	38.9	5,503	61.1
15.	Cherat	... C.	337	270	80.1	67	19.9
16.	Charsada	... ...	16,945	15,747	92.9	1,198	7.1
17.	Utamanzai	... ...	10,129	9,768	96.4	361	3.6
18.	Tangi	... ...	12,906	12,456	96.5	450	3.5
19.	Parang	... ...	13,496	13,494	99.9	2	...
	Kohat						
20.	Kohat	... M.	34,316	27,868	81.2	6,448	18.8
21.	Kohat	... C.	10,661	4,243	39.8	6,418	60.2
	Bannu						
22.	Bannu	... M.	33,210	8,507	25.6	24,703	74.4
23.	Bannu	... C.	5,294	2,189	41.4	3,105	58.6
24.	Lakki	... N.A.	10,141	5,883	58	4,258	42
	Dera Ismail Khan						
25.	D. I. Khan	... M.	49,238	25,443	51.7	23,795	48.3
26.	D. I. Khan	... C.	2,068	981	47.4	1,087	52.6
27.	Kulachi	... N.A.	8,840	6,610	74.8	2,230	25.2
28.	Tauk	... N.A.	9,089	5,531	60.8	3,558	39.2

APPENDIX IX

SIND

Distribution of Muslim Population by Districts

Districts	Total Population	Total Muslim Population	P. C. of Muslims to Total	Total Non-Muslims	P. C. of Non-Muslims to Total
1	2	3	4	5	6
1. Dadu	389,380	329,991	84.7	59,389	15.3
2. Hyderabad ...	758,748	507,620	66.9	251,128	33.1
3. Karachi ...	713,900	457,035	64.0	256,865	36.0
4. Larkana ...	511,208	418,543	81.9	92,665	18.1
5. Nawabshah ...	584,178	436,414	74.7	147,764	25.3
6. Sukkur	692,556	491,634	71.0	200,922	29.0
7. Thar Parkar ...	581,004	292,025	50.3	288,979	49.7
8. Upper Sind Frontier	304,034	275,063	90.5	28,971	9.5
Total* ...	4,553,008	3,208,325	70.7	1,326,683	29.3

* This is exclusive of the population of Khairpur State.

APPENDIX X

SIND

Proportion of Muslim to Non-Muslim Population in Towns

M=Municipality: CI. C.=Civil Cantonment; Mily. C.=Military Cantonment

Towns by Districts			Total Population	Total Muslim Population	P. C. of Muslims to Total	Total Non-Muslim Population	P.C. of Non-Muslims to Total
1			2	3	4	5	6
Dadu							
1.	Dadu ...	M.	10,996	5,279	48	5,717	52.0
2.	Kotri ...	M.	9,979	5,137	51.5	4,842	48.5
3.	Manjhand ...	M.	3,025	1,053	34.8	1,972	65.2
4.	Sehwan ...	M.	4,364	2,218	50.8	2,146	49.2
Hyderabad							
5.	Hala ...	M.	7,960	5,042	63.3	2,918	36.7
6.	Hyderabad ...	M.	1,27,521	31,983	25.1	95,538	74.9
7.	Hyderabad ...	CI. C.	5,255	2,667	50.7	2,588	49.3
8.	Hyderabad ...	Mily. C.	1,917	1,419	74	498	26
9.	Matiari ...	M.	5,910	4,339	73.4	1,571	26.6
10.	Nasarpur ...	M.	3,810	2,331	61.2	1.479	38.8
11.	Tando Allahyar	M.	8,406	1,690	20.1	6,716	79.9
12.	Tando Maho-med Khan. ...	M.	8,718	2,902	33.3	5,816	66.7
Karachi							
13.	Karachi ...	M.	3,58,492	1,52,365	42.5	2,06,127	57.5
14.	Karachi ...	CI. C.	5,854	895	15.3	4,959	84.7
15.	Daigh Road ...	CI. C.	2,881	1,172	40.7	1,709	59.3
16.	Manora ...	CI. C.	2,533	932	36.8	1,601	63.2
17.	Karachi ...	Mily.C.	15,895	7,063	44.4	8,832	5.56
18.	Tatta ...	M.	8,262	4,198	50.8	4,064	49.2
Larkana							
19.	Kambar ...	M.	11,681	6,297	53.1	5,384	46.9
20.	Larkana ...	M.	20,390	7,834	38.4	12,556	61.6
21.	Ratedero ...	M.	9,925	2,393	24.1	7,532	75.9
Nawabshah ...							
22.	Nawabshah ...	M.	17,509	4,420	25.3	13,089	74.7
23.	Shahabadpur. ...	M.	11,786	1,898	16.1	9,888	83.9
24.	Tando Adam ...	M.	17,233	2,994	17.4	14,239	82.6
Sukkur							
25.	Ghari Yasin ...	M.	8,397	2,895	34.5	5,502	65.5
26.	Ghotki ...	M.	5,236	1,533	29.3	3,703	70.7
27.	Rohri ...	M.	14,721	4,132	28.7	10,589	71.9
28.	Shikarpur ...	M.	67,746	21,775	32.1	45,971	67.9
29.	Sukkur ...	M.	66,466	18,152	27.3	48,314	72.7
Thar Parkar							
30.	Mirpurkhas ...	M.	19,591	5,086	25.9	14,505	74.1
31.	Umarkot ...	M.	4,275	986	22.9	3,289	77.1
Upper Sind Frontier							
32.	Jacobabad ...	M.	21,588	9,774	45.3	11,814	54.7

APPENDIX XI

Languages used in India by Muslims in order of Importance

(*According to Census of 1921*)

Urdu (Western Hindi)	20,791,000
Bengali	23,995,000
Punjabi	7,700,000
Sindhi	2,912,000
Kashmiri (and allied languages) ...	1,500,000
Pushtu	1,460,000
Gujarati	1,400,000
Tamil	1,250,000
Malayalam	1,107,000
Telugu	750,000
Oriya.	400,000
Baluchi	224,000
Brahui	122,000
Arabic	42,000
Persian	22,000
Other languages	5,060,000
Total...	68,735,000

APPENDIX XII

Address* presented to H. E. Lord Minto, Viceroy and Governor-General of India

by

A Deputation of the Muslim Community of India on 1st October 1906 at Simla

ADDRESS

"May it please your Excellency,—Availing ourselves of the permission accorded to us, we, the undersigned nobles, jagirdars, taluqdars, lawyers, zemindars, merchants and others representing a large body of the Mahomedan subjects of His Majesty the King-Emperor in different parts of India, beg most respectfully to approach your Excellency with the following address for your favourable consideration.

* This document has a great importance and significance in the history of India. It marks the beginning of the British Government's policy of giving favourable treatment to the Muslims in the administration of India which, it is alleged, was intended to wean them away from the Congress and to create a breach and disunity between the Hindus and the Musalmans. It has also acquired a certain amount of notoriety in the minds of the Indians in view of the statement made by late Maulana Mohammad Ali in his address as President of the Congress, stating that "it was a command performance", meaning thereby that the address was arranged by the British Government. On this account there has been a great deal of curiosity on the part of many Indians to know the text of the address and the reply given by Lord Minto. I had made a long search to obtain the same. I had even approached elderly Muslim politicians prominent in those days for a copy but none of them had it or knew where it was available. Newspapers of that day do not appear to have carried the text of the address and the reply. I was however lucky to get a copy of it from my friend Sir Raza Ali, M.L.A. (Central), who happened to have kept a cutting of the *Indian Daily Telegraph*—a paper then published from Lucknow but had long ago become defunct, in which the full text of the address as well as of the reply was printed. I am grateful to Sir Raza Ali for a loan of the cutting. As the document marks a historic event in the political history of British administration in India, it might be of some interest to reproduce details about the function which the Simla correspondent of the *Indian Daily Telegraph* had published in its issue of October 3rd, 1906. Says the correspondent:—

We fully realise and appreciate the incalculable benefits conferred by British rule on the teeming millions belonging to diverse races and professing diverse religions who form the population of the vast continent of India, and have every reason to be grateful for the peace, security, personal freedom and liberty of worship that we now enjoy. Further, from the wise and enlightened character of the Government, we have every reasonable ground for anticipating that these benefits will be progressive, and that India will in the future occupy an increasingly important position in the comity of nations.

"The representatives of the Mahomedan community who were to present the address to His Excellency the Viceroy this morning at Viceregal Lodge collected in the Ballroom at 11 A.M. They numbered thirty-five and were seated in a horse-shoe facing His Excellency's chair. Precisely at 11 A.M. Lord Minto, preceded by his staff, entered the room, all standing to receive him. His Excellency was taken round and personally introduced to each member by the Aga Khan. The Khalifa from Patiala then asked permission for the presentation of the address and the Aga Khan then advanced and facing His Excellency read the petition given below, all the representatives standing."

Those who formed the deputation were:—His Highness Aga Sir Sultan Mahomed Shah Aga Khan, G.C.I.E., (Bombay), Shahzadah Bakhtiar Shah, O.I.E., Head of the Mysore family, Calcutta; Hon'ble Malik Omar Hayat Khan, CIE., Lieutenant 17th Prince of Wales' Tiwana Lancers, Tiwana, Shahpur (Punjab) ; Hon'ble Khan Bahadur Mian Mohomed Shah Din, Bar.-at-Law, Lahore; Hon'ble Maulvi Sharfuddin, Bar.-at-Law, Patna; Khan Bahadur Syed Nawab Ali Chowdhury, Mymensingh (Eastern Bengal) ; Nawab Bahadur Syed Amir Husan Khan, C.I.E., Calcutta; Naseer Hussain Khan Khayal, Calcutta; Khan Bahadur Mirza Shujaat Ali Beg; Persian Consul-General, Murshidabad, Calcutta (Bengal) ; Syed Ali Imam, Bar.-at-Law, Patna (Behar); Nawab Sarfraz Husain Khan; Patna (Behar) ; Khan Bahadur Ahmad Mohiuddin Khan, Stipendiary of the Carnatic family (Madras); Maulvi Rafiuddin Ahmed, Bar.-at-Law (Bombay) ; Ebrahimbhoy Adamji Peerbhoy, General Merchant (Bombay) ; Mr. Abdur Rahim, Bar.-at-Law, Calcutta; Syed Allahdad Shah, Special Magistrate and Vice-President, Zamindars' Association, Khairpore (Sindh) ; Maulana H. M. Malak, Head of Mehdi Bazh Bohras, Nagpur (Central Provinces) ; Mushir-ud-Doula Mumtazal-ul-Mulk Khan Bahadur Khalifa Syed Mohamad Hussain, Member of the State Council of Patiala (Punjab); Khan Bahadur Col. Abdul Majid Khan, Foreign Minister, Patiala (Punjab); Khan Bahadur Khwaja Kusuf Shah, Hony. Magistrate, Amritsar (Punjab); Mian Mahomed Shafi, Bar.-at-Law, Lahore (Punjab) ; Shaikh Ghulam Sadik, Amritsar (Punjab) ; Hakim Mohamed Ajmul Khan, Delhi (Punjab); Munshi Ihtisham Ali, Zamindar and Rais, Kakori (Oudh) ; Syed Nabi Ullah, Bar.-at-Law, Rais Kara, Dist. Allahabad; Maulvi Syed Karamat Husain, Bar.-at-Law, Allahabad; Syed Abdulraoof, Bar.-at-Law, Allahabad; Munshi Abdur Salam Khan, retired Sub-Judge, Rampur; Khan Bahadur Mohamad Muzammil Ullah Khan, Zamindar, Secretary, Zamindars' Association, United Provinces, and Joint

One of the most important characteristics of British policy in India is the increasing deference that has so far as possible been paid from the first to the views and wishes of the people of the country in matters affecting their interests, with due regard always to the diversity of race and religion which forms such an important feature of all Indian progress.

Claims of the Community

Beginning with the confidential and unobtrusive method of consulting influential members of important communities in different parts of the country, this principle was gradually extended by the recognition of the right of recognised political or

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Secretary, M. A. O. College Trustees, Aligarh : Haji Mohamed Ismail Khan, Zamindar, Aligarh; Sahabzadas Aftab Ahmad Khan, Bar.-at-Law, Aligarh ; Maulvi Mushtaq Hussain, Rais, Amroha, United Provinces; Maulvi Habibul Rahaman Khan, Zamindar, Bhikhanpur, United Provinces; Nawab Syed Sirdar Ali Khan, son of the late Nawab Sirdar Diler-Ul-mulk Bahadur, C.I.E., Hyderabad (Deccan); Maulvi Syed Mahdee Ally Khan (Muhsin-ul-Mulk), Hony. Secretary. M. A. O. College, Aligarh, Etawah, United Provinces.

The following gentlemen intended to have attended the presentation of the address to the Viceroy, but were prevented by illness or other causes:— Hon'ble Nawab Khwaja , Salimulla, Nawab of Dacca, Hon'ble Nawab Haji Mohamed Fateh Ali Khan, Qazel-bash, Lahore; Hon'ble Syed Zainul-Edros, Surat, Khan Bahadur Kasim Mir Ghayasuddin Peerzadah of Broach: Khan Bahadur Raja Jahandad of Hazara and Shaik Shahid Hussain of Lucknow.

The correspondent of the *Telegraph* adds:—

Lady Minto, the Ladies Elliot and the Hon. Mrs. Hewett were present at the function.

At the presentation of the address today most of the deputies wore ordinary European dress with a fez as distinguishing head-dress, but the Patiala representatives, Lieut. Hon. Malik Omar Hayat Khan, Khan Bahadur Ali Choudhary, Khan Bahadur Ahmad Mohiuddin Khan and a few others, were in Indian dress, while a few others wore uniforms with gold lace. His Excellency the Viceroy was in morning dress with the Order of the Star of India on his frock coat.

GARDEN PARTY AT VICEREGAL LODGE

This afternoon a garden party was held in the Viceregal Lodge grounds when the Mahomedan representatives were received by the Viceroy, who spoke with each deputy individually.

The Hon. Mr. Baker, Financial Secretary, has invited the following Bengal gentlemen of the Mahomedan deputation to lunch tomorrow:—

Nawab Amir Hosein, Mirza Shujat Ali, Nawab Nasar Hossein, Hon. Shurfuddin and Ali Imam.

commercial organisations to communicate to the authorities their criticisms and views on measures of public importance, and finally by the nomination and election of direct representatives of the people in Municipalities, District Boards, and above all in the Legislative Chambers of the country. This last element is, we understand, about to be dealt with by the Committee appointed by your Excellency with the view of giving it further extension, and it is with reference mainly to our claim to a fair share in such extended representation and some other matters of importance affecting the interests of our community, that we have ventured to approach your Excellency on the present occasion.

Past Traditions

The Mahomedans of India number, according to the census taken in the year 1901, over sixty-two millions or between one-fifth and one-fourth of the total population of His Majesty's Indian dominions, and if a reduction be made for the uncivilised portions of the community enumerated under the heads of animist and other minor religions, as well as for those classes who are ordinarily classified as Hindus but properly speaking are not Hindus at all, the proportion of Mahomedans to the Hindu majority becomes much larger. We therefore desire to submit that under any system of representation extended or limited a community in itself more numerous than the entire population of any first class European power except Russia may justly lay claim to adequate recognition as an important factor in the State.

We venture, indeed, with your Excellency's permission to go a step further, and urge that the position accorded to the Mahomedan community in any kind of representation, direct or indirect, and in all other ways affecting their status and influence should be commensurate, not merely with their numerical strength, but also with their political importance and the value of the contribution which they make to the defence of the empire, and we also hope that your Excellency will in this connection be pleased to give due consideration to the position which they occupied in India a little more than hundred years ago and of which the traditions have naturally not faded from their minds.

The Mahomedans of India have always placed implicit reliance on the sense of justice and love of fair dealing that have characterised their rulers, and have in consequence abstained from pressing their claims by methods that might prove at all embarrassing, but earnestly as we desire that the Mahomedans of India should not in the future depart from that excellent and time-honoured tradition, recent events have stirred up feelings, especially among the younger generation of Mahomedans, which might, in certain circumstances and under certain contingencies easily pass beyond the control of temperate counsel and sober guidance.

We therefore pray that the representations we herewith venture to submit, after a careful consideration of the views and wishes of a large number of our co-religionists in all parts of India, may be favoured with your Excellency's earnest attention.

European representative institutions

We hope your Excellency will pardon our stating at the outset that representative institutions of the European type are new to the Indian people; many of the most thoughtful members of our community in fact consider that the greatest care, forethought and caution will be necessary if they are to be successfully adapted to the social, religious and political conditions obtaining in India, and that in the absence of such care and caution their adoption is likely, among other evils, to place our national interests at the mercy of an unsympathetic majority. Since, however, our rulers have, in pursuance of the immemorial instincts and traditions, found it expedient to give these institutions an increasingly important place in the Government of the country, we Mahomedans, cannot any longer in justice to our own national interests hold aloof from participating in the conditions to which their policy has given rise. While, therefore, we are bound to acknowledge with gratitude that such representation as the Mahomedans of India have hitherto enjoyed has been due to a sense of justice and fairness on the part of your Excellency and your illustrious predecessor in office and the heads of Local Governments by whom the Mahomedan members of Legislative Chambers have almost without exception been

nominated, we cannot help observing that the representation thus accorded to us has necessarily been inadequate to our requirements, and has not always carried with it the approval of those whom the nominees were selected to represent. This state of things was probably under existing circumstances unavoidable, for while on the one hand the number of nominations reserved to the Viceroy and Local Governments has necessarily been strictly limited, the selection on the other hand of really representative men, has, in the absence of any reliable method of ascertaining the direction of popular choice, been far from easy.

The Results of Election

As for the results of election, it is most unlikely that the name of any Mahomedan candidate will ever be submitted for the approval of Government by the electoral bodies as now constituted unless he is in sympathy with the majority in all matters of importance. Nor can we in fairness find fault with the desire of our non-Muslim fellow-subjects to take full advantage of their strength and vote only for members of their own community, or for persons who, if not Hindus, are expected to vote with the Hindu majority on whose goodwill they would have to depend for their future re-election. It is true that we have many and important interests in common with our Hindu fellow-countrymen and it will always be a matter of the utmost satisfaction to us to see these interests safeguarded by the presence in our Legislative Chambers of able supporters of these interests, irrespective of their nationality.

A DISTINCT COMMUNITY

Still, it cannot be denied that we Mahomedans are a distinct community with additional interests of our own which are not shared by other communities, and these have hitherto suffered from the fact that they have not been adequately represented. Even in the provinces in which the Mahomedans constitute a distinct majority of the population, they have too often been treated as though they were inappreciably small political factors that might without unfairness be neglected. This has been the case, to some extent, in the Punjab, but in a more marked degree in Sind and in Eastern Bengal.

Before formulating our views with regard to the election of representatives, we beg to observe that the political importance of a community to a considerable extent gains strength or suffers detriment according to the position that the members of that community occupy in the service of the State. If, as is unfortunately the case with the Mahomedans, they are not adequately represented in this manner, they lose in the prestige and influence which are justly their due.

Employment in Government Service

We therefore pray that Government will be graciously pleased to provide that both in the gazetted and the subordinate and ministerial services of all Indian provinces a due proportion of Mahomedans shall always find place. Orders of like import have at times been issued by Local Governments in some provinces, but have not, unfortunately, in all cases been strictly observed on the ground that qualified Mahomedans were not forthcoming. This allegation, however well founded it may have been at one time, is, we submit, no longer tenable now, and wherever the will to employ them is not wanting the supply of qualified Mahomedans, we are happy to be able to assure your Excellency, is equal to the demand.

The Competitive Element

Since, however, the number of qualified Mahomedans has increased, a tendency is unfortunately perceptible to reject them on the ground of relatively superior qualifications having to be given precedence. This introduces something like the competitive element in its worst form, and we may be permitted to draw your Excellency's attention to the political significance of the monopoly of all official influence by one class. We may also point out in this connection that the efforts of Mahomedan educationists have from the very outset of the educational movement among them been strenuously directed towards the development of character, and this we venture to think is of greater importance than mere mental alertness in the making of good public servants.

Mahomedans on the Bench

We venture to submit that the generality of Mahomedans in all parts of India feel aggrieved that Mahomedan Judges are

not more frequently appointed to the High Courts and Chief Courts of Judicature. Since the creation of these Courts only three Mahomedan lawyers have held these honourable appointments, all of whom have fully justified their elevation to the Bench. At the present moment there is not a single Mahomedan Judge sitting on the Bench of any of these Courts, while there are three Hindu Judges in the Calcutta High Court, where the proportion of Mahomedans in the population is very large, and two in the Chief Court of the Punjab, where the Mahomedans form the majority of the population. It is not, therefore, an extravagant request on our part that a Mahomedan should be given a seat on the Bench of each of the High Courts and Chief Courts. Qualified Mahomedan lawyers eligible for these appointments can always be found, if not in one province then in another. We beg permission further to submit that the presence on the Bench of these Courts of a Judge learned in the Mahomedan Law will be a source of considerable strength to the administration of justice.

Municipal Representation

As Municipal and District Boards have to deal with important local interests affecting to a great extent the health, comfort, educational needs and even the religious concerns of the inhabitants, we shall, we hope, be pardoned if we solicit for a moment your Excellency's attention to the position of Mahomedans thereon before passing to higher concerns. These institutions form, as it were, the initial rungs in the ladder of self-government, and it is here that the principle of representation is brought home intimately to the intelligence of the people, yet the position of Mahomedans on these Boards is not at present regulated by any guiding principle capable of general application, and practice varies in different localities. The Aligarh Municipality, for example, is divided into six wards and each ward returns one Hindu and one Mahomedan Commissioner, and the same principle we understand is adopted in a number of Municipalities in the Punjab and elsewhere, but in a good many places the Mahomedan tax-payers are not adequately represented. We would, therefore, respectfully suggest that the local authority should in every case be required to declare the

number of Hindus and Mahomedans entitled to seats on Municipal and District Boards, such proportion to be determined in accordance with the numerical strength, social status, local influence and special requirements of either community. Once their relative proportion is authoritatively determined, we would suggest that either community should be allowed severally to return their own representatives as is the practice in many towns in the Punjab.

Fellows of Universities

We would also suggest that the Senates and Syndicates of Indian Universities might be similarly dealt with, that is to say, there should, so far as possible, be an authoritative declaration of the proportion in which Mahomedans are entitled to be represented in either body.

Nomination to Provincial Councils

We now proceed to the consideration of the question of our representation in the Legislative Chambers of the country. Beginning with the Provincial Councils, we would most respectfully suggest that as in the case of Municipalities and District Boards the proportion of Mahomedan representatives entitled to seats should be determined and declared with due regard to the important considerations which we have ventured to point out in paragraph 5 of this address, and that the important Mahomedan landowners, lawyers, merchants and representatives of other important interests, the Mahomedan members of District Boards and Municipalities and the Mahomedan graduates of universities of a certain standing, say five years, should be formed into Electoral Colleges and be authorised, in accordance with such-rules of procedure as your Excellency's Government may be pleased to prescribe in that behalf, to return the number of members that may be declared to be eligible.

The Viceroy's Council

With regard to the Imperial Legislative Council whereon the due representation of Mahomedan interests is a matter of vital importance, we crave leave to suggest (1) that in the cadre of the Council the proportion of Mahomedan representatives

should not be determined on the basis of the numerical strength of the community, and that in any case the Mahomedan representatives should never be an ineffective minority; (2) that as far as possible, appointment by election should be given preference over nomination; (3) that for the purposes of choosing Mahomedan members, Mahomedan landowners, lawyers, merchants and representatives of other important interests of a status to be subsequently determined by your Excellency's Government, Mahomedan members of the Provincial Councils and Mahomedan fellows of universities should be invested with electoral powers to be exercised in accordance with such procedure as may be prescribed by your Excellency's Government in that behalf.

The Executive Council

An impression has lately been gaining ground that one or more Indian Members may be appointed on the Executive Council of the Viceroy. In the event of such appointment being made we beg that the claims of Mahomedans in that connection may not be overlooked. More than one Mahomedan, we venture to say, will be found in the country fit to serve with distinction in that august chamber.

A Mahomedan University

We beg to approach your Excellency on a subject which must closely affect our national welfare. We are convinced that our aspirations as a community and our future progress are largely dependent on the foundation of a Mahomedan University which will be the centre of our religious and intellectual life. We therefore most respectfully pray that your Excellency will take steps to help us in an undertaking in which our community is so deeply interested.

In conclusion, we beg to assure your Excellency that in assisting the Mahomedan subjects of His Majesty at this stage in the development of Indian affairs in the directions indicated in the present address, your Excellency will be strengthening the basis of their unswerving loyalty to the Throne and laying the foundation of their political advancement and national prosperity, and your Excellency's name will be remembered with gratitude by their posterity for generations to come, and we feel confident

that your Excellency will be gracious enough to give due consideration to our prayers. We have the honour to subscribe ourselves, Your Excellency's most obedient and humble servants.

LORD MINTO'S REPLY

Appreciation of Mahomedan aspirations

After the address, His Excellency rose and delivered a most sympathetic reply, which was frequently punctuated with cheers and cries of "Hear, hear" from the members of the deputation, particularly when his Excellency declared that he was entirely in accord with the views of the deputation that any electoral system must take cognizance of the various religious beliefs of this great Empire and that the British Government would always in the future as in the past safeguard the political rights of the different communities entrusted to their charge. The Viceroy concluded by thanking the deputation for affording him the unique opportunity of meeting so many representative men.

The Viceroy said :—

Your Highness and Gentlemen, Allow me before I attempt to reply to the many considerations your address embodies, to welcome you heartily to Simla. Your presence here today is very full of meaning. To the document which you have presented me are attached the signatures of nobles, of Ministers of various States, of great landowners, of lawyers, of merchants and of many others of His Majesty's subjects. I welcome the representative character of your deputation as expressing the views and aspirations of the enlightened Muslim community of India. I feel that all you have said emanates from a representative body basing its opinions on a matured consideration of the existing political conditions of India, totally apart from the small personal or political sympathies and antipathies of scattered localities, and I am grateful to you for the opportunity you are affording me of expressing my appreciation of the just aims of the followers of Islam and their determination to share in the political history of our Empire.

As your Viceroy, I am proud of the recognition you express of the benefits conferred by British rule on the diverse races of

many creeds who go to form the population of this huge continent. You yourselves, the descendants of a conquering and ruling race, have told me to-day of your gratitude for the personal freedom, the liberty of worship, the general peace and the hopeful future which British administration has secured for India.

Help in the Past

It is interesting to look back on early British efforts to assist the Mahomedan population to qualify themselves for the public service. In 1782 Warren Hastings founded the Calcutta Madrassah with the intention of enabling its students to compete on more equal terms with the Hindus for employment under Government. In 1811 my ancestor, Lord Minto, advocated improvements in the Madrassah and the establishment of Mahomedan Colleges at other places throughout India. In later years the efforts of the Mahomedan Association led to the Government resolution of 1885 dealing with the educational position of the Mahomedan community and their employment in the public service, whilst Mahomedan educational effort has culminated in the College of Aligarh that great institution which the noble and broad-minded devotion of Sir Syed Ahmed Khan has dedicated to his co-religionists.

The Aligarh College

It was in July 1877 that Lord Lytton laid the foundation-stone of Aligarh, when Sir Syed Ahmed Khan addressed these memorable words to the Viceroy: "The personal honour which you have done me assures me of a great fact and fills me with feelings of a much higher nature than mere personal gratitude. I am assured that you, who upon this occasion represent the British rule, have sympathies with our labours and this assurance is very valuable and a source of great happiness. At my time of life it is a comfort to me to feel that the undertaking which has been for many years, and is now the sole object of my life has roused on the one hand the energies of my own countrymen, and on the other has won the sympathy of our British fellow-subjects and the support of our rulers, so that when the few years I may still be spared are over, and when I shall be no

longer amongst you, the College will still prosper and succeed in educating my countrymen to have the same affection for their country, the same feelings of loyalty for the British rule, the same appreciation of its blessings, the same sincerity of friendship with our British fellow-subjects as have been the ruling feelings of my life."

Sir Syed's Influence

Aligarh has won its laurels. Its students have gone forth to fight the battle of life strong in the tenets of their own religion, strong in the precepts of loyalty and patriotism, and now when there is much that is critical in the political future of India the inspiration of Sir Syed Ahmed Khan and the teachings of Aligarh shine forth brilliantly in the pride of Mahomedan history, in the loyalty, commonsense and sound reasoning so eloquently expressed in your address. But, gentlemen, you go on to tell me that sincere as your belief is in the justice and fair dealings of your rulers, you cannot but be aware that "recent events " have stirred up feelings amongst the younger generation of Mahomedans which might "pass beyond the control of temperate counsel and sober guidance."

Policy in Eastern Bengal

Now I have no intention of entering into any discussion upon the affairs of Eastern Bengal and Assam, yet I hope that without offence to anyone I may thank the Mahomedan community of the new Province for the moderation and self-restraint they have shown under conditions which were new to them, and as to which there has been inevitably much misunderstanding, and that I may at the same time sympathise with all that is sincere in Bengalee sentiments. But above all, what I would ask you to believe is that the course the Viceroy and the Government of India have pursued in connection with the affairs of the new Province, the future of which is now I hope assured, has been dictated solely by a regard for what has appeared best for its present and future populations as a whole, irrespective of race or creed and that the Mahomedan community of Eastern Bengal and Assam can rely as firmly as ever on British justice

and fairplay for the appreciation of its loyalty and the safeguarding of its interests.

The unrest in India

You have addressed me, gentlemen, at a time when the political atmosphere is full of change. We all feel it would be foolish to attempt to deny its existence, hopes and ambitions new to India are making themselves felt. We cannot ignore them—we should be wrong to wish to do so — but to what is all this unrest due? Not to the discontent of misgoverned millions — I defy anyone honestly to assert that — not to say uprising of a disaffected people.

Fruits of Western Education

It is due to that educational growth in which only a very small portion of the population has as yet shared, of which British rule first sowed the seed and the fruits of which British rule is now doing its best to foster and to direct. There may be many tares in the harvest we are now reaping. The Western grain which we have sown may not be entirely suitable to the requirements of the people of India but the educational harvest will increase as years go on, and the healthiness of the nourishment it gives will depend on the careful administration and distribution of its products. You need not ask my pardon, gentlemen, for telling me that "Representative institutions of the European type are entirely new to the people of India" or that their introduction here requires the most earnest thought and care. I should be very far from welcoming all the political machinery of the Western world amongst the hereditary instincts and traditions of Eastern races. Western breadth of thought, the teachings of Western civilisation, the freedom of British individuality can do much for the people of India, but I recognise with you that they must not carry with them an impracticable insistence of the acceptance of political methods.

Political Future of Mahomedans

And now, gentlemen, I come to your own position in respect to the political future; the position of the Mahomedan community for whom you speak. You will, I feel sure, recognise that it is

impossible for me to follow you through any detailed consideration of the conditions and the share that the community has a right to claim in the administration of public affairs. I can at present only deal with generalities. The points which you have raised are before the Committee, which, as you know, I have lately appointed to consider the question of presentation (? representation), and I will take care that your address is submitted to them, but at the same time I hope I may be able to reply to the general tenor of your remarks without in any way forestalling the Committee's report.

The Question of Representation

The pith of your address, as I understand it, is a claim that in any system of representation whether it affects a Municipality, a District Board or a Legislative Council, in which it is proposed to introduce or increase an electoral organisation, the Mahomedan community should be represented as a community. You point out that in many cases electoral bodies, as now constituted, cannot be expected to return a Mahomedan candidate, and that if by chance they did so it could only be at the sacrifice of such a candidate's view to those of a majority opposed to his own community whom he would in no way represent, and you justly claim that your numerical strength both in respect to the political importance of your community and the service it has rendered to the Empire entitle you to consideration. I am entirely in accord with you ; please do not misunderstand me. I make no attempt to indicate by what means the representation of communities can be obtained, but I am as firmly convinced as I believe you to be that any electoral representation in India would be doomed to mischievous failure which aimed at granting a personal enfranchisement regardless of the beliefs and traditions of the communities composing the population of this continent. The great mass of the people of India have no knowledge of representative institutions. I agree with you, gentlemen, that the initial rungs in the ladder of self-government are to be found in the Municipal and District Boards and that it is in that direction that we must look for the gradual political education of the people.

An Assurance

In the meantime I can only say to you that the Mahomedan community may rest assured that their political rights and interests as a community will be safeguarded in any administrative reorganization with which I am concerned and that you and the people of India may rely upon the British Raj to respect, as it has been its pride to do, the religious beliefs and the national traditions of the myriads composing the population of His' Majesty's Indian Empire.

Your Highness and Gentlemen, I sincerely thank you for the unique opportunity your deputation has given me of meeting so many distinguished and representative Mahomedans. I deeply appreciate the energy and interest in public affairs which have brought you here from great distances, and I only regret that your visit to Simla is necessarily so short.

APPENDIX XIII

Allocation of Seats under the Government of India Act, 1935, for the Lower House in each Provincial Legislature

Province.	Total Seats.	General Seats.		Seats for representatives of backward areas and tribes.	Sikh Seats.	Mahomedan Seats.	Anglo-Indian Seats.	European Seats.	Indian Christian Seats.	Seats for representatives of commerce, industry, mining and planting.	Land-holders Seats.	University Seats.	Seats for representatives of labour.	Seats for Women.				
		Total of General Seats.	General Seats reserved for Scheduled Castes.											General.	Sikh.	Mahomedan.	Anglo-Indian.	Indian Christian.
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
Madras	215	146	30	1	..	28	2	3	8	6	6	1	6	6	..	1	..	1
Bombay	175	114	15	1	..	29	2	3	3	7	2	1	7	5	..	1	..	..
Bengal	250	78	30	..	..	117	3	11	2	19	5	2	8	2	..	2	1	..
United Provinces	228	140	20	..	..	64	1	2	2	3	6	1	3	4	..	2	..	..
The Punjab	175	42	8	..	31	84	1	1	2	1	5	1	3	1	1	2	..	..
Bihar	152	86	15	7	..	39	1	2	1	4	4	1	3	3	..	1	..	..
Central Provinces and Berar ..	112	84	20	1	..	14	1	1	..	2	3	1	2	3	..	..	..	..
Assam	108	47	7	9	..	34	..	1	1	11	..	..	4	1	..	..	..	..
North-West Frontier Province ..	60	9	..	..	3	36	..	..	..	..	2	..	..	..	..	..	..	..
Orissa	60	44	6	5	..	4	..	..	1	1	2	..	1	2	..	..	..	..
Sind	60	18	..	..	..	33	..	2	..	2	2	..	1	1	..	1	..	..

In Bombay seven of the general seats shall be reserved for Marathas.
In the Punjab one of the Land-holders seats shall be a seat to be filled by a Tumandar.
In Assam and Orissa the seats reserved for women shall be non-communal seats.

APPENDIX XIV

Allocation of Seats under the Government of India Act, 1935, for the Upper House in each Provincial Legislature

Province.	Total of Seats.	General Seats.	Mahomedan Seats.	European Seats.	Indian Christian Seats.	Seats to be filled by Legislative Assembly.	Seats to be filled by Governor
1	2	3	4	5	6	7	
Madras	Not less than 54 Not more than 56	35	7	1	3	..	Not less than 8 Not more than 10
Bombay	Not less than 29 Not more than 30	20	5	1	..	..	Not less than 3 Not more than 4
Bengal	Not less than 63 Not more than 65	10	17	3	..	27	Not less than 6 Not more than 8
United Provinces	Not less than 58 Not more than 60	34	17	1	..	..	Not less than 6 Not more than 8
Bihar	Not less than 29 Not more than 30	9	4	1	..	12	Not less than 3 Not more than 4
Assam	Not less than 21 Not more than 22	10	6	2	..	..	Not less than 3 Not more than 4

APPENDIX XV

Allocation of Seats under the Government of India Act, 1935, for the Lower House of the Federal Legislature for British India

Province.	Total Seats.	General Seats.		Sikh Seats.	Mahomedan Seats.	Anglo-Indian Seats.	European Seats.	Indian Christian Seats.	Seats for representatives of commerce and industry.	Land holders Seats.	Seats for representatives of labour.	Women's Seats.
		Total of General Seats.	General Seats reserved for Scheduled Castes.									
1	2	3	4	5	6	7	8	9	10	11	12	13
Madras	37	19	4	..	8	1	1	2	2	1	1	2
Bombay	30	13	2	..	6	1	1	1	3	1	2	2
Bengal	37	10	3	..	17	1	1	1	3	1	2	1
United Provinces	37	19	3	..	12	1	1	1	..	1	1	1
The Punjab	30	6	1	6	14	..	1	1	..	1	..	1
Bihar	30	16	2	..	9	..	1	1	..	1	1	1
Central Provinces and Berar ..	15		2	..	3	..	..	..	..	1	1	1
Assam	10	4	1	..	3	..	1	1	..	..	1	..
North-West Frontier Province	5	1	..	..	4	..	..	..	..	..	..	..
Orissa	5	4	1	..	1	..	..	..	..	..	..	..
Sind	5	1	..	..	3	..	1	..	..	..	..	..
British Baluchistan	1	..	..	..	1	..	..	..	..	..	..	..
Delhi	2	1	..	..	1	..	..	..	..	..	..	..
Ajmer-Merwara	1	1	..	..	..	..	..	..	..	..	..	..
Coorg	1	1	..	..	..	..	..	..	..	..	..	..
Non-Provincial Seats ..	4	..	..	..	..	..	..	..	3	..	1	..
Total ..	250	105	19	6	82	4	8	8	11	7	10	9

APPENDIX XVI

Allocation of Seats under the Government of India Act, 1935, for the Upper Chamber of the Federal Legislature for British India

Province or Community.	Total Seats.	General Seats.	Seats for Scheduled Castes.	Sikh Seats.	Maho-medan Seats.	Women's Seats.
1	2	3	4	5	6	7
Madras	20	14	1	..	4	1
Bombay	16	10	1	..	4	1
Bengal	20	8	1	..	10	1
United Provinces	20	11	1	..	7	1
The Punjab	16	3	..	4	8	1
Bihar	16	10	1	..	4	1
Central Provinces and Berar ..	8	6	1	..	1	..
Assam	5	3	..	..	2	..
North-West Frontier Province ..	5	1	..	..	4	..
Orissa	5	4	..	..	1	..
Sind	5	2	..	..	3	..
British Baluchistan	1	..	..	..	1	..
Delhi	1	1	..	..	..	..
Ajmer-Merwara	1	1	..	..	..	..
Coorg	1	1	..	..	..	..
Anglo-Indians	1	..	..	..	..	..
Europeans	7	..	..	..	..	..
Indian Christians	2	..	..	..	..	..
Total ..	150	75	6	4	49	6

APPENDIX XVII

Allocation of Seats under the Government of India Act, 1935, for the Lower and Upper House of the Federal Legislature for Indian States

States and Groups of States.	Number of seats in the Council of State.	States and Groups of States.	Number of Seats in the Federal Assembly.	Population
1	2	3	4	5
DIVISION I		DIVISION I		
Hyderabad	5	Hyderabad	16	14,436,142
DIVISION II		DIVISION II		
Mysore	3	Mysore	7	6,557,302
DIVISION III		DIVISION III		
Kashmir	3	Kashmir	4	8,646,243
DIVISION IV		DIVISION IV		
Gwalior	3	Gwalior	4	3,523,070
DIVISION V		DIVISION V		
Baroda	3	Baroda	3	2,443,007
DIVISION VI		DIVISION VI		
Kalat	2	Kalat	1	342,101
DIVISION VII		DIVISION VII		
Sikkim	1	Sikkim	..	109,808
DIVISION VIII		DIVISION VIII		
1. Rampur	1	1. Rampur	1	465,225
2. Benares	1	2. Benares	1	391,272
DIVISION IX		DIVISION IX		
1. Travancore	2	1. Travancore	5	5,095,973
2. Cochin	2	2. Cochin	1	1,205,016
3. Pudukkottai ..	1	3. Pudukkottai ..	1	400,694
Banganapalle ..		Banganapalle ..		39,218
Sandur		Sandur		13,583
DIVISION X		DIVISION X		
1. Udaipur	2	1. Udaipur	2	1,566,910
2. Jaipur	2	2. Jaipur	3	2,631,775
3. Jodhpur	2	3. Jodhpur	2	2,125,982
4. Bikaner	2	4. Bikaner	1	936,218
5. Alwar	1	5. Alwar	1	749,751
6. Kotah	1	6. Kotah	1	685,804
7. Bharatpur	1	7. Bharatpur	1	486,954
8. Tonk	1	8. Tonk	1	317,360

APPENDIX XVII– (*Contd.*)

States and Groups of States.	Number of seats in the Council of State.	States and Groups of States.	Number of Seats in the Federal Assembly.	Population
1	2	3	4	5
DIVISION X– (Continued)		DIVISION X– (Continued)		
9. Dholpur	1	9. Dholpur	1	254,986
10. Karauli	1	Karauli		140,525
11. Bundi	1	10 Bundi	1	216,722
12. Sirohi	1	Sirohi		216,528
13. Dungarpur	1	11. Dungarpur	1	227,544
14. Banswara	1	Banswara		260,670
15. Partabgarh	1	12. Partabgarh	1	76,539
Jhalawar		Jhalawar		107,890
16. Jaisalmer	1	13. Jaisalmer	1	76.255
Kishengarh		Kishengarh		85,744
DIVISION XI		DIVISION XI		
1. Indore	2	1. Indore	2	1,825,089
2. Bhopal	2	2. Bhopal	1	729,955
3. Rewa	2	3. Rewa	2	1,587,445
4. Datia	1	4. Datia	1	158,834
5. Orchha		Orchha		314,661
6. Dhar	1	5. Dhar		243,430
7. Dewas (Senior) ...	1	Dewas (Senior) ...	1	83,321
Dewas (Junior) ...		Dewas (Junior) ...		70,513
8. Jaora	1	6. Jaora	1	100,166
Ratlam		Ratlam		107,321
9. Panna		7. Panna		212,130
Samthar	1	Samthar	1	33,307
Ajaigarh		Ajaigarh		85,895
10. Bijawar		8. Bijawar		115,852
Charkbari	1	Charkbari	1	120,351
Chhatarpur		Chhatarpur		161,267
11. Baoni		9. Baoni		19,132
Nagod		Nagod	1	74,589
Maihar	1	Maihar		68,991
Baraundha		Baraundha		16,071
12. Barwani		10. Barwani		141,110
Ali Rajpur	1	Ali Rajpur	1	101,963
Shahpura		Shahpura		54,233
13. Jhabua		11. Jhabua		145,522
Sailana	1	Saiiana	1	35,223
Sitamau		Sitamau		28,422
14. Rajgarh		12. Rajgarh		134,891
Narsingarh	1	Narsingarh	1	113,873
Khilchipur		Khilchipur		45,583

APPENDIX XVII– (*Contd.*)

States and Groups of States.	Number of seats in the Council of State.	States and Groups of States.	Number of Seats in the Federal Assembly.	Population
1	2	3	4	5
DIVISION XII		DIVISION XII		
1. Cutch	1	1. Cutch	1	514,307
2. Idar	1	2. Idar	1	262,660
3. Nawanagar	1	3. Nawanagar	1	409,192
4. Bhavnagar	1	4. Bhavnagar	1	500,274
5. Junagadh	1	5. Junagadh	1	545,152
6. Rajpipla	1	6. Rajpipla	1	206,114
Palanpur		Palanpur		264,179
7. Dhrangadhra ...	1	7. Dhrangadhra ...	1	88,961
Gondal		Gondal		205,846
8. Porbandar	1	8. Porbandar	1	115,673
Morvi		Morvi		113,023
9. Radhaupur		9. Radhaupur		70,530
Wankaner	1	Wankaner	1	44,259
Palitana		Palitana		624,150
10. Cambay	1	10. Cambay	1	87,701
Dharampur		Dharampur		112,031
Balasinor		Balasinor		52,527
11. Baria		11. Baria		159,429
Chhota Udepur ...	1	Chhota Udepur ...	1	144,640
Sant		Sant		83,531
Lunawada		Lunawada		95,162
12. Bansda		12. Bansda		48,839
Sachin	1	Sachin		22,107
Jawhar		Jawhar		57,261
Danta		Danta		26,196
13. Dhrol		Dhrol		27,639
Limbdi	1	Limbdi	1	40,088
Wadhwan		Wadhwan		42,602
Rajkot		Rajkot		75,540
DIVISION XIII		DIVISION XIII		
1. Kolhapur	2	1. Kolhapur	1	957,137
2. Sangli		2. Sangli		258,442
Savantvadi	1	Savantvadi	1	230,589
3. Jabhura		3. Jabhura		110,379
Mudhol	1	Mudhol	1	62,832
Bhor		Bhor		141,546
4. Jamkhandi		4. Jamkhandi		114,270
Miraj (Senior) ...		Miraj (Senior) ...		93,938
Miraj (Junior) ...		Miraj (Junior) ...		40,684
Kurundwad (Senior) ...	1	Kurundwad (Senior) ...	1	44,204
Kurundwad (Junior) ...		Kurundwad (Junior) ...		75,540

APPENDIX XVII – *(Contd.)*

States and Groups of States.	Number of seats in the Council of State.	States and Groups of States.	Number of Seats in the Federal Assembly.	Population
1	2	3	4	5
DIVISION XIII- (Continued)		DIVISION XIII - (Continued)		
5. Akalkot		5. Akalkot		92,605
Phaltan		Phaltan		58,761
Jath	1	Jath	1	91,099
Aundh		Aundh		76,507
Ramdurg		Ramdurg		35,454
DIVISION XIV		DIVISION XIV		
1. Patiala	2	1. Patiala	2	1,625,520
2. Bhawalpur	2	2. Bhawalpur	1	984,612
3. Khairpur	1	3. Khairpur	1	227,183
4. Kapurthala	1	4. Kapurthala	1	316,757
5. Jind	1	5. Jind	1	324.676
6. Nabha	1	6. Nabha	1	287,574
		7. Tehri-Garhwal	1	349,573
7. Mandi		8. Mandi	1	207,465
Bilaspur	1	Bilaspur		100,994
Suket		Suket		58,408
8. Tehri-Garhwal ...		9. Sirmur	1	148,568
Sirmur	1	Chamba		146.870
Chamba				
9. Faridkot		10. Faridkot	1	164,364
Malerkotia	1	Malerkotia		83,072
Loharu		Loharu		23,338
DIVISION XV		DIVISION XV		
1. Cooch Behar	1	1. Cooch Behar	1	590,886
2. Tripura	1	2. Tripura	1	382,450
Manipur		3. Manipur	1	445,606
DIVISION XVI		DIVISION XVI		
1. Mayurbhanj	1	1. Mayurbhanj	1	889,603
Sonepur		2. Sonepur	1	237,920
2. Patna	1	3. Patna	1	566,924
Kalahandi		4. Kalahandi	1	513,716
3. Keonjhar		5. Keonjhar	1	460,609
Dhenkanul	1	6. Gangpur	1	356.674
Nayagarli		7. Bastar	1	524,721
Talcher		8. Surgnja	1	501,939
Nilgiri				

APPENDIX XVII – (*Contd.*)

States and Groups of States.	Number of seats in the Council of State.	States and Groups of States.	Number of Seats in the Federal Assembly.	Population
1	2	3	4	5
DIVISION XVI– (Continued)		DIVISION XVI– (Continued)		
4. Gangpur		9. Dhenkanal		284,326
Bamra		Nayagarh		142,406
Seraikela	1	Seraikela		143,525
Baud		Baud	3	135,248
Bonal		Talcher		69,702
		Bonal		80,186
5. Bastar		Nilgiri		68,594
Surguja	1	Bamra		151,047
Raigarh				
Nandgaon				
6. Khairgarh		10. Raigarh		277,569
Jashpur		Khairagarh		157,400
Kanker	1	Jashpur		193,698
Korea		Ranker	3	136,101
Sarangarh		Sarangarh		128,967
		Korea		90,886
		Nandgaon		182,380
DIVISION XVII		DIVISION XVII		
States not mentioned in any of the preceding Divisions, but described in paragraph 12 of this Part of this Schedule.	2	States not mentioned in any of the preceding Divisions but described in paragraph 12 of this Part of this Schedule.	5	3,047,129
Total Population of the States in this Table				78,996,844

APPENDIX XVIII

COMMUNAL AWARD BY HIS MAJESTY'S GOVERNMENT–1932

In the statement made by the Prime Minister on 1st December last on behalf of His Majesty's Government at the close of the second session of the Round Table Conference, which was immediately afterwards endorsed by both Houses of Parliament, it was made plain that if the communities in India were unable to reach a settlement acceptable to all parties on the communal questions which the Conference had failed to solve His Majesty's Government were determined that India's constitutional advance should not on that account be frustrated, and that they would remove this obstacle by devising and applying themselves a provisional scheme.

2. On the 19th March last His Majesty's Government, having been informed that the continued failure of the communities to reach agreement was blocking the progress of the plans for the framing of a new Constitution, stated that they were engaged upon a careful re-examination of the difficult and controversial questions which arise. They are now satisfied that without a decision of at least some aspects of the problems connected with the position of minorities under the new Constitution, no further progress can be made with the framing of the Constitution.

3. His Majesty's Government have accordingly decided that they will include provisions to give effect to the scheme set out below in the proposals relating to the Indian Constitution to be laid in due course before Parliament. The scope of this scheme is purposely confined to the arrangements to be made for the representation of the British Indian communities in the Provincial Legislatures, consideration of representation in the Legislature at the Centre being deferred for the reason given in paragraph 20 below. The decision to limit the scope of the scheme implies no failure to realise that the framing of the Constitution

* Parliamentary Paper (Command 4147) of 1932. Officially it is spoken of as *Communal Decision*.

will necessitate the decision of a number of the problems of great importance to minorities, but has been taken in the hope that once a pronouncement has been made upon the basic questions of method and proportions of representation the communities themselves may find it possible to arrive at a *modus vivendi* on other communal problems, which have not as yet received the examination they require.

4. His Majesty's Government wish it to be most clearly understood that they themselves can be no parties to any negotiations which may be initiated with a view to the revision of their decision, and will not be prepared to give consideration to any representation aimed at securing the modification of it which is not supported by all the parties affected. But they are most desirous to close no door to an agreed settlement should such happily be forthcoming. If, therefore before a new Government of India Act has passed into law, they are satisfied that the communities who are concerned are mutually agreed upon a practicable alternative scheme, either in respect of any one or more of the Governors' Provinces or in respect of the whole of the British India, they will be prepared to recommend to Parliament that that alternative should be submitted for the provisions now outlined.

5. Seats in the Legislative Councils in the Governors' Provinces, or in the Lower House if there is an Upper Chamber, will be allocated as shown in the annexed table.*

6. Election to the seats allotted to Muhammadan, European and Sikh constituencies will be by voters voting in separate communal electorates covering between them the whole area of the Province (apart from any portions which may in special cases be excluded from the electoral area as "backward").

Provision will be made in the Constitution itself to empower a revision of this electoral arrangement (and the other similar arrangements mentioned below) after 10 years with the assent of the communities affected, for the ascertainment of which suitable means will be devised.

7. All qualified electors, who are not voters either in a Muhammadan, Sikh, Indian Christian (see paragraph 10 below),

* See page 370.

Anglo-Indian (see paragraph 11 below) or European constituency, will be entitled to vote in a general constituency.

8. Seven seats will be reserved for Mahrattas in certain selected plural member general constituencies in Bombay.

9. Members of the "depressed classes" qualified to vote will vote in a general constituency. In view of the fact that for a considerable period these classes would be unlikely, by this means alone, to secure any adequate representation in the Legislature, a number of special seats will be assigned to them as shown in the table. These seats will be filled by election from special constituencies in which only members of the "depressed classes" electorally qualified will be entitled to vote. Any person voting in such a special constituency will, as stated above, be also entitled to vote in a general constituency. It is intended that these constituencies should be formed in selected areas where the Depressed Classes are most numerous, and that, except in Madras, they should not cover the whole area of the Province.

In Bengal it seems possible that in some general constituencies a majority of the voters will belong to the Depressed Classes. Accordingly, pending further investigation, no number has been fixed for the members to be returned from the special Depressed Class constituencies in that Province. It is intended to secure that the Depressed Classes should obtain not less than 10 seats in the Bengal Legislature.

The precise definition in each Province of those who (if electorally qualified) will be entitled to vote in the special Depressed Class constituencies has not yet been finally determined. It will be based as a rule on the general principles advocated in the Franchise Committee's Report. Modification may, however, be found necessary in some Provinces in Northern India where the application of the general criteria of untouchability might result in a definition unsuitable in some respects to the special conditions of the Province.

His Majesty's Government do not consider that these special Depressed Class constituencies will be required for more than a limited time. They intend that the Constitution shall provide that they shall come to an end after 20 years if they have not

previously been abolished under the general powers of electoral revision referred to in paragraph 6.

10. Election to the seats allotted to Indian Christians will be by voters voting in separate communal electorates. It seems almost certain that practical difficulties will, except possibly in Madras, prevent the formation of Indian Christian constituencies covering the whole area of the Province, and that accordingly special Indian Christian constituencies will have to be formed only in one or two selected areas in the Province. Indian Christian voters in these areas will not vote in a general constituency. Indian Christian voters outside these areas will vote in a general constituency. Special arrangements may be needed in Bihar and Orissa, where a considerable proportion of the Indian Christian community belongs to the aboriginal tribes.

11. Election to the seats allotted to Anglo-Indians will be by voters voting in separate communal electorates. It is at present intended, subject to investigation of any practical difficulties that may arise, that the Anglo-Indian constituencies shall cover the whole area of each Province, a postal ballot being employed; but no final decision has yet been reached.

12. The method of filling the seats assigned for representatives from backward areas is still under investigation, and the number of seats so assigned should be regarded as provisional pending a final decision as to the constitutional arrangements to be made in relation to such areas.

13. His Majesty's Government attach great importance to securing that the new Legislatures should contain at least a small number of women members. They feel that at the outset this object could not be achieved without creating a certain number of seats specially allotted to women. They also feel that it is essential that women members should not be drawn disproportionately from one community. They have been unable to find any system which would avoid this risk, and would be consistent with the rest of the scheme for representation which they have found it necessary to adopt, except that of limiting the electorate for each special women's seat to voters from one community.* The special women's seats have accordingly been specifically

* Subject to one exception, see note (*e*) to Table, Appendix XVI.

divided, as shown in the table, between the various communities. The precise electoral machinery to be employed in these special constituencies is still under consideration.

14. The seats allotted to "Labour" will be filled from non-communal constituencies. The electoral arrangements have still to be determined, but it is likely that in most Provinces the Labour constituencies will be partly trade union and partly special constituencies as recommended by the Franchise Committee.

15. The special seats allotted to Commerce and Industry, Mining and Planting will be filled by election through Chambers of Commerce and various Associations. The details of the electoral arrangements for these seats must await further investigation.

16. The special seats allotted to Land-holders will be filled by election by special Land-holders' constituencies.

17. The method to be employed for election to the University seats is still under consideration.

18. His Majesty's Government have found it impossible in determining these questions of representation in the Provincial Legislatures to avoid entering into considerable detail. There remains, nevertheless, the determination of the constituencies. They intend that this task should be undertaken in India as early as possible.

It is possible that in some instances delimitation of constituencies might be materially improved by slight variations from the numbers of seats now given. His Majesty's Government reserve the right to make such slight variations, for such purpose, provided that they would not materially affect the essential balance between communities. No such variations will, however, be made in the case of Bengal and Punjab.

19. The question of the composition of Second Chambers in the Provinces has so far received comparatively little attention in the constitutional discussions and requires further consideration before a decision is reached as to which Provinces shall have a Second Chamber or a scheme is drawn up for their composition.

His Majesty's Government consider that the composition of the Upper House in a Province should be such as not to disturb in any essential the balance between the communities resulting from the composition of the Lower House.

20. His Majesty's Government do not propose at present to enter into the question of the size and composition of the Legislature at the Centre, since this involves among other questions that of representation of the Indian States which still needs further discussion. They will, of course, when considering the composition, pay full regard to the claims of all communities for adequate representation therein.

21. His Majesty's Government have already accepted the principle that Sind should be constituted a separate Province, if satisfactory means of financing it can be found. As the financial problems involved still have to be reviewed in connection with other problems of federal finance, His Majesty's Government have thought preferable to include, at this stage, figures for a Legislature for the existing Province of Bombay, in addition to the schemes for separate Legislatures for Bombay Presidency proper and Sind.

22. The figures given for Bihar and Orissa relate to the existing Province. The question of constituting a separate Province of Orissa is still under investigation.

23. The inclusion in the table of figures relating to a Legislature for the Central Provinces including Berar does not imply that any decision has yet been reached regarding the future constitutional position of Berar.

London,
4th August, 1932.

APPENDIX XVIII – (*contd.*)

Allocation of Seats in Provincial Legislatures (Lower House only)

Province.	General.	Depressed Classes	Representatives from Backward Areas.	Sikh.	Muhammadan.	Indian Christian.	Anglo-Indian.	European.	Commerce and Industry, Mining and Planting, Special. (a)	Land-holders, Special.	University, special.	Labour, Special.	Total.
Madras	134 (Including 6 women)	18	1	0	29 (including 1 woman)	9 (inc. 1 woman)	2	3	6	6	1	6	215
Bombay (Including Sind) ...	97 (*b*) (including 5 women)	10	1	0	63 (including 1 woman)	3	2	4	8	3	1	8	200
Bengal	80 (*c*) (including 2 women)	(c)	0	0	119 (including 2 women)	2	4 (inc. 1 woman)	11	19	5	2	8	250
United Provinces	132 (including 4 women)	12	0	0	66 (including 2 women)	2	1	2	3	5	1	3	228
Punjab	43 (including 1 woman)	0	0	32 (including 1 woman)	86 (including 2 women)	2	1	1	1	5(d)	1	3	175
Bihar and Orissa	99 (including 3 women)	7	8	0	42 (including 1 woman)	2	1	2	4	4	1	4	175
Central Provinces (including Berar).	77 (including 3 women)	10	1	0	14	0	1	1	2	3	1	2	112
Assam	44 (including 1 woman) (e)	4		0	34	1	0	1	11		0	4	108

APPENDIX XVIII – *(contd.)*

Province.	General.	Depressed Classes	Representatives from Backward Areas.	Sikh.	Muhammadan.	Indian Christian.	Anglo-Indian.	European.	Commerce and Industry, Mining and Planting, Special. (a)	Land-holders, Special.	University, special.	Labour, Special.	Total.
North-West Frontier Province.	9	0	0	3	36	0	0	0	0	2	0	0	50
Bombay (without Sind) ...	109 (b) (including 5 women)	10	1	0	30 (including 1 woman)	3	2	3	7	2	1	7	175
Sind	19 (including 1 woman)	0	0	0	34 (including 1 woman)	0	0	2	2	2	0	1	60

(*a*) The composition of the bodies through which election to these seats will be conducted, though in most cases neither predominantly European or predominantly Indian, will not be statutorily fixed. It is, accordingly, not possible in each Province to state with certainty how many Europeans and Indians respectively will be returned. It is, however, expected that, initially, the numbers will be approximately as follows:–Madras, 4 Europeans, 2 Indians; Bombay (including Sind), 5 Europeans, 3 Indians; Bengal, 14 Europeans, 5 Indians; United Provinces, 2 Europeans, 1 Indian; Punjab, 1 Indian; Bihar and Orissa, 2 Europeans, 2 Indians; Central Provinces Including Berar, 1 European, 1 Indian; Assam, 8 Europeans, 8 Indians; Bombay without Sind, 4 Europeans, 3 Indians; Sind, 1 European, 1 Indian.

(*b*) Seven of these seats will be reserved for Mahrattas.

(*c*) As explained in paragraph 9 of the statement, the number of special Depressed Class seats in Bengal–which will not exceed 10-has not yet been fixed. The number of General seats will be 80, less the number of special Depressed Class seats.

(*d*) One of these seats is a Tumandar's seat. The four Land-holder's seats will be filled from special constituencies with Joint electorates. It is probable, from the distribution of the electorate, that the members returned will be one Hindu, one Sikh, and two Muhammadans.

(*e*) This woman's seat will be filled from a non-communal constituency at Shillong.

APPENDIX- XIX

SUPPLEMENTARY COMMUNAL AWARD*

"Then there was the question of the representation of communities in the Centre, particularly of the Muslim community. There, I think, I can say definitely – I think I have said it indirectly very often before – that the Government consider that the Muslim community should have a representation $33^1/_3$ per cent. in the Federal Centre. As far as Indian India is concerned that must be a matter for arrangement between the communities affected and the princes, but, so far as the British Government has any part in the question we will, at any time, give our good offices to making it as easy as possible for the arrangement between those parties with regard to the future allocation of seats."

* The Communal Award of His Majesty's Government (Appendix XVIII) did not give any decision regarding the Muslim claim for $33^1/_3$ per cent. representation in the Central Government. The decision of His Majesty's Government on this claim was announced by the Secretary of State for India on 24th December 1932 in the course of his statement to the Third Round Table Conference.

APPENDIX XX

POONA PACT*

(1) There shall be seats reserved for the Depressed Classes out of the general electorate seats in the Provincial Legislatures as follows:–

Madras 30: Bombay with Sind 15; Punjab 8; Bihar and Orissa 18; Central Provinces 20 ; Assam 7; Bengal 30; United Provinces 20 ; Total 148.

These figures are based on the total strength of the Provincial Councils, announced in the Prime Minister's decision.

(2) Election to these seats shall be by joint electorates subject, however, to the following procedure:

All the members of the Depressed Classes registered in the general electoral roll in a constituency will form an electoral college, which will elect a panel of four candidates belonging to the Depressed Classes for each of such reserved seats, by the method of the single vote; the four persons getting the highest number of votes in such primary election, shall be candidates for election by the general electorate.

(3) Representation of the Depressed Classes in the Central Legislature shall likewise be on the principle of joint electorates and reserved seats by the method of primary election in the manner provided for in Clause two above, for their representation in the Provincial Legislatures.

(4) In the Central Legislature, eighteen per cent. of the seats allotted to the general electorate for British India in the said Legislature shall be reserved for the Depressed Classes.

(5) The system of primary election to a panel of candidates for election to the Central and Provincial Legislatures, as hereinbefore mentioned, shall come to an end after the first ten years, unless terminated sooner by mutual agreement under the provision of Clause six below.

(6) The system of representation of the Depressed Classes by reserved seats in the Provincial and Central Legislatures as

*Signed on 25th September 1932.

provided for in Clauses 1 and 4 shall continue until determined by mutual agreement between the communities concerned in the settlement.

(7) Franchise for the Central and Provincial Legislatures for the Depressed Classes shall be as indicated in the Lothian Committee Report.

(8) There shall be no disabilities attaching to anyone on the ground of his being a member of the Depressed Classes in regard to any elections to local bodies or appointment to the Public Services. Every endeavour shall be made to secure fair representation of the Depressed Classes in these respects, subject to such educational qualifications as may be laid down for appointment to the Public Services.

(9) In every province, out of the educational grant an adequate sum shall be earmarked for providing educational facilities to the members of the Depressed Classes.

APPENDIX XXI

Minority Representation under the Government of India Act of 1935 in Provincial Legislatures

I. LOWER HOUSE

PROVINCE.	Total Seats.	Muslims			Scheduled Castes			Indian Christians			Sikhs		
		Seats Allotted under the Act.	Seats due according to Population.	Excess + or Deficit –	Seats Allotted under the Act.	Seats due according to Population.	Excess + or Deficit –	Seats Allotted under the Act.	Seats due according to Population.	Excess + or Deficit –	Seats Allotted under the Act.	Seats due according to Population.	Excess + or Deficit –
Madras	215	29	17	+12	30	35	–5	9	9	...	Nil	Nil	...
Bombay	175	30	16	+ 14	15	16	–1	3	3	...	Nil	Nil	...
Bengal	250	119	137	–18	30	33	–3	3	Nil	+3	Nil	Nil	...
U. P.	228	66	35	+31	20	49	–29	2	Nil	+2	Nil	1	–1
Punjab	175	86	100	–14	8	8	...	2	3	-1	32	23	+9
Bihar	152	40	20	+20	15	20	–5	1	Nil	+ 1	Nil	Nil	...
C.P. & Berar	112	14	5	+9	20	20	...	Nil	Nil	...	Nil	Nil	...
Assam	108	34	36	–2	7	7	...	1	Nil	+ 1	Nil	Nil	...
N.-W.F.P.	50	36	46	–10	Nil	...	...	Nil	Nil	...	3	1	+2
Orissa	60	4	I	+3	6	9	–3	1	Nil	+ 1	Nil	Nil	...
Sind	60	34	43	–9	Nil	3	–3	Nil	Nil	...	Nil	Nil	...
Total ...	1585	492	456	+36	151	200	–49	22	15	–7	35	25	+10
II. UPPER HOUSE													
Madras	56	7	4	+3	Nil	9	–9	3	2	+1	Nil	Nil	...
Bombay	30	5	3	+2	Nil	3	–3	Nil	Nil	...	Nil	Nil	...
Bengal	65	17	36	–19	Nil	8	–8	Nil	Nil	...	Nil	Nil	...
United Provinces ...	60	17	9	+8	Nil	13	–13	Nil	Nil	...	Nil	Nil	...
Bihar	30	4	4	...	Nil	4	–4	Nil	Nil	...	Nil	Nil	...
Assam	22	10	7	+3	Nil	1	–1	Nil	Nil	...	Nil	Nil	...
Total ...	263	60	63	–3	Nil	38	–38	3	2	+1	Nil	Nil	...

APPENDIX XXII

Minority Representation under the Government of India Act of 1935 in the Central Legislature

	Total seats for British India.		Muslims.		Scheduled Castes.			Indian Christians.			Sikhs.		
		Seats allotted under the Act.	Seats due according to population.	Excess+ or deficit–	Seats allotted under the Act.	Seats due according to population.	Excess+ or deficit–	Seats allotted under the Act.	Seats due according to population.	Excess + or deficit–	Seats allotted under the Act.	Seats due according to population.	Excess+ or deficit–
I. Lower House ..	250	82	67	+15	19	35	–16	8	3	+5	6	3	+3
II. Upper House ..	150	49	40	+9	6	21	–15	Nil	2	–2	4	2	+2

APPENDIX XXIII

COMMUNAL REPRESENTATION IN SERVICES

GOVERNMENT OF INDIA RESOLUTION*

Establishments

the 4th July 1934

SECTION I–GENERAL

No. F. 14/17-B./33. – In accordance with undertakings given in the Legislative Assembly the Government of India have carefully reviewed the results of the policy followed since 1925 of reserving a certain percentage of direct appointments to Government service for the redress of communal inequalities. It has been represented that though this policy was adopted mainly with the object of securing increased representation for Muslims in the public services, it has failed to secure for them their due share of appointments and it has been contended that this position cannot be remedied unless a fixed percentage of vacancies is reserved for Muslims. In particular, attention has been drawn to the small number of Muslims in the Railway services, even on those railways which run through areas in which Muslims form a high percentage of the total population.

The review of the position has shown that these complaints are justified, and the Government of India are satisfied by the enquiries they have made that the instructions regarding recruitment must be revised with a view to improving the position of Muslims in the services.

2. In considering this general question the Government of India have also to take into account the claims of Anglo-Indians and Domiciled Europeans and of the depressed classes. Anglo-Indians have always held a large percentage of appointments in certain branches of the public service and it has been recognised that, in view of the degree to which the community has been dependent on this employment, steps must be taken to prevent in the new conditions anything in the nature of a rapid displacement of Anglo-Indians from their existing positions, which might occasion a violent dislocation of the economic structure of the com-

* *Gazette of India,* Part I, July 7, 1934.

munity. The instructions which follow in regard to the employment of Anglo-Indians and Domiciled Europeans in certain departments are designed to give effect to this policy.

3. In regard to the depressed classes it is common ground that all reasonable steps should be taken to secure for them a fair degree of representation in the public services. The intention of caste Hindus in this respect was formally stated in the Poona Agreement of 1932 and His Majesty's Government in accepting that agreement took due note of this point. In the present state of general education in these classes the Government of India consider that no useful purpose will be served by reserving for them a definite percentage of vacancies out of the number available for Hindus as a whole, but they hope to ensure that duly qualified candidates from the depressed classes are not deprived of fair opportunities of appointment merely because they cannot succeed in open competition.

4. The Government of India have also considered carefully the position of minority communities other than those mentioned above and are satisfied that the new rules will continue to provide for them, as at present, a reasonable degree of representation in the services.

SECTION II—SCOPE OF RULES

5. The Government of India propose to prescribe annual returns in order to enable them to watch the observance of the rules laid down below.

6. The general rules which the Government of India have with the approval of the Secretary of State adopted with the purpose of securing these objects are explained below. They relate only to direct recruitment and not to recruitment by promotion which will continue to be made as at present solely on merit. They apply to the Indian Civil Service, the Central Services, Class I and Class II, and the Subordinate Services under the administrative control of the Government of India with the exception of a few services and posts for which high technical or special qualifications are required, but do not apply to recruitment for these Services in the province of Burma. In regard to the Railways, they apply to all posts other than those of inferior

servants or labourers on the four State-managed Railways, and the administrations of the Company-managed Railways will be asked to adopt similar rules for the services on these Railways.

SECTION III—RULES FOR SERVICES RECRUITED ON AN ALL-INDIA BASIS

7. (1) For the Indian Civil Service and the Central and Subordinate Services to which recruitment is made on an All-India basis, the following rules will be observed:—

(i) 25 per cent, of all vacancies to be filled by direct recruitment of Indians, will be reserved for Muslims and 8 1/3 per cent. for other minority communities.

(ii) When recruitment is made by open competition, if Muslims or the other minority communities obtain less than these percentages, these percentages will be secured to them by means of nomination; if, however, Muslims obtain more than their reserved percentage in open competition, no reduction will be made in the percentage reserved for other minorities, while if the other minorities obtain more than their reserved percentage in open competition, no reduction will be made in the percentage reserved for Muslims.

(iii) If members of the other minority communities obtain less than their reserved percentage in open competition and if duly qualified candidates are not available for nomination, the residue of the 8 1/3 per cent. will be available for Muslims.

(iv) The percentage of 8 1/3 reserved for the other minorities will not be distributed among them in any fixed proportion.

(v) In all cases a minimum standard of qualification will be imposed and the reservations are subject to this condition.

(vi) In order to secure fair representation for the depressed classes duly qualified members of these classes may be nominated to a public service, even though recruitment to that service is being made by competition. Members of these classes, if appointed by nomination, will not count against the percentages reserved in accordance with clause (i) above.

(2) For the reasons given in paragraph 2 of this Resolution, the Government of India have paid special attention to the question of Anglo-Indians and Domiciled Europeans in the gazetted posts on the Railways for which recruitment is made on an All-India basis. In order to maintain approximately their present representation in these posts the Anglo-Indian and Domiciled

European community will require to obtain about 9 per cent. of the total vacancies available to members of Indian communities. The Government of India have satisfied themselves that at present the community is obtaining by promotions to these gazetted posts and by direct recruitment to them more than 9 per cent. of these vacancies. In these circumstances, it has been decided that no special reservation is at present required. If and when the community is shown to be receiving less than 9 per cent. of the vacancies, it will be considered what adjustments in regard to direct recruitment may be required to safeguard their legitimate interests.

SECTION IV—RULES FOR SERVICES RECRUITED LOCALLY

(3) In the case of all services to which recruitment is made by local areas and not on an All-India basis, e.g., subordinate posts in the Railways, Posts and Telegraphs Department, Customs Service, Income-tax Department, etc., the general rules prescribed above will apply subject to the following modifications :—

(1) The total reservation for India as a whole of 25 per cent. for Muslims and of 8 1/3 per cent. for other minorities will be obtained by fixing a percentage for each Railway or local area or circle having regard to the population ratio of Muslims and other minority communities in the area and the rules for recruitment adopted by the local Government of the area concerned;

(2) In the case of the Railways and Posts and Telegraphs Department and Customs Service in which the Anglo-Indian and Domiciled European community is at present principally employed special provisions described in the next paragraph are required in order to give effect to the policy stated in paragraph 2 above.

9. (1) (a) The Anglo-Indian and Domiciled European community at present holds 8.8 per cent. of the subordinate posts on the Railways. To safeguard their position 8 per cent. of all vacancies to be filled by direct recruitment will be reserved for members of this community. This total percentage will be obtained by fixing a separate percentage (i) for each Railway having regard to the number of members of this community at present employed, (ii) for each branch or department of the Railway service, so as to ensure that Anglo-Indians continue to be employed in those branches in which they are at present

principally employed, e.g., the Mechanical Engineering, Civil Engineering and Traffic Departments. No posts in the higher grades of the subordinate posts will be reserved, and promotion to these grades will be made, as at present solely on merit.

(b) The reservation of 25 per cent. for Muslims and 8 per cent. for Anglo-Indians makes it necessary to increase the reservation of $33\frac{1}{3}$ per cent., hitherto adopted for all minority communities, in order to safeguard the interests of minorities other than Muslims and Anglo-Indians. It has been decided, therefore, to reserve for them 6 per cent. of vacancies filled by direct recruitment, which is approximately the percentage of posts held by members of these communities at present. This total reservation will be obtained in the manner prescribed in paragraph 8 (1) of this Resolution and will not be further sub-divided among the minority communities.

(2) In the Posts and Telegraphs Department the same principles will be followed as in the case of the Railways for safeguarding the interests of the Anglo-Indian and Domiciled European community which at present holds about 2.2 per cent. of all subordinate posts. It has been ascertained that if a reservation is made for this community of 5 per cent. of the vacancies in the branches, departments or categories which members of this community may reasonably be expected to enter, it will result in securing for them a percentage equal to slightly less than the percentage of subordinate posts which they at present hold. In the departments or branches in which a special reservation is made for Anglo-Indians the reservation of vacancies for other minorities will be fixed so as to be equal approximately to the percentage of subordinate posts at present held by them. The total reservation for Anglo-Indians and other minority communities, other than Muslims, will in any case be not less than $8\frac{1}{3}$ per cent.

(3) Anglo-Indians are at present largely employed in subordinate posts in the Appraising Department and in the Superior Preventive Service at the major ports. For the former department special technical qualifications are required, and in accordance with the general principles indicated in paragraph 6 of this Resolution it will be excluded from the operation of these rules.

In the Preventive Service special qualifications are required, and the present system of recruitment whereby posts are reserved for Anglo-Indians will be maintained.

ORDER.—Ordered that this Resolution be communicated to all Local Governments and Administrations and the several Departments of the Government of India, for information (and guidance) and that it be also published in the *Gazette of India*.

M. G. HALLET,
Secretary to the Government of India.

APPENDIX XXIV

GOVERNMENT OF INDIA RESOLUTION OF 1943 ON COMMUNAL REPRESENTATION OF SCHEDULED CASTES IN THE SERVICES

HOME DEPARTMENT

RESOLUTION

New Delhi, the 11th August 1943

No. 23/5/42 -Ests(S). — In pursuance of the undertaking given in the Central Legislative Assembly in 1942, the Government of India have carefully reviewed the policy which they have followed since 1934 in regard to the representation of Depressed Classes, since described in the Government of India Act, 1935 as 'Scheduled Castes', in services under their administrative control. In their Resolution No. F. 14/17-B/33, dated the 4th July 1934, the Government of India stated that in the then state of general education among these classes they did not consider that any useful purpose would be served by reserving for them a definite percentage of vacancies. In order, however, to secure fair representation for Scheduled Castes they directed that duly qualified members of these classes might be nominated to a public service even though recruitment to that service was being made by competition. Various measures have been taken since then to secure increased representation of the Scheduled Castes in the public services. The results obtained so far have, however, not been substantial. While the Government of India recognize that this is mainly due to the difficulty of getting suitably qualified candidates, they now consider that the reservation of a definite percentage of vacancies might provide the necessary stimulus to candidates of these castes to obtain better qualifications and thus make themselves eligible for various Government posts and services. It is believed that the grant of age concessions and the reduction of prescribed fees might also help to secure qualified candidates from among members of the Scheduled Castes. The Government of India have accordingly decided to prescribe the rules mentioned in paragraph 4 below.

2. On the basis of the proportion which the population of the Scheduled Castes bears to the population of the other communities entitled to a share in the present unreserved vacancies, the Scheduled Castes would be entitled to 12.75 per cent. out of the total number of such vacancies. It is, however, not likely that sufficient number of candidates from the Scheduled Castes would be forthcoming to fill the full number of vacancies to which they are entitled on a population basis. The Government of India have, therefore, come to the conclusion that for the present it will be sufficient to reserve a somewhat smaller percentage, *viz.,* 8 1/3. They propose to consider the question of raising this percentage as soon as a sufficient number of qualified candidates from these classes are found to be available.

3. The rules mentioned below will apply only to direct recruitment and not to recruitment by promotion which will continue to be made as at present without reference to communal considerations. They will apply to Central Services (Class I and Class II) and the Subordinate Services under the administrative control of the Government of India with the exception of a few services and posts for which highly technical or special qualifications are required and which have been excluded from the purview of the communal representation orders contained in their Resolution No. F. 14/17-B/33, dated the 4th July 1934. In regard to the Railways, the rules will apply to all posts other than those of inferior servants and labourers. The administrations of the Company-managed Railways will be asked to adopt similar rules for the services on those Railways.

4. The following rules will therefore be observed in future in order to secure better representation of the Scheduled Castes in public services :—

(1) $8\frac{1}{3}$ per cent. of all vacancies to be filled by direct recruitment of Indians in the Central and Subordinate Services to which recruitment is made on an all-India basis will be reserved for Scheduled Castes candidates.

(2) In the case of services to which recruitment is made by local areas or circles and not on an all-India basis, *e.g.,* subordinate posts in the Railways, Posts and Telegraphs Department, the Customs Services, the Income-Tax Department, etc., the total

reservation for India as a whole of 8 1/3 per cent. of vacancies for Scheduled Castes candidates will be obtained by fixing a percentage for each local area or circle having regard to the population of Scheduled Castes in the area or circle concerned and the rules for recruitment adopted by the Provincial Government of the area or circle concerned.

(3) When recruitment is made by open competition and Scheduled Castes candidates obtain fewer vacancies than are reserved for them, the difference will, if possible, be made up by the nomination of duly qualified candidates of those castes.

(4) If Scheduled Castes candidates obtain less than the number of vacancies reserved for them in open competition and duly qualified candidates of these castes are not available, or not available in sufficient numbers, for nomination, the remaining vacancies reserved for such candidates will be treated as unreserved ; but a corresponding number of vacancies will be reserved for them in that year under clause (1) or clause (2) above.

(5) If duly qualified candidates of the Scheduled Castes are again not available to fill the vacancies carried forward from the previous year under clause (4), the vacancies not filled by them will be treated as unreserved.

(6) In all cases, a minimum standard of qualification will be prescribed and the reservation will be subject to this condition.

(7) The maximum age limit prescribed for appointment to a service or post will be increased by three years in the case of candidates belonging to the Scheduled Castes.

(8) The fees prescribed for admission to any examination or selection will be reduced to one-fourth in the case of candidates belonging to the Scheduled Castes.

(9) The orders contained in the foregoing rules will also apply to temporary vacancies lasting three months or longer, including vacancies in permanent posts filled temporarily by persons not permanently employed in Government service.

(10) For the purposes of these rules a person shall be held to be a member of the Scheduled Castes if he belongs to a caste which under the Government of India (Scheduled

Castes) Order, 1936, has been declared to be a Scheduled Caste for the area in which he and his family ordinarily reside.

Order.—Ordered that a copy of this Resolution be communicated to all Chief Commissioners, the several Departments of the Government of India, the Director, Intelligence Bureau, and the Federal Public Service Commission for information and guidance; to the Political Department, the Crown Finance Department, the Secretary to the Governor-General (Public), the Secretary to the Governor-General (Reforms), the Secretary to the Governor-General (Personal), the Legislative Assembly Department, the Federal Court, the Military Secretary to His Excellency the Viceroy, and all Provincial Governments for information, and also that the Resolution be published in the *Gazette of India*.

E. CONRAN-SMITH, Secy.

APPENDIX XXV

CRIPPS PROPOSALS

Published on March 29, 1941

DRAFT DECLARATION FOR DISCUSSION WITH INDIAN LEADERS

His Majesty's Government having considered the anxieties expressed in this country and in India as to the fulfilment of promises made in regard to the future of India have decided to lay down in precise and clear terms the steps which they propose shall be taken for the earliest possible realisation of self-government in India. The object is the creation of a new Indian Union which shall constitute a Dominion associated with the United Kingdom and other Dominions by a common allegiance to the Crown but equal to them in every respect, in no way subordinate in any aspect of its domestic or external affairs.

His Majesty's Government, therefore, make the following Declaration:

(a) Immediately upon cessation of hostilities steps shall be taken to set up in India in manner described hereafter an elected body charged with the task of framing a new Constitution for India.

(b) Provision shall be made, as set out below, for participation of Indian States in the Constitution-making body.

(c) His Majesty's Government undertake to accept and implement forthwith the Constitution so framed subject only to :—

(i) The right of any Province of British India that is not prepared to accept the new Constitution to retain its present constitutional position, provision being made for its subsequent accession if it so decides.

With such non-acceding Provinces, should they so desire, His Majesty's Government will be prepared to agree upon a new Constitution giving them the same full status as the Indian Union and

arrived at by a procedure analogous to that here laid down.

(ii) The signing of a Treaty which shall be negotiated between His Majesty's Government and the Constitution-making body. This Treaty will cover all necessary matters arising out of the complete transfer of responsibility from British to Indian hands ; it will make provision, in accordance with undertakings given by His Majesty's Government, for the protection of racial and religious minorities; but will not impose any restriction on the power of the Indian Union to decide in future its relationship to other Member States of the British Commonwealth.

Whether or not an Indian State elects to adhere to the Constitution it will be necessary to negotiate a revision of its Treaty arrangements so far as this may be required in the new situation.

(d) The Constitution-making body shall be composed as follows unless the leaders of Indian opinion in the principal communities agree upon some other form before the end of hostilities:—

Immediately upon the result being known of Provincial Elections which will be necessary at the end of hostilities, the entire membership of the Lower Houses of Provincial Legislatures shall as a single electoral college proceed to the election of the Constitution-making body by the system of provincial representation. This new body shall be in number about l/10th of the number of the electoral college.

Indian States shall be invited to appoint representatives in the same proportion to their total population as in the case of representatives of British India as a whole and with the same powers as British Indian members.

(e) During the critical period which now faces India and until the New Constitution can be framed His Majesty's Government must inevitably bear the responsibility for and retain the control and direction of the defence of

India as part of their world war effort, but the task of organising to the full the military, moral and material resources of India must be the responsibility of the Government of India with the co-operation of the people of India. His Majesty's Government desire and invite the immediate and effective participation of the leaders of the principal sections of the Indian people in the counsels of their country, of the Commonwealth and of the United Nations. Thus they will be enabled to give their active and constructive help in the discharge of a task which is vital and essential for the future freedom of India.

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ii	21	support	..	support
28	12	Karanatak	..	Karnatak
31	16	is not	..	is it not
37	8	forgetten	..	forgotten
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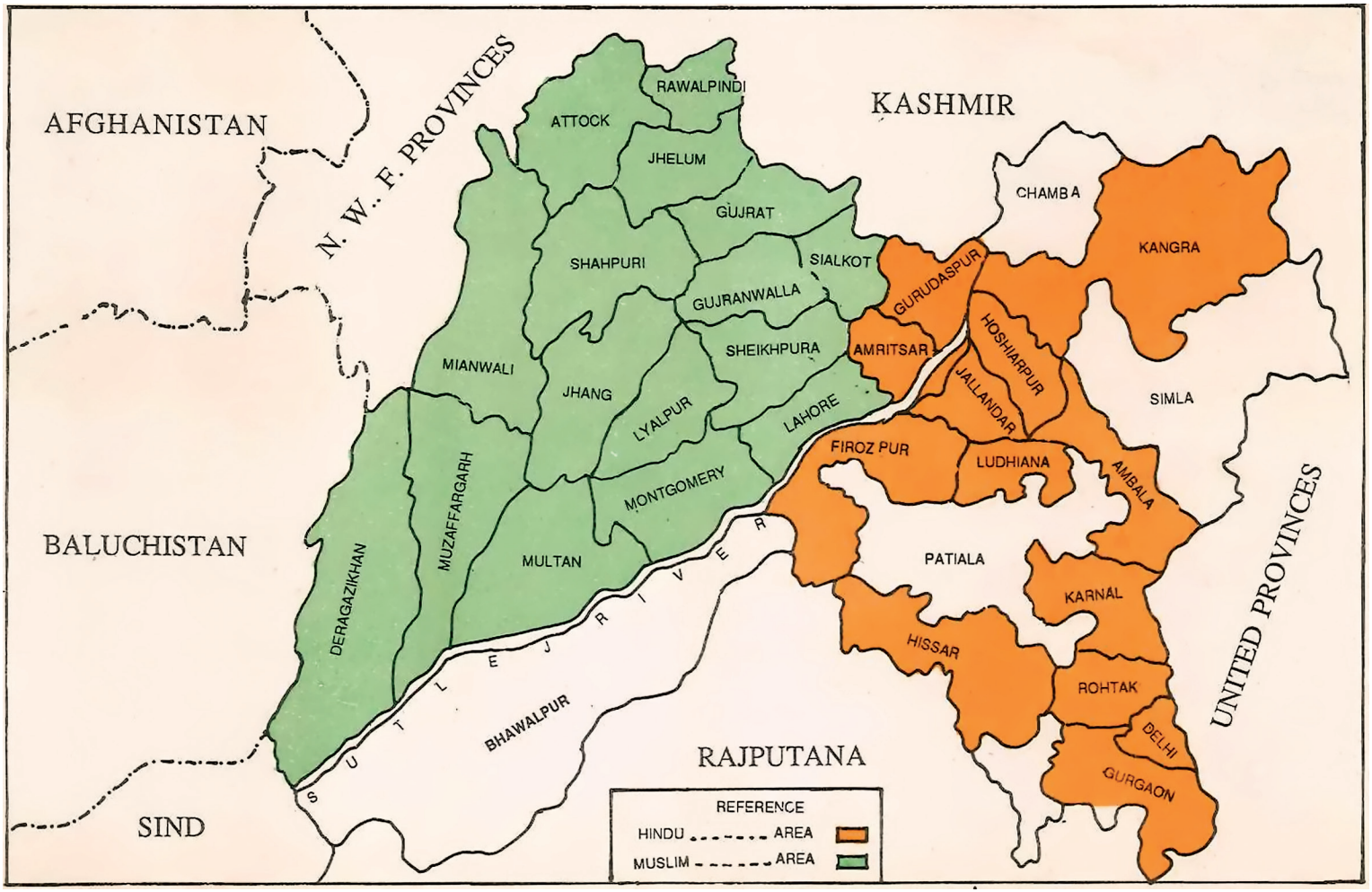
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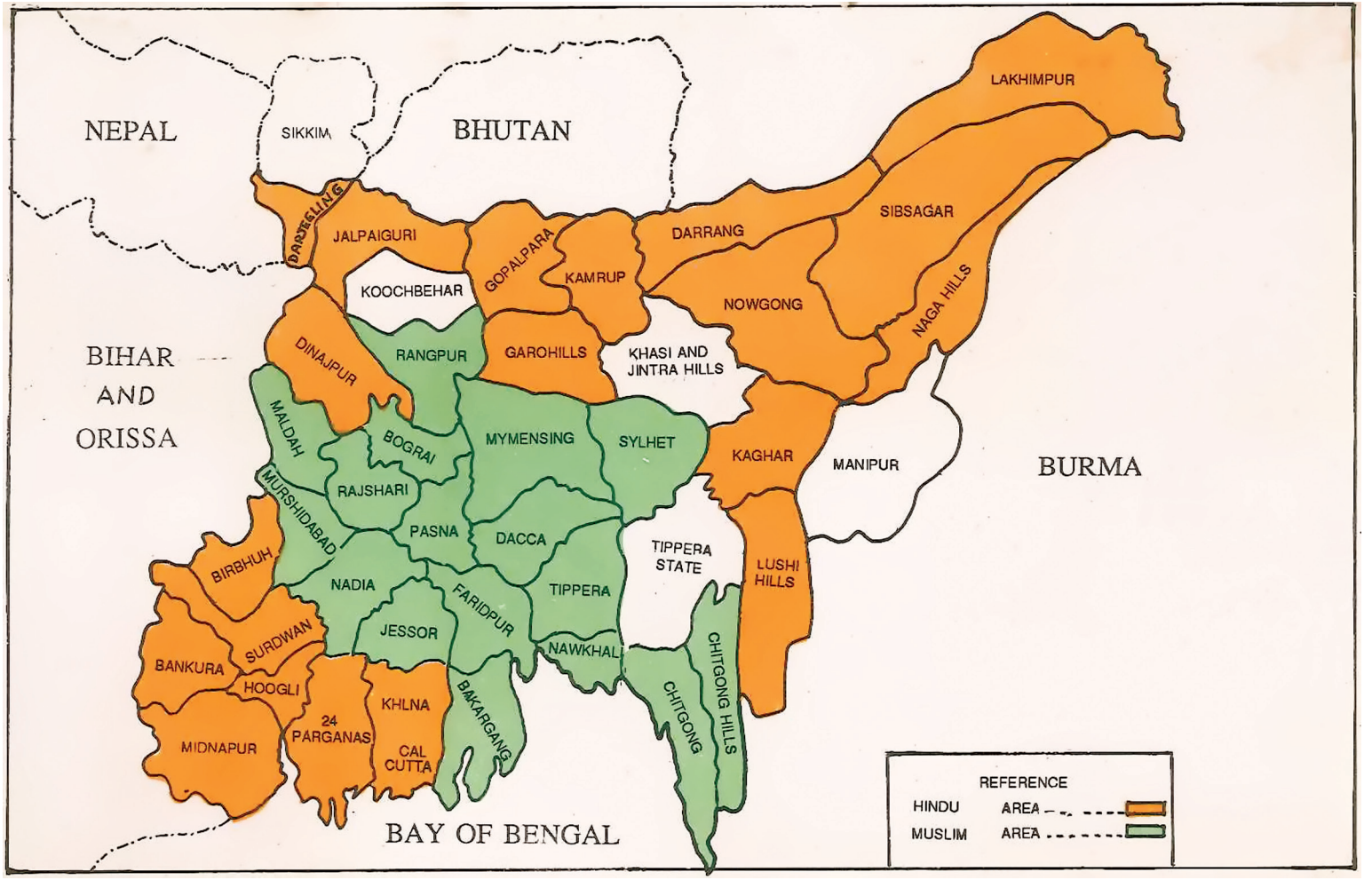

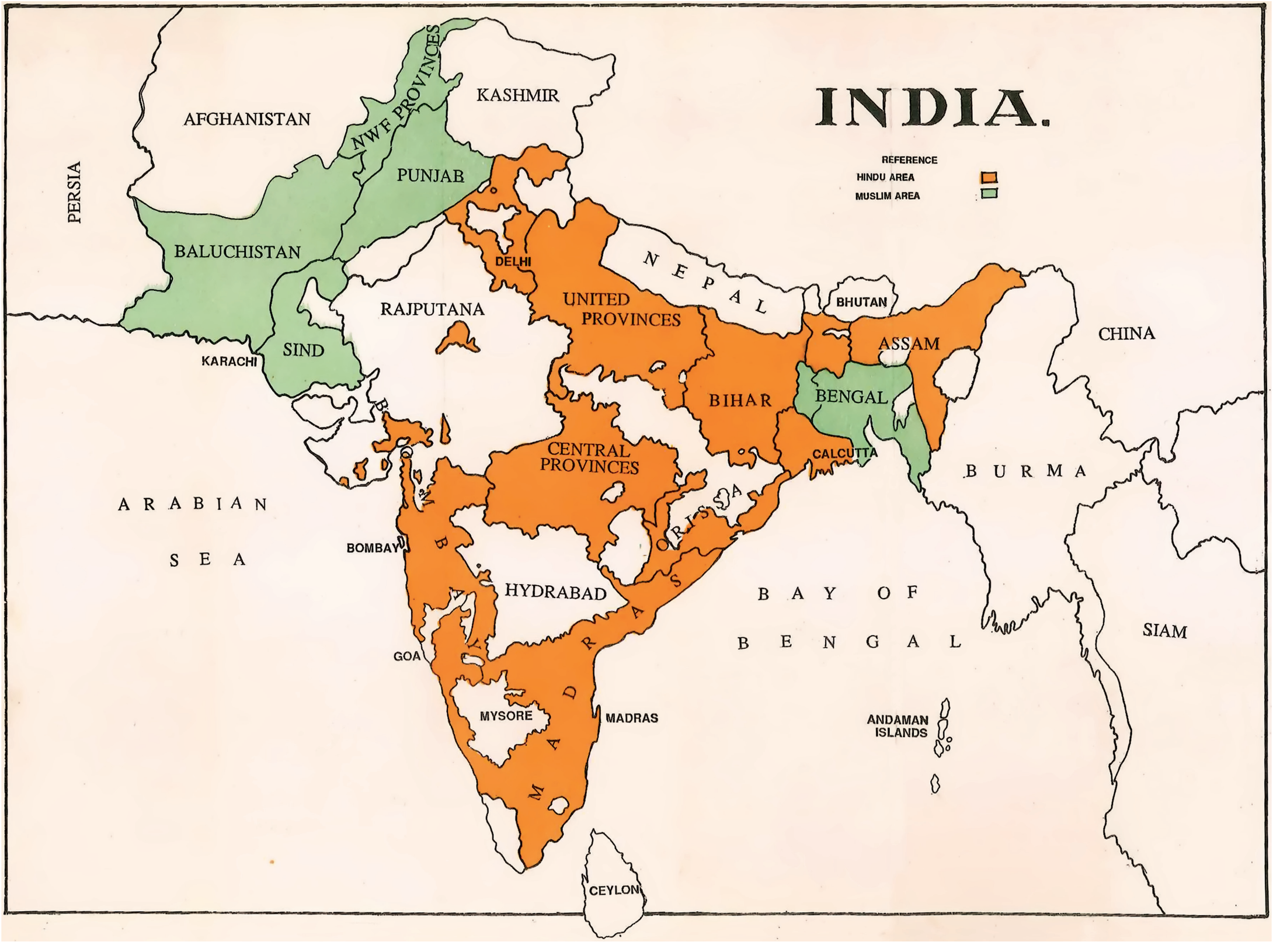
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GOA
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Babasaheb Dr. B.R. Ambedkar

(14th April 1891 - 6th December 1956)

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Governing Class and the Servile Class

Nobody will have any quarrel with the abstract principle that nothing should be done whereby the best shall be superseded by one who is only better and the better by one who is merely good and the good by one who is bad.....

But Man is not a mere machine. He is a human being with feelings of sympathy for some and antipathy for others. This is even true of the 'best' man. He too is charged with the feelings of class sympathies and class antipathies. Having regard to these considerations the 'best' man from the governing class may well turn out to be the worst from the point of view of the servile classes. The difference between the governing classes and the servile classes in the matter of their attitudes towards each other is the same as the attitude a person of one nation has for that of another nation.

- Dr. Ambedkar
in 'What Congress.... etc.'

DR. BABASAHEB AMBEDKAR
WRITINGS AND SPEECHES
Vol. 9

Edited
by
Vasant Moon

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Kumari Selja

सत्यमेव जयते

Minister for Social Justice and Empowerment
& Chairperson, Dr. Ambedkar Foundation

MESSAGE

Babasaheb Dr. B.R. Ambedkar, the Chief Architect of Indian Constitution was a scholar par excellence, a philosopher, a visionary, an emancipator and a true nationalist. He led a number of social movements to secure human rights to the oppressed and depressed sections of the society. He stands as a symbol of struggle for social justice.

The Government of Maharashtra has done a highly commendable work of publication of volumes of unpublished works of Dr. Ambedkar, which have brought out his ideology and philosophy before the Nation and the world.

In pursuance of the recommendations of the Centenary Celebrations Committee of Dr. Ambedkar, constituted under the chairmanship of the then Prime Minister of India, the Dr. Ambedkar Foundation (DAF) was set up for implementation of different schemes, projects and activities for furthering the ideology and message of Dr. Ambedkar among the masses in India as well as abroad.

The DAF took up the work of translation and publication of the Collected Works of Babasaheb Dr. B.R. Ambedkar published by the Government of Maharashtra in English and Marathi into Hindi and other regional languages. I am extremely thankful to the Government of Maharashtra's consent for bringing out the works of Dr. Ambedkar in English also by the Dr. Ambedkar Foundation.

Dr. Ambedkar's writings are as relevant today as were at the time when these were penned. He firmly believed that our political democracy must stand on the base of social democracy which means a way of life which recognizes liberty, equality and fraternity as the principles of life. He emphasized on measuring the progress of a community by the degree of progress which women have achieved. According to him if we want to maintain democracy not merely in form, but also in fact, we must hold fast to constitutional methods of achieving our social and economic objectives. He advocated that in our political, social and economic life, we must have the principle of one man, one vote, one value.

There is a great deal that we can learn from Dr. Ambedkar's ideology and philosophy which would be beneficial to our Nation building endeavor. I am glad that the DAF is taking steps to spread Dr. Ambedkar's ideology and philosophy to an even wider readership.

I would be grateful for any suggestions on publication of works of Babasaheb Dr. Ambedkar.

Selja

(Kumari Selja)

Collected Works of Babasaheb Dr. Ambedkar (CWBA)

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PREFACE

The Ninth Volume of the speeches and writings of Dr. B. R. Ambedkar consists of reprints of "What Congress and Gandhi have done to the Untouchables?" and "Mr. Gandhi and the Emancipation of the Untouchables". Both these works now have only academic interest. They highlight the areas of difference of opinion between Dr. Ambedkar and Gandhiji.

The difference could be described as two sides of the same coin. Both recognised and identified the problem of the Untouchables but differed in their methods of solving it. Dr. Ambedkar stressed the role of law and Constitutional safeguards in protecting the interests of the Scheduled Castes. Gandhiji treated the problem as the moral stigma to be removed by acts of atonements.

The Poona Pact signed on September 24, 1932, recognised the social reality and solemnly affirmed that amongst Hindus no one was to be regarded as an Untouchable by reason of his birth. It also recognised the need for certain statutory safeguards. Later events confirmed the need for moral reforms and legal standards.

The Constitution framed after Independence accepted the principle of reservation of seats for Scheduled Castes and Scheduled Tribes. There is still the picturesque survival of reservation by nomination of a representative of the Anglo-Indian community. There are also adequate constitutional safeguards for linguistic and religious minorities.

The Constitution is designed to promote the welfare of all sections of citizens constituting the pluralistic Indian society. It is a synthesis of the rational view of Dr. Ambedkar and the moral outlook of Gandhiji. Both Dr. Ambedkar and Gandhiji have, thus, contributed to the evolution of the modern Indian polity. Both were agents of change. For Dr. Ambedkar, constitutional and legal safeguards for protection of the interests of the Scheduled Castes were necessary. Reliance on change of heart was not enough. He agreed that law itself

must embody minimum moral contents. Thus, law and morality had to go hand in hand. There is in fact a remarkable compromise and combination of law and morality in the Indian Constitution.

The point of view Dr. Ambedkar emphasised in "What Congress and Gandhi have done to the Untouchables ?" marks him out as a creative reformer. His was a creative personality. As Jacob Bronowski points out in his "Origins of knowledge and Imagination", "creative personality is always one that looks on the world as fit for change, and on himself as an instrument of change. Otherwise, what are you creating for? If the world is perfectly allright the way it is, you have no place in it. The creative personality thinks of the world as a canvas for change and of himself as a divine agent of change."

A social reformer has to point out faults in the social structure. If he does not speak out, he would not be a social reformer. Creativity also involves an element of controversy arising out of the conflict between the frenzy of a mathematical insight and the decorum of an equation.

The ceaseless efforts of Dr. B. R. Ambedkar to rouse Indian Society from its deep slumber of prejudice were directed to the creation of new norms within the environment. They were designed to change the environment to create scope for development of the sanctity of the human personality.

The writings and speeches of Dr. B. R. Ambedkar are replete with illustrations of the need for reconciling the claims of the society with the liberty of the individual. It is in this context, that the chapter on fundamental rights in the Indian Constitution has to be viewed. When asked what was the most important Article in the Indian Constitution, Dr. Ambedkar is reported to have referred to Article 32, which provides for remedies for enforcement of fundamental rights through the Supreme Court. Growth of public interest litigation and the increasing number of Writ Petitions filed in High Courts and in the Supreme Court have emphasised the role of law in social change for redesigning the environment.

The last 40 years have witnessed the gradual growth of values of equality and justice. The individual has a larger area of freedom and the autonomy of the individual has been enlarged. This is reflected in the development of entrepreneurship and growing pace of industrialisation. Sad to say, there has been abuse of freedom and insecurity in some areas. However, the values of equality and justice and democratic aspirations have become part of life in the subcontinent.

The Government is being made increasingly aware of its responsibilities in the welfare state by exposure to the electoral processes and to the Courts under the Constitution. The poverty alleviation programmes, slum upgradation schemes, expansion of education, the role of the Press, discussions on autonomy for the Radio and Television, all these testify to the values now rooted in the social environment and political ethos.

The India of 1947 and the India of 1991 are two different entities. The technologies of freedom have no doubt influenced the course of events. What, however, stands to the credit of Dr. Ambedkar and Gandhiji is that they realised the role of values in life and legal norms to reshape society into a nation by integrating different groups, communities and cultures. The role of values in social enquiry is seldom appreciated. To select proper values as legal norms is a task that calls for deep understanding of human nature, and the vision of the future.

> "A value premise should not be chosen arbitrarily," says G. Myrdel in his "Value in Social Theory", "it must be relevant and significant in relation to the society in which we live. It has, therefore, to be ascertained by an examination of which people actually desire. People's desires are to some extent regularly founded on erroneous beliefs about facts and casual relations. To that extent a corrected value premise corresponding to which people would desire, if their knowledge about the world around them were more perfect can be construed and has relevance."

> "The wishes of human beings are relatively stable from age to age in so far as heredity or the physiological foundations are concerned. They acquire different experiences, however, because of the different social conditions in which men live. New inventions start changes in the behaviour of mankind. They are new stimuli to which human beings respond."

Dr. Ambedkar had the courage to differ from Gandhiji and Gandhiji showed the willingness to understand Dr. Ambedkar's point of view and to stress the need to remove inequality as the basis of social organisation. The great debate between Dr. Ambedkar and Gandhiji is a landmark in the constitutional history of India. It reveals how ideas change lives. Indeed, ideas rule the world and ideals shape the future. One may quote the words of Roscoe Pound :

> "What is an 'ideal' as I am using the term in connection with the theories of nature of Law? The term comes from a Greek word meaning basically something one sees. Applied to action, it is a mental picture of what one is doing or why, to which end or purpose, he is doing it."

The ideal of justice in social organisation is the theme of these works which point out the inadequacies of moral sentiment as guides to social action. Moral sentiments to be effective need social and legal sanctions for enforcement. As documents of historical importance, it is hoped that research scholars and lay readers will find them useful to know that law without idealism is mechanical and morality without legal sanction is a beautiful but ineffctual angel, "beating in the void his luminous wings in vain," to borrow the words of Matthew Arnold on the poetry of Shelley.

(Sharad Pawar)

Chief Minister of Maharashtra

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WHAT CONGRESS AND GANDHI HAVE DONE TO THE UNTOUCHABLES

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B. R. AMBEDKAR

What Congress & Gandhi have done to the Untouchables

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WHAT CONGRESS AND GANDHI HAVE DONE TO THE UNTOUCHABLES

Dedication

(11) And Naomi said, Turn again, my daughters ; why will ye go with me?... (12) .. .go your way... (14) And they lifted up their voice, and wept again, and Orpah kissed her mother-in-law; but Ruth clave unto her. (15) And she said, Behold thy sister-in-law is gone back unto her people, and unto her gods ; return thou after thy sister-in-law. (16) And Ruth said, Intreat me not to leave them ; or to return from following after thee; for whither thou goest, I will go; and where thou lodgest, I will lodge ; thy people shall *be my people, and thy God my God. (17) Where thou diest, will I die, and there will be buried; the LORD do so to me, and more also,* if *ought but death part thee and me.*"

I know how, when we used to read the Bible together, you would be affected by the sweetness and pathos of this passage. While you will be glad to read it again you will, I am sure, ask me what made me recall it in this connection. I wonder if you remember the occasion when we fell into discussion about the value of Ruth's statement "Thy people shall be my people, and thy God my God." I have a clear memory of it and can well recall our difference of opinion. You maintained that its value lay in giving expression to the true sentiments appropriate to a perfect wife. I put forth the view that the passage had a sociological value and its true interpretation was the one given by Prof. Smith, namely, that it helped to distinguish modern society from ancient society. Ruth's statement "Thy people shall be my people and thy God my God" defined ancient society by its most dominant characteristic namely that it was a society of man plus *God while modern society is a society of men only (pray remember that in men I include women also). My view was not then acceptable to you. But you were interested enough to urge me to write a book on this theme. I promised to do so. For as an oriental I belong to a society which is still ancient and in which God is a much more important member than man is. The part of the conversation which is important to me at this stage is the promise I then made to dedicate the book to you if I succeeded in writing one. Prof. Smith's interpretation had opened a new vista before me and I had every hope of carrying out my intention. The chances of developing the theme in a book form are now very remote. As you know, I am drawn in the vortex of politics which leaves no time for literary pursuits. I do not know when I shall be out of it. The feeling of failure to fulfil my promise has haunted me ever since the war started. Equally distressing was the fear that you might pass away as a war casualty and not be there to receive it if I were to have time to complete it. But the unexpected has happened. There you are, out of the throes of death. Here is a book ready awaiting dedication. This happy conjunction of two such events has suggested to me the idea that rather than postpone it indefinitely I might redeem my word, by dedicating this book which I have succeeded in bringing to completion. Though different in theme it is not an unworthy substitute. Will you accept it ?*

B. R. A.

To,

F.

In Thy Presence is the Fulness of Joy.

WHAT CONGRESS AND GANDHI HAVE DONE TO THE UNTOUCHABLES

BY

B. R. AMBEDKAR

"It may be your interest to be our masters, but how can it be ours to be your slaves ?" — THUCYDIDES.

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PREFACE

"In 1892, there took place in England a new election to Parliament, in which the Conservatives headed by Lord Salisbury lost and the Liberals headed by Mr. Gladstone won. The remarkable thing about this election was that notwithstanding the defeat of his party at the polls, Lord Salisbury—contrary to Parliamentary convention—refused to surrender his office to the leader of the Liberal Party. When Parliament assembled, the Queen delivered the usual gracious speech from the throne containing the legislative programme of Lord Salisbury's Government and the usual address to Her Majesty was moved from the Government side. Lord Salisbury's Government was an illegitimate Government. It was a challenge to the fundamental principle of the British Constitution, which recognised Parliamentary Majority as the only title deed for a Party's right to form a Government. The Liberals took up the challenge and tabled an amendment to the address. The amendment sought to condemn Lord Salisbury's Government for its insistence on continuing in office, notwithstanding the fact that it had no majority behind it. The task of moving the amendment was entrusted to the late Lord (then Mr.) Asquith. In his speech in support of the amendment, Mr. Asquith used the now famous phrase—"*Causa finita est: Roma locuta est.*" (Rome has spoken and the dispute must end). The phrase was originally used by St. Augustine but in a different context. It was used in the course of a religious controversy and had come to be used as a foundation for Papal Sovereignty. Mr. Asquith used it as a political maxim embodying the basic principle of Parliamentary Democracy. Today it is accepted as the fundamental principle on which Popular Government rests, namely, the Right of a Political Majority to Rule. It told instantaneously against Salisbury's Government and must tell against all parties who fail at the polls wherever Parliamentary Democracy is in operation.

I was reminded of this maxim when the results of the Elections to the Provincial Legislatures in India, which took place in February 1937 under the Government of India Act, 1935, were announced. Congressmen did not actually say "*Causafinita est: India locuta est.*" But so far as the parties, which had opposed the Congress in the Elections, were con-

cerned, that is what the results of the Elections seemed to, proclaim. Having led the Untouchables against the Congress for full five years in the Round Table Conference and in the Joint Parliamentary Committee, I could not pretend to be unaffected by the results of the Elections. To me the question was : Had the Untouchables gone over to the Congress ? Such a thing was to me unimaginable. For, I could not believe that the Untouchables—apart from a few agents of the Congress who are always tempted by the Congress gold to play the part of the traitor—could think of going over to the Congress *en masse* forgetting how Mr. Gandhi and the Congress opposed, inch by inch up to the very last moment, every one of their demands for political safeguards. I had therefore decided to study the Returns of the election that took place in 1937.

While I was convinced that such a study was of great necessity from the point of view of the Untouchables, the work proceeded at a snail's pace. This was due to three causes. The work had to be kept aside for some time to give precedence to other literary projects, the urgency of which demanded a degree of priority which it was not possible to refuse. Secondly, the Blue Book on the Election Results of 1937, which was submitted to Parliament soon after the elections had taken place and which is the primary source for figures regarding the elections, proved inadequate and insufficient for my purpose. It does not give separately figures showing how the Scheduled Castes electors voted and how many votes the Scheduled Caste candidates got. It gives figures showing how electors in different constituencies voted, without making any distinction between Hindu voters and the Scheduled Castes voters. Circular letters had therefore to be issued to the various Provincial Governments requesting them to send me the figures showing distribution of voting by Scheduled Caste electors and the number of votes secured by each Scheduled Caste candidate. This inevitably delayed the work. Thirdly, the examination of these election returns proved a very laborious task as the statistical tables given in the Appendices to this book will show.

The work thus lingered on. I regret very much this delay. For I know how much mischief has been done by the Congress during the interval. The Congress has advertised the election results to bolster up its claim to represent the Untouchables. The main point in the advertisement is that out of 151 seats

assigned to the Scheduled Castes the Independent Labour Party which was organized by me got only 12 seats and the rest of the seats were captured by the Congress. This mess is served out from the Congress kitchen as conclusive proof to show that the Congress represents the Untouchables. This false propaganda seems to have gone home in some quarters. Even a man like Mr. H. N. Brailsford has reproduced in his 'Subject India' this absurd Congress version, without any attempt at verification and with apparent acceptance of its truth. I am sure that the results of the elections as set out in this book will hit the nail squarely on the head of this false propaganda. For, the Congress version of the results of the election is an utter perversion. As a matter of fact the results of 1937 Election conclusively disprove the Congress claim to represent the Untouchables. Far from supporting the Congress version the results of the Election show : (1) that out of 151 the Congress got only 73 seats; (2) that the Untouchables in almost every constituency fought against the Congress by putting up their own candidates; (3) that the majority of 73 seats won by the Congress were won with the help of Hindu votes and they do not therefore in any way represent the Scheduled Castes; and (4) that of 151 seats those won by the Congress in, the real sense i.e., with the majority of votes of the Scheduled Castes, were only 38. As to the Independent Labour Party it was started in 1937 just a few months before the elections. It functioned only in the Province of Bombay. There was no time to organize branches in other Provinces. Elections on the ticket of the Independent Labour Party were fought only in the Province of Bombay and there the Independent Labour Party far from being a failure obtained an astonishing degree of success. Out of the 15 seats assigned to the Scheduled Castes in Bombay Presidency it captured 13 and in addition it won 2 general seats. I am therefore glad that at long last I have succeeded in completing the work which proves beyond the shadow of doubt that the story that the Congress captured all the seats reserved for the Scheduled Castes and that the Independent Labour Party was a failure, is a wicked lie. I trust that the book will prove interesting and instructive for all those who are interested in the subject and who desire to know the truth.

Before closing this preface, I wish to express my gratitude to those from whom I have received assistance in one form or

another. I am grateful to the Provincial Governments for the troubles they have taken in responding to my circular and sending me additional facts and figures which I had called for. My thanks are also due to Mr. Karan Singh Kane, B.A., M.L.A., at one time, Parliamentary Secretary in the U. P. Congress Government, for the help he has rendered in the most laborious task of preparing the tables."

The reader who reads the above preface and compares it with the table of contents will at once find that the book deals with topics which lie far outside its boundary. The curious may like to know how the foregoing part of the preface is related to the table of contents. The explanation lies in the fact that the book in its present final form is quite different from what it was in its original form. In its original form it covered in very brief compass matter now dealt with on a vastly bigger scale in Chapters IV, V, VI, VII and IX and the statistical appendices. The foregoing part of the preface belonged to the book in its original form. That is why I have put it in inverted commas. The curious may also like to know why the final form of the book came to be so different from the original. The explanation is quite simple. The proofs of the book in its original form were seen by a friend and coworker. He was dissatisfied with the scope of the book and insisted that it is not enough to deal with election results to expose the Congress claim to represent the Untouchables. I must do more. I must expose the efforts of the Congress and Mr. Gandhi to improve the lot of the Untouchables for the information of the Untouchables and also of the foreigners whom the Congress had deluded into accepting its side by misrepresentation of facts. Besides the difficulties arising out of the fact that the book was already in proof form, this was a tall order and appeared to be beyond me having regard to other claims on my time. He would not, however, give way and I had therefore to accept his plan. The original work which would have been about 75 pages in print had to be completely recast and enlarged. The book in the present form is a complete transformation. It records the deeds of the Congress and Mr. Gandhi from 1917 to date in so far as they touch the problem of the Untouchables. Much is written about the Congress, far more about Mr. Gandhi. But no one has so far told the story of what they have done about the Untouchables. Everyone knows that Mr. Gandhi values more

his reputation as the saviour of the Untouchables than his reputation as the champion of Swaraj or as the protagonist of *Ahimsa*. At the Round Table Conference he claimed to be the sole champion of the Untouchables and was not even prepared to share the honour with anyone else. I remember what a scene he created when his claim was contested. Mr. Gandhi does not merely claim for himself the championship of the Untouchables. He claims similar championship for the Congress. The Congress, he says, is fully pledged to redress the wrongs done to the Untouchables and argues that any attempt to give political safeguards to the Untouchables is unnecessary and harmful. It is therefore a great pity that no detailed study of these claims by Mr. Gandhi and the Congress has been undertaken so far.

With the Hindus who have been blind devotees of Mr. Gandhi this study, although it is the first of its kind, will not find favour: indeed it is sure to provoke their wrath. How can it be otherwise when the conclusion arrived at is "Beware of Mr. Gandhi" ? Looking at it from a wider point of view, there is no reason for the Hindus to be enraged about it. The Untouchables are not the only community in India which thinks of Mr. Gandhi in these terms. The same view of Mr. Gandhi is entertained by the Muslims, the Sikhs and the Indian Christians. As a matter of fact, the Hindus should cogitate over the question and ask : why no community trusts Mr. Gandhi although he has been saying that he is the friend of the Muslims, Sikhs and the Scheduled Castes and what is the reason for this distrust ? In my judgment, there cannot be a greater tragedy for a leader to be distrusted by everybody as Mr. Gandhi is today. I am however certain that this is not how the Hindus will react. As usual, they will denounce the book and call me names. But as the proverb says: "The caravan must pass on, though the dogs bark." In the same way, I must do my duty, no matter what my adversaries may have to say. For as Voltaire observed: Who writes the history of his own time must expect to be attacked for everything he has said, and for everything he has not said: but these little drawbacks should not discourage a man who loves truth and liberty, expects nothing, fears nothing, asks nothing and limits his ambition to the cultivation of letters."

The book has become bulky. It may be said that it suffers by reason of over-elaboration and even by repetition. I am

aware of this. But I have written the book especially for the Untouchables and for the foreigners. On behalf of neither could I presume knowledge of the relevant facts. For the particular audience I have in view, it is necessary for me to state both facts as well as arguments and pay no regard to the artistic sense or the fastidious taste of a cultivated and informed class of readers.

As it is my intention to make the book a complete compendium of information regarding the movement of the Untouchables for political safeguards, I have added several appendices other than those of statistical character. They contain relevant documents both official and non-official which have a bearing upon the movement. Those who are interested in the problem of the Untouchables will, I believe, be glad to have this information ready at hand. The general reader may complain that the material in the Appendices is much too much. Here again, I must state that the Untouchables are not likely to get the information which to the general reader may be easily accessible. The test adopted is the need of the Untouchables and not of the general reader.

One last word. The reader will find that I have used quite promiscuously in the course of this book a variety of nomenclature such as Depressed Classes, Scheduled Castes, Harijans and Servile Classes to designate the Untouchables. I am aware that this is likely to cause confusion especially for those who are not familiar with conditions in India. Nothing could have pleased me better than to have used one uniform nomenclature. The fault is not altogether mine. All these names have been used officially and unofficially at one time or other for the Untouchables. The term under the Government of India Act is 'Scheduled Castes.' But that came into use after 1935. Before that they were called 'Harijans" by Mr. Gandhi and 'Depressed Classes' by Government. In a flowing situation like that it is not possible to fix upon one name, which may be correct designation at one stage and incorrect at another. The reader will overcome all difficulties if he will remember that these terms are synonyms and represent the same class.

I am grateful to Professor Manohar Chitnis for the preparation of the Index and to Mr. S. C. Joshi for help in correcting the proofs.

B. R. AMBEDKAR.

24th June 1945.
22, Prithviraj Road,
New Delhi.

CHAPTER I

A STRANGE EVENT

I

IN the annual session of the Indian National Congress held at Calcutta in the year 1917 a strange event took place. In that session the Congress passed the following resolution :—

> "This Congress urges upon the people of India the necessity, justice and righteousness of removing all disabilities imposed by custom upon the Depressed Classes, the disabilities being of a most vexatious and oppressive character, subjecting those classes to considerable hardship and inconvenience."

The President of the session was Mrs. Annie Besant. The resolution was moved by Mr. G. A. Natesan of Madras and was supported by Mr. Bhulabhai Desai from Bombay, by Mr. Rama Iyer from Malabar and by Mr. Asaf Ali from Delhi. In moving the resolution, Mr. Natesan said :—

> "Ladies and Gentlemen,—This question has been receiving great attention for years in other platforms ; but in view of the unique character of this Congress, the Subjects Committee thought it necessary, after having framed a scheme of self-government for India, that we should complete that by asking us to prepare ourselves for the task of self-government. The first great duty is to see that all inequalities and injustices are removed. You will see that this resolution specially asks you to remove disabilities of a most vexatious and oppressive character. Without injuring your religious feelings, without giving up all that is best in your religious tradition, I think the Congress has a right to ask of you and of me and of others elsewhere that such absurd restrictions as the non-admission of these people to schools should be removed. The Congress has also a claim upon all human beings to see that in some portions of the country where these people are refused even the use of common well, these restrictions should disappear... In attempting to elevate ourselves and in trying to remove these galling restrictions we are but elevating Indian manhood; and when Responsible Self-Government is to be given to us we shall be in a position to say that Indians of all classes, of all creeds, have the fullest rights, the commonest social rights, have free access to all schools, to all institutions so that Indian manhood may develop in all its truest, best and noblest traditions."

Mr. Bhulabhai Desai in supporting the resolution pointed out that :—

> "The disabilities under which some of our brethren suffer are a great blow to the equality and brotherhood of man that we preach. From the great height of the resolution that you have passed this morning, with what face will we approach the British Democracy or any other power if we are unable to uplift our own brethren ? They will say 'What lies in your own power, the obliteration of the social degradation of a section of your own people, you have been unable to do !' We can do it by self-help and by self-help alone and in this matter we need not approach any other power but ourselves. That proves the necessity of the great forward step that this Congress has taken in allowing this resolution to be moved before you.... The existence of this great bane is an insult to the name of Hinduism. Therefore, both on the ground of necessity and on the ground of justice, as well as on the ground of righteousness, for the truth that you cherish, how can you deny them what this resolution demands, when the justice lies in your own hands ? And if you fail to do that, with what justice, with what face, will you demand Self-Government ?"

Mr. Rama Iyer said:—

> "This... resolution calls for social freedom by which we shall shatter the shackles that bind the lower classes. They are the foot of the nation and if you and I would climb the hill of Home Rule, we must first shatter the shackles on our feet and then and then only will Home Rule come to us...You cannot be political democrats and at the same time social autocrats. Remember that a man, a social slave, cannot be politically a free man. We all have come here to see the vision of United India, not only politically united but united all along the line... Therefore, let those of us, who are Brahmins, who belong to the higher castes, go to our villages and shatter the shackles of the low castes, people who are struggling against our own men—the social bureaucrats of our own land."

Mr. Asaf Ali observed that :—

> "The problem of the Depressed Classes was one of the most difficult of all. They had been crying shame upon the arbitrary and autocratic action of the bureaucratic bunglers, but now it was the turn of the Depressed Classes—the Untouchables—to cover them, Indians, with shame. There were many millions of these victims of misfortune who had been plying their degraded trades in utter muteness for thousands of years, never emerging

from the abyss of degradation into which the cruel and utterly unjustified customs of the country had hurled them. Whether it was the spring-time of hope, or the summer of realisation to others, to these unfortunate creatures it was always the winter of black despair. It seemed a cruel irony of fate that those who were vociferously clamouring for the attainment or preservation of human rights themselves were so little mindful of the legitimate rights of others under them. Was it just or fair that a mute section of humanity should be left to suffer the very wrongs for whose redress others were shedding their blood in the battlefield ? Why, even the 'untouchables,' in spite of all that cruel custom had subjected them to, were human beings and children of the soil, in whose veins coursed the self-same 'red-blood' as in the veins of those who arrogated superiority to themselves. The Depressed Classes were entitled to the same privileges as their betters in worldly circumstances and could not be debarred from the birthright of man. It was a standing reproach to the Indians that they had any Depressed Classes at all, and it was for the extinction of this reproach that they prayed."

Many people would wonder why I describe the passing of the Resolution by the Congress moved and supported in such eloquent terms, as a strange event. But those who know the antecedents will admit that it is not an improper description. It was strange for many reasons.

In the first place, the President of the Session was the late Mrs. Annie Besant. She was a well-known public figure and had many things for which she will be remembered by the future historian of India. She was the founder of the Theosophical Society which has its Home at Adyar. Mrs. Annie Besant was well-known for rearing up Mr. Krishnamurti, the son of a Brahmin retired Registrar for a future Massiah. Mrs. Annie Besant was known as the founder of the Home Rule League. There may be other things for which friends of Mrs. Annie Besant may claim for her a place of honour. But I don't know, that she was ever a friend of the Untouchables. So far as I know she felt great antipathy towards the Untouchables. Expressing her opinion on the question whether the children of the Untouchables should or should not be admitted to the common school, Mrs. Annie Besant in an article headed 'The Uplift of the Depressed Classes' which appeared in the *Indian Review* for February 1909 said :—

"In every nation we find, as the basis of the social, Pyramid,

a large class of people, ignorant, degraded, unclean in language and habits, people, who perform many tasks which are necessary for Society, but who are despised and neglected by the very Society to whose needs they minister. In England, this class is called the 'submerged tenth,' forming, as it does, one-tenth of the total population. It is ever on the verge of starvation, and the least extra pressure sends it over the edge. It suffers chronically from under-nutrition, and is a prey to the diseases which spring therefrom. It is prolific, like ail creatures in whom the nervous system is of a low type, but its children die off rapidly, ill-nourished, rickety, often malformed. Its better type consists of unskilled labourers, who perform the roughest work, scavengers, sweepers, navvies, casual dock-labourers, costermongers ; and into it, forming its worse type, drift all the wastrels of Society, the drunkards, the loafers, the coarsely dissolute, the tramps, the vagabonds, the clumsily criminal, the ruffians. The first type is, as a rule, honest and industrious; the second ought to be under continued control, and forced to labour sufficiently to earn its bread. In India, this class forms one-sixth of the total population, and goes by the generic name of the 'Depressed Classes.' It springs from the aboriginal inhabitants of the country, conquered and enslaved by the Aryan invaders,... It is drunken and utterly indifferent to cleanliness, whether of food, person or dwelling; but marriage is accompanied with some slight formality, children are kindly treated, and there is very little brutality, violence or criminality. Criminal communities, such as hereditary thieves, live apart, and do not mingle with the scavengers, sweepers, husbandmen and the followers of other simple crafts who make up the huge bulk of the depressed. They are gentle, docile, as a rule industrious, pathetically submissive, merry enough when not in actual want, with a bright though generally very limited intelligence ; of truth and the civic virtues they are for the most part utterly devoid—how should they be anything else ?—but they are affectionate, grateful for the slightest kindness, and with much 'natural religion.' In fact, they offer good material for simple and useful though humble civic life,...

"What can be done for them by those who feel the barbarity of the treatment meted out to them, by those who feel that the Indians who demand freedoms should show respect to others, and give to others a share of the consideration they claim for themselves ?

"Here, as everywhere, education is the lever by which we may hope to raise them, but a difficulty arises at the outset,

for one class of the community, moved by a noble feeling of compassion and benevolence, but not adding thereto a careful and detailed consideration of the conditions, demands, for the children of the pariah community admission to the schools frequented by the sons of the higher classes, and charges with lack of brotherhood those who are not in favour of this policy. It becomes, therefore, necessary to ask whether brotherhood is to mean levelling down, and whether it is usual in family to treat the elder children and the babies in exactly the same way. It is a zeal not according to knowledge —and not according to nature—which would substitute equality for brotherhood, and demand from the cultured and refined that they should forfeit the hardly won fruits of the education of generations, in order to create an artificial equality, as disastrous to the progress of the future as it would be useless for the improvement of the present. The children of the depressed classes need, first of all, to be taught cleanliness, outside decency of behaviour, and the earliest rudiments of education, religion and morality. Their bodies, at present, are ill-odorous and foul with the liquor and strong-smelling food out of which for generations they have been built up ; it will need some generations of purer food and living to make their bodies fit to sit in the close neighbourhood of a school-room with children who have received bodies from an ancestry trained in habits of exquisite personal cleanliness, and fed on pure food-stuffs. We have to raise the Depressed Classes to a similar level of physical purity, not to drag down the clean to the level of the dirty, and until this is done, close association is undesirable. We are not blaming these children, nor their parents, for being what they are ; we are stating a mere palpable fact. The first daily lesson in a school for these children should be a bath, and the putting on of a clean cloth ; and the second should be a meal of clean wholesome food ; those primary needs cannot be supplied in a school intended for children who take their daily bath in the early morning and who come to school well-fed.

"Another difficulty that faces teachers of these children are the contagious diseases that are bred from first ; to take one example, eye-disease, wholly due to neglect, is one of the most common and 'catching' complaints among them. In our Panchama schools in Madras, the teachers are ever on the alert to detect and check this, and the children's eyes are daily washed and disease is thus prevented. But is it to be expected that fathers and mothers, whose daily care protects their children from such dirty diseases should deliberately expose them at school to this infection ?

"Nor are the manner and habits of these forlorn little ones desirable things to be imitated by gently-nurtured children. Good manners, for instance, are the result of continual and rigid self-control, and of consideration for the comfort and convenience of others ; children learn manners chiefly by imitation from well-bred parents and teachers and, secondarily, by suitable precept and reproof. If, at the school, they are to be made to associate with children not thus trained, they will quickly fall into the ways which they see around them. For, until good habits are rendered fixed by long practice, it is far easier to be slipshod than accurate, to be careless than careful. Ought the children of families in which good manners and courtesy are hereditary, to be robbed of their heritage, a robbery that enriches no one, but drags the whole nation down ? Gentle speech, well-modulated voice, pleasant ways, these are the valuable results of long culture, and to let them be swamped out is no true brotherhood....

"In England, it has never been regarded as desirable to educate boys or girls of all classes side by side, and such grotesque equalising of the unequal would be scouted. Eton and Harrow are admittedly the schools for the higher classes ; Rubgy and Winchester are also schools for gentlemen's sons, though somewhat less aristocratic. Then come a number of schools, frequented chiefly by sons of the provincial middle class. Then the Board Schools, where the sons of artisans and the general manual labour classes are taught ; and below all these, for the waifs and strays, are the 'ragged schools,' the name of which indicates the type of their scholars, and the numerous charitable institutions. A man in England who proposed that ragged school-children should be admitted to Eton and Harrow would not be argued with, but laughed at. Here, when a similar proposition is made in the name of brotherhood, people seem ashamed to point out frankly its absurdity, and they do not realise that the proposal is merely a violent reaction against the cruel wrongs which have been inflicted on the Depressed Classes, the outcry of an awakened conscience, which has not yet had time to call right reason to guide its emotions. It is sometimes said that Government schools pay no attention to social differences ; therein they show that they are essentially 'foreign' in their spirit. They would not deal so with the sons of their own people, though they may be careless of the sons of Indians, and lump them all together, clean and dirty alike. It is very easy to see the differences of 'tone' in the youths when only the sons of the cultured classes are admitted to a school, and it is to the interest of the Indians

that they should send their sons where they are guarded from coarse influences as Englishmen guard their own sons in England."

* * *

The second reason why one is justified in describing the passing of this resolution as a strange event lies in the fact that it was entirely opposed to the declared policy of the Congress. In these days when the "Constructive Programme" of the Congress is hawked from every street and at all times when the Congress is resting after an active campaign of non-co-operation and civil disobedience, this statement may well cause surprise to present day Congressmen and their friends. The following extracts from the addresses of the Presidents who presided at the Annual Sessions of the Congress will suffice to bring home the fact that the Congress policy was to give no place to questions of Social Reform in the aims and objects of the Congress.

To begin with, Mr. Dadabhai Naoroji who presided at the Second Session of the Indian National Congress held in Calcutta in the year 1886. In this presidential address he referred to the Congress attitude towards Social Reform and said :—

> "It has been asserted that this Congress ought to take up questions of social reform (Cheers and cries of 'Yes, Yes') and our failure to do this has been urged as a reproach against us. Certainly no member of this National Congress is more alive to the necessity of social reform than I am ; but, Gentlemen, for everything there are proper times, proper circumstances, proper parties and proper places (Cheers); we are met together as a political body to represent to our rulers our political aspirations, not to discuss social reforms, and if you blame us for ignoring these, you should equally blame the House of Commons for not discussing the abstruser problems of mathematics or metaphysics. But, besides this, there are here Hindus of every caste, amongst whom, even in the same province, customs and social arrangements differ widely—there are Mahomedans and Christians of various denominations, Parsis, Sikhs, Brahmos and what not—men indeed of each and of all those numerous classes which constitute in the aggregate the people of India. (Loud Cheers). How can this gathering of *all* classes discuss the social reforms needed in each individual class ?... Only the members of that class can effectively deal with the reforms therein needed. A National Congress must confine itself to questions in which the entire nation has a direct participation, and it

must leave the adjustment of social reforms and other class questions to Class Congresses...."

The subject was again referred to by the Hon. Mr. Budruddin Tyabji who presided over the Third Annual Session of the Congress held in 1887. Mr. Tyabji observed :—

> "...It has been urged—solemnly urged—as an objection against our proceedings—that this Congress does not discuss the question of Social Reforms... I must confess that the objection seems to me strange, seeing that this Congress is composed of the representatives, not of any one class or community, not of one part of India, but of all the different parts, and of all the different classes, and of all the different communities of India. Whereas any question of Social Reform must of necessity affect some particular part or some particular community of India only and, therefore, Gentlemen, it seems to me, that although we, Mussalmans, have our own social problems to solve, just as our Hindu and Parsi friends have theirs, yet these questions can be best dealt with by the leaders of the particular communities to which they relate (Applause). I, therefore, think, Gentlemen, that the only wise and, indeed, the only possible course we can adopt is to confine our discussions to such questions as affect the whole of India at large, and to abstain from the discussion of questions that affect a particular part or a particular community only."

The third occasion when the subject was referred to was in 1892, when Mr. W.C. Bannerjee in his Presidential address to the Eighth Session of the Congress gave expression to the following sentiments :—

> "Some of our critics have been busy in telling us, thinking they knew our affairs better than we know them ourselves, that we ought not to meddle with political matters, but leaving politics aside devote ourselves to social subjects and so improve the social system of our country ; I am one of those who have very little faith in the public discussion of social matters ; those are things which I think, ought to be left to the individuals of a community who belong to the same social organisation to do what they can for its improvement. We know how excited people become when social subjects are discussed in public. Not long ago we had an instance of this when what was called the Age of Consent Bill was introduced into the Viceregal Legislative Council. I do not propose to say one word as to the merits of the controversy that arose over that measure, but I allude to it to illustrate how apt the public mind is to get

agitated over these social matters if they are discussed in a hostile and unfriendly spirit in public... I may point out that we do not all understand in the same sense what is meant by social reform. Some of us are anxious that our daughters should have the same education as our sons, that they should go to Universities, that they should adopt learned professions ; others who are more timid would be content with seeing that their children are not given in marriage when very young, and that child widows should not remain widows all the days of their lives. Others more timid still would allow social problems to solve themselves...the Congress commenced and has since remained, and will, I sincerely trust, always remain as a purely political organization devoting its energies to political matters and political matters only. I am afraid that those whether belonging to our own country or to any other country, who find fault with us for not making social subjects a part of our work, cherish a secret wish that we might all be set by the ears, as we are all set by the ears by the Age of Consent Bill, and that thus we might come to an ignominious end. They mean us no good, and when we find critics of that description talking of the Congress as only fit to discuss social problems, I think the wider the berth we give them, the better..."

"I, for one, have no patience with those who say we shall not be fit for political reform until we reform our social system. I fail to see any connection between the two. Let me take, for instance, one of the political reforms which we have been suggesting year after year viz., the separation of judicial from executive functions in the same officer. What possible connection can there be between this, which is a purely political reform and social reform ? In the same way, take the Permanent Settlement which we have been advocating, the amendment of the law relating to forests and other such measures ;—and I ask again, what have these to do with social reform ? Are we not fit for them because our widows remain unmarried and our girls are given in marriage earlier than in other countries ? because our wives and daughters do not drive about with us visiting our friends ? because we do not send our daughters to Oxford or Cambridge ? (Cheers.)"

The last occasion when a Congress President is found to refer to this subject was in 1895 when the Congress Session was held in Poona and was presided over by Mr. Surrendranath Bannerjee. Touching upon the subject, in his presidential address, Mr. Bannerjee said :—

"We cannot afford to have a schism in our camp. Already

they tell us that it is a Hindu Congress, although the presence of our Mahomedan friends completely contradicts the statement. Let it not be said that this is the Congress of one social party rather than that of another. It is the Congress of United India, of Hindus and Mahomedans, of Christians, of Parsis and of Sikhs, of those who would reform their social customs and those who would not. Here we stand upon a common platform—here we have all agreed to bury our social and religious differences and recognise the one common fact that being subjects of the same Sovereign and living under the same Government and the same political institutions, we have common rights and common grievances. And we have called forth this Congress into existence with a view to safeguard and extend our rights and redress our grievances. What should we say of a Faculty of Doctors who fell out, because though in perfect accord as to the principles of their science, they could not agree as to the age at which they should marry their daughters, or whether they should remarry their widowed daughters or not...Ours is a political and not a social movement ; and it cannot be made a matter of complaint against us that we are not a social organization any more than it can be urged against any of my lawyer friends that they are not doctors. Even in regard to political matters, such is our respect for the opinions of minorities, that so far back as 1887, I think it was at the instance of Mr. Badruddin Tyabji, who once was our President and whose elevation to the Bench of the Bombay High Court is a matter of national congratulation, a resolution was passed to the effect that where there is practical unanimity among a class, though in a minority in the Congress, that a question should not be discussed, it should forthwith be abandoned."

"There is special danger to which an organization such as ours, is exposed and which must be guarded against,... the danger of there being developed from within the seeds of dissension and dispute."

II

There are two questions about these statements which need explanation. First is to know what the Social Reform party was to which the Presidents refer. The second is why Mr. Surrendranath Bannerjee's address to the Congress in 1895 was the last occasion when a Congress President found it necessary to refer to the relation of the Congress to the problem of Social Reform and why no president after 1895 thought it necessary to dwell on it.

To understand the first question it is necessary to note that when the Indian National Congress was founded at Bombay in 1885, it was felt by the leaders of the movement that the National movement should not be exclusively political but that side by side with the consideration of political questions, questions affecting Indian social economy should also be discussed and that the best endeavours of all should be put forth for vitalizing Hindu Society by removing all social evils and social wrongs. With this view, Dewan Bahadur R. Raghunath Rao and Mr. Justice (then Rao Bahadur) M. G. Ranade delivered addresses on Social Reform on the occasion of the meeting of the First Congress at Bombay. In 1886, at Calcutta, nothing further was done. Discussion, however, was going on among the leaders of the Congress movement and other leaders of educated Indian thought whether the Congress as such should concern itself with social questions or whether a separate body should be set up for the discussion of social questions. It was at last resolved after mature deliberation by, among others, Dewan Bahadur R. Raghunath Rao, Mr. Mahadeo Govind Ranade, Mr. Narendra Nath Sen and Mr. Janakinath Ghosal, that a separate organization called the Indian National Social Conference, should be started for the consideration of subjects relating to Indian social economy. Madras had the honour of being the birth-place of the Conference, for, the First Indian National Social Conference was held at Madras in December 1887, with no less a man than the late Rajah Sir T. Madhavrao, K.C.S.I., the premier Indian statesman of his time, as the President. The work done at this First Conference, however, was not much. Among other important resolutions members then present recognized the necessity of holding annual National Conferences in different parts of India for considering and adopting measures necessary for the improvement of the status of our society, and of our social usages ; and taking steps to organize and establish Provincial Sub-Committees of the Conferences. It was agreed that among social subjects which the Conference might take up, those relating to the disabilities attendant on distant sea-voyages, the ruinous expenses of marriage, the limitations of age below which marriages should not take place, the remarriages of youthful widows, the evils of the re-marriages of old men with young girls, the forms and evidences of marriages and inter-marriages

between sub-divisions of the same caste should form the subjects for discussion and determination.

As to sanctions it was thought there should be different Sub-Committees appointed for dealing with different social questions. The Sub-Committees were to be left to evolve certain fundamental principles and penalties for breach of these principles, to be carried out and enforced as regards the members of Social Reform Party who might agree to be bound by such penalties, (1) by the Sub-Committees themselves, or (2) through their spiritual heads, whenever it was possible to do so, or (3) through Civil Courts, or failing all (4) by application to Government for enabling the Committees to enforce the rules in respect of their own pledged members.

While the Social Reform Party had formed a separate organization of its own to discuss the many social evils which festered Hindu Society, they were not satisfied with the Congress attitude of completely dissociating itself from questions of social reform. Some of them were anxious to make it an issue whether Social Reform should not precede Political Reform and press for a decision. In this they had many friends to support them. Among them was to be found the Government of India. Sir Aukland Colvin, a member of the Viceroy's Executive Council, very clearly and very emphatically stated that Indians ought to turn their attention to Social Reform in preference to endeavours they were making "to teach the British what their duties were in regard to the Government of India."

The reference to Social Reform in the addresses of the Congress Presidents referred to above can now be easily understood. They are a reply to the criticism by the Social Reform Party against the Congress dissociating itself from the problem of removing social evils.

Turning to the second question as to why no Congress President has referred to the question of Social Reform in his presidential address after 1895, the answer is that before 1895 there were two schools among Congressmen on the issue of social reform *versus* political reform. The viewpoint of one school was that expressed by Mr. Dadabhoy Naoroji, Mr. Budruddin Tyabji and Mr. Surrendranath Bannerjee. The viewpoint of the other school was that expressed by Mr. W. C.

Banerjee. The former did recognize the need of social reform but thought that the Congress Session was not the proper platform for it. The latter denied that there was need for social reform and challenged the view that there cannot be political reform without social reform. Though the two schools within the Congress were fundamentally opposed to each other, they had not upto 1895 developed a spirit of antagonism and intolerance towards each other. The former school was in a dominant position and the result was that the Indian National Congress and the Social Conference functioned as two parallel organizations each devoting itself to its own particular aims and objects. So great was the spirit of co-operation and good will between the two that the annual sessions of the National Congress and Social Conference were held in immediate succession in the same pandal and a large majority of those who came to attend the Congress Session also attended the Social Conference. The Social Conference was, however, an eyesore to the Congressmen who belonged to the Anti-social Reform Section. This section was evidently getting restive at the kindly disposition and the accommodating spirit which the dominant section in the Congress was showing to the Social Conference particularly in the matter of allowing it to use the Congress pandal for holding its session. In 1895 when the Congress met in Poona, this Anti-Social Reform section rebelled and threatened to burn the Congress pandal if the Congress allowed it to be used by the Social Conference. This opposition to the Social Conference was headed by no other person than the late Mr. Tilak one of those social tories and political radicals with which India abounds and who was the father of the slogan "Swaraj is my birthright" which is now seen blazoned on Congress banners. The rebellion succeeded largely because the Pro-Social Reform Party in the Congress was not prepared to fight its opponents.[1] This rebellion had one effect. It settled that the Congress was not to entertain any question of social reform

1 That the Pro-Social Reform Party in the Congress did not like to take up the challenge is evident from the letter which Mr. Surrendranath Bannerjee wrote to Mr. Ranade over the question raised by Mr. Tilak's Party regarding the use of the Congress pandal by the Social Conference in which he said "The *raison d'etre* for excluding social questions from our deliberations is that were we to take up such questions it might lead to serious differences ultimately culminating in a schism, and it is a matter of the first importance that we should prevent a split. The request of the other side is very unreasonable; but we have sometimes to submit to unreasonable demands to avert greater evils."

no matter how urgent.[1] This is the explanation why no Congress President after 1895 has referred to the question of social reform in his presidential address. The Congress by its action in 1895 had become a purely political body with no interest and no concern in the removal or mitigation of social wrongs.

III

Against this background the resolution passed by the Congress about the Depressed Classes in 1917 is obviously a strange event. The Congress had never done such a thing before although it had functioned for thirty-two years. It was even contrary to its declared policy.

Why did the Congress think it necessary to pass such a resolution in the year 1917 ? What made it take cognizance of the Untouchables ? What did it want to gain ? Whom did it want to deceive ? Was it because of a change in its angle of vision or was it because of some ulterior motive ? For an answer to these questions one must turn to the following resolutions passed by the Depressed Classes in the year 1917 at two separate meetings held in the City of Bombay under two different Presidents. The first of these meetings was held on the 11th November 1917 under the Chairmanship of the late Sir Narayan Chandavarkar. In that meeting the following resolutions[2] were passed :—

> *"First Resolution*—Loyalty to British Government and prayer for victory to the Allies."
>
> *"Second Resolution* carried at the meeting by an overwhelming majority, the dissentients being about a dozen, *expressed approval of the scheme of reform in the administration of India recommended by the Indian National Congress and the All-India Muslim League."*
>
> *"Third Resolution* carried unanimously was : 'As the population of the Depressed Classes in India considered Untouchable and treated as such, is very large, as their condition is very

[1] Some of the leading Social Reformers welcomed this rebellion by the Anti-Social Reform Party in the Congress against the Conference. Dewan Bahadur R. Raghunath Rao wrote to Mr. Ranade that he "was glad that the panda was not allowed to be used by the Social Conference, for the deception that used to be practised by the Congress upon the English people that it worked in conjunction with the Social Conference was unveiled, and the English people would now clearly understand that the Congress really did not mean to work with the Social Conference."

[2] Addresses presented to the Viceroy in India and the Right Hon'ble the Secretary of State for India (1918). Parliamentary Paper Cd. 9178 pages 74-75.

degraded owing to that treatment and as they are behind the rest of the people in point of education, being unable to secure fair opportunities for their improvement, this public meeting of the Depressed Classes strongly feels that in the scheme of reform and reconstitution of the Legislative Councils which Government may be pleased to adopt, due regard be paid to the interests of the said classes. This meeting therefore prays the British Government to be so gracious as to protect those interests by granting to those classes the right to elect their own representatives to the said Councils in proportion to their numbers."

"*Fourth Resolution* unanimously carried at the meeting was : 'That the Government be prayed for the adoption, with all convenient speed, of a compulsory and free system of education rendered necessary by the fact that the social elevation of any community depends upon the universal spread of education among its members and that degradation of the Depressed Classes is due to their illiteracy and ignorance."

"*Fifth Resolution* carried unanimously was as follows:— 'That the Chairman of this public meeting be authorised to *request the Indian National Congress to pass at its forthcoming session a distinct and independent resolution declaring to the people of India at large the necessity, justice, and righteousness of removing all the disabilities imposed by religion and custom upon the Depressed Classes,* those disabilities being of a most vexatious and oppressive character, subjecting those classes to considerable hardship and inconvenience by prohibiting them from admission into public schools, hospitals, courts of justice and public offices, and the use of public wells, etc. These disabilities social in origin, amount in law and practice to political disabilities and as such fall legitimately within the political mission and propaganda of the Indian National Congress."

"*Sixth Resolution* prays all Hindus of the castes other than the Untouchables and Depressed, especially those of the higher castes, who claim political rights, to take steps for the purpose of removing the blot of degradation from the Depressed Classes, which has subjected those classes to the worst, of treatment in their own country."

The second meeting was also held in November 1917 a week or so after the first meeting. The Chairman was one Bapuji Namdeo Bagade a leader of the Non-Brahmin Party. At this meeting the following resolutions[1] were unanimously adopted :—

"(1) Resolution of loyalty to the British throne."

1 *Ibid* p. 75.

"(2) That this meeting cannot give its support to the Congress-League Scheme in spite of its having been declared to have been passed at the meeting of 11th November 1917 by an overwhelming majority."

"(3) That it is the sense of this meeting that the administration of India should be largely under the control of the British till all classes and specially the Depressed Classes, rise up to a condition to effectually participate in the administration of the country."

"(4) That if the British Government have decided to give political concession to the Indian Public, this meeting prays that Government should grant the Untouchables their own representatives in the various legislative bodies to ensure to them their civil and political rights."

"(5) That this meeting approves of the objects of the Bahiskrit Bharat Samaj (Depressed India Association) and supports the deputation to be sent on its behalf to Mr. Montagu."

"(6) That this meeting prays that Government looking to the special needs of the Depressed Classes, should make primary education both free and compulsory. That the meeting also requests the Government to give special facilities by way of scholarships to the students of the Depressed Classes."

"(7) That the meeting authorises the President to forward the above resolutions to the Viceroy and the Government of Bombay."

It is obvious that there is a close inter-connection between the resolution passed by the Depressed Classes at their meeting in Bombay under the chairmanship of Sir Narayan Chandavarkar and the Congress resolution of 1917 on the elevation of the Depressed Classes. This inter-connection will be easily understood by adverting to the political events of the year 1917. It will be recalled that it was in 1917 or to be precise, on the 20th August 1917 the late Mr. Montagu the then Secretary of State for India announced in the House of Commons the new policy of His Majesty's Government towards India, namely, the policy of "gradual development of self-governing institutions with a view to progressive realization of responsible government in India as an integral part of the British Empire." Leading Indian politicians were expecting some such declaration of policy on the part of His Majesty's Government and were preparing schemes for changes in the constitutional structure of India in anticipation of such a policy. Of the many schemes

that were formulated, there were two around which public attention was centred. One was called "the Scheme of the Nineteen." The second was called "the Congress-League Scheme." The first was put forth by the 19 elected additional Members of the then Imperial Legislative Council. The second was an agreed scheme of political reforms supported by the Congress and the League otherwise known as the Lucknow Pact. Both these schemes had come into existence in 1916, a year before the announcement made by Mr. Montagu.

Of the two schemes, the Congress was interested in seeing that its own scheme was accepted by His Majesty's Government. The Congress with that purpose in view was keen on giving the Congress-League scheme the status and character of a National Demand. This could happen only if the scheme had the backing of all communities in India. In as much as the Muslim League had accepted the scheme, the problem of securing the backing of the Muslim Community did not arise. Next in numbers came the Depressed Classes. Though not as well organized as the Muslims, they were politically very conscious as their Resolutions show. Not only were they politically conscious but they were all along anti-Congress. Indeed in 1895 when Mr. Tilak's followers threatened to burn the Congress pandal if its use was allowed to the Social Conference for ventilating social wrongs, the Untouchables organized a demonstration against the Congress and actually burned its effigy. This antipathy to the Congress has continued ever since. The resolutions passed by both the meetings of the Depressed Classes held in Bombay in 1917 give ample testimony to the existence of this antipathy in the minds of the Depressed Classes towards the Congress. The Congress while anxious to get the support of the Depressed Classes to the Congress-League scheme of Reforms knew very well that it had no chance of getting it. As the Congress did not then practise—it had not learned it then—the art of corrupting people as it does now, it enlisted the services of the late Sir Narayan Chandavarkar, an Ex-President of the Congress. As the President of the Depressed Classes Mission Society he exercised considerable influence over the Depressed Classes. It was as a result of his influence and out of respect for him that a section of the Depressed Classes agreed to give support to the Congress-League Scheme.

The resolution as its text shows did not give unconditional support to the Congress-League scheme. It agreed to give support on the condition that the Congress passed a resolution for the removal of the social disabilities of the Untouchables. The Congress resolution was a fulfilment of its part of the contract with the Depressed Classes which was negotiated through Sir Narayan Chandavarkar.

This explains the genesis of the Congress Resolution of 1917 on the Depressed Classes and its inter-connection with the Resolutions of the Depressed Classes passed under the Chairmanship of Sir Narayan Chandavarkar. This explanation proves that there was an ulterior motive behind the Congress Resolution. That motive was not a spiritual motive. It was a political motive.

What happened to the Congress Resolution ? The Depressed Classes in their Resolution had called upon the "higher castes, who claim political rights, to take steps for the purpose of removing the blot of degradation from the Depressed Classes, which has subjected these classes to the worst of treatment in their own country." What did the Congress do to give effect to this demand of the Depressed Classes ? In return for the support it got, the Congress was bound to organize a drive against untouchability to give effect to the sentiments expressed in its Resolution. The Congress did nothing. The passing of the Resolution was a heartless transaction. It was a formal fulfilment of a condition which the Depressed Classes had made for giving their support to the Congress-League scheme. Congressmen did not appear to be charged with any qualms of conscience or with any sense of righteous indignation against man's inhumanity to man which is what untouchability is. They forgot the Resolution the very day on which it was passed. The Resolution was a dead letter. Nothing came out of it.

Thus ended the first chapter in the history of what the Congress has done to the Untouchables.

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CHAPTER II

A SHABBY SHOW

Congress Abandons Its Plan

I

MR. GANDHI entered Indian politics in 1919. Very soon thereafter, he captured the Congress. He not only captured it but overhauled it completely and changed it out of recognition. He introduced three main changes. The Old Congress had no sanctions. It only passed a resolution and left it there, hoping that the British Government will take some action on it. If the British Government did not, it merely repeated the resolution next, year and year after it. The old Congress was purely a gathering of intellectuals. It did not go down to the masses to secure their active participation in the political movement as it did not believe in mass action. The old Congress had no machinery and no funds to carry on mass agitation. It did not believe in spectacular political demonstration to impress the British Government of the magnitude of its strength or to attract and interest the masses. The new Congress changed all this. It made the Congress a mass organization by opening its membership to all and sundry. Any one paying four annas a year could be a member of the Congress. It forged sanctions behind its resolutions by adopting the policy of non-co-operation and civil disobedience. It made it a policy to stage demonstration of non-co-operation and civil disobedience and to court gaol. It launched a country-wide organization and propaganda in favour of the Congress. It put out what is called a Constructive Programme of social amelioration. To finance these activities it started a fund of one crore of rupees. It was called the Tilak Swaraj Fund. Thus by 1922, the Congress was completely transformed by Mr. Gandhi. The new Congress was entirely different from the old, except in name.

The Constructive Programme of social amelioration was an important feature of the Congress. It was outlined by the Working Committee of the Congress at its meeting in Bardoli, held in February 1922. It was also known as the Bardoli

Programme. The resolution setting out the details of the programme ran as follows :—

"The Working Committee advises all Congress Organisations to be engaged in the following activities :—

(1) To enlist at least one crore members of the Congress.

* * *

(2) To popularize the spinning wheel and to organize the manufacture of hand-spun and handwoven khaddar.

* * *

(3) To organize national schools.

* * *

(4) To organize the Depressed Classes for a better life, to improve their social, mental and moral condition, to induce them to send their children to national schools and to provide for them the ordinary facilities which the other citizens enjoy.

* * *

(5) To organize the temperance campaign amongst the people addicted to the drink habit by house to house visits and to rely more upon appeal to the drinker in his home than upon picketting.

(6) To organize village and town Panchayats for the private settlement of all disputes, reliance being placed solely upon force of public opinion and the truthfulness of Panchayat decisions to ensure obedience to them.

(7) In order to promote and emphasise unity among all classes and races and mutual goodwill, the establishment of which is the aim of the movement of non-co-operation, to organize a social service department that will render help to all, irrespectives of differences, in times of illness or accident.

* * *

(8) To continue the Tilak Memorial Swaraj Fund collections and call upon every Congress man, or Congress, sympathiser to pay at least one-hundredth part of his annual income for 1921. Every province to send every month twenty-five per cent of its income from the Tilak Memorial Swaraj Fund to the All-India Congress Committee."

The resolution was placed before the All-India Congress Committee at its meeting held in Delhi on 20th February 1922 for confirmation, which it did. I am not concerned to set out what happened to the different items in this Programme of constructive work. I am concerned with only one item namely that which relates to the Depressed Classes and it is that part of it which I propose to deal with.

I will relate the story of the fate, which overtook this part of the Bardoli resolution relating to the Untouchables, stage by stage. To begin with the story, after the Bardoli resolution was confirmed by the All-India Congress Committee, the matter was remitted to the Working Committee for action. The Working Committee took up the matter at its meeting held in Lucknow in June 1922. On that part of the Bardoli problem which related to the uplift of the Untouchables, the Working Committee passed the following resolutions :—

> "This Committee hereby appoints a Committee consisting of Swami Shradhanandji, Mrs. Sarojini Naidu and Messrs. I. K. Yajnik and G. B. Deshpande to formulate a scheme embodying practical measures to be adopted for bettering the condition of the so-called Untouchables throughout the country and to place it for consideration before the next meeting of this Committee, the amount to be raised for the scheme to be Rs. 2 lakhs for the present."

This resolution of the Working Committee was placed before the All-India Congress Committee at its meeting held in Lucknow in June 1922. It accepted the resolution of the Working Committee after making an amendment to it saying that "the amount to be raised for the scheme should be 5 lakhs for the present" instead of 2 lakhs as put forth in the resolution of the Working Committee.

It seems that before the resolution appointing the Committee was adopted by the Working Committee, one of its Members Swami Shradhanand tendered his resignation of the membership of the Committee. At the very sitting at which the Working Committee passed the resolution appointing a Committee, another resolution on the same subject and to the following effect was passed by it:—

> "Read letter from Swami Shradhanandji, dated 8th June 1922 for an advance for drawing up a scheme for Depressed Classes work. Resolved that Mr. Gangadhar Rao B. Deshpande be appointed convener of the Sub-Committee appointed for the purpose and he be requested to convene a meeting, at an early date, and that Swami Shradhananda's letter be referred to the Sub-Committee."

The formation of a Committee marks the second stage in the history of this interesting resolution.

The next reference to the resolution appointing the Com-

mittee is found in the proceedings of the Congress Working Committee held in Bombay in July 1922. At that meeting the Committee passed the following resolution.:—

> "That the General Secretary be asked to request Swami Shradhanand to reconsider his resignation and withdraw it and a sum of Rs. 500 be remitted to the Convener, Syt. G. B. Deshpande, for the contingent expenses of the Depressed Classes Sub-Committee."

Here the matter ended, so far as the year 1922 was concerned. Nothing further seems to have been done. The year 1923 came on. Seeing that nothing was done to set going the Scheme for ameliorating the condition of the Untouchables, the Working Committee which met also at Gaya in January, 1923 took up the matter and passed the following resolution :—

> "With reference to Swami Shradhanand's resignation, resolved that the remaining members of the Depressed Classes Sub-Committee do form the Committee and Mr. Yajnik be the convener."

Thereafter the All-India Congress Committee which met Bombay in May 1923 passed the following resolution :—

> "Resolved that the question of the condition of the Untouchables be referred to the Working Committee for necessary action."

Here ends the second stage in the history of the resolution remitting the question of the Untouchables to a special Committee. The third stage in its history is marked by the resolution of the Working Committee passed in May 1923 at its meeting held in Bombay. This resolution ran as follows :—

> "Resolved that while some improvement has been effected in the treatment of the so-called Untouchables in response of the policy of the Congress, this Committee is conscious that much work remained yet to be done in this respect and in as much as this question of untouchability concerns the Hindu community particularly, it requests the All-India Hindu Mahasabha also to take up this matter and to make strenuous efforts to remove this evil from amidst the Hindu Community."

Thus is told the sad tale of the resolution and how it began and how it ended. What shameful close to a flaring start!

It will be seen how the Congress washed its hands of the problem of the Untouchables. It need not have added insult

to injury by relegating it to the Hindu Mahasabha. There could not be a body most unsuited to take up the work of the uplift of the Untouchables than the Hindu Mahasabha. If there is any body which is quite unfit for addressing itself to the problem of the Untouchables, it is the Hindu Mahasabha. It is a militant Hindu organization. Its aim and object is to conserve in every way everything that is Hindu, religious and cultural. It is not a social reform association. It is a purely political organization, whose main object and aim are to combat the influence of the Muslims in Indian politics. Just to preserve its political strength, it wants to maintain its social solidarity, and its way to maintain social solidarity is not to talk about caste or untouchability. How could such a body have been selected by the Congress for carrying on the work of the Untouchables passes my comprehension. This shows that the Congress wanted somehow to get rid of an inconvenient problem and wash its hands of it. The Hindu Mahasabha of course did not come forth to undertake the work for it had no urge for it and also because the Congress had merely passed a pious resolution recommending the work to them without making any promise for financial provision. So the project came to an inglorious and an ignominious end:

Before closing this chapter, it would not be unprofitable to ascertain why did the Congress abandon the work of social amelioration of the Untouchables of which it had made so much show ? Was it because the Congress intended that the scheme should be a modest one not costing more than two to five lakhs of rupees but felt that from that point of view they had made a mistake in including Swami Shradhanand in the Committee and rather than allow the Swami to confront them with a huge scheme which the Congress could neither accept nor reject? The Congress thought it better in the first instance to refuse to make him the convener[1] and subsequently to dissolve the Committee and hand over the work to the Hindu Mahasabha. Circumstances are not quite against such a conclusion. The Swami was the greatest and the most sincere champion of the Untouchables. There is not the slightest

[1] The fact that the Congress was keen on having Mr. Deshpande as the convener shows that they did not like to leave matters in the hands of Swami Shradhanand. The choice of Mr. Deshpande also indicates that they did not want anything to be done for the simple reason that Mr. Deshpande was an Orthodox Brahmin who had taken no interest in the welfare of the Untouchables.

doubt that if he had worked on the Committee he would have produced a very big scheme. That the Congress did not want him in the Committee and was afraid that he would make big demand on Congress funds for the cause of the Untouchables is clear from the correspondence[1] that passed between him and Pandit Motilal Nehru, the then General Secretary of the Congress, and which is printed in the Appendix. If this conclusion is right, then it shows how empty of sincerity were the words of the Congress which passed that resolution.

Did the Congress abandon the programme because it was revolutionary ? The resolution was in no sense a revolutionary resolution. This will be clear from the note which the Working Committee had appended to the resolution and which the All-India Congress Committee had approved. The note said :—

> "Whilst therefore in places, where the prejudice against the Untouchables is still strong separate schools and separate wells must be maintained out of Congress funds, every effort should be made to draw such children to national schools and to persuade the people to allow the Untouchables to use the common wells."

Obviously, the Congress was not out for the abolition of Untouchability. It had accepted the policy of separate schools and separate wells. The resolution did no more than to undertake amelioration of the condition of the Untouchables. And even such a timid and mild programme the Congress was unable to carry through and which it gave up without remorse or shame.

II

Did the Congress abandon the programme because it had no funds ? Quite the contrary. The Congress had started the Tilak Swaraj Fund in 1921. How much money did the Congress collect? The following table will give some idea. Rupees one crore and thirty lakhs were contributed by the public to the fund. The fund was collected to carry out Congress propaganda and to finance the constructive programme of the Congress as drafted by the Working Committee at Bardoli. How was this huge amount spent by the Congress? Some idea as to the purposes on which the money out of this fund was spent can be gathered from the list of grants voted by the Working Committee during the years 1921, 1922 and 1923.

[1] Appendix I.

Table 1

TILAK SWARAJ FUND*

RECEIPTS

	1921			*1922*			*1923*			*Total*		
	Rs.	a.	P.	Rs.	a.	P.	Rs.	a.	P.	Rs.	a.	P.
General Collections Annexure No. 1 ...	64,31,779	15	10	3,92,430	2	6½	2,64,288	9	1	70,88,498	11	5½
Specific (ear-marked) Donations or Grants Annexure No. II	37,32,230	2	10½	9,45,552	1	4½	7,10,801	10	3	53,88,583	14	6
	1,01,64,010	2	8½	13,37,982	3	11	9,75,090	3	4	1,24,77,082	9	11½
Add—Miscellaneous Receipts, Interest, Other Funds, Famine, Flood, Provincial Membership, Delegation, Affiliation, etc., for 1921-23	—			—			—			5,42,332	5	7½
										1,30,19,415	1,5	7

* The Indian Annual Register —1923, p. 112.

I. Grants Voted in 1921[1]

I. Grants voted by the Working Committee at its meeting held in Calcutta on January 31st and February 1st, 2nd and 3rd 1921 :—

1. Rs. 1,00,000 to remain at the disposal of Mahatma Gandhi for the support of lawyers who give up their practice and stand in need of support (*iv*).

2. Read the following telegram dated the 31st January 1921 from Syt. C. Rajagopalachariar :—

> "Regret unable to attend meeting. Selected full time public workers for Tamil, Kerala part Karnatak about hundred, of whom about forty lawyers suspending practice. Pending collection Tilak Fund sanction drawing Rs. 5,600 per month. Students' movement progressing rapidly though newspapers do not show up news. Must carry on against parental opposition, least two months. Must draw three thousand per month for this. Committee must immediately wire authority issuing Swarajya Fund receipts in name of Congress for convenient denominations like Khilafat receipts. Confident to make up all advances in three months. Do not hope large sums Madras."

Resolved that a sum of Rs. 8,600 be advanced to Tamil, Kerala and the Karnatak parts of the Madras Presidency for one month for the present, and for future advances the matter be placed before the next meeting of the Working Committee (*xx*).

II. Grants voted by the Working Committee at its meeting held at Bezwada on the 31st March and 1st April 1921 :—

3. A lump sum of Rs. 6,000 be advanced to Pandit Mohanlal Nehru, Secretary, U.P. Provincial Congress Committee, for carrying on propaganda and collecting funds (*v*).

> "4. Rs. 17,000 be sanctioned for the remainder of the current year for the expenses of the office of the President, the Secretaries, the Cashier, and that out of the above a sum of Rs. 300 per mensem be assigned to Mr. C. Rajagopalachariar for the expenses of his secretary and the President's steno-typist (*vii*).
>
> 5. A sum of 1,000 dollars remitted by cable to Mr. D. V. S. Rao of the India Home Rule League of America, 1,400 Broadway, New York (*viii*)."

III. The Working Committee at its resolution No. 18 dated 31st July 1921 appointed a Grants Sub-Committee to

[1] Roman figures in the brackets after each grant refer to the resolution of the Working Committee by which the grant was made.

dispose of all applications for grants. The Sub-Committee consisted of Mr. Gandhi, Pandit Motilal Nehru and Seth Jamnalal Bajaj The following grants were voted by the Grants Sub-Committee in the course of several meetings :—

"6. A sum of Rs. 1 lakh be voted as a grant for Swadeshi work in Bihar and a loan of Rs. 4 lakhs recommended for the same purpose (*i*).

7. A loan of Rs. 35,000 to the C. P. (Hindustani) Provincial Congress Committee for Swadeshi (*ii*).

8. Rs. 25,000 for famine relief in the U.P. (*iii*).

9. Rs. 25,000 to the Punjab Provincial Congress Committee for famine relief, and the Jagraon School (*iv*).

10. Rs. 50,000 on the telegraphic application for the relief of the distressed in Malabar (*v*).

11. Rs. 15,000 to the Gandhi Ashram, Benares City (*vi*).

12. Rs. 10,000 to the Pallipadu Ashram (*vii*).

13. Rs. 15,000 to the Andhra Jatheeya Kalashala, Masulipatam (*viii*).

14. Rs. 10,000 to the Secretary, Taluka Congress Committee, Karjat (Maharashtra) (*xx*).

15. Rs. 10,000 to the Anatha Vidyarthi Griha, Chinchwad (Maharashtra) (*x*).

16. The applications of (1) Mr. K. G. Patade, Assistant General Secretary of the Depressed Classes Mission Society of India, (2) of the Kulladaikurichi National School, Vidyasangam and (3) of the Rajahmundry Depressed Classes Mission were rejected as unbacked and not in accordance with the instructions issued by the Sub-Committee (xiii).

17. Rs. 10000 to the Kerala Provincial Congress Committee to be principally spent on Swadeshi and the popularising of the hand-spinning and hand-weaving (*xx*).

18. Rs. 60,000 to the Madras Provincial Congress Committee (*xxii*).

19. Rs. 1,50,000 set apart for the U. P. Provincial Congress Committee (*xxiii*).

20. Rs. 63,000 to the Sind Provincial Congress Committee (*xxiv*).

21. Rs. 25,000 for famine relief in the Ceded Districts in Andhra (*xxv*).

22. Rs. 20,000 to the Maharashtra Provincial Congress Committee (*xxvi*).

23. Rs. 20,000 be granted to the Ganjam District Congress Committee for Swadeshi and for popularising hand-spinning and hand-weaving (*xvii*)."

The Working Committee dissolved the Sub-Committee by resolution No. 8 dated the 6th November 1921 and took the question of voting grants in its own hands.

IV. Grants voted by the Working Committee at its meeting held at Delhi on the 3rd, 5th and 6th November 1921 :—

"24. Rs. 25,000 to Mr. Phukan of Assam for the purchase of cotton to be used in the manufacture of hand-spun yarn and khaddar (*ix*).

25. Rs. 5,000 to the Krishnapuram, Guntur District Andhra (*x*).

26. Rs. 10,000 as an additional grant to the Andhra Jateeya Kalashala (*xi*).

27. Rs. 1,000 to the Rajahmundry Depressed Classes Mission (xii).

28. Rs. 5,000 to the Angalur Jateeya Parishramalayam (*xii*).

29. Rs. 3,000 to Kautaram, Andhra (*xiv*).

30. Rs. 15,000 to the Andhra Provincial Congress Committee for general Swadeshi work (*xv*).

31. Rs. 3,000 to the Masulipatam District Congress Committee (*xvi*).

32. Rs. 30,000 to the Utkal Provincial Congress Committee earmarked for the manufacture of handspun yarn and khaddar (*xvii*).

33. Rs. 3,000 to help the toddy tappers of the Thana District who wanted to give up their profession (*xviii*).

34. Rs. 5,000 to the Nagpur Tilak Vidyalaya (*xix*).

35. Rs. 5,000 to the Nagpur Asahyogashram (*xx*).

36. Rs. 25,000 to the Ajmere Provincial Congress Committee for the purpose of increasing the production of khaddar and charkah yarn (*xxi*).

37. Rs. 18,00,000 if possible, and in any case, at least Rs. 10,00,000 for Gujarat (*xxii*).

38. Rs. 40,000 to be immediately remitted to Sjt. C. Rajagopalachariar for the relief of the distressed in Malabar (*xxiii*)."

V. Grants voted by the Working Committee at its meeting held in Bombay on the 22nd and 23rd November 1921:—

"39. Rs. 10,000 to the Jat Anglo Sanskrit High School, Rohtak, Punjab (*iii*).

40. Rs. 25,000 to the Bijapur District Congress Committee for famine relief and Swadeshi work (*iii*).

41. Rs. 30,000 to help the dismissed mill-labourers of Madras by giving them Swadeshi work (*iii*)."

II. Grants Voted in 1922.

I. Grants voted by the Working Committee at its meeting held in Bombay on 17th January 1922 :—

"42. Application by the U. P. Provincial Congress Committee for Rs. 50,000 already sanctioned and for a further grant of one lakh of rupees for Swadeshi work, be referred to Mahatma Gandhi for final disposal (*ii*).

43. The application of the Assam Provincial Congress Committee for a remittance of Rs. 25,000, the balance out of the sanctioned grant of Rs. 50,000 be referred to Mahatma Gandhi for final disposal (*vi*)."

II. Grants voted by the Working Committee at its meeting held in Delhi on 26th February 1922 :—

"44. Rs. 10,000 for initial expenditure on foreign scheme prepared by Mahatma Gandhi (*i*).

45. Rs. 14,000 for the office expenditure for the current year (*iv*)."

III. Grants voted by the Working Committee at its meeting held in Ahmedabad on 17th and 18th March 1922 :—

"46. Rs. 3,00,000 for organizing a larger production and marketing of khaddar (*i*).

47. Rs. 10,000 out of Rs. 50,000 already sanctioned for the U.P. Provincial Congress Committee (*ix*).

48. Rs. 5,000 to the Kerala Provincial Congress Committee for general Congress work; amount to be deducted from the sum of Rs. 84,000 sanctioned for relief in Malabar and further Rs. 20,000 out of the above amount of Rs. 84.000 be remitted for relief work (*x*).

49. Rs. 10,000 to the Rohtak Anglo-Vernacular School (*xi*).

50. Rs. 15,000 out of the amount of Rs. 25,000 sanctioned for famine relief in the Ceded Districts be paid to Sjt. T. Prakasam representing the Andhra Provincial Congress Committee(*xii*)."

IV. Grants voted by the Working Committee at its meeting held at Calcutta on the 20th, 21st and 22nd April 1922 :—

"51. Rs. 5,000 to the Antyaja Karyalaya, Ahmedabad, for organizing education amongst Depressed Classes in Gujarat (v).

52. Rs. 40,000 as loan to Moulvi Badrul Hasan of Hyderabad Deccan to be exclusively devoted to the Khaddar work (*vi*).

53. Rs. 25,000 to the Nationalist Journals Ltd., to enable them to re-start the *Independent* and run it on Congress lines, providing for a lien on properties of the Company for the amount advanced (*xix*)."

V. Grants voted by the Working Committee at its meeting held in Bombay on the 12th, 13th, 14th and 15th May 1922 :—

"54. Rs. 17,381 to the Antyaja Karyalaya, Ahmedabad, in addition to Rs. 5,000 already granted (x).

55. Resolved that the Punjab Provincial Congress Committee's application for Rs. 1,25,000 for Shahadara Depressed Classes settlement cannot be considered unless the Working Committee is satisfied that sufficient funds are raised locally to start the scheme and the scheme so started is in working order (xi).

56. Resolved that Rs. 5,000 be earmarked for Ahmednagar Depressed Classes home and that the amount be recommended to be paid when the Working Committee is satisfied that the home is started by local efforts and is in working order (xii).

57. Rs. 10,000 be earmarked for Depressed Classes work in Madras, as applied for by Mr. S. Srinivas Iyengar, to be paid when the application is sent to this Committee through the Provincial Congress Committee and on this Committee being satisfied that at least an equal amount is raised by local effort (xiii).

58. Rs. 7,000 to Mr. T. Prakasam for Depressed Classes work in Andhra (xxiv)."

VI. Grants voted by the Working Committee at its meeting held in Lucknow on June 6th, 7th and 10th, 1922 :—

"59. Rs. 50,000 for khaddar work in Sind-Province (*vii*).

60. Rs. 1,000 be advanced to Sjt. C. Rajagopalachariar for contingent expenses (*viii*)."

VII. Grants voted by the Working Committee at its meeting held in Delhi on 30th June 1922 :—

"61. Rs. 180 per mensem for the next three months be sanctioned for the expenses of six workers from Bengal to serve in Assam (*vi*)."

VIII. Grants voted by the Working Committee at its meeting held in Bombay on 18th and 19th July 1922 :—

"62. Rs. 5,000 to Assam (*i*).

63. Rs. 1,50,000 each as loan for Khaddar work in Andhra and Utkal (*x*)."

IX. Grants voted by the Working Committee at its meeting held in Calcutta on 18th, 19th and 25th November 1922 :—

"64. Rs. 3,00,000 to Gujarat as grant (*xii*).

65. Rs. 16,000 for the expenses of the Civil Disobedience Enquiry Committee (*xxi*)."

III. Grants Voted in 1923.

I. Grants voted by the Working Committee at its meeting held in Gaya on the 1st and 2nd of January 1923 :—

"66. Rs. 3,000 to the General Secretary, Indian National Social Conference, for the removal of untouchability and the promotion of temperance and inter-communal unity (xxii).

67. Rs. 1,200 as aid to the *Navayuga,* a Hindi daily paper of Allahabad, on condition that it would carry on propaganda in pursuance of the resolutions of the Congress held at Gaya (*xxxi*).

68. Rs. 10,000 for the Congress Publicity Bureau (*xxxii*)."

II. Grants voted by the Working Committee at its meeting held in Allahabad on 26th and 28th February 1923 :—

"69. Rs. 10,000 for the Depressed Classes work by the Tamil Desh Provincial Congress Committee (vi).

70. Loan of Rs. 15,000 be advanced to the U.P. Provincial Congress Committee on the application of Pandit Jawaharlal Nehru (*x*).

71. A loan of Rs. 15,000 be advanced to Tamil Desh Provincial Congress Committee on the application of Mr. C. Rajagopalachariar (*x*).

72. Rs. 5,000 granted to the IT. P. Provincial Congress Committee for Gandhi Ashram, Benares (*xi*)."

III. Grants voted by the Working Committee at its meeting held in Bombay on, 23rd, 24th, 25th, 26th 27th and 28th May 1923 :—

"73. Loan of Rs. 5 lakhs to the Gujarat Provincial Congress Committee to relieve the surplus stock of khadi in various provinces in the country (*v*).

74. Loan of Rs. 50,000 be advanced to Bengal Provincial Congress Committee for Khadi work (*viii*).

75. Rs. 15,000 to the Bihar Rashtriya Vidyalaya (*xii*).

76. Rs. 10,000 for the Satyavadi Vidyalaya.

77. Rs. 5,000 Swavalamban Rashtriya Pathshala (*xiv*).

78. Rs. 5,000 to Dr. Sathaye for carrying on such work as the Congress Labour Committee decides (*xxxiv*)."

IV. Grants voted by the Working Committee at its meeting held in Nagpur on 7th, 8th, 11th and 12th July 1923 :—

"79. Rs. 20,000 to Sjt. Brajaraj, Secretary, Hindi Sahitya Sammelan for the work of teaching Hindustani in the Madras Presidency (*ix*).

80. Rs. 2,000 to the C. P. Hindustani Provincial Congress Committee to be utilized for general Congress purposes with special regard to rendering help to Satyagraha in Nagpur (*xi*)."

The reader may not get a precise idea of the management or mismanagement of public funds by the Congress from this itemized account of expenditure. Was this expenditure regulated by any principle ? Was it distributed according to the needs of the Provinces ? Consider the following table:—

Table 2

Provinces	*Amount Granted*	*Population†*	*Percentage Grant due on the basis of Population ratio to total Population*	*Percentage of Grant actually paid*
	Rs.			
General—All- India* ...	4,94,000	227,238,000	—	10
Bombay	26,90,381	16,012,623	8	54.3
Madras	5,05,000	42,319,000	18	10.1
Bihar and Orissa ...	5,65,000	*33,820,000*	15	11.3
U.P.	3,11,200	45,376,000	20	6.26
Sind	1,13,000	3,279,377		2.2
Assam	51,080	6,735,000	3	1.1
Bengal	50,000	46,241,000	20	1.0
C.P.	47,000	12,780,000	5	.95
Punjab	45,000	20,675,000	9	.9
Hyderabad	40,000	—	—	.81
Ajmer	25,000	—	—	.5
Foreign	14,000	—	—	.28
Total ...	49,50,661			

*Excluding Burma and Native States.

†These figures are taken from the Simon Commission Report, Vol. I and refer to the year 1921.

Was it distributed on the basis of cultural units and their relative size ? Compare the following figures:—

Table 3

Linguistic Areas	*Total Grant*	*Amount of Grant*	*Percentage of the Total Grant to the Province*	*Percentage of Population of the Area to the Population of the Province*
	Rs.	Rs.		
Bombay Presidency	26,90,381	—	—	100
Gujarath	—	26,22,381	97.4	18
Maharashtra	—	43,000	1.6	69
Karnatak	—	25,000	0.93	13
Central Provinces	47,000	—	—	100
Marathi Districts	—	10,000	21.2	45
Hindustani Districts ...	—	37,000	78.7	55
Madras Presidency	5,05.000	—	—	100
Tamil Nad	—	1,03,000	20.4	38
Andhra	—	3,02,000	60.0	52
Kerala	—	1,00,000	19.6	10
Bihar and Orissa	5,65,000	—	—	100
Bihar	—	5,15,000	91.0	73
Orissa	—	50,000	0.9	27

From these figures it is clear that the distribution of these sums was not made on the basis of any intelligibly principle. There is no relation between the grants and the population, nor between the grants and the claims of the cultural units. A province like Bombay with a population of one and a half crores gets as much as 27 lakhs while U. P. and Madras with a population of about 4 crores each get no more than about five lakhs severally. Consider the grants in relation to cultural units. Take Bombay Presidency. It includes three cultural units, Maharashtra, Gujrath and Karnatak. Out of the 26 lakhs and 90 thousand given to the Bombay Presidency Gujrath with only 18 per cent, of the population of the Province got as much as 26 lakhs and 22 thousand i.e., 97.4 per cent. and Maharashtra with a population of 69 per cent got only Rs. 43,000 or 1.6 per cent and Karnatak. with a population of 13 per cent got Rs. 25,000 or .9 per cent of the grant. In C. P. out of a total grant of Rs. 47,000 the Hindustani districts having 55 per cent of the population got Rs. 37,000 or 78.7 per cent while the Marathi speaking districts having 45 per cent of the population got only Rs. 10,000 i.e., 21.2 per cent. In

Bihar and Orissa out of the total grant of 5 lakhs and 65 thousand Bihar got 5 lakhs and 15 thousand or 91 per cent with a population of 73 per cent, and Orissa got only 50 thousand or 9 per cent while its population was as much as 27 per cent. The same inequity is noticeable in the distribution of grants in the three areas of the Madras Presidency.

There was not only no principle, there was shameful favouritism in the distribution of the fund. Out of the total of 49½ lakhs which was distributed in the three years Gujrath—Mr. Gandhi's province—got $26\frac{1}{4}$ lakhs while the rest of India got 23 lakhs. This means that a population numbering $29\frac{1}{4}$ lakhs got $26\frac{1}{4}$ lakhs while the rest of India numbering about 23 crores got 23 lakhs ! !

There was no check, no control, no knowing for what purpose money was voted and to whom it was granted. Note the following cases :—

Table 4

Moneys allotted but kept at the Disposal of Individuals without Appropriating them to any specified purpose		*Moneys allotted without Appropriation to any purpose without naming the guarantee*	
	Rs.		Rs.
Moulvi Badrul Hasan	40,000	To Gujrath	3,00,000
T. Prakasam	7,000	To Gujrath	18,00,000
C. Rajagopalachariar ...	1,000	To Gujrath	3,00,000
Barajaj	20,000		
Mr. Gandhi	1,00,000		

It is not known whether these huge sums kept at the disposal of the named payees were accounted for or who received the formidable amounts made payable to the nameless payees. Even if there were satisfactory answers to these questions there can be no doubt that a worse case of frenzied finance of extravagance and waste, it would be very difficult to find. It is a sad episode marked by a reckless plunder committed by the predatory leaders of the Congress of public money for nursing their own constituencies without any qualms of conscience.

It is unnecessary to pursue the story of the organized and systematic loot by Congressmen of the balance of 1 crore and

30 lakhs which was spent in subsequent years. It is enough to say that never was there such an organized loot of public money. The point of immediate interest however is that the scrutiny of this list of grants does not show the amelioration of the Untouchables, which has been one of the purposes for which money has been advanced from the Swaraj Fund. One would have expected the Congress to make the amelioration of the Untouchables as the first charge on the Swaraj Fund. It should have at least made it a charge if not the first charge especially when thousands of rupees were spent on feeding briefless lawyers who were alleged to have given up practice in the cause of the nation without even an inquiry whether they had any, when thousands of rupees were spent to feed toddy drawers who had given up their profession for living on alms from public fund and many other wild cat schemes carrying the marks of dishonesty on their faces. But it did nothing of the kind. Instead, the Congress proposed that a separate fund should be started for the amelioration of the Untouchables. And what was to be the dimension of this separate Untouchable Fund ? The All-India Congress Committee fixed it at five lakhs. The Working Committee felt it was too big an amount for so unimportant and so unprofitable a work as the amelioration of the Untouchables and reduced its total to Rs. two lakhs. Two lakhs for sixty millions Untouchables!!

This was the grand sum that was fixed by the Congress for the salvage of the Untouchables. How much of this was actually appropriated ? Here are the figures :—

Table 5

Purpose	*Amount Sanctioned*
	Rs.
Rajamuhendry Depressed Glass Mission	1,000
Antyaj Karyalaya, Ahmedabad	5,000
Antyaj Karyalaya, Ahmedabad	17,381
Depressed Classes Work in Andhra	7,000
National Social Conference for Depressed Classes Work	3,000
Tamil District P.C.C. for Depressed Classes Work	10,000
Total Rs. ...	43,381

To sum up, the Congress could find only Rs. 43,381 out of Rs. 49½ lakhs which it spent for carrying out the Constructive otherwise known as the Bardoli Programme in which the uplift of the Untouchables was given so much prominence. Can there be a grosser instance of insincerity than this ? Where is the love for the Untouchables which the Congress professed for the Untouchables ? Where is the desire of the Congress to undertake the uplift of the Untouchables ? Would it be wrong to say that the Bardoli resolution was a fraud in so far as it related to the Untouchables ?

One is however bound to ask one question. Where was Mr. Gandhi when all this was happening to the cause of the Untouchables in the Congress Camp ? The question is very relevant because it was Mr. Gandhi who had laid stress, ever since he entered the Congress, upon the intimate relation between the winning of Swaraj and the abolition of Untouchability. In the *Young India,* which was Mr. Gandhi's organ, of 3rd November 1921, Mr. Gandhi wrote :—

> "Untouchability cannot be given a secondary place on the programme. Without the removal of the taint Swaraj is a meaningless term. Workers should welcome social boycott and even public execration in the prosecution of their work. I consider the removal of untouchability as a most powerful factor in the process of attainment of Swaraj."

Accordingly, he had been exhorting the Untouchables not to join hands with the British against Swaraj but to make common cause with the Hindus and help to win Swaraj. In an article in *Young India* dated 20th October 1920, Mr. Gandhi addressed the Untouchables in the following terms :—

> "There are three courses open to these down-trodden members of the nation. For their impatience they may call in the assistance of the slave-owning Government. They will get it, but they will fall from the frying pan into the fire. Today they are slaves of slaves. By seeking Government aid, they will be used for suppressing their kith and kin. Instead of being sinned against, they will themselves be the sinners. The Musalmans tried it and failed. They found that they were worse than before. The Sikhs did it unwittingly and failed. Today there is no more discontented community in India than the Sikhs. Government aid is, therefore, no solution.
>
> The second is rejection of Hinduism and wholesale conversion to Islam or Christianity. And if a change of religion

could be justified for worldly betterment I would advise it without hesitation. But religion is a matter of the heart. No physical inconvenience can warrant abandonment of one's own religion. If the inhuman treatment of the Panchamas were a part of Hinduism, its rejection would be a paramount duty both for them and for those like me who would not make a fetish even of religion and condone every evil in its sacred name. But I believe that untouchability is no part of Hinduism. It is rather its excrescence to be removed by every effort. And there is quite an army of Hindu reformers who have set their heart upon ridding Hinduism of this blot. Conversion there fore, I hold, is not remedy whatsoever.

Then, there remains, finally, self-help and self-dependence, with such aid as the non-Panchama Hindus will render of their own motion, not as a matter of duty. And herein comes the use of Non-co-operation.....Therefore, by way of protest against Hinduism, the Panchamas can certainly stop all contact and connection with the other Hindus so long as the special grievances are maintained. But this means organised intelligent effort. And so far as I can see, there is no leader among the Panchamas who can lead them to victory through Non-cooperation.

The better way therefore, perhaps, is for the Panchamas heartily to join the great national movement that is now going on for throwing off the slavery of the present Government. It is easy enough for the Panchama friends to see that Non-co-operation against this evil Government pre-supposes co-operation between the different sections forming the Indian nation."

In the same article Mr. Gandhi told the Hindus :—

"The Hindus must realise that, if they wish to offer successful Non-co-operation against the Government they must make common cause with the Panchamas, even as they have made common cause with the Musalmans."

He repeated the warning in the *Young India* of 29th December 1920 in which he said :—

"Non-co-operation against the Government means co-operation among the governed, and if Hindus do not remove the sin of untouchability, there will be no Swaraj whether in one year or in one hundred years... Swaraj is as unattainable without the removal of the sins of untouchability as it is without Hindu-Muslim unity."

From all this, one would expect Mr. Gandhi to see that the Congress policy of ameliorating the condition of the Untouchables as set out in the Bardoli resolution was given effect to. The fact is that Mr. Gandhi, besides giving utterance to pious platitude, did not take the slightest interest in the programme of the amelioration. If he was so minded, he could have appointed another Committee. If he was so minded, he could have saved a large part of the Tilak Swaraj Fund from the organized loot that was being carried on by Congressmen and reserved it for the benefit of the Untouchables. Strange as it may appear, he sat silent and unconcerned. Instead of feeling any remorse, Mr. Gandhi justified his indifference to the qause of the Untouchables by arguments so strange that no one would believe them. They are to be found in the *Young India* of 20th October 1920 :—

> "Should not we the Hindus wash our bloodstained hands before we ask the English to wash theirs ? This is a proper question reasonably put. And if a member of a slave, nation could deliver the suppressed classes from their slavery, without freeing myself from my own I would do so today. But it is an impossible task. A slave has not the freedom even to do the right thing."

Mr. Gandhi concluded by saying :—

> "That process has commenced and whether the Panchamas deliberately take part in it or not, the rest of the Hindus dare not neglect them without hampering their own progress. Hence though the Panchama problem is as dear to me as life itself, I rest satisfied with the exclusive attention to national non-co-operation. I feel sure that the greater includes the less."

Thus ended the second chapter of what the Congress has done to the Untouchables. The regrettable part of this tragedy is the realization of the fact how Mr. Gandhi has learned to find unction in illusions. Whether Mr. Gandhi likes to live in a world of illusions may be a matter of doubt. But there is no doubt he likes to create illusions in order to use them as arguments to support his cherished proposition. The reason he has given for not taking personal responsibility for the uplift of the Untouchables furnishes the best evidence of this habit of Mr. Gandhi. To tell the Untouchables that they must not act against the Hindus, because they will be acting against their kith and kin, may be understood. But to assume that the Hindus regard the Untouchables as their

kith and kin is to set up an illusion. To ask the Hindus to undertake the removal of untouchability is good advice. But to go to the length of assuring oneself that the Hindus are so overwhelmed with a sense of shame for the inhuman treatment they have accorded to the Untouchables that they dare not fail to abolish untouchability and that there is a band of Hindu Reformers pledged to do nothing but remove untouchability is to conjure an illusion to fool the Untouchbles and to fool the world at large. It may be sound logic to argue that what benefits the whole also benefits the part and that one need not confine himself to looking after the part. But to assume that a piece, as separate as the Untouchables, is a part of the Hindu whole is to deceive oneself. Few know what tragedies the Untouchables as well as the country have had to go through on account of the illusions of Mr. Gandhi.

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CHAPTER III

A MEAN DEAL

Congress Refuses To Part With Power

I

In the Government of India Act of 1919, there was a provision which had imposed an obligation on His Majesty's Government to appoint at the end of ten years a Royal Commission to investigate into the working of the Constitution and report upon such changes as may be found necessary. Accordingly, in 1928 a Royal Commission was appointed under the Chairmanship of Sir John Simon. Indians expected that the Commission would be mixed in its personnel. But Lord Birkenhead who was then the Secretary of State for India was opposed to the inclusion of Indians and insisted on making it a purely Parliamentary Commission. At this, the Congress and the Liberals took great offence and treated it as an insult. They boycotted the Commission and carried on a great agitation against it. To assuage this feeling of opposition it was announced by His Majesty's Government that after the work of the Commission was completed representative Indians would be assembled for a discussion before the new constitution for India is settled. In accordance with this announcement representative Indians were called to London at a Round Table Conference with the Representatives of Parliament and of His Majesty's Government.

On the 12th November 1930, His late Majesty King George V formally inaugurated the Indian Round Table Conference. From the point of view of Indians the Round Table Conference was an event of great significance. Its significance lay in the recognition by His Majesty's Government of the right of Indians to be consulted in the matter of framing a constitution for India. For the Untouchables it was a landmark in their history. For the Untouchables were for the first time allowed to be represented separately by two delegates who happened to be myself and Dewan Bahadur R. Srinivasan. This meant that the Untouchables were regarded not merely a separate

element from the Hindus but also of such importance as to have the right to be consulted in the framing of a constitution for India.

The work of the Conference was distributed among nine committees. One of these committees was called the Minorities Committee to which was assigned the most difficult work of finding a solution of the Communal question. Anticipating that this Committee was the most important committee the Prime Minister, the late Mr. Ramsay MacDonald, himself assumed its chairmanship. The proceedings of the Minorities Committee are of the greatest importance to the Untouchables. For, much of what happened between the Congress and the Untouchables and which has led to bitterness between them will be found in the proceedings of that Committee.

When the Round Table Conference met the political demands of communities other than the Untouchables were quite well known. Indeed the Constitution of 1919 had recognized them as statutory minorities and provisions relating to their safety and security were embodied in it. In their case the question was of expanding those provisions or altering their shape. With regard to the Depressed Classes the position was different. The Montagu-Chelmsford Report which preceded the Constitution of 1919 had said in quite unmistakable terms that provision must be made in the Constitution for their protection. But unfortunately when the details of the Constitution were framed, the Government of India found it difficult to devise any provisions for their protection except to give them token representation in the legislatures by nomination. The first thing that was required to be done was to formulate the safeguards deemed necessary by the Untouchables for their protection against the tyranny and oppression of the Hindus. This I did by submitting a Memorandum to the Minorities Committee of the Round Table Conference. To give an idea of the safeguards that were formulated by me, I reproduce below the text of the Memorandum :—

A Scheme of Political Safeguards for the Protection of the depressed Classes in the Future Constitution of a self-governing India, submitted to the Indian Round Table Conference.

The following are the terms and conditions on which the Depressed Classes will consent, to place themselves under a majority rule in a self-governing India.

Condition No. 1 :

EQUAL CITIZENSHIP

The Depressed Classes cannot consent to subject themselves to majority rule in their present state of hereditary bondsmen. Before majority rule is established their emancipation from the System of untouchability must be an accomplished fact. It must not be left to the will of the majority. The Depressed Classes must be made free citizens entitled to all the rights of citizenship in common with other citizens of the State.

(*A*) *To secure the abolition of untouchability and to create the equality of citizenship, it is proposed that the following fundamental right shall be made part of the constitution of India.*

FUNDAMENTAL RIGHT

U.S.A. Constitution Amendment XIV and Government of Ireland Act 1920, 10 & 11, Geo. V. Ch. 67, Sec. 5 (2).

"All subjects of the State in India are equal before the law and possess equal civic rights. Any existing enactment, regulation, order, custom or interpretation of law by which any penalty, disadvantage, disability is imposed upon or any discrimination is made against any subject of the State on account of untouchability shall, as from the day on which this Constitution comes into operation, cease to have any effect in India."

(*B*) *To abolish the immunities and exemptions now enjoyed by executive officers by virtue of Sections 110 and 111 of the Government of India Act 1919 and their liability for executive action be made co-extensive with what it is in the case of a European British Subject.*

This is so in all Constitutions. See Prof. Keith's remarks in Cmd. 207, p. 56.

Condition No. II:

FREE ENJOYMENT OF EQUAL RIGHTS

It is no use for the Depressed Classes to have a declaration of equal rights. There can be no doubt that the Depressed Classes will have to face the whole force of orthodox society if they try to exercise the equal rights of citizenship. The Depressed Classes therefore feel that if these declarations of rights are not to be mere pious pronouncements, but are to be realities of everyday life, then they should be protected by adequate pains and penalties from interference in the enjoyment of these declared rights.

(A) *The Depressed Classes therefore propose that the following section should be added to Part XI of the Government of India Act 1919, dealing with Offences, Procedure and Penalties :—*

(i) *Offence of Infringement of Citizenship.*

U.S. Statutes At Large.
Civil Eights Protection Acts of April 0, 1866, and of March, 1, 1875—passed in the interest of the Negroes after their emancipation.

"Whoever denies to any person except for reasons by law applicable to persons of all classes and regardless of any previous condition of untouchability the full enjoyment of any of the accommodations, advantages, facilities, privileges of inns, educational institutions, roads, paths, streets, tanks, wells and other watering places, public conveyances on land, air or water, theatres or other places of public amusement, resort or convenience whether they are dedicated to or maintained or licensed for the use of the public shall be punished with imprisonment of either description for a term which may extend to five years and shall also be liable to fine."

(B) Obstruction by orthodox individuals is not the only menace to the Depressed Classes in the way of peaceful enjoyment of their rights. The commonest form of obstruction is the social boycott. It is the most formidable weapon in the hands of the orthodox classes with which they beat down any attempt on the part of the Depressed Classes to undertake any activity if it happens to be unpalatable to them. The way it works and the occasions on which it is brought into operation are well described in the Report of the Committee appointed by the Government of Bombay in 1928 "to enquire into the educational, economic and social condition of the Depressed Classes (untouchables) and of the Aboriginal Tribes in the Presidency and to recommend measures for their uplift." The following is an extract from the same :—

Depressed Classes and Social Boycott

"102. Although we have recommended various remedies to secure to the Depressed Classes their rights to all public utilities we fear that there will be difficulties in the way of their exercising them for a long time to come. The first difficulty is the fear of open violence against them by the orthodox classes. It must be noted that the Depressed Classes form a small minority in every village, opposed to which is a great majority of the orthodox who are bent on protecting their interests and dignity from any supposed invasion by the Depressed Classes at any cost. The danger of prosecution by the Police has put a limitation upon the use of violence by the orthodox classes and consequently such cases are rare.

"The second difficulty arises from the economic position in which the Depressed Classes are found to-day. The Depressed Classes have no economic independence in most parts of the Presidency. Some cultivate the lands of the orthodox classes as their tenants at will. Others live on their earnings as farm labourers employed by the orthodox classes and the rest subsist on the food or grain given to them by the orthodox classes in lieu of service rendered to them as village servants. We have heard of numerous instances where the orthodox classes have used their economic power as a weapon against those Depressed Classes in their villages, when the latter have dared to exercise their rights, and have evicted them from their land, and stopped their employment and discontinued their remuneration as village servants. This boycott is often planned on such an extensive scale as to include the prevention of the Depressed Classes from using the commonly used paths and the stoppage of sale of the necessaries of life by the village Bania. According to the evidence sometimes small causes suffice for the proclamation of a social boycott against the Depressed Classes. Frequently it follows on the exercise by the Depressed Classes of their right to the use of the common-well, but cases have been by no means rare where a stringent boycott has been proclaimed simply because Depressed Class man has put on the sacred thread, has bought a piece of land, has put on good clothes or ornaments, or has carried a marriage procession with the bridegroom on the horse through the public street.

"We do not know of any weapon more effective than this social boycott which could have been invented for the suppression of the Depressed Classes. The method of open violence pales away before it, for it has the most far reaching and deadening effects. It is the more dangerous because it passes as a lawful method consistent with the theory of freedom of contact. We agree that this tyranny of the majority must be put down with a firm hand, if we are to guarantee the Depressed Classes the freedom of speech and action necessary for their uplift."

In the opinion of the Depressed Classes the only Way to overcome this kind of menace to their rights and liberties is to make social boycott an offence punishable by law. They are therefore bound to insist that the following sections should be added to those included in Part XI, of the Government of India Act 1919, dealing with Offences, Procedure and Penalties.

I. OFFENCE OF BOYCOTT DEFINED

(i) *A person shall be deemed to boycott another who—*

This and the following legal provisions are bodily taken from Burma Anti-Boycott Act, 1922, with a few changes to suit the necessities of the case.

(a) *refuses to let or use or occupy any house or land, or to deal with, work for hire, or do business with another person, or to render to him or receive from him any service, or refuses to do any of the said things on the terms on which such things should commonly be done in the ordinary course of business,* or

(b) *abstains from such social, professional or business relations as he would, having regard to such existing customs in the community which are not inconsistent with any fundamental right or other rights of citizenship declared in the Constitution ordinarily maintain with such person,* or

(c) *in any way injures, annoys or interferes with such other person in the exercise of his lawful rights.*

II. PUNISHMENT FOR BOYCOTTING

Whoever, in consequence of any person having done any act which he was legally entitled to do or of his having omitted to do any act which he was legally entitled to omit to do, or with intent to cause any person to do any act which he is not legally bound to do or to omit to do any act which he is legally entitled to do, or with intent to cause harm to such person in body, mind, reputation or property, or in his business or means of living, boycotts such person or any person in whom such person is interested, shall be punished with imprisonment of either description which may extend to seven years or with fine or with both.

Provided that no offence shall be deemed to have been committed under this Section, if the Court is satisfied that the accused person has not acted at the instigation of or in collusion with any other person or in pursuance of any conspiracy or of any agreement or combination to boycott.

III. PUNISHMENT FOR INSTIGATING OR PROMOTING A BOYCOTT

Whoever—

(a) *publicly makes or publishes or circulates a proposal for,* or

(b) *makes, publishes or circulates any statement, rumour or report with intent to, or which he has reason to believe to be likely to, cause* or

(c) *in any other way instigates or promotes the boycotting of any person or class of persons, shall be punished with imprisonment which may extend to five years, or with fine or with both.*

Explanation.—An offence under this section shall be deemed to have been committed although the person affected or likely to be affected by any action of the nature referred to herein is not designated by name or class but only by his acting or abstaining from acting some specified manner.

IV. PUNISHMENT FOR THREATENING A BOYCOTT

Whoever, in consequence of any person having done any act which he was legally entitled to do or of his having omitted to do any act which he was legally entitled to omit to do, or with intent to cause any person to do any act which he is not legally bound to do, or to omit to do any act which he is legally entitled to do, threatens to cause such person or any person in whom such person is interested, to be boycotted shall be punished with imprisonment of either description for a term which may extend to five years or with fine or with both.

Exception :—It is not boycott

(i) *to do any act in furtherance of a* bona fide *labour dispute,*

(ii) *to do any act in the ordinary course of business competition.*

N.B.—*All these offences shall be deemed to be cognizable offences.*

Condition No. III.

PROTECTION AGAINST DISCRIMINATION

The Depressed Classes entertain grave fears of discrimination either by legislation or by executive order being made in the future. They cannot therefore consent to subject themselves to majority rule unless it is rendered impossible in law for the legislature or the executive to make any invidious discrimination against the Depressed Classes.

It is therefore proposed that the following Statutory provision be made in the constitutional law of India :—

> *" It shall not be competent for any Legislature or executive in India to pass a law or issue an order, rule or regulation so as to violate the rights of the Subjects of the State, regardless of any previous condition of untouchability, in all territories subject to the jurisdiction of the dominion of India,*
>
> (*1*) *to make and enforce contracts, to sue, be parties, and give evidence, to inherit, purchase, lease, sell, hold and convey real and personal property,*
>
> (*2*) *to be eligible for entry into the civil and military employ and to all educational institutions except for such, conditions and limitations as may be necessary to provide for the due and adequate representation of all classes of the subjects of the State,*

(*3*) *to be entitled to the full and equal enjoyment of the accommodations, advantages, facilities, educational institutions, privileges of inns, rivers, streams, wells, tanks, roads, paths, streets, public conveyances on land, air and water, theatres, and other places of public resort or amusement except for such conditions and limitations applicable alike to all subjects of every race, class, caste, colour or creed,*

(*4*) *to be deemed fit for and capable of sharing without distinction the benefits of any religious or charitable trust dedicated to or created, maintained or licensed for the general public or for persons of the same faith and religion,*

(*5*) *to claim full and equal benefit of all laws and proceedings for the security of person and property as is enjoyed by other subjects regardless of any previous condition of untouchability and be subject to like punishment pains and penalties and to none other.*

Condition No. IV

ADEQUATE REPRESENTATION IN THE LEGISLATURES

The Depressed Classes must be given sufficient political power to influence legislative and executive action for the purpose of securing their welfare. *In view of this they demand that the following provisions shall be made in the electoral law so as to give them—*

(1) *Right to adequate representation in the Legislatures of the Country, Provincial and Central.*

(2) *Right to elect their own men as their representatives,*

(a) *by adult suffrage,* and

(b) *by separate electorates for the first ten years and thereafter by joint electorates and reserved seats, it being under stood that joint electorates shall not be forced upon the Depressed Classes against their will unless such joint electorates are accompanied by adult suffrage.*

N.B.—Adequate Representation for the Depressed Classes cannot be defined in quantitative terms until the extent of representation allowed to other communities is known. But it must be understood that the Depressed Classes will not consent to the representation of any other community being settled on better terms than those allowed to them. They will not agree to being placed at a disadvantage in this matter. In any case the Depressed Classes of Bombay and Madras must have weightage over their population ratio of representation

irrespective of the extent of representation allowed to other minorities in the Provinces.

Condition No. V

ADEQUATE REPRESENTATION IN THE SERVICES

The Depressed Classes have suffered enormously at the hands of the high caste officers who have monopolized the Public Services by abusing the law or by misusing the discretion vested in them in administering it to the prejudice of the Depressed Classes and to the advantage of the caste Hindus without any regard to justice, equity or good conscience. This mischief can only be avoided by destroying the monopoly of caste Hindus in the Public Services and by regulating the recruitment to them in such a manner that all communities including the Depressed will have an adequate share in them. For this purpose the Depressed Classes have to make the following proposals for statutory enactment as part of the constitutional law:—

(*1*) *There shall be established in India and in each Province in India a public Services Commission to undertake the recruitment and control of the Public Services.*

(*2*) *No member of the Public Service Commission shall be removed except by a resolution passed by the Legislature nor shall he be appointed to any office under the Crown after his retirement.*

(*3*) *It shall be the duty of the Public Service Commission, subject to the tests of efficiency as may be prescribed,*

(a) *to recruit the Services in such a manner as will secure due and adequate representation of all communities,* and

(b) *to regulate from time to time priority in employment in accordance with the existing extent of the representation of the various communities in any particular service concerned.*

Condition No. VI

REDRESS AGAINST PREJUDICIAL ACTION OR NEGLECT OF INTERESTS

In view of the fact that the Majority Rule of the future will be the rule of the orthodox, the Depressed Classes fear that such a Majority Rule will not be sympathetic to them and that the probability of prejudice to their interests and neglect of their vital needs cannot be overlooked. It must be provided against particularly because, however adequately represented the

Depressed Classes will be in a minority in all legislatures. The Depressed Classes think it very necessary that they should have the means of redress given to them in the constitution. *It is therefore proposed that the following provision should be made in the constitution of India :—*

British North American Act, 1867, Sec.93

"In and for each Province and in and for India it shall be the duty and obligation of the Legislature and the Executive or any other Authority established by Law to make adequate provision for the education, sanitation, recruitment in Public Services and other matters of social and political advancement of the Depressed Classes and to do nothing that will prejudicially affect them.

"(2) *Where in any Province or in India the provisions of this section are violated an appeal shall lie to the Governor-General in Council from any act or decision of any Provincial Authority and to the Secretary of State from any act or decision of a Central Authority affecting the matter.*

" (*3*) *In every such case where it appears to the Governor-General in Council or to the Secretary of State that the Provincial Authority or Central Authority does not take steps requisite for the due execution of the provisions of this Section then and in every such case, and as far only as the circumstances of each case require the Governor-General in Council or the Secretary of State acting as an appellate authority may prescribe, for such period as they may deem fit, take remedial measures for the due execution of the provisions of this Section and of any of its decisions under this Section and which shall be binding upon the authority appealed against.*

Condition No. VII

SPECIAL DEPARTMENTAL CARE

The helpless, hapless and sapless condition of the Depressed Classes must be entirely attributed to the dogged and determined opposition of the whole mass of the orthodox population which will not allow the Depressed Classes to have equality of status or equality of treatment. It is not enough to say of their economic condition that they are poverty-stricken or that they are a class of landless labourers, although both these statements are statements of fact. It has to be noted that the poverty of the Depressed Classes is due largely to the social prejudices in consequence of which many an occupation for earning a living is closed to them. This is a fact which differentiates the position of the Depressed Classes from that of the ordinary caste labourer and is often a source of trouble between the two. It has also to be borne in mind that the forms of tyranny and oppression

practised against the Depressed Classes are very various and the capacity of the Depressed Classes to protect themselves is extremely limited. The facts, which obtain in this connection and which are of common occurrence throughout India, are well described in the Abstracts of Proceedings of the Board of Revenue of the Government of Madras dated 5th Nov., 1892, No. 723, from which the following is an extract:—

"134. There are forms of oppression only hitherto hinted at which must be at least cursorily mentioned. To punish disobedience of Pariahs, their masters —

(*a*) Bring false cases in the village court or in the criminal courts.

(*b*) Obtain, on application, from Government waste lands lying all round the paracheri, so as to impound the Pariahs' cattle or obstruct the way to their temple.

(*c*) Have mirasi names fraudulently entered in the Government account against the paracheri.

(*d*) Pull down the huts and destroy the growth in the backyards.

(*e*) Deny occupancy right in immemorial sub-tenancies.

(*f*) Forcibly cut the Pariahs' crops, and on being resisted, charge them with theft and rioting.

(g) Under misrepresentations, get them to execute documents by which they are afterwards ruined.

(*h*) Cut off the flow of water from their fields.

(*i*) Without legal notice, have the property of sub-tenants attached for the land-lords' arrears of revenue.

"135. It will be said there are civil and criminal courts for the redress of any of these injuries. There are the courts indeed ; but India does not breed village Hampdens. One must have courage to go to the courts ; money to employ legal knowledge, and meet legal expenses ; and means to live during the case and the appeals. Further most cases depend upon the decision of the first court; and these courts are presided over by officials who are sometimes corrupt and who generally, for other reasons, sympathize with the wealthy and landed classes to which they belong.

"136. The influence of these classes with the official world can hardly be exaggerated. It is extreme with natives and great even with Europeans. Every office, from the highest to the lowest, is stocked with their representatives, and there is no proposal affecting their interests but they can bring a score of influence to bear upon it in its course from inception to execution."

There can be no doubt that in view of these circumstances the uplift of the Depressed Classes will remain a pious hope unless the task is placed in the forefront of all governmental activities and unless equalization of opportunities is realized in practice by a definite policy and determined effort on the part of Government. *To secure this end the proposal of the Depressed Classes is that the Constitutional Law should impose upon the Government of India a statutory obligation to maintain at all times a department to deal with their problems by the addition of a section in the Government of India Act to the following effect:—*

> *"1. Simultaneously with the introduction of this Constitution and as part thereof, there shall be created in the Government of India a Department to be in charge of a Minister for the purpose of watching the interests of the Depressed Classes and promoting their welfare.*
>
> *"2. The Minister shall hold office so long as he retains the confidence of the Central Legislature.*
>
> *"3. It shall be the duty of the Minister in the exercise of any powers and duties conferred upon him or transferred to him by law, to take all such steps as may be desirable to secure the preparation, effective carrying out and co-ordination of measures preventative of acts of social injustice, tyranny or oppression against the Depressed Classes and conducive to their welfare throughout India.*
>
> *"4. It shall be lawful for the Governor-General—*
>
> (a) *to transfer to the Minister all or any powers or duties in respect of the welfare of the Depressed Classes arising from any enactment relating to education, sanitation, etc.*
>
> (b) *to appoint Depressed Classes welfare bureaus in each province to work under the authority of and in co-operation with the Minister.*

Condition No. VIII

DEPRESSED CLASSES AND THE CABINET

Just as it is necessary that the Depressed Classes should have the power to influence governmental action by seats in the Legislature so also it is desirable that the Depressed Classes should have the opportunity to frame the general policy of the Government. This they can do only if they can find a seat in the Cabinet. The Depressed Classes therefore claim that in common with other minorities, their moral rights to be represented in the Cabinet should be recognized. With this purpose in view *the Depressed Classes propose;*

that in the Instrument of Instructions an obligation shall be placed upon the Governor and the Governor-General to endeavour to secure the representation of the Depressed Classes in his Cabinet.

II

What happened to these demands of the Untouchable and how the members of the Minorities Committee reacted to them can be well understood by a perusal of the Report made by the Minorities Committee to the Round Table Conference. I give below a few extracts from that Report :—

"5. Claims were therefore advanced by various committees that arrangements should be made for communal representation and for fixed proportions of seats. It was also urged that the number of seats reserved for a minority community should in no case be less than its proportion in the population. The methods by which this could be secured were mainly three: (1) nomination, (2) electorates and (3) separate electorates.

"6. Nomination was unanimously deprecated.

"7. Joint electorates were proposed with the proviso that a proportion of seats should be reserved to the communities. Thus a more democratic form would be given to the elections whilst the purpose of the electorate system would be secured. Doubts were expressed that, whilst such a system of election might secure the representation of minorities, it provided no guarantee that the representation would be genuine, but that it might, in its working, mean the nomination or, in any event, the election of minority representatives by the majority communities.

It was pointed out that this was in fact only a form of community representation and had in practice all the objections to the more direct form of community electorates.

"8. The discussion made it evident that the demand which remained as the only one which would be generally acceptable was separate electorates. The general objection to this scheme has been subject to much previous discussion in India. It involves what is a very difficult problem for solution, viz., what should be the amount of communal representation in the various provinces and in the Centre ; that, if the whole, or practically the whole, of the seats in a legislature are to be assigned to communities, there will be no room for the growth of independent political opinion or of true political parties, and this problem received a serious complication by the demand of the

representative of the Depressed Classes that they should be deducted from the Hindu population and be regarded, for electoral purposes, as a separate community.

"9. It was suggested that, in order to meet the most obvious objection to the ear-marking of seats to communalities, only a proportion should be so assigned—say 80 per cent, or 90 per cent.—and that the rest should be filled by open election. This, however, was not regarded by some of the communities as giving them the guarantees they required.

"10. The scheme proposed by Maulana Muhammad Ali, a member of the Sub-Committee, whose death we deplore, that, as far as possible no communal candidate should be elected unless he secured at least 40 per cent, according to arrangement, of the votes of the other community, was also considered. It was, however, pointed out that such a scheme necessarily involved the maintenance of communal registers and so was open to objections similar to those urged against separate electorates.

"11. No claim for separate electorate or for the reservation of seats in joint electorates was made on behalf of women who should continue to be eligible for election on the same footing as men. But, in order to familiarize the public mind with the idea of women taking an active part in political life and to secure their interim representation on the legislature, it was urged that 5 per cent. of the seats in the first three Councils should be reserved for women and it was suggested that they should be filled by co-option by the elected members voting by proportional representation.

"12. There was general agreement with the recommendation of Sub-Committee No. II (Provincial Constitution) that the representation on the Provincial Executive of important minority communities was a matter of the greatest practical importance for the successful working of the new constitution, and it was also agreed that, on the same grounds, Muhammadans should be represented on the Federal Executive. On behalf of the smaller minorities a claim was put forward for their representation, either individually or collectively, on the Provincial and Federal Executives or that, if this should be found impossible, in each Cabinet there should be a Minister specially charged with the duty of protecting minority interests.

(Dr. Ambedkar and Sardar Ujjal Singh would add the words "and other important minorities" after the word Muhammadans in line 6).

The difficulty of working jointly responsible Executives under such a scheme as this was pointed out.

"13. As regards the administration, it was agreed that recruitment to both Provincial and Central Services should be entrusted to Public Service Commissions, with instructions to reconcile the claims of the various communities to fair and adequate representation in the Public Services, whilst providing for the maintenance of a proper standard of efficiency.

* * *

"16. It has also been made clear that the British Government cannot, with any chance of agreement, impose upon the communities an electoral principle which, in some feature or other, would be met by their opposition. It was therefore plain that, failing an agreement, separate electorates, with all their drawbacks and difficulties, would have to be retained as the basis of the electoral arrangements under the new constitution. From this the question of proportions would arise. Under these circumstances, the claims of the Depressed Classes will have to be considered adequately.

* * *

"18. The Minorities and Depressed Classes were definite in their assertion that they could not consent to any self-governing constitution for India unless their demands were met in a reasonable manner."

The Federal Structure Committee, another Committee appointed by the Round Table Conference to discuss the form and functions of the Central Government, had also to consider the question of the Untouchables in connection with the composition of the Federal Legislatures. In the report it made to the Conference it said :—

"Opinion was unanimous in the sub-committee that, subject to any report of the Minorities Sub-Committee, provision should be made for the representation, possibly in both Chambers and certainly in the Lower Chamber, of certain special interests, namely, the Depressed Classes, Indian Christians, Europeans, Anglo-Indians, Landlords, Commerce (European and Indian) and Labour."

III

Before the first session of the Round Table Conference was concluded the reports of both the Committees were placed before the Conference and were passed by the Conference. It will be noticed that although agreement on details was lacking it was unanimously accepted that the Untouchables were entitled to recognition as a separate entity for political and constitutional purposes.

The only party in the country whose attitude to this decision of the Round Table Conference was not known when the First Session of the Round Table Conference was closed, was the Congress. This was because the Congress had boycotted the Round Table Conference and was busy in carrying on civil disobedience against the Government. By the time the Second Session of the Round Table Conference became due, a compromise between His Majesty's Government and the Congress was reached as a result of which the Congress agreed to participate in it and make its contribution to the solution of the many problems confronting the Conference. Everybody, who had witnessed the good temper, happy relationship and the spirit of give and take shown by the delegates at the first session of the Round Table Conference, hoped that the progress made would be maintained from session to session. Indeed the rate of progress in forging an agreement was expected to be much more rapid as a result of the advent of the Congress. In fact, friends of Congress were alleging that if the session did not produce an agreement it was because of the absence of the Congress.

Everybody was therefore looking forward to the Congress to lead the Conference to success. Unfortunately, the Congress chose Mr. Gandhi as its representative. A worse person could not have been chosen to guide India's destiny. As a unifying force he was a failure. Mr. Gandhi presents himself as a man full of humility. But his behaviour at the Round Table Conference showed that in the flush of victory Mr. Gandhi can be very petty-minded. As a result of his successful compromise with the Government just before he came, Mr. Gandhi treated the whole Non-Congress delegation with contempt. He insulted them whenever an occasion furnished him with an excuse by openly telling them that they were nobodies and that he alone, as the delegate of the Congress, represented the country. Instead of unifying the Indian delegation, Mr. Gandhi widened the breach. Prom the point of view of knowledge, Mr. Gandhi proved himself to be a very ill-equipped person. On the many constitutional and communal questions with which the Conference was confronted, Mr. Gandhi had many platitudes to utter but no views or suggestions of a constructive character to offer. He presented a curious complex of a man who in some cases would threaten to resist in every possible way any compromise on what he regarded as a

principle though others regarded it as a pure prejudice but in other cases would not mind making the worst compromises on issues which appeared to others as matters of fundamental principle on which no compromise should be made.

Mr. Gandhi's attitude to the demands of the Untouchables at the second session of the Round Table Conference furnishes the best illustration of this rather queer trait in his character. When the delegates assembled for the second session of the Round Table Conference the Federal Structure Committee met first. In the very first speech which he made in the Federal Structure Committee on 15th September 1931, Mr. Gandhi referred to the question of the Untouchables. Mr. Gandhi said :—

> "The Congress has, from its very commencement, taken up the cause of the so-called 'Untouchables.' There was a time when the Congress had at every annual session as its adjunct the Social Conference, to which the late Ranade dedicated his energies, among his many other activities. Headed by him you will find, in the programme of the Social Conference, reform in connection with the 'Untouchables' taking a prominent place. But, in 1920, the Congress took a large step and brought in the question of the removal of untouchability as a plank on the political platform, making it an important item of the political programme. Just as the Congress considered the Hindu-Muslim unity—thereby meaning unity amongst all the classes—to be indispensable for the attainment of Swaraj, so also did the Congress consider the removal of the curse of untouchability as an indispensable condition for the attainment of full freedom. The position the Congress took up in 1920 remains the same today; and so you will see the Congress has attempted from its very beginning to be what it described itself to be, namely, national in every sense of the term."

Anyone, who has perused how the Congress failed to carry out the 1922 programme for the uplift of the Untouchables which was included in the Bardoli programme and how it left it to the Hindu Maha Sabha, could have no hesitation in saying that what Mr. Gandhi said was untrue. The speech however gave no indication as to what line Mr. Gandhi was going to take on the demands presented by the Untouchables, although I could see the drift of it.[1] But he did not leave people long in

[1]Before going to the First Session of the Round Table Conference I had an interview with Mr. Gandhi in Bombay in which he had told me that he was not in favour of regarding the Untouchables as a separate entity for political purposes.

imagining what his position was going to be. The meeting of the Federal Structure Committee held on the 17th of September 1931 provided him the necessary occasion. The agenda for the meeting included the question of election of members of the Federal Legislatures. Expressing his views on the subject, Mr. Gandhi made the following statement:—

> "I come to sub-head (*v*)—representation by special constituencies of special interests. I here speak for the Congress. The Congress has reconciled itself to special treatment of the Hindu-Muslim-Sikh tangle. There are sound historical reasons for it but the Congress will not extend that doctrine in any shape or form. I listened to the list of special interests. So far as the Untouchables are concerned, I have not yet quite grasped what Dr. Ambedkar has to say : but of course the Congress will share the honour with Dr. Ambedkar of representing the interests of the Untouchables. They are as clear to the Congress as the interests of any other body or of any other individual throughout the length and breadth of India. Therefore I would most strongly resist any further special representation."

This was nothing but a declaration of War by Mr. Gandhi and the Congress against the Untouchables. In any case it resulted in a war between the two. With this declaration by Mr. Gandhi, I knew what Mr. Gandhi would do in the Minorities Committee which was the main forum for the discussion of this question.

Mr. Gandhi was making his plans to bypass the Untouchables and to close the communal problem by bringing about a settlement between the three parties, the Hindus, the Muslims and the Sikhs. He had been carrying on negotiations privately with the Muslims before the Minorities Committee met, but evidently they had not been concluded. Consequently, when the Minorities Committee met on 28th September 1931, Sir Ali Imam representing the Nationalist Muslim point of view started the debate. He began by saying :—

> "I am personally not aware if there are any negotiations going on so far as the Muslim Delegation is concerned. I have had no opportunity of knowing that there are any proposals at present that are under consideration. It may be, as I have heard generally, that some kind of understanding may be arrived at. I do not vouch for it; I know nothing about it. If you desire, Sir, that I should put before you the Muslim Nationalists' point of view, I shall be ready to do so ; but of course, I must have

your permission, because it may take a little time and economy of time in a meeting like this is one's principal aim.

"Chairman: The point is that this Committee's business is very strictly limited to a consolidation of the Minorities problem.

Sir Ali Imam: It is from that point of view that I shall approach the subject.

Chairman : If there is no other official intervention shall I call on Sir Ali Imam ?"

Then followed His Highness the Aga Khan who said :—

"I believe that Mahatma Gandhi is going to see the Muslim Delegation to-night. We hope to-night to have a friendly talk with our friend. That is all that I can tell you as far as any possible negotiation is concerned."

Pandit Madan Mohan Malaviya also suggested that a short adjournment may be fruitful of results. Knowing that this was a mischievous move I got up and spoke as follows :—

"I should like to say one word before we adjourn. As regards your suggestion—that while these negotiations are going on members of the other minority communities should prepare their case—I should like to say that so far as the Depressed Classes are concerned, we have already presented our case to the Minorities Sub-Committee last time.

"The only thing which remains for me to do is to put before this Committee a short statement[1] suggesting the quantum of representation which we want in the different Legislatures. Beyond that I do not think I am called upon to do anything; but the point I am anxious to make at the very outset is this. I have heard with great pleasure that further negotiations are going to take place for the settlement of the communal issue, but I would like to make our position clear at the very start. I do not wish any doubt should be left on this question. Those who are negotiating ought to understand that they are not plenipotentiaries appointed by the Committee to negotiate a settlement; that whatever may be the representative character of Mr. Gandhi or of the other parties with whom he wishes to negotiate, they certainly are not in a position to bind us— certainly not. I say that most emphatically in this meeting.

"Another thing I want to say is this—that the claims put forward by the various minorities are claims put forward by them irrespective of the consideration as to whether the claims that they have put forward are consistent with the claims of the other minorities. Consequently, any settlement which takes

[1] This I did by putting in another memorandum which is included as Appendix II.

place between one minority on the one hand and the Congress or any other party for the matter of that on the other hand, without taking into consideration the claims which have been put forward by other minorities, can have no binding force as far as I am concerned. I have no quarrel with the question whether any particular community should get weightage or not, but I do want to say most emphatically that whoever claims weightage and whoever is willing to give that weightage he must not give it—he cannot give it—out of my share. I want to make that absolutely plain."

What followed will be clear from the extract from the proceedings given, below :—

"Chairman: Do not let there be any misunderstanding. This is the body before which the final settlement must come, and the suggestion is merely that if there are minorities or communities that hitherto have been in conflict with each other they should use a short time for the purpose of trying to overcome their difficulties. That will be a step and a very important and essential step, towards a general agreement, but the agreement is going to be a general one.

Dr. Ambedkar : I have made my position absolutely clear.

"Chairman: Dr. Ambedkar's position has been made absolutely clear; in his usual splendid way he has left no doubt at all about it, and that will come up when this body resumes its discussion. What I would like to do is to get you all to feel that we are co-operating together for a general Settlement; not for a settlement between any two or any three, but a complete settlement.

"Chairman: The position is this. We will adjourn now, I think, and later continue our meetings. Pending any negotitions that may be going on between any two or any three of you, we can take up the time in listening to a statement of the claims of the other minorities. I think that would be very useful. It would save time, and it would not mar the possibility of any harmony that may be reached between, say, our Sikh friends—who, we know, can look after themselves with a great deal of persistence—Mr. Gandhi and his friends and the Aga Khan and his.

"Dr. Ambedkar: I should like to Suggest whether it would not be possible for you to appoint a small Committee consisting of members drawn from the various minority communities, along with the Congress representatives, to sit in an informal manner and discuss this problem during the period of the adjournment.

"Chairman: I was going to make this suggestion. Do not ask me to appoint that Committee; do it yourselves. I have invited you to get together. Could not you manage to hold an informal meeting amongst yourselves and talk the matter over, and then when you speak here you will speak with some sort of knowledge of the effect of what you are saying on others ? Could we leave it in that way ?

"Dr. Ambedkar: As you like.

"*Chairman :* That would be far better."

No settlement was evidently arrived at between the three parties during the adjournment. Consequently when the Minorities Committee met again on 1st October 1931, Mr. Gandhi said :—

"Prime Minister, after consultation with His Highness the Aga Khan and other Muslim friends last night, we came to the conclusion that the purpose for which we meet here would be better served if a week's adjournment was asked for. I have not had the opportunity of consulting my other colleagues, but I have no doubt that they will also agree in the proposal I am making."

The proposal was seconded by the Aga Khan. I got up to oppose the motion. What I said will be clear from the following extract from the proceedings :—

"Dr. Ambedkar: I do not wish to create any difficulty in our making every possible attempt to arrive at some solution of the problem with which this Committee has to deal, and if a solution can be arrived at by the means suggested by Mahatma Gandhi, I, for one, will have no objection to that proposal.

"But there is just this one difficulty with which I, as representing the Depressed Classes, am faced. I do not know what sort of committee Mahatma Gandhi proposes to appoint to consider this question during the period of adjournment, but I suppose that the Depressed Classes will be represented on this Committee.

"Mr. Gandhi: Without doubt.

"Dr. Ambedkar: Thank you. But I do not know whether in the position in which I am today it would be of any use for me to work on the proposed Committee. And for this reason. Mahatma Gandhi told us on the first day that he spoke in the Federal Structure Committee that as a representative of the Indian National Congress he was not prepared to give political recognition to any community other than the Muhammadans and the Sikhs. He was not prepared to recognize the Anglo-Indians, the Depressed Classes, and the Indian Christians.

I do not think that I am doing any violence to etiquette by stating in this Committee that when I had the pleasure of meeting Mahatma Gandhi a week ago and discussing the question of the Depressed Classes with him, and when we, as members of the other minorities, had the chance of talking with him yesterday in his office, he told us in quite plain terms that the attitude that he had taken in the Federal Structure Committee was a firm and well considered attitude. What I would like to say is that unless at the outset I know that the Depressed Classes are going to be recognised as a community entitled to political recognition in the future Constitution of India, I do not know whether it will serve any purpose for me to join the committee that is proposed by Mahatma Gandhi to be constituted to go into this matter. Unless, therefore, I have an assurance that this Committee will start with the assumption that all those communities which the Minorities Sub-Committee last year recommended as fit for recognition in the future constitution of India will be included, I do not know that I can whole-heartedly support the proposition for adjournment, or that I can whole heartedly co-operate with the Committee that is going to be nominated. That is what I wish to be clear about.

* * *

"Dr. Ambedkar: I should like to make my position further clear. It seems that there has been a certain misunderstanding regarding what I said. It is not that I object to adjournment; it is not that I object to serving on any Committee that might be appointed to consider the question. What I would like to know before I enter upon this committee, if they give me the privilege of serving on it, is : What is the thing that this Committee is going to consider ? Is it only going to consider the question of the Muhammadans *vis-a-vis* the Hindus ? Is it going to consider the question of the Muhammadans *vis-a-vis* the Sikhs in the Punjab ? Or is it going to consider the question of the Christians, the Anglo-Indians and the Depressed Classes ?

"If we understand perfectly well before we start that this committee will not merely concern itself with the question of the Hindus and the Muhammadans, of the Hindus and the Sikhs, but will also take upon itself the responsibility of considering the case of the Depressed Classes, the Anglo-Indians and the Christians, I am perfectly willing to allow this adjournment resolution to be passed without any objection. But I do want to say this, that if I am to be left out in the cold and if this interval is going to be utilised for the purposes of solving the Hindu-Muslim question, I would press that the Minorities

Committee should itself grapple with the question and consider it, rather than allow the question to be dealt with by some other informal Committee for arriving at a solution of the communal question in respect of some minorities only.

"Mr. Gandhi: Prime Minister and friends, I see that there is some kind of misunderstanding with reference to the scope of the work that some of us have set before ourselves. I fear that Dr. Ambedkar, Colonel Gidney and other friends are unnecessarily nervous about what is going to happen. Who am I to deny political status to any single interest or class or even individual in India ? As a representative of the Congress I should be unworthy of the trust that has been reposed in me by the Congress if I were guilty of sacrificing a single national interest. I have undoubtedly given expression to my own views on these points. I must confess that I hold to those views also. But there are ways and ways of guaranteeing protection to every single interest. It will be for those of us who will be putting our heads together to try to evolve a scheme. Nobody would be hampered in pressing his own views on the members of this very informal conference or meeting.

"I do not think, therefore, that anybody need be afraid as to being able to express his opinion or carrying his opinion also. Mine will be there equal to that of every one of us ; it will carry no greater weight; I have no authority behind me to carry my opinion against the opinion of anybody. I have simply given expression to my views in the national interest, and I shall give expression to these views whenever they are opportune. It will be for you, it is for you to reject or accept these opinions. Therefore please disburse your minds, to everyone of us, of the idea that there is going to be any steam-rolling in the Conference and the informal meetings that I have adumbrated. But if you think that this is one way of coming closer together than by sitting stiffly at this table, you will not carry this adjournment motion but give your whole-hearted co-operation to the proposal that I have made in connection with these informal meetings.

* * *

"Chairman : Then I shall proceed to put it. I put it on the clear understanding, my friends, that the time is not going to be wasted and that these conferences—as Mr. Gandhi has said, informal conferences, but nevertheless I hope very valuable and fruitful conferences—will take place beween now and our next meeting. I hope you will all pledge yourselves to use the time in that way."

It is unnecessary for me to recite what happened at the informal meeting held after the adjournment. It was a complete failure if not a fiasco. The meeting was presided over by Mr. Gandhi. Mr. Gandhi began with the most difficult part of the Communal question namely the dispute between the Sikhs and the Muslims in the Punjab. This problem at one stage appeared to be nearer solution when the parties agreed to abide by the decision of an Arbitrator. The Sikhs, however, refused to proceed further in the matter until they knew who the Arbitrator was. As the Musalmans were not prepared to have the name of the Arbitrator disclosed the matter fell through. Mr. Gandhi was not interested in the problem of the other minorities, such as the Untouchables although he enacted the farce of calling upon the representatives of the other minorities to present a catalogue of their demands. He heard them but took no notice of them much. Did he place them before the meeting for its consideration? As soon as the Sikh-Muslim settlement broke up, Mr. Gandhi dissolved the meeting. The Minorities Committee met on 8th October 1931. The Prime Minister having called upon Mr. Gandhi to speak first, the latter said :—

> "Prime Minister and friends, it is with deep sorrow and deeper humiliation that I have to announce utter failure on my part to secure an agreed solution of the communal question through informal conversations among and with the representatives of different groups. I apologise to you, Mr. Prime Minister, and the other colleagues for the waste of a precious week. My only consolation lies in the fact that when I accepted the burden of carrying on these talks I knew that there was much hope of success and still more in the fact that I am not aware of having spared any effort to reach a solution.
>
> "But to say that the conversations have to our utter shame failed is not to say the whole truth. Causes of failure were inherent in the composition of the Indian Delegation. We are almost all not elected representatives of the parties or groups whom we are presumed to represent; we are here by nomination of the Government. Nor are those whose presence was absolutely necessary for an agreed solution to be found here. Further, you will allow me to say that this was hardly the time to summon the Minorities Committee. It lacks the sense of reality in that we do not know what it is that we are going to get. If we knew in a definite manner that we were going to get the thing we want, we should hesitate fifty times before we

threw it away in a sinful wrangle as it would be if we are told that the getting of it would depend upon the ability of the present Delegation to produce an agreed solution of the communal tangle. The solution can be the crown of the Swaraj constitution, not its foundation—if only because our differences have hardened, if they have not arisen, by reason of the foreign domination. I have not a shadow of a doubt that the icebag of communal differences will melt under the warmth of the sun of freedom.

"I, therefore, venture to suggest that the Minorities Committee be adjourned *sine die* and that the fundamentals of the constitution be hammered into shape as quickly as may be. Meanwhile, the informal work of discovering a true solution of the communal problem will and must continue; only it must not baulk or be allowed to block the progress of constitution-building. Attention must be diverted from it and concentrated on the main part of the structure.

"I hardly need point out to the Committee that my failure does not mean the end of all hope of arriving at an agreed solution. My failure does not even mean my utter defeat; there is no such word in the dictionary. My confession merely means failure of special effort for which I presumed to ask for a week's indulgence, which you so generously gave.

"I propose to use the failure as a stepping-stone to success, and I invite you all to do likewise; but, should all effort at agreement fail, even when the Round Table Conference reaches the end of its labours, I would suggest the addition of a clause to the expected constitution appointing a judicial tribunal that would examine all claims and give its final decision on all the points that may be left unsettled."

In the discussion that followed everybody refuted Mr. Gandhi's allegation that the delegates were nominated by Government and did not represent the people. Getting up to make my position clear, I said :—

"Mr. Prime Minister, last night when we parted at the conclusion of the meeting of the informal Committee, we parted, although with a sense of failure, at least with one common understanding, and that was that when we met here today none of us should make any speech or any comment that would cause exasperation. I am sorry to see that Mr. Gandhi should have been guilty of a breach of this understanding. Excuse me, I must have the opportunity to speak. He started by giving what were, according to him, the causes of the failure of the informal Committee. Now, I have my own view of the causes

which I think were responsible for the failure of the informal Committee to reach an agreement, but I do not propose to discuss them now. What disturbs me after hearing Mr. Gandhi is that instead of confining himself to his proposition, namely, that the Minorities Committee should adjourn *sine die,* he started casting certain reflections upon the representatives of the different communities who are sitting round this table. He said that the Delegates were nominees of the Government, and that they did not represent the views of their respective communities for whom they stood. We cannot deny the allegation that we are nominees of the Government, but, speaking for myself, I have not the slightest doubt that even if the Depressed Classes of India were given the chance of electing their representatives to this Conference, I would, all the same, find a place here. I say therefore that whether I am a nominee or not, I fully represent the claims of my community. Let no man be under the mistaken impression as regards that.

> "The Mahatma has been always claiming that the Congress stands for the Depressed Classes, and that the Congress represents the Depressed Classes more than I or my colleague can do. To that claim I can only say that it is one of the many false claims which irresponsible people keep on making, although the persons concerned with regard to those claims have been invariably denying them.
>
> "I have here a telegram which I have just received from a place which I have never visited and from a man whom I have never seen—from the President of the Depressed Classes Union, Kumaun, Almora, which I believe is in the United Provinces, and which contains the following resolution :
>
> "This Meeting declares its non-confidence in the Congress movement which has been carried on in and outside the country, and condemns the methods adopted by the Congress workers."

I do not care to read further, but I can say this (and I think if Mr. Gandhi will examine his position he will find out the truth), that although there may be people in the Congress who may be showing sympathy towards the Depressed Classes, the Depressed Classes are not in the Congress. That is a proposition which I propose to substantiate. I do not wish to enter into these points of controversy. They seem to be somewhat outside the main proposition. The main proposition which Mr. Gandhi has made is that this Committee should be adjourned *sine die.* With regard to that proposition, I entirely agree with the attitude taken up by Sir Muhammad Shafi. I, for one, cannot

consent to this proposition. It seems to me that there are only two alternatives—either that this Minorities Committee should go on tackling the problem and trying to arrive at some satisfactory solution, if that is possible, and then, if that is not possible, the British Government should undertake the solution of that problem. We cannot consent to leave this to the arbitration of third parties whose sense of responsibility may not be the same as must be the sense of responsibility of the British Government.

"Prime Minister, permit me to make one thing clear. The Depressed Classes are not anxious, they are not clamorous, they have not started any movement for claiming that there shall be an immediate transfer of power from the British to the Indian people. They have their particular grievances against the British people and I think I have voiced them sufficiently to make it clear that we feel those grievances most acutely. But, to be true to facts, the position is that the Depressed Classes are not clamouring for transfer of political power. Their position, to put it plainly, is that we are not anxious for the transfer of power ; but if the British Government is unable to resist the forces that have been set up in the country which do clamour for transference of political power—and we know the Depressed Classes in their present circumstances are not in a position to resist that—then our submission is that if you make that transfer, that transfer will be accompanied by such conditions and by such provisions that the power shall not fall into the hands of a clique, into the hands of an oligarchy, or into the hands of a group of people, whether Muhammadans or Hindus ; but that that solution shall be such that the power shall be shared by all communities in their respective proportions. Taking that view, I do not see how I, for one, can take any serious part in the deliberation of the Federal Structure Committee unless I know where I and my community stand."

The Prime Minister in his concluding observations said:—

"Let us adjourn, and I will call you together again. In the meantime what I would like would be if those of you are sitting opposite me, the representatives of the small minorities, would also try your hands.

"If there are any common agreements among yourselves, I would suggest that you circulate them.....It is not the British Government that is going to stand in the way of any agreement .. .Therefore what I would like you to have in your minds after the rather depressing statements to which we have listened, is this: That the British Government wants to go on; the

British Government wants you to go on. The British Government will take its action if you cannot go on to an end, because we are determined to make such improvements in the Government of India as will make the Government of India consistent with our own ideas, as will make the Government of India something that is capable of greater and greater expansion towards liberty. That is what we want. I appeal to the Delegates here today—Delegates representing all communities—Do not stand in our way ; because that is what is happening."

IV

Acting on the suggestion of the Prime Minister the minorities. met to consider if they could produce a settlement. They tried and produced a settlement which was submitted to the Prime Minister in the evening before the next meeting of the Minorities Committee which took place on 13th November 1931. In his opening remarks the Prime Minister said :—

"The work of this Committee, therefore, was from the very beginning of supreme importance, and I am sorry that you have been unable to present to us an agreed plan.

"Last night, however, I received a deputation representing the Muhammadans, the Depressed Classes, at any rate a section of the Indian Christians, the Anglo-Indians and the British Community. I think that is the complete range. They came and saw me in my room in the House of Commons last night with a document which embodied an agreement that they had come to amongst themselves. They informed me, in presenting the document to me, that it covered something in the region of 46 per cent. of the population of British India.

"I think the best thing would be, as we have had no time to consider this, to treat this document as a document which is official to the records of this Committee and in order that that may be done I shall ask His Highness The Aga Khan formally to present it here, so that it may be entered in our official record."

His Highness The Aga Khan then got up and said :-

"Mr. Prime Minister, on behalf of the Muhammadans, the Depressed Classes, the Anglo-Indians, the Europeans and a considerable section of the Indian Christian groups, I present the document embodying the agreement which has been arrived at between them with regard to the intercommunal problem with which the Round Table Conference in general and the Minorities Committee in particular are concerned. We desire

to make it clear that this agreement has been arrived at after careful and anxious consideration of this difficult and complicated problem and must be taken as a whole. All parts of the agreement are interdependent and agreements stand or fall as a whole."

This document was known as the Minorities Pact.[1] In the general discussion that followed Mr. Gandhi's speech no doubt attracted the greatest attention. Mr. Gandhi was furious. He attacked everybody who had taken part in producing the Minorities Pact. He was particularly furious for the recognition given to the Untouchables as a separate political entity. This is what Mr. Gandhi said :—

"I would like to repeat what I have said before, that, while the Congress will always accept any solution that may be acceptable to the Hindus, the Muhammadans and the Sikhs, Congress will be no party to the special electorates for any other minorities.....One word more as to the so-called Untouchables. I can understand the claims advanced by other minorities, but the claims advanced on behalf of the Untouchables, that time is the 'unkindest cut of all.' It means the perpetual bar-sinister. I would not sell the vital interests of the Untouchables even for the sake of winning the freedom of India. I claim myself in my own person to represent the vast mass of the Untouchables. Here I speak not merely on behalf of the Congress, but I speak on my own behalf, and I claim that I would get, if there was a referendum of the Untouchables, their vote, and that I would top the poll. And I would work from one end of India to the other to tell the Untouchables that separate electorates, and separate reservation is not the way to remove this bar-sinister, which is the shame, not of them, but of orthodox Hinduism.

"Let this Committee and let the whole world know that today there is a body of Hindu reformers who are pledged to remove this blot of untouchability. We do not want on our register and on our census Untouchables classified as a separate class. Sikhs may remain as such in perpetuity, so may Muhammadans so may Europeans. Will Untouchables remain Untouchables in perpetuity ? I would far rather that Hinduism died than that Untouchability lived. Therefore, with all my regard for Dr. Ambedkar, and for his desire to see the Untouchables uplifted, with all my regard for his ability, I must say in all

[1] It is reproduced as Appendix III.

humility that here the great wrong under which he has laboured and perhaps the bitter experiences that he has undergone have for the moment warped his judgment. It hurts me to have to say this, but I would be untrue to the cause of the Untouchables, which is as dear to me as life itself, if I did not say it. I will not bargain away their rights for the kingdom of the whole world. I am speaking with a due sense of responsibility, and I say that it is not a proper claim which is registered by Dr. Ambedkar when he seeks to speak for the whole of the Untouchables of India. It will create a division in Hinduism which I cannot possibly look forward to with any satisfaction whatsoever. I do not mind Untouchables, if they so desire, being converted to Islam or Christianity. I should tolerate that, but I cannot possibly tolerate what is in store for Hinduism if there are two divisions set forth in the villages. Those who speak of the political right of Untouchables do not know their India, do not know how Indian Society is today constructed, and therefore I want to say with all the emphasis that I can command that if I was the only person to resist this thing I would resist it with my life."

The Chairman knowing that there was no hope of getting an agreed solution before adjourning the Minorities Committee *sine die* made a suggestion to the delegates. He said :—

"Will you, each of you, every member of this Committee, sign a request to me to settle the community question and pledge yourselves to accept my decision ? That, I think, is a very fair offer..... I do want any section, or any one man. Will the members of this Committee sign a declaration asking me to give a decision, even a temporary one, on the community question, and say that you will agree ? I do not want it now. I say, will you put your names to it and give that to me, with the assurance that the decision come to will be accepted by you and will be worked by you to the best of your ability in the course of the working of the new constitution ? I have asked several sections—at least, individuals—from time to time for that, and I have never got it. That would certainly straighten out the position, but apart from that, do, please, not forget what I said in opening this meeting—that the Government will not allow community differences to prevent it from carrying out its pledges and producing a constitution. Therefore do not make the community difference more important than it is."

V

Thus ended the efforts by the Minorities Committee to bring about a solution of the communal problem. The discussion in the Committee threw Mr. Gandhi's attitude to the Untouchables in relief. Everybody felt that Mr. Gandhi was the most determined enemy of the Untouchables. So much of his energy and attention did Mr. Gandhi concentrate on the question of the Untouchables that it would not be unfair if it was said that the main purpose for which Mr. Gandhi came to the Round Table Conference was to oppose the demands of the Untouchables.

Those, who were friends of Mr. Gandhi, could not understand Mr. Gandhis attitude to the demands of the Untouchables. To give recognition to the Muslims and the Sikhs and to refuse it to the Untouchables came to them as a surprise and a puzzle. Whenever they asked for an explanation, Mr. Gandhi did nothing except to get angry. Mr. Gandhi himself could not give a logical and consistent defence of his opposition to the Untouchables. Inside the Round Table Conference his defence. was that the Hindus had seriously taken up the cause of the Untouchables and that therefore there was no reason to give them political safeguards. Outside the Round Table Conference he gave totally different reasons. In a speech in defence of his position Mr. Gandhi said :—

> "Muslims and Sikhs are all well organized. The 'Untouchables' are not. There is very little political consciousness among them and they are so horribly treated that I want to save them against themselves. If they had separate electorates their lives would be miserable in villages which are the strongholds of Hindu orthodoxy. It is the superior class of Hindus who have to do penance for having neglected the 'Untouchables' for ages. That penance can be done by active social reform and by making the lot of the 'Untouchables' more bearable by acts of service, but not by asking for separate electorates for them. By giving them separate electorates you will throw the apple of discord between the 'Untouchables' and the orthodox. You must understand I can tolerate the proposal for special representation of the Musalmans and the Sikhs only as a necessary evil. It would be a positive danger for the

voters' list, and provide for fundamental rights for them in the constitution. In cases they are unjustly treated and their representative is deliberately excluded they would have the right to special election tribunal which would give them complete protection. It should be open to these tribunals to order the unseating of an elected candidate and the election of the excluded men.

"Separate electorates to the 'Untouchables' will ensure them bondage in perpetuity. The Musalmans will never cease to be Musalmans by having separate electorates. Do you want the 'Untouchables' to remain 'Untouchables' for ever ? Well, the separate electorates would perpetuate the stigma. What is needed is destruction of untouchability, and when you have done it, the bar-sinister which has been imposed by an insolent 'superior' class upon an 'inferior' class will be destroyed. When you have destroyed the bar-sinister, to whom will you give the separate electorates ? Look at the history of Europe. Have you got separate electorates for the working classes or women ? With adult franchise, you give the 'Untouchables' complete security. Even the orthodox would have to approach them for votes.

"Now then you ask, does Dr. Ambedkar, their representative, insist on separate electorates for them ? I have the highest regard for Dr. Ambedkar. He has every right to be bitter. That he does not break our heads is an act of self-restraint on his part. He is today so much saturated with suspicion that he cannot see anything else. He sees in every Hindu a determined opponent of the 'Untouchables' and it is quite natural. The same thing happened to me in my early days in South Africa, where I was hounded out by Europeans wherever I went. It is quite natural for him to vent his wrath. But the separate electorates that he seeks will not give him social reform. He may himself mount to power and position but nothing good will accrue to the 'Untouchables.' I can say all this with authority, having lived with the 'Untouchables' and having shared their joys' and sorrows all these years."

Mr. Gandhi at the Round Table Conference was not satisfied with mere propaganda. When he found that the propaganda was not succeeding as well as he expected he resorted to intrigue. When Mr. Gandhi heard that at the suggestion of the Prime Minister the minorities were about to produce a settlement and that this settlement would have the effect of the Untouchables getting the support of the other minorities and particularly of the Muslims, Mr. Gandhi felt considerably disturbed. He

devised a scheme to isolate the Untouchables. For this Mr. Gandhi planned to buy out the Musalmans by giving to the Musalmans their fourteen demands, which Mr. Gandhi was not in the beginning prepared to agree. When he found the Musalmans were lending their support to the Untouchables Mr. Gandhi agreed to them their fourteen points on condition that they withdrew their support from the Untouchables. The agreement was actually drafted. The text of it is given below:—

"DRAFT OF GANDHI-MUSLIM PACT[1]

MUSLIM DELEGATION TO THE ROUND TABLE CONFERENCE[2]

Tel.: VICTORIA 2360
Telegrams: "COURTLIKE" LONDON

QUEEN'S HOUSE,
57, ST. JAMES' COURT,
BUCKINGHAM GATE
LONDON, S.W. 1
6th October 1931.

The following proposals were discussed by Mr. Gandhi and the Muslim Delegation at 10 p.m. last night. They are divided into two parts—The proposals made by the Muslims for safeguarding their rights and the proposals made by Mr. Gandhi regarding the Congress policy. They are given herewith as ; approved by Mr. Gandhi, and placed for submission to the Muslim Delegation for their opinion.

MUSLIM PROPOSALS	MR. GANDHI'S PROPOSALS
1. In the Punjab and Bengal bare majority of one per cent. of Musalmans but the question of whether it should be by means of joint electorates and reservation of 51 per cent. of the whole house should be referred to the Musalman voters before the new constitution comes into force and their verdict should be accepted.	1. That the Franchise should be on the basis of adult suffrage. 2. *No special reservations to any other community save Sikhs and Hindu Minorities.* (*Italics are not in the original*) 3. The Congress demands: A. Complete Independence.

1. This document was printed by me in my *Thoughts on Pakistan* as an Appendix in 1939. It was the first time it saw the light of the day. Its genuineness has never been questioned. I was able to get a copy from a Hindu Delegate to the Round Table Conference who was privileged by the Muslim League to share the secret.

2. This shows that the document was typed on the stationery of the Muslim League Delegation.

2. In other provinces where the Musalmans are in a minority the present weightage enjoyed by them to continue, but whether the seats should be reserved to a joint electorate, or whether they should have separate electorates should be determined by the Musalman voters by a referendum under the new constitution, and their verdict should be accepted.

3. That the Musalman representatives to the Central Legislature in both the houses should be 26 per cent, of the total number of the British India representatives, and 7 per cent, at least by convention should be Musalmans, out of the quota that may be assigned to Indian States, that is to say, one-third of the whole house when taken together.

4. That the residuary power should vest in the federating Provinces of British India.

5. That the other points as follows being agreed to :

1. Sindh.[1]

2. N.W.F.P.[2]

3. Services. [3]

4. Cabinet. [4]

5. Fundamental rights and safeguards for religion and culture.

6. Safeguards against legislation affecting any community.

B. Complete control over the defenee immediately.

C. Complete control over external affairs.

D. Complete control over Finance.

E. Investigation of public debts and other obligations by an independent tribunal.

F. As in the case of a partnership, right of either party to terminate it.

1. Stands for separation of Sindh.

2. Stands for Provincial Autonomy and Responsible Government for the N. W. F. Province.

3. Stands for Representation in Services.

4. Stands for Representation in the Cabinet.

It is true that the Untouchables are not mentioned in this draft agreement. But that the Musalmans are bound not to support any other minority except the Sikhs makes it quite clear that they were not to support the Untouchables. In this intrigue, Mr. Gandhi failed as he was bound to. The Musalmans who were out to demand safeguards for them selves could not stand up and oppose the demands of the Untouchables. Mr. Gandhi in his passion for suppressing the Untouchables had lost his sense of discrimination to such extent as not to be able to distinguish between means which are fair and means which are foul. Mr. Gandhi did not care to honour his word. In the Minorities Committee, Mr. Gandhi had said that if the Committee agreed to accept the claim of the Untouchables for separate recognition it was free to do so, which meant that he would abide by the decision of the majority. But when he came to know that the other minorities had agreed to support the Untouchables, he did not hesitate to approach the Musalmans and turn them against the Untouchables by accepting their fourteen points which the Congress, the Hindu Maha Sabha and even the Simon Commission had rejected. Even if Mr. Gandhi was prepared to flout public opinion and public morality this diabolical plot of Mr. Gandhi fell through because the Musalmans refused to disgrace themselves by joining in it. When the second session of the Round Table Conference was dissolved the delegates to the Minorities Committee accepted the proposal of the Prime Minister to put in a signed requisition authorizing him to arbitrate and give his decision on the communal issue. Many delegates did it including Mr. Gandhi.[1] There was nothing left for the delegates but to return to India and await the decision of the Prime Minister and having made him the sole arbitrator to accept it with good cheer.

VI

Before I resume the narrative and state what decision the Prime Minister gave, I must describe the strange phenomenon which I, as a member of the Franchise Committee, witnessed. After the close of the second session of the Round Table Conference, the Prime Minister thought it advisable to have

1. I did not make any such requisition. I felt that the demands of the Untouchables were so reasonable that no arbitration was necessary,

the question of franchise for the new constitution examined by a Committee. Accordingly, in December 1931 he appointed a Committee with the late Lord Lothian as its Chairman. Its main term of reference was to devise a system of franchise whereby, to use the language of the Prime Minister's letter of instructions to the Chairman,

> "The legislatures to which responsibility is to be entrusted should be representative of the general mass of the population, and that no important section of the community may lack the means of expressing its needs and its opinions."

The Committee started its work early in January 1932. For doing its work the Committee took the help of the Provincial Governments and of the Provincial Franchise Committees consisting of non-officials specially constituted for that purpose province by province. The Committee issued questionnaires. They were replied to by the Provincial Governments, by the Provincial Franchise Committees and by individuals. Witnesses were examined by the Committee sitting with each Provincial Franchise Committee. The Provincial Governments and the Provincial Committees submitted their reports separately to the Committee. They were discussed by the Committee with the Provincial Government and the Provincial Committee before it came to its own conclusion. Besides the general tasks assigned to the Lothian Committee, it had a special task with which it was charged by the Prime Minister. It had relation to the political demands of the Untouchables which the Prime Minister had referred to in the following terms in his letter of instruction to the Chairman :—

> "It is evident from the discussions which have occurred in various connections in the Conference that the new constitution must make adequate provision for the representation of the Depressed Classes, and that the method of representation by nomination is no longer regarded as appropriate. As you are aware, there is a difference of opinion whether the system of separate electorates should be instituted for the Depressed Classes and your committee's investigations should contribute towards the decision of this question by indicating the extent to which the Depressed Classes would be likely, through such general extension of the franchise as you may recommend, to secure the right to vote in ordinary electorates. On the other hand, should it be decided eventually to constitute separate electorates for the Depressed Classes, either generally or in those

provinces in which they form a distinct and separable element in the population, your Committee's inquiry into the general problem of extending the franchise should place you in possession of facts which would facilitate the devising of a method of separate representation for the Depressed Classes."

Following upon these instructions, it became the task of the Committee to come to some conclusion as to the total population of the Untouchables in British India.

To the question what is the population of the Untouchables the replies received were enough to stagger anybody. Witness after witness came forward to say that the Untouchables in his Province were infinitesimally small. There were not wanting witnesses who said that there were no Untouchables at all!! It was a most extraordinary sight to see Hindu witnesses perjuring themselves regardless of truth by denying the existence of the Untouchables or by reducing their number to a negligible figure. The members of the Provincial Franchise Committee were also a party to this plan. Strange to say that some of the Hindu members of the Lothian Committee were in the game. This move of denying the very existence of the Untouchables or reducing their number almost to nil was particularly rampant in certain Provinces. How the Hindus were prepared to economise truth, even to a vanishing point, will be evident from the following figures. In the United Provinces, the Census Commissioner in 1931 had estimated the total population of the Untouchables at 12.6 millions, the Provincial Government at 6.8 millions but the Provincial Franchise Committee at .6 millions only!! In Bengal, the Census gave the figures of 10.3 millions, Provincial Government fixed it as 11.2 millions but the Provincial Franchise Committee at .07 millions only!

Before the Round Table Conference no Hindu bothered about the exact population of the Untouchables and were quite satisfied with the accuracy of the Census figures which gave the total of the Untouchables at about 70 to 80 millions. Why did then the Hindus start suddenly to challenge this figure when the question was taken up by the Lothian Committee ? The answer is very clear. Before the time of the Lothian Committee the population of the Untouchables had no value. But after the Round Table Conference the Hindus had come to know that the Untouchables were demanding separate allot-

ment of their share of representation, that such share must come out of the lump which the Hindus had been enjoying in the past and that the measure of the share must depend upon the population of the Untouchables. The Hindus had realized that to admit the existence of the Untouchables was detrimental to their interest. They did not mind sacrificing truth and decency and decided to adopt the safest course, namely, to deny that there are any Untouchables in India at all, and thereby knock out the bottom of the political demands of the Untouchables and leave no room for argument. This shows how the Hindus can conspire in a cold, calculated manner against the Untouchables out of pure selfishness and do indirectly what they cannot do directly.

VII

To resume the thread. Having been disgusted with the Round Table Conference where there were critics but no devotees, Mr. Gandhi was the first to return to India. On account of a statement which he is alleged to have made in an interview he gave to a newspaper correspondent in Rome wherein he threatened to revive his campaign of civil disobedience, Mr. Gandhi on his arrival was arrested and put in jail. Though in jail, not Swaraj but the Untouchables were on his brain. He feared that, notwithstanding his threat to resist it with his life, the Prime Minister as a sole arbitrator might accept the claims made on behalf of the Untouchables at the Round Table Conference. Long before any decision was given by the Prime Minister, Mr. Gandhi on 11th March 1982 addressed from jail a letter to Sir Samuel Hoare, the then Secretary of State for India, reminding him of his opposition to the claim of the Untouchables. The following is the text of that letter:—

> "Dear Sir Samuel,
>
> You will perhaps recollect that at the end of my speech at the Round Table Conference when the Minorities' claim was presented, I had said that I should resist with my life the grant of separate electorates to the Depressed Classes. This was not said in the heat of the moment nor by way of rhetoric. It was meant to be a serious statement. In pursuance of that statement, I had hoped on my return to India to mobilize public opinion against separate electorates, at any rate, for the Depressed Classes. But it was not to be.

"From the newspapers, I am permitted to read, I observe that any moment His Majesty's Government may declare their decision. At first I had thought, if the decision was found to create separate electorates for the Depressed Classes, I should take such steps as I might then consider necessary to give effect to my vow. But I feel it would be unfair to the British Government for me to act without giving previous notice. Naturally, they could not attach the significance I give to my statement.

"I need hardly reiterate all the objections I have to the creation of separate electorates for the Depressed Classes. I feel as if I was one of them. Their case stands on a wholly different footing from that of others. I am not against their representation in the legislatures. I should favour everyone of their adults, male and female, being registered as voters irrespective of education or property qualification, even though the franchise test may be stricter for others. But I hold that separate electorate is harmful for them and for Hinduism, whatever it may be from the purely political standpoint. To appreciate the harm that separate electorate would do them, one has to know how they are distributed amongst the so-called Caste Hindus and how dependent they are on the latter. So far as Hinduism is concerned, separate electorates would simply vivisect and disrupt it.

"For me the question of these classes is predominantly moral and religious. The political aspect, important though it is, dwindles into insignificance compared to the moral and religious issue.

"You will have to appreciate my feelings in this matter by remembering that I have been interested in the condition of these classes from my boyhood and have more than once staked my all for their sake. I say this not to pride myself in any way. For, I feel that no penance that the Hindus may do can in any way compensate for the calculated degradation to which they have consigned the Depressed Classes for centuries.

"But I know that separate electorate is neither a penance nor any remedy for the crushing degradation they have groaned under. I, therefore, respectfully inform His Majesty's Government that in the event of their decision creating separate electorate for the Depressed Classes, I must fast unto death.

"I am painfully conscious of the fact that such a step, whilst I am a prisoner, must cause grave embarrassment to His Majesty's Government, and that it will be regarded by many as highly improper on the part of one holding my position to

introduce into the political field methods which they would describe as hysterical if not much worse. All I can urge in defence is that for me the contemplated step is not a method, it is part of my being. It is the call of conscience which I dare not disobey, even though it may cost whatever reputation for sanity I may possess. So far as I can see now my discharge from imprisonment would not make the duty of fasting any the less imperative. I am hoping, however, all my fears are wholly unjustified and the British Government have no intention whatever of creating separate electorate for the Depressed Classes."

The following reply was sent to Mr. Gandhi by the Secretary of State :—

India Office, Whitehall,
April 13, 1932.

Dear Mr. Gandhi,

"I write this in answer to your letter of 11th March, and I say at once I realize fully the strength of your feeling upon the question of separate electorates for the Depressed Classes. I can only say that we intend to give any decision that may be necessary solely and only upon the merits of the case. As you are aware, Lord Lothian's Committee has not yet completed its tour and it must be some weeks before we can receive any conclusions at which it may have arrived. When we receive that report we shall have to give most careful consideration to its recommendations, and we shall not give a decision until we have taken into account, in addition to the view expressed by the Committee, the views that you and those who think with you have so forcibly expressed. I feel sure if you were in our position you would be taking exactly the same action we intend to take. You would admit the Committees report, you would then give it your fullest consideration, and before arriving at a final decision you would take into account the views that have been expressed on both sides of the controversy. More than this I cannot say. Indeed I do not imagine you would expect me to say more."

After giving this warning, Mr. Gandhi slept over the matter thinking that a repetition of his threat to fast unto death was sufficient to paralyse the British Government and prevent them from accepting the claim of the Untouchables for special representation. On the 17th August 1932 the decision of the Prime Minister on the communal question was announced.

That part of the decision which relates to the Untouchables is produced below:—

Communal Decision by His Majesty's Government 1932.

In the statement made by the Prime Minister on 1st December last on behalf of His Majesty's Government at the close of the second session of the Round Table Conference, which was immediately afterwards endorsed by both Houses of Parliament, it was made plain that if the communities in India were unable to reach a settlement acceptable to all parties on the communal questions which the Conference had failed to solve, His Majesty's Government were determined that India's constitutional advance should not on that account be frustrated, and that they would remove this obstacle by devising and applying themselves a provisional scheme.

2. On the 19th March last His Majesty's Government, having been informed that the continued failure of the communities to reach agreement was blocking the progress of the plans for the framing of a new Constitution, stated that they were engaged upon a careful re-examination of the difficult and controversial questions which arise. They are now satisfied that without a decision of at least some aspects of the problems connected with the position of minorities under the new Constitution, no further progress can be made with the framing of the Constitution.

3. His Majesty's Government have accordingly decided that they will include provisions to give effect to the scheme set out below in the proposals relating to the Indian Constitution to be laid in due course before Parliament. The scope of this scheme is purposely confined to the arrangements to be made for the representation of the British Indian communities in the Provincial Legislatures, consideration of representation in the Legislature at the Centre being deferred for the reason given in paragraph 20 below. The decision to limit the scope of the scheme implies no failure to realize that the framing of the Constitution will necessitate the decision of a dumber of other problems of great importance to minorities, but has been taken in the hope that once a pronouncement has been made upon the basic questions of method and proportions of representation the communities themselves may find it possible to arrive at *modus vivendi* on other communal problems, which have not received the examination they require.

4. His Majesty's Government wish it to be most clearly understood that they themselves can be no parties to any negotiations which may be initiated with a view to the revision of their

decision, and will not be prepared to give consideration to any representation aimed at securing the modification of it which is not supported by all the parties affected. But they are most desirous to close no door to an agreed settlement should such happily be forthcoming. If, therefore, before a new Government of India Act has passed into law, they are satisfied that the communities who are concerned are mutually agreed upon a practicable alternative scheme, either in respect of any one or more of the Governors' Provinces or in respect of the whole of the British India, they will be prepared to recommend to Parliament that that alternative should be substituted for the provisions now outlined.

5. * * * *

6. * * * *

7. * * * *

8. * * * *

9. Members of the "depressed classes" qualified to vote will vote in a general constituency. In view of the fact that for a considerable period these classes would be unlikely, by this means alone, to secure any adequate representation in the Legislature, a number of special seats will be assigned to them as shown in the table. These seats will be filled by election from special constituencies in which only members of the "depressed classes" electorally qualified will be entitled to vote. Any person voting in such a special constituency will, as stated above, be also entitled to vote in a general constituency. It is intended that these constituencies should be formed in selected areas where the depressed classes are most numerous, and that, except in Madras, they should not cover the whole area of the Province.

In Bengal it seems possible that in some general constituencies a majority of the voters will belong to the Depressed Classes. Accordingly, pending further investigation, no number has been fixed for the members to be returned from the special Depressed Class constituencies in that Province. It is intended to secure that the Depressed Classes should obtain not less than 10 seats in the Bengal Legislature.

The precise definition in each Province of those who (if electorally qualified) will be entitled to vote in the special Depressed Class constituencies has not yet been finally determined. It will be based as a rule on the general principles advocated in the Franchise Committee's Report. Modification may, however, be found necessary in some Provinces in Northern India where the application of the general criteria of

untouchability might result in a definition unsuitable in some respects to the special conditions of the Province.

His Majesty's Government do not consider that these special Depressed Classes constituencies will be required for more than limited time. They intend that the Constitution shall provide that they shall come to an end after 20 years if they have not previously been abolished under the general powers of electoral revision referred to in paragraph 6.

VIII

Mr. Gandhi found that his threat had failed to have any effect. He did not care that he was a signatory to the requisition asking the Prime Minister to arbitrate. He forgot that as a signatory he was bound to accept the award. He started to undo what the Prime Minister had done. He first tried to get the terms of the Communal Award revised. Accordingly, he addressed the following letter to the Prime Minister:—

YERAVDA CENTRAL PRISON,
August 18, 1032.

DEAR FRIEND,

"There can be no doubt that Sir Samuel Hoare has showed you and the Cabinet my letter to him of 11th March on the question of the representation of the Depressed Classes. That letter should be treated as part of this letter and be read together with this.

"I have read the British Government's decision on the representation of minorities and have slept over it. In pursuance of my letter to Sir Samuel Hoare and my declaration at the meeting of the Minorities Committee of the Round Table Conference on 13th November, 1931, at St. James' Palace, I have to resist your decision with my life. The only way I can do so is by declaring a perpetual fast unto death from food of any kind save water with or without salt and soda. This fast will cease if during its progress the British Government, of its own motion or under pressure of public opinion, revise their decision and withdraw their scheme of communal electorates for the Depressed Classes, whose representatives should be elected by the general electorate under the common franchise, no matter how wide it is.

"The proposed fast will come into operation in the ordinary course from the noon of 20th September next, unless the said decision is meanwhile revised in the manner suggested above.

"I am asking the authorities here to cable the text of this letter to you so as to give you ample notice. But in any case, I am leaving sufficient time for this letter to reach you in time by the slowest route.

"I also ask that this letter and my letter to Sir Samuel Hoare already referred to be published at the earliest possible moment. On my part, I have scrupulously observed the rule of the jail and have communicated my desire or the contents of the two letters to no one, save my two companions, Sardar Vallabhbhai Patel and Mr. Mahadev Desai. But I want, if you make it possible, public opinion to be affected by my letters. Hence my request for their early publication.

"I regret the decision I have taken. But as a man of religion that I hold myself to be, I have no other course left open to me. As I have said in my letter to Sir Samuel Hoare, even if His Majesty's Government decided to release me in order to save themselves from embarrassment, my fast will have to continue. For, I cannot now hope to resist the decision by any other means ; and I have no desire whatsoever to compass my release by any means other than honourable.

"It may be that my judgment is warped and that I am wholly in error in regarding separate electorates for the Depressed Classes as harmful to them or to Hinduism. If so, I am not likely to be in the right with reference to other parts of my philosophy of life. In that case, my death by fasting will be at once a penance for my error and a lifting of a weight from off these numberless men and women who have childlike faith in my wisdom. Whereas if my judgment is right, as I have little doubt it is, the contemplated step is but due to the fulfilment of the scheme of life which I have tried for more than a quarter of a century, apparently not without considerable success.

I remain,
Your faithful friend,
M. K. GANDHI."

The Prime Minister replied as under :—

"10, DOWNING STREET,
September 8th, 1932.

"DEAR MR. GANDHI,

"I have received your letter with much surprise and, let me add, with very sincere regret. Moreover, I cannot help thinking that you have written it under a misunderstanding as to what the decision of His Majesty's Government as regards the Depressed

Classes really implies. We have always understood you were irrevocably opposed to the permanent segregation of the Depressed Classes from the Hindu community. You made your position very clear on the Minorities Committee of the Round Table Conference and you expressed it again in the letter you wrote to Sir Samuel Hoare on 11th March. We also knew your view was shared by the great body of Hindu opinion, and we, therefore, took it into most careful account when we were considering the question of representation of the Depressed Classes.

"Whilst, in view of the numerous appeals we have received from Depressed Class Organizations and the generally admitted social disabilities under which they labour and which you have often recognized, we felt it our duty to safeguard what we believed to be the right of the Depressed Classes to a fair proportion of representation in the legislatures we were equally careful to do nothing that would split off their community from the Hindu world. You yourself stated in your letter of March 11, that you were not against their representation in the legislatures.

"Under the Government scheme the Depressed Classes will remain part of the Hindu community and will vote with the Hindu electorate on an equal footing but for the first twenty years, while still remaining electorally part of the Hindu community, they will receive through a limited number of special constituencies, means of safeguarding their rights and interests that, we are convinced, is necessary under present conditions.

"Where these constituencies are created, members of the Depressed Classes will not be deprived of their votes in the general Hindu constituencies, but will have two votes in order that their membership of the Hindu community should remain unimpaired.

"We have deliberately decided against the creation of what you describe as a communal electorate for the Depressed Classes and included all Depressed Class voters in the general or Hindu constituencies so that the higher caste candidates should have to solicit their votes or Depressed Class candidates should have to solicit the votes of the higher castes at elections. Thus, in every way was the unity of Hindu society preserved.

"We felt, however, that during the early period of responsible Government, when power in the Provinces would pass to whoever possessed a majority in the legislatures, it was essential that the Depressed Classes whom you have yourself described in your letter to Sir Samuel Hoare as having been consigned by

Caste Hindus to calculated degradation for centuries, should return a certain number of members of their own choosing to legislatures of seven of the nine provinces to voice their grievances and their ideals and prevent decisions going against them without the legislature and the Government listening to their case—in a word, to place them in a position to speak for themselves, which every fair-minded person must agree to be necessary. We did not consider the method of electing special representatives by reservation of seats in the existing conditions, under any system of franchise which is practicable, members who could genuinely represent them and be responsible for them, because in practically all cases, such members Would be elected by a majority consisting of higher caste Hindus.

"The special advantage initially given under our scheme to the Depressed Classes by means of a limited number of special constituencies, in addition to their normal electoral rights in the general Hindu constituencies, is wholly different in conception and effect from the method of representation adopted for a minority such as the Moslems by means of separate communal electorates. For example, a Moslem cannot vote or be a candidate in a general constituency, whereas any electorally qualified member of the Depressed Classes can vote in and stand for the general constituency.

"The number of territorial seats allotted to Moslems is naturally conditioned by the fact that it is impossible for them to gain any further territorial seats and in most provinces they enjoy weightage in excess of their population ratio ; the number of special seats to be tilled from special Depressed Classes constituencies will be seen to be small and has been fixed not to provide a quota numerically appropriate for the total representation of the whole of the Depressed Class population, but solely to secure a minimum number of spokesmen for the Depressed Classes in the legislatures who are chosen exclusively by the Depressed Classes. The proportion of their special seats is everywhere much below the population percentage of the Depressed Classes.

"As I understand your attitude, you propose to adopt the extreme course of starving yourself td death not in order to secure that the Depressed Classes should have joint electorate with other Hindus, because that is already provided, nor to maintain the unity of Hindus, which is also provided, but solely to prevent the Depressed Classes, who admittedly suffer from terrible disabilities today, from being able to secure a limited number of representatives of their own choosing to speak on their

behalf in the legislatures which will have a dominating influence over their future.

"In the light of these very fair and cautious proposals, I am quite unable to understand the reason of the decision you have taken and can only think you have made it under a misapprehension of the actual facts.

"In response to a very general request from Indians after they had failed to produce a settlement themselves the Government much against its will, undertook to give a decision on the minorities question. They have now given it, and they cannot be expected to alter it except on the condition they have stated. I am afraid, therefore, that my answer to you must be that the Government's decision stands and that only agreement of the communities themselves can substitute other electoral arrangements for those that Government have devised in a sincere endeavour to weigh the conflicting claims on their just merits.

"You ask that this correspondence, including your letter to Sir Samuel Hoare of March 11th, should be published. As it would seem to me unfair if your present internment were to deprive you of the opportunity of explaining to the public the reason why you intend to fast, I readily accede to the request, if on reconsideration you repeat it. Let me, however, once again urge you to consider the actual details of Government's decision and ask yourself seriously the question whether it really justifies you in taking the action you contemplate.

I am,
Yours very sincerely,
J. RAMSAY MACDONALD."

Finding that the Prime Minister would not yield he sent him the following letter informing him that he was determined to carry out his threat of fast unto death : —

"YERAVDA CENTRAL PRISON,
September 9th, 1932.

DEAR FRIEND,

"I have to thank you for your frank and full letter telegraphed and received this day. I am sorry, however, that you put upon the contemplated step an interpretation that never crossed my mind. I have claimed to speak on behalf of the very class, to sacrifice whose interests you impute to me a desire to fast myself to death. I had hoped that the extreme step itself would effectively prevent any such selfish interpretation. Without

arguing, I affirm that for me this matter is one of pure religion. The mere fact of the Depressed Classes having double votes does not protect them or Hindu society in general from being disrupted. In the establishment of separate electorate at all for the Depressed Classes I sense the injection of poison that is calculated to destroy Hinduism and do no good whatever to the Depressed Classes. You will please permit me to say that no matter how sympathetic you may be, you cannot come to a correct decision on a matter of such vital and religious importance to the parties concerned.

"I should not be against even over-representation of the Depressed Classes. What I am against is their statutory separation even in a limited form, from the Hindu fold, so long as they choose to belong to it. Do you realize that if your decision stands and the constitution comes into being, you arrest the marvellous growth of the work of Hindu reformers, who have dedicated themselves to the uplift of their suppressed brethren in every walk of life ?

"I have, therefore, been compelled reluctantly to adhere to the decision conveyed to you.

"As your letter may give rise to a misunderstanding, I wish to state that the fact of my having isolated for special treatment the Depressed Classes question from other parts of your decision does not in any way mean that I approve of or am reconciled to other parts of the decision. In my opinion, many other parts are open to very grave objection. Only, I do not consider them to be any warrant for calling from me such self immolation as my conscience has promoted me to in the matter of the Depressed Classes.

I remain,
Your faithful friend,
M. K. GANDHI."

Accordingly, on the 20th September 1932, Mr. Gandhi commenced his "fast unto death" as a protest against the grant of separate electorates to the Untouchables.

The story of this fact has been told by Mr. Pyarelal in a volume which bears the picturesque and flamboyant title of "The Epic Fast." The curious may refer it. I must, however, warn him that it is written by a Boswell and has all the faults of a Boswelliana. There is another side to it, but there is neither time nor space to present it here. All I can do is to invite attention to the statement[1] I issued to the Press on the

1. Appendix IV.

eve of Mr. Gandhi's fast exposing his tactics. Suffice it is to say that although Mr. Gandhi declared a fast unto death, he did not want to die. He wanted very much to live.

The fast nonetheless created a problem, and that problem was how to save Mr. Gandhi's life. The only way to save his life was to alter the Communal Award which Mr. Gandhi said hurt his conscience so much. The Prime Minister had made it quite clear that the British Cabinet would not withdraw it or alter it of its own, but that they were ready to substitute for it a formula that may be agreed upon by the Caste Hindus and the Untouchables. As I had the privilege of representing the Untouchables at the Round Table Conference, it was assumed that the assent of the Untouchables would not be valid unless I was a party to it. The surprising fact is that my position as the leader of the Untouchables of India was not only not questioned by Congressmen but it was accepted as a fact. All eyes naturally turned to me as the man of the moment or rather as the villain of the piece.

As to myself it is no exaggeration to say that no man was placed in a greater and graver dilemma than I was then. It was a baffling situation. I had to make a choice between two different alternatives. There was before me the duty, which I owed as a part of common humanity, to save Gandhi from sure death. There was before me the problem of saving for the Untouchables the political rights which the Prime Minister had given them. I responded to the call of humanity and saved the life of Mr. Gandhi by agreeing to alter the Communal Award in a manner satisfactory to Mr. Gandhi. This agreement is known as the Poona Pact.

Text of Poona Pact

The following is the text of the agreement:—

(1) There shall be seats reserved for the Depressed Classes out of the general electorate seats in the Provincial Legislatures as follows :

Madras 30 ; Bombay with Sind 15 ; Punjab 8 ; Bihar and Orissa 18; Central Provinces 20; Assam 7 ; Bengal 30; United Provinces 20; Total 148.

These figures are based on the total strength of the Provincial Councils, announced in the Prime Minister's decision.

(2) Election to these seats shall be by joint electorates subject, however, to the following procedure :

All the members of the Depressed Classes, registered in the general electoral roll in a constituency, will form an electoral college, which will elect a panel of four candidates belonging to the Depressed Classes for each of such reserved seats, by the method of the single vote ; the four persons getting the highest number of votes in such primary election, shall be candidates for election by the general electorate.

(3) Representation of the Depressed Classes in the Central Legislature shall likewise be on the principle of joint electorates and reserved seats by the method of primary election in the manner provided for in Clause 2 above, for their representation in the Provincial Legislatures.

(4) In the Central Legislature, eighteen per cent of the seats allotted to the general electorate for British India in the said legislature shall be reserved for the Depressed Classes.

(5) The system of primary election to a panel of candidates for election to the Central and Provincial Legislatures, as hereinbefore mentioned, shall come to an end after the first ten years, unless terminated sooner by mutual agreement under the provision of Clause 6 below.

(6) The system of representation of the Depressed Classes by reserved scats in the Provincial and Central Legislatures as provided for in Clauses 1 and 4 shall continue until determined by mutual agreement between the communities concerned in the settlement.

(7) Franchise for the Central and Provincial Legislatures for the Depressed Classes shall be as indicated in the Lothian Committee Report.

(8) There shall be no disabilities attaching to any one on the ground of his being a member of the Depressed Classes in regard to any elections to local bodies or appointment to the Public Services. Every endeavour shall be made to secure fair representation of the Depressed Classes in these respects, subject to such educational qualifications as may be laid down for appointment to the Public Services.

(9) In every province out of the educational grant, an adequate sum shall be earmarked for providing educational facilities to the Members of the Depressed Classes.

The terms of the Pact were accepted by Mr. Gandhi and given effect to by Government by embodying them in the Government of India Act. The Poona Pact had produced

different reactions. The Untouchables were sad. They had every reason to be. There are, however, people who do not accept this. They never fail to point out that the Poona Pact gave the Untouchables larger number of seats than what was given to them by the Prime Minister in his Communal Award. It is true that the Poona Pact gave the Untouchables 148 seats, while the Award had only given them 78. But to conclude from this that the Poona Pact gave them more than what was given by the Award is to ignore what the Award had in fact given to the Untouchables.

The Communal Award gave the Untouchables two benefits:—(*i*) a fixed quota of seats to be elected by separate electorate of Untouchables and to be filled by persons belonging to the Untouchables ; (*ii*) double vote, one to be used through separate electorates and the other to be used in the general electorates.

Now, if the Poona Pact increased the fixed quota of seats it also took away the right to the double vote. This increase in seats can never be deemed to be a compensation for the loss of the double vote. The second vote given by the Communal Award was a priceless privilege. Its value as a political weapon was beyond reckoning. The voting strength of the Untouchables in each constituency is one to ten. With this voting strength free to be used in the election of caste Hindu candidates, the Untouchables would have been in a position to determine, if not to dictate, the issue of the General Election. No caste Hindu candidate could have dared to neglect the Untouchable in his constituency or be hostile to their interest if he was made dependent upon the votes of the Untouchables. Today the Untouchables have a few more seats than were given to them by the Communal Award. But this is all that they have. Every other member is indifferent, if not hostile. If the Communal Award with its system of double voting had remained the Untouchables would have had a few seats less but every other member would have been a member for the Untouchables. The increase in the number of seats for the Untouchables is no increase at all and was no recompense for the loss of separate electorate and the double vote. The Hindus, although they did not celebrate the Poona Pact, did not like it. Throughout their commotion to save Mr. Gandhi's life there was a definite current of conscious feeling that the cost of saving his life may be great. Therefore, when they saw

the terms of the Pact they very definitely disliked it, although they had not the courage to reject it. Disliked by the Hindus and disfavoured by the Untouchables, the Poona Pact was given recognition by both parties and was embodied in the Government of India Act.

IX

The signing of the Poona Pact was followed by the appointment of the Hammond Committee to demarcate constituencies, to fix the number of seats for each constituency and settle the system of voting for the legislatures to be set up under the new constitution.

In carrying out its functions, the Hammond Committee had to take into account the terms of the Poona Pact and the special sort of electoral plan agreed upon to meet the needs of the Untouchables. Unfortunately, the Poona Pact having been concluded in a hurry had left many things undefined. Of the things that were left undefined the most important were two namely : (1) Does the 'panel of four' to be elected at the primary election imply four as a maximum or a minimum ? (2) What was intended to be the method of voting in the final election ? It was contended on behalf of the Hindus that the panel of four was intended to be a minimum. If four candidates are not forthcoming there could be no primary election and therefore there can be no election for the reserved seat, which they said must remain vacant and the Untouchables should go without representation. On behalf of the Untouchables, I was called to state my interpretation of the disputed points. I contended that four in the Poona Pact meant "not more than four." It did not mean "not less than four." On the question of voting the Hindus contended that the compulsory distributive vote was the most appropriate. On behalf of the Untouchables I contended that the cumulative system of voting was the proper system to be introduced. Fortunately for the Untouchables the Hammond Committee accepted the views propounded by me and rejected those of the Hindus. It is interesting to know why the caste Hindus put forth their contentions. One may well stop here for a moment and ask, why did the Hindus raise their particular contentions before the Hammond Committee ? Was there any particular motive behind the stand they took ? So far as I am

able to see the object which the Hindus had in demanding four candidates as the minimum for a valid primary election was to place the Hindus in a position to capture the seat for an election of such a representative of the Untouchable candidate, who would be their nominee and who would be most willing to be the tool of the Hindus. To get such an Untouchable elected in the final election he must first come in the panel, and he can come in the Panel only if the panel is a large panel. As the election to the panel is by separate electorates consisting exclusively of Untouchable voters it is obvious that if there is only one candidate in the Panel then he would be the staunchest representative of the Untouchable and worst from the standpoint of the Hindus. If there are two, the second will be less staunch than the first and therefore good from the standpoint of the Hindus. If there are three, the third will be less staunch than the second and therefore better from the standpoint of the Hindus. If there be four the fourth will be less staunch than the third and therefore best from the point of view of the Hindus. The Panel of four could therefore give to the Hindus the best chance of getting into the Panel such representatives of the Untouchables as is most suitable to the Hindus. That Is why they insisted before the Hammond Committee that for a valid panel the minimum number must be four.

The object of insisting upon the system of compulsory distributive vote was the same namely to enable the Hindus to capture the seats reserved for the Untouchables. Under the cumulative vote the elector has as many votes as there are seats. He may give them all to one candidate or he may distribute them over two or more candidates as he may desire. Under the distributive system of voting the elector has also as many votes as there are seats, but he can give only one vote to any one candidate. Although the two look different yet in effect there may be no difference, because even under the cumulative vote a voter is not prevented from distributing his votes. He is free to give one vote to one candidate. But the Hindus did not want to take any chance. Their main object was to flood the election to the seat reserved for the Untouchables in the joint electorate by using the surplus votes of the Hindus in favour of the Untouchable candidate, who happens to be their nominee. The object was to outnumber the Untouchable voters and prevent them from electing their

own nominee. This cannot be done unless the surplus votes of the Hindu voters were diverted from the Hindu candidate towards the Untouchable candidates. There is a greater chance of the diversion of these surplus votes under the distributive system than there is under the cumulative system. Under the former the Hindu voter can give only one vote to the Hindu candidate. The other vote not being of use to the Hindu candidate is usable only for an Untouchable candidate. The distributive system thus had the possibility of flooding the election to the seat reserved for the Untouchables and this is why the Hindus preferred it to the system of cumulative voting. But they did not want to leave it to chance. For, even the distributive system from their point of view was not fool-proof. Under the distributive system there was no compulsion upon the voter to use all his votes. He may use one vote for the caste Hindu candidate and may not at all use the balance of his votes. If this happened the purpose of getting in their untouchable nominee would be defeated. Not to leave things to chance, the Hindus wanted that the distributive system of voting should be made compulsory so that a caste Hindu voter whether he wants it or not can have no option but to vote for the Untouchable candidate who may be the nominee of the Hindus, and thus make his election sure and certain.

In the light of these considerations, it cannot but appear that the Poona Pact was only the first blow inflicted upon the Untouchables and that the Hindus who disliked it were bent on inflicting on it other blows as and when circumstances gave them an occasion to do so. The two contentions, which the Hindus raised before the Hammond Committee, furnish the best evidence of the existence of a conspiracy by the Hindus the object of which was to make the Poona Pact, as it could not be repudiated, of no benefit to the Untouchables. The story of how the Congress dealt with the political demands of the Untouchables cannot be left here for the simple reason that it does not end here. The subsequent parts of it are more instructive than those that have gone before.

X

Continuing the story, the next part of it relates to the election that took place in February 1937 to the Provincial Legislatures, as reconstituted under the Government of India Act, 1935.

This was the first occasion in its life-time that the Congress came down to fight an election. It was also the first time that the Untouchables got the privilege to elect their own representatives. Some leaders of the Untouchables, who were siding with the Congress when the Poona Pact was being forged—such as the late Dewan Bahadur M. C. Raja—cherished the fond hope that the Congress will not inter-meddle in the elections of the Untouchables to the seats reserved for them. But this hope was dashed to pieces. The Congress had a double purpose to play its part in the election to the reserved seats of the Untouchables. In the first place, it was out to capture in order to build up its majority which was essential for enabling it to form a Government. In the second place, it had to prove the statement of Mr. Gandhi that the Congress represented the Untouchables and that the Untouchables believed in the Congress. The Congress, therefore, did not hesitate to play a full, mighty and, I may say so, a malevolent part in the election of the Untouchables by putting up Untouchable candidates on Congress ticket pledged to Congress programme for seats reserved for the Untouchables. With the financial resources of the Congress it made a distinct gain.

The total number of seats allotted to the Untouchables under the Government of India Act, 1935 are 151[1]. The following table shows how many were captured by Untouchable candidates who stood on the Congress Ticket.

Table 5

Province	*Total Seats Reserved for the Untouchables*	*Total Seats Captured by the Congress*
United Provinces	20	16
Madras	30	26
Bengal	30	6
Central Provinces	20	7
Bombay	15	4
Bihar	15	11
Punjab	8	*Nil*
Assam	7	4
Orissa	6	4
Total	151	78

1. This number of 148 seats was raised to 151 in making adjustments of seats for Bihar and Orissa.

This shows that the Congress got just about fifty-one per cent of the seats reserved for the Untouchables.

The Congress in capturing 78 seats left only 73 seats to be filled by true and independent representatives of the Untouchables. The Untouchables were worse off under the Poona Pact than they would have been under the Prime Minister's Award. In point of effective representation, the Untouchables got less than what the Prime Minister had given them. The Congress on the other hand gained by the Poona Pact. Although under the Poona Pact it gave 151 to the Untouchables it took back 78 and thereby made a handsome profit on its political transaction.

This is by no means the sum total of the losses which the Congress inflicted on the Untouchables in the elections of 1937. There was another and a greater blow which the Congress inflicted on the Untouchables. It deprived them of any share in the Executive.

From the very beginning, I had been pressing in the discussions in the Round Table Conference that the Untouchables must not only have the right to be represented in the legislature, they must also have the right to be represented in the Cabinet. The woes of the Untouchables are not due so much to bad laws as to the hostility of the administration, which is controlled by the Hindus who import into administration their age-old prejudices against the Untouchables. The Untouchables can never hope to get protection from the police, justice from the judiciary or the benefit of a statutory law from the administration, so long as the Public Services continued to be manned by the Hindus. The only hope of making the Public Services less malevolent and more responsible to the needs of the Untouchables is to have members of the Untouchables in the higher Executive. For these reasons, I had at the Round Table Conference pressed the claim of the Untouchables for the recognition of their right to representation in the Cabinet with the same emphasis as I had done for the recognition of their right to representation in the Legislature. The Round Table Conference accepted the validity of the claim and considered ways and means of giving effect to it. There were two ways of giving effect to this proposal. One was to have a statutory provision in the Government of India Act so as to make it a binding obligation which it would be impossible

to evade or to escape ; the other way was not to have a statutory provision but to leave it to a gentleman's agreement—to a convention—as is the case in the English Constitution. I and the representatives of the other minorities although we did not insist upon the first in deference to the wishes of some leading Indians not to show such distrust in our own countrymen were not prepared to accept the second alternative as there was no enforceable sanction behind it. A *via media* was agreed upon. It was to introduce a clause in the Instrument of Instructions to the Governors imposing an obligation upon them to see that in the formation of the Cabinet representatives of the Minorities were included. The clause ran as follows :—

> "In making appointments to his Council of Ministers our Governor shall use his best endeavours to select his Ministers in the following manner, that is to say, to appoint in consultation with the person who in his judgment is most likely to command a stable majority in the Legislature those persons (including so far as practicable members of important minority communities) who will best be in a position collectively to command the confidence of the Legislature. In so acting, he shall bear constantly in mind the need for fostering a sense of joint responsibility among his Ministers."

What happened to this provision is an interesting story. The Congress declared that they were not prepared to accept the Government of India Act 1985 for various reasons which it is not necessary to reproduce. It was obvious to all and even to many Congressmen that there was no sincerity behind this declaration. It had no other motive but to enhance the prestige of the Congress in the eyes of the public by making it appear that the Congress was a radical and revolutionary body which was out to destroy and bury British Imperialism which is a legend, the Congress has all along tried to create. It was a mere matter of tactics. The Congress wanted to take the powers which the Governors had been given under the Constitution to intervene whenever matters which were his special responsibilities were involved. The Congress did not mind, making the declaration rejecting the Constitution because it thought that as it was the only body which could run the new Parliamentary system the British Government would be obliged to come to terms with it. The British Government threatened to bypass the Congress. It not only appointed 1st April 1987 as the date of the inauguration of the Provincial

part of the Constitution but actually went to the length of appointing an interim Ministry of non-Congressmen. Congressmen, who were hungering for power and who constitute a most jealous crowd of politicians, were shaken and felt that they were going to be deprived of the fruits of their labours. Negotiations were started between His Majesty's Government and the Congress High Command. The Congress High Command demanded that if an undertaking was given by His Majesty's Government that the Governors will not use their powers given to them under the Special Responsibility Clauses in the Constitution by interfering in the day to day administration of the Provinces, the Congress, which was most anxious that the new Constitution should begin to operate with the goodwill of the majority, agreed to give the undertaking demanded. The surprising part of it is that the Congress High Command enlarged the scope of this undertaking so as to include in the undertaking the non-exercise by the Governors of the Provinces of the powers given to them under the Instruments of Instructions to see that the representatives of the minorities were included in the Provincial Ministries. The Governors who gave full accommodation to the Congress surrendered their authority and allowed the Congress to ride rough shod through a very important part of the Constitution with the result that the Untouchables and the other minorities were deprived of their right to representation in the Cabinet by the Congress with impunity and with alacrity.

The deprivation of the Untouchables by the Congress of their right to representation in the Cabinet has the appearance of malice aforethought. One of the grounds, urged by the Congress for the non-inclusion of representatives of the minorities in their Cabinets, was that a cabinet must be a party Cabinet if it is to take collective responsibility and that the Congress was quite ready to include members of the Minority communities in its Cabinet provided they were prepared to join the Congress and sign the Congress pledge. Whatever may be the value of such argument against other minorities, it had absolutely no value against the Untouchables. The Congress could not use it to defend its conduct in excluding the Untouchables from the Cabinet for two reasons. In the first place, the Congress was bound by the terms of the Poona Pact to give representation to the Untouchables in the Cabinet. In the second place, the Congress could not say that there were no Untouchables in the

Legislatures who were not members of the Congress Party. On the contrary, there were as many as 78 Untouchables returned on the Congress ticket and pledged to the Congress policy. Why then did the Congress not include them in the Cabinet ? The only answer is that it was a part of the Congress policy not to admit the right of the Untouchables to be represented in the Cabinet and that this policy had the support of Mr. Gandhi. Those who may have any doubt as to the correctness of this statement may well consider the evidence set out below.

The first piece of evidence lies imbedded in the story of the expulsion of the Hon'ble Dr. Khare from the Congress. As is well-known, Dr. Khare was the Prime Minister in the Congress Ministry in the Central Provinces. Owing to internal quarrels among the members of his Cabinet, Dr. Khare to get rid of those that were inconvenient adopted the perfectly normal course of tendering his own resignation and that of the other ministers to the Governor with a view to form a new Cabinet. Thereafter, the Governor in full conformity with constitutional practice recalled Dr. Khare and asked him to form another Cabinet with himself as the Premier. Dr. Khare accepted the invitation and formed a new Cabinet dropping old and inconvenient hands and taking in some new ones. Dr. Khare's new Cabinet was different from the old in one important respect namely, that it included Mr. Agnibhoj, an Untouchable, who was a member of the Central Provinces, who belonged to the Congress Party and who by his education well qualified to be a minister. On the 26th July 1938, the Congress Working Committee met in Wardha and passed a resolution condemning Dr. Khare on the ground that in tendering the resignation of his colleagues in the old ministry he was guilty of a grave error of judgment and that in forming a new ministry he was guilty of indiscipline. In explaining what was behind this charge of indiscipline in forming a new ministry, Dr. Khare openly said that according to Mr. Gandhi the act of indiscipline consisted in the inclusion of an Untouchable in the Ministry. Dr. Khare also said that Mr. Gandhi told him that it was wrong on his part to have, raised such aspirations and ambitions in the Untouchables and it was such an act of bad judgment that he would never forgive him. This statement was repeatedly made by Dr. Khare from platforms. Mr. Gandhi has never contradicted it.

There is, however, more direct evidence on this point. In 1942 there was held All-India Conference of the Untouchables. In that Conference resolutions setting out the political demands of the Untouchables were passed. An Untouchable of the Congress Party who attended the Conference went to Mr. Gandhi to ascertain what Mr. Gandhi had to say about these demands and put him the following five questions :—

"1. What will be the position of the Harijans in the future constitution to be framed ?

"2. Will you advise the Government and the Congress to agree to fix the five seats from a Panchayat Board upwards to the State Council on population basis ?

"3. Will you advise the Congress and the leaders of the various majority parties in the legislatures in the provinces to nominate the Cabinet members from among the Scheduled Caste legislators who enjoy the confidence of the majority of Scheduled Caste members ?

"4. In view of the backwardness of the Harijans, will you advise the Government to make a provision in the Act that *Executive posts* in the Local Boards and Municipal Councils be held on communal rotation, so as to enable the Harijans to become Presidents and Chairmen ?

"5. Why do you not fix some percentage of seats for Harijans from District Congress Committee upwards to the Working Committee of the Congress ?

Mr. Gandhi gave his answers in the issue of the *Harijan* dated 2nd August 1942. This is what Mr. Gandhi said :—

"1. The constitution, which I could influence, would contain a provision making the observance of untouchability in any shape or form an offence. The so-called 'untouchables' would have seats reserved for them in all elected bodies according to their population within the elected area concerned.

"2. You will see that the answer is covered by the foregoing.

"3. I cannot. The principle is dangerous. Protection of its neglected classes should not be carried to an extent which will harm them and harm the country. A cabinet minister should be a topmost man commanding universal confidence. A person after he has secured a seat in an elected body should depend upon his intrinsic merit and popularity to secure coveted positions.

"4. In the first place, I am not interested in the present Act which is as good as dead. But I am opposed to your proposal on the ground already mentioned.

"5. I am opposed for the reasons mentioned. But I should like to compel large elective Congress organizations to ensure the election of Harijan members in proportion to their numbers on the Congress register. If Harijans are not interested enough in the Congress to become 4 anna members; they may not expect to find their names in elective bodies. But I would strongly advise Congress workers to see that they approach Harijans and induce them to become members of the Congress."

Is there any doubt that Mr. Gandhi and the Congress were determined on principle not to recognize the right of the Untouchables to be represented in the Cabinet ? As to the question of qualifications, there would have been some sense if Mr. Gandhi had that limiting condition applicable to all minorities. Dare Mr. Gandhi say that about the Muslim demand ? What is the use in shutting it out in the case of the Untouchables only ? Nobody has claimed that an unqualified Untouchable should be made a Minister. It only confirms the inner feeling of opposition that lies locked in the heart of Mr. Gandhi.

In the series of acts which the Congress perpetrated in order to nullify the Poona Pact there remain two more to mention. First relates to the policy adopted by the Congress Parliamentary Board in selecting candidates for election. Unfortunately, this question has not been studied as deeply as its importance demands. I have examined this question and I hope to publish the results along with the evidence in a separate treatise. Here, all I can do is to set out the general principles which seem to have been adopted by these Boards in selecting candidates for election. Communal principle played a very great part in it. In a constituency where there were two candidates to choose from, the Congress did not feel it necessary to choose the one more worthy. It chose the one who belonged to a caste which was more numerous. Considerations of wealth also played their part. A wealthier candidate was often preferred to a poor and a better qualified candidate. These considerations were unjustifiable. But they could be understood as the object was to adopt a safe candidate who will pull through- But there were other principles followed which reveal a deep-seated plot. Different classes of qualifications were set down for different

classes of candidates. From candidates who came from high caste Hindus as Brahmins and the allied communities those with the highest qualifications were selected. In the case of the Non-Brahmins those with low qualifications were preferred to those with higher qualifications. And in the case of the Untouchables those with little or no qualifications were selected in preference to those who had. I don't say that is true in every case. But the general result was that of the candidates selected by the Congress, the candidates from the Brahmin and allied communities were the most highly educated, candidates from the non-Brahmins were moderately educated and those from the Untouchables just about literates. This system of selection is very intriguing. There seems to be a deep laid game behind it. Any one who studies it carefully will find that it is designed to allow none but the Brahmins and the allied castes to form the main part of the ministry and to secure for them the support of a docile unintelligent crowd of non-Brahmins and Untouchables who by their intellectual attainments could never dream of becoming rivals of the minister-folk but would be content to follow the lead for no other consideration except that of having been raised to the status of members of the Legislatures. Mr. Gandhi did not see this aspect of the case when he said that to be a minister the Untouchable aspiring for it must be a qualified person. Otherwise, he would have seen that if there were no qualified persons among the Untouchable Congressmen, it was because the Congress Parliamentary Board did not choose well-qualified candidates from the Untouchables.

If the present system of election continues the Congress can always prevent educated Indians from becoming members of the Legislature which is the stepping-stone for becoming a member of the Cabinet. It is a very grave prospect and some steps will have to be taken to retrieve the position. In the meantime, it is enough to say that the scheme of selecting candidates adopted by the Congress dealt the Untouchables a severe blow by depriving them of Executive power under the cover of there being no qualified men to hold it which it created for itself by such clandestine and subterranean means.

The second misdeed of the Congress was to subject the Untouchable Congressmen to the rigours of party discipline. They were completely under the control of the Congress Party

Executive. They could not ask a question which it did not like. They could not move a resolution which it did not permit. They could not bring in legislation to which it objected. They could not vote as they chose and could not speak what they felt. They were there as dumb driven cattle. One of the objects of obtaining representation in the Legislature for the Untouchables is to enable them to ventilate their grievances and to obtain redress for their wrongs. The Congress successfully and effectively prevented this from happening.

To end this long and sad story, the Congress sucked the juice out of the Poona Pact and threw the rind in the face of the Untouchables.

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CHAPTER IV

AN ABJECT SURRENDER

Congress Beats An Inglorious Retreat

I

THE Poona Pact was signed on the 24th September 1932. On 25th September 1932, a public meeting of the Hindus was held in Bombay to accord to it their support. At that meeting the following resolution was passed :—

> "This Conference confirms the Poona agreement arrived at between the leaders of the Caste Hindus and Depressed Classes on September 24, 1932, and trusts that the British Government will withdraw its decision creating separate electorates within the Hindu community and accept the agreement in full. The Conference urges that immediate action be taken by Government so as to enable Mahatma Gandhi to break his fast within the terms of his vow and before it is too late. The Conference appeals to the leaders of the communities concerned to realize the implications of the agreement and of this resolution and to make earnest endeavour to fulfil them.
>
> "This Conference resolves that henceforth, amongst Hindus, no one shall be regarded as an Untouchable by reason of his birth, and that those who have been so regarded hitherto will have the same right as other Hindus in regard to the use of public wells, public schools, public roads, and all other public institutions. This right shall have statutory recognition at the first opportunity and shall be one of the earliest Acts of the Swaraj Parliament, if it shall not have received such recognition before that time.
>
> "It is further agreed that it shall be the duty of all Hindu leaders to secure, by every legitimate and peaceful means, an early removal of all social disabilities now imposed by custom upon the so-called Untouchable Classes, including the bar in respect of admission to temples."

This resolution was followed by a feverish activity on the part of the Hindus to throw open Temples to the Untouchables. No week passed in which the *Harijan* a weekly paper started by Mr. Gandhi which did not publish a long list of temples thrown open, wells thrown open and schools thrown open

to the Untouchables set out under special column headed "Week to Week" on the first page. As samples I produce below these "Week to Week" columns from two issues from the *Harijan*.

'Harijan' of 18th February 1933

WEEK TO WEEK

(During the Week ending 7th February 1933)

TEMPLES THROWN OPEN

One temple recently built at a cost of a lakh and half rupees in North Calcutta.

One temple in village Bhapur, district Ganjam, Madras.

One Thakurdwar temple at Naurania, in Jullundar, Punjab.

WELLS OPENED

One Municipal well, at Guriapur in Jaipur town, district Cuttack, Orissa.

Two wells in Wazirpura and Nikigali, Agra, U.P.

In Trichinopoly (Madras) an orthodox Brahmin has offered expenses necessary for digging three wells for the common use of Harijans and caste Hindus.

SCHOOLS STARTED

A free school in Bachrota, district Meerut, U.P.

One school at Metah district in Rajputana.

Three schools at Fatehpur, Chemun and Abhaypur in Jaipur State, Rajputana.

One school at Fatehghar, district Farukhabad, U.P.

Three night schools in Muttra, U.P.

Three night schools in Gorakhpur Town, U.P.

One night school in Hata Tehsil, District Gorakhpur, U.P.

One night school at Sak-honia.

INDIAN STATES

1. The Palitana State (Kathiawar) Assembly has passed by a large majority three resolutions relating to the facilities to be given to the Harijans.

2. A standing committee has been appointed by the Government of Sandhur State, Madras, to concert measures calculated to ameliorate the condition of the Harijans in the State.

GENERAL

1. The Harijans in various villages near Kashia in Gorakhpur district have given up carrion eating.

2. On the occasion of the 'Basantpanchami' festival 'Basantotsava' was celebrated at Muzaffarpur (Bihar) under the auspices of the Harijan Seva Sangh in the temple of Sri Chaturbhujnathji in which all castes of Hindus took part.

A. V. THAKKAR,

General Secretary.

Sjt. V. R. Shinde, President, All-India Anti-Untouchability League and Founder-Trustee of the Depressed Mission Society of India, Poona, has addressed an open letter to the members of the Legislative Assembly on Sjt. Ranga Iyer's Untouchability Bills, strongly urging them to support the two measures.

In Taikalwadi in 'G' Ward of Bombay, there was an outbreak of fire recently which caused very setious damage to the huts and belongings of 48 Mahar families. The President of the Bombay Provincial Board of the Servants of Untouchables Society sanctioned Rs. 500 for giving relief to these families, and the relief was organised by a sub-Committee of the 'G' Ward Committee of the Society. A sum of Rs. 402-8 was distributed as an urgent measure of help to the 48 families, containing in all 163 persons.

The Bombay Government has issued orders that requests from local bodies for assignment of Government lands for wells, tanks, dharamshalas, etc., should not be granted except on condition that all castes alike will have equal use of such wells, tanks, etc.

'Harijan' of July 15, 1933

WEEK TO WEEK

EDUCATIONAL FACILITIES

Three reading rooms for Harijans have been opened in the North Arcot District by the S.U.S.

In the Madura District S.U. S. workers got Harijan children admitted into the Viraganur taluq board school.

Banians, towels, slates, etc. were distributed free to the children of the Melacheri school established by the Madura S.U.S.

Two Harijan students of Ramjas College, Delhi, have been allowed free scholarship and free lodging and one a free scholarship by Principal Thadani of the College.

One night school for adult Harijans was opened under the auspices of the Lahore Harijan Seva Sangh in the Harijan quarters outside Mochi Gate. The opening ceremony was performed by Mrs. Brij Lal Nehru.

It has been decided to start one more hostel for Harijan students in Brahmana Kodur (Guntur).

The East Godavery District Harijan Seva Sangham has resolved to start a hostel for Harijan Girl Students studying in Coconada. A sum of Rs. 630, 20 bags of rice, fuel necessary for one year, have been already received as donations for the hostel, which will be started with 15 students.

The Anantapur District Harijan Seva Sangam has

decided to start a hostel for Harijau students in Uravakonda. Some provisions and money have already been collected and it is intended to start the hostel with 20 students.

Owing to the unremitting efforts of the District Harijan Seva Sangham, Guntur, Harijan boys have been allowed into the savarna schools in a manner of villages and towns.

WELLS

Three wells in Coimbatore District which were in a bad condition, were cleaned and made available for use.

The District Board President, South Arcot, has promised to dig four wells in *cheries* selected by the S.U.S.

During the fortnight ending 31-5-33, no less than 125 wells in all were opened to Harijans and 5 new ones constructed in Andhradesh.

GENERAL

A shop has been opened in a bustee near Hogg Market (Calcutta) where Doms live, for supplying them with articles of food at cheap rates.

Rs. 60 has been paid by the S.U.S. Bengal for paying up the debts of a Harijan family at Bibi Bagan bustee (Calcutta).

The Amrita Samaj (Calcutta) has given service to some Harijans.

450 Harijans of Bolpur (Birbhum) have given up drinking habits and 1,275 Muchis have taken a vow not to take beef.

Three new district centres of S.U.S. have been opened during the month in Bankura, Murshidabad, and 24 Parganas.

Trichinopoly, Tanjore, Tinnevelley, Salem. Dindigul, North Arcot and Madura have all taken up the idea of a Gandhi Harijan Service corps for direct and personal service in the cheris.

Alandural, a Harijan village 12 miles from Coimbatore was given Rs. 25 worth of grain, Rs. 100 worth of cloth and Rs. 5 worth of oil, as relief after a fire in the village.

A Harijau Youth League has been formed in Chidambaram.

A shop to supply provisions at cost price to the Harijans has been set up in Tenali and is being made use of by them.

A sum of Rs. 110 was spent in giving help for rebuilding houses of Harijans in Valanna Palem (East Kistna) recently destroyed by fire.

A sum of Rs. 100 was contributed by the Provincial Committee towards the relief of Harijans in Yellamanchili (Vizag) who lost their houses by a fire. The local Harijan Seva Sangham is endeavouring to erect new houses for the Harijans in a better locality and is collecting donations—in cash and building materials.

One Harijan has been employed as a servant by a savarna gentleman in Gollapalem.

When the owners or trustees of temples were not prepared to throw open their temples to the Untouchables, the Hindus actually started *satyagraha* against them to compel them to fall in line. The satyagraha by Mr. Kelappan for securing entry to the Untouchables in the temple at Guruvayur was a part of this agitation. To force the hands of the trustees of the temples who had the courage to stand against the current, many Hindu legislators came forward, tumbling over one another, with Bills requiring the trustees to throw open temples to the Untouchables if a referendum showed that the majority of the Hindu worshippers voted in favour. There was a spate of such Bills and a race among legislators to take the first place. There was a Temple Entry Bill by Dr. Subbaroyan of the Madras Legislative Council. There were four Bills introduced in the Central Assembly. One was by Mr. C. S. Ranga Iyer, another by Mr. Harabilas Sarda, a third by Mr. Lalchand Navalrai, and a fourth one by Mr. M. R. Jayakar.

In this agitation Mr. Gandhi also joined. Before 1932, Mr. Gandhi was opposed to allow Untouchables to enter Hindu Temples. To quote his own words Mr. Gandhi said[1]:—

> "How is it possible that the Antyajas (Untouchables) should have the right to enter all the existing temples ? As long as the law of caste and ashram has the chief place in Hindu Religion, to say that every Hindu can enter every temple is a thing that is not possible today."

His joining the movement for Temple entry must therefore remain a matter of great surprise. Why Mr. Gandhi took this somersault it is difficult to imagine. Was it an honest act of change of heart, due to a conviction that he was in error in opposing the entry of the Untouchables in Hindu temples ? Was it due to a realization that the political separation between the Hindus and the Untouchables brought about by the Poona Pact might lead to a complete severance of the cultural and religious ties and that it was necessary to counteract the tendency by some such measure as Temple Entry as will bind the two together ? Or was his object in joining the Temple Entry movement to destroy the basis of the claim of the Untouchables for political rights by destroying the barrier between them and the Hindus which makes them separate from the Hindus ? Or was it because Mr. Gandhi saw before

[1] Gandhi Shikshan, Vol. II, p. 132.

him looming large a possibility of adding to his name and fame and rushed to make the most of it, as is his habit to do ? The second or the third explanation may be nearer the truth.

II

What was the attitude of the Untouchables to this movement for Temple entry? I was asked by Mr. Gandhi to lend my support to the movement for Temple entry. I declined to do so and issued a statement on the subject to the Press. As it will help the reader to know the grounds for my attitude to this question I have thought it well to set it in full. Here it is !

Statement on Temple Entry Bill
14th February, 1933

Although the controversy regarding the question of Temple Entry is confined to the Sanatanists and Mahatma Gandhi, the Depressed Classes have undoubtedly a very important part to play in it, in so far as their position is bound to weigh the scales one way or the other when the issue comes up for a final settlement. It is, therefore, necessary that their viewpoint should be defined and stated so as to leave no ambiguity about it.

To the Temple-Entry Bill of Mr. Ranga Iyer as now drafted, the Depressed Classes cannot possibly give their support. The principle of the Bill is that if a majority of Municipal and Local Board voters in the vicinity of any particular temple on a referendum decide by a majority that the Depressed Classes shall be allowed to enter the temple, the Trustees or the Manager of that temple shall give effect to that decision. The principle is an ordinary principle of Majority rule, and there is nothing radical or revolutionary about the Bill, and if the Sanatanists were a wise lot, they would accept it without demur.

The reasons why the Depressed Classes cannot support a Bill based upon this principle are two: One reason is that the Bill cannot hasten the day of temple-entry for the Depressed Classes any nearer than would otherwise be the case. It is true that under the Bill, the minority will not have the right to obtain an injunction against the Trustee, or the Manager who throws open the temple to the Depressed Classes in accordance with the decision of the majority. But before one can draw any satisfaction from this clause and congratulate the author of the Bill, one must first of all feel assured that when

the question is put to the vote there will be a majority in favour of Temple Entry. If one is not suffering from illusions of any kind one must accept that the hope of a majority voting in favour of Temple-Entry will be very rarely realised, if at all. Without doubt, the majority is definitely opposed to-day—a fact which is conceded by the author of the Bill himself in his correspondence with the Shankracharya.

What is there in the situation as created after the passing of the Bill, which can lead one to hope that the majority will act differently ? I find nothing. I shall, no doubt, be reminded of the results of the referendum with regard to the Guruvayur Temple. But I refuse to accept a referendum so overweighted as it was by the life of Mahatma Gandhi as the normal result. In any such calculations, the life of the Mahatma must necessarily be deducted.

Secondly, the Bill does not regard Untouchability in temples as a sinful custom. It regards Untouchability merely as a social evil not necessarily worse than social evils of other sorts. For, it does not declare Untouchability as such to be illegal. Its binding force is taken away, only, if a majority decides to do so. Sin and immorality cannot become tolerable because a majority is addicted to them or because the majority chooses to practise them. If Untouchability is a sinful and an immoral custom, then in the view of the Depressed Classes it must be destroyed without any hesitation even if it was acceptable to the majority. This is the way in which all customs are dealt with by Courts of Law, if they find them to be immoral and against public policy.

This is exactly what the Bill does not do. The author of the Bill takes no more serious view of the custom of Untouchability than does the temperance reformer of the habit of drinking. Indeed, so much is he impressed by the assumed similarity between the two that the method he has adopted is a method which is advocated by temperance reformers to eradicate the evil habit of drinking, namely, by local option. One cannot feel much grateful to a friend of the Depressed Classes, who holds Untouchability to be no worse than drinking. If Mr. Ranga Iyer had not forgotten that only a few months ago Mahatma Gandhi had prepared himself to fast unto death if Untouchability was not removed, he would have taken a more serious view of this curse and proposed a most thoroughgoing reform to ensue its removal lock, stock and barrel. Whatever its shortcomings may be from the standpoint of efficacy, the least that the Depressed Classes could expect is for the Bill to recognise the principle that Untouchability is a sin.

I really cannot understand how the Bill satisfies Mahatma Gandhi, who has been insisting that Untouchability is a sin ! It certainly does not satisfy the Depressed Classes. The question whether this particular Bill is good or bad, sufficient or insufficient, is a subsidiary question.

The main question is: Do the Depressed Classes desire Temple Entry or do they not ? This main question is being viewed by the Depressed Classes by two points of view. One is the materialistic point of view. Starting from it, the Depressed Classes think that the surest way for their elevation lies in higher education, higher employment and better ways of earning a living. Once they become well placed in the scale of social life, they would become respectable and once they become respectable the religious outlook of the orthodox towards them is sure to undergo change, and even if this did not happen, it can do no injury to their material interest. Proceeding on these lines the Depressed Classes say that they will not spend their resources on such an empty thing as Temple Entry. There is also another reason why they do not care to fight for it. That argument is the argument of self-respect.

Not very long ago there used to be boards on club doors and other social resorts maintained by Europeans in India, which said "Dogs and Indians" not allowed. The temples of Hindus carry similar boards to-day, the only difference is that the boards on the Hindu temples practically say: "All Hindus and all animals including dogs are admitted, only Untouchables not admitted." The situation in both cases is on a parity. But Hindus never begged for admission in those places from which the Europeans in their arrogance had excluded them. Why should an Untouchable beg for admission in a place from which he has been excluded by the arrogance of the Hindus ? This is the reason of the Depressed Class man who is interested in his material welfare. He is prepared to say to the Hindus, "to open or not to open your temples is a question for you to consider and not for me to agitate. If you think, it is bad manners not to respect the sacredness of human personality, open your temples and be a gentleman. If you rather be a Hindu than be gentleman, then shut the doors and damn yourself for I don't care to come."

I found it necessary to put the argument in this form, because I want to disabuse the minds of men like Pandit Madan Mohan Malaviya of their belief that the Depressed Classes are looking forward expectantly for their patronage.

The second point of view is the spiritual one. As religiously minded people, do the Depressed Classes desire temple entry

or do they not ? That is the question. From the spiritual point of view, they are not indifferent to temple entry as they would be, if the material point of view alone were to prevail. But their final answer must depend upon the reply which Mahatma Gandhi and the Hindus give to the question namely : What is the drive behind this offer of temple entry ? Is temple entry to be the final goal of the advancement in the social status of the Depressed Classes in the Hindu fold ? Or is it only the first step and if it is the first step, what is the ultimate goal ? Temple Entry as a final goal, the Depressed Classes can never support. Indeed they will not only reject it, but they would then regard themselves as rejected by Hindu Society and free to find their own destiny elsewhere. On the other hand, if it is only to be a first step in the direction they be may be inclined to support it. The position would then be analogous to what is happening in the politics of India to-day. All Indians have claimed Dominion Status for India. The actual constitution will fall short of Dominion Status and many Indians will accept it. Why ? The answer is that as the goal is defined, it does not matter much if it is to be reached by steps and not in one jump. But if the British had not accepted the goal of Dominion Status, no one would have accepted the partial reforms which many are now prepared to accept. In the same way, if Mahatma Gandhi and the reformers were to proclaim what the goal which they have set before themselves is for the advancement of the Social Status of the Depressed Classes in the Hindu fold, it would be easier for the Depressed Classes to define their attitude towards Temple Entry. The goal of the Depressed Classes might as well be stated here for the information and consideration of all concerned. What the Depressed Classes want is a religion, which will give them equality of social status. To prevent any misunderstanding, I would like to elaborate the point by drawing a distinction between social evils which are the results of secular causes and social evils which are founded upon the doctrine of religion. Social evils can have no justification whatsoever in a civilised society. But nothing can be more odious and vile than that admitted social evils should be sought to be justified on the ground of religion. The Depressed Classes may not be able to overthrow inequities to which they are being subjected. But they have made up their mind not to tolerate a religion that will lend its support to the continuance of these inequities.

If the Hindu religion is to be their religion, then it must become a religion of Social Equality. The mere amendment of Hindu religious code by the mere inclusion in it of a provision

to permit temple entry for all, cannot make it a religion of equality of social status. All that it can do is to recognize them as nationals and not aliens, if I may use in this connection terms which have become so familiar in politics. But that cannot mean that they would thereby reach a position where they would be free and equal, without being above or below any one else, for the simple reason that the Hindu religion does not recognise the principle of equality of social status; on the other hand it fosters inequality by insisting upon grading people as Brahmins, Kshatrias, Vaishyas and Shudras, which now stand towards one another in an ascending scale of hatred and descending scale of contempt. If the Hindu religion is to be a religion of social equality then an amendment of its code to provide temple-entry is not enough. What is required is to purge it of the doctrine of Chaturvarna. That is the root cause of all in equality and also the parent of the caste system and Untouchability, which are merely forms of inequality. Unless it is done not only will the Depressed Classes reject Temple Entry, they will also reject the Hindu faith. Chaturvarna and the Caste system are incompatible with the self-respect of the Depressed Classes. So long as they stand to be its cardinal doctrine the Depressed Classes must continue to be looked upon as low. The Depressed Classes can say that they are Hindus only when the theory of Chaturvarna and caste system is abandoned and expunged from the Hindu Shastras. Do the Mahatma and the Hindu reformers accept this as their goal and will they show the courage to work for it ? I shall look forward to their pronouncements on this issue, before I decide upon my final attitude. But whether Mahatma Gandhi and the Hindus are prepared for this or not, let it be known once for all that nothing short of this will satisfy the Depressed Classes and make them accept Temple Entry. To accept temple entry and be content with it, is to temporise with evil and barter away the sacredness of human personality that dwells in them.

There is, however, one argument which Mahatma Gandhi and the reforming Hindus may advance against the position I have taken. They may say: "acceptance by the Depressed Classes of Temple Entry now, will not prevent them from agitating hereafter for the abolition of Chaturvarna and Caste. If that is their view, I like to meet the argument right at this stage so as to clinch the issue and clear the road for future developments. My reply is that it is true that my right to agitate for the abolition of Chaturvarna and Caste System will not be lost, if I accept Temple Entry now. But the question is on what side will Mahatma Gandhi be at the time when the question

is put. If he will be in the camp of my opponents, I must tell him that I cannot be in his camp now. If he will be in my camp he ought to be in it now.

B. R. AMBEDKAR.

Dewan Bahadur R. Srinivasan who along with me represented the Untouchables at the Round Table Conference also did not support the movement for Temple entry. In a statement to the Press, he said :—

> "When a Depressed Classes member is permitted to enter into the caste Hindu temples he would not be taken into any one of the four castes, but treated as man of fifth or the last or the lower caste, a stigma worse than the one to be called an Untouchable. At the same time he would be subjected to so many caste restrictions and humiliations. The Depressed Classes shun the one who enters like that and exclude him as casteman. The crores of Depressed Classes would not submit to caste restrictions. They will be divided into sections if they do. 'Temple entry cannot be forced by law. The village caste-men openly or indirectly defy the law. To the village Depressed Class man it would be like a scrap of paper on which the "sugar" was written and placed in hands for him to taste. The above facts are placed before the public in time to save confusion and disturbance in the country."

To the question I put to Mr. Gandhi in my statement he gave a straight reply. He said that though he was against untouchability he was not against caste. If at all, he was in favour of it and that he would not therefore carry his social reform beyond removing untouchability. This was enough for me to settle my attitude. I decided to take no further part in it.

The only leading member from the Untouchable community was the late Dewan Bahadur Rajah. One cannot help saying that he played a very regrettable part in this business. The Dewan Bahadur was a nominated member of the Central Assembly from 1927. He had nothing to do with the Congress either inside or outside the Assembly. Neither by accident nor by mistake did he appear on the same side of the Congress. Indeed, he was not merely a critic of the Congress but its adversary. He was the staunchest friend of the Government and never hesitated to stand by the Government. He stood for separate electorates for the Untouchables to which the

Congress was bitterly opposed. In the crisis of 1932, the Dewan Bahadur suddenly decided to desert the Government and take sides with the Congress. He became the spearhead of the Congress movement for joint electorates and Temple entry. It is impossible to discover a parallel in the conduct of any other public cause. The worst part of the business was that it had none but personal motive behind. The Dewan Bahadur was deeply cut because the Government did not nominate him as a delegate to the Round Table Conference to represent the Untouchables and in his stead nominated Dewan Bahadur R. Srinivasan. The Government of India had good ground for not nominating him. It was decided that neither the members of the Simon Commission nor the members of the Central Legislative Committee should have a place in the Round Table Conference. The Dewan Bahadur was a member of the Central Legislative Committee and had therefore to be dropped. This was quite a natural explanation. But the wounded pride of Dewan Bahadur Rajah could not let him see it. When the Congress Ministry took office in Madras, when he saw how the Poona Pact was being trampled upon, how his rival was made a Minister and how notwithstanding his services to the Congress he was left out, he bitterly regretted What he did! The fact, however, remains that in the critical year of 1932, Dewan Bahadur Rajah lent his full support to the Congress. He was not only running with the Congress crowd but he took care not to fall out in the race for legislation against untouchability. He too had sponsored two Bills. One of them was called the Removal of Untouchability Bill and the other was called the Criminal Procedure Amendment Bill.

III

Mr. Gandhi did not mind any opposition and was indifferent as to whether it came from the orthodox Hindus or from the Untouchables. He went on in mad pursuit of his object. It is interesting to ask, what happened to this movement? Within the short compass of this book it is not possible to spread out this inquiry and cover everything that was done and claimed as evidence of the success of the movement.

To put it briefly, after a short spurt of activity in the direction of removing untouchability by throwing open temples and wells the Hindu mind returned to its original state. The

reports appearing in the "Week to Week" columns of the *Harijan* subsided, became few and far between and ultimately vanished. For myself I was not surprised to find that the Hindu heart was so soon stricken with palsy. For I never believed that there was so much milk of human kindness locked up in the Hindu breast as the "Week to Week" column in the *Harijan* would have the world believe. As a matter of fact a large part of the news that appeared in the "Week to Week" was faked and was nothing but a lying propaganda engineered by Congressmen to deceive the world that the Hindus were determined to fight untouchability. Few temples if any were really opened and those that were reported to have been opened most of them were dilapidated and deserted temples which were used by none but dogs and donkeys. One of the evil effects of the Congress agitation is that it has made the political minded Hindus a lying squad which will not hesitate to tell any lie if it can help the Congress. Thus ended the part which the Hindu public played or was made to appear to play in this Temple-Entry movement. The same fate overtook the Guruvayur Temple satyagraha and the legislation for securing Temple-Entry for the Untouchables. As these are matters which were pursued by Mr. Gandhi and Congressmen their history might be told in some detail inasmuch as it reveals the true mentality of Mr. Gandhi and the Congress towards the Untouchables.

IV

To begin with the Guruvayur Temple Satyagraha. A temple of Krishna is situated at Guruvayur in the Ponnani taluk in Malabar. The Zamorin of Calicut is the trustee of the temple. One Mr. Kelappan, a Hindu who was working for the cause of the Untouchables of Malabar, began an agitation for securing the Untouchables entry into the temple. The Zamorin of Calicut as the trustee of the temple refused to throw open the temple to the Untouchables and in support of his action cited Section 40 of the Hindu Religious Endowments Act which said that no trustee could do anything against the custom and usage of the temples entrusted to him. On the 20th September 1932, Mr. Kelappan commenced a fast in protest lying in front of the temple in the sun till the Zamorin revised his views in favour of the Untouchables. To get rid of this annoyance and embarrassment the Zamorin appealed to Mr. Gandhi to request

Mr. Kelappan to suspend his fast for a time. After a fast for ten days Mr. Kelappan at the request of Mr. Gandhi suspended the fast on 1st October 1932 for three months. The Zamorin did nothing. Mr. Gandhi sent him a wire telling him that he must move in the matter and get over all difficulties legal or otherwise. Mr. Gandhi also told the Zamorin that as Mr. Kelappan had suspended his fast on his advice he had become responsible for securing to the Untouchable entry into the temple to the extent of sharing the fast with Mr. Kelappan. On 5th November 1932, Mr. Gandhi issued the following statement to the press :—

> "There is another fast which is a near possibility and that in connection with the opening of the Guruvayur temple in Kerala. It was at my urgent request that Mr. Kelappan suspended his fast for three months, a fast that had well nigh brought him to death's door. I would be in honour bound to fast with him if on or before *1st January 1933* that temple is not opened to the Untouchables precisely on the same terms as to the Touchables, and if it becomes necessary for Mr. Kelappan to resume his fast."

The Zamorin refused to yield and issued a counter-statement to the press in which he said :—

> "The various appeals that are being made for throwing open the temples to Avarnas proceed upon an inadequate appreciation of such difficulties. In these circumstances, there is hardly any justification for thinking that it is in my power to throw open the Guruvayur temple to the Avarnas as desired by the supporters of the temple-entry campaign."

In these circumstances a fast by Mr. Gandhi became inevitable, and obligatory. But Mr. Gandhi did not go on fast. He modified his position and said that he would, refrain from fasting if a referendum was taken in Ponnani taluk in which the temple was situated and if the referendum showed that the majority was against the throwing open of the temple to the Untouchables. Accordingly, a referendum was taken. Voting was confined to those who were actual temple goers. Those who were not entitled to enter the temple and those who would not enter it were excluded from the voters' list. It was reported that 73 per cent, of eligible voters voted. The result of the poll was 56 per cent, were in favour of temple entry, 9 per cent, against, 8 per cent, were neutral and 27 per cent, abstained from recording their votes.

On this result of the referendum, Mr. Gandhi was bound to start the fast. But he did not. Instead, on the 29th of December 1932 Mr. Gandhi issued a statement to the press which he concluded by saying :—

> "In view of the official announcement that the Viceregal decision as to sanction for the introduction, in the Madras Legislative Council, of Dr. Subbaroyan's permissive Bill with reference to the temple-entry could not possibly be announced before the 15th January, the *fast* contemplated to take place on the second day of the New Year will be indefinitely postponed and in any case up to the date of the announcement of the Viceregal decision. Mr. Kelappan concurs in this postponement."

The Viceregal pronouncement mentioned by Mr. Gandhi had reference to the Viceroy's granting permission or refusing permission to the moving of the Temple Entry Bills in the Legislature. That permission was given by the Viceroy. Yet Mr. Gandhi did not fast. Not only did he not fast, he completely forgot the matter as though it was of no moment! Since then nothing has been heard about Guruvayur Temple Satyagraha though the Temple remains closed to the Untouchables even to-day.

V

Thus ended Guruvayur. Let me now turn to the other project namely legislation for Temple-Entry. Of the many bills the one in the name of Mr. Ranga Iyer in the Central Legislature was pursued. The rest were dropped. There was a storm at the very birth of the Bill. Under the Government of India Act as it then stood no legislative measure which affected religion and customs and usages based on religion could be introduced in the Assembly unless it had the previous sanction of the Governor-General. When the Bill was sent for such sanction another commotion was created by the reports that were circulated that the Governor-General was going to refuse his sanction. Mr. Gandhi was considerably excited over these reports. In a statement to the press issued on the 21st January 1933, Mr. Gandhi said :—

> "If the report is an intelligent anticipation of the forthcoming Viceregal decision, can only say that it will be a tragedy... .I emphatically repudiate the suggestion that there is

any political objective behind these measures. If court decisions had not hardened a doubtful custom into law, no legislation would be required. I would myself regard State interference in religious matters as an intolerable nuisance. But here legislation becomes an imperative necessity in order to remove the legal obstruction and based as it will be on popular will, as far as I can see, there can be no question of clash between parties representing rival opinions."

The decision of the Government was announced on the 23rd of January 1933. Lord Willingdon refused sanction to Dr. Subbaroyan's Temple-Entry Bill in the Madras Council, but His Excellency permitted the introduction, in the Legislative Assembly, of Mr. Ranga Iyer's Untouchability Abolition Bill. The Government emphasised the need of ascertainment of Hindu opinion before they (Government) could decide what attitude to adopt. The announcement further stated that the Governor-General and the Government of India desired to make it plain that it was essential that consideration of any such measure should not proceed unless the proposals were subjected to the fullest examination in all their aspects, not merely in the Legislature but also outside it, by all who would be affected by them. This condition can only be satisfied if the Bill is circulated in the widest manner for the purpose of eliciting public, opinion. It must also be understood that the grant of sanction to the introduction, in the Central Legislature, Bills relating to temple entry do not commit the Government in any way to the acceptance or support of the principles contained therein. On the next day, Mr. Gandhi issued a statement in which he said :—

"I must try to trace the hand of God in it. He wants to try me through and through. The sanction given to the All-India Bill was an unintentional challenge to Hinduism and the reformer. Hinduism will take care of itself if the reformer will be true to himself. Thus considered the Government of India's decision must be regarded as God-send. It clears the issue. It makes it for India and the world to understand the tremendous importance of the moral struggle now going on in India. But whatever the Sanatanists may decide the movement for Temple-Entry now broadens from Guruvayur in the extreme south to Hardwar in the north and my fast, though it remains further postponed, depends not now upon Guruvayur only but extends automatically to temples in general."

One can well realize under what fanfare the Bill began its legislative career. On the 24th of March 1933, Mr. Ranga Iyer formally introduced the Bill in the Assembly. As it was a Bill for Mr. Gandhi the Congress members of the Assembly were of course ready to give it their support. Mr. Gandhi had appointed Mr. Rajagopalachari and Mr. G. D. Birla to canvass support for the Bill among the Non-Congress members with a view to ensure safe passage for the Bill. He said they were better lobbyists than he was. The motion for introduction was opposed by the Rajah of Kollengode and Mr. Thampan raised a preliminary objection that the Bill was ultra vires of the legislature. The latter objection was overruled by the President and the House allowed the Bill to be introduced. Mr. Ranga Iyer next moved that the Temple-Entry Bill be circulated to elicit public opinion by the 30th July. Raja Bahadur Krishnamachari opposed the circulation motion and condemned the proposed legislation in strong terms. At last he urged that the date for circulation should be 31st December instead of 31st July. Mr. Gunjal opposed the circulation motion and asked the House not to support the Bill. As it was already 5 p.m. and as that was the last day of the session for non-official business, the President wanted to take the sense of the House for a late sitting. As there was no overwhelming majority for it, the President adjourned the House. So the Bill stood postponed to the Autumn session of the Assembly.

The discussion of the Bill was resumed on 24th August 1933 during the Autumn session of the Central Legislature. Sir Harry Haig on behalf of the Government explained that their support to the motion for circulation of the Bill should in no way be construed as implying support to its provisions. It was true that the Government sympathized for the Depressed Classes and were anxious to do what they could for their social and economic improvement. He quoted from the *communique* issued in January last, wherein the Government's view was fully explained. In his opinion, circulation by the end of June was a fair and reasonable time to secure the widest possible circulation. As regards the limit of circulation to temple going Hindus, Sir Harry Haig said from the practical viewpoint that it would really hardly be possible to impose the restriction as proposed. The Government wanted the matter to be fully discussed by all classes of Hindus and were therefore prepared

to give their support to the amendment of Mr. Sharma. Closure was moved and the House accepted Mr. Sharma's motion for circulation of the Bill by the end of June 1934. Opinions were duly received. They fill a whole volume of over a thousand foolscap pages. The Bill was ready for the next stage namely to move for the appointment of a Select Committee. Mr. Ranga Iyer had even given notice for such a motion. A strange thing happened. The Government of India decided to dissolve the Assembly and order new election. The result of this announcement was a sudden change in the attitude of the Congress members in the Central Legislature towards Mr. Ranga's Bill. One and all stood out against it and refused to give any further support to the Bill. They were terrified of the electorates. Mr. Ranga Iyer's position was very pitiable. He described it in very biting language, the venom of which could hardly be improved upon. So well did he describe the situation that I make no apology for reproducing the following extract from his speech Rising to move his motion Mr. Ranga Iyer said:

> "Sir, I rise to move what is known as the Temple-Entry Bill, to remove the disabilities of the so-called Depressed Classes. Sir, I move :—
>
> 'That the Bill to remove the disabilities of the so-called Depressed Classes in regard to entry into Hindu temples be referred to a Select Committee consisting of the Honourable Sir Nripendra Sircar, the Honourable Sir Henry Craik, Bhai Parma Nand, Rao Bahadur M. C. Rajah, Mr. T. N. Ramakrishna Reddi, Rao Bahadur B. L. Patil and the Mover.'
>
> "I will delete with your permission, the words 'with instructions to report within a fortnight' and then I will continue the remaining portion of the motion :
>
> 'and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five.'
>
> "Sir, at the time I gave notice of this motion, I did not think that before a fortnight we would be going into the wilderness. Therefore, I recognise the limitations of this motion, for there will be no time even to go to a Select Committee. I recognise that it gives us an opportunity to express our opinion on the subject.
>
> "I have already stated that I owed an apology to Mr. Satyamurthi for while interrupting Mr. Mudaliar, I was not in a

position naturally as he was rushing along with his speech to explain myself fully and he would have been at a disadvantage if I had done so. I recognise that Mr. Satyamurthi, who was at no time in favour of the Temple Entry Bill, has succeeded in making the Congress drop it. I read the following written statement of Mr. C. Rajagopalachariar in the *Hindu* of Madras, dated the 16th August. The *Hindu* is a very responsible newspaper, and as it is not a mere telegraphic interview but a written statement, I believe Mr. Rajagopalachariar's statement can be taken as accurate. Mr. Rajagopalachariar is apologising to the public for his betrayal of the cause of the Untouchables. As the principal lieutenant of Mahatma Gandhi, his betrayal must be placed on record. He says :

> 'The question has been asked by some Sanatanists whether Congress candidates will give an undertaking that Congress will not support any legislative interference with religious observances. Similar questions may be asked on a variety of topics by persons and groups interested in each one of them. That such questions are asked only of the Congress candidates and similar elucidation is not attempted in respect of other parties and independent candidates is a very great compliment paid to the Congress.'

"So says, Sriman Rajagopalachariar. And, instead of following up the compliment and arousing public opinion on an unpopular measure, here is a great Congress leader who sat *dharna* at our house with his son-in-law, Devidas Gandhi, who repeatedly called on me at Delhi and said 'We seek joint support for this legislative measure,'—here is a man who goes back 'like a crab,' to borrow the language of Shakespeare. Political parties, explains this subtle brain from the South, have distinctive policies on various questions covering a wide field :

> 'Not all of them, however, are made into election issues at any one time.'

"Sir, this Congress leader is afraid of facing the public opinion which he has roused.

"Sir, are the Congress people slaves ?

> 'They are slaves who fear to speak,
> For the fallen and the weak.'

"According to Milton, 'To say and straight unsay argues no liar but a coward traced.'...Mr. Rajagopalachariar unsays now what, he had been saying long before the General Election from every platform in the following words :

> 'The Congress candidates go to the electorate in this election on well-defined political issues.'

"That is to say, they go to the electorate with a view to pandering to the prejudice of the masses whom they have misled, so much so, that they have got themselves into a bog., Lord Willingdon came to their rescue, to take them out of the bog by announcing the dissolution of this Assembly and giving them an opportunity, as a Constitutional Viceroy, to return to the sheltered paths of constitutionalism. Therefore, they have run away from their own convictions and are playing every trick to come back to the Legislature with as large a number as possible. Had they gone on with the Temple Entry Bill or the Untouchability question, they would have lost many votes, for it is not a popular issue. I said so, though Mahatma Gandhi contradicted me publicly at the time, I said so when Shankaracharya was staying in Malabar in my brother's house at Palghat. My brother came on a deputation to the Viceroy to oppose the Bill. I said : 'I know, the reformer is not in a majority in Malabar.' Nowhere else are the reformers in a majority but the reformers believe in persuading the majority to their way of thinking. Then, I said—whatever the result of a referendum, the Congress people might have taken in Guruvayur in Malabar, might be, I could not for a moment believe that the majority of the temple-going people in Malabar were in favour of admitting the Untouchables into the temples: but I was prepared to fight the in, also to argue with them and to persuade them and to make them take an interest in the cause and the case of the Untouchables, for, I feel, the Untouchables are a part of my community. Sir, if one-third of my community is to remain submerged in exclusion in the name of religion, I feel, as I have always felt and said, that that community has no right to existence. It is with a view to the unification of the Hindu community, it is with a view to building up the greatness of the future of that community on the past of that community, when Untouchability was quite unknown as in the Vedic ages, that I have taken up their cause. And now, I find Congressmen, so keen about Untouchability yesterday, explaining why they are not taking it up today. Mr. Rajagopalachariar has driven the last nail into the coffin of the Temple Entry Bill as Raja Bahadur Krishnamachariar, the Raja Saheb of Kollengode or Sir Satya Charan Mukherji would perhaps like to say, representing as they do the various Sana-tanist groups of the country.

"Sir, Mr. Rajagopalachariar goes on to say that they asked to be returned 'on no other issue,' that is to say, not on Temple Entry issue, but merely on a political Anglo-phobia issue, an anti-British issue, because, having traded on public feeling,

having tried to give it as much racial antipathy as possible in the name of non-violence, in the name of religion itself, because non-violence was sometimes given a religious bias, having created that atmosphere of distrust in the country, finding that that atmosphere might not help them in the election if they fought it on a bigger, a cleaner and higher issue, namely, the removal of Untouchability itself, they side-track the issue, they run away from their conviction :

'They are slaves who dare not be
In the right with two or three.'

"Then he. a principal lieutenant of Gandhiji goes on to say : 'If successful at the polls, they cannot believe they will receive the mandate of the electorate on any other questions.'

"That is to say, they are not receiving the mandate of the electorate on the Temple Entry Bill. This man, who came screaming at our doors, begging us for support—these beggars in the cause of the Congress—who just begged of us to proceed with this Temple Entry Bill, are not only betraying the cause of the Untouchables, but they are betraying the principles of the Mahatma himself, for, we know, that Mahatma's fast was directed toward the uplift of the Untouchables by giving them concession in regard to the Communal Award, which the Congress naturally has hesitated to repudiate, and we, therefore, know that that has a direct bearing on the Untouchability question to approach which, to solve which, the Mahatma, the great Mahatma, wanted to tour the country, but today the Congress, who betrayed him first in the betrayal of the Congress boycott of the Councils, have, by seeking to come to the Councils, further betrayed him with the assistance of his own *samandhi,* Rajagopalachariar, and they say that they are not going to proceed with the Untouchability question and the Temple Entry Bill without a mandate from the people !

"Sir, where is the difference, I ask, between Raja Bahadur Krishnamachariar and Sriman Rajagopalachariar ? Raja Bahadur Krishnamachariar has always conceded—'take a mandate from the people and then come and legislate.' Sir, he is not a coward; a great Sanatanist himself, he is willing to face the music. On the contrary, these people who pillory the Sanatanists up and down the country, forgetting that Sanatan Dharma is eternal truth itself, are behaving in a manner which even the Sanatanists will not appreciate, for Sanatan Dharma is eternal truth and the betrayal of truth is worthy only of untruthful people ! Having betrayed many

a principle which would lead us to our national goal, having taken up the case of the Untouchables only to save their faces, with no conviction behind them, as we now see, the great Congress leaders with the exception of Mahatma Gandhi, have said through Rajagopalachariar, the Organizer-in-chief of the coming elections on behalf of the Congress :

> 'It will be open to all Congressmen to have the matter duly considered before it is ever made into an official Congress Bill.'

"For this betrayal of the cause of the Untouchables, I hope constitutionalists will organize themselves, whether Hindus or Mussalmans. They can agree to differ later on on communal issues, but they will unite and offer a great battle to the Congress and bring that organ of masqueraders down on its knees. Sir, I think here is a betrayal of the cause of the Untouchables and the Depressed Classes; and, if I did not believe in this movement before Mahatma Gandhi could take it up or Mr. Rajagopalachariar went from door to door in Delhi, I should not have been here to move this Bill."

VI

Here was a case of retreat from glory! And what an inglorious retreat? How did Mr. Gandhi react to it? In a statement issued on 4th November 1982, Mr. Gandhi said :—

"Untouchables in the villages should be made to feel that their shackles have been broken, that they are in no way inferior to their fellow villagers, that they are worshippers of the same God as the other villagers and entitled to the same rights and privileges that the latter enjoy.

"But if these vital conditions of the Pact are not carried out by caste-Hindus, could I possibly live to face God and man ? I ventured even to tell Dr. Ambedkar, Rao Bahadur M. C. Raja and other friends belonging to the suppressed group that they should regard me as a hostage for the due fulfilment by caste-Hindus of the conditions of the Pact. The fast, if it is to come, will not be for coercion of those who are opponents of reform, but it will be intended to sting into action those who have been my comrades or who have taken pledges for the removal of Untouchability. If they belie their pledges or if they never meant to abide by them and their Hinduism was a mere camouflage, I should have no interest left in life."

He was never tired of repeating this. Exclusion of the Untouchables from the Hindu Temples, he described, as the

agony of his soul. What did Mr. Gandhi do in this connection ? Did he resent this betrayal by Mr. Rajagopalachari of this project without which he said he had no interest left in life ? One would naturally expect Mr. Gandhi to denounce this betrayal by the Congress Party to achieve success at the polls ? Quite the contrary. Instead of blaming Mr. Rajagopalachari, he blamed Mr. Ranga Iyer for his violent denunciation of the Congress Party for withdrawing its support to the Bill. This is what Mr. Gandhi said in the issue of the *Harijan* dated August 31, 1934 :—

> "The ill-fated Temple Entry Bill deserved a more decent burial, if it deserved it at all, than it received at the hands of the mover of the Bill. It was not a bill promoted by, and on behalf of, the reformers. The mover should, therefore, have consulted reformers and acted under instructions from them. So far as I am aware, there was hardly any occasion for the anger into which he allowed himself to be betrayed or the displeasure which he expressed towards Congressmen. On the face of it, it was, and was designed to be, a measure pertaining to religion, framed in pursuance of the solemn declaration publicly made in Bombay at a meeting of representative Hindus, who met under the chairmanship of Pandit Malaviyaji on 25th September, 1932. The curious may read the declaration printed almost every week on the front page of *Harijan*. Therefore, every Hindu, caste or Harijan, was interested in the measure. It was not a measure in which Congress Hindus were more interested than the other Hindus. To have, therefore, dragged the Congress name into the discussion was unfortunate. The Bill deserved a gentler handling."

The Temple Entry, what one is to say of, except to describe it a strange game of political acrobatics! Mr. Gandhi begins as an opponent of Temple Entry. When the Untouchables put forth a demand for political rights, he changes his position and becomes a supporter of Temple Entry. When the Hindus threaten to defeat the Congress in the election, if it pursues the matter to a conclusion, Mr. Gandhi, in order to preserve political power in the hands of the Congress, gives up Temple Entry ! Is this sincerity ? Does this show conviction ?Was the "agony of soul" which Mr. Gandhi spoke of more than a phrase ?

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CHAPTER V

A POLITICAL CHARITY

Congress Plan to Kill Untouchables by Kindness

I

On the 30th September 1932, a largely attended meeting of the Hindus of Bombay was held in the Cowasjee Jehangir Hall under the Presidentship of Pandit Malaviya. The object of the meeting was to form an All-India Anti-Untouchability League with branches in different provincial centres. The headquarters of the League were to be in Delhi. Mr. G. D. Birla was to be the President and Mr. Amritlal V. Thakkar, General Secretary. The All-India Anti-Untouchability League was Mr. Gandhi's project. It was inspired by him and was the direct outcome of the Poona Pact. At any rate, Mr. Gandhi adopted it as his baby, the moment it was born. The first thing Mr. Gandhi did was to change its name. In a press message issued on 9th December 1932, Mr. Gandhi told the public that the organisation would thenceforth be known as Servants of the Untouchables Society. This name also did not appear to Mr. Gandhi as the best. He was searching for another. Ultimately he decided to give it a new name. He called it the *Harijan Sevak Sangh*. Which means a society of those engaged in Service to the Untouchables. This was a natural sequence of the name Harijan by which Mr. Gandhi used to call the Untouchables. This change did not pass off without a controversy between the Shaivas and Vaishnavas. *Hari* is one of the hundred names of Vishnu, while *Har* is one of the hundred names of Shiva. In choosing the name Harijan, Mr. Gandhi was accused of sectarian partiality. The Shaivas contended that the Untouchables should be called Harijan. Mr. Gandhi did not yield and as the first fruits of this new organisation the Untouchables got a new name.

On the 3rd November 1932, Mr. Birla and Mr. Thakkar issued a statement to the Press in which they set out the programme of this organization and the set-up of the machinery to carry out the programme.

As to the programme the statement said:—

> "The League believes that reasonable persons among the Sanatanists are not much against the removal of Untouch-

ability as such, as they are against inter-caste dinners and marriages. Since it is not the ambition of the League to undertake reforms beyond its own scope, it is desirable to make it clear that while the League will work by persuasion among the caste Hindus to remove every vestige of untouchability, the main line of work will be constructive, such as the uplift of Depressed Classes educationally, economically and socially, which itself will go a great way to remove Untouchability. With such a work, even a staunch Sanatanist can have nothing but sympathy. And it is for such work mainly that the League has been established. Social reforms like the abolition of the caste system and inter-dining are kept outside the scope of the League."

For the convenient prosecution of the programme it was proposed that each Province should be divided into a number of units and each unit to be in charge of paid workers. A unit may or may not be coterminus with a district. It may be formed by grouping together two districts or two States.

The statement also set out a normal Budget for the year. It was to be of the following dimensions:—

"Not less than two-thirds of the expenditure should be devoted to actual welfare work, the remaining one-third to staff and their allowances. Two paid workers are considered the minimum staff and they should be moving about 15 to 29 days in a month in villages.

Maintenance allowance for two itinerant workers	30 + 20 = 50 × 12	=	600
Travelling charges for two itinerant workers	2 × 10 × 12	=	240
Miscellaneous expenditure by and through the workers	2 + 10 × 12	=	240
Welfare work, i.e. cost of school books, scholarships, prizes, contributions for wells, if any, and formation of Harijan Panchayats.			2000
	TOTAL ...		3,080

Budget For The Whole Country

We give below a rough idea of the minimum total amount which may have to be spent for the whole of India. The scheme is modest enough in view of the gigantic nature of the work and it should not be difficult for the public to raise the required fund. Every pic contributed to the fund will make

a valuable contribution and therefore we appeal to the public to make some sacrifices for the cause. The number of units proposed for each province is only a tentative proposal. The final decision, of course, will have to be taken by the Provincial Boards themselves.

"It is calculated that at least the following number of units will be required to be worked in different provinces, the number of districts and states being shown against each province :—

Name of Province	*No. of Dists.*	*No. of Units*
Assam	11	6
Andhra	—	6
Bengal	26	15
Calcutta City	1	3
Bihar	16	16
Bombay, Bombay City & Suburban District ...	1	3
Maharashtra	10	8
Gujerat, Baroda, Kathiawar, Cutch and other States 5 and States 10		
Central Provinces and Berar (Marathi)	9	7
Central India States	11	8
Delhi Provinces	1	2
Kashmir	1	1
Malabar, Cochin and Travancore	4	10
Mysore & Karnatak Dists. of Bombay & Madras	8	10
Nizam's Dominion	14	10
Orissa Feudatory States 5 + 26 = States		8
Punjab Y N.W.S. Province and the Punjab Sates 32 + 7 =	39	10
Rajputana States Ajmer-Merwar State ... 18		
Br. Dist. 1	19	9
Sind	8	5
Tamil Nadu	13	8
United Provinces	48	24
Total ...		184

The expenditure for 184 Units would be
3,000 × 184 = Rs. 5,52,000

CENTRAL & PROVINCIAL OFFICES

Central Office, 1,000 × 12	= Rs.	12,000
Provincial Officer, 4,000 × 12	= Rs.	48.000
	Total Rs.	60,000
	GRAND TOTAL Rs.	6,12,000
	or say, Rs.	6,00,000

This amount will have to be made up both from the Central Fund as well as from funds raised by provinces and districts.

It can be seen that a sum of six lakhs of rupees is intended to be collected and spent per year in the whole country for the removal of Untouchability and ameliorative work of Harijans. This programme, particularly if the ameliorative work is to be effective, should continue at least for 5 years. When spread out over 22 provinces, including States and 4 crores or 400 lakhs of Harijans in the country, this is a small budget indeed."

To provide funds for the work of the Sangh Mr. Gandhi started an All-India tour which began on November 7, 1988 and ended on July 29, 1934. Total collection was rupees eight lakhs.* As the object of the tour was to arouse enthusiasm among the Hindus for the cause of the Untouchables as also to collect funds, Mr. Gandhi did most of the tour on foot. Mr. Gandhi collected Rs. 8 lakhs. With this amount and the annual donation of Mr. Gandhi's monied friends the Sangh started its work.

The Harijan Sevak Sangh has been going on since September 1982. It has been held out as a glorious testimony to the agony of Mr. Gandhi's soul for the condition of the Untouchables and to the passion he feels for their elevation. The General Secretary of the Sangh has invited many Americans to the Home of the Sangh in Delhi and shown them round as an unrivalled piece of social work that is being done by Mr. Gandhi for the welfare of the Untouchables.

Any welfare work for a down-trodden people must be welcomed by all. But this does not mean that it must never be criticised. That can hardly be accepted. It would be legitimate to inquire what work the Sangh is doing since so much is made of it. Any one who has read the Annual Reports of the Sangh will see that it follows certain well defined and stereotyped lines. In the field of education, the Sangh has sought to encourage higher education among the Untouchables by instituting scholarships for the Arts, technical and professional courses. The Sangh also gives scholarships to High School students. The Sangh also maintains Hostels for Untouchable students attending colleges and high schools. The great part of the educational activities of the Sangh is taken up in maintaining separate schools for primary stage

* *Harijan,* August 3, 1934.

children, where there were no common schools in the vicinity or where common schools were closed to them.

Next comes the welfare activities of the Sangh. The medical aid which the Sangh undertakes to render to the Untouchables falls under this head. This is done by itinerant workers of the Sangh who go in Harijan quarters to give medical aid to the sick and ailing among the Untouchables. The Sangh also maintains a few dispensaries for the use of the Untouchables. This is a very small activity of the Sangh.

The more important part of the welfare activity of the Sangh relates to water supply. The Sangh does this by (1) sinking new wells or installing tube wells and pumps for the use of the Untouchables; (2) repairing old ones; and (3) persuading Local Governments and Bodies to sink and repair wells for the Untouchables.

The third line of activity undertaken by the Sangh is economic. The Sangh seems to run a few industrial schools and it is claimed that the industrial schools run by the Sangh produced a number of trained artisans who have taken to independent living. But according to the reports, more successful and substantial work was done by way of organizing and supervising co-operative societies among the Untouchables.

II

From this summary of its activities an impression may be created that the Sangh must be spending quite a lot of money on the welfare of the Untouchables. What are the facts? It will be recalled that the normal amount of money which the Sangh expected to be able to spend on the uplift work among the Untouchables was to be about Rs. 6,00,000 per year. How much has the Sangh been actually spending ? The Secretary of the Sangh in his Report issued in May 1941 says[1]:—

"During the course of the last 8 years the various branches and the central office of the Sangh have spent approximately Rs. 24,25,700 and Rs. 3,41,607 respectively, on the Harijan work. Looking to the needs of the problem, this sum of Rs. 27,67,307 is too insignificant an amount."

1. Report, p. 58.

On this basis the Sangh's expenditure comes to about Rs. 3,45,888 per year, which is 50 per cent, less than, what the Sangh hoped to collect. It will be seen that the Sangh is not as big as it is made out to be by its friends. The Sangh has been carrying on a very poor existence. A Budget of three lakhs per year for a population of 50 millions of Untouchables is not a matter on which the Untouchables need be very jubilant. Even this much show, the Sangh would not have been able to put up if during the two years that they were in office the Congress Governments in different Provinces had not given large grants to the Sangh.

The Sangh cannot be blamed for its poor finances. The blame lies with the Hindus. The stagnant, if not the deteriorating, condition of the Sangh shows how little the Hindus care for the welfare of the Untouchables. For political purposes they contributed one crore of Rupees which went to make up the Tilak Swaraj Fund. For General Welfare work they have very recently contributed one crore and 15 lakhs which will make up the Kasturba Memorial Fund. Compared with these the contributions made by the Hindus to the Harijan Sevak Sangh are paltry.

One may differ with the Sangh on the nature of the welfare work it does. Much of the work the Sangh does is obviously the work which any civilized Government is bound to undertake out of public revenues. It may well be asked: why should the Sangh ask Government to undertake this work and use its funds on projects which Government does not do and yet is urgently required to be done?

This however cannot give rise to feelings of animosity on the part of the Untouchables towards the Sangh. It may be admitted that such animosity does exist. This circumstance and its causes were referred[1] to by a writer in the *Indian Social Reformer* of 14th October 1944. He said :—

> "A deputation of Harijans waited on Gandhiji at Sevagram with the request that members of the castes grouped under the head of 'Scheduled Castes' should be allowed representation on the governing body of the Harijan Sevak Sangh. Gandhiji

1. The occasion for his comments was furnished by the report in the newspapers that on September 26, 1944 some Untouchables waited on Mr. Gandhi and urged upon him to appoint representatives of the Untouchables on the Governing Body of the Harijan Sevak Sangh and Mr. Gandhi refused. The writer is believed to be no other than Mr. K. Natarajan.

is reported to have replied that the Sangh is meant to help Harijans and was not a Harijan organization and, therefore, their request was inadmissible. At the Round Table Conference Gandhiji opposed reservation of seats for Harijans on the ground that they were Hindus and should not be separated from the general body. Subsequently in the Yeravda Pact he was obliged to consent to an allocation of seats for them specially, from the Hindu quota. When the draft formula conceding this came up for ratification before a general meeting in Bombay, over which Pandit Madan Mohan Malaviya presided, one of those present pointed out to an impatient audience that it was not necessary to collect a large fund (as Panditjee suggested) to remove from Hindu society the blot of Untouchability and that if each one of those present resolved that he or she (a large number of women were present) would receive Harijans in their homes just like other Hindus, the problem would at once cease to exist. A Bombay business magnate turned to the intruder and remarked quietly: 'You have told them a home truth. None of them is prepared to follow it.' From the first it has struck me that this has been the fundamental weakness of the Harijan Sevak Sangh. What is the result ? Nearly every beneficiary of the Sangh is an ardent follower of Dr. Ambedkar, which is nothing, but for the fact that they share to the full the fanatical and bitter hatred of Dr. Ambedkar to the Hindus. I Can give several instances to illustrate this statement. But that would only make matters worse. I think that this may be avoided by associating Harijan gentlemen and women with other Hindus in all important bodies, local and central, thus giving them the decisive voice in moulding policy. The idea of helping Harijans without associating with them, is contrary to the spirit of social reform. I was associated with the earlier movements for the uplift of Harijans and I never found this spirit antagonism aroused among the men and women with whom one came in contact. This was because the promoters of the movement—I have the Depressed Classes Mission prominently in view—were by religious faith and social conviction pledged to avoid all discrimination in their behaviour to members of the Depressed Classes. I think that Gandhiji was not quite right when he said that the Harijan Sangh could not admit members of the Scheduled Castes. Dr. Ambedkar, a friend reminds me, was a member of the Sangh when it was formed,"

I quote this because it gives me the occasion to explain the causes of the hostility and expose the true character of the Sangh.

III

The writer in the *Indian Social Reformer* pleads that Untouchables should be associated with the management of the Sangh. His statement might lead people to believe that Untouchables were never represented on the Central Board of the Sangh. That would be a mistake. The correct position is that when the Sangh was started prominent Untouchables in substantial numbers were on the Central Board of the Sangh. The statement issued by Mr. Birla and Mr. Thakkar on 3rd November 1932 gives the names of those who were constituting the Central Board. It was announced that:—

> "The Central Board has been constituted with the following organising members:—
>
> Sjt. G. D. Birla, Delhi and Calcutta; Sir Purshotamdas Thakurdas, Bombay; Sir Lallubhai Samaldas, Bombay; Dr. B. R. Ambedkar, Bombay; Sheth Ambalal Sarabhai, Ahmedabad; Dr. B. C. Roy, Calcutta, Lala Shri Ram, Delhi; Rao Bahadur M. C. Raja, Madras; Dr. T. S. S. Rajan, Trichinopoly; Rao Bahadur Srinivasan, Madras; Mr. A. V. Thakkar, General Secretary, Delhi."

It will be seen that out of 8 members 3 were drawn from the Untouchables. After my retirement from the Board, the other two namely Rao Bahadur M. C. Rajah and Rao Bahadur Srinivasan also retired. I do not know the reasons why they dissociated themselves from the Sangh.

It is right and proper that I should state the reasons why I severed my connection with the Sangh. After the Poona Pact I proceeded in a spirit of forget and forgive. I accepted the *bona fides* of Mr. Gandhi as I was asked to do by many of his friends. It was in that spirit that I accepted a place on the Central Board of the Sangh and was looking forward to play my part in its activities. In fact, I wanted to discuss with Mr. Gandhi the programme of work which I felt the Sangh should undertake. Before I could do that, I was called to go to London to attend the third Round Table Conference. The next best thing I could do was to communicate my views to

Mr. A. V. Thakkar, the Secretary of the Sangh. Accordingly I wrote the following letter from the steamer:—

M/N "VICTORIA,"
PORT SAID,
Nov. 14, 1932.

DEAR MR. THAKKAR,

I received your wire previous to my departure to London, informing me of the acceptance of my suggestion regarding the nomination of Rao Bahadur Shrinivasan to the Central Board and Mr. D. V. Naik to the Bombay Provincial Board, I am glad that this question has been amicably settled and that we can now conjointly work out the programme of the Anti-Untouchability League.[1] I wish I had an opportunity to meet the members of the Central Board to discuss with them the principles which the League should follow in framing its programme of work, but unfortunately owing to my having to leave for London at a very short notice, I have had to forego that opportunity. I am however doing the second best namely to convey to you my views in writing for placing them before the Board for their consideration.

In my opinion there can be two distinct methods of approaching the task of uplifting the Depressed Classes. There is a school, which proceeds on the assumption that the fact of the individual belonging to the Depressed Classes is bound up with his personal conduct. If he is suffering from want and misery it is because he must be vicious and sinful. Starting from this hypothesis this School of social workers concentrates all its efforts and its resources on fostering personal virtue by adopting a programme which includes items such as temperance, gymnasium, co-operation, libraries, schools, etc., which are calculated to make the individual a better and virtuous individual. In my opinion, there is also another method of approach to this problem. It starts with the hypothesis that the fate of the individual is governed by his environment and the circumstances he is obliged to live under, and if an individual is suffering from want and misery it is because his environment is not propitious. I have no doubt that of the two views the latter is the more correct, the former may raise a few stray individuals above the level of the class to which they belong. It cannot lift the class as a whole. My view of the aim of the Anti-Untouchability League is that it has come into existence not for helping a few individuals at random or a

1. Harijan Sevak Sangh was the name given to the League at a later stage.

few selected boys belonging to the Depressed Classes but for raising the whole class to a higher level. Consequently, I would not like the League to dissipate its energies on a programme calculated to foster private virtue. I would like the Board to concentrate all its energies on a programme that will effect a change in the social environment of the Depressed Classes. Having stated in general terms my views, I venture to place some concrete proposals for work to be undertaken by the League.

1. A Campaign to secure Civil Rights

I think the first thing that the League should undertake is a campaign all 6ver India to secure to the Depressed Classes the enjoyment of their civic rights such as taking water from the village wells, entry in village schools, admission to village chawdi, use of public conveyance, etc. Such a programme if carried into villages will bring about the necessary social revolution in the Hindu Society, without which it will never be possible for the Depressed Classes to get equal social status. The Board must, however, know what difficulties it will have to face if this campaign of civic rights is to be carried through. Here I can speak from experience, because I, as President, know what happened when the Depressed Classes Institute and the Social Equality League launched such a plan in the Kolaba and the Nasik Districts of the Bombay Presidency. First of all, there will be riots between the Depressed Classes and the caste Hindus which will result in breaking heads and in criminal prosecutions of one side or the other. In this struggle, the Depressed Classes will suffer badly because the Police and the Magistracy will always be against them. There has not been a single case in the course of the social struggle carried on in these two districts, in which the Police and the Magistracy have come to the rescue of the Depressed Classes even when justice was on their side. The Police and the Magistracy are as corrupt as they could be, but what is worse is that they are definitely political in the sense that they are out not to see that justice is done but to see that the dignity and interests of the caste Hindus as against the Depressed Classes are upheld. Secondly, the villages will proclaim a complete boycott of the Depressed Classes, the moment they see the latter are trying to reach a status of equality along with them. You know what harrowing tales of harassment, unemployment and starvation, which the Depressed Classes repeated before the Starte Committee of which you were a member. I therefore do not think it necessary to say anything more about the severity of this

weapon and of its dreadful power to bring all efforts of the Depressed Classes to rise above their degraded station to a standstill.

I have mentioned only two of the many obstacles which the League will have to overcome, if this campaign of civic rights is to be successful and the League will have to have an army of workers in the rural parts, who will encourage the Depressed Classes to fight for their rights and who will help them in any legal proceedings arising therefrom to a successful issue. I am so much convinced by the efficiency of this programme that I have not the slightest hesitation in saying that the League ought to look upon this as primary in comparison to everything else. It is true that this programme involves social disturbance and even bloodshed. But I do not think that it can be avoided. I know the alternative policy of adopting the line of least resistance. I am convinced that it will be ineffective in the matter of uprooting untouchability. The silent infiltration of rational ideas among the ignorant mass of caste Hindus cannot, I am sure, work for the elevation of the Depressed Classes. First of all, the caste Hindu like all human beings follows his customary conduct in observing untouchability towards the Depressed Classes. Ordinarily people do not give up their customary mode of behaviour because somebody is preaching against it. But when that customary mode of behaviour has or is believed to have behind it the sanction of religion mere preaching, if it is not resented and resisted, will be allowed to waft along the wind without creating any effect on the mind. The salvation of the Depressed Classes will come only when the Caste Hindu is made to think and is forced to feel that he must alter his ways. For that you must create a crisis by direct action against his customary code of conduct. The crisis will compel him to think and once he begins to think he will be more ready to change than he is otherwise likely to be. The great defect in the policy of least resistance and silent infiltration of rational ideas lies in this that they do not *compel* thought, for they do not produce crisis. The direct action in respect of Chawdar Tank in Mahad, the Kalaram Temple in Nasik and the Gurwayur Temple in Malabar have done in a few days what million days of preaching by reformers would never have done. I therefore strongly recommend this campaign of direct action for securing civic rights of the Depressed Classes for adoption by the Anti-Untouchability League. I know the difficulties of this campaign, and from such experience as I have of it I am convinced that the forces in charge of Law and Order must be on our side, if it is to end in success. It is

because of this that I have deliberately excluded temples from its scope and confined it only to public rights of a civic nature, the exercise of which I feel Government is bound to protect.

2. Equality of Opportunity

The second thing I would like the Anti-Untouchability League to work for, is to bring about equality of opportunity for the Depressed Classes. Much of the misery and poverty of the Depressed Classes is due to the absence of equality of opportunity which in its turn is due to untouchability. I am sure you are aware that the Depressed Classes in villages and even in towns cannot sell vegetables, milk or butter—ways of earning a living which are open to all and sundry. A caste Hindu will buy these things from a non-Hindu, but he will not buy them from the Depressed Classes. In the matter of enjoyment, his condition is the worst. In Government Departments the bar-sinister operates and he is denied the place of a constable or even a messenger. In industries he fares no better. Like the Negro in America he is the last to be employed in days of prosperity and the first to be fired in days of adversity. And even when he gets a foothold, what are his prospects ? In the Cotton Mills in Bombay and Ahmedabad he is confined to the lowest paid department where he can earn only Rs. 25 per month. More paying departments like the weaving department are permanently closed to him. Even in the low paid departments he cannot rise to the highest rung of the ladder. The place of the boss is reserved for the caste Hindu while the Depressed Class worker must slave as his underdog, no matter how senior or how efficient. In departments where the earning depends on piece work, he has failed to earn as well as Caste Hindu employees because of social discrimination. Depressed Classes women working in the Winding and Reeling Departments have come to me in hundreds complaining that the Naikins instead of distributing the raw material to all employees equally or in fair proportion, give all of it to the caste Hindu women and leave them in the cold. I have given only a few of the instances of the gross inequality of opportunity from which the Depressed Classes are suffering mainly at the hands of the Hindus. I think it would be fit and proper, if the Anti-Untouchability League were to take up this question by creating public opinion in condemnation of it and establishing bureaus to deal with urgent cases of inequality. I would particularly desire the League to tackle the problem of opening the Weaving department of the

Cotton mills to the Depressed Classes as it is likely to make a very large opening for prosperous employment to members of the Depressed Classes. Much can be done by private firms and companies managed by Hindus by extending their patronage to the Depressed Classes and by employing them in their offices in various grades and occupations suited to the capacities of the applicants.

3. Social Intercourse

Lastly, I think the League should attempt to dissolve that nausea, which the touchables feel towards the Untouchables and which is the reason why the two sections have remained so much apart as to constitute separate and distinct entities. In my opinion the best way of achieving it is to establish closer contact between the two. Only a common cycle of participation can help people to overcome the strangeness of feeling which one has, when brought into contact with the other. Nothing can do this more effectively in my opinion than the admission of the Depressed Classes to the houses of the caste Hindus as guests or servants. The live contact thus established will familiarize both to a common and associated life and will pave the way for that unity which we are all striving after. I am sorry that many caste Hindus who have shown themselves responsive are not prepared for this. During those ten days of the Mahatma's fast that shook the Indian world, there were cases in Vile Parle and in Mahad where the caste Hindu servants had struck work because their masters had abrogated the rules of untouchability by fraternising with the Untouchables. I expected that they would end the strike and teach a lesson to the erring masses by filling the vacancies by employing Depressed Classes in their place. Instead of doing that they capitulated with the forces of orthodoxy and strengthened them. I do not know how far such fair-weather friends of the Depressed Classes would be of help to them. People in distress can have very little consolation from the fact that they have sympathisers, if those sympathisers will do nothing more than sympathise, and I may as well tell the League that the Depressed Classes will never be satisfied of the *bona fides* of these caste Hindu sympathisers until it is proved that they are prepared to go to the same length of fighting against their own kith and kin actual warfare if it came to that for the sake of the Depressed Classes as the Whites of the North did against their own kith and Ton, namely, the Whites of the South for the sake of the emancipation of the Negro. But this thing apart, I think it is necessary that the League should endeavour to

inculcate upon the mind of the Hindu public the necessity of establishing contact and social intercourse between the touchables and the untouchables in the way I have mentioned.

4. Agency to be Employed

The League will hare to employ a very large army of workers to carry out its programme. The appointment of social workers might perhaps be looked upon as a minor question. Speaking for myself, I attach very great importance to the selection of a proper agency to be employed in this behalf. There can always be found workers to do a particular piece of work or any other for the matter of that if they are paid for it. I am sure such mercenary workers will not serve the purpose of the League. As Tolstoy said: "Only those who love can serve." In my opinion that test is more likely to be fulfilled by workers drawn from the Depressed Classes. I should therefore like the League to bear this aspect of the question in mind in deciding upon whom to appoint and when not to appoint. I do not suggest that there are not scoundrels among the Depressed Classes who have not made social service their last refuge. But largely speaking you can be more sure that a worker drawn from the Depressed Classes will regard the work as love's labour—a thing which is so essential to the success of the League. Secondly, there are agencies which are already engaged in same sort of social service without any confines as to class or purpose—and may be prepared to supplement their activity by taking up the work of Anti-Untouchability League in consideration of a grant-in-aid. I am sure this hire-purchase system of work—if I may use that expression—can produce no lasting good. What is wanted in an agency is a singleminded devotion to one task and one task only. We want bodies and organisations which have deliberately chosen to be narrow-minded in order to be enthusiastic about their cause. The work it is to be assigned must be assigned to those who would undertake to devote themselves exclusively to the work of the Depressed Classes.

I am afraid I have already trespassed the limits of a letter and I do not think I can err further in that direction without being tediously long. I had many other things to say but I now propose to reserve them for another occasion. Before closing this I wish to say just this. It was Balfour I think who said-that what could hold the British Empire together was love and not law. I think that observation applies equally to the Hindu Society. The touchables and the untouchables cannot be held together by law—certainly not by any electoral

law substituting joint electorates for separate electorates. The only thing that can hold them together is love. Outside the family justice alone in my opinion can open the possibility of love, and it should be the duty of the Anti-Untouchability League to see that the touchable does, or failing that is made to do, justice to the Untouchable. Nothing else in my opinion can justify the project or the existence of the League.

With best wishes and kind regards.

I am,
Yours sincerely,
(Sd.) B. R. AMBEDKAR.

F.S.

I am releasing this to the Press so that the general public may know my views and have an opportunity to consider them.

To

A. V. THAKKAR, ESQ.,
General Secretary,
Anti-Untouchability League,
Birla House,
New Delhi.

IV

To my great surprise, I found that no attention was paid to my proposals. Indeed, my letter was not even acknowledged! I felt that there was no use in my remaining in the Sangh. I dissociated myself from it. I found that in my absence the aims and objects had undergone a complete change. At the meeting Held in Cowasjee Jehangir Hall in Bombay on the 30th September 1932 the aims of the organization were stated to be:—

> "Carrying propaganda against Untouchability and taking immediate steps 'to secure as early as practicable that all public wells, dharamshalas, roads, schools, crematoriums, burning ghats and all public temples be declared open to the Depressed Classes, provided that no compulsion or force shall be used and that only peaceful persuasion shall be adopted towards this end.'"

But in the statement issued by Mr. G. D. Birla and Mr. A. V. Thakkar *on* the 3rd November two months after its inauguration it was stated :—

> "The League believes that reasonable persons among the Sanatanists are not much against the removal of Untouch-

ability as such, as they ate against inter-caste dinners and marriages. Since it is not the ambition of the League to undertake reforms beyond its own scope, it is desirable to make it clear that while the League will work by persuasion among the caste Hindus to remove every vestige of Untouchability, the main line of work will be constructive, such as the uplift of Depressed Classes educationally, economically and socially, which itself will go a great way to remove untouchability. With such a work even a staunch Sanatanist can have nothing but sympathy. And it is for such work mainly that the League has been established. Social reforms like the abolition of the caste system and inter-dining are kept outside the scope of the League."

Here there was a complete departure from the original aims of the organization. Removal of Untouchability had only a nominal place in the programme. Constructive work became the main part of the work of the Sangh. It is pertinent to ask why this change in the aims and objects was made. This change in the aims and objects could not have been brought about without, the knowledge and consent of Mr. Gandhi. The only reason one can see is that the original programme was most inconvenient to Mr. Gandhi. Removal of Untouchability as a platform was very good, but as a programme of action it was bound to have made Mr. Gandhi very unpopular with the Hindus. He was not prepared to court such unpopularity. He therefore preferred the programme of constructive work which had all advantages and no disadvantages. The Hindus did not mind it. Mr. Gandhi could pursue it without incurring the displeasure of the Hindus. The programme of constructive work had no such disadvantage. On the other hand, it had a positive advantage to recommend it. It had the possibility of destroying the independent movement which the Untouchables had built up and which had forced Mr. Gandhi in 1932 to yield to its demands by agreeing to the Poona Pact by dangling well before them the benefits of the constructive work, a consummation which all Congressmen so devoutly wish. It could make Untouchables Congressmen and most gracefully too. The programme of constructive work had the possibility of being converted into a plan to kill Untouchables by kindness. This as a matter of fact has happened. The Harijan Sevak Sangh is intolerent of any movement on the part of the

Untouchables which is independent and opposed to the Hindus and the Congress and is out to destroy it. Anticipating that such would be the consequences of the change in the aims and objects, I retired from the Sangh.

Since the first batch of the Untouchables left the Sangh no attempt was made by Mr. Gandhi to appoint other Untouchables in their places. Instead, the management of the Sangh has been allowed to pass entirely into the hands of the Hindus of the Congress persuasion. Indeed, it is now the policy of the Sangh to exclude Untouchables from the management and higher direction of the Sangh. As will be seen from the refusal of Mr. Gandhi to agree to the suggestion made by deputation of Untouchables[1] requesting him to appoint Untouchables to the managing body. Mr. Gandhi has propounded a new doctrine to console the deputations. He says: "the Welfare work for the Untouchables is a penance which the Hindus have to do. for the sin of Untouchability. The money that has been collected has been contributed by the Hindus. From both points of view the Hindus alone must run the Sangh. Neither ethics nor right would justify Untouchables in claiming a seat on the Board of the Sangh." Mr. Gandhi does not realize how greatly he has insulted the Untouchables by his doctrine, the ingenuity of which has not succeeded in concealing its gross and coarse character. If Mr. Gandhi's point is that the money is collected by the Hindus and the Untouchables have therefore no right to say how it shall be spent, no self respecting Untouchable will bother him arid fortunately those Untouchables who have gone to him for such favour are just unemployed loafers who are seeking to make politics a source of their livelihood. But Mr. Gandhi must realize that what he says is only a justification for the change. It does not explain what has been the cause of this profound change in the original conception of the Sangh. It is pertinent to ask: why at one time he was anxious to have Untouchables on the Governing Body of the Sangh and why he is determined now to exclude them?

V

The writer of the letter in the *Indian Social Reformer* is right when he says the Untouchables felt no hostility towards

1. The deputation of the Untouchables that waited on Mr. Gandhi is not the first of its kind. Others have done so previously with the same result.

the Depressed Classes Mission Society which like the Harijan Sevak Sangh was also engaged in doing welfare work among the Untouchables. Hindus and Untouchables both worked together in perfect harmony towards furthering the work of the Mission. The writer is not quite correct when he says that this was due to the Depressed Classes Mission having always taken care to have on its Managing Committee a certain number of Untouchables. This is quite true. But the reason why there was no hostility between the Mission and the Untouchables and why there is between the Untouchables and the Sangh is quite different. It lies in the fact that the Mission had ho political objective behind its work but the Sangh has.

It is true that the original intention was to keep the Sangh scrupulously aloof from politics. It was stated in the statement issued on 3rd November 1932 that:—

> "The League may be able to carry on its work on a nonparty basis, it has decided not to associate itself with politics or religious propaganda of any kind. The heads of Provincial as well as Central Executive will, therefore, have to be very careful in the selection of their active workers. With this object in view it is necessary that all whole-time paid workers of the League should not take part in politics or in any sectional or religious propaganda."

But this pronouncement was respected more in its breach than in the observance thereof. It may be that it was impossible to resist the temptation of using the Harijan Sevak Sangh for bringing the Untouchables into the Congress fold, make them accept Congress politics and impress upon them Congress ideologies, especially when the sense of gratitude for service rendered, no matter how petty, would make them receptive for such processes. It may be that it was necessary to make the Harijan Sevak Sangh a political manufactory in addition to its being a service station for the Untouchables. To have equipped the Untouchables for their struggle in life and to have left them free to choose their politics would be charity pure and simple. But how long would the Hindus have supported such a charity ? Not very long. There being no sense of sin behind the treatment of Untouchables by the Hindus and no cause for repentance or expiation, the charity on which the Sangh lives would have dried out. To prevent this the Sangh may have felt that to get continued charity it

must show results i.e. to prove to the Hindus that the Untouchables are no longer independent of and opposed to the Hindus in the matter of religion and politics. My analysis of the causes may not be accurate. But there is no denying the fact that the Harijan Sevak Sangh is a political organization the aim and object of which are to draw the Untouchables into the Congress fold.

I can give only a few instances which strike me as important.

The Harijan Sevak Sangh holds Conferences of its workers. These Conferences were ostensibly "organized for the purpose of examining the progress of work in different linguistic provinces and for exchanging ideas and experiences." One such conference was held in Poona in the first week of June 1939. It was found that this Conference had planned to pass a resolution asking Government to change the system of voting under the Poona Pact by substituting distributive system for cumulative voting. I have already pointed out how after its surrender marked by the Poona Pact, the Congress insisted upon the adoption of the distributive system of voting and how dangerous it was to the Untouchables and how it would have nullified the Poona Pact. The Congress failed. What the Congress failed to do the Sangh took upon itself to advocate knowing full well that it was opposed by the Untouchables. A strange resolution for a non-political body ! It is like a drunkard with a red nose trying to convince his neighbours that he is a teetotaler. The Sangh was prevented from pursuing the course by a demonstration of the Untouchables.

I am in a position to state that the Bombay Branch of the Harijan Sevak Sangh had followed the policy of black listing some of the Untouchable communities residing in Bombay, on account of its Anti-Congress attitude. Students from communities which were black listed were refused scholarships and other educational aids. The Mahar Community, which forms the spearhead of the political movement of the Untouchables and has all along fought with the Congress, was black listed and Mahar students were generally subjected to discrimination unless the student proved that he did not. share the Anti-Congress sentiments of the Community.

The last instance I would refer to has reference to Mr. A. V. Thakkar the General Secretary of the Harijan Sevak Sangh. Mr. Thakkar is also a member of the Backward Classes Board

of the Bombay Government. It was established in 1929. It meets periodically and advises Government on matters affecting the Untouchables and other backward Classes.

Mr. Thakkar brought a resolution in the meeting of the Board recommending to Government that scholarships set apart by Government for Untouchable boys should not be given to the Mahar boys alleging that the Mahar Community had become very much advanced in education and was appropriating—or according to him misappropriating—the share of Government funds which ought to be reserved for other Untouchable Communities. The resolution was sent down for investigation of the facts on which it was found. The inquiry showed that the facts were wrong and that the Mahars instead of being forward were really backward in education as compared with other Untouchable Communities. The resolution was nothing but a political manoeuvre by no less a person than the General Secretary of the Harijan Sevak Sangh to punish the Mahars for their Anti-Congress politics.

What does all this show ? Does it not show that the Harijan Sevak Sangh is a charitable organization only in name, and that its real aim is to ensnare the Untouchables, to make them the camp-followers of the Hindus and the Congress and to scotch any movement by them the aim and object of which are to free themselves from the social, religious, economic and political domination of the Hindus ? Is there any wonder if the Untouchables look upon the Harijan Sevak Sangh as an abomination, the object of which is to kill them by kindness ?

●●

CHAPTER VI
A FALSE CLAIM

I

THE Congress has been loudly and insistently claiming that it is the only political organization in India which is representative of the people of India. At one time it used to claim that it represents the Musalmans also. This it does not now do, at any rate not so loudly and insistently. But so far as the Untouchables are concerned the Congress maintains most vehemently that it does represent them. On the other hand, the non-Congress political parties have always denied this claim. This is particularly true of the Untouchables who have never hesitated to repudiate the Congress claim to represent them.

In this rivalry the Congress has been able to beat down the Untouchables and the other non-Congress Parties by the sheer strength of the resources in publicity and propaganda. The result has been that most foreigners interested in Indian affairs have become infected by this propaganda, and have come to believe in the validity of the Congress claim. So long as the world had to depend upon nothing but propaganda, the Congress could very easily fool the foreigner and there was no help for those who denied the Congress claim to represent all. They had no means of coping with the situation. But since the Election of 1937 to the Provincial Legislatures the situation has been altered. Instead of depending upon general statements backed by propaganda, one can now determine the issue in terms of seats and votes which is a more concrete measure of appraisement than mere propaganda.

What do the election returns show ? What is the total number of seats captured by the Congress ? What is the total number of votes secured by the Congress ?

First, let us ascertain the number of seats captured by the Congress. Soon after the elections had taken place, the Congress held a Convention of all those who were elected to the Provincial Legislatures on the Congress ticket, which met

in New Delhi on March 19, and 20, 1987. In that connection, the Congress issued a bulletin in which their names are given. Taking that information as accurate, the following appears to be the strength of the Congress in each Provincial Legislature :—

Table 6

Congress Strength in Provincial Assemblies

Province	*Total Strength of the Assembly*	*Congress Strength in the Assembly*
Assam	108	35
Bengal	250	60
Bihar	152	95
Bombay	175	85
C. P. and Berar	112	70
Madras	215	159
Orissa	60	36
Punjab	175	18
Sind	60	8
U.P	228	134
N.W.F.P.	50	19
Total	1,585	719

Table 7

Congress Strength in Provincial Councils

Province	*Total Strength of the Council*	*Congress Strength in the Council*
Assam	18	*Nil*
Bengal	57	10
Bihar	26	8
Bombay	26	14
Madras	46	26
Total	173	58

These tables show that taking the two Houses together the Congress secured 777 seats out of a total of 1,758. The Congress obviously is not a majority party. It did not secure even half the number of seats.

This is the position of the Congress in terms of the number of seats. What is the position of the Congress in terms of voting strength ? The following figures will show that even in point of voting strength the Congress came out as a minority.

Table 8

Abstract of Votes Cast in the Election distributed as between Congress and Non-Congress Parties

Province		*Total Votes cast*	*Votes cast in favour of Congress*	*Votes cast in favour of Non-Congress*
Madras	Assembly ...	4,327,734	2,658,966	1,668,768
	Council ...	33,511	16,907	16,604
Bombay	Assembly ...	3,408,308	1,568,093	1,840,215
	Council ...	23,730	9,420	14,310
Bengal ...	Assembly ...	3,475,730	1,055,900	2,419,830
	Council ...	5,593	1,489	4,104
U.P.	Assembly ...	3,362,736	1,899.325	1,463,411
	Council ...	9,795	1,580	8,215
Bihar ...	Assembly ...	1,477,668	992,642	485,026
	Council ...	4,318	96	4,222
Punjab ...	Assembly ...	1,710,934	181.-265	1,529,669
C. P. ...	Assembly ...	1,317,461	678,265	639,196
Assam	Assembly ...	522,332	129,218	393,114
	Council ...	2,623	Nil	2,623
N.W.F.P.	Assembly ...	179,529	43,845	135,684
Orissa	Assembly ...	304,749	198,680	106,069
Sind	Assembly ...	333,589	18,944	314,645
Total ...	... ...	20,500,340	9,454,635	11,045,705

It is not enough to know these figures. They must be read in the light of other circumstances. The first such circumstance is the level of the franchise. The other is the relative position of the two parties in the election. Without taking these into account it would not be possible to understand the full significance of the election results. As to franchise, it is very high, and the electorate, compared with the total population, is indeed very small. How small a part of the total population it formed will be seen from the comparative figures given in the following table:—

Table 9

Province	*Population (1931)*	*Electorate*
Madras	47,193,602	6,145,450
Bombay and Sind	26,398,997	3,249,500
Bengal	51,087,338	6,695,483
U.P	49,614,833	5,335,309
Punjab	24,018,639	2,686,094
Bihar and Orissa	42,329,583	2,932,454
C.P.	17,990,937	1,741,364
Assam	9,247,857	815,341
N.WJ.P.	4,684,364	246,609
Total	272,566,150	29,847,604

Only about ten per cent of the population was given the right to vote. The high franchise made the electorate a hive of the middle and the intellectual classes, both of which were intensely pro-Congress. Coming to the relative position of the Congress and the Non-Congress Parties, the following points call for special notice. On the Congress side there were massed all the sinews of war, money and organization. The Non-Congress candidates were without a party chest and had no organization. The Congress candidates were the blue boys of the public. They were enemies of British Imperialism, out to achieve freedom and independence of the country. Gaol life had invested the Congress candidates with the halo of martyrdom. As a rule no one was selected as a Congress candidate who had not gone to gaol. The Non-Congress candidates were represented by the congress Press—and as I have said there is no other press in India—as the showboys of the British, with no record of service to or sacrifice for the country, agents of British Imperialism, enemies of the country, job-hunters, fellows out to sell the interests of the country for a mess of pottage and so on. There was another factor which told in favour of the Congress candidates and against the Non-Congress candidates. The Congress had boycotted the Montagu-Chelmsford Reforms of 1920 and the Congress candidates had not to answer for any act of commission or omission in regard to the administration of the country. The Non-Congress candidates on the other hand were drawn from those who had worked the Reforms and had to answer for many acts of omission and commission, which is the lot of all those who have the courage to take upon their shoulders the responsibilities of administration. The Non-Congress candidates were accused of having made the places dirty and the Congress candidates were proclaimed as angels going to clean the augean stables. In a situation like this, any one, knowing how the dice was loaded in favour of the Congress, cannot but feel surprised at the sorry figure the Congress cut in the election. With all its resources, prestige and public sympathy the Congress should have swept the polls. But it did not even get fifty per cent of the seats or the votes.

Is there any doubt that the Congress claim to represent all classes and communities is a hollow claim with no foundation in fact ?

II

LET me next proceed to examine the Congress claim to, represent the Untouchables. This claim also can now be determined by reference to the results of the elections that took place in 1937. A correct understanding of the results of the electoral contests between Congress and the Untouchables, I fear, will not be possible to those who have no knowledge of the electoral plan devised to give representation to the Untouchables. I therefore feel it necessary to explain in the first instance the Indian Electoral system, particularly for the benefit of the foreigner. It may be described by reference to the four elements of an Electoral System, namely, (1) Electorates which is the Indian term for constituencies, (2) Right to vote, (3) Right to stand as a candidate for election and (4) Rules for determining who is a successful candidate.

1. There are two sorts of Electorates recognized by the Government of India Act, 1935,

   (1) Non-Territorial.

   (2) Territorial.

2. Non-Territorial Electorates are Electorates which are designed to give representation to special interests such as Landlords, Chambers of Commerce, Trade Unions, etc.

3. Territorial Electorates fall into three categories :—

   (*i*) Separate Territorial Electorates known in their abbreviated form as Separate Electorates.

   (*ii*) General Territorial Electorates.

   (*iii*) Joint Territorial Electorates with Reserved Seats, commonly spoken of as Joint Electorates.

4. Separate Electorates are Communal Electorates. They are designed to give representation to specified Communities, namely, Muslims, Indian Christians, Europeans and Anglo-Indians. The voters of each of these Communities in a given area are grouped into one Electorate, separate from the rest. They elect a voter of their Community as their representative exclusively by their own votes. The governing feature of a separate electorate is that in an election through a separate electorate only voters of a Community can vote and stand for election. If it is a Muslim Electorate the voter and the

candidate must be a Musalman; if it is a Christian Electorate the voter and the candidate must be a Christian and so on. The election is decided by a majority of votes cast by voters of the particular community.

5. A General Electorate is the normal usual form of the electorate, an electorate which comprises of voters of all communities living in an area but which are outside the system of Separate Electorates. It is called a General Electorate because it is an electorate in which neither community nor religion finds any recognition. It is an electorate of the Rest i.e. other than Muslims, Indian Christians, Europeans and Anglo-Indians. In a General Electorate :—

   (*i*) No voter who is in a Separate Electorate has a right to vote in or stand for election.

   (*ii*) Every voter who is on its electoral roll has a right to vote and to stand for election without reference to his caste, creed or community.

   (*iii*) The result of the election is determined by a simple majority of votes cast.

6. A Joint Electorate is a cross between Separate Electorate and the General Electorate. It has some things in common with Separate Electorate and the General Electorate. But it also differs from both in other particulars. The points of agreement and of difference are set out below :—

   (*i*) *Joint Electorate compared with Separate Electorate :*

   (1) Joint Electorate is akin to Separate Electorate in as much as both aim to earmark a seat for a particular community.

   (2) Joint Electorate differs from a Separate Electorate in two respects :—

   (*a*) In a Separate Electorate the right to vote in the election is confined to voters of the community for which the seat is earmarked, while in a Joint Electorate, though the seat is earmarked for a particular community, in other words though the right to stand is confined to a member of a particular community, the right to vote in the election for that seat is open to other communities which make up the General Electorate.

(*b*) In both cases the poll is declared on the basis of majority votes. But in the case of a separate electorate the majority is and must be of the voters belonging to the same community as that of the candidate, while in the case of a joint electorate majority need not be of the same community as that of the candidate.

(*ii*) *Joint Electorate compared with General Electorate:*—

(1) A Joint electorate is akin to a General Electorate in as much as in both a voter is free to vote for any candidate standing for a general Constituency.

(2) A Joint Electorate differs from a Separate Electorate in two respects :—

(*a*) A General Electorate may be a single member electorate. But a Joint Electorate must at least be a two-member electorate one general and one reserved.

(*b*) In a General Electorate no seat is earmarked for any community. But in a Joint Electorate one at least must be reserved.

7. *Special Features of Joint Electorate.*

A Joint Electorate with Reserved Seats is essentially a General Electorate with the following distinguishing features:—

(1) A General Electorate may be a single member electorate. But a Joint Electorate must necessarily be a plural member Electorate.

(2) In a General Electorate the seat or seats to be filled by Election are open to all, and all communities not enclosed in separate electorates are entitled to contest and the result of the election is determined by majority of the votes polled by the candidates without reference to community of the voter or the candidate. But in a Joint Electorate at least one seat is reserved for some particular community which means that the right to stand as a candidate for such reserved seat is restricted to members of that community.

(3) While the right to stand in a Joint Electorate is restricted, the right to vote is unrestricted and all

voters in the General Electorates, i.e., even voters of communities other than the one for which the seat is reserved are free to vote for the election of the candidate for the Reserved Seat.

(4) In declaring the result of the election to the reserved seat, there is no requirement that the successful candidate must have obtained a specified quantum of votes of the voters of this community. The rule is that the candidate of the community for which the seat is reserved if there is only one or if there be more than one candidate then the one who polls the highest number of votes must be declared to be elected even if another candidate belonging to the general community has secured a greater number of votes than the community's candidate.

Such is the Electoral system which obtains in India. The system made applicable to the Untouchables is the one referred to as the system of Joint Electorates with Reserved Seats and described under 7 above. To give effect to the principle of reservation for the Untouchables what is done is to pick out a requisite number of General Electorates, convert them into plural member electorates and reserve in each such electorate one or two seats for the Scheduled Castes. Different Provinces have different number of such Joint Electorates. Their actual number is determined by the number of seats allotted to the Scheduled Castes in the Provincial Legislature and by the number of seats reserved for them in each Joint Electorate. Attention may also be drawn to some features of the plan, which from the point of view of results are of crucial character.

The Joint Electorate is a general electorate. But it must not on that account be supposed that it is a constituency consisting of the generality of voters. As has already been pointed out, the Muslims, Indian Christians, Anglo-Indians and Europeans have been given separate electorates and consequently, the Muslim, Indian Christian, Anglo-Indian and European voters are excluded from a Joint Electorate. The result is that the Joint Electorate is a constituency in which the only voters who are included are those belonging to the Scheduled Castes, Hindus, Parsis and Jews. As the Parsis and Jews are negligible except in Bombay, the Joint Electorate consists of Hindus and Scheduled Castes only.

Although the General Electorate selected for reserving a seat for the Untouchables may be bigger than a two-member constituency and although it is open to reserve more than one seat for the Untouchables in one General Electorate, in all provinces the general plan is to select a two-member General Electorate, and to reserve one seat for the Hindus and one seat for the Scheduled Castes. It is only in Bengal there are three constituencies in which two seats are reserved for the Scheduled Castes. The Joint Electorate is thus a linked constituency. Two features of this Joint Electorate should be noted: (1) The Hindu voters in a Joint Electorate are almost always in a majority, if not in an overwhelming majority and the Scheduled Castes voters are almost always in a minority, if v not in a hopeless minority. (2) A Hindu voter can vote for the election of a Scheduled Caste candidate standing for the seat reserved for the Scheduled Castes and a Scheduled Caste voter can vote for the election of a Hindu candidate standing for the Hindu seat.

Under the system what are the probabilities ? Will the Scheduled Castes be able to elect a Scheduled Caste candidate who has their confidence to the seat reserved for them or will the Hindus be able to elect a Scheduled Caste candidate who is their tool and who has no confidence of the Scheduled Castes ? The probabilities will be determined by two considerations: (1) by the number of seats reserved for the Hindus and (2) by the nature of the political organizations prevailing among the Hindus. If there is only one seat reserved for the Hindus and if the Hindus are so organized that they can prevent a contest for their seat and avoid frittering away their votes then it is absolutely certain that the Hindu nominee from the Scheduled Castes will win. The reason is that the Hindus who have a larger voting strength will find a surplus of votes which they do not need for election to their seat and which they can bestow upon their nominee from the Scheduled Castes and help him to win the seat reserved for the Scheduled Castes. The system of joint electorate and reserved seats which is in operation is a system of two member constituency. The Hindus under the Congress are so completely organized that there is no possibility of an electoral contest and consequent waste of votes. The result is that the system helps the Hindus to win the reserved seats and works against the Scheduled Castes. The Hindus are greatly aided in this matter by reason of the fact that for

winning the seat reserved for the Scheduled Castes in a Joint Electorate it is not necessary that the majority of voters should belong to the Scheduled Castes for whom the seat is reserved.

How these weaknesses in the system of joint electorate were exploited by the Congress in the Elections which took place in 1937, will be explained later on. For the moment, I am only drawing attention to the Electoral plan devised for the purpose of giving representation to the Scheduled Castes and how vulnerable some of its features are.

III

We may now proceed to examine the Election Returns. It may be well to begin by asking a simple question: What do Congressmen mean when they say that the Election of 1937 shows that the Congress represents the Untouchables ? A clarification is necessary, because quite obviously the question can have two meanings. It may mean that those Untouchable candidates who stood on the Congress ticket for seats reserved for the Untouchables were elected as against those Untouchable candidates who did not stand on the Congress ticket. It may also mean that more votes were cast by the Untouchable voters in favour of those Untouchable candidates who stood on the Congress ticket than other Untouchable candidates. I propose to examine the returns from both points of view.

The results of the Election, in terms of seats won, have already been presented. It is not necessary to repeat those figures here. It was shown that out of 151 seats the Congress won 78. One cannot say that this result of the contest between the Congress and the Untouchables is a strong piece of evidence : to support the Congress claim that it represents the Untouchables. If the Congress got 78 the Untouchables got 73. It was a neck to neck race.

Let us examine the claim of the Congress to represent the Untouchables in term of votes cast in favour of the Congress Untouchable candidates. The total number of votes cast by the Untouchable Voters in the election of 1987 numbered 1,586,456.

The following table shows how they were distributed, now many were cast in favour of the Congress Untouchable

candidates and how many in favour of Non-Congress Untouchable candidates :

Table 10

Province	*Voting by Untouchable Voters*		
	In favour of Congress	*Against Congress*	*Total of Untouchable Votes cast in the Election*
United Provinces	52,909	79,571	132,180
Madras	126,152	195,464	321,616
Bengal	59,646	624,797	684,443
Central Provinces	19,507	115,354	134,861
Bombay	12,971	158,076	171,047
Bihar	8,654	22,187	30,841
Punjab	*Nil*	69,126	69,126
Assam	5,320	22,437	27,757
Orissa	5,878	8,707	14,585
Total	290,737	1,295,719	1,586,456

It is well-known that the number of seats captured by a party is not always in proportion to the number of votes cast in favour of the party and often a party carries a majority of seats with a minority of votes. This is particularly true where the single member constituency system prevails as it does in India. The real strength is measured by the number of votes secured by the party. Applying this test, it is clear that out of 1,586,456 votes only 290,737 i.e., eighteen per cent have been cast in favour of the Congress. Eighty-two per cent have been against the Congress. Can there be any evidence more conclusive against the Congress claim to represent the Untouchables ? Congressmen may not accept voting strength as a measuring rod. They may continue to base the claim of the Congress to represent the Untouchables on the ground of seats captured. No sane man will look upon 78 out of 151 or majority of five as a victory worth talking about. As a matter of fact the Congress claim even on the basis of seats is futile. For, a further analysis of the Election Returns shows that the Congress far from capturing a majority of seats got only a minority of seats reserved for the Scheduled Castes.

If the credit side of the Congress is to be real and not bogus, then the following deductions must be made from the total of 78 which the Congress has won:

(1) Seats won by the Congress with the help of Hindu voters and which if left to be decided by the votes of the Untouchables only would have been lost by the Congress.

(2) Seats won by the Congress not by reason of an absolute majority but by reason of the splitting of the Untouchable votes due to too many Non-Congress Untouchable Candidates having stood to contest the seat against the Congress Untouchable candidate.

(3) Seats which, it was in the power of Untouchables to win, if they had used their votes in the election to the seats reserved for them and not cast them away in the election of candidates contesting the general or non-reserved seats.

I cannot see how a fair minded person can object to these deductions being made. A candidate whose majority is due to votes of persons other than Untouchables has no right to say that he is a representative of the Untouchables and the Congress cannot claim to represent the Untouchables through him merely because he belongs to the Untouchables and stood on a Congress ticket. An Untouchable candidate whose majority is the result of split in the camp of his opponents and who if there had been no split would have lost, cannot be taken as a real representative of the Untouchables and the Congress cannot claim to represent the Untouchables merely because he belongs to the Untouchables and stood on the Congress ticket. A candidate for a seat reserved for the Untouchables who succeeds in an election in which a large majority of the electors have not played their part cannot be a representative of the electors merely because the seat is an Untouchable seat. Untouchable seats captured by such Untouchable candidates must also be deducted from the total number of seats won by the Congress. The only Untouchable seats which the Congress can claim to have won are those which it has won, exclusively by the votes of the Untouchable voters. All the rest must be deducted. The following table gives the distribution of the seats reserved for the Scheduled Castes and won by the Congress and the circumstances responsible for its success.

Table 11

Analysis of Circumstances which helped Congress to Win the Seats it has Captured

Province	*Number of Seats won by The Congress*				*Total*
	With Hindu Votes	*Without Hindu Votes*	*Due to Splitting of Scheduled Castes Votes*	*By want of interest shown by Scheduled Castes in the Election to Scheduled Castes Seats*	
	(1)	(2)	(3)	(4)	(5)
United Provinces ...	3	6	3	4	16
Madras	5	15	4	2	26
Bengal	—	4	—	2	6
Central Provinces ...	1	5	—	1	7
Bombay	1	1	1	1	4
Bihar	1	3	—	7	11
Punjab	—	—	—	—	—
Assam	1	2	—	1	4
Orissa	1	2	—	1	4
Total	13	38	8	19	78

These are the facts revealed by a study of the Election Returns. They are incontrovertible and must be accepted. Judged by the test of voting the Congress far from representing the Untouchables, the Untouchables are proved to have repudiated the Congress. Judged by the test of seats, the Congress has only won 38 seats out of the total of 151. The account shows that 73 seats it failed to win, 13 it won by Hindu Votes, 8 as a result of split due to too many Untouchables standing against the Congress Untouchable candidate and 19 on account of the foolishness of the Untouchables in not taking sufficient interest in the election to the seats reserved for them.

The following table specifies the Constituencies where such phenomena have occurred. They are classified under three heads and shown Province-wise and referred to by their serial number as shown in the Appendices.

*Table 12**

Provinces	*Analysis of Scheduled Castes Constituencies.*		
	Serial Numbers of Constituencies in which Congress won with Hindu Votes	*Serial Numbers of Constituencies in which Congress won because of splitting of Scheduled Castes Votes*	*Serial Numbers of Constituencies in which Congress won because the Scheduled Castes were indifferent*
United Provinces ...	1, 3 & 4	8, 9 & 10	11,13, 14 & 18
Madras	1, 22, 23, 24 & 25	8, 12, 15 & 17	4 & 21
Bengal	*Nil*	*Nil*	6 & 7
Central Provinces ...	6	Nil	15
Bombay	1	14	3
Bihar	11	Nil	2, 6, 7, 8, 9, 10 & 13
Punjab	Nil	Nil	Nil
Assam	1	Nil	4
Orissa	6	Nil	2

The claim that the Congress represents the Untouchables is thus a false claim from beginning to end. It is a myth which in the light of the results of the election stands completely exploded.

The results of the election reveal other interesting facts which are summarised in the following two tables :

Table 13

Election to Scheduled Castes Seats

Provinces	*Contested*	*Uncontested*	*Total*
United Provinces	15	5	20
Madras	26	4	30
Bengal	28	2	30
Central Provinces	19	1	20
Bombay	14	1	15
Bihar	6	9	15
Punjab	6	2	8
Assam	6	1	7
Orissa	4	2	6
Total	124	27	151

* For details, see Appendix II passim.

Table 14

Scheduled Castes Seats won by the Congress

Provinces	*On Contest*	*Without Contest*	*Total*
United Provinces	14	2	16
Madras	24	2	26
Bengal	6	*Nil*	6
Central Provinces	6	1	7
Bombay	3	1	4
Bihar	4	7	11
Punjab	Nil	Nil	Nil
Assam	3	1	*4*
Orissa	4	*Nil*	*4*
Total	64	*14*	78

Table 13 shows what keen interest the Untouchables have taken in the election to the seats reserved for them. Out of 151 as many as 121 were contested. This disproves the allegation that used to be made that it was no use giving political rights to the Untouchables as they had neither political education nor political consciousness. Table 14 shows that the Untouchables far from looking upon the Congress as their friend and ally have regarded it as their political enemy No. 1. They have very seldom allowed the entry of the Congress in the election to the seat reserved for the Untouchables to go unchallenged. In most of the cases where the Congress had put up an Untouchable candidate on the Congress ticket for a seat reserved for the Untouchables, the Untouchables did not meekly surrender the seat to the Congress but came forward to contest the election by putting up their own candidate on a Non-Congress ticket. Out of the 78 candidates put up by the Congress for the Scheduled Castes seats as many as 64 were contested.

Table 15

Province	*Number of Constituencies classified according to the ratio of Scheduled Castes Voters to every 100 of General i.e. Hindu Voters*											*Remarks*
	10 and Below	*11—15*	*16—20*	*21—25*	*26—30*	*31—35*	*36—40*	*41—45*	*46—50*	*Above* 50*	*Total*	
United Provinces.	*Nil*	7	*3*	6	2	1	*Nil*	1	*Nil*	*Nil*	20	
Madras	*Nil*	5	6	10	3	3	1	1	1	*Nil*	30	
Bengal	*Nil*	*Nil*	*Nil*	3	1	3	1	1	*Nil*	14	25*	
Central Provinces	5	5	1	2	1	*Nil*	1	1	1	3	20	
Bihar	4	5	2	2	2	*Nil*	*Nil*	*Nil*	*Nil*	*Nil*	15	
Punjab	1	1	*Nil*	1	2	*Nil*	*Nil*		*Nil*	2	8	
Orissa	2	*Nil*	*Nil*	2	*Nil*	2	*Nil*	*Nil*	*Nil*	*Nil*	6	
Assam	3	1	*Nil*	*Nil*	*Nil*	*Nil*	*Nil*		*Nil*	2	7	
Bombay	5	3	6	1	*Nil*	*Nil*	*Nil*	*Nil*	*Nil*	*Nil*	15	
Total ...	20	27	18	27	11	9	3	8	2	21	146	

* Five Constituencies have two seats reserved for Scheduled Castes which makes up the total of 30 Seats reserved for the Scheduled Castes of Bengal.

IV

To say that the elections of 1937 do not prove that the Congress was victorious over the Untouchables in the electoral fight is an understatement. In a real sense the Untouchables triumphed over the Congress. If not many are found to admit this, their inability or unwillingness to do so must be attributed to their ignorance of the difficulties which the Untouchables have had to face in their contest with the Congress. These difficulties were very real and very great. It is worthwhile to detail them so that people may know the courage and tenacity with which the Untouchables have fought to prove that they are independent of the Congress and that the Congress does not represent them.

These difficulties can be classified under two heads (1) Organizational and (2) Electoral.

Under the first head special mention may be made of two :—

The first was the difference in the relative degree of resources at the command of the Congress and of the Untouchables. That the Congress is the richest political party goes without saying. No estimate has so far been made of the money the Congress spent in the elections of 1937. If an investigation was made it would be found that the money it spent in advertisement, in conveyance and in canvassing for the candidates who stood on its ticket was simply colossal. All these resources were placed by the Congress at the service of those Untouchables who stood on the Congress ticket. Not one millionth part of these resources were available to those Untouchable candidates who stood against the Congress. Some of them had even to borrow money to pay their deposits. They fought their elections without the help of advertisement, canvassing or conveyance.

The second is the existence of a party machine on the side of the Congress and the complete absence of it on the side of the Untouchables. The party machine as every one knows constitutes the real strength of the Congress. The credit for the creation of a party machine must be given to Mr. Gandhi. It has been in existence for the last 20 years and with the resources it possesses the Congress has kept the machine well oiled and in perfect order always ready to be put in motion by merely pressing the button. It is a vast machine which covers every town and every village in the country. There is no area in

which there is no agent of the Congress to operate this machine. The Untouchables who stood on the Congress ticket had their electioneering done for them by this party machine of the Congress. Those Untouchables who stood against the Congress had no such party machine to help them. The scheme of separate representation was first introduced in Indian politics in the year 1909. The benefit of it was however given only to one community, namely, the Muslims. In 1920 the constitution was revised. In this revised constitution it was extended to the Non-Brahmins. The Untouchables were again left out. They were consoled with representation with one or two seats in the various Provincial Legislatures filled by nomination. It is for the first time in 1935 that they got the franchise and the right to representation through election. It is obvious that not having had any franchise the Untouchables had felt no need to set up a party machine of their own as there were no elections to be fought. They hardly had any time to organize themselves and to set up a party machine when suddenly in 1937 they were called upon to fight the elections. The fight between the Congress and the Untouchables was a fight between an army and a crowd.

The electoral difficulties in the way of the Untouchables were equally great. The first electoral difficulty arose from the unequal voting strength between the Hindus and the Untouchables in those General Electorates in which seats are reserved for the Untouchables. The following table contains figures showing the relative voting strength of the two.

This table shows how in the General Electorates the Scheduled Castes voters are outnumbered by the Hindu voters. Special attention should be paid to the proportion in which they are outnumbered by the Hindus. As the figures in the table show, in 20 constituencies the proportion of Scheduled Castes voters to Hindu voters is 10 to 100, in 27 constituencies between 11 and 15 to 100, in 18 constituencies between 15 and 20 to 100, in 27 constituencies between 21 and 25 to 100 and in 11 constituencies between 20 and 30 to 100. These instances will show how overwhelming is the majority of Hindu voters and by what a substantial margin the Hindus can overpower the Scheduled Castes voters. In this connection it must also be remembered that every Scheduled Caste Constituency is a Joint Electorate in which both classes of voters—those belonging to the Scheduled Castes and those belonging to the

Hindus—can vote for the Scheduled Castes seat and compete to capture it. In this game the relative disproportion in voting strength of the two becomes of immense importance. For success in election in such a linked constituency primarily depends upon relative voting strength of the competing groups.

The second electoral difficulty arose out of the number of the seats fixed for the general constituencies in which seats were reserved for the Untouchables. The following table shows the system adopted in the different provinces.

Table 16

Classification of General Constituencies in which Seats for Untouchables are Reserved

Province	*No. of Seats Reserved for Untouchables*	*No. of Constituencies with 2 Seats*	*No. of Constituencies with 3 Seats*	*No. of Constituencies with 4 Seats*
Madras	30	30	*Nil*	*Nil*
Bombay	15	*Nil*	6	9
Bengal	30	20	5	*Nil*
United Provinces	20	20	*Nil*	*Nil*
Punjab	8	8	*Nil*	*Nil*
Bihar	15	15	*Nil*	*Nil*
Central Provinces	20	20	*Nil*	*Nil*
Assam	7	6	1	*Nil*
Orissa	6	6	*Nil*	*Nil*
Total ...	151	125	12	9

This table shows that out of 151 General Constituencies required to be declared as reserved for the Scheduled Castes as many as 180 were two-member constituencies in which one seat was reserved for the Scheduled Castes and the other was kept as a general seat. It is quite possible that many will not realize the electoral danger that is involved to the Untouchables in this two-member constituency system. But the danger is very real. How real it is, will become clear if it was considered along with the relative voting strength of the Hindus and the Untouchables in the General constituency to which attention has already been drawn. Where the constituency is a plural constituency of—say three or four members— one reserved for the Scheduled Castes and two or three left for the general community, the relatively higher voting strength of the Hindus is not so much a matter of danger as it is when

under the two-member constituency the Hindus have only one candidate to elect. With more candidates to elect the voting strength of the Hindus is split as they become engaged in fighting out the election of their candidates to the general seat and there is no surplus votes left with them, with the result that their excessive voting strength in the constituency does not become a menace to the Scheduled Castes. But, when they have only one seat to win, the chances of their votes being frittered away are remote. Under an organized party system such as that established by the Congress, they are nil. The excess of unused voting strength which they are thus able to retain becomes surplus and unnecessary for them, and which they are quite free to use in supporting a Scheduled Caste candidate of their choice, standing on their ticket as against another Scheduled Caste candidate who is independent and who is not prepared to be their tool. What havoc the Hindus played with their surplus votes is clear from the result of the elections.

When one considers the method of voting and the number of seats fixed and the distribution of the voting strength in the general constituencies one feels whether any better electoral system for deceiving the Untouchables could have been devised. The Joint Electorates to which the Scheduled Castes are tied are like the Rotten Boroughs which existed in England before the Reform Act of 1832. Under the Rotten Borough, the candidate elected was in fact nominated by the boss who controlled the Borough. Similarly, under the system of Joint Electorates the Scheduled Caste candidate who is elected to the Legislature is virtually nominated by the Hindus. That is the reason why Mr. Gandhi is so keenly devoted to the system of Joint Electorates.

One hears a great deal about the Muslim League having grown from strength to strength. But few realize how sheltered the Muslim League is by reason of the system of separate electorates. The Muslims are secure from the menace and mischief of the Congress. Not so are the Untouchables. They axe open to the full blast of the Congress money, Congress votes and Congress propaganda. That the Untouchables overcame all these difficulties without resources, without a party machine and in spite of all electoral difficulties shows their triumph over the Congress and their desire to maintain their independent existence.

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CHAPTER VII

A FALSE CHARGE

Are Untouchables the Tools of the British?

As I have said before, the Congress since the time it came under the auspices of Mr. Gandhi underwent a complete transformation. One of these transformations is noteworthy, for it is this which has made the Congress so famous and which has enabled it to capture the imagination of the people. Before Mr. Gandhi's time it did nothing more than meet annually at different places in India and pass certain and sometimes the same resolutions touching some flaw in the British Administration of India. After Mr. Gandhi took charge of the Congress in 1919, it became a party of action, or, as Congressmen like to put it, the Congress forged sanctions—a thing never thought of before. The sanctions, which make up the Congress armoury and which it has put into action one time or another are : (1) Non-co-operation ; (2) Boycott; (3) Civil Disobedience and (4) Fast. The aim of non-co-operation was to make government useless by refusal to recognise or resort to Government schools, colleges, courts and to make it impossible by refusing to engage in Government service. Boycott was a weapon, the aim of which was to coerce individuals not prepared to follow the dictates of the Congress. It had two edges, social or economic. The social edge cut off all social intercourse even withdrawing the services of barbers, washermen, butchers, grocers, merchants, etc., in short, making life of the culprit impossible in every way. The economic edge cut off all business relations, such as buying and selling of goods. Its objective was the merchant class selling foreign goods. Civil Disobedience was intended to give a direct blow aimed at the British Government. It was a deliberate breach of law with a view to court imprisonment, fill gaols and thereby discredit Government. It is practised either as mass civil disobedience or individual civil disobedience. Unfortunately fasting on a mass scale has not been resorted to by Congressmen. Fasting has only been an individual activity. Unfortunately fasting unto death has also not been practised by Congressmen. It has always been for a term. It is a weapon particularly reserved by Mr. Gandhi for

himself. Even he uses it for a term. These are the four weapons which the Congress forged to give sanction to its demand for India's freedom.

Having forged the sanctions, the Congress has gone on to give demonstrations of the use of these sanctions. Between 1920 and 1942, the country has witnessed demonstrations staged by Congressmen of one form or the other of these sanctions. The din and dust they raised filled the air and drew crowds to witness them. They have come to be described as "Fight for Freedom." What has been the use of such sanctions is a subject which demands serious consideration. But this is not the place for it. One must remain content with the observation that the old Congress could not have done worse. The use of sanctions has really been a tragedy. Swaraj is as far as it has been, but the reckless use of sanctions has made partition of India starker, surer and nearer. While it is not possible to discuss the gains resulting from the use of sanctions, the fact must be mentioned that this "Fight for Freedom" has been carried on mostly by the Hindus. It is only once that the Musalmans took part in it and that was during the shortlived Khilafat agitation. They soon got out of it. The other communities, particularly the Untouchables, never took part in it. A few stray individuals may have joined it for personal gain. But the community as such has stood out. This was particularly noticeable in the last campaign of the "Fight for Freedom," which followed the 'Quit India' resolution passed by the Congress in August 1942.

This is a glaring fact especially to a foreigner who comes to India and witnesses how more than half the population non-co-operates with the Congress in this "Fight for Freedom." Quite naturally he feels stupefied by this strange phenomenon. He asks : Why are the Muslims, Christians and Untouchables not participating in the "Fight for Freedom ?" and turns to the Congress for an explanation. The Congress has a ready-made answer. It is that the Untouchables are the tools of British Imperialism and that is why they do not join the "Fight for Freedom." The echo of this charge was heard from the mouth of many foreigners whom one came across during the war. What is most disconcerting is the experience that most of these foreigners seemed to have accepted the allegation as being true. The simplicity and plausibility of the argument could be the only reason which can account for

such an easy conversion. It serves a double purpose. It enables the Congress to account for a strange phenomenon and it gives an explanation to which circumstances lend an apparent plausibility.

Had it not been for the fact that even influential foreigners have been infected by this idea, one would hardly bestir himself to take notice of such malicious propaganda. For the explanation given by the Congress for the non-participation by the Untouchables in what is called "the Fight for Freedom" is an absurd explanation. It is an explanation which only a knave can venture to offer and which none but a fool can be expected to accept as satisfactory. But as it is almost certain that in the events that are coming, what foreigners think about India's problems will be a matter of some moment, I think it necessary to explain the correct situation and allow no room for such erroneous notions about the Untouchables to take roots in their mind especially when there can be no difficulty in proving that it is a false charge against the Untouchables and to prove that if the Untouchables have not joined the "Fight for Freedom" it is not because they are the tools of the British Imperialism but because they fear that freedom of India will establish Hindu domination which is sure to close to them and for ever all prospect of life, liberty and pursuit of happiness and that they will be made the hewers of wood and drawers of water.

That the Untouchables should have refused to join the Congress in the "Fight for Freedom" is in itself a proof positive that their reason for non-co-operation with the Congress cannot be the puerile one suggested by the Congress. It must be something real and substantial. What is it ? The reason which has led the Untouchables to non-co-operate with the Congress has been popularly expressed by them when they say that they do not wish to be placed under *Hindu Raj* in which the governing class would be the *Bania* and the *Brahamin* with low class Hindus as their policemen, all of whom have been the hereditary enemies of the Untouchables. This language is held to offend against good taste. That may be so. But it must not be supposed that because such slogans are offensive in their tone they are devoid of sense or that the outlook which they typify and the ideals which they embody have no compelling force or that they cannot be made to wear the garb of a true and respectable political philosophy.

Translated in the language of political science, what do these slogans mean ? They mean that the Untouchables are not opposed to freedom from British Imperialism. But they refuse to be content with mere freedom from British Imperialism. What they insist upon is that free India is not enough. Free India should be made safe for democracy. Starting with this aim, they say that on account of the peculiar social formation in India there are minority communities pitted against a Hindu Communal Majority, that if no provisions are made in the constitution to cut the fangs of the Hindu Communal Majority, India will not be safe for democracy. The Untouchables therefore insist on devising a constitution which will take note of the special circumstances of India and contain safeguards which will prevent this Hindu Communal Majority in Indian society from, getting possession of political power to suppress and oppress the Untouchables and which will directly invest the Untouchables with at least a modicum of political power to prevent their suppression and exploitation, and to enable them at least to hold their own, in their struggle for existence against the Communal Majority. In short, what the Untouchables want are safeguards in the constitution itself which will prevent the tyranny of a Hindu Communal Majority from coming into being.

The Congress on the other hand regards the freedom of India from British Imperialism to be the be-all and end-all of Indian nationalism. Nothing more, it thinks, is necessary for the welfare of the Indian people in a free India. As to the question of a constitution for a free India, the Congress simply does not look upon it as a problem. Asked, what about the constitution of a free India ? The Congress reply is that it will be a democracy. What sort of democracy would it be ? The Congress answer is that it will be based on adult franchise. Will there be any other safeguard, besides adult suffrage for preventing the tyranny of a Hindu Communal Majority ? The Congress reply is emphatically in the negative. Asked, why this opposition to safeguards ? the Congress says that it is a vivisection of the nation,—an argument the picturesqueness of which is intended to cover its stupidity and which has its origin in the genius of Mr. Gandhi, and for which the high class Hindus, who stand to lose by these safeguards, feel so grateful to him.

The Untouchables refuse to accept this silly sophism. They say that Indian social life has to be reckoned in terms of communities. There is no escape. Communities are such hard facts of Indian social life that it would be wrong to accept that communal impulse and communal prejudice do not dominate the relations of the communities. The social psychology of the Hindu Communal Majority is dominated by the dogma which recognizes not merely inequality but graded inequality as the rule governing the inter-relationship among the various communities. This dogma of graded inequality is absolutely inimical to liberty and fraternity. It cannot be believed that this graded inequality will vanish or that the Hindus will strive to abolish it. That is impossible. This graded inequality is not accidental or incidental. It is the religion of the Hindus. It is the official doctrine of Hinduism. It is sacred and no Hindu can think of doing away with it. The Hindu Communal Majority with its religion of graded inequality is not therefore *a* passing phase. It is a permanent fact and a menace for ever. In making a constitution for India the existence of a standing Communal Majority cannot be ignored and the problem of devising safeguards so as to reconcile it with political democracy must be faced. That is the reasoning of the Untouchables.

The constitutional safeguards which the Untouchables have been demanding are detailed in the Resolutions recently passed by the Working Committee of the All-India Scheduled Castes Federation and which are printed in Appendix XI. For purposes of argument I take three of them, (*i*) Guaranteed minimum representation in the Legislature; (*ii*) Guaranteed minimum representation in the Executive and (*iii*) Guaranteed minimum representation in the Public Services. These demands are ridiculed by the Congress as communalism and the leaders of the Untouchables are represented as job hunters. The Congress places its opposition to these guarantees on the high pedestal of nationalism, of which it holds itself as the guardian angel. The foreigner may find it difficult to see the absurdity of the Congress argument against safeguards. But if he were to take into account the purposes for which these guarantees are sought, he will find that the attempt of the Congress to represent them as a piece of communalism is arrant nonsense.

The purpose of these guarantees demanded by the Untouchables is not to fill the Legislature, the Executive and the

Administration by the representatives of the Untouchables. These guarantees are really floorings below which the Untouchables will not fall under the crushing pressure of the Hindu Communal Majority. They are intended to keep the Hindu Communal Majority within bounds. For, if there were no such guarantees to the Untouchables, the result will be that the Hindu Communal Majority will not only capture the Legislature, the Executive and the Administration, but the Legislature, the Executive and the Administration will be over-run by the Hindu Communal Majority and these powerful organs of the State, instead of protecting the minorities, will become the tools of the Hindu Communal Majority doing its biddings.

In the light of this explanation there ought to be no difficulty for any outsider of average intelligence in understanding the issues between the Congress and the Untouchables. In the first place, he ought to be able to realize that the issue between them is created by the former refusing to recognize that in the existence of a Communal Majority the relies a great menace to political democracy and the latter maintaining the contrary and insisting that the constitution should contain positive provisions to curb this menace. In other words, the Untouchables are anxious to make India safe for democracy, while the Congress, if it is not opposed to democracy, is certainly opposed to creating conditions which will make democracy real.

In the second place, the foreigner should be able to see that this demand by the Untouchables for safeguards is not a novel demand. His understanding will be facilitated if he were to regard these safeguards as another name for checks and balances and to bear in mind that there is no constitution which does not contain such checks and balances to protect political democracy from being subverted and to note how the constitution of the U.S.A. is full of such checks and balances which are embodied in clauses relating to Fundamental Rights and Separation of Powers. If he does this, he need not feel puzzled if the safeguards demanded by the Untouchables take a different form than they do in other countries. For, the nature of safeguards must differ with the nature of the forces which constitute a menace to political democracy and as these forces in India are of a different character, the safeguards must necessarily take a different form.

In the third place, the foreigner should have no difficulty in realizing that if anybody is communal it is the Congress and not the Untouchables, and that whatever the philosophic grounds advanced by the Congress the real motive of the Congress in opposing the demand for constitutional guarantees is to keep the political field a free pasture for the Hindu Majority. He should be able to see, though the Congress does not openly say so, how natural it is for the Congress to be communal. The Hindu Communal Majority is the back-bone of the Congress. It is made up of the Hindus and is fed by the Hindus. It is this Majority which constitutes the clientele of the Congress and the Congress, therefore, is bound to protect the rights of its clients. If he realizes this, he will not be deceived by the arguments of the Congress that it is opposing these demands in the name of nationalism. On the other hand, he will realize that the Congress is deceiving the world by using nationalism as a cloak for a free field for rank communalism.

Lastly, he will know why the representative character of the Congress has become an issue of such importance in Indian politics. He will realize that nobody would have cared to bother about the representative character of the Congress and to inquire, whom it represents and whom it does not, if the Congress were not to arrogate to itself the right to say what should be the constitution of a free India. But as it does, its right to speak in the name of the country forms a vital issue and those who do not accept this have no alternative but to challenge it.

II

With all this, foreigners have said—"Why not join the Congress in the 'Fight for Freedom' ? ; why make agreement on constitutional safeguards a condition precedent to cooperation with the Congress ? After all, safeguards can come only after freedom is won." A foreigner who has followed the foregoing discussion as to matters which divide the Congress can be left to understand why the Untouchables have not thought it safe to co-operate with the Congress in this "Fight for Freedom." But there may be some who may not be able to imagine them and who would like to know what they are. Rather than leave them to find wrong reasons it is better to take the trouble to let them have the right ones. The reasons are various. Only the most important are set out below.

The first reason is founded in commonsense. The Untouchables say: "What harm is there in demanding from the Congress an agreement in advance ? What is lost, if a guarantee is given by the Congress in advance ?" They argue that if the Congress agreed to this demand for safeguards in advance it will have a double effect. In the first place, it will give an assurance to the Untouchables who entertain so much dread as to what their lot would be under a Hindu Communal Majority. Secondly, such an assurance would go a long way in inducing the Untouchables to co-operate with the Congress. After all, why are the Untouchables non-co-operating ? Because, they are afraid that if this freedom is achieved it will enable the Hindu Majority once again to enslave them. Why not remove this fear if it can be done at so small a cost, namely, by an agreement in advance ?

The second reason is founded in experience. The Untouchables say that the experience of the world does not justify the hope that when the "Fight for Freedom" ends, the stronger elements have shown the generosity to give security to the weaker elements.

Many examples of this betrayal could be cited. The most notorious one relates to the betrayal of the Negroes in the United States after the Civil War. Speaking of the part played by the Negroes in the Civil War Mr. Herbert Apthekar says[1] :

> "One hundred and twenty-five thousand Negroes from the slave states served in the Federal armies. They, together with the eighty thousand from the North, fought in four hundred and fifty battles, with an inspiring and inspired courage that was of the utmost importance in bringing about the collapse of the Confederacy and the abolition of slavery.
>
> "Here were over two hundred thousand armed Negro men fighting within a state built upon and dedicated to the proposition that the Negro was, if at all a human being an innately and ineradicably inferior one, fit only to be a slave.
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> * * *
>
> "And the Negro soldiers of the Republic fought notwithstanding shameful discriminations and disadvantages. White soldiers received thirteen dollars a month. Negroes received but seven dollars (until July 14, 1864, when the pay was equalized, retroactively to January 1, 1864); there were enlistment bounties for white recruits, none for Negroes (until June 15, 1864); and there was no possibility for advancement into the

1. The Negro in the Civil War, pp. 35-40,

ranks of commissioned officers for Negroes.... The Confederacy never recognised captured Negro soldiers who had been slaves as prisoners of war, and did not accord this status to captured free Negroes until October 1864. The Negroes were either killed, returned to slavery, or confined at hard labour.

* * *

"Here were these scores of thousands of hitherto enslaved and oppressed masses, armed, and sent forth into their own country, whose every creek and knoll was known to them, to maintain their newly obtained freedom, to prove their manhood and to liberate their own people, their own parents and children and wives, from a slavery that they know only too well.... And let it always be remembered that in the war to save the republic thirty-seven thousand Negro soldiers were killed in action."

What happened to the Negroes after the Civil War was over ? In the first flush of victory, the Republicans, who waged the war for saving the Union and obtained the help of the Negroes to win it, carried the Thirteenth Amendment to the Constitution. Under it the Negroes ceased to be slaves in the legal sense of the term. But did the Negroes get any right to participate in the Government as voters or officials ? The Republicans did take some action in order to make the Southern States accept that the Negroes were to be treated as the political equals of the Whites. This was done by the Fourteenth Amendment which conferred citizenship, State as well as Federal, on all persons including the Negroes born or naturalized in the United States and subject to the jurisdiction thereof, forbade legislation by a State abridging the privileges or immunities of a citizen of the United States, and provided for reducing the representation in the Congress of any State in proportion to the number of its citizens excluded from the suffrage. The Southern States had no intention to respect the Fourteenth Amendment. All except Tennessee had rejected the amendment and had set up governments of the White inhabitants. The Republicans then proceeded (March 2, 1867) to pass the so-called Reconstruction Act (a bill to provide efficient governments for the insurrectionary States) designed to create legitimate governments in the States not yet readmitted to the Union (ignoring the governments set up by the White inhabitants), and to determine the conditions proper for their readmission. By this Act these States, that is the whole

seceding South except Tennessee, were divided into five military districts, each to be governed by a Brigadier-General of the Federal Army, until such time as (1) a State convention had framed a new constitution, (2) the Fourteenth Amendment had been ratified and (3) the States had been duly readmitted. The Republicans carried another amendment called the Fifteenth Amendment, forbidding the voting right of citizen to be denied or abridged on account of race, colour or previous condition of servitude which also became by similar acceptance part of the Constitution and binding on all the States.

The Whites in the South had no intention to admit the Negroes to equal citizenship. Disfranchisement of the Negro proceeded apace. It was undertaken as a solemn duty both by the State Governments of the South as well as by the Whites of the Southern States. To evade the Fifteenth Amendment the State Governments spent their ingenuity in framing franchise laws which denied the Negroes the right to vote on grounds other than race or colour. Most of them decided upon the grandfather clause[1] which effectively excluded the Negroes but fully included the Whites. On the people's side the process was carried out by the Ku Klux Klan. The Klan was in its origin a secret combination formed in Tennessee by youths for purposes of amusement. It was transferred into an organization to suppress the Negroes and prevent them from exercising their political rights. It started committing outrages upon Negroes, and (less frequently) upon Whites supposed to be in sympathy with the Negroes, in the rural South. These gang-men were never discovered. This shows that the whole of the White population of the South supported the Klan men. No open resistance to the Federal troops was attempted ; but neither their activity nor the penal laws passed by the Congress were effective in checking the flogging, house-burnings, and murders which during these years disgraced some districts.

The purposes of the Southern States and the Southern Whites were facilitated by the decisions of the Supreme Court of the United States. The Supreme Court held that the State laws disfranchising the Negroes were valid notwithstanding the Fifteenth Amendment because the disfranchisement was not based on race and colour. Similarly the Supreme Court held

1. Grandfather clause is so-called because it restricted the right to vote to a person whose grandfather had enjoyed it.

that if the activities of the Ku Klux Klan prevented the Negro from exercising his electoral rights there was no redress: for the Fifteenth Amendment, while it prevented the States from interfering with the electoral rights, did not prevent interference by private bodies.

What did the Republicans do ? Instead of amending the Constitution to give better and more effective guarantees to the Negroes, they agreed to recognize the Southern States and admit them to the Union, to grant general amnesty to the rebels and to withdraw the troops stationed therein leaving the Negroes to the tender mercy of their masters. As Mr. Apthekar says[1]:

> "But the heoric fight of the Negro people and their allies for democracy, land and civil rights in the South was defeated chiefly as a result of shameful betrayal by the industrial and financial bourgeoise of the North. In 1877, the latter came to an understanding with the reactionary plantocracy of the South. Working through the reactionary wing of the Republican Party, the Northern big bourgeoise sold out the Revolution by giving the old slave oligarchy a free hand (home rule) in the Southern States. This 'gentleman's agreement' meant disenfranchisement for the Negro, sharecropping peonage, lynch terrorism, and the loss of civil liberties and educational opportunities."

The story of the betrayal is not complete. It is necessary to add that if the Republicans were to carry their party opposition with the Democrats into the South, the Negro could still be saved from damnation. For it is the opinion of those who know that if the Whites of the South were divided into Republicans and Democrats as they are in the North there is hardly a State in the South which would not be largely controlled by the Negro voters. Even the Republicans will not do. The Republicans seem to have entered into a compact with the Democrats not to canvass for the votes of the Negroes. Indeed, the Republican Party in the South does not exist. It does not exist because it is afraid of having to take sides with the Negroes.

The Untouchables cannot forget the fate of the Negroes. It is to prevent such treachery that the Untouchables have taken the attitude they have with regard to this "Fight for Freedom." What is wrong in this ? Are they doing anything

1. The Negro in the Civil War, pp. 45-46.

more than follow the advice of Burke, who has said that it is better to be accused of timidity than to be ruined by overconfident security.

The third argument is that there is no justification for the Congress to say that the "Fight for Freedom" must come first and the agreement about constitutional safeguards afterwards. The Untouchables feel that having regard to the attitude of the British Government to India's right to freedom, this fight, which the Congress loves so much, is uncalled for, at any rate, it is putting the cart before the horse. The attitude of the British towards India's claim for freedom has since the Mutiny of 1857 undergone a complete change. There was a time when the British Government held the view which was a complete negation of India's claim for freedom. It was proclaimed by Lawrence whose statue in Calcutta has the motto : "The British conquered India by the sword and they will hold it by sword." This attitude is dead and buried and it is no exaggeration to say that every Englishman today is ashamed of it. This stage was followed by another in which the argument of the British Government against India's freedom was the alleged incapacity of Indians for Parliamentary institutions. It began with Lord Ripon's regime which was followed by an attempt to give political training to Indians, first in the field of Local Self-Government, and then under the Montagu-Chelmsford reforms in the field of Provincial Government. We have now entered the third or the present stage. British Government is now ashamed to say that they will hold India by the sword. It no longer says that Indians have no capacity to run Parliamentary institutions. The British Government admits India's right to freedom, even to independence, if Indians so desire. The British Government admits the right of Indians to frame their own constitution. There can be no greater proof of this new angle of vision than the Cripps Proposals. The condition precedent laid down by the British Government for India's freedom is that Indians must produce a constitution which has the concurrence of the important elements in the national life of the country. Such is the stage we have reached. The Untouchables cannot therefore understand why the Congress, instead of trying to achieve agreement among Indians, should keep on talking in terms of a "Fight for Freedom" and maligning the Untouchables in not joining in it.

III

Why does the Congress oppose the proposal of the British Government ? It seeks to justify its opposition on two grounds. It says that the condition prescribed by the British Government puts a veto on freedom of India in the hands of the Untouchables. This is a stupid argument and for two reasons. In the first place, the Untouchables in India have never made impossible demands. They have not even made unreasonable demands. They do not say as Carson did to Redmond: "Damn your safeguards. We don't wish to be ruled by you." The Untouchables are quite prepared to submit themselves to the rule of the Hindu Majority, notwithstanding the unsocial and the undemocratic character of its ethics, provided the constitution gives them reasonable safeguards. To say, that the Untouchables will exercise a veto on India's freedom by raising impossible demands is thus a gross libel, for which there is not the slightest justification. Assuming the fear is well-founded, the Congress is not altogether without a remedy. For it is still open to the Congress to say that if there is no agreement between the Hindus and the Untouchables the dispute should be referred to an International Board of Arbitration. If the Congress took this stand, I am sure, neither the British Government nor the Untouchables will have the slightest objection to it. But when, instead of making an honest and sincere attempt to bring about an agreed constitution, the Congress goes on launching its campaigns for achieving freedom—not without occasional rests and retreats—the only conclusion, which the Untouchables can draw, is that the Congress wants to coerce the British Government to transfer its power or to use Mr. Gandhi's phrase, "hand over the keys to the Congress," without being obliged to agree to the safeguards demanded by the Untouchables. In short, what the Congress wants is a free India with full, unrestricted freedom to the Hindus in a free India to dispose of the Untouchables in any way they liked. No wonder the Untouchables have refused to take part in such a dishonest agitation, elevated though it may be by such high sounding name as "Fight for Freedom" !

The other ground urged by the Congress for not taking up the question of bringing about an agreement is that the British Government is not honest, and that notwithstanding its declarations it will not transfer power even if Indians agreed

upon a constitution, and that ultimately Indians will have to struggle with the British in order to wrest power from their hands. The reply of the Untouchables is that they see no reason why Indians should start, with such complete distrust of the British intentions. After all, the British Government has moved in the direction of fulfilling Indian aspirations and is moving. If it is slow in moving it is due to Indians being content with small things. Right from the conquest of India by the British upto 1886, Indians never cared who ruled them nor how they were ruled. They were content to live without troubling themselves about these questions. In 1886 the Congress was organized and for the first time Indians began to take interest in the government of India. But even the Congress upto 1910 was content in agitating for good Government only. It was in 1910 that the Congress first demanded Self-Government. When in 1919 the Montagu-Chelmsford Reforms were on the anvil, Indians had an occasion to state the scope of their demand for Self-Government. What is known as the Memorandum of the Nineteen denned the aspirations of the Indians as they stood in 1917. Any one who knows it will remember that the best and the most radical Indians were content only with Dyarchy in the Provinces. Even this was regarded as a big jump by some Indian leaders such as Sir Dinshaw Watcha and Mr. Samarath[1]. In 1930 notwithstanding the Congress Resolution insisting on Independence, Mr. Gandhi at the R. T. C. was prepared[2] to be content with Provincial autonomy. The British granted more than that. If from 1939 there has been a halt, it is mainly because Indians are not agreed on the sort of constitution they want for their country.

The Untouchables think that the stage, when the British were sitting upon the freedom of India, as the snake in the fable is said to sit on a treasure, not allowing anyone to come near it, is gone long past. India's Freedom is like property held by a Receiver. The British Government has placed itself

1. Mr. Montagu in his Indian Diary records that when they waited on him to discuss the question of political reforms they said "Give us the power to pass resolutions, to influence Government; we will use it in a spirit of sweet reasonableness, but we are not fit for responsible Government."—p. 147.

2. This part of the story of what happened at the Round Table Conference has not been told. But everybody present at the Round Table Conference knows how Mr. Gandhi was won over to agree to Provincial autonomy. If the 1935 Government of India Act contains some elements of responsibility at the centre the credit goes to the representatives of the Non-Congress parties at the R. T. C.

in the position of a Receiver. As soon as the dispute is over and the right kind of constitution is settled, it has bound it self to hand over the property to its rightful owners, namely, Indians. The Untouchables ask: why not take advantage of this ? why not adopt the straight and honest course of arriving at an agreement among the important elements in the country and then make a joint application for the release of the property ? That the Congress does not want to follow this line of action shows, say the Untouchables, that the Congress "Fight for Freedom" is nothing more than mere tactics, the object of which is to by-pass the necessity of an agreed constitution demanded by the Untouchables and made a condition precedent by the British Government for the grant of freedom. The Untouchables do not say that they are out to underwrite the declarations made by the British Government, they do not say that if Indians are agreed it must necessarily be a case of "knock and it will open : ask and it shall be given unto you." They admit that the British may not act up to the declarations they have made. It may be that even when an agreed constitution is produced, they may not act up to their promises, and a fight for freedom may become necessary. The Untouchables do not overlook these possibilities. But what they do say is that the Indians have not put the British to the test. They can't be put to test unless they are presented with an agreed constitution. So long as the Congress does not adopt this course as the first—though it may not be last—line of action, the Untouchables feel that the Congress is not honest in its dealings with them, not even to the country. Who can say that the Untouchables have not sufficient justification for refusing to participate in the Congress "Fight for Freedom"?

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CHAPTER VIII

THE REAL ISSUE

Aren't The Untouchables A Separate Element?

I

WHAT is the fundamental issue in the controversy between the Congress and the Untouchables ? As I understand the matter, the fundamental issue is: *Are the Untouchables a separate element in the national life of India or are they not ?*

This is the real issue in the controversy and it is on this issue that the Congress and the Untouchables have taken opposite sides. The answer of the Untouchables is yes. They say, they are distinct and separate from the Hindus. The Congress on the other hand says 'No' and asserts that the Untouchables are a chip of the Hindu block. This is the attitude of the parties to the issue. The attitude of the British Government was made clear by Lord Linlithgow[1] in his statements as Viceroy and Governor-General of India in which he declared in quite explicit terms that the Untouchables were a separate element in the national life of India. Many people who regard the issue of constitutional safeguards as the fundamental issue will feel surprised that I should regard as fundamental an issue so apparently different from what they regard as fundamental. Really speaking there is no difference. It all depends upon what one regards as the proximate and what as ultimate. Others regard the question of constitutional safeguards as ultimate. I regard as proximate. What I have stated as fundamental I regard as ultimate from which the proximate follows, as the conclusion does from the premise in a logical syllogism. It may be as well for me to state why I have thought it necessary to make this difference. The evolution of the Indian Constitution appears to me to have established a sort of a logical syllogism. The major premise in the syllogism is that where there exists an element in the national life of India, which is definable as a separate and distinct element it is entitled to constitutional safeguards. An element, making a claim for constitutional safeguards, must show that it is

1. See Appendix VI, Items 9 and 12.

definable as separate and distinct from the rest. If it shows that it is separate and distinct, its right to constitutional safeguards is held admissible.

That is how the provisions for constitutional safeguards for Muslims, Indian Christians, Anglo-Indians, Europeans and Sikhs have come into being. It is true that the constitution of India has not been framed in the light of principles. It has grown in an haphazard manner, more in answer to exigencies than in accordance with principles. Nevertheless, this silent postulate, if not a principle to which I have referred, seems to be working throughout. The right of a group to constitutional safeguards has come to be treated as consequential. It is deemed to follow automatically when the fundamental condition is satisfied, namely that they do constitute a separate and a distinct element in the national life of India. In dealing with this controversy, one must deal with it as one is required to do with a syllogism. In a syllogism both are fundamental, the conclusion as well as the premise and to close the argument it is not enough to deal with the conclusion and omit to examine the premise. Looking at the question from this angle I think I ought not to close the case of the Untouchables with no more than a discussion of the constitutional safeguards. I feel that I ought to deal also with the premise, the ultimate, or the fundamental proposition, from which the constitutional safeguards seem to follow, if not as a matter of course at least as a matter of precedent.

It will thus be seen that the decision I have taken to give a separate treatment to the ultimate as distinguished from the proximate proposition is not without justification. It also seems to be necessary to deal with it separately and substantially, because the Congress seems to be fully aware of the fact that this is the fundamental issue and knows that once it concedes that the Untouchables are a separate element it cannot prevent them from succeeding in their claim for constitutional safeguards. If the Congress has come forward to contest this proposition it is because it thinks that it is the first trench and if it fails to maintain it, it cannot save the situation.

II

It must be a matter of considerable surprise to those who know the conditions in India that the Congress should come

forward to controvert what is incontrovertible, namely, that the Untouchables are separate from the Hindus. But since the Congress has chosen to do so, I must deal with the issue as best as I can.

The grounds advanced by the Untouchables that they are separate from the Hindus are not difficult to comprehend. Nor do they require a long and an elaborate statement. The statement of their case can be fully covered by a simple question. In what sense are they Hindus ? In the first place, the word 'Hindu' is used in various senses and one must know in what sense it is used before one can give a proper answer to the question. It is used in a territorial sense. Everyone who is an inhabitant of Hindustan is a Hindu. In that sense it can certainly be claimed that the Untouchables are Hindus. But so are the Muslims, Christians, Sikhs, Jews, Parsis, etc. The second sense in which the word 'Hindu' is used is in a religious sense. Before one can draw any conclusion, it is necessary to separate the dogmas of Hinduism from the cults of Hinduism. Whether the Untouchables are Hindus in the religious sense of the word depends upon whether one adopts as his tests the dogmas or the cults. If the tests of Hinduism are the dogmas of Caste and Untouchability then every Untouchable would repudiate Hinduism and the assertion that he is a Hindu. If the test applied is the acceptance of a cult such as the worship of Rama, Krishna, Vishnu and Shiva and other Gods arid Goddesses recognized by Hinduism the Untouchables may be claimed to be Hindus. The Congress as usual maintains a body of agents from among the Untouchables to shout when need be that the Untouchables are Hindus and that they will die as Hindus. But even these paid agents will not agree to be counted as Hindus if they are asked to proclaim themselves as Hindus, if Hinduism means belief in caste and Untouchability.

One more point must be stressed. On the foregoing analysis the Untouchable may be classed as a Hindu if the word Hindu is used in the religious but in the limited sense of a follower of a recognized cult. Even here, there is a necessity for giving a warning against concluding that the Hindu and the Untouchable have a common religion. The fact is that even as followers of recognized cults they cannot be said to have a common religion. The exact and appropriate expression would be to say that they have a similar religion. A common religion means a common cycle of participation. Now, in the observances of

the cults there is no such common cycle of participation. The Hindus and the Untouchables practise their cults in segregation so that notwithstanding the similarity of their cults they remain as separate as two aliens do. Neither of these two senses of the word 'Hindu' can yield any result which can be of help in determining the political question, which alone can justify the discussion.

The only test which can be of use is its social sense as indicating a member of the Hindu Society. Can an Untouchable be held to be part of the Hindu Society ? Is there any human tie that binds them to the rest of the Hindus ? There is none. There is no *connubium*. There is no *commensalism*. There is not even the right to touch, much less to associate. Instead, the mere touch is enough to cause pollution to a Hindu. The whole tradition of the Hindus is to recognize the Untouchable as a separate element and insist upon it as a fact. The traditional terminology of the Hindus to distinguish Hindus and Untouchables furnishes the best evidence in favour of the contention of the Untouchables. According to this traditional terminology, Hindus are called *Savarnas* and the Untouchables are called *Avarnas*. It speaks of the Hindus as *Chaturvarnikas* and of the Untouchables as *Panchamas*. Such a terminology could not have come into existence if separation had not become so prominent and its observance so necessary as to require coining of special terms to give expression to the fact.

There is thus hardly any substance in the Congress argument that the Untouchables are Hindus and that they cannot therefore demand the same political rights as the Muslims and others can. While the argument from tradition is a good and valid argument to prove that the Untouchables are not Hindus, it may appear to some to be a weak one. I do not wish to leave the field without directly meeting the Congress argument. For this purpose, I will grant that the Untouchables are Hindus by religion. But the question is : Does it matter if they are Hindus ? Can it come in the way of their being recognized as a separate element in the national life of India ? It is difficult to understand how the mere fact that they might be called Hindus by religion in such a limited sense can be the basis of an argument that they are an integral part of the Hindu society.

Admitting for the sake of argument that they are Hindus by religion, can it mean anything more than what I have

said—namely that they worship the same Gods and Goddesses as the rest of the Hindus, they go to the same places of pilgrimage, hold the same supernatural beliefs and regard the same stones, trees, mountains as sacred as the rest of the Hindus do ? Is this enough to conclude that the Untouchables and the Hindus are parts of one single community ? If that be the logic behind the contention of the Congress then, what-about the Belgians, Dutch, Norwegians, Swedes, Germans, French, Italians, Slavs, etc.? Are they not all Christians ? Do they not all worship the same God ? Do they not all accept Jesus as their Saviour ? Have they not the same religious beliefs ? Obviously, there is a complete religious unity between all of them in thought, worship and beliefs. Yet, who can dispute that the French, Germans and Italians and the rest are not a single community ? Take another case, that of the Whites and the Negroes in the U.S.A. They too have a common religion. Both are Christians. Can any one say that the two on that account form a single community ? Take a third case, that of the Indian Christians, Europeans and Anglo-Indians. They profess and follow the same religion. Yet it is admitted that they do not form one single Christian community. Take the case of the Sikhs. There are Sikhs, Mazbi Sikhs and Ramdasia Sikhs. All profess Sikhism. But it is accepted that they do not form one community. In the light of these illustrations it is obvious that the argument of the Congress is full of fallacies.

The first fallacy of the Congress lies in its failure to realize that the fundamental issue for settling the question whether to grant or not to grant constitutional safeguards is union *versus* separation of a social group in the population. Religion is only a circumstance from which unity or separation may be inferred. The Congress does not seem to have understood that the Musalmans and the Indian Christians have been given separate political recognition not because they are Musalmans or Christians but fundamentally because they form in fact separate elements from the Hindus.

The second fallacy of the Congress lies in its attempt to prove that where there is a common religion social union must be presumed. It is on the basis of this reasoning that the Congress hopes to win. Unfortunately for the Congress, it cannot. For the facts are strongly against making a conclusive inference. If religion was a circumstance from which social union was made

the only permissible inference then the fact that the Italians, French, Germans and Slavs in Europe, the Negroes and the Whites in the U.S.A. and the Indian Christians, Europeans, Anglo-Indians in India do not form a single community although they all profess the same religion is enough to negative such a contention. The pity of the matter is that the Congress is so completely enamoured of its argument based on religion as an unifying factor, that it has failed to realize that there is no concomittance between the two and that there are cases where there is no separation although religions are separate, that there are cases where separation exists in spite of a common religion and what is worst, separation exists because religion prescribes it.

To give a quietus to the Congress argument, it may be desirable to give one illustration of each of these cases. Of the first case the best and the easiest illustration I can think of is that of the Sikhs and the Hindus. They differ in religion. But they are not socially separate. They dine together; they marry together; they live together. In a Hindu family one son may be a Sikh, another a Hindu. Religious difference does not break the social nexus. Of the second, the case of the Italians, French, Germans in Europe and Whites and Negroes in America are as good illustrations as one would want. This happens where religion is a binding force but is not powerful enough to withstand other forces tending to divide such as the sentiment of race. Hindus and Hinduism are the best and perhaps the only illustrations of the third case, where separation is the effect of religion itself. That there can be such a case, Hindus at any rate need not require to be told. For, it is well known that Hinduism preaches separation instead of union. To be a Hindu means not to mix, to be separate in everything. The language commonly used that Hinduism upholds Caste and Untouchability perhaps disguises and conceals its genius. The real genius of Hinduism is to divide. This is beyond dispute. For, what do Caste and Untouchability stand for ? Obviously for separation. For Caste is another name for separation and untouchability typifies the extremist form of separation of community from community. It is also beyond dispute that Caste and Untouchability are not innocuous dogmas to be compared with other dogmas relating to the condition of the soul after death. They are parts of the code of conduct which every Hindu is bound to

observe during his life on earth. Caste and Untouchability far from being mere dogmas are among the foremost observances prescribed by Hinduism. It is not enough for a Hindu to believe in the dogmas of Caste and Untouchability. He must also observe Caste, and Untouchability, in the conduct of his daily life.

The separation, which Hinduism has brought about, between the Hindus and the Untouchables by its dogma of Untouchability is not a mere imaginary line of separation, such as the one which the Pope once drew in a quarrel between the Portuguese and their rivals for Colonial possessions; it is not like the colour line which has length but no breadth and which one may observe or one may not observe ; it is not like the race line, which involves distinction but no discrimination. It has both depth and width. Factually the Hindus and the Untouchables are divided by a fence made of barbed wire. Notionally it is *cordon sanitaire* which the Untouchables have never been allowed to cross and can never hope to cross.

To put the matter in general terms, Hinduism and social union are incompatible. By its very genius Hinduism believes in social separation which is another name for social disunity and even creates social separation. If Hindus wish to be one they will have to discard Hinduism. They cannot be one without violating Hinduism. Hinduism is the greatest obstacle to Hindu Unity. Hinduism cannot create that longing to belong which is the basis of all social unity. On the contrary Hinduism creates an eagerness to separate.

The Congress does not seem to realize that the argument it is using goes against itself. Far from supporting the Congress contention, it is the best and the most effective argument that can be advanced to prove the contention of the Untouchables. For, if any conclusion is to be drawn from the hypothesis that the Untouchables are Hindus it is that Hinduism has always insisted both in principle and in practice that the Untouchables are not to be recognized a chip of the Hindu block but are to be treated as a separate element and segregated from the Hindus.

If therefore the Untouchables say that they are a separate element, nobody can accuse them of having invented a new theory for the sake of political advantages. They are merely pointing out what the facts are and how these facts are the heritage of Hinduism itself. The Congress cannot honestly

and convincingly use Hinduism as an argument for refusing to recognise the Untouchables as a separate element. If it does, it is only because it is actuated by selfish motives. It knows that the recognition of the Untouchables as an element in the national life of India, as distinct and separate from the Hindus, must result in the apportionment of places in the Executive, the Legislature, and in the Public Services between the Untouchables and the Hindus and thus limit the share of the Hindus. The Congress does not like that the Hindus should be deprived of the share of the Untouchables which the Hindus are in the habit of appropriating to themselves. That is the real reason why the Congress refuses to recognize that the Untouchables are a separate element in the national life of India.

The second argument of the Congress is that the political recognition of the Untouchables as a separate element in the national life of India should not be permitted on the ground that it will perpetuate the separation between the Untouchables and the Hindus.

This is hardly an argument worth consideration. It is the weakest of its kind and shows that the Congress has nothing better to advance. Besides contradicting its previous argument, it is entirely misconceived.

If there is a real separation between the Hindus and the Untouchables and if there is the danger of discrimination being practised by the Hindus against the Untouchables then the Untouchables must receive political recognition and must be given political safeguards to protect themselves against the tyranny of the Hindus. The possibility of a better future cannot be used as an argument to prevent the Untouchables from securing the means of protecting themselves against the tyranny of the present.

In the second place, this argument can be used only by those who believe in the social fusion of the Hindus and the Untouchables and are actively engaged in pursuing means and methods which will bring about such a fusion. Congressmen have often been heard to say that the problem of the Untouchables is social and political. But the point is, are Congressmen sincere when they say that it is a social question ? Or do they use it as an excuse with a view to avoid the consequences of having to share political power with the Untouchables ? And, if they are sincere in holding that it is a social

question, what proof is there of their sincerity in this matter ? Have Congressmen sponsored social Reform among Hindus ? Have they carried on a crusade in favour of inter-dining and intermarriages ? What is the record of Congressmen in the field of Social Reform ?

III

It might be well to state what view the Untouchables took of the problem of Untouchables. Until the advent of the British, the Untouchables were content to remain Untouchables. It was a destiny preordained by the Hindu God and enforced by the Hindu State. As such there was no escape from it. Fortunately or unfortunately, the East India Company needed soldiers for their army in India and it could find none but the Untouchables. The East India Company's army consisted, at any rate in the early part of its history, of the Untouchables and although the Untouchables are now included among the non-martial classes and are therefore excluded from the Army, it is with the help of an army composed of Untouchables that the British conquered India. In the army of the East India Company there prevailed the system of compulsory education for Indian soldiers and their children both male and female. The education received by the Untouchables in the army while it was open to them gave them one advantage which they never had before. It gave them a new vision and a new value. They became conscious that the low esteem in which they had been held was not an inescapable destiny but was a stigma imposed on their personality by the cunning contrivances of the priest. They felt the shame of it as they had never done before and were determined to get rid of it. They too in the beginning thought their problem was social and struggled along the social lines for its solution. This was quite natural. For they saw that the outward marks of their social inferiority were prohibition of interdining and intermarriage between the Untouchables and the Hindus. They naturally concluded that for the removal of their stigma what was necessary was to establish social intercourse with the Hindus on terms of equality which in its turn meant the abolition of rules against interdining and intermarriage. In other words, first programme of action which the Untouchables launched out for their salvation after they became aware of their servile position

was to bring about Social Equality among all those, who come within the fold of Hinduism by insisting upon the abolition of the Caste System.

In this, the Untouchables found an ally in a section of the Hindus. Like the Untouchables, the Hindus also by the contact with the British had come to realize that their social system was very defective and was the parent of many social evils. They too desired to launch forth a movement of social Reform. It began with Raja Ram Mohan Roy in Bengal and from there had spread all over India and ultimately culminated in the formation of the Indian Social Reform Conference with its slogan of Social Reform before Political Reform. The Untouchables followed the Social Reform Conference and stood behind it as a body and gave it their full support. As every one knows the Social Reform Conference is dead and buried and forgotten. Who killed it ? The Congress. The Congress with its slogans "Politics First, Politics Last," "Politics by Each, Politics by All" regarded the Social Reform Conference as its rival. It denied the validity of the creed of the Conference that social reform was a necessary percursor of political reform. Under a constant and steady fire from the Congress platform and from individual Congress leaders, the Social Reform Conference was burnt down and reduced to ashes. When the Untouchables lost all hope of their salvation through social reform, they were forced to seek political means for protecting themselves. Now for Congressmen to turn round and say that the problem is social is nothing but hypocrisy.

It is wrong to say that the problem of the Untouchables is a social problem. For, it is quite unlike the problems of dowry, widow remarriage, age of consent, etc., which are illustrations of what are properly called social problems. Essentially, it is a problem of quite a different nature in as much as it is a problem of securing to a minority liberty and equality of opportunity at the hands of a hostile majority which believes in the denial of liberty and equal opportunity to the minority and conspires to enforce its policy on the minority. Viewed in this light, the problem of the Untouchables is fundamentally a political problem. Granting however for the sake of argument that it is a social problem, it is difficult to understand why political recognition of and political safeguards for the security of the Untouchables should retard their social unification with the Hindus if there is a genuine

desire to set in motion processes which will bring about such a result. Congressmen appear to be arguing with no definite conception in their mind. They don't seem to have a clear idea of the inter-relation between political and social factors. This is well illustrated by its opposition to separate electorates and its preference to joint electorates. The process of reasoning is worth attention. In a joint electorate the Hindu votes for an Untouchable and the Untouchable votes for the Hindu. This builds up social solidarity. In a separate electorate the Hindu votes for a Hindu and an Untouchable votes for an Untouchable. This prevents social solidarity. This is not the point of view from which the Untouchables look at the question of electorates. Their point of view is which of the two will enable the Untouchables to get an Untouchable of *their* choice elected. But I am interested in scrutinizing the Congress argument. I do not wish to enlarge upon and complicate the argument. The reasoning of the Congress appears to be correct. But it is only a superficial view of the matter. These elections take place once in five years. It may well be asked how can social solidarity between the Hindus and the Untouchables be advanced by one day devoted to joint voting if for the rest of the five years they are leading severely separate lives. Similarly, it may well be asked how can one day devoted to separate voting in the course of five years make greater separation than what already exists or contrary-wise how can one day in five years devoted to separate voting prevent those who wish to work for union from carrying out their purposes. To make it concrete how can separate electorate for the Untouchables prevent intermarriage or inter-dining being introduced between them and the Hindus ? Only a congenital idiot will say that they can. It is therefore puerile to say that the political recognition of the Untouchables as a separate element and granting them constitutional safeguards will perpetuate separation between them and the Hindus if the Hindus desire to put an end to it.

IV

There are other floating arguments against the claim of the Untouchables for political safeguards which must also be examined. One such argument is that there are social divisions everywhere, not merely in India but also in

Europe; but they are not taken into account by the people of Europe in framing their constitutions. Why should they be taken into account in India ? The thesis is general. But it may be extended to such a length that even the claim of the Untouchables may be enveloped by it. As such I prefer to state why I think it is unsound.

In making my comments I propose to make a distinction between the statement and the argument founded on it and deal with them separately. The statement is good up to a point. In so far as it alleges that every society consists of groups it cannot be challenged. For even in European or American society there are groups associated together in various ways and for various purposes. Some are like the kindred closely bound together by blood or language. Some are of the nature of social classes differentiated on the basis of rank and status. Others are religious associations upholding particular dogmas, not to mention, political parties and industrial corporations, criminal gangs and so on in an endless variety with differing aims and bound together some loosely some closely by differing degrees of affinity. But when the statement goes beyond and says that the castes in India are not different from group and classes in Europe and America it is nothing but an arrant nonsense. The groups and classes of Europe may be the same as the caste in India to look at. But fundamentally was are quite different. The chief distinguishing feature is the isolation and exclusiveness which are the hall-marks of the castes in India and which are maintained as matter not of routine but of faith none of which characteristics is to be found in the group or the class system of Europe or America.

Turning to the thesis the social organization of India being different from, what it is in Europe and America it follows that while Europe and America need not take into account the facts and circumstances of their social organization in framing their constitution, India cannot omit to take account of her Caste and Untouchability. For a fuller understanding of the matter I may explain why Europe need not and why India must. The danger to a society organized in groups is that each group develops what are called “is own interests” and the question of forging constitutional safeguards arises from the necessity of counteracting the mischief that such interest might cause to others outside it. Where there is a possibility of

counteracting the mischief by non-political means there is no necessity for forging constitutional safeguards. If, on the other hand, non-political means of counteracting it do not exist then constitutional means must be forged. In Europe the possibility of counteracting mischief arising from a group seeking to maintain "its own interest" does exist. It exists because of the absence of isolation and exclusiveness among the various groups which allows free scope for interaction with the result that the dominant purpose of a group to stand out for its own interests and always seek to protect them as something violate and sacred gives way to a broadening and socialization of its aims and purposes. This endosmosis between groups in Europe affects dispositions and produces a society which can be depended upon for community of thought, harmony of purposes and unity of action. But the case of India is, totally different. The caste in India is exclusive and isolated. There is no interaction and no modification of aims and objects. What a caste or a combination of castes regard "as their own interest" as against other castes remains as sacred and inviolate as ever. The fact that they mingle and co-operate does not alter their character. These acts of co-operation are mechanical and not social. Individuals use one another so as to get desired results, without reference to the emotional arid intellectual disposition. The fact that they give and take orders modify actions and results. But it does not affect their dispositions. That being the case, the Indian constitution must provide safeguards to prevent castes with "their own interests" from doing mischief to other helpless castes.

There is another distinguishing feature of the Indian caste system which justifies why the Indian Constitution must take account of it and provide against mischief arising from it. Every society consists of groups. But it must be recognized that the mutual relations of the groups are not the same everywhere. In one society groups may be only *non-social* in their attitude towards one another. But in another they may be *anti-social*. Where the spirit which actuates the various social groups is only non-social their existence may not be taken into account in framing a constitution. There is no cause for danger in a group which is only non-social. But where a group is actuated by an anti-social spirit towards another and to which alien is synonymous with enemy the fact must be taken into account in framing the constitution and the class which

has been the victim of anti-social spirit must be given protection by proper safeguards. In India the castes are not merely non-social. Often they are anti-social. This is particularly true of the Hindus towards the Untouchables. A few facts will suffice to show how anti-social the Hindus are towards the Untouchables. For instance, the Hindus will not allow the Untouchables to take water from a well. The Hindus will not allow the Untouchables entry in schools. The Hindus will not allow the Untouchables to travel in buses. The Hindus will not allow the Untouchables to travel in the same railway compartment. The Hindus will not allow Untouchables to wear clean clothes. The Hindus will not allow Untouchables to wear jewellery. The Hindus will not allow Untouchables to put tiles on the roofs of their houses. The Hindus will not tolerate Untouchables to own land. The Hindus will not allow Untouchables to keep cattle. The Hindus will not allow an Untouchable to sit when Hindu is standing. They are not isolated acts of a few bad men among the Hindus. They are the emanations of the permanent anti-social attitude of the Hindu community against the Untouchables.[1]

It is unnecessary to carry the matter further. It is enough to say that the thesis is full of fallacies and it would be a most shameful piece of chicanery if it was used as a ground for opposing the demand of the Untouchables for constitutional safeguards.

V

There is another floating argument one sometimes comes across. The basis of the argument is that Untouchability is a vanishing thing and therefore there is no use recognizing the Untouchables as a separate element in the national life of India. Everything is vanishing and there is nothing that is permanent in human history. The point may be considered when Untouchability has gone root and branch. Until that state arrives, it is unnecessary to pay any regard to it. We must all hope for the disappearance of Untouchability. But we must be careful not to be misled by people who boast of being incorrigible optimists. An optimist is a good companion

1. For details, see my forthcoming volume—'*What The Hindus Have Dons To Us*'

to cheer up when one is in a state of depression. But he is not always a truthful witness of facts.

This argument is no argument at all. But since some people may be allured by it I wish to expose it and to show how futile it is. Those who raise this point do not seem to make a distinction between Untouchability as a touch-me-not-ism and Untouchability as a mental attitude manifesting itself in social discrimination. The two are quite different. It may be that Untouchability as a touch-me-not-ism may be gradually vanishing in towns, although I am doubtful if this is happening in any appreciable degree. But I am quite certain Untouchability as a propensity on the part of the Hindus to discriminate against the Untouchables will not vanish either in towns or in villages within an imaginable distance of time. Not only Untouchability as a discriminating propensity will not disappear but Untouchability as touch-me-not-ism will not disappear within a measurable distance of time in the vast number of villages in which the vast number of Hindus live and will continue to live. You cannot untwist a two-thousand-year-twist of the human mind and turn it in the opposite direction.

I am quite aware that there are some protagonists of Hinduism who say that Hinduism is a very adaptable religion, that it can adjust itself to everything and absorb anything. I do not think many people would regard such a capacity in a religion as a virtue to be proud of just as no one would think highly of a child because it has developed the capacity to eat dung, and digest it. But that is another matter. It is quite true that Hinduism can adjust itself. The best example of its adjust ability is the literary production called *Allahupanishad* which the Brahmins of the time of Akbar produced to give a place to his *Dine-Ilahi* within Hinduism and to recognize it as the Seventh system of Hindu philosophy. It is true that Hinduism can absorb many things. The beef-eating Hinduism (or strictly speaking Brahmanism which is the proper name of Hinduism in its earlier stage) absorbed the non-violence theory of Buddhism and became a religion of vegetarianism. But there is one thing which Hinduism has never been able to do—namely to adjust itself to absorb the Untouchables or to remove the bar of Untouchability. There have been many reformers who, long before Mr. Gandhi came on the scene, tried to remove the stain of Untouchability. But they have all failed. The reason for their failure appears to me to be very simple. Hindus

have nothing to fear from the Untouchables, nor have they anything to gain by the abolition of Untouchability. Hindus gave up beef-eating because they were afraid that otherwise Buddhism would overpower Hinduism. Hindus wrote *Allah-upanishad* because they had everything to gain by helping Akbar to establish a new religion. The author gained money by pleasing the Emperor and by lending aid to establish a religion which promised less tyranny and oppression to the Hindus than Islam held out. Neither of these considerations exist for the most sanguine among the Untouchables to expect that the Hindus will readily put an end to this curse of Untouchability.

Not only have the Hindus nothing to fear and nothing to gain, they have in fact much to lose by the abolition of Untouchability. The system of Untouchability is a gold mine to the Hindus. In it the 240 millions of Hindus have 60 millions of Untouchables to serve as their retinue to enable the Hindus to maintain pomp and ceremony and to cultivate a feeling of pride and dignity befitting a master class which cannot be fostered and sustained unless there is beneath it a servile class to look down upon. In it the 240 millions of Hindus have 60 millions of Untouchables to be used as forced labour and because of their state of complete destitution and helplessness can be compelled to work on a mere pittance and sometimes on nothing at all. In it the 240 millions of Hindus have 60 millions of Untouchables to do the dirty work of scavengers and sweepers which the Hindu is debarred by his religion to do and which must be done for the Hindus by non-Hindus who could be no others than Untouchables. In it the 240 millions of Hindus have 60 millions of Untouchables who can be kept to lower jobs and prevented from entering into competition for higher jobs which are preserved for the Hindus. In it the 240 millions of Hindus have 60 millions of Untouchables who can be used as shock-absorbers in slumps and deadweights in booms, for in slumps it is the Untouchable who is fired first and the Hindu is fired last and in booms the Hindu is employed first and the Untouchable is employed last.

Most people believe that Untouchability is a religious system. That is true. But it is a mistake to suppose that it is only a religious system. Untouchability is more than a religious system. It is also an economic system which is worse than

slavery. In slavery the master at any rate had the responsibility to feed, clothe and house the slave and keep him in good, condition lest the market value of the slave should decrease. But in the system of Untouchability the Hindu takes no responsibility for the maintenance of the Untouchable. As an economic system it permits exploitation without obligation. Untouchability is not only a system of unmitigated economic exploitation, but it is also a system of uncontrolled economic exploitation. That is because there is no independent public opinion to condemn it and there is no impartial machinery of administration to restrain it. There is no appeal to public opinion, for whatever public opinion there is it is the opinion of the Hindus who belong to the exploiting class and as such favour exploitation. There is no check from the police or the judiciary for the simple reason that they are all drawn from the Hindus, and take the side of the Exploiters.

Those who believe that Untouchability will soon vanish do not seem to have paid attention to the economic advantages which it gives to the Hindus. Untouchable cannot do anything to get rid of his untouchability. It does not arise out of any personal fault on his part. Untouchability is an attitude of the Hindu. For Untouchability to vanish, it is the Hindu who must change. Will he change ?

Has a Hindu any conscience? Is he ever known to have been fired with a righteous indignation against a moral wrong ? Assuming he does change so much as to regard Untouchability a moral wrong, assuming he is awakened to the sense of putting himself right with God and Man, will he agree to give up the economic and social advantages which Untouchability gives ? History, I am afraid, will not justify the conclusion that a Hindu has a quick conscience or if he has it is, so active as to charge him with moral indignation and drive him to undertake a crusade to eradicate the wrong-History shows that where ethics and economics come in conflict victory is always with economics. Vested interests have never been known to have willingly divested themselves unless there was sufficient force to compel them. The Untouchables cannot hope to generate any compelling force. They are poor and they are scattered. They can be easily suppressed should they raise their head.

On this analysis, Swaraj would make Hindus more powerful and Untouchables more helpless and it is quite possible that having regard to the economic advantages which it gives to the Hindus, Swaraj, instead of putting an end to Untouchability, may extend its life. That Untouchability is vanishing is therefore only wishful thinking and a calculated untruth. It would be most stupid—if not criminal—to take it into account in considering the demands of the Untouchables for constitutional safeguards and ignore the hard facts of the present and their certainty to continue in the indefinite future.

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CHAPTER IX

A PLEA TO THE FOREIGNER

Let Not Tyranny Have Freedom to Enslave

I

It is a matter of common experience that barring a few exceptions, almost all foreigners who show interest in Indian political affairs take the side of the Congress. This quite naturally puzzles and annoys the other political parties in the country, such as the Muslim League claiming to represent the Musalmans, the Justice Party—now in a state of suspended animation but still—claiming to speak in the name of the non-Brahmins and the All India Scheduled Castes Federation claiming to represent the Untouchables, all of whom have been appealing to the foreigner for support but to whom the foreigner is not even prepared to give a sympathetic hearing. Why does the foreigner support the Congress and not the other political parties in India ? Two reasons are usually assigned by the foreigner for his behaviour. One reason assigned by him for supporting the Congress is because he believes that the Congress is the only representative body of Indians and can speak in the name of India and even for the Untouchables. Is he right in his belief ? Two circumstances are mainly responsible for giving rise to such a belief.

The first and foremost circumstance for the spread of this view is the propaganda by the Indian Press in favour of the Congress. The Press in India is an accomplice of the Congress, believes in the dogma that the Congress is never wrong and acts on the principle of not giving any publicity to any news which is inconsistent with Congress prestige or Congress ideology. It is largely due to the Press in India that this cry of the Congress, that it represents all, has been so ceaselessly advertised, with the result that the people in England and America know one thing and only one thing, namely that the Congress is the only representative body in India.

The second circumstance why the world outside believes that the Congress is the only organization which represents India, including even the Untouchables, is because of the absence of

propaganda on behalf of the Untouchables to advertise their case against the Congress claim. There are various explanations for this failure on the part of the Untouchables. They have no Press and the Congress Press is closed to them. It is determined not to give them the slightest publicity. They cannot have their own Press. It is obvious that no paper can survive without advertisement revenue. Advertisement revenue can come only from business and in India all business, both big and small is attached to the Congress and will not favour any Non-Congress organ. The staff of the Associated Press of India, which is the main news distributing agency in India, is entirely drawn from Madras Brahmins—indeed the whole of the Press in India is in their hands and who for well-known reasons are entirely pro-Congress and will not allow any news hostile to the Congress to get publicity. These are reasons beyond the control of the Untouchables. But to a large extent their failure to do propaganda is also due to absence of will to do propaganda. This absence of will arises from a patriotic motive not to do anything which will damage the cause of the country in the eyes of the world outside. There are two different aspects to the politics of India which may be distinguished as foreign politics and constitutional politics. India's foreign politics relate to India's freedom from British Imperialism while the constitutional politics of India centre round the nature of a constitution for a free India. They are really separate. But the Untouchables fear that though the two aspects of India's politics are separable, the foreigner who counts in this matter, and whose misunderstanding has to be guarded against, is not only not capable of separating them but is very likely to mistake a quarrel over constitutional politics for a disagreement over the ultimate purposes of India's foreign politics. This is why the Untouchables have preferred to remain silent and allowed the Congress propaganda to go unchallenged. Congressmen will not admit the patriotic motives of the Untouchables in keeping silent over Congress propaganda which is directed against them. The fact, however, remains that their silence and desire to avoid open challenge has been a material cause which has brought about the general belief that the Congress represents all, even the Untouchables.

Though regrettable, it was excusable for a foreigner to be carried away by propaganda at a time when the representative character of the Congress was not put to test in an election.

But the matter has now been put to test in the elections that took place in 1937. With the results of the elections available to check the position, there is no justification for any one to rest his judgment regarding the representative character of the Congress, on propaganda. What the election results show has already been set out in an earlier part of the book, both generally and also in particular regard to the Untouchables. It may, therefore, be trusted that the foreigners, who have these facts before them, will not hereafter accept the propagandist view that the Congress represents all, including the Untouchables, as they did in the past, and will realize that other parties besides the Congress and particularly the Untouchables, have something different to say on the political problem of India.

The second reason why the foreigner assigns his support to the Congress is because of his belief that the Congress is fighting for the freedom of India. He sees Congressmen engaged in a conflict with the British Government, launching campaigns of civil disobedience, breaking laws made by a Foreign Government, organizing movements for non-payment of taxes, courting prison, preaching non-co-operation with Government, refusing offices and exhibiting themselves in other ways as men out to sacrifice themselves for the freedom of the country. He sees other political parties standing aloof. From this, he concludes that the Congress is a body struggling for the freedom of the country and as a lover of freedom feels bound to support a body carrying on a "Fight for Freedom." I have explained elsewhere why other political parties have not joined in the Fight for Freedom. Here I propose to deal with another aspect of the question, namely, for whose freedom is the Congress fighting ?

II

In taking the side of the Congress as an organization "Fighting for Freedom," the foreigner does not stop to make a distinction between the freedom of a country and the freedom of the people in the country. In not stopping to make this distinction, the foreigner, it must be said, far from understanding the matter, is allowing himself to be misled, if not deceived. For words such as society, nation and country are just amorphous, if not ambiguous, terms. There is no gain-

saying that 'Nation' though one word means many classes. Philosophically it may be possible to consider a nation as a unit but sociologically it cannot but be regarded as consisting of many classes and the freedom of the nation if it is to be a reality must vouchsafe the freedom of the different classes comprised in it, particularly those who are treated as the servile classes. Consequently, it is foolish to take solace in the fact that because the Congress is fighting for the freedom of India, it is, therefore, fighting for the freedom of the people of India and of the lowest of the low.

The question whether the Congress is fighting for freedom has very little importance as compared to the question for whose freedom is the Congress fighting. This is a pertinent and necessary inquiry and it would be wrong for any lover of freedom to support the Congress without pursuing the matter and finding out what the truth is. But the foreigner who takes the side of the Congress does not care even to raise such a question. Why is the foreigner so indifferent to so important a question ? So far as I am able to judge, the reason for such indifference is to be found in the wrong notions of self-government and democracy which are prevalent in the West and which form the stock-in-trade of the foreigner who takes interest in Indian Politics.

It is propounded by Western writers on Politics that all that is necessary for the realization of self-government is the existence among a people of what Grote called constitutional morality. By constitutional morality is meant[1] habits of "paramount reverence for the form of the constitution, enforcing obedience to the authorities acting under and within those forms, yet combined with the habit of open speech, of action subject only to definite legal control, and unrestrained censure of those very authorities as to all their public acts—combined, too, with a perfect confidence in the bosom of every citizen, admits the bitterness of party contest, that the forms of constitution will be not less sacred in the eyes of his opponents than in his own." If in a populace these habits are present, then according to Western writers on Politics, self-government can be a reality and nothing further need be considered. Similarly, Western writers on democracy believe that what is necessary for the realization of the ideal of demo-

1 *Grote History of Greece, Vol. III, p.* 347.

cracy, namely, government by the people, of the people and for the people, is the establishment of universal adult suffrage. Other means have been suggested such as recall, plebiscite and short parliaments and in some countries they have been brought into operation. But in a majority of countries nothing more than adult suffrage is deemed to be necessary.

I have no hesitation in saying that both these notions are fallacious and grossly misleading. If democracy and self-government have, failed everywhere, it is largely due to these wrong notions. Habits of constitutional morality may be essential for the maintenance of a constitutional *form* of government. But the maintenance of a constitutional form of Government is not the same thing as a self-government by the people. Similarly, it may be granted that adult suffrage can produce government of the people in the logical sense of the phrase, i.e. in contrast to the government of a king. But it cannot by itself be said to bring about a democratic government, in the sense of government by the people and for the people.

These views of Western writers on politics regarding democracy and self-government are erroneous for very many reasons. In the first place, they omit to take into account the incontrovertible fact that in every country there is a governing class grown up by force of historical circumstances, which is destined to rule, which does rule and to whom adult suffrage and constitutional morality are no bar against reaching places of power and authority and to whom the servile classes, by reason of the fact that they regard the members of the governing classes as their natural leaders, volunteer to elect as rulers. Secondly, they fail to realize that the existence of a governing class is inconsistent with democracy and self-government and that given the fact that where the governing class retains its power to govern, it is wrong to say that democracy and self-government exist unless democracy and self-government are regarded as mere matters of form. Thirdly, they do not seem to be aware that self-government and democracy become real not when a constitution based on adult suffrage comes into existence but when the governing class loses its power to capture the power to govern. Fourthly, they seem to overlook the fact that while in some countries the servile classes may succeed in ousting the governing class from the seat of authority with nothing more than adult suffrage, in other countries the govern-

ing class may be so well entrenched that the servile classes will need other safeguards besides adult suffrage to achieve the same end. Lastly, they seem to pay no heed to the fact that given the existence of the Governing class what matters, most in the consideration of any scheme of democracy and self-government is the social outlook and social philosophy of the governing class, for so long as the governing class retains its means to capture the power to govern, the freedom and the well-being of the servile classes must depend upon the social outlook, the social conscience of the governing class and its philosophy of life.

The recognition of the existence of a governing class as a fundamental and a crucial fact confronting democracy and self-government is the only safe and realistic approach to those who wish for democracy and self-government to come into their own. It is a fatal blunder to omit to take account of it in coming to a conclusion as to whether in a free country freedom, will be the privilege of the governing class only or it will be the possession of all. In my view, therefore, what the foreigner who chooses to side with the Congress should ask is not whether the Congress is fighting for freedom. He should ask : For whose freedom is the Congress fighting ? Is it fighting for the freedom of the governing class in India or is it fighting for the freedom of the people of India ? If he finds that the Congress is fighting for the freedom of the governing class, he should ask Congressmen: Is the governing class in India fit to govern ? This is the least he can do before siding with the Congress.

What are the answers which Congressmen have to give to these questions ? I do not know. But I can give what I think are the only true answers to these questions.

III

To start with it is well to know who constitute the governing class in India. The governing class in India consists principally of the Brahmins. It is strange that the present-day Brahmins repudiate the allegation that they belong to the governing class though at one time they described themselves as *Bhudevas* (Gods on Earth). What can this *volte face* be due to ? Is it due to a guilty conscience born out of the realization that they

have committed criminal breach of the trust imposed upon the intellectual sections in every community by the sacred law of humanity not to serve the interest of their own class but to safeguard the interest of all and therefore dare not stand before the bar of the world ? Or is it due to their sense of modesty ? It is unnecessary to stop to speculate as to which is the truth.

That the Brahmins are a governing class is hardly open to question. There are two tests one could apply. First is the sentiment of the people and the second is the control of administration. I am sure there cannot be better and more decisive tests than these two. As to the first, there cannot be any doubt. Taking the attitude of the people, the person of the Brahmin is sacred. In ancient time, he could not be hanged no matter what offence he committed. As a sacred person he had immunities and privileges which were denied to the servile class. He was entitled to first fruits. In Malabar, where the Sambandham marriage prevails, the servile classes such as the Nairs regard it an honour to have their females kept as mistresses by Brahmins. Even kings invited Brahmins[1] to deflower their queens on *prima noctis*. There

[1] The Traveller Ludovico Di Varthema who came to India in the middle of the 16th century and visited Malabar says :

"It is proper and at the same time a pleasant thing to know who these Brahmins are. You must know that they are the chief persons of the faith, as priests are among us. And when the king takes a wife he selects the most worthy and the most honoured of these Brahmins and makes him sleep the first night with his wife, in order that he may deflower her. Do not imagine that the Brahmin goes willingly to perform this operation. The king is obliged to pay him four hundred to five hundred ducats. The king only and no other person in Calicut adopts this practice."—*Voyages of Varthema* (Hakluyat Society), Vol. I, p. 141.

Other Travellers tell that the practice was widespread. Hamilton in his *Account of the East Indies* says :

"When the Samorin marries, he must not cohabit with his bride till the Nambourie (Nambudri) or chief priest, has enjoyed her, and if he pleases he may have three nights of her company, because the first fruits of her nuptials must be a holy oblation to the God she worships and some of the nobles are so complacent as to allow the clergy the same tribute; but the common people cannot have that compliment paid to them, but are forced to supply the priests places themselves."—Vol. I, p. 308.

Buchanan in his Narrative refers to the practice in the following terms :

"The ladies of the Tamuri family are generally impregnated by Nambudries ; although if they choose they may employ the higher ranks of Nairs; but the sacred character of the Nambudries always procures them a preference."— *Pinkerton's Voyages,* Vol. VIII, p. 734.

Mr. C.A. Innes, J.C.S., Editor of the *Gazetteer* of Malabar and Anjengo issued under the authority of the Government of Madras says :

"Another institution found amongst all the classes following the *marukak-kattayam* system, as well as amongst many of those who observe *makkattayam,* is that known as "Tali-tying wedding" which has been described as "the most peculiar, distinctive and unique" among Malayali marriage customs. Its

was a time when no person of the servile class could take his food without drinking the water in which the toes of the Brahmins were washed. Sir P. C. Ray once described how in his childhood, rows of children belonging to the servile classes used to stand for hours together in the morning on the roadside in Calcutta with cups of water in their hands waiting for a Brahmin to pass ready to wash his feet and take it to their parents waiting to sip it before taking their food. Under the British Government and by reason of its equalitarian jurisprudence these rights, immunities and privileges of the Brahmins have ceased to exist. Nonetheless the advantages they gave still remain and the Brahmin is still pre-eminent and sacred in the eyes of the servile classes and is still addressed by them as 'Swami' which means 'Lord.'

The second test gives an equally positive result. To take only the Madras Presidency by way of illustration. Consider Table 17 (see page 207). It shows the distribution of gazetted posts between the Brahmins and other communities in the year 1943.

Similar data from other Provinces could also be adduced to support this conclusion. But it is unnecessary to labour the point. Whether the Brahmins claim themselves to be members of the governing class or not, the facts that they control the administration and that their supremacy is accepted by the servile classes, are enough to establish the point.

History shows that the Brahmin has always had other classes as his allies to whom he was ready to accord the status of a governing class provided they were prepared to work with him in subordinate co-operation. In ancient and medieval times he made such an alliance with the Kshatriyas or the warrior class and the two ruled the masses, indeed ground them down, the Brahmin with his pen and the Kshatriya with his sword. At present, the Brahmin has made an alliance with the Vaishya class called Banias. The shifting of this alliance from Kshatriya to Bania is natural. In these days of com-

essence is the tying of a *tali* (a small piece of gold or other metal, like a locket, on a string) on a girl's neck before she attains the age of puberty. This is done by a man of the same or of a higher caste (the usages of different classes differ), and it is only after it has been done that the girl is at liberty to contract a *sambandham*. It seems to be generally considered that the ceremony was intended to confer on the *tali tier* or *manavalan* (bridegroom) a right to cohabit with the girl; and by some the origin of the ceremony is found in the claim of the *Bhu-devas* or "Earth-Gods," (that is the Brahmins), and on a lower plane of Kshatriyas or ruling classes, to the first-fruits of lower caste womanhood, a right akin to the mediaeval *droit de seigneurie."*— Vol. I, p. 101.

Table 17

Communities	*Approximate Population in Lakhs*	*Percentage of Population*	*No. of Posts held out of Total No. Gazetted Posts (2,200)*	*Percentage of Appointments held*	*Non-Gazetted Posts*			
					Over Rs. 100 Total No. 7,500		*Over Rs. 35 Total No. 20,782*	
					No. held by	*Percentage of Appointments held*	*No. held by*	*Percentage of Appointments held*
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
Brahmins	15	3	820	37	3,280	43.73	8,812	42.4
Christians	20	4	190	9	750	10	1,655	8.0
Muhammadans	37	7	150	7	497	6.63	1,624	7.8
Depressed Classes	70	14	25	1.5	39	.52	144	.69
Non-Brahmine: Forward Non-Brahmins ...	113	22	620	27	2,543	33.9	8,440	40.6
Non-Brahmine: Backward Class ...	245	50	50	2				
Non-Asiatic and Anglo-Indians ...	—	—	—	—	372	5.0	83	4
Other Communities	—	—	—	—	19	.5	24	.11

merce money is more important than sword. That is one reason for this change in party alignment. The second reason is the need for money to run the political machine. Money can come only from the Bania. It is the Bania who is financing the Congress largely because Mr. Gandhi is a Bania and also because he has realized that money invested in Politics gives large dividends. Those who have any doubts in the matter might do well to read what Mr. Gandhi told Mr. Louis Fisher on June 6, 1942. Reports Fisher[1]:—

> "I said I had several questions to ask him about the Congress Party. Very highly placed Britishers, I recalled, had told me that Congress was in the hands of big business and that Gandhi was supported by the Bombay millowners who gave him as much money as he wanted. 'What truth is there in these assertions,' I asked."
>
> "'Unfortunately, they are true,' he declared simply, 'Congress hasn't enough money to conduct its work. We thought in the beginning to collect four annas (about eight cents) from each member per year and operate on that. But it hasn't worked.'"
>
> "'What proportion of the Congress budget,' I asked, 'is covered by rich Indians ?'"
>
> "'Practically all of it,' he stated. 'In this ashram, for instance, we could live much more poorly than we do and spend less money. But we do not and the money comes from our rich friends.'"

For this reason, it is impossible for the Brahmin to exclude the Bania from the position of a governing class. In fact, he has established not merely a working but a cordial alliance with the Bania. The result is that the governing class in India today is a Brahmin-Bania instead of Brahmin-Kshatriya combine as it used to be.

The existence of the Governing class does not cover the whole story. What is significant is that the members of the governing class in India are quite conscious of the fact that they do belong to the governing class and that they alone are destined to rule. The late Mr. Tilak could never forget that he was a Brahmin and belonged to the governing class. The same is reported to be the case about Pandit Jawaharlal Nehru[2] and his sister

[1] *'A Week with Gandhi* (1943), p. 41.

[2] Mr. Pattabhi Sitaramaya in his introduction to the Life of Pandit Jawaharlal Nehru by Mr. Y.G. Krishnamurti, says Pandit Nehru is very conscious of the fact that he is a Brahmin. This will shock many who are under the impression that Pandit Nehru is a Socialist and does not believe in caste. But Mr. Pattabhi

Mrs. Vijaya Laxmi Pandit. Nor is Mr. Vallabhbhai Patel free from the feeling that he belongs to the governing class. Mr. Tilak is held out as the father of the Swaraj movement. Pandit Nehru and Mr. Vallabhbhai Patel are the leading members of the Congress High Command. Not only are they conscious of the fact that they belong to the governing class but some of them hold that the servile classes are a contemptible people, who must remain servile and who must never aspire to rule. Indeed, they have felt no shame and no remorse in giving public expression to such views. In 1918, when the Non-Brahmins and the Backward Classes had started an agitation for separate representation in the Legislature, Mr. Tilak in a public meeting held in Sholapur said he did not understand why the oil pressers, tobacco shopkeepers, washermen, etc.— that was his description of the Non-Brahmins and the Backward Classes—should want to go into the Legislature. In his opinion, their business was to obey the laws and not to aspire for power to make laws. In 1942, Lord Linlithgow invited 52 important Indians representing different sections of the people to discuss what steps could be taken to make the Central Government more popular with a view to enlist the sympathy and co-operation of all Indians in war effort. Among those that were invited were members belonging to the Scheduled Castes. Mr. Vallabhbhai Patel could not bear the idea that the Viceroy should have invited such a crowd of mean men. Soon after the event, Mr. Vallabhbhai Patel made a speech in Ahmedabad and said[3] :—

> "The Viceroy sent for the leaders of the Hindu Mahasabha, he sent for the leaders of the Muslim League, and he sent for Ghanchis (oil pressers), Mochis (cobblers) and the rest."

Although Mr. Vallabhbhai Patel in his malicious and stinging words referred only to *Ghanchis* and *Mochis,* his speech is indicative of the general contempt in which the governing class and the members of the Congress High Command hold

Sitaramaya ought to know what he is saying. Not only is Pandit Nehru conscious of the fact that he is a Brahmin but his sister Mrs. Vijaya Laxmi Pandit, also seems to be conscious that she is a Brahmin. It is said that at the All-India Women's Conference held in Delhi in December 1940, the question of not declaring one's caste in the Census Return was discussed. Mrs. Pandit disapproved of the idea and said she did not see any reason why she should not be proud of her Brahmin blood and declare herself as a Brahmin at the Census—See *Sense and Nonsense in Politics*" Serial No. XII by Mr. J.E. Sanjana in the *Rast Rahabar* (a Bombay Gujarathi Weekly), 14th January '45.

[3] Quoted by Mr. Sanjana in *Sense and Nonsense in Politics.*

the servile classes of this country. Further illustrations of this attitude of the governing class and the Congress High Command can be found from incidents that have taken place in the election campaigns. They are so relevant and so revealing that a special mention must be made of them.

Ever since 1919 when Mr. Gandhi captured the Congress, Congressmen have looked upon the boycott of Legislature as one of the sanctions for making the British Government concede the demand for Swaraj. Under this policy, every time there was an election in which the Congress decided not to take part, the Congress would not only refuse to put candidates on the Congress ticket but would carry on propaganda against any Hindu proposing to stand for election as an independent candidate. One need not quarrel over the merits of such a policy. But what were the means adopted, by the Congress to prevent Hindus standing on an independent ticket? The means adopted were to make the legislatures objects of contempt. Accordingly, the Congress in various Provinces started processions carrying placards saying "who will go in the Legislatures ? Only barbers, cobblers, potters and sweepers." In the processions one man would utter the question as part of the slogan and the whole crowd would repeat as answer the second part of the slogan. When Congressmen found that this was not enough to deter persons from standing for the elections, they decided to adopt sterner measures. Believing that respectable people would not be prepared to stand for election if they felt certain that they would have to sit with barbers, potters and sweepers, etc. in the legislatures, the Congress actually went to the extent of putting up candidates from these despised communities on the Congress ticket and got them elected. A few illustrations of this outrageous conduct of the Congress may be mentioned. In the 1920 election, the Congress elected a cobbler[1] in the Central Provinces Legislature. In the 1930 election, they elected in the Central Provinces two cobblers[2], one milkman[3] and one barber[4] and in the Punjab one sweeper[5]. In 1934, the Congress elected a potter[6] to the Central Legislature. It might be said that this

[1] Faguwa Rohidas.

[2] Guru Gosain Agamdas and Balaraj Jaiswar.

[3] Chunnu.

[4] Arjunlal

[5] Bansi Lal Chaudhari.

[6] Bhagat Chandi Mal Gola.

is old history. Let me correct such an impression by referring to what happened in 1943, in the Municipal Elections in Andheri—a suburb of Bombay. The Congress put up a barber to bring the Municipality in contempt.

What an enormity ? The Sinn Fein in Ireland boycotted the British Parliament. But did they make such hideous use of their own countrymen for effecting their purposes ? The campaign of boycott of legislature which took place in 1930 is of particular interest. The elections to the Provincial Legislatures in 1930 in which these instances occurred coincided with Mr. Gandhi's Salt satyagraha campaign of 1930!! I hope that the future (the official historian Dr. Pattabhi Sitamayya has failed to do so) historian of Congress while recording how Mr. Gandhi decided to serve notice on the Viceroy, Lord Irwin, presenting him with a list of demands to be con ceded before a certain date and on failure by the Viceroy in this behalf, how Mr. Gandhi decided to launch a campaign of civil disobedience, how Mr. Gandhi elected an Englishman to carry his notice, how Mr. Gandhi selected Salt Act as a target for attack, how he selected Dandi as a scene of battle, how he decided to put himself at the head of the campaign, how he marched out from his Ashram in Ahmedabad with all pomp and ceremony, how the women of Ahmedabad came out with *Arthi* and applied *tilak* (saffron mark) to his forehead wishing him victory, how Mr. Gandhi assured them by saying that Gujarat alone will win Swaraj for India, how Mr. Gandhi proclaimed his determination by saying that he will not return to Ahmedabad until he has won Swaraj, will not fail to record that while on the one hand Congressmen were engaged in fighting for Swaraj which they said they wanted to win in the name and for the masses, on the other hand and in the very year they were committing the worst outrages, upon the very masses by exhibiting them publicly as objects of contempt to be shunned and avoided.

Such is the mentality of the governing classes in India towards the servile classes.

IV

What is to be the fate of the servile classes of India under this governing class ?

The Congress promises to do wonders for the servile classes—the Congress speaks of masses, it ought really to speak of them as the servile classes held in bondage by the governing classes—when Swaraj comes. It says that it would like to make revolutionary changes but it has no power to make them and it must wait for Swaraj. It is this glib talk which goes to deceive the gullible foreigner. Leaving aside the boast and bluster which lie behind the statement, one may ask what really can happen if India does become a sovereign and an independent state ? One thing is certain. The governing class will not disappear by the magic wand of Swaraj. It will remain as it is and having been freed from the incubus of British Imperialism will acquire greater strength and vigour. It will capture power as the governing classes in every country do. In short, Swaraj will not be government *by* the people but it will be a government run by the governing class and in the absence of Government *by* the people, government *for* the people will be what the governing class will choose to make of it.

What will the governing class do when India becomes a sovereign and independent state ? Some hope that they will undertake reform of tenancy laws, enlarge factory legislation, extend primary education, introduce prohibition and train people to ply *charkha,* construct roads and canals, improve currency, regulate weights and measures, open dispensaries and undertake other measures to ameliorate the condition of the servile classes. No one from the servile class can be very enthusiastic about such a programme. In the first place, there is nothing very great in it. In the world of today, no governing, class can omit to undertake reforms which are necessary to maintain society in a civilized state. Personally, I have grave doubts about the governing class in India coming forward to carry out even such a modest programme of social amelioration. Most people forget that what leads the Congress today to mouth such a programme is the desire to show that the Congress is better than the British Bureaucracy. But once the bureaucracy is liquidated, will there be the same incentive to better the lot of the masses ? I entertain very grave doubts on the point. Apart from this, is social amelioration the be all and end-all of Swaraj ? Speaking for the servile classes, I have no doubt that what they expect to happen in a sovereign and free India is a complete destruction of Brahmanism as a philosophy of life and as a social order. If I may say so, the

servile classes do not care for social amelioration. The want and poverty which has been their lot is nothing to them as compared to the insult and indignity which they have to bear as a result of the vicious social order. Not bread but honour, is what they want. The question therefore is : Will the governing classes in India having captured the machinery of the State, undertake a programme for the reform of the social order as distinguished from a programme of social amelioration ?

The statement by Congressmen that Congress can do wonders if only India was a sovereign and an independent State, supposing that it is an honest aspiration and not mere propaganda, proceeds on the assumption that for a man to do what he wants, nothing more is necessary than power. Such a belief is not only pitiable but is really a dangerous illusion. Those who are inclined to cherish such an illusion forget that there are serious limitations on sovereignty, no matter how absolute it is. None has described these limitations in more telling language than Dicey. In his Law of the Constitution, he says:—

> "The actual exercise of authority by any sovereign whatever, and notably by Parliament, is bounded or controlled by two limitations. Of these the one is an external, the other is an internal limitation.
>
> "The external limit to the real power of a sovereign consists in the possibility or certainty that his subjects or a large number of them, will disobey or resist his laws.
>
> "This limitation exists even under the most despotic monarchies. A Roman Emperor, or a French King during the middle of the eighteenth century, was (as is the Russian Czar at the present day) in strictness a "sovereign" in the legal sense of that term. He had absolute legislative authority. Any law made by him was binding, and there was no power in the empire or kingdom which could annul such law... But it would be an error to suppose that the most absolute ruler who ever existed could in reality make or change every law at his pleasure...
>
> "The authority, that is to say, even of a despot, depends upon the readiness of his subjects or of some portion of his subjects to obey his behests; and this readiness to obey, must always be in reality limited. This is shown by the most notorious facts of history. None of the early Caesars could at their pleasure have subverted the worship of fundamental institutions of the Roman world,.. The Sultan could not

abolish Mahommedanism. Louis the Fourteenth at the height of his power could revoke the Edict of Nantes, but he would have found it impossible to establish the supremacy of Protestantism, and for the same reason which prevented James the Second from establishing the supremacy of Roman Catholicism....What is true of the power of a despot or of the authority of a constituent assembly is specially true of the sovereignty of Parliament; it is limited on every side by the possibility of popular resistance. Parliament might legally establish an Episcopal Church in Scotland; Parliament might legally tax the Colonies ; Parliament might without any breach of law change the succession to the throne or abolish the monarchy; but everyone knows that in the present state of the world the British Parliament will do none of these things. In each case widespread resistance would result from legislation which, though legally valid, is in fact beyond the stretch of Parliamentary power.

* * *

"The internal limit to the exercise of sovereignty arises from the nature of the sovereign power itself. Even a despot exercises his powers in accordance with his character, which is itself moulded by the circumstances under which he lives, including under that head the moral feelings of the time and the society to which he belongs. The Sultan could not if he would, change the religion of the Mahommedan world, but if he could do so it is in the very highest degree improbable that the head of Mahommedanism should wish to overthrow the religion of Mahomet; the internal check on the exercise of the Sultan's power is at least as strong as the external limitation. People sometimes ask the idle question why the Pope does not introduce this or that reform ? The true answer is that a revolutionist is not the kind of man who becomes a Pope, and that the man who becomes a Pope has no wish to be a revolutionist.."

None can gainsay the truth of what Dicey has said. What the governing class may do depends not so much upon the degree of its sovereignty as upon what Dicey calls the external and internal limitations in sovereignty. Of these two, if the failure to do good arises out of the external limitations, nobody need blame the governing class. The fear of external limitations blocking progress need not cause much apprehension. For it is the internal limitations of the governing class that have a greater determining force than the external limitations. Progress depends more upon internal limitations of the governing class than upon external limitations. What

are the factors which determine these internal limitations ? The internal limitations are born out of the outlook, traditions, vested interests and the social philosophy of the governing class. The purpose of this discussion is to warn the foreigner that before believing what the Congress proposes to do for the servile classes, he should make it a point to ask: What is the outlook of the governing class ? What are its traditions ? What is its social philosophy ?

To take the Brahmins first. Historically they have been the most inveterate enemy of the servile classes (Shudras and the Untouchables) who together constitute about 80 per cent of the total Hindu population. If the common man belonging to the servile classes in India is today so fallen, so degraded, so devoid of hope and ambition, it is entirely due to the Brahmins and their philosophy. The cardinal principles of this philosophy of Brahmanism are five: (1) graded inequality between the different classes ; (2) complete disarmament of the Shudras and the Untouchables; (3) complete prohibition of the education of the Shudras and the Untouchables ; (4) ban on the Shudras and the Untouchables occupying places of power and authority; (5) ban on the Shudras and the Untouchables acquiring property. (6) complete subjugation and suppression of women. Inequality is the official doctrine of Brahmanism and the suppression of the lower classes aspiring to equality has been looked upon by them and carried out by them, without remorse as their bounden duty. There are countries where education did not spread beyond a few. But India is the only country where the intellectual class, namely, the Brahmins not only made education their monopoly but declared acquisition of education by the lower classes, a crime punishable by cutting off of the tongue or by the pouring of molten lead in the ear of the offender. The Congress politicians complain that the British are ruling India by a wholesale disarmament of the people of India. But they forget that disarmament of the Shudras and the Untouchables was the rule of law promulgated by the Brahmins. Indeed, so strongly did the Brahmins believe in the disarmament of the Shudras and the Untouchables that when they revised the law to enable the Brahmins to arm themselves for the protection of their own privileges, they maintained the ban on the Shudras and the Untouchables as it was without lessening its rigour. If the large majority of people of India appear today to be

thoroughly emasculated, spiritless, with no manliness, it is the result of the Brahmanic policy of wholesale disarmament to which they have been subjected for the untold ages. There is no social evil and no social wrong to which the Brahmin does not give his support. Man's inhumanity to man, such as the feeling of caste, untouchability, unapproachability and unseeability is a religion to him. It would, however, be a mistake to suppose that only the wrongs of man are a religion to him. For the Brahmin has given his support to the worst wrongs that women have suffered from in any part of the world. Widows were burnt alive as sattees. The Brahmin gave his fullest support to *Sattee,* the burning alive of a widow. Widows were not allowed to remarry. The Brahmin upheld the doctrine. Girls were required to be married before 8 and the husband had the right to consummate the marriage at any time thereafter, whether she had reached puberty or not did not matter. The Brahmin gave the doctrine his strongest support. The record of the Brahmins as law givers for the Shudras, for the Untouchables and for women is the blackest as compared with the record of the intellectual classes in other parts of the world. For no intellectual class has prostituted its intelligence to invent a philosophy to keep his uneducated countrymen in a perpetual state of ignorance and poverty as the Brahmins have done in India. Every Brahmin today believes in this philosophy of Brahmanism propounded by his forefathers. He is an alien element in the Hindu Society. The Brahmin *vis-a-vis* Shudras and the Untouchables as foreign as the German is to the French, as the Jew is to the Gentile or as the White is to the Negro. There is a real gulf between him and the lower classes of Shudras and Untouchables. He is not only alien to them but he is also hostile to them. In relationship with them, there is no room for conscience and there is no call for justice.

The Bania is the worst parasitic class known to history. In him the vice of money-making is unredeemed by culture or conscience. He is like an undertaker who prospers when there is an epidemic. The only difference between the undertaker and the Bania is that the undertaker does not create an epidemic while the Bania does. He does not use his money for production. He uses it to create poverty and more poverty by lending money for unproductive purposes. He lives on interest and

as he is told by his religion that money lending is the occupation prescribed to him by Manu, he looks upon it as both right and righteous. With the help and assistance of the Brahmin judge who is read to decree his suits, he is able to carry on his trade. Interest, interest on interest, he adds on and on and thereby draws families perpetually into his net: Pay him as much as a debtor may, he is always in debt. With no conscience, there is no fraud, and no chicanery that he will not commit. His grip over the nation is complete. The whole of poor, starving, illiterate India is mortgaged to the Bania.

To sum up, the Brahmin enslaves the mind and the Bania enslaves the body. Between them, they divide the spoils which belong to the governing classes. Can anyone who realizes what the outlook, tradition and social philosophy of the governing class in India, is believe that under the Congress regime, a sovereign and independent India will be different from the India we have today ?

V

If the Congress is honest and sincere in its professions as the champion and the guardian of the servile classes the Congress may well be called upon to show what steps it took to destroy the power of the governing class. It is repeated from housetops that the Congress swept the polls in the elections that took place in 1937. Overlooking the hyperbole, a question could legitimately be asked: It is true that the Congress won the victory but which is the class among the Indian people which carried the trophy ? Unfortunately, no Indian publicist has as yet undertaken to compile an Indian counterpart of Dodd's Parliamentary Manual. Consequently, it is difficult to have precise particulars regarding the caste, occupation, education and social status of members of the legislature elected on the Congress ticket. The matter is so important that I thought of collecting the necessary information on these points relating to members of the Provincial Legislatures elected in 1937 on the Congress ticket. I did not succeed in getting precise information about every member. There are many whom I have had to leave as unclassified. But the information I have been able to gather throws a glaring light upon victory of the Congress and shows what it means to the people of India in terms of their freedom and their well-being.

Table 18 (see page 219) shows the proportion of Brahmins

and Non-Brahmins and the Scheduled Castes that were elected to the Provincial Legislative Assemblies on the Congress Ticket.

Those who do not know how small is the proportion of the Brahmins to the total population of Hindus may not be able to realize the representation which the Brahmins have secured in the Congress Election. But those who know it will realize that in proportion to their numbers the Brahmins have secured overwhelming representation.

What degree of representation did the Congress give to the propertied classes, such as Banias, businessmen and landlords ? Table 19 (see page 220) shows how many Banias, businessmen and landlords were elected on the Congress ticket.

Here again the representation secured by the Banias, landlords and businessmen standing on the Congress ticket is overwhelming. Is there any doubt that the Congress instead of warring against the governing class actually helped the governing class to capture political power ? There is one other feature of the Congress victory in the election which needs to be exposed. It relates to the composition of the Congress ministries[1].

Tables 20 and 21 (see pages 221 and 223) give an idea of the position of the Brahmins in the Congress Ministries in Provinces in which the Congress had obtained a majority.

In all the Hindu Provinces, the Prime Ministers were Brahmins. In all Hindu Provinces if the Non-Hindu ministers were excluded, the Cabinets were wholly composed of Brahmins. This was particularly so in United Provinces, the Province to which Pandit Jawaharlal Nehru belongs.

Is there any doubt that the Brahmins form the governing class in India ? Is there any doubt that the Congress' fight for Freedom is for the freedom of the governing class ? Is there any doubt that the Congress is the governing class and the governing class is the Congress ? Is there any doubt that when Swaraj came in 1937 in the form of Provincial autonomy, the Congress shamelessly put the governing class in places of power and authority ?

To be true to facts it is an understatement to say that the Congress put the governing classes into places of power and authority. It did more than that. Here again, so strange has been the result that people will not believe what the Congress

[1] Indian Information for July 15, 1939.

Table 18

Classification of Congress Members of Provincial Assemblies by Castes

Province	*Brahmins*	*Non-Brahmins*	*Scheduled Castes*	*Not Stated*	*Total*
Assam	6	21	1	5	33
Bengal	15	27	6	6	54
Bihar	31	39	16	12	98
C.P.	28	35	7	—	70
Madras	38	90	26	5	159
Orissa	11	20	5	—	36
United Provinces	39	54	16	24	133

Table 19

Classification of the Congress Members of the Provincial Legislatures in terms of Occupation

Province	*Lawyers*	*Medical Practi-tioners*	*Land-lords*	*Business-men*	*Private Officials*	*Money Lenders*	*Nil*	*Not Stated*	*Total*
Assam	16	2	2	1	—	—	3	9	33
Bengal	9	2	16	5	2	—	16	4	54
Bihar	14	4	56	6	3	—	1	14	98
Central Provinces ...	20	2	25	10	—	—	8	5	70
Madras	52	2	45	18	2	1	3	36	159
Orissa	8	1	17	4	4	1	1	—	36

Table 20

*Composition of the Cabinds in the Congress Provinces**

Province	*Total No. of Cabinet Ministers*	*Total No. of Non-Hindu Ministers*	*Hindu Ministers in the Cabinet*				*Prime Minister*
			Total	*Brahmins*	*Non Brahmins*	*Scheduled Castes*	
Assam	8	3	5	?	?	*Nil*	Brahmin
Bihar	4	1	3	?	?	1	Brahmin
Bombay	7	2	5	3	2	*Nil*	Brahmin
Central Provinces	5	1	4	3	1	*Nil*	Brahmin
Madras	9	2	7	3	3	1	Brahmin
Orissa	3	*Nil*	3	?	?	?	?
United Provinces	6	2	4	4	*Nil*	*Nil*	Brahmin

*This table represents the position as it stood in May 1939 and as reported in the Issue of July 15, 1939 of the Indian Information. Question mark indicates inability to classify whether Brahmin or non-Brahmin.

did unless they see the facts. The fact is that the Congress High Command in selecting a candidate had a definite policy namely in the case of Brahmins, to give preference to a candidate who had the highest educational qualifications and in the case of the Non-Brahmins and the Scheduled Castes, to give preference to a candidate who had the lowest educational qualification. Let those who have any doubts in the matter consider the facts summarized in Table 22 (see page 224.)

It is obvious that in the case of the Brahmins the relative proportion of graduates to non-graduates is far higher than what it is in the case of the Non-Brahmins and the Scheduled Castes. The difference in terms of graduates and non-graduates does not really reveal the correct situation. To put it correctly, the Brahmin graduates were seasoned politicians of high repute while the Non-Brahmin graduates were raw graduates with the career of second class politicians to recommend them.

Why did the Congress select the best educated Brahmms as its candidates for election ? Why did the Congress select the least educated Non-Brahmins and Scheduled Castes as its candidates for election ? To this question I can see only one answer. It was to prevent the Non-Brahmins in the Congress from forming a ministry. The Congress seems to have deliberately preferred an uneducated Non-Brahmin to an educated one because from the point of view of the governing class, the uneducated Non-Brahmin has two definite advantages over an educated non-Brahmin. In the first place, he is likely to be more grateful to the Congress High Command for having got him elected than an educated Non-Brahmin is likely to be, and would not be ready to revolt against the Congress Ministry, formed by the governing classes, by joining hands with the educated Non-Brahmins in the Congress Party should the latter aspire to form a government of their own against the government of the governing classes. In the second place, if more undergraduates or more raw Non-Brahmin graduates were selected, it was with the purpose to prevent the Non-Brahmins in the Congress from forming a competent and alternative Ministry to the detriment of the governing class. The Non-Brahmins in the Congress do not know how the Congress has deceived them, and how in drawing them inside the Congress, the Congress was making a concealed attempt to permanently entrench the governing classes in places of power and authority.

Table 21

*Classification of Parliamentary Secretaries in Congress Provinces**

Province	*Total No. of Parliamentary Secretaries*	*Total No. of Non-Hindu Parliamentary Secretaries*	*Hindu Parliamentary Secretaries*			
			Total	*Brahmins*	*Non-Brahmins*	*Scheduled Castes*
Assam	*Nil*	*Nil*	*Nil*	*Nil*	*Nil*	*Nil*
Bihar	8	*Nil*	8	2	5	1
Bombay	6	*Nil*	6	1	5	*Nil*
Central Provinces	*Nil*	*Nil*	*Nil*	*Nil*	*Nil*	*Nil*
Madras	8	1	7	3	4	1
Grissa	3	*Nil*	3	?	?	*Nil*
United Provinces	12	1	11	2	8	1

*Compiled from Indian Information Issue of July 15, 1939. Question mark indicates inability to classify whether Brahmin or non-Brahmin.

Table 22

Classification of Brahmin and Non-Brahmin Congress Partymen by Literacy

Provincial Assemblies	*Castes*	*Total*	*Graduates*	*Non-Graduates*	*Matriculates*	*Illiterates*	*Not stated*
Assam	Brahmin	6	5	1	—	—	—
	Non-Brahmin	21	15	2	—	1	9
Bengal	Brahmin	15	14	1	—	—	—
	Non-Brahmin	27	21	4	—	1	7
	(Scheduled Castes	6	3	—	1	2	—
Bihar	Brahmin	31	11	5	8	4	3
	Non-Brahmin	39	23	4	3	8	13
	Scheduled Castes	—	1	1	4	10	—
Central Province ...	Brahmins	39	15	—	2	9	2
	Non-Brahmin	54	15	—	2	17	1
	Scheduled Castes	—	1	—	—	6	—
Madras	Brahmins	38	16	2	3	4	13
	Non-Brahmins	90	31	3	1	7	61
	Scheduled Castes	26	1	1	1	14	—
	Backward Class	—	1	—	—	—	—
Orissa	Brahmins	11	6	1	—	3	1
	Non-Brahmins	20	7	3	2	7	1
	Scheduled Castes	5	—	—	—	5	—

VI

It would be instructive to compare the attitude of the governing class in India with the attitude taken by the governing class in other countries in times of national crisis such as we are passing through in India today. In France, when the Revolution broke out and demanded equality the governing class in France voluntarily came forward to give up its powers and its privileges and to merge itself in the mass of the nation. This is clear from what happened when the States General called. The Commons got 600 representatives while the clergy and the Nobles got 800 each. The question arose how were the 1,200 members to sit, debate and vote. The Commons insisted upon the union of all the three estates in one Chamber and 'vote by head.' It was impossible to expect the clergy and the Nobles to accept this position. For it meant the surrender of their most ancient and valuable privileges. Yet a good part of them agreed to the demand of the Commons and gave France a constitution based upon liberty, equality and fraternity.

The attitude of the governing classes in Japan during the period between 1855 to 1870—a period in which the Japanese people were transformed from a feudal society into a modern nation—was even more patriotic than the attitude of the governing classes in France. As students of Japanese history[1] know, there were four classes in Japanese Society (1) The *Damiyos,* (2) The *Samurai,* (8) The *Hemin* or the Common folk and (4) The *Eta* or the outcastes standing one above the other in an order of graded inequality. At the bottom were the *Eta* numbering a good many thousands. Above the *Eta* were the *Hemin* numbering about 25/83 millions. Over them were the *Samurai* who numbered about 2 millions and who had the power of life and death over the *Hemin*. At the apex were the *Damiyos* or the Feudal Barons who exercised sway over the rest of the three classes and who numbered only 300. The *Damiyos* and the *Samurai* realized that it was impossible to transform this feudal society with its class composition and class rights into a modem nation with equality of citizenship. Accordingly the *Damiyos* charged with the spirit of nationalism and anxious not to stand in the way of national unity, came forward to surrender their privileges and to merge themselves

[1] See *Romance of Japan* by James A.B. Scherer.

in the common mass of people. In a memorial submitted to the Emperor on the 5th March 1869 they said:[1]

> "The Place where we live is the Emperor's land. The food that we eat is grown by the Emperor's men. How then can we claim any property as our own ? We now reverently offer up our possessions and also our followers (Samurai as well as 'common folk') with the prayer that the Emperor will take good measures for rewarding those to whom reward is due, and for fining such as do not deserve reward. Let imperial orders be issued for altering and remodelling the territories of the various clans. Let the civil and penal codes, the military laws down to the rules, for uniforms and for the construction of engines of war, all proceed from the Emperor. Let all affairs of the Empire, both great and small, be referred to him."

How does the governing class in India compare in this behalf with the governing class in Japan ? Just the opposite. The governing class in India has no such intention of making any sacrifice on the altar of Indian Freedom. Instead of surrendering its privileges in the name of nationalism, the governing class in India is using or misusing the slogan of nationalism to maintain its privileges. Whenever the servile classes ask for reservations in the Legislatures, in the Executive and in public services, the governing class raises the cry of 'nationalism in danger.' People are told that if we are to achieve national freedom, we must maintain national unity, that all questions regarding reservations in the Legislatures, Executives and the public services are inimical to national unity and therefore for anyone interested in national freedom it is a sin to stand out for such reservations and create dissensions. That is the attitude of the governing class. It stands in glaring contrast with that of the governing class in Japan. Far from sacrificing its privileges for nationalism, it is exploiting nationalism to preserve them.

The governing class in India does not merely refuse to surrender its power and authority; it never loses an opportunity to pour ridicule on the political demands of the servile classes. Some[2] members of the governing classes have gone to the

[1] *lbid,* p. 233.

[2] The parody written by Dr. R.P. Paranjpe appeared in a magazine called *Gujarathi Punch* for May 1926 under the heading "A Peep into the Future." As a specimen of this class of writing by members of the governing class it is worth perusal. It is a satire based on certain incidents which are imagined to

length of composing lampoons and parodies in order to make the demand of the servile classes appear absurd and ridiculous. The most colourful of such parodies was the one written by Dr. R. P. Paranjpe, new Indian High Commissioner for Australia. It is difficult to understand how so advanced a Liberal like Dr. Paranjpe should entertain such views.

have occurred under the principle of communal reservations. As the magazine is not easily available, I reproduce it below :—

'A Peep Into The Future'

The following extracts are taken from reports of Commissions, records of police courts cases, judicial trials, Council Proceedings, Administration Reports, etc., issued between the year 1930-50 and are published for the exclusive benefit of the readers of the *Gujarati Punch.*

I

Report of the Royal Commission on the Government of India, 1930 :

We have given our closest consideration to the representations made on behalf of several communities in India. Taking the figures of the last Census as our basis we can only give an approximate satisfaction to all the claims made before us, for it is not possible to give an absolutely accurate solution to the problem of constructing a machinery of Government unless every single person in the country is made a member thereof, as the numbers of the several communities do not possess a common measure. We lay down the number 2375 as the fundamental number in the constitution and this number is divided into parts attached to the several communities as shown in the schedule attached to our report. The claims of each community will henceforward be represented by its proper number, and all appointments, memberships of various bodies, and in fact everything in the country will be awarded according to the proportion given in the schedule wherever possible. The Viceroy's Executive Council will consist of 475 members selected as far as may be according to one-fifth the numbers belonging to each community and three members will hold office for one year so that each community will have attained its exact share of membership in five years. There will be 125 Judges in each High Court, each judge holding office for one year, though according to this arrangement, each section will have obtained its exact share only after the lapse of 19 years. The number of other kinds of appointments will be determined on the same basis for the accurate adjustment of all claims.

To allow for the proper functioning of all bodies with these numbers as many existing Government buildings as may be necessary may be pulled down and rebuilt so as to be of the proper size.

II

(*Notification of the Government of India, 1932*)

In accordance with the provisions of the Government of India Act, 1931, His Majesty the King Emperor has been pleased to appoint the following 475 gentlemen as members of the Executive Council of the Governor General:

267. Matadin Bamdin (caste Barber) member in charge of the Surgical Branch of the Medical Department.

372. Allabux Peerbux (Mahomedan Camel driver) in charge of the camel transport division of the Army Department.

433. Bamaswamy (caste, Andhra Sweeper) in charge of the road cleaning branch of the P.W.D.

437. Jagannath Bhattacharya (Kulin Brahmin Priest) in charge of the domestic section of the Registration Department.

* * *

These lampoons and parodies give the impression that the members of the servile classes are perverse if not idiotic in making such demands and the governing classes in opposing the demands of the servile classes are seeking to maintain in India an efficient body politic by insisting that every place of power and authority should be filled by none but the best

IV

(*Letter to all Local Governments, 1934*)

In response to a resolution passed by the Legislative Assembly, with which the Government of India are in full agreement, I am directed to say that henceforward every appointment under Government should go by rotation to each community irrespective of the merits of the applicants.

V

(*Notification in the Bombay Government Gazette, 1934*)

The Government of Bombay will proceed to make the following appointments in December. The applicants for the several appointments should belong to the castes mentioned against each according to the rotation fixed by Government Order No. ... dated November 30th, 1934.

1. Chief Engineer for Irrigation (Sind) : Kunbi from North Kanara.
2. Professor of Sanskrit, Elphinstone College, Bombay : Baluchi Pathan from Sind.
3. Commandant of His Excellency's Bodyguard: Marwari from North Gujarat.
4. Consulting Architect to Government: Wadari (wandering gypsy) from the Deccan.
5. Director of Islamic culture : Karhada Brahmin.
6. Professor of Anatomy : (Grant Medical College) Mahomedan Butcher.
7. Superintendent of Yeravda Jail: Ghantichor.
8. Two organizers of prohibition : Dharala (Kaira District Bhil) (Panch Mahals).

VI

(*Report of a Case from the High Court, 1935*)

A.B. (caste Teli) was charged with the cold- blooded murder of his father while he was asleep. The judge summing up against the accused, the jury brought in a verdict of guilty. Before passing sentence the judge asked the pleader for the accused if he had to say anything. The pleader, Mr. Bomanji, said he agreed with the verdict but that according to Law the accused could not be sentenced at all, much less sentenced to death, as during the current year seven Telia had already been convicted and sentenced two of them with death, that several other communities had not yet reached their quota of convictions as given in the Government of India Act, while the Telia had already reached theirs. His Lordship accepted the contention of the defence pleader and acquitted the accused.

VII

(*Extract from the 'Indian Daily Mail', 1936*)

Annaji Ramchandra (Chitpavan Brahmin) was found wandering in the streets of Poona with a long knife attacking whomsoever he met. When brought up before the Magistrate he was shown by the police to have been recently let off from the Mental Hospital. The Superintendent of the Hospital in his evidence said that Annaji had been in the hospital as a dangerous insane for three years, but as there was the quota for the Chitpavanas and as the inmates belonging to other communities had not finished their year-quotas he could not keep

man available. Nobody will have any quarrel with the abstract principle that nothing should be done whereby the best shall be superseded by one who is only better and the better by one who is merely good and the good by one who is bad. But the argument completely fails to carry conviction when in practice one finds that having regard to the historical circumstances of India every time the 'best man' is chosen he turns out to be a man from the governing class. This may be alright from the point of view of the governing class. But can it be alright from the point of view of the servile class ? Could 'best' German be the 'best' for the French ? Could the 'best' Turk be 'best' for the Greeks ? Could the 'best' Pole be regarded

him any longer and show any special favouritism to the Chitpavans and he had therefore let him off according to Government Order No. ... in the Medical Department. The Magistrate ordered Annaji to be discharged.

VIII

(*Extract from the Report of the Administration of Jails in the Bombay Presidency, 1937*)

In spite of every precaution the numbers in the jails did not correspond to the quotas fixed for each community. The Superintendent had already asked for instructions from Government with a view to remedying the discrepancy.

Resolution of Government: Government view with serious displeasure this grave dereliction of duty on the part of the I.G. of prisons. Immediate steps should be taken to arrest and put in jail as many members of the various communities as are required to bring their quotas up to the proper level. If enough persons required cannot be caught, a sufficient number of inmates should be let off to bring down all to the same level.

IX

(*Proceedings of the Legislative Council, 1940*)

Mr. Chennappa asked: Has the attention of Government been called to the fact that class list of the recent M.A. Examination in Pali do not show the proper quota for mang-garudis ?

The Hon. Mr. Damu Shroff (Minister of Education) : The University Registrar reports that no candidate from among Mang-garudis offered himself for examination.

Mr. Chennappa : Will Government be pleased to stop this examination until such a candidate offers himself and if the University disobeys the order of Government to take away the University grant and amend the University Act ?

The Hon. Member: Government will be pleased to consider the suggestion favourably. (Cheers).

X

(*Extract from 'The Times of India,' 1942*)

The Coroner Mr. ..... was suddenly called last evening to inquire into the death of Ramji Sonu at the J.J. Hospital as the result of a surgical operation. Dr. Tanu Pandav (Caste Barber) deposed that he had conducted the operation. He wished to open an abscess in the abdomen but his knife pierced the heart and the patient expired. Asked whether he had ever carried out any operation of this nature before, he said that he was appointed as the principal surgeon to the hospital only one day before as it was then the turn of his community and that he had never held a surgical instrument in his hand before except a razor for shaving. The jury returned a verdict of death by misadventure.

'best' by the Jews ? There can hardly be any doubt as to the correct answer to these questions. Class qualifications can never be ignored. Man is not a mere machine. He is a human being with feelings of sympathy for some and antipathy for others. This is even true of the 'best' man. He too is charged with the feelings of class sympathies and class antipathies. Having regard to these considerations the 'best' man from the governing class may well turn out to be the worst from the point of view of the servile classes. The difference between the governing classes and the servile classes in the matter of their attitudes towards each other is the same as the attitude a person of one nation has for that of another nation. Persons of the governing class in parodying the demands of the servile classes seem to forget that the difference between the governing class and the servile class in India is of the same nature as the difference between French and Germans, Turks and Greeks or Poles and Jews and the reasons why one will not tolerate the government of the other although it may be of the 'best' men are the same in both cases.

The governing class in their attempt to ridicule the demand also forget by what means it has built up their power. Let them refer to their own Manu Smriti and they will find that the ways they got their power were very much the same as the imaginary resolutions suggested by Dr. Paranjpe. A reference to Manu Smriti will show that the view that Brahmins, the chief and the leading element in the governing class, acquired their political power not by force of intellect—intellect is nobody's monopoly—but by sheer communalism. According to the Laws Manu Smriti the post of the Purohit, King's Chaplain and Lord Chancellor, the posts of the Chief Justice and Judges of the High Court and the posts of Ministers to the Crown were all reserved for the Brahmins. Even for the post of the Commander-in-Chief the Brahmin was recommended as a fit and a proper person though it was not in terms reserved for him. All the strategic posts having been reserved for the Brahmins it goes without saying that all ministerial posts came to be reserved for the Brahmins. This is not all. The Brahmin was not content with reserving places of profit and power for his class. He knew that mere reservation will not do. He must prevent rivals shooting up from other non-Brahmin communities equally qualified to hold the posts

and agitate and blow up the system of reservations. In addition to reserving all executive posts in the State for Brahmins a law was made whereby education was made the monopoly and privilege of Brahmins. As has already been pointed out the law made it a crime for the Shudra, i.e. the lower orders of Hindu Society to acquire learning, the infringement of which was followed by not only heavy but cruel and inhuman punishment such as cutting the tongue of the criminal and filling his ear with hot molten lead. Congressmen cannot escape by saying that these privileges no longer exist. They must admit that while the privileges have gone the advantages derived from their continuance over several centuries have remained. Nor can Congressmen honestly turn down the demands of the servile classes as Communalism knowing full well that a worst form of communalism had been the recognized means adopted by the Brahmins for acquiring power and that if the servile classes are to-day driven to ask for safeguards it is because the Brahmins in order to maintain their privileges passed laws which made it a crime for them to acquire learning or property. Surely what the servile classes are demanding is not half so bad as was done by the Brahmins for their own aggrandisement and for the perpetuation of their own domination.

In the light of what has been said, it will be found that the Fight for Freedom led by the governing class is, from the point of view of the servile classes, a selfish, if not a sham, struggle. The freedom which the governing class in India is struggling for is freedom to rule the servile classes. What it wants is the freedom for the master race to rule the subject race which is nothing but the Nazi or Nietchian doctrine of freedom for superman to rule the common man.

VIII

The foreigner who wishes to know the what and wherefor of Indian politics and desires to make a contribution to the solution of the problems arising out of it must know the basic considerations which lie behind Indian politics. If he fails to have a full grasp of them he is bound to be at sea and cannot but be the sport of a party which may happen to capture him or captivate him. These basic considerations of Indian politics are : (1) The philosophy and outlook of the governing class in

relation to the servile classes (2) The relation of the governing class to the Congress and (3) The *raison d'etre* of the political demands of the servile classes for constitutional safeguards.

Regarding the first enough has been said to enable the foreigner to form his own opinion. The thesis I have endeavoured to present and to support with facts and arguments may be simply stated. It maintains that the only way to ensure that a sovereign and independent India will be a different India in which there will be no servile class doing duty to the governing class, is to frame a constitution which will by proper safeguards, circumscribe the power of the governing class to capture government and to put a limit upon its predatory powers. This is what the Untouchables are urging and this is what the Congress is opposing. The whole controversy between the Congress and the Untouchables centres round the question of constitutional safeguards. The issue is : Is the constitution of India to be with safeguards or without safeguards for the Scheduled Castes? The foreigner does not realize this to be the issue nor does he realize that the alleged representative character of the Congress is absolutely irrelevant to the issue. The Congress may be a representative body but that has nothing to do with the decision of the issue, whether the constitution of India should or should not contain any safeguards for the Scheduled Castes. For the decision of this issue, the representative character of the Congress is beside the point. The decision can rest only on the basis of needs and the question that will be relevant is: Do the Scheduled Castes need the safeguards they have been asking for? The foreigner is not justified in supporting the Congress as against the Scheduled Castes on the ground that the Congress is a representative body. The foreigner is, of course, justified in asking the Scheduled Castes to prove their case for safeguards. He is even justified in saying that the existence of a governing class is not enough and that they must further prove something that the governing class in India is so vile, so wicked, so entrenched that it will not yield to the forces of adult suffrage. Such a stand it is proper to take and the Scheduled Classes are prepared to face it. For, beyond doubt, the governing class in India does occupy a different position in India than it does in other countries of the world. In other countries, there is, at the most, a hyphen between the governing class and the rest. In India, there is a

bar between the two. A hyphen is only separation ; but a bar is a severance with interests and sympathies completely divided. In other countries, there is a continuous replenishment of the governing class by the incorporation of others who do not belong to it but who have reached the same elevation as the governing class. In India, the governing class is a close corporation in which nobody, not born in it, is admitted. This distinction is very important. In the case where the governing class is a close corporation, tradition, social philosophy and social outlook remain unbroken and the distinction between masters and slaves, between privileged and unprivileged continues hard in substance and fast in colour. On the other hand, where the governing class is not a close preserve, where there is social endosmosis between it and the rest, there is a mental assimilation which makes the governing class more flexible, its philosophy less anti-social. On realizing the truth behind these distinctions, a foreigner should be able to see that mere adult suffrage while it may suffice to hold the governing class in check in other countries, cannot have, in India, that effect and that consequently those parties in India like the Untouchables who are advocating additional safeguards in the constitution, are more worthy of Support for their anxiety to make free India safe for democracy, than the Congress which opposes such safeguards and which aims to place free India in the hands of a governing class.

The facts bearing on the second consideration have also been fully set out. From these facts he should be able to see how intimate is the connection between the Congress and the governing class. They will explain why the governing class in India has placed itself in the vanguard of the Congress movement and why it strives to bring everybody within the Congress fold. To put it briefly the governing class is aware that a political campaign based on class ideology, class interests, class issues and class conflicts will toll its death knell. It knows that the most effective way of sidetracking the servile classes and fooling them is to play upon the sentiment of nationalism and national unity and realizes that the Congress platform is the only platform that can most effectively safeguard the interest of the governing class. For if there is any platform from which all talk of conflict between rich and poor, Brahmin and Non-Brahmin, landlord and tenant, creditor and debtor which does not suit the governing class, can be

effectually banned it is the Congress platform which is not only bound to preach nationalism and national unity which is what the governing classes want and on which their safety entirely depends, but which prohibits any other ideology inconsistent with nationalism being preached from its platform.

If these two considerations are grasped, the foreigner will not find it difficult to understand the third namely the *raison d'etre* of the political demands of the servile classes.

The reservations demanded by the servile classes are really controls over the power of the governing classes. Even in European countries there is a demand for controls over the powers of certain classes of society. There is control on producers, distributors, money-lenders and landlords. If the necessity for controls over the power of certain classes is admitted in countries where there is much greater degree of homogeneity and identity of interests than there exists in India, a foreigner should not find it difficult to appreciate. The reservations do no more than correlate the constitution to the social institutions of the country in order to prevent political power to fall into the hands of the Governing class.

After so much of explanation of facts and arguments I do not think it will be difficult for the foreigner at least to believe that there is another side to the Congress propaganda, if he is not prepared to agree with the point of view herein presented. It would indeed be a sad commentary on the character and intelligence of a foreigner who even after his having gone through the facts and figures given above was not able to cultivate a cool and a dispassionate attitude towards those who do not share the Congress point of view.

IX

There is a tragic side to the foreigner's view of Indian politics to which it is impossible not to make a reference. The foreigners who take interest in Indian politics fall into three groups. The first group is aware of the social cleavages which rend Indian politics, cleavages of majorities and minorities, Hindus and Untouchables and so on. Their main object is not to solve these cleavages by appropriate constitutional safeguards and to open the way to constitutional advancement of India but to use these cleavages to block constitutional progress. The second group of foreigners are those who pay no attention

to the cleavages, who care a button what happens to the minorities and to the Untouchables. They are out to support the Congress demand and would fulfil it without bothering about safeguards. The third group consists of tourists who come 'to do' India and learn about its politics if possible overnight. All three are dangerous people. But the third group is the most dangerous from the point of view of the ultimate interest of the Indian people.

That there should be foreigners of the tourist sort who cannot understand the intricacies of Indian politics and who therefore support the Congress on no other ground except that which Mr. Pickwick gave to Sam Weller—to shout with the biggest crowd—is quite understandable. But what annoys most is the attitude of the leaders of the British Labour Party, heads of radical and leftist groups in Europe and America, represented by men like Laski, Kingsley Martin, Brailsford and editors of journals like the *Nation* in America, and the *New Statesman* in England championing the cause of the oppressed and the suppressed people. How can these men support the Congress passes one's comprehension. Do they not know that the Congress means the governing class and that the governing class means the Congress : Do they not know that the governing class in India is a Brahmin-Bania combine ? That masses are drawn in the Congress only to be camp followers with no say in the making of Congress policy ? Do they not realize that for the reasons for which the Sultan could not abolish Islam or the Pope could not repudiate Catholicism, the governing class in India will not decree the destruction of Brahmanism and that so long as the governing class remains what it is, Brahmanism which preaches the supremacy of Brahmans and the allied castes and which recognises the suppression and degradation of the Shudras and the Untouchables as the sacred duty of the State will continue to be the philosophy of the State even if India became free ? Do they not know that this governing class in India is not a part of the Indian people, is not only completely isolated from them, but believes in isolating itself, lest it should be contaminated by them, has implanted in its mind by reason of the Brahmanic philosophy, motives and interests which are hostile to those who are outside its fold and therefore does not sympathise with the living forces operating in the servile masses whom it has trodden down, is not. charged with their wants, their pains, their

cravings, their desires, is inimical to their aspirations, does not favour any advance in their education, promotion to high office and disfavours every movement calculated to raise their dignity and their self-respect ? Do they not know that in the Swaraj of India is involved the fate of 60 millions of Untouchables ? It would be impossible to say that the leaders of the British Labour Party, that Kingsley Martin, Brailsford and Laski whose writings on liberty and democracy are a source of inspiration to all suppressed people, do not know these facts. Yet if they refer to India, it is always to support the Congress. It is very, very seldom that they are found to discuss the problem of the Untouchables which ought to make the strongest appeal to all radicals and democrats. Their exclusive attention to Congress activities and their utter neglect of other elements in the national life of India shows how misguided they have been. One could well understand their support to the Congress if the Congress was fighting for political democracy. But is it ? As every one knows, the Congress is only fighting for national liberty and is not interested in political democracy. The party in India who is fighting for political democracy is the party of the Untouchables who fear that this Congress fight for liberty, if it succeeds, will mean liberty to the strong and the powerful to suppress the weak and the down-trodden unless they are protected by constitutional safeguards. It is they who ought to receive the help of these radical leaders. But the Untouchables have been waiting in vain for all these years even for a gesture of good-will and support from them. These radicals and leftists in Europe and America have not even cared to know the forces behind the Congress. Ignorant or unmindful one does not know, but the fact remains that these leftists and radical leaders have been giving blind and unquestioning support to the Congress which admittedly is run by capitalists, landlords, money-lenders and reactionaries, only because the Congress calls its activities by the grandiloquent name of "Fight for Freedom." All battles for freedom are not on equal moral plane for the simple reason that the motives and purposes behind these battles of freedom are not always the same. To take only a few illustrations from English History. The Barons' Rebellion against John which resulted in the Magna Charta could be called a battle for freedom. But could any democrat in modern times give it the same support which he would give—say to the

Levellers' Rebellion or to the Peasant's Revolt in English History, merely because it could logically be described as a battle for freedom ? To do so will be to respond to a false cry of freedom. Such crude conduct would have been forgivable, had it proceeded from groups not intelligent enough to make a distinction between freedom to live and freedom to oppress. But it is quite inexcusable in radical and leftist groups led by Messrs. Laski, Kingsley Martin, Brailsford, Louis Fisher and other well-known champions of democracy. When pressed to explain why they don't support Indian Parties which stand for true democracy, they are reported to meet the charge by a counter question. Are there any such parties in India ? Insist that there are such parties and they turn round and say : if such parties exist, how is it the Press does not report their activities ? When told that the Press is a Congress Press, they retort : how is it that the foreign correspondents of the English Papers do not report them ? I have shown why nothing better can be expected from these foreign correspondents. The Foreign Press Agency in India is no better than the Indian Press. Indeed it cannot be better. There are in India what are called foreign correspondents. In a large majority of cases they are Indians. Only a very few are foreigners. The selection of Indians as foreign correspondents is so made that they are almost always from the Congress camp. The foreign correspondents who are foreigners fall into two groups. If they are Americans they are just Anti-British and for that reason pro-Congress. Any political party in India which is not madly Anti-British does not interest them. Those who are not in the Congress will testify how hard it was for them to persuade the American War Correspondents who trooped into this country in 1941-42, even to entertain the possibility of the Congress not being the only party, much less to induce them to interest themselves in other political parties. It took a long time before they recovered their sanity and when they did, they either abused the Congress as an organization led by impossible men or just lost interest in Indian politics. They never got interested in other political parties in India and never cared to understand their point of view. The situation is no better in the case of foreign correspondents who are Britishers. They too are interested only in that kind of politics which is first and foremost Anti-British. They are uninterested in those political parties in India whose foremost

concern is to make a free India safe for democracy. The result is that the foreign press provides the same kind of news about Indian politics as does the Indian Press. These reasons cannot be beyond the ken of these radicals. Correspondents or no correspondents, is it not the duty of radicals to keep in touch with their kindred in other parts of the world to encourage them, to help them and to see that true democracy lives everywhere ? It is a most unfortunate thing that the Radicals of England and America should have forgotten the class to whom they owe a duty to help and have become the publicity agents of Indian Tories who are just misusing the slogan of liberty to befool and befog the world.

The sooner they get out of this fog created by the Congress and realize that democracy and self-government in India cannot be real unless freedom has become the assured possession of all, the better for them and the better for the people of India. But if they persist in giving their blind support to the Congress on the basis of an empty slogan without examining its relation to facts and intentions, I for one will have no hesitation in saying that far from being the friends of India they are a positive menace to the freedom of the Indian masses. It is a pity that they do not seem to distinguish the case of a tyrant who is held down and who pleads for liberty because he wants to regain his right to oppress and the case of an oppressed class seeking to be free from the oppression of the tyrant. In their hurry to bring freedom to India they have no time to realize that by siding with the Congress what they are doing is not to make India safe for democracy but to free the tyrant to practise his tyrannies. Is it necessary to tell them that to support Congress is to let tyranny have freedom to enslave ?

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CHAPTER X

WHAT DO THE UNTOUCHABLES SAY?

Beware of Mr. Gandhi

CONGRESSMEN never hesitate to impress upon the Untouchables that Mr. Gandhi is their saviour. Not only do Congressmen all over India hold out Mr. Gandhi as a real saviour but they go forth to persuade the Untouchables to accept the fact that he is their only saviour. When pressed for evidence, they tell the Untouchables that if any one ever took a vow to go on a fast unto death for the sake of the Untouchables it was Mr. Gandhi and none else. Indeed, without any compunction they tell the Untouchables that whatever political rights the Untouchables have got under the Poona Pact, they are the result of Mr. Gandhi's efforts. As an illustration of such propaganda I refer to what one Rai Bahadur Mehrchand Khanna is reported[1] to have said at a meeting of the Untouchables held at Peshawar on April 12, 1945 under the auspices of the Depressed Classes League :

> "Your best friend is Mahatma Gandhi who even resorted to a fast for your sake and brought about the Poona act under which you have been enfranchised and given representation on local bodies and legislatures. Some of you, I know, have been running after Dr. Ambedkar, who is just a creation of the British Imperialists and who uses you to strengthen the hands of the British Government in order that India may be divided and the Britishers continue to retain power. I appeal to you in your interests, to distinguish between self-styled leaders and your real friends."

If I refer to the statement of Rai Bahadur Mehrchand Khanna it is not because he is worth taking notice of. For there cannot be any one guilty of bigger blackguardism in Indian politics than this man. In the course of one year—not in very remote time but in 1944—he successfully played three different roles. He started as Secretary of the Hindu Mahasabha, turned agent of British Imperialism, went abroad to explain India's war effort to the British and American people and is now agent of the Congress in N.W.F. Province. The

[1] *Free Press Journal,* dated, 14-4-45,

opinion of a man like Rai Bahadur Khanna, who, to use Dryden's language, is so various as to be everything by starts, and nothing long, and who in the course of one revolving moon, can be a chemist, fiddler, statesman, and buffoon, must be beneath contempt. If I refer to him it is only because I wish to illustrate what sort of propaganda[1] friends of Mr. Gandhi are carrying on in order to beguile the Untouchables.

I do not know how many Untouchables will be found prepared to swallow such a lie. But this much I think has been proved by the Nazis that if a lie is a big lie—too big for the common man's intelligence to scrutinize—and if it is repeated continuously, the lie has all the chances of being accepted as truth and if not accepted as truth has all the chances of growing upon the victims of propaganda and win their acquiescence. It is, therefore, necessary for me to expose the part played by Mr. Gandhi in the movement of the Untouchables and to warn the Untouchables against succumbing to this propaganda.

I

In making a survey of the part played by Mr. Gandhi it is well to begin by ascertaining when Mr. Gandhi for the first time realized that Untouchability was an evil. On this point, we have the direct testimony of Mr. Gandhi himself. In an address delivered as President of the Suppressed Classes Conference, held at Ahmedabad on the 14th and 15th April 1921, Mr. Gandhi said :—

> "I was hardly yet twelve when this idea had dawned on me. A scavenger named Ukha, an Untouchable, used to attend our house for cleaning latrines. Often I would ask my mother why it was wrong to touch him, why I was forbidden to touch him. If I accidentally touched Ukha, I was asked to perform ablutions, and though I naturally obeyed, it was not without smilingly protesting that untouchability was not sanctioned by religion, that it was impossible that it should be so. I was a very dutiful and obedient child and so far as it was consistent with respect for parents. I often had tussles with them on

[1] Another illustration of such propaganda is that carried on by one Parsi gentleman by name Prof. A. R. Wadia. The views of Prof. Wadia have been critically examined and exposed by Mr. E. J. Sanjanna in a series of articles in the *Rast-Rahabar*—a Gujarathi Weekly published in Bombay from 29th October 1944 to 15th April 1945 under the heading of "Sense aad Nonsense in Politics."

this matter. I told my mother that she was entirely wrong in considering physical contact with Ukha as sinful.

"While at school I would often happen to touch the 'Untouchables' and as I never would conceal the fact from my parents, my mother would tell me that the shortest cut to purification after the unholy touch was to cancel the touch by touching any Musalman passing by. And simply out of reverence and regard for my mother I often did so, but never did so believing it to be a religious obligation. After some time we shifted to Porebandar, where I made my first acquaintance with Sanskrit. I was not yet put to an English School, and my brother and I were placed in charge of a Brahmin, who taught us Ram Raksha and Vishnu Punjar. The texts 'Jale Vishnuh' 'Sthale Vishnuh' (there is he Lord (present) in water, there is the Lord (present) in earth, have never gone out of my memory. A motherly old dame used to live close by. Now it happened that I was very timid then, and would conjure up ghosts and goblins whenever the lights went out, and it was dark. The old mother, to disabuse me of fears, suggested that I should mutter the Ramraksha texts whenever I was afraid, and all evil spirits would fly away. This I did and, as I thought with good effect. I could never believe then that there was any text in the Ramraksha pointing to the contact of the 'untouchables' as a sin. I did not understand its meaning then, or understood it very imperfectly. But I was confident that Ramraksha which could destroy all fear of ghosts, could not be countenancing any such thing as fear of contact with the 'untouchables.'

"The Ramayana used to be regularly read in our family. A Brahmin called Ladha Maharaj used to read it. He was stricken with leprosy, and he was confident that a regular reading of the Ramayana would cure him of leprosy, and indeed, he was cured of it. 'How can the Ramayana,' I thought to myself 'in which one is regarded nowadays as an 'untouchable,' took Rama across the Ganges in his boat, countenance the idea of any human beings being 'untouchables' on the ground that they were polluted souls ? The fact that we addressed God as the 'purifier of the polluted' and by similar appellations, shows that it is a sin to regard any one born in Hinduism as polluted or untouchable—that it is satanic to do so. I have hence been never tired of repeating that it is a great sin. I do not pretend that this thing had crystallised as a conviction in me at the age of twelve, but I do say that I did then regard untouchability as a sin. I narrate this story for the information of the Vaishnavas and orthodox Hindus,"

It is no doubt very interesting to know that in that age of blind orthodoxy Mr. Gandhi should have become aware that Untouchability was a sin and that too at so early an age as 12. What the Untouchables, however, want to know is what did Mr. Gandhi do to remove the evil. I give below an extract from a biographical note about Mr. Gandhi by the publishers, Tagore & Co., of Madras to their volume called *Young India,* issued in 1922, to show the principal activities, which Mr. Gandhi launched since the time he started his public career. This is what the note says :—

> "Mohandas Karamchand Gandhi was born on October 5, 1869. Caste Bania ; son of Karamchand Gandhi, Dewan of Porebunder, Rajkote and some other Kathiawar States; He was educated at the Kathiawad High School, later at London University and the Inner Temple. On return from London was enrolled as advocate of the Bombay High Court. Went to Natal and thence to the Transvaal on a legal mission. Was enrolled as advocate of the Natal Supreme Court. Decided to remain there. Founded the Natal Indian Congress, 1894. Returned to India, 1895. Agitation in India on behalf of the Natal and Transvaal Indians. Return to Durban. On landing attacked by the mob and narrowly escaped death; led an Indian Ambulance Corps in the Anglo-Boer War 1899 ; Returned to India in 1901 to recoup his health. Again returned to South Africa to lead the Indian deputation to place the Indian view of the South African Indian trouble before Mr. Chamberlain. Enrolled as attorney of the Supreme Court of Transvaal and founded the Transvaal British Indian Association and was its Honorary Secretary and Principal legal adviser. Founded the *Indian Opinion* in 1903 and the "Phoenix" Settlement. Led a Stretcher Bearer Corps in the native rebellion in 1906; Agitation against the Anti-Asiat e Act 1906 ; Deputation to England for the repeal of the Act; Passive Resistance movement begun against the Act; Negotiations between General Smuts and Mr. Gandhi and compromise. Smuts later denying the promise of repeal of the law, and again commenced passive resistance. Imprisoned twice for breaking the law. Again went to England in 1909 to lay the Indian case before the British public ; Provisional Settlement in 1911 Mr. Gokhale's visit to South Africa. On the Government declining to fulfil the settlement of 1911 organized a revival of the passive resistance movement. Final settlement in 1914. Visit to England ; Raised an Indian Ambulance Corps in 1914."

From this biographical note, it is clear that Mr. Gandhi began his public life in 1894 when he founded the Natal Indian Congress. From 1894 to 1915, he was in South Africa. During this period, he never thought of the Untouchables and never even inquired after Ukha.

Mr. Gandhi returned to India in 1915. Did he then take up the cause of the Untouchables ? Let me again quote from the same biographical note which says :—

> "Returned to India 1915; Founded the Satyagrah Ashram at Ahmedabad. Took part in the Settlement of the Champaran Labour troubles in 1917 and Kaira famine and Ahmedabad mill strike, 1918 ; Recruiting Campaign 1918 ; Agitation against the Rowlatt Act and the inauguration of the Satyagraha movement, 1919; Arrested at Kosi on his way to Delhi and sent back to Bombay ; Punjab disorders and the official atrocities 1919 ; Was member of the Congress Committee of Enquiry into the Punjab atrocities ; Took part in the Khilafat Agitation. Inauguration of the Non-Co-operation campaign, 1920; Interview with Lord Reading May 1921 ; appointed sole executive authority of the Congress in 1921 Session of the Congress; Civil Disobedience Programme, February 1922; Suspension of Civil Disobedience campaign on account of Chauri Chaura riots, February 1922; Arrested on March 10, 1922 tried and sentenced to six years simple imprisonment."

This note is obviously incorrect. It omits some very significant and quite well-known events in the life of Mr. Gandhi. To make it complete, the following items must be added :—

> "1919 declared readiness to. welcome Afghan invasion of India to Free India from British Imperialism ; 1920 put before the country the Bardoli Programme of Constructive work ; 1921 started Tilak Swaraj Fund and collected one crore and 25 lakhs to be used for preparing the country for winning swaraj."

In these five years, Mr. Gandhi was completely absorbed in transforming the Congress into a militant organization—a war machine fit to fight and shake British Imperialism. He took up the cause of the Khilafat with a view to bring the Muslims to join the Congress and did his level best to rally the Hindus for the support of the Khilafat.

What did Mr. Gandhi do for the Untouchables during this period ? Congressmen will of course refer to the Bardoli Programme. It is true that in the Bardoli Programme the

uplift of the Untouchables was an item. But what is important is to know what happened to it ? To tell the story in a summary[1] form the Bardoli Programme was not a programme for the removal of Untouchability. It was a programme of amelioration which was defined by Disraeli as a combination of ancient institutions and modern improvements. The programme, openly recognized Untouchability and planned to do no more than provide separate wells and separate schools for the Untouchables. The Sub-Committee appointed to draw up a programme for the uplift of the Untouchables consisted of persons, who had never shown any interest in the Untouchables and some of them were even hostile to them. Swami Shraddhanand, the one and only person in the Sub-Committee who can be said to be charged with the desire to do something substantial for the Untouchables, was forced to resign. A paltry sum of money was allotted for carrying on the work of the Committee. The Committee was dissolved without meeting even once. The work of the uplift of the Untouchables was declared to be a work best suited to the Hindu Mahasabha. Mr. Gandhi took no interest in that part of the Bardoli Programme, which related to the Untouchables. On the contrary instead of siding with Swami Shraddhanand he sided with the reactionaries and opponents of Swami Shraddhanand, knowing full well that they did not want anything on a big scale done for the Untouchables.

So much for what Mr. Gandhi did in 1921 in connection with the Bardoli Programme.

What did Mr. Gandhi do after 1922 ? The publication from which the previous extract from the biographical note was taken is dated 1922. It is necessary to make the following additions to bring the biographical note up to date :—

> "1924 was released from prison; Forged a compromise between the two wings of the Congress who in his absence were fighting over the issue of Council Entry *versus* Constructive programme; 1929 proclaimed complete independence as the political goal of India ; 1930 launched Civil Disobedience movement ; 1931 went to London to represent Congress at the Round Table Conference. 1932 was imprisoned. Declared fast unto death against the Communal Award of His Majesty's Government and saved his life agreeing to the Poona Pact 1933 planned a campaign in favour of temple-entry for Untouch-

[1] For details see Chapter II.

ables and established the Harijan Sevak Sangh; 1934 ceased to be a member of the Congress; 1942 planned 'Quit India' movement and was imprisoned ; 1934 went on fast and was released; 1944 engaged in correspondence with Lord Wavell and in issuing statements explaining away the 8th August 1942 Resolution ; 1945 occupied with Kasturba Fund."

The year 1924 gave Mr. Gandhi another opportunity to push forth his campaign, for the removal of Untouchability and make it effective. What did Mr. Gandhi do ?

The years between 1922 and 1944 have a special significance in the history of Congress politics. The Programme of non-cooperation was accepted by the Congress at a special session held in Calcutta in September 1920. The programme included the well known five boycotts : the boycott of the Legislature, boycott of foreign cloth, etc. The resolution on non-cooperation was opposed by the leaders of the intellectual classes, namely Bepin Chandra Pal, C. R. Das, Lala Lajpat Rai to mention only a few names, but was passed notwithstanding their opposition. The regular Annual Session of the Congress was held in Nagpur in December 1920. The resolution on non-co-operation again came up for discussion. Strange as it may seem the same resolution was moved by Mr. C. R. Das[1] and seconded by Lala Lajpat Rai and confirmed. The result was that 1921 saw non-co-operation galore. On 19th March 1922, Mr. Gandhi was tried for sedition and sentenced to six years' imprisonment. Immediately Mr. Gandhi was put behind the prison bars, Mr. C. R. Das seems to have recovered his balance and started a campaign to lift the boycott of the Legislature, In this he was joined by Vithalbhai Patel, Pandit Motilal Nehru and Pandit Malaviya. This move was opposed by the followers of Mr. Gandhi, who were not prepared to abate a jot or a tittle from the terms of the resolution on non-co-operation passed in Calcutta and confirmed in Nagpur. This led to a schism in the Congress. In 1924, Mr. Gandhi on account of his illness was released from gaol, before his time. When he came out, Mr. Gandhi found that the Congress was divided into two warring camps on the issue of the boycott

[1] This is notwithstanding the fact reported by Mr. Pattabhi Sitaramayya, the Official Historian of the Congress namely that:—

"Mr. C. B. Das brought a contingent of about 250 delegates from East Bengal and Assam, bore their expenses to and fro, and spent Rs. 36,000 from his pocket to undo what was done in Calcutta. There was even a small fight between his men and those of Jitendralal Banerjee, his opponent."

The History of the Congress, p. 347.

of the Legislature. The quarrel was a bitter one and both sides were engaged in slinging mud at each other. Mr. Gandhi knew that if the quarrel continued the Congress would be weakened and wanted to patch it up. Neither side was prepared to give in. There were statements and counter-statements. Ultimately, Mr. Gandhi made certain proposals for restoring peace between the two wings which were accepted by both sides. The proposals were intended to please both sides. To please the protagonists of Council Entry he proposed that the Congress should recognize entry in the Legislatures as legitimate part of Congress activity and the opponents of Council Entry should stop their propaganda against it. To please the opponents of Council -Entry he proposed that the Congress should accept a new basis for franchise namely : (*i*) the Congress franchise instead of being 4 annas per annum should be a tender of 2,000 yards of hand-spun and self-spun yarn with the penalty clause attached to it by which any default in this behalf would automatically, disqualify a person from being a member of the Congress and that (*ii*) the observance of five boycotts, of foreign cloth, Government Law Courts, schools and colleges, and of titles should be deemed as a qualification for a post within the Congress organization and any person who did not believe in the principle of boycott and who did not carry them out in his own person must be deemed to be disqualified as a candidate.

Here was an opportunity for Mr. Gandhi to advance his anti-Untouchability campaign. He could have proposed that if a Hindu wishes to enroll himself as a member of the Congress he should prove that he does not observe untouchability and that the employment of an Untouchable in his household should be adduced in support of his claim in this behalf and that no other evidence would be allowed to be tendered. Such a proposal could not have been impracticable for almost every Hindu, certainly those who call themselves high Caste Hindus, keeps more than one servant in, his household. If Mr. Gandhi could make the Hindu accept spinning and boycott as franchises for membership of the Congress he could also make acceptable the employment of an Untouchable in a Hindu household a franchise for membership of the Congress. But Mr. Gandhi did not do it.

After 1924 till 1930 there is a complete blank. Mr. Gandhi does not appear to have taken any active steps for the removal

of Untouchability or got himself interested in any activity beneficial to the Untouchables during this period. While Mr. Gandhi was inactive the Untouchables had started a movement called the *satyagraha* movement. The object of the movement was to establish their right to take water from public wells and public temples. The *satyagraha* at the Chowdar Tank situated in Mahad, a town in the Kolaba District of the Bombay Presidency, was organised to establish the right of the Untouchables to take water from public watering places. The *satyagraha* at the Kala Ram Temple situated in Nasik, a town in the Nasik District of the Bombay Presidency, was organised to establish the right of the Untouchables to enter Hindu temples. There were many minor *satyagrahas*. These were, however, the two principal ones over which the efforts of the Untouchables and their opponents, the Caste Hindus, were concentrated. The din and noise caused by them were heard all over India. Thousands of men and women from the Untouchables-took part in these *satyagrahas*. Both men and women belonging to the Untouchables were insulted and beaten by the Hindus. Many were injured and some were imprisoned by Government on the ground of causing breach of the peace. This *satyagraha* movement went on for full six years when it was brought to a close in 1935 at a Conference held in Yeola in Nasik District in which the Untouchables as a result of the adamantine attitude of the Hindus in refusing to give them equal social rights resolved to go out of the Hindu fold. This *satyagraha* movement was no doubt independent of the Congress. It was organised by the Untouchables, led by the Untouchables and financed by the Untouchables. Yet the Untouchables were not without hope of getting the moral support of Mr. Gandhi. Indeed they had very good ground for getting it. For the weapon of *satyagraha*—the essence of which is to melt the heart of the opponent by suffering—was the weapon which was forged by Mr. Gandhi, and who had led the Congress to practise it against the British Government for winning Swaraj. Naturally the Untouchables expected full support from Mr. Gandhi to their *satyagraha* against the Hindus the object of which was to establish then-right to take water from public wells and to enter public Hindu temples. Mr. Gandhi however did not give his support to the *satyagraha*. Not only did he not give his support, he condemned it in strong terms.

In this connection reference may be made to two novel weapons for redressing human wrongs. Mr. Gandhi claims exclusive credit for forging and perfecting them. First is *satyagraha*. Mr. Gandhi has put into action this weapon of *satyagraha* many a times against the British Government for the removal of political wrongs. But Mr. Gandhi has never used the weapon of *satyagraha* against Hindus to get them to throw open wells and temples to the Untouchables. Fasting is another weapon of Mr. Gandhi. It is said that there have been altogether 21 fasts to the credit of Mr. Gandhi. Some were for the sake of Hindu-Muslim unity and quite a number as atonements for the immoralities committed by the inmates of his Ashram. One was against the order of the Government of Bombay refusing to give the work of a scavenger in the gaol to a prisoner by name Mr. Patwardhan although he demanded it. In these 21 fasts there is not one undertaken for the removal of Untouehability. These are very significant facts.

In 1930 came the Round Table Conference. Mr. Gandhi joined the deliberations of the Conference[1] in 1931. The Conference was concerned with a vital question of framing a constitution for a self-governing India. It was unanimously held that if India was to be a self-governing country then the government must be a government of the people, by the people and for the people. Everybody agreed that only when a government is in a real sense a government *by* the people that it could be a government of the people and for the people. The problem was how to make it a government *by* the people in a country rent into communities, majorities and minorities, who are charged not merely with social cleavages but also with social antagonisms. Having regard to these circumstances it was agreed that in India there was no possibility of government by the people unless Legislature and the Executive were framed on the basis of communal representation.

The problem of the Untouchables loomed large at the Conference. It assumed a new aspect. The question was : Should the Untouchables be left as they were to the tender mercies of the Hindus or should they be given the means to protect themselves by extending to them the principle of communal representation? The Untouchables strongly objected to be left to the pleasure of the Hindus and demanded the same

[1] For details see Chapter III.

protection as was given to the other minorities. The contention of the Untouchables was accepted by all. It was just and logical. They contended that the chasm between the Hindus and Muslims, between Hindus and Sikhs, between Hindus and Christians is nothing as compared with the chasm between the Hindus and the Untouchables. It is the widest and the deepest. The chasm between the Hindus and the Muslims is religious and not social. That between the Hindus and the Untouchables is both religious *and* social. The antagonism arising out of the chasm existing between Hindus and Muslims cannot spell political disaster to the Muslims because the relationship between the Hindus and the Muslims is not that of master and slave. It is one of mere estrangement. On the other hand, the chasm between Hindus and the Untouchables must spell political disaster for the Untouchables because the relationship between the two is that of master and slave. The Untouchables contended that the attempts to close the gap between them and the Hindus by means of social process had been tried for ages. They had all failed. There was no hope of their success. Since power is being transferred into the hands of the Hindu majority they must have political safeguards of the same sort as, if not better, than those conceded to the Muslims and other minorities.

Here was an opportunity to Mr. Gandhi to show his sympathy to the Untouchables by lending his support to their demand and thereby strengthen their power of resistance against the tyranny and oppression of the Hindus. Instead of showing his sympathy, Mr. Gandhi used every means in his power to defeat them. He made a pact with the Muslims with a view to isolate the Untouchables. Failing to win the Musalmans to his side, he went on a fast unto death to compel the British Government to withdraw their decision to give to the Untouchables the same political rights as given to the Muslims and other minority communities. When the fast failed and Mr. Gandhi was obliged to sign a pact—called the Poona Pact—which conceded the political demands of the Untouchables he took his revenge by letting the Congress employ foul electioneering tactics to make their political rights of no avail.

In 1933, Mr. Gandhi took up two movements. First was the Temple-entry Movement.[1] He took personal responsibility

[1] For details see Chapter IV.

for seeing through these two measures. One was the opening of the Guruvayur temple. The other was the passing of the Temple-entry Bill sponsored by Mr. Ranga Iyer in the Central Legislature. Mr. Gandhi said that he would fast unto death if the trustee of the Guruvayur temple did not throw it open to the Untouchables by a certain date. The Guruvayur temple still remains closed to the Untouchables but Mr. Gandhi has not fulfilled his vow of going on fast. Surprising as it may be he has done nothing to get the temple declared open to the Untouchables although it is now thirteen years since he took the vow. Mr. Gandhi virtually coerced the Governor-General to give his sanction to the introduction of the Temple-entry Bill. The Congress party in the Central Legislature which was pledged to carry through the Bill refused to support it when the stage of referring it to a Select Committee came on the ground that the Bill gave offence to the Hindus and in the election that was pending the Hindus would seek revenge on the Congress and defeat it at the poll if the Congress supported the Bill. To the great chagrin of Mr. Ranga Iyer, the Congress party let him down by leaving the Bill to die. Mr. Gandhi did not mind this. He even went to the length of justifying the conduct of the Congress Party.

The other movement which Mr. Gandhi sponsored in 1933 was the establishment of the Harijan Sevak Sangh[1] with a net-work of branches all over India. There were three motives which lay behind the organization of the Sangh. First was to prove that Hindus had enough charitable spirit towards the Untouchables and that they would show it by their generous contributions towards their uplift. The second motive was to serve the Untouchables by helping them in the many difficulties with which they were faced in their daily life. The third motive was to create in the minds of the Untouchables a sense of confidence in the Hindus from whom they were estranged in matters political. None of the three objects has been realized. In the first flush the Hindus contributed a total of about 8 lakhs of rupees for the Sangh which is of course nothing as compared to the crores they have contributed for general political purposes. After that they have gone dry. The Sangh is now depending for its finances either on Government grants or on the income derived from the sale of Mr. Gandhi's autographs or on the munificence of some wealthy

For details see Chapter V.

merchant who makes a contribution to the Sangh, not because he loves the Untouchables but because he thinks it profitable to please Mr. Gandhi. The branches of the Sangh are being closed every year. The Sangh is contracting and contracting so rapidly that very soon it will have only a centre and no circumference. That the Hindus have lost interest in the Sangh is not the only regrettable aspect of this activity of Mr. Gandhi. The Sangh has not been able to secure the good will and the co-operation of the Untouchables for whose benefit it is supposed to have been started. This is due to various reasons. The work of the Sangh is of the most inconsequential kind. It does not catch anyone's imagination. It neglects most urgent purposes for which the Untouchables need help and assistance. The Sangh rigorously excludes the Untouchables from its management. The Untouchables are no more than beggars—mere recipients of charity. The result is that the Untouchables feel no concern for the Sangh. They look upon it as a foreign body set up by the Hindus with some ulterior motive. Here was an opportunity for Mr. Gandhi to make the Sangh a real bridge between the Hindus and the Untouchables. He could make it a virile institution by improving its programme of work and by allowing the Untouchables to participate in its working. Mr. Gandhi has done nothing of the kind. He has allowed the Sangh to languish. It is dying peacefully and may perish even during the life-time of Mr. Gandhi.

There need be no surprise if this survey of Mr. Gandhi's anti Untouchability campaign, of his sayings and his doings baffles and puzzles the reader. There need be no wonder if the reader were to pause and ask a few questions on the lines set out below to clear his own mind :

(1) In 1921, Mr. Gandhi collected 1 crore and 35 lakhs of rupees for the Tilak Swaraj Fund. Mr. Gandhi insisted that there was no possibility of winning swaraj unless Untouchability was removed. Why did he not protest when only a paltry sum of Rs. 43,000 was. given to the cause of the Untouchables ?

(2) In 1922 there was drawn up the Bardoli Programme of constructive work. Uplift of the Untouchables was an important item in it. A Committee was appointed to work out the details. The Committee never functioned and was dissolved and the uplift of the Untouchables as an item in the

constructive programme was dropped. Only Rs. 500 were allotted to the Committee for working expenses. Why did Mr. Gandhi not protest against this niggardly and step-motherly treatment of the Committee by the Congress Working Committee ? Why did not Mr. Gandhi support Swami Shradhanand who was fighting with the Congress Working Committee for large funds being assigned to the Committee ? Why did not Mr. Gandhi protest against the dissolution of the Committee ? Why did not Mr. Gandhi appoint another Committee ? Why did he allow the work for the Untouchables to drop out as though it was of no importance ?

(3) Mr. Gandhi had at the very outset of his campaign for Swaraj insisted that there were five conditions precedent for winning swaraj : (*i*) Hindu-Moslem Unity; (*ii*) Removal of Untouchability; (*iii*) Universal adoption of hand-spun and hand-woven *khadi;* (*iv*) absolute non-violence and (*v*) complete non-co-operation. Mr. Gandhi had not only laid down these conditions but had told Indians that without the fulfilment of these conditions there could be no Swaraj. In 1922, he fasted for the sake of Hindu-Moslem unity. In 1924, he made production of hand-spun yarn the basis of franchise for Congress membership. Why did he not make non-observance of Untouchability the basis of Congress franchise in 1924 or at any time subsequent thereto ?

(4) Mr. Gandhi has gone on fast many a time to achieve a variety of objects which are dear to him. Why has Mr. Gandhi not fasted even once for the sake of the Untouchables ?

(5) Mr. Gandhi has devised satyagraha as a weapon to redress wrongs and to win freedom and has practised it against the British Government. Why has not Mr. Gandhi started satyagraha even once against the Hindus on behalf of the Untouchables for securing admission to wells, temples and other public places to which access is denied by the Hindus ?

(6) Following Mr. Gandhi's lead the Untouchables started satyagraha from 1929 onwards against the Hindus for admission to wells and temples. Why did Mr. Gandhi condemn their satyagraha ?

(7) Mr. Gandhi declared that he would fast if the Guruvayur temple was not thrown open to the Untouchables by the Zamorin. The temple has not been thrown open. Why did not Mr. Gandhi go on fast ?

(8) Mr. Gandhi in 1932 threatened the British Government with dire consequences if the Governor-General did not give permission to Mr. Ranga Iyer to introduce his Temple-entry Bill on behalf of the Congress Party in the Central Legislature. As fresh elections to the Central Legislature were announced the Congress Party withdrew its support to the Bill and Mr. Ranga Iyer had to drop it. If Mr. Gandhi was earnest and sincere about Temple-entry, why did Mr. Gandhi support the action of the Congress Party ? What was more important—Temple-entry for the Untouchables or Electoral victory to the Congress ?

(9) Mr. Gandhi knows that the difficulty of the Untouchables does not lie in their not having civic rights. Their difficulty lies in the conspiracy of the Hindus who threaten them with dire consequences if the Untouchables dare to exercise them. The real way of helping the Untouchables is to have some organization for the protection of civic rights which will undertake the duty of prosecuting Hindus who assault the Untouchables or proclaim social and economic boycott against them and thereby prevent them from exercising their civic rights. Why did not Mr. Gandhi include this as one of the objects of the Harijan Sevak Sangh ?

(10) Before Mr. Gandhi came on the scene the Depressed Classes Mission Society was formed by the caste Hindus for the uplift of the Untouchables. The moneys were subscribed by the Hindus. Yet the Society's affairs were conducted by Joint Boards consisting of Hindus and Untouchables. Why has Mr. Gandhi excluded the Untouchables from the management of the Harijan Sevak Sangh ? .

(11) If Mr. Gandhi is the real friend of the Untouchables, why did he not leave it to the Untouchables to decide whether political safeguards were the best means for their protection ? Why did he go to the length of making a pact with the Muslims in order to isolate and defeat the Untouchables ? Why did Mr. Gandhi declare a fast unto death the object of which was to deprive the Untouchables of the benefit of the Communal Award by this extreme form of coercion ?

(12) After having accepted the Poona Pact, why did not Mr. Gandhi keep faith with the Untouchables by telling the Congress not to despoil the politics of the Untouchables by contesting the seats reserved for the Untouchables by getting

such Untouchables elected as were prepared to become the tools of the Hindus ?

(13) After having accepted the Poona Pact why did not Mr. Gandhi keep up the gentleman's agreement and instruct the Congress High Command to include representatives of the Untouchables in the Congress Cabinets ?

(14) Why did Mr. Gandhi disapprove of the appointment by Dr. Khare of Mr. Agnibhoj—a member of the Scheduled Castes—as a minister in the Congress Cabinet in the C. P. when Mr. Agnibhoj was in every way qualified to be a Minister ? Did Mr. Gandhi say that he was opposed to the creation of such high ambitions among persons belonging to the Scheduled Castes ?

III

What is the explanation that Mr. Gandhi has to offer ? What is the explanation that Mr. Gandhi's friends have to offer ? Mr. Gandhi's anti-untouchability campaign is marked by so many twists and turns, inconsistencies and contradictions, attacks and surrenders, advances and retreats that the whole campaign has become a matter of mystery. Few have a belief in its efficacy and quite a large number hold that there is not enough earnestness and sincerity behind it. Some explanation is therefore necessary. It is more for the sake of Mr. Gandhi's reputation, for earnestness and sincerity than for the sake of giving a clear understanding of Mr. Gandhi's aims and methods to the reader that one would like Mr. Gandhi and his friends to explain the points raised in the foregoing questions.

It would no doubt be interesting to know what Mr. Gandhi and his friends may have to say in reply to these questions. Everybody interested in this question will naturally be looking forward to it. It will not however do for anyone else to anticipate the reply and then deal with it. They must be left to frame it in their own way and select their own time to do so. In the meantime one may well ask what the Untouchables have to say about Mr. Gandhi and his anti-untouchability campaign. It is not difficult to state what view the Untouchables take of Mr. Gandhi's anti-untouchability campaign.

Do the Untouchables regard Mr. Gandhi as being in earnest ? The answer is in the negative. They do not regard Mr. Gandhi as being in earnest. How can they ? How can they look

upon a man being in earnest who when in 1921 the whole country was aroused to put the Bardoli programme in action remained completely indifferent to the anti-untouchability part of it ? How could they look upon a man as being in earnest who, when out of 1 crore and 25 lakhs of Swaraj Fund, found that only 43 thousands rupees were allotted to the cause of the Untouchables did not raise any protest at this niggardly treatment of a long neglected cause ? How can they regard a man as being in earnest who when in 1924 he got an opportunity to impose upon the Hindus the obligation to remove Untouchability did not do so even though he had the power and the occasion to enforce it ? Such a step would have served three purposes. It would have put the nationalism of Congressmen to test. It would have helped to remove Untouchability, and it. would have proved that Mr. Gandhi was sincere in his talks about the evil of Untouchability and its being a sin and a stigma on Hinduism. Why did not Mr. Gandhi do it ? Does this not show that Mr. Gandhi was more interested in the spread of spinning than in the removal of Untouchability ? Does this not show that removal of Untouchability was the least part of Mr. Gandhi's programme and that it was not even last ? Does it not show that the statements by Mr. Gandhi that Untouchability is a blot on Hinduism and that there will be no Swaraj without the removal of Untouchability were just empty phrases with no earnestness behind them ? How could they believe in the earnestness of a person who takes a vow to fast if the Guruvayur temple is not opened to the Untouchables but will not go on fast even when the temple remains closed ? How could they accept a man to be in earnest when he sponsors a Bill for securing Temple-entry and subsequently becomes a party to dropping it ? How could they accept the earnestness of a man who contents himself with saying that he will not go into a temple if it is not open to the Untouchables when what is required of him is to adopt every means to get the temples thrown open to the Untouchables ? How could they believe in the earnestness of a man who is ready to fast for everything but will not fast for the Untouchables ? How can they believe in the earnestness of a man who is prepared to practise satyagraha for everything and against everybody but who will not practise it against the Hindus for the sake of the Untouchables ? How can they believe in the earnestness of a man who

does nothing more than indulge in giving sermons on the evils of Untouchability ?

Do they regard Mr. Gandhi as honest and sincere ? The answer is that they do not regard Mr. Gandhi as honest and sincere. At the outset of his campaign for Swaraj Mr. Gandhi told the Untouchables not to side with the British. He told them not to embrace Christianity or any other religion. He told them that they could find salvation in Hinduism. He told Hindus that they must remove Untouchability as a condition precedent to Swaraj. Yet in 1921 when only a paltry sum out of the Tilak Swaraj Fund was allotted to the Untouchables, when the Committee to plan the uplift of the Untouchables was unceremoniously wound up Mr. Gandhi did not raise a word of protest.

Mr. Gandhi had under his command a sum of Rs. 1 crore and 25 lakhs belonging to the Tilak Swaraj Fund. Why did Mr. Gandhi not insist upon a substantial portion of this amount being ear-marked for the uplift of the Untouchables ? That Mr. Gandhi showed almost complete indifference to the cause of the Untouchables is beyond dispute. What is surprising is the explanation which Mr. Gandhi offered for his indifference. He said that he was busy in planning a a campaign to win swaraj and that he had no time to spare for the cause of the Untouchables. He not only did not blush at his explanation but he offered a moral justification for his indifference to the cause of the Untouchables. He took the stand that there was nothing wrong in his devoting himself entirely to the political cause of India to the exclusion of the cause of the Untouchables for in his opinion the good of the whole includes the good of the part and that as the Hindus are slaves of, the British, slaves cannot emancipate slaves. Phrases such as 'slaves of slaves' and 'greater includes the less' may be admirable dialectics, though they cannot have more truth than the saying that because the country's wealth has increased, therefore everybody's wealth has increased. But we are not considering Mr. Gandhi's ability as a dialectician. We are testing his sincerity. Can we accept a man's sincerity who evades his responsibility and contents himself with an excuse ? Can the Untouchables believe that Mr. Gandhi is the champion of their cause?

How can they regard Mr. Gandhi as honest and sincere if they consider Mr. Gandhi's conduct towards them and towards

the Muslims and Sikhs in the matter of constitutional safeguards?

Mr. Gandhi used to justify his discrimination between the Scheduled Castes and other Minorities in the matter of constitutional safeguards by another plea. The plea was that there were historical reasons, which compel him to recognize the Muslims and the Sikhs. He has never explained what those reasons are. They cannot be other than those, which hold the Muslims and the Sikhs as the fragments of old ruling communities. One does not mind Mr. Gandhi having succumbed to such puerile and undemocratic arguments, though he could have insisted that he would treat all minorities on equal basis and would not give any weight to such illogical and irrelevant considerations. The question is : How could the admission of such a plea have prevented Mr. Gandhi from opposing the demand of the Scheduled Castes ? Why did Mr. Gandhi regard himself as bound by no other reasons except the historical reasons ? Why did not Mr. Gandhi think that if historical reasons were decisive in the case of Muslims and Sikhs, moral reasons were decisive in the case of the Untouchables ? The fact is that the plea of historical reasons is a hollow plea. It was not a plea at all. It was an excuse for not conceding the demand of the Untouchables.

Mr. Gandhi is never so much disgusted as he is when he is confronted with the question of Majority *versus* Minority. He would like to forget it and ignore it. But circumstances will not let him do either and he is often forced to deal with the issue. The last time he dealt with it was on the 21st October 1939 in the form of an Editorial in the *Harijan* under the heading "The Fiction of Majority." The article is full of venom and Mr. Gandhi has not hesitated to pour all the ridicule he could on those who were constantly raising the question. In the article he vehemently denied that the Muslims are a Minority. He denied that the Sikhs are a Minority and denied that the Indian Christians are a Minority. His contention was that they were not minorities in the technical sense of Oppressed Communities they were minorities they were to in the numerical sense only, which meant that they were no minorities at all. What did Mr. Gandhi have to say about the Scheduled Castes ? Could he deny their contention that they are a Minority ? Let me quote Mr. Gandhi's own words. Mr. Gandhi said :

"I have endeavoured to show that there is no such things

as real minorities in India whose rights can be endangered by India becoming independent. With the exception of the Depressed Classes there is no minority which is not able to take care of itself."

Here is an admission on, the part of Mr. Gandhi that the Scheduled Castes are a minority in, the real sense of the word and that they are the only minority in India who will not be able to take care of themselves in a free India governed by a Hindu Communal Majority. Notwithstanding this inner conviction Mr. Gandhi maintained in a most vehement manner that he would not concede any political safeguards to the Untouchables. How can the Untouchables accept such a man as sincere and honest ?

Mr. Gandhi opposed the demands of the Untouchables for political safeguards at the Round Table Conference. He did everything to defeat the object of the Untouchables. To weaken the force behind their demand and isolate them he tried to buy over the Muslims by offering to concede the whole of their fourteen demands. Mr. Gandhi at the meeting of the Minorities Sub-Committee had said : "Who am I to oppose the demand of the Untouchables if the Committee gave it its approval." It was wrong for Mr. Gandhi to have tried to defeat the verdict of the Committee by offering to give the Muslims their full demand formulated in Mr. Jinnah's fourteen points in return for their agreeing to oppose the demands of the Scheduled Castes!! His was a most subtle piece of strategy. He offered the Musalmans a most difficult choice between having their 14 points and withdrawing their support to the demand of the Untouchables or siding with the Untouchables and losing their 14 points. In the end Mr. Gandhi's strategy failed and neither did the Musalmans lose their 14 points nor did the Untouchables lose their case. But the episode remains as a witness to Mr. Gandhi's perfidy. What else can be the appropriate description of the conduct of a man who offers criminal inducement to another for getting him to break his promise, who calls a person his friend and then contrives to stab him in the back ? How can such a man be regarded by the Untouchables as honest and sincere ?

Mr. Gandhi left the decision of the communal question to the arbitration of the British Prime Minister. Notwithstanding Mr. Gandhi's efforts to defeat the Untouchables His Majesty's Government conceded them their political demands. As a

party to the arbitration Mr. Gandhi was bound to abide by the decision. But Mr. Gandhi decided to defy it and he did it by going on a fast unto death. Mr. Gandhi shook India and the the world outside by his Fast unto Death. The object of the Fast was to compel the British Government to withdraw the Constitutional Safeguards which the British Prime Minister had proposed in his Award for the protection of the Untouchables under the new Constitution. One of Mr. Gandhi's disciples has described the fast as an Epic Fast. Why it should be described as an Epic Fast it is not easy to follow. There was nothing heroic about it. It was the opposite of heroic. It was an adventure. It was launched by Mr. Gandhi because he believed that both the Untouchables and the British Government would quake before his threat of fast unto death, and surrender to his demand. Both were prepared to call off his bluff and as a matter of fact did call it off. All his heroism vanished the moment Mr. Gandhi found that he had overdone the trick. The man who started by saying that he would fast unto death unless the safeguards to the Untouchables were completely withdrawn and the Untouchables reduced to the condition of utter helplessness without rights and without recognition was plaintively pleading "My life is in your hands, will you save me ? " Mr. Gandhi's over-impatience to sign the Poona Pact—though it did not cancel the Prime Minister's Award as he had demanded but only substituted another and a different system of constituent safeguards—is the strongest evidence that the hero had lost his courage and was anxious to save his face and anyhow save his life.

There was nothing noble in the fast. It was a foul and filthy act. The Fast was not for the benefit of the Untouchables. It was against them and was the worst form of coercion against a helpless people to give up the constitutional safeguards of which they had become possessed under the Prime Minister's Award and agree to live on the mercy of the Hindus. It was a vile and wicked act. How can the Untouchables regard such a man as honest and sincere ?

After having gone on a fast unto death, he signed the Poona Pact. People say that Mr. Gandhi sincerely believed that political safeguards were harmful to the Untouchables. But how could a honest and sincere man who opposed the political demands of the Untouchables who was prepared to use the

Muslims to defeat them, who went on a Fast unto Death, in the end accept the, very same demands—for there is no difference between the Poona Pact and the Communal Award—when he found that there was no use opposing, as Opposition would not succeed? How can an honest and sincere man accept as harmless the demands of the Untouchables which once he regarded as harmful ?

Do the Untouchables regard Mr. Gandhi as their friend and ally ? The answer is in the negative. They do not regard him as their friend. How can they ? It may be that Mr. Gandhi honestly believes that the problem of the Untouchables is a social problem. But how can they believe him to be their friend when he wishes to retain caste and abolish Untouchability it being quite clear that Untouchability is only an extended form of caste and that therefore without abolition of caste there is no hope of abolition of Untouchability ? It may be that Mr. Gandhi honestly believes that the problem of Untouchables can be solved by social processes. But how can the Untouchables regard a man as their friend who develops a fanatic and frantic opposition to political processes being employed when everyone was agreed that the use of political processes cannot mar the effect of social process and may be depended upon to help and accelerate the solution of the problem. How could a man be regarded as the friend of the Untouchables when he does not believe the Untouchables reaching to places of power and authority in the State. In this controversy over political safeguards Mr. Gandhi could have pursued any of the following courses. He could have been the champion of the Untouchables. As such, he should not only have welcomed their demand for safeguards but he should have proposed them himself without waiting for the Untouchables to do so. Not only should he have proposed them himself but he should have fought for them. For, what could give greater happiness to a genuine champion of the Untouchables than to see that provision was made to enable them to become members of the Legislature, Ministers of Executive, and occupants of high offices in the State ? Surely, if Mr. Gandhi is a champion of the Untouchables these are the very provisions he should have fought for. Secondly, if he did not wish to be the champion of the Untouchables, he could have been their ally. He could have helped them by giving them his moral and material support. Thirdly, if Mr. Gandhi

did not like to play the part of a champion and was averse to be even an ally of the Untouchables, the next thing he could have done, consistent with his proclaimed and much advertised sympathies for the Untouchables, was to be their friend. Again as a friend he could have taken up the attitude of benevolent neutrality—declining to fight but ready to render all help for getting the demand for safeguards accepted. Failing benevolent neutrality he could have taken the attitude of strict neutrality and could have told the Untouchables to get the safeguards if the Round Table Conference was prepared to give them and that he would neither help nor hinder. Abandoning all these sober considerations Mr. Gandhi came out as an open enemy of the Untouchables. How can the Untouchables regard such a man as their friend and ally ?

IV

That Mr. Gandhi's anti-untouchability campaign has failed is beyond cavil. Even the Congress papers admit it. I give below a few quotations from some of them :

On 17th August 1939 Mr. B. K. Gaikwad, a member of the Scheduled Castes in the Bombay Legislative Assembly, asked a question as to how many temples in the Bombay Presidency were thrown open to the Untouchables since 1932 when Mr. Gandhi started his Temple-entry movement. According to the figures given by the Congress Minister the total number of temples thrown open was 142. Of these 121 were ownerless temples standing on the wayside, which were under the care of nobody in particular and which nobody used as places of worship. Another fact revealed was that not a single temple was thrown open to the Untouchables in Gujarat, the district which is the home of Mr. Gandhi.

Writing on 10th March 1940 the *Harijan Bandu,* Mr. Gandhi's Gujarathi paper, said :

> "The Untouchability of the 'Harijans' in the matter of entry into schools persists nowhere so much still as in Gujarat."[1]

The *Bombay Chronicle* in its issue of 27th August 1940 re-produced an extract from a monthly letter of the Harijan Sevak Sangh. It

> "States that Harijans of Godhavi in Ahmedabad District

[1] Quoted from Sanjana's *Sense and Nonsense in Politics.*

were so persecuted by caste Hindus for sending their children to Local Board School that ultimately 42 Harijan families left that place...and went to the Taluka town of Sanand."

On 27th August 1943, Mr. M. M. Nandgaonkar, a leader of the Untouchables residing in Thana in the Bombay Presidency and ex-Vice President of Thana Municipality was refused tea in a Hindu hotel. The *Bombay Chronicle* commenting upon this incident in its issue dated 28th August 1943 said :

> "When Gandhiji fasted in 1932, some feverish attempts were made to have some temples and hotels opened to Harijans. Now the actual position is nearly what it used to be before with regard to temple entry and access to hotels. The cleanest Harijan is not admitted to temples and hotels. Yet many anti-Untouchability workers take a complacent view of these disabilities and patronisingly talk of 'uplift first' for Harijans, saying that when Harijans learn to be clean, their civic disabilities will fall off automatically. This is rank nonsense."

Writing on the proceedings of the All-India Scheduled Castes Federation held in Cawnpore in January 1944 the *Bombay Chronicle* in its issue of 4th February 1944 said :

> "But such is the passivity of Hindu society that both caste and Untouchability still thrive. Nay, several Hindu leaders... misguided by the interested propaganda by certain Britishers, still plead that there is some mysterious virtue in caste because Hindu culture has remained today. Else, they argue, caste would not have survived the shocks of centuries... It is most tragic to find that, in spite of all that Gandhiji and other reformers...have done, Untouchability still persists to no small extent. It is most rampant in villages... Even in a city like Bombay, a person known to be a sweeper, let alone a scavenger, however clean dressed he may be, is not allowed to enter a caste Hindu restaurant, nay, even an Irani's restaurant for tea."

The Untouchables have always said that Mr. Gandhi's anti-Untouchability campaign has failed. After 25 years of labour, hotels have remained closed, wells have remained closed, temples have remained closed and in very many parts of India—particularly in Gujarat—even schools have remained closed. The extracts produced from the papers form therefore a very welcome testimony especially because the papers are Congress papers. As they fully corroborate what the Untouchables have been saying on the point, nothing further need be said on the subject except to ask one question.

Why has Mr. Gandhi failed ? According to me, there are three reasons which has brought about this failure.

The first reason is the Hindus to whom he makes his appeal for the removal of Untouchability do not respond. Why is this so ? It is a common experience that the words a man uses arid the effect they produce are not always commensurate. What he says has its momentum indefinitely multiplied, or reduced to nullity, by the impression that the hearer for good reason or bad happens to have formed of the spirit of the speaker. This gives a clue to know why Mr. Gandhi's sermons on Untouchability have completely failed to move the Hindus, why people hear his after-prayer sermons for few minutes and then go to the comic opera and why there is nothing more to it. The fault is not entirely of the Hindu public. The fault is of Mr. Gandhi himself. Mr. Gandhi has built up his reputation of being a Mahatma on his being an harbinger of political freedom and not on his being a spiritual teacher. Whatever may be his intentions, Mr. Gandhi is looked upon as an apostle of Swaraj. His anti-Untouchability campaign is looked upon as a fad if not a side-show. That is why the Hindus respond to his political biddings but never to his social or religious preaching. The momentum of his anti-Untouchability campaign must therefore remain a nullity. Mr. Gandhi is a political shoe-maker. He must stick to his political last. He thought he could take up the task of solving the social question. That was a mistake. A politician is not the man for it. That is why the hope held out to the Untouchables that Mr. Gandhi's sermons will do the trick has failed.

The second reason is that Mr. Gandhi does not wish to antagonize the Hindus even if such antagonism was necessary to carry out his anti-Untouchability programme. A few instances will illustrate Mr. Gandhi's mentality.

Most of Mr. Gandhi's friends give credit to Mr. Gandhi for sincerity and earnestness for the cause of the Untouchables and expect the Untouchables to believe in it on the mere ground that Mr. Gandhi is the one man who keeps on constantly preaching to the Hindus the necessity of removing Untouchability. They have lost sight of the old proverb that an ounce of practice is worth a ton of preaching and have never cared to ask Mr. Gandhi to explain why does he not cease to preach to the Hindus the necessity of removing Untouchability and launch a campaign of satyagraha or start

a fast. If they would ask for such an explanation they would know why Mr. Gandhi merely contents himself with sermons on Untouchability.

The true reasons why Mr. Gandhi will not go beyond sermons were revealed to the Untouchables for the first time[1] in 1929 when the Untouchables in the Bombay Presidency opened a campaign of satyagraha against the Hindus for establishing their civic rights in the matter of temple-entry and taking water from public wells. They hoped to get the blessings of Mr. Gandhi in as much as satyagraha was Mr. Gandhi's own weapon to get wrongs redressed. When appealed to for support, Mr. Gandhi surprised the Untouchables by issuing a statement condemning their campaign of satyagraha against the Hindus. The argument urged by Mr. Gandhi was very ingenious. He stated that satyagraha was to be used only against foreigners ; it must not be used against one's own kindred or countrymen and as the Hindus were the kindred and countrymen of the Untouchables by rules of satyagraha the latter were debarred from using the weapon against the former !! What a fall from the sublime to the ridiculous ! By this Mr. Gandhi made nonsense of satyagraha. Why did Mr. Gandhi do this ? Only because he did not want to annoy and exasperate the Hindus.

As a second piece of evidence, I would refer to what is known as the Kavitha incident. Kavitha is a village in the Ahmedabad District in Gujarat. In 1935, the Untouchables of the village demanded from the Hindus of the village that their children should be admitted in the common school of the village along with other Hindu children. The Hindus were enraged at this outrage and took their revenge by proclaiming a complete social boycott. The events connected with this boycott were reported by Mr. A. V. Thakkar, who went to Kavitha to intercede with the Hindus on behalf of the Untouchables. The story told by him runs as follows :—

> "The Associated Press announced on the 10th inst. that the Caste Hindus of Kavitha agreed to admit Harijan boys to the village school in Kavitha and that matters were amicably settled. This was contradicted on the 13th instant by the Secretary of the Ahmedabad Harijan Sevak Sangh, who said in his statement that the Harijans had undertaken (privately

[1] In 1924 in the Satyagraha at Vaikom the object of which was to get a public road in Travancore open to the Untouchables, Mr. Gandhi objected to the Sikhs opening a kitchen for the satyagrahis. The reason given by Mr. Gandhi was not stated quite so explicitly.

of course) not to send their children to the school. Such an undertaking was not given voluntarily, but was extorted from them by the Caste Hindus, in this case the Garasias of the village, who had proclaimed a social boycott against poor Harijans—weavers, chamars and others, who number over 100 families. They were deprived of agricultural labour, their animals of grazing in the pasture larid, and their children of buttermilk. Not only this, but a Harijan leader was compelled to take an oath by Mahadev that he and others would not hereafter even make an effort to reinstate their children in the school. The so-called settlement was brought about in this way.

"But even after the bogus settlement reported on the 10th and the complete surrender by poor Harijans, the boycott was not lifted up to the 19th and partly up to the 22nd from the weavers. It was lifted somewhat earlier from the head of the chamars, as Garasias themselves could not remove the carcasses of their dead animals, and thus had to come to terms with the Chamars earlier. As if the enormities perpetrated so far were not enough, kerosine was poured into the Harijans' well, once on the 15th instant and again on the 19th instant. One can imagine what terrorism was thus practised on poor Harijans because they had dared to send their children to sit alongside of the 'princely' Garasia boys.

"I met the leaders of the Garasias on the morning of the 22nd. They said they could not tolerate the idea of boys of Dheds and Chamars sitting by the side of their own boys. I met also the District Magistrate of Ahmedabad on the 23rd with a view to finding out if he would do something to ease the situation, but without any result.

"Harijan boys are thus practically banned from the village school with nobody to help them. This has caused despondency among the Harijans to such an extent that they are thinking of migrating in a body to some other village."

This was a report made to Mr. Gandhi. What did Mr. Gandhi do ? The following[1] is the advice Mr. Gandhi gave to the Untouchables of Kavitha :—

"There is no help like self-help. God helps those who help themselves. If the Harijans concerned will carry out their reported resolve to wipe the dust of Kavitha off their feet, they will not only be happy themselves but they will pave the way for others who may be similarly treated. If people migrate in search of employment how much more should they do so in

[1] *Harijan,* dated 5th October 1935.

search of self-respect ? I hope that well-wishers of Harijans will help these poor families to vacate inhospitable Kavitha."

Mr. Gandhi advised the Untouchables of Kavitha to vacate. But why did he not advise Mr. Thakkar to prosecute the Hindus of Kavitha and help the Untouchables to vindicate their rights ? Obviously, he would like to uplift the Untouchables if he can but not by offending the Hindus. What good can such a man do to promote the cause of the Untouchatbles ? All this shows that Mr. Gandhi is most anxious to be good to the Hindus. That is why he opposes satyagraha against the Hindus. That is why he opposed the political demands of the Untouchables as he believed that they were aimed against them. He is anxious to be so good to the Hindus that he does not care if he is thereby becoming good for nothing for the Untouchables. That is why Mr. Gandhi's whole programme for the removal of Untouchability is just words, words and words and why there is no action behind it.

The third reason is that Mr. Gandhi does not want the Untouchables to organize and be strong. For he fears that they might thereby become independent of the Hindus and weaken the ranks of Hindus. This is best illustrated by the activities of the Harijan Sevak Sangh. The whole object of the Sangh is to create a slave mentality among the Untouchables towards their Hindu masters. Examine the Sangh from any angle one may like and the creation of slave mentality will appear to be its dominant purpose.

The work of the Sangh reminds one of the mythological demoness *Putana* described in the Bhagvat—a companion to the Mahabharat. *Kamsa* the king of Mathurra, wanted to kill *Krishna,* as it was predicted that *Kamsa* will die at the hands of *Krishna.* Having come to know of the birth of *Krishna, Kamsa* asked *Putana* to undertake the mission to kill *Krishna* while he was yet a baby. *Putana* took the form of a beautiful woman and went to *Yashoda,* the foster mother of *Krishna* and having applied liquid poison to her breast pleaded to be employed as a wet nurse for suckling the baby *Krishna* and thus have the opportunity to kill it. The rest of the story it is unnecessary to pursue. The point of the story is that the real purpose is not always the same as the ostensible purpose and a nurse can be a murdress. The Sangh is to the Untouchables what *Putana* was to *Krishna.* The Sangh under the pretence of service is out to kill the spirit of independence from among the Un-

touchables. The Untouchables, in the early stages of their agitation, had taken the support of some well-meaning Hindus and had followed their leadership. By the time of the Round Table Conference, the Untouchables had become completely self-reliant and independent. They were no longer satisfied with charity from the Hindus. They demanded what they said was their right. There is no doubt that it is to kill this spirit of independence among the Untouchables that Mr. Gandhi started the Harijan Sevak Sangh. The Harijan Sevak Sangh by its petty services has collected a swarm of grateful Untouchables who are employed to preach that Mr. Gandhi and the Hindus are the saviours of the Untouchables. Daniel O'Connel the Irish leader once said that no man can be greateful at the cost of his honour, no woman can be grateful at the cost of her chastity and no country can be grateful at the cost of its liberty. The Untouchables are too simple-minded to know that the cost of the service which the Harijan Sevak Sangh offers to render is loss of independence. This is exactly what Mr. Gandhi wants.

The worst part of the activities of the Harijan Sevak Sangh is the help rendered to the Untouchable students kept in the hostels maintained by the Sangh. These Untouchable students remind me of *Bhishma* and *Kacha,* two prominent characters which figure in the Mahabharata. *Bhishma* proclaimed with great show that the *Pandavas* were right and the *Kauravas* wrong. Yet when it came to a war between the two he fought on the side of the *Kauravas* and against the *Pandavas*. When asked to justify his conduct he was not ashamed to say that he fought for the *Kauravas* because they fed him. *Kacha* belonged to the community of the *Devas* who were engaged in a war against the *Rakshasas*. The spiritual head of the *Rakshasas* knew a *mantra* (incantation) by which he could revive a dead *Rakshasa*. The *Devas* were losing the battle since their head did not know the *mantra* and could not revive their dead. The *Devas* planned to send *Kacha* to the head of the *Rakshasas* with instructions somehow to learn the *mantra* and come back. *Kacha* in the beginning could not succeed. Ultimately he entered into an agreement with *Devayani* the daughter of the spiritual head of the *Rakshasas* that if she helped him to acquire the *mantra* he would be prepared to marry her. *Devayani* succeeded in fulfilling her part of the contract. But *Kacha* refused to perform his

part alleging that the interests of his community were more important than his promise to her.

Bhishma and *Kacha,* in my opinion, are typical of the morally depraved characters who know no other purpose but to serve their own interests for the time being. The Untouchable students in the Harijan hostels are acting the part of both *Bhishma* and *Kacha*. During their stay in the hostels they play the part of *Bhishma* by singing the praises of Mr. Gandhi and the Congress. When they come out of the hostels they play the part of *Kacha* and denounce Mr. Gandhi and the Congress. I am extremely pained to see this. Nothing worse could happen to the youth of the Untouchables than this moral degeneration. But this is the greatest disservice which his Harijan Sevak Sangh has done to the Untouchables. It has destroyed their character. It has destroyed their independence. This is what Mr. Gandhi wants to happen.

Take a fourth illustration. The Sangh is run by the Caste Hindus. There are some Untouchables who have demanded that the institution should be handed over to the Untouchables and should be run by them. Others have demanded that the Untouchables should have representation on the governing Board. Mr. Gandhi has flatly refused to do either on two very ingenious grounds which no man with the greatest cunning could improve. Mr. Gandhi's first argument is that the Harijan Sevak Sangh is an act of penance on the part of the Hindus for the sin of observing Untouchability. It is they who must do the penance. Therefore[1] the Untouchable can have no place in running the Sangh. Secondly Mr. Gandhi says the money collected by him is given by the Hindus and not by the Untouchables and as the money is not of the Untouchables, the Untouchables have no right to be on the Governing Body. The refusal of Mr. Gandhi may be tolerated but his arguments are most insulting and a respectable Untouchable will be forgiven if he refuses to have anything to do with the Sangh. One should have thought that the Harijan Sevak Sangh was a Trust and the Untouchables its beneficiaries. Any trio in law would admit that the beneficiaries have every right to know the aims and objects of the Trust, its funds and whether the objects are properly carried out or not. The beneficiaries have even the right to have the Trustees removed for breach of

trust. On that basis it would be impossible to deny the claim of the Untouchables for representation on the Managing Board. Evidently Mr. Gandhi does not wish to accept this position. A self-respecting Untouchable who has no desire to cringe and who does not believe in staking the future of the Untouchables on the philanthropy of strangers cannot have any quarrel with Mr. Gandhi. He is quite prepared to say that if meanness is a virtue then Mr. Gandhi's logic is superb and Mr. Gandhi is welcome to the benefit of it. Only he must not blame the Untouchables if they boycott the Sangh.

These however could not be the real reasons for not allowing the Untouchables to run the Sangh. The real reasons are different. In the first place, if the Sangh was handed over to the Untouchables Mr. Gandhi and the Congress will have no means of control over the Untouchables. The Untouchables will cease to be dependent on the Hindus. In the second place, the Untouchables having become independent will cease to be grateful to the Hindus. These consequences will be quite contrary to the aim and object, which have led Mr. Gandhi to found the Sangh. He wants to create among the Untouchables what is known among Indian Christians as the mission compound mentality. That is why Mr. Gandhi does not wish to hand over the Sangh to the control and management of the Untouchables. Is this consistent with a genuine desire for the emancipation of the Untouchables ? Can Mr. Gandhi be called a liberator of the Untouchables ? Does this not show that Mr. Gandhi is more anxious to tighten the tie which binds the Untouchables to the apron strings of the Hindus than to free them from the thraldom of the Hindus ?

These are the reasons why Mr. Gandhi's anti-Untouchability campaign has failed.

V

To sum up, can it be said that Mr. Gandhi has recovered the title deeds to humanity which the Untouchables have lost ? Obviously not. Those title deeds are still with the Hindus. He has done nothing to recover them. Nor has he helped the Untouchables to recover them. On the contrary, Mr. Gandhi has put every obstacle in their way. The Untouchables feel that their title deeds to humanity—which means their emancipation from their thraldom of the Hindus—can be secured by

them by political power, and by nothing else. Mr. Gandhi, on the other hand, believes that his preaching and the charity and zeal of the Hindus are sufficient panacea for all the ills of the Untouchables. Can the Untouchables rely on a sustained flow of Hindu charity and Hindu zeal ? Charity which has its fury is worth talking about. Zeal which has its vengeance is worth building upon. But which friend of the Untouchables can ask them to depend upon the miserable measure of Hindu charity and the Hindu zeal ? Untouchability has been in existence for the last two thousand years during which period the Hindus have day in and day out sucked the very blood of the Untouchables and have mutilated them and trodden upon them in every way. During these two thousand years what amount of charity have the Hindus done to the Untouchables ? Only 8 lakhs and that too when Mr. Gandhi personally went round the country with a begging bowl !!! Having put his programme to test, Mr. Gandhi might have shown his willingness to concede the Untouchables' demand for political power as their only means of salvation. Indeed so obvious is the justice of this demand that a man with no more than common sense could have understood that executive power in the hands of the Untouchables could do more in a year than the whole order of preaching friars could be relied upon to do in a century. But the very idea of political power to the Untouchables is hateful to Mr. Gandhi. Why should not the Untouchables say 'Beware of Mr. Gandhi' when they know that he would not allow the use of political processes for the emancipation of the Untouchables though Mr. Gandhi is fully alive to the fact that the social processes on which he laid so much store for helping them have completely failed.

In this connection one is reminded of the attitude of President Lincoln in the American Civil War towards the two questions of union and slavery. This attitude is well revealed by the correspondence[1] that passed in 1862 between Mr. Horace Greeley and President Lincoln. In a letter addressed to the President entitled "The Prayer of Twenty Millions," Mr. Greeley said :

> "On the face of this wide earth, Mr. President, there is not one disinterested, determined, intelligent champion of the Union cause who does not feel that all attempts to put down the rebellion and at the same time uphold its inciting cause (namely slavery) are preposterous and futile."

[1] *Works of Abraham Lincoln,* Vol. XI, pp. xii-xiii

To this, President Lincoln's reply was :

> "If there be those who would no save the Union unless they could at the same time save slavery, I do not agree with them.
>
> "If there be those who would not save the Union unless they could at the same time destroy slavery, I do not agree with them.
>
> "My paramount object is to save the Union, and not either to save or to destroy slavery.
>
> "If I could save the Union without freeing any slave, I would do it. If I could save it by freeing all the slaves, I would do it— and if I could do it by freeing some and leaving others alone, I would also do that."

These were the views of President Lincoln about Negro slavery and its relation to the question of Union. They certainly throw a very different light on one who is reputed to be the liberator of the Negroes. As a matter of fact he did not believe in the emancipation of the Negroes as a categorical imperative. Obviously the author of the famous Gettysberg oration about Government of the people, by the people and for the people would not have minded if his statement had taken the shape of government of the black people by the white people and for the white people provided there was union. Mr. Gandhi's attitude towards Swaraj and the Untouchables resembles very much the attitude of President Lincoln towards the two questions of the Negroes and the Union. Mr. Gandhi wants Swaraj as did President Lincoln want Union. But he does not want Swaraj at the cost of disrupting the structure of Hinduism which is what political emancipation of the Untouchables means as President Lincoln did not want to free the slaves if it was not necessary to do so for the sake of the Union. There is of course this difference between Mr. Gandhi and President Lincoln. President Lincoln was prepared to emancipate the Negro slaves if it was necessary to preserve the Union. Mr. Gandhi's attitude is in marked contrast. He is not prepared for the political emancipation of the Untouchables even if it was essential for winning Swaraj. Mr. Gandhi's attitude is let Swaraj perish if the cost of it is the political freedom of the Untouchables.

Some Untouchables are probably under the impression that all this is a matter of the dead past and that Mr. Gandhi having accepted the Poona Pact cannot now oppose the political

demands of the Untouchables for as a party to the Poona Pact Mr. Gandhi must be assumed to have conceded that the Untouchables are a separate element in the national life of India. This is a complete misunderstanding. For there are grounds to believe that the Poona Pact has made no difference in Mr. Gandhi's view and he still maintains the same attitude to the Untouchables' claim for political safeguards as he did at the Round Table Conference and before the Poona Pact. These grounds have their foundation in the fact that when His Majesty's Government declared in 1940 that the Untouchables are a separate element in the National life of India and that their consent to the Constitution is necessary Mr. Gandhi came out with a protest. When the Viceroy Lord Linlithgow referred to the Untouchables as a separate element and said that their consent to the Constitution was necessary, Mr. Gandhi said[1]:—

> "I felt that the putting up by the Viceroy, and then the Secretary of State of want of agreement by the Congress with the Princes, the Muslim League and even the Scheduled Classes as a barrier to the British recognition of India's right to freedom was more than unjust to the Congress and the people."
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> * * *
>
> "The introduction of the Scheduled Classes in the controversy has made the unreality of the case of the British Government doubly unreal. They know that these are the special care of the Congress, and that the Congress is infinitely more capable of guarding their interests than the British Government. Moreover, the Scheduled Classes are divided into as many castes as the Caste Hindu Society. No single Scheduled classes member could possibly and truthfully represent the innumerable castes."

The argument advanced by Mr. Gandhi is puerile. It may be pointed out that in the hurry he made in stating his opposition to the position assigned to the Scheduled Castes by the Viceroy, Mr. Gandhi forgot that if the Scheduled Castes are divided into many castes and no single caste could represent them all, the case of the Muslims and the Indian Christians is in no way different. The Muslims are divided into three groups: (1) Sunnis; (2) Shias and (8) Momins each of which consists of many castes who interdine but do not intermarry. Indian Christians are divided into (1) Catholics, and (2) Pro-

1 *Harijan,* dated 13th Ootober 1940,

testants. Catholics are again sub-divided into (1) Caste Christians and (2) Non-caste Christians. Both Catholics and Protestants have castes which do not intermarry and caste Christians and Non-caste Christians do not even interdine or go to the same church. This shows that Mr. Gandhi notwithstanding his being a party to the Poona Pact is determined not to allow the Scheduled Castes being given the status of a separate element and that he is prepared to adopt any argument however desperate to justify his attitude of opposition.

In short Mr. Gandhi is still on the war path so far as the Untouchables are concerned. He may start the trouble over again. The time to trust him has not arrived. The Untouchables must still hold that the best way to safeguard themselves is to say 'Beware of Mr. Gandhi.'

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CHAPTER. XI

GANDHISM

The Doom of the Untouchables

I

HITHERTO when Indians have been talking about, the reconstruction of Indian social and economic life they have been talking in terms of individualism *versus* collectivism, capitalism *versus* socialism, conservatism *versus* radicalism and so on. But quite recently a new ' ism' has come on the Indian horizon. It is called Gandhism. It is true that very recently Mr. Gandhi had denied that there is such a thing as Gandhism. This denial is nothing more than the usual modesty which Mr. Gandhi wears so well. It does not disprove the existence of Gandhism. There have been quite a number of books with the title of Gandhism without any«protest from Mr. Gandhi. It has already caught the imagination of some people both inside and outside India. Some have so much faith in it that they do not hesitate to offer it as an alternative to Marxism.

The followers of Gandhism who may happen to read what is said in the foregoing pages may well ask : Mr. Gandhi may not have done what the Untouchables expected him to do ; but does not Gandhism offer any hope to the Untouchables ? The followers of Gandhism may accuse me of remembering only the short, slow, intermittent steps taken by Mr. Gandhi for the sake of the Untouchables and of forgetting the potential length of the principles enunciated by him. I am prepared to admit that it does sometimes happen that a person who enunciates a long principle takes only a short step and that he may be forgiven for the short step in the hope that some day the principle will by its native dynamics force a long step covering all who were once left out. Gandhism is in itself a very interesting subject for study. But to deal with Gandhism after having dealt with Mr. Gandhi is bound to be a tedious task and therefore my first reaction was to leave out the consideration of Gandhism and Untouchables. At the same time, I could hardly remain indifferent to the facts that the effect of my omission to consider the subject might be very unfortunate. For

Gandhists, notwithstanding my exposure of Mr. Gandhi, might take advantage of it and continue to preach that if Mr. Gandhi has failed to solve the problem of the Untouchables still the Untouchables will find their salvation in Gandhism. It is because I wish to leave no room for such propaganda that I have overcome my original disinclination and engage upon discussion of Gandhism.

II

What is Gandhism ? What does it stand for ? What are its teachings about economic problem ? What are its teachings about social problem ?

At the outset it is necessary to state that some Gandhists have conjured up a conception of Gandhism which is purely imaginary. According to this conception Gandhism means return to the village and making the village self-sufficient. It makes Gandhism a mere matter of regionalism. Gandhism, I am sure, is neither so simple nor so innocent as regionalism is. Gandhism has a much bigger content than regionalism. Regionalism is a small insignificant part of it. It has a social philosophy and it has an economic philosophy. To omit to take into account the economic and social philosophy of Gandhism is to present deliberately a false picture of Gandhism. The first and foremost requisite is to present a true picture of Gandhism.

To start with Mr. Gandhi's teachings on social problem. Mr. Gandhi's views on the caste system—which constitutes the main social problem in India—were fully elaborated by him in 1921-22 in a Gujarathi Journal called *Nava-Jivan*. The article[1] is written in Gujarathi. I give below an English translation of his views as near as possible in his own words. Says Mr. Gandhi:

"1. I believe that if Hindu Society has been able to stand it is because it is founded on the caste system.

"2. The seeds of Swaraj are to be found in the caste system. Different castes are like different sections of military division. Each division is working for the good of the whole...

"3. A community which can create the caste system must be said to possess unique power of organization.

1. It is reprinted in Vol. 'II of the series called *Gandhi Sikshan* as No, 18.

"4. Caste has a ready made means for spreading primary education. Every caste can take the responsibility for the education of the children of the Caste. Caste has a political basis. It can work as an electorate for a representative body. Caste can perform judicial functions by electing persons to act as judges to decide disputes among members of the same caste. With castes it is easy to raise a defence force by requiring each caste to raise a brigade.

"5. I believe that interdining or intermarriage are not necessary for promoting national unity. That dining together creates friendship is contrary to experience. If this was true there would have been no war in Europe … Taking food is as dirty an act as answering the call of nature. The only difference is that after answering call of nature we get peace while after eating food we get discomfort. Just as we perform the act of answering the call of nature in seclusion so also the act of taking food must also be done in seclusion.

"6. In India children of brothers do not intermarry. Do they cease to love because they do not intermarry ? Among the Vaishnavas many women are so orthodox that they will not eat with the members of the family nor will they drink water from a common water pot. Have they no love? The Caste system cannot be said to be bad because it does not allow interdining or intermarriage between different Castes."

"7. Caste is another name for control. Caste puts a limit on enjoyment. Caste does not allow a person to transgress caste limits in pursuit of his enjoyment. That is the meaning such caste restrictions as interdining and intermarriage.

"8. To destroy caste system and adopt Western European social system means that Hindus must give up the principle of hereditary occupation which is the soul of the caste system. Hereditary principle is an eternal principle. To change it is to create disorder. I have no use for a Brahmin if I cannot call him a Brahmin for my life. It will be a chaos if every day a Brahmin is to be changed into a Shudra and a Shudra is to be changed into a Brahmin.

"9. The caste system is a natural order of society. In India it has been given a religious coating. Other countries not having understood the utility of the Caste System it existed only in a loose condition and consequently those countries have not derived from Caste system the same degree of advantage which India has derived.

These being my views I am opposed to all those who are out to destroy the Caste System."

In 1922, Mr. Gandhi was a defender of the caste system. Pursuing the inquiry, one comes across a somewhat critical view of the caste system by Mr. Gandhi in the year 1925. This is what Mr. Gandhi said on 3rd February 1925 :—

> "I gave support to caste because it stands for restraint. But at present caste does not mean restraint, it means limitations. Restraint is glorious and helps to achieve freedom. But limitation is like chain. It binds. There is nothing commendable in castes as they exist today. They are contrary to the tenets of the shastras. The number of castes is infinite and there is a bar against intermarriage. This is not a condition of elevation. It is a state of fall."

In reply to the question : What is the way out Mr. Gandhi said :

> "The best remedy is that small castes should fuse themselves into one big caste. There should be four such big castes so that we may reproduce the old system of four varnas."

In short, in 1925 Mr. Gandhi became an upholder of the Varna system.

The old *Varna* system prevalent in ancient India had society divided into four orders : (1) Brahmins, whose occupation was learning; (2) Kshatriyas whose occupation was warfare; (3) Vaishyas, whose occupation was trade and (4) Shudras, whose occupation was service of the other classes. Is Mr. Gandhi's *Varna* System the same as this old *Varna* system of the orthodx Hindus ? Mr. Gandhi explained his *Varna* system in the following terms[1] :

"1. I believe that the divisions into *Varna* is based on birth.

"2. There is nothing in the *Varna* system which stands in the way of the *Shudra* acquiring learning or studying military art of offence or defence. Contra it is open to a Kshatriya to serve. The *Varna* system is no bar to him. What the *Varna* system enjoins is that a Shudra will riot make learning a way of earning a living. Nor will a Kshatriya adopt service as a way of earning a living. [Similarly a Brahmin may learn the art of war or trade. But he must not make them a way of earning his living. Contra a Vaishya may acquire learning or may cultivate the art of war. But he must not make them a way of earning his living.]

1. The extracts are taken from an article by Mr. Gandhi on the subject and is reproduced in the *Varna Vayavastha*—a book which contains Mr. Gandhi's writings in original Gujarathi.

"3. The *varna* system is connected with the way of earning a living. There is no harm if a person belonging to one *varna* acquires the knowledge or science and art specialized in by persons belonging to other *varnas*. But as far as the way of earning his living is concerned he must follow the occupation of the varna to which he belongs which means he must follow the hereditary profession of his forefathers.

"4. The object of the *varna* system is to prevent competition and class struggle and class war. I believe in the *varna* system because it fixes the duties and occupations of persons.

"5. *Varna* means the determination of a man's occupation before he is born.

"6. In the *Varna* system no man has any liberty to choose his occupation. His occupation is determined for him by heredity."

Turning to the field of economic life, Mr. Gandhi stands for two ideals :

One of these is the opposition to machinery. As early as 1921 Mr. Gandhi gave vent to his dislike for machinery. Writing in the *Young India* of 19th January 1921, Mr. Gandhi said :

> "Do I want to put back the hand of the clock of progress ? Do I want to replace the mills by hand-spinning and hand-weaving ? Do I want to replace the railway by the country-cart ? Do I want to destroy machinery altogether ? These questions have been asked by some journalists and public men. My answer is: I would not weep over the disappearance of machinery or consider it a calamity."

His opposition to machinery is well evidenced by his idolization of *charkha* (the spinning wheel) and by insistence upon hand-spinning and hand-weaving. This opposition to machinery and his love for *charkha* is not a matter of accident. It is a matter of philosophy. This philosophy Mr. Gandhi took special occasion to propound in his presidential address at the Kathiawad Political Conference held on 8th January 1925. This is what Mr. Gandhi said :

> "Nations are tired of the worship of lifeless machines multi-plied *ad infinitum*. We are destroying the matchless living machines viz., our own bodies by leaving them to rust and trying to substitute lifeless machinery for them. It is a law of God that the body must be fully worked and utilised. We dare not ignore it. The spinning wheel is the auspicious symbol of Sharir Yajna—body labour. He who eats his food without

offering this sacrifice steals it. By giving up this sacrifice we became traitors to the country, and banged the door in the face of the Goddess of Fortune."

Anyone who has read Mr. Gandhi's booklet on *Hind Swaraj* (Indian Home Rule) will know that Mr. Gandhi is against modern civilization. The book was first published in 1908. But there has been no change in his ideology. Writing in 1921 Mr. Gandhi said[1]:

> "The booklet is a severe condemnation of 'modern civilization.' It was written in 1908. My conviction is deeper today than ever. I feel that, if India would discard 'Modern civilization' she can only gain by doing so." In Mr. Gandhi's view[2] :
>
> "Western civilization is the creation of satan."

The second ideal of Mr. Gandhi is the elimination of class-war and even class struggle in the relationship between employers and employees and between landlords and tenants. Mr. Gandhi's views on the relationship between employers and employees were, set forth by him in an article on the subject which appeared in the *Nava-Jivan* of the 8th June 1921 from which the following is an extract :

> "Two paths are open before India, either to introduce the Western principle of 'Might is right' or to uphold the Eastern principle that truth alone conquers, that truth knows no mishap, that the strong and the weak have alike a right to secure justice. The choice is to begin with the labouring class. Should the labourers obtain an increment in their wages by violence ? Even if that be possible, they cannot resort to anything like violence, howsoever legitimate may be their claims. To use violence for securing rights may seem an easy path, but it proves to be thorny in the long run. Those who live by sword die also by sword. The swimmer often dies by drowning. Look at Europe. No one seems to be happy there, for not one is contented. The labourer does not trust the capitalist and the capitalist has no faith in the labourer. Both have a sort of vigour and strength but even the bulls have it. They fight to the very bitter end. All motion is not progress. We have got no reason to believe, that the people of Europe are progressing. Their possession of wealth does not argue the possession of any moral or spiritual qualities.

* * *

1. *Young India,* 26th January 1921.
2. *Dharma Manthan,* p. 65.

"What shall we do then ? The labourers in Bombay made a fine stand. I was not in a position to know all the facts. But this much I could see that they could fight in a better way. The millowner may be wholly in the wrong. In the struggle between capital and labour, it may be generally said that more often than not the capitalists are in the wrong box. But when labour comes fully to realise its strength, I know it can become more tyrannical than capital. The millowners will have to work on the terms dictated by labour, if the latter could command intelligence of the former. It is clear, however, that labour will never attain to that intelligence. If it does, labour will cease to be labour and become itself the master. The capitalists do not fight on the strength of money alone. They do possess intelligence and tact.

"The question before us is this: When the labourers, remaining what they are, develop a certain consciousness, what should be their course ? It would be suicidal if the labourers rely upon their numbers or brute-force, i.e., violence. By so doing, they will do harm to industries in the country. If, on the other hand, they take their stand on pure justice and suffer in their person to secure it, not only will they always succeed but they will reform their masters, develop industries and both master and men will be as members of one and the same family."

Referring to the same theme on another occasion Mr. Gandhi said[1]:

"Nor was it otherwise before. India's history is not one of strained relations between capital and labour."

Particularly noteworthy are the views of Mr. Gandhi on strike as a weapon in the hand of the workers to improve their economic condition. Mr. Gandhi says[2] :

"Speaking, therefore, as one having handled large successful strikes, I repeat the following maxims, already stated in these pages, for the guidance of all strike leaders :

(1) There should be *no strike without a real grievance.*

(2) There should be no strike, if the persons concerned are not able to support themselves out of their own savings or by engaging in some temporary occupation, such as carding, spinning and weaving. *Strikers should never depend upon public subscriptions or other charity.*

(3) *Strikers must fix an unalterable minimum demand, and declare it before embarking upon their strike.*

1. *Young India,* February 23, 1922.

2. *Young India,* 11th August, 1921. Italics not in the original.

"A strike may fail in spite of a just grievance and the ability of strikers to hold out indefinitely, if there are workers to replace them. A wise man, therefore, will not strike for increase of wages or other comforts, if he feels that he can be easily replaced. But a philanthropic or patriotic man will strike in spite of supply being greater than the demand, when he feels for and wishes to associate himself with his neighbour's distress. Needless to say, there is no room in a civil strike of the nature described by me for violence in the shape of intimidation, incendiarism or otherwise.....Judged by the tests suggested by me, it is clear that friends of the strikers could never have advised them to apply for or receive Congress or any other public funds for their support. The value of the strikers' sympathy was diminished to the extent, that they received or accepted financial aid. The merit of a sympathetic strike lies in the inconvenience and the loss suffered by the sympathisers."

Mr. Gandhi's view on the relationship between landlords and tenants were expounded by him in the *Young India* of 18th May 1921 in the form of instructions[1] to the tenants of U.P. who had risen against their landlords. Mr. Gandhi said:

"Whilst the U. P. Government is crossing the bounds of propriety, and intimidating people, there is little doubt that the Kisans too are not making wise use of their newly found power. In several Zamindaries, they are said to have overstepped the mark, taken the law into their own hands and to have become impatient of anybody who would not do as they wish. They are abusing social boycott and are turning it into an instrument of violence. They are reported to have stopped the supply of water, barber and other paid services to their Zamindars in some instances and even suspended payment of the rent due to them. The Kisan movement has received an impetus from Non-co-operation but it is anterior to and independent of it. *Whilst we will not hesitate to advise the Kisans when the moment comes, to suspend payment of taxes to Government, it is not contemplated that at any stage of Non-cooperation we would seek to deprive the Zamindars of their rent. The Kisan movement must be confined to the improvement of status of the Kisans and the betterment of the relations between the Zamindars and them.* The Kisans must be advised scrupulously to abide by the terms of their agreement with the Zamindars, whether such is written or inferred from custom. Where a custom or even a written contract is bad, they may not try

1. Italics are not in the original. Kisan means a tenant and zamindar means landlord.

to uproot it by violence or without previous reference to the Zamindars. In every case there should be a friendly discussion with the Zamindars and an attempt made to arrive at a settlement."

Mr. Gandhi does not wish to hurt the propertied class. He is even opposed to a campaign against them. He has no passion for economic equality. Referring to the propertied class Mr. Gandhi said quite recently that he does not wish to destroy the hen that lays the golden egg. His solution for the economic conflict between the owners and workers, between the rich and the poor, between landlords and tenants and between the employers and the employees is very simple. The owners need not deprive themselves of their property. All that they need do is to declare themselves Trustees for the, poor. Of course the Trust is to be a voluntary one carrying only a spiritual obligation.

III

Is there anything new in the Gandhian analysis of economic ills ? Are the economics of Gandhism sound ? What hope does Gandhism hold out to the common man, to the down-and out ? Does it promise him a better life, a life of joy, and culture, a life of freedom, not merely freedom from want but freedom to rise, to grow to the full stature which his capacities can reach ?

There is nothing new in the Gandhian analysis of economic ills in so far as it attributes them to machinery and the civilization that is built upon it. The arguments that machinery and modern civilization help to concentrate management and control into relatively few hands, and with the aid of banking and credit facilitate the transfer into still fewer hands of all materials and factories and mills in which millions are bled white in order to support huge industries thousands of miles away from their cottages, or that machinery and modern civilization cause deaths, maimings and cripplings far in excess of the corresponding injuries by war, and are responsible for disease and physical deterioration caused directly and indirectly by the development of large cities with their smoke, dirt, noise, foul air, lack of sunshine and out-door life, slums, prostitution and unnatural living which they bring about, are all

old and worn out arguments. There is nothing new in them. Gandhism is merely repeating the views of Rousseau, Ruskin, Tolstoy and their school.

The ideas which go to make up Gandhism are just primitive. It is a return to nature, to animal life. The only merit is their simplicity. As there is always a large corps of simple people who are attracted by them, such simple ideas do not die, and there is always some simpleton to preach them. There is, however, no doubt that the practical instincts of men—which seldom go wrong—have found them unfruitful and which society in search of progress has thought It best to reject.

The economics of Gandhism are hopelessly fallacious. The fact that machinery and modern civilization have produced many evils may be admitted. But these evils are no argument against them. For the evils are not due to machinery and modern civilization. They are due to wrong social organization which has made private property and pursuit of personal gain matters of absolute sanctity. If machinery and civilization have not benefited everybody the remedy is not to condemn machinery and civilization but to alter the organization of society so that the benefits will not be usurped by the few but will accrue to all.

In Gandhism the common man has no hope. It treats man as an animal and no more. It is true that man shares the, constitution and functions of animals, nutritive, reproductive, etc. But these are not distinctively human functions. The distinctively human function is reason, the purpose of which is to enable man to observe, meditate, cogitate, study and discover the beauties of the Universe and enrich his life and control the animal elements in his life. Man thus occupies the highest place in the scheme of animate existence. If this is true what is the conclusion that follows ? The conclusion that follows is that while the ultimate goal of a brute's life is reached once his physical appetites are satisfied, the ultimate goal of man's existence is not reached unless and until he has fully cultivated his mind. In short, what divides the brute from man is culture. Culture is not possible for the brute, but it is essential for man. That being so, the aim of human society must be to enable every person to lead a life of culture which means the cultivation of the mind as distinguished from the satisfaction of mere physical wants. How can this happen?

Both for society and as well as for the individual there is always a gulf between merely living and living worthily. In order that one may live worthily One must first live. The time and energy spent upon mere life, upon gaining of subsistence detracts from that available for activities of a distinctively human nature and which go to make up a life of culture. How then can a life of culture be made possible ? It is not possible unless there is sufficient leisure. For it is only when there is leisure that a person is free to devote himself to a life of culture. The problem of all problems which human society has to face is how to provide leisure to every individual. What does leisure mean ? Leisure means the lessening of the toil and effort necessary for satisfying the physical wants of life. How can leisure be made possible ? Leisure is quite impossible unless some meas are found whereby the toil required for producing goods necessary to satisfy human needs is lessened. What can lessen such toil ? Only when machine takes the place of man. There is no other means of producing leisure. Machinery and modern civilization are thus indispensable for emancipating man from leading the life of a brute, and for providing him with leisure and making a life of culture possible. The man who condemns machinery and modern civilization simply does not understand their purpose and the ultimate aim which human society must strive to achieve.

Gandhism may be well suited to a society which does not accept democracy as its ideal. A society which does not believe in democracy may be indifferent to machinery and the civilization based upon it. But a democratic society cannot. The former may well content itself with life of leisure and culture for the few and a life of toil and drudgery for the many. But a democractic society must assure a life of leisure and culture to each one of its citizens. If the above analysis is correct then the slogan of a democratic society must be machinery, and more machinery, civilization and more civilization. Under Gandhism the common man must keep on toiling ceaselessly for a pittance and remain a brute. In short, Gandhism with its call of back to nature, means back to nakedness, back to squalor, back to poverty and back to ignorance for the vast mass of the people.

The division of life into separate functions and of society into separate classes may not be altogether obliterated. In spite of many social and economic changes, in spite of the abolition

of legal serfdom, legal slavery and the spread of the notion of democracy, with the extension of science, of general education through books, newspapers, travel and general intercourse in schools and factories there remains and perhaps will remain enough cleavage in society into a learned and an ignorant class, a leisure and a labouring class.

But Gandhism is not satisfied with only *notional* class distinctions. Gandhism insists upon class structure. It regards the class structure of society and also the income structure as sacrosanct with the consequent distinctions of rich and poor, high and low, owners and workers as permanent parts of social organization. From the point of view of social consequences nothing can be more pernicious. Psychologically, class structure sets in motion influences which ape harmful to both the classes. There is no common plane on which the privileged and the subject classes can meet. There is no endosmosis, no give and take of life's hopes and experiences. The social and moral evils of this separation to the subject class are of course real and obvious. It educates them into slaves and creates all the psychological complex which follows from a slave mentality. But those affecting the privileged class, though less material and less perceptible, are equally real. The isolation and exclusiveness following upon the class structure creates in the privileged classes the anti-social spirit of a gang. It feels it has interests 'of its own' which it makes its prevailing purpose to protect against everybody even against the interests of the State. It makes their culture sterile, their art showy, their wealth luminous and their manners fastidious. Practically speaking in a class structure there is, on the one hand, tyranny, vanity, pride, arrogance, greed, selfishness and on the other, insecurity, poverty, degradation, loss of liberty, self-reliance, independence, dignity and self-respect. Democratic society cannot be indifferent to such consequences. But Gandhism does not mind these consequences in the least. It is not enough to say that Gandhism is not satisfied with mere class distinctions. It is not enough to say that Gandhism believes in a class structure. Gandhism stands for more than that. A class structure which is a faded, jejune, effete thing—a mere sentimentality, a mere skeleton is not what Gandhism wants. It wants class structure to function as a living faith. In this there is nothing to be surprised at. For class structure in Gandhism is not a mere accident. It is its official doctrine.

The idea of trusteeship which Gandhism proposes as a panacea by which the moneyed classes will hold their properties in trust for the poor is the most ridiculous part of it. All that one can say about it is that if anybody else had propounded it the author would have been laughed at as a silly fool who had not known the hard realities of life and was deceiving the servile classes by telling them that a little dose of moral rearmament to the propertied classes—those who by their insatiable cupidity and indomitable arrogance have made and will always make this world a vale of tears for the toiling millions—will recondition them to such an extent that they will be able to withstand the temptation to misuse the tremendous powers which the class structure gives them over servile classes.

The social ideal of Gandhism is either *caste* or *varna*. Though it may be difficult to say which, there can be no doubt that the social ideal of Gandhism is not democracy. For whether one takes for comparison *caste* or *varna* both are fundamentally opposed to democracy. It would have been something if the defence of caste system which. Gandhism offers was strong and honest. But his defence of the caste system is the most insensible piece of rhetoric one can think of. Examine Mr. Gandhi's arguments in support of caste and it will be found that everyone of them is specious if not puerile. To run through the arguments summarized earlier in this Chapter[1].

The first three arguments call for pity. That the Hindu Society has been able to stand while others have died out or disappeared is hardly a matter for congratulation. If it has survived it is not because of caste but because the foreigner who conquered the Hindus did not find it necessary to kill them wholesale. There is no honour in mere survival. What matters is the plane of survival. One can survive by unconditional surrender. One can survive by beating a cowardly retreat and one can survive by fighting. On what plane have the Hindus survived ? If they can be said to have survived after fighting and beating their enemies the virtue ascribed to the caste system by Mr. Gandhi could be admitted. The history of the Hindus has been one of surrender—abject surrender. It is true others have surrendered to their invaders. But in their case surrender is followed by a revolt

1. See pages 275-277

against the foreign ruler. The Hindus have not only never withstood the onslaught of the foreign invader, they have never even shown the capacity to organize a rebellion to throw off the foreign yoke. On the other hand the Hindus have tried to make slavery comfortable. On this one may well argue the contrary namely that this helpless condition of the Hindus is due entirely to the caste system.

Argument in para 4 is plausible. But it cannot be said that caste is the only machinery for discharging such functions as the spread of primary education or the judicial settlement of disputes. Caste is probably the worst instrument for the discharge of such functions. It can be easily influenced and easily corrupted. Such functions have been discharged in other countries much better than they have been in India although they have had no caste system. As to using the caste as basis for raising military units the idea is simply fantastic. Under the occupational theory underlying the caste system this is unthinkable. Mr. Gandhi knows that not a single caste in his own Province of Gujrat has ever raised a military unit. It did not do it in the present World War. But it did not do so even in the last World War, when Mr. Gandhi toured through Gujarat as a Recruiting Agent of British Imperialism. In fact under the caste system a general mobilization of the people for defence is impossible since mobilization requires a general liquidation of the occupational theory underlying the caste system.

Arguments contained in paras 5 and 6 are as stupid as they are revolting. The argument in para 5 is hardly a good argument. It is quite true the family is an ideal unit in which every member is charged with love and affection for another member although there is no intermarriage among members of a family. It may even be conceded that in a Vaishnava family members of the family do not interdine and yet they are full of love and affection for one another. What does all this prove ? It does not prove that interdining and intermarrying are not necessary for establishing fraternity. What it proves is that where there are other means of maintaining fraternity—such as consciousness of family tie—interdining and intermarriage are not necessary. But it cannot be denied that where—as in the caste system—no binding force exists intermarriage and interdining are absolutely essential. There is no analogy between family and caste, Inter-caste dinner and

inter-caste marriage are necessary because there are no other means of binding the different castes together while in the case of a family there exists other forces to bind them together. Those who have insisted upon the ban against interdining and inter-marriage have treated it as a question of relative values. They have never elevated it to the level of a question of absolute value. Mr. Gandhi is the first one to do it. Interdining is bad and even if it was capable of producing good it should not be resorted to and why ? Because eating is a filthy act, as filthy as answering the call of nature! The caste system has been defended by others. But this is the first time I have seen such an extraordinary if not a shocking argument used to support it. Even the orthodox may say, "Save us from Mr. Gandhi." It shows what a deep-dyed Hindu Mr. Gandhi is. He has outdone the most orthodox of orthodox Hindus. It is not enough to say that it is an argument of a cave man. It is really an argument of a mad man.

The argument in favour of the caste system outlined in para 7 is not worth much in terms of building up moral strength. The caste system no doubt prohibits a man from satisfying his lust for a woman who is not of his caste. The caste system no doubt prohibits a man from satisfying his craving for food cooked in the house of a man who is not of his caste. If morality consists of observing restraints without regard to the sense or sensibility of restraints then the caste system may be admitted to be a moral system. But Mr. Gandhi does not see that these easy restraints are more than balanced by vast liberties permitted by Hinduism. For Hinduism places no restraint upon a man marrying hundred women and keeping hundred prostitutes within the ambit of his caste. Nor does it stop him from indulging in his appetite with his castemen to any degree.

The argument in para 8 begs the whole question. The hereditary system may be good or may not be good. It may be agreeable to some. It may be disagreeable to others. Why elevate it into an official doctrine ? Why make it compulsory ? In Europe it is not an official doctrine and it is not compulsory. It is left to the choice of an individual most of whom do follow the profession of their ancestors and some don't. Who can say that compulsory system has worked better than the voluntary system ? If a comparison of the economic condition of the people in India and the people of

Europe is any guide there would be very few rationally-minded people who would be found to support the caste system on this ground. As to the difficulty in changing nomenclature to keep pace with frequent changes in occupation it is only artificial. It arises out of the supposed necessity of having labels for designating persons following a particular profession. The class labels are quite unnecessary and could well be abolished altogether without causing difficulty. Besides what happens today in India ? Men's callings and their class labels are not in accord. A Brahmin sells shoes. Nobody is disturbed because he is not called a Chamar. A Chamar becomes an officer of the State. Nobody is disturbed because he is not called a Brahmin. The whole argument is based on a misunderstanding. What matters to society is not the label by which the individual's class is known but the service he offers.

The last argument set out in para 9 is one of the most astounding arguments I have heard in favour of the caste system. It is historically false. No one who knows anything about the Manu Smriti can say that the caste system is a natural system. What does Manu Smriti show? It shows that the caste system is a legal system maintained at the point of a bayonet. If it has survived it is due to (1) prevention of the masses from the possession of arms ; (2) denying to the masses the right to education and (3) depriving the masses of the right to property. The caste system far from natural is really an imposition by the ruling classes upon the servile classes.

That Mr. Gandhi changed over from the caste system to the varna system does not make the slightest difference to the charge that Gandhism is opposed to democracy. In the first place, the idea of *varna* is the parent of the idea of *caste*. If the idea of caste is a pernicious idea it is entirely because of the viciousness of the idea of *varna*. Both are evil ideas and it matters very little whether one believes in *varna* or in *caste*. The idea of *varna* was most mercilessly attacked by the Buddhists who did not believe in it. Orthodox or the Sanatan Vedic Hindus had no rational defence to offer. All that they could say was that it was founded on the authority of the Vedas and that as the Vedas were infallible so was the *varna* system. This argument was not enough to save the *varna* system against the rationalism of the Buddhists. If the idea

of the *varna* survived it was because of the Bhagvat Gita, which gave a philosophical foundation to the *varna* system by arguing that the *varna* was based on the innate qualities of man. The Bhagvat Gita made use of the Sankhya philosophy to bolster and buttress the *varna* idea which would have otherwise petered away by making sense of a thing that is absolute nonsense. Bhagvat Gita had done enough mischief by giving a fresh lease of life to the *varna* system by basing it upon, anew and plausible foundation, namely that of innate qualities. The *varna* system of the Bhagvat Gita has at least two merits. It does not say that it is based on birth. Indeed it makes a special point that each man's *varna* is fixed according to his innate qualities. It does not say that the occupation of the son shall be that of the father. It says that the profession of a person shall be according to his innate qualities, the profession of the father according to the father's innate quality and that of the son according to the son's innate qualities. But Mr. Gandhi has given a new interpretation of the *varna* system. He has changed it out of recognition. Under the old orthodox interpretation *caste* connoted hereditary occupation but *varna* did not. Mr. Gandhi by his own whim has given a new connotation to the *varna*. With Mr. Gandhi *varna* is determined by birth and the profession of a *varna* is determined by the principle of heredity so that *varna* is merely another name for *caste*. That Mr. Gandhi changed from *caste* to *varna* does not indicate the growth of any new revolutionary ideology. The genius of Mr. Gandhi is elvish, always and throughout. He has all the precocity of an elf with no little of its outward guise. Like an elf he can never grow up and grow out of the caste ideology.

Mr. Gandhi sometimes speaks on social and economic subjects as though he was a blushing Red. Those who will study Gandhism will not be deceived by the occasional aberrations of Mr. Gandhi in favour of democracy and against capitalism. For Gandhism is in no sense a revolutionary creed. It is conservatism in excelsis. So far as India is concerned, it is a reactionary creed blazoning on its banner the call of Return to Antiquity. Gandhism aims at the resuscitation and re-animation of India's dread, dying past.

Gandhism is a paradox. It stands for freedom from foreign domination, which means the destruction of the existing political structure of the country. At the same time it seeks to maintain

intact a social structure which permits, the domination of *one* class by another on a hereditary basis which means a perpetual domination of one class by another. What is the explanation of this paradox ? Is it a part of a strategy by Mr. Gandhi to win the whole-hearted support of the Hindus, orthodox and unorthodox, to the campaign of Swaraj ? If it is the latter, can Gandhism be regarded as honest and sincere ? Be that as it may there are two features of Gandhism which are revealing but to which unfortunately no attention has so far been paid. Whether they will make Gandhism more acceptable than Marxism is another matter. But as they do help to distinguish Gandhism from Marxism, it may be well to refer to them.

The first special feature of Gandhism is that its philosophy helps those who have, to keep what they have and to prevent those who have not from getting what they have a right to get. No one who examines the Gandhian attitude to strikes, the Gandhian reverence for Caste and the Gandhian doctrine of Trusteeship by the rich for the benefit of the poor can deny that this is upshot of Gandhism. Whether this is the calculated result of a deliberate design or whether it is a matter of accident may be open to argument. But the fact remains that Gandhism is the philosophy of the well-so-do and the leisure class.

The second special feature of Gandhism is to delude people into accepting their misfortunes by presenting them as best of good fortunes. One or two illustrations will suffice to bring out the truth of this statement.

The Hindu sacred law penalized the Shudras (Hindus of the fourth class) from acquiring wealth. It is a law of enforced poverty unknown in any other part of the world. What does Gandhism do ? It does not lift the ban. It blesses the Shudra for his moral courage to give up property ! ! It is well worth quoting Mr. Gandhi's own words. Here they are[1] :

> "The Shudra who only serves (the higher caste) as a matter of religious duty, and who will never own any property, who indeed has not even the ambition to own anything, is deserving of thousand obeisance ..... The very Gods will shower down flowers on him.

1. Quoted from *Varna Vyavastha,* p. 51.

Another illustration in support is the attitude of Gandhism towards the scavenger. The sacred law of the Hindus lays down that a scavenger's progeny shall live by scavenging. Under Hinduism scavenging was not a matter of choice, it was a matter of force[1]. What does Gandhism do ? It seeks to perpetuate this system by praising scavenging as the noblest service to society ! ! Let me quote Mr. Gandhi: As a President of a Conference of the Untouchables, Mr. Gandhi said[1] :

> "I do not want to attain *Moksha*. I do not want to be reborn. But if I have to be reborn, I should be born an untouchable, so that I may share their sorrows, sufferings and the affronts levelled at them, in order that I may endeavour to free myself and them from that miserable condition. I, therefore prayed that if I should be born again, I should do so not as a Brahmin, Kshatriya, Vaishya, or Shudra, but as an Atishudra...
>
> "I love scavenging. In my Ashram, an eighteen years old Brahmin lad is doing the scavenger's work in order to teach the Ashram scavenger cleanliness. The lad is no reformer. He was born and bred in orthodoxy... But he felt that his accomplishments were incomplete until he had become also a perfect sweeper, and that, if he wanted the Ashram sweeper to do his work well, he must do it himself and set an example.
>
> "You should realize that you are cleaning Hindu Society."

Can there be a worse example of false propaganda than this attempt of Gandhism to perpetuate evils which have been deliberately imposed by one class over another ? If Gandhism preached the rule of poverty for all and not merely for the Shudra the worst that could be said about it is that it is a mistaken idea. But why preach it as good for one class only ? Why appeal to the worst of human failings, namely, pride and vanity in order to make him voluntarily accept what on a rational basis he would resent as a cruel discrimination against him ? What is the use of telling the scavenger that even a Brahmin is prepared to do scavenging when it is clear that according to Hindu Shastras and Hindu notions even if a Brahmin did scavenging he would never be subject to the disabilities of one who is a born scavenger ? For in India a man is not a scavenger because of his work. He is a scavenger because of his birth irrespective of the question whether he does scavenging or not. If Gandhism preached that scavenging is a noble profession with the object of inducing those who refuse

1. *Young India,* 27th April 1921.

to engage in it, one could understand it. But why appeal to the scavenger's pride and vanity in order to induce him and him only to keep on to scavenging[1] by telling him that scavenging is a noble profession and that he need not be ashamed of it ? To preach that poverty is good for the Shudra and for none else, to preach that scavenging is good for the Untouchables and for none else and to make them accept these onerous impositions as voluntary purposes of life, by appeal to their failings is an outrage and a cruel joke on the helpless classes which none but Mr. Gandhi can perpetuate with equanimity and impunity. In this connection one is reminded of the words of Voltaire who in-repudiation of an 'ism' very much like Gandhism said: "Oh! mockery to say to people that the suffering of some brings joy to others and works good to the whole ! What solace is it to a dying man to know that from his decaying body a thousand worms will come into life?"

Criticism apart, this is the technique of Gandhism, to make wrongs done appear to the very victim as though they were his privileges. If there is an 'ism' which has made full use of religion as an opium to lull the people into false beliefs and false security, it is Gandhism. Following Shakespeare one can well say : Plausibility ! Ingenuity ! Thy name is Gandhism.

IV

Such is Gandhism. Having known what is Gandhism the answer to the question, 'Should Gandhism become the law of the land what would be the lot of the Untouchables under it,' cannot require much scratching of the brain. How would it compare with the lot of the lowest Hindu ? Enough has been said to show what would be his lot should the Gandhian social order come into being. In so far as the lowest Hindu and the Untouchable belong to the same disinherited class, the Untouchable's lot cannot be better. If anything it might easily be worse. Because in India even the lowest man among the Caste Hindus—why even the aboriginal and Hill Tribe man—though educationally and economically not very

1. Some of the Provinces of India have laws which make refusal by a scavenger to do scavenging a crime for which he can be tried and punished by a criminal court.

much above the Untouchables is still superior to the Untouchables. It is not he regards himself as superior to the Untouchables. The Hindu society accepts his claim to superiority over the Untouchables. The Untouchable will therefore continue to suffer the worst fate as he does now namely, in prosperity he will be the last to be employed and in depression the first to be fired.

What does Gandhism do to relieve the Untouchables from this fate ? Gandhism professes to abolish Untouchability. That is hailed as the greatest virtue of Gandhism. But what does this virtue amount to in actual life ? To assess the value of this anti-Untouchability which is regarded as a very big element in Gandhism, it is necessary to understand fully the scope of Mr. Gandhi's programme for the removal of Untouchability. Does it mean anything more than that the Hindus will not mind touching the Untouchables ? Does it mean the removal of the ban on the right of the Untouchables to education ? It would be better to take the two questions separately.

To start with the first question, Mr. Gandhi does not say that a Hindu should not take a bath after touching the Untouchables. If Mr. Gandhi does not object to it as a purification of pollution then it is difficult to see how Untouchability can be said to vanish by touching the Untouchables. Untouchability centres round the idea of pollution by contact and purification by bath to remove the pollution. Does it mean social assimilation with the Hindus? Mr. Gandhi has most categorically stated that removal of Untouchability does not mean inter-dining or inter-marriage between the Hindus and the Untouchables. Mr. Gandhi's anti-Untouchability means that the Untouchables will be classed as Shudras instead of being classed as Ati-Shudras.[1] There is nothing more in it. Mr. Gandhi has not considered the question whether the old Shudras will accept the new Shudras into their fold. If they don't then the removal of Untouchability is a senseless proposition for it will still keep the Untouchables as a separate social category. Mr. Gandhi probably knows that the abolition of Untouchability will not bring about the assimilation of the Untouchables by the Shudras. That seems to be the reason why Mr. Gandhi himself has given a new and a different name

1. *Young India,* 5th February 1925.

to the Untouchables. The new name registers by anticipation what is likely to be the fact. By calling the Untouchables *Harijans* Mr. Gandhi has killed two birds with one stone. He has shown that assimilation of the Untouchables by the Shudras is not possible. He has also by his new name counteracted assimilation and made it impossible.

Regarding the second question, it is true that Gandhism is prepared to remove the old ban placed by the Hindu Shastras on the right of the Untouchables to education and permit them to acquire knowledge and learning. Under Gandhism the Untouchables may study law, they may study medicine, they may study engineering or anything else they may fancy. So far so good. But will the Untouchables be free to make use of their knowledge and learning ? Will they have the right to choose their profession ? Can they adopt the career of lawyer, doctor or engineer ? To these questions the answer which Gandhism gives is an emphatic 'no.[1]' The Untouchables must follow their hereditary professions. That those occupations they are unclean is no answer: That before the occupation became hereditary it was the result of force and not volition does not matter. The argument of Gandhism is that what is once settled is settled for ever even if it was wrongly settled. Under Gandhism the Untouchables are to be eternal scavengers. There is no doubt that the Untouchables would much prefer the orthodox system of Untouchability. A compulsory state of ignorance imposed upon the Untouchables by the Hindu Shastras made scavenging bearable. But Gandhism which compels an educated Untouchable to do scavenging is nothing short of cruelty. The grace in Gandhism is a curse in its worst form. The virtue of the anti-Untouchability plank in Gandhism is quite illusory. There is no substance in it.

V

What else is there in Gandhism which the Untouchables can accept as opening a way for their ultimate salvation ? Barring this illusory campaign against Untouchability Gandhism is simply another form of Sanatanism which is the ancient name for militant orthodox Hinduism. What is there in Gandhism which is not to be found in orthodox Hinduism ? There is

[1] See *supra,* pages 275-77 for Mr. Gandhi's views on the subject.

caste in Hinduism, there is caste in Gandhism. Hinduism believes in the law of hereditary profession, so does Gandhism. Hinduism enjoins cow-worship. So does Gandhism. Hinduism upholds the law of *karma,* predestination of man's condition in this world, so does Gandhism. Hinduism accepts the authority of the Shastras. So does Gandhism. Hinduism believes in *avatars* or incarnations of God. So does Gandhism. Hinduism believes in idols, so does Gandhism.[1] All that Gandhism has done is to find a philosophic justification for Hinduism and its dogmas. Hinduism is bald in the sense that it is just a set of rules which bear on their face the appearance of a crude and cruel system. Gandhism supplies the philosophy which smoothens its surface and gives it the appearance of decency and respectability and so alters it and embellishes it as to make it even attractive. What philosophy does Gandhism propound to cover the nudity of Hinduism ? This philosophy can be put in a nutshell. It is a philosophy which says that "All that is in Hinduism is well, all that is in Hinduism is necessary for public good." Those who are familiar with Voltaire's *Candide* will recognize that it is the philosophy of Master Pangiloss and recall the mockery Voltaire made of it. The Hindus are of course pleased with it. No doubt it suits them and accords with their interest. Prof. Radhakrishnan—whether out of genuine feeling or out of sycophancy we need not stop to inquire—has gone to the length of describing Mr. Gandhi as 'God on earth.' What do the Untouchables understand this to mean ? To them it means that: "This God by name Gandhi came to console an afflicted race : He saw India and changed it not saying all is well and will be, if the Hindus will only fulfil the law of caste. He told the afflicted race, 'I have come to fulfil the law of caste.' Not a tittle, not a jot shall I allow to abate from it."

What hope can Gandhism offer to the Untouchables ? To the Untouchables Hinduism is a veritable chamber of horrors. The sanctity and infallibility of the Vedas, Smritis and Shastras, the iron law of caste, the heartless law of karma and the senseless law of status by birth are to the Untouchables veritable instruments of torture which Hinduism has forged against the Untouchables. These very instruments which have mutilated,

[1] Mr. Gandhi's articles of faith have been outlined by him in *Young India* of 6th October 1921.

blasted and blighted the life of the Untouchables are to be found intact and untarnished in the bosom of Gandhism. How can the Untouchables say that Gandhism is a heaven and not a chamber of horrors as Hinduism has been ? The only reaction and a very natural reaction of the Untouchables would be to run away from Gandhism.

Gandhists may say that what I have stated applies to the old type of Gandhism. There is a new Gandhism, Gandhism without caste. This has reference to the recent statement[1] of Mr. Gandhi that caste is an anachronism. Reformers were naturally gladdened by this declaration of Mr. Gandhi. And who would not be glad to see that a man like Mr. Gandhi having such terrible influence over the Hindus, after having played the most mischievous part of a social reactionary, after having stood out as the protagonist of the caste system, after having beguiled and befooled the unthinking Hindus with arguments which made no distinction between what is fair and foul should have come out with this recantation ? But is this really a matter for jubilation ? Does it change the nature of Gandhism ? Does it make Gandhism a new and a better 'ism' than it was before. Those who are carried away by this recantation of Mr. Gandhi, forget two things. In the first place all that Mr. Gandhi has said is that caste is an anachronism. He does not say it is an evil. He does not say it is anathema. Mr. Gandhi may be taken to be not in favour of caste. But Mr. Gandhi does not say that he is against the *Varna* system. And what is Mr. Gandhi's *varna* system ? It is simply a new name for the caste system and retains all the worst features of the caste system.

The declaration of Mr. Gandhi cannot be taken to mean any fundamental change in Gandhism. It cannot make Gandhism acceptable to the Untouchables. The Untouchables will still have ground to say : "Good God! Is this man Gandhi our Saviour?"

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[1] *Hindustan Times,* 15th April 1945.

Appendix I

SHRADHANAND ON BARDOLI PROGRAMME FOR UNTOUCHABLES

Correspondence between Swami Shradhanand and Pandit Motilal Nehru, General Secretary of the Congress, on the Congress Sub-Committee appointed in 1922 to frame a Scheme for the uplift of the Untouchables.

(1) Swamiji's Letter

The General Secretary,
All India Congress Committee,
Camp, Delhi.

I acknowledge, with thanks, receipt of your letters Nos. 331 and 332 embodying resolutions of the Working Committee and of the All-India Congress Committee about Untouchability. I observe with pain, that the resolution of the All India Congress Committee, as at present worded, does not include the whole of what was passed by the Committee.

The facts are these : I sent the following letter to Mr. Vithalbhai Patel (the then) General Secretary on 23rd May 1922, which was also published by the principal dailies of the country.

'My Dear Mr. Patel,

There was a time (vide *Young India* of 25th May, 1921) when Mahatmaji put the question of Untouchability in the forefront of the Congress programme. I find now that the question of raising the Depressed Classes has been relegated to an obscure corner. While Khadi claims the attention of some of our best workers and a liberal sum has been earmarked for it, for the year, while a strong sub-committee has been appointed to look after national education and a special appeal for fund is to be made for the same, the question of the removal of Untouchability has been shelved by making small grants to Ahmedabad, Ahmednagar and Madras. I am of opinion that with a majority of 6 crores of our brethren set against us by the bureaucracy, even the Khadi Scheme cannot succeed completely. The Members of the Working Committee, perhaps, do not know that on this side, our suppressed brethern are leaving off khadi and taking to buying cheap foreign cloth. I want to move the following resolution in the meeting of the All-India Congress Committee which comes off on the 7th of June next at Lucknow, that a sub-committee consisting of three members of the All-India Congress Committee be appointed to give effect to the resolution about the so-called Depressed Classes, that a sum of five lakhs of

rupees be placed at their disposal for propaganda work and that in future all applications for grants be referred to the said subcommittee for disposal." My proposal was amended by the Working Committee and ran as follows :—

> "This Committee hereby appoints a committee consisting of Swami Shradhanand, Mrs. Sarojini Naidu and Messrs. G. B. Deshpande and I. K. Yajnik to formulate a scheme embodying practical measures to be adopted for bettering the condition of the so-called Untouchables throughout the country and to place it for consideration before the next meeting of the Working Committee, the amount to be raised for the scheme to be Rs. 2 lakhs for the present."

Mr. Patel asked me to accept the Working Committee's proposed resolution *in toto*. I refused to accept the Working Committee's resolution and in the very first sitting of the All-India Congress Committee substituted 5 lakhs for 2 lakhs with the condition that one lakh of the same be allotted by the All-India Congress Committee out of the funds in its hands, in cash and an appeal be made for the balance.

Mr. Rajagopalachariar, on behalf of the Working Committee, proposed that instead of fixing the amount to be allotted out of the Congress funds now, it should be provided that when the Scheme was accepted by the Working Committee that Committee should allot as much cash as it could then spare for this purpose. I do not recollect the exact words but the purport of the amendment as given above is, to my knowedge, true.

On this an uproar arose and the query was pressed from all sides that the cash balance in the hands of the All-India Congress Committee ought to be announced. The President called me aside and told me in confidence that the Congress possessed very little cash balance and if pressed to disclose the true state of affairs it would harm the movement, as outsiders and even C.I.D. people were also present. On this I accepted the amendment of Mr. Rajagopalachariar in spite of protests from my seconder and supporters. But my surprise was great when I found the resolution in the dailies, as reported by the Associated Press, shorn of Mr. Rajagopalachariar's amendment.

After the above resolution was passed, some members suggested that a convener of the sub-committee ought to be appointed and several members proposed me as the convener. On this, Mr. Vithalbhai Patel (the then General Secretary) got up and said : "As Swami Shradhanand's name occurs first, naturally he will be the convener and therefore there was no need of moving any fresh resolution at all."

Members from all parts of the country began to give information to me about Untouchability in their provinces and pressed me to visit their parts. On this, I made some promises. Then I thought

that without some cash for preliminary expenses, no enquiries on the spot could be made and hence no proper scheme could be formulated. I also learnt that Rs. 25,000 had been voted by the Working Committee for "the Independent" of Allahabad and that an application for grant of Rs. 10,000 to the Urdu daily *Congress* of Delhi had been placed by Hakim Ajmal Khan and Dr. Ansari before the Working Committee. So, considering that after all, the Congress might not be so hard pressed for cash, I wrote a letter addressed to the President, asking him to give the Untouchability Sub-Committee an advance of Rs. 10,000 for preliminary expenses.

After all this,- the following resolution of the Working Committee forwarded by your letter No. 331 presents a very interesting reading:—

> "Read letter from Swami Shradhanand, dated 8th June 1922 for an advance for drawing up a scheme for Depressed Class work— Resolved that Mr. Gangadharrao B. Deshpande be appointed convener of the sub-committee appointed for the purpose and he be requested to convene a meeting at an early date, and that Swami Shradhanand's letter be referred to the Sub-Committee."

There is another matter which is inexplicable. After my first letter had been acknowledged, I addressed the following letter from Hardwar on 3rd June 1922 :—

"My Dear Mr. Patel,

I shall leave Hardwar the day after tomorrow and reach Lucknow on the morning of June 6th. You know by now, that I feel the most for the so-called Depressed Classes. Even in the Punjab I find that no attention worth the name has been paid to this item of the constructive programme. In the U. P. of course it will be an uphill work. But there is another very serious difficulty.

The Bardoli programme in its note under item (4) lays down that where prejudice is still strong, separate wells and separate schools must be maintained out of the Congress Funds. This leaves a loophole for those Congress workers who are either prejudiced against the Depressed Classes or are weak and no work can be done in inducing people to agree to allow the Untouchables to draw water from common wells. In the Bijnoor District, I learn there was no restriction and the Untouchables drew water freely from common wells. But in some places, fresh prejudice is being engendered under the aegis of the Bardoli resolution note. In my recent visits to Ambala Cant., Ludhiana, Batala, Lahore, Amritsar and Jandiala, I found that the question of the removal of disabilities of the Untouchables is being ignored. In and near Delhi, it is the Dalitodhar Sabha, of which I am the president, rather than the Congress which is doing appreciable work. I think that unless item (4) of the Bardoli

constructive programme is amended in proper form, the work which I consider to be the most important plank in the Congress programme, will suffer.

Kindly place the following proposal before the President and if he allows it to be placed before the next meeting, of the All-India Congress Committee, I shall move it there—"Instead of the Note under item (4) of the Bardoli resolution substitute the following note:—

> "The following demands of the Depressed Classes ought to be complied with at once, namely that (*a*) they are allowed to sit on the same carpet with citizens of other classes ; (*b*) they get the right to draw water from common wells and (*c*) their children get admission into National schools and Colleges and are allowed to mix freely with students drawn from the so-called higher castes."

I want to impress upon the members of the All-India Congress Committee the great importance of this term. I know of cases where the Depressed Classes are in open revolt against tyranny of the so-called upper castes and unless the above demands are conceded to them, they will succumb to the machine of the bureaucracy.

After my first proposals were passed in the All-India Congress Committee Meeting on June 7th at Lucknow, I asked Mr. Patel to put my proposed amendment of Note to item (4) of Bardoli resolution before the meeting. He told me that the Working Committee would refer it to the Sub-Committee and asked me not to press it there. I agreed. But I have not received copy of my resolution of the Working Committee, referring my proposal to the Untouchability Sub-Committee.

The Untouchability question is very acute in and near Delhi and I have to grapple with it at once. But the Sub-Committee cannot begin work off-hand because the Working Committee has to take several other political situations in the country into consideration before deciding upon any scheme of practical measures to be adopted for uprooting Untouchability on behalf of the Congress. Under these circumstances, I cannot be of any use to the Sub-Committee and beg to resign from membership.

Yours sincerely,

Delhi, Jan. 30. SHRADHANAND SANYASI.

(2) SECRETARY'S REPLY

DEAR SWAMIJI,

Your letter, dated June 1922 received in my office on the 30th of that month, has by a resolution of the Working Committee passed in Bombay on the 18th instant been referred to me with instructions to explain facts and request you to be good enough to reconsider your resignation from the Depressed Classes Sub-Committee.

As you are. aware, I have no personal knowledge of the facts which happened prior to my release from the jail. But I was present at the meeting of the Working Committee which passed the resolution dated 10th June 1922, appointing Mr. Deshpande as the Convener of the Sub-Committee. It was not then mentioned that there was any understanding about any particular member acting as the convener of the Sub-Committee and the whole resolution was passed merely to complete the necessary formalities in regard to the payment of money. It was felt that a formal resolution of the Sub-Committee was necessary before any expenditure could be sanctioned. Mr. Deshpande was accordingly appointed as the convener and a sum of Rs. 500/- was voted for the expense of these preliminary steps. By an oversight, the resolution as drafted omitted to mention the sanction of Rs. 500/-. You will thus observe that it was not due to the unwillingness of the Working Committee to sanction Rs. 10,000/- for Untouchability, but the true reason for framing the resolution in the manner it was framed was that I have explained above. Nothing could be farther from the intention of the Working Committee than a desire to under-rate the importance of the work your Sub-Committee was called upon to do or in any way to ignore the valuable advice tendered by you. On your letter being placed before the last meeting of the Working Committee, the omission of the grant of Rs. 500/- was supplied and I was instructed to communicate with you on the subject. It will be a great pity if the Sub-Committee is deprived of the benefit of your experience and special knowledge of the whole question of Untouchability and I will ask you, therefore, in public interest, to reconsider your decision and wire to my office at Allahabad withdrawing your resignation from the Sub-Committee. I need hardly add that any resolutions arrived at by your Sub-Committee will receive all the consideration they deserve at the hands of the Working Committee.

As to the alteration in the Working Committee's resolution in regard to separate wells and schools, the best course would be for your Sub-Committee to recommend the change and for the Working Committee to adopt it.

I am afraid you are under a misapprehension as regards the grant to *The Independent,* of Allahabad, and *The Congress* of Delhi. In reference to the former, all that has been done is to sanction the application of the U. P. Provincial Committee to advance as a loan to the "Nationalist Journals" Ltd., Rs. 25,000/- from the funds already granted to that committee and in reference to the latter, the application for a grant of a loan was wholly rejected.

Yours sincerely,
MOTILAL NEHRU,
General Secretary.

Bombay, July 23, 1922.

(3) SWAMIJI'S REJOINDER

DEAR PANDIT MOTILAL JI,

I received your letter of 23rd July 1922 addressed from Bombay about my resignation from the Untouchability Sub-Committee, I am sorry I am unable to reconsider it because some of the facts brought out by me in my first letter have simply been ignored.

(1) Kindly enquire of Mr. Rajagopalachariar whether I did not first propose that at least one lakh should be given in cash out of the funds in the hands of the All-India Congress Committee, whether he did not move an amendment substituting words for the above which purported to promise that when the plan of work formulated by the Sub-Committee was accepted by the Working Committee, that Committee would allot as much money for Untouehability department as it could then spare and whether I did not accept his amendment when the President called me aside and explained the exact financial position at the time. If this is the fact, then why did the amendment not appear with the resolution ?

(2) Did you enquire of Mr. Vithalbhai J. Patel whether the members of the All-India Congress Committee did not propose me as the convener of the Sub-Committee and whether he did not then say— "As Swami Shradhanand's name occurs first naturally he will be the convener and therefore there was no need of moving any fresh resolution at all?" I enquired about this from Dr. Ansari and he wrote back to me on June 17th, 1922, saying that I was appointed convener. Dr. Ansari is with you and you can verify it from him. I hope Mr. Patel has not forgotten all about it.

(3) Then the immediate work among the Untouchables here is very urgent and I cannot delay it for any reason whatsoever. Kindly have my resignation accepted in the next meeting of the Working Committee, so that I may be free to work out my own plan about the removal of Untouchability. This was my position at the end of July last. My experience in the Amritsar and Mianwali Jails and the information I gathered there have confirmed me in the belief that unless sexual purity (Brahmacharya) is revived on the ancient Aryan lines and the curse of Untouchability is blotted out of the Indian Society, no efforts of the Congress nor of other patriotic organisations out of the Congress will avail in their efforts for the attainment of Swaraj. And as national self-realization and virile existence is impossible without Swaraj, I, as a Sanyasi, should devote the rest of my life to this sacred cause—the cause of sexual purity and true national unity.

Yours, etc.

Delhi, July 23, 1922. SHRADHANAND SANYASI.

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Appendix II

POLITICAL SAFEGUARDS FOR DEPRESSED CLASSES

Supplementary Memorandum on the claims of the Depressed Classes for Special Representation, submitted to the R. T. C. by Dr. Bhimrao R. Ambedkar and Rao Bahadur R. Srinivasan.

In the memorandum that was submitted by us last year dealing with the question of political safeguards for the protection of the Depressed Classes in the constitution for a self-governing India, and which forms Appendix III, to the printed volume of Proceedings of the Minorities Sub-Committee, we had demanded that special representation of the Depressed Classes must form one of such safeguards. But we did not then define the details of the special representation we claimed as being necessary for them. The reason was that the proceedings of the Minorities Sub-Committee came to an end before the question was reached. We now propose to make good the omission by this supplementary memorandum so that the Minorities Sub-Committee, if it comes to consider the question this year, should have the requisite details before it.

(1) Extent of Special, Representation

A. Special Representation in Provincial Legislatures.

(*i*) In Bengal, Central Provinces, Assam, Bihar and Orissa, Punjab and the United Provinces, the Depressed Classes shall have representation in proportion to their population as estimated by the Simon Commission and the Indian Central Committee.

(*ii*) In Madras, the Depressed Classes shall have twenty-two per cent representation.

(*iii*) In Bombay:

(*a*) in the event of Sind continuing to be a part of the Bombay Presidency, the Depressed Classes shall have sixteen per cent, representation;

(*b*) in the event of Sind being separated from the Bombay Presidency the Depressed Classes shall enjoy the same degree of representation as the Presidency Muslims, both being equal in population.

B.—Special Representation in the Federal Legislature.

In Both Houses of the Federal Legislature, the Depressed Classes shall have representation in proportion to their *population in India.*

Reservations

We have fixed this proportion of representation in the Legislatures on the following assumptions :—

(1) We have assumed that the figures for the population of the Depressed Classes given by the Simon Commission (Vol. I, p. 40) and the Indian Central Committee (Report p. 44) will be acceptable as sufficiently correct to form a basis for distributing seats.

(2) We have assumed that the Federal Legislature will comprise the whole of India, in which case the population of the Depressed Classes in Indian States, in Centrally Administered Areas, and in Excluded Territories, besides their population in Governor's Provinces, will form very properly an additional item in calculating the extent of representation of the Depressed Classes in the Federal Legislature.

(3) We have assumed that the administrative areas of the Provinces of British India will continue to be what they are at present.

But if the assumptions regarding figures of population are challenged, as some interested parties threaten to do, and if under a new census the Depressed Classes show a lower proportion, or if the administrative areas of the Provinces are altered, resulting in disturbing the existing balance of population, the Depressed Classes reserve their right to revise their proportion of representation and even to claim weightage. In the same way, if the All-India Federation does not come into being, they will be willing to submit to readjustment in their proportion of representation calculated on that basis in the Federal Legislature.

(2) METHOD OF REPRESENTATION

1. The Depressed Classes shall have the right to elect their representatives to the Provincial and Central Legislature through separate electorates of their voters.

   For their representation in the Upper House of the Federal or Central Legislature, if it is decided to have indirect election by members of the Provincial Legislatures, the Depressed Classes will agree to abandon their right to separate electorates So far as their representation to the Upper House is concerned subject to this : that in any system of proportional representation arrangement shall be made to guarantee to them their quota of seats.

2. Separate electorates for the Depressed Classes shall not be liable to be replaced by a system of joint electorates and reserved seats, except when the following conditions are fulfilled :—

   (*a*) A referendum of the voters held at the demand of a majority of their representatives in the Legislatures concerned and resulting in an absolute majority of the members of the Depressed Class having the franchise.

   (*b*) No such referendum shall be resorted to until after twenty years and until universal adult suffrage has been established,

(3) Necessity of Defining the Depressed Classes

The representation of the Depressed Classes has been grossly abused in the past inasmuch as persons other than the Depressed Classes were nominated to represent them in the Provincial Legislatures, and cases are not wanting in which persons not belonging to the Depressed Classes got themselves nominated as representatives of the Depressed Classes. This abuse was due to the fact that while the Governor was given the power to nominate persons to represent the Depressed Classes, he was not required to confine his nomination to persons belonging to the Depressed Classes. Since nomination is to be substituted by election under the new constitution, there will be no room for this abuse. But in order to leave no loophole for defeating the purpose of their special representation we claim

(*i*) That the Depressed Classes shall not only have the right to their own separate electorates, but they shall also have the right to be represented by their own men.

(*ii*) That in each Province the Depressed Classes shall be strictly defined as meaning persons belonging to communities which are subjected to the system of Untouchability of the sort prevalent therein and which are enumerated by name in a schedule prepared for electoral purposes.

(4) Nomenclatube

In dealing with this part of the question we would like to point out that the existing nomenclature of Depressed Classes is objected to by members of the Depressed Classes who have given thought to it and also by outsiders who take interest in them. It is degrading and contemptuous, and advantage may be taken of this occasion for drafting the new constitution to alter for official purposes the existing nomenclature. We think that they should be called "Non-Caste Hindus," "Protestant Hindus," or "Non-Conformist Hindus," or some such designation, instead of "Depressed Classes." We have no authority to press for any particular nomenclature. We can only suggest them, and we believe that if properly explained the Depressed Classes will not hesitate to accept the one most suitable for them.

We have received a large number of telegrams from the Depressed Classes all over India supporting the demands contained in this Memorandum.

Nov. 4th 1931.

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Appendix III

MINORITIES PACT

Provisions for a Settlement of the Communal Problem, put forward jointly by Muslims, Depressed Classes, Indian Christians, Anglo-Indians and Europeans.

Claims of Minority Communities

1. No person shall by reason of his origin, religion, caste or creed, be prejudiced in any way in regard to public employment, office of power or honour, or with regard to enjoyment of his civic rights and the exercise of any trade or calling.
2. Statutory safeguards shall be incorporated in the constitution with a view to protect against enactments of the Legislature of discriminatory laws affecting any community.
3. Full religious liberty, that is, full liberty of belief, worship observances, propaganda, associations and education, shall be guaranteed to all communities subject to the maintenance of public order and morality.

   No person shall merely by change of faith lose any civic right or privilege, or be subject to any penalty.
4. The right to establish, manage and control, at their own expense, charitable, religious and social institutions, schools and other educational establishments with the right to exercise their religion therein.
5. The constitution shall embody adequate safeguards for the protection of religion, culture and personal law, and the promotion of education, language, charitable institutions of the minority communities and for their due share in grants-in-aid given by the State and by the self-governing bodies.
6. Enjoyment of civic rights by all citizens shall be guaranteed by making any act or omission calculated to prevent full enjoyment an offence punishable by law.
7. In the formation of Cabinets in the Central Government and Provincial Governments, so far as possible, members belonging to the Mussalman community and other minorities of considerable number shall be included by convention.
8. There shall be Statutory Departments under the Central and Provincial Governments to protect minority communities and to promote their welfare.
9. All communities at present enjoying representation in any Legislature through nomination or election shall have representation in all Legislatures through separate electorates and the minorities

shall have not less than the proportion set forth in the Annexure but no majority shall be reduced to a minority or even an equality. Provided that after a lapse of ten years it will be open to Muslims in Punjab and Bengal and any minority communities in any other Provinces to accept joint electorates, or joint electorates with reservation of seats, by the consent of the community concerned. Similarly after the lapse of ten years, it will be open to any minority in the Central Legislature to accept joint electorates with or without reservation of seats with the consent of the community concerned.

With regard to the Depressed Classes, no change to joint electorates and reserved seats shall be made until after 20 years' experience of separate electorates and until direct adult suffrage for the community has been established.

10. In every Province and in connection with the Central Government, a Public Services Commission shall be appointed, and the recruitment to the Public Services, except the proportion, if any, reserved to be filled by nomination by the Governor-General and the Governors, shall be made through such commission in such a way as to secure a fair representation to the various communities consistently with the considerations of efficiency and the possession of the necessary qualifications. Instructions to the Governor-General and the Governors in the Instrument of Instructions with regard to recruitment shall be embodied to give effect to this principle, and for that purpose to review periodically the composition of the Services.

11. If a Bill is passed which, in the opinion of two-thirds of the members of any Legislature representing a particular community, affects their religion or social practice based on religion, or in the case of fundamental rights of the subjects if one-third of the members object, it shall be open to such members to lodge their objection thereto, within a period of one month of the Bill being passed by the House, with the President of the House who shall forward the same to the Governor-General or the Governor, as the case may be, and he shall thereupon suspend the operation of that Bill for one year, upon the expiry of which period he shall remit the said Bill for further consideration by the Legislature. When such Bill has been further considered by the Legislature and the Legislature concerned has refused to revise or modify the Bill so as to meet the objection thereto, the Governor-General or the Governor, as the case may be, may give or withhold his assent to it in the exercise of his discretion, provided, further, that the validity of such Bill may be challenged in the Supreme Court by any two members of the denomination affected thereby on the ground that it contravened one of their fundamental rights.

Special Claims of Mussulmans

A. The North-West Frontier Province shall be constituted a Governor's Province on the same footing as other Provinces with due regard to the necessary requirements for the security of the Frontier.

In the formation of the Provincial Legislature, the nominations shall not exceed more than 10 per cent. of the whole.

B.—Sind shall be separated from the Bombay Presidency and made a Governor's Province similar to and on the same footing as other Provinces in British India.

C.—Mussulman representation in the Central Legislature shall be one-third of the total number of the House, and their representation in the Central Legislature shall not be less than the proportion set forth in the Annexure.

Special Claims of the Depressed Classes

A.—The constitution shall declare invalid any custom or usage by which any penalty or disadvantage or disability is imposed : upon or any discrimination is made against any subject of the State in regard to the enjoyment of the civic rights on account of Untouchability.

B. Generous treatment in the matter of recruitment to Public Services and the opening of enlistment in the Police and Military Service.

C.—The Depressed Classes in the Punjab shall have the benefit of the Punjab Land Alienation Act extended to them.

D.—Right of Appeal shall lie to the Governor or Governor or General for redress of prejudicial action or neglect of interest by any Executive Authority.

E.—The Depressed Classes shall have representation not less than set forth in the Annexure.

Special Claims of the Anglo-Indian Community

A.—Generous interpretation of the claims admitted by Sub-Committee No. VIII (Services) to the effect that in recognition of the peculiar position of the community, special consideration should be given to the claim for public employment, having, regard to the maintenance of an adequate standard of living.

B.—The right to administer and control its own educational institutions, i.e. European education, subject to the control of the Minister.

Provisions for generous and adequate grants-in-aid and scholarship on the basis of present grants.

C.—Jury rights equal to those enjoyed by other communities in India unconditionally of proof of legitimacy and descent and the

ANNEXURE–*Representation in Legislatures.*

Figures in brackets = Population basis 1931 figures and depressed percentages as per Simon Report

—	*Strength of Chamber*	*Hindu*			*Muslims*	*Christians*	*Sikhs*	*Anglo-Indians*	*Tribal, etc.*	*Euro-peans*	*Remarks*
		Caste	*Depressed*	*Total*							
CENTRE All India (1931)		(47.5)	(19)*	(66.5)	(21.5)						*Represents percentage in Governor's Provinces of B.I.
Upper ...	200	101	20	121	67	1	6	1	—	4	
Lower	300	123	45	168	100	7	10	3	—	12	
Assam ...	*100	(48.9) 38	(13.4) 13	(62.3) 51	(34.8) 35	3	—	1	—	10	*Pop. figures exclude Tribal Areas.
Bengal ...	200	(18.3) 38	(24.7) 35	(43) 73	(54.9) 102	2	—	3	—	20	
Bihar & Orissa	100	(67.8) 51	(14.5) 14	(82.3) 65	(11.3) 25	1	—	1	3	5	
Bombay ...	200	(68) 88	(8) 28	(76) 116	(20) 66	2	—	3	—	13	On Sind being separated weightage to Mussulmans in Bombay to be on the same. footing as to the Hindus in the N.F.W.P.
C. P.	100	(63.1) 58	(23.7) 20	(86.8) 78	(44) 15	1	—	2	2	2	
Madras ...	200	(71.3) 102	(15.4) 40	(86.7) 142	(7.1) 30	(3.7) 14	—	4	2	-8	
Punjab ...	100	(15.1) 14	(13.5) 10	(28.6) 24	(56.5) 51	1.5	(13) 20	1.5	—	2	
U. P.	100	(58.1) 44	(26.4) 20	(84.5) 64	(14.8) 30	1	—	2	—	3	

Sind & N.W.F.P. Weightage similar to that enjoyed by the Mussulmans in the Provinces in which they constitute a minority of the population, shall be given to the Hindu minority in Sind and to the Hindu and Sikh minorities in the N.W.F.P.

right of accused persons to claim trial by either a European or an Indian jury.

SPECIAL CLAIMS OF THE EUROPEAN COMMUNITY

A.—Equal rights and privileges to those enjoyed by Indian-born subjects in all industrial and commercial activities.

B.—The maintenance of existing rights in regard to procedure of criminal trials, and any measure or bill to amend, alter, or modify such a procedure cannot be introduced except with the previous consent of the Governor-General.

Agreed by:—

HIS HIGHNESS THE AGA KHAN (Muslims)
DR. AMBEDKAR (Depressed Classes)
RAO BAHADUR PANNIR SELVAM (Indian Christians)
SIR HENRY GIDNEY (Anglo-Indians)
SIR HUBERT CARR (Europeans).

APPENDIX IV

STATEMENT BY B. R. AMBEDKAR ON GANDHI'S FAST

Statement on Mr. Gandhi's attitude at the Round Table Conference to the Untouchables and their demand for Constitutional Safeguards, 19th September 1932.

I need hardly say that I was astounded to read the correspondence between Mahatma Gandhi, Sir Samuel Hoare and the Prime Minister, which was published recently in the Papers, in which he has expressed his determination to starve himself unto death till the British Government of its own accord or under pressure of public opinion revise their opinion and withdraw their scheme of communal representation for the Depressed Classes. The unenviable position, in which I have been placed by the Mahatma's vow of self-immolation, can easily be imagined.

It passes my comprehension why Mr. Gandhi should stake his life on an issue arising out of the communal question which he, at the Round Table Conference, said was one of a comparatively small importance. Indeed, to adopt the language of those of Mr. Gandhi's way of thinking, the communal question was only, an appendix to the book of India's constitution and not the main chapter. It would have been justifiable, if Mr. Gandhi had resorted to this 'extreme step for obtaining independence for the country on which he was so insistent all through the R. T. C. debates. It is also a

painful surprise that Mr. Gandhi should single out special representation for the Depressed Classes in the Communal Award as an excuse for his self-immolation. Separate electorates are granted not only to the Depressed Classes, but to the Indian Christians, Anglo-Indians, Europeans, as well as to the Mahomedans and the Sikhs. Also separate electorates are granted to landlords, labourers and traders. Mr. Gandhi had declared his opposition to the special representation of every other class and creed except the Mahomedans and the Sikhs. All the same, Mr. Gandhi chooses to let everybody else except the Depressed Classes retain !he special electorates given to them.

The fears expressed by Mr. Gandhi about the consequences of the arrangements for the representation of the Depressed Classes are, in my opinion, purely imaginary. If the nation is not going to be split up by separate electorates to the Mahomedans and the Sikhs, the Hindu society cannot be said to be split up if the Depressed Classes are given separate electorates. His conscience is not aroused if the nation is split by the arrangements of Special Electorates for classes and communities other than the Depressed Classes.

I am sure many have felt that if there was any class which deserved to be given special political rights in order to protect itself against the tyranny of the majority under the Swaraj constitution it was the Depressed Classes. Here is a class which is undoubtedly not in a position to sustain itself in the struggle for existence. The religion to which they are tied, instead of providing for them an honourable place, brands them as lepers, not fit for ordinary intercourse. Economically, it is a class entirely dependent upon the high-caste' Hindus for earning its daily bread with no independent way of living open to it. Nor are all ways closed by reason of the social prejudices of the Hindus but there is a definite attempt all throughout the Hindu Society to bolt every possible door so as not to allow the Depressed Gasses any opportunity to rise in the scale of life. Indeed it would not be an exaggeration to say that in every village the caste Hindus, however divided among themselves, are always in a standing conspiracy to put down in a merciless manner any attempt on the part of the Depressed Classes who form a small and scattered body of an ordinary Indian citizen.

In these circumstances, it would be granted by all fair-minded persons that as the only path for a community so handicapped to succeed in the struggle for life against organised tyranny, some share of political power in order that it may protect itself is a paramount necessity.

I should have thought that a well-wisher of the Depressed Classes would have fought tooth and nail for securing to them as much political power as might be possible in the new Constitution. But the Mahatma's ways of thinking are strange and are certainly

beyond my comprehension. He not only does not endeavour to augment the scanty political power which the Depressed Classes have got under the Communal Award, but on the contrary he has staked his very life in order to deprive them of little they have got. This is not the first attempt on the part of the Mahatma to completely dish the Depressed Classes out of political existence. Long before, there was the Minorities Pact. The Mahatma tried to enter into an agreement with the Muslims and the Congress. He offered to the Muslims all the fourteen claims which they had put forth on their behalf, and in return asked them to join with him in resisting the claims for social representation made by me on behalf of the Depressed Classes.

It must be said to the credit of the Muslim delegates, that they refused to be a party to such a black act, and saved the Depressed Class from what might as well have developed into a calamity for them as a result of the combined opposition of the Mahommedans and Mr. Gandhi.

I am unable to understand the ground of hostility of Mr. Gandhi to the Communal Award. He says that the Communal Award has separated the Depressed Classes from the Hindu Community. On the other hand, Dr. Moonje, a much stronger protagonist of the Hindu case and a militant advocate of its interests, takes a totally different view of the matter. In the speeches which he has been delivering since his arrival from London, Dr. Moonje has been insisting that the Communal Award does not create any separation between the Depressed Class and the Hindus. Indeed, he has been boasting that he has defeated me in my attempt to politically separate the Depressed Class from the Hindus. I am sure that Dr. Moonje is right in his interpretation of the Communal Award although, I am not sure that the credit of it can legitimately go to Dr. Moonje. It is therefore surprising that Mahatma Gandhi who is a nationalist and not known to be a communalist should read the Communal Award, in so far as it relates to the Depressed Class, in a manner quite contrary to that of a communalists like Dr. Moonje. If Dr. Moonje does not sense any separation of the Depressed Classes from the Hindus in the Communal Award the Mahatma ought to feel quite satisfied on that score.

In my opinion, that Communal Award should not only satisfy the Hindus, but also satisfy those individuals among the Depressed Classes such as Rao Bahadur Rajah, Mr. Baloo or Mr. Govai, who are in favour of Joint Electorates. Mr. Rajah's fulminations in the Assembly have amused me considerably. An intense supporter of Separate Electorates and the bitterest and the most vehement critic of caste Hindu tyranny, now professes faith in the Joint Electorates and love for the Hindus! How much of that is due to his natural desire to resuscitate himself from the oblivion in which he was cast

by his being kept out of the Round Table Conference and how much of it is to his honest change of faith, I do not propose to discuss.

The points on which Mr. Rajah is harping by way of criticism on the Communal Award are two: One is that the Depressed Classes have gained lesser number of seats than they are entitled to on the population basis, and the other is that the Depressed Classes have been separated from the Hindu fold.

I agree in his first grievance, but when the Rao Bahadur begins to accuse those who represented the Depressed Classes at the R. T. C. for having sold their rights, I am bound to point out what Mr. Rajah did as a member of the Indian Central Committee. In that Committee's report, the Depressed Classes were given in Madras 10 seats out of 150 ; in Bombay 8 seats out of 14; in Bengal 8 seats out of 200 ; in U. P. 8 seats out of 182; in the Punjab 6 seats out of 150 ; in Behar and Orissa 6 out of 150; in C. P. 8 out of 125 and in Assam, 9 seats for the Depressed Classes and the indigenous and primitive races out of 75. I do not wish to overburden this statement by pointing out how this distribution compares with the population ratio. But there can be no doubt that this meant a terrible under-representation of the Depressed Classes. To this distribution of seats Mr. Rajah was a party. Surely, Mr. Rajah, before he criticises the Communal Award and accuses others, should refresh his memory of what he accepted as Member of the Indian Central Committee on behalf of the Depressed Classes without any protest. If the population ratio of representation was to him a natural right of Depressed Classes and its full realisation was a necessity for their protection, why did not Mr. Rajah insist upon it in the Central Committee when he had an opportunity to do so?

As to his contention that in the Communal Award, the Depressed Classes have been separated from the caste Hindus, it is a view to which I cannot subscribe. If Mr. Rajah has any conscientious objection to separate Electorates, there is no compulsion on him to stand as a candidate in the Separate Electorates. The opportunity to stand as a candidate in the general electorate as well as the right to vote in it are there, and Mr. Rajah is free to avail himself of the same. Mr. Rajah is crying at the top of his voice to assure to the . Depressed Classes that there is a complete change of heart on the part of the Caste Hindus towards the Depressed Class. He will have the opportunity to prove that fact to the satisfaction of the Depressed Class, who are not prepared to take his word by getting himself elected in the general constituency. The Hindus, who profess love and sympathy for the Depressed Classes, will have also an opportunity to prove their *bona fides* by electing Mr. Rajah to the legislature.

The Communal Award, therefore, in my opinion, satisfied both those who want separate Electorates and those who want joint Electorates. In this sense, it is already a compromise and should be

accepted as it is. As to the Mahatma, I do not know what he wants. It is assumed that although Mahatma Gandhi is opposed to the system of separate electorates, he is not opposed to the system of Joint Electorates and Reserved Seats. That is a gross error. Whatever his views are today, while in London he was totally opposed to any system of Special representation for the Depressed Classes whether by joint Electorates or by Separate Electorates. Beyond the right to vote in a general electorate based upon Adult Suffrage, he was not prepared to concede anything to the Depressed Classes by way of securing their representation in the legislatures. This was the position he had taken at first. Towards the end of the R. T. C. he suggested to me a scheme, which he said, he was prepared to consider. The scheme was purely conventional without any constitutional sanction behind it and without any single seat being reserved for the Depressed Classes in the electoral law.

The scheme was as follows;

Depressed Class candidates might stand in the general electorate as against other high caste Hindu candidates. If any Depressed Class Candidate was defeated in the election, he should file an election petition and obtain the verdict that he was defeated because he was an Untouchable. If such a decision was obtained, the Mahatma said he would undertake to induce some Hindu members to resign and thus create a vacancy. There would be then another election in which the defeated Depressed Class candidate or any other Depressed Class candidate might again try his luck as against the Hindu candidates. Should he be defeated again, he should get similar verdict that he was defeated because he was an Untouchable and so on *ad infinitum*. I am disclosing these facts as some people are even now under the impression that the Joint Electorates and Reserved Seats would satisfy the conscience of the Mahatma. This will show why I insist that there is no use discussing the question until the actual proposals of the Mahatma are put forth.

I must, however, point out that I cannot accept the assurances of the Mahatma that he and his Congress will do the needful. I cannot leave so important a question as the protection of my people to conventions and understandings. The Mahatma is not an immortal person, and the Congress, assuming it is not a malevolent force, is not to have an abiding existence. There have been many Mahatmas in India whose sole object was to remove Untouchability and to elevate and absorb the Depressed Classes, but every one of them has failed in his mission. Mahatmas have come and Mahatmas have gone. But the Untouchables have remained as Untouchables.

I have enough experience of the pace of Reform and the faith of Hindu reformers in the conflicts that have taken place at Mahad and Nasik, to say that no well-wisher of the Depressed Classes will

ever consent to allow the uplift of the Depressed Classes to rest upon such treacherous shoulders. Reformers who in moments of crises prefer to sacrifice their principles rather than hurt the feelings of their kindred can be of no use to the Depressed Classes.

I am therefore bound to insist upon a Statutory guarantee for the protection of my people. If Mr. Gandhi wishes to have the Communal Award altered, it is for him to put forth his proposals and to prove that they give a better guarantee than has been given to us under the Award.

I hope that the Mahatma will desist from carrying out the extreme step contemplated by him. We mean no harm to the Hindu society when we demand separate electorates. If we choose separate electorates, we do so in order to avoid the total dependence on the sweet will of the Caste Hindus in matters affecting our destiny. Like the Mahatma we also claim our right to err, and we expect him not to deprive us of that right. His determination to fast himself unto death is worthy of a far better cause. I could have understood the propriety of the Mahatma contemplating such extreme step for stopping riots between Hindus and Mohammedans or between the Depressed Classes and the Hindus or any other national cause. It certainly cannot improve the lot of the Depressed Classes. Whether he knows it or not, the Mahatma's act will result in nothing but terrorism by his followers against the Depressed Classes all over the country.

Coercion of this sort will not win the Depressed Classes to the Hindu fold if they are determined to go out. And if the Mahatma chooses to ask the Depressed Classes to make a choice between Hindu faith and possession of political power, I am quite sure that the Depressed Classes will choose political power and save the Mahatma from self-immolation. If Mr. Gandhi coolly reflects on the consequences of his act, I very much doubt whether he will find this victory worth having. It is still more important to note that the Mahatma is releasing reactionary and uncontrollable forces, and is fostering the spirit of hatred between the Hindu Community and the Depressed Classes by resorting to this method and thereby widening the existing gulf between the two. When I opposed Mr. Gandhi at the R. T. C, there was a hue and cry against me in the country and there was a conspiracy in the so-called nationalist press to represent me as a traitor to the nationalist cause, to suppress correspondence coming from my side and to boost the propaganda against my party by publishing exaggerated reports of meetings and conferences, many of which were never held. "Silver bullets" were freely used for creating divisions in the ranks of the Depressed Classes. There have been also a few clashes ending in violence.

If the Mahatma does not want all this to be repeated on a larger scale, let him, for God's sake, reconsider his decision and avert the

disastrous consequences. I believe the Mahatma does not want this. But if he does not desist, in spite of his wishes these consequences are sure to follow as night follows the day.

Before concluding this statement, I desire to assure the public that although I am entitled to say that I regard the matter as closed, I am prepared to consider the proposals of the Mahatma. I however trust the Mahatma will not drive me to the necessity of making a choice between his life and the rights of my people. For I can never consent to deliver my people bound hand and foot to the Caste Hindus for generations to come.

B. R. AMBEDKAR.

APPENDIX V

TEMPLE ENTRY IN TRAVANCORE

His Highness the Maharaja of Travancore issued a Proclamation on the 12th November 1936 opening the Temples in the State to the Untouchables. The Proclamation reads as follows :—

> "Profoundly convinced of the truth and validity of our religion, believing that it is based on divine guidance and on all-comprehending toleration, knowing that in its practice it has throughout the centuries adapted itself to the need of the changing times, solicitous that none of our Hindu subjects should, by reason of birth, caste or community, be denied the consolation and solace of the Hindu faith, we have decided and hereby declare, ordain and command that, subject to such rules and conditions as may be laid down and imposed by us for preserving their proper atmosphere and maintaining their rituals and observances, there should henceforth be no restriction placed on any Hindu by birth or religion on entering or worshipping at temples controlled by us and our Government."

A great lot has been made by the Congressmen and by Mr. Gandhi about this Proclamation. It is regarded as heralding the birth of a new conscience in the Hindu world. I don't feel quite so sure of this. At any rate there are facts on the other side, which are worth bearing in mind.

The proclamation was issued by the Maharaja of Travancore in his name. But the real active force behind the scene was the Prime Minister, Sir C. P. Ramaswami Iyer. It is his motives that we must understand. In 1932, Sir C. P. Ramaswami Iyer was also the Prime Minister of Travancore. In 1932, when Mr. Gandhi had raised a controversy over the entry of the Untouchables into the

Guruvayur Temple, Sir C. P. Ramaswamy Iyer had taken part in the controversy on the side of those who were against Temple Entry. In the course of this controversy, Sir C P. Ramaswamy Iyer issued a statement[1] to the Press. This is what he said :

> "Personally I do not observe caste rules. I realise there are strong, though not very articulate, feelings in this matter in the minds of men who believe that the present system of temple worship and its details are based on divine ordinances. The problem can be permanently solved only by a process of mutual adjustment and by the awakening of religious and social leaders of Hindu society to the realities of the present situation and to the need for preserving the solidarity of the Hindu community.
>
> "Shock tactics will not answer the purpose and direct action will be even more fatal is this sphere than in the political. I have the misfortune to differ from Mr. Gandhi when he says that the problem of temple-entry can be divorced from such topics as interdining and I agree with Dr. Ambedkar that the social and economic uplift of the Depressed Classes should be our immediate and urgent programme."

This statement shows that in 1933 spiritual considerations did not move Sir C. P. Ramaswamy Iyer. Spiritual considerations have become operative after 1933. What made Sir C. P. Ramaswamy Iyer take a different view in 1936 ? What had happened in Travancore in 1936 to compel this change of opinion ? It may be recalled that in 1936, there was held in Travancore a Conference of the Yezawa Community. The Yezawas are an Untouchable community spread over Malabar. It is an educated community and economically quite strong. It is also a vocal community and has been carrying on agitation in the State against social and religious disabilities. The Conference was held to consider whether the Yezawas should not abandon the Hindu Religion in favour of some other religion.[2] The Yezawas form a very large community. The cessation of so large a community would be death-knell to the Hindus and the Conference had made the danger real.

It may not be far fetched to say that the Proclamation was issued to forestall this danger. If this is correct, there is very little spiritual substance behind the proclamation. It must not be forgotten that Sir C. P. Ramaswamy Iyer has his own way of giving spiritual colouring to a material act. The Brahmins have been, in accordance with the Hindu Law, exempt from capital punishment which applied to all Brahmins. This was a very glaring case of discrimination. Sir C. P. Ramaswami Iyer very recently announced the abolition

[1] *Times of India* dated November 10, 1932.

[2] This was in pursuance of the decision taken at Yeola in 1935 under my chairmanship.

of capital punishment in Travancore State and took credit for Having carried out a great humanitarian Reform. As a matter of fact, the object was really preventing the Brahmin from being brought under the guillotine in obedience to the principle of equality before law.

How far did this Proclamation change facts and how far it has remained a show ? It is not possible to get real facts as they exist in Travancore. In the course of the discussion on the Malabar Temple Entry Bill in the Madras Legislatives Assembly, certain facts relating to Travancore were mentioned by Sir T. Pannirselvam which, if true, would show that the whole thing is hollow.

Sir T. Pannirselvam said :—

> "One of the arguments advanced by the Premier in support of the measure was that temples in Travancore had been thrown open to the 'Untouchables.' A Maharaja vested with autocratic powers did so by an order. But how was it working there ? From representations received, he was led to believe that after the first flush of enthusiasm, Harijans had left off going to temples, and people who used to worship previously before Harijans were allowed to enter the temples, had stopped worshipping in temples. He would ask the Government to tell them if the measure was really a success in Travancore."

On the third reading of the Bill, Sir T. Pannirselvam made a statement which must have come as a surprise to many. He said :

> "He wanted to know whether it was a fact that the private temples of the Senior Maharani were excluded from the Proclamation. What was the reason for it ? Again during the celebration of the marriage of the daughter of the Senior Maharani, it was found necessary, so he was told, to perform purificatory ceremony of the temple. If such a purification of temples took place, what happened to the Proclamation ?"

These facts were not challenged by anybody, either by Sir C. P. Ramaswami Iyer or C. Rajagopalachariar. Evidently, they cannot be challenged. If they are incontrovertible, then the less said about the Malabar Temple Entry Proclamation as a spiritual testament, the better.

Is this Temple Entry in Travancore the be-all and end-all of the social reform in Travancore ? Is there to be just Temple Entry and no further or is it going to lead to equality in the matter of religious status ? Will, for instance, the Devastan Department be placed in the hands of the. Untouchables and the Shudras ? Nine years since the Proclamation have passed, there has been no move in democratization of religion in Travancore.

Will the Untouchables of Travancore have to pay for Temple Entry ? I am not in a position to say. But I like to reproduce

below a letter addressed to me by Sri Narayan Swami of the All-Travancore Pulayar Cheramar Aykia Maha Sangham. It is dated 24th November 1938.

Camp Mayyanad,

Quilon. 24-11-1938.

To
Dr. Ambedkar,
Bombay,

RESPECTED SIR,

I have unaffected pleasure to draw your attention to the following facts for obtaining the valuable advice from you. Being the leader of a Harijan Community of the Travancore State, I think, it is my paramount duty to suggest you definitely all the grievances that the Harijans of this State are enduring.

1. The Temple Entry Proclamation issued by His Highness The Maharaja is indeed a boon to Harijans; but the Harijans are enjoying all the other social disabilities except the temple Entry. The Government do not take any step for the amelioration of the Harijans.

2. Among 15 lakhs of Harijans, then are a few graduates, half a dozen undergraduates and 50 school finals and more than 200 vernacular certificates holders. Though the Government have appointed a Public Service Commission, appointments to the Harijans are very few. All the appointments are given to Savarnas. If a Harijan is appointed, it will be for one weak or two weeks. According to the rules of the recruitment in Public. Service, the applicant is allowed to apply only after a year again. While a Savarna will be appointed for a year or more. When the list of the appointments is brought before the Assembly, the number of appointments will be equal to the communal representation ; but the duration of the post of all the Harijans will be equal to one Savarna. This kind of fraud is associating with the officials. Thus the public service is a common property of the Savarnas. No Harijan is benefited by it.

3. There was a proclamation from H. H. The Maharaja, a few years ago that three acres of ground should be given to each Harijan to live in; but the officials are Savarnas who are always unwilling to carry out the proclamation. Even though the Government is willing to grant large extent of ground for pasturing near towns, not a piece of the ground is given to the Harijans. The Harijans are still living in the compounds of the Savarnas and are undergoing manifold difficulties. Though large extents of ground lay in "Reserve," the applications of the Harijans for granting grounds are not at all regarded with importance or listened to. The most parts of the lands are benefited by the Savarnas.

4. The Government nominates every year, for the election of members of the Assembly, one member from each Harijan Community. Though they are elected to present the grievances of the Harijans before the Assembly, they are found to be the machinery of the Government, viz., the toys of the Savarna officers, who are benefited by them. Thus the grievances of the Harijans cannot be redressed any way.

5. All the Harijans of Travancore are labourers in the fields and compounds. They are the servants of the Savarnas who behave with them as beasts—nobody to look after for protection. Every Harijan gets only 2 chs (one anna) as the wage in most parts of the State. The social disabilities are the same to them even after the Temple Entry. The workers in the factories in various parts of the State of Travancore and the Officers of the State are all Savarnas and they arc at present agitating for responsible Government. Now the Harijans are demanding jobs in Government and in factories but the agitation in Travancore is a Savarna agitation by which the Savarnas are making arrangements to get rid of Harijans in Public Service and factories. They plead for higher salaries and more privileges. They pay the least care to the Harijan labourers while the people of Travancore are maddened with the agitation of the workers in the factories. The standard of salary of Harijan worker is very low while the standard of a factory worker is thrice the former.

6. Due to starvation and want of proper means of livelihood, the heads of the children of Harijans are heated as a result of which they are likely to fail in school. Before proclamation, the duration of Concession in high schools was for 6 years; now, it has been reduced to three years by which a good number of students stopped their education after their failure.

7. There is a department for the Depressed Classes, the head of which is Mr. C. O. Damodaran (the protector of the Backward Communities). Though every year a big amount is granted for the expenditure, at the end of the year, two-thirds of the sum is lapsed by his sagacity. He used to submit reports to the Government that there is no way of spending the amount. Ninety-five per cent of the sum allotted for the Depressed Class is spent as the salary of the officials who are always Savarnas and 5 per cent, is benefited. Now the Government is going to make some colonies in three parts of Travancore. The officers are Savarnas. This scheme is, in my opinion, not a success for the Government do not pay greater attention to it. I regret that Travancore Government spends one anna for the Harijan cause, while Cochin State spends a rupee for the same.

8. The majority of the subjects of Travancore are now agitating strongly for Responsible Government under an organization 'The

State Congress.' The leaders of this popular organisation belong to the four major communities of the State, namely, the Nair, Mahomedan, Christian and Ezhava community. The President of the State Congress Mr. Thanu Pillai issued a statement in which he stressed that special concessions would be given to the Depressed Class. All the leaders of the Depressed Class have been awaiting for a time to see the attitude of the State Congress. Now we come to understand that there is no reality in the promise of these leaders.

9. Now I am sure that the leaders have neglected the cause of the Depressed Class. The State Congress was started on the principles of nationalism and now it has become an institution of communalism. Communal spirit is now working among the leaders. In every public speech, statement or article, the leaders mention only these four major communities, while they have no thought on us. I fear, if this is the case of the leaders of the political agitation of Travancore, the situation of the Depressed Class will be more deplorable when the Responsible Government is achieved, for the entire possession of the Government will be then within the clutches of the above mentioned communities and the Depressed Classes' rights and privileges will be devoured by the former. In the meetings of the working committee of the States Congress, two-thirds of the time was devoted in discussion concerning the strike of the Alleppey Coir Factories; but nothing was mentioned in the meeting about the Harijan workers who are undergoing manifold difficulties. The workers in Factories are Savarnas and the agitation for obtaining Responsible Government is a kind of anti-Harijan movement. The motive of every leader of the State Congress is to improve the situation (circumstance) of the Savarna. The leaders of the major communities have some mercenary attitude who are going to sacrifice the Depressed for their progress.

10. These are the conditions of the Depressed Class of the State. What are the ways by which we have to establish our rights in the State ? I humbly request you to be good enough to render me your advice at this occasion. I am awaiting for the reply.

Excuse me for the trouble,

Yours faithfully,

SRINARAYANASWAMI."

If the plan of Temple Entry is ultimately to deprive the Untouchables of their statutory rights, then the movement is not only not spiritual but it is positively mischievous and it would be the duty of all honest people to warn the Untouchables.

Appendix VI

RECOGNITION OF UNTOUCHABLES AS A SEPARATE ELEMENT

Pronouncements of the British Government on the position of the Untouchables in the Constitution of India.

Introduction

The necessity for recalling the pronouncements of the Viceroys and of the Secretaries of State has arisen because of the recent criticism in the Press against the reply of 15th August 1944 given by Lord Wavell to Mr. Gandhi stating that the Scheduled Castes are a separate element in the national life of India and that their consent to the new Constitution was essential before power is transferred to Indian hands. This criticism is based upon the supposition that the Cripps's proposals did not recognize the Scheduled Castes as a separate element and did not make their consent necessary. Reliance is placed upon the fact that the Cripps's proposals spoke of "racial and religious minorities" only and it is argued that the Scheduled Castes are neither a racial nor a religious minority.

It is hardly necessary to point out how ignorant this criticism is. The Scheduled Castes are really a religious minority. The Hindu religion by its dogma of untouchability has separated the Scheduld Castes from the main body of the Hindus in a manner which makes the separation far more real and far wider than the separation which exists either between Hindus and Muslims or Hindus and Sikhs or Hindus and Christians. It is difficult to concede of a more effective method of separation and segregation than the principle of untouchability and it is only those who are actuated by malicious spirit of finding excuses to deny the Scheduled Castes their claim to political rights would indulge in this kind of jugglery. Those who regard the statement of Lord Wavell as a new departure have completely forgotten what attitude His Majesty's Government has taken in the matter of the Scheduled Castes from the very beginning when the transfer of political power from British to Indian hands was thought of. Ever since 1917 when the Montagu-Chelmsford Report advocated responsible Government, the British Government have taken a definite stand that they would, under no circumstances, transfer power to Indian hands until they were satisfied that the position of the Scheduled Castes was safeguarded by adequate Constitutional provisions. A few of the many declarations made by Secretaries of State and Viceroys of India from 1917 to 1941 are collected together in the following pages. It will be found that the

recognition that the Scheduled Castes are a separate and important element in the national life of the country and that their consent is necessary are in no way new proposals. Both the statements have been made by responsible representatives of His Majesty's Government, viz., the Secretary of State and the Viceroy long before the Cripps's proposals came into being. Particular attention is drawn to Mr. Amery's statement on 14th August 1940 and Lord Linlithgow's statement on 10th January 1940. It is hoped that a perusal of these declarations will enable those who are trying to negative the claim of the Scheduled Castes for political rights to realise that their propaganda is both foolish and malicious.

(1)

Extract from the Montagu-Chelmsford Report on Indian Constitutional Reform—1917.

155 ... ... We have shown that the political education of the ryot cannot be a very rapid, and may be a very difficult process. Till it is complete, he must be exposed to the risk of oppression by people who are stronger and cleverer than he is : and until it is clear that his interests can safely be left in his own hands or that the legislative councils represent and consider his interest, we must retain power to protect him. So with the depressed classes. We intend to make the best arrangements that we can for their representation, in order that they too may ultimately learn the lesson of self-protection. But if it is found that their interests suffer and that they do not share in the general progress, we must retain the means in our own hands of helping them.

* * *

(2)

Extract from the Fifth Despatch of the Government of India dated 23rd April 1919 on the Report of the Southborough Committee on Franchise.

13. We have analysed in the statement (printed at the top of the next page) the interests which in the committee's opinion should be represented by non-official nomination.

We accept these proposals generally. But there is one community whose case appears to us to require more consideration than the committee gave it. The Report on Indian Constitutional Reforms clearly recognizes the problem of the depressed classes and gave a pledge respecting them. "We intend to make the best arrangements that we can for their representation." The castes described as "Hindus—others" in the committee's report, though they are defined in varying terms, are broadly speaking all the same kind of people. Except for differences in the rigidity of their ex-

Name of Province	*Depressed Classes*	*Anglo-Indians*	*Indian Christians*	*Labour*	*Excluded Tracts*	*Military Interest*	*Industrial Interest other than Planting & Mining*	*Aborigines*	*Domiciled Bengalis*	*Others*	*Total*	*Percentage of total Membership*
1	2	3	4	5	6	7	8	9	10	11	12	13
Madras	2	—	—	—	2	—	—	—	—	2	6	5
Bombay	—	1	1	1	—	—	—	—	—	2	6	5
Bengal	1	—	1	1	—	—	—	—	—	22	5	4
United Provinces ...	1	1	1	—	—	—	—	—	—	2	5	4
Punjab	—	2*	1	—	—	1	—	—	—	2	6	7
Bihar and Orissa ...	1	1	1	1	—	—	1	1	1	2	9	9
Central Provinces ...	1	1*	—	—	2	—	—	—	—	1	5	7
Assam	—	1*	1	1	1	—	—	—	—	1	5	9
Total	7	7	6	4	5	1	1	1	1	14	47	—

* Europeans and Anglo-Indians.

clusion they are all more or less in the position of the Madras Panchamas, definitely outside that part of the Hindu community which is allowed access to their temples. They amount to about one-fifth of the total population, and have not been represented at all in the Morley-Minto Councils. The committee's report mentions the depressed classes twice, but only to explain that in the absence of satisfactory electorates they have been provided by nomination. It does not discuss the position of these people or their capacity for looking after themselves. Nor does it explain the amount of nomination which it suggests for them. Para 24 of the report justifies the restriction of the nominated seats on grounds which do not suggest that the committee were referring to the depressed classes. The measures of representation which they propose for this community is as follows :—

—	*Total Population*	*Population of Depressed Classes*	*Total Seats*	*Seats for Depressed Classes*
	(millions)	(millions)		
Madras	39.8	6.3	120	2
Bombay	19.5	.6	113	1
Bengal	45.0	9.9	127	1
United Provinces ...	47.0	10.1	120	1
Punjab	19.5	1.7	85	—
Bihar and Orissa ...	32.4	9.3	100	1
Central Provinces ...	12.2	3.7	72	1
Assam	6.0	0.3	54	—
Total	221.4	41.9	791	7

These figures speak for themselves. It is suggested that one-fifth of the entire population of British India should be allotted seven seats out of practically eight hundred. It is true that in all the councils there will be roughly a one-sixth proportion of officials who may be expected to bear in mind the interests of the depressed ; but that arrangement is not, in our opinion, what the Report on reforms aims at. The authors stated that the depressed classes also should learn the lesson of self-protection. It is surely fanciful to hope that this result can be expected from including a single member of the community in an assembly where there are sixty or seventy caste Hindus. To make good the principles of paras 151, 152, 154 and 155 of the Report we must treat the out-castes more generously. We think there should be in each council enough representatives of the depressed classes to save them from being entirely submerged, and at the same time to stimulate some capacity for collective action. In the case of Madras, we suggest that they should be given six seats; in Bengal, the United Provinces and Bihar and Orissa, we would give them four; in the Central Provinces and Bombay two and elsewhere one. In these respects we think that the committee's report clearly requires modification.

* * *

(3)

Extract from Lord Birkenhead's speech as Secretary of State for India in the House of Lords on the 30th March 1927 on the appointment of Statutory Commission.

* * *

..... Let me take the case of the depressed classes. There is in India a vast population even in relation to the numbers with which we are dealing, a population of sixty millions of the depressed classes. Their condition is not quite as terrible, quite as poignant as it has been in the past, but it is still terrible and poignant. They are repelled from all social intercourse. If they come between the gracious light of the sun and one who despised them the sun is disfigured for that man. They cannot drink at the public water-supply. They must make diversions of miles in order to satisfy thirst and they are tragically known and they have been known for generations as the "untouchables." There are sixty millions of them in India. Am I to have a representative of them upon this Commission ? Never, never would I form a Commission nor would anyone in a democratic country, nor would my friends opposite recommend it, from which you have excluded a member of this class which more than any other requires representation if you are indeed to put the matter to a mixed jury of the kind I am indicating.

(4)

Extract from the Report of the Simon Commission, Vol. II.

* * *

78. ... ... In no other province has it been possible to get an estimate of the number of the depressed classes who are qualified to vote. It is clear that even with a considerable lowering of the franchise—which would no doubt increase the proportion of the depressed class voters—there would be no hope of the depressed classes getting their own representatives elected in general constituencies without special provision being made to secure it. In the long run the progress of the depressed classes, so far as it can be secured by the exercise by them of political influence, will depend on their getting a position of sufficient importance for other elements to seek their support and to consider their needs.

* * *

80. ..... It will be seen, therefore, that we do not recommend allocating seats to the depressed classes on the basis of their full population ratio. The scale of reserved representation suggested will secure a substantial increase in the number of the M.L.C's. drawn from the depressed classes. The poverty and want of education which so widely prevail amongst them make it extremely doubtful whether a large number of adequately equipped members could be at once provided, and it is far better that they should be represented by qualified spokesmen rather than by a larger number of ineffectives who are only too likely to be subservient to higher castes. The re-distribution of seats which is now being attempted among different kinds of representatives cannot be permanent, and provision must be made for its revision. But we think that our proposal is adequate for the present, especially as the representation of opinion by reservation of seats does not exclude the possibility of the capture of other seats not so reserved.

* * *

(5)

Extract from the Government of India's Despatch on Proposals for Constitutional Reform (*as set out by the Simon Commission*).

* * *

35. *The Representation of the Depressed Classes.*—The suggestions made by the Commission for the representation of the depressed classes have been much criticized by the provincial Governments. The difficulty of framing for each province a definition of the "depressed classes" is probably inherent in any scheme for the special representation of this class other than by nomination; but the

Appendix I

Commission's proposals place a peculiarly embarrassing duty on the Governor to certify candidates authorised to stand for the depressed classes ; and the proportion of representation which the Commission suggest, namely, in the ratio of three-quarters of the proportion of the depressed classes population to the total population of the electoral area of the provinces, seems likely to be unduly high. The Government of the United Provinces have calculated that in that province the Commission's proposal would result in the return to the provincial legislature of no less than forty members in place of the single nominated member who at present represents the community. The whole problem of the representation of the depressed classes will require careful investigation by the Franchise Committee ; and at this stage we only wish to make plain that in our view their adequate representation should be secured by the best means that may be found practicable. Though there are some differences of opinion within the community, recent meetings of depressed classes associations have re-affirmed their belief in separate electorates.

* * *

(6)

Extract from the Terms of Reference to the Lothian Committee (*on Franchise*) *1932.*

* * *

3. You are aware that the present electorate in Indian provinces amounts to less than 3 per cent, of the population of the areas returning members to provincial Councils, and it is obvious that under this limited franchise, the majority of the people and many large and important sections of the community can enjoy no effective representation in the Legislatures. The principle of a responsible Federal Government, subject to certain reservations and safeguards, has been accepted by His Majesty's Government while it has been decided that the Governors' provinces are to become responsibly governed units, enjoying the greatest possible measure of freedom from outside interference and dictation in carrying out their own policies in their own sphere. In these circumstances, it is clearly necessary so to widen the electorate that the legislatures to which responsibility is to be entrusted should be representative of the general mass of the population and that no important section of the community may lack the means of expressing its needs and its opinions.

* * *

6. It is evident from the discussions which have occurred in various connections in the Conference that the new Constitution must make adequate provision for the representation of the De-

pressed Classes and that the method of representation by nomination is no longer regarded as appropriate. As you are aware, there is difference of opinion whether the system of separate electorates should be instituted for the Depressed Classes and your Committee's investigations should contribute towards the decision of this question by indicating the extent to which the Depressed Classes would be likely, through such general extension of the franchise as you may recommend, to secure the right to vote in ordinary electorates. On the other hand, should it be decided eventually to constitute separate electorates for the Depressed Classes, either generally or in those provinces in which they form a distinct and separate element in the population, your committee's inquiry into general problem of extending the franchise should place you in possession of facts which would facilitate the devising of a method of separate representation for the Depressed Classes.

* * *

(7)

Extract from the Statement issued by H. E. Lord Linlithgow the Viceroy and Governor-General of India, dated 17th October 1939.

* * *

> "Be that as it may, His Majesty's Government recognise that when the time comes to resume consideration of the plan for the future federal Government of India, and of the plan destined to give effect to the Assurance given in Parliament by the late Secretary of State, to which I have just referred, it will be necessary to reconsider in the light of the then circumstances to what extent the details of the plan embodied in the Act of 1935 remain appropriate.

And I am authorised now by His Majesty's Government to say that at the end of the war they will be very willing to enter into consultation with representatives of the several communities, parties and interests in India, and with the Indian Princes, with a view to securing their aid and co-operation in the framing of such modifications as may seem desirable."

* * *

(8)

Extract from a Statement made on 7th November 1939 by Lord Zetland, Secretary of State for India in the House of Lords.

* * *

> "The Congress have further consistently taken the line, which they still maintain, that the fact that there are racial and religions minorities in India is of no relevance in that connexion, and that

it has always been the intention of the Congress to secure, through the Constitution to be framed by Indians themselves, such protection for their rights as may prove acceptable to the minorities.

His Majesty's Government find it impossible to accept this position. The long-standing British connexion with India has left His Majesty's Government with obligations towards her which it is impossible for them to shed by disinteresting themselves wholly in the shaping of her future form of Government. Moreover, one outstanding result of the recent discussions in which the Governor-General has been engaged with representatives of all parties and interests in India has been to establish beyond doubt the fact that a declaration in the sense proposed, with the summary abandonment by His Majesty's Government of their position in India, would be far from acceptable to large sections of the Indian population."

* * *

(9)

Extract from the Speech made by H. E. Lord Linlithgow, Viceroy and Governor-General at the Orient Club, Bombay, on January 10, 1940.

"Nor must we forget the essential necessity, in the interests of Indian unity, of the inclusion of the Indian States in any Constitutional scheme.

There are the insistent claims of the minorities.

I need refer only to two of them—the great Muslim minority and the Scheduled Castes—there are the guarantees that have been given to the minorities in the past; the fact that their position must be safeguarded, and that those guarantees must be honoured.

* * *

(10)

Extract from a Speech made by the Right Hon'ble Mr. L. S. Amery, Secretary of State for India in the House of Commons on August 14, 1940.

* * *

"Congress leaders... have built up a remarkable organization, the most efficient political machine in India... if only they had succeeded, if the Congress could, in fact speak, as it professes to speak, for all the main elements in India's national life, then however advanced their demands, our problem would have been in many respects far easier than it is to-day. It is true that they are numerically the largest single party in British India, but their claim in virtue of that fact to speak for India is utterly denied by very

important elements in India's complex national life. These others assert their right to be regarded not as mere numerical minorities but as separate constituent factors in any future Indian policy. The foremost among these elements stands the great Muslim community. They will have nothing to do with a constitution framed by a constituent assembly elected by a majority vote in geographical constituencies. They claim the right in any constitutional discussions to be regarded as an entity against the operations of a mere numerical majority. The same applies to the great body what are known as the Scheduled Castes who feel that in spite of Mr. Gandhi's earnest endeavours on their behalf that, as a community, they stand outside the main body of the Hindu community which is represented by the Congress.

* * *

(11)

Extract from the Speech of the Right Hon'ble Mr. L. S. Amery, Secretary of State for India in the House of Commons on 23rd April 1941.

* * *

"India's future Constitution should be devised by Indians for themselves and not by the British Government. India's future Constitution should be essentially an Indian Constitution, framed in accordance with the Indian conception of Indian conditions and Indian needs. The only essential condition is that the Constitution itself and the body which is to frame it must be the outcome of agreement between principal elements in India's national life.

* * *

(12)

Extract from a Statement by H. E. Lord Linlithgow, Viceroy and Governor-General of India on 8th August 1940.

* * *

"These are two main points which have emerged. On these two points, His Majesty's Government now desire me to make then-position clear. The first is as to the position of the minorities in relation to any future Constitutional scheme. . .It goes without saying that they (H. M. Government) could not contemplate the transfer of their present responsibilities for the peace and welfare of India to any system of Government whose authority is directly denied by large and powerful elements in India's national life. Nor could they be parties to the coercion of such elements into submission to such a Government."

Appendix VII

MINORITIES AND WEIGHTAGE

Views of the Montagu-Chelmsford Report and of the Simom Commission on the inequitous distribution of weightage.

(1)

Montagu-Chelmsford Report.

Extract from the Montagu-Chelmsford Report on Indian Constitutional Reforms.

* * *

Minority representation

163. Important minorities, it is proposed, should be represented by election. This appears to point to a system of which latter are specified only for Muhammadans, who are no longer to be allowed to vote in the general electorates as well as in their own special ones. We have elsewhere touched upon the difficulty of denying to certain other communities such as the Sikhs in the Punjab, a concession which is granted to Muhammadans. The authors of the scheme have also agreed upon, and set forth the proportions of the seats to be reserved for the special Muslim electorates in the various provinces. We are not aware on what basis, other than that of negotiation, the figured were arrived at. Separate electorates are proposed in all province even where Muhammadans are in a majority: and wherever they are numerically weak, the proportion suggested is in excess of their numerical strength or their present representation. At the same time, nearly all the Muslim associations which addressed us urged upon us that it should be still further increased. Now a privileged position of this kind is open to the objection, that if any other community hereafter makes good a claim to separate representation, it can be satisfied only by deduction from the non-Muslim seats, of else by a rateable deduction from both Muslim and non-Muslim; and Hindu Muslim opinions are not likely to agree which process should be adopted. While, therefore, for reasons that we explain subsequently, we assent to the maintenance of separate representation for Muhammadans, we are bound to reserve our approval of the particular proposals set before us until we have ascertained what the effect upon other interests will be, and have made fair provision for them. We agree with the authors of the scheme that Muhammadans should not have votes both in their own special, and in the general electorates—and we welcome the Muslim League's assent to the revision in this respect of existing arrangements."

(2)

Extract from the Report of the Indian Statutory Commission, Vol. II.

* * *

NUMBER OF MUHAMMADAN SEATS

Para 85. We now take up the question of the proportion of seats in the various provincial councils to be set aside for Muhammadan members.

The Lucknow Pact, as we have already pointed out, included an agreement between Hindus and Moslems as to the proportion of Indian elected seats allotted in each province to the Muhammadan community, and its terms have been followed closely in the allocation of Muhammadan seats in the existing provincial legislatures. The Pact is no longer accepted by either side as offering a fair basis of representation and the rival contentions now put forward are indicated in paragraph 70 above. It is very much to be hoped that a renewed effort will be made between the two communities themselves to arrive at a fresh accommodation: but in the absence of agreement, a decision will have to be reached by others, on the assumption that separate electorates remain. Our own opinion is that in view of the existing position and of the weakness of the Moslem minority in six out of the eight[1] provinces, the present scale of weightage in favour of Muhammadans in those provinces might properly be retained. Thus, the proportion to be allotted to them, of seats filled from the "general" constituencies (other than the European general constituencies) would be determined as at present. But a claim has been put forward for a guarantee of Muhammadan representation which goes further than this—see paragraph 70 above and Appendix VII at the end of this chapter. This claim goes to the length of seeking to preserve the full security for representation now provided for Moslems in these six provinces and at the same time to enlarge in Bengal and the Punjab the present proportion of seats secured to the community by separate electorates to figures proportionate to their ratio of population. This would give Muhammadans a fixed and unalterable majority of the "general constituency" seats in both provinces. We cannot go so far. The continuance of the present scale of weightage in the six provinces could not—in the absence of a new general agreement between the communities—equitably be combined with so great a departure from the existing allocation in Bengal and the Punjab.

It would be unfair that Muhammadans should retain the very considerable weightage they now enjoy in the six provinces, and that there should at the same time be imposed, in face of Hindu-Sikh opposition, a definite Moslem majority in the Punjab and in

[1] Burma is not in question.

Bengal unalterable by any appeal to the electorate. On the other hand, if by agreement separate electorates in Bengal were abandoned, so that each community in that province was left to secure such seats as it could gain by appeal to a combined electorate, we should not, on that account, seek to deprive the Moslem community of its existing weightage in the six provinces where they are in a minority. In the same way in the Punjab, if Moslems, Sikhs and Hindus were prepared to seek election through a joint electorate covering all three communities, here again we should still be prepared to see this combined with the preservation of the present numerical proportion secured to the Muhammadans by separate electorates in the six other provinces.

We make this last suggestion, which really involves giving the Moslem community the advantage of a choice between two courses to follow, because we sincerely desire to see all practicable means attempted for reducing the extent of separate electorates and for giving the other system a practical trial.

Appendix VIII

CRIPPS PROPOSALS

DRAFT DECLARATION FOR DISCUSSION WITH INDIAN LEADERS

The conclusions of the British War Cabinet set out below are those which Sir Stafford Cripps has brought with him for discussion with Indian Leaders, and the question as to whether they will be implemented will depend upon the outcome of those discussions which are now taking place.

His Majesty's Government having considered the anxieties expressed in this country and in India as to the fulfilment of promises made in regard to the future of India have decided to lay down in precise and clear terms, the steps which they propose shall be taken for the earliest possible realisation of self-government in India. The object is the creation of a new Indian Union which shall constitute a Dominion associated with the United Kingdom and other Dominions by a common allegiance to the Crown but equal to them in every respect, in no way subordinate in any aspect of its domestic or external affairs.

His Majesty's Government, therefore, make the following Declaration:—

(*a*) Immediately upon cessation of hostilities, steps shall be taken to set up in India, in manner described hereafter, an elected body charged with the task of framing a new Constitution for India.

(*b*) Provision shall be made, as set out below, for participation of Indian States in the Constitution-making body.

(*c*) His Majesty's Government undertake to accept and implement forthwith the Constitution so framed subject only to:—

(*i*) The right of any Province of British India that is not prepared to accept the new Constitution, to retain its present constitutional position, provision being made for its subsequent accession if it so decides.

With such non-acceding Provinces, should they so desire, His Majesty's Government will be prepared to agree upon a new Constitution giving them the same full status as the Indian Union and arrived at by a procedure analogous to that here laid down.

(*ii*) The signing of a Treaty which shall be negotiated between His Majesty's Government and the Constitution-making body. This Treaty will cover all necessary matters arising out of the complete transfer of responsibility from British to Indian hands; it will make provision, in accordance with undertakings given by His Majesty's Government, for the protection of racial and religious minorities; but will not impose any restriction on the power of the Indian Union to decide in future its relationship to other Member States of the British Commonwealth.

Whether or not an Indian State elects to adhere to the Constitution, it will be necessary to negotiate a revision of its Treaty arrangements so far as this may be required in the new situation.

(*d*) The Constitution-making body shall be composed as follows unless the leaders of Indian opinion in the principal communities agree upon some other form before the end of hostilities:—

Immediately upon the result being known of Provincial Elections which will be necessary at the end of hostilities, the entire membership of the Lower Houses of Provincial Legislatures shall as a single electoral college proceed to the election of the Constitution-making body by the

system of proportional representation. This new body shall be in number about 1/10th of the number of the electoral college.

Indian States shall be invited to appoint representatives in the same proportion to their total population as in the case of representatives of British India as a whole and with the same powers as British Indian Members.

(*e*) During the critical period which now faces India and until the New Constitution can be framed, His Majesty's Government must inevitably bear the responsibility for and retain the control and direction of the defence of India as part of their world war effort, but the task of organising to the full the military, moral and material resources of India must be the responsibility of the Government of India with the co-operation of the peoples of India. His Majesty's Government desire and invite the immediate and effective participation of the leaders of the principal sections of the Indian people in the counsels of their country, of the Commonwealth and of the united nations. Thus they will be enabled to give their active and constructive help in the discharge of a task which is vital and essential for the future freedom of India.

Appendix IX

OBJECTIONS TO CRIPPS PROPOSALS

Statement by B. R. Ambedkar showing how the Gripps Proposals would affect the Untouchables

The War Cabinet proposals show a sudden *Volte Face* on the part of His Majesty's Government. The putting forth of these proposals, which were denounced by them as an invasion of minority rights, is an indication of their complete surrender of right to win might. This is Munich mentality, the essence of which is to save oneself by sacrificing others, and it is this mentality which is writ large on these proposals. It is reported that the American and English people are annoyed at Indians not welcoming the proposals of His Majesty's Government relating to the constitutional advancement of India and thereby allowing the mission of Sir Stafford Cripps to fail. One can forgive the Americans for their attititude, but surely the English people and Sir Stafford Cripps ought to know better, It does not seem to have been sufficienty realised that the

proposals of His Majesty's Government now put forth as the best are the very proposals which have been rejected and condemned by His Majesty's Government as the worst, only a few months previously. Those who realise this cannot but help saying that this is the ugliest part of the whole business of constitutional advance, which His Majesty's Government is now suddenly and contrary to its previous declarations, rushing to undertake. The proposals fall into three parts: (1) There is to be a constituent assembly with a right to frame the Constitution for India. This Assembly is to have the fullest power to frame such constitution as the majority in the Assembly may choose to decide; (2) The new Constitution is not to include all of the present Provinces of India but only such Provinces as may be willing to be bound by it. For this the Provinces have been given a right to decide whether they shall join the new Constitution or stay out of it. This is left to be done by a plebiscite in which a bare majority is declared enough to decide the issue ; (3) The Constituent Assembly shall be required to enter into a treaty with the British Government. The treaty is to contain provisions for the safety and security of racial and religious minorities. After such a treaty is signed, the British Government is to withdraw its sovereignty and the Constitution framed by the Constituent Assembly is to come into operation.

Such, in brief outline, is the scheme of His Majesty's Government.

The proposal regarding Constituent Assembly is not a new proposal. It was put forth by the Congress when the war broke out and what is important is that this proposal of the Congress was rejected by His Majesty's Government. This is what Mr. Amery said in the House of Commons on August 14, 1940, regarding Constituent Assembly :—

> "Congress leaders... have built up a remarkable organization, the most efficient political machine in India... If only they had succeeded, if the Congress could, in fact speak, as it professes to speak, for all the main elements in India's national life, then however advanced their demands, our problem would have been in many respects far easier than it is to-day. It is true that they are numerically the largest single party in British India, but their claim in virtue of that fact to speak for India is utterly denied by very important elements in India's complex national life. These others assert their right to be regarded not as mere numerical minorities but as separate constituent factors in any future Indian policy. The foremost among these elements stands the great Muslim community. They will have nothing to do with a Constitution framed by a Constituent Assembly elected by a majority vote in geographical constituencies. They claim the right in any constitutional discussions to be regarded as an entity

and are determined only to accept a Constitution whose actual structure will secure their position as an entity against the operations of a mere numerical majority. The same applies to the great body of what are known as the *Scheduled Castes* who feel, in spite of Mr. Gandhi's earnest endeavours on their behalf, that, as a community, they stand outside the main body of the Hindu Community which is represented by the Congress."

This statement was made by Mr. Amery when he was elucidating the announcement made by the Viceroy on 8th August 1941 in which he had given the following pledge to the minorities on behalf of His Majesty's Government:—

"There are two main points which have emerged. On these two points. His Majesty's Government now desire me to make their position clear. The first is as to the position of the minorities in relation to any future constitutional scheme.. .It goes without saying that they (H. M. Government) could not contemplate the transfer of their present responsibilities for the peace and welfare of India to any system of government whose authority is directly denied by large and powerful elements in India's national life. Nor could they be parties to the coercion of such elements into submission to such a government."

Again on the 23rd April 1941, Mr. Amery referred to the demand of the Constituent Assembly and expressed himself in the following terms:—

"India's future Constitution should be devised by Indians for themselves and not by the British Government. India's future Constitution should be essentially an Indian Constitution, framed in accordance with the Indian conception of Indian conditions and Indian needs. The only essential condition is that the Constitution itself and the body which is to frame it, must be the outcome of agreement between principal elements in India's national life."

Such were the views and pledges given by H. M. Government regarding Constituent Assembly, which is now conceded. Regarding the demand for Pakistan, it was a demand put forward by the Muslim League. This demand was also rejected by His Majesty's Government. This is what Mr. Amery said in regard to it in the House of Commons on August 1, 1940:—

"This reaction against the dangers of what is called the Congress Raj or Hindu Raj has gone so far as to lead to a growing demand from Muslim quarters for a complete breaking up of India into separate Hindu and Muslim dominions. I need say nothing to-day of the manifold and to my mind, insuperable objections

to such a scheme, at any rate in its extreme form. I would only note that it merely shifts the problem of permanent minorities to somewhat smaller areas, without solving it."

Again on April 23, 1941, he referred to it in his speech in the House of Common and spoke about it in the following terms :—

"I am not concerned here to discuss the immense practical difficulties in the way of this so-called Pakistan project nor need I go back to the dismal record of India's history in the 18th century or to the disastrous experience of the Balkan countries before our eyes, to-day, in order to point out the terrible dangers inherent in any break up of the essential unity of India, at any rate in its relation to the outside world. After all, there is no British achievement in India of which we have reason to be proud than the unity...we have given her."

Such were the views of His Majesty's Government only a year ago regarding Constituent Assembly and Pakistan.

It is quite obvious that the proposal for a Constituent Assembly is intended to win over the Congress, while the proposal for Pakistan is designed to win over the Muslim League. How do the proposals deal with the Depressed Classes ? To put it shortly, they are bound hand and foot and handed over to the caste Hindus. They offer them nothing; stone instead of bread. For the Constituent Assembly is nothing short of a betrayal of the Depressed Classes. There can be no doubt as to what the position of the Depressed Classes will be in the Constituent Assembly; nor can there be any doubt regarding the political programme of the Constituent Assembly. In the Constituent Assembly, there may be no representatives of the Depressed Classes at all because no communal quotas are fixed by these proposals. If they are there, they cannot have a free, independent and decisive vote. In the first place, the representatives of the Depressed Classes will be in a hopeless minority. In the second place, all decisions of the Constituent Assembly are not required to be by a unanimous vote. A majority vote is enough to decide any question no matter what its constitutional importance is. It is clear that under this system the voice of the Depressed Classes in the Constituent Assembly cannot count. In the third place, the present system of proportional representation by which the members to the Constituent Assembly are to be elected under the terms contained in His Majesty's proposals cannot but result in the caste Hindus having virtually the right to nominate the representatives of the Depressed Classes to the Constituent Assembly. Such representatives of the Depressed Classes will be the tools of the caste Hindu. In the fourth place, the Constituent Assembly will be filled with the Congressites who will form the dominant majority party able to

carry out its own programme. There is no doubt that Mr. Gandhi, whatever may be said about his endeavours in the matter of the social uplift of the Depressed Classes, is totally opposed to giving political recognition to the Depressed Classes in the Constitution as a separate and distinct element in the national life of India. That being the case, the programme of the majority party in the Constituent Assembly will be to wipe out the political safeguards already granted to the Depressed Classes in the present Constitution. Any one, who realises what is implied in the Constituent Assembly, will admit that His Majesty's Government by their proposals have literally thrown the Depressed Classes to the wolves. It may be said that while there is the Constituent Assembly which may deny constitutional safeguards to the Depressed Classes, His Majesty's Government have been careful to include in their proposals the provisions for a treaty with the Constituent Assembly the object of which is to secure the interests of the Depressed Classes. This proposal of a treaty is evidently borrowed from the plan adopted by His Majesty's Government for the settlement of the Irish dispute. The proposal regarding the treaty does not say what are the safeguards His Majesty's Government will decide to include in the treaty. This is an important point because there may be a difference of opinion between His Majesty's Government and the Depressed Classes on the nature, number and method of the political safeguards that may be necessary to protect the interests of the Depressed Classes under the new Constitution. The second and equally important question about the treaty is what is going to be the sanction behind the treaty. Will the treaty be a part of the Constitution framed by the Constituent Assembly, so that any provision in the Constitution which is repugnant with the treaty will be null and void ? Or, will the treaty be just a treaty between the two governments; the Indian National Government and His Majesty's Government, as any trade treaty ? If the treaty is to be of the former kind, it will be the law of the land and will have legal sanction of the Indian Government behind it. If, on the other hand, the treaty is to be of the latter kind, it is obvious it will not be the law of the land and will have no legal sanction behind it. Its sanction will be political sanction. Now a treaty cannot override the Constitution framed by the National Government for the obvious reason that such a thing, as was found in the case of Irish Free State, is incompatible with Dominion Status. The only sanction behind such a treaty will be political sanction. It is obvious that the use of such sanction must depend upon the colour of the Government and the state of public opinion. Given this fact, the questions that arise are two: (1) What are the means which His Majesty's Government will have at its disposal to enforce the treaty obligations? (2) Secondly, will His Majesty's Government be prepared to use these means to

coerce the Indian National Government to abide by the terms of the treaty ? With regard to the first question, it is obvious that the means for enforcing the treaty are twofold—use of force and trade war. As to the military force, the Indian army will not be available. It will be entirely transferred to the control of the new Indian National Government. His Majesty's Government will have therefore lost this means of enforcing the treaty. It is impossible to believe that His Majesty's Government will send its own army to compel the National Government to obey the treaty. A trade war is not possible. It is a suicidal policy and the experience of the Irish war with the Irish Free State for the recovery of land annuities shows that a nation of shopkeepers will not sanction it even though it may be for their interest and honour. The treaty therefore is going to be an empty formula, if not a cruel joke, upon the Depressed Classes. His Majesty's Government has sent out these proposals to be welcomed by Indians. But neither His Majesty's Government nor Sir Stafford Cripps have offered any explanation as to why they are offering to Indians the very proposals which His Majesty's Government had been condemning in scathing terms only a few months ago. A year ago, His Majesty's Government said that they would not grant Constituent Assembly because that would be a coercion of the minorities. His Majesty's Government is now prepared to grant Constituent Assembly and to coerce the minorities. A year ago, His Majesty's Government said that they will not allow Pakistan because that is Balkanization of India. To-day, they are prepared to allow the partition of India. How can the Government of a Great Empire lose all sense of principle ? The only explanation is that His Majesty's Government has, as a result of the course of the war, become panic-stricken. The proposals are the result of loss of nerve. How great is the panic that has overtaken His Majesty's Government can be easily seen if one compared the demands made by the Congress and the Muslim League and the concessions made to them by these proposals. The Congress demanded that the Constitution should be framed by a Constituent Assembly by a mere majority vote. On the other hand, when the Viceroy announced that the British Government will not be a party to the coercion of the minorities involved in the demand by the Congress, the Working Committee of the Congress at its meeting at Wardha held on August 22, 1940, passed the following resolution :—

> "The Committee regrets that although the Congress has never thought in terms of coercing any minority, much less of asking the British Government to do so, the demand for a settlement of a Constitution though through a Constituent Assembly of duly elected representatives has been misrepresented as coercion and the issue of minorities has been made into an insuperable barrier to Indians progress."

The Working Committee added :—

> "The Congress had proposed that minority rights should be amply protected by agreement with the elected representatives of the minorities concerned."

This shows that even the Congress did not demand that the decision of minority rights should be included in the purview of the Constituent Assembly. His Majesty's Government has, however, given them the additional right to decide this minority rights issue by a bare majority vote. With regard to the question of Pakistan, the same attitude is noticeable. The Muslim League did not demand that Pakistan must be conceded immediately. All that the Muslim League had asked for was that at the next revision of the Constitution, the Mussalmans should not be prevented from raising the question of Pakistan. The present proposals have gone a step beyond and distinctly give to the Muslim League the right to create Pakistan. These are constitutional proposals. They are intended to lead India to wage a total war in which Hindus, Mussalmans, Depressed Classes and Sikhs are called upon wholeheartedly to participate. Yet Sir Stafford Cripps, either with the consent or without the consent of His Majesty's Government, has been making discrimination between major parties and minor parties. The major parties are those whose consent is necessary. Minor parties are those with whom consultation is believed to be enough. This is new distinction. Certainly it was never made in the prior pronouncements either of His Majesty's Government or of the Viceroy. The pronouncement spoke of the "consent of the principal elements in the national life of India."

So far as the Depressed Classes are concerned, I am not aware of any pronouncement in which the Depressed Classes were placed on a lower plane than the one given to the Mussalmans. I quote the following from the speech of the Viceroy made in Bombay on January 10, 1941, from which it will be seen that the Depressed Classes were bracketed with the Mussalmans :

> "There are insistent claims of the minorities. I need refer only to two of them ; the great Muslim minority and the Scheduled Classes—there are the guarantees that have been given to the minorities in the past, the fact that their position must be safeguarded and that those guarantees must be honoured."

This invidious distinction now sought to be made is a breach of faith with those minorities whose position has been lowered by this discrimination. From a constitutional point of view of total war, it is bound to cause more disaffection and disloyalty in the country. It is for the British to consider whether in this attempt to win the friendship of those who have probably already decided to choose

other friends, they should lose those who are their real friends. The proposals show a sudden *volte face* on the part of His Majesty's Government. The putting forth of those proposals which were denounced by them as an invasion of minorities' rights is an indication of their complete surrender of right to win might. This is Munich Mentality the essence of which is to save oneself by sacrificing others and it is this mentality which is writ large on those proposals. My advice to the British Government is that they should withdraw these proposals. If they cannot fight for right and justice and their plighted word they should better make peace. They can thereby at least save their honour.

Appendix X

CORRESPONDENCE BETWEEN LORD WAVELL AND MR. GANDHI, 1944

1. Letter from Mr. Gandhi to Viceroy on July 15th, 1944.

"Dear Friend,

You have no doubt seen the authentic copies, now published in the Indian Press, of the statements given by me to Mr. Gelder of the *News Chronicle*. As I have said to the Press, they were meant primarily to be shown to you. But Mr. Gelder, no doubt with the best of motives, gave the interview premature publicity. I am sorry. The publication will nevertheless be a blessing in disguise, if the interview enables you to grant at least one of my requests contained in my letter of June 17, 1944.

I am yours, etc.,

(Sd.) M. K. Gandhi."

2. Viceroy's reply to Mr. Gandhi, dated 22nd July 1944.

"Dear Mr. Gandhi,

Thank you for your letter of July 15. I have seen the statements you have made to Mr. Gelder, and your subsequent explanation of them. I do not think I can usefully comment at present, except to repeat what I have said in my last letter that if you will submit to me a definite and constructive policy, I shall be glad to consider it.

Yours sincerely,

(Sd.) Wavell."

3. Gandhi's letter to the Viceroy, dated 27th July 1944.

"DEAR FRIEND,

I must admit my disappointment over your letter of 22nd instant. But I am used to work in the face of disappointment. Here is my concrete proposal.

I am prepared to advise the Working Committee to declare that in view of changed conditions, mass civil disobedience envisaged by the resolution of August 1942, cannot be offered and that full cooperation in the war effort should be given by the Congress, if a declaration of immediate Indian independence is made and a National Government responsible to the Central Assembly be formed subject to the proviso that, during the pendency of the war, the military operations should continue as at present but without involving any financial burden on India. If there is a desire on the part of the British Government for a settlement, friendly talks should take the place of correspondence. But I am in your hands. I shall continue to knock so long as there is the least hope of an honourable settlement.

After the foregoing was written, I saw Lord Munster's speech in the House of Lords. The summary given by him in the House of Lords fairly represents my proposal. This summary may serve as a basis for mutual friendly discussion.

I am,
Yours sincerely,
(Sd.) M. K. GANDHI."

4. Viceroy's reply to Mr. Gandhi, dated 15th August 1944.

"DEAR MR, GANDHI,

Thank you for your letter of July 27. Your proposals are :—

(*i*) that you should undertake to advise the Working Committee : (*a*) "that in view of changed conditions mass civil disobedience envisaged by the resolution of August 1942, cannot be offered" and (*b*) "that full co-operation in the war effort should be given by the Congress provided

(*ii*) that His Majesty's Government (*a*) declare immediate Indian independence, and (*b*) form a "National Government" responsible to the Central Assembly "subject to the proviso that during the pendency of the war the military operations should continue as at present but without involving any financial burden on India."

His Majesty's Government remain most anxious that a settlement of the Indian problem should be reached. But proposals such as those put forward by you are quite unacceptable to His Majesty's

Government as a basis for discussion and you must realise this if you have read Mr. Amery's statement in the House of Commons on July 28th last. They are indeed very similar to the proposals made by Maulana Abul Kalam Azad to Sir Stafford Cripps in April 1942 and His Majesty's Government's reasons for rejecting them are the same as they were then.

3. Without recapitulating all these reasons in detail, I should remind you that His Majesty's Government at that time made it clear:

(*a*) That their offer of unqualified freedom after the cessation of hostilities was made conditional upon the framing of a Constitution agreed by the main elements of India's national life and the negotiation of the necessary treaty arrangements with His Majesty's Government:

(*b*) That it is impossible during the period of hostilities to bring about any change in the Constitution by which means alone a "National Government" such as you suggest could be made responsible to the Central Assembly.

The object of these conditions was to ensure the fulfilment of their duty to safeguard the interests of the racial and religious minorities of the Depressed Classes and their treaty obligations to the Indian States.

4. It was upon the above conditions that His Majesty's Government invited Indian leaders to take part in an interim Government which would operate under the existing Constitution. I must make it quite clear that until the war is over responsibility for defence and military operations cannot be divided from the other responsibilities of Government and that until hostilities cease and the new Constitution is in operation, His Majesty's Government and the Governor-General must retain their responsibility over the entire field. So far as the question of India's share of the cost of the war is concerned, this is essentially a matter for settlement between His Majesty's Government on the one hand and the Government of India on the other, and existing financial arrangements can only be reopened at the instance of one or the other.

5. It is clear in these circumstances that no purpose will be served by discussion on the basis which you suggest. If however the leaders of the Hindus, the Muslims and the important minorities were willing to co-operate in a transitional Government established and working within the present constitution, I believe good progress might be made. For such a transitional Government to succeed, there must before it is formed, be agreement in principle between , Hindus and Muslims and all important elements as to the method by which the new Constitution should be framed. This agreement is a matter for Indians themselves.

Until Indian leaders have come closer together than they are now, I doubt if I myself can do anything to help. Let me remind you too that minority problems are not easy. They are real and can be solved only by mutual compromise and tolerance.

6. The period after the termination of hostilities for which the transitional Government would last, would depend on the speed with which the new constitution could be framed. I see no reason why preliminary work on that Constitution should not begin as soon as the Indian leaders are prepared to co-operate to that end. If they can arrive at a genuine agreement as to the method of framing the Constitution, no unnecessary time need be spent after the war in reaching final conclusions and in agreeing treaty arrangements with His Majesty's Government. There again the primary .responsibility rests on the Indian leaders.

Yours sincerely,
(Sd.) WAVELL."

APPENDIX XI

POLITICAL DEMANDS OF SCHEDULED CASTES

Resolutions passed by the Working Committee of the All-India Scheduled Castes Federation held in Madras on the 23rd September 1944 *under the Presidentship of Rao Bahadur N. Shiva Raj, B.A., B.L., M.L.A., outlining the safeguards for the Untouchables in the new Constitution.*

RESOLUTION NO. 1

SUBJECT :—*Recognition of the Scheduled Castes as a separate element.*

The Working Committee of the All-India Scheduled Castes Federation has found a section of the Press in India making the allegation, that the statement made by H. E. the Viceroy in his letter Mr. Gandhi dated the 15th August 1944 to the effect that the Scheduled Castes are one of the important and separate elements in the national life of India and requiring that the consent of the Scheduled Castes to the Constitution of India was a necessary condition precedent for transfer of power to Indians, is a departure from the position of His Majesty's Government as defined in the Cripps Proposals. The Committee cannot help expressing its indignation at this propaganda and takes this occasion to state in most emphatic and categorical terms that the Scheduled Castes are a distinct and separate element in the national life of India and

that they are a religious minority in a sense far more real than the Sikhs and Muslims can be and within the meaning of the Cripps Proposals. The Working Committee desires to point out that what has been stated by Lord Wavell in his letter to Mr. Gandhi has been the position of His Majesty's Government from the very beginning and was enunciated in clear terms as early as 1917 by the authors of the Montagu-Chelmsford Report simultaneously with the enunciation by them of Responsible Government as the goal of India's political evolution and has been confirmed by subsequent action of His Majesty's Government such as the grant of separate representation to the Scheduled Castes at the Round Table Conference, Joint Parliamentary Committee and in the Government of India Act, 1935, as a recognized minority, separate from the Hindus. The Working Committee has, therefore, no hesitation in saying that it is a false and malicious propaganda to allege that this is a departure from the policy of His Majesty's Government and regards it as a manoeuvre on the part of the enemies of the Scheduled Castes to defeat their just claims for constitutional safeguards and calls upon Indian political leaders and particularly the Hindu leaders to accept this fact, in the interests of peace and good-will between the Hindus and the Scheduled Castes, and for the speedy realization of India's political goal.

Resolution No. 2

Subject :—*Declaration by His Majesty's Government relating to the Scheduled Castes and the Constitution.*

The Working Committee of the All-India Scheduled Castes Federation welcomes the declaration made by His Majesty's Government and recently reiterated by His Excellency the Viceroy that His Majesty's Government regards the consent of the Scheduled Castes, among others, to the Constitution of a free India, as a matter of vital importance and as a necessary condition precedent to the transfer of power to Indian hands. At the same time, the Working Committee wishes to draw the attention of His Majesty's Government to the attitude of the Congress and other political organizations in the country which treats this declaration of His Majesty's Government as not being a *bona fide* declaration and made without any intention to honour it and as a mere matter of tactics adopted to postpone transfer of power, and which is in all probability responsible for the unwillingness of the Majority Community to seek for a settlement with the Scheduled Castes. The Working Committee regards this allegation as baseless and calls upon His Majesty's Government not to give any ground for such suspicion and make it clear that they will stand by the declaration at all times and under all circumstances.

RESOLUTION NO. 3

SUBJECT :—*Nature of Constitutional Safeguards.*

The Working Committee declares that no Constitution shall be acceptable to the Scheduled Castes unless :—

(*a*) it has the consent of the Scheduled Castes ;

(*b*) it recognizes the Scheduled Castes as distinct and separate element;

(*c*) it contains within itself provisions for securing the following purposes :

(1) For earmarking a definite sum in the Budgets of the Provincial and Central Governments for the Secondary, University and Advanced Education of the Scheduled Castes.

(2) For reservation of Government lands for separate settlements of the Scheduled Castes through a Settlement Commission.

(3) For Representation of the Scheduled Castes according to their needs, numbers and importance :—

(*i*) in the Legislatures,

(*ii*) in the Executive,

(*iii*) in Municipalities and Local Boards,

(*iv*) in the Public Services,

(*v*) on the Public Service Commissions.

(4) For the recognition of the above provisions as fundamental rights beyond the powers of the Legislature or the Executive to amend or alter or abrogate.

(3) For the appointment of an Officer similar in status to that of the Auditor-General appointed under Section 166 of the Government of India Act of 1935 and removable from office in like manner and on the like grounds as a judge of the Federal Court to report on the working of the provisions relating to Fundamental Rights.

RESOLUTION NO. 4

SUBJECT :—*Communal Settlement.*

The Working Committee of the All-India Scheduled Caste Federation, while it is most eager for a settlement of the Communal problem, wholly disapproves of the secret negotiations which are being carried

on by Mr. Gandhi and Mr. Jinnah for a settlement between the Hindus and the Muslims. The Working Committee is of opinion that Communal settlement of a sectional character is harmful in every way. It is harmful because it ignores the vital interests of other communities. It is harmful because it creates a feeling of suspicion in other communities that dishonest deal is being made between two communities to defeat their interests. It is also harmful to the general interests of the country, inasmuch as the singling out of one special community from others for conferring special privileges, not necessary for its protection but demanded on the basis of prestige, creates differences in status which from the point of view of maintaining equal citizenship for all, are unjustifiable and must be deplored. The Working Committee is surprised that Mr. Gandhi who has time and again proclaimed himself as an opponent of secrecy in public life should have entered into secret diplomacy to bring about Hindu-Moslem Settlement. The Committee expresses its emphatic opinion that the proper procedure to settle the communal question, which would give a sense of security and ensure fair and equal treatment to all is to discuss the demands put forth by each interest in public and in the presence of and with the representatives of other interests.

Resolution No. 5

Subject :—*Revision of the Constitution.*

The Working Committee of the All-India Scheduled Castes Federation is of opinion that the provisions in the existing Constitution relating to minority representation are not based on any intelligible principle. The Committee finds that as the system now stands, some minorities have not received even their population ratio of representation, while other minorities have been given weightage over and above their population ratio as a concession to their claims based on historical and military importance. The Working Committee regards the recognition of such claims to be harmful to the interests of other minorities and inconsistent with the ideal of social and political democracy, which is the goal of all Indians and that they should never be tolerated. In this connection, the Committee wishes to draw attention to the fact that the principle of giving weightage to specially selected minorities has been condemned by the authors of the Montagu-Chelmsford Report and also by the Simon Commission. The Committee demands that in view of the fact that the next Constitution of India will be for India as a Dominion, the provisions of the Constitution relating to minorities should be revised and should be brought in accord with the principle of equal treatment of all minorities.

Resolution No. 6

Subject :—*Representation in the Legislatures and in the Executive.*

The Working Committee of the All-India, Scheduled Castes Federation desires to state in categorical and emphatic terms that the Scheduled Castes will not tolerate any discrimination between one community and another in the matter of representation and will insist upon their claim for seats in the Provincial and Central Legislatures and in the Provincial and Central Executive being adjudged in the same manner and by the same principles that may be made applicable to the claims of the Muslim Community.

Resolution No. 7

Subject:—*Electorates.*

The Working Committee of the All-India Scheduled Castes Federation is of opinion that the experience of the last elections held under the Government of India Act has proved that the system of joint electorates has deprived the Scheduled Castes of the right to send true and effective representatives to the Legislatures and has given the Hindu Majority the virtual right to nominate members of the Scheduled Castes who are prepared to be the tools of the Hindu Majority. The Working Committee of the Federation therefore demands that the system of joint electorates and reserved seats should be abolished and the system of separate electorates be introduced in place thereof.

Resolution No. 8

Subject :—*Framework of Executive Government.*

The working Committee of the All-India Scheduled Castes Federation takes note of the fact that not only all wealth, property, trade and industry are in the hands of the Majority Community, but even the whole administration of the State is controlled by the Majority Community whose members have monopolized all posts in the State services both superior and inferior. The Working Committee of the All-India Scheduled Castes Federation regards this as the most dangerous situation which cannot but cause great apprehension to the minority communities since the combination of these circumstances gives the majority the fullest power to establish its stranglehold upon the minorities. This fear of a stranglehold is greatly augmented by the Constitutional provisions relating to the Executive contained in the Government of India Act of 1935 which permits the majority in the Legislature to form a Government without reference to the wishes of the minorities,

The Working Committee of the All-India Scheduled Castes Federation feels that while, in the absence of an alternative system, the Parliamentary system of Government may have to be accepted, the Committee is definitely opposed to the system of Parliamentary cabinet inasmuch as it automatically vests the Executive authority in the Majority Community and thereby strengthens the hold of the Majority Community which has entered into the steel frame of the administration and thus has become a source of great danger to the Minorities. The Working Committee has, therefore, come to the conclusion that the system of Parliamentary Cabinet is not suited to Indian conditions and that a different system under which Executive Government would be formed in consultation with the wishes of the Minorities must be designed to give them a better sense of security.

The Working Committee insists that the Executive in the Provinces as well as in the Centre should be constituted in the following manner:—

(*i*) The Executive should consist of a Prime Minister and other ministers drawn from general community and from minority communities in a proportion to be specified in the Constitution.

(*ii*) The Prime Minister and Ministers drawn from the general community shall be elected to the Executive by the whole house by single transferable vote.

(*iii*) The Ministers representing the minority communities shall be chosen by the members representing the different communities by single transferable vote.

(*iv*) The Members of the Executive shall be members of the Legislature, shall answer questions, vote and take part in debates.

(*v*) Any vacancy in the Executive shall be filled in accordance with rules governing the original appointments.

(*vi*) The period for Which the Executive shall hold office shall be co-terminus with the life of the Legislature.

Resolution No. 9

Subject :—*Public Services.*

While it is desirable to plan for a Government which will be a Government of Laws and not of men, it cannot be forgotten that no matter how Government is organized, it must remain a Government of men. That being so, whether Government is good or bad—as distinguished from a merely efficient Government—and how far the administration of public affairs will be non-political and impartial must depend upon the spirit and outlook and sense of justice of the

men who are appointed to administer the Law. The Working Committee of the All-India Scheduled Castes Federation is convinced that the Scheduled Castes can never get protection, justice or sympathy from the present administration which is controlled by men full of caste consciousness, narrow-mindedness, absence of sense of justice and having a hatred and contempt for the Scheduled Castes. The Working Committee, therefore, demands that the Constitution must recognize the right of the Scheduled Castes to reservation in the Public Services in the same proportion as may be applied to the claims of the Muslim Community.

Resolution No. 10

Subject :—*Provision for Education.*

The Working Committee of the All-India Scheduled Castes Federation feels that unless persons belonging to the Scheduled Castes are able to occupy posts which carry executive authority, the Scheduled Castes must continue to suffer, as they have been doing in the past all the injustices and indignities from the hands of the Government and the Public. The Working Committee, therefore, regards the spread of higher and advanced education among the Scheduled Castes as of vital importance to them. But, it cannot be denied that such advanced education is beyond the means of the Scheduled Castes. The Committee regards it as essential that a definite liability in this behalf should be imposed on the State to provide funds for that purpose and demands that the Constitution should impose an obligation upon the Provincial Governments and the Central Government to set apart adequate sums, as may be specified by the Constitution, exclusively for advanced education of the Scheduled Castes in their annual budgets and to accept such provisions as a first charge on their revenues.

Resolution No. 11

Subject :—*Separate Settlements.*

The Working Committee of the All-India Scheduled Castes Federation holds:—

(a) that so long as the Scheduled Castes continue to live on the outskirts of the Hindu village, as an alien people, with no source of livelihood and in small numbers as compared to Hindus, they will continue to remain Untouchables and subject to the tyranny and oppression of the Hindus and will not be able to enjoy free and full life, and

(*b*) that for the better protection of the Scheduled Castes from the tyranny and oppression of the Caste Hindus, which may take a worse form under Swaraj, and to enable the Scheduled Castes to develop to their fullest manhood, to give them economic and social security as also to pave the way for the removal of untouchability, the Working Committee demands that the Constitution should provide—

(1) For the transplantation of the Scheduled Castes from their present habitations and form separate Scheduled Caste villages away from and independent of Hindu villages;

(2) For the settlement of the Scheduled Castes in new villages a provision shall be made by the Constitution for the establishment of a Settlement Commission ;

(3) All Government land which is cultivable and which is not occupied and land which may be reclaimed shall be handed over to the Commission to be held in trust for the purpose of making new settlements of the Scheduled Castes.

(4) The Commission shall be empowered to purchase new land under the Land Acquisition Act from private owners to complete the scheme of settlements of the Scheduled Castes.

(5) The Constitution shall provide that the Central Government shall grant to the Settlement Commission a minimum sum of rupees five crores per annum to enable it to carry out their duty in this behalf.

Resolution No. 12

"The Working Committee of the A.I.S.C. Federation unanimously resolves that it places its complete confidence in Dr. B. R. Ambedkar and authorises him to negotiate on its behalf and oil behalf of Scheduled Castes with other political parties or their leaders as and when necessity arises."

Appendix XII

Communed Distribution of Population by Minorities in the Provinces of British India.

Province	Total Population	Muslims		Scheduled Castes		Indian Christians		Sikhs	
		Population	Per-cent-age	Population	Per-cent-age	Population	Per-cent-age	Population	Per-cent-age
Ajmere-Merwara	583,693	89,899	15.4	*Nil(?)*	—	3,895	.8	867	.15
Andaman Nicobar	33,768	8,005	23.7	*Nil*	—	779	2.3	744	2.2
Assam	10,204,733	3,442,479	33.7	676,291	6.6	37,750	.4	3,464	.03
British Baluchistan	501,631	438,930	87.5	5,102	1.0	2,633	.5	11,918	2.3
Bengal	60,306,525	33,005,434	54.7	7,878,970	13.0	110,923	.2	16,281	.03
Bihar*	36,340,151	4,716,314	12.9	4,840,379	13.3	24,693	07	13,213	.04
Bombay	20,849,840	1,920,368	9.2	1,855,148	8.9	338,812	1.6	8,011	.04
Central Province & Ber r† ...	16,813,584	783,697	4.7	3,051,413	18.1	48,260	.3	14,996	.09
Coorg	168,726	14,780	8.8	25,740	15.3	3,309	2.0	*Nil*	—
Delhi	917,939	304,971	33.2	121,693	13.3	10,494	1.1	16,154	1.8
Madras	49,341,810	3,896,452	7.9	8,068,492	16.4	2,001,082	4.06	418	.001
N.W.F.P	3,038,067	2,788,797	91.8	*Nil*	—	5,426	.2	57,989	1.9
Orissa	8,728,544	146,301	1.7	1,238,171	14.2	26,584	.3	232	.003
Punjab	28,418,819	16,217,242	57.0	1,248,635	4.4	486,038	1.7	3,757,401	13.2
Pant Piploda	5,267	251	4.8	918	17.4	216	4.1	*Nil*	—
Sind	4,229,221	3,054,635	72.2	191,634	4-5	13,232	.3	31,011	.7
United Provinces ‡	55,020,617	8,416,308	15.3	11,717,158	21.3	131,327	.2	232,445	.4
Total	295,502,935	79,344,863	26.9	40,919,744	13.9	3,245,453	1	4,155,147	1
*Bihar	28,823,802	4,168,470	14.4	3,919,619	13.6	12,651	.04	3,204	.01
Chota Nagpur	7,516,349	547,844	7.3	420,760	5.6	12,042	.2	10,009	.1
‡C.P	13,208,718	448,528	3.4	2,359,836	17.9	42,135	.3	12,766	.1
Berar	3,604,866	335,169	9.3	691,577	19.2	6,125	.2	2,230	.05
Agra	40,906,147	6,231,062	15.2	8,018,803	19.6	120,549	.3	226,096	.5
Oudh	14,114,470	2,185,246	15.5	3,698,355	26.2	10,778	.08	6,349	.05

Appendix XIII

Communal Distribution of Population by Minorities in Indian States

States and Agencies	*Total Population*	*Muslims*		*Scheduled Castes*		*Indian Christians*		*Sikhs*	
		Population	*Percentage*	*Population*	*Percentage*	*Population*	*Percentage*	*Population*	*Percentage*
Assam	725,655	31,662	4.4	265	.04	25,913	3.6	381	.05
Baluchistan	356,204	346,251	97.2	65	.02	40	.01	126	.04
Baroda	2,855,010	223,610	7.8	230,794	8.1	9,182	.3	566	.02
Bengal	2,144,829	372,113	17.3	269,729	12.6	564	.03	28	.001
Central India	7,506,427	439,850	5.9	1,027,009	13.7	7,582	.1	2,731	.04
Chattisgarh	4,050,000	28.773	0.7	483,132	11.9	11,820	.3	507	.01
Cochin	1,422,875	109,188	7.7	141,154	9.9	399,394	28.1	9	—
Deccan (and Kolhapur) ...	2,785,428	182,036	6.5	306,898	11.0	17,236	.6	22	.001
Gujarat	1,458,702	58,000	3.9	55,204	3.8	4,215	.3	182	.01
Gwalior	4,006,159	240,903	6.0	—	—	1,352	.03	2,342	.06
Hyderabad	16,338,534	2,097,475	12.8	2,928,048	17.9	215,989	1.3	5,330	.03
Kashmere and Feudatories ...	4,021,616	3,073.540	76.4	113,464	2.8	3,079	.08	65,903	1.6
Madras	498,754	30,263	6.0	83,734	16.8	20,806	4.2	5	—
Mysore	7,329,140	485,230	6.6	1,405,067	19.2	98,580	1.3	269	.004
N.W.F.P	46,267	22,068	47.7	*Nil*	—	571	1.2	4,472	9.1
Orissa	3,023,731	14,355	0.47	352,088	11.6	2,249	.07	151	.005
Punjab	5,503,554	2,251,459	40.9	349,962	6.4	6,952	.1	1,342,685	24.4
Punjab Hill	1,090,644	46,678	4.3	238,774	21.9	188	.02	17,739	1.6
Rajputana	13,670,208	1,297,841	9.5	—	—	4,349	.03	81,896	.6
Sikkim	121,520	83	0.07	76	.06	34	.03	1	—
Travancore	6,070,018	434,150	7.2	395,952	6.5	1,958,491	32.3	31	—
U. P.	928,470	273,625	29.5	152,927	16.5	1,281	.1	731	.08
Western India	4,904,156	600,440	12.2	358,038	7.3	3,105	0.6	239	.005
Total	90,857,901	12,659,593	13.9	8,892,380	9.7	2,792,972	3.1	1,526,346	1.7

Appendix XIV

Particulars of Scheduled Castes Constituencies in regard to seats and voting strength Province by Province :—

Appendix XIV :		(1) Madras
”	”	(2) Bombay
”	”	(3) Bengal
”	”	(4) U. P.
”	”	(5) Punjab
”	”	(6) Bihar
”	”	(7) C. P. & Berar.
”	”	(8) Assam
”	”	(9) Orissa

Appendix XIV (1) Madras

Name of Constituency	Total Number of Seats in the Constituency		Total Number of Candidates		Total Number of Voters in the Constituency		
	For General	For Scheduled Castes	For General Seat	For Scheduled Caste Seat	General	Scheduled Castes	Percentage of Scheduled Caste Voters to General
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Madras City, South Central	1	1	4	1	13,318	2,909	22
Chicacole	1	1	4	4	54,012	7,461	14
Amalapuram	1	1	2	3	46,163	23,110	50
Cocanada	1	1	3	1	50,384	12,066	24
Ellore	1	1	3	3	45,452	11,463	25
Bandar	1	1	2	3	77,627	13,314	17
Ongole	1	1	2	2	67,851	10,885	16
Gudur	1	1	2	4	35,094	7,436	21
Cuddapah	1	1	2	3	74,497	10,630	14
Penukonda	1	1	2	2	54,864	11,396	21
Bellary	1	1	3	2	63,092	9,232	15
Kurnool	1	1	2	4	53,687	13,433	25
Tiruttani	1	1	2	2	52,875	6,350	12
Chingleput	1	1	2	2	46,237	19,366	42
Tiruvallur	1	1	2	3	57,029	21,033	37
Ranipet	1	1	3	4	53,632	10,370	19
Tiruvannamalai	1	1	3	4	67,861	16,705	25
Tindivanam	1	1	3	4	63,485	19,500	31
Chidambaram	1	1	3	1	68,713	19,947	29
Tirukkoyilur	1	1	2	2	75,874	22,986	30
Tanjore	1	1	1	1	78,874	14,718	19
Mannargudi	1	1	3	4	45,283	11,767	26
Ariyalur	1	1	2	3	85,125	16,076	19
Palni	1	1	1	2	60,453	11,400	19
Sattur	1	1	2	2	58,648	6,843	12
Koilpatti	1	1	2	3	59,101	12,526	21
Pollachi	1	1	2	4	39,239	12,919	32
Namakal	1	1	2	2	43,437	14,561	34
Coondapur	1	1	2	3	35,679	8,843	25
Malappuram	1	1	2	3	47,299	10,355	22

Appendix XIV (2) Bombay

Name of Constituency	Total Number of Seats in the Constituency		Total Number of Candidates		Total Number of Voters in the Constituency		
	For General	For Scheduled Castes	For General Seat	For Scheduled Caste Seat	General	Scheduled Castes	Percentage of Scheduled Caste Voters to General
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Bombay City North and Bombay Suburban District	2	1	6	4	61,831	9,880	16
Bombay City (Byculla and Parel)	2	1	4	3	71,100	10,486	15
Kaira District	3	1	4	1	92,388	6,231	7
Surat District	3	1	6	4	51,711	3,929	8
Thana, South	2	1	3	3	42,003	2,263	5
Ahmednagar South	2	1	4	3	36,065	4,814	13
East Khandesh, East	3	1	7	4	56,733	4,842	9
Nasik, West	3	1	7	2	44,517	8,881	20
Poona, West	2	1	4	2	43,147	7,206	17
Satara, North	3	1	5	4	57,839	6,692	12
Sholapur, North East	2	1	6	4	36,210	6,741	19
Belgaum, North	3	1	6	4	49,507	12,493	25
Bijapur, North	2	1	4	4	42,301	7,525	18
Kolaba District	3	1	7	3	59,490	4,804	8
Ratnagiri, North	3	1	8	3	21,908	3,961	18

Appendix XIV (3) Bengal

Name of Constituency	Total Number of Seats in the Constituency		Total Number of Candidates		Total Number of Voters in the Constituency		
	For General	For Scheduled Castes	For General Seat	For Scheduled Caste Seat	General	Scheduled Castes	Percentage of Scheduled Caste Voters to General
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Burdwan, Central	1	1	2	3	35,294	14,450	41
Burzdwan, North West	1	1	2	3	41,817	8,693	21
Birbhum	1	1	3	3	52,569	18,506	35
Bankura, West	1	1	1	4	44,115	19,272	44
Midnapur, Central	1	1	2	2	75,903	19,664	26
Jhargram-cum-Ghatal	1	1	2	4	40,596	9,917	24
Hooghly, North East	1	1	3	3	35,500	12,254	35
Howrah	1	1	2	3	68,526	22,470	33
24-Parganas, South East	1	1	3	3	29,342,	37,556	128
24-Parganas, North West	1	1	2	4	42,214	24,404	58
Nadia	1	1	2	4	53,247	20,957	39
Murshidabad	1	1	2	3	46,122	11,692	25
Jessore	1	1	4	2	50,966	43,425	85
Khulna	1	2	3	6	41,639	54,530	131
Malda	1	1	2	4	30,916	22,728	74
Dinajpur	1	2	1	2	25,985	89,880	346
Jalpaiguri-cum-Siliguri	1	2	3	8	9,074	54,657	602
Rangpur	1	2	2	5	21,497	68,759	320
Bogra-cum-Pabna	1	1	3	4	41,539	31,459	76
Dacca, East	1	1	2	4	38,810	36,749	95
Mymensingh, West	1	1	2	4	47,974	30,036	63
Mymensingh, East	1	1	2	4	42,237	29,745	70
Faridpur	1	2	2	8	63,532	73,946	116
Bakarganj, South West	1	1	1	4	23,477	37,895	161
Tippera	1	1	3	4	65,898	27,475	41

Appendix XIV (4) U. P.

Name of Constituency	Total Number of Seats in the Constituency		Total Number of Candidates		Total Number of Voters in the Constituency		
	For General	For Scheduled Castes	For General Seat	For Scheduled Caste Seat	General	Scheduled Castes	Percentage of Scheduled Caste Voters to General
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Lucknow City	1	1	3	4	29,133	6,821	23
Cawnpore City	1	1	2	4	49,485	14,462	29
Agra City	1	1	2	4	27,805	6,103	22
Allahabad City	1	1	1	4	27,313	6,503	24
Saharanpur District	1	1	2	2	27,053	3,720	14
Bulandshahr District	1	1	4	3	32,434	4,648	14
Agra District	1	1	3	4	33,230	4,476	13
Mainpuri District	1	1	3	4	41,044	5,356	13
Budaun District	1	1	4	4	32,763	7,558	23
Jalaun District	1	1	2	4	40,862	10,356	25
Mirzapur District	1	1	2	1	26,803	2,969	11
Gorakhpur District	1	1	2	4	25,113	3,697	15
Basti District	1	1	2	1	27,193	4,143	15
Azamgarh District	1	1	3	2	36,541	7,231	20
Almora District	1	1	3	1	93,380	17,809	19
Rae Bareili District	1	1	2	1	38,320	10,829	28
Sitapur District	1	1	3	3	45,130	18,868	42
Fyzabad District	1	1	4	2	48,337	10,035	22
Gonda District	1	1	2	1	47,666	7,428	16
Barabanki District	1	1	2	4	41,957	14,649	35

Appendix XIV (5) Punjab

Name of Constituency	Total Number of Seats in the Constituency		Total Number of Candidates		Total Number of Voters in the Constituency		
	For General	For Scheduled Castes	For General Seat	For Scheduled Caste Seat	General	Scheduled Castes	Percentage of Scheduled Caste Voters to General
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
South East Gurgaon	1	1	4	1	27,177	2,842	10
Karnal, North	1	1	4	3	23,224	2,698	12
Ambala and Simla	1	1	5	3	26,918	7,611	28
Hoshiarpur, West	1	1	2	4	27,589	11,701	42
Jullundur	1	1	2	4	12,967	14,744	114
Ludhiana and Ferozepur	1	1	4	4	20,334	12,299	60
Amritsar and Sialkot	1	1	2	1	21,610	5,374	25
Lyallpur and Jhang	1	1	2	3	13,909	3,805	27

Appendix XIV (6) Bihar

Name of Constituency	Total Number of Seats in the Constituency		Total Number of Candidates		Total Number of Voters in the Constituency		
	For General	For Scheduled Castes	For General Seat	For Scheduled Caste Seat	General	Scheduled Castes	Percentage of Scheduled Caste Voters to General
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
East Bihar	1	1	2	2	23,966	3,944	16
South Gaya	1	1	2	1	35,104	9,675	28
Nawada	1	1	3	2	28,149	7,060	25
East Central Shahabad	1	1	4	1	34,138	6,491	19
West Gopalganj	1	1	3	1	25,419	3,361	13
North Bettiah East	1	1	2	1	22,596	2,985	13
Muzaffarpur Sadr	1	1	2	1	23,007	3,382	15
Darbhanga Sadr	1	1	3	1	22,189	2,018	9
South East Samastipur	1	1	2	1	29,595	2,642	9
South Sadr Monghyr	1	1	3	1	38,772	5,739	15
Madhipura	1	1	2	2	21,251	1,383	6
South West Purnea	1	1	2	2	33,071	2,440	7
Giridih-cum-Chatra	1	1	2	1	39,670	4,528	11
North East Palamau	1	1	2	2	13,853	4,174	30
Central Manbhum	1	1	2	2	22,930	5,075	22

Appendix XIV (7) C. P. & Bebar

Name of Constituency	Total Number of Seats in the Constituency		Total Number of Candidates		Total Number of Voters in the Constituency		
	For General	For Scheduled Castes	For General Seat	For Scheduled Caste Seat	General	Scheduled Castes	Percentage of Scheduled Caste Voters to General
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Nagpur City	1	1	2	4	34,816	8,574	24
Nagpur-Umrer	1	1	3	4	20,795	5,451	26
Hinganghat-Wardha	1	1	3	4	25,275	3,088	12
Chanda-Brahmapuri	1	1	3	4	21,747	4,582	21
Chhindwara-Sausar	1	1	3	4	32,040	3,929	12
Jubbulpore Patan	1	1	3	4	23,667	1,519	6
Saugor-Khurai	1	1	3	2	23,487	4,679	20
Damoh-Hatta	1	1	3	2	29,069	3,461	12
Narsinghpur-Gadarwara	1	1	4	2	31,873	1,927	6
Raipur	1	1	2	2	20,209	10,885	54
Baloda Bazar	1	1	2	3	27,045	14,386	53
Bilaspur	1	1	2	3	22,343	10,963	49
Mungeli	1	1	2	3	17,412	10,032	58
Jangir	1	1	2	3	28,303	13,641	48
Drug	1	1	3	1	23,493	8,663	37
Bhandara-Sakoli	1	1	2	4	68,889	8,591	13
Ellichpur-Daryapur-Melghat	1	1	3	4	21,862	2,183	10
Akola-Balapur	1	1	3	4	20,529	2,761	13
Yeotmal-Darwha	1	1	3	3	31,052	1,954	6
Chikhli-Mehkar	1	1	5	3	28,971	2,792	10

Appendix XIV (8) Assam

Name of Constituency	Total Number of Seats in the Constituency		Total Number of Candidates		Total Number of Voters in the Constituency		
	For General	For Scheduled Castes	For General Seat	For Scheduled Caste Seat	General	Scheduled Castes	Percentage of Scheduled Caste Voters to General
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Kamrup Sadr (South), General	2	1	2	4	17,501	1,203	7
Nowgong (North East), General	1	1	3	4	13,173	1,825	14
Jorhat (North), General	1	1	6	2	12,785	657	5
Sunamganj, General	1	1	2	1	15,907	6,502	41
Habiganj (North), General	1	1	3	3	12,628	7,615	60
Karimganj (East), General	1	1	4	2	9,611	7,323	76
Silchar, General	1	1	2	3	15,459	1,587	10

Appendix XIV (9) Orissa

Name of Constituency	*Total Number of Seats in the Constituency*		*Total Number of Candidates*		*Total Number of Voters in the Constituency*		
	For General	*For Scheduled Castes*	*For General Sea*	*For Scheduled Caste Seat*	*General*	*Scheduled Castes*	*Percentage of Scheduled Caste Voters to General*
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
North- Cuttack Sadr	1	1	2	1	17,288	4,159	24
East Jajpur	1	1	3	2	15,338	4,808	31
North Puri Sadr	1	1	4	2	13,803	3,182	23
East Bargarh	1	1	3	1	22,849	1,237	5
West Bhadrak	1	1	2	3	16,187	5,152	32
Aska-Surada	1	1	2	4	24,914	1,475	6

Appendix XV

Particulars regarding Election to seats reserved for Scheduled Castes Province by Province :

Appendix XV:		(1) Madras
”	”	(2) Bombay
”	”	(3) Bengal
”	”	(4) U. P.
”	”	(5) Punjab
”	”	(6) Bihar
”	”	(7) C. P. & Berar
”	”	(8) Assam
”	”	(9) Orissa

N.B.—All figures except those in column 8 are actuals. Those in column 8 are calculated as actuals are not obtainable. They are calculated on the assumption that the percentage of Scheduled Caste Voters and of Hindu Voters who went to the polls was the same. How far the assumption is justified, it is not possible to say

Appendix XV (1) Madras

Name of Constituency	Contested or Uncontested	Party Ticket of Successful Candidate	Distribution of Votes Polled by Successful Candidate			Votes Polled by Unsuccessful Candidates	Total Scheduled-Caste Votes Polled
			Scheduled-Caste Votes	Hindu Votes	Total		
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Madras City (South Central)	Unopposed	Non-Congress	—	—	—	—	—
Chicacole	Contested	Congress	2,380	5,259	7,639	4,036	6,416
Amalapuram	Contested	Congress	9,742	Nil	9,742	5,523	29,111
Cocanada	Unopposed	Congress	—	—	—	—	—
Ellore	Contested	Congress	7,532	6,796	14,328	4,848	12,380
Bandar	Contested	Congress	9,935	Nil	9,935	2,004	18,393
Ongole	Contested	Congress	6,513	Nil	6,513	3,807	11,973
Gudur	Contested	Congress	4,293	344	4,637	4,778	9,072
Cuddappah	Contested	Congress	8,284	344	8,628	4,047	12,331
Penukonda	Contested	Congress	4,731	Nil	4,731	1,749	9,801
Bellary	Contested	Congress	4,019	Nil	4,019	910	8,124
Kurnool	Contested	Congress	5,362	Nil	5,362	5,929	13,164
Tiruttani	Contested	Congress	4,966	Nil	4,966	741	8,128
Chingleput	Contested	Nan-Congress	12,360	Nil	12,360	6,110	22,852
Tiruvallur	Contested	Congress	3,107	6,216	9,323	14,140	17,247
Ranipet	Contested	Non-Congress	2,969	Nil	2,969	4,000	8,296
Tirnvannamalai	Contested	Congress	3,342	Nil	3,342	4,938	12,696
Tindivanam	Contested	Congress	6,396	Nil	6,396	2,541	12,480
Chidambaram	Unopposed	Non-Congress	—	—	—	—	—
Tirukkoyilur	Contested	Congress	9,957	4,436	14,393	6,133	16,090
Tanjore	Unopposed	Congress	—	—	—	—	—
Mannargudi	Contested	Congress	2,294	20,494	22,788	8,296	10,590
Ariyalur	Contested	Congress	1,208	10,084	11,292	8,759	9,967
Palni	Contested	Congress	1,469	29,436	30,905	10,615	12,084
Sattur	Contested	Congress	Nil	18,514	18,514	11,894	6,980
Koilpatti	Contested	Congress	4,199	6,284	10,483	811	5,010
Pollachi	Contested	Congress	9,703	Nil	9,703	2,217	15,244
Namakal	Contested	Congress	8,141	8,153	16,294	3,217	11,358
Coondapur	Contested	Congress	1,425	Nil	1,425	1,798	11,673
Malappuram	Contested	Congress	7,154	Nil	7,154	2,606	10,148
Total of Scheduled-Caste Votes secured by Congress Candidates			126,152			Total ...	321,616

Total of Scheduled-Caste Votes	321,616
Total of Scheduled-Caste Votes secured by Congress Candidates	126,152
Scheduled Caste Votes secured by Non-Congress Candidates	195,464

Appendix XV (2) Bombay

Name of Constituency	Contested or Uncontested	Party Ticket of Successful Candidate	Distribution of Votes Polled by Successful Candidate			Votes Polled by Unsuccessful Candidates	Total Scheduled Caste Votes
			Scheduled-Caste Votes	Hindu Votes	Total		
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Bombay City North & Bombay Suburban District	Contested	Congress	2,414	15,004	17,418	9,738	12,152
Bombay City (Byculla & Parel)	Contested	Non-Congress	8,494	4,751-	13,245	11,662	8,494
Kaira District	Unopposed	Congress	—	—	—	—	—
Surat District	Contested	Congress	7,913	Nil	7,913	7,245	12,101
Thana South	Contested	Non-Congress	4,006	227	4,223	2,733	4,006
Ahmednagar, South	Contested	Non-Congress	6,499	296	6,795	1,976	6,499
East Khandesh, East	Contested	Non-Congress	9,519	Nil	9,519	4,689	10,846
Nasik, West	Contested	Non-Congress	16,605	Nil	16,605	5,679	18,472
Poona, West	Contested	Non-Congress	9,512	2,599	12,111	532	9,512
Satara, North	Contested	Non-Congress	6,736	Nil	6,736	10,984	11,243
Sholapur, North East	Contested	Non-Congress	7,622	Nil	7,622	2,891	9,303
Belgaum, North	Contested	Non-Congress	21,322	Nil	21,322	6,596	36,979
Bijapur, North	Contested	Non-Congress	4,566	Nil	4,566	4,423	11,965
Kolaba District	Contested	Congress	2,644	4,781	7,425	8,117	10,761
Ratnagiri, North	Contested	Non-Congress	5,523	Nil	5,523	not known	8,714
Total of Seheduled-Caste Votes secured by Congress Candidates			12,971			Total ...	171,047

Total of Scheduled-Caste Votes	171,047
Total of Scheduled-Caste Votes secured by Congress Candidates	12,971
Scheduled-Caste Votes secured by Non-Congress Candidates	158,076

Appendix XV (3) Bengal

Name of Constituency	Contested or Uncontested	Party Ticket of Successful Candidate	Distribution of Votes Polled by Successful Candidate			Votes Polled by Unsuccessful Candidates	Total Scheduled-Caste Votes Polled
			Scheduled-Caste Votes	Hindu Votes	Total		
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Burdwan, Central	Contested	Non-Congress	2,383	*Nil*	2,383	2,728	17,918
Burdwan, North West	Contested	Non-Congress	2,332	*Nil*	2,332	2,506	9,388
Birbhum	Contested	Non-Congress	4,832	*Nil*	4,832	848	18,876
Bankura, West	Contested	Congress	5,100	4,501	9,601	1,838	6,938
Midnapur, Central	Contested	Non-Congress	1,851	*Nil*	1,851	1,733	16,124
Jhargram-cum-Ghatal	Contested	Congress	1,171	Nil	1,171	869	11,305
Hoogly, North East	Contested	Congress	1,638	*Nil*	1,638	1,613	11,764
Howrah	Contested	Non-Congress	10,373	*Nil*	10,373	5,986	14,380
24-Parganas, South East	Contested	Non-Congress	7,289	*Nil*	7,289	745	27,791
24-Parganas, North West	Contested	Congress	14,964	*Nil*	14,964	2,361	20,987
Nadia	Contested	Non-Congress	5,219	*Nil*	5,219	8,967	20,957
Murshidabad	Contested	Non-Congress	2,529	*Nil*	2,529	2,129	10,522
Jessore	Contested	Congress	20,198	15	20,213	11,936	32,134
Khulna	Contested	Congress Non-Congress	16,575 32,662	*Nil* *Nil*	16,575 32,662	20,307	76,887
Malda	Contested	Non-Congress	2,229	*Nil*	2,229	1,413	21,364
Dinajpur	Unopposed	Non-Congress Non-Congress	— —	— —	— —	— —	— —
Jalpaiguri-cum-Saliguri	Contested	Non-Congress Non-Congress	16,244 7261	*Nil* *Nil*	16,244 7,261	19,513	49,191
Rangpur	Contested	Non-Congress Non-Congress	12,212 11,914	Nil Nil	12,212 11,914	17,345	53,632
Bogra-cum-Pabna	Contested	Non-Congress	10,502	*Nil*	10,502	9,920	27,054
Dacca, East	Contested	Non-Congress	17,413	*Nil*	17,413	12,062	30,869
Mymensingh, West	Contested	Non-Congress	11,822	*Nil*	11,822	8,987	21,025
Mymensingh, East	Contested	Non-Congress	10,720	*Nil*	10,720	16,509	31,530
Faridpur	Contested	Non-Congress Non-Congress	27,342 25,924	*Nil* *Nil*	27,342 25,924	57,699	97,608
Bakarganj, Soutt West	Contested	Non-Congress	10,515	*Nil*	10,515	18,801	26,526
Tippera	Contested	Non-Congress	19,388	*Nil*	19,388	8,017	29,673
Total of Scheduled-Caste Votes secured by Congress Candidates			59,646			Total ...	684,443

Total of Scheduled-Caste Votes	684,443
Total of Scheduled-Caste Votes secured by Congress Candidates	59,646
Scheduled-Caste Votes secured by Non-Congress Candidates	624,797

Appendix XV (4) U. P.

Name of Constituency	Contested or Uncontested	Party Ticket of Successful Candidate	Distribution of Votes Polled by Successful Candidate			Votes Polled by Unsuccessful Candidates	Total Scheduled-Caste Votes Polled
			Scheduled-Caste Votes	Hindu Votes	Total		
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Lncknow City	Contested	Congress	1,910	2,327	4,237	4,092	6,002
Cawnpore City	Contested	Congress	4,483	4,901	9,384	1,301	5,784
Agra City	Contested	Congress	1,018	4,389	5,407	3,132	4,150
Allahabad City	Contested	Congress	385	9,285	9,670	4037	4,422
Saharanpnr District	Contested	Congress	3,252	Nil	3,252	648	5,282
Bulandshahr District	Contested	Congress	3,853	547	4,400	2,365	6,228
Agra District	Contested	Non-Congress	1,851	Nil	1,851	2,513	5,550
Mainpuri District	Contested	Congress	2,317	932	3,249	4,431	6,748
Budaun District	Contested	Congress	1,557	Nil	1,557	2,676	9,070
Jalaun District	Contested	Congress	3,791	Nil	3,791	4,840	12,428
Mirzapur District	Unopposed	Congress	—	—	—	—	—
Gorakhpur District	Contested	Congress	2,762	Nil	2,762	819	4,954
Basti District	Unopposed	Congress	—	—	—	—	—
Azamgarh District	Contested	Congress	949	Nil	949	196	9,256
Almora District	Unopposed	Non-Congress	—	—	—	—	—
Rae Bareili District	Unopposed	Non-Congress	—	—	—	—	—
Sitapur District	Contested	Congress	12,535	Nil	12,535	955	20,000
Fyzabad District	Contested	Congress	5,771	Nil	5,771	22	13,848
Gonda District	Unopposed	Non-Congress	—	—	—	—	—
Barabanki District	Contested	Congress	8,026	Nil	8,026	7,283	18,458
Total of Scheduled-Caste Votes secured by Congress Candidates			52,609			Total ...	132,180

Total of Scheduled-Caste Votes	132,180
Scheduled-Caste Votes secured by Congress Candidates	52,609
Scheduled-Caste Votes secured by Non-Congress Candidates	79,571

Appendix XV (5) Punjab

Name of Constituency	Contested or Uncontested	Party Ticket of Successful Candidate	Distribution of Votes Polled by Successful Candidate			Votes Polled by Unsuccessful Candidates	Total Scheduled Caste Votes Polled
			Scheduled-Caste Votes	Hindu Votes	Total		
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
South East Gurgaon	Unopposed	Non-Congress	—	—	—	—	—
Karnal, North	Contested	Non-Congress	3,318	*Nil*	3,318	1,299	3,777
Ambala and Simla	Contested	Non-Congress	5,237	*Nil*	5,237	4,911	10,960
Hoshiarpur, West	Contested	Non-Congress	8,599	*Nil*	8,599	14,640	11,701
Jullundur	Contested	Non-Congress	13,135	*Nil*	13,135	9,176	20,347
Ludhiana Ferozepur	Contested	Non-Congress	7,258	*Nil*	7,258	6,024	16,481
Amritsar and Sialkot	Unopposed	Non-Congress	—	—	—	—	—
Lyallpur and Jhang	Contested	Non-Congress	2,903	*Nil*	2,903	2,143	5,860
... ...						Total ...	69,126

Total of Scheduled-Caste Votes	69,126
Total of Scheduled-Caste Votes secured by Congress Candidates	*Nil*
Scheduled-Caste Votes secured by Non-Congress Candidates	69,126

Appendix XV (6) Bihar

Name of Constituency	*Contested or Uncontested*	*Party Ticket of Successful Candidate*	*Distribution of Votes Polled by Successful Candidate*			*Votes Polled by Unsuccessful Candidates*	*Total Scheduled Caste Votes*
			Scheduled Caste Votes	*Hindu Votes*	*Total*		
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
East Bihar	Contested	Non-Congress	2,471	*Nil*	2,471	519	5,443
South Gaya	Unopposed	Congress	—	—	—	—	—
N wada	Contested	Congress	3,079	*Nil*	3,079	1,629	10,449
East Central Shahabad ...	Unopposed	Non-Congress	—	—	—	—	—
West Gopalganj	Unopposed	Non-Congress	—	—	—	—	—
North Bettiah	Unopposed	Congress	—	—	—	—	—
East Muzaffarpur Sadr	Unopposed	Congress	—	—	—	—	—
Darbhanga Sadr	Unopposed	Congress	—	—	—	—	—
South East Samastipur	Unopposed	Congress	—	—	—	—	—
South Sadr Monghyr	Unopposed	Congress	—	—	—	—	—
Madhipura	Contested	Congress	70	1,688	1,75	1,700	1,770
South West Purnea	Contested	Congress	2,040	2,878	4,918	1,669	3,709
Girdih-cum-Chatra	Unopposed	Congress	—	—	—	—	—
North East-Palamau	Contested	Congress	3,465	3,419	6,884	626	4,091
Central Manbhum	Contested	Non-Congress	2,539	*Nil*	2,539	1,973	5,379
Total of Seheduled-Caste Votes secured by Congress Candidates			8,654			Total ...	30,841

Total of Scheduled-Caste Votes	30,811
Total of Scheduled-Caste Votes secured by Congress Candidates	8,654
Scheduled-Caste Votes secured by Non-Congress Candidates	22,187

Appendix XV (7) C. P. & Berar

Name of Constituency	Contested or Uncontested	Party Ticket of Successful Candidate	Distribution of Votes Polled by Successful Candidate			Votes Polled by Unsuccessful Candidates	Total Scheduled-Caste Votes
			Scheduled Caste Votes	Hindu Votes	Total		
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Nagpur City	Contested	Non-Congress	7,796	*Nil*	7,796	3,787	9,088
Nagpur-Umrer	Contested	Non-Congress	3,667	*Nil*	3,667	2,774	6,323
Hinganghat-Wardha	Contested	Non-Congress	2,964	262	3,226	3,093	2,964
Chanda Brahmapuri	Contested	Non-Congress	5,133	*Nil*	5,133	1,764	5,590
Chhindwara-Sausar	Contested	Non-Congress	1,477	*Nil*	1,477	4,035	4,400
Jubbulpur-Patan	Contested	Congress	473	2,017	2,490	1,198	1,671
Saugor-Khurai	Contested	Congress	2,986	*Nil*	2,986	1,417	5,147
Damoh-Hatta	Contested	Congress	3,056	259	3,315	958	4,014
Narsinghpur-Gadarwara	Contested	Congress	1,023	95	1,118	480	1,503
Raipur	Contested	Congress	3,856	*Nil*	3,856	1,332	9,361
Baloda Bazar	Contested	Congress	8,113	*Nil*	8,113	4,451	17,551
Bilaspur	Contested	Non-Congress	1,900	*Nil*	1,900	1,655	15,348
Mungeli	Contested	Non-Congress	5,357	*Nil*	5,357	4,730	14,045
Jangir	Contested	Non-Congress	2,411	*Nil*	2,411	3,299	17,188
Drug	Unopposed	Congress	—	—	—	—	—
Bhandara-Sakoli	Contested	Non-Congress	7,916	*Nil*	7,916	5,197	0,309
Ellichpur-Daryapur-Melghat ...	Contested	Non-Congress	1,697	*Nil*	1,697	3,086	2,532
Akola-Balapur	Contested	Non-Congress	1,823	*Nil*	1,823	1,726	3,203
Yeotmal Darwha	Contested	Non-Congress	1,150	*Nil*	1,150	864	1,329
Chikhli-Mehkar	Contested	Non-Congress	2,194	*Nil*	2,194	2,164	3,295
Total of Scheduled-Caste Votes secured by Congress Candidates			19,507			Total ...	134,861

Total of Scheduled Caste Votes	134,861
Total of Scheduled-Caste Votes secured by Congress Candidates	19,507
Scheduled-Caste Votes secured by Non-Congress Candidates	115,354

APPENDIX XV (8) ASSAM

Name of Constituency	*Contested or Uncontested*	*Party Ticket of Successful Candidate*	*Distribution of Votes Polled by Successful Candidate*			*Votes Polled by Unsuccessful Candidates*	*Total Scheduled Caste Vote Polled*
			Scheduled-Caste Votes	*Hindu Votes*	*Total*		
(1)	(2)	(3)	(4)	(5)	(61	(7)	(8)
Kamrup Sadr (South), General	Contested	Congress	*Nil*	4,832	4,832	3,665	1,841
Nowgong (North East), General	Contested	Non- Congress	1,596	*Nil*	1,596	3,045	2,226
Jorhat (North), General ...	Contested	Congress	457	495	952	371	828
Sunamganj, General	Unopposed	Congress	—	—	—	—	—
Habiganj (North), General ...	Contested	Congress	4,863	*Nil*	4,863	4,397	10,356
Karimganj (East), General ...	Contested	Non-Congress	3,252	*Nil*	3,252	1,119	10,252
Silchar, General	Contested	Non-Congress	2,108	*Nil*	2,108	2,197	2,254
Total of Scheduled-Caste Votes secured by Congress Candidates			5,320			Total ...	27,757

Total of Scheduled Caste Votes	27,757
Total of Scheduled-Caste Votes secured by Congress Candidates	5,320
Scheduled-Caste Votes secured by Non-Congress Candidates	22,437

Appendix XV (9) Orissa

Name of Constituency	*Contested or Uncontested*	*Party Ticket of Successful Candidate*	*Distribution of Votes Polled by Successful Candidate*			*Votes Potted by Unsuccessful Candidates*	*Total Scheduled-Caste Votes Polled*
			Scheduled-Caste Votes	*Hindu Votes*	*Total*		
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
North Cuttack Sadr	Unopposed	Non-Congress	—	—	—	—	—
East Jajpur	Contested	Congress	958	*Nil*	958	571	4,808
North Puri Sadr	Contested	Congress	3,416	602	4,018	339	3,755
East Bargarh	Unopposed	Non-Congress	—	—	—	—	—
West Bhadrak	Contested	Congress	1,504	*Nil*	1,504	734	5,049
Aska Surada	Contested	Congress	*Nil*	917	917	1,402	973
Total of Scheduled-Caste Votes secured by Congress Candidates			5,878			Total ...	14,585

Total of Scheduled-Caste Votes	14,585
Total of Scheduled-Caste Votes scoured by Congress Candidates	5,878
Scheduled-Caste Votes secured by Non-Congress Candidates	8,707

Appendix XVI

THE WAVELL PLAN

(*i*) *White Paper presented to Parliament on 14th June 1945 by the Secretary of State for India, containing His Majesty's Government's Proposal relating to the Government of India.*

1. During the recent visit of Field-Marshal Viscount Wavell to this country His Majesty's Government reviewed with him a number of problems and discussed particularly the present political situation in India.

2. Members will be aware that since the offer by His Majesty's Government to India in March 1942 there has been no further progress towards the solution of the Indian constitutional problem.

3. As was then stated, the working out of India's new constitutional system is a task which can only be carried through by the Indian peoples themselves.

4. While His Majesty's Government are at all times most anxious to do their utmost to assist the Indians in the working out of a new constitutional settlement, it would be a contradiction in terms to-speak of the imposition by this country of self-governing institutions upon an unwilling India. Such a thing is not possible, nor could we accept the responsibility for enforcing such institutions at the very time when we were, by its purpose, withdrawing from all control of British Indian affairs.

5. The main constitutional position remains therefore as it was. The offer of March 1942 stands in its entirety without change or qualification. His Majesty's Government still hope that the political leaders in India may be able to come to an agreement as to the procedure whereby India's permanent future form of government can be determined.

6. His Majesty's Government are, however, most anxious to make any contribution that is practicable to the breaking of the political deadlock in India. While that deadlock lasts not only political but social and economic progress is being hampered.

7. The Indian administration, over-burdened with the great tasks laid upon it by the war against Japan and by the planning for the post-war period, is further strained by the political tension that exists.

8. All that is so urgently required to be done for agricultural and industrial development and for the peasants and workers of

India cannot be carried through unless the whole-hearted co-operation of every community and section of the Indian people is forthcoming.

9. His Majesty's Government have therefore considered whether there is something which they could suggest in this interim period, under the existing constitution, pending the formulation by Indians of their future constitutional arrangements, which would enable the main communities and parties to co-operate more closely together and with the British to the benefit of the people of India as a whole.

10. It is not the intention of His Majesty's Government to introduce any change contrary to the wishes of the major Indian communities. But they are willing to make possible some step forward during the interim period if the leaders of the principal Indian parties are prepared to agree to their suggestions and to co-operate in the successful conclusion of the war against Japan as well as in the reconstruction in India which must follow the final victory.

11. To this end they would be prepared to see an important change in the composition of the Viceroy's Executive. This is possible without making any change in the existing statute law except for one amendment to the Ninth Schedule to the Act of 1935. That Schedule contains a provision that not less than three members of the Executive must have had at least 10 years' service under the Crown in India. If the proposals I am about to lay before the House meet with acceptance in India, that clause would have to be amended to dispense with that requirement.

12. It is proposed that the Executive Council should be reconstituted and that the Viceroy should in future make his selection for nomination to the Crown for appointment to his Executive from amongst leaders of Indian political life at the Centre and in the Provinces, in proportions which would give a balanced representation of the main communities, including equal proportions of Moslems and Caste Hindus.

13. In order to pursue this object, the Viceroy will call into conference a number of leading Indian politicians who are the heads of the most important parties or who have had recent experience as Prime Ministers of Provinces, together with a few others of special experience and authority. The Viceroy intends to put before this conference the proposal that the Executive Council should be reconstituted as above stated and to invite from the members of the conference a list of names. Out of these he would hope to be able to choose the future members whom he would recommend for appointment by His Majesty to the Viceroy's Council, although the responsibility for the recommendations must of course continue to rest with him, and his freedom of choice therefore remains unrestricted.

14. The members of his Council who are chosen as a result of this arrangement would of course accept the position on the basis that they would whole-heartedly co-operate in supporting and carrying through the war against Japan to its victorious conclusion.

15. The members of the Executive would be Indians with the exception of the Viceroy and the Commander-in-Chief, who would retain his position as War Member. This is essential so long as the defence of India remains a British responsibility.

16. Nothing contained in any of these proposals will affect the relations of the Crown with the Indian States through the Viceroy as Crown Representative.

17. The Viceroy has been authorised by His Majesty's Government to place this proposal before the Indian Leaders. His Majesty's Government trust that the leaders of the Indian communities will respond. For the success of such a plan must depend upon its acceptance in India and the degree to which responsible Indian politicians are prepared to co-operate with the object of making it a workable interim arrangement. In the absence of such general acceptance existing arrangements must necessarily continue.

18. If such co-operation can be achieved at the Centre it will no doubt be reflected in the Provinces and so enable responsible Governments to be set up once again in those Provinces where, owing to the withdrawal of the majority party from participation, it became necessary to put into force the powers of the Governors under Section 93 of the Act of 1935. It is to be hoped that in all the Provinces these Governments would be based on the participation of the main parties, thus smoothing out communal differences and allowing Ministers to concentrate upon their very heavy administrative tasks.

19. There is one further change which, if these proposals are accepted, His Majesty's Government suggest should follow.

20. That is, that External Affairs (other than those tribal and frontier matters which fall to be dealt with as part of the defence of India) should be placed in the charge of an Indian Member of the Viceroy's Executive so far as British India is concerned, and that fully accredited representatives shall be appointed for the representation of India abroad.

21. By their acceptance of and co-operation in this scheme the Indian leaders will not only be able to make their immediate contribution to the direction of Indian affairs, but it is also to be hoped that their experience of co-operation in government will expedite agreement between them as to the method of working out the new constitutional arrangements.

22. His Majesty's Government consider, after the most careful study of the question, that the plan now suggested gives the utmost progress practicable within the present constitution. None of the changes suggested will in any way prejudice or prejudge the essential form of the future permanent constitution or constitutions for India.

23. His Majesty's Government feel certain that given goodwill and a genuine desire to co-operate on all sides, both British and Indian, these proposals can mark a genuine step forward in the collaboration of the British and Indian peoples towards Indian self-government and can assert the rightful position, and strengthen the influence, of India in the counsels of the nations.

(ii) Broadcast Speech by His Excellency the Viceroy at New Delhi on 14th June 1945.

I have been authorised by His Majesty's Government to place before Indian political leaders proposals designed to ease the present political situation and to advance India towards her goal of full self-government. These proposals are at the present moment being explained to Parliament by the Secretary of State for India. My intention in this broadcast is to explain to you the proposals, the ideas underlying them, and the method by which I hope to put them into effect.

This is not an attempt to obtain or impose a constitutional settlement. His Majesty's Government had hoped that the leaders of the Indian parties would agree amongst themselves on a settlement of the communal issue, which is the main stumbling-block; but this hope has not been fulfilled.

In the meantime, India has great opportunities to be taken and great problems to be solved, which require a common effort by the leading men of all parties. I therefore propose, with the full support of His Majesty's Government, to invite Indian leaders both of Central and Provincial politics to take counsel with me with a view to the formation of a new Executive Council more representative of organised political opinion. The proposed new Council would represent the main communities and would include equal proportions of Caste Hindus and Moslems. It would work, if formed, under the existing Constitution. But it would be an entirely Indian Council, except for the Viceroy and the Commander-in-Chief, who would retain his position as War Member. It is also proposed that the portfolio of External Affairs, which has hitherto been held by the Viceroy, should be placed in charge of an Indian Member of Council, so far as the interests of British India are concerned.

A further step proposed by His Majesty's Government is the appointment of a British High Commissioner in India, as in the

Dominions, to represent Great Britain's Commercial and other such interests in India.

Such a new Executive Council will, you realise, represent a definite advance on the road to self-government. It will be almost entirely Indian, and the Finance and Home Members will for the first time be Indians, while an Indian will also be charged with the management of India's Foreign Affairs. Moreover Members will now be selected by the Governor-General after consultation with political leaders; though their appointment will of course be subject to the approval of His Majesty the King-Emperor.

The Council will work within the framework of the present constitution ; and there can be no question of the Governor-General agreeing not to exercise his constitutional power of control; but it will of course not be exercised unreasonably.

I should make it clear that the formation of this interim Government will in no way prejudice the final constitutional settlement.

The main tasks for this New Executive Council would be :

First, to prosecute the war against Japan with the utmost energy till Japan is utterly defeated.

Secondly, to carry on the Government of British India, with all the manifold tasks of post-war development in front of it, until a new permanent constitution can be agreed upon and come into force.

Thirdly, to consider, when the Members of the Goverment think it possible, the means by which such agreement can be achieved. The third task is most important. I want to make it quite clear that neither I nor His Majesty's Government have lost sight of the need for a long-term solution, and that the present proposals are intended to make a long-term solution easier.

I have considered the best means of forming such a Council; and have decided to invite the following to Viceregal Lodge to advise me:

Those now holding office as Premier in a Provincial Government ; or, for Provinces now under Section 93 Government, those who last held the office of Premier.

The Leader of the Congress Party and the Deputy Leader of the Muslim League in the Central Assembly; the leader of the Congress Party and the Muslim League in the Council of State; also the leaders of the Nationalist Party and the European Group in the Assembly.

Mr. Gandhi and Mr. Jinnah as the recognised leaders of the two main political parties.

Rao Bahadur N. Siva Raj to represent the Scheduled Classes.

Master Tara Singh to represent the Sikhs.

Invitations to these gentlemen are being handed to them today and it is proposed to assemble the Conference on 25th June at Simla where we shall be cooler than at Delhi.

I trust that all those invited will attend the Conference and give me their help. On me and on them will lie a heavy responsibility in this fresh attempt to make progress towards a final settlement of India's future.

If the meeting is successful, I hope that we shall be able to agree on the formation of the new Executive Council at the Centre. I also hope that it will be possible for Ministries to re-assume office and again undertake the tasks of government in the Provinces now administered under Section 93 of the Constitution Act and that these Ministries will be coalitions.

If the meeting should unfortunately fail, we must carry on as at present until the parties are ready to come together. The existing Executive Council, which has done such valuable work for India, will continue it if other arrangements cannot be agreed.

But I have every hope that the meeting will succeed, if the party leaders will approach the problem with the sincere intention of working with me and with each other. I can assure them that there is behind this proposal a most genuine desire on the part of all responsible leaders in the United Kingdom and of the British people as a whole to help India towards her goal. I bel eve that this is more than a step towards that goal, it is a considerable stride forward, and a stride on the right path.

I should make it clear that these proposals affect British India only and do not make any alteration in the relations of the Princes with the Crown Representative.

With the approval of His Majesty's Government, and after consultation with my Council, orders have been given for the immediate release of the members of the Working Committee of Congress who are still in detention. I propose to leave the final decision about the others still under detention as the result of the 1942 disturbances to the new Central Government, if formed, and to the Provincial Governments.

The appropriate time for fresh elections for the Central and Provincial Legislatures will be discussed at the Conference.

Finally, I would ask you all to help in creating the atmosphere of goodwill and mutual confidence that is essential if we are to make progress. The destiny of this great country and of the many millions who live in it depend on the wisdom and good understanding of the leaders, both of action and of thought, British and Indian, at this critical moment of India's history.

India's military reputation never stood higher in the world than it does at present; thanks to the exploits of her sons drawn from all parts of the country. Her representatives at International

conferences have won high regard for their statesmanlike attitude. Sympathy for India's aspirations and progress towards prosperity was never greater or more widespread. We have thus great assets if we can use them wisely. But it will not be easy, it will not be quick ; there is very much to do, there are many pitfalls and dangers. There is on all sides something to forgive and forget.

I believe in the future of India, and as far as in me lies will further her greatness. I ask you all for your co-operation and goodwill.

(*iii*) *Mr. Gandhi's Statement.*

As soon as I read the broadcast, I sent a wire to His Excellency the Viceroy drawing his attention to the fact that I have no *locus standi* as the "recognized representative of the Congress." That function belongs to the President of the Congress or whoever is appointed to represent the Congress on a particular occasion.

For several years, I have acted unofficially as an adviser to the Congress whenever required. The public will remember that I went with the same unrepresentative character for my talks with the Qaid-e-Azam Jinnah, and I can take up no other position with the British Government, in this instance represented by the Viceroy.

There is one aspect of the Viceregal broadcast which certainly offends my ear and, I hope, will offend that of every politically-minded Hindu. I refer to the expression "caste Hindus." I claim that there is no such person, speaking politically, as a "Caste Hindu," let alone the Congress which seeks to represent the whole of India which is yearning after political independence. Does Veer Savarkar or Dr. Syama Prasad Mookerjee of the Hindu Mahasabha represent caste Hindus ? Do they not represent all Hindus without distinction of caste ? Do they not include the so-called untouchables ? Do they themselves claim to be caste Hindus ? I hope not. Of all politically-minded Hindus, I know that even the revered Pandit Malaviyaji, though he observes caste distinction, will refuse to be called a caste Hindu, as distinguished from the other Hindus. Modern tendency in Hinduism is to abolish all caste distinctions and this I maintain in spite of my knowledge of reactionary elements in Hindu society. I can only hope, therefore, that the Viceroy has allowed himself to make use of the expression in utter ignorance. I want to acquit him of knowingly wounding the susceptibilities of the Hindu society or dividing it. I would not have dwelt on this matter but for the fact that it touches the political mind of Hindus in its sensitive spot and carries with it political repercussions.

The proposed conference can do much useful work if it is put in its proper political setting and is at the very outset rendered immune from any fissiparous tendency. Undoubtedly all invitees might

appear as Indians conjointly bent on achieving India's natural goal and not as persons representing several sections of Indian society.

That is how I have viewed the Bhulabhai-Liaquat Ali understanding which I suppose laid the foundations for the forthcoming Viceregal conference. Sri Bhulabhai Desai's proposal has no such colouring as the Viceregal broadcast would seem to have. I am not ashamed of the part I have played in advising Sri Bhulabhai Desai when he consulted me about his proposal. Sri Bhulabhai Desai's proposal, as I understood it, attracted me as one interested in solving the communal tangle, and I assured him that I would use my influence with the members of the Working Committee and give reasons for acceptance of his proposal and I have no doubt that, if both parties to the proposal correctly represent their constituents and have independence of India as their common goal, things must shape well.

At this point, I must stop and the Working Committee has to take up the thread. It is for its members to declare the Congress mind on the impending questions.—*A.P.I.*

●●●

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MR. GANDHI AND THE EMANCIPATION OF THE UNTOUCHABLES

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Mr. GANDHI
AND THE
EMANCIPATION
OF THE
UNTOUCHABLES

By

The Hon'ble Dr. B. R. AMBEDKAR
M. A., Ph. D., D. Sc, Barrister-At-Law
Member, Governor-General's Executive Council.

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PREFACE

In response to the invitation of the Chairman of the Indian section of the Institute of Pacific Relations, I wrote in August last year a Paper on the Problem of the Untouchables of India for the Session of the Conference which was due to be held on December 1942 at Mont' Tramblant in Quebec in Canada. The Paper is printed in the proceedings of the Conference. Ever since it became known that I had written such a Paper, the leaders of the Untouchables and Americans interested in their problem have been pressing me to issue it separately in the form of a book and make it available to the general public. It was not possible to refuse the demand. At the same time I could not without breach of etiquette publish the paper until the proceedings of the Conference were made public. I am now told by the Secretary of the Pacific Relations Conference that the proceedings have been made public and there can be no objection to the publication of my Paper if I desired it. This will explain why the Paper is published nearly 10 months after it was written.

Except for a few verbal alterations the Paper is printed as it was presented to the Conference. The Paper will speak for itself. There is only one thing I would like to add. It is generally agreed among the thoughtful part of humanity that there are three problems which the Peace Conference is expected to tackle. They are (1) Imperialism, (2) Racialism, (3) Anti-semitism and (4) Free Traffic in that merchandise of death popularly called munitions. There is no doubt these are the plague glands in which nation's cruelty to nation and man's inhumanity to man have their origin. There is no doubt that these problems must be tackled if a new and a better world is to emerge from the ashes of this terrible and devastating war. What my fear is that the problem of the Untouchables may be forgotten as it has been so far. That would indeed be a calamity. For the ills which the Untouchables are sufferings if they are not as much advertised as those of the Jews, are not less real. Nor are the means and the methods of suppression

used by the Hindus against the Untouchables less effective because they are less bloody than the ways which the Nazis have adopted against the Jews. The Anti-semitism of the Nazis against the Jews is in no way different in ideology and in effect from the Sanatanism of the Hindus against the Untouchables.

The world owes a duty to the Untouchables as it does to all suppressed people to break their shackles and to set them free. I accepted the invitation to write this Paper because I felt that it was the best opportunity to draw the attention of the world to this problem in comparison to which the problem of the Slaves, the Negroes and the Jews is nothing. I hope the publication of this Paper will serve as a notice to the Peace Conference that this problem will be on the Board of Causes which it will have to hear and decide and also to the Hindus that they will have to answer for it before the bar of the world.

22, Prithviraj Road
New Delhi B. R. AMBEDKAR
1st September 1943.

CHAPTER I

TOTAL POPULATION OF THE UNTOUCHABLES

THE Decennial Census in India was at one time a very simple and innocent operation which interested only the Malthusians. None else took interest in it. Today the Census is a matter of a first rate concern to everybody. Not only the professional politician but the general public in India regards it as a matter of very grave concern. This is so because Politics in India has become a matter of numbers. It is numbers which give political advantage, to one community over another which does not happen anywhere else in the world. The result is that the Census in India is deliberately cooked for securing political advantages which numbers give. In this cooking of the Census the Hindus, the Muslims and the Sikhs have played their part as the chief chefs of the kitchen. The Untouchables and the Christians, who are also interested in their numbers, have no hand in the cooking of the Census, for the simple reason that they have no place in the administrative services of the country which deal with the operations of the Census. On the other hand the Untouchables are the people who are quartered, cooked and served by the Hindus, Muslims and the Sikhs at every Decennial Census. This has happened particularly in the last Census of 1940. The Untouchables of certain parts of the Punjab were subjected to systematic tyranny and oppression by the Sikhs. The object was to compel them to declare in the Census returns that they are Sikhs even though they are not. This reduced the number of the Untouchables and swelled the number of the Sikhs. The Hindus on their part carried on a campaign that nobody should declare his or her caste in the Census return. A particular appeal was made to me Untouchables. It was suggested to them that it is the name of the Caste that proclaims to the world that they are Untouchables and if they did not declare their caste name but merely said that they were Hindus, they would be treated just like

other Hindus and nobody would know that they were really Untouchables. The Untouchables fell a victim to this stratagem and decided not to declare themselves as Untouchables in the Census return but to call themselves merely as Hindus. The result was obvious. It reduced the number of Untouchables, and swelled the ranks of the Hindus. To what extent the cooking of the Census has taken place it is difficult to say. But there can be no doubt that the degree to which cooking was resorted to was considerable. The Census has been cooked all over. But it is the Untouchables who have suffered most from the cooking of the Census. That being so, the Census figure regarding the total population of the Untouchables in British India cannot be accepted as giving a correct total. But one cannot be far wrong if it was said that the present number of the Untouchables in British India is round about 60 million people.

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CHAPTER II

THE IMPORTANCE OF THE UNTOUCHABLES

MOST parts of the world have had their type of what Ward calls the lowly. The Romans had their slaves, the Spartans their helots, the British their villeins, the Americans their Negroes and the Germans their Jews. So the Hindus have their Untouchables. But none of these can be said to have been called upon to face a fate which is worse than the fate which pursues the Untoucables. Slavery, serfdom, villeinage have all vanished. But Untouchability still exists and bids fair to last as long as Hinduism will last. The Untouchable is worse off than a Jew. The sufferings of the Jew are of his own creation. Not so are the sufferings of the Untouchables. They are the result of a cold calculating Hinduism which is not less sure in its effect in producing misery than brute force is. The Jew is despised but is not denied opportunities to grow. The Untouchable is not merely despised but is denied all opportunities to rise. Yet nobody seems to take any notice of the Untouchables–some 60 millions of souls–much less espouse their cause.

If there is any cause of freedom in this Indian turmoil for independence it is the cause of the Untouchables. The cause of the Hindus and the cause of the Mussalmans is not the cause of freedom. Theirs is a Struggle for power as distinguished from freedom. Consequently it has always been a matter of surprise to me that no party and no organisation devoted to the cause of freedom has so far interested itself in the Untouchables. There is the American Weekly called "The Nation". There is the British Weekly called "Statesman". Both are powerful. Both are friends of India's freedom. I would mention the American Labour and British Labour among organized bodies among the supporters of India's freedom. So far as I know none of these have ever championed the cause of the Untouchables. Indeed what they have done is what no lover of freedom would do. They have just identified themselves with the Hindu body calling itself the Indian National Congress.

Now everybody in India, outside the Hindus, knows that whatever may be its title it is beyond question that the Congress is a body of middle class Hindus supported by the Hindu Capitalists whose object is not to make Indians free but to be independent of British control and to occupy places of power now occupied by the British. If the kind of Freedom which the Congress wants was achieved there is no doubt that the Hindus would do to the Untouchables exactly what they have been doing in the past. In the light of this apathy the Indian branch of the Institute of International Affairs may well be congratulated for having invited a paper for submission to the Institute of Pacific Relations, discussing the position of the Untouchables in India in the New Constitution. I must confess that this invitation for a statement on the position of the Untouchables under the new constitution came to me as an agreeable surprise and a great relief and it is because of this, that notwithstanding the many things with which I am preoccupied, I agreed to find time to prepare this paper.

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CHAPTER III

THE POLITICAL DEMANDS OF THE UNTOUCHABLES

THE problem of the Untouchables is an enormous problem. As a matter of fact I have been for some time engaged on a work dealing with this problem which will run into several hundred pages. All that I can do within the limits of this paper is to set out in a brief compass what the nature of the problem is and the solution which the Untouchables have themselves propounded. It seems to me that I cannot do better than begin by drawing attention to the following Resolutions which were passed at the All-India Scheduled Castes* Conference held in the city of Nagpur on the 18th and 19th July 1942 :-

Resolution No. II

CONSENT ESSENTIAL TO CONSTITUTION

"This Conference declares that no constitution will be acceptable to the Scheduled Castes unless,

(i) it has the consent of the Scheduled Castes,

(ii) it recognises the fact that the Scheduled Castes are distinct and separate from the Hindus and constitute an important element in the national life of India, and

(iii) contains within itself provisions which will give to the Scheduled Castes a real sense of security under the new constitution and which are set out in the following resolutions."

*Under the Government of India Act of 1935 the Untouchables are designated as 'Scheduled Castes'.

Resolution No. III

ESSENTIAL PROVISIONS IN THE NEW CONSTITUTION

"For creating this sense of security in the Scheduled Castes; this Conference demands that the following provisions shall be made in the new Constitution :-

(1) That in the budget of every provincial Government an annual sum as may be determined upon by agreement be set apart for promoting the primary education among the children of the Scheduled Castes and another annual sum for promoting advanced education among them, and such sums shall be declared to be the first charge on the revenues of the Province.

(2) That provision shall be made by law for securing representation to the Scheduled Castes in all Executive Governments-Central and Provincial-the proportion of which shall be determined in accordance with their number, their needs and their importance.

(3) That provision shall be made by law for securing representation to the Scheduled Castes in the Public Services the proportion of which shall be fixed in accordance with their number, their needs and their importance. This Conference further insists that in the case of security services such as Judiciary, Police and Revenue, provision shall be made that the proportion fixed for the Scheduled Castes shall, subject to the rule of minimum qualification, be realized within a period of ten years.

(4) That provision shall be made by law for guaranteeing to the Scheduled Castes representation in all Legislatures and Local bodies in accordance with their number, needs and importance.

(5) That provision shall be made by law whereby there presentation of the Scheduled Castes in all Legislatures and Local Bodies shall be by the method of Separate Electorates.

(6) That provision shall be made by law for the representation of the Scheduled Castes on all Public Service Commissions, Central and Provincial."

Resolution No. IV.

SEPARATE SETTLEMENTS

"It is the considered opinion of this conference,

(a) that so long as the Scheduled Castes continue to live on the outskirts of the Hindu village, with no source of livelihood and in small number as compared to Hindus, they will continue to remain Untouchables and subject to the tyranny and oppression of the Hindus and will not be able to enjoy free and full life.

(b) That for the better protection of the Scheduled Castes from the tyranny and oppression of the Caste Hindus, which may take a worse form under Swaraj which cannot but be a Hindu Raj, and

(c) to enable the Scheduled Castes to develop to their fullest manhood, to give them economical and social security as also to pave the way for the removal of untouchability."

This Conference has after long and mature deliberation come to the conclusion that a radical change must be made in the village system now prevalent in India and which is the parent of all the ills from which the Scheduled Castes are suffering for so many centuries at the hands of the Hindus. Realising the necessity of these changes this conference holds that along with the Constitutional changes in the system of Government there must be a change in the village system now prevalent, made along the following lines :

(1) The constitution should provide for the transfer of the Scheduled Castes from their present habitation and form separate Scheduled Caste villages away from and independent of Hindu village.

(2) For the settlemernt of the Scheduled Castes in new villages a provision shall be made by the constitution for the establishment of a Settlement Commission.

(3) All Government land which is cultivable and which is not occupied shall be handed over to the Commission to be held in trust for the purpose of making new settlements of the Scheduled Castes.

(4) The Commission shall be empowered to purchase new land under the Land Acquisition Act from private owners to complete the scheme of settlement of Scheduled Castes.

(5) The constitution shall provide that the Central Government shall grant to the Settlement Commission a minimum sum of Rupees five crores per annum to enable the Commission to carry out their duty in this behalf.

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CHAPTER IV

HINDU OPPOSITION

THE demands set forth in those resolutions fall into three categories (1) Political, (2) Educational and (3) Economic and Social.

Taking the political demands first it is obvious that they ask for three safeguards :–

(1) That the Legislature shall not be merely representative of the people but it shall be representative separately of both categories Hindus as well as Untouchables.

(2) That the Executive shall not be merely responsible to the Legislature, which means to the Hindus, but shall also be responsible both to the Hindus as well as to the Untouchables.

(3) That the administration shall not be merely efficient but shall also be worthy of trust by all sections of the people and also of the Untouchables and shall contain sufficient number of representatives of the Untouchables holding key positions so that the Untouchables may have confidence , in it.

These Political demands of the Untouchables have been the subject matter of great controversy between the Untouchables and the Hindus. Mr. Gandhi, the friend of the Untouchables, preferred to fast unto death rather than consent to them and although he yielded he is not reconciled to the justice underlying these demands. It will be well if I set out at this stage what the Hindu or the Congress Scheme of representative Government is. It is as follows :–

(1) The Legislature to be elected by Constituencies which are to be purely territorial.

(2) The Executive to be drawn solely from the Majority party in the Legislature.

(3) The Administration to be run by a public service based entirely upon considerations of efficiency.

The Hindus of the Congress describe their own pet scheme as a National Scheme and call the scheme put forth by the Untouchables as the Communal Scheme. As I will show, there is no substance in this distinction. It is a case of damning what you do not like by the easy method of giving it a bad and a repelling name. Such tactics can't give strength to a case which is inherently weak. To expose its weakness let me examine the merits of the socalled National Scheme. Before proceeding it might be desirable to note the points of agreement and the points of difference between the two. Both have the same object, inasmuch as both stand for a representative Legislature. The point of difference lies in the method of devising a scheme which will make the Legislature a truly representative Legislature. The so-called national scheme insists upon the territorial constituency as being both proper and sufficient for producing a representative Legislature in India. What is called the Communal Scheme denies that a territorial constitution can produce a truly representative legislature in India in view of the peculiar social structure of the Indian Society as it exists today. The issue can a purely territorial constituency produce a really representative legislature in India ? It is round this issue that the controversy has centered.

The so-called National Scheme of the Hindus generally appeals to the Westerner and he prefers it to the so-called Communal Scheme. This is largely because the Westerner knows and is accustomed only to the system of territorial constituency. But there can be no doubt that this so-called National Scheme is on merits quite unsound and on motives worse than communal.

That it is unsound will be quite obvious to any one who will stop to examine the assumptions which are involved in the alleged efficacy and sufficiency of the territorial constituency. What are these assumptions ? To mention only those which are most important,

(1) It assumes that the majority of voters in a constituency represents the will of the constituency as a whole.

(2) That it is enough to take stock of the general will of the constituency as expressed by the majority and mat the will of any particular section however much it may be in conflict with the will of the majority may be ignored without remorse and without being guilty of any inequity.

(3) That the representative who is elected by the voters will represent the wishes and interests of the voters and that there is not the danger of the representative allowing the interest of his class to dominate and override the interests and wishes of the voter who elects him.

Every one of these assumptions is a false assumption unjustified by any theory and unsupported by experience. The history of Parliamentary Government furnishes abundant proof in support of this assertion and even the history of England tells the same tale. It is wrong to suppose that the majority in all circumstances can be trusted to represent the will of all sections of people in the constituency. As a matter of fact it can never do so to any satisfactory degree. If at all, it can only give a very pale reflection of the general will and even that capacity for pale reflection must depend upon how numerous and varied are the interests which are consciously shared by the different sections of the constituency and how full and free is the intereplay between them. It is obvious that where, as in India, there are no interest which are shared, where there is no full and free interplay and where there are no common cycles of participation for the different sections, one section large or small cannot represent the will of the other. The will of the majority is the will of the majority and nothing more, and no amount of logical ingenuity can alter the fact and to give effect to it is to allow full play to the tyranny of the Majority.

Again it is wrong to suppose that the representative elected to the Legislature will represent the wishes of the voters who elect him and forget or subordinate the interests of the class to which he belongs. The case of the representative is a case of divided loyalties. He is confronted with two-rather with three- conflicting duties (1) a duty to himself, (2) a duty to the class to which he belongs, and (3) a duty to the voters who have elected him. Omitting the first from our consideration it is common experience that the representative prefers the interests of his class to that of his voters. And why should any one expect him to act otherwise ? It is in the nature of things that a man's self should be nearer to him than his constituency. There is a homely saying that man's skin sits closer to him than his shirt. To the members of the Legislature it is true more often than not that his class is his skin

and the constituency is a shirt which it is unnecessary to say is one degree removed than the skin.

The Hindu therefore in relying upon the territorial constituency is seeking to base the political structure of India upon foundations which all political architects have declared to be unsound. The territorial constituency has long since been regarded even in European countries as a discredited piece of political mechanism. In great many European countries the representative system based on territorial constituency has been wound up and repalced by other systems of Government largely because the territorial system of representation produced neither good Government nor efficient Government. In other countries where representative institutions have survived there is an acute discontent with the result produced by the system of territorial constituencies. The proposals for occupational and functional representation, the proposals for referendum and recall all furnish proof, if proof is really wanted, that there is a great body of enlightened and intelligent opinion which is definitely against the system of territorial constituency.

In these circumstances the question as to why the Hindu insists upon a political mechanism which is discredited everywhere excites a certain amount of curiosity. The reason he gives is that it is the only mechanism which is consistent with nationalism. I am not convinced that this is the real explanation. The real explanation to my mind is very different. The Hindu prefers the territorial constituency because he knows that it will enable him to collect and concentrate all political power in the hands of the Hindus, and who can deny that his calculation is incorrect ? In a purely territorial constituency the contest, the Hindu knows, will be between a huge majority of Hindu voters and a small minority of Untouchable voters. Given this fact the Hindu majority - if it is a purely territorial constituency - is bound to win in all constituencies. But the Hindus besides relying upon their majority can also rely upon other factors which cannot but work to strengthen that majority. Those factors have their origin in the peculiar nature of the Hindu Society. The Hindu Social system which places communities one above the other is a factor which is bound to have its efect on the result of voting. By the Hindu Social system the Communities are placed in an ascending scale of reverence and a decending scale of contempt. It needs no prophet

to predict what effect these social attitudes will have on voting. No Caste Hindu will cast a vote in favour of an Untouchable candidate, for to him he is too contemptible a person to go to the Legislature. On the other hand there will be found many voters among the Untouchables who would willingly cast their votes for a Hindu candidate in preference to an Untouchable candidate. That is because he is taught to revere the former more than himself or his Untouchable kinsmen. I am not mentioning the other means which are often resorted to for catching votes of the poor, illiterate, unconscious, unorganised body of voters which the Untouchables are. A combination of all these circumstances is bound to work in the direction of augmenting the representation of the Hindus. Under a system of purely territorial constituencies it is quite certain the Hindus will have assured to them a majority. They can draw for their majority upon themselves as well as upon the Untouchables. It is equally certain that the Untouchables will lose all seats. They must; firstly because they are a minority, and secondly because the Hindus can successfully exploit the weaknesses of the Untouchables which makes them offer their votes to the Hindus as one offers burnt meat to his gods.

Understood in the light of these forces which are sure to make the territorial constituency profitable to the Hindus by enabling them to loot the political power which the Untouchable would become possessed of if the Communal Scheme came into operation, there can be no doubt that the National Scheme is from the result side, if not from the motive side, worse than the Communal Scheme.

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CHAPTER V

JOINT V/S SEPARATE ELECTORATES

THE Hindus have after a long struggle accepted the view that a purely territorial constituency will not do in a country like India. In a sense the previous discussion regarding the controversy between territorial constituency and communal constituency as two rival methods of bringing about a truly representative legislature was unnecessary. But I stated the case for and against because I felt that the foreigners who are not aware of Indian Political conditions ought to know the basic conceptions underlying that controversy. Unfortunately, however, the fact is that although the Hindus have accepted the basic argument in favour of communal scheme of representation they have not accepted all what the Untouchables are demanding. The Untouchables demand that their representation shall be by separate electorates. A separate electorate means an electorate composed exclusively of Untouchable voters who are to elect an Untouchable as their representative to the legislature. The Hindus agree that certain number of seats are to be reserved for Untouchables to be filled only by Untouchables. But they insist that the Untouchables who is to be the representative of the Untouchables in the Legislature should be elected by a mixed electorate consisting both of the Hindus as well as of the Untouchables and not by an electorate exclusively of the Untouchables. In other words there is still a controversy over the question of joint versus separate electorates. Here again I want to set out the pros and cons of this controversy. The objection to separate electorate raised by the Hindus is that separate electorate means the fragmentation of the nation. The reply is obvious. First of all, there is no nation of Indians in the real sense of the word. The nation does not exist, it is to be created, and I think it will be admitted that the suppression of a distinct and a separate community is not the method of creating a nation. Secondly, it is conceded – as the Hindus have done – that Untouchables should be represented in that Legislature by Untouchable then it cannot be

denied that the Untouchable must be a true representative of the Untouchable voters. If this is a correct position then separate electorate is the only mechanism by which real representation can be guaranteed to the Untouchables. The Hindu argument against separate electorate is insubstantial and unsupportable. The premises on which the political demands of the Untouchables are based are admitted by the Hindus. Separate electorate is only a consequence which logically follows from those premises. How can you admit the premise and deny the conclusion? Special electorates are devised as a means of protecting the minorities. Why not permit a minority like the Untouchables to determine what kind of electorate is necessary for its protection ? If the Untouchables decide to have separate electorates why should their choice not prevail ? These are questions to which the Hindus can give no answer. The reason is that the real objection to separate electorates by the Hindus is different from this ostensible objection raised in the name of a nation. The real objection is that separate electorate does not permit the Hindus to capture the seats reserved for the Untouchables. On the other hand the joint electorate does. Let me illustrate the point by a few examples of how joint and separate electorate would work in the constituency. Take the following constituencies from the Madras Presidency.

Name of the Constituency	Total number of seats for Hindus	Seat reserved for the Untou-chables.	Total No. of Hindu voters.	Total No. of Untou-chable voters.	Ratio of Hindu voters to Untou-chable voters.
1. Madras City South	2	1	40,626	2,577	16 to 1
2. Chicacole	2	1	83,456	5,125	l6 to 1
3. Vijayana-gram	2	1	47, 594	996	49 to 1
4. Amalapu-ram	1	1	52,805	7,760	7 to 1
5. Ellore	1	1	51,795	5,155	9 to 1
6. Bandar	1	1	84,191	8,723	10 to 1
7. Tenali	2	1	1,32,107	5,732	24 to 1

The figures of the voting strength given in the above table for the seven constituencies taken at random in the Madras Presidency are illuminating. A scrutiny of the above figures is sufficient to show any disinterested person that if there is a separate electorate for the Untouchables in these seven constituencies they whould be in a position to elect a man in whom they had complete confidence and who would be independent to fight the battle of the Untouchables on the floor of the Legislature against the representatives of the Hindus. If, on the other hand, there is a joint electorate in these constituencies the representative of the Untouchables would be only a nominal representative and not a real representative, for no Untouchable who did not agree to be a nominee of the Hindus and a tool in their hands could be elected in a joint electorate in which the Untouchable voter was out numbered in ratio of 1 to 24 or in some cases 1 to 49. The joint electorate is from the point of the Hindus to use a familiar phrase a "rotten borough" in which the Hindus get the right to nominate an Untouchable to set nominally as a representative of the Untouchables but really as a tool of the Hindus. It will be noticed that the Hindu in opposing the so-called Communal Scheme of the Untouchables with his so-called National Scheme is not fighting for a principle nor is he fighting for the nation. He is simply fighting for his own interests. He is fighting to have in his hands the undivided control over political power. His first line of defence is not to allow any shares to be drawn up so that like the Manager of the Hindu joint family he can use the whole for his benefit. That is why he fought for purely territorial constituencies. Failing that he takes his second line of defence. He wants that if he is made to concede power he must not lose control over it. This is secured by joint electorates and frustrated by separate electorates. That is why the Hindu objects to separate electorates and insists on joint electorates.

The end of the so-called National Scheme may not be communal but the result undoubtedly is.

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CHAPTER VI

THE EXECUTIVE

THE second political demand of the Untouchables is that they must not only be represented in the Legislature but they must also be represented in the executive. This demand is also opposed by the Hindus. The argument of the Hindus takes two forms. One is that the executive must represent the majority of the Legislature and secondly the men in the Executive must be competent to hold places in the executive. I propose to deal with the second argument first.

It is an argument which is fundamentally sound. But it is equally necessary to realize that in a representative Government this argument cannot be carried too far. For as Professor Dicey has argued, "It has never been a primary object of constitutional arrangement to get together the best possible parliament in intellectual capacity. Indeed, it would be inconsistent with the idea of representative Government to attempt to form a parliament far superior in intelligence to the mass of the nation."

The stress upon competency is needless. Nobody has said that ignorant people should be made Ministers simply because they are Untouchables. Given the right to representation in the cabinet the Untouchables, there is no doubt, will elect the most competent people amongst them–there are a number of them in every province–to fill those places. Again why apply this limiting condition to the Untouchables only ? Like the Untouchables the Muslims are also claiming the right to be represented in the cabinet. Why have the Hindus not insisted upon such a limiting condition against the Muslims' claim? This shows that the objection of the Hindus is not based on reason. It is an excuse.

Coming to the second argument the Hindus are simply misusing the words majority and minority. They seem to forget that majority and minority are political categories. As political categories there is no fixed majority or a fixed minority. Political majorities and political minorities are fluid bodies and what is a majority today

may become a minority tomorrow, and what is a minority today may become a majority tomorrow. The difference between the Hindus and the Untouchables cannot be said to be a difference of this sort. There is no endosmosis between the Untouchables and Hindus as there is between the Majority and Minority. There is another characteristic of a majority and minority relationship which would make them inapplicable to the relationship which subsists between the Hindus and the Untouchables. The majority and minority are divided by a difference only–difference in the point of views. They are not separated by a fundamental and deadly antagonism as the Hindus are from the Untouchables. There is a third characteristic of Majority and Minority relationship which is not to be found in the relationship that subsists between the Hindus and the Untouchables. A minority grows into a minority and a majority in becoming a majority absorbs so much of the sentiment of the minority that the minority is satisfied with the result and does not feel the urge of fighting out the issue with the majority. Now all these considerations are quite foreign to the relationship between the Hindu Majority and the Untouchable minority. They are fixed as permanent communites. They are not merely different but they are antagonistic. To speak of them as majority and minority would be as true and as useful as would be to speak of the Germans being a majority and the French being a minority.

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CHAPTER VII

PUBLIC SERVICES

THE Untouchables demand that a certain proportion of posts in the public services of the country shall be reserved for them, subject to the rule of minimum qualification. The Hindus object to this demand as they do to the other demands of the Untouchables. The stand they take is that the interests of the State require that capacity, efficiency and character should be the only consideration and that caste and creed should have no place in making appointment to public offices. There is no dispute regarding character as a necessary qualification. Nor is there any dispute regarding capacity and efficiency. The only point of dispute, and it is a very important point, is whether caste and creed should form a consideration which must be taken into account in the recruitment for public services. Relying upon the educational qualification as the only test of efficiency, the Hindus insist that public offices should be filled on the basis of competetive examinations open to persons of all Castes and Creeds. They argue that such a system serves both purposes. It serves the purpose of efficiency. Secondly it docs not prohibit the entry of the Untouchables in the Public Services of the country.

The Hindus seek to give to their opposition to the demand of the Untouchable an appearance of fairness by relying upon efficiency and competitive examination. Here again the argument is quite beside the point. The question is not whether the competitive system of Examination is or is not the proper method of getting efficient persons in public services. The question is whether the competitive system simply because it is open to all castes and creeds will enable the Untouchables to get a footing in the Public Service. That depends upon the educational system of the State. Is it sufficiently democratic? Are the facilities for education sufficiently widespread and sufficiently used to permit persons from all classes to come forth to compete? Otherwise, even with the system of open competition large classes are sure to be left out in the cold. This basic condition is conspicuous by its absence in India. Higher education in India is the monopoly of Hindus and

particularly of high Caste Hindus. By reason of Untouchability the Untouchables are denied the opportunity for Education. By reason of their poverty higher education necessary for higher posts in the public service–and higher posts in the public service are the only things that matter becauese they have a strategic value–is not within their reach. The State will not take the financial responsibility of giving them higher education–they are demanding it by their resolution–and the Hindus will not extend the benefit of their charities to the Untouchables–Hindu Charity being shamefully communal–so that to ask the Untouchables to rely upon the results of competitive examination for entry into the public services is to practise a fraud upon them. The position taken up by the Untouchables is in no sense unreasonable. They admit the necessity for maintaining efficiency. That is why in their resolution they themselves say that their demand shall be subject to the rule of miniumum qualification. In other words what the Untouchables demand is that a minimum qualification should be prescribed for every post in the public service and if two persons apply for such a post and the Untouchables has the minimum qualification he should be preferred to a Hindu even though the Hindu may have a qualification higher than the minimum qualification. It, of course, does mean that the basis for appointment should be minimum qualification and not the highest qualification. This may sound queer to those who do not mind if their test of efficiency gives certain communities a monopoly of public service. But did not Campbell-Bannerman say that self-government was better than good government ? What else are the Untouchables demanding? They are prepared to recognize the need of having an efficient Government. That is why they are ready to accept the requirement of minimum qualifications for entry in the public services of the country. What the untouchables are not prepared to do is to forego self-government for good government. Good Government based on highest qualification will be a communal government, for the Hindus alone can claim qualifications higher than minimum qualifications. This is what they do not want. What they say is that minumum qualifications are enough for efficient government and since it makes self-government possible, minimum qualification should be the rule for entry in Public Service. It ensures self-government as well as efficient government.

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CHAPTER VIII

SEPARATE SETTLEMENTS

RESOLUTION NO. IV Referred to in the foregoing part of this paper is to my mind quite self-explanatory and not much detailed comment is necessary to explain its purport. Nor is it possible in the compass of this short paper to deal with it in more than general terms. The demand for separate settlements is the result of what might be called "The New Life Movement" among the Untouchables. The object of the movement is to free the Untouchables from the thraldom of the Hindus. So long as the present arrangement continues it is impossible for the Untouchables either to free themselves from the yoke of the Hindus or to get rid of their Untouchability. It is the close-knit association of the Untouchables with the Hindus living in the same villages which marks them out as Untouchables and which enables the Hindus to identify them as being Untouchables. India is admittedly a land of villages and so long as the village system provides an easy method of marking out and identifying the Untouchable, the Untouchable has no escape from Untouchability. It is the village system which perpetuates Untouchability and the Untouchables therefore demand that it should be broken and the Untouchables who are as a matter of fact socially separate should be made separate geographically and territorially also, and be grouped into separate villages exclusively of Untouchables in which the distinction of the high and the low and of Touchable and Untouchable will find no place.

The second reason for demanding separate settlements arises out of the economic position of the Untouchables in the village. That their condition is most pitiable no one will deny. They are a body of landless labourers who are entirely dependent upon such employment as the Hindus may choose to give them and on such wages as the Hindus may find it profitable to pay. In the villages in which they live they cannot engage in any trade or occupation, for owing to untouchability no Hindu will deal with them. It is

therefore obvious that there is no way of earning a living which is open to the Untouchables so long as they live as a dependent part of the Hindu village. This economic dependence has also other consequences besides the condition of poverty and degradation which proceeds from it. The Hindu has a code of life, which is part of his religion. This code of life gives him many privileges and heaps upon the Untouchable many indignities which are incompatible with the sanctity of human life. By the New Life Movement which has taken hold of the Untouchables, the Untouchables all over India are fighting against the indignities and injustices which the Hindus in the name of their religion have heaped upon them. A perpetual war is going on every day in every village between the Hindus and the Untouchables. It does not see the light of the day. The Hindu Press is not prepared to advertise it lest it should injure the cause of their freedom in the eyes of the world. The silent struggle is however a fact. Under the village system the Untouchable has found himself greatly handicapped in his struggle for free and honourable life. It is a contest between the economically and socially strong Hindus and an economically poor and socially small group of Untouchables. That the Hindus most often succeed in pulling down Untouchables is largly due to many causes. The Hindu has the Police and the Magistracy on his side. In a quarrel between the Untouchables and the Hindus the Untouchables will never get protection from the Police or justice from the Magistrate. The Police and the Magistracy are Hindus, and they love their class more than their duty. But the chief weapon in the armoury of the Hindus is economic power which they possess over the poor Untouchables living in the village. The economic processes by which the Hindus can hold down the Untouchables in their struggle for equality are well described in the Report made by a Committee appointed by the Government of Bombay in 1928 to investigate into the grievances of the Depressed Classes* and from which the following extracts are made. It illuminates the situation in a manner so simple that even foreigners who do not know the mysteries of the Hindu social system may understand what tyranny the Hindus can practise upon the

*Before The Government of India Act 1935 the Untouchables were generally described as the Depressed Classes. The Act calls them Scheduled Castes.

Untouchables. The committee said :-

> "Although we have recommended various remedies to secure to the Depressed Classes their rights to all public utilities we fear that there will be difficulties in the way of their exercising them for a long time to come. The first difficulty is the fear of open violence against them by the orthodox classes. It must be noted that the Depressed Classes form a small minority in every village, opposed to which is a great majority of the orthodox who are bent on protecting their interests and dignity from any supposed invasion by the Depressed Classes at any cost. The danger of prosecution by the Police has put a limitation upon the use of violence by the orthodox classes and consequently such cases are rare.
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> "The second difficulty arises from the economic position in which the Depressed Classes are found today. The Depressed Classes have no economic independence in most parts of the Presidency. Some cultivate the lands of the orthodox classes as their tenants at will. Others live on their earnings as farm labourers employed by the orthodox classes and the rest subsist on the food or grain given to them by the orthodox classes in lieu of service rendered to them as village servants. We have heard of numerous instances where the orthodox classes have used their economic power as a weapon against those Depressed Classes in their villages, when the latter have dared to exercise their rights, and have evicted them from their land, and stopped their employment and discontinued their remuneration as village servants. This boycott is often planned on such an extensive scale as to include the prevention of the Depressed Classes from using the commonly used paths and the stoppage of sale of the necessaries of life by the village Bania. According to the evidence, sometimes small causes suffice for the proclamation of a social boycott against the Depressed Classes. Frequently it follows on the exercise by the Depressed Classes of their right to the use of the common well, but cases have been by no means rare where a stringent boycott has been proclaimed simply because a Depressed Class man has put on the sacred thread, has bought a piece of land, has put on good clothes or ornaments, or has carried a marriage procession with the bride-groom on the horse through the public street."

This demand for separate settlements is a new demand which has been put forth by the Untouchables for the first time. It is not possible to say as yet as to what attitude the Hindus will take to this demand. But there is no doubt that this is the most vital demand made by the Untouchables, and I am sure that whatever may happen with regard to the other demands they are not likely to

yield on this. The Hindus are prone to think that they and the Untouchables are joined together by the will of God as the Bible says the husband is joined to his wife and they will say in the language of the Bible that those whom God is pleased to join let no man put asunder. The Untouchables are determined to repudiate any such view of their relations with the Hindus. They want the link to be broken and a complete divorce from the Hindus effected without delay.

The only questions that arise are those of the cost it will involve in and time it will take. As to cost, the Untouchables say it should be financed by Government. It will no doubt fall for the most part on the Hindus. But there is no reason why the Hindus should not bear the same. The Hindus own everything. They own the land in this country. They control trade, and they also own the State. Every source of revenue and profit is controlled by them. Other communities and particularly the Untouchables are just hewers of wood and drawers of water. The social system helps the Hindus to have a monopoly of everything. There is no reason why they should not be asked to pay the cost of this scheme when they practically own the country.

As to time, it matters very little even if the transplantation of the Untouchables to new settlements takes 20 years. Those who have been the bounden slaves of the Hindus for a thousand years may well be happy with the prospect of getting their freedom by the end of 20 years.

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CHAPTER IX

CASTE AND CONSTITUTION

It might well be asked why should such questions as are raised by these demands of the Untouchables find a place in the Constitution? Nowhere in the world have the makers of constitution been compelled to deal with such matters. This is an important question and I admit that an answer is required on the part of those who raise such questions and insist that they are of constitutional importance. The answer to this question is to my mind quite obvious. It is the character of the Indian Society which invests this question with constitutional importance. It is the Caste system and the Religious system of the Hindus which is solely responsible for this. This short statement may not suffice to give an adequate explanation to foreigners of the social and political repercussions of the Hindu Caste and Religious systems. But it is equally true that in the brief compass of this paper it is impossible to deal exhaustively with the repercussion of the caste system on the constitution. I would refer for a full and complete exposition of the subject to my book on the Annihilation of Castes which I wrote some time ago. For I believe it will shed sufficient light on the social and economical ramification of the Caste and Religious system of the Hindus. In this Paper I will content myself with making the following general observations. In framing a constitution the Social structure must always be kept in mind. The political structure must be related to the social structure. The operation of the social forces is not confined to the social field. They pervade the political field also. This is the view point of the Untouchables and I am sure this is incontrovertible. The Hindus are quite conscious of this argument and also of its strength. But what they do is to deny that the structure of the Hindu Socioety is in any way different from the structure of Europen society. They attempt to meet the argument by saying that there is no difference between the Caste system of the Hindus and the Class system in Western Society. This is of course palpably false and discloses a gross ignorance both of the Caste system as well as of the Class system. The Caste system is a system which is infested with the spirit of isolation and in fact it makes isolation of one Caste from

another a matter of virtue. There is isolation in the Class system but it does not make isolation a virtue nor does it prohibit social intercourse. The Class system it is true produces groups. But they are not akin to Caste groups. The groups in the Class System are only non-social while the Castes in the Caste system are in their mutual relations definitely and positively anti-social. If this analysis is true then there can be no denying the fact that the social structure of Hindu Society is different and consequently its political structure must be different. What the Untouchables are asking, to put it in general terms, is a proper correlation of means to ends. End may be the same. But because the end is the same it does not follow that the means must also be the same. Indeed ends may remain the same and yet means must vary according to time and circumstances. Those who are true to their ends must admit this fact and must agree to adopt different means if they wish that the end they have in view is not stultified.

In this connection there is another thing which I would like to mention. As I have said, it is the Caste basis of Hindu society which requires that its political structure should be different and suited to its social structure. There are people who admit this but argue that caste can be abolished from Hindu society. I deny that. Those who advocate such a view think that caste is an institution like a Club or a Municipality or a County Council. This is a gross error. Caste is Religion, and religion is anything but an institution. It may be institutionalized but it is not the same as the institution in which it is embedded. Religion is an influence or force suffused through the life of each individual moulding his character, determining his actions and reactions, his likes and dislikes. These likes and dislikes, actions and reactions arc not institutions which can be lopped off. They are forces and influences which can be dealt with by controlling them or counteracting them. If the social forces are to be prevented from contaminating politics and perverting it to the aggrandizement of the few and the degradation of the many then it follows that the political structure must be so framed that it will contain mechanisms which will bottle the prejudices and nullify the injustice which the social forces arc likely to cause if they were let loose.

So far I have explained in a general way why the peculiar social structure of the Hindu Society calls for a peculiar political structure

and why the marker of the Indian Constitution cannot escape problems which did not plague the makers of Constitution in other countries. Let me now take the specific question, namely why it is necessary that in the Indian Constitution the Communal Scheme must find its place and why in the Public Services for the Untouchables should be specified and should be assigned to them as their separate possession. The justification for these demands is easy and obvious. It arises from the undeniable fact that what divides the Untouchables from the Hindus is not mere matter of difference on non-essentials. It is a case of fundamental antagonism and antipathy. No evidence of this antipathy and antagonism is necesssary. The system of Untouchability is enough evidence of the inherent antagonism between the Hindus and the Untouchables. Given this antagonism it is simply impossible to ask the Untouchables to depend upon and trust the Hindus to do them justice when the Hindu get their freedom and independence from the British. Who can say that the Untouchable is not right in saying that he will not trust the Hindu ? The Hindu is as alien to him as a Europen is and what is worse the European alien is neutral but the Hindu is most shamefully partial to his own class and antagonistic to the Untouchables. There can be no doubt that the Hindus have all these ages despised, disregarded and disowned the Untouchables as belonging to a different and contemptible strata of Society if not to a different race. By their own code of conduct the Hindus behave as the most exclusive class steeped in their own prejudices and never sharing the aspirations of the Untouchables with whom they have nothing to do and whose interests are opposed to theirs. Why should the Untouchables entrust their fate to such people ? How could the Untouchables be legitimately asked to leave their interest into the hands of a people who as a matter of fact are opposed to them in their motives and interests, who do not sympathise with the living forces operating among the Untouchables, who are themselves not charged with their wants, cravings and desires, who are inimical to their aspirations, who in all certainty will deny justice to them and to discriminate against them and who by reason of the sanction of their religion have not been and will not be ashamed to practise against the Untouchables any kind of inhumanity. The only safety against such people is to have the political rights which the Untouchables claim as safeguards against the tyranny of the Hindu Majority defined in the Constitution. Are the Untouchables extravagant in demanding this safety ?

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CHAPTER X

SOME QUESTIONS TO THE HINDUS AND THEIR FRIENDS

In the midst of this political controversy one notices that the Hindus are behaving differently towards different communities. The Untouchables are not the only people in India who are demanding political safeguards. Like the Untouchables the Muslims and the Sikhs have also presented their political demands to the Hindus. Both the Mussalmans and the Sikhs can in no sense be called helpless minorities. On the contrary they are the two most powerful communities in India. They are educationally quite advanced and economically well placed. By their social standing they are quite as high as the Hindus. Their organization is a solid structure and no Hindu will dare to take any liberties with them much less cause any harm to them.

What are the political demands of the Muslims and the Sikhs? It is not possible to set them out here. But the general opinion is that they are very extravagant and the Hindus resent them very much. In contrast with this the condition and the demands of the Untouchables are just the opposite of the condition of the Muslims and the Sikhs. They are a weak, helpless and despised minority. They are at the mercy of all and there are not a few occasions when Hindus, Muslims and Sikhs combine to oppress them. Of all the Minorities they need the greatest protection and the strongest safeguards. Their demands are of the modest kind and there is nothing in them of that over-insurance which may be said to characterize the demands of the Muslims and the Sikhs. What is the reaction of the Hindus to the demands of the Muslims, the Sikhs and the Untouchables? Notwithstanding the extravagance of their demands the Hindus are ever ready to conciliate the Mussalmans and the Sikhs, particularly the former. They not only want to be correct in their relationship with the Mussalmans, they are prepared to be considerate and even

generous. Mr. Rajagopalachari's political exploits are too fresh to be forgotten. Suddenly he enrolled himself as a soldier of the Muslim League and proclaimed a war on his own kin and former friends and for what ? Not for their not failure to grant the reasonable demands of the Muslim but for their conceding the most extravagant one, namely Pakistan !! What is Mr. Rajagopalachari's response to the demands of the Untouchables ? So far I am aware there is no response. He does not even seem to be aware that there are 60 million Untouchables in this country and that they too like the Muslims are demanding political safeguards. This attitutde of studied silence and cold indifference of Mr. Rajagopalachari is typical of the whole body of Hindus. The Hindus have been opposing the political demands of the Untouchables with the tenacity of a bulldog and the perversity of a renegade. The Press is theirs and they make a systematic attempt to ignore the Untouchables. When they fail to ingnore them they buy their leaders; and where they find a leader not open to purchase they systematically abuse him, misrepresent him, blackmail him, and do everything possible that lies in their power to suppress him and silence him: Any such leader who is determined to fight for the cause of the Untouchables he and his followers are condemned as anti-National. So exasperated the Hindus become by the political demands of the Untouchables that they in their rage refuse to recognize how generous the Untouchables are in consenting to be ruled by a Hindu Majority in return for nothing more than a few political safeguards. The Hindus are not aware of what Carson said to Redmond when the two were negotiating for a United Ireland. The incident is worth recalling. Redmond said to Carson "Ask any safeguards you like for the Protestant Minority of Ulster, I am prepared to give them; but let us have a United Ireland under one constitution." Carson's reply was curt and brutal. He said without asking for time to consider the offer "Damn your safeguards, I don't want to be ruled by you". The Hindus ought to be thankful that the Untouchables have not taken the attitude which Carson took. But far from being thankful they are angry because the Untouchables are daring to ask for political rights. In the opinion of the Hindus the Untouchables have no right to ask for any rights. What does this difference of attitude on the part of the Hindus to the political demands of the different communities indicate?

It indicates three things (1) They want to get all power to themselves, (2) They are not prepared to base their political institutions on the principle of justice, (3) Where they have to surrender power they will surrender it to the forces of truculence and the mailed first but never to the dictates of justice.

This attitude of the Hindus forms the tragic scene of Indian politics. Unfortunately this is not the only tragic scene with Indian Politics. There is another equally tragic in character. It concerns the friends of the Hindus in foreign countries. The Hindus have created many friends for themselves all over the world by their clever propaganda, particularly in America, "the land of liberty". The tragedy is that these friends of the Hindus are supporting a side without examining whether it is the side which they in point of justice ought to support. No American friends of the Hindus have, so far as I know, asked what do the Hindus stand for ? Are they fighting for freedom or are they fighting for power ? If the Hindus are fighting for power, are the American friends justified in helping the Hindus ? If the Hindus are engaged in a war for freedom, must they not be asked to declare their war aims ? This is the least bit these American friends could do. Since the American friends have thought it fit to respond to the Hindu call for help it is necessary to tell these American friends of the Hindus what wrong they will be doing to the cause of freedom by their indiscriminate and blind support to the Hindu side. What I want to say follows the line of argument which the Hindus themselves have taken. Since the war started the Hindus, both inside and outside the Congress, demanded that the British should declare their war aims. Day in and day out the British were told, "If you want our help, tell us what you are fighting for ? If you are fighting for freedom, tell us if you will give us freedom in the name of which you are waging this war" There was a stage when the Hindus were prepared to be satisfied with a promise from the British that India will have the benefit of freedom for which the British are waging. They have gone a stage further. They are no longer content with a promise. Or to put it in the language of a congressman, "They refuse to accept a postdated cheque on a crashing Bank". They wanted freedom to be given right now, before the Hindus would consent to give their voluntary support to the War effort. That is the significance of Mr. Gandhi's new slogan of "Quit India". Mr. Churchill on whom the

responsibility of answering these questions fell replied, that his war aim was victory over the enemy. The Hindus were not satisfied. They questioned him further "What are you going to do after you get that victory ? What social order you propose to establish after the war ?" There was a storm when Mr. Churchil replied that he hoped to restore traditional Britain. These were legitimate questions I agree. But do not the friends of Hindus think that if it is legitimate to ask the very same questions to Mr. Churchill it is also legitimate to ask the very same questions to Mr. Gandhi and the Hindus ? The British had declared war against Hitler. Mr. Gandhi has declared war against the British. The British have an Empire. So have the Hindus. For is not Hindusm a form of imperialism and are not the Untouchables a subject race, owing there allegiance and their servitude to their Hindu Master ? If Churchill must be asked to declare his war aims how could anybody avoid asking Mr. Gandhi and the Hindus to declare their war aims ? Both say their war is a war for freedom. If that is so both have a duty to declare what their war aims. are. What does Mr. Gandhi propose to do after he gets his victory over the British ? Does he propose to use the freedom he hopes to get to make the Untouchables free or will he allow the freedom he gets to be used to endow the Hindus with more power than they now possess, to hold the Untouchables as their bondsmen ? Will Mr. Gandhi and Hindus establish a New Order or will they be content with rehabilitation of the traditional Hindu India, with its castes and its untouchability, with its denial of Liberty, Equality and Fraternity ? I should think that these questions should be asked by those American friends to Mr. Gandhi and the Hindus who are helping them in this so-called war for Freedom. These questions are legitimate and pertinent. It is only answers to such questions which will enable these American friends to know whether Mr. Gandhi's war is a war for freedom or a war for power. These questions are not merely pertinent and legitimate, they are also necessary. The reason is obvious to those who know the Hindus. The Hindus have an innate and inveterate conservatism and they have a religion which is incompatible with liberty, equality and fraternity i. e. with democracy. Inequality, no doubt, exists everywhere in the world. It is largely to conditions and circumstances. But it never has had the support of religion. With the Hindus it is

different. There is not only inequality in Hindu Society but inequality is the official doctrine of the Hindu religion. The Hindu has no will to euqality. His inclination and his attitude are opposed to the democratic doctrine of one man one value. Every Hindu is a social Tory and political Radical. Mr Gandhi is no exception to this rule. He presents himself to the world as a liberal but his liberalism is only a very thin veneer which sits very lightly on him as dust does on one's boots. You scratch him and you will find that underneath his liberalism he is a blue blooded Tory. He stands for the cursed caste. He is a fanatic Hindu upholding the Hindu religion. See how the Hindus read the famous American Declaration of Independence of 1776. The Hindu is mad with joy when he reads the Declaration to say–

> 'That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organising its powers in such form, as to them shall seem most likely to effect their Safety and Happiness.'

But he stops there. He never bothers about the earlier part of that Declaration which says :–

> "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. That to secure these rights. Governments are instituted among Men, deriving their just powers from the consent of the governed."

The implementation of this Declaration has no doubt been a tragic episode in the history of the United States. There have been two views about this document Some hold that it is a great spiritual document. Others have held that it immortalizes many untruths. In any case this charter of human Liberty was not applied to the Negroes. What is however important to note is the faith underlying the Declaration. There is no doubt about it and certainly no doubt about the faith of Jefferson, the author of this Declaration. He never forgot that while enunciating a long principle, his country decided to take a short step. He wrote, "I am sorry for my countrymen." It may be no recompense to the Negroes. But it is by no means small comfort to know that the conscience of the country is not altogether dead and the flame of righteous indignation may

one day burst forth. The Negroes may laugh at this. But the fact is that even this much comfort the Untouchables cannot hope to have from the Hindus. People to-day are proud of the fact that the Hindus are a solid mass. But strange as it may appear, to the Untouchables of India, this is more a matter of dread than comfort–as the "Solid South" is to the Negroes in the United States. Where could anyone find in India among the Hindus any person with a sense of shame and a sense of remorse such as was felt by Jefferson ? I should have thought the Hindus would be too ashamed of this stigma of Untouchability on them to appear before the world with a demand for their freedom. That they do clamour for freedom–the pity is that they get support–is evidence that their conscience is dead, that they feel no righteous indignation, and to them Untouchability is neither a moral sin nor a civil wrong. It is just a sport as cricket or hockey is. The friends of Mr. Gandhi will no doubt point to him and his work. But what has Mr. Gandhi done to reform Hindu Society that his work and life be cited by democrats as a witness of hope and assurance ? His friends have been informed of the Harijan Sevak Sangh and they continue to ask, "Is not Mr. Gandhi working to uplift the Harijans ?" Is he ? What is the object of this Harijan Sevak Sangh ? Is it to prepare the Untouchables to win their freedom from their Hindu masters, to make them their social and political equals ? Mr. Gandhi had never had any such object before him and he never wants to do this, and I say that he cannot do this. This is the task of a democrat and a revolutionary. Mr. Gandhi is neither. He is a Tory by birth as well as by faith. The work of the Harijan Sevak Sangh is not to raise the Untouchables. His main object, as every self-respecting Untouchable knows, is to make India safe for Hindus and, Hinduism. He is certainly not fighting the battle of the Untouchables. On the contrary by distributing through the Harijan Sevak Sangh petty gifts to petty Untouchables he is buying, benumbing and drawing the claws of the opposition of the Untouchables which he knows is the only force which will disrupt the caste system and will establish real democracy in India. Mr. Gandhi wants Hinduism and the Hindu caste system to remain intact. Mr. Gandhi also wants the Untouchables to remain as Hindus. But as what ? not as partners but as poor relations of the Hindus. Mr. Gandhi is kind to the Untouchables. But for what ?

Only because he wants to kill, by kindness, them and their movement for separation and independence from Hindus. The Harijan Sevak Sangh is one of the many techniques which has enabled Mr. Gandhi to be a successful humbug.

Turn to Pandit Jawaharlal Nehru. He draws his inspiration from the Jeffersonian Declaration; but has he ever expressed any shame or any remorse about the condition of the 60 millions of Untouchables ? Has he anywhere referred to them in the torrent of literature which comes out from his pen ? Go to the youth of India, if you want. The youths who fill the Universities and who follow the Pandit's lead are ever ready to fight the political battle of India against the British. But what do these children of the leisured class Hindus have done to redress the wrongs their forefathers have done to the Untouchables ? You can get thousands of Hindu youths to join political propaganda but you canot get one single youth to take up the cause of breaking the caste system or of removing Untouchability. Democracy and democratic life, justice and conscience which are sustained by a belief in democratic principle are foreign to the Hindu mind. To leave democracy and freedom in such Tory hands would be the greatest mistake democrats could commit. It is therefore very necessary for the American friends of the Hindus to ask Mr. Gandhi and the Hindus to declare their War aims, so that they may be sure that the fight of the Hindus against British is really and truly a fight for freedom. The Congress and the Hindus will no doubt refer their inquiring foreign friends to the Congress Resolutions regarding minority rights. But I would like to warn the American friends of the Hindus not to be content with the "glittering generalities" contained in congress declaration of Minority Rights. To declare the rights of the minority is one thing and to have them implemented is another. And why should the friends of the Hindus if they are really friends of freedom, not insist on implementation straight away ? Arc not the Hindus saying that they would not be satisfied with mere declaration of freedom from the British ? Are they not asking for immediate implementation ? If they want the Brittish to implement their War aims, why should the Hindus be not prepared to implement their war aims ? American friends of the Hindus, I am sure, will not be misled by the Hindu propaganda that this war of the Hindus against the British is a War for freedom. Before helping the Hindus they

must get themselves satisfied that the Hindus who are urging that their war against the British is a war for freedom will not turn out to be the enemies of the freedom of millions of Indians like the Untouchables. That is the plea I am making on behalf of the 60 millions of the Untouchables of India. And above all let not the American friends think that checks and balances in a Constitution–the demand for checks and balances suited to Indian conditions–are not necessary because the struggle is carried on by a people and is carried on in the name of freedom. Friends of democracy and freedom cannot afford to forget the words of John Adams when he said–

> "We may appeal to every page of history we have hitherto turned over, for proof irrefragable that the people when they have been unchecked, have been as unjust, tyrannical, brutal, barbarous , and cruel as any king or Senate possessed of uncontrollable power : the majority has eternally and without one exception usurped over the rights of the minority."

If all Majorities must be subjected, to checks and balances how much more must it be so in the case of the Hindus ?

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Note on the Annexure

The present volume of 'What Congress and Gandhi have done to the Untouchables,' is the reprint of the first edition published in 1945. Dr. Ambedkar brought out a second edition, in 1946. Certain changes by way of substantial additions and improvements are noticed. Chapter 9, *which contains these changes is therefore annexed to the Volume. No changes are noticed in the remaining text.*

The Editorial Committee is grateful to Shri G. P. Mandavkar of Nagpur for bringing to our notice the contents of the second edition.

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CHAPTER IX

A PLEA TO THE FOREIGNER

Let not Tyranny Have Freedom to Enslave

I

It is a matter of common experience that barring a few exceptions, almost all foreigners, who show interest in Indian political affairs, take the side of the Congress. This quite naturally puzzles and annoys the other political parties in the country, such as the Muslim League, claiming to represent the Musalmans, the Justice Party—now in a state of suspended animation but still—claiming to speak in the name of the non-Brahmins and the All-India Scheduled Castes Federation, claiming to represent the Untouchables, all of whom have been appealing to the foreigner for support but to whom the foreigner is not even prepared to give a sympathetic hearing. Why does the foreigner support the Congress and not the other political parties in India ? Two reasons are usually assigned by the foreigner for his behaviour. One reason assigned by him for supporting the Congress is that it is the only representative political organization of the Indians and can speak in the name of India and even for the Untouchables. Is such a belief founded on facts ?

It must be admitted that there have been circumstances which are responsible for creating such a belief. The first and foremost circumstance for the spread of this view is the propaganda by the Indian Press in favour of the Congress. The Press in India is an accomplice of the Congress, believes in the dogma that the Congress is never wrong and acts on the principle of not giving any publicity to any news, which is inconsistent with the Congress prestige or the Congress ideology. To the foreigner the Press is the principal medium of information about the Indian political affairs. The cry of the Indian Press being what it is, there is therefore no wonder if the people in England and America know one thing and only one thing, namely, that the Congress is the only representative body in India including even the Untouchables.

The effect of this propaganda is considerably heightened because of the absence of counter-propaganda on behalf of the Untouchables to advertise their case against the Congress claim. There are various explanations for this failure on the part of the Untouchables.

The Untouchables have no Press. The Congress Press is closed to them and is determined not to give them the slightest publicity. They cannot have their own Press and for obvious reasons. No paper can survive without advertisement revenue. Advertisement revenue can come only from business and in India all business, both high and small, is attached to the Congress and will not favour any Non-Congress organization. The staff of the Associated Press in India, which is the main news distributing agency in India, is entirely drawn from the Madras Brahmins—indeed the whole of the Press in India is in their hands and they, for well-known reasons, are entirely pro-Congress and will not allow any news hostile to the Congress to get publicity. These arc reasons beyond the control of the Untouchables.

To a large extent the failure of the Untouchables to do propaganda, it must be admitted, is also due to the absence of will to do propaganda. This absence of will arises from a patriotic motive not to do anything, which will damage the cause of the country in the eyes of the world outside. There are two different aspects to the politics of India, which may be distinguished as foreign politics and constitutional politics. India's foreign politics relate to India's freedom from British Imperialism, while the constitutional politics of India centre round the nature of a constitution for a free India. For a discriminating student the two issues are really separate. But the Untouchables fear that though the two aspects of India's politics are separable, the foreigner, who counts in this matter and whose misunderstanding has to be guarded against, is not only incapable of separating them but is very likely to mistake a quarrel over constitutional politics for a disagreement over the ultimate purposes of India's foreign politics. This is why the Untouchables have preferred to remain silent and allowed the Congress propaganda to go unchallenged.

The Congressmen will not admit the patriotic motives of the Untouchables in keeping silent over Congress propaganda which is directed against them. The fact, however, remains that the silence and the desire to avoid open challenge on the part of the

Untouchables have been materially responsible for the general belief that the Congress represents all, even the Untouchables.

While, as explained above, there are circumstances which are responsible for creating the belief that Congress represents all including the Untouchables, such a belief is not warranted by the facts as disclosed by the elections that took place in 1937. How the claim of the Congress to represent all has been disproved by those elections, has already been described in an earlier part of this book, both generally and also with particular regard to the claim of the Congress to represent the Untouchables. If the foreigner will make a note of it he will see how wide the propaganda is from the facts.

At a time when the representative character of the Congress was not put to test in an election it was excusable for a foreigner to be carried away by propaganda. But the matter has now been put to test in the elections that took place in 1937. With the results of the elections available to check the position, it may be hoped that the foreigners will revise their view that the Congress represents all, including the Untouchables, and that they will realize that the other parties are equally representative of elements in the social life of India which are outside the Congress and have therefore the right to be heard.

II

There is another reason why the foreigner lends his support to the Congress. It lies in the difference between the demonstrative activities of the Congress and the other political parties in the country. While he compares the activities of the different political parties, he sees Congressmen engaged in a conflict with the British Government, launching campaigns of civil disobedience, breaking laws made by a foreign Government, organizing movements for non-payment of taxes, courting prison, preaching non-co-operation with Government, refusing offices and exhibiting themselves in other ways as men out to sacrifice themselves for the freedom of the country. On the other hand, he sees the other political parties uninterested, passive and taking no part in such a struggle. From this, he concludes that the Congress is a body struggling for the freedom of India, while the other parties are indifferent, if not obstructive and as a lover of freedom feels bound to support.

the Congress as a body carrying on a 'Fight for Freedom' in preference to other parties.

This is quite natural. But a question arises which calls for attention. Is this partiality to the Congress the result of an infatuation for the 'Fight for Freedom' movement ? Or, is it the result of a conviction that this 'Fight for Freedom' is going to make the people of India free ? If it is the former, all I can do is to regret that what I have said in Chapter VII in explanation as to why the Untouchables have not joined with the Congress in this 'Fight for Freedom' has not produced the desired effect on the foreigner. But I cannot quarrel with him on that account. For it is quite understandable that many a foreigner on reading that chapter may say that while the reasons adduced by mc as to why the Untouchables refuse to join the 'Fight for Freedom' are valid and good, I have shown no ground why he should not support a body which is carrying on a fight for freedom.

If the basis of his partiality to the Congress is of the latter sort then the matter stands on a different footing. It then becomes necessary to examine the rationale of his attitude and to save him from his error.

Ordinarily, no one trusts the word of a person who is not prepared to place all his cards on the table and commit himself to something clear and definite, so as to prove his *bona fides,* to inspire confidence and secure the co-operation of those who have doubts about his motives. The same rule must apply to the Congress. But as I have shown in Chapter VII the Congress has not produced its blue print of the sort of democracy it aims to establish in India, showing what place the servile classes and particularly the Untouchables will have in it. Indeed, it has refused to produce such a blue print, notwithstanding the insistent demand of the Untouchables and the other minority communities. In the absence of such a pronouncement it appears to be a strange sort of credulity on the part of the foreigner to give support to the Congress on the ground that it stood for democracy.

There is certainly no ground for thinking that the Congress is planning to establish democracy in India. The mere fact that the Congress is engaged in a 'Fight for Freedom' does not warrant such a conclusion. Before any such conclusion is drawn it is the duty of the foreigner to pursue the matter further and ask another question, namely, 'For whose

freedom is the Congress fighting ?' The question whether the Congress is fighting for freedom has very little importance as compared to the question, 'for whose freedom is the Congress fighting ?' This is a pertinent and necessary inquiry and it would be wrong for any lover of freedom to support the Congress without further pursuing the matter and finding out what the truth is. But the foreigner who takes the side of the Congress does not care even to raise such a question. One should have thought that he would very naturally raise such a question and if he did raise it and pursue it, I am confident, he will find abundant proof that the Congress far from planning for democracy is planning to resuscitate the ancient form of Hindu polity of a hereditary governing class ruling a hereditary servile class.

The attitude of the foreigner to the cause of the servile classes and particularly to the cause of the Untouchables is a vital matter and no party can leave it out of consideration, as a case of idiosyncrasy. For any one representing the Untouchables it is necessary to take note of it and do his best to convince the foreigner that in supporting the Congress he is supporting a wrong party.

III

Apart from the question of likes and dislikes, the real explanation for this strange attitude of the foreigner towards the Congress seems to be in certain notions about freedom, self-government and democracy propounded by western writers on Political Science and which have become the stock-in-trade of the average foreigner.

As to freedom, the foreigner does not stop to make a distinction between the freedom of a country and the freedom of the people in the country. He takes it for granted that the freedom of a country is the same as the freedom of the people in the country and once the freedom of the country is secured the freedom of the people is also thereby assured.

As regards self-government he believes that all that is wanted in a people is a sense of constitutional morality, which Grote[1] defined as habits of "paramount reverence for the form of

1. History of Greece, Vol. III, p. 347.

the constitution, enforcing obedience to the authorities acting under and within those forms, yet combined with the habit of open speech, of action subject only to definite legal control, and unrestrained censure of those very authorities as to all their public acts—combined, too, with a perfect confidence in the bosom of every citizen, admits the bitterness of party contest, that the forms of constitution will be not less sacred in the eyes of his opponents than in his own." If in a populace these habits are present, then according to the western writers on Politics, self-government can be a reality and nothing further need be considered. As to democracy he believes that what is necessary for achieving it is the establishment of universal adult suffrage. Other aids have been suggested such as recall, plebiscite and frequent elections and in some countries they have been brought into operation. But in a majority of countries nothing more than adult suffrage and frequent elections is deemed to be necessary for ensuring Government by the people, of the people and for the people.

I have no hesitation in saying that all these notions are fallacious and grossly misleading.

Not to make a distinction between the freedom of the country and the freedom of the people in the country is to allow oneself to be misled, if not deceived. For, words such as society, nation and country are just amorphous if not ambiguous terms. There is no gainsaying that 'nation' though one word means many classes. Philosophically, it may be possible to consider a nation as a unit but sociologically it cannot but be regarded as consisting of many classes and the freedom of the nation, if it is to be a reality, must vouchsafe the freedom of the different classes comprised in it, particularly of those who are treated as the servile classes.

Habits of constitutional morality may be essential for the maintenance of a constitutional form of Government. But the maintenance of a constitutional form of Government is not the same thing as a self-government by the people. Similarly, it may be granted that adult suffrage can produce government of the people in the logical sense of the phrase, i.e., in contrast to the government of a king. But it cannot by itself be said to bring about a democratic government, in the sense of the government by the people and for the people.

Anyone who knows the tragic fate of Parliamentary Democracy in Western Europe will not require more and

better evidence to prove the fallacy underlying such notions of democracy[1]. If I may quote myself from what I have said in another place, the causes which have led to the failure of democracy in Western Europe may be summarized in the following words :

> "The Government of human society has undergone some very significant changes. There was a time when the government of human society had taken the form of autocracy by Despotic Sovereigns. This was replaced after a long and bloody struggle by a system of government known as Parliamentary Democracy. It was felt that this was the last word in the framework of government. It was believed to bring about the millennium in which every human being will have the right to liberty, property and pursuit of happiness. And there were good grounds for such high hopes. In parliamentary democracy there is the Legislature to express the voice of the people ; there is the executive which is subordinate to the Legislature and bound to obey the Legislature. Over and above the Legislature and the Executive there is the Judiciary to control both and keep them both within prescribed bounds. Parliamentary democracy has all the marks of a popular Government, a government of the people, by the people and for the people. It is therefore a matter of some surprise that there has been a revolt against parliamentary democracy although not even a century has elapsed since its universal acceptance and inauguration. There is revolt against it in Italy, in Germany, in Russia and in Spain, and there are very few countries in which there has not been discontent against parliamentary democracy. Why should there be this discontent and dissatisfaction against parliamentary democracy ? It is a question worth considering. There is no country in which the urgency of considering this question is greater than it is in India, India is negotiating to have parliamentary democracy. There is a great need of some one with sufficient courage to tell Indians: "Beware of parliamentary democracy, it is not the best product as it appears to be.
>
> Why has parliamentary democracy failed ? In the country of the dictators it has failed because it is a machine whose movements are very slow. It delays swift action. In a parliamentary democracy the Executive may be held up by the Legislature which may refuse to pass the laws which the Executive wants and if it is not held up by the Legislature it

1. Labour and Parliamentary Democracy—A lecture delivered on 17th September 1943 to the All-India Trade Union Workers' Study Camp held in Delhi.

may be held up by the judiciary which may declare the laws as illegal. Parliamentary democracy gives no free hand to dictatorship and that is why it became a discredited institution in countries like Italy, Spain and Germany which readily welcomed dictatorships. If dictators alone were against parliamentary democracy it would not have mattered at all. Their testimony against parliamentary democracy would be welcomed for the reason that it can be an effective check upon dictatorship. But unfortunately there is a great deal of discontent against parliamentary democracy even in countries where people are opposed, to dictatorship. That is the most regrettable fact about Parliamentary democracy. This is all the more regrettable because parliamentary democracy has not been at a standstill. It has progressed in three directions. It began with equality of political rights in the form of equal suffrage. There are very few countries haying parliamentary democracy which have not adult suffrage. It has progressed by expanding the notion of equality of political rights to equality of social and: economic opportunity. It has recognised that the State cannot be held at bay by corporations which are anti-social in their purpose. With all this, there is immense discontent against parliamentary democracy even in countries pledged to democracy. The reasons for discontent in such countries must obviously be different from those assigned by the dictator countries. There is no time to go into details. But it can be said in general terms that the discontent against parliamentary democracy is due to the realization that it has failed to assure to the masses the right to liberty, property or the pursuit of happiness. If this is true, it is important to know the causes which bave brought about this failure. The causes for this failure may be found either in. wrong ideology or wrong organization or in both. I think the causes are to be found in both.

Of the erroneous ideologies which have been responsible for the failure of parliamentary democracy I have no doubt that the idea of freedom of contract is one of them. The idea became sanctified and was upheld in the name of liberty. Parliamentary democracy took no notice of economic inequalities and did not care to examine the result of freedom of contract on the parties to the contract, in spite of the fact that they were unequal in their bargaining power. It did not mind if the freedom of contract gave the strong the opportunity to defraud the weak. The result is that parliamentary democracy in standing out as protagonist of liberty has continuously added to the economic wrongs of the poor, the downtrodden and the disinherited class.

The second wrong ideology which has vitiated parliamentary democracy is the failure to realize that political democracy cannot succeed where there is no social and economic democracy. Some may question this proposition. To those who are disposed to question it, I will ask a counter-question. Why did parliamentary democracy collapse so easily in Italy, Germany and Russia ? Why did it not collapse so easily in England and the U.S.A. ? To my mind there is only one answer. It is that there was a greater degree of economic and social democracy in the latter countries than existed in the former. Social and economic democracy are the tissues and the fibre of a political democracy. The tougher the tissue and the fibre, the greater the strength of the body. Democracy is another name for equality. Parliamentary democracy developed a passion for liberty. It never made even a nodding acquaintance with equality. It failed to realize the significance of equality and did not even endeavour to strike a balance between liberty and equality with the result that liberty swallowed equality and has made democracy a name and a farce.

I have referred to the wrong ideologies which in my judgment have been responsible for the failure of parliamentary democracy. But I am equally certain that more than bad ideology it is bad organization which has been responsible for the failure of democracy. All political societies get divided into two classes—the Rulers and the Ruled. This is an evil. If the evil stopped here it would not matter much. But the unfortunate part of it is that the division becomes so stereotyped and stratified that Rulers are always drawn from the ruling class and the class that is ruled never becomes the ruling class. This happens because generally people do not care to see that they govern themselves. They are content to establish a government and leave it to govern them. This explains why parliamentary democracy has never been a government of the people or by the people and why it has been in reality a government of a hereditary subject class by a hereditary ruling class. It is this vicious organization of political life which has made parliamentary democracy such a dismal failure. It is because of this that parliamentary democracy has not fulfilled the hope it held out to the common man of ensuring to him liberty, property and pursuit of happiness."

If this analysis of the causes which have led to the failure of democracy is correct, it must serve as a warning to the protagonists of democracy that there are certain fundamental considerations which go to the root of democracy and which

they cannot ignore without peril to democracy. For the sake of clarity these considerations may be set down in serial order.

First is the recognition of the hard fact of history that in every country there exist two classes,—the governing class and the servile class between whom there is a continuous struggle for power. *Second* is that by reason of its power and prestige the governing class finds it easy to maintain its supremacy over the servile class. *Third* is that adult suffrage and frequent elections are no bar against governing class reaching places of power and authority. *Fourth* is that on account of their inferiority complex the members of the servile classes regard the members of the governing class as their natural leaders and the servile classes themselves volunteer to elect members of the governing classes as their rulers. *Fifth* is that the existence of a governing class is inconsistent with democracy and self-government and that given the fact that where the governing class retains its power to govern, it is wrong to believe that democracy and self-government have become realities of life. *Sixth* is that self-government and democracy become real not when a constitution based on adult suffrage comes into existence but when the governing class loses its power to capture the power to govern. *Seventh* is that while in some countries the servile classes may succeed in ousting the governing class from the seat of authority with nothing more than adult suffrage, in other countries the governing class may be so deeply entrenched that the servile classes will need other safeguards besides adult suffrage to achieve the same end.

That there is great value in having these considerations drawn up and hung up, so to say on the wall, before every lover of democracy, so that he may see them and note them, goes without saying. For they will help, as nothing else can, to make him realize that in devising a constitution for democracy he must bear in mind : that the principal aim of such a constitution must be to dislodge the governing class from its position and to prevent it from remaining as a governing class for ever ; that the machinery for setting up a democratic government cannot be a matter of dogma ; that ousting the governing class from power being the main object the machinery for setting up a democratic government cannot be uniform and that variations in the machinery of Democracy must not merely be tolerated but accepted for the reason that

the processes by which the governing classes obtain their mastery over the servile classes vary from country to country,

This is what democracy means and involves. But unfortunately Western writers on Politics from whom the foreigner draws his notions have failed to take such a realistic view of democracy. Instead, they have taken a very formal and a very superficial view of it by making constitutional morality, adult suffrage and frequent elections as the be-all and end-all of democracy.

Those who propound the view that democracy need involve no more than these three devices are probably unaware of the fact that they are doing nothing more than and nothing different from expressing the point of view of the governing classes. The governing classes know by experience that such mechanisms have not proved fatal to their power and their position. Indeed, they have helped to give to their power and prestige the virtue of legality and made themselves less vulnerable to attack by the servile classes.

Those who wish that democracy and self-government should come into their own, and should not remain as mere forms, cannot do better than start with the recognition of the crucial fact that the existence of a permanently settled governing class is the greatest danger to democracy. It is the only safe and realistic approach for a democrat to adopt. It is a fatal blunder to omit to take account of its existence in coming to a conclusion as to whether in a free country freedom will be the privilege of the governing class only or it will be the possession of all. In my view, therefore, what the foreigner who chooses to side with the Congress should ask is not whether the Congress is fighting for freedom. He should ask : For whose freedom is the Congress fighting ? Is it fighting for the freedom of the governing class in India or is it fighting for the freedom of the people of India ? If he finds that the Congress is fighting for the freedom of the governing class, he should ask Congressmen ; Is the governing class in India fit to govern ? This is the least he can do before siding with the Congress.

What are the answers which Congressmen have to give to these questions ? I do not know. But I will give what I think are the only true answers to these questions.

IV

I cannot say if the foreigner will be impressed by what has been said in the foregoing section of this chapter. If he is he will no doubt ask for proof in support of the statement that the Congress in fighting for the freedom of the country is really fighting not to establish democracy but is planning to resuscitate the ancient Hindu polity of a hereditary governing class ruling a hereditary servile class. I am not certain that the foreigner will be satisfied with the evidence. But I am prepared to place it before him for what it is worth.

Who constitute the governing class in India ? For Indians such a question is unnecessary. But for the foreigner it is a necessary preliminary and it must therefore be dealt with. The governing class in India consists principally of the Brahmins. Strangely enough some present-day Brahmins repudiate the allegation that they belong to the governing class though at one time they described themselves as *Bhudevas* (Gods on earth). What can this *volte face* be due to ? The intellectual class in every community is charged by its moral code with one sacred duty, namely, to safeguard the interest of the community and not to sacrifice it to the interest of their own class. No intellectual class has so grossly violated this trust as have the Brahmins in India. When one finds the Brahmins repudiating their position as the governing class in India one begins to think whether it is due to a guilty conscience, born out of the realization that they have committed a criminal breach of this trust and therefore dare not stand before the bar of the world. Or is it due to their sense of modesty ? It is not necessary to speculate as to what the truth is. For, it is hardly open to question that in India the Brahmins are a governing class. If necessary there are two tests which one could apply for the purpose of ascertaining the truth. First is the sentiment of the people and the second is the Brahmin's share in administration. Taking the attitude of the people towards the Brahmin, nobody can deny that the person of the Brahmin is regarded as sacred by every Hindu, high or low. He is the most "Worshipful Master" to whom everyone high and low must bow. In pre-British days he had immunities and privileges which were denied to the servile class. For instance he could not be hanged even if he committed murder. That was because he was a sacred

person. There was a time when no person of the servile class could take his food without drinking the water in which the toes of the Brahmins were washed. Sir P. C. Ray once described how in his childhood, rows of children belonging to the servile classes used to stand for hours together in the morning on the roadside in Calcutta with cups of water in their hands waiting for a Brahmin to pass, ready to wash his feet and take the sacred liquid to their parents who would not take their food without having a sip of it first. He was entitled to first fruits. In Malabar, where the Sambandham form of marriage prevails, the servile classes, such as the Nairsy regard it an honour to have their females kept as mistresses by the Brahmins. Even kings invited Brahmins to deflower their queens on *prima noctis.*[1]

1. The Traveller Ludovico Di Varthema who came to India in the middle of the 16th century and visited Malabar says :

"It ia proper and at the same time a pleasant thing to know who these Brahmins are. You must know that they are the chief persona of the faith, as priests are among us. And when the king takes a wife he selects the most worthy and the most honoured of these Brahmins and makes him sleep the first night with his wife, in order that he may deflower her. Do not imagine that the Brahmin goes willingly to perform this operation. The king is obliged to pay him four hundred to five hundred ducats. The king only and-no other person in Calicut adopts this practice."—*Voyages of Varthma* (Hakluyat Society), Vol I, p 141.

Other Travellers tell that the practice was widespread. Hamilton in his *Account of the East Indies* says :

"When the Samorin marries, he most not cohabit with his bride till the Nambourie (Nambudri) or chief priest, has enjoyed her, and if he pleases he may have three nights of her company, because the first fruits of her nuptials most be a holy oblation to the God she worships and some of the nobles are so complacent as to allow the clergy the same tribute ; bat the common people cannot have that compliment paid to them, but are forced to supply the priests places themselves."—Vol. I, p. 308.

Buchanan in his Narrative refers to the practice in the following terms :

"The ladies of the Tamuri family are generally impregnated by Nambudries ; although if they choose they may employ the higher ranks of Naire ; bus the sacred character of the Nambudries always procures them a preference."— *Pinkerton's Voyages,* Vol. VIII, p. 734.

Mr. C. A. Innes, I.C.S., Editor of the *Gazetteer* of Malabar and Anjengo issued under the authority of the Government of Madras, says :

"Another institution found amongst all the classes following the *marukak-kattayam* system, as well as amongst many of those who observe *makkattayam,* is that known as "Tali-tying wedding "which has been described as the most peculiar, distinctive and unique" among Malayali marriage customs. Its essence is the tying *of* a *tali* (a small piece of gold or other metal, like a locket on a string) on a girl's neck before she attains the ago of puberty. This is done by a man of the same or of a higher caste (the usages of different classes differ), and it is only after it has been done that the girl is at liberty to contract, a *sambandham*. It seems to be generally considered that the ceremony was intended to confer on the *tali tier* or *manavalan* (bridegroom) a right to cohabit with the girl; and by some the origin of the ceremony is found in the claim of the *Bhu-devas* or "Earth-Gods," (that is the Brahmins), and on a lower plane of Kshatriyas or ruling classes, to the first-fruits of lower caste womanhood, a right akin to the mediaeval *droit de seigneurie*"—Vol. I, p. 101.

Under the British Government and by reason of its equalitarian jurisprudence these rights, immunities and privileges of the Brahmins have ceased to exist. Nonetheless the advantages they gave still remain and the Brahmin is still pre-eminent and sacred in the eyes of the servile classes and is still addressed by them as "Swami" which means 'Lord.'

The second test gives an equally positive result. To take only the Madras Presidency by way of illustration. Consider Table 18 (see page 213). It shows the distribution of gazetted posts between the Brahmins and the other communities in the year 1943. Similar data from the other provinces could also be adduced to support this conclusion. But it is unnecessary to labour the point. Whether the Brahmins accept or deny the status the facts that they control the State and that their supremacy is accepted by the servile classes, are enough to prove that they form the governing class.

It is of course impossible for the Brahmins to maintain their supremacy as a governing class without an ally to help them on account of their being numerically very small. Consequently, as history shows, the Brahmins have always had other classes as their allies to whom they were ready to accord the status of a governing class provided they were prepared to work with them in subordinate co-operation. In ancient and mediaeval times they made such an alliance with the Kshatriyas or the warrior class and the two not merely ruled the masses, but ground them down to atoms, pulverized them so to say—the Brahmin with his pen and the Kshatriya with his sword. At present, Brahmins have made an alliance with the Vaishya class called Banias. The shifting of this alliance from the Kshatriya to the Bania is in the changed circumstances quite inevitable. In these days of commerce money is more important than sword. That is one reason for this change in party alignment. The second reason is the need for money to run the political machine. Money can come only from and is in fact coming from the Bania. If the Bania is financing the Congress it is because he has realized—and Mr. Gandhi has taught him—that money invested in politics gives large dividends. Those who have any doubt in the matter might do well to read what Mr. Gandhi told Mr. Louis Fischer on June 6, 1942. In his book *A Week with Mr. Gandhi,* Mr. Fischer

Table 18 (i)

Communities	*Approximate Population in Lakhs*	*Percentage of Population*	*No. of Posts held out of Total No. Gazetted Posts (2,200)*	*Percentage of Appointments held*	*Non-Gazetted Posts*			
					Over Rs. 100 Total No. 7,500		*Over Rs. 35 Total No. 20,782*	
					No. held by	*Percentage of Appointments held*	*No. held by*	*Percentage of Appointments held*
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
Brahmins	15	3	820	37	3,280	43.73	8,812	42.4
Christians	20	4	190	9	750	10	1,655	8.0
Muhaminadans	37	7	150	7	497	6.63	1,624	7.8
Depressed Classes	70	14	25	1.5	39	.52	144	.69
Non-Brahmins: Forward Non-Brahmins	113	22	620	27	2,543	33.9	8,440	40.6
Non-Brahmins: Backward Classes ...	245	50	50	2				
Non-Asiatie and Anglo-Indians ...	—	—	—	—	372	5.0	83	.4
Other Communities	—	—	—	—	19	.5	24	.11

records very revealing answers to some of his most interesting and pertinent questions. Mr. Fischer writes[1]:

> "I said I had several questions to ask him (Mr. Gandhi) about the Congress Party. Very highly placed Britishers, I recalled, had told me that Congress was in the hands of big business and that Mr. Gandhi was supported by the Bombay Millowners who gave him as much money as he wanted. 'What truth is there in these assertions,' I asked, 'Unfortunately, they are true,' he declared simply. 'Congress hasn't enough money to conduct its work. We thought in the beginning to collect four annas (about eight cents) from each member per year and operate on that. But it hasn't worked.' 'What proportion of the Congress budget,' I asked, 'is covered by rich Indians ?' 'Practically all of it,' he stated 'In this ashram, for instance, we could live much more poorly than we do and spend less money. But we do not and the money comes from our rich friends.' "

Being dependent on his money, it is impossible for the Brahmin to exclude the Bania from the position of a governing class. In fact, the Brahmin has established not merely a working but a cordial alliance with the Bania. The result is that the governing class in India to-day is a Brahmin-Bania instead of a Brahmin-Kshatriya combine as it used to be.

Enough has been said to show who constitute the governing class in India. The next inquiry must be directed to find out how the governing class fared in the elections to the Provincial Legislatures that took place in 1937.

The elections that took place in 1937 were based on a franchise which though it was neither universal nor adult was wide enough to include classes other than the governing class, certainly wider than any existing prior to 1937. The elections based on such a franchise may well be taken as a test to find out how the governing class fared as against the servile classes in this electoral contest.

Unfortunately, no Indian publicist has as yet undertaken to compile an Indian counterpart of Dodd's Parliamentary Manual. Consequently, it is difficult to have precise particulars regarding the caste, occupation, education and social status of members of the legislature elected on the Congress ticket. The matter is so important that I thought of collecting the

1. *A Week With Gandhi* (1943), p. 41.

necessary information on these points relating to members of the Provincial Legislatures elected in 1937. I did not succeed in getting precise information about every member. There are many whom I have had to leave as unclassified. But the information I have been able to gather is I believe sufficient to warrant our drawing certain definite conclusions.

As an answer to the question as to how the governing class fared in the electoral contest of 1937, attention may be drawn to Table 19 (see page 216) which shows the proportion of Brahmins and Banias (landlords and moneylenders) representing the governing class and non-Brahmins and the Scheduled Castes representing the servile classes, that were elected to the Provincial Legislative Assemblies on the Congress ticket.

Those, who do not know how small is the proportion of the Brahmins to the total population of Hindus, may not be able to realize the degree of over-representation which the Brahmins have secured in the election. But there is no doubt that on comparison with their numbers the Brahmins have secured overwhelming representation.

Those, who wish to know what degree of representation the propertied classes, such as Banias, businessmen and landlords obtained, may see the figures given in Table 20 (see page 217). It shows how many Banias, businessmen and landlords were elected on the Congress ticket. Here again the representation secured by the Banias, landlords and businessmen is quite out of proportion to their numbers.

Such is the position of the governing class in the legislatures constituted under the elections that took place in 1937. Some may say that on the whole the governing classes were in a minority in the legislature. As against this, it must be pointed out that the supremacy of the governing class can be measured not by its position in the legislature but by its ability to get possession of executive authority. An inquiry into the class composition of the Ministers is therefore very pertinent. Information on this point will be found in Tables 21 and 22 (see pages 218 and 219). A glance at the tables[1] is enough to show that the Brahmins—the premier governing class—succeeded in capturing an overwhelming majority of seats in

1. The facts summarized in those Tables are taken from the issue for July 15, 1939, of *Information,* an official publication issued by the Government of India.

Table 19

Classification of Congress Members of Provincial Assemblies by Castes

Province	*Brahmins*	*Non-Brahmins*	*Scheduled Castes*	*Not Stated*	*Total*
Assam	6	21	1	5	33
Bengal	15	27	6	6	54
Bihar	31	39	16	12	98
C.P.	28	35	7	—	70
Madras	38	90	26	5	159
Orissa	11	20	5	—	36
United Provinces	39	54	16	24	133

Table 20

Classification of the Congress Members of the Provincial Legislatures in terms of Occupation

Province	*Lawyers*	*Medical Practitioners*	*Land-lords*	*Business-men*	*Private Officials*	*Money Lenders*	*Nil*	*Not Stated*	*Total*
Assam	16	2	2	1	—	—	3	9	33
Bengal	9	2	16	5	2	—	16	4	54
Bihar	14	4	56	6	3	—	1	14	98
Central Provinces ...	20	2	25	10	—	—	8	5	70
Madras	52	2	45	18	2	1	3	36	159
Orissa	8	1	17	4	4	1	1	—	36

Table 21

*Composition of the Cabinets in the Congress Provinces**

Province	*Total No. of Cabinet Ministers*	*Total No. of Non-Hindu Ministers*	*Hindu Ministers in the Cabinet*				*Prime Minister*
			Total	*Brahmins*	*Non-Brahmins*	*Scheduled Castes*	
Assam	8	3	5	?	?	*Nil*	Brahmin
Bihar	4	1	3	?	?	1	Brahmin
Bombay	7	2	5	3	2	*Nil*	Brahmin
Central Provinces	5	1	4	3	1	*Nil*	Brahmin
Madras	9	2	7	3	3	1	Brahmin
Orissa	3	*Nil*	3	?	?	?	Brahmin
United Provinces	6	2	4	4	*Nil*	*Nil*	Brahmin

* This table represent the position as it stood in May 1939 and as reported in the Issue of July 15, 1939, of the Indian Information. Question mark indicates inability to classify whether Brahmin or non-Brahmin.

Table 22

*Classification of Parliamentary Secretaries in Congress Provinces**

Province	*Total No. of Parliamentary Secretaries*	*Total No. of Non-Hindu Parliamentary Secretaries*	*Hindu Parliamentary Secretaries*			
			Total	*Brahmins*	*Non-Brahmins*	*Scheduled Castes*
Assam	*Nil*	*Nil*	*Nil*	*Nil*	*Nil*	Nil
Bihar	8	*Nil*	8	2	5	1
Bombay	6	*Nil*	6	1	5	Nil
Central Provinces	*Nil*	*Nil*	*Nil*	*Nil*	*Nil*	Nil
Madras	8	1	9	3	4	1
Orissa	3	*Nil*	3	?	?	*Nil*
United Provinces	12	1	11	2	8	1

Compiled from Indian Information Issue of July 15, 1939. Question mark indicates inability to classify whether Brahmin or non-Brahmin.

the Cabinet. In all the Hindu Provinces, the Prime Ministers were Brahmins. In all Hindu provinces, if the non-Hindu ministers were excluded, the majority of ministers were Brahmins and even parliamentary secretaries were Brahmins.

What has been said so far makes two things as clear as daylight. First is that there is in India a well defined governing class, distinct and separate from the servile class. Second is that the governing class is so powerful that though small in number in the elections of 1937 it quite easily captured political power and established its supremacy over the servile classes. There remains only one more point for me to establish to be able to put my thesis across. It is to show how far Congress was responsible for the victory of the governing class in the elections of 1937. I know I must prove beyond reasonable doubt that the Congress is responsible for placing the governing class in the position of supremacy over the servile class. For it might be said that the Congress had nothing to do with this, that even if the Congress was responsible for it the result was an accident and that there was no intention on the part of the Congress to help the governing classes to win this position of supremacy.

V

The first line of these suggested defences can be easily disposed of. It is probable that those who raise this defence do not know the political colour of the province to which the figures given in Tables 19, 20, 21 and 22 relate. If they knew it they would give up this line of defence. For they relate to what are called the Congress Provinces. In these provinces the majority party was the Congress Party and the Cabinets were Congress Cabinets. Obviously, if in these Congress provinces the governing classes succeeded in establishing their rule over the servile classes it is difficult to see how the Congress could be absolved from responsibility for such a result. The Congress is a well disciplined party. It had a plan for fighting the elections. In every province there was established a Parliamentary Board, the functions of which were (1) to choose candidates for elections, (2) to decide upon the formation of Cabinets, and (3) to control the actions of ministers. Over and above these Provincial Parliamentary

Boards there was a Central Parliamentary Board to superintend and control the work of the Provincial Parliamentary Boards. It was an election which was planned and controlled by the Congress. It is therefore futile to argue that if the governing classes captured power in the elections of 1937 in the Congress Provinces the Congress is not responsible for the result.

The second line of defence is as fragile as the first. Those who wish to argue that the dominance of the governing class in the Congress provinces is accidental and not intentional should know that they are advancing an argument which will not stand. I would invite the attention of those who are inclined to treat it as an accident to consider the following circumstances.

First let them consider the mentality of the leading members of the Congress High Command who have guided the destiny of the Congress in the past and who are at present running the affairs of the Congress. It would be well to begin with Mr. Tilak. He is dead. But while he was alive he was the most leading man in the Congress and exercised the greatest sway over it. Mr. Tilak was a Brahmin and belonged to the governing class. Though he had acquired the reputation of being the father of the Swaraj movement his antipathy to the servile classes was quite well known. For want of space I will cite only one instance of his mentality towards the servile classes. In 1918, when the non-Brahmins and the Backward classes had started an agitation for separate representation in the legislature, Mr. Tilak in a public meeting held in Sholapur said that he did not understand why the oil pressers, tobacco shopkeepers, washermen, etc.—that was his description of the Non-Brahmins and the Backward classes—should want to go into the legislature. In his opinion, their business was to obey the laws and not to aspire for power to make laws.

Next after Tilak I may take Mr. Vallabhbhai Patel. Here again, I will cite only one instance to indicate his mentality. In 1942, Lord Linlithgow invited 52 important Indians representing different sections of the people to discuss the steps that might be taken to make the Central Government more popular and thereby enlist the sympathy and co-operation of all Indians in war effort. Among those that were invited were members belonging to the Scheduled Castes. Mr. Vallabhbhai Patel could not bear the idea that the Viceroy should have invited such a crowd of mean men. Soon

after the event, Mr. Vallabhbhai Patel made a speech in Ahmedabad and said[1] :—

> "The Viceroy sent for the leaders of the Hindu Mahasabha, he sent for the leaders of the Muslim League and he sent for Ghanchis (oil pressers), Mochis (cobblers) and the rest."

Although Mr. Vallabhbhai Patel in his malicious and stinging words referred only to Ghanchis and Mochis his speech indicates the general contempt in which he holds the servile classes of his country.

It may be well to know the reactions of Pandit Jawaharlal Nehru. Pandit Jawaharlal Nehru is a Brahmin, but he has the reputation of being non-communal in his outlook and secular in his beliefs. Facts do not seem to justify the reputation he carries. A person cannot be called secular if he, when his father dies, performs the religious ceremonies prescribed by orthodox Hinduism at the hands of Brahmin priests on the banks of the river Ganges as Pandit Jawaharlal did when his father died in 1931. As to his being non-communal it is stated by no less a person than Dr. Pattabhi Sitaramayya that Pandit Nehru is very conscious of the fact that he is a Brahmin.[2] This must come as a most astonishing fact to those who believe the Pandit to have the reputation of being the most nationally minded Hindu leader in India. But Dr. Sitaramayya must be knowing what he is talking about. More disturbing is the fact that in the United Provinces from which he hails and over which he exercises complete authority the ministers in the cabinet of the province were all Brahmins. Mrs. Vijaya Laxmi Pandit, the well-known sister of Pandit Jawaharlal Nehru, also seems to be conscious of herself being Brahmin by caste. It is said that at the All-India Women's Conference held in Delhi in December 1940, the question of not declaring one's caste in the Census Return was discussed. Mrs. Pandit disapproved[3] of the idea and said that she did not see any reason why she should not be proud of her Brahmin blood and declare herself as a Brahmin at the Census.

Who are these men ? What is their status ? Mr. Tilak

[1] Quoted by Mr. J. E. Sanjana in *Sense and Nonsense in Politics*—Serial No. XII in the *Rast Rahabar* (a Bombay Gujarati Weekly) of 14th January 1945.

[2] See his Invitation p. XVI to Jawaharlal Nehru by Y. G. Krishnamurti.

[3] Quoted by Sanjann in *Sense and Nonsense in Politics*—Serial No. XII in the *Rast Rahabar,* dated 14th January 1945,

has the reputation of being the father of the Swaraj movement. Mr. Patel and Pandit Nehru come next in command in the Congress hierarchy after Mr. Gandhi.

Some might think that these are the individual and private opinions of the members of the Congress High Command. But that would be an error. Several cases could be pointed out in which such opinions have been acted upon in election campaigns run by the Congress.

Ever since 1919 when Mr. Gandhi captured the Congress, Congressmen have looked upon the boycott of legislatures as one of the sanctions for making the British Government concede the demand for Swaraj. Under this policy, every time there was an election in which the Congress decided not to take part, the Congress would not only refuse to put candidates on the Congress ticket but would carry on propaganda against any Hindu proposing to stand for election as an independent candidate. One need not quarrel over the merits of such a policy. But what were the means adopted by the Congress to prevent Hindus standing on an independent ticket ? The means adopted were to make the legislatures objects of contempt. Accordingly, the Congress in various Provinces started processions carrying placards with these significant and telling words: "Who will go in the legislatures? Only barbers, cobblers, potters and sweepers." In the processions one man would utter the question as part of the slogan and the whole Congress crowd would shout as answer the second part of the slogan. When the Congressmen found that this was not enough to deter persons from standing for the elections, they decided to adopt sterner measures. Believing that respectable people would not be prepared to stand for election if they felt certain that they would have to sit with barbers, potters and sweepers, etc., in the legislatures, the Congress actually went to the extent of putting up candidates from these despised communities on the Congress ticket and got them elected. A few illustrations of this outrageous conduct of the Congress may be mentioned. In the 1920 election, the Congress elected a cobbler[1] to the legislature of the Central Provinces. In the 1930 election, they elected in the Central

[1] Fagnwa Rohidas.

Provinces two cobblers,[1] one milkman[2] and one barber,[3] and in the Punjab one sweeper.[4] In 1934, the Congress elected to the Central Legislature a potter.[5] It might be said that this is old history. Let me correct such an impression by referring to what happened in 1943, in the Municipal elections in Andheri—a suburb of Bombay. The Congress put up a barber to bring the Municipality in contempt.

What a mentality for a, Governing class ! What a brazen-facedness for a governing class to use the servile class for such an ignominious purpose and yet claim to be fighting for their freedom ! What a tragedy for the servile class to take pride in its own disgrace and join in it voluntarily! The Sinn Fein Party in Ireland also boycotted the British Parliament. But did they make such hideous use of their own countrymen for effecting their purposes ? The campaign of boycott of legislature which took place in 1930 is of particular interest. The elections to the Provincial legislatures in 1930 in which these instances occurred coincided with Mr. Gandhi's Salt Satyagraha campaign of 1930; I hope that the future (the official historian, Dr. Pattabhi Sitaramayya, has failed to do so) historian of Congress while recording how Mr. Gandhi decided to serve notice on the Viceroy, Lord Irwin, presenting him with a list of demands to be conceded before a certain date and on failure by the Viceroy in this behalf, how Mr. Gandhi selected Salt Act as a target for attack, how he selected Dandi as a scene of battle, how he decided to put himself at the head of the campaign, how he marched out from his Ashram in Ahmedabad with all pomp and ceremony, how the women of Ahmedabad came out with *Arthi* and applied *tilak'*(saffron mark) to his forehead wishing him victory, how Mr. Gandhi assured them that Gujarat alone would win Swaraj for India, how Mr. Gandhi proclaimed his determination by saying that he would not return to Ahmedabad until he had won Swaraj, will not fail to record that while on the one hand Congressmen were engaged in fighting for Swaraj, which they said they wanted to win in the name of and for the masses, on the other

[1] Guru Gosain Agamdas and Babraj Jaiwar.

[2] Chunnu.

[3] Arjun Lal.

[4] Bansi Lal Caudhari.

[5] Bhagat Chandimal Gola.

hand and in the very year they were committing the worst outrages upon the very masses by exhibiting them publicly as objects of contempt to be shunned and avoided.

VI

This mentality of the Congress High Command towards the servile classes is enough to negative the theory that the supremacy of the governing classes in the Congress Provinces was an accident. There are other facts which also go to negative the theory of accident and which are set out in Table 23 (see page 226). They relate to the educational qualifications of the several classes of candidates selected by the Congress for fighting the elections. What does the table show ? It is crystal clear that in the case of the Brahmins the relative proportion of graduates to non-graduates is far higher than what it is in the case of non-Brahmins and the Scheduled Castes. Was this an accident or was this a matter of policy ? This sort of selection is marked by such a state of uniformity that it could hardly be doubted that the Congress High Command in selecting a candidate had a definite policy, namely, in the case of Brahmins, to give preference to a candidate who had the highest educational qualifications and in the case of the non-Brahmins and the Scheduled Castes, to give preference to a candidate who had the lowest educational qualifications. The difference in terms of graduates and non-graduates does not really reveal the real difference between the status and position of the Brahmin candidates and non-Brahmin candidates. The Brahmin candidates were not merely graduates but they were seasoned politicians of high repute, while the non-Brahmin graduates were raw graduates with nothing but the career of second class politicians behind them.

Why did the Congress select the best educated Brahmins as its candidates for election ? Why did the Congress select the least educated non-Brahmins and Scheduled Castes as its candidates for election ? To this question I can see only one answer. It was to prevent the non-Brahmins—the representatives of the servile classes—from forming a ministry. It cannot be that better educated non-Brahmins were not available. What the Congress seems to have done is deliberately

Table 23

Classification of Brahmin and Non-Brahmin Congress Partymen by Literacy

Provincial Assemblies	*Castes*	*Total*	*Graduates*	*Non-Graduates*	*Matriculates*	*Illiterates*	*Not stated*
Assam	Brahmin	6	6	1	—	—	—
	Non-Brahmin	21	15	2	—	1	9
Bengal	Brahmin	15	14	1	—	—	—
	Non-Brahmin	27	21	4	—	1	7
	Scheduled Castes ...	6	3	—	1	2	—
Bihar	Brahmin	31	11	5	3	4	3
	Non-Brahmin	39	23	4	3	8	13
	Scheduled Castes ...	—	1	1	4	10	—
Central Province ...	Brahmin	39	15	—	2	9	2
	Non-Brahmin	54	15	—	2	17	1
	Scheduled Castes ...	—	1	—	—	6	—
Madras	Brahmin	38	16	2	3	4	13
	Non-Brahmin	90	31	3	1	7	61
	Scheduled Castes ...	26	1	1	1	14	—
	Backward Class	—	1	—	—		—
Orissa	Brahmin	11	6	1	—	3	1
	Non-Brahmin	20	7	3	2	7	1
	Scheduled Castes ...	5	—	—	—	5	—

to prefer an uneducated non-Brahmin to an educated non-Brahmin. And why ? Because from the point of view of the governing class, the uneducated non-Brahmin has two definite advantages over an educated non-Brahmin. In the first place, he is likely to be more grateful to the Congress High Command for having got him elected than an educated non-Brahmin is likely to be. In the second place, the uneducated non-Brahmin is less likely to join hands with the educated non-Brahmins in the Congress Party and overturn the ministry of the governing classes and form a non-Brahmin ministry. In the third place, the greater the number of raw non-Brahmins in the Congress the lesser is the possibility of the non-Brahmins in the Congress forming a competent and alternative Ministry to the detriment of the governing class.

Given these circumstances, can there be any doubt that the Congress "Fight for Freedom" is for the freedom of nobody except that of the governing class ? Is there any doubt that the Congress is the governing class and the governing class is the Congress ? Is there any doubt that when Swaraj came in 1937 in the form of Provincial autonomy, the Congress deliberately and shamelessly put the governing class in places of power and authority ?

VII

The facts set out above prove beyond cavil that the "Fight for Freedom" launched by the Congress has ended in perverting the aim and object of Indian freedom and that the Congress itself is a party to such a perversion. The result is an enormity, the character of which it would not be possible for the foreigner to realize unless he has an adequate idea of the social outlook and social philosophy of the Governing Classes in India.

Starting with the Brahmins who form a strong and powerful element in the governing class in India it is no exaggeration to say that they have been the most inveterate enemies of the servile classes, the Shudras (the old name for the non-Brahmins) and the Untouchables who together constitute about 80 or 90 per cent. of the total Hindu population of India. If the common man belonging to the servile classes in India is to-day so fallen, so degraded, so devoid of self-respect, hope or ambition, and so lifeless, it is entirely due to the Brahmins and

their philosophy. The cardinal principles of this philosophy of the Brahmins were six—to use a correct expression, techniques of suppression—(1) graded inequality between the different classes; (2) complete disarmament of the Shudras and the Untouchables; (3) complete ban on the education of the Shudras and the Untouchables; (4) total exclusion of the Shudras and the Untouchables from places of power and authority; (5) complete prohibition against the Shudras and the Untouchables acquiring property, and (6) complete subjugation and suppression of women. Inequality is the official doctrine of Brahmanism and the suppression of the lower classes aspiring to equality has been looked upon by them and carried out by them, without remorse as their bounden duty. There are countries where education did not spread beyond a few. But India is the only country where the intellectual class, namely, the Brahmins not only made education their monopoly but declared acquisition of education by the lower classes, a crime punishable by cutting off of the tongue or by the pouring of molten lead in the ear of the offender. The result is that for centuries the Brahmins have denied the servile classes the right to education. Even to-day the Brahmins exhibit the same hostility to their education. Mr. Baines, the Census Commissioner for 1891 in discussing the causes why education was not spreading among the masses said :—

> "The second influence antagonistic to a more general spread of literacy is the long continued existence of a hereditary class whose object it has been to maintain their own monopoly of all book-learning as the chief buttress of their social supremacy. Sacerdotalism knows that it can reign over none but an ignorant populace. The opposition of the Brahmin to the rise of the writer castes has been already mentioned, and the repugnance of both, in the present day, to the diffusion of learning amongst the masses can only be appreciated after long experience. It is true that the recognition by the British Government of the virtue and necessity of primary education has met with some response on the part of the literate castes, but it is chiefly in the direction of academic utterances, which cannot, in the circumstances, be well avoided. It is welcome too, in its capacity of affording the means of livelihood to many of these castes, as they have to be engaged as teachers, and are bound accordingly to work up to the State standard of efficient

tuition. The real interest of the castes in question is centred on secondary education, of which they almost exclusively are in a position to reap the advantage."

The Congress politicians complain that the British are ruling India by a wholesale disarmament of the people of India. But they forget that disarmament of the Shudras and the Untouchables was the rule of law promulgated by the Brahmins. Indeed, so strongly did the Brahmins believe in the disarmament of the Shudras and the Untouchables that when they revised the law to enable the Brahmins to arm themselves for the protection of their own privileges, they maintained the ban on the Shudras and the Untouchables as it was without lessening its rigour. If the large majority of people of India appear to-day to be thoroughly emasculated, spiritless, with no manliness, it is the result of the Brahmanic policy of wholesale disarmament to which they have been subjected for the untold ages. There is no social evil and no social wrong to which the Brahmin has not given his support. Man's inhumanity to man, such as the feeling of caste, untouchability, unapproach-ability and unseeability is a religion to him. It would, however, be a mistake to suppose that only the wrongs of man are a religion to him. The Brahmin has given his support to some of the worst wrongs that women have suffered from in any part of the world. In India widows were burnt alive as suttees and the Brahmin gave his fullest support to the practice. Widows were not allowed to remarry. The Brahmins upheld the doctrine. Girls were required to be married before 8 and the husbands were permitted to claim the right to consummate the marriage at any time thereafter whether she had reached puberty or not. The Brahmin defended the system. The record of the Brahmins as law givers for the Shudras, for the Untouchables and for women is the blackest as compared with the record of the intellectual classes in other parts of the world, For no intellectual class has prostituted its intelligence for the sole purpose of inventing a philosophy to keep his uneducated countrymen in a perpetual state of servility, ignorance and poverty as the Brahmins have done in India. Every Brahmin to-day believes in this philosophy of Brahmanism propounded by his forefathers. He is an alien element in the Hindu Society. The Brahmin '*vis-a-vis* the Shudras and the Untouchables is as foreign as the German is to the French, as the

Jew is to the Gentile or as the White is to the Negro. There is a real gulf between him and the lower classes of Shudras and Untouchables. He is not only alien to them but he is also hostile to them. In relationship with them, there is in him no room for conscience and no call for justice.

The Bania is the worst parasitic class known to history. In him the vice of money-making is unredeemed by culture or conscience. He is like an undertaker who prospers when there is an epidemic. The only difference between the undertaker and the Bania is that the undertaker does not create an epidemic while the Bania does. He does not use his money for productive purposes. He uses it to create poverty and more poverty by lending money for unproductive purposes. He lives on interest and as he is told by his religion that money-lending is the occupation prescribed to him by the divine Manu, he looks upon money-lending as both right and righteous. With the help and assistance of the Brahmin judge who is ready to decree his suits, the Bania is able to carry on his trade with the greatest ease. Interest, interest on interest, he adds on and on, and thereby draws millions of families perpetually into his net. Pay him as much as he may, the debtor is always in debt. With no conscience to check him there is no fraud, and there is no chicanery which he will not commit. His grip over the nation is complete. The whole of poor, starving, illiterate India is irredeemably mortgaged to the Bania.

In every country there is a governing class. No country is free from it. But is there anywhere in the world a governing class with such selfish, diseased and dangerous and perverse mentality, with such a hideous and infamous philosophy of life which advocates the trampling down of the servile classes to sustain the power and glory of the governing class ? I know of none. It is true that the governing classes in other countries do not readily admit into their society those who do not belong to their class. But they do not refuse admission to those who have risen to their level. Nor do they prevent any person from rising to their level. In India the governing class is a close corporation unwilling to admit anyone who does not belong to it by birth and ready to use every means to prevent the servile classes from rising to their level.

VIII

There was a governing class in France before the French Revolution. There was a governing class in Japan before the seventies of the nineteenth century when Japan decided to modernize its constitution. In both countries the governing classes realizing that it was an hour of national crisis decided to shed their ancient rights and privileges in order to make the transition from oligarchy to democracy smooth and easy.

In France, when the Revolution broke out and demanded equality the governing class in France voluntarily came forward to give up its powers and its privileges and to merge itself in the mass of the nation. This is clear from what happened when the States-General was called. The Commons got 600 representatives, while the clergy and the Nobles got 300 each. The question arose how were the 1,200 members to sit, debate and vote. The Commons insisted upon the union of all the estates in one Chamber and 'vote by head.' It was impossible to expect the clergy and the Nobles to accept this position. For it meant the surrender of their most ancient and valuable privileges. Yet a good part of them agreed to the demand of the Commons and gave France a constitution based upon liberty, equality and fraternity.

The attitude of the governing classes in Japan during the period between 1855 to 1870—a period in which the Japanese people were transformed from a feudal society into a modern nation—was even more self-sacrificing than the attitude of the governing classes in France. As students of Japanese history know, there were four classes in Japanese Society: (1) The *Damiyos,* (2) The *Samurai,* (3) The *Hemin* or the Common folk and (4) The *Eta* or the outcasts, standing one above the other in an order of graded inequality. At the bottom were the *Eta* numbering a good many thousands. Above the *Eta* were the *Hemin* numbering about 25/30 millions. Over them were the *Samurai* who numbered about 2 millions and who had the power of life and death over the *Hemin.* At the apex were the *Damiyos* or the Feudal Barons who exercised sway over the rest of the three classes and who numbered only 300. The *Damiyos* and the *Samurai* realized that it was impossible to transform this feudal society with its class composition and class rights into a modern nation with equality of citizenship. Accordingly the *Damiyos* charged with the spirit of nationalism

and anxious not to stand in the way of national unity, came forward to surrender their privileges and to merge themselves in the common mass of people. In a memorial submitted to the Emperor on the 5th March 1869 they said[1]:—

> "The Place where we live is the Emperor's land. The food that we eat is grown by the Emperor's men. How then can we claim any property as our own ? We now reverently offer up our possessions and also our followers (Samurai as well as 'common folk') with the prayer that the Emperor will take good measures, for rewarding those to whom reward is due, and for lining such as do not deserve reward. Let imperial orders be issued for altering and remodelling the territories of the various clans. Let the civil and penal codes, the military laws down to the rules for uniform and for the construction of engines of war, all proceed from the Emperor. Let all affairs of the Empire, both great and small, be referred to him."

How does the governing class in India compare in this behalf with the governing class in Japan? Just the opposite. Unfortunately, the history of the struggle of the servile classes in India against the governing class has not yet been written. But those who know anything about it will know that the governing class in India has no intention of making any sacrifice not even on the altar of Indian Freedom for which it is thirsting. Instead, the governing class is using every means to retain them. For this it is using two weapons. First is the weapon of nationalism. Whenever the servile classes ask for reservations in the legislatures, in the Executive and in Public Services, the governing class raises the cry of 'nationalism in danger.' What are these reservations for ? To put it briefly they are intended to provide floorings below which the governing class will not be able to push down the servile classes in their struggle for existence. There, is nothing sinister and nothing wrong in this demand for reservations. How does the governing class react to them ? It loses no occasion to deprecate them and to ridicule them. People are led to believe that if they are to achieve national freedom, they must maintain unity, that all questions regarding reservations in the Legislatures, Executives and the Public Services are inimical to national unity and that, therefore, for anyone interested in national freedom it is a sin to support those who ask for such

[1] Quoted in *Romance of Japan by Japan* by James A. B. Scherer.

reservations. That is the attitude of the governing class in India. It stands in glaring contrast with that of the governing class in Japan. It is a misuse of nationalism. But the governing class does not feel any compunction for such misuse.

The second means employed by the governing class is the writing of the lampoons and parodies calculated to pour ridicule on the demand for reservations. Such lampoons are by no means few and far between. Even the most respectable members of the governing class do not mind indulging in such compositions. Even Dr. R. P. Paranjpe, now India's High Commissioner for Australia, who stands for an advanced type of liberalism, could not withstand the temptation of trying his hand in writing such a parody.[1] Among the parodies composed by members of the governing class his was the most colourful and had, when it appeared, excited the greatest resentment among the servile classes.

The argument used by the governing classes to oppose the demand of the servile classes for reservations is based on the doctrine of efficiency. To give a patriotic look to the stand taken by the governing classes it is represented that what

[1] The parody written by Dr. R. P. Paranjpe appeared in a magazine called *Gujarathi Punch* for May 1926 under the heading "A Peep into the Future." As a specimen of this class of writing by members of the governing class it is worth perusal. It is a satire based on certain incidents which are imagined to have occurred under the principle of communal reservations. As the magazine is not easily available, I reproduce' it below with a view to rescue it from oblivion:—

'A Peep into the Future'

The following extracts are taken from reports of Commissions, records of police courts oases, judicial trials. Council Proceedings, Administration Reports, etc., issued between the year 1930-50 and are published for the exclusive benefit of the readers of the *Gujarati Punch*.

I

Report of the Royal Commission on the Government of India, 1930 :

We have given our closest consideration to the representations made on behalf of several communities in India. Taking the figures of the last Census as our basis we can only give an approximate satisfaction to all the claims made before us, for it is not possible to give an absolutely accurate solution to the problem of constructing a machinery of Government unless every single person in the country is made a member thereof, as the numbers of the several communities do not possess a common measure. We lay down the number 2375 as the fundamental number in the constitution and this number is divided into parts attached to the several communities as shown in the schedule attached to our report. The claims of each community will henceforward be represented by its proper number, and all appointments, memberships of various bodies, and in fact everything in the country will be awarded according to the proportion given in the schedule wherever possible. The Viceroy's Executive Council will consist of 475 members selected as far as may be according to one-fifth the numbers belonging to each community and three members will hold

Indians must aim at is to maintain in India an efficient body politic and that this can be done only by insisting that every place of power and authority should be filled by none but the best man available. It is this argument which seems to impress the foreigner and which makes him a critic if not an adversary of the demand for reservation. It is therefore

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office for one year so that each community will have attained its exact share of membership in five years. There will be 125 Judges in each High Court, each judge holding office for one year, though according to this arrangement, each section will have obtained its exact share only after the lapse of 19 years. The number of other kinds of appointments will be determined on the same basis for the accurate adjustment of all claims.

To allow for the proper functioning of all bodies with these numbers as many-existing Government buildings as may be necessary may be pulled dowu and rebuilt so as to be of the proper size.

II

(*Notification of the Government of India,* 1932)

In accordance with the provisions of the Government of India Act, 1931. His Majesty the King Emperor has been pleased to appoint the following 475 gentlemen as members of the Executive Council of the Governor-General:

267. Matadin Ramdin (caste Barber) member in charge of the Surgical Branch of the Medical Department.

372. Allabux Peerbux (Mahomedan Camel driver) in charge of the camel transport division of the Army Department.

433. Ramaswamy (caste, Andhra Sweeper) in charge of the road cleaning branch of the P.W.D.

437. Jagannath Bhattsoharya (Kulin Brahmin Priest) in charge of the domestic section of the Registration Department.

* * *

IV

(*Letter to all Local Governments*, 1934)

In response to a resolution passed by the Legislative Assembly, with which the Government of India are in full agreement, I am directed to say that henceforward every appointment under Government should go by rotation to each community irrespective of the merits of the applicants.

V

(*Notification in the Bombay Government Gazette,* 1934)

The Government of Bombay will proceed to make the following appointments in December. The applicants for the several appointments should belong to the castes mentioned against each according to the rotation fixed by Government Order No. , dated November 30th, 1934.

1. Chief Engineer for Irrigation (Sind) : Kunbi from North Kanara.
2. Professor of Sanskrit, Elphinstone College, Bombay : Baluchi Pathan from Sind.
3. Commandant of His Excellency's Bodyguard : Marwari from North Gujarat.
4. Consulting Architect to Government: Wadari (wandering gypsy) from the Deccan.
5. Director of Islamic Culture : Karhada Brahmin.
6. Professor of Anatomy : (Grant Medical College) Mahomedan Butcher.
7. Superintendent of Ycravda Jail : Ghantichor.
8. Two organizers of prohibition : Dharala (Kairs District Bhil) (Panch Mahals).

necessary to examine the validity of the argument and the sincerity of those who use it.

Nobody will have any quarrel with the abstract principle that nothing should be done whereby the best shall be superseded by one who is only better and the better by one who is merely good and the good by one who is bad. But the argument completely fails to carry conviction when in practice one finds that having regard to the historical circumstances of India every time the 'best man' is chosen he turns out to be a man from the governing class. This may be alright from the point of view of the governing class. But can it be right from the point of view of the servile class ? Could the 'best' German be the 'best' for the French ? Could the 'best' Turk be 'best' for the Greeks ? Could the 'best' Pole be regarded

VI

(*Report of a Case from the High Court,* 1935)

A.B. (caste Teli) was charged with the cold-blooded murder of his father while he was asleep. The judge summing up Against the accused, the jury brought in a verdict of guilty. Before passing sentence the judge asked the pleader for the acoused if he had to say anything. The pleader, Mr. Bomanji, said he agreed with the verdict but that according to Law the aocnaed could not be sentenced at all, much less sentenced to death, as during the current year seven Telia had already been convicted and sentenced two of them with death, that several other communities had not yet reached their quota of convictions as given in the Government of India Act, while the Telis had already reached theire. His Lordship accepted the contention of the defence pleader and acquitted the acoused.

VII

(*Extract from the 'Indian Daily Mail,'* 1936)

Annaji Ramchandra (Chitpavan Brahmin) was found wandering in the streets of Poona with a long knife attacking whomsoever he met. When brought up' before the Magistrate he was shown by the police to have been recently let off from the Mental Hospital. The Superintendent of the Hospital in his evidence said that Annaji had been in the hospital as a dangerous insane for three years, but as there was the quota for the Chitpavanas and as the inmates belonging to other communities had not finished their year-quotas he could not keep him any longer and show any special favouritism to the Chitpavans and he had therefore let him off according to Government Order No. ... in the Medical Department. The Magistrate ordered Annaji to be discharged.

VIII

(*Extract from the Report of the Administration of Jails in the Bombay Presidency,* 1937)

In Spite of every precaution the numbers in the jails did not correspond to the quotas fixed for each community. The Superintendent had already asked for instructions from Government with a view to remedying the discrepancy.

Resolution of Government : Government view with serious displeasure this grave dereliction of duty on the part of the I. G. of prisons. Immediate steps should be taken to arrest and put in jail as many members of the various com-

'best' for the Jews ? There can hardly be any doubt as to the correct answer to these questions.

In answering this question two things cannot be overlooked. One is that a great man is not necessarily a good man. The other is that man is not a mere machine without any feelings. This is even true of the 'best' man. He too is charged with the feelings of class sympathies and class antipathies. Having regard to these considerations the 'best' man from the governing class may well turn out to be the worst from the point of view of the servile classes.

Mere efficiency can never be accepted as a test. If it was accepted as the only test the result would be that the affairs of the French might well be run by the Germans, of Turks by the Russians and of Chinese by the Japanese. Those who hold out the theory of naked efficiency and nothing but efficiency as the test of good Government should ask the French, the Turks and the Chinese as to what they have to say about it and how they like the result which follows from its application.

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munities as are required to bring their quotas up to the proper level. If enough persons required cannot be caught, a sufficient number of inmates should be let off to bring down all to the same level.

IX

(*Proceedings of the Legislative Council,* 1940)

Mr. Chennappa asked : Has the attention of Government been called to the fact that class list of the recent M.A. Examination in Pali do not show the proper quota for mang-garudis ?

The Hon. Mr. Damu Shroff (Minister of Education) : The University Registrar reports that no candidate from among Mang-garudis offered himself for examination.

Mr. Chennappa: Will Government be pleased to stop this examination until such a candidate offers himself and if the University disobeys the order of Government to take away the University grant and amend the University Act ?

The Hon. Member: Government will be pleased to consider the suggestion favourably. (Cheers).

X

(*Extract from 'The Times of India,'* 1942)

The Coroner Mr..... was suddenly called last evening to inquire into the death of Ramji Sonu at the J.J. Hospital as the result of n surgical operation. Dr. Tanu Pandav (caste Barber) deposed that he had conducted the operation. He wished to open an abscess in the abdomen but his knife pierced the heart and the patient expired. Asked whether he had ever carried out any operation of this nature before, he said that he was appointed as the principal surgeon to the hospital only one day before as it was then the turn of his community and that he had never held a surgical instrument in his hand before except a razor for shaving. The jury returned a verdict of death by misadventure.

Even a simpleton can imagine what answer they are likely to return. I am sure that a theory which produces such a result will be regarded as an absurd one on all hands without exceptions. How then can such a theory be applied to India where the difference between the governing class and the servile class is the same both in degree and in kind as the difference between French and Germans, Turks and Russians or Chinese and Japanese ? The fact is that the governing class in India blinded by self-interest is unmindful of the absurdity of the argument of naked efficiency and being conscious that it has the power to convert its opinion into law does not bother what the servile classes have to say on the point.

The governing class does not bother to inquire into the ways and means by which it has acquired its supremacy. It does not feel the necessity of doing so, partly because it believes that it acquired its supremacy by dint of merit and partly because it believes that no matter how it acquired its power it is enough that it is in a position to dictate its policy on the servile classes. Assuming that the governing class did not find it necessary to examine the ways and means by which it obtained its supremacy what would it find ? Strange as it may seem the governing class has obtained its power by the same system of reservations which it is now opposing on the ground of communalism. Many may find it difficult to accept the truth of this statement. Those who have any doubt need do no more than read the Manu Smriti, the Bible of the Hindus. What will they find in it ? They will find and will no doubt be shocked to know that the Brahmins, the chief and the leading element in the governing class, acquired their political power not by force of intellect—for intellect is nobody's monopoly—but by sheer communalism. According to the Laws *of* Manu Smriti the post of the Purohit, King's Chaplain and Lord Chancellor, the posts of the Chief Justice and Judges of the High Court and the post of Ministers to the Crown were all reserved for the Brahmins. Even for the post of the Commander-in-Chief the Brahmin was recommended as a fit and a proper person though it was not in terms reserved for him. . All the strategic posts having been reserved for the Brahmins it goes without saying that all ministerial posts came to be reserved for the Brahmins. This is not all. The Brahmin was not content with reserving places of profit and

power for his class. He knew that mere reservation will not do. He must prevent rivals shooting up from other non-Brahmin communities equally qualified to hold the posts and agitate and blow up the system of reservations. In addition to reserving all executive posts in the State for Brahmins a law was made whereby education was made the monopoly and privilege of Brahmins. As has already been pointed out the law made it a crime for the Shudra, i.e., the lower orders of Hindu Society to acquire learning, the infringement of which was followed by not only heavy but cruel and inhuman punishment such as cutting the tongue of the criminal and filling his ear with hot molten lead. It is true that these reservations do not exist under the British rule. But it must be admitted that though the reservations made by Manu have gone, the advantages derived from their continuance over several centuries have remained. In asking for reservations the servile classes are not asking for anything new or anything extraordinary. The demand for reservation is a demand for protection against the aggressive communalism of the governing class, which wants to dominate the servile class in all fields of life and without imposing on the governing class any such ignominious conditions as was done by the Brahmins for their own aggrandisement and for the perpetuation of their own domination on the Shudra, namely, to make it a crime for the governing class to learn or to acquire property.

This argument of naked efficiency has also to be considered from the point of view of public welfare. It was said by Campbell Bannerman in the course of a debate in the House of Commons on Ireland, that self-government is better than good government. The statement had become so popular in India that it had become more than a mere slogan. It had become a maxim. As it stands the statement is quite absurd. Campbell Bannerman was not contrasting self-government with good government. He was contrasting self-government with efficient government or rather with "resolute government" to use the phrase of his opponent Lord Salisbury. There is no denying that self-government must be good government, otherwise it is not worth having. The question is, how is good government to be had. Some people seem to be under the impression that as self-government is a sovereign government it is bound to result in good government. This is one of the greatest delusions from which most people in dependent

countries are suffering. Those who are living in such a delusion had better read what Prof. Dicey has to say on this point. Discussing the question what persons and bodies with full sovereign powers can do Dicey has the following observations to make :—

> "The actual exercise of authority by any sovereign whatever and notably by Parliament, is bounded or controlled by two limitations. Of these the one is an external, the other is an internal limitation.
>
> "The external limit to the real power of a sovereign consists in the possibility or certainty that his subjects or a large number of them, will disobey or resist his laws.
>
> "This limitation exists even under the most despotic monarchies. A Roman Emperor, or a French King during the middle of the eighteenth century, was (as is the Russian Czar at the present day) in strictness a 'sovereign' in the legal sense of that term. He had absolute legislative authority. Any law made by him was binding, and there was no power in the empire or kingdom which could annul such law . . . But it would be an error to suppose that the most absolute ruler who ever existed could in reality make or change every law at his pleasure . . .
>
> "The authority, that is to say, even of a despot, depends upon the readiness of his subjects or of some portion of his subjects to obey his behests; and this readiness to obey must always be in reality limited. This is shown by the most notorious facts of history. None of the early Caesars could at their pleasure have subverted the worship of fundamental institutions of the Roman world . . . The Sultan could not abolish Mahomedanism. Louis the Fourteenth at the height of his power could revoke the Edict of Nantes, but he would have found it impossible to establish the supremacy of Protestantism, and for the same reason which prevented James the Second from establishing the supremacy of Roman Catholicism . . . What is true of the power of a despot or of the authority of a constituent assembly is specially true of the sovereignty of Parliament ; it is limited on every side by the possibility of popular resistance. Parliament might legally tax the Colonies ; Parliament might without any breach of law change the succession to the throne or abolish the monarchy ; but everyone knows that in the present state of the world the British Parliament will do none of these things. In each case widespread resistance would result from legislation which.

though legally valid, is in fact beyond the stretch of Parliamentary power.

* * *

> "There is an internal limit to the exercise of sovereign power itself. Even a despot exercises his powers in accordance with his character, which is itself moulded by the circumstances under which he lives, including under that head the moral feelings of the time and the society to which he belongs. The Sultan could not if he would, change the religion of the Mahommedan world, but if he could do so it is in the very highest degree improbable that the head of Mahommedanism should wish to overthrow the religion of Mahomet; the internal check on the exercise of the Sultan's power is at least as strong as the external limitation. People sometimes ask the idle question why the Pope does not introduce this or that reform ? The true answer is that a revolutionist is not the kind of man who becomes a Pope and that the man who becomes a Pope has no wish to be a revolutionist . . . "

I have already pointed out that it is not enough for the servile classes to be content with the mere fact that their country has become an independent and a sovereign state. It is necessary for them to go further and to find out who are likely to be the instruments of the State, in other words who is going to be the governing class. Dicey's observations and the profound truth which underlies them no one can question—add a further point namely that for good government, ability and efficiency of the governing class are not enough. What is necessary is to have in the governing class the will to do good or to use Dicey's language, freedom from internal limitations arising out of selfish class interests. Efficiency combined with selfish class interests instead of producing good government is far more likely to become a mere engine of suppression of the servile classes.

In selecting the instrumentalities of the State considerations of class bias in the instrumentalities cannot be overlooked. It is in fact fundamental to good government. It is unfortunate that the importance of this fact is not generally recognized even by those who regard themselves as the champions of democracy. Karl Marx was the first to recognize it and take account of it in the administration of the Paris Commune. It is unnecessary to say that it is to-day the basis of Government in Soviet Russia. The demand for reservations put forth by the servile classes in India is essentially based upon the same considerations

pointed out by Dicey, advocated by Marx and adopted by Russia. Only those who belong to the servile class can be trusted to protect the interest of that class. This consideration is so important that the principle of efficiency cannot be allowed to altogether override it. If the governing class in India stands on the principle of efficiency and efficiency alone it is because it is actuated by the selfish motive of monopolizing the instrumentalities of Government.

IX

The foregoing discussion has extended over such length that the foreigner is likely to miss the points which it is intended to bring out. It may therefore be well to assemble them together with a view to underline them.

The main problems, which those desirous of establishing democracy in India must face, are:—(1) the position of the governing class of India, (2) the aims and objects of the governing class towards the servile classes, (3) the *raison d'etre* of the demands of the servile classes for constitutional safeguards and (4) the relation of the governing class to the Congress.

Regarding the first point the argument is that the position of the governing class in India is quite different from the position of the governing classes in other countries of the world. It is not easy to understand this difference, nor is it easy to state it in expressive terms. Perhaps the illustration of a bar and a hyphen may help to give a clear idea of what the difference is. Nobody can mistake the difference between a hyphen and a bar. A bar divides but does not link. A hyphen does both. It divides but it also links. In India the governing classes and the servile classes are divided by a bar. In other countries there exists between them only a hyphen. The resultant difference is a very crucial one. In other countries, there is a continuous replenishment of the governing class by the incorporation of others who do not belong to it but who have reached the same elevation as the governing class. In India, the governing class is a close corporation in which nobody, not born in it, is admitted. In other countries where the governing class is not a close preserve, where there is social endosmosis between it and the rest, there is a mental assimilation and accommodation

which makes the governing class less antagonistic in its composition and less antagonistic to the servile classes in its social philosophy. In other words, the governing class in countries outside India is not anti-social. It is only non-social. In India where the governing class is a close corporation, tradition, social philosophy and social outlook which are antagonistic to the servile classes remain unbroken in their depth and their tenor and the distinction between masters and slaves, between the privileged and the unprivileged continues for ever hard in substance and fast in colour. In other words the governing class in India is not merely non-social. It is positively anti-social.

As to the demand for reservations by the servile classes the reason behind it is to put a limit on the power of the governing classes to have control over the instrumentalities of government. The governing classes are bent on giving the reservations a bad name in order to be able to hang those who are insisting upon them. The real fact is that the reservations are only another name for what the Americans call checks and balances which every constitution must have, if democracy is not to be overwhelmed by the enemies of democracy. That the reservations demanded by the servile classes are different in form front the American sort of checks and balances does not alter their character. The forms of checks and balances must be determined by two considerations. The first is the necessity of establishing a correlation between the political constitution and social institutions of the country if democracy is to be real. As the social institutions of countries differ in their form the checks and balances in its political constitutions must also differ. For instance, where a country is ridden by the caste system the checks and balances will have to be of a different sort from what they need be in a country pervaded by a spirit of social democracy. The second is the necessity of providing a firm flooring to the servile classes against the possibility of their being pressed down by the governing classes by reason of their superior power. In some countries adult suffrage may be quite enough for the servile classes to hold their own against the governing classes. In India unlike other countries the governing class is so omnipotent and omnipresent that other remedies besides adult suffrage will be necessary to give adequate power to the servile classes to protect themselves against exploitation by the governing classes. Looked at in the

light of these observations, the reservations demanded by the servile classes, though different in form from the checks and balances embodied in the American Constitution, are fundamentally checks and balances, and must be considered as such by the foreigner before he forms an adverse opinion against them.

The facts bearing on the last point namely the relation of the Congress to the governing classes have also been fully set out. From these facts the foreigner should be able to see how intimate is the connection between the two. The same facts will explain why the governing class in India has placed itself in the vanguard of the Congress movement and why it strives to bring everybody within the Congress fold. To put it briefly the governing class is aware that a political campaign based on class ideology and class conflicts will toll its death knell. It knows that the most effective way of side-tracking the servile classes and fooling them is to play upon the sentiment of nationalism and national unity. It clings to the Congress because it realizes that the Congress platform is the only platform that can most effectively safeguard the interest of the governing class. For if there is any platform from which all talk of conflict between rich and poor, Brahmin and non-Brahmin, landlord and tenant, creditor and debtor, which does not suit the governing class, can be effectually banned, it is the Congress platform which is not only bound to preach nationalism and national unity,—this is what the governing class wants, as it is on this that its safety entirely depends—but which prohibits any other ideology inconsistent with nationalism being preached from its platform.

If the foreigner bears in mind these points he will realize why the servile classes of India are not attracted by the Congress brand of Swaraj. What good can the Congress brand of Swaraj bring to them ? They know that under the Congress brand of Swaraj the prospect for them is really very bleak. The Congress brand of Swaraj will either be materialization of what is called Gandhism or it will be what the governing class would want to make of it. If it is the former it will mean the spread of charkha, village industries, the observance of caste, Bramhcharya (continence), reverence for the cow and things of that sort. If it is left to governing classes to make what it likes of Swaraj the principal item in it will be the suppression of the servile classes by withdrawing the facilities given by the

British Government in the matter of education and entry in public services.

Some people hope that under Swaraj there will be a reform of tenancy laws, factory legislation, compulsory primary education, prohibition and construction of roads and canals, improvement of currency, regulation of weights and measures, dispensaries and introduction of other measures for the servile classes. I am not quite sure that these hopes are well-founded. Most people forget that what leads the Congress to-day to mouth such a programme is the desire to show that the Congress is better than the British bureaucracy. But once the bureaucracy is liquidated, will there be the same incentive to better the lot of the masses ? That is the question. Firstly, I entertain very grave doubts as to how far this will materialize. Secondly, there is nothing very great in it. In the world of to-day, no governing class can omit to undertake reforms, which are necessary to maintain society in a civilized state. Apart from this, is social amelioration the be-all and end-all of Swaraj ? Knowing the servile classes as I do that is certainly not the fault of the servile classes. They certainly do not intend to follow the teaching that 'the meek shall eat and be satisfied.' The want and poverty which has been their lot for centuries is nothing to them as compared to the insult and indignity which they have to bear as a result of the vicious social order. Not bread but honour, is what they want, That can happen only when the governing classes disappear and cease to have control over their destiny. The question for the servile classes is not whether this reform or that reform will be undertaken. The question is: Will the governing classes in India having captured the machinery of the State, undertake a programme for the reform of the social order whereby the governing class will be liquidated, as distinguished from a programme of social amelioration ? The answer to this depends upon whether the future constitution of India will be with safeguards or without safeguards for the protection of the servile classes. If it will have safeguards it will be possible for the servile classes to liquidate the governing classes in course of time. If the constitution is without safeguards the governing class will continue to maintain its dominance over the servile classes. This being the issue, the foreigner should note that the much-advertised representative character of the Congress is absolutely irrelevant. The Congress may be a

representative body and the Congress may be the body which is engaged in what is called the Fight for Freedom ; but these things have nothing to do with the decision of the issue. A true lover of democracy before he befriends the Congress will demand that it should produce its blue print of the constitution and be satisfied that its constitution does contain unequivocal and positive provisions for the safety, security for the life, liberty and the pursuit of happiness for the servile classes.

X

The foreigners who take interest in Indian politics fall into two classes. The first class includes those who are travellers and tourists who come 'to do' India for a short while and who are not equipped with a knowledge of the intricacies of the Indian Political problems, the theoretical apparatus to pronounce a correct opinion on the attitude of the different parties to these problems. Those who fall into the second class are the leaders of democratic public opinion such as Louis Fischer in America, Kingsley Martin, Brailsford and Laski whose knowledge and equipment none can question. I would have had no regrets if the foregoing discussion had been called for by the needs of correcting the unthinking bias of the tourists and traveller class of foreigners in favour of the Congress. But unfortunately the same sort of bias is also to be found in those foreigners who fall into the second class.

That there should be foreigners of the tourist sort who cannot understand the intricacies of Indian politics and who therefore support the Congress on no other ground except that which Mr. Pickwick gave to Sam Weller—to shout with the biggest crowd—is quite understandable. But what annoys most is the attitude of the leaders of the British Labour Party, heads of radical and leftist groups in Europe and America, represented by men like Laski, Kingsley Martin, Brailsford and editors of journals like the *Nation* in America, and the *New Statesman* in England championing the cause of the oppressed and the suppressed people in other parts of the world. How can these men support the Congress it is difficult to understand. Do they not know that the Congress means the governing class and that the governing class in India is a Brahmin-Bania combine ? That masses are drawn in the Congress only to be camp followers with no say in the making of Congress policy ?

Do they not realize that for the reasons for which the Sultan could not abolish Islam or the Pope could not repudiate Catholicism, the governing class in India will not decree the destruction of Brahmanism and that so long as the governing class remains what it is, Brahmanism, which preaches the supremacy of Brahmins and the allied castes and which recognises the suppression and degradation of the Shudras and the Untouchables as the sacred duty of the State, will continue to be the philosophy of the State even if India became free ? Do they not know that this governing class in India is not a part of the Indian people, is not only completely isolated from them, but believes in isolating itself, lest it should be contaminated by them, has implanted in its mind by reason of the Brahmanic philosophy, motives and interests which are hostile to those who are outside its fold and therefore does not sympathise with the living forces operating in the servile masses whom it has trodden down, is not charged with their wants, their pains, their cravings, their desires, is inimical to their aspirations, does not favour any advance in their education, promotion to high office and disfavours every movement calculated to raise their dignity and their self-respect? Do they not know that in the Swaraj of India is involved the fate of 60 millions of Untouchables ?

It would be impossible to say that the leaders of the British Labour Party, that Kingsley Martin, Brailsford and Laski whose writings on liberty and democracy are a source of inspiration to all suppressed people, do not know these facts. Yet if they refer to India, it is always to support the Congress. It is very, very seldom that they are found to discuss the problem of the Untouchables which ought to make the strongest appeal to all radicals and democrats. Their exclusive attention to Congress activities and their utter neglect of other elements in the national life of India show how misguided they have been. One could well understand their support to the Congress if the Congress was fighting for political democracy. But is it ? As every one knows, the Congress is only fighting for national liberty and is not interested in political democracy. The party in India who is fighting for political democracy is the party of the Untouchables who fear that this Congress fight for liberty, if it succeeds, will mean liberty to the strong and the powerful to suppress the weak and the down-trodden unless they are

protected by constitutional safeguards. It is they who ought to receive the help of these radical leaders. But the Untouchables have been waiting in vain for all these years even for a gesture of goodwill and support from them. These radicals and leftists in Europe and America have not even cared to know the forces behind the Congress.

Ignorant or unmindful one does not know, but the fact remains that these leftists and radical leaders have been giving blind and unquestioning support to the Congress which admittedly is run by capitalists, landlords, money-lenders and reactionaries, only because the Congress calls its activities by the grandiloquent name of "Fight for Freedom." All battles for freedom are not on equal moral plane for the simple reason that the motives and purposes behind these battles of freedom are not always the same. To take only a few illustrations from English History. The Barons' Rebellion against John which resulted in the *Magna Charta* could be called a battle for freedom. But could any democrat in modern times give it the same support which he would give—say to the Levellers' Rebellion or to the Peasants' Revolt in English History, merely because it could logically be described as a battle for freedom ? To do so will be to respond to a false cry of freedom. Such crude conduct would have been forgivable, had it proceeded from groups not intelligent enough to make a distinction between freedom to live and freedom to oppress. But it is quite inexcusable in radical and leftist groups led by Messrs. Laski, Kingsley Martin, Brailsford, Louis Fischer and other well-known champions of democracy.

When pressed to explain why they don't support Indian Parties which stand for true democracy, they are reported to meet the charge by a counter question. Arc there any such parties in India ? Insist that there are such parties and they turn round and say: If such parties exist, how is it the Press docs not report their activities ? When told that the Press is a Congress Press, they retort: How is it that the foreign correspondents of the English Papers do not report them ? I have shown why nothing better can be expected from these foreign correspondents. The Foreign Press Agency in India is not better than the Indian Press. Indeed it cannot be better. There are in India what are called foreign correspondents. In a large majority of cases they are Indians. Only a very few are foreigners. The selection of Indians as foreign

correspondents is so made that they are almost always from the Congress camp. The foreign correspondents who are foreigners fall into two groups. If they are Americans they are just Anti-British and for that reason pro-Congress. Any political party in India which is not madly anti-British does not interest them. Those who are not in the Congress will testify how hard it was for them to persuade the American War Correspondents who trooped into this country in 1941-42, even to entertain the possibility of the Congress not being the only party, much less to induce them to interest themselves in other political parties. It took a long time before they recovered their sanity and when they did, they either abused the Congress as an organization led by impossible men or just lost interest in Indian politics. They never got interested in other political parties in India and never cared to understand their point of view. The situation is no better in the case of foreign correspondents who are Britishers. They too are interested only in that kind of politics which is first and foremost anti-British. They are uninterested in those political parties in India whose foremost concern is to make a free India safe for democracy. The result is that the foreign press provides the same kind of news about Indian politics as does the Indian Press.

These reasons cannot be beyond the ken of these radicals. Correspondents or no correspondents, is it not the duty of radicals to keep in touch with their kindred in other parts of the world to encourage them, to help them and to see that true democracy lives everywhere ? It is a most unfortunate thing that the Radicals of England and America should have forgotten the class to whom they owe a duty to help and have become the publicity agents of Indian Tories who are just misusing the slogan of liberty to befool and befog the world.

The sooner they get out of this fog created by the Congress and realize that democracy and self-government in India cannot be real unless freedom has become the assured possession of all, the better for them and the better for the people of India. But if they persist in giving their blind support to the Congress on the basis of an empty slogan without examining its relation to facts and intentions, I for one will have no hesitation in saying that far from being the friends of India they are a positive menace to the freedom of the Indian masses. It is a pity that they do not seem to distinguish the case of a tyrant

who is held down and who pleads for liberty because he wants to regain his right to oppress and the case of an oppressed class seeking to be free from the oppression of the tyrant. In their hurry to bring freedom to India they have no time to realize that by siding with the Congress what they are doing is not to make India safe for democracy but to free the tyrant to practise his tyrannies. Is it necessary to tell them that to support Congress is to let tyranny have freedom to enslave ? It is to save their own reputation as the champions of the Oppressed and suppressed classes that they should reconsider their attitude towards the Congress.

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Babasaheb Dr. B.R. Ambedkar
(14th April 1891 - 6th December 1956)

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DR. BABASAHEB AMBEDKAR
WRITINGS AND SPEECHES
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Kumari Selja

सत्यमेव जयते

Minister for Social Justice and Empowerment
& Chairperson, Dr. Ambedkar Foundation

MESSAGE

Babasaheb Dr. B.R. Ambedkar, the Chief Architect of Indian Constitution was a scholar par excellence, a philosopher, a visionary, an emancipator and a true nationalist. He led a number of social movements to secure human rights to the oppressed and depressed sections of the society. He stands as a symbol of struggle for social justice.

The Government of Maharashtra has done a highly commendable work of publication of volumes of unpublished works of Dr. Ambedkar, which have brought out his ideology and philosophy before the Nation and the world.

In pursuance of the recommendations of the Centenary Celebrations Committee of Dr. Ambedkar, constituted under the chairmanship of the then Prime Minister of India, the Dr. Ambedkar Foundation (DAF) was set up for implementation of different schemes, projects and activities for furthering the ideology and message of Dr. Ambedkar among the masses in India as well as abroad.

The DAF took up the work of translation and publication of the Collected Works of Babasaheb Dr. B.R. Ambedkar published by the Government of Maharashtra in English and Marathi into Hindi and other regional languages. I am extremely thankful to the Government of Maharashtra's consent for bringing out the works of Dr. Ambedkar in English also by the Dr. Ambedkar Foundation.

Dr. Ambedkar's writings are as relevant today as were at the time when these were penned. He firmly believed that our political democracy must stand on the base of social democracy which means a way of life which recognizes liberty, equality and fraternity as the principles of life. He emphasized on measuring the progress of a community by the degree of progress which women have achieved. According to him if we want to maintain democracy not merely in form, but also in fact, we must hold fast to constitutional methods of achieving our social and economic objectives. He advocated that in our political, social and economic life, we must have the principle of one man, one vote, one value.

There is a great deal that we can learn from Dr. Ambedkar's ideology and philosophy which would be beneficial to our Nation building endeavor. I am glad that the DAF is taking steps to spread Dr. Ambedkar's ideology and philosophy to an even wider readership.

I would be grateful for any suggestions on publication of works of Babasaheb Dr. Ambedkar.

(Kumari Selja)

Collected Works of Babasaheb Dr. Ambedkar (CWBA)

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THE BUDDHA
AND
HIS DHAMMA

By

B. R. AMBEDKAR
M.A., Ph.D., D.Sc., LL.D., D. Litt., Barrister-at-Law

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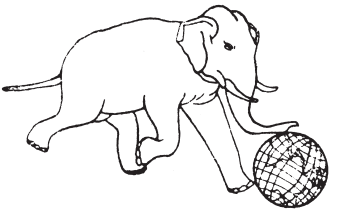

THE BUDDHA
AND
HIS DHAMMA

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INTRODUCTION

INDICATIONS of a growth in the volume of interest in Buddhism are noticeable in some sections of the Indian people. Along with it there is naturally a growing demand for a clear and consistent statement of the life and teachings of the Buddha.

Anyone who is not a Buddhist finds it extremely difficult to present the life and teachings of the Buddha in a manner which would make it a consistent whole. Depending on the Nikayas, not only the presentation of a consistent story of the life of the Buddha becomes a difficult thing and the presentation of some parts of his teachings becomes much more so. Indeed it would not be an exaggeration to say that of all the founders of religions in the world the presentation of the life and teachings of the founder of Buddhism presents a problem which is quite puzzling if not baffling. Is it not necessary that these problems should be solved and the path for the understanding of Buddhism be made clear ? Is it not time that those who are Buddhists should take up these problems at least for general discussion and throw what light they can on these problems ?

With a view to raise a discussion on these problems I propose to set them out here. The first problem relates to the main event in the life of the Buddha, namely, Parivraja. Why did the Buddha take Parivraja? The traditional answer is that he took Parivraja because he saw a dead person, a sick person and an old person. This answer is absurd on the face of it. The Buddha took Parivraja at the age of 29. If he took Parivraja as a result of these three sights, how is it he did not see these three sights earlier ? These are common events occurring by hundreds and the Buddha could not have failed to come across them earlier. It is impossible to accept the traditional explanation that this was the first time he saw them. The explanation is not plausible and does not appeal

to reason. But if this is not the answer to the question, what is the real answer ?

The second problem is created by the four Aryan Truths. Do they form part of the original teachings of the Buddha ? This formula cuts at the root of Buddhism. If life is sorrow, death is sorrow and rebirth is sorrow, then there is an end of everything. Neither religion nor philosophy can help a man to achieve happiness in the world. If there is no escape from sorrow, then what can religion do, what can Buddha do to relieve man from such sorrow which is ever there in birth itself? The four Aryan Truths are a great stumbling block in the way of non-Buddhists accepting the gospel of Buddhism. For the four Aryan Truths deny hope to man. The four Aryan Truths make the gospel of the Buddha a gospel of pessimism. Do they form part of the original gospel or are they a later accretion by the monks ?

The third problem relates to the doctrines of soul, of karma and rebirth. The Buddha denied the existence of the soul. But he is also said to have affirmed the doctrine of karma and rebirth. At once a question arises. If there is no soul, how can there be karma? If there is no soul, how can there be rebirth ? These are baffling questions. In what sense did the Buddha use the words karma and rebirth ? Did he use them in a different sense than the sense in which they were used by the Brahmins of his day ? If so, in what sense ? Did he use them in the same sense in which the Brahmins used them ? If so, is there not a terrible contradiction between the denial of the soul and the affirmation of karma and rebirth ? This contradiction needs to be resolved.

The fourth problem relates to the Bhikkhu. What was the object of the Buddha in creating the Bhikkhu ? Was the object to create a perfect man ? Or was his object to create a social servant devoting his life to service of the people and being their friend, guide and philosopher? This is a very real question. On it

depends the future of Buddhism. If the Bhikkhu is only a perfect man he is of no use to the propagation of Buddhism because though a perfect man he is a selfish man. If, on the other hand, he is a social servant he may prove to be the hope of Buddhism. This question must be decided not so much in the interest of doctrinal consistency but in the interest of the future of Buddhism.

If I may say so, the pages of the journal of the Mahabodhi Society make, to me at any rate, dull reading. This is not because the material presented is not interesting and instructive. The dullness is due to the fact that it seems to fall upon a passive set of readers. After reading an article, one likes to know what the reader of the journal has to say about it. But the reader never gives out his reaction. This silence on the part of the reader is a great discouragement to the writer. I hope my questions will excite the readers to come and make their contribution to their solution.

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PROLOGUE

"FROM time to time men find themselves forced to reconsider current and inherited beliefs and ideas, to gain some harmony between present and past experience, and to reach a position which shall satisfy the demands of feeling and reflexion and give confidence for facing the future. If, at the present day, religion, as a subject of critical or scientific inquiry, of both practical and theoretical significance has attracted increasing attention, this can be ascribed to (*a*) the rapid progress of scientific knowledge and thought ; (*b*) the deeper intellectual interest in the subject ; (*c*) the widespread tendencies in all parts of the world to reform or reconstruct religion, or even to replace it by some body of thought, more 'rational' and 'scientific' or less 'superstitious' ; and (*d*) the effect of social, political, and international events of a sort which, in the past, have both influenced and been influenced by religion. Whenever the ethical or moral value of activities or conditions is questioned, the value of religion is involved ; and all deep-stirring experiences invariably compel a reconsideration of the most fundamental ideas, whether they are explicitly religious or not. Ultimately there arise problems of justice, human destiny, God, and the universe ; and these in turn involve problems of the relation between 'religious' and other ideas, the validity of ordinary knowledge, and practicable conceptions of 'experience' and 'reality.'

—From "Encyclopedia of Religion and Ethics," Vol. X, p. 669.

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BOOK I

Siddharth Gautama—How a Bodhisatta became the Buddha

Part I—From Birth to Parivraja

Part II—Renunciation for Ever

Part III—In Search of New Light

Part IV—Enlightenment and the Vision of a New Way

Part V—The Buddha and His Predecessors

Part VI—The Buddha and His Contemporaries

Part VII—Comparison and Contrast

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PART I

From Birth to Parivraja

1. His Kula
2. His Ancestry
3. His Birth
4. Visit by Asita
5. Death of Mahamaya
6. Childhood and Education
7. Early Traits
8. Marriage
9. Father's Plans to Save His Son
10. The Failure of the Women to Win the Prince
11. The Prime Minister's Admonition to the Prince
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13. Initiation into the Sakya Sangh
14. Conflict with the Sangh
15. Offer of Exile
16. Parivraja—the Way Out
17. Parting Words
18. Leaving His Home
19. The Prince and the Servant
20. The Return of Channa
21. The Family in Mourning

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BOOK I

§ 1. His Kula

I

1. Going back to the sixth century B.C., Northern India did not form a single Sovereign State.

2. The country was divided into many States, some large, some small. Of these some were monarchical and some non-monarchical.

3. The monarchical States were altogether sixteen in number. They were known by the name of Anga, Magadha, Kasi, Kosala, Vriji, Malla, Chedi, Vatsa, Kuru, Panchala, Matsya, Saursena, Asmaka, Avanti, Gandhara and Kambhoja.

4. The non-monarchical States were those of the Sakyas of Kapilvatsu, the Mallas of Pava and Kushinara, the Lichhavis of Vaisali, the Videhas of Mithila, the Koliyas of Ramagam, the Bulis of Allakapa, the Kalingas of Resaputta, the Mauriyas of Pipphalvana and the Bhaggas with their capital on Sumsumara Hill.

5. The monarchical States were known as Janapada and the non-monarchical as Sangh or Gana.

6. Not much is known about the nature of the polity of the Sakyas of Kapilvatsu, whether it was republican or oligarchic.

7. This much, however, is definitely known, that there were many ruling families in the Republic of the Sakyas and that they ruled in turns.

8. The head of the ruling family was known as Raja.

9. At the time of the birth of Siddharth Gautama it was the turn of Suddhodana to be the Raja.

10. The Sakya State was situated in the northeast corner of India. It was an independent State. But at a later stage the King of Kosala had succeeded in establishing his paramountcy over it.

11. The result of this paramountcy was that the Sakya State could not exercise certain sovereign powers without the sanction of the King of Kosala.

I

12. Of the kingdoms then in existence, Kosala was a powerful kingdom. So was the kingdom of Magadha. Pasanedi, King of Kosala and Bimbisara, King of Magadha, were the contemporaries of Siddharth Gautama.

§ 2. *His Ancestry*

1. The capital of the Sakyas was the city called Kapilavatsu, perhaps after the name of the great Rationalist Kapila.

2. There lived in Kapilavastu a Sakya by name Jaya Sena. Sinahu was his son. Sinahu was married to Kaccana. Sinahu had five sons, Suddhodana, Dhotodana, Sakkodana, Suklodana and Amitodana. Besides five sons, Sinahu had two daughters, Amita and Pamita.

3. The Gotra of the family was Aditya.

4. Suddhodana was married to Mahamaya Her father's name was Anjana and mother's Sulak-shana. Anjana was a Koliya and was residing in the village called Devadaha.

5. Suddhodana was a man of great military prowess. When Suddhodana had shown his martial powers he was allowed to take a second wife and he chose Mahaprajapati. She was the elder sister of Mahamaya.

6. Suddhodana was a wealthy person. The lands he held were very extensive and the retinue under him was very large. He employed, it is said, one thousand ploughs to till the land he owned.

7. He lived quite a luxurious life and had many palaces.

§ 3. *His Birth*

1. To Suddhodana was born Siddharth Gautama and this was the manner of Gautama's birth.

2. It was a custom among the Sakyas to observe an annual midsummer festival which fell in the month of Ashad. It was celebrated by all the Sakyas

throughout the State and also by the members of the ruling family.

3. It was the usual practice to celebrate the festival for seven days.

4. On one occasion Mahamaya decided to observe the festival with gaiety, with splendour, with flowers, with perfume, but without drinking intoxicants.

5. On the seventh day she rose early, bathed in scented water, bestowed a gift of 4,00,000 pieces of money as alms, adorned herself with all precious ornaments, ate choicest food, took upon herself the fast-day vows, and entered the splendidly adorned royal bedchamber to sleep.

6. That night Suddhodana and Mahamaya came together and Mahamaya conceived. Lying on the royal bed she fell asleep. While asleep she had a dream.

7. In her dreams she saw that the four world-guardians raised her as she was sleeping on her bed and carried her to the tableland of the Himalayas, placed her under a great sal tree and stood on one side.

8. The wives of the four world-guardians then approached and took her to the lake Mansarovar.

9. They bathed her, robed her in a dress, anointed her with perfumes and decked her with flowers in a manner fit to meet some divinity.

10. Then a Bodhisatta, by name Sumedha, appeared before her saying, "I have decided to take my last and final birth on this earth, will you consent to be my mother ?"She said, "Yes, with great pleasure."At this moment Mahamaya awoke.

11. Next morning Mahamaya told her dream to Suddhodana. Not knowing how to interpret the dream, Suddhodana summoned eight Brahmins who were most famous in divination.

12. They were Rama, Dhaga, Lakkana, Manti, Yanna, Suyama, Subhoga and Sudatta and prepared for them a befitting reception.

13. He caused the ground to be strewn with festive flowers and prepared high seats for them.

14. He filled the bowls of the Brahmins with

gold and silver and fed them on cooked ghee, honey, sugar and excellent rice and milk. He also gave them other gifts such as new clothes and tawny cows.

15. When the Brahmins were propitiated, Suddhodana related to them the dream Mahamaya had, and said, "Tell me what it means."

16. The Brahmins said : "Be not anxious. You will have a son, and if he leads a householder's life he will become a universal monarch, and if he leaves his home and goes forth into a homeless state, and becomes a sanyasi, he will become a Buddha, a dispeller of illusions in the world."

17. Bearing the Bodhisatta in her womb like oil in a vessel for ten lunar months, Mahamaya, as her time of delivery was coming nearer, desired to go to her parents' home for delivery. Addressing her husband, she said : "I wish to go to Devadaha, the city of my father."

18. "Thou knowest that thy wishes will be done,"replied Suddhodana. Having seated her in a golden palanquin borne by couriers, he sent her forth with a great retinue to her father's house.

19. Mahamaya, on her way to Devadaha, had to pass through a pleasure-grove of sal trees and other trees, flowering and non-flowering. It was known as the Lumbini Grove.

20. As the palanquin was passing through it, the whole Lumbini Grove seemed like the heavenly Cittalata grove or like a banqueting pavilion adorned for a mighty king.

21. From the roots to the tips of the branches the trees were loaded with fruits, flowers and numberless bees of the fine colours, uttering curious sounds, and flocks of various kinds of birds, singing sweet melodies.

22. Witnessing the scene, there arose a desire in the heart of Mahamaya for halting and sporting therein for a while. Accordingly she told the couriers to take her in the sal-grove and wait there.

23. Mahamaya alighted from her palanquin and walked up to the foot of a royal sal tree. A pleasant wind, not too strong, was blowing and the

boughs of the trees were heaving up and down and Mahamaya felt like catching one of them.

24. Luckily one of the boughs heaved down sufficiently low to enable her to catch it. So she rose on her toes and caught the bough. Immediately she was lifted up by its upward movement and being shaken, she felt the pangs of childbirth. While holding the branch of the sal tree she was delivered of a son in a standing position.

25. The child was born in the year 563 B.C. on the Vaishakha Paurnima day.

26. Suddhodana and Mahamaya were married for a long time. But they had no issue. Ultimately when a son was born to them his birth was celebrated with great rejoicing, with great pomp and ceremony by Suddhodana and his family and also by the Sakyas.

27. At the time of the birth of the child it was the turn of Suddhodana to be the ruler of Kapilavatsu and as such was in the enjoyment of the title of Raja. Naturally the boy was called Prince.

§ *4. Visit by Asita*

1. At the moment when the child was born there dwelt on the Himalayas a great sage named Asita.

2. Asita heard that the gods over the space of the sky were shouting the word "Buddha"and making it resound. He beheld them waving their garments and coursing hither and thither in delight. He thought, what if I were to go and find out the land in which he was born ?

3. Surveying with his divine eyes the whole of the Jambudvipa, Asita saw that a boy was born in the house of Suddhodana shining with all brilliance and that it was over his birth that the gods were excited.

4. So the great sage Asita with his nephew Nardatta rose up and came to the abode of Raja Suddhodana and stood at the door of his palace.

5. Now Asita, the sage, saw that at the door of Suddhodana's palace many hundred thousand beings

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had assembled. So he approached the door-keeper and said, "Go, man, inform the Raja that a sage is standing at the door."

6. Then the door-keeper approached Suddhodana and with clasped hands said, "Know, O Raja, that an aged sage, old and advanced in years, stands at the door, and says that he desires to see you."

7. The king prepared a seat for Asita and said to the door-keeper, "Let the sage enter." So coming out of the palace the door-keeper said to Asita : "Please go in."

8. Now Asita approached King Suddhodana and, standing in front of him, said, "Victory, Victory, O Raja, may you live long, and rule thy kingdom righteously."

9. Then Suddhodana in reverence to Asita fell at his feet and offered him the seat ; and seeing him seated in comfort, Suddhodana said, "I do not remember to have seen thee before this, O Sage! With what purpose hast thou come hither? What is the cause?"

10. Thereupon Asita said to Suddhodana, "A son is born to thee, O Raja ! Desiring to see him, have I come."

11. Suddhodana said," The boy is asleep, O Sage ! Will you wait for a while ?" The sage said, "Not long, O King, do such great beings sleep Such good beings are by nature wakeful."

12. Then did the child out of compassion for Asita, the great sage, make a sign of awaking.

13. Seeing that the child had become awake, Suddhodana took the boy firmly in both hands and brought him into the presence of the sage.

14. Asita observing the child, beheld that it was endowed with the thirty-two marks of a great man and adorned with the eighty minor marks, his body surpassing that of Sakra, Brahma, and his aura surpassing them a hundred thousand-fold, breathed forth this solemn utterance, "Marvellous, verily, is this person that has appeared in the world,"and rising from his seat clasped his hands, fell at his feet, made a

rightwise circuit round and taking the child in his own hand stood in contemplation.

15. Asita knew the old well-known prophecy that anyone endowed with the thirty-two marks of a great man, as Gautama was, has two careers open to him, and no third. "If he becomes a householder, he will become a universal monarch. But if he goes forth from the home to a homeless life, he will become a fully enlightened Buddha."

16. Asita was sure that the child would not remain a householder.

17. And looking at the child he wept, and shedding tears, sighed deeply.

18. Suddhodana beheld Asita shedding tears, and sighing deeply.

19. Beholding him thus weeping, the hair of his body rose, and in distress Suddhodana said to Asita, "Why, O Sage, dost thou weep and shed tears, and sigh so deeply ? Surely, there is no misfortune in store for the child."

20. At this Asita said to the Raja, "O King, I weep not for the sake of the child. There will be no misfortune for him. But I weep for myself."

21. "And why?"asked Suddhodana. Asita replied, "I am old, aged, advanced in years, and this boy will without doubt become a Buddha and attain supreme and complete enlightenment and having done so, will turn the supreme wheel of the Doctrine that has not been turned before him by any other being in the world ; for the weal and happiness of the world will he teach his Doctrine."

22. "The religious life, the Doctrine, that he will proclaim will be good in the beginning, good in the middle, good in the end, complete in the letter and the spirit, whole and pure."

23. "Just as an Oudumbara flower at some time and place arises in the world, even so at some time and place, after countless cycles, revered Buddhas arise in the world. So also, O Raja! this boy will without doubt obtain supreme, complete enlightenment, and having done so will take countless beings across the

ocean of sorrow and misery to a state of happiness."

24. "But I shall not see that Buddha. Hence, O Raja, I weep and in sadness I sigh deeply, for I shall not be able to reverence him."

25 The king thereafter offered to the great sage Asita and Nardatta, his nephew, suitable food, and having given him robes made a rightwise circuit round him.

26. Thereupon Asita said to Nardatta, his nephew, "When thou shalt hear, Nardatta, that the child has become a Buddha, then go and take refuge in his teachings. This shall be for thy weal and welfare and happiness." So saying Asita took leave of the Raja and departed for his hermitage.

§ 5. *Death of Mahamaya*

1. On the fifth day the ceremony of name-giving took place. The name chosen for the child was Siddharth. His clan name was Gautama. Popularly, therefore, he came to be called Siddharth Gautama.

2. In the midst of rejoicing over the birth and the naming of the child Mahamaya suddenly fell ill and her illness became very serious.

3. Realising that her end was near she called Suddhodana and Prajapati to her bedside and said : "I am sure that the prophecy made by Asita about my son will come true. My regret is that I will not live to see it fulfilled."

4. "My child will soon be a motherless child. But I am not worried in the least as to whether after me my child will be carefully nursed, properly looked after and brought up in a manner befitting his future."

5. "To you Prajapati, I entrust my child, I have no doubt that you will be to him more than his mother."

6. "Now do not be sorry. Permit me to die. God's call has come and His messengers are waiting to take me." So saying, Mahamaya breathed her last. Both Suddhodana and Prajapati were greatly grieved and wept bitterly.

7. Siddharth was only seven days old when his

mother died.

8. Siddharth had a younger brother by name Nanda. He was the son of Suddhodana born to Mahaprajapati.

9. He had also several cousins, Mahanama and Anuruddha, sons of his uncle Suklodan, Ananda, son of his uncle Amitodan, and Devadatta, son of his aunt Amita. Mahanama was older than Siddharth and Ananda was younger.

10. Siddharth grew up in their company.

§ 6. *Childhood and Education*

1. When Siddharth was able to walk and speak the elders of the Sakyas assembled and asked Suddhodana that the boy should be taken to the temple of the village goddess Abhya.

2. Suddhodana agreed and asked Mahaprajapati to dress the boy.

3. While she was doing so the child Siddharth, with a most sweet voice, asked his aunt where he was being taken. On learning that he was being taken to the temple he smiled. But he went, conforming to the custom of the Sakyas.

4. At the age of eight Siddharth started his education.

5. Those very eight Brahmins whom Suddhodana had invited to interpret Mahamaya's dream and who had predicted his future were his first teachers.

6. After they had taught him what they knew Suddhodana sent for Sabbamitta of distinguished descent and of high lineage in the land of Uddikka, a philologist and grammarian, well read in the Vedas, Vedangas and Upanishads. Having poured out water of dedication from a golden vase, Suddhodana handed over the boy to his charge, to be taught. He was his second teacher.

7. Under him Gautama mastered all the philosophic systems prevalent in his day.

8. Besides this he had learned the science of concentration and meditation from one Bhardawaj, a

disciple of Alara Kalam, who had his ashram at Kapilavatsu.

§ 7. *Early Traits*

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1. Whenever he went to his father's farm and found no work he repaired to a quiet place, and practised meditation.

2. While everything for the cultivation of the mind was provided, his education in the military science befitting a Kshatriya was not neglected.

3. For Suddhodana was anxious not to make the mistake of having cultivated the mind of his son at the cost of his manliness.

4. Siddharth was of kindly disposition. He did not like exploitation of man by man.

5. Once he went to his father's farm with some of his friends and saw the labourers ploughing the land, raising bunds, cutting trees, etc., dressed in scanty clothes under a hot burning sun.

6. He was greatly moved by the sight.

7. He said to his friends, can it be right that one man should exploit another ? How can it be right that the labourer should toil and the master should live on the fruits of his labour ?

8. His friends did not know what to say. For they believed in the old philosophy of life that the worker was born to serve and that in serving his master he was only fulfilling his destiny.

9. The Sakyas used to celebrate a festival called Vapramangal. It was a rustic festival performed on the day of sowing. On this day custom had made it obligatory on every Sakya to do ploughing personally.

10. Siddharth always observed the custom and did engage himself in ploughing.

11. Though a man of learning, he did not despise manual labour.

12. He belonged to a warrior class and had been taught archery and the use of weapons. But he did not like causing unnecessary injury.

13. He refused to join hunting parties. His

friends used to say : "Are you afraid of tigers ?" He used to retort by saying, "I know you are not going to kill tigers, you are going to kill harmless animals such as deer and rabbits."

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14. "If not for hunting, come to witness how accurate is the aim of your friends," they said. Even such invitations Siddharth refused, saying ; "I do not like to see the killing of innocent animals."

15. Prajapati Gautami was deeply worried over this attitude of Siddharth.

16. She used to argue with him saying : "You have forgotten that you are a Kshatriya and fighting is your duty. The art of fighting can be learned only through hunting for only by hunting can you learn how to aim accurately. Hunting is a training ground for the warrior class."

17. Siddharth often used to ask Gautami : "But, mother, why should a Kshatriya fight? And Gautami used to reply : "Because it is his duty."

18. Siddharth was never satisfied by her answer. He used to ask Gautami : "Tell me, how can it be the duty of man to kill man?" Gautami argued, "Such an attitude is good for an ascetic. But Kshatriyas must fight. If they don't, who will protect the kingdom ?"

19. "But mother ! If all Kshatriyas loved one another, would they not be able to protect their kingdom without resort to killing?" Gautami had to leave him to his own opinion.

20. He tried to induce his companions to join him in practising meditation. He taught them the proper pose. He taught them to fix their mind on a subject. He advised them to select such thoughts as "May I be happy, may my relations be happy, may all living animals be happy."

21. But his friends did not take the matter seriously. They laughed at him.

22. On closing their eyes they could not concentrate on their subject of meditation. Instead, some saw before their eyes deer for shooting or sweets for eating.

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23. His father and his mother did not like his partiality for meditation. They thought it was so contrary to the life of a Kshatriya.

24. Siddharth believed that meditation on right subjects led to development of the spirit of universal love. He justified himself by saying : "When we think of living things, we begin with distinction and discrimination. We separate friends from enemies, we separate animals we rear from human beings. We love friends and domesticated animals and we hate enemies and wild animals."

25. "This dividing line we must overcome and this we can do when we in our contemplation rise above the limitations of practical life." Such was his reasoning.

26. His childhood was marked by the presence of supreme sense of compassion.

27. Once he went to his father's farm. During recess he was resting under a tree enjoying the peace and beauty of nature. While so seated a bird fell from the sky just in front of him.

28. The bird had been shot at by an arrow which had pierced its body and was fluttering about in great agony.

29. Siddharth rushed to the help of the bird. He removed the arrow, dressed its wound and gave it water to drink. He picked up the bird, came to the place where he was seated and wrapped up the bird in his upper garment and held it next to his chest to give it warmth:

30. Siddharth was wondering who could have shot this innocent bird. Before long there came his cousin Devadatta armed with all the implements of shooting. He told Siddharth that he had shot a bird flying in the sky, the bird was wounded but it flew some distance and fell somewhere there, and asked him if he had seen it.

31. Siddharth replied in the affirmative and showed him the bird which had by that time completely recovered.

32. Devadatta demanded that the bird be handed

over to him. This Siddharth refused to do. A sharp argument ensued between the two.

33. Devadatta argued that he was the owner of the bird because by the rules of the game, he who kills a game becomes the owner of the game.

34. Siddharth denied the validity of the rule. He argued that it is only he who protects that has the right to claim ownership. How can he who wants to kill be the owner ?

35. Neither party would yield. The matter was referred to arbitration. The arbitrator upheld the point of view of Siddharth Gautama.

36. Devadatta became his permanent enemy. But Gautama's spirit of compassion was so great that he preferred to save the life of an innocent bird to securing the goodwill of his cousin.

37. Such were the traits of character found in the early life of Siddharth Gautama.

§ *8. Marriage*

1. There was a Sakya by name Dandapani. Yeshodhara was his daughter. She was well known for her beauty and for her 'sila.'

2. Yeshodhara had reached her sixteenth year and Dandapani was thinking about her marriage.

3. According to custom Dandapani sent invitations to young men of all the neighbouring countries for the Swayamvar of his daughter.

4. An invitation was also sent to Siddharth Gautama.

5. Siddharth Gautama had completed his sixteenth year. His parents also were equally anxious to get him married.

6. They asked him to go to the Swayamvar and offer his hand to Yeshodhara. He agreed to follow his parents' wishes.

7. From amongst the young men Yeshodhara's choice fell on Siddharth Gautama.

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8. Dandapani was not very happy. He felt doubtful about the success of the marriage.

9. Siddharth, he felt, was addicted to the company of saints and sages. He preferred loneliness. How could he be a successful householder ?

10. Yeshodhara, who was determined to marry none but Siddharth, asked her father whether to be in the company of saints and sages was a crime. She did not think it was.

11. Knowing her daughter's determination to marry no one but Siddharth Gautama, the mother of Yeshodhara told Dandapani that he must consent. Dandapani did.

12. The rivals of Gautama were not only disappointed but felt that they were insulted.

13. They wanted that in fairness to them Yeshodhara should have applied some test for her selection. But she did not.

14. For the time being they kept quiet, believing that Dandapani would not allow Yeshodhara to choose Siddharth Gautama so that their purpose would be served.

15. But when Dandapani failed, they made bold and demanded that a test of skill in archery be prescribed. Dandapani had to agree.

16. At first Siddharth was not prepared for this. But Channa, his charioteer, pointed out to him what disgrace his refusal would bring upon his father, upon his family and upon Yeshodhara.

17. Siddharth Gautama was greatly impressed by this argument and agreed to take part in the contest.

18. The contest began. Each candidate showed his skill in turn.

19. Gautama's turn came last. But his was the highest marksmanship.

20. Thereafter the marriage took place. Both Suddhodana and Dandapani were happy. So was Yeshodhara and Mahaprajapati.

21. After a long term of married life Yeshodhara gave birth to a son. He was named Rahula.

§ 9. *Father's Plans to Save His Son*

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1. While the king was happy to see his son married and thus enter the life of a householder the prophecy of the sage Asita continued to haunt him.

2. To prevent the prophecy from coming true, he thought of getting him engrossed in the pleasures and carnal joys of life.

3. With this object in view Suddhodana built three luxurious palaces for his son to live in, one for summer, one for the rainy season and one for winter, furnished with all the requirements and excitements for a full amorous life.

4. Each palace was surrounded by an extensive garden beautifully laid out with all kinds of trees and flowers.

5. In consultation with his family priest Udayin, he thought of providing a harem for the prince with very beautiful inmates.

6. Suddhodana then told Udayin to advise the girls how to go about the business of winning over the prince to the pleasures of life.

7. Having collected the inmates of the harem, Udayin first advised them how they should win over the prince.

8. Addressing them he said : "Ye are all skilled in all the graceful arts, ye are proficient in understanding the language of amorous sentiments, ye are possessed of beauty and gracefulness, ye are thorough masters in your own styles.

9. "With these graces of yours, ye are able to move even sages who have lost all their desires, and to ensnare even the gods, who are charmed by heavenly nymphs.

10. "By your skill in expressing the heart's feelings, by your coquetry, your grace, and your perfect beauty ye are able to enrapture even women, how much more easily men.

11. "Thus, skilled as ye are, each set in your own proper sphere, it should not be beyond your reach to captivate and capture the prince and hold

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him in your bondage.

12. "Any timid action on your part would be fit for new brides whose eyes are closed through shame.

13. "What though this hero be, great by his exalted glory, yet 'great is the might of woman.' Let this be your firm resolve.

14. "In olden time a great seer, hard to be conquered even by gods, was spurned by a harlot, the beauty of Kasi, planting her feet upon him.

15. "And the great seer Visvamitra, though plunged in a profound penance, was carried captive for ten years in the forests by the nymph Ghritaki.

16. "Many such seers as these have women brought to naught, how much more then a delicate prince in the first flower of his age ?

17. "This being so, boldly put forth your efforts that the posterity of the king's family may not be turned away from him.

18. "Ordinary women captivate simple men; but they are truly women, who subdue the nature of high and hard."

§ *10. The Failure of the Women to Win the Prince*

1. Having heard these words of Udayin, the women strung to the heart, rose even above themselves for the conquest of the prince.

2. But even with their brows, their glances, their coquetries, their smiles, their delicate movements, the girls of the harem did not feel sure of themselves.

3. But they soon regained their confidence through the command of the family priest and the gentle temperament of the prince, and through the power of intoxication and of love.

4. The women then set upon their task and made the prince wander in the woods like an elephant in the forests of Himavat, accompanied by a herd of females.

5. Attended by women, he shone in that pleasant grove, as the sun surrounded by Apsaras in his royal garden.

6. There, some of them urged by passion, pressed him with their full, firm bosoms in gentle collisions.

7. Others violently embraced him after pretending to stumble, then leaning on him with their shoulders drooping down, and with their gentle creeper-like arms.

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8. Others with their mouths smelling of spirituous liquor, their lower lips red like copper, whispered in his ear, "Let my secret be heard."

9. Others, all wet with unguents, as if giving him a command, clasped his hand eagerly and said, "Perform thy rites of, adoration here."

10. Another with her blue garments continually slipping down in pretended intoxication, stood conspicuous with her tongue visible like the night with its lightning lashing.

11. Others with their golden ones tinkling, wandered about here and there, showing him their bodies veiled with thin cloth.

12. Others leaned, holding a mango bough in hand, displaying their bosoms like golden jars.

13. Some, coming from a lotus bed, carrying lotuses and with eyes like lotuses, stood like the lotus goddess Padma, by the side of that lotus-faced prince.

14. Another sang a sweet song easily understood and with the proper gesticulations, rousing him, self-subdued though he was, by her glance, as saying, "O how thou art deluded !"

15. Another, having armed herself with her bright face, with its brow drawn to its full, imitated his action, as playing the hero.

16. Another, with beautiful, full bosoms, and having her earrings waving in the wind, laughed loudly at him, as if saying, "Catch me, sir, if you can !"

17. Some, as he was going away, bound him with strings of garlands, others punished him with words like an elephant-driver's hook, gentle yet reproachful.

18. Another, wishing to argue with him, seizing a mango spray, asked, all bewildered with passion, "This flower, whose is it ?"

19. Another, assuming a gait and attitude like

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that of a man, said to him, "You who are conquered by a woman, go and conquer this earth !"

20. Then another with rolling eyes, smelling a blue lotus, thus addressed the prince with words slightly indistinct in her excitement :

21. "See, my lord, this mango covered with its honey-scented flowers, where the bird *kokila* sings, as if imprisoned in a golden cage.

22. "Come and see this *Asoka* tree, which augments lovers' sorrows, where the bees make a noise as if they were scorched by fire.

23. "Come and see this *Tilaka* tree, embraced by a slender mango branch, like a man in a white garment by a woman decked with yellow ungents.

24. "Behold the *kurubaka* in flower, bright like fresh resin-juice, which bends down as if it felt reproached by the colour of women's nails.

25. "Come and see this young *Asoka,* covered all over with new shoots, which stands as if it were ashamed at the beauty of our hands.

26. "See this lake surrounded by the *Sinduvara* shrubs growing on its banks, like a fair woman reclining, clad in fine white cloth.

27. "See the imperial power of females, yonder *Ruddygoose* in the water, goes behind, his mate following her like a slave.

28. "Come and listen to the notes of the intoxicated *Cuckoo* as he sings, while another *cuckoo* sings as if consenting wholly without care.

29. "Would that thine was the intoxication of the birds which the spring produces, and not the thought of a thinking man, ever pondering how wise he is !"

30. Thus these young women, their souls carried away by love, assailed the prince with all kinds of stratagems.

31. But although thus attacked, he, having his sense guarded by self-control; neither rejoiced nor smiled.

32. Having seen them in their real condition, the Prince pondered with an undisturbed and steadfast mind.

33. "What is it that these women lack that they perceive not that youth is fickle ? For old age will destroy whatever beauty has."

34. This round of blandishment went on for months and years with no results.

§ *11. The Prime Minister's Admonition to the Prince*

1. Udayin realized that the girls had failed and that the Prince had shown no interest in them.

2. Udayin, well skilled in the rules of policy, thought of talking to the prince.

3. Meeting the prince all alone, Udayin said : "Since I was appointed by the king as a fitting friend for thee, therefore, I wish to speak to thee in the friendliness of my heart." So began Udayin.

4. "To hinder from what is disadvantageous, to urge to do what is advantageous and not to forsake in misfortune, these are the three marks of a friend.

5. "If I, after having promised my friendship, were not to heed when thou turnest away from the great end of man, there would be no friendship in me.

6. "It is right to woo a woman even by guile, this is useful both for getting rid of shame and for one's own enjoyment.

7. "Reverential behaviour and compliance with her wishes are what bind a woman's heart; good qualities truly are a cause of love, and women love respect.

8. "Wilt thou not then, O large-eyed prince, even if thy heart is unwilling, seek to please them with a courtesy worthy of this beauty of thine?

9. "Courtesy is the balm of women, courtesy is the best ornament; beauty without courtesy is like a grove without flowers.

10. "But of what use is courtesy by itself ? Let it be assisted by the heart's feelings ; surely, when worldly objects so hard to attain are in the grasp, thou wilt not despise them.

11. "Knowing that pleasure was the best of

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objects, even the god Purandara (Indra) wooed in olden times Ahalya, the wife of the saint Gautama.

12. "So too Agastya wooed Rohini, the wife of Soma ; and therefore, as Sruti saith, a like thing befell Lopamudra.

13. "The great ascetic Brihaspati begot Bharadvaja on Mamata the daughter of the Maruta, the wife of Autathya.

14. "The Moon, the best of offerers, begat Buda of divine nature on the spouse of Vrihaspati as she was offering a libation.

15. "So too in old times Parasara, overpowered by passion on the banks of the Yamuna, lay with the maiden Kali who was the daughter of the son of Varuna.

16. "The sage Vasishtha through lust begot a son Kapinglada on Akshmala, a despised low-caste woman.

17. "And the seer-king Yayat, even when the vigour of his prime was gone, sported in the Kaitrartha forest with the Apsara Visvaki.

18. "And the Kaurava king Pandu, though he knew that intercourse with his wife would end in death, yet overcome by the beauty and good qualities of Madri, yielded to the pleasures of love.

19. "Great heroes such as these, pursued even contemptible desires for the sake of pleasure, how much more so when they are praiseworthy of their kind?

20. "And yet thou, a young man, possessed of strength and beauty, despisest enjoyments which rightly belong to thee and to which the whole world is devoted."

§ *12. The Prince's Reply to the Prime Minister*

1. Having heard these specious words of his, well-supported by sacred tradition, the prince made reply, in a voice like the thundering of a cloud :

2. "This speech manifesting affection is well-befitting in thee ; but I will convince thee as to where

thou wrongly judgest me.

3. "I do not despise worldly objects, I know that all mankind is bound up therein. But remembering that the world is transitory, my mind cannot find pleasure in them.

4. "Yet even though this beauty of women were to remain perpetual, still delight in the pleasures of desires would not be worthy of the wise man.

5. "And as for what thou sayest as to even those great men having become victims to desire, do not be led away by them ; for destruction was also their lot.

6. "Real greatness is not to be found there, where there is destruction, or where there is attachment to earthly objects, or a want of self-control.

7. "And when thou sayest, 'Let one deal with women by guile,' I know about guile, even if it be accompanied with courtesy.

8. "That compliance too with a woman's wishes pleases me not, if truthfulness be not there ; if there be not a union with one's whole soul and nature, then 'out upon it' say I.

9. "A soul overpowered by passion, believing in falsehood, carried away by attachment and blind to the faults of its objects, what is there in it worth being deceived ?

10. "And if the victims of passion do deceive one another, are not men unfit for women to look at and women for men ?

11. "Since then these things are so, thou surely wouldst not lead me astray into ignoble pleasures."

12. Udayin felt silenced by the firm and strong resolve of the prince and reported the matter to his father.

13. Suddhodana, when he heard how his son's mind turned away from all objects of sense, could not sleep all that night. Like an elephant with an arrow in his heart, he was full of pain.

14. He and his ministers spent much of their time in consultation hoping to find some means to draw Siddharth to the pleasures of carnal life and thus

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to dissuade him from the likely turn which he may give to his life. But they found no other means besides those they had tried.

15. And the seraglio of women wearing their garlands and ornaments in vain, with their graceful arts and endearments all fruitless, concealing their love deep in their hearts, was disbanded.

§ 13. *Initiation into the Sakya Sangh*

1. The Sakyas had their Sangh. Every Sakya youth above twenty had to be initiated into the Sangh and be a member of the Sangh.

2. Siddharth Gautama had reached the age of twenty. It was time for him to be initiated into the Sangh and become a member thereof.

3. The Sakyas had a meeting-house which they called Sansthagar. It was situated in Kapilavatsu. The session of the Sangh was also held in the Sansthagar.

4. With the object of getting Siddharth initiated into the Sangh, Suddhodana asked the Purohit of the Sakyas to convene a meeting of the Sangh.

5. Accordingly the Sangh met at Kapilavatsu in the Sansthagar of the Sakyas.

6. At the meeting of the Sangh, the Purohit proposed that Siddharth be enrolled as a member of the Sangh.

7. The Senapati of the Sakyas then rose in his seat and addressed the Sangh as follows : "Siddharth Gautama, born in the family of Suddhodana of the Sakya clan, desires to be a member of the Sangh. He is twenty years of age and is in every way fit to be a member of the Sangh. I, therefore, move that he be made a member of the Sakya Sangh. Pray, those who are against the motion speak."

8. No one spoke against it. "A second time do I ask those who are against the motion to speak," said the Senapati.

9. No one rose to speak against the motion. Again the Senapati said : "A third time do I ask those who are against the motion to speak."

10. Even for the third time no one spoke against it.

11. It was the rule of procedure among the Sakyas that there could be no debate without a motion and no motion could be declared carried unless it was passed three times.

12. The motion of the Senapati having been carried three times without opposition, Siddharth was declared to have been duly admitted as a member of the Sakya Sangh.

13. Thereafter the Purohit of the Sakyas stood up and asked Siddharth to rise in his place.

14. Addressing Siddharth, he said : "Do you realize that the Sangh has honoured you by making you a member of it ?" "I do, sir," replied Siddharth.

15. "Do you know the obligation of membership of the Sangh?" "I am sorry, sir, I do not. But I shall be happy to know them, sir," said Siddharth.

16. "I shall first tell you what your duties as a member of the Sangh are "said the Purohit and he then related them one by one : "(1) You must safeguard the interests of the Sakyas by your body, mind and money. (2) You must not absent yourself from the meetings of the Sangh. (3) You must without fear or favour expose any fault you may notice in the conduct of a Sakya. (4) You must not be angry if you are accused of an offence but confess if you are guilty or state if you are innocent."

17. Proceeding, the Purohit said : "I shall next tell you what will disqualify you for membership of the Sangh : (1) You cannot remain a member of the Sangh if you commit rape. (2) You cannot remain a member of the Sangh if you commit murder. (3) You cannot remain a member of the Sangh if you commit theft. (4) You cannot remain a member of the Sangh if you are guilty of giving false evidence."

18. "I am grateful to you, sir," said Siddharth, "for telling me the rules of discipline of the Sakya Sangh. I assure you I will do my best to follow them in letter and in spirit."

§ 14. Conflict with the Sangh

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1. Eight years had passed by since Siddharth was made a member of the Sakya Sangh.

2. He was a very devoted and steadfast member of the Sangh. He took the same interest in the affairs of the Sangh as he did in his own. His conduct as a member of the Sangh was exemplary and he had endeared himself to all.

3. In the eighth year of his membership, an event occurred which resulted in a tragedy for the family of Suddhodana and a crisis in the life of Siddharth.

4. This is the origin of the tragedy.

5. Bordering on the State of the Sakyas was the State of the Koliyas. The two kingdoms were divided by the river Rohini.

6. The waters of the Rohini were used by both the Sakyas and the Koliyas for irrigating their fields. Every season there used to be disputes between them as to who should take the water of the Rohini first and how much. These disputes resulted in quarrels and sometimes in affrays.

7. In the year when Siddharth was twenty-eight, there was a major clash over the waters between the servants of the Sakyas and the servants of the Koliyas. Both sides suffered injuries.

8. Coming to know of this, the Sakyas and the Koliyas felt that the issue must be settled once for all by war.

9. The Senapati of the Sakyas, therefore, called a session of the Sakya Sangh to consider the question of declaring war on the Koliyas.

10. Addressing the members of the Sangh, the Senapati said : "Our people have been attacked by the Koliyas and they had to retreat. Such acts of aggression by the Koliyas have taken place more than once. We have tolerated them so far. But this cannot go on. It must be stopped and the only way to stop it is to declare war against the Koliyas. I propose that the Sangh do declare war on the Koliyas. Those who wish to oppose may speak."

11. Siddharth Gautama rose in his seat and said : "I oppose this resolution. War does not solve any question. Waging war will not serve our purpose. It will sow the seeds of another war. The slayer gets a slayer in his turn ; the conqueror gets one who conquers him ; a man who despoils is despoiled in his turn."

12. Siddharth Gautama continued : "I feel that the Sangh should not be in haste to declare war on the Koliyas. Careful investigation should be made to ascertain who is the guilty party. I hear that our men have also been aggressors. If this be true, then it is obvious that we too are not free from blame."

13. The Senapati replied : "Yes, our men were the aggressors. But it must not be forgotten that it was our turn to take the water first."

14. Siddharth Gautama said : "This shows that we are not completely free from blame. I therefore propose that we elect two men from us and the Koliyas should be asked to elect two from them and the four should elect a fifth person and these should settle the dispute."

15. The amendment moved by Siddharth Gautama was duly seconded. But the Senapati opposed the amendment, saying : "I am sure that this menace of the Koliyas will not end unless they are severely punished."

16. The resolution and the amendment had therefore to be put to vote. The amendment moved by Siddharth Gautama was put first. It was declared lost by an overwhelming majority.

17. The Senapati next put his own resolution to vote. Siddharth Gautama again stood up to oppose it. "I beg the Sangh," he said, "not to accept the resolution. The Sakyas and the Koliyas are close relations. It is unwise that they should destroy each other."

18. The Senapati encountered the plea urged by Siddharth Gautama. He stressed that in war the Kshatriyas cannot make a distinction between relations and strangers. They must fight even against brothers

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for the sake of their kingdom.

19. Performing sacrifices is the duty of the Brahmins, fighting is the duty of the Kshatriyas, trading is the duty of the Vaishas and service is the duty of the Shudras. There is merit in each class forming its duty. Such is the injunction of our Shastras.

20. Siddharth replied : "Dharma, as I understand it, consists in recognising that enmity does not disappear by enmity. It can be conquered by love only."

21. The Senapati, getting impatient, said : "It is unnecessary to enter upon this philosophical disquisition. The point is that Siddharth is opposed to my resolution. Let us ascertain what the Sangh has to say about it by putting it to vote."

22. Accordingly the Senapati put his resolution to vote. It was declared carried by an overwhelming majority.

§ *15. Offer of Exile*

1. Next day the Senapati called another meeting of the Sakya Sangh to have his plan of mobilisation considered by the Sangh.

2. When the Sangh met, he proposed that he be permitted to proclaim an order calling to arms for the war against the Koliyas every Sakya between the ages of 20 and 50.

3. The meeting was attended by both sides— those who at the previous meeting of the Sangh had voted in favour of a declaration of war as well as those who had voted against it.

4. For those who had voted in favour there was no difficulty in accepting the proposal of the Senapati. It was a natural consequence of their earlier decision.

5. But the minority who had voted against it had a problem to face. Their problem was—to submit or not to submit to the decision of the majority.

6. The minority was determined not to submit to the majority. That is the reason why they had

decided to be present at the meeting. Unfortunately, none of them had the courage to say so openly. Perhaps they knew the consequences of opposing the majority.

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7. Seeing that his supporters were silent, Siddharth stood up, and addressing the Sangh, said : "Friends ! You may do what you like. You have a majority on your side, but I am sorry to say I shall oppose your decision in favour of mobilisation. I shall not join your army and I shall not take part in the war."

8. The Senapati, replying to Siddharth Gautama, said : "Do remember the vows you had taken when you were admitted to the membership of the Sangh. If you break any of them you will expose yourself to public shame."

9. Siddharth replied : "Yes, I have pledged myself to safeguard the best interests of the Sakyas by my body, mind and money. But I do not think that this war is in the best interests of the Sakyas. What is public shame to me before the best interests of the Sakyas ?"

10. Siddharth proceeded to caution the Sangh by reminding it of how the Sakyas have become the vassals of the King of Kosala by reason of their quarrels with the Koliyas. "It is not difficult to imagine," he said, "that this war will give him a greater handle to further reduce the freedom of the Sakyas."

11. The Senapati grew angry and addressing Siddharth, said : "Your eloquence will not help you. You must obey the majority decision of the Sangh. You are perhaps counting upon the fact that the Sangh has no power to order an offender to be hanged or to exile him without the sanction of the king of the Kosalas and that the king of the Kosalas will not give permission if either of the two sentences was passed against you by the Sangh."

12. "But remember the Sangh has other ways of punishing you. The Sangh can declare a social boycott against your family and the Sangh can confiscate your family lands. For this the Sangh does not have to

obtain the permission of the king of the Kosalas."

13. Siddharth realised the consequences that would follow if he continued his opposition to the Sangh in its plan of war against the Koliyas. He had three alternatives to consider—to join the forces and participate in the war ; to consent to being hanged or exiled ; and to allow the members of his family to be condemned to a social boycott and confiscation of property.

14. He was firm in not accepting the first. As to the third he felt it was unthinkable. Under the circumstances he felt that the second alternative was the best.

15. Accordingly, Siddharth spoke to the Sangh. "Please do not punish my family. Do not put them in distress by subjecting them to a social boycott. Do not make them destitute by confiscating their land which is their only means of livelihood. They are innocent. I am the guilty person. Let me alone suffer for my wrong. Sentence me to death or exile, whichever you like. I will willingly accept it and I promise I shall not appeal to the king of the Kosalas."

§ *16. Parivraja-the Way Out*

1. The Senapati said : "It is difficult to accept your suggestion. For even if you voluntarily agreed to undergo the sentence of death or exile, the matter is sure to become known to the king of the Kosalas and he is sure to conclude that it is the Sangh which has inflicted this punishment and take action against the Sangh."

2. "If this is the difficulty I can easily suggest a way out," said Siddharth Gautama. "I can become a Parivrajaka and leave this country. It is a kind of an exile."

3. The Senapati thought this was a good solution. But he had still some doubt about Siddharth being able to give effect to it.

4. So the Senapati asked Siddharth : "How can you become a Parivrajaka unless you obtain the consent

of your parents and your wife ?"

5. Siddharth assured him that he would do his best to obtain their permission. "I promise," he said, "to leave this country immediately whether I obtain their consent or not."

6. The Sangh felt that the proposal made by Siddharth was the best way out and they agreed to it.

7. After finishing the business before the meeting, the Sangh was about to rise when a young Sakya got up in his place and said : "Give me a hearing, I have something important to say."

8. Being granted permission to speak, he said : "I have no doubt that Siddharth Gautama will keep his promise and leave the country immediately. There is, however, one question over which I do not feel very happy.

9. "Now that Siddharth will soon be out of sight, does the Sangh propose to give immediate effect to its declaration of war against the Koliyas ?

10. "I want the Sangh to give further consideration to this question. In any event, the king of the Kosalas is bound to come to know of the exile of Siddharth Gautama. If the Sakyas declare a war against the Koliyas immediately, the king of Kosalas will understand that Siddharth left only because he was opposed to war against the Koliyas. This will not go well with us.

11. "I, therefore, propose that we should also allow an interval to pass between the exile of Siddharth Gautama and the actual commencement of hostilities so as not to allow the King of Kosala to establish any connection between the two."

12. The Sangh realised that this was a very important proposal. And as a matter of expediency, the Sangh agreed to accept it.

13. Thus ended the tragic session of the Sakya Sangh and the minority which was opposed to the war but who had not the courage to say so, heaved a sigh of relief that it was able to overcome a situation full of calamitous consequences.

§ 17. Parting Words

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1. The news of what happened at the meeting of the Sakya Sangh had travelled to the Raja's palace long before the return of Siddharth Gautama.

2. For on reaching home he found his parents weeping and plunged in great grief.

3. Suddhodana said : "We were talking about the evils of war. But I never thought that you would go to such lengths."

4. Siddharth replied, "I too did not think things would take such a turn. I was hoping that I would be able to win over the Sakyas to the cause of peace by my argument.

5. "Unfortunately, our military officers had so worked up the feelings of the men that my argument failed to have any effect on them.

6. "But I hope you realise how I have saved the situation from becoming worse. I have not given up the cause of truth and justice and whatever the punishment for my standing for truth and justice, I have succeeded in making its infliction personal to me."

7. Suddhodana was not satisfied with this. "You have not considered what is to happen to us." "But that is the reason why I undertook to become a Parivrajaka," replied Siddharth. "Consider the consequences if the Sakyas had ordered the confiscation of your lands."

8. "But without you what is the use of these lands to us ?" cried Suddhodana. Why should not the whole family leave the country of the Sakyas and go into exile along with you?"

9. Prajapati Gautami, who was weeping, joined Suddhodana in argument, saying ; "I agree. How can you go alone leaving us here like this ?"

10. Siddharth said : "Mother, have you not always claimed to be the mother of a Kshatriya ? Is that not so ? You must then be brave. This grief is unbecoming of you. What would you have done if I had gone to the battle-field and died ? Would you have grieved like this ?"

11. "No," replied Gautami. "That would have been befitting a Kshatriya. But you are now going into the jungle far away from people, living in the company of wild beasts. How can we stay here in peace ? I say you should take us along with you."

12. "How can I take you all with me ? Nanda is only a child. Rahul my son is just born. Can you come leaving them here ?" He asked Gautami.

13. Gautami was not satisfied. She urged : "It is possible for us all to leave the country of the Sakyas and go to the country of the Kosalas under the protection of their king."

14. "But mother ! What would the Sakyas say?" asked Siddharth. "Would they not regard it as treason ? Besides, I pledged that I will do nothing either by word or by deed to let the king of the Kosalas know the true cause of my Parivraja.

15. "It is true that I may have to live alone in the jungle. But which is better? To five in the jungle or to be a party to the killing of the Koliyas !"

16. "But why this impatience?" asked Suddhodana. "The Sakyas Sangh has decided to postpone the date of the hostilities for some time.

17. "Perhaps the hostilities may not be started at all. Why not postpone your Parivraja ? May be, it would be possible to obtain the permission of the Sangh for you to stay among the Sakyas."

18. This idea was repellent to Siddharth. "It is because I promised to take Parivraja that the Sangh decided to postpone the commencement of hostilities against the Koliyas.

19. "It is possible that after I take Parivraja the Sangh may be persuaded to withdraw their declaration of war. All this depends upon my first taking Parivraja.

20. "I have made a promise and I must carry it out. The consequences of any breach of promise may be very grave both to us and to the cause of peace.

21. "Mother, do not now stand in my way. Give me your permission and your blessings. What is happening is for the best."

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22. Gautami and Suddhodana kept silent.

23. Then Siddharth went to the apartment of Yeshodhara. Seeing her, he stood silent, not knowing what to say and how to say it. She broke the silence by saying : "I have heard all that has happened at the meeting of the Sangh at Kapilavatsu."

24. He asked her:—"Yeshodhara, tell me what you think of my decision to take Parivraja ?"

25. He expected she would collapse. Nothing of the kind happened.

26. With full control over her emotions, she replied : "What else could I have done if I were in your position ? I certainly would not have been a party to a war on the Koliyas.

27. "Your decision is the right decision. You have my consent and my support. I too would have taken Parivraja with you. If I do not, it is only because I have Rahula to look after.

28. "I wish it had not come to this. But we must be bold and brave and face the situation. Do not be anxious about your parents and your son. I will look after them till there is life in me.

29. "All I wish is that now that you are becoming a Parivrajaka leaving behind all who are near and dear to you, you will find a new way of life which would result in the happiness of mankind."

30. Siddharth Gautama was greatly impressed. He realised as never before what a brave, courageous and noble-minded woman Yeshodhara was, and how fortunate he was in having her as his wife and how fate had put them asunder. He asked her to bring Rahula. He cast his fatherly look on him and left.

§ *18. Leaving His Home*

1. Siddharth thought of taking Parivraja at the hands of Bharadwaja who had his Ashram at Kapilavatsu. Accordingly he rose the next day and started for the Ashram on his favourite horse Kanthaka with his servant Channa walking along.

2. As he came near the Ashram, men and women

came out and thronged the gates to meet him as a newly arrived bridegroom.

3. And when they came up to him, their eyes wide open in wonder, they performed their due homage with hands folded like a lotus calyx.

4. Then they stood surrounding him, their minds overpowered by passion, as if they were drinking him in with their eyes motionless and blossoming wide with love.

5. Some of the women verily thought that he was Kama incarnate, decorated as he was with his brilliant signs as with connate ornaments.

6. Others thought from his gentleness and his majesty that it was the moon with its ambrosial beams as it were visibly come down to the earth.

7. Others, smitten by his beauty, yawned as if to swallow him, and fixing their eyes on each other, softly sighed.

8. Thus the women only looked upon him, simply gazing with their eyes. They spoke not, nor did they smile. They surrounded him and stood aghast thinking of his decision to take Parivraja.

9. With great difficulty he extricated himself from the crowd and entered the gates of the Ashram.

10. Siddharth did not like Suddhodana and Prajapati Gautami to be present to witness his Parivraja. For he knew that they would break down under the weight of grief. But they had already reached the Ashram without letting him know.

11. As he entered the compound of the Ashram he saw in the crowd his father and mother.

12. Seeing his parents he first went to them and asked for their blessing. They were so choked with emotion that they could hardly say a word. They wept and wept, held him fast and bathed him with their tears.

13. Channa had tied Kanthaka to a tree in the Ashram and was standing. Seeing Suddhodana and Prajapati in tears he too was overcome with emotion and was weeping.

14. Separating himself with great difficulty from

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his parents, Siddharth went to the place where Channa was standing. He gave him his dress and his ornaments to take back home.

15. Then he had his head shaved, as was required for a Parivrajaka. His cousin Mahanama had brought the clothes appropriate for a Parivrajaka and a begging bowl. Siddharth wore them.

16. Having thus prepared himself to enter the life of a Parivrajaka, Siddharth approached Bharadwaja to confer on him Parivraja.

17. Bharadwaja with the help of his disciples performed the necessary ceremonies and declared Siddharth Gautama to have become a Parivrajaka.

18. Remembering that he had given a double pledge to the Sakya Sangh to take Parivraja and to leave the Sakya kingdom without undue delay, Siddharth Gautama immediately on the completion of the Parivraja ceremony started on his journey.

19. The crowd which had collected in the Ashram was unusually large. That was because the circumstances leading to Gautama's Parivraja were so extraordinary. As the prince stepped out of the Ashram the crowd also followed him.

20. He left Kapilavatsu and proceeded in the direction of the river Anoma. Looking back he saw the crowd still following him.

21. He stopped and addressed them, saying : "Brothers and sisters, there is no use your following me. I have failed to settle the dispute between the Sakyas and the Koliyas. But if you create public opinion in favour of settlement you might succeed. Be, therefore, so good as to return." Hearing his appeal, the crowd started going back.

22. Suddhodana and Gautami also returned to the palace.

23. Gautami was unable to bear the sight of the robes and the ornaments discarded by Siddharth. She had them thrown into a lotus pool.

24. Siddharth Gautama was only twenty-nine when he underwent Parivraja (Renunciation).

25. People admired him and sighed for him,

saying : "Here was a Sakya blessed with high lineage, noble parentage, possessed of considerable riches, in the bloom of youthful vigour, accomplished in mind and body, brought up in luxury, who fought his kinsmen for the sake of maintaining peace on earth and goodwill towards men.

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26. "Here was a Sakya youth who when out voted by his kinsmen refused to submit but preferred to undergo voluntary punishment which involved the exchange of riches for poverty, comfort for alms, home for homelessness. And so he goes with none in the world to care for him and with nothing in the world which he could claim as his own.

27. "His was an act of supreme sacrifice willingly made. His is a brave and a courageous act. There is no parallel to it in the history of the world. He deserves to be called a Sakya Muni or Sakya Sinha."

28. How true were the words of Kisa Gotami, a Sakya maiden. When referring to Siddharth Gautama, she said : "Blessed indeed is the mother, blessed indeed is the father, who has such a son. Blessed indeed is the wife who has such a husband."

§ *19. The Prince and the Servant*

1. Channa too should have gone back home with Kanthaka. But he refused to go. He insisted on seeing the Prince off with Kanthaka at least to the banks of the river Anoma and so insistent was Channa that the Gautama had to yield to his wishes.

2. At last they reached the banks of the river Anoma.

3. Then turning to Channa he said : "Good friend, thy devotion to me has been proved by thy thus following me. I am wholly won in heart by thee, ye who have such a love for your master.

4. "I am pleased with your noble feelings towards me, even though I am powerless of conferring any reward.

5. "Who would not be favourably disposed to one who stands to him as bringing him reward ? But

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even one's own people commonly become mere strangers in a reverse of fortune.

6. "A son is brought up for the sake of the family, the father is honoured by the son for the sake of his own future support ; the world shows kindness for the sake of hope ; there is no such thing as unselfishness without a motive.

7. "Thou art the only exception. Take now this horse and return.

8. "The king, with his loving confidence, still unshaken, must be enjoined to stay his grief.

9. "Tell him, I have left him—with no thirst for heaven, with no lack of love, nor feeling of anger.

10. "He should not think of mourning for me who am thus gone forth from my home ; union, however long it may last, in time will come to an end.

11. "Since separation is certain, how shall there not be repeated severings from one's kindred ?

12. "At a man's death there are doubtless heirs to his wealth but heirs to his merit are hard to find on the earth or exist not at all.

13. "The king, my father, requires to be looked after. The king may say, ' He is *gone* at a wrong time.' But there is no wrong time for duty.

14. "Do thou address the king, O friend, with these and suchlike words ; and do thou use thy efforts so that he may not even remember me.

15. "Yes, do thou repeat to my mother my utter unworthiness to deserve her affection. She is a noble person, too noble for words."

16. Having heard these words, Channa, over whelmed with grief, made reply with folded hands, his voice choked by emotion :

17. "Seeing that ye are causing affliction to thy kindred, my mind, O my Lord, sinks down like an elephant in a river of mud.

18. "To whom would not such a determination as this of thine, cause tears, even if his heart were of iron—how much more if it were throbbing with love ?

19. "Where is gone this delicacy of limb, fit to lie only in a palace, and where is the ground of the

ascetic forest, covered with the shoots of rough Kusa grass ?

20. "How could I, O Prince, by mine own will, — knowing this thy decision,—carry back the horse to the sorrow of Kapilavatsu ?

21. "Surely thou will not abandon that fond old king, so devoted to his son, as a heretic might the true religion ?

22. "And her, thy second mother, worn with the care of bringing thee up,—thou will not surely forget her, as an ingrate does a benefit ?

23. "Thou wilt not surely abandon thy wife endowed with all virtues, illustrious for her family, devoted to her husband and with a young son.

24. "Thou wilt not abandon the young son of Yeshodhara, worthy of all praise, thou the best of the cherishers of religion and fame, as a dissolute spend thrift his choicest glory ?

25. "Or even if thy mind be resolved to abandon thy kindred and thy kingdom, thou will not, O Master, abandon me,—thy feet are my only refuge.

26. "I cannot go to the city with my soul thus burning, leaving thee behind in the forest.

27. "What will the king say to me, returning to the city without thee, or what shall I say to thy wife by way of telling them good news ?

28. "As for what thou sayest, ' thou must repeat my unworthiness to the king ' who could think or believe it ?" continued Channa. "Even if I ventured to speak it with a heart ashamed and a tongue cleaving to my mouth, he may not appreciate it.

29. "Him who is always compassionate and who never fails to feel pity, it ill befits to abandon one who loves ; turn back and have mercy on me."

30. Having heard these words of Channa over come with sorrow, Siddharth Gautama with the utmost gentleness answered :

31. "Abandon this distress Channa, regarding thy separation from me,—change is inevitable in corporeal beings who are subject to different births.

32. "Even if I through affection were not to

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abandon my kindred, death would still make us help lessly abandon one another.

33. "She, my mother, by whom I was born in the womb with great thirst and pains,—where am I now with regard to her, and where is she with regard to me?

34. "As birds go to their roosting-tree and then depart, so the meeting of beings inevitably ends in separation.

35. "As clouds, having come together, depart asunder again, such I consider the meeting and parting of living things.

36. "And since this world goes away, each one deceiving the other,—it is not right to think any thing thine own in a time of union which is a dread.

37. "Therefore, since it is so, grieve not, my good friend, but go ; or if thy love lingers, then go and afterwards return.

38. "Say without reproaching me, to the people of Kapilavatsu, 'Let your love for him be given up, and hear his resolve.' "

39. Having heard this conversation between the master and the servant, Kanthaka, the noblest steed, licked his feet with his tongue and dropped hot tears.

40. With his hand whose fingers were untied with a membrane and which was marked with the auspicious svastika, and with its middle part curved, Gautama stroked him and addressed him like a friend:

41. "Shed not tears, Kanthaka, bear with it, thy labours will soon have its fruit."

42. Then Channa, knowing that the time for the parting of the ways had come, forthwith paid honour to the sylvan dress of Gautama.

43. Then Gautama, having bidden good-bye to Kanthaka and Channa, went on his way.

44. While his master, thus regardless of his kingdom, was going to the ascetic-wood in mean garments, the groom, tossing up his arms, wailed bitterly and fell on the ground.

45. Having looked back again he wept aloud, and embraced the horse Kanthaka with his arms;

and then, hopeless and repeatedly lamenting, started on his return journey.

46. On the way, sometimes he pondered, some times he lamented, sometimes he stumbled and some times he fell, and so going along, wretched through his devoted attachment, he performed all kinds of actions on the road knowing not what he was doing.

§20. *The Return of Channa*

1. Then Channa in deep distress, when his master thus went into the forest, made every effort on the road to dissolve his load of sorrow.

2. His heart was so heavy that the road which he used to traverse in one night with Kanthaka, that same road he now took eight days to travel, pondering over his lord's absence.

3. The horse Kanthaka, though he still went on bravely, fagged and had lost all spirit ; and decked though he was with ornaments, he in the absence of his master seemed to have lost all his beauty.

4. And turning round towards the direction in which his master went, he neighed repeatedly with a mournful sound ; and though pressed with hunger, he welcomed not, nor tasted any grass or water on the road, as before.

5. Slowly the two at long last reached Kapilavatsu which seemed empty when deserted by Gautama. They reached the city in body but not in soul.

6. Bright as it was with lotus-covered waters, adorned with trees full of flowers, the citizens had lost all their gladness.

7. When the two, their brightness gone and their eyes dim with tears, slowly entered the city, it seemed all bathed in gloom.

8. Having heard that they had returned with their limbs all relaxed, coming back without the pride of the Sakya race, the men of the city shed tears.

9. Full of wrath, the people followed Channa in the road, crying behind him with tears, "Where is the king's son, the glory of his race and his kingdom ?"

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10. "This city bereft of him is a forest, and that forest which possesses him is a city ; the city without him has no charms for us."

11. Next the women crowded to the rows of windows, crying to one another, "The prince has returned" ; but having seen that his horse had an empty back, they closed the windows again and wailed aloud.

§ 21. The Family in Mourning

1. The members of the family of Suddhodana were anxiously awaiting the return of Channa in the hope that he might persuade Gautama to return home.

2. On entering the royal stable, Kanthaka uttered a loud sound, uttering his woe to the palace people.

3. Then the people, who were in the neighbourhood of the king's inner apartments, thought in their hearts, "Since the horse Kanthaka neighs, it must be that the prince has come."

4. And the women, who were fainting with sorrow, now in wild joy, with their eyes rolling to see the prince, rushed out of the palace full of hope. But they were disappointed. There was Kanthaka without the prince.

5. Gautami, abandoning all self-control, cried aloud—she fainted, and with a weeping face exclaimed:

6. "With his long arms and lion gait, his bull like eye, and his beauty, bright like gold, his broad chest, and his voice deep as a drum or a cloud,—should such a hero as this dwell in a hermitage ?

7. "This earth is indeed unworthy as regards that peerless doer of noble actions, for such a virtuous hero has gone away from us.

8. "Those two feet of his, tender with their beautiful web spread between the toes, with their ankles, concealed and soft like a blue lotus,—how can they, bearing a wheel mark in the middle, walk on the hard ground of the skirts of the forest ?

9. "That body, which deserves to sit or lie on the roof of a palace, honoured with costly garments,

aloes, and sandalwood, how will that manly body live in the woods, exposed to the attacks of the cold, the heat, and the rain?

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10. "He who was proud of his family, goodness, strength, energy, sacred learning, beauty, and youth, who was ever ready to give, not ask, how will he go about begging alms from others ?

11. "He who, lying on a spotless golden bed, was awakened during the night by the concert of musical instruments, how alas ! will he, my ascetic, sleep today on the bare ground with only one rag of cloth interposed ?"

12. Having heard this piteous lamentation, the women, embracing one another with their arms, rained tears from their eyes, as the shaken creepers drop honey from their flowers.

13. Then Yeshodhara, forgetting that she had permitted him to go, fell upon the ground in utter bewilderment.

14. "How has he abandoned me his lawful wife ? He has left me widowed. He could have allowed his lawful wife to share his new life with him.

15. "I have no longing for the heaven, my one desire was that my beloved may never leave me either in this world or the next.

16. "Even if I am unworthy to look on my husband's face with its long eyes and bright smile, still is this poor Rahula never to roll about in his father's lap ?

17. "Alas ! the mind of that wise hero is terribly stern, gentle as his beauty seems, it is pitilessly cruel. Who can desert of his own accord such an infant son with his inarticulate talk, one who would charm even an enemy ?

18. "My heart too is certainly most stern, yea, made of rock or fashioned even of iron, which does not break when its lord is gone to the forest, deserted by his royal glory like an orphan,—he so well worthy of happiness. But what can I do ? My grief is too heavy for me to bear."

19. So fainting in her woe, Yeshodhara wept

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and wept aloud—self-possessed though she was by nature, yet in her distress she had lost her fortitude.

20. Seeing Yeshodhara thus bewildered with her wild utterances of grief and fallen on the ground, all the women cried out, with their faces streaming with tears like large lotuses beaten by the rain.

21. Having heard of the arrival of both Channa and Kanthaka, and having learned of the fixed resolve of his son, Suddhodana fell struck down by sorrow.

22. Distracted by his grief for his son, being held up for a moment by his attendants, Suddhodana gazed on the horse with his eyes filled with tears, and then falling on the ground wailed aloud.

23. Then Suddhodana got up and entered his temple, offered prayers, performed auspicious rites and vowed certain sacrifices for the safe return of his son.

24. So Suddhodana, Gautami and Yeshodhara passed their days asking : "How long, O God, how long, before, shall we see him again ?"

PART II

Renunciation for ever

1. From Kapilavatsu to Rajagraha.
2. King Bimbisara and His Advice.
3. Gautama answers Bimbisara.
4. Reply by Gautama (concluded).
5. News of Peace.
6. The problem in a New Perspective.

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§ 1. *From Kapilavatsu to Rajagraha*

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1. Leaving Kapilavatsu, Siddharth Gautama thought of going to Rajagraha, the capital of the kingdom of Magadha.

2. The reigning king was Bimbisara. It was a place which great philosophers and leaders of thought had made their headquarters.

3. With this thought in mind he crossed the Ganges, fearing not her rapid flow.

4. On his way he halted at the hermitage of a Brahmin woman Saki, then at the hermitage of another Brahmin woman by name Padma and then at the hermitage of the Brahmin sage Raivata. All of them entertained him.

5. Having seen his personality and dignity and his splendid beauty, surpassing all other men, the people of that region were all astonished at him wearing the clothes of a sanyasi.

6. On seeing him, he who was going elsewhere stood still, and he who was standing there followed him on the way ; he who was walking gently and gravely ran quickly, and he who was sitting at once sprang up.

7. Some people reverenced him with their hands, others in worship saluted him with their heads, some addressed him with affectionate words ; not one went on without paying him homage.

8. Those who were wearing gay-coloured dresses were ashamed when they saw him, those who were talking on random subjects fell to silence ; no one indulged in an improper thought.

9. His eyebrows, his forehead, his mouth,—his body, his hand, his feet, or his gait,—whatever part of him anyone beheld, that at once rivetted his gaze.

10. After a long and arduous journey Gautama reached Rajagraha surrounded by five hills, well guarded and adorned with mountains, and supported and hallowed by auspicious and sacred places.

11. On reaching Rajagraha he selected a spot

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at the foot of the Pandava hill and put up a small hut made of the leaves of trees for his sojourn.

12. Kapilavatsu by foot is nearly 400 miles distant from Rajagraha.

13. This long journey Siddharth Gautama did all on foot.

§ 2. *King Bimbisara and his Advice*

1. Next day he got up and started to go into the city with a begging bowl asking for alms. A vast crowd gathered round him.

2. Then Sreniya Bimbisara, the lord of the kingdom of the Magadhas, beheld from the outside of his palace the immense concourse of people, and asked the reason of it; and thus did a courtier recount it to him :

3. "He who was thus foretold by the Brahmins, 'He will either attain supreme wisdom or be the emperor of the earth'—it is he, the son of the king of the Sakyas, who is now an ascetic. It is he at whom the people are gazing at."

4. The king, having heard this and perceiving its meaning in his mind, thus at once spoke to that courtier : "Let it be known whither he is going" ; and the courtier, receiving the command, followed the prince.

5. With fixed eyes, seeing only a yoke's length before him, with his voice hushed, and his walk slow and measured, he, the noblest of mendicants, went begging for alms, keeping his limbs and his wandering thoughts under control.

6. Having received such alms as were offered, he retired to a lonely corner of the mountain ; and having eaten it there, he ascended the Pandava hill.

7. In that wood, thickly filled with *lodhra* trees, having its thickness resonant with the notes of the peacocks, he, the sun of mankind, shone, wearing his red dress, like the morning sun above the eastern mountains.

8. That royal courtier having thus watched him there, related it all to the king : and the king when he

heard it, in his deep veneration, started himself to go thither with a modest retinue.

9. Like a mountain in stature, the king ascended the hill.

10. There he beheld Gautama, resplendent as he sat on his hams, with subdued senses, as if the mountain was moving, and he himself was a peak thereof.

11. Him, distinguished by his beauty of form and perfect tranquillity, filled with astonishment and affectionate regard, the king of men approached.

12. Bimbisara having courteously drawn nigh to him, inquired as to the condition of his bodily humours ; and Gautama with equal gentleness assured the king of his health of mind and freedom from all ailments.

13. Then the king sat down on the clean surface of the rock, and being seated, he thus spoke, desiring to convey his state of mind :

14. "I have a strong friendship with thy family, come down by inheritance and well proved ; since from this, a desire to speak to thee, my son, has arisen in me, therefore, listen to my words of affection.

15. "When I consider thy race, beginning with the sun, thy fresh youth, and thy conspicuous beauty, I wonder whence comes this resolve of thine, so out of all harmony with the rest, set wholly on a mendicant's life, not on a kingdom?

16. "Thy limbs are worthy of red sandalwood perfumes,—they do not deserve the rough contact of red cloth, this hand of thine is fit to protect subjects, it deserves not to hold food given by another

17. "If, therefore, gentle youth, thou desirest not thy paternal kingdom, then in thy generosity, accept forthwith one half of my kingdom.

18. "If thou actest thus, there will be no sorrow caused to thine own people, and by the mere lapse of time imperial power at last flies for refuge to the tranquil mind, therefore, be pleased to do me this kindness. The prosperity of the good becomes very powerful, when aided by the good.

19. "But if from thy pride of race thou dost

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not now feel confidence in me, then plunge with thy arrows into countless armies, and with me as thy ally seek to conquer thy foes.

20. "Choose thou, therefore, one of these ends. Pursue according to the rules of religious merit, wealth, and pleasure; pursue love and the rest, in reverse order. These are the three objects in life ; when men die they pass into dissolution as far as regards this world.

21. "Do thou, therefore, by pursuing the three objects of life, cause this personality of thine to bear its fruit ; they say that when the attainment of religion, wealth and pleasure is complete in all its parts, then the end of man is complete.

22. "Do not thou let these two brawny arms lie useless which are worthy to draw the bow ; they are well fitted to conquer the three worlds, much more the earth.

23. "I speak this to you out of affection,—not through love of dominion or through arrogance beholding this mendicant-dress of thine, I am filled with compassion and I shed tears.

24. "O, thou who desirest the mendicant's stage of life, enjoy pleasures now, in due time—ere old age comes on and overcomes this thy beauty, well worthy of thy illustrious race.

25. "The old man can obtain merit by religion ; old age is helpless for the enjoyment of pleasures ; therefore, they say that pleasures belong to the young man, wealth to the middle-aged, and religion to the old.

26. "Youth in this present world is the enemy of religion and wealth—since pleasures, however much we guard against them, are hard to hold, therefore, wherever pleasures are to be found, there thy youth seize them.

27. "Old age is prone to reflection, it is grave and intent on remaining quiet ; it attains unimpassionedness with but little effort, unavoidably, and for very shame.

28. "Therefore, having passed through the deceptive period of youth, fickle, intent on external objects, heedless, impatient, not looking at the dis-

tance,—they take breath like men who have escaped safe through a forest.

29. "Let, therefore, this fickle time of youth first pass by, reckless and giddy,—our early years are earmarked for pleasure, they cannot be kept from the power of the senses.

30. "Or, if religion is really thy one aim, then offer sacrifices,—this is thy family's immemorial custom, climbing to highest heaven by sacrifices.

31. "With their arms pressed by golden bracelets, and their variegated diadems resplendent with the light of gems, royal sages have reached the same goal by sacrifice which great sages reached by self-mortification."

§ 3. *Gautama Answers Bimbisara*

1. Thus spoke the monarch of the Magadhas, who spoke well and strongly like Indra ; but having heard it, the prince did not falter. He was firm like a mountain.

2. Being thus addressed by the monarch of the Magadhas, Gautama, in a strong speech with a friendly face,—self-possessed, unchanged, thus made answer :

3. "What you have said is not to be called a strange thing for thee. O King ! born as thou art in the great family whose ensign is the lion, and lover as thou art of thy friends, that ye should adopt this line of approach towards him who stands as one of thy friends is only natural.

4. "Amongst the evil-minded, a friendship worthy of their family, ceases to continue and fades; it is only the good who keep increasing the old friendship of their ancestors by a new succession of friendly acts.

5. "But those men who act unchangingly towards their friends in reverses of fortune, I esteem in my heart as true friends. Who is not the friend of the prosperous man, in his times of abundance ?

6. "So those who, having obtained riches in the world, employ them for the sake of their friends

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and religions,—their wealth has real solidity, and when it perishes it produces no pain at the end.

7. "This thy suggestion concerning me, O King, is prompted by pure generosity and friendship; I will meet thee courteously with simple friendship, I would not utter aught else in my reply.

8. "I am not so afraid even of serpents nor of thunderbolts falling from heaven, nor of flames blown together by the wind, as I am afraid of these worldly objects.

9. "These transient pleasures,—the robbers of our happiness and our wealth, and which float empty and like illusions through the world,—infatuate man's minds even when they are only hoped for,—still more when they take up their abode in the soul.

10. "The victims of pleasure attain not to happiness even in the heaven of the gods, still less in the world of mortals ; he who is athirst is never satisfied with pleasures, as the fire, the friend of the wind, with fuel.

11. "There is no calamity in the world like pleasures, people are devoted to them through delusion; when he once knows the truth and so fears evil, what wise man would of his own choice desire evil ?

12. "When they have obtained all the earth girdled by the sea, kings, wish to conquer the other side of the great ocean ; mankind is never satiated with pleasures, as the ocean with the waters that fall into it.

13. "When it had rained a golden shower from heaven, and when he had conquered the continents and had even obtained the half of Sakra's throne, Mandhatri was still full of craving for worldly objects.

14. "Though he enjoyed the kingdom of the gods in heaven, when Indra had concealed himself through fear of Vritra, and though in his pride he had made the great Rishis bear his litter, Nahusha was not satisfied.

15. "Who would seek these enemies bearing the name of pleasures, by whom even those sages have been overcome, who were devoted to other pursuits, whose only clothes were rags, whose food roots, fruits,

and water and who wear their twisted locks as long as snakes ?

16. "When they hear of the miseries of those who are intent on pleasure and are devoted to worldly pursuits it well befits the self-controlled to fling it away.

17. "Success in pleasure is to be considered a misery in the man of pleasure, for he becomes intoxicated when the pleasures of his desire are attained; through intoxication he does what should not be done, not what should be done ; and being wounded thereby he falls into a miserable end.

18. "These pleasures which are gained and kept by toil, which after deceiving leave you and return whence they came,—these pleasures which are but borrowed for a time,—what man of self-control, if he is wise, would delight in them ?

19. "What man of self-control could find satisfaction in these pleasures which are like a torch of hay,—which excite thirst when you seek them and when you grasp them ?

20. "What man of self-control could find satisfaction in these pleasures which are like flesh that has been flung away, and which produces misery by their being held in common with kings ?

21. "What man of self-control could find satis faction in these pleasures, which, like the senses, are destructive, which bring calamity on every hand to those who abide in them ?

22. "Those men of self-control who are bitten by them in their hearts, fall into ruin and attain not bliss—what man of self-control could find satisfaction in these pleasures, which are like an angry, cruel serpent ?

23. "Even if they enjoy them men are not satisfied,—like dogs famishing with hunger over a bone,—what man of self-control could find satisfaction in these pleasures, which are like a skeleton composed of dry bones ?

24. "He whose intellect is blinded with pleasures, the wretch, who is the miserable slave of hope for the

sake of pleasures, well deserves the pain of death even in the world of living.

25. "Deer are lured to their destruction by songs, insects for the sake of the brightness fly into the fire, the fish greedy for the flesh swallows the iron hook,— therefore, worldly pleasures produce misery as their end.

26. "As for the common opinion, 'pleasures are enjoyment,' none of them when examined are worthy of being enjoyed; fine garments and the rest are only the accessories of things,—they are to be regarded as merely the remedies for pain.

27. "Water is desired for allaying thirst; food in the same way for removing hunger; a house for keeping off the wind, the heat of the sun, and the rain; and dress for keeping off the cold and to cover one's nakedness.

28. "So too a bed is for removing drowsiness a carriage for remedying the fatigue of a journey; a seat for alleviating the pain of standing; so bathing as a means for washing, health, and strength.

29. "External objects therefore are to human beings means for remedying pain—not in themselves sources of enjoyment ; what wise man would allow that he enjoys those delights which are only used as remedial ?

30. "He who, when burned with the heat of bilious fever, maintains that cold appliances are an enjoyment, when he is only engaged in alleviating pain,—he indeed might give the name of enjoyment to pleasures.

31. "Since variableness is found in all pleasures, I cannot apply to them the name of enjoyment; the very conditions which mark pleasure, bring also in their turn pain.

32. "Heavy garments and fragrant aloe-wood are pleasant in the cold, but an annoyance in the heat ; and the moonbeams and sandalwood are pleasant in the heat, but a pain in the cold.

33. "Since the well-known opposite pairs, such as gain and loss and the rest, are inseparably connected

with everything in this world,—therefore, no man is invariably happy on the earth nor invariably wretched.

34. "When I see how the nature of pleasure and pain are mixed, I consider royalty and slavery as the same; a king does not always smile, nor is a slave always in pain.

35. "Since to be a king involves a wider range of responsibility, therefore, the sorrows of a king are great; for a king is like a peg,—he endures trouble for the sake of the world.

36. "A king is unfortunate, if he places his trust in his royalty which is apt to desert and loves crooked turns ; and, on the other hand, if he does not trust in it, then what can be the happiness of a timid king ?

37. "And since after even conquering the whole earth, one city only can serve as a dwelling place and even there only one house can be inhabited, is not royalty mere labour for others ?

38. "And even in royalty nothing more than one pair of garments is all he needs, and just enough food to keep off hunger ; so only one bed, and only one seat is all that a king needs; other distinctions are only for pride.

39. "And if all these fruits are desired for the sake of satisfaction, I can be satisfied without a kingdom ; and if a man is once satisfied in this world, are not all distinctions unnecessary ?

40. "He then who has attained the auspicious road to happiness is not to be deceived in regard to pleasures. Remembering thy professed friendship, I ask, tell me again and again, are the pleasures worth anything ?

41. "I have not left home through anger, nor because my diadem has been dashed down by an enemy's arrow ; nor have I set my desires on loftier objects, that I thus refuse thy proposal.

42. "Only he who, having once let go a malignant incensed serpent, or a blazing hay-torch all on fire, would strive again to seize it, would ever seek pleasures

again after having once abandoned them.

43. "Only he who, though seeing would envy the blind, though free, the bound, though wealthy, the destitute, though sound in his reason, the maniac—only he, I say, would envy one who is devoted to wordly objects.

44. "He who lives on alms, my good friend, is not to be pitied. He has here the best happiness, perfect calm, and hereafter all sorrows are for him abolished.

45. "But he is to be pitied who is overpowered by craving though in the midst of great wealth,—who attains not the happiness of calm here, while pain has to be experienced hereafter.

46. "What thou hast spoken to me is well worthy of thy character, thy mode of life, and thy family; and to carry out my resolve is also befitting my character, my mode of life, and my family."

§ *4. Reply by Gautama* (concluded)

1. "I have been wounded by the strife of the world, and I have come out longing to obtain peace; I would not accept any empire in the third heaven, for saving me from all the ills of the earth how much less amongst men ?

2. "But as for what thou hast said to me, O King, that the universal pursuit of the three objects is the supreme end of man,—and thou saidst that what I regard as the desirable is misery,—thy three objects are perishable and also unsatisfying.

3. "And as for what thou saidst, ' wait till old age comes, for youth is ever subject to change';— this want of decision is itself uncertain; for age too can be irresolute and youth can be firm.

4. "But since Fate is so well skilled in its art as to draw the world in all its various ages into its power,—how shall the wise man, who desires tranquillity, wait for old age, when he knows not when the time of death will be ?

5. "When death stands ready like a hunter,

with old age as his weapon, and diseases scattered about as his arrows, smiting down living creatures who fly like deer to the forest of destiny, what desire can there be in anyone for length of life ?

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6. "It well befits the youthful son or the old man or the child so to act with all promptitude that they may choose the path of the religious man whose soul is all mercy.

7. "And as for what thou saidst, ' be diligent in sacrifices for religion, such as are worthy of thy race and bring a glorious fruit,'—honour to such sacrifices ! I desire not that fruit which is sought by causing pain to others !

8. "To kill a helpless victim through a wish for future reward,—it would be unseemly action for a merciful, good-hearted man, even if the reward of the sacrifice were eternal.

9. "And even if true religion did not consist in quite another rule of conduct, by self-restraint, moral practice and a total absence of passion,—still it would not be seemly to follow the rule of sacrifice, where the highest reward is described as attained only by slaughter.

10. "Even that happiness which comes to a man, while he stays in this world, through the injury of another, is hateful to the wise compassionate heart; how much more if it be something beyond our sight in another life ?

11. "I am not to be lured into a course of action for future reward,—my mind does not delight, O King, in future births; these actions are uncertain and wavering in their direction, like plants beaten by the rain from a cloud."

12. The king himself, folding his hands, replied, "Thou art obtaining thy desire without hindrance; when thou hast at last accomplished all that thou hast to do, thou shalt show hereafter thy favour towards me."

13. Having received a firm promise from Gautama to visit him again, the monarch, taking his courtiers with him, returned to the palace.

§ 5. *News of Peace*

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1. While Gautama was staying in Rajagraha there came five other Parivrajakas who also put up a hut by the side of the hut which Gautama had erected for himself.

2. These five Parivrajakas were Kaundinya, Ashvajit, Kasyapa, Mahanam and Bhaduka.

3. They too were struck by Gautama's appearance and wondered what could have led him to take Parivraja.

4. They questioned him over the issue in the same way as did King Bimbisara.

5. When he explained to them the circumstances which led him to take Parivraja, they said, "We have heard of it. But do you know what has happened since you left ?" they asked.

6. Siddharth said, "No." Then they told him that after he left Kapilavatsu there was a great agitation among the Sakyas against going to war with the Koliyas.

7. There were demonstrations and processions by men and women, boys and girls, carrying flags with such slogans as, "Koliyas are our brothers," "It is wrong for a brother to fight against brother. "Think of the exile of Siddharth Gautama," etc.

8. The result of the agitation was that the Sakya Sangh had to call a meeting and reconsider the question. This time the majority was for compromise with the Koliyas.

9. The Sangh decided to select five Sakyas to act as their envoys and negotiate peace with the Koliyas.

10. When the Koliyas heard of this they were very glad. They too selected five Koliyas to deal with the envoys of the Sakyas.

11. The envoys on the two sides met and agreed to appoint a permanent Council of Arbitration with authority to settle every dispute regarding the sharing of the waters of the river Rohini and both sides to abide by its decision. Thus the threatened war had ended in peace.

12. After informing Gautama of what had happened at Kapilavatsu, the Parivrajakas said, "There is now no need for you to continue to be a Parivrajaka. Why don't you go home and join your family ?"

13. Siddharth said : "I am happy to have this good news. It is a triumph for me. But I will not go back to my home. I must not. I must continue to be a Parivrajaka."

14. Gautama asked the five Parivrajakas, what their programme was. They replied, "We have decided to do *tapasya*. Why don't you join us ?" Siddharth said, "By and by ; I must examine other ways first."

15. The five Parivrajakas then left.

§ 6. *The Problem in a New Perspective*

1. The news brought by the five Parivrajakas that the Koliyas and Sakyas had made peace, made Gautama very uneasy.

2. Left alone, he began to reflect on his own position and to make sure if any reason was left for him to continue his Parivraja.

3. He had left his people for what?, he asked himself.

4. He had left his home because he was opposed to war. "Now that the war is over is there any problem left to me ? Does my problem end because war has ended ?"

5. On a deep reflection he thought not.

6. "The problem of war is essentially a problem of conflict. It is only a part of a larger problem.

7. "This conflict is going on not only between kings and nations but between nobles and Brahmins, between householders, between mother and son, between son and mother, between father and son, between sister and brother, between companion and companion.

8. "The conflict between nations is occasional. But the conflict between classes is constant and

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perpetual. It is this which is the root of all sorrow and suffering in the world.

9. "True, I left home on account of war. But I cannot go back home although the war between the Sakyas and Koliyas has ended. I see now that my problem has become wider. I have to find a solution for this problem of social conflict.

10. "How far do the old-established philosophies offer a solution of this problem ?"

11. Can he accept any one of the social philosophies ?

12. He was determined to examine everything for himself.

PART III

In Search of New Light

1. Halt at Brighu's Ashram.
2. Study of Sankhya.
3. Training in Samadhi Marga.
4. Trial of Asceticism.
5. Abandonment of Asceticism.

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§ 1. *Halt at Brighu's Ashram*

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1. With the desire to pursue other ways, Gautama left Rajagraha to meet Arada Kalam.

2. On his way he beheld the hermitage of Brighu and entered it out of curiosity.

3. The Brahmin inmates of the Ashram who had gone outside for the sake of fuel, having just come back with their hands full of fuel, flowers, and kusa grass, pre-eminent as they were in penances, and proficient in wisdom, went just to see him, and went not to their cells.

4. Then he being duly honoured by those dwellers of the hermitage paid his homage to the Elders of the Ashram.

5. He, the wise one, longing for liberation, traversed that hermitage, filled with the holy company desirous of heaven,—gazing at their strange penances.

6. He, the gentle one, saw for the first time the different kinds of penances practised by the ascetics in that sacred grove.

7. Then the Brahmin Brighu, well-versed in the technique of penance, told Gautama all the various kinds of penances and the fruits thereof.

8. "Uncooked food, growing out of water, and roots and fruits,—this is the fare of the saints according to the sacred texts ; but the different alternatives of penance vary.

9. "Some live like the birds on gleaned corn, others graze on grass like the deer, others live on air like the snakes, as if turned into ant-hills.

10. "Others win their nourishment with great effort from stones, others eat corn ground with their own teeth ; some, having boiled for others, keep for themselves what may chance to be left.

11. "Others, with their tufts of matted hair continually wet with water, twice offer oblations to Agni with hymns ; others, plunging like fishes into the water, dwell there with their bodies scratched by tortoises.

12. "By such penances endured for a time,—by

the higher they attain heaven, by the lower the world of men, by the path of pain they eventually dwell in happiness,—pain, they say, is the root of merit."

13. On hearing this Gautama said : "Today is my first sight of such a hermitage and I do not understand this rule of penance.

14. "This is all I would say at the moment. This devotion of yours is for the sake of heaven—while my desire is that the ills of life on earth be probed and a solution found. Will you allow me to take your leave. I wish to learn the Sankhya Philosophy and train myself in the Samadhi marga, and see what help it can give me for the solution of my problem.

15. "There is sorrow to me when I reflect that I shall have to depart, leaving you who are thus engaged, you who are such a refuge and who have shown such excessive kindness to me,—just as there was when I had to leave my kindred behind.

16. "It is not, therefore, any dislike on my part or the wrong conduct of another, which makes me go away from this wood ; for ye are like great sages, standing fast in the religious duties which are in accordance with former sages.

17. "I wish to go to Muni Arada Kalam who is known to be the master of the subject."

18. Seeing his resolve Brighu, the chief of the hermitage, said : "Prince, brave indeed is thy purpose, who, young as thou art, having pondered thoroughly between heaven and liberation have made up your mind for liberation, ye are indeed brave !

19. "If what you have said is thy settled purpose go quickly to Vindhyakoshtha ; the Muni Arada lives there who has gained an insight into absolute bliss.

20. "From him thou wilt learn the path but as I foresee, this purpose of thine will go further, after having studied his theory."

21. Gautama thanked him, and having saluted the company of sages he departed ; the hermits also, having duly performed to him all the rites of courtesy, entered again into the ascetic grove.

§ 2. *Study of Sankhya*

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1. Leaving the Ashram of Brighu, Gautama started to find the abode of Arada Kalam.

2. Arada Kalam was staying at Vaishali. Gautama went thither. On reaching Vaishali he went to his Ashram.

3. Approaching Arada Kalam, he said : "I wish to be initiated into your doctrine and discipline."

4. Thereupon Arada Kalam said : "You are welcome. Such is my doctrine that an intelligent man like you in no long time may of himself comprehend, realise and attain my teaching and abide by it.

5. "Verily thou art a worthy vessel to receive this highest training."

6. The prince, having heard these words of Arada, was filled with great pleasure and thus made reply.

7. "This extreme kindliness which thou showest to me, makes me, imperfect as I am, seem even already to have attained perfection.

8. "Will you, therefore, deign to tell me what your doctrine is ?"

9. Said Arada, "I am so much impelled by your noble nature, by your sincerity of character and by your resolution that I need not put you to any preliminary examination to test your worthiness.

10. "Listen, best of listeners, to our tenets."

11. He then expounded to Gautama the tenets of what was known as the Sankhya Philosophy.

12. At the conclusion of his discourse Arada Kalam said :

13. "These are, O Gautama, the tenets of our system. I have told them to you in a summary form."

14. Gautama was greatly pleased with the clear exposition given by Arada Kalam.

§ 3. *Training in Samadhi Marga*

1. At the time when Gautama was examining the various ways of finding a solution to his problem

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he thought of getting himself acquainted with the Dhyana Marga (Concentration of the Mind).

2. There were *three* schools of the Dhyana Marga.

3. All of them had one thing in common, namely, that control of breathing was the means of achieving Dhyana.

4. One school followed a way of controlling breathing which is called *Anapanasati*.

5. Another school followed the way of control of breathing known as *Pranayama*. It divided the breathing process into three parts : (1) Breathing *in* (Puraka) ; (2) *holding* the breath (Kumbhaka) ; and (3) breathing *out* (Rechak). The third school was known as Samadhi School.

6. Arada Kalam was well known as the master of Dhyana Marga. Gautama felt that it might be well for him if he could get some training in the Dhyana Marga under Arada Kalam.

7. So he spoke to Arada Kalam and asked him if he would be so good as to give training in the Dhyana Marga.

8. Arada Kalam replied, "With great pleasure."

9. Arada Kalam taught him his technique of the Dhyana Marga. It consisted of seven stages.

10. Gautama practised the technique every day.

11. After acquiring complete mastery over it Gautama asked Arada Kalam if there was anything further to be learned.

12. Arada Kalam replied : "No friend, that is all that I have to teach." With this Gautama took leave of Arada Kalam.

13. Gautama had heard of another yogi, by name Uddaka Ramaputta, who was reputed to have devised a technique which enabled a Dhyani to go one stage higher than that devised by Arada Kalam.

14. Gautama thought of learning his technique and experiencing the highest stage of Samadhi. Accordingly he went to the Ashram of Uddaka Ramaputta and placed himself under his training.

15. Within a short time did Gautama master the technique of Uddaka's eighth stage. After having

perfected himself in the technique of Uddaka Ramaputta, Gautama asked him the same question which he had asked Arada Kalam : "Is there anything further to be learned ?"

16. And Uddaka Ramaputta gave the same reply. "No friend, there is nothing more that I can teach you."

17. Arada Kalam and Uddaka Ramaputta were famous for their mastery of Dhyana Marga in the country of the Kosalas. But Gautama had heard that there were similar masters of Dhyana Marga in the country of the Magadhas. He thought he should have a training in their system also.

18. Gautama accordingly went to Magadha.

19. He found that their technique of Dhyana Marga, though based on control of breathing, was different from what was in vogue in the Kosala country.

20. The technique was not to breathe but to reach concentration by stopping breathing.

21. Gautama learned this technique. When he tried concentration by stopping breathing he found that piercing sounds used to come out of his ears, and his head appeared to him to be pierced as though by a sharp pointed knife.

22. It was a painful process. But Gautama did not fail to master it.

23. Such was his training in the Samadhi Marga.

§ 4. *Trial of Asceticism*

1. Gautama had given a trial to the Sankhya and Samadhi Marga. But he had left the Ashram of the Brighus without giving a trial to Asceticism.

2. He felt he should give it a trial and gain experience for himself so that he could speak authoritatively about it.

3. Accordingly Gautama went to the town of Gaya. From there he reconnoitred the surrounding country and fixed his habitation at Uruvela in the hermitage of Negari, the Royal Seer of Gaya, for practising asceticism. It was a lonely and solitary

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place on the banks of the river Nairanjana for practising asceticism.

4. At Uruvela he found the five Parivrajakas whom he had met at Rajagraha and who had brought news of peace. They too were practising asceticism.

5. The mendicants saw him there and approached him to take them with him. Gautama agreed.

6. Thereon they served him reverently, abiding as pupils under his orders, and were humble and compliant.

7. The austerities and self-mortification practised by Gautama were of the severest sort.

8. Sometimes he visited two but not more than seven houses a day and took at each only two but not more than seven morsels.

9. He lived on a single saucer of food a day, but not more than seven saucers.

10. Sometimes he had but one meal a day, or one every two days, and so on, upto once every seven days, or only once a fortnight, on a rigid scale of rationing.

11. As he advanced in the practice of asceticism his sole diet was herbs gathered green, or the grain of wild millets and paddy, or snippets hide, or waterplants, or the red powder round rice-grains within the husk or the discarded scum of rice on the boil, or the flour of oilseeds.

12. He lived on wild roots and fruit, or on windfalls only.

13. His raiment was of hemp or hempen mixture of cerements of rags from the dust-heap, of bark, of the black antelope's pelt either whole or split down the middle, of grass, of strips of bark or wood, hair of men or animals woven into a blanket, or of owl's wings.

14. He plucked out the hair of his head and the hair of his beard, never quitted the upright for the sitting posture, squatted and never rose up, moving only squatting.

15. After this wise, in diverse fashions, he lived to torment and to torture his body—to such a length in asceticism did he go.

16. To such a length in loathliness did he go that there became accumulated on his body the dirt and filth for years till it dropped off by itself.

17. He took up his abode in the awesome depths of the forest, depths so awesome that it was reputed that none but the senseless could venture without his hair standing on end.

18. When the cold season brought chill wintry nights, then it was that in the dark half of the months he dwelt by night in the open air and in the dark thicket by day.

19. But when there came the last broiling month of summer before the rains, he made his dwelling under the baking sun by day and in the stifling thicket by night.

20. In a charnel ground did he lay down with charred bones for pillow.

21. Thereafter Gautama lived on a single bean a day—on a single sesamum seed a day—or a single grain of rice a day.

22. When he was living on a single fruit a day, his body grew emaciated in the extreme.

23. If he sought to feel his belly, it was his backbone which he found in his grasp ; if he sought to feel his backbone he found himself grasping his belly, so closely did his belly cleave to his backbone and all because he ate so little.

§ 5. *Abandonment of Asceticism*

1. The austerities and mortification practised by Gautama were of the severest sort. They lasted for a long period of six years.

2. At the end of six years his body had become so weak that he was quite unable to move.

3. Yet he had seen no new light and was no nearer to the solution to the problem of misery in the world on which his mind was centred.

4. He reflected to himself : "This is not the way, even to passionlessness, nor to perfect knowledge, nor to liberation.

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5. "Some undergo misery for the sake of this world, others meet toil for the sake of heaven ; all living beings wretched through hope and always missing their aim, fall certainly for the sake of happiness into misery.

6. "Has not something like this happened to me ?

7. "It is not the effort itself which I blame,— which flinging aside the base pursues a high path of its own.

8. "What I ask is, 'Can the mortification of the body be called religion ?'

9. "Since it is only by the mind's authority that the body either acts or ceases to act, therefore, to control the thought is alone befitting—without thought the body is like a dog.

10. "If there was only the body to be considered, merit may be gained by purity of food, but then there is merit also in the doer. But of what good is it ?

11. "New light cannot be attained by him who has lost his strength and is wearied with hunger, thirst and fatigue with his mind no longer self-possessed through fatigue.

12. "How could he who is not absolutely calm, reach the end which is to be attained by his mind ?

13. "True calm and the self-possession of the mind is properly obtained by the constant satisfaction of the body's wants."

14. At this time there lived at Uruvela a house-holder by name Senani. Sujata was his daughter.

15. Sujata had uttered a wish to a Banyan Tree, and vowed a yearly offering to it if she should have a son.

16. The wish having been fulfilled, she sent her maid Punna to prepare the place for the offering.

17. Punna finding Gautama sitting beneath the Banyan Tree, thought he was the god of the tree who had come down.

18. Sujata came and offered Gautama the food prepared by her in a golden bowl.

19. He took the bowl to the river bank, bathed

at a ford or a bathing place called Suppatitthita and ate the food.

20. Thus ended his trial of asceticism.

21. The five ascetics who were with Gautama became angry with him for having given up the life of austerity and self-mortification and in disgust left him.

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PART IV

Enlightenment and the Vision of a New Way

1. Meditation for New Light.

2. Enlightenment.

3. The Discovery of a New Dhamma.

4. Gautama who was a Bodhisatta after Sammabodhi becomes a Buddha.

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§ 1. Meditation for New Light

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1. Having refreshed himself with food Gautama sat thinking over his past experiences. He realised that all paths had failed.

2. The failure was so complete that it could have led anyone into a state of frustration. He was, of course, sorry. But frustration as such did not touch him.

3. He was always hopeful of finding a way. So much so that on the night of the day on which he partook of the food sent by Sujata, Gautama had five dreams and when he awoke he interpreted his dreams to mean that he was sure to attain enlightenment.

4. He had also tried to forecast his future. This he did by throwing the bowl of food, Sujata's maid brought, into the river Nairanja, saying : "If I am to have enlightenment let the bowl ascend the stream; if not let it go down." The vessel, indeed, began to float against the current and at last sank near the abode of Kala, a Naga king.

5. Fortified with hope and determination he left Uruvela and towards evening went along the wide road to Gaya. There he saw a Banyan Tree. He thought of sitting under it in meditation in the hope of a new light dawning upon him and enabling him to find a way which would solve his problem.

6. After trying each of the four directions he chose the East which is always chosen by all the great sages for the removal of all defilements.

7. Gautama sat down cross-legged and upright under the Banyan Tree. Determined to achieve enlightenment, he said to himself, "Skin, sinew and bone may dry up as they will, my flesh and blood may dry in my body, but without attaining complete enlightenment I will not leave this seat."

8. Then Kala, the king of the Nagas, whose majesty was like the lord of elephants, and his wife Suvarnaprabhasa, having been awakened by the vision of Gautama sitting under the Banyan Tree, uttered this in praise of him being sure that he was destined to attain perfect knowledge.

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9. "Inasmuch as the earth, pressed down by thy feet, O Sage, resounds repeatedly, and inasmuch as thy splendour shines forth like the sun, thou shalt assuredly reap the desired fruit.

10. "Inasmuch as flocks of birds fluttering in the sky offer thee reverential salutation, O Lotus-eyed One ; and inasmuch as gentle breezes blow in the sky, thou shalt certainly attain thy object."

11. As he sat down for meditation a crowd of evil thoughts and evil passions—mythologically called the children of Mara (Kama), which is another name for evil passions, entered his mind.

12. Gautama was greatly frightened lest they should overpower him and defeat his purpose.

13. He knew that in this battle with evil passions many Rishis and Brahmins had succumbed.

14. So he summoned all the courage he had and said to Mara, "Faith is found in me, and heroism and wisdom. How can ye evil passions defeat me ? The streams even of rivers may this wind dry up. Ye would be unable to dry up my resolutions, when I am so intent." Better to me is death in battle than that I should be defeated in life.

15. The evil passions entered the mind of Gautama as a crow goes after a stone that looks like a hump of fat, thinking surely, "here I shall find a tender morsel, here perchance is something sweet."

16. And finding no sweetness there, the crow departs thence. So like a crow attacking a rock, the evil passions left Gautama in disgust.

§2. *Enlightenment*

1. To feed himself during the period of meditation Gautama had collected enough food to last him for forty days.

2. Having routed the evil thoughts that disturbed his mind Gautama refreshed himself with food and gained strength. He thus prepared himself for meditation with the aim of obtaining enlightenment.

3. It took Gautama four weeks of meditation

to obtain enlightenment. He reached final enlightenment in four stages.

4. In the first stage he called forth reason and investigation. His seclusion helped him to attain it easily.

5. In the second stage he added concentration.

6. In the third stage he brought to his aid equanimity and mindfulness.

7. In the fourth and final stage he added purity to equanimity and equanimity to mindfulness.

8. Thus with mind concentrated, purified, spotless, with defilement gone, supple, dexterous, firm, impassionate, not forgetting what he is after, Gautama concentrated himself on the problem of finding an answer to the question which had troubled him.

9. On the night of the last day of the fourth week light dawned upon him. He realised that there were two problems. The first problem was that there was suffering in the world and the second problem was how to remove this suffering and make mankind happy.

10. So in the end, after meditation for four weeks, darkness was dispelled, light arose, ignorance was dispelled and knowledge arose. He saw a new way.

§ *3. The Discovery of a New Dhamma*

1. Gautama when he sat in meditation for getting new light was greatly in the grip of the Sankhya Philosophy.

2. That suffering and unhappiness in the world he thought was an incontrovertible fact.

3. Gautama was, however, interested in knowing how to do away with suffering. This problem the Sankhya Philosophy did not deal with.

4. It is, therefore, on this problem—how to remove suffering and unhappiness—that he concentrated his mind.

5. Naturally, the first question he asked himself was— "What are the causes of suffering and unhappiness which an individual undergoes?"

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6. His second question was—"How to remove unhappiness ?"

7. To both these questions he got a right answer which is called '*Samma Bodhi*' (Right Enlightenment).

8. It is because of this that the Banyan Tree has come to be known as the Bodhi Tree.

§ 4. *Gautama who was a Bodhisatta After Sammabodhi Becomes a Buddha*

1. Before enlightenment Gautama was only a Bodhisatta. It is after reaching enlightenment that he became a Buddha.

2. Who and what is a Bodhisatta ?

3. A Bodhisatta is a person who is seeking to be a Buddha.

4. How does a Bodhisatta become a Buddha ?

5. A Bodhisatta must be a Bodhisatta for ten lives in succession. What must a Bodhisatta do in order to qualify himself to become a Buddha ?

6. In his first life he acquires Mudita (joy). The Bodhisatta having blown off his impurities, as the smith blows the dross from silver, reflects that man who has been reckless and becomes sober brightens up the world like the moon freed from clouds. Joy springs up in him realising this, and he is fervent in his desire to benefit all beings.

7. In his second life he acquires Vimala (Purity). The Bodhisatta has now removed all thoughts of lust ; he is kind ; he is kind to all ; he neither flatters the vices of men nor disparages their virtues.

8. In his third life he acquires Prabhakari (Brightness). The intellect of the Bodhisatta now becomes as bright as a mirror. He fully knows and grasps the truths of Anatta and Anicca. His only wish is for the highest wisdom, and for this he is ready to sacrifice anything.

9. In his fourth life he acquires Arcishmati (Intelligence of Fire). The Bodhisatta in this life fixes his mind on the Eightfold Path, the Four Contempla-

tions, the Fourfold Contest, the Fourfold Will Power, the Fivefold Morality.

10. In his fifth life he acquires Sudurjaya (Difficult to Conquer). He fully understands the connection of the relative and the absolute.

11. In his sixth life he becomes Abhimukhi. In this stage the Bodhisatta is now prepared fully to grasp the evolution of things, its cause, the Twelve Nidanas ; and this knowledge, called Abhimukhi, awakens the most profound compassion in his heart for all beings blinded by Avidya.

12. In his seventh life the Bodhisatta becomes a Durangama (going far off). The Bodhisatta is now beyond time and space ; he is one with Infinity, but he still retains nama-rupa out of his great compassion for all beings. He is secluded from others, in that the lusts of the world no more cling to him than water to a lotus leaf. He quenches desires in his fellow beings, practices charity, patience, tactfulness, energy, calmness, intelligence and the highest wisdom.

13. While in this life he knows the Dharma, but presents it in ways understood by the people, he knows he must be tactful and patient. Whatever men do to him he bears with equanimity, for he knows that it is through ignorance they misunderstand his motives. At the same time he never slackens his energy to benefit all beings, nor does he withdraw his mind from wisdom, therefore misfortune can never turn him from the righteous path.

14. In his eighth life he becomes Acala. In the stage of Acala, or 'immovable,' all strivings on the part of the Bodhisatta cease. He follows good spontaneously ; whatever he will do he will succeed in.

15. In his ninth life he becomes Sadhumati. This is the stage or condition of one who has vanquished and penetrated all dharmas or systems, all quarters, and does not enter time.

16. In his tenth life he becomes Dharmamegha. The Bodhisatta attains the infinite divine eye of a Buddha.

17. The Bodhisatta acquires these ten powers

which are necessary for him when he becomes a Buddha.

18. The Bodhisatta must not only acquire these ten powers as he evolves from stage to stage but he must also practice to perfection the ten Paramitas.

19. One Paramita is to be the end of one life. Specialisation in the Paramitas must go stage by stage. One Paramita in one life and not a little of one and a little of the other.

20. It is only when he is doubly equipped that a Bodhisatta becomes qualified for becoming a Buddha. The Buddha is a culminating point in the life of a Bodhisatta.

21. The theory of the Jatakas or the birth stages of a Bodhisatta appears analogous to the Brahmanic theory of Avataras, i.e., the theory of incarnations of God.

22. The Jataka theory is based upon the Buddha having the highest degree of purity as the essence of his being.

23. The Avatar theory does not require that the God should be pure in his making. All that the Brahmanic theory of Avatar says is that God saves his followers by taking different forms although the God may be very impure and immoral in his conduct.

24. The theory that to be a Bodhisatta for ten lives as a condition precedent for becoming a Buddha has no parallel anywhere. No other religion calls upon its founder to answer such a test.

PART V

The Buddha and His Predecessors

1. The Buddha and the Vedic Rishis.
2. Kapila—The Philosopher.
3. The Bramhanas.
4. The Upanishads and their Teachings.

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§ *1. The Buddha and the Vedic Rishis*

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1. The Vedas are a collection *of Mantras,* i.e., hymns or chants. The reciters of these hymns are called Rishis.

2. The Mantras are mere invocations to deities such as *Indra, Varuna, Agni, Soma, Isana, Prajapati, Bramha, Mahiddhi, Yama* and others.

3. The invocations are mere prayers for help against enemies, for gift of wealth, for accepting the offerings of food, flesh and wine from the devotee.

4. There is not much philosophy in the Vedas. But there were some Vedic sages who had entered into speculations of a philosophical nature.

5. These Vedic sages were : (1) Aghamarsana; (2)Prajapati Parmesthin; (3) Brahmanaspati, otherwise known as Brihaspati; (4) Anila; (5) Dirghatamas; (6) Narayan; (7) Hiranyagarbha; and (8) Visvakarman.

6. The main problems of these Vedic philosophers were : How did the world originate ? In what manner were individual things created ? Why have they their unity and existence ? Who created, and who ordained ? From what did the world spring up and to what again will it return ?

7. Aghamarsana said that the world was created out of Tapas (heat). Tapas was the creative principle from which eternal law and truth were born. From these were produced the night (tamas). Tamas produced water and from water originated time. Time gave birth to the sun and the moon, the heaven and the earth, the firmament and light and ordained the days and nights.

8. Brahmanaspati postulated the genesis of being from non-being. By the term non-existence, he denoted apparently the infinite. The existent originally sprang up from the non-existent. The non-existent (asat, nonens) was the permanent foundation of all that is existent (sat, ens) and of all that is possible and yet non-existent (asat).

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9. *Prajapati Parmesthin* started with the problem: "Did being come out of non-being ?" His view was that this was an irrelevant question. For him water was the original substance of that which exists. For him the original matter—water—came neither under the definition of being nor under that of non-being.

10. *Paramesthin* did not draw any distinction between matter and motive power. According to him water transformed itself into particular things by some inherent principle to which he gave the name Kama, Cosmic Desire.

11. *Anila* was another Vedic Philosopher. To him the principal element was air (vayu). It possesses the inherent capacity for movement. It is endowed with the generating principle.

12. Dirghtamas maintained that all living beings rest and depend ultimately on the sun. The sun held up and propelled by its inherent force went backward and forward.

13. The sun is composed of a grey coloured substance and so are lightning and fire.

14. The sun, lightning and fire formed the germ of water. Water forms the germ of plants. Such were the views of *Dirghatamas*.

15. According to *Narayana,* Purusha (God) is the first cause of the universe. It is from Purusha that the sun, the moon, the earth, water, fire, air, mid-air, the sky, the regions, the seasons, the creatures of the air, all animals, all classes of men, and all human institutions, had originated.

16. *Hiranyagarbha.* From doctrinal point of view he stood midway between *Parmeshthin* and *Narayan,* Hiranyagarbha means the golden germ. It was the great power of the universe, from which all other powers and existences, divine and earthly, were derived.

17. *Hiranyagarbha* means fire. It is fire that constituted the solar essence, the generating principle of the universe.

18. From the point of view of *Vishvakarman* it was quite inadequate and unsatisfactory to hold that water was the primitive substance of all that is, and

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then to derive from it this world as a whole by giving it an inherent power of movement. If water be the primitive substance which is endowed with the inherent principle of change, we have yet to account for that from which water derived its being, and derived the motive power, the generating principle, the elemental forces, the laws and all the rest.

19. *Vishvakarman* held the view that it was God which was the motive power. God is first and God is last. He is earlier than the visible universe ; he had existed before all cosmic forces came into being. He is the sole God who created and ordained this universe. God is one, and the only one. He is the unborn one (aja) in whom all the existing things abide. He is the one who is mighty in mind and supreme in power. He is the maker—the disposer. As father he generated us, and as disposer he knows the fate of all that is.

20. The Buddha did not regard all the Vedic Sages as worthy of reverence. He regarded just ten Vedic Rishis as the most ancient and as the real authors of the Mantras.

21. But in the Mantras he saw nothing that was morally elevating.

22. In his view the Vedas were as worthless as a desert.

23. The Buddha, therefore, discarded the Mantras as a source from which to learn or to borrow.

24. Similarly, the Buddha did not find anything in the philosophy of the Vedic Rishis. They were groping to reach the truth. But they had not reached it.

25. Their theories were mere speculations not based on logic nor on facts. Their contributions to philosophy created no social values.

26. He therefore rejected the philosophy of the Vedic Rishis as useless.

§2. ***Kapila-The Philosopher***

1. Among the ancient philosophers of India the most pre-eminent was Kapila.

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2. His philosophical approach was unique, and as philosopher he stood in a class by himself. His philosophy was known as the Sankhya Philosophy.

3. The tenets of his philosophy were of a startling nature.

4. Truth must be supported by proof. This is the first tenet of the Sankhya system. There is no truth without proof.

5. For purposes of proving the truth Kapila allowed only two means of proof—(1) perception and (2) inference.

6. By perception is meant mental apprehension of a present object.

7. Inference is threefold : (1) from cause to effect, as from the presence of clouds to rain ; (2) from effect to cause, as from the swelling of the streams in the valleys to rain in the hills, and (3) by analogy, as when we infer from the fact that a man alters his place when he moves that the stars must also move, since they appear in different places.

8. His next tenet related to causality—creation and its cause.

9. Kapila denied the theory that there was a being who created the universe. In his view a created thing really exists beforehand in its cause just as the clay serves to form a pot, or the threads go to form a piece of cloth.

10. This is the first ground on which Kapila rejected the theory that the universe was created by a being.

11. But there are other grounds which he advanced in support of his point of view.

12. The non-existent cannot be the subject of an activity : There is no new creation. The product is really nothing else than the material of which it is composed : the product exists before its coming into being in the shape of its material of which it is composed. Only a definite product can be produced from such material ; and only a specific material can yield a specific result.

13. What then is the source of the empirical universe ?

14. Kapila said the empirical universe consists of things evolved (Vyakta) and things that are not evolved (Avyakta).

15. Individual things (Vyakta Vastu) cannot be the source of unevolved things (Avyakta Vastu).

16. Individual things are all limited in magnitude and this is incompatible with the nature of the source of the universe.

17. All individual things are analogous, one to another and, therefore, no one can be regarded as the final source of the other. Moreover, as they all come into being from a source, they cannot constitute that source.

18. Further, argued Kapila, an effect must differ from its cause, though it must consist of the cause. That being so, the universe cannot itself be the final cause. It must be the product of some ultimate cause.

19. When asked why the unevolved cannot be perceived, why does it not show movement which would make it perceivable, Kapila replied :

20. "It may be due to various causes. It may be that its fine nature makes it imperceptible, just as other things of whose existence there is no doubt, cannot be perceived ; or because of their too great a distance or proximity ; or through the intervention of a third object, or through admixture with similar matter ; or through the presence of some more powerful sensation, or the blindness or other defect of the senses or the mind of the observer."

21. When asked : "What then is the source of the universe ? What makes the difference between the evolved and unevolved part of the universe ?

22. Kapila's reply was : 'Things that have evolved have a cause and the things that have not evolved have also a cause. But the source of both is uncaused and independent.'

23. "The things that have evolved are many in number and limited in space and name. The source is one, eternal and all-pervasive. The things evolved

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have activities and parts : the source is imminent in all, but has neither activities nor parts."

24. Kapila argued that the process of development of the unevolved is through the activities of three constituents of which it is made up, Sattva, Rajas and Tamas. These are called three Gunas.

25. The first of the constituents, or factors, corresponds to what we call as light in nature, which reveals, which causes pleasure to men ; the second is that impels and moves, what produces activity ; the third is what is heavy and puts under restraint, what produces the state of indifference or inactivity.

26. The three constituents act essentially in close relation, they overpower and support one another and intermingle with one another. They are like the constituents of a lamp, the flame, the oil and wick.

27. When the three Gunas are in perfect balance, none overpowering the other, the universe appears static (Achetan) and ceases to evolve.

28. When the three Gunas are not in balance, one overpowers the other, the universe becomes dynamic (sachetan) and evolution begins.

29. Asked why the Gunas become unbalanced, the answer which Kapila gave was this disturbance in the balance of the three Gunas was due to the presence of Dukha (suffering).

30. Such were the tenets of Kapila's philosophy.

31. Of all the philosophers the Buddha was greatly impressed by the doctrines of Kapila.

32. He was the only philosopher whose teachings appeared to the Buddha to be based on logic and facts.

33. But he did not accept everything which Kapila taught. Only three things did the Buddha accept from Kapila.

34. He accepted that reality must rest on proof. Thinking must be based on rationalism.

35. He accepted that there was no logical or factual basis for the presumption that God exists or that he created the universe.

36. He accepted that there was Dukha (suffering) in the world.

37. The rest of Kapila's teachings he just bypassed as being irrelevant for his purpose.

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§ 3. *The Bramhanas*

1. Next to the Vedas are the religious books known as the Bramhanas. Both were held as sacred books. Indeed the Bramhanas are a part of the Vedas. The two went together and were called by a common name Sruti.

2. There were four theses on which the Bramhanic Philosophy rested.

3. The first thesis was that the Vedas are not only sacred but that they are infallible and they are not to be questioned.

4. The second thesis of the Bramhanic Philosophy was that salvation of the soul—that is escape from transmigration—can be had only by the due performance of Vedic sacrifices and observances of religious rites and ceremonies and the offering of gifts to Brahmins.

5. The Brahmins had not only a theory of an ideal religion as contained in the Vedas but they also had a theory for an ideal society.

6. The pattern of this ideal society they named *Chaturvarna*. It is imbedded in the Vedas and as the Vedas are infallible and as their authority cannot be questioned so also Chaturvarna as a pattern of society was binding and unquestionable.

7. This pattern of society was based upon certain rules.

8. The first rule was that society should be divided into four classes: (1) Brahmins; (2) Kshatriyas; (3) Vaishyas; and (4) Shudras.

9. The second rule was that there cannot be social equality among these four classes. They must be bound together by the rule of graded inequality.

10. The Brahmins to be at the top, the Kshatriyas to be kept below the Brahmins but above the Vaishyas, the Vaishyas to be below the Kshatriyas but above the Shudras and the Shudras to be the lowest of all.

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11. These four classes were not to be equal to one another in the matter of rights and privileges. The rule of graded inequality governed the question of rights and privileges.

12. The Brahmin had all the rights and privileges which he wished to claim. But a Kshatriya could not claim the rights and privileges which a Brahmin could. He had more rights and privileges than a Vaishya could claim. The Vaishya had more rights and privileges than a Shudra. But he could not claim the rights and privileges which a Kshatriya could. And the Shudra was not entitled to any right, much less any privilege. His privilege was to subsist without offending the three superior classes.

13. The third rule of Chaturvarna related to the division of occupations. The occupation of the Brahmin was learning and teaching and the performance of religious observances. The occupations of the Kshatriya was fighting. Trade was assigned to the Vaishyas. The occupations of the Shudras was service of the three superior classes. These occupations assigned to different classes were exclusive. One class could not trespass upon the occupation of the other.

14. The fourth rule of Chaturvarna related to the right to education. The pattern of Chaturvarna gave the right to education to the first three classes, the Brahmins, Kshatriyas and Vaishyas. The Shudras were denied the right to education. This rule of Chaturvarna did not deny the right to education to the Shudras only. It denied the right to education to all women including those belonging to the class of Brahmins, Kshatriyas and Vaishyas.

15. There was a fifth rule. According to it, man's life was divided into four stages. The first stage was called *Bramhacharya ;* the second stage was called *Grahastashram;* the third stage was called *Vanaprasta* and the fourth stage was called *Sannyasa.*

16. The object of the first stage was study and education. The object of the second stage was to live a married life. The object of the third stage was

to familiarise a man with the life of a hermit, i.e., severing family ties, but without deserting his home. The object of the fourth stage was to enable a man to go in search of God and seek union with him.

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17. The benefits of these stages were open only to the male members of the three superior classes. The first stage was not open to the Shudras and women. Equally the last stage was not open to the Shudras and women.

18. Such was the divine pattern of an ideal society called Chaturvarna. The Brahmins had idealised the rule and had realised the ideal without leaving any cracks or loopholes.

19. The fourth thesis of Brahmanic Philosophy was the doctrine of Karma. It was part of the thesis of transmigration of the soul. The Karma of the Brahmins was an answer to the question: "Where did the soul land on transmigration with his new body on new birth ?" The answer of the Brahmanic Philosophy was that it depended on a man's deeds in his past life. In other words, it depended on his Karma.

20. The Buddha was strongly opposed to the first tenet of Brahmanism. He repudiated their thesis that the Vedas are infallible and their authority could never be questioned.

21. In his opinion, nothing was infallible and nothing could be final. Everything must be open to re-examination and reconsideration whenever grounds for re-examination and reconsideration arise.

22. Man must know the truth and real truth. To him freedom of thought was the most essential thing. And he was sure that freedom of thought was the only way to the discovery of truth.

23. Infallibility of the Vedas meant complete denial of freedom of thought.

24. For these reasons this thesis of the Brahmanic Philosophy was most obnoxious to him.

25. He was equally an opponent of the second thesis of the Brahmanic Philosophy. The Buddha did admit that there was any virtue in a sacrifice. But

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he made a distinction between true sacrifice and false sacrifice.

26. Sacrifice in the sense of self-denial for the good of others he called true sacrifice. Sacrifice in the sense of killing an animal as an offering to God for personal benefit he regarded as a false sacrifice.

27. The Brahmanic sacrifices were mostly sacrifices of animals to please their gods. He condemned them as false sacrifices. He would not allow them even though they be performed with the object of getting salvation for the soul.

28. The opponents of sacrifices used to ridicule the Brahmins by saying : "If one can go to heaven by sacrificing an animal why should not one sacrifice one's own father. That would be a quicker way of going to heaven."

29. The Buddha wholeheartedly agreed with this view.

30. The theory of *Chaturvarna* was as repugnant to the Buddha as the theory of sacrifices was repulsive to him.

31. The organization of society set up by Brahmanism in the name of *Chaturvarna* did not appear to him a natural organization. Its class composition was compulsory and arbitrary. It was a society made to order. He preferred an open society and a free society.

32. The *Chaturvarna* of the Brahmins was a fixed order never to be changed. Once a Brahmin always a Brahmin. Once a Kshatriya always a Kshatriya, once a Vaishya always a Vaishya and once a Shudra always a Shudra. Society was based on status conferred upon an individual by the accident of his birth. Vice, however heinous, was no ground for degrading a man from his status, and virtue, however great, had no value to raise him above it. There was no room for worth nor for growth.

33. Inequality exists in every society. But it was different with Brahmanism. The inequality preached by Brahmins was its official doctrine. It was not a mere growth. Brahmanism did not believe in equality. In fact, it was opposed to equality.

34. Brahmanism was not content with inequality. The soul of Brahmanism lay in graded inequality.

35. Far from producing harmony, graded inequality, the Buddha thought, might produce in society an ascending scale of hatred and a descending scale of contempt, and might be a source of perpetual conflict.

36. The occupations of the four classes were also fixed. There was no freedom of choice. Besides, they were fixed not in accordance with skill but in accordance with birth.

37. On a careful review of the rules of *Chaturvarna* the Buddha had no difficulty in coming to the conclusion that the philosophic foundations on which the social order was reared by Brahmanism were wrong if not selfish.

38. It was clear to him that it did not serve the interests of all, much less did it advance the welfare of all. Indeed, it was deliberately designed to make many serve the interests of the few. In it man was made to serve a class of self-styled supermen.

39. It was calculated to suppress and exploit the weak and to keep them in a state of complete subjugation.

40. The law of Karma as formulated by the Brahmins, thought the Buddha, was calculated to sap the spirit of revolt completely. No one was responsible for the suffering of man except he himself. Revolt could not alter the state of suffering ; for suffering was fixed by his past Karma as his lot in this life.

41. The Shudras and women—the two classes whose humanity was most mutilated by Brahmanism, had no power to rebel against the system.

42. They were denied the right to knowledge with the result that by reason of their enforced ignorance they could not realize what had made their condition so degraded. They could not know that Brahmanism had robbed them completely of the significance of their life. Instead of rebelling against Brahmanism they had become the devotees and upholders of Brahmanism.

43. The right to bear arms is the ultimate means of achieving freedom which a human being has.

But the Shudras were denied the right to bear arms.

44. Under Brahmanism the Shudras were left as helpless victims of a conspiracy of selfish Brahmanism, powerful and deadly Kshatriyas and wealthy Vaishyas.

45. Could it be amended ? Knowing that it was a divinely ordained social order, he knew that it could not be. It could only be ended.

46. For these reasons the Buddha rejected Brahmanism as being opposed to the true way of life.

§ *4. The Upanishads and Their Teachings*

1. The Upanishads constituted another piece of literature. It is not part of the Vedas. It is un-canonical.

2. All the same they did form a part of religious literature.

3. The number of the Upanishads is quite large. Some important, some quite unimportant.

4. Some of them were ranged against the Vedic theologians, the Brahmin priests.

5. All of them agreed in viewing Vedic study as a study of nescience or ignorance (avidya).

6. They were all agreed in their estimate of the four Vedas and the Vedic science as the lower knowledge.

7. They were all agreed in questioning the divine origin of the Vedas.

8. They were all agreed in denying the efficacy attributed to sacrifices, to the funeral oblations, and the gifts to the priests which are the fundamentals of the Brahmanic philosophy.

9. This, however, was not the main topic with which the Upanishads were concerned. Their discussions centred round Brahman and Atman.

10. Brahman was the all-pervading principle which binds the universe and that salvation lay in the Atman realizing that it is Brahman.

11. The main thesis of the Upanishads was that

Brahmana was a reality and that *Atmana* was the same as *Brahmana*. The *Atmana* did not realize that it was *Brahman* because of the *Upadhis* in which it was entangled.

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12. The question was: Is Brahmana a reality? The acceptance of the Upanishadic thesis depended upon the answer to this question.

13. The Buddha could find no proof in support of the thesis that *Brahmana* was a reality. He, therefore, rejected the thesis of the Upanishads.

14. It is not that questions on this issue were not put to the authors of the Upanishads. They were.

15. Such questions were put to no less a person than Yajnavalkya, a great *seer* who plays so important a part in the Brahadarnyka Upanishad.

16. He was asked : "What is Brahmana ? What is Atmana ?" All that Yajnavalkya could say : "Neti ! Neti! I know not ! I know not!"

17. "How can anything be a reality about which no one knows anything," asked the Buddha. He had, therefore, no difficulty in rejecting the Upanishadic thesis as being based on pure imagination.

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PART VI

The Buddha and His Contemporaries

1. His Contemporaries.
2. His attitude to His Contemporaries.

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§ 1. *His Contemporaries*

1. At the time when Gautama took Parivraja there was a great intellectual ferment in the country. Besides the Brahmanic Philosophy there were as many as sixty-two different schools of philosophy, all opposed to the Brahmanic Philosophy. Of them at least six were worthy of attention.

2. Of these schools of philosophy there was one headed by *Purana Kassappa*. His doctrine was known as *Akriyavada*. He maintained that the soul was not affected in any way by *Karma*. One may do, or one may get things done. One may do injury or one may get someone to kill. One may commit theft or dacoity or one may get theft or dacoity committed, one may commit adultery or one may get adultery committed, one may tell a lie or one may get a lie told. Nothing affects the soul. An act, however licentious, does not affect the soul with sin. An act, however good, does not bring merit to the soul. Nothing has any *Kriya* (result) on the soul. When a person dies, all the elements of which he is made join in their originals. Nothing survives after death, neither body nor soul.

3. Another school of thought was known as *Niyativada*. Its chief propounder was *Makhali Ghosal*. His doctrine was a kind of fatalism or determinism. He taught that no one can do anything or undo anything. Things happen. No one can make them happen. No one can remove unhappiness, increase it or diminish it. One must undergo one's share of the experiences of the world.

4. The third school was known as *Ucchedavada*. Its chief propounder was *Ajit Kesakambal*. His doctrine was a kind of *Annihilism*. He taught that there was nothing in *Yajna, Haom ;* there is no such thing as the fruits or effects of deeds to be enjoyed or suffered by the soul. There is neither heaven nor hell. Man is made up of certain elements of unhappiness in the world. The soul cannot escape it. Whatever sorrow

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or unhappiness there was in the world the soul cannot escape. This sorrow or unhappiness will come to an end automatically. The soul must undergo rebirth during eighty-four lakhs of cycles of Mahakalpas. Then only the sorrow and unhappiness of the soul will end, not before nor by any other means.

5. The fourth school was known as *Annyonyavad*. The head of this school was *Pakudha Kacchyana*. He preached that there are seven elements which go *to* make up a being, namely, Prathvi, Apa, Tej, Vayu, Sukha, Dukha and the Soul. Each is independent of the other ; one does not affect the other. They are self-existent and they are eternal. Nothing can destroy them. If any one chops off the head of man he does not kill him. All that happens is that the weapon has entered the seven elements.

6. *Sanjaya Belaputta* had his own school of philosophy. It was known as *Vikshepavada,* a kind of scepticism. He argued, "if anyone asked me is there heaven, if I feel there was I would say yes. But if I feel there was no heaven I would say no. If I am asked whether human beings are created, whether man has to suffer the fruits of his action whether good or bad, and whether the soul lives after death, I say nay to all these because I don't think they exist. This is how Sanjaya Belaputta summed up his doctrine.

7. The sixth school of philosophy was known as *Chaturyamsamvarvad*. The head of this school who was alive at the time when Gautama was searching for light was *Mahavir,* who was also called *Nigantha Nathaputta*. Mahavir taught that the soul had to undergo rebirth because of the bad karmas done in the past life and in the present life. One must therefore get over the bad, he suggested, by *tapascharya*. For preventing the doing of bad karmas in this life Mahavira prescribed the observance of chaturyama dharma, i.e., observance of four rules : (1) not to kill ; (2) not to steal ; (3) not to tell a lie ; and (4) not to have property and to observe celibacy.

§ 2. His Attitude to His Contemporaries

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1. The Buddha did not accept the teachings of the new philosophers.

2. His rejection of their teaching was not without reasons. He said that :

3. If the doctrines of *Purana Kassyappa* or *Pakudha Kacchyana* were true then one can do any evil or any harm ; one may even go to the length of killing another without involving any social responsibility or social consequences.

4. If the doctrine of *Makhali Ghosal* is true then man becomes the slave of destiny. He cannot liberate himself.

5. If the doctrine of *Ajit Kesakambal* is true then all that man has to do is to eat, drink and make merry.

6. If the doctrine of *Sanjaya Belaputta* was true then man must float about and live without a positive philosophy of life.

7. If the doctrine of *Nigantha Nathaputta* was true then man's life must be subjected to Asceticism and Tapascharya, a complete subjugation and uprooting of man's instincts and desires.

8. Thus, none of the paths of life suggested by the philosophers appealed to the Buddha. He thought they were the thoughts of men who had become hopeless, helpless and reckless. He therefore decided to seek light elsewhere.

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PART VII

Comparison and Contrast

1. What HE Rejected.
2. What HE Modified,
2. What HE Accepted.

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§ 1. What HE Rejected

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1. This survey of the philosophical and religious thought shows that at the time when the Buddha formulated his Sasana, certain ideas had a firm grip on the mind of the people. They were :

(i) Belief in the infallibility of the Vedas ;

(ii) Belief in Moksha or Salvation of the soul, i.e., its ceasing to be born again ;

(iii) Belief in the efficacy of rites, ceremonies and sacrifices as means of obtaining moksha ;

(iv) Belief in Chaturvarna as the ideal for social organization ;

(v) Belief in Iswara as the creator of and in Brahmana as the principle underlying the universe,

(vi) Belief in Atmana, or the soul,

(vii) Belief in *Sansara,* (wandering together), i.e., transmigration of the soul,

(viii) Belief in Karma, i.e., the determination of man's position in present life by deeds done by him in his past life.

2. In formulating the principles of his Sasana the Buddha dealt with this old stock of ideas in his own way.

3. The following are the ideas which he rejected :

(i) He condemned indulging in speculation as to the whence, whither and what am I ?

(ii) He discarded heresies about the soul and refrained from identifying it with either the body, sensations, volitions and consciousness.

(iii) He discarded all the Nihilistic views which were promulgated by certain religious teachers.

(iv) He condemned such views as were held by heretics.

(v) He discarded the theory that the cosmic progress had a known beginning.

(vi) He repudiated the theory that a God created man or that he came out of the body of some Bramha.

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(vii) The existence of the soul he either ignored or denied.

§ 2. What HE Modified

(i) He accepted the great grand law of cause and effect with its corollaries.

(ii) He repudiated the fatalistic view of life and other equally foolish view that a God predestined as to what should happen for man and the world.

(iii) He discarded the theory that all deeds committed in some former birth have the potency to produce suffering, making present activity impotent. He denied the fatalistic view of Karma. He replaced the view of Karma by a much more scientific view of Karma. He put new wine in old bottle.

(iv) Transmigration (sansara) was replaced by the doctrine of re-birth.

(v) He replaced the doctrine of moksha or salvation of the soul by the doctrine of Nibbana.

5. The Buddha Sasana is thus an original piece. The little in it which is old is either modified or restated.

§ 3. What HE Accepted

1. The first distinguishing feature of his teachings lay in the recognition of the mind as the centre of everything.

2. Mind precedes things, dominates them, creates them. If mind is comprehended all things are comprehended.

3. Mind is the leader of all its faculties. Mind is the chief of all its faculties. The very mind is made up of those faculties.

4. The first thing to attend to is the culture of the mind.

5. The second distinguishing feature of his

teachings is that mind is the fount of all the good and evil that arises within and befalls us from without.

6. Whatsoever there is of evil, connected with evil, belonging to evil—that issues from the mind. Whatsoever there is of good, connected with good, belonging to good—all issues from mind.

7. If one speaks or acts with a pounded mind then affliction follows him as the wheels of the cart follow the feet of the bullocks who pull the cart. The cleaning of the mind is, therefore, the essence of religion.[1]

8. The third distinguishing feature of his teachings is the avoidance of all sinful acts.

9. The fourth distinguishing feature of his teaching is that real religion lies not in the books of religion but in the observance of the tenets of the religion.

10. Can anyone say that the Buddha's religion was not his own creation?

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BOOK II

Campaign of Conversion

Part I —Buddha and His Vishad Yoga.
Part II —The Conversion of the Parivrajakas.
Part III —Conversion of the High and the Holy.
Part IV —Call from Home.
Part V —Campaign for Conversion Resumed.
Part VI —Conversion of the Low and the Lowly.
Part VII —Conversion of Women.
Part VIII —Conversion of the Fallen and the Criminals.

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PART I

Buddha and His Vishad Yoga

1. To preach or not to preach.
2. Proclamation of good news by Bramha Sahampati.
3. Two types of conversion.

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II

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§ 1. *To Preach or Not to Preach*

1. After having attained enlightenment and after having formulated his way, doubt arose in the mind of the Buddha. Should he go forth and preach his doctrine or should he continue to devote himself to his own personal perfection.

2. He said to himself: "True, I have gained a new doctrine. But it is too difficult for the common man to accept it and follow it. It is too subtle even for the wise.

3. "It is hard for mankind to liberate itself from the entanglement of God and Soul. It is hard for mankind to give up its belief in rites and ceremonies. It is hard for mankind to give up its belief in Karma.

4. "It is hard for mankind to give up its belief in the immortality of the Soul and accept my doctrine that the Soul as an independent entity does not exist and does not survive after death.

5. "Mankind is intent on its selfishness and takes delight and pleasure in it. It is hard for mankind to accept my doctrine of righteousness overriding selfishness.

6. "If I were to teach my doctrine, and others did not understand it or understanding it did not accept or accepting it did not follow it, it would be weariness to others and a vexation to me.

7. "Why not remain a sanyasi away from the world and use my gospel to perfect my own self?" He asked himself. "At least I can do good to myself."

8. Thus as he reflected, his mind turned to inaction, not to teaching of the gospel.

9. Then Brahma Sahampati knowing what was passing in the mind of the Buddha thought, "Verily the world is being destroyed, verily the world is going to destruction, if the Tathagata, the fully enlightened, turns to inaction and not to teaching his doctrine."

10. Filled with anxiety Brahma Sahampati left

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the Brahma world and appeared before the Buddha. And arranging his upper robe on one shoulder he bent down and with clasped hands said : "Thou art no longer Siddharth Gautama. Thou art Buddha. Thou art the Blessed One who is blessed with the fullest enlightenment. Thou art the Tathagatha. How canst thou refuse to enlighten the world ? How canst thou refuse to save erring humanity?

11. "There are beings full of impurity that are falling away through not hearing the doctrine.

12. "As the Lord knows," proceeded Brahma Sahampati, "Among the Magadhas arose in ancient times, doctrine impure, with many blemishes devised.

13. "Will not the Lord open for them the door of his immortal doctrine ?

14. "As one upon a rocky mountain standing, beholdeth all the people round about him even thus, O thou, with wisdom distilled, ascending all, behold, look down, thou griefless one, upon those plunged in their griefs.

15. "Rise up, O hero, victor in battle, O caravan-leader, free from the debt of birth, go to the world and not turn away from it.

16. "May the Lord in his compassion design to teach his gospel to men and to *gods*."

17. "O Brahma, Eminent and Excellent among men, if I did not give public utterance to my gospel, it is because I perceived vexation," was the reply of the Buddha.

18. Knowing that there was so much unhappiness in the world the Buddha realized that it was wrong for him to sit as a sanyasi with folded arms and allow things to remain as they were.

19. Asceticism he found to be useless. It was vain to attempt to escape from the world. There is no escape from the world even for an ascetic. He realized that what is necessary is not escape from the world. What is necessary is to change the world and to make it better.

20. He realized that he left the world because there was so much conflict resulting in misery and

unhappiness and for which he knew no remedy. If he can banish misery and unhappiness from the world by the propagation of his doctrine, it was his duty to return to the world and serve it and not sit silent as the personification of inactive impassivity.

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21. The Buddha therefore agreed to the request of Brahma Sahampati and decided to preach his doctrine to the world.

§ 2. *Proclamation of Good News by Brahma Sahampati*

1. Then, Brahma Sahampati, thinking, "I have been instrumental in persuading the Buddha to agree to preach his doctrine to the masses," felt extremely happy. He saluted the Buddha, went round him passing to the right, took a look and departed.

2. On his way back he kept on proclaiming to the world : "Rejoice at the glad tidings. The Buddha, our Lord, has found the root of all evil and unhappiness in the world. He knows the way out.

3. "The Buddha will bring comfort to the weary and sorrow-laden. He will give peace to those stricken by war. He will give courage to those who are broken in heart. He will give to those who are suppressed and oppressed, faith and hope.

4. "Ye that suffer from the tribulations of life, ye that have to struggle and endure, ye that yearn for justice, rejoice at the glad tidings.

5. "Heal your wounds, ye that are wounded. Eat your fill, ye that are hungry. Rest, ye that are weary, and quench your thirst, ye that are thirsty. Seek the light, ye that are in darkness. Be of good cheer, ye that are forlorn.

6. "In his doctrine there is love to create a longing to own those who are disowned or unowned : to the degraded there is the ennoblement ever present to raise them : to the disinherited and the downtrodden there is equality blazing forth their path to advancement.

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7. "His doctrine is the doctrine of righteousness and his aim is to establish the kingdom of righteousness on earth.

8. "His doctrine is the truth, the whole truth, and nothing but the truth.

9. "Blessed is the Buddha for his is the path of reason and his is the way of emancipation from superstition. Blessed is the Buddha who teaches the middle way. Blessed is the Buddha who teaches the law of righteousness. Blessed is the Buddha who teaches the peace of Nibbana. Blessed is the Buddha who preaches love, kindness and fellowship to help fellow beings to obtain salvation."

§ 3. *Two Types of Conversion*

1. In the Buddha's scheme of things conversion has two meanings.

2. Conversion to the Order of Bhikkus called Sangh.

3. Secondly, it means conversion of a householder as an Upasaka or lay follower of the Buddha's Dhamma.

4. Except on four points there is no difference in the way of life of the Bhikku and the Upasaka.

5. An Upasaka remains a householder. A Bhikku becomes a homeless wanderer.

6. Both the Upasakas and the Bhikkus must observe in their life certain rules.

7. Here again to the Bhikku they are vows the breach of which ends in punishment. To the Upasaka they are precepts. They must be observed to the best of his ability.

8. An Upasaka can have property. A Bhikku cannot have.

9. To become an Upasaka there is no ceremony.

10. To become a Bhikku he must undergo a ceremony called Upasampada.

11. The Buddha converted those who came to him according to their wish either as Bhikku or as Upasaka.

12. An Upasaka could become a Bhikku whenever he felt like it.

13. And a Bhikku had to cease to be a Bhikku when he committed a breach of the major vows or whenever he wished to give up his membership of the Order.

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14. It must not be understood that the Buddha converted only those whose names occur in the following pages.

15. The instances are chosen only to show that he did not observe any distinction as to caste or sex in admitting persons to his Sangh or preaching his Dhamma.

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PART II

The Conversion of the Parivrajakas

1. Arrival at Sarnath.
2. The Buddha's First Sermon.
3. The Buddha's First Sermon (continued).
4. The Buddha's First Sermon (continued).
5. The Buddha's First Sermon (continued).
6. The Buddha's First Sermon (concluded).
7. The Response of the Parivrajakas.

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§ 1. *Arrival at Sarnath*

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1. Having decided to preach his doctrine the Buddha asked himself "to whom shall I first teach the doctrine ?" The thought of Alara Kalam whom the Buddha adored as the learned, wise, intelligent and of little impurity ; "What if I first teach him the doctrine ?" But he was told that Alara Kalam was dead.

2. Then thought he of preaching it to Uddaka Ramputta. But he too was dead.

3. Then he thought of the five old companions of his who were with him at Niranjana when he was practising austerities and who had left him in anger on his abandonment of austerities.

4. "They did much for me, attended me and looked after me, what if I first teach the doctrine to them ?" said he to himself.

5. He asked for their whereabouts. Having learnt that they were dwelling at Sarnath in the deer park of Isipatana, he left in search of them.

6. The five, seeing him coming, decided among themselves not to welcome him. Said one of them, "This, friends, is the ascetic Gautama coming, who has abandoned austerities and has turned to life of abundance and luxury. He has committed a sin. We must not therefore greet him, nor rise in respect, nor take his bowl and robe. We will only set apart a seat for him. If he wishes, he may sit down." And they all agreed.

7. But when the Buddha approached, the five Parivrajakas were not able to abide by their decision, so greatly impressed were they by his personality that they all rose in their seats. One took his bowl, one took his robe, and one prepared a seat, and one brought water to wash his feet.

8. It was really a great welcome to an unwelcome guest.

9. Thus those who intended to scoff remained to pray.

§ 2. *The Buddha's First Sermon*

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1. After exchange of greetings the five Parivrajakas asked the Buddha whether he still believed in asceticism. The Buddha replied in the negative.

2. He said there were two extremes, a life of pleasure and a life of self-mortification.

3. One says let us eat and drink, for tomorrow we die. The other says, kill all *vasanas* (desires) because they bring rebirth. He rejected both as unbecoming to man.

4. He was a believer in the Madhyama Marga (Majjhima Patipada), the middle path, which is neither the path of pleasure nor the path of self-mortification.

5. "Answer me this," he said to the Parivrajakas, "So long as your self remains active and continues to lust after either worldly or heavenly pleasures, is not all mortification vain ?" And they answered, "It is as thou sayest."

6. "How can ye be free from self by leading a wretched life of self-mortification if ye do not thereby succeed in quenching the fires of lust ?" And they replied, "It is as thou sayest."

7. "Only when the self in ye has been conquered that ye are free from lust ; ye will then not desire worldly pleasures, and the satisfaction of your natural wants will not defile ye. Let ye eat and drink according to the needs of your body.

8. "Sensuality of all kinds is enervating. The sensual man is a slave of his passion. All pleasure-seeking is degrading and vulgar. But I say unto you that to satisfy the needs of life is not an evil ; to keep the body in good health is a duty, or otherwise you shall not be able to keep your mind strong and clear and have the lamp of wisdom burning.

9. "Know ye, O Parivrajakas, that there are these two extremes which man ought not to follow—the habitual indulgence on the one hand, of those things whose attraction depends upon the passions, and especially of sensuality—a low and pagan way of seeking

satisfaction, unworthy, unprofitable and the habitual practice thereof, and on the other hand, of asceticism or self-mortification, which is painful, unworthy and unprofitable.

10. "There is a middle path which avoids both these extremes. Know ye, that, this is the path which I preach."

11. The five Parivrajakas listened to him with attention. Not knowing what to say in reply to the Buddha's middle path, they asked him what he was doing after they had left him. Then the Buddha told them how he left for Gaya, how he sat in contemplation under the Banyan Tree and how after four weeks of contemplation he obtained enlightenment as a result of which he was able to discover a new path of life.

12. On hearing this, the Parivrajakas became extremely impatient to know what the path was and requested the Buddha to expound it to them.

13. The Buddha agreed.

14. He began by saying that his path which is his Dhamma (religion) had nothing to do with God and Soul. His Dhamma had nothing to do with life after death. Nor has his Dhamma any concern with rituals and ceremonies.

15. The centre of his Dhamma is man and the relation of man to man in his life on earth.

16. This he said was his first postulate.

17. His second postulate was that men are living in sorrow, in misery and poverty. The world is full of suffering and that how to remove this suffering from the world is the only purpose of Dhamma. Nothing else is Dhamma.

18. The recognition of the existence of suffering and to show the way to remove suffering is the foundation and basis of his Dhamma.

19. This can be the only foundation and justification for Dhamma. A religion which fails to recognise this is no religion at all.

20. "Verily, Parivrajakas! whatsoever recluses or Brahmins (i.e., preachers of religion) understand not, as it really is, that the misery in the world and the

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escape therefrom, is the main problem of Dhamma, such recluses and Brahmins in my opinion are not to be regarded as recluses and Brahmins ; nor have those worthies come to know fully of themselves what in this very life is the real meaning of Dhamma."

21. The Parivrajakas then asked him : "If the foundation of your Dhamma is the recognition of the existence of suffering and the removal of suffering, tell us how does your Dhamma remove suffering !"

22. The Buddha then told them that according to his Dhamma if every person followed (1) the Path of Purity ; (2) the Path of Righteousness ; and (3) the Path of Virtue, it would bring about the end of all suffering.

23. And he added that he had discovered such a Dhamma.

§ 3. *The Buddha's First Sermon*—(contd.)

The Path of Purity

1. The Parivrajakas then asked the Buddha to explain to them his Dhamma.

2. And the Buddha was pleased to do so.

3. He addressed them first on the Path of Purity.

4. "The Path of Purity," he told the Parivrajakas, "teaches that a person who wishes to be good must recognize some principles as principles of life.

5. "According to my Path of Purity the principles of life recognised by it are : Not to injure or kill : Not to steal or appropriate to oneself anything which belongs to another : Not to speak untruth : Not to indulge in lust : Not to indulge in intoxicating drinks.

6. "The recognition of these principles, I say, is most essential for every man. For every man must have a standard by which to judge whatever he does. And these principles according to my teachings constitute the standard.

7. "There are everywhere people who are *patit* (fallen). But there are two classes of the *patit:* the *patit* who has a standard and a *patit* who has no standard.

8. "The *patit* who has no standard does not know that he has fallen. Consequently he always remains fallen. On the other hand a *patit* who has a standard tries to rise from his fallen state. Why ? The answer is because he knows that he has fallen.

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9. "This is the difference between having a standard and having no standard for regulating a man's life. What matters is not so much the fall of the man but the absence of any standard.

10. "You may ask, ye Parivrajakas ! Why are these principles worthy of recognition as a standard of life.

11. "The answer to this question you will find for yourselves, if you ask : "Are these principles good for the individual ?" also if you ask : "Do they promote social good ?"

12. "If your answers to these questions are in the affirmative then it follows that the principles of my Path of Purity are worthy of recognition as forming a true standard of life."

§ *4. The Buddha's First Sermon*— (contd.)

Ashtanga Marga or the Path of Righteousness

1. The Buddha next addressed the Parivrajakas on the Ashtangamarga. He said that there are eight constituents in the Ashtangamarga.

2. He began his discourse with the exposition of *Samma Ditti* (Right Views), the first and foremost element in the *Ashtangmarga.*

3. "To realize the importance of *Samma Ditti,*" the Buddha said to the Parivrajakas:

4. "O, ye, Parivrajakas, you must realize that the world is a dungeon and man is a prisoner in the dungeon.

5. "This dungeon is full of darkness. So dark is it that scarce anything at all can rightly be seen by the prisoner. The prisoner cannot see that he is a prisoner.

6. "Indeed, man has not only become blind by living too long in the darkness, but he very much

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doubts if any such strange thing as light is said to be, can ever exist at all.

7. "Mind is the only instrument through which light can come to man.

8. "But the mind of these dungeon-dwellers is by no means a perfect instrument for the purpose.

9. "It lets through only a little light, just enough to show to those with sight that there is such a thing as darkness.

10. "Thus defective in its nature, such understanding as this is.

11. "But know, ye, Parivrajakas ! the case of the prisoner is not as hopeless as it appears.

12. "For there is in man a thing called will. When the appropriate motives arise the will can be awakened and set in motion.

13. "With the coming of just enough light to see in what directions to guide the motions of the will, man may so guide them that they shall lead to liberty.

14. "Thus though man is bound, yet he may be free ; he may at any moment begin to take the first steps that will ultimately bring him to freedom.

15. "This is because it is possible to train the mind in whatever directions one chooses. It is mind that makes us to be prisoners in the house of life, and it is mind that keeps us so.

16. "But what mind has done, that mind can undo. If it has brought man to thraldom, it can also, when rightly directed, bring him to liberty.

17. "This is what *Samma Ditti* can do."

18. "What is the end of *Samma Ditti* ?" asked the Parivrajakas. "The end of *Samma Ditti,"* replied the Buddha, "is the destruction of Avijja (Nescience). It is opposed to Miccha Ditti.

19. "And Avijja means the failure to understand the noble truths, of the existence of suffering and the removal of suffering.

20. "*Samma Ditti* requires giving up of belief in the efficacy of rites and ceremonies, to have disbelief in the sanctity of the Shastras.

21. "*Samma Ditti* requires the abandonment of superstition and supernaturalism.

22. "*Samma Ditti* requires the abandonment of all doctrines which are mere speculations without any basis in fact or experience.

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23. "*Samma Ditti* requires free mind and free thought.

24. "Every man has aims, aspirations and ambitions. *Samma Sankappo* teaches that such aims, aspirations and ambitions shall be noble and praiseworthy and not ignoble and unworthy.

25. "*Samma Vacca* (Right Speech) teaches : (1) that one should speak only that which is true ; (2) that one should not speak what is false ; (3) that one should not speak evil of others ; (4) that one should refrain from slander ; (5) that one should not use angry and abusive language towards any fellow man ; (6) that one should speak kindly and courteously to all ; (7) that one should not indulge in pointless, foolish talk, but let his speech be sensible and to the purpose.

26. "The observance of Right Speech, as I have explained, is not to be the result of fear or favour. It is not to have the slightest reference to what any superior being may think of his action or to any loss which Right Speech may involve.

27. "The norm for Right Speech is not the order of the superior or the personal benefit to the individual.

28. "*Samma Kamanto* teaches right behaviour. It teaches that every action should be founded on respect for the feelings and rights of others.

29. "What is the norm for *Samma Kamanto ?* The norm is that course of conduct which is most in harmony with the fundamental laws of existence.

30. "When his actions are in harmony with these laws they may be taken to be in accord with *Samma Kamanto.*

31. "Every individual has to earn his livelihood. But there are ways and ways of earning one's livelihood. Some are bad ; some are good. Bad ways are those

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which cause injury or injustice to others. Good ways are those by which the individual earns his livelihood without causing injury or injustice to others. This is *Samma Ajivo*.

32. "*Samma Vyayamo* (Right Endeavour) is primary endeavour to remove Avijja ; to reach the door that leads out of this painful prison house, to swing it open.

33. "Right endeavour has four purposes.

34. "One is to prevent states of mind which are in conflict with the Ashtangamarga.

35. "Second is to suppress such states of mind which may already have arisen.

36. "Third is to bring into existence states of mind which will help a man to fulfil the requirements of the Ashtangamarga.

37. "Fourth is to promote the further growth and increase of such states of mind as already may have arisen.

38. "*Samma Satti* calls for mindfulness and thoughtfulness. It means constant wakefulness of the mind. Watch and ward by the mind over the evil passions is another name for *Samma Satti*.

39. "There are, ye Parivrajakas, five fetters or hindrances which come in the way of a person trying to achieve *Samma Ditti, Samma Sankappo, Samma Vacca, Samma Kamanto, Samma Ajeevo, Samma Vyayamo* and *Samma Satti*.

40. "These five hindrances are covetousness, ill-will, sloth and torpor, doubt and indecision. It is, therefore, necessary to overcome these hindrances which are really fetters and the means to overcome them is through *Samadhi*. But know ye Parivrajakas, *Samma Samadhi* is not the same *as Samadhi*. It is quite different.

41. "*Samadhi* is mere concentration. No doubt it leads to Dhyanic states which are self-induced, holding the five hindrances in suspense.

42. "But these Dhyana states are temporary. Consequently the suspension of the hindrances is also temporary. What is necessary is a permanent turn

to the mind. Such a permanent turn can be achieved only by *Samma Samadhi*.

43. "Mere *Samadhi* is negative inasmuch as it leads to temporary suspension of the hindrances. In it there is no training to the mind. *Samma Samadhi* is positive. It trains the mind to concentrate and to think of some *Kusala Kamma* (Good Deeds and Thoughts) during concentration and thereby eliminate the tendency of the mind to be drawn towards *Akusala Kamma* (Bad Deeds and Bad Thoughts) arising from the hindrances.

44. "*Samma Samadhi* gives a habit to the mind to think of good and always to think of good. *Samma Samadhi* gives the mind the necessary motive power to do good."

§ 5. *The Buddha's First Sermon*—(contd.)

The Path of Virtue

1. The Buddha then explained to the Parivrajakas the Path of Virtue.

2. He told them that the path of virtue meant the observance of the virtues called : (1) *Sila;* (2) *Dana;* (3) *Uppekha;* (4) *Nekkhama;* (5) *Virya;* (6) *Khanti;* (7) *Succa ;* (8) *Adhithana ;* (9) *Karuna ;* and (10) *Maitri.*

3. The Parivrajakas asked the Buddha to tell them what these virtues meant.

4. The Buddha then proceeded to satisfy their desire.

5. "*Sila* is moral temperament, the disposition not to do evil and the disposition to do good ; to be ashamed of doing wrong. To avoid to do evil for fear of punishment is *Sila. Sila* means fear of doing wrong.

6. "*Nekkhama* is renunciation of the pleasures of the world.

7. "*Dana* means the giving of one's possessions, blood and limbs and even one's life, for the good of others without expecting anything in return.

8. "*Virya* is right endeavour. It is doing with

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all your might whatever you have undertaken to do with never a thought of turning back, whatever you have undertaken to do.

9. "*Khanti* is forbearance. Not to meet hatred by hatred is the essence of it. For hatred is not appeased by hatred. It is appeased only by forbearance.

10. "*Succa* is truth. A person must never tell a lie. His speech must be truth and nothing but truth.

11. "*Adhithana* is resolute determination to reach the goal.

12. "*Karuna* is loving kindness to human beings.

13. "*Maitri* is extending fellow feeling to all beings, not only to one who is a friend but also to one who is a foe : not only to man but to all living beings.

14. "*Upekka* is detachment as distinguished from indifference. It is a state of mind where there is neither like nor dislike. Remaining unmoved by the result and yet engaged in the pursuit of it.

15. "These virtues one must practice to his utmost capacity. That is why they are called Paramitas (States of Perfection).

§ 6. *The Buddha's First Sermon*—(concld.)

1. Having explained His Dhamma and what it involved, the Buddha then asked the Parivrajakas :

2. "Is not personal purity the foundation of good in the world ?" And they answered, "It is as thou sayest."

3. And he continued : "Is not personal purity undermined by covetousness, passion, ignorance, the destruction of life, theft, adultery and lying ? Is it not necessary for personal purity to build up sufficient strength of character so that these evils should be kept under control ? How can a man be the instrument of good if he has no personal purity in him ?" And they replied, "It is as thou sayest."

4. "Again why do men not mind enslaving or dominating others ? Why do men not mind making the lives of others unhappy ? Is it not because men are

not righteous in their conduct towards one another?" And they answered in the affirmative.

5. "Will not the practice of the Ashtanga Marga, the path of right views, right aims, right speech, right livelihood, right means, right mindfulness, right perseverance, and right contemplation, in short, the Path of Righteousness, if followed by every one, remove all injustice and inhumanity that man does to man ?" And they said, "Yes."

6. Turning to the path of virtue, he asked, "Is not Dana necessary to remove the suffering of the needy and the poor and to promote general good ? Is not Karuna necessary to be drawn to the relief of poverty and suffering wherever it exists ? Is not Nekkamma necessary to selfless work? Is not Uppekka necessary for sustained endeavour even though there is no personal gain?

7. "Is not love for man necessary ?" And they said "Yes."

8. "I go further and say, "Love is not enough ; what is required is Maitri." It is wider than love. It means fellowship not merely with human beings but with all living beings. It is not confined to human beings. Is not such Maitri necessary? What else can give to all living beings the same happiness which one seeks for one's own self, to keep the mind impartial, open to all, with affection for every one and hatred for none ?"

9. They all said "Yes."

10. "The practice of these virtues must, however, be accompanied by Prajna, *i.e.,* intelligence.

11. "Is not Prajna necessary?" The Parivrajakas gave no answer. To force them to answer his question the Buddha went on to say that the qualities of a good man are : "do no evil, think nothing that is evil, get his livelihood in no evil way and say nothing that is evil or is likely to hurt anyone." And they said, "Yes, so it is."

12. "But is doing good deeds blindly to be welcomed ?" asked the Buddha "I say, 'no.' This is not enough," said the Buddha to the Pariv-

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rajakas. "If it was enough," said the Buddha to the Parivrajakas, "then a tiny babe could be proclaimed to be always doing good. For as yet, the babe does not know what a body means, much less will it do evil with its body beyond kicking about : it does not know What speech is, much less will it say anything evil beyond crying ; it does not know what thought is, beyond crying with delight ; it does not know what livelihood is, much less will it get its living in an evil way, beyond sucking its mother.

13. "The Path of Virtue must, therefore, be subject to test of Prajna which is another name for understanding and intelligence.

14. "There is also another reason why Prajna-paramita is so important and so necessary. There must be Dana. But without Prajna, Dana may have a demoralizing effect. There must be Karuna. But without Prajna, Karuna may end in supporting evil. Every act of Paramita must be tested by Prajna Paramita which is another name for wisdom.

15. "I premise that there must be knowledge and consciousness of what wrong conduct is, how it arises ; similarly, there must also be knowledge and consciousness of what is right conduct and wrong conduct. Without such knowledge there cannot be real goodness though the act may be good. That is why I say Prajna is a necessary virtue."

16. The Buddha then concluded his sermon by addressing the following admonition to the Parivrajakas.

17. "You are likely to call my Dhamma pessimistic because it calls the attention of mankind to the existence of suffering. I tell you such a view of my Dhamma would be wrong.

18. "No doubt my Dhamma recognizes the existence of suffering but forget not that it also lays equal stress on the removal of suffering.

19. "My Dhamma has in it both hope and purpose.

20. "Its purpose is to remove Avijja, by which I mean ignorance of the existence of suffering.

21. "There is hope in it because it shows the way to put an end to human suffering.

22. "Do you agree with this or not ? "And the Parivrajakas said, "Yes, we do."

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§ 7. *The Response of the Parivrajakas*

1. The five Parivrajakas at once realized that this was really a new Dhamma. They were so struck by this new approach to the problems of life that they were unanimous in saying : "Never in the history of the world has any founder of religion taught that the recognition of human suffering was the real basis of religion.

2. "Never in the history of the world has any founder of religion taught that the removal of this misery is the real purpose of it !

3. "Never in the history of the world had a scheme of salvation been put forth, so simple in its nature, so free from supernatural and superhuman agency, so independent of, even so antagonistic to, the belief in a soul, to the belief in God and to the belief in life after death !

4. "Never in the history of the world had a scheme of religion been put forth which had nothing to do with revelation and whose commands are born of the examination of the social needs of man and which are not the orders of a God !

5. "Never in the history of the world has salvation been conceived as the blessing of happiness to be attained by man in this life and on this earth by righteousness born out of his own efforts !"

6. These were the sentiments which the Parivrajakas uttered after they had heard the Buddha's Sermon on his new Dhamma.

7. They felt that in him they had found a reformer, full of the most earnest moral purpose and trained in all the intellectual culture of his time, who had the originality and the courage to put forth deliberately and with a knowledge of opposing views, the doctrine of a salvation to be found here, in this life,

in inward change of heart to be brought about by the practice of self-culture and self-control.

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8. Their reverence for him became so unbounded that they at once surrendered to him and requested him to accept them as his disciples.

9. The Buddha admitted them into his order by uttering the formula "Ehi Bhikkave" (come in Bhikkus). They were known as the Panchavargiya Bhikkus.

PART III

Conversion of the High and the Holy

1. Conversion of Yashas.
2. Conversion of the Kassyapas.
3. Conversion of Sariputta and Moggallana.
4. Conversion of Bimbisara.
5. Conversion of Anathapindika.
6. Conversion of Pasenjit.
7. Conversion of Jeevaka.
8. Conversion of Ratthapala.

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§ *1. Conversion of Yashas*

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1. There lived in the town of Benares a nobleman's son called Yashas. He was young in years and very attractive in appearance. He was beloved of his parents. He lived in abounding wealth. He had a big retinue and a large harem and passed his time in nothing but dancing, drinking and carnal pleasures.

2. As time past, a feeling of disgust came over him. How could he escape from this orgy ? Was there any better way of life than the way he was leading ? Not knowing what to do, he decided to leave his father's house.

3. One night he left his father's house and was wandering about ; He happened to wend his way towards Isipathana.

4. Feeling tired he sat down and as he was seated he said to himself in loud tones: 'Where am I, what is the way ? Alas ! What distress; alas ! What danger !'

5. This happened on the night of the same day on which the Blessed One preached his first sermon to the Panchavargiya Bhikkus at Isipathana. Just when Yashas was approaching Isipathana, the Blessed One who was staying at Isipathana, having arisen at dawn, was walking up and down in the open-air. And the Blessed One saw Yashas, the noble youth coming from after giving utterance to his feelings.

6. And the Blessed One having heard his cry of distress, said : "There is no distress, there is no danger. Come, I will show you the way," and the Blessed Lord preached his gospel to Yashas.

7. And Yashas, when he heard it, became glad and joyful ; and he put off his gilt slippers, and went and sat down near the Blessed One and respectedly saluted him.

8. Yashas hearing the Buddha's words, requested the Blessed One to take him as his disciple.

9. Then he bade him come and asked him to be a Bhikku to which Yashas agreed.

10. The parents of Yashas were in great distress

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on finding that their son had disappeared. The father started in search. Yashas's father passed by the same spot where the Lord and Yashas in the Bhikku's garb were seated, and in passing, he asked the Blessed One : "Pray, have you seen Yashas, my son ?"

11. The Lord replied : "Come in, Sir, you will find your son." He went in and sat near his son but he knew him not.

12. The Lord explained to him how Yashas met him and how on hearing him he became a Bhikku. The father then recognized his son and was happy his son had chosen the right path.

13. "My son, Yashas," said the father, "your mother is absorbed in lamentations and grief. Return home and restore your mother to life."

14. Then Yashas looked at the Blessed One, and the Blessed One said to Yashas's father, "Is that your wish that Yashas should return to the world and enjoy the pleasures of a worldly life as he did before ?"

15. And Yasha's father replied : "If Yashas, my son, finds it a gain to stay with you, let him stay." Yashas preferred to remain a Bhikku.

16. Before departing Yashas's father said : "May the Blessed One, O Lord, consent to take his meal at my home with the members of my family."

17. The Blessed One, having donned his robes, took his alms bowl and went with Yashas to the house of his father.

18. When they arrived there, they met the mother and also the former wife of Yashas. After the meal the Blessed One preached to the members of the family his doctrine. They became very happy and promised to take refuge in it.

19. Now there were four friends of Yashas belonging to the wealthy family of Benares. Their names were Vimala, Subahu, Punyajit and Gavampati.

20. When Yashas's friends learned that Yashas had taken refuge in the Buddha and his Dhamma they felt that what is good for Yashas must be good for them.

21. So they went to Yashas and asked him to

approach the Buddha on their behalf to receive them as his disciples.

22. Yashas agreed and he went to the Buddha, saying : "May the Blessed One preach the Dhamma to these four friends of mine." The Lord agreed and Yashas's friends took refuge in the Dhamma.

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§ 2. *Conversion of the Kassyapas*

1. There lived in Benaras a family known as the Kassyapa family. There were three sons in the family. They were very highly educated and carried on a rigorous religious life.

2. After some time the eldest son thought of taking up Sannyasa. Accordingly he left his home, took Sannyasa and went in the direction of Uruvella where he established his Ashram.

3. His two younger brothers followed him and they too became Sannyasis.

4. They were all Agnihotris or worshippers of fire. They were called Jatilas because they kept long hair.

5. The three brothers were known as Uruvella Kassyapa, Nadi Kassyapa (Kassyapa of the River, i.e., the Niranjana), and Gaya Kassyapa (of the village Gaya).

6. Of these the Uruvella Kassyapa had a following of five hundred Jatilas ; Nadi Kassyapa had three hundred Jatilas as his disciples and Gaya Kassyapa had two hundred Jatilas. Of these the chief was Uruvella Kassyapa.

7. The fame of Uruvella Kassyapa had spread far and wide. He was known to have obtained Mukti (Salvation) while alive. People from far-away places came to his Ashram which was located on the banks of the river Falgu.

8. The Blessed Lord having come to know of the name and fame of Uruvella Kassyapa, thought of preaching his gospel to him and if possible to convert him to his Dhamma.

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9. Having come to know of his whereabouts the Blessed Lord went to Uruvella.

10. The Blessed One met him and wanting to have an opportunity to instruct him and convert him, said: "If it is not disagreeable to you, Kassyapa, let me dwell one night in your Ashram."

11. "I am not agreeable to this," said Kassyapa. "There is a savage Naga king called Muchalinda who rules over this place. He is possessed of dreadful powers. He is the deadly enemy of all ascetics performing fire worship. He pays nocturnal visits to their Ashrams and does them great harm. I fear he may do you the same harm as he does to me."

12. Kassyapa did not know that the Nagas had become the friends and followers of the Blessed One. But the Blessed One knew it.

13. So the Blessed One pressed for his request, saying : "He is not likely to do any harm to me : pray, Kassyapa, allow me a place in your fire room, for one night."

14. Kassyapa continued to raise many difficulties and the Blessed One continued to press his request.

15. Then Kassyapa said : "My mind desires no controversy, only I have my fears and apprehensions, but follow your own good pleasure."

16. The Blessed Lord forthwith stepped into the fire grove and took his seat.

17. The Naga king Muchalinda came into the room at his usual time. But instead of finding Kassyapa he found the Blessed One seated in his place.

18. Muchalinda, seeing the Lord seated, his face glowing with peace and serenity, felt as though he was in the presence of a great divinity, and bending his head, began to worship.

19. That night Kassyapa's sleep was very much disturbed by the thought of what might have happened to his guest. So he got up with great misgivings fearing that his guest might have been burnt up.

20. Then Kassyapa and his followers at morning light came one and all to have a look. Far from seeing

the Lord injured by Muchalinda, they found Muchalinda worshipping the Lord.

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21. Beholding the scene, Kassyapa felt that he was witnessing a great miracle.

22. Struck by this miracle Kassyapa requested the Blessed Lord to stay near him and make an Ashram, and promised to look after him.

23. The Blessed Lord agreed to stay on.

24. The two, however, had different motives. Kassyapa's motive was to obtain protection against Muchalinda Naga. The Blessed Lord thought that one day Kassyapa will give him opportunity to propound his gospel.

25. But Kassyapa showed no such inclination. He thought that the Blessed Lord was only a miracle maker and nothing more.

26. One day the Blessed Lord thought of himself taking the initiative and asked Kassyapa, "Are you an Arhant?

27. "If you are not an Arhant, what good is this Agnihotra going to do to you ?"

28. Kassyapa said: "I do not know what is to be an Arhant ? Will you explain it to me ?"

29. The Lord then told Kassyapa, "An Arhant is one who has conquered all the passions which disturb a man from pursuing the eight-fold Path. Agnihotra cannot cleanse a man of his sins."

30. Kassyapa was a proud person. But he did feel the force of the Blessed Lord's argument. Making his mind pliant and yielding, until at length prepared to be a vehicle of the true law, he confessed that his poor wisdom could not compare with the wisdom of the world-honoured One.

31. And so, convinced at last, humbly submitting, Uruvella Kassyapa accepted the doctrine of the Lord and became his follower.

32. Following their master, the followers of Kassyapa, virtuously submissive, in turn received the teaching of the law. Kassyapa and all his followers were thus entirely converted.

33. Uruvella Kassyapa, then, lifting his goods and

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all his sacrificial vessels, threw them together into the river, which floated down upon the surface of the current.

34. Nadi and Gaya, who dwelt down the stream, seeing these articles of clothing (and the rest) floating along the stream disorderly, said, "These are the belongings of our brother ; why has he thrown them away ? Some great change has happened," and were deeply pained and restless. The two, each with five hundred followers, went up the stream to seek their brother.

35. On seeing him and all his followers now dressed as hermits, strange thoughts engaged their minds and they inquired into the reasons. Uruvella Kassyapa told them the story of his conversion to the Buddha's Dhamma.

36. "Our brother having submitted thus, we too should also follow him," they said.

37. They conveyed their wishes to their eldest brother. Then the two brothers, with all their band of followers, were brought to hear the Lord's discourse on the comparison of a fire sacrifice with his own gospel.

38. In his discourse to the two brothers the Blessed Lord said : "The dark smoke of ignorance arises, whilst confused thoughts, like wood drilled into wood, create the fire.

39. "Lust, anger, delusion, these are as fire produced, and these enflame and burn all other things which cause grief and sorrow in the world.

40. "If once this way is found and lust, anger and delusion consumed, then with it is born sight, knowledge and pure conduct.

41. "So when the heart of a man has once conceived distaste for sin, this distaste removes covetous desire, covetous desire extinguished, there is recluse."

42. The great Rishis listening to him, lost all regard for fire worship and wished to be the disciples of the Buddha.

43. The conversion of the Kassyapas was a great

triumph for the Blessed Lord. For they had a very strong hold on the imagination of the people.

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§ 3. *Conversion of Sariputta and Moggallana*

1. While the Blessed Lord was in Rajagraha there resided a well-known person by name Sanjaya with a great retinue of Parivrajakas numbering about two hundred and fifty as his disciples.

2. Among his disciples were Sariputta and Moggallana—two young Brahmins.

3. Sariputta and Moggallana were not satisfied with the teachings of Sanjaya and were in search of something better.

4. Now one day the venerable Assaji, one of the Panchvargiya Bhikkus, in the forenoon, having put on his under-robes, and having taken his alms bowl and outer robe, entered the city of Rajagraha for alms.

5. Sariputta was observing the dignified deportment of Assaji and was struck by it. On seeing the venerable Assaji, Sariputta thought, "Indeed this person is one of those monks who are the worthy ones in the world. What if I were to approach this monk and to ask him : 'In whose name, friend, have you retired from the world ? Who is your teacher ? Whose Dhamma do you profess?'"

6. Now Sariputta thought : "This is not the time to ask this monk ; he has entered the inner yard of a house for alms. What if I were to follow this monk step by step, according to the course recognized by those who want something ?"

7. And the venerable Assaji, having finished his alms pilgrimage through Rajagraha, went back with the food he had received. Then Sariputta went to the place where the venerable Assaji was ; having approached him, he exchanged greetings and with complaisant words, he stood at his side.

8. Standing at his side the wandering ascetic Sariputta said to the venerable Assaji : "Your countenance, friend, is serene ; your complexion is

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pure and bright. In whose name, friend, have you retired from the world ? Who is your teacher ? Whose Dhamma do you profess ?"

9. Assaji replied : "There is, friend, the great recluse of the Sakya's clan ; in this Blessed One's name, have I retired from the world ; this Blessed One is my teacher, and it is the Dhamma of this Blessed One that I follow."

10. "And what, venerable Sir, is the doctrine which your teacher holds ? And what does he preach to you ?"

11. "I am only a young disciple, friend ; I have but recently received ordination ; and I have newly adopted this Dhamma and discipline. I cannot explain to you the Dhamma in detail ; but I will tell you in short what it means."

12. Then Sariputta, the wandering ascetic, said to the venerable Assaji : "So be it, friend, tell me as much or as little as you like, but tell me the meaning, I want just meaning. Why make so much of the letter ?"

13. Then the venerable Assaji explained to Sariputta the substance of the teachings of the Buddha and Sariputta was completely satisfied.

14. Sariputta and Moggallana, though not brothers, were bound together as though they were brothers. They had given their word to each other. He who first attains the truth shall tell the same to the other one. That was their mutual engagement.

15. Accordingly Sariputta went to the place where Moggallana was. Seeing him, he said to Sariputta : "Your countenance, friend, is serene ; your complexion is pure and bright. Have you then really reached the truth ?"

16. "Yes, friend, I have come to know the truth." "And how, friend, have you done so ?" Then Sariputta told him what happened between him and Assaji.

17. Then Moggallana said to Sariputta, "Let us go, friend, and join the Blessed One ; that he, the Blessed One, may be our teacher."

18. Sariputta replied : "It is on our account,

friend, that these two hundred and fifty wandering Parivrajakas live here, and it is we whom they regard ; let us first tell them before taking leave of them ; they will do what they think fit."

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19. Then Sariputta and Moggallana went to the place where they were ; having approached them they said to them, "Friends, we are going to join the Blessed One ; he, the Blessed One, is our teacher."

20. They replied : "It is on your account, Sirs, that we live here, and it is you whom we regard ; if you, Sirs, will lead the holy life under the great Samana, we all will do the same."

21. Then Sariputta and Moggallana went to the place where Sanjaya was ; having approached him, they said : "Friend, we go to join the Blessed One ; he, the Blessed One, is our teacher."

22. Sanjaya replied : "Nay, friends, do not go ; we will all three look after this company."

23. And a second and third time Sariputta and Moggallana said this and Sanjaya answered as before.

24. Then Sariputta and Moggallana took with them two hundred and fifty wandering ascetics and went to the Veluvana in Rajagraha where the Blessed One was staying.

25. And the Blessed One saw them—Sariputta and Moggallana, coming from afar : on seeing them he thus addressed the monks : "There, monks, arrive two companions," pointing towards Sariputta and Moggallana, "these will be my chief pair of disciples, and auspicious pair."

26. When they had arrived at the bamboo grove, they went to the place where the Blessed One was ; having approached him, they prostrated themselves, with their heads at the feet of the Blessed One, and said to the Blessed One : "Lord, let us receive ordination from the Blessed One."

27. The Blessed One then uttered the usual formula indicating admission, "Ehi Bhikku" (Come Monks), and Sariputta and Moggallana and the two hundred Jatilas became the disciples of the Buddha."

§ 4. *Conversion of King Bimbisara*

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1. Rajagraha was the capital of Seniya Bimbisara; King of Magadha.

2. Having heard of the conversions of this large number of Jatilas, everyone in the city had begun to talk about the Blessed One.

3. Thus King Bimbisara came to know of his arrival in the city.

4. "To have converted the most orthodox and the most obstinate Jatilas was no mean task." "Truly so," said King Bimbisara to himself, "he must be the Blessed, holy, absolute Buddha, proficient in knowledge and conduct, the way-farer, who understands the world, the highest one, who guides men, the teacher of gods and men. He must be teaching the truth, which he understood himself.

5. "He must be preaching that Dhamma which is lovely in the beginning, lovely in the middle, lovely at the end, in the spirit and in the letter ; he must be proclaiming the consummate perfect, pure and holy life. It is good to obtain the sight of a man like him."

6. So King Bimbisara, surrounded by twelve myriads of Magadha Brahmins and householders, went to the place where the Blessed One was. Having approached him and respectfully saluted the Blessed One, he sat down near him. And of those twelve myriads of Magadha Brahmins and householders, some also respectfully saluted the Blessed One and sat down near him ; some exchanged greetings with the Blessed One, and having done so they sat down near him with complaisant words ; some bent their clasped hands towards the Blessed One and sat down near him ; some made known their name and family name before the Blessed One and sat down near him ; some sat down near him silently.

7. Now those twelve myriads of Magadha Brahmins and householders saw Uruvella Kassyapa among the monks who came with the Blessed Lord. They thought : "How now is this ? Does the great

Samana follow the holy life under Uruvella Kassyapa, or does Uruvella Kassyapa follow the holy life under the great Samana ?"

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8. And the Blessed One, who understood in his mind the reflection which had arisen in the minds of those twelve myriads of Magadha Brahmins and householders, addressed the venerable Uruvella Kassyapa: "What hast thou seen, O dweller of Uruvella, that thou who art called the great one hast forsaken the fire worship ? How is it thou hast forsaken the fire sacrifice ?"

9. Kassyapa replied : "It is sights and sounds, and also tastes, and women of sense desire that the sacrifices promise ; because I understood that these things are impure that I took no more delight in sacrifices and offerings."

10. "But if you don't mind, tell us what made you think so ?"

11. Then the venerable Uruvella Kassyapa rose from his seat, adjusted his upper robe so as to cover one shoulder, prostrated himself, inclining his head to the feet of the Blessed One, and said to the Blessed One: "My teacher is the Blessed One, I am his pupil." Then those twelve myriads of Magadha Brahmins and householders understood : "Uruvella Kassyapa follows the holy life under the great Samana."

12. And the Blessed One, who understood in his mind the reflection that had arisen in the minds of those twelve myriads of Magadha Brahmins and householders, preached to them his Dhamma. Just as a clean cloth free from black specks properly takes the dye, thus eleven myriads of those Magadha Brahmins and householders with Bimbisara at their head, while sitting there, obtained the pure and spotless dye of the Dhamma. One myriad announced their having become lay followers.

13. Then the Magadha king, Seniya Bimbisara, having witnessed the scene, having understood the Dhamma, having penetrated the Dhamma, having overcome uncertainty, having dispelled all doubts,

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having gained full knowledge, said to the Blessed One : "In former days, Lord, when I was a prince, I entertained five aspirations ; these are now fulfilled.

14. "In former days, Lord, to me when I was a prince, came this thought : 'O that I might be inaugurated king !' That was my first aspiration, Lord ; that is now fulfilled. 'And might then a holy one, a fully Enlightened One, come over into my kingdom !' This was my second aspiration, Lord ; that is now fulfilled. 'And might I minister to that Blessed One !' That was my third aspiration, Lord ; that is now fulfilled. 'And might he, the Blessed One, preach the Dhamma to me !' This was my fourth aspiration, Lord ; and that is now fulfilled. 'And might I understand the Dhamma of that Blessed One !' This was my fifth aspiration, Lord ; this is now fulfilled. These were my five aspirations, Lord, which I entertained in former days when I was a prince.

15. "Wonderful, Lord ! Wonderful, just as if one should set up, what had been overturned, or should reveal what had been hidden, or should point out the way to one who had lost his way, or should bring a lamp into the darkness, in order that those who had eyes might see things, thus has the Blessed One preached the Dhamma in many ways. I take refuge, Lord, in that Blessed One, and in the Dhamma, and in the fraternity of Bhikkus (monks). May the Blessed One receive me from this day forth, while my life lasts, as a lay disciple who has taken refuge in him."

§ 5. *Conversion of Anathapindika*

1. Sudatta was a resident of Shravasti, the capital of the kingdom of Kosala. It was ruled by King Pasenjit. Sudatta was treasurer of the king. From his bounties to the poor, Sudatta was known as Anathapindika.

2. When the Lord was at Rajagraha, Anathapindika happened to visit the place on some private business of his own. He was stopping with his sister

who was married to the guild master of Rajagraha.

3. When he arrived he found the guild master preparing a meal for the Lord and his monks on so great a scale that he thought that a wedding was in progress or that the king had been invited.

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4. On learning the truth he became very eager to visit the Lord and he set out in the very night to meet the Blessed One.

5. And the Blessed One saw at once the sterling quality of Anathapindika's heart and greeted him with words of comfort. After taking his seat Anathapindika expressed a desire to hear a discourse on some religious subject.

6. The Blessed Lord responding to his wishes raised the question, "Who is it that shapes our lives ? Is it Ishavara, a personal creator ? If Ishavara be the maker, all living things should have silently to submit to their maker's power. They would be like vessels formed by the potter's hand. If the world had been made by Ishavara there should be no such thing as sorrow, or calamity, or sin ; for both pure and impure deeds must come from him. If not, there would be another cause beside him, and he would not be the self-existent one. Thus, you see, the thought of Ishavara is overthrown.

7. "Again, it is said that the Absolute cannot be a cause. All things around us come from a cause as the plant comes from the seed; how can the Absolute be the cause of all things alike ? If it pervades them, then certainly it does not make them.

8. "Again, it is said that self is the maker. But if self is the maker, why did he not make things pleasing? The cases of sorrow and joy are real and objective. How can they have been made by self ?

9. "Again, if you adopt the argument, there is no maker, or fate in such as it is, and there is no causation, what use would there be in shaping our lives and adjusting means to an end ?

10. "Therefore, we argue that all things that exist are not without cause. However, neither Ishavara, nor the Absolute, nor the self, nor causeless chance, is

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the maker, but our deeds produce results both good and evil.

11. "The whole world is under the law of causation, and the causes that act are not un-mental, for the gold of which the cup is made is gold throughout.

12. "Let us, then, surrender the heresies of worshipping Ishavara and praying to him; let us not lose ourselves in vain speculations of profitless subtleties; let us surrender self and all selfishness, and as all things are fixed by causation, let us practise good so that good may result from our actions."

13. And Anathapindika said : "I see the truth of what the Blessed One has said and I wish to open my whole mind. Having listened to my words let the Lord advise me what I should do.

14. "My life is full of work, and having acquired great wealth, I am surrounded with cares. Yet do I enjoy my work, and I apply myself to it with all diligence. Many people are in my employ and depend upon the success of my enterprises.

15. "Now, I have heard your disciples praise the bliss of the hermit and denounce the unrest of the world. 'The Blessed One', they say, 'has given up his kingdom and his inheritance, and has found the path of righteousness, thus setting an example to all the world how to attain Nirvana.'

16. "My heart yearns to do what is right and to be a blessing unto my fellow-beings. Let me then ask you, must I give up my wealth, my home, and my business enterprises, and, like you, go into homelessness in order to attain the bliss of a religious life ?"

17. And the Blessed Lord replied : "The bliss of a religious life is attainable by every one who walks in the noble eight-fold path. He that cleaves to wealth, had better cast it away than allow his heart to be poisoned by it ; but he who does not cleave to wealth, and possessing riches, uses them rightly, will be a blessing unto his fellow-beings.

18. "I say unto thee, remain in thy station of life and apply thyself with diligence to thy enterprises. It is not life and wealth and power that enslave men,

but the cleaving to life and wealth and power.

19. "The Bhikku who retires from the world in order to lead a life of leisure will have no gain. For a life of indolence is an abomination, and lack of energy is to be despised.

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20. "The Dhamma of the Tathagata does not require a man to go into homelessness or to resign the world unless he feels called upon to do so ; what the Dhamma of the Tathagata requires is for every man to free himself from the illusion of self, to cleanse his heart, to give up his thirst for pleasure, and lead a life of righteousness.

21. "And whatever men do, whether they remain in the world as artisans, merchants, and officers of the king, or retire from the world and devote themselves to a life of religious meditation, let them put their whole heart into their task ; let them be diligent and energetic, and, if they are like the lotus, which, though it grows in the water, yet remains untouched by the water, if they struggle in life without cherishing envy or hatred, if they live in the world a life not of self but a life of truth, then surely joy, peace, and bliss will dwell in their minds."

22. Anathapindika perceived that this was the most excellent system of truth, simple and of wisdomborn.

23. Thus firmly settled in the true doctrine he slowly bent in worship at the feet of the Blessed One and with closed hands made his request.

§ 6. *Conversion of King Pasenjit*

1. Then King Pasenjit, hearing that the Lord had come, went in his royal equippage to the Jetavana Vihara. Saluting him with clasped hands, he said :

2. "Blessed is my unworthy and obscure kingdom that it has met with so great a fortune. For how can calamities and dangers befall it in the presence of Lord of the World, the Dharma Raja, the King of Truth.

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3. "Now that I have seen your sacred features, let me partake of the refreshing waters of your teachings.

4. "Worldly profit is fleeting and perishable, but religious profit is eternal and inexhaustible. A worldly man, though a king, is full of trouble, but even a common man who is holy has peace of mind."

5. Knowing the tendency of the king's heart, weighed down by avarice and love of pleasure, the Blessed One seized the opportunity and said :

6. "Even those who, have been born in low degree, when they see a virtuous man, feel reverence for him, how much more must an independent king, who by his previous conditions of life has acquired much merit, feel ?

7. "And now as I briefly expound the law, let the Maharaja listen and weigh my words, and hold fast to what I say.

8. "Our good or evil deeds follow us continually like shadows.

9. "That which is most needed is a loving heart !

10. "Regard your people as we do an only son. Do not oppress them, do not destroy them ; keep in due check every member of your body, forsake unrighteous doctrines and walk in the straight path ; do not exalt yourself by trampling down others. Give comfort and befriend the sufferer.

11. "Neither ponder much on kingly dignity, nor listen to the smooth words of flatterers.

12. "There is no profit in vexing oneself by austerities, but meditate on Dhamma and weigh the righteous law.

13. "We are enclosed on all sides by the rocks of sorrow and ill and only by considering the true law can we escape from this sorrow-filled mountain.

14. "What profit, then, in practising inequity ?

15. "All who are wise spurn the pleasures of the body. They loathe lust and seek to promote their spiritual existence.

16. "When a tree is burning with fierce flames,

how can the birds congregate therein ? Truth cannot dwell where passion lives. Without a knowledge of this, the learned man, though he may be praised as a sage, is ignorant.

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17. "On him who has this knowledge true wisdom dawns. To acquire this wisdom is the one aim needed. To neglect it implies the failure of life.

18. "The teachings of all schools should centre here, for without it there is no reason.

19. "This truth is not for the hermit alone ; it concerns every human being, priest and layman alike. There is no distinction between the monk who has taken the vows, and the man of the world living with his family. There are hermits who fall into perdition, and there are humble householders who mount to the rank of rishis.

20. "The tide of lust is a danger common to all ; it carries away the world. He who is involved in its eddies finds no escape. But wisdom is the handy boat, reflection is the rudder. The slogan of religion calls you to the rescue of your self from the assaults of Mara, the enemy.

21. "Since it is impossible to escape the result of our deeds, let us practise good works.

22. "Let us inspect our thoughts that we do no evil, for as we sow so shall we reap.

23. "There are ways from light into darkness and from darkness into light. There are ways, also, from gloom into deeper darkness, and from the dawn into brighter light. The wise man will use the light as he has to receive more light. He will constantly advance to the knowledge of the truth.

24. "Exhibit true superiority by virtuous conduct and the exercise of reason; meditate deeply on the vanity of earthly things, and understand the fickleness of life.

25. "Elevate the mind, and seek sincere faith with firm purpose ; transgress not the rules of kingly conduct, and let your happiness depend, not upon external things but upon your own mind. Thus you will lay up a good name for distant ages.

26. The king listened with reverence and remembered all the words of the Blessed One in his heart and promised to become his lay disciple.

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§ 7. *Conversion of Jeevaka*

1. Jeevaka was the son of Salvati, a courtesan of Rajagraha.

2. Immediately after birth the child, being illegitimate, was placed in a basket and thrown on a dust-heap.

3. A large number of people were standing by the dust-heap watching the child. Abhaya, the Rajakumara, happened to pass by the site. He questioned the people who said : "It is alive."

4. For this reason the child was called Jeevaka. Abhaya adopted him and brought him up.

5. When Jeevaka grew in age he learned how he was saved and was charged with the intense desire to qualify himself to save others.

6. He therefore went to the University of Takashila without the knowledge and permission of Abhaya and studied medicine for seven years.

7. Returning to Rajagraha he set up his practice as a doctor and within a very short time acquired a great name and fame in the profession.

8. His first patient was the wife of a sethi of Saketa and for curing her he received sixteen thousand kahapanas, a man-servant, a maid-servant and a coach with a horse.

9. Knowing his eminence, Abhaya gave him residence in his own establishment.

10. At Rajagraha he cured Bimbisara of a troublesome fistula and is said to have received as reward all the ornaments of Bimbisara's five hundred wives.

11. Other noteworthy cures of Jeevaka included that of the sethi of Rajagraha on whom he performed the operation of trepanning and of the son of the sethi of Benares who was suffering from chronic intestinal trouble due to misplacement.

12. Jeevaka was appointed physician to the king and the king's women.

13. But Jeevaka was greatly attached to the Blessed Lord. Consequently he also acted as a physician to him and the Sangh.

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14. He became a disciple of the Lord. The Blessed Lord did not make him a Bhikku as he wanted him to remain free to tend to the sick and the wounded.

15. When Bimbisara died Jeevaka continued to serve his son Ajatsatru and was mainly instrumental in bringing him to the Lord after his crime of parricide.

§ 8. *The Conversion of Ratthapala*

1. Once when the Lord was on an alms pilgrimage in the Kuru country with a great company of almsmen, he stayed at Thullakotthita, which was a township of the Kurus.

2. They came to know of it and went to him to pay their respects.

3. When they were seated, the Lord instructed them with a discourse on the Doctrine. Having received their instruction from the Lord, the Brahmin heads of houses of Thullakotthita gratefully thanked him, rose up and departed with deep obeisance.

4. Seated among them was a young man named Ratthapala, a scion of a leading family of the place, to whom this thought came : "So far as I understand, the Doctrine which the Lord has preached is no easy matter for one who lives in a home to lead the higher life in all its fullness, purity, and perfection.

5. "What if I were to cut off hair and beard, don the yellow robes and go forth from home to homelessness as a pilgrim !"

6. When the Brahmins had not been gone long, then Ratthapala came up and, after salutations, told the Lord the thought which had come to him, and asked to be admitted to, and confirmed in, the confraternity under him.

7. "Have you your parents' consent to this step, Ratthapala ? ' asked the Lord.

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8. "No, Sir."

9. "I do not admit those who have not their parents' consent."

10. "That consent, Sir, I will take steps to obtain," said the young man, who rising up and taking a reverential leave of the Lord, went off to his parents, told them his thoughts and asked their consent to his becoming a Bhikku.

11. The parents made answer as follows : "Dear Ratthapala, you are our only son, very dear to us and beloved ; you live in comfort and have been brought up in comfort, with no experience at all of discomfort. Go away ; eat, drink, enjoy yourself, and do good works in all happiness. We refuse our consent.

12. "Your death would leave us desolate, with no pleasure left in life ; why, while we have you still, should we consent to your going forth from home to homelessness as a Bhikku".

13. A second and yet a third time did Ratthapala repeat his request, only to be met by the same refusal from his parents.

14. Failing thus to get his parents' consent, the young man flung himself down on the bare ground, declaring that he would either die there or become a Bhikku.

15. His parents entreated him to get up while repeating their objections to his becoming a Bhikku, but the young man said not a word. A second and a third time they entreated him but still he said not a word.

16. So the parents sought out Ratthapala's companions to whom they told all this and besought them to urge, as from themselves, what his parents had said to him.

17. Thrice his companions appealed to him, but still he said not a word. So his companions came to the parents with this report : "There on the bare ground he lies, declaring that he will either die there or become a Bhikku. If you refuse your consent, he will never get up alive. But, if you give your consent, you will see him when he has become a Bhikku. Should

he not like being a Bhikku, what alternative will he have ! Why, only to come back here. Do give your consent!" they urged.

18. "Yes, we consent ; but when he is a Bhikku, he must come and see us."

19. Off now went his companions to Ratthapala, and they told him that his parents had given their consent, but that when he was a Bhikku he was to come and see them.

20. Thereupon the young man arose and, when he had regained his strength, betook himself to the Lord, and after salutations seated himself on one side, saying: "I have got my parents' consent to my becoming a Bhikku ; I ask the Lord to admit me."

21. Admission and confirmation were granted him under the Lord; and a fortnight afterwards the Lord, having stayed at Thullakotthita as long as he wanted, proceeded on his alms pilgrimage towards Sravasti, where he took up his abode in Jeta's grove in Anathapindika's pleasance.

22. Dwelling alone and aloof, strenuous, ardent and purged of self, the reverend Ratthapala was not long before he won the prize in quest of which young men go forth from home to homelessness as Bhikkus, that prize of prizes which crowns the highest life.

23. Then, he went to the Lord and, seated on one side after salutations, said that with the Lord's permission, he wished to go and see his parents.

24. Scanning with his own heart the thoughts of Ratthapala's heart, and recognizing thereby that he was incapable of abandoning his training and reverting to the lower life of a layman, the Lord bade him go when he would.

25. Hereupon, rising up and taking his leave of the Lord with deep reverence, Ratthapala, after duly putting away his bedding, set out, with his robe and bowl, on an alms pilgrimage to Thullakotthita where he took up his abode in the deer-park of the Kuru king.

26. Early next morning, duly robed and bowl in hand, he went into the town for alms, and there as he

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passed from house to house on his undiscriminating round, he came to his father's house.

27. Indoors, in the hall within the middle door, his father was having his hair combed and, seeing Ratthapala coming in the distance, he said : "It was these shavelings of recluses who made Bhikku of my only dear and beloved son."

28. So at his own father's house Ratthapala was given nothing, not even a refusal; all he got was abuse.

29. At this moment a slave-girl of the family was about to throw away the previous day's stale rice; and to her Ratthapala said: "If, sister, that is to be thrown away, put it in my bowl here."

30. As the girl was doing so, she recognized his hands and feet and voice, and going straight to her mistress, cried out: "Do you know, madam, the young master is back."

31. "If what you say is true, you are a slave no longer," said the mother, who hurried off to tell her husband that she heard their son was back.

32. Ratthapala was eating that stale rice under the hedge when his father arrived, exclaiming; "Can it be, my dear son, that you are eating stale rice? Should you not have come to your own house ?"

33. Said Ratthapala, "What house of our own, householder, can we have who are homeless, having gone forth from home to homelessness ? I did come to your house, where I was given nothing not even a refusal ; all I got was abuse."

34. 'Come, my son; let us go indoors.' 'Not so, householder; I have finished my eating for today.' said Ratthapala.

35. 'Well then, my son promise to take your meal here tomorrow.'

36. By his silence the reverend Ratthapala gave consent.

37. Then the father went indoors,—where first he ordered great heaps of gold and bullion to be piled up under a covering of mats and then he told his daughters-in-law, who had been the reverend

Ratthapala's wives aforetime, to deck themselves out in all the finery their husband liked to see them in.

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38. When night had passed, the father, having ordered an excellent meal to be got ready in his house, told his son when it was ready. Early that forenoon, the reverend Ratthapala, duly robed and bowl in hand, came and took the seat set for him.

39. Hereupon, ordering the heap of treasure to be unveiled, the father said: 'This is your mother's fortune, that is your father's and that came from your grandfather. You have the wherewithal both to enjoy yourself and to do good works.

40. 'Come, my son ; abandon your training; revert to the lower life of the layman; enjoy your substance and do good works.'

41. 'If you will take my advice, householder, you will cart away all this heaped-up treasure and sink it in the middle of the Ganges. And why ? Because thence you will only derive sorrow and lamentation, ills, pain of mind, pain of body and tribulation.'

42. Clinging to his feet, the reverend Ratthapala's whilom wives asked like what were the nymphs divine for whose sake he was leading the higher life.

43. "For the sake of no nymphs at all, sisters," said he.

44. At hearing themselves called sisters, the ladies all fainted and fell to the ground.

45. Said Ratthapala to his father: "If food is to be given, householder, give it; trouble me not."

46. "The food is ready, my son ; begin," said the father as he served that excellent meal without stint till his son had his fill.

47. After taking food he departed to the deer-park of the Kuru king, where he sat down under a tree during the noontide heat.

48. Now the king had given directions to his huntsman to tidy up the park against his coming to see it ; and the obedient huntsman was engaged on his task when he saw Ratthapala seated under a tree during the noontide heat, and reported to the king that the park was in order but that under a tree there

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was seated Ratthapala, the young gentleman of whom His Majesty had often heard tell.

49. "Never mind about the park today," said the king; "I will pay a call on His Reverence." Ordering, therefore, all the repast which had been prepared to be made ready, he mounted a chariot and drove forth in procession in royal state out of the city to see Ratthapala.

50. Riding as far as the ground was passable for his chariot and proceeding thence on foot with his princely train, the king came at last upon the reverend Ratthapala, whom, after exchange of courteous greetings, the king—still standing—invited to be seated on a clump of flowers.

51. "Nay, sire; sit you there, I have got a seat."

52. Seating himself on the seat indicated to him, the king said: 'There are four kinds of losses, Ratthapala, which impel men to cut off hair and beard, don the yellow robes, and go forth from home to homelessness—namely, (i) old age, (ii) failing health, (iii) impoverishment, and (iv) death of kinsfolk.

53. "Take a man who, being aged and old, far advanced in life, stricken in years, and at the close of life, recognizes his position, and realizes the difficulty either of acquiring new wealth or of doing well with what he has got; so he decides to take to homelessness. This is known as the loss which old age entails. But here are you in the prime of youth and early manhood, with a wealth of coal-black hair untouched by grey, and in all the beauty of your prime;—not yours is the loss old age entails. What have you known or seen or heard to make you take to homelessness ?

54. "Or take a man who, being in ill-health or pain, or gravely ill, recognizes his position and realizes the difficulty either of acquiring new wealth or doing well with what he has already; so he decides to take to homelessness. This is known as the loss which failing health entails. But here are you neither ill nor ailing, with a good digestion maintained by humours neither too hot nor too cold ; not yours is the loss which failing health entails. What have you

known or seen or heard to make you take to homelessness ?

55. "Or take a man who, after being rich and wealthy and of great substance, and after gradually losing it, recognizes his position and realizes the difficulty either of acquiring new wealth or of doing well with what he has got; so he decides to become a pilgrim. This is known as the loss which impoverishment entails. But the revered Ratthapala is the son of leading family in this very Thullakotthita, and there is none of this loss of wealth for the revered Ratthapala. What has the good Ratthapala known or seen or heard that he has gone forth from home into homelessness ?

And what, good Ratthapala, is loss of relations ? As to this, good Ratthapala, someone has many friends and acquaintances, kith and kin, but gradually these relations of his diminish. He reflects thus: 'Formerly I had many friends and acquaintances, kith and kin, but gradually these relations of mine have diminished, so it is not easy for me to acquire wealth etc....' So he that is followed by this loss of relations, having cut off hair and beard, having donned saffron garments, goes forth from home into homelessness.

This is known as the loss which kinsfolk's death entails. But here are you with a host of friends and relations; not yours is the loss which kinsfolk's death entails. What have you known or seen or heard to make you take to homelessness?"

56. "I have gone forth," replied Ratthapala, sire, from home to homelessness because I have known, seen, and heard the following four propositions enunciated by the All-Englightened Lord who knows and sees :

"(i) The world is in continual flux and change.

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"(ii) The world has no protector or preserver.

"(iii) We own nothing; we must leave everything . behind.

"(iv) The world lacks and hankers, being enslaved to craving."

57. "It is wonderful, it is marvellous," said the king, "how right in this the Lord was !"

PART IV

Call from Home

1. Suddhodana and the Last Look.
2. Meeting Yeshodhara and Rahula.
3. Reception by the Sakyas.
4. Last attempt to make Him a Householder.
5. The Buddha's answer.
6. The Minister's reply.
7. The Buddha's Determination.

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§ 1. Suddhodana and the Last Look

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1. After the conversion of Sariputta and Moggallana the Lord stayed in Rajagraha for two months.

2. Having heard that the Lord was residing at Rajagraha, Suddhodana, his father, sent word to him saying : "I wish to see my son before I die. Others have had the benefit of his doctrine, but not his father nor his relatives."

3. The man with whom the message was sent was Kaludayin, the son of one of the courtiers of Suddhodana.

4. And the messenger on arrival said: "O, world-honoured Tathagata, your father looks for your coming, as the lily longs for the rising of the sun."

5. The Blessed One consented to the request of his father and set out on the journey to his father's house accompanied by a large number of his disciples.

6. The Lord journeyed by slow stages. But Kaludayin went ahead of him to inform Suddodhana that the Blessed One was coming and was on his way.

7. Soon the tidings spread in the Sakya country. "Prince Siddharth, who wandered forth from home into homelessness to obtain enlightenment, having attained his purpose, is coming home to Kapilavatsu." This was on the lips of every one.

8. Suddhodana and Mahaprajapati went out with their relatives and ministers to meet their son. When they saw their son from afar, they were struck with his beauty and dignity and his lustre and they rejoiced in their heart, but they could find no words to utter.

9. This indeed was their son ; these were the features of Siddharth ! How near was the great Samana to their heart and yet what a distance lay between them ! That noble muni was no longer Siddharth their son ; he was now the Buddha, the Blessed One, the Holy One, Lord of Truth and Teacher of Mankind !

10. Suddhodana, considering the religious dignity of their son, descended from the chariot and having saluted him first, said : "It is now seven years since

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we saw you. How we have longed for this moment."

11. Then the Buddha took a seat opposite his father, and the king eagerly gazed at his son. He longed to call him by his name but he dared not. "Siddharth," he exclaimed silently in his heart, "Siddharth, come back to your old father and be his son again." But seeing the determination of his son, he suppressed his sentiments. Desolation overcame him and Mahaprajapati.

12. Thus the father sat face to face with his son, rejoicing in his sadness and sad in his rejoicing. Well may he be proud of his son, but his pride broke down at the idea that his great son would never be his heir.

13. "I would offer thee my kingdom," said the king, "but if I did, thou wouldst account it but as ashes."

14. And the Lord said : "I know that the king's heart is full of love and that for his son's sake he feels deep grief. But let the ties of love that bind you to the son whom you lost, embrace with equal kindness all your fellow-beings, and you will receive in his place a greater one than your son Siddharth ; you will receive one who is the teacher of truth, the preacher of righteousness, and the bringer of peace and of Nirvana will enter into your heart."

15. Suddhodana trembled with joy when he heard the melodious words of his son, the Buddha, and clasping his hands, exclaimed with tears in his eyes : "Wonderful is the change! The overwhelming sorrow has passed away. At first my sorrowing heart was heavy but now I reap the fruit of your great renunciation. It was right that moved by your mighty sympathy, you should reject the pleasures of power and achieve your noble purpose in religious devotion. Having found the path you can now preach your Dhamma to all that yearn for deliverance."

16. Suddhodana returned to his house while the Buddha remained in the grove with his companions.

17. The next morning the Blessed Lord took his bowl and set out to beg for his food in Kapilavatsu.

18. And the news spread : "Siddharth is going

from house to house to receive alms in the city where he used to ride in a chariot attended by his retinue. His robe is like a red clod and he holds in his hand an earthen bowl."

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19. On hearing the strange rumour, Suddhodana went forth in great haste and exclaimed : "Why do you disgrace me thus ? Do you not know that I can easily supply you and your Bhikkus with food ?"

20. And the Lord replied: "It is the custom of my Order."

21. "But how can this be ? You are not one of them that ever begged for food."

22. "Yes, father," rejoined the Lord, "You and your race may claim descent from kings; my descent is from the Buddhas of old. They begged their food, and always lived on alms."

23. Suddhodana made no reply, and the Blessed One continued: "It is customary, when one has found a hidden treasure, for him to make an offering of the most precious jewel *to* his father. Suffer me, therefore, to offer you this treasure of mine which is the Dhamma."

24. And the Blessed Lord told his father: "If you free yourself from dreams, if you open your mind to truth, if you be energetic, if you practise righteousness, you will find eternal bliss."

25. Suddhodana heard the words in silence and replied: "My son ! What thou sayst will I endeavour *to* fulfil."

§ 2. *Meeting Yeshodhara and Rahula*

1. Then Suddhodana conducted the Blessed Lord into his house and all the members of the family greeted him with great reverence.

2. But Yeshodhara, the mother of Rahula, did not make her appearance." Suddhodana sent for Yeshodhara, but she replied: "Surely, if I am deserving of any regard, Siddhartha will come and see me."

3. The Blessed One, having greeted all his

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relatives and friends, asked: "Where is Yeshodhara ?" and on being informed that she had refused to come, he rose straightaway and went to her apartment.

4. "I am free," the Blessed One said to his disciples Sariputta and Moggallana whom he had bidden to accompany him into Yeshodhara's chamber; "But Yeshodhara, however, is not as yet free. Not having seen me for a long time, she is exceedingly sorrowful. Unless her grief be allowed to run its course her heart will cleave. Should she touch the Tathagata, the Holy One, you must not prevent her."

5. Yeshodhara sat in her room in deep reflection. When the Blessed One entered, she was, from the abundance of her affection, like an overflowing vessel, unable to contain herself.

6. Forgetting that the man whom she loved was Buddha, the Lord of the World, the Preacher of Truth, she held him by his feet and wept bitterly.

7. Remembering, however, that Suddhodana was present, she felt ashamed and rose up, sitting herself reverently at a little distance.

8. Suddhodana apologized for Yeshodhara, saying: "This arises from her deep affection, and is more than a temporary emotion. During the seven years that she has lost her husband, when she heard that Siddharth had shaved his head, she did likewise; when she heard that he had left off the use of perfumes and ornaments she also refused their use. Like her husband she has eaten at appointed times from an earthen bowl only.

9. "If this is more than a temporary emotion it is not for want of courage."

10. And the Blessed One spoke to Yeshodhara telling of her great merits and the great courage she showed when he took Parivraja. Her purity, her gentleness, her devotion had been invaluable to him as a Bodhisattva when he aspired to the highest aim of mankind to attain enlightenment. This, then, was her karma, and it was the result of great merits.

11. Her grief had been unspeakable, and the glory that surrounded her spiritual inheritance increased

by her noble attitude during her life and had made her a unique person.

12. Then Yeshodhara dressed Rahula, now seven years old, in all the splendour of a prince and said to him :

13. "This holy man, whose appearance is so glorious that he looks like the Great Brahma, is your father. He possesses great mines of wealth which I have not yet seen. Go to him and entreat him *to* put you in the possession thereof for the son ought to inherit the property of the father."

14. Rahula replied : "Who is my father. I know of no father but Suddhodana."

15. Yeshodhara took the boy in her arms and from the window she pointed out to the Lord, who happened to be near, partaking of food among the Bhikkus, informing him that he was his father and not Suddhodana.

16. Rahula then went to him and looking up in his face, said without fear and with much affection:

17. "Aren't thou my father !" And standing near by him, he added: "O Samana, even your shadow is full of bliss !" The Blessed One remained silent.

18. When the Tathagata had finished his repast, he gave blessings and went away from the palace, but Rahula followed and asked him for his inheritance.

19. No one prevented the boy, nor did the Blessed One himself.

20. Then the Blessed One turned to Sariputta, saying: "My son asks for his inheritance. I cannot give him perishable treasures that will bring cares and sorrows, but I can give him the inheritance of a holy life, which is a treasure that will not perish."

21. Addressing Rahula with earnestness, the Blessed One said : "Gold and silver and jewels have I none. But if you are willing to receive spiritual treasures, and are strong to carry them and to keep them, I have plenty. My spiritual treasure is the path of righteousness. Do you desire to be admitted to the brotherhood of those who devote their life to the

culture of the mind seeking for the highest bliss attainable ?"

22. And Rahula replied with firmness: "I do."

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23. When Suddhodana heard that Rahula had joined the brotherhood of the Bhikkus he was greatly grieved.

§ 3. Reception by the Sakyas

1. On his return to the country of the Sakyas the Lord found his countrymen divided into two camps. One in favour and the other against him.

2. This recalled to his mind the old clash of opinion that took place in the Sakya Sangh when the issue of war between the Sakyas and Koliyas was fought and in which he had played so prominent a part.

3. Those against him refused even now to do obeisance to him and to recognize his greatness. Those for him had already decided to dedicate a son per household to form a retinue for him. These now decided to enter the Order and set out with the Lord on his return to Rajagraha.

4. Among the families which had decided to dedicate a son there was the family of Amitodana.

5. Amitodana had two sons. One was Anuruddha, who had been very delicately nurtured, and the other Mahanama.

6. And Mahanama went to Anuruddha, saying: "Either do you renounce the world, or I will do so." And Anuruddha replied, "I am delicate. It is impossible for me to go forth from the household life into the homeless state. You do so."

7. "But come now, dear Anuruddha, I will tell you what is incident to the household life. First, you have to get your fields ploughed. When that is done, you have to get them sown. When that is done, you have to get the water led down over them. When that is done, you have to get the water led off again. When that is done, you have to get the seeds pulled up. When that is done, you have to get the crop reaped.

When that is done, you have to get the crop carried away. When that is done, you have to get it arranged into bundles. When that is done, you have to get it trodden out. When that is done, you have to get the straw picked out. When that is done you have to get the chaff removed. When that is done, you have to get it winnowed. When that is done, you have to get the harvest garnered. When that is done, you have to do just the same next year, and the same all over again the year after that.

8. "The work is never over ; one sees not the end of one's labour. O, when shall our work be over ? When shall we see the end of our labours ? When shall we, still possessing and retaining the pleasures of our five senses, yet dwell at rest ? Yes, the work, dear Anuruddha, is never over ; no end appears to our labours."

9. "Then do you take thought for the household duties. I will go forth from the household life into the houseless state," said Anuruddha.

10. And Anuruddha, the Sakyan, went to his mother, and said to her. "I want, mother, to go forth from the household life into the houseless state. Grant me thy permission to do so."

11. And when he had thus spoken, his mother replied to Anuruddha, the Sakyan, saying : "You two, dear Anuruddha, are my two sons, near and dear to me, in whom I find no evil. Through death I shall some day, against my will, be separated from you but how can I be willing, whilst you are still alive, that you should go forth from the household life into the houseless state ?"

12. And a second time Anuruddha made the same request, and received the same reply. And a third time Anuruddha made the same request to his mother.

13. Now at that time Bhaddiya, the Sakyan Raja, held rule over the Sakyans ; and he was a friend of Anuruddha. And the mother of Anuruddha, thinking that that being so, the raja would not be able to renounce the world, said to her son: "Dear Anuruddha,

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if Bhaddiya the Sakyan raja will renounce the world, you also may go forth with him."

14. Then Anuruddha went to Bhaddiya and said to him : "My renunciation of the world, dear friend, is being obstructed by you."

15. "Then let that obstruction, dear friend, be removed. I am with you. Renounce the world according to your wish."

16. "Come, dear friend, let us both renounce the world together !"

17. "I am not capable, dear friend, of giving up the household life. Whatsoever else you can ask of me, that will I do. Do you go forth alone," said Bhaddiya.

18. "Mother, dear friend, has told me that if you do so, I may. And you have even now declared, 'If your renunciation be obstructed by me, then let that obstruction be removed. Even with you will I renounce the world according to your wish.' Come then, dear friend, let us both renounce the world."

19. And Bhaddiya, the Sakyan raja said to Anuruddha, "Wait, my friend, for seven years. At the end of seven years we will renounce the world together."

20. "Seven years are too long, dear friend. I am not able to wait for seven years."

21. Bhaddiya reduced the offer to six years and so on down to one year, to seven months and so on down to one month, and a fortnight. To each offer Anuruddha replied, "Too long a time to wait."

22. Then the raja says : "Wait, my friend, for seven days, whilst I hand over the kingdom to my sons and my brothers."

23. "Seven days is not too long. I will wait thus far," was the reply.

24. So Bhaddiya the Sakyan raja and Anuruddha and Ananda and Bhagu and Kimbila and Devadatta—just as they had so often previously gone out to the pleasure-ground with fourfold array—even so did they now go out with fourfold array, and Upali, the barber, went with them, making seven in all.

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25. And when they had gone some distance they sent their retinue back and crossed over into the neighbouring district, and took off their fine things and wrapped them in their robes, and made a bundle of them, and said to Upali the barber : "Do you now, good Upali, turn back to Kapilavatsu. These things will be sufficient for you to live upon. We will go and join the Blessed One." And so they went ahead.

26. They went on and Upali parted company for the purpose of going back home.

§ *4. Last attempt to make Him a Householder*

1. Suddhodana wept bitterly at the thought of his son going away never to be seen again.

2. Then Suddhodana spoke to his counsellor and his family priest and asked them if they could go and persuade his son to stay back and join the family.

3. The family priest accompanied by the counsellor, in obedience to the wishes of the king, went and overtook him on the way.

4. They paid him honour as was fitting, and having obtained his permission, sat down near him.

5. The family priest addressed the Lord as he sat at the foot of the tree.

6. "O prince, consider for a moment the feelings of the king with his eyes raining tears with the arrow of thy Separation plunged into his heart. He has asked you to come back home. It is then only that he can die peacefully.

7. "I know that thy resolve is fixed upon religion, and I am convinced that this purpose of thine is unchanging ; but I am consumed with a flame of anguish like fire at thy going into this homeless state.

8. "Come, thou who lovest duty,—abandon this purpose for the sake of duty.

9. "Enjoy for a while the sovereignty of the earth, —thou shalt go to the forest at the time provided by the sastras,—do not show disregard for thy unhappy

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kindred. Compassion for all creatures is the true religion.

10. "Religion is not wrought out only in the forests, the salvation of ascetics can be accomplished even in a city ; thought and effort are the true means; the forest and the badge are only a coward's signs.

11. "The king of the Sakyas is drowned in a deep sea of sorrow, full of waves of trouble, springing from thee ; do thou therefore deliver him who is helpless and protectorless like an ox drowning in the sea.

12. "Consider also the queen, who brought thee up, who has not yet gone to the region inhabited by Agastya—wilt thou not take some heed of her, who ceaselessly grieves like a cow that has lost her calf?

13. "Surely thou wilt succour thy wife by the sight of thee, who now mourns as a widow yet with her lord still alive,—like a swan separated from her mate or a female elephant deserted in the forest by her companion."

14. The Lord having heard the words of the family priest, reflected for a moment, knowing all the virtues of the virtuous, and then thus uttered his gentle reply :

§ 5. *The Buddha's Answer*

1. "I well know the paternal tenderness of the king, especially that which he has displayed towards me ; yet knowing this as I do, still alarmed at the ill and sorrow which pervades the world, I am inevitably forced to leave my kindred.

2. "Who would not wish to see his dear kindred, if but this separation from beloved ones did not exist? But since even after it has been once, separation will still come again, it is for this that I abandon my father, however loving.

3. "I do not however approve that thou shouldst think the king's grief as caused by me, when in the midst of his dream-like unions, he is afflicted by thoughts of separations in the future.

4. "Thus let thy thoughts settle into certainty,

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having seen the multiform in its various developments; neither a son nor kindred is the cause of sorrow,—this sorrow is caused only by ignorance.

5. "Since parting is inevitably fixed in the course of time for all beings, just as for travellers who have joined company on a road,—what wise man would cherish sorrow, when he loses his kindred, even though he loves them ?

6. "Leaving his kindred in another world, he departs hither, and having stolen away from them here, he goes forth once more ; having gone thither, he goes elsewhere also,—such is the lot of mankind,—what consideration can the liberated have for them ?

7. "Since from the moment of leaving the womb death is a characteristic adjunct, why, in thy affection for thy son, hast thou called my departure to the forest ill-timed ?

8. "There may be an 'ill time' in one's attaining a worldly object,—time indeed is described as inseparably connected with all things; time drags the world into all its various times ; but all time suits a bliss which is really worthy of praise.

9. "That the king should wish to surrender to me his kingdom,—this is a noble thought, well worthy of a father ; but it would be as improper for me to accept it, as for a sick man through greed to accept unwholesome food.

10. "How can it be right for the wise to enter royalty, the home of illusion, where are found anxiety, passion, and weariness ; and the violation of all right through another's service ?

11. "The golden palace seems to me to be on fire ; the daintiest viands seem mixed with poison ; infested with crocodiles is the tranquil lotus-bed."

§ 6. *The Minister's Reply*

1. Having heard the Buddha's discourse, well suitable to his virtues and knowledge, freed from all desires, full of sound reasons, and weighty,—the counsellor thus made answer :

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2. "This resolve of thine is an excellent counsel, not unfit in itself but only unfit at the present time : it could not be thy duty, loving duty as thou dost, to leave thy father in his old age to sorrow.

3. "Surely thy mind is not very penetrating, or it is ill-skilled in examining duty, wealth, and pleasure,—when for the sake of an unseen result thou departest disregarding a visible end.

4. "Again some say that there is another birth,—others with confident assertion say that there is not, since then the matter is all in doubt, it is right to enjoy the good fortune which comes into thy hand.

5. "If there is any activity hereafter, we will enjoy ourselves in it as may offer ; or if there is no activity beyond this life, then there is an assured liberation to all the world without any effort.

6. "Some say there is a future life, but they do not allow the possibility of liberation ; as fire is hot by nature, and water liquid, so they hold that there is a special nature in our power of action.

7. "Some maintain that all things arise from inherent properties,—both good and evil and existence and non-existence : and since all this world thus arises spontaneously, therefore also all effort of ours is vain.

8. "Since the action of the senses is fixed, and so too the agreeableness or the disagreeableness of outward objects,—then for that which is united to old age and pains, what effort can avail to alter it ? Does it not all arise spontaneously ?

9. "The fire becomes quenched by water, and fire causes water to evaporate ; and different elements, united in a body, producing unity, bear up the world.

10. "That the nature of the embryo in the womb is produced as composed of hands, feet, belly, back, and head, and that it is also united with the soul,—the wise declare that all this comes of itself spontaneously.

11. "Who causes the sharpness of the thorn? Or the various natures of beasts and birds ? All this has arisen spontaneously ; there is no acting from desire, how then can there be such a thing as will ?

12. "Others say that creation comes from Isvara,

—what need then is there of the effort of the conscious soul ? That which is the cause of the action of the world, is also determined as the cause of its ceasing to act.

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13. "Some say that the coming into being and the destruction of being are alike caused by the soul, but they say that coming into being arises without effort, while the attainment of liberation is by effort.

14. "A man discharges his debt to his ancestors by begetting offspring, to the saints by sacred lore, to the gods by sacrifices ; he is born with these three debts upon him,—whoever has liberation (from these), he indeed has liberation.

15. "Thus by this series of rules the wise promise liberation to him who uses effort ; but however ready for effort with all their energy, those who seek liberation will find weariness.

16. "Therefore, gentle youth, if thou hast a love for liberation, follow rightly the prescribed rule ; thus wilt thou thyself attain to it, and the king's grief will come to an end.

17. "And as for thy meditations on the evils of life ending in thy return from the forest to thy home,— let not the thought of this trouble thee, my son,—those in old time also have returned from the forests to their houses." He mentioned Ambarish Drumakesha, Rama and others.

§ 7. *The Buddha's Determination*

1. Then having heard the affectionate and loyal words of the minister, who was as the eye of the king,—firm in his resolve, the king's son made his answer, with nothing omitted or displaced, neither tedious nor hasty:

2. "This doubt whether anything exists or not, is not to be solved for me by another's words ; having determined the truth by asceticism or quietism, I will myself grasp whatever is the truth concerning it.

3. "It is not for me to accept a theory which depends on the unknown and is all controverted, and

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which involves a hundred prepossessions ; what wise man would go by another's belief ? Mankind is like the blind directed in darkness by the blind.

4. "But even though I cannot discern the truth yet still, if good and evil are doubted, let one's mind be set on the good ; even a toil in vain is to be chosen by him whose soul is good.

5. "But having seen that this 'sacred tradition' is uncertain, know that that only is right which has been uttered by the trustworthy ; and know that trustworthiness means the absence of faults ; he who is without faults will not utter an untruth.

6. "And as for what thou saidst to me in regard to my returning home, the examples you give are no authority,—for in determining duty, how canst thou quote as authorities those who have broken their vows ?

7. "Even the sun therefore may fall to the earth, even the mountain Himavat may lose its firmness ; but never could I return to my home as a man of the world, with my senses only alert for external objects.

8. "I would enter the blazing fire, but not my house with my purpose unfulfilled." Rising up in accordance with his resolve full of disinterestedness, he went his way.

9. Then the minister and the Brahmin, both full of tears, having heard his firm determination, and having followed him a while with despondent looks, and overcome with sorrow, slowly returned to Kapilavatsu.

10. Through their love for the prince and their devotion to the king they returned, and often stopped looking back, they could neither behold him on the road nor yet lose the sight of him,—shining in his own splendour and beyond the reach of all others, like the sun.

11. Having failed to persuade him to return home, the minister and the priest went back with faltering steps, saying to each other, "How shall we approach the king and see him, who is longing for his dear son ?"

PART V

Campaign for Conversion resumed

1. Conversion of Rustic Brahmins.
2. Conversion of the Brahmins of Uttaravati.

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§ 1. Conversion of Rustic Brahmins

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1. At the back of the Gridhrakutta mountains, near Rajagriha, there was a village, of some seventy or so families, all of them Brahmins.

2. The Buddha, wishing to convert these people, came to the place and sat down under a tree.

3. The people seeing the dignity of his presence, and the glorious appearance of his body, flocked round him, on which he asked the Brahmins how long they had dwelt in the mountain there, and what their occupation was.

4. To this they replied: "We have dwelt here during thirty generations past, and our occupation is to tend cattle."

5. On asking further as to their religious belief they said : "We pay homage and sacrifice to the sun and the moon, the rain (water), and fire, according to the several seasons.

6. "If one of us dies, we assemble and pray that he may be born in the heaven of Brahma, and so escape further transmigrations."

7. The Buddha replied: "This is not a safe way, not by it can you benefit. The true way is to follow me, become true ascetics, and practise complete self-composure with a view to obtain Nirvana"; and then he added these lines :

8. "They who consider truth as that which is untrue, and regard that which is untrue as truth, this is but to adopt heretical opinions, and can never lead to true advantage.

9. "But to know as truth that which is true, and to regard as false that which is false, this is perfect rectitude, and this shall bring true profit.

10. "Everywhere in the world there is death— there is no escape from it.

11. "To consider this as the condition of all states of being that there is nothing born but must die, and, therefore, to desire to escape birth and death, this is to exercise one's self in Religious Truth."

12. The seventy Brahmins hearing these words,

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desired at once to become Shamans ; and on being welcomed by Buddha, their hair fell off, and they presented the appearance of true disciples.

13. Then they all set out to return to the Vihara, and on the road certain thoughts about their wives and families troubled them whilst at the same time a heavy downpour of rain prevented their advance.

14. There were some ten houses on the roadside, in which they sought shelter; but on entering one of them it was soon perceived that through the roof the rain found its way, and there was but little protection from the rain.

15. On this the Buddha added these lines, and said, "As when a house-roof is not properly secured, then the rain finds a way through it and drops within, so when the thoughts are not carefully controlled, the desires (sexual desires) will soon bore through all our good resolutions.

16. "But as when a roof is well stopped then the water cannot leak through, so by controlling one's thoughts, and acting with reflection, no such desires can arise or disturb us."

17. The seventy Brahmins, on hearing these lines, although convinced that their desires were reprehensible, yet were not wholly free from doubt, nevertheless they went forward.

18. As they advanced they saw some scented wrapping on the ground, and Buddha took the opportunity of calling their attention to it; and after this, seeing some fish-gut also lying about, he directed their notice to its ill odour and then added these lines and said :

19. "He who consorts with the low and the base, contracts the same character as he who handles a foul substance; he goes from worse to worse, and utterly without reason, he perfects himself in wickedness.

20. "But the wise man (consorting with the wise) contracts the same character, even as the scent of a sweet odour adheres to him who handles it; advancing in wisdom, practising virtue, he goes on to perfection, and is satisfied."

21. The seventy Brahmins, hearing these verses, convinced that their desire to return home and enjoy personal indulgence was the evil taint that adhered to them, cast off such thoughts, and, going forward, came to the Vihara, and finally obtained the condition of Arahtas.

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§ 2. *Conversion of the Brahmins of Uttaravati*

1. Once the Buddha was residing in the Jetavana, at Shravasti, and preaching his doctrine for the benefit of men and gods, there were in a country to the eastward, called Uttaravati, a company of 500 Brahmins.

2. They had agreed to go together to the residence of a Nirgrantha ascetic on the banks of the Ganges, who, by polluting himself with dirt, etc., aspired to the condition of a Rishi.

3. On their way they were overtaken in the desert with thirst. Seeing a tree, and hoping to find some human habitation near, they hastened to it, but when they arrived there they found no sign of life.

4. On this they raised their voices in lamentation. Suddenly from the tree they heard the voice of the resident Spirit, who asked them why they lamented so, and on hearing the reason, supplied them to the full with drink and meat.

5. The Brahmins, ready to start onward, asked the Spirit what had been his previous history, that he was thus born.

6. On which he explained that having gone to the assembly of priests in Shravasti when Sudatta had bestowed the garden on the Buddha, he had remained all night listening to the law Dhamma and having filled his drinking cup with water as he went, had bestowed it in charity among the priests.

7. On his return next morning, his wife in anger asked him what annoyance he had received that he should stay away all night. On which he replied that he was not annoyed, but he had been to

listen to the Buddha preaching at the Jetavana.

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8. On this his wife began roundly to abuse the Buddha, and said, "This Gotama is but a mad preacher, who deceives the people," and so on.

9. "On this" he said, "I resented not her statements, but rather submitted to them and so when I came to die I was born as a spirit, but on account of my pusillanimity I was confined to this tree," and then he recited these verses.

10. "Sacrifices and such services are sources of misery, day and night, a continual burden and anxiety.

11. "To escape sorrow, and destroy the elements of the body, a man should attend to the Law (of Buddha), and arrive at deliverance from all worldly Rules of Religion (World Rishis)."

12. The Brahmins having heard these words, resolved themselves to go to Shravasti, to the place where the Buddha was, and having explained the object of their visit, the world-honoured said to them:

13. "Although a man goes naked with tangled hair, or though he clothes himself with a few leaves or garment of bark, though he covers himself with dirt and sleeps on the stones, what use is this in getting rid of impure thoughts ?

14. "But he who neither contends or kills, or destroys by fire, who desires not to get the victory, who is moved by goodwill towards all the world, there is no ground in such a case for ill-will or hate.

15. "To sacrifice to spirits in order to find peace (merit), or, after this life expecting reward, his happiness, is not one quarter of that man's who pays homage to the good.

16. "He who is ever intent on good conduct and due reverence to others, who always venerates old age, four happy consequences increasingly attend that man—beauty and strength, and life and peace."

17. On hearing this from her husband the wife became reconciled.

PART VI

Conversion of the Low and the Lowly

1. Conversion of Upali, the Barber.
2. Conversion of Sunita, the Sweeper.
3. Conversion of Sopaka and Suppiya, the Untouchables.
4. Conversion of Sumangala and other Low Castes.
5. Conversion of Suprabuddha, the Leper.

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§ 1. *Conversion of Upali, the Barber*

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1. While going back Upali, the barber thought: "The Sakyans are a fierce people. If I go back with these ornaments they will kill me thinking that I have killed my companions and run away with their ornaments. Why should I not go the way these young men of the Sakya clan have gone ?"

2. "Why indeed should I not?" asked Upali to himself. And he let down the bundle of ornaments from his back, and hung it on a tree, saying: "Let him who finds it take it as a gift," and returned to follow the Sakya youths.

3. And the Sakyans saw him coming from afar, and on seeing, they said to him: "What have you come back for, good Upali ?"

4. Then he told them what he felt and they replied: "Thou hast done well, good Upali, in that thou didst not return; for the Sakyans are fierce, and they might have killed thee."

5. And they took Upali the barber with them to the place where the Blessed One was. And on arriving there, they bowed down before the Blessed One and took their seats on one side. And so seated they said to the Blessed One :

6. "We Sakyans, Lord, are haughty. And this Upali, the barber, has long been an attendant, Lord, upon us. May the Blessed One admit him to the Order before us, so that we may render him respect and reverence, and bow down with outstretched hands before him as our senior and thus shall the Sakyan pride be humbled in us !"

7. Then the Blessed One received first Upali, the barber, and afterwards those young men of the Sakya clan, into the ranks of the Order.

§ 2. *Conversion of Sunita, the Sweeper*

1. There lived in Rajagraha a scavenger by name Sunita. He earned his living as a road sweeper, sweeping away the rubbish thrown by the householders

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on the roadside. His was a low and hereditary occupation.

2. One day in the early hours of the dawn the Blessed One rose, dressed himself and walked into Rajagraha for alms followed by a large number of Bhikkus.

3. Now Sunita was cleaning the street, collecting scraps, rubbish, and so on into heaps and filling therewith the basket which he carried on a yoke.

4. And when he saw the Master and his train approaching, his heart was filled with joy and awe.

5. Finding no place to hide in on the road, he placed his yoke in a bend in the wall and stood as if stuck to the wall, saluting the Lord with clasped hands.

6. Then the Lord when he had come near, spoke to him in voice divinely sweet, saying: "Sunita ! What to you is this wretched mode of living ? Can you endure to leave home and come into the Order?"

7. And Sunita, experiencing the rapture of one who has been sprinkled with Ambrosia, said: "If even such as the Exalted One may in this life take Orders, why should I not ? May the Exalted One suffer me to come forth."

8. Then the Master said: "Come Bhikku !" And Sunita by that word received sanction and ordination and was invested with bowl and robes.

9. The Master leading him to the Vihar taught him the Dhamma and the Discipline and said, "By the discipline of holy life, restraint and mastery of self, a man becomes holy."

10. When asked how Sunita became so great, the Buddha said, "As on a rubbish-heap on highway casta lily may grow, fragrant and sweet, so among rubbish-creatures, worldlings blind by insight shines the very Buddha's child."

§ 3. *Conversion of Sopaka and Suppiya, the Untouchables*

1. Sopaka was a pariah of Shravasti. In her travail at his birth his mother fell into a long deep

swoon, so that her husband and kinsfolk said "She is dead !" And they bore her to the cemetery and prepared to cremate her body.

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2. But on account of the storm of wind and rain the fire would not burn. So they went away leaving Sopaka's mother on the funeral pyre.

3. Sopaka's mother was not then dead. She died afterwards. Before her death she gave birth to a child.

4. The child was adopted by the watchman of the cemetery and was brought up by him along with his own child Suppiya. The child was known by the name of the community Sopaka to which its mother belonged.

5. The Blessed Lord one day happened to pass by the cemetery. Sopaka, seeing the Lord, approached him. After saluting the Lord he asked his permission to join him as his disciple.

6. Sopaka was then only seven years old. So the Lord asked him to obtain his father's consent.

7. Sopaka went and fetched his father. The father saluted the Lord and requested him to admit his son to the Order.

8. Notwithstanding that he belonged to the pariah community the Lord admitted him to the Order and instructed him in the doctrine and discipline.

9. Sopaka later became a Thera.

10. Suppiya and Sopaka had grown together from childhood and Sopaka having been adopted and brought up by Suppiya's father, Suppiya learned the Lord's doctrine and discipline from his companion, Sopaka, and requested Sopaka to admit him to the Order, although Sopaka belonged to a community which was lower in rank than the community to which Suppiya belonged.

11. Sopaka agreed and Suppiya, a member who belonged to the despised community whose occupation was to perform the duties of watchmen in the cemetery, became a Bhikku.

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§ 4. *Conversion of Sumangala and other Low Castes*

1. Sumangala was a peasant of Shravasti. He earned his living by work in the fields, working with a little sickle, plough and spade.

2. Channa was a native of Kapilavatsu and was a slave in the house of Suddhodana.

3. Dhanniya was a resident of Rajagraha. He was a potter.

4. Kappata-Kuxa was a native of Shravasti. The only way he knew of, to support himself, was to go about, clad in rags, pan in hand, seeking for rice-grains. Hence he became known as Kappata-Kura—"Rags and-rice." When grown up, he maintained himself by selling grass.

5. All of them sought from the Buddha permission to become Bhikkus and enter the Order. The Buddha without hesitation and without caring for their low birth or their previous condition, admitted them into the Order.

§5. *Conversion of Supprabuddha, the Leper*

1. Once the Exalted One was staying near Rajagraha, in the bamboo grove, at the squirrels' feeding-ground.

2. Now there lived in Rajagraha at that time a certain man, who was a leper, named Supprabuddha, a poor, wretched, miserable creature.

3. And it happened at that time that the Exalted One was sitting there in the midst of a great multitude, teaching the Dhamma.

4. And Supprabuddha, the leper, saw from afar the multitude gathered together, and at the sight he thought, "Without a doubt an alms-giving of food, both hard and soft, is toward yonder. Suppose I draw near to yonder crowd, I might get there something to eat, food soft or hard."

5. So Supprabuddha, the leper, drew near that crowd, and he beheld the Exalted One sitting there amid

a great crowd, preaching the Norm. So, seeing the Exalted One he thought : "No. There is no almsgiving here of food. It is Gotama the Samana preaching the Dhamma in the assembly. Suppose I were to listen to his teaching."

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6. So he sat down at one side, thinking, "I too will listen to the teaching."

7. Now the Exalted One, reading with His thought the thoughts of that whole gathering, said to Himself, "Who, I wonder, of these present, is able to grasp the Truth ?" Then He saw Supprabuddha, the leper, sitting in the crowd : and at the sight of him He knew, "This one can grasp the Truth."

8. So for the sake of Supprabuddha, the leper, the Master preached a sermon, dealing in due order with these topics. On alms-giving, on the holy life, and on the heaven-world : and He pointed out the meanness and vileness of sensual desires and the profit of freedom from the asavas.

9. Now when the Exalted One saw that the heart of Supprabuddha, the leper, was softened, pliant, set free, elated, and full of faith, then He set forth to him the Dhamma most excellent of the Buddha, to wit, suffering, the cause of suffering, the ceasing of suffering, and the path.

10. Then, just as a white cloth, free from stains, is ready to receive the dye, even so in Supprabuddha, the leper, as he sat there in that very place, arose the pure stainless insight of the Truth, the knowledge that whatsoever hath a beginning, that also must have an end. And Supprabuddha, the leper, saw the Truth, reached the Truth, perceived the truth, plunged into the Truth, crossed beyond doubting, was freed from all questionings, won confidence, and needing nothing further, being established in the Master's teaching, sprang up from his seat and drew near to Him, and there he sat down at one side.

11. So seated he said to the Exalted One, "Excellent, O Lord Excellent, O, Lord, just as if, Lord, one should lift up the fallen, discover the hidden,

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point out the way to one bewildered, show a light in the gloom, saying, 'Now they who have eyes to see can see shapes,' even so in diverse ways has the Exalted One expounded the truth. I, even I, Lord, do go for refuge to the Exalted One, *to* the Norm and to the Order of Brethren. May the Exalted One accept me as His follower, as *one* who from this time forth even to life's end has gone to refuge in Him."

12. Thereupon Supprabuddha, the leper, being taught, established, roused, and made happy by the Exalted One's pious talk, praised and welcomed His words, gave thanks and rose up from his seat, saluted the Exalted One by the right, and went away.

13. Unfortunately it came to pass that a young calf flung the leper Supprabuddha down and gored him to death.

PART VII

Conversion of Women

1. Conversion of Mahaprajapati Gotami, Yeshodhara and her Companions.

2. Conversion of Prakrati, a Chandalika.

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§ 1. *Conversion of Mahaprajapati Gotami and Yeshodhara and her Companions*

II

1. When the Blessed One had been on a visit to his father's home the desire to join the Sangh was as keen among the Sakya women as it was among the Sakya men.

2. The leader of such women was no other than Mahaprajapati Gotami.

3. Now at the time when the Blessed One was staying among the Sakyas in the Nigrodharama, Mahaprajapati Gotami went to him and said: "It would be well, Lord, if women were allowed to become Parivrajakas and enter the Sangh under the doctrine and discipline proclaimed by the Tathagata !"

4. "Enough, O Gotami! Let not such a thought come into your mind." And a second and a third time did Mahaprajapati make the same request in the same words, and a second and a third time did she receive the same reply.

5. Then Mahaprajapati Gotami, sad and sorrowful, bowed down before the Blessed One, and went away weeping and in tears.

6. After the Blessed One had left Nigrodharama for his wanderings, Mahaprajapati and the Sakya women sat together to give further consideration to their request for admission to the Sangh and the refusal of the Lord to grant such a request.

7. The Sakya women refused to take the Lord's refusal as final. They decided to go further to assume the garb of a Parivrajaka and present the Lord with a *fait accompli.*

8. Accordingly Mahaprajapati Gotami cut off her hair and put on orange-coloured robes and set out with a number of women of the Sakya clan, on her journey to meet the Lord who was at that time staying in Vesali in the Mahavana in the Kutagara Hall.

9. In due course Mahaprajapati Gotami with her companions arrived at Vesali and with swollen feet and covered with dust came to the Kutogara Hall.

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10. Again she made the same request to the Blessed Lord which she had made when he was staying at Nigrodharama and he refused it again.

11. On receiving his refusal a second time Mahaprajapati withdrew and was standing outside the entrance of the hall not knowing what to do. While she was so standing Ananda on his way to the hall saw her and recognized her.

12. He then asked Mahaprajapati, "Why standest thou there, outside the porch, with swollen feet, covered with dust, and sorrowful, weeping and in tears ?" "Inasmuch, O Ananda, as the Lord, the Blessed One, does not permit women to renounce their homes and enter the homeless state under the doctrine and discipline proclaimed by the Tathagata," said Mahaprajapati.

13. Then did the Venerable Ananda go up to the place where the Blessed One was, and bowed down before the Blessed One, and take his seat on one side. And, so sitting, the Venerable Ananda said to the Blessed One : "Behold, Lord, Mahaprajapati Gotami is standing outside under the entrance porch, with swollen feet covered with dust, sad and sorrowful, weeping and in tears, inasmuch as the Blessed One does not permit women to renounce their homes and enter the homeless state under the doctrine and discipline proclaimed by the Blessed One. It were well, Lord, if women were to have permission granted to them to do as she desires.

14. "Has not Mahaprajapati proved herself of great service to the Blessed One, when as aunt and nurse she nourished him and gave him milk, and on the death of his mother suckled the Blessed One at her own breast; it were, therefore, well, Lord that women should have permission to go forth from the household life and enter the homeless state, under the doctrine and discipline proclaimed by the Tathagata."

15. "Enough Ananda! Let it not, please, that women should be allowed to do so." A second time and a third time did Ananda make the same request, in the same words, and received the same reply.

16. Then the Venerable Ananda asked the Blessed One : "What can be the ground, Lord, for your refusal to allow women to take Parivraja.

17. "The Lord knows that the Brahmins hold that the Shudras and women cannot reach moksha (Salvation) because they are unclean and inferior. They do therefore not allow Shudras and women to take Parivraja. Does the Blessed One hold the same view as the Brahmins ?

18. Has not the Blessed One allowed the Shudras to take Parivraja and join the Sangh in the same way he has done to the Brahmins ? What is the ground, Lord, for treating women differently ?

19. Does the Blessed One hold that women are not capable of reaching Nibbana under the doctrine and discipline proclaimed by the Blessed One ?"

20. The Blessed One replied : "Ananda ! Do not misunderstand me. I hold that women are as much capable as men in the matter of reaching Nibbana. Ananda ! do not misunderstand me, I am not an upholder of the doctrine of sex inequality. My rejection of Mahaprajapati's request is not based on sex inequality. It is based on practical grounds."

21. "I am happy, Lord, to know the real reason. But must the Lord refuse her request because of practical difficulties ? Would not such an act bring the Dhamma into discredit and make it open to the charge of upholding sex inequality ? Could not the Lord devise some rules to get over such practical difficulties by which the Lord is worried ?"

22. "Well, Ananda, I grant if Mahaprajapati insists that women must be allowed to take Parivraja under the doctrine and discipline proclaimed by me. But it shall be subject to eight conditions. Let Mahaprajapati Gotami take upon herself the responsibility of enforcing the Eight Chief Rules. That will be her initiation."

23. Then the Venerable Ananda, when he learnt from the Blessed One these Eight Chief Rules, went to Mahaprajapati Gotami and told her all that the Blessed One had said.

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24. "Just, Ananda, as a man or a woman, when young and of tender years, accustomed to adorn himself, would, when he had bathed his head, receive with both hands a garland of lotus flowers, or of jasmine flowers or of stimutaka flowers, and place it on the top of his head ; even so do I, Ananda, take upon me these Eight Chief Rules, never to be transgressed during my lifelong," said Mahaprajapati to Ananda.

25. Then the Venerable Ananda returned to the Blessed One, and bowed down before him, and took his seat, on one side. And, so sitting, the Venerable Ananda said to the Blessed One: "Mahaprajapati Gotami, Lord, has taken upon herself the responsibility for the enforcement of the Eight Chief Rules, she may therefore be regarded as having received the Upasampada initiation," (entry into the Sangha).

26. Now Mahaprajapati received ordination, and 500 Sakya ladies who had come with her were also ordained at the same time. Thus ordained great Prajapati came before the Master, and saluting him, stood on one side and the Blessed One taught her the Dhamma, the doctrine and the discipline.

27. The other five hundred Bhikkhunis were in-instructed by Nandaka, one of the disciples of the Blessed One.

28. Among the Sakya women who became Bhikkhunis along with Mahaprajapati was Yeshodhara. After her initiation she came to be known as Bhadda Kaccana.

§2. *Conversion of Prakrati, a Chandalika*

1. Once the Blessed Lord was living in Shravasti in the Jetavana Arama of Anathpindika.

2. It so happened that Ananda, his disciple, had gone into the city to beg for alms. After eating his food Ananda was going to the river for drinking water.

3. He saw a girl on the river bank filling her pot. Ananda asked her to give him some water.

4. The girl, whose name was Prakrati, refused, saying she was a Chandalika.

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5. Ananda said, "I am concerned with water. I am not concerned with your caste." The girl then gave him some water from her pot.

6. Thereafter Ananda left for Jetavana. The girl followed him and saw where he was staying and found that his name was Ananda and that he was a follower of the Buddha.

7. On returning home she told her mother Matangi what had happened and falling on the ground started weeping.

8. The mother asked for the cause of her weeping. The girl told the whole story, and said, "If you wish to marry me I can only marry Ananda. I will not marry anybody else."

9. The mother started on an inquiry. On return she told the girl that such a marriage was impossible for Ananda was under a vow of celibacy.

10. On hearing this news the girl was filled with extreme sorrow and gave up food. She was not prepared to take things as though it was a decree of fate. So she said: "Mother, you know the art of sorcery, don't you ? Why don't you employ it to achieve our purpose?" The mother said, "I will see what can be done."

11. Matangi invited Ananda to her house for a meal. The girl became very happy. Matangi then told Ananda that her daughter was very anxious to marry him. Ananda replied, "I am vowed to be celibate and therefore I cannot marry any woman."

12. "If you do not marry my daughter, she will commit suicide, so attached she is to you," Matangi told Ananda. "But I cannot help," replied Ananda.

13. Matangi went inside and told her daughter that Ananda refused to marry her.

14. The girl cried: "Mother, where is your sorcery ?" The mother said, "My sorcery cannot win against the Tathagata."

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15. The girl shouted and said, "Close the door and do not allow him to go out. I shall see that he becomes my husband this very night."

16. The mother did what the girl wanted her to do. As night fell the mother brought in the room a bed. The girl, dressed in her best, stepped in. But Ananda remained unmoved.

17. The mother at last used her sorcery. As a result a fire broke out in the room. The mother then held Ananda by his clothes and said, "If you will not agree to marry my daughter, I will throw you in this fire." However, Ananda did not yield, and the mother and the daughter feeling helpless, left him free.

18. Ananda on his return told the Blessed Lord all that had happened.

19. On the second day the girl came to Jetavana in search of Ananda. Ananda was going out for alms. Ananda saw her and wanted to avoid her. But the girl followed him wherever he went.

20. When Ananda returned to Jetavana he found the girl waiting at the door of his Vihar.

21. Ananda told the Blessed One how the girl was pursuing him. The Blessed One sent for her.

22. When the girl appeared before him the Blessed One asked her why she was pursuing Ananda. The girl replied that she was intent on marrying him "I have heard he is unmarried and I am also unmarried."

23. The Bhagavan said, "Ananda is a Bhikku and he has no hair on his head. If you can get yourself clean shaven I shall see what could be done."

24. The girl replied, "I am prepared for it." The Bhagavan said, "You must get your mother's permission for undergoing tonsure."

25. The girl returned to her mother and said, "Mother! I have achieved what you failed to achieve. The Bhagavan has promised to get me married to Ananda if I undergo tonsure."

26. The mother grew angry and said, "You must not do that. You are my daughter and you must keep hair. Why are you so eager to marry a Shramana

like Ananda. I can get you married to a better man."

27. She replied, "I will either die or marry Ananda. There is no third alternative for me."

28. The Mother said, "Why are you insulting me ?" The girl said, "If you love me you must let me do as I wish."

29. The mother withdrew her objection and the girl underwent tonsure.

30. Then the girl presented herself before the Blessed Lord saying, "I have tonsured my head as directed by you."

31. The Blessed Lord then asked her, "What do you want ? What part of his body you cherish ?" The girl said, "I am in love with his nose, I am in love with his mouth, I am in love with his ears, I am in love with his voice, I am in love with his eyes and I am in love with his gait."

32. The Blessed Lord then said to the girl, "Do you know that the eyes are the home of tears, the nose is the home of dirt, the mouth is the home of spit, the ear is the home of dirt and the body is the container of dung and urine."

33. "When men and women come together they procreate children. But where there is birth there is death also; where there is death there is sorrow also. My dear girl, what are you going to get by marrying Ananda. I do not know."

34. The girl began to cogitate and agreed that there was no purpose in her marriage with Ananda on which she was so intent and she told the Blessed Lord accordingly.

35. After saluting the Blessed Lord the girl said: "Owing to ignorance I was going in pursuit of Ananda. My mind is now enlightened. I am like a sailor whose ship after a mishap has reached the other bank. I am like an unprotected aged person who has found protection. I am like the blind who has got new sight. The Blessed Lord by his wise words of advice has awakened me from my sleep."

36. Blessed art thou, Prakrati, for though you are a Chandalika you will be a model for noblemen

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and noblewomen. You are of low caste, but Brahmins will learn a lesson from you. Swerve not from the path of justice and righteousness and you will outshine the royal glory of queens on the throne."

37. The marriage having failed, the only course for her was to join the Bhikkhuni Sangh.

38. Having expressed her wish she was admitted into it, though she belonged to the lowest class.

PART VIII

Conversion of the Fallen and the Criminals

1. Conversion of a Vagabond.
2. Conversion of Angulimala, the Robber.
3. Conversion of Other Criminals.
4. Risk of Conversion.

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§ 1. *Conversion of a Vagabond*

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1. There was in olden times a certain disorderly person living in Rajagraha, who neither reverenced his parents nor paid respect to his superiors, but always had resort to sacrifice and worship of the sun and moon and fire when he went wrong, hoping thereby to get merit, and feel happy in himself.

2. But notwithstanding all his bodily exercises, in worship and offerings, he found no peace, even after three years' incessant perseverance.

3. He at length resolved to go to Shravasti to inquire of the Buddha. Arrived there, and seeing the glory of his person, he fell down at his feet, and said how he was pleased.

4. Then the Lord explained the folly of animal sacrifice, and the uselessness of all such exercises where the heart was untouched, and where there was no final reverence or dutiful behaviour to those to whom it belonged ; and in conclusion recited certain gathas, which resplendent with glory, lit up the place and all the surrounding country with the brightness of his presence.

5. On this, the villagers, and especially the parents of the children, came near to worship him.

6. On seeing the parents, and hearing their account of the children, Buddha smiled, and recited these gathas.

7. "The great man is entirely free from covetous desire; he wells in a place of light himself enlightened. Although perchance he meets with sorrow, he rejoices; without consternation, he exhibits his wisdom.

8. "The wise man (bhadra) concerns himself with no worldly business ; he desires neither wealth, children, or possessions (land), always carefully observing the precepts, and walking in the way of supreme wisdom, he hankers not after strange doctrine (or wealth or honour).

9. "The wise man, knowing the character of instability, as a tree in the midst of sand (uses every effort) to change his friend whose mind is unfixed, and to bring him back from impurity to virtue (purity)."

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§ 2. *Conversion of Angulimala, the Robber*

1. There was, in the realm of Pasenadi, king of Kosala, a robber named Angulimala, a ruffian whose hands were red with blood, who was always killing and wounding, and showed no mercy to any living creature. Because of him, what had been villages were villages no more, what had been townships were townships no more, and what had been countryside was countryside no more.

2. From every human being whom he slew, he took a finger to make for himself a necklace, and so got his name of "Necklace of Fingers."

3. Once when the Lord was staying in Shravasti in Jeta's grove he had heard of the ravages committed by the robber Angulimala. The Blessed Lord decided to convert him into a righteous man. So one day after taking his meal and after putting away his bedding and then, with robes and bowl, set out on his journey to find the robber Angulimala.

4. Seeing him journeying thither, neatherds, goatherds, ploughmen and wayfarers called out: "Don't go that way, recluse! It will take you to the robber Angulimala.

5. "Why, even when, ten, twenty, thirty, or forty people band themselves together to travel this road, the whole company falls into the robber's hands !" But, without a word, the Lord held on to his way.

6. A second time, and yet a third time those near there and the rest repeated their warning; but still, without a word, the Lord went his way.

7. From some way off the robber saw the Lord coming and marvelled exceedingly that, where even companies of ten to fifty travellers dare not come his way, this solitary recluse should be seen to be forcing his way alone; and the robber was minded to slay 'this recluse.' So, armed with sword and buckler and with his bow and quiver, the robber followed up the Lord's trail.

8. The Lord, while he himself was proceeding at

his wonted pace, the robber, for all his efforts, could not catch him up.

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9. Thought the robber: "This is a wonderful and marvellous thing. Heretofore, I could always overtake an elephant, or horse, or carriage, or deer, when going full speed; and yet here am I unable, despite all my efforts, to overtake this recluse while he proceeds at his wonted pace." So he stopped and shouted to the Lord to stop.

10. When the two met the Lord said: "I have stopped, Angulimala, for your sake. Will you stop following your career of an evil doer? I have been pursuing you in order to win you over, to cover you to the path of righteousness. The good in you is not yet dead. If you will only give it a chance it will transform you."

11. Angulimala felt overcome by the words of the Blessed One, saying, "At last this sage has tracked me down."

12. "And now that thy hallowed words ask me to renounce evil deeds forever, I am prepared to give myself a trial," replied Angulimala.

13. Angulimala threw into a deep abyss the string of his victims' fingers which he wore round his neck and fell at the Master's feet and craved admission to the Brotherhood.

14. The Lord, the guide of gods and men, said: "Almsman, follow me"; and almsman since that summons Angulimala did become.

15. With Angulimala as his almsman in attendance, the Lord now proceeded on his way to the pleasance in Shravasti. At this very time the portals of King Pasenadi's inner palace were beset by a huge crowd loudly shouting that in the realm he had conquered there was a robber named Angulimala, a ruffian who was committing ravages and was killing and wounding innocent people and who took pride in wearing a necklace made of fingers of victims whom he slew. "Suppress him, sire," they cried. Pasenadi promised to run him down to earth. But he failed.

16. One morning King Pasenadi went to the

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pleasance to see the Lord. The Blessed Lord inquired: "What is the matter, sire ? Is there trouble with Seniya Bimbisara of Magadha, or with Licchavis of Vesali or with any other hostile power ?"

17. "No trouble at all of that sort, sir. In my realms there is a robber named Angulimala who is infesting my territories and harassing my subjects. I want to suppress him but I have failed."

18. "If now, sire, you were to see Angulimala with his hair and beard off, in the yellow robes, as a pilgrim who kills not steals not, lies not, eats but one meal a day, and leads the higher life in virtue and goodness,—what would you do to him ?"

19. "Sir, I would salute him, or rise to meet him or would invite him to be seated or invite him to accept robes and other requisites, or I would extend to him the defence, protection and safeguards which are his due. But how could the shadow of such virtue ever extend to one so wicked and depraved?"

20. At that moment the Reverend Angulimala was seated quite close to the Lord, who stretching forth his right arm, said: "This, sire, is Angulimala !"

21. At this the king in his alarm became dumbfounded, with every hair of his body standing erect. Seeing this, the Lord said, "Fear not, sire; fear not; there is no cause for fear here."

22. So the king's fears and alarm abated ; and across to the reverend Angulimala he went, saying: "Is your reverence indeed Angulimala ?" "Yes, sire."

23. "What sire, was your father's family, and your mother's ?" "My father was a Gagga, sire, and my mother a Mantani."

24. "Be of good cheer, Gagga Mantani-putta; I will take care to supply you with all requisites."

25. Now at the time the Reverend Angulimala having pledged to be resident in the wilds, subsisting on alms, and wearing clothes from the dust heap not exceeding three in number, he declined the king's offer on the ground that he had already got his full three robes.

26. Then the king went across to the Lord and

after salutations seated himself to the one side, saying; "It is wonderful, sir, it is marvellous, what a tamer of the untamed the Lord is, how he quells the unquelled, and how he calms the uncalmed ! Here is one whom I could not subdue with cudgel and sword; but without either cudgel or sword the Lord has subdued him! And now, sir, I must be going, for I have much to do and attend to."

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27. "When Your Majesty pleases." Then, rising from his seat, the king saluted the Lord with deep reverence and withdrew.

28. One day when, duly robed and bowl in hand, Angulimala had gone into Shravasti for alms, he was hit by a clod flung by one man, by a club flung by a second and by a potsherd flung by a third, so that it was with a broken head streaming with blood, with his bowl smashed, and with his cloak in tatters, that he presented himself before the Lord. Seeing him drawing near, the Lord said to Angulimala: "Endure it all, endure it all."

29. Thus did Angulimala the robber become a righteous man by accepting the teachings of the Buddha.

30. Expressing the joy of the bliss of deliverance he said: "Who shows zeal, where zeal was none, who with virtue clokes his past, who in youth to Buddha cleaves, he, like the moon, floods earth with light.

31. "Let my foes hear this gospel, embrace this creed and follow wisdom's sons who cleave to it. Let my foes hear in season, love's message which is meek forbearance—and conform their lives to it.

32. "As ' Finger Necklace,' I, bandit, lived and whirled downstream, till He brought me to land. As 'Finger Necklace,' I was steeped in blood; saved now am I."

§ *3. Conversion of Other Criminals*

1. There was to the south of Rajagraha a great mountain, distant from the city about 200 li.

2. Through this mountain there was a pass,

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deep and lonely, through which the road to South India lay.

3. Five hundred robbers had taken up their abode in this defile, who used to murder and rob all travellers that passed that way.

4. The king had vainly sent his forces to capture them, but they always escaped.

5. The Buddha, residing in the neighbourhood, and considering the case of these men, that they understood not the nature of their conduct, and that although he had come into the world to teach them, yet their eyes had not seen him, nor their ears heard the tidings of his law, he resolved to go to them.

6. Consequently he transformed himself into a man richly dighted, on a well-caparisoned steed, with his sword and bow, with bags of silver and gold on his saddle-bow, and precious stones studding his horse's bravery.

7. On entering the defile loud neighed his steed. On hearing the sound the 500 robbers started up, and spying the traveller, exclaimed, "Never have we had such a prospect of booty; let us be up, and capture him!"

8. So they proceeded to surround the traveller, with a view to prevent his escape; but on seeing him they fell on the ground.

9. On their falling to the ground, they exclaimed, "What God is this ?" "What God is this ?"

10. On this the traveller began to explain that such hurts and pains as they give and receive were trivial compared with the pain caused by the sorrow that rules the world, and the wounds of unbelief and doubt, and that nought but the wisdom resulting from earnest attention (hearing) to the Scriptures could heal such wounds; and then he added these words and said :

11. "There is no painful wound so bad as sorrow—no piercing arrow so sharp as folly. Nothing can remedy these but an earnest attention to religious instruction. From this the blind receive sight, the deluded are enlightened.

12. "Men are guided and led by this, as eyes, given to them without eyes.

13. "This, then, is able to dispel unbelief, to remove sorrow, to impart joy; the highest wisdom is the lot of those who "hear."

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14. "This is the title of him who has acquired the greatest merit (most to be revered)."

15. On hearing this the robbers repented of their evil lives, and the arrows, of themselves, left their bodies, and their wounds were healed.

16. They then became disciples, and obtained rest and peace.

§ *4. Risk of Conversion*

1. In olden times, Buddha was residing in a country about 500 li from Rajagraha, full of mountains. In these mountains there lived a certain clan of about 122 persons, who occupied themselves in hunting, and fed themselves on the flesh of the animals they killed.

2. (Buddha goes to the place and converts the women, who were left alone during the day, whilst their husbands were hunting, and then adds these lines.)

3. "He who is humane does not kill (or, it is humane not to kill) ; he is ever able to preserve (his own ?) life.

4. "This principle (chu) is imperishable; whoever observes it, no calamity shall betide that man.

5. "Politeness, indifference to wordly things, hurting no one, without place for annoyance—this is the character of the Brahma Heaven (or of Brahma Deva).

6. "Ever exercising love towards the infirm ; pure, according to the teaching of Buddha ; knowing when sufficient has been had ; knowing when to stop,—this is to escape (the recurrence of) birth and death."

The women, having heard these words, were converted, and on the men's return, although they

wished at first to kill Buddha, they were restrained by their wives ; and, listening to these words of love, they also were converted.

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7. And then he added these lines.

8. "There are eleven advantages which attend the man who practices mercifulness, and is tender to all that lives.

9. "His body is always in health (happy); he is blessed with peaceful sleep, and when engaged in study he is also composed."

10. "He has no evil dreams, he is protected by Heaven (Devas) and loved by man ; he is unmolested by poisonous things, and escapes the violence of war; he is unharmed by fire or water.

11. "He is successful wherever he lives, and when dead goes to the Heaven of Brahma. These are the eleven."

12. Having uttered these words, both men and women were admitted into the company of his disciples, and obtained rest.

BOOK III

What the Buddha Taught

Part I — His Place in His Dhamma.

Part II — Different Views of the Buddha's Dhamma.

Part III — What is Dhamma.

Part IV — What is Not Dhamma.

Part V — What is Saddhamma

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PART I

His Place in His Dhamma

1. The Buddha claimed no place for Himself in His Own Dhamma.
2. The Buddha did not promise to give salvation. He said He was Marga Data (Way Finder) and not Moksha Data (Giver of Salvation).
3. The Buddha did not claim any Divinity for Himself or for His Dhamma. It was discovered by man for man. It was not a Revelation.

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§ 1. *The Buddha claimed no place for Himself in His own Dhamma*

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1. Christ claimed to be the Prophet of Christianity.

2. He further claimed that he was the Son of God.

3. Christ also laid down the condition that there was no salvation for a person unless he accepted that Christ was the Son of God.

4. Thus Christ secured a place for Himself by making the salvation of the Christian depend upon his acceptance of Christ as the Prophet and Son of God.

5. Mohammad, the Prophet of Islam, claimed that he was a Prophet sent by God.

6. He further claimed that no one could get salvation unless he accepted two other conditions.

7. A seeker of salvation in Islam must accept that Mohammad is the Prophet of God.

8. A seeker after salvation in Islam must further accept that he is the last prophet.

9. Salvation in Islam is thus ensured only to those who accept these two conditions.

10. Mohammad thus secured a place for Himself by making the salvation of the Muslim depend upon his acknowledgment of Mohammad as the Prophet of God.

11. No such condition was ever made by the Buddha.

12. He claimed that he was no more than the natural son of Suddhodana and Mahamaya.

13. He carved for himself no place in his religion by laying down any such conditions regarding himself for salvation as Jesus and Mahommad did.

14. That is the reason why we are left to know so little about himself even though abundant material was available.

15. As is known, the first Buddhist congregation

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was held soon after the death of the Buddha at Rajagraha.

16. Kassyappa presided over the congregation. Anand, Upali and many others who belonged to Kapilavatsu and who wandered with him wherever he went and were with him till his death were present.

17. But what did Kassyappa the President do ?

18. He asked Anand to repeat the Dhamma and put the question to the congregation, "Is this right?" They answered in the affirmative. And Kassyappa then closed the question.

19. Thereafter he asked Upali to repeat the Vinaya and put the question to the congregation, "Is this right ?" They answered in the affirmative. Kassyappa then closed the question.

20. Kassyappa then should have put the third question to someone present in the congregation to record some important incidents in the life of the Buddha.

21. But Kassyappa did not. These were the only two questions with which he thought the Sangh was concerned.

22. If Kassyappa had collected the record of the Buddha's life we would have had today a full-fledged biography of the Buddha.

23. Why did it not strike Kassyappa to collect the record about the Buddha's life?

24. It could not be indifference. The only answer one can give is that the Buddha had carved no niche for himself in his religion.

25. The Buddha and his religion were quite apart.

26. Another illustration of the Buddha keeping himself out of his religion is to be found in his refusal to appoint a successor.

27. Twice or thrice the Buddha was requested by his followers to appoint a successor.

28. Every time the Buddha refused.

29. His answer was, "The Dhamma must be its own successor.

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30. "Principle must live by itself, and not by the authority of man.

31. "If principle needs the authority of man it is no principle.

32. "If every time it becomes necessary to invoke the name of the founder to enforce the authority of Dhamma then it is no Dhamma."

33. Such was the view he took of his own position regarding his Dhamma.

§ 2. The Buddha did not promise to give Salvation. He said He was Marga Data (Way Finder) and not Moksho Data (Giver of Salvation)

1. Most religions are described as revelations. But the Buddha's religion is not a revelation.

2. A revealed religion is so called because it is a message of God to His creatures to worship their maker (i.e., God) and to save their souls.

3. Often the message is sent through a chosen individual who is called a prophet to whom the message is revealed and who reveals it to the people. It is then called Religion.

4. The obligation of the prophet is to ensure salvation to the faithful.

5. Salvation of the faithful means the saving of their souls, from being sent to hell provided they obey God's commands and recognize the prophet as his messenger.

6. The Buddha never claimed that he was a prophet or a messenger of God. He repudiated any such description.

7. A more important point than this is that his religion is a discovery. As such it must be sharply distinguished from a religion which is called Revelation.

8. His religion is a discovery in the sense that it is the result of inquiry and investigation into the conditions of human life on earth and understanding of the working of human instincts with which man is

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born, the moulding of his instincts and dispositions which man has formed as a result of history and tradition and which are working to his detriment.

9. All prophets have promised salvation. The Buddha is the one teacher who did not make any such promise. He made a sharp distinction between a *moksha data* and a *marga data,* one who gives salvation and one who only shows the way.

10. He was only a *marga data.* Salvation must be sought by each for himself by his own effort.

11. He made this very clear to the Brahmin Moggallana in the following Sutta.

12. "Once the Exalted One was staying at Shravasti, in the East Park, at the storeyed house of Migara's mother.

13. "Then, the Brahmin Moggallana, the accountant, came to the Exalted One and gave him friendly greeting and after the exchange of courtesies sat down at one side. So seated, the Brahmin Moggallana, the accountant, said this to the Exalted One :

14. " 'Just as, Master Gautama, one gets a gradual view of this storeyed house, a progress, a graduated path, and so on right up to the last step of the stairs, just so is the progressive training of us Brahmins : that is to say, in our course of study in the Vedas.'

15. " 'Just as in a course of archery, Gautama, with us the Brahmins, the training, the progress, the approach is step by step ; for instance, in counting.'

16. " 'When we take a private pupil we make him count thus: 'One one, twice two, thrice three, four times four, and so on up to a hundred.' Now is it possible, Master Gautama, for you to point to a similar progressive training on the part of your followers in your Dhamma.'

17. " 'It is so, Brahmin. Take the case, Brahmin, of a clever horse-trainer. He takes a thoroughbred in hand, gives him his first lesson with bit and bridle, and then proceeds to the further course.'

18. " 'Just so, Brahmin, the Tathagata takes in hand a man who is to be trained and gives him his

first lesson, thus : ‘ Come thou, brother ! Be virtuous. Abide, constrained by the restraint of the obligation.’

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19. “ ‘Become versed in the practice of right behaviour ; seeing danger in trifling faults, do you undertake the training and be a pupil in the moralities.’

20. “ ‘As soon as he has mastered all that, the Tathagata gives him his second lesson, thus : ‘ Come thou brother ! Seeing an object with the eye, be not charmed by its general appearance or its details.’

21. “ ‘Persist in the restraint of that dejection that comes from craving, caused by the sense of sight uncontrolled, these ill states, which would overwhelm one like a flood. Guard the sense of sight, win control over the sense of sight.’

22. “ ‘ And so do with the other organs of sense. When you hear a sound with the ear, or smell a scent with the nose, taste a taste with the tongue, or with body touch things tangible, and when with mind you are conscious of a thing, be not charmed with its general appearance or its details.’

23. “ ‘ As soon as he has mastered all that, the Tathagata gives him a further lesson, thus : ‘ Come thou, brother ! Be moderate in eating ; earnest and heedful do you take your food, not for sport not for indulgence, not for adding personal charm or comeliness to body, but do it for body’s stabilising, for its support, for protection from harm, and for keeping up the practice of the righteous life, with this thought ; ‘I check my former feeling. To no new feeling will I give rise, that maintenance and comfort may be mine.’

24. “ ‘ Then, Brahmin, when he has won restraint in food, the Tathagata gives him a further lesson thus : ‘ Come thou, brother ! Abide given to watchfulness. By day, when walking or sitting, cleanse your heart from things that may hinder you. By night spend the first watch walking up and down or sitting and do likewise. By night in the second watch, lie down on the right side in the posture of a lion, and placing one foot upon the other, mindful and self-possessed, set your thoughts on the idea of exertion. Then in the

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third watch of the night rise up, and walking up and down, or sitting, cleanse the heart of things that may hinder.'

25. " 'Then, Brahmin, when the brother is devoted to watchfulness, the Tathagata gives him a further lesson, thus : ' Come thou, brother ! Be possessed of mindfulness and self-control. In going forth or going back, have yourself under control. In looking forward or looking back, in bending or relaxing, in wearing robes or carrying robe and bowl, in eating, chewing, tasting, in easing yourself, in going, standing, sitting, lying, sleeping or waking, in speaking or keeping silence have yourself under control.'

26. " 'Then Brahmin, when he is possessed of self-control, the Tathagata gives him a further lesson thus : ' Come thou, brother ! Seek out a secluded lodging, a forest or root of a tree, a mountain or a cave or a mountain grotto, a charnel field, a forest retreat, the open air, a heap of straw.' And he does so. And when he has eaten his food he sits down cross-legged, and keeping his body straight up, he proceeds to practise the four ecstacies.'

27. " 'Now, Brahmin, for all brothers who are pupils, who have not yet attained mastery of mind, who abide aspiring, for such is the manner of my training.'

28. " 'But as to those brethren who are arhants, who have destroyed the asavas, who have lived the life, done their task, laid down the burden, won their own salvation, utterly destroyed the fetters of becoming, and are released by the perfect insight, for such as those these things are conducive to ease in the present life and to mindful self-control as well.'

29. "When this was said, the Brahmin Moggallana, the accountant, said to the Exalted One :

30. " 'But tell me, Master Gautama. Do the disciples of the worthy Gautama,—do all of them win the absolute perfection which is Nibbana : or do some fail thus to attain ?'

31. "Some of my disciples, Brahmin, thus advised and trained by me, do so attain. Others do not."

32. "But what is the reason, Master Gautama ? What is the cause, Master Gautama ? Here we have Nibbana. Here we have the Path to Nibbana. Here we have the worthy Gautama as instructor. What is the reason, I say, why some disciples thus advised and trained do attain, while others do not attain ?"

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33. "That, Brahmin, is a question that I will answer. But first do you answer me this, so far as you think fit. Now how say you, Brahmin—Are you well skilled in the road to Rajagraha ?"

34. "I am, master, ' Skilled indeed am I in the road to Rajagraha !'

35. "Well, thus instructed, thus advised, he takes the wrong road, and off he goes with his face set to the west.

36. "Then a second man comes up with the same request and you give him the same instructions. He follows your advice and comes safe to Rajagraha.

37. " 'That is my business ?'

38. " 'What do I in the matter, Brahmin ? The Tathagata is one who only shows the way.' "

39. Here is a full statement that he does not promise salvation. He only shows the way.

40. Besides what is salvation ?

41. With Mohammad and Jesus salvation means saving the soul from being sent to hell by the intercession of the Prophet.

42. With Buddha salvation means Nibbana and Nibbana means control of passions.

43. What promise of salvation can there be in such a Dhamma ?

§ 3. *The Buddha did not Claim any Divinity for himself or for his Dhamma. It was discovered by man for man. It was not a Revelation*

1. Every founder of religion has either claimed divinity for himself or for his teachings.

2. Moses, although he did not claim for himself

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any divine origin, did claim divine origin for his teachings. He told his followers that if they wished to reach the land of milk and honey they must accept the teachings because they were the teachings of Jehovah the God.

3. Jesus claimed divinity for himself. He claimed that he was the Son of God. Naturally His teachings acquired a divine origin.

4. Krishna said that he was God himself and the Gita was his own word.

5. The Buddha made no such claim either for himself or his Sasana.

6. He claimed that he was one of the many human beings and his message to the people was the message of man to man.

7. He never claimed infallibility for his message.

8. The only claim he made was that his message was the only true way to salvation as he understood it.

9. It was based on universal human experience of life in the world.

10. He said that it was open to anyone to question it, test it and find what truth it contained.

11. No founder has so fully thrown open his religion to such a challenge.

PART II

Different views of the Buddha's Dhamma

1. What others have understood Him to have Taught.
2. The Buddha's Own Classification.

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§ 1. *What others have understood Him to have Taught*

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1. "What are the teachings of the Buddha?"

2. This is a question on which no two followers of the Buddha or the students of Buddhism agree.

3. To some Samadhi is his principal teaching.

4. To some it is Vippassana (a kind of Pranayam).

5. To some Buddhism is esoteric. To others it is exoteric.

6. To some it is a system of barren metaphysics.

7. To some it is sheer mysticism.

8. To some it is a selfish abstraction from the world.

9. To some it is a systematic repression of every impulse and emotion of the heart.

10. Many other views regarding Buddhism could be collected.

11. This divergence of views is astonishing.

12. Some of these views are those of men who have a fancy for certain things. Such are those who regard that the essence of Buddhism lies in Samadhi or Vippassana, or Esoterism.

13. The other views are the results of the fact that the majority of the writers on Buddhism are students of ancient Indian history. Their study of Buddhism is incidental and occasional.

14. Some of them are not students of Buddhism.

15. They are not even students of anthropology, the subject matter which deals with the origin and growth of religion.

16. The question that arises is—"Did the Buddha have no Social Message ?"

17. When pressed for an answer, students of Buddhism refer to the two points. They say—

18. "The Buddha taught Ahimsa."

19. "The Buddha taught peace !"

20. Asked—"Did the Buddha give any other Social Message ?"

21. "Did the Buddha teach justice ?"

22. "Did the Buddha teach love?"

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23. "Did the Buddha teach liberty?"

24. "Did the Buddha teach equality?"

25. "Did the Buddha teach fraternity ?"

26. "Could the Buddha answer Karl Marx ?"

27. These questions are hardly ever raised in discussing the Buddha's Dhamma.

28. My answer is that the Buddha has a Social Message. He answers all these questions. But they have been buried by modern authors.

§ *2. The Buddha's Own Classification*

1. The Buddha adopted a different classification of Dhamma.

2. The first category he called Dhamma.

3. He created a new category called Not-Dhamma (Adhamma) though it went by the name of Dhamma.

4. He created a third category which he called Saddhamma.

5. The third category was another name for Philosophy of Dhamma.

6. To understand His Dhamma one must understand all the three—Dhamma, Adhamma and Saddhamma.

PART III

What is Dhamma ?

1. To Maintain Purity of Life is Dhamma.
2. To Reach Perfection in Life is Dhamma.
3. To Live in Nibbana is Dhamma.
4. To Give up Craving is Dhamma.
5. To believe that all compound things are impermanent is Dhamma.
6. To believe that Karma is the instrument of Moral Order is Dhamma.

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§ 1. To Maintain Purity of Life is Dhamma

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1. "There are these three forms of purity... And of what sort is purity of body ?

2. "Herein a certain *one* abstains from taking life, from stealing, from sinful living. This is called ' purity of body.'

3. "And of what sort is purity of speech ?

4. "Herein a certain one abstains from falsehood. . .

5. "And of what sort is purity of mind ?

6. "Herein a monk, if he have some personal sensual desire, is aware : ' There is in me sensual desire.' If there be none he is likewise aware of it. Also he is aware of how the arising of sensual desire not yet arisen comes about, and how it is abandoned when it has arisen, and how in the future there is no such arising.

7. "If he have some personal malevolence, he is aware ; ' There is within me malevolence.' Also he is aware of the arising . . . and the abandoning thereof, and of how in future there is no recurrence thereof.

8. "If he have some personal sloth-and-torpor . . . excitement and flurry . . . if he have some personal doubt-and-wavering, he is aware of the fact. Also of how (each of these) arises, is abandoned and recurs not again in future. This is called ' purity of mind.'

9. "He who is pure in body, speech, and mind,"

"Sinless and clean and blessed with purity,—"

" 'Sin-washer' is the name men give to him."

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1. "There are three forms of purity . . . Purity of body, purity of speech, purity of mind."

2. "And of what sort is purity of body ?"

3. "Herein a certain one abstains from taking life, from stealing from *wrong* practice in sensual lusts. This is called 'purity of body'."

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4. "And of what sort is purity of speech ?"

5. "Herein a certain one abstains from falsehood . . . from idle babble. This is called 'purity of speech.' "

6. "And of what sort is purity of mind ?"

7. "Herein a certain one is not covetous or malevolent of heart and has right view. This is called 'purity of mind.' These are the three forms of purity."

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1. There are these five weaknesses, which are a source of weakness to training. What five ?

2. Taking life ; taking what is not given ; lustful, evil practices ; lying ; and indulging in spirituous liquors, which cause idleness.

3. These are the five causes which lead to failure.

4. When these five sources of weakness to training are put away, four arisings of mindfulness should be made to become.

5. Herein a monk abides contemplating the body as body, strenuous, mindful and self-possessed, having overcome both the hankering and discontent common in the world.

6. He abides contemplating the feelings as feelings . . .

7. He abides contemplating the mind as mind . . .

8. He abides contemplating ideas as ideas, strenuous, mindful and self-possessed, having overcome both the hankering and discontent common in the world.

9. When these five sources of weakness to training are put away, these four arisings of mindfulness should be made to become.

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1. There are these three failures. Failure in morals, failure in mind, failure in view.

2. And of what sort is failure in morals ? A certain one takes life, steals, is a wrong-doer in sensual desires, a liar, a slanderer, of bitter speech, an idle babbler. This is called "failure in morals."

3. And of what sort is failure in mind ?

4. A certain one is covetous and malevolent of heart. This is called "failure in mind."

5. And of what sort is failure in view ?

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6. Herein a certain one holds the depraved, the perverse view that there is no (virtue in) almsgiving, in sacrifice, in offerings : that there is no fruit, no result of good and evil deeds: that this world is not, that there is no world beyond: that there is no mother, no father, no beings of spontaneous birth : that in the world are no recluses and Brahmins who have won the summit, who have won perfection, who of themselves by their own intuitional powers have realized the world beyond and can proclaim it. This, monks, is called "failure in view."

7. Monks, it is due to failure in morals, failure in mind and in view that beings, when body breaks up after death, are reborn in the Waste, the Way of Woe, in the Downfall, in Purgatory. Such are the three failures.

8. Monks, there are these three successes. What three ? Success in morals, success in mind, success in view.

9. Now of what sort is success in morals ?

10. A certain one abstains from taking life and the rest . . . from bitter speech and idle babbling. This is called "success in morals."

11. And of what sort is success in mind ?

12. Herein a certain one is not covetous or malevolent of heart. This is called "success in mind."

13. And of what sort is success in view ?

14. Herein a certain one has right view: he holds with certainty that there is (virtue in) almsgiving, in sacrifice, in offerings: that there is fruit and result of good and evil deeds: that this world is, that there is a world beyond : that mother, father and beings of spontaneous birth do exist: that in the world there are recluses and Brahmins who have realized the world beyond and can proclaim it. This, monks, is called "success in view."

15. It is owing to success in these three things

that beings, when body breaks up after death, are reborn in the Happy Lot, in the Heaven World. Such, monks, are the three successes.

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§ *2. To Reach Perfection in Life is Dhamma*

1. There are these three perfections.

2. Perfection in body, speech and mind.

3. And of what sort is perfection in mind ?

4. By the destruction of the asavas, realizing in this very life himself, knowing it thoroughly—the heart's release, the release by insight which is free from the asavas, having attained it abides therein. This is called "perfection in mind." These are the three bodily perfections.

5. There are other perfections. The Buddha explained them to Subhuti.

6. SUBHUTI : What is a Bodhisattva's perfection of giving ?

7. THE LORD : Here a Bodhisattva, his thoughts associated with the knowledge of all modes, gives gifts, i.e., inward or outward things, and, having made them common to all beings, he dedicates them to supreme enlightenment ; and also others he instigates thereto. But there is nowhere an apprehension of anything.

8. SUBHUTI : What is a Bodhisattva's perfection of morality ?

9. THE LORD : He himself lives under the obligation of the ten ways of wholesome acting, and also others he instigates thereto.

10. SUBHUTI : What is a Bodhisattva's perfection of patience ?

11. THE LORD : He himself becomes one who has achieved patience, and others also he instigates to patience.

12. SUBHUTI : What is a Bodhisattva's perfection of vigour ?

13. THE LORD : He dwells persistently in the five perfections, and also others he instigates to do likewise.

14. SUBHUTI : What is the Bodhisattva's perfection of concentration (or meditation) ?

15. THE LORD : He himself, through skill in means, enters into the trances, yet he is not reborn in the corresponding heavens of form as he could ; and others also he instigates to do likewise.

16. SUBHUTI : What is a Bodhisattva's perfection of wisdom ?

17. THE LORD : He does not settle down in any dharma, he contemplates the essential original nature of all dharmas ; and others also he instigates to the contemplation of all dharmas.

18. It is Dhamma to cultivate these perfections.

§ 3. *To Live in Nibbana is Dhamma*

1. "Nothing can give real happiness as Nibbana." So said the Buddha.

2. Of all the doctrines taught by the Buddha the doctrine of Nibbana is the most central one.

3. What is Nibbana ? Nibbana as taught by the Buddha has a totally different meaning and content than what has been given to it by his predecessors.

4. By Nibbana they meant the salvation of the soul.

5. Thus there were four ways in which Nibbana was conceived of : (1) Laukik (material, eat, drink and be merry type) ; (2) Yogic ; (3) Brahmanic and (4) Upanishadic.

6. There was one common feature of the Brahmanic and Upanishadic conceptions of Nibbana. They involved the recognition of a soul as an independent entity—a theory which the Buddha had denied. The Buddha had therefore no difficulty in rejecting the Brahmanic and Upanishadic teaching of Nibbana.

7. The Laukik conception of Nibbana was too materialistic to appeal to the Buddha. It meant nothing but the satisfaction of man's animal appetites. There was nothing spiritual in it.

8. To accept such a conception of Nibbana the

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Buddha felt was a gross wrong that can be done to a human being.

9. For the satisfaction of appetites can result only in creating more appetites. Such a way of life could bring no happiness, he thought. On the contrary, such happiness was sure to bring more unhappiness.

10. The Yogic conception of Nibbana was a purely temporary state. The happiness it brought was negative. It involved disassociation from the world. It avoided pain but gave no happiness. Whatever happiness it may be said to bring lasted as long as the yoga lasted. It was not permanent. It was temporary.

11. The Buddha's conception of Nibbana is quite different from that of his predecessors.

12. There are three ideas which underlie his conception of Nibbana.

13. Of these the happiness of a sentient being as distinct from the salvation of the soul is one.

14. The second idea is the happiness of the sentient being in *Samsara* while he is alive. But the idea of a soul and the salvation of the soul after death are absolutely foreign to the Buddha's conception of Nibbana.

15. The third idea which underlies his conception of Nibbana is the exercise of control over the flames of the passions which are always on fire.

16. That the passions are like burning fire was the text of a sermon which the Buddha delivered to the Bhikkus when he was staying in Gaya. This is what he said :

17. "All things, O Bhikkus, are on fire. And what, O Priests, are all these things which are on fire ?

18. "The eye, O Bhikkus, is on fire ; forms are on fire ; eye-consciousness is on fire ; impressions received by the eye are on fire ; and whatever sensation, pleasant, unpleasant, or indifferent, originates in dependence on impression received by the type, that also is on fire."

19. "And with what are these on fire?"

20. "With the fire of passion say I, with the fire of hatred, with the fire of infatuation ; with birth, old age, death, sorrow, lamentation, misery, grief and despair are they on fire."

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21. "The ear is on fire ; sounds are on fire ; the nose is on fire ; odours are on fire ; the tongue is on fire ; tastes are on fire ; the body is on fire ; ideas are on fire ; and whatever sensation, pleasant, unpleasant, or indifferent, originates in dependence on impression received by the mind, that also is on fire.

22. "And with what are these on fire ?"

23. "With the fire of passion, say I ; with the fire of hatred ; with the fire of infatuation ; with birth ; old age, death, sorrow, lamentation, misery, grief, and despair are they on fire."

24. "Perceiving this, O Bhikkus, the learned and noble conceives an aversion. And in conceiving this aversion, he becomes divested of passion, and by the absence of passion he becomes free, and when he is free he becomes aware that he is free."

25. How can Nibbana give happiness ? That is the next question which calls for explanation.

26. The common notion is that man is unhappy because he is in want. But this is not always true. Man is unhappy even though he is in the midst of plenty.

27. Unhappiness is the result of greed, and greed is the bane of life of those who have as well as of those who have not.

28. This the Buddha has made clear in a sermon delivered to the Bhikkus in which he said.

29. "Excited by greed (lobha), brothers, furious with anger (dosa), blinded by delusion (moha), with mind overwhelmed, with mind enslaved, men reflect upon their own misfortune, men reflect upon the misfortune of others, men experience mental suffering and anguish.

30. If, however, greed, anger and delusion are done away, men reflect neither upon their own misfortune nor on mental suffering and anguish.

31. Thus, brothers, is Nibbana visible in this

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life and not merely in the future ; inviting, attractive, accessible to the wise disciple."

32. Herein lies the explanation of what consumes man and makes him unhappy. By using this analogy of burning fire to the working of human passions the Buddha has given the most forceful explanation for the unhappiness of man.

33. What makes man unhappy is his falling a prey to his passions. These passions are called fetters which prevent a man from reaching the state of Nibbana. The moment he is free from the sway of his passions, i.e., he learns to achieve Nibbana, man's way to happiness is open to him.

34. These passions, according to the Buddha's analysis, fall under three groups.

35. First : that which refers to all degrees of craving or attachment—such as lust, infatuation and greed (lobha).

36. Second: that which refers to all degrees of antipathy—hatred, anger, vexation or repugnance (dosa).

37. Third: that which refers to all degrees of ignorance—delusion, dullness and stupidity (moha or avidya).

38. The first and second fires relate to the emotions and over the whole scale of one's attitudes and feelings towards other beings, while the third fire relates to all ideas that are in any way removed from the truth.

39. There are certain misunderstandings about the Buddha's doctrine of Nibbana.

40. The word Nibbana etymologically means out blowing, extinguishing.

41. Taking hold of this root meaning of the word, critics have tried to make nonsense of the doctrine of Nibbana.

42. They hold that Nibbana means extinction of all human passions which is equivalent to death.

43 They have by this means tried to throw ridicule over the doctrine of Nibbana.

44. That such is not the meaning of Nibbana

is quite clear if one examines the language of the fire sermon.

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45. The fire sermon does not say that life is burning and death is extinction. It says passions are on fire.

46. The fire sermon does not say that the passions must be extinguished completely. It says do not add fuel to the flame.

47. Secondly, critics have failed to make a distinction between Nibbana and Parinibbana.

48. As the Udana says: "Parinibbana occurs when the body becomes disintegrated, all perceptions become stopped, all sensations die away, the activities cease and consciousness goes away. Thus Parinibbana means complete extinction."

49. Nibbana can never have this meaning. Nibbana means enough control over passion so as to enable one to walk on the path of righteousness. It was not intended to mean, anything more.

50. That Nibbana is another name for righteous life is made clear by the Buddha himself to Radha.

51. Once the venerable Radha came to the Exalted One. Having done so he saluted the Exalted One and sat down at one side. So seated the venerable Radha thus addressed the Exalted One: "Pray Lord, what for is Nibbana?"

52. "Nibbana means release from passion" replied the Lord.

53. "But Nibbana, Lord,—what is the aim of it?"

54. "Rooted in Nibbana, Radha, the righteous life is lived. Nibbana is its goal. Nibbana is its end."

55. That Nibbana does not mean extinction is also made clear by Sariputta in the following sermon:

56. "Once the Blessed Lord was staying at Shravasti in Anathpindika's Arama where Sariputta was also staying.

57. "The Lord, addressing the brethren, said : 'Almsmen, be ye partakers not of the world's goods but of my doctrine; in my compassion for you all I am anxious to ensure this.'

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58. "Thus spoke the Lord, who thereupon rose and passed to his own cell.

59. "Sariputta remained behind and the brethren asked him to explain what is Nibbana.

60. "Then Sariputta in reply to the brethren said : 'Brethren, know ye that greed is vile, and vile is resentment.

61. " ' To shed this greed and this resentment, there is the Middle Way which gives us eyes to see and makes us know, leading us on to peace, insight, enlightenment and Nibbana.

62. " ' What is this Middle Way ? It is naught but the Noble Eightfold Path of right outlook, right aims, right speech, right action, right means of livelihood, right effort, right mindfulness, and right concentration; this, almsmen is the Middle Way.

63. " ' Yes, sirs: anger is vile and malevolence is vile, envy and jealousy are vile, niggardliness and avarice are vile, hypocrisy and deceit and arrogance are vile, inflation is vile, and indolence is vile.

64. " ' For the shedding of inflation and indolence there is the Middle Way—giving us eyes to see, making us know, and leading us on to peace, insight, enlightenment.

65. " ' Nibbana which is naught but that Noble Eightfold Path.' "

66. Thus spoke the revered Sariputta—Glad at heart, the almsmen rejoiced at what he had said.

67. That the idea underlying Nibbana is that it is the path of righteousness. No one will mistake Nibbana for anything else.

68. Complete annihilation is one extreme and Parinibbana is another extreme. Nibbana is the Middle Way.

69. So understood all confusion about Nibbana will disappear.

§ 4. *To Give up Craving is Dhamma*

1. In the Dhammapada the Buddha says: "There is no greater benefit that, health and there is

nothing more valuable than the spirit of contentment."

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2. This spirit of contentment is not to be understood to mean meekness or surrender to circumstances.

3. Because that would be quite contrary to the other teachings of the Buddha.

4. The Buddha has not said, "Blessed are they who are poor."

5. The Buddha has not said that the sufferer should not try to change his condition.

6. On the other hand, he has said that riches are welcome and instead of listless suffering he taught Virya which is energetic action.

7. What the Buddha meant when he said that contentment is the highest form of wealth is that man should not allow himself to be overpowered by greed which has no limits.

8. As the Bhikku Rathapala has said: "Rich men I see who, folly-led, never give, but still amass, athirst for pleasures new; the king whose conquests to the sea extend, for sway over empires overseas will pine, still craving, kings and subjects pass away; lacking, still lacking, they their bodies quit; never on earth can pleasures' measure be filled."

9. In the Maha-Nidan-Suttanta the Buddha has explained to Ananda the necessity of controlling greed. This is what he said.

10. "This it is, Ananda, that craving comes into being because of desire for gain, when desire for gain becomes a passion for possession when the spirit of possession gives rise to tenacity of possession it becomes avarice.

11. "Avarice or possession due to uncontrolled acquisitive instinct calls for watch and ward.

12. "Why is this craving or greed to be condemned? Because of this," said the Buddha to Ananda, "many a bad and wicked state of things arises—blows and wounds, strife, contradiction and retorts ; quarrelling, slander and lies."

13. That this is the correct analysis of class struggle there can be no doubt.

14. That is why the Buddha insisted upon the control of greed and craving.

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§ 5. *To believe that all compound things are impermanent is Dhamma*

1. This doctrine of impermanence has three aspects.

2. There is the impermanence of composite things.

3. There is the impermanence of the individual being.

4. There is the impermanence of the self nature of conditioned things.

5. The impermanence of composite things has been well explained by the great Buddhist philosopher Asanga.

6. "All things," says Asanga, "are produced by the combination of causes and conditions and have no independent noumenon of their own. When the combination is dissolved, their destruction ensures.

7. "The body of a living being consists of the combination of four great elements, viz., earth, water, fire and air, and when this combination is resolved into the four component elements, dissolution ensues.

8. "This is what is called the impermanence of a composite entity."

9. Impermanence of the living individual is best described by the formula—being is becoming.

10. In this sense a being of a past moment has lived, but does not live nor will he live. The being of a future moment will live but has not lived nor does he live ; the being of the present moment does live but has not lived and will not live.

11. In short, a human being is always changing, always growing. He is not the same at two different moments of his life.

12. The third phase of the doctrine of impermanence is somewhat difficult for a common man to follow.

13. To realize that every living being will die sometime or other is a very easy matter to understand.

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14. But it is not quite so easy to understand how a human being can go on changing—becoming— while he is alive.

15. "How is this possible?" The Buddha's answer was, "This is possible because all is impermanent."

16. This later on gave rise to what is called Sunnya Vad.

17. The Buddhist Sunnyata does not mean nihilism out and out. It only means the perpetual changes occurring at every moment in the phenomenal world.

18. Very few realize that it is on account of Sunnyata that everything becomes possible ; without it nothing in the world would be possible. It is on the impermanence of the nature of all things that the possibility of all other things depends.

19. If things were not subject to continual change but were permanent and unchangeable, the evolution of all of life from one kind to the other and the development of living things would come to a dead stop.

20. If human beings died or changed but had continued always in the same state what would the result have been ? The progress of the human race would have come to a dead halt.

21. Immense difficulty would have arisen if Sunnya is regarded as being void or empty.

22. But this is not so. Sunnya is like a point which has substance but neither breadth nor length.

23. All things are impermanent was the doctrine preached by the Buddha.

24. What is the moral of this doctrine of the Buddha ? This is a much more important question.

25. The moral of this doctrine of impermanence is simple. Do not be attached to anything.

26. It is to cultivate detachment, detachment from property, from friends, etc., that he said "All these are impermanent."

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§ 6. *To believe that Karma is the instrument of Moral Order is Dhamma*

1. There is an order in the physical world. This is proved by the following phenomenon.

2. There is a certain order in the movements and actions of the starry bodies.

3. There is a certain order by which seasons come and go in regular sequence.

4. There is a certain order by which seeds grow into trees and trees yield fruits and fruits give seeds.

5. In Buddhist terminology these are called Niyamas, laws which produce an orderly sequence such as Rutu Niyam, Bija Niyam.

6. Similarly is there a moral order in Human Society. How is it produced ? How is it maintained?

7. Those who believe in the existence of God have no difficulty in answering the question. And their answer is easy.

8. Moral order, they say, is maintained by Divine Dispensation. God created the world and God is the Supreme Governor of the world. He is also the author of moral as well as of physical law.

9. Moral law, according to them, is for man's good because it ensues from Divine will. Man is bound to obey God who is his maker and it is obedience to God which maintains the moral order.

10. Such is the argument in support of the view that the moral order is maintained by Divine Dispensation.

11. The explanation is by no means satisfactory. For if the moral law has originated from God, and if God is the beginning and end of the moral order and if man cannot escape from obeying God, why is there so much moral disorder in the world ?

12. What is the authority of the Divine Law? What is the hold of the Divine Law over the individual ? These are pertinent questions. But to none of them is there any satisfactory answer from those who rely on Divine Dispensation as the basis for the moral order.

13. To overcome these difficulties the thesis has been somewhat modified.

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14. It is said : no doubt creation took effect at the command of God. It is also true that the cosmos entered upon its life by his will and by his direction. It is also true that He imparted to the cosmos once for all the energy which served as the driving power of a stupendous mechanism.

15. But God leaves it to Nature to work itself out in obedience to the laws originally given by him.

16. So that if the moral order fails to work out as expected by God, the fault is of Nature and not of God.

17. Even this modification in the theory does not solve the difficulty. It only helps to exonerate God from his responsibility. For the question remains, why should God leave it to Nature to execute His laws ? What is the use of such an absentee God ?

18. The answer which the Buddha gave to the question,—"How is moral order maintained?" is totally different.

19. His answer was simple. "It is the Kamma Niyam and not God which maintains the moral order in the universe." That was the Buddha's answer to the question.

20. The moral order of the universe may be good or it may be bad. But according to the Buddha the moral order rests on man and on nobody else.

21. "Kamma means man's action and Vipaka is its effect. If the moral order is bad it is because man does Akusala (Bad) Kamma. If the moral order is good it is because man does Kusala (Good) Kamma.

22. The Buddha was not content with merely speaking of Kamma. He spoke of the law of Kamma which is another name for Kamma Niyam.

23. By speaking of the law of Kamma what the Buddha wanted to convey was that the effect of the deed was bound to follow the deed, as surely as night follows day. It was like a Niyam or rule.

24. No one could fail to benefit by the good effects of a Kusala Kamma and no one could escape the evil effects of Akusala Kamma.

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25. Therefore, the Buddha's admonition was: Do Kusala Kamma so that humanity may benefit by a good moral order which a Kusala Kamma helps to sustain ; do not do Akusala Kamma for humanity will suffer from the bad moral order which an Akusala Kamma will bring about.

26. It may be that there is a time interval between the moment when the Kamma is done and the moment when the effect is felt. It is so, often enough.

27. From this point of view, Kamma is either (1) Ditthadamma Vedaniya Kamma (Immediately Effective Kamma) ; (2) Upapajjavedaniya Kamma (Remotely Effective Kamma); and (3) Aporapariya Vedaniya Kamma (Indefinitely Effective Kamma).

28. Kamma may also fall into the category of Ahosi Kamma, i.e., Kamma which is non-effective. This Ahosi Kamma comprises all such Kammas which are too weak to operate, or which are counteracted by a more Kamma, at the time when it should have worked.

29. But making allowance for all these considerations, it does not in any sense derogate from the claim made by the Buddha that the law of Kamma is inexorable.

30. The theory of the law of Kamma does not necessarily involve the conception that the effect of the Kamma recoils on the doer of it and there is nothing more to be thought about it. This is an error. Sometimes the action of one affects another instead of the doer. All the same it is the working of the law of Kamma because it either upholds or upsets the moral order.

31. Individuals come and individuals go. But the moral order of the universe remains and so also the law of Kamma which sustains it.

32. It is for this reason that in the religion of the Buddha, Morality has been given the place of God.

33. Thus the Buddha's answer to the question— "How the moral order in the universe is sustained?" is so simple and so irrefutable.

34. And yet its true meaning is scarcely grasped.

Often, almost always, it is either misunderstood or misstated or misinterpreted. Not many seem to be conscious that the law of Kamma was propounded by the Buddha as an answer to the question— "How the moral order is maintained ?"

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35. That, however, is the purpose of Buddha's Law of Kamma.

36. The Law of Kamma has to do only with the question of general moral order. It has nothing to do with the fortunes or misfortunes of an individual.

37. It is concerned with the maintenance of the moral order in the universe.

38. It is because of this that the law of Kamma is a part of Dhamma.

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PART IV

What is Not—Dhamma

1. Belief in the Supernatural is Not—Dhamma.
2. Belief in Ishwara (God) is Not Essentially Part of Dhamma.
3. Dhamma Based on Union with Brahma is a False Dhamma.
4. Belief in Soul is Not—Dhamma.
5. Belief in Sacrifices is Not—Dhamma.
6. Belief Based on Speculation is Not—Dhamma.
7. Reading Books of Dhamma is Not—Dhamma.
8. Belief in the Infallibility of Books of Dhamma is Not— Dhamma.

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§ 1. *Belief in the Supernatural is Not—Dhamma*

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1. Whenever any phenomenon occurs, humanity is always wanting to know how it has happened, what is the cause of it.

2. Sometimes cause and the effect are so proximate and so close that it is not difficult to account for the occurrence of the event.

3. But often-times the effect is so far away from the cause for the effect is not accountable. Apparently there appears to be no cause for it.

4. Then the question arises: How has this event occurred ?

5. The commonest answer is that the occurrence of the event is due to some supernatural cause which is often called a miracle.

6. The Buddha's predecessors gave very different answers to this question.

7. Pakauda Katyana denied that there was a cause for every event. Events, he said, occurred independently.

8. Makhali Ghosal admitted that an event must have a cause. But he preached that the cause is not to be found in human agency but is to be sought in nature, necessity, inherent laws of things, predestination or the like.

9. The Buddha repelled these doctrines. He maintained that not only every event has a cause but the cause is the result of some human action or natural law.

10. His contention against the doctrine of Time, Nature, Necessity, etc., being the cause of the occurrence of an event, was this.

11. If Time, Nature, Necessity, etc., be the sole cause of the occurrence of an event, then who are we ?

12. Is man merely a puppet in the hands of Time, Nature, Chance, Gods, Fate, Necessity ?

13. What is the use of man's existence if he is not free ? What is the use of man's intelligence if he continues to believe in supernatural causes ?

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14. If man is free, then every event must be the result of man's action or of an act of Nature. There cannot be any event which is supernatural in its origin.

15. It may be that man is not able to discover the real cause of the occurrence of an event. But if he has intelligence he is bound one day to discover it.

16. In repudiating supernaturalism the Buddha had three objects.

17. His first object was to lead man to the path of rationalism.

18. His second object was to free man to go in search of truth.

19. His third object was to remove the most potent source of superstition, the result of which is to kill the spirit of inquiry.

20. This is called the law of Kamma or Causation.

21. This doctrine of Kamma and Causation is the most central doctrine in Buddhism. It preaches Rationalism and Buddhism is nothing if not rationalism.

22. That is why worship of the supernatural is Not—Dhamma.

§ *2. Belief in Ishwara (God) is Not Essentially Part of Dhamma*

1. Who created the world is a common question. That the world was created by God is also a very. common answer.

2. In the Brahmanic scheme this God is called by a variety of names—Prajapati, Ishwar, Brahma or Maha Brahma.

3. To the question who this God is and how He came into being there is no answer.

4. Those who believe in God describe Him as a being who is *omnipotent,* i.e., all-powerful, *Omnipresent,* i.e., he fills the whole universe, and *Omniscient,* i.e., he knows everything.

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5. There are also certain moral qualities which are attributed to God. God is said to be good, God is said to be just and God is said to be all-loving.

6. The question is did the Blessed Lord accept God as the creator of the universe.

7. The answer is, "No." He did not.

8. There are various grounds why he rejected the doctrine of the Existence of God.

9. Nobody has seen God. People only speak of God.

10. God is unknown and unseen.

11. Nobody can prove that God has created the world. The world has evolved and is not created.

12. What advantage can there be in believing in God ? It is unprofitable.

13. The Buddha said that a religion based on God is based on speculation.

14. A religion based on God is, therefore, not worth having.

15. It only ends in creating superstition.

16. The Buddha did not leave the question there. He discussed the question in its various aspects.

17. The grounds on which he rejected the doctrine were various.

18. He argued that the doctrine of the Existence of God is not based on truth.

19. This he made clear in his dialogue with the two Brahmins, Vasettha and Bhardvaja.

20. Now a dispute arose between them as to which was the true path of salvation and which false.

21. About the time the Blessed One was journeying through Kosala with a great company of the brethren he happened to halt at the Brahmin village called Manaskata and stayed in the mango grove on the bank of the river Akiravati.

22. Manaskata was the town in which Vasettha and Bhardvaja lived. Having heard that the Blessed Lord was staying in their town, they went to him and each one put forth his point of view.

23. Bhardvaja said : "The path of Tarukkha is the straight path, this is the direct way which makes

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for salvation, and leads him, who acts according to it, into a state of union with Brahma."

24. Vasettha said : "Various Brahmins, O Gotama, teach various paths. The Addhariya Brahmins, the Tittiriya Brahmins, the Kanchoka Brahmins, the Bheehuvargiya Brahmins. They all lead those who act according to them, into a state of union with Brahma.

25. "Just as near a village or a town there are many and various paths yet they all meet together in the village—just in the same way all the various paths taught by the various Brahmins lead to union with Brahma."

26. "Do you say that they all lead aright, Vasettha?" asked the Buddha. "I say so, Gautama," replied Vasettha.

27. "But Vasettha, is there a single one of the Brahmins versed in the three Vedas who has ever seen Brahma face to face."

28. "No, indeed, Gautama."

29. "Is there a single one of the teachers of the Brahmanas versed in the three Vedas who has seen Brahma face to face ?"

30. "No, indeed, Gautama."

31. "Nobody has seen Brahma. There is no perceptual knowledge about Brahma." "So it is," said Vasettha. "How then can you believe that the assertion of the Brahmins that Brahma exists is based on truth ?

32. "Just, Vasettha, as when a string of blind men are clinging one to the other, neither can the foremost see nor can the middle one see nor can the hindmost see—just even so, methinks, Vasettha, is the talk of the Brahmins nothing but blind talk. The first sees not, the middle one sees not, nor can the latest one. The talk of these Brahmins turns out to be ridiculous, mere words, a vain and empty thing.

33. "Is this not a case, Vasettha, of a man falling in love with a woman whom he has not seen ?" "Yes, it is," replied Vasettha.

34. "Now what think you Vasettha ? If people

should ask you, 'Well! Good friend ! This most beautiful woman in the land, whom you thus love and long for, who is she? Is she a noble lady, or a Brahmin woman, or of the trader class, or a Sudra ?'

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35. "With regard to the origin of Maha Brahma, the so-called creator," the Blessed Lord said, addressing Bhardvaja and Vasettha, "Friends, that being who was first born thinks thus : I am Brahma, the Great Brahma, the Vanquisher, the Unvanquished, the All-seeing, the Disposer, the Lord, the Maker, the Creator, the Chief, the Assignor, the Master of Myself, the father of all that are and are to be. By me are these beings created.

36. "This means that Brahma is the father of those that are and are to be.

37. "You say that the worshipful Brahma, the Vanquisher, the Unvanquished, Father of all that are and are to be, he by whom we were created, he is permanent, constant, eternal, unchanging, and he will remain so for ever and ever. Then why are we who are created by that Brahma, have come hither, all impermanent, transient, unstable, short-lived, destined to pass away ?"

38. To this Vasettha had no answer.

39. His third argument had reference to the Omnipotence of God. "If God is Omnipotent and is also the efficient cause of creation, then because of this man cannot have any desire to do anything, nor can there be any necessity to do anything, nor can he have the will to do anything or to put forth any effort. Man must remain a passive creature with no part to play in the affairs of the world. If this is so, why did Brahma create man at all ?"

40. To this also Vasettha had no answer.

41. His fourth argument was that if God is good then why do men become murderers, thieves, unchaste, liars, slanderers, abusive babblers, covetous, malicious and perverse ? The cause of this must be Ishwara. Is this possible with the existence of God who is good ?

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42. His fifth argument was related to God being Omniscient, just and merciful.

43. "If there is a supreme creator who is just and merciful, why then does so much injustice prevail in the world?" asked the Blessed Lord. "He who has eyes can see the sickening sight ; why does not Brahma set his creatures right ? If his power is so wide that no limits can restrain, why is his hand so rarely spread to bless ? Why are his creatures all condemned to suffering ? Why does he not give happiness to all ? "Why do fraud, lies and ignorance prevail? Why does falsehood triumph over truth ? Why does truth and justice fail ? I count your Brahma as one of the most unjust, who made a world only to shelter wrong.

44. "If there exists some Lord all-powerful to fulfil in every creature, bliss or woe, and action, good or ill, then that Lord is stained with sin. Either man does not work his will or God is not just and good or God is blind."

45. His next argument against the doctrine of God was that the discussion of this question about the existence of God was unprofitable.

46. According to him the centre of religion lay not in the relation of man to God. It lay in the relation between man and man. The purpose of religion is to teach man how he should behave towards other men so that all may be happy.

47. There was also another reason why the Blessed Lord was against belief in the existence of God.

48. He was against religious rites, ceremonies, and observances. He was against them because they were the home of superstition and superstition was the enemy of *Samma Ditthi,* the most important element in his Ashtangmarg.

49. To the Blessed Lord belief in God was the most dangerous thing. For belief in God gave rise to belief in the efficacy of worship and prayer and the efficacy of worship and prayer gave rise to the office of the priest and the priest was the evil genius who

created all superstition and thereby destroyed the growth of *Samma Ditthi*.

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50. Of these arguments against belief in the existence of God some were practical but the majority of them theological. The Blessed Lord knew that they were not fatal to the belief in the existence of God.

51. It must not, however, be supposed that he had no argument which was fatal. There was one which he advanced which is beyond doubt fatal to belief in God. This is contained in his doctrine of *Patit Samutpad* which is described as the doctrine of Dependent Origination.

52. According to this doctrine, the question whether God exists or does not exist is not the main question. Nor is the question whether God created the universe the real question. The real question is how did the creator create the world. The justification for the belief in God is a conclusion which follows from our answer to the question how was the world created.

53. The important question is : Did God create something out of nothing or did he create something out of something ?

54. It is impossible to believe that something could have been created out of nothing.

55. If the so-called God has created something out of something, then that something out of which something new was created has been in existence before he created anything. God cannot therefore be called the Creator of that something which has existed before him.

56. If something has been created by somebody out of something before God created anything then God cannot be said to be the Creator or the first Cause.

57. Such was his last but incontrovertible argument against belief in the existence of God.

58. Being false in premises, belief in God as the creator of the universe is Not—Dhamma. It is only belief in falsehood.

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§ 3. *Dhamma Based on Union with Brahma is a False Dhamma*

1. When the Buddha was preaching his religion there was current a doctrine called Vedantism.

2. The tenets of this doctrine are few and simple.

3. Behind the universe there is omnipresent a common principle of life called *Brahma* or *Brahman*.

4. This Brahma is a reality.

5. The Atman or the individual soul is the same as Brahma.

6. Man's liberation lies in making Atman to be one with Brahma. This is the second principle.

7. This unity with Brahma the Atman can achieve by realising that it is the same as Brahman.

8. And the way to make the Atman realize that it is the same as Brahman is to give up Sansara.

9. This doctrine is called *Vedantism*.

10. The Buddha had no respect for the doctrine. He regarded it as based on false premises and producing nothing of value and, therefore, not worth having.

11. This he made clear in his discussion with two Brahmins, Bharadvaj and Vasettha.

12. The Buddha argued that there must be proof before one can accept a thing to be a reality.

13. There are two modes of proof, perception and inference.

14. The Buddha asked, "Has anybody perceived Brahma ; have you seen Brahma ; have you spoken to Brahma ; have you smelt Brahma ? "

15. Vasettha said, "No.

16. "The other mode of proof is inadequate to prove the existence of Brahma."

17. "From what is Brahma the inference of ?" asked the Buddha. There again was no answer.

18. There are others who argue that a thing exists although it is invisible. So they say that Brahma exists although it is invisible.

19. In this bald statement it is an impossible position.

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20. But for argument's sake let it be granted that a thing exists although it is invisible.

21. The best illustration of it is electricity. It exists although it is invisible.

22. This argument is not enough.

23. An invisible thing must show itself in some other form that is visible. Then alone it can be called real.

24. But if an invisible thing does not show itself in any visible form then it is not a reality.'

25. We accept reality of electricity although it is invisible because of the results it produces.

26. Electricity produces light. From light we accept the reality of electricity although it is invisible.

27. What does this invisible Brahma produce? Does it produce any visible results ?

28. The answer is in the negative.

29. Another illustration may be given. In law too it is common to adopt as a basic concept a fiction— a proposition, the existence of which is not proved but which is assumed to be true.

30. And we all accept such a legal fiction.

31. But why is such a legal fiction accepted?

32. The reason is that a legal fiction is accepted because it gives a fruitful and just result.

33. "Brahma is a fiction. What fruitful result does it give ? "

34. Vasettha and Bharadvaj were silent.

35. To drive the argument home he turned to Yasettha and asked "Have you seen Brahma ? "

36. "Is there a single one of the Brahmanas versed in three Vedas who has ever seen Brahma face to face ? "

37. "No, indeed, Gautama."

38. "Is there a single one of the teachers of the Brahmanas versed in the three Vedas who have seen Brahma face to face ?"

39. "No, indeed, Gautama."

40. "Is there, Vasettha, a single one of the Brahmanas upto the seventh generation who has seen Brahma face to face ? "

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41. "No, indeed, Gautama."

42. "Well then, Vasettha—did the ancient Rishis of the Brahmanas—did even they speak thus, saying : 'We know it, we have seen it, where Brahma is, whither Brahma is ?'

43. "Not so, Gautama."

44. The Buddha continued his questioning of the two Brahmin boys and said :

45. "Now what think you, Vasettha ? Does it not follow, this being so, that the talk of the Brahmanas about union with Brahma turns out to be foolish talk ?

46. "Just, Vasettha, as when a string of blind men are clinging one to the other, neither can the foremost see, nor can the middle one see, nor can the hindmost see—just even so, methinks, Vasettha, is the talk of the Brahmanas all but blind talk ? The first sees not, the middle one sees not, nor can the last one. The talk of these Brahmanas turns out to be ridiculous, mere words, a vain and empty thing.

47. "Just, Vasettha, as if a man should say, 'How I long for, how I love the most beautiful woman in this land.'

48. "And people should ask him, 'Well ! good friend ! This most beautiful woman in the land, whom you thus love and long for, do you know whether that beautiful woman is a noble lady or a Brahmin woman, or of the trader class, or a Sudra ?'

49. "But when so asked, he would answer: 'No.'

50. "And when people should ask him, 'Well! good friend! This most beautiful woman in all the land, whom you love and long for, do you know what the name of that most beautiful woman is, or what her family name, whether she be tall or short or of medium height, dark or brunette or golden in colour, or in what village or town or city she dwells ?' But when so asked, he would answer : 'No.'

51. "Now what think you, Vasettha? Would it not turn out that being so, that the talk of that man was foolish talk ?"

52. "In sooth, Gautama, that would be so," said the two Brahmins.

53. So Brahma is not real and any religion based upon it is useless.

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§ 4. *Belief in Soul is Not Dhamma*

1. The Buddha said that religion based on soul is based on speculation.

2. Nobody has seen the soul or has conversed with the soul.

3. The soul is unknown and unseen.

4. The thing that exists is not the soul but the mind. Mind is different from the soul.

5. Belief in soul He said is unprofitable.

6. A religion based on soul is therefore not worth having.

7. It only ends in creating superstition.

8. The Buddha did not leave the question there. He discussed it in all its aspects.

9. Belief in the existence of soul is as common as the belief in the existence of God.

10. Belief in the existence of soul was also a part of the Brahmanic Religion.

11. In the Brahmanic Religion the soul is called *Atma* or *Atman*.

12. In the Brahmanic Religion, Atman is the name given to an entity which was held to be abiding separate from the body, but living inside the body constantly existing from the moment of his birth.

13. Belief in the soul included other beliefs, connected with it.

14. The soul does not die with the body. It takes birth in another body when it comes into being.

15. The body serves as an external clothing for the soul.

16. Did the Buddha believe in the soul? No. He did not. His doctrine about the soul is called An-atta, no soul.

17. Given a disembodied soul various questions arise : What is the soul ? Where did it come from ? What becomes of it on the death of the body ? Where does it go ? In what form does it exist "hereafter."

How long does it remain there ? These questions the Buddha tried to argue out with the upholders of the doctrine of the soul.

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18. He first tried to show how vague was the idea about the soul by his usual method of cross-examination.

19. He asked those who believed in the existence of the soul, what the soul was like in size and in shape.

20. To Ananda he said the declarations concerning the soul are abounding. Some declare : "My soul has a form and it is minute." Others declare the soul to have form and to be boundless and minute. Others declare it to be formless and boundless.

21. "In so many ways, Ananda, are declarations made concerning the soul."

22. "How is the soul conceived by those who believe in the soul ?" was another question raised by the Buddha. Some say, "My soul is feeling." Others say, "Nay, my soul is not feeling, my soul is not sentient" ; or again : "Nay, my soul is not feeling, nor is it non-sentient ; my soul has feeling, it has the property of sentience." Under such aspects as these is the soul conceived.

23. The Buddha next asked those who believed in the existence of the soul as to the condition of the soul after the death of the body.

24. He also raised the question whether the soul was visible after the death of the body.

25. He found infinite number of vague statements.

26. Does the soul keep its form after the death of the body ? He found that there were eight different speculations.

27. Does the soul die with the body ? There were innumerable speculations on this.

28. He also raised the question of the happiness or misery of the soul after the body is dead. Is the soul happy after the death of the body? On this also the Recluses and Brahmins differed. Some said it was altogether miserable. Some said it was happy. Some said it is both happy and miserable and some said it is neither happy nor miserable.

29. His answer to all these theories about the existence of the soul was the same which he gave to Cunda.

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30. To Cunda he said : "Now, Cunda, to those recluses and Brahmins, who believe and profess any one of these views, I go and say this : 'Is this so, friends?' And if they reply: 'Yes. This alone is true, any other view is absurd.' I do not admit their claim. Why is this ? Because persons hold different opinions on such questions. Nor do I consider this (or that) view on a level with my own, let alone higher."

31. Now the more important question is what were the arguments of the Buddha against the existence of the soul.

32. The general arguments he advanced in support of his denial of the soul were the same as those which he advanced in support of his denial of the existence of God.

33. He argued that the discussion of the existence of the soul is as unprofitable as the discussion of the existence of God.

34. He argued that the belief in the existence of the soul is as much against the cultivation of *Samma Ditthi* as the belief in the existence of God.

35. He argued that the belief in the existence of the soul is as much a source of superstition as the belief in God is. Indeed in his opinion the belief in the existence of a soul is far more dangerous than the belief in God. For not only does it create a priesthood, not only is it the origin of all superstition but it gives the priesthood complete control over man from birth to death.

36. Because of these general arguments it is said that the Buddha did not express any definite opinion on the existence of the soul. Others have said that he did not repudiate the theory of the existence of the soul. Others have said that he was always dodging the issue.

37. These statements are quite incorrect. For to Mahali he did tell in most positive terms that there is

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no such thing as a soul. That is why his theory of the soul is called Anatta, i.e., non-soul.

38. Apart from the general arguments against the existence of the soul, the Buddha had a special argument against the existence of the soul which he regarded as fatal to the theory of the soul.

39. His theory against the existence of the soul as a separate entity is called Nama-Rupa.

40. The theory is the result of the application of the Vibhaja test, of sharp, rigorous analysis, of the constituent elements of Sentient Being otherwise called Human Personality.

41. Nama-Rupa is a collective name for a Sentient Being.

42. According to the Buddha's analysis, a Sentient Being is a compound thing consisting of certain physical elements and certain mental elements. They are called *Khandas*.

43. The Rupa Khanda primarily consists of the physical elements such as earth, water, fire and air. They constitute the Body or Rupa.

44. Besides Rupa Khanda, there is such a thing as Nama Khanda which goes to make up a Sentient Being.

45. This Nama Khanda is called Vinana, or consciousness. This Nama Khanda includes the three mental elements : Vedana (sensation springing from contact of the six senses with the world), Sanna (perception); Sankhara (states of mind). Chetana (consciousness) is sometimes spoken of along with the three other mental states as being one of them. A modern psychologist would say that consciousness is the mainspring from which other psychological phenomena arise. Vinana is the centre of a sentient being.

46. Consciousness is result of the combination of the four elements, Prithi, Apa, Tej and Vayu.

47. An objection is raised to this theory of consciousness propounded by the Buddha.

48. Those who object to this theory ask, "How is consciousness produced ? "

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49. It is true that consciousness arises with birth and dies with death. All the same, can it be said that consciousness is the result of the combination of the four elements ?

50. The Buddha's answer was not that the co-existence or aggregation of the physical elements produces consciousness. What the Buddha said was that wherever there was rupa or kaya there was consciousness accompanying it.

51. To give an analogy from science, there is an electric field and wherever there is an electric field it is always accompanied by a magnetic field. No one knows how the magnetic field is created or how it arises. But it always exists along with the electric field.

52. Why should not the same relationship be said to exist between body and consciousness ?

53. The magnetic field in relation to the electric field is called an induced field. Why cannot consciousness be called an induced field in relation to Rupa-Kaya.

54. The Buddha's argument against the soul is not yet complete. He had further to say something of importance.

55. Once consciousness arises man becomes a sentient being. Consciousness is, therefore, the chief thing in man's life.

56. Consciousness is cognitive, emotional and volitional.

57. Consciousness is cognitive when it gives knowledge, information, as appreciating or apprehending, whether it be appreciation of internal facts or of external things and events.

58. Consciousness is emotional when it exists in certain subjective states, characterized by either pleasurable or painful tones, when emotional consciousness produces feeling.

59. Consciousness in its volitional stage makes a being exert himself for the attainment of some end. Volitional consciousness gives rise to what we call will or activity.

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60. It is thus clear that all the functions of a sentient being are performed by the sentient being through and as a result of consciousness.

61. After this analysis the Buddha asked what are the functions which are left to be performed by the soul ? All functions assigned to the soul are performed by consciousness.

62. A soul without any function is an absurdity.

63. This is how the Buddha disproved the existence of the soul.

64. That is why the existence of the soul cannot be a part of Dhamma.

§ 5. *Belief in Sacrifices is Not—Dhamma*

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1. The Brahmanic religion was based upon sacrifices.

2. Some sacrifices were classified as *Nittya* and other sacrifices were classified as *Naimitik*.

3. The Nittya sacrifices were obligations and had to be performed whether one got any fruit therefrom or not.

4. The Naimittitik sacrifices were performed when the performer wanted to gain something by way of worldly advantage.

5. The Brahmanic sacrifices involved drinking, killing animals and merry-making.

6. Yet these sacrifices were held as religious observances.

7. The Buddha declined to regard a religion based on sacrifices as worth having.

8. He has given his reasons to many a Brahmin who went to have a controversy with him as to why sacrifices were not part of religion.

9. It is reported that there were three Brahmins who had a controversy with him on the subject.

10. They were Kutadanta, Ujjaya and the third was Udayin.

11. Kutadanta the Brahmin requested the Blessed

One to tell him what he thought about the value of a sacrifice.

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12. The Blessed One said: "Well then, O Brahmin, give ear and listen attentively and I will speak."

13. "Very well, sir," said Kutadanta in reply ; and the Blessed One spoke as follows :

14. "Long ago, O Brahmin, there was a king by name Maha Vigeta, mighty, with great wealth and large property; with stores of silver and gold, of aids to enjoyment, of goods and corn ; with his treasure-houses and his garners full.

15. "Now when King Maha Vigeta was once sitting alone in meditation he became anxious at the thought: 'I have in abundance all the good things a mortal can enjoy. The whole wide circle of the earth is mine by conquest to possess. It were well if I were to offer a great sacrifice that should ensure me weal and welfare for many days.'

16. "Thereupon the Brahmin who was chaplain said to the king : 'The king's country, sire, is harassed and harried. There are dacoits abroad who pillage the villages and townships and who make the roads unsafe. Were the king, so long as that is so, to levy a fresh tax, verily his majesty would be acting wrongly.

17. " 'But perchance his majesty might think : ' I'll soon put a stop to these scoundrels' game by degradation and banishment, and fines and bonds and death !' But their licence cannot be satisfactorily put a stop to. The remnant left unpunished would still go on harassing the realm.

18. " 'Now there is one method to adopt to put a thorough end to this order. Whosoever there be in the king's realm who devote themselves to keeping cattle and the farm, to them let His Majesty the King give food and seed-corn. Whosoever there be in the king's realm who devote themselves to trade, to them let His Majesty the King give capital. Whosoever there be in the king's realm who devote themselves to government service, to them let His Majesty the King give wages and food.

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19. " 'Then those men, following each his own business, will no longer harass the realm; the king's revenue will go up; the country will be quiet and at peace; and the populace, pleased one with another and happy, dancing their children in their arms, will dwell with open doors without fear.'

20. "Then King Maha Vigeta, O Brahmin, accepted the word of his chaplain, and did as he had said. And those men, following each his business, harassed the realm no more. And the king's revenue went up. And the country became quiet and at peace. And the populace, pleased one with another and happy, dancing their children in their arms, dwelt with open doors.

21. "When peace and order was restored, King Maha Vigeta had his chaplain called again and said : 'The disorder is at an end. The country is at peace. I want to offer that great sacrifice—let the Venerable One instruct me how—for my weal and my welfare for many days.'

22. "The chaplain, replying to the king, said, 'Be it so. Let His Majesty the King send invitations to those in the town and the country in his realm who are Kshatriyas, vassals of his; who are ministers and officials of his or who are Brahmins of position, or who are householders of substance, saying: 'I intend to offer a great sacrifice. Let the Venerable Ones give their sanction to what will be to me for weal and welfare for many days.'

23. "Then the king, O Brahmin Kutadanta, accepted the word of his chaplain, and did as he had said. And they each—Kshatriya and Ministers and Brahmins and householders—made a like reply: 'Let His Majesty the King celebrate the sacrifice. The time is suitable, O King !'

24. "King Vigeta was wise and gifted in many ways. And his chaplain was equally wise and gifted.

25. "The chaplain, O Brahmin, before the sacrifice had begun, explained to the king what it would involve.

26. " 'Should His Majesty the King, before

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starting on the great sacrifice or whilst he is offering the great sacrifice, or when the great sacrifice has been offered, feel any such regret as : 'Great alas, has been the portion of my wealth used up herein,' let not the king harbour such regret.

27. "And further, O Brahmin, the chaplain, before the sacrifice had begun, in order *to* prevent any compunction that might afterwards arise as regards those who had taken part therein, said: 'Now there will come to your sacrifice, sire, men who destroy the life of living things, and men who refrain therefrom—men who take what has not been given, and men who refrain therefrom, men who act evilly in respect of lusts, and men who refrain therefrom, men who speak lies, and men who do not, men who slander, and men who do not, men who speak rudely, and men who do not, men who chatter vain things and men who refrain therefrom, men who covet, and men who covet not, men who harbour ill will and men who harbour it not, men whose views are Wrong, and men whose views are right. Of each of these let them, who do evil, alone with their evil. For them who do well let Your Majesty offer, for them, sire, arrange the rites, them let the king gratify, in them shall your heart within find peace.'

28. "And further, O Brahmin, at that sacrifice neither were any oxen slain, neither goats, nor fowls, nor fatted pigs, nor were any kinds of living creatures put to death. No trees were cut down to be used as posts, no Dabbha grasses mown to strew around the sacrificial spot. And the slaves and messengers and workmen there employed were driven neither by rods nor fear, nor carried on their work weeping with tears upon their faces. Whoso chose to help, he worked whoso chose not to help, worked not. What each chose to do, he did; what they chose not to do, that was left undone. With ghee, and oil and butter, and milk and honey, and sugar only was that sacrifice accomplished.

29. "Let your sacrifice be such as that of King Vigeta if you at all wish to perform any sacrifice.

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Sacrifices are a waste. Animal sacrifices are cruelties. Sacrifices cannot be part of religion. It is a worst form of religion which says you can go to heaven by killing an animal."

30. I was inclined to ask "Is there, O Gautama, any other sacrifice with more fruit and more advantage than killing animals ?"

31. "Yes, O Brahmin, there is."

32. "And what, O Gautama, may that be ? "

33. "When a man with trusting heart takes upon himself the precepts—abstinence from destroying life; abstinence from taking what has not been given; abstinence from evil conduct in respect of lusts; abstinence from lying words; abstinence from strong, intoxicating, maddening drinks, the root of carelessness that is a sacrifice better than open largesse, better than perpetual alms, better than the gift of dwelling places, better than accepting guidance."

34. And when he had thus spoken, Kutadanta the Brahmin said to the Blessed One: "Most excellent, O Gautama, are the words of thy mouth, most excellent."

(ii)

1. Now the Brahmin Ujjaya said this to the Exalted One :

2. "Pray does the worthy Gautama praise sacrifice ? "

3. "No Brahmin, I do not praise every sacrifice. Yet I would not withhold praise from every sacrifice. In whatever sacrifice, Brahmin, cows are slaughtered, goats and sheep are slaughtered, poultry and pigs are slaughtered and divers living creatures come to destruction—such sacrifice, Brahmin, which involves butchery, I do not praise." "Why so ?"

4. "To such a sacrifice, Brahmin, involving butchery, neither the worthy ones nor those who have entered on the worthy way draw near.

5. "But in whatever sacrifice, Brahmin, cows are not slaughtered—and living creatures come not to destruction, such sacrifice not involving butchery,

I do praise; such as, for instance, a long-established charity, an oblation for the welfare of the family."

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6. "Why so?" "Because, Brahmin, the worthy ones, those who have entered on the worthy way, do draw near to such- a sacrifice which involves not butchery."

(iii)

1. The Brahmin Udayin asked the same question to the Exalted One as was asked by the Brahmin Ujjaya:

2. "Pray, does the worthy Gautama praise sacrifice ?" The Buddha gave the same answer which he gave to Ujjaya.

3. He said :

"Fit sacrifice performed in season due
And free from cruelty, to such draw near
Those well trained in the God-life, even those
Who have the veil rolled back while (yet on earth),

Who have transcended time and going. Such do the enlightened praise; those skilled in merit.

"Whether in sacrifice or act of faith,
Oblation fitly made with heart devout
To that good field of Merit,—those who live
The Good—life, sacrificed, conferred,—so given
Lavish the offering; devas therewith are pleased.
Thus offering, the thoughtful, thereby becoming wise,
Wins the blissful world from suffering free"

§ 6. *Belief Based on Speculation is Not—Dhamma*

(i)

1. It was usual to ask such questions as (1) Was I in ages past ? (2) Was I not in ages past ? (3) What was I then ? (4) From what did I pass to what? (5) Shall I be in ages to come? (6) Shall I not

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be in ages to come? (7) What shall I then be? (8) How shall I then be ? (9) From what shall I pass to what? Or, again, it is Self today about which he is in doubt, asking himself—(1) Am I? (2) Am I not? (3) What am I ? (4) How am I ? (5) Whence came my being ? (6) Whither will it pass ? ”

2. As regards the Universe various questions were raised. Some of them were as follows :—

3. “How was the Universe created ? Is it everlasting ?”

4. In answer to the first question some said everything was created by Brahma—others said it was created by Prajapati.

5. In answer to the second question some said it was everlasting. Others said it was not. Some said it was finite. Others said it was infinite.

6. These questions the Buddha refused to entertain. He said that they could only be asked and entertained by wrong-headed people.

7. To answer these questions required omniscience which nobody had.

8. He said that he was not omniscient enough to answer these questions. No one could claim to know all that is to be known nor what we wish to know at any time is known at the time. There is always something that is unknown.

9. It is for these reasons that the Buddha excluded such doctrines from his religion.

10. He regarded a religion which made such doctrines a part of it as a religion not worth having.

(ii)

1. The doctrines with which the contemporaries of the Buddha had made the basis of their religion were concerned with (1) Self ; and (2) the origin of the Universe.

2. They raised certain questions about the self. They asked : “(1) Was I in ages past? (2) Was I not in ages past ? (3) What was I then ? (4) From what did I pass to what? (5) Shall I be in ages to come ? (6) Shall I not be in ages to come ? (7) What

shall I then be ? (8) How shall I then be ? (9) From what shall I pass to what ? Or, again, it is Self today about which he is in doubt, asking himself—(1) Am I ? (2) Am I not ? (3) What am I, (4) How am I, (5) Whence came my being ? (6) Whither will it pass ? ”

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3. Others raised the question regarding the origin of the Universe.

4. Some said it was created by Brahma.

5. Others said it was created by Prajapati sacrificing himself.

6. Other teachers had other questions to raise : “The world is everlasting,—the world is not everlasting—the world is finite,—the world is infinite, the body is the life (jiva),—the body is the one thing and the life another,—truth-finder exists after death,—a truth-finder does not exist after death,—he both exists and does not exist after death,—he neither exists nor does not exist after death.”

7. These were questions which the Buddha said could be asked by wrong-headed persons.

8. There were three reasons why the Buddha condemned these religious theories.

9. In the first place, there was no reason to make them, part of religion.

10. In the second place, to answer these questions required omniscience which nobody had. He emphasised this in his addresses.

11. He said that at one and the same time, no one can know and see everything. Knowledge is never final. There is always something more to be known.

12. The third argument against these theories was that they were merely speculative. They are not verified nor are they verifiable.

13. They were the result of imagination let loose. There was no reality behind them.

14. Besides of what good were these speculative theories to man in his relation to men ? None whatever.

15. The Buddha did not believe that the world was created. He believed that the world had evolved.

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§ 7. *Reading Books of Dhamma is Not—Dhamma*

1. The Brahmins put all their emphasis upon knowledge. They taught that knowledge was the be-all and end-all of every thing. Nothing further was to be considered.

2. The Buddha was on the other hand an upholder of education for all. Besides, he was more concerned with the use of knowledge a man is likely to make than with knowledge itself.

3. Consequently he was very particular to emphasize that he who has knowledge must have Sila (Virtue) and that knowledge without Sila (Virtue) was most dangerous.

4. The importance of Sila as against Prajna is well illustrated by what he told the Bhikku Patisena.

5. In olden times when Buddha was residing at Sravasti, there was an old mendicant called Patisena who being by nature cross and dull, could not learn so much as one Gatha by heart.

6. The Buddha accordingly ordered 500 Arahatas day by day to instruct him, but after three years he still was unable to remember even one Gatha.

7. Then all the peoples of the country (the four orders of people) knowing his ignorance, began to ridicule him, on which the Buddha, pitying his case, called him to his side, and gently repeated the following stanza : "He who guards his mouth, and restrains his thoughts, he who offends not with his body, the man who acts thus shall obtain deliverance."

8. Then Patisena, moved by a sense of the Master's goodness to him, felt his heart opened, and once he repeated the stanza.

9. The Buddha then addressed him further—"You now, an old man, can repeat a stanza only, and men know this, and they will still ridicule you, therefore, I will now explain the meaning of the verse to you, and do you on your part attentively listen."

10. Then the Buddha declared the three causes connected with the body, the four connected with the

mouth, and the three connected with the thoughts, by destroying which men might obtain deliverance, on which the mendicant, fully realizing the truth thus explained, obtained the condition of an Arahat.

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11. Now, at this time, there were 500 Bhikkhunis dwelling in their Vihara, who sent one of their number to the Buddha to request him to send them a priest to instruct them in the Dhamma.

12. On hearing their request the Buddha desired the old mendicant Patisena to go to them for this purpose.

13. On knowing that this arrangement had been made, all the nuns began to laugh together, and agreed on the morrow, when he came, to say the Gatha wrong (backward), and so confuse the old man and put him to shame.

14. Then on the morrow when he came, all the Bhikkhunis, great and small, went forth to salute him and as they did so, they looked at one another and smiled.

15. Then sitting down, they offered him food. Having eaten and washed his hands, they then begged him to begin his sermon. On which the aged mendicant ascended the elevated seat, and sitting down, began :

16. "Sisters ! My talent is small, my learning is very little. I know only one Gatha, but I will repeat that and explain its meaning. Do you listen with attention and understand."

17. Then all the young nuns began to attempt to say the Gatha backwards; but lo! they could not open their mouths ; and filled with shame, they hung down their heads in sorrow.

18. Then Patisena having repeated the Gatha, began to explain it, as the Buddha instructed him.

19. Then all the Bhikkhunis hearing his words, were filled with surprise, and rejoicing to hear such instruction, with one heart they received it, and became Arahatas.

20. On the day after this, the King Prasenjit invited the Buddha and the whole congregation of

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priests to assemble at his palace to partake of hospitality.

21. The Buddha therefore recognizing the superior and revered appearance of Patisena, desired him to bear his alms-dish and follow him as he went.

22. But when they came to the palace gate, the porter, knowing his character (antecedents), would not let him go into the hall, saying : "We have no hospitality for a priest who knows but one Gatha ; there is no room for such common fellows as you— make place for your betters and begone."

23. Patisena accordingly sat down outside the door.

24. The Buddha now ascended the dais, after having washed his hands, and lo ! the arm of Patisena, with the alms-dish in its hand, entered the room.

25. Then the king, the ministers, and all the assembly seeing this sight, were filled with astonishment, and said, "Ah ! Who is this ?"

26. On which the Buddha replied, "It is Patisena, the mendicant. He has but just obtained enlightenment, and I desired him to bear my alms-dish behind me; but the porter has refused him admission."

27. On this he was admitted and entered the assembly.

28. Then Prasenjit, turning to Buddha, said : "I hear that this Patisena is a man of small ability, and knows only one Gatha, how, then, has he obtained the supreme wisdom ?"

29. To which Buddha replied : "Learning need not be much, conduct (Sila) is the first thing.

30. "This, Patisena, has allowed the secret virtue of the words of this one Gatha to penetrate his spirit ; his body, mouth, and thoughts have obtained perfect quietude; for though a man knows ever so much, if his knowledge reaches not to his life, to deliver him from the power which leads to destruction, what benefit can all his learning be ?"

31. Then the Buddha said :

32. "Although a man repeats a thousand stanzas (sections), but understands not the meaning of the

lines he repeats, his performance is not equal to the repetition of one sentence well understood, which is able when heard to control thought. To repeat a thousand words without understanding, what profit is there in this ? But to understand one truth, and hearing it, to act accordingly, this is to find deliverance.

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33. "A man may be able to repeat many books but if he cannot explain them what profit is there in this ? But to explain one sentence of the law and to walk accordingly, this is the way to find supreme wisdom."

34. On hearing these words, the two hundred bhikkhus, the king and his ministers were filled with joy.

§ *8. Belief in the Infallibility of Books of Dhamma is Not—Dhamma*

1. The Brahmins had declared that the Vedas were not only sacred but in point of authority they were final.

2. Not only were the Vedas declared by the Brahmins to be final but they were declared by them to be infallible.

3. The Buddha was totally opposed to the Brahmins on this point.

4. He denied that the Vedas were sacred. He denied that whatever the Vedas said was final. He denied that the Vedas were infallible.

5. There were many teachers who had taken the same position as he had done. However, later on they or their followers all gave in order to win respect and goodwill from the Brahmins for their systems of philosophy. But the Buddha never yielded on this issue.

6. In the Tvijja Sutta the Buddha declared that the Vedas were a waterless desert, a pathless jungle, in fact perdition. No man with intellectual and moral thirst can go to the Vedas and hope to satisfy his thirst.

7. As to infallibility of the Vedas, he said nothing

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is infallible, not even the Vedas. Everything, he said, must be subject to examination and re-examination.

8. This he made clear in his sermon to the Kalamas.

9. Once the Blessed One, while passing through the land of the Kosalas accompanied by a large following of disciples, came to the town of Kesaputta which was inhabited by the Kalamas.

10. When the Kalamas came to know of his arrival they be took themselves thither where the Blessed One was and sat down on one side. So seated, the Kalamas of Kesaputta spoke thus to the Blessed One:

11. "There are, Lord, some ascetics and recluses who come to Kesaputta and who elucidate and exalt their own views, but they break up, crush down, revile and oppose the views of others. And there be other ascetics and recluses, Lord, who come to Kesaputta, and they too expound and magnify their own beliefs, but destroy, suppress, despise and set themselves against the beliefs of others.

12. "And so, Lord, we are in uncertainty and doubt, knowing not which among these venerable ascetics speaks truth and which falsehood."

13. "Good cause, indeed, have you Kalamas to be uncertain ; good cause have you to doubt," said the Blessed One. "Truly, upon just occasion has uncertainty and doubt arisen in you."

14. "Come, O you Kalamas," continued the Lord, "do not go merely by what you hear ; do not go merely by what has been handed down from one to another ; do not go by what is commonly reported ; do not go merely by what is found written in the scriptures ; do not go by subtleties of reasoning, do not go by subtleties of logic ; do not go merely by considerations based upon mere appearances ; do not go merely by agreeable beliefs and views ; do not go merely by what looks to be genuine ; do not go merely by word of some ascetic or superior."

15. "What, then, should we do? What test should we apply ?" asked the Kalamas.

16. "The tests are these," replied the Blessed One ; "ask yourselves, do we know whether : 'These things are insalutary ; these things are blameworthy ; these things are reprehended by the wise ; these things being done or attempted lead to ill-being and to suffering.'

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17. " Kalamas, you should go further and ask whether the doctrine taught promotes craving, hatred, delusion, and violence.

18. "This is not enough, Kalamas, you should go further and see whether the doctrine is not likely to make a man captive of his passions, and is not likely to lead him to kill living creatures ; take what has not been given to him ; go after another's wife ; utter falsehood, and cause others to practise like deeds ?

19. "And finally you should ask : 'Whether all this does not tend to his ill-being and suffering.'

20. "Now, Kalamas, what think you ?

21. "Do these things tend to man's ill-being or well-being ?"

22. "To his ill-being, Lord," replied the Kalamas.

23. "What think you, Kalamas,—are these things salutary or insalutary ?"

24. "They are insalutary, Lord."

25. "Are these things blameworthy ?"

26. "Blameworthy, Lord," replied the Kalamas.

27. "Reprehended by the wise or approved by the wise ?"

28. "Reprehended by the wise," replied the Kalamas.

29. "Being done or attempted, do they lead to ill-being and to suffering ?"

30. "Done or attempted, Lord, they lead to ill-being and to suffering."

31. "A scripture which teaches this cannot be accepted as final or infallible ?"

32. "No, Lord," said the Kalamas.

33. "But this, O Kalamas, is just what I have said. What I have said is "do not go merely by what you hear; do not go merely by what

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has been handed down from one to another; do not go merely by subtleties of reasoning; do not go by subtleties of logic ; do not go by considerations based upon mere appearances ; do not go merely by agreeable beliefs and views ; do not go merely by the word of some ascetic or superior.

34. "Only when of yourselves you indeed know : 'These things are insalutary ; these things are blameworthy ; these things are reprehended by the wise ; these things being done or attempted lead to ill-being and to suffering'—then, Kalamas, you should put them away."

35. "Wonderful, Lord, most wonderful ! We go to Lord, the Blessed One, for refuge, and to his Teachings. As followers, Lord, may the Blessed One accept us, from this day henceforth long as life shall last, we take our refuge in you."

36. The substance of the argument is plain. Before you accept anybody's teachings as authoritative, do not go by the fact that it is contained in the scriptures, do not go by the subtleties of logic ; do not go by considerations based upon mere appearances ; do not go merely by the fact that beliefs and views preached are agreeable ; do not go merely because they look to be genuine; do not go merely by the fact that the beliefs and views are those of some ascetic or superior.

37. But consider whether the beliefs and views sought to be inculcated are salutary or insalutary, blameworthy or blameless, lead to well-being or ill-being.

38. It is only on these grounds that one can accept the teachings of anybody.

PART V

What is Saddhamma

Section I—*The Functions of Saddhamma.*

1. To cleanse the Mind of its impurities.
2. To make the world a Kingdom of Righteousness.

Section II—*Dhamma to be Saddhamma must promote Pradnya.*

1. Dhamma is Saddhamma when it makes learning open to all.
2. Dhamma is Saddhamma when it teaches that mere learning is not enough. It may lead to pedantry.
3. Dhamma is Saddhamma when it teaches that what is needed is Pradnya.

Section III—*Dhamma to be Saddhamma must promote Maitri.*

1. Dhamma is Saddhamma only when it teaches that mere Pradnya is not enough. It must be accompanied by Sila.
2. Dhamma is Saddhamma only when it teaches that besides Pradnya and Sila what is necessary is Karuna.
3. Dhamma is Saddhamma only when it teaches that more than Karuna what is necessary is Maitri.

Section IV—*Dhamma to be Saddhamma must pull down all social barriers.*

1. Dhamma to be Saddhamma must break down barriers between man and man.
2. Dhamma to be Saddhamma must teach that worth and not birth is the measure of man.
3. Dhamma to be Saddhamma must promote equality between man and man.

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SECTION I

THE FUNCTIONS OF SADDHAMMA

III

§ 1. *To Cleanse the Mind of its Impurities*

1. Once when the Blessed Lord was residing at Shravasti, Prasenjit, the king of the Kosalas, came to the place where he was staying and descending from his chariot, approached the Teacher with the deepest reverence.

2. And invited him on the morrow to enter the city and partake of his hospitality, with a view to exhibit to the people the excellence of his person and doctrine, that they might believe in him.

3. The Buddha having consented, on the morrow entered the city with all his disciples, and having passed through the four cross streets of the town, he came to the place appointed and sat down.

4. After finishing the meal, he began, on the request of the king, to preach in the midst of the four highways, whilst his auditors were very many.

5. At this time there were two merchants listening to him.

6. One of them reflected, "What excellent wisdom on the part of the king to have such doctrines as these publicly preached ! How wide their application, how searching their character !"

7. The other reflected thus, "What folly is this on the part of the king, bringing this man here to preach !

8. "Like the calf that follows the cow, here and there, fastened to a vehicle she draws, bleating as it goes, so is this Buddha following the king." The two merchants having departed from the city came to an inn where they put up.

9. In taking some wine the good merchant was restrained and protected by the four guardian spirits that watch over the world.

10. The other, on the contrary, was incited by an

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evil spirit to drink on, till he was overpowered by sleep, and lay down in the road near the inn.

11. Early in the morning, the merchants' wagons leaving the place, the drivers not perceiving the man lying in the road, crushed him to death by the wagon wheels.

12. The other merchant, having come to a distant country, was selected by the genuflection of a sacred horse to succeed the king ; and he accordingly was appointed to the throne.

13. After this, considering the strange turn, events had taken, he returned and invited the Buddha to visit him, and preach to his people.

14. On which occasion the World-honoured One declared the reason of the death of the evil-minded merchant, and the prosperity of him who thought wisely, and then added these lines :

15. "*The mind is the origin of all this is; the mind is the master, the mind is the cause.*

16. "*If in the midst of the mind there are evil thoughts, then the words are evil, the deeds are evil, and the sorrow which results from sin follows that man, as the chariot wheel follows him (or it) who draws it.*

17. "*The mind is the origin of all that is ; it is the mind that commands, it is the mind that contrives.*

18. "*If in the mind there are good thoughts, then the words are good and the deeds good, and the happiness which results from such conduct follows that man, as the shadow accompanies the substance.*"

19. On hearing these words, the king and his ministers, with countless others, were converted, and became disciples.

§ 2. To Make the World a Kingdom of Righteousness

1. What is the purpose of Religion ?

2. Different religions have given different answers.

3. To make man seek after God and to teach

him the importance of saving his soul is the commonest answer one gets to this question.

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4. Most religions speak of three kingdoms.

5. One is called the kingdom of heaven. The second is called the kingdom of earth and the third is called the kingdom of hell.

6. This kingdom of heaven is said to be ruled by God. The kingdom of hell is described to be a place where the supremacy of the Evil One is undisputed. The kingdom of earth is a disputed field. It is not under the dominance of the Evil One. At the same time God's sovereignty does not extend to it. It is hoped that one day it will.

7. In some religions the kingdom of heaven is said to be a kingdom in which Righteousness prevails no doubt because it is directly ruled by God.

8. In other religions the kingdom of heaven is not on earth. It is another name for heaven. It can be reached by one who believes in God and his Prophet. When he reaches heaven all the carnal pleasures of life are placed within the reach of all those who are faithful.

9. All religions preach that to reach this kingdom of heaven should be the aim of man and how to reach it is the end of all.

10. To the question "What is the purpose of religion?" the Buddha's answer is very different.

11. He did not tell people that their aim in life should be to reach some imaginary heaven. The kingdom of righteousness lies on earth and is to be reached by man by righteous conduct.

12. What he did was to tell people that to remove their misery each one must learn to be righteous in his conduct in relation to others and thereby make the earth the kingdom of righteousness.

13. It is this which distinguishes his religion from all other religions.

14. His religion emphasizes Panch Sila, the Ashtanga Marga and the Paramitas.

15. Why did the Buddha make them the basis

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of his religion ? Because they constitute a way of life which alone can make man righteous.

16. Man's misery is the result of man's inequity to man.

17. Only righteousness can remove this inequity and the resultant misery.

18. That is why he said that religion must not only preach but must inculcate upon the mind of man the supreme necessity for being righteous in his conduct.

19. For the purpose of inculcating righteousness religion, he said, had certain other functions to undertake.

20. Religion must teach man to know what is right and to follow what is right.

21. Religion must teach man to know what is wrong and not to follow what is wrong.

22. Besides these purposes of religion he emphasized two other purposes which he regarded as of supreme importance.

23. The first is training of man's instincts and dispositions as distinguished from offering prayers or performing observances or doing sacrifices.

24. This the Buddha has made clear in his exposition of Jainism in the Devadaha Sutta.

25. What Mahavira, the founder of Jainism, affirmed was that whatsoever the individual experiences—be it pleasant or unpleasant, all comes from acts done in former births.

26. That being so, by expiration and purge of former misdeeds and by not committing fresh misdeeds, nothing accrues for the future: as nothing accrues for the future, the misdeeds die away ; as misdeeds die away, misery dies away : as misery dies away, feelings die away : and as feelings die away, all misery will wear out and pass.

27. This is what Jainism affirmed.

28. On this the Buddha asked this question: "Do you know that, here and now, wrong dispositions have been got rid of and right dispositions acquired?"

29. The answer was "No."

30. "What is the use," asked the. Buddha, "of a purge for former misdeeds, what is the use of not committing fresh misdeeds, if there is no training of the mind to turn bad disposition into good disposition."

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31. This was in his opinion a very serious defect in religion. *A good disposition is the only permanent foundation of and guarantee of permanent goodness.*

32. That is why the Buddha gave the first place to the training of the mind which is the same as the training of a man's disposition.

33. The second thing to which he gave great importance is courage to stand by what is right even if one is alone.

34. In the Sallekha-Sutta the Buddha has emphasized this point.

35. This is what he has said :

36. "You are to expunge by resolving that, though others may be harmful, you will be harmless.

37. "That though others may kill, you will never kill.

38. "That though others may steal, you will not.

39. "That though others may not lead the higher life, you will.

40. "That though others may lie, traduce, denounce, or prattle, you will not.

41. "That though others may be covetous, you will covet not.

42. "That though others may be malignant, you will not be malignant.

43. "That though others may be given over to wrong views, wrong aims, wrong speech, wrong actions, and wrong concentration, you must follow (the Noble Eightfold Path in) right outlook, right aims, right speech, right actions, right mode of livelihood, right effort, right mindfulness and right concentration.

44. "That though others are wrong about the truth and wrong about Deliverance, you will be right about truth and right about Deliverance.

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45. "That though others may be possessed by sloth and torpor, you will free yourselves therefrom.

46. "That though others may be puffed up, you will be humble-minded.

47. "That though others may be perplexed by doubts, you will be free from them.

48. "That though others may harbour wrath, malevolence, envy, jealousy, niggardliness, avarice, hypocrisy, deceit, imperviousness, arrogance, forwardness, association with bad friends, slackness, unbelief, shamelessness, unscrupulousness, lack of instruction, inertness, bewilderment, and unwisdom, you will be the reverse of all these things.

49. "That though others may clutch at and hug the temporal nor loose their hold thereon, you will clutch and hug the things that are not temporal, and will ensue Renunciation.

50. "I say it is the development of the will which is so efficacious for right states of consciousness, not to speak of act and speech. And therefore, Cunda, there must be developed the will to all the foregoing resolves I have detailed."

51. Such is the purpose of religion as conceived by the Buddha.

SECTION II

DHAMMA TO BE SADDHAMMA MUST PROMOTE PRADNYA

III

§ *1. Dhamma is Saddhamma when it Makes Learning Open to All*

1. The Brahminic doctrine was that acquisition of knowledge cannot be thrown open to all. It must necessarily be limited to a few.

2. They permitted acquisition of knowledge only to the Brahmins, Kshatriyas and Vaishyas. But it was only to the male sex of these three classes.

3. All women, no matter whether they belonged to the Brahmin, Kshatriya and Vaishyas, and all Shudras, both males and females, were prohibited from acquiring knowledge, even from acquiring literacy.

4. The Buddha raised a revolt against this atrocious doctrine of the Brahmins.

5. He preached that the road to knowledge must be open to all—to males as well as to females.

6. Many Brahmins tried to controvert his views. His controversy with the Brahmin Lohikka throws great light on his views.

7. The Exalted One, when once passing on a tour through the Kosala districts with a multitude of the members of the Order, arrived at Salavatika, a village surrounded by a row of sala trees.

8. Now at the time, Lohikka the Brahmin was living at Salavatika, a spot teeming with life, with much grassland and woodland and corn, on a royal domain granted him by King Pasenadi of Kosala, as a royal gift, with power over it as if he were the king.

9. Lohikka the Brahmin was of opinion that if a Samana or a Brahmana acquired knowledge, he should not communicate it to the women or to the Shudras.

10. Then the Brahmin Lohikka heard that the Blessed Lord was staying in Salavatika.

11. Having heard of this he said to Bhesika the barber : "Come now, good Bhesika, go where the

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Samana Gotama is staying, and, on your arrival, ask in my name as to whether his sickness and indisposition has abated, as to his health and vigour and condition of ease ; and speak thus : "May the venerable Gotama, and with him the brethren of the Order, accept tomorrow's meal from Lohikka the Brahmin."

12. "Very well, sir," said the barber.

13. Acquiescing in the word of Lohikka the Brahmin, he did so even as he had been enjoined. And the Exalted One consented, by silence, to his request.

14. Early next morning, the Exalted One went robed, and carrying his bowl with him, with the brethren of the Order, towards Salavatika.

15. Bhesika, the barber, who had been sent by Lohikka to fetch the Blessed One, walked step by step, behind the Exalted One. On the way he told the Blessed One that Lohikka the Brahmin held the wicked opinion that a Samana or a Brahmana shall not communicate any knowledge or learning to women and the Shudras.

16. "That may well be, Bhesika, that may well be," replied the Blessed One.

17. And the Exalted One went on to the dwelling place of Lohikka the Brahmin, and sat down on the seat prepared for him.

18. And Lohikka the Brahmin served the Order, with the Buddha at its head, with his own hand, with sweet food both hard and soft, until they refused any more.

19. And when the Exalted One had finished his meal, and had cleansed the bowl and his hands, Lohikka the Brahmin, brought a low seat and sat down beside him.

20. And to him, thus seated, the Exalted One said : "Is it true, what they say, Lohikka, that you hold the view that a Samana or a Brahmana should not communicate any knowledge or learning to women and Shudras ? "

21. "That is so, Gotama," replied Lohikka.

22. "Now what think you, Lohikka? Are you

not established at Salavatika ?" "Yes, that is so, Gotama."

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23. "Then suppose, Lohikka, one were to speak thus : 'Lohikka the Brahmin has a domain at Salavatika. Let him alone enjoy all the revenue and all the produce of Salavatika, allowing nothing to anybody else!' Would the utterer of that speech be a danger-maker as touching the men who live in dependence upon you or not ? "

24. "He would be a danger-maker, Gotama."

25. "And making that danger, would he be regarded as a person who sympathised with their welfare?"

26. "No. He would not be considering their welfare, Gotama," replied Lohikka.

27. "And not considering their welfare, would his heart stand fast in love towards them or in enmity ?"

28. "In enmity, Gotama."

29. "But when one's heart stands fast in enmity, is that unsound doctrine, or sound ? "

30. "It is an unsound doctrine, Gotama."

31. "Now what think you, Lohikka? Is not King Pasenadi of Kosala in possession of Kasi and Kosala?"

32. "Yes, that is so, Gotama."

33. "Then suppose, Lohikka, one were to speak thus : 'King Pasenadi of Kosala is in possession of Kasi and Kosala. Let him enjoy all the revenue and all the produce of Kasi and Kosala, allowing nothing to anybody else.' Would the utterer of that speech be a danger-maker as touching the men who live in dependence on King Pasenadi of Kosala—both you yourself and others—or not ?"

34. "He would be a danger-maker, Gotama."

35. "And making that danger, would he be a person who sympathised with their welfare?"

36. "He would not be considering their welfare, Gotama."

37. "And not considering their welfare, would his heart stand fast in love towards them, or in enmity ?"

38. "In enmity, Gotama."

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39. "But when one's heart stands fast in enmity, is that unsound doctrine, or sound?"

40. "It is an unsound doctrine, Gotama."

41. "So then, Lohikka, you admit that he who should say that you, being in occupation of Salavatika, should therefore yourself enjoy all the revenue and produce thereof, bestowing nothing on anyone else ; and he who should say that King Pasenadi of Kosala, being in power over Kasi and Kosala, should therefore himself enjoy all the produce thereof, bestowing nothing on anyone else, would be making danger for those living in dependence on you ; or for those, you and others, living in dependence upon the king. And that those who thus make danger for others, must be wanting in sympathy and have their hearts set fast in enmity. And that to have one's heart set fast in enmity is unsound doctrine.

42. "Then just so, Lohikka, is he who should say that a Samana or a Brahmin should not communicate his knowledge and learning to women and Shudras.

43. "Just so, he who should say thus, would be putting obstacles in the way of others and would be out of sympathy for their welfare.

44. "Being out of sympathy for their welfare his heart would become established in enmity ; and when one's heart is established in enmity, that is unsound doctrine."

§ 2. *Dhamma is Saddhamma when it Teaches that Mere Learning is Not Enough: it may Lead to Pedantry*

1. Once when the Buddha was residing in the country of Kausambi, in a certain Vihara called the "Beautiful Voice," preaching to the people assembled there was a certain Brahmacharin.

2. The Brahmacharin felt that he was unrivalled for knowledge of scriptures and being unable to find anyone equal to himself in argument, was accustomed to carry, wherever he went, a lighted torch in his hand.

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3. One day a man in the market place of a certain town, seeing him thus, asked him the reason of his strange conduct, on which he replied :

4. "The world is so dark, and men so deluded, that I carry this torch to light it up so far as I can."

5. Seeing this the Buddha forthwith called out to the Brahmacharin, "What ho there ! What are you about with that Torch ?"

6. The Brahmacharin replied, "All men are so wrapped in ignorance and gloom, that I carry this torch to illumine them."

7. Then the Blessed Lord asked him again, "And are you so learned as to be acquainted with the four treatises (Vidyas) which occur in the midst of the Sacred Books, to wit, the treatise on 'Literature' (Sabdavidya) ; the treatise on the ' Heavenly Bodies and their Paths'; the treatise on 'Government' and the treatise on 'Military Art'?"

8. On the Brahmacharin being forced to confess he was unacquainted with these things, he flung away his torch, and the Buddha added these words :

9. "If any man, whether he be learned or not, considers himself so great as to despise other men he is like a blind man holding a candle—blind himself, he illumines others."

§ 3, Dhamma is Saddhamma when it Teaches that what is Needed is Pradnya

1. The Brahmins regarded Vidya (Knowledge, Learning) as in itself a thing of value. A man of mere learning and knowledge was to them an object of veneration irrespective of the question whether or not he was a man of virtue.

2. Indeed they said that a king is honoured in his own country but a man of learning is honoured all over the world, suggesting thereby that a man of learning is greater than the king.

3. The Buddha made a distinction between Vidya and Pradnya, i.e., between knowledge and insight,

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4. It may be said that the Brahmins also made a distinction between Pradnya and Vidya.

5. That may be true. But there is a vast difference between the Pradnya of the Buddha and the Pradnya of the Brahmins.

6. This distinction has been well brought out by the Buddha in his sermon reported in Anguttara Nikaya.

7. On a certain occasion the Exalted One was staying near Rajagraha, in the bamboo grove at the squirrels' feeding ground.

8. Now on that occasion Vassakara the Brahmin, a great official of Magadha, came to visit the Exalted One, and on coming to him greeted him courteously, and after exchange of greetings and courtesies sat down at one side. As he sat thus Vassakara the Brahmin said this to the Exalted One :

9. "Master Gotama, we Brahmins proclaim a man, if he possesses four qualities, as one of great wisdom, as a great man. What are the four qualities ?

10. "Herein, Master Gotama, he is learned. Of whatsoever he hears he understands the meaning as soon as it is uttered, saying: 'This is the meaning of that saying !' Moreover, he has a good memory, he can remember and recall a thing done long ago, and said long ago.

11. "Again, in all the business of a householder he is skilled and diligent, and therein he is resourceful and capable of investigating what is proper to be done, what should be arranged.

12. "Now, master Gotama, if a man possesses these qualities, we proclaim him as one of great wisdom, as a great man. If the worthy Gotama thinks me worthy of commendation herein, let him commend me. On the contrary, if he thinks me blameworthy, let him blame me therefor."

13. "Well, Brahmin I neither commend you nor blame you herein. I myself proclaim a man to be one of great wisdom, if he possesses the following four qualities which are quite different from those mentioned by you,

14. "Herein, Brahmin, we have a man given to the welfare of many folk, to the happiness of many folk. By him are many folk established in the Ariyan Method, to wit : in what is of a lovely nature, in what is of a profitable nature.

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15. "To whatsoever train of thought he wishes to apply himself, to that train of thought he applies himself: to whatever train of thought he desires not to apply himself, to that train of thought he applies not himself.

16. "Whatever intention he wishes to intend, he does so or not if he so wishes. Thus is he master of the mind in the ways of thought.

17. "Also he is one who attains at will, without difficulty and without trouble the four musings which belong to the higher thought, which even in this very life are blissful to abide in.

18. "Also by destruction of the asavas (fetters) in this very life thoroughly comprehending it by himself, he realizes the heart's release, the release by wisdom, and attaining it abides therein.

19. "No Brahmin, I neither commend nor blame you herein, but I myself proclaim a man possessed of these four different qualities to be one of great wisdom, to be a great man."

20. "It is wonderful, Master Gotama ! It is marvellous, Master Gotama, how well this has been said by the worthy Gotama !

21. "I myself do hold the worthy Gotama to be possessed of these same four qualities. Indeed, the worthy Gotama is given to the welfare of many folk, to the happiness of many folk. By him are many folk established in the Ariyan Method, to wit : in what is of a lovely nature, in what is of a profitable nature.

22. "Indeed, the worthy Gotama, to whatever train of thought he wishes to apply himself, to that train of thought applies himself. Surely the worthy Gotama is master of the mind in the ways of thought.

23. "Surely the worthy Gotama is one who attains at will . . . the four musings . . . Surely the

worthy Gotama by destruction of the asavas . . . realizes the heart's release, the release by wisdom . . . and attaining it abides therein."

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24. Herein is stated in the clearest terms the difference between Pradnya according to the Buddha and Pradnya, according to the Brahmins.

25. Herein is set out his case why the Buddha regarded Pradnya as more important than *Vidya*.

SECTION III

DHAMMA TO BE SADDHAMMA MUST PROMOTE MAITRI

III

§ *1. Dhamma is Saddhamma only when it Teaches that Mere Pradnya is Not Enough: it must be accompanied by Sila*

1. Pradnya is necessary. But Sila is more necessary. Pradnya without Sila is dangerous.

2. Mere Pradnya is dangerous.

3. Pradnya is like a sword in the hand of a man.

4. In the hand of a man with Sila it may be used for saving a man with danger.

5. But in the hand of a man without Sila it may be used for murder.

6. That is why Sila is more important than Pradnya.

7. Pradnya is Vichar Dhamma or thinking aright. Sila is Achar Dhamma, acting aright.

8. The Buddha prescribed five basic principles regarding Sila.

9. One relating to taking life.

10. Second relating to stealing.

11. Third relating to sexual immorality.

12. Fourth relating to telling a lie.

13. Fifth relating to drink.

14. On each of these the Blessed Lord directed the people not to kill; not to steal; nor to tell a lie; nor to indulge in sex immorality and not to indulge in drinking.

15. The reason why the Buddha gave greater importance to Sila than to knowledge is obvious.

16. The use of knowledge depends upon a man's Sila. Apart from Sila, knowledge has no value. This is what he said.

17. At another place, he said, "Sila is incomparable in this world.

18. "Sila is the beginning and the refuge, Sila is the mother of all good. It is the foremost of all good conditions. Therefore, purify your Sila."

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§ 2. *Dhamma is Saddhamma only when it Teaches that besides Pradnya and Sila what is Necessary is Karuna*

1. There has been some difference of opinion on the issue as to foundation of Buddha's Dhamma.

2. Is *Pradnya* alone the foundation of his religion? Is *Karuna* alone the foundation of his religion ?

3. The controversy had divided the followers of the Buddha into two schools. One school held that Pradnya alone is the foundation of the Buddha's religion. The other school held that Karuna alone is the foundation of the Buddha's religion.

4. These two schools still remain divided.

5. Both the schools seem to be wrong if judged in the light of the Buddha's own words.

6. There is no difference of opinion that Pradnya is one of the two pillars of the Buddha's religion.

7. The dispute is whether Karuna is also a pillar of his religion.

8. That Karuna is a pillar of his religion is beyond dispute.

9. His own words can be quoted in support of it.

10. In days gone by there was a country called Gandhara, in which was a very old mendicant afflicted with a very loathsome disease, which caused him to pollute every place he occupied.

11. Being in a certain Vihara belonging to the place, no one would come near him or help him in his distress.

12. On this Buddha came with his 500 followers, and obtaining all sorts of necessary utensils and warm water, they together visited the place where the old mendicant lay.

13. The smell in the place was so offensive that all the Bhikkus were filled with contempt for the man; but the World-honoured, causing Sakradeva to bring the warm water, then with his own hand began to

wash the body of the mendicant and attend to his maladies.

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14. Then the earth shook, and the whole place was filled with a supernatural light, so that the king and the ministers, and all the heavenly host (Devas, Nagas, etc.) flocked to the place, and paid adoration to Buddha.

15. Having done so, they all addressed the World-honoured, and inquired how one so highly exalted could lower himself to such offices as these, on which Buddha explained the matter thus :

16. "The purpose of Tathagata in coming into the world, is to befriend those poor and helpless and unprotected, to nourish those in bodily affliction, whether they be Samanas or men of any other religion—to help the impoverished, the orphan and the aged, and to persuade others so to do."

§ *3. Dhamma is Saddhamma only when it Teaches that More than Karuna what is Necessary is Maitri*

1. The Buddha did not stop with teaching Karuna.

2. Karuna is only love for human beings. Buddha went beyond and taught Maitri. Maitri is love for living beings.

3. The Buddha wanted man not to stop with Karuna but to go beyond mankind and cultivate the spirit of Maitri for all living beings.

4. This he has well explained in a Sutta when the Blessed One was staying in Shravasti.

5. Speaking about Maitri, the Blessed Lord told the almsmen:

6. "Suppose a man comes to dig the earth. Does the earth resent?"

7. "No, Lord," the almsmen replied.

8. "Supposing a man comes with lac and colours to paint pictures in the air. Do you think he could do it?"

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9. "No, Lord."

10. "Why?" "Because there are no dark patches in the air," said the Bhikkus.

11. "In the same way you must not have any dark patches in your mind which are the reflections of your evil passions."

12. "Suppose a man comes with a blazing wisp of bracken to set the River Ganges on fire. Could he do it ? "

13. "No, Lord."

14. "Why?" "Because the Ganges has no combustibility in its water."

15. Concluding his address, the Blessed Lord said : "Just as the earth does not feel hurt and does not resent, just as the air does not lend to any action against it, just as the Ganges water goes on flowing without being disturbed by the fire so also you Bhikkus must bear all insults and injustices inflicted on you and continue to bear Maitri towards your offenders.

16. "So almsmen, Maitri must flow and flow for ever. Let it be your sacred obligation to keep your mind as firm as the earth, as clean as the air and as deep as the Ganges. If you do so your Maitri will not be easily disturbed, by an act however unpleasant. For all who do injury will soon be tired out.

17. "Let the ambit of your Maitri be as boundless as the world and let your thought be vast and beyond measure in which no hatred is thought of.

18. "According to my Dhamma, it is not enough to practise Karuna. It is necessary to practise Maitri."

19. In the course of the sermon the Blessed Lord told a story to the almsmen which is worth remembering.

20. "Once upon a time there lived in Shravasti a lady named Videshika, who was reputed gentle and meek, and mild. She had a maid servant named Darkie, a bright girl, an early riser and a good worker. 'I wonder,' thought Darkie, 'whether my mistress, who is so well spoken of, has really got a temper of her own which she does not show or whether she has got no temper at all ? Or do I do my work so well,

that though she has got a temper, she does not show it? I will try her.'

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21. "So next morning she got up late. 'Darkie! Darkie! cried the mistress.' 'Yes, madam,' answered the girl. 'Why did you get up so late ?' 'Oh, that's nothing, madam.' 'Nothing indeed, you naughty girl !' thought the mistress, frowning with anger and displeasure.

22. " 'So she has got a temper, though she does not show it," thought the maid : 'It is because I do my work so well that she does not show it ; I will try her further.' So she got up later next morning. 'Darkie! Darkie!' cried the mistress. 'Yes, madam,' answered the girl. 'Why did you get up so late?' 'Oh that's nothing, madam.' 'Nothing, indeed, you naughty girl!' exclaimed the mistress, giving vent in words to her anger and displeasure.

23. " 'Yes,' thought the maid, 'she has got a temper though she does not show it because I do my work so well ; I will try her yet further.' So next morning she got up later still. 'Darkie! Darkie! cried her mistress.' ' Yes, madam,' answered the girl. 'Why did you get up so late?' 'Oh, that's nothing, madam.'

24. " 'Nothing indeed you naughty girl, to get up so late !' exclaimed the mistress and in her anger and displeasure she picked up the lynch-pin and struck the girl on the head with it, drawing blood.

25. "With her broken head streaming with blood, Darkie roused the neighbourhood with shrieks: 'See, lady, what the gentle one has done! See, lady, what the meek one has done! See, lady, what the mild one has done. What for ? Just because her only maid got up late, she was so angry and displeased that she just jumped with the lynch-pin to strike her on the head and break it.'

26. "In the result the lady Videshika got the reputation of being violent, anything but meek and mild.

27. "In like manner an almsman may be gentle and meek, and mild enough so long as nothing

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unpleasant is said against him. It is only when unpleasant things are said against him that you can test if he has Maitri—fellowship in him."

28. Then he added, "I do not call an almsman charged with the spirit of Maitri if he shows it only to get clothes and food. Him only do I recognize as a true almsman whose Maitri springs from the doctrine."

29. "None of the means employed to acquire religious merit, O Monks, has a sixteenth part of the value of loving kindness. Loving kindness, which is freedom of heart, absorbs them all ; it glows, it shines, it blazes forth.

30. "And in the same way, O Monks, as the light of all the stars has not a sixteenth part of the value of the moonlight, but the moonlight absorbs it and glows and shines and blazes forth ; in the same way, O Monks, none of the means employed to acquire religious merit has a sixteenth part of the value of loving kindness. Loving kindness, which is freedom of heart, absorbs them; it glows, it shines, it blazes forth,

31. "And in the same way, O Monks, as at the end of the rainy season, the sun, rising into the clear and cloudless sky, banishes all the dark spaces and glows and shines and blazes forth ; and in the same way again, as at night's end the morning star glows and shines and blazes forth ; so, O Monks, none of the means employed to acquire religious merit has a sixteenth part of the value of loving kindness. Loving kindness, which is freedom of heart, absorbs them ; it glows, it shines, it blazes forth."

SECTION IV

DHAMMA TO BE SADDHAMMA MUST PULL DOWN ALL SOCIAL BARRIERS

III

§ *1. Dhamma to be Saddhamma must break down barriers between Man and Man*

1. What is an ideal society? According to the Brahmins, the Vedas have defined what is an ideal society and the Vedas being infallible, that is the only ideal society which man can accept.

2. The ideal society prescribed by the Vedas is known by the name Chaturvarna.

3. Such a society, according to the Vedas, must satisfy three conditions.

4. It must be composed of four classes, Brahmins, Kshatriyas, Vaishyas and Shudras.

5. The interrelations of these classes must be regulated by the principle of graded inequality. In other words, all these classes are not to be on equal level but to be one above the other, in point of status, rights and privileges.

6. The Brahmins were placed at the top ; the Kshatriyas were placed below the Brahmins but above the Vaishyas ; the Vaishyas were placed below the Kshatriyas but above the Shudras and the Shudras were placed the lowest of all.

7. The third feature of Chaturvarna was that each class must engage itself in an occupation assigned to it. The Brahmins' occupation was to learn, teach and officiate at religious ceremonies. The Kshatriyas' occupation was to bear arms and to fight. The occupation of the Vaishyas was trade and business. The Shudras' occupation was to do menial service for all the three superior classes.

8. No class is to transgress and trench upon the occupation of the other classes.

9. This theory of an ideal society was upheld by the Brahmins and preached to the people.

10. The soul of this theory, it is obvious, is

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inequality. This social inequality is not the result of historical growth. Inequality is the official doctrine of Brahminism.

11. The Buddha opposed it root and branch.

12. He was the strongest opponent of caste and the earliest and staunchest upholder of equality.

13. There is no argument in favour of caste and inequality which he did not refute.

14. There were many Brahmins who challenged Buddha on this issue. But he silenced them completely.

15. The story is told in the Assalayana-Sutta that once the Brahmins persuaded one of them, by name Assalayana, to go to the Buddha and controvert his views against caste and inequality.

16. Assalayana went to the Buddha and placed before him the case in favour of the superiority of the Brahmins.

17. He said, "Brahmins maintain, Gotama, that only Brahmins form the superior class, all other classes being inferior ; that only Brahmins form the white class, all other classes being black fellows ; that purity resides in Brahmins alone and not in non-Brahmins ; and that only Brahmins are Brahma's legitimate sons, born from his mouth, offspring of his, creations of his, and his heirs. What does Gotama say hereon ?"

18. The Buddha's answer simply pulverized Assalayana.

19. The Buddha said : "Assalayana, are not the Brahmin wives of Brahmins known to have their periods, and to conceive, and to lie and give birth? Notwithstanding this do Brahmins really maintain all what you have said though they are themselves born of women like everybody else ?"

20. Assalayana gave no answer.

21. The Buddha went further and asked Assalayana another question.

22. "Suppose, Assalayana, a young noble consorts with a Brahmin maiden, what would be the issue ? Will it be an animal or human being ?"

23. Again Assalayana gave no answer.

24. "As to the possibility of moral development, is it only a Brahmin and not a man of the other three classes, who in this country, can develop in his heart the love that knows no hate or ill-will ?"

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25. "No. All four classes can do it," replied Assalayana.

26. "Assalayana ! Have you ever heard," asked the Buddha, "that in the Yona and Kamboja countries and in other adjacent countries, there are only two classes, namely, masters and slaves, and that a master can become a slave and *vice versa* ?"

27. "Yes, I have heard so," replied Assalayana.

28. "If your Chaturvarna is an ideal society, why is it not universal ?"

29. On none of these points was Assalayana able to defend his theory of caste and inequality. He was completely silenced. He ended by becoming a disciple of the Buddha.

30. A Brahmin by name Vasettha had embraced the religion of the Blessed Lord. The Brahmins used to abuse him for his conversion.

31. One day he went to Buddha and disclosed to him what the Brahmins said of him.

32. Then Vasettha said : "The Brahmins, Lord, say thus : 'Only a Brahmin is of the best social grade ; other grades are low. Only a Brahmin is of a clear complexion ; other complexions are swarthy. Only Brahmins are of pure breed ; not they that are not of the Brahmins. Only Brahmins are genuine children of Brahma, born of his mouth, offspring of Brahma, created by Brahma, heirs of Brahma.

33. " 'As for you, you have renounced the best rank and have gone over to that low class, to the shaven recluses, to vulgar rich, to them of swarthy skins, to the foot-born descendants. Such a course is not good, such a course is not proper, even this, that you, having forsaken that upper class, should associate with an inferior class, to wit, with shavelings, fair folks, menials, swarthy of skin, the offspring of our kinsmen's heels.'

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34. "In these terms, Lord, do the Brahmins blame and revile me with characteristic abuse, copious, not at all stinted."

35. "Surely, Vasettha," said the Buddha, "the Brahmins have quite forgotton the ancient lore when they say so. On the contrary, the wives of Brahmins, like all women of other classes, are seen to be with child, bringing forth and nursing children. And yet it is these very womb-born Brahmins who say that Brahmins are genuine children of Brahma, born from his mouth ; his offspring ; his creation ; and his heirs ! By this they make a travesty of the nature of Brahma."

36. Once the Brahmin Esukari went to the Buddha to argue with him three questions.

37. The first question he raised related to the permanent division of occupations. In defence of the system he began by saying : "I have come to ask you a question. The Brahmins say they shall serve nobody because they stand above all. Everyone else is born to serve them.

38. "Service, Gotama, is divided into four— service of Brahmin, service of noble, service of a middle-class man, or by a peasant ; while a peasant may be served only by a peasant,—for who else could ?" What does the reverend Gotama say hereon ?"

39. The Buddha answered him by asking a question : "Is the whole world in accord with Brahmins in their fourfold division of service ?" asked the Lord.

40. "For myself, I neither assert that all service is to be rendered nor that all service is to be refused. If the service makes a man bad and not good, it should not be rendered; but if it makes him better and not bad, then it should be rendered.

41. "This is the guiding consideration which should decide the conduct alike of nobles, of Brahmins, of middle-class men and of peasants ; each individual should refuse service which makes him bad and should accept only the service which makes him a better man."

42. The next question raised was by Esukari.

"Why should ancestry and lineage not have a place in determining the status of a man ?"

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43. To this question the Buddha replied thus : "As against pride of ancestry, the station into which a man happens to be born determines only his designation be it noble or Brahmin or middle-class or peasant. Even as a fire is called after the material out of which it is kindled, and may thus be called either a wood-fire, or a chip-fire, or a bracken-fire, or a cowdung fire, just in the same way the noble, transcendant doctrine; I aver, is the source of true wealth for every man, birth merely determining his designation in one of the four classes.

44. "Lineage does not enter into a man's being either good or bad : nor do good looks or wealth. For, you will find a man of noble birth who is a murderer, a thief, a fornicator, a liar, a slanderer, a man of bitter tongue, a tattler, a covetous person, a man of rancour or of wrong views, and therefore I assert that noble birth does not make a good man. Or again you will find a man of noble birth who is innocent of all these vices ; and, therefore, I assert that it is not lineage which makes a man bad."

45. The third question which Esukari raised was with regard to the ways of earning a living assigned to each class.

46. The Brahmin Esukari said to the Lord : "Brahmins give a fourfold assignment of income, from alms, for Brahmins ; from his bow and arrows, for the noble ; from ploughing and tending cattle, for the middle class man ; and for the peasant, by the carriage of crops on the pole slung over his shoulder. If anyone of these deserts his vocation for something else, he does what he should not do, not less than a guardian who appropriates what is not his. What does the reverend Gotama say on this ?"

47. "Is the whole world in accord with this Brahmin classification ?" asked the Lord.

48. "No," replied Esukari.

49. To Vasettha he said : "What is important is high ideals and not noble birth.

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50. "No caste ; no inequality ; no superiority ; no inferiority ; all are equal. This is what he stood for.

51. "Identify yourself with others. As they, so I. As I, so they," so said the Buddha.

§ 2. *Dhamma to be Saddhamma must Teach that Worth and not Birth is the Measure of Man*

1. The theory of Chaturvarna, preached by the Brahmins, was based on birth.

2. One is a Brahmin because he is born of Brahmin parents. One is a Kshatriya because he is born of Kshatriya parents. One is a Vaishya because one is born of Vaishya parents. And one is a Shudra because one is born of Shudra parents.

3. The worth of a man according to the Brahmins was based on birth and on nothing else.

4. This theory was as repulsive to the Buddha as was the theory of Chaturvarna.

5. His doctrine was just the opposite of the doctrine of the Brahmins. It was his doctrine that worth and not birth was the measure of man.

6. The occasion on which the Buddha propounded his doctrine has its own peculiar interest.

7. Once the Blessed One was staying in Anathpindika's Asram. One day in the forenoon he took his begging bowl and entered Shravasti for alms.

8. At that time a sacrificial fire was burning and an offering was prepared. Then the Blessed One, going for alms from house to house in Shravasti, approached the house of the Brahmin Aggika.

9. The Brahmin, seeing the Blessed One coming at a distance, became angry and said : "Stay there, O Shaveling ! There, stay, ye wretched monk ! Stay there, ye miserable outcast."

10. When he spoke thus, the Blessed One addressed him as follows: "Do you know, O Brahmin, who an outcast is, or the things that make a person an outcast ?"

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11. "No, Gotama, I do not know who an outcast is. Nor indeed do I know what things make a man an outcast."

12. The Lord pleaded that nothing would be lost in knowing who is an outcast. "Now that you insist on my knowing it," the Brahmin Aggika said, "well go on and explain."

13. The Brahmin having responded, the Blessed One spake as follows :

14. "The man who is irritable, rancorous, vicious, detractive, perverted in views, and deceitful— know ye that he is an outcast.

15. "Whosoever in this world harms living beings once-born or twice-born, in whom there is no compassion for living beings—know ye that he is an outcast.

16. "Whosoever destroys and besieges villages and hamlets, and is known as an oppressor—know ye that he is an outcast.

17. "Whether in the village or in the forest whosoever appropriates by theft what belongs to others, or what is not given—know ye that he is an outcast.

18. "Whosoever, having really taken a debt, flees, when pressed, saying, 'There is no debt to you,'— know ye that he is an outcast.

19. "Whosoever, desiring some trifle, kills a man going alone on the road, and pillages him—know ye that he is an outcast.

20. "Whosoever for his own sake, or for the sake of others, or for the sake of wealth, utters lies when asked as a witness—know ye that he is an outcast.

21. "Whosoever by force or with consent is seen transgressing with the wives of relatives or friends— know ye that he is an outcast.

22. "Whosoever, being rich, does not support aged mother and father who have passed their youth— know ye that he is an outcast.

23. "Whosoever, when questioned about what is good, counsels what is wrong and teaches in a concealing way—know ye that he is an outcast.

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24. "No one is an outcast by birth—and no one is a Brahmin by birth."

25. Aggika, on hearing this, felt greatly ashamed for the abuse he had hurled against the Blessed Lord.

§3, *Dhamma to be Saddhamma must Promote Equality between Man and Man*

1. Men are born unequal.

2. Some are robust, others are weaklings.

3. Some have more intelligence, others have less or none.

4. Some have more capacity, others have less.

5. Some are well-to-do, others are poor.

6. All have to enter into what is called the struggle for existence.

7. In the struggle for existence if inequality be recognized as the rule of the game the weakest will always go to the wall.

8. Should this rule of inequality be allowed to be the rule of life ?

9. Some answer in the affirmative on the ground that it results in the survival of the fittest.

10. The question, however, is : Is the fittest the best from the point of view of society.

11. No one can give a positive answer.

12. It is because of this doubt that religion preaches equality. For equality may help the best to survive even though the best may not be the fittest.

13. What society wants is the best and not the fittest.

14. It is, therefore, the primary reason why religion upholds equality.

15. This was the viewpoint of the Buddha and it was because of this that he argued that a religion which does not preach equality is not worth having.

16. Can you respect or believe in a religion which recommends actions that bring happiness to oneself by causing sorrow to others, or happiness to others

by causing sorrow to oneself or sorrow to both oneself and others ?

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17. Is not that a better religion which promotes the happiness of others simultaneously with the happiness of oneself and tolerates no oppression.

18. These were some of the most pertinent questions which he asked the Brahmins who opposed Equality.

19. The religion of the Buddha is perfect justice springing from a man's own meritorious disposition.

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BOOK IV

Religion and Dhamma

Part I— Religion and Dhamma.

Part II— How Similarities in Terminology Conceal Fundamental Difference.

Part III— The Buddhist Way of Life.

Part IV— His Sermons.

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PART I

Religion and Dhamma

1. What is Religion?
2. How Dhamma Differs From Religion.
3. The Purpose of Religion and the Purpose of Dhamma.
4. Morality and Religion.
5. Dhamma and Morality.
6. Mere Morality is not Enough. It must be Sacred and Universal.

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§ 1. What is Religion ?

1. The word "religion" is an indefinite word with no fixed meaning.

2. It is one word with many meanings.

3. This is because religion has passed through many stages. The concept at each stage is called Religion though the concept at one stage has not had the same meaning which it had at the preceding stage or is likely to have at the succeeding stage.

4. The conception of religion was never fixed.

5. It has varied from time to time.

6. Because most of the phenomena such as lightning, rain and floods, the occurrence of which the primitive man could not explain, any weird performance done to control the phenomenon was called magic. Religion therefore came to be identified with magic.

7. Then came the second stage in the evolution of religion. In this stage religion came to be identified with beliefs, rituals, ceremonies, prayers and sacrifices.

8. But this conception of religion is derivative.

9. The pivotal point in religion starts with the belief that there exists some power which causes these phenomena which primitive man did not know and could not understand. Magic lost its place at this stage.

10. This power was originally malevolent. But later it was felt that it could also be benevolent.

11. Beliefs, rites, ceremonies and sacrifices were necessary both to propitiate a benevolent power and also to conciliate an angry power.

12. Later that power was called God or the Creator.

13. Then came the third stage-that it is this God who created this world and also man.

14. This was followed by the belief that man has

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a soul and the soul is eternal and is answerable to God for man's actions in the world.

15. This is, in short, the evolution of the concept of Religion.

16. This is what Religion has come to be and this is what it connotes—belief in God, belief in soul, worship of God, curing of the erring soul, propitiating God by prayers, ceremonies, sacrifices, etc.

§ 2. *How Dhamma Differs From Religion*

1. What the Buddha calls Dhamma differs fundamentally from what is called Religion.

2. What the Buddha calls Dhamma is analogous to what the European theologians call Religion.

3. But there is no greater affinity between the two. On the other hand, the differences between the two are very great.

4. On this account some European theologians refuse to recognize the Buddha's Dhamma as Religion.

5. There need be no regrets over this. The loss is theirs. It does no harm to the Buddha's Dhamma. Rather, it shows what is wanting in Religion.

6. Instead of entering into this controversy it is better to proceed to give an idea of Dhamma and show how it differs from Religion.

7. Religion, it is said, is personal and one must keep it to oneself. One must not let it play its part in public life.

8. Contrary to this, Dhamma is social. It is fundamentally and essentially so.

9. Dhamma is righteousness, which means right relations between man and man in all spheres of life.

10. From this it is evident that one man if he is alone does not need Dhamma.

11. But when there are two men living in relation to each other they must find a place for Dhamma whether they like it or not. Neither can escape it.

12. In other words, Society cannot do without Dhamma.

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13. Society has to choose one of the three alternatives.

14. Society may choose not to have any Dhamma, as an instrument of Government. For Dhamma is nothing if it is not an instrument of Government.

15. This means Society chooses the road to anarchy.

16. Secondly, Society may choose the police, i.e., dictatorship as an instrument of Government.

17. Thirdly, Society may choose Dhamma plus the Magistrate wherever people fail to observe the Dhamma.

18. In anarchy and dictatorship liberty is lost.

19. Only in the third liberty survives.

20. Those who want liberty must therefore have Dhamma.

21. Now what is Dhamma ? and why is Dhamma necessary ? According to the Buddha, Dhamma consists of Prajna and Karuna.

22. What is Prajna ? And why Prajna ? Prajna is understanding. The Buddha made Prajna one of the two corner-stones of His Dhamma because he did not wish to leave any room for superstition.

23. What is Karuna? And why Karuna? Karuna is love. Because, without it Society can neither live nor grow, that is why the Buddha made it the second corner-stone of His Dhamma.

24. Such is the definition of the Buddha's Dhamma.

25. How different is this definition of Dhamma from that of Religion.

26. So ancient, yet so modern is the definition of Dhamma given by the Buddha.

27. So aboriginal yet so original.

28. Not borrowed from anyone, yet so true.

29. A unique amalgam of Pradnya and Karuna is the Dhamma of the Buddha.

30. Such is the difference between Religion and Dhamma.

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§ 3. *The Purpose of Religion and the Purpose of Dhamma*

1. What is the purpose of Religion ? What is the purpose of Dhamma ? Are they one and the same ? Or are they different ?

2. The answer to these questions are to be found in two dialogues—one between the Buddha and Sunakkhatta and the other between the Buddha and the Brahmin Potthapada.

3. The Exalted One was once staying among the Mallas at Anupiya, one of their towns.

4. Now the Exalted One having robed himself in the early morning, put on his cloak and took his bowl and entered the town for alms.

5. On the way he thought it was too early to go for alms. Therefore he went to the pleasance where Bhaggava the wanderer dwelt and called on him.

6. On seeing the Blessed One Bhaggava got up, saluted him and said, "May it please you, sire, to be seated ; here is a seat made ready for you."

7. The Exalted One sat down thereon, and Bhaggava taking a certain low stool sat down beside him. So seated, Bhaggava, the wanderer, spake thus to the Exalted One :

8 "Some days ago, Lord, a good many days ago, Sunakkhatta of the Licchavis called on me and spake thus: 'I have now given up the Exalted One, Bhaggava. I am remaining no longer under him (as my teacher).' Is the fact really so, just as he said ?"

9. "It is just so Bhaggava, as Sunakkhatta of the Licchavis said," replied the Blessed One.

10. "Some days ago, Bhaggava, a good many days ago, Sunakkhatta, the Licchavi, came to call on me, and spake thus : 'Sir, I now give up the Exalted One. I will henceforth remain no longer under him (as my teacher).' When he told me this, I said to him : 'But now, Sunakkhatta, have I ever said to you, Come, Sunakkhatta, live under me (as my pupil) ?'

11. " 'No, sir, you have not.'

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12. "Or have you ever said to me: 'Sir, I would fain dwell under the Exalted One (as my teacher) ?'

13. " 'No, sir, I have not.'

14. "Then I asked him 'If I said not the one, and you said not the other, what are you and what am I that you talk of giving up? See, foolish one, in how far the fault here is your own.'

15. " 'Well, but, sir, the Exalted One works me no mystic wonders surpassing the power of ordinary men.'

16. "Why, now Sunakkhatta, have I ever said to you: 'Come, take me as your teacher, Sunakkhatta, and I will work for you mystic wonders surpassing the power of ordinary men ?'

17. " 'You have not, sir.'

18. "Or have you ever said to me: 'Sir, I would fain take the Exalted One as my teacher, for he will work for me mystic wonders beyond the powers of ordinary men ?'

19. " 'I have not, sir.'

20. " 'But if I said not the one, and you said not the other, what are you and what am I, foolish man, that you talk of giving up ? What think you, Sunakkhatta? Whether mystic wonders beyond the power of ordinary man are wrought, or whether they are not is the object for which I teach the Dhamma: that it leads to the thorough destruction of ill for the doer thereof ?'

21. " 'Whether, sir, they are so wrought or not, that is indeed the object for which the Dhamma is taught by the Exalted One.'

22. " 'If then, Sunakkhatta, it matters not to that object whether mystic wonders are wrought or not, of what use to you would be the working of them ? See, foolish one, in how far the fault here is your own.'

23. " 'But, sir, the Exalted One does not reveal to me the beginning of things.'

24. "Why now, Sunakkhatta, have I ever said to you: 'Come, Sunakkhatta, be my disciple and I will reveal to you the beginning of things ?'

25. " 'Sir, you have not'

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26. "Or have you ever said to me: 'I will become the Exalted One's pupil, for he will reveal to me the beginning of things ?'

27. " 'Sir, I have not.'

28. " 'But if I have not said the one and you have not said the other, what are you and what am I, foolish man, that you talk of giving up on that account ? What think you, Sunakkhatta? Whether the beginning of things be revealed, or whether it be not, is the object for which I teach the Dhamma that it leads to the thorough destruction of ill for the doer thereof ?'

29. " 'Whether, sir, they are revealed or not, that is indeed the object for which the Dhamma is taught by the Exalted One.'

30. " 'If then, Sunakkhatta, it matters not to that object whether the beginning of things be revealed, or whether it be not, of what use to you would it be to have the beginning of things revealed ?' "

31. This illustrates that Religion is concerned with revealing the beginning of things and Dhamma is not.

(2)

The other differences between Religion and Dhamma are brought out in the discussion between the Blessed One and Potthapada.

1. The Blessed One was once staying at Shravasti in Anathapindika's pleasance of the Jeta's wood. Now at that time Potthapada, the wandering mendicant was dwelling in the hall put up in Queen Mallika's park for a debate on general systems of philosophical opinion.

2. There was with him a great following of mendicants; to wit, three hundred. A dialogue took place between the Blessed Lord and Potthapada. Potthapada asked :

3. "Then, sir, if that be so, tell me at least: 'Is the world eternal ? Is this alone the truth, and any other view mere folly ?' "

4. "That, Potthapada, is a matter on which I have expressed no opinion," replied the Blessed Lord.

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5. Then, in the same terms, Potthapada asked each of the following questions :

(i) 'Is the world not eternal ?'

(ii) 'Is the world finite ?'

(iii) 'Is the world infinite ?'

(iv) 'Is the soul the same as the body ?'

(v) 'Is the soul one thing, and the body another ?'

(vi) 'Does one who has gained the truth live again after death ?'

(vii) 'Does he not live again after death ?'

(viii) 'Does he both live again and not live again, after death ?'

(ix) 'Does he neither live again, nor not live again, after death?'

6. And to each questions the Exalted One made the same reply :—

7. "That too, Potthapada, is a matter on which I have expressed no opinion."

8. "But why has the Exalted One expressed no opinion on that ?"

9. "Because this question is not calculated to profit, it is not concerned with the Dhamma, it does not redound even to the elements of right conduct, nor to detachment, nor to purification from lusts, nor to quietude, nor to tranquillisation of heart, nor to real knowledge, nor to the insight (of the higher stages of the Path), nor to Nirvana. Therefore is it that I express no opinion upon it."

10. "Then what is it that the Exalted One has determined ?"

11. "I have expounded, Potthapada, what Dukkha is ; I have expounded what is the origin of Dukkha; I have expounded what is the cessation of Dukkha : I have expounded what is the method by which one may reach the cessation of Dukkha."

12. "And why has the Exalted One put forth a statement as to that ?"

13. "Because that question, Potthapada, is calculated to profit, is concerned with the Dhamma, redounds to the beginnings of right conduct, to detachment, to purification from lusts, to quietude, to tran-

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quillisation of heart, to real knowledge, to the insight of the higher stages of the Path and to Nirvana. Therefore is it, Potthapada, that I have put forward a statement as to that."

14. In this dialogue it is clearly put forth what is the subject matter of Religion and what is not the subject matter of Dhamma. The two are poles apart.

15. The purpose of Religion is to explain the origin of the world. The purpose of Dhamma is to reconstruct the world.

§4. *Morality and Religion*

1. What is the place of morality in Religion ?

2. As a matter of truth morality has no place in Religion.

3. The content of religion consists of God, soul, prayers, worship, rituals, ceremonies and sacrifices.

4. Morality comes in only wherein man comes in relation to man.

5. Morality comes in into religion as a side wind to maintain peace and order.

6. Religion is a triangular piece.

7. Be good to your neighbour because you are both children of God.

8. That is the argument of religion.

9. Every religion preaches morality but morality is not the root of religion.

10. It is a wagon attached to it. It is attached and detached as the occasion requires.

11. The action of morality in the functioning of religion is therefore casual and occasional.

12. Morality in religion is therefore not effective.

§ 5. *Dhamma and Morality*

1. What is the place of morality in Dhamma ?

2. The simple answer is Morality is Dhamma and Dhamma is Morality.

3. In other words, in Dhamma morality takes the place of God although there is no God in Dhamma.

4. In Dhamma there is no place for prayers, pilgrimages, rituals, ceremonies or sacrifices.

5. Morality is the essence of Dhamma. Without it there is no Dhamma.

6. Morality in Dhamma arises from the direct necessity for man to love man.

7. It does not require the sanction of God. It is not to please God that man has to be moral. It is for his own good that man has to love man.

§ 6. *Mere Morality is not Enough. It must be Sacred and Universal*

1. When is a thing sacred? Why is a thing sacred ?

2. In every human society, primitive or advanced, there are some things or beliefs which it regards as sacred and the rest as profane.

3. When a thing or belief has reached the stage of being sacred (pavitra) it means that it cannot be violated. Indeed it cannot be touched. It is taboo.

4. Contrary to this, a thing or a belief which is profane (apavitra), i.e., outside the field of the sacred, may be violated. It means one can act contrary to it, without feeling any fear or qualms of conscience.

5. The sacred is something holy. To transgress it is a sacrilege.

6. Why is a thing made sacred ? To confine the scope of the question to the matter in hand, why morality should have been made sacred ?

7. Three factors seem to have played their part in making morality sacred.

8. The first factor is the social need for protecting the best.

9. The background of this question lies imbedded in what is called the struggle of existence and the survival of the fittest.

10. This arises out of the theory of evolution. It is common knowledge that evolution takes place through a struggle for existence because the means of food supply in early times were so limited.

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11. The struggle is bitter. Nature is said to be red in claw and tooth.

12. In this struggle which is bitter and bloody only the fittest survive.

13. Such is the original state of society.

14. In the course of ancient past someone must have raised the question, Is the fittest (the strongest) the best? Would not the weakest if protected be ultimately the best for advancing the ends and aims of society ?

15. The then prevailing state of society seems to have given an answer in the affirmative.

16. Then comes, the question what is the way to protect the weak ?

17. Nothing less than to impose some restraints upon the fittest.

18. In this lies the origin and necessity for morality.

19. This morality had to be sacred because it was imposed originally on the fittest, i.e., the strongest.

20. This has very serious consequences.

21. First, does morality in becoming social become anti-social ?

22. It is not that there is no morality among thieves. There is morality among businessmen. There is morality among fellow castemen and there is also morality among a gang of robbers.

23. But this morality is marked by isolation and exclusiveness. It is a morality to protect "group interest." It is therefore anti-social.

24. It is the isolation and exclusiveness of this kind of morality which throws its anti-social spirit in relief.

25. The same is true where a group observes morality because it has interests of its own to protect.

26. The results of this group organization of society are far-reaching.

27. If society continues to consist of anti-social groups, society will remain a disorganized and a factional society.

28. The danger of a disorganized and factional

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state of society is that it sets up a number of different models and standards.

29. In the absence of common models and common standards society cannot he a harmonious whole.

30. With such different models and standards it is impossible for the individual to attain consistency of mind.

31. A society which rests upon the supremacy of one group over another irrespective of its rational or proportionate claims inevitably leads to conflict.

32. The only way to put a stop to conflict is to have common rules of morality which are sacred to all.

33. There is the third factor which requires morality to be made sacred and universal. It is to safeguard the growth of the individual.

34. Under the struggle for existence or under group rule the interests of the individuals are not safe.

35. The group set-up prevents an individual from acquiring consistency of mind which is possible only when society has common ideals, common models. His thoughts are led astray and this creates a mind whose seeing unity is forced and distorted.

36. Secondly the group set-up leads to discrimination and denial of justice.

37. The group set-up leads to stratification of classes. Those who are masters remain masters and those who are born in slavery remain slaves. Owners remain owners and workers remain workers. The privileged remain privileged and the serfs remain serfs.

38. This means that there can be liberty for some but not for all. This means that there can be equality for a few but none for the majority.

39. What is the remedy ? The only remedy lies in making fraternity universally effective.

40. What is fraternity ? It is nothing but another name for brotherhood of men which is another name for morality.

41. This is why the Buddha preached that Dhamma is morality and as Dhamma is sacred so is morality.

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PART II

How Similarities in Terminology Conceal Fundamental Difference

Section I—*Rebirth*

1. Preliminary.
2. Rebirth of What ?
3. Rebirth of Whom ?

Section II—*Karma*

1. Is the Buddhist doctrine of Karma the same as the Brahminic doctrine ?
2. Did the Buddha believe in past Karma having effect on future life ?
3. Did the Buddha believe in past Karma having effect on future life ?—concluded.

Section III—*Ahimsa*

1. The different ways in which it is interpreted and followed.
2. The true meaning of Ahimsa.

Section IV—*Transmigration*

Section V—*Causes of his Misunderstandings*

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SECTION I

REBIRTH

§ *1. Preliminary*

1. What happens after death is a question often asked.

2. The contemporaries of the Buddha held two different views. One set was called Eternalist and the other was called Annihilationist.

3. The Eternalist said that the soul knows no death: therefore life is eternal. It is renewed by rebirth.

4. The thesis of the Annihilationists was summed up in one word, *Ucchedvad,* which meant that death is the end of everything. There is nothing left after death.

5. The Buddha was not an eternalist. For it involved a belief in the existence of a separate, immortal soul to which he was opposed.

6. Was the Buddha an annihilationist? With his belief in the non-existence of the soul, the Buddha would naturally be expected to be an annihilationist.

7. But in the Alagaddupamma-Sutta the Buddha complains that he is called an annihilationist when as a matter of fact he is not.

8. This is what he says : "Though this is what I affirm and what I preach yet some recluses and Brahmins, wrongly, erroneously and falsely charge me in defiance of facts, with being an annihilationist and with preaching the disintegration, destruction and extirpation of human beings.

9. "It is just what I am not, and what I do not affirm, that is wrongly, erroneously, and falsely charged against me by these good people who would make me out to be an annihilationist."

10. If this statement is a genuine one and is not an interpolation by those who wanted to foist a Brahmanic doctrine on Buddhism the statement raises a serious dilemma

11. How can the Buddha not believe in the existence of the soul and yet say that he is not an annihilationist ?

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12. This raises the question : Did the Buddha believe in rebirth ?

§ 2. *Rebirth of What ?*

1. Did the Buddha believe in rebirth ?

2. The answer is in the affirmative.

3. It is better to split this question further into two parts : (1) Rebirth of What and (2) Rebirth of Whom.

4. It is better to take each one of these two questions separately.

5. Here we may consider the first, *Rebirth of What*.

6. This question is almost always ignored. It is because of the mixing of the two questions that so much confusion has arisen.

7. According to the Buddha there are four elements of Existence which go to compose the body. They are (1) Prithvi ; (2) Apa ; (3) Tej ; and (4) Vayu.

8. Question is when the human body dies what happens to these four elements? Do they also die along with dead body ? Some say that they do.

9. The Buddha said no. They join the mass of similar elements floating in (Akash) space.

10. When the four elements from this floating mass join together a new birth takes place.

11. This is what the Buddha meant by rebirth.

12. The elements need not and are not necessarily from the same body which is dead. They may be drawn from different dead bodies.

13. It must be noted that the body dies. But the elements are ever living.

14. This is the kind of rebirth in which the Buddha believed.

15. Great light is thrown upon the subject by Sariputta in his dialogue with Maha-Kotthita.

16. It is said that once when the Lord was staying at Shravasti in Jeta's Grove in Anathapindika's Aram, the Maha-Kotthita rising up at even-tide from his meditations, went to Sariputta and asked him to elucidate some of the questions which troubled him.

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17. The following was one of them.

18. *Maha-Kotthita* asked : "How many factors has the first ecstasy (Dhyana) put from it and how many does it retain ?"

19. *Sariputta* replied: "Five of each. Gone are lusts, malevolence, torpor, worry and doubt. Observation, reflection, zest, satisfaction and a focussed heart persist."

20. *Maha-Kotthita* asked : "Take the five senses of sight, sound, smell, taste and touch,—each with its own particular province and range of function, separate and mutually distinct. What ultimate base have they ? Who enjoys all their five provinces and ranges?"

21. *Sariputta* replied: "Mind (Mano)."

22. *Maha-Kotthita* asked : "On what do these five faculties of sense depend ?"

23. *Sariputta* replied : "On vitality."

24. *Maha-Kotthita* asked : "On what does vitality depend ?

25. *Sariputta* : "On heat."

26. *Maha-Kotthita* asked : "On what does heat depend ?"

27. *Sariputta* replied : "On vitality."

28. *Maha-Kotthita* asked : "You say that vitality depends on heat, you also say that heat depends on vitality ! What precisely is the meaning to be attached to this ?"

29. *Sariputta* replied : "I will give you an illustration. Just as in the case of a lamp, the light reveals the flame and the flame the light, so vitality depends upon heat and heat on vitality.

30. *Maha-Kotthita* asked : "How many things must quit the body before it is flung aside and cast away like a senseless log ?"

31. *Sariputta* answered: "Vitality, heat and consciousness."

32. *Maha-Kotthita* asked : "What is the difference between a lifeless corpse and an almsman in trance, in whom perception and feelings are stilled?"

33. *Sariputta* replied : "In the corpse not only

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are the plastic forces of the body and speech and mind stilled and quiescent but also vitality is exhausted, heat is quenched and the faculties of sense broken up ; whereas in the almsman in trance vitality persists, heat abides, and the faculties are clear, although respiration, observation and perception are stilled and quiescent."

34. This probably is the best and most complete exposition of Death or Annihilation.

35. There is only one lacuna in this dialogue. Maha-Kotthita should have asked Sariputta one question. What is heat ?

36. What answer Sariputta would have given it is not easy to imagine. But there can be no doubt that heat means energy.

37. Thus amplified, the real answer to the question : What happens when the body dies ? is : The body ceases to produce energy.

38. But this is only a part of the answer. Because death also means that whatever energy that had escaped from the body joins the general mass of energy playing about in the Universe.

39. Annihilation has therefore a two-fold aspect. In one of its aspects it means cession of production of energy. In another aspect it means a new addition to the stock of general floating mass of energy.

40. It is probably because of this two-fold aspect of annihilation that the Buddha said that he was not an absolute annihilationist. He was an annihilationist so far as soul was concerned. He was not an annihilationist *so* far as matter was concerned.

41. So interpreted it is easy to understand why the Buddha said that he was not an annihilationist. He believed in the regeneration of matter and not in the rebirth of the soul.

42. So interpreted, the Buddha's view is in consonance with science.

43. It is only in this sense that the Buddha could be said to have believed in rebirth.

44. Energy is never lost. That is what science affirms. Annihilation in the sense that after death

nothing is left would be contrary to science. For it would mean that energy is not constant in volume.

45. This is the only way by which the dilemma could be solved.

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§3. *Rebirth of Whom ?*

1. The most difficult question is Rebirth of Whom.

2. Does the same dead person take a new birth ?

3. Did the Buddha believe in this thesis? The answer is "Most improbable."

4. The answer depends upon the elements of existence of the dead man meeting together and forming a new body then the possibility of the Rebirth of the same Sentient being is possible.

5. If a new body is formed after a mixture or the different elements of the different men who are dead then there is rebirth but not the rebirth of the same sentient being.

6. This point has been well explained by sister Khema to King Pasenadi.

7. Once the Exalted One was staying near Savatthi at Jeta Grove in Anathapindika's Aram.

8. Now on that occasion the sister Khema, after going her rounds among the Kosalana, took up her quarters at Toranavatthu, between Shravasti and Saketa.

9. Now the Rajah Pasenadi of Kosala was journeying from Saketa to Shravasti, and midway between Saketa and Shravasti he put up for one night at Toranavatthu.

10. The Rajah Pasenadi of Kosala called a certain man and said : "Come thou, good fellow ! Find out some recluse or brahmin such that I can wait upon him today."

11. "Even so, your majesty," said that man in reply to the Rajah Pasenadi of Kosala, and after wandering through all Toranavatthu he saw not any one, either recluse or brahmin, on whom the Rajah Pasenadi might wait.

12. Then that man saw the sister Khema, who

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had come to reside at Toranavatthu. And on seeing her he went back to the Rajah Pasenadi of Kosala, and said :—

13. "Your Majesty, there is no recluse or brahmin in Toranavatthu such that your majesty can wait upon him. But, your majesty, there is a sister named Khema, a woman-disciple of that Exalted One. Now of this lady a lovely rumour has gone abroad, that she is sage, accomplished, shrewd, widely learned, a brilliant talker, of goodly ready wit. Let your majesty wait upon her."

14. So the Rajah Pasenadi of Kosala went to visit the sister Khema, and on coming to her saluted and sat down at one side. So seated he said to her :—

15. "How say you, lady ? Does the Tathagata exist after death ?"

16. "That also, maharajah is not revealed by the Exalted One."

17. "How then, lady ? When asked 'Does the Tathagata exist after death ?' you reply, "That is not revealed by the Exalted One,' and, when I ask . . . the other questions, you make the same reply. Pray, lady, what is the reason, what is the cause, why this thing is not revealed by the Exalted One ?"

18. "Now in this matter, maharajah, I will question you. Do you reply as you think fit. Now how say you, maharajah ? Have you some accountant, some ready reckoner or calculator, able to count the sand in Ganges, thus : There are so many hundred grains, or so many thousand grains, or so many hundreds of thousands of grains of sand ?"

19. "No, indeed, lady."

20. "Then have you some accountant, ready reckoner or calculator able to reckon the water in the mighty ocean, thus : There are so many gallons of water, so many hundreds, so many thousands, so many hundreds of thousand gallons of water ?"

21. "No, indeed, lady."

22. "How is that ?"

23. "Mighty is the ocean, lady, deep, boundless, unfathomable."

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24. "Even so, maharajah, if one should try to define the Tathagata by his bodily form, that bodily form of the Tathagata is abandoned, cut down at the root, made like a palm-tree stump, made some thing that is not, made of a nature not to spring up again in future time. Set free from reckoning as body, maharajah, is the Tathagata. He is deep, boundless, unfathomable, just like the mighty ocean. To say, 'The Tathagata exists after death' does not apply. To say, 'The Tathagata exists not after death,' does not apply. To say, 'The Tathagata both exists and exists not, neither exists nor not exists after death,' does not apply.

25. "If one should try to define the Tathagata by feeling,—that feeling of the Tathagata is abandoned, cut down at the root . . . Yet free from reckoning as feeling is the Tathagata, maharajah, deep, boundless, unfathomable like the mighty ocean. To say, 'The Tathagata exists after death . . . exists not after death,' does not apply.

26. "So also if one should try to define the Tathagata by perception, by the activities, by consciousness ... set free from reckoning by consciousness is the Tathagata, deep, boundless, unfathomable as the mighty ocean. To say, 'The Tathagata exists after death . . . exists not after death,' does not apply."

27. Then the Rajah Pasenadi of Kosala was delighted with the words of the sister Khema, and took pleasure therein. And he rose from his seat, saluted her by the right and went away.

28. Now on another occasion the Rajah went to visit the Exalted One, and on coming to him saluted him and sat down at one side. So seated he said to the Exalted One :

29. "Pray, Lord, does the Tathagata exist after death ?"

30. "Not revealed by me, maharajah, is this matter."

31. "Then Lord, the Tathagata does not exist after death."

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32. "That also, maharajah, is not revealed by me."

33. He then asks the other questions and gets the same reply.

34. "How then, Lord ? When I ask the question, 'Does the Tathagata exist ? . . . does he not exist after death ?' you reply, 'It is not revealed by me.' Pray, Lord, what is the reason, what is the cause why this thing is not revealed by the Exalted One ?"

35. "Now, maharajah, I will question you. Do you reply as you think fit. Now what say you, maharajah ? Have you some accountant . . . (the rest is exactly as before).'

36. "Wonderful, Lord ! Strange it is, Lord, how the explanation both of Master and disciple, both in spirit and in letter, will agree, will harmonize, will not be inconsistent, that is, in any word about the highest.

37. "On a certain occasion, Lord, I went to visit the sister Khema, and asked her the meaning of this matter, and she gave me the meaning in the very words, in the very syllables used by the Exalted One. Wonderful, Lord ! Strange it is, Lord, how the explanation both of Master and disciple will agree, will harmonize, in spirit and in letter, how they will not be inconsistent,—that is, in any word about the highest.

38. "Well, Lord, now we must be going. We are busy folk. We have many things to do.

39. "Do now what you think it is time for, maharajah."

40. Thereupon the Rajah Pasenadi of Kosala was delighted with the words of the Exalted One and welcomed them. And he rose from his seat, saluted the Exalted One by the right and went away.

SECTION II

KARMA

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§ 1. *Is the Buddhist Doctrine of Karma the same as the Brahminic Doctrine?*

1. There is no doctrine in the Buddha's Dhamma which has created so much confusion as this doctrine of Karma.

2. What is its place in the Buddha's Dhamma and what is its significance which has already been told.

3. Ignorant Hindus out of sheer want of understanding say by comparing merely the similarity of words that Buddhism is the same as Brahmanism or Hinduism.

4. The educated and orthodox section of the Brahmins also do the same. They do so deliberately to mislead the ignorant masses.

5. The educated Brahmins know full well that the Buddhist Law of Karma is quite different from the Brahminic Law of Karma. Yet they keep on saying that Buddhism is the same as Brahmanism and Hinduism.

6. The similarity in terminology gives them an easy handle for their false and malicious propaganda.

7. It is, therefore, necessary to examine the position closely.

8. The Buddha's Law of Karma, however much may be similarity of words cannot be the same in its connotation as the Brahminic Law of Karma.

9. The premises of the two are so widely different, indeed so widely opposed that the result of the two cannot be the same. They must be different.

10. The principles of the Hindu Law of Karma may be stated seriatim for convenience.

11. The Hindu Law of Karma is based on the soul. The Buddhist is not. In fact there is no soul in Buddhism.

12. The Brahminic Law of Karma is hereditary.

13. It goes on from life to life. This is so because of the transmigration of the soul.

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14. This cannot be true of the Buddhist Law of Karma. This is also because there is no soul.

15. The Hindu Law of Karma is based on the existence of a soul which is distinct from the body. When the body dies the soul does not die. The soul flies away.

16. This is not true of the Buddhist Law of Karma.

17. According to the Hindu Law of Karma what happens when a man does a karma is this. His act produces two-fold results. It affects the doer and secondly it produces an impress upon his soul.

18. Each act he does produces an impress upon his soul.

19. When a man dies and when his soul escapes, the soul is full of such impressions.

20. It is these impressions which determine his birth and status in his future life.

21. This Hindu theory is inconsistent with the Buddhist theory of no-soul.

22. For these reasons the Buddhist doctrine of Karma cannot be and is not the same as the Hindu doctrine of Karma.

23. It is therefore simply foolish to talk about the Buddhist doctrine of Karma being the same as the Brahminic doctrine of Karma.

24. All that one can say is beware of this jugglery.

§ 2. *Did the Buddha believe in Past Karma having effect on Future Life?*

1. The Law of Karma was enunciated by the Buddha. He was the first to say : "Reap as you sow."

2. He was so emphatic about the Law of Karma that he maintained that there could be no moral order unless there was a stern observance of the Law of Karma.

3. The Buddha's Law of Karma applied only to Karma and its effect on present life.

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4. There is, however, an extended doctrine of Karma. According to it Karma includes Karma done in past life or lives.

5. If a man is born in a poor family it is because of his past bad karma. If a man is born in a rich family it is because of his past good karma.

6. If a man is born with a congenital defect it is because of his past bad karma.

7. This is a very pernicious doctrine. For in this interpretation of karma there is no room left for human effort. Everything is predetermined for him by his past karma.

8. This extended doctrine is often found to be attributed to the Buddha.

9. Did the Buddha believe in such a doctrine?

10. To examine this extended doctrine properly it is better to change the language in which it is usually expressed.

11. Instead of saying that past karma is transmitted it should be better if it was said that past karma is inherited.

12. This change of language enables us to test it by the law of heredity. At the same time it does no harm to the doctrine either to its *de jure* or *de facto* connotation.

13. This restatement makes it possible to pose the two questions which could not otherwise be posed and without answering which the matter could not be made clear.

14. The first question is how is past karma inherited ? What is the process ?

15. The second question is what is the nature of past karma in terms of heredity ? Is it an inherent characteristic or acquired characteristic ?

16. What do we inherit from our parents ?

17. Starting with science the new individual begins when a sperm enters the egg. Fertilization consists in fusion of the head of the sperm with the nucleus of the egg.

18. Each human being takes its origin from the union of two bits of living matter, an egg from the

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mother which has been fertilized by a single sperm from the father.

19. That human birth is genetic is told by the Buddha to a Yakkha who came to discuss the matter with him.

20. The Exalted One was then staying near Rajagraha, on the hill called Indra's Peak.

21. Now that Yakkha drew near to the Exalted One and addressed him as follows :

'Material form is not the living soul'

So says th' Enlightened One. Then how doth soul possess this body ?

Whence to soul doth come

Our bunch of bones and bowels ?

How doth soul within the mother-cave suspended bide?

22. To this the Exalted One replied :

At first the *Kalala* takes birth, and thence the *abudde*.

Therefrom the *pesi* grows,

Developing as *ghana* in its turn.

Now in the *ghana* doth appear the hair,

The down, the nails.

And whatsoever food and drink the mother of him takes, thereby the man in mother's womb doth live and grow.

23. But the Hindu doctrine differs.

24. It says that the body is genetic. But the soul is not. It is implanted into the body from outside—the doctrine is unable to specify the source.

25. Turning to the second question as to what is the nature of past karma, it must be determined whether it is an inherent characteristic or an acquired characteristic.

26. Unless an answer to this question is forthcoming it cannot be tested by the scientific theory of heredity.

27. But assuming there is an answer one way or the other to this question how is it possible to get any help from science whether it is a sensible theory or senseless theory.

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28. According to science a child inherits the characteristics of his parents.

29. In the Hindu doctrine of karma a child inherits nothing from its parents except the body. The past karma in the Hindu doctrine is the inheritance of the child by the child and for the child.

30. The parents contributes nothing. The child brings everything.

31. Such a doctrine is nothing short of an absurdity.

32. As shown above the Buddha did not believe in such an absurdity.

33. "Yes, if it were not reborn; but if it were, no."

34. "Give me an illustration."

35. "Suppose, O king, a man were to steal another man's mangoes, would the thief deserve punishment?"

36. "Yes."

37. "But he would not have stolen the mangoes the other set in the ground. Why would he deserve punishment ?"

38. "Because those he stole were the result of those that were planted."

39. "Just so, great king, this name-and-form commits deeds, either pure or impure, and by that karma another name-and-form is reborn. And therefore is it not set free from its evil deeds ?"

40. "Very good, Nagasena !"

41. The king said : "When deeds are committed, Nagasena by one name-and-form, what becomes of those deeds ?"

42. "The deeds would follow it, O king, like a shadow that never leaves it."

43. "Can any one point out those deeds, saying : 'Here are those deeds or there ?'

44. "No."

45. "Give me an illustration."

46. "Now what do you think, O king ? Can any one point out the fruits which a tree has not yet produced, saying :

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47. 'Here they are, or there ?' "

48. "Certainly not, sir,"

49. "Just so, great king, so long as the continuity of life is not cut off, it is impossible to point out the deeds that are done."

50. "Very good, Nagasena."

§ 3. *Did the Buddha believe in Past Karma having effect on Future Life?* —concluded

1. The Buddha's doctrine of Past Karma is thus in keeping with science.

2. He did not believe in the inheritance of Past Karma.

3. How can he, having held to the view that birth is genetic and whatever inheritance comes to the child it comes through its parents ?

4. Apart from logic there is more direct evidence on the point contained in a sutta called the Cula—Dukkha—Khanda—Sutta which contains a dialogue between the Buddha and the Jains.

5. In this dialogue this is what the Buddha says :—"Niganthas, you have done evil in the past ; extirpate it by these severe austerities. Every present restraint on body, speech and mind will hereafter undo the evil doings of the past. Hence, by expelling through penance all past misdeeds, and by not committing fresh misdeeds, the future becomes cleared; with the future cleared, the past is wiped out ; with the past wiped out, Ill is no more ; with Ill no more (Painful) feelings are no more ; and, with painful feelings now no more, all Ill will be outworn.—This teaching commends and approves itself to us, and we rejoice in it."

6. Thereupon, I said to those Niganthas :— "Do you know, reverend sirs, whether you had an existence before this or you were not non-existent ?"

7. "No, Sir."

8. "Do you know that, in a former existence, you were guilty, and not guiltless, of misdeeds ?"

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9. "No."

10. "Do you know that (in that former existence) you were guilty, and not guiltless, of this or that specific misdeed ?"

11. "No."

12. Secondly the Buddha asserts that the status of a man may be governed not so much by heredity as by his environment.

13. In the Devadaha—Sutta this is what the Buddha says : Some recluses and Brahmins there are who affirm and hold the view that, whatsoever the individual experiences—be it pleasant or unpleasant or neither—all comes from former actions. Hence, by expiation and purge of former misdeeds and by not committing fresh misdeeds, nothing accrues for the future, the misdeeds die away ; as misdeeds die away, Ill dies away ; as Ill dies away, feelings die away ; and as feelings die away, all Ill will wear out and pass. This is what the Niganthas affirm.

14. If it is because of their birth's environment that creatures experience pleasure and pain, the Niganthas are blameworthy, and they are also blameworthy, if environment is not the cause.

15. Now these statements of the Buddha are very relevant. How could the Buddha throw doubt on past karma if he believed in it ? How could the Buddha maintain pain and pleasure in present life being due to environment if he believed that it was due to past karma ?

16. The doctrine of past karma is a purely Brahminic doctrine. Past karma taking effect in present life is quite consistent with the Brahminic doctrine of soul, the effect of karma on soul. But it is quite inconsistent with the Buddhist doctrine of non-soul.

17. It has been bodily introduced into Buddhism by some one who wanted to make Buddhism akin to Hinduism or who did not know what the Buddhist doctrine was.

18. This is one reason why it must be held that the Buddha could not have preached such a doctrine.

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19. There is another and a more general reason why it must be held that the Buddha could not have preached such a doctrine.

20. The basis of the Hindu doctrine of past karma as the regulator of future life is an iniquitous doctrine. What could have been the purpose of inventing such a doctrine ?

21. The only purpose one can think of is to enable the state or the society to escape responsibility for the condition of the poor and the lowly.

22. Otherwise such an inhuman and absurd doctrine could never have been invented.

23. It is impossible to imagine that the Buddha who was known as the Maha Karunika could have supported such a doctrine.

SECTION III

AHIMSA

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§ *1. The different ways in which it was interpreted and followed*

1. Ahimsa or non-killing forms a very important part of the Buddha's teachings.

2. It is intimately connected with Karuna and Maitri.

3. The question has, however, been raised whether His Ahimsa was absolute in its obligation or only relative. Was it only a principle? Or was it a rule?

4. People who accept the Buddha's teachings find it difficult to accept Ahimsa as an absolute obligation. They say that such a definition of Ahimsa involves the sacrifice of good for evil, the sacrifice of virtue for vice.

5. This question requires to be clarified. There is no subject which is a matter of greater confusion than this subject of Ahimsa.

6. How have the people of Buddhist countries understood and practised Ahimsa ?

7. This is an important question which must be taken into account.

8. The monks of Ceylon fought against and asked the people of Ceylon to fight against the foreign invaders.

9. On the other hand the monks of Burma refused to fight against the foreign invaders and asked the Burmese people not to fight.

10. The Burmese people eat eggs but not fish.

11. This is how Ahimsa is understood and followed.

12. Recently the German Buddhist Association passed a resolution by which they accepted all the Panch Silas except the first which deals with Ahimsa.

13. This is the position about the Doctrine of Ahimsa.

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§ 2. *True Meaning of Ahimsa.*

1. What does Ahimsa mean?

2. The Buddha has nowhere given any definition of Ahimsa. In fact he has very seldom, if at all, referred to the subject in specific terms.

3. One has, therefore to spell out his intention from circumstantial evidence.

4. The first circumstantial evidence on the point is that the Buddha had no objection to eating meat if it was offered to him as part of his alms.

5. The monk can eat meat offered to him provided he was not a party to the killing of it.

6. He resisted the opposition of Devadatta who insisted that the monks should be prohibited from eating meat given to them by way of alms.

7. The next piece of evidence on the point is that he was only opposed to the killing of animals in yajna (sacrifice). This he has himself said.

8. Ahimsa Permo Dharma is an extreme Doctrine. It is a Jain Doctrine. It is not a Buddhist Doctrine.

9. There is another piece of evidence which is more direct than circumstantial which almost amounts to a definition of Ahimsa. He has said: "Love all so that you may not wish to kill any." This is a positive way of stating the principle of Ahimsa.

10. From this it appears that the doctrine of Ahimsa does not say "Kill not. It says love all."

11. In the light of these statements it is quite easy to have a clear understanding of what the Buddha meant by Ahimsa.

12. It is quite clear that Buddha meant to make a distinction between will to kill and need to kill.

13. He did not ban killing where there was need to kill.

14. What he banned was killing where there was nothing but the will to kill.

15. So understood there is no confusion in the Buddhist doctrine of Ahimsa.

16. It is a perfectly sound or moral doctrine which everyone must respect.

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17. No doubt he leaves it to every individual to decide whether the need to kill is there. But with whom else could it be left. Man has Pradnya and he must use it.

18. A moral man may be trusted to draw the line at the right point.

19. Brahminism has in it the will to kill.

20. Jainism has in it the will never to kill.

21. The Buddha's Ahimsa is quite in keeping with his middle path.

22. To put it differently the Buddha made a distinction between Principle and Rule. He did not make Ahimsa a matter of Rule. He enunciated it as a matter of Principle or way of life.

23. In this he no doubt acted very wisely.

24. A principle leaves you freedom to act. A rule does not. Rule either breaks you or you break the rule.

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SECTION IV
TRANSMIGRATION

1. The Blessed Lord preached that there was rebirth. But the Blessed Lord also preached that there was no transmigration.

2. There were not wanting people who criticized the Lord for preaching what they regarded as two such contradictory doctrines.

3. How can there be rebirth unless there is transmigration ? asked the critics.

4. There is here a case of rebirth without transmigration, they said. Can this be?

5. There is no contradiction. There can be rebirth although there is no transmigration.

6. This has been well explained by Nagasena in his replies to the questions of King Milinda.

7. Milinda, King of Bactria, asked Nagasena— "Did the Buddha believe in Rebirth (Transmigration) ?"

8. His reply was "Yes."

9. "Is this not a contradiction?"

10. Nagasena replied, "No."

11. "Can there be rebirth without a soul ?"

12. Nagasena said, "Of course, yes, there can be."

13. "Explain how it can be."

14. The king said : "Where there is no transmigration, Nagasena, can there be rebirth ?"

15. "Yes, there can."

16. "But how can that be ? Give me an illustration."

17. "Suppose a man, O king, were to light a lamp from another lamp, can it be said that the one transmigrates from, or to, the other?"

18. "Certainly not."

19. "Just so, great king, is rebirth without transmigration."

20. "Give me a further illustration."

21. "Do you recollect, great king, having learnt, when you were a boy, some verse or other from your teacher ?"

22. "Yes, I recollect that."

23. "Well then, did that verse transmigrate from your teacher ?"

24. "Certainly not."

25. "Just so, great king, is rebirth without transmigration."

26. "Very good, Nagasena !"

27. The king said : "Is there such a thing, Nagasena, as the soul ?"

28. "In the highest sense, O king, there is no such thing."

29. "Very good, Nagasena !"

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SECTION V

CAUSES OF THIS MISUNDERSTANDING

1. What the Buddha preached was heard by his audience, which largely consisted of the Bhikkus.

2. It is the Bhikkus who reported to the people at large what the Buddha had said on any particular matter.

3. The art of writing had not yet developed. The Bhikkus had therefore to memorize what they had heard. Not every Bhikku cared to memorize what he heard. But there were some who had made it their profession to memorize. They were called Bhanakas.

4. The Buddhist canonical literature is as vast as ocean. To memorize all this was indeed a great feat.

5. In reporting the Buddha it has often been found that he has been misreported.

6. Many cases of misreporting had been brought to the knowledge of the Buddha while he was alive.

7. Reference may be made by way of illustration to five such cases. One is mentioned in the Alagaddupama Sutta and the other in the Maha-Kamma-Vibhanga Sutta, a third in the Kannakatthala Sutta, fourth in the Maha-Tanha-Sankhya Sutta and fifth in the Jivaka Sutta.

8. There were perhaps many more such cases of misreporting. For we find that even the Bhikkus going to the Buddha asking him to tell them what they should do in such contingencies.

9. The cases of misreporting are common with regard to karma and rebirth.

10. These doctrines have also a place in the Brahminic religion consequently it was easy for the Bhanakas to incorporate the Brahminic tenets into the Buddhist Religion.

11. One has therefore to be very careful in accepting what is said in the Buddhist canonical literature as being the word of the Buddha.

12. There is however one test which is available.

13. If there is anything which could be said with confidence it is : He was nothing if not rational,

if not logical. Anything therefore which is rational and logical, other things being equal, may be taken to be the word of the Buddha.

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14. The second thing is that the Buddha never cared to enter into a discussion which was not profitable for man's welfare. Therefore anything attributed to the Buddha which did not relate to man's welfare cannot be accepted to be the word of the Buddha.

15. There is a third test. It is that the Buddha divided all matters into two classes. Those about which he was certain and those about which he was not certain. On matters which fell into class I, he has stated his views definitely and conclusively. On matters which fell into class II, he has expressed his views. But they are only tentative views.

16. In discussing the three questions about which there is doubt and difference it is necessary to bear these tests in mind before deciding what the view of the Buddha was thereon.

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PART III

The Buddhist Way of Life

1. On good, evil and sin.
2. On craving and lust.
3. On hurt and ill-will.
4. On anger and enmity.
5. On man, mind and impurities.
6. On self and self-conquest.
7. On wisdom, justice and good company.
8. On thoughtfulness and mindfulness.
9. On vigilance, earnestness and boldness.
10. On sorrow and happiness; On Charity and Kindness.
11. On hypocrisy.
12. On following the Right Way.
13. Mix not true Dhamma with false Dhamma.

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§ 1. On Good, Evil and Sin

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1. Do good. Be no party to evil. Commit no sin.

2. This is the Buddhist way of life.

3. If a man should do that which is good, let him do it again and again, let him turn the desires of his heart thereto. Happy is the heaping of good.

4. Think not casually of the good saying, "It will not come to me." Drop by drop is the water pot filled. By little added to little does good grow.

5. But well done is that deed which brings one no regrets, the fruit whereof is received with delight and satisfaction.

6. Well done is the deed which done brings no regrets, the fruit whereof is received with delight and satisfaction.

7. If a man does what is good, let him do it again ; let him delight in it; the accumulation of good is delightful.

8. Even a good man sees, evil days so long as his good deed does not ripen; but when his good deed ripens, then does the good man see good things.

9. Let no man think lightly of good, saying in his heart, it will not come right unto me. Even by the falling of water drops a water-pot is filled—the wise man becomes full of good, even if he gathers it little by little.

10. Far surpassing the fragrance of sandal or incense or lotus or jasmine, is the fragrance of virtue.

11. Faint is this fragrance of incense and sandal, but the fragrance of virtue ascends to the highest place.

12. Treat not lightly of evil, saying it will not come to me. Drop by drop is the water pot filled. By little added to little evil accumulates.

13. It is not well to do a deed which done brings regrets, the fruit whereof is received with tears and lamentations.

14. If a man speaks or acts evil of mind, suffering follows him close as the wheel the hoof of the beast that draws the cart.

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15. Follow not after things evil. Dwell not in negligence. Cherish not false ideas.

16. Hasten towards the excellent, suppress all evil thoughts. Who so is backward in doing good, his mind delights in evil.

17. It is not well to do that deed which done brings regrets, the fruit whereof is received with tears and lamentations.

18. Even an evil-doer sees happiness so long as his evil deed does not ripen; but when his evil deed ripens, then does the evil-doer see evil.

19. Let no man think lightly of evil saying in his heart 'It will not come right unto me.' Even by the filling of water drops a water-pot is filled ; the fool becomes full of evil, even if he gathers it little by little.

20. A man should hasten towards the good, and should keep his thought away from evil; if a man does what is good slothfully, his mind delights in evil.

21. If a man commits a sin, let him not do it again, let him not delight in sin ; the accumulation of evil is painful.

22. Follow the law of virtue; do not follow that of sin. The virtuous rests in bliss in this world.

23. From lust is born sorrow, from lust is born fear. To him who is wholly free from lust there is neither sorrow nor fear.

24. Hunger is the worst of diseases (component), existence the worst of distress. This knowing in accordance with truth and fact, Nibbana becomes the highest happiness.

25. The evil done by oneself, self-begotten, self-bred, crushes the doer as a diamond breaks even a precious stone.

26. He whose wickedness is very great brings himself down to that state where his enemy wishes him to be, as a creeper does with the tree which it surrounds.

27. Bad deeds, and deeds hurtful to ourselves, are easy to do ; difficult to do what is beneficial and good.

§ 2. On Craving and Lust

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1. Do not be possessed by Craving nor by Lust.

2. This is the Buddhist way of life.

3. Not in a rain of riches is satisfaction of desire to be found. "Unsatisfying, grievous are desires," so the wise man well knows.

4. Even in the pleasures of the heaven-worlds he takes no delight; his delight is in the ending of craving, he is the disciple of the Supremely Awakened One, the Buddha.

5. From craving is born sorrow, from craving is born fear. To him who is wholly free from craving there is neither sorrow nor fear.

6. From craving is born sorrow, from craving is born fear. To him who is wholly free from craving there is neither sorrow nor fear.

7. He who gives himself to vanity, forgetting (the real aim of life) and grasping at pleasure, will in time envy him who has exerted himself in meditation.

8. Let no man have attachment to anything; loss of it gives pain. Those who love nothing, and hate nothing have no fetters.

9. From pleasure comes grief, from pleasure comes fear; he who is free from pleasure knows neither grief nor fear.

10. From attachment comes grief, from attachment comes fear ; he who is free from attachment knows neither grief nor fear.

11. From lust comes grief, from lust comes fear ; he who is free from lust knows neither grief nor fear.

12. From greed comes grief, from greed comes fear; he who is free from greed knows neither grief nor fear.

13. He who possesses virtue and intelligence, who is just, speaks the truth, and does what is his own business, him the world will hold dear.

14. Kinsmen, friends and lovers salute a man who has been long away, and returns safe from afar.

15. In like manner his good works receive him

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who has done good, and has gone from this world as kinsmen receive a friend on his return.

§ 3. On Hurt and Ill-will

1. Cause no hurt ; Cherish no ill-will.

2. This is the Buddhist Way of Life.

3. Is there in all the world a man so blameless that he gives no occasion for reproach, as a spirited horse gives no occasion for the stroke of the lash ?

4. By confidence, by virtue, by energy, by meditation, by investigation into the Truth, by perfection in knowledge and conduct, by recollectedness, leave ye this great suffering behind

5. The most excellent of ascetic practices is the practice of forbearance, of long suffering ; "most excellent of all is Nibbana" ; so says the Buddha. He is no ascetic who does hurt to others ; he is no disciple who works another's woe.

6. To speak no ill, to do no harm, to practise restraint in conformity with the discipline, this is the counsel of the Buddha.

7. Kill, nor cause slaughter.

8. He who seeking his own happiness does not punish or kill beings who also long for happiness, will find happiness.

9. If, like a shattered, metal plate (gong), thou utter nothing, then thou hast reached Nibbana ; anger is not known to thee.

10. He who inflicts pain on innocent and harmless person, will soon come to grief.

11. He who, dressed in fine apparel of tranquillity, is quiet, subdued, restrained, chaste, and has ceased to find fault with all other beings, he indeed is an ascetic (Samana), a friar (Bhikku).

12. Is there in this world any man so restrained by shame that he does not provoke reproof, as a noble horse the whip?

13. If a man offend a harmless, pure, and innocent person, the evil falls back upon that fool, like light dust thrown up against the wind.

§ 4. On Anger and Enmity

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1. Cherish no anger. Forget your enmities. Win your enemies by love.

2. This is the Buddhist Way of Life.

3. The fire of anger should be stilled.

4. One who harbours the thought : " He reviled me, maltreated me, overpowered me, robbed me," in him anger is never stilled."

5. He who harbours not such a thought, in him anger is stilled.

6. Enemy works evil to enemy, hater to hater, but whose is the evil.

7. Let a man overcome anger by love, let him overcome evil by good ; let him overcome the greedy by liberality, the liar by truth.

8. Speak the truth, do not yield to anger ; give, if thou art asked for little.

9. Let a man leave anger, let him forsake pride, let him overcome all bondage ; no sufferings befall the man who is not attached to name and form, and who calls nothing his own.

10. He who holds back rising anger like a rolling chariot, him I call a real driver, other people are but holding the reins.

11. Conquest begets enmity ; the conquered lie down in distress. The tranquillized lies down in happiness, dismissing alike victory and defeat.

12. There is no fire like lust, no ill-fortune like hatred. There is no misery like the constituents of existence, no happiness higher than the Peace of Nibbana.

13. For hatred does not cease by hatred at any time : hatred ceases by love, this is an old rule.

§ 5. On Man, Mind and Impurities

1. Man is what his mind makes him.

2. The training of the mind to seek the good, is the first step in the path of Righteousness.

3. This is the main teaching in the Buddhist Way of Life.

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4. In everything the primal element is mind. Mind is pre-eminent.

5. If a man speaks or does evil suffering follows him, close as the wheel of the hoof of the beast that draws the cart.

6. If a man speaks or acts from uprightness of mind, happiness follows him, close like his never-departing shadow.

7. This fickle, unsteady mind, difficult to guard, difficult to guide—the wise man makes it straight as the fletcher makes straight the arrow.

8. As quivers and throbs the water-dwelling fish, when thrown up out of the water on to the land, so quivers and throbs the mind forsaking the realm of Mara.

9. Hard to control, unstable is this mind, ever in quest of delight. Good is it to subdue the mind. A mind subdued brings happiness.

10. Make thyself an island, work hard, when thy impurities are blown away, and thou art free from guilt, thou wilt enter into the heavenly world of the elect.

11. Let a wise man blow off the impurities of himself, as a smith blows off the impurities of silver, one by one, little by little, and from time to time.

12. As the impurity which springs from the iron, when it springs from it, destroys it ; thus to a transgressor's own works, lead him to the evil path.

13. But there is a taint worse than all taints. Ignorance is the greatest taint. O! mendicants, throw off that taint, and become taintless.

14. Life is easy to live for a man who is without shame, a crow here, a mischief maker, an insulting, bold and wretched fellow.

15. But life is hard to live for a modest man, who always looks for what is pure, who is disinterested, quiet, spotless and intelligent.

16. He who destroys life, who speaks untruth, who in the world takes what is not given him, who goes to another man's wife.

17. And the man who gives himself to drinking

intoxicating liquors, he even in this world, digs up his own grave.

18. O man, know this, that the unrestrained are in a bad state; take care that greediness and vice do not bring thee to grief for a long time.

19. The world gives according to its faith or according to its pleasure ; if a man frets about the food and the drink given to others, he will find no rest either by day or by night.

20. He in whom that feeling is destroyed, and taken out with the very root, finds rest by day and by night.

21. There is no fire like passion, there is no torrent like greed.

22. The fault of others is easily perceived, but that of oneself is difficult to perceive; a man winnows his neighbour's faults like chaff but his own faults he hides, as a cheat hides the bad dice from the player.

23. If a man looks after the faults of others, and is always inclined to be offended, his own passions will grow, and he is far from the destruction of passions.

24. Refrain from all evil; cultivate the good ; cleanse your own thoughts; this is the teaching of the Buddha.

§ *6. On Self and Self-Conquest*

1. If one has self, let him practise self-conquest.

2. This is the Buddhist Way of Life.

3. Self is the lord of self, who else could be the lord ? With self well subdued, a man finds a lord such as few can find.

4. The foolish man who scorns the rule of the venerable (arahat), of the elect (ariya), of the virtuous and follows a false doctrine, he bears fruit to his own destruction, like the fruits of the Katthaka reed.

5. By oneself the evil is done, by oneself one suffers; by oneself evil is left undone, by oneself one is purified. The pure and the impure (stand and fall) by themselves, no one can purify another.

6. He who loves looking for pleasures only, his

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senses uncontrolled, immoderate in his food, idle and weak, will certainly be overthrown by his own overdoing as the wind throws down a weak tree.

7. He who lives without looking for pleasures, his senses well controlled, moderate in his food, faithful and strong, he will not be overthrown any more than the wind throws down a rocky mountain.

8. If to himself a man is dear, let him keep close watch upon himself.

9. First establish thyself in the right then thou mayest counsel others. Let not the wise man give occasion for reproach.

10. Oneself, they say is hard to control. If one shapes oneself according as one counsels others, thus well controlled one will have control over others.

11. A man pays in himself for the evil he has done and in himself is purified. The good and evil are purified severally, no one purifies another.

12. Though one should conquer in battle thousands and thousands of men, whoso shall conquer himself, he is the greatest of warriors.

13. First establish thyself in the right, then thou mayest counsel others. Let not the wise man give occasion for reproach.

14. If one shapes oneself according as one counsels others, thus well controlled, one will have control over others. Oneself they say, is hard to control.

15. Verily oneself is the guardian of oneself. What other guardian should there be. Guarded by oneself, one gets a guardian the like of which is not likely gotten.

16. If to himself a man is dear, let him keep close watch upon himself.

17. A man pays in himself for the evil he has done, and in himself is purified. The good and evil are purified severally, no one purifies another.

18. Verily oneself is the guardian of oneself; what other guardian should there be? Guarded by oneself, one gets a guardian the like of which is not easily gotten.

§ 7. *On Wisdom, Justice and Good Company*

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1. Be wise, be just and choose good company.

2. This is the Buddhist Way of Life.

3. If you see a man who shows you what is to be avoided, who administers reproofs, and is intelligent, follow that wise man as you would one who tells of hidden treasures ; it will be better, not worse, for him who follows him.

4. Let him admonish, let him teach, let him forbid what is improper—he will be beloved of the good, by the bad he will be hated.

5. Do not have evil-doers for friends, do not have low people for friends ; have virtuous people for friends, have for friends the best of men.

6. He who drinks in the Dhamma lives happily with a serene mind; the sage rejoices always in the Dhamma as preached by the elect.

7. Well-makers lead the water (wherever they like), fletchers bend the arrow ; carpenters bend a log of wood ; wise people fashion themselves.

8. As a solid rock is not shaken by the wind, the wise people falter not amidst blame and praise.

9. Wise people, after they have listened to the Dhamma become serene, like a deep, smooth and still lake.

10. Good men indeed walk (warily) under all circumstances; good men speak not out of a desire for sensual gratification; whether touched by happiness or sorrow wise people never appear elated or depressed.

11. It is sweet as honey, so thinks the fool, while as yet the evil has not ripened. But when the evil ripens the fool comes to grief.

12. A fool does not know when he commits his evil deeds ; but a wicked man burns by his own deeds, as if burnt by fire.

13. Long is the night to him who is awake ; long is a mile to him who is tired ; long is life to the foolish who do not know the true Dhamma.

14. If a traveller does not meet with one who

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is his better, or his equal, let him firmly keep to his solitary journey ; there is no companionship with a fool.

15. "These sons belong to me, and this wealth belongs to me," with such thoughts a fool is tormented. He himself does not belong to himself ; how much less sons and wealth ?

16. The fool who knows his foolishness, is wise at least so far. But a fool who thinks himself wise, he is called a fool indeed.

17. If a fool be associated with a wise man even all his life, he will perceive the truth as little as a spoon perceives the taste of soup.

18. If an intelligent man be associated for one minute only with a wise man, he will soon perceive the truth, as the tongue perceives the taste of soup.

19. Fools of poor understanding have themselves for their greatest enemies, for they do evil deeds which bear bitter fruits.

20. That deed is not well done of which a man must repent and the reward of which he receives crying and with a tearful face.

21. Know, that deed is well done of which a man does not repent and the reward of which he receives gladly and cheerfully.

22. As long as the evil deed done does not bear fruit, the fool thinks it is like honey, but when it ripens, then the fool suffers grief.

23. And when the evil deed, after it has become known, turns to sorrow for the fool, then it destroys his bright lot, nay, it cleaves his head.

24. Let the fool wish for a false reputation, for precedence among the Bhikkus, for lordships in the convents, for worship among other people.

25. A man is not an elder because his head is grey ; his age may be ripe, but he is called "old-and-vain."

26. He in whom there is truth, virtue, pity, restraint, moderation, he who is free from impurity and is wise, he is called an elder.

27. An envious, stingy, dishonest man does not

become respectable by means of much talking only, or by the beauty of his complexion.

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28. He in whom all this is destroyed, and taken out with the very root, he when freed from hatred and wise, is called respectable.

29. A man is not just if he carries a matter by violence ; no, he who distinguishes both right and wrong, who is learned and guides others, not by violence, but by the same Dhamma, being a guardian of the Dhamma and intelligent, he is called just.

30. A man is not learned simply because he talks much ; he who is patient, free from hatred and fear, is called learned.

31. A man is not a supporter of the Dhamma because he talks much ; even if a man has learnt little, but sees the Dhamma bodily, he is supporter of the Dhamma, a man who never neglects the Dhamma.

32. If a man find a prudent companion who walks with him, is wise, and lives soberly, he may walk with him, overcoming all dangers, happy, but considerate.

33. If a man finds no prudent companion to walk with him, is wise, and lives soberly, let him walk alone, like a king who has left his conquered country behind, like an elephant in the forest.

34. It is better to live alone, there is no companionship with a fool ; let a man walk alone, let him commit no sin, with few wishes, like an elephant in the forest.

35. If the occasion arises, friends are pleasant ; enjoyment is pleasant, whatever be the cause ; a good work is pleasant, whatever be the cause ; a good work is pleasant in the hour of death ; the giving up of all grief is pleasant.

36. Pleasant in the world is the state of a mother, pleasant the state of a father, pleasant the state of a Samana.

37. Pleasant is virtue lasting to old age, pleasant is a faith firmly rooted ; pleasant is attainment of intelligence, pleasant is avoiding of sins.

38. He who walks in the company of fools suffers

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a long way ; company with fools as with an enemy, is always painful; company with the wise is pleasure, like meeting with kinsfolk.

39. Therefore, one ought to follow the wise, the intelligent, the learned, the much enduring, the dutiful, the elect, one ought to follow such a good and wise man, as the moon follows the path of the stars.

40. Follow not after vanity, nor after the enjoyment of love and lust. He who is earnest obtains ample joy.

41. When the learned man drives away vanity by earnestness, he, the wise, climbing the terraced heights of wisdom, looks down upon the fools, free from sorrow he looks upon the sorrowing crowd, as one that stands on a mountain looks down upon them that stand upon the plain.

42. Earnest among the thoughtless, awake among the sleepers, the wise man advances like a richer, leaving behind the hack.

§ *8. On Thoughtfulness and Mindfulness*

1. In everything be thoughtful; in everything be mindful ; in all things be earnest and bold.

2. This is the Buddhist Way of Life.

3. All that we are is the result of what we have thought ; it is founded on our thoughts, it is made up of your thoughts. If a man speaks or acts with an evil thought, pain follows him. If a man speaks or acts with a pure thought, happiness follows him. Therefore pure thoughts are important.

4. Be not thoughtless, watch your thought! Draw yourself out of the evil way, like an elephant sunk in mud.

5. Let the wise man guard his thoughts, for they are difficult to perceive, very artful, and they rush whenever they list ; thoughts well-guarded bring happiness.

6. As rain breaks through an ill-thatched house, passion will break through an unreflecting mind.

7. As rain does not break through a well-thatched house, passion will not break through a well-reflecting mind.

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8. This mind of mine went formerly wandering about as it liked, as it listed, as it pleased ; but I shall now hold it in thoroughly, as the Elder who holds the hook holds the furious elephant.

9. It is good to tame the mind, which is difficult to hold in and tightly, rushing wherever it listeth; a tamed mind brings happiness.

10. Those who bridle their mind which travels far, will be free from the bonds of temptation.

11. If a man's faith is unsteady, if he does not know the true Dhamma, if his peace of mind is troubled, his knowledge will never be perfect.

12. Whatever a hater may do to a hater, or an enemy to an enemy, a wrongly directed mind will do him greater mischief.

13. Not a mother, not a father will do so much, nor any other relatives as a well directed mind will do us.

§ 9. *On Vigilance, Earnestness and Boldness*

1. When, vigilant, the wise man puts from him negligence, ascending the tower of wisdom he looks down, free from sorrow, upon the sorrow-laden race of mankind. As from a mountain top, the wise man looks upon the fools in the valley.

2. Vigilant among the negligent, awake among those asleep, as a fleet courser leaves behind a sorry nag, so go the wise.

3. Give not yourselves unto negligence. Have naught to do with the lust of the flesh. The vigilant is given to meditation.

4. Earnestness leads to where death is not; heedlessness is the way to death. Those who continue in earnestness do not die, but the heedless are as if already dead.

5. Fall not away from your purpose for the

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sake of another, however great this latter may be. When once you have seen your goal, hold it firm and fast.

6. Be watchful! Have done with indolence! Travel the True Path ! Whoso walks thereon happy he lives in the world.

7. Idleness is a disgrace; constant sloth is defilement. By strenuous striving and with the help of insight you should pull out the poisoned arrow of indolence.

8. Give not yourselves unto negligence. Have not to do with the lust of the flesh. The vigilant, the given to meditation, these attain an overflowing happiness.

9. If an earnest person has roused himself, if he is not forgetful, if his deeds are pure, if he acts with consideration, if he restrains himself, and lives according to Dhamma, his glory will increase.

§ *10. On Sorrow and Happiness; On Charity and Kindness*

1. Poverty gives rise to sorrow.

2. But removal of poverty does not necessarily give rise to happiness.

3. Not high standard of living but a high standard of culture is what gives happiness.

4. This is the Buddhist Way of Life.

5. Hunger is the worst of diseases.

6. Health is the greatest of gifts, contentedness the best riches; trust is the best of relationships, Nibbana the highest happiness.

7. We must learn to live happily indeed, not hating those who hate us !

8. We must learn to live happily indeed, free from ailments among the ailing men.

9. We must learn to live happily indeed, free from greed among the greedy.

10. Mankind is ruined by passion, just as fields are damaged by weeds : therefore charity done to the passionless brings great reward.

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11. Mankind is damaged by vanity, just as fields are damaged by weeds. Therefore charity done to those who are free from vanity brings great reward.

12. Mankind is ruined by lust, just as fields are damaged by weeds. Therefore charity done to those who are free from Just brings great reward.

13. Charity to Dhamma exceeds all gifts. The sweetness of the Dhamma exceeds the Dhamma. The delight in the Dhamma exceeds all delights.

14. Victory breeds hatred, for the conquered is unhappy. He who has given up both victory and defeat, he, the contented, is happy.

15. There is no fire like passion ; there is no losing throw like hatred; there is no pain like this body; there is no happiness higher than the rest.

16. Fix not your gaze upon the ill-words and ill-deeds of others, upon what others do or leave undone. Look rather at what by yourself have done or left undone.

17. Hard always is life for the modest, the seeker after purity, the detached, the retiring, the cleanly of life, the discerning.

18. Is there in the world a man so blameless that he gives no occasion for reproach, as a spirited horse gives no occasion for the stroke of the lash? Like a spirited horse that needs not the lash be fiery, be fleet.

19. Do not speak harshly to anybody: those who are spoken to will answer thee in the same way. Angry speech is painful, blows for blows will touch thee.

20. Liberty, courtesy, good-will and unselfishness—these are to the world what the lynch-pin to the Chariot.

21. This is the Buddhist Way of Life.

§ *11. On Hypocrisy*

1. Let not anyone speak falsely. Let not anyone lead another to speak falsely, nor yet approve of the action of one who speaks falsely. Let every kind of lying and false speech be put away from among you.

2. As the Perfect One speaks, so He acts. As

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the Perfect One acts, so He speaks. And because He speaks as He Acts and acts as He speaks, therefore is He Called the Perfect One.

3. This is the Buddhist Way of Life.

§ *12. On following the Right Way*

1. Choose the Right Way. Depart not from it.

2. There are many paths ; not all lead to the Right Way.

3. The Right Path is for the happiness not of the few but of all.

4. It must be good at the beginning, good in the middle and good at the end.

5. To follow the right way is to lead the Buddhist Way of Life.

6. The best way is the eightfold way ; the best of truths the four words ; the best of virtues passionlessness; the best of men he who has eyes to see.

7. This is the way, there is no other that leads to the purifying of intelligence. Go on this path.

8. If you go on this way, you will make an end of pain ! The way was preached by me, when I had understood the removal of the thorns (in the flesh).

9. You yourself must make an effort. The Tathagatas are only preachers.

10. 'All created things perish,' he who knows and sees this becomes passive in pain.

11. 'All forms are unreal,' he who knows and sees this becomes passive in pain.

12. He who does not rouse himself when it is time to rise, who, though young and strong, is full of sloth, whose will and thought are weak, that lazy and idle man never finds the way to knowledge.

13. Watching his speech, well restrained in mind, let a man never commit any wrong with his body ! Let a man but keep these three roads of action clear, and he will achieve the way which is taught by the wise.

14. Through real knowledge is gotten, through lack of real knowledge is lost; let a man who knows

this double path of gain and loss thus place himself that knowledge may grow.

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15. Cut out the love of self, like an autumn lotus, with thy hand ! Cherish the road of peace. Nirvana has been shown by the Sugata.

16. Do not follow the evil law ! Do not live on in thoughtlessness ! Do not follow false doctrine !

17. Rouse thyself! Do not be idle! Follow the law of virtue ! The virtuous rests in bliss in this world.

18. He who formerly was reckless and afterwards became sober brightens up this world, like the moon when freed from clouds.

19. He whose evil deeds are covered by good deeds, brightens up this world, like the moon when freed from clouds.

20. If a man has transgressed the one law, and speaks lies, there is no evil he will not do.

21. Those who are ever watchful, who study day and night, and who strive after Nirvana, their passions will come to an end.

22. This is an old saying. 'They blame him who sits silent, they blame him who speaks much, they also blame him who says little'; there is no one on earth who is not blamed.

23. There never was, there never will be, nor is there now, a man who is always blamed, or a man who is always praised.

24. Beware of the anger of the tongue, and control thy tongue. Leave the sins of the mind, and practise virtue with thy mind.

25. Earnestness is the path of Nirvana, thoughtlessness the path of death. Those who are in earnest do not die, those who are thoughtless are as if dead already.

§ *13. Mix not True Dhamma with False Dhamma*

1. Those who mistake false for true and true for false, there abides wrong-mindedness—they arrive not at the truth.

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2. Those who know true as true and false as false, there abides right-mindedness-these arrive at the truth.

3. As rain gets into an ill-thatched house, so craving gets into an ill-trained mind.

4. As rain gets not into a well-thatched house, so craving gets not into a well-trained mind.

5. Arise! Be not negligent! Walk the Good Way of the Teaching! Who walks in the way of the teaching, happy is he in this and in all worlds.

6. Walk the Good Way of the teaching; walk not in ways that are evil. Who walks in the way of the teaching, happy he lives in this and in all worlds.

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SECTION I

SERMONS FOR HOUSEHOLDERS

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§ *1 The Happy Householder*

1. Once Anathapindika came to where the Exalted One was, made obeisance to the Exalted One and took a seat at one side.

2. Anathapindika was anxious to know wherein lay the happiness of a householder.

3. Accordingly Anathapindika asked the Lord to explain to him the secret of the householder's happiness.

4. The Lord said first is the happiness of possession. A householder is possessed of wealth, justly and righteously acquired by great industry, amassed by strength of the arm, and earned by sweat (of the brow). At the thought 'I am possessed of wealth justly gained' he gains happiness.

5. Second is the happiness of enjoyment. A householder is possessed of wealth justly and righteously acquired by great industry amassed by strength of the arm, and earned by sweat (of the brow), enjoys his wealth and performs acts of merit. Thus at the thought 'I am doing meritorious deeds with my wealth which was justly gained' and so forth he gains happiness.

6. Third is the happiness of freedom from debt. A householder, owes no one any debt great or small, thus he gains happiness, thus he at the thought of 'I owe no man anything' and so forth, gains happiness.

7. Fourth is the happiness of blamelessness. A householder, who is endowed with blameless action of body, blameless speech and blameless thinking, gains happiness of blamelessness.

8. Verily, Anathapindika, these four kinds of happiness are constantly obtainable by the householder, if he strives for them.

§ *2. Daughter may be better than a Son*

1. When the Exalted One was once at Shravasti, the king of the Kosalas, Pasendi, had come to visit him.

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2. While the king was engaged in a conversation with the Blessed Lord a messenger from the Palace arrived and approaching the king, announced to his private ear that Queen Mallika had given birth to a daughter.

3. The king appeared very sad and depressed. The Blessed Lord asked the king the reason of his sadness.

4. The king replied that he had just received the sad news that Queen Mallika had given birth to a daughter.

5. Thereupon the Exalted One, discerning the matter said : 'A woman child, O lord of men, may prove even a better offspring than a male. For she may grow up wise and virtuous, her husband's mother reverencing true wife, a daughter.

6. The boy that she may bear may do great deeds and rule great realms, yea, such a son of a noble wife becomes his country's guide.

§ 3. *Husband and Wife*

1. At one time, the Exalted One had entered the high road between Madhura and Neranja. Also many householders and their wives had joined the high road between Madhura and Neranja.

2. Then the Exalted One having left the road took a seat under a certain tree, and these householders and their wives saw the Exalted One seated under it.

3. So seeing they came to where the Exalted One was. Having come they made obeisance to the Exalted One and sat at one side and asked the Blessed One the right relations between the husband and wife. To the householders and their wives so seated the Exalted One spake thus :

4. "Householders, there are four ways for a husband and wife, of living together. A vile man lives with a vile woman, a vile man lives with a goddess, a god lives with a vile woman and a god lives with a goddess.

5. " Householders! a husband kills, steals ;

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commits impurity, lies and indulges in fermented liquor, is wicked and sinful, with his heart possessed by avarice he lives the life of a householder and abuses and reviles virtuous people. Also his wife kills ; steals, commits impurity, lies, and indulges in fermented liquor, is wicked and sinful, with her heart possessed by avarice she lives the life of the family and abuses and reviles virtuous people. Thus indeed, householders, a vile man lives with a vile woman.

6. "Householders ! A husband kills, steals, commits impurity, lies and indulges in fermented liquor, is wicked and sinful, with his heart possessed by avarice, he lives the life of a householder and abuses and reviles virtuous people. But his wife abstains from killing, thieving, sexual impurity, lying and indulgence in fermented liquor. His wife is virtuous and of good behaviour; with her heart freed from the taint of avarice she lives the family life and abuses not nor reviles virtuous people. Thus indeed, householders, a vile man lives with a goddess.

7. "Householders! A husband abstains from killing, thieving, impurity, lying and indulgence in fermented liquor, is virtuous and of good behaviour; with his mind freed from the stains of avarice, he lives the family life and abuses not nor revile virtuous people. But his wife kills, steals, commits impurity, lies and indulges in fermented liquor, is wicked and sinful ; with her heart possessed by avarice she lives the family life and abuses and reviles virtuous people. Thus indeed, householders, a god lives with a vile woman.

8. "Householders! Herein, a husband and a wife both abstain from killing, thieving, impurity, lying and indulgence in fermented liquor, are virtuous and of good behaviour, with mind freed from taints of avarice they live the family life and abuse not nor revile virtuous people. Thus indeed, householders, a god lives with a goddess.

9. "These, householders, are the four ways of living together,"

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SECTION II

SERMONS ON THE NEED FOR MAINTAINING CHARACTER

§ *1. What Constitutes the Downfall of Man*

1. On one occasion the Blessed One was dwelling in the monastery of Anathapindika, in the Jeta Grove, near Shravasti.

2. Now when the night was far spent a certain Deva whose splendour illuminated the whole Jeta Grove, came to the presence of the Blessed One, and, drawing near, respectfully saluted Him and stood at one side. Standing thus, he addressed the Blessed One in verse :

3. "Having come to interrogate the Blessed One, I ask thee, O Gotama, about the falling man. Pray, tell me the cause of one's downfall." The Blessed One consented to explain the causes of man's downfall.

4. "Easily known is the progressive one, easily known is the declining one. A lover of the Dhamma is the progressive one, a hater of the Dhamma is the declining one.

5. "The vicious are dear to him, in the virtuous he finds nothing pleasing; he favours the creeds of the vicious—this is the second cause of one's downfall.

6. "The man who is drowsy, fond of society, not industrious, indolent, and who manifests anger—this is the third cause of one's downfall.

7. "Whosoever, being rich, does not support his aged mother and father, who have passed their youth—this is the fourth cause of one's downfall.

8. "He who, by falsehood, deceives a Brahmana or an ascetic or any other medicant—this is the fifth cause of one's downfall.

9. "The man who owns much property, who has gold and food, but alone enjoys his delicacies—this is the sixth cause of one's downfall.

10. "The man who prides in birth or wealth

or clan, and despises his own kinsmen—this is the seventh cause of one's downfall.

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11. "The man who is a debauchee, drunkard, a gambler, who squanders whatever he possesses—this is the eighth cause of one's downfall.

12. "Not contented with one's own wives, if one is seen amongst courtesans and the wives of others —this is the ninth cause of one's downfall.

13. "He who places in authority an intemperate spend-thrift woman, or a man of similar nature—this is the eleventh cause of one's downfall.

14. "He who, of slender means, but vast ambition, of warrior birth, aspires to sovereignty—this is the twelfth cause of one's downfall.

15. "Know these causes of downfall, ye noble Deva, and if ye succeed in overcoming them ye will be saved."

§ 2. *The Wicked Man*

1. The Blessed Lord while he was on journey gave as was his usual practice the following discourse to the Bhikkhus who were accompanying him.

2. Addressing the Bhikkhus the Lord said : "Do you know how to recognize a wicked man ?" "No, Lord" replied the Bhikkhus.

3. "I will tell you the characteristics of a wicked man.

4. "There is a man who shows up the faults of another even when unasked, not to say when asked. Being indeed asked and plied with questions, he speaks ill of another without suppressing or concealing, but with full details. Brethren, such a man is a wicked man.

5. "There is a man who, being asked, does not point out the good qualities of another, not to say when unasked. Being indeed asked and plied with questions, he speaks, well of another.

6. "There is a man who, being asked, does not disclose his own bad qualities, not to say when unasked. Being indeed asked and plied with questions, he points out his own bad qualities, but suppresses and conceals

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them and does not give full details. Brethren, such a man is a wicked man.

7. "Then again, brethren, there is a man who, even unasked, discloses his good qualities, not to say when asked. Brethren, being asked and plied with questions, he points out his own good qualities without suppressing or concealing them and giving full details. Brethren, such a man is a wicked man."

§ *3. The Best Man*

1. The Blessed One while he was on journey gave as was his practice the following discourse to the Bhikkhus who were accompanying him :

2. Addressing the Bhikkhus the Lord said : "There are four classes of persons, brethren, to be found in the world.

3. "He who has not striven for his own welfare nor that of others; he who has striven for others' welfare, but not his own; he who has striven for his own welfare but not others'; he who has striven for both his own welfare and that of others.

4. "One who has striven neither for his own welfare nor for that of others is like a torch from a funeral pyre, lit at both ends, and in the middle smeared with dung. He kindles no fuel either in village or in forest. He is useless to the world. And he is useless to himself.

5. "One who has striven for the welfare of others at the cost of his own is both excellent and eminent of the two.

6. "Then again, brethren, in the case of the person who has striven both for his own welfare and for that of others—of these four persons this is best and chief, topmost and highest and supreme."

§ *4. The Enlightened Man*

1. At one time, the Exalted One had reached the high road between (the two towns of) Ukkattha and Setabbya. Then the Brahmin named Dona had also reached the high road between Ukkattha and Setabbya.

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2. Just then the Exalted One left the road and sat down at the foot of a tree cross-legged. Then Dona the Brahman, following the footsteps of the Exalted One, saw Him seated at the foot of that tree resplendent and of a comely appearance, with sense controlled, with mind appeased, supremely tamed, restrained and powerful. So seeing he approached where the Exalted One was.

3. Having come he said thus to Him :

"Is not the Venerable One a Deva ?"

"Brahman, I am indeed not a Deva."

"Is not the Venerable One then a Gandhabba?"

"Brahman, I am indeed not a Gandhabba."

"Is not the Venerable One then a Yakkha ?"

"Brahman, I am indeed not a Yakkha."

"Is not the Venerable One then a man ?"

"Brahman, I am indeed not a man."

4. Having heard the Blessed One reply thus, the Brahman Dona said :

"When Thou art asked : Are ye a Deva ?

Thou sayest : No.

When Thou art questioned : Are ye a Gandhabba? Thou sayest: No.

When Thou art asked : Are ye a Yakkha ? Thou sayest : No.

When Thou art questioned : Are ye then a man? Thou sayest : No.

Who then can the Venerable One be ?"

5. "Brahman, verily I was a Deva, a Gandhabba, Yakkha, a man, so long as I had not purged myself of the intoxicants. These very intoxicants have I now given up with roots cut out like unto a palm-tree, with its base destroyed and rendered unable to sprout again, so that in future they do not come into existence.

6. "Just as a lotus or a water-lily born of the water, grown in the water, risen out of the water, stands unstained by the water even so, Brahman, being born of the world, grown in the world, having overcome the world I abide unstained by the world.

7. "Therefore, O Brahman, consider me as the Enlightened One."

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§ 5. *Man—Just and Good*

1. Addressing the Brethren, the Lord said, " There are four classes of persons whom you must learn to distinguish if you wish to ascertain who are good and just.

2. "Brethren, there is a class of persons who strive for their own welfare but not that of others.

3. "Brethren, herein a certain person practises the extirpation of lust in himself, but does not urge the extirpation of lust in others : practises the extirpation of ill-will in himself but does not urge the extirpation of ill-will in others ; and also practises the extirpation of ignorance in himself but does not urge the extirpation of ignorance in others.

4. "Indeed, Brethren, this is the person who pursues his own welfare, but not the welfare of others.

5. "Brethren, there is a class of persons who have striven for others' welfare, but not their own.

6. "Brethren, herein a certain person does not practise the extirpation of lust, ill-will and ignorance in himself, but urges the extirpation of lust, ill-will and ignorance in others.

7. "Indeed, Brethren, this is the person who has striven for others' welfare, but not his own.

8. "Brethren, there is a class of persons who strive not, neither for their own welfare nor that of others.

9. "Brethren, herein a certain person practises not the extirpation of lust, ill-will and ignorance in himself nor urges the extirpation of lust, ill-will and ignorance in others.

10. "Brethren, this is the person that has not striven for his own welfare nor that of others.

11. "Brethren, there is a class of persons who strive for their own welfare as well as that of others.

12. "Brethren, herein a certain person both practises the extirpation of lust, ill-will and ignorance in himself and also urges the extirpation of lust, ill-will and ignorance in others.

13. "Brethren, this is the person who has striven for his own welfare as well as that of others.

14. "This last person is to be deemed just and good."

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§ 6. *Need for Doing Good Deeds*

1. On one occasion, thus spake the Exalted One, to the Brethren.

2. "Be not afraid of good works, brethren. It is another name for happiness, for what is desired, beloved, dear and delightful, this word 'good works'. I myself brethren can bear witness to having reaped for many a long day the profit of good works a thing desired, beloved, dear and delightful.

3. "I often ask 'Of what deeds is all this the fruit ? Of what deed is it the ripening, in that I am now thus happy and contented.'

4. "The answer that comes to me is: 'Of three deeds this is the fruit. Of three deeds this is the ripening, the deeds of Charity, Self-taming, and Self-control.'

5. "Auspicious, festive, happy, blessed dawn ! Fair day, glad time is that when alms are given to worthy ones : when goodly acts, words, thoughts, right aspirations, bring auspicious gain to those that practise them.

6. "Happy are they that win such gain, and prosperous in the way ! So be ye also prosperous in the way free from disease and happy with your kin."

§ 7. *Need for Making Good Resolutions*

1. Once when he was at Shravasti in Jeta's Grove the Exalted One said to the Brethren :

2. "Brethren, there is a great need of good resolutions to be made and observed for a pure and happy life.

3. "I will tell you what your resolutions should be.

4. "Resolve that, 'all my life long may I support

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my parents. May I respect the head of my clan. May I be of gentle speech. May I speak evil of none. Clearing my heart of the stain of selfishness, may I dwell at home generous pure-handed, delighting in giving up, may I be a proper man to ask a boon of, delighting in sharing gifts with others.

5. " 'All my life long, may I be angerless, and, if anger arise, may I quickly check it.' "

6. Such are the seven resolutions Brethren, by undertaking and performing which you will attain the state of happiness and purity.

SECTION III

SERMONS ON RIGHTEOUSNESS

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§ *1. What is Righteousness*

1. Once when the Lord was on an alms-pilgrimage in Kosala, with a great train of almsmen, he came to a Brahmin village of the Kosalans named Sala.

2. It came to the ears of the Brahmin heads of families in Sala that the Blessed Lord had come to their village in the course of an alms-pilgrimage in Kosala.

3. They felt it was good to go and visit him. So the Brahmins of Sala went to the Lord and, after exchanging civil greetings, took their seats on one side.

4. They asked the Blessed One if he would explain to them what he meant by righteousness.

5. So to the attentive Brahmins the Lord said : "There are three forms of unrighteousness and wickedness for the body ; four for speech ; and three for thoughts.

6. "As regards bodily unrighteousness, a man (*i*) may take life, as a hunter with hands bathed in blood, given to killing and slaying, merciless to living creatures ; or (*ii*) may take what is not his, by appropriating to himself in thievish fashion the belongings of other people in village and jungle ; or (*iii*) may be a fornicator, having intercourse with girls under the charge of mother or father or brother or sister or relations, yes, with girls affianced and plighted, and even wearing the very garlands of betrothal.

7. "As regards unrighteousness of speech a man (*i*) may be a liar; when cited to give testimony before assembly or village-meeting or family council or royal household or his guild, he may say that he knows when he does not know, or that he does not know when he does know, or that he saw when he did not see, or that he did not see when he did see, deliberately lying in the interests either of himself or of other people or for some trifling gain. Or (*ii*) he may

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be a slanderer; repeating here what he has heard elsewhere so as to set one set of people by the ears, and repeating elsewhere what he has heard here so as to set another set of people by the ears ; he is a dissolver of harmony and a fomenter of strife; discords prompts his utterances, discord being his pleasure, his joy, and his delight. Or (*iii*) he may be bitter of tongue; what he says is rough and harsh, hurtful and wounding to others, provocative of anger, and leading to distraction. Or (*iv*) he may be a tattler talking out of season, without heed to fact, always talking of the unprofitable, never of the Doctrine, never of the Rule, but ever of the trivial, of the ill-timed of the frivolous, of things leading nowhere, and unprofitable.

8. "As regards unrighteousness of thought, a man (*i*) may be covetous, coveting other people's gear with the yearning that it were all his own. Or (*ii*) he may be malevolent and wicked of heart,—wishing that creatures around him might be killed, destroyed, annihilated, or cease to be. Or (*iii*) he may be wrong in outlook and erroneous in his conceptions—holding that there are no such things as alms or sacrifice or oblations, that there is no such things as the fruit and harvest of deeds good and bad, that there is no such thing as this world or any other, that there are no such things as either parents or relations elsewhere, that there are no such things in the world as recluse and Brahmins who, having trodden the right path and walked aright, have, of and by themselves, comprehended and realized this and other worlds and made it all known to others too.

9. "Contrariwise, there are three forms of righteousness and goodness for the body; four for speech and three for thoughts.

10. "As regards bodily righteousness, a man (*i*) puts from him all killing and abstains from killing anything; laying aside cudgel and sword, he lives a life of innocence and mercy, full of kindliness and compassion for everything that lives, (*ii*) Theft he puts from him and eschews taking from others except what

is given to him by them, he lives an honest life. (*iii*) Putting from him all sensual misconduct, he abstains from fornication; he has no intercourse with girls under the charge of mother or father or brother or sister or relations, no intercourse with girls affianced and plighted and with the garlands of betrothal upon them.

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11. "As regards righteousness in speech, (*i*) a man puts lying from him and abstains from lies; when cited to give testimony before assembly or village-meeting or family council or royal household or his guild he says that he does not know when he does not, and that he does know when he does, says that he did not see when he did not see and that he saw when he did see, never deliberately lying in the interests of himself or of other people or for some trifling gain. (*ii*) All slander he puts from him and from slandering he abstains; what he hears here he does not repeat elsewhere so to set one set of people by the ears, nor does he repeat here what he hears elsewhere so as to set another set of people by the ears, he is a promoter of harmony and a restorer of amity, for concord is his pleasure, his joy, and his delight. (*iii*) There is no bitterness in his tongue and he abstains from bitter speech; what he says is without gall, pleasant, friendly, hearty, urbane, agreeable, and welcome to all. (*iv*) No tattler, he abstains from tattle, speaking in season, according to fact, always of the profitable, of the Doctrine and Rule, in speech which is seasonable and memorable, illuminating, well-marshalled, and of great profit.

12. "As regards righteousness in thoughts, (*i*) a man is devoid of covetousness, never coveting other people's gear with the yearning that it were all his own. (*ii*) He harbours no malevolence or wickedness of thought; his wish is that creatures around him may live on in peace and happiness, safe, from all enmity and oppression. (*iii*) He is right in outlook and correct in his conceptions.

13. "This is what I mean by righteousness and unrighteousness."

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§ 2. *Need for Righteousness*

1. Then the Exalted One addressed the lay brethren of Pataligama:

2. "There are losses, householders, which attend the wicked and immoral man.

3. "The wicked, immoral man, as the result of sloth, comes to great loss of wealth.

4. "Then again, an evil report prevails about him which defames him in the eyes of the world.

5. "Whatever company he may enter, be it a company of the nobles, or the Brahmins, or the housefathers, or a company of recluses, he enters shyly and confused in mind. He is not fearless. This is the third loss.

6. "Again, he has no peace of mind and is troubled in mind when he dies. This is the fourth loss.

7. "Such, householders, are the losses that attend the wicked and immoral man.

8. "Consider the profits which attend the righteous man who lives virtuously.

9. "The righteous man who lives virtuously comes by a great mass of wealth, due to his own exertions.

10. "Then, again, a good reputation prevails about him. He is honoured everywhere.

11. "Into whatsoever company he enters, be it of the nobles or the Brahmins or the housefathers or the recluses, he enters bold and confident.

12. "Again, he enjoys peace of mind and makes an end with mind untroubled.

13. "The fool in doing ill knows not his folly: His own deeds like a fire, the fool consume.

14. He who offends the harmless innocent soon reaches grievous disaster, or a mind distraught, loss of relations, loss of all his wealth.

§ 3. *Righteousness and the Claims of the World*

1. Once when the Lord was staying at Rajagraha in the Bamboo grove where the squirrels were fed, the

reverend Sariputta was making an alms pilgrimage with a great train of almsmen among the Southern Hills.[1]

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2. On his way he met an almsman who had spent the rainy season at Rajagraha. After interchange of greetings of friendliness and civility, Sariputta enquired after the Master's health and was told he was well, as too was the Confraternity, and also the Brahmin Dhananjani of Tandula-pala Gate in Rajagraha concerning whose health too Sariputta had made enquiries.

3. 'And is the Brahmin, Dhananjani, zealous and earnest ?' asked Sariputta further of the Almsman.

4. 'How could earnest zeal possibly dwell in Dhananjani ?' replied the Almsman. 'He uses the king to fleece the Brahmins and householders, and uses them to fleece the king. Also, his pious wife who came of a pious stock is dead now ; and he has taken to himself another wife who is not pious and comes of no pious stock.'

5. 'This is bad news, very bad news to hear of Dhananjani's lack of zeal,' said Sariputta. 'Perhaps, however, at some time and place I may meet him I should like to have a talk with him.'

6. After staying as long as he wanted in the Southern Hills, Sariputta proceeded on his alms pilgrimage till he reached Rajagraha, where he took up his abode in the Bamboo Grove.

7. Early in the morning, bowl in hand and duly robed, he went into Rajagraha for alms, at a time when the Brahmin Dhananjani was out of the city seeing his cows milked in the byre.

8. On his return after his round and meal, Sariputta sought out the Brahmin. Seeing him coming, the Brahmin came to meet him with the remark that they had time for a draught of milk before meal-time.

9. Not so, Brahmin, I have had my meal today, and shall be resting under the shade of a tree during the noontide. Come to me there.

10. Dhananjani agreed and after his own meal joined Sariputta seating himself by him after friendly greetings.

11. Said Sariputta: "May I rest assured, Dhanan-

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jani, that zeal and earnestness and righteousness are yours ?

12. "How can that be, when I have to support my parents, my wife and family, and my slaves and serving folk and have to entertain my acquaintances and friends, my kith and kin, and guests, and have also to provide for my kinsfolk dead and gone, and for the deities, and for the king not to speak of supporting myself in meat and drink ?"

13. "What think you, Dhananjani? If we suppose a man who, for his parents' sake, has departed from righteousness and equity and is being hauled up would it avail him either to plead on his own behalf that it was for his parents' sake that he had departed from righteousness and equity and that therefore he should not be hauled up ?"

14. "No ; despite all appeals, the wardens would cast him into prison."

15. "Would it avail him either to plead on his own behalf, or to have his wife and family plead for him, that it was for their sake he had departed from righteousness and equity ?"

16. "No."

17. "Would it avail him if his slaves and serving folk pleaded for him ?"

18. "Not a whit."

19. "Or if his friends and acquaintances pleaded for him ?"

20. "Not a whit."

21. "Or if his kith and kin, or his guests pleaded for him ?"

22. "Not a whit."

23. "Or if his kinsfolk dead and gone, pleaded the claims of his deities, or his monarch's claims on him ?"

24. "Not a whit."

25. "Would it avail him to plead on his own behalf or to have others pleading for him that it was to support himself in meat and drink that he departed from righteousness and equity ?"

26. "No."

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27. "What think you, Dhananjani? Which is the better man ? He that for the sake of his parents departs from righteousness and equity or he that no matter what happens to them walks in righteousness and equity ?"

28. "The latter," replied Dhananjani, "for to walk in righteousness and equity is better than to depart therefrom."

29. "Moreover, Dhananjani, there are other courses of action which are justified and righteous in themselves, whereby he can support his parents and yet avoid evildoing and walk uprightly. Now, does the same reasoning apply to the support of wife and family and everything else?"

20. "It does, Sariputta."

21. "Hereupon the Brahmin rejoicing in what the reverend Sariputta had said, thanked him, rose up and went his way."

§ *4. How to Reach Perfection in Righteous Conduct*

1. Once while the Lord was staying at Shravasti in Jeta's Grove there came to him five hundred lay-followers. One of them was Dhammika.

2. Dhammika asked the Lord : "What principles make your followers reach perfection in righteous conduct.

3. "I ask thee this question because thou art the most matchless judge of the weal of men.

4. "Trained Jains and Mendicants all failed to vanquish thee. Trained Brahmins, ripe in years—with others keen to air their point of view—are led to embrace thy saving truth. For, 'tis thy saving Truth,— subtle, but preached so well for which all yearn. Vouchsafe an answer, Lord, to us !

5. "Let the lay-followers learn from thy lips thy Lore immaculate !"

6. The Blessed Lord in compassion for his lay-followers said : "Give me your ear. I will explain the principles of righteous conduct. Hear and follow them.

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7. "Slay not, nor doom to death, nor sanction slaughter. Do no violence to aught that lives—strong or weak.

8. "No layman, wittingly, should thieve, or order theft, or sanction any theft,—take but what others give.

9. "And shun incontinence as 'twere a pit of fire, or, failing continence, debauch no wedded wife.

10. "In conclaves, courts, or talk let him not lie; let him not prompt or sanction lies—let him renounce untruth.

11. "Layman, observe this law: Shun drink; make no man drink; sanction no drinking. Mark how drink to madness leads.

12. "Through drink fools sin, and egg lax brethren on to sin. So flee this maddening vice, this folly, bliss of fools.

13. "Slay not, nor steal, nor lie; from strong drink keep away; refrain from lechery; touch not wrong meals at night !

14. "Eschew both scents and wreaths; spread on the ground thy bed; so make thy sabbath vows as week succeeds to week, and keep with pious hearts this eightfold festival.

15. "At morn, these vows performed, with pious, thankful heart be wise and of thy means give Almsmen food and drink.

16. "Cherish thy parents well; follow a righteous trade. Thus shall the layman staunch reach realms of light above.

§ 5. *One Need Not Wait for a Companion to Tread on the Path of Righteousness*

1. An elephant in battle bears the arrow at him hurled, I must bear men's bitter tongues for every evil in the world.

2. Tamed, they lead him into battle; tamed, the king his back ascends; tamed, is he the best of beings when no bitter speech offends.

3. Good are well-tamed mules, and good are

Cindian steeds of lineage famed, good indeed the mighty tusker; best of all the men self-tamed.

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4. Yet such mounts can naught avail us, cannot be Nibbana's guide. We can only reach the Path on the self-tamed self-ride.

5. Take delight in Earnestness ; watch thy thoughts and never tire. Lift thee from the Path of Evil, take the Tusker out of mire.

6. Hast thou found a fellow-traveller, upright, firm, intelligent? Leaving all thy cares behind thee, gladly walk with him intent.

7. Hast thou found no fellow-traveller, upright, intelligent? As a King deserts his borders, by the enemy pursued, like the tusker in the forest, so go thy way in solitude.

8. Better is the lonely life, for fools companions cannot be. Live alone and do no evil, live alone with scanty needs, lonely, as the mighty tusker in the forest lonely feeds.

9. Expunge all bad thoughts.

10. Here is the way to expunge.

11. You are to expunge by resolving that, though others may be harmful, you will be harmless.

12. That, though others may kill, you will never kill.

13. That, though others may steal, you will not.

14. That, though others may not lead the higher life, you will.

15. That, though others may lie, traduce, denounce, or prattle, you will not.

16. That, though others may be covetous, you will covet not.

17. That, though others may be malignant, you will be benignant.

18. That, though others may be given over to wrong views, wrong aims, wrong speech, actions, wrong modes of livelihood, wrong effort, wrong mindfulness and wrong concentration you must follow the Noble Eight-fold Path in right outlook, right aims, right speech, right actions, right mode of livelihood, right efforts, right mindfulness and right concentration.

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19. That, though others are wrong about the truth and wrong about Deliverance, you will be right about truth and right about Deliverance.

20. That, though others may he possessed by sloth and torpor, you will free yourself therefrom.

21. That, though others may be puffed up, you will be humble-minded.

22. That, though others may be perplexed by doubts, you will be free from them.

23. That, though others may harbour wrath, malevolence, envy, jealousy, niggardliness, avarice, hypocrisy, deceit, imperviousness, arrogance, forwardness, unscrupulousness, lack of instruction, inertness, bewilderment, and unwisdom—you will be the reverse of all these things.

SECTION IV

SERMONS ON NIBBANA

IV

§ 1. *What is Nibbana*

1. Once the Blessed Lord was staying at Shravasti in Anathapindika's Arama where Sariputta was also staying.

2. The Lord addressing the Brethren said: "Almsmen, be ye partakers not of the world's goods but of my doctrine; in my compassion for you all I am anxious to ensure this."

3. Thus spoke the Lord, who thereupon rose and passed to his own cell.

4. Sariputta remained behind and the Brethren asked him to explain what is Nibbana.

5. Then Sariputta in reply to the Brethren said: "Brethren, know you that greed is vile, and vile is resentment.

6. " To shed this greed and this resentment, there is the Middle Way which gives us eyes to see and makes us know, leading us on to peace, insight, enlightenment and Nibbana.

7. " What is this Middle Way ? It is naught but the Noble Eight-fold Path of right outlook, right aims, right speech, right action, right means of livelihood, right effort, right mindfulness and right concentration; this, Almsmen is the Middle Way.

8. "Yes, sirs; anger is vile and malevolence is vile, envy and jealousy are vile, niggardliness and avarice are vile, hypocrisy and deceit and arrogance are vile, inflation is vile, and indolence is vile.

9. " For the shedding of inflation and indolence there is the Middle Way—giving us eyes to see, making us know, and leading us on to peace, insight, enlightenment.

10. " Nibbana which is naught but that Noble Eight-fold Path."

11. Thus spoke the reverend Sariputta—glad at heart, the Almsmen rejoiced at what he had said.

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§ 2. *The Roots of Nibbana*

(i)

1. Once the venerable Radha came to the Exalted One. Having done so he saluted the Exalted One and sat down on one side. So seated the venerable Radha thus addressed the Exalted One: "Pray, Lord, what for is Nibbana."

2. "Nibbana means release from passion," replied the Lord.

3. "But Nibbana, Lord,—what is the aim of it ?"

4. "Rooted in Nibbana, Radha, the righteous life is lived. Nibbana is its goal. Nibbana is its end."

(ii)

1. Once the Exalted One was dwelling at Shravasti, in Jeta's Grove, at Anathapindika's Park. Then the Exalted One called the brethren, saying, 'Brethren.' 'Yes, Lord,' replied those brethren to the Exalted One. The Exalted One thus spake.

2. "Do ye bear in mind, brethren, the Five Fetters that bind to the lower world, as taught by me ?"

3. Whereupon the venerable Malunkyaputta said this to the Exalted One :

4. "I, Lord, bear in mind those Five Fetters."

5. "And how, Malunkyaputta, do you bear them in mind ?"

6. "I bear in mind, Lord, the view of bodyhood, as taught by the Exalted One, and wavering, and the moral taint of dependence on rite and ritual, the excitement of sensual delight, and malevolence, taught by the Exalted One as fetters that bind to the lower world. These are the Five Fetters that I bear in mind, Lord."

7. "As taught for whom, Malunkyaputta, do you bear in mind these Five Fetters ? Will not the wanderers of other views reproach you, using the parable of a tender baby for their reproach and saying thus :

8. " 'But, Malunkyaputta, there can be no bodyhood for a tender baby-boy, dull of wits and

lying on his back. How, then, can there arise in him any view of bodyhood ? Yet there is indeed latent in him a tendency to the view of bodyhood.'

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9. " 'Likewise, Malunkyaputta. there can be no mental conditions for a tender baby-boy, dull of wits and lying on his back. How, then, can there be in him any wavering of mental conditions ? Yet there is in him a latent tendency to wavering.'

10. " 'So also, Malunkyaputta, he can have no moral practice. How, then, can there be in him any moral taint of dependence on rite and ritual ? Yet he has a latent tendency thereto.'

11. " 'Again, Malunkyaputta, that tender babe has no sensual passions. How, then, can be known the excitement of sensual delight ? But the tendency is there.'

12. " 'Lastly, Malunkyaputta, for that tender babe beings do not exist. How then can it harbour malevolence against beings ? Yet the tendency thereto is in him.'

13. "Now, Malunkyaputta, will not those wanderers of other views thus reproach you, using for their reproach the parable of that tender baby-boy ?"

14. When this was said, the venerable Ananda thus addressed the Exalted One : "Now is the time, Exalted One. O Wayfarer, now is the time for the Exalted One to set."

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SECTION V

SERMONS ON DHAMMA

§ 1. *Why Right Views Rank First*

1. Of the noble Eightfold path the noblest is Right Outlook.

2. Right thinking is the preface and the key to everything else in the higher life, and ignorance.

3. The lack of understanding is the root of all evil.

4. For developing right outlook one must see "all phenomena of life as a process of causal law. To have right outlook is to recognise the law of cause and effect.

5. "Whatsoever individual, brethren, follows perverted views, perverted aim, perverted speech or acts or living, perverted effort, attention, and contemplation : whose knowledge and emancipation are perverted, for him every action of deed, word or thought, performed and achieved according to such perverted views ; every willed act, every aspiration, every resolve, all his activities, these things one and all conduce to what is distasteful, unpleasing, repulsive, unprofitable, and painful. And why so? Because of his evil view."

6. To be right is not enough. A baby may be right but that does not mean that a baby knows what is right. To be right one must know what is right.

7. "Ananda, who can be rightly described as an almsman? Only he who has mastered what is rationally possible and what is rationally impossible."

§ 2. *Why Bother About Life After Death*

1. On a certain occasion the venerable Kassapa the Great and the venerable Sariputta were staying near Benares at Isipatana in the Deer Park.

2. Then the venerable Sariputta rising up at eventide from solitude, went to the venerable Kassapa the Great and sat down on one side.

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3. So seated, the venerable Sariputta said to the venerable Kassapa the Great. "How now friend Kassapa ? Does the Tathagata exist beyond death?

4. "Undeclared is it, friend, by the Exalted One that the Tathagata exists beyond death.

5. "What then friend? Does the Tathagata both exist and not exist beyond death ?

6. "This also, friend, is undeclared by the Exalted One.

7. "How then, friend ? Does the Tathagata neither not exist beyond death ? That also, friend, is not declared by the Exalted One.

8. "But why, friend, has it not been declared by the Exalted One?"

9. "This is a question not concerned with profit to humanity or with the first principles of holy life. It does not lead to perfect wisdom nor to Nihbana. That, friend, is why it is not declared by the Exalted One."

§ 3. *Prayers and Invocations to God are a Futility*

1. Once the Blessed Lord speaking to Vasettha said :

2. "If this river Achiravati were full of water even to the brim and overflowing, and a man with business to be done on the further bank of it should come up, and want to cross over :

3. "And standing on that bank, he should invoke the further bank and say : 'Come hither, O further bank ! Come over to this side !'

4. "Now what think you, Vasettha ? Would the further bank of the river Achiravati, by that man's invoking and praying, and hoping, and praising, come over to this side ?

5. "In just the same way, Vasettha, do the Brahmins, versed in the three Vedas, omitting the practice of those qualities which really make a man a Brahmin, and adopting the practice of those qualities which really make men non-Brahmins say thus :

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6. " 'Indra we call upon, Brahma we call upon, Isana we call upon, Prajapati we call upon, Brahma, we call upon, we call, we call.'

7. "Verily, Vasettha, that these Brahmins, by reason of their invoking and praying and hoping and praising, should after death become united with Brahma—verily such a condition of things can in nowise be."

§ *4. It is Not What You Eat that Makes You Holy*

1. A Brahmin happened to meet the Lord and raised the question of the effect of food on a man's character.

2. The Brahmin said : " The millet-grain, palm-nuts, pulse, bulbs, and wilding shoots—this diet rightly got, ever prompts the good life. Tis eating carrion that is bad."

3. The Blessed One replied: "Though you (Lord) say you touch no carrion, you eat choice dishes made with flesh of birds—I ask what you term 'carrion.'

4. "Killing and maiming, stripes, bonds, theft, lies, fraud, deceit, adultery—not meats, but these are carrion.

5. "Pursuit of pleasure, lust for guzzlings, life unclean, blatant dissent—not meats, but these are carrion.

6. "Backbiting, cruelty, betrayals, ruthless pride, mean stinginess—not meats, but these are carrion.

7. "Anger, conceit, revolt, guile, envy, bluster, pride, low company—not meats, but these are carrion.

8. "Base living, slander, fraud, cheating, the trickster's wiles, foul infamies—not meats, but these are carrion.

9. "This rage to slay and steal, these crimes, are fraught with doom and end in hell—not meats, but these are carrion.

10. "No abstinence from meat and fish, no nudity, no topknots, shaven crowns, or garb of pelt, no cult of sacred fire, no stark austerities to purchase

future bliss, no rinsing, burnt-offering, rites; can cleanse the man who doubts,

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11. "Control thy sense, rule thy powers, hold to Truth, be kind. The saint who leaves all ties and vanquishes all ills, is stained by naught he either sees or hears."

12. Hearing the Lord preach these lofty, saving truths, denouncing 'carrion', and sweeping ills away, the Brahmin meekly knelt and asked to be enrolled as Almsman then and there.

§ 5. *Not Food But Evil Actions That Matter*

1. A Brahmin by name Amagandha was an ascetic who lived in the region of Himalayas with his pupils.

2. They ate neither fish nor flesh. Every year they came down from their hermitage in search of salt and acids. The inhabitants of the village received them with honour and gave them hospitality for four months.

3. Then the Blessed Lord with his monks visited the same village. The people on hearing the Lord preach his Dhamma became his followers.

4. That year even Amagandha and his disciples as usual went to the villagers but the villagers did not show the same enthusiasm.

5. Amagandha was disappointed to hear that the Lord did not forbid eating fish and flesh. Wishing to have the matter confirmed he went to Jeta Vana at Shravasti where the Blessed Lord was then staying and said :

6. "Millet, cingula-beans and peas, edible leaves and roots, the fruit of any creeper ; the righteous who eat these, obtained justly, do not tell lies for the sake of pleasures.

7. "Thou eatest whatever food is given by others, which is well prepared, nicely got up, pure and excellent. He who enjoys such food made of rice, he eats, Amagandha. You say that the charge of

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Amagandha, does not apply to me, while eating rice with well prepared bird's flesh.

8. "I inquire the meaning of this from you, of what kind is your Amagandha ?"

9. The Lord replied : " Taking life, beating, cutting, binding, stealing, lying, fraud, deceiving, worthless knowledge, adultery ; this is Amagandha and not the eating of flesh.

10. "In .this world those individuals, who are unrestrained in sensual pleasures, who are greedy for sweet things, who are associated with impure actions, who are of Nihilistic views, crooked, difficult to follow; this is Amagandha and not the eating of flesh.

11. "In this world those who are rude, harsh, backbiting, treacherous, unkind, excessively egoistic, ungenerous, and do not give anything to anybody; this is Amagandha, and not the eating of flesh.

12. "Anger, pride, obstinacy, antagonism, deceit, envy, boasting, excessive egoism, association with the unrighteous; this is Amagandha, and not eating of flesh.

13. "Those who are of bad morals, refuse to pay their debt, slanderers, deceitful in their dealings, pretenders, those who in this world being the vilest of men, commit such wrongdoings, this is Amagandha and not, the eating of flesh.

14. "Those persons who, in this world, are uncontrolled towards living beings, who are bent on injuring others, having taken their belongings ; immoral, cruel, harsh, disrespectful ; this is Amagandha and not the eating of flesh.

15. "Those who attack these living beings either because of greed or of hostility, and always bent upon (evil), they go to darkness after death and fall into hell headlong ; this is Amagandha and not the eating of flesh.

16. "Abstaining from fish or flesh, nakedness, shaving of the head, matted hair, covering with ashes, wearing rough deer skins, attending the sacrificial fire, nor all these various penances in the world (performed) for immortality, neither incantations, oblations, sacri-

fices nor seasonal observances, purifies a person who has not overcome his doubt.

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17. "He who lives with his senses guarded and conquered and is established in the Dhamma, delights in uprightness and gentleness, who has gone beyond attachments and has overcome all sorrows ; that wise man does not cling to what is seen and heard.

18. "It is evil actions which constitute Amagandha and not the eating of fish or flesh."

§ 6. *Not Enough Is Outward Washing*

1. Once the Exalted One was dwelling at Shravatsi. And the Brahmin Sangarava also dwelt there. Now he was a cleanser by water, and practised cleansing by water. Night and day he abode given to the habit of going down to bathe.

2. Now the venerable Ananda, robing himself at an early hour and taking outer robe and bowl, went forth to Shravatsi to beg. And when he had gone his rounds in Shravatsi and had eaten his meal, upon his return, he went to the Exalted One, saluted Him, and sat down on one side. So seated, the venerable Ananda said :

3. "Lord, there is here one Sangarava, a Brahmin, dwelling at Shravatsi, a cleanser by water, one who practises cleansing by water. Night and day does he abide given to the habit of going down to bathe. Well were it, Lord, if the Exalted One would pay a visit to the Brahmin Sangarava, out of compassion for him."

4. And the Exalted One consented by His silence.

5. So next day at an early hour, the Exalted One robed Himself and taking outer robe and bowl went to the dwelling of the Brahmin Sangarava, and when He got there He sat down on a seat made ready.

6. Then the Brahmin Sangarava came to the Exalted One and greeted Him, and after the exchange of mutual courtesies sat down on one side.

7. As he thus sat, the Exalted One said this to the Brahmin Sangarava : "Is it true, Brahmin, as they say, that thou art a cleanser by water, that thou dost

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practise cleansing by water, abiding night and day given to the habit of going down to bathe ?"

8. " True it is, Master Gotama."

9. " Now, Brahmin, seeking what profit dost thou so practise the habit of going down to bathe, and so forth?"

10. " It is in this way, Master Gotama. Whatsoever evil I do by day, I get it washed away that very evening by my bathing. Whatsoever evil I do by night I get it washed away next morning by my bathing. That is the profit I am looking for in being a cleanser by water and so forth."

11. Then said the Exalted One :

12. "The Norm is the pool. It is clear and undefiled."

13. "Hither when they have come to bathe, the masters of the lore, are cleansed in every limb, and pass unto the Further Shore."

14. Whereupon the Brahmin Sangarava said to the Exalted One : "Excellent it is, Master Gotama. May the Master Gotama accept me as His follower, from this day forth so long as life doth last, as one who has taken refuge in Him."

§ 7. *What is Holy Life*

1. Once while the Blessed Lord was on journey he gave, as was his practice, the following discourse to the Bhikkhus who were accompanying him.

2. Addressing the Bhikkhus the Lord said : "O brethren, this holy life is not practised with a view to deceive people, nor to seek their favour, nor for the purpose of gain, benefit, or fame, nor with the intention of getting out of difficulties in controversy, nor that one may be known as such and such by men. Indeed, brethren, this holy life is practised for the controlling (of body and speech), the cleansing (of corruptions) and the detachment (from) and cessation (of craving)."

SECTION VI

SERMONS ON SOCIO-POLITICAL QUESTIONS

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§ *1. Do Not Depend on the Favour of Princes*

1 Once the Exalted One was staying at Rajagraha in the Bamboo Grove in the Squirrels' Feeding ground.

2. At that time Prince Ajatasatru was supporting Devadatta who had turned hostile to the Blessed Lord.

3. He was maintaining the supporters of Devadatta, late and early with five hundred carts, conveying therein food brought in five hundred cooking-pots.

4. Then a number of the brethren came before the Exalted One, saluted Him, and sat down on one side, and there sitting they told all of these things to the Exalted One.

5. Then the Blessed Lord addressing the brethren said : "Do ye not long for gains, favours and flattery from the kings. So long, brethren, as Prince Ajatasatru thus supports Devadatta late and early, with five hundred carts, conveying therein food brought in five hundred cooking-pots, it is ruin, brethren, that may be expected of Devadatta, and not growth in good conditions.

6. "Just as if, brethren, one were to crumble liver on a mad dog's nose, the dog would only get the madder, even so, brethren, so long as Prince Ajatasatru thus supports Devadatta it is ruin that may be expected of Devadatta, and not growth in good conditions. Thus terrible, brethren, are gains, favours, and flattery of the princes.

7. "They are a bitter, painful hindrance to the attainment of the sure peace that passeth all.

8. "Wherefore, brethren, thus must you train yourselves: 'When gains, favours and flattery befall us, we will reject them, and when they do befall us, they shall not lay hold of and be established in our hearts, and make us slaves of the prince.' "

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§2. *If the King is Righteous His Subjects will be Righteous*

1. Once the Lord addressing the Almsmen said :

2. "Brethren during such time as kings are unrighteous their ministers and officers also become unrighteous. The ministers and officers, brethren, being unrighteous, Brahmins and householders also become unrighteous. The Brahmins and householders, brethren, being unrighteous, the town-folk and villagers become unrighteous.

3. "But whenever, brethren, kings are righteous, then kings' ministers and officers also become righteous. Whenever kings' ministers and officers become righteous the Brahmins and householders also become righteous. Whenever Brahmins and householders become righteous, the town-folk and villagers also become righteous.

4. "When kine are crossing, if the old bull swerves, they all go swerving, following his lead. So among men, if he who is reckoned chief walks crookedly, the others crooked go.

5. "Similarly, the whole realm suffers when the king goes wrong. When kine are crossing, if the bull goes straight they all go straight because his course is straight. So among men, if he who's reckoned chief walks righteously, the others live aright. The whole realm lead happy lives when kings are good."

§ 3. *It is the Social System on which Depends Political and Military Strength*

1. The Blessed One was once dwelling in Rajagraha, on the hill called the Vultures' Peak.

2. Now at that time, Ajatasatru, the son of the queen consort of Videha origin, the king of Magadha, was desirous of attacking the Vajjins, and he said to himself, "I will root out these Vajjins, mighty and powerful though they be, I will destroy these Vajjins, I will bring these Vajjins to utter ruin !"

3. So he spoke to the Brahmin Vasakara, the Prime Minister of Magadha, and said :

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4. "Come now, O Brahmin, do you go to the Blessed One, and bow down in adoration at his feet on my behalf and enquire on my behalf whether he is free from illness and suffering and in the enjoyment of ease and comfort and vigorous health.

5. "Then tell him that Ajatasatru, son of Videhi, the King of Magadha, is eager to attack the Vajjins, mighty and powerful though they be, I will destroy these Vajjins, I will bring these Vajjins to utter ruin !

6. "And bear carefully in mind whatever the Blessed One may predict and repeat it to me. For the Buddha speaks nothing untrue."

7. Then the Brahmin Vasakara hearkened to the words of the king, saying, "Be it as you say." And ordering a number of magnificent carriages to be ready he went to the Vultures' Peak.

8. On arriving there he exchanged with the Blessed One the greetings and compliments and then delivered to him the message even as the king had commanded.

9. Now at that time the venerable Ananda was standing behind the Blessed One. And the Blessed One said to him: " Have you heard, Ananda, that the Vajjins hold full and frequent public assemblies?

10. "Lord, so I have heard," replied he.

11. "So long, Ananda," rejoined the Blessed One, "as the Vajjins hold these full and frequent public assemblies; so long may they be expected not to decline, but to prosper.

12. "So long, Ananda, as the Vajjins meet together in concord, and rise in concord, and carry out their undertakings in concord.

13. "So long as they enact nothing not already established, abrogate nothing that has been already enacted and act in accordance with the ancient institutions of the Vajjins as established in former days.

14. "So long as they honour and esteem and revere and support the Vajjin Elders, and make it a point of duty to hearken to their words.

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15. "So long as no women or girls belonging to their clans are detained among them by force or abduction.

16. "So long as the Vajjins respect and follow religion.

17. "So long, Ananda, the Vajjins may be expected not to decline but to prosper and no one can destroy them."

18. In short, the Blessed Lord declared that so long as the Vajjins believe in democracy and practise democracy there is no danger to their State.

19. Then the Blessed One addressed Vasakara and said :

20. "When I was once staying, O Brahmin, at Vaishali I taught the Vajjins these conditions of welfare.

21. "We may expect then," answered the Brahmin, "the welfare and not the decline of the Vajjins, so long as they observe these conditions. So, Gotama, the Vajjins cannot be overcome by the king of Magadha."

22. So Vasakara heard the words of the Blessed One, rose from his seat and went back to Rajagraha to inform the king of what the Lord had said.

§ *4. War is Wrong*

1. It so happened that Ajatasatru, the king of Magadha, mustering an army of cavalry and infantry, invaded Kasi, a part of the kingdom of king Pasenadi. And Pasenadi, hearing of the expedition, also mustered a similar army and went to meet him.

2. The two fought with one another and Ajatasatru defeated the king Pasenadi, who retreated to his own capital Shravasti.

3. The Bhikkhus who were in Shravasti returning from their alms round came and told the Exalted One of the battle and the retreat.

4. "Almsmen, the king of Magadha, Ajatasatru, is a friend of whatever is evil. King Pasenadi is a

friend of whatever is good. For the present, Pasenadi will pass the night in misery, a defeated man.

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5. "Conquest engenders hate; the conquered lives in misery. But whoso is at peace and passionless, happily doth he live ; conquest hath he abandoned and defeat."

6. Again it so happened these two kings met in battle a second time. But in that battle the Kosala king Pasenadi defeated Ajatasatru and captured him alive. Then king Pasenadi thought : "Although this king injures me who was not injuring him, yet is he my nephew. What if I were now to confiscate his entire army, elephants, horses, chariots and infantry and leave him only his life ?" And he did so.

7. And almsmen returning from their alms tour in Shravasti brought word of this to the Exalted One. Thereupon the Exalted One said : "A man may spoil another, just so far as it may serve his ends, but when he's spoiled by others, he, despoiled, spoils yet again.

8. "So long as evil's fruit is not matured, the fool doth fancy 'now's the hour, the chance!' But when the deed bears fruit, he fareth ill.

9. "The slayer gets a slayer in his turn ; the conqueror gets one who conquers him ; the abuser wins abuse from another.

10. "Thus by the evolution of the deed, a man who spoils is spoiled in his turn."

§ 5, *The Duty of the Victor Who Has Won Peace*

1. When the Victor in war has won the Peace he claims the right further to degrade the vanquished if not to enslave him. The Buddha had a totally different view on the matter. In His view if Peace had any meaning it means that the Victor has a duty to use his victory for the service of the vanquished. This is what he said to the Bhikkhus on this subject :

2. "When Peace is won, the adept in warfare needs to prove an able, upright man, of gracious speech,

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kind mood, devoid of arrogance, an easy, grateful guest, no busybody wants but few sense-disciplined, quick-witted, bluster-free, never importunate; and let him never stoop to conduct mean or low, evoking grave rebuke.

3. "May creatures all abound, in weal and peace; may all be blessed with peace always, all creatures weak or strong, all creatures great and small ; creatures unseen or seen dwelling afar or near, born or awaiting birth, may all be blessed with peace !

4. "Let none cajole or flout his fellows anywhere ; let none wish others harm in dudgeon or in hate.

5. "Just as with her own life a mother shields from hurt her own, her only child, let all-embracing thoughts for all that lives be thine, an all-embracing love for all the universe in all its heights and depths and breadths, unstinted love, unmarred by hate within, not rousing enmity.

6. "So, as you stand or walk, or sit, or lie, reflect with all your might on this : ' 'Tis deemed a state divine.' "

BOOK V

The Sangh

Part I — The Sangh

Part II — The Bhikkhu—The Buddha's Conception of him.

Part III — The Duties of the Bhikkhu.

Part IV — The Bhikkhu and the Laity.

Part V — Vinaya for the Laity.

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PART I

The Sangh

1. The Sangh and its Organization.
2. Admission to the Sangh.
3. The Bhikkhu and His Vows.
4. The Bhikkhu and Ecclesiastical Offences.
5. The Bhikkhu and Restraints.
6. The Bhikkhu and Good Conduct Rules.
7. The Bhikkhu and the Trial of Offences.
8. The Bhikkhu and Confession.

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§ 1. *The Sangh and Its Organization*

1. The followers of the Blessed Lord were divided into two classes: BHIKKHUS and Lay Followers called UPASAKAS.

2. The Bhikkhus were organized into a Sangh while the Upasakas were not.

3. The Buddhist Bhikkhu is primarily a Parivrajaka. This institution of Parivrajaka is older than that of the Buddhist Bhikkhu.

4. The old Parivrajakas were persons who had abandoned family life and were a mere floating body of wanderers.

5. They roamed about with a view to ascertain the truth by coming into contact with various teachers and philosophers, listening to their discourses, entering into discussion on matters of ethics, philosophy, nature, mysticism, etc.

6. Some of the old type of Parivrajakas lived under a teacher until they found another. Others lived singly without acknowledging any master.

7. Among these older type of Parivrajakas there were also women wanderers. The female Parivrajakas sometimes lived with men Parivrajakas ; sometimes they lived alone and by themselves.

8. These old type of Parivrajakas had no Sangh, had no rules of discipline and had no ideal to strive for.

9. It was for the first time that the Blessed Lord organized his followers into a Sangh or fraternity, and gave them rules of discipline and set before them an ideal to pursue and realize.

§ 2. *Admission to the Sangh*

1. The Sangh was open to all.

2. There was no bar of caste.

3. There was no bar of sex.

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4. There was no bar of status.

5. Caste had no place in the Sangh.

6. Social status had no place in the Sangh.

7. Inside the Sangh all were equal.

8. Inside the Sangh rank was regulated by worth and not by birth.

9. As the Blessed Lord said the Sangh was like the ocean and the Bhikkhus were like the rivers that fell into the ocean.

10. The river has its separate name and separate existence.

11. But once the river entered the ocean it lost its separate name and separate existence.

12. It becomes one with the rest.

13. Same is the case with the Sangh. When a Bhikkhu entered the Sangh he became one with the rest like the water of the ocean.

14. He lost his caste. He lost his status: so said the Lord.

15. The only distinction observed inside the Sangh was that of sex. The Bhikkhu Sangh was separate in its organization from the Bhikkhuni Sangh.

16. The entrants into the Sangh were divided into two classes: SHRAMANERAS and BHIKKHUS,

17. Anyone below twenty could become a Shramanera.

18. By taking the TRISARANAS and by taking the ten precepts a boy becomes a Shramanera.

19. "I follow the Buddha; I follow the Dhamma; and I follow the Sangh"—are the Trisaranas.

20. "I shall abstain from killing; I shall not commit theft; I shall follow Brahmacharya; I shall not tell untruth; I shall abstain from drink."

21. "I shall abstain from taking food at an untimely hour; I shall abstain from indecent and immoral acts; I shall abstain from ornamenting and decorating myself; I shall abstain from luxuries; I shall abstain from the love of gold and silver."

22. These are the ten precepts.

23. A Shramanera can leave the Sangh at any time and become a layman. A Shramanera is attached

to a Bhikkhu and spends his time in the service of the Bhikkhu. He is not a person who has taken Parivraja.

24. The status of a Bhikkhu has to be reached in two stages. The first stage is called Parivraja and the second stage is called Upasampada. It is after Upasampada that he becomes a Bhikkhu.

25. A candidate who wishes to take Parivraja with a view ultimately to become a Bhikkhu has to seek a Bhikkhu who has the right to act as an Uppadhya. A Bhikkhu can become an Uppadhya only after he has spent at least 10 years as a Bhikkhu.

26. Such a candidate if accepted by the Uppadhya is called a Parivrajaka and has to remain in the service and tutelage of the Uppadhya.

27. After the period of tutelage ends it is his Uppadhya who has to propose the name of his student to a meeting of the Sangh specially called for the purpose for Upasampada and the student must request the Sangh for Upasampada.

28. The Sangh must be satisfied that he is a fit and a proper person to be made a Bhikkhu. For this purpose there is a set of questions which the candidate has to answer.

29. Only when the Sangh grants permission that Upasampada is granted and the person becomes a Bhikkhu.

30. The rules regulating entry into the Bhikkhuni Sangh are more or less the same as the rules regulating the entry into the Bhikkhu Sangh.

§ 3. *The Bhikkhu and His Vows*

1. A layman or a Shramanera takes precepts. His obligation is to follow them.

2. A Bhikkhu besides taking precepts takes them also as vows which he must not break. If he breaks them he becomes liable to punishment.

3. A Bhikkhu vows to remain celebate.

4. A Bhikkhu vows not to commit theft.

5. A Bhikkhu vows not to boast.

6. A Bhikkhu vows not to kill or take life.

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7. A Bhikkhu vows not to own anything except what the rules allow.

8. No Bhikkhu is to possess more than the following eight articles :—

(1) Three pieces of cloth to cover his body:

(i) lower garment called Antarvaska.

(ii) upper garment called Uttarasang.

(iii) covering garment against cold called Sanghati.

(2) A girdle for the loins.

(3) An alms-bowl.

(4) A razor.

(5) A needle.

(6) A water-strainer.

9. A Bhikkhu takes the vow of poverty. He must beg for his food. He must live on alms. He must sustain himself only on one meal a day. Where there is no Vihar built for the Sangh, he must live under a tree.

10. A Bhikkhu does not take a vow of obedience. Outward respect and courtesy to his superiors is expected from the novice. His own salvation and his usefulness as a teacher depend on his self-culture. He is to obey not his superior but the Dhamma. His superior has no supernatural gift of wisdom or of absolution. He must stand or fall by himself. For that he must have freedom of thought.

11. Any breach of a vow taken by a Bhikkhu results in an offence of Parajika. The punishment for Parajika is expulsion from the Sangh.

§ *4. The Bhikkhu and Ecclesiastical Offences*

1. Any breach of the vows taken by a Bhikkhu is an offence against the Dhamma.

2. In addition to these offences there were certain other offences to which he was also liable. They were called Sanghadisesa—ecclesiastical offences.

3. The list of such offences included in the Vinaya Pitaka are thirteen.

4. They are allied to the Parajika.

§ 5. *The Bhikkhu and Restraints*

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1. Besides sailing clear of offences a Bhikkhu must observe certain restrictions and cannot be as free as others.

2. One set of such restrictions are called NISSAGIYA-PACITTIYA. It contains 26 restrictions to be observed by the Bhikkhu.

3. They relate to accepting gifts of robes, woollen mats, bowl and medical requisites.

4. They also relate to the acceptance of gold and silver Engagement of a monk in buying and selling and appropriation of property given to the Sangh to himself.

5. The punishment for breach of these restrictions is restoration (nissagiya) and expression of repentance (pacittiya).

6. Besides these restrictions there are other restrictions which a Bhikkhu has to observe. They are called PACITTIYA. They number ninety-two.

§ 6. *The Bhikkhu and Good Conduct Rules*

1. A Bhikkhu must behave well. He should be a model person in his mode and manner of behaviour.

2. In order to secure this purpose the Blessed Lord framed a number of Good Conduct Rules.

3. These Good Conduct Rules were called Sekhiya Dhamma. They number seventy-five.

§ 7. *The Bhikkhu and the Trial of Offences*

1. The enactment of these acts and omissions were not a mere formality. They were legal in substance involving a definite charge, trial and punishment.

2. No Bhikkhu could be punished without a trial by a regularly constituted Court.

3. The Court was to be constituted by the Bhikkhus resident at the place where an offence had taken place.

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4. No trial could take place without a proper number of Bhikkhus required to constitute a Court.

5. No trial would be legal without a definite charge.

6. No trial could be legal if it did not take place in the presence of the accused.

7. No trial could be legal if the accused had not been given the fullest opportunity to defend himself.

8. The following punishments could be awarded against a guilty Bhikkhu:

(i) Tarjaniya Karma (warn and discharge).

(ii) Niyasha Karma (declaring insane).

(iii) Pravrajniya Karma (expulsion from the Sangh).

(iv) Utskhepniya Karma (boycott).

(v) Parivasa Karma (expulsion from Vihar).

9. Expulsion may be followed by ABBANA KARMA Abbana Karma means annulment of dismemberment. It may be followed after granting of Pardon granted by the Sangh after being satisfied with the proper performance of Parivasa Karma.

§ *8. The Bhikkhu and Confession*

1. The most original and unique institution created by the Blessed Lord in connection with the organization of the Bhikkhus was the introduction of Confession, called UPOSATH.

2. The Blessed Lord realized that it was possible to enforce what he had laid down as offences. But he had laid down certain restrictions which were not offences. He said that the restrictions were most intimately connected with building up of character and maintaining character; and that there was equal necessity to see that they were observed.

3. But the Lord could find no effective way of enforcing them. He therefore thought of Confession in open as a means of organizing the Bhikkhu's conscience and making it act as a sentinel to guard him against taking a wrong or false step.

4. The Confession was confined to the transgressions of restrictions (which were called Patimokha).

5. For a Confession there was to be a meeting of the Bhikkhus of a given locality. There were to be three such meetings in a fortnight, one each on CHATURDASHI, PANCHADASI and ASHATAMI. On that day the Bhikkhus may fast. That is why the day is also called UPOSATH.

6. At the meeting a Bhikkhu reads the restrictions one by one contained in the Patimokha. After reading a restriction he says to the assembled Bhikkhus, "I take it that none of you have transgressed this Rule, that is why you are silent." He says this three times. Then deals with the next restriction.

7. A similar Confessional meeting is required of the Bhikhhuni Sangh.

8. On a Confession a charge and trial may follow.

9. On a failure to Confess, any Bhikkhu may report a transgression if he was a witness to it and then a charge and trial may follow.

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PART II

The Bhikkhu—The Buddha's Conception of Him

1. Buddha's conception of what a Bhikkhu should be.
2. The Bhikkhu and the Ascetic.
3. The Bhikkhu and the Brahmin.
4. The Bhikkhu and the Upasaka.

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§ 1. *Buddha's Conception of What a Bhikkhu Should Be*

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1. The Buddha has himself told the Bhikkhus what he expected of them as Bhikkhus. This is what he has said.

2. "He who wishes to put on the yellow dress without having cleansed himself from sin, who disregards also temperance and truth, is unworthy of the yellow dress.

3. "But he who has cleansed himself from sin, is well grounded in all virtues, and endowed also with temperance and truth, he is indeed worthy of the yellow dress.

4. "A man is not a mendicant (Bhikkhu) simply because he asks others for alms; he who adopts the whole law is a Bhikkhu, not he who only begs.

5. "He who is above evil, who is chaste, who with care passes through the world, he indeed is called a Bhikkhu.

6. "Not only by discipline and vows, not only by much learning, not by entering into a trance not by sleeping alone, do I earn the happiness of release which no worldling can know. O Bhikkhu, he who has obtained the extinction of desires, has obtained confidence.

7. "The Bhikkhu who controls his mouth, who speaks wisely and calmly, who teaches the meaning of the law, his word is sweet.

8. "He who dwells in the law, delights in the law, meditates on the law, recollects the law, that Bhikkhu will never fall away from the true law.

9. "Let him not despise what he has received, nor ever envy others; a mendicant who envies others does not obtain peace of mind.

10. "A Bhikkhu who, though he receives little, does not despise what he has received, even the gods will praise him, if his life is pure, and if he is not slothful.

11. "He who never identifies himself with name

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and form, and does not grieve over what is no more, he indeed is called a Bhikkhu.

12. "The Bhikkhu who behaves with kindness, who is happy in the doctrine of Buddha, will reach Nibbana—happiness arising from the cessation of natural inclinations.

13. "O Bhikkhu, empty this boat! If emptied, it will go quickly, having cut off passion and hatred, thou wilt go to Nibbana.

14. "Cut off the five (fetters), leave the five, rise above the five. A Bhikkhu who has escaped from the five fetters, he is called Oghatinna, 'saved from the flood.'

15. "Meditate, O Bhikkhu, and be not heedless ! Do not direct thy thought to what gives pleasure.

16. "Without knowledge there is no meditation, without meditation there is no knowledge: he who has knowledge and meditation is near unto Nibbana.

17. "A Bhikkhu who has entered his empty house, and whose mind is tranquil, feels a more than human delight when he sees the Dhamma clearly.

18. "And this is the beginning here for a wise Bhikku; watchfulness over the senses, contentedness, restraint under the Dhamma; keep noble friends whose life is pure, and who are not slothful.

19. "Let him live on charity, let him be perfect in his duties; then in the fulness of delight he will make an end of suffering.

20. "Rouse thyself by thyself, examine thyself by thyself, thus self-protected and attentive wilt thou live happily, O Bhikkhu.

21. "For self is the lord of self, self is the refuge of self; therefore curb thyself as the merchant curbs a noble horse.

22. "A Bhikkhu (mendicant) who delights in earnestness, who looks with fear on thoughtlessness, moves about like fire, burning all his fetters, small or large.

23. "A Bhikkhu (mendicant) who delights in reflection, who looks with fear on thoughtlessness,

cannot fall away (from his perfect state)—he is close upon Nibbana."

24. The disciples of Gotama (Buddha) are always well awake, and their thoughts day and night are always set on Buddha.

25. The disciples of Gotama are always well awake and their thoughts day and night are always set on the church.

26. The disciples of Gotama are always well awake, and their thoughts day and night are always set on the Dhamma.

27. The disciples of Gotama are always well awake and their thoughts day and night are always set on their body.

28. The disciples of Gotama are always well awake, and their minds day and night always delight in compassion.

29. The disciples of Gotama are always well awake, and their minds day and night always delight in meditation.

30. It is hard to leave the world (to become a friar), it is hard to enjoy the world; hard is the monastery, painful are the houses; painful it is to dwell with equals (to share everything in common), and the itinerant mendicant is beset with pain.

31. A man full of faith, if endowed with virtue and glory, is respected, whatever place he may choose.

§ 2. *The Bhikkhu and the Ascetic*

1. Is the Bhikkhu an ascetic? The answer is in the negative.

2. This negative answer has been given by the Blessed Lord himself in a discussion with Nigrodha the wanderer.

3. The Exalted One was once staying near Rajagraha, on the Vulture's Peak. Now at that time there was sojourning in Queen Udumbarika's Park assigned to the wanderers, the wanderer Nigrodha, together with a great company of wanderers.

4. Now the Exalted One descending from the

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Vulture's Peak came to the Peacock's Feeding-Ground on the bank of the Sumagadba and there walked to and fro in the open air. Then Nigrodha saw him thus walking, and on seeing him he called his company to order, saying: "Be still, sirs, and make no noise. The Samana Gotama is by the bank of the Sumagadha." When he had said this the wanderers kept silence.

5. Then the Exalted One went up to Nigrodha the wanderer, and Nigrodha spake thus to him: "Let the Lord, the Exalted One, approach. Welcome is the Lord, the Exalted One! Long has the Lord, the Exalted One, taken ere deciding on this step of coming hither. May it please the Lord, the Exalted One, to take a seat. Here is one ready."

6. The Exalted One sat down on the seat made ready, and Nigrodha, taking a low seat, sat beside him.

7. Thereupon Nigrodha said to the Exalted One: "As the Samana Gotama has come to our assembly, we would like to ask him this question: 'What, Lord, is this religion of the Exalted One, wherein he trains his disciples, and which those disciples, so trained by the Exalted One as to win comfort, acknowledge to be their utmost support and the fundamental principles of righteousness ?' "

8. "Difficult is it, Nigrodha, for one of another view, of another persuasion, of another confession, without practice and without teaching, to understand that wherein I train my disciples, and which they, so trained as to win comfort, acknowledge to be their utmost support and the fundamental principle of righteousness.

9. "But ask me, Nigrodha, a question about your own doctrine, about austere scrupulousness of life: in what does the fulfilment, in what does the non-fulfilment of these self-mortifications consist?"

10. Then Nigrodha spake thus to the Exalted One: "We, Lord, profess self-mortifying austerities; we hold them to be essential; we cleave to them. In what does the fulfilment, in what does the non-fulfilment of them consist ?"

11. "Suppose, Nigrodha, that an ascetic goes

naked, is of certain loose habits, licks his hands, respects no approach, sir, nor stop, sir; accepts nothing expressly brought, nor expressly prepared, nor any invitations. He accepts nothing taken from mouth of cooking-pot, nor placed within the threshold, nor within a mortar, nor among sticks, nor within a quern; nor anything from two eating together, nor from a pregnant woman: nor from a nursing mother; nor from a woman in intercourse with a man; nor food collected in drought; nor from where a dog is; nor from where flies are swarming; nor will he accept fish or meat; nor drink strong drink, "nor intoxicants, nor gruel. He is either a one-houser, a one-mouthful man; or a two houser, a two-mouthful man; or a seven-houser, a seven-mouthful man. He maintains himself on one alms, on two, or on seven. He takes food once a day, or once every two days, or once every seven days. Thus does he dwell addicted to the practice of taking food according to rule, at regular intervals, upto even half a month. He feeds either on pot-herbs, or wild rice, or nivara seeds, or leather parings, or on hata, or on the powder in rice rusks, on rice-scum, on flour or oil-seeds, on grasses, on cowdung, or fruits and roots from the wood or on windfalls. He wears coarse hempen cloth, coarse mixture cloth, discarded corps-cloths, discarded rags, or tirita-bark cloth; or again he wears antelope-hide, or strips of the same netted, or kusa fibre, or bark garments, or shale cloth, or a human-hair blanket, or a horse-hair blanket, or an owl's-feather garment. He is a hair-and-beard plucker, addicted to the practice of plucking out both ; a stander-up; a croucher on heels, addicted to exerting himself (to move forward) when thus squatting; a bed-of-thorns man, putting iron spikes or thorns on his couch; he uses a plank-bed; sleeps on the ground; sleeps only on one side; is a dust-and-dirt wearer and an open-air man; a where-you-will sitter; a filth-eater, addicted to the practice of eating such; a non-drinker, addicted to the practice of drinking (cold water); and even-for-third-time-man.

12. "After having done this, Nigrodha," the

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Blessed Lord said, "What think you, Nigrodha? If these things be so, is the austerity of self-mortification carried out, or is it not ?" " Truly, Lord, if these things be so, the austerity of self-mortification is carried out."

13. "Now I, Nigrodha, affirm that austerity by self-mortification thus carried out, involves blemish in several ways."

14. "In what way, Lord, do you affirm that, blemish is involved ?"

15. "In case, Nigrodha, when an ascetic undertakes a course of austerity, he through that course, becomes self-complacent, his aim is satisfied. Now this, Nigrodha, becomes a blemish in the ascetic.

16. "And then again, Nigrodha, when an ascetic undertakes a course of austerity, he, through that undertaking exalts himself and despises others. This, too, becomes a blemish in the ascetic.

17. "And again, Nigrodha, when an ascetic undertakes a course of austerity, he, through that undertaking becomes inebriated and infatuated, and grows careless. This, too, becomes a blemish in the ascetic.

18. "And again, Nigrodha, when an ascetic undertakes a course of austerity, it procures for him gifts, attention and fame. Thereby he becomes complacent and his aim is satisfied. This, too, becomes a blemish in the ascetic.

19. "And again, Nigrodha, by the winning of gifts, attention and fame, the ascetic exalts himself and despises others. This, too, becomes a blemish in the ascetic.

20. "And again, Nigrodha, by the winning of gifts, attention and fame, he becomes inebriated and infatuated, and grows careless. This, too, becomes a blemish in the ascetic.

21. "And again, Nigrodha, when an ascetic undertakes a course of austerity, he comes to make a distinction in foods, saying: 'This suits me; this doesn't suit me. The latter kind he deliberately rejects. Over the former he waxes greedy and infatuated, and cleaves to them, seeing not the danger in them, discern-

ing them not as unsafe, and so enjoys them. This, too, becomes a blemish in the ascetic.

22. "And again, Nigrodha, because of his longing for gifts, attentions and fame, he thinks: 'Rajas will pay me attentions, and so will their officials; so too, will nobles, Brahmins, house-holders and founders of schools.' This, too, becomes a blemish in the ascetic.

23. "And again, Nigrodha, an asectic gets grumbling at some recluse or Brahmin, saying: ' That man lives on all sorts of things: things grown from tubers, or shoots, or berries, or joints, or fifthly, from seeds, munching them all up together with that wheelless thunderbolt of a jawbone—and they call him a holy man !' This, too becomes a blemish in the ascetic.

24. "And again, Nigrodha, an ascetic sees a certain recluse or Brahmin receiving attentions, being revered, honoured and presented with offerings by the citizens. And seeing this he thinks: 'The citizens pay attention to this fellow who lives in luxury; they revere and honour him, and present him with offerings, while to me who, as ascetic, lives a really austere life, they pay no attentions, nor reverence, nor honour, nor offerings.' And so he cherishes envy and grudging at the citizens. This, too, becomes a blemish in the ascetic.

25. "And again, Nigrodha, the ascetic affects the mysterious. When asked: 'Do you approve of this ?' He, not approving, says: 'I do,' or approving, says, 'I do not.'. Thus he consciously tells untruths. This, too, becomes a blemish in the ascetic.

26. "And again, Nigrodha, the ascetic is liable to lose his temper and bear enmity. This, too, becomes a blemish in the ascetic.

27. "And again, Nigrodha, the ascetic is liable to be hypocritical and deceitful, as well as envious and grudging; he becomes cunning and crafty, hard-hearted and vain, he entertains evil wishes and becomes captive to them; he entertains false opinions, becomes possessed of metempirical dogma; misinterprets his experience; is avaricious and adverse from renunciation. This, too, becomes a blemish in the ascetic.

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28. "What think you of this, Nigrodha? Are these things blemishes in the austerities of self-mortification, or are they not ?"

29. "Verily, Lord, these things are blemishes in the austerities of self-mortification. It is possible, Lord, that an ascetic may be possessed even of all these blemishes, much more by one or other of them."

30. The Bhikkhus are not to be guilty of these blemishes.

§ 3. *The Bhikkhu and the Brahmin*

1. Is the Bhikkhu the same as the Brahmin? The answer to this question is also in the negative.

2. The discussion of the subject has not been concentrated at any one place. It is scattered all over. But the points of distinction can be easily summed up.

3. A Brahmin is a priest. His main function is to perform certain ceremonies connected with birth, marriage and death.

4. These ceremonies become necessary because of the doctrines of original sin which requires ceremonies to wash it off, and because of the belief in God and in Soul.

5. For these ceremonies a priest is necessary. A Bhikkhu does not believe in original sin, in God and Soul. There are, therefore, no ceremonies to be performed. He is, therefore, not a priest.

6. A Brahmin is born. A Bhikkhu is made.

7. A Brahmin has a caste. A Bhikkhu has no caste.

8. Once a Brahmin always a Brahmin. No sin, no crime can unmake a Brahmin.

9. But once a Bhikkhu is not always a Bhikkhu. A Bhikkhu is made. So he can be unmade if by his conduct he makes himself unworthy of remaining a Bhikkhu.

10. No mental or moral training is necessary for being a Brahmin. All that is expected (only expected) of him is to know his religious lore.

11. Quite different is the case of the Bhikkhu, mental and moral training is his life-blood.

12. A Brahmin is free to acquire unlimited amount of property for himself. A Bhikkhu on the other hand cannot.

13. This is no small difference. Property is the severest limitation upon the mental and moral independence of man both in respect of thought and action. It produces a conflict between the two. That is why the Brahmin is always opposed to change. For, to him a change means loss of power and loss of pelf.

14. A Bhikkhu having no property is mentally and morally free. In his case there are no personal interests which can stand in the way of honesty and integrity.

15. They are Brahmins. Nonetheless each Brahmin is an individual by himself. There is no religious organization to which he is subordinate. A Brahmin is a law unto himself. They are bound by common interests which are material.

16. A Bhikkhu on the other hand is always a member of the Sangh. It is inconceivable that there could be a Bhikkhu without his being a member of the Sangh. A Bhikkhu is not a law unto himself. He is subordinate to the Sangh. The Sangh is a spiritual organization.

§ 4. *The Bhikkhu and the Upasaka*

1. In the Dhamma there is a marked distinction between the Dhamma of the Bhikku and the Dhamma of the Upasaka or the layman.

2. The Bhikkhu is bound to celibacy. Not so the Upasaka. He can marry.

3. The Bhikkhu can have no home. He can have no family. Not so the Upasaka. The Upasaka can have a home and can have a family.

4. The Bhikkhu is not to have any property. But an Upasaka can have property.

5. The Bhikkhu is forbidden from taking life. Not so the Upasaka. He may.

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6. The Panchasilas are common to both. But to the Bhikkhu they are vows. He cannot break them without incurring penalty. To the Upasaka they are precepts to be followed.

7. The Bhikkhu's observance of the Panchasilas is compulsory. Their observance by the Upasakas is voluntary.

8. Why did the Blessed Lord make such a distinction ? There must be some good reason for it. For the Blessed Lord would not do anything unless there was some good reason for it.

9. The reason for this distinction is nowhere explicitly stated by the Blessed Lord. It is left to be inferred. All the same it is necessary to know the reason for this distinction.

10. There is no doubt that the Blessed Lord wanted through his Dhamma to lay the foundation of a kingdom of righteousness on earth. That is why he preached his Dhamma to all without distinction, to Bhikkus as well as to laymen.

11. But the Blessed Lord also knew that merely preaching the Dhamma to the common men would not result in the creation of that ideal society based on righteousness.

12. An ideal must be practical and must be shown to be practicable. Then and then only people strive after it and try to realize it.

13. To create this striving it is necessary to have a picture of a society working on the basis of the ideal and thereby proving to the common man that the ideal was not impracticable but on the other hand realizable.

14. The Sangh is a model of a society realizing the Dhamma preached by the Blessed Lord.

15. This is the reason why the Blessed Lord made this distinction between the Bhikkhu and the Upasaka. The Bhikkhu was the torch-bearer of the Buddha's ideal society and the Upasaka was to follow the Bhikkhu as closely as he could.

16. There is also another question that requires an answer. What is the function of the Bhikkhu ?

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17. Is the Bhikkhu to devote himself to self-culture or is he to serve the people and guide them ?

18. He must discharge both the functions.

19. Without self-culture he is not fit to guide. Therefore he must himself be a perfect, best man, righteous man and an enlightened man. For this he must practice self-culture.

20. A Bhikkhu leaves his home. But he does not retire from the world. He leaves home so that he may have the freedom and the opportunity to serve those who are attached to their homes but whose life is full of sorrow, misery and unhappiness and who cannot help themselves.

21. Compassion which is the essence of the Dhamma requires that every one shall love and serve and the Bhikkhu is not exempt from it.

22. A Bhikkhu who is indifferent to the woes of mankind, however perfect in self-culture, is not at all a Bhikkhu. He may be something else but he is not a Bhikkhu.

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PART III

The Duties of the Bhikkhu

1. The Bhikkhu's Duty to Convert.
2. Conversion Not to be by Miracles.
3. Conversion Not to be by Force.
4. A Bhikkhu Must Fight to Spread Virtue (Dhamma).

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§ 1. The Bhikkhu' s Duty to Convert

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1. The news of the conversion of Yasa and his four friends to the Dhamma spread far and wide. The result was that lay persons belonging to the highest families in the country and to those next to the highest came to be instructed in the doctrine of the Blessed One and to take refuge in Him and in His Dhamma.

2. Many people were coming to Him to receive instruction in the-Dhamma. The Lord knew that it was difficult for Him personally to give instruction to each one. He also felt the necessity of organizing Parivrajakas whose number was swelling every day into a religious order which He called the Sangh.

3. He accordingly made the Parivrajakas the members of the Sangh and framed rules of discipline called VINAYA and made them binding upon the members of the Sangh.

4. The Blessed Lord later on laid down two stages to be undergone by a disciple before he became a Bhikkhu. First a disciple became a Parivrajaka and remained a Parivrajaka for a certain number of years attached to a Bhikkhu and remaining in training under him. After his training period was over he was allowed to take Upasampada if he satisfied a body of examiners that he was fit for it. It is only then that he was allowed to become a Bhikkhu and a member of the Sangh.

5. There was no time in the early stages of the Dhamma to make such arrangements. The Lord, therefore, made them Bhikkhus and sent them out as Missionaries to spread His religion to anywhere and everywhere.

6. And before sending them out the Blessed One said to the Bhikkhus: " I am delivered, O Bhikkhus, from all fetters, human and divine. You, O Bhikkhus, from all fetters, human and divine. Go ye row, and wander for the gain of the many, for the welfare of the many, out of compassion for the world; for the good, for the gain and for the welfare of gods and men.

7. "Let not two of you go the same way.

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Preach, Bhikkhus, the doctrine which is glorious in the beginning, glorious in the middle, glorious at the end, in the spirit and in the letter; proclaim a consummate, perfect and pure life of holiness.

8. "Go then through every country, convert those not yet converted; throughout the world that lies burnt up with sorrow, teach everywhere; (instruct) those lacking" right instruction;

9. "Go where there are great Rishis, royal Rishis, Brahman Rishis too, these all dwell there, influencing men according to their schools;

10. "Go, therefore, each one travelling by himself; filled with compassion, go ! rescue and receive."

11. The Blessed Lord also told them :

12. "That the gift of the Dhamma exceeds all gifts; the sweetness of the Dhamma exceeds all sweetness; the delight in the Dhamma exceeds all delights;

13. "The fields are damaged by weeds, mankind is damaged by passion: therefore a gift of Dhamma brings great reward.

14. "The fields are damaged by weeds, mankind is damaged by hatred: therefore a gift of Dhamma brings great reward.

15. "The fields are damaged by weeds; mankind is damaged by vanity: therefore the gift of Dhamma brings great reward.

16. "The fields are damaged by weeds, mankind is damaged by lust: therefore a gift of Dhamma brings great reward."

17. Then the sixty Bhikkhus receiving orders to carry on the mission to propagate the Dhamma went through every land.

18. The Lord gave them further instruction in the matter of conversions.

§ 2. *Conversion Not to be by Miracles*

1. The Exalted One was once staying among the Mallas, at Anapiya, one of their towns.

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2. Now the Exalted One, having robed himself, put on his cloak, and took his bowl, and entered the town for alms.

3. The Blessed One thought: "It is too early for me now to go through Anapiya for alms. I might go to the pleasance where Bhaggava, the wanderer dwells, and call upon him."

4. So the Exalted One went to the pleasance and to the place where Bhaggava, the wanderer was.

5. Then Bhaggava spake thus to the Exalted One: "Let my Lord, the Exalted One come near. Welcome to the Exalted One ! It is long since the Exalted One has taken the opportunity to come our way. May it please You, Sir, to be seated; here is a seat made ready."

6. The Exalted One sat down thereon, and Bhaggava taking a certain low stool, sat down beside him. So seated, Bhaggava, the wanderer spake thus to the Exalted One:

7. "Some days ago, Lord, Sunakkhatta of the Licchavis called on me and spake thus: ' I have now given up the Exalted One. Bhaggava. I am remaining no longer under him as my teacher.' Is the fact really so ?"

8. "It is just so, Bhaggava, as Sunakkhatta of the Licchavis said.

9. "Some days ago, Bhaggava, a good many days ago, Sunakkhatta, the Licchavi, came to call on me, and spake thus: ' Sir, I now give up the Exalted One, I will henceforth remain no longer under him as my teacher.' When he told me this, I said to him: ' But, now, Sunakkhatta, have I ever said to you: ' Come Sunakkhatta, live under me as my pupil ?'

10. " 'No, Sir, you have not,' replied Sunakkhatta.

11. "Or have you ever said to me: 'Sir, I would fain dwell under the Exalted One (as my teacher) ?'

12. " 'No. Sir, I have not,' said Sunakkhatta.

13. " 'But if I said not the one, and you said not the other, what are you and what am I that you talk of giving up ?'

14. " 'Well, but, Sir, the Exalted One works me

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no mystic wonders surpassing the power of ordinary men.'

15. "Why, now, Sunakkhatta, have I ever said to you 'Come, take me as your teacher, Sunakkhatta, and I will work for you mystic wonders surpassing the power of ordinary men ?'

16. " 'You have not, Sir.'

17. "Or have you ever said to me: ' Sir, I would fain take the Exalted One as my teacher for he will work for me mystic wonders beyond the powers of ordinary men ?'

18. " 'I have not, Sir.'

19. " 'But if I said not the one, and you said not the other, what are you and what am I, foolish man, that you talk of giving up ? What think you, Sunakkhatta?'

20. "Whether mystic wonders beyond the power of ordinary men are wrought, or whether they are not, is not the object for which I teach the Dhamma this: that it leads to the thorough destruction of ill for the doer thereof ?'

21. " 'Whether, Sir, they are wrought or not, that is indeed the object for which the .Norm is taught by the Exalted One.'

22. "But Bhaggava, Sunakkhatta went on saying to me, 'Sir, the Exalted One does not reveal to me the beginning of things.'

23. "Why now, Sunakkhatta, have I ever said to you: 'Come, Sunakkhatta, be my disciple and I will reveal to you the beginning of things?'

24. " 'Sir, you have not.'

25. "Or have you ever said to me: 'I will become the Exalted One's pupil, for he will reveal to me the beginning of things ?'

26. " 'Sir, I have not.'

27. " 'But if I have not said the one and you have not said the other, what are you and what am I, foolish man, that you talk of giving up on that account? What you, Sunakkhatta ? Whether the beginning of things be revealed, or whether it be not, is the object for which I teach the Dhamma this: that it leads to

the thorough destruction of ill for the doer thereof?'

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28. " 'Whether, Sir, they are revealed or not, that is indeed the object for which the Dhamma is taught by the Exalted One.'

29. " 'If then, Sunakkhatta, it matters not to that object whether the beginning of things be revealed, or whether it be not, of what use to you would it be to have the beginning of things revealed ?'

30. " 'In many ways have you, Sunakkhatta, spoken my praises among the Vajjins.'

31. " 'In many ways have you, Sunakkhatta, spoken the praises of the Dhamma among the Vajjins.'

32. " 'In many ways have you, Sunakkhatta, spoken the praises of the Order among the Vajjins.'

33. "I tell you, Sunakkhatta, I make known to you, that there will be those that shall say concerning you thus: 'Sunakkhatta of the Licchavis was not able to live the holy life under Gotama the recluse. And he, not being able to adhere to it, hath renounced the discipline and turned to lower things.'

34. "Thus, Bhaggava, did Sunakkhatta of the Licchavis, addressed by me, depart from this Doctrine and Discipline, as one doomed to disaster."

35. And soon after, leaving the Doctrine and Discipline of the Buddha, Sunakkhatta started telling people that there was nothing superhuman about the Buddha's ennobling gifts of knowledge and insight; that it was his own reasoning which had hammered out a doctrine of his own evolving and of his personal invention, such that whoso hears it preached for his good has only to act up to it to be guided to the utter ending of ill.

36. Although, Sunakkhatta was slandering the Buddha, what he was telling people was true. For, the Buddha never resorted to the superhuman or the miraculous in propagating his Doctrine.

§ *3. Conversion Not to be by Force*

1. The Blessed One was once going along the high road between Rajagraha and Nalanda with a great

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company of the brethren,—with about five hundred brethren. And Suppiya the mendicant, too, was going along the high road between Rajagraha and Nalanda with his disciple, the youth Brahmadatta.

2. Now, just then, Suppiya the mendicant was speaking in many ways in dispraise of the Buddha, in dispraise of the Doctrine, in dispraise of the Order. But young Brahmadatta, his pupil, gave utterance, in many ways, to praise of the Buddha, to praise of the Doctrine, to praise of the Order.

3. Thus they two, teacher and pupil, holding opinions in direct contradiction one to the other, were following, step by step, after the Blessed One and the company of the brethren.

4. Now the Blessed One put up at the royal rest-house in the Ambalatthika pleasance to pass the night, and with him the company of the brethren. And so also did Suppiya the mendicant, and with him his young disciple Brahmadatta. And there, at the rest-house, these two carried on the same discussion as before.

5. And in the early dawn a number of the brethren, assembled, as they rose up, in the pavilion; and the subject of the talk that sprang up among them was the conversation between Suppiya and Bramhadatta.

6. Now the Blessed One, on realising what was the drift of their talk, went to the pavilion, and took his seat on the mat spread out for him. And when he had sat down he said: "What is the talk on which you are engaged sitting here, and what is the subject of the conversation between you ?" And they told him all. And he said:

7. "Brethren, if outsiders should speak against me or against the Doctrine, or against the Order, you should not on that account either bear malice, or suffer heart-burning, or feel ill-will.

8. "If you, on that account, should be angry and hurt, that would stand in the way of your own self-conquest. If, when others speak against us, you feel angry at that, and displeased, would you then be able

to judge how far that speech of their's is well said or ill ?"

9. "That would not be so, Sir."

10. "But when outsiders speak in dispraise of me, or of the Doctrine, or of the Order, you should unravel what is false and point it out as wrong, saying: ' For this or that reason this is not the fact, that is not so, such a thing is not found among us, is not in us.'

11. "But also, brethren, outsiders may speak in praise of me, in praise of the Doctrine, in praise of the Order. What are the things when they would say praising me you would say ?

12. "He may say 'Putting away the killing of living things, Gotama the recluse holds aloof from the destruction of life. He has laid the cudgel and the sword aside, and ashamed of roughness, and full of mercy, he dwells compassionate and kind to all creatures that have life.' It is thus that the unconverted man, when speaking in praise of the Tathagata, might speak.

13. "Or he might say: ' Putting away the taking of what has not been given, Gotama the recluse lived aloof from grasping what is not his own. He takes only what is given, and expecting that gifts will come. He passes his life in honesty and purity of heart.'

14. "Or he might say: 'Putting away unchastity, Gotama the recluse is chaste. He holds himself aloof, far off, from the vulgar practice, from the sexual act.'

15. "Or he might say: 'Putting away lying words, Gotama the recluse holds himself aloof from falsehood. He speaks truth, from the truth he never swerves; faithful and trustworthy, he breaks not his word to the world."

16. "Or he might say: 'Putting away slander, Gotama the recluse holds himself aloof from calumny. What he hears here he repeats not elsewhere to raise a quarrel against the people here; what he hears elsewhere he repeats not here to raise a quarrel against the people there. Thus does he live as a binder together of those who are divided, an encourager of those who are

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friends, a peacemaker, a lover of peace, impassioned for peace, a speaker of words that make for peace.'

17. "Or he might say: 'Putting away rudeness of speech, Gotama the recluse holds himself aloof from harsh language. Whatsover word is blameless, pleasant to the ear, lovely, reaching to the heart, urbane, pleasing to the people, beloved of the people— such are words he speaks.'

18. "Or he might say : ' Putting away frivolous talk, Gotama the recluse holds himself aloof from vain conversation. In season he speaks, in accordance with the facts, words full of meaning, on religion, on the discipline of the Order. He speaks, and at the right time, words worthy to be laid up in one's heart, fitly illustrated, clearly divided, to the point.'

19. "Or he might say: 'Gotama the recluse holds himself aloof from causing injury to seeds or plants.

'He takes but one meal a day, no eating at night, refraining from food after hours (after midday).

'He refrains from being a spectator at shows, at fairs, with nautch dances, singing, and music.

'He abstains from wearing, adorning or ornamenting himself, with garlands, scents, and unguents.

He abstains from the use of large and lofty beds.

'He abstains from accepting silver or gold.

'He abstains from accepting uncooked grain.

'He abstains from accepting women or girls.

'He abstains from accepting bond-men or bondwomen.

'He abstains from accepting sheep or goats.

'He abstains from accepting fowls or swine.

'He abstains from accepting elephants, cattle, horses and mares.

'He abstains from accepting cultivated fields or waste.

'He abstains from acting as a go-between or messenger.

'He abstains from buying and selling.

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'He abstains from cheating with scales or bronzes or measures.

'He abstains from the crooked ways of bribery, cheating and fraud.

'He abstains from maiming, murder, putting in bonds, highway robbery, dacoity and violence.'

20. "Such are the things, brethren, which an unconverted man, when speaking in praise of the Tathagata, might say. But you should not even on that account, be filled with pleasure or gladness, or be lifted up in heart. Were you to be so, that also would stand in the way of your self-conquest. When outsiders speak in praise of me, or of the Doctrine, or of the Order, you should acknowledge what is right to be the fact, saying: 'For this or that reason this is the fact, that is so, such a thing is found among us, is in us.' "

§ *4. A Bhikkhu Must Fight to Spread Virtue (Dhamma)*

1. Addressing the Bhikkhus the Lord once said:

2. "It is not I,O disciples, that quarrel with the world," said the Lord, " but the world that quarrels with me. A teacher of the truth does not quarrel with anyone in the world."

3. "Warriors, warriors, Lord, we call ourselves. In what way then are we warriors ?"

4. "We wage war, O disciples, therefore we are called warriors."

5. "Wherefore, Lord, do we wage war?"

6. "For lofty virtues, for high endeavour, for sublime wisdom—for these things do we wage war: therefore we are called warriors."

7. Where virtue is in danger do not avoid fighting, do not be mealy-mouthed.

PART IV

The Bhikkhu and the Laity

1. The Bond of Alms.
2. Mutual Influence.
3. Dhamma of the Bhikkhu and the Dhamma of the Upasaka.

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§ 1. The Bond of Alms

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1. The Sangh was an organized body the membership of which was not open to all.

2. To be a mere Parivrajaka was not enough to give the Parivrajaka a membership of the Sangh.

3. It is only after the Parivrajaka had obtained Upasampada that he could become a member of the Sangh.

4. The Sangh was an independent body. It was independent even of its founder.

5. It was autonomous. It could admit anyone it liked to its membership. It could dismember any member provided it acted in accordance with the rules of the Vinaya Pitaka.

6. The only cord which bound the Bhikkhu to the Laity was alms.

7. The Bhikkhu depended upon alms and it is the laity who gave alms.

8. The laity was not organized.

9. There was a Sangha-Diksha or a ceremony for marking the initiation of a person in the Sangh.

10. Sangha-Diksha included both initiation into the Sangh as well as into the Dhamma.

11. But there was no separate Dhamma-Diksha for those who wanted to be initiated into the Dhamma but did not wish to become members of the Sangh, one of the consequences of which was to go from home into homelessness.

12. This was a grave omission. It was one of the causes which ultimately led to the downfall of Buddhism in India.

13. For, this absence of the initiation ceremony left the laity free to wander from one religion to another and, worse still, follow at one and the same time.

§ 2. Mutual Influence

1. However, the bond of alms was enough for a Bhikkhu to reform an erring member of the laity.

2. In this connection the following rules mentioned in the Anguttara Nikaya are worthy of attention.

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3. In addition to these prescriptions, the laity had a general right to complain against a Bhikkhu to other Bhikkhus, against any mischief or misconduct.

4. The moment the complaint reached the Buddha and he had verified it, the relevant rule in the Vinaya Pithaka was amended to make the repetition of such a conduct, an offence against the Sangh.

5. The Vinaya Pithaka is nothing but redress of the complaints of the laity.

6. Such was the relation between the Bhikkhu and the Laity.

§ 3. *Dhamma of the Bhikkhu and the Dhamma of the Upasaka*

1. Some critics of Buddhism allege that Buddhism is not a religion.

2. No attention should be paid to such criticism. But if any reply is to be given, it is that Buddhism is the only real religion and those who do not accept this must revise their definition of Religion.

3. Other critics do not go so far as this. What they say is that Buddhism as a religion is concerned only with the Bhikkhu. It does not concern itself with the common man. Buddhism kept the common man outside its pale.

4. The references to the Bhikkhu occur so often in the dialogues of the Buddha that they go to strengthen the criticism.

5. It, therefore, becomes necessary to make the matter clear.

6. Was the Dhamma common to both? Or is there any part of the Dhamma which is binding on the Bhikkhu but not so on the laity ?

7. Merely because the sermons were addressed to the gathering of the Bhikkhus it must not be supposed that what was preached was intended to apply to them only. What was preached applied to both.

8. That the Buddha had the laity in mind when he preached: (1) The Panchasila, (2) The Ashtanga

Marga, and (3) The Paramitas, is quite clear from the very nature of things and no argument, really speaking, is necessary.

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9. It is those who have not left their homes and who are engaged in active life that Panchasila, Ashtanga Marga, and Paramitas are essential. It is they who are likely to transgress them and not the Bhikkhu who has left home, who is not engaged in active life and who is not likely to transgress them.

10. When the Buddha, therefore, started preaching his Dhamma it must be principally for the laity.

11. It is not, however, necessary to rely merely on inference. There is direct evidence to disprove the criticism.

12. Reference may be made to the following sermon.

13. Once while the Lord was staying at Shravasti in Jeta's Grove in Anathapindika's pleasance, there came to him the lay follower Dhammika, with other five hundred lay followers, who after due salutations, took his seat to one side and addressed the Lord as follows :

14. "What conduct, Oh Lord, perfects, both those that are Bhikkhus and those that are only Upasakas, i.e., those who are homeless and those who are not.

15. "Let the almsmen seated round with these lay followers learn the saving truth."

16. The Blessed Lord said: "Give ear, almsmen. Hear, and keep the rules prescribed.

17. "Go not thy round when noon is past; be time seek alms. Snares greet the untimely guest.

18. "Before thou seek thy meal, clear thou thy mind of zest for forms, sounds, odours, taste and luck.

19. "Thine alms received, return alone, to sit apart and think, with fixed mind that never stays abroad.

20. "In talk with pious folk, almsmen, let thy theme be the Doctrine.

21. "Treat alms, cell, bed, water and rinsings just as means and nothing more.

22. "Such reasoned use will leave an almsman

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as unstained as lotus leaf whereon no drop of water rests.

23. "I now pass to the conduct which perfects the lay followers. To them I say:

24. "Slay not, nor doom to death, nor sanction slaughter. Do no violence to aught that lives, strong or weak. Love all living beings.

25. "No layman wittingly should thieve or order theft ; take but what others give.

26. "Shun incontinence as it were a pit of fire, on failing continence, debauch no wedded wife.

27. "In conclaves, courts, let him not be, let him not prompt or sanction lies; let him renounce untruth.

28. "Observe this law : Shun drink, make no man drink ; sanction no drinking. Mark how drink to madness leads.

29. "Through drink, fools sin, and egg lax brethren on to sin. So flee this maddening vice, this folly, bliss of fools.

30. "Slay not, steal not, lie not ; from strong drink keep away ; refrain from lechery.

31. "So make thy sabbath vows as week succeeds week, and keep with pious hearts this eight-fold festival.

32. "At morn, these vows performed, with pious, thankful heart, be wise and of thy means give almsmen food and drink.

33. "Cherish thy parents well; follow a righteous trade.

34. "Thus shall the layman, staunch, reach realms of light above."

35. It will thus be seen that the Dhamma was the same for both.

36. There are of course differences in the call made upon the two.

37. A Bhikkhu must take five vows.

38. He must take the vow that he shall not kill.

39. He must take the vow that he shall not appropriate to himself property of another which has not been given to him.

40. He must take the vow that he shall never tell a lie.

41. He must take the vow that he shall not try to have carnal knowledge of a woman.

42. He must take the vow that he shall never drink any intoxicating drink.

43. All these rules are binding also upon the layman.

44. The only difference lies in this. With the Bhikkhu they are vows which are not to be transgressed, with the layman they are moral obligations to be voluntarily honoured.

45. Besides, there are two other differences which are noteworthy.

46. A Bhikkhu cannot have private property. A layman can have.

47. A Bhikkhu is free to enter parnibban. Nibbana is enough for a layman.

48. These are the similarities and differences between a Bhikkhu and the layman.

49. Dhamma, however, is the same for both.

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PART V

Vinaya for the Laity

1. Vinaya for the Wealthy.
2. Vinaya for the Householder.
3. Vinaya for Children.
4. Vinaya for Pupil.
5. Vinaya for Husband and Wife.
6. Vinaya for Master and Servant.
7. Conclusions.
8. Vinaya for Girls.

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§ 1. *Vinaya for the Wealthy*

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1. The Blessed Lord did not elevate poverty by calling it a blessed state of life.

2. Nor did he tell the poor that they may remain content for they will inherit the earth.

3. On the contrary, he said riches are welcome. What he insisted upon is that the acquisition of riches must be subject to Vinaya.

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1. Once Anathapindika came to where the Exalted One was. Having come, he made obeisance to the Exalted One and took a seat at one side and asked, "Will the Enlightened One tell what things are welcome, pleasant, agreeable, to the householder but which are hard to gain."

2. The Enlightened One having heard the question put to him said,—"Of such things the first is to acquire wealth lawfully.

3. "The second is to see that your relations also get their wealth lawfully.

4. "The third is to live long and reach great age.

5. "For a true householder for the attainment of these three things, which in the world are welcome, pleasant, agreeable but hard to gain, there are also four conditions precedent. They are the blessing of faith, the blessing of virtuous conduct, the blessing of liberality and the blessing of wisdom.

6. "The blessing of faith and belief consist in the supreme knowledge of the Tathagata which teaches ' This is He, the Exalted One, the Holy One, the Supremely Awakened One, the perfect in Knowledge and in Conduct, the Auspicious, the Knower of all the worlds, the Incomparable Trainer of men, the Teacher of Devas and men.

7. "The blessing of virtuous conduct which abstains from taking life, thieving, unchastity, lying and partaking of fermented liquor.

8. "The blessing of liberality consists in the

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householder living with mind freed from the taint of avarice, generous, open-handed, delighting in gifts, a good one to be asked and devoted to the distribution of gifts.

9. "Wherein consists the blessing of Wisdom? Ye know that a householder who dwells with mind overcome by greed, avarice, ill-will, sloth, drowsiness, distraction and flurry, commits wrongful deeds and neglects that which ought to be done, and by so doing is deprived of happiness and honour.

10. "Greed, avarice, ill-will, sloth and drowsiness, distraction and flurry and doubt are stains of the mind. A householder who gets rid of such stains of the mind acquires great wisdom, abundant wisdom, clear vision and perfect wisdom.

11. Thus, to acquire wealth legitimately and justly, earned by great industry, amassed by strength of the arm and gained by sweat (of the brow) is a great blessing. The householder makes himself happy and cheerful and preserves himself full of happiness; also make parents, wife and children, servants and labourers, friends and companions happy and cheerful, and preserves them full of happiness."

§ 2. *Vinaya for the Householder*

On this matter the Buddha's thoughts are embodied in his discourse with Sigala.

1. At one time the Exalted One was in the Squirrels' Feeding-ground in Velu Vana in Rajagraha.

2. Now at this time young Sigala, a householder's son, rising betimes, went forth from Rajagraha, and with wet hair and wet garments and clasped hands uplifted, paid worship to the several quarters of earth and sky—to the east, south, west and north, to the nadir and the zenith.

3. And the Exalted One early that morning dressed himself, took his bowl and robe and entered Rajagraha seeking alms. He saw young Sigala worshipping and asked him, " Why do you worship the several quarters of earth and sky?"

4. "My father, when he was dying, said to me: 'Dear son, you should worship the quarters of earth and sky. So I, sir, honouring my father's word worship in this wise.'"

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5. "But how can this be the true religion of a man of the world" asked the Blessed One. " What else can be the religion of man," replied Sigala. " If there is, it would be an excellent thing if the Exalted One would tell me what it is."

6. "Hear then young householder, give ear to my words and I will tell you what it is." " So be it, Sir," responded young Sigala. And the Exalted One said:

7. "A religion to be a religion of man must teach him to shun bad conduct. The destruction of life, the taking of what is not given, licentiousness and lying speech are the four vices, of conduct which he must avoid.

8. "Know ye, Sigala, evil deeds are done from motives of partiality, enmity, stupidity and fear. If he is not led away by these motives, he will do no evil deed.

9. "A religion to be religion of man must teach him not to dissipate his wealth. Dissipation of wealth results from being addicted to intoxicating liquors, frequenting the streets at unseemly hours, haunting fairs, being infatuated by gambling, associating with evil companions, the habit of idleness.

10. "There are, Sigala, six dangers which follow from being addicted to intoxicating liquors, actual loss of wealth, increase of quarrels, susceptibility to disease, loss of good character, indecent exposure, impaired intelligence.

11. "Six are the perils from frequenting the streets at unseemly hours: he himself is without guard or protection and so also are his wife and children, so also is his property, he, moreover, becomes suspected as the doer of undiscovered crimes, and false rumours fix on him, and many are the troubles he goes out to meet.

12. "Six are the perils from the haunting of fairs:

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he is ever thinking where is there dancing ? Where is there singing ? where is there music ? where is recitation ? where are the cymbals ? where the tam-tams ?

13. "Six are the perils for him who is infatuated with gambling : as winner he begets hatred, when beaten he mourns his lost wealth, his actual substance is wasted, his word has no weight in a court of law, he is despised by friends and officials, he is not sought after by those who would give or take in marriage, for they would say that a man who is a gambler cannot afford to keep a wife.

14. "Six are the perils from associating with evil companions : any gambler, any libertine, any tippler, any cheat, any swindler, any man of violence is his friend and companion.

15. "Six are the perils of the habit of idleness : he says it is too cold and does no work, he says it is too hot and does no work, he says it is too early or too late and does no work, he says I am too hungry and does no work, he says I am too full and does no work. And while all that he should do remains undone, new wealth he does not get, and such wealth as he has dwindles away.

16. "A religion to be a religion of man must teach him to know who is a true friend.

17. "Four are they who should be reckoned as foes in the likeness of friends ; to wit, a rapacious person, the man of words not deeds, the flatterer, and the fellow-waster.

18. "Of these the first is to be reckoned as a foe in the likeness of a friend: for, he is rapacious, he gives little and asks much ; he does his duty out of fear, he pursues his own interests.

19. "A man of words who is not a man of deeds is to be reckoned as a foe in the likeness of a friend : For, he makes a friendly profession as regards the past, he makes friendly profession as regards the future, he tries to gain your favour by empty sayings, when the opportunity for service has arisen he avows his disability.

20. "The flatterer is to be reckoned as a foe

in the likeness of a friend: for, he both consents to do wrong, and dissents from doing right ; he praises to your face ; he speaks ill of you to others.

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21. "So also the fellow-waster companion is to be reckoned as a foe in the likeness of a friend ; for, he is your companion when you frequent the streets at untimely hours, he is your companion when you haunt shows and fairs, he is your-companion when you are infatuated with gambling.

22. "Four are the friends who should be reckoned as sound at heart: the helper ; the friend who is the same in happiness and adversity ; the friend of good counsel ; the friend who sympathises.

23. "The friend who is a helper is to be reckoned as sound at heart : because, he guards you when you are off your guard, he guards your property when you are off your guard, he is a refuge to you when you are afraid, when you have tasks to perform he provides a double supply of what you may need.

24. "The friend who is the same in happiness and adversity is to be reckoned as sound of heart: because, he tells you his secrets, he keeps secret your secrets, in your troubles he does not foresake you, he lays down even his life for your sake.

25. "The friend who declares what you need to do is sound of heart; because, he restrains you from doing wrong, he enjoins you to do what is right, he informs you of what you had not heard before, he reveals to you the way of heaven.

26. "The friend who sympathises is to be reckoned as sound at heart; because, he does not rejoice over your misfortunes, he rejoices over your prosperity, he restrains anyone who is speaking ill of you, he commends anyone who is praising you." Thus speaks the Exalted One.

27. "Instead of teaching him to worship the six quarters, a religion which is a religion of man must teach him to respect and revere his parents, his teachers, his wife and children, his friends and companions, his servants and workmen and his religious teachers."

§ 3. *Vinaya for Children*

1. "A child should minister to his parents saying: 'Once supported by them I will now be their support, I will perform duties incumbent on them; I will keep up the lineage and tradition of my family, I will make myself worthy of my heritage.' For, the parents show their love for him, they restrain him from vice, they exhort him to virtue, they train him to a profession, they contract a suitable marriage for him, and in due time they hand over his inheritance."

§ 4. *Vinaya for Pupil*

1. "A pupil should minister to his teachers by rising from his seat, in salutation by waiting upon them, by eagerness to learn, by personal service, and by attention when receiving their teaching. For, teachers love their pupil, they train him in that wherein he has been well trained, they make him hold fast that which is well held, they thoroughly instruct him in the lore of every art, they speak well of him among his friends and companions. They provide for his safety in every quarter."

§ 5. *Vinaya for Husband and Wife*

1. ' "A husband should minister to his wife by showing respect, by courtesy, by faithfulness, by handing over authority to her, by providing her with adornment. For, the wife loves him, her duties are well performed, by hospitality to the kin of both, by faithfulness, by watching over the goods he brings, and by skill and industry in discharging all her business.

2. "A clansman should minister to his friends and companions by generosity, courtesy and benevolence, by treating them as he treats himself, and by being as good as his word. For, his friends and familiars love him, they protect him when he is off his guard, and on such occasion guard his property, they

become a refuge in danger, they do not forsake him in his trouble and they show consideration for his family."

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§ 6. *Vinaya for Master and Servant*

1. "A master should minister to his servants and employees by assigning them work according to their strength, by supplying them with food and wages, by tending them in sickness, by sharing with them unusual delicacies, by granting leave at times. For, servants and employees love their master, they rise before him, they lie down to rest after him, they are content with what is given to them, they do their work well, and they carry about his praise and good fame.

2. "A clansman should minister to religious teachers by affection in act and speech and mind, by keeping open house to them, by supplying their temporal needs. For, religious teachers restrain him from evil, they exhort him to good, they love him with kindly thoughts, they teach him what he had not heard, they correct and purify what he has heard."

§ 7. *Conclusions*

1. When the Exalted One had thus spoken Sigala, the young householder said this: "Beautiful, Lord, beautiful! As if one should set up again that which had been overthrown, or reveal that which had been hidden, or should disclose the road to one that was astray, or should carry a lamp into darkness, saying: They that have eyes will see ! Even so hath the Truth been manifested by the Exalted One in many ways.

2. "And I, even I, do go to him as my refuge, and to the Truth and to the Order. May the Exalted One receive me as his lay-disciple, as one who has taken his refuge in him from this day forth as long as life endures."

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§ 8. *Vinaya for Girls*

1. Once the Exalted One dwelt near Bhaddiya in Jatiya Wood; and there Uggaha, Mendaka's grandson, paid him a visit and, after saluting, sat down at one side. So seated, he said to the Exalted One:

2. " Lord let the Exalted One accept a meal at my house tomorrow, he as fourth (with us three)."

3. The Exalted One accepted by his silence.

4. Then Uggaha, seeing the Exalted One had accepted, rose from his seat, saluted, and took his leave, keeping the Exalted One on his right.

5. Now when the night was over, the Exalted One, robing himself in the morning, took his bowl and cloak and went to Uggaha's house, and there sat down on the seat made ready. And Uggaha served with his own hand and satisfied the Exalted One with plenty of food.

6. And when the Exalted One had removed his hand from his bowl, he sat down at one side. Thus seated, he said:

7. " Lord, these girls of-mine will be going to their husbands' families; Lord, let the Exalted One counsel them, let the Exalted One advise them, for their good and happiness for many a day !"

8. Then the Exalted One spoke to them and said: "Wherefor, girls, train yourselves in this way: 'To whatsoever husband our parents shall give us—wishing our weal, seeking our happiness, compassionate—because of compassion for him we will rise up early, be the last to retire, be willing workers, order all things sweetly and be gentle voiced. Train yourselves thus, girls.'

9. " And in this way also, girls: 'We will honour, revere, esteem and respect all who are our husband's relatives, whether mother or father, recluse or godly man, and on their arrival will offer them a seat and water. Train yourselves thus, girls.'

10. "And in this way also girls: 'We will be deft and nimble at our husband's home-crafts, whether they be of wool or cotton, making it our business to

understand the work so as to do and get it done. Train yourselves thus, girls.

11. "And in this way also, girls: ' Messengers and workfolk we will know the work of each by what has been done, their remissness, by what has not been done; we will know the strength and the weakness of the sick; we will divide the hard and soft food, each according to his share. Train yourselves thus, girls.'

12. "And in this way also, girls: 'The money, corn, silver and gold that our husband brings home, we will keep safe, watch and ward over it, and act as no robber, thief, carouser, wastrel therein. Train yourselves thus, girls.' "

13. On hearing this advice, the daughters of Uggaha felt exceedingly happy and were grateful to the Lord.

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BOOK VI

He and His Contemporaries

Part I—His Benefactors.
Part II—His Enemies.
Part III—Critics of His Doctrines.
Part IV—Friends and Admirers.

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PART I

His Benefactors

1. Gift from Bimbisara.
2. Gift from Anathapindika.
3. Gift from Jeevaka.
4. Gift from Ambrapali.
5. Munificence of Vishakha.

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§ 1. Gift from King Bimbisara

1. King Bimbisara was not merely a follower of the Blessed Lord: he was also a great devotee and a great supporter of his Dhamma.

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2. After his becoming a lay disciple Bimbisara asked: "Might the Blessed Lord consent to take his meal with me tomorrow together with the fraternity of the monks?"

3. The Blessed One expressed his consent by remaining silent.

4. Then King Bimbisara, when he understood that the Blessed One had accepted his invitation, rose from his seat, respectfully saluted the Blessed One, and, passing round him with his right side towards him, went away.

5. And when the night had elapsed, Bimbisara ordered excellent food to be prepared, and at time announced to the Blessed One in the words: " It is time, Lord, the meal is ready."

6. And in the forenoon the Blessed One, having put on his under-robe, took his alms-bowl, and with his robe on, entered the city of Rajagraha accompanied by monks who had all been Jatilas before.

7. And the Blessed One went to the palace of King Bimbisara. Having gone there, he sat down with the monks who followed him, on seats laid out for them. Then King Bimbisara with his own hands served the fraternity of monks with the Buddha at its head; and when the Blessed One had finished his meal and cleaned his bowl and his hands, he sat down near him.

8. Sitting near him King Bimbisara thought: "Where may I find a place for the Blessed One to live in, not too far from the village and not too near, suitable for going and coming, easily accessible for people who keep on seeking him, by day not too

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crowded, where there is little sound, little noise by night, sequestered, hidden from men, well fitted for a retired life ?"

9. And King Bimbisara thought: " There is the Veluvana, my pleasure garden, which is not too far from the town and not too near, suitable for going and coming. What if I were to make an offering of the Veluvana pleasure garden to the fraternity of monks, with the Buddha at its head?"

10. And King Bimbisara took a golden vessel with water in it, to be poured over the Buddha's hand; and made a gift to the Blessed One, saying, "I give this Veluvana pleasure garden, Lord, to the fraternity of monks with the Buddha at its head." The Blessed One accepted the park.

11. Then the Blessed One, after having taught, incited, animated, and gladdened King Bimbisara by religious discourse, rose from his seat and went away.

12. And in consequence of this event the Blessed One, after having delivered a religious discourse, addressed the monks: ' I allow you monks, to receive this donation of a park."

§ 2. *Gift from Anathapindika*

1. After his conversion Anathapindika once went to the Blessed Lord. Taking his seat on his right side, he said:

2. "The Lord knows that I dwell in Shravasti, a land rich in produce, and enjoying peace; Pasendi is the great king thereof.

3. "Now am I wishful to found a Vihar there, I pray you, of your tenderness come to Shravasti and accept it from me."

4. The Blessed Lord kept silent and thereby showed his willingness to accept the gift.

5. Anathapindika, the friend of the destitute and the supporter of orphans, having returned home, saw the garden of the heir-apparent, Jeta, with its green groves and limpid rivulets, and thought: "This is the place which will be most suitable as a Vihara for

the fraternity of the Blessed One." And he went to the prince and asked leave to buy the ground.

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6. The prince was not inclined to sell the garden for he valued it highly. He at first refused but said at last: " If you can cover it with gold, then, and for no other price, shall you have it."

7. Anathapindika rejoiced and began to spread his gold; but Jeta said: "Spare yourself trouble for I will not sell." But Anathapindika insisted. Thus they differed and contended until they resorted to the magistrate.

8. Meanwhile the people began to talk of the unwonted proceeding and the prince hearing more of the details, and knowing that Anathapindika was not only very wealthy, but also straightforward and sincere, inquired into his plans. On hearing the name of the Blessed One, the prince became anxious to share in the foundation and he accepted only one-half of the gold, saying: " Yours is the land but mine are the trees. I will give the trees as my share of the offering to the Lord."

9. Having made the foundation, they began to build the hall which rose loftily in due proportions according to the directions which the Blessed One had given; and it was beautifully decorated with appropriate carvings.

10. This Vihara was called Jetavana and the friend of the orphans invited the Lord to come to Shravasti and receive the gift. And the Blessed One left Kapilavastu and came to Shravasti.

11. While the Blessed One entered Jetavana, Anathapindika scattered flowers and burned incense, and as a sign of the gift he poured water from a golden dragon pitcher, saying, "This Jetavana Vihara I give for the use of the brotherhood throughout the world."

12. The Blessed One received the gift and replied: " May all evil influences be overcome; may the offering promote the kingdom of righteousness and be a permanent blessing to mankind in general and especially also to the giver."

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13. Anathapindika was one of the eighty chief disciples who bore the title of Chief Almsgiver.

§ 3. *Gift from Jeevaka*

1. Jeevaka the physician visited the Blessed One twice a day whenever the Blessed One happened to be in Rajagraha.

2. Jeevaka found the Veluvana gifted away to the Blessed One by King Bimbisara too far away.

3. Jeevaka had his own park in Rajagraha, known as Ambavana, which was much nearer from his place.

4. He thought of building a Vihara with all its adjuncts and present the Ambavana and the Vihara to the Blessed One.

5. With this idea in his mind he approached the Blessed One and requested him to let him fulfil his wishes.

6. The Blessed Lord showed his acceptance by remaining silent.

§ *4. Gift from Ambrapali*

1. Now the Exalted One was staying at Nadika and was wishing for a change. He addressed Ananda, and said: " Come, Ananda, let us go on to Vesali."

2. "So be it, Lord," said Ananda, in assent, to the Exalted One.

3. Then the Exalted One proceeded, with a great company of the brethren, to Vesali, and there at Vesali, the Exalted One stayed at Ambrapali's grove.

4. Now the courtesan Ambrapali heard that the Exalted One had arrived at Vesali and was staying there at her mango grove. And ordering a number of state vehicles to be made ready, she mounted one of them, and went forth with her train from Vesali towards her garden. She went in the carriage as far as the ground was passable for carriages; there she alighted and she proceeded on foot to the place where the Exalted One was, and took her seat respectfully on one side. And when she was thus seated the

Exalted One instructed her with religious discourse.

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5. Then she addressed the Exalted One, and said: " May the Exalted One do me the honour of taking his meal, together with the brethren, at my house tomorrow ?"

6. And the Exalted One gave, by silence, his consent. Then when Ambrapali the courtesan saw that the Exalted One had consented, she rose from her seat and bowed down before him, and keeping him on her right hand as she passed him, she departed thence.

7. Now the Licchavis of Vesali heard that the Exalted One had arrived at Vesali, and was staying at Ambrapali's grove. They too wanted to invite the Buddha to their place for a meal. And ordering a number of state carriages to be made ready, they each mounted one of them and went forth with their train from Vesali.

8. They and Ambrapali crossed on the way.

9. And Ambrapali drove up against the young Licchavis, axle to axle, wheel to wheel, and yoke to yoke, and the Licchavis said to Ambrapali the courtesan, " How is it, Ambrapali, that thou drivest up against us thus ?"

10. " My Lords, I have just invited the Exalted One and his brethren for their morrow's meal," said Ambrapali.

11. "Ambrapali, sell this honour to us for a hundred thousand," said they.

12. " My Lords, were you to offer all Vesali with its subject territory, I would not give it up."

13. The Licchavis cast up their hands, exclaiming: "We are outdone by this mango girl. We are out-reached by this mango girl," and they went on to Ambrapali's grove.

14. Knowing that they were outdone they still thought of approaching the Blessed One in the hope that he might reconsider and give their invitation first preference. So they went on to Ambrapali's grove.

15. When the Exalted One saw the Licchavis approaching in the distance, he addressed the brethren

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and said: "Brethren, let those of the brethren who have never seen the devas, gaze upon this company of the Licchavis, behold this company of the Licchavis, compare this company of the Licchavis—for they are even a company of next-world devas."

16. And when they had ridden as far as the ground was passable for carriages the Licchavis alighted there, and then went on foot to the place where the Exalted One was, and took their seats respectfully by his side.

17. Then they addressed the Exalted One, and said : "May the Exalted One do us the honour of taking his meal, together with the brethren, at our house tomorrow ?"

18. " I have promised, Licchavis, to dine tomorrow with Ambrapali," was the reply.

19. Then the Licchavis knew that they had failed. And after expressing their thanks and approval of the words of the Exalted One, they rose from their seats and bowed down before the Exalted One, and keeping him on their right hand as they passed him, departed thence.

20. And at the end of the night Ambrapali the courtesan made ready in her mansion sweet rice and cakes, and announced the time to the Exalted One, saying: "The hour, Lord, has come, and the meal is ready."

21. And the Exalted One who had dressed himself early in the morning, took his bowl, and his robe and went with the brethren to the place where Ambrapali's mansion was ; and when he had come there he seated himself on the seat prepared for him. And Ambrapali, the courtesan, set the sweet rice and cakes before the order, with the Buddha at their head, and waited upon them till they refused any more.

22. And when the Blessed One had quite finished his meal and had cleansed the bowl and his hands, the courtesan had a low stool brought, and sat down at his side, and addressed the Exalted One, and said :

23. "Lord, I present my pleasance to you and to the order." And the Exalted One accepted the gift; and

after giving a religious discourse he rose from his seat and took her leave.

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§ 5. *Munificence of Vishakha*

1. Vishakha was a wealthy woman of Shravasti. She had many children and grandchildren.

2. When the Blessed One stayed at Shravasti, Vishakha went up to the place where the Blessed One was, and tendered Him an invitation to take his meal at her house, which the Blessed One accepted.

3. And heavy rain fell during the night and the next morning ; and the bhikkhus doffed their robes to keep themselves dry and let the rain fall upon their bodies.

4. When the next day the Blessed One had finished his meal, she took her seat at his side and spoke thus; " Eight are the boons, Lord, which I beg of the Blessed One."

5. Then the Blessed One said: " The Tathagatas, O Vishakha, grant no boons unless they know what they are."

6. Vishakha replied: "Proper, Lord, and unobjectionable are the boons I ask."

7. Having received permission to ask the boons, Vishakha said: " I desire, Lord, through all my life to bestow robes for the rainy season on the Sangha, and food for incoming bhikkhus, and food for outgoing bhikkhus and food for the sick, and food for those who wait upon the sick, and medicine for the sick, and a constant supply of rice-milk for the Sangha, and bathing robes for the bhikkhunis, the sisters."

8. " But," said the Lord, "What, O Vishakha, have you in view in asking these eight boons of the Tathagata ?"

9. And Vishakha replied: "I gave command, Lord, to my maid-servant, saying, ' Go thou and announce to the fraternity that the meal is ready,' and my maid went, but when she came to the vihara, she observed that the bhikkhus had doffed their robes, while it was raining, and she thought: ' These are not

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bhikkhus, but naked ascetics letting the rain fall on them.' So she returned to me and reported accordingly and I had to send her a second time.

10. "Impure, Lord, is nakedness, and revolting. It was this circumstance, Lord, that I had in view in desiring to provide the Sangha throughout my life with special garments for use in the rainy season.

11. "As to my second wish, Lord, an incoming bhikku, not being able to take the direct roads, and not knowing the places where food can be procured, comes on his way wearied out by seeking for alms. It was this circumstance, Lord, that I had in view in desiring to provide the Sangha throughout my life with food for incoming bhikkhus.

12. "Thirdly, Lord, an outgoing bhikkhu, while seeking about for alms, may be left behind, or may arrive too late at the place whither he desires to go, and will set out on the road in weariness.

13. "Fourthly, Lord, if a sick bhikkhu does not obtain suitable food, his sickness may increase upon him, and he may die.

14. "Fifthy, Lord, a bhikkhu who is waiting upon the sick will lose his opportunity of going out to seek food for himself.

15. "Sixthly, Lord, if a sick bhikkhu does not obtain suitable medicines, his sickness may increase upon him, and he may die.

16. "Seventhly, Lord, I have heard that the Blessed One has praised rice-milk, because it gives readiness of mind, dispels hunger and thirst; it is wholesome nourishment for the healthy and for the sick as a medicine. Therefore I desire to provide the Sangha throughout my life with constant supply of rice-milk.

17. "Finally, Lord, the bhikkhunis are in the habit of bathing in the river Archiravati with the courtesans, at the same landing-place, and naked. And the courtesans, Lord, ridicule the bhikkhunis, saying, 'What is the good, ladies, of your maintaining chastity when you are young? When you are old, maintain chastity then; thus will you be obtainers of

both ends.' Impure, Lord, is nakedness for a woman, disgusting, and revolting.

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18. "These are the circumstances, Lord, that I had in view."

19. The Blessed One said: " But what was the advantage you had in view for yourself, O Vishakha, in asking these eight boons of the Tathagatha ?"

20. Vishakha replied: " Bhikkhus who have spent the rainy season in various places will come, Lord, to Shravasti to visit the Blessed One. And on coming to the Blessed One they will ask, saying: ' Such and such a bhikkhu, Lord, has died. What, now, is his destiny ?' Then will the Blessed One explain that he has attained the fruits of conversion; that he has entered Nirvana or attained arhantship, as the case may be.

21. " And I, going up to them, shall ask, ' Was that brother, sirs, one of those who had formerly been at Shravasti,' then shall I arrive at the conclusion, 'For a certainty did that brother enjoy either the robes for the rainy season, or the food for the incoming bhikkhus, or the food for the outgoing bhikkhus, or the food for the sick, or the food for those that wait upon the sick, or the medicine for the sick, or the constant supply of rice-milk.'

22. "Then will gladness spring up within me; thus gladdend joy will come to me; and so rejoicing all my frame will be at peace. Being thus at peace I shall experience a blissful feeling of content; and in that bliss my heart will be at rest. That will be to me an exercise of my moral powers, an exercise of the seven kinds of wisdom ! This, Lord, was the advantage I had in view for myself in asking those eight boons of the Blessed One."

23. Then the Blessed One said: " It is well, it is well, Vishakha. Thou hast done well in asking these eight boons of the Tathagata with such advantage in view. Charity bestowed upon those who are worthy of it is like good seeds sown in good soil that yields an abundance of fruits. But alms given to those who are yet under the tyrannical yoke of the passions are like

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a seed deposited in bad soil. The passions of the receiver of the alms choke, as it were, the growth of merits."

24. And the Blessed One gave thanks to Vishakha in these verses ; " Whatsoever donation a woman upright in life, a disciple of the Blessed One, may bestow in gladness of heart and without stint, her gift is heavenly, destructive of sorrow, and productive of bliss." " A blissful life does she attain entering upon the path that is from corruption and impurity." "Aiming at good, happy does she become; and she rejoices in her charitable actions."

25. Vishakha gave to the Order the Purva-Aram or Eastern Garden, and was the first to become a matron of the lay-sisters.

PART II

His Enemies

1. Charge of Conversion by Glamour.
2. Charge of being a Parasite !
3. Charge of Breaking Happy Households.
4. Jains and a False Charge of Murder.
5. Jains and a False Charge of Immorality.
6. Devadatta a Cousin and an Enemy.
7. Brahmins and the Buddha.

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§ 1. *Charge of Conversion by Glamour*

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1. Once the Exalted One dwelt at Vesali, in the Gable-roofed Hall in the Great Wood. Now Bhaddiya the Licchavi came to the Exalted One and said: "Lord ! People say 'Gotama the recluse is a charmer and knows a trick of glamour, whereby he entices the followers of other sects.'

2. " They who say this disclaim any desire to misrepresent the Exalted One. Indeed, Lord, we Licchavis do not believe in this charge. But we would like to know what the Exalted One has to say about it."

3. The Lord said: "Come now, Bhaddiya, accept not on hearsay, nor by tradition, nor by what people say. Accept not because it is in the scriptures, by mere logic, nor by inference, nor by consideration of appearances, nor because it accords with your view, nor because you think it must be right, nor out of respect, with the thought that ' One must revere a recluse.'

4. "But, Bhaddiya, if at any time you know of yourself by examination of facts that what is being done is sinful or wrongful, that it is reproached by the wise and the result is loss or injury, then, Bhaddiya, eschew them.

5. "Now as to your question, Bhaddiya, what think you; Are not those who accuse me of performing conversion by glamour ambitious persons ?" " They are, Lord," replied Bhaddiya.

6. "What think ye, Bhaddiya; Does not an ambitious person, overcome by avarice and with mind overpowered, tell lies or commit crime to achieve his ambition ?" "It is so, Lord," replied Bhaddiya.

7. " What think you, Bhaddiya, when thoughts of ill-will and vindictiveness arise in the mind of such a person, does he not instigate others to level accusations against those who come in the way of his ambition?" "That is so Lord," said Bhaddiya.

8. "Now, Bhaddiya, all I do is to exhort my pupil thus: ' Come you, my dear man, dwell controlling

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(thoughts of) avarice. So dwelling you will not commit acts born of avarice, either by body, work or thought. Dwell controlling ill-will and ignorance.'

9. "So, Bhaddiya, those recluses and Brahmins, who wrongly reproach me with being a teacher and proclaimer of such views, are false, empty liars, when they say: ' The recluse Gautama is a charmer and knows a trick of glamour, whereby He entices the followers of other sects.' "

10. " A lucky thing indeed, O Lord—a fair find is this trick of glamour ! Lord would that my beloved blood-relations were enticed by this same trick of glamour ! It would indeed conduce to their advantage and happiness ! Lord, would that all the classes the Brahmins, the Khatiyas, the Vessas and the Suddas were enticed by this same trick of glamour, it would indeed conduce to their advantage and happiness for a long time."

11. " It is so, Bhaddiya ! It is so Bhaddiya ! If all the classes enticed by this trick of glamour, were to eschew sinful conditions, my trick would result in great advantage and happiness to the world."

§ 2. *Charge of Being a Parasite!*

1. The Blessed One was accused of being a parasite, living upon others and not earning his living by working for it. The accusation and the reply of the Blessed Lord is set out below :

2. Once the Lord was living among the Magadha folk at Dakkhina-giri in the Brahmin village of Eka-Nala, at a time when the Brahmin Kasi-Bharadvaja's five hundred ploughs were harnessed for the sowing.

3. In the morning early, duly robed and bowl in hand, the Lord went to where the Brahmin was busy, at an hour when a meal was brought forward; and stood there to one side.

4. Observing him standing there for alms, the Brahmin said: "Before I eat, I plough and sow, anchorite; and you too should plough and sow before you eat."

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5. "I too Brahmin, do plough and do sow before I eat."

6. "I fail, however, to see the worthy Gautama's yoke, or plough, or ploughshare, or goad, or ox-team —albeit, he asserts that he ploughs and sows before he eats.

7. "You claim to be a tiller, though we see none of your tillage. Tell us how you till; for of your tilling we would fain hear more."

8. "My seed is faith; austerity of life my rain; wisdom my yoke and plough; my pole is fear to err; with thought to strap the yoke; and mindfulness for plough share and the goad," replied the Lord.

9. "Watchful o'er word and deed, and temperate in diet, I make in sight weed my crop, nor rest till final bliss is harvested. Effort is my stout ox, which turns not back at headlands;—straight to Peace he bears me on, to that last bourne where anguish is no more. Thus, I till with Deathlessness for crop. And who tills as I, is freed from ills."

10. Thereupon the Brahmin served up milk-rice on a great bronze dish and offered it to the Lord, saying: "Eat this, Gautama, a tiller indeed art thou, in that thou tillest a crop that is Deathless."

11. But the Lord said: "I take no chanter's fee. Seers countenance it not; the Enlighten'd scout such fees; and while this Doctrine lasts, this practice must hold good. Provided with other fare a sage of holy calm, consummate, cankerless; merit to reap,— sow there."

12. On hearing these words the Brahmin went over to the Lord, and, bowing his head at the Lord's feet, cried: "Wonderful, Gautama; quite wonderful. Just as a man might set upright again what had fallen down, or reveal what had been hidden away, or tell a man who had fallen down, or reveal what had been hidden away, or tell a man who had gone astray which was his way, or bring a lamp into darkness so that those with eyes to see might see the things about them,—even so, in many ways has Gautama made his Doctrine clear!

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13 "To the reverend Gotama I come for refuge and to his Doctrine and to his community. Be it mine to receive admission and confirmation at the hands of the Lord!" So the Brahmin Kasi-Bharadvaja was admitted and confirmed as an almsman of the Lord.

§ 3. *Charge of Breaking Happy Households*

1. Seeing that many distinguished young Magadha noblemen had become the disciples of the Blessed One, people became annoyed and angry, saying: " The Samana Gautama causes parents to be childless; the Samana Gautama causes wives to become widows; the Samana Gautama causes the uprooting of families.

2. " Now he has ordained one thousand Jatilas, and he has ordained these two hundred and fifty wandering ascetics who were followers of Sanjaya, and these many distinguished young Magadha clansmen are now leading a holy life under the Samana Gautama. What will happen next ? No one can say!"

3. And, moreover, when they saw the monks they chide them in the following terms: " The great Samana has come to Giribhaja (i.e., Ragagaha) of the Magadha people, leading with him all the followers of Sanjaya ; who will be the next to be led by him ?"

4. The monks heard this accusation and they reported it to the Blessed One.

5. The Blessed One replied: "This noise, monks, will not last long; it will last only seven days; after seven days it will be over.

6. "And if they chide you, monks, you should reply that it is truly by a good Dhamma that the great heroes, the Tathagatas, lead. Who will murmur at the wise, why grudge the wise leading men righteously? There is no compulsion in my Dhamma. One is free to leave home. One is free to remain attached to his home."

7. When the Bhikkhus replied to the revilers as the Blessed One had directed, then the people under-

stood : " It is by Dhamma, and not unrighteously that the Sakyaputtiya Samana leads men"; and ceased to accuse the Blessed One.

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§ 4. *Jains and a False Charge of Murder*

1. The Tirthikas' were beginning to feel that the people no longer respected them with the appearance of Samana Gautama and that even some people did not know of their existence.

2. So, "let us see whether with the connivance of somebody, we can lower his prestige," thought the Tirthikas. " Perhaps with Sundari's help we might succeed."

3. And they approached Sundari and said to her: "Sister, you are extremely beautiful and charming. If you spread a scandal about Samana Gautama, the people might believe it, and it would lower his influence."

4. Sundari used to go every evening towards the Jetavana with garlands, camphor, and sweet scents when the people used to return to the city; and if anybody asked her, " Sundari, where are you going ? " she used to answer, "I am going to Samana Gautama to stay with in the garden house (Gandha Kutir)."

5. And staying the night in some gardens of the Tirthikas, she used to return in the morning, and if anybody asked her where she had spent the night, she would say that she had spent the night with Gautama.

6. After a few days the Tirthikas hired a few assassins and told them: "Kill Sundari and throw her body on the rubbish heap near Gautama's Gandha Kutir." This the assassins did.

7. Then the Tirthikas brought it to the notice of the officers of peace and justice that Sundari used to frequent Jetavana and she was missing.

8. So with the assistance of the officers they found Sundari's body on the rubbish heap.

9. And the Tirthikas accused the disciples of

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Gautama to have killed Sundari in order to hide the shame of their leader.

10. But the assassins began to quarrel amongst themselves in a liquor shop about the distribution of the prize money for having killed Sundari.

11. The officers at once arrested them and they admitted their guilt and implicated the Tirthikas at whose instigation they had committed the crime.

12. Thus the Tirthikas lost whatever influence was left for them.

§ 5. *Jains and a False Charge of Immorality*

1. As with the sunrise the glow-worms vanish, so miserable became the situation of the Tirthikas. The people ceased to pay them respects or presents.

2. Standing on the public streets they used to harangue : " If Samana Gautama is enlightened (Buddha), we are also. If you acquire virtue by showering presents on the Buddha, you will get the same by giving us presents. Therefore make gift to us."

3. But the public paid no heed to it. So they conspired in secret how by spreading scandal on the character of Samana Gautama, they could discredit the Sangha.

4. At that time there used to live in Shravasti a Brahmani Parivrajaka, known as Chincha. In bodily formation and physical charms she was a seductive beauty. She used to radiate voluptuous grace with her bodily movements.

5. One of the crafty schemers among the Tirthikas said that with the help of Chincha it would be easy to spread a scandal about Gautama, and thereby discredit him, to which other Tirthikas gave their consent.

6. Then, one day Chincha came to the park of the Tirthikas and saluting them, sat near them. But nobody talked with her.

7. Surprised at this she said : "How have I

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offended you ? I have saluted you thrice though you do not say a single word to me."

8. "Sister," the Tirthikas said, "Don't you know that Samana Gautama is causing us harm and loss by his popularity." " I do not know that. And have I got any duty to perform toward its solution?"

9. " Sister, if you mean to do us good, then by your own efforts, spread scandals about Gautama, and thus make him unpopular-" "All right ; be content ; and depend that on me," saying thus she left the place.

10. Chincha was an expert in feminine charms and coquetry. When the citizens of Shravasti used to return from the religious discussions at Jetavana, Chincha wearing a red garment and with perfumes and garlands in her hands used to go towards it.

11. If anybody asked her: "Where are you going now?" "That's none of your business," she used to answer. Spending the night at the rest house of the Itinerants (Tirthikarama) near Jetavana, she used to return to the city in the morning, when the citizens used to go to the Jetavana to pay respect to the Buddha.

12. If anybody asked her, "Where did you spend the night ?" she used to say, " That is none of your business. I spent the night with Samana Gautama in his garden house (Gandha Kutir) at Jetavana." The remark used to create doubts in the minds of some.

13. After four months she used to increase the size of her belly by wrapping round it some old rags, and say that she became pregnant through Samana Gautama. Some began to believe it.

14. In the ninth month, she suspending a wooden protuberance round her belly and having arms swollen through insect bites, appeared before the Buddha when he was making a religious discourse before monks and laymen and said: "Great teacher, you give many people religious lessons. Your voice is sweet, and your lips are very tender. Through cohabitation with you I have been pregnant, and my delivery time is near.

15. " You have not fixed any delivery place for me,

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nor I do see any medicine for that emergency. If you cannot do that yourself, why don't you appoint one of your disciples, the king of Kosala, Anathpindika or Visakha for that purpose.

16. "It seems you know well how to seduce a girl, but you do not know how to take care of the newborn baby that is born out of the seduction." The assembly remained silent.

17. The Buddha, breaking the continuity of his lecture, answered her with reserved dignity. " Sister, whatever you have said, whether true or false, is only known to us both."

18. Chincha coughing loudly, said. "Yes, O Teacher, such a thing can be known to us only."

19. With her coughing the knot with which the wooden protuberance was tied round her belly slackened, and it fell on her feet to her discomfiture.

20. And she was turned away with stones and sticks.

§ 6. *Devadatta a Cousin and an Enemy*

1. Devadatta was a cousin of the Buddha. But from the beginning he was jealous of the Buddha and disliked him intensely.

2. When the Buddha had left his home, Devadatta tried to make love to Yeshodhara.

3. Once when Yeshodhara was about to retire, he without being intercepted by anybody entered into her chamber in the guise of a monk. She asked him, "Bhikkhu, what do you want ? Have you got any message for me from my husband ?"

4. " Your husband, he cares a damn for you. In your house of happiness he cruelly and wickedly abandoned you," said Devadatta.

5. " But he did it for the good of many," replied Yeshodhara.

6. " Whatever that be, now take revenge on his disdainful cruelty to you," suggested Devadatta.

7. " Stop it, O Monk : your words and thoughts are impure," countered Yeshodhara.

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8. "Don't you recognize me, Yeshodhara? I am Devadatta who loves you."

9. " Devadatta, I knew you to be false and vile. I thought you would make a bad monk, but did not suspect you to be so mean-minded."

10. " Yeshodhara, Yeshodhara, I love you" pleaded Devadatta. "And your husband shows you nothing but contempt. He has been cruel to you. Love me and revenge his cruelty."

11. Yeshodhara's pale and emaciated face became tinged with a purple hue. Tears rolled down her cheeks.

12. "Devadatta, it is you who are cruel to me. Even if your love were sincere, it would have been an insult to me. You are simply lying when you say you love me.

13. "When I was young and pretty you hardly looked at me. Now I am old, broken down by sorrow and anguish, you have come at night to declare your treacherous and guilty love. You are a base coward."

14. And she shouted: " Devadatta, get out from the place," and Devadatta left the place.

15. Devadatta was very angry with the Buddha who did not make him the chief in the Sangh and instead made Sariputta and Mogallana the chief men in the Sangh. Devadatta made three attempts on the Buddha's life, but did not succeed in any of them.

16. At one time the Blessed One was walking up and down in the shade below the hill called the Vultures Peak (Girdhra Kuta).

17. Devadatta climbed it up and hurled down a large stone with the intention of depriving the Blessed One of his life, but it fell upon another rock and there it was entombed; only a splinter falling from it made the foot of the Blessed One to bleed.

18. A second time he made an attempt to take the life of the Buddha.

19. This time Devadatta went to Prince Ajata-satru and said: "Give me some men." And Ajata-satru, the prince gave orders to his men : " What-soever the worthy Devadatta tells you, do that."

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20. Then to one man Devadatta gave command: "Go, my friend ; the Samana Gautama is staying at such a place. Kill him." And the man returned and said to him : " I cannot deprive the Blessed One of his life.

21. He made a third attempt on the life of the Buddha.

22. This time there was at Rajgraha an elephant named Nalagiri, fierce and a man-slayer.

23. And Devadatta went into Rajgraha and to the elephant stables, and said to the elephant keepers : "I, my friends, am a relative of the raja, and am able to advance a man occupying a low position to a high position, and to order an increase of his rations or of his pay."

24. Therefore, my friends when Samana Gautama shall have arrived at this carriage road, then loose the elephant Nalagiri and let him go down the road.

25. Devadatta engaged archers to kill the Buddha. He had also let loose on his way the mad elephant Nalagiri.

26. But he did not succeed. When these attempts became known, Devadatta lost all the public endowments given to him. And even the king (Ajatasatru) stopped giving him interview.

27. For living he had to beg from house to house. Devadatta received many favours from Ajatasatru, which he could not retain long. Devadatta lost all his influence after the Nalagiri incident.

28. By his acts, Devadatta becoming very unpopular in Magadha left it for Kosala, thinking that Prasenjit might receive him cordially. But he was contemptuously driven out by Prasenjit.

§ 7. *Brahmins and the Buddha*

(i)

1. Once when the Blessed One was travelling about in the Kosala country with a large company of the monks, he went down to a Brahmin village named Thuna.

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2. The Brahmin householders of Thuna heard the news, " The Samana Gautama, they say, has arrived in the field of our village."

3. Now the Brahmin householders were non-believers, holding wrong views and avaricious by nature.

4. They said, "If the Samana Gautama should enter this village and stay two or three days, he would convert all these people. Then the Brahmin religion would have no support. We must, therefore, prevent his entry in our village.

5. To reach the village a river had to be crossed and the Brahmins, in order to prevent the Blessed One from entering the village, took the boats away from the landing places, and made the bridges and causeways unusable.

6. They filled all the wells except one with weeds and the like and concealed the watering-places, rest-houses and sheds.

7. The Blessed One learned of their misdeeds and having compassion on them, crossed the river with his company of monks, went on, and in due course of time reached the Brahmin village of Thuna.

8. He left the road and sat down at the foot of a tree. At that moment many women were passing by near the Blessed One carrying water.

9. And in that village an agreement had been made, " If the Samana Gautama comes there, there is to be no welcome or the like made for him and when he comes to a house, neither to him nor to his disciples is any food or water to be given."

10. Then a certain Brahmin's slave girl, going along with a jar of water, saw the Blessed One and the monks, realized that they were weary and thirsty, and being of devout heart, wanted to give them water,

11. "Even and though the people of this village have resolved that nothing at all is to be given to the Samana Gautama and not even a show of respect is to be made," she said to herself, " yet if after I have found these supreme fields of merit and worthy

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recipients of meritorious giving, I do not lay the foundation for my salvation by a mere giving of water, when hereafter shall I be released from woe ?"

12. " So be it, my masters ! Let every one who lives in the village beat or bind me, still I will give a gift of water to a field of merit such as this."

13. When she had made this resolve, though the other women carrying water tried to stop her, without regard for her life, she lifted down the water jar from her head, placed it on one side, approached the Blessed One, and gave him water; he washed his hands and feet and drank the water.

14. Her master, the Brahmin, heard of her giving water to the Blessed One. " She has broken the rule of the village and I am blamed," he said, and burning with rage and grinding his teeth he hurled her to the ground and beat her with hands and feet. Because of that she died.

(ii)

1. Now Brahmin Dona visited the Exalted One and greeted him; and after exchanging the customary words of greetings, sat down at one side. So seated, Brahmin Dona said to the Exalted One :

2. "I have heard it said, Master Gotama, that Master Gotama does not salute aged, venerable Brahmins, well stricken in years, long on life's road, grown old—nor rise up for them, nor offer them a seat.

3. " Master Gotama, it is just so; Master Gotama does none of these things ... to aged, venerable Brahmins . . . This is not right, Master Gotama."

4. " Do you not profess to be a brahmin, Dona ?"

5. " If of anyone, Master Gotama, in speaking rightly it should be said: ' The brahmin is well born on both sides, pure in descent as far back as seven generations, both of mother and father, unchallenged and without reproach in point of birth; studious, carrying the mantras in mind, a past master in the three Vedas with the indices and ritual, in phonology too, and in the legends; an expert in verse and grammar, skilled in reading the marks of a great man, in

speculation on the universe' to be sure of me, Master Gotama, in speaking rightly that thing should be said; for I, Master Gotama, am so born . . . so skilled ..."

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6. "Dona, those Brahmin-sages of old, mantra-makers, mantra-sayers, whose ancient collection of mantra verses, hymns and sayings, Brahmins know every hymn, every say, every word the word, ever have the sayings said to wit: Atthaka, Vamaka, Vamadeva. Vassamitta, Yamadaggi, Angirasa, Bharadvaja, have declared: the Brahma-like, the deva-like, the bounded, the breaker of bounds, and fifthly, the Brahmin outcast, which of them, Dona, are you?"

7. "We know not of these five Brahmins, Master Gotama ; yet we know that we are Brahmins. It were well for me if Master Gotama would teach me Dhamma so that I may know of them five."

8. "Then listen, Brahma, give heed and I will speak!"

9. "Yes sir," replied he; and the Exalted One said:

10. "And how, Dona, becomes a Brahmin Brahma-like ?"

11. "Take the case, Dona, of a Brahmin who is well born on both sides, pure in descent as far back as seven generations, both of mother and father, unchallenged and without reproach in point of birth—he for eight and forty years leads to the Brahma-life of virginity, applying himself to the teacher's fee for teaching according to Dhamma, not non-Dhamma.

12. "And what there is Dhamma, Dona? Never as ploughman nor trader nor cowherd nor bowman nor rajah's man nor by any craft (to get his living), but solely by going about for alms, despising not the beggar's bowl.

13. "And he hands over the teacher's fee for teaching, has his hair-beard shaved off, dons the yellow robe and goes forth from the home to the homeless life.

14. "And thus gone forth, he abides in mind pervading with amity one world quarter, so a second,

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a third, a fourth; then above, below, athwart, everywhere, the whole wide world he pervades with thoughts of amity, far-reaching, expansive, measureless, without hatred or ill-will

15. "He abides in mind pervading with pity . . . sympathy . . . poise, one world quarter, so a second, a third, a fourth; then above, below, athwart, everywhere, the whole wide world he pervades with thoughts of pity, sympathy and poise, far-reaching, expansive, measureless, without hatred or ill-will.

16. " And having made these four Brahma-abidings become, on the breaking up of the body after death, he arises in the well-faring Brahma world. Thus, Dona, Brahmin becomes Brahma-like.

17. " And how, Dona, becomes a Brahmin deva-like ?

18. " Take the case, Dona, of a Brahmin of similar birth and conduct .... He does not get a living by ploughing and so forth, but by going about for alms.... He hands over the teacher's fee for teaching and seeks a wife according to Dhamma, not non-Dhamma.

19. " And what then is Dhamma? Not with one bought or sold, but only with a Brahmani on whom water has been poured. And he goes only to a Brahmani, not to the daughter of an outcast, hunter, bamboo-worker, cart-maker, or aboriginal, nor goes to a woman with child, nor to one giving suck, nor to one not in her season.

20. " And wherefore, Dona, goes not a Brahmin to one with child ? If he go, the boy or girl will surely be foully born, therefore he goes not. And wherefore goes he not to one giving suck ? If he go, the boy or girl will surely be an unclean suckling, therefore he goes not.

21. "And wherefore goes he not to one not in her season? If, Dona, a Brahmin go to one not in her season, never for him does the Brahmani become a means for lust, for sport, for pleasure; the Brahmani is for the Brahmin just as a means to beget offspring.

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22. " And when in wedlock he has begotten (a child), he has his hair-beard shaved off. . . and goes forth ....

23. " And being thus gone forth, aloof from sensuous appetites ... he enters and abides in the first (to the) fourth musing ... he enters and abides in the first (to the) fourth musing.

24. "And having made these four musings become, on the breaking up of the body after death, he arises in the well-faring heaven world.

25. "Thus, Dona, a Brahmin becomes deva-like.

26. " And how, Dona, becomes a Brahmin Brahmin bounded ?

27. "Take the case, Dona of a Brahmin of similar birth and conduct . . . who weds in like manner. . . .

28. "And when in wedlock he has begotten a child, the fondness for children obsesses him and he settles on the family estate, and does not go forth from the home to the homeless life.

29. " In the bounds of the Brahmin of old he stays nor transgresses them; and it is said: ' Within bounds he keeps and transgresses not.' And therefore the Brahmin is called bounded.

30. " Thus, Dona, the Brahmin becomes bounded.

31. "And how, Dona, becomes a Brahmin- a breaker of bounds ?

32. "Take the case, Dona, of a Brahmin of similar birth and conduct. ... He hands over the teacher's fee and seeks a wife either according to Dhamma or non-Dhamma: one bought or sold or Brahmani on whom the water-pouring ceremony has been performed.

33. "He goes to a Brahmani or to the daughter of a noble or a low-caste man or a serf ; to the daughter of an outcast or a hunter or a bamboo-worker or a cart-maker or an aboriginal; he goes to a woman with child, to one giving suck, to one in her season, to one not in her season; and for him the Brahmani

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becomes just a means for lust, for sport and for pleasure or to beget offspring.

34. "And he keeps not within the ancient Brahmin bounds, but transgresses them; and it is said: 'He keeps not within bounds but transgresses,' and therefore he is called a breaker of bounds.

35. "Thus, Dona, the Brahmin becomes a breaker of bounds.

36. "And how, Dona, becomes a Brahmin a Brahmin outcast?

37. "Take the case, Dona, of a Brahmin of similar birth, he for eight and forty years leads the Brahma-life of virginity, applying himself to the mantras; then, completing that course, he seeks the teaching fee for teaching; (he gets his living according to Dhamma or non-Dhamma) as ploughman, trader, cowherd, bowman, rajah's man or by some craft or, despising not the beggar's bowl, just by going about for alms.

38. "On handing back the teacher's fee, he seeks a wife according to Dhamma or non-Dhamma; one bought or sold, or a Brahmani on whom water has been poured. He goes to a Brahmani or any other woman . . . one with child, giving suck and so forth... and she is for him a means for lust ... or to beget offspring. He leads a life doing all these things.

39. "Then the Brahmans say thus of him: 'How is it that an honourable Brahmin leads this sort of life?'

40. "And to this he replies: 'Just as fire burns clean things or unclean, but not by that is the fire defiled ; even so, good sirs, if a Brahmin lead a life doing all these things, not by that is a Brahmin defiled.'

41. And it is said: 'He leads a life doing all these things,' and therefore he is called a Brahmin outcast.

42. 'Thus, Dona, a Brahmin becomes a Brahmin outcast.

43. "Verily, Dona, those Brahmin sages of old,

mantra-makers, mantra-sayers, whose ancient collection hymn, say, word each rest ... these five Brahmins declared; the Brahma-like, the deva-like, the bounded, the breaker of bounds and, fifthly, the Brahmin outcast.

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44. "Which of them Dona, are you ?"

45. "If such there are, Master Gotama, we at least do not fulfil (the ways) of the Brahmin-outcast ?

46. "But it is marvellous what you say, Master Gotama ... let Master Gotama take me as a lay-disciple, gone to his refuge, henceforth as long as life lasts."

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PART III

Critics of His Doctrines

1. Critics of Open Admission to the Sangh.
2. Critics of The Rule or Vows.
3. Critics of the Doctrine of Ahimsa.
4. Charge of Preaching Virtue and Creating Gloom.
5. Critics of the Theory of Soul and Rebirth.
6. Charge of being an Annihilationist.

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§ 1. Critics of Open Admission to the Sangh

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1. It was open for the Sangh to admit a layman who was merely a disciple.

2. There were persons who criticised the Lord for making the Sangh a wide open temple for anybody to enter.

3. They argued that under such a scheme it may well happen that after they have been admitted into the Order they give it up, and return again to the lower state and by their back-sliding the people are led to say : " Vain must be this religion of Samana Gotama, which these men have given up."

4. The criticism was not well founded and had altogether missed the intention of the Blessed Lord in making such a scheme.

5. The Blessed Lord replied that in establishing his religion he had constructed a bathing tank full of the excellent waters of emancipation—the bath of good law.

6. It was the Lord's desire that whosoever is polluted with stains of sin, he, bathing in it, can wash away all his sins.

7. And if anyone, having gone to the bathing tank of good law, should not bathe in it, but turn back polluted as before and return again to the lower state, it is he who is to be blamed and not the religion.

8. "Or could I," said the Blessed Lord, "after constructing this bathing tank for enabling people to wash away their sins, say : ' Let no one who is dirty go down into this tank ! Let only those whose dust and dirt have been washed away, who are purified and stainless go down into the tank.'

9. " On such terms what good would have been my religion ? "

10. The critics forgot that the Blessed Lord did not wish to confine the benefit only to a few. He wanted to keep it open to all, to be tried by all.

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§ 2. *Critics of the Rule of Vows*

1. Why are the five precepts not enough ? Why vows are felt necessary? These were the questions that were often raised.

2. If was argued that if diseases would abate without medicine, what could be the advantage of weakening the body by emetics, by purges, and other like remedies?

3. Just so, if laymen, living at home and enjoying the pleasures of the senses, can realize in themselves the conditions of peace, the Supreme Good, Nibbana, by taking precepts, what is the need of the bhikkhu taking upon himself these vows ?

4. The Blessed Lord devised the vows because of the virtues inherent in them.

5. A life conditioned by vows is certain to bring with it growth in goodness, it is itself a protection against a fall.

6. Those who take vows and keep them as self-dependents, are emancipated.

7. The keeping of vows is the restriction of lust, and of malice, of pride, the cutting of evil thoughts.

8. Those who take vows and keep them, well guarded are they indeed and altogether pure are they in manners and in mind.

9. Not so with mere taking of precepts.

10. In the case of the precepts there is no protection against moral decline as there is in the case of vows.

11. A life of vows is very difficult and a life of precepts not so. It is necessary for mankind to have some who live the life of vows. So the Blessed Lord prescribed both.

§ 3. *Critics of the Doctrine of Ahimsa*

1. There were persons who objected to the doctrine of Ahimsa. They said that it involved surrender or non-resistance to evil.

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2. This is a complete misrepresentation of what the Blessed Lord taught by his doctrine of Ahimsa.

3. The Blessed Lord has made his position clear on various occasions so as to leave no room for ambiguity or misunderstanding.

4. The first such occasion to which reference should be made is the occasion when he made a rule regarding the entry of a soldier in the Sangh.

5. At one time the border provinces of the kingdom of Magadha were agitated. Then the Magadha king Seniya Bimbisara gave order to the Commander of the army: ‘ Well now, go and ask your officers to search through the border provinces for the offenders, punish them and restore peace.” The Commander acted accordingly.

6. On hearing the orders of the Commander the officers found themselves placed in a dilemma. They knew that the Tathagatha taught that those who go to war and find delight in fighting, do evil and produce great demerit. On the other hand, here was the king’s order to capture the offenders and to kill them. Now what shall we do, asked the officers to themselves.

7. Then these officers thought: “If we could enter the order of the Buddha we would be able to escape from the dilemma.”

8. Thus these officers went to the bhikkhus and asked them for ordination; the bhikkhus conferred on them the pabbajja and upasampada ordinations and the officers disappeared from the army.

9. The Commander of the army finding that the officers were not to be seen, asked the soldiers: “Why, how is it that the officers are nowhere to be seen ?” “The officers, lord, have embraced religious life of the bhikkhus,” replied the soldiers.

10. Then the Commander of the army was annoyed, and became very angry: “How can the bhikkhus ordain persons in the royal army ?”

11. The Commander of the army informed the king of what had happened. And the king asked the

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officers of justice: "Tell me, my good sirs, what punishment does he deserve who ordains a person in the royal service ?"

12. "The Upagghaya, Your Majesty, should be beheaded; to him who recites (the Kammavaka), the tongue should be torn out; to those who form the chapter, half of their ribs should be broken

13. Then the king went to the place where the Blessed One was; and after obeisance informed him of what had happened.

14. " The Lord well knows that there are kings who are against the Dhamma. These hostile kings are ever ready to harass the bhikkhus even for trifling reasons. It is impossible to imagine the lengths to which they might go in their ill-treatment of the bhikkhus if they find that the bhikkhus are seducing the soldiers to leave the army and join the Sangh. Pray Lord to do the needful to avert the disaster."

15. The Lord replied: " It was never my intention to allow soldiers under the cloak of Ahimsa or in the name of Ahimsa to abandon their duty to the king or to their country."

16. Accordingly the Blessed One made a rule against the admission of persons in royal service to the Sangh and proclaimed it to the bhikkhus, saying: "Let no one, O Bhikkhus, who is in the royal service, receive the Pabbajja ordination. He who confers the Pabbajja ordination on such a person will be guilty of a dukkata offence."

17. A second time the Blessed One was cross-examined on the subject of Ahimsa by Sinha, a General in the army, and who was a follower of Mahavir.

18. Sinha asked: " One doubt still lurks in my mind concerning the doctrine of the Blessed One. Will the Blessed One consent to clear the cloud away so that I may understand the Dhamma as the Blessed One teaches it."

19. The Tathagata having given his consent., Sinha said: " I am a soldier, O Blessed One, and am appointed by the king to enforce his laws

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and to wage his wars. Does the Tathagata, who teaches kindness without end and compassion with all sufferers, permit the punishment of the criminal ? And further, does the Tathagata declare that it is wrong to go to war for the protection of our homes, our wives, our children, and our property ? Does the Tathagata teach the doctrine of a complete self-surrender, so that I should suffer the evil-doer to do what he pleases and yield submissively to him who threatens to take by violence what is my own ? Does the Tathagata maintain that all strifes, including such warfare as is waged for a righteous cause, should be forbidden?"

20. The Lord replied : "The Tathagata says: 'He who deserves punishment must be punished, and he who is worthy of favour must be favoured. Yet at the same time he teaches to do no injury to any living being but to be full of love and kindness. These injunctions are not contradictory, for whosoever must be punished for the crimes which he has committed suffers his injury not through the ill-will of the judge but on account of his evil-doing. His own acts have brought upon him the injury that the executor of the law inflicts. When a magistrate punishes, let him not harbour hatred in his breast, yet a murderer, when put to death, should consider that this is the fruit of his own act. As soon as he will understand that the punishment will purify his soul, he will no longer lament his fate but rejoice at it.' "

21. A proper understanding of these instances would show that the Ahimsa taught by the Blessed Lord was fundamental. But it was not absolute.

22. He taught that evil should be cured by the return of good. But he never preached that evil should be allowed to overpower good.

23. He stood for Ahimsa. He denounced Himsa. But he did not deny that Himsa may be the last resort to save good being destroyed by evil.

24. Thus it is not that the Blessed Lord taught a dangerous doctrine. It is the critics who failed to understand its significance and its scope.

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§ 4. *Charge of Preaching Virtue and Creating Gloom*

(1)

Dukkha as the Cause of Gloom

1. Dukkha in its original sense given to it by Kapila means unrest, commotion.

2. Initially it had a metaphysical meaning.

3. Later on it acquired the meaning of suffering and sorrow

4. The two senses were not far detached. They were very close.

5. Unrest brings sorrow and suffering.

6. Soon it acquired the meaning of sorrow and suffering from social and economic causes.

7. In what sense did the Buddha use the word sorrow and suffering ?

8. There is a sermon on record from which it is clear that the Buddha was very much aware that poverty was a cause of sorrow.

9. In that sermon he says—" Monks, is poverty a woeful thing for a worldly wanton ? "

10. " Surely, Lord."

11. " And when a man is poor, needy, in straits, he gets into debt, and is that woeful too ?"

12. " Surely, Lord."

13. " And when he gets into debt, he borrows, and is that woeful too ? "

14. "Surely, Lord."

15. "And when the bill falls due, he pays not and they press him; is that woeful too?"

16. "Surely, Lord."

17. " And when pressed, he pays not and they beset him ; is that woeful too ? "

18. " Surely, Lord. "

19. "And when beset, he pays not and they bind him; is that woeful too?"

20. " Surely, Lord. "

21. "Thus, monks, poverty, debt, borrowing,

being pressed, beset and bound are all woes for the worldly wanton.

22.“ Woeful in the world is poverty and debt.”

23. Thus the Buddha’s conception of Dukkha is material.

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(2)

Impermanence as the Cause of Gloom

1. Another ground for this accusation arises from the doctrine that everything which is compound is impermanent.

2. Nobody questions the truth of the doctrine.

3. Everything is impermanent is admitted by all.

4. The doctrine, if it is true, must be told just as truth must be told however unpleasant it may be.

5. But why draw a pessimistic conclusion?

6. If life is short it is short and one need not be gloomy about it.

7. It is just a matter of interpretation.

8. The Burmese interpretation is very much different.

9. The Burmese celebrate the event of death in a family as though it was an event of joy.

10. On the day of death the householder gives a public feast and the people remove the dead body to the graveyard dancing. Nobody minds the death for it was to come.

11. If impermanence is pessimistic it is only because permanence was assumed to be true although it was a false one.

12. Buddha’s preaching cannot, therefore, be charged as spreading gloom.

(3)

Is Buddhism Pessimistic ?

1. The Buddha’s Dhamma has been accused of creating pessimism.

2. The accusation arises from the first Aryan Truth which says that there is Dukkha (sorrow-misery) in the world.

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3. It is rather surprising that a reference to Dukkha should give cause to such an accusation.

4. Karl Marx also said that there is exploitation in the world and the rich are being made richer and the poor are being made poorer.

5. And yet nobody has said that Karl Marx's doctrine is pessimism.

6. Why then should a different attitude be shown to the Buddha's doctrine?

7. It may be because the Buddha is reported to have said in his first sermon, Birth is sorrowful, old age is sorrowful, death is sorrowful, that a deeper pessimistic colouring has been given to his Dhamma.

8. But those who know rhetoric know that this is an artifice of exaggeration and that it is practised by skilled literary hands to produce effect.

9. That birth is sorrowful is an exaggeration by the Buddha can be proved by reference to a sermon of his in which he has preached that birth as a human being is a very precious thing.

10. Again, if the Buddha had merely referred to Dukkha such an accusation could be sustainable.

11. But the Buddha's second Aryan Truth emphasizes that this Dukkha must be removed. In order to emphasize the duty of removal of Dukkha he spoke of the existence of Dukkha.

12. To the removal of Dukkha the Buddha attached great importance. It is because he found that Kapila merely stated that there was Dukkha and said nothing more about it that he felt dissatisfied and left the Ashram of Muni Alara Kalam.

13. How can this Dhamma be called pessimistic?

14. Surely a teacher who is anxious to remove Dukkha cannot be charged with pessimism.

§ 5. *Critics of the Theory of Soul and Rebirth*

1. The Blessed Lord preached that there was no Soul. The Blessed Lord also affirmed that there was rebirth.

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2. There were not wanting people who criticised the Lord for preaching what they regarded as two such contradictory doctrines.

3. How can there be rebirth if there is no Soul, they asked.

4. There is no contradiction. There can be rebirth even though there is no Soul.

5. There is a mango stone. The stone gives rise to a mango tree. The mango tree produces mangoes.

6. Here is rebirth of a mango.

7. But there is no Soul.

8. So there can be rebirth although there is no Soul.

§ 6. *Charge of Being an Annihilationist*

1. Once when the Lord was staying at Shravasti in Jeta's grove it was reported to him that a certain bhikkhu by name Arittha had come to certain views about the doctrines taught by the Lord, as the views of the Lord although they were not the views of the Lord.

2. One of the doctrines about which Arittha was misrepresenting the Lord was whether he was an annihilationist.

3. The Blessed Lord sent for Arittha. Arittha came. On being questioned he sat silent and glum.

4. The Lord then said to him : " Some recluses and Brahmins—wrongly, erroneously and falsely—charge me in defiance of facts, with being an annihilationist and with preaching disintegration, and extirpation of existing creatures.

5. It is just what I am not and what I do not affirm.

6. What I have consistently preached both in the past and today is the existence of ill and the ending of ill.

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PART IV

Friends and Admirers

1. Devotion of Dhananjanani—a Brahmini.
2. The Abiding Faith of Visakha.
3. The Devotion of Mallika.
4. The ardent Wish of a Pregnant Mother.
5. Keniya's Welcome.
6. Pasendi in Praise of the Master.

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§ 1. *Devotion of Dhananjanani—a Brahmini*

1. The Blessed Lord had many friends and admirers. Among them was Dhananjanani.

2. She was the wife of a Bharadvaja Brahmin. Her husband hated the Lord. But Dhananjanani was a devotee of the Lord. Her devotion is worthy of mention.

3. The Exalted One was once staying near Rajagraha in the bamboo grove at the Vihara known as the squirrels feeding ground.

4. Now at that time Dhananjanani, a Brahmini, the wife of a certain Brahmin of the Bharadvaja family, was living with her husband in Rajagraha.

5. While her husband was a great opponent of the Buddha, Dhananjanani was a fervent believer in the Buddha, the Dhamma and the Order. She was in the habit of praising, the triple gem. Whenever she broke out in this way in praise, her husband used to close his ears.

6. On the eve of his giving a great banquet to many fellow-Brahmins, he begged her to do what she liked, provided she did not offend his guests by her praises of the Buddha.

7. Dhananjanani would give no such undertaking and he threatened to slice her like a plantain with his dagger. She declared herself ready to suffer, so she retained her freedom of speech and proceeded to pour forth five hundred verses on her theme, so that he surrendered unconditionally.

8. Bowl and golden spoon were laid down and the guests sat down for food. While serving the guests the dominant impulse arose. In the midst she turned towards the bamboo grove and uttered the praises of the triple gem.

9. The scandalized guests hurried away, spitting out the food defiled by the presence of a heretic and the husband scolded her amid the ruins of his feast.

10. And she, while serving the Bharadvaja with his dinner, came before him and praised the gem.

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Glory to that Exalted One, the Arahant, the Buddha Supreme! Glory to the Norm ! Glory to the Order!

11. And when she had so said the Bharadvaja Brahmin grew angry and exclaimed: "There now ! You wretch! Must you be singing the praises of that shaveling friar at any and every opportunity ? Now, wretch, will I give that teacher of thine a piece of my mind!"

12. "O Brahmin," replied Dhananjanani, "I know of no one throughout the world of gods, Maras, or Brahmas, recluses or brahmins, no one human or divine, who could so admonish that Exalted One, Arahant, Buddha Supreme. Nevertheless, go thou, Brahmin, and then thou wilt know."

13. Then the Bharadvaja, vexed and displeased, went to find the Exalted One; and coming into his presence, exchanged with him greetings and compliments, friendly and courteous, and sat down at one side.

14. So seated, he asked the Exalted One the following questions : "What must we slay if we would happy live ? What must we slay if we could weep no more ? What is above all other things, whereof the slaughter thou approvest, Gotama?"

15. The Exalted One replied as follows: "Wrath must ye slay if ye would happy live ; Wrath must ye slay if ye would weep no more. Of anger, Brahmin, with its poisoned source, and fevered climax, murderously sweet. That is the slaughter by the Ariyans praised. That must ye slay in sooth, to weep no more."

16. Realizing the excellence of the reply given by the Exalted One, the Bharadvaja Brahmin said to him: "Most excellent, Lord, most excellent! Just as if a man were to set up that which had been thrown down, or were to reveal that which was hidden away, or were to point out the right road to him who had gone astray, or were to bring a lamp into the darkness so that those who had eyes could see external objects—even so, Lord, has the Lord Gotama shown me his doctrine in various ways. I, even I, Lord, betake myself to the

Exalted One as my refuge to the Norm and to the Order. I would leave the world under the rule of Gotama; I would take orders."

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17. So Dhananjanani was not only a devotee of the Buddha, she made her husband also a devotee of the Buddha.

§ 2. *The Abiding Faith of Visakha*

1. Visakha was born in the city of Bhadiya in the Anga country.

2. Her father was Dhananjaya and her mother's name was Sumana.

3. Once the Buddha visited Bhadiya with a large company of monks at the invitation of the Brahmin Sela. Visakha his granddaughter was then seven years old.

4. Visakha though only seven expressed to her grandfather Mendaka her desire to see the Buddha. Mendaka allowed her to do so and gave her five hundred companions, five hundred slaves, and five hundred chariots, that she might visit the Buddha.

5. She stopped the chariot some distance away and approached the Buddha on foot.

6. He preached to her the Dhamma and she became his lay disciple.

7. For the next fortnight Mendaka invited the Buddha and his followers daily to his house, where he fed them.

8. Later, when at Pasendi's request, Bimbisara sent Dhananjaya to live in Kosala, Visakha accompanied her parents and lived in Saketa.

9. Migara, a wealthy citizen of Shravasti, wanted to get his son Punnavadhana married. He had sent a few people to find a suitable bride.

10. The party in search of a bride happened to come to Shravasti. They saw Visakha on her way to the lake to bathe on a feast day.

11. At that moment there was a great shower, Visakha's companions ran for shelter. But Visakha

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did not. She walked at her usual pace and reached the spot where the messengers were.

12. They asked her why she did not run for shelter and so preserve her clothes. She answered that she had plenty of clothes, but that if she ran she might damage a limb which she could not replace. " Unmarried girls," she said, "are like goods awaiting sale, they must not be disfigured."

13. The party which was already struck by her beauty was greatly impressed by her intelligence. The party offered her a bouquet of flowers which she accepted as a proposal of marriage.

14. After Visakha returned home the marriage party followed her and laid Punnavadhana's suit before Dhananjaya. The proposal was accepted and confirmed by an exchange of letters.

15. When Pasendi heard of it, he offered to accompany Punnavadhana to Saketa, as a mark of signal honour. Dhananjaya welcomed the king and his retinue, Migara, Punnavadhana and their followers with all regard, attending personally to all the details of hospitality.

16. Five hundred goldsmiths were engaged to make ornaments for the bride. Dhananjaya gave his daughter, as dowry, five hundred carts full of money, five hundred with vessels of gold and cattle, etc.

17. When the time came for Visakha to leave, Dhananjaya gave her ten admonitions, which Migara overheard from the next room. These admonitions were: Not to give fire from the house outside: not to take into the house fire from without; to give only to those who gave in return, not to give to those who did not give in return, to give him that gives and to him that gives not; to seat, eat and eat happily; and to tend the fire and to honour the household deities.

18. On the following day Dhananjaya appointed eight householders to be sponsors to his daughter and inquire into any charges that might be brought against her.

19. Migara wanted that his daughter-in-law should be seen by the public of Shravasti. Visakha

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entered Shravasti standing in her chariot with the public lining the road on both sides. The public showered gifts on her, but these she distributed among the people.

20. Migara was a follower of the Niganthas and soon after Visakha's arrival in his house, he sent for them and told her to minister to them. But Visakha repulsed by their nudity, refused to pay them homage.

21. The Niganthas urged that she should be sent away, but Migara bided his time.

22. One day as Migara was eating, while Visakha stood fanning him, a monk was seen standing outside the house. Visakha stood aside that Migara might see him. But Migara continued to eat without noticing the monk.

23. Seeing this Visakha said to the monk, "Pass on, sir, my father-in-law eats stale fare." Migara was angry and threatened to send her away, but at her request the matter was referred to her sponsors.

24. They inquired into the several charges brought against her and adjudged her not guilty.

25. Visakha then gave orders that preparations be made for her return to her parents. Both Migara and his wife begged for forgiveness which she granted, on condition that he would invite to the house the Buddha and his monks.

26. This he did, but, owing to the influence of the Niganthas, he left Visakha to entertain them, and only consented to hear the Buddha's sermon at the end of the meal from behind a curtain.

27. He was, however, so convinced by the sermon that he became a convert.

28. His gratitude towards Visakha was boundless. Henceforth he considered her to be his mother deserving all the honours due to a mother. From this time onward she was called Migarmata.

29. Such was the abiding faith of Visakha.

§ 3. *The Devotion of Mallika*

1. Once while the Lord was staying at Shravasti in Jeta's grove the darling son of a certain house-

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holder died, and the loss made the father neglect his business and his meals.

2. He was always going to the charnel ground and wailing aloud saying, "Where are you, my son, where are you ?"

3. The bereaved father came to the Blessed Lord and after due salutations sat on one side.

4. Seeing that his mind was absolutely vacant showing no interest in anything, not telling the purpose for which he had come, the Blessed Lord, noticing his condition, said "You are not yourself; your mind is all awry."

5. "How could my mind not be awry, sir, when I have lost my darling and only son?"

6." Yes, householder; our dear ones bring sorrow and lamentation, pain, suffering and tribulation ?"

7."Who sir can entertain such a view ?", said the angry householder, "Nay, our dear ones are a joy and happiness to us."

8. And with these words the householder, rejecting the Lord's pronouncement, indignantly got up and departed.

9. Hard by, there were a number of gamblers having a game with dice; and to them came the householder with his story of how he had related his sorrows to the recluse Gotama, how he had been received and how he had indignantly departed.

10. You were quite right, said the gamblers, for our dear ones are a source of joy and happiness to us. So the householder felt he had got the gamblers on his side.

11. Now all this, in due course, penetrated to the private apartments of the palace where the king told Queen Mallika that her recluse Gotama had stated that dear ones bring sorrow and lamentation, pain, suffering and tribulation.

12. "Well, sir, if the Lord said so, so it is."

13. "Just as a pupil accepts all his master tells him, saying, 'So it is, sir; so it is'—just in the same way Mallika, you accept all the recluse Gotama says with

your 'If the Lord said so, so it is'; away with you and begone ! "

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14. Then the queen told the Brahmin Nali Dhyan to go to the Lord and in her name, to bow his head at the Lord's feet and, after asking after his health, to enquire whether he had really said what was attributed to him.

15. "And be careful," she added, "to tell me exactly what the Lord answers."

16. In obedience to the queen's commands the Brahmin went off and duly asked the Lord whether he had really said so.

17. "Yes, Brahmin; our dear ones do bring sorrow and lamentation, pain, suffering, and tribulation. Here is the proof.

18. "Once, here in Shravasti, a woman's mother died and the daughter, crazed and beside herself, went about from street to street, from cross-road to cross-road, saying: 'Have you seen my mother? Have you seen my mother?'

19. "Another proof is a woman of Shravasti who lost her father—a brother—a sister—a son—a daughter—a husband. Crazed and beside herself, the woman went about from street to street and from cross-road to cross-road, asking if anyone had seen the dear ones she had lost.

20. "Another proof is a man of Shravasti who lost his mother—his father—a brother—a sister—a son—a daughter—a wife, crazed and beside himself, the man went about from street to street and from cross-road to cross-road, asking if anyone had seen the dear ones he had lost.

21. "Another proof is the woman of Shravasti who visited her people's home; and they wanted to take her from her husband and marry her to someone else whom she did not like.

22. "She told her husband about it, whereupon he cut her into two and then killed himself, so that they might both die together.

23. "All this the Brahmin Nali Dhyan duly reported to the queen.

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24. "The queen then went to the king and asked: , ' Are you fond, sir, of your only daughter, the princess Vajira.' 'Yes, I am,' replied the king.

25. " 'If anything happened to your Vajira would you feel sorry or not?' 'If anything happened to her, it would make a great difference to my life.' "

26. " 'Are you fond, sir, of me,' asked Mallika. ' Yes, I am.'

27. " 'If anything happened to me would you feel sorry or would you not ?' ' If anything happened to you it would make a great difference to my life.'

28. " 'Are you fond, sir, of the people of Kasi and Kosala?' 'Yes,' replied the king. 'If anything happened to them would you be sorry or not ?'

29. " 'If anything happened to them, it would make great difference—how could it be otherwise?'

30. " 'Did the Blessed Lord say anything different?' 'No Mallika,' said the king in repentance."

§ 4. *The Ardent Wish of a Pregnant Mother*

1. Once when the Lord was staying in the Bhagga country at Sumsumara-gira in the Bhesakala grove, in the deer-park there, Prince Bodhi's palace, called the Lotus, had just been finished but had not as yet been inhabited by recluse, Brahmin or any other person.

2. Said the prince to a young Brahmin named Sankika-putta: "Go to the Lord and in my name bow your head at his feet, ask after his health and invite him to be so good as to take his meal with me tomorrow and to bring his confraternity with him."

3. The message was delivered to the Lord who, by silence, signified acceptance—as was duly reported to the prince.

4. When night had passed, the prince, having ordered an excellent meal-to be got ready in his palace and a carpeting of white cloth to be laid to the foot of the stairs of the Lotus palace, told the young Brahmin to announce to the Lord that all was ready.

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5. This was done, and early that day the Lord, duly robed and bowl in hand, came to the palace where the prince was awaiting him, outside the portals.

6. Seeing the Lord approaching, the prince advanced and saluted him and moved in his train towards the palace.

7. At the foot of the stairs the Lord stood still. Said the prince: "I beg the Lord to step up on the carpeting; I beg the Blessed One to do this,—to my abiding weal and welfare." But the Lord kept silent.

8. A second time did the prince appeal, and still the Lord kept silent. A third time he appealed, and now the Lord looked towards Ananda.

9. Ananda understood what the trouble was and asked that the carpeting should be rolled up and removed for the Lord would not tread upon it as he is looking to those that shall follow hereafter.

10. So the prince ordered the carpeting to be rolled up and removed, after which he ordered seats to be set out upstairs in the palace.

11. The Lord then proceeding upstairs, sat down on the seat set for him, with the confraternity.

12. The prince with his own hand served that excellent meal without stint to the Lord and the confraternity.

13. The Lord's meal over and done, Prince Bodhi, seating himself on a low seat to one side, said to the Lord: " My view, sir, is that true weal must be sought not through things pleasant but through things unpleasant."

14. "In days gone by, Prince," said the Blessed One, " I too held the same view in the days before my enlightenment. Time was when being quite young—with a wealth of coal-black hair and in all the beauty of my early prime—despite the wishes of my parents who wept and lamented, I cut off hair and beard, donned the yellow robes and went forth from home to homelessness as a pilgrim. A pilgrim now, in quest of the Good and in search for the road to that utter peace which is beyond all compare.

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15. "Now I hold a different view. If a man knows the Doctrine he will find the destruction of all ills."

16. Said the prince to the Lord: "What a doctrine! What an exposition of doctrine ! It is so easy to understand."

17. Here the young Brahmin Sankika-putta observed to the prince that, though he had testified thus, yet he had not gone on to say that he sought as a refuge the Lord and his doctrine and his confraternity as he should have.

18. "Say not so, my friend; say not so" said the Prince: "for, I have heard from the lips of my lady mother, how, when once the Lord was staying at Kosambi in the Ghosita pleasance, she, being then pregnant, came to the Lord, saluted him and took a seat to one side, saying: 'Be it a boy or be it a girl that I carry in my womb, my child unborn seeks refuge with the Lord and his doctrine and his confraternity; and I ask the Lord to accept the child as a follower who has found an abiding refuge from this time forth while life lasts.'

19. "Another time, when the Lord was staying here in this Bhagga country at Sumsumara-gira, in the Bhesakala grove, in the deer park there, my nurse carried me to the Lord, and standing before him, said: 'Here is Prince Bodhi who seeks refuge with the Lord and his doctrine and his confraternity.'

20. Now, in person, for the third time I seek such refuge and ask the Lord to accept me as a follower who has found an abiding refuge while life lasts."

§ 5. *Keniya's Welcome*

1. There was living at Apanath a Brahmin, Sela, who was versed in all three Vedas, was accomplished in ritual with the glosses thereon, in phonology, and in etymology, with chronicles as a fifth branch; he knew exegesis, and was learned in casuistry and in the signs that mark a superman; he had three hundred young brahmins to whom he taught the runes.

2. Keniya the fire-worshipper was an adherent

of this Brahmin Sela. Accompanied by his three hundred pupils, Sela went and saw all the fire-worshippers there busy with their several tasks, with Keniya himself marking off the reserved circles.

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3. At the sight of this the Brahmin said to Keniya: "What is all this? Is it a wedding feast? Or is there a great sacrifice afoot ? Or have you invited to a repast tomorrow Seniya Bimbisara, king of Magadha, with all his host? "

4. "It is no wedding feast, Sela, nor is the king coming with all his host. But I have got a great sacrifice afoot. For, the recluse Gotama has arrived at Apana, in the course of an alms-pilgrimage, with twelve hundred and fifty alms-men in his train.

5. "Now, such, according to report, is the high repute of this Gotama that he is deemed to be the Lord of Enlightenment.

6. "It is he whom I have invited to tomorrow's meal here, together with his confraternity. The feast that is being prepared is for him."

7. "Did you attribute to him Enlightenment, Keniya," asked Sela. "Yes, I did," replied Keniya. "Did you?" "Yes I did."

§ 6. *Pasendi In Praise of the Master*

1. Once the Exalted One was staying near Shravasti, at Jeta's grove, in Anathapindika's park.

2. Now at that time the rajah of Kosala, Pasendi, had just returned from a sham-fight, in which he was victorious, having carried out his object. And on reaching the park he turned in that way. So far as the cart-road went he rode in his chariot, and then got down and went on foot through the park.

3. On that occasion a number of the brethren were walking up and down in the open air. Then Pasendi, the rajah of Kosala, went up to those brethren and thus accosted them: "Reverend sirs, where now is the Exalted One staying, that Arahant, Buddha Supreme: for I long to behold Him ? "

4. " Yonder, Maharajah, is his lodging, and the

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door is shut. Do you go up quietly, without nervous-. ness, enter the verandah, cough, and rattle the door-bar.. The Exalted One will open the door to you."

5. So Pasendi, the rajah of Kosala, went up to the lodging as he was told, coughed and rattled the door-bar. And the Exalted One opened the door.

6. Then Pasendi entered the lodging, fell with his head at the feet of the Exalted One, kissed His feet and stroked them with his hands, and announced his name, saying, " Lord, I am Pasendi, the rajah of Kosala."

7. "But, Maharajah, seeing what significance therein, do you show me this profound humanity and pay such affectionate obeisance to this body," said the Lord!

BOOK VII

The Wanderer's Last Journey

Part. I—The Meeting of those Near and Dear.

Part II—Leaving Vaishali.

Part III—His End.

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PART I

The Meeting of Those Near and Dear

1. The Centres of His Preachings.
2. The Places He Visited.
3. Last Meeting between Mother and Son and between Wife and Husband.
4. Last Meeting between Father and Son.
5. Last Meeting between the Buddha and Sariputta.

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§ 1. The Centres of His Preachings

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1. It is not that after the appointment of the missionaries the Lord sat at one place. He too continued to be his own missionary.

2. The Lord seems to have made certain places chief centres of his missionary work.

3. Of such centres, the chief were Shravasti and Rajagraha.

4. He visited Shravasti about 75 times and Rajagraha about 24 times.

5. Certain other places were made minor centres.

6. They were Kapilavastu, which he visited 6 times, Vesali which he visited 6 times, and Kamassadhamma, 4 times.

§ 2. The Places He Visited

1. Besides these main and minor centres the Blessed Lord visited many other places during the course of his missionary tour.

2. He visited Ukkatha, Nadika, Sal, Assapura, Ghoshitaram, Nalanda, Appana, Etuma.

3. He visited Opasad, Iccha-naukal, Chandal Kuppa, Kushinara.

4. He visited Devadaha, Pava, Ambasanda, Setavya, Anupiya and Ugunma.

5. The names of the places he visited show that he travelled over the Sakya Desa, the Kuru Desa and Anga Desa.

6. Roughly speaking, he travelled over the whole of Northern India.

7. These appear to be a few places. But what distance do they cover? Rajagraha from Lumbini is not less than 250 miles. This just gives an idea of distances.

8. These distances the Lord walked on foot. He did not even use a bullock-cart.

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9. In his wanderings he had no place to stay until later on when his lay disciples built Viharas and resting places which he and his Bhikkhus used as halts on their journeys. Most often he lived under the shade of wayside trees.

10. He went from place to place, sometimes from village to village, resolving the doubts and difficulties of those who were willing to accept his message, controverting the arguments of those who were his opponents and preaching his gospel to those who like children came to him for guidance.

11. The Blessed Lord knew that all those who came to listen to him were not all of them intelligent, not all of them came with an open and a free mind.

12. He had even warned the brethren that there were three sorts of listeners.

13. The empty-head, the fool who cannot see,—though oft and oft, unto the brethren going, he hears their talk, beginning, middle, end,—but can never grasp it. Wisdom is not his.

14. Better than he the man of scattered brains, who oft and oft, unto the brethren going, hears all their talk, beginning, middle, end, and seated there can grasp the very words, yet, rising, nought retains. Blank is his mind.

15. Better than these the man of wisdom wide. He, oft and oft unto the brethren going, hears all their talk, beginning, middle, end, and seated there, can grasp the very words, bears all in mind, steadfast, unwavering, skilled in the Norm and what conforms thereto.

16. Notwithstanding this, the Lord was never tired of going from place to place preaching his gospel.

17. As a bhikkhu the Lord never had more than three pieces of clothes. He lived on one meal a day and he begged his food from door to door every morning.

18. His mission was the hardest task assigned to any human being. He discharged it so cheerfully.

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§ 3. Last *Meeting between Mother and Son and between Wife and Husband*

1. Before their death Mahaprajapati and Yeshodhara met the Blessed Lord.

2. It was probably their last meeting with him.

3. Mahaprajapati went and first worshipped him.

4. She thanked him for having given her the happiness of the good doctrine, for her having been spiritually born through him: for the doctrine having grown in her through him; for her having suckled him, drinking the Dhamma-milk of him; for her having plunged in and crossed over the ocean of becoming through him—what a glorious thing it has been to be known as the mother of the Buddha !

5. And then she uttered her plea:—

> " I desire to die finally having put away this corpse. O sorrow-ender, permit me."

6. Yeshodhara, addressing the Blessed Lord, said that she was in her seventy-eighth year. The Blessed Lord replied that he was in his eighties.

7. She told him that she was to die that very night. Her tone was more self-reliant than that of Mahaprajapati. She did not ask his permission to die nor did she go to him to seek him as her refuge.

8. On the contrary, she said to him (*me saranam atthano*), " I am my own refuge."

9. She had conquered all the cankers in her life.

10. She came to thank him because it was he who had shown her the way and given her the power.

§ *4. Last Meeting between Father and Son*

1. Once when the Lord was staying at Rajagraha in the bamboo grove Rahula was staying at Ambalathika.

2. The Blessed One arising towards eventide from his meditation went over to Rahula, who seeing the Lord some way off, set a seat for him and water to wash his feet.

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3. Seating himself on the seat set for him, the Lord poured water over his feet while Rahula, after salutations, took his seat to one side.

4. Addressing Rahula, the Blessed Lord said—"He who does not shrink from deliberate lying has not—say I—left undone any evil thing which he could. Therefore, you must school yourself never to tell a lie even in jest.

5. "In the same way you must reflect and again in doing every act, in speaking every word and in thinking every thought.

6. "When you want to do anything you must reflect whether it would conduce to your or others' harm or to both, and so is a wrong act productive of woe and ripening into woe. If reflection tells you that this is the nature of that contemplated act, you should not do it.

7. "But if reflection assures you there is no harm but good in it, then you may do it.

8. "Grow in loving kindness; for as you do so malevolence will pass away.

9. "Grow in compassion; for as you do so vexation will pass away.

10. "Grow in gladness over others' welfare; for as you do so aversions will pass away.

11. "Grow in poised equanimity; for as you do so all repugnance will pass away.

12. "Grow in contemplation of the body's corruption; for as you do so passion will pass away.

13. "Grow in perception of the fleeting nature of things; for as you do so the pride of self will fall away."

14. Thus spoke the Lord. Glad at heart, Rahula rejoiced in what the Lord had said.

§ 5. *Last Meeting between the Buddha and Sariputta*

1. The Blessed Lord was staying in Shravasti in the Jetavana in the Gaudhakuti Vihar.

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2. Sariputta arrived there with a company of five hundred brethren.

3. After saluting the Blessed One Sariputta told him that the last day of his life on earth had arrived. Will the Blessed Lord be pleased to permit him to give up his mortal coils ?

4. The Blessed Lord asked Sariputta if he had selected any place for his parinibbana.

5. Sariputta told the Blessed One, " I was born in the village Nalaka in Magadha. The house in which I was born still stands. I have chosen my home for my parinibbana."

6. The Lord replied, "Dear Sariputta ! Do what pleases you."

7. Sariputta fell on the feet of the Blessed Lord and said, "I have practised the paramitas for one thousand Kalpas with only one wish, to have the honour of falling on your feet. I have achieved that end and there is no end to my happiness."

8. ' "We do not believe in rebirth. Therefore this is our last meeting. Let the Lord forgive me my faults. My last day has come."

9. "Sariputta! There is-nothing to forgive," said the Lord.

10. When Sariputta rose to go, the Lord in his honour got up and stood up on the verandah of the Gaudhakuti Vihar.

11. Then Sariputta said to the Blessed Lord, " I was happy when I saw you first. I am happy to see you now. I know this is the last *darshan* of you I am having. I shall not have your *darshan* again."

12. Joining together the palms of his hand he walked away without showing his back to the Blessed Lord.

13. Then the Blessed Lord said to the assembled brethren— "Follow your Elder Brother," and the assembly for the first time left the Blessed Lord and went after Sariputta.

14. Sariputta on reaching his village died in his home in the very room in which he was born.

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15. He was cremated and his ashes were taken to the Blessed Lord.

16. On receiving the ashes the Blessed Lord said to the brethren—"He was the wisest, he had no acquisitive instinct, he was energetic and industrious, he hated sin, ye brethren see his ashes. He was as strong as the earth in his forgiveness, he never allowed anger to enter his mind, he was never controlled by any desire, he had conquered all his passions, he was full of sympathy, fellowship and love."

17. About that time Mahamogallan was then living in a solitary Vihar near Rajagraha. He was murdered by some assassins employed by the enemies of the Blessed Lord.

18. The sad news of his end was conveyed to the Blessed One. Sariputta and Mahamogallan were his two chief disciples. They were called Dharma-Senapati —Defenders of the Faith. The Blessed Lord depended upon them to continue the spread of his gospel.

19. The Blessed Lord was deeply affected by their death in his lifetime.

20. He did not like to stay in Shravasti and to relieve his mind he decided to move on.

PART II

Leaving Vaishali

1. Farewell to Vesali.
2. Halt at Pava.
3. Arrival at Kushinara.

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§ 1. *Farewell to Vesali*

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1. Before he set on his last journey the Blessed Lord was staying at Rajagraha on the Vulture's Peak.

2. After staying there for some time he said: " Come Ananda, let us go to Ambalathika."

3. " So be it Lord ! " said Ananda in assent, and the Blessed One, with a large company of the brethren, proceeded to Ambalathika.

4. After staying at Ambalathika he moved on to Nalanda.

5. From Nalanda he went to Pataligama, the capital of Magadha.

6. From Pataligama he went to Kotigam and from Kotigam he went to Nadika.

7. At each of these places he stopped for a few days and delivered a religious discourse either to the brethren or the householders.

8. From Nadika he went to Vesali.

9. Vesali was the birth-place of Mahavira and consequently a stronghold of his faith.

10. But the Blessed Lord soon succeeded in converting the people of Vesali to his own faith.

11. It is said that owing to drought, a famine ravaged the city of Vesali to such an extent that people died in large numbers.

12. The people of Vesali complained of it in a general assembly convoked by them.

13. The assembly after much discussion decided to invite the Blessed Lord to the city.

14. A Lichchavi by name Mahali, a friend of King Bimbisara and son of the chaplain of Vesali, was sent to offer the invitation.

15. The Blessed Lord accepted the invitation and started with five hundred Bhikkhus. As soon as he entered the territory of the Vajjins there was a thunderstorm, rain fell in torrents and famine disappeared.

16. This is the origin of the welcome which the people of Vesali gave to the Blessed Lord.

17. Having won their hearts it was natural that the people of Vesali should give him a warm response.

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18. Then came *vasa*. The Blessed Lord went to Beluna for his *vasa* and asked the brethren to make their *vasa* in Vesali.

19. After finishing his *vasa* the Lord came to Vesali with a mind to leave Vesali and move on his journey.

20. So the Blessed Lord early one morning robed himself, and taking his bowl, entered Vesali for alms; and when he had passed through Vesali and eaten his meal he gazed at Vesali with an elephant's look and addressed the venerable Ananda and said: "This will be the last time Ananda that the Tathagatha will behold Vesali."

21. Thus saying he bade farewell to the people of Vesali.

22. He gave to the Lichchavis, when they took leave of him at the old city on their northern frontier, his alms-bowl as a memento.

23. It was his last visit to Vesali. He did not live to return to it again.

§ 2. *Halt at Pava*

1. From Vesali the Blessed Lord went to Bhandagam.

2. From Bhandagam he went to Hatthi-gam to Bhoga-Nagara.

3. And from Bhoga-Nagara he went to Pava.

4. At Pava the Blessed One stayed at the mango grove of one blacksmith by name Chunda.

5. Now Chunda heard that the Blessed One had come to Pava and was staying in his mango grove.

6. Chunda went to the mango grove and sat near the Blessed One, who gave him a religious discourse.

7. Gladdened by it Chunda addressed the Blessed One and said: "May the Blessed One do me the honour of taking his meal together with the brethren, at my house tomorrow."

8. And the Blessed One signified, by silence, his

consent. Seeing that the Blessed One had consented, Chunda departed thence.

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9. Next day Chunda made ready in his dwelling-place sweet rice and cakes and some preparation of *Sukara-Madhava*. And he announced the hour to the Blessed One, saying: "The hour, Lord, has come, and the meal is ready."

10. And the Blessed One robed himself and taking his bowl went with the brethren to the dwelling-place of Chunda and partook of the food prepared by him.

11. Again after the meal the Blessed One gave a discourse on religion to Chunda, then rose from his seat and departed thence.

12. The food offered by Chunda did not agree with the Blessed One. There fell upon him a dire sickness, the disease of dysentery, and sharp and shooting pain came upon him even unto death.

13. But the Blessed One, mindful and self-possessed, bore it without complaint.

14. Returning to the mango grove and after nature was relieved, the Blessed One told Ananda: " Come let us go to Kushinara" and the party moved from Pava.

§ 3. *Arrival at Kushinara*

1. The Blessed Lord walked for part of the way. He soon felt the need for some rest.

2. On the way the Blessed One went aside from the path to the foot of a certain tree and said to Ananda: "Fold, I pray you, Ananda, the robe; and spread it out for me. I am weary, Ananda, and must rest a while ! "

3. " Even so, Lord!" said the venerable Ananda, in assent, to the Blessed One, and spread out the robe folded fourfold.

4. And the Blessed One seated himself on the seat prepared for him.

5. And when he was seated, the Blessed One addressed the venerable Ananda, and said: "Fetch me,

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I pray you, Ananda, some water. I am thirsty, Ananda, and would drink."

6. Ananda replied: "This river Kakuttha is not far off, is clear and pleasant, cool and transparent, easy to get down into and delightful. There the Blessed One may both drink the water and cool his limbs. The water of this stream is foul and turbid."

7. The Blessed One was too weak to walk down to the river. He preferred to have the water of the nearby stream.

8. Ananda brought the water and the Blessed One drank it.

9. After resting for a while the Blessed One with the company of the brethren went on to the river Kakuttha; and when he had come there, he went down into the water, and bathed, and drank. And coming out again on the other side he went on to the mango grove.

10. And when he came there he again asked his robe to be spread out, saying: " I am weary and would lie down." The robe was accordingly spread out and the Blessed One laid himself down on it.

11. After resting for a while the Blessed One got up and said to Ananda: " Let us go on to the Sala grove of the Mallas, the Upavana of Kushinara on the further side of the river Hiranyavatti."

12. On reaching the place in the company of Ananda, he again asked Ananda to spread his robe between the twin Sala trees. "I am weary and would lie down."

13. Ananda spread the robe and the Blessed One laid himself down on it.

PART III

His End

1. The Appointment of a Successor.
2. The Last Convert.
3. Last Words.
4. Ananda in Grief.
5. The Lament of the Mallas and the Joy of a Bhikkhu.
6. The Last Rites.
7. Quarrel Over Ashes.
8. Loyalty to the Buddha.

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§ 1. *The Appointment of a Successor*

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1. The Exalted One was at one time sojourning among the Sakyans in the mango grove of the Sakyan family named the archers.

2. Now at that time Nataputta the Nigantha had just died at Pava. And at his death the Niganthas became disunited and divided into two parties, in mutual strife and conflict, quarrelling and wounding each other with wordy weapons.

3. Now Chunda, the novice, having passed the rainy season at Pava, came to see the venerable Ananda and said: "Nataputta, sir, the Nigantha had just died at Pava. And he being dead the Niganthas have become disunited and divided and are quarrelling and wounding one another. This is because they are without a protector."

4. Then said the venerable Ananda, " Friend Chunda, this is a worthy subject to bring before the Exalted One. Let us go to him, and tell him about it."

5. "Very good, sir," replied Chunda.

6. So the venerable Ananda and Chunda, the novice, sought out the Exalted One and saluting him, told him about the Niganthas and pleaded the necessity of appointing a successor.

7. The Blessed Lord on hearing what Chunda had said, replied: "But consider Chunda, where a teacher hath arisen in the world, Arahat, supremely enlightened: where a doctrine hath been well set forth, well imparted, effectual for guidance, conducive to peace; but where his disciples have not become proficient in good Norm, nor has it been made a thing of saving grace to them, well proclaimed among men when their teacher passes away.

8. "Now for such a teacher to die, Chunda, is a great affliction for his disciples and a great danger to his Dhamma.

9. "But consider, Chunda, where a teacher has appeared in the world who is all-enlightened; where the Norm has been well set forth, well imparted, effec-

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tual for guidance, conducive to peace, and where the disciples have become proficient in the good Norm, and where the full scope of the higher life has become manifest to them when that teacher passes away.

10. "Now for such a teacher, Chunda, to die is not an affliction for his disciples. Why then have a successor ? "

11. When Ananda raised the same question on another occasion the Blessed Lord said: "What think you Ananda ? Do you observe even a couple of almsmen at variance about what I have taught ? "

12. "No. But those who are about the Lord might after his death, stir up quarrel in the confraternity respecting the regimen or of the code and such quarrels would make for general grief."

13. "Of little concern, Ananda, are quarrels respecting rigours of regimen or of the code ; it is possible quarrels in the confraternity about the path which really matter," said the Blessed Lord.

14. "These disputes about the path cannot be settled by a dictator. What then a successor can do unless he acts as a dictator.

15. "The controversies regarding the path cannot be settled by a dictator.

16. "The decision of a controversy should be reached by the fraternity. The whole conjoint body should assemble and thrash out the matter till there is agreement and then to settle it conformably with such agreement.

17. "Majority agreements is the way to settle the disputes and not the appointment of a successor."

§2. *The Last Convert*

1. Now at that time Subhadda the Wanderer was staying at Kusinara. And Subhadda the Wanderer heard the rumour, " This very day, it is said, in the last watch of the night will be the final passing away of Gotama the recluse." Then this thought came to Subhadda the Wanderer.

2. "Thus have I heard it said by other wanderers

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who are old and far gone in years, both teachers and disciples; 'Rarely, rarely do Tathagatas arise in the world, they, who are Arahats, fully Enlightened Ones, And here tonight, in the last watch, will be the final passing away of Gotama, the recluse. Now a doubt has arisen in my mind and I am assured of Gotama, the recluse. Gotama, the recluse, can show me a teaching, so that I may dispel this doubting state of mine."

3. Then Subhadda the Wanderer went towards the branch road to the Sala grove of the Mallas, where the venerable Ananda was, and coming there he told the venerable Ananda what he had thought and he exclaimed: "O Master Ananda ! If only I could get a sight of Gotama the recluse !"

4. At these words the venerable Ananda said to Subhadda the Wanderer: " Enough, friend Subhadda! Trouble not the Master! The Exalted One is wearied."

5. Then a second and yet a third time did Subhadda the Wanderer make the same request, and got the same reply.

6. Now the Exalted One overheard this talk between the venerable Ananda and Subhadda the Wanderer. And He called to the venerable Ananda, saying, " Enough, Ananda ! prevent not Subhadda. Let Subhadda be permitted to see the Tathagata. Whatsoever Subhadda shall ask of me, he will ask it all from a desire to know, not from a desire to trouble me. And whatever I shall say in answer, that will be quickly understood."

7. So then the venerable Ananda said to Subhadda the Wanderer, " Go you in, friend Subhadda. The Exalted One gives you leave."

8. So Subhadda the Wanderer went in to the Exalted One, and coming to Him greeted Him pleasantly, and after the exchange of friendly compliments he sat down at one side. So seated, Subhadda the Wanderer thus addressed the Exalted One:

9. "Master Gotama, all those recluses and Brahmins who have followings and companies of listeners, who are teachers of companies, well known,

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renowned founders of sects, esteemed as holy men by the multitude, men like Purana Kassapa, Makkhali of the Cow-pen, Ajita of hairshirt, Kacchayana of the Pakudha tree, Sanjaya, son of Belatthi, and Nigantha of the Natha clan,—have all these, as they say, realised by their own knowledge the truth of things, or have they not one and all so realised, or have some realised and others not realised it, by their own knowledge ?"

10. "Let be, Subhadda ! Trouble not yourself about such things, as to whether one and all or some have realised or not. I will show you the Norm, Subhadda. Do you listen carefully. Apply your mind. I will speak."

11. "Even so, Lord," said Subhadda the Wanderer and gave heed to the Exalted One. Then the Exalted One said this:

12. "In whatsoever Norm-discipline, Subhadda, the Ariyan Eightfold Path is not found, therein also no recluse is found. And in whatsoever Norm-discipline, Subhadda, the Ariyan Eightfold Path is found, therein also is found a recluse.

13. "Now in this Norm-discipline (of mine), Subhadda, the Ariyan Eightfold Path is found. Herein also is found a recluse of these four degrees. Void of recluses are the other sects of disputants. But if, Subhadda, in this one, brethren were to live the perfect life, the world would not be void of arahats.

14. "My age was nine and twenty years when I went forth to seek the Good.

15. "Now fifty years and more are gone, Subhadda, since I left the world to range the Norm of Righteousness."

16. And when he had thus spoken, Subhadda the Wanderer said to the Exalted One: "Most excellent are these words of thy mouth, most excellent.

17. "Just as if a man *were* to set up that which is thrown down, or were to reveal that which is hidden away, or were to point out the right road to him who has gone astray or were to bring a lamp into darkness, so that those who have eyes can see.

18. "Just even so, has the truth been made

known to me by the Exalted One. And I, even I betake myself to the Exalted One as my refuge, to the truth and to the Order."

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19. "Whosoever, Subhadda, has formerly been a follower of another doctrine and thereafter wishes to enter the Order remains on probation for the space of four months."

20. "If that is the rule I too will remain on probation."

21. But the Exalted One said, "I acknowledge the difference in persons." So saying he called the venerable Ananda and told Ananda, "As it is, Ananda, receive Subhadda into the Order."

22. " Even so, Lord!" said the venerable Ananda, in assent to the Exalted One.

23. And Subhadda the Wanderer said to the venerable Ananda: " Great is your gain, friend Ananda, great is your good fortune, friend Ananda, in that you all have been sprinkled with the sprinkling of discipleship in this brotherhood at the hands of the Master himself."

24. " The same is true of you, Subhadda," replied Ananda.

25. So Subhadda the Wanderer was received into the Order under the orders of the Exalted One. He was the last disciple whom the Exalted One himself converted.

§ *3. Last Words*

1. Then said the Exalted One to the venerable Ananda:

2. "It may be, Ananda, that you will say: ' Gone is the word of the Master: we have no longer any Master now!' But you must not so regard it, Ananda; for the Norm and discipline taught and enjoyed by me, they shall be your teachers when I am gone.

3. "Now, Ananda, whereas the brethren have the habit of calling one another 'friend,'—when I am gone this habit must not be followed. By an elder

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brother, Ananda, a brother who is a novice should be called by his name or clan name or by the word 'friend' : but by a novice, Ananda, an elder brother should be addressed as 'Lord' or ' Your reverence.'

4. "Again, Ananda, if the Order so desires, when I am gone, let it abolish the lesser and minor charges.

5. "You know, Ananda, the brother Channa. How obstinate, perverse and devoid of the sense of discipline he is.

6. "And to him, Ananda, let the extreme penalty be applied when I am gone."

7. "What, Lord, do you mean by 'the extreme penalty'?"

8. "The brother Channa, Ananda, whatever he may say, is not to be spoken to, not to be admonished, not to be instructed by the brethren. He should be left alone. It might improve him."

9. Then the Exalted One addressed the brethren:

10. "It may be, brothers, that in the mind of some one brother there is doubt or perplexity, either about the Buddha, or about the Norm, or the Order, or the Path, or the Way to the Path. If it be so, brothers, do ye ask now. Be not hereafter remorseful at the thought, ' Here was our Master face to face with us, and yet we had not the heart to question the Exalted One, though we were in His very presence.' "

11. At these words the brethren were silent.

12. Then a second time and yet a third time did the Exalted One address the brethren in the same words. And a third time the brethren were silent.

13. Then said the Exalted One: " May be, brethren, it is out of respect for the Master that ye ask not. Speak to me, then, as friend to friend, brethren."

14. Whereat those brethren were silent.

15. Then exclaimed the venerable Ananda to the Exalted One: " Strange it is, Lord ! A marvel it is, Lord ! Thus assured am I, Lord, of this Order of Brethren. There is not any one brother that has a single doubt or perplexity as to the Buddha, the Norm, the Order, or as to the Path, or the Way to the Path."

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16. " You speak out of assurance, Ananda. But in the Tathagata there is knowledge of the fact. There is not in any one brother a single doubt or perplexity as to this. Of these five hundred brethren of mine, Ananda, even he who is the most backward is a stream-winner, one who is assured from the Downfall, assured of reaching the Supreme Wisdom."

17. Then said the Exalted One to the brethren :

18. "Come now, brethren, I do remind ye, 'Subject to decay are all compounded things.' Do ye abide in heedfulness."

19. Those were the last words of the Exalted One.

§ *4. Ananda in Grief*

1. As age advanced the Blessed Lord required a personal attendant to look after him.

2. He first chose Nanda. After Nanda he chose Ananda who served as his personal attendant till his death.

3. Ananda was his constant and dearest companion, not merely an attendant.

4. When the Blessed One came to Kushinara and rested between the Sal trees, he saw that his end was coming near, and felt that it was time he took Ananda into confidence.

5. So he called Ananda and said: "And now this Ananda, at the third watch of the night, in the Uppavana of Kushinara, between the twin Sal trees, the utter passing away of the Tathagata will take place."

6. And when he had thus spoken the venerable Ananda addressed the Blessed One, and said: "Vouchsafe, Lord, to remain during the Kalpa, O Blessed One!, for the good and the happiness of the great multitudes, out of pity for the world, for the good and the gain and the weal of gods and men."

7. Three times did Ananda make his plea. "Enough now, Ananda, beseech not the Tathagata ! " was the reply. " The time for making such request is past."

8. "I, Ananda, am now grown old, and full of

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years, my journey is drawing to a close. I have reached my sum of days. I am turning eighty years of age; and just as a worn-out cart must give way some day, methinks, the same must happen to the body of the Tathagata." Hearing this, Ananda left.

9. Not seeing Ananda, the Blessed One called the brethren, and said: "Where then is Ananda?" " The venerable Ananda is gone and is weeping," said the brethren.

10. And the Blessed One called a certain brother and said: " Go now brother, and call Ananda in my name and say, ' Brother Ananda, the Master calls for thee'."

11. "Even so, Lord!" said that brother.

12. When Ananda came back he took his seat by the side of the Blessed One.

13. Then the Blessed One said to Ananda : " Enough, Ananda! Do not weep! Have I not already, on former occasions, told you that it is in the very nature of things most near and dear unto us that we must divide ourselves from them, leave them, sever ourselves from them?

14. For a long time, Ananda, you have been very near to me by acts of love, kind and good, beyond all measure.

15. "You have done well, Ananda! Be earnest in effort and you too shall be free from the great evils—from sensuality, from individuality, from delusion, and from ignorance."

16. Then addressing the brethren about Ananda the Blessed One said: " He is a wise man, brethren, is Ananda.

17. "He knows when it is the right time to come and visit the Tathagata, and when it is the right time for brethren and sisters of the Order, for devout men and devout women, for a king, or for a king's ministers, for other teachers and disciples, to visit the Tathagata.

18. "Brethren, there are these four special things about Ananda.

19. "All are happy to visit Ananda. They are

filled with joy on beholding him; they are happy to hear him. They are ill at ease when Ananda is silent."

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20. After this Ananda again returned to the subject of the passing away of the Tathagata. Addressing the Blessed One, he said: "Let not the Blessed One die in this wattled and daub town in the midst of the jungle. For Lord there are great cities, such as Champa, Rajagraha, Savathi, Saketa, Kosambi and Benares. Let the Blessed One die in one of them."

21. "Say not so, Ananda! Say not so, Ananda. This Kushinara, Ananda, was the capital of king Maha-Sudassana under the name of Keshavati."

22. Thereafter the Blessed One gave Ananda two errands.

23. He told Ananda to see that belief does not spread that the Blessed One died as a result of the food given to Him by Chunda. He feared that Chunda might suffer. He asked Ananda to disabuse the mind of the public on this score.

24. The second thing he told Ananda was to inform the Mallas of Kushinara that the Blessed One had arrived there and would pass away in the last watch of the night.

25. "Give no occasion to reproach yourself. The Mallas may say : ' In our own village the death of our Tathagata took place and we did not know and had no opportunity of seeing him in his last hours.' "

26. Thereafter the venerable Anurudha and the venerable Ananda spent the rest of the night in religious discourse.

27. And in the third part of the night, as previously announced, the Blessed One breathed his last.

28. When the Blessed One died, the brethren and Ananda stretched out their arms and wept, and some even fell headlong on the ground, rolling to and fro in anguish, saying: "Too soon has the Blessed One died! Too soon has the Happy One passed away from existence ! Too soon has the Light gone out of the world ! "

29. It was at midnight on Vaishakha Paurnima

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that the Blessed Lord breathed his last. The year of his death was 483 B.C.

30. As the Pali text truly says:

Diva tapati addicco
Ratin abhati candima;
Sannaddho khathio tapati
Jhayi tapati brahamano;
Atha Sabbain ahorattain
Buddho tapati tejasa.

31. "The sun shines only in the day and the moon makes bright the night. The warrior shines when he is in his armour. And the Brahmin when he is meditating. But the Buddha shines over all by day as well as by night by his own glory.

32. "He was beyond question the light of the world."

§ 5. *The Lament of the Mallas and the Joy of a Bhikkhu*

1. As desired by the Blessed One, Ananda went and informed the Mallas of the event.

2. And when they heard of this the Mallas, their wives, their young men and maidens were grieved and sad and afflicted at heart.

3. Some of them wept, dishevelling their hair, and stretched forth their arms and fell prostrate on the ground.

4. Then the Mallas, with their young men and maidens and their wives, went to the Sala grove in the Upavaana to have the last look of the Blessed One.

5. Then the venerable Ananda thought: "If I allow the Mallas of Kushinara one by one it will take a long time for them to pay homage to the dead body of the Blessed One."

6. So he decided to arrange them in groups, family by family. Each family then bowed humbly at the feet of the Blessed One and parted.

7. Now at the time the venerable Maha Kassapa was journeying along the high road from Pava to Kushinara with a great company of the brethren.

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8. Just at the time a certain naked ascetic was coming along the high road to Pava.

9. And the venerable Maha Kassapa saw the naked ascetic coming in the distance; and when he had seen him he said to the naked ascetic: "O friend! Surely thou knowest our Master?"

10. "Yes, friend ! I know him." "This day the Samana Gotama has been dead a week!"

11. Immediately on hearing the news the brethren were overcome with grief and started weeping.

12. Now at that time a brother named Subhadda, who had been received into the Sangh in his old age, was seated in their company.

13. And this Subhadda addressed the brethren and said: "Enough brethren! Weep not, neither lament! We are well rid of the great Samana. We used to be annoyed by being told, 'This beseems you, this beseems you not.' But now we shall be able to do whatever we like: and what we do not like, that we shall not have to do ! Isn't it good he is dead? Why weep, why lament? It is a matter of joy."

14. So great and harsh a disciplinarian the Blessed One was.

§ *6. The Last Rites*

1. Then the Mallas of Kushinara said to the venerable Ananda: "What should be done with the remains of the Tathagata ? "

2. " As men treat the remains of a king of kings, so should you treat the remains of the Tathagata" replied Ananda.

3. "And how do they treat the remains of a king of kings?"

4. Ananda told them: " They wrap the body of a king of kings in a new cloth. When that is done they wrap it in cotton-wool. When that is done they wrap it in a new cloth and so on till they have wrapped the body in five hundred successive layers of both kinds. Then they place the body in an oil vessel of iron and cover that close up with another oil vessel of iron.

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They then build a funeral pile of all kinds. This is the way in which they treat the remains of a king of kings."

5. " So be it," said the Mallas.

6. Then the Mallas of Kushinara said : " It is much too late to burn the body of the Blessed One today. Let us now perform the cremation tomorrow."

7. And the Mallas of Kushinara gave orders to their attendants, saying: "Make preparations for the funeral of the Tathagata and gather perfumes and garlands and the musicians of Kushinara."

8. But in paying honour, reverence, respect, and homage to the remains of the Tathagata with dancing, and hymns and music and with garlands and perfumes; and in making canopies of their garments, and preparing decoration wreath to hand thereon, they passed the second day too, and then the third day, and the fourth and fifth and the sixth day also.

9. Then on the seventh day the Mallas of Kushinara thought: "Let us carry the body of the Blessed One and let us perform the cremation ceremony."

10. And thereupon eight chieftains among the Mallas bathed their heads, and clad themselves in new garments with the intention of acting as pall-bearers carrying the body of the Blessed One.

11. They carried the dead body to the Shrine of the Mallas, called Makuta-bandhana; to the east of the city and there they laid down the body of the Blessed One and set fire to it.

12. After some time the mortal remains of the Blessed One were reduced to ashes.

§ 7. *Quarrel Over Ashes*

1. After the body of the Blessed One had been consumed by fire, the Mallas of Kushinara collected the ashes and the bones of the Blessed One and placed them in their Council Hall with a lattice work of spears and with a rampart of bows; and guarded them against anybody stealing them or any part of them.

2. For seven days the Mallas paid honour and

reverence and respect and homage to them with dance and song and music and with garlands and perfumes.

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3. Now the King of Magadha, Ajatasatru, heard the news that the Blessed One had died at Kushinara.

4. He, therefore, sent a messenger to the Mallas with a request for a portion of the relics of the Blessed One.

5. Similarly messengers came from the Licchavis of Vaishali, from the Sakyas of Kapilavastu, from the Bulis of Attakappa, from the Koliyas of Ramagama and from the Mallas of Pava.

6. Among the claimants for ashes there was also a Brahmin of Vethadipa.

7. When they heard these claims, the Mallas of Kushinara said: " The Blessed One died in our village. We will not give away any part of the remains of the Blessed One. They belong to us."

8. Seeing that the situation was tense a Brahmin by name Drona intervened and said: "Hear, reverend sirs, one single word from me."

9. Said Drona: "Forbearance was our Buddha to teach; unseemly is it that over the division of the remains of him who was the best of beings, strife should arise, and wounds and war !

10. "Let us all, sirs, with one accord unite in friendly harmony to make eight portions. Widespread let stupas arise in every land that the Enlightened One from all parts be reverenced."

11. The Mallas of Kushinara agreed and said: "Do thou then, O Brahmin, thyself, divide the remains equally into eight parts, with fair division."

12. "Be it so, sir !" said Drona in assent.

13. And he divided the remains of the Blessed One equally into eight parts.

14. After making the division Drona said to them: "Give me, sirs, this vessel. I will set up over it a stupa."

15. And they agreed to give the vessel to him.

16. Thus the ashes of the Blessed One were shared and the quarrel was settled peacefully and amicably.

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§ 8. Loyalty to the Buudha

1. Shravasti was the occasion (of these events) ....

2. Now on that occasion a number of monks were busied with making a robe for the Exalted One, with this idea : When the robe is finished, in three months' time, the Exalted One will go forth on his rounds.

3. Now at that time Isidatta and Purana, the chamberlains, were staying at Sadhuka on some business or other. Then they heard the news: "They say that a number of monks are busied with making a robe for the Exalted One with this idea: When the robe is finished, in three months' time, the Exalted One will go forth upon his rounds."

4. So Isidatta and Purana, the chamberlains, stationed a man on the high-road (thus instructing him): "Now, good fellow, as soon as you see that Exalted One, that Arahat, that perfectly Enlightened One coming along, do you come and inform us."

5. So after standing there two or three days that man saw the Exalted One coming along, while yet some distance off, and he went to inform the chamberlains, Isidatta and Purana, saying: " Here comes my lord, the Exalted One, that Arahat, that perfectly Enlightened One ! Now's the time for you to do what you want!"

6 So Isidatta and Purana, the chamberlains, went towards the Exalted One, and on coming to him, saluted him, and followed behind the Exalted One step for step.

7. Then the Exalted One turned aside from the high road and went to the foot of a certain tree and there sat down on a seat made ready. And Isidatta and Purana, the chamberlains, saluting the Exalted One, also sat down at one side. As they thus sat, they said this to the Exalted One :

8. "Lord, when we heard of the Exalted One that he would go forth on his rounds among the Kosalans, at that time we were disappointed and depressed at the thought: the Exalted One will be far from us.

9. "And when, Lord, we learned that the Exalted

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One was starting out from Shravasti on his rounds among the Kosalans, again we were disappointed and depressed at the thought: The Exalted One will be far from us.

10. "Again, lord, when we learned that the Exalted One would leave the Kosalans and go on his rounds among the Mallas ... that he was actually doing so ... we were disappointed and depressed.

11. "On hearing that the Exalted One would leave the Mallas and go on his rounds among the Vajji ... that he was actually doing so... that he would leave the Vajji for Kasi... that he was doing so... that he would leave the folk of Kasi and go on his rounds in Magadha . .. that he was actually doing so... again we were disappointed and depressed ....

12. "But, Lord, when we heard that the Exalted One would leave the Magadhas for Kasi and was doing so, then we were delighted and elated at the thought: The Exalted One will be quite near us.

13. " And when we heard that he was actually going his rounds in Kasi among the Magadhas, we were likewise delighted and elated.

14. (They continue to trace the Master's steps from Kasi to the Vajji ... from the Vajji to the Mallas... from the Mallas to the Kosalans in like terms.)

15. " But, Lord, when we heard that the Exalted One would be going on his rounds from the Kosalans to Savatthi, we were delighted and elated at the thought: Now the Exalted One will be quite near us !

16. " Then, when we heard: 'The Exalted One is staying at Shravasti, at Jeta grove, in Anathapindika's Park.' Then, Lord, boundless was our delight and boundless our elation at the thought : The Exalted One is near us ! "

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BOOK VIII

The Man who was Siddharth Gautama

Part I—His Personality.

Part II—His Humanity.

Part III—His Likes and Dislikes.

EPILOGUE

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PART I

His Personality

1. His Personal Appearance.
2. The Testimony of Eye-witnesses.
3. His Capacity to Lead.

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§ 1. His Personal Appearance

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1. From all accounts the Blessed Lord was a handsome person.

2. His form was like the peak of a golden mountain. He was tall and well built; with a pleasing appearance.

3. His long arms and lion gait, his bull-like eyes, and his beauty, bright like gold, his broad chest, attracted everyone to him.

4. His brows, his forehead, his mouth or his eyes, his body, his hands, his feet or his gait— whatever part of him anyone beheld that at once riveted his eyes.

5. Whoever saw him could not help being struck with his majesty and his strength, his splendid beauty, surpassing all other men.

6. On seeing him, he who was going elsewhere stood still and whoever was standing followed him: he who was walking gently and gravely, ran quickly, and he who was sitting at once sprang up.

7. Of those who met him some reverenced him with their hands, others in worship saluted him with their heads, some addressed him with affectionate words, not one went on without paying him homage.

8. He was loved and respected by all.

9. Men as well as women were ever ready to hear him.

10. His voice was singularly sweet and deep as a drum, lovely, vibrant and eloquent. It made his speech as though it was heavenly music.

11. His very tones convinced the hearer, and his looks inspired awe.

12. His personality alone sufficed to make him not only a leader but a god to the hearts of his fellows.

13. When he spoke he obtained hearers.

14. It mattered little what he said. He influenced

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the emotions and bent whoever listened to his will.

15. He could create in the minds of his hearers that what he taught was not only a verity, but the very hope of their salvation.

16. His hearers could recognize in his words the truth that makes of slaves free men.

17. When he talked with men and women his serene look inspired them with awe and reverence and his lovely voice struck them with rapture and amazement.

18. Who could have converted the robber Augulimala or the Cannibal of Atavi ? Who could have reconciled King Pasenjit to his queen Mallika by a single word. To have come under his spell is to be his for ever. So charming was his personality.

§ 2. *The Testimony of Eye-witnesses*

1. This traditional view is supported by the testimony of eye-witnesses who saw him and met him while he was alive.

2. One such eye-witness is a Brahmin by name Sale. After seeing the Blessed One face to face he uttered the following sentiments in praise of him.

3. Arrived in the Lord's presence, the Brahmin, seating himself after greetings, scanned the Lord's body for the two and thirty marks of a Superman, and in time observed them.

4. Quite sure now about the presence of the two and thirty marks, Sale still did not know whether or not he had enlightenment. But he remembered hearing from old and aged Brahmins, teachers of teachers, that those who became Arahats, all enlightened, reveal themselves when their praises are sung, and so he made up his mind to extol the Lord to his face in the following lines of eulogy :

5. "Perfect of body, goodly, Lord, art thou, well grown, well liking, golden-hued, with teeth which gleam lustre; vigour fills the frame; the body's full

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perfection manifests each single sign that marks a Superman.

6. "Clear-eyed and handsome, tall, upright art thou, effulgent as a sun among thy train, so debonair, so golden-hued; why waste thy beauty's prime as homeless anchorite.

7. "As world-wide monarch thou shouldst ride in State; and indeed from sea to sea should own thy sway. Proud princes shall thy village headmen be; rule thou mankind, as sovereign, king of kings."

8. Ananda describes the colour of his body as exceedingly clear and bright so much so that the pair of cloth of gold when placed on the body of the Blessed One appears to have lost its splendour.

9. No wonder he was called by his opponents a glamour boy.

§ 3. *His Capacity to Lead*

1. The Sangh had no official head. The Blessed One had no authority over the Sangh. The Sangh was a self-governing body.

2. What was, however, the position of the Blessed One over the Sangh and its members ?

3. In this we have the evidence of Sakuldai and Udai, contemporaries of the Blessed One.

4. Once the Lord was staying at Rajagraha in the bamboo grove.

5. One morning the Lord went into Rajagraha for alms; but, deeming the hour too early, he thought of going to Sakuldai in Wanderers' Pleasance; and thither he repaired.

6. At the time, Sakuldai was sitting with a great company of Wanderers, who were making a great noise about being and not being.

7. When from some way off, Sakuldai saw the Lord coming, he hushed his company by saying: "Be quiet, sirs; do not make a noise; here comes the recluse Gotama, who is a lover of silence."

8. So they became silent and the Lord came up. Said Sakuldai: "I pray the Lord to join us; he is truly

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welcome; it is a long time since he last managed to come. Pray, be seated; here is a seat for the Lord."

9. The Lord sat down accordingly, asking Sakuldai what had been their theme and what was the discussion which had been interrupted.

10. "Let that pass for the moment," answered Sakuldai; "you can easily gather that later on."

11. Of late, when recluses and Brahmins of other creeds met together in the Discussion Hall, the topic was mooted, what a good thing, what a very good thing, for the Magdha people in Anga, that such recluses and Brahmins—all at the head of confraternities or followings, all well known and famous teachers, all founders of saving creeds, held in high repute by many people should have come to spend the rainy season at Rajagraha.

12. There was Purana Kassappa, Makhali Ghosala, Ajit Kesakambal, Pakudha Kacchayana, Sanjaya Belaiputta, and Nata-putta the Nigantha, all men of distinction and all of them here for the rains; and among them there is also the recluse Gotama here, at the head of his confraternity and following, a well-known and famous teacher, a founder of a saving creed, who is held in high repute by many.

13. Now, which of these lords, which of these recluses and Brahmins of such eminence as teachers, is esteemed, respected, venerated and adored by his disciples ? And on what terms of esteem and respect do they live with him ?

14. Said some: "Purana Kassappa gets no esteem or respect; no veneration or adoration, from his disciples; they live with him on no terms of esteem and respect."

15. Time was when, as he was preaching his doctrine to some hundreds of his following, a disciple broke in with— "Don't question Purana Kassappa, who does not know about it ; ask me who do; I will explain everything to your reverences."

16. With arms outstretched Purana Kassappa tearfully remonstrated, saying: "Do be quiet, sirs; do not make a noise."

PART II

His Humanity

1. His Compassion—The Maha Karunik.
2. Healing of the Stricken.
3. His Concern for the Sick.
4. His Tolerance of the Intolerant.
5. His Sense of Equality and Equal Treatment.

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§ 1. His Compassion—The Maha Karunik

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1. When once the Blessed Lord was staying in Shravasti the almsmen came and informed him that they were constantly harassed by the Deva who disturbed them in their meditations.

2. After hearing their stories of harassment the Blessed Lord gave them the following instructions :—

3. "He, who is skilled in his godness, who wishes to attain that calm state, should act thus: he should be able, upright, near perfectly upright, of noble speech, gentle and humble.

4. "Contented, easily supportable, with few duties, of light livelihood, controlled in senses, discreet, not impudent, not greedily attached to families.

5. "He should not pursue anything trifling such that other wise men might censure him. He should wish, 'May all beings be happy and secure; may their hearts be wholesome.'

6. "Whatever living beings there be—feeble or strong, tall, stout and medium, short, small or large, without exception;

7. "Seen or unseen, those dwelling far or near, those who are born, or who are to be born, may all beings be happy.

8. "Let none deceive another, nor despise any person whatsoever in any place, let him not wish any harm to another, out of anger or ill-will.

9. "Just as a mother would protect her only child at the risk of her own life, even so let him cultivate a boundless heart towards all beings.

10. "Let his thoughts of boundless love pervade the whole world, above, below and across without any obstruction, without any enmity.

11. "Whether he stands, walks, sits, lies down, as long as he is awake, he should develop this mindfulness, this they say is the noblest living here.

12. "Not falling into error (self-illusion), being virtuous and endowed with insight, by discarding

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attachment to sense desires never does he come again for conception in a womb."

13. In short, he told them "Love your enemies."

§ 2. *Healing of the Stricken*

A Consummate Healer of Sorrow.

(i)

Consoling Visakha

1. Visakha was an upasika. It was her routine to give alms to the bhikkhus.

2. One day her grand-daughter, Suddata, who lived with her, fell ill and died.

3. Visakha was unable to bear the grief.

4. After cremation she went to the Buddha and sat on one side sad with tearful eyes.

5. "O Visakha," asked the Blessed One, "wherefore dost thou sit, sad and mournful, shedding tears ?"

6. She told him of her grand-daughter's death, saying, "she was a dutiful girl, and I cannot find her like."

7. "How many young girls, say, are there dwelling in Shravasti, O Visakha?"

8. "Lord, men say there are several kotis (several millions)."

9. "If all these were like thy grand-daughter, wouldst thou not love them ?"

10. "Verily, Lord," replied Visakha.

11. "And how many die daily in Shravasti?"

12. "Many, Lord."

13. "Then there is never a moment when thou wouldst not be grieving for someone ?"

14. "True, Lord."

15. "Wouldst thou then spend thy life weeping day and night ?"

16. "I understand Lord ; it is well said !"

17. "Grieve then, no more."

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(ii)

Comforting Kisa Gotami

1. Kisa Gotami was married to the son of a merchant of Shravasti.

2. Soon after marriage a son was born to her.

3. Unfortunately her child died of a snake-bite before it could walk.

4. She could not believe that her child was really dead as she had not seen death before.

5. The little spot red from the bite of a snake, did not look as if it could be the cause of the child's death.

6. She, therefore, took her dead child and wandered about from house to house, in such a wild state of mind that people believed that she had gone out of her senses.

7. At last one old man advised her to go and seek out Gotama who happened at the time to be in Shravasti.

8. So she came to the Blessed One and asked him for some medicine for her dead child.

9. The Blessed One listened to her story and to her lamentations.

10. Then the Blessed One told her, "Go enter the town, and at any house where yet there has been no death, thence bring a little mustard seed and with that I will revive your child."

11. She thought this was easy and with the dead body of her child she entered the town.

12. But she soon found that she had failed as every house she visited had suffered loss in the death of some member.

13. As one householder told her, "the living are few and the dead are many."

14. So she returned to the Blessed Lord disappointed and empty-handed.

15. The Blessed Lord then asked her if she did not then realize that death was the common lot of all and whether she should grieve as though it was her special misfortune.

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16. She then went and cremated the child, saying: "All is impermanent; this is the law."

§ 3. *His Concern for the Sick*

(i)

1. Now at one time a certain brother was suffering from dysentery and lay where he had fallen down in his own excreta.

2. And the Exalted One going on his rounds of the lodgings, with the venerable Ananda in attendance, came to the lodging of that brother.

3. Now the Exalted One saw that brother lying where he had fallen in his own excreta and seeing him he went towards him, and said: "Brother, what ails you ?"

4. "I have dysentery, Lord."

5. "But is there anyone taking care of you, brother ?"

6. "No, Lord."

7. "Why is it, brother, that the brethren do not take care of you ?"

8. "I am useless to the brethren, Lord, therefore the brethren do not care for me."

9. Then the Exalted One said to the venerable Ananda: "Go you, Ananda, and fetch water. I will wash this brother."

10. "Yes, Lord," replied the venerable Ananda to the Exalted One. When he had fetched the water, the Exalted One poured it out, while the venerable Ananda washed that brother all over. Then the Exalted One, taking him by the head and the venerable Ananda taking him by the feet, together they laid him on the bed.

11. Then the Exalted One, in this connection and on this occasion, gathered the Order of Brethren together, and questioned the brethren, saying:

12. "Brethren, is there in such and such a lodging a brother who is sick?"

13. "There is, Lord."

14. "And what ails that brother?"

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15. "Lord, that brother has dysentery."

16. "But, brethren, is there anyone taking care of him ?"

17. "No, Lord."

18. "Why not ? Why do not the brethren take care of him ?"

19. "The brother is useless to the brethren, Lord. That is why the brethren do not take care of him."

20. "Brethren, ye have no mother and father to take care of you. If ye will not take care of each other, who else, I ask, will do so ? Brethren, he who would wait on me, let him wait on the sick.

21. "If he have a teacher, let his teacher take care of him so long as he is alive, and wait for his recovery. If he have a tutor or a lodger, a disciple or a fellow lodger or a fellow disciple, such should take care of him and await his recovery. If no one takes care of him, it shall be reckoned an offence."

(ii)

1. Once the Exalted One was staying near Rajagraha in the great grove, at the squirrels feeding ground.

2. On that occasion the venerable Vakkali was staying in the potter's shed, being sick, afflicted, stricken with a sore disease.

3. Now the venerable Vakkali called to his attendants, saying : "Come hither, friends ! Go ye to the Exalted One and, in my name worshipping at the feet of the Exalted One, say unto Him : 'Lord, the brother Vakkali is sick, afflicted, stricken with a sore disease. He worships at the feet of the Exalted One.' And thus do you say : 'Well, were it, Lord, if the Exalted One would visit brother Vakkali, out of compassion for him.' "

4. The Exalted One consented by His silence. Thereupon the Exalted One robed himself, and, taking bowl and robe, went to visit the venerable Vakkali.

5. Now the venerable Vakkali saw the Exalted

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One coming while he was yet far off, and on seeing him he stirred upon his bed.

6. Then said the Exalted One to the venerable Vakkali: "Enough, Vakkali ! Stir not on your bed ! There are these seats made ready. I will sit there." And he sat down on a seat made ready. So the Exalted One sat down and said to the venerable Vakkali :

7. "Well, Vakkali, I hope you are bearing up. I hope you are enduring. Do your pains abate and not increase ? Are there signs of their abating and not increasing?"

8. "No, Lord, I am not bearing up. I am not enduring. Strong pains come upon me. They do not abate. There is no sign of their abating but of their increasing."

9. "Have you any doubt, Vakkali ? Have you any remorse."

10. "Indeed, Lord, I have no doubt. I have no remorse."

11. "Have you not anything, Vakkali, wherein you reproach yourself as to morals ?"

12. "Nay, Lord, there is nothing wherein I reproach myself as to morals."

13. "Then, Vakkali, if that is so, you must have some worry, you must have something you regret."

14. "For a long time, Lord, I have been longing to set eyes on the Exalted One, but I had not strength enough in this body to come to see the Exalted One."

15. "Hush, Vakkali; what is there in seeing this vile body of mine ? He who seeth the Norm, he seeth me: he who seeth, Vakkali, seeth the Norm. Verily, seeing the Norm, Vakkali, one seeth me : seeing me, one seeth the Norm."

(iii)

1. Thus have I heard: The Exalted One was once staying among the Bhaggi, at crocodile haunt in Bhesakala grove in the deer-park. Then the housefather, Nakulapita, came to the Exalted One, saluted Him, and sat down at one side.

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2. As he sat there, the housefather, Nakulapita, addressed the Exalted One, saying: "Master, I am a broken-down old man, aged, far gone in years, I have reached life's end, I am sick and always ailing. Moreover, Master, I am one to whom rarely comes the sight of the Exalted One and the worshipful brethren. Let the Exalted One cheer and comfort me, so that it be a profit and a blessing unto me for many a long day."

3. "True it is, true it is, housefather, that your body is weak and cumbered ! For one carrying this body about, housefather, to claim but a moment's health would be sheer foolishness. Wherefore, housefather, thus should you train yourself : 'Though my body is sick, my mind shall not be sick.' Thus, housefather, must you train yourself."

4. Then Nakulapita, the housefather, welcomed and gladly heard the words of the Exalted One, and rising from his seat he saluted the Exalted One by the right, and departed.

(iv)

1. Once the Exalted One was staying among the Sakyans at Kapilavastu, in the fig-tree park.

2. Then on that occasion a number of brethren were busy with making robes for the Exalted One, "For," said they, "when the three months are over, the Exalted One, his robes being complete, will go forth on his rounds."

3. Now Mahanama, the Sakyan, heard it said, "A number of brethren are busy with making robes, and so forth". . . and he went to the Exalted One, saluted him, and sat down at one side. So seated, Mahanama, the Sakyan, said :

4. "I hear it said, Lord, that a number of the brethren are busy with making robes for the Exalted One, saying, 'when the robes are complete, at the end of the three months, the Exalted One will go forth on his rounds.' Now, Lord, we have never heard from the Exalted One's own lips how a discreet layman who is sick, in pain, grievously afflicted, should be cheered by another discreet lay-brother."

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5. "A discreet lay-brother, Mahanama, who is sick . . . should be cheered by another discreet lay-brother with the Four Comfortable Assurances, thus: 'Take comfort, good sir, in the Norm, and in the Order of Brethren: likewise in the virtues dear to the Norm kept unbroken and unsoiled which tend to balance of mind.'

6. "Then, Mahanama, when a discreet lay-brother who is sick has thus been cheered with the Four Comfortable Assurances by another lay-brother, such should be the words of that other:

7. "Suppose the sick man should have a longing for his parents. Then if the sick man says, 'I have a longing for my parents,' the other should reply, 'My dear good man, you are subject to death. Whether you have longing for your parents or not you will die. 'Twere just as well for you to abandon all longing for your parents.'

8. "And suppose the sick man says, 'that longing for my parents is now abandoned,' then the other should say, 'Yet my good sir, you still have a longing for your children. As you must die in any case, 'twere just as well for you to abandon longing for your children.'

9. "And so also should he speak in respect of the five pleasures of the senses. Suppose the sick man says, 'I have a longing for the five pleasures of sense,' the other should say, 'My friend, heavenly delights are more excellent than the five pleasures of sense, and more choice. Twere well for you to remove your mind from human joys and fix it on the joys of the Four Great Deva Kings.'

10. "Again, if the sick man say, 'My mind is so fixed,' let the other say, 'Better to fix your mind on the Brahma world,' And then if the sick man's mind is so fixed, let the other say :

11. " 'My good sir, even the Brahma world is impermanent, not lasting, subject to personality. Well for you, dear sir, if you raise your mind above the Brahma world and concentrate on cessation from the personal.'

12. "And if the sick man says he has done so, then I declare Mahanama, that there is no difference between the lay-brother who can thus aver and the disciple whose mind is freed from the asavas : that is to say, so far as emancipation goes."

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§ 4. *His Tolerance of the Intolerant*

1. Once the Blessed Lord was dwelling in the realm of the Yakkha Alavaka in the town of Alavi. Then the Yakkha Alavaka approached the Blessed Lord, and having approached him, said thus:

"Get out, O Monk ! "

2. The Blessed Lord departed, saying: "Very well, friend."

3. The Yakkha then ordered "Enter, O Monk."

4. The Blessed Lord entered, saying: "Very well, friend."

5. For the second time also the Yakkha Alavaka told the Blessed Lord, "Get out, O Monk !"

6. The Lord departed, saying : "Very well, friend."

7. "Enter, O Monk !" said the Yakkha, the second time.

8. The Lord entered, saying: "Very well, friend."

9. For the third time also the Yakkha Alavaka told the Lord, "Get out, O Monk !"

10. The Lord departed, saying: "Very well, friend."

11. "Enter, O Monk !" said the Yakkha again.

12. The Lord entered, saying: "Very well, friend."

13. For the fourth time did the Yakkha tell the Lord, "Get out, O Monk !"

14. This time the Lord replied : "I shall not get out, friend, you may do what you like."

15. "I shall put a question to you; monk; if you do not answer my question, I will drive you out of your wits or I will tear your heart, or I will take you by the feet and throw you to the other side of the river," said the angry Yakkha.

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16. "I do not see, friend, anyone in the world who could drive me out of my wits or tear out my heart, or take me by the feet and throw me across the river. Still, friend, you may put any question you like."

17. Then the Yakkha Alavaka asked the Lord the following questions :

18. "What is the noblest wealth for a man in this world ? What pure action brings happiness ? What is the sweetest of all tastes ? What manner of living is said to be the noblest living ?"

19. The Lord replied: "Faith is the noblest wealth for a man in this world. The Dhamma well observed brings happiness. Truth is the sweetest of all tastes. The living endowed with wisdom is said to be the noblest thing.

20. Yakkha Alavaka asked: "How does one cross the flood (rebirth) ? How does one cross the sea (existence)? How does one overcome suffering?"

21. The Lord replied: "One crosses the flood by Faith. One crosses the sea by Vigilance. One overcomes suffering by Exertion. One purifies oneself by wisdom.

22. Yakkha Alavaka asked: "How does one acquire knowledge? How does one obtain wealth? How does one attain fame ? How does one gain friends ? Passing from this world to the other world after death, how does one not repent ?"

23. The Lord replied: "Having faith in Arahats and in the Dhamma for the attainment of Nibbana, and by obedience, the diligent, attentive person acquires wisdom.

24. "One who does what is proper, one who is resolute, one who is awake, he acquires wealth. One who gives acquires friends.

25. "The faithful householder in whom truthfulness, righteousness, patience and generosity are found, he does not repent after death.

26. "Come on! Also consult other numerous monks and Brahmins, whether there are any other qualities higher than truth, self-control, charity and patience."

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27. Yakkha Alavaka said: "Now, why should I consult various Brahmins and monks ? Today I know the prosperity which belongs to my future good.

28. "Indeed ! the Buddha came to the dwelling of Alavi for my benefit. To-day I know, to whom when given, it returns the greatest fruit.

29. "From today I will wander from village to village, from town to town, paying my respect to the fully Enlightened One, and his perfect Doctrine."

§ 5. *His Sense of Equality and Equal Treatment*

1. Whatever rules the Blessed Lord had made for the members of the Sangh were voluntarily and willingly accepted by him to be binding on him also.

2. He never claimed any exemption or any special treatment on the ground that he was the acknowledged head of the fraternity and to whom any concession would have been most willingly made by the fraternity out of the boundless love and respect they bore for him.

3. The rule that the members of the Sangh could take only one meal a day was accepted and followed by the Blessed Lord as much as it was by the bhikkhu.

4. The rule that the members of the Sangh should have no private property was accepted and followed by the Blessed Lord as much as it was by the bhikkhu.

5. The rule that no member of the Sangh should have more than three pieces of cloths was accepted and followed by the Blessed Lord as much as it was by the bhikkhu.

6. Once, when the Lord was living in the Sakyan country at Kapilavastu in the banyan grove, Maha-Prajapati Gautami, the mother of the Blessed Lord, came to the Lord with two new lengths of cloth which she begged the Lord to be so good as to accept from her as it was the work of her own hands at the loom expressly for him.

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7. To her the Lord made the answer, "Give it to the confraternity."

8. A second and a third time did Gautami repeat her request, only to receive the same reply.

9. Then Ananda intervened, saying, "Pray accept, sir, the cloth presented by Gautami. She was of great service to the Lord as nurse and foster-mother suckling her nephew when his own mother died." But the Blessed Lord insisted upon the cloth being given to the confraternity.

10. Originally it was the rule of the Sangh that the robes of the members should be made of rags picked up from dung heaps. This rule was made to prevent the wealthier classes from joining the Sangh.

11. Once Jivika prevailed upon the Blessed Lord to accept a robe of newly made cloth. When the Lord accepted it, he at the same time relaxed the original rule and allowed the bhikkhu the same privilege.

PART III

His Likes and Dislikes

1. His Dislike of Poverty.
2. His Dislike of the Acquisitive Instinct.
3. His Joy at the Beautiful.
4. His Love for the Lovely.

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§ 1. His Dislike of Poverty

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1. Once the Exalted One was dwelling near Shravasti in Jeta's grove, at Anathapindika's park; and there Anathapindika, the householder, came and visited him and after saluting, sat down at one side. So seated, he asked the Exalted One to explain why one should acquire riches.

2. "Since you ask me, I will explain.

3. "Take the case of Ariyan disciple with riches gotten by work and zeal, gathered by the strength of the arm, earned by the sweat of the brow; justly obtained in a lawful way he makes himself happy, glad, and keeps that great happiness; he makes his parents happy, glad, and keeps them so; so likewise his wife and children, his slaves, workfolk and men. This is the first reason for getting riches.

4. "When riches are thus gotten, he makes his friends and companions happy, glad, and keeps them so. This is the second reason.

5. "Again, when riches are thus gotten, ill-luck from fire and water, rajas and robbers, enemies and heirs is warded off, and he keeps his goods in safety. This is the third reason.

6. "Then, when riches are thus gotten, he makes the five oblations, that is to say, oblations to kin, guests, pitaras, rajas and devas. This is the fourth reason.

7. "Moreover, when riches are thus gotten, the householder institutes offerings, of lofty aim, celestial ripening to happiness, leading heavenward, for all those recluses and godly men who abstain from pride and indolence, who bear all things in patience and humility, each mastering self, each calming self, each perfecting self. This is the fifth reason for getting rich."

8. Anathapindika well understood that the Blessed Lord did not comfort the poor by praising their poverty nor did he sublimate poverty as a happy state for man to live in.

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§ 2. *His Dislike of the Acquisitive Instinct*

1. The Exalted One was once staying in the town of Kammassadamma in the country of Kurus.

2. The venerable Ananda came to where the Exalted One was, bowed in salutation before him and took a seat on one side.

3. And so seated he said, "Marvellous is this law of causation which has been taught by the Blessed One. It is so deep. To me it seems as clear as clear can be."

4. "Say not so, Ananda, say not so! Deep is this doctrine of events arising from causes. It is through not understanding this doctrine, through not penetrating it, that this generation has become a tangled skein, a matted ball of thread, unable to overpass the way of woe.

5. "I have said that craving is the cause of grasping. Where there is no craving of any sort or kind whatever by anyone for anything, would there be any arising of grasping ?"

6. "There would not, Lord."

7. "Craving gives rise to pursuit of gain.

8. "Pursuit of gain gives rise to desire and passion.

9. "Desire and passion give rise to tenacity.

10. "Tenacity gives rise to possession.

11. "Possession gives rise to avarice and more possession.

12. "Possessions lead to keeping watch and ward over possessions.

13. "Many a bad and wicked state of things arise from keeping watch and ward over possession, such as blows and wounds, strife, quarrelling, slander and lies.

14. "This is the chain of causation, Ananda. If there was no craving, would there arise pursuit of gain ? If there was no pursuit of gain, would there arise passion? If there was no passion, would there arise tenacity? If there would be no tenacity, would there

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arise the love for private possessions ? If there would be no possession, would there arise avarice for more possession ?"

15. "There would not, Lord."

16. "If there would not be the love of private possession, would there not be peace ?"

17. "There would be, Lord."

18. "I recognise the earth as earth. But I have no craving for it," said the Lord.

19. "Therefore it is, say I, that by extirpating all cravings, by not lusting after them, but by destroying and abandoning and renouncing them all that I acquired enlightenment.

20. "Seek to be partakers, brethren, not of the world's goods but of my doctrines. For craving brings about attachment and attachment enslaves the mind."

21. In these words did the Blessed Lord explain to Ananda and the brethren the evils of the acquisitive instinct.

§ 3. *His Joy at the Beautiful*

1. The Buddha was so fond of the beautiful that he might well bear an *alias* and be called Buddha, the Lover of the Beautiful.

2. So he preached to his followers: "Be in the company of the lovely."

3. Addressing the bhikkhus, he said :

4. "Monks, I know not of any other single thing of such power to cause the arising of good states if not yet arisen, or the waning of evil states already arisen, as friendship with the lovely.

5. "In one who is a friend of what is lovely, good states not arisen do arise and evil states already arisen wane. Evil states and devotion to evil states wanes, lack of devotion to good states disappears, good states and devotion thereto arise; lack of devotion to evil states increases.

6. "Monks, I know not of any other single thing of such power to prevent the arising of the limbs of

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wisdom, if not yet arisen, or, if they have already arisen, to prevent their reaching fulfilment by cultivation thereof, as unsystematic attention.

7. "In him who practices unsystematic attention, monks, the limbs of wisdom if not yet arisen, arise not and if arisen they reach not fulfilment by cultivation thereof.

8. "Of slight account, monks, is the loss of such things as relatives. Miserable indeed among losses is the loss of wisdom.

9. "Of slight account, monks, is the increase of such things as relatives. Chief of all the increases is that of wisdom.

10. "Wherefore I say, monks, ye should train yourselves thus: 'We will increase in wisdom.' You must train yourselves to win that.

11. "Of slight account, monks, is the increase of such things as wealth. Chief of all the increases is that of wisdom. Wherefore I say, monks, thus, must ye train yourselves. 'We will increase in wisdom.' You must train yourselves to win that.

12. "Of slight account, monks, is the loss of such things as reputation. Miserable indeed is the loss of wisdom."

§ 4. *His Love for the Lovely*

1. Once the Exalted One was staying among the Sakyans at Sakkara, a Sakyan township.

2. Then the venerable Ananda came to the Exalted One, saluted him and sat down at one side. So seated, the venerable Ananda said this :

3. "The half of the holy life, Lord, is friendship with what is lovely, association with what is lovely, intimacy with what is lovely !"

4. "Say not so, Ananda ! Say not so, Ananda ! It is the whole, not the half, of the holy life,—this friendship, this association, this intimacy with what is lovely.

5. "Of a monk who is a friend, an associate, an intimate of what is lovely we may expect this,—that he

will develop the Ariyan eightfold way, that he will make much of the Ariyan eightfold way.

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6. "And how, Ananda, does such a monk develop and make much of the Ariyan eightfold way ?

7. "Herein, Ananda, he cultivates the right view, which is based on detachment, on dispassion, on cessation, which ends in self-surrender. He cultivates the right aim, which is so based and concerned: likewise right speech, right action, right living, right effort, right mindfulness and right concentration, which ends in self-surrender.

8. "That, Ananda, is how a monk who is a friend, an associate, an intimate of what is lovely, cultivates and makes much of the Ariyan eightfold way.

9. "This is the method, Ananda, by which you are to understand how the whole of this holy life consists in friendship, in association, in intimacy with what is lovely.

10. "Indeed, Ananda, beings liable to decay, liable to death, liable to grief, woe, lamentation and despair, are liberated therefrom because of their friendship with what is lovely.

11. "It is by this method, Ananda, that you are to understand how the whole of this holy life consists in friendship, in association, in intimacy with what is lovely."

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EPILOGUE

1. Tributes to the Buddha's Greatness.
2. A Vow to Spread His Dhamma.
3. A Prayer for His Return to His Native Land.

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§ 1. *Tributes to the Buddha's Greatness*

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1. The Buddha was born 2500 years ago.

2. What do modern thinkers and scientists say of him and his Dhamma? An anthology of their thoughts on the subject will be useful.

3. Prof. S. S. Raghavachar says :

4. "The period immediately antecedent to the life of the Buddha was one of the darkest ages in the history of India.

5. "It was intellectually a backward age. The thought of the time was characterised by an implicit veneration for the authority of the scriptures.

6. "Morally it was a dark age.

7. "Morality meant for the believing Hindus the correct performance of rites and ceremonies enjoined in the holy texts.

8. "The really ethical ideas like self-sacrifice or purity of will did not find appropriate positions in the moral consciousness of the time."

9. Mr. R. J. Jackson says:

10. "The unique character of the Buddha's teaching is shown forth in the study of Indian Religious thought.

11. "In the hymns of the Rig-Veda we see man's thoughts turned outwards, away from himself, to the world of the gods.

12 "Buddhism directed man's search inwards to the potentiality hidden within himself.

13. "In the Vedas we find prayer, praise and worship.

14. "In Buddhism for the first time we find training of the mind to make it act righteously."

15. Winwood Reade says:

16. "It is when we open the book of nature, it is when we read the story of evolution through millions of years, written in blood and tears, it is when we study the laws regulating life, the laws productive of development, that we see plainly how illusive is the theory that God is love.

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17. "In everything there is wicked profligate and abandoned waste. Of all animals that are born only a very small percentage survives.

18. "Eat and be eaten is the rule in the ocean, the air, the forest. Murder is the law of growth."

19. This is what Reade says in his "Martyrdom of Man." How different is the Dhamma of the Buddha.

20. This is what Dr. Ranjan Roy says:

21. "Throughout the second half of the nineteenth century the three laws of conservation held sway. Nobody challenged them.

22. "They were the laws of matter, mass and energy.

23. "They were the trump cards of those idealists who cherished the thought of their being indestructible.

24. "Nineteenth century scientists professed them as the governing factors of creation.

25. "Nineteenth century scientists professed them as constituting the fundamental nature of the Universe.

26. "They conceived that the Universe was filled with indestructible atoms.

27. "Just as the nineteenth century was drawing to a close, Sir J. J. Thompson and his followers began to hammer the atoms.

28. "Surprisingly enough the atoms began to break up into fragments.

29. "These fragments came to be called electrons, all similar and charged with negative electricity.

30. "Atoms hailed by Maxwell as imperishable foundation-stones of the Universe or Reality broke down.

31. "They got broken into tiny particles, protons and electrons charged with positive and negative electricity respectively.

32. "The concept of a fixed unalterable mass abandoned Science for good. In this century the Universal belief is that matter is being annihilated at every instant.

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33. "The Buddha's doctrine of Anicca (transitoriness) is confirmed.

34. "Science has proved that the course of the Universe is a grouping and dissolution and regrouping.

35. "The trend of Modern Science is the trend of an ultimate reality, unity and diversity of ego.

36. "Modern Science is the echoing of the Buddhists doctrines of transitoriness (annica) and of egolessness (anatta)."

37. Mr. E. G. Taylor, in his "Buddhism and Modern Thought," says:

38. "Man has been ruled by external authority long enough. If he is to be truly civilized, he must learn to be ruled by his own principles. Buddhism is the earliest ethical system where man is called upon to have himself governed by himself.

39. "Therefore a progressive world needs Buddhism to teach it this supreme lesson."

40. The Reverend Leslie Bolton, unitarian minister, says :

41. "I see in the spiritual psychology of Buddhism its most powerful contribution.

42. "Unitarian Christians like Buddhists reject the external authority of church books or creeds and find in man himself the guiding lamp.

43. "Unitarians see in Jesus and Gautama noble exponents of the way of life."

44. Prof. Dwight Goddard says:

45. "Among the world's religious teachers, Buddha alone has the glory of having rightly judged the intrinsic greatness of man's capacity to work out his salvation without extraneous aid."

46. "If the worth of a truly great man consists in his raising the worth of all mankind, who is better entitled to be called truly great than the Blessed One.

47. "Who instead of degrading him by placing another being over him, has exalted him to the highest pinnacle of wisdom and love."

48. Mr. E. J. Mills, author of "Buddhism," says:

49. "In no other religion are the values of

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knowledge and evil of ignorance so much insisted upon as they are in Buddhism."

50. "No other religion lays so much stress upon keeping one's eyes open.

51. "No other religion has formulated such deep laid plans for mental culture."

52. Prof. W. T. Stace says in his Buddhist ethics :

53. "the Buddhist moral ideal, the Arhat, had to be both morally and intellectually great.

54. "He had to be a philosopher, as well as a man of good conduct.

55. "Knowledge was always stressed by Buddhism as essential to Salvation, and ignorance as one of the two main causes of failure to attain it (craving or attachment being the other).

56. "On the contrary, knowledge has never been any part of the Christian ideal man."

57. "Owing to the unphilosophical character of its founder in the Christian Scheme of thought the moral side of man has been divorced from the intellectual side.

58. "Far more of the world's misery is caused by stupidity and blind faith than by wickedness.

59. "The Buddha did not allow this."

60. Enough unto this to show how great and how unique is the Buddha and his Dhamma.

61. Who would not say let such a one be our Master ?

§ 2. *A Vow to Spread His Dhamma*

1. "There are beings without limit,

Let us take the vow to convey them all across.

2. There are depravities in us without number,

Let us take the vow to extinguish them all.

3. There are truths without end,

Let us take the vow to comprehend them all.

4. There is the Way of Buddha without comparison,

Let us take the vow to accomplish it perfectly."

Encyclopedia of Religion & Ethics, Vol. X, p. 168.

§ 3. *A Prayer for His Return to His Native Land*

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1. "O Exalted One! I trust myself whole-heartedly

To the Tathagata whose light pervades,

Without any impediment, the regions in the ten quarters,

And express my earnest desire to be born in Thy Land.

2. In realizing in vision the appearance of Thy Land,

I know that it surpasses all realms in the threefold existence.

3. That it is like sky, embracing all,

Vast and spacious without boundaries,

4. Thy mercy and compassion in accordance with the righteous way,

Is an outgrowth of the stock of merits (accumulated by Thee), which are beyond all worldly good;

5. And Thy light permeates everywhere,

Like the mirrors of the Sun and the Moon.

6. Let me pray that all beings, having been born there,

Shall proclaim the Truth, like Buddha Thyself.

7. Herewith I write down this essay and utter these verses,

And pray that I could see Thee, O Buddha, face to face,

8. And that I could, together with all my fellow-beings,

Attain the birth in the Land of Bliss."

Encyclopedia of Religion & Ethics, Vol. X, p. 169.

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PALI AND OTHER SOURCES OF

Dr. B. R. Ambedkar's

"THE BUDDHA AND HIS DHAMMA"

WITH AN INDEX

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Dr. BABASAHEB AMBEDKAR

WRITINGS AND SPEECHES

Supplement
To
THE BUDDHA AND HIS DHAMMA
Vol. 11

Sources and Index

by

Vasant Moon

1995

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PREFACE

Dr. Babasaheb Ambedkar's "The Buddha and His Dhamma" was posthumeusly published in the year 1957 by the People's Education Society, Bombay. The book was received by Ambedkarite Buddhists with great enthusiasm and devotion but the traditional Buddhist world could not readily accept the theories and interpretation of Buddhism propounded by Dr. Ambedkar. One of the arguments of critics was that the book did not indicate the sources from the original Buddhist scriptures and hence it lacks authenticity. The People's Education Society thereafter released four editions but no efforts were made to incorporate the original sources from which Dr. Ambedkar had taken the references and based his theories.

The book was first translated into Hindi by the renowned Buddhist scholar Dr. Bhadant Anand Kausalyayan, which was published in 1961. Dr. Kausalyayan attempted to provide as many sources from the original text as possible. But these sources were not transferred either in any of the English editions or in any of the translations in Marathi or other languages, which came out later.

Mrs. Adele M. Fiske of the University of Pennsylvania studied this subject in detail for her Master of Arts dissertation. She had submitted a paper entitled 'The use of Buddhist scriptures in Dr. Ambedkar's 'Buddha and His Dhamma' for her degree.

'The Buddha and His Dhamma' was recently entrusted by the People's Education Society to the Government of

Maharashtra for publication in the series, 'Dr. Babasaheb Ambedkar:' Writings and Speeches'.

I, having been in-charge of the project of Dr. Ambedkar's works, was very much elated as I had studied this book as early as in 1957. I had given discourses on this book during 1958-60 in Yavatmal District, and thereafter published a brief commentary on this book in 1960 *viz.* Buddha Dhamma Pradeep. Although the book carried my pen-name as 'NAG', my real name, however, became known throughout Vidarbha within few years through this book. Ven. Anand Kausalyayan encouraged me. He was particularly happy with the diagram I had furnished in the book explaining 'Nama-Rupa'. After the publication of this commentary viz. 'Buddha Dhamma Pradeep' in 1960, I wrote several articles on Buddhism based on the book by Dr. Ambedkar. 'No-soul theory in Buddhism' and 'Ishwar' are two such booklets.

'The Buddha and His Dhamma' which assumed a place of the Gospel among converts to Buddhism, came for publication in the series of Dr. Ambedkar's works by Government of Maharashtra from the People's Education Society, and with the approval of the State-level committee, I forwarded the book for printing to the Press. I had thought of incorporating the sources from the Pali text which Dr. Kausalyayan had included in the Hindi version. In addition, an index to the book was a necessity. Accordingly, I worked for about 6 months on this project. All references in Dr. Kausalyayan's translation were verified from the English translations published by the Pali Text Society and other publishers in London.

References from 'Buddhacharita' were verified from Suryanarayan Choudhari's Hindi translation while

'Dhammapada' references were checked from Prof. N. K. Bhagawat's translation into English. Barring few insignificant errors, most of the references were found correct. Anandji had given the references at the end of the chapter or part, mentioning the corresponding number against a verse. At some places, one reference indicated several stanzas from 'Buddhacharita'. This raised difficulty in locating the exact verse of the original text. The references which Dr. Kausalyayan quoted were from the canonical literature. I also tried to search sources of other remaining portion which Dr. Kausalyayan had left out. Very few people might be aware that Dr. Ambedkar used some non-canonical literature also to substantiate his theory. To mention here but two examples: Firstly, let me mention the name of Krishnaji Arjun Keluskar, former Principal, Wilson High School, Bombay who had published a biography of Bhagwan Gautam Buddha, in Marathi, in 1898, a copy of which he personally presented to young Bhimrao Ramji Ambedkar on his success in the Matriculation examination of the University of Bombay, in 1907. In Keluskar's book—which undoubtedly influenced Ambedkar—we find references to disputes on the waters of the Rohini river and Siddharth Gautam's intervention to avert outbreak of hostilities between the Sakyas and the Koliyas. Secondly, a mention must be made of Professor Dharmanand Kosambi whose name is familier in Maharashtra. He had devoted his whole life to scholarship on Buddhist studies. The study of Pali in Pune and Bombay Universities was started with his efforts. Under his guidance and teachership, Buddhist studies flourished and several scholars in Pali came to the fore. Beside his scholarly editing of 'Visuddhimagga' and 'Visuddhimaggadeepika' in Pali, his books on Buddhism in Marathi are very popular. They reveal his analytical aptitude

and scholarly approach towards Buddhist studies. In his critical biography of Buddha's life published in 1940, he was probably one of the few Indian scholars who questioned the rationale behind the story of Gautam's renunciation narrated in *Mahabhinishkraman Sutta*. In his book, he said, three reasons appear evident which made Gautama leave his palace and become a recluse : (i) People were quarrelling, he hesitated to bear arms; (ii) when he saw people quarrelling, fear creeped into his mind; (iii) He found the whole world empty. He could not find a place for shelter. Obsessed by these quarrels he decided to become a Sanyasi. Explaining these reasons from the *Attadandasutta,* Prof. Kosambi further narrates how the Saleyas and Koliyas were quarrelling over the water of Rohini river. He says, 'Once the armies of Sakyas and Koliyas gathered near the Rohini river to fight, but the Buddha reached there and intervened and recited the Attadand sutta decrying conlfict and the use of force. He thus suggests that this event occured before his enlightnment. This is described in Kunal Jataka and in Jataka attakatha at several places. He quotes *Pabbaja* and *Mahasaccakasutta* also to support this theory.

The traditional belief that Siddharth left his palace with Chhanna in the midnight without consulting his parents or intimating his wife is also questioned by Prof. Kosambi. He cites Ariyapariyesana Sutta to show that his parents were present when he cut his hair to become a Sannyasi.

After analysing all the causes which resulted in Gautama's renunciation, he concludes, that the frequent quarrels between Sakyas and Koliyas were responsible for his leaving home in search of finding the way for peace.

Based on this theory, Prof. Dharmananda wrote a play entitled 'Bodhisatwa' and published it in 1949. I had read

this play in 1962 and was surprised to find identical similarity in the story of the play and the one told by Dr. Ambedkar. I have tried to supplement Dr. Anand Kausalyayan's sources with the information I have found in the scriptures and elsewhere.

I have also tried to prepare an Index as exhaustive as possible. I am keenly conscious of the little work done by me and the vast undone. Further efforts for exploration on this subject are left to genuine scholars from whom suggestions are welcome.

Several scholars and students of Buddhism showed concern for publication of this work. Among many who have laid me under a debt of gratitude, I wish to mention:—

(1) the members of the Committee who resolved for Publication of this supplement even after the release of Vol. 11;

(2) Shri S. S. Rege, Ex-Librarian of the Siddharth College, Bombay and Shri Shrikant Talwatkar, Librarian of the Siddharth College, Bombay, who cheerfully spared me valuable books whenever required;

(3) Shri Lokmitra of Dapodi Buddha Mahavihar, Pune, and Dr. Bhalchandra Mungekar of the Bombay University who provided useful suggestions during discussion;

(4) Dr. Eleanor Zelliot of Minnesota University, a famous historian and internationally recognised American scholar of studies on Dr. Ambedkar and the Dalit Movement; and Dr. Munshilal Gautam, Commissioner, Tribal Development of the Maharashtra State; who showed so much interest and concern for seeing the script in print; and,

(5) Shri Navjivan Lakhanpal, Secretary, Higher and Technical Education of the Government of Maharashtra, whose support and guidance have always been encouraging for this project.

I am thankful to the officers and the staff of the Government Press and also the Staff working under me for their timely co-operation. Last but not the least, I express my deep sense of gratitude to the authors of the books whose sources I have used here.

Vasant Moon

PALI AND OTHER SOURCES OF 'THE BUDDHA AND HIS DHAMMA'

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I	I	3	2	2-10	Nidankatha (Thomas p. 31).
I	I	3	3	12	Yanna is Kondana or Kaundinya. He prophesied with one finger that Buddhahood was certainty.
I	I	3	4	16	Jatak-Nidankatha
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I	I	6	9	1	Lalita Vistara (Thomas p. 46) **[See Note Nos. (3) and (4)]**
I	I	6	9	6	Lalit Vistara, Mahavastu **(Note No. 4)**
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I	I	8	13	1	"According to Pali tradition, Bhaddakanccana-Yashoodhara was the daughter of Supra-buddha Sakya" -Bhadant Anand Kausalyayan's comment in Hindi translation, p-40 **(See Note No. 5).**
I	I	8	14	15-19	Madhurattha Vilasini, Lalit Vistara.
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I	I	9	16	12-18	Buddhacharita Sarga 4, Shloka 14-23.
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Dharmanand Kosambi's play 'Bodhisatwa' in Marathi

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*Act 3, Entry 2, is based on Attadanda Sutta.

†Act 4, Entry 3 is based on Ariyapariyesana Sutta.

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III	V	S-1/2	285	34	Majjhima Nikaya, Sallekh Sutta 1:1:8:51.
III	V	S-2/1	287	6	Digha Nikaya, Lohikka Suttanta; II: 12 :288.
III	V	S-2/3	292	6	Anguttara Nikaya-Chatukka Nipat, Vassakar Sutta.
III	V	S-3/2	297	16	Dhammapad-atthakatha-Putigatha Tissa's story.
III	V	S-3/3	297	2	Emil Bournouf, quoted by P. L. Naasu in Essence of Buddhism, p. 174.
III	V	S-3/3	298	19	Majjhima Nikaya, Kakachupuma Sutta I: III: 21:159.
III	V	S-4/1	302	15	Majjhima Nikaya, Assalayana Sutta; II: V: 93 :340.
III	V	S-4/1	303	26	According to Anand Kausalyayan and Dhammanand Kosambi, the word 'slave' also meant 'donor' in Ancient India.
III	V	S-4/1	304	35	Sutta Nipata.
III	V	S-4/1	304	36	Majjhima Nikaya; Esukari Sutta; II: V: 96 :366.
III	V	S-4/2	306	8	Sutta Nipata, Aggika-Bharadwaj Sutta.
III	V	S-4/3	308	24	Dhammapada, 393(11).
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IV	II	S/III	345	8	'Ceylonese monks eat fish but not eggs', says Anand Kausalyayana.
IV	II	S/IV	348	7	Questions of King Milinda.
IV	II	S/V	350	7	Majjhima Nikaya: Alagaddupama Sutta; I: III: 22 : 167.
IV	II	S/V	350	7	Ibid : Mahakammavibhanga Sutta; III: IV: 136 :254.
IV	II	S/V	350	7	Ibid ; Kannakatal Sutta; II: IV : 90: 307.
IV	II	S/V	350	7	Ibid : Mahatanhasankhya Sutta; I: IV: 38: 311.
IV	II	S/V	350	7	Ibid : Jeevaka Sutta; II: I: 55 : 32.
IV	III	1	355	1	Dhammapada; 183(5).
IV	III	1	355	3	Ibid, 118(3).
IV	III	1	355	4	Ibid, 122.
IV	III	1	355	5	Ibid, 67(8).
IV	III	1	355	6	Ibid, 68(9).
IV	III	1	355	7	Ibid, 118(3).
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IV	III	1	355	10	Ibid, 55(12).
IV	III	1	355	11	Ibid, 56(13).
IV	III	1	355	12	Ibid, 121(6).
IV	III	1	355	13	Ibid, 67(8).
IV	III	1	355	14	Ibid, 1(1)
IV	III	1	356	15	Ibid, 167(11)
IV	III	1	356	16	Ibid, 116(1).
IV	III	1	356	17	Ibid, 67(8).
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VIII	I	1	567	10	Lotus III-21 (Kern) and Fausball-Parayam Sutta.
VIII	I	1	567	11	Theragatha CCXLII.
VIII	I	1	567	12-16	Hopkin's Religions of India, p. 325-26, quoted by K. J. Saunders p. 83.
VIII	I	1	569	7	Majjhima Nikaya, Sallekha, Sutta, I:I:8: 51.
VIII	III	3	569	5	Majjhima Nikaya, Mahasakuldai Sutta.
VIII	II	1	573	3	Khuddaka Path, Karaniya Metta Sutta.
VIII	II	2(i)	574	1	Udan 8 : 8, Vishakha Sutta.
VIII	I	1	574	3	Buddhacharita Sarga 8 Shloka 53.

Book	Part	Chapter	Page	Verse	Name of the Scripture
(1)	(2)	(3)	(4)	(5)	(6)
VIII	I	1	574	4	Buddhacharita, Sarga 10 Shloka 8.
VIII	I	1	574	6	Ibid, Sarga 10 Shloka 8.
VIII	II	2(ii)	575	1	Therigatha-Apadan.
VIII	II	3	576	1	Vinaya Pitaka, Mahavagga (viii: 26).
VIII	II	3(ii)	577	1	Samyutta Nikaya (iii-120).
VIII	II	3(iii)	577	1	Ibid, (iii-1).
VIII	II	3(iv)	579	1	Samyutta Nikaya, Nakulapita Sutta (v-408).
VIII	II	4	581	1	Sutta Nipat Atthakatha.
VIII	II	5	583	6	Majjhima Nikaya, Dakkshina Vibhang Sutta 3 : 4 :142 : 300.
VIII	II	5	584	11	Vinaya Pitaka, Mahavagga.
VIII	III	1	587	1	Anguttara Nikaya.
VIII	III	2	588	1	Majjhima Nikaya 16, Ananja Sappaya Sutta II: I: 106 : 46.
VIII	III	4	590	1	Anguttara Nikaya, Ekak Nipat.

NOTES

	Page	Verse	
Note No. (1)	5	1-26	Full story is adapted from Lalit Vistara and not from Nalaka Sutta of Sutta-Nipata as mentioned by Ven. Anand Kausalyayana. In Nalaka sutta, Asita goes alone to the abode of Suddhodana and makes prophecy. On return, he awakes his nephew Nalaka. In Lalita Vistara, Asita visits Suddhodana with his nephew Naradatta. There are other differences also between the Nalaka Sutta and Lalit Vistara.
Note No. (2)	7	14	Note the rightwise circuit by Asita around the child Siddharth, twice in this chapter. Asita's magical powers and mention of Vedas and Mantras has been omited by Dr. Ambedkar. Asita is mentioned as Kala Deval in Pali Nidan Katha. Asita also means *A-Shveta*- not white means black.
Note No. (3)	9	1	Chapter in Lalita Vistara 'Taking to the Temple' is used here. Temple of Goddess Abhaya is mentioned in Mahavastu. Lalit Vistara 134(117); Mahavastu ii-26. As mentioned by Thomas, Van den Bergh Ven Eyesinga consideres this story as the origin of Baptism (The Life of Buddha, p. 46 *fn.*).

	Page	Verse	
Note No. (4)	9	6	Account of Siddhartha's early education and childhood is detailed in Lalit Vistara. Sabbamitta is Vishvamitra. (Lalit Vistara) Oldenberg says that learning the Vedas was *never* considered important among the Sakyan nobles. They paid more attention to martial exercise than to knowledge of Veda. (Saunders K. J., p. 16).
Note No. (5)	13	1	Buddhavamsa (XXVI 15) states, 'Bhaddakacca' by name was his wife. In Mahavamsa She is named 'Bhaddakancana'. She is mentioned as having 'Abhidna' power. Anand Kausalyayana's note in Hindi version is based on Mahavamsa. Jataka commentary refers her as Rahulmata, Bimba and Bimbasundari. Mahavastu and Buddhacharita mention her by name Yashodhara and Lalit Vistara as Yashovati in poem and Gopa in prose. In Chinese biography she is addressed as Mandhara, Manohara, Gotami and Rahulmata. Alexander Psoma, Scholar on Tibetan Buddhism gives Utpalvarna and Mrugaja as additional names.
Note No. (6)	45	4	Account of Siddhartha's halt at the hermitage of Saki, Padma and Raivata is mentioned in Lalita Vistara.
Note No. (7)	55	13	Mahavastu mentions that Bimbisar receives promise from Gautama that he would visit his palace again before leaving.
Note No. (8)	63	11	According to Schmidt, Gautama learnt older form of Sankhya (E.J. Thomas, p. 228).

	Page	Verse	
Note No. (9)	68	14	Lalit Vistara gives a story of 9 girls beside Sujata who provided food to Gotama during his austerities. This story has been adapted by Dharmanand Kosambi also in his play Bodhisatta.
Note No. (10)	73	3	Anguttara iii: 240 and Mahavastu ii: 136 describe 5 dreams in detail as under:— (1) The world appeared as Couch and Himalaya as pillow. His left hand was plunged in the eastern ocean, right in the western and feet in the southern. This meant complete enlightenment attained by the Tathagata. (2) A plant called tiriya came from his hand, rose and touched the sky (3) White worms with black heads crept up as far as his knees and covered them. These were white robed house-holders who came to the Tathagata as a refuge. (4) Four birds of different colours came from the four quarters, and falling at his feet entirely became white. They represented four varnas (castes) who leaving a household life for the doctrine taught by the Tathagata, realise the highest release. (5) He was walking on a mountain of dung without being defiled by it. This was the Tathagata, who receives the requisites but enjoys them without attached to them (Thomas, p. 71).

	Page	Verse	
			Jataka-attakatha mentions, Gautama had five dreams on the previous night of the day on which he partook food from Sujata, because the day of partaking food was Vaisakh Purnima day, the day on which he later attained enlightenment.
Note No. (11)	73	4	Anguttara Nikaya iii: 240, Maha-vamsa, Jatakanidan-attakatha states, the bowl of food offered by Sujata at last sank near the abode of Kala, a Naga king and stayed with similar bowls of previous Buddhas at the lowest of them. In Khadawal Jataka, Kala, the king of Nagas is said to have stood before the Tathagata before his contest with Mara. Jataka-nidan attakatha, Ang. iii. 240. Mahavastu ii 281 (For chronological events of this chapter, see Thomas, p. 71). Mara first came to Gautama while he was practising austerities on the bank of Nairanjana River. He appeared again before the start of meditation; Padhan Sutta of Sutta-nipata 425-449. Lal.-327(261). The Lal. Vist. gives detail account of Mara's war with Gautama.
Note No. (12)	73	7	Enlightenment Siddhartha attained enlightenment at the age of 36 years. (Vinaya Texts 1.73). First week meditation was under Bodhi tree (Banyan tree). Second week meditation was under Nyagrodh tree-(Samyutta Nikaya 1-124).

	Page	Verse	
			Third week meditation under Muchalind tree where the Naga king Muchalind protects him with his hood. In the Fourth week he meditates under Rajayatan tree (Mahavagga 11) also called Ajapal tree. (Ariyapariyesana Sutta, Jataka attakatha). About the night on which Gautama attained Enlightenment, Sir Monier Williams writes, 'In the first night watch, he gained knowledge of all previous births, in the 2nd present states of beings, in the 3rd chain of cause and effect and in the 4th he knew all things.
Note No. (13)	75	76 5-6	These questions were quoted from Majjhim by Louis de la Vallee Poussin in Hibbert lectures under the title 'The way to Nirvana'. Dr. Ambedkar in his introduction to the book claims that the Buddha did not preach four Aryan truths. He raised only two questions. In this chapter he presents these questions. Mr. K. J. Saunders in his 'Gotama Buddha' (a biography based on the canonical books of the Theravadins) writes, "The early Books certainly make it clear that it was only within certain well-defined limits that he indulged in metaphysical explanation." One thing only do I teach, O monks, sorrow and the uprooting of sorrow": that is surely an authentic word of the teacher, which defines the limits of his purpose and is the central thing in his ethics."

	Page	Verse	
Note No. (14)	113	1	Note Brahma Sahampati's rightwise circuit around the Buddha.
Note No. (15)	119	5	One of the five ascetics who blamed Gautama for abondoning austerities was Upaka by name according to Saunders (p. 33) (Thomas p. 83). In Majjhima Nikaya, the whole story of his welcome by five parivrajakas is in the first person, whereas, in this book it is in the third person.
Note No. (16)	138	17	Muchalinda, a Naga King of the Mandakini lake near Gaya had shielded Buddha after enlightenment and protected him from the storm.-Buddhist Records of the Western World, vol. I p. LXIII, Vol. 2, p. 19 (Hardy's mannual of Buddhism p. 136).
Note No. (17)	555	29	The date of Buddha's death as given in Pali canon is full moon day of Vaishakha, which is also the traditional date of the *birth* and of the *enlightenment* of the Lord Buddha. Hiuen Tsiang also gives this date as the general tradition but also mentions that the Sarvastivadins observed the day of Buddha's death as on *Kartika Shuddha Ashtami* i.e. a week before full moon in the month. Mr. Fleet has tried to establish this day as historical which according to him fell on 13th October 483 B.C. (E. J. Thomas; Life of Buddha as Legend and History) Dr. Ambedkar embraced Buddhism on 14th October 1956 probably accepting Mr. Fleets conclusion that the Buddha's death completed 2500 years on 13th October 56. He however mentions in this treatise Vaishakha Purnima as Buddha's day of death.

BLANK

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●●

In The Buddha and His Dhamma, Lord Buddha has been addressed by the following epithets:

All Enlightened one
Auspicious one
Bhagwan
Blessed Lord
Blessed one
bodhisatta
Buddha
Buddha Supremo
Caravan Leader
Dharma Raja
Enlightened One
Exalted One
Happy One
Hero
Holy One
Incomparable
King of Truth
Knower of all Worlds
Light of the World
Lord
Lord of Enlightenment
Lord of the World
Lord of Truth
Lover of the beautiful
Mahakarunik
Margadata
Master
Missionary
Monk
Parivrajaka
Perfect in Knowledge & Conduct
Preacher of Truth
Recluse
Sakya Muni
Sakya Sinha
Sakyaputtiya Samana
Samana
Samana Gotama
Senani
Siddharth Gautama
Sorrow-endor
Superman
Supremely Awakened One
Supremely Enlightened
Tathagata
Teacher of Devas & Men
Teacher of Mankind
Tiller
Trainer of Men
Venerable One
Victor in Battle
Wanderer
Wayfarer
World Honoured

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DR. BABASAHEB AMBEDKAR
WRITINGS AND SPEECHES

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- Struggle for Human Rights

Part Two

- Socio-Political, Religious Activities

Part Three

- Speeches

Babasaheb Dr. B.R. Ambedkar

(14th April 1891 - 6th December 1956)

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These views are the views of a man, who has been no tool of power, no flatterer of greatness. They come from one, almost the whole of whose public exertion has been one continuous struggle for liberty for the poor and for the oppressed and whose only reward has been a continuous shower of calumny and abuse from national journals and national leaders, for no other reason except that I refuse to join with them in performing the miracle—I will not say trick—of liberating the oppressed with the gold of the tyrant and raising the poor with the cash of the rich.

—Dr. Ambedkar in

'Annihilation of Caste'.

DR. BABASAHEB AMBEDKAR
WRITINGS AND SPEECHES
Vol. 12

Edited

by

Vasant Moon

Dr. Babasaheb Ambedkar : Writings and Speeches

Vol. 12

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Kumari Selja

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MESSAGE

Babasaheb Dr. B.R. Ambedkar, the Chief Architect of Indian Constitution was a scholar par excellence, a philosopher, a visionary, an emancipator and a true nationalist. He led a number of social movements to secure human rights to the oppressed and depressed sections of the society. He stands as a symbol of struggle for social justice.

The Government of Maharashtra has done a highly commendable work of publication of volumes of unpublished works of Dr. Ambedkar, which have brought out his ideology and philosophy before the Nation and the world.

In pursuance of the recommendations of the Centenary Celebrations Committee of Dr. Ambedkar, constituted under the chairmanship of the then Prime Minister of India, the Dr. Ambedkar Foundation (DAF) was set up for implementation of different schemes, projects and activities for furthering the ideology and message of Dr. Ambedkar among the masses in India as well as abroad.

The DAF took up the work of translation and publication of the Collected Works of Babasaheb Dr. B.R. Ambedkar published by the Government of Maharashtra in English and Marathi into Hindi and other regional languages. I am extremely thankful to the Government of Maharashtra's consent for bringing out the works of Dr. Ambedkar in English also by the Dr. Ambedkar Foundation.

Dr. Ambedkar's writings are as relevant today as were at the time when these were penned. He firmly believed that our political democracy must stand on the base of social democracy which means a way of life which recognizes liberty, equality and fraternity as the principles of life. He emphasized on measuring the progress of a community by the degree of progress which women have achieved. According to him if we want to maintain democracy not merely in form, but also in fact, we must hold fast to constitutional methods of achieving our social and economic objectives. He advocated that in our political, social and economic life, we must have the principle of one man, one vote, one value.

There is a great deal that we can learn from Dr. Ambedkar's ideology and philosophy which would be beneficial to our Nation building endeavor. I am glad that the DAF is taking steps to spread Dr. Ambedkar's ideology and philosophy to an even wider readership.

I would be grateful for any suggestions on publication of works of Babasaheb Dr. Ambedkar.

(Kumari Selja)

Collected Works of Babasaheb Dr. Ambedkar (CWBA)

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FOREWORD

In this series of publication of writings and speeches of Dr. Babasaheb Ambedkar, the State Government has so far published 11 volumes and I am glad to release this 12th volume. As in the last 11 volumes, in this 12th volume the writings of Dr. Ambedkar are full of intelligence and stimulus to the thinking mind. It is amazing to observe the spectrum of Dr. Ambedkar's special concern for the humanity and equality, particularly, the various aspects which touch upon the democratic life in the modern society. In this volume, the articles which have been written by him occasionally find place together and how difficult it must have been to put these under one caption. No article is isolated. Every article of his is interlinked, may it be commerce or social antrhropology, English literature or English Constitution, the enquiry has a social orientation. The notes on various Acts and Laws which have been included in the volume also are the evidence of the kind that Dr. Ambedkar was a legal luminary and his basic thinking on jurisprudence. It is not only an advocacy but also analysis which is useful not only in the court-room but in the library of any intelligent student.

I am confident that this volume would be received well by the students of Dr. Ambedkar's thought and also by intelligent readers and members of public. I would like to place my appreciation of the work that has been gone into bringing out this volume and I am sure that the further volumes as planned will come through as scheduled.

(SHARAD PAWAR)
Chief Minister of Maharashtra State.

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PREFACE

The present volume of Dr. Babasaheb Ambedkar's Writings and Speeches is a testimony to his diligence in his early years. These writings cover a variety of subjects. From the law of evidence to Dicey's Law of the English Constitution and from Ancient Indian Commerce to the present day Parliamentary Democracy, it is a continuation of the philosophy of law as much as of various dimensions of its practice. These writings therefore are useful to show that in order to master a subject, there has to be a method in study. The method that Dr. Ambedkar followed was calculated to bring out concepts in their clarity, to appreciate reason of law in the perspective of its purpose so that in application law is fairly administered and correctly applied. Dr. Babasaheb Ambedkar was a Constitutional lawyer. He taught jurisprudence and in his appreciation of the rule of law in society, sociological dimensions of law are visible. It is in this context that the present miscellany of his writings has relevance today.

As a Professor of Law, Dr. Ambedkar stands in contrast to the present fraternity of teachers and professors. Of course, those were the days when reading original text was mandatory. Extensive reading with understanding was sine-qua-non of success. There were no disturbances, visual or auditory in the like of television, radio or loudspeakers. At the same time there was the belief that scholarship or knowledge brought its own reward. The most sought-after reward was knowledge of men in society, regulation of their inter-relationship, the role of law as an agent of civilization that brought peace to the Indian subcontinent for which Dr. Ambedkar was the ardent votary.

The present volume of his writings is a treasure trove of the methods of conceptual analysis and a store-house of ideas that age has not rendered obsolete. The average students and the scholars alike stand to benefit and will find that the reading of this collection of writings has enriched his personality.

(PRABHAKAR DHARKAR)
Education Minister.

NOTE ON EDITING

The People's Education Society, founded by Dr. B. R. Ambedkar has been in possession of various manuscripts and other papers of Dr. Ambedkar. The Society was pleased to spare Xerox copies of 71 titles of the writings of Dr. Ambedkar to the Government of Maharashtra for publication in the present series.

On scrutiny of these titles, many essays were found to have been included in Volume Nos. 3 to 5 of the series. Some of these titles were still unpublished and have been found quite relevant even to this day, which after careful consideration have been sorted out and included in the present volume.

This volume is divided into six parts. First part consists of Dr. Ambedkar's essays on India's commercial relations with Middle-East and Western countries since prior to the dawn of the Christian era. The Marathi biographer of Dr. Ambedkar, Mr. C. B. Khairmode has recorded that Dr. Ambedkar had submitted his dissertation for the Degree of Master of Arts to the Columbia University on Ancient Indian Commerce. Three essays found on this subject carry Chapter Nos. 1, 2 and 5. The subject of Dr. Ambedkar's dissertation was subsequently changed. However, the manuscripts on the subject have been found quite useful for a student of History which reflect young Ambedkar's depth and clarity in Ancient Indian History and its commerce from pre-Christian era to the advent of the British rule. The essays are handwritten with calligraphic beauty.

Second part of the present volume contains Dr. Ambedkar's essay which was probably written during the period of his visit to London between 1930 to 33 for the Round Table Conferences.

This is a 123 page typed copy of the manuscript in which many pages were left incomplete and in some places, even quotations are not inserted. The essay was meant to present a case to the British Government for introduction of social legislation to remove the untouchability.

Third part contains lectures on the English Constitution which were prepared during the year 1934-35 for delivering to the students of Government Law College where he was teaching law. We have received these essays in piecemeal. Preface contains 3 pages, then Book II consists of 12 pages, description of Parliament is included in 33 pages and consists of 3 Chapters. Thereafter, under Chapter 5, Powers and Privileges of the Lords and the Commons has been covered in 21 pages. In all these Chapters, some pages have only few lines and some have been left blank, which has been indicated wherever necessary. All these pages are typed on roolscap.

The Chapter on Paramountcy and the claim of the Indian States is a 21 page typed copy having corrections, additions and alterations in the handwriting of Dr. Ambedkar. It seems that this statement was meant for issuing to the Press.

Fourth part comprises notes on various acts and laws prepared for the use of lectures to the students of Government Law College during 1929-37. Relevant copies of manuscripts received from the People's Education Society included in this part are as under:—

(1) Common Law—129 handwritten pages.

(2) Dominion Status—43 handwritten pages.

(3) The Law of Specific Performance—77 handwritten pages.

(4) The Law of Trust—160 handwritten pages.

(5) The Law of Limitation—58 handwritten pages.

(6) The Law of Criminal Procedure—109 handwritten pages.

(7) The Law of Transfer of Property—128 handwritten pages.

(8) The Law of Evidence—223 typed pages.

Except the notes on Law of Evidence, all others are handwritten. The Xerox copies were first converted into typescripts to facilitate composing by the Press. After the Press Copy was composed and the proofs were received, they were cross checked with the Xerox copies of the handwritten manuscripts in our office. During this process it was noticed that many pages were not legible and therefore proper meaning was often unclear. It was therefore necessary to cross-check these proofs with the original manuscripts. It took several months of work in the "Rajgriha", the home of the Late Dr. Babasaheb Ambedkar where the original manuscripts are being preserved by the People's Education Society. In that process, we discovered that Dr. Ambedkar had carried out several corrections, alterations and additions in pencil which had not appeared in Xerox copies. All such corrections were meticulously carried out during the proof reading.

The original notes were not chronologically organised. Some of the original pages were soiled so much that words were either missing or erased. Maximum precaution was taken to bring out these notes as authentically as possible.

Fifth part of the present volume consists of Dr. Ambedkar's autobiographical notes which were recently published in a booklet by the People's Education Society in 1990. The title of this essay is "WAITING FOR A VISA".

Sixth and the concluding part deals with some more unpublished miscellaneous jottings of Dr. Ambedkar. The subject of slavery in the Roman Empire and in America is also discussed in one of the essays. Here Dr. Ambedkar tries to prove how untouchability is worse than slavery.

Miscellaneous writings of Dr. Ambedkar are difficult to classify. Dr. Ambedkar wrote on a variety of topics and before he wrote, like Macaulay, he had read extensively, took notes deligently, and words, phrases and thoughts became part of his memory and are reflected in everything that he wrote. All such writings are relevant even today in order to understand this multifaceted genius.

I owe personal gratitude to Mr. Justice R. R. Bhole and Shri Ghanshyam Talwatkar, present and the past Chairman of the People's Education Society, Bombay respectively, for their deep concern about the whole project of Dr. Ambedkar's writings in general and his manuscripts in particular. It was because of their personal interest that I could get access to the various manuscripts in possession of the Society and the Government could reprint the 'Buddha and His Dhamma' as Vol. 11. Shri R. G. Ruke, the Librarian-in-Charge of Dr. Ambedkar Research Centre, Rajgriha, Dadar, Bombay has always been helpful and cooperative in extending whatever help we asked for.

The work of editing of this volume has been made possible by the ready help, support and co-operation I have received :—

(1) from Shri Sharad Pawar and Shri Sudhakarrao Naik, present and the former Chief Ministers of Maharashtra, who have always encouraged this project;

(2) from Shri J. D. Jadhav, Secretary, Higher and Technical Education, Government of Maharashtra and Shri B. M. Ambhaikar, Additional Commissioner, Bombay Municipal Corporation, who have ever been ready to give guidance ;

(3) from Shri Shrikant Talwatkar, Librarian of the Siddharth College, Bombay who provided valuable sources for reference;

(4) from Shri B. T. Kamble, Deputy Secretary, Higher and Technical Education, Shri P. S. More, Director, Printing and Stationery, the staff of the Government Press at Nagpur, and

(5) the staff of our office comprising of Shri Salil Waghmare, Mrs. S. M. Newarekar and Shri R. T. Sutar, who assisted in the process of editing of this volume;

all these and others whose names have not appeared inadvertantly, deserve my sincere gratitude.

(VASANT MOON)
Editor.

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later to 10%. The average rate during the century would work out at about 9% and it only rose above from 1768 to 1771. In 1720 a slight fall was caused by the competition of the French Company, and a further fall of 1% followed an increase of capital and the foundation of the French Company in 1732. In 1744 it rose again to 8% and continued at this rate for eleven years in spite of the continual war both in Europe and the Carnatic. In 1755 the unsettled condition of the affairs at last had effect & a fall of 2% resulted. In 1760 the cession of Burdwan & other provinces increased the working costs of the Company, and kept the dividend at 6%, so that the sum distributed annually was £191,644. In 1767 in consequence of the acceptance of the territorial sovereignty of Bengal, the dividend was raised to 10% and the amount distributed reached £319,408. This rise was quite unjustifiable and was largely due to the exaggerated estimates of the prosperity of India. The increased dividends declared in anticipation of large profits which were never fully realized, were paid by means of loans raised at exorbitant interest. For five years the company hung on in the hope of better days, but in 1772 the crash came & the dividend fell from 12½% to 6%. Lord North then intervened, and, for the future, the company's dividends was subject to the ministerial control. The Regulating Act was followed by renewed prosperity & the dividend continued to rise slowly. In 1792 the conclusion of the peace with Tipoo, whereby the company received a revenue of £240,000 and an indemnity of £1,600,000 was

Facsimile of Dr. Ambedkar's handwriting
during his student-days in America in
the year 1915-16 ; pages from ' Ancient Indian Commerce'.

Articles	East-Indies	West-Indies etc
	£. s. d.	£. s. d.
Sugar per Cwt	1. 12. 0.	1. 4. 0
Coffee per lb	0. 0. 9	0. 0. 6
Spirits, Sweetened per gallon.	1. 10. 0	1. 0. 0
" , not. "	0 15. 0	0 8. 6
Preserves per lb	0 0. 6	0 0. 2
Succades	0. 0. 6.	0. 0. 3
Tobacco "	0. 3. 0	0. 2. 9.
Wood teak under 8 inches square per load	1. 10. 0	0. 10. 0
Ditto not particularly enumerated ad valorem	20 per cent	5 per cent.

The English tariff on Indian goods was not not only discriminating but differed with the use ~~[illegible]~~ to which they were put in England as will be seen from the following answers of Mr Rose John Rankling to the questions of the Committee of House of Commons in 1813

Q. "Can you state what is the ad valorem duty on piece goods sold at the East India House?".

A. "The duty on the class called Calicoes is £3, 6 S. 8 p. per cent upon importation and if they are used for home consumption there is a further duty of £68, 6 S. 8 d. per cent."

"There is another class called muslins, on which the duty on importation is 10 per cent, and if they are used for home consumption of £27, 6 S. 8 d. &c

PART I

blank

ANCIENT INDIAN COMMERCE

ChapterI—Commercial Relations of India in the Middle East.

Chapter II—Commercial Relations of India in the Middle Ages.

Chapter III—India on the eve of the Crown Government.
[This chapter is numbered as Chapter V in the MS. It seems that Chapters III and IV were lost.]

[The material in this part consists of 3 chapters (originally numbered as I, II and V) on the Ancient Indian Commerce which was a subject of dissertation in fulfilment of the requirement of M.A. examination of Columbia University by Dr. Ambedkar, during 1913—15 who later switched over to a new topic, now known as 'Administration and Finance of the East India Company' published in Vol. 6 in this series. A facsimile of his handwriting (during 1913—15) is printed alongside showing Dr. Ambedkar as a Caligraphist to be emulated by younger generation—ed.]

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CHAPTER I

COMMERCIAL RELATIONS OF INDIA IN THE MIDDLE EAST

†The imperial Romans flashed their sword both in the East and the West with different results. In the East "they conquered the world only to give it to"[1] *(.....) in the West however "they either Romanized the races who were at first their subjects *(.....) masters, or left those races to be the willing agents of their own Romanization."[2]. As a result of this Romanization the West is proud of her heritage from the Romans. How this rich heritage was accumulated none has taken pains to inquire into.

Justly may we look to the Romans for their military organization, the elaboration of law and the wonderful discipline of hordes levied before war and discharged after victory. Hemmed in from all sides—the Etruscans pressing in from the north, the Lygurians from the West, the Sabians from the East and the Greeks from the South, the Latins summoned the energy by dispair. Excepting perhaps the women and youngsters of both sexes the entire population was one huge militia ever ready to rally round the red flag at the call of a trumpet. But Rome gathered in energy too voluminous for the space she had and illustrated the principle that concentration causes explosion and expansion. Goaded by the greed of territory or pressed on by the mania of foreign persecution she started first by consuming the entire Italian peninsula. But imperialism conscious or unconscious knows no stop. Rome by sheer prowess of her arms went on in her career of conquest and made war her only noble profession. She knew not that war like competition destroys itself. In one great sweep, she brought an immense territory

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†First page of the MS. is missing. The MS. starts from the 2nd page—ed.

* Portion eaten by moth or white-ants is shown by asterisk in brackets—ed.

[1] Quoted by Earl of Cromer "Ancient and modern Imperialism", p. 72.

**Ibid.,* p.73.

under her control but left the circle of her extensive imperium to shrink back towards the centre when the propelling energy from within had, as it was sure to be, exhausted itself.

Beside their military exploits and inhuman gladiatorial feats, the Romans (owed)* credit from the art of road-building and administration; these arts are quite natural and necessary concomittants of imperialism. (Beside these)* there (was)* little of the Roman contribution to civilization that cannot be summed up in the phrase *pax Romana*.

Underneath the canopy of Roman Imperialism there was a constant and "peaceful in filteration", (of the East)*. Philosophy, astronomy, mathematics, medicine constitute her bequests. Scholarship incompatible with the practical genius of the Romans, was the trade of the Orientals. The Roman Court was begemmed by the stars from the East. Egypt lays claim to Ptolemy and Plotinus: Porphyry and Iamblichus are the sons of Syria while Dioscorides and Galen were Asiatics. Much of the Roman Civilization was made up by the doings of the Eastern slaves who even conducted the education of the Roman children in the public schools established under the empire. Romans were the lovers of the powerful rather than of the beautiful: "Rome, in herself inartistic, enlaned art and artists for her own purpose. Her barbaric delight in vivid colouring, which for instance, was exhibited in the gold and scarlet decoration on the great column of Trojan, was stimulated by eastern commerce"[1]. Even Roman architecture is the product of the oriental slaves. The entire strength of Rome was spent in conquest or if we choose, in the struggle for existence. But after enough of struggle she might have as well utilized the leisure which was hers and availed herself of the varied geniuses brought within her compass by her subject people. Unfortunately Rome never realized or it was too late (that she)* did that "peace hath her victories no less renowned than war" and (her)* militarism pure and simple is thrown in great relief when we notice the (.....)* fact that "although Rome raised a statue to Quiet,

* Portions in bracket are eaten by termites. Words supplied—ed.

[1] W. R. Paterson, "*The Nemesis of Nations*", p. 307.

she (.....)* out (.....)* walls"[1]. Though Rome had some industries, her productive capacity was miserably low; her consumption overran her production which necessiated continual drain of specie. The Latefundia destroyed her agriculture and (drove)* the farmers to beggary and made Rome entirely dependent for her food on Sicily and Egypt. Owing to the great concentration of landed property the land had ceased to be productive, and there was practically no Italian harvest. She received everything mostly from the East and nothing or little to give in return.

"It is in the orient, especially in these countries of old civilization that we must look for industry and riches for technical ability and artistic productions as well as for intelligence and science, even before Constantine made it [Rome] the centre of political power".[2] Nay "all branches of learning were affected by the spirit of the orient"[3] which "was her superior in extent and precision of its technical knowledge as well as in the inventive genius and ability of its workman".[4] Descending from the productions of industrial arts to those of industry itself, one might also trace the growing influence of the Orient: one might show how the action of the great manufacturing centres of the East gradually transformed the material civilization of Europe ; one might point out how the introduction in Gaul of Exotic patterns and processes changed the old native industry and gave (their)* products a perfection and a popularity hitherto unknown."[5] From time immemorial upto the Industrial Revolution, the East enjoyed (the)* pre-eminence of being the workshop of the world and it is significant to (note that)* she was busy in producing the wonderful and massive iron columns that attest to the mechanics and technique of the time when chipping a stone and making a hatchet was a superhuman task with the Western neolith.

* Portions in brackets shown by asterisk are eaten by termites. Words supplied—ed.

[1] W. R. Patterson, *"The Nemesis of Nations",* p. 334.

[2] Franz Cumont, *Oriental Religions in Roman Paganism,* p. *2.*

[3] *Ibid,* p. 6.

[4] *Ibid, p.* 8.

[5] *Ibid, p.9.*

Thus "the East gave (impe)* tus to the West."[1] It is in the valley of the Nile, the Euphrates, the Yangtse Kang and the Indus that we first witness the misty dawn of civilization, the beginning of knowledge and progress." To have caught the light from the East and reflected it with manifold lustre on the West is the only work of Greece and Rome."[2]

Looked at from this angle the dragon of "Dark Ages" seems to be a fictitious creation of the historian. Were there any such Dark ages in Europe ? If so, when was there light ? History does not disclose it. Whatever light or civilization there was, was confined to the Eastern basin of the Mediterranean [being constantly fed by the Orient] barring which the entire continent of Europe was in barbarism till very late : the Curve of European Civilization (leaving aside the sources on which it drew) is constantly rising and what the historian calls Dark ages mark a point of civilization higher than the one reached by preceding centuries. The fiction of the 'Dark ages' arose from the fallacy of the thinking of whole of Europe in terms of Rome, but nothing is more false than to think of the whole in terms of a part.

To be true to facts the question of the 'Dark Ages' has to be raised (by the) historian of the Orient. It is he who has to answer why this great (fall) after a high crest, why this sudden darkness after the (dawn):

It is lamentable to see that the earliest and most promising civilizations ran into a blind alley and were arrested all of a sudden when progress was most expected of them. Some of these early civilizations died out leaving us their records on bricks and tablets. Others are lingering on in their way and are in the process of rejuvenation.

The civilization of India is one of the oldest but like all of them has come to a dead stop : but it has lived to revive and we may hope never to die again. The contact of the west has shaken the "fixity" and restored her old dynamic power.

* Portions in brackets shown by asterisk are eaten by termites. Words supplied—ed.

[1] Brooks Adams, *Law of Civilization and decay,* p.

[2] R. C. Dutt.

Historians often wonder why civilization begins at one particular spot rather than at another. Is it because of the ability of the inhabitants ? Or is it because that providence wills them their civilization ? A short consideration will convince us that both these factors play the second fiddle. The first is played by environment. Given a bountiful environment and chances of conservation, isolation or security from foreign invasion, civilization is bound to sprout forth.

India's geographical position just fitted her to be the Early craddle of civilization. Nature has given her that isolation that has been the envy of many of tribal people who are ever in search of a secure abode to develop their capacity and make the most of nature's gifts. Severed from China and Tibet on the north by the Himalaya mountains, on the East from Burma and Assam by the Tenasserim and on the west from Afghanistan by the (Karakoram)* (Hindukush)* Ranges the entire peninsula forms a world in miniature in itself—(formed)* by strong natural defences— "the mountains"[1] forming "a wall on the North-West and the sea .. a moat on all other sides."

This "inverted triangle" conserves the most varied and most abundant of natural resources. "Animal life is not only abundant in British India, but it is remarkably varied. The number of kinds of animals inhabiting India and its dependencies is very large, far surpassing, for instance, that of the species found in the whole of Europe, although the superficial area of Europe exceeds that of the Indian empire by about one-half"[2]. Equally is her rich diversity of flora and fauna and her climate that makes possible the existance of such varigated animal life. The richness of vegetable life is unbounded. All these factors have from time immemorial combined to bestow upon her the economic self-sufficiency which has been the privilege of a few nations on the face of this planet today.

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* Portions in brackets shown by asterisk are eaten by termites. Words supplied—ed.

[1] Thompson E. W. "*History of India*", p. 2.

[2] *Imperial Gazetteer of India,* Vol. I, p. 215.

Given the materials, man can hardly be expected to remain inactive for the economic motive is the strongest and the most dynamic of all. He tries at once to exploit the environment for his well-being and the early inhabitants of India were no exception to the rule. It would be a mistake if we take a modern average Indian as a prototype of his stalwart ancestor. He may resemble him perhaps in features but that's all. The semblance ends there. The India of antiquity within the span of time in which he held the undisputed possession of the country accomplished much more than could be expected of primitive. We have scanty records of his deeds but what little we have and as will be seen from the following narrative, speaks volumes.

Of the multifarious achievements of the ancient Indians, important as they are, we are not concerned. We have to centre our attention on their economic activity alone.

At the outset it would be better to take note of the lampposts or the sources that will help us in our survey. On the nature side there is a lamentable paucity. The Hindoos are loquacious on everything except the economic activity of their life and the reason is not far to see. Education was monopolized by a class of people who were more or less "drones in the hive, gorging at a feast to which they [had] contributed nothing". The Brahamin or the intellectual caste of India enjoyed "the conspicuous leisure" and "the conspicuous consumption" vicariously ; consequently the economic activity of the ancient Hindoos found no exponents and no mention in the literature which is purely sacerdotal. This also explains why India did not produce any literature on the Science of Economic as such. Hence we are compelled to depend entirely on foreign authorities and their scanty reference to India's commerce.

Before we launch on the subject of commerce we shall do better to take hasty survey of the Economic development of Ancient India. There is no authority on the subject that can take us back to the pre-Buddha times. The Buddha Jatakas—the birth-stories of Buddha—are the earliest source on the subject and contain literary references to the economic organisation of the Indian society which may be supposed to have existed from times very remote from the dates of these Jatakas . . . . . .

I. Agricultural Organization:

Very early we find the ancient Hindoos living a village life : Each village consisted of from 30 to 1000 families. No isolated houses were to be found but they clustered together. Agriculture is known as the highest occupation and the Indian proverb puts the merchantman second to the farmer and the soldier occupies the last place in social gradation.

Land was cultivated by the farmer and his families and some times by hired labour. "The traditional feeling was apparently against land transfer". Yet we see that land was rented out for cultivation. Independent landholder was regarded respectfully but work on the farm of a capitalist was greatly disapproved. There is no evidence to definite say whether or not there was feudalism in village community.

There was a great deal of co-operation among villagers for building and repairing roads and tanks and municipal buildings:

> "The sovereign claimed an annual *tilha* on raw produce. This was levied, and in kind amounted to 1/6,1/8,1/10 or 1/12." "Grain, pulse, and sugarcane were the chief products : vegetables, possibly also fruit and flowers were cultivated. Rice was reckoned as the staple article of food."

Agriculture was a common occupation for even we see the Brahmin figuring as a goatherd and both as a small and large landholder without losing his caste. The love of the ancient Hindoo and for that matter of the modern for agriculture transcends that of the ancient Greek and is just manifested in the worship of the cow.

The Hindoo devotion to the Cow has been an enigma to most of the foreigners and above all has been an efficient lore in the hands of those half-baked theological failures who go to India to conduct their missionary propaganda for blackmailing the Hindoo.

The origin of cow worship is as much economic as that Roman practice of not offering wine to the Gods from unpruned vines. The cow and for that matter all draft animals, is the soul of the farmers. The cow gives birth to oxen which are absolutely

necessary to the cultivation of the farm. If we kill the cow for meat, we jeopardize our agricultural prosperity. With full foresight, the ancient Hindoos tabooed cow-flesh and thus prevented cow killing. But man hardly pays any attention to dry rulings. It must have religious sanction ; hence the grotesque mythology around the cow in old Hindoo religious literature.

II. Organization of Labour, Industry and Commerce :

Be it said to the credit of the Hindoos that slavery paid a very little role in their economic life. Capture, judicial punishment, voluntary self-degradation and debt were the four principal causes by which individuals become slaves. But there is considerable evidence to show that kindly treatment was the rule and manumission was always possible. Besides few slaves there was a considerable amount of free-labour paid in money or food.

From among the industrial classes the following are mentioned :—

(a) The *vaddhaki* is a genuine term and is an embodiment of a carpenter, ship-builder, cart-maker and an architect.

(b) The *Kammara* is a generic term for a metal craftsman producing "iron implement, from a ploughshare or an axe or for that matter, an iron house, down to a razor, or the finest of needles, capable of floating in water, or again, statues of gold or silver work."

(c) The *Pasanakottaka* is a generic term for a mason "not only quarrying and shaping stones . . . . . but as capable of hallowing a cavity in a crystal, a matter probably of requiring superior tools."

"A considerable degree of organization characterized all the trading industries. Certain trades were localised in special villages, either suburban and ancillary to the large cities, or themselves forming centres of traffic with surounding villages e.g. the wood-work and metal work industries and pottery . . . . . within the cities trades appear to have been localized in special streets e.g. those of ivory workers and of dyers."

The trades were well regulated and were superintended by one or two headmen who were the chiefs or syndics of municipal and industrial organization of the cities.

There were numerous guilds *(Seniyo)* under the headship of a President *(Pramukha)* or elder or older man *(Jethaka).*

Carpenters, smiths, leather workers, painters, and experts in various arts had their grids. Even the sea-men garland-makers and carvan traders.

There was a tendency towards hereditary occupation. But the caste system in all its hiedous rigourousness was not present and even Brahmins were often occupied in low professions.

There was little riverine traffic : it was mostly conducted by the caravans. The industrial centres were connected by good roads which greatly facilitated traffic. The Ramayana refers to a road starting out from Ayodhya the capital of King Dasharatha, known presently as Oudh to Rajagriha the capital of Kekayas in the vicinity of the Himalaya mountains situated on the River Bias, the ancient Vipasa known to the Greeks as the Hypasis passed through Hastinapur (Delhi) the capital of the Kurus. Alexander's information regarding the roads in ancient India is perhaps the most accurate and the greatest source for the employed surveyors to measure the Indian Roads. We glean from this source that a road ran from Penkelaotis (Pushkalavati) near the modern Attock passed on through Takshila to Patalipura (Pata) after crossing the river Bias. Another road joined Pushkalavathi and Indra-prastha (Delhi) and after connecting Ujjayini (Ujain) descended down the Vindhya range, went into the Deckan through Pratisthana after crossing the Nerbuda and the Tapty. There were the internal highways of traffic and it was carried on by Uday of the Caravans. Early in India the external and internal commerce had assumed such importance that we find mention in the Buddha Jataka a league of caravan leaders. The caravan leader or Sattravaha in Pali headed the caravan on its journey and was looked to "for directions as to halts, waterning, precautions against robbers, and in many cases as to routes, fords, etc." The journey of the Caravan was mostly by night.

Trade in early India was not entirely individualistic. There is enough evidence to show the corporate commercial activity and partnership in Trade were occasional, if not general. There was very little government control of business and that too only so far as it concerned the Royal purchases. The prices of articles of

Royal purchases were fixed by a Royal valuer who would "also assess the merchants for the duty of a twentieth, presumably *ad valorem,* on each consignment of native merchandise, and of a tenth *ad valorem* plus a sample, on each consignment imported from overseas Finally, he would have to assess merchants for their specific commutation of the "rajaksaya" viz. one article per month sold to the king at a certain discount"'

Later on however prices came to be fixed: for Manu says that the king on every 5th or 9th day fixed the rates for the purchase and sale of marketable commodities.

The introduction of money in India whether it was borrowed or invented at home is a matter of great controversy : but whatever may be said on this, it is true that the use of money in India was early known for "the whole of the Buddhist literature testifies to the fact that the ancient systems of simple barter as well as of reckoning value of cows, or rice measures had for the most part been replaced by the use of metal currency, carrying well understood and generally accepted exchange value". Currency counted of coins but was not regulated by Royal authority. There was gold coinage for the most part and "all marketable commodities and services had a value expressible in terms of cash". Banking was not very highly developed—there was no taboo on loaning of money and according to Gautama interest was sought in six different ways.[1]

With such high type of economic development it is but natural that there should be commercial expansion of colonization by the Early Hindoos. Historians however have been very reluctant to accept the fact : they have either judging the present by the present rule upon the entire Hindoo population as incapable people or have exerted their utmost ingenuity to discount any evidence that antagonises with their preconceived bias. Isolation of India has been a trump card with them and they use it as often as they can. Environmental conditions do delimit the activity

[1] The information on the early Economic Organization of India has been borrowed from the article in the Journal of the Royal Asiatic Researches for 1901, p. 859 by Caroline Foley Rhys Davids M. A.

of a people subject to it but it could be foolish to say with Hirder "that history is geography set in motion." We might hold to the truth in the statement that geographic conditions have condemned India to her lot and yet condemn the hyperbole in it

We may agree, if we like, with Montesquieu when he ascribes the "fixity" of oriental manners, customs and religion to its warm climate. We may believe in Buckle when he holds nature's overpowering mountains and forests in all their stupefying greatness as are to be found in India responsible for the abnormal workings of imagination and superstition or we may follow the scientific geographer when he asserts that India has been condemned to isolation on account of her geographic location : isolated from China by the Himalaya mountains and from Persia and Afghanistan by the Hindu Kush mountains. She has a long waterfront but the eastern and the western ghats that fringe the coast from within and cut off the call of the ever beaconing sea to maritime activity.

All these allegations perhaps have a modicum of truth in them: but it would be a mistake to make strong arguments out of them. Barriers, no matter how strong, are never insuperable to man. He has tried everywhere to control them and has succeeded in his effort.

Hemmed in from all sides, the early Indians burst asunder all impediments natural or otherwise and launched into the Indian ocean at a very early date. The Indian ocean has much in common with the mediterranean. Mr. Zimnurn argues that "land locked on all sides . . . . . the mediterranean seems in summer as gentle as an inland lake . . . . . It is in fact double-natured . . . . . a lake when the Gods are kind, and the ocean when they are spiteful."[1] The Indian ocean which is but the enlarged mediterranean sea with its southern coast removed is neither a ocean nor a lake but is according to Ratzel only half an ocean. The inclosed character of its northern part deprives it of the hydrospheric and atmospheric peculiarities of a true ocean

[1] *The Great Common Wealth,* p. 20.

and the winds and currents ran over it in an unorganized way owing to the close by lands. The North-east and South-east monsoons soon enabled the merchants to drag forth in the mid-ocean instead of hugging to the coast.

> "From the dawn of history the northern Indian ocean was a thoroughfare. Alexander the Great's rediscovery of the old sea route to the orient sounds like a modern event in relation to the gray ages behind it. Along this thoroughfare Indian colonists, traders and priests carried the elements of Indian civilization to the easternmost Sunda isles; and oriental wares, sciences and religions moved westward to the margin of Europe and Africa. The Indian ocean produced a civilization of its own, with which it coloured a vast semi-circle of land reaching from Java to Abyssinia, and more faintly, owing to the wider divergence of race, the further stretch from Abyssinia to Mozambique."[1] The Hindus became the dominant commercial nation of the Indian ocean long before the great development of Arabian sea power, and later shared the trade of the East African coast with the merchants of Oman and Yemen. Today they form a considerable mercantile class in the ports of Mascat, Aden, Zanzibar, Pemba and Natal."[2]

With this preliminary disquisition about the natural resources and the economic development of India we will trace her commercial intercourse from very early times with other countries of ancient civilization.

To begin with Egypt. At the outset it would be better to premise that the evidence of a commercial intercourse between India and other countries at the dim dawn of history is very flimsy and is embedded either in tradition or in articles excavated from early ruins: The evidence however ripens into positiveness with the advance of time.

Situated in the most rarely endowed location in the world the Egyptians were economically independent of the rest of the people—and it is even said that they prided economic self-sufficiency to such an extent that they tabooed foreign intercourse; but this is carrying things too far and though we have no positive records to disprove the statement, the foreign articles found in the process of excavation form a strong proof against it.

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[1] Ellen Churchill Semple—"*Influences of Geographic Environment*", p. 309.
[2] *Ibid,* p. 268.

It is a matter of great controversy whether or not the Egyptians had direct trade with India. Hypercriticism has ranged on both sides. Herodotus says that Sesostris whom the Gardiner Wilkin son identifies with Ramses II fleeted out a strong fleet and sailed beyond the straits into the Indian ocean conquering all the coastal countries while his land forces carried their sword as far as the Ganges.[1]

Long before the exodus of the Israelites from Egypt, India had commercial intercourse with her and the port of Philoteras was the emporium of that early trade :

> "Whether they (the Egyptians) had a direct communication with India at the same early epoch, or were supplied through Arabia with the merchandise of that country, it is not possible now to determine: but even an indirect trade was capable of opening to them a source of immense of wealth; and that the productions of India did actually reach Egypt we have positive testimony from the tombs of Thebes" [2] and "the productions of India already came to Egypt at the early period of Joseph's arrival in the country is evident from the spices which the Ishmaclities were carrying to sell there : and the amethysts, hacmatile, lapis-lazuti, and other objects found at Thebes at the time of the Third Thothmus and succeeding pharaohs argue that the intercourse was constantly kept up."[3]

Culture in all times follows the wake of Commerce. This is more true of ancient times than of the modern. The caravans of the olden times were not only the carriers of wares but also of civilization : they dissiminated and universalized it. This commercial intercourse with India greatly affected the architecture of Egypt so much so that "James Fergusson (*History of Architecture* I, 142-3) notes that the great monolith at Axum is of Indian inspiration; "the idea Egyptian, but the details Indian. An Indian nine-storied pagoda, translated in Egyptian in the first century of the Christian era !" He notes its likeness to such Indian temples as Bodh-Gaya, and says, it represents "that curious marriage of Indian with Egyptian art which we would

[1] *cf.* William Robertson *"Disquisition on India"*,(1812) p. 6.

[2] Gardinaer Wilkinson, "*The Ancient Egyptians",* Vol. I. p. 161.

[3] Gardiner Wilkinson, "*The Ancient Egyptions",* Vol. I. p. 250.

expect to find in the spot where the two people came in contact, and enlisted architecture to symbolize their commercial union."[1]

It will not be out of place to note the relation of the Dravidians, the earliest inhabitants of India though by no means aborigines with the people of western Asia. Mr. Gustav Oppert says, "It is established now, beyond any doubt, through the decipherment of the Cunciform inscription, that the Turanian Empires had advanced to a high degree of culture. This civilization, though tainted with strange materialism proved itself nevertheless able to develop to a high degree of perfection certain branches of arts and science. To these Turanians who differed much among each other in idiom belong also to the Dravidians of India of our days, who in those times occupied Ariana and Persia. In Europe, these Turanians appear to be represented by the Esthonians, and in many places of western and central Asia, they formed the substratum of the population, while they supplied in China the ground work of the civilization of the celestial empire." These Turanians "had founded empires throughout the old world. The home of the Turanians is assumed to have been the country round Lake Aral. Thence they spread over the greatest part of Asia, reigned there paramount for at least 1500 years." The Egyptians, the Assyrians the Akkadians, the Sumerians, the Phoenicians are all branches of the same Turanian race. "About 250 years after the Egyptian empire had been established i.e. 2500 B. C, and after the Akkadian dynasty had reigned for a long period in Babylon the Aryans invaded Chaldea, and pressing at the same time on the Kannanites of the Persian Gulf and the Dravidians in Persia, drove the former towards the North-west and the latter to the South-east to India". The Aryans when they invaded India met with a stubborn resistance from these Dravidians. For "they did not go beyond the frontiers of the Punjab till the fifteenth century before Christ".[2] Next in importance and chronology

[1] "*The Periplus of the Erythraean Sea*", Translated and annotated by W.H. Scoff, p. 66-67.

[2] *cf.* Gustav oppent, "*On the Ancient Commerce of India*" in "The Madras Journal of literature and Science" 1878, pp. 189, 90, 91; for parallels between Malbarian and Egyptian customs *cf* "Primitive Civilizations" by E. J. Simcox Vol. I. pp. 183, 550, 554, 569, 570, 574, Vol. II. p. 473.

comes the intercourse between India the kingdom of India. In spite of the evidences to be found in the Bible, writers have been very little disposed to credit it for historical purpose. The evidence is too strong to be slighted".[1] Suited in the mainland, Judea was not in a position to develop a direct trade with India. She had no water-front at all and consequently no harbours. She had entirely to depend upon the Egyptians and the Syrians who controlled the sea and the trade routes of India. The galleys of India brought their goods to Yemen or Arabia Felix. Yemen was the great mart for Indian goods : it was a distributing centre and from it Indian commodities were taken to Syria by the caravan or to Egypt by the Egyptian Vessels. "From the very earliest ages the refined civilization of Egypt and Syria sought with avidity the spices, the aromatics, the metals, the precious and scented woods, the gems, the ivory in a kind, all the valuable merchandise which the rich soil of India supplied in abundance."[2] King Solomon, however, when he came to the throne, tried to get the control of Indian trade. He saw that the Egyptian power was on its decline and realized that importance of utilizing Idumee as sea port on the Red Sea and which had inherited as the conquest of his father—for materialising his plans of direct trade relations with India. But since the Jews had not been experienced in the art of navigation, he had to seek the cooperation of Hirain, the king of the Phoenicians. The Phoenicians were the pioneers in navigation. Whether they dealt directly with India is a subject of great controversy. Mr. Robertson is favourably inclined. After showing how the poverty of the land compelled the Phoenicians to subsist by commerce, he goes on to say, "among the various branches of their commerce, that with India may be regarded as one of the most considerable and most lucrative as by their situation on the mediterranean, and the imperfect state of navigation, they could not attempt to open a direct communication with India by sea: the enterprising spirit of commerce prompted them to west from the Idumacans some commodious harbours towards the bottom of the Arabian Gulf. From these they held a regular intercourse with India on

[1] *cf.* W. Robertson *"Disquisition"* p.9-10.

[2] I. Lenorment and E. Chevallier, "*Ancient History of the East* Vol. I, p. 144.

the one hand, and with the eastern and southern coasts of Africa on the other. The distance, however, from the Arabian Gulf to Zyre, was considerable, and rendered the conveyance of goods to it by land carriages so heavious and extensive that it became necessary for them to take possession of Phinocolura, the nearest port in the mediterranean to the Arabian Gulf, thither all the commodities brought from India were conveyed overland by a route much shorter, and more practicable, than that by which the productions of the East were carried at a subs equent period from the opposite shore of the Arabian Gulf to the Nile. At Rhinocolura they were re-shipped, and transported by an Easy navigation to Tyre, and distributed throughout the world. This, as it is the earliest route of communication with India of which we have any authentic discription, had so many advantages over any ever known, before the modern discovery of a new course of navigation to the east, that the Phoenicians could apply other nations with the productions of India in greater abundance and at a cheaper rate, than any people of antiquity."[1] Another evidence supporting the view of Mr. Robertson is to be found in the fact that the Phoenicians introduced their letters in India a direct proof of their intercourse. King Solomon, stimulated or otherwise by the neighbouring Phoenicians, joined hands with Hiram, king of Tyre and built a fleet at Elath and Eziongeher. Manned by Phoenician sailors, it sailed to Qphir and brought back many treasures which two kings shared between themselves. The location of Qphir is another unsettled topic. But for all practical purposes Prof. Lassen had closed the controversy by identifying it with Abhira in the province of Gujrat in India. With the interval of three years, the voyage was repeated and the ships laden with all precious articles to enrich the country so much so that "the king made silver to be in Jerusalem as stones, and cedars made her to be as Sycamore trees that are in the vale for abundance".[2] Thus all the advantages of trade were secured for the people with exposing to the dangers attendant upon it. Consequently in the words of Dean Stanley (Senai and Palestinep. 261) "To describe the capital as a place where shall

[1] W. Robertson "Disquisition" p. 7-8.

[2] I Kings X27.

go no galley with oars, neither shall gallant ship pass by" (Isaiah XXXIII 21) is not, as according to western notions it would be an expression of weakness and danger, but of prosperity and security."

The trade between India and Judea does not date with Soloman : it enjoys considerable antiquity; mentions of Qphir are to be found long before the time of Soloman in the I Chronicles XXIX, 4, I kings XXII 48, and in Isaiah, XIII 12. These Biblical evidences may be supplemented by linguistic evidences such as the Hebrew word *tuki* which is but a little changed form of the poetical word Tokei i.e. the Tamil-malayalam language for peacock or the Hebrew word *Ahalim* or *Aholoth*— 'aloes'—a corruption of the Tamil-malayalam word, *Aghil.*[1]

The rise of Babylonia marks the high water mark in the ancient commercial activity of India. Situated at the confluence of the Euphrates and the Tigris joining the Persian Gulf with the mediterranean and being a meeting place of upper and lower Asia, Babylon was destined to be the great emporium of the eastern and western trade. It was the meeting place of routes from all parts of the ancient world. There is ample evidence, says Mr. Kennedy, that "warrants us in the belief that maritime commerce between India and Babylon flourished in the seventh and sixth and more especially in the sixth century B.C. It was chiefly in the hands of the Dravidians although Aryans also had a share in it, and as Indian traders settled afterwards in Arabia and on the eastern coast of Africa, and as we find them settling at this very time on the coast of China, we cannot doubt that they had their settlements in Babylon also. But the sixth and seventh centuries are the culminating period of Babylonian greatness. Babylon which had been destroyed by Senkacherib and rebuilt by Esarhaddon ; Babylon, which had fused her importance and her fame to the sanctity of her temples now appears before us of a sudden as the greatest commercial mart of the world. There was no limit to her power. She arose and utterly overthrew her ancient rival and oppressor Nineveh. With Nebuchadnezzar she became the

[1] *cf.* E. J. Simcox — *"Primitive Civilizations"* Vol. I, p. 545.

wonder of the world . . . . . But the secret of her greatness lay to her monopoly of the treasures of the east, in the shouting of the Chaldeans in their ships and smartly orientals who frequented her lazars. It moved the envy of the nations. Paharaoh Necho (612-596 B. C.) vainly sacrificed his subjects in order to reopen the canal which Seti I had made from the Nile to the Red Sea : and he despatched his Phoenician fleet round Africa in the hope of discovering a new world for commerce. And a long ago, the rivalry of the Spaniards and the Portuguese for the treasures of India . . . . . was anticipated and equalled by the rivalry of Babylonians and Egyptians . . . . . when the world was as yet one and twenty centuries younger."[1] This commercial intercourse told very decidedly on the literature of India. Sea played an immense role and '*Mokar'* the monster fish was constantly alluded to. The Vedic dieties fall in the back ground and the Hindu mind of the times soared high in inventing fantastic cosmogonies as is to be found in the Vishnu Purana where it is said that "the Supreme Being placed the Earth on the summit of the ocean, where it floats like a mighty vessel and from its expansive surface does not sink beneath the waters." The entire literature smacks of commercialism and is essentially different in nature from the early Vedic literature so much so that Prof. Max Muller in his *"History of Ancient Sanskrit Literature"* says, "there is throughout the Brahmanas, such a complete misunderstanding of the original intention of the Vedic hymns that we can hardly understand how such an estrangement could have taken place unless there had been at some time or other a sudden and violent breaks in the chain of tradition". This "estrangement" can be accounted by foreign influence which follows the footsteps of commerce." The focus of this foreign influence upon India was therefore in the sixth, seventh and eighth centuries" and certainly not "later than the time of Buddha, for this great teacher found all India believing in metempsychosis, which is not a Vedic doctrine" and must therefore be an exotic.[2] It must not however be supposed that the maritime activity of the Hindoos dates from the period : nay sea-farming had become a matter of habit with

[1] J. Kennedy J. R. A. S. 1898, p. 270-1.

* Rev. Joshep Edkins *J. R. A. S. 1886,* p. 6.

them : Buddha in the Kevaddhu Sutta of the Digha (fifth century B.C.) says by way of simile "Long ago ocean going merchants were wont to plunge forth upon the sea, on board a ship, taking with them a shore-sighting bird. When the ship was out of sight of land they would set the shore-sighting bird free. And it would go to the east and to the south and to the west and to the north, and to the intermediate points, and rise aloft. If on the horizon it caught sight of land, thither it would go back to the ship again. Just so, brother etc." Mr. Rhys Davids comments that such a Simitic would scarcely be made use of, in ordinary talk, unless the habit referred to were of some standing and matter of general knowledge."[1]

The decline of Babylon however was as sudden as her rise and dates from the reign of king Darius (579-484 B. C). From the fifth century on, we no longer find the commercial tablets that were so numerous in earlier times. The Persian conquest not only destroyed Babylon but extended to Egypt. The canals build for riverine traffic decayed and the flow of the rivers was impeded by dams : as a result of this the Arabs became the caviers of trade and Yemen interests the splendour of Babylon and Palmyrs The Chaldeans also in spite of the sweeping expeditions of Darius continued their trade by establishing their colonies at Gerrha and other places.

The conquests Darius brought under his rule a vast Empire which bacame contiguous with that of the empire of Alexander. It was quite impossible for the two emperors full of earth hunger remain as goodly neighbours, friction was bound to arise and Alexander waiting for an opportunity set out on his career of conquest. In one sweep he destroyed the empire of Darius and extended his dominion over Egypt, Central Asia and the northern part of India.

The motives of Alexander's gigantic expedition are a matter of conjecture. Vindication for humiliation suffered at the hands of Darius has been put forth as one of them. Prof. Lassen, however radically enough, ventures to say that greed of gold was the object of Alexander's expedition and that it was whetted by

[1] *J. R. A. S. 1899,* Vol. 31, p.432

the presence of Indian goods in Greece. The commercial intercourse with Greece as with Judea has left its impress upon the language of the two trading people." Thus the Greek name for rice *(oryza),* ginger *(zingiber),* and cinnamon *(karpion)* have a close correspondence with their Tamil equivalents, viz., *arisi, inchiver,* and *karava* respectively; and this identity of Greek with Tamil words clearly indicates that it was Greek merchants who conveyed these articles and their names to Europe from Tamil land. Again, the name *Yavan,* the name by which these Western merchants were known, which in old Sanskrit poetry is invariable used to denote the Greeks, is derived from the Greek word *Jaonis,* the name of the Greeks in their own language." [1] Another word that may be added to this group of words having a common origin is the parrell words for ivory or elephant in Greek "*Elephas*" in Egyptian "*Ebu*" and "*Ebha*" in Sanskrit which in the opinion of Prof. Lassen indicate a common Sanskrit origin.

Whatever may have been the motives of Alexander, it is quite certain that having known India intimately, he did conceive the idea of bringing the two countries in close commercial relation. Alexander found that this rich trade of India was monopolized by the Phoenicians of Zyre who supplied the rest of the world with Indian commodities. His envy of the Phoenicians was considerably heightened by his personal knowledge of the prosperity of India. "The country he had hitherto visited, was so populous and well cultivated, or abounded in so many valuable productions of nature and of art, as that part of India through which he had let his army. But when he was informed in every place, and probably with exaggerated description, how much the India was interior to the Ganges, and how far all that he had hitherto beheld was surpassed in the happy regions through which that great river flows, it is not wonderful that his eagerness to view and to take possession of them should have prompted him to assemble his soldiers, and to propose that they should resume their march towards that quarter where wealth, dominion, and fame awaited them."[2] The northern part of India which Alexander subdued was given over by him to Porus, his ally and is said to have

[1] R. K. Mookerji "*Indian Shipping*" p. 121

[2] W. Robertson "Disquisition", p. 16-17.

contained "no fewer than four thousand towns." "Even in the most restricted sense" comments Mr. Robertson "that can be given to the vague indefinite appellations of nations and towns, an idea is conveyed of a very great degree of population. As the fleet (of Alexander) sailed down the river (Indus), the country on each side was found to be in no respect inferior to that of which the government was committed to Porus."[1]

The memoirs or journals of his generals Ptolemy, Aristobulus, and Nearchus opened the knowledge of India to Greece and to Europe. Having conquered Egypt, Alexander thought of opening a direct trade between India and Greece. With this object in view he founded the city of Alexandria after his own name which became the greatest emporium of trade in ancient times and continued to be so in spite of many vissicitudes. He cherished many a dreams of permanently joining India to his empire and some of it, not all of them, would have been realized had he lived longer. Unfortunately he died soon after he established his empire which within a short time crumbled to pieces. The governors of the different provinces parcelled out among themselves the whole empire. Goaded, by ambition, emulation and personal curiosity/animocity they fought among themselves for supremacy. It would be erroneous to suppose that the commercial relation between India and Greece ceased because of the fall of Alexander's empire : just the reverse, the relations became closer. Seleucus, the most enterprising and ambitious general of Alexander, after seizing for himself the Persian empire, sought to join to his dominions the provinces of India conquered by Alexander. Seleucus was alive to the commercial gains to be derived by such a conquest and determined to carry out his plans by means of his vast armies. But his adversary was more than a match for him. Chandragupta (Sandracottus of the Greeks) was ruling India as a benevolent despot, Amidst all medievalism he was a modern man endowed with both brain and brawn. Seleucus realized the superior strength of his enemy and wisely concluded peace and to cultivate friendly relations between the two, he sent Magasthenes as an ambassador to the court of

[1] W. Robertson "*Disquisition*" p. 22.

Chundragupta. Magasthenes was followed by Daimachus to continue the friendly relations. The Greeks maintained their intercourse with India through the Graceo-Bactrian kingdom for a long time though we have very scanty means to judge its magnitude and charter. The Chinese historians tell us "that about one hundred and twenty-six years before the Christain Era, a powerful horde of Tartars, pushed from their native seats on the confines of China, and obliged to move towards the west by the pressure of a more numerous body that rolled on behind them, passed the Taxartes, and pouring in upon Bactria, like an irresistible torrent, overwhelmed that kingdom, and put an end to the dominion of the Greeks there, after it had been established near one hundred and thirty years".[1] Though the land communication was thus interrupted, Alexandria continued to be the emporium of sea trade between Greece and India. Ptolemy, the son of Lagus, during his governorship greatly encouraged the Indian Commerce. His son Ptolemy Philadelphus, in order to carry the articles of India directly to Alexandria started constructing a canal joining the Red Sea and the Nile : the project however was too big and was abandoned. He however built a city on the west coast on the Red Sea and called it Berenice and it continued to be the staple town for Indian trade :

> "But while the monarchs of Egypt and Syria laboured with emulation and ardour to secure to their subjects all the advantages of the Indian trade, a power arose in the west which proved fatal to both. The Romans, by the vigour of their military institutions, and the wisdom of their political conduct, having rendered themselves masters of all Italy and Sicily, soon overturned the rival republic of Carthage ; A. C. 55, subjected Macedonia and Greece, extended their dominion over Syria, and at last turned their victorious arms against Egypt, the only kingdom remaining of those established by the successor of Alexander the Great."

With the subjugation of Egypt the lucrative commerce from India flowed into Rome; but this was not the only way. There was another trade route for the Indian commodities into the west. It was a land route and was intended by Solomon to concentrate the Indian trade in judea. It passed the town of Tadmore or Dalmyra situated midway between the Euphratis and the

[1] W. Robertson "*Disquisition*" p. 37.

mediterranean. After the subjugation of Syria by Romans, Palmyra became independent and grew to be a populous and flourishing town. It became a distributing centre. But the Roman cupidity knew no bounds. At the slightest sign of ill-feeling on the part of Zenobia, the queen of Palmyra, the Romans took the city and included it within their empire.

But the inclusion of Palmyra was not enough for the Romans to monopolize the Indian trade for, another power equally strong was rising into the east. The Parthians had dominated central Asia and had made the boundaries of their empire contiguous with that of the Romans. The struggle between Parthia and Rome extended from 55 to 20 B. C. but the struggle for supremacy remained indecisive. "The warfare between 55 and 20 B. C. had left the two empires with a wholesome respect for each other: and Augustus left it as a principle of imperial policy that the west bank of the Euphrates was the proper limit for the Roman empire, beyond which the power of Rome could not with advantage be extended".[1] The policy of the Roman Empire during the two centuries following the Christain era was "to encourage direct sea trade with India, cutting out all overland routes through Parthia and thus avoiding the annoyance of fiscal dependence on that consistent enemy of Rome".[2] Under the Pax Romana, trade between India was greatly fostered and grew so much in importance, guides to the ports of the India and itenerary of land travels and caravans were begun to be written for the benefits of the merchants. It was during the middle of the first century A. D. that Hippolus, a Greek Egyptian, discovered the regularity of the Indian monsoon and thus facilitated the voyage of the traders. It was also about this time that a Greek merchant wrote "The Periplus of the Erythrean Sea" or guide to the Indian ocean. It is the most authentic document we have for the study of the Indian commercial activity. Another Greek adventurer, Isodore of Charax travelled round the Parthian kingdom and gave a full account of the Caravan trade along the land route. Before this it had to receive the oriental goods from the hands of the others. The

[1] Isidore of Charax "*Parthian Stations*" ed, W. H. Schoff, p. 21.

[2] *Ibid,* p. 19.

Arabs concealed all information relating to India to perpetuate their monopoly and the Parthian tolls greatly augmented the value of the Indian commodities, "so that all this rich trade that flowed to Rome paid its tolls to the empire of Parthia and to the Arab kingdoms, unless Rome could develop and control a seaborne trade to India".[1] But this discovery of the monsoons by Hippolus, the columbus of modern times fulfilled much felt want of the Romans." Great shiftings of national power followed this entry of the Roman shipping into the Indian ocean. One by one Petia and Gerrha, Palmyra and Parthia itself, their revenues sapped by the diversion of accustomed trade, fell into Roman hands. The Homerite kingdom in South Arabia fell upon hard times, its capital into ruin, and some to its best men northward and as the Ghassanids bowed the neck to Rome, Abyssinia flourished in proportion as its old enemy declined. If this state of things had continued, the whole course of later events might have changed. Islam might never have appeared, and a greater Rome might have left its system of law and government from the Thames to the Ganges. But the logic of history was too strong. Gradually the treasure that fell to the Roman arms was expended in suppressing insurrections in the conquered provinces in civil wars at home, and in a constant drain of specie to the east in the settlement of adverse trade balances; a drain which was very real and menancing to a nation which made no notable advance in production or industry by means of which new wealth could be created."[2]

As regards the Roman trade with India we have a thesaurus of information though by no means unquestionable.

The first kind of evidence is the number of embassies sent to Rome from India and Ceylon.

The first embassy came from Ceylon and is recorded by Pliny. It is impossible to determine its exact date : but certain circumstantial evidences would warrant us in placing somewhere between A. D. 41 and 54. It was sent to Claudis and reached him

[1] *Periplus of the Erythrean Sea* , W. H. Schoff, p. 5.

[2] Erased.

at a time when more serious events such as the intrigues of Agrippina and Messalina's violent death too much occupied the minds of the Roman historian to make an adequate mention of it. The embassy was sent by Chundra Muka Siwa King of Celyon who ruled from 44 to 52 A. D.[1]

Other embassies soon followed. The second came to Trojan in A. D. 107, third to Antonius Pius A. D. 138, fourth to Julian A. D. 361 and the fifth to Justinian A. D. 530. The natives of Indian make no mention of these embassies. They are recorded by Roman historian and barely so, consequently it is very difficult to infer regarding the object of these embassies. They however serve to demonstrate that intercourse between India and Rome was constant and alive and that "during the reign of Servius, his son Commodus, and the pseudo antonines", when Alexandria and Palmyra were both occupied with commerce and were both prosperous. Roman intercourse with India was at its height. Then Roman literature gave more of its attention to Indian matters and did not, as of old, confine itself to quotation from the historians of Alexander or the narratives of the Seleucidian Ambassadors, but drew its information from other and independent sources.[2]

Other evidences mostly of a literary character strengthen the same conclusion. Dr. Hirth in his "China and the Roman Orient" quotes Sung-Shu, a Chinese historian 500 A.D. writing about the period 420-478 A. D. saying; "As regards Ta-ts'in (Syria) and I'ien Chu (India) far out on the western ocean, we have to say that, although the envoys of the two Han dynasties have experienced the special difficulties of this road. Yet traffic in merchandise has been effected, and the goods have been sent out to the foreign tribes, the force of winds, driving them far away across the waves of the sea. There are lofty ranges of mountains quite different from those we know and a great variety of populous tribes having different names and bearing uncommon designations, they being of a class quite different from our

[1] *cf.J.R.A.S.* 1860 Vol. XVIII, p. 349-50.

[2] *cf J.R.A.S.* Vol. XIX, p. 276.

own. All the precious things of land and water come from them, as well as the gems made of rhinoceros horns and chrysoprase, serpent pearls and asbestos cloth, there being innumerable varieties of these curiosities : and also the doctrine of the abstraction of mind in devotion to the Lord of the world (Buddha)—all this having caused navigation and trade to be extended to these parts."

Another Chinese historian Ma-Touanlin in his Researches into antiquity says "India (A. D. 500-16) carries on a considerable commerce by sea with Ta-Tsin, the Roman empire and the Ansi or ASE".[1]

A writer of considerable acumen makes bold to say after the destruction of Palmyra, direct trade between India and Rome never existed. The Romans, he says, established their trading station at Adule, the chief port of Ethiopia and "though under Constantine there was much economic prosperity, yet the Roman trading activity never extended beyond Adule".

Archaeological discoveries and historical references however point to quite the opposite conclusion. Mr. Vincent Smith remarks; "There is good reason to believe that considerable colonies of Roman subjects engaged in trade were settled in southern India during the first two centuries of our era, and that European soldiers, described as powerful Yavanas, and dumb Mlecchas (barbarians) clad in complete armour, acted as bodyguards to Tamil kings, while the large ships of the Yavanas lay off Muziris (Cranganore) to receive the cargoes of pepper paid for by Roman gold".[2] Not only were there Roman trading colonies but that "Roman soldiers were enlisted in the service of the Pandyas and other Tamil kings".[3] And "during the reign of the Pandya Aryappadai-Kadaretha - Nedunj - Cheliyan, Roman soldiers were

[1] Quote in the *J. R. A. S.* Vol. XIX, p. 307.

[2] *Early History of India,* p. 400-1.

[3] Quoted in Mookerjee's *Indian Shipping,* p. 128.

employed to guard the jobs of the fort of Madura".[1] Numismatic evidences also bear out the intimate commercial relations between India and Rome.

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This intimate commercial intercourse between Rome and India is very readily accounted for by the fact that "from the time of Mark Antony to the time of Justinian i.e. from B. C. 30 to A. D. 550, their political importance as allies against the Parthians and Sassanians, and their commercial importance as controllers of one of the main trade routes between the east and the west, made the friendship of the Kusans or Sakas, who held the Indus Valley and Bactria, a matter of highest importance to Rome"[2]

With this short sketch of the trade relations of India with foreign countries we will now consider the articles of commerce and trade routes and the important ports of India.

The Periplus, Ptolemy's Geography and the Christain Topography are the chief sources that furnish with information on the articles of commerce and the ports of India.

The Periplus mentions the following as articles of export:

(1) Spikenard, (2) Cortus, (3) Bdellium, (4) Ivory, (5) Qugate, (6) Lycirem, (7) Cotton cloth of all kinds, (8) Silk cloth, (9) Mallow-cloth, (10) Yarn, (11) Long pepper, (12) Diamonds, (13) Sapphiris, (14) Tortoise shell, (15) Transperent stones of all kinds, (16) Pearls, . (17) Malabathrum,(18) Incense, (19) Indigo.

Under imports it mentions: (1) Wine,(2) Copper,(3) Tin,(4) Lead, (5) Coral, (6) Thin clothing and Inferior sorts of all kinds, (7) Sweet clover, (8) Flint and crude glass, (9) Antimony, (10) Gold and Silver coins accruing from the favourable balance of trade.

The Periplus or the marine guide book to the Indian ocean mentions the following trading ports of India :

(1) Barygaza or the modern Baroach the principle trading centre of western India. It mentions two inland towns connected with Baroach, Paithan and Tagara.

(2) Souppara—modern Supara near Bassein.

(3) Kalliean—the present Kalyan.

(4) Semulla—presumably modern Chembur.

[1] Quoted *Ibid,* p. 128.

* Quoted in Mukerjee—"*Indian Shpping*", p. 139.

(5) Mandagora.

(6) Palaipatami.

(7) Melizeigara.

(8) Tyndis.

(9) Muziris.

(10) Nelkynda.

"Ptolemy's Geography" describes the whole sea coast from the mouths of the Indus to those of the Ganges, and mentions many towns and ports of commercial importance. These are, among others, Syrastra (Surat), Monoglosson (Mangrol) in Guzerat, Ariake (Maharashtra), Soupara, Muziris, Bakarei, Maisoli (Maslipatnam), Kounagara (Konarak), and other places".[1]

Certain of the Tamil poets have beautifully described some of the commercial ports and towns in southern India. One of them says, "The thriving town of Muchiri, where the beautiful large ships of the Yavans, bringing gold, come splashing the white foam on the waters of the Periplus which belongs to the Cherala, and return laden with pepper." "Fish is bartered for paddy, which is brought in baskets to the houses," says another. "Sacks of pepper are brought from the houses to the market: the gold received from ships, in exchange for articles sold, is brought to shore in barges at Muchiri, where the music of the Surging sea never ceases, and where Kudduvan (the Chera king) presents to visitors the rare products of the seas and mountains."[2] The description given of Kaviripaddinam (the Kamara of the Periplus and Khaberis of Ptolemy) or Pukar are equally important and inspiring. It was built on the northern bank of the Kaveri river; then a broad and deep stream in which heavily laden ships entered from the sea without slacking sail. The town was divided into two parts, one of which, Maruvar-Pakkam, adjoined the sea coast. Near the beach in Maruvar-Pakkam were raised platforms and godowns and warehouses where the foods landed from ships were stored. Here the goods were stamped with the Tiger stamps (the emblem of the Chola kings) after payment of customs duty, and passed on to merchants' warehouses. Close by were the settlements of the

[1] R. K. Mookerjce *"Indian Shipping",* p. 134.

[2] Quoted in *Ibid,* p. 135.

Yavana (foreign) merchants, where many articles were always exposed for sale. Here were also the headquarters of the foreign traders who had come from beyond the seas and who spoke various tongues. Vendors of fragrant pastes and powders, of flowers and incense, tailors who worked on silk, wool, or cotton, traders in sandal, aghil, coral, pearl, gold, and precious stones, grain merchants, washermen, dealers in fish baits, butchers, blacksmiths, braziers, carpenters, copper smiths, painters, sculptors, goldsmiths cobblers, and toy-makers all had their habitation in Maravar-Pakkam."[1]

The trade routes from India to the west may be conveniently divided under two heads. (1) The land routes and (2) The marine route.

It is truely said that individual migration is a habit of civilized man. Ancient folks, because of their strong gregarious instinct or because of the want of security, always moved in bands. This habit of theirs is well depicted in their methods of trade. Compelled to be peddlars, fear of competition was never too strong to break the tradings. Caravan which moved from place to place with their loaded animals under conditions so unfavourable that easygoing modern man with all the keen business instinct in him will rather quit worshipping the mamon rather than undergo the difficulties ill-compensated by gain. Speaking of the Caravan Mr. Harbur says, "The very course of the Caravan was not a matter of free choice, but of established custom. In the vast steppes of sandy deserts, which they had to traverse, nature had sparing allotted to the traveller a few scattered places of rest, where, under the shade of palm trees, and beside the cool fountains at their feet, the merchant and the beast of burden might enjoy the refreshment rendered necessary by so much suffering. Such places of repose became centreparts of commerce, and not unfrequently the sites of temples and sancturies, under the protection of which the marchants prosecuted his trade, and to which the pilgrim resorted."[2] Being subject to these conditions the Caravan route was never a straight one, it was always zigzag and when we look

[1] Mookerjee R. K. "*Indian Shipping*", p. 135-136.

[2] Quoted in *the Calcutta Review*, Vol. 19, p. 345 .

at maps of ancient trade we are struck with a network of small roads meeting and crossing each other at various points. However we may decipher two main trade routes from India to the mediterranean. The northern most followed the river Oxus and encircling the northern basin of the Caspian sea converged on the Black sea and thence to Constantinople. The middle one rather followed a straight path, with many bifurcations which meet at market. It starts on along the southern basin of the Caspian Sea through, Tebriz, Erzewm Trebizond and through the Black Sea to Constantinople. These were the two main land trade routes between the India and the west.

There were also two marine routes though one of them was only halfway marine. Of these one was the Red Sea route. Ships from Indian ports crossed the Indian ocean either to southern Africa or sailed upwards, and touched at the ports of southern Arabia and Aden and through the *St. of Babel-mandeb* (the gate of Tears) ploughed the waters of the Red Sea, touching at Jedda on the Arabian coast and Bernice on the Egyption coast. From Bernice goods were taken by Caravan to Thebes and Kos where they were gained through the Nile to Alexandria and from thence to Europe. The other marine route lay through the Persian gulf. Ships sailed from Baroach and kept hugging close to the land and touched at Masket and at Ormuz through the gulf of Oman to Bassora. From Bassora at the mouth of the Persian gulf, the goods were taken by the Caravan along the shores of the Euphrates and Tygris through Babylonia to Antioch on the mediterranean.

These two marine trade routes continued upto the present time but the story of the land trade routes is entirely different. They were closed and were closed for ever and the history of their foreclosure is perhaps the only event in the Asiatic continent that profoundly affected the history of Europe.

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CHAPTER II

COMMERCIAL RELATIONS OF INDIA IN THE MIDDLE AGES

OR

THE RISE OF ISLAM AND THE EXPANSION OF WESTERN EUROPE

The birth of Islam is synchronous with the consolidation of Papal power in Rome under Gregory the Great. It was the era of theocracies and the east was once more spreading a wave of religion that had almost succeeded in Mohomedanizing the entire continent of Europe. Not to speak of Africa and Asia and like many big things ; it had its origin in the small.

Long before Muhamad's birth, Arabia was inhabited by different tribes and enjoyed the prosperity of being the commercial go-between between the East and the West. This early prosperity of the Arabs is attested to by the ruins of rich and splendid cities lined from Petra to Damascus; but according to Strabo, this source of prosperity to the Arabs early dried up when the Romans opened direct trade to India. The products of India and Arabia passed to Myos Hormos on the western shore of the Red Sea and camels to Thebes and thence sailed down to Alexandria through the Nile. As a result of this, the Arabs were reduced to be "the true sons of the desert".

Economically there is no country so poor as Arabia. Arabia, the sandy, stony and happy as Gibbon calls it. Owing to the scarcity of arable land and water, the Arabs could not become a settled people. They continued to be nomads and tribal, having no unity in religion or politics. Owing to their disunion, the Arabs were overrun by foreign invaders many a time. The Abyssinians, the Persians, the Sultans of Egypt and the Turks, all in their turn subjugated the kingdom of Yemen, many a Sythian tyrrant had demanded the allegiance of the holy cities of Mecca and Medina and Arabia in part became the province of the Roman empire.

None was able to subdue the Arabs permanently and they have overthrown the suzereinty of powerful monarchs like Sesostris, Cyres, Pompey and Trojan. The causes of this apparent spirit of independence among the Arabs are to be sought in the geography of their habitat.

Crude and inartistic as was the paganism of the Arabs ritual pomp, elaborate mythology or high philosophical speculation had no place in it. "The Religion of the Arabs, as well as of the Indians consisted in the worship of the Sun, the Moon, and the fixed stars."[1] "Each tribe, each family, each independent warrior, created and changed the rites and the object of his fantastic worship; but the nation, in every age, has bowed to the religion as well as to the language of Mecca."[2] The conversion of pagan to a new religion is never a hard task, for, pagans are anything but fanatic and most tolerant. The pagan Arabs were living in peaceful relations with the Christain communities in the North and at Najran in the South, with the Jewish communities residing in the North-east and the Zorastrians living in close proximity to the Persian Gulf. As a result of this propinquity, the interchange of ideas had been working towards a spiritual monotheism among the Arabs long before the birth of Muhamad and is typified by the Hanifs.

Independently or otherwise of the Hanafi movement, Muhamad, an Arab camel driver, conceived the idea of improving the lot of the degraded Arabs constantly fighting among themselves and offering human sacrifices to the numerous idols in Caaba. No man ever arrogated to himself the virtue of being a Prophet with so little equipment, but he made bold and the faith which, under the name of Islam, he preached to his family and nation is compounded of an eternal truth and a necessary fiction. "*That there is only one God, and that Mahomet is the apostle of God.*"[3] The circumstances of Muhamed's birth are seemingly favourable to his proclamation as a Prophet. It will be remembered that Arabia was populated by various tribes all enjoying equal independence. All these tribe however united to respect the tribe of Koresh which by means, fair or foul, held the custody of the temple of Caaba and the Sacerdotal

[1] Gibbon's "*Decline and Fall of the Roman Empire*", Vol. V, p. 327.

[2] *Ibid.* Vol. V, p. 327-8.

[3] *Ibid,* Vol. V, p. 337.

office of worshipping Caaba had fallen on the family of the Hashemites, chiefly on the grandfather of Mahomed. Taking advantage of his exalted position among the Arabs, Mohomed commenced the preaching of the monotheistic Gospel. There isn't anything new in the Gospel of Mohomed who is the least original of the Prophet. His Koran is a compromise between Judaeism and Christianity. Whatever may be the value of his teachings, the Arabs looked upon it with the utmost hostility, so much so that the Hashemites were lowered in the estimation of their people. The stubbornness of the Arabs grew with the missionary zeal of Mahomed as that of the Hindoos today with the growth of the missionary propaganda. Becoming impatient, the Arabs compelled the Hashemites to expell Mohamed whose very life was near being threatened; Mahomed centred his attention on Medina but was not sure of welcome. He therefore negotiated with the Medinites through the few desciples he had made in Mecca. After being assured of their kindness, he stationed himself at Medina and saved his cherished and young religion from utter ruin, which would certainly "have perished in its craddle, had not Medina embraced with faith and reverence the holy outcasts of Mecca."[1] His stationing at Medina was of immense advantage to Mohamed. To his sacerdotal office was combined the regal and to the judicial, the executive. He became a missionary monarch strong enough to back his preaching by the cannon. "The choice of an independent people had exalted the fugitive of Mecca to the rank of a sovereign and he was invested with the just prerogative of forming alliances and of waging offensive and defensive wars. The imperfection of human rights was supplied and armed by the plentitude of divine power. The Prophet of Medina assured, in his new revelations, a fiercer and more sanguinary tone, which proves that his former moderation was the effect of weakness. The means of persuation had been tried, the season of forbearance was elapsed, and he was now commanded to propagate his religion by the sword, to destroy the monuments of idolatory, and without regarding the sanctity of days, or months, to pursue the unbelieving nations of the Earth."[2] So stationed, he began the expansion of his

[1] Gibbon's "*Decline and fall of the Roman Empire,*" Vol. V, p. 356.

[2] *Ibid*. Vol. V. p.359

creed and kingdom, first by subjugating the Koreish of Mecca. The Arabs were both merchants and robbers in one, and the disciple of Muhamed at Medina began to harrass the trade of the Koreish passing through Medina. The Koreish, being exasperated at this, began warring against Medina. Muhamed, for a while, was on the defensive but he soon got on the offensive and subjugated the city of his birth. Thus he augmented both his forces and resources. "The fair option of friendship, or submission, or battle, was proposed to the enemies of Mahomet. If they professed the creed of Islam, they were admitted to all the temporal and spiritual benefits of his primitive disciples, and marched under the same banner to extend the religion which they had embraced."[2] Having thus equipped his followers for a career of conquest, Mohamed left his mission to his successors, the Califs. "The heroic courage of Ali, the consumate prudence of Moawiyah, excited the emulation of their subjects, and the talents which had been exercised in the schools of civil discord were more usefully applied to propagate the faith and dominion of the Prophet. In the sloth and vanity of the palace of Damascus, the succeeding princes of the house of Ommiyah were alike, destitute of the qualifications of statesmen and of saints. Yet the spoils of the unknown nations were continually laid at the foot of their throne, and the uniform ascent of the Arabian greatness must be ascribed to the spirit of the nation rather than the abilities of their chiefs. A large deduction must be allowed for the weakness of their enemies. The birth of Mahomet was fortunately placed in the most degenerate and disorderly period of the Persians, the Romans, and the barbarians of Europe. The empire of Trojan, or even of Constantine or Charlemagne, would have repelled the attack of the naked Saracens, and the torrent of fanaticism might have been obscurely lost in the sands of Arabia."[3] "With the same vigour and success they invaded the successors of Augustus and those of Artaxerxtus : and the rival monarchies at the same instant became. The prey of an enemy whom they had been so long accustomed to despise. In the ten years of the administration of Omar, the Saracens reduced to his obedience thirty-six thousand

[1] Gibbon's *"Decline and fall of the Roman Empire,"* Vol. V, p. 359.

[2] *Ibid,* Vol. V, p. 400-1.

cities or castles, destroyed fourteen thousand churches or temples of the unbelievers, and edified fourteen thousand mosques for the exercise of the religion of Mahomet. One hundred years after his flight in Mecca, the arms and the reign of his successors extended from India to the Atlantic ocean, over the various and distant provinces which may be comprised under the names of (1) Persia, (2) Syria, (3) Egypt, (4) Africa, (5) Spain."[1] In this great Mahomedan empire, "We should vainly seek the indissoluble union and easy obedience that pervaded the government of Augustus and the Antonines; but the progress of the Mahomedan religion diffused over this ample space, a general resemblance of manners and opinions. The language and laws of the Koran were studied with equal devotion at Samarkand and Seville. The Moor and the Indian embraced as countrymen and brothers in the pilgrimage of Mecca; and the Arabian language was adopted as the popular idiom in all the provinces to the westward of the Tigris."[2]

The entire trade of history has been to account for his Saracen expansion purely and simply by Religion; but an economic interpretation of this same phenomenon may also stand the test. A well-known writer says "The sudden surging forward of the Arabs was only apparently sudden. For centuries previously, the Arab migration had been in preparation. It was the last great Semitic migration connected with the Economical decline of Arabia. . . . . In short, long before Mahomet, Arabia was in a state of unrest, and a slow, uncontrolled infilteration of Arabian tribes and tribal branches had permeated the adjoining civilized lands in Persian as also in the Roman territory, where they had met with the descendents of earlier Semitic immigrants to those parts, the Armaneans, who were already long acclamatised there.

Hunger and avarice, not religion, are the impelling forces, but religion supplied the essential unity and central power. The expansion of the Saracens' Religion, both in point of time and in itself, can only be regarded as of minor import and rather as a political necessity. The movement itself had been on foot long before Islam gave it a party cry and an organization."[3]

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[1] Gibbon's "*Decline and fall of the Roman Empire,*" Vol. V, p. 401.

[2] *Ibid,* Vol. V, p. 493.

[3] *Cambridge Medieaval History,* Vol. II, p. 331-2.

Prompted both by the ardour of spreading a new religion and also by the economic forces of the time, within forty-six years after Mahomet's flight from Mecca, the new converts to Muhamedanism appeared in arms before the walls of Constantinople and beseiged it (in A. D. *668-675*). The seige lasted for 7 years without any decisive result, the beseigers made light of the strength and resources of Constantinople. The Romans rose equal to the danger of their religion and empire and met the onrushing Saracens with numbers and descipline with so much heroism that it revived their population in the East and the West and for a while, eclipsed the triumphs of the Saracens, who, had they succeeded in capturing Constantinople, would certainly have jeopardised the prospects of Christianity.

The Saracens invaded Constantinople a second time and beseiged it (A. D. 716-718) but with the same result.

Amidst all these triumphs, the Arabs were being gradually eclipsed by the Seljuks. At the time of their rise, the authority of Quaim, the Abbaside Caliph of Baghdad, was completely overshadowed, first by the Sheite dynasty of the Buyids, and afterwards by the more formidable Fatimite rivals. Placed in such circumstances, the Abbaside Caliph welcomed the rise of the Seljuk Turks, who being the upholders of orthodox Islam were sure to reinvest him all his former power and grandeur. "It is their merit from a Mhommedan point of view to have re-established the power of orthodox Islam and delivered the Moslem world from the subversive influence of the ultra-Sheite tenets, which constitued a serious danger to the duration of Islam itself. Neither had civilization anything to fear from them, since they represented a strong neutral power which made the intimate union of Persian and Arabian elements possible, almost at the expense of the national-Turkish-literary monuments in that language being during the whole period of the Seljuk rule exceedingly rare."[1] The Seljuks comprised innumerable tribes or families, one of which was known as the Guzz. Among these constantly contending parties, the Guzz family, not in good graces of the rest, rose to power and became a menace to the neighbouring Mohomedan provinces.

[1] Enc. Brit. 11th Ed. Art - "Seljuks".

Under the leadership of Pigu Arstan Israil, they crossed the Oxus and spread over the Eastern provinces of Persia and having defeated Mahamud, the Gaznavite king in the battle of Mero in 1040, they proclaimed their independence. Within a very short time, the Seljuks secured pre-eminance in the whole of central Asia as far as the Hellespont. "After the great victory of Alp Arsla in which the Greek emperor was taken prisoner (1071), Asia minor lay open to the inroads of the Turks. Hence it was easy for Suleiman, the son of Kutulmish, the son of Arstan Pigu (Israil), to penetrate as far as the Hellespont, the more so after the captivity of Romanas' two rivals, Nicephorus Bryennius in Asia and Nicephorus Botanciates in Europe, disputed the throne with one another. The former appealed to Suleiman for assistance, and was by his aid brought to Constantinople and seated on the imperial throne."[1] Within a short time they captured Anttioch to give permanance to their Syrian monarchy and brilliantly carried their arms to such an extent by 1234 that the Seljukian empire included almost the whole of Asia minor.

But the Seljukian empire was bound to be short-lived, both because of internal dissensions and external aggressions. The external aggression of the Seljukian empire was headed by the Mongols. The early history of the Mongols is enveloped by obscurity and legend. Chengizkhan, the hero of the Mongols, at his death in the valley of Kilien in 1227 "left to his sons an empire which stretched from the China sea to the banks of the Dnieper."[2] Chengizkhan appointed Ogdai as the Khakan or his successor and gave parts of his extensive dominion to other claimants. Ogdai tried to extend his dominion. "At the head of a large army, he marched southwards into China to complete the ruin of the Kiu dynasty, which had already been so rudely shaken, while at the same time Tuli advanced into the province of Honan from the side of Shensi. Against this combined attack, the Kiu troops made a vigourous stand, but the skill and courage of the Mongols bore down every opposition and over a hecatomb of slaughtered foes, they captured Kai-Feng-Fu, the capital of their enemies. From the Kai-Feng-Fu the emperor fled to Juning Fu, whither the

[1] Enc. Brita. II Ed, Art - "Seljuks".

[2] Enc. Brita. 11th Ed., Vol. XVIII, p. 712 "Mongols".

Mongols quickly followed. After sustaining a seige for some weeks, enduring all the horrors of starvation, the garrison submitted to the Mongols and at the same time the Emperor committed suicide by hanging."[1] Not being satisfied with this, Ogadi in 1235 A. D. sent an army against the Sung Dynasty of China, south of the Yang-se-kiang and in Korea.

Having thus consumated his conquest in eastern Asia, Ogadi turned his attention to western Asia. In 1236 A. D. he invaded Georgia and Great Armenia capturing Tiflis and Kars and sent a large army under Batu his nephew in eastern Europe. Batu captured Bolgari, the capital city of the Bulgar, crossd the Volga and invaded Ryazan which fell on the 21st of December 1237 and perpetrated such atrocities that "no eye remained open to weep for the dead." He carried Moscow which were followed by Vladimir and Kozelsk. Poland and Hungary were overtaken by the same fate.

Contemporaneous with the rise of the Mongols the Turks known as Ottomans were rising in power. They were one of those nomad tribes dwelling between the plains of Sungaria and the desert of Gobi. "Legend assigns to Oghuz, son of Kara Khan, the honour of being the father of the Ottoman Turks. Their first appearance in history dates from A. D. 1227. In that year a horde, variously estimated at from two to four thousand souls, with their flocks and their Slaves driven originally from their central Asian homes by the pressure of Mongol invasion, and who had sought in vain a refuge with the Seljukian. Sultan Ala-ud-din Kaikobad of Konia, were returning under their chief Suleiman Sha to their native land. They were crossing the Euphrates, not far from the castle of Jaber, when the drowning of their leader by accident threw confusion into their ranks. Those who had not yet crossed the river refused, in face of this omen, to follow their brethren. The little band numbering 400 warriors .... decided to remain under Ertoghrul, son of the drowned leader. Ertoghrul first camped at Jessin, East of Erzerum. A second appeal to Ala-ud-din was more successful and the numbers of the immigrants had become too insignificant for their presence to be a source of

[1] Enc. Brita. 11th Ed., Vol. XVIII, p. 712 "Mongols".

danger. The lands of Karajabagh, near Angora, were assigned to the new settlers, who found there good pasturage and winter quarters. The help afforded by Ertoghrul to the Seljukian monarch on a critical occasion led to the addition of Sugut to his fief, with which he was now formally invested. Here Ertoghrul died in 1288 at the age of ninety, being succeded in the leadership of the tribe by his son Osman. When exhausted by the onslaughts of Ghazan Mahmud Khan, ruler of Tabriz, and one of Chengiz Khan's lieutenants, the Seljukian empire was at the point of dissolution, most of its feudatory vassals helped rather than hindered its downfall in the hope of retaining their fiefs as independent sovereigns. But Osman remained firm in his allegience, and by repeated victories over the Greeks revived the drooping glories of his suzerain. His earliest conquest was Karoja Hissar (1295), where first the name of Osman was substituted for that of the sultan in the weekly prayer. In that year Ala-ud-din Kaikobad II conferred on him the proprietorship of the lands he had thus conquered by the sword and presented him at the same time with the horse-tail, drum and banner which constituted the insignia of independent command. Osman continued his victorious career against the Greeks, and by his valour and also through allying himself with Kensee Mikhal, lord of Harman Kaya, became master of Aineqeul, Bilejik and Yar Hissar ... In 1300 the Seljuk empire crumbled away, and many small states arose on its ruins. It was only after the death of his protector and benefactor Sultaa Ala-ud-din II that Osman declared his independence, and accordingly the Turkish historian dates the foundation of the Ottoman empire from this event."[1] The empire of the Turks was very extensive. " Turks ruled in Asia minor, Turks governed Egypt, Turks held minor authority under the Mongols in Syria and Mesopotamia, while the descendents of Chengizkhan had succeeded to the dominion of the Kalifs; in Persia, had assumed all the dignity of sovereignty in the wild region of the Volga and the Ural mountains, in the lands of the Oxus, and the deserts of Tartary, had spread across central Asia and had founded an empire in China, and were preparing to establish the long line of Mongol emperors in Hindustan whom we know by the name of the Great Moguls."[2]

[1] Enc. Brit 11th Ed., Vol. XXVII, p. 441-3.

[2] Stanley Lane-Poole—"Turkey" (New York, 1899), p. 7.

But the power of the Turks for a time suffered a blow that seemed to end it once for all. "Just at the moment when the Sultan seemed to have attained the pinnacle of his ambition, when his authority was unquestioningly obeyed over the greater part of the Byzantine empire in Europe and Asia, when the Christain states were regarding him with terror as the scourge of the world, another and a greater scourge came to quell him, and at one stroke all the vast fabric of empire which Bayezid had so triumphantly erected was shattered to the ground and this terrible conqueror was Timur, the Tartar or as we call him "Tamurlane". He established his superiority over the petty chiefs that had arisen out of the ruins of the vast kingdom of Chengizkhan. Tamurlane carried every thing at the point of sword and subdued every province that was under Bayezid. The Tartar and the Turk faced in 1402. As the Turks were engaged in laying seige to Constantinople, the Sultan heard of the news of the victory of Tamurlane over his troops at Siwas. Bayezid collected his troops and hurried to give battle in person but lost it at Angora and the edifice of the Turkish empire crumbled to pieces."[1] Reared with consummate skill and maintained with the utmost bravery the Turkish empire succumbed before the "Asiatic Despot", the embodiment of "the wrath of God". "The history of the Ottomans seemed to have suddenly come to an end. Seldom has the world seen so complete, so terrible, a catestrophe as the fall of Bayezid from the summit of the power to the shame of a chained captive."[2]

Unfortunately however Tamurlane did not survive to avail the fruits of his victory and his apparent stroke was far from being a final blow to the Ottoman empire. Mr. Lane Poole says "The most astonishing characteristic of the rule of the Turks is its vitality. Again and again its doom has been pronounced by wise prophets, and still it survives. Province after province has been cut off the empire, yet still the Sultan sits supreme over wide dominions, is revered or feared by subjects of many races. Considering how little of the great qualities of the ruler the Turk has often possessed, how little trouble he has taken to conciliate the subjects whom his sword has subdued, it is amazing

[1] Stanley Lane- Poole— "Turkey" (New York, 1899) p. 7.

[2] *Ibid.,* p. 73.

how firm has been his authority, how unshaken his power, . . Within a dozen years the lost provinces were reunited under the strong and able rule of Mahammud I, and the Ottoman Empire far from being weakened by the apparently crushing blow it had received in 1402, rose stronger and more vigourous after his fall, and like a giant refreshed, prepared for new and bolder feats of conquest."[1] Cheered up by brilliant prospects Mohammed transferred his capital from Brusa in Asia to Adrianople in Europe. The Seljuk Turks reached the Hellespont but it was left to the Ottomans to cross it. Constantinople was the dream of many a Turkish ruler. They had longed for the possession of that imperial city ever since Ottoman had dreamed that he grasped it in his hand. "Thunderbolt Bayezid had besiged it. Musa had pressed it hard. Murad II had patiently planned its conquest. There was little to be won beside the city itself, for all the province round about it had long been subdued by the Ottomans, but the wealth and beauty and the strength and position, of the capital itself were quite enough to make its capture the crowning ambition of the Turks."[2] With eagerness Mahammud II the sixth of the Ottoman emperors was in watchful waiting for pretext to capture the city. Taking advantage of the hostility of the emperor he prepared to attack the city which fell on the 29th of May 1453. The withstanding of the city for such a long time rather than its fall constitute real wonder for "at this period the state of the Byzantine empire was such as to render its powers of resistance insignificant, indeed the length of time during which it held out against the Turks is to be attributed rather to the lack of efficacious means at the disposal of its assailants than to any qualities possessed by its defenders."[3] There is perhaps no place in the world more strategic than Constantinople in that it commands the three continents Asia, Europe and Africa, and whoever has had it, has enjoyed supremacy in all these three. Speaking of the physical strength of Constantinople and the attacks it has withstood Dr. Cunningham says, "As each century came, a new horde of invaders appeared. In the fourth

[1] Stanley Lane- Poole— "Turkey", pp. 74-75.

[2] *Ibid, p.* 107-108.

* Enc. Brit. Vol. XXVII, p. 443.

century, immediately after its foundation, it was threatened by the Goths ; in the fifth, by Huns and Vandals ; in the sixth, by Slavs ; these were succeeded by Arabs and Persians in the seventh, and Magyars, Bulgars and Russians in the eighth and ninth. Even after its prestige had been broken by the success of Venice and the Fourth Crusade, and the establishment of a Latin Kingdom, the restored empire was able to maintain a long resistance against the Turks. It had often been shaken, but not till 1453 did it utterly succumb."[1]

It was a great fortune that this imperial city should have withstood these incessant attacks and should have conserved the wreck of the classical civilization. It was also a great fortune for the propagation of Christanity that the wave of Mohomedanism should have been checked long enough before Christainity to have become a real force in Europe. It bore the brunt of barbarism allowed the classic civilization to develop itself. What Constantinople did on the eastern side Tours did on the western side at a very early date, though not perhaps so brilliantly. Being disappointed in their attempt to take Constantinople the Arabs long before the Turks succeeded in taking it, deployed to the South and carrying their religion triumphantly through Africa thought of entering Europe from the western side through Gibralter. Here in their preliminary advance they met with little opposition for the kingdom of the West, Goths could hardly defend itself against their masterful onrush and by 711 A. D. Spain fell into the hands of the Arabs and the Babers and was flooded with Moorish immigrants. Encouraged by success the Arabs thought of crossing over into Gaul but were held in check by the Duke of Aquilaine who however was defeated near Bordeaux in 732. With redoubled energy they advanced to Poiturs and marched for Tours. But here they dashed against a stronger enemy. The Franks under Charles, the Hammer (Mortel) defeated the Arabs at Tours and thus permanently stayed their advance. The Arabs never more made any attempts to cross the Pyrenees. What would have been the fate of European civilization had the Arabs succeeded in subjugating it, is hard to speculate. This much is certain that the Moors were far in

[1] W. Cunnigham. "Western Civilization—Ancient Times", p. 197-198.

advance of the Franks. Prof. Robinson says, "Historians commonly regard it as a matter of great good luck that Charles, the Hammer and his barbarus soldiers succeeded in defeating and driving back the Mohomedans at Tours. But had they been permitted to settle in Southern France they might have developed science and art more repidly than did the Franks."

While these rapid movements of the Asiatic nomads were upsettling all peaceful activities in central Asia the Roman empire was fast crumbling into decay and Europe fell back into a dull lull broken only by the incessant warfare of the Germanic people.

Under these circumstances commerce was bound to decline. There were innumerable hindrances to medieaval commerce. Rapidity of exchange was greatly hindered by the lack of money all throughout western Europe. Christianity was anything but an optimistic religion, it was a protest against the comforts of life. Economics was held down by religion. The doctrine of "just price" and the prohibition of whole sale trade greatly depressed commerce. The greatest hindrance that was put in the way of commercial activity was the Christain doctrine of usuary. In one sweep the entire mass of people was prohibited to loan money at interest. When combined with the scarcity of money we can realize the retrograding character of this prohibition. The Jews not being within the pale of Christianity were the only people left to deal in monetory transaction and their service to economics is immeasurable. "This ill-starred people played a most important part in the Economic development of Europe, but they were terribly maltreated by the Christians, who held them guilty of the supreme crime of putting Christ to death."[2] Added to all these were the annoying transit duties arbitrary in their character. The geographic knowledge of the time was bewilderingly miserable. Dangers of the sea were by no means small and the pirates were the source of constant dread. To crown all the most effective hindrance was the dilapidation of the Roman roads.

Under the combined force of these unfavourable circumstances there is no wonder that since the fall of the Roman Empire, there prevailed in Western Europe a long lull and a dull monotony of static life.

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[1] Brasely and Robinson—"Outlines of European History" Part I. (N. Y.) 1914, p. 368.

[2] *Ibid.,* Part I, p. 506.

Constantinople did not pay much attention to commerce. Its policy was that of extortion. It never cared to achieve to the full the gains due to its situation on the Bosphorus. There was very little trade between the West and Constantinople military operation constituted the only stimulus to trade activities.

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Nay the rule of the Saracens in Syria and Egypt was far more enlightened than that of the contemporary rulers of the Byzantine Empire.

But amidst all this ruin Italy conserved the merchantile and intellectual forces of the middle ages. The 9th century A.D. marks the rise of real merchantile activity in the North-East and South-West of Italy. It was the Era of the rise of the Italian City-Republic and Eastern commerce was the thing upon which they fed themselves fat. Each city-state rose to hold "The Gorgeous East in fee."

First and foremost is Amalfi. It wrested its independence from the Eastern Empire by 820. Her maritime activity grew so rapidly that within 20 years their navy was powerful enough to fight the Saracens in their naval attacks on Rome. Her factories (agencies of modern days) were scattered in Palermo, Syracuse, Messina, Durazzo and Constantinople and her reputation as a commercial state grew so wide-spread that, "The maritime laws of *Tabula Amalfitana* were current among traders on every coast of the Inland Sea and the coinage of the Republic was the chief medium of exchange between Latin Europe and the Levout."[1]

The smallness of the harbour prevented Amalfi from being a great emporium. She therefore had to give way to her rivals. She fell prey to the land powers of the Normans who had subdued Naples, Salerno or Brindisi while the sea power was immeasurably outdone by other and better situated city states.

Venice rose as Amalfi went down. "From the time of Charlemagne the Queen of the Adriatic began to take a place in the politics as well as in the commerce of the Latine world. Its

[1] Reymond Beazlcy—"The Dawn of Modern Geography," Vol. II.

situation had advantages beyond any other harbour town of Italy. Separated from the mainland by the sea and from the open sea by the low fringing walls of its lagoons, surrounded almost entirely by shallows pierced only by a few deep channels, Venice was usually considered by its own citizens, as by foreigners, to be beyond attack. The political troubles of the continent made it a refuge from the time of Attila, and the absence of any maritime rival on the adriatic left open a valuable and extensive field of operations for commerce, for colonization and even for conquest."[1] Her benevolent neutrality and her allegiance to Byzantine greatly augmented her prosperity for on the decline of the Eastern Empire the whole adriatic coast came under her influence and the chief markets of Byzantine coast, Antioch, Inopuestia, Adana, Tarsus, Attalia, Strobilos Chios, Ephisus and Phoeacea Hiraclea and Selymbria, Chrysopolis, Demetrias, Adrianople, Athens, Thebes, Thissalonica, Negropont, Corinth Corfus, Durazzo etc. were opened for Venician trade. Her commercial policy was very farsighted and wise. She laid down the rule "of siding always with the stronger, especially in maritime struggle" and practised it on many an occasion and this by crushing all her enemies and ingratiating herself into the favour of the strong achieved her greatness.

Genoa, another city state came late to share in the oriental trade. 1097 A. D. marks her rise. "The origin of the state as an independent body may be found in a *Campagna* or political association, founded at the very close of the eleventh century, controlled by consuls freely elected and supported by the bishops of the city against secular lords, such as Oberti."[2]

From 1097 to 1122 she secured important trading concessions and established factories both on the Levantine Coast as well as on the African. Her trade extended to Egypt through Alexandria, to Tunis and to the Southern Coast towns of France and Spain.

Origin of Pisa which is similar in nature to that of Genoa dates from 1085. By deeds of arms she succeeded in securing commercial privileges from the Moslems and from the Byzantine

[1] Reymond Beazley—"*The Dawn of Modern Geography*", Vol. II, p. 401.

[2] *Ibid.* Vol. II, p. 419.

Empire. Her commerce was so great that "Western orthodoxy was shocked by the "marine monsters" from the ends of the Earth who thronged the streets of the city ; Pagans, Turks, Libyans, Parthians and Chaldeans defiled the town and blackened (her) walls: here, most of all, was to be seen the triumph of commercialism over all the barriers of Latin exclusiveness over, race, religion and language alike." [1] None of the Republics secured more concessions and privileges than Pisa and her maritime activity though short was brilliant.

The commercial activity of these Republics while in their infancy was greatly fostered by the crusades. We are not at all concerned with the military aspects of the crusades though they were perhaps the greatest of military exploits of the time. The commercial aspect of the crusade is what demands our attention.

The sea had its dangers and fears.[2] Hardly any one tried to take a chance. "In that age it might truely be said that no landman went to sea unless obliged to do so, for a voyage was being in prison with the addition charge of being drowned."[3] The importance of water transportation was however demonstrated to the crusaders by the wearisome experience of the landways used in the first Crusade (1096-99); and the marine transportation was in the hands of these Italian Republics. The Crusaders therefore began to indent more and more upon these republics who fed fat on this growing commerce.

"By serving the cause of Christaindom they (the Republics) served their own. They multiplied, many times over, their carrying trade ; they largely increased their export and import commerce. Above all, they acquired a privileged, a more than half political, position on the coasts of the Levant, as time went on, they became more indispensible to the crusading princes, they were able to dictate their terms more freely until the main burden of the Holy war rested upon them as the chief holders of power."[4] The Crusades seem to have been looked upon with different perspectives. The Catholic Church had a double motive

[1] Reymond Brazley—*The Dawn of Modern Geography,* Vol. II, pp. 427-428.

[2] *cf.* "Nemesis of nations" p. 219-220.

[3] Brasely Vol. II, p. 407.

[4] *Ibid,* Vol. n, p. 407.

which is well manifested in the words of St. Bernard, respecting the soldiers of the 2nd crusades, when he says, "In that countless multitude you will find few except the utterly wicked and impious, the sacrilegious, homicides, and perjurers, whose departure is a double gain. Europe rejoices to lose them and Palestine to gain them: They are useful in both ways, in their absence from here and their presence there."[1] The discontented noble, the restless who was eager to shun reponsibilities and the criminal and the sinful had their points of view of the crusades and the objectives as had the religiously devout and naturally romantic. But "the cunning traders and sea men of the commercial republics looked on the crusaders with very different eyes from the average catholic lords and labourers of the inland districts: they were not without religious enthusiasm but they cultivated it rather as a useful commodity than as an inevitable state of feeling ; and they felt but little of the blind hatred against Islam, and the passionate veneration for the Gospel sites, which sincerely animated the great body of the warriors and pilgrims they conveyed to Palesttine. Merchantile interest was never absent from the minds of those who governed, bought, or sold in Venice and Pisa, in Genoa and Amalfi."[2] The results of the Crusades were contrary to expectation. They achieved what was perhaps never intended by the Crusaders and the gain was by no means small. "The heyday of the crusading power on land was also the heyday of the maritime prosperity of many western cities : and at the conclusion of the religious wars the main results of the struggle was to be found in the expansion of the Christain trade, and in the assimilation of no small part of oriental and moorish civilization. For the meeting of east and west in this tremendous conflict, brought little permanent gain to Europe and the Catholic world, in the political sense : Through the medium of commerce, on the other hand it directed the energies of the Christian nations to their true future. The frontal attack of the crusaders was unsuccessful, but the crusading struggle imported a new culture and material prosperity, an increased knowledge, an immensely extended wealth, a restless but obstinate ambition, whose results were seen in the Renaissance of the

[1]Quoted by Brasely and Robinson in "*Outlines of European History*" Part I, p. 471.

[2]Brasely—Vol. II, p. 408.

the fifteenth and sixteenth century in the great discoveries both of geography and natural science and in the final triumph of European arms and enterprise throughout the world."[1] The above may strike as an exaggerated description of the enduring effects of the Crusades but there is no doubt that they imparted a liberal education to the Europeans and fostered trade by giving a permanent footing to merchants inlands where the dominions of the Christain rulers had been destroyed.

The Italian Republics were immensely rewarded for their help to the Crusaders. Besides many privileges each one acquired "spheres of influence" exclusive of the other anticipating the modern "Spheres of influence" in China. They all rivalled each other for the control of the marts behind the Levants. "The Moselm hinterland to the Crusading Syria possessed four chief markets—Aleppo, Damascus, Hems or Emesa, and Hawath, beyond which lay the still greater marts of Bagdad and the lesser Emporia of Mosul and Bassora or Basra converging the line of the Tigris, Aleppo was a head centre of the trade route from the Abbasside Caliph's 'metropolis' to Antioch and Laodicea on the western side. This route ... Edrisi calls the great avenue of the trade of Irak, Persia and Khorasan, and the silk market of Allepi proved its connection with the still more distant countries of the Far East. Even at the close of the thirteenth century many Venetian traders were residents here for the sake of commerce in *Seric* goods, as well as in *alum*. The figments and the pepper found at Antioch by the Crusaders, on the capture of the city, also bore witness to an Indian commerce with the mediterranean by this path, and the elder Sanuto is probably right when he says (at the beginning of the 14th cen.) That in the old time most Oriental goods passed along this way to the Roman Sea."[2] The rapid movement of troops by Saracens and the Christains did not materially affect the Red sea route to India and Alexandria continued to be the "market of two worlds."

These Italian Republics secured the Oriental commodities and started commerce with "ultra-montane lands in the north of the

[1] Brasely, Vol. II, p. 395.

[2] Brasely Vol. II, p. 441.

continent and became "the European stapes of Mediterranean track." The north was practically in a semi-barbarous condition. The commercial activity in the Baltic was meagre. The Viking was a "half merchant and half pirate". "So far as we can gather... this commercial activity (in the north) was different from that of the Phoenicians and their Greek initators in two important particulars. It was much less completely organized. The Phoenicians had settled factories at special points, and there were permanent off-shoots of the mother-city in distant lands, and had recognised rights and obligations. But the horse commerce does not appear to have arisen between towns and colonies. The Viking was rather the adventurer who went out to improve his fortunes as best he might, and who it be found a favourable opportunity, established himself on an estate. The Horsemen may have had more aptitude for town life than some of the other Teutons, but they were ready to become cultivators and colonists, and did not confine their energies and trade." [1] Nay before their conversion to Christianity, the Horsemen were a great menace to peaceful commerce. Considerably after the conversion of the Horsemen to Christainity signs peaceful commerce began to show among the Flemish towns. This had much to do with the wool productions in England. English was exchanged for Flemish fabrics. The Flemish dealers had organized themselves into what is known as "Flemish House of London" and controlled the trade through the "staple" towns. Beyond Flanders the German trade was controlled by the German House. It was a close confederation of a large number of towns of northern Germany. This German Hanseatic League was the most extended commercial organization of middle ages. It gathered the products of the Baltic lands, such as lumber, tar, salt, iron, silver, salted and smoked fish, furs, ambers and certain coarse manufactures which it exchanged for goods brought by the commercial cities of Italy from far off lands. Thus through the agency of these Italian Republics, "the products of Arabia and Persia, India and the East Indian Islands, and even of China, all through the middle ages, as in antiquity, made their way by long and difficult routes to Western Europe. Silk and Cotton, both raw and manufactured

[1] William Cunningham—"*Western Civilization*" (Modern Times) p. 110.

into fine goods, indigo and other dyestuffs, aromatic woods and gums, narcotics and other drugs, pearls, rubies, diamonds, sapphires, turquoises, and other precious stones, gold and silver, and above all the edible spices, pepper, ginger cinnamon, cloves, and all-spice, could be obtained only in Asia."[1] Thus the commerce between Asia and Europe formed a regular living system and was fed by various channel.

But this system was early disturbed by the rise of Islam. When we imagine that trade was carried on by land Caravans with all the cumbersomeness we can imagine the hinderances it must have underwent owing to the rapid military movements of the Saracens We will recall that there were four principal trade routes from Asia to Europe and they all lay through the dominions of the Saracens. "During the Crusades, so long as the avenue by the Persian Gulf and the Red Sea were controlled by hostile Mohomedan powers, it became necessary to adopt another more expensive and circuitous route, requiring much land-carriage and several transfers of freight. This route led up the Indus, across the mountains on beasts of burden, thence by the Oxus, and so to the Caspian Sea. This, which was ancient route, was now adopted by Venice and Genoa. From the Caspian it took especially the direction of the Volga, to a place called Zarizn, thence through the country to the Don, where, at the river's mouth, in the town of Tana, now Azor, both Venice and Genoa had commercial privileges, and the former had a consul from the end of the 12th century. Afterwards an important entrepot for Genoa was Theodosia, now Jatta, in the Crimea."[2] "Islam had hemmed Christendom on every side. On the East as on the South, the Crescentraised a barrier against the advance of the Cross."[3] But in this mighty struggle of the Cresent and the Cross commerce suffered immensely. "The Ottoman seizure or obstruction of the Indian trade routes brought disaster not alone to the mediterranean republics. The blow fell first on Genoa and Venice, but it sent a shock through the whole system of

[1] Edward Slow P.Cheney : Social and Industrial History of England p. 86.

[2] J. of Am. O.S.

[3] W.M. Cunnigham—"Western Civilization" (Modern Times) p. 130

The original spelling of some words have been retained as they were found in the MS, such as, 'hinderances' 'propogate', 'ninety', 'truely', 'merchantile', etc. The variations in the spellings of the proper nouns used by Dr. Ambedkar are also left untouched

European commerce. The chief channel by which the products of Asia reached the central and northern nations of Christendom was the Hanseatic League."[1] The Hanseatic had profited mainly owing to its control of Oriental wares coming through Italian Republics. From very early times "Germany and the north Italian upland were dependent on the Republic (Venice) for the products of the east, and when 1017 of (*) ships laden with spices suffered shipwreck, the event is noticed by a (*) chronicler as a serious misfortune."[2] "The Indian trade formed an important contributory to this Hanseatic commerce. When the eastern traffic began to dry up, its European emporiums declined."[3] In this blocade of old trade routes lies the (*) expansion of western Europe. The whole situation is well summed up by Prof. A. F. Poland when (*) as to why America was discovered towards the end of the fifteenth century, he says, (*) would be the paradoxical assertion that Columbus discovered America in 1492 or thereabouts because the Turks are an obstructive people. The connection is not quite obvious, but obvious connections are always superficial, and this is more profound. The Germans have a proverb *Dermensch est was arisst*—man is what he eats. It might be (*) for a motto by those people. (This seems to be incomplete—ed.)

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* (Illegible and erased words are left out and space is shown blank in bracked—Ed.)

1. W. W. Hunter, A *History of British India.* Vol. I, p. 52.
2. Breasely, Vol. II, p. 405.
3. W. W. Hunter, op. Cit. Vol. I, p. 53.

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CHAPTER III*

INDIA ON THE EVE OF THE CROWN GOVERNMENT

More than anything else in the world, Imperialism stands in greater need of defence and Imperialists have not been wanting in their duty.

Unlike the Greeks who did not have even a word for imperialism nor knew the idea of the federation of city states, the Romans were the world's first and greatest imperial people and they coined a justification for imperialism that became the heritage of their successor.

They proclaimed that they were a people of superior race with a culture too high to be compared with any other, that they had better system of administration, that they were versed in the arts of life. They also proclaimed that the rest were people of inferior race with a very low culture and were absolutely devoid of the arts of life, and that their administration was very despotic. As a logical consequence of this the Romans argued that it was their divine mission to civilize their low lying brethern, nay to conquer them and superimpose their culture in the name of humanity.

The British have justified their imperial policy in India by similar argumentation. The British historian of India have a kind of Leues Boswelliana—disease of admiration. Their optical vision somehow or other has magnified the vices, not the virtues, of the predecessors of the British in India. Not only have they been loud in their denunciation of the Moghul and the Maratha rulers as despots or brigands, they cast slur on the morale of the entire population and their civilization. This is but natural for individuals as well as states can raise themselves only by lowering the merits of others.

Historians of British India have often committed the fallacy of comparing the Rule of the British with their immediate or remote predecessors. In deference to historical methodology. They

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* In the MS., this Chapter No. is V. Chapter III and IV are not forthcoming—ed.

ought to compare the rulers of India with the contemporaries in England. Much of historical error will vanish if we closely follow this plan. It would no longer be a matter of contemptuous pity to read perhaps the abject condition of. the Hindoos under the conquest of the Mohommedans when we will remember the pitiful condition of the Anglo-Saxons under their Norman conquerors when "to be called an Englishman was considered as a reproach—when those who were appointed to administer justice were the fountains of all iniquity—when magistrates, whose duty it was to pronounce righteous judgements were the most cruel of all tyrants, and great plunderers than common thieves and robbers .... ; when the great men were inflamed with such a rage of money that they cared not by what means it was acquired ; when the licentiousness was so great that a Princess of Scotland found it necessary to wear a religious habit in order to preserve her person from violation."

The much spoken of Mohomedan cruelty could hardly exceed that committed by the first Crusaders on their conquest of Jerusalem. The garrison of 40,000 men "was put to the sword without distinction ; arms protected not the brave, nor submission the timid; no age or sex received mercy ; infants perished by the same sword that pierced their mothers. The streets of Jerusalem were covered with heaps of slain, and the shrieks of agony and dispair resounded from every house."

If we thus run down through the history of India and history of England and compare contemporary events we will find that for every Native Rowland we have an English Oliver. We must therefore repeat the warning of Sir Thomas Munro to English Historians of India, who said, "When we compare other countries with England, we usually speak of England as she now is, we scarcely ever think of going back beyond the Reformation and we are apt to regard every foreign country as ignorant and uncivilized, whose state of improvement does not in some degree approximate to our own, even though it should be higher than our own as at no distant period."

Let us, therefore, turn to the "Despots and Brigands" who ruled India before the British and let us review their deeds and the condition of the people during their respective rulers

This knowledge is absolutely necessary in order to form a correct estimate of the Economic condition of the people of India under the East India Company.

We need not wait to dilate upon the Economic prosperity of India in ancient times since we have already dwelt upon it.

We have a consensus of opinion both Hindoo and Mohomedan as regards the prosperity of India when the Mohomedan conquest took place. The magnificence of Canouj and the wealth of the Temple of Somnath bear witness to it. It is a mistake to suppose that the Mussalman sovereigns of India were barbarous and despots. On the other hand majority of them were men of extraordinary character. Mohommed of Guzni, "showed so much munificence, to individuals of eminence that his capital exhibited a greater assemblage of literary genius than any other monarch in Asia has ever been able to produce. If rapacious in acquiring wealth, he was unrivalled in the judgement and grandeur with which he knew how to expend it."

Of all his illustrious successors one of whom was a female (Sultana Rezia); Feroz Shah is very well known for his administration. His public works "consisted of 50 dams across rivers to promote irrigation, 40 mosques and 30 colleges, 100 Caravan series, 30 reservoirs, 100 hospitals, 100 public baths, 150 bridges, besides many other edifices for pleasure and ornament; and, above all, the canal from the point in the Jumna where it leaves the mountains of Carnal to Hausi and Hissar, a work which has been partially restored by the British Government. The historian of this monarch expatiates on the happy state of the ryots under his Government, on the goodness of their houses and furniture and the general use of gold and silver ornaments amongst their women... The general state of the country must have been flourishing, for Milo de Conti, an Italian traveller, who visited India about A.D. 1420, speaks highly of what he saw in Guzerat, and found the banks of the Ganges covered with towns amidst beautiful gardens and orchards. He passed four famous cities before he reached Maarazia, which he describes as a powerful city, filled with gold, silver, and precious stones. His accounts are corroborated by those of Barbora and

Bartema, who travelled in the early part of the sixteenth century. The former in particular describes Cambay as a remarkably well-built city, situated in a beautiful country, filled with merchants of all nations, and with artisans and manufacturers like those of Flanders. Caesar Frederic gives a similar account of Guzerat, and Ibne-Batuta, who travelled during the anarchy and oppression of Mohammed Tagluk's reign, in the middle of the fifteenth century, when insurrections were reigning in most parts of the country, enumerates many large and populous towns and cities, and gives a high impression of the state in which the country must have been before it fell into disorder."

Baber, the founder of the Moghul dynasty in India found the country in a prosperous condition and was surprised at the immense population and the innumerable artisans everywhere. He was a benevolent ruler and public works marked his statesmanship. Sher Shah who temporarily wrested the throne from the Moghul was excepting Akabar, the greatest of Mohomedan rulers and like Baber executed many public works.

Akabar's benevolent administration is too well known to need any mention.

The rule of Shah Jehan who "reigned not so much as a king over his subjects, but rather as a father over his family" was marked by the greatest prosperity; his reign was the most tranquil.

Speaking of the condition of the people in the dominions of the Marathas who were contemporaries of the later Moghuls a traveller says, "from Surat, I passed the Ghats, and when I entered the country of the Maharattas, I thought myself in the midst of the simplicity and happiness of the golden age where nature was yet unchanged, and war and misery were unknown. The people were cheerful, vigourous, and in high health, and unbounded hospitality was a universal virtue ; every door was open, and friends, neighbours and strangers, were alike welcome to whatever they found."

With regard to the economic condition of the people in Southern India which was under the rule of Tipoo, a historian

says, "When a person, travelling through a strange country, finds it well cultivated, populous with industrious inhabitants, cities newly founded, commerce extending, towns increasing, and everything flourishing, so as to indicate happiness, he will naturally conclude it to be under a form of Government congenial to the minds of the people. This is a picture of Tipoo's country, and this is our conclusion respecting its Government." "His country was found everywhere full of inhabitants and apparently cultivated to the utmost extent of which the soil was capable" .... His Government though strict and arbitrary, was the despotism of a strict and able sovereign, who nourishes, not oppresses, the subjects who are to be the means of his future aggrandisement, and his cruelties were, in general, inflicted on those who he considered as his enemies.

Clive described Bengal as a country of "inexhaustible riches". Mecaulay said, "In spite of the Mussalman despot and of the Maratha freebooter, Bengal was known through the East as the Garden of Eden—as the rich kingdom. Its population multiplied exceedingly; distant provinces were nourished from the overflowing of its granaries: and the noble ladies of London and Paris were clothed in the delicate produce of its looms."

But with the advent of the English things began to change. Prosperity bade fair to India and perched itself on the Union Jack.

The evil forces were set forth both on the side of the Parliament and the East India Company.

The Rule of the Company was anything but wise, it was rigourous, it gave security but destroyed property. The scheme of administration was far from perfect. Adam Smith characterizes the "Company of Merchants" as "incapable of considering themselves as sovereigns, even after they have become such" and says, "Trade or buying in order to sell again, they will consider as their principal business, and by a strange absurdity, regard the character of the sovereign as but an appendix to that of the merchants,.... as sovereigns, their interest is exactly the same with that of the country which they govern. As merchants, their interest is directly opposite to that interest." [1] Adam Smiths

1. '*Wealth of Nations*' (Canner's Ed.) Vol. II, p 136-7.

criticism of the Courts of Proprietors and Directors described in the last chapter is also very valuable. He posits that the interest of every proprietor of India stock, is by no means the same with that of the country 'in the Government of which his vote gives him some influence and says, "This would be exactly true if those masters never had any other interest but that which belongs to them as proprietors of India stock. But they frequently have another of much greater importance. Frequently a man of great, sometimes even a man of moderate fortune, is willing to give thirteen or fourteen hundred pounds… merely for the influence which he expects to acquire by a vote in the Court of Proprietors. It gives him a share though not in the plunder, yet in the appointment of the plunderers of India. The Directors, though they make those appointments, being necessarily under the influence of the Court of Proprietors, which not only elects them, but sometimes overrules their appointments. A man of great or even of moderate fortune, provided he can enjoy this influence for a few years, and thereby get a certain number of his friends appointed to Employments in India, frequently cares little about the dividends which he can expect from so small a capital, or even about die improvement or loss of the capital itself upon which his vote is founded. About the prosperity or ruin of the great empire, in the Government of which that vote gives him a share, he seldom cares at all. No other sovereigns ever were, or from the nature of things ever could be, so perfectly indifferent, about the happiness or misery of their subjects, the improvements or waste of their dominions, the glory or disgrace of their administration, as, from irresistible moral causes, the greater part of the proprietors of such a merchantile company are, and necessarily must be."[1]

This is perhaps a sweeping indictment of the administration of the company as a whole. It, however, holds true of the early rule of the company though the corruption was later gradually eliminated.

In the local or Supreme Government of India, the native inhabitants had no voice. They were barred from all high paid offices and had no scope beyond the position of a petty clerk.

1. '*Wealth of Nations*' (Canner's Ed.) Vol. II, p. 139 *f.n.*

The internal administration was so devised that the Governors and the official staff in their capacity as advisers did or were compelled to do all the thinking for the inhabitants of the country. They enacted, true to a word, the part of Sir John Bowley or the "Poor man's friend" so ably drawn by Charles Dickens : "Your only business, my good fellow, is with me. You need not trouble yourself to think about anything. I will think for you; I know what is good for you; I am your perpetual parent. Such is the dispensation of all all-wise Providence ... what man can do, I do. I do my duty as the Poor man's Friend and Father, and I endeavour to educate his mind, by inculcating on all occasions the one great lesson which that class requires, that is entire dependence on myself. They have no business whatever with themselves."

These Bowleys no doubt did the thinking as a Divine mandate but unfortunately, none the less naturally, their thinking and enacting proved decidedly favourable to England and fatal to India.

How England prospered while India declined may be well impressed on our minds if we recall the economic condition of England immediately before and after 1600 and also the nature of India's tribute to England.

Sir Josiah Child gives very interesting comparative description of the rising prosperity of England after 1545.

According to him, in 1545 "the trade of England then was inconsiderable and the merchants very mean and few"..... "but now", he says "there are more men to be found upon the exchange with ten thousand pounds estates, than were then of one thousand pounds. And if this be doubted let us ask the aged, whether five hundred pounds portion with a daughter sixty years ago, were not esteemed a larger portion than two thousand pounds is now ; and whether gentle women in those days would not esteem themselves well clothed in a serge gown, which a chambermaid now will be ashamed to be seen in... We have now almost one hundred coaches for one we had formerly. We with ease can pay a greater tax now in one year than our forefathers could in twenty. Our customs are very much improved, I believe above the proportion aforesaid, of six to one ;

which is not so much in advance of the rates of goods as by increase of the bulk of trade."[1] By 1600 A.D. the merchantile class had become so powerful that "but for the hostility of the city, Charles I could never have been vanquished, and that without the help of the city, Charles II could scarcely have been restored."[2]

India contributed or rather was made (to)* contribute to the prosperity of England in many ways.

Trade as the augmentation of wealth must be placed in the forefront. Stock quotation is a barometer of business conditions applying the same criterion we will see how much Indian trade was valued in England. "Throughout the (18th) century the Company's stock was always at premium. In 1720 it was quoted as high as £450, but by 1755 it fell to £148. This figure represented much more nearly its real value. Even supposing the dividend of 10% to be average, this would only mean interest at the moderate rate of about $5\frac{1}{3}$ % on the cost price. It continued to fall until 1766, when the prospect of profit from the revenues of Bengal caused an artificial boom, which inflated the price to £233. This was followed by a fall of 60% as a result of war in the Carnatic. From 1779 to 1788 the price was much more reasonable. It averged about £150, although at the crisis of 1784 it fell as low as £118.10 *s.* 0 *d.* After Pitt's Act prices improved and by 1787 it was quoted at £185.10 *s.* 0 *d.* Subsequently the fluctuation's laregely decreased. The Company was now a sovereign ruler than a trading Corporation. It paid a fair interest to its shareholders and its stock was quoted at a price which represented the capitalized value of its profits. There was no further scope for speculation. Its balance-sheet began to resemble the Indian Budget of later years."[3] Dividends paid to the share-holders will also indicate how much India contributed to the wealth of England. "Before the union of 1709 the trade, though subject to great fluctuations, always showed a great profit. In 1682, the dividend reached the enormous figure of 160% but at the end of

* Inserted—ed.

1. *"Discourse of trade"* (1775), pp. 8, 9, 10.
2. T. B. Macaulay, *"History of England"*, Chap. III.
3. F. P. Robinson—*"East India Company",* p. 161.

the century, things were very different. In 1709, after the union, it was only 8% rising, in 1710 to 9% and two years later to 10%, the average rate during the century would work out at about 9% and it only rose above from 1768 to 1771. In 1723 a slight fall was caused by the competition of the French Company, and a further fall of 1% followed an increase of capital and the foundation of the Swedish Company in 1732. In 1744, it rose again to 8% and continued at this rate for eleven years in spite of the continual war both in Europe and in the Carnatic. In J 755, the unsettled condition of the affairs at last had effect and a fall of 2% resulted. In 1760, the cession of Burdwan and other provinces increased the working costs of the Company, and kept the dividend at 6%, so that the sum distributed annually was £1,91,644. In 1767, in consequence of the acceptance of the territorial sovereignty of Bengal, the dividend was raised to 10% and the amount distributed reached £3,19,408. This rise was quite unjustifiable and was largely due to the exaggerated estimate of the prosperity of India. The increased dividends declared in anticipation of large profits which were never fully realized, were paid by means of loans raised at exhorbitant interest. For five years the Company hung on in the hope of better days but in 1772 the crash came and the dividends fell from $12\frac{1}{2}$% to 6%. Lord North then intervened and, for the future, the Company's dividend was subject to ministerial control. The Regulating Act was followed by revenue prosperity and the dividend continued to rise slowly. In 1792 me conclusion of the peace with Tipoo, whereby the Company received a revenue of £2,40,000 and an indemnity of £l ,600,000, was followed by a further rise of 2% and in 1802, the dividend reached 11%."[1] Besides this, "the sums of money paid to the (English) public by the United Company of Merchants of England trading to the East Indies, for their privileges, etc.," "between the years 1798 to 1803 have been estimated by Mr. Macpherson at £25,343,215."[2] Not only India has helped England in her war with America by taking the harden of £3,858,666 but has helped towards the furtherance of Education in America for Mr. Yale founded the Yale College after his name from the money earned exclusively in the Indian Trade.

1. F. P. Robinson—"*East India Company",* pp 159, 160, 161.

2. *cf.. "European Commerce with India"* (1812), Appendix No. II.

Some of the direct and indirect advantages to England from India may be noted in the words of St. George Tucker who says:—

(1) "The East India Company have, at different periods, drawn, a surplus revenue from their territorial possessions to the extent of a million and a half sterling per annum after paying the interest of the territorial debt and this surplus was evidently a direct tribute from India to England."

(2) "About four-fifths of the territorial debt being held by European British subjects, a large proportion of the annual interest, amounting to near two million sterling may be regarded as an *indirect* tribute paid by India to the mother country." "This indirect or private tribute" including the savings, the profits of commerce, etc., Tucker estimates at "three million sterling per annum at the present period" (i.e., about 1821).

(3) "The Shipping of India (that is, the India built ships which are employed in carrying on the trade from port to port in the (eastern Seas) forms no inconsiderable portion of the whole tonnage of Great Britain.

(4) "The possession of India furnishes a most convenient outlet for the present overflowing in one class at least of the community, for whom it is found difficult in all countries, and in none more than our own, to make a suitable provision……. The service of India alone opens a field in which they can be employed *largely* with the prospect of benefit to themselves and to their country."

These do not by any means exhaust the ways by which India contributed to the prosperity of England.

Besides these indirect ways, England adopted more direct and drastic measures to harm India. This was effected through the protective system. England was in no way able to compete with Indian goods and as a manufacturing country, India was England's superior. To destroy the competition of Indian goods which in spite of the cost of transportation ousted the. English goods from their home markets, England adopted a strong protectionist policy.

The following figures will indicate how high the tariff against Indian goods was :—

Alocs duty p.c.	..	280	Oil of Cinnamon	..	400
Assafoefida	..	622	Mace	..	3,000
Benjamin	..	373	Nutmegs	..	250
Borax	..	102	Olibanum	..	400

Cardemoms	..	266	Pepper (black)	..	400
Cassiabuds	..	140	Pepper (white)	..	266
Cloves	..	240	Rhubarb (common)	..	500
Coculus Indicus	..	1,400	Rice (Java)	..	150
Coffee	..	373	Rum (Bengal)	..	1,142
Cubebs	..	320	Sago pearl	..	100
Dragon's blood	..	465	Sugar (Bengal white)	..	118
Gamboge	..	187	Ditoo (Hudding white).		128
Gum Ammoniac	..	466			
Myrph	..	187	Ditoo (low and brown).		152
Nux Vomica	..	266			
Oil of Cassia	..	343			

But England did not stop with this high tariff. She went a step further and made an invidious discrimination against Indian goods which (bore)* import duty much higher than that on the same goods from other parts of the world. This will become manifest by the import duty figures given by M'Acllоch's Commercial Dictionary respecting the goods from the East Indies and West Indies and other colonies.

Articles		East Indies			West Indies, etc.		
		£	s.	d.	£	s.	d.
Sugar per Qnt.	..	1	12	0	1	4	0
Coffee per Ib.	..	0	0	9	0	0	6
Spirits, Sweetend per gallon	..	1	10	0	1	0	0
Spirits not Sweetened per gallon		0	15	0	0	8	6
Tamarinds per Ib.	..	0	0	6	0	0	2
Succades per Ib.	..	0	0	6	0	0	3
Tobacco per Ib.	..	0	3	0	0	2	9
Wood—teak under 8 inches square per load.		1	10	0	0	10	0
Wood—not particularly enumerated, *ad valorem*.		20	per cent		5	per cent	

The English tariff on Indian goods was not not only discriminating but differed with the use to which they were put to in England, as will be seen from the following answers of

* Inserted—ed.

Mr. John Ranking to the questions of the committee of House of Commons in 1813 :—

> Q.—"Can you state what is the *ad valorem* duty on piece-goods sold at the East India House ?"
>
> A.—"The duty on the class called Calicoes is £3 *6s.* 8*d.* per cent upon importation, and if they are used for home consumption there is a further duty of £68 6*s.* *Sd.* per cent".
>
> "There is another class called Muslins, on which the duty on importation is 10 per cent, and if they are used for home consumption, of £27 *6s.* 8*d.* per cent.
>
> "There is a third class, coloured goods, which are prohibited being used in this country (England), upon which there is a duty upon importation of £3 6*s.* 8*d.* per cent; they are only for exportation".
>
> "This Session of Parliament, there has been a new duty of 20 per cent on the consolidated duties, which will make the duties on calicoes..... used for home consumption, £78,*6s.* 8*d.* per cent upon the Muslim for home consumption ;. £31,*6s.* 8*d.*"

This much for the Parliamentary Exactions, direct and indirect. The Exactions of the Governors and Governor-Generals were by no means small. It is necessary to recall here the words of Sir W.W. Hunter who, describing the morale of the European people, when they came in contact with India, says, "Europe just emerged from mediaevalism, was then making her first experiments in Asiatic rule. Mediaeval conceptions of conquest imposed themselves on her exploitation of the Eastern world : Mediaeval types of commerce were perpetuated in the Indian trade. Portugal, Spain, Holland established their power in Asia when these conceptions and types held sway. The English ascendency in India came later and embodied the European ideals of the eighteenth century in the place of the European ideals of the sixteenth. It was the product of modern as against semi-mediaeval Christendom. Yet even for England it was difficult to shake off the traditions of the period... of monopoly in the Indian trade, and of Indian Government for the personal profit of the rulers."[1] "Self-interest certainly swayed the corrupt and oligarchic legislature, and politics were always discussed on plane from which principles were banished... Men faught avowedly for the most material objects only. Gold ruled the aspirations of the greatest, and India afforded many examples of its fatal power at the time."[2]

1. W, W. Hunter, *"A history of British India"*. Vol. 1, p. 6.
2. G. B Hertz, *"The old colonial system"*, p 4.

The battle of Plassey in 1757 and the battle of Wandewash in 1761 gave the English supremacy in Bengal and Madras respectively and they turned both of these victories to their account. Clive, the victor of Plassy became really the king-maker. He sold his support to the Nawab who promised better terms. He not only got great bribes from the Nawabs and Jehagir (Estate) and controlled the salt monopoly in spite of the wishes of the Home authorities but gave perfect liberty to the civil servants—Burke's—"birds of prey and passage"—to indulge in private trade to monopolize certain trades to the utter exclusion of the natives : as a result of this the people were greatly oppressed and reduced to poverty. The wealth of Clive and the poverty of the people are well described by Macaulay, who says "As to Clive, there was no limit to his acquisitions but his own moderation. The treasury of Bengal was thrown open to him. There were piled up, after the usage of the Indian princes, immense masses of coins, among which might not seldom be detected the florins and byzants with which before any European ship had turned the Cape of Good Hope, the Venetians purchased the stuffs and spices of the east. Clive walked between heaps of gold and silver, Crown rubies and diamonds, and was at liberty to help himself..... Enormous fortunes were thus rapidly accumulated at Calcutta, while thirty millions of human beings were reduced to the extremity of wretchedness .....This misgovernment of the English was carried to a point such as seems hardly compatible with the very existence of society. The Roman proconsul, who, in a year or two squeezed out of a province the means of rearing marble palaces and baths on the shores of Campomia, of drinking from Amber, of feasting on singing birds, of exhibiting armies of gladiators and flocks of camelopards; the Spanish viceroy, who, leaving behind him the curses of Mexico or Lima, entered Madrid with a long train of gilded coaches and of sumpter-horses trapped and shod with silver, were now outdone."

Clive ruined the Bengal populace. Hastings the first Governor-General turned to the potentates. His ill-treatment of, and exactions from the Raja of Benares and the Begums of Oudh, his massacre of the Rohillas excited the Catholic sympathies of that great 18th century political philosopher Edmond Burke who by impeachment of Waren Hastings re-enacted so to say, the

memorable impeachment of verres by Cicero for similar reasons. Burke espoused the cause of the oppressed and strained all his nerves to redress their wrongs and punish their offender. The impeachment, in spite of his vigour and the active participation of Sheridan failed but not without its salutary effect It was one of these failures that was worth a hundred victories. Lord Morley in his Life of Burke says, "that Hastings was acquitted was immaterial. The lesson of his impeachment had been taught with sufficiently impressive force—the great lesson that Asiatics have rights, and that Europeans have obligations : that a superior race is bound to observe the highest current morality of the time in all its dealings with the subject race. Burke is entitled to our lasting reverence as the first apostle and great upholder of integrity, mercy and honour, in the relations between his countrymen and their humble dependents."

As a result, the direct mode of administrative exploitation was nipped in the bud : but certain other indirect modes of exploitations were either imposed or suffered to remain by the same administration. These indirect modes of exploitations were the Inland transit duties. The servants of the Company in their capacity of private traders enjoyed perfect immunity from these duties but they were levied with all strictness upon the natives whose economic betterment was thereby greatly hindered.

Mr. Holt Mackengie speaking of these Duties says :

> "Some articles have to run the gauntlet through ten custom-houses, passing at each several subordinate Chowkis (stations), before they reach the Presidency, and little or none of the great stable commodities of the country escape from being subjected to repeated detentions.
>
> "Even supposing that there were no exactions and no delays, still the system would seriously hinder the commercial intercourse of the country, no interchange of goods can take place between districts separated by a line of Chowkis, unless the difference of price shall cover not only the export of transportation and the other charges of merchandise, but also the duty of 5 or $7\frac{1}{2}$ per cent levied by Government Thus also the natural ineqalities of prices aggravated and contrary to every principle, justly applicable to a consumption tax, the burden falls on those places where the consumer would, independently of duty, have most to pay.
>
> "But when to the Government demand are added those of the custom-house officers, it appears to be certain that much trade that would be

carried on by persons of small capital must be absolutely prevented. The rich merchant can afford to pay the utmost demand likely to be made upon him, because a considerable douceur will not fall heavy on a large investment, and because his rank and wealth secures him from any outrageous extortion. But to the petty trader, a moderate fee would consume the probable profit of his adventure, and he has little or no security for moderation,

"Hitherto the attention of the authorities at home, and of the mercantile body generally in England, would appear to have been directed chiefly to the object of finding a market for the manufactures of the United Kingdom. They have consequently looked more to the import than to, the export trade of India. The duties prescribed by Regulation IX of 1810 have accordingly taken off a great number of articles sent from England hither : while of the exports only indigo, cotton, wool and hemp have been made free, and this more with a view, I apprehend, to English than to Indian objects."

It would be profitable to read what Lord Ellenborough has to say regarding these inland transit duties:

"While the cotton manufactures of England are imported into India on payment of a duty of $2\frac{1}{2}$ per cent, the cotton manufactures of Inida are subjected to a duty on yarn of $7\frac{1}{2}$ per cent to an additional duty upon the manufactured article of $2\frac{1}{2}$ per cent, and finally to another duty of $2\frac{1}{2}$ percent, if the cloth should be dyed after the Rowana (pass) has been taken out for it as white cloth. Thus altogether the cotton goods of India (consumed in India) pay $17\frac{1}{2}$ per cent

"The raw hide pays 5 per cent. On being manufactured into leather it pays 5 per cent more ;. and when the leather is made into boots and shoes, a further duty is imposed of 5 per cent. Thus in all there is a duty of 15 per cent (on Indian leather goods used in India).

In what manner do we continue to treat our own sugar ? On being imported into a town it pays 5 per cent in customs, and 5 per cent in town duty, and when manufactured, it pays, on exportation from the same town 5 per cent more, in all 15 per cent (on Indian Sugar used in India).

"No less than 235 separate articles are subjected to Inland Duties. The tariff includes almost everything of personal or domestic use, and its operation, combined with the system of search, is of the most vexatious and offensive character, without materially benefiting the revenue. The power of search, if really exercised by every custom-house officer, would put a stop to internal trade by the delay it would necessarily occasion. It is not exercised except for the purpose of extortion."

Added to this was the lack of uniform currency in India.

All these were a means to kill Indian industries.

Frederick List says, "Had they sanctioned the free importation into England of Indian Cotton and silk goods, the English cotton and silk manufacturers must, of necessity, soon come to a stand. India had not only the advantage of cheaper labour and raw material, but also the experience, the skill and the practice of centuries."

The opinion of Mr. H. H. Wilson, the historian of India is still more emphatic. "It is also a melancholy instance" he admits,

> "of the wrong done to India by the country on which she has become dependent. It was stated in evidence (in 1813) that the cotton and silk goods of India up to the period could be sold for a profit in the British market at a price from 50 and 60 per cent lower than those fabricated in England. It consequently became necessary to protect the latter by duties of 70 and 80 per cent on their value, or by positive prohibition. Had this not been the case, had not such prohibitory duties and decrees existed, the mills of Paisley and Manchester would have been stopped in their outset, and could scarcely have been again set in motion, even by the power of steam. They were created by the sacrifice of the Indian manufacture. Had India been independent, she would have retaliated, would have imposed prohibitive duties upon British goods, and would thus preserved her own productive industry from annihilation. This act of self defence was not permitted her. She was at the mercy of the stranger Brush goods were forced upon her without paying duty, and the foreign manufacturer employed the arm of political injustice to keep down and ultimately strangle a competitor with whom he could not contend on equal terms" : With the result, to quote the words of Mr. Chaplin, that "many manufacturers have been compelled to resort to agriculture for maintenance, a department already overstocked."

Thus the land revenue policy destroyed agriculture and the prohibitory protectionist policy of England ruined the Industries of the country whose wealth attracted these swarms of flies that drenched her to the last dregs.

The resulting misery and poverty of the people knew no bounds and is pathetically described by many a traveller and

Governor. Bishop Heber, travelling in India about 1830 wrote," Neither native nor European agriculturist, I think can thrive at the present rate of taxation. Half the gross produce of the soil is demanded by Government, and this, which is nearly the average rate wherever there is not a Permanent Settlement, is sadly too much to leave an adequate provision for the present, even with the usual frugal habits of the Indians, and the very inartificial and cheap manner in which they cultivate the land. Still more if it (is)* an effective bar to anything like improvement; it keeps the people, even in favourable years, in a state of abject penury; and when the crop fails in even a slight degree, it involves a necessity on the part of the Government of enormous outlays in the way of remission and distribution, which, after all, do not prevent men, women and children dying in the streets in droves, and the roads being strewed with carcasses. In Bengal, where, independent of its exuberant fertility, there is a Permanent Assessment, famine is unknown. In Hindustan, (Northern India) on the other hand, I found a general feeling among the King's officers and I myself was led from some circumstances to agree with them, that the peasantry in the Company's Provinces are, on the whole, worse off, poorer, and more dispirited, than the subjects of the Native Princes; and here in Madras, where the soil is, generally speaking, poor, the difference is said to be still more marked. The fact is, no Native Prince demands the rent which we do, and making every allowance for the superior regularity of our system, etc., I met with very few men who will not, in confidence, own their belief that the people are over-taxed, and that the country is in a gradual state of impoverishment. The Collectors do not like to make this avowal officially. Indeed, now and men, a very able Collector succeeds in lowering the rate to the people, while by deligence he increases it to the State.

But, in general, all gloomy pictures are avoided by them as reflecting on themselves, and drawing on them censure from the Secretaries at Madras or Calcutta, while these, in their turn, plead the earnestness with which the Directors at home press for more money. "Speaking of trade and industries he says," the trade of Surat is now of very trifling consequence, consisting of little but raw cotton, which is shipped in boats for Bombay. All

* Inserted—ed.

the manufactured goods of the country are undersold by the English.. a dismal decay has consequently taken place in the circumstances of the native merchants. "Regarding the decay of Dacca the same authority says, "Its trade is reduced to the sixtieth part of what it was, and all its splendid buildings,... the factories and the Churches of the French, Dutch and Portuguese Nations are all into ruin, and overgrown with jungle."

To ameliorate their misery, natives petitioned Parliament saying, "that every encouragement is held out to the exportation from England to India of the growth and produce of foreign, as well as English industry, while many thousands of the natives of India, who, a short time ago, derived a livelihood from the growth of cotton and the manufacture of cotton goods, *are without bread,* in consequence of the facilities afforded to the produce of America, and the manufacturing industry of England." But the appeal was made in vain and the interests of England always remained in the forefront in the eyes of those that were called upon to rule the destinies of India.

Though, as Bishop Heber rightly says that the officers of the Company avoid "all gloomy pictures" of the misery of the people, there are others who, marked by independence of opinions, are quite as explicit as they are emphatic on this point.

The Court of Directors wrote on May 7th, 1766 :

> "We have the sense of the deplorable state.....from the corruption and rapacity of our servants, and the universal depravity of manners throughout the settlement..... Think the vast fortunes acquired by a scene of the most tyrannic and oppressive conduct that ever was known in any age or country."

Clive, though criminal himself, was conscious of the oppression for, he wrote to George Dudley on September 8th, 1766 :

> "But retrospection into actions which have been buried in oblivion for so many years; which if inquired into, may produce discoveries which cannot bear the light.....but may bring disgrace upon the nation, and at the same time blast the reputation of great and good families."

Sir Thomas Munro was so indignant at the misrule of the Company that he said, "It would be more desirable that we should be expelled from the country altogether, than that the result of our

system of Government should be such an abasement of a whole people.

Mr. Martin in his "Eastern India" 1838 says, "The annual drain of £3,000,000 on British India has amounted in thirty years, at 12 per cent (the usual Indian rate) compound interest, to the enormous sum of £723,900,000 sterling ... So constant and accumulating a drain, even in England, would soon impoverish her. How severe, then, must be its effects on India, where the wage of a labourer is from two pence to three pence a day ! Were the hundred millions of British subjects in India converted into a *consumpting* population, what a market would be presented for British capital, skill and industry! " Mr. Frederick John Shore of the Bengal Civil Service very pathetically said:

> "But the halcyon days of India are over; she has been drained of a large proportion of the wealth she once possessed, and her energies have been cramped by a sordid system of misrule to which the interest of millions have been sacrificed for the benefit of the few. The gradual impoverishment of the people and the country, under the mode of rule established by the English Government has.... the grinding extortions of the English Government have effected the impoverishment of the country and people to an extent almost unparalleled..... "
>
> "The fundamental principle of the English had been to make the whole Indian Nation subservient in every possible way to the interest and benefit of themselves..... Had the welfare of the people been our object, a very different course would have been adopted, and a very different result would have followed."

But such was not to be the case. Nay, it would have been unnatural had it been otherwise, for Mill says, "the Government of a people by itself has a meaning and a reality ; but such a thing as Government of one people by another does not, and cannot exist. One people may keep another for its own use, a place to make money in, a human cattle-farm to be worked for the profits of its own inhabitants."

The administration of the East India Company was a prototype of the Roman provincial administration, under the Roman Empire, however, local liberties were conserved. Monesen says, "The Roman provincial constitution, in substance, only concentrated military power in the hands of the Roman Governor,

while administration and jurisdiction were, or at any rate were intended to be, retained by the communities, so that as much of the old political independence as was at all capable of life might be preserved in the form of communal freedom."

But the British suppressed everything, and just as Mr. Ferrero insists on our abandoning "one of the most widespread misconceptions which teaches that Rome administered her provinces in broad-minded spirit, consulting the general interest, and adopting wide and benefit principles of Government for the good of the subjects," so must we guard against any complacent view of the administration of the East India Company, so current among historians who labour hard to show that with the interval of 1700 years, human nature had greatly advanced in moral standard.

Short may have been our discussion of the situation before the East India Company, it is quite sufficient to show that the supplanter of the Moghuls and the Marathas were persons with-no better moral fiber and that the economic condition of India under the so-called native despots and brigands was better than what was under the rule of those who boasted as being of superior culture.

It is with industries ruined, agriculture "overstocked" and over-taxed with productivity too low to bear high taxes, with few avenues for display of native capacities, the people of India passed from the rule of the Company to the rule of the Crown.

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PART II

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THE UNTOUCHABLES AND THE PAX BRITANNICA

[The Manuscript consisting of 123 typed pages is a presentation of the case of neglect of the Depressed Classes by the British Government which did not admit them as members of the Armed Forces. The manuscript, of which the first page is missing, was prepared by Dr. Ambedkar during his stay for the Round Table Conferences in London according to his Marathi biographer Mr. C. B. Khairmode. The MS. is printed herein as it was found—ed.]

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*of the American Continent the objective of his voyage was reach India. Even this voyage of Columbus was not a sudden venture. It was a part of a plan of exploration of a sea route to India which he had received its first impetus from Prince Henry of Portugal, who was greatly interested in it and who in his reign of 42 years (1418—1460) helped it in every possible way.

What was the necessity for this quest for a direct sea route from Europe to India which impelled the Portuguese, the Dutch, the French and the English to come out of their seclusion. The coming of the English to India was not an adventure of a singular race. It was a concerted effort and there was so much eagerness on the part of each European nation that within this concert there was a competition for reaching India first. Because the Portuguese came first it does not follow that the rest were idle or indifferent. The English and the Dutch were under the belief that there was a shorter route to India than that of the Cape of Good Hope and their delay in their coming to India was due to the fact that they were busy in finding out its possibilities. The French, though last to arrive, were second only to the Portuguese, their first voyage being to Sumatra in 1529.

What was the origin of this eagerness to reach the Indies ? Why did the Portuguese, Spaniards, English, French and Dutch vie with one another in centuries of strenuous effort to find a sea route to India. The object was to obtain luxuries and particularly spices—chillies, cloves, nutings etc., which could be had only from India and the East.

This seems rather strange—that all this run should be for spices. But the fact is that spices did play a very important part in this expansion of Europe.

How much spices were used and appreciated by the European peoples in the fifteenth and sixteenth centuries can be seen, from the following data collected by Prof. Cheyney [1] :

> "One of the chief luxuries of the Middle Ages was the edible spices. Wines and ale were constantly used spiced with various condiments. In Sir Thopa's forest grew *"notemuge to putte in ale"*.

* First page containing the earlier portions of this MS is missing. The title of this essay also is nowhere found. The present title is given from the typed outline in the custody of People's Education Society, Bombay—ed.

European Background of American History, p. 10-11.

> "Froissart has the king's guests led to the "palace, where wine and spices were set before them". The dowry of a Marseilles girl, in 1224, makes mention of "mace, ginger, cardamom and galangale."
>
> "When John Ball wished to draw a contrast between the lot of the lords and the peasants, he said, "They have wines, spices and fine bread, when we have only rye and the refuse of the straw,". When old Latiner was being bound to the stake he handed nutmegs to his friends as keepsakes.
>
> "Pepper, the most common and at the same time the most valued of these spices, was frequently treated as a gift of payment instead of money. "Matilda de Chaucer is in the gift of the king, and her land is worth £8,*2d.,* and 1 pound of pepper and 1 pound of cinnamon and 1 ounce of silk", reads a chance record in an old English survey. The amount of these spices demanded and consumed was astonishing. Venetian galleys Genoese varracks, and other vessels of the Mediterranean brought many a cargo of them westward, and they were sold in fairs and markets every where. "Pepper-sack" was a derisive and yet not unappreciative epithy applied by German robber-barons to the merchants, who they plundered as they passed down the Rhine. For years the Venetians had a contract to buy from the Sultan of Egypt annually 420,000 pounds of pepper. One of the first vessels to make its way to India brought home 210,000 pounds. A fine of 200,000 pounds of pepper was imposed upon one petty prince of India by the Portuguese in 1520. In romances and chronicles, in cook-books, trades-lists, and customs-tarriffs spices are mentioned with a frequency and consideration known in modern times."

Why were spices so necessary to the European peoples of those days ? One answer is taste. "The monotonous diet, the coarse food, the unskilful cookery of mediaeval Europe had all their deficiencies covered by a charitable mantle of Oriental seasoning."[1] While it was a matter of taste for all it was a matter of necessity for the poor. The poor needed spices. In ancient times when food was scarce and the productivity of man in the absence of machinery was very low, man could not afford to waste or throw away food as being stale. Whatever was left over or was not necessary for immediate consumption had to be preserved. Spices are the best preservatives. It was because of this as also for reasons of taste that spices were in mediaeval Europe in such universal demand.

1 Cheyney. *Ibid,* p. 10.

Another question is why was a direct sea route necessary for these European nations to reach India and to obtain spices. Before the European nations discovered the sea route to India via the Cape of Good Hope there were in existence three well established land routes by which these luxuries and spices used to reach Europe and known as the Northern, the Middle and the Southern routes.

The Northern route lay between the Far-East and the West, extending from the inland provinces of China westward across the great desert of Gobi, south of the Celestial mountains to Lake Lop then passing through a series of ancient cities, Khotan, Yarkand, Kashgar, Samaro and Bokhara, till it finally reached the region of the Caspian Sea. This main northern route was joined by others which crossed the passes of the Himalayas and the Hindookush, and brought into a United Stream, the products of India and China. A journey of eighty to a hundred days over desert, mountain, and steppes lay by this route between the Chinese wall and the Caspian. From still farther north in China a parallel road to this passed to the north of the desert and the mountains and by way of Lake Balkash, to the same ancient and populous land lying to the east of the Caspian Sea. Here the caravan routes again divided. Some led to the south-westward, where they united with the more central routes described above and eventually reached the Black Sea and the Mediterranean through Asia Minor and Syria. Others passed by land around the northern coast of the Caspian, or crossed it, reaching a further stage at Astrakhan. From Astrakhan the way led on by the Volga and on rivers, till its terminus was at last reached on the Black Sea at Tana near the mouth of the Don, or at Kaffa in the Crimea.

The Middle route lay through Mesopotamia and Syria to the Levant. Ships from India crept along the Asiatic shore to the Persian Gulf, and sold their costly freights in the marts of Chaldea or the lower Euphrates. A line of trading cities extending along its shores from Ormuz near the mouth of the gulf to Bassorah at its head served as ports of call for the vessels which carried this

merchandise. Several of these coast cities were also termini of caravan routes entering them from eastward, forming a net-work which united the various provinces of Persia and reached through the passes of Afghanistan into northern India. From the head of the Persian Gulf one branch of this route went up the line of the Tigris to Bagdad. From this point goods were taken by caravan through Kurdistan to Tabriz, the great northern capital of Persia, and thence westward either to the Black Sea or to Layas on the Mediterranean. Another branch was followed by the trains of camels which made their way from Bassorah along the tracks through the desert which spread like fan to the westward, till they reached the Syrian cities of Aleppo, Antioch, and Damascus. They finally reached the Mediterranean coast at Laodicea, Tripoli, Beirut, or Jaffa, while some goods were carried even as far south as Alexandria.

The southern route was a sea route in all except its very latest stages. It lay through the Red Sea and brought the products of India and the Far East by sea to Egypt, whence they passed to Europe from the mouths of the Nile.

The land routes were devious and dangerous. They were insecure and transportation over them was difficult and expensive. Robbers plundered the merchants and Governments taxed them beyond measure. Of the two land routes the Northern was not a highway to the same extent as the middle one was. With its deadly camel journey of alternate shows and torried wastes, rendered it available only for articles of small bulk. It never attained the importance of the Middle route. Even this Middle or Indo-Syrian route was not always open. It was blocked twice. Once between 632—651 A. D. when the Saracen Arabs under the conquering impulse of Islam seized the countries of this Indo-Syrian route. For a second time it was blocked during the crusades in the 11th Century. The southern route which was for most part a sea route was equally unsafe. "The storms of the Indian Ocean and its adjacent waters were destructive to vast numbers of the frail vessels of the East; piracy vied with storms in

its destructiveness; and port dues were still higher than those of inland marts."[1] But as Prof. Cheyney observed, "With all these impediments, Eastern products, nevertheless, arrived at the Mediterranean in considerable quantities"[2] and were available to the European merchants.

When these land routes existed why did there arise the necessity for a sea route ? The answer is the Turkish and Mongol upheaval in further Asia which overtherw the Saracenic culture and ruined the trade with Europe. This upheaval was a new force. It first came into operation when about 1038 the selfwill Turks burst upon Persia. Two centuries later the Mongols poured over Asia under Chengizkhan. In 1258, the Mongols captured Bagdad. In 1403 Timur captured Syria. In 1453 Constantinople fell to the Turks. This upheaval of the Turks and the Mongols completely blocked the two land routes. The Southern route was the only route that was open for some time. But even that was blocked when Egypt was conquered by the Turks in 1516.

Two factors are responsible for bringing the European Nations to India. First spices. Second the blocade of the old overland Trade routes by the Turks and the Mongols. It is these factors which drove the European nations to search for a sea route to India and which they ultimately found.

Having come to trade with the East Indies, these Europeans remained there to conquer it. That evidently resulted in a struggle for supremacy. The struggle between the English and the Portuguese and the Dutch on the other band was for commercial supremacy. The theatre of the struggle between the English and the Portuguese was India and the Persian Gulf and ended in favour of the British in 1612, so far as India was concerned and in 1622 so far as the Persian Gulf was concerned. From 1622 India and the Persian Gulf lay open to England and the Portuguese ceased to be any menace to development of English trade and commerce. The theatre of the struggle between the English

1. Cheyney *Ibid,* p. (not mentioned in MS.—ed.)

2. *Ibid,* p.

and the Dutch lay in Malaya Archipelego. It was decided against the English in 1823 by what is called the Mascaere of Amboyana whereby the English receded to India and left the Dutch to enjoy exclusively the trade with the Malaya Archipelego. The struggle between the English and the French was a mighty struggle. The theatre of this struggle was India proper. The object of this struggle was political sovereignty and not commerce. The French had established themselves in the South and the East. So far as Southern India is concerned the conflict began in 1744 and ended in 1760 at the battle of Wandiwash where the French were completely vanquished. So far as Eastern India is concerned the struggle was a single battle in 1757—the battle of Plassey in which French lost along with the Nawab whom they supported as against the English. With the elimination of the French, the English alone were left to be the rulers of India.

* * *

But how was the conquest of India received by the people of India?

* * *

From a certain point of view the conquest of India by the British was an accident. As an accident it has come to be regarded as a part of destiny. In this sense Lord Curzon was justified when he said—

(Quotation not given in the MS.—ed.)

What have they done for the people of India ? This is too large a question. Many volumes having been written on it, is unnecessary for me to add to what has already been said. I am reducing the question to a narrow compass and ask what have the British done for the Untouchables ? What did the British do when they became rulers to emancipate and elevate the Untouchables ? There are many heads in relation to which this question may be raised. But I propose to it Public Service, Education and Social Reform.

* * * These stars indicate the blank space left in the MS.—ed

II

What did the British Government do to secure to the Untouchables adequate representation in the Public Services of the Country ?

I will take the Army first. To understand and appreciate the fate that has befallen the Untouchables it is necessary to ask what is it that enabled the British to conquer India ?

The conquest of India is an extraordinary event. And this is for two reasons.

The countries which were suddenly thrown open to the European nations at the end of the fifteenth century fall into three classes. Vasco Da Gama threw open countries in which for the most part thickly populated and which were governed by ancient, extensive and well organised states existed. In the second category fell countries discovered by Columbus in which the population was small and the state was of a very rudimentary character. The third category consisted of countries discovered by.....They were just empty areas with no population at all. India fell in the first of these three categories. This is one reason why the conquest of India must be said to be an extraordinary event.

The second reason why the conquest of India is an extraordinary event is the period during which this conquest has taken place. When was India conquered? India was conquered between 1757 and 1818.

In the year 1757 there was fought a battle between the forces of the East India Company and the Army of Siraj-ud-Daulah, the Nawab of Bengal. The British forces were victorious. It is known in history as the battle of Plassey and it is as a result of this battle that the British for the first time made territorial conquest in India. The last battle which completed the territorial conquest was fought in 1818. It is known as the battle of Koregaon. This was the battle which destroyed the Maratha Empire and established in its place the British Empire in India. Thus the Conquest of India by the British took place during 1757 and 1818. What was the state of affairs in Europe during this very period and what was

the position of the English people ? This period was one of great turmoil in Europe. It was a period of Napoleonic wars the last of which was fought in 1815 at Waterloo. In these wars England was no idle spectator. It was deeply involved in these wars. It was at the head of all the European States which had formed an alliance to crush Napoleon and the French Revolution. In this grim struggle the English nation wanted every penny, every man, every ship and every gun for its own safety. It could spare nothing for the East India Company which was operating in a theatre far removed from the home base. Not only could they spare nothing to help the East India Company but they actually borrowed men, money and ships from the East India Company to fight Napolean in the European War thereat. The following date from Macpherson gives an idea as to how much the East India Company had to contribute to the English nation for the support of the wars in Europe.

It is during this period when the English people were wholly occupied in Europe in a deadly struggle with Napoleon and when they could not assist the East India Company in any way that India was conquered. It is this which makes the conquest such an extraordinary event. How did this extraordinary event become possible ? What is the explanation ?

Macaulay has given his explanation. He says :

(Quotation not given in the MS.)

Macaulay's explanation is the explanation which all Englishmen believe, like to believe. Being current for a long time it has got a hold upon the minds of the English people and all European and American people. Indeed an endeavour is made to inculcate this view upon the minds of the younger generation of English people. It is quite understandable. An important element in the make up of an imperial race is the superiority complex and Macaulay's view goes to foster it as nothing else can.

But is Macaulay's view right ? Do the facts of history support that view ? Professor Seely who has studied this subject in a more realistic way than Macaulay did say :

> "In the early battles of the Company by which its power was decisively established, at the seige of Arcot, at Plassey, at Buxer, there seem almost

always to have been more sepoys than Europeans on the side of the Company. And let us observe further that we do not hear of the sepoys as fighting ill, or of the English as bearing the whole brunt of the conflict. No one who has remarked the childish eagerness with which historians indulge their national vanity, will be surprized to find that our English writers in describing these battles seem unable to discern the sepoys. Read Macaulay's Essay on Clive; everywhere it is 'the imperial people,' 'the mighty children of the sea,' 'none could resist Clive and his Englishmen.' But if once it is admitted that the sepoys always outnumbered the English, and that they kept pace with the English in efficiency as soldiers, the whole theory which attributes our successes to an immeasurable natural superiority in valour falls to the ground. In those battles in which our troops were to the enemy as one to ten, it will appear that if we may say that one Englishman showed himself equal to ten natives, we may also say that one sepoy did the same. It follows that, though no doubt there was a difference it was not so much a difference of race as a difference of discipline, of military science, and also no doubt in many cases on difference of leadership.

Observe that Mill's summary explanation of the conquest of India says nothing of any natural superiority on the part of the English. 'The two important discoveries for conquering India were ; 1st the weakness of the native armies against European discipline, 2ndly the facility of imparting that discipline to natives in the European service'. He adds ; 'Both discoveries were made by the French.'

And even if we should admit that the English fought better than the sepoys, and took more than their share in those achievements which both performed in common, it remains entirely incorrect to speak of the English nation as having conquered the nations of India. The nations of India have been conquered by an army of which on the average about a fifth part was English. But we do not only exaggerate our own share in the achievement; we at the same time entirely misconceive and misdescribe the achievement itself. From what race were the other four-fifths of the Army drawn ? From the Natives of India themselves! India can hardly be said to have been conquered at all by foreigners ; She has rather conquered herself."[1]

This explanation of Prof. Seely is correct as far as it goes. But it is not going far enough. India was conquered by the British with the help of an Army composed of Indians. It is well for Indians as well as for the British not to overlook this fact. But who were these Indians who joined the army of their foreigners ? That question Prof. Seely did not raise. But it is a very pertinent question. Who were these people who joined the army of the East

1. Seely, *Expansion of England,* p. 200—202.

India Company and helped the British to conquer India? The answer that I can give—and it is based on a good deal of study—is that the people who joined the Army of the East India Company were the Untouchables of India. The men who fought with Clive in the battle of Plassey were the Dusads, and the Dusads are Untouchables. The men who fought in the battle of Koregaon were the Mahars, and the Mahars are Untouchables. Thus in the first battle and the last battle it was the Untouchables who fought on the side of the British and helped them to conquer India. The truth of this was admitted by the Marquess of Tweedledale in his note to the Peel Commission which was appointed in 1859 to report on the reorganization of the Indian Army. This is what he said—

(Quotation not given in the MS.—ed.)

There are many who look upon this conduct of the Untouchables in joining the British as an act of gross treason. Treason or no treason, this act of the Untouchables was quite natural. History abounds with illustrations showing how one section of people in a Country have shown sympathy with an invader, in the hope that the new comer will release them from the oppressions of their countrymen. Let those who blame the Untouchables read the following manifesto issued by the English Labouring Classes in 17 (Left incomplete).

* * * (Extracts not given in MS.—ed.).

Was the attitude of the Untouchables in any way singular? After all, the tyranny under which the English Labourer lived was nothing as compared with the tyranny under which the Untouchables lived and if the English workmen had one ground to welcome a foreign invader the Untouchable had one hundred.

(Space left blank in the MS.—ed.)

Not only did the Untouchables enabled the British to conquer India, they enabled the British to retain. The Mutiny of 1857 was an attempt to destroy British Rule in India. It was an attempt to drive out the English and reconquer India. So far as the Army was concerned the Mutiny was headed by the Bengal Army.[1] The Bombay Army and the Madras Army remained loyal and it was

1. The Bengal Army was so called because it was under the control of the Bengal Government and not because it was composed of Bengalees. As a matter of fact there were no Bengalees in it. It was formed mostly from up-countrymen.

with their help that the Mutiny was suppressed. What was the composition of the Bombay Army and the Madras Army ? They were mostly drawn from the Untouchables, the Mahars in Bombay and the Pariahs in Madras. It is therefore true to say that the Untouchables not only helped the British to conquer India they helped them to retain India.

How have the British treated the Untouchables so far as service in the Army is concerned ? Strange as it may appear, the answer is that the British Government has since about 1890 placed a ban on the recruitment of the Untouchables in the Indian Army. The result was that, those who had already been recruited remained. It is a great mercy that they were not disbanded. But in course of time they died or went on pension and ultimately by about 1910 completely disappeared from the Army. Nothing can be more ungrateful than this exclusion of the Untouchables from the Army.

Why did the British commit an act which appears to be an act of treachery and bad faith ? No reason has ever been given by the British Government for this ban on the recruitment of the Untouchables into the Army. It is often heard that this exclusion is not intentional but is the consequence of a policy initiated in the interest of the efficiency of the Army in about the year 1890. But is this so ?

This policy is based on two principles, one relating to organization and the other relating to recruiting.

The principle of organization that was introduced in 1890 is known as the principle of class composition as against the old principle of a mixed regiment. Under the new principle, the Indian Army was organized on the principle of class regiment or the class squadron or company system. This means, in the first case, that the whole regiment is composed of one class (or caste) and in the second case, that every squadron or company is formed entirely of one class. The old principle of recruiting was to take the best men available, no matter what his race or religion was. Under the new principle, race of the man became a more important factor than his physique or his intellect. For the purposes of recruitment, the different castes and communities of India are divided into categories, those belonging to the martial races and those

belonging to the non-martial races. The non-martial races are excluded from military service. Only the castes and communities which are included in the category of martial races are drawn upon for feeding the Army.

It is difficult to approve of these two principles. The reasons which underlie the principle of class composition it is said, "are to a certain extent political, as tending to prevent any such formidable coalition" against the British, as occurred in the Mutiny. I should-have thought that the old system of a mixed regiment was safer.' But assuming that the principle is sound, why should it come in the way of the recruitment of the untouchables ? If, under the system of class composition, there can be regiments of Sikhs, Dogras, Gurkhas, Rajputs etc., why can there not be regiment of Untouchables ? Again, assuming that recruitment from martial races only is in sound principle, why should it affect adversely (to) the untouchables unless they are to be treated as belonging to the non-martial races ? And what justification is there for classing the untouchables who formed the backbone of the Indian Army and who were the mainstay of the Indian fighting forces for over 150 years as non-martial ? That the British Government does not deem the Untouchables as belonging to non-martial classes is proved by the fact, that in the Great War, when more men were necessary for the Army, this ban on the recruitment of the Untouchables in the Army was lifted and one full battalion was raised and was known as the 111 Mahars. Its efficiency has been testified by no less a person than that (. . . .)*. When the need was over and the Battalion was disbanded much to the chagrin and resentment of the Untouchables. Sir
said:

(Quotation not given in the MS.—ed.)

With this testimony who can say that the Untouchables are a non-martial race ?

It is thus obvious that none of the two reasons supposed to be responsible for the exclusion of the Untouchables from the Army. What is then the real reason ? In my opinion, the real reason for the exclusion of Untouchables from the Army is their

1. See also the opinion of General Wilcox in his "*With Indians in France*" p. (page No. not mentioned in MS.)

* Left blank in MS.—ed.

Untouchability. Untouchables, were welcome in the Army so long as their entry did not create a problem. It was no problem in the early part of the British history, because the touchables were out of British Army. They continued to be outside the British Army so long as there were Indian Rulers. When, after the Indian Mutiny, the Race of Indian rulers shrivelled, the Hindus began to enter the British Army which was already filled with the Untouchables; then arose a problem—a problem of adjusting the relative position of the two groups—touchables and untouchables—and the British, who always, in cases of conflict between justice and convenience, prefer convenience, solved the problem by just turning out the Untouchables and without allowing any sense of gratitude to come in their way.

Whatever the reasons of this exclusion, whatever the justice of this exclusion, the fact remains that the effect of this exclusion has proved most disastrous in its social consequences to the life of the Untouchables. The Military Service was the only service in which it was possible for the Untouchables to earn a living and also to have a career. It is a part of history that many untouchables had, done meritorious service in the field and hundreds had risen to the status of Jamadar, Subhedar and Subhedar Majors. The Military occupation had given them respectability in the eyes of the Hindus and had given them a sense of importance, by opening to them places of power, prestige and authority. Having been used to service in the Army for over 150 years, the Untouchables had come to regard it as a hereditary occupation and had not cared to qualify themselves for any other. Herein 1890—they were told that they were not wanted in the Army, without giving them any time to adjust themselves to the new circumstances—as was done in die case of the Anglo-Indians in 1935. When this service was closed, the Untouchables received a stunning blow and set-back from which they have not recovered. They were thrown from a precipice and without exaggeration, fell far below the level at which they had stood under the native Governments.

So much for the entry of the Untouchables in the Military service. What is the position with regard to their entry in the civil service ?

The Civil Service requires a high degree of education from the entrant. Only those with University degrees can hope to secure admission. The Untouchables have been the most uneducated part of India's population. The Civil Service has been virtually closed to them. It is only recently, that there have been among them men, who have taken University degrees. What has been their fate ? It is no exaggeration to say that they are begging from door to door. Two things have come in the way of their securing an entry in the Civil Services. Firstly, the British Government refused to give them any preference. Not that the British Government did not recognize the principle of giving preference to communities which were not sufficiently represented in the Civil Services. For instance, the British Government has definitely recognized that the Mahomedans should get preference provided he has minimum qualification. That, this principle has been acted upon in their case, is evident from the nominations, which the Government of India has made to the I. C. S. since the year when the Government took over power to fill certain places in the I. C. S. by nomination.

Not a single candidate from the untouchables has been nominated by the British Government, although there were many, who called, have satisfied the test of minimum qualification.

The second reason, why the untouchables, though qualified by education, have not been able to find a place in the Civil Service is, because of the system of recruitment for these services, Under the British Government, the authority to fill vacancies is left with the head of the department. Heads of Department have been and will long continue to be high Caste Hindus. A caste Hindu by his very make up is incapable of showing any consideration to an untouchable candidate. He is a man (with)* strong sympathies and strong antipathies. His sympathies make him look first to his family, then to his relations, then to his friends and then to members of his caste. Within this wide circle, he is sure to find a candidate for the vacancy.[1] It is very seldom that he is required to travel beyond the limits of his caste. If he has to, then the Untouchable

* Inserted—ed.

1. That this is the principle on which vacancies are filled is too well known to be disputed. In fact it is so well established that if one were to know the caste of the Head of the Department, one could tell of what caste is the personnel of the Department.

will have, only if there is no other touchable Hindu to compete with them. If there is a competitor from any of the touchable caste, the Untouchable will have no chance. Thus the Untouchable is always the last to be considered in the matter of appointments to the Civil Service. Being the last to be considered, his chances of securing a post are the least.

There are two services for which the Untouchable is particularly suited. One is the Police Service and the other is menial service in Government Offices. What is the position of the Untouchables so far as police service is concerned ?

The answer is that the Police Service is closed to them.

On the 17th December 1925, a resolution was moved in the Legislative Council of the United Provinces, asking Government to remove all restrictions on the entry of the Untouchables in Government service and especially the Police Service, the Member of Government in charge of the Department, speaking on behalf of Government said :

> "No, if the Honourable members wish to leave it open to all, I have no objection. But I will certainly object to any member of a criminal tribe or a low caste man like a chamar in this force at present."

On 22nd July 1927, Lala Mohan Lal asked the following question in the Punjab Legislative Council:

> **Lala Mohan Lal:** Will the Hon'ble Member for Finance be pleased to state if members of the depressed classes are taken in the police ? If not, does the Government intend to direct that, in the matter of recruitment of police constables, the members of the depressed classes should also be taken?
>
> **The Hon'ble Sir Geoffrey de Montmorency :** Members of the depressed classes are not enrolled in the police. When there is evidence that the depressed classes are treated on an equal footing by all sections of the community, (which may not happen till dooms day) or when Government is satisfied that enrolment of members of these classes will satisfy the requirements of efficiency and be in the best interests of the composition of the service, Government will be quite prepared to throw open recruitment to them, provided they come up to the physical and other standards required of all recruits.

The Committee appointed by the Government of Bombay in 1928 reported as follows on this questions:

(Quotation not given in the MS.)

As to menial service, that also has been closed to them. Few will believe it, nonetheless it is a fact and few will be able to guess the reason, though it is quite plain. The reason why the untouchable is excluded from menial service is the same for which he is excluded from the Police Service. It is Untouchability. As part of his duty, a constable has to arrest a person. As a part of his duty, a constable has to enter the house of a person, for instance, to execute a search warrant. What would happen if the person arrested is a Hindu and the constable is an Untouchable ? Police constables have to live in lines as neighbours, use the water taps. What would be the reactions of a Hindu constable if his neighbour is an Untouchable constable ? These are the considerations which have barred the entry of the Untouchable in the Police Service. Exactly the same consideration have been operative in the case of menial service. A menial in Government office is, in law, required to serve in the office. But his service brings him in contact with others who are Hindus. His contact causes pollution. How could he be welcome. Besides, according to convention, a peon in office is supposed to serve the head of the Department and also his household. He has to bring tea for the boss, he has to do shopping for the wife of the boss, and he has to look after the children. The Head of the Department has to forego these services if the menial appointments went to the Untouchables. Rather than forego these services, the Untouchable was deprived of his right to serve. So complete was this exclusion that the Bombay Committee had to make a special recommendation in this behalf.

III

What did the British Government do about the education of the Untouchables ? I will take the Presidency of Bombay by way of an illustration. The period of British administration, so far as Education is concerned, can be divided into three convenient periods.

I.—From 1813 to 1854

1. Education under the British Rule in the Bombay Presidency must be said to have begun with the foundation of the Bombay Education Society in 1815. That Society did not confine its efforts to the education of European children. Native boys were encouraged to attend its schools at Surat and Thana and at the beginning of 1820, four separate schools for natives had been opened in Bombay and were attended by nearly 250 pupils. In August of the same year, further measures were taken to extend native education. A special committee was appointed by the Society to prepare school books in the Vernacular languages, and to aid or establish Vernacular schools. But the wide scope of the undertaking was soon seen to be beyond the aims of a society established mainly for the education of the poor; and in 1822, the committee became a separate corporation, thenceforth known as the Bombay Native School Book and School Society, which name was in 1827 changed into the Bombay Native Education Society. The Honourable Mountstuart Elphinstone was the new Society's first President. The Vice-Presidents were the Chief Justice and the three members of the Executive Council of the Bombay Government; and the managing committee consisted of twelve European and twelve native gentlemen, with Captain George Jervis R. E., and Mr. Sadashiv Kashinath Chhatre as Secretaries. The Society started its work with a grant of Rs. 600 per mensem from the Government. As early as 1825, the Government of Bombay had along side, began to establish primary schools at its own expense in district towns and had placed them under the control of the Collectors. To co-ordinate the activities of these two independent bodies, there was established in 1840 a Board of Education composed of six members, 3 appointed by Government and 3 appointed by the Native Education Society. This Board was in charge of the Education Department till the appointment of the Director of Public Instruction in 1855.

2. On the 1st March 1855, when the Board was dissolved, there was in the Presidency of Bombay under the charge of the Board, 15 English Colleges and Schools having 2850 students on the Register

and 256 vernacular schools having 18,883 students on the Register. In the same report it is stated by the Board :

> "24. In August (1855) we received a petition from certain inhabitants of Ahmednagar, praying for the establishment of *a school for the education of low castes* and engaging to defray one-half of the teacher's salary, in accordance with the terms of the late rules. A school room had been built by the petitioner and the attendance of boys was calculated at thirty. The establishment of such a school was opposed to the prejudice of the richer and higher castes, and there was some difficulty in procuring a teacher on a moderate salary, but as the application was made in strict accordance with the conditions stated in the late notification on the subject, we readily complied with the request, and the school was opened in November. We merely mention the subject, as it is the first occasion on which we have established a school for these castes".

3. The statement by the Board, that this was the first occasion when a school for the low castes was established in this Presidency, naturally raises the question what was the policy of the British Government in the matter of the education of the Depressed Classes before 1855? To answer this question, it is necessary to have a peep into the history of the educational policy of the British Government in this Presidency from 1813 to 1854. It must be admitted that under the Peshwa's Government the Depressed classes were entirely out of the pale of education. They did not find a place in any idea of state education, for the simple reason that the Peshwa's Government was a theocracy based upon the cannons of Manu, according to which the Shudras and Atishudras (classes corresponding to the Backward classes of the Education department), if they had any right of life, liberty and property, had certainly no right to education. The Depressed classes who were labouring under such disabilities, naturally breathed a sigh of relief at the downfall of this hated theocracy. Great hopes were raised among the Depressed classes by the advent of the British Rule. Firstly, because, it was a democracy which, they thought, believed in the principle of one man (one)* value, be that man high or low. If it remained true to its tenets, such a democracy was a complete contrast to the theocracy of the Peshwa. Secondly, the Depressed classes had helped the British to conquer the country and naturally believed that the British would in their turn help them, if not in a special degree, at least equally with the rest.

*Inserted—ed.

4. The British were for a long time silent on the question of promoting education among the native population. Although individuals of high official rank in the administration of India were not altogether oblivious of the moral duty and administrative necessity of spreading knowledge among the people of India, no public declaration of the responsibility of the State in that behalf was made till the year 1813, when by section 43 of the Statute 53 George IV, chap. 155 Parliament laid down that" out of the surplus revenues of India, a sum of not less than one lakh of rupees in each year shall be set apart and applied to the revival and improvement of literature and the encouragement of the learned natives of India, and for the introduction and promotion of a knowledge of sciences among the inhabitants of British territories in India etc. "This statutory provision, however, did not result in any systematic effort, to place the education of the natives upon a firm and organised footing till 1823. For, the Court of Directors in their despatch dated 3rd June 1814 to the Governor General in Council, in prescribing the mode of giving effect to section 43 of the statute of 1813, directed that the promotion of Sanskrit learning among the Hindus would fulfil the purposes which Parliament had in mind. But what a disappointment to the Depressed classes, there was, when systematic efforts to place the education of the natives upon a firm and organized footing came to be made !! For, the British Government deliberately ruled that education was to be a preserve for the higher classes. Lest this fact should be regarded as a fiction, attention is invited to the following extracts from the Report of the Board of Education of the Bombay Presidency for the year 1850-51 :—

> "**Paragraph 5th.— System adopted by the Board based on the views of Court of Directors**.—Thus the Board of Education at this Presidency having laid down a scheme of education, in accordance with the leading injunctions of Despatches from the Honourable Court, and founded not more on the opinions of men who had been attentively considering the progress of education in India such as the Earl of Auckland, Major Candy and others, than on the openly declared wants of the most intelligent of the natives themselves, the Board, we repeat, were informed by your Lordships predecessor in Council that the process must be reversed."

"**Paragraph 8.—Views of Court on the expediency of educating the upper classes**.—Equally wise, if we may be permitted, to use the expression, do the indications of the Hon. Court appear to us to be as to the quarters to which Government education should be directed, and specially with the very limited funds which are available for this branch of expenditure. The Hon. Court write to Madras in 1830 as follows: "The improvements in education, however, which most effectively contribute to elevate the moral and intellectual condition of a people, are those which concern the education of the higher classes—of the persons possessing leisure and natural influence over the minds of their countrymen. By raising the standard of instruction amongst these classes, you would eventually produce a much greater and more beneficial change in the ideas and the feelings of the community than you can hope to produce by acting directly on the more numerous class. You are, moreover, acquainted with our anxious desire to have at our disposal a body of natives qualified by their habits and acquirements to take a larger share and occupy higher situations, in the civil administration of their country than has been hitherto the practice under our Indian Government; ' Never-the-less, we hear on so many sides, even from those who ought to know better of the necessity and facility for educating the masses for diffusing the arts and sciences of Europe amongst the hundred or the hundred and forty millions (for numbers count for next to nothing) in India, and other like generalities indicating cloudy notions on the subject, that a bystander might almost be tempted to suppose the whole resources of the State were at the command of Educational Boards, instead of a modest pittance inferior in amount to sums devoted to a single establishment in England.

"**Paragraph 9.—Retrospect of principal Educational facts during the last ten years necessary**.—The arguments adduced in the few last paragraphs appear to show that a careful examination of the real facts, and an analysis of the principal phenomena which have displayed themselves in the course of educational proceedings in die Presidency, would not be without their uses, if made with sufficient industry and impartiality to ensure confidence, and with a firm determination to steer clear of bootless controversy and all speculative inquiries. The present epoch, also, appears especially to commend itself for such a retrospect, as in 1850 the second decennial period commenced, during which the Schools of the Presidency have come under exclusive control of a Government Board ; and it is obvious that as a considerable body of information ought now to have been accumulated, and as the majority of the present members have had seats at the Board during the greater portion of that time, they would fain hope that by recording their experience, they may shed some light on certain obscure but highly interesting questions, which are certain to arise from time to time before their successors at this Board.

"**Paragraph 10.—A uniform system developing itself spontaneously both in Bengal and Bombay.**—We now proceed to give as minute a detail as comports with our limits, of the principal educational facts which have forced themselves upon our notice, and we think it will clearly appear, when those facts are duly appreciated, that many of the disputed questions, which arise in the Indian field of education, will be seen to solve themselves and that a system is generally evolving itself in other Presidencies as well as in Bombay, which is well suited to the circumstances of the country, and which, as the growth of spontaneous development, denotes that general causes are at work to call it forth.

"**Paragraph 11.—Statistics of education in Bombay**.—In the return on the following page, a comparative view is given of the number of schools and of pupils receiving education under Government at the period when the Establishments first came under the control of the Board, in 1840 and in April 1850. It shows, in the latter period, an addition of four English and 83 vernacular schools and a general increase in pupils of above a hundred per cent. The total number receiving Government education at present is 12,712 in die following proportion :—

English Education	..	..	..	1,699
Vernacular Education	..	..	..	10,730
Sanskrit Education	..	..	..	283

(comparison from tables: in 1840 there were 97 schools, number of pupils 5,491 ;. number of schools 185 and number of pupils 12,712).

"**Paragraph 12.— Same Subject.**—But the population of the Bombay Presidency is now calculated by the most competent authorities to amount to ten millions. Now on applying the rule of statistics deduced from the Prussian census as noticed in a former Report (1842-43 page 26) a population of this amount will be found to contain no fewer man 900,000 male children between the ages of seven and fourteen years and of course, fit subjects for school. It follows, therefore, that Government at this Presidency has not been able to afford an opportunity for obtaining education to more than one out of every sixty nine boys of me proper school going age.

"**Paragraph 13.—Same Subject**.—Further, it is admitted that education afforded in the Vernacular School is far from efficient. A great portion of the strictures of Mr. Willoughby's Minute is directed against the defective character and insignificant results of these schools. The Board, not only acknowledge this fact, but they have been studious to point it out prominently for many years past, and indeed, in the opinion of some competent observers, have drawn too unfavourable a picture of the vernacular schools. But what are the obvious remedies for the defects indicated ? Mr. Willoughby describes them very correctly :—"a superior class of school masters, normal schools, more efficient supervision, additions to the vernacular literature." These are all subjects

however, which have occupied the attention of the Board for many years past, and as to which not a step can be made in advance without additional expenditure. But we are given to understand from the letter of your Lordship in council that "it is not probable that the Government will have the power, for a considerable time to come, to afford the Board additional pecuniary assistance."

"**Paragraph 14.—Conclusion that no means exist for educating the masses:** It results most clearly from these facts that if sufficient funds are not available to put 175 Vernacular schools into a due state of organisation, and to give a sound elementary education to 10,730 boys, all question as to educating "the masses" the "hundred and forty millions" the 900,000 boys in the Bombay Presidency disappears. The object is not one that can be attained or approximated to by Government ; and Educational Boards ought not to allow themselves to be distracted from a more limited practical field of benevolence.

"**Paragraph 15.— Views of Court of Directors as to the best method of operation with limited means.**—The Hon'ble Court appear to have always kept the conclusion which has been arrived at in the last paragraph very distinctly in view. Perceiving that their educational efforts to improve the people could only be attempted on a very small scale, they have deemed it necessary to point out to their different Governments the true method of producing the greatest results with limited means. We have already cited their injunctions to the Madras Government on the head, (Para 7) and their despatch to the Government on the same date enforce sentiment of exactly the same import:— "It is our anxious desire to afford to the higher classes of the Natives of India the means of instruction in European sciences and of access to the literature of civilised Europe. The character which may be given to the classes possessed of leisure and natural influence ultimately determines that of the whole people."

"**Paragraph 16.—Inquiry as to upper classes of India.**— It being then demonstrated that only a small section of the population can be brought under the influence of Government education in India, and the Hon'ble Court having in effect decided that this section should consist of the "upper classes" it is essential to ascertain who these latter consist of. Here it is absolutely necessary for the European inquirer to divest his mind of European analogies which so often insinuate themselves almost involuntarily into Anglo-Indian speculations. Circumstances in Europe, especially in England have drawn a marked line, perceptible in manners, wealth, political and social influence, between the upper and lower classes. No such line is to be found in India, where, as under all despotisms the will of the Price was all mat was requisite to raise men from the humblest condition in life to the highest station, and where consequently great uniformity in manners has always prevailed.

A begger, according to English notions, is fit only for the stocks or compulsory labour in the workhouse ; in India he is a respectable character and worthy indeed of veneration according to the Brahminical theory, which considers him as one who has renounced all the pleasures and temptations of life for the cultivation of learning and undisturbed meditation of the Deity.

"**Paragraph 17.—Upper classes in India**.—The classes who may be deemed to be influential and in so far the upper classes in India may be ranked as follows:—

1st.—The landowners and Jaghirdars, representatives of the former feudatories and persons in authorities under Native powers and who may be termed the Soldier class.

2nd.—Those who have acquired wealth in trade or commerce or the commercial class.

3rd.—The higher employees of Government.

4th.—Brahmins, with whom may be associated, though at long interval, those of higher castes of writers who live by the pen such as Parbhus and Shenvis in Bombay, Kayasthas in Bengal provided they acquire a position either in learning or station.

"Paragraph 18.—Brahmins, the most influencial.—Of these four classes, incomparably the most influencial, the most numerous, and on the whole easiest to be worked on by the Government, are the latter. It is a well-recognized fact throughout India that the ancient Jaghirdars or Soldier class are daily deteriorating under our rule. Their old occupation is gone, and they have shown no disposition or capacity to adopt new one, or to cultivate the art of peace. In the Presidency, the attempts of Mr. Elphinstone and his successors to bolster up a landed aristocracy have lamentably failed ;. and complete disconfiture has hitherto attended all endeavours to open up a path to distinction through civil honours and education, to a race to whom nothing appears to excite but vain pomp and extravagance, of the reminiscences of their ancestors' successful raids in the plains of Hindusthan". Nor among commercial classes, with a few exceptions, is mere much greater opening for the influences of superior education. As in all countries, but more in India than in the higher civilized ones of Europe, the young merchant or trader must quit his school at an early period in order to obtain the special education needful for his vocation in the market or the counting house. Lastly, the employees of the State, though they possess a great influence over the large numbers, who come in contact with Government, have no influence, whatever, with the still larger numbers who are independent of Government ; and, indeed, they appear to inspire the same sort of distrust with me public as Government functionaries in England, who are often considered by the vulgar as mere hacks of the State.

"**Pharagraph 19.—Poverty of Brahmins**.—The above analysis, though it may appear lengthy, is nevertheless, indispensible, for certain important conclusions deducible from it. First, it demonstrates that the influencial class, whom the Government are able to avail themselves of in diffusing the seeds of education, are the Brahmins and other high castes Brahmins proxmi. But the Brahmins and these high castes are, for the most part, wretchedly poor: and in many parts of India, the term Brahmin is synonymous with "beggar."

"Paragraph 20.—Wealthy classes will not at present support superior education.—We may see, then, how hopeless it is to enforce what your Lordship in council so strongly enjoined upon us in your letter of the 24th April 1850—what appears, *prima facie,* so plausible and proper in itself—what in fact, the Board themselves have very often attempted, *viz,* the strict limitation of superior education "to the wealthy, who can afford to pay for it, and to youths of unusual intelligence." The invariable answer the Board has received, when attempting to enforce a view like this, has been, that the wealthy are wholly indifferent to superior education and that no means for ascertaining unusual intelligence amongst the poor exist, until their faculties have been tested and developed by school training. A small section, from among the wealthier classes, is no doubt displaying itself, by whom the advantages of superior education are recognized, it appears larger in Bengal, where education has been longer fostered by Government, than in Bombay, and we think it inevitable that such class must increase, with the experience that superior attainments lead to distinction, and to close intercourse with Europeans on the footing of social equality ; but as a general proposition at the present moment, we are satisfied that the academical instruction in the arts and sciences of Europe cannot be based on the contributions, either of students or of funds, from the opulent classes of India.

"**Paragraph 21.—Question as to educating low castes**.—The practical conclusion to be drawn from these facts which years of experience have forced upon our notice, is that a very wide door should be opened to the children of the poor higher castes, who are willing to receive education at our hands. But here, again, another embarassing question arises, which it is right to notice: If the children of the poor are admitted freely to Government Institutions, what is there to prevent all the despised castes—the Dheds, Mahars etc., from flocking in numbers to their walls ?

"**Paragraph 22.—Social Prejudice of the Hindus**.—There is a little doubt, that if a class of these latter were to be formed in Bombay, they might be trained, under the guiding influence of such Professors and masters as are in the service of the Board, into men of superior intelligence to any in the community; and with such qualifications, as they would then possess, there would be nothing to prevent their aspiring to the highest offices open to Native talent—to Judgeship the Grand Jury, Her

Majesty's Commission of the Peace. Many benevolent men think, it is the height of illiberality and weakness in the British Government, to succumb to the prejudices, which such appointments would excite into disgust amongst the Hindu community, and that an open attack should be made upon the barriers of caste.

"Paragraph 23.—Wise observations of the Hon. Mount Stuart Elphinstone cited.— But here the wise reflections of Mr. Elphinstone, the most liberal and large minded administrator, who has appeared on this side of India, point out the true rule of action. "It is observed" he says, "that the missionaries find the lowest castes the best pupils; but we must be careful how we offer any special encouragement to men of that description ; they are not only the most despised, but among the least numerous of the great divisions of society, and it is to be feared that if our system of education first took root among them it would never spread further, and we might find ourselves at the head of a new class, superior to the rest in useful knowledge, but hated and despised by the castes to whom these new attainment would be desirable, if we were contented to rest our power on our army or on the attachment of a part of the population but is inconsistent with every attempt to found it on a more extended basis."

5. It is, therefore obvious, that if no schools were opened for Depressed classes before 1855 in the Bombay Presidency, it was because the deliberate policy of the British Government was to restrict the benefits of education to the poor higher castes, chiefly the Brahmins. Whether this policy was right or wrong is another matter. The fact, however, is that during this period the Depressed classes were not allowed by Government to share in the blessings of education.

II.—From 1854 to 1882

6. In their Despatch No. 49 of 19th July 1854, the Court of Directors observed :—

"Our attention should now be directed to a consideration, if possible, still more important, and one which has hitherto, we are bound to admit, too much neglected, namely, how useful and practical, knowledge suited to every station in 1ife, may be best conveyed to the great mass of the people who are utterly incapable of obtaining any education worthy of the name by their own efforts ; and we desire to see the active measures of Government more especially directed, for the future, to this object, for the attainment of which, we are ready to sanction a considerable increase of expenditure."

This despatch is very rightly regarded as having laid the foundation of mass education in this country. The results of this policy were first examined by the Hunter Commission on Indian Education in 1882. The following figures show what was achieved during the period of 28 years.

PRIMARY EDUCATION

1881-82

	No. of scholars at School	Per cent on total
Christians	1,521	.49
Brahmins	63,071	20.17
Other Hindus	202,345	64.69
Mohammedans	39,231	12.54
Parsis	3,517	1.12
Aborginal and Hill Tribes	2,713	.87
Low caste Hindus	2,862	.87
Jews and others	373	.12

SECONDARY EDUCATION

1881-82

		Middle Schools		High Schools	
		No. of scholars at schools	P. C. on total No. of scholars	No. of scholars at schools	P. C. on total No. of scholars
Christians ..		1,429	12.06	111	2.26
Brahmins ..		3,639	30.70	1,978	40.29
Other Hindus	Cultivators	624	5.26	140	2.85
	Low Castes	17	.14	..	..
	Other Castes	3,823	32.25	1,573	32.04
Mohammedans ..		687	5.80	100	2.04
Parsis ..		1,526	12.87	965	19.66
Aboriginal and Hill Tribes		6	.05	..	..
Others (including Jews etc.)		103	.87	92	.86

COLLEGIATE EDUCATION
1881-82

		No. of Scholars	P. C. on total No. of Scholars
Christians		14	3
Brahmins		241	50
Other Hindus	Cultivators	5	1
	Low Castes	0	0
	Other Castes	103	21.3
Mohammedans		7	1.5
Parsis		108	21.5
Aboriginal and Hill Tribes		0	0
Others (including Jews etc.)		2	0.4

7. What do these figures show ? They show that although mass education was the policy of the Government, the masses were as outside the pale of education as they were before the year 1854 and that the lowest and aboriginal classes of the Hindus still remained lowest in order of education; so much so, that in 1881-82, there was no student from that community either in the High Schools or in the Colleges of this Presidency. What can this failure to bring the Depressed Classes to the level of the rest in the matter of education be due to ? To answer this question, it is necessary again to go into the history of the educational policy of the Government of this Presidency.

8. The Despatch of the Court of Directors of the year 1954, for the first time recognised after a lapse of full 40 years that the duty of the State was to undertake the education of the great mass of the people. But there were still die-hards, who had great misgivings as to the wisdom of the principle laid down in that Despatch and who were agitating for a reversal of that policy. The fears of dire consequences to the British Rule arising from elevating the Backward Classes above their station in life, still haunted men like Lord Ellenborough, President of the Board of

Control, who in a letter to the Chairman of the Court of Directors dated 28th of April 1858, did not hesitate to strike the following note of caution :—

> "Gentlemen:—Many letters have been lately before me, reviewing the state of education in different parts of India, under the instructions sent by the Court of Directors in 1854, and I confess, that they have not given me the impression that the expected good has been derived from the system which was then established, while all the increase of charge which might have been expected, appears to be in progress of realization.
>
> * * * *
>
> "Paragraph 11:—I believe, we rarely, if even induce parents above the lower class to send their children to our schools, and we should practically, if we succeeded in intending education as we desire, give a high degree of mental cultivation to the labouring class, while we left the more wealthy in ignorance.
>
> "Paragraph 12:—This result would not tend to create a healthy state of society. Our Government could not offer to the most educated of the lower class the means of gratifying the ambition we should excite.
>
> "Paragraph 13:—We should create a very discontented body of poor persons, having, through the superior education we had given to them, a great power over the mass of the people.
>
> "Paragraph 14 :—Education and civilization may descend from the higher to the inferior classes, and so communicated may impart new vigour to the community, but they will never ascend from the lower classes to those above them ; they can only, if imparted solely to the lower classes, lead to general convulsion, of which foreigners would be the first victims.
>
> "Paragraph 15:—If we desire to diffuse education, let us endeavour to give it to the higher classes first.
>
> "Paragraph 16:—These are but two ways of doing this—by founding colleges to which the higher classes alone should be admitted, and by giving in the reorganization of the army, commissions at once, to such sons of native gentlemen as may be competent to receive them."

9. This antipathy of the European officers towards the untouchable classes was finally corrected by the Secretary of State for India in his despatch of 1859, which again reiterated the responsibility of Government for mass education.

10. Singular as it may appear, the recognition by the Government of its responsibility for mass education conferred upon the Depressed classes a benefit only in name. For, although, schools

were opened for the masses in the various districts, the question of the admission of the Depressed classes to these schools had yet to be solved. Such a question did practically arise in the year 1856. But the decision of the Government was not favourable to the Depressed classes as will be seen from the following extracts from the Report of the Director of Public Instruction for the Bombay Presidency for the year 1856-57 :—

> "Paragraph 177.—Schools of Low castes and wild tribes.— There are no low class schools established directly by Government and the Supreme Government has expressed disapproval of such schools. The ordinary schools entirely supported by the state are in theory open indifferently to all castes. In the course of observation of my Report 1855-56 the Government issued the following order:— "The only case as yet brought before Government in which the question as to the admissions of the pupils of the lowest class to Government schools has been raised was that of a Mahar boy on whose behalf a petition was submitted in June 1856, complaining that though willing to pay the usual schooling fee, he had been denied admission to the Dharwar Government School.
>
> "On this occasion, Government felt a great practical difficulty which attended the adjudication of a question in which their convictions of abstract right would be in antagonism to the general feelings of the mass of the natives, for whose enlightenment, to the greatest possible extent, the Government Educational Department has been established; and it was decided, as will appear from the Resolution* passed at the time with some hesitation, that it would not be right, for the sake of single individual, the only Mahar who had ever come forward to beg for admission into a school attended only by the pupils of castes and to force him into association with them, at the probable risk of making the institution practically useless for the great mass of natives".

*Text of the Resolution passed by Government on the 21st July 1856 :—

1. The question discussed in the correspondence is one of very great practical difficulty.
2. There can be no doubt that the Mahar petitioner has abstract justice on his side; and Government trust that the prejudices which at present prevent him from availing himself of existing means of education in Dharwar may be ere long removed.
3. But Government are obliged to keep in mind that to interfere with the prejudices of ages in a summary manner, for the sake of one or few individuals, would probably do a great damage to the cause of education. The disadvantage under which the petitioner labours is not one which has originated with this Government, and it is one which Government summarily remove by interfering in his favour, as he begs them to do.

The proceedings of the Government of Bombay in this matter were noticed in the following terms by the Government of India, in a letter No. 111 dated 23rd January 1857 :—

> "Governor General in Council thinks it very probable that the Bombay Government has acted wisely in the matter; but it desires me (i. e. Secretary to the Government of India) to say that the boy would not have been refused admission to any Government school in the Presidency of Bengal".*

On receipt of this letter, it was resolved that Government of India should be assured that this Government would be most unwilling to neglect any means of rendering the schools throughout the country less exclusive than they practically are in the matter of caste; provided this could be effected without bringing the Government school into general disrepute, and thus destroying their efficiency and defeating the object for which they were intended. It was also determined that an enquiry should be made as to the practical working of the principle which was said to prevail in Bengal as affecting the general usefulness of the Government schools.

11. Inquiries as to the practice prevalent in Bengal revealed that the Bengal authorities, contrary to the supposition of the "Government of India" had left it to the District Committees of Instructions to grant or refuse admittance to candidates of inferior castes, with reference to the state of local native feeling in each case. The result of this was that the Depressed classes were left in the cold, because the touchable classes would not let them sit at the fire of knowledge which the Government had lit up in the interest of all its subjects.

*In a Despatch No. 58 dated April 28th 1858, the Court of Directors passed the following order on this subject:—

> "The educational institutions of Government are intended by us to be open to all classes, and we cannot depart from a principle which is essentially sound, and the maintenance of which is of first importance. It is not impossible that, in some cases, the enforcement of the principle may be followed by a withdrawal of a portion of the scholars ; but it is sufficient to remark that those persons who object to its practical enforcement will be at liberty to withhold their contributions and apply their funds to the formation of schools on a different basis".

12. Under these circumstances, mass education as contemplated by the Despatch of 1854 was in practice available to all except the Depressed classes. The lifting of the ban on the education of the Depressed classes in 1854 was a nominal affair only. For, although the principle of non-exclusion was affirmed by the Government, its practical operation was very carefully avoided; so that, we can say, that the ban was continued in practice as before.

The only agency which could take charge of the education of the Depressed classes was that of Christian Missionaries. In the words of Mount Stuart Elphinstone they "found the lowest classes the best pupils". But the Government was pledged to religious neutrality and could not see its way to support missionary schools, so much so that no pecuniary grant was made in this Presidency to any missionary school in the early part of this period although the Educational Despatch of 1854 had not prohibited the giving of grants to missionary schools.

13. To find a way out of this *impasse* the Government adopted two measures: (1) the institution of separate Government schools for low caste boys, and (2) the extention of special encouragement to missionary bodies to undertake their education by relaxing the rules of grants-in-aid. Had these two measures not been adopted, the education of the Depressed classes would not have yeilded the results, most meagre as they were, at the stock-taking by the Hunter Commission in 1882.

III—From 1882 to 1923

14. After the year 1882, the year 1923 forms the next land mark in the educational history of the Bombay Presidency. That year marks the transfer of primary education from the control of Provincial Governments to the control of local bodies. It will therefore be appropriate to take stock of the position as it stood in 1923. The position of the different communities in the Bombay Presidency in 1923 in the matter of educational advancement may be summed up in a tabular form as follows :—

Classes* of population in the Presidency	Order in respect of population	Order in respect of education		
		Primary	Secondary	Collegiate
Advanced Hindus ..	4th	1st	1st	1st
Intermediate Hindus ..	1st	3rd	3rd	3rd
Backward Hindus ..	2nd	4th	4th	4th
Mahomedans	3rd	2nd	2nd	2nd

15. From this table, one notices a great disparity in the comparative advancement of these different communities in the matter of education. Comparing these classes of people according to the order in which they stand in respect of their population and according to the order in which they stand in respect of their educational progress, we find that the Intermediate class, which is first in order of population is third in order of college education, third in order of secondary education and third in order of primary education. The Depressed classes who are second in order of population, stand fourth i.e. last in order of college education, last in order of secondary education and last in order of primary education. The Mahomedans who are third in order of population are second in order of college education, second in order of secondary education and second in order of primary education ; while the "Advanced Hindoos" who occupy the fourth place in order of population stand first in order of college education, first in order of secondary education and first in order of primary education. From this we can safely say that in this respect there has been no improvement over the situation as it stood in 1882 relatively speaking.

16. The above statement which is based upon the Report of the Director of Public Instruction, Bombay Presidency for the year 1923-24 merely reveals the disparity that exists in the educational

* The Education Department of the Government of Bombay has divided the population of this Presidency for departmental purposes into four different classes. In one of them are put the Brahmins and allied castes, who are collectively called "Advanced Hindus". The Marathas and allied castes are put in a separate class called the "Intermediate Hindus". The rest of the population comprising the Depressed classes ;. hill tribes and the criminal tribes are placed in a class by themselves and are designated by the term "Backward class". To these three classes there is to be added a fourth class which comprises the Mahomedans of the Presidency and Sind.

advancement of the different communities. But the disparity in the level of education among the different communities would be a very small matter if it be not very great. We can form no important conclusion unless we know the degree of disparity. To make this position clear from this point of view, the following table is presented:—

TABLE

Classes of Population		Primary Education, Students per 1000 of the population of the class	Secondary Education, Students per 100,000 of the population	College Education, Students per 200,000 of the population
Advance Hindus	..	119	3,000	1,000
Mahomedans	..	92	500	52
Intermediate class	..	38	140	24
Backward class	..	18	14	Nil (or nearly one if at all).

17. The above figures give the lengths, as it were, by which each community is ahead of the rest in the matter of primary, secondary and collegiate education. They reveal a range of disparity between the different communities in this Presidency which shows that the position of some of the communities in the matter of education is most shocking. From the statistics as given above, two facts stand out to be indisputable. (1) That the state of education of the Backward classes in this Presidency is deplorable. In the matter of population they occupy a place as high as second. But in the matter of Education, they occupy a place which is not only last but which also is the least; (2) That the Muhammedans of the Presidency have made enormous strides in education ; so much so that within the short span of 30 years, they have not only stolen a march over other communities such as the Intermediate and the Backward class, but have also come close to the Brahmins and allied castes.

18. What can this be due to ? To the policy of unequal treatment adopted by the Government must again be our reply to this ever present question. How unequal was the treatment of the two classes will be evident from the following extracts from the Quinquennial Reports on Education. With regard to the treatment of the Mahomedans in the matter of education, the following observations in the third Quinquennial Report (1892-96) are noteworthy:—

> "Concerning the figures for Mahomedan Education in Bombay ..... the Director remarks that the increase would have been larger "but for adverse circumstances". It has long been recognized in Bombay that Mahomedans make a larger use of Public Institutions than the rest of the population ..... On the general question of what has been done to encourage Mahomedan education, the Director writes:—
>
> > "In the first place, a Mahomedan officer is appointed to every District, either as Deputy or Assistant Deputy Inspector; and we have three Mahomedan graduates as Deputies, at Kaira, Sholapur, and Hyderabad, while a fourth has been drafted into the higher grades of the Revenue Department. There is thus, not a District where the staff is out of touch with the Mahomedan population. Again at Bombay, Karachi and Junagadh (a Muhammadan State in Kathiawar), special efforts have been made to provide High Schools for Muhammadans with low fee rates, and smaller schools have been opened by other Anjumans (Muhammadan associations) elsewhere. The Department also provides for their benefit, special standards and maintains special schools in certain localities, and reserves for them one-third of the Provincial and Local Boards scholarships. Then, there are the special scholarships founded by Khan Bahadur Kazi Shahbuddin (at one time Diwan of Baroda); and in Sindh, a certain number of food scholarships have been given by the heir of the Native State of Khairpur for students attending in Arts College. (I had great difficulty in filling these up last year, though they are of the value of Rs. 25 a month). In Primary schools, Muhammadans are very liniently treated in the matter of fees. They are encouraged to come to the Training Colleges by special rules which (regime)* from them an easier test than from Hindus; The Joint Schools Committee at Bombay has lately made special efforts to encourage Muhammadan education by the appointment of a Mahommadan Deputy Inspector ....."

* The word may be 'require'—ed.

19. Compare with this the observations regarding the education of the Depressed classes in the fifth Quinquennial Report (1902-1907):

> "959. Bombay—In the Central Division of Bombay, the low caste children are admitted free into schools and receive presents in the form of books, slates etc ..... In Kathiawar only three children of the Depressed castes are receiving education. In the Southern division there are 72 special schools or classes of them, most of which are under unqualified teachers."

20. This unequal treatment has its origin in the recommendations of the Hunter Commission. How partial was the Hunter Commission to the Mahomedans will be evident, if we compare the recommendations it made in their behalf to those it made in the interests of the Depressed classes. With respect to the Mahomedans the Commission made seventeen recommendations of which the following are worthy of note:—

> (1) that the special encouragement of Mahomedan education be regarded as a legitimate charge on local, on Municipal, and on Provincial funds.
>
> (7) that higher English education for Mahomedans, being the king of education in which that community needs special help, be liberally encouraged.
>
> (8) that, where necessary, graduated system of special scholarships for Mahomedans be established to be awarded (a) in primary schools, and tenable in middle schools ; (b) in middle schools, and tenable in high schools; (c) on the results of Matriculation and First Arts examinations, and tenable in colleges also.
>
> (9) that in all classes of schools maintained from public funds, a certain proportion of free studentship be expressly reserved for Mahomedan students.
>
> (10) that in places where educational endowments for the benefit of Mahomedans exist and are under the management of Government, the funds arising from each endowments be devoted to the advancement of education among the Mahomedans exclusively.
>
> (11) that where Mahomedans exist, and are under the management of private individuals or bodies, inducements by liberal grants-in-aid be offered to them to establish English leaching schools or colleges on the grants-in-aid system.
>
> (12) that, where necessary, the Normal Schools or classes for the training of Mahomedan teachers be established.

(16) that Mahomedan Inspecting Officers be employed more largely than hitherto for the inspection of primary schools for Mahomedans.

(17) that the attention of Local Governments be invited to the question of the proportion in which patronage is distributed among educated Mahomedans and others.

21. Every one of these recommendations made by the Hunter Commission was necessary in the interests of the Depressed classes also. But when we come to analyse the recommendations made by the Commission in The interest of the Backward classes, we do not find them directing that education of the Backward Classes be regarded a legitimate change on Government funds, that scholarships and proceedings be reserved for them, that special inspecting staff be kept to look after their educational needs or that public patronage be given to them by way of encouraging the growth of education amongst them. All we find the Commission saying is that (1) the principle that "no boy be refused admission to a Government College or school merely on the ground of caste", be now reaffirmed as a principle and be applied with due caution to every institution, not reserved for special races, which is wholly maintained at the cost of public funds, whether provincial, municipal or local. (2) that the establishment of special schools or classes for children of low castes be liberally encouraged in places where there are a sufficient number of such children to form separate schools or classes and where the schools already maintained from public funds do not sufficiently provide for their education. "As a matter of fact the recommendations made by the Commission for the Mahomedans were far more necessary in the interests of the Backward classes than in the interests of the Mahomedans." For even the Hunter Commission, presided as it was by a chairman of pronounced sympathies for the Mahomedans, had to admit that "the inquiries made in 1871-73 went to prove that except in the matter of the higher education, there had been a tendency to exaggerate the backwardness of the Muhamadans." Notwithstanding this the only recommendations made by the Hunter Commission were the two mentioned above. Even these two recommendations made by the Commission regarding the Depressed classes were not calculated to do much good. They were bound to be futile. The reaffirmation of the principle even

if it be for the fifth time was useless. For under the proviso inserted by the Commission, the enforcement was to be avoided in practice. Similarly, the opening of the separate schools for the Depressed classes was hardly possible, which again was bound to be sterile. Separate schools involving additional expense could hardly be acceptable to a Government to which primary education was a task. Besides, the proviso, that such schools should be opened where Backward classes were in large numbers, was sufficient to negative the recommendations simply because in rural parts the Backward classes can seldom be found to be living in one locality in large numbers.

22. It is difficult to understand why the Hunter Commission paid such a scant attention to the educational needs of the Backward classes. If it felt necessary to be generous towards the Mahomedans, it should have at least seen that it was just to the Backward classes who were far behind the Mahomedans in education, wealth and social status. Once the Hunter Commission had thrown the Depressed classes into the background, they remained there and the Government never paid any attention to them. As an example of this neglect, attention may be drawn to the Resolution of the Government of India in the Department of Education dated Delhi the 21st February 1923. It was one of the most important resolutions ever issued by the Government of India in which they decided to assist local Government by means of large grants from imperial revenues as funds became available, to extend comprehensive systems of education in the several provinces. In that resolution, they were particular to point out to the provincial Governments, the educational needs of "Domiciled community" and the Mahomedan community. But they had not a word to say in the whole Resolution about the Backward classes. The Bombay Government readily accepted the suggestion and appointed in 1913 a Mahomedan on Education Committee to make recommendations for the promotion of education among the Mahomedans. One feels righteous indignation against such criminal neglect on the part of the Government, particularly when, it is realized that the large grants given by the Government of India after 1913, were given by way of

fulfilment of the declaration made by His Most Gracious Imperial Majesty, the King Emperor, in replying to the address of the Calcutta University on the 6th January, in which he said :—

> "It is my wish that there may be spread over the land a network of Schools and Colleges, from which will go forth loyal and manly and useful citizens, able to hold their own industries and agriculture and all the vocations in life. And it is my wish too, that the homes of my Indian subjects may be brightened and their labour sweetened by the spread of knowledge with all that follows in its train, a higher level of thought, of comfort and health. It is through education that my wish will be fulfilled, and the cause of education in India will ever be very close to my heart."

IV

What about social Reform under the British Government ?

It was Raja Sir T. Madhavrao, a very prominent and progressive Hindu of the last generation, who said:—

> "The longer one lives, observes, and thinks, the more deeply does he feel that there is no community on the face of the earth which suffers less from political evils and more from self-inflicted or self-accepted or self-created, and therefore avoidable evils, than the Hindu Community."

Leaving aside the question of the comparative cost of the observation, there can be no doubt that Hindu Society suffers from social evils as no other community does.

Mahadeo Govind Ranade, another venerable name among earnest social reformers has made another and equally important observation, emphasizing another aspect of the Hindu Community :—

> "Mere considerations of expediency or economical calculations of gains or losses can never move a community to undertake and carry through social reforms, especially with a community like ours, so spellbound by custom and authority. Our people feel, and feel earnestly, that some of our social customs are fraught with evil; but as this evil is of a temporal character, they think that it does not justify a breach of commands divine, for such breach involves a higher penalty. The truth is, the orthodox society has lost its power of life, it can initiate no reform nor sympathise with it."

In other words all the social evils are based on religion. A Hindu man or woman, whatever he does, he does as a religious observance. A Hindu eats religiously, drinks religiously, bathes religiously, dresses religiously, is born religiously, is married religiously and is burned religiously. His acts are all pious acts. However evil they may be from a secular point of view, to him, they are not sinful because they are sanctioned and enjoined by his religion. If any one accuses a Hindu of Sin, his reply is, 'If I sin, I am sinning religiously.'

Society is always conservative. It does not change unless it is compelled to and that too very slowly. When change begins, there is always a struggle between the old and the new, and the new is always in danger of being eliminated in the struggle for survival unless it is supported. The one sure way of carrying through a reform is to back it up by law. Without the help of legislation, there can never be any reform in any evil. The necessity of legislation is very great when the evil to be reformed is based on religion.

What is the sum total of legislation in favour of social reform under the British Government ? The record of the British Government, in the matter of social reform, is to say the least, very halting and very disappointing. In the course of 150 years, there are just six social evils which have been subjected to Legislation.

The first piece of Social Legislation which the British undertook, is contained in **Bengal Regulation XXI of 1795.** It is a regulation for Preventing the Brahmins in the Province of Benares establishing Koorhas, wounding or killing their female relations or children or sitting Dhurna and for preventing the Tribe of Raj Koomars in that Province killing their female children. It enacted as follows :—

Preamble

I. The reverence paid by the Hindoos to Brahmins, and the reputed inviolability of their persons, and the loss of, or prejudice to cast(e), that

ensues from proving the casue of their death, have in some places in the province of Benares, and more especially in the pergunnahs of Kuntit and Budhoe been converted by some of the more unlearned part of them, into the means of setting the laws at defiance, from the dread and apprehensions of the persons of the Hindoo religion, to whose lot it must frequently fall to be employed, in enforcing against such Brahmins any process or demands on the part of Government. The devices occasionally put in practice under such circumstances by these Brahmins, are lacerating their own bodies, either more or less slightly, with knives or razors; threatening to swallow, or, sometimes actually swallowing poison, or some powder which they declare to be such; or, constructing a circular enclosure called a *koorh,* in which they raise a pile of wood or of other combustible and betaking themselves to fasting, real or pretended, place within the area of the koorh, an old woman, with a view to sacrifice her by setting fire to the koorh, on the approach of any person to serve them with any process, or to exercies coercion over them on the part of Government, or its delegates. These Brahmins likewise, in the event of their not obtaining relief within a given time, for any loss or disappointment that they may have justly or unjustly experienced, also occasionally bring out their women or children, and causing them to sit down in the view of the peon who is coming towards them on the part of Government, or its delegates, they brandish their swords, and threaten to behead, or otherwise slay, these females, or children, on the nearer approach of the peon ; and there are instances, in which, from resentment at being subjected to arrest or coercion, or other molestation, they have actually not only inflicted wounds on their own bodies, but put to death with their swords, the females of their families, or their own female infants, or some aged female, procured for the occasion. Nor are the women always unwilling victims ; on the contrary, from the prejudices in which they are brought up, it is supposed that in general they consider it incumbent on them to acquiesce cheerfully in the species of self-devotement, either from motives of mistaken honor, or of resentment and revenge, believing that after death they shall become the tormentors of those who are the occasion of their being sacrificed. On similar principles, these Brahmins, to realize any claim or expectation, such as the recovery of a debt, or for the purpose of extorting some charitable donation, frequently proceed either with some offensive weapon, or with poison, to the door of another inhabitant of the same town or village, and take post there in the manner called Dhurna ; and it is understood, according to the received opinions on this subject, that they are to remain fasting in that place until their object be attained ; and that it is equally incumbent on the party who is the occasion of such Brahmins thus sitting, to abstain from nourishment until the latter be satisfied. Until this is effected, ingress and egress to and from his house are also more or less prevented, as according to the received opinion, neither the one nor the other can be attempted, but at the risk of the Brahmin's wounding himself with the weapon, or swallowing the

powder or poison, with which he may have come provided. These Brahmins, however are frequently obliged to desist and are removed from sitting Dhuma by the officers of the courts of justice, without any ill consequence resulting it, having been found by experience, that they seldom or ever attempt to commit suicide, or to wound themselves or others, after they are taken into the custody of Government. The rules and measures adopted for putting a stop to these abuses, and for preventing the revival of the still more savage custom, which until within these few years, had been generally prevalent amongst the tribe of Rajkoomars inhabiting the borders of the province near Juanpore, of destroying their infant female children, by suffering them to perish for want of sustenance, are hereby enacted, with modifications, into a regulation.

Brahmins establishing a koorh, or preparing to maim, wound, or slaughter his women or children

II. Upon information in writing being preferred to the magistrate of the city or a zillah court, against any Brahmin or Brahmins, for establishing a *koorh,* or for being prepared to maim, wound, or slaughter his women or children, or any, or either of them, in the manner described in the preamble to this regulation, or in any other account or manner substantially similar thereto, on account of any subject of discontent, or any other account whatsoever; in such case, upon oath being made to the truth of the information, the Magistrate is immediately to address to the said Brahmin or Brahmins, a written notice in the Persian language and character, and in the Hindoostanee language and Nagree character, and under his official seal, which notice is to be served on him or them, by such relations, friends, or connections of the said Brahmin or Brahmins, as the magistrate may think fit, and have an opportunity of employing for the purposes and in default of such relations, friends, or connections of the said Brahmin or Brahmins, the magistrate is to cause the notice to be served by a single peon of the same religion ; and the notice shall require the said Brahmin or Brahmins to remove the *koorh,* and the women and people that may be placed in it; or to desist from any preparation twoards wounding or slaughtering the women or children according as either or both of these facts shall be charged in the information. The notice shall also contain a positive and encouraging assurance to the Brahmin or Brahmins in question, that on his or their complying with the principal exigence thereof, by removing the *koorh,* and the person or persons, or by desisting from any preparation to wound or slaughter the women and children, and thereon repairing (as such Brahmin or Brahmins may think fit) in person, or by Vakeel to the city or zillah court, proper enquiry shall be made concerning the dispute that may have given occasion to the act or acts thus prohibited. But if the issuing of the notice shall not have the effect of inducing the said Brahmin or Brahmins to comply with the exigence thereof, a written return to that purpose is to be made and attested by the

party or parties entrusted with the serving of it; and the magistrate is thereon to issue a warrant under his official seal and signature for the apprehension of the said Brahmin or Brahmins specifying the misdemeanor and contumacy with which he or they stand charged ; and the execution of the warrant is to be committed to peons of the Mahomedan religion, nor is any Hindoo to be sent on such duty. On the Brahmin or Brahmins against whom the warrant shall have been issued being brought before the magistrate, he or they are to be dealt with, in the mode prescribed in Section 5, Regulation IX, 1793, respecting persons charged with crimes or misdemeanors ; and if it shall appear to the magistrate on the previous enquiry, which by the said section he is himself directed to make, that the misdemeanor or misdemeanors charged, (that is, the constructing of the *koorh,* or being prepared to wound or slay the women or children, according as either or both of these acts shall have been charged) were actually committed, and that there are grounds for suspecting the prisoner or the prisoners respectively to have been concerned, either as a principal or an accomplice, in the perpetration of either or both of these acts ;. the magistrate shall cause him or them to be commuted to prison or held to bail, (according as the parties shall appear to have been principals or accomplices) to take his or their trial at the next session of the court or circuit, and shall bind over the informant or complainant, and the witnesses, to appear at the trial, in the manner prescribed in the aforesaid section.

Process of trial and the punishment to be inflicted, for the commission of the aforesaid offences

III. The court of circuit shall conduct the trial of Brahmin or Brahmins charged with the above offences, in the manner prescribed in Regulation IX, 1793 and XVI, 1795, in respect to the other offences, but as the Mahomedan law cannot adequately apply to offences of this local nature, it is therefore hereby provided and ordered, that where in me opinion of the court of circuit, the charge of being a principal in respect to the constructing of a *koorh,* or to having been prepared to wound or slay the women or children, shall be proved, the said court shall sentence the prisoner to the payment of a fine equal to the amount of his annual income, which is to be estimated according to the best information that they may be able to procure respecting it; and on proof to the court's satisfaction of the prisoner's being guilty only as an accomplice, he shall be sentenced to the payment of a fine equal to one-fourth of his estimated annual income. In all cases of parties being sentenced to the payment of such fines, they are to be committed to, and are to remain in jail until the amount thereof be paid, or until they shall have delivered to the court of circuit, or, after the said court's departure, to the magistrate, full and ample malzamines or security, to pay the same within six months from the date of their release ; and such parties, before their enlargement, either in consequence

of their having liquidated, or having entered into security for the payment for the fine imposed on them, shall deliver into the court of circuit, or, in their absence, to the magistrate, *faelzaminee,* or satisfactory security from one or more creditable persons, not to offend in like manner in future.

Authority reserved to the Nizamut Adawlut to mitigate such fines

IV. All sentences passed by the court of circuit under Section 3, without however any intermediate suspension of their execution, are to be transmitted within ten days after their being passed, to the Nizamut Adawlut, which court may order such mitigation and restitution of the fine or fines thereby imposed, as may be thought proper; but until the order be issued by the Nizamut Adawlut, the sentence of the court of circuit is to be considered in full force, and to be carried into effect accordingly.

Penalty for Brahmins absconding for whose apprehension the magistrate shall have issued a warrant under Section 2

V. In case any Brahmin or Brahmins, against whom the city or a Zillah magistrate may issue the warrant prescribed in Section 2, shall refuse to obey, or resist or cause to be resisted, the peons deputed to serve it, or escape after being taken by them into custody, or abscond, or shut himself or themselves up in any house or building, or retire to any place, so that the warrant cannot be served upon him or them, the magistrate shall issue a precept to the Collector, requiring him to cause to the nearest Tehsildar to attach the lands that such Brahmin or Brahmins may possess in property, or in mortgage, or in farm, or *Lakharaje*. The lands shall remain attached until he or they surrender, and the collections made during the attachment, after deducting such revenue as may fall due to Government, shall be accounted for, and paid to, the party against, or on account of, or in resentment to, whom, the *Koorh* was originally established, or the woman or women, or child or children, were to be wounded or slain, and after the surrender or apprehension of the Brahmin or Brahmins who set on the Koorh, or was or were prepared to wound or slay his or their women or children, or either of them, his or their lands shall be released ; but he or they shall be proceeded against, in respect to his or their lands shall be released; but he or they shall be proceeded against, in respect to his or their trial for the original offence or offences, as prescribed in Sections 3 and 4.

Collector to apply to the magistrate in case of Brahmins establishing a Koorh, or being prepared to kill or wound women or children, on account of any process from the revenue department

VI. In the event of any Brahmin or Brahmins establishing a *Koorh,* or preparing to wound or slay his or their women or children, or any or either of them, with a view to prevent the serving of any *Dustuck* or writ on him or them, for arrears of revenue by the local Tehsildar, or by the Collector

of Benares, in the manner in which by Regulation VI, 1795, they are respectively authorised to issue such *Dustucks,* if it be the Dustuck of the Tehsildar that is thus opposed, he is not, after being informed thereof, to persist in enforcing it, but is to report the case immediately to the Collector, accompanied by the written testimonies of the peon deputed to serve the *Dustuck* ; upon receipt of which information, or in case of his own original process being in like manner resisted, the Collector is to represent, through the Vakeel of Government, the amount of the balance due by such Brahmin or Brahmins, and the circumstances attending the issuing of his own or of his Tehsildar's process for realizing it, to the judge and magistrate of the city or Zillah in whose jurisdiction the lands on account of which the arrears shall be due, may be situated ; and upon the peon deputed with the Tehsildar's or the Collector's) *Dustuck,* or any other creditable person or persons, attending in court, and making oath to the truth of the circumstance stated in the representation of the collector, either as to the constructing of a koorh by such Brahmin or Brahmins, or as to his or their being prepared to wound or slay the women and children, or any of them, (according as one or both of these expedients, shall be stated to have been resorted to by the Brahmin or Brahmins in question) the magistrate is thereon to issue to such Brahmins a written notice under his official seal in the Persian language and character, and in the Hindoostanee language and Nagree character, which is to be served on him or them by such of the relations, friends or connections, of the said Brahmin or Brahmins as the magistrate may think fit, and have an opportunity of employing for the purpose ; and in default of such relations, friends, or connections, of the said Brahmin or Brahmins, the Magistrate is to cause the notice to be served by a single peon of the same religion, and the tenor of it shall require the said Brahmin or Brahmins to remove the koorh, and the women and people that may be placed in it, or to desist from any preparation for wounding OT killing the women or children, (according as either or both of these offences may be charged in the information) as likewise, either to discharge the balance of rent or revenue that shall have been demanded from him or them or to appear, and entering security for such part of it as he or they may have pleas against the payment of, to file his or their objections to the payment of such part in the city or Zillah Court, that the merits of the case may be enquired into and decided, according to the principles by which other disputed demands and accounts of revenue are under Regulation VI, 1795, directed to be determined ; and the said notice is also to contain a positive and encouraging assurance to the Brahmin or Brahmins in question, that on his or their employing with the exigence of it, by removing the koorh and the persons therein, or by desisting from any preparation to wound or slay the women and children, and either discharging the balance of revenue in demand, or repairing in person, or deputing a Vakeel, to the city or Zillah Court, and entering security for the amount of it, proper enquiry shall be made into the pleas that he or they may have to state against the justice of the demand. If the

issuing of the notice shall fail to induce the said Brahmin and Brahmins to comply with the requisitions of it, a written return to that effect is to be made and attested by the party or parties entrusted with the serving of it, and the magistrate is immediately to issue a warrant under his official seal and signature for the apprehension of such Brahmin or Brahmins in which shall be specified the misdemeanor, contumacy, and arrear, with which he or they stand charged ; and the warrant shall be executed by peons of the Mahomedan religion, as directed in Section 2 ; and if the Brahmin or Brahmins shall refuse to obey or resist, or cause to be resisted, the peons deputed to serve it, or escape, after being taken by them into custody or abscond, or shut himself or themselves up in any house or building, or retire to any place, so that the warrant cannot be served on him or them ; the magistrate, on information to this effect, shall issue a precept to the collector, to cause the nearest Tehsildar to attach the lands that such Brahmin or Brahmins may possess in property, or in mortgage, or in the farm, or *Lakheraje ;* and the lands shall accordingly remain attached, and the profits of them be appropriated by Government, until the liquidation of the balance shall be' effected, either from the produce, or in consequence of the said Brahmin or Brahmins making good the same from his or their other means ; and also, until the said Brahmin or Brahmins shall have been brought, or made his or their appearance before the court, when he or they shall be tried for being concerned either as principles or accomplices in setting up the koorh, or for having been prepared to wound or slay his or their women or children, or any or either of them, in the same manner, and with the same reservation as to the mitigation of the sentence, as is specified in Sections 2, 3 and 4.

Brahmins causing the construction of a koorh, and persons firing it, to be tried on a charge of murder for the loss of the life or lives of any person or persons that may be thereby occasioned

VII. If any Brahmin or Brahmins, on account of any discontent or alarm, well or ill founded, either against Government, or its officers, or servants, shall establish a koorh, in which any person or persons shall, at any period from its construction until its removal, be burnt to death, or otherwise lose their lives, in consequence of such koorh's being set fire to, by any person whomsoever ; the Brahmin or Brahmins who shall have caused the construction thereof, shall be held chargeable with, and made amenable for, the crime of murder; as well as the party or parties who may have been immediately employed, or aided in setting fire to the pile or combustibles in question ; and upon proof of the fact to the satisfaction of the court of circuit, such Brahmin or Brahmins, and such person or persons, setting fire to the koorh, shall be sentenced on trial before the said court, to suffer the punishment of death, in the same manner as if they had committed and been convicted of *Kutl* and, or premeditated murder, according to the doctrines of the Mahomedan law ; and with a view to render the example as public as possible such sentence (whether consistent with the

future of the Mahomedan law officers, or otherwise) is in this case, to be accordingly formally passed by the court of circuit on the Brahmin or Brahmins thus convicted ; but it is to be at the same time explained to the party or parties thus condemned, as it is also hereby expressly provided, that all such trials, and the sentences passed, are by the court of circuit to be submitted (in like manner as is prescribed in Section 47, Regulation IX, 1793,) to the Nizamut Adawlut, and the party or parties condemned under this section, are to remain in Jail to await the final judgment of that court; and if the Nizamut Adawlut shall approve of the condemnation, it shall order the Brahmin or Brahmins in question to be conveyed to Calcutta, to be thence transported for life, in conformity to Section 23, Regulation XVI, 1795, which establishes this commutation for the legal punishment of murder perpetrated by Brahmins within the province of Benares, or, if the court of Nizariut Adawlut shall see cause for not proceeding pursuant to the sentence passed by the court of circuit either in respect of the Brahmin or Brahmins, who may have caused the construction of the *koorh,* or to the party or parties who may have been employed or aided in firing it, they shall submit the case or cases to the Governor General in Council, and either recommend a pardon, or such other commutation by way of mitigation of the punishment, as to the said court may seem proper.

Punishment for Brahmins wounding women and children

VIII. If any Brahmin or Brahmins, under the circumstances, and in the manner, described in the preamble to, and the following sections of this regulation, or under such circumstances, and in such manner, as shall be substantially similar thereto, with a sword, or other offensive weapon, or otherwise, shall actually wound his or their women or children or other women or children, or any or either of them, on account of, in resentment of any real or supposed injury committed towards him or them, by aumils, tehsildars, or other officers, or servants, employed in the revenue or judicial departments ; or shall so wound any of his or their own women or children, or any other woman or child, on account or in resentment of, his or their differences with any individual; he or they shall for such act or acts, be sentenced by the court of circuit to transportation, subject to the same reference to the Nizamut Adawlut and to the like commutation of the punishment, or pardon, as in the cases referred to in section 7.

Punishment for Brahmins killing women or children

IX. If any Brahmin or Brahmins, under the circumstance and in the manner, described in the preamble to, and subsequent sections of this regulation, or under such circumstances, and in such manner, as shall be substantially similar thereto, with a sword or other offensive weapon, or otherwise, shall actually put to death his or their women or children, or other women or children, or any or either of them, on account or in resentment of any real or supposed injury, committed towards him or them by aumils, tehsildars, or any other officers, or servants, employed in the

revenue or judicial departments ; or shall so put to death any of his or their own women or children, or any other woman or child, on account or in resentment of his or their differences with any individual; he or they shall be tried for such homicide and on proof of the fact or facts, be accordingly sentenced by the court of circuit to capital punishment, subject to the same reference to the Nizamut Adawlut and to the like commutation of the punishment, or pardon, as in the cases referred to in section 7; and the families of any Brahmin or Brahmins found guilty of murder under this section, shall, according to the order of the Governor General in Council under date the 17th of June 1789, and the publication made in conformity to it by the Resident at Benares under date the 7th day of July of the same year, be banished from the province of Benares, and the Company's territories; and his and their estates in land shall be forfeited and disposed of as to Government shall seem proper ;. and accordingly, the court of circuit is required to subjoin this order to all sentences that they may pass, on Brahmins for murder under this section, at the same time reporting such sentence and order to the Nizamut Adawlut, together with as accurate an account as they may be able to procure, of the number, sex, and age, of the persons composing the family of such Brahmin or Brahmins and annexing their opinion how far it may be advisable or otherwise, rigourously to enforce the banishment of the family of such Brahmin or Brahmins, or to confirm, or mitigate or annul, the order for the forfeiture of their real property; and the Nizamut Adawlut, on consideration of this sentence and order and of the opinion of the court of circuit, shall either wholly confirm, or recommend to the Governor General in Council such mitigation of the said sentence and order, as shall appear to them proper ; and in all cases there the forfeiture of the landed property of such Brahmin or Brahmins, and that of his or their family, shall be confirmed by the Nizamut Adawlut, the said Court is to advise the Governor General in Council thereof, nor shall such sentence be carried into execution as far as regards the forfeiture of the landed property, without an order from the Governor General in Council approving such part of the sentence, and directing in what manner the lands thus forfeited shall be disposed of.

Limitation as to the forfeiture of the family lands of the offenders

X. In the exercise of the discretion vested in the Nizamut Adawlut by section 9, of recommending to the Governor General in Council, the mitigation of sentences and orders passed by the Court of Circuit, under the said Section, it shall be a rule that whenever the Governor General in Council shall in consequence deem it proper to limit the banishment either to the party or parties committing the murder, or to a certain number only of his or their family or families ; no confiscation or forfeiture of the landed-property shall in such instances take place, but the same shall be entirely left in the possession, and as the property, of those members of the family who shall be exempted from banishment.

Regulations respecting Brahmins sitting *dhurna*

XI. *First*.— In conformity to the order of the Governor General in Council, of the 2nd of November 1792, and the publication issued in consequence at Benares on the 22nd of December of the same year and the further order of the Governor General in Council under date the 7th November 1794, the following rules are enacted for the preventing of *dhurna* ; and for the trial and punishment of Brahmins committing this offence.

Magistrate to cause Brahmins sitting dhurna to be apprehended

Second.—On a complaint in writing being presented to the Magistrate against any Brahmin or Brahmins for sitting *dhurna,* the Magistrate, upon oath being made to the truth of the information, shall issue a warrant under his seal and signature for the apprehension of the person or persons thus complained against, on the prisoner or prisoners being brought before the migistrate, he shall enquire into the circumstances of the charge, and examine the prisoner or prisoners and complainant, and also such other persons (whose depositions are to be taken on oath) as are stated to have any knowledge of the misdemeanor alleged against him or them, and commit their respective depositions to writing ; and after this enquiry, if it shall appear to the magistrate that the misdemeanor charged against the prisoner or prisoners was never committed, or, that there is no ground to suspect him or them to have been concerned in the committing of it, the magistrate shall cause such Brahmin or Brahmins to be forthwith discharged, recording his reasons for the information of the Court of Circuit, in the manner specified in Section 17, Regulation IX, 1793. On the contrary, if it shall appear to the magistrate that the crime or misdemeanor was actually committed, and that there are grounds for suspecting the prisoner or prisoners to have been concerned therein as principals or accomplices, the magistrate shall cause him or them to be committed to prison or held to bail, (according as in his discretion he shall judge proper) to take his or their trial at the next session of the Court of Circuit, and shall bind over the complainant to appear and carry on the prosecution, and the witnesses to attend and give their evidence, in the manner required by Section 5, Regulation IX, 1793. The Trial shall lake place before the court of circuit, in the manner prescribed in the said regulation, and in Regulation XVI, 1795 ;. and after the evidence is closed, it shall be referred to the pundit of the court, to deliver in writing the *vyuvustha,* or exposition of the shaster, as to whether the facts contained in the evidence of amount to proof of the prisoner or prisoners having committed *dhurna,* and in the event of such *vyuvustha* being in the affirmative, the Court of Circuit is to sentence the prisoner or prisoners to be expelled from the province of Benares, and to forfeit all title to the right or claim for the realizing of which the misdemeanor shall have been committed; but this sentence is not to be carried into execution until it shall have been reported by the

Court of Circuit to the Nizamut Adawlut, and it shall have been either wholly confirmed, or directed to be enforced under such mitigation as to the expulsion from the province, or to the forfeiture of the right or claim of the prisoner or prisoners to the property for which he or they sat *dhurna,* as to the said court shall seem proper.

Court of Circuit how to proceed in case all the legal requisites to constitute *dhurna* shaft not be found, although the offence was substantially committed

XII. In the event of the *vyuvustha* which the *pundit* is required to deliver in Section II, not stating me circumstances sworn to in the evidence to amount to the offence of *dhurna,* and the Court of Circuit shall nevertheless be of opinion, from the evidence before them that the prisoner did in fact commit *dhurna,* according to the common construction and 'received meaning of the term, although the act may not have been attended with all the circumstances that may be legally required to constitute *dhurna,* according to the description of it in the books of the Hindoos ; the said court is, under such circumstances, (as directed by the order of the Governor General in Council, under date the 7th of November 1794) to take from the prisoner or prisoners, a *moochulka* or engagement, conditioning that if such prisoner or prisoners shall again sit *dhurna* on any one, or perform any act of a nature similar to *dhurna* as shall, on their being prosecuted before the Court of Circuit, be deemed by the judges of the said court present at the trial, or the majority of them, equivalent or tantamount to *dhurna,* the said prisoner or prisoners shall respectively for such second offence, suffer the full penalty of *dhurna,* as provided for by the order of the Governor General in Council, by being expelled from the province, and by being made to forfeit all right and tide to the claim in question.

How Rajkoomars are to be tried for leaving or causing their female infants to perish for want of nourishment

XIII. In the month of December 1789, the tribe of Rajkoomars having bound themselves to discontinue the practice of causing their female infants to be starved to death ; it is now accordingly ordained, that from the establishment and opening of the city and Zillah courts and of the Court of Circuit in Benares, if any Rajkoomar shall designedly prove the cause of the death of his female child, by prohibiting its receiving nourishment, as set forth in the preamble to this regulation, or in any other manner, the magistrate, on receiving information thereof upon oath, or such other information or proof as he shall deem sufficient to render the charge highly probable, shall cause such Rajkoomar to be apprehended in the manner prescribed, and make die enquiry ordered, in Section 5, Regulation IX, 1793 ; when if it shall appear to the magistrate that the crime has been actually committed, and that there are grounds for suspecting the prisoner to have been concerned in the perpetration of it, the magistrate shall cause

him to be committed to prison to be tried before the Court of Circuit, and shall at the same time take all the other precautions required in the section and regulation last quoted, relative to securing the attendance of the original complainant or informant, and of the witnesses ; and the prisoner shall be tried accordingly, in the manner directed in Regulation IX, 1793, and Regulation XVI, 1795, with respect to other cases of murder.

The second piece of social Legislation which the British undertook is contained in Bengal Regulation VI of 1802. It is a regulation for preventing the Sacrifice of Children at Saugor and other places. It enacted as follows :—

REGULATION VI

A. D. 1802

A Regulation for preventing the Sacrifice of Children at Saugor and other Places. Passed by the Governor General in Council, on the 20th August 1802.

I. It has been represented to the Governor General in Council, that a criminal and inhuman practice of sacrificing children, by exposing them to be drowned, or to be devoured by sharks, prevails at the island of Saugor, and at Bansbaryah, Chaughadh, and other places on the Ganges. At Saugor especially, such sacrifices have been made at fixed periods, namely, the day of full moon in November and in January, at which time also grown persons have devoted themselves to a similar death. Children thrown into the sea at Saugor have not been generally rescued, as is stated to be the custom at other places; but the sacrifice has, on the contrary, been completely effected, with circumstances of peculiar atrocity in some instances. This practice, which is represented to arise from superstitious vows is not sanctioned by the Hindoo law, nor countenanced by the religious orders or by the people at large ; nor was it at any time authorized by the Hindoo or Mahomedan Governments of India. The persons concerned in the perpetration of such crimes are therefore clearly liable to punishment, and the plea of custom would be inadmissible in excuse of the offence. But, for the more effectual prevention of so inhuman a practice, the Governor General in Council has enacted the following Regulation to be in force from the promulgation of it in the provinces of Bengal, Orissa, and Benares.

II. If any person or persons shall wilfully, and with the intention of taking away life, throw or cause to be thrown, into the sea or into the river Ganges, or into any other river or water, any infant or person not arrived at the age of maturity, with or without his or her consent, in consequence whereof such person, so thrown into water, shall be drowned, or shall be destroyed by sharks or by alligators, or shall otherwise perish, the person

or persons so offending shall be held guilty of wilful murder, and on conviction shall be liable to the punishment of death ; and all persons aiding or abetting the commission of such act shall be deemed accomplices i n the murder, and shall be subject to punishment accordingly. The trials of prisoners convicted as principals or accomplices of the crimes specified in this section shall be referred to the Court of Nizamut Adawlut, which is to pass sentence thereupon according to Section LXX, Regulation IX, 1793 whatever may be the futwah of the law officers of that Court. (or report to the Governor General in Council the case of any prisoner who may appear to that court to be a proper object of mercy, in conformity with Section LXXIX, Regulation IX, 1793).

III. If a child or any person not arrived at maturity, be thrown into water, as stated in the preceding section, and be rescued from destruction, or by any means escape from it, the persons who shall have been active in exposing him or her to danger of life, and all aiders and abettors of such act, shall be held guilty of a high misdemeanor, and on convicting shall be liable to such punishment as the Courts of Circuit, under the *futwah* of their law officers, may judge adequate to the nature and circumstances of the case.

IV. The magistrates of districts wherein the sacrificing of children may have been hitherto practised are required to be vigilant to prevent the continuance of the practice, and shall cause the provisions of this Regulation to be from time to time proclaimed at the places, and in the season, where and when such sacrifices have hitherto been effected.

The Second piece of Social Legislation is one dealing with Suttee. It is Bengal Regulation XVII of 1829; It enacted as follows:—

REGULATION XVII

A.D. 1829

A Regulation for declaring the practice of Suttee, or of Burning or Burying alive the Widows of Hindoos, illegal, and punishable by the Criminal Courts. Passed by the Governor General in Council, on the 4th December 1829.

Preamble

I. The practice of suttee, or of burning or burying alive the widows of Hindoos, is revolting to the feelings of human nature; it is nowhere enjoined by the religion of the Hindoos as an imperative duty ; on the contrary, a life of purity and retirement on the part of the widow is more especially and preferable inculcated, and by a vast majority of that people throughout India the practice is not kept up nor observed; in some

extensive districts it does not exist; in those in which it has been most frequent, it is notorious that, in many instances, acts of atrocity have been perpetrated, which have been shocking to the Hindoos themselves, and in their eyes unlawful and wicked. The measures hitherto adopted to discourage and prevent such acts have failed of success and the Governor General in Council is deeply impressed with the conviction that the abuses in question cannot be effectually put an end to without abolishing the practice altogether. Actuated by these considerations, the Governor General in Council, without intending to depart from one of the first and most important principles of the system of British Government in India, that all classes of the people be secure in the observance of their religious usages, so long as that system can be adhered to without violation of the paramount dictates of justice and humanity, has deemed it right to establish the following rules, which are hereby enacted to be in force from the time of their promulgation throughout the territories immediately subject to the presidency of Fort William.

II. The practice of suttee, or burning or burying alive the widows of Hindoos, is hereby declared illegal, and punishable by the Criminal Courts.

III. *First.*—All zamindars, talookdars, or other proprietors of land, whether malguzarry or lakhiraj; all sudder farmers and under-renters of land of every description ; all dependent talookdars, all naibs and other local agents ; all native officers employed in the collection of the revenue and rents of lands on the part of Government, or the Court of Wards; and all munduls or other head men of villages, are hereby declared especially accountable for the immediate communication to the officers of the nearest police station of any intended sacrifice of the nature described in the foregoing section ; and any zemindar, or other description of persons above noticed, to whom such responsibility is declared to attach, who may be convicted, of wilfully neglecting or delaying to furnish the information above required, shall be liable to be fined by the magistrate or joint magistrate in any sum not exceeding two hundred rupees, and in default of payment, to be confined for any period of imprisonment not exceeding six months.

Police Darogas, how to act on receiving the intelligence of the intended sacrifice

Second.—Immediately on receiving intelligence that the sacrifice declared illegal by this Regulation is likely to occur, the police darogah shall either repair in person to the spot, or depute his mohurrir or jamadar, accompanied by one or more burkundauzes of the Hindoo religion, and it shall be the duty of the police officers to announce to the persons assembled for the performance of the ceremony, that it is illegal, and to endeavour to prevail on them to disperse, explaining to them that, in the

event of their persisting in it, they will involve themselves in a crime, and become subject to punishment by the Criminal Courts. Should the parties assembled proceed in defiance of these remonstrances to carry the ceremony, into effect, it shall be the duty of the police officers to use all lawful means in their power to prevent the sacrifice from taking place, and to apprehend the principal person aiding and abetting in the performance of it; and in the event of the police officers being unable to apprehend them, they shall endeavour to ascertain their names and places of abode, and shall immediately communicate the whole of the particulars to the magistrate or joint magistrate for his orders.

How to act when the intelligence of sacrifice may not reach them until after it shall have actually taken place

Third.—Should intelligence of a sacrifice declared illegal by this Regulation, not reach the police officers until after it shall have actually taken place, or should the sacrifice have been carried into effect before their arrival at the spot, they will nevertheless institute a full inquiry into the circumstances of the case, in like manner as on all other occasions of unnatural death, and report them for the information and orders of the magistrate or joint magistrate to whom they may be subordinate.

IV. *First.*—On the receipt of the reports required to be made by the police darogahs, under the provisions of the foregoing section, the magistrate or joint magistrate of the jurisdiction in which the sacrifice may have taken place shall inquire into the circumstances of the case, and shall adopt the necessary measures for bringing the parties concerned in promoting it to trial before the Court of Circuit.

Persons convicted of aiding and abetting in the sacrifice of a Hindoo widow, shall be deemed guilty of culpable homicide, and liable to punishment

Second.—It is hereby declared, that after the promulgation of this Regulation, all persons convicted of aiding and abetting in the sacrifice of a Hindoo widow, by burning or burying her alive, whether the sacrifice be voluntary on her part or not shall be deemed guilty of culpable homicide, and shall be liable to punishment by fine or by imprisonment, or by both fine and imprisonment, at the discretion of the Court of Circuit, according to the nature and circumstances of the case and the degree of guilt established against the offender, nor shall it be held to be any plea of justification, that he or she was desired by the party sacrificed to assist in putting her to death.

Third.—Persons committed to take their trial before the Court of Circuit for the offence above mentioned, shall be admitted to bail or not, at the discretion of the magistrate or joint magistrate, subject to the general rules in force in regard to the admission of bail.

The Court of Nizamut Adawlut not precluded from passing sentence of death in certain cases

V. It is further deemed necessary to declare, that nothing contained in this Regulation shall be construed to preclude the Court of Nizamut Adawlut from passing sentence of death on persons convicted of using violence or compulsion, or of having assisted in burning or burying alive a Hindoo widow, while labouring under state of intoxication, or stupefaction, or other cause impeding the exercise of her free will, when, from the aggravated nature of the offence proved against the prisoner die court may see circumstances to render him or her a proper object of mercy.

The third piece of Social Legislation is the Caste Disabilities Removal Act XXI of 1850. It enacts as follows :—

THE CASTE DISABILITIES REMOVAL ACT (XXI OF 1850)

An act for extending the principle of section 9, Regulation VII, 1832, of the Bengal Code throughout the Territories subject to the Government of the East India Company.

Preamble

WHEREAS, it is enacted by section 9, Regulation VII, 1832, of the Bengal Code that "whenever in any civil suit the parties to such suit may be of different persuations, when one party shall be of the Hindu and the other of the Muhammadan persuation, or where one or more of the parties to the suit shall not be either of the Muhammadan or Hindu persuations, the laws of those religions shall not be permitted to operate to deprive such party or parties of any property to which, but for the operation of such laws, they would have been entitled, and whereas it will be beneficial to extend the principle of that enactment throughout the territories subject to the Government of the East India Company it is enacted as follows :—

Law or Usage which inflicts forfeiture of, or affects, rights of change of religion or loss of caste to cease to be enforced

1. So much of any law or usage now in force within the territories subject to the Government of the East India Company as inflicts on any

person forfeiture of rights or property, or may be held in any way to impair or affect any right of inheritance, by reason of his or her renouncing, or having been excluded from the communion of, any religion, or being deprived of caste, shall cease to be enforced as law in the Courts of the East India Company, and in the Courts established by Royal Charter within the said territories."

The fourth piece of Social Legislation is the Hindu Widows' Remarriage Act XV of 1856. It enacts as follows:—

An Act to remove all legal obstacles to the marriage of Hindu Widows.

Preamble

WHEREAS, it is known that, by the law as administered in the Civil Courts reestablished in the territories in the possession and under the Government of the East Indian Company, Hindu widows with certain exceptions are held to be by reason of their having been once married, incapable of contracting a second valid marriage, and the offspring of such widows by any second marriage are held to be illegitimate and incapable of inheriting property ; and

WHEREAS, many Hindus believe that this imputed legal incapacity, although it is in accordance with a true interpretation of the precepts of their religion, and desire that the civil law administered by the Courts of Justice shall no longer prevent those Hindus who may be so minded from adopting a different custom, in accordance with the dictates of their own conscience ; and

WHEREAS, it is just to relieve all such Hindus from this legal incapacity of which they complain, and the removal of all legal obstacles to the marriage of Hindu widows will tend to the promotion of good morals and to the public welfare; it is enacted as follows:—

Marriage of Hindu widows legalized

1. No marriage contracted between Hindus shall be invalid, and the issue of no such marriage shall be illegitimate, by reason of the woman having been previously married or betrothed to another person who was dead at the time of such marriage, any custom and any interpretation of Hindu law to the contrary notwithstanding.

Rigsts of widow in deceased husband's property to cease on her re-marriage

2. All rights and interests which any widow may have in her deceased husband's property by way of maintenance, or by inheritance to her husband or to his lineal successors, or by virtue of any will or testamentary disposition conferring upon her, without express permission to re-marry, only a limited interest in such property, with no power of alienating the same, shall upon her re-marriage cease and determine as if she had then died; and the next heirs of her deceased husband, or other persons entitled to the property on her death, shall thereupon succeed to the same.

The fifth piece of Social Legislation prescribed an age limit for sexual intercourse with a woman. It is Act XLV of 1860 (Penal Code) Sec. 375. It enacted as follows:—

"A man is said to commit 'rape' who except, in the case hereinafter excepted, has sexual intercourse with a woman under circumstances falling under any of the five following :—

First: Against her will.

Secondly : Without her consent

Thirdly : With her consent, when the man knows that he is not her husband, and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.

Fourthly : (Left blank—ed.)

Fifthly: With or without her consent, when she is under ten years of age.

Explanation : (Left blank—ed.)

Exception : Sexual intercourse by a man with his own wife not being under ten years of age, is not rape."

WHAT ABOUT THE UNTOUCHABLES ?

Caste and Untouchability are the two great social evils in India. Caste has disabled the whole Hindu Society. Untouchability has suppressed a large class of people. And yet the British Government has completely ignored the two evils. One may search in vain the Indian Code to find any law dealing with Caste or with Untouchability. It is true that caste and untouchability are social matters. They will vanish when people will begin to interdine and intermarry. Law cannot compel a person to dine with another. It is true, law cannot compel a person to marry with another. But it is also true that Law can prohibit a Caste

from preventing a person from marrying a person outside his caste. Caste continues because a Caste can conspire to punish its members if they break the rules of caste by declaring a social boycott against him. It would have been perfectly possible to have enacted a law declaring such social boycott to be a crime. Again in the matter of Untouchability the disabilities are not merely social. They are fundamentally civic. Inability to get admission to school, to be able to take water from a public well, to be able to get into a public conveyance, to be able to get into public service, are all civic disabilities. It was the duty of the British Government to legislate at least to the extent necessary to protect their civic rights. It was possible to do so. A short Enactment on the lines of Caste Disabilities Removal Act would have been sufficient. Yet the British Government has gone on as though these two evils did not exist at all. Indeed it is most extraordinary thing to note that although Legislative Bodies were established in India in 1861 and have been passing laws on every social questions and discussing public questions, yet except on two occasions the Untouchables were not even mentioned. The first occasion on which they were mentioned was in 1916, when one Parsi gentleman Sir Maneckji Dadabhoy moved the following Resolution in the Central Legislature :—

> "That this Council recommends to the Governor General in Council that measures be devised with the help, if necessary, of a small representative committee of officials and non-officials for an amelioration in the moral, material and educational condition of what are known as the Depressed Classes, and that, as a preliminary step die Local Government and Administrations be invited to formulate schemes with due regard to local conditions."

There was no sympathy to this resolution. The Hindu members of the Legislature were angry with the mover for his having brought such a subject before the Legislature.

Pandit Madan Mohan Malviya said:—

> "Sir, it seems rather ungracious to say so, but a sense of the dignity of the proceedings of this Council compels me to utter a protest against the manner in which sometimes subjects are brought before it for consideration .....
>
> "In moving the Resolution the object of which I may at once say, has my whole-hearted support, my friend, the Hon'ble Mr. Dadabhoy, went out of his way to make remarks against the Hindu community which,

I think, the ought to have avoided .....I am not here to defend everything Hindu that exists. I am not here to appologize for the many prejudices or superstitions, which I am sadly conscious are to be found among one portion or another of our community. But it is not the Hindu community alone which finds it difficult to get rid of prejudices ..... Without meaning the smallest disrespect, I would instance the case of the marriage with a Deceased Wife's Sister Bill ..... We Hindus have got some much worse prejudices to fight against ..... But I do not think it is within the province of a member of this Council either to lecture to the Hindus present here or to those outside as to the socio-religious disabilities among themselves which they might fight against and remove. I think the province of Members of this Council is limited to dealing with matters of legislation or other administrative matters which may properly be taken up by the Government. As has been already pointed out, the Government have, in pursuance of a wise and liberal policy, laid it down that they shall not interfere in matters of a religious or socio-religious character, and accusations of the character in question ought, therefore, to be avoided there ..... I do not wish to descend into a disputation as to the merits of the imputations or the justification for the general observations that have been made ..... And yet, if I do not, I am left in the position that I have heard without protest remarks showing that the Hindu Community from one end of the country to the other was guilty of all that my friend, the Hon'ble Mover of the Resolution, has suggested ..... I am conscious that we Hindus have many prejudices to fight against and conquer; but I submit that this is not the place to tell us of them."

Even a social Reformer like Sir Surendranath Bannerjee was not happy. He said :—

".....I regret very much that my Hon'ble friend the Mover of this Resolution went somewhat out of his way to level (I do not think he did it intentionally) an attack against the Hindu Community. He must bear in mind that we are the inheritors of past traditions, of a civilization as ancient as the world. That civilization undoubtedly had its defects, but that civilization in the morning of the world was the guarantee for law and order and social stability. In the past it afforded consolation to millions. We are trying to evolve a national system in conformity with our present environments, but we cannot push aside all those things which have come down to us from the past. We reverence the venerable fabric which has been built up by our ancestors. We notice their defects, and we are anxious to get rid of them gradually and steadily, not by any revolutionary movement, but the slow, steady process of evolution. My friend must have a little sympathy with us ; he must extend to us the hand of generosity in our efforts to deal with the problems. My Hon'ble friend suggests that Government should take measures..... We welcome

the action of Government in a matter of this kind, but after all, if you analyse the situation, it is a social problem, and the British Government, very properly, as I think, in conformity with its ancient traditions, holds aloof from all interference with social questions.

"Government can do a great by way of education, a great deal by helping forward the industrial movement among the Depresseed Classes. But the vital problem, the problem of problems, is one of social uplifting, and there the Government can only afford to be a benevolent spectator. It may sympathize with our efforts, but it cannot actively participate in them ....."

The Hon'ble Mr. Dadabhoy had to defend himself. In his reply he said:—

"Sir, I find myself in a very peculiar and unfortunate position. There are two parties in this Council, and they are both on the defensive on this occasion. My justification for bringing in this Resolution, if any justification were needed, is to be found in the unenthusiastic and half hearted support which I have received from my non-official colleagues. It was no pleasure, I assure you, Sir, to me to bring in this Resolution. If I could possibly have avoided it, I would have very cheerfully and very willingly done so. This is the sixth year of the life of this Reformed Council, as Hon'ble Members are aware, and the second term is now approaching expiration. During the major portion of that time—the five years that I have been on this Council—I anticipated that the champions of public liberty, public spirit and public enterprize and culture—men like my friends the Hon'ble Surendra Nath Bannerjee or the Honourable Pandit Madan Mohan Malaviya—would take the trouble of moving a Resolution to this effect. I waited all this time to see if one of these enthusiastic members would bring in a Resolution for the amelioration of the Depressed Classes, but when I found that none of them had taken up the matter—though at times this matter is discussed even in the Congress Pandal in a certain manner; when I found that it was not taken up in this Council— ..... I, as a Parsee, representing a Hindu constituency thought it my duty to bring this matter for public discussion in this Council."

The Government naturally felt relieved by this quarrel. Resting behind the moral support of the Hindu members of the Legislature for covering up their delinquency Sir Reginald Crad-dock speaking on behalf of the Government disposed off the Resolution in the following terms :—

"Sir, we sympathize with the objects of the Hon'ble Mr. Dadabhoy's Resolution. We are willing to go so far as to ask Local Governments to put on record what they have done, are doing, and what further they can do,

to improve the condition of these people. But we can place no faith in special committees. Have I not indicated to the Council how wide are the problems, and how impossible it would be to deal with them by means of Committees ? The problems extend over me whole range of Government from top to bottom. What I say is that, while extending our sympathy to the objects aimed at by the Hon'ble Mr. Dadabhoy, we can go no further than promise to refer the question to Local Governments, and ask them whether they can do more than they are doing. That is as far as we can go, and with that assurance, I will ask the Hon'ble Member to withdraw his Resolution."

The second time the Untouchables are mentioned in the proceedings of the Legislature was in 1928 when Mr. M. R. Jayakar moved the following Resolution :—

"This Assembly recommemds to the Governor-General in Council to issue directions to all Local Governments to provide special facilities for the education of the Untouchables and other depressed classes, and also for opening all public services to them, specially the Police."

On this occasion the Government of India was no more enthusiastic than it was in 1916. Mr. G. S. Bajpai, speaking on behalf of the Government of India said :—

"The Local Governments are alive to their responsibility, they are doing what they can. It is not my privilege to claim for them that they have achieved the ideal, but I do claim that there is an awakening and an awakened and roused sense of responsibility and a roused sense of endeavour for improving the position of these depressed classes. That being so, it is no function to interfere by direction or by demand. They (i.e. the Government) can, if the House wishes, communicate to them the views of the House on this very national problem."

For this speech, Mr. Bajpai, according to the official report of the proceedings, was cheered ! !

Such is the record of the British Government in the matter of social Reform. What a miserable record it is ? How meagre a record it is; Six social Laws in sixty years of legislative activity ! ! From the very beginning, its attitude to social reform has been of a very halting character. It kept on some mask of a responsible Government up to 1860. After 1860 it threw off the mask. The Government would not move and reform came to a dead stop. In 1881 a great agitation was started in favour of legislation prohibiting child marriage. Rather than be pestered

with social reform, it took courage to announce publicly and once for all its policy of opposition to reform. In a Government Resolution of that year, the British Government proclaimed :

> "In dealing with such subjects as those raised in Mr. Malabari's Notes, the British Government in India has usually been guided by certain general principles. For instance, when caste or custom enjoins a practice which involves a breach of the ordinary criminal law, the State will enforce the law. When caste or custom lays down a rule which is of its nature enforceable in the Civil Courts, but is clearly opposed to morality or public policy, the State will decline to enforce it. When caste or custom lays down a rule which deals with such matters as are usually left to the option of citizens, and which does not need the aid of Civil or Criminal Courts for its enforcement, State interference is not considered either desirable or expedient.
>
> "In the application of such general principles to particular cases, there is doubtless room for differences of opinion; but there is one common-sense test which may often be applied with advantage in considering whether the State should or should not interfere in its legislative or executive capacity with social or religious questions of the kind now under notice. The test is, 'Can the State give effect to its commands by the ordinary machinery at its disposal ?' If not, it is desirable that the State should abstain from making a rule which it cannot enforce without a departure from its usual practice or procedure.
>
> "If this test be applied in the present case, the reasons will be apparent why His Excellency in Council considers that interference by the State is undesirable, and mat the reforms advocated by Mr. Malabari, which affect the social customs of many races with probably as many points of difference as of agreement, must be left to the improving influence of time and to the gradual operation of the mental and moral development of the people by the spread of education.
>
> "It is true that the British Government in India has by its legislation set up a standard of morality independent of, and in some material respects differing from, the standard set up by caste; and it may be that the former standard has had some beneficial effect in influencing native customs, practices, and modes of thought. But legislation, though it may be didactic purposes; and in the competition of influence between legislation on the one hand, and caste or custom on the other, the condition of success on the part of the former is that the Legislature should keep within its natural boundaries, and should not, by overstepping those boundaries, place itself in direct antagonism to social opinion."

The policy laid down in this Resolution has ever since remained the policy of the British Government in the matter of Social Reform.

V

Why did the British Government leave the Untouchables in the cold without any care or attention ?

The explanation for so criminal a neglect was furnished by Sir Reginald Craddock. In replying on behalf of the Government of India on the Resolution moved by Sir Maneckji Dadabhoy in the Imperial Legislative Council in 1916, he stated what the position of the British Government took with regard to the Untouchables in the following terms :—

> "With regard to them (i. e. the Untouchables) the difficulty is not that Government does not recognize them, but that, until the habits and prejudices of centuries are removed, the hands of their neighbours must necessarily press upon them ..... you must remember that these people live mostly in villages and very often in the back lane of towns, and that their neighbours have not yet come under these broad and liberal minded influences. Therefore, as many speakers have indicated, the problem in dealing with this question is more social and religious than purely administrative.
>
> "I know myself of many difficulties in the matter of schools. There are many places where the Mahar boys will not be allowed into the school; they may be allowed in the Verandah and get only a small part of the master's attention there, or they may be entirely excluded. But it is only gradually that the difficulty can be met. I have constantly dealt with this very problem on the spot. I have reasoned with people ; I have said to them. There are tax payers like yourselves, either let them come into the school, or if you wish to indulge in your own prejudices—they may be reasonable prejudices, as you consider them—but if you wish to indulge them, should you not contribute something in order that these boys may have a school of their own ? In that what some of the better people have come forward to help in the matter of wells, and schools for the low castes ; they have assisted, and the difficulties have been got over. But of course it is a matter which must take time, and Government itself cannot use compulsion. They go rather near to it sometimes, for example, in travelling by railway : and when petitions are presented in Court. But they cannot ensure that these people shall always be well-treated in their offices. Very often, I think, some of these classes refrain from seeking service they might otherwise wish to secure, because their neighbours are not likely to treat them warmly. Although the Hon'ble mover described the statement made by the Government of Bombay as a 'magnificent *non-possumus'*, I think that it very accurately describes that the real difficulties of the situation are. Even though Government is willing to help in every way these unfortunate people, yet it remains true that' the position

of these castes and tribes in the future depends partly on their own selves, and partly those more favoured Indian Communities, which by extending the hand of human comradeship or hardening their hearts and averting their faces, have it in their power to elevate or to degrade them.'

"That Sir, I think, represents very truly and accurately the position of affairs as regards these Depressed Classes. * * *"

The same attitude was reiterated in 1928 when the resolution of Mr. Jayakar was discussed in the Central Legislative Assembly. Mr. Bajpai speaking on behalf of the Government said:—

" .....it is not by increasing the number of special schools or by providing special facilities that you are going to solve this problem (of the Untouchables) ..... You will solve this problem only by a quickening and broadening the spirit of all sections of the community towards the so called depressed classes."

Leaving the problem to be solved by the quickening of me consciences of the Hindus, the British Government just neglected the Untouchables and believed that as a Government they were not called upon to do anything to help to improve the lot of the Untouchables. How did the British justify this neglect of so helpless and so downtrodden a class of their subjects as the Untouchables ? The answer is very clear. They did it by taking the view that the evil of Untouchability was not of their making. They argued that if they did not deal with the evil of untouchability, they are not to be blamed for it because the system did not originate with them. This was clearly enunciated by the Government of Bombay in 1856. In June 1856 a petition was submitted on behalf of a Mahar boy to the Government of Bombay complaining that though willing to pay the usual Schooling fee, he had been denied admission to the Dharwar Government School. In disposing of the application, the Government of Bombay thought the matter so important that it issued a Resolution dated 21st July 1856 of which the following is the full text:—

"1. The question discussed in the correspondence is one of very great practical difficulty.

2. There can be no doubt that the Mahar petitioner has abstract justice on his side ; and Government trust that the prejudices which at present prevent him from availing himself of existing means of education in Dharwar may be ere long removed.

3. But Government are obliged to keep in mind that to interfere with the prejudices of ages in a summary manner, for the sake of one or few individuals, would probably do a great damage to the cause of education. *The disadvantage under which the petitioner is not one which has originated with the Government,* and it is one which Government cannot summarily remove by interfering in his favour, as he begs them to do."

This is of course an easy view of the duties of a Government. It is not a responsible view. It is certainly not a view which a civilized Government would take. A Government which is afraid to govern is not a Government. It is only a corporation formed to collect taxes. The British Government undoubtedly meant to be more than a mere tax gathering machinery. It claimed to be a civilized Government. Then why did it not act to prevent wrong and injustice ? Was it because it had no power or was it because it was afraid to use them or was it because it felt that there was nothing wrong in the social and religious system of India ?

The answer is that it had the power, the amplest power. It did not use it because for a part of the period it did not think that there was anything wrong in the social system of the Hindus and during the period when it became convinced that things were wrong it was overpowered by sense of fear.

It is notorious that the beginning of its career the British had a dread and a horror of the consequences of permitting the diffusion of "Christian truth". But it is not quite as notorious that the British at the same time were showing a corresponding respect for native prejudices. Mr. Ward, a Missionary in Calcutta records in his journal for 1802 the following fact:—

> "Last week a deputation from the Government went in procession to Kali Ghat, and made a thank offering to this Goddess of the Hindoos, in the name of the Company, for the success which the English have lately obtained in this country. Five thousand rupees were offered. Several thousand natives witnessed the English presenting their offerings to this idol. We have been much grieved at this act, in which the natives exult over us."[1]

Another illustration of the same is furnished by Mr. Robert Lindsay who was a civilian in the employment of the East India

[1] Quoted in History of Serampore Mission Vol. I, p. 157.

Company in the time of Warren Hastings. Describing his initiation into his new office of Resident at Sylhet he says —

> "I was now told that it was customary for the new Resident to pay his respects to the shrine of the tutelar saint, Shaw Jullol. Pilgrims of the Islam faith flock to this shrine from every part of India, and afterwards found that the fanatics attending the tomb were not a little dangerous. It was not my business to combat religious prejudices, and I therefore went in state, as others had done before me, left my shoes on the threshold, and deposited on the tomb five gold mohurs as an offering. Being thus purified I returned to my dwelling and received the homage of my subjects."

How much the British Government had become associated with and interested in supporting native prejudices can be seen from the following memorial which was submitted to the Government of Madras by Bishop Corrie in 1833. The instances cited in the Memorial were these :—

> "First, that it is now required of Christian servants of the Government, both civil and military, to attend to Heathen and Mahomedan religious festivals, with the view of showing them respect Second, that in some instances they are called upon to present offerings, and to do homage to idols. Third, that the impure and degrading services of the pagodas are now carried on under the supervision and control of the principal European, and therefore. Christian officers of the Government, and the management and regulation of the revenues and endowments, both of these pagodas and mosques, so vested in them, under the provision of regulation vii of 1817, that no important idolatrous ceremony can be performed, no attendant of the various idols, not even the prostitutes of the temple, be entertained or discharged, nor the least expense incurred. without me official concurrence and orders of the Christian functionary. Fourth, that British officers, with the troops of the Government, are also now employed in firing salutes and in otherwise rendering homage to Mahomedan and idolatrous ceremonies, even on the Sabbath day ; and Christians are thus not unfrequently compelled by the authority of Government to desecrate their own most sacred institutions and to take part in unholy and degrading superstitions."

> This is enough to show that the British Government in India "not content with their exertions to suppress the diffusion of the saving truths of the Gospel was openly and authoritatively aiding and abetting the worst forms of devil-worship; that they were taking all the hideous indecencies and revolting cruelties of Hindooism under their especial patronage; sending their own masters-of-the-ceremonies to preside over the hellish orgies ; and with paternal tenderness managing the property of the idol temples pampering the priests, cherishing the dancing girls, and doing

such honour to heathen is generally as was best calculated to maintain it in a high state or exultant obesity."

It was not till 1841 that Government dissociated itself from actual participation in the Hindu and Mahomedan religions ceremonies and that too after a great deal of agitation by the Missionaries.

"In a circular letter signed by the Military Secretary to the Government of Fort St. George, and addressed to the Commander-in-Chief, under date of July 6, 1841, it is intimated, "under instructions from the Court of Directors, conveyed through the Government of India", that "the attendance of troops or of military bands at native festivals or ceremonies, and the firing of salutes on occasions of that nature," were "in future to be discontinued, with the object of separating the Government and its officers, as far as possible, from all connexion with the ceremonies of the Hindoo and Mahomedan religions." The ordinary marks of respect paid to native princes on the occasions of their going forth or returning from such festivals or religious observances were, however, to be paid; and the change was to be effected "in a manner calculated not to alarm the minds of the natives or to offend their feelings. "These orders were circulated by the Commander in-Chief to the Generals commanding divisions, and by them to the regiments under their several commands."

What reform could be expected from a Government which had become so steeped in native prejudices and which wasted such official resources to tend them and keep them up ?

It was stricken and paralyzed by sympathy. When it ceased to sympathise with the prejudices it was overtaken by fear. This fear arose out of two considerations.

The first consideration related to the promises it had made to the people of India. On assuming the Government of any new territory, previously under native rule, it was the practice of the British Government to announce to the people that they would be protected in the free exercise of their religions and that neither their institutions nor their usages would be assailed. Thus in 1801 a solemn declaration was made, in the following terms to the people of the Carnatic :—

"Although the Right Honourable the Governor in Council trusts that the experience which the inhabitants of the Carnatic have already had, will have rendered it unnecessary for His Lordship to explain the general principles of moderation, justice, protection, and security, which form the characteristic features of the British Government, yet His Lordship in

accepting the sacred trust transferred to the Company by the present engagements, invites the people of the Carnatic to a ready and cheerful obedience to the authority of the Company, in a confident assurance of enjoying, under the protection of public and defined laws, every just and ascertained civil right, with a free exercise of the religious institutions and domestic usages of their ancestors".

In may 1834 the following proclamation was issued to the people of Coorg when it was conquered :—

"Whereas it is the unanimous wish of the inhabitants of Coorg to be taken under the protection of the British Government, His Excellency the Right Honourable the Governor-General has been pleased to resolve that the territory heretofore governed by Veer Rajunder Woodyer shall be transferred to the Honourable Company. The inhabitants are hereby assured that they shall not again be subjected to native rule; that their civil rights and religious usages will be respected, and the greatest desire will invariably be shown by the British Government to augment their security, comfort, and happiness."

In 1849, on the annexation of the Punjab, the following assurance was given to the people :—

"The British Government will leave to all the people whether Mussulman, Hindoo, or Sikh, the free exercise of their own religions; but it will not permit any man to interfere with the other in the observance of, such forms and customs as their respective religions may either enjoin or permit."

Other similar proclamations may be cited. They were treated as pledges. Whether it was just and politic that such pledges should have been given, it was felt that it was unpolitic to ignore them once they were given. This was the general view. But there were always some who construed them literally and whose point of view was not to draw any distinction and make any reservations and who wished to interpret the pledges as amounting to saying to the Indians, "You have enjoyed it undisturbedly under the new" and who argued that "any departure from this would be a breach of faith." Fear of breach of faith was one consideration. Fear of open rebellion was another. Fear of rebellion so far as the British Government in India was concerned was not a fear of the unknown. It was a fact of experience, There was one rebellion in 1801 which was known as the Vellore Mutiny. There was another rebellion in 1857. It was known as

the Sepoy Mutiny. The Vellore Mutiny was a small flame. But the Sepoy Mutiny was a conflagration. In both cases the cause alleged was an interference with the religious practices of the Hindus. Two rebellions are enough to teach a lesson and the lesson of these two rebellions was not lost upon the British Government. The Vellore Mutiny of 1801 had made the British Government cautious in the matter of social innovations. The Sepoy Mutiny of 1857 made hostile to any kind of social reform. The British did not want to take any risk and from their point of view the risk was very great The Mutiny made them so panicky that they felt that loss of India was the surest consequence of social reform and as they were anxious to keep India they refused to look at any project of Social Reform.

This attitude of the British Government to Social reform is quite understandable. However sovereign a Government may be its authority as pointed out by Prof. Dicey[1] is circumscribed by two limitations :—

> "There is first of all the internal limitation which arises from the character, motives and interests of those who are in power. If the Sultan does not abolish Mahomedanism, Pope ban Catholicism, the Brahmin condemn caste, or the British Parliament declare the preservation of blue-eyed babies illegal, it is not because they "cannot" do things, but it is because they "will" not do those things. In the same way if the Executive in India did not do certain things most conducive to progress, it was because by reason of its being imperial and also by reason of its character, motives and interests, it could not sympathize with the living forces operating in the Indian Society, was not charged with its wants, its pains, its cravings and its desires, was inimical to its aspirations, did not advance Education, disfavoured Swadeshi or snapped at anything that smacked of nationalism it was because all these things went against its grain. But an irresponsible government is powerless to do even such things as it may like to do. For its authority is limited by the possibility of external resistance. There are things which it would do but dare not do for the fear of provoking thereby resistance to its authority. Ceaser dare not subvert the worship of the Roman people, a modem parliament dare not tax the Colonies, however much they would. For the same reason the Government of India dared not abolish the caste system, prescribe monogamy, alter the laws of succession, legalize intermarriage or venture to tax the tea planters. Progress involves interference with the existing code of social life and interference is likely to cause resistance. None the less a

[1] Law of the Constitution 1915 pp. 74—82.

Government which is of the people and is not detached from them can venture on the path of progress, because it is in a position to know where the obedience will end and resistance will begin. But the Indian Executive, not being of the people, could not feel the pulse of the people. The gist of the matter is that the irresponsible Executive which had been in power in India was paralysed between these two limitations on its authority and much of what to make life good was held up. Part of the programme it would not undertake and the other part it could not undertake. That there was some advancement in material progress is not to be denied But no people in the world can long remain contented with the benefits of peace and order, for they are not dumb brutes. It is foolish to suppose that a people will indefinitely favour a bureaucracy because it has improved their roads, constructed canals on more scientific principles, effected their transportation by rail, carried their letters by penny post, flashed their messages by lightening, improved their currency, regulated their weights and measures, corrected their notion of geography, astronomy and medicine and stopped their internal quarrels Any people, however patient, will sooner or later demand a Government that will be more than a mere engine of efficiency."

People wanted freedom political, economic and social. This the British Government declined to create :—

"As a result of this, so far as the moral and social life of the people was concerned, the change of Government by the Moghuls to a Government by the British was only a change of rulers rather than a change of system. Owing to the adoption of the principle of non-interference partly by preference and partly by necessity by the British 'the natives of India found themselves under a Government distinguished in no vital respect from those under which they had toiled and worshipped, lived and died through all their weary and forgotten history. From a political standpoint, the change was but the replacement of one despotism by another. It accepted the arrangements as it found them[1] and preserved them faithfully in the manner of the Chinese tailor who, when given an old coat as a pattern, produced with pride an exact replica, rents, patches and all.'

This policy of non intervention though understandable, was so far as the Untouchables were concerned, mistaken in its conception and disastrous in its consequences. It may be granted that Untouchables can only be lifted up by the Hindus recognizing his human rights and him as a human being as correct. But that

[1] The poll tax has been continued in Burma simply because it was found to exist there on the day of conquest.

2. Bernard Houghton, *Bureaucratic Government.*

does not dispose of the matter. Question remains how is this recognition of his rights as a human being to be secured. There are only two ways of helping to realize this object One way is to make him worthy of respect and the other is to punish those who disrespect him and to deny him his rights. The first way involves the duty to educate him and to place him in positions of authority. The other way involves social reform by making recognition of Untouchability a penal office. Neither of this the British Government was prepared to do. It would not give the Untouchables any preferential treatment in public service. It would not undertake to reform Hindu Society. The result was that Untouchable has remained what he was before the British, namely an Untouchable. He was a citizen but he was not given the rights of a citizen. He paid taxes out of which schools were maintained but his children could not be admitted in to those schools. He paid taxes out of which wells were built but he had no right to take water from them. He paid taxes out of which roads were built. But he has no right to use them. He paid taxes for the upkeep of the state. But he himself was not entitled to hold offices in the state. He was a subject but not a citizen. The Untouchable stood most in need of education and supply of water. He stood mostly in need of office to protect himself. Owing to his poverty he should have been exempted from all taxes. All this was reversed. The Untouchable was taxed to pay for the education of the touchable. The Untouchable was taxed to pay for the water supply of the touchable. The Untouchable was taxed to pay for the salary of the touchables in office.

What good has British conquest done to the Untouchables ? In education, nothing ; in service, nothing; in service, nothing. There is one thing in which they have gained and that is equality in the eye of the law. There is of course nothing special in it because equality before law is common to all. There is of course nothing tangible in it because those who hold office often prostitute their position and deny to the Untouchables the benefit of this rule. With all this, the principle of equality before law has been of special benefit to the Untouchables for the simple reason that they never had it before the days of the British. The Law of Manu did not recognize the principle of equality. Inequality was the soul of the

Law of Manu. It pervaded all walks of life, all social relationships and all departments of state. It had fouled the air and the Untouchables were simply smothered. The principle of equality before law has served as a great disinfectant. It has cleansed the air and the Untouchable is permitted to breath the air of freedom. This is a real gain to the Untouchables and having regard to the ancient past it is no small gain.

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PART III

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I. *Lectures on the English Constitution.*

II. *Paramountcy and the claim of the Indian States to be Independent.*

In the Government Law College Magazine, following observations are made in the 'College Notes, 8th January 1936 issue:—

> "We however note with satisfaction that Mr. Fyzee has handed over charge to no less a person than Dr. Ambedkar. A lawyer of repute, he is a close student of Economics, an authority on Constitutional Law and a personality known throughout India and elsewhere. To write more about him would be otiose. Expecting much from our Principal we shall not embarrass him now. We prefer to wait and see."

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I

LECTURES ON THE ENGLISH CONSTITUTION

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Preface

I. Principles underlying the English Constitution.

II. What is Parliament ?

III. The Crown.

IV. The House of Lords.

V. The Powers and Privileges of the Lords and the Commons.

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PREFACE

These are lectures on the English Constitution which I delivered to the students of the Government Law College, Bombay, in 1934-35. In publishing these lectures I have not forgotten how presumptuous it may be deemed for an Indian to attempt to expound the principles of the English Constitution. Sir Austen Chamberlain in the course of his cross-examination of a certain Indian witness who appeared before the Joint Committee on Indian Constitutional Reform observed: I listen to the witness with great respect when he talks of Indian conditions, but when he expounds the British Constitution he must permit me to remain of my own opinion (Minutes of Evidence, Vol. 11c, Q. 9812). There is undoubtedly a great deal of truth in this remark and it should make every Indian who wishes to write on the English Constitution pause. An Indian, however, who wishes to enter into the field may well take courage from the fact that much of the English Constitution have been expounded by foreigners who have not only been heard with respect by Englishmen but whose writings have compelled a change of opinion. Be that as it may the remark made by Sir Austen Chamberlain need not come in my way. I am not expounding anything of my own. I am not expounding it to Englishmen. I am merely trying to make Dicey's English Constitution easier for Indian students to follow and to understand. From the stand-point of Indian students Dicey's treatise suffers from two defects. It presupposes a knowledge of certain parts of the English Constitution. For instance it presupposes a knowledge of what is Parliament, how it is constituted and how it functions. This presupposition, howsoever justifiable it may be in the case of Englishstudents, would be without warrant in the case of Indian students who are called upon to take up the study of Dicey for the first time. Without a complete knowledge of this pan of the English Constitution Indian student feels completely bewildered and fails to grasp the full import of such fundamental principles as supremacy of the rule of law or the role of conventions in the working of the Constitution. In order that the Indian student may follow in an

intelligent way the exposition of Dicey regarding the operation of these principles the teacher is forced at every turn to present to the student the framework of the English Constitution which finds no place in Dicey's treatise. Secondly, the English Constitution has grown enormously both as regards rules of law and also as regards conventions since the last edition of Dicey's English Constitution was published. The result of this growth has been felt in two different ways. It has rendered some of the illustrations given by Dicey quite inappropriate. Secondly, it has altered the character of the English Constitution especially the relations of the Crown and the British Parliament to the Dominions to such an extent that an Indian student who depends upon Dicey alone will not be up-to-date but will be missing a great deal that is vital in it. Except for additions of matter and changes of form there is nothing new in these lectures. They constitute a revision of Dicey's treatise on the English Constitution with a view to remove its defects and to adapt it to the needs of Indian students.

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I

PRINCIPLES UNDERLYING THE ENGLISH CONSTITUTION

According to Dicey there are three principles which distinguish the English Constitution from the Constitution of other countries. These principles are :—

(1) The legislative supremacy of Parliament.

(2) The prevalence of the rule of law.

(3) The dependence of the Constitution on the conventions.

Two comments may be legitimately made on the assertion that these principles form distinguishing characteristics of the English Constitution. In the sense that they are not to be found in other Constitutions. One is this. That some of these characteristics have ceased to be true at any rate, to the extent they were true when Dicey wrote. For instance the legislative supremacy of Parliament is to some extent modified and circumscribed by the Statute of Westminster passed in the year 1930. The second comment that must be made that these characteristics, especially the prevalence of the rule of law and the dependence of the Constitution on conventions are not special to the English Constitution. Conventions are a feature of all Constitutions and the rule of law, in one of its senses at any rate, obtains in the United States. All the same it is Constitution in principles form a feature of the English Constitution in a manner and to an extent unknown in other Constitutions. And understood in that sense they no doubt serve to distinguish the English Constitution from other Constitutions.

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(1) LEGISLATIVE SUPREMACY OF PARLIAMENT

One of the first and foremost of foreign Commentators on the English Constitution Hontessquie came to the conclusion as a result of his study that the English Constitution exhibited a feature which was absent from the Constitution of France as it existed at the time when he wrote. He found that under the English Constitution the three organs of the State, namely, the legislative, the executive and the judiciary were distinct and were separated from one another in their composition as well as their functions. Each was limited to its own sphere of activity and was not permitted to invade the dominion of another. Whatever liberty the Englishman had in the days when he was writing and which his countrymen did not possess, was attributed by him to this feature of the English Constitution. So convinced was he of the virtue of this principle of the English Constitution that he propounded it as a vital principle of political organization and recommended it to his countrymen for adoption in their own Constitution. This doctrine of separation of powers of Hontessquie has been laid at the base of every new Constitution made thereafter. This is an interesting illustration of how countries have been misled by the wrong conclusions of a student of politics, for there is no doubt about it that Hontessquie misunderstood the English Constitution. The English Constitution certainly does not recognize the principle of the separation of powers. The King is a part of the legislature, the head of the judiciary and the supreme executive authority in the land. The Ministry which carries on the executive Government of the country in the name of the King are members of Parliament. There is, therefore, no separation between the executive and the legislature. The Lord Chancellor is the working head of the Judicature. He is also a member of the Cabinet. There is, therefore, no separation between the executive and the judiciary. Not only is there no separation between the three organs of the State, but there is no foundation for the statement that their authority is limited by the Constitution for the simple fact that there is no Constitution in the American sense of the

word which allocates the functions of the different organs of the State and delimits their authority. Under the English Constitution there is one supreme authority under the law, and that is Parliament. If the functions of the executive and the judiciary are limited, it does not follow that the functions of Parliament are limited. It only means that Parliament has for the time being allotted certain functions to be discharged by certain bodies, in a certain manner. The limitations of the judiciary and the executive do not result in putting consequential limitation. On the other hand as the limitations proceed from the authority of Parliament, Parliament retains the authority to widen them or to curtail them.

MEANING OF THE LEGISLATIVE SUPREMACY OF PARLIAMENT

A complete idea of the legislative supremacy of Parliament must involve a grasp of the two parts which it must include. The first is that Parliament has, under the English Constitution, the right to make or unmake any law whatsoever. Secondly, no person or a body of persons is recognized by the law of England as having a right to override or set aside the law made by Parliament. It is unnecessary to recall that the words Parliament and law must be understood in their strictly legal sense. Parliament means as has been already explained, the King, the Lords and the Commons, and that none of them individually exercised the authority, belonged to them jointly, so as to make it an Act of Parliament. The term law again must be understood in the strictly legal sense. It means only such rules as are enforced by the Courts. Having stated what is involved in the notion of the legislative supremacy of Parliament, we may next ask what is the proof of this legislative supremacy of Parliament ?

The doctrine of legislative supremacy is accepted by all the lawyers who have written about the English Constitution. Sir Edward Coke, peaking of the power and jurisdiction of Parliament, agreed that it was so transcendent and absolute that it cannot be confined either for causes or persons, within any bounds.

(*4 Institute Page 36*)*

Blackstone the author of the celebrated commentaries agrees that, "Parliament has sovereign and uncontrollable authority in the making, confirming, enlarging, restraining, abrogating, repealing, reviving and expounding of laws concerning matters of all possible denominations ecclesiastical or temporal, civil, military, maritime or criminal. This being the place where that absolute despotic power, which must in all Governments must reside somewhere, is entrusted by the Constitution of those Kingdoms. All mischiefs and grievances, operations and remedies that transcend the ordinary course of laws are within the reach of this extra-ordinary tribunal. It can regulate the succession to the crown, as was done in the reign of Henry VIII and William III. It can alter the established religion of the land, as was done in a variety of instances in the reigns of Henry VIII and his three children. True it is that "what the Parliament doth no authority upon earth can do."

Delome, a French lawyer agrees with Coke and with Blackstone. He observes, "that Parliament can do everything but make a woman a man and a man a woman".

a woman a man and a man a woman".

This legislative supremacy of Parliament which is acknowledged by all lawyers can be proved by reference to a large number of instances drawn from the history of the British Parliament. But the following may suffice.

(1) *Parliamentary sovereignty and the Acts of Union.*— The Acts of Union with Scotland and Ireland are in the nature of treaties and contain certain clauses which were then regarded as fundamental and essential conditions of Union and which were understood as not being liable to abrogation by the Parliament of Great Britain. The Act of Union with Scotland stipulated that every professor of a Scotch University shall acknowledge and confess and subscribe the confession of faith as his profession of faith. This was regarded as a fundamental condition of the treaty

* Reproduced is per original, page 36 could not he found—ed.

of Union with Scotland. But this very provision has been repeated by the Universities Scotland Act, 1853, which relieves most professors in Scotch Universities from the necessity of subscribing the confession of faith. The Act of Union with Ireland stipulated " that the Churches of England and Ireland as now by law established, be united into one Protestant Episcopal Church, to be called the United Church of England and Ireland, and that the doctrine, worship, discipline and the Government of the said United Church shall be and shall remain in full force forever as the same are now by law established for the Church of England and that the continuance and preservation of the said United Church, as the established Church of England and Ireland shall be deemed and be taken to be an esssential and fundamental part of the Union". There is no doubt that from the language of the clause that it was intended to limit the legislative supremacy of Parliament and yet Parliament by the Irish Church Act of 1869 disestablished the Church in Ireland and its legislative competency to enact such a measure was not questioned.

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The Septenial Act of 1707 is another illustration of the legislative supremacy of Parliament. Under the Act of 1694, the duration of Parliament was limited to 3 years. In the year 1716 a new election was due. But both the King and the Ministry were convinced that under the political circumstances of the day, a new election would be disastrous to the ministry and to the state and ministry of the day persuaded Parliament to pass an Act extending the duration of Parliament from 3 years to 7 years. The House of Commons was accused by the critics of a breach of trust, as representatives of the electors and even the peers joined in the protest on the ground that this Act deprived the people of their remedy against their MP's, who had failed to do their duty. In the wake of political criticism against the Act, the legal connotation was missed altogether. Whether such an Act was proper or improper was one thing. Whether Parliament could alter the law governing its life was another question. It should be noted that while the Act was attacked from the first point of view it was never questioned from the second. Indeed it was taken

or granted that the Septenial Act was within the lagislative competence of Parliament.

There is another feature of the Septenial Act which should be noted because it helps to explain the extent of the legislative supremacy of Parliament. Parliament could have passed a law extending the life of Parliament and probably no question would have been raised if the Act was made applicable to future Parliaments. But the Septenial Act not only extended the life of all future Parliaments, but it also enlarged the terms of the very Parliament which passed the Act. It was undoubtedly an Act of usurpation of political power not contemplated and not given by law to the Parliament which passed the Act and yet such an Act of usurpation was a legal Act. It is unnecessary to go back so far in the past to cite an authority of the Legislative supremacy of Parliament, as the Septenial Act. A similar exercise of the legislative supremacy was resorted to by Parliament during the late war when the sitting Parliament in 1914 instead of dissolving itself passed an Act extending its own life.

Acts of Indemnity are examples which constantly occur and which serve as sharp reminders of the legislative supremacy of Parliament. An Act of Indemnity is a statute the object of which is to free individuals from penalties imposed upon them by law. This is the highest proof of the legislative supremacy of Parliament, for it imports the legalization of an illegality. legalization of an illegality.

INTERFERENCE WITH PRIVATE RIGHTS

Most legislative assemblies confine their legislative powers to the regulation of the rights of the public in general. Private rights and domestic rights are deemed either to be too particular and too sacred to be interfered with by Parliament. But the British Parliament has never accepted these limitations upon its legislative authority. In the case of the lives of the Duke of Clarence and Clocester, Parliament passed an Act declaring that their daughters and wives should inherit their property although they were alive. In the case of the Duke of Buckingham, he was an infant but Parliament passed an Act declaring that he should be

treated as a major for all legal purposes. Sir Robert Playfinston was dead yet long after his death, Parliament passed an Act holding him guilty of treason. The case of the Marquis of Winchester is an illustration in which Parliament by law declared a legitimate child to be illegitimate. A contrary illustration in which illegitimate children born before marriage were declared legitimate, is supplied by the law passed by Parliament in respect of the issues born to Catherine Swinford by John of Gaunt, the Duke of Lancaster. Catherine had, before marriage from the Duke four illegitimate children, Henry, John, Thomas and a daughter, Joan. The King by an Act of Parliament in the form of charter legitimised these children. These illustrations that Parliament cannot only regulate by law the affairs of a single individual but it may also alter the course of general law.

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II

CHAPTER I

WHAT IS PARLIAMENT ?

1. With a large mass of the people Parliament in these days means the House of Commons. It does not include in it the House of Lords, and certainly not the King. This popular notion is due largely to the fact that the House of Commons has become the most dominant element in the working of the English Constitution. But however justifiable such a notion may be, speaking in terms of law it is a wrong notion. Legally Parliament consists of three constituent elements, the King, the House of Lords and the House of Commons, All legislative power belongs to the King, the House of Lords and the House of Commons jointly. It is vested in the King in Parliament, *i.e.,* in the King acting in consent with the two Houses of Parliament. Legally, every Act before it can become the law of the land, requires the King's assent. How important element the King is in the Constitution of Parliament will be evident, if it is borne in mind that the two Houses of Parliament can transact their business only if they are summoned by the King. They cannot meet on their own initiative and authority and transact business. How important place the King occupies will also be obvious if it is remembered that the power to summon, prorogue and to dissolve the Houses of Parliament vests in the King and is exercisable at any time according to his pleasure. On the other hand, it is usually true that without the consent of the two Houses of Parliament, the King has no inherent power of legislation whatever within the United Kingdom. Every act of the King to be law must have the assent of the House of Commons and the House of Lords, unless it is otherwise provided by Statute.

2. The proposition, that all legislative power is vested in the King in Parliament and that no law could be passed without the concurrence of the King, the House of Lords and the House of Commons, is subject to two qualifications.

(1) *The King's veto :*—Although in law the King's assent is necessary to every measure before it can become law, his power to refuse assent, *i.e.,* his power to veto has become absolute by misuse. The right of veto has not been exercised since the days of Queen Anne, who refused her assent to the Scotch Militia Bill of 1707. The impairment of this power of veto by the King is not a legal impairment. In law his power of veto exists in all its amplitude without any qualifications. This is due to forbearance founded on a convention whereby it is settled that when the two Houses agree, the King should not refuse his assent. It's disuse does not mean that it is buried beyond revival. Suppose a ministry resigns after a bill is passed by the House of Commons. The House of Lords insists upon passing the bill in spite of the opposition of the new ministry. It would be rash to assert that in such a case the Royal assent would not be withheld even though both the Houses have concurred in the legislation.

(2) *The veto of the House of Lords:*—The House of Lord was once a co-ordinate and co-equal branch of the legislation, and every measure before it could become an Act of Parliament depended upon it's assent, asmuchas upon that of the House of Commons. Although this was the position in law, the House of Commons had claimed in practice exclusive authority for themselves in finance and an overriding authority in other legislation.

In 1671, the House of Commons passed the following resolution : "That in all aids given to the King by the Commons, the rate of tax ought not to be altered by the Lords."

In 1676, the Commons adapted another resolution as follows: "That all bills granting supplies ought to begin with the Commons, and it is the undoubted and the sole right of the Commons, to direct limit and appoint in such bills the ends, purposes, considerations, conditions, limitations and qualifications of such grants which ought not to be changed or altered by the House of Lords."

In ordinary legislation of a non-fiscal character, the Commons claimed that although the House of Lords might differ from the House of Commons, yet when a conflict arose between the two

Houses the Lords should at some stage wield to the views of the Houses, the Lords should, at some stage, wield to the views of the claim. Even since the Lords had never expressly admitted them, although in practice the Lords conformed to them, the practice was a mere matter of political understanding, a convention and was not reduced to law. The House of Lords was possessed in law of the power of veto, *i.e.,* the right to refuse assent to any measure fiscal or non-fiscal. Here again the case was not one of legal impairment of power. It was a case of forbearance in the exercise of it. In 1910, the House of Lords, contrary to established practive, insisted in asserting their right to refuse assent to the financial proposals in the budget of Mr. Lloyd George. A conflict between the House of Commons and the House of Lords arose. It was settled by the Parliament Act of 1911. The Act is a most important piece of legislation relating to the English Constitution inasmuch as it has affected the veto power of the House of Lords in certain matters in a vital manner.

The Parliament Act of 1911 applies to Public Bills only. It does not apply to Private Bills. In regard to Private Bills, the veto power of the House of Lords remains in tact. Even though this applies to Public Bills it does not apply to all of them. It does not apply to a Public Bill which affects the duration or life of Parliament. Under the Parliament Act the House of Commons retains the power of veto in respect of such bills. In the case of these Public Bills to which it does apply, its effect on the veto power of the House of Lords is not the same. It varies. The Parliament Act divides Public Bills into two classes. (1) Public Bills which are money bills and (2) Public Bills which are not money bills. A money bill is defined as a Public Bill which in the opinion of the Speaker of the House of Commons contains only provisions dealing with all or any of the following subjects, namely; imposition, repeal, remission, alteration or regulation of taxation, the imposition for the payment of debt or other financial purposes of charges on the Consolidated Fund or on money provided by Parliament or the variation or repeal of any such charges, supply, the appropriation, receipt, custody, issue or audit of accounts of public money, the raising or guarantee of

any loan or repayment thereof or subordinate matters incidental to those subjects of any of them. The Act lays down that if a Money Bill having been passed by the House of Commons and sent up to the House of Lords at least one month before the end of the Session, is not passed by the House of Lords without amendment within one month after it is so sent up to that House, the bill shall, unless the House of Commons direct to the contrary, be presented to His Majesty and become an Act of Parliament on the Royal assent being signified, notwithstanding that the House of Lords have not consented to the Bill.

With regard to other Public Bills, the Parliament Act of 1911 provides that if it is passed by the House of Commons in three successive sessions (whether of the same Parliament or not) and having been sent up to the House of Lords at least one month before the end of the session, is rejected by the House of Lords in each of these sessions, that bill shall, on its rejection for the third time by the House of Lords, unless the House of Commons direct to the contrary, be presented to His Majesty and become an Act of Parliament on the Royal assent being signified thereto, notwithstanding that the House of Lords have not consented to the Bill, provided that this provision shall not take effect unless two years have elapsed between the date of the second reading in the first of these Sessions of the Bill in the House of Commons and the date on which it is passed by the House of Commons in the third of those Sessions.
House of Commons in the third of those sessions.

These are the main provisions of the Parliament Act of 1911. It has altered the character of that veto with regard to a Public Bill other than a money bill by making it a merely suspensory veto which has the effect of merely holding up the legislation passed by the House of Commons during the prescribed period. The power to block legislation, which the House of Lords once possessed as a co-equal member of Parliament, has now been taken away by the Act.

Subject to these deductions, conventional and legal, regarding the authority of the King and the Lords, the proposition that

Parliament consists of King, Lords and the Commons and that without their consent a bill cannot become law, remains as true today as it was before the Act of 1911.

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III

CHAPTER II

THE CROWN

(1) *The King's title to the Crown.*—Before the Resolution of 1688 when James II fled from the country, it was not certain by what right the King claimed the Crown, whether it was hereditary or elective. But there can be no doubt that thereafter the title to the Crown has become a Parliamentary title, in the sense that Parliament can alter the succession to the Crown. The title to the Crown is at present regulated by the provisions of the Act of Settlement passed in the year 1701. By that Act, the title to the Crown was conferred upon William and Mary and the heirs of their body. The title stipulates two conditions : One, the Successor must be an heir, male or female and two, the Successor must be a Protestant Christian by faith.

(2) *Rights and duties of the Crown.*—The rights of the King are either Statutory or Prerogative. Statutory rights are those which are conferred upon the King by an Act of Parliament. The prerogative rights are the Customary or Common Law Rights of the King which he has been exercising and which have not been taken away by law. It is unnecessary... with those rights and duties of the King which are statutory because they are capable of exact definition and ascertainment by reference to the Statute from which they are derived. The prerogative rights on the other hand are not capable of such ascertainment by reference to any statute because it is of the essence of a prerogative right that is not derived from Statute. Prerogative rights of the King are customary rights and are independent of Statute, and like all customary rights the nature and extent have to be investigated by a Court of Law whenever they are asserted. The King's prerogatives may be conveniently discussed under the following heads :

(A) Personal Prerogatives

(1) *The King can do no wrong.*—All acts are done in the name of the King, but by virtue of this Prerogative, the King is not responsible for any of his acts. The person responsible for his

royal acts are his Ministers. The King, therefore, cannot be sued or otherwise held responsible for his executive acts. When a subject is aggrieved by a breach of contract, he cannot sue the King, nor can he sue the King in respect of a tort. A special provision is made to soften the rigour of the rule which is known as *the Petition of Right procedure*. Under it, a subject aggrieved may petition the Crown for redress and that petition will become justiciable only if the Attorney-General, who is the Law-Officer of the Crown, issues his fiat permitting justice to be done in which case alone, the Courts can proceed with the petition as though it was a plaint in a suit. Even then there are certain rules which though they are binding between private parties, would not be binding upon the Crown, for instance it is a rule that the Crown cannot by contract hamper its future executive actions. As a result, the Crown can always dismiss a servant of the Crown at any time, no matter what the period of contract was, because such a contract would hamper the future executive action of the Crown. Consequently a servant of the Crown cannot sue the Crown for damages for wrongful dismissal even by a Petition of Rights.

(2) *The King never dies*.—The King has the attributing immortality. A particular person wearing the Crown may die. But the King survives. Immediately upon the decease of a reigning King, his Kingship, without any interregnum or interval, vests in his heirs. That is the law, and the popular cry—The King is dead ; Long live the King—is in conformity with the Law. The Coronation ceremony is not necessary to invest the King with Kingly power. A King can act as a King although he has not been coronated, provided he is the next heir of the last King. The Coronation ceremony has no other effect than to proclaim to the subjects and to the world at large, who the King is.

(3) *Lapse of time will not as a rule bar the right of the Crown to sue or to prosecute*.—To put it in a different way, the law of limitation does not apply to the Crown, as it does to a private individual. The private individual must sue or prosecute within a stated period fixed by the law of limitation. The Crown is free from the time-bar. The statement of this prerogative right must

now be qualified so far as the right to sue is concerned. The law of limitation has made the time-bar applicable to the Crown although the period of limitation is sixty years. The Prerogative of the Crown's right to prosecute remains in tact.

(4) When the right of the King and the right of the subject come in conflict, a subject's right must give way to the King's.

(5) The King is not bound by statutes unless expressly named in it.

(II)

Political Prerogatives

Now these may be divided into two categories into which they naturally fall: those which relate to the internal Government of the country and those which relate to foreign affairs. As to the King's Political Prerogatives which relate to the internal Government of the country, they may be considered in relation to the three divisions of State activity, e.g., the executive. the judicial and the legislative. According to the English Constitutional law, the executive Government vests in the King. It is his Prerogative to be the supreme head of the executive. As such, he has the authority to appoint Ministers and other officers of the state political as well as permanent. It is his prerogative to dismiss them. He is also the head of the Army, the Navy, the Air-force and the Civil Service. Every one appointed to discharge the service of the State, no matter how he is appointed, is in law the servant of the Crown. Turning to his Judicial Prerogative, the King at one time actually sat in Court to dispense justice but this Prerogative the King has now lost. The King at one time could create any Court and invest it with jurisdiction to try any matter or any cause he chose to prescribe. The establishment of the Star Chamber and the Court of High Commission by Charles I is an illustration of how wide was the King's judicial Prerogative. But this Prerogative also, the King has now lost. The King can now only create by Prerogative, *i.e.,* without the Sanction of Parliament, Court to administer the Common law. Even this remnant of a Prerogative he cannot exercise, because of the

necessity of financial legislation which such a course would involve, which would make it necessary for him to obtain the sanction of Parliament. Only four bits of his Judicial Prerogatives now remain. (1) He can grant leave to appeal to the Privy Council. (2) He can appoint judges. (3) He can pardon a criminal. (4) He can stifle the prosecution of a criminal, either by declining to offer evidence or by entering a formal *Grote Praseu.*

Coming to the legislative Prerogatives of the King, they extended at one time to vast proportions. The King at one time claimed the power to make laws independently of Parliament, to suspend laws in particular cases and to dispense with them generally. All this has now been altered. The right to suspend and dispense with laws made by Parliament is now completely lost. The right to legislate is also lost, except in so far as it relates to Crown Colonies. The only legislative Prerogatives that remains to the King are the Prerogatives right (1) to summon Parliament, (2) to prorogue Parliament, (3) to dissolve Parliament.

There are two other classes of Prerogatives which relate to the internal administration of the Country which must be referred to before considering the other classes of Prerogatives which relate to foreign affairs. They are Ecclesiastical Prerogatives and Revenue Prerogatives.

Ecclesiastical Prerogatives.—The King is the supreme head of the Church of England as established by law. As the head of the Church, he appoints on the recommendation of the Prime Minister, Archbishops, Bishops and certain other dignitaries of the Church. In his Prerogative right, the King convokes, prorogues and dissolves two Houses of the convocation and it is in his Prerogative right that the King can grant leave of appeal to the Privy Council from the decisions of the ecclesiastical Courts.

Revenue Prerogatives.—The revenues of the British Government fall into two classes, (1) the ordinary revenues and (2) the extraordinary revenues. The ordinary revenues are called the Prerogative revenues and they are derived from the following sources, (1) The custody of a Bishop's temporalities, *i.e.,* the

right of the King to take the profits which the episcopal sea is vacant, though these are held in trust for his successor. (2) The rights to annates and tenths. Annates were the first year's profits of church's benefits formerly paid to the Pope and afterwards to the Crown. Tenths were the tenth part of the annual profits of a church's benefit formerly paid to the Pope. These are now paid to the Governor of the Queen Anne's Bounty. (3) Profits derived from the Crown lands. (4) The right to Royal fish wreck, treasure-trove, waifs and cotrays, royal mines and escheats.

The foregoing items constituting the ordinary revenues of the Crown were collected by Prerogative and paid to the King until 1715 when the first Civil Lists Act was passed whereby an arrangement was made between the King and Parliament whereby the King surrendered his Prerogative revenues to the state which are since then paid into the Consolidated Fund and Parliament in consideration of this assignment granted to the Royal family for its maintenance a fixed sum, which is made an annual charge upon the Consolidated Fund and is called the Civil List. The Civil List is not a permanent arrangement but is a temporary agreement made between the reigning King and the Parliament and lasts during the life-time of that King. When a new King succeeds, a new agreement is made with him which again is to last during his life-time. If no agreement is made, the Prerogative of the King in respect of the ordinary revenue will revive. The Civil List arrangement does not abrogate it in any way. It merely affects the appropriation of the revenue. It does not affect the right to raise that revenue.

II. The King's Prerogatives in relation to the foreign relations of the Country.

The King possesses the right and the power to receive Ambassadors of foreign Countries and to send his Ambassadors to them. This is his Prerogative right. The right is important because of the immunity from Civil and Criminal process which Ambassadors, who are recognized as such by the King, enjoy. What those immunities are will be discussed at a later stage. It is enough here to note that they depend upon the recognition by

the King of a person as an Ambassador and that recognition is a Prerogative Right of the King.

The King has also the right to make war and peace whenever he thinks fit to do so. This also is his Prerogative right.

The King possesses the power to make a treaty with any foreign nation. The treaty may be a political treaty or a commercial treaty. It is his Prerogative. The only limitation upon the King's Prerogative to make a treaty is that he must not in any manner affect the rights of his subjects given to them by law.

There are some questions that arise in connection with the question of the King's Prerogatives and which it would not be desirable to pass over without some consideration being bestowed upon them. The first question is this. What is the exact relation of the King's Prerogative to the authority of Parliament ? The second question is what happens if the King becomes incapable of exercising his Prerogative or other Statutory rights ?

Taking the first inquiry for consideration it is necessary to get a clear idea of what is exactly meant when it is said that it is the King's Prerogative to do this, that or other act. What is meant by this expression, that when the King acts on the authority of his Prerogative, he does not need the sanction of Parliament. His authority is inherent in him and is independent of Parliament. But while it is true that the Prerogative power of the King is inherent and independent of Parliament, it must not be supposed that it is on that account beyond the control of Parliament. On the other hand the Prerogative power of the King can be regulated, amended or abrogated by Parliament, so that the correct position would be that the King possesses Prerogative power so long as Parliament has not by law trenched upon it. A matter which was once a matter of Prerogative if subsequently regulated by law made by Parliament, then the King cannot resort to his Prerogative power, but must act within the law which has superseded the Prerogative. Therefore, so far as the first inquiry is concerned, the conclusion is that the King's Prerogative is a source of independent power to him so long as Parliament has not interfered with its existence.

What happens if the King becomes incapable of exercising his Prerogative and other Statutory rights. Now this is no idle inquiry because there are certain important duties which are attached to the Kingly office and the King may become incapable of discharging them. Four contingencies of incapacity may be visualized. (1) The King may be absent from his Kingdom. (2) The King may be a minor. (3) The King may be insane. (4) The King may be morally incapable.

The absence of the King from the Kingdom cannot raise any very great difficulty. Modern means of communication have annihilated distance and have facilitated quick dispatch. The King, therefore, could discharge his Kingly duties from a distance with expedition at any rate without delay. There is also the other possibility of the King delegating his powers to somebody who could exercise them on his behalf when he is away.

Minority of the King cannot create any difficulty so far as the law is concerned. The law holds that the King is never an infant and is capable of transacting business even though he is a minor. A minor King, therefore, can exercise all his powers and discharge all his duties lawfully. Ordinarily if the reigning King is expected to die leaving an infant as his heir, Parliament always takes the precaution of appointing by law a regent. But this is by way of prudence and not by way of any requirement by law.

Insanity makes a hard case. The King cannot delegate his powers if he is insane. Parliament cannot pass a law, appointing a regent because the King being insane cannot give his assent to the Bill. There are two cases of English Monarchs having gone insane, while on the throne, Henry VI (1454) and George III (1788). The procedure then adopted was a very crude one and certainly could be deemed to be strictly in conformity with the law of the Constitution, which requires the assent of all three elements which constitute Parliament.

The moral incapacity of the King is another hard case. Can the King resign supposing people do not want him ? Can the King be deposed if he does not resign ? There is no legal provision regulating the insanity or the moral incapacity of the

King. Question of moral incapacity may not perhaps arise under the English Constitution owing to the development of responsible Government. But the question of insanity might.

Effect of the death of the King

I. On Parliament

The original rule was that Parliament was automatically dissolved by the death of the King. The Constitution and theory of which this was a consequence regarded members of Parliament as councillors of the King who summoned them. The tie of summons was regarded as a personal tie between the King who summoned and the members who assembled in return and that tie was broken by the death of the King. The members called by deceased King could not be on this account be called the councillors of the new King, and the King was entitled to call new councillors, which could happpen only when the old Parliament was dissolved and the new King obtained an opportunity to call a new Parliament. This rule was first amended in * by 7-8 William III Chapter XV whereby it was provided that the existing Parliament was to work for six months after the death of the King if not sooner dissolved by his successor. Subsequently in the year 1867, (30, 31 Victoria, Chapter II 102), the rule was altogether abrogated and the life of Parliament was made independent of the death of the king.

II. On the tenure of office

The original rule was that all executive officers were to vacate their offices on the death of the King, and for the same reasons whereby the death of the King resulted in the dissolution of Parliament. Here again the law has gradually altered the theory. The Succession to the Crown Act of 1707 extended the tenure of executive Officers to six months after the death of the King. By another Act passed in the year * the period was again extended and finally the Demise of the Crown Act of 1901 made the tenure of office independent of the death of the King.

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CHAPTER III

THE HOUSE OF LORDS

The House of Lords consists of three different classes of Peers. (1) Hereditary Peers of England and United Kingdom, (2) Representative Peers and (3) Peers by virtue of Office.

The first question that must be raised and answered in order to understand the Constitution of the House of Lords is this. What is the title of the Peers to sit in the House of Lords ?

Peers of England and the United Kingdom

The title of the English Peers and the Peers of the United Kingdom is founded on the King's writ of summons addressed to each Peer individually to come and to attend Parliament. The English Peerage is created by the King by Letters Patent. No difficulty arises, therefore, with regard to persons holding Peerage by Letters Patent. The only question that arises is whether the King could create a Peerage for life. This was at one time a matter of controversy and the controversy was whether a life-Peer created by the King entitles the Peer to sit in the House of Lords. But the issue was decided finally in the Weynesdale Peerage case in 1856 in which two things were decided. (1) That the King had the right to create any class of life-peer or hereditary but (2) the life-Peer cannot sit as a member of the House of the Lords and the King could not send such a Peer a writ of summons. The reason assigned was that the hereditary character of the Peerage was by custom, if not by law, an integral feature of the Peerage and the King while entitled to exercise his right to create a Peerage was not entitled to abrogate the custom.

What about the right of the Peers whose Peerage was not created by Letters Patent ? Their right also was founded upon the King's writ of summons.

Two questions, however, were long agitated with regard to the writ of summons to such Peers. Could every Peer claim the writ of Summons ? Was the King free to address or not to address

the summons to any Peer? On behalf of the Peers it was contended that only Peers who held their Peerage by what is called tenure by Barony were entitled to summons and that no other Peer was entitled to summons, nor was the King free to address the summons to a Peer who fell outside that class. On the other hand it was contended on behalf of the King that the writ was not a special privilege confined to Peers by Barony nor was there any limitation upon the King's right to address the summons to the Peers. The controversy was in the long run settled and two rules can now be laid down as rules governing the right to writ by Peers whose Peerage is not evidenced by Letters Patent.

(1) Tenure by Barony is no ground for a claim to a writ from the King.

(2) The King was bound to summon by a writ to sit in the House of Lords a descendant of a person, who had received a writ and taken his seat in that House in accordance therewith. In other words the descendant of a person, however distant and whatever the break in the interval, who can be proved to have received a writ from the King can claim a similar writ by a hereditary right. The English Peerage, therefore, is a hereditary Peerage and all heriditary English Peers are, therefore, entitled by their hereditary right to a writ of summons from the king and be members of the House of Lords.

(3) Although the right is a hereditary right it is subject to two rules, (1) The rule of Primogeniure and (2) The rule of male descendant.

Representative Peers

The representative peers fall into two classes. Representative Peers of Scotland and representative Peers of Ireland. The title of the representative Peers of Scotland is founded on the treaty of Union between England and Scotland which took place in 1707 and which made them into a Common Kingdom under a Common King and was called the United Kingdom of Great Britain. Prior to its Union with England, Scotland had its own Peerage with its hereditary right to sit. The Union of Ireland with Great Britain

took place in 1800. As in the case of Scotland, Ireland has also its own Peerage with hereditary right to sit in the old Irish Parliament. On the amalgamation of Ireland and Scotland by their respective treaties of Union with England, the question arose as to how much representation was to be allowed to the old Scottish and Irish Peers in the new Parliament of Great Britain and Ireland. The English Peers claimed for every one of themselves the right to sit in the new Parliament. The Scottish and the Irish Peers claimed similar right for every member of their own class.

In the settlement that was arrived at, it was agreed (l)that the English Peers should be allowed each to sit in the new Parliament. (2) The Scottish Peers were allowed to elect sixteen (16) out of their number as their representatives in the new Parliament. (3) The Irish Peers were allowed to elect 28 out of their number. The Scottish Peers are elected for the duration of a single Parliament. When Parliament is dissolved, there takes place a new election of the 16 representative Scottish Peers by the Peers of Scotland. The Irish representative Peers on the other hand are elected for their lives, and there is no new election of Irish Peers when Parliament is dissolved. A new election takes place only when a vacancy takes place in the representative Irish Peers by death or by any other disqualifying cause.

In addition to these three ancient territorial Peerages existing from before the time of the Union, there has been created a fourth category of Peerage known as the Peers of the United Kingdom with a right to sit in the House of Lords. Such a Peerage could be conferred by the King even on a Scottish Peer or an Irish Peer in which case if the Peerage is hereditary, the holder would be entitled to sit in the House of Lords notwithstanding of the treaties of Union with Ireland and Scotland.

Peers by virtue of Office

The Peers who sit in the House of Lords by virtue of office fell into two divisions (1) The Lords spiritual and (2) the Lords of appeal in ordinary. By law twenty-six, officials of the Church are

entitled to sit in the house of Lords. Of these, the Archbishops of Canterbury and York and the Bishops of London, Durham and Winchester have the right to sit in the House of Lords as Lords Spiritual. Of the remaining 21 spiritual Peers, 21 diocesan Bishops in order of seniority of appointment have a right to sit in the House of Lords. So when one of the 21 Bishops dies or resigns, his place in the House of Lords is taken not by his successor but by the next senior diocesan Bishop.

The Lords of Appeal in ordinary

The House of Lords, besides being a Legislative Assembly, is also a Court of Judicature. It is for most purposes, the final and the highest Court of Appeal from the King's Courts in England, Scotland and Ireland. This judicial function being the function of the House of Lords as such, there is nothing to prevent any Peer of Parliament from taking part in the decisions of any appeal that would be brought before the House in its judicial capacity. The House of Lords in the main is a body of lay Peers not versed in the intricacies of law and not possessing any legal training. To allow such a body to permit to discharge the functions of the highest Judiciary involved a great danger to the cause of justice. It was, however, not possible to take away this jurisdiction from the House of Lords altogether. As a compromise, the Act of 1876 called the Appellate Jurisdiction Act was passed. It retained the Jurisdiction of the House of Lords as the final Court of Appeal but provided that no appeal should be heard and determined by the House of Lords unless there were present at such hearing and determination at least three Lords of Appeal. The Lords of Appeal consist of (1) The Lord Chancellor for the time being, (2) such sitting Lords in the House as have held high judicial office and (3) the Lords of Appeal inordinary, appointed by the King.

The Appellate Jurisdiction Act of 1876 which gave the power to the Crown to appoint Lords of Appeal inordinary to sit in the House of Lords, made the tenure of those Lords of Appeal as Peers dependent on the continuance of his discharge of his judicial functions as a Lord of Appeal. In 1887, however, this was altered and the tenure of a Lord of Appeal inordinary is now a life tenure.

Having stated the composition of the House of Lords, we may next proceed to consider certain questions that arrive in connection therewith. The first is this. What is the title of the Peers to sit in the House of Lords ? The title of the Peers to sit in the House of Lords is not founded upon election by a Constituency as is the case with the members of the House of Commons. Their title is founded by a writ of summons addressed to each Peer individually to come and attend Parliament. It is a kind of nomination by the King although the power to nominate is strictly regulated and does not leave any discretion in the King to revoke and alter the course of nominations from Parliament to Parliament

While the right of the Peer is founded on the writ of summons issued by the King, there are certain restrictions on the King's right to summon Peers. An Alien Peer that is a Peer who is not a British subject cannot be summoned to sit in Parliament

A second question that must also be considered relates to the admissibility and divesting by the Peer of his title. A Peerage is a non-transferrable dignity and the title to it cannot be transferred by sale or by gift to another. It can be claimed by another only by inheritance in accordance with the rules of heritage. Similarly a Peer cannot surrender his title and cease to be a Peer. The principle which govern the Peerage is, once a Peer always a Peer.

A third question must relate to the difference between Peerage and the House of Lords. Popularly the expression Peers of the Realm and the House of Lords are used synonymously. Legally speaking there is a difference between the two. A person may be a Peer of the Realm and yet not be a member of the House of Lords. The case of a life-Peer is an illutration in point. A life-Peer is a Peer of the Realm and yet he cannot be a member of the House of Lords, because of the rule that the Peer who is a Peer otherwise than by virtue of office must be a hereditary Peer in order that he may get a right to sit in the House of Lords. Contrariwise, a person may be a member of the House of Lords, although he is not a hereditary Peer. The case of the spiritual Lords and the Lords of Appeal inordinary is an

illustration in point. The Archbishops and Bishops as also the Lords of Appeal inordinary are entitled to writ of summons from the King to the House of Lords, the former while they hold their offices and the latter during their life-time. Yet they are not Peers in the legal sense of the term inasmuch as Peerage connotes a hereditary right

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THE POWERS AND PRIVILEGES OF THE LORDS AND THE COMMONS

Both Houses of Parliament enjoy certain privileges in their collective capacity as constituent parts of Parliament and which are necessary for the support of their authority and for the proper exercise of their functions. Besides the privileges enjoyed collectively as members of the two Houses of Parliament, there are other privileges enjoyed by members in their individual capacity and which are intended to protect their person and secure their independence and dignity.

SECTION I

(I) PRIVILEGES OF PARLIAMENT

(1) **Privileges of the House of Commons.**—The right to exclude strangers and to debate within closed doors is one of the privileges claimed by the House of Commons. The origin of this privilege lies in the existence of two different circumstances. One circumstance related to the seating arrangements for members in the House of Commons, which was so defective that strangers and members of Parliament were often mixed together. The result was that the strangers were often counted along with the members in divisions. To prevent this, the House claimed the right to exclude strangers. The second circumstance related to the system of espionage practised by the King over members of the House of Commons. In those days, as reporting of the speeches by the members in the House had not become systematic the King was anxious to know who were his friends and who were his enemies, employed spies, whose duty it was to report to the King the speeches made by members on the floor of the House. This was followed by intimidation of the members by the King or by other acts of displeasure, which had the effect of curtailing the independence of the members. And the only way by which the House could protect itself against the system of espionage practised by the King was to claim the right to exclude strangers.

Under this privilege it did not follow that strangers could not enter the House and listen to the debates. As a matter of fact, they did enter and listen to the debates. The effect of the privilege was that if a member took notice of their presence, the Speaker was obliged to order them to withdraw. This worked inconveniently because the objection of one member to the presence of strangers was enough to compel the Speaker to order them to withdraw. In 1875, therefore, the rule was altered by a resolution of the House, which prescribed that if any member took notice of the presence of the strangers or to use technical language rose to address the Speaker "Sir, I spy strangers", the Speaker shall forthwith put the question that strangers be ordered to withdraw without permitting debate or amendment and take the sense of the House and act accordingly. This resolution while retaining the privilege of excluding strangers, makes its exercise subject to the wishes of the majority of the House, and not to the caprice of an individual member. The rule, however, gives the Speaker the power to order the withdrawal of strangers at any time on his own initiative and without a motion from any member of the House.

The House of Commons claims the privilege of secrecy of debates and have the right to prohibit the publication of their debates and their proceedings. In 1771, an incident occurred which put the privilege beyond debate. A certain printer who resided in the city of London printed the debates of the Commons without their permit. The Commons having taken offence at this breach of their privilege, sent a messenger under the authority of the Speaker to arrest the printer. The printer in his turn handed over the messenger of the House of Commons to the custody of a constable for assaulting him in his own house. In the criminal proceedings that took place, the Mayor and the two aldermen of the city of London who constituted the bench held that the warrant of arrest issued by the House of Commons was not operative within the city on account of its charter and committed the messanger of the Commons though they left him out on bail. The Commons sent for the Mayor and the aldermen who constituted the bench and their clerk who recorded the recognisance of the messenger in his book. They erased from the book

the entry relating to the messenger's recognisance by tearing the page and committed the Mayor and the aldermen to the Tower of London for challenging the authority of the Warrant. Since then no one has ventured to offend against the privilege of the Commons relating to the secrecy of debates. The reports of the debates which one sees today are made on sufferance and published on sufferance, and they could be prohibited any time by the order of the House in that behalf. This was done on some occasions during the last war when many subjects were discussed on the floor of the House in secrecy without any reports being published of the debates.

Another privilege which the House of Commons claims is the right to provide for the proper Constitution of the House. Under this privilege, falls the consideration of three distinct questions.

(1) Filling of Vacancies.—While the holding of a general election for the summoning of a new Parliament is a Prerogative of the King, the filling up of vacancies during the continuance of a Parliament is a privilege of the House of Commons. Consequently, when a vacancy occurs, the writ for the return of a member to supply the vacancy is issued on a warrant by the Speaker in pursuance of an order by the House and not in pursuance of an order from the King. If Parliament is not sitting when the vacancy occurs, the Speaker is authorised to issue the writ subject to certain conditions.

The second question that falls within this privilege is the determination of disputed elections. This question formed for a long time a bone of contention between the King on the one hand and the Commons on the other. Each party claimed the right for itself to the exclusion of the other. Originally the writ issued to a constituency for an election was returned to Parliament, thereby recognizing the right of the Commons to fill a vacancy in that particular constituency. Since the reign of Henry IV, it was returned to Chancery, thereby recognizing the right of the King to fill the vacancy. The matter thus alternated till 1604 when the Commons insisted that the right was theirs and a quarrel arose between them and James I. In that year, the King James I issued a proclamation directing that no bankrupt or out-law be elected to

Parliament. The County of Bucks elected one Mr. Goodwin. He was an outlaw and the King declared his election void and issued another writ. And Mr. Fortesque was returned. The Commons on their own motion resolved that notwithstanding the avoidance of his election by the King, Mr. Goodwin was duly elected a member of the House. The King on the other hand claimed the right to determine the issue. At a conference held between the King, the Lords and the Commons, the Lords advised the King to accept defeat and recognise the right of the Commons. The trial of disputed elections by the House became a source of trouble to the House and anxiety to the candidates because all such trials became matters of party politics and in 1868 the House was pleased by law to leave the adjudication of disputed elections to the Court of Law.

The third right which falls within the purview of this privilege is the right of the House to expel a member who has behaved in a manner which would render him unfit to sit in the House. Expulsion is not a disqualification and the member expelled may be again elected. It must be borne in mind that the right to be elected does not carry with it the right to sit. To be elected is a favour derived from the electors. To be allowed to sit is a favour within the competence of the House and cases have occurred in which persons have been duly elected to the House of Commons but who have not been able to take their seats in the House. The case of Wilkes is an illustration in point. Wilkes was elected four times in succession by the County of Middlesex and on all the four times, he was refused by the House a seat. The next important privilege claimed by the House of Commons is the right to exclusive cognisance of matters arising within the House. Under this privilege, the House has the exclusive right to regulate its internal proceedings and concerns and the mode and manner of carrying on its business and that no Court could take cognisance of that, which passes within its walls. The nature and extent of this privilege are well-illustrated by the case of *Bradlaugh* vs. *Gosset*. The facts of this case are simple. On the 3rd of May 1880, Mr. Bradlaugh, who was elected a member from Northampton claimed to make the affirmation instead of the oath as he was an atheist. A Committee of the House of Commons

reported that affirmation was confined to proceedings in a Court of Law and that the members of Parliament could not resort to it. Oath was the only thing that was open to them. After this report, Mr. Bradlaugh came to the Speaker's table to take the oath. The house, however, objected on the ground that it would not be binding upon his conscience, and that it would be a mere formality. Another Committee was appointed to report whether Mr. Bradlaugh should be permitted to take the Oath. The Committee reported that he should not be permitted to take the oath but recommended that he should be allowed to affirm subject to its legality being tested in a Court of Law. In accordance with this, a motion was made to allow Mr. Bradlaugh to affirm to which an amendment was made disallowing him either to affirm or to take oath. Bradlaugh, however, insisted upon his right to take the oath, but the Speaker asked him to withdraw. He refused and the sergeant was asked to remove Mr. Bradlaugh. A scuffle ensued between Mr. Gosset, the sergeant and Mr. Bradlaugh in which Mr. Bradlaugh was very badly injured. A standing order was passed allowing affirmation. Mr. Bradlaugh affirmed but the Court declared that affirmation was not permissible to a member of Parliament. His seat was thereafter vacated. Re-elected again in 1881, the same scene was repeated. Whenever he came to the table to take the oath, the House resolved that he be not allowed to do so. On one occasion by the direction of the Speaker, Mr. Bradlaugh was conducted by Sergeant Gosset beyond the precise of the House and subsequently expelled. Bradlaugh brought an action against Gosset in the Queen's bench division for an injunction to restrain Gosset from using force to prevent his taking the oath. The House made the usual order for the defence of the sergeant. The Queen's bench division refused relief to Mr. Bradlaugh on the ground that the order under which Gosset acted related to the procedure of the House and that the Court had no power to interfere in such a matter.

The House of Commons claims the privilege to protect its dignity and authority. It would be in vain to attempt any enumeration of the acts which might be construed by the House as an insult

or an affront to its dignity. But certain principles may be laid down :

(1) Disobedience of any of the orders or rules which regulate the proceedings of the House is a breach of the privilege. Publication of debates contrary to the resolution of the House, wilful misrepresentation of the debates, publication of evidence taken before a select Committee until it has been reported to the House are examples of the breach of this rule.

(2) Disobedience to particular orders. Resolutions are agreed to at the beginning of each session which declare that the House will proceed with the utmost severity against persons who tamper with witnesses in respect of evidence to be given to the House or to any Committee thereof, who endeavour to deter or hinder persons from appearing or giving evidence and who give false evidence before the House on any Committee thereof, would be guilty of breach of privilege by reason of disobedience to particular orders.

(3) Indignities offered to the character or proceedings of Parliament or upon the honour of the House by libellous reflections would be a breach of the privilege. It is not to be supposed that only members of the public can be held guilty for a breach of privilege under this rule. Even members of Parliament could be made punishable if they commit the breach of this rule. In 1819, Mr. Hobhouse, who was an M.P., denounced the resistence offered by the House of Parliamentary Reforms, in a pamphlet which he published anonymously. After his having acknowledged himself as the author of the pamphlet, the House held him guilty of the breach of privilege. In 1838, another instance occurred when Mr. Ocomed an M.P. at a public meeting laid a charge of foul perjury against members of the House in the discharge of their judicial duties in election committees.

(4) Interference with the members of the House in the discharge of their duties as members of the House.

It is an infringment of the privilege of the House to assault, insult or menace any member of the House in his coming or going from the House or on account of his behaviour in Parliament or to endeavour to compel members by force to declare themselves in favour of or against any proposition then pending or expected to be before the House or bribing members of parliament to vote in a particular manner.

SECTION II

PRIVILEGES OF INDIVIDUAL MEMBERS

(1) *Freedom from arrest.*—This privilege guarantees freedom from arrest for members during the continuance of the session and 40 days before the commencement and after its conclusion. Originally this privilege was not only enjoyed by members but also extended to their servants and their estates. It is now restricted to members only and that too to their persons.

(2) *Freedom of speech.*—The statute of William and Mary S2 C2 enacts that members shall enjoy complete freedom of speech in Parliamentary debates and proceedings and that nothing said by them shall be questioned or impeached in any Court or place out of Parliament.

SECTION III

METHODS OF PUNISHING BREACHES OF PRIVILEGE

There are five different ways in which the House can punish persons who are guilty of a breach of privilege. In cases of breach of privilege which are not grave, the House may release a person arrested for breach of privilege on mere admonition if he is prepared to tender apology. Or secondly, may release him on a reprimand. In cases of a grave character, the House can commit him to prison or inflict a fine or expel him. It is obvious that the last form of punishment namely, expulsion, can apply only to members of parliament who are guilty of a breach of privilege.

SECTION IV

PRIVILEGES OF THE HOUSE OF LORDS

The privileges of the House of Lords are more or less the same as those of the Commons. It is, therefore, unnecessary to discuss them separately in detail. There is only one point of difference between the privileges of the Lords and the Commons which need to be mentioned and which relates to the source of their privileges. The privileges of the Commons are a gift from the

King. They have to be claimed by the Speaker in the name of the Commons in the beginning of every newly elected Parliament. The privileges of the Lords belong to them in their own right. They are not derived from the King.

*SECTION V

OFFICERS OF THE HOUSE

The House of Lords and the House of Commons possess ertain Officers for the general conduct of their business and for the enforcement of their privileges. For the sake of clarity it might be desirable to discuss the status and the functions of the Officers of the two Houses separately.

†SECTION VI

THE HOUSE OF COMMONS

(1) **The Speaker.**—The Speaker is now elected by the House of Commons at its first meeting after the general election and continues to hold the place till the life-time of the Parliament unless removed from Office by a resolution. Originally the King claimed and exercised a virtual right of selection. In 1679, there arose a conflict between the Charles II and the newly elected House of Commons on the right to choose the Speaker. The Commons chose Sir Edward Sey Mour and the King declined to accept him. The King suggested his own nominee to the Commons and the Commons in their turn refused to have him. Eventually a compromise was arrived at, and another person who was an independent choice of the Commons was adopted by them as their Speaker. To him the King raised no objection. From this time onward, the right of the Commons to chose their own Speaker was not contested by the Crown.

SECTION VII

THE FUNCTIONS OF THE SPEAKER

The Speaker of the House of Commons functions in three distinct capacities. As the Spokesman and representative of the House he performs the following duties.—

(1) He demands its privileges and communicates its resolutions of thanks, ensures admonitions and reprimands.

* Original No. is Section VI—ed.

† Section number is not mentioned in M.S.—ed.

(2) He issues warrants of commitments whenever a person is punished for breach of privilege. He issues warrants for attendance at the bar for being rebuked or sentenced by the House or for any other purpose as provided for in the order of the House.

(3) He issues writs for filling up vacancies.—The Parliament Act of 1911 has imposed upon the Speaker a new function which did not belong to him before. Under the Act, he the functions as a judicial officer and in that capacity he has to certify whether any particular bill is a money-bill or not

The Speaker is also the Chairman of the House whenever the House meets to carry on its business. In his capacity as a Chairman he is required:

(1) To maintain order in debates.

(2) To decide questions upon points of order.

(3) To put the question under discussion to the House.

(4) To declare the determination of the House on the question.

SECTION VIII

OFFICERS UNDER THE SPEAKER

There are two Officers under the Speaker of the House of Commons. One is called the clerk of the House of Commons and the other is called the Sergeant at arms. The duty of the clerk of the Commons is to maintain a record of the proceedings of the House. He maintains what is called the journal of the House of Commons in which are noted all matters brought before the House and discusses by it in their order from day-to-day.

The Sergeant at arms is a sort of a Police Officer whose duty is to enforce the orders of the House and the Speaker in relation to internal order and to breach of privilege.

THE HOUSE OF LORDS

The Speaker.—The Speaker of the House of Lords is not an elected person and the House of Lords has no right to elect its own Speaker. The Speaker of the House of Lords is by prescription the Lord Chancellor or the Lord Keeper of the Great Seal, who can act as Speaker in the absence of the Lord Chancellor. In their absence the place is taken by any one of the Deputy-Speakers

of whom there are always several appointed by the King's Commission and if they should all be absent, the Lords elect a Speaker for the time being. The Speaker of the House of Lords need not necessarily be a Peer, and that office may be discharged by a commoner and has been so discharged when a commoner happened to be the Lord Keeper of the Great Seal or when the Great Seal was in commission. It is singular that the President of this deliberative body is not necessarily a member of it, and the Woolsack on which the Speaker sits is treated as being outside the limits of the House of Lords, so as to permit the office being discharged by a person who is not a member of the House.

THE DUTIES OF THE SPEAKER IN THE LORDS

The position of the Speaker of the House of Lords is totally different from the position of the Speaker of the House of Commons. There is nothing common between them as far as their authority and function is concerned except that both are Chairmen of a deliberative assembly. But so far as their function and authority is concerned, their position is fundamentally different. This is clear from standing order No. 20 which defines the duties of the Lord Chancellor as a Speaker of the House of Lords. The standing order says: "The Lord Chancellor when he speaks to the House is always to speak uncovered and is not to adjourn the House or to do anything else as mouth of the House, without the consent of the Lords first had, except the ordinary thing about bills which are of course wherein the Lords may likewise overrule, as for preferring one bill before another and such like, and in case of difference among the Lords, it is to be put to the question, and if the Lord Chancellor speak to anything particularly, he is to go to his own place as a Peer" and be it noted that the place of the Lord Chancellor if he is a Peer is to the left of the Chamber. It is clear from the standing order how limited is the authority of the Speaker in the Lords.

(1) In the enforcemment of rules for maintaining order the Speaker of the House of Lords has no more authority than any other Peer.

(2) He cannot decide points of order as is done by the Speaker of the House of Commons. If he is a Peer he may address the House on any point of order raised. But the decision on it is the decision of the Majority of the House.

(3) Owing to the limited authority of the Speaker in the Lords in directing the proceedings of the House, the right of a Peer to address the House depends not upon him as it does in the House of Commons but depends solely upon the will of the House. When two Peers rise at the same time, unless one immediately gives way to the other, the House calls upon one of them to speak and if each is supported by a party, there is no alternative but division. The issue is not decided by the Speaker, as is done in the House of Commons.

The result of his imperfect powers is that a Peer who is disorderly is called to order by another Peer perhaps of an opposite party and that an irregular argument is liable to ensue in which case, each last Speaker imputes disorder to his predecessor and recrimination takes the place of an orderly debate with the Lord Chancellor sitting but powerless to intervene, as his power is limited to the putting of questions and carrying on other formal business.

OTHER OFFICERS

There are three other officers under the Lord Chancellor as Speaker of the House of Lords.

(1) **The clerk of the Parliament.**—His duties are similar to those of the clerk of the House of Commons, namely, to keep the record of the proceedings and judgments of the House of Lords in a journal.

(2) **The Gentleman Usher of the Black rod,** whose duties are analogous to those of the Sergeant at arms in the House of Commons. He does the policing of the House.

(3) **The Sergeant at arms** is the attendant on the Lord Chancellor.

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II

PARAMOUNTCY AND THE CLAIM OF THE INDIAN STATES TO BE INDEPENDENT

The announcement by Travancore and Hyderabad to declare themselves Independent Sovereign States on 15th of August when India becomes a dominion and the inclination shown by other States to follow their example has created a new problem. The problem is a crucial one and requires to be seriously considered. There are two aspects to the question. Can the States declare themselves Independent ? Should they declare themselves Independent?

To begin with the first. The basis of the claim made by the States for a right to declare themselves independent lies in the Statement of 12th May 1946 issued by the Cabinet Mission in which they say that the British Government could not and will not in any circumstances transfer paramountcy to an Indian Government which means that the rights of the States which follow from their relationship to the Crown will no longer exist and that all the rights surrendered by the States to the paramount power will return to the States. The Statement of the Cabinet Mission that the Crown could not transfer paramountcy is obviously not a statement of political policy. It is a statement of law. The question is, is this a correct statement of the law as it applies to the States ?

There is nothing original in the proposition set out by the Cabinet Mission. It is a mere repetition of the view propounded by the Butler Committee appointed in 1929 to examine the relationship between the Crown and the Indian States.

As students of the subject know the Princes in the stand they took before the Butler Committee contended for two propositions:—

(i) That Paramountcy could not override the terms and conditions contained in the Treaties between the Princes and the States but was limited by them.

(ii) That the relations embodied in Paramountcy were of a personal nature between the Crown and the Princes and could not, therefore, be

transferred by the Crown to an Indian Government without the consent of the Princes.

The Butler Committee repudiated the first of these two contentions. It put the matter in most ruthless language by declaring that Paramountcy was Paramount and was not limited by any terms contained in the Treaties. As regards the second contention, strangely enough, the Butler Committee upheld. Whether it was to appease the Princes who were annoyed with the Committee for turning down the Princes' contention regarding Paramountcy it is no use speculating. The fact, however, remains that it gave immense satisfaction to the Political Department of the Government of India and to the Princes.

The doctrine that Paramountcy cannot be transferred to an Indian Government is a most mischievous doctrine and is based upon an utter misunderstanding of the issues involved. The doctrine is so unnatural that the late Prof. Holdsworth, author of the History of English Law, had to exercise a great deal of ingenuity in defending it in the pages of the Law Quarterly Review for October 1930. Unfortunately, no Indian student of Constitutional Law has ever bothered to controvert his views with the result that they have remained as the last and final word on the subject. No wonder the Cabinet Mission adopted them as valid and acted upon them in settling the issue of British India *vs.* Indian States. It is a pity that the Congress Working Committee, which was negotiating with the Cabinet Mission for a settlement, did not challenge the proposition enunciated by the Mission in regard to Paramountcy. But these circumstances cannot take away the right of Indians to examine the matter *de novo* and come to their own independent judgment and stand for it if they are convinced that their view is the right view, no matter what the Cabinet Mission has said.

The case against the position taken by the Cabinet Mission in regard to Paramountcy can be stated in the following propositions :—

(1) Paramountcy merely is another name for what is called the prerogative of the Crown. It is true that Paramountcy as a prerogative of the Crown differs from the ordinary prerogative of the Crown in two respects—(a) The basis of the ordinary prerogative of the Crown lies in

Common Law as distinguished from Statute Law while the basis of the Prerogative arising from Paramountcy lies in treaties supplemented by usage, (b) the Common Law prerogative of the Crown extends to all the subjects of the Crown resident in the King's dominions and over aliens temporarily resident therein while Paramountcy as a prerogative extends only over the Indian States. Paramountcy is no doubt a distinct part of the prerogative of the Crown. Nonetheless, the fact remains that Paramountcy is a prerogative of the Crown.

(2) Being the prerogative of the King, the exercise of Paramountcy is subject to that part of the Municipal Law which is called the law of the Constitution

(3) According to the principle of the Constitutional Law, while the prerogative vests in the King, the King has no discretion in the exercise of his prerogative but can exercise it only in accordance with the advice given to him by his Ministers. The King cannot exercise it independently of the advice of his Ministers.

The last proposition enunciated above requires further elaboration, For, it may be asked on the advice of which Ministry is the Crown to act. The answer is on the advice of the Ministry of the Dominion concerned. Before the Statute of Westminster the British Empire constituted one single Dominion. Consequently, in the matter of the exercise of its prerogative rights, the Crown acted on the advice of the British Cabinet. After the passing of the Statute of Westminster which carved out Canada, Australia, South Africa and Ireland as separate Dominions, the Crown, in the exercise of its prerogative rights acts on the advice of the Cabinet of the Dominion concerned. It is bound to do so. It cannot do otherwise. It follows that when India becomes a Dominion, the Crown will be bound to act in the exercise of its prerogative rights, *i.e.,* Paramountcy on the advice of the Indian Cabinet.

The protagonists of the theory, that Paramountcy cannot be transferred to the Government of India, rely on the omission from the Government of India Act 1935 of the provisions of section 39 of the Government of India Act of 1933 (they were reproduced in section 33 of the Government of India Acts, 1915—19) according to which the civil and military Government of India (as distinguished from the civil and military Government of British India) is vested in the Governor-General in Council and argue that the omission is evidence in support of the

conclusion that Paramountcy could not be transferred to an Indian Government. To say the least the argument is purile. The Existence or non-Existence of such a provision in the Government of India Act is quite beside the point and proves nothing. The non-existance of the clause does not prove that India can under no circumstances claim the right to advice the Crown in regard to the exercise of Paramountcy. Its existence in the Government of India Act does not mean that such a power was vested in it during 1833 to 1935 when it formed part of the Act for, that very clause contained the proviso whereby the Governor-General in Council was required to pay due obedience to all such orders as may be issued from the Secretary of State which means, even during 1833 to 1935, the ultimate authority to advice the Crown in the matter of the exercise of the prerogative was the Secretary of State for India in British India.

The different methods of disposing of Paramountcy adopted in the various Acts passed by Parliament relating to the governance of India between the 1833 to 1935 do not and cannot in any way affect the claim of the Indian people to advise the Crown in the exercise of Paramountcy. Under the Constitutional Law of the Empire only when a country has become a dominion, that it can claim the right to advise the Crown and the fact that before it became a dominion the Crown was differently advised is no bar to its claim. In the 1935 Act, India was not a country with responsible Government. But even if it was, India could not have claimed to advise the Crown in regard to the exercise of its prerogative rights regarding Indian States. This is because the Constitutional Law of the British Empire makes difference between responsible Government and Dominion Status. In responsible Government, the right of the Cabinet to advise the Crown and the obligation of the Crown to accept it is confined to cases of the exercise of the prerogative arising out of the internal affairs of the country. As to external affairs the British Cabinet retained the right to advise the Crown. But in the case of a Dominion, the Crown is bound to accept the advise of the Ministry with regard to all cases of the exercise of the prerogative whether it relates to internal affairs or external affairs. That is

why a dominion can make a treaty with a foreign country without the intervention of the British Cabinet. The fact that the Government of India was not permitted to advise the Crown in the exercise of its rights of Paramountcy does not mean that there is any inherent Constitutional incapacity which disentitles her from claiming the right to advise. The moment India gets the Status of a Dominion it automatically acquires the capacity to advise the Crown on Paramountcy. What has been stated above is no more than a summary of the Constitutional Law of the British Empire and the process of its evolution showing how a part of the Empire which acquires the Status of a Dominion becomes vested with the exclusive right to advise the Crown in the exercise of its prerogative. Why should this right be denied to India when she becomes a Dominion it is difficult to understand. On parity of reasoning, India should get the right to advise the Crown in the exercise of its prerogative as did Canada, Australia, South Africa and Ireland. That Prof. Holdsworth came to a different conclusion is due not to any difference in the fundamental propositions of Constitutional Law stated above. Indeed he accepts them in toto. The reason why he came to a different conclusion is because he posed quite a different question for argument. The question posed by Prof. Holdsworth was whether the Crown could cede or transfer Paramountcy to an Indian Government. This is not the real issue. The real issue is whether the Indian Dominion can claim the advise to the Crown in the exercise of Paramountcy. In other words, we are not concerned with the question whether Paramountcy could be transferred. The issue with which we are concerned is how Paramountcy can be exercised. I am sure that if Prof. Holdsworth had realised what the real issue was, he could not have come to a different conclusion.

So far I have dealt with one part of the Cabinet Mission's statement where they say that the Crown could not transfer Paramountcy to an Indian Government. There remains for consideration the other parts of their statement in which they say that the Crown will not transfer Paramountcy to an Indian Government. According to the Cabinet Mission, Paramountcy will lapse. This is a most astounding statement and runs

contrary to another well-established principle of the Constitutional Law. According to this principle, the King cannot surrender or abandon his prerogative rights. If the Crown cannot transfer Paramountcy the Crown cannot also abandon it. The validity of this principle was admitted by the Privy Council in The Queen *vs.* Eduljee Byramjee decided in 1840 and reported in 5 Moore's P.C. p. 276 wherein they said (p. 294) that the Crown could not even by charter part with its prerogative. It is, therefore, obvious that the statement made by the Cabinet Mission that the Crown will not exercise Paramountcy is contrary to the Constitutional Law by which the Empire is governed. The Crown must continue to exercise Paramountcy. It is of course true that the Crown can surrender its prerogative if permitted to do so by express statutory authority. The question is whether it would be legal and proper for the British Parliament to make a Law permitting the abandoning of Paramountcy. It would be open, I am sure, for Indians to argue that such a step by the British Parliament would neither be proper nor legal. It would not be legal for the simple reason that after India becomes Dominion, the Statute abrogating Paramountcy can be passed by the Dominion Parliament of India and the British Parliament would have no jurisdiction in this matter at all. Again a Statute passed by the Parliament of the Great Britain abrogating Paramountcy would be improper. The reason is obvious. The army is the ultimate sanction for Paramountcy. This army has been the Indian Army for which British India has paid all along. Without the powerful army maintained by British India which was placed at the disposal of the Crown through his agent the Viceroy and Governor-General of India, the Crown would never have been able to build up and conserve the powers of Paramountcy. These powers are of the nature of a Trust held by the Crown for the benefit of the people of India and it would be a gross breach of trust on the part of the British Parliament to pass a statute destroying this trust. Paramountcy is an advantage which is secured to it by treaty with the Princes. Independent India can, therefore, make valid claim for the inheritance of Paramountcy.

A question may be asked : What happens when India become Independent. The Crown disappears and the question of advising

the Crown does not remain. Can Independent India claim to inherit the prerogative rights of the Crown ? The answer is yes. She can. Independent India will be a succession State. For an answer to this question one must look to the provisions of International Law relating to succession among States. Oppenheim admits that a succeeding State can inherit certain rights of the preceding State. From Hall's International Law, it would appear that among other things, property and advantages secured to it by treaty can be inherited by a succession State. India as a succession State she can inherit certain rights. On this point the following extracts from Hall's International Law are relevant :

> "And as the old State continues its life uninterruptedly, it possesses everything belonging to it as a person, which it has not expressly lost; so that property and advantages secured to it by treaty, which are enjoyed by it as a personal whole, or by its subjects in virtue of their being members of that whole, continue to belong to it. On the other hand, rights possessed in respect of the lost territory, including rights under treaties relating to cessions of territory and demarcations of boundary, obligations contracted with reference to it alone, and property which is within it, and has, therefore, a local character, or which, though not within it, belongs to state institutions localised there, transfer themselves to the new state person."

The conclusion is that the Indian States will continue to be in the same position when India becomes Independent as they are now. They will be sovereign States to the extent they are, but they cannot be independent States so long as they remain under the suzerainty, as they must be, either of the Crown, if India remains a Dominion and under the suzerainty of the succession State, if India becomes independent. While the suzerainty remains they can never be independent. The States may declare themselves independent. But they must realise that while the suzerainty lasts and it must continue even when India becomes independent, India will not recognize their independence nor can a foreign State accord them the status of an independent State. The only way by which the Indian States can be free themselves from Paramountcy would be to bring about a merger of sovereignty and suzerainty. That can happen only when the States join the Indian Union as constituent units thereof. The States' spokesmen ought to know this. But as they seem to have

forgotten it is necessary to remind them of what happened at the R T C. In the beginning, the States were not prepared to join the Federation. They agreed to join the Federation when they came to know that the Butler Committee had laid down the doctrine that Paramountcy was Paramount. This change of attitude was due to the realization that to the extent the powers comprised in Paramountcy were handed over to the Federation to that extent Paramountcy would vanish. In fact, as most of us know, the Princes did raise the question to the then Secretary of State and asked him that the scope of Paramountcy should be limited to, by excluding the subjects included in List No. I. The then Secretary of State had no answer to give and silenced the Princes by frowning upon them. Apart from the attitude of the then Secretary of State, the point remains that the Princes had seen the point that the dissolution of Paramountcy lay in joining the Federation. That point remains as valid now as it was then. It would be wise on the part of the Indian States to follow that line and not to pursue the mirage of independence. The people of India should, therefore, repudiate the proposition enunciated by the Cabinet Mission that Paramountcy will lapse. They should insist that Paramountcy cannot lapse and that they are the heirs to that Paramountcy and will continue to exercise it, *vis-a-vis* such Indian States as do not join the Union even after the British have left. The States, on the other hand, should realize that their existence as Sovereign Indian States will not be worth 5 years purchase. It is in the interest of the Princes that they should join the Union and become Constitutional monarchs. Any Dewan who advises his Prince not to join the Union is really acting as the enemy of the Prince. The joining of the Federation will no doubt involve the introduction of responsible Government but it has this advantage, viz., that the Union will guarantee to the Princes the rights relating to dynastic succession which is the most that a Prince can expect. To be independent and to hope to get recognition and protection from the UNO is to live in one's own paradise. It is doubtful if the UNO will give recognition to Indian States ignoring the claim by India of suzerainty over them. But even if that happens, the UNO will never grant any assistance to an Indian State from external aggression or internal commotion without insisting that the State should first introduce responsible

Government within its area. All these things are writ large on the wall. He who runs may read it. Those who refuse to read it will no doubt share the fate which befalls all those who are blinded by their self-interest

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PART IV

NOTES ON ACTS AND LAWS

1. The Common Law.
2. The Dominion Status.
3. The Law of Specific Relief.
4. The Law of Trust.
5. The Law of Limitation.
6. The Law of Criminal Procedure.
7. The Transfer of Property Act.
8. The Law of Evidence.

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1. COMMON LAW

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COMMON LAW

The Relation of Common Law to Equity

1. In the English system, Equity has acquired a technical connotation and we are accustomed to think of it as a whole jurisdiction distinct from Common Law principles.

2. For better or for worse, the stream of English Law divided into two channels, not without considerable disturbance of the soil and morbidity of the waters.

3. But the interdependence of Law and Equity has never wholly disappeared.

4. We ought not to think of Common Law and Equity as rival systems. Equity was not a self-contained system, at every point it presupposed the existance of Common Law.

The principle on which the Court of Equity granted relief

1. If we look for one general principle which more than any other influenced the Equity developed by the Chancery, we find it in a philosophical and theological conception of *conscience.*

2. The English Equity begins to be systematized under the guidance of a governing moral principle of conscience.

3. Not that we can suppose that all the Chancellors were assidious and consistent in the pursuit of that principle. Under the Tudors, some Of them behaved with complete arbitrariness. These occasional aberrations may have inspired Seldon's oft quoted, but probably only half serious quip about the length of the Chancellor's foot. But they were not typical, the 'conscience' which the Chancellor set before him was normally something more constant and imperishable than the mere caprice of his own whim. A 'hardening' process sets in. By 1676 we find Lord Nottingham expressly repudiating the notion that the conscience of the Chancellor is merely *naturalis et interna,* and in 1818, Lord Seldon summarily repudiates any notion of mere

individual discretion being open to an Equity Judge. Equity is a settled system of conscience.

The limits of the Chancellor's authority

1. This prerogative to grant relief had certain limits :—

(i) It could be exercised only where law gave no rights but where conscience required that certain rights should be given—This was known as the *Exclusive* jurisdiction of Equity.

(ii) It could be exercised only where law gave rights required by conscience but the remedies which it gave were insufficient to satisfy justice—This was known as the *concurrent* jurisdiction of Equity.

(iii) It could be exercised in matters in which the law gave rights required by conscience and remedies sufficient to satisfy the ends of justice but as to which its process was too defective to secure the remedies without the assistance of Equity—This was known as the *auxiliary* jurisdiction of Equity.

The nature of an equitable right

1. The nature of an equitable right will be better understood if it was studied in contrast with a moral right and a legal right. A mere definition would be very little use.

2. By way of introduction we may begin by seeking to have a precise conception of a right. What do we mean when we say that any given individual has a right :

(i) If a man by his own force or persuasion can carry out his wishes, either by his own accord or by influencing the acts of others, he has the 'might' so to carry out his wishes.

(ii) If, irrespectively of having or not having this night, public opinion would view with approval or at least with acquiescence, his so carrying out his wishes, and with disapproval any resistence made to his so doing then he has a '*moral right*' so to carry out his wishes.

(iii) If, irrespectively of the approval or disapproval, acquiescence or non-acquiescence of public opinion, the State would support him in carrying out his wishes then he has a *legal right* so to carry out his wishes.

3. Whether it is a question of might, depends upon a man's own powers of force or persuation. Whether it is a question of moral right depends on the readiness of public opinion to express itself on his side. Whether it is a question of legal right, depends upon the readiness of the State to exert its force on his

behalf. A *legal right* exists where one course of action is enforced, and the other prohibited by that organized society which is called the State. A legal right is, therefore, an interest which is recognized and protected by the State. Right is any interest, respect for which is a duty and the disregard for which is a wrong.

The Characteristics of a legal right

1. A legal right is a right which unlike moral right is enforced by the State.

2. A legal right is founded in a title which must be shown to have been acquired in any one of the modes of acquiring title recognized by law—*e.g.* possession, prescription, agreement and inheritance, etc.

3. A vestitive fact which creates a title to a right in one person destroys the title of another to the same right.

4. A legal right creates an obligation which is either an obligation *in rem* or an obligation *in personam*.

In what respects does an equitable right resemble, in what respects does it differ, from a legal right

1. Equitable right is not like a moral right which is not enforced by the State. Equitable right is like a legal right in that it is enforced by the State.

2. A title to an Equitable right need not be created by any one of the recognized modes by which a title to a legal right is created. This is the most important distinction.

Illustration :

(i) A legal mortgage of land must be created by a deed. But an equitable mortgage may be created otherwise than by deed :—

(a) The statute of trade required that no action shall be brought upon any contract or sale of lands or any interest therein unless agreement was in writing and signed by the party or his agent.

But if the title-deeds of an estate are, without even verbal communication, deposited by a debtor in the hands of the creditor, the mere fact of such deposit is enough to constitute the creditor a mortgage of the estate.

(b) An agreement that a creditor shall hold land at a fair rent to be retained in satisfaction of the debt, is a mortgage in equity but not in law.

(ii) **Assignment**—Legal and Equitable.

Legal.: (1) Assignment must be in writing under the hand of the assignor—signature of the agent not sufficient.

(2) The writing must contain a direction or order to the debtor by the creditor to pay the assignee.

(3) There must be express notice of assignment to the debtor.

Equitable: (1) The mode or form of assignment is immaterial provided the intention of the parties is clear. Assignment may be verbal.

(iii) **Charge**—Legal and Equitable,

(iv) **Lease**—Equitable and Legal,

(v) **Servitude**—Equitable and Legal.

Married Women's Property

This illustrates how an equitable right can arise without the legal formalities of conveyance required for the creation of a legal right.

(1) At Common Law, husband and wife were one person, and the status of the wife merged in that of the husband. The result of this merger was that the husband became the absolute owner of her personal property and acquired the sole right of controlling and managing her real estate.

On her death he became absolutely entitled to any of her personal property that had not already been sold and to a life estate by *courtsey* in her fee provided a child had been born.

(2) Secondly, a husband could not make a grant to his wife directly or enter into a covenant with her, for to allow either of these things would have been to suppose her separate existence.

(3) The effect of marriage at Common Law was to make a man complete master of his wife's property and to deprive her of contractual capacity.

(4) If property was given to a married woman by words which indicated either expressly or by implication that she was to enjoy it *"for her sole and separate use"*. Equity removed that property from the control of the husband by regarding him as a trustee, and conferred upon the wife full powers of enjoyment and disposition.

But equity went even further than this. Perceiving the danger that a husband might persuade his wife to sell her separate property and hand the proceeds to him, it permitted the insertion in marriage settlements of what is known as *"restraint upon anticipation"*. The effect of such restraint, which is still usual, was that a woman while possessing full enjoyment of the income was prevented during her coverture from alienating or charging the corpus of the property. She could devise but could not sell or mortgage it. This was in complete contravention of the Common Law. At Common Law, not only marriage became a vestitive fact giving the husband a title to the property of his wife but no agreement either with the wife or any other person could take away his right to hold and to alienate her property.

This is an illustration which shows that an Equitable right arises in a manner very different from that in which a legal right arises.

(3) Second distinction between a legal right and an equitable right may be formulated thus :

1. A legal right vested in one owner destroys either partially or completely the right vested in its previous owner. The destruction may be complete or may be partial. If it is a lease, it is a partial destruction. If it is a sale, it is a complete destruction. But whether complete or partial, it is destruction. This is what is meant when it is said that a *vestitive fact* is also *divestive* fact.

2. This is not true when there is a competition between a legal right and an equitable right. An equitable right does not destroy a legal right even when it prevails as against the owner of a legal right. In a conflict between a legal and an equitable right, the equitable right does not destroy the legal right, as one legal right does another legal right.

3. *Why is this so* ? For this it is necessary to know how an equitable right came to be recognized at the very start by the Court of Chancery. The historical setting may be presented briefly as follows :—

(i) It was a common practice in England before the Norman conquest for one person to do something *ad opus*—on behalf of another. For instance the Sheriff seized lands and held them *ad opus domini Regis* or where a knight went about to go to the crusades, conveyed his property to a friend to hold it on behalf of his wife and children. The word *opus* became gradually transformed into *use* and the land transferred came to be spoken of as land put in use.

(ii) Now if in certain circumstances some persons could deal with land on behalf of or to the use of another, the question that inevitably occured to men, why one person should not in a general way be allowed to hold land to the use of another. This as a matter of fact was exactly what was done in course of time. The tenant *A* would transfer his land by a Common Law conveyance to *B,* who undertook to hold it on behalf of, or adopting the correct expression, to the use of A.

In such cases *B* was called the *feoffee to use,* that is, the person to whom the feoffment had on certain conditions been made, while *A* went by the name of the *Astin que use.* which being interpreted, meant the person on whose behalf the land was held.

(iii) Reasons why this practice grew, are many. There were altogether six reasons why people liked to follow this practice of putting land in use. Of these two are of importance :—

(1) It enabled a party to escape the fuedual burdens to which was liable at Common Law. At Common Law the following burdens were placed upon the tenant—

(i) *Relief*—paid by a new tenant upon the death of an old tenant,

(ii) Aids—payable in three cases—

(a) to ransom the Lord when imprisoned;

(b) when the Lord desired to make his Lord a knight;

(c) when the Lord was obliged to supply his eldest daughter with a dowry.

(iii) Escheat—The commission by a tenant of a crime serious enough to amount to felony caused the land to escheat.

(iv) *Wardship.*—If an existing tenant died leaving as his heir a male under 21 or a female under 14, the Lord was entitled to the wardship of the heir and as a consequence was free to make any use he liked of the lands during the minority without any liability to render accounts.

(v) *Marriage :*—To find a suitable match for an infant ward was the right of the Lord, and if the infant ward refused, the Lord was entitled to compensation.

The feoffor became free by putting his land in use. The burden fell on the person who acquired *Scisin,* namely, the feofee to uses.

(2) The second advantage was avoidance of forfeiture and escheat.

Land held by tenure at Common Law was forfeited to the Crown if the tenant committed high treason, and upon his conviction or on slavery for felony, it escheated to the Lord. These unpleasant consequences were avoided, if a tenant, before embarking upon some doubtful enterprise, had the prescience to vest his lands in a few confidential friends. The deliquent might possibly suffer the extreme penalty, but at least his family would not be destitute.

4. Legal effect of putting lands in use :—

(i) The legal consequence of this practice of putting lands in use is an important point to note. It was to cut off the *cestui que use* in the eyes of the Common Law from all connection with the land. By a conveyance operative at Common Law, he had conveyed his estate to the *feofee to uses* and was, therefore, deprived of all Common Law rights over the land. He was nothing, the feofee was every thing. Instead of keeping scisin, he chooses to rely upon the confidence which he reposed in the feofee.

(ii) If the feofee failed or refused to carry out the directions imposed upon him or if he deliberately alienated the land for his own purposes, there was no Common Law action by which he could be rendered liable.

(iii) If a *cestui que use* was let into possession of the land by the feofee to uses, he was regarded as a mere tenant at will of the *feofee to uses* and could be turned out any moment, and in the event of contumacy could be sued in trespass by the feoffee.

5. The nature of the remedy provided by the Court of Chaucery to protect the feofor must be clearly understood :—

(i) The Chancellor could not interfere with the jurisdiction of the Common Law Courts by proceeding directly against the land itself because the absolute title to the land was vested in the feofee by the conveyance. The Chancelllor could not disregard the fact that a feoffee was absolute owner at Common Law by virtue of the Common Law conveyance called feoffment whereby the land had been transferred to him.

(ii) The Chancellor distinctly recognized the fact that the feoffee was the owner of the land and had a legal right but what he said to the feoffee was this :—

> "You have the legal right, I do not take it away from you but I will not permit you to exercise that legal right in such a way as to infringe the understanding on which the feoffor made the feoffment."

(iii) The Chancery in assuming jurisdiction over the *use* left untouched and inviolate the legal right of owner at Common Law. It exercised no direct control over the land. It only regulated the mode and manner of the legal right by imposing upon the owner of the legal right an obligation to observe the condition. The legal owner retained his legal right to own and to possess the land. The Chancellor gave the feoffor an equitable right to demand observance of the conditions of feoffment.

6. This is the explanation of that difference between a legal right and an equitable right according to which while one legal right destroys another legal, either partially or wholly, an equitable right does not destroy a legal right.

7. This is also the explanation of the proposition enunciated by Strahan in *Article 11,* namely, that a legal right or interest issues *outflows out* of the property itself while equitable right or interest issues or flows out of the legal interest and not out of the property.

This is so because the Chancellor did not recognize the right of the equitable owner to obtain possession of property. That right he retained in the legal owner. What he gave to the equitable owner was the right to impose a duty upon the conduct of the legal owner and he did not give him the right to claim the property itself.

Illustration: (1918). *2K.B.* (Ir.) 353—Graham *vs.* Mcllwaine.

8. The consequences that follow from this fact may be noted :—

(1) Because an equitable right issues out of a legal right and not out of the property :

(i) It cannot be greater than the legal estate out of which it issues.

Illustration :

Land conveyed to *A* for the use of *B* and his heirs. *A* is the legal owner of the land. *B* is the equitable owner.

But land is conveyed to A and not to A and his heirs. Consequently the legal right of A vanishes at his death. As A's legal right vanishes so does *B's* equitable right.

An equitable interest cannot survive the legal interest out of which it flows, *(1914) i Ch. 300*

(ii) Equitable right will be affected by all the infirmities attaching to the legal right.

A died intestate leaving *B* and *C* as his sons, *B* being the eldest.

B being away C takes possession and transfers it to *D* for the use of his wife *E*.

B returns and claims the property. The legal tide of *D* comes to an end by reason of the flaw in *C's* title.

The equitable estate of *E*, the wife of *C,* also comes to an end.

III. The third difference between a Legal Right and an Equitable Right is that, a legal right may be a right in *rem* or may be a right in *personam*. But an equitable right is always a right in *personam*. Who is bound to respect the right of an Equitable owner ? Not the world but the legal owner and no one else.

It is true, the legal owner, who is bound, is not the legal owner against whom the equitable right first arose but includes also every legal owner to whom the right is transferred.

All the same the proposition stands that an Equitable Right is a right in *personam* which binds only the legal owner.

Explain,

"Equitable rights have a resemblance to rights in rem."

(i) It is true that Equitable Rights have a resemblance to rights *in rem*.

(ii) How does this resemblance arise ?

(i) An equitable right will be enforced not only against the owner of legal right but it will be enforced against :—

(a) his representatives and volunteers claiming through or under him,

(b) persons who acquire the legal right

(i) with the knowledge of the legal right,

(ii) against those who could have had knowledge.

(iii) The standard of knowledge set up by the Court of Chancery was so high that no one could escape and every purchaser was bound.

Equitable Priorities

1. An equitable right is a right *in personam*—operating against the owner of a legal right out of which it flows.

2. There may be two equitable rights flowing out of one legal right. Both would be rights in *personam* against the owner of the legal right out of which they flow.

3. An equitable right being a right in *personam* arising out of the legal and not out of the property which is the object of the legal right, could be defeated by transferring the legal right to a new owner. Or another equitable right may arise by this transfer which may defeat the prior equitable right.

4. The question to be considered is, in what cases can such a transfer defeat an equitable right ?

5. The subject is discussed generally under the heading of *Equitable Priorities*. It is so designated because the test applied for the determination of the issue is the priority in time. But the real subject matter is the possible cases where an equitable right can be defeated by transfer of a legal right out of which it arises or by the creation of another equitable right out of the same legal right ?

6. Cases to be considered fall under two classes :

(i) Cases where there is a conflict between Legal Right and an Equitable Right

(ii) Cases where there is a conflict between two equitable rights.

7. Under the first class of cases there are two contingencies which must be distinguished :

(a) Where the Equitable Right is prior in existence to the legal right.

(b) Where an equitable right arises subsequently to the legal right.

Mrs. Thorndike was the beneficiary of a certain Trust Fund of which *C* was a trustee. In a suit by Mrs. Thorndike, the Court directed the Trustee to transfer of the fund into the Court for the purposes of the Thorndyke Trust and was held by the Administrator. It appeared that the Trustees against whom the order was made had provided themselves improperly with the means of discharging themselves from their personal liability to bring the fund into Court and that there are third persons whom

they had injured. The third party so injured filed a suit praying that the fund held in the name of Thorndyke should be transferred to them. *Contention* : Legal title not in Mrs. Thorndyke and therefore, her right could not prevail. Contention disallowed. Held, not necessary to acquire legal title personally. Also no notice.

8. Altogether we shall have three questions to consider which may be formulated thus :

(i) Whether a person who acquires a legal right will be subject to a prior equitable right ?

(ii) Whether a person who has acquired a legal right will be postponed to an equitable right arising subsequently.

(iii) Where neither party has a legal right and both have only equitable rights, which of them will have priority ?

(i) Whether a person who has acquired a legal right will be subject to a prior equitable right ?

1. The answer to this question is this :

A purchaser obtaining a legal estate for valuable consideration and without notice of a prior equitable right will not be bound by the equitable right.

2. There are three important elements in this proposition :

(1) *Purchaser must have acquired a legal Estate.*—There is not much to be said about this. But the following points may be noted :

(a) It is not necessary that he should acquire the legal estate personally. It is enough if somebody does it on his behalf.

Thorndike vs. Hunt, (1859) 3 De. G.I.563=44E.R. 1386

(b) The purchaser's title need not be a *perfect title.*

Illus.: If a trustee's title to property is defective, he may never the less convey to a *bona fide* purchaser an interest which will be effective against the beneficiary who is the owner of a prior equitable right.

Jones vs. Powles (1834) 3My & K. 581.

Facts

1. *John Jones* Owner—Mortgaged his house to Holbrook, redeemed it, obtained acknowledgement of payment—but did not

obtain reconveyance. The legal estate remained outstanding in Holbrook.

2. On the death of Jones Meredith, his shop assistant forged a will of Jones and on its vests obtained possession of the house.

3. Meredith mortgaged it to Hall by a conveyance.

4. Meredith died leaving his wife to whom he left the equity of redemption by a will and thereafter to James Jones.

5. James Jones conveyed it to Watkins.

6. James Jones & Watkins became partners and mortgaged the property to *Powles* who acquired possession as mortgagee.

7. Powles died leaving his wife *Sarah*.

8. Sara Powles secured surrender of the estate and full ownership.

9. Sara Jones sued Sara Powles alleging that the will was a forgery and that Sara Powles had notice and that she could not defeat her right to redeem.

(c) The purchaser should obtain a legal right. But this may be:

(i) at the time of his purchase, or

(ii) he may get it subsequently.

(ii) The purchaser must have given valuable consideration for his right.

A volunteer is always subject to an equitable right. The reason is that he does not suffer by being made liable to the prior equitable right not having paid any consideration.

An existing debt is, however, sufficient consideration.

Illus. Thorndike vs. *Hunt.*

I had paid no consideration. His right was a sort of an existing debt against the trustee.

(iii) The purchaser must have acquired the right without notice of the existence of the prior equitable right.

This is the most (important)* element in the proposition and the question that arises for consideration is : (further portion not found—ed.)

* Inserted—ed

What is Notice ?

1. Notice may be *Direct or Imputed*. Direct notice is notice to the purchaser himself. Imputed notice is notice to the agent of the purchaser.

2. Direct Notice may be *actual* or *constructive*

(1) Actual notice is where the matter is *within* the knowledge of the purchaser or his agent.

(2) Constructive notice (is)* where it would have come to his own knowledge or to the knowledge of his agent if proper inquiries had been made.

Actual Notice

1. If reliance is placed upon actual notice to defeat a legal right it must be proved that :

(i) It was given by a person interested in the property;

(ii) it was given in the course of negotiations;

(iii) it was clear and distinct.

Constructive Notice

1. Constructive Notice arises where there is notice of a fact or facts from which notice of the existence of an equitable right could be presumed. It is not notice but evidence of notice.

2. There are three varieties of constructive notice :

(i) Where there is actual notice of a fact which would have led to the notice of the existence of the right. *Bisco vs. Earl of Banbury* (1676) (6) *1 Ch. Ca. 287.*

The purchaser had actual notice of a specfic mortgage but did not inspect the motgage-deed which referred to other rights and incumbrances.

He was held to be bound by other incumbrances for he would have discovered their existence if he had inspected the deed as any prudent man would have done *Davis vs. Hutchings. 1907 1 Ch. 356.*.

A trustee transferred a share of the beneficiary to the Solicitor relying upon the statement made by him that it was assigned. They did not call for the assignment. The assignment was subject to a charge in favour of another. *Held* they had constructive notice of the charge.

* Inserted—ed.

Occupation of tenant as Constructive Notice

Where land is in the occupation of some one other than the vendor, the fact of the occupation gives the purchaser constructive notice of any right of the occupying tenant.

It will not amount to notice of a third person's right—9. Moo. *P. C.* 18.

We now come to the parol evidence of notice. Upon this subject the rule is settled, that a purchaser is not bound to attend to vague rumours about purchaser—to statements by mere strangers, but that a notice in order to be binding must proceed from some person interested in the property—

R. 3 Ch. App. 488 *Lloyd* vs. *Banks* Carries j—1868

If he attempts to prove knowledge of the trustee *Aliunde,* the difficulty which this Court always feel in attending to what are called casual conversations or in attending to any kind of intimation which will put the trustee in a less favourable position as regards his mode of action than he would have been in if he had got a distinct and clear notice from the incumbrances. At the same time I am bound to say that I do not think it would be consistent with the principles upon which this Court has always proceeded, or with the authorities which have been referred to, if I were to hold that under no circumstances could a trustee without express notice from the incumbrancer be fixed with knowledge of the incumbrance. —*Illus.: 9 Moo. P. C. 18 Barnhart vs. Greenshields.*

Where it was held that vague reports from persons not interested in the property will not affect the purchaser's conscience.

Should notice be directly from the Incumbrancer ?

A purchaser cannot safely disregard information, from whatever source it may come. It is of such a nature that a reasonable man of business would act upon that information even if it came from a news-paper report. *S. R. 3 Ch. App. 488* 1868

Registration

The registration of any instrument or matter required or authorized to be registered by law is to be deemed to constitute

actual notice of such *instrument* or *matter* but not necessarily of its contents.

(ii) Where inquiry is purposly avoided to escape being bound by notice.

1. John Towsey contracted for the purchase of certain property in 1776.

2. He borrowed the amount of purchase money from one Dr. P, and placed the title-deeds in his hands as a security for repayment.

3. In 1790, T was very much indebted to one Ellames in a considerable sum of money and executed a mortgage of the same property to Ellames.

4. Dr. P did not give any information of his claim to Ellames.

5. Ellames said that he made no inquiries after the title-deeds before he took the security, and admitted that upon executing the mortgage he inquired for them, and was informed of their being in the hands of Dr. P. but that he understood them to be so for safe custody only.

6. He received this information from one J. who was his brother-in-law, who had prepared the mortgage and appeared as his agent at the time of the execution of it.

7. Dr. P claimed priority over Ellames. It was granted as Ellames was held to have had notice.

(iii) Where there is gross negligence in not making usual and proper inquiries :

1899. 2 Ch. 264
1921. 1 Ch. 98.

Imputed Notice

1. The underlying theory of agency is that a man can do a thing by an agent which he can do himself. Conversely, what is done by the agent is done by him. This being so, it is open to argument that what is known to the agent must be taken to be known

to the Principal. This is the theory on which the doctrine of imputed notice is founded.

The Essentials of Imputed Notice

1. *The knowledge must have come to him as an agent* and not in any other capacity. In other words, agency must be strictly proved.

Dyllie vs. Pollen—32 L. J. Ch. 782 (N. S.)

2. Agent must be distinguished from a person employed to do merely ministerial act—*e.g.* a person employed to procure a deed is an agent.

Knowledge to such a person cannot be the basis of imputed notice.

3. In this connection, the position (of)* a person who is in the service of two Principals as their agent has to be considered. Suppose, there are two companies, *A* and *B,* and C is an officer employed in both A & B. Suppose that A company transferred their legal right to B company which was subject to an equitable right in favour of D of which C had knowledge.

Can D say that B company had notice of his equitable right because C, their agent, had notice of it in his capacity as the agent of A?

The answer is that, his knowledge which had acquired as agent of A company, will not be imputed to B company unless he owes a duty to the A company to communicate his knowledge and also a duty to the B company to receive the notice.

(1896) 2 Ch. 743—*In Re Hampshire Land Company.*

Facts :

1. Hampshire Land Company was registered under the Companies Act, 1870.

2. The Company was closely interconnected with the Port Sea Island Building Society. Four Directors and a Secretary by name Wills were common to both.

Inserted—ed.

3. On the 19th February 1881, a general meeting of the Company was held at which a resolution was passed authorizing the Directors to borrow 30,000 £.

4. The Directors borrowed this amount from the Port Sea Society.

5. The Society went into liquidation in 1892. The Liquidator of the Society sought to claim the sum of £ 30,000 lent to the company.

6. It was contended that the resolution of the company authorizing borrowing was *ultra vires* and that because William, the Secretary was a common officer notice to him was notice to Society and therefore Society could not recover.

7. *Held* that the Society could *recover* for reasons at p. 749.

II. The notice to the agent must have been obtained by him *in the same* transaction and not *in a previous* transaction.

There is a further qualification. Even if the notice was acquired by the agent in the *same* transaction, it will not be imputed to the purchaser, unless it is *so* material to the transaction as to make it the duty of the agent to communicate it to the principal.

(*1886*)—*31 Ch. D. 671—In Re Cousins.*

Facts :

1. In 1871, one William's cousins made a will of his property and left it in trust to his trustees.

2. One William Banks was a solicitor for the trustees.

3. Mathew, a cousin was to receive a share in the proceeds of real and personal property left by William's cousins under the will.

4. Mathew mortgaged his share to William Banks, the Solicitor as security for a loan of £ 35.

5. In 1873, Mathew mortgaged his share to William Richardson through Banks and Banks was paid off.

6. In 1874 Richardson transferred his mortgage to William Drake. No Notice was given to the Trustees.

7. In 1875 Mathew mortgaged his share to Dennis Pepper to secure a payment of £ 500. Banks acted as the Solicitor. The mortgage to Dennis Pepper did not mention the previous mortgage to William Drake, Subsequently a notice of this transaction was given to the Trustee.

8. Drake took out a summons for payment of his mortgage debt due from Mathew out of the funds in the hands of the Trustee in *priority* to Pepper's claim. *1884, 26 Ch. D. 482*

9. Pepper's contention was that, he had no notice of Drake's claim—Mathew not having mentioned it in his deed of mortgage.

10. It was replied by Drake that Pepper had notice because Banks, the Solicitor who acted as his agent knew of Mathews mortgage to Drake.

11. That Banks had notice, it was not denied. That Banks was the agent of Pepper was not denied. But the question was whether notice to Banks can be held to be notice to Pepper.

12. *Held*: No—p. 677.

Reasons. The knowledge of Banks did not arise in the course of the transaction with Pepper in 1875. Pepper could not be said to have any notice.

13. Pepper's claim was allowed.

III. Notice to agent will not be imputed to the purchaser when the agent is shown to have intended a fraud on the principal which would require the suppression of his knowledge and not communicate it to the Principal.

(1880) 15 Ch. D. 639 Cane vs. Cave.
(1428) ACI—Houghton & Co vs. Nothard)

II. *Where an equitable right has come into being subsequently to the acquisition of a legal right.*

1. Leading case on the question is *Northern countries of England Fire Insurance Co.* vs. *Whipp.*

1884 26 Ch.D.482

Facts

C, the Manager of a company, executed a legal mortgage to his company, delivered title-deeds. They were kept in a safe of the company, the key to which was in C's possession: C—some time after took out the title-deeds and created another mortgage on the same property in favour of Mrs. Whipp. Mrs. Whipp has no notice of the first mortgage to the Company. *Held* : Company entitled to priority.

2. The proposition laid down in the case is this—

> Where the owner of a legal estate has assisted in or connived at the fraud which has laid to the creation of a subsequent equitable estate and the owner of equitable estate had no notice of the prior legal right, the Court will postpone the legal estate to the equitable estate although it is subsequent in its origin.

3. What is the evidence of assistance in or connivance at fraud :

> (i) Omission to use ordinary care in inquiry after title-deeds.
>
> (ii) Failing to take delivery in title-deeds are treated as evidence of assistance in or connivance at fraud where such conduct cannot otherwise be explained.

4. The same authority lays down another case in which also a legal estate will be postponed to a subsequent equitable estate.

Where the mortgagee, the owner of the legal estate has constituted the mortgagor, his agent with authority to raise money on the property mortgaged and the estate created has by the fraud or misconduct of the agent been represented as being the first estate.

5. For the operation of this rule, mere carelessness or want of prudence on the part of the legal owner will not be a sufficient ground. There must be fraud and connivance at or assistance therein. Nothing but fraud I will postpone.

(*1913*) *2 Ch. 18.*

III. Where the competition is between two equitable rights.

1. In the two former cases the competition was between a legal right and an equitable right. In the third case the competition is between two equitable rights.

Cave vs. Cave, (1880) 15 Ch. D. 639.

Facts :

A Trustee & *B* a beneficiary.

A purchased land from trust-monies in breach of trust and executed a legal mortgage thereof to *C*.

C had no notice of the trust.

Later by an equitable mortgage transferred the same land to There are three persons who have acquired rights. *C*, who has a legal right, is mortgagee, being a legal mortgage.

B has an equitable right flowing out of *A*'s right which has been transferred.

D has an equitable right flowing out of A's right.

What is the position of the parties ?

1. As between C and *B,* although B's Equitable right is prior to C's legal right as C had no notice, C takes priority.

2. As between C and *D*, C takes priority, because C is not party to a fraud in creating the rights of D.

3. As between *B* and *D,* their rights are equitable rights: whose right prevails ? B's right. The rule is that where there is a competition between two equitable rights, the right earlier in origin prevails over the subsequent right.

4. This rule applies only where the equitable rights have equal equities on their side. If the equities are unequal, the better of the two prevails.

Rice vs. Rice. 2. Drewry, 73 (76-78).

A sells land to *B* and without receiving purchase money (1) conveys land to B, (2) signs a receipt for moneys and (3) delivers title-deeds to B. *B* subsequently mortgages the property to *C* who has no notice of *A's* claim. Between *A* and

C although *A's* equitable right is earlier than that of C, yet the equities are unequal. *A* is guilty of negligence, therefore, *C's* Equity is better and will prevail although later in time.

5. In some cases conflict as to priority between two equitable interests by the respective times at which the interest was transferred. In other cases, it is determined by the respective times at which written notice is given to the proper person or persons of the interest transferred (e.g. in the case of the assignment of chose in action).

Sum up. Three maxims of Equity.

1. Where equities are equal, the law prevails.
2. Where equities are equal, the first in time prevails.
3. Where equities are unequal, the better equity prevails.

Explanation

1. The first proposition has reference to cases where there is conflict between an equitable right and a legal right and applies to both classes of cases : (1) where the equitable right is prior to the legal right as well as to cases (2) where the equitable right is subsequent to the legal right.

2. Law prevails means that legal right prevails over an equitable right where no inequity can be attributed to the owner of a legal right. — Such as notice or fraud.

3. Propositions two & three have reference to cases where there is a conflict between two *equitable rights*.

Equitable Assignment

I. General

1. Although the subject is called Equitable Assignment, it is an abreviation. The subject is equitable assignment of a chose in action.

2. There are three matters of a preliminary character which must be dealt with at the outset :

(1) What is an assignment

(2) What is a chose in action.

(3) Necessity for the study of the subject.

(1) What is an assignment

1. Under the English Law of Property, property is classified as *Realty* and *Personality*.

2. In connection with the transfer of rights over Realty, the word used is *Conveyance*. In connection with the transfer of rights over Personality, the word used is either *Transfer* or *Assignment*.

3. Assignment, therefore, means the transfer by a person of his rights over personal property and particularly one form of it, namely, *chose in action*.

(2) What is a chose in action

1. Under the English Nomenclature, Personality is divisible into two classes :

(i) Moveable goods of which one can take physical possession.

(ii) Personal rights of property which can only be claimed or enforced by action and not by taking physical possession.

2. The former are called :

(i) Choses in Possession—Things in Possession,

(ii) Choses in Action—Things in Action.

3. The definition of a chose in action—

(1902) 2 K. B. 427 (430)—Channell J.

It is really speaking a debt.

4. The word assignment is used in respect of chose in action. It is something which you can only sign it away if you want to transfer it. You cannot deliver possession of it.

(3) Necessity of Studying Equitable Assignment

1. An assignment is a transfer of a right by its owner, subsisting against another, to a third person to whom the person against whom it was subsisting, becomes bound.

Illustration. *A* is creditor. *B* is debtor. *A* assigns his right to debt against *B* to *C* : *B* becomes bound to *C* and *C* gets a right to recover it from *B*.

2. Three persons are involved in an assignment :

(i) The original owner,

(ii) The person bound to the original owner,

(iii) The person to whom the original owner has transferred the right.

3. The right, i.e., the chose in action may be legal or equitable such as a legacy or an interest in a trust fund.

4. Assignment of a chose in action was differently treated by Equity and by the Common Law.

Common Law and Chose in Action

1. There could be no assignment in Common Law of a Chose in action. Not only there could be no assignment of an equitable chose, there could be no assignment even of a legal chose.

2. The reason was the fear of multiplicity of suits.

3. Statute law and Special law made certain kinds of Choses of action assignable :

(i) Negotiable Instruments became assignable by the law merchant

(ii) Policies of Life Insurance and Marine Insurance were made assignable by Statute.

(iii) Section 25(6) of the Judicature Act : all legal Choses in Action have been made assignable.

Equity and Chose in Action

1. In Equity, a chose in action was always assignable. Not only an equitable Chose was assignable in Equity but a legal Chose was also assignable in Equity.

2. If the Chose was equitable, the assignee could bring his proceedings to recover it in a Court of Chancery in his own name.

3. If it was a legal Chose, the proceedings had to be taken in the name of the assignor and the way the Court of Chancery interfered, was to restrain the assignor from objecting to this use of his name on the assignee giving him a proper indemnity against costs.

4. There were, however, some Choses in action to the assignment of which equity did not give effect on the ground of public policy :

(i) assignment of pay and half pay of public officers paid out of the National Exchequer.

(ii) Assignment of alimony to a wife.

(iii) Assignment affected by maintenance of property.

Conclusion

1. There are thus two ways of making an assignment—

(i) Legal, (ii) Equitable.

2. Although the Judicature Act has laid down the form and procedure for the legal Assignment of a legal Chose, it has not abrogated the rules of Chancery relating to Equitable assignment of a legal Chose. So that if an assignment is ineffective in law by reason of some defect, it will be good if it conforms with the rules of equity. Secondly, the Judicature does not touch the assignment of an Equitable Chose in action.

Categories of cases to be considered

There are three categories of cases to be considered in connection with the assignment of a Chose in action :

(i) Legal assignment of a legal Chose in action,

(ii) Equitable assignment of a legal Chose in action,

(iii) Equitable assignment of an Equitable Chose in action.

Requisites of a legal assignment of a Legal Chose

1. Assignment must be *absolute, i.e.,* it must amount to a *complete* divesting of his right by the assignor. The debt must be certain and must be of the whole amount.

2. The assignment must be in *writing* signed by the assignor.

It need not be by deed.

It need not be for value.

3. Express notice must be given to the debtors of the assignment.

The Section does not say :

(i) By whom is notice to be given—by the assignor or assignee.

(ii) At what time notice is to be given so that it may be given, by the assignee after the death of the assignor.

Effect of Want of Notice

1. Absence of notice does not disentitle an assignee of suing on the assignment. It only imposes certain disabilities and results in certain disadvantages.

(i) The assignee cannot sue the debtor in his own name without making the original creditor a party to the action.

(ii) The assignee will be subject to equities arising between the debtor and his original creditor before the date of the assignment and will lose his right against the debtor altogether if the debtor pays the original creditor. On the other hand, if the debtor pays the original creditor after receiving notice of assignment, the assignee could still recover the debt from him.

(iii) The assignee, who fails to give notice to the debtor of his assignment, will be postponed to a subsequent assignee for value who has no notice of the previous assignment, and gives notice of his assignment to the debtor.

Requisites of an Equitable assignment of a Legal Chose in action

An Assignment which does not comply with the statutory requirements is not necessarily ineffectual, for it may operate as an Equitable Assignment.

Two things are necessary :

(1) There must be value given by the assignor.

(2) A charge created by agreement between the debtor and the creditor upon specific funds or by an order given to the creditor upon a person holding money belonging to the debtor, will amount to an assignment.

1839. *Burn vs. Carvallo*
4 Hylve & Craig's Reports. 690

Facts

F was in the habit of sending consignments of goods to *R,* who was trading in a different town and used to draw Bills of Exchange upon *R*. It was arranged by *F* with *B & Co.* that they should endorse and negotiate his Bills drawn upon *R* against

consignment and they were to credit him with the amount and he was to draw upon it and *B* & Co. was re-imburse itself by recovering the amount from *R*. *F* drew for certain amounts on *B &. Co*. But *R* failed to meet the Bills on maturity.

F, who was the debtor of the *B & Co*. by a letter to *B & Co*. promised that he would direct and by a subsequent letter did. direct to deliver the goods to *V* as the agent of *B & Co*.

F wrote to *R* to transfer the goods in his possession to *V*, the agent of B & Co. in the town. *R* accordingly delivered the goods to *V* on the 30th of June 1829.

On the 23rd of June 1829, *F* was adjudged insolvent for an act done on the 23rd of May 1829. His trustee in bankruptcy sued for the recovery of the value of the goods from *B &Co*. *B & Co*. contended that there was an equitable assignment of the value of the goods by *F*. *Held* the order of the debtor was a good assignment in Equity.

Rodick vs. *Gandell*.
(1851-2) 1 Degex. 763. 42. E. R. 749

Gandell was an Engineer and was indebted to a certain Bank for a large amount and the Bank was pressing for payment.

Gandell was a creditor of a Railway Co. To induce the Bank not to press for payment and also to pay other drafts outstanding against him, it was arranged that Gandell should instruct his Solicitor to recover the amount due to Gandell from the Railway Co. and pay it to the Bank. G, by a letter to the Solicitors of the Company, authorized them to receive the money due to him from the Railway Co. and requested them to pay it to the Bankers. The Solicitors by letter promised the Bankers to pay such money on receiving it.

Why—no agreement between debtor and creditor. The Solicitor recovered the amount from the Railway Co. but instead of paying it to the Bank, paid it to Gandell. Gandell became insolvent and his property was taken possession of by the official assignee. The Bank sued for a declaration that there was an equitable assignment by Gandell of his funds claimable from the Railway in favour of the Bank and collected by the Solicitor and the

Bank was therefore entitled to recover the amount from the official assignee. *Held,* this was not an equitable assignment. It was not an order given by the debtor to his creditor upon a person owning money or holding funds belonging to the debtor directing the *person* to pay such funds to the Creditor.

There must *be privity* between the *assignor* and *assignee* in order to constitute an equitable assignment. If there is no privity then there is no assignment even in equity.

Consequently, if the Principal directs his agent to collect money owing to the principal and pay it to a third person such third person is not an assignee in equity if the mandate is not communicated to him. It may be revoked by the principal.

Similarly a Power of attorney or authority to collect money and to pay it to the creditor of the party granting the power does not amount to an equitable assignment. A cheque is not an equitable assignment or appropriation of money in the drawer's Bank.

Hopkinson vs. *Forster, (1874) L. R. 19 Eq. 74.*

There can be no valid appropriation or assignment if no specific fund is specified out of which the payment is to be made.

Percival vs. *Dunn, (1885) 29 Ch. D. 128*

Whether notice is necessary in the case of an equitable assignment ?

1. An equitable assignment is complete between the assignor and assignee although no notice is given to the debtor.

2. Notice of the assignment should, however, be given to the debtor for two reasons.

(i) If there is no notice, the debtor will be free to pay to the assignor, the original creditor and will not be liable to the assignee. On the other hand, if he pays to the assignor in disregard of the notice, he will be liable to pay over again to the assignee.

Stocks vs. *Dobson (1853) 4 De. G. M & G. 11*

(ii) If there is no notice, then the assignee will not be allowed to have priority over subsequent assignee of the same chose in action by the same assignor.

This is called the rule in **Dearl vs. Hall** (1823) 1 Rsess 1=S. F. C. p. 57.

Facts :

Peter Brown died and left a Will wherby he made a trust of his personal estate and of the monies to arise from the sale of his real estate and directed his executors to invest the same and pay interest to his son Zachariah Brown during his life. The income came to about £ 93 a year.

On 19th December 1808, Brown, in consideration of £204 paid to him by William Dearle, assigned a part of his annuity of £ 37. On 26th September 1809, Brown, in consideration of £ 150, assigned another part of his annuity of £ 27 to Sherring, subject to the assignment in favour of Dearle.

Neither Dearie nor Sherring had given notice of assignment to the executor.

In 1812 Brown advertized the life interest of 93 pounds p. a. in trust funds for sale as an unincumbered fund.

Joseph Hall proposed to purchase it and through his Solicitor investigated Brown's title. He also made inquiries of the executors, who knew of no incumbrance affecting Brown's interest. Thereupon Hall purchased Brown's interest for £ 711 -3-6 and had it assigned to him.

On the 25th April 1812, Hall gave the executors written notice of the assignment to him.

On the 27th October 1812, Dearie and Sherring gave notice of their assignment to the executors.

The executors refused to pay any one of the three until their rights were decided.

Dearle and Sherring brought a Bill in chancery against Hall praying that the income of £ 93 should be applied in satisfying their's before that of Joseph Hall.

Dearle contended that the doctrine *first in time is first in law* should be applied and as he was first he should be preferred to Hall.

Held No. Hall should be preferred.

Judgement of Plumer M. R. S. & C. p. 55

The rule was based on carelessness and negligence to perfect one's claim. But the rule is now absolute and independent of conduct. The assignee who gives proper notice first will be paid first, whether the other assignee has been guilty of carelessness nor not.

Re Dallas. (1904). 2 Ch. 385.

The rule in Dearie *vs.* Hall has always applied to assignment of all equitable interests in personality.

To whom notice should be given under the rule in Dearle vs. Hall

1. It must be given to the debtor, trustee or other person whose duty it is to pay the money to the assignor.

Stephens vs. *Green, (1895) 2 Ch. 148*

2. Notice to the Solicitor will be effectual only if Solicitor was expressly or impliedly authorized to receive it.

(1880) 14 Ch. D. 406.

3. If there are several debtors or trustees, notice to one is notice to all.

4. Fresh notice to new trustees is not necessary, if notice is given to old trustees.

What should be the form of Notice

1. Formerly, notice need not be a formal notice and might have been by word of mouth.

2. But since 1925, it must be in writing.

What title is acquired by the assignee by an Equitable assignment.

1. It has always been the rule of equity that the assignee of a thing in action cannot acquire a better right than the assignor had.

2. In other words, the assignee takes it subject to all the equities affecting it in the hands of the assignor.

Roxburghe vs. *Cox, (1881) 17 Ch. D. 520.*

So that—

(1) If the Contract between the assignor and the debtor was voidable, the debtor can set up the viodable character of the contract against the assignee, even if the assignment was for valuable consideration.

(2) If the debtor had a right of set-off against the assignor, the same would be available to him against the assignee.

3. The assignee is, however, free from equities arising after notice.

A debtor cannot diminish the rights of the assignee such as they are, on the date of notice, by any act done after date of notice.

Assignment of rights to be acquired in future

1. So far, we have dealt with assignments of rights which had accrued when the assignment had taken place.

2. We must consider the assignment of rights to be acquired in future.

3. Example of such rights :

(i) The expectancy of an heir-at-law to succeed to the Estate.

(ii) The expectancy of a next of kin to succeed to personality,

(iii) Freight not yet earned,

(iv) Future Book-debts.

4. At Common Law, they were all void. A man could not assign what he had not got. In equity, they were assignable, if for valuable consideration.

5. Equity treated them not as assignments but as *contracts to assign* , and when the assignee became possessed of it, he was compelled to perform his contract.

6. When the right was acquired by the assignor, the beneficial interest passed immediately to the assignee. But the legal interest remained with the assignor. So that, if the assignor transferred it to a subsequent assignee who gave value and had no notice of the previous assignment, the title of the subsequent assignee would prevail.

Conversion

I. Necessity for the doctrine of conversion.

1. The English Law had prescribed a different mode of devolution of the *Realty* and *Personality* of the owner, if he died *intestate*. His Realty went to his *heir* and *Personality* went to his *next-of-kin*.

2. That being so, whether the property will go to the heir or to the next of kin must depend upon the state of the property on the date on which the succession opens.

3. Ordinarily there is no difficulty. The actual state in which the property will be found on the material date will determine its devolution. But suppose, circumstances are such that on the date on which the succession opens, land *is to be sold* for money *but is not sold*, or money is *to be invested* in the purchase of land *but is not so invested,* how is the devolution of the property to be determined ? If the land is to be treated as land, until it is actually sold, then it will go to the heir. On the other hand, if it is to be treated as money, because it was intended to be sold for money, then although it is land, it will go to the next-of-kin. In other words, the question was whether property was to devolve according to the actual state in which it is found to exist or according to the form in which it was intended to be converted. The answer given by equity was, that property was to devolve, not according to the actual state in which it exists, but according to the form in which it was intended to be converted.

4. This is what is called the doctrine of conversion. There would have been no necessity for the doctrine, had there been no difference in the rules of inheritance for Real and Personal Property. This difference is now abolished by Sections 33,45 and therefore, conversion has lost all its importance.

5. In India there is no such distinction in the inheritance of property—Realty to heir and Personality to next-of-kin.

II. There are four cases which give rise to conversion.

(1) By operation of the law.

(2) By operation of the order of the Court.

(3) By operation of a Contract.

(4) By operation of a direction in a deed or a will.

(1) Conversion by operation of the Law

1. There is only one case in which conversion takes place by operation of the Law. That case is the case of Partners. Under the Partnership Act of 1890, Section 39, every partner has a right to require, that the property belonging to the Partnership shall be sold and the proceeds, after the discharge of all debts and liabilities, shall be divided among the partners according to their shares in the capital. As a result, land which is partnership property is treated as Personality and not as Realty.

2. It is treated as Personality, not only as between Partners themselves and their representatives after death, for the purposes of distribution of the partnership assets, but it is also treated as personality for purposes of inheritance as between the persons entitled to the property of a deceased partner.

3. The conversion of Realty into Personality under the Partnership Act takes place not on the date of the dissolution of the Partnership or the death of a partner but at the moment when it became Partnership Property.

4. The doctrine of conversion applies to Partnership Realty unless the contrary intention appears. The reason why partnership agreements convert Realty into Personality is, because a partner ordinarily is not entitled on dissolution to any specific part of the partnership property. But there may be a proviso in the partnership agreement permitting a partner to have specific property, in which case conversion will not apply, there being intention to the contrary.

(2) Conversion by order of the Court

1. Where an order is made by the Court for the sale of Realty, the Realty is treated as being converted into Personality for purposes of succession to the estate of the person whose property was ordered to be sold.

Illus. ABC have equal shares in a Realty. The Court orders the sale of the Realty. This order has the effect of converting their

shares in Realty into Personality, so that the persons entitled to succeed would be the next of kin and not the heir.

2. The following points must be noted :

(i) The order for sale must be within the jurisdiction of the Court

(ii) It is immaterial whether the purpose for which it is sold will or will not exhaust the sale proceeds. The sale may be merely to pay cost. All the same, if the order is for sale, within the jurisdiction, it will effect conversion

(iii) It is immaterial whether it is actually sold or is merely ordered to be sold. Order for sale is enough to effect conversion.

(iv) Conversion takes place from the date of the order and not from the date of the sale.

3. There are two cases in which the order of the Court will not effect conversion for the purpose of inheritance.

(i) Where the Court itself makes an order that such change in the nature of the property shall not affect its devolution on death, in which case the sale proceeds will go to the heir and not to the next-of-kin.

(ii) Where the provision of some statute prohibits a change in the nature of the property from affecting its devolution *e.g.* Section 123 of the Lunacy Act, 1890, which provides that if the property of a lunatic is sold, the proceeds will go to persons entitled to them as though it was not sold.

(3) Conversion by operation of a Contract

1. When there is a binding contract to sell Realty, the Realty is treated as part of vendors Personality. Conversely, the interest of the purchaser is treated as Realty, even if he dies before completion.

2. This is, however, subject to one condition. That is, the contract must be one of which specific performance would be ordered by the Court—*34 Ch. D. 166.*

Mere notice to treat does not suffice to bring into operation the doctrine of conversion. There will be no conversion if the contract is abortive or unenforceable.

(4) Conversion under a contract to lease with an option to purchase

A leases certain property to *B* for seven years, giving him by the lease an option to purchase the property at a certain price during the term. *B* exercises his option

Three questions arise :

(i) Does the exercise of the option effect a conversion ?

(ii) Does it effect a conversion even if the option is exercised after the death of the Lessor?

(iii) From what date does such conversion begin to operate ?

(i) Does the exercise of the option effect a conversion ?

In law, the option given is an offer to sell. The exercise of the option is an acceptance of the offer and when there is an acceptance of the offer, there is a contract. The exercise of the option by resulting in a contract effects a conversion. The answer to the first question is therefore in the affirmative.

(ii) Exercise of the option before the death of the Lessee and after the death of the Lessor.

1. If the Lessee exercises his option *before* the death of the Lessor, i.e., while he is alive, then there is conversion, because the offer conveyed by the option can be legally accepted and a binding contract can arise.

2. If the lessee exercises the option *after* the death, then, on principle, there ought not to be conversion, because there cannot be a contract. An offer cannot be accepted after the person, who make the offer, is dead.

But in *Lawes* vs. *Benett* (1785) 1 Cax 167, it was held that the exercise of the option, even *after* the lessor's death, is good for the purposes of conversion.

3. The rule in *Lawes vs. Benett* being anomalous, is confined in its operation. It is applied as between persons claiming under the lessor. But it is not made applicable as between lessor and lessee.

Illus. A leased certain property to B with an option to purchase. The premises were insured. They are destroyed by fire *before* the option is exercised by B. B, on exercising the option, cannot claim the insurance money as part of his purchase. That is claim as between A and B (1878) 7 Ch. D. 858, 10 Ch. D. App. 386.

(iii) From what date does conversion by contract begin to operate.

1. Conversion becomes operative from the moment when the contract is made.

2. In the case of option to purchase, conversion takes place as from the execution of the lease.

3. For the purposes of profits etc., the property remains real estate until the option is exercised, so that the rents and profits are taken by the heir entitled to Realty.

4. For the purposes of devolution, it is personality.

Conversion by direction of the owner.—Whether contained in a deed or a will.

1. Two things are necessary for conversion by deed or will :

(i) There must be a direction to sell or purchase Realty.

(ii) There must be some person in existence who can be said to have the right to insist upon the direction being carried out Conversion is always for the benefit of some person. If there is no person to claim the benefit, then there need be no conversion.

2. In order to effect a conversion, the direction must be imperative. If direction is only *optional,* there will be no conversion and property will be treated as real or personal, according as to the actual condition in which it is found.

NOTE.—For a difference between a direction which is *really* optional and a direction which is *apparently* optional but really *imperative See Earlom vs. Saunders—(1754) Ambler's Reports 241.*

Direction, if it is optional, must be *express.* Otherwise it will always be held to be imperative.

3. Distinction must be made between direction to sell or purchase Realty and discretion as to the time at which sale or purchase shall be made :

(a) If the direction is imperative, mere fact that it is accompanied by discretion, will not prevent conversion having its effect.

(b) If the direction is imperative, the fact that those to whom the direction was given have failed to carry it out, will not prevent conversion having its effect.

4. Distinction must be made between a simple direction to sell or purchase and a direction, the execution of which, is made dependent *on the request* or *consent* of some other person.

In such a case, whether there will be conversion or not, rests upon the construction of the document :

(a) If the intention of the clause is to enable the person named to *enforce the obligation to convert,* then there will be conversion.

(b) If the intention of the clause is *to control the operation of the direction* by making it subject to application, then there will be no conversion until such application is made.

5. Distinction must be made between the *power to convert* and *direction to convert :*

(1892) 1 Ch. 279.

(1910) 1 Ch. 750.

A mere **power to convert** is not imperative direction and therefore, there **will be** no conversion, where there is mere power.

Illus. :

A borrowed £ 300 from *B* on a mortgage of *A's* property and gave B power of sale by the terms of which the surplus proceeds of sale were to be paid to A, his executors and administrators.

A died intestate, and after *A's* death *B* sold the estate and there were surplus sale proceeds. *To whom would the surplus go* ?

As this was not a direction to sell, the property would devolve according to its *actual* state at the death of A. At the death of A it was Realty, therefore, the heir was entitled to it. If the sale had taken place during the life-time of A, at the death of A it would be personality and would have, therefore, gone to the next-of-kin.

II. TIME FROM WHICH CONVERSION BY DIRECTION TAKES.

1. This varies according as the direction is contained in a will or in a deed.

2. If the direction is contained in a will, conversion will take place as from the death of the testator.

3. If the direction is contained in a deed, conversion will take place as from the date of the execution of the deed—notwithstand-

ing that the trust to sell or purchase is not to arise until after the, settlor's death.

III. Effect of the failure of objects for which conversion was directed in a will or deed.

1. Two cases must be distinguished :

(i) Cases of total failure.

(ii) Cases of partial failure,

(i) Cases of total failure

1. Where there is a *total* failure of the objects *before* or *at the time* when the deed or will came into operation, or before the time at which the duty to convert is to arise, no conversion will take place at all and the property will remain as it was. The reason is that, there is no one who can insist upon the character of the property being altered.

2. The failure must *be prior* failure and not *subsequent* failure.

3. The rule regarding conversion is uniform in the case of total failure and there is no difference between the effects of a direction in a deed and a direction in a will.

(ii) Cases of partial failure

1. Where the purposes have only partially failed, then conversion is necessary to carry out such purposes as have not failed. Consequently the doctrine of conversion would operate and the representative entitled to take the property in the form in which it is directed to be converted.

2. It will be carried out to the extent necessary.

Illus. :

A devises Realty to trustees upon trust to sell and divide the sale proceeds between *B* and *C*. *B* predeceases A and C survives him. Here, sale is necessary in order that *C* may have what A intended to give him, i.e., money. C will take his share in money.

What would happen to the share of *B* ?

It is money *in fact* and *ought* to go to the next-of-kin. But it will go to the heir because conversion to that extent was unnecessary. Heir takes it but as money.

Illus. :

A bequeaths personality to trustees to invest in the purchase of land for B and C. B predeceases A and C survives him. Here, purchase is necessary in order that C may have what A intended to give him, i.e., land. C will take his share in land.

What would happen to share of B ? It will go to the next-of-kin, because, conversion to that extent was unnecessary. But the next-of-kin will take it as land.

Reconversion

1. Reconversion means annulment or cancellation of prior conversion. It is a reversion or restoration of the notional state of the property to its actual state.

2. Reconversion can take place in two ways :

(i) By act of parties,

(ii) By operation of law.

(1) By act of parties

1. This occurs where a person has the right to choose between taking the property in its converted state or in its actual state.

2. Persons who have a right to make such an election and thereby reconvert property are :—

(1) An absolute owner.

(2) A owner of an undivided share—without the concurrence of the co-owner in the case of money to be converted into land but not in the case of land to be converted into money. This is because money is capable of apportionment while land is not.

Illus.—(1) Where money is to be invested into land in the interest of *A* and *B* as joint tenants. A can elect to reconvert without the concurrence of B.

(2) Ques :—Can a remainder man effect a reconversion by electing to take it in its actual state ? This is not clearly settled.

(3) This rule of reconversion by act of parties applies where the owner who has a right to elect and thereby to effect reconversion is subject to the limitation that he must not be under any disability.

Infants and *Lunatics* are persons under disability and cannot, therefore, reconvert. But the Court may direct reconversion on their behalf if it is beneficial to them.

Married woman can reconvert if the property belongs to her for her separate use. If it is not her separate property, then she can do so only with the consent of her husband.

(4) Evidence of election to reconvert—

(i) express declaration of intention in that behalf;

(ii) conduct amounting to election.

(2) Reconversion by Law

Where a person, who is under an obligation to convert property, is in possession of and absolutely entitled to the property after the obligation has ceased, the property is at home and reconverted without any act on his part. Thus—

A converts within 3 years after his marriage with B to invest £ 1,000 in the purchase of lands and settle them upon his wife *B*. B dies within a year of the marriage. Since the obligation to invest money in land and the right to require its investment are both vested in A, the obligation is discharged by operation of law and the money which was converted into land by the covenant is reconverted and passes to the next-of-kin.

Election

I. Distinction between election in law and election in Equity.

(a) *Election in law* is connected with the choice of a party to repudiate a liability arising out of an unauthorized act or to ratify the act and accept the liability.

(b) *Election in Equity* is connected with the choice of a person to accept a gift which is subject to a burden or to reject the gift.

II. Necessity for tie Equitable doctrine of Election.

(i) What is the problem which the doctrine deals with

Nature of the Problem.

A gives his property to *B* by an instrument-deed or a will—and by the same instrument gives to *C* a property belonging to *B*.

What can *B* take under such an instrument ?

Here there are two gifts—

(i) by A to B of A's property

(ii) by A to C of B's property

The gift to *B of A's* property is a valid gift, because *A* is the owner of the property gifted away. The gift to C of *B's* property by *A* is invalid, because it is not authorized by *B*.

Question is, can *B* take the gift from *A* of *A's* property and repudiate the gift of his property by A to C ? It is this problem with which the doctrine of Election deals.

(ii) The doctrine of Election says that the gift to B shall take effect only if *B* elects to permit the gift to C also to take effect.

III. THE PRINCIPLE OF THE RULE.

When a person makes a gift of this sort, equity presumes that in such a gift there is an implied condition that he who accepts a benefit under an instrument must adopt the whole of it, conforming to all its provisions, and renouncing every right inconsistent with it.

(iii) Courses open to a person called upon to elect.

(A) Two courses are open to a person who is called upon to make an election.

(1) *B* may allow C to take his (B's) property and himself take A's property.

(2) *B* may take A's property and not allow C to take his (B's) property but give him compensation to the extent required to satisfy C.

Illus. :

A gives to *B* a family estate belonging to *C* worth £ 20,000 and by the same instrument gives to C a legacy of £ 30,000 of his (A's) property. C can do either of the two things,

(i) allow B to take the family estate *or*

(ii) keep the family estate and give B £ 20,000.

(B) The former course is called *taking under the instrument.* The latter is called *taking against the instrument.* The following points must be noted in connection with these two modes of Election :

(i) Election against the instrument is allowed in Equity only where the gift is made upon an *implied* condition that the donee shall part with his own property. Where the gift is made upon an *express* condition that the donee shall part with his own property. Equity will not allow Election against the instrument. The donee would take nothing if he refused to comply with the condition.

(ii) No question of compensation arises when a person elects under the instrument.

(iii) Election against the instrument where it is permitted—does not involve a forfeiture of the whole of the legacy but only of a part sufficient for compensation.

IV. Conditions for the application of the doctrine

(1) The donor must have given the property of the donee to a third person.

(2) The donor must have by the same instrument given his own property to the donee. To this the following must be added.

(3) The property *given to* the donee must be such that it can be used to compensate the third person.

(4) The property of the donee must be alienable.

Note.—The donor will be deemed to be disposing of such interest as he may have in the property and no more.

v. Some cases which must be distinguished from cases of election

(1) Cases of *two* gifts to one person

In such cases the doctrine of election does not apply. They are cases of gifts of his own property.

Here the donee may accept the one that is beneficial and reject the one that is *onerous*—unless the intention of the donor was that the acceptance of the *onerous* was a condition for the grant of the beneficial.

2. Case of *two* properties in one gift.—One beneficial, the other onerous.

The beneficiary must take both or neither unless an intention appears to allow him to take the one without the other.

VI. CONCLUSION

(1) Conversion and election are doctrines which illustrate the maxim of Equity—Equity looks to intention.

(2) That being so there would be no election if there was no intention on the part of the donor to put the donee to election.

I. Performance

1. *The problem* :—A covenants with B to do a certain act. A does an act which can wholly or partly effects the same purpose *i.e.* available for the discharge of the obligation arising under the covenant but does not relate the act to the covenant. The question is *how is this act to be construed ?* Is it to be construed that it is an independent *act* quite unconnected with the covenant or is it to be construed that the intention of A in doing this *act* was to perform the obligation. The answer of equity is that the *act* must be treated as being intended to perform the obligation under the covenant.

2. *Principle* :—The principle underlying the doctrine of Performance is that, equity presumes that every man has an *intention* to perform his obligation and when he does an *act* which is similar to the one he promised to do, then equity gives effect to that intention.

3. *The difficulties that would occur if this principle was not recognized.*

Illus :

A convenanted on his marriage to purchase lands of the value of £200 a year and to settle them for the jointure of his wife and to the first and other sons of the marriage in fail.

A purchased lands of that value but made no settlement, so that, on his death the lands descended to his eldest son.

The eldest son brought a bill in equity founded on his father's marriage-articles to have land purchased out of the personal estate of the father of the value of £ 200 a year and settled to the uses in the marriage-articles. But for the doctrine of *performance* the man would get both.

II. The cases in which the questions of Performance arise fall into classes :

(i) Where there is a covenant to purchase and settle lands, and a purchase is in fact made.

(ii) Where there is a covenant to leave personality to an individual and the covenanter dies intestate and the property thereby comes in fact to that individual.

III. Cases arising under the First Class

(i) *Illus,* already given.

Points to be noted.

(i) Where the lands purchased are of less value than, the lands covenanted for, they will be considered as purchased in part performance of the contract.

(ii) Where the covenant points to a future purchase of lands, lands of which the covenantor is already ceased at the time of the covenant, are not to be taken in part performance.

(iii) Property of a different nature from that covenanted to be purchased by the covenantor, is not subject to the doctrine of Performance.

IV. Cases that fall under the second class

(i) Covenant is to leave certain money.

A covenanted previously to his marriage to leave to his wife £620. He married and died intestate. His wife's share under the intestacy was less than £ 620.

The wife sued for the performance of the covenant. The question was, having received £ 620 on intestacy, was it not a performance of the covenant. It was *held* that it was, so that the widow could not claim her share on intestacy and £ 620 over and above as a debt under the covenant.

(2) In this case, the covenant was wholly performed. But even if the amount received was less than the amount due under the covenant, the doctrine of performance would apply and the convenant would have been held to be performed *pro tanto.*

(3) Two points to be noted :

(i) Where the covenantor's death occurs at or before the time when the obligation accrues, there is performance.

(ii) Where the covenantor's death occurs after the obligation has *accrued due,* there is no performance.

Satisfaction

I. *Problem.*—A is under an obligation to B. A makes a gift to B. The Question is : Is the gift to B to be taken as a gift or is the gift to B to be taken as satisfaction of A's obligation to B ?

II. There is a similarity between satisfaction and performance. There are fundamental distinctions between the two.

(1) In performance, the act done is available for the discharge of the obligation, but is not related in specific terms to the obligee. In satisfaction, it is related to the obligee but not in discharge of the obligation.

(2) In performance, whether the covenant has been performed depends, not upon the intention but, upon whether that has been done which was agreed to be done. The question, whether a gift satisfies an obligation, depends upon the intention of the donor.

(3) If an obligation has been performed-according to its terms, the obligor is discharged. If an obligor makes a gift by will in satisfaction of his liability, it rests with the obligee either to accept the gift or decline it. If he accepts it, he looses the right to enforce his obligation, if he declines it, he retains his original rights.

II. Intention is that, the gift is in satisfaction of the prior obligation.

III. Cases in which the question of satisfaction arises fall into two classes:—

(i) Cases in which the prior obligation arises from an act of bounty.

(ii) Cases in which the prior obligation is of the nature of a debt.

IV. Class of cases in which the prior obligation arises from an act of bounty.

In this class fall two kinds of cases—

(A) Satifaction of legacies by portion.

(B) Satisfaction of portions by legacies.

(A) *Satisfaction of legacies by portion*

Portion—That part of a person's estate which is given or left to a child.

Illus.:

A has three sons B, C, D. He makes a will and in that will gives a legacy to each of his sons. Subsequently to the making of his will, A makes an advancement of a certain sum of money.

2. Here, there is a legacy and afterwards a portion. Are they cumulative or are they alternative. Is the child which has got a portion also entitled to get the portion ? Or is the claim for legacy satisfied by the subsequent portion given by the father ?

3. The answer of equity is that, a child cannot get both, legacy and a portion. The claim for legacy shall be held to be satisfied by the subsequent grant of the portion. This is called the rule against *double portions*.

II. *Satisfaction of Portion by Legacies*

1. This is the converse of the first. In the first class of cases, there is first legacy then a portion. In the second, there is a portion first and then there is a legacy.

2. In the former case, the question was whether a legacy by will was satisfied by a subsequent portion. In this, the question is whether the obligation to give a portion is satisfied by a subsequent legacy.

3. The answer here is the same as in the former case. The same rule against double portion applies. So that a portion will be satisfied by a legacy.

4. When the will precedes the settlement, it is only necessary to read the settlement as if the person making the provision had said, "I mean this to be in lien of what I have given by my will".

But if the settlement precedes the will, the testator must be understood as saying, "I give this in lien of what I am already bound to give, if those to whom I am so bound, will accept it".

5. The same rule applies in the case of a portion followed by a portion.

II. *Limitations on the rule of double portions*

1. The rule does not apply :

(1) In the case of legacy and a portion—where the legacy is *expressed* to be given for a particular purpose and the portion subsequently advanced is for the same purpose.

(2) In the case of portion and legacy, and in the case of portion and portion—where the property is actually transferred to the child and then a provision is made either by way of a legacy or portion—in short it applies only where the first portion is only a debt.

(3) Where the person, who makes the provision is the parent or a person *in loco parentis*— If, therefore, a person gives a legacy to a stranger and then makes a settlement on the stranger of *vice versa,* the stranger can take both, the rule against double portion does not apply to him:

(i) An illegitimate child is a stranger;

(ii) a grand child is also a stranger:

(iii) a stranger cannot take advantage of the satisfaction of a child's share.

III. *Cases of two Legacies given by the same will or by a will and Codial.*

1. Question is whether the second Legacy is intended to be additional to the first or to be merely repetition.

2. The leading case is *Hooby vs. Hatton, 1 Bro. C. C. 390 N.*

3. Two class of cases to be considered separately—

(1) Where the subject-matter of the legacy is a thing.

(2) Where the subject-matter of legacy is money.

4. *Where the subject-matter of the Legacy is a thing,* Rule : Where the same thing is given twice—not additional but repetition.

5. *Where the legacies are pecuniary legacies :*

(1) The rule varies according as the gifts are contained in the same instrument or in different instruments.

(2) Two pecuniary legacies in the *same* instrument.

Rule:

(i) If equal—repetition.

(ii) If unequal—cumulative.

3. Two pecuniary legacies in *different* instrument.

Rule.—They are cumulative.

Exception.—If *same* motive is expressed for both gifts and the *same* sums are given—then repetitition.

B. Cases in which the prior obligation is of the nature of a debt.

1. Cases may be divided into two classes—

(i) Satisfaction of debt by a Legacy.

(ii) Satisfaction of debt by a portion.

(i) *Satisfaction of debt by a Legacy.*

(1) This case arises where a debtor, without taking notice of the debt bequeathes a sum by way of legacy to his creditor. Question is : Is the legacy to be taken as satisfying the debt or is the creditor entitled to the legacy and also the debt ?

(2) *Rule.*—That the legacy shall be taken as satisfying the debt.

(3) *Limitation on the Rule.*—The rule does not apply in the following cases—

(i) Where the legacy is of lesser amount than the debt—no satisfaction, even *protanto.*

(ii) Where the legacy is given upon a contingency.

(iii) Where the legacy is of an uncertain amount— *e.g.* residue.

(iv) Where the time fixed for payment of the legacy is different from that at which the debt becomes due—so as to be equally advantageous to the creditor.

(*v*) Where the subject-matter of the legacy differs from the debt, *e.g.* land.

(ii) *Satisfaction of debt by Portion.*

(1) Such a case arises where the father becomes indebted to his child and then advances a portion to him in his life-time. The Question is : Can the child claim both—the debt as well as the portion ? Or Is the debt satisfied by the portion ?

(2) *Rule.*—Debt is satisfied by the portion.

(3) This rule is subject to the same limitations.

V. Difference between Performance and Satisfaction.

Further notes are not available—ed.)

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2. NOTES ON THE DOMINION STATUS

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DOMINION STATUS

1. The Statute of Westminister to some extent lays down and codifies the law which regulates the constitutional relationship of these parts of the British Empire which is known as the British Commmonwealth of Nations.

2. The Statute of Westminister applies to the Dominions and establishes for them what is called Dominion Status. Our inquiry will be directed to understand the meaning of Dominion Status. Before approaching the subject we must ask.

I. 1. What is a Dominion ?

A Dominion is a colony which is declared to be a Dominion by the Statute of Westminister.

2. What is a Colony ?

A Colony is a British Possession other than U. K. and India.

3. What is a British Possession ?

A British Possession is any part of the British Empire exclusive of the United Kingdom over which the King exercises sovereignty.

4. What is British Empire ?

(British Empire)* denotes the whole of the territories over which the King possesses sovereignty or exercies control akin to sovereignty. It includes therefore all the King's Dominions, over which he is sovereign, and the protectorates and Protected States whose foreign relations are controlled by the Crown.

It also includes the mandated territories.

II. What is Dominion Status ?

1. The subject could be better under (stood)* if we compare the system of Government inaugurated by the Statute of Westminister with the system of Government which was in operation before it came into force.

2. The system which was in operation was known as Responsible Government. We must therefore grasp as a first step the characteristics of Responsible Government.

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* Inserted these words are erased in the ms. either on account of being eaten by termites or by afflux of time.

3. Why Responsible Government came in some colonies and why it did not come in others ?

4. The Government of a colony differed according to the nature of the colony.

5. Colonies fall into two classes:

(1) Colony by settlement.

(2) Colony by Conquest or Cession.

(1) Colony by settlement

1. Thus in a colony by settlement there came up the inevitable conflict between an irresponsible executive and representative legislature, a conflict of mandates.

2. Responsible Government had to be introduced in these colonies by settlement in order to solve this conflict.

3. THE NATURE OF THE RESPONSIBLE GOVERNMENT.

The position of the King in relation to settled colonies differs from his position in relation to conquered colonies.

The King stands to possession acquired by settlement in a position analogous to his status in the United Kingdom. *10 App. Calls 692/(744).* He is possessed of the executive power and has authority to establish Courts of law, but not celesiastical Courts *[3 Moo. P. C. 115, 1865 : 1 Moo PI.C.C. 411,1863].* But he cannot legislate, and if laws are to be passed, this must be done—

(1) by a legislative body of representative character on the analogy of the U.K.

(2) where this form of legislation would be difficult to carry out, parliamentary authority must be obtained authorizing the establishment of a different form of Constitution.

(2) Colonies by Conquest

In these, the King possesses absolute power to establish such executive, legislative and judicial arrangements as he thinks fit, subject only to the condition that they do not contravene any Act of Parliament extending to all British Possession.

But this right is lost by the grant of a representative legislature unless it is expressly retained in whole or in part. If not so retained, power to legislature as to the Constitution or generally can only be recovered under the authority of an Act of Parliament. *1835 2 Kuapp. 130 (152) Jehson v/s Pura; 1932 A.C. 260.*

1. The Statute of Westminister applies to :

(1) The Dominion of Canada,

(2) The Commonwealth of Australia,

(3) The Dominion of New Zealand,

(4) The Union of South Africa,

(5) The Irish Free State,

(6) New Foundland.

2. This statute calls these colonies as Dominions and confers on them what is called Dominion Status.

3. These Colonies had Responsible Government before the Statute of Westminister.

What is the difference between Responsible Government and Dominion Status ?

Mechanism of Responsible Government.—

(1) THE CLAIM BY THE COLONY TO COLONIAL AUTONOMY IN MATTERS WHICH AFFECTED THEM.

(2) THE CLAIM TO UNLIMITED SOVEREIGNTY BY THE IMPERIAL PARLIAMENT.

These two claim are contradictory. A self-governing colony is a contradiction in terms.

The solution of this question involved two questions :

(1) How was the divison of authority to take place between the Colonial and Imperial Governments.

(2) How were the powers given to each were to be exercised by each.

The division proposed was not along the lines of imperial and colonial legislative competence.

All legislation was to be within colonial competence except what was barred by the colonial laws, but some of it would be liable to veto by the Imperial Government not on the ground that it was beyond the competence of the colonial legislature, but it affected some Imperial interest.

The matters of Imperial concern were not reduced to writing by enumeration. The Imperial Government was free to decide whether any particular matter was or was not of Imperial concern.

The following provisions were a feature of the Constitution of these colonies:

(1) The appointment of the G. and G.G.* by the Crown on the advise of the Imperial cabinet.

(2) The Right of the G. G. to act otherwise than the advice of his ministers.

(3) The power of the Governor to Reserve Bill for the pleasure of the King on the advice of the Imperial Government.

(4) The Power of Disallowance by the King on the advice of the Imperial Government.

The terms of the Statute of Westminister

I. It frees the Dominion Legislature from the overriding effect of the laws made by the British Parliament:

(1) It abrogates the Colonial Laws Validity Act.

(2) It gives the Dominion Legislature to repeal any U. K. Act in so far as the same is the part of the Dominion.

II. It puts limitations upon the legislative sovereignty of the British Parliament:

(1) No Act of Parliament passed after December 11, 1931 shall extend, or be deemed to extend to a Dominion as part of the law of that dominon unless it is expressly declared in the Act that the Dominon has requested and consented to the enactment thereof.

(2) Any alteration in the law touching the succession to the throne or the Royal Style and Tides requires the assent of the Parliaments of the Dominion as well as of the United Kingdom.

III. The Statute does not alter the other provisions :

(1) The appiontment of Governor General.

(2) The Reservation of Bills.

(3) The Disallowance of Bills.

But a great change has taken place in the exercise of these powers.

Right of advice to the Crown.

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Dominion Status does not mean sovereignty.

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2. Constitution of the United Kingdom has been dealt with.

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* Means Governor and Governor General—ed.

* Portion missing—ed.

3. India will not be dealt with here. So also Protectorates and Mandated Territories.

4. Deal only with the Constitutional Organization of the Colonies.

5. The Constitutional Organization of the Colonies differs according to the mode of the acquisition of the Colony.

6. Two methods.

(1) Settlement

(2) Conquest or Cession.

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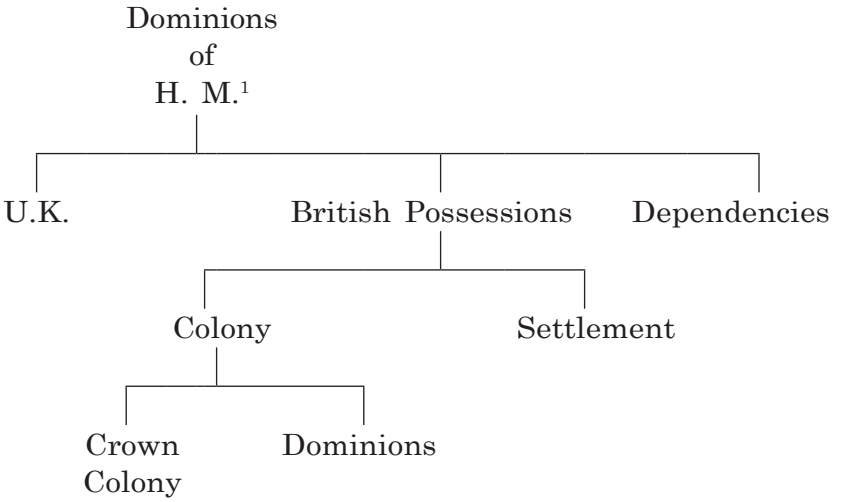

Dominions

1. The Dominion Office was established in 1925 to take over Dominions' business from the colonial office.

2. At first the Secretaryships for the Dominions and for the colonies were held by the same minister, but in 1930 a separate S of S[2] for the Dominions was appointed.

3. The Dominion Office deals with business connected with the Dominions, Southern Rhodesia, the South African High Commission [i.e. Basutoland, Bechunaland, Protectorate Swaziland], Overseas settlement, and business relating to

[1] His Majesty—ed.

[2] Secretary of State—ed.

Imperial, Conferences. See Sir G. V. Fiddes—*The Dominions and Colonial Offices.*

Old Halsbury, I. p. 303.

662. The dominions of the Crown include—

(a) The U. K. and any Colony, plantation, island, territory or settlement within H M's dominions and not within the U.K.

(Naturalization Act, 1870, 33 Ne. c 14 s. 17)

(b) Places situated within the territory of a Prince, who is subject to the Crown of England in respect of such territory.

[*Crow and Ramsay (1670) Vaugh. 281*]

(c) British ships of war and other public vessels (*Parliament V/s. Belge. (1880)5 P.D. 197.*)

(*d*) British Merchantmen on the high seas [1870 S. R. 6Q. B. 31. *Marshall v/s Murgatroyd*] and probably even in the territorial waters of a foreign country [*Compare R v/s Carr and Wilson (1882) 10 Q.B.D. 76*].

Halsbury X. p. 503 para 856

1. "British Possession" means any part of H M's dominions exclusive of the U. K.; and where parts of such dominions are under both a central and a local legislature, all parts under the central legislature are deemed to be one British Possession. [Interpretation Act 1889 (*52 & 53 Vict. c. 63*) *S. 18 (2)*].

2. A Colony is any part of H M's dominions exclusive of the British Islands and British India; and where, parts of such dominions are under both a central and a local legislature, all parts under the central legislature are deemed one colony [*Ibid.* S. 18(3)].

3. A British settlement means any British Possession which has not been acquired by cession or conquest and is not for the time being within the jurisdiction of the legislature of any British possession. [British Settlements Act, 1887 (*50-51 Vic. C. 54*) S. 6].

4. The expression 'Dependencies' is used to signify places which have not been formally annexed to the British dominions, and are therefore, strictly speaking foreign territories, but which are practically governed by Great Britain, and by her represented in any

relations that may arise towards other foreign countries. Most of them are "Protectorates" that is territories placed under the protection of the British sovereign, generally by treaty with the native rulers or chiefs. Cyprus and Weihaiwei are foreign territories held by Great Britain under special agreements with their respective sovereigns, but administered under the Foreign Jurisdiction Act, 1890 [53-54 Vic. C. 37], on the same general lines as protectorates. India including both the Native States and the strictly British territory of that Empire, is frequently spoken of as our great dependency.

5. Crown colonies are those in which the Crown retains complete control of the public officers carrying on the Government, and the legislative power is either delegated to the officer administrating the Government [S. S. Gibralter, Ashanti, Virgin Islands, St. Helena and Basutoland] or is exercised by a Legislative Council which is nominated by the Crown either entirely or partly the other part being elected. In these colonies, with seven exception, the Crown has reserved to itself the power of legislating by Order in Council.

Protectorates although not parts of H M's Dominions are administered in much the same manner as Crown colonies.

Dominions are those colonies which possess elective legislatures to which the executive is responsible, as in the U. K. the only officer appointed and controlled by the Crown being the Governer or G. G.

Halsbury X, p. 521

885. There is no statutory or authoritative definition of the term "protectorate" although it appears in two recent Statutes. Protectorates are not British territory in the strict sense ; but it is understood that no other civilized power will interfere in their affairs. They are administered under the provisions of orders in Council issued by virtue of powers conferred upon H. M. by the Foreign Jurisdiction Act, 1890 "or otherwise vested in His Majesty" which latter phrase may be taken to be intended to bring in aid any exercise of the Royal prerogative that may be necessary to supplement H. M's statutory powers.

Halsbury XIV, p. 420

For a recent treatment of the meaning of "dominions" see *R v/s Crewe 1910 S. K. B. 576, 607, 622.*

Halsbury IX, p. 16

The authority of the King extends over all his subjects wherever they may be, and also over all foreigners who are within the realm. The jurisdiction of English Courts of Law, however, is limited, first, by the stipulations contained in the enactments by which the kingdoms of Scotland and Ireland were incorporated in the United Kingdom ; Secondly by the Charter of Justice, letters patent and statutes affecting particular colonies; and thirdly by the consideration that no English Court will decide any question where it has not the power to enforce its decree.

The jurisdiction of each particular Court is that which the King has delegated to it, and this delegation has been complete, for the King has distributed his whole power of prosecution to diverse Courts of Justice.

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Development of Dominion Status

1. There is first the claim to unlimited sovereignty by the Imperial Parliament and Government stated in its logical perfection by Lord John Russell.

2. There is second the claim to colonial autonomy an effective demand that, in matters which interested them, the colonies should manage their own affairs.

3. There is third, the contradiction between the two. A self-governing dependency is a contradiction in terms.

Solution

On the one hand, the Imperial Parliament granted to a colony a sphere of activity in which the colonial legislature, executive and judiciary had authority to exercise governmental power. In this sphere the colony was sovereign.

On the other hand, the Imperial Parliament had the authority and full legal power, as and when it saw fit, to withdraw or limit the rights of the Colony to exercise power within a prescribed sphere, either by repealing or amending the Constituent Act of the Colony or by passing an Imperial Act explicitly applying to some subject within the jurisdiction of the Colony.

Two Questions: (1) How was the division of authority to take place between the Colonial and Imperial authority ? (2) The method of exercising the powers given to each.

(1) The division proposed was not along the lines of Imperial and Colonial legislative competence.

All legislation was to be within colonial competence, but some of it would be liable to veto by the Imperial authority, not on the ground that it was beyond the competence of the colonial legislature, but because it affected some specified Imperial interest.

(2) It was advocated that the possible matters of Imperial concern should be reduced to writing by enumeration of those matters which were deemed of Imperial concern. The British Government refused to bind itself specifically in this way [and the provisions were not allowed to stand in the Australian Bills].

(3) How were the activities of the Colonial and Imperial authorities to be adjusted and co-ordinated so that confusion and overlapping and conflict might be avoided? The solution was found in the following :

(1) The Powers of Reservations.

(2) The Powers of Disallowance.

(3) The appointment of the Governor General.

(4) The nature of responsible Government in the colonies.

(5) Right of the British Government to tender advice to the Crown.

(6) Colonial Laws Validity Act of 1865.

(4) The nature of responsible Government in the Colonies.

The executive Government was vested in the Governor, who was empowered to appoint to his executive council those persons whom he thought fit, in addition to those, if any, who by law were members of it. While in one or two cases it was

stipulated in the Constituent statute that ministers were to be members of the executive council or that members of the executive council were to be, or were within a given period, to become members of one or other house of the legislature. In no case is the executive council required by law to be composed of ministers and ministers alone.

The executive council includes but does not necessarily consist only of ministers. In certain cases there is no legal necessity for members of the executive council to be members of either house of legislature.

The Act prescribed a sphere of activity within which the colonial legislature had power to make laws for the peace, order and good Government of the colony. Thus far the statute.

The instructions to the Governor empowered him to govern with an executive council whose advice he might disregard if he thought fit.

Responsible Government was based, not upon a statutory basis, but on the faith of the Crown.

Character of Inter-Imperial Relations

In the Commonwealth Merchant Shipping Agreement, the Dominions appear in a position of complete equality, comparable with that of contracting states, and differences arising out of the agreement would seem suitable for reference to the inter-Imperial tribunal contemplated by the Imperial Conference 1930. [Cmd. 3994, Part VII].

But the relations are not governed by International Law. This was asserted clearly in 1924, when the Irish Free State registered with the Secretariat of the Leagus of Nations, the Articles of agreement for a Treaty of December 6, 1921 on the score that it was a treaty within the meaning of Article 18 of the covenant of the League of Nations, and the British Government insisted that neither the covenant nor the conventions concluded under League auspices were intended to govern relations *inter se* of parts of the Commonwealth [Keeth. R.G. II. 884, 885.].

The Imperial Conference 1926, took this view, holding that it had been determined in this sense by the Legal Committee of the Arms Traffic Conference of 1925 [Cmd. 2768 p. 23.]

The Dominions save the Irish Free State as well as the United Kingdom, excluded inter-imperial disputes from those to be submitted to the Permanent Court of International Justice when accepting the optional clauses of the Statute of the Court in 1929 [Cmd. 3452 p. 415] and similarly when accepting the General Act of 1928 for the Pacific Settlement of International disputes [Cmd. 3930 pp. 14, 15],

The inter-Imperial preferences are a domestic issue, on which most favoured nation clauses of treaties with foreign states do not operate.

Allegiance

The bond of a common allegiance involving a common status as British subjects, and this bond is one which cannot be severed by the unilateral action of any part as follows from the formal declaration in the Preamble to the Statute of Westminister that inasmuch as the Crown is the symbol of the free association of the members of the British Commonwealth of Nations and as they are united by a Common allegiance, any alteration in the law touching the succession to the throne or the Royal style and titles, requires the assent of the Parliaments of the Dominions as well as of the United Kingdom.

While the Preamble does not make law, it expresses a convention of the constitution which would render it very difficult for the Crown or its representative to assent to a bill passed by any single part which violated this principle of the unity of the British Commonwealth of Nations on a basis of equality of its status.

Note.— In approving the report of the Conference of 1929, the Union Parliament recorded that the proposed Preamble "shall not be taken as abrogating from the right of any member of the British Commonwealth of Nations to withdraw therefrom".

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But this view has never been formally adopted by the Imperial Conference.

The equality of status of the Dominions and the U.K. necessitates the consideration of a mode of deciding inter-Imperial disputes [cmd. 3479 p. 41].

For this purpose, the imperial conference 1930 decided that such disputes should be dealt with along the line of *ad hoc* arbitration, on a voluntary basis. The procedure is to be limited to differences between Government and only such as are justiciable.

The Tribunal is to be constituted *ad hoc* for each dispute ; there are to be five members, none drawn from outside the British Commonwealth of Nations.

Each party shall select one from the States members of the Commonwealth of Nations, not parties to the dispute, being persons who have held or hold high judicial office or are distinguished jurists and one with complete freedom of choice. The chairman shall be chosen by these four assessors may be employed if the parties desire-expenses to be borne equally. Each party shall bear those of presenting its case.

External Sovereignty of the Dominions

They have autonomy. But not status. (They Have)* ceremonial status, but not *legal* ; *de facto* but *not de jure*

For many purposes the Dominions are endowed with a considerable amount of international personality independent of the United Kingdom. But the Common allegiance and the Common Crown interfere with the idea of each Dominion being a distinct sovereign state connected merely in a personal union.

The issue as to the possibility of neutrality in war has been discussed, but only claimed by the Nationalist Government in South Africa. [Kerth DGII 867 868 71, 72, *Sovereignty of Dominions of D. 300-304 463-471*].

It is open to serious doubt if the King could declare war without automatically involving the Dominions in the war.

* Inserted—ed.

The implications of Dominion Status

1. Does it imply sovereign status ?

They have the functions of a sovereign state. But they have not the status of sovereign states.

2. Does it imply the right to secede ?

* * * * *

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Right of aliens to enter British territory. p. 27

Subject—compulsion of, to leave the Realm p. 388

Citizenship and allegiance

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Vol. XVIII p. 49

Law of citizenship in the United States

by

Prentiss Webster

Albany : 1891

Webster

"The distinction between citizens proper, that is, the constituent members of the political sovereignty, and subjects of that sovereignty who are not, therefore, citizens is recognized in the best authorities of the public law". This distinction is true. The further question of who are and who are not citizens has its difficulties. Accept the definition of citizenship to be the enjoyment of equal rights and privileges at home and equal protection abroad, and consider the question from this standpoint, from which alone it should be treated, for we have no law in the U. S. A. which divides our citizens into classes or makes any difference whatever between them. We then discover the importance that the equal rights of citizens when at home should maintain when abroad, because questions as to citizenship are determined by municipal law in subordination to the law of Nations. Therefore, the value of citizenship should not be underestimated."

Webster

View of Roman Law

1. It was by man that the body politic was organised, and in entering the organization with his fellow men, man followed the exercise of his natural rights and became an ingredient of the society of which he, with others, became members.

2. By the organization formed as of man and by man, man was so incorporated into the body politic that he could not depart.

3. Although in the early days of Rome, they alone could call themselves Roman citizens who were free born and born in Rome, yet very soon thereafter, foreigners were admitted to citizenship by authority of the legislative body. Later, as Rome advanced in her conquest of the neighbouring states, to these states the legislative authorities conferred charters by which the citizens of such states were admitted to Roman citizenship and their former citizenship was abolished.

4. Cicero lays down the rule, "that every man ought to be able to retain or renounce his rights of membership of a society," and further adds, "that this is the firmest foundation of liberty." Under this the Romans received all who came and forced none to remain with them.

5. This view of the Roman Law was based upon natural law.

Effect of Invasion

6. After the downfall of Rome this principle of natural law gave way to the principles of feudalism as introduced by the invaders.

7. The invaders having conquered both the people and their lands, organized their Government, as being in a prince who was all powerful over his subjects. The relation as between man and man and his relation to the Government was forced and involuntary. The natural rights of man as being in man were disavowed.

●●

3. THE LAW OF SPECIFIC RELIEF

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(Earlier portion not found—ed.)

* * * *

Nature that the law permits its Specific Performance

(ii) Where the Plaintiff is a person in whose favour Specific Performance can be granted.

(iii) Where the Defendant is a person against whom Specific Performance might be granted.

The question is : Is the Court bound to grant Specific Relief in such cases ?

The answer to this question is contained in Sec. 22.

(A) Section 22 lays down general rules—(1) It says that Specific Relief is discretionary. The Court may grant it or may refuse it. The Court is not bound to grant it merely because it is lawful.

(2) The discretion of the Court is not arbitrary, sound and reasonable, guided by judicial principles.

(B) Section 22 also specifies cases in which Court may exercise discretion not to grant Specific Performance and cases in which Court may excercise discretion to grant Specific Performance.

Cases in which Court may exercise discretion not to grant Specific Performance

(i) Where Specific Performance would give unfair advantage over the Defendant.

(ii) Where Specific Performance would involve some hardship on the Defendant which he did not foresee and non-performance would not involve such hardship on the Plaintiff.

Cases in which Court may exercise discretion to grant Specific Performance

Where the Plaintiff has done substantial acts or suffered losses in consequence of a contract capable of Specific Performance.

Damages and Specific Performance

Sections 19, 20, 29.

Two remedies for breach. Are the mutually exclusive or are they complimentary ? Does one bar the other ?

These are question which are considered in Sections 19, 20, 29. The rules contained in these three may be summarized as below :

19. (i) In the same suit, a Plaintiff can ask for both in addition or in substitution.

(iii) In a suit where Court desides not to grant Specific Performance Court can grant Compensation to Plaintiff if entitled.

(iv) If one suit Court may grant compensation in addition to Specific Performance if it comes to the conclusion to Specific Performance is not enough.

20. (v) The fact that liquidated damages have been agreed upon is no bar to Specific Performance.

29. (vi) If suit for Specific Performance is decreed, it will be a bar to a suit for damages.

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PART I

INTRODUCTORY

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I. The enactment which defines Specific Relief.

1. The law as to specific relief is contained in the Specific Relief Act I of 1877.

2. Before the passing of the Specific Relief Act the law as to Specific Relief was contained in Sections 15 and 192 of the Civil Procedure Code (Act VIII) of 1859.

3. The law was fragmentary. Section 15 dealt with declaratory decrees and Section 192 dealt with Specific performance of contracts.

4. The Act aims to *define* and *amend* the law relating to Specific Relief obtainable in Civil Court.

II. The nature of the Law of Specific Relief

1. Laws fall into *three* categories,—

(a) Those which define Rights.

(b) Those which define Remedies.

(c) Those which define Procedure.

2. *Illustrations.*

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3. The Law of Specific Relief belongs to the second category. It is a law which deals with Remedies.

4. The term *'relief'* is only another word for remedy which a Court is allowed by law to grant to suitors.

III. What is meant by Specific Relief ?

1. Specific Relief is one kind of remedy recognized by law. Its nature can be best understood by distinguishing the different remedies which the law allows to a person whose right has been invaded.

2. A right to be real must have a remedy. No right can give protection if there is no remedy provided for its vindication. Law therefore invariably provides a remedy for a breach of a right.

3. The general remedy provided by law for a breach of a right is *monetary repairation* called compensation or damages.

4. This remedy of money compensation is not an adequate remedy in *all* cases. The loss of some things can be compensated by payment of money. The loss of others cannot be compensated by money. Their loss can be made good by the *return* of the very *same* article. Similarly, the refusal to perform an obligation may be compensated by money. In other cases, the only adequate remedy is to compel the performance of the very *same* obligation.

5. Thus there are two kinds of remedies provided by law :

(a) those under which the suitor is granted the *very same* things to which he is entitled, by virtue of the right he has acquired against his opponent; and

(b) those under which the suitor is granted not the very same thing to which he was entitled, but money compensation or damages in lieu thereof.

6. Specific Relief is the name given to the first kind of remedy.

7. The relief is called specific because it is relief in *specie,* i.e. in terms of the very thing to which a suitor is entitled.

IV. What Specific Reliefs are provided for in the Specific Relief Act.

1. The forms of Specific Reliefs provided for in the Specific Relief Act form under four divisions :

(1) Taking possession of property and delivering it to the claimant who is out of possession.

(2) Requiring Performance of Contract.

(3) Compelling the Performance of a Statutory Duty.

(4) Preventing the doing of a wrong.

2. The subdivisions of the 4th category are :

(i) Rectification of an instrument.

(ii) Rescission of an instrument.

(iii) Cancellation of an instrument.

(iv) Declaration of status.

(v) Receivers—appointment of—

(vi) Injunctions.

V. Other Laws defining Specific Reliefs.

1. These are not the only specific remedies administered by courts in India. There are other specific remedies recognized by the Indian Law and which are enforced by courts in India.

2. These specific remedies outside the Specific Relief Act are:

(i) Taking an account of the property of a deceased person and administering the same.

(ii) Taking accounts of a trust and administering the trust property.

(iii) The foreclosure of the right to redeem or sale of the mortgaged property.

(iv) Redemption and reconveyance of mortgaged property.

(v) Dissolution of partnership, taking partnership accounts, realizing assets ; discharging debts of partnership, etc.

3. We are not concerned with these.

PART II

Consideration of the
Different Kinds of Specific Reliefs
Recognized by the Act.

Division I

Recovery of possession of Property
Sections 8, 9, 10 and 11.

1. Recovery of Possession of immoveable property —Sections 8, 9.

2. Recovery of Possession of moveable property —Sections 10, 11.

Recovery of Possession of Immoveable Property.

1. The Question is—

When can a person, who has lost possession of immovable property and sues to recovery possession thereof—be granted possession thereof instead of damages or compensation for the loss of possession.

2. The emphasis is on the nature of the relief—i.e. the recovery of the specific piece of property of which possession is lost. The relief by way of damages or compensation is always open under the general law. Question is when can an injured person insist upon specific relief for the recovery of property.

3. The cases in which a person has lost possession of immoveable property fall under two classes.—

(i) The case of a person who is entitled to possession but who has lost possession.

(ii) The case of a person who had possession but who has lost possession.

4. The difference consists in *being entitled to possession* and *being in possession.*

5. These two cases are dealt with in Sections 8 and 9. Both provide that in either case the Plaintiff shall be entitled to Specific Relief by way of recovery of property.

6. Requirements of Section 8.

(i) Prove that you have a title to possession and you will succeed in recovering possession by way of specific relief.

7. Requirements of Section 9.

1. Prove that you were in possession within six months prior to the date of suit.

2. Prove that you were dispossessed *without your consent* or *otherwise* than in due course of law.

A *in possession is dispossessed by* B

I.	a with title	"	is	"	without title
II.	a without title	"	is	"	with title
III.	a without title	"	is	"	without title

1. In *all* three cases A can recover possession if he brings suit under Section 9 i.e. within six months—irrespective of the question of title.

2. If he brings a suit after six months, he must rely on title so that A can recover possession in

(i) ——because he has a title.

(iii) ——because he has a possessory title.

But cannot recover in (ii) because B has title and A has not.

Who can maintain a suit under Section 10

1. According to Section 10, only a person *entitled* to the possession of the suit property can sue.

2. Meaning of "entitled to possession".

3. Title to possession may arise

(i) as a result of ownership or

(ii) independently of ownership, as a temporary or special right to present possession

4. Title to possession as a result of ownership.

(i) Ownership may be bare legal ownership or it may be legal ownership coupled with beneficial interest.

(ii) It is not necessary that a legal owner must have also a beneficial interest in the property to have a right to maintain a suit under Section 10.

(iii) This is made explicit in Explanation I, where a trustee is permitted to sue for the possession of the trust property although he has no beneficial interest in it.

5. Title to possession independently of ownership

1. Title to possession independently of ownership may arise in two ways.—

(i) By the act of owner.

(ii) Otherwise than by the act of the owner.

(I) TITLE TO POSSESSION BY THE ACT OF THE OWNER

(i) The owner may by his own act create in another person a right to the possession of the thing which belongs to him as *owner*.

(ii) Illustrations of such a right to possession are to be found in Bailment and lien.

(1) Simple bailment cover the cases of.—

(i) loan

(ii) custody

(iii) carriage

(iv) agency.

(2) Other Bailments.

1. Pawn

2. Hire.

2. Difference between Simple Bailment and other Bailments of Pawn or Hire.—

(i) In Simple Bailment the owner (Bailer) has a right to possession and the Bailee has legal possession. The Bailee being entitled to possession can maintain a suit to recover possession. The Bailer having a right to possession can also maintain a suit to recover possession against any person other than a Bailee.

(ii) In other Bailments of Pawn or Hire—The Bailer has no right to possession. The right to possession is vested in the Pawnee or Hirer during the continuance of the Bailment and it is only the Bailee (Pawnee or Hirer) who can maintain a suit for the recovery of possession.

3. Lien is an illustration of a right to possession arising out of the act of the owner.—

(1) Lien is a right to possession of a thing which arises out of debt due by the owner.

(2) The right to possession of the owner is thus temporarily vested in another.

4. All that is necessary to maintain a suit is a right to present possession.—

(i) The right of present possession may arise out of ownership or may not.

(ii) Right to present possession may be special or temporary.

(II) RIGHT TO POSSESSION OTHERWISE THAN BY THE ACT OF THE OWNER.—

(1) The founder of lost goods has a right to possession.

(2) It is not the result of the act of the owner.

(3) But it is good against all the world except the true owner.

II. Against whom can such a suit be maintained

1. A suit under Section 10 can be maintained against any one and can be maintained even against the true owner.

2. All that is necessary is that the Plaintiff must be entitled to possession.

Section 11. Moveable Property

1. Q. 1.—Who can maintain a suit under Section 11.

A.—The person entitled to *immediate possession.*

2. Q. 2.—Against whom can such a suit be maintained ?

A.—Against any person if he is not owner.

The Defendant must not be the owner. If he is, then Section 10 would apply.

3. Q. 3.—In what case will there be specific relief by way of recovery of possession ?

A.—(i) Where the person who holds the thing is the agent or trustee of the claimant.

(ii) Where compensation for money would not be adequate compensation to the claimant for the loss.

(iii) Where it is extermely difficult to ascertain actual damage caused by its loss.

(iv) Where the possession of the person is the result of a wrongful transfer from the claimant.

Specific Relief regarding Possession of Property

They are dealt with in Sections 8—11.

Section 8. Recovery of specific immovable property by a person entitled to the possession thereof.

Section 9. Recovery of posssession of specific immovable porperty by a person who is dispossessed.

Section 10. Recovery of possession of specific movable property by a person *entitled to its possession*. (1) By reason of ownership (2) By reason of temporary or special rights (Trustee) Bailment Pawn.

Section 11. Recovery of possession of Specific immovable property by a person who is entitled to its *immediate possession*.

This applies when the person having possession is not owner

What is meant by possession in Law ?

Legal possession is a compound of two ingredients: *Corpus and animus domini*.

Note:—

(i) Legal Possession does not involve the element of title or right. Legal Possession is wholly independent of right or title. Legal Possession may be *lawful* or *unlawful*.

If a possessor acquired his *de facto* possession by a means of acquisition recognized by the Law *(Justis fitulus)* he has a lawful possession ; if he did not so acquire it (as in the case of a thief) he has legal possession, but it is an unlawful one.

(ii) *Legal Possession* confers more than a personal right to be protected against wrong-doers : it confers a qualified *right* to possess, a right in the nature of property, which is valid against every one, who cannot show a prior and better title.

There are two elements in legal possession.

(i) Corpus, i.e. the physical relation.

(ii) Animus, i.e. the mental relation.

Corpus or physical relation does not mean physical contact only. It also includes physical contact resumable at pleasure.

The essence of corpus is the power, to exclude others from the use of a thing, i.e. an effective occupation or control according to the nature of the thing possessed.

Animus is the intention of exercising such power of dealing with a thing at pleasure and excluding others—*animus domini.*

Three forms of animus

The mental attitude of the physical possessor in regard to the object of his possession may assume three degrees.—

First.—His intention may be merely to protect the thing. There is no assertion of right—Servant's possession of masters goods.

Second.—Intention to control for certain limited purposes —e.g. tenant—intention to exclude every one except the owner.

Thirdly.—Intention amounting to a denial of the right of every other person—This is the real *animus domini.*

Distinction between Possession and Trespass

1. What the plaintiff is to prove in such cases is possession of the disputed property and not mere isolated acts of trespass over that property. He must prove—

(i) That he exercised acts which amounted to dominion, the nature of these acts of dominion varies with the nature of the property.

(ii) That the act of dominion was exclusive.

2. If the occupation of the plff., as indicated by those acts, has been peaceable and uninterrupted and has extended over a sufficient length of time, the inference may properly be drawn that the plaintiff was in possession.

Objects of Section 8 and *9.*

(i) Section 8 of the Act provides dial the person entitled to the possession of specific immovable property may recover it in the manner prescribed by the C. P. C, i.e., by a suit for ejectment on the *basis of title.*

(ii) Section 9 gives a summary remedy to a person, who has, without his consent been dispossessed of immovable property otherwise than *in due course of Law* for recovery of possession without *establishing title.*

Section 9.

This Section deals with the subject of unlawful dispossession, and gives to the person dispossessed the alternative of two remedies.—

(i) He may simply prove the fact of his unlawful dispossession, in a suit instituted by him within six months thereof, recover possession of the property. The question of his *title* to the property is quite immaterial.

(ii) He may recover possession by relying on his title in a suit brought by him for that purpose. Here his success depends upon his proof of title.

The former remedy is called remedy by way of a possessory suit and is enacted in Section 9. The latter is the ordinary remedy of a suit based on title and is embodied in Section 8.

Nature and object of Section 9.

(i) To prevent people from taking the law into their own hands, however good their title may be.

(ii) To prevent the shifting of the *burden of proof* owing to dispossession—Possession being *prima facie* evidence of title.

Anterior possession *per se* constitutes a perfect title to property as between the *dispossessed* and the *dispossessor,* in a suit under Section 9, i.e. within six months of the dispossession.

Question.—What is the effect of anterior possession in a suit for possession by a person, who is dispossessed after 6 months have elapsed and a suit under Section 9 is barred ?

The following propositions have been judicially established :—

(i) Possession for a period of sixty years and upwards is sufficient to create a title in the possessor which no one can question.—8 D.R. 386.

(ii) Adverse possession for 12 years under article 142 is itself title even against the rightful owner himself.

Consequently, where in a suit for possession, a plea of adverse possession during the prescribed period of limitation is set up by the Defdt. the question of limitation becomes a question of title, and the Piff. must furnish *prima facie* proof of subsisting title at the date of his suit, before the Defdt. is required to establish his adverse possession.

(iii) Prior possession, however short, is itself a title against a *mere wrong-doer* and a bare plea of anterior possession, and dispossession, is in fact a good ground for recovery of possession,

(1) Where the dispossessor can prove no title, or

(2) Where neither party can prove a title.

Statement of the Position

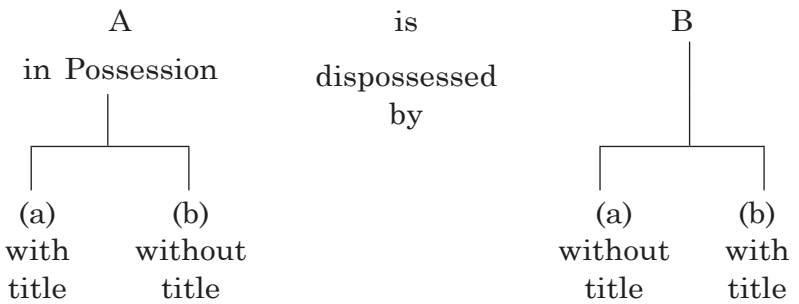

I. Suit brought within 6 months.—

(a) and (a) (b) and (b) (b) and (a)	A can recover possession under Section 9 irrespective of title.

II. In a suit brought after six months.—

(a) and (a)	A can recover, because the title is in A.
(b) and (b)	A cannot recover, because the title is in B.
(b) and (a)	A can recover, because of A's anterior possession.

Entitled to Possession

A right to possession exists either.—

(i) as a part of ownership or

(ii) independently of ownership, as a temporary or special right.

These special rights arise either.—

(i) by the act of the owner or,

(ii) otherwise than by the act of the owner.

I. By act of the owner

(1) Bailment and (2) Lien

Bailment is (1) simple and (2) special of Pawn and *Hire*

(i) *Simple Bailments* e.g. loan, custody, carriage and agency.

In simple Bailments, the Bailor has a *right to Possession* and the Bailee has legal possession.

A is Bailor and B is Bailee. Both can recover possession against C. A can recover possession as against B.

(ii) *Special Bailment*.— Pawn and Hire

Bailor has no right to possession during the continuance of the bailment and he only can recover possession.

Lien. Arises out of debt—the Vendor having the right to possession of the thing sold, until the purchaser has paid the purchase money.

II. Right to possession otherwise than by act of owner

Finder of lost goods—entitled to possession as against all the world except the owner.

PART II

DIVISION II

Performance of Contract

Specific Performance of a Contract is "its actual execution according to its stipulations and terms; and is contrasted with damages or compensation for the non-execution of the contract.

It is a species of Specific Relief, afforded by ordering a party to *do* the very act which he is under an obligation *ex-contractor* to do.

Specific Performance of a Contract

Sections 12 and 21 deal with Specific Performance of a Contract.

Section 21.—Defines contracts which *cannot* be specifically enforced.

Section 12.—Defines contracts which *may* be specifically enforced.

Section 21.—There are eight sorts of contracts which *are not* specifically enforceable.—

(i) Contracts for the non-performance of which money compensation is an adequate relief.

(ii) Contracts (i) running into minute details.

(ii) dependent on personal qualifications or volition of parties.

(iii) is such that Court cannot enforce Specific Performance of its material terms.

(iii) Contracts the terms of which the Court cannot find with reasonable certainty—e.g. necessary appliances.

(iv) Contracts which in its nature is revocable e.g. Partnership without duration.

(v) Contracts by trustees in excess of their powers, or in breach of their trust.

(vi) Contracts by company in excess of its powers.

(vii) Contracts the performance of which involves the performance of a continuous duty extending over a longer period than 3 years from its date.

(viii) Contracts material part of the subject-matter supposed by both to exist has ceased to exist.

(ix) Contracts to refer a controversy to arbitration.

Note. Practically Specific Performance because no right of suit is given.

Specific Performance of Contracts

Section 12

1. There are four cases in which Specific Performance may be enforced.

(i) Where act promised is in performance of a trust.

(ii) Where there is no standard to ascertain actual damage.

(iii) Damages, no adequate relief.

(iv) Compensation for non-performance cannot be got.

Contract

The first question to be determined by the Court in a suit for Specific Performance of an agreement is, whether the agreement in question is a contract or not. Section 4 (a) — right to relief unless agreement is a contract.

The following agreements are not contracts because they are not enforceable and are therefore excluded:—

(i) Incomplete agreements—Parties not gone beyond the stage of negotiations;

(ii) Agreements which are void.

(iii) Contingent agreement—until the contingency has applied . . . should be "arisen".

Voidable contracts are not excluded.

There must always be a contract before the Court which has been unperformed.

Mutuality—The remedy by way of specific performance is *mutual,* i.e., the vendor may bring his action in all cases where the purchaser can be sure for specific performance.

This principle of mutuality applies both in the case of immoveables and moveable.

Doctrine of mutuality— This means, that at the time of making of the contract, there must have been consideration on both sides or promises mutually enforceable by the parties. Hence specific of performace of a gratuitous promise under Seal will not be granted nor can an infant enforce a contract by this remedy. His promise is not enforceable against himself and it is a general principle of Courts of equity to interfere, only where the remedy is mutual.

Section 13

Specific performace of contract and impossibility of performance. *Section 56* of the Contract Act.

Section 56 clause 2 enacts a general rule. It lays down when a contract becomes void.

This rule covers every ground of impossibility and is based on the assumption, that there is, in all cases of contract, an implied condition that performance shall be possible.

Impossibility in relation to contract.

Impossibility

(1) at the time or (2) subsequently

Physically or or legally impossible	or	subject matter of contract not existent

Subsequent Impossibility

Whether a party can be relieved upon discovery, subsequent impossibility depends upon—

(i) Whether the contract is conditional or unconditional.

(I) If unconditional— must perform

(II) If conditional—on three circumstances

(i) Continuing legality.

(ii) Conditional by express terms—

(iii) Conditional by implication—continued existence of the subject-matter of the thing in Sec. 56 Contract Act.—subsequent in possibility—the Contract is *void*.

might on two grounds.—

(i) The thing agreed to is physically or legally impossible.

(ii) The subject matter of the contract is non-existent.

Such Impossibility might be either.—

(i) *Initial* or *subsequent*.

If impossible, the contract is void and no question of Specific Performace arises whether the impossibility is initial or subsequent.

Section 13 of the Specific Relief Act establishes an exception to Section 56 of the Contract Act in respect of one species of impossibility i.e. *impossibility by reason of non-existence of the subject-matter*.

Section 13 says that Specific Performance of a contract may be enforced even though the subject-matter is partly destroyed.

Sale of a house—Destruction by cyclone—purchaser may be compelled to perform.

Section 13 enacts an exception

It deals with the case where a *portion* of the subject matter ceases to exist.

The rule shortly expressed.—

Because A, owing to special inevitable circumstances, is unable to perform his promise, it is no reason why B should not perform his, especially as he might have protected himself by making the performance of his promise conditional upon performance by A. Having made an unqualified promise he must stand by it.

Specific Performance of a Part of a Contract

Can the Court decree the peformance of a part of the contract? This question is dealt with in Section 14-17.

Section 17 enacts a general rule. It lays that the Court will not, as a general rule, compel specific performance of a Contract, unless it can execute the whole contract. Specific performance must be of the whole or nothing.

Sections 14, 15, 16 form exceptions to the rule.

Exceptions : The promises undertaken—may be divisible or indivisible.

I. *Divisible promises* i.e. promises—one part stands on a separate and independent footing from another part. If the former can and might be specifically performed it will be so enforced, although the latter cannot or ought not to be specifically enforced—Section 16.

II. *Indivisible promisers.*—The part which cannot be performed may—

(i) Admit of compensation by money or,

(ii) It may not.

(A) Admits of compensation—Two cases

It may bear—

(i) A small proportion to the whole undertaking,

(ii) A large proportion to the whole undertaking.

If—(i) it bears *a small proportion,* then a party sue for specific performance of either part and for damages for non-performance of the balance—Section 14.

If—(ii) it bears *a large proportion,* then the promise may sue for Specific Performance of the remaining part, if he relinquishes all claim to further performance and all right to damages.

(B) Part which cannot be performed, does not admit of compensation

Then the promisee may sue for Specific Performance of the remaining part, if he relinquishes all claim to further performance and all right to damages— Section 15.

Illustration

A contracts to sell to B an estate with a house and garden for 1 lakh. The garden is important for the enjoyment of the house. It turns out that A is unable to convey the garden.

Can B obtain specific performance to the contract ?—Yes, if B is willing to pay the price agreed upon and to take the estate and house without garden, waiving all rights to compensation either for the deficiency or for loss sustained by him through A's neglect or default.

There are *thus* four exceptions to the rule.

1. Where parts are divisible—Specific Performance can be decreed of one part though not of all parts—Section 16.

2. Where parts being in divisible part which *cannot* be performed admits of compensation and bears a small proportion to the whole, the party may sue for Specific Performance—Section 14.

3. Where parts being indivisible, part which *cannot* be performed admits of compensation and bears a large proportion to the whole undertaking, the promisee may sue for Specific Performance of the remaining i.e. of the part which can be performed provided he relinquishes all claim to further performance and all right to damages—Section 15.

4. Where parts being indivisible, the part which cannot be performed does not admit of compensation and bears a large Specific Performance of the part which can be performed may be decreed within the terms mentioned in Section 15.

Specific Performance of a Contract

Where the Vendor or Lessor has an

Imperfect Title

1. The rule as to this is contained in Section 18. This Section deals with four clauses:—

(i) Where Vendor/Lessor has acquired good title *after* the contract.

(ii) Where procuring of the consent of other persons is necessary.

(iii) Where encumbered property is sold as though it was unencumbered.

(iv) Where *deposit* has been paid and the suit for Specific Performance has been dismissed.

Clause (a).—Is based on the undeniable proposition that when a person enters into a contract without the power of performing that contract, and subsequently acquires the power of performing that contract, he is bound to do so.

Illus. An heir apparent, who contracts to sell the property to which he is heir, will be compelled to specifically perform such contract if and when he succeeds to the property.

Whatever interest the seller acquires in the property subsequently to the contract, he will be compelled to convey to the purchaser.

Clause (b).—Is based upon the proposition that where the validity of a contract is dependent upon the concurrence of a stranger to the contract, and the stranger to the contract is bound to convey at the request of the Vendor or lessor, the Vendee and the lessee can compel him to obtain such concurrence.

Clause (c).—Is based upon the proposition that where the property sold or leased is represented as being free from encumbrance but is *encumbered*, the Vendor shall be compelled to free it from encumbrance sale of property which is mortgaged—Provided the price is not above the mortgage money.

Clause (d).—Clauses (a), (b) and (c) cover cases where the purchaser or lessee is the plaintiff suing for perfection of title.

Clause (d) covers a case where the suit is brought by the Vendor or lessor for Specific Performance and it fails because of his not being able to perfect the title.

In such a case the Court cannot only dismiss the suit with costs, but proceeds to award to the defendant purchaser a special relief *viz*—the return of his deposit with interest and his cost and a lien for all these on the property agreed to be sold or let.

General Rule regarding deposit.—Deposit is paid as a guarantee for the performance of the contract and where the contract fails by reason of the default of the purchaser, the vendor is entitled to retain the deposit.

Rights of Parties to a Contract to sue for Specific Performance

Four cases to be considered:—

I. For whom contracts may be specifically enforced.

II. For whom contracts cannot be specifically enforced.

III. Against whom contracts may be specifically enforced.

IV. Against whom contracts cannot be specifically enforced.

I. For whom contracts may be specifically enforced.

Section 23 deals with the question Who may obtain *Specific Performance ?*

Clause (a) any party thereto.

Clause (b) (i) an assignee from a promisee.

(ii) Legal representative of a promisee after his death.

(iii) an undisclosed principal of a promisee.

Each of these may obtain Specific Performance of a contract in which he is interested, but each is subject to the proviso that the contract must not be a personal one, nor must the contract prohibit the assignment of the interest of the Promisee.

(c) Persons entitled to the benefit of a marriage contract or compromise of doubtful rights between members of the same family.

(d) Remainder man on a contract made by a tenant for life.

(e) Reversioner in possession.

(f) Reversioner in remainder.

(g) New company on amalgamation.

(h) Company on a contract made by the promoters.

Cases where contract cannot be specifically enforced except by varying it—Sec. 76.

(1) By mistake or fraud the contract is in terms different from that which the Deft, supposed it to be.

(2) Deft, entered into contract under a reasonable misapprehension as to its effect between Deft, and Plff.

(3) Enters into a contract relying upon some misrepresentation by the Plff.

(4) Where the object is to produce a certain result which the contract fails to produce.

(5) Where Parties have agreed to vary it.

Comment.

Sections 91, 92. Evidence Act.— A plff. cannot give oral evidence to make out a variation. It does not debar a deft, from showing that by reason of fraud or misrepresentation, the writing does not contain the whole contract; he can under provision 1 to S. 92 give oral evidence to prove that there is variation.

Plff. in that case cannot have a decree unless he submits to the variation; the Plff. is put on his election either (1) to have his action for Specific Performance dismissed or (2) have it subject to variation. If he elects not to accept the variation, he does not lose his remedy of damages.

II. Persons for whom contracts *cannot* be specifically enforced. This is dealt with in Sections 24 and 25.

Section 24

(i) Who could not recover compensation for its breach.

(ii) Who has become incapable of performing or voilates any essential term of the contract.

(iii) Who has already chosen his remedy and obtain satisfaction for the alleged breach.

(iv) Who, previously to the contract had notice that a settlement had been made and was in force.

This Section is distinguishable from Section 23 in that the defence to Specific Performance is not founded on anything *in the contract itself* but is based solely upon the *acts* or *conduct* of the Plff.

Section 24 is a general Section. While Section 25 is a Section which is a particular one and is limited in its application to two kinds of contracts only:—

(i) Contract to sale and (ii) Contract to let property whether movable and immovable,

Sec. 25 says that such a contract cannot be specifically enforced in favour a Vendor or Lessor, i. e. in the following cases:—

(i) Knowing not to have any title to the property, has contracted to sell or let the same.

(ii) Who cannot give a title free from reasonable doubt at the date fixed by parties or Court.

(iii) Who, previous to entering into the Contract has made a settlement of the subject-matter of the contract.

Settlement is defined in Section 3 and means any instrument—where by the destination or devolution. Successive interests in movable and immovable property is disposed of or is agreed to be disposed of.

III. Persons against whom contract may be enforced

Section 27.

(i) Either party.

(ii) Any other person claiming under a party by a title arising subsequently to the Contract, [except a transferee for value without notice].

(iii) Any person claiming under a title which prior to the contract voidable and known to the plantiff, and might have been displaced by the defendant.

(iv) New company after amalgamation.

(v) Company in respect of the contract made by promoters.

IV. Against whom contract cannot be enforced

Section 28.

(i) Where consideration is grossly inadequate as to be evidence of fraud.

(ii) Where assent is obtained through misrepresentation; unfair practice or other promise not fulfilled.

(iii) Where assent is given under the influence of mistake of fact, misapprehension or surprize.

Specific Performance and Discretion of the Court

In granting Specific Relief, the important point is—When is the Court bound to grant Specific Performance Relief? Obviously the Court cannot grant Specific Performance Relief in cases where the law provides that no Specific Performance Relief shall be granted. Such cases fall under three classes:

(i) Where the nature of the contract is such that law does not allow it to be specifically enforced.

(ii) Where the Plff. is a person in whose favour a contract cannot be specifically enforced.

(iii) Where the Deft. is a person against whom a contract cannot be specifically enforced.

There remain the following three cases in which a contract can be specifically enforced:—

(i) Where the contract is of such a *(further pages not found—ed.)*

Liabities of the parties

of the seller

Before Conveyance

1. *Section 55 (1) (a)*
   To disclose material defects.
2. *Section 55 (1)(b)*
   To produce title deeds.
3. *Section 55 (1) (c)*
   To answer questions as to title.
4. *Section 55 (1) (d)*
   To execute conveyance.
5. *Section 55 (1) (e)*
   To take care of property.
6. *Section 55 (1) (g)*
   To pay outgoings.

After Conveyance

1. *Section 55 (1) (b)*
   To give possession.
2. *Section 55 (2)*
   Implied convenant for title.
3. *Section 55 (3)*
   To deliver title deed on receipt of price.

of the buyer

Before Conveyance

1. *Section 55 (5) (a)*
   To disclose facts materially increasing value.
2. *Section 55 (5) (b)*
   To pay price.

After Conveyance

1. *Section 55 (5) (c)*
   To bear loss or injury to property.
2. *Section 55(5) (d)*
   To pay outgoings.

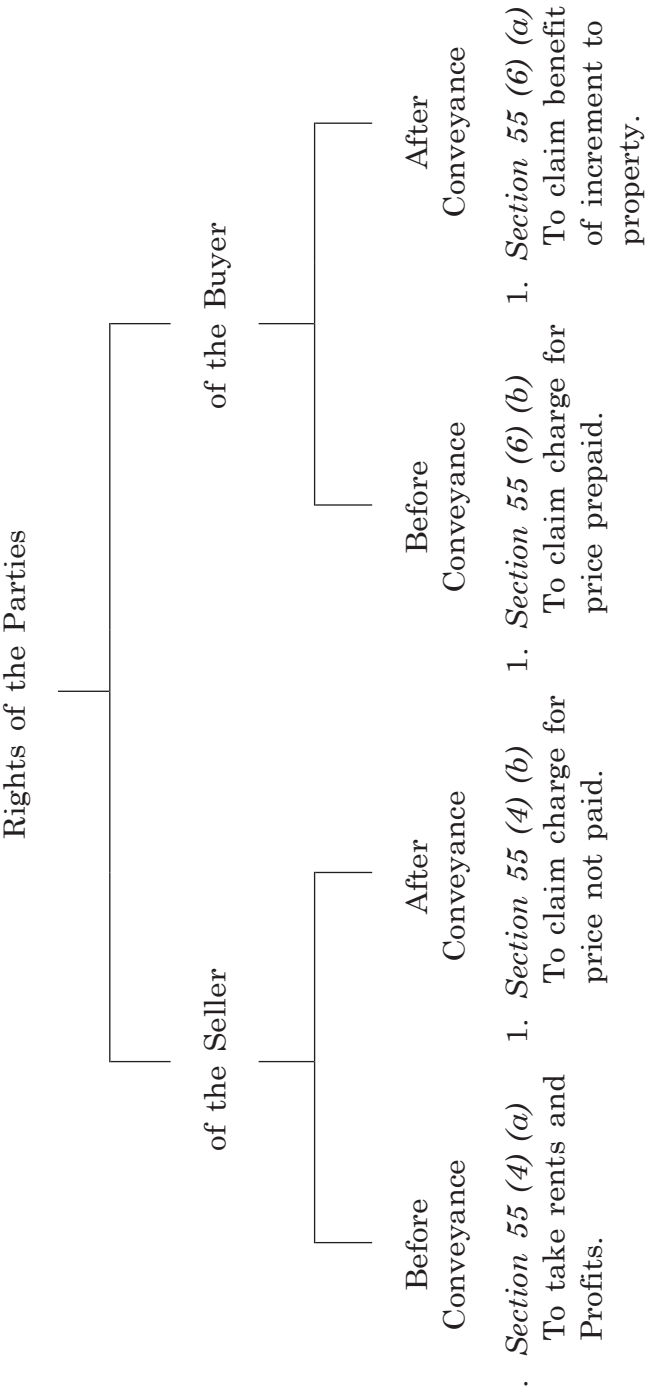
Rights of the Parties
of the Seller
of the Buyer
Before Conveyance
After Conveyance
Before Conveyance
After Conveyance
1. *Section 55 (4) (a)* To take rents and Profits.
1. *Section 55 (4) (b)* To claim charge for price not paid.
1. *Section 55 (6) (b)* To claim charge for price prepaid.
1. *Section 55 (6) (a)* To claim benefit of increment to property.

Uberrima fides= (most abundant faith)

Contracts said to require *uberrima fides* are those between persons in a particular relationship, as

(i) Guardian and ward.

(ii) Attorney and client.

(iii) Physician and patient.

(iv) Confessor and penitent.

Complete disclosure necessary.

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Liabilities of the Parties

A. Liabilities of the Seller

I. Before Conveyance

1. Section 55 (1) (a)—To disclose material defects.

(1) A contract for the sale of land is not a contract *uberrimal* fidei: The duty of disclosure is not absolute. *The duty to disclose is an obligation to disclose latent defects.*

(2) A latent defect is a defect which the buyer could not with ordinary care discover for himself. There is no duty to disclose defects of which the buyer has actual or constructive notice.

(3) As to patent defects of which the seller is unaware, the maxim *caveat emptor* applies. But a mutual mistake as to a matter of fact essential to the agreement will render the agreement void.

(4) *A latent defect whether of property or of title must be material.* A defect to be material must be of such a nature that it might be reasonably supposed that if the buyer had been aware of it, he might not have entered into the contract at all, for he would be getting something different from what he contracted to buy.

(5) Whether a defect is material or not must depend upon the circumstances of each case. When land was sold for building purposes, an underground drain was held to be a material defect, but not when a house or land were sold mainly for residence.

(6) Defects may be Defects in property or Defects in tide.

2. Section 55 (1) (B)—Production of Title deeds

(1) The obligation is to produce title-deeds for inspection and not for delivery.

(2) The documents of title required to be produced for inspection are not only documents which are in the possession of the seller, but also includes documents which are in his power to produce.

(3) There is no obligation *to produce* title deeds unless the buyer makes a requisition.

(4) The Buyer however must not omit to take inspection, otherwise he will be held to have constructive notice of matters which he would have discovered if he had investigated the title.

3. Section 55 (1) (c)—Sellers duty to answer questions

(i) When the documents of title are produced, the buyer examines them and if he is not satisfied makes requisitions. These requisitions are.—

(i) Requisitions relating to title.

(ii) Requisitions relating to Conveyance.

(iii) Other enquiries.

(2) Requisitions on title are objections that the documents do not show the agreed title or that the documents are not efficacious i.e. not duly attested.

(3) Requisitions on matters relating to conveyance refer to such matters as the joinder or concurrence of parties to the conveyance.

(4) Inquiries are for the protection of the buyer, and call attention to possible omissions of disclosure by the seller, and seek information on such points as easements, party walls and insurance.

(5) The Seller is bound to answer all requisitions which are relevant to the title and which are specific.

(6) The duty to answer requisitions is altogether distinct from the duty of disclosure under Section 55 (1) (a) of a defect, for, the omission of the buyer to make a requisition will not absolve the seller if he has not made a full disclosure.

(7) A buyer may waive requisitions. Waiver may be express or may be implied.

(8) Waiver is implied from conduct.

(i) When a buyer does not press a requisition that has been made.

(ii) When a buyer asks for time to pay the price.

(iii) When a buyer enters into possession.

(iv) When a buyer pays the whole or part of the price.

4. SECTION 55 (1) (D)—EXECUTION OF CONVEYANCE

(1) The execution may be to the purchaser or to such person as the purchaser shall direct. Consequently, on a resale by the buyer before conveyance, the conveyance may be direct to the sub-purchaser. The seller may require the original buyer to be a party to the Conveyance if there is a difference of price but not otherwise.

(2) It is the duty of the buyer to tender to the seller a proper draft—*31 Cal. L.J. 87.*

(3) This duty of the buyer is subject to a contract to the contrary.

(4) The execution of the conveyance and the payment of price are reciprocal duties to be performed simultaneously. They are concurrent promises. If either party sues for specific performance, he must show that he was ready and willing to perform his part.

(5) Proper time for execution:—

(i) The section is silent as to what is proper time.

(ii) The time is usually settled by the contract of sale.

(iii) If time is fixed, and an unreasonable delay occurs, the proper course is to give notice making time the essence of the contract.

(iv) If time is not settled, the proper time is the date when the seller makes out his title.

(6) Proper place for execution:—

(i) The Section is silent.

(ii) Since it is the buyer who has to tender the draft conveyance to the seller, the proper place for execution would be the Seller's residence or his Solicitor's office.

(7) Cost of Conveyance :—

(i) The Section is silent.

(ii) This is usually settled by the terms of the contract.

(iii) In the absence of any express term, the buyer has to pay the cost of the Stamp—Section 29 (c) Indian Stamp Act.

5. SECTION 55 (1) (E)—CARE OF PROPERTY

(1) The contract of sale does not give to the buyer any interest in property. But it imposes upon the seller a personal obligation to take care of the property.

(2) The seller must also take care of the title deeds. The loss of title deeds depreciates the value of the property and damage done to the estate.

(3) To take care means to do what a prudent owner ought to and keep the property in reasonable repair and protect it from injury by trespassers.

(4) The obligation to take care is one collateral to the contract and does not merge in the conveyance. The duty to take care continues even after completion of the sale and the buyer is not responsible for any loss caused by the seller. If the seller neglects his duty, the buyer is entitled to compensation to be deducted from the purchase money; after the completion the buyer may recover damages.

6. Section 55 (1) (G)—Meet outgoings

(1) It is the duty of the seller to pay what are called under English Law outgoings. In India they include—

(i) Public Charges

(ii) Rent

(iii) Interest

(iv) Incumbrances.

(i) Public charges over

(i) Government Revenue.

(ii) Municipal Taxes.

(iii) Payment charged upon land by Statute either expressly or impliedly by reason of their being recoverable by distress or other process against the land.

(ii) Rent—The payment of rent is a question which arises when the property sold is leasehold property. The seller of the leasehold property is bound to pay rents accruing due up to the date of the sale.

(iii) Interest.

(5) *Incumbrance*—

(i) Incumbrance means—a claim, lien, or liability attached to the property.

(ii) The seller's duty is to discharge all incumbrances. It is immaterial that the buyer was aware of the incumbrances when he contracted to buy.

(iii) The sale is not subject to incumbrances, unless there is an express provision to that effect.

(iv) If the incumbrance is a common charge on the property sold and other properties of the seller, the buyer may insist on its being discharged out of the other property.

(6) This liability imposed upon the seller is collateral to the contract and may be enforced even after conveyance.

Seller's Liabilities

II. After conveyance

1. Section 55(1)(b)—To give possession

1. It is the duty of the seller to give possession after conveyance and not to leave the buyer to get possession for himself.

2. This liability may be enforced by a suit for Specific Performance.

3. Time for giving possession—

(i) The Section docs not say when the seller should give possession.

(ii) Reference to Section 55 (4) (a) shows that possession be given when ownership passes to the buyer. This would be at the time of the execution of the sale-deed—*6 Lah. 308*.

(iii) The seller cannot refuse possession because price has not been paid unless there was intention to the contrary.

(iv) The buyer's right to possession and the seller's right to unpaid price may be enforced in the same suit.

4. Nature of Possession—

(i) Possession docs not mean actual occupation.

(ii) Physical possession in the case of tangible and symbolical possession in the case of intangible property is enough.

(iii) Symbolical possession is enough in the case of property which is in the possession of tenants or mortgagees.

2. Section 55 (2)—To assure that the interest subsists.

1. There are two views as to whether this liability of the seller is one which arises before conveyance or after conveyance.

(i) *Calcutta view*. This clause contemplates a *completed contract* and corresponds to covenant for title in an English conveyance.

57 Cal. 1189.

(ii) *Madras view*. This clause contemplates cases, where the transaction has not progressed beyond the stage of contract. *40 Mad. 338(350):*

38 Mad. 1171.

(iii) *Lahore view*. Follows Madras.

6 Lah. 308.

(iv) *Bombay view*. It pertains to liability *after conveyance*

18 Bom. S. R. 292: 52 Bom. 883: 31 Bom. LR. 658.

(a) The provisions of Section 55 (1) enable the buyer before completion, to ascertain if the title offered is free from reasonable doubt. Once he has accepted the conveyance and the sale is completed, he has no remedy on the contract except for fraud.

(b) The covenant for title implied by Section 55 (2) gives the buyer a further remedy in case of defects discovered after conveyance.

(v) Another view which probably is the correct view.

(a) In the matter of Title, the liability of the seller is twofold.

(i) He must pass to the buyer a title free from reasonable doubt.

(ii) He must pass to the buyer a title which he professes to pass and nothing less. He must make good his representation.

Under (i) he must prove that he has acquired his title in any one of the recognized ways: such as prescription, possession, inheritance, purchase, etc.

Under (ii) if he professes to transfer a full proprietory interest, then interest transferred must be full proprietory interest and not merely occupancy interest: Sale of free from incumbrances land which is subject to incumbrance : Sale of non-transferable land as transferable.

(b) Section 55 (1) relates to liability for a title free from reasonable doubt: Section 55 (2) relates to liability for passing title which he professed to pass.

2. Section 55 (2) relates to misrepresentation or misdescription as to title. A distinction must be made between misdescription of title and misdescription of property.

(i) Misdescription of title is a breach of the covenant for title under Section 55 (2) and gives right to damages.

(ii) Covenant for title does, not extend to misdescription of property i.e. as to the extent of the land sold.

(iii) A covenant for title is not a covenant that the land purported to be conveyed is of the extent stated in the sale-deed. It is merely a contract with the purchaser of the validity of the sellers' title. Consequently if the purchaser finds a deficiency in area his, suit must be based not on the covenant for title, but for part failure of consideration.

3. Express covenant for title. Every conveyancer has an implied covenant for title. But parties may enter into an express covenant relating to title. The points to be noted in regard to an express covenant are:

(a) If overrides and does away with the effect of all implied covenants.

(b) Although an express covenant alone can govern the rights of the parties, yet an implied covenant cannot be got rid of except by *clear* and *unambiguous* expression.

4. *Who can claim the benefit of the covenant:* The benefit of a covenant for title can be enjoyed not only by the purchaser and his representatives, but also subsequent alienees, who claim under the purchaser, can enforce it as against the seller.

5. Under this clause the vendor is presumed to guarantee his title absolutely to the property. If he wishes to contact himself out of the covenant he must do so expressly or by necessary implication.

6. The implied covenant for title has nothing to do with the question, whether the buyer has or has not notice of the defect of title and the buyer's knowledge of the defect does not deprive him of the right to sue for damages and can claim a return of the purchase-money if he is dispossessed by reason of a defect in title.

7. *Covenant for title—what does it include.* The covenants for title implied in an English conveyance, include.—

(i) Right to convey,

(ii) Right to quiet enjoyment,

(iii) Right to hold free from incumbrances,

(iv) Right to further assurance.

Under the covenant for further assurance, the seller is bound to do such further acts for perfecting the buyer's title as the latter may reasonably require. Thus, if a seller has, after the sale perfected an imperfect title by the purchase of an outstanding interest, he can under this covenant, be compelled to convey it to the buyer.

(2) The English covenants are more extensive as they include the covenant for quiet enjoyment, for freedom from incumbrances and for further assurance. Under Indian Law they are not included.

8. Covenant for title is a covenant for a title free from reasonable doubt. It has been held by the Privy Council that an absolute warranty of title cannot be insisted upon by the purchaser. *9 I. A. 700 (713).*

9. The implied covenant for title does not apply in the case of a trustee :

(i) A trustee is only deemed to covenant that he has done no act whereby the property is incumbered, or that whereby he is hindered from transferring.

(ii) If a trustee conveys without disclosing his fiduciary character, he could no doubt be required to convey "as beneficial owner" so as to become subject to the usual covenants for title.

10. The implied covenant for title does not apply in the case of a guardian selling on behalf of the minor.

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4. THE LAW OF TRUST

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OUTLINE

PART I. What is a Trust and to what the Act applies ?

PART II. Express or Declared Trusts—

(i) Creation,

(ii) Extinction.

PART III. The Administration of a Trust.

PART IV. Constructive Trusts.

PART V. The Administration of a Constructive Trust.

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PART I

What is a Trust and to what the Act applies ?

II. To what kinds of Trusts the Act applies ?

1. Section 1 says in what cases the Act shall not apply. They are:

(i) Wakfs created by a Mohammedan.

(ii) Mutual relations of the members of an undivided family as determined by any customary or personal law.

(iii) Trusts to distribute prizes taken in war among the captors.

(iv) Public or Private religious or Charitable Endowments.

2. Explanations.

I. Wakf.—Permanent dedication by a person professing the Mussalman faith of any property for any purpose recognized by the Mussalman Law as religious, pious or charitable.

Two classes of Wakfs—

(i) Where benefit is reserved to the settlor and his family— Act VI of 1913 applies.

(ii) Where no benefit is reserved—Act 42 of 1923 applies.

II. Mutual relations of members of an undivided family.

Illus.—

1. The manager of a joint Hindu family and other members of the family.

2. A Hindu widow and a reversioner.

Their relations are not governed by the Trust Act. They are governed by customary law or personal law.

III. Distribution of Prizes taken in war.

1. *Prize.*—A term applied to a ship or goods captured *jure belli* by the maritime force of a belligerent at sea or seized in port.

2. All prizes taken in war vest in the sovereign, and are commonly by the royal warrant granted to trustees upon trust to distribute in a prescribed manner amongst the captors.

3. To such a trust created for the purpose of distributing prizes the Trust Act does not apply.

IV. PUBLIC TRUSTS AND PRIVATE, RELIGIOUS OR CHARITABLE ENDOWMENTS.

Trusts are either *Public* or *Private Trusts*.

I. *Public Trusts*.—A trust is a Public Trust when it is constituted for the benefit either of the public at large or some considerable portion of it answering a particular description. A Public Trust is for an unascertained body of people though capable of ascertainment.

II. *Private Trust*.—A Private Trust is a trust created only for the benefit of certain individuals who must be ascertained or ascertainable within a limited time.

III. *The Purposes of a Public Trust*.—They fall under three heads:—

(i) Public purposes.

(ii) Charitable purposes.

(iii) Religious purposes.

(1) The phrase public purposes is used in two senses :

(a) In its ordinary sense—it includes purposes. Such as mending or repairing of roads, a parish supplying water for the inhabitants of a parish, making or repairing of bridges over any stream or culvert that may be required in a parish.

(2) The Phrase Charitable Purposes—includes almsgiving, building alms-houses, founding hospitals and the like.

(3) The Phrase Religious Purpose—includes relating to religious teaching or worship—purchase or distribution of religious books, upkeep of Churches, Temples, etc.

If a Trust is a Public Trust—The Trust Act does not apply.

If a Trust is a Private Trust—Does the Trust Act apply ?

The Act applies only if the Private Trust is a trust which is not a Charitable or Religious Trust.

What is the Law that applies to a Public Trust or a Private Trust which is Charitable and Religious ? There are various enactments which apply.

1. Section 92, C. P. C.

2. The Religious Endowments Act, 1863.

3. The Religious Society's Act I of 1880.

4. The Official Trustee Act II of 1913.

5. The Charitable Endowments Act VI of 1890.

6. The Charitable and Religious Trusts Act XIV of 1920.

Different kinds of Trusts

1. Trusts fall into different classes. The class into which a trust falls depends upon the point of view a trust is looked at—

2. A trust can be looked at from three points of view—

(i) From the point of view of the mode in which a trust is created.

(ii) From the point of view of the constitution of the trust.

(iii) From the point of view of the nature of the duty imposed on the trustee.

3. From the point of view of the mode in which a trust is created trusts fall into two divisions (i) Express and (ii) Constructive.

4. From the point of the constitution of a trust, trusts fall into two divisions (i) completely constituted trusts and (ii) incompletely constituted trust.

5. From the point of view of the nature of the duty imposed on the trustee trusts fall into two divisions (i) Simple Trusts and (ii) Special Trusts.

I. Express and Constructive Trust

1. A trust can arise in two ways—

(i) It is the result of a voluntary declaration made by an individual,

(ii) It may be the result of a rule of law.

2. When a trust is the result of a voluntary declaration it is called an Express Trust or Declared Trust. When a trust is the result of a rule of law it is called a Constructive Trust.

3. The term Constructive Trust is used in another sense. In this sense it is used to signify a trust which is the result of a construction put upon the deed. A trust is a matter of intention. Intention may be declared in specific terms or it may be found by the Court to have been indicated by the party on a proper construction of the deed. In the latter case the trust is sometime called a Constructive Trust.

4. Two things have to be remembered in connection with a constructive trust used in this sense.

(i) Such a Constructive Trust is some times contrasted with an Express Trust. This is quite wrong. Such a Constructive Trust is really an Express Trust and is not to be contrasted with it. A trust is none the less an Express Trust because the language used by the settlor is ambiguous or clumsy, if, on the true construction of that language the Court comes to the conclusion that a trust must have been *intended*.

(ii) A trust which is constructive in the sense that the intention is deduced by constructing the document must not be confused with a Constructive Trust which is the result of the operation of the law. In the former there is an intention to create a trust and in that sense it is the result of the voluntary act of the party. In the latter there is no intention to create a trust. It is the creation of law and not of an act of the party.

Constructive Trusts fall into two sub-divisions :—

(i) Resulting Trusts.

(ii) Non-Resulting Trusts.

The difference between the two will be considered later when dealing with Constructive Trusts. They have one thing in common—they are both the result of the opperation of law and not the result of an act of party.

II. Completely Constituted Trusts and Incompletely Constituted Trusts.

1. A trust is said to be completely constituted when the trust property is *vested* in the Trustees for the benefit of the beneficiaries. When there is a mere declaration of a trust but the property is not vested in the Trustee the trust is incompletely constituted.

2. The question whether a trust is completely constituted or not is of the *utmost* importance where no valuable consideration is given for its creation.

3. *If value is given* it is immaterial whether the trust is perfect or not, for as equity looks on that as done which has been agreed to be done an imperfect conveyance for value will be treated a contract to convey and the Court will see that it is perfected.

4. *If no value is given* there is no equity and the Court will not grant any assistance to a person seeking to enforce.

5. If there is a complete transfer of property although it is voluntary yet the legal conveyance being effectually made the trust will be enforced by the Court.

6. There are two ways in which a trust may be completely constituted:

(i) The settlor may convey the property to the trustees.

(ii) The settlor may declare himself to be a trustee of it.

7. *Distinction between complete and incomplete trust*—

(i) A completely constituted trust is one in which the trust property has been finally and completely vested in the trustees.

(ii) A trust is incompletely constituted when the trust property has not been finally and completely vested in the trustees.

NOTE.—All trusts arising under wills are completely constituted, though may be either executed or executory—

(iii) A sellor must take all due steps to do all that it is his duty to *vest* the property in the trustee, and the instrument of conveyance must also contain a declaration of trust, if the settlor's intention is to escape defeat.

8. *Consequences arising from this difference*—

(i) An incomplete trust will be enforced if it is for valuable consideration. It will not be enforced if it is voluntary, i.e., without valuable consideration.

(ii) Valuable consideration in the law of trust, as in the law of contract, is some valuable thing assessable in terms of money, with the proviso that marriage, and also forbearance to sue is so considered.

(iii) A distinction exists between valuable consideration and good consideration. The phrase good consideration is applied to natural love and affection. Such a consideration though good is not valuable.

(iv) A good consideration does not make an incompletely constituted trust enforceable at the instance of a volunteer. It serves to rebut a resulting trust.

(v) *How far marriage is a consideration :*

(i) If the settlement is made *before* and in consideration of marriage, it is made for valuable consideration. So it is also, if made after marriage, but in fulfilment of an ante-nuptial agreement to settle.

(ii) But if the settlement is made after marriage, and not in pursuance of an ante-nuptial agreement, it is voluntary.

(VI) *Who are within the marriage consideration :*

(i) The only persons within the marriage consideration are the actual parties, the husband and the wife, and the issue of that marriage.

(ii) All other persons are volunteers and cannot enforce the provisions of a settlement *as against the settlor* so far as the transfer of property is still incomplete, e.g., an agreement to settle after—acquired property.

9. *Does the Indian Trust Act recognize this distinction between complete trust and incomplete trust—*

Simple and Special Trusts

1. A Simple Trust is a trust in which a trustee is a mere passive custodian of the trust property, with no active duties to perform.

2. A Special Trust is a trust in which a trustee is appointed to carry out some scheme particularly pointed out by the settlor and is called upon to exert himself actively in the execution of the settlor's intention.

3. A Simple Trust is spoken of as a passive trust and Special Trust is spoken of as an active trust.

4. Where a Simple Trust exists, the beneficiary, provided that he is *sue juris* and absolutely entitled, has a right to be put into actual possession of the property and he enjoys the further right of compelling the trustees to dispose of the legal estate in accordance with the beneficiary's instruction.

5. Special Trusts are divided into—(i) Ministerial and (ii) Discretionary.

6. In both the trustees have positive duties to perform.

7. The point of distinction is that in a Ministerial Trust the duties are such that the trustee is not called upon to exercise *prudence* while in a discretionary trust a trustee is required to exercise *prudence*.

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PART II

EXPRESS OR DECLARED TRUST

CHAPTER I.	Two kinds of Declared Trusts—
	(i) Executed.
	(ii) Executory.
CHAPTER II.	The Creation of an Express Trust.
CHAPTER III.	The Revocation of an Express Trust.
	Declared
CHAPTER IV.	The Extinction of an Express Trust.

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CHAPTER I

Two kinds of Declared Trusts

Executed and Executory

An Express Trust is either an *Executed Trust* or is an *Executory Trust*.

I. Executed and Executory Trusts

1. The expressions Executed and Executory as used in relation to contract have not the same meaning which they have when used in relation to trust.

2. When used in relation to a contract they refer to the carrying out of the contract. When used in relation to a trust they refer to the creation of a trust as distinguished from its carrying out.

3. In the sense in which the term is used in contract every trust is executory until it is over. But that is not the meaning in which the word is used in relation to trust.

4. When the words *Executed* and *Executory* are used in connection with a trust they have different meaning.

(1) A trust is an *Executed* Trust when the author of the trust has not only designated the persons who are to benefit by the trust but has also indicated the *interests* which they are to take in the trust property.

(2) A trust is said to be an Executory Trust when the author of the trust has only designated the persons who are to benefit by the trust but has not indicated the interests which they are to take in the trust property but has left it to be defined by another person by another instrument.

Illus.—On the marriage of *A* and *B* it is agreed between them that certain property shall be settled on trust for them and for their children.

Note.—Here the parties who are to benefit by the trust are defined—They are *A* and *B* and their children—

(1) But what benefits *A* and *B* their children are to take is not defined.

(2) Therefore, it is an Executory Trust.

(3) The line of cleavage between an Executed Trust and an Executory Trust is different from the line of cleavage between a completely constituted trust and an incompletely constituted trust.

(4) The line of cleavage between a completely constituted trust and an incompletely constituted trust is :- in the former the property is vested in the Trustees upon trust; in the latter the property is not so vested.

(5) The line of cleavage between an Executed Trust and an Executory Trust is that in the former the interests of the beneficiaries are defined when in the latter they are not so defined.

(6) That being so an Executory Trust may be a completely constituted Trust.

II. PARTIES TO A TRUST.

1. Apparently there are three parties to the transaction of a trust—

(i) The party who makes the trust.

(ii) The party who accepts the trust.

(iii) The party for whose benefit the trust is made.

2. The party who makes the trust is called "the author of the trust". The party who accepts the trust is called the trustee. The party for whose benefit the *trust* is made by the author and accepted by the trustee is called the beneficiary.

3. Is it necessary that the three parties *should* be distinct and separate and that one of three cannot occupy the role of any two of them ? The answer to this question is *some* of them can play the role of two.

(i) The author of the trust and the beneficiary of the trust must be distinct and separate.

(ii) The trustee and the bebeficiary must be distinct and separate.

(iii) The author of the trust need not be distinct and separate from the Trustee..

4. The reasons why some parties can occupy the role of two in one and some cannot are important.

(i) The making of a trust results in the creation of two different estates in the property which is the subject-matter of the trust—the legal and the equitable. A trust lasts as long as these two interests remain separate, (ii) If the legal and equitable estates happen to meet in the same person, the equitable is forever extinguished by being absorbed in the legal. In other words, where the legal and the equitable interests are co-extensive and

vested in the same person the equitable merges in the legal interests which means that the trust comes to an end.

There are two principles to be borne in mind

(i) There is no trust if it does not create a separate equitable interest.

(ii) There is no trust if the separate legal and equitable interest become merged.

5. Applying these two principles we reach the following conclusion—

(i) There is no merger when the author of the Trust and the trustee are the same. Therefore, they need not be distinct.

(ii) There is no creation of a separate equitable estate when the author of the Trust and the beneficiary are the same. Therefore, they must be distinct.

(iii) There is merger when the trustee and the beneficiary are the same. Therefore, they must be distinct.

To sum up. The author of the trust and the trustee may be one and the same person. But the beneficiary must always be a distinct person separate from the author of the trust as well as from the trustee.

6. So far we have taken simple cases where the parties are single individuals. What happens when the parties are multiple parties, and where some of them play double role.

Illus.

(i) A and B are the beneficiaries of a trust. Of them A is also a trustee. Is such a trust valid ?

(ii) A and B are beneficiaries of a trust. Of them A is the author of the trust. Is such trust valid ?

7. The answer to the first question is in the affirmative. It is found in Section 6 which defines a trust. The definition does not give an answer to the Second question. Yet such a trust is invalid.

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CHAPTER II

(i) The Creation of an Express Trust

I. Conditions for the Creation of a valid Trust.

For the validity of a declared Trust the following *four* conditions prescribed by law must be satisfied.

(i) Section 6.

(1) There must be necessary parties to the trust.

(2) The language of the settlor must be such that the Court can find from it, as a fact,

(a) an intention to create a trust;

(b) of ascertainable property ;

(c) in favour of ascertainable beneficiaries and

(d) for an ascertainable purpose.

(ii) Sections 7-8.

The trust property must be of such a nature as to be capable of being transferred and settled in trust.

(iii) Section 4.

The object of the trust must be lawful.

2. The English Law of Trust differs from the Indian Law in regard to the creation of a trust. According to Snell the creation of a trust requires three certainties,

(i) Certainty as to intention.

(ii) Certainty as to trust property.

(iii) Certainty as to beneficiary. According to Underhill the creation of a trust requires *four* certainties, those mentioned by Snell and one more namely.

(iv) The purpose of the trust.

The English Law does not require the transfer of the trust property to the trustee. But the Indian Law does.

(ii) Certainty as to intention

(i) The intention to create a trust may be by words or acts.

(ii) These are illustrations which show how a trust could be created by the acts of the author of the trust.

Illus.

(i) A father opening an account in his book in the name of his son in which money is credited in the name of his son.

9 Bom. 125

(ii) A buying shares in

5 Bom. 268
17 Col. 620 (628)

3. Examples of trust created by words are unnecessary. The question is what kind of language is necessary to show there is a certainty to show that there was intention to create a trust—

(i) No technical expressions are needed for the creation of a trust The matter is one of construction. The question, therefore, which has to be determined is whether upon construction of the will or deed as a whole, the testator intended that the person to whom property was given should take as a mere trustee or should take beneficially, subject to a mere superadded expression of a wish or desire, which the testator may have thought would be sufficient to influence the donee, but which was not intended to and does not impose upon him any obligation. Question is did the author of the trust merely express a wish that the trustee should do a particular thing or did he impose an obligation upon him to do a certain thing. If an obligation was in fact intended then obviously he had the intention to create a trust.

(iii) The language used may be either *precatory* or *imperative.*

(i) The words request, recommend, desire, hope, etc., are precatory words.

(ii) Such words cannot be said to indicate an intention to create a trust, because they do not show an intention to impose an obligation upon the trustee.

(iii) Under the English Law such precatory words were held to constitute a trust and the trusts were called precatory trust. But the modern tendency is against.

(iii) Certainty as to beneficiary

1. The beneficiary must be specified or described sufficiently as to be capable of identification.

2. *Illustrations of uncertainty.*

(i) Estate given to A with the direction that he would continue it in the family—family uncertain.

(ii) To the settlor's relations—relations uncertain.

3. *Illustrations of sufficient description*

(i) Descendents-held to be sufficient description and therefore not uncertain

3. Certainty of Purpose

1. How the property is to be applied must be specified.

2. Illustrations of uncertainty of purpose.

(i) To consider certain persons.

(ii) To be kind to them.

(iii) To make ample provision for them.

(iv) To remember them.

(v) To do justice to them.

(vi) To take care of his nephew as might seem best in future.

(vii) To use property for herself and her children and to remember the Church of God and the poor.

3. The purpose of the trust means the way in which the beneficiaries are to be benefitted the way in which the property is to be applied.

4. Certainty as to trust property

1. The property which is to be the subject-matter of the trust must be indicated with reasonable certainty. It must be specified or sufficiently described so as to be capable of identification.

Illus.

(i) A bequeathes certain property to B—directing him to divide the *bulk* of it among the children of C. There is no creation of a trust because the property is not indicated with reasonable certainty.

(ii) A gives property in trust for his wife and directs that such part of it as may not be required by her shall, after her death, be held in trust for his children.

(iii) A gives property in trust for his servants with a direction to reward them according to their deserts out of such parts of my estate as may not have been sold or disposed of by her.

Conclusion

1. Thus, it must be clear that the settlor intended to create a *definite* trust over *definite* property for *definite* persons. No trust can arise in the absence of an intent to create a definite equitable obligation giving definite equitable rights to definite beneficiaries.

2. It will, however, be noticed that the failure to nominate a definite person as a trustee does not invalidate the trust. Where a trust is clearly intended, then (subject to the rules as to voluntary trust), the mere omission to appoint a trustee will not invalidate the trust: for equity never allows a trust to fail for want of a trustee. So, if no trustee is appointed or if the trustee appointed fails, either by death, or disclaimed or incapacity or otherwise the trust does not fail, but fastens upon the conscience of any person (other than a purchaser for value without notice) into whose hands the property comes and such person holds it as a passive trustee, whose only duty is to convey it to new trustees when properly appointed.

3. The effect of uncertainty as to property or as to beneficiary or purpose of the trust is different:

> (i) Where the trust is affected by uncertainty as to property the trust is void. As there is no property capable of identification there is nothing to litigate about.
>
> (ii) Where the trust is affected by uncertainty as to the beneficiary or the purpose the trust is void. As there is no person named as a beneficiary no one can come forward to enforce it.
>
> (iii) Where the property is described with sufficient certainty, and the words actually used, or the surrounding circumstances make it clear that although the donor has not sufficiently specified. The objects of his bounty or the way in which the property was intended to be dealt with yet he never meant the trustee to take the entire beneficial interest, the Law implies a resulting trust in favour of the donor or his representative.

II. Trust Property must be capable of Transfer.

1. *What property is capable of transfer ?*

2. The answer to this question is to be found in section 6 of the Transfer of Property Act.

3. Property which can be transferred may be subject-matter of a trust.

4. But there can be no trust of a beneficial interest under a subsisting trust. A Beneficiary cannot create a trust of his interest in trust. His interest is transferable but he cannot create a trust of it.

5. This marks an important distinction between the English Law and Indian Law of Trust.

6. Under the English Law a beneficiary can create a trust of his equitable estate.

7. The reason is that the Indian Law does not recognize the distinction between legal and equitable estates in a trust.

Sec. II.—**A Trust may be properly created and yet enforceable.**

1. A trust may have been properly created but may not be enforceable. To be enforceable a trust must satisfy two other conditions:—

I. The object of the Trust must not be unlawful.

II. The formalities prescribed for the creation of a trust must be satisfied.

Object of the trust

Sec. 4.

1. The object of a trust must be lawful.

2. *What are lawful objects* ?

(1) The purpose must not have been forbidden by Law.

(2) Purpose must not be such which if permitted would defeat the provisions of any law.

What are unlawful objects ?

(1) Purpose which is fraudulent

(2) Purpose which involves or implies injury to the person or property of another.

(3) Purpose which is immoral or opposed to public policy.

Illus.

(1) Trust for the care of female foundings to be trained as prostitutes.

(2) Trust to carry on smuggling business and to maintain it out of the profits.

(3) Trust by a person in insolvent circumstances—defeating creditors.

(4) Trusts for illegitimate children.

(5) Trust for the creation of a perpetuity.

(6) Trust to take effect upon future separation of husband and wife.

3. Whether the trust is lawful or unlawful is to be determined in the case of immoveable property by the law where the property is situated.

4. A trust which is unlawful is *void*.

5. Where a trust has two purposes of which one is lawful and the other unlawful, the validity of the trust depends upon the severability of the two. If they can be severed, the one with a lawful purpose is valid and the one with an unlawful purpose will be void.

If they cannot be separated the whole will be void.

6. Consequences of settlor creating an unlawful trust—

(i) Court will not enforce it in favour of the person intended to be benefitted thereby.

(ii) Court will not help the settler to recover the estate.

Formalities for a valid trust

Sec. 5.

1. A trust may be a trust of immoveable property or it may be a trust of moveable property. The formalities prescribed by law for the validity of a trust differ according as the property is immoveable property or moveable property.

2. *Formalities in case the property is immoveable.*

Such a trust may be made in two ways—

(i) Either by anon-testamentary instrument signed by the author of the trust or by the trustee, or

(ii) By the will of the author of the Trust,

3. *Formalities in the case of a trust of moveable property.* There are *three* ways by which it could be done.

(1) By a non-testamentary instrument signed by the author of the trust or the trustee.

(2) By a testamentary instrument signed by the author or the trustee.

(3) By transfer of the ownership of property to the trustee.

4. Difference between declaration and creation of Trust.

(Not explained in ms.)

5. Transfer of Trust Property

1. No trust is created until the author of the trust has divested him of the trust property. That means he must have transferred the property to the Trustee.

2. This does not apply where the author of the trust is himself the trustee. All that is necessary to show is that he has changed the character in which he holds it.

3. This does not apply when the trust is created by a will. The will operates after his death and the trustees then take possession.

Section II.—A trust may be valid and yet impeachable.

1. A valid trust may be impeached on the following grounds by the following persons :—-

(a) By the settlor or his successors in title on the ground:

(i) of the incapacity of Parties.

(ii) of some mistake made by, or fraud practised on, the settlor at its creation.

(b) By the settlor's creditors, by reason of its having been made with a fraudulent intention to defeat or delay them or because it infringes the provisions of the Insolvency Act.

(c) By future purchasers of the property from the settlor without notice of the trust, where the trust property is land, and though was intended by the settlor to defeat the claims of future purchasers.

I. Incapacity of Parties to a Trust

§ Capacity of the author of the Trust.

1. The author of a trust must be a person who is *competent* to contract, i.e.,

(i) He must be major and

(ii) He must be of sound mind.

2. Although this prevents a minor from making a trust yet the law provides for a minor making a trust, if the conditions prescribed are observed under the Law, a trust may be made by or on behalf of the minor, provided it is done with the permission of the Principal Civil Court of original jurisdiction.

The Principal Civil Court of original jurisdiction is according to the Civil Procedure Code the District Court.

3. This competency of the Author of the Trust to make a trust is limited in two ways—

(i) The property which is to be the subject-matter of the trust must be transferable.

(ii) He can transfer it only to the extent permitted by Law for the time being in force. A trust is not valid if the author had no power to dispose of property.

4. What property is transferable and what is not is defined in section 6 of the T. P. Act.

5. The authority to dispose of property and the extent of such power depends upon law.

Illus.

(i) A Hindu father cannot dispose of the ancestral property and therefore, he cannot create a trust thereof.

(ii) A Hindu widow cannot dispose of the estate inherited by her from her husband. She having only a life-estate in it—therefore, she cannot dispose of it by way of Trust.

(iii) A Mohammedan cannot dispose of more than 1/3 of his property after the payment of debts and funeral expenses— therefore, cannot dispose of more than 1/3 by way of a Trust.

§ Capacity to be a Trustee—

Sec. 10.

1. Every person capable of holding property is competent to be a trustee.

2. *Who is capable of holding property ?*

Every *living person* is capable of holding and taking property. Therefore, every living person whether a minor or a lunatic is capable of being a trustee.

3. There is a difference between capacity to contract and capacity to hold and take property. Every living person does not have the capacity to contract; but every living person has the capacity to hold and take property.

4. This distinction is necessary to make and important to bear in mind because a person may not have capacity to contract yet he may be competent to be a trustee provided he has capacity to hold

and take property ;be not dead physically he must not be dead civily:

(1) A person who is sentenced to transportation is not civily dead.

7. There is one further distinction which is to be noted. Ordinarily a person who is competent to be a trustee is also competent to execute a trust. But in the case where a trust involves the use of discretion the person who is competent to be a trustee is not necessarily competent to execute a trust.

8. Where the trust is such that it does not involve the use of discretion the requirement for competency to execute a trust is the same for being a trustee, namely, capacity to hold and take property.

9. Where the trust is such that its execution does involve the use of discretion, then the trustee must have capacity to contract.

Capacity to be a Beneficiary—

Sec. 9.

1. Every person capable of holding property may be a beneficiary.

2. The requirement for being a beneficiary is the same as for being a trustee.

3. That is every living person can be a beneficiary. That is a trust can be created in the interest of every living person. It is not necessary that a beneficiary should have contractual capacity. In this respect his position is regulated by the same provisions as that of the trustee.

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CHAPTER III

The Revocation of an Express Trust Declared

Sec. 78.

1. Whether a trust can be revoked depends upon how the trust is created.

(i) If the trust is created by a will then it can be revoked by the testator *at his pleasure*. This is because will does not take effect till death. There is can be revoked before it takes effect.

2. If the trust is created otherwise than be a will—i.e., by a non-testamentary instrument or by word of mouth then it can be revoked in the following circumstances only—

(i) If the power of revocation is expressly reserved to the author of the trust.

(ii) If the beneficiaries consent, provided all of them are competent to contract

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CHAPTER IV

The Extinction of an Express Trust

Sec. 77.

1. A trust comes to end in the following cases—

(i) When the purpose is completely carried out.

(ii) When its purpose becomes unlawful.

(iii) When the fulfilment becomes impossible.

(iv) When the trust being revocable is expressly revoked.

(v) If there is only one beneficiary or if there are several (whether entitled concurrently or successively) and they are or they are not under any disability (such as infant, lunatic) the trust may be extinguished by them without reference to the wishes of the settor or the trustees.

2. The terms for the extinction of a trust are the same as those for the extinction of a contract.

1. Two questions remain to be considered.

(i) When does a trust becomes administrable ?

(ii) What estate does the Trustee and Beneficiary have in the trust ?

2. These questions are preliminary to the question of the administration of the turst.

I. When does a trust begin to function ?

A trust becomes administrable when it has been accepted by the Trustee and the beneficiary—

I. Disclaimer and acceptance of a Trust

Acceptance Art. 34=Sect. 10.

1. Although the author of the trust may appoint a person as a trustee, the person so appointed is not bound to accept such appointment.

2. A person appointed to the office of a trustee may accept the office or he may disclaim it.

3. The acceptance of the office may be indicated expressly or by conduct. If it is by conduct it must indicate with reasonable certainty such acceptance.

Illus.—*A* by his will bequeaths certain properties to *B* and C as Trustees for *D, B* and *C* prove A's will. On a question being raised whether *B* and *C* had accepted the office of Trustee, held that their conduct in proving the will was tantamount to acceptance of office.

4. Other illustrations of acceptance by conduct are :—

(i) Acceptance by acquiescence—Permitting an action regarding trust property being brought in his name.

(ii) Acceptance by exercising dominion over the trust property—such as advertising for sell—giving notice to tenants.

(iii) Acceptance by dealing with property—unless the dealing is plainly referable to some other ground.

(iv) Acceptance by long silence with notice of the trust and in the absence of any satisfactory explanation of the silence.

(v) Acceptance of a part of the trust is acceptance of the whole, notwithstanding any attempted disclaimer of part.

5. The law does not say how a disclaimer is to be made by a trustee who does not wish to accept the office. It only says that a trustee must do so within reasonable time.

6. Although the law is silent on the point, the following points with respect to disclaimer have been settled by judicial decisions—

(i) The disclaimer should be before acceptance. Once a trustee has accepted the office he can renounce it only under circumstances mentioned in section 46.

(ii) A person can disclaim a trust although he may have consented to act as a trustee during the lifetime of the settlor.

(iii) A person cannot disclaim the office as to a part of the trust and accept as to the rest.

(iv) A disclaimer may be by words or by conduct.

7. Effect of disclaimer.

(i) If there is only one trustee a disclaimer prevents the trust property from vesting in him.

(ii) If there are two more trustees and if one of them disclaims, such a disclaimer vests the trust property in the other or others or makes him or them the sole trustee or trustees from the date of the creation of the trust.

8. What happens when there is only one trustee and he disclaims.

Two things can happen :—

(i) A new trustee may be appointed under section 73—

(a) By one mentioned in the trust.

(b) If there be none such, by the settlor if alive and competent to contract.

(ii) If no trustee is appointed in place of the one who has disclaimed the property reverts to the settlor or his representatives if he is dead.

9. What happens to the property ? Is it freed from the trust ? Does it remain subject to the trust ?

The answer is that the trust is not extinguished. The settlor or his representatives, if the settlor is dead, holds it on trust for the beneficiary. In other words the settor or his representative becomes the trustee in place of the trustee who has disclaimed.

The rule is that a trust will never fail for want of a trustee. Wherever a trust exists, and there is no trustee to execute it, the person in whom the legal estate vests holds the property as trustee. This rule is intended to protect the beneficiary.

Mallott vs. *Wilson (1903) 2 Ch. 494.*

II. Disclaimer and acceptance by Beneficiary—

Section 9

1. A beneficiary is not bound to accept the trust. He may accept it or he may disclaim it.

2. His disclaimer amounts to a renunciation of his interest under the trust.

3. If he wishes to disclaim he can do so in two ways :

(i) By a disclaimer addressed to the trustee or

(ii) By setting up a claim inconsistent with the trust with the knowledge of the trust.

4. A claim inconsistent with the trust would be a claim such as ownership of the trust property.

4. What happens to the trust when the beneficiary disclaims ?

III. The Estate of a Trustee under a Trust. (Page left blank)

IV. The Estate of a Beneficiary under a Trust. (Page left blank)

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PART III

THE ADMINISTRATION OF A TRUST

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THE The Administration of a Trust UST

In connection with the Administration of a Trust, the Trustee has certain—

(i) Duties—Sections 12—20.

(ii) Liabilities—Sections 23—30

(iii) Rights—Sections 31—36.

(iv) Powers—Sections 37—45.

(v) Disabilities—Sections 46—54.

Similarly the beneficiary has certain—

(i) Rights—Sections 55—67.

(ii) Liabilities—Section 68.

I. Duties of a Trustee

Sections 12—20

V (2) Duty to obey directions contained in the Trust.

IV (3) Duty to act impartially between the beneficiaries.

IV (4) Duty to sell Wasting and Reversionary property.

IV (5) Duty in relation to payment of outgoing of Crops and income.

IV (6) Duty to exercise reasonable care.

IV (7) Duty in relation to the Investment of Trust Funds.

IV (8) Duty to pay Trust moneys to the Right Persons.

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* Each page contains only the heading and not the details—ed. thoried.

IV (9) Duty in relation to delegation of Duties and Powers.

IV (10) Duty to act jointly when there are more than one Trustees.

* IV (11) Duty not to set up *Jus Tertii*

* IV (12) Duty to act gratuitously.

* IV (13) Duty not to traffic in Trust Property.

* IV (14) Duty to be ready with Accounts.

V. Powers of a Trustee

Sections 37—45.

V. The powers of a Trustee

*V (1) General Powers of a Trustee.

* V (2) Power of Trustees to sell or mortgage the Trust Property.

* V (3) Power in relation to conduct of sales.

* V (4) Power to give receipts.

* V (5) Power to compound and settle disputes.

* V (6) Power to allow Maintenance to Infants.

* V (7) Power of Trustees to pay Cost of Beneficiary.

* V (8) Suspension of the Trustee's Powers by Administrative Action.

* Each page contains only the heading and not the details—ed.

VI. Powers of the Beneficiaries

* VI (1) Power of a sole beneficiary.

* VI (2) Power of one of several beneficiaries.

25. Is a trustee liable for breach of trust by his predecessor ? He is not.

26. Is a trustee liable for the breach of trust committed by a Co-trustee ?

He is not except in the following cases:—

(i) Where he has delivered trust-property to his Co-trustee without seeing to its proper application.

(ii) Where he allows his Co-trustee to receive trust property and fails to make due inquiry as to the Co-trustee's dealings therewith or allows him to retain it longer than the circumstances of the case reasonably require.

(iii) Where he becomes aware of a breach by a Co-trustee and conceals it or does not take proper steps to protect the property.

27. **Breach of Trust jointly committed by Co-trustees.**

What is the liability for each ? Is it for the whole ? Each is liable for the whole to the beneficiary. There will be a right of contribution from the rest.

28. Liability for Payment by a Trustee to a person who is not the person in whom the beneficiary's interest is not vested.

Trustee is not liable, provided :

(i) He had no notice that the interest had vested in another person.

(ii) That the person to whom payment is made was a person who was entitled to payment.

XIII. Protection to Trustees

* (1) General Protection.

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*XIII (2) Statute of Limitation.

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* Each page contains only the heading and not the details—ed.

* XIII (3) Concurrence of or waiver or Release by the Beneficiary.

* XIII (4) Protection against acts of Co-Trustees.

* XIII (5) Right of contribution and indemnity as between Co-trustees.

* XIV. Liability of Third Parties and Beneficiaries.

* XIV (1) Liability of Third Parties and Beneficiaries who are parties to a Breach of Trust.

* XIV (2) Following Trust Property into the hands of Third Parties.

* The pages contain only the headings and not the details—ed.

PART IV

CONSTRUCTIVE TRUSTS

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PART IV

Constructive Trusts

1. There are *fourteen* cases of constructive trusts which are enumerated in the Trust Act.

2. They fall under *five* heads :—

(1) Constructive Trusts arising out of Transfers—Sections 81, 82,84,85.

(2) Constructive Trusts arising out of unfair advantage gained by one person as against another person—secs. 85, 88, 89, 90, 93.

(3) Constructive Trusts arising out of contracts made—Secs. 86, 91,92.

(4) Constructive Trusts arising out of a merger of two personalities in one individual—section 87.

(5) Constructive Trusts arising out of a past trust—Section 83.

(1) Transfer or Bequest of Property

(i) Section 81.

1. In certain cases the transfer or bequest of property imposes an obligation upon the tranferee or legatee in the nature of a trust in favour of the owner or his legal representative.

Ordinarily the transferee or legatee would take the property absolutely without any such obligation.

2. When can it be held that the transferee or legatee takes it subject to an obligation ? He takes it subject to an obligation when there is no intention on the part of the owner to dispose of the beneficial interest in the property to the transferee or legatee.

3. How is intention to be determined ?—In the light of the circumstances of the case. It is the circumstances which must be referred to in order to find out the intention of the owner.

(ii) Section 82.

1. The second case where the transfer of property imposes an obligation upon the transferee in the nature of a trust is the case where the transferee is made to one and the consideration is paid by another—in such a case the transferee holds it on trust for the person who paid the consideration.

Ordinarily the transferee would be the owner in the eye of the law, the property being conveyed to him by the transferor.

2. This rule that a transferee who has not paid consideration holds it on trust for a person who has paid consideration applies generally except in one case—

3. *Exception :*

This rule does not apply where there is an intention on the part of the person who paid the consideration to benefit the transferee.

4. *Proof of intention.*

(iii) TRANSFER FOR AN ILLEGAL PURPOSE.

Section 84.

1. Ordinarily when a transfer is for an unlawful purpose the Court will neither enforce the transaction in favour of the transferee nor will it assist the transferor to recover the estate if he has parted with it.

2. But the rule does not apply under *all* circumstances. The rule does apply under certain circumstances.

3. What are the circumstances in which the rule does not apply ?

The circumstances in which the rule does not apply are—

(i) If the porpose is not carried into excecution.

(ii) If the transferor is not as guilty as the transferee.

(iii) If the effect of permitting the transferee to retain the property might be to defeat the provisions of any law.

4. In these cases the Court will help the transferor and impose upon the transferee an obligation to hold the property for the benefit of the transferor.

(iv) BEQUEST UPON TRUST FOR AN ILLEGAL PURPOSE.

Section 85.

1. The position in law with regard to transfers for an illegal purpose is on a par with trust for an illegal purpose.

2. That is, a Court will neither enforce the trust in favour of the parties intended to be benefited nor will it assist the settlor to recover the estate if he has parted with it.

9 Bom. S.R.542.

3. Section 85 recognizes a trust although the purpose is unlawful. This is in contrast with the general principle enunciated in section 4 of the Trust Act and therefore requires some explanation.

4. The general principles governing the rights of the parties to an unlawful trust and the exceptions to those principles may formulate as follows:—

I. Where a trust is created for an unlawful and fraudulent purpose, the Court will neither enforce the trust in favour of the parties intended to be benefited nor will it assist the settlor to recover the estate (except in one case).

Q.—Why is a beneficiary not allowed to enforce it ?

A.—Because it would be giving effect to an unlawful purpose.

Q.—Why is the author not allowed to recover the estate if he has parted with it ?

A.—Because it would be helping him to take advantage of his own fraud.

II. The one case in which the settlor allowed to recover the property although the trust is for an illegal purpose is the case where the illegal purpose has failed to take effect.

Q.—Why is this exception made ?

A.—There are two reasons :—

(i) The purpose being unlawful no trust arose—it being void *ab initio*.

(ii) The trustee having paid no consideration has no right to retain the beneficial interest in the property which must, therefore, return to the settlor.

III. The disabilities attaching to the author of an unlawful trust do not apply to his legal representatives—

Q.—Why ?

A.—Because they are not parties to the transactions.

5. The reason why section 85 recognizes a trust in favour of legal representatives is because they are innocent parties having nothing to do with the creation of an unlawful trust.

(2) Constructive Trusts arising out of unfair advantage—

I. Section 85.

1. The first case under this head arises where property is bequeathed under a will and the testator during his life-time wanted to revoke the bequest and he is prevented from revoking it by coercion.

2. Under such circumstances the legatee takes the property not as a beneficial owner thereof but holds it as a trustee for the legal representatives of the testator.

3. The reason is that the legatee has taken unfair advantage by using unfair means. He cannot, therefore, be allowed to retain such an advantage.

II. Section 88

1. The second case arises when any person who is bound to protect the interest of another person by reason of his fiduciary relationship with the latter.

2. Persons who fall in this category are—

(i) Agent and Principal.

(ii) Partners in a firm.

(iii) Guardian and ward.

(iv) Trustee and beneficiary.

(v) Executor and Legatee.

3. The section says—

(i) That any such person who gains any pecuniary advantage by availing himself of his fiduciary.

(ii) Enters into any dealings under circumstances in which his own interests are adverse to those of the person whom he is bound to protect and thereby gains for himself a pecuniary advantage

Then

He must hold the advantage so gained for the benefit of the person whose interest he was bound to protect.

4. *Illus.*

(i) A partner buys land in his own name with funds belonging to his firm. He must hold it for the benefit of the partners.

(ii) A trustee, retires from his trust in consideration of a bribe paid to him by his Co-trustee. The trustee must hold the sum for the benefit of the trustee.

(iii) An agent is employed by A to secure a lease from B of a certain property. The agent obtained a lease for himself. The agent must hold it for the benefit of B.

(iv) A guardian buys up the incumbrances on his ward's property at an undervalue. He can charge the ward only for the value he has actually paid for the incumbrances.

III. Section 89

1. The third case arises where advantage is gained at the cost of another person by the exercise of undue influence.

2. This is dealt with in section 89. Section 89 says that such a person must hold the advantage for the benefit of the person who is the victim of such undue influence.

3. This is subject to two limitations—

(i) The advantage must have been gained without consideration or

(ii) The person must have had notice of the advantage having been gained by undue influence.

IV. Section 90

1. The fourth case arises where advantage is gained by a qualified owner availing himself of his position as such in derogation of the rights of other persons interested in the property.

2. This is dealt with in section 90. Section 90 says that such an advantage shall be held for the benefit of all and not merely for the benefit of the one who secured it.

3. Subject to two conditions—

(i) The others must repay their due share of expenses properly incurred for securing such advantage.

(ii) The others must bear proportionate part of their liabilities property contracted for gaining such an advantage.

4. Cases covered are those of co-tenants, members of joint family, mortgagee, etc.

V. Section 93

1. The fifth case arises where the advantage is gained by a creditor secretly.

2. Such a case generally arises when the creditors accept a composition from a debtor who is unable to pay his debts in full.

3. If it is found that one of the creditors who is a party to the composition has by arrangement with the debtor unknown to the other creditors gains better terms for himself he shall not be

entitled to retain the advantage gained by him by reason of such better terms which have caused prejudice to other creditors.

4. The law will regard him as a trustee for the other creditors in so far as the advantage gained by him is concerned.

(3) Constructive Trusts arising out of Contracts

I. Section 86

1. The first case dealt with by the Trust Act under this head relates to a contract for the transfer of property.

2. It falls under section 86. Section 86 refers to a contract in pursuance of which property is transferred and where the contract is of such a character that—

(i) It is liable to recession or

(ii) It is induced by fraud or mistake.

3. The transferee of the property under such a contract shall hold the property for the benefit of the transferor.

4. This obligation arises only under certain circumstances and is not absolute:

(i) The obligation arises only on receiving notice from the transferor that the contract is liable to recession or that it has been induced by fraud or mistake.

(ii) The obligation will be enforced only on repayment by the transferor of the consideration actually paid by the transferee.

II. Section 91

1. Acquiring property with notice that is subject to a contract with another person.

2. In such a case the person who acquires the property must hold it for the person who had contractual rights in it.

3. This obligation is limited in its extent. It is enforced only to the extent necessary to give effect to the contract.

4. This obligation does not arise in the case of every acquisition of property which is subject to a contract. It applies only in the case of a contract which could be specifically enforced.

III. Section 92

1. Property bought for being held on trust for certain persons.

2. A contracts to buy property from B and represents to B that the purpose of buying it is to hold the property on trust for C. B believing in the representation of A sells the property to A.

3. A must hold the property for the benefit of C.

4. This obligation is also limited in its extent—It is enforced only to the extent necessary to give effect to the contract.

5. The contract may be to hold part of the property in trust for C. In that case the obligation will be enforced only to the extent of the property.

(4) Constructive Trust arising out of merger of two personalities in one individual.

I. Section 87

1. This provides for the case of double personality—one man but two persons.

2. Every contract, debt, obligation or assignment requires two persons.

3. But these two persons may be the same human being.

4. In all such cases, were it not for the recognition of double personality, the obligation or incumbrance would be destroyed by merger.

5. Because no man can in his own right be under any obligation to himself; or own any incumbrance over his property.

6. But with the recognition of the double personality this is possible.

7. In fact this is necessary.

8. *Illustration*—

Debtor becoming executor.

Executor is the owner in the eye of the law.

Merger. Extinction of debt.

9. Section says no.

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PART V

THE ADMINISTRATION OF A CONSTRUCTIVE TRUST

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PART V

The Administration of a Constructive Trust

THE INDIAN TRUST ACT

1. The Law relating to Trust is contained in Act II of 1882.

2. It is an Act which defines and amends—that means that it does not introduce any new principle.

3. The Act does not consolidate the Law—That means that it is not an Exhaustive Code.

4. The object of the Act was to group in one to enact the legal provisions relating to trusts. Before the Act of 1882 the statutory law relating to trust was contained in 29 *Car II. C. 31 sections 7—11.*

Act XXVII of 1866

Act XXVIII of 1866

There were also few isolated provisions scattered through the Penal Code, Specific Relief, C. P. Code Stamp Act, Limitation, Government Securities Act, Companies Act, Presidency Banks Act.

5. As originally passed, the Act did not apply to the whole of British India. For instance, it did not apply to Bombay. But provision was made to extend it by notification by local Government.

6. It is unnecessary to discuss here whether the Hindu Law and Mohammedan Law recognized trust as defined in the Trust Act. That may be dealt with by others.

The nature of a Trust

1. Trust is defined in section 3. A trust involves three things :

(1) A person who is the *owner* of some property.

(2) Ownership burden with an obligation.

(3) Obligation to use the property for the benefit of another or of another and himself.

2. It is ownership without beneficial enjoyment. It involves separation of ownership and beneficial enjoyment.

3. A trust arises out of a confidence reposed in and accepted by the owner.

4. The owner in the eye of the law is the trustee. After the trust is created the author of the trust ceases to be the owner of the property.

I. WHAT IS A TRUST.

1. The terms Trust and Trustee are defined in various enactments of the Indian Legislature.

(i) *Definition in Specific Relief Act I of 1877.*

Section 3—

(1) *Obligation* includes every duty enforceable by law.

(2) *Trust* includes every species of express, implied or constructive fiduciary ownership,

(3) *Trustee* includes every person holding expressly, by implication, or constructively a fiduciary ownership.

(ii) *Definition in the Indian Trustees Act XXVII of 1866.*

Section 2—

"Trust shall not mean the duties incident to an estate conveyed by way of mortgage; but with this exception, the words *trust* and *trustee* shall extend to and include implied and constructive trusts, and shall extend to and include cases where the trustee has some beneficial estate or interest in the subject of the trust, and shall extend to and include the duties incident to the office of executor or administrator of a deceased person.

(iii) *Definition in Limitation Act IX of 1908.*

Section 2 (ii)—

Trustee does not include a benamidar, a mortgagee remaining in possession after the mortgage has been satisfied or a wrong-doer in possession without title.

(iv) *Indian Trusts Act II of 1872.*

(1) Section 3—"A trust is an obligation annexed to the ownership of property...

(2) Ingredients of a Trust

(i) A Trust in an *obligation.*

(ii) The obligation must be annexed to the *ownership* of property.

(iii) The ownership must arise out of *confidence* reposed in and accepted by the owner.

(iv) The ownership must be for the benefit of another (i.e., a person other than the owner) or of another and the owner.

Explanation of Terms

I. THERE MUST BE OBLIGATION.

II. OBLIGATION MUST BE ANNEXED TO OWNERSHIP PROPERTY.

1. There may be an obligation to which a person is subject although there is no property to which it is annexed.

E.g. *Torts* assault—

2. There may be property without there being any obligation attached to it.

E.g. *Full* and *complete* ownership—sale of property.

III. THE OWNERSHIP OF PROPERTY MAY BE FOUNDED IN CONFIDENCE OR IT MAY NOT.

Illus.

A person may transfer ownership to another with the intention of conferring upon him the right to enjoy the property.

A person may transfer ownership to another without the intention of conferring upon him the right to enjoy the property.

The difference between ownership founded in confidence and ownership not founded in confidence consists in this—

(i) In the latter there is *a jus in re* (a complete and full right to a thing) *or jus ad rem* (an inchoate and imperfect right).

(ii) In the former there is not

E.g. Bailment.

3. The nature of a trust can be better understood by contracting it with other transactions resembling a trust.

Trust distinguished from agency

1. Where there is a trust, the ownership of the trust property is in the trustee. The trustee is personally liable on all contracts entered into by him in reference to the trust, although he may have a right of recourse against the trust funds or against the beneficiary.

2. An agent has no ownership in law in the goods entrusted to him. If an agent enters into a contract as agent, he is not personally liable. The contract is with the principal.

Trust distinguished from Condition

1. Cases of condition differ from cases of trust in two respects—

> *First.* A trust of property cannot be created by any one except the owner. But A may dispose of his property to B upon condition express or implied that B shall dispose of his own property in a particular way indicated by A.
>
> *Second.* The obligation of the person on whom the condition is imposed is not limited by the value of the property he receives, e.g., if A makes a bequest to B, on condition of B paying A's debts, and B accepts the gift, he will be compelled in equity to discharge the debts although the exceed the value of the property.

2. But the words "upon condition" may create a real trust. Thus a gift of an estate to A on condition of paying the rents and profits to B constitutes a trust because it is clear that no beneficial interest was intended to remain in A.

A may dispose of his property to B upon condition express or implied that B shall dispose of his property to C. There is a condition in favour of C.

Is this a trust ?

Trust distinguished from Bailment

1. Bailment is a deposit of chattel and may in a sense be described as a species of trust. But there is this great difference between a bailment and a trust, that the general property in the case of a trust, is in the trustee, whereas a bailee has only a special property, the general property remaining in the bailor.

2. The result of this difference is that an unauthorized sale by a trustee will confer a good title upon a *bona fide* purchaser who acquires the legal interest without notice of the trust, whereas such a sale by a bailee confers as a rule no title as against the bailor.

3. Bailee does not become the owner of the property as a result of the bailment. But a trustee does in law become the owner

of the property as a result of the trust notwithstanding he is under an obligation to deal with the property in a certain specified manner.

Trust distinguished from Gift

Ordinary contract differs from a trust. Contract which confers a benefit on a third party closely resembles a trust.

1. There is a similarity between a Trust and a Gift inasmuch as in both the transfer results in ownership. The Trustee and the Donee both become owners of the property.

2. But there is a difference between the two. In a gift the donee is free to deal with the property in any way he likes. In a Trust the trustee is under an obligation to use the property in a particular manner and for a particular purpose.

Trust distinguished from Contract

1. That there is a distinction between trust and contract is evident from the existence of differing legal consequences attached to a trust and to a contract:

(i) A trust, if executed, may be enforced by a beneficiary who is not a party to it whilst only the actual parties to a contract can, as a rule, sue upon it.

(ii) An executed voluntary trust is fully enforceable while a contract lacking consideration is not.

2. However, the determination of the question whether a given set of facts gives rise to a trust or a contract is not easy. What is the test ?

Keetan—pp. 5-6	(1919) A. C. 801 (1926) A. C. 108	38 Bom. S. R. 610.

It is a question of intention.

Trust distinguished from Power

1. The term "power" in its widest sense includes every authority given to a person (called the donee of the power) to act on behalf of or exercise rights belonging to the person giving him the authority (called the donor of the power).

2. Powers are of many kinds e.g.

(i) The common law power of an agent to act for his principal, given sometimes by a formal "power of attorney".

(ii) Statutory power such as the power of sale given to a mortgagee.

(iii) The various express and implied equitable powers possessed by trustees and executors.

(iv) Powers to appoint trusts so as to create equitable interests.

3. The power of appointment is a transaction which resembles a trust and it is this which must be distinguished from a trust.

The word appointment means -pointing out, indicating-the act of declaring the destination of specific property, in exercise of an authority conferred for that purpose-the act of nominating to an office.

The last class termed *powers of appointment* are made use of where it is desired to make provision for the *creation* of future interests, but to postpone their complete declaration.

Thus in a marriage settlement, property may be given to trustees upon trust for the husband and wife for their lives and, after the death of the survivor upon trust for (i) *Such of the children* of the marriage as the survivor shall appoint, or (ii) *All the children* of the marriage in such shares as the survivors shall appoint. In such a case, upon appointment being made, the child to whom it is made takes exactly as if a limitation to the same effect had been made in the original instrument.

A power of this kind, where there is a restriction as to its objects (i.e., persons in whose favour it may be exercised) is termed a *special power of appintment*. But there may be a *general power* of appointment when there is no such restriction, so that the donee may appoint to himself. In such a case the donee having the same powers of disposition as an owner, is for most purposes treated as the owner of the property :

(i) A power may give a mere discretion and therefore is distinct from a trust, which creates an obligation or (ii) A power may impose an obligation to exercise the discretion.

In the former case there is no trust. In the latter case there is. The former is called mere *power*. The latter is called power in the nature of a trust or *power coupled with trust*.

(iii) There is also a third category of cases which are cases of a *trust coupled with a power*.

These are cases where a trustee of a property though under an obligation to apply it for the benefit of certain individuals or purposes, may have a *discretion* as to whether he will or will not do certain specified acts, or as to the amount to be applied for any one individual or purpose or as to the time and manner of its application. In such cases, the Court will prevent the trustee from exercising the power unreasonably, it will not compel him to do such acts or attempt to control the proper exercise of his discretion.

1. Power resembles a trust and also differs from it.

(i) It resembles a trust inasmuch as a power is an authority to dispose of some interest in land, but confers no right to enjoyment of land.

(ii) It differs from a trust inasmuch as a power is discretionary, whereas a trust is imperative ; the trustee if he accepts must necessarily do as the settlor directs.

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* VII. New Trustees.

(1) Survivorship of the office and estate or trustee on death.

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*(2) Devolution of the office and estate on Death of the survivor.

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*(3) Retirement or Removal of a Trustee.

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*(4) Appointment of New Trustees.

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* VIII. Appointment of a Judicial Trustee.

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* IX. The Public Trustee.

(1) Nature and Function.

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*(2) Appointment of a Public Trustee as an ordinary Trustee.

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* Except the title, each page is left blank in M.S.—ed.

*(3) Appointment and Removal of the Public Trustee.

*(4) Duties, Rights and Liability of the Custodian Trustee and Managing Trustee.

*(5) Special Rules relating to the Public Trustee.

* X. The Rights of the Trustee.

(1) Right to Reimbursement and Indemnity.

*(2) Right to discharge on completion of Trusteeship.

*(3) Right to pay Trust Funds into Court.

*XI. Right of Trustees and Beneficiaries to seek the assistance of Public Trustee or Court.

*(1) Right of Official audit.

*(2) Right to take direction of Court.

*(3) Right to have Trust administered by Court.

*(4) Right to take direction of Court.

*(5) Right to have Trust administered by Court.

XII. Consequences of a breach of Trust.

1. *Definition of Breach of Trusts.*—Breach of trust is defined in section 3, a breach of any duty imposed on a trustee, as such, by any law for the time being in force, is called a breach of trust.

2. *Under the English Law.*—Any act or neglect on the part of a trustee which is not authorized or excused by the terms of the trust instrument, or by law, is called a breach of trust.

3. *Breach of Duty.*—A trustee has Duties, Right, Powers and disabilities. Only breach of duty is breach of trust.

1. *The measure of liability* is the loss caused to the trust property.

* This is the title on each page. There are no details—ed.

2. Is he liable to pay interest ? Only in the following cases—

(a) Where he has actually received interest.

(b) Where the breach consists in unreasonable delay in paying trust-money to the beneficiary.

(c) Where the trustee ought to have received interest, but has not done so.

(d) Where he may be fairly presumed to have received interest.

(e) Where the breach consists in failure to invest trust-money and to accumulate the interest or dividents.

(f) Where the breach consists in the employment of trust property or the proceeds thereof in trade or business.

3. Is he entitled to set off a gain from breach of trust against a loss from breach of trust.

He cannot.

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5. THE LAW OF LIMITATION

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OUTLINE OF LECTURES
ON
THE LAW OF LIMITATION

I. INTRODUCTORY

1. § Nature of the Law of Limitation.

2. § Distinction between Limitation—Estoppel—Acquiescence and Laches.

3. § The object of the Law of Limitation.

II. ARRANGEMENT OF THE LAW OF LIMITATION

1. § Operation of Lapse of time under the Indian Statute Law.

2. § Scheme of the Act.

III. APPLICABILITY OF THE ACT

1. § In respect of territory.

2. § In respect of Special Proceedings.

3. § In respect of Criminal Proceedings.

4. § In respect of Civil Proceedings.

5. § In respect of Persons

(not legible) against a Special Law.

IV. QUESTIONS ARISING OUT OF COLUMN 3

I. When does time begin to run

1. § General Rule.—When Right to sue accrues.

Exceptions :

(1) § Cases where limitation commences *before* the Right to sue accrues.

(2) § Cases where limitation does not commence even when the right to sue has accrued.

(3) § Cases where there arises a fresh starting-point of limitation.

(Note.—S. Nos. of parts and Chapters are retained as of original MS.—ed.)

2. § Starting point in cases of successive wrongs.

3. § Starting point in cases of continuing wrongs.

II. Against when does time begin to run ?

1. § When against the Plaintiff.

2. § When against the Defendant.

V. QUESTIONS ARISING OUT OF COLUMN 2

I. HOW IS THE PERIOD TO BE COMPUTED ?

1. § Calender.

2. § Cases in which time is excluded.

3. § Cases in which time lost is deducted.

II. Can the period be extended ?

III. Can the delay be excused ?

IX CONSTRUCTION OF THE STATUTE OF LIMITATION

(1) General Principles.

(2) Specific and Residuary Articles.

Part IV.—QUESTIONS ARISING OUT OF COLUMN I

Division I—Suits

Group I—*Suits for money*. 57-64-85.

Explain:— (1) Account stated—64.

(2) Monies had and received—62.

(3) Mutual, Open and Current Account—85.

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Group II.—*Suits on Negotiable Instruments*—69—80.

Explain.—Money payable by Instalments—75.

Group III.—*Suits by minor on attaining Majority*—44.

Explain.

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Explain.

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Explain—

(1) Suits based on title.

(2) Suits based on possession.

(a) By adverse possession.

(b) By dispossession.

(3) Suits based on partition.

Group VI.—*Suits to set aside Decrees or Documents obtained by fraud*—91, 95.

Explain.

Group VII.—*Suits to set aside Decrees and Orders of Courts and Government Officers*—11, 11A, 12, 13, 14.

Group VIII.—*Suits on Registered Documents*—116.

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THE INDIAN LAW OF LIMITATION

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I. INTRODUCTORY

1 What is the nature of the Law of Limitation ?

1. There are various ways in which a time-limit enters into a course of litigation :

(1) Cases where the law says action shall be taken *within* a stated period:

Illus.—Order 6 Rule 18.—Amendment of a Plaint. Party obtaining leave to amend must amend within the time fixed by the Court for amendment and if no time is fixed then within 14 days.

(2) Cases where the law says action *shall not* be taken before a certain period has elapsed.

Illus.—Section 80 of the C. P. C.—Suit against Secretary of State. No suit shall be instituted against the Secretary of State for India in Council or against any public officer in respect of any Act purporting to be done by such public officer in his official capacity, until the expiration of two months next after notice in writing has been given.

(3) Cases in which the law prescribes that action shall not be taken *after* a certain period has elapsed.

2. It is the *third* class of cases which strictly speaking constitute the subject-matter of the Law of Limitation.

2 Distinction between Limitation—Estoppel—Acquiescence and Laches

All these have the effect of denying to an aggrieved party a remedy for the wrong done to him. That being so it is necessary to distinguish them from Limitation as such.

Limitation and Estoppel

1. By Limitation a person is prevented from getting relief because of his having brought the action after the time prescribed for bringing his suit.

2. By Estoppel a person fails to get relief because he is prevented by law from adducing evidence to prove his case.

Limitation and Acquiescence

1. Limitation defeats a suitor in the matter of obtaining relief for a wrong because he has *consented* to the doing of the wrong because his suit is beyond time.

2. Acquiescence defeats a suitor in the matter of obtaining relief for a wrong becasue he has *consented* to the doing of the wrong.

Limitation and Laches

1. Both have one common feature—relief is denied on the sole ground that action is not brought within time.

2. The distinction lies in this—In limitation time within which action shall not be brought is prescribed by Law. In laches there is no time prescribed and the Court, therefore, in granting relief works on the principle of unreasonable delay.

3. In India the doctrine of laches has not much scope because of the Law of Limitation which has prescribed a definite time limit for almost all actions. It does not, therefore, matter whether a man brings his suit on the first day or the last day of the period prescribed by law for his action.

4. The doctrine of laches applies in India only in the following cases:

(1) Where the relief to be granted by the Court is *discretionary*.

This is so

(i) In cases falling under specific relief.

(ii) In cases falling under interlocutory relief.

(2) Where the Law of Limitation does not apply e.g. Matrimonial suits

Delay would mean that the offence was condoned.

3 The object of Limitation

1. Two things are necessary for a well-ordered community

(i) Wrongs must be remedied.

(ii) Peace must be maintained.

2. To secure peace of the community it is necessary that titles to property and matters of right in general should not be in a state of constant uncertainty, doubt and suspense.

3. Consequently, if persons are to be permitted to claim relief for what they think are wrongs done to them, then they must be compelled to seek relief within a certain time. There is nothing unjust in denying relief to a person who has tolerated the wrong done to him beyond a certain period.

4. The Law of Limitation is based upon this principle.

5. That being the underlying principle, the Law of Limitation is absolute in its operation and is not subject to agreement or conduct of the parties. That is to say it is not subject to

(1) Waiver.

(2) Custom.

(3) Estoppel.

(4) Variation in respect of enlargement or abridgement of time by agreement of parties sections 28 and 23 of the Contract Act.

6. In this respect the Law of Limitation differs from the Law of Negotiable Instruments.

7. *Limitation and the onus of Proof.*

1. The onus of proof is upon the Plaintiff. He must prove that his suit is within time.

37. Bom. S. R. 471-A.I.R. 1935 September.

A by a registered lease, dated 8th July 1922, gave certain lands to *B* on a rental for a period of 25 years. Subsequently, A dispossessed *B* alleging that the lease was taken by undue influence. *B* brought a suit against *A* for an injunction restraining *A* from interferring in any way with his possession and enjoyment and for possession of land.

It was contended on behalf of B that A was precluded from challenging the validity of the lease, on the ground that if he had sued to have the lease set aside the suit would have been barred by Limitation. In other words, it was contended that the plea of the Defendant was barred of the Limitation.

Question is : Is Defendant bound by the Law of Limitation ? The answer is No. —Section 3 refers to Plaintiff and not to Defendant.

8. *Plea of Limitation and the Stage of the Proceedings.*

1. The plea of limitation may be raised at any stage of the proceedings, i. e., it can be raised even in second appeal.

2. It can be raised for the first time in appeal

38 Mad. 374

36 Cal. 920

38 Cal. 512

38 Bom. 709 (714),

3. It can be raised in appeal even though it was abandoned in the trial Court.

3 All. 846 (848).

4. It can be raised before the Privy Council although it had been abandoned in the Courts below.

36 I A. 210.

5. This is subject to the proviso that when it is raised in the appeal stage Court will not allow it if the facts on record are not sufficient for its decision and if it involves a further inquiry into facts.

57 Cal. 114.

II. THE INDIAN LAW OF LIMITATION

Its Scheme of arrangement

Operation of Lapse of time under Indian Statute Law

1. Lapse of a definite period of time produces four results under Indian Statute Law.

(1) It multiplies the right of the holder to obtain a remedy for the wrong—Section 3 of the Limitation Act.

(2) It not only bars his remedy but extinguishes his right—Section 28 of the Limitation Act.

(3) It confers a right to light, air, way, watercourse, use of water or easements on a person who has enjoyed it for a prescribed period—Section 26 Limitation Act.

(4) It extinguishes right to easements—Section 47 of Act V of 1882.

(2), (3), (4) are cases which fall under the Law of Prescription. (1) Only falls under the Law of Limitation. The Limitation Act deals with a mixed body of law and two must be studied separately.

III. THE INDIAN LAW OF LIMITATON

Its Applicability

1. In respect of Territory

1. The Act extends to the whole of British India—*Section 1 (2).*

2. The Act applies to *every* suit instituted, appeal preferred and application made in Courts functioning in British India.

3. It does not matter where the cause of action, whether in British India or outside British India, it does not matter where the transaction took place, whether in British India or outside British India, if the suit is instituted or appeal is preferred or application is made in a Court in British India, the Law of Limitation that will apply will be the Indian Law of Limitation and not Foreign Law of Limitation.

4. There is one exception to this rule which is enacted in section 11 (2) which says : A Foreign Rule of Limitation shall be a defence to suit in British India on a contract entered into in a foreign country if the rule has extinguished the contract and that the parties were domiciled in such country during the period prescribed by such rule.

2. In respect of Proceedings

I. Special Proceedings

(1) *Arbitration Proceedings*

It was at one time doubted if the Limitation Act applied to proceedings before an Arbitrator on the ground that it applied only to suits, appeals and applications to the *Court* and that the Arbitrator was not a Court. This doubt has now been resolved by the Privy Council which has held that where persons have referred their disputes to arbitration, the arbitrator must decide the dispute according to the existing law and that he must recognize and give effect to every defence of limitation, unless that defence has been excluded by agreement between the parties.

(1929) 56 I. A. 128.

Ques. This decision goes to the length of laying down that parties can vary the Law of Limitation by private agreement. This seems to overlook the provisions of sections 28 and 23 of the Contract Act.

(2) *Proceedings under the Companies Act*.

When a Company is being wound up and a liquidator is appointed to carry on the affairs of such Company, Section 186 of the Company's Act provides that the liquidator may make an *application* to the Court for an order upon a person "to pay any moneys due from him to the Company." Ordinarily there would have to be a suit. But to avoid multiplicity of suits this special proceedings is permitted by law.

Question is whether Limitation applies to such proceedings. It has been held that "money due" in section 186 meansmoneys due and recoverable in law, i.e., *moneys not* time-barred. This means that the Law of Limitation applies to such proceedings.

60 I. A. 13 (23)

(3) *Proceedings under the Income Tax Act*.

The Civil Courts in India have no jurisdiction in matters of public revenue.

They can have such jurisdiction only if a particular Revenue Act invests them with such jurisdiction. For example a provision will be found in section 66(3) of the Indian Income Tax Act of 1922. Under the section, a party aggrieved by an order of the Income Tax Officer in the matter of assessment may apply to him for stating a case to the High Court and if he refuses may apply to the High Court for an order compelling the Commissioner to state a case and refer it to the High Court.

There is a time-limit for such an application. But the Law of Limitation does not apply to it. The time-limit is the time-limit prescribed by the Income Tax Act and not by the Law of Limitation.

(4) Proceedings before the Commissioner of Workmen's Compensation

The Workmen's Compensation Act, 1923, provides for Compensation to be paid to workmen for injuries caused to them

in the course of their employment. The cases are heard by a Commissioner. The Commissioner is a special tribunal and not a Court and therefore the Limitation Act does not apply to proceedings before him.

This does not mean that the claim for compensation for injury can be prosecuted before him at any time. That would be so if the Act had made no provision for a time-limit. As the Act has presented six months as the time-limit, suits have to be brought within that period.

(5) Proceedings under Registration Act.

(1) Presentation of Documents—4 months.

(2) Appearance of Parties for admitting Documents—4 months.

3. Criminal Proceedings

1. Criminal Proceedings are generally instituted in the name of the Crown because they involve a breach of the King's peace.

2. It is a maxim of Constitutional Law that lapse of time does not affect the right of the King.

3. That being so the Law of Limitation does not apply to criminal prosecutions.

4. Two things may be noted :

(1) There are many Acts which prescribe limits of time for institution of prosecution under those Acts. E.g. Government of India Act, Section 128 : Opium Act, Customs Act, Salt and Excise Acts and Police Act.

(2) Limitation Act, although it does not provide for any time-limits for criminal prosecutions, it does provide for *appeals* under the Cr. P. C.

4. Civil Proceedings

(i) With regard to *suits* different kinds of suits have been specified in different Articles. There is also a general residuary Article No. 120 which is made to apply to any suit for which no period of limitation is provided elsewhere in the Schedule. The Act, therefore, applies to *all* suits.

(ii) With regard to *appeals* there are two Courts to which appeals can lie in India—(i) The Court of a District Judge and (ii) The High Court. The Limitation Act specifies appeals to both these Courts and therefore, it can be said that the Law of Limitation applies to all appeals.

(iii) With regard to *applications,* different kinds of applications are enumerated in the different articles in the Schedule. As in the case of articles relating to suits there is also an Article 181 for applications for which no period of limitation is prescribed elsewhere in the schedule or by section 48 of the C. P. C. But almost all High Courts have held that the operation of this Act is to be restricted to applications under the C. P. C. only. That being so it is clear that the Limitation Act *does not apply* to *all* applications. For instance it does not apply to :

(i) Applications for the grant of probate letters of administrations succession certificates.

(ii) Applications under the Rules of the High Court

32 Bom. 1

48 Cal. 817

46 Cal. 249.

(iii) Applications under a Local or Special Act (unless such Act provides for it).

These not being matters dealt with by the C. P. Code.

In respect of persons

1. The general rule is that the plea of limitation applies to every Plaintiff.

2. Originally, limitation did not apply to the Crown when it sued as a Plaintiff, on the ground that lapse of time did not affect the Crown. This maxim of Constitutional Law although it governs criminal prosecutions has been negatived so far as civil proceedings by the Crown are concerned by Article *149* of the Limitation Act which applies to every kind of *suit brought by Government,* and prescribes *60* years as the time-limit. Suits *against* Government must be brought within the ordinary time-limits.

15 Mad. 315.

Similarly, suits by private persons *claiming through* Government are also subject to the ordinary time-limit prescribed by the Act. This was always the rule. It was not always the rule for Government to bring a suit within any prescribed time. This

has now been altered. It can, therefore, be said that as a rule the Law of Limitation applies to *all* persons whether they are private persons or corporate bodies of Governments, and that the plea of limitation is available to every Defendant as against every Plaintiff whether that Plaintiff is a private person or a Government.

3. The plea of limitation is available to every Defendant. To this rule there are certain exceptions.

37 Bom.—S.R. 471

Section 10.

I. The defence of limitation is not available to a person in whom property has become *vested in trust* for any specific purpose nor is it available to his legal representatives or assigns (not being assigns for valuable consideration), in a suit for recovery of the property or the proceeds thereof or for an account of such property. This section is to be applied to an *express trust as* distinguished from an *implied* or *constructive trust.* A trustee of an implied or constructive trust can take the defence of limitation.

Distinction between an Express Trust and Implied or Constructive Trusts.

Persons, therefore, who are holding a fiduciary position are not trustees within the meaning of Section 10 ; E.g. Agent, Manager, Factor, Benamidar, Executor or Administrator, Banker, Surviving partner, Director of a Company Liquidator of a Company, *Karta* or Manager of a joint Hindu family.

Secondly Section 10 is applicable only in cases of persons "in whom property has become *vested** in trust for a *specific purpose" 44 Mad. 277(281-2).*

What is Specific Purpose ? A specific purpose is a purpose that is actually and specifically defined in the document by

* What is meant by vested ? The following suits are excluded —

(1) Suits seeking to make the trustee liable for what he might have received.

(2) Suits to enforce Plaintiffs' personal right to manage trust properties.

(3) Where there is an invalid trust, a suit to recover the property from the trustees in the enforcement of **a** resulting trust—*20 Bom, 511.*

(4) Suits for compensation for breach of trust— *581. A. 279 (297).*

which the trust is created for a purpose which from the specified terms can be certainly affirmed.

49 I. A. 37 (43)

58 I. A. 1

That being so even a trustee *de son tort* would fall within this Section.

Meaning of *a trustee de son tort.*

Explanation.—Hindu, Mohammedan and Charitable endowments are declared to be express trusts and their managers express trustees.

Thirdly.—Section 10 not only applies to the defaulting trustee himself, but also applies to his legal representatives and assigns except assigns for valuable consideration. Purchasers for value from a defaulting trustee are protected and they can plead limitation.

Whether purchasers from a trustee must in addition to being purchasers for value should also be purchasers without notice of trust is a point on which the Act is silent. Judicial decisions on this point are, however, in conflict.

Section 29 (3) II. The Limitation Act does not apply to parties litigating under the Indian Divorce Act (IV of 1869).

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As against a Special Law

1. Besides this General Law of Limitation there are other special or local laws which also prescribe time-limits for suits, appeals or applications. In case there is a difference between the time-limits fixed by the general and special law, question is which law is to prevail.

2. The answer to this question is given in Section 29. According to the Section the special law will prevail over the general law.

3. Section 29 also provides for the applicability and non-applicability of the other Sections of the Limitation Act in cases of conflict between the general and special law as to time-limit.

4. According to Section 29, in cases of conflict the provisions of Sections 4, 9 to 18 and 22 of the Limitation Act will apply

(unless expressly made inapplicable) and the remaining provisions of the Act shall not apply (unless expressly made applicable by the Special Law).

The Scheme of the Law of Limitation

1. The Indian Limitation Act consists of 29 Sections and one Schedule.

2. The Schedule is divided into three Divisions :

First Division—deals with Suits.

Second Division—deals with Appeals.

Third Division—deals with Applications.

3. The Schedule in respect of each of its Divisions is cut up into 3 Columns.

> *Column 1*—Describes the nature of the claim for which suit is brought or of the appeal or if application is made.
>
> Provision is made for 154 different classes of suits.
>
> Provision is made for 9 different classes of appeals.
>
> Provision is made for 26 different classes of applications.

Each of these provisions is numbered seriatum and is called article no. so and so. There are in all 189 articles in the Schedule though the last article is 183, that is, because some articles have the same number and are distinguished by the addition of A to the same number.

> *Column* 2.—Specifies the period *within* which the suit must be filed, appeal or application must be made.
>
> *Column 3.*—Specifies the starting-point of the period of limitation within which *suit* must be filed or appeal or application must be made.

4. The Sections of the Act in so far as they deal with the Law of Limitation as distinguished from the law of prescription deal with various questions arising out of the three columns of the Schedule. The Schedule, therefore, is the most important part of the Law of Limitation.

IV. LAW OF LIMITATION

Questions arising out of Column 3

Subject-matter of Column 3

1. Column 3 deals with the starting point of Limitation. Two Questions arise—

(1) When does time begin to run ? What is the starting point of Limitation ?

(2) Is there only one starting point of Limitation? *Or* Can there be a fresh starting point of Limitation ?

I. *When does time begin to run ?*

What is the starting-point of Limitation.

1. The answer to the question as to when time begins to run is this. Time in respect of the institution of *a suit, appeal or application* begins to run from the occurence of the event mentioned in Column 3. In most cases the event is the incident. But in some cases it is the knowledge of the incident to the Plaintiff—90-92. Whether it is the incident or the knowledge of the incident, in any case the occurence of the event in Column 3 marks the starting point of limitation.

Two questions with respect to right to sue and cause of action.

(1) Must a Plaintiff sue when there is a cause of action ?

2. Confining to suits it may be said that time begins to run when the right to sue arises—Article 120. This is the first fundamental Rule.

When does the right to sue arise ? It arises—

(i) When the event mentioned in column 3 occurs if the suit falls under any of the articles.

(ii) When the suit does not fall under any specific article but falls under the general article (120) then right to sue accrues when the cause of action arises or in certain cases knowledge that cause of action has arisen comes to the Plaintiff, so that time begins to run from the occurence of the cause of action or from the date of the knowledge of the cause of action.

Cause of action arises when a wrong is done to a party. Every wrong does not necessarily give rise to a cause of action. The wrong must under the circumstances be real and necessitate taking of action.

(iii) The effect of death on the starting point of Limitation.

1. When does limitation commence in the case of a person who dies before the right to sue accrues to him ?

2. When does limitation commence in the case of a person who dies before another person gets a right to sue him ?

I. When a person dies *before* the right to sue accrues to him the period of limitation *will commence* when there is a legal representative of the deceased capable of instituting such a suit.

II. When a person against whom a right to sue would have accrued dies before such accrual, the period of limitation shall be computed from the time when there is a legal representative of the deceased against whom a suit could be brought.

Exception to the fundamental Rule—Limitation runs from the moment the right to sue accrues

I. Cases where Limitation commences *before* the right to sue accrues.

(i) Money payable on demand and money payable on a Bill or a Pronote made on demand.

In these cases unless there is a demand to pay and there is a consequent refusal to pay there is no right to sue. The right to sue arises on the date of the refusal to pay. But time begins to run not from the date of the refusal but from the date of the loan or the date of the Bill or note, i.e., *before* right to sue has accrued. 57—58—59—67—73

(ii) Redemption of a Pledge—suits on—

The pawnee's right to sue to recover the pledge accrues on the date on which the debt in respect of goods pledged is paid off by him. But time begins to run not from the date of payment but from the date of the pledge, i.e., *before* the right to sue has accrued—145.

§ Cases where Limitation does not commence even the right to sue has accrued—Sections *6, 7, 8*

1. These are cases where a person to whom a right to sue has accrued is suffering from a disability the date on which the right to sue accrued.

2. According to this exception time will not run against a person who is suffering from a disability although the right to sue has accrued to him.

3. Only three kinds of disabilities are recognized— (i) minority, (2) lunacy, (3) idiocy,

4. In the case of a person suffering from a disability, time commences when the disability ceases.

5. Where these disabilities are concurrent or succession in their operation, limitation commences when all such disabilities have ceased.

7. Where the disability continues upto the death of the person then time will commence against his legal representative from the date of his death.

8. If the legal representative is under a disability at the death of the person then time will commence when the disability of the legal representative comes to an end.

9. What is the effect of a disability of persons who are jointly entitled to sue upon the starting point of limitation.

Two cases must be distinguished :

(i) Where only some of them are under a disability,

(ii) Where *all of them* are under a disability.

I. Where *only some* of them are under a disability :

(i) Where full discharge or release can be given to the Defendant by the party not *under disability* without the concurrence of the person under a disability time will commence to run against all of them from the time the right to sue accrues.

(ii) Where no such discharge can be given, time will not run against any of them until the disability ceases or until the person under disability loses his interest in the subject-matter.

II. Cases where *all* persons who are entitled to sue are under a disability :

(i) Where *all* are under a disability, rules laid down in Section 6 will apply.

(ii) Where one of them *ceases* to suffer from the disability, Section 7 will apply and the governing question will be whether the person who is free from his disability give a valid discharge without the concurrence of those who continue to suffer from their disability. If the answer is in the affirmative, time will commence to run against *all* from the moment the disability of such a person has ceased to operate. If the answer is in the negative then time will not run against any of them until *all* of them cease to suffer from their disabilities.

9. Within what time from the date of the Cessation of the disability, a suit must be brought by the person who was under a disability when the right to sue accrued to him ?

1. There are three answers to this question.

(i) Within the prescribed period *to be counted from the date of the accrual of the right to sue, it* the period left over after the cessation of the disability is more than three years.

Illus. Prescribed period—12 years from 1920 to 1932.

Years of disability—4 years i.e. 1924 to 1936.

Period left over—9 years. Suit must be brought before 1932.

Suit must be brought within 9 years, i.e., within 12 years from the accrual of the right to sue i.e. within the prescribed period. He gets no benefit at all. Even his time is counted from the date of the accrual of right to sue.

(ii) Within the prescribed period *to be counted from the cessation of the disability,* if the period prescribed is less than three years.

He gets no benefit from his disability ; only his time begins to run from the date of the cessation of the disability.

Illus. Prescribed period 1 year from 1920 to 1921.

Years of disability—4 years. *S. P.* 1924 Bar 1925. Suit must be brought in 1925.

(iii) Within *three* years from the date of the cessation of the disability, if the period left over after the cessation of the disability is *less* than three years and the period prescribed is *more* than three years.

Prescribed period—6 years from 1920 to 1926.

Years of disability—4 years from 1924—Bar 1930.

Period left over after cessation is—2 years.

Suit must be brought in 1928 within three years from cessation of disability.

10. Some points to be noted with regard to this question of disability.

(i) The Section applies only to *suits* and to applications for the execution of a decree, but not to any other applications, nor to appeals.

(ii) The Section applies only to a person who was already under a disability when the right to sue accrued. If the disability supervenes *subsequently* than the Section does not apply.

(iii) The Section applies only where the *Plaintiff* or the person entitled to sue is under a disability. The disability of the *Defendant*—person liable to be sued—does not matter at all.

Time will begin to run against the Plaintiff even if the Defendant is suffering from a disability.

First Fundamental Rule is that limitation starts in the case of person who is not suffering from a disability, from the date of the occurrence of the event mentioned in Column 3 and if no event is mentioned in Column 3 then from the date when the cause of action is said to arise.

Fundamental Rule II

1. When once time has begun to run, no subsequent disability or inability to sue stops it.

2. This means that Limitation, once it starts is never suspended. If a person becomes insane or dies *after* the right to sue has accrued,time will continue to run against them.

II. Is there only one starting-point of Limitation ? OR Can there be a fresh starting point of Limitation.

1. Distinction must be made between the occurence of a fresh cause of action and the occurence of a fresh staring point if limitation in respect of the *same* cause of action. We are here considering cases where there occurs a fresh starting point of limitation in respect of the *same* cause of action.

2. The general rule of the Law of Limitation is that for a right to sue there is *only one* starting point of limitation and that starting point dates from the day when the right to sue accrues.

3. There are three cases where there is a fresh starting point of limitation in respect of the same cause of action :

(i) Case where there is an acknowledgment.

(ii) Cases where there is a pan payment.

(iii) Cases where the cause of action arises out of a continuing breach of contract or out of a continuing Wrong independent of contract.

Section 19—§ Acknowledgment

I. Generally

1. The acknowledgment must have been made *before* the period of limitation has actually run out. An acknowledgment made *after* the period has run out is of no avail and cannot be given a fresh starting point of limitation.

2. The acknowledgment must be in writing.

3. The acknowledgment must be signed by the party liable or by his agent duly authorized to sign an acknowledgement of liability.

4. The acknowledgement need not be *to the* creditor.

5. The acknowledgement must contain an admission of a *subsisting liability*. It need not contain a promise to pay. Indeed it may be coupled with a refusal to pay or with a claim to a set-off.

II. Section 21 (2)—Acknowledgement by persons jointly liable

1. When a property or a right is claimed against persons who are jointly liable such as joint-contractors, partners, executors, motgagees, etc., an acknowledgement signed by any one of them (or by the agent of any one) render the rest chargeable.

III. Section 21 (3)—Acknowledgement by a Hindu widow

Acknowledgement by a Hindu widow or other limited owner shall be binding upon the reversioners.

IV. Section 21 (3)—Acknowledgement by a Hindu Manager

The acknowledgement signed by (or by the agent of) the Manager of a joint Hindu family shall be binding upon the whole family where the acknowledgement is in respect of a liability incurred by or on behalf of the whole family.

§ Payment of interest on debt or on Legacy and Section 20—Part-payment of the Principal

1. The payment must be payment before time has run out.

2. The payment is made by the debtor or by his agent duly authorized to make such payment.

3. The payment must be *voluntary*.

Section 23—§ Continuing breach of contract and continuing wrong independent of contract

1. In the case of a continuing breach of contract or a continuing wrong, a fresh period of limitation begins to run at every moment of the time during which the breach or the wrong continues.

Q.—What is meant by a continuing breach and a continuing wrong-?

Continuing breach of contract

1. Covenant to repair in a lease which is broken every day the premises are out of repair.

2. Use of premises contrary to the covenants in the lease.

Continuing wrongs in respect of a tort

1. Infringement of a trade mark.

2. Refusal of a wife to return to her husband.

In these cases the right to sue arises *de die in diem* (from day to day).

3. The distinction between a continuing and a non-continuing wrong is very difficult to draw. A wrong continues either because the effect of a wrongful act once done continues or because the wrongful act is repeated.

The case of a continuing wrong is the case where the wrongful act is repeated and not where the effect of a wrongful act continues.

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6. THE LAW OF CRIMINAL PROCEDURE IN BRITISH INDIA

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THE LAW OF CRIMINAL PROCEDURE IN BRITISH INDIA

PRELIMINARY

Wrong and the Remedy for it

1.* One of the clauses in the constitution of the U. S. A. runs thus :

> "No citizen shall be deprived of his life, liberty and property without due process of law".

Such a clause is not found in the constitution of other states. All the same every civilized State seeks to protect the life, liberty and property of its citizen from unwarranted attacks.

Such a guarantee is the foundation of the state. With this object in view every state has a code of laws which defines what are wrongs. In India we have the Penal Code and the law of Torts.

2. Wrongs are either civil *or* criminal.

Some wrongs are both civil as well as criminal; *Assault, Defamation :* they are both civil as well as criminal wrongs. The aggrieved party can proceed both in a criminal court and also in a civil court.

3. *Remedy*. It would be of no avail whatsoever merely to enact wrongs if for every wrong an appropriate remedy is not provided. On the other hand, it may be said, that the law recognizes a wrong only when it provides a remedy for its vindication. When there is no remedy provided for the commission of a wrong, the enactment of a wrong would be an idle work.

Liberty of a person and the writ of Haheus Corpus.

4. The Criminal Procedure Code is a remedial law. It provides a remedy to the aggrieved patty against the offender for the vindication of the criminal wrong done to him. It is a

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* Paragraph numbers are retained as of original— ed.

popular notion that the law allows ten guilty persons to escape rather than punish an innocent individual. This is absolutely incorrect. All that the law says is that no man shall be tried except in accordance with the procedure laid down by law.

5. The Criminal Procedure lays down :

(1) The Constitution of the Criminal Courts.

(2) The means and methods by which the accused may be brought before a Criminal Court for his trial.

(3) The rules as to trial of an accused.

(4) The rules as to punishment, and

(5) The rules as to rectification of an error in the trial, conviction or punishment of an accused.

* * * *

I. Constitution of Criminal Courts

7. For a proper understanding of this subject a distinction must be drawn between the Presidency Towns system and the Provincial system.

Such distinction is often made in India in respect of other laws as well:

e.g. Insolvency— 1. Presidency Towns Insolvency Act.
2. Provincial Insolvency Act.

Small Causes— 1. Presidency Towns Small Causes Courts Act.
2. Provincial Small Causes Courts Act.

A. Provincial System

1. Sessions Courts

Section 7(1)

8. 1. Every Province shall be a Sessions Division or shall be divided into more than one Sessions Division. Every Sessions Division shall be coterminus with a district or more than one district.

Section 9 (3)

3. For any Sessions Division there may be Additional Session Judges and Assistant Judges to exercise jurisdiction in one or more of Sessions Courts.

* Para 6 is missing in the MS.—ed.

Section 9 (2)

4. The Court of Session shall hold its sitting at such place or places as may be notified by the L, G.* in the Official Gazatte.

Section 9 (4)

5. A Sessions Judge of one division may also be appointed as an Additional Sessions Judge of another division in which case he may sit in either division to dispose of cases.

2. Magistrates Courts

9. (1) District Magistrate.

Section 10

(1) In every district there *shall* be magistrate of the first class who shall be called the District Magistrate.

(2) Any magistrate of the first class may be appointed to act as an Additional District Magistrate.

(2) Sub-Divisional Magistrate.

Section 8 (1)

10. A District may be sub-divided into a sub-division.

Section 13 (1) and (2)

A Magistrate of the 1st or 2nd Class may be placed in charge of a sub-division and shall be called a Sub-Divisional Magistrate.

(3) Subordinate Magistrates.

Section 12 (I)

11. In every District there may be appointed besides the District Magistrate, as many persons as may be necessary to be Magistrates of the first, second or third class.

They will exercise jurisdiction in such local areas as may be defined in the case of each.

Section 12 (2)

If no such area is fixed, their jurisdiction and power shall extend throughout such District.

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* Local Government—ed.

3. District Magistrate and 1st Class Magistrate

The Code does not recognize any particular Court as that of the District Magistrate, but only Courts of 1st, 2nd and 3rd Class Magistrate.

Where a trial was commenced by an officiating District Magistrate and before its close he reverted to his original position as 1st Class Magistrate in which capacity he had jurisdiction over the offence, it was held : he had jurisdiction to continue the trial.

Emp. v/s Sayed Sajjad Husain 3 A.L.J. 825

11. As regards original jurisdiction, whatever the District Magistrate might do with regard to offences committed outside the division, the Sub-Divisional Magistrate is competent to try within his local jurisdiction. *4 A. 366.*

4. Special Magistrate

Section 14(1)

12. (1) In any local area persons may be vested with the powers of the Magistrate of the 1st, 2nd or 3rd class in respect of particular cases or classes of cases or in regard to cases generally.

(2) To be called a Special Magistrate and to be prescribed for a term.

(3) Such a person may be an officer under its control.

(4) If he is a police officer, he shall not be below the grade of Assistant District Superintendent and he shall not have any power beyond what is necessary for :

(i) preserving the peace

(ii) preventing crime

(iii) detecting, apprehending and detaining offenders in order to their being brought before a Magistrate

(iv) the performance by him of other duties imposed upon him by any law for the time being in force.

5. Bench Magistrates

Section 15 (1)

13. Any two or more Magistrates may sit together as a Bench and may hear such cases or such classes of cases only and within such local limits as may be prescribed in that behalf.

6. Relation of the different Courts in the Provincial System

Section 17 (2)

14. Every Bench and every Magistrate in a sub-division shall be subordinate to the Sub-Divisional Magistrate. Within a sub-division, the jurisdiction of the District Magistrate and sub-divisional Magistrate are coordinating. *4 All. 366.*

Magistrate who is subordinate to S. D. M. is also subordinate to D. M. All Benches and Magistrates including Sub-Divisional Magistrates are subordinate to the District Magistrate.

Section 10(3)

An Additional District Magistrate shall be subordiate to the District Magistrate for the purpose only of:

(i) Section 192 (1)

(ii) Section 407 (2)

(iii) Section 528 (2) and (3).

Section 17 (3)

All Assistant Sessions Judges are subordinate to the Sessions Judge in whose court they exercise their jurisdiction.

15. Subordinate.—(1) inferior in rank.

9 Bom. 100

8 Mad.18(F.B.)

(2) Subordinate in respect of judicial as well as executive powers.

2 *All. 205 (F. B.)*

9 Bom. 100. There may be inferiority without subordination, but there cannot be subordination without inferiority, as subordinate means inferior in rank.

Section 17 (5)

Neither the District Magistrate nor the Magistrate and Benches shall be subordinate to the Sessions Judge except to be expressly provided by the Code.

Subordinate to the Sessions Judge only for the purposes of Section 123, 193, 195,408,431,436,437. If a Sessions Judge rule that touts should not be admitted to the Court it would not apply to the magistracy.

Subordinate means not merely subordinate so far as the regulation of work is concerned. Subordinate also means judicially inferior in rank, i. e. a Court over which another Court can proceed under Section 435. (call for records and pass orders) *9 Bom. 100.*

B. Presidency Towns System

1. Magistracy

Section 18(1)

16. In each of the Presidency Towns, a sufficient number of persons shall be appointed to act as Presidency Magistrates.

Of the number appointed for each town, one shall be appointed to act as a Chief Presidency Magistrate.

Any person may be appointed to act as an additional Chief Presidency Magistrate.

Section 19

17. Any two or more Presidency Magistrates may sit together as a Bench.

2. Relation of the Presidency Magistrates to the Chief Presidency Magistrate

Section 21

18. He is like a District Magistrate controlling Magistrates subordinate to him.

Local Government is to declare the extent of such subordination.

Control:

1. Conduct and distinction of business and practice in Courts.
2. Constitution of Benches.
3. Settle times and places at which Benches shall sit.
4. Settle differences of opinion.

18. The Bombay Government has defined that Presidency Magistrate shall be subordinate to the Chief Presidency Magistrate.

I Bom. L. R. 437.

High Court

19. Along with these Criminal Courts, we have the High Courts of Judicature.

The High Courts owe their origin to the Charter Act passed by Parliament in 1861.

Section 1 empowered Her Majesty by *letters patent* to erect and establish High Courts for Bengal at Calcutta, for Bombay at Bombay, and for Madras at Madras.

Section 9

Each of the High Courts to be established under *Section 106* of this Act shall have and exercise all *such* Civil. Criminal, Admirality, and Vice-Admirality, Testamentary, Intestate and Matrimonial Jurisdiction, *original and appellate* and all such powers and authority for and in relation to the administration of justice in the Presidency for which it is established as His Majesty may grant and direct.

High Court's Power of Superintendance

3 Pat L.J. 581. 7.B.

Sheonandan v/s Emperor.

1. High Court's powers of superintendance are limited by Section 15 of the Act of 1861 (Section 107 of the Government of India Act) to Courts subject to its appellate jurisdiction.

2. But where the High Court has appellate jurisdiction, even in a *modified* form from an inferior Court, it will exercise superintendence over that Court, even in cases which are not subject to appeal.

3. There are three classes of cases to be considered:

(a) Where a subordinate Court is subject to the *appellate jurisdiction* of the High Court, in certain cases, only the right of superintendence exists and its exercise is not confined to cases where a right of appeal lies to the High Court. This special power of superintendence is not as a rule exercised in cases where there is an adequate remedy by other proceedings such as appeal or revision.

(b) In cases in which the High Court has powers of revision over subordinate or where the power of reference to the High Court exists, a modified form of appeal may be said to exist

(c) The power of superintendency may be conferred upon the High Court by the Act constituting the subordinate Court independantly of Section 15 of the Charter Act.

4. A Court may be established without being made subject to the superintendence of the High Court.

The Relation of the High Court to other Criminal Courts

Section 15, 107

Each of the High Courts shall have powers of superintendence which may be subject to its appellate jurisdiction and shall have powers to call for returns etc.

What are the Courts subject to its appellate jurisdiction ?

Letters Patent.

The High Court shall be a Court of appeal from the Criminal Courts in the Presidency.

3. *Pat. L.J. 5817. B*

Sheonandan v/s Emperor

Two questions

1. Can the High Court have power of Superintendence where it has no power of appeal but has only power of revision or reference ?
2. Can there be a Criminal Court in the Presidency which will not be subject to its power of superintendence.

The Local limits of the jurisdiction:

10. (1) of the District Magistrate is the District.

11. (2) of the Sub- Divisional Magistrate is the Sub-Division.

12. (3) of the subordinate Magistrate, such local area as the Local Government may prescribe.

14. (4) of the Special Magistrate, such local area as the Local Government may prescribe.

20. (5) of the Presidency Magistrate.

Every Presidency Magistrate shall exercise jurisdiction in all places within the Presidency-town for which he is appointed and within the limits of the port of such town and of any navigable river or channel leading thereto, as such limits are defined under the law.

(6) Sessions Judge—within the Sessions Division.

(7) High Court.

What are the powers granted *by* *letters-patent* in criminal matters.

22. The *letters patent* direct that High Court Jurisdiction shall be as follows:—

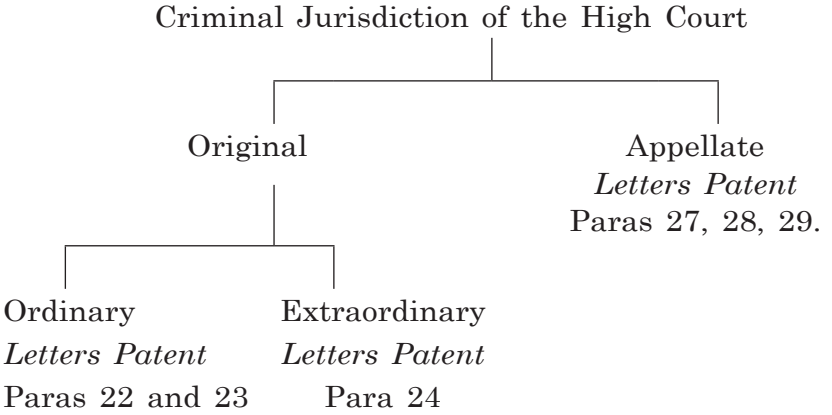

23. **Ordinary original Criminal jurisdiction.**—High Court shall have original criminal jurisdiction within the local limits of its ordinary original civil jurisdiction.

24. **Extraordinary original Criminal Jurisdiction.**—High Court shall have Extraordinary Original Criminal Jurisdiction in places within the jurisdiction of any court subject to its superintendence.

25. *Appellate Criminal Jurisdiction.*—High Court shall be a Court of appeal from the Criminal Courts in the Presidency and from all other Courts subject to its superintendence, and shall exercise appellate jurisdiction in such cases as are subject to appeal to the said High Court by virtue of any law now in force.

Sentence on Escaped Convict

Section 396.

(1) When a sentence is passed on escaped convict, such sentence, if of death, or fine or whipping shall subject to the provisions hereinafter contained, take effect immediately, and if on imprisonment, penal servitude or transportation, shall take effect according to the following rules, that is to say—

(2) If the new sentence is severer in its kind than the sentence which such convict was undergoing when he escaped, the new sentence shall take effect immediately.

(3) When the new sentence is not severer in its kind than the sentence the convict was undergoing when he escaped, the new sentence shall take effect after he has suffered imprisonment, penal servitude or transportation, as the case may be, for a further period equal to that which at the time of his escape remained unexpired of his former sentence.

Explanation : for the purposes of this Section :

(a) a sentence of transportation or penal servitude shall be deemed severer than a sentence of imprisonment.

(b) a sentence of imprisonment with solitary Confinment shall be deemed severer than a sentence same description of imprisonment with solitary comfinement; and

(c) a sentence of rigorous imprisonment shall be deemed severer man a sentence of simple imprisonment with or without solitary confinement.

397. *Sentence on a person already undergoing sentence.*—

When a person already undergoing a sentence of imprisonment, penal servitude or transportation is sentenced to imprisonment,

penal servitude or trasportation, such imprisonment, penal servitude or transportation shall commence at the expiration of the imprisonment, penal servitude or trasportation to which he has been previously sentenced unless the Court directs that the subsequent sentence shall run concurrently with such previous sentence: Provided that, if he is undergoing a sentence of imprisonment, and the sentence on such subsequent conviction is one of transportation, the Court may, in its discretion, direct that the latter sentence shall commence immediately, or at the expiration of the imprisonment to which he has been previously sentenced : Provided, further, that where a person, who has been sentenced to imprisonment by an order under Section 123 in default of furnishing security, is whilst undergoing such sentence sentenced to imprisonment for an offence committed prior to the making of such order, the latter sentence shall commence immediately.

398. (1) Nothing in Section 396 of 397 shall be held to excuse any person from any part of the punishment to which he is liable upon his former or subsequent conviction.

(2)

399. **Confinment of youthful offenders in Reformatories.**

(Page left blank in MS.—ed.)

Suspensions, Remissions and Commutations of Sentences

(Page left blank in MS.—ed.)

Section 401

Governor-General in Council or Local Government may suspend or remit on conditions or without conditions any sentence.

(Page left blank in MS.—ed.)

Section 402

Power to commute sentences for any other mentioned

(Page left blank in MS.—ed.)

IV. Conferment, Continuance and Cancellation of Powers

Section 39

(1) In conferring powers under this Code, the Local Government may, by order, empower persons specially by name or in virtue of their office or classes of officials *generelly* by their official titles.

(2) Every such order shall take effect from the date on which it is communicated to the person so empowered.

Section 40

Whenever any person holding an office in the service of Government who has been invested with any powers under this Code throughout any local area is *appointed* to an equal or higher office of the same nature within a local area under the same Local Government, he shall, unless the Local Government otherwise directs, or has otherwise directed, exercise the same powers in the local area in which he is so appointed.

Section 41

(1) The Local Government may withdraw all or any of the powers conferred under this code on any person by it, or by any officer subordinate to it.

(2) Any powers conferred by the District Magistrate may be withdrawn by the District Magistrate.

Statement made by a witness in deposition is not a complaint.

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PART II

Trial of an Offender

I. Taking Cognizance of an offence

When an offence has been committed, there are three ways in which the Magistrate can take cognizance of an offence.

Section 190

(a) upon receiving a complaint of facts which constitute such offence.

(b) upon a report in writing of such facts made by any police-officer.

(c) upon information received from any person other than a police-officer, or upon his own knowledge or suspicion, that such offence has been committed.

A. Complaints to Magistrates.

1. Definition of a complaint.

= means the allegation made *orally* or in writing to a Magistrate, with a view to his taking action under the Cr. P. C. that some person, whether known or unknown, has committed an offence, but it does not include the report of a police-officer.

Complaint must allege that an offence has been committed.

An application for taking action under Section 107 is not a complaint.

Complaint must be with Magistrate ; it must be with a view to his taking action.

Mere statement to a Magistrate by way of information without any intention of asking him to take action, is not a complaint.

e.g. An Assistant Collector writing to the District Magistrate complaining against a party but merely 'solicited for orders', did not amount to a complaint.

40 All. 641

It must be with a view to taking action under this Code.

A statement made to a Magistrate with the object of inducing him to take action not under this Code, but under Section 6 of the Bombay Gambling Act IV of 1887, is not a complaint within the meaning of this Section.

15 Cr. L. F. 657

II. WHO MAY COMPLAIN

As a general rule the person aggrieved is the complainant.

But the complainant is not an essential party for initiation of criminal proceedings.

The Magistrate can act upon information received or upon his own knowledge.

Although, if he does so act, he shall be bound by the provisions of Section 491.

But there are exceptions to the general Rule.

These exceptions will be found in Sections 195 to 199-A. Section 195 deals with

(a) Prosecution for contempts of lawful authority of public servants.

(b) Prosecution of certain offences against public justice.

(c) Prosecution of certain offences relating to documents given in evidence.

In cases coming under (a) No courts shall take cognizance except on the complaint in *writing* of the public servant concerned or of some other public servant to whom he is subordinate.

In cases coming under (b) No court (shall take cognizance)*

except on the complaint in writing of such Court or of some other Court to which such Court is subordinate.

* Inserted—ed.

In cases coming under (c) (No Court shall take cognizance)*

except on the complaint in writing of such Court or of some other Court to which such Court is subordinate.

Section 196.Prosecution for offences against the State.

Unless upon complaint made by order of, or under authority from, the Governor General in Council, the Local Government, or some officer empowered by the Governor General in Council in this behalf.

Section 196-A

Prosecution for certain classes of Criminal Conspiracy falling under Section 120-B of the I. P. C.

If they fall under sub-Section (I) then :

Complaint must be under order of, or under the authority from, the Governor General in Council, the Local Government or some officer empowered by the Governor General in Council in this behalf.

If they fall under sub-section (2), the Chief Presidency Magistrate or D. M. has by order in writing, consented to the initiation of the proceedings.

Section 197

Prosecution of Judges, Magistrates and public servants for an offence alleged to have been committed by him, while acting or purporting to act, in the discharge of his official duty.

No Court shall take cognizance of such offence except with the previous sanction of the Local Government.

(2) Such Local Government may determine the person by whom, the manner in which, the offence or offences for which, the prosecution of such Judges, etc ... is to be conducted, and may specify the Court before which the trial is to be held.

Section 198

Prosecution for breach of contract or defamation, or offences against marriage. No cognizance except upon a complaint made by some person aggrieved by such offence. Proviso : in certain cases some other person may with the leave of the Court, make a complaint on his or her behalf.

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* Inserted—ed.

Section 199

Prosecution for adultery or enticing a married woman : No cognizance except upon a complaint made by the husband of the woman, or in his absence, made with the leave of the Court," by some person who had care of such person on his behalf at the time when such offence was committed.

POLICE REPORT

I. How does it originate ?

It originates in what is known as the first information. Information is usually given by the aggrieved party. But it may be given by any party. Even a police officer may give such information based on his knowledge. Not only that but in certain cases the law compels certain persons to give information.

Section 44.

Every person shall give information to the Magistrate or Police of certain offences.

Section 45

Information given to the police may refer to a cognizable offence or to a non-cognizable offence.

Congnizable offence is one in which the police can arrest without a warrant.

Non cognizable offence is one in which the police cannot arrest without a warrant.

Section 154

Information relating to a cognizable offence, if given orally to an officer in charge of a police station, shall be reduced to writing by him or under his direction, and be read over to the informant and every such information whether given in writing or reduced to writing as aforesaid shall be signed by the person giving it and the substance of it shall be entered in a book to be kept by such officer in such form as the Local Government may prescribe in this behalf.

Section 155

Information relating to non-cognizable offence

He shall enter in a book to be kept the substance of such information and refer the informant to the Magistrate.

Section 155

No police-officer shall investigate a non-coginzable case, without the order of a Magistrate of the 1st or 2nd class having power to try such case or commit the same for trial, or of a Presidency Magistrate.

Section 156

Any officer in charge of a police-station may, without the order of a Majistrate, investigate any cognizable case which a Court having jurisdiction over the local area within the limits of such station, would have power to inquire into.

The police report which can be the basis of action by a Magistrate, is based upon information relating to a cognizable offence.

Section 157

If, from information received i.e. under Section 154, the officer has reason to suspect the commission of a cognizable offence then ;

(1) He shall send a report of the same to a Magistrate empowered to take cognizance of it.

(2) Shall proceed to the spot to investigate the facts and circumstances of the case

and

(3) take measures, if necessary, for the discovery and arrest of the offender.

Provided

(a) that the informant gives the names of the offender and the case is not of a serious nature, the officer need not proceed in person to make an investigation on the spot.

(b) that if the officer thinks, there are no sufficient grounds for entering on an investigation, he shall not investigate the case.

He shall state in his said report his reasons for not complying fully with the requirements of the Section.

He should notify to the informant that he will not investigate the case or cause it to be investigated. But this withdrawl of the police cannot block the prosecution of the offender. They are two ways yet open.

Section 159

I. The Magistrate, on receiving such report, may direct an investigation or may at once proceed and ask subordinate Magistrate to hold a preliminary inquiry into or otherwise dispose of the case in manner provided by the case.

This is a preliminary report before completion of the investigation. The Magistrate can act under Section 159. But if the report is submitted *after investigation,* the Magistrate is not empowerd to act under this Section.

II. The aggrieved party may move.

If the police do not move, then they have the following powers ;

Section 160

(1) to require attendance of witnesses by an order in writing.

Witnesses are not required to tell the truth under this Section. If they give false testimony they cannot be prosecuted.

They don't sign it.

It is made before police.

Section 161

Police may examine witnesses acquainted with the facts of the case.

(2) Such witnesses shall be bound to answer all questions put to them, unless the question incriminates them.

Although Police can take statements from witnesses yet

Section 162

(a) they shall not be signed by them,

(b) they shall not be made use of at any inquiry or trial, in respect of any offence under investigation at the time when such statement was made.

Provided that, on the request of the accused, the Court shall refer to such writing and direct that the accused be given a copy thereof for contradicting such witness, provided that Court may exclude that part which is irrelevant or its disclosure is inexpedient with interests of the public or does not promote the ends of justice.

In short, they do not form evidence which can be said to be admissible.

If such statements are to be treated as evidence, then they must be recorded by Magistrates and not Police Officers. Consequently provision is made in the Criminal Procedure Code.

Section 164

Any Presidency Magistrate, Magistrate 1st class and Magistrate of the Second class especially empowered may, if he is not a police officer

record any *statement or confession* made to him in the course of an investigation under this chapter.

Statement shall be recorded in a manner prescribed for recording evidence.

Confession is to be recorded in the manner provided for in Section 364.

Provided that the Magistrate, before recording such confession, shall explain to the accused that he is not bound to make it and if he does so it may be used as evidence against him.

No Magistrate shall record, unless he has reason to believe, that it is made voluntarily.

On recording confession, Magistrate shall make a memorandum at the foot showing that he has observed the conditions.

Search

Section 165

(1) In the course of his investigation, a police officer may find it necessary to make a search in any place.

Such officer may, after recording in writing the grounds of his belief and specifying in such writing, so far as possible, the thing for which search is to be made, search or cause search to be made, for such thing in any place within the limits of that station in his charge.

(2) The police officer shall, as far as possible, conduct the search in person.

(3) He may authorize his subordinate after recording reasons in writing and specifying the place and thing to be searched.

(4) The provisions of the Code, as to search warrants and the general provisions as to searches contained in Section 102 and Section 103, shall apply.

(5) Copies of record made during search shall be sent to the nearest Magistrate and the owner or occupier of the place of search shall be given a copy of the record on payment of fees.

Section 166

Police officer can cause search to be made within the area of another police station.

Section 167

If the investigation cannot be completed within 24 hours fixed by Section 61, and *there are grounds for believing that the accusation or information is well founded,* the Police shall forthwith transmit to the nearest Magistrate, a copy of the entries in the diary hereinafter prescribed relating to the case and shall, at the time, forward the accused to such jurisdiction.

(2) The Magistrate shall, from time to time, authorise the detention of the accused in such custody as such Magistrate thinks fit for a term not exceeding 15 days.

(3) A Magistrate authorising detention in police custody shall record reasons for so doing.

Section 169

When police officer finds that there is not sufficient evidence or reasonable ground of suspicion to justify forwarding the accused to Magistrate *he shall release him* on his executing a bond with or without sureties *to appear if and when so required* , before a Magistrate empowered to take cognizance.

Section 170

(1) When police officer finds that there is sufficient evidence or reasonable ground, such officer shall forward the accused under custody to a Magistrate empowered to take cognizance.

(2) Along with this, he shall send article necessary to be produced before Magistrate and shall require complainant and witnesses, to execute a bond to appear before Magistrate.

Section 173

The police officer shall send a report giving names of parties, information each is responsible for.

Accused is entitled to a copy of the report.

Exemption of accused from attendance.

Section 205 ; 366 ; 424 ; 6 *All. 59 : 21 Cal. 588*

Section 205.—Whenever a Magistrate issues a summons, he may, if he sees reason so to do, dispense with the personal attendance of the accused and permit him to appear by his pleader.

(21) But the Magistrate may call accused at any time.

Section 366.—Time of Judgement.

Should be read in the presence of the accused unless it is dispensed with and the sentence is of fine only.

Section 424.—Judgement by appellate Court.

Accused need not be called to hear judgement.

II. Of how many offences can the Court take cognizance of at one trial

Joinder of Charges

Sections 233, 234, 235

Section 233.

1. *Every offence shall be tried separately.*

A is accused of theft on one occasion and of causing grievious hurt on another occasion. A must be tried separately for the two offence. He cannot be tried for both at one trial. There are exceptions to this general proposition.

Section 234

Three offences *of the same kind* may be tried at one trial *if they are committed within the space of twelve months,* irrespective of the question whether they are committed against the same person or not.

Offences of the same kind = Offences punishable with the same amount of punishment under the same section of the I. P. C. or of any special or local law.

2. *Must not exceed three.* Joinder of charges of three of fences under section 411 and three offence sunder 414 is bad. Three offences of forgery and three offences of breach of trust bad.

1. *Same kind.*	Adultery and bigamy Murder and hurt Forgery and giving false evidence	not same

The rule as to kind is subject to two proviso.

(1) Offences under Section 379 (Theft) and under Section 380 (Theft in a dwelling house) shall be deemed to be offences of the same kind even though they are not offences under the same section and the punishment for them is not identical.

(1) The offence and the attempt to commit that offence (Section 511 I. P. C.) shall be deemed to be offences of the same kind even though they are not offences under the same section and the punishment for them is not identical.

Section 235 (2)

When an act constitutes an offence under two or more separate definations of any law defining or punishing offences the person accused of them may be tried at one trial for each of such offences.

Section 235 (3)

When an act, which by itself constitutes an offence, constitute when combined with another a different offence.

The person accused of them may be tried at one trial for the offences, constituted by such act when combined, and for any offences constituted by the act when taken by itself.

This is so when the act or acts done by the accused constitutes a single offence.

But it may be, that the acts done by the accused constitute more than one offence i.e. show that a plurality of offences have been committed.

Can the accused be tried for all such offences at one trial ? Or must he be tried separately for each offence ?

The rules as to this will be found in *Section 235 (1)*

If the acts amounting to different offences are committed by the accused in the course of the *same transaction,* then he may be tried at one trial for *every* such offence.

1. *Same transaction*

In deciding whether acts constituting an offence are so connected as to form one and the same transaction, the determining factor is not so much proximity in time as continuity and community of purpose and object.

A mere interval of time between the commission of one offence and another does not by itself import want of continuity, though length of interval may be an important element in determining the question of connection between the two.

2. There is no limit to the number of offences that can be tried together.

III. Of how many offenders can the Court try at one trial

Joinder of Accused

Section 239

The following persons may be charged and tried together :

(a) persons accused of the same offence committed in the course of the same transaction;

(b) persons accused of an offence and persons accused of abetment, or of an attempt to commit such offence;

(c) persons accused of more than one offence of the same kind within the meaning of Section 234 *committed by them jointly* within the period of twelve months;

(d) persons accused of different offences committed in the course of the same transaction;

(e) persons accused of an offence which includes theft, extortion, or criminal misappropriation,

and

(f) persons accused of receiving or retaining, or assisting in the disposal or concealment of property, the possession of which is alleged to have been transferred by any such offence committed by the first-named persons,

or

persons accused of abetment of or attempting to commit any such last-named offence.

(f) persons accused of offences under sections 411 and 414 of the I. P. C. or either of those sections in respect of stolen property, the possession of which has been transferred by one offence.

(g) persons accused of any offence under Chapter XII of the I. P. C. relating to counterfeit coin, and persons accused of any other offence under the said Chapter relating to the same coin, or of abetment of or attempting to commit any such offence.

NOTE.—The foundation for the procedure of joint trial of different persons is their association from start to finish to attain the same end.

The fact that they carried out their scheme by successive acts done at intervals does not prevent the unity of the project from constituting the series of acts one transaction i.e. the carrying through of the same object which they had from the first act to the last.

20 cal. 358

5 Mad. 199

IV. Securing the presence of the accused and the witness

Although the Court has taken cognizance of an offence, the actual criminal proceedings can commence only when *the accused* and the witnesses are present in Court, the one to answer the charge and the other to give evidence.

How are they to be brought before the Court ?

Section 104

I. When cognizane is taken on police report based on investigation conducted under Section 173, the accused and witnesses are already before the Court.

II. When cognizance is taken otherwise than on police report under Section 173, the accused and the witnesses are not before the Court. They have to be brought before the Court.

What is the process for bringing them before the Court ?

The Criminal Procedure Code contemplates two such processes.

Section 68

I. Summons to appear and II. Warrant to arrest

Section 68

I. Summons to appear

Every summons issued by a Court under this Code shall be in *writting* in *duplicate, signed and sealed* by the *presiding officer* of such Court or by such other officer as the High Court may, from time to time by rule direct.

(2) Summons shall be served by a police-officer, or, subject to such rules as the Local Government may prescribed in this behalf, by an officer of the Court issuing it or other public servant.

Section 69

Personal Service

(1) Summons shall if, practicable, *be served personally* on the persons summoned, by delivering or tendering to him one of the duplicates of the summons.

(2) Every person served with summons shall, if so required by the serving officer, *sign a receipt* therefor on the back of the other duplicate.

(3) *Service on Corporations*

Service on incorporate company or other body corporate may be effected by serving it on the *Secretary, local manager or other principal officer of the corporation in British India.* In such case the service shall be deemed to have been effected when the letter would arrive in ordinary course of post.

Section 70

Service when person cannot be found may be served by leaving one of the duplicates for him with some adult male member of his family, or, in a Presidency-town, with his servant residing with him.

The *person with whom* it is left, shall sign on the back of the duplicate.

Substituted service is improper where sufficient steps are not taken to serve accused personally.

69 J. C. 627.

Section 71

If this is not possible, then the serving officer shall affix one of the duplicates of the summons to some conspicuous part of the house or homestead in which the person summoned ordinarily resides.

Section 72

Service on a Government Servant or of Railway Company.

Where person summoned is in the active service of the Government or of a Railway Company, the Court issuing the summons shall ordinarily *send it in duplicate to the head of the office in which such person is employed*; and such head shall thereupon cause the summons to be served in manner provided by Section 69 and shall return it to the Court under his signature with the endorsement required by that Section.

(2) Such signature shall be evidence of due service.

Section 73

Service of summons out of local limits.

When a Court desires that a summons issued by it shall be served at any place outside the local limits of its jurisdiction, *it shall ordinarily send such summons in duplicate to a Magistrate within* the local limits of whose jurisdiction the person summoned resides or is, to be there served.

Section 74

Proof of service in such cases when serving officer is not present.

(1) An affidavit, purporting to be made before a Magistrate, that such summons has been served, and a duplicate of the summons purporting to be endorsed (in the manner provided by S. 69 or S. 70) by the person to whom it was delivered or tendered or with whom it was left, shall be admissible in evidence, and the statements made therein shall be deemed to be correct unless and until the contrary is proved.

(2) The affidavit mentioned in this section may be attached to the duplicate of the summons and returned to the Court.

Service on pleader is not sufficient.

6 C.W.N. 927

Copy should be served and it is not enough merely to show it.

5 *B. H. C. R. 20.*

Tender amounts to service if summons is refused.

28 M. L. F. 505.

Refusing to *receive* summons is no offence.

II Warrant of Arrest

Section 75

(1) Shall be in *writing, signed* by the Presiding Officer, or in the case of a Bench of Magistrates, by any member of such Bench and shall bear the seal of the Court.

Warrant shall remain in force until it is cancelled by the Court which issued it, or until it is executed.

(2) **Difference between Summons and Warrant.**

Summons is an order to the person to be summoned.

Warrant is *not* an order to the person to be arrested. Therefore a person can be punished for disobedience of a summons. But he cannot be punished for a disobedience of a warrant.

5 W.R.ed. 71.

Section 76

Court may direct Security to be taken.

(1) The Issuing Court may in its discretion direct by endorsement on the warrant that, *if such person executes a bond with sufficient sureties for his attendance before the Court at a specified time and thereafter until otherwise directed by the Court, the officer to whom the warrant is directed shall take such security and shall release such person from custody.*

(2) The endorsement shall state.

(a) The number of sureties;

(b) The amount in which they and the person for whose arrest the warrant is issued, are to be respectively bound; and

(c) The time at which he is to attend before the Court.

(3) Whenever security is taken under this section, the officer, to whom the warrant is directed, shall forward the bond to the Court.

Section 77

(1) *Warrant to whom directed.*

Warrant shall ordinarily be directed to one or more police-officer, and when issued by a Presidency Magistrate, shall always be so directed; but any other Court issuing such a warrant may, if its immediate execution is necessary and no police-officer is immediately available, direct it to any other person or persons; and such person or persons shall execute the same.

(2) *Warrant addressed to more than one person.*

May be executed by all or by any one or more of them.

Section 78

(1) *Warrant may be directed to Land holder, farmer, or manager of land,*

for the arrest of (1) any escaped convict, (2) proclaimed offender, or (3) person who has been accused of a non-bailable offence, and who has eluded persuit.

(2) Who shall sign it and execute it, if the person is on the land under his charge.

(3) On arrest the person shall be made over to the nearest police station.

Section 79

A police officer to whom a warrant has been addressed may endorse it on to another police officer to execute.

Section 80

Arresting party shall notify the substance of the warrant to the person arrested.

Section 81

Subject to the provisions of Section 76 as to Security, the arresting party shall without unnecessary delay, bring the person arrested before the Court before which he is required to produce him.

Section 82

Warrant of arrest may be executed at any place in British India.

Section 83

When warrant is to be executed *outside the local limits of the jurisdiction of the Court issuing the same, such Court may, instead of directing such warrant to a police officer, forward the same by post or otherwise to any Magistrate, or District Superintendent of Police, or the Commissioner of Police in a Presidency town,* within the local limits of whose jurisdiction it is to be executed.

(2) The Magistrate or D. S. P., or Commissioner whom such warrant is so forwarded, shall endorse his name thereon, and if practicable, cause it to be executed in manner hereinbefore provided, within the local limits of his jurisdiction.

Section 84

When a warrant directed to a police-officer is to be executed outside the jurisdiction, he shall ordinarily take it for endorsement either to a Magistrate or to a police officer not below the rank of an officer in charge of a station within the limits within which the warrant is to be executed.

(2) Such Magistrate or police officer shall endorse his name thereon and such endorsement shall be sufficient authority to the police officer to whom the warrant is directed to execute the same.

(3) If the obtaining of endorsement is likely to cause delay, it may be executed without endorsement.

Section 85

When arrest is made outside, the person arrested shall be taken to the Magistrate, D. S. P., Commissioner of Police.

Section 86

They shall then direct his removal in custody to the Court issuing the warrant

Effect of Non-execution of the warrant of arrest.

Section 87

If the person is absconding, such Court may publish a written proclamation requiring him to appear at a specified place and at a specific time not less than 30 days from the date of publishing such proclamation.

(2) How to publish the Proclamation.

(a) It shall be read in the place in which he ordinarily resides.

(b) It shall be affixed to some conspicuous part of the house in which he resides.

(c) A copy of it affixed to the Court house.

Section 88

The Court issuing a proclamation under Section 87 may at any time order the attachment of any property moveable or immoveable or both, belonging to the proclaimed person.

(2) Such order shall authorize the attachment of any property belonging to such person within the district in which it is made.

Section 89

Restoration of attached property

If the person *appears* within 2 years after the date of the order of attachement and satisfies (1) That he did not abscond or conceal himself *and* (2) that he had not such knowledge of the proclamation as to enable him to appear within time—

Section 90

Against whom can Warrant be issued ?

Ordinarily, one would imagine, that it can be issued only against the accused. But that is not so. The law is that warrant can be issued against any person against whom a summons can be issued except a juror or assessor.

This means that a warrant may be issued even against a witness.

Provided:

(1) The Court sees reason to believe before the time for appearance that he has absconded or will not obey the summons ; or

(2) That at such time he fails to appear, and the summons is shown to have been duly served to enable him to appear in time but he does not appear.

Safeguard for continued presence of the Parties called before Court by due process

Section 91

When any person for whose appearance or arrest the officer presiding in any Court is empowered to issue a summons or warrant is present in such Court, *such officer may require such person to execute a bond with or without sureties for his appearance in such Court.*

Section 92

When any person who is bound by any such bond does not appear, the officer presiding may issue a warrant directing that such person be arrested and produced before him. Besides, the necessity of having before the Court the *complainant, the accused* and *the witnesses*. There is also the necessity having before the Court the *Corpus deticti,* which are the subject matter of the accusation or things which are necessary to prove the accusation.

Forged document, person confined

We must therefore consider the rules relating to the production of these.

I. Production of a document or a thing.

Section 94

Whenever any Court considers the production of any document or thing is necessary or desirable for the purpose of investigation, inquiry or trial or other proceedings before such Court, he may issue a summons to the person in whose *possession or power* such document or thing is believed to be, requiring him to attend and produce it, at the time or place stated in the summons.

(2) When the summons is merely to produce, he need not attend. Sufficient if he sends it.

* * * * * *

(Earlier part is not found—ed.)

Officer or Judge or in his presence and hearing under his personal direction and superintendence and shall be signed by the Magistrate or Sessions Judge.

In cases in which the evidence is not taken down in writing by the Magistrate or Sessions Judge, he shall, as the examination of each witness proceeds, make a memorandum of the substance of what such witness deposes; and such memorandum shall be written and signed by the Magistrate or Sessions Judge with his own hand, and shall form part of the record.

Section 363

Sessions Judge and Magistrate shall also record remarks regarding demeanour of the witnesses whilst under examination.

Section 360

As the taking down of the evidence of each witness is completed, it *shall* be read over to him in the presence of the accused, if in attendance, or of his pleader, if he appears by pleader, and shall, if necessary, be corrected.

If the witness denies the correctness of any part of the evidence when the same is read over to him, the Magistrate or Sessions Judge may, instead of correcting the evidence, make a memorandum thereon of the objections made to it by the witness and shall add such remarks as he thinks necessary.

Omission to read over is an illegality.

II. Before Presidency Magistrates

Section 362

Appealable cases and non-appealable cases.

In appealable cases

The Magistrate shall take down the evidence of the witnesses with his own hand, or cause it to be taken down in writing from his dictation in open Court.

All evidence so taken down shall be signed by the Magistrate and shall form part of the record.

The Magistrate shall make a memorandum of the substance of the examination of the accused. Such memorandum shall be signed by the Magistrate with his own hand, and shall form part of the record.

In non-appealable cases

It shall *not be necessary* for a Presidency Magistrate to record the evidence or frame a charge.

Section 359, 362(2),

Mode of recording Evidence

Evidence shall ordinarily be taken down in the form of a narrative, though the Court may in its discretion take down, or cause to be taken down, any particular question and answer.

Exception : Examination of the accused.

Section 364

The whole of such examination, including every question put to him and every answer given by him, shall be recorded in full.

This does not apply to the record of the examination of the accused by the High Court.

II. Record in Summary Trials

Section 260

1. The District Magistrate.

2. *Magistrate 1st class* especially empowered in this behalf by the Local Government.

3. Any Bench Magistrate invested with 1st class powers and especially empowered in this behalf by the Local Government may, if he thinks fit, try in a *summary* way all or any of the following offences:—

(a) Offences not punishable with death, transportation or imprisonment for a term exceeding six months and certain other offences mentioned in the Section.

Cases which can be tried summarily may be appealable or non-appealable.

Section 263

But they shall enter in such form as the Local Government may direct the following particulars.

(a) The serial number.

(b) The date of the Commission of the offence.

(c) The date of the Report or Complaint.

(d) The name of the complainant (if any).

(e) The name, parentage and residence of the accused.

(f) The offence complained off and the of fence (if any proved) and the value of the property in respect of which the offence is committed.

(g) The plea of the accused and his examination if any.

(h) The finding and in conviction brief statement of the reasons for it.

(i) Sentence or other final order; and

(j) The date on which the proceedings terminated.

In appealable cases.

Section 264

Before passing sentence the Court* shall record a judgement embodying the substance of the evidence and also the particulars required in non-appealable cases.

Such judgement shall be the only record in appealable cases.

Judgement

Section 366

The judgement in every trial in any Criminal Court *shall be pronounced,* or the substance of such judgement shall be explained;

(1) In open Court, either immediately or in subsequent date to be notified.

Provided that the whole shall be read if requested by the parties.

(2) The accused shall, if in custody, be brought up and if not in custody be brought up to hear judgement delivered.

Except where his personal attendance has been dispensed with and the sentence is of fine only or he is acquitted.

N. B.— (3) Judgement shall not be read if delivered in absence.

* Inserted—ed.

Section 367

Every judgement unless otherwise provided *shall be written* by the presiding officer of the Court or from his dictation.

Shall contain

(1) Point or points for determination

(2) The decision thereon and

(3) The reasons for the decision

(4) Shall be dated and signed by the Presiding officer in open Court at the time of pronouncing it, and where it is not written by the Presiding officer with his own hand, every page of such judgement shall be signed by him.

(5) It shall specify the offence (if any) of which, and the Section of the I. P. C. or other law under which the accused is convicted, and the punishment to which he is sentenced.

(6) When the conviction is under the I. P. C. and it is doubtful under which of the two parts of the same section of that Code the offence falls, the Court shall directly express the same and pass judgement in the alternative.

(7) If it be a judgement of acquittal it shall state the offence of which he is acquitted and direct that he be set at liberty.

(8) If the accused is convicted of offence punishable with death, and the Court sentences him to any punishment other than death, the Court shall give reasons.

Provided that in trials by jury, the Court need not write a judgement but the Court of Session shall record heads of charge.

Section 368

When sentence of death—sentence shall direct that he be hanged by the neck till he is dead.

Section 369

Alteration of judgement

Save as otherwise provided by the Code or other law or in the case of the High Court, no Court, when it has signed its judgement, shall alter or review the same except to correct a clerical error.

(Even the High Court has no power.)

Section 370

Judgement by a Presidency Magistrate

Instead of recording a judgement in the above, a Presidency Magistrate shall record the following particulars :

(a) Serial number.

(b) The date of the commission of offences.

(c) Name of the complainant (if any).

(d) Name of the accused and (except in the case of European British subject) his percentage and residence.

(e) The offence complained of or proved.

(f) Plea of the accused and his exam (if any).

(g) Final order.

(h) Date of such order.

(i) In all cases, where the sentence is imprisonment or fine exceeding 200 or both, a brief statement of reasons for the conviction.

Section 371

Copy of judgement to be given to accused without delay

In cases other than summons cases it shall be given free of cost.

In trials by jury, a copy of heads of charge by the jury shall be given to him.

In sentence of death, shall inform the accused of the period of limit for appeal.

Section 373

Court of Session to send copy of finding and sentence to the District Magistrate.

Criminal proceedings other than trial of an offender

I. Those dealing with keeping of peace and maintening good order.

II. Those dealing with the enforcement of certain obligations. Family obligation and public nuisance.

III. Those dealing with the maintenance of public peace.

I. Those dealing with the Public Assembly—Keeping of peace and maintaining order.

It is better to prevent crime than only to punish it when it is committed.

This theory is not accepted universally. Attempt to prevent crime may involve undue interference in the liberty of the individual.

English theory is inclined towards the view that the state should intervene only when the conduct of an individual amounts to a crime.

E. g.—English law of sedition, assembly.

On the other hand, the Indian Law takes a different view. E. g. Press Act, Public Meetings Act.

That being so, the Criminal Procedure Code enacts certain Sections to enable the Criminal Courts to prevent the commission of offences.

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Chapter VIII deals with offences against public tranquillity.

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* * * *

The Court Contemplates the following usage fit for such preventative or anticipatory action.

1. There are quarrelsome people in every country in the world, and there are some quarrels which may lead to violence and even to serious crime.

2. In the same way certain forms of propaganda, if carried on without any restraint, may induce ignorant persons to do harmful things, they may be circulating falsehoods, or even more deadly half-truths, cause ignorant persons to believe, to act upon the belief, that malicious designs are being entertained which in fact are not entertained by any one.

3. Again there are those who prefer a life of idleness, varied by occasional crime when detection seems unlikely, to one of honest work. There are also persons who live mainly on the proceeds of crime committed by themselves, or on a share of the proceeds of crime committed by others, whom they help to escape detection, or assist by setting up an organization which affords its supporters both opportunity to dispose of the proceeds of their dishonesty and a fair prospect of immunity from punishment.

4. Habitual Offenders.

Section 183

9. Where an offence is committed while the offender is on a journey or voyage, the offence may be inquired into or tried by a Court through or into the local limits of whose jurisdiction

the offender or the person against, whom or the thing in respect of which the offence was commuted	passed in the course of that journey or voyage.

Section 184

10. All offences against the provisions of any law for the time being in force relating to Railways, Telegraphs, the Post office, or Arms and Ammunitions, may be inquired into and tried in a Presidency Town.

Section 185

11. In cases of doubt, High Court to decide upon which Subordinate Court is to have jurisdiction.

Where two or more subordinate Courts, *not* subordinate to the *same* High Court, the High Court within whose appellate Cr. Jurisdiction the proceedings were *first* commenced, may decide and give directions.

Section 186

12. When a Presidency Magistrate, District Magistrate or Sub-Div. Magistrate or a Magistrate of the 1st Class especially empowered by Local Government sees reason to believe that any person within the local limits of his jurisdiction has committed an offence *without* such local limits (within or without British India) an offence which *cannot* be inquired into or tried within such local limits, but which by some law for the time being in force, be inquired into or tried in British India.

Such Magistrate may inquire into the offence and compel such persons to appear and send him to a Magistrate having jurisdiction.

Offences committed outside British India

So far we have dealt with offences committed *within the limits* of British India. Suppose now that although the offender is within British India but the offence is committed outside British India, how is the situation to be dealt with?

It may be dealt with in two ways—

I. The offender may be sent up for trial in the country where the offence was committed.

II. The offender may be tried in British India. The first is known as dealing in *extradition*. The second may be called dealing in ex-territorial jurisdiction.

I. Extradition out side India may be to any—

(a) Native State

(b) Foreign State

(c) His Majesty's Dominions.

(a) *Native State*

Extradition to a Native State is governed by the Indian Extradition Act of 1903.

* * * *

Having regard to the Statutes of Parliament and the Acts of the Indian Legislature I make the following geographical divisions of this globe for the purpose of jurisdiction of the secular Courts:

(1) Territorial divisions of land and foreign country governed by the Cr. P. C. and other enactments of the Indian Imperial Legislature.

(2) Territorial waters governed by Statutes 41 and 42 *Vic. C. 73.*

(3) High seas governed by statutes 12 and 13 *Vic. C. 96* (admiralty offence (colonial) 23 and 24 *Vic. C. 88 and 37 and 38 Vic. C.* 2. It would thus be seen that the offences on high seas are governed only by the Statutes of Parliament 12 and 13 Vic. confer on colonial courts to try all offences which could have been tried by the admiral. Section 1 of statute 23 and 24 Vic. C. 88 makes statute 12 and 13 Vic. C. 96 applicable to India and Statute 37 and 38 Vic. C. 27 makes the offence punishable according to Indian Law.

19 Bom. L. R. 527

India. Defined in Section 3 (27) of the General Clauses Act X of 1897.

> "India shall mean British India together with any territories of any native Prince or Chief under the *Suzerainty* of H. Majesty exercised through the G. G. of India or other officer subordinate to the G. G. of India."

British India. Defined in Section 3 (7) of the General clauses Act X of 1897

> "Shall mean all territories and places within H. M's dominions which are for the time being governed by H. M. through the G. G. of India or through any Governor or other officer subordinate to the G. G. of India."

British India = B. I. + 3 miles

8 Bom. H.C.R. Cr. C 63.

* * * *

Who are liable to be tried for offences under the Penal Code ?

Section 3 I. P. C. Any person liable by any law passed by the Governor-General of India in Council to be tried for an offence committed beyond the limits of the said territories, shall be dealt with according to the provisions of this Code for any act committed beyond the said territories in the same manner, as if such act had been committed within the said territories.

Section 4 I.P.C. The provisions of this Code apply also to any offence committed by—

> (1) Any native Indian subject of H.M. in any place without and beyond British India.
>
> (2) Any other British subject within the territories of any Native Prince or Chief in India.
>
> (3) Any servant of the Queen whether a British subject or not within the territories of any Native Prince or Chief in India.

Explanation. In this section the word *offence* includes every act committed outside British India which, if committed in British India, would be punishable under this Code.

Section 7(1) of the Act

Under this section the Political Agent for such a State may demand by a warrant addressed to the D. M. or the Chief Presidency Magistrate the surrender of an offender. Provided that offender is not a European British subject and the offence is such as is described in the 1st schedule of the Indian Extradition Act.

Section 10

Magistrates in British India may, of their own motion and without requisition, issue warrant of arrest on satisfactory information, or complaint, and surrender the offender to the State within whose jurisdiction he has committed the offence.

N. B.—This Act is subject to treaty rights and the special provisions for extradition conserved by them.

Extradition is governed by the Extradition Act

(b) *Foreign State.—The scene of offence.*

In the case of a Foreign State to which English Extradition applies, the offender may be surrendered on requisition to such foreign State. Provided :

(i) The Government of India or the Local Government thinks fit,

(ii) If the offence is one mentioned in the 1st Schedule of the Indian Extradition Act, and

(iii) If the offence is not of a political nature.

(c) *Dominions.* The scene of offence.

Extradition is governed partly

(i) by the Fugitive Offender's Act, 1881 (Parliamentary Statute) and partly.

(ii) by the Indian Extradition Act.

All criminal jurisdiction is local: the jurisdiction of the crime belongs to the country where the crime is committed.

L.R. (1891) A. C. 458.

Crime is purely local i. e. depends on the law of the place in which it is committed, and not on nationality of the person who commits it.

L.R. (1894) A.C.670.

British Indian Courts have no jurisdiction to try a foreigner for offences committed and completed outside British territory. No foreign subject can be tried in British India for an offence committed outside British India. *28 All 372 :2 Bombay. L. R. 337.* Where a subject of the Native State committed theft in that State, and was subsequently found in British India in possession of the stolen property, the British Indian Court had no jurisdiction to try him for the offence of theft. It had however jurisdiction to try him for retaining stolen property. *10 Bombay 186.*

Found = does not mean where a person is discovered, but where he is actually present, whether he comes of his own accord or is brought under arrest.

6 Bombay 622.

A trial under this section will not be vitiated by reason of the fact that the accused has been brought into British India from a foreign territory under an illegal arrest.

13 Bombay L. R. 296.

Section 106 and 107 deal with dangerous quarrels.

Section 106 deal with the following cases :

Any person accused of any offence punishable under Chapter VIII of the Indian Penal Code, other than offences punishable under Sections 143, 149, 153-A and 154, or of assault, or, other offence *involving a breach of the peace,* or of abetting the same, or any person accused of committing criminal intimidation is convicted and such Court *is of opinion* that it is necessary to require such person to execute a bond for keeping the peace, such Court may, at the time of passing sentence on him, order him to execute a bond for a sum proportionate to his means, with or without sureties, for keeping the peace during such period, not exceeding three years, as it thinks fit to fix.

2. If conviction is set aside on appeal or otherwise, the bond so executed shall become void.

3. High Court in revision may demand security.

NOTES.—Involving breach of the peace.

Two interpretations

1. These words refer to offences in which a breach of the peace is an essential ingredient and not to offences which merely provoke or are *likely t*o lead to a breach of the peace.

30 Cal. 366. 47 Mad. 846 (848)

2. These words include offences where a breach of peace is *likely* to occur.

This is the view of the Bombay and the Allahabad High Courts. So that a bond in cases involving Section *504* I. P. C. (insult with intent to provoke a breach of the peace) as well as Section *448* I. P. C. (removal of a land mark) is good.

Section 107

Whenever a Criminal Court is informed that *any person who is likely to commit a breach* of the peace or disturb public tranquillity *or to do any wrongful act* that may probably occasion a breach of the peace or disturb public tranquillity, the Magistrate, if in his opinion there is sufficient ground for proceeding, may require such person to show cause why he should not be ordered to execute a bond, with or without sureties, for keeping the peace for such period *not exceeding one year* as the Magistrate thinks fit to fix.

NOTES

1. *Is informed.* The information must be reliable. A statement by a private person not upon oath or solemn affirmation is not credible information upon which alone a Magistrate can issue a summons under the section. The information must be of a *clear* and definite kind, directly affecting the person against whom process is issued, and should disclose tangible facts and details so that it may afford notice to such person of what he is to come forward to meet.

6 All. 26.

2. The act likely to cause a breach of the peace must be an *impending* one and not *likely to happen at some future time* ; it must be shown to be in contemplation at the time of the information given.

3. The act resulting in a breach of the peace must be *wrongful.*

Acts which amount to an exercise of lawful rights are not to be treated as wrongful acts necessitating an order under this Section.

An act which is lawful does not become unlawful because some persons oppose it.

Wrongful act means an act forbidden or declared to be penal or wrongful by the Criminal law, and not a mere improper act.

e. g. killing a cow.

singing of ballads in open streets.

saying Amin in a loud voice in prayers in a mosque.

Section 108 deals with dangerous propaganda.

It deals with

any person who, within or without such limits, either orally or in wrting or *in any other manner, intentionally* disseminates or attempts to disseminate, or in any wise abets the dissemination of,—

(a) Any seditious matter, i.e. any matter the publication of which is punishable under Section 174-A of the I. P. C.

(*b*) Any matter the publication of which is punishable under Section 153-A of the I.P.C., or

(*c*) Any matter concerning a judge which amounts to criminal intimidation or defamation under the Indian Penal Code.

Such Magistrate, if, in his opinion there is sufficient ground for proceedings, may require such person to show cause why he should not be ordered to execute a bond, with or without sureties for such period not exceeding one year as the Magistrate may think fit to fix.

NOTES.—

1. In any manner *e. g. by gramophone records.*

2. *Intentionally* would exclude innocent agents and ignorant tools *e. g.* newspaper boys and others merely handling.

3. Not writing but dissemination is necessary. When the matter is disseminated through a newspaper the Editor, proprietor, printer, or publisher shall not be proceeded against except by order of the Local Government.

Sections 109 and 110 deal with dangerous characters.

Section 109 deals with the following persons :—

(a) Person taking precautions to conceal his presence within the local limits of such Magistrate's jurisdiction and that there is reason to believe that such person is taking such precautions *with a view to committing any offence.*

(b) Person who has no ostensible means of subsistence, or who cannot give a satisfactory account of himself.

In these cases the bond may be for a year.

1. Concealing must be with a view to commit an offence.

2. Ostensible means of subsistence.

To be penniless or out of work is not to be without ostensible means of subsistence.

53 Cal. 347 Victor vis Emp.

Section 110 deals with the following cases of *habitual offenders.*

(1) *is by habit* a robber, house-breaker, thief or forger or

(2) is by habit a receiver of stolen property knowing the same to have been stolen or

(3) habitually protects or harbours thieves or aids in the concealments or disposal of stolen property or

(4) .....

In the case of habitual offenders the bond may be for 3 years.

Section 121

The method adopted to compel such persons to keep peace or be of good behaviour is to demand from them security to keep peace or behave for a certain period.

Difference between a bond for keeping peace and bond for keeping good behaviour

1. A bond for keeping the peace will not be forfeited by the commission of *any* offence ; but only by the commission of offences likely in their consequences to cause a breach of peace.

2. A bond for good behaviour will be forfeited by the commission of *any* offence punishable with imprisonment.

Procedure on breach of bond. When a person forfeits a bond by being convicted of an offence, the amount of the forfeited bond may be recovered, but he cannot be forthwith imprisoned for the unexpired portion of the term of security. The Magistrate's remedy is to take fresh proceedings under this chapter.

Magistrate is not justified in forfeiting a recognizance without giving the party charged with breach an opportunity to cross examine the witnesses upon whose evidence the rule to show cause has been issued.

The security may be a personal security with or without sureties.

The Magistrate has a right to define the class of sureties *e.g.* landholders, etc.

Section 122

A Magistrate may refuse to accept any surety offered, or may reject any surety previously accepted by him or his predecessor on the ground that such surety is an unfit person for *the purposes of the bond.*

There is to be inquiry into fitness.

Test of fitness is whether the surety can exercise proper control over the person who has been bound over. Mere pecuniary fitness is not the only test of his fitness. The object of requiring security is not to obtain money for the Crown by the forefeiture of recognisances, but to ensure that the accused should be of good behaviour.

Surety unfit if he were staying away.

According to the Bombay High Court it is sufficient if they are solvent and respectable.

22 Bombay L.R. 190.

Ability to control the accused is not a desirable condition.

Section 126

A surety may apply at any time for cancellation of his bond.

Liability of surety

Surety's liability arises on the breach of the bond which again depends upon the conviction of the principal.

Good behaviour and peace are general terms and include many offences. That being so, it would be unjust to hold that the surety is liable for every conceivable offence committed by the principal.

They indicate liability for such good conduct as indicated by the circumstances under which security was demanded.

Procedure

Section 112

When a Magistrate deems it necessary to require any person to show cause under such section, he shall make an order in writing

setting forth the substance of the information received; the amount of the bond to be executed, the term for which it is to be in force, and the number, character and class of sureties (if any) required.

Section 113

If the person is present in Court it shall be read over to him, or if he so desires the substance thereof shall be explained to him.

Section 114

If he is not present a summons shall issue.

If immediate breach of peace is feared warrant may issue.

Section 115

Copy of the order shall accompany the summons.

Section 116

Power to dispense with personal attendance.

Section 117

Inquiry as to the truth of the Information

When the person is present the Magistrate shall proceed to inquire into the truth of the information upon which *action has been taken,* and to take such further evidence as may appear necessary.

If action is taken under Section 107 the procedure shall be of a summons case.

If action is taken under Sections 108, 109, 110 it shall be as in warrant case except that no charge need be framed.

Pending inquiry, the Magistrate may, if he considers that immediate action is necessary for reasons to be recorded in writing, direct the person to execute a bond to behave until the conclusion of the inquiry.

Section 118

If upon such inquiry it is proved that bond is necessary, the Magistrate shall make an order accordingly.

Provided:

1. That the order shall not be different from that served upon the person

2. The amount of each bond shall not be excessive

3. If the person is a minor the bond shall be executed by his sureties only.

Section 119

If it is not proved that it is necessary for keeping peace or good behaviour, the Magistrate shall release him if he is in custody or discharge him after making an entry to that effect.

Is the person proceeded against an accused person ?

There is a difference of view on this question. In some cases it has been held that he is an accused person.

In other cases it has been held that he is not an accused person.

Bombay L.R. 27.

The sections itself are clear.

The deliberate use of such expressions the person, such persons, etc. and studiously avoiding the use of the word accused, the person informed against, the person called upon to show cause.

That being so, oath can be administered to him and examined and X-examined.

Section 120

The period of security shall commence on the expiration of sentence if one was being undergone at the time.

In other cases, it shall commence on the date of the order unless the Magistrate for sufficient reason fixes a later date.

Section 123

On failure to give security, he shall, if he is already in prison, be detained in prison, *until such period expires* or until within such period he gives the security to the Court or Magistrate who made the order.

2. When the period of security exceeds one year and there is a failure to give security, the Magistrate shall order to detain him in prison pending the orders of the Sessions Judge or High Court to whom the case is to be submitted.

The Sessions Judge or High Court may pass any order except imprisonment exceeding 3 years.

3. When the case of one is referred, the cases of others jointly tried is also referred. But me period of theirs shall not be increased.

Imprisonment

Simple for failure to give security for keeping peace.

Simple for good behaviour under Sections 108 and 109 and rigorous ..... under section 110.

Section 124

1. D. M. or Chief Presidency Magistrate may order any person failing to give security if he is of opinion that he may be released without hazard to the community or to any other person.

2. D. M. or Chief Presidency Magistrate may reduce the amount of security or the number of sureties or the time for which security has been required.

3. The release of a person may be conditional or unconditional.

The condition shall cease when the period expires.

The order of discharge may be cancelled if the condition is not fulfilled.

When conditional order of discharge is cancelled, such person may be arrested by any police officer without warrant and shall be produced before the D. M. or Chief Presidency Magistrate.

Unless then he gives security in accordance with the terms of the original order, the D. M. or Chief Presidency Magistrate may remand such person to prison to undergo such unexpired portion.

He may be released if gives security thereafter in terms of the original order.

Proceedings dealing with the enforcement of certain obligations

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Section 9 of the Fugitive Offenders Act, 1881

Mentions offences in which a fugitive offender from one dominion may be surrendered.

Section 19(d) of the Indian Extradition Act

Also mentions the offences in which an offender from a dominion may be surrendered.

Dealing in territorial jurisdiction

Instead of extraditing him, can he be tried in British India for the offence committed outside British India ?

Section 188

The answer is yes. Provided

1. That he is a Native Indian Subject of the H. M.

2. That he is a British Subject and has committed an offence in the territories of any Native Prince or Chief in India.

3. That he is a servant of H. M. (whether he is British Subject or not) and the offence is committed in the territories of any Native Prince or Chief in India.

4. That such offender is *found* in British India.

N. B.— S. 188 confers jurisdiction to try offences committed in *foreign territory,* but not on High Seas.

19 Bom. L. R. 527.

* * *

What is of which cognizance is taken ?

What the Court takes cognizance of is the offence, and not the fact that a particular person is alleged to have committed that offence.

Reasons

(1) When, during the course of proceedings which a Court has commenced by cognizance properly taken, it appears that a person or persons other than that or those alleged or appearing to be offenders when cognizance was taken also is or are offenders, then the Court can issue process against these new accused, and can deal with them just as it can issue process against and deal with the person or persons originally mentioned. (2) In fact, a Court can take cognizance even when the offender is absolutely unknown and can then issue process as soon as inquiry or investigation shows there is evidence justifying the placing of some person upon his trial. (3) Again, if a magistrate receives on transfer a case of which he could not have taken cognizance on his own authority, he can issue process against all whom the evidence at any stage shows to have probably been concerned as offenders.

Bars to cognizance

1. Section 337—approver.

III. *Powers of Criminal Courts*

The subject may be dealt with under three different heads.

(1) Power to take cognizance of an offence.

(2) Power to pass interlocutory orders in a criminal matter.

(3) Power to punish.

(I) *Power to take cognizance of an offence*

Whether a Court can take cognizance of an offence depends upon

(a) The Status of the Court.

(b) The nationality of the offender.

(c) Depends upon whether the accused will get justice at the hands of the Judge or Magistrate.

(a) *The status of the Court*

Section 6

According to the Criminal Procedure Code there shall be five classes of Criminal Courts in British India.

I. The Sessions Court.

II. Presidency Magistrate.

III. Magistrate of the first class.

IV. Magistrate of the second class.

V. Magistrate of the third class.

To this must be added the High Court.

(i) *Regarding offences under the Penal Code*

Section 28

1. The High Court may try any offence under the Indian Penal Code.

2. The Court may try any offence under the Indian Penal Code.

3. But with respect to other magistrates they can take cognizance of such offences only as they are empowered to do by the provisions contained in the 8th column of the Second Schedule to the Cr. P. C.

Section 29

(ii) *Regarding offences under other laws*

1. If the law mentions the Court no other Court can take cognizance of the offence.

2. If the law does not mention the Court then

(a) It may be tried by the High Court or

(b) It may be tried by the Court mentioned in the 8th column of the Second Schedule to the Cr. P. C. under the heading "Offences against other laws".

Section 29-A

(b) *The nationality of the offender*

If the offender is an *European British Subject* a magistrate of the 2nd or 3rd class cannot try him for an offence punishable otherwise than with fine exceeding Rs. 50.

If the offence is such that it is not punishable with imprisonment is punishable with fine and the fine does not exceed Rs. 50 then he can be tried by a magistrate of the 2nd or 3rd class.

But if it is punishable with imprisonment or is punishable with fine exceeding Rs. 50 he cannot be tried by them.

N. *B.*—This is so if the European British Subject claims his privileges as such given to him by the *principle of ultra vires an intra vires.*

Prior to 1923 the definition stood as follows :

European British Subject means (i) any subject of H. M. born. naturalized or domiciled in the U. K. or any of the European, American or Australian colonics or possessions of H. M. or in the colony of New Zealand or in the colony of the Cape of Good Hope or Natal; (ii) any child or grand-child of such person by legitimate descent.

Domicile = The place where a person has his *home* a place to which one returns.

Domicile is of three sorts :

(1) by birth

(2) by choice

(3) by operation of law (e. g. wife acquiring the domicile of her husband).

Section 195 deals with offences affecting the administration of justice.

General Rule

A magistrate cannot convict a person for contempt of Court committed in respect of his own authority a commitment to another magistrate is necessary. The Court before which an offence was committed, and by which a preliminary inquiry was held under Section 476 should not try the case.

Section 480

Court can try an offence committed in the view of the Court when the offence is

175 (Omission to produce a document by person bound to produce to a public servant)

178 (Refusing to take oath or affirmation)

179 (Refusing to answer public servant authorized to question)

180 (Refusing to sign a statement)

228 (Intentional insult or interruption to public servant sitting in judicial capacity).

Section 485

Imprisonment of 7 days or committal of a witness refusing to answer or produce a document.

For a convenient summary of the privileges formerly enjoyed by an European British Subject and privileges which he now enjoys *see* Woodroffa Criminal Procedure (1926) pp. 516—519.

Section 4 (I) *European. British Subject* means

(I) Any subject of H. M. of *European descent in the male line born,* naturalized or domiciled in the British Islands or any colony, *or*

(II) Any subject of H.M. who is the child or grand-child of any such person by legitimate descent.

Essentials of clause 1.—

1. European descent
2. In the male line
3. Born / naturalized / domiciled. | in the British Islands or any colony.

Essentials of clause 2. —Person may not himself be born naturalized or domiciled. But he may be the son of such a person. A person claiming the privileges of a European British Subject *under clause 2* must prove

1. Legitimate descent and

2. *Nationality* of his father or grandfather.

6 M. H. C. R.,7

Turnbull

* * *

(III) Depends upon whether the accused will get justice at the hands of the Judge or magistrate. There is very little chance of justice being done if the judge or magistrate is himself the complainant. The principle of law is that in no case shall the prosecutor shall also be the judge. This principle is embodied in .....

Section 487

(1) Except as provided in Sections 480 and 485 *no judge* of a criminal court *or magistrate,* other than a Judge of a High Court, *shall try* any person for any offence referred to in Section 195, *when such offence is committed before himself or in contempt of his authority or is brought under his notice (as such judge or magistrate)* in the course of a judicial proceeding.

(2) Nothing in Section 476 or Section 482 shall prevent a magistrate empowered to commit to the Court of Session or High Court from himself committing any case to such Court.

NOTES.—

Section 195 deals with offences affecting the administration of justice.

The section says that such an offence *if it has been committed before the judge* or in contempt of his authority is brought under his notice shall not be tried by him.

Unless the case falls under Sections 480 and 485.

Contempt is any act done or writing published calculated to bring a court or a judge of the court into contempt or to lower his authority or to obstruct or interfere with the due course of justice or the lawful process of the court.

(Navianbeg. 10 B. H. C. R. 73)

JUDGE.—Insertion of this word in lieu of the word 'Court' in the Code of 1872 makes the disqualification personal and the successor in office of the particular officer can therefore, now hold such trial.

MAGISTRATE.—Includes a Presidency Magistrate.

12 C. W. N. 246.

Trial includes hearing of an appeal.

AS SUCH JUDGE OR MAGISTRATE.—That means he cannot try it in his capacity as a judge or magistrate of the Criminal Court. If the same matter had come before him in another capacity he can try.

Sameness of the individual as distinct from the sameness of capacity. The Section is based on sameness of capacity.

16 Cal.776 of B.
18 Bom. 380 of B.

Contra.—1 Mad. 305-Disqualification based on sameness of the individual.

Section 556

No judge and magistrate shall, except with the permission of the Court to which an appeal lies from his court, try or commit for trial any case to or in which he is a party, or personally interested, and no judge or magistrate shall hear an appeal from any judgement or order passed or made by himself.

Explanation.—A judge or magistrate shall not be deemed a party, or personally interested, within the meaning of this section, to or in any case by reason only that he is a municipal commissioner or otherwise concerned in a public capacity, or by reason only that he has viewed the place in which an offence is alleged to have been committed or any other place in which any other transaction material to the case is alleged to have occurred, and made an inquiry in connection with the case.

Party

Personally interested do not imply mere intellectual interest. It implies something of the nature of an expectation of advantage to be gained, or of a loss or some disadvantage to be avoided, by the person who is said to be interested in the case.

8 Bom. L. R. 947.

(1) Pecuniary interest

A magistrate who is a shareholder of the company which is the complainant in the case, is disqualified from trying the case.

20 Bom. 502.

A magistrate should not entertain a criminal case in which persons indebted to him are concerned either as complainant or as accused.

Relationship

Magistrate who is a *servant* of the complainant will be disqualified.

7 *Cal. 322 : 10 Cal. 194.*

Magistrate who is *master* of the complainant will not be disqualified.

9 Bom. 172.

Magistrate who is *husband* of the complainant will be disqualified.

14 Bom. 572.

Distinction between 487 and 556

1. Section 487 does not disqualify an High Court Judge. Section 556 does.

2. Section 487 does not disqualify committal. Section 556 does.

Distinction between 556 and 526 (transfer)

Great deal confusion in cases.

Taking cognizance of an offence not of an offender.

* * * *

Section 129. Empowers a Magistrate to call in Military Power to disperse an unlawful assembly *which cannot otherwise be dispersed* when the dispersal of that assembly seems to be necessary for public safety.

(II) Powers to pass interlocutory orders in a criminal matter Section 36

1. *Ordinary Powers*

Mentioned in the *Third Schedule* to the Criminal Procedure Code. They vary with the class of the Magistrate.

2. *Additional Powers*

Local Government or the District Magistrate may invest any Sub-divisional Magistrate or any magistrate of the 1st, 2nd or 3rd class with certain additional powers. They are mentioned in the *Fourth Schedule* to the Cr. P. Code. They vary with the class of the Magistrate.

A Mode of Exercising such powers.

Section 107 (3) When a Magistrate has reason to believe that any person is likely to commit the breach of the peace or disturb the public tranquillity any wrongful act that may probably occasion a breach of the peace or disturb the public tranquillity, and that such breach of the peace or disturbance cannot be prevented such a magistrate may issue warrant for his arrest. He must record his reasons.

Courts can inflict such sentences as are authorized by law. If a criminal were to ask the Court to pass upon him a sentence not allowed by law instead of one which the law warrants such a sentence will not be valid.

3B.L.R. 50

Commutation. Section 59 of the Penal Code points out in what cases transportation may be awarded instead of imprisonment.

Transportation is only authorized in lieu of imprisonment as a *substantive* punishment. A sentence of nine years transportation and a fine of Rs. 300 and in default of payment, to three years further transportation, is bad in regard to the latter part of the sentence.

5 Mad. 28.

(III) Powers of punishment

The punishment for offences prescribed by Section 53 I. P. C. are :

I. Death

(a) Which *may be* inflicted Sections 121, 132, 194, 302, 305, 307,396.

(b) Which *must be* inflicted Section 303 (murder committed by a life convict).

II TRANSPORTATION

(i) for life.—

(a) Which *may be* inflicted Sections 75, 125,128.

(b) Which *must be* inflicted Sections 226, 311.

(ii) for any term.—

(a) Which *may be* inflicted Sections 121-A, 124-A.

(b) Which may *be* inflicted for not less than seven years and not more than the term for which the offender might be imprisoned. Section 59.

III. PENAL SERVITUDE

Which *must be* inflicted whenever a European or American is convicted of an offence punishable with transportation. Section 59.

IV. IMPRISONMENT

(1) Which may be for any term not exceeding 14 years.

(2) It may be simple or

(3) It may be rigorous.

Repealed by Section 4 of Act XVI of 1921

V. FORFEITURE (I) of *all* property

(a) Which *may be* inflicted. Section 62.

(b) Which *must be* inflicted. Sections 121, 122.

(II) of *Specific* property

(a) Which may be inflicted. Sections 126, 127.

(b) Which *must be* inflicted. Section 169.

REVISIONAL JURISDICTION

Civil Procedure Code

Section 115

The High Court may call for the record of any case which has been decided by any Court subordinate to such High Court and in which no appeal lies thereto, and if such subordinate Court appears—

(a) to have exercised a jurisdiction not vested in it by law, or

(b) to have failed to exercise a jurisdiction so vested, or

(c) to have acted in the exercise of its jurisdiction illegally or material irregularity,

the High Court may make such order in the case as it thinks fit.

Criminal Procedure Code

Section 435

(1) The High Court or any Sessions Judge or District Magistrate or any Sub-Divisional Magistrate empowered by the Provincial Government in this behalf, may call for and examine the record of any proceeding, before any inferior Criminal Court situated within the local limits of its or his jurisdiction for the purpose of satisfying itself or himself as to the correctness, legality or propriety of any finding, sentence or order recorded or passed, and as to the regularity of any proceedings of such inferior Court and may, when calling for such record, direct that the execution of any sentence be suspended and, if the accused is in confinement, that he be released on bail or on his own bond pending the examination of the record.

Explanation.—All Magistrates, whether exercising original or appellate jurisdiction, shall be deemed to be inferior to the Session Judge

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CRIMINAL PROCEDURE CODE

Section 435—*contd.*

for the purposes of this sub-section and of section 437.

(2) If any Sub-Divisional Magistrate acting under sub-section (1) considers that any such finding, sentence or order is illegal or improper, or that any such proceedings are irregular, he shall forward the record, with such remarks thereon as he thinks fit, to the District Magistrate.

* * * *

(4) If an application under this section has been made either to the Sessions Judge or District Magistrate, no further application shall be entertained by the other of them.

Section 436

On examining any record under section 435 or otherwise, the High Court or the Sessions Judge may direct the District Magistrate by himself or by any of the Magistrates subordinate to him to make, and the District Magistrate may himself make or direct any Subordinate Magistrate to make, further inquiry into

Section 436—*contd.*

any complaint which has been dismissed under section 203 or sub-section (3) of section 204, or into the case of any person accused of an offence who has been discharged :

Provided that no Court shall make any direction under this section for inquiry into the case of any person who has been discharged unless such person has had an opportunity of showing cause why such direction should not be made.

Section 437

When, on examining the record of any case under section 435 or otherwise, the Sessions Judge or District Magistrate considers that such case is triable exclusively by the Court of Seession and that an accused person has been improperly discharged by the inferior Court, the Sessions Judge or District Magistrate, may cause him to be arrested,-and may thereupon, instead of directing a fresh inquiry, order him to be committed for trial

CIVIL PROCEDURE CODE

CRIMINAL PROCEDURE CODE

Section 437—*contd.*

upon the matter of which he has been, in the opinion of the Sessions Judge or District Magistrate, improperly discharged :

Provided as follows:—

(a) that the accused has had an opportunity of showing cause to such Judge or Magistrate why the commitment should not be made ;

(b) that, if such Judge or Magistrate thinks that the evidence shows that some other offence has been committed by the accused, such Judge or Magistrate may direct the inferior Court to inquire into such offence.

Section 438

(1) The Sessions Judge or District Magistrate may, if he thinks fit, on examining under section 435 or otherwise the record of any proceeding, report for the orders of the High Court the result of such examination, and, when such report contains a recommendation that a sentence be reversed or altered, may order that the execution of such sentence be suspended, and, if

CIVIL PROCEDURE CODE

CRIMINAL PROCEDURE CODE

Section 438—*contd.*

the accused is in confinement, that he be released on bail or on his own bond.

(2) An Additional Sessions Judge shall have and may exercise all the powers of a Session Judge under this Chapter in respect of any case which may be transferred to him by or under any general or special order of the Sessions Judge.

Section 439

(1) In the case of any proceeding the record of which has been called for by itself or which has been reported for orders, or which otherwise comes to its knowledge, the High Court may, in its discretion, exercise any of the powers conferred on a Court of Appeal by sections 423,426,427 and 428 or on a Court by section 338, and may-enhance the sentence ; and when the Judges composing the Court of Revision are equally divided in opinion, the case shall be disposed of in manner provided by section 429.

(2) No order under this section shall be made to the

CIVIL PROCEDURE CODE CRIMINAL PROCEDURE CODE

Section 439—*contd.*

prejudice of the accused un-less he has had an opportunity of being heard either personally or by pleader in his own defence.

(3) Where the sentence dealt with under this section has been passed by a Magistrate acting otherwise than under section 34, the Court shall not inflict a greater punishment for the offence which, in the opinion of such Court the accused has committed than might have been inflicted for such offence by a Presidency Magistrate or a Magistrate of the First Class.

(4) Nothing in this section applies to an entry made under section 273, or shall be deemed to authorize a High Court to convert a finding of acquittal into one of conviction.

(5) Where under this Code an appeal lies and no appeal is brought, no proceedings by way of revision shall be entertained at the instance of the party who could have appealed.

(6) Notwithstanding anything contained in this section, any convicted person to whom

Civil Procedure Code	Criminal Procedure Code
	Section 439—*contd.*
	an opportunity has been given under sub-section (2) of showing cause why his sentence should not be enhanced shall, in showing cause, be entitled also to show cause against his conviction.
	Section 440
	No party has any right to be heard either personally or by pleader before any Court when exercising its powers of revision :
	Provided that the Court may, if it thinks fit, when exercising such powers, hear any party either personally or by pleader, and that nothing in this section shall be deemed to affect section 439, sub-section (2).

REFERENCE

Civil Procedure Code

Section 113

Subject to such conditions and limitations as may be prescribed, any Court may state a case and refer the same for the opinion of the Court, and the High Court, may make such order thereon as it thinks fit.

Criminal Procedure Code

Section 432

A Presidency Magistrate may, if he thinks fit, refer for the opinion of the High Court any question of law which arises in the hearing of any case pending before him, or may give judgment in any such case subject to the decision of the High Court on such reference and, pending such decision, may either commit the accused to jail, or release him on bail to appear for judgment when called upon.

Section 433

(1) When a question has been so referred, the High Court shall pass such order thereon as it thinks fit, and shall cause a copy of such order to be sent to the Magistrate by whom the reference was made, who shall dispose of the case conformably to the said order.

(2) The High Court may direct by whom the costs of such reference shall be paid.

REVIEW

Civil Procedure Code	Criminal Procedure Code
Section 114	
Subject as aforesaid, any person considering himself aggrieved— (a) by a decree or order from which an appeal is allowed by this Code, but from which no appeal has been preferred ; (b) by a decree or order from which no appeal is allowed by this Code, or (c) by a decision on a reference from a Court of Small Causes; may apply for a review of judgment to the Court which passed the decree or made the order, and the Court may make such order thereon as it thinks fit.	No provision for Review.

APPEALS

Civil Procedure Code

Section 96

(1) Save where otherwise expressly provided in the body of this Code or by any other law for the time being in force, an appeal shall lie from every decree passed by any Court exercising original jurisdiction to the Court authorized to hear appeals from the decisions of such Court.

(2) An appeal may lie from an original decree passed *ex parte*.

Section 100

(1) Save where otherwise expressly provided in the body of this Code or by any other law for the time being in force, an appeal shall lie to the High Court from every decree passed in appeal by any Court subordinate to a High Court, on any of the following grounds, namely :

(a) the decision being contrary to law or to some usage having the force of law ;

(b) the decision having failed to determine some

Criminal Procedure Code

Section 404

No appeal shall lie from any judgment or order of a Criminal Court except as provided for by this Code or by any other law for the time being in force.

Section 407

(1) Any person convicted on a trial held by any Magistrate of the second or third class, or any person sentenced under section 349 or in respect of whom an order has been made or a sentence has been passed under section 380 by a Sub-divisional Magistrate of the second class, may appeal to the District Magistrate.

(2) The District Magistrate may direct that any appeal under this section, or any class of such appeals, shall be heard by any Magistrate of the first subordinate to him and empowered by the Provincial Government to hear such appeals, and thereupon such appeal or class of appeals may be presented to such subordinate Magistrate, or if already presented to the

CIVIL PROCEDURE CODE

Section 100—*contd.*

material issue of law or usage having the force of law ;

(c) a substantial error or defect in the procedure provided by this Code or by any other law for the time being in force, which may possibly have produced error or defect in the decision of the case upon the merits.

(2) An appeal may lie under this section from an appellate decree passed *ex parte*.

Section 104

(1) An appeal shall lie from the following orders, and save as otherwise expressly provided in the body of this Code or by any law for the time being in force, from no other orders :

(a) an order superseding an arbitration where the award has not been completed within the period allowed by the Court;

(b) an order on an award stated in the form of a special case ;

(c) an order modifying or correcting an award ;

CRIMINAL PROCEDURE CODE

Section 407—*contd.*

District Magistrate, may be transferred to such subordinate Magistrate. The District Magistrate may withdraw from such Magistrate any appeal or class of appeals so presented or transferred.

Section 408

Any person convicted on a trial held by an Assistant Sessions Judge, a District Magistrate or other Magistrate of the First Class, or any person sentenced under section 349 or in respect of whom an order has been made or a sentence has been passed under section 380 by a Magistrate of the First Class, may appeal to the Court of Session :

Provided as follows:

* * *

(b) When in any case an Assistant Sessions Judge or a Magistrate specially empowered under section 30 passes any sentence of imprisonment for a term exceeding four years, or any sentence of transportation, the appeal of all or any

CIVIL PROCEDURE CODE

Section 104—*contd.*

(d) an order filing or refusing to file an agreement to refer to arbitration ;

(e) an order staying or refusing to stay a suit where there is an agreement to refer to arbitration ;

(f) an order filing or refusing to file an award in an arbitration without the intervention of the Court;

(ff) an order under section 35A ;

(g) An order under Section 95 ;

(h) an order under any of the provisions of this Code imposing a fine or directing the arrest or detention in the civil prison of any person except where such arrest or detention is in execution of a decree ;

(i) any order made under rules from which an appeal is expressly allowed by rules :

Provided that no appeal shall lie against any order specified in clause (ff) save on the ground that no order, or an order for the payment of a less amount, ought to have been made.

CRIMINAL PROCEDURE CODE

Section 408—*contd.*

of the accused convicted at such trial shall lie to the High Court;

(c) when any person is convicted by a Magistrate of an offence under section 124Aof the Indian Penal Code, the appeal shall lie to the High Court.

Section 409

An appeal to the Court of Session or Sessions Judge shall be heard by the Sessions Judge or by an Additional Sessions Judge :

Provided that an Additional Sessions Judge shall hear only such appeals as the Provincial Government may, by general or special order, direct or as the Sessions Judge of the division may make over to him.

Section 410

Any person convicted on a trial held by a Sessions Judge, or an Additional Sessions Judge, may appeal to the High Court.

Section 411

Any person convicted on a trial held by a Presidency

CIVIL PROCEDURE CODE

Section 104—*contd.*

(2) No appeal shall lie from any order passed in appeal under this section.

Section 105

(1) Save as otherwise expressly provided, no appeal shall lie from any order made by a Court in the exercise of its original or appellate jurisdiction ; but, where a decree is appealed from, any error, defect or irregularity in any order, affecting the decision of the case, may be set forth as a ground of objection in the memorandum of appeal.

(2) Notwithstanding anything contained in sub-section (1), where any party aggrieved by an order of remand made after the commencement of this Code from which an appeal lies does not appeal therefrom, he shall thereafter be precluded from disputing its correctness.

Section 109

Subject to such rules as may, from time to time, be made by His Majesty in Council regarding appeals from the Courts of British India, and to the provi-

CRIMINAL PROCEDURE CODE

Section 411—*contd.*

Magistrate may appeal to the High Court, if the Magistrate has sentenced him to imprisonment for a term exceeding six months or to fine exceeding two hundred rupees.

Section 411A

(1) Without prejudice to the provisions of section 449 any person convicted on a trial held by a High Court in the exercise of its original criminal jurisdiction may, notwithstanding anything contained in section 418 or section 423, sub-section (2), or in the Letters Patent of any High Court, appeal to the High Court:

(a) against the conviction on any ground of appeal which involves a matter of law only ;

(b) with the leave of the Appellate Court, or upon the certificate of the Judge who tried the case that it is a fit case for appeal, against the conviction on any ground of appeal which involves a matter of fact only, or a matter of mixed law and fact, or any other ground which appears to

CIVIL PROCEDURE CODE

Section 109-*contd.*

sions hereinafter contained, an appeal shall lie to His Majesty in Council—

(a) from any decree or final order passed on appeal by a High Court or by any other Court of final appellate jurisdiction ;

(b) from any decree or final order passed by a High Court in the exercise of original civil jurisdiction ; and

(c) from any decree or order, when the case, as hereinafter provided, is certified to be a fit one for appeal to His Majesty in Council.

Section 110

In each of the cases mentioned in clauses (a) and (b) of section 109, the amount or value of the subject-matter of the suit in the Court of first instance must be ten thousand rupees or upwards, and the amount or value of the subject-matter in dispute on appeal to His Majesty in Council must be the same sum or upwards,

or the decree or final order must involve, directly or indirectly, some claim or question

CRIMINAL PROCEDURE CODE

Section 411 A—*contd.*

the Appellate Court to be a sufficient ground of appeal; and

(c) with the leave of the appellate Court, against the sentence passed unless the sentence is one fixed by law.

(2) Notwithstanding anything contained in section 417, the Provincial Government may direct the Public Prosecutor to present an appeal to the High Court from any order of acquittal passed by the High Court in the exercise of its original criminal jurisdiction, and such appeal may, notwithstanding anything contained in section 418, or section 423, sub-section (2), or in the Letters Patent of any High Court, but, subject to the restrictions imposed by clause (b) and clause (c) of sub-section (1) of this section on an appeal against a conviction, lie on a matter of fact as well as a matter of law.

(3) Notwithstanding anything elsewhere contained in any Act or Regulation, an appeal under this section shall be heard by a Division Court of

CIVIL PROCEDURE CODE

Section 110—*contd.*

to or respecting property of like amount or value,

and where the decree or final order appealed from affirms the decision of the Court immediately below the Court passing such decree or final order, the appeal must involve some substantial question of law.

Section 111.

Notwithstanding anything contained in section 109, no appeal shall lie to His Majesty in Council—-

(a) from the decree or order of one Judge of a High Court constituted by His Majesty by Letters Patent, or of one Judge of a Division Court, or of two or more Judges of such High Court, or of a Division Court constituted by two or more Judges of such High Court, where such Judges are equally divided in opinion and do not amount in number to a majority of the whole of the Judges of the High Court at the time being ;

or

CRIMINAL PROCEDURE CODE

Section 411 A—*contd.*

the High Court composed of not less than two judges, being judges other than the judge or judges by whom the original trial was held; and if the constitution of such a Division Court is impracticable, the High Court shall report the circumstances to the Provincial Government which shall take action with a view to the transfer of the appeal under section 527 to another High Court.

(4) Subject to such rules as may from time to time be made by His Majesty in Council in this behalf, and to such conditions as the High Court may establish or require, an appeal shall lie to His Majesty in Council from any order made on appeal under sub-section (1) by a Division Court of the High Court in respect of which order the High Court declares that the matter is a fit one for such appeal.

Section 412

Notwithstanding anything hereinbefore contained, where an accused person has pleaded guilty and has been convicted by a High Court, a Court of Session or any Presidency Magistrate or Magistrate of the

CIVIL PROCEDURE CODE

Section 111—*contd.*

(b) from any decree from which under section 102 no second appeal lies.

Section 111 A

Where a certificate has been given under section 205 (1) of the Government of India Act, 1935, the three last preceding sections shall apply in relation to appeals to the Federal Court as they apply in relation to appeals to His Majesty in Council, and accordingly references to His Majesty shall be construed as references to the Federal Court:

Provided that—

(a) so much of the said sections as delimits the cases in which an appeal will lie shall be construed as delimiting the cases in which an appeal will lie without the leave of the Federal Court otherwise than on the ground that a substantial question of law as to the interpretation of the said Act, or any Order in Council made thereunder, has been wrongly decided ;

CRIMINAL PROCEDURE CODE

Section 412—*contd.*

first class on such plea, there shall be no appeal except as to the extent or legality of the sentence.

Section 413

Notwithstanding anything hereinbefore contained, there shall be no appeal by a convicted person in cases in which a High Court passes a sentence of imprisonment not exceeding six months only or of fine not exceeding two hundred repees only or in which a Court of Session * * * passes a sentence of imprisonment not exceeding one month only or in which a court of Session or District Magistrate or other Magistrate of the first class passes a sentence of fine not exceeding fifty rupees only

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CIVIL PROCEDURE CODE

Section 111 A—*contd.*

(b) in determining under clause (c) of section 109 whether the case is a fit one for appeal, and, under section 110, whether the appeal involves a substantial question of law, any question of law as to the interpretation of the said Act, or any Order in Council made thereunder, shall be left out of account.

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7. THE TRANSFER OF PROPERTY ACT

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CONTRIBUTION

1. Suppose two properties are mortagaged and they belong to different persons. Suppose for the relization of the mortgage money only one property is sold and the proceeds are found to be sufficient to pay the amount. The result is that one mortgagor has lost his property while the other gets it back without having to pay any thing.

This is a gross injustice. To remedy this injustice Equity invented the doctrine of Contribution which is embodied in Section 82.

2. According to this Section, the different owners are liable to contribute rateably to the debt secured by the mortage.

3. For determining the rate at which each should contribute the value therfore shall be taken as the value at the date of the mortgage deducting the amount of mortgage, if any, to which it was subject on that date.

> 1. The claim for contribution can arise only when the whole of the mortgage debt has been satisfied—26 *All. 407 (426, 27) T.B.*
>
> 2. The right to contribution is subject to the rule of marshalling. That is where marshalling comes into conflict with contibution, the rule of marshalling shall prevail—This is the meaning of the last para of Section 82.

WHO CAN CLAIM THE RIGHTS OF THE MORTGAGOR

Section 91.

* * * * *

HOW CAN CLAIM THE RIGHTS OF THE MORTAGAGEE

Section 92.

Any person *other than the mortgagor* who pays the mortgagee becomes entitled to the rights of the mortgagee.

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Such persons are—

1. Subsequent mortgagee.

2. Surety.

3. Any person having an interest in the property.

4. A co-mortgagor.

5. Any other person with whose money the mortgage has been redeemed if the mortgagor has by a registered deed agreed to this.

This is called the rule of subrogation.

II. DOES THE LAW OF SALE PRESCRIBE ANY PARTICULAR MODE OF TRANSFER ?

1. The Law of Sale of Immovable Property does prescribe a mode of transfer. The mode of transfer is either *Registration* or *Delivery of Possession.*

2. Whether the appropriate mode of transfer in any particular case is Registration or Delivery of Possession depends upon two considerations—

(i) Whether the immoveable property is tangible or intangible.

(ii) Whether the Immoveable Property is worth more than Rs. 100 or is less than Rs. 100.

3. If the property is *Intangible* then the transfer can take place only by registration, no matter what the value of the property is.

4. If the property is *Tangible* property then

(i) If it is worth more than Rs. 100 then the transfer must be by registration.

(ii) If it is worth less than Rs. 100 then the transfer may be either by Registration or by delivery of possession.

5. It is clear that in all cases except one, Registration is the only method of effecting a sale. The case where option is given either to register or deliver possession is the case where the property is tangible and is less than Rs. 100 in value.

6. *Registration and Delivery as alternative complimentary modes.*—In this connection the following points may be noted :—

(i) Where Registration is prescribed as the *only* mode of transfer, delivery of Possession is neither necessary nor enough to complete the transaction of sale.

(ii) Where delivery of possession is prescribed, Registration is not necessary to complete the sale. However, Registration without delivery will be enough to complete the sale.

7. *No other mode of Transfer*.—The provisions as to modes of transfer are exhaustive and a sale cannot be effected in any other way. Title cannot pass by admissin or by recitals in a deed or petitions to officers or entry in the record of rights. Admission that land has been sold, will not operate as an estoppel so as to do, away with the sale for a registered conveyance or delivery. 43 Cal. 790.

8. It is necessary to observe the prescribed modes of transfer :—

(i) Ownership does not pass except by a transfer in the prescribed form.

(ii) An unregistered deed *is not enough*

(a) In cases where Registration is compulsory.

(b) Also in cases where the value is less than Rs. 100 and the transfer is not made by delivery.

9. *Meaning of tangible and intangible*

(i) Immoveable Property is either *tangible* or *intangible*.

(ii) The distinction between tangible and intangible is analogous to the distinction made in English Law between a corporeal hereditament and incorporeal hreditament.

(iii) A corporeal hereditament is an interest in land in possession i.e. a present right to enjoy the possession of land. An incorporeal hereditament is a right over land in the possession of another, which may be a future right to possession, or a right to use for a special purpose the land in the possession of another e. g. a right of way.

(iv) The contract between tangible and intangible is a contract between the estate of one who is possessed of the land, the tangible thing and that of a man who has the mere right, the intangible thing, without possession of anything tangible.

(v) A thing to be tangible must be capable of actual delivery.

Sulaiman C.J. 50 All. 986.

10. *Meaning of Delivery of Possession*

(i) Delivery takes place when the seller places the buyer, or such other person as he directs, in possession of the property.

(ii) Delivery is an act which has the effect of putting the buyer in the possesssion of property.

(iii) What amounts to Possession ? The question remains unanswered. Is it actual possession ? or Is it symbolical possession ?

(iv) One view is that since delivery is prescribed for tangible property only what the Legislature intends is actual possession.

(v) The other view is that it is used in a wider and ordinary sense because in the great majority of cases, land is in the occupation of a tenant or the buyer and physical delivery is therefore immpossible.

(vi) The latter view is the generally accepted view, so that there is physical delivery, when the owner of property places the buyer in such relation to the land and its actual occupants as he himself occupies.

11. *Ownership when transferred*

(i) Ownership passes upon delivery or registration.

(ii) With regard to registration, the following points should be noted:—

(a) Once registration is effected, the title relates back to the date of the execution.

(b) A Registered sale-deed will not be defeated by another deed executed later but registered earlier.

(c) The transfer will not be subject to *lis pendens* if the deed was executed before the suit but registered after the suit.

(d) Although it is true that property does not pass i. e. ownership is not transferred until Registration is effected, it is not true to say that property passes as soon as the instrument is registered, for the true test is the intention of the parties.

3. Section 55 (3)— *To deliver title-deeds :—*

1. Title-deeds are accessary to the estate. They pass with the conveyance without being named.

2. This includes *all* deeds relating to the property conveyed in possession as well as in power.

3. The liability to deliver title-deeds also includes the liability to bear the cost of obtaining them.

4. Counterparts leases and Kabulayets are deeds of title accessory to the estate.

5. The duty to deliver title-deeds is not dependent upon the completion of the conveyance. This duty does not arise until the price has been paid.

EXCEPTIONS :

(i) When the seller retains parts of the property comprised in the deeds, he may retain the deeds but is under an obligation for

their safe custody and to produce them or give true copies when required.

(ii) When property is sold in different lots—the purchaser of the lot of the *greatest lot is* entitled to the documents—subject to the same obligations as above.

By an express covenant, it may be given to the purchaser of the *largest lot* i.e. in area.

6. The sub-section does not say what is to happen if the sales are at different times.

BUYER'S LIABILITIES

I. Before Conveyance

1. Section 55 (5) (a)— *To disclose facts relating to the interest of the seller in the property materially increasing value.*

1. Every purchaser is bound to observe good faith in all that he says or does in relation to the contract and must abstain from all deceipt, whether by suppression of truth or by suggestion of falsehood.

2. The buyer, however, is under *no* duty to disclose latent advantages as the seller is to disclose latent defects.

3. To this rule, matters of title are an exception. Although the seller's title is ordinarily a matter exclusively within his knowledge, yet there may be cases where the buyer has information which the seller lacks. In such cases he must not make an unfair use of it.

Illustration 1.—Summers vs. Griffiths.

An old women sold property at an undervalue believing that she could not make out a good title to it while the buyer knew that she could. The sale was set aside.

Illustration 2.—Ellard vs. Llandaff (Lord)

The lessee obtained a renewal of a lease, in consideration of a surrender of the old lease, suppressing the fact (that)* the person on whose life the old lease depended was on his death-bed.

* Inserted—ed.

2. Section 55 (5) (6)—*To pay the Price.*

1. The buyer is not bound to pay the price except on a complete conveyance to himself of the whole interest that he has purchased.

2. If the property is sold free from incumbrances and these are not discharged at the time of conveyance, the buyer is not bound to pay.

3. His remedies for getting rid of incumbrances are—

(i) Under Section 18 (c) of the Specific Relief Act to compel the vendor tot discharge them,

(ii) He may discharge it himself and set off the amount against purchase money.

(iii) Recover it by subsequesnt suit against the vendor.

4. This sub-section imposes a personal liability on the buyer apart from the liability imposed by Section 55 (4) (b) on the property—*52 All. 901.*

BUYER'S LIABILITIES

II. After Conveyance

1. Section 55 (5) (c)—*To bear loss, etc.*

1. Under sub-section 55 (1) (c) the seller is to bear the loss between Contract and Conveyance.

2. After conveyance the buyer is the owner and the property is at his risk. He must therefore bear the loss.

3. This is different from English Law under which the contract for sale transfers an equitable estate and with it liability for loss or destruction.

4. The seller is liable for waste and if the seller has insured the property, the buyer can comple him to apply it for restoration.

2. Section 55 (5) (d)—*To pay outgoings.*

1. Before conveyance this liability falls upon the seller—55 (1) (g) after conveyance it falls on the buyer— Public charges, Rent, Interest and Incumbrances.

2. The liability is statutory and not merely contractual and therefore it is binding on a minor vendor on whose behalf the property is sold—*46 Mad. L. J. 464.*

3. If property is sold free from incumbrances, the seller must discharge it. If sold, subject to incumbrances, then the interest on incumbrances *upto sale* must also be paid by the buyer—*26 Bom. S. R. 942.*

RIGHTS OF BUYER AND SELLER

RIGHTS OF THE SELLER

I. Before Conveyance

1. Section 55 (4) (a)—*To take rents and profits.*

1. Until conveyance, the seller continues to be the owner. Therefore, he has a right to take rents and profits of the property.

II. After Conveyance

1. Section 55 (4) (b)—*To claim charge on property for price not paid.*

1. If the sale is completed by conveyance and the price or any part of it is unpaid, the seller has under this sub-section a charge for the price or for the balance.

2. The charge is a non-possessory charge i. e. it does not give a right to retain possession. As the ownership has passed, the charge gives the seller no right to refuse possession—*30 Mad. 524 ; 43 Mad. 712* ; *23 Bom. 525 ; 34 Mad. 543.*

3. The charge being on the property, it does not matter if there are several purchasers who had agreed among themselves to pay in a certain proportion.

4. The claim for a charge for unpaid price, not only subsists against the original buyer, but is also available against a transferee *without consideration* or a transferee with notice of non-payment.

5. The charge is not only for the purchase money but also for interest on the purchase money.

6. The right to a charge for interest commences only from the date on which possession has been delivered. The right to include interest for the purposes of a charge on the property *before*

possession has been delivered depends upon the equities and circumstances of the case.

Illustration.—If the purchaser retains part of the purchase money as security for the seller discharging an incumbrance, he is not liable to pay interest.

7. *English and Indian Law.*

(i) Under the English Law the seller has a lien from the date of the Contract.

(ii) Under the Indian Law the charge begins from the date of the conveyance.

(iii) The reasons for this difference :—

(a) Under the English Law, the seller parts with the estate as a result of the contract.

(b) Under the Indian Law, the seller parts with it as a result of conveyance.

(c) The result is the same, for both give the right to proceed against the property. The only difference is that the English lien being equitable, can be moulded by equity to suit circumstances. While the Indian charge being statutory, is rigid and must conform to the terms of the statute.

BUYER'S RIGHTS

I. Before Conveyance

1. Section 55 (6) (b)— *To claim a charge on the property for purchase money paid before conveyance.*

1. The clause as worded makes no sense. It is in two parts. If the clause "unless he has improperly declined to take delivery" which is negatively put was put positively to read "if he has properly declined" then there is no distinction between the two clauses.

2. But there is a distinction between the two parts which is a distinction arising from burden of proof. Under the first part, the purchaser is entitled to certain rights which he can enforce "unless he has improperly declined to take delivery" which means that he is to lose those rights if the seller proves that he, the

purchaser, has improperly declined to accept delivery. Under the second part of the clause, the purchaser gets certain additional rights which he can claim, only if, he can show that "he has properly declined to take delivery" and the burden of showing it will be upon him.

3. Under this clause, a buyer has a right to a charge for three things :—

(i) for the amount of purchase money properly paid,

(ii) for the earnest if any,

(iii) for the costs awarded to him.

4. *Charge for Purchase money paid.*

1. This charge attaches from the moment the buyer pays any part of the purchase money.

2. Charge for purchase money is lost *only* when the seller proves that the buyer has improperly declined to take delivery. The burden of proof is upon the seller.

5. *Charge for earnest and cost.*

(1) There is a possibility for a charge in respect of these two. But this possibility will be realized only if the buyer proves that he has properly declined to take delivery. The burden of proof is upon the buyer.

6. *Earnest and Part Payment of Purchase money.*

(1) What is stated above about charge in respect of earnest applies only if the money paid is paid as earnest.

(2) Money paid by a buyer before conveyance serves two purposes: (1) It goes in part payment of the purchase money for which it is deposited. (2) It is security for the performance of the contract. In the latter case it is earnest. In the former case it is instalment.

(3) This difference is important because whether there would be a charge or personal liability or there would not be, would depend upon whether the payment made is *Instalment or Earnest.*

(i) If it is earnest—There is no charge (except in the case of a buyer who proves that he has properly declined to take delivery). Earnest is

wholly lost and there is not only no charge but there is even no personal liability.

(ii) If it is part payment—There is a charge unless seller shows that the buyer has improperly refused to take delivery. Part payment is never wholly lost. If it fails to create a charge, it remains as a personal liability of the seller.

(4) Whether it is part payment or earnest is matter of contract or intention.

7. The purchaser's charge can be enforced against the seller and all persons claiming under him.

8. (1) The buyer loses his charge :—

(i) By his own subsequent default.

(ii) By his improperly refusing to take delivery.

(2) Earnest money—There are two purposes underlyning Earnest:—

(i) It goes in part payment of the purchase money.

(ii) It is a security for the performance of the contract. It becomes part of the purchase money if the contract goes through. It is forfeited, if the contract falls through by reason of the fault or failure of the purchaser.

II. After Conveyance

1. Section 55 (6) (a)—*To claim increment.*

1. This must be so, because, after conveyance he is the owner.

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Sales free Incumbrances

1. As far as possible, a sale ought to be free from incumbrances. To provide sales being made free from incumbrances T. P. Act contains two sections which make it possible. They are Section 56 and Section 57.

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SECTION I

THE NATURE OF A MORTGAGE

I. Definition.

1. Section 58 defines what is a mortgage. According to the section, there are three ingredients of a mortgage transaction :—

(i) The transfer of interest.

(ii) In specific immoveable property.

(iii) For the purpose of securing the payment of money advanced by way of a loan.

II. Explanation of these ingredients.

(i) Immoveable property is not an essential ingredient of mortgage :

(1) Under the English Law, all kinds of property, personal or real, can be made the subject of a mortgage. The Real estate may be corporeal or incorporeal and the personal estate may be in possession or in action. The Estate may be absolute or determinable i.e. for life: it may be legal or equitable. Not only any kind of property may be the subject-matter of a mortgage but any interest in it may be mortgaged, whether such interest is vested, expectant or contingent.

(2) The Transfer of Property speaks only of immoveable property in relation to mortgages. This gives the impression that the law does not recognize the mortgage of a moveable property. This would be a mistake. The Transfer of Property Act merely *defines* and *amends* the law relating to property. It does not consolidate the law. It is, therefore, not a complete or exhaustive code of law relating to mortgage.

(3) Mortgages of moveables are recognized in India.

9 C. W. N. 14 : 8 Bom. S.R. 344.

(4) *Law by which mortgages of moveables are governed.*

The Transfer of Property Act makes no provision: The Indian Contract Act makes no provision. Consequently the principles of English Law will be applicable to such mortgages.

34 Cal. 223 (228) : 27 Bom. S.R. 1449.

(5) Mortgage of moveable property may be effected without writing.

(6) Mortgage of an actionable claim—in writing—though moveable by reason of Section 130 T.P.—*37 Bom. 198. (P. C.)* Deposit of insurance policy.

(ii) Transfer of an Interest:

1. It means the tranfer of *some* right belonging to the mortgagor in respect of the property.

2. Ownership consists of a bundle of rights, such as, right to possess, right to enjoy, sell, etc.

3. It is enough if one of these rights is transferred. The right transferred may vary :—

(i) It may be the right to sell.

(ii) It may be the right to enjoy.

(iii) It may be the right to own.

4. The nature of the right transferred is matter of no consequence so long as some right is transferred.

III. THE PURPOSE MUST BE SECURING THE PAYMENT OF MONEY ADVANCED.

1. The transfer of interest is by way of *Security*. The idea of a Security involves two things. There must be a debt or pecuniary liability and secondly there must be some property pledged for the meeting of that liability.

2. The purpose of the transfer must be securing of the debt. A transfer made for the purpose of securing a debt must be distinguished from a transfer, the purpose of which is to discharge a debt.

25 All. 115=30 I. A. 54.

11 Bom. 462.

3. The right trasferred must be to enable the man to recover the debt. The transfer must not extinguish the debt. If the effect of the transfer is to extinguish the debt then there is no mortgage.

Illustration.—

11 Bom. 462 Abdulbhai vs. *Kashi*

In 1862, *A* in consideration of Rs. 150 passed to *B* a writing called *Karz Rokha* (or debt-note). It proved (*inter alia*) that *B* should hold and enjoy a certain piece of land belonging to *A* for twenty years, that at the end the land should be restored to *A* free from all claims in respect of principal or interest.

Held, not a mortgage.

25 All. 115.

MORTGAGE COMPARED WITH OTHER FORMS OF ALIENATIONS

MORTGAGE AND SALE

1. Sale is defined in Section 54—It is a transfer of ownership for a price. The price is not a loan and the transfer is not a transfer of an interest but is an absolute transfer of ownership.

2. In a mortgage, the money paid is a loan and the transfer is a transfer of an interest only.

3. In a breach of a contract of sale, the rights are the rights of a vendor and purchaser while the contract is a contract of mortgage the rights are those of a mortgagor and mortgagee.

4. In sale, the property is transferred absolutely. In mortgage, the property serves only as a security for the repayment of a debt.

MORTGAGE AND OTHER KINDS OF SECURITIES

1. There are four kinds of securities (1) mortgage, (2) pledge, (3) lien and (4) hypothecation or charge.

It is important to note the distinction between mortgage and other kinds of securities.

I. Mortgage and Pledge

1. The bailment of good as security for payment of debt or performance of a promise is called a 'pledge' —*Section* 172 Indian Contract Act.

2. In a mortgage, general ownership in the property passes to the mortgagee and the mortgagor has only a right to redeem. In a pledge, only 'a qualified or special property' passes to the pledgee, the general ownership remains in the pledgor.

3. Delivery of possession of the property pledged to the pledgee is essential. But delivery of possession is not essential to a mortgage.

4. The property which is once pledged cannot be pledged a second time, because, no possession can be granted to the second pledgee, while property which is mortgaged once to one person can be mortgaged again to others subsequently.

5. Pledge can only be of *personal* property. Mortgage can be of both personal as well as real property.

Mortgage and Liens

1. A lien is a kind of security which is created by the operatin of the law. Lien is a right created by law and not by contract to retain possession of the property blonging to another until certain demands are satisfied.

2. The law on the subject of lien is scattered in many statutes of the Indian Legislature. E.g. Contract Act Sections 170-General-171-Bankers Solicitors, etc., 221-Agent's lien. Sale of goods 47, unpaid Vendor's lien. T. P. 554 : 55 (6) seller's and buyer's lien.

3. Lien does not create general ownership as a mortgage does, not even qualified property as in a pledge—only right to retain possesion.

4. Both mortgagee and pledgee can sell: but lien holder cannot.

Mortgage and a charge

1. A charge is defined in Section 100. There are two elements in a charge :

(1) There is a pecuniary liability.

(2) Immoveable property is made security for the discharge of that pecuniary liability.

2. In a mortgage there are three elements :—

(i) There is pecuniary liability.

(ii) Immoveable property is made security for the discharge of that pecuniary liability.

(iii) There is a transfer of an interest in that property in favour of the creditor.

3. In a charge there is no transfer of interest. There is only burden.

35 Cal. 837 (844) ; 13 Lah. 660 T. B.

35 Cal. 985.

4. The difference between mortgage and charge is material.

1. A mortgagee can follow the mortgaged property in the hands of any transferee from the mortgagor. While a charge can be enforced only against transferee with notice—

33 Cal. 985.

§ DIFFERENT CLASSES OF MORTGAGE

1. The section enumerates six classes of mortgage :—

(i) Simple mortgage.

(ii) Mortgage by conditional sale.

(iii) Usufructuary mortgage.

(iv) English mortgage.

(v) Equitable mortgage.

(vi) Anomalous mortgage.

2. Characteristics of the different classes of mortgage.

(i) Simple Mortgage

1. A Simple mortgage involves two things :

(i) A personal obligation, express or implied, to pay.

(ii) The transfer of a right to cause the property to be sold.

Personal obligation

1. When a person accepts a loan, there is involved a personal liability to pay, unless there is a covenant to pay out of a particular fund.

10 Cal. 740 ; 22 Cal. 434 ; 16 Cal. 540 ; 13 Mad. 192 ; 15 Mad. 304 ; 27 Mad. 526 : 86.

1. A loan may be a secured loan or unsecured loan.

2. Every unsecured loan involves a personal obligation to pay.

44 I. A. 87.

3. The only case of a loan in which a personal obligation to pay is negatived, is where there is a covenant to pay out of a particular fund.

Cases. 10 Cal. 740 ; 22 Cal. 434 ; 16 Cal. 540 ; 13 Mad. 192 *15 Mad. 304 ; 27 Mad. 526 : 86.*

4. Whether a loan, for which there is security, involves a personal obligation to pay is a question of construction. Two propositions may be stated as those of law :—

(i) Personal liability is not displaced by the mere fact that security is given for the repayment of the loan with interest.

(ii) The nature and terms of security may negative any personal liability on the part of the borrower.

5. In a simple mortgage, there is always security given for the loan. The loan is a secured loan. But nature and terms of the security must not negative the personal liability of the mortgagor. A personal covenant to pay is implied in and is an essential part of every simple mortgage.

Cases. 22 All. 453 (461); 29 Mad. 491 ; 30 All. 388.

6. In the absence of such a covenant, the security would be a mere charge.

Cases. 42 All. 158 (164)=46 I. A. 228 ; 52 All. 901.

II. Right to cause the property to be sold.

1. This is a right in rein although it can only be enforced by the intervention of the Court, as the words, 'cause to be sold' indicate.

2. The transfer of this right may be express or it may be implied.

(ii) Mortgage by Conditional Sale

1. Characteristics.

(1) The transfer is by way of sale. It is a transfer of ownership.

(2) The difference between sale and mortgage by conditional sale is that, in sale the transfer is absolute while in mortgage by conditional sale, it is not absolute but is subject to a condition.

(3) The condition may take three forms :—

(i) That on default of payment of mortgage money *on a certain day,* the sale shall become absolute.

(ii) Then on such payment being made, the sale shall become void.

(iii) That on such payment being made, the buyer shall transfer such property to the seller.

2. A mortgage by conditional sale and a sale with a condition of repurchase have a very close resemblance. In both cases, there is a right of reconveyance :—

(1) But they arc different in the nature of the terms on which the right to reconvey can be exercised vary.

(2) If it is a sale with a condition of repurchase then :—

(i) The right is personal and cannot be transferred.

(ii) The right can be enforced on strict compliance with the terms laid down by the condition of repurchase.

Cases. 10 Cal. 30 ; 6 All. 37 ; 21 Bom. 528.

(3) If it is a mortgage by conditional sale, then—

(i) The right to reconveyance is not personal but is a right in term and can be exercised by the transferee.

(ii) Time will not be treated as of the essence.

3. *What is it that distinguishes sale with a condition of repurchase and mortgage by conditional sale ?*

(1) In a mortgage by conditional sale, the transaction notwithstanding the form, remains a lending and borrowing transaction. The transfer of land, although it is in the form of a sale, in fact it is a transfer by way of security.

(2) In a sale with a condition of repurchase, the transaction is not a lending and borrowing arrangement. It is not a transfer of an interest. It is a transfer of all rights. It is not a trnasfer by way of security. It is an absolute transfer reserving only a personal right of repurchase.

What is the test for determining whether a transaction is a mortgage ?

(1) No particular words or form of conveyance are necessary to constitute a mortgage. As a general rule, subject to very few exceptions, where a transfer of an estate is *originally* intended as a security for money, it is a mortgage and where it is not so originally intended, it is not a mortgage.

(2) It is not the *name* given to a contract by the parties that determines the nature of the transaction. A document may be held to be a sale although it is called a mortgage by the parties.

2 Bom. 113.

(3) It is the jural relation constituted by it, that will determine whether the transaction is a mortgage or not.

2 Bom. 462.

4. *How to find what the intention of the parties was* ?

By finding out how they have treated the money advanced ? If they have treated it as a debt, then it is mortgage. The criteria adopted by the Courts are—

(i) The existence of a debt

(ii) The period of repayment, a short period being indicative of a sale and a long period of a mortgage.

(iii) The continuance of the mortgagor in possession indicates a mortgage.

(iv) The price below a true value indicates a mortgage.

In applying these tests, the Courts put the onus on the party alleging that an ostensible sale-deed was a mortgage, and in a case of ambiguity, lean to the construction of a mortgage.

5. *Is oral evidence of intention admissible* ?

1. Before the Indian Evidence Act was passed, oral evidence and other instruments were freely admitted to prove this intention. But this practice was condemned by the Privy Council.

2. After the passing of the Indian Evidence Act, the question was governed by Section 92.

3. Section 92 excludes oral evidence to contradict a written document. The Indian Courts, never the less, on the authority of *Lincoln* vs. *Wright (1859) 4 DeG.& J. 16* admitted evidence of acts and conduct of parties to show, that a deed which purported to be an absolute conveyance was intended to operate as a mortgage.

4. In 1899, the Privy Council definitely ruled in *Balkishen v/s. Legge= 22 All. 149 =27 I. A. 58.* that the rule in *Lincoln* vs. *Wright* had no application in India.

5. The result is that, the Courts are definitely limited to the document itself in order to ascertain the intention of the parties.

The question is not what the parties meant, but what is the meaning of the words they used.

Importance of the Proviso.

1. The condition must be embodied in the same document.

Points to be noted.

1. Only means that in determining the question if the condition is contained in another document Court cannot take into consideration in determining intention.

2. But, even if, it was contained in the same document, it is necessarily a mortgage by conditional sale and not a sale with the condition of repurchase.

3. The question of construction still remains.

(iii) Usufructuary Mortgage

1. CHARACTERISTICS.

(i) Delivery of possession or undertaking to deliver possession.

(ii) Authority to retain such possession until payment of mortgage-money.

(iii) Authority to receive the rents and profits and to appropriate the same in liue of interest or in payment of the mortgage-money.

NOTE.—There is no personal obligation to pay.

(iv) English Mortgage

I. CHARACTERISTICS

(i) There is a personal obligation to repay by the mortgagor on a certain day.

(ii) The transfer of the mortgagee is *absolute*.

(iii) The transfer is subject to the proviso that the mortgagee shall reconvey the property on payment.

II. This closely resembles the conditional mortgage.

Difference.

(i) In the English Mortgage the sale is absolute while in the mortgage by conditional sale the sale is *ostensible*.

Query. How can it be a mortgage if the sale is absolute? This seems to conflict with the definition of mortgage which is transfer of an interest.

Difference in practice merely means this: that in English Mortgage, the mortgagee is entitled to immediate possession, While in the case of a mortgage by conditional sale, the right to possession depends upon the terms of the mortgage.

(2) In English Mortgage, there is a personal obligation to pay. In a conditional mortgage, there is no such right.

REQUISITES OF A MORTGAGE BY DEPOSIT OF TITLE DEEDS.

I. *Debt*.

1. A debt has been defined as a sum of money due now even though payable in the future, and recoverable by action—(*1922*) *2 K. B. 599 (617)*.

> NOTE.—As to difference between a debt due by statute and debt due by contract—(1922) 2 K. B, 37. There is no necessity of a promise to pay in order to render the money recoverable when the debt is a statutory debt.

2. The debt may be an existing debt or a future debt. The deposit may be to cover a present as well as future advances—*50 I. A. 283 ; 17 All. 252 ; 17 All. 252* ; *25 Cal. 611*.

3. The debt may be a general balance that might be due on an account.

2 Mad. 239 P. C.

II. DEPOSIT OF TITLE DEEDS.

(i) Title deeds

1. It has been held in England that it is sufficient if the deeds deposited *bona fide* relate to the property or are *material evidence of title,* and that, it is not necessary that all the deeds should be deposited. *(1872) 8 Ch. App. 155*.

2. These cases have been followed in India.

59 Cal. 781.

3. But Page *c.f.* in *11 Rang 239* F. B. held that the documents must not only relate to the property but must also be such as to show a *prima facie* or apparent title in the depositor.

4. If the documents show no kind of title, no mortgage is created—Tax receipt—Plan—not documents of title.

5. If the deeds are lost, copies may be deposited.

(ii) If the deeds are already deposited by way of mortgage, they can, by oral agreement, be made a security for further advance. It is not necessary that they should be handed back and redeposited.

17 All. 252.

25 Cal. 611.

III. Intention.

1. The intention that the title-deeds shall be the security for the debt is the essence of the transaction.

2. Mere possession is not enough without evidence as to the manner in which the possession originated so that a contract may be inferred.

23 I.A. 106; 38 Bom. 372.

1 Rang. 545.

3. If it is in contemplation of the parties to have a legal mortgage prepared and if the title-deeds are deposited for that purpose *only,* the deposit does not create an equitable mortgage.

4. But although the deposit is for the purpose of the preparations of a legal mortgage, there may also be an intention to give an immediate security, in which case the deposit creates an equitable mortgage.

5. The question is whether mere possession *coupled with debt* does not raise an inference that it is a mortgage ? There is a difference of opinion but the better opinion seems to be as between creditor and debtor possession coupled with debt raises a presumption in favour of a mortgage.

IV. Territorial Restrictions.

1. This kind of equitable mortgages can be created only in certain towns.

2. The question is, to what does the restriction refer ? Does it to the place where the deeds are delivered ? or does not refer to the place where the property mortgaged is situated ? It is held that the restriction refers to the place where the deeds are delivered and not to the situation of the property mortgaged.

Cases. 14 All. 238.
23 I. A. 106.

It is not necessary for the property to be situated in the towns mentioned.

(vi) Anomalous Mortgages

1. Any mortgage, other than those specified, is called an anomalous mortgage. It is a mortgage which does not fall within any of the other five classes enumerated.

2. Anomalous mortgages take innumerable forms moulded either by custom or the caprice of the creditor—some are combinations of the simple forms—others are customary mortgages prevalent in particular districts, and to these special incidents are attached by local usage.

What is it that distinguishes different kinds of mortgage.

It is the nature of the right transferred which distinguishes the mortgage.

(1) In a simple mortgage, what is transferred is a power of sale which is one of the component rights that make up the aggregate of ownership.

(2) In a usufructuary mortgage, what is transferred is a right of possession and enjoyment of the usufruct.

(3) In a conditional mortgage and in an English mortgage, the right transferred is a right of ownership subject to a condition.

(4) In a simple mortgage and English mortgage, there is a personal obligation to pay.

(5) In an usufructuary mortgage and mortgage by conditional sale, there is no personal obligation to pay.

What is it that is common to all mortgages.

1. A mortgage is a transfer of an interest in specific immoveable property as security for the repayment of a debt.

2. The existence of a debt is therefore a common characteristic.

3. It is said that this cannot be so because in a conditional mortgage or in an usufructuary mortgage there is no personal covenant to pay.

4. The reply to this is, a debt does not cease to be a debt. The remedy of an action for debt does not exist. The remedies for the recovery of debt may differ without the transaction ceasing to be a transaction for debt.

An ordinary mortgage of land may be viewed in two different aspects :

(1) Regarded as a promise by the debtor to repay the loan, it is a contract creating a personal obligation.

(2) It is also a conveyance, because it passes to the creditor a real right in the property pledged to him.

Out of this double aspect, many questions arise.

Q. I.—By what law the validity of a mortgage of land situated abroad should be governed ?

It is now settled that it is governed by the law of *situs,* and no distinction is recognized between an actual transfer and a mere executory contract.

Q. II.—What is the *situs* of the secured debt—Is the debt to be regarded as situated in the country where the debtor resides, or where the land on which it is secured is situated ?

The Privy Council says "It is idle to say that a debt covered by a security is in the same position with one depending solely on the personal obligation of the debtor".

III

REQUISITES OF A VALID MORTGAGE

This requires the consideration of the following topics:

I. Formalities with which a mortgage must be executed.

II. The proper subject-matters of a mortgage.

III. The capacity to give and to accept a mortgage.

IV. Contents of a mortgage-deed.

I FORMALITIES WITH WHICH IT MUST BE EXECUTED

Section 59.—

1. Except in the case of mortgage by a deposit of title-deeds, every mortgage created securing the repayment of Rs. 100 or more as principal money must, under the T. P. Act, be effected by a regisered instrument, signed by the mortgagor and attested by at least two witnesses.

2. Where the principal money is less than Rs. 100, a mortgage may be created either by such an instrument or except in the case of simple mortgage by delivery of possession of the mortgaged property.

3. If the principal is above Rs. 100, the transaction of mortgage must be in writing i.e. it must be by a deed and the deed must be :—

(1) Signed by the mortgagor.

(2) Attested by at least two witnesses.

(3) Registered.

4. If it is less than Rs. 100 no writing is necessary. Parol agreement is enough in the case of ;—

(1) Simple mortgage.

(2) Conditional mortgage.

(3) English mortgage.

(4) Usufructuary mortgage.

Parol agreement plus transfer of possession.

5. We have only to consider mortgages where the principal is above Rs. 100.

(1) § SIGNATURE

General Clauses Act 1897. Section 3 (52).

1. The signature may be made by means of types or by a facsimile. *25 Cal. 911.* Such person having a name stamp used by servant.

2. It may be the mark of an illiterate person.
   41 Bom. 384 mark of a dagger.

3. But a literate person cannot sign by making a mark.

Confession not signed the accused was literate. *32 Cal. 550.*

Signature includes a mark in the case of a person unable to write his name.

(2) § ATTESTATION

1. *Attestation.*—To attest means to bear witness to, affirm the truth or genuineness of, to testify, certify. *Attestation* means the verification of the execution of a deed or will by the signature in the presence of witnesses. Attesting witness is a witness who signs in verification.

2. That being so question is, must the attesting witness be present at the execution of the instrument or a mere acknowledgement of execution by the mortgagor to a witness who afterwards subscribes his name is enough to satisfy the requirements of law in respect of attestation ?

3. The Privy Council has laid down that the attesting witness ought to be present at the execution of the instrument and a mere acknowledgement will not suffice.

39 I.A. 218; 35 Mad. 607 which overrule the Allahabad and Bombay decisions to the contrary—*27 Bom. 91 and 26 All. 69.*

§ ATTESTATION OF PARDANASHINS.

4. The same rule was applied. The signature of the Pardanashin lady must be in the presence of the witness otherwise he cannot be said to be an attesting witness.

Case Law.

45 I.A. 94.

A mortgage-deed for over Rs. 100 purported to be signed by a Pardanashin lady on behalf of her son, a minor and to be attested by two witnesses. It appeared from the evidence that the lady was behind the parda when the deed was taken to her for signature. The witnesses did not see her sign it, but her son came from behind the parda and told them that it had been signed by his mother ; they thereupon added their signatures as witnesses:—

Held that the deed was not "attested" within the meaning of section 59 of the T. P. Act.

42 I.A. 163

A mortgage-deed purported to be executed by two pardanashin ladies. It appeared from the evidence of two of the attesting witnesses that they saw the hand of each executant when she signed the deed, and that although they could not see the faces of the executants, they heard them speak and recognized their voices:—

Held that the deed was duly attested in accordance with the T. P. Act.

5. The Law is now changed and attestation on acknowledgement of his signature by the executant is good—See Definition *Attested* in section 3, T. P. Act as amended in 1926.

(3) § REGISTERED

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* * *

(Earlier portion not found—ed.) to operate immediately, it is not necessary that there should be a formal delivery or even that the document should go out of the possession of the party who executes it.

illus.—Exton vs. *Scott.* (1833) 6 Simons 31.

A certain person having received moneys belonging to another without any communication with him executed in his favour

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a mortgage for the amount. The mortgagor retained the deed in his custody for several years and then died an insolvent. After his death the document was discovered in a chest containing his title-deed. It was contended that there was no binding mortgage, because there had been no delivery of the deed. But the contention is overruled, on the ground that there was no evidence to show that the deed was not intended to operate from the moment of its execution.

6. There seems to be an idea that if the deed is delivered to the other party, it must have immediate operation and *cannot* in point of law be delayed in its operation. But it is now established that evidence is admissible to show the character in which the deed is delivered to a person though he is himself a party taking under it and not a stranger. (1897) 2 Ch. 608.

7. Where an instrument is to come into operation, not immediately, but only upon the performance of some condition, it is known as an escrow which simply means a scrawl, or writing, that is not to take effect till a condition precedent is performed.

8. Mere execution is not enough. There must be intention to give it immediate effect. Delivery means an intention to give immediate effect. That intention is independent of the process of delivery or non-delivery.

9. Where a document intended to be executed by one or some only and others refuse to complete it the question whether it is binding on those who have executed it, is one of the intention of the parties to be gathered from the facts of each.

§ MATERIAL ALTERATION IN A DEED—EFFECT OF

1. A material alteration in a deed made *without* the consent of the mortgagor and with the privity and knowledge of the person who relies upon it, would altogether destroy the efficacy of the deed.

2. If blanks are left to be filled up with merely formal matters the mortgagee may fill them up without imperilling his rights.

(1905) 2 Ch. 455.

3. The question what constitutes a material alteration within the meaning of the rule has given rise to some difference of opinion.

10 C. W. N. 788 (of Mukerji J.)

Any change in an instrument which causes it to speak a different language in legal effect from that which it originally spoke, which changes the legal identity or character of the instrument either in its terms or the relation of the parties to it, is a material change, or technically, *an alteration,* and such a change will invalidate the instrument against all parties not consenting to the change.

An addition of a party to a contract constitutes a material alteration.

§ IMPORTANCE OF THE THREE FORMALITIES

1. The absence of any of three formalities is fatal to the validity of the transaction. The word is *only*.

2. Not only the formalities must exist but they must be valid, i. e., in accordance with law.

3. Not only must there be signature but the signature must be valid.

4. Not only must there be attestation but the attestation must be valid. If attestation is invalid, the deed cannot operate as a mortgage—e.g. attestation without the presence or acknowledgement by the executor.

5. Not only must there be registration but the registration must be valid. Thus

(i) If the property is so incorrectly described that it cannot be identified—*18 Cal. 556*

4.B.

(ii) When the deed is registered in a circle in which the property is not situate.

29 Cal 654.

(iii) Where the deed is not presented for registration by the proper person the mortgage is invalid.

58 I. A. 58

Two other questions have to be considered in connection with the subject-matter of Formalities.

1 IS EXECUTION OF THE DEED ENOUGH TO GIVE EFFECT TO THE MORTGAGE ?

1. It is hardly necessary to state that the mere execution of a deed is not enough if it is not intended to operate as a binding agreement.

2. This is expressed in English Law by the formula that a deed must be delivered.

3. This may not be clear unless one understands what meant by 'delivered'. There is nothing mysterious about the delivery of a deed which does not represent any technical process, but only indicates that the instrument is to come into immediate operation.

4. Shephard in his *Touchstone* speaks of *delivery* as one of the requisites of a good deed and adds that it is a question of fact for the jury.

CASE LAW

I. Suit against Secretary of State

(1906) 1 K. B. 613 ; 5 Luc. 157; 37 Mad. 55.

II. Position of the Crown

1920 A.C. 508 ;1932 A. C.28 ; 1929 A. C.285 ; 8 App. cases 767 ; 8 M.I.A. 500 ; 1903 App. cases 501.

III. Paramountcy

(1792) 2 Ves. 60 ; 13 M. P. C. C. 22 ; (1906) 1 K. B. 613.

British India = Section 3(17) General Clauses Act, 1897. Whole of British India = includes the Scheduled Districts. 52 Mad. 1.

Any newly acquired territory becomes an annexation part of British *India—Onsley* vs. *Plowden (1856—59) 1 Bom. 145.*

But it retains its laws until altered by the Crown or Legislature. *19 Bom. 680 (686) following 1 M. I. A. 175/271.*

Acts such as Stamp Act passed by the Indian Legislature have been extended to many places which though outside British India are under British Administration (e. g. Bangalore, Hyderabad assigned districts: Baroda cantonment: Mount Abu, etc.) by

notifications under Sections 4 and 5 of the Foreign Jurisdiction and Extradition Act, 1879, and the Indian (Foreign Jurisdiction) Order in Council, 1902.

§ CAPACITY TO GIVE OR TAKE A MORTGAGE

1. A mortgage is a *transfer of property* and also a contract. It must therefore satisfy the requirements as to capacity laid down for a valid transfer of property and for a valid contract.

§ REQUIREMENTS AS TO CAPACITY FOR A VALID TRANSFER OF PROPERTY

1. Transfer of property means an act by which a living person conveys property to one or more other living persons or to himself or to himself and one or more other living persons—Section 5.

2. A mortgage being an act of transfer of property, the parties to an act must be living persons.

3. When it is said that both persons must be living it is obvious that the intention is to make two distinctions :—

(i) Between a transfer *inter vivos* and a will.

(ii) Between a transfer and the creation of an interest (Sections 13,14, 16 and 20).

4. A will operates from the *death* of the testator. A mortgage therefore cannot be created by a will. It must be created *inter vivos*. A will does not operate as a transaction between two living persons.

5. A mortgage is a transfer of an interest. Sections 13, 14, 16—20 permit that an interest may be created in favour of a person not in existence at the date of transfer. But a mortgage is not the creation of an interest, but it is the *transfer* of an interest.

§ Living.

1. What is the meaning of the word *Living* ? Does it mean one who has not suffered natural death or does it mean that a person has not suffered civil death ? There may be no natural death although there may be civil death.

Illus.

Sannyasi—Buddhist.

Where a person enters into a religious order renouncing all worldly affairs, his action is tantamount to civil death.

Illus.

Sannyasi—*Mulla.p. 113.*

Buddhist Monk—*7. Rang. 677.I. B.*

2. A person who is civilly dead is not dead for the purpose of the T. P. Act.

3. *Living* as defined in explanation 3 to Section 299, I. P. C. would indicate that some part of its body must have been brought forth. But under the Hindu Law a son conceived is equal to son born—*Mulla p. 319.* A person may be living for the purpose of the Hindu Law and may not be for the purpose of T. P. Act.

*16 Mad. 76 ; 37 All 162 ; 58 Mad. 886.**

4. Another case of a person in a like position is that of a convict. A convict under the English Law, since he cannot enter into a contract or dispose of property, has no power to lend or borrow money on mortgage ; but the administrator of a convict may mortgage any part of the convict's property.

A convict is defined in Section 6 of the Forfeiture Act *33 and 34 Vict. Ch. 23, 1870* : to mean any person against whom judgment of death, or of penal servitude, shall have been pronounced or recorded by any Court of competent jurisdiction in England, Wales or Ireland upon any charge of treason or felony.

5. What about the position of a convict in India.

* (Page left blank in the Ms—ed.)

* Even under English Law a child *enventre* son mere is deemed to be a living person. Cases referred to in 58 Mad. 886.

(1903) 2 Ch. 411

(1909) 1 K. B. 178

(1907) 2 K. B, 422

(1926) 96 L.I.K.B. 250.

Contra. *10 Lah. 713.*

§ PERSON

1. The word "person" according to the General Clauses Act includes any company or association or body of individuals whether incorporated or not.

2. That the word person includes a "juristic person" such as a corporation was a long established view. But it is now made clear by a special proviso which was added to Section 5 of the T. P. Act in 1929.

3. A corporation, which has power to acquire and hold land has also impliedly power to mortgage it for purposes of carrying out the object for which it was created. The powers of statutory corporations are generally speaking regulated by the act of incorporation, but where borrowing is necessary for the purposes of the corporation, it is not forbidden by the T. P. Act because it is a "person".

4. By Hindu Law an *Idol* is recognized as a juristic person capable of holding property.

31 I. A. 203.

But the possession and management of the property of the *idol* are vested in the Sebait. But as the ownership belonged to the idol and as the idol is a juristic person and therefore a living person, it can be a party to the mortgage.

§ REQUIREMENTS AS TO CAPACITY FOR CONTRACT

1. This is dealt with in Section 7. Two things are necessary under Section 7.

(i) Person must be competent to contract,

(ii) Person must be entitled to transferable property or authorized to dispose of transferable property.

(i) § COMPETENT TO CONTRACT

1. Section 4 says that the Chapters and Sections of the T. P. Act which relate to contracts shall be taken as part of the Indian Contract Act.

2. Competency to contract must therefore mean competency in accordance with the Contract Act.

Section 11, Every person is competent to contract who is of the age of majority according to the law to which he is subject, and

who is of sound mind and is not disqualified from contracting by any law to which he is subject.

3. Disqualification of an Insolvent.

A word may be said as to the capacity of an Insolvent to deal with any property subsequently acquired by him. Now it is settled Law that an insolvent, who has not received his final discharge, cannot create a mortgage on immoveable property acquired by him. *17 Mad. 21* (But *See 8 Cal. 556).*

§ ENTITLED

1. The question is whether *entitled* means entitled as a full owner or as a limited owner.

2. That a full owner has the capacity to mortgage is obvious. The question is whether a limited owner has the capacity to mortgage ?

3. Person holding property on trust for sale without express power to mortgage.

It may be laid down generally that a trust for sale containing a direction for absolute conversion does not authorize a mortgage.

4. *Partner*—can mortgage partnership property to secure partnership debt.

5. An executor or administrator under the Indian Succession Act is competent to transfer.

6. Hindu widow, a Member of a joint family and the Karta of a joint family, the Trustees of Hindu Religious Endowments.

7. The last two having their *power* and *necessity*.

§ TRANSFERABLE PROPERTY

1. The person whether he is a full owner or limited owner, the subject-matter must be transferable property.

2. What is transferable property ?

(i) Section 6 says—Property of any kind may be transferred, except as otherwise provided by this Act or by any other law. Every kind of property is transferable unless its transfer is prohibited by Law.

(ii) The exceptions fall under two heads

(a) Merely personal rights cannot be transferred.

(b) An interest in property restricted in its enjoyment to the owner personally cannot be transferred.

3. This shows that there may be a mortgage of moveable property. The T. P. Act does not deal with it because the contract deals with it as a pledge. It does not prohibit.

§ THE CONTENTS OF A MORTGAGE-DEED

It is desirable that the mortgage-deed should specify certain particulars.

1. The debt or engagement, which is the subject-matter of the security, should be specified in the deed, otherwise the mortgagor may substitute one debt for another.

2. The time for the payment or performance must be specified in the deed. A stipulation that whole will be payable on payment of instalment

3. The deed should also contain a covenant to pay because there are various kinds of mortgages in which no debt is implied.

4. The property which is given in mortgage should be sufficiently described. It is true, extrinsic evidence is always admissible for the purpose of identifying any property, where the description is either indefinite or even actually misleading.

Q.—Whether a mortgage can be created on a person's property, if such property is not specifically described ? Whether a general mortgage is valid ?

Q.—Whether a general pledge of all the property that the debtor then has, without any further distinction, can create a mortgage under our Law.

1. Distinction must be made between an instrument which contains sufficiently apt words to create a security and the one in which the debtor merely agrees that, if the money is not repaid, the obligee would be at liberty to recover the debt from the whole of the debtor's property.

In the latter case, if they *stand alone,* merely give the obligee the ordinary right of a creditor to levy execution on the property of his debtor and do not create any pledge.

Supposing the case to fall under the first head, is such hypothecation good to create a mortgage.

In India, the validity of such securities has been questioned on the ground that a general hypothecation is too indefinite to be acted upon.

(1) It is said that such hypothecations sin against the canon that a contract form must be definite and reliance is placed upon Section 29 of the Contract Act and Section 93 of the Evidence Act.

(2) Vagueness is a misleading term. It may mean (1) either that the language is so indistinct that it cannot be understood or (2) that the property to which it relates is not specified in the contract.

(3) Indefiniteness is, however, frequency confounded with what has been called wideness.

The subject-matter of a contract may be *wide and yet definite*. On the other hand it may be narrow and yet indefinite.

If a man says "I mortgage all my landed property", it is wide but definite.

If a man, who has several houses, says 'I mortgage one of my houses', the description is not wide but is still indefinite.

(4) The word 'specific' in the T. P. Act is used to distinguish it from general and unless the property is specified in the deed, there can be no mortgage in Law.

(5) The property must be specified although the Law does not say that it must be specified in any particular way.

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SECTION II

THE RIGHTS AND LIABILITIES OF THE MORTGAGE

INTRODUCTION

1. The property which is the subject-matter of the mortgage is subject to the rights of the mortgagor and the mortgagee.

2. There are two questions to be considered—

(i) What are the rights of the mortgagor and mortgagee ?

(ii) What is the *nature* of those rights ?

§ What is the nature of the rights

1. The English Law divides :—the interests of the mortgagor is spoken of as an equitable estate, while the interests of the mortgagee is spoken of as a legal estate. The Indian Law does not recognize this distinction between legal and equitable estate.

(1872) I.A. Supp. 47 (71).

30 I.A. 238.

2. Even under the Trust Act this distinction is not recognized.

58 I. A. 279.

3. Both have legal rights—there is nothing equitable as opposed to legal.

II. Under the English Law mortgagee is owner while the mortgagor has a bare right of reconveyance.

1. Under the Indian Law it is just the reverse. The mortgagor is the owner and the mortgagee has only a right in re *abena.*

Rights of the Mortgagor

1. The Rights of the mortgagor fall into three divisions—

I. The Right to redeem.

II. The Right to manage the property.

III. The Right to obtain re-transfer.

§ Right to redeem

Section 60

1. The right to redeem entitles the mortgagor to require the mortgagee to do three things—

(i) To deliver to the mortgagor the mortgage-deed.

(ii) To deliver possession if the mortgagee is in possession.

(iii) To have executed and registered an acknowledgement in writing that the right (is redeemed)*

2. This right to redeem he can exercise on the following conditions:—

(i) On payment or tender of the mortgage money.

(ii) At any time *after* the principal money has become *due*.

(iii) If the right to redeem is not extinguished by act of parties or by decree of a Court

(iv) If the mortgagor is prepared to redeem the whole.

I. Right to Redeem

1. The section is not prefaced by any such words as in the absence of a contract to the contrary.

2. The right of redemption is therefore a statutory right which cannot be fettered by any condition which impedes or prevents redemption.

49 I.A. 60.

3. Any such condition is void as a clog on redemption.

II. Clog on redemption—Any provision inserted in the mortgage transaction to prevent redemption by a mortgagor is void :

(1) The principle underlying the rule against clog is that, mortgage is a conveyance as a security for the payment of a debt. Nothing ought to prevent a man from getting back his *security*.

(2) There is a difference between *sale* and *security*. If sale, there is no right to get back property. If security, there is a right to get back property.

(3) This right cannot be taken away by a contract. If it does, it will be treated as a clog and will not be enforced.

* inserted—ed.

III. INSTANCES OF CLOG ON REDEMPTION

I. The following clauses are clogs on Redemption :—

(1) Redeem during the life of the mortgagor.

(2) Redeem with his own money—not from any other person.

(3) Redeem by payment on due debt or the mortgage will become sale.

(4) Redeem on condition that mortgagor shall grant permanent lease to the mortgagee.

II. The following clauses are not deemed to be clogs on Redemption:—

(1) Not to redeem unless prior mortgages are redeemed.

(2) Not to redeem an usufructuary mortgage until after the expiry of 15 years.

(3) Postponement of the right to take possession after redemption for a reasonable and necessary period.

III. No hard and fast rule as to what is a clog and what is not:—

(1) The mere fact that the terms of a mortgage are hard, does not make the clause a clog.

(2) The test is whether it hampers the mortgagor in the exercise of his right to redeem in such a way as to place the right to redeem beyond his reach.

(3) If the clause is a clog, then it will not be enforced, even though it may be contained in a consent decree. The right to redeem cannot be said to have been waived by consent.

IV. The doctrine of clog on redemption relates only to the dealings which take place between the parties to the mortgage at *the time* when the contract of mortgage has been entered into. It does not apply to a contract made subsequently with each other.

1. That means that parties are not free at the time when the contract of mortgage is made to take away the right of the mortgagor to redeem.

2. But they are at liberty subsequently to alter the terms of the contract of mortgage and any clause which fetters the right to redeem will not be treated as a clog.

V. *Due.*

1. Must be distinguished from payable. Money may be payable but not due.

2. Due = demandable.

3. If it is not paid on due date, the right to redemption is not lost. Mortgage remains a mortgage—only it can be exercised.

VI. Payment.

(i) Payment must be to *all* if there are more than one mortgagee.

(ii) Mode of payment—legal tender or any other medium acceptable to the creditor,

(iii) Place of payment—(Page left blank in Ms—ed.)

Redemption and Improvements

Section 63 A.

1. The mortgagor on redemption is entitled to improvements in the absence of a contract to the contrary.

2. The mortgagor shall be liable to pay the cost of improvements if the improvement was—

(i) necessary to preserve the property from destination.

(ii) necessary to prevent security from being insufficient.

(iii) made in compliance with lawful order of a public authority.

3. This also is subject to a contract to the contrary.

4. Section 63 A lays down the general rule that ordinarily a mortgagee is not at liberty to effect improvements and charge the mortgagor therewith. The object of the law is to prevent a mortgagee from laying out large sums of money and thereby increasing his debt to such an extent as to cripple the power of redemption. The mortgagee cannot be allowed to make redemption impossible by making improvements—This is called improving a mortgagor out of his estate.

5. The mere *consent* of the mortgagor to improvements is not enough to make him liable, unless it amounts to a promise to re-imburse.

Right of Redemption and the benefit of the renewal of a lease

Section 64

The renewal of a lease is a kind of an accession to the original interest of the mortgagor.

1. If the mortgagee obtains a renewal of the lease, the mortgagor is entitled to the benefit of the renewed lease on redemption.

2. This is subject to a contract to the contrary.

Right of the Mortgagor to manage

Section 66

1. As long as the mortgagor remains in possession, he is at liberty to exercise the ordinary rights of property and to receive the rents and profits without accounting for them.

2. Question is whether the mortgagor is liable for waste ?

3. This is a Section which deals with the doctrine of waste. Waste is either voluntary or permissive. *Voluntary waste* implies the doing of some act which tends to the destruction of the premises, as by pulling down houses, or removing fixtures; or to the changing of their nature as the conversion of pasture land into arable or pulling down buildings.

Permissive Waste implies an omission whereby damage result to the premises, where for instance houses are suffered to fall into decay.

To constitute voluntary waste by destruction of the premises, the destruction must be wilful or negligent; it is not waste if the premises are destroyed in the course of reasonable user and any user is reasonable if it is for the purposes for which it is intended to be used, and if the mode and extent of the user is apparently proper, having regard to the nature of the property and what the tenant knows of it.

4. According to Section 66 the mortgagor is not liable for permissive waste. He is liable for voluntary waste which renders the security insufficient.

5. A security is insufficient if the value is less than 1/3 of the money due and less than 1/2 if the security is buildings.

For Section 65 A.—Please see page No. 523

Liabilities of the mortgagor

Section 65.

1. The liabilities consists of certain statutory covenants.

2. They are warranties for the breach of which the mortgagor is liable.

I. GENERALLY—

(a) *Covenant for title.*

(i) There is a title in the mortgagor in the interest transferred.

(ii) That he had the right to transfer.

Substituted Security

Where the owner of an undivided share in a joint and undivided estate mortgages his undivided share, the person who takes the security i.e. the mortgagee takes it subject to the right of these co-sharers to enforce a partition and thereby convert what is an undivided share of the whole into a defined portion held in severally—*11. A. 106.* After partition the security will be the separate share allotted in place of the undivided share. Proceed against the share allotted and not against share originally mortgaged.

* * *

(a) Covenant to deferred title.

(b) Covenant to pay public dues—if the mortgagee is not in possession.

(c) Covenant to pay prior incumbrance (debt) on its being due.

II. WHEN THE MORTGAGED PROPERTY IS LEASEHOLD.

(i) Covenant that all conditions have been performed down to the commencement of the mortgage.

(ii) Covenant to pay rent reserved by the lease if the mortgagee is not in possession.

(iii) Covenant to perform all the conditions if the lease is renewed.

These covenants are not personal covenants. They run with the mortgaged property and can be availed of by a transferee from the mortgagee.

* * *

Rights of the Mortgagee

1. They fall into two divisions—

(1) Right to realize the mortgage money.

(2) Right to have the security maintained in tact during the continuance of the mortgage.

I. RIGHT TO REALIZE THE MORTGAGE MONEY.

1. Under this fall the following rights—

(1) Right to foreclose 67.

(2) Right to sell 67/69.

(3) Right to sue for mortgage money 68.

(4) Right to claim money on sale and acquisition 73.

2. A suit to obtain a decree that a mortgagor shall be absolutely debarred of his right to redeem the mortgaged property is a suit for foreclosure.

NOTE.—

1. Mortgage money does not mean the whole of the mortgage money. If a mortgage is payable by instalments, it is open to the mortgagee to bring a suit for foreclosure for an instalment of the principal and interest. *13 M.L.I.2.*

2. In the absence of an express stipulation, a mortgagee is not bound to receive payment by instalments—*24 All. 461.*

3. A suit for interest is maintainable even before the principal money became due unless there is a covenant prohibiting him from doing so.

4. The three rights are not available to every mortgagee.

I. THE RIGHT TO SUE FOR MONEY.

Section 68.

This is available only where the mortgagor binds himself to repay the same.

Question.—When can it be said that a mortgagor *personally* binds himself to pay ?

There are two views on the matter.

(a) A personal covenant is presumed in all mortgages of whatever form. According to this view, the only difference that can arise is that the Court might in the absence of an express covenant, demand more clearly implied covenants than it might require in other case—*13 Lah. 259.*

(b) The other view is that a covenant can arise only where there is an express covenant the words are *binds* himself. This clause would be unnecessary if personal covenant was implied in all cases.

By definition

Section 58.

1. The mortgagor in a simple mortgage *binds* himself to repay the money.

2. In a mortgage by conditional sale, he says that "if he pays he will recover his property".

3. In a usufructuary mortgage he does not even make this qualified covenant. It is therefore clear that a mortgagor can sue for a money decree in the case of a simple mortgage but not in the case of other kinds of mortgages unless there is an express covenant to that effect.

Exceptions.

The mortgagor can sue for a money decree from the mortgagor. But he cannot sue for a money decree from a transferee from the mortgagor or from his legal representative.—

Other cases in which he can sue for a money decree.

Generally a mortgagee can sue for a money decree when there is a personal covenant by the mortgagor to pay.

2. There are cases where a mortgagee can sue although there is no personal covenant to pay—

Section 68.

(i) Where by accidental causes, not due to the act of either party such as fire, flood or *vis major* the property is destroyed, wholly or partly, or is rendered insufficient and the mortgagor on being given an opportunity fails to give further security.

(ii) Where the mortgagee is deprived of the whole or part of his security by the wrongful conduct of the mortgagor.

(iii) Where the mortgagee being entitled to possession, the mortgagor fails to deliver possession or fails to secure the mortgagee in his possession.

Right to sell

1. This right belongs only to—

(i) Simple mortgagee.

(ii) English mortgagee.

(iii) Equitable mortgagee.

2. They cannot sue to obtain possession. They can only sue for sale. If the Court erroneously gives him possession, that possession does not amount to foreclosure and the mortgagor can subsequently redeem the mortgage.

19 Mad. 249 (252-53) P. C.

CONDITIONS FOR THE EXERCISE OF THE RIGHT OF SALE AND FORECLOSURE.

1. After the mortgage-money has become due and before decree for redemption is made.

2. Suit must be for the whole of the mortgage-money. There cannot be a suit for the realization of a part of the mortgage-money by sale or foreclosure of a part of the mortgage property.

Exception.—If there is a severence of the interests of the mortgagee with the consent of the mortgagor, a suit for a part may be brought by the mortgagee.

Section 67 A.

3. A mortgagee who holds *many* mortgages against the same mortgagor must bring *one* suit on those mortgages in respect of which—

(i) A right to sue has accrued to him and

(ii) In respect of which he has a right to obtain the same kind of decree.

Section 65 A.

4. If the mortgagor could not only manage the property but, if he is *lawfully* in possession of the mortgaged property, he shall have the power to make leases thereof which would be binding upon the mortgagee.

5. After the mortgage this power of the mortgagor to deal with the property is limitted. He has not anything like general authority.

6. The power to lease is circumscribed by certain condition.

(i) He may lease it in accordance with local law, custom or usage.

(ii) Every lease shall reserve lest rent can reasonably be obtained—rent shall not be paid in advance.

(iii) The lease must not contain a convenant for renewal.

(iv) Lease shall take effect from a date not later than 6 months from the date on which it was made.

(v) In the case of a lease of a building, the duration of the lease shall not exceed three years.

7. The general power of the lease is subject to a contract to the contrary. The other provisions are subject to variarions.

Right to foreclose. This right belongs to—

(1) Mortgagee by conditional sale.

(2) Mortgagee by anomalous mortgage by the terms of which he is entitled to foreclose.

Mortgagees who can neither sue for sale nor for foreclosure.

(1) Usufructuary mortgagee.

(2) Mortgagee of a Railway and canal or other work in the maintenance of which the public are interested.

Case of a mortgagor who may become a trustee or executor of the mortgagee or the mortgagee may become a trustee or executor of the mortgagor.

Can such a mortgagor or mortgagee foreclose sale ?

Sub-clause (b) of Section 67 provides for the case of a mortgagor who has become a trustee for the mortgagee. According to this clause a mortgagor trustee, who may sue for sale, is not allowed to foreclose.

In the other case the foreclosure is equally prohibited according to English practice on the principle that it is the duty of the trustee to consult the interests of the mortgagor and that it is for the mortgagor's interests that a sale and not foreclosure, should take place.

EXERCISE OF THE POWER OF SALE WITHOUT THE INTERVENTION OF THE COURT

1. As a rule, a mortgagee can bring the property to sale only through the Court.

2. Section 69 provides exceptions to this rule.

(i) Where the mortgage is an English mortgage and neither the mortgagor or the mortgagee is a Hindu, Mohamedan or Buddist or a member of a community notified in Gazette,

(ii) Where a power of sale is expressly given by the deed and the mortgagee is the S. of S.

(iii) Where a power of sale is expressly given by the deed and the property or any part of it was on the day of the execution of the deed situated in the towns of Bombay, etc.

Section 69 A.

3. The mortgagee who has the *power* (as distinguished from the right) to sell without the intervention of the Court is also entitled to appoint a receiver by writing signed by him or on his behalf.

4. The exercise of this power of sale or power of appointing a receiver is to notice to the mortgagor.

5. The notice must be in writing requiring payment of the principal money and default for three months.

Section 73.

I Mortgagee's Right to proceeds of sale

1. When property is sold for failure to pay arrears of revenue or other public charges and such failure is not due to default by the mortgagee, the mortgagee is entitled to claim the balance of the sale proceeds.

2. Similarly if he mortgage property is compulsorily acquired, the mortgagee shall be entitled to claim payment of the mortgage money out of the amount due to the mortgagor as compensation.

3. His claim shall prevail against all except those of the prior encumbrances.

4. The claim may be enforced although mortgage money has not become due.

II. Rights of the mortgagee to the maintenance of the Security in tact during the continuance of the mortgage.

I. Right to accession—Section 70.

II. Right to renewed lease—Section 71.

III. Right to preserve property—Section 72.

Section 70

1. § Right to accession.

1. The mortgagee is entitled to the accession for the purpose of his security *if* the accession is made after the date of the mortgage. *29 Cal. 803.* Where two mortgages were executed on a land on which there was a house and thereafter two new houses were built by the mortgagor on the land held that they were accessions on which a mortgagor could rely for security.

If the house was built *before* mortgage, he could not.

He could not if it was built after decree although the section does not say so.

This is subject to a contract to the contrary.

Section 71.

2. § Right to the benefit of a renewed lease.

He will be entitled to the benefit of the new lease for the purposes of his security.

This is subject to a contract to the contrary.

Section 72.

3. § Right to preserve the property.

1. A mortgagee may spend such money as is necessary—

(i) for the preservation of the mortagage property from destruction, forfeiture or sale.

(ii) for supporting the mortgagor's title to the property.

(iii) for making his own title thereto good against the mortgagor.

(iv) when the mortgaged property is a renewable leasehold, for the renewal of the lease.

(v) he may insure if the property is insurable and add the cost to the principal money.

Right of mortgage to Priority

I. Priority by time.

1. The general rule regarding priority in the matter of transfers of interests in immovable property is laid down in Section 48 of the T. P. Act.

2. The same rule applies to questions in regard to mortgages, so that priority of mortgages in India depends upon the respective dates of their creation, the earlier in date having precedence over the latter—*56 Cal. 868.*

3. Section 78 is an exception to this rule. It lays down that the Court would postpone the prior mortgagee to the subsequent mortgagee where the prior mortgagee has, through fraud, misrepresentation or gross neglect, induced the subsequent mortgagee to advance money on the security of the mortgaged property.

Misrepresentation:

1. Is defined in Section 18 of the Indian Contract Act.

2. It does not necessarily mean fraudulent misrepresentation.

Fraud

Gross Negligence.

There is a difference between English and Indian Law. According to English Law gross negligence means negligence *amounting to fraud.*

According to Indian Law gross negligence is different from fraud.

II. Priority by Payment.

Q.—Can a mortgagee acquire priority over an intermediate mortgagee by buying the rights of an earlier mortgagee ?

Section 93

1. A mortgagee cannot acquire priority over an intermediate mortgagee by paying off a prior mortgagee whether he pays with or without knowledge of the intermediate mortgagee.

2. A mortgagee making a subsequent advance to the mortgagor, shall not acquire priority in respect of such subsequent advance over an intermediate mortgagee, whether he makes the advance with or without the knowledge of the intermediate mortgagee.

Section 79

This Section forms an exception to the second rule laid down in Section 93.

Under Section 79. A subsequent mortgagee having notice of the prior mortgage is postponed in respect of any subsequent advance if the prior mortgage is made to secure future advances and the subsequent advance does not exceed the maximum.

Right of Mortgagee to Marshalling

Section 81.

Section 82.

Question of Marshalling

1. This arises when two or more properties are mortgaged to two *different* mortgagees in such a way that both properties are subject to the mortgage rights of one mortgagee while only one is subject to the mortgage rights of the other.

Illus.

A is the owner of two estates—Whiteacre and Blackacre. *A* mortgages Whiteacre and Blackacre to *B* and thereafter mortgages Blackacre to *C*.

The position that arises is this. *B* has a mortgage over Whiteacre as well as Blackacre. *C* has a mortgage over Blackacre only. From the standpoint of realizing the mortgage money *B* has a right to sell both Whiteacre as well as Blackacre. While C has a right to sell only Blackacre.

If *B* were allowed to exercise his rights as a mortgagee it would result in prejudice to the rights of *C*.

In order to protect *C* equity invented the doctrine of marshalling—under this equity compelled *B* to proceed first against that property which is not the subject-matter of security for the debt of another mortgagee. This is embodied in Section 81.

Note.—1. It is unnecessary for the mortgagee to have had no notice of the former mortgage in order that he may be able to claim the benefit of marshalling.

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8. LAW OF EVIDENCE

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LAW OF EVIDENCE

1. § Meaning of the word Evidence

Like most of the words used in the statutes the word has a popular as well as technical meaning.

Popular meaning

Evidence in its ordinary sense signifies that which makes apparent the truth of the matter in question.

4 Mad. 393.

Technical meaning

The word however is used in the Evidence Act in a technical sense.

Section 3 defines the sense in which the word evidence is used in the Evidence Act. According to that Section

Evidence means and includes :

(1) All Statements which the Court permits or requires to be made before it by witnesses in relation to matters of fact under enquiry;

(2) All documents produced for the inspection of the Court.

This definition of the term 'Evidence' is incomplete.

The depositions of witnesses and documents which only are included in the term evidence as defined by the section are the two principal means by which the materials upon which the judge has to adjudicate are brought before him. The examination of witnesses is generally indispensible and by means of it, all facts except the contents of documents may be proved (Sec. 59). For the proof a document as a statement made by the person by whom it purports or is alleged to have been made, oral Evidence is required. (Sec. 67-73).

As compared with the definition of the word "Proved" this definition of the word "Evidence" is narrow. According to the definition of the word "Proved",

"A fact is said to be proved when, after considering **the matters before it,** the Court believes it to exist . . . . . ."

The Expression **matters before it** is much wider than what the word Evidence is said to include.

Evidence does not include :

(1) Statement made by the parties and accused persons.

(2) demeanour of witnesses.

(3) Results of local inspection.

(4) Facts judicially noted.

(5) Any real and personal property, the inspection of which may be material in determining the question at issue such as weapons, tools or stolen property.

(6) Questions put to the accused by the Magistrate and the answers.

But all these are included in the expression "matters before it".

The point is that the definition of evidence is strictly applicable to matters dealt with in the Evidence Act. It does not apply to evidence as dealt with by other Acts.

2. § Genesis of the Indian Evidence Act.

1. The Law of Evidence in India is contained in Act I of 1872.

§ Diversity of the Law of Evidence

2. There were two sets of Courts in British India ever since 1773 when the Regulating Act was passed by Parliament with a view to control the administration by the East India Company of its Indian possessions. There were the Supreme Courts established by Royal Charter in the Presidency Towns of Bombay, Madras and Calcutta. In the Muffassils, there were Courts established by the East India Company, Civil and Criminal. The rules of Evidence followed by the Supreme Courts were different from the rules of evidence followed by the muffassil Courts.

3. The Supreme Courts followed such of the rules of evidence as were contained in the Common and Statute Law which prevailed in England before 1726 and which were introduced by the Charter of that year in India. Some others were rules to be found in subsequent statutes of Parliament expressly extended to India ; while others again, had no greater authority than that of use and custom.

4. For the Courts outside the Presidency Towns and not established by the Royal Charter no complete rules of Evidence were ever laid down or introduced by authority. Regulations made between 1793 and 1834 contained a few rules. Other were derived from a vague **customary law of evidence** partly drawn from the Hedya and **Mohomeden Law Officers.** Others were drawn from English text books.

§ Efforts towards Uniformity:

5. The first Act of the Governor General in Council which dealt with evidence, strictly called, was **Act X of 1835** which applied to all the Courts in British India and dealt with the proof of the Acts of the Governer General in Council.

This was followed by **eleven enactments passed at intervals** during the next twenty years, which effected various small amendments of the law of evidence and applied to the Courts in India several of the reforms in the law of Evidence made in England.

In 1855, Act II of 1855 was passed for the further improvement of the law of evidence which contained many provisions applicable to all the Courts in British India.

6. Notwithstanding this attempt at uniformity there continued to be a great deal of disparity between the rules of Evidence applicable in the Presidency Towns and those applicable in the Muffassil. This disparity continued to be the subject of frequent judicial comment.

To remedy this state of affairs, Act I of 1872 was passed.

§ Construction of the Act:

1. An Act may be (l) to *consolidate* or (2) to *amend* or (3) to *consolidate and to amend* or it may be to *define* i.e. to codify. The construction of an Act would differ according as it is a consolidating Act or a Codifying Act.

2. **Construction of a Codifying Act**: The rule of construction in regard to a Codifying Act is laid down in (1891) A. C. 107 (120).

Bank of England vs. *Vagliano.*

Lord Halsbury observed:

P.120.

> "I am wholly unable to adopt the view that where a statute is expressly said to Codify the law, you are at liberty to go outside the Code, so created, because before the existence of that code another law prevailed."

Lord Harschell observed:

P. 144

> "The proper cause is in the first instance to examine the language of the Statute and to ask what is its natural meaning, **uninfluenced by the considerations derived from the previous state of the law** and not to start with enquiring how the law previously stood and then assuming that it was probably intended to leave it unaltered, to see if the words will bear an interpretation in conformity with this view."

3. The object of codification of a particular branch of the law is that, on any point specifically dealt with by it, such law should be sought for in the codified enactment, and is ascertained by interpreting the language used.

4. **Construction of a Consolidating Act:** The rule of Construction in regard to a Consolidating Act is laid down in (1894) 2 Ch. 557.

Shitty J. (P. 561) observed after referring to the rule of construction laid down in *Bank of England* vs. *Vagliano* in regard to a codifying Act. in Lord Halsbury

> ". . . . . .But I have here to deal, not with an Act of Parliament codifying the law, but with an Act to amend and to consolidate the law and therefore it is I say these observations (of lord Halsbury) do not apply and I think it is legitimate in the interpretation of the section in this amending and consolidating Act to refer to the previous state of the law for the purpose of ascertaining the intention of the legislature."

5. The object of consolidation with or without amendment is merely to assemble together the scattered parts of the Existing law. It is merely a re-enactment of the old law. It is not a new enactment of the law. Prima facie the same effect ought to be given to its provisions as was given to those of the Acts for which it was substituted.

6. The Indian Evidence Act is as stated in the Preamble an Act to *Consolidate, define* and *amend* the law of evidence.

It is not a statute which merely consolidates and amends the evidence i.e. it codifies the law of evidence. Its constructions will be governed by the rule laid down in *Bank of England* vs. *Vagliano* and not by the rule laid down in it.

§ Scope and Extent of the Act

1. The scope of the Act is defined in *Section* 2. Under section 2 the law of evidence is contained:

(i) In the Evidence Act and

(ii) In other Acts or statutes which make specific provision on matters of evidence and which are not expressly repealed.

This Section in effect prohibits the employment of any kind of evidence not contained in the Act or any other statute or Regulation not expressly repealed.

Section 2:—The following laws shall be repealed.

(1) All rules of Evidence not contained in any Statute Act or Regulation in force.

(2) All such rules contained in Regulation as have acquired the force of law under Section 25 of the Indian Councils Act, 1861.

(3) Enactments mentioned in the Schedule.

2. The Evidence Act and other Acts relating to Evidence—

(1) The Evidence Act is a separate statute dealing with an important branch of law and its provisions are independent of the rules of procedure contained in the Criminal Procedure Code and must have full scope unless it is clearly proved that they have been repealed or altered by another statute.

7 Lah. 84.

§ Application of the Act
Section 1 prescribes the application of the Act

(1) Territorial Application

It extends to the whole of British India and therefore applies to the Scheduled Districts.

It extends to places where it has been declared to be in force.

(2) Application to Tribunals

It applies to all judicial proceedings **in or before any Court.**

(i) WHAT IS MEANT BY A JUDICIAL PROCEEDINGS?

There is no definition.

An inquiry is judicial if the object of it is to determine a jural relation between one person and another or a group of persons or between him and the Community generally ; but even a Judge acting without such an object in view is not acting judicially.

12 Bom. 10 M. I. A. 340.

An inquiry under section 32 of the Bombay Land Revenue Code is not a Judicial proceeding.

22 Bom. 936.

2. The Act applies to all judicial proceedings i.e. to **civil** as well as **criminal.**

3. The Act speaks of proceedings not merely suits and trials. Proceedings is a wider term. Inquiry under *Section 107* or *144* of the Criminal Procedure Code is not a trial but is a proceeding. Similarly execution of a decree is not a suit but is a proceeding. Consequently the Act applies to proceeds other than trials and suits.

(ii) **What is a Court**

1. Section 3 which is an interpretation clause speaks of the sense in which the word Court is used in the Act. According to this Section—

"Court includes all Judges and Magistrates, and all persons, except Arbitrators, legally authorised to take evidence."

2. **This Section does not define what is a Court.** It merely says what is to be included in the meaning of the word Court i.e. what functionaries are to be treated as a Court.

3. Where in an interpretation clause it is stated a term includes this and that, the meaning is that the term retains its ordinary

meaning and the clause enlarges the meaning of the term and makes it include matters which the oridnary meaning would not include.

23 A. L. J. 845.

4. The Court means all persons except Arbitrators who are legally authorised to take evidence. That being so the word Court is not to be confined to persons presiding over a Civil tribunal or a Criminal tribunal.

A Registrar holding an enquiry and taking evidence under the Registration Act is a Court.

15 Mad. 138.

A Commissioner appointed under order XXVI R. 1-10 of the Civil Procedure Code and under Section 503-508 of the Criminal Procedure Code is a person legally entitled to take evidence and as such he is a court.

5. Judges.

No definition of the word "Judges" is given in this Act. Section 2 (8) of the Civil Procedure Code defines the word 'Judge' to mean the presiding officer of a Civil Court.

Section 19 of the Indian Penal Code, also gives definition of the word Judge. According to this definition a Judge is a person designated as a Judge also a person who is empowered by law to give, in any legal proceeding, civil or criminal a definitive judgment.

6. Magistrates.

No definition of this term is given in the Act. The General Clauses Act (X of 1897) lays down the following definition of the term:—

Magistrate shall include every person exercising all or any of the powers of a Magistrate under the Code of Criminal Procedure for the time being in force.

7. The peculiarities of these definitions is that they are neither uniform nor are they co-extensive.

(i) The basis of the definition of Judge in the Civil Procedure Code is the presidency of the officer.

The basis of the definition of the same word under the Indian Penal Code is his authority to give the Judgement. The basis of the definition under the evidence is the power to take evidence.

(ii) The definition of a Judge under the Criminal Procedure Code would not include a Magistrate. But the definition in the Indian Penal Code would include a Magistrate.

(iii) The Evidence Act would not include Arbitrator either Judges or Magistrates. But the definition of 'Judge' in the Indian Penal Code would include Judges, Magistrates as well as Arbitrators.

The conclusion is that the definition of the word Court in the Evidence Act is framed only for the purpose of the Act itself and should not be extended beyond its legitimate scope.

§ Proceedings to which the Evidence Act does not apply

1. The Act does not apply to :—

(i) Judicial proceedings in or before a Court Martial convened under the Army Act or Air Force Act.

(ii) Affidavits presented to any Court or officer.

(iii) Proceedings before an Arbitrator.

Proceedings before a Courts Martial

1. The Act does apply to the proceedings of a Courts Martial under the Indian Army Act i.e., it applies to **Native Courts Martial.** *Act VIII of 1911.*

2. The Act also applies to all proceedings before the Indian Marine Courts.

Act XIV of 1887 s. 68.

Act V of 1898.

Act XVII of 1898.

Act I of 1899.

3. The Act does not apply to the proceedings of a Court Martial convened under the British Army or Air Force Act.

Questions relating to evidence are determined by **Ax loci contractus,** but by the law of the Country where the question arises,

where the remedy is sought to be enforced and where the court sits to enforce it.

The law of evidence which governs the proceedings before a court is the **Ax fori**.

This provision of the Evidence Act is an exception to this general principle.

II. Affidavits.

1. Ordinarily the evidenced witnesses shall be taken orally in open Court in the presence and under the personal direction and superintendence of the Judge (Order 18 R. 1. Cl. P. C).

2. An Affidavit is a evidence contained in a statement or a declaration in writing on oath or affirmation before a person having authority to administer oath or affirmation.

3. Matters relating to affidavit are regulated by the Civil Procedure Code.

4. Affidavit is evidence not taken before the Court and not subjected to cross examination.

5. The safeguards for truth in affidavits are two :

(i) Provisions for the production of the witness for cross Examination.

(ii) Provisions of the Penal Law relating to giving of false evidence.

III. Proceedings of the Arbitrator.

He gives rough and ready justice and cannot be bound by the technicalities of the Law of Evidence.

§ Proper approach to the study of the Evidence Act.

1. The Indian Evidence Act divides the subject matter of evidence into three parts :

Part I deals with Relevancy of facts—what facts can be proved.

Part II deals with Proof.

Part III deals with Production and Effect of Evidence—Burden of Proof.

2. This may be a logical order. It may be a scientific order. But this certainly does not appear to be a natural order, natural from the point of view of the litigant.

3. The rules of Procedure regulate the general conduct of litigation ; the rules of pleading help to ascertain for the guidance of parties and the Court, the material facts in issue in each particular case. Then arises the question of proof i.e. the Establishment of the facts in issue by proper legal means to the satisfaction of the Court.

4. The first question which faces the litigant is **who must prove the issue ?** The questions bow and by what sort of evidence he can prove them are secondary questions to him. We must therefore begin with **Burden of Proof.**

PART I

BURDEN OF PROOF

(1) What is meant by Burden of Proof.

Description, letter, then definition :

The judge or jury can decide a case only by considering the truth and value of the several facts alleged and proved by the parties and as the facts are unknown to both judge and jury. They must be established by evidence. The question at once arises, which party must adduce evidence ? The responsibility for adducing such evidence as will establish any allegation is called the "Burden of Proof".

2. The subject-matter of the Burden of Proof as applied to judicial proceedings falls into two parts :

1. Burden of Proving an issue.
2. Burden of Proving a particular fact.

THE NECESSITY FOR MAKING THIS DIVISION.

1. The Proof of an issue may involve the proof of many facts as they may involve the proof of only one fact.

Illustration :

1. Issue is, Did *A* commit murder of *B* ?
2. Issue is, Is the signature on the document that of A ?

Issue No. 2 involves the proof of one fact only.

Issue No. 1 may involve the proof of many facts.

e, g. Was *A* present ?
Could *C* see him ?

Is the bloodstained shirt his ? and so on.

§ Burden of Proving an issue.

3. The framing of an issue presupposes an assertion of the existence of a certain set of facts and circumstances by one party and the denial of them by the opposite party. There are

two ways by which the issue may be adjudicated upon (1) By proving that the circumstances alleged do not exist or (2) By proving that the circumstances alleged do exist. Question is which of the two modes of proving the issue to be adopted—the mode of proving the affirmative or the mode of proving the negative.

4. Where there are no reasons for holding :

(a) that what is asserted is more probable than what is denied

and

(b) where the means of proof are equally accessible to both the parties

then the rule is that the party which alleges the existence of the facts must prove that they exist. The burden is on him who states the affirmative of the proposition. He who denies need not prove that they do not exist

This rule is laid down in Section 101.

5. Reasons why the law requires the affirmative to be proved instead of the negative.

(1) The man who brings another before a judicial tribunal must rely on the strength of his own right and the clearness of his own proof, and not on the want of right or the weakness of proof in his adversary.

Illus. *Midland Rail Co.* vs. *Bromby* —17 C B 372.

Doe vs. *Longfield*—16 M & W 497.

17 C.B. 372
P. 380

(2) A simple negative by reason of its indefiniteness is difficult if not impossible of proof. A person asserts that a *certain event took place,* not saying when, where, or under what circumstances. How can a person disprove that, and convince others that at no time, at no place and under no circumstances has such a thing occurred. The utmost that could possibly be done in most instances would be to show the

impossibility of the supposed event and even this would require an enormous mass of presumptive evidence.

A negative averment must be distinguished from a contradiction of a positive averment, technically known as a "traverse".

Illustrations:

Malicious Prosecution.

In an action for Malicious Prosecutions the Plaintiff makes two main allegations.—

(1) That the Defendant prosecuted him,

(2) That the Defendant had no reasonable cause for the prosecution.

The first being affirmative the second a negative averment. The burden of proof of both of them is on the Plaintiff.

Negligence.

The Defendant did not take reasonable and proper care.

This is not a negative but a negative Averment

6. Two things must be noted with regard to the rule of evidence that the affirmative of a proposition must be proved

12 Mad. 526-15 Jur. 544-545.

What is a traverse.

1. It is a matter which relates to the law of pleadings. Before Judge is asked to decide any question which is in controversy between litigants, it is in all cases desirable and in most cases necessary, that the matter to be submitted to them for decision should be clearly ascertained. The defendant is entitled to know what is it that the plaintiff alleges against him ; the plaintiff in his turn is entitled to know what defence will be raised in answer to his claim. The defendant may dispute every statement made by the plaintiff or he may admit or admit and allege other facts which put a different complexion on the case.

To put it technically a Defendant may either :

(1) Admit

(2) Deny

(3) Deny and allege other facts.

2. When a defendant denies the allegation of the Plaintiff in the Plaint, he is said to traverse it. A traverse is the express contradiction of an allegation of fact in an opponent's pleading. It is generally a contradiction in the very terms of the allegation. It is as a **rule framed in the negative ;** because the fact which it denies is as a rule alleged in the affirmative. These traverses of affirmative allegations must be distinguished from a **negative allegation** which is in truth a positive allegation.

If a party asserts affirmatively, and it thereby becomes necessary to his case to prove that a certain state of facts does not exist, or that a particular thing is insufficient for a particular purpose, and such like—these although they resemble negatives,—are not negatives in reality : they are in truth possible averments, and the party who makes them is bound to prove them.

Plaintiff may have to prove negative in order to prove his positive **assertion.**

A negative averment if in truth it is a positive averment must be proved by the plaintiff.

Sale and Mortgage-Adequacy of price. Price is not inadequate ?

II. To remember that the affirmative and the negative of the issue mean the affirmative and negative of the issue **in substance** and not merely its affirmative and negative **in form.**

Illustrations :

(1) Moody and Robinson 464. *Amos vs. Hughes.*

Fact alleged in the Plaint.

That the defendant did not emboss the Calico in a workmanlike manner.

Fact alleged in the Written Statement.

The Defendant did emboss the Calico in a workmanlike manner. On whom is the burden ? If **form** alone was considered the burden would be on the Defendant. If substance was taken into account the burden must be on the Plaintiff. Although put in the negative he affirms that the workman embossed the Calico in an unworkman like manner.

(2) 7 Carrington and Payne 612. *Loward* vs. *Leggatt*.

Fact alleged by the Plaintiff.

That the Defendant did not repair the premises as bound by the covenant

Fact alleged by the Defendant.
That the Defendant did repair.
In form the burden is on the Defendant.
In substance it is on the Plaintiff.

The Burden of proving the issue in Criminal Trials

1. Section 101 is a general section and applies to both civil as well as criminal proceedings.

Section 105 is another section which relates to the burden of proving an issue as distinguished from the burden of proving a fact but applies to criminal proceedings only.

2. To understand this section it is necessary to know the scheme of the Indian Penal Code. The Indian Penal Code defines various offences such as theft, murder, cheating etc. Some 400 in all. The task of framing definitions which would be exact, neither too wide, nor too narrow has been very difficult and with the best of efforts the authors of the Code have failed to frame exact definitions. They have however erred in making them too broad. Consequently they found it necessary to limit these definitions by enacting exceptions. Some of these exceptions are common to all the offences as defined by the Code. Other exceptions are specifically applicable to a particular offence.

Illustration (1):

(1) Whoever causes hurt 323

(2) Whoever steals 379

Whoever = Any person who does etc.,

Any person = Any person of whatever age so that the definition as given in the section would make even a child 1 year old guilty. But the Penal Code recognises that a child below 7 has no *mens rea* = criminal mind which is the essence of the offence. To exempt children from the liability of an offence it would be necessary to say whoever above 7 years etc., in every section of the Indian Penal Code.

(1) Whoever takes any property belonging to another from his possession without his consent—378.

(2) Whoever wrongfully confines—342.

(3) Whoever enters into or upon property in the possession of another—441.

(4) Whoever assaults or uses criminal force—352.

It is obvious that under these definitions a Bailiff who acted under the order of his superiors in levying the attachment would be guilty of theft /378 and criminal trespass /441. Similarly a police officer who arrested a person in the discharge of his duty would be guilty of assault /353 and wrongful confinement /342.

That was not the intention of the framers of the Penal Code. It recognizes the necessity of exempting Public Servants from the penal consequences of their acts done in discharge of their duty. To exempt public servants from the scope of the definitions of offences it would be necessary to say in each one of these sections "Whoever not being a public servant in the discharge of his duty".

Instead of repeating these limiting words in so many different sections to which they are common the Penal Code has grouped them together in Chapter IV which is called **General Exceptions** and which cover sections 76 to 106.

There are also limiting clauses which apply to some specific offence as defined in the Penal Code.

Illus—

Section 499. Defamation.

Definition is so wide that there are **ten** Exceptions.

The necessity of 9th Exception—protection of interest Such Exceptions are special Exceptions as distinguished from General Exceptions.

Proviso—

Illus *Sec. 92 I. P. C.*

Question is who should prove that the case of the Accused falls within the Exception, General or Special. Exception or the Proviso as the case may be ? The prosecution who alleges that it does not or the Accused who alleges that it does ? **The Answer is given in Section 105.** The burden is on the Accused to prove.

This is a departure from the previous law. Under it the burden was on the prosecution to prove that the case did not fall within the Exception,

§ Burden of Proving an Exception to a Civil Law—

1. There is no specific section in the Evidence Act which regulates the Burden of Proof in respect of an exception to a Civil Law. The rule is however the same as in Criminal Law. Namely that the Defendant must prove that his case falls under the Exception.

Illus—*15 Cal. 555*

> "The suit is governed by Section 37 of **Bengal Act XI of 1859** (Revenue Sale Act)—and that section dealing separately with encumbrance and under tenures, lays down that the Auction purchaser shall be entitled to avoid all under tenures and to eject the holders of them **with certain exceptions,** and then goes on to set out the Exceptions. It appears to us that the presumption is in favour of the general proposition of law laying down that all under tenures are voidable, and that pleading a certain exception is bound to bring himself within it. That being so, **it will be for the Defendant in this case to bring himself within the exception** which he pleads."

§ Burden of Proving an Exception a proviso/or a condition precedent in an Agreement.

1. Distinction between a Proviso and an Exception.

A Proviso is properly speaking the statement of some thing extrinsic of the subject-matter of a covenant which by the terms of the covenant is to go in discharge of that covenant by way of defeasance.

An Exception is a taking out of the covenant some part of the subject-matter of the covenant.

Whether particular words form a proviso or an exception will not in any way depend on the precise form in which they are introduced, or the part of a deed in which they are found.

2. The rule of pleading is that a Plaintiff need never state a proviso in his plaint, but he must always state an exception.

Aga Syud Saduck vs. *Raji Jackariah Mahomed.*

2 Ind. Jur. N.S. 308(310)

310. Markby J.

In the Note to *Thursby* **vs.** *Plant'* 1 Wms. Saund. p. 2336 it is laid down that a proviso is properly the subject of some thing extrinsic of a subject-matter of a covenant by way of defeasance. An exception is a taking out of the Covenant some part of the subject-matter of it. Of these be right definitions a Plaintiff need not never state a proviso, but always state an exception.

3. Although this is laid down as a rule of pleading it also holds good as a rule of burden of proof. So if a clause in an instrument such as a policy of assurance, be an exception, the Plaintiff must only state it, but show that it is not applicable. If it be a proviso the Defendant must state it, and show that it applies.

2 Ind.Jur.N.S. 308,310

2. Ind. Jur. N. S. 308.

1867

A sued B. & Co. on a policy of insurance on the ship "Alaya" from noon of the 24th November 1865 to noon of the 24th February 1866 "and to all ports and places", The words "and to all ports and places" were written, the rest being printed. B & Co. in their Written Statement admitted the policy, but set up the following exception : "All risks or losses arising from the detention *etc.*; also from storms and gales of wind, or other perils of the sea; while touching or trading on the Coast of Coromandel from Point Palmyras to Ceylon and within surroundings between the 15th October and 15th December inclusive are here by excepted, which risks or losses are to be borne by the assured and not by the Assurers, notwithstanding anything to the contrary hereinbefore expressed."

3. Akiks

4. Condition Precedent = Proviso.

In this connection the law of evidence has appointed three principles.

I. The burden of proof of a fact is on a person who wants to benefit himself by the special facilities provided by the law of evidence for the proof of that fact.

Section 104 is an illustration of this principle.

2. § Burden of proving a particular fact.

1. The rule is the same as in the case of burden of proving an issue. That is the burden of proving a particular fact is on the party who affirms the existence of the fact and not upon the party who denies it. The rule is contained in Section 103 and the reasons of the rule are the same in both cases.

2. There are however certain facts the burden of proving which is placed by law upon a particular person irrespective of the question whether he asserts its existence or denies its existence. Sections 104 to 111 specify the cases in which the law of evidence places the burden on particular persons.

3. The principles underlying these sections and which justify this departure from the general rule relating to Burden of Proof seem to be four.

I. The burden of proving a fact should be on a party who wants to take the benefit of the **special** facilities provided by the law of evidence for the proof of that fact.

II. Where parties are unequal in their relative position the burden of proving a particular fact should rest on the one who is comparatively in a better or stronger position.

III. Where things have continued to exist the burden of proving their discontinuance is on the party who alleges discontinuance.

IV. Where one fact is a mere legal incident of another fact the burden of proving that the incident should not be attached to the fact is on the party who alleges that it should not be.

§ Sections illustrative of the First principle.

1. Section 104 is an illustration of the First Principle. This deals with the burden of proof of a fact, the proof which is a necessary prerequisite for the proof of another fact.

2. The law of evidence lays down certain conditions which must be fulfilled before evidence of a particular fact is given. Similarly the law of evidence lays down certain conditions which must be fulfilled before a particular method of proving a fact can be resorted to.

Illus-I.

Nothing is evidence unless it is given before and in the presence of the Court. Ordinarily therefore the statement made by a person who is dead is not evidence. The law of evidence however permits evidence being given of anything said by a deceased person if it is relevant to the issue on the condition that the fact of his death is proved.

Illus-II.

The law of Evidence requires that the contents of a document must be proved by the production of the original. The law however permits secondary evidence being given on the condition that the loss of the original is proved.

3. The question is who must prove the fact of death or the fact of the loss of the original document ? In general who must prove these prerequisites ? Section 104 lays the burden on the party who wishes to profit by these special facilities.

§ Sections illustrative of the Second Principle.

1. Section 106 and 111 illustrate the Second Principle.

Section 106.

1. This section deals with the burden of proof of a fact which is especially within the knowledge of one of the Parties.

(i) If A alleges a certain fact and if B denies it then by virtue of the rule contained in Section 103, A must prove it because A affirms it.

(ii) But if the fact is especially within the knowledge of B then by virtue of this section the burden of proof in respect of it rests on B.

2. Illustrations.

22 Cal 164.

Haradhan had 2 daughters—twins about a year old—sold one of them to Karuna a prostitute for Rs. 9 and within 10 days sold to Karuna who she had brought up from her infancy and who was then living with her and leading the life of a prostitute.

Question. On a prosecution under Sec. *372/373* for buying and selling minors for prostitution the question was who should prove that the intention was that the girls were to be used for prostitution. By the accused-being a matter within their knowledge.

23 All 124.

Several persons were found at 11 O'clock at night on a road just outside the city of Agra all carrying arms (guns and swords) concealed under their clothes. None of them had a license to carry arms, and none could give reasonable explanation of his presence at the spot.

On a charge under Section 402 held burden of intention on the Accused.

Section 111.

1. This section deals with the burden of proof in respect of the *good faith* of a transaction.

2. **Definition of good faith.**

(1) Good faith is not defined in the Evidence Act.

(2) It is defined in Section 52 of the Indian Penal Code. Nothing is said to be done or believed in 'Good faith which is done of believed without due care and attention.

(3) It is also defined in Section 3 (20) of the General Clauses Act X of 1897.

"A thing shall be deemed to be done in good faith where it is in fact done honestly whether it is done negligently or not".

(4) The difference between the two definitions is that the *question of honesty* is immaterial to good faith as defined by the Penal Code. But it is the very core of the definition as given in the General Clauses Act.

(5) The term good faith as used in the Evidence Act is used in the sense in which it is used in the General Clauses Act.

3. The General rule regarding Burden of proving good faith.

(i) It is a general principle of law to hold that all persons in their dealings act fairly. Nothing dishonourable or odius is to be attributed to any person. Law will not impute vice and immorality. That being so the person who wishes to impeach the conduct of any person as being dishonest or unfair has the burden of proving dishonesty and unfairness. In other words the burden of proof in respect of good faith is upon the person who allege the absence of good faith. The motive must be proved.

(ii) Section 111 enacts an exception to this general rule and prescribes the circumstances in which a person must prove affirmatively the presence of good faith.

If the good faith of a transaction between two parties is questioned by one of them and the two are so related that one stands to the other in a position of *Active confidence* the burden of proving good faith affirmatively is on the person who stands in the position of active confidence.

This Exception applies only where the two parties to the transaction are so related that one stands to the other in a position of active confidence.

(IV) Meaning of the "Position of Active Confidence" :

(i) Position means legal relationship.

(ii) Active confidence means habituated to consult and act on advice.

Position of Active confidence therefore means such legal relationship between the parties as gives rise to the habit in one party to consult the other for the protection of his interest and imposes upon the other the duty to see that his advise is such as will safeguard his interest.

The section contemplates *legal relationship* between the parties such that it becomes the duty of the person taken in confidence to protect the others interests.

Coulson vs. *Allison* *2.D.F.&J. 581.*	The rule applies because parties were husband and wife.
Hargeave vs. *Everard* *6.Ir.Ch.R.278.*	The rule was not applied because parties were not husband and wife but mistress and paramour.

A transaction between *Trustee and beneficiary, solicitor and client, father and son or husband and wife* would be subject to this rule if the issue of good faith were raised.

(V) The rule although confined by the Section to *cases* where one person stands to the other in a position of active confidence it is extended by the Court to all cases where a person has domination over another and is in a position to exercise undue influence.

Sections 107-108.

1. They must be read together because 108 is only a proviso to the rule contained in Section 107.

2. The sections do not deal with the question, how long was a person alive.

3. The sections do not deal with the question at what *time* he died.

4. The sections do not deal with the question whether he was alive or dead at some antecedent date.

5. The sections deal with the question whether a person is alive or dead at the time when the question is raised, that is at the date of the suit.

Sections illustrative of the third Principle.

Sections 107, 108 and 109

Sections 107 deals with the burden of proof where the *question is whether a man is alive or dead.*

According to this section where it is proved that the person in question was alive within the last 30 years then the burden is upon the party who asserts that he is dead. Where it is not proved that the person in question was alive within the last 30 years then the burden is on the person who alleges that he is alive.

Section 108 deals with the burden of proof where the question is whether the man who has not been heard of is alive or dead.

Acording to the section :

(1) if the man is not heard of for *seven* years

and

(2) by those who would *naturally* have heard of him the burden is upon the party who *affirms that he is alive.*

Comment—

The death of any party once shown to have been alive is a matter to be determined by the Court. As the presumption is in favour of the continuance of life the *onus* of proving the death lies on the party who asserts it. But the presumption of continuance of life ceases at the expiration of 7 years from the period when the person in question was last heard of. And the *burden* of proving that the person was alive within the seven years is upon the person asserting it

But a Court may find the fact of death from the lapse of a shorter period than seven years, if other circumstance concur.

Re.: Walker (1909) P. 115.

Application of Sections 107-108.

The question for which provision is made in these two sections is whether a person is alive or dead at the time the question is raised. These sections do not apply where the question is whether the man died at a particular time. If any one seeks to establish the precise time of death the burden of proof is upon him.

Section 109. This section deals with the burden of proof as to continuance or discontinuance of three relationships.

(1) Partners.
(2) Landlord and tenant.
(3) Principal and agent

This section provides that once it is shown that two persons have stood in the relationship of partners, Landlord and Tenant or Principal and Agent the burden of proving that they have ceased to stand in that relationship is on the party who alleges that they have ceased.

§ Section illustrative of the 4th Principle—

Section 110. This section deals with the burden of proof regarding title to property when the competition is between a person in possession and the owner who is out of possession.

1. The rule laid down in Section 110 is that the burden of proof that the person in possession is not the owner is on the person who alleges that he is not the Owner.

Reason for the Rule—

Ownership chiefly imports the right to exclusive possession and enjoyment of a thing. The owner in possession has the right to exclude all others from possession and enjoyment of it; and if he is wrongfully deprived of what he owns, he has the right to recover possession of it.

Ownership also imports the power to dispose of property, to sell, mortgage or donate.

Right to possession and Right to dispose of are therefore incidents of Ownership. Where there is ownership there goes with it the right to possession and the right to dispose.

The law therefore holds that a person would not be in possession of property unless he was the owner and places the burden on his opponent.

The principle of the section does not apply in the following cases—

(i) Where the possession is merely judicial as distinguished from actual present possession.

(ii) Where possession is obtained by fraud or force.

BURDEN OF PROOF

1. The Law requires the person to discharge the Burden of Proof which is placed upon him.

2. In discharging the Burden of Proof attention must be paid to two considerations.

(i) There are Matters of which Proof is not required.

(ii) There are Matters the Proof of it is not allowed.

3. We must therefore proceed to consider these matters and the rules regulating them.

I. BURDEN OF PROOF

(i) Matters of which Proof is not required.

§ Facts of which Proof is not required.

1. Matters of which Proof is not required fall under three heads:

(1) Facts Judicially noticed.

(2) Facts admitted by the Parties.

(3) Facts the existence of which is presumed by law.

§ (i) Facts judicially noticed.

1. Sections 56 and 57 deals with facts judicially noticed.

2. Section 56 says no fact of which the Court will take judicial notice need be proved.

3. Sec. 57 lays down 13 matters of which the Court *must* take judicial notice.

4. Principle of the Secion. Certain matters are so notorious and are so clearly established that it would be useless to insist that they should be proved by evidence.

Illus.—

(1) Commencement and Continuance of hostilities.

(2) Geographical Divisions.

5. The last two paras are important and read with section 56. They furnish a clue to the proper understanding of them. The effect is that when a matter enumerated in Section 57 comes into question, the parties who assert the existence to the contrary need not produce any evidence in support of their assertions. The judge must come to a conclusion without requiring any formal evidence.

(1) The Judge's own knowledge may be sufficient. If it is not he must look the matter up.

(2) The Judge can also call upon the parties to assist him, if he thinks it necessary.

(3) The Judge in making this investigation is emancipated entirely from all the rules of evidence laid down for the investigation of facts which the law require s a person to prove.

(ii) Facts admitted by parties.

Section 58

1. There are two sorts of admissions which must be distinguished.

(1) Formal admissions made touching matters related to a proceeding in a Court and made intentionally by parties so as to dispense with their Proof.

(2) Informal admissions alleged to have been made by a party to the proceedings but not made in the course of the proceedings.

2. Section 58 applies only to formal Admissions.

Formal admissions may be made by parties in 6 different ways :

(i) On the pleadings.

(ii) In answer to interrogatories.

(iii) In answer to a notice to admit specified facts.

(iv) In answer to produce and admit documents.

(v) By the Solicitor of a party during the litigation.

(vi) In open Court by the litigant himself or by his Advocate.

3. Proof of such facts would be futile. The Court has to try the questions on which the parties are at issue and not on which they are agreed.

4. Applicability of Sec. 58 to criminal trials is a matter on which there is a difference of opinion.

(i) **Nortion** says that it does not apply to criminal trials.

(ii) **Cunningham** says that it does.

30 Bom. L. R. 646.

Section 58 makes no exception in regard to criminal proceedings.

Rat. Un. Cr. C. 769.

Section 58 makes no exception in regard to Criminal Proceedings.

39 Mad. 449.

On general principals of Jurisprudence Sec. 58 ought not to be applied to criminal trials.

"The question remains whether the Provisions of the Act are exhaustive and whether we can invoke the aid of the principles of Jurisprudence or of English Law as supplementing and explaining the rules of Evidence given in the Act." 12 All. 1. English rules of Evidence apply.

The rule is not an absolute rule. The section provides that a fact which is admitted may be required by the Judge to be proved by evidence by the party on whom the Burden of Proof lies.

This is a safeguard intended to protect simple and ignorant persons against mistakes.

It is probably under this proviso that admissions in Criminal trials are not permitted.

§ Facts the Existence of which is presumed by Law.

1. Definition of presumption.

A presumption is a conclusion or inference drawn from a certain fact.

2. Principle underlying the rule of Presumption :

(1) The universe is no doubt composed of diverse elements and the motives that operate upon people are different.

Notwithstanding this there is a certain amount of regularity and uniformity.

(2) With respect to **things** the order and changes of the seasons, the rising, setting and the course of heavenly bodies, and the known properties of matter-magnetism-specific-gravity show a certain regularity and uniformity of movement and occurrence.

(3) With respect to **persons** the natural qualities, powers and faculties which are incident to the human race in general are more or less uniform.

(4) With respect to **Conduct** of men more or less the uniformity.

They are actuated by the same uniformity.

3. Given this uniformity it is possible to say that given one thing another can be said to follow.

4. It is on this principle Section 114 is based.

1. It empowers the Court to presume the existence of a fact if that fact is a **likely result** of a particular fact.

2. The test is—

(i) common Course of natural events.

(ii) human conduct.

(iii) Public and private business.

3. It gives 9 illustrations of what would be likely results of certain facts.

4. **Explain.**—Illustrations (not given in MS—ed)

5. An event likely in one circumstance may very unlikely in another circumstance. Therefore in drawing a presumption the Court must have regard to the facts of the particular case.

Explanations to illustrations (not given in MS—ed)

6. There can be no general codification of presumptions because the likely result must vary under circumstances.

7. The effect of presumption is to relieve a person from the Burden of Proof.

8. Presumption of Law and Presumptions of fact.

9. Rebuttable and Irrebuttable Presumptions.

Norton P. 381.

II. Analogous presumptions are maxims of law. They are also called presumptions in the loose sense of the word.

1. There are certain maxims of Law which are also called Presumptions.

2. Illustrations of Maxims of Law :

(1) The law will presume that every body knows the law.

(2) The law will presume that every person intends the natural consequences of his acts.

(3) The law will presume that an accused person is innocent.

(4) The law will presume that every human being is endowed with the power of understanding.

(5) The law will persume that no man will throw away his property for instance, by paying money not due.

(6) The law will presume that money advanced by a Parent to his child is intended as a gift, and not as a loan.

(7) The law will persume that a parent prefers his own children to those of others.

These maxims are related to burden of Proof. They help to fix the burden.

§ Presumptions as to Documents 79-90

1. Presumption as to the genuineness of certified copies. 79
2. Presumption as to the genuineness of documents Produced as record of evidence. 80
3. Presumption as to the genuineness of gazettes, Newspapers. 81
4. Presumption as to documents—In England without proof of seal or signature. 82
5. Presumption as to maps or plans made by authority of Government. 83
6. Presumption as to books of law and report of decisions. 84
7. Presumptions as to powers of attorny. **85**
8. Presumptions as to certified copies of foreign Judicial records. 86
9. Presumptions as to books, maps and charts. 87
10. Presumptions as to telegraphic messages. 88
11. Presumption as to attestation and execution of documents not produced. 89
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Burden of Proof

(ii) Matters of which Proof is not allowed

1. § Matters which parties are debarred from asserting. (conclusive evidence).
2. § Matters which parties are estopped from proving. (Estoppel).
3. § Matters stated without prejudice.
4. § Matters which are irrelevant.

1. § Matters which parties are debarred from asserting—

Matters which parties are debarred from asserting are spoken of in the Evidence Act as Matters of Conclusive proof or commonly spoken of as irrebuttable presumptions or presumptions of Law.

They are dealt with in Sections 41, 112 and 113.

II. Section 112

1. This section deals with the Question :

How to prove that A is the legitimate child of **B** and his wife **C** ?

2. There are two ways of proving this fact according to two different contingencies.

(i) If the contingency is that the child is born during wedlock.

(a) Prove lawful marriage between **B** and **C**.

(b) Prove the Existence of Marital relations between **B** and **C at the date of the birth of A.**

On proof of these two facts the Law will conclude that **A** is the legitimate son of **B** and **C**.

(ii) If the Contingency is that the child is born after dissolution of the marriage between **B** & **C**—Either by death of the father or divorce.

(a) Prove that **A** was born within 280 days after the dissolution of the marriage by death or divorce.

(b) Prove that the morther had remained unmarried during that period of 280 days.

On Proof of these two facts the law will conclude that **A** is the legitimate son of **B** and **C**.

Points to be noted

1. The deciding factor in the question of legitimacy is not the time of the conception of the child but the time of the birth of the child. Whoever was the husband of the woman at the time of the birth of the child is the father.

Illus.

1. *Pal Singh* vs. *Jagir. 7 Lahore 368.*

Harnam Kaur married Hari Singh. Hari Singh died on the 10th January 1919. Harnam Kaur married Sohan Singh on

25th February 1919. Jagir was born to Harnam Kaur on the 17th October 1919 i.e. 279 days after the death of Hari singh and **198** days **after her marriage to Sohan Singh.**

On a question being raised whether Jagir was the son of Hari Singh, **Held** that he was the son of Sohan Singh and not of Hari Singh.

2. *Palani* vs. *Sethu. 49 Mad. 553.*

Pechi Ammal married Subramanya in October 1903. That marriage was dissolved in June 1904.

Pechi married Thirumani in July 1904.

Palani was born during the second week in September 1904 i.e. 4 months after the dissolution of Pechi's marriage with Subramanya and 3 months after her marriage with Thirumani.

Whose son is Palani ? of Subramanya or Thirumani.

Held he was the son Thirumani.

2. This is treated as case of conclusive proof. This is treated so not because the truth is beyond dispute. A woman although married lawfully to one man may be in the keeping of another and her children may well in fact be the children of her paramour. This is so treated because for reasons of public policy or in the interests of Society an artificial probative value is given by the law to certain facts and no evidence is allowed to be produced with a view of combating that effect. Under Section 112 artificial probative value is to the following facts.

(1) The fact of marriage.

(2) The fact of access.

So that where these two facts exist the law concludes that issue born must be legitimate i.e. it must be issue born of the husband.

(2) This conclusion can be demolished only by giving evidence of non-access.

It must be proved that the parties to the marriage had no access to each other at any time when the child could have been begotten.

Meaning of non-access.

1934. 38 Bom. L.R. 394.

Karapaya vs. *Mayandi.*

Access does not imply actual cohabitation. It means no more than opportunity of intercourse.

Kerapaya, a Madras Hindu acquired considerable property in Burma. He died a lunatic in 1923.

Karapaya first married Karapayi and then married Nachiama. Kerapaya lived with Nachiama at Tamagyo while Karayappi was living at Houlmein with her mother and brother.

In December 1911 an agreement made between (Left incomplete—ed.)

(3) The conclusion cannot be demolished by giving evidence of inability to cohabit.

29. I. A. 17 / 1901 *Narendra* vs. *Ram Govind.*

Upendra was married to Tilottama. Upendra died on July 15 from the effects of a Carbuncle in his back, from which he had been suffering for sometime.

After the death of Upendra, Tilottama gave birth to a son Narendra on April 18,1887 i.e. 9 months 10 days or 280 days after the death of Upendra.

There were three questions to be considered :

1. Was Narendra the child of Tilottama—Upendra ?

2. Was he born within 280 days from the death of Upendra ?

3. Is it proved that he and she had no access to each other at any time when the appellant could have been begotten ?

On the last issue the evidence was as follows:

Tilottama was married when she was quite a child and lived with her parents. But shortly before his death in July 1886 she went to live with her husband. How long before it is not clear. Some witnesses said five or six days others said ten or twelve days.

The important circumstances in the case were two :

(1) That Upendra died from the effects of a Carbuncle from which he had been suffering for a fortnight.

(2) That Upendra had made will on the 14th July 1886 appointing Tilottama as his Executrix and directing her to adopt a son.

The contention was that if he was ill he could not have cohabited. The contention was negative.

(3) Inability to cohabit must be distinguished from genital inability. *1935.* (All India Reporter) *P.O. 199* (for Physical inability).

Query-If he was impotent.

The Section abrogates the rules of Hindu and Mahomedan Law regarding Legitimacy. *10. All. 289.*

1. According to Mahomedan Law a child born six months after marriage or within two years after divorce or death of the husband is presumed to be her legitimate offspring.

2. According to Hindu Law it is ten months after divorce or death of the husband.

The section does not prohibit a person born after 280 days from proving he is the legitimate son. Only the burden of proof is upon him.

24 All. 445. 357 days after the death of the father.

There is a difference between the English and Indian Law of Evidence regarding the competency of the Husband and wife on the issue of access when the question of the Legitimacy of the child arises.

1. Under the English Law they are incompetent.

2. Under the Indian Law they are competent.

38 Mad. 466.

28 Bom. L.R. 207.

Section 113

1. The section deals with the Burden of Proof regarding the cession of a territory.

How is it to be proved that a certain territory which was once a part of British India has ceased to be part of British India.

The question is not merely academic. It is of great practical importance. It goes to the root of the question of the jurisdiction of the Court. If a territory is not a part of British India then it is not subject to the Jurisdiction of any Court.

2. Provision was made in Section 113. It said that a notification in the Gazette of India that a British Territory has been ceded to any native State Prince or Ruler should be taken as a conclusive proof that a valid cession of such territory took place at the date mentioned.

3. This Section has been declared to be *ultra vires* of the Indian Legislature and therefore void and of no legal effect by the Privy Council.

1. *Bombay 367* / *P.O.1876* *Damodar Gordhan* vs. *Deoram Kanji.*

The Governor General in Council being precluded by the 24-25 Vic. O. 67 Sec. 22 from legislating directly as to sovereignty or dominion of the crown on any part of its territory in India or as to the allegiance of British subjects cannot by legislative Act (E. G. Evidence Act. S. 113) purporting to make a notification in the Government Gazette conclusive proof of a cession of territory, exclude judicial enquiry as to the nature and lawfulness of that cession.

Judgements as conclusive Proof.

1. Just as certain facts are deemed to be conclusive proof of certain other facts, similarly the Evidence Act treats **certain** Judgements as conclusive on certain issues. **Sec. 41.**

2. The judgements which are declared to be conclusive are :—

(1) **Final** Judgement, order or decree of a **Competent** Court in the exercise of

(1) Probate
(2) Matrimonial
(3) Admirality
(4) Insolvency Jurisdiction

which confers a legal character or takes away a legal character or declares a person to be entitled to a legal character or to a thing not against any specified person but absolutely.

Are conclusive Proof:

(1) That the legal character as given or taken away.

(2) That it is given or taken away on the date of the Judgement.

Section 41.

This section deals with use of Judgements of Courts of Law for the proof or disproof of certain questions.

Question is:

(1) The right of a person to a certain status

(2) When did such right accrue to him.

Question is :

Did (1) A particular person cease to have a status

(2) If so, when.

Question is whether any particular person was entitled to a certain property.

The Section declares that **certain Judgements** will be conclusive evidence of these facts.

What are these Judgements :

(1) It must be a Judgement of a **Competent Court.**

(2) It must be a Judgement in the exercise of

(i) Probate

(ii) Matrimonial

(iii) Admirality

(iv) Insolvency

1. Which declares conferring or taking away of a legal character on or from any person.

2. Which declares a person entitled to any specific thing not against any specified person but absolutely.

3. If it is a final Judgement, order or decree.

Probate Jurisdiction.

The Courts exercise testamentary and intestate jurisdiction under:

(1) Indian Succession Act.

(2) The Hindu Wills Act.

(3) The Probate and Administration Act.

Matrimonial Jurisdiction.

Exercised under the Indian Divorce Act and other Acts relating to marriage and divorce.

Admirality Jurisdiction.

Letters Patent of the High Court and the Colonial Courts Admirality Act. 1890.

Insolvency Jurisdiction.

Charters and the Insolvency Acts.

§ Matters which parties are estopped from Proving.

1. The law of Estoppel is contained in Sections 115, 116, 117. Section 115 states the general rule of estoppel. Sections 116 and 117 enact particular kinds of estoppels.

2. Section 115.

(i) Comparison of Section 115 with Section 31.

Estoppel is like an Admission inasmuch as it is a statement of a fact. Most admissions can be withdrawn by the party who makes them. The fact that they were made remaains, but the party who made them can be heard to explain that he made them rashly and carelessly or under an honest misapprehension. Even he cluld be heard to say that he knew what he said to be false. But a statement may be made by one person to another in such an unequivocal manner and under such circumstances that it has a decisive effect on the conduct of the other. The law will not permit a person making such a statement to contradict it. The margine between an estoppel and an admission is very narrow and the answer to the question whether a statement is a mere admission or is a estoppel depends upon the nature of the statement and the circumstances appertain to it.

(ii) What are the legal requirements of the Rule of Estoppel ?

The rule of Estoppel comes into operation when the three following conditions are satisfied. *37 Bom. L. R. 544 P. C.*

(i) A statement amounting to a representation of the exsitence of a fact has been made by the defendant or an

authorised agent of his to the Plaintiff or some one on his behalf.

(ii) With the intention that the Plaintiff should act upon the faith of the statement.

and

(iii) The Plaintiff does act upon the faith of the statement.

§ Statement must amount to representation.

(1) Representation may be by **word** or by **conduct,**

A. If it is by word it may be **active misrepresentation** made deliberately with a knowledge of their falsehood.

Illus.-

McCance vs. *London and Nother Western Railway Co., (1861)7 H. & N. 477.*

M entered into a contract with the Railway Co., to carry his horse in trucks which should be reasonably fit and proper for the carriage of horses from Edge Hill near Liverpool, to Wolverhampton. The Railway agreed to provide trucks which should be reasonably fit and proper.

M filled in a declaration form in which he stated that the value of a horse did not exceed £10 per horse. Under the system followed by the Railway there were modes of transporting horses. One was to send them in trucks allowing the owner to place as many horses as he liked in each truck. The other was to send them in horse boxes, each horse being placed in a separate stall. The rate of carriage by the latter mode being three times as much as when carried by the former mode. There was a further rule that the Railway would take horses above the value of £10 in trucks.

In transit some horses were injured owing to the defective state of the trucks provided by the Railway. The damage sustained by M on the basis that the value of each horse was £10 came to £25 which amount the Railway Company was agreeable to pay as they admitted that the trucks were defective. The Plaintiff claimed that the real value of a horse was £40 and the damages came to £55.

This is a case of active misrepresentation.

Illus. (2) Munnoo Lal vs. *Lalla Choonee Lal.*

1. I.A. 144

Reep Singh was in debt but possessed considerable Estate. M had been his Banker. On 9th October 1863 M obtained a mortgage from R of a property to secure a debt of Rs. 20,000 owed by R. On 9th August 1863 R sold the same property to C. When negotiations for the purchase took place between R and C, M was present and took part in same and in answer to inquiries by C gave him to believe that he had no lien upon the Estate.

In 1868 M filed a suit against C to enforce the payment of his mortgage bond. He was estopped.

This is also a case of active misrepresentation.

B. Representation may be **innocent misrepresentation**

Illus. *Gould* vs. *The Bacup Local Board.*

(1881)50 L.J.(M.C.)44.

Certain premises belonging to Gould were kept in a very insanitary condition. The Board asked him to do certain improvements which he refused to do. The Board then served a noice upon him staring that if he did not carry out the improvements within a given time the Board would execute them.

There were two modes of recovering the expenses which were prescribed by the Act, one was by Section 213 and another by Section 240. Section 213 allowed the Board to recover them by additions to the local rate levied by the Board and Section 240 allowed them to recover them independently in lump sum. In the notice served upon Gould it was stated that the recovery would be under Section 213. But in the suit the Board sought to recover the amount as provided by section 240. The Board was estopped. This is a case of innocent misrepresentation.

(2) Representation may be by words or may be by silence. Silence under certain circumstances may be eloquent and may amount to a representation as good and as real as is made by the spoken word.

But every case of silence cannot be taken as equivalent to speech. Because the law does not require a person to speak out what is in his mind on each and every occasion. The law requires

a person to speak only when there is a duty upon him to speak and to disclose his mind. Otherwise silence is golden.

Silence therefore to raise an estoppel must imply an obligation to speak. In considering the effect of silence it has to be seen whether there was any occasion for words and any reasonable occasion for silence. This ought to be done before relying on silence as a legitimate ground for inference.

(1896) A. C. 231 (238)
2 Br. C.C. 400(419)
6 Bom. L.R.

Illus. **(1) Silence no ground for Estoppel.**

10 Bom. L.R. 297.

A decree was obtained against the father by a judgment creditor. In execution the property was managed by the Collector and the proceeds were sent to the creditor. While this was going on, the father died and the son inherited the property. The Joint Creditor sought to execute the decree against the son who contended that he was not liable as the debts were improper. It was contended that the son was estopped because his silence was representation that he accepted the decree ; Held that it was not because there was no duty.

Illus. **(2) Silence ground for Estoppel**

15 I.A. 171.

Sale by Court in Execution proceedings by a proclamation which described the rights of the Judgment-debtor very imperfectly. The result is that the property worth of Rs. 40,000 sold for Rs. 20,000. Suit was brought by the Joint Debtor to set aside the sale. Contention was that *silence was Estoppel.* Held it was, as there was a duty to come forward and get the proclamation corrected.

Representation may be by conduct

1. Conduct may amount to representation or it may not—

(i) Where it does amount to representation 19 I. A. 203.

(ii) Where it does not. 19 I. A. 221.

II. Conduct is either Active or Passive.

Passive conduct is either

(1) Indifference.

(2) Acquiescence.

Passive conduct to raise an estoppel must amount to acquiescence. It must not merely be conduct of indifference.

Conduct of Acquiescence may be described as follows—

> "If a person having a right and seeing another person about to commit or in the course of committing an act infringing upon that right, stands by in such a manner as really to induce a person committing the act, and who might otherwise have abstained from it, to believe that he asserts to its being committed, is a conduct which amounts to conduct of acquiescence".

2 Bh. 117 (123)41 E.R. 886.

Imp. 45 Bom. I. L R. 80.

14 All. 362 (364).

Acquiescence may occur while the act acquiesced in is in progress or it may occur only after it has been completed.

For the purposes of Estoppel it must occur while the infringement is in progress. *Ch. D. 286 (314).*

Points to be noted.

1. Misrepresentation must be as to existing facts and not of mere intention. *5 R. L. Cases 185.*

Illus.—

I. A person has a legal right but between the time of its creation and that of his attempt to enforce it, he has made representation of his intention to abandon it.

2. There can be no estoppel where the truth of the matter is really known to *both parties.*

30 Cal. 539 P. C. Mohori Bibee vs. *Dharemdas Chose.*

On the 20th of July 1895 Damodar Das executed a mortgage in favour of one Brahma Dutt, a money lender. Brahma Dutt was absent throughout the transaction and the transaction was carried through by his attorney Kedar Nath, the money being found by Dedraj the local manager of Brahma Dutt. While the transaction was going on, the mother of Damodar Das wrote a letter to Kedar Nath the attorney that Damodar Das was a minor and any one advancing him any monies would do so at his own risk.

On the date of the mortgage Kedar Nath took a long declaration from Damodar Das that he was major.

On the 10th September 1895 the mother filed a suit for cancellation of the Deed of Mortgage on the ground that D was a Minor.

Contention of B was that D was estopped. Held he was not because facts was known to **B.**

Actually knowing the fact is different from having the means of knowing it.

L. R. 20 Ch. D. 1. Redgrave vs. *Hurd.*

The Plaintiff represented that his business brought in about £ 300 a year and produced 3 Summaries showing about 2/3rd of that together with some papers which Defendant did not examine. Upon the faith of this Defendant signed an agreement to purchase the Plaintiffs business and paid a deposit. Finding the business worthless he refused to complete and Plaintiff sued him for specific performance. Contention of Plaintiff was that Defendant was estopped from alleging that the representation of Plaintiff was false because he had the means of knowing the truth.

Jessel M. R. P. 21.

> "Where one person induces another to enter into a contract by a material representation which is untrue, it is no defence to an action to rescind the contract that the person to whom the representation was made, had the means of discovering or might with reasonable deligence have discovered that it was untrue. It must be shown either that he had knowledge of the facts contrary to the representation, or that he stated in terms or shewed clearly by his conduct, that he did not rely on the representation."

II. Second Element in the rule of Estoppel the *intention* that the Plaintiff should act upon the faith of the statement.

It is *not* necessary that the party making the representation must have been under no mistake himself.

It is not necessary that the party making the representation must have acted with the intention to milead or to deceive.

19 I.A. 203.

But it is necessary that the party making the representation must have the intention that the Plaintiff should act upon the faith of the representation.

How to prove intention ?

Intention is used in two different senses :

(1) It is used to indicate as a presumption of law. A man is presumed to intend the natural or necessary consequences of his act.

(2) Intention is used to indicate a specific existing state of mind in a person.

This specific state of mind must be proved as a fact like any other fact and cannot be presumed.

Illus.—

(1) Section 225, I. P. C. whoever intentionally offers.

(2) Section 124, I. P. C whoever with the intention.

Intention here is used as a presumption of law and is not used in the second sense.

It is not therefore necessary to prove intention that the party should act as a specific fact.

If a reasonable man would take the representation to be true, and believe it was meant that he should act on it, the requirement as to intention would be satisfied.

19 I.A. 203 (219).

III. The third element in the rule of Estoppel is that the party to whom the representation was made must have acted upon the faith of it.

1. This element is really the foundation of the law of Estoppel and explains the principle underlying it. The principle underlying the rule of Estoppel is that it must be inequitable unjust; that if one person by a repersentation made or by conduct amounting to representation has induced another to act as he would not otherwise have done, the person who made the representation should be allowed to deny or repudiate the effect of his former statement to the loss and injury of the person who acted on it.

2. The reason of the rule is that the man has acted upon it and altered his position. To amount to estoppel the statement must have been acted upon by the party to whom it was made.

14 Bom. 312.

13 Moo I.A. 585 (599).

Limitation on the rule of Estoppel.

1. It cannot override the law of the land.

(i) Minor—represents himself as Mojor—not estopped from proving minority.

(ii) Corporation—does Acts which are *ultra vires*—not estopped from proving that they were beyond its power.

Other distinctions between **Admissions** and **Estoppel.**

1. An admission does not prevent the party from proving that the admission is untrue. An Estoppel prevents the party from doing so.

2. An admission can be taken advantage of by any person other than the one to whom it was made. An Estoppel can be taken advantage of only by the party to whom it was made. As against a stranger he can deny its truth.

5 *W. R. 209.*

5. A. R. 209.

Plaintiff alleged that he had purchased the property in the suit for Rs. 10,000. Pressed for money he subsequently mortgaged it to his mother. That he redeemed the Mortgage a year after and took possession of the property.

The Defendant had obtained a decree against mother of the Plaintiff and in execution and satisfaction of the Decree had the property sold by Court Sale and purchased it Benamee and Plaintiff was ousted. The Plaintiff filed a suit for the recovery of the property.

The Defendant contended that Plaintiff was estopped from proving that he was the Owner because in a former suit Plaintiff had admitted that his mother was the Owner to that suit Defendant was not a party. Held there was no Estoppel.

Difference between Estoppel and Conclusive Proof.

1. Estoppel can be waived by the party in whose favour it operates. But conclusive proof cannot be waived.

Difference between Res Judication and Estoppel.

Res Judication prevents a man avering the same thing twice over in successive litigations.

Estoppel prevents a man from saying one thing at one time and the opposite at another. *36 Bom. 214.*

English and Indian Law of Estoppel.

1. Under the English Law Estoppels are usually classed under three heads.

(i) Estoppel by Record.

(ii) Estoppel by Deed.

(iii) Estoppel by Conduct

2. Estoppel by Record means estoppel by the Judgement of a competent Court.

(i) Estoppel by Record is recognised by the law of India. It is dealt with:

(a) By the Code of Civil Procedure. *Sections 11-4.*

(b) By the Evidence Act. *Sections 40-44.*

3. Estoppel by Deed.

1. Under the English Law a party to a deed cannot, in any action between him and the other party, setup the contrary of his assertion in that deed. This rule affords an illustration of the exaggerated importance of a 'seal' in English law. Neither sealing wax nor wafter is necessary to constitute a seal. Apparently, a smudge of ink on document purporting to be a deed is a seal if so intended, and it makes a greater importance in law than a deliberate and identifiable signature. **There is no estoppel in the case of ordinary signed documents.**

2. The strict technical doctrine of Estoppel by Deed cannot be said to exist in India.

3. But while the technical doctrine has no application in this country, statements in documents are, as admissions, always evidence against the parties. In some cases such a statement amounts to a mere admission of more or less evidential value according to circumstances, but not conclusive. In other cases namely those in which the other party has been induced to alter his position upon the faith of the statement contained in the document, such a statement will operate as an estoppel. In this view of the matter, an estoppel arising from a deed or other instrument is only a particular application of that estoppel by conduct or misrepresentation under Section 115.

4. An estoppel does not arise under the Evidence Act merely because a statement is contained in a deed. It can work an estoppel only when it can fall with section 115.

I All. 403.

II Bom. 708.

5. A Recital in a deed may be merely an admission or it may be estoppel according to circumstances.

§ Particular Estoppels.

1. Section 115 deals with Estoppels in general, sections 116 and 117 deal with particular Estoppels.

2. The distinction between Estoppels under Section 115 and Estoppels under 116-117 may be noted.

(i) Estoppels under section 115 can arise between any two parties. It is not necessary that they should be related by a particular legal tie. Estoppels under 116-117 arise **only** between parties who are related by a particular relationship.

(ii) Estoppel under 115 arises by reason of **misrepresentation of facts** by one party to another. Estoppel under 116, 117 arise by reason of agreement between the parties which has forged a particular relationship between them.

Section 116. deals with Estoppels between

(i) Landlord and Tenant and

(ii) Licensee and Licensor of immoveable property.

I. Landlord and Tenant.

This Estoppel applies to the tenant of immoveable property.

2. This estoppel applies also to a person claiming through the tenant. In other words, if a tenant sublets his property without the knowledge or permission of the landlord, the sub-tenant will also be estopped from denying that the landlord had the title in the beginning,

3. This Estoppel does not ensure to the benefit of a person claiming through the landlord.

There are two possible cases in which premises may be let:

(i) Where the Plaintiff has let the Defendant into possession of the land.

(ii) When Plaintiff is not himself the person who lets the Defendant into possession, but claims under a title derived from the person who did.

This section applies to the first case and estops the tenant from denying the Landlord's title. It does not apply in the second case where the title of the landlord is derivative i.e. by sale, lease or inheritance so that when the Plaintiff claims by a derivative title, the defendant is not estopped from showing that the title is not in the Plaintiff but in some other person. The tenant can show that he has no derivative title. This is the effect of the absence of the words "claiming through the landlord".

This estoppel applies to a denial of title **at the beginning of the tenancy,** so that a tenant can show that his landlord's title has expired or is determined. In such a case he does not dispute the title, but confesses and avoids it by a matter *ex-post facto*. Justice requires that the tenant should be permitted to raise this plea, for, a tenant is liable to the person who has the real title and may be faced to make payment to him, and it would be unjust if, being so liable, he could not show the expiry or determination of his landlord's title as a defence.

4. **The Scope of the Estoppel.** A tenant or his representative will not be permitted to deny that on the day on which his tenancy commenced, the landlord who granted the tenancy had title to the property.

5. **This Estoppel binds the tenant only so long as the tenancy continues.** Once the tenancy has ceased he is free to deny that his landlord had any title even on the day on which tenancy commenced.

II. Licensee and Licensor of immovable property.

1. The rule is the same as a licensee, namely, that the licensor had title to such possession at the time when such license was given.

2. Difference between a **tenant** and a **licensee.**

License means permission given by one man to another to do some act, which without such permission it would be unlawful for him to do. It is a personal right, and is not transferable, but dies with the man to whom it is given. It can as a rule be revoked by the Licensor unless the licensee has paid money for it.

Tenancy is an interest in land and is transferable and heritable.

Section 117 deals with
(1) Estoppel of acceptor of a Bill of Exchange.
(2) Estoppel of a Bailee.
(3) Estoppel of a Licensee.

(1) The Estoppel with regard the Acceptor is to the effect that he should not be permitted to deny that the drawer had an authority to draw the Bill or to endorse it.

Reason for this rule is to be found in the Agreement between the Acceptor and the holder of the Bill.

What does the agreement of acceptance impost:

(1) That he will pay the payee or the holder.

(2) That if he fails to pay the drawer will pay.

What does it mean when he says that the Drawer will pay ? It means that the drawer had the authority and capacity to bind himself.

The payee took it on the basis of this agreement. The acceptor, therefore, is not permitted to deny this agreement.

Under Explanation I, he is permitted to deny that the signature of the drawer is a forgery.

This is contrary to English Law.

(2) & (3) **Estoppel in respect of a Bailee and Licensee.**

They cannot deny the authority of the bailor to make the bailment or of the licensor to grant such a license at the time when such bailment or license commenced.

§ Matters stated without prejudice.

1. Under this head fall certain classes of admissions made by a party.

2. If the admission is made under certain circumstances mentioned in Section 23, it cannot be proved against the party who made it.

3. What are those circumstances ?

(1) If it is made on condition that evidence of it is not to be given

(a) Condition may be express or

(b) Condition may be implied from the Conduct of the parties.

(2) Agreement may be verbal or in writing.

4. **The application of Section 23.**

(1) It applies to **Civil cases** only. The rule does not extend to criminal cases.

(2) By Judicial interpretation the application of the Section has been confined to admissions made in the course of the negotiations in the same.

The mere fact that a document is stated to have been written "Without Prejudice" will not exclude it. The rule which excludes documents marked "Without Prejudice" has no application unless some person is in dispute or negotiations with another and terms are offered for the settlement of the dispute or negotiation. *23 Bom. 177 (180).*

Explanation—

This section does not apply where a person is compellable to answer.

§ Matters which are irrelevant.

1. The law of Evidence does not state what matters are irrelevant.

2. It proceeds to state what matters are relevant and thus excludes those that are not relevant.

3. It is objected that the rules of relevancy are of no use.

4. There are two problems a Judge is faced with

(i) Whether and how far he ought to believe what the witness says ?

(ii) What inference a Judge ought to draw from the facts which he believes to have been proved ?

In every judicial proceedings there are two essential questions—Is this true ? and if it is true, what then ?

5. Rules of relevancy throw no light on either of them and persons who are absolutely ignorant of these rules may give a better answer.

6. Answer to the objections.

(i) Men reason and reason well even without the study of Logic. But it does not follow that we should study Logic.

(ii) The rules of relevancy out the flood of irrelevant gossip and collateral questions which are sufficient to comprise the strongest head and distract the most attentive mind.

I. Cardinal rule of relevancy is that you can prove a fact and not opinion.

Facts fall into two classes:

Those can and those which cannot be perceived by the senses. Those which cannot be perceived by the senses are :

(1) Intention, (2) Fraud (3) Good faith and (4) Knowledge.

§ Matter of which Proof is allowed by Law.

1. Facts in Issue. 3, 5, 12.

2. Facts relevent to Facts in Issue. 3, 6, 7, 8, 9, 13-16, 52-58 45-51.

3. Facts which are consistent with facts in Issue or with Relevant Facts or which show the probability of a Fact in Issue and Relevant Fact. 34-39-46.

Note—31-32 will go under direct evidence as exceptions.

4. Facts which are inconsistent with 11(1).
Facts in Issue or with Relevant Facts. 17-31.
or which show the improbability of a Fact
in Issue or Relevant Fact. 41 -44,46.

§ Facts in Issue.

Section 3. There are two Requisites of a fact in issue :

(1) **It is a necessary fact.**

A Fact in Issue is a fact which is the foundation of right claimed or of the liability which is sought to be imposed by one party against or upon another party.

A fact in issue is a fact the proof of which is necessary for the claim being granted or the liability being imposed.

Illus—

(1) Supposing the inquiry to be **whether A is entitled to succeed to B's property as his son.**

The following facts would be necessary facts :

(a) Whether A is the son of B.

(b) Whether B is dead.

(c) Whether the property belongs to B.

They are necessary facts because unless they are proved A's claim to succeed cannot be granted. They are the foundation of his claim.

Illus—

(2) Supposing the inquiry is

Whether A caused the death of B.

The following facts would be necessary facts :

(i) Whether A caused the death of B.

(ii) Whether A had the intention to cause death.

2. Every necessary fact is not a fact in issue. A necessary fact whether it is asserted and denied becomes a fact in issue.

In Illus. 1 and 2 if any necessary fact is not denied it would base to be a fact in issue.

3. A fact in issue is, therefore, a necessary fact which is in dispute between the two parties.

2. **§ Facts which are relevant to Facts in Issue.**

Section 3. I. Relevant fact means fact connected to the fact in issue.

1. The connection must be **visible** and **open** i. e. must be **obvious.**

2. The connection must be **immediate and not remote.**

3. The connection need not be **necessary** connection that would exclude all **presumptive** evidence, but such as **is reasonable,** and not **latent** or **conjectural.**

4. Whether there is a connection is a matter of legal instinct or legal sense to be acquired by practice. A few instances may serve for illustrations.

(a) On a Criminal trial of A, the statement of B, who is not a witness that he was the real criminal and that A is innocent would be rejected for remoteness and **want of connection** apart from the danger of collusion and fabrication.

R vs. *Gray Ir. Cir. Rep. 76.*

(b) On a suit by A against B for the recovery of £ 5 lent to him, an entry made by A in his diary that B owed him £ 5 would be rejected for want of connection.

Storr vs. *Scott. 6* c & P *241.*

(c) A as Agent of B, a Merchant residing abroad bought goods of C. At the time of purchase A did not inform C who was his principal; but the invoices described the goods as "bought on account of B per A". C afterwards drew upon A for the amount. B after receiving advice for the purchase and of the acceptance of bills by A had made large remittances to A. But A had become insolvent in the meantime.

C sued B the principal.

C desired to give evidence of his account books for the purpose of showing that B had been throughout debited by him as principal.

Held that evidence was inadmissible.

Smyth vs. Anderson. 7 C-b. *21.*

II. It is not every connected fact which is relevant. It is only facts connected **in a particular** respect which are relevant. The Evidence Act lays down in what way a particular fact must be connected with the fact in issue in order that it may be treated as a relevant fact.

6. **1. § Proof is allowed of Facts forming part of the same transaction comprised in the facts in issue.**

Take Illus (a), (c) (d).

What is meant by transaction ?

A transaction is a group of facts so connected that they go by a single name such as a **crime, contract, sale** etc.,

Anything connected with the crime or contract if the connection is open and visible i.e. **obvious** and **immediate** is part of the same transaction and is relevant.

What does transaction include ?

A transaction not only includes acts done but also statement made in the course of the transaction.

Illus—

The cries of a woman when raped. The statement to be part of the same transaction must accompany the act.

What is meant by same transaction ?

1. Same does not mean similar. Evidence of series of similar transactions irrelevant.

2. Same transaction does not mean transaction which has taken place at the **same** time and **same** place. It has nothing to do with simultaneity of occurrence as to time and place.

Illus.—

Robbery may take place in January in one place, stolen goods may be entrusted with a receiver in another place in February and may be sold in March in a third place. All this would be parts of the same transaction.

3. Same transaction means **one connected transaction—parts of the same piece.**

Case Law. Cockles pp. 66-68.

53 Cal. 372.

Principle. Such evidence is allowed because it makes things intelligible. It provides context.

2. § Proof is allowed of a Fact which shows **occasion, cause, effect** or **opportunity** for a fact in issue or for a relevant fact.

1. A man is accused of **theft.** If no money is found in his possession, probability is that he did not commit theft. Every cause has effect If there was no effect no cause.

2. A man is accused of assault.—That there was a quarrel may be proved to show that there was occasion or cause.

3. A man is accused of poisoning his wife.—To show there was no opportunity for him to do so, it can be proved that the nurse was always present.

4. A is accused for murdering B.—To show there was **cause** for murder can be proved that B knew that A had married to C and that wanted hushmoney from A.

8. 3 § Proof is allowed of facts which show **Motive, Preparation** for any fact in issue or relevant fact.

Motive. Illus. (a) (b). No rational man acts without motive.

Preparation. Illus. (c) (d). No act can be done without preparation.

Case Law.

1. *61 Cal. 54*—Motive-intention-Preparation-attempt-Act.

2. *R* vs. *Palmer*—Cockle P Killed Cook.
Pecuniary embarrassment, his buying poison, attempting to avoid inquest.

3. *R* vs. *Lillyman* Cockle P. (1896) 2Q B 167.

4. § Proof is allowed of a fact which shows the conduct of a party to any suit which has reference to such suit or which has reference to any fact in issue or to any relevant fact. Similarly proof is allowed of a fact which shows the conduct of an accused if such conduct influences and is influenced by any fact in issue or by any relevant fact.

1. Conduct of persons generally.

Illus.— (d) The making of a will. Not long before the making of the will, the deceased made inquiries and drafts relevant.

Conduct of the Accused:

Illus.— (e) suborning witnesses.

Illus.— (h) absconding.

Illus.—(h) concealing things.

Explanation—

1. Conduct does not include statement unless the statement accompanies the conduct and explains the conduct.

2. If conduct is relevant then

a statement which **affects** the conduct is relevant if it was made to the person or in his presence and hearing.

Illus.—

(g) Question is whether A owed B Rs. 10, 000. The A asked C to lend his money and D said in A's presence and hearing "I advise you not to trust A, for he owes Rs. 10,000" and A went away without making any answer is **relevant.**

Case Law.

Imp. 34 om. & R. 1087.

Imp. 7 All. 385 F.E.

Cockles-P. 75. Bright vs. foe B Tatham.

5. § Proof is allowed of facts which are necessary to explain or introduce a fact in issue or a relevant fact.

Illustration—

(d) On an indictment for crime it was alleged that the Accused was absconding.

Evidence may be given to show that he had urgent business.

(f) A is tried for a riot to assault or overowe the Police Officer and is proved to have marched at the head of a mob. Evidence may be given of the cries of the mob to explain the nature of the transaction.

(b) On suit for libel—imputing disgraceful conduct. Evidence may be given of the position and relation of Parties at the time the libel was published as introductory to facts in issue.

Under this evidence may be given of:

(1) The **identy** of a person or thing whose identity is in question.

(2) Exact time and place at which a fact in issue or a relevant fact happened.

(3) of the relation of the parties, to the fact in issue or relevant fact.

4. § Proof is allowed of facts showing the existence of any state of mind.

1. **Under this,** facts may be proved which shows intention, knowledge, good faith, negligence, ill-will or good will.

knowledge, Illus. (a): **good faith** Illus. (f): **Intention,** Illus. (e) (j): **Ill-will.** Illus. (k).

2. Under this, evidence of previous conviction may be given. Illus. (b).

3. **Limitations** upon the use of the Section.

(1) The state of mind of which evidence is given is not **general state of mind-** general disposition -but a state of mind which has reference to the particular matter in question.

(2) The evidence of the previous commission of the offence must be to show his state of mind with regard to the particular matter in question and for no other purpose.

15. § Proof is allowed of facts to show that the act done was a part of a series of **similar** acts in order to show that the act in question was done **intentionally** and not **accidently.**

Illustration— (a) (b)

1. Ordinarily the evidence of similar acts is not relevant because if a person has done one act, it does not follow that he must have done the particular act in question.

16. § Proof is allowed of facts showing the existence of a course of business according to which it naturally would have been one, if the question is a particular act was done or not.

Illus.—(a) (b).

This shows probability.

Question is whether a particular letter reached A or not ? The letter was posted and was not returned through the Dead Letter Office may be proved.

13. § EVIDENCE OF TRANSACTION AND INSTANCES IN PROOF OF RIGHTS AND CUSTOMS.

1. **Scope of the word Right.**

(A) There are three kinds of rights.

Private—e.g. a private right of way.

General—A Right common to any considerable class of persons. E.G. the right of villagers of a particular village to use the water of a particular well. Sec. 48 Illus.

Public—This is not defined in the Act. Every public right in the sense of the previous definition of general right is a general one though (according to the distinction drawn by the English Law) every general right is not a public right.

The section applies to all rights whether they are Private, General, or Public by reason of the word **any.**

(B) Does the section apply to **all** kinds of rights ? This question arises because of the absence of the word **every.** There was once a conflict of decisions on this question. One view was that included **all** rights. The other view was that it included only **incorporeal** rights.

The view now held seems to be that the term includes all rights.

2. Scope of the word custom.

A custom is not limited to ancient custom but includes customs and usages. Usage would include what people are now or recently in habit of doing in a particular place. It may be that the particular habit is of a very recent origin or it may be existed for a very long time. If it is one which is ordinarily practised there is usage.

B. Custom may be

(i) Private custom—Family custom,

(ii) General Custom-—Custom common to a considerable class of people and may be

(a) local

(b) caste or class

(c) Trade customs or usages.

(iii) Public—Not defined.

C. The Section applies to all customs and to all usages.

3. The evidence to be given is to be evidence of a **transaction** or of **instances** in which the right or custom arose.

A. Meaning of **transaction** and **instance**

(1) Transaction—some business or dealing carried on between two or more persons.

(2) Instance—Case occuring—individual acting in a particular way.

B. Proof is not restricted to previous transactions in cases between the parties to the proceedings. The use of the word **any** shows that it need not be between the parties to the litigation. It may be between strangers or it may be between a party to the litigation and a stranger.

C. The word transaction and instance has given a deal of trouble and the question has been raised whether it includes a judgement decree and the litigation in which they were pronounced not being between the same parties (and not being of a public nature), as evidence of a transaction or instance.

The question was considered in the leading case *Gajju Lull* vs. *Fatteh Lal.* **6 Cal. 171.**

III. Facts which are consistent with facts in issue or with relevant facts or which makes a fact in issue or of a relevant fact **highly** probable.

1. The Section is no doubt expressed in terms so wide and so extensive that any fact which can by a chain of ratiocination be brought into connection with another so as to have a bearing upon a fact in issue or a relevant issue may possibly be held to be admissible.

2. That such an extensive meaning was not intended by the legislature is clear from the word 'highly'. The words 'highly probable' point out that the connection between the facts in issue and the fact sought to be proved must be so **mediate** as to render the co-existence of the highly probable.—*6 Cal. 665 (662).*

3. To render a collateral fact admissible under this section, it must (a) be established by reasonably conclusive evidence and (b) when established afford a reasonable presumption or inference as to the matter in dispute.—6 *Bom. L. R. 983.*

4. The terms of this section though very wide must be read subject to other sections of the Act.

Illus—

1. *Ramanujan* vs. *King Emperor.*

58 Mad. 523 F. B.

Ramanujan was charged for having murdered Seethammal. Facts given at p. 526.

There was no eye-witness to the murder. The prosecution tendered evidence of the following facts :

1. That Seethammal when she left her husband joined the prisoner taking with her some jewels and some silver vessels.

2. That Seethammal and the accused lived together at various addresses.

3. They were last seen in 24 Peddunaicken Street on the 11th January.

4. On the morning of the 12th, when the milk woman went, the room was locked.

5. That on or about the 13th he pledged certain ornaments belonged to Seethammal.

6. That he purchased a mattress like the one in which the dead body was wrapped.

2. Long continued absence of demand to prove the payment of an alleged debt.

3. The resemblance of a child to the Defendant to prove paternity in a maintenance case.

11 (2) § Facts which are inconsistent with facts in issue or relevant facts or which make them highly improbable.

Illustrations.

1. In an action for money lent, the poverty of the alleged lender is relevant as being inconsistent with the making of the loan.

2. That a witness or the accused was at another place is relevant as inconsistent with his alleged presence at the scene of the offence.

3. In a case involving the determination of the question whether the thumb impression is that of A or not. Evidence may be given of his thumb impression on another document if their dissimilarity makes the story of his thumb impression improbable.

52-55. § **Proof of facts relating to character.**

1. The rules regarding evidence of character fall into two classes.

I Those which relate to the character of witnesses.

II Those which relate to the character of parties.

Character of witnesses.

1. The character of a witness is always material as affecting his credit. The credibility of a witness is always in issue. For as witnesses are the media through which the Court is to come to its conclusion on the matters submitted to it, it is always most material and important to ascertain whether such media are trustworthy and as a test of this, questions, among others, touching character are allowed to be put to witnesses in the case—Sections 145-153.

§ **Character of a Party.**

1. In respect of the character of a party, distinctions must be drawn between

Cases where the character of the party is in issue

and

Cases where it is not in issue.

Where the character of the party is in issue, there, proof of facts relating to character is allowed irrespective of the question whether the proceedings are civil or criminal. Sec. 52.

Illus.—

(i) In a Civil Suit the issue is "whether the governess was competent, ladylike and good tempered while in her employer's service" witnesses can be allowed to assert or to deny her general competency, good manners and temper.

(ii) In a Criminal prosecution for conspiracy to carry on the business of common cheats witnesses can be allowed to assert or to deny the general character of the accused.

When such general character of a party is not in issue, proof of character is not permitted by Law. *Sec. 52.*

There are two exceptions to this rule under which evidence of character is allowed even the character is not in issue.

(i) In Civil proceedings, proof of facts relating to character is allowed if they affect amount of damages. *Sec. 55.*

(ii) In Criminal Cases.

(i) Proof of facts showing accused is of good character is always allowed. Sec. 53.

(ii) Proof of facts showing accused is of bad character is not allowed except in the following case :

Where accused has given evidence that he has a good character.

Reasons why this difference is made between civil and criminal proceedings is obvious.

(1) Bad character only creates prejudice against the accussed. It does not prove the case against the accused. It is irrelevant unless the accused makes it a matter of issue by giving evidence of his good character, then of course evidence of bad character may be given.

(2) Good character strengthens the innocence of the accused and ought on humanitarian grounds to be permitted.

Two things are to be noted.

1. What is included in the term character ?

Sec. 55.

The word Character includes both **reputation** and **disposition.** This is a departure from English law under which character is confined to reputation only.

There is a distinction between reputation and disposition. **Reputation** means what is thought of a person by others, and is constituted by public opinion. It is the general credit which a man has obtained in that opinion.

Disposition comprehends the springs and motives of action, is permanent and settled and has regard to the whole frame and texture of the mind.

2. How to prove Character ?

There are two ways of proving the character of a man. One way is to give evidence of general reputation and general disposition. The other way is to give evidence of particular acts which may then become the basis of inference for reputation and disposition.

55 Expl.

The Evidence Act permits evidence to be given **only** of **general** reputation and **general** disposition.

55 Expl.

There is only one exception to this under which evidence of previous conviction may be given as evidence of bad character.

Sec. 45-51.

§ Proof of opinions.

1. The use of witnesses is to **inform** the Court of the facts of the case. It is the duty of the Court to form its own opinion.

2. To show what the witness **thought** or **believed** would be objectionable on two grounds (I) It can show nothing at all and (2) it would be entrenching upon the province of the Judge.

3. The rule is that witness must state facts and not opinions. A strict application would create two difficulties.

(1) What a **third person** (i.e., some one who is neither a plaintiff, a defendant nor a prisoner) thinks or believes about any matter in question is not material. If such a third person be called as a witness, he must, as a rule, only state facts; his personal opinion is not evidence. But what a party thinks or believes at the time he does a material act is often a matter in issue both in Criminal and Civil proceedings.

Illus.—Carter -vs. - *Boehin. Cockle p.*

Question was whether a policy of insurance was vitiated by the concealment of facts which had not been communicated to the under writers. A broker gave evidence of the materiality of the facts. He was asked whether he would have entered into the contract if these facts were disclosed. His answer that he would not have was held to be inadmissible as it was matter of opinion. But if the question had been asked to the party then his opinion would have been admissible.

(2) A strict application of the rule is bound to create difficulties. In cases where the Court is required to form an opinion, the Court may not be competent to form an opinion cases occur in which special experience or special training is necessary before a true opinion can be formed. In such cases therefore the opinion of those who have had special experience or special training must be laid before the tribunal to enable it to arrive at a correct decision.

(3) There are certain cases where it is naturally impossible for any witness to speak positively, cases where he must speak if at all, as to his opinion or belief, the matters to which he deposes being so essentially matters of opinion or else to complex or indefinite that the Court is compelled to accept his opinion for what it is worth. The former are cases involving questions of science, art, or skill which necessarily require the opinion of the expert. The latter class of cases are cases involving question of impressions which may be those of non-experts.

(5) The Evidence Act therefore makes the following exceptions to the general rule that the opinion of a witness is not admissible.

Sec. 45.

(1) The opinions of **skilled** or **scientific witnesses** (Experts) are admissible evidence to elucidate matters which are strictly of a **professional** or **scientific** character.

For instance.

(i) Question of foreign law.

(ii) Question of Science or Art (working of a gun machine).

(iii) Question of as to identity of handwriting or finger impression.

Sec. 47.

(2) On questions of identification of a person by whom any document was written or signed, the opinion of the person acquainted with the handwriting of the person is relevant.

Sec. 48.

(3) Where the Court has to form an opinion as to the existence of any **general custom or right,** the opinion of persons **likely** to know of its existence is relevant.

Sec. 49.

(4) When the Court has to form an opinion as to :

1. The usages and tenets of anybody of men or family.

2. The constitution and government of any religions or charitable foundation.

3. The meaning of words or terms used in particular districts or particular classes of people.

The opinions of persons having special means of knowledge thereon are relevant facts.

Sec. 50.

(5) When the Court has to form an opinion as to the relationship between two persons, the opinion of persons based on the conduct of parties and having special means of knowledge on the subject.

Illus—(a) (b)

Proviso. Such opinion shall not be sufficient to prove marriage under Indian Divorce Act or the prosecutions under sections 494, 495, 497, 498 of the I. P. C.

Nature of Evidence Required for Proof

Summary of the Law

I. The Rule of Best Evidence.

II. Requirements of the Rule of Best Evidence.

(i) The rule of Best Evidence requires.

(a) That if the Evidence is oral then it must be direct.

(b) Exceptions.

(ii) The rule of Best Evidence requires that if the Evidence is documentary then.

(i) It must be original,

(a) Exceptions,

(ii) it be exclusive,

(a) Exceptions.

§ The Rule of Best Evidence :

1. It is an incontrovertible proposition of law that the party who is to prove any fact must do it by the **best** evidence of which the nature of the case is capable.

2. This rule, really speaking, underlies the whole law of Evidence.

(i) It is because of this rule that the law requires as a condition precedent to the admissibility of Evidence that there should be an open and visible connection between the principal and evidentiary facts.

(ii) It is because of this rule that the law requires that Evidence in order to be receivable should come through proper instruments.

(iii) It is because of this rule that the law requires that the evidence to be admissible should be original and not derivative.

3. At one time the rule of Best Evidence was very strictly applied. But its application is now greatly relaxed and what were once objections to admissibility now went merely to sufficiency on weight.

4. But the rule still survives and is illustrated by the requirements of the law of evidence in respect of oral Evidence and documentary evidence.

§ Oral Evidence :

1. The rule of best Evidence requires that if the evidence is oral then it must be direct.

2. This rule is embodied in section 60 of the Evidence Act.

3. What is meant by Direct Evidence ?

4. The answer that is commonly given is that oral evidence must not be hearsay evidence. This leads to the consideration of hearsay evidence.

The rule excluding Hearsay is subject to three main classes of Exceptions:

(i) Admissions and Confessions: Statements made in the presence of the party.

(ii) Statements made by persons since deceased,

(iii) Statements made in public Documents.

§ What is hearsay evidence:

1. Hearsay evidence has been defined in many different ways :

(i) All Evidence which does not derive its value solely from the credit given to the witness himself, but which rests also in part on the veracity and competence of some other person.

(ii) The statement as to the existence or non-existence of a fact which is being enquired into, made otherwise than by a witness whilst under examination in Court can be used as evidence.

2. Hearsay evidence is evidence reported by witnesses of statements made by non-witnesses.

§ Why hearsay evidence is excluded ?

1. When A sworn in Court, details something which he did not see with his own eyes **immediately** but which he **heard** from B **mediately** he is not giving expression to the evidence of his own bodily senses, but is the **medium** merely of communicating that which save third unsworn person has said he saw. He is bringing evidence to birth, *obstetricante manu,* with the hand of a midwife; and is a mere channel or conduct pipe for communicating the information of a party not before the Court. A may most correctly and truthfully

report what has been related to him, but it is never the less apparent that the real truth of the original statement cannot under such circumstances be tested. The originator of the report is not subjected to an oath or to Cross Examination *Non Constat* but he may have spoken idly or jocularly ; and he would be unwilling to repeat on oath what he had not hesitated to narrate in ordinary conversation. *Non constat* that he might not have wilfully fabricated a story or been the dupe of some one still farther hid behind the scences or that though perfectly veracious as to intention, he might have been the victim of his faulty impressions or unreten-tative memory ; and so have utterly broken down, if only exposed to the test of Cross Examination. Therefore the law determines that such evidence shall not be receivable; that if it is important to the party calling A, to establish the facts which A has heard from B, B himself shall be produced, make his own statement in Court, be subjected to the two tests of oath and Cross Examination and the scarcely less terrible detector of inaccurate or fallacious evidence, the observation to which a Judge, experienced in forensix practice, and skilled in the knowledge of human nature, subjects the demeanour, the department, the manner, of every witness who comes before him.

§ Does the rule of Exclusion apply to all Hearsay Evidence ?

1. Hearsay is the statement of a person who is not a witness in the Court and which is sought to be tendered as evidence through another person who comes as a witness.

2. The question is, does the rule of exclusion apply to all statements of a person who is not a witness in Court.

3. To understand this question it is necessary to realise that a statement when tendered in evidence wears two different aspects. **A statement is a fact and it is also the statement of a fact.**

Illus—

When A gives Evidence that B said this or that

(i) taken as a fact the question is **did say so or did he Not**

(ii) taken as a statement of a fact the question is Is what said false or true.

4. The Evidence of a statement by a person who is not a witness may be given for two purposes :

(i) To prove that such a statement was made.

(ii) To prove that a statement made is a true statement.

In its former aspect it is merely a fact in issue. In its latter aspect it is an assertion to prove the truth of the matter stated.

5. Whether a statement by a non-witness sought to be tendered in evidence and the admissibility is in question is tendered merely as a fact in issue or relevant fact and is tendered as an assertion to prove the truth of the matter, depends upon the purpose for which it is tendered. The test is the purpose.

6. The Rule of Exclusion of hearsay is stated in a narrow sense as well as in a wider sense. In its narrower sense, it is confined to unsworn statements used to prove the truth of the facts stated. In its wider sense, it is used to include all statements by unsworn witnesses for whatever purposes tendered i.e. including statements used merely as facts.

The Rule adopted in the Evidence Act.

1. The Indian Evidence Act does not recognise the rule that "no statement as to the existence or non-existence of a fact which is being enquired into, made otherwise than by a witness whilst under examination in Court can be used as evidence" — Markby.

2. Under the Indian Evidence Act statements by non-witnesses are admissible where the making of the statements not its accuracy is the material point.

3. Therefore

(i) Statements which are parts of the **res gestee**, whether as actually constituting a fact in issue or accompanying it (ss 5, 8),

(ii) Statements amounting to acts of ownership, as leases, licenses and grants (Sec. 13),

(iii) Statements which corroborate or contradict the testimony of witness (ss. 155, 157, 158)

are admissible even though they are statements by non-witness.

4. The rule of the exclusion of hearsay applies only to statements made by non-witnesses which are used to prove the truth of the facts stated.

4. What are the exceptions to the rule ?

1. Under the rule of evidence contained in the Evidence Act a statement made by a non-witness to prove the truth of the facts stated therein is inadmissible.

2. There are exceptions to this rule.

§ Exceptions contained in Section 32.

1. When a person is dead or cannot be found or has become incapable of giving evidence or whose attendance cannot be procured without delay or expense, statements written or verbal made by such persons may be proved if the statements fall under any one of the 8 categories mentioned in Section 32.

(i) When it relates to the cause of his death (a)

(ii) When it is made in the course of business. *Illus* (b) (j)

(iii) When it is against the pecuniary or proprietory interest of the maker or which if true would have exposed him to criminal prosecution or suit for damages. *Illus* (e) (f)

(iv) When the statement gives his opinion as to public right or custom or matters of general interest provided such opinion was given before controversy had arisen.*(Illus)* (i)

(v) When it relates to the existence of relationship by blood, marriage or adoption and the person had special knowledge and was made before controversy.

(vi) When it relates to the existence of relationship between persons deceased and is made in any will or deed relating to family affairs, in a family pedigree, upon any tombstone, family portrait etc., and is made before controversy.

(vii) When it is contained in any deed, will or other document which relates to any transactions as is mentioned in Sec. 13, clause (a).

(viii) When it is made by a number of persons expressing feelings or impressions. Illus. V.

§ Exceptions contained in Section 33.

1. When a person is dead, or cannot be found, or is incapable of giving evidence or is kept out of the way by the adverse party or if his presence cannot be obtained without unreasonable delay on expense then

the Evidence given by such a person as a witness in a former judicial proceeding or before any person authorised by law to take it,

can be tendered in a subsequent judicial proceedings or in a later stage of the same judicial proceedings to prove the truth of the facts which it states.

PROVIDED

(i) That the proceeding was between the same parties or their representative in interest

(ii) That the adverse party in the first proceeding had the right and opportunity to cross examine

(iii) That the questions in issue were substantially the same in the first as in the second proceeding, (Further portion not forthcoming—ed.)

35 § Entries in any book, register or record

1. Conditions of admissibility.

(i) Two classes of entries are contemplated by the section, (a) By public servants and (b) by persons other than public servants. If it is by a public servant then it must be in the discharge of his official duty. If it is by persons who are not public servants then the duty to make the entry must have been specially enjoined by the law. The former is as a matter of course. The latter is as a matter of special direction.

(ii) The book, register or record must be either **public** or an **official** one.

Official does not mean maintained for the use of the office. It means maintained by the State as distinguished from anything maintained by a private individual.

Public means for the use of the public. Public does not mean open to every one. It means open to every one having a concern to it. *18 Cal. 584.*

(iii) The Book, Register or Record may be in the book, register or record kept in any country not necessarily in India, provided it satisfied the conditions. An entry in a book, register or record of any foreign country can be proved.

Points to be noted.

(1) The entry is evidence ; though the person who made it is alive and is not called as a witness—For the proof of public and official documents see Sections 76-78.

(2) The Sections does not make the book, register or record evidence to show that a particular entry has not been made—

10 Cal. 1024 ; 25 All. 90.

(3) The Section is not confined to the class of cases where the public officer has to enter in a register or other book some actual fact which is known to him—

20 Cal. 940.

(4) Although the entry must have been made by a public servant in the discharge of his official duty or in the performance of a duty specially enjoined by law, but it must not be such an entry which a public servant is not expected or permitted to make, or which from ignorance of his duties or caprice or otherwise, he may choose to make at the dictation of a person who had a personal knowledge of the truth of the facts stated in the entry.

25 All. 90.F. B. 101.

2. It is not necessary that the entries must have been made up from day or (as in banks) from hour to hour as the transactions take place. Time when the entries are made is not essential. All that is necessary is that they must have been made regularly in the course of business. Delay in entry may affect its value but cannot affect its admissibility—27 Cal. 118 (P C.); 13 C. I J. 139.

3. Although the actual entries in books of account regularly kept in the course of business are relevant, the book itself is not

relevant to disprove an alleged transaction by the absense of any entry concerning it.

10 Cal. 1024.

NOTE : It may be admissible under Sec. 9 and 11—19 C. N. 1024.

For inference to be drawn from absence of entry.

30 Cal. 231 (247) P. C.

4. The entry must be in some book, register or record. Entry does not include correspondence 7 *M.L.I.117.*

Illus.—

1. Entries in Birth and Death Registers.
2. Entries in Birth and Revenue Registers.
3. Entries in Birth and Marriage Registers.

36 § Statements of fact in issue or relevant facts made in Maps, Plans and Charts.

I. Conditions of admissibility.

The section refers to two classes of **Maps** and **Plans.**

(a) Those generally offered for **public sale** and

(b) Maps or Plans made under the authority of Government.

Reasons for the admissibility of (a)

The publication being accessible to the whole community and open to the criticism of all the probabilities are in favour of any inaccuracies being challenged or exposed.

Reasons for the admissibility of (b)

Being made and published under the authority of Government, they must be taken to have been made by and to be the result of the study or inquiries of competent persons.

37 § Statement made in a recital in any Act or in a notification of the Government appearing in the Gazette.

Reasons.

1. The Gazettes and Acts are admissible because they are made by the authorised agents of the public in the course of an official duty and published under the authority of the State and facts stated in them are of a public nature and notoriety.

2. As the facts stated in them are of a public nature, it would often be difficult to prove them by means of sworn witnesses.

1. Relevant only if the Court has to form an opinion as the existence of any fact of a public nature.

2. Public nature. (not explained—ed.)

3. The section drawns no distinction between a public and private Act of Parliament. It merely requires that the fact recited in either case should be a public nature.

4. The recitals are not conclusive so far as the Evidence Act is concerned. However they may be expressly declared to be conclusive.

5. A recital is to be proved for showing the existence of a fact. It is no evidence that the particular person knows its existence. Knowledge of a fact although it be of a public nature is not to be conclusively inferred from a notification in the Gazette; it is a question of fact for the determination of the Court. It must be shown that the party affected by notice has probably read it.

38 S.

1. Statement of the law of any country in

(a) book purporting to be printed or published under the authority of the Government of such country and to contain any such law.

2. Report of a ruling of the Court of such country contained in a book supporting to be a report of such rulings.

This applies where the Court has to form an opinion as to a law of any country.

Particular instances of facts which are inconsistent with facts in issue or relevant facts or which make them highly improbable.

They are (1) Admissions (2) Confessions and (3) Judgements.

§ Admissions

Sec. 21.

1. Admission may be proved against the person who makes them or against his representative in interest.

2. Question is what is an admission? Before that certain points regarding the relevancy of admissions must be noted.

(1) Admission can be proved against a person. Admission in favour of a person cannot be proved by him. A plaintiff can prove an admission made by the Defendant if it is necessary for this case. A defendant can prove an admission made by the plaintiff if it is necessary for his case. But a plaintiff cannot prove an admission made by him however helpful it may be for his own case. Similarly a Defendant cannot give evidence of an admission made by him however hopeful it may be for his own case.

The reason is that a party cannot be allowed to create evidence in his own favour.

There are three exceptions to this rule under which a party is permitted to give evidence of an admission in his own favour.

(a) If the Admission is relevant under Sec. 32.

(b) IF the Admission relates to a state of mind or body made about the time and is accompanied by conduct.

(c) If the admission is relevant otherwise than as an admission.

Illus: (d) and (e)

Sec. 23.

(2) Barring these three cases, an admission, if it is to be proved can be proved only against a party. But there is a casein which proof of an admission cannot be given. This is a case where admission was made on the express condition that proof of the admission shall not be given.

Sec. 31.

(3) Admissions are not conclusive proof of the matter admitted. An admission may become an estoppel if the elements necessary for estoppel exist in which case a party against whom it is sought to be proved cannot give evidence to disprove it or explain it away. But if it is not an estoppel, evidence can be given by the party against whom it is proved to disprove it or to explain it.

3. Admissions can only be proved against the party who made them but they can also be proved against his representative-in-interest.

Who is a representative-in-interest ?

(i) There is no definition of the term given in the Act.

(ii) It is held to be wider than the term Legal representative which according to the penal code means a person who represents in law the estate of a deceased person.

(iii) It not only includes a 'legal representative' but also includes the **privies of a person.**

(iv) The privies of a person are :—

(i) *Privies in blood,* such as ancestors and heirs.

(ii) *Privies in law,* such as executor of a testator or administrator to an intestate.

(iii) *Privies in estate* or interest, such as Vendor and Purchaser, grantor and grantee, donor and donee, lessor or lessee.

So that an admission :

(1) made by the father can be proved against the son ;

(2) made by the deceased against the executor or administrator ;

(3) made by the Vendor against the Purchaser.

17-20 § What is an Admission.

1. Admissions are (1) Formal or (2) Informal.

(1) Formal admissions are :

(i) Admissions contained in the pleadings.

(ii) Admissions in answers to interrogatories.

(iii) Admissions on notice to admit facts.

(iv) Admissions on notice to admit documents.

(v) Admissions by Solicitors.

(vi) Admissions by Counsels.

(2) Informal Admissions are :

(i) By Statements.

(ii) By Conduct—

(1) Act or Omission.

(2) Silence.

(3) Acquiescence.

4. Admissions the proof which is allowed by section 21 do not Formal Admissions. Section 21 deals with informal admissions only. But it does not deal with all the classes of informal admissions. It does not deal with informal admissions by conduct. It only deals with informal admissions contained in statements. It deals with **assertions** and not **acts.**

5. **The definition of an admission as used in Section 21 is spread over sections 17-20.**

An admission is a **statement, oral** or **documentary, which** suggests an **Inference** as to any fact in issue or relevant fact made by a person specified in Sections 18, 19, 20.

Two things are necessary.

The statement may not be directly touching the fact in issue or a relevant fact. It is enough if it suggests an inference of acknowledging the fact in issue or relevant fact.

Illus :—

A sues X for damage done by K's cattle to A's crop and for the purpose of showing an admission on the part of X that his cattle had caused the damage. X offers the testimony of B to the effect that X told that X had offered a certain sum to cover the damage.

This is a statement which can sustain the inference that X's admission that his cattle did do the damage.

Illus-—

A sued *X* for the loss of his sheep alleging that X's dog had killed them. As proof he adduced evidence that X had killed his dog at the time remarking that it will not kill any more sheep.

Is this an Admission ?

II. It must have been made by persons specified in Sections 18-20.

1. Deference to sections 18-20 shows that the reasons specified fall into categories.

(1) Persons who are parties to the proceedings and

(2) Persons who are not parties to the proceedings-strangers.

Persons who are parties to the proceedings include :

(1) Parties.

(2) Agents of the parties.

(3) Persons jointly interested in the subject-matter of proceedings. e.g. partners, joint contractors.

(4) Persons from whom parties have derived their interest.

I. Strangers.

Where can a statement of a person who is a stranger and is not in any way related to a party to the proceedings mentioned in Section 18, be treated as an admission by a party.

Two cases.

(1) Statement is that of a referee—Section 20.

II. When the liability or position of that stranger is subject-matter of the proceedings.

and

(2) When the statement of the **stranger** be such as to amount to admission by him of his liability i.e. it must come within Section 17-18.

Illus. To the section—of liability.

Illus. 5 Mad. 239—of position.

A and *B* are jointly liable for a sum of money to C who brings an action against *A* alone.

A objects that he cannot singly or severally be made liable and that *B* should be joined as a co-defendant being jointly liable.

An admission by *B* to *D* as to his joint liability is relevant between *A* and *C* and may be proved.

D may prove it although *B* is not called.

§ Confession

1. Evidence may be given of a confession provided it be not expressly excluded whether made to a private person or to a Magistrate.

2. That a confession was made is a fact which must be proved like any other fact.

9 Mad. 224 (240).

5 Lah. 140.

4 All. 46 (94).

8 W.R. Cr.28.

3. **Two Questions arise :**

I. What is a Confession.

II. What are the cases in which the Evidence of a Confession is excluded.

I. What is a Confession :

1. The Act contains no definition of the term Confession.

2. The definition of the term is therefore a matter of judicial interpretation.

3. A confession is a statement. An Admission is also a statement although the one is a statement by an accused while admission may be statement by a party. Two questions arise :

(1) What is the precise difference between Confession and Admission.

(2) When is a statement by the accused a Confession and when it is an admission.

1. Statements made by an Accused person belongs to a class which the Evidence Act calls "admissions" (sections 17,18) and……they are evidence against the maker but not in his favour.

2. Confessions are a sub-species of "statements" and a species of admissions.

3. The following table illustrates the relationship.

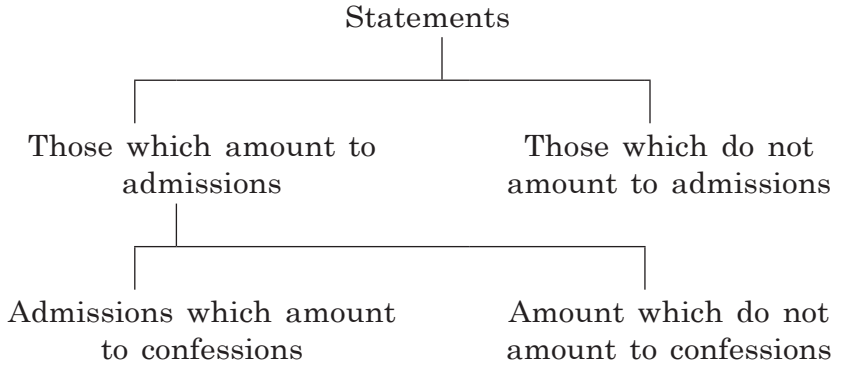

4. The common feature of confessions and admissions is that they are both of them are **statements** made by the party to the proceedings.

5. Two questions arise.

I. A statement is an admission even though it is not made by the party himself. If it is made by a person defined in Sections 18-20 it will be an admission. Can a statement rank as a confession if it is made not by the Accused himself but by persons specified in Sections 18-20.

1. To be a Confession, it must be by the Accused himself. If it is not by the accused it is not a Confession :

1. An exculpatory statement by the Accused is not a Confession.

2. An inculpatory statement by the Accused which involves him but does not incriminate him is not Confession.

3. An inculpatory statement which not only involves but also incriminates is a Confession.

Points to be noted.

1. The incrimination may be direct or may be by inference. A statement which can by itself be the foundation of conviction is a confession.

2. The statement may be intended by the accused to be self-exculpatory but it may nevertheless be an admission of an incriminating circumstance in which case it will amount to a Confession.

6 Bom. 34.

§ Two sorts of Confessions.

1. Confessions are either Judicial or Extra Judicial.

(i) Judicial Confessions are those which are made before a Magistrate or in Court in the due course of legal Proceedings.

(ii) Extra Judicial Confessions are those which are made by the party elsewhere than before a Magistrate or in Court.

§ What are the cases in which Evidence of Confession excluded

1. The Evidence Act has considered three possible cases :

(i) Confession is made to a Police Officer.

(ii) Confession is made while in the custody of the Police.

(iii) Confession which is made to a person who is not a Police Officer and which is not made while in the custody of the Police.

With regard to (i)

It is excluded by Section 25.

With regard to (ii)

It is excluded by Section 25, 26.Exception.

Effect of Sec. 27.

6 All. 509 (F. B.)

Question. Is Section 27 an exception only to Section 26 and not to section 25 ?

or

Is it an exception to both ?

57 Cal. 1062.

With regard to (iii)

The matter is governed by Section 24.

Explanation. **1. Person in authority.**
2. Appears.

Points to note :

1. Sec. 28 Confession after.....is removed.

2. Sec. 29

Queries.

I. Does Sec. 24 apply to statements made by the Accused under Sec. 287 Cr. P. C. before the Committing Magistrate.

Q. Not settled. *17 Bom. L. R. 1059.*

II. Does *Sec.* 24 apply to statement of an Approver under pardon under Sec. 339 (2) Cr. P. C. (22 *Bom. L. R. 1247).*

§ Use of Confessions.

1. Statement made by an Accused person binds him only so because of two reasons.

(i) The general rule of law is that an Admission made by one person could prejudicially affect another person.

(ii) The statement made by an accused person is not on oath.

(iii) The statement is not subject to cross-Examination.

2. But if the statement is a Confession which affects both himself and another person, then Section 30 says the Court **may** take into **consideration** the confession made by the Accused against other persons mentioned in the Confession.

3. Section 30 is therefore an exception to the general rule. The reason for this exception is the fact of self-implication which is said to take the place as it were of the sanction of an oath or is rather supposed to serve as same guarantee for the truth of the accusation against the other.

4. With regard to the use of the confession of one Accused against another accused, the important words are "**Court may take into consideration**". This means,

(1) That the use is not obligatory. It is permissive and discretionary. Court is permitted to use it. Court is not bound to use it.

(2) Court may **Consider** it. The word consider is significant.

(1) A statement made by a **witness** is "evidence", according to the definition of that term. A confession by an accused person affecting himself and his co-accused is not "evidence" in that special sense. It is in the sense that it is a matter before the Court which it may consider. The question is while allowing it to be so considered, does it do away with the necessity of other evidence ? There is no direct answer given in the Evidence Act. But all the Courts have held that it does not do away with the necessity of other evidence. The reasons are :

(1) Confession is never a complete guarantee of its truth against the other persons whom it involves. A confession may be true so far as it implicates the maker but may be false and concocted through malice and revenge so far as it affects others.

(2) Confession cannot be placed above the testimony of an accomplice because the latter is subject to Cross Examination while the former is not and if testimony of an accomplice requires corroboration a confession must.

Conclusion. If there is

(a) absolutely no other evidence in the case, or

(b) the other evidence is inadmissible

such a Confession alone will not sustain a Conviction. There must be corroboration.

When persons are accused of an offence of the same definition, arising out of a single transaction, the Confession of one may be used against the other, though it inculcates himself through acts separable from those ascribed, to his accomplice, and capable, therefore of constituting a separate offence from that of the accomplice.

8 Bom. 223 : 7 Mad. 579

Abatement—Same offence

1. Importance of the words **made** and **proved.** Does the section include statement made by one accused at the trial which incriminates himself and implicates a co-accused ?

The answer is that it does not.

The Section is not to be read as though the words "**at the trial**" were inserted after "made" and the word "recorded" substituted for "proved".

(1890) 14 Mo. Jur. N.S. 516.

The Section does not refer to the statements made at the trial. It refers to statements **made before** and proved at the trial. The use of the term proving a Confession is inapplicable to the procedure where the Judge asks questions and the accused gives explanation.

45 All. 323.

2. Importance of **"Jointly tried"**.

In this connection two important questions arise—When one Accused confesses and in his confession implicates a co-accused and pleads guilty.

(i) In such a case can he be treated as being jointly tried with the rest, as to let in his confession under this section against co-accused ?

(2) In such a case can an Accused who pleads quilty be called as a witness against those who do not plead guilty ?

Q. I. His Evidence cannot be taken into consideration because he ceases to be jointly tried. *5 Bom. 63; 7 Mad. 102; 19 Bom. 195.*

Although it is open to the court to continue the trial without convicting the Accused who pleaded guilty, yet it is unfair to defer convicting them merely in order that their confessions may be considered against the other accused.

23 All. 53.

Q. II. This depends upon the definition of the word accused : When does an accused person cease to be an accused person ?

Until an Accused person who has pleaded guilty is convicted or acquitted, he is still an accused person and is therefore not a competent witness against the co-accused. *13 C. W. N. 552.* Until an Accused person who has pleaded guilty is convicted and **sentenced,** he is still an Accused person and is therefore not a competent witness against the co-accused. *3 Bom. L.R.*

Summary.

1. When a person pleads guilty—he ceases to be jointly tried but he does not cease to be accused person. So that on plea of guilty his confession cannot be taken into consideration against other accused because they are not co-accused jointly tried : nor can he be called as a witness because he continues to be an accused until sentenced.

2. When a person pleads guilty and he is jointly tried and ceases to be an accused person, his Confession cannot be used but he becomes a competent witness.

Relevancy of Judgments.

Sec. 40

Where the question is whether a Court ought to take cognizance of a suit or to hold such trial.

The existence of a judgment order or decree which **prevents** any Court from taking cognizance of a suit or holding a trial is relevant fact.

Comment.

1. The law by which a prior judgment order or decree prevents a civil court from taking cognizance of a suit is contained in the Civil Procedure Code and the law by which a prior judgment prevents a criminal Court from holding a trial, is contained in the Cr. P. C.

2. The relevant Sections of the C. P. C. are 11-14. Provisions summarized in Field p. 260.

3. The relevant Section of Cr. P. C. is section 434.

4. Under Section 40 a Judgment is relevant if its effect is to conclude the court.

5. Such a judgment must be just between the **same** parties and on the same issues.

6. A Judgment *inter partes* does not bind a stranger. The principle underlying the rule is that no man ought to be bound by proceedings to which he was a stranger and over which he had no control.

Exception to the Rule

(I) *Sec. 41.* enacts an exception to the rule, under it. A final Judgment of a competent court in the exercise of

(i) Probate
(ii) Matrimonial
(iii) Admirality
(iv) Insolvency.

Jurisdiction

which confers or takes away a legal character or which declares any person to be entitled to any specific thing is admissible.

Comment:

1. This means that a judgment *inter partes* is admissible in a proceedings between persons who were not parties to that proceedings.

2. This section deals with what are called judgments *in rem* without using that expression. All judgments are *inter partes*. But some *inter partes* judgments are judgments *in personam* and some are judgments *in rem*. Both are *inter partes*. Instead of defining judgments *in rem—the* section enumerates them.

3. The result is that every judgment which gives or takes away a character is not admissible. It is only judgments given in the exercise of particular kind of jurisdiction which is admissible.

Illus.

Adoption is not admissible as between strangers.

It is a Judgment which confers a statics. But it is not admissible because it is not under any of the jurisdiction mentioned.

(II) **Exception**. *Sec. 42.*

Judgment *in personam* is relevant as between strangers if the judgment relates to a subjects of a public nature.

Subjects of a public nature.

(1) Customs.

(2) Prescriptions.

(3) Tolls.

(4) Boundaries.

(5) Rights of Ferry.

(6) Sea Walls etc.

(III) **Exception Sec. 43**. Under this section Judgments *in personam* are admissible as between strangers under two circumstances

(i) Where the existence of such judgment is a fact in issue.

(ii) Where the Judgment is relevant under some other provision of the Evidence Act.

Comment:

1. The first circumstance is easy to conceive.

Illus.

(1) *A* sued *B* for slander in saying that he had been convicted of forgery. *B* justified it upon the ground that it was true.

The conviction of *A* forgery would be a fact in issue and a judgment supporting his conviction would be admissible also. *B* was not a party to that judgment.

(2) A Judgment against a surety obtained by the creditor will be admissible in a suit by the surety against the principal debtor although the principal debtor was not a party to it.

(3) Upon a trial for intentionally giving false Evidence in a Judicial proceedings the record will be evidence that there was a Judicial proceedings.

2. It is the second circumstance which has created difficulty. What are the sections under which a judgment is likely to be relevant ?

Under sec. 7—Show cause, occasion.

Under sec. 8—Motive conduct.

Under sec. 9—Facts necessary to explain relevant facts.

Under sec. 11—Facts inconsistent.

Under sec. 13—Transaction.

3. Two Questions.

I. Is a Judgment a fact.

II. Is a Judgment a transaction.

6. Cal. 171 F.B.

4. Comment on 6 Cal. 171. that it is a fact. p. 181.

Fact: (1) Anything state of things, or relation of things capable of being perceived by the senses.

(2) Any mental condition of which any person is conscious.

II Documentary Evidence.

1. The subject to be dealt with is the proof of the statements made in a document i.e. proof of the contents of a document. Oral Evidence deals with the proof of the statements made verbally by a party.

2. What are the requirements of the Rule of Best Evidence with regard to the proof of the contents of a Document? There are two requirements—

(i) In certain cases the Evidence must be documentary and not oral.

(ii) In those cases where the Evidence must be documentary that evidence must be primary.

§ Cases where Evidence must be documentary

1. Many matters are reduced to writing. But because they are reduced to writing, the Law does not require that every such case they shall be *proved* only by the production of the document. Some may be proved by oral Evidence and others must be proved by documentary Evidence.

2. For this purpose it is necessary to note that the Indian Evidence Act makes two distinctions—

(1) between documents which are **dispositive** in character and documents which are non-dispositive in character and

(2) between transactions which are required by law to be in writing and those which are not.

3. **Dispositive and non-dispositive.** Dispositive means transactions in which parties dispose of their rights, such as a Contract, grant etc., Non-dispositive means transactions in which no disposition of rights is involved.

4. The rule embodied in the Evidence Act is twofold :

(i) When a dolcument is a dispositive document and when the matter is such that the law requires it to be reduced to writing no evidence shall be given in proof of the matter except the document. In other words oral Evidence in such cases cannot be substituted for documentary Evidence. But if the document is of a non-dispositive character or if it is one which is not required by law to be reduced to writing then although the transaction may have been reduced to writing yet oral evidence may be given in proof of the transaction.

(ii) If the transaction is a dispositive transaction or is one which is required by law to be in writing then not only oral Evidence cannot be substituted for the documentary Evidence but oral evidence cannot be admitted to contradict, modify or vary the terms of the document

5. This rule is contained in Sections 91-92.

§ Exceptions to the Rule contained in Sees. 91-92.

1. There are exceptions to this rule. They fall into classes. They must be kept separate. One class deals with cases where the question is whether oral evidence may be substituted for documentary Evidence. The second deals with cases where the question is whether oral evidence may be admitted not to substitute but to modify documentary evidence where the rule requires that the Evidence shall be documentary.

§ Exceptions which permit substitution of oral Evidence for documentary Evidence.

1. They are contained in Section 91 and cover the following cases :

(i) Appointment of a Public Officer.

(ii) Will may be proved by the probate.

§ Exceptions which permit oral Evidence to be given to modify the terms of the document.

1. They are contained in Sec. 92 and cover the following cases.

2. The first thing to note is that such evidence can always be given by persons who were not parties to the document or who are not representatives in interest of the parties to the document.

3. The cases in which parties to the document or their representatives in interest can give oral Evidence are as follows:—

(i) Fact which would invalidate a document e.g. fraud, want of capacity.

(ii) Fact on which document is silent and which is not inconsistent with its terms.

(iii) Condition precedent.

(iv) Subsequent oral agreement.

(v) Usage or custom by which incidents are attached to contracts. (Bakers dozen). Provided it is not inconsistent.

(vi) Fact showing how the language is related to existing facts.

§ Cases where oral Evidence may be admitted to Explain documentary Evidence.

There are two propositions of law which arise out of the first rule of Best Evidence relating to Documentary Evidence.

1. Where the transaction embodied in a document is of a non-dispositive character or is one not required by law to be in writing the fact of the transaction may be proved by oral Evidence.

2. Where it is dispositive or required by Law to be in writing then oral evidence not only given to prove the transaction but it cannot be given to contradict, modify or amend the terms of the transaction as embodied in the document.

3. One question however ramains. Can oral Evidence be given to explain documentary Evidence ? This is a distinct question and must be, separated from the question whether evidence can be given to modify contract etc. the terms of the documentary evidence.

4. This question is dealt with in Sections 93-100.

5. In dealing with documentary Evidence disputes may arise on three counts:

(i) Disputes regarding applicability or non-applicability of die language of the document to existing facts

(ii) Disputes regarding the meaning of the documents where the language used is ambiguous or defective.

(iii) Disputes regarding the meaning of the words used in the document.

1. Under 1 there are three possible cases of disputes.

(1) Where language applies accurately to facts and the contention is that it was not meant to apply—Evidence may not be given in support of the contention to show that it was not meant to apply to the existing facts to winch they do apply—Sec. 94

(2) Where language applies to one of the existing facts but not to all of them—and the contention is that it applies to one specified fact—Evidence may be given in support of the contention to show to which particular fact it was intended to apply.—Sec. 95.

(3) Where language applies partly to one set of facts and partly to another set of facts and whole does not apply correctly to either and the contention is that it applies to one set and not to the other—Evidence may be given in support of the contention to show to which of the two it was meant to apply—Sec. 97.

1. Under the second Head of Disputes there are two possible cases :

(i) Where language is ambiguous or defective and the contention is that the parties meant a particular thing—Evidence may not be given in support of the contention to show its meaning or to supply its defects—Sec. 93.

(ii) Where the language is plain in itself but is unmeaning in reference to existing facts and the contention is that it was meant to indicate a particular thing—Evidence may be given in support of the contention to show what was meant—Sec 95.

3 Under the third head of disputes there arises the following case—

(i)…

(Space left blank in M.S.—ed.)

Difference between latent ambiguity and patent Ambiguity.

II How to prove the contents of a Document ?

1. What are the requirements of the Rule of Best Evidence with regard to the proof of the Contents of a Document ?

2. There are two requirements in this respect as laid down in the Evidence Act.

(i) The contents of a document must be proved by Primary Evidence.

(ii) The document must be proved to be genuine.

§ **What is meant by Primary Evidence ?**

Sec. 62.

(1) Primary Evidence means the document itself produced for the inspection of the Court.

Explanation

(Space left blank in M. S.—ed.)

§ How to prove that the **document is genuine** ?

1. For the purpose of proving their genuineness the Evidence divides documents into two classes (l) Public Documents and (2) Private Documents.

2. Public Document is defined in Sec. 74.

3. Section 75 declares that any document which is not a public document is a private document.

4. The rules for proving the genuineness of a document differs according as the document is a public document or a private document.

5. The mode of proving the genuineness of a public document is stated in Sections 76-78.

6. The mode of proving the genuineness of a private document is stated in Sections 67-75.

7. Private documents must generally be proved by the production of the original coupled with the evidence of the **handwriting, signature** or **execution** as the case may be. **Exception**—will may be proved by probate.

8. The genuineness of public documents may be proved either by the production of certified copies under Section 77 or if they be documents of the kind mentioned in Section 78 the various modes prescribed in that section.

9. With regard to the burden of the genuineness of a document whether it is public or private, the Evidence Act enacts certain presumptions which are contained in Sections 79-90 although they are not conclusive presumptions.

10. These presumptions fall into classes:

(1) Those in which the Court shall presume.79-85 and 89.

(2) Those in which the Court may presume.86-88 and 90.

§ When is Primary Evidence dispensed with ?

(Space left blank in M. S.—ed.)

§ How are the Contents of a document proved where Primary Evidence is dispensed with ?

1. By Secondary Evidence.

(Space left blank in M.S.—ed.)

§ What is Secondary Evidence ?

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BURDEN OF PROOF

1. The law requires the person on whom the burden of evidence is placed to discharge the burden.

2. In discharging this Burden of Proof the following considerations must be borne in mind :—

   (i) There are matters of which Proof is not required.

   (ii) There are matters of which Proof is not allowed.

3. Under (i) his burden is lightened while under (ii) his burden is increased.

blank

BURDEN OF PROOF

(i) Matters of which Proof is not required by Law

1. Matters of which Proof is *not* required by Law fall under three heads :

(a) Matters which are judicially noticed.

(b) Matters which are admitted by parties.

(c) Matters the existence of which is presumed by Law.

§ Matters which are judicially noticed

1. Sections 56 and 57 deal with facts which are judicially noticed. Section 57 enumerates 13 matters of which judicial notice must be taken.

Section 56 says that no fact of which the Court will take judicial notice need be proved by evidence. Parties are relieved from the burden of adducing evidence to prove a fact which falls under any one of the matters failing under Section 57 of which judicial notice must be taken.

2. *The principle underlying the Sections.*— Certain matters are so notorious and are so clearly established that it would be useless to insist that they should be proved by evidence

Illus. .

1 The commencement and continuance of hostilities.

2. The Geographical Divisions of the Country

These facts are so notorious that proof of them by evidence is superfluous.

3. *Matters enumerated in Section 57.*

(i) Rules having the Force or Law.

Many Acts contain a Section empowering the Local Government to make rules for carrying into effect the provisions of the Act and declaring that such rules shall have the force of Law e. g. Rules made under the Government of India Act. Such rules fall within the purview of this section.

2. Distinction must be drawn between rule having the force of law and custom which is the source of Law. A large part of Hindu Law is based on custom. But the Court will not take judicial notice of a custom. The party who relies on a custom must prove the existence of the custom. When the party has proved the existence of the custom the Court will give effect to it only if it comes to the conclusion that it is a valid custom.

3. It is true that there are some customs for the proof of which the Court does not require Evidence. But that is not because the Court is bound to take judicial notice. The Court does not require formal proof because by the rule of precedent, the Court is bound to uphold a custom, the existence and validity of which has been recognised in an earlier decision by a Court to which it is Subordinate.

(ii) STATUTES.

The statutes passed by Parliament are either general or special.

A General Statute is universal in its application and extends to all persons and to all territories.

A Special Statute is either local or personal and operates upon particular persons and private concerns.

2. All Acts of Parliament are to be presumed to be public unless the contrary be declared therein - Section 13 of 14 Vict. c. 21.

3. Judicial notice *must* be taken of all public Acts. Court is not bound to take judicial notice of a Private Act unless the particular Private Act contains a direction to the Court to take judicial notice. If it does not contain such a direction, the parry must prove that a Private Act relied upon is an Act of Parliament.

(iii) INDIAN ARTICLES OF WAR.

These are rules of discipline for Native Officers, soldiers and other persons in His Majesty's Indian Army. They are contained in the Indian Army Act of 1911.

(iv) COURSE OF PROCEEDINGS OF PARLIAMENT AND COUNCIL.

1. Course of Proceedings must be distinguished from proceedings themselves.

2. The Court will take judicial notice of the course of proceedings and not of the proceedings.

Foreign State

Court will take judicial notice whether a foreign State is recognised or not by His Majesty or by the Governor-General in Council.

State of War

The existence of a State of War between foreign States will not be taken judicial notice of.

Rules of the Road on Land or Sea

Effect of the last para.

1. Court can refuse to take judicial notice under certain circumstances of matters of which they are bound to take judicial notice.

2. Party is bound to produce the necessary material to enable the Court to take judicial notice.

Illus.

Gazette must be produced if the party wishes the Court to take judicial notice of a Proclamation.

Mode of Proof

1. The general rule regarding mode of proof may be stated thus:

The law requires evidence to be given by a person—

(i) Who is present in the Court.

(ii) Who is legally competent as a witness.

(iii) Upon oath or affirmation.

(iv) In regular course of Examination.

(v) Subject to contradiction as to facts.

(vi) Subject to discredit as to veracity.

I. PRESENCE IN COURT.

1. It is a duty of the citizens to appear and testify to such facts within their knowledge as may be necessary to the due administration of justice. It is a duty which has been recognised and enforced by the Common Law from an early period.

2. The right to compel the attendance of witnesses was incidental to the jurisdiction of the Common Law Court, and the statutes have conferred this power upon other officers such as Arbitrators. Every Court having power definitely to hear and determine any suit, has by the Common Law, inherent power to call for all adequate proof of the facts in controversy and to that end, to summon and compel the attendance of witnesses before it.

3. The wilful neglect to attend and to testify after proper and reasonable service of the *subpoena* and in civil cases, after payment or tender of the witnesses fee of waiver of payment is a contempt of Court.

4. The process to compel attendance of witnesses to give testimony or to produce documents is not provided for in the Evidence Act. It is provided for in the Civil and Criminal Procedure Codes.

5. The following matters are in the Country provided for by the Civil and Criminal Procedure Codes.

(i) Summoning of witnesses :

Civil Pro. C.	O. XII	
Cr. Proc. C.	68-74	(Summons)
	90-93	(Other rules regarding Process)
	328	(Summons on Juror or Assessor)
	244	(Issue of Process in Summons Cases)
	254	(,, ,, Warrant cases)
	256	( )
	257	( )
	540	(Power to summons material witness on Examine person present.)

(ii) Production of documents and other things :

Civil P.C.	O. XI, XVI.	
Cr. P. C.	94, 95	(Summons to produce documents or other thing)
	96-99	(Search warrants)
	485	(Consequences of refusal to produce)

(iii) Expenses of the witnesses:

Civil P. C. O. XVI. R. 2-4

Cr. P.C. 244, 257.

(iv) The freedom of complainants and witnesses in criminal cases from police restraints.

Cr. P. C. 171.

(v) Recognizance for the attendance of complainants and witnesses in Criminal proceedings.

Cr. P.C. 217, 170.

NOTE.—Not provided for in Civil cases.

(vi) Exemption of witnesses from arrest under Civil process.

Civil Pro. Code S. 135

NOTE.—There is no protection given against Criminal process.

6. Not only is there provision for summoning a witness, there are provisions for compelling his attendance.

(1) Non-attendance in obedience to a Summons is made an offence by Section 174, 175,I. P. C.

(2) Non-attendance in obedience to a summons may be followed by *Warrant of arrests* under Sections 75-86 and by Proclamation and Attachment under Sections 87 89 of the Cr. P. C.

(3) Non-attendance may further render a witness liable to a Civil action for damages under Section 26 of Act XIX of 1853 (in force in Bengal) and under Section 10 of Act X of 1855 (in force in Bombay and Madras).

24 W. R. 72.

7. Although the law requires persons summoned as witnesses to *attend in person,* the law also excuses non-attendance in certain cases.

(i) By reason of non-residence within certain limits.

Civil P. C. O. XVI R. 19.

(ii) By reason of the witness being a *purdanashin* lady.

Civil P. C. Section 132.

(iii) By reason of the witness being a person of Rank.

Civil P. C. Section 133.

§ The witness must be competent to give evidence

1. The question of competency of a person may be considered from two points of view

(1) From the point of view of his intellectual capacity

(2) From the standpoint of his veracity.

I. Competency from the standpoint of intellectual capacity.

1. Section 118 deals with the question of competency from the standpoint of intellectual capacity.

2. The rule enacted in Section 118 is a rule which recognises the power of understanding as the *only* test of competency.

3. As every normal person has the intellectual capacity to understand things and to grasp their importance, Section 118 declares that *all persons* are competent to testify unless they suffer from want of understanding.

4. The law of competency is therefore practically the law of incompetency. A person is a competent witness who is not incompetent.

5. Incompetency therefore means want of understanding. This want of understanding may arise from

(i) Tender years.

(ii) Extreme old age.

(iii) Disease whether of body or mind.

(iv) Any other cause of the same kind.

6. *Comment.*

(i) *Tender year or* (ii) *Extreme old age*— is not defined.

A boy of 7 may not be incompetent but 12 may be, if the former has an understanding which the latter has not. A man of 60 may be incompetent and a man of 80 may not be.

The test is not the age. The test is the Existence or non-Existence of understanding.

(iii) *Disease of the body*

A witness may be in such extreme pain as to be unable to understand or if able to understand to answer questions. He may be unconscious, as if in a fainting fit, catalepsy or the like. Here again it is a question of fact whether in any particular case the disease of the body is such as to deprive a person of his power of understanding.

(iii) *Disease of the mind*

1. This contemplates the case of an idiot and a lunatic, both suffer from the disease of the mind.

2. An idiot is one who is born irrational, without the reasoning faculty. A lunatic is one who is born rational, has subsequently become irrational and lost his reasoning faculty.

3. A lunatic is either a *monomaniac* or is a maniac for the time being. That being so, a lunatic is not incompetent merely because he is a lunatic. Lunacy does not mean complete annihilation of understanding. If it is general lunacy, he may be lucid at intervals. If he is a monomaniac, his understanding about other matters may be clear.

Illus. of partial lunacy.

(1) Murder discussion in Lunatic Asylum.

(2) Interview by a person with his lunatic friend in the asylum and his remark about time.

Illus. of Monomaniac

(1) R. V. Hill—Hill was tried for murder. Donelly witness—lunatic—suffered from the delusion that he had 20000 spirits about him which were continually talking to him.

That being so a lunatic can be a competent witness.

This is recognized in the Explanation.

(iv) *Any other cause.*

This means any other cause depriving a person of his power of understanding. e.g. *drunkenness.*

Some of these disabilities are coextensive with the cause, therefore, when the cause is removed the witness becomes competent.

e.g. When pain ceases
drunkenness ceases
Lunacy ceases

Whether there is understanding or not in the witness, is a matter which is determined by the Court by questioning the witness.

§ Accused as a witness

1. While all persons who have understanding are competent as witnesses, there is one exception to the rule. That is, an accused person cannot be examined as a witness in a criminal case in which he is being tried.

There is a case of the disease of the body which does not affect the mind of the understanding. Dumbness is such a disease.

Section 119 deals with the case of such a witness. The Section does not declare him to be incompetent On the other hand, it treats him as a competent, and permits him to give evidence in any manner by *writing* or by *signs* made in open Court.

§ Competency from the standpoint of the veracity of the witness

1. The motives, which prevent a person from telling the truth, are more numerous in judicial proceedings than in ordinary affairs of life because of the fact that, result of a judicial proceeding cannot be flouted and are binding in a more absolute manner than other informal proceedings of a Panch are. Consequently the law at one time rendered many people intellectually competent incompetent to give evidence in a cause.

2. Formerly, therefore, not only mental incapacity was a good ground for incompetency but *interest* was also a ground for incompetency. Reason was that, an interested person would not tell the truth. Consequently, at one time, the following persons were deemed incompetent.

1. Parties to the suit.
2. Husband and wife against each other.
3. Accused against himself.
4. An Accomplice.

3. This view of the law is now changed and the principle has undergone a change. Question of competency or incompetency has been converted into a question of credibility or incredibility. So that every son is rendered competent to give evidence but it is left to the Court to believe him or disbelieve him.

4. This new principle is embodied in Sections 120 and 133.

§ Section 120

I. Civil Proceedings

(i) The parties to the suit are competent witnesses.

(ii) The husband and wife of any party to the suit are competent witnesses.

II. Criminal Proceedings

1. The husband or wife of the accused is a competent witness either for or against.

§ Section 133

1. This section deals with the competency of an accomplice. The evidence of an Accomplice is held untrustworthy for three reasons:

(i) because an accomplice is likely to swear falsely in order to shift the guilt from himself.

(ii) because an accomplice as participator in crime, and an immoral person, is likely to disregard the sanction of the oath.

(iii) because he gives his evidence under a promise or hope of not being prosecuted, if he discloses all he knows against his participators in the crime.

2. But his evidence has to be admitted from necessity, it being often impossible without having recourse to such evidence to bring the principal offenders to justice.

§ Difference between the value of Evidence of Accomplices and other persons

1. Persons other than accomplices are not only competent but are also credible. An Accomplice on the other hand is only competent but is not credible.

2. Witnesses may be incredible in the eye of the Judge. But they are not incredible in the eye of the law. An Accomplice has a statutory incredibility attached to him by the law.

3. This statutory incredibility arises from illustration (b) to Section 114 of the Evidence Act. The presumption is sanctioned by the Act and although it is rebuttable, it would be an error of law not to disregard.

4. For attaching this statutory incredibility, it would be necessary to determine whether the witness is an Accomplice. The term is not defined.

> (i) An Accomplice is a person who is concerned with another or others in the commission of a crime. He is a participant. But it is not every participation in a crime which makes an accomplice. Much depends on the nature of the offence and the extent of the complicity of the witness in it.
>
> *5 W.R.Cr.59.*
>
> (ii) An Accomplice is a person who is a guilty associate in crime or who sustains such a relation to the criminal act, that he can be justly indicted with the Accused who is being tried.
>
> *27 Mad. 271.*

§ Effect of Sections 120 and 133

1. The sections enumerate certain persons as being competent to give evidence. Question is, Are other persons not competent ? The sections are not to be understood to mean that these are the only persons who are competent and others are not. The effect of the sections is that all persons are competent including those mentioned in Sections 120 and 133.

2. The reason why it was necessary to specifically deal with these classes is, because under the earlier law they were incompetent. The ban against them had to be lifted and therefore the specific provisions relating to them. Other classes of persons were already deemed to be competent and it was unnecessary therefore to say anything about them.

3. The Effect of Sections 120 and 133 is this, that not only

(1) Parties to suits.

(2) Husbands and wives.

(3) Accomplices.

are competent witnesses, but

(1) Jurors and Assessors—Section 294 Cr. P. C.

(2) The Executor of a Will

(3) An Advocate for a party

may be competent witnesses in the case to which they are a party, although it is a cause in which they are interested.

Evidence must be given on Oath

1. Oath is not a requirement of the Indian Evidence Act. Left to the Indian Evidence Act, evidence by a witness would be legal evidence although the witness had given evidence without taking oath.

2. Oath is a requirement of the Indian Oaths Act X of 1873. Section 5 of the Oaths Act lays down.

1. That oaths or affirmation *shall* be made by the following persons.

(a) all witnesses.

(b) interpreters.

(c) Jurors.

3. Section 6—permits a person who objects to the oath to affirm.

4. Section 14.—Every person giving evidence before any Court or person authorised to administer oaths or affirmation shall be bound to state the truth on such subject.

5. There are three questions that arise for consideration.

(1) Can a Court decline to administer oath or affirmation to a witness ?

(2) Can a party decline to take oath or make affirmation?

(3) Effect of the refusal of a witness to take oath or affirm and of the failure of the Court to administer oath.

Answer to Question 1. It is a statutory duty of the Court to administer oath.

There is one qualification, namely, Court is bound to administer it to a person who is competent and not bound to administer it to one who is incompetent, *e. g.* a child.

6 Pat. L. J. 147.

Answer to Question 2. The answer is given in Section 12. Party shall not be compelled to make it. But the Court is to make a record of his refusal and the reasons, if any, given by him.

Answer to Question 3.

Part I—Effect of the refusal of the party to take oath or make an affirmation.	1. ..... 2. Such refusal only affects the value of the evidence.
Part II—Effect of the failure of the Judge to give oath.	1. The evidence remains admissible. 2. Obligation to tell the truth remains.

6. The Provisions of the Oaths Act in India are not so strict as they are in England.

(1) Oath is not a necessary condition precedent for the obligation of telling the truth. It is necessary merely to remind a witness of its sanction.

(2) The Indian Act condones the failure to remind or failure to take oath. The English law makes the evidence inadmissible.

IV. Course of Examination

1. There are two possible ways in which a witness can depose

(i) By narrating the facts.

(ii) By answering questions put to him.

2. The Evidence Act provides that the testimony of a witness shall be taken in the form of Examination, not in the form of a narration. The reasons why the law prefers examination as the mode of giving evidence are to be traced to the rules of relevancy. A person is permitted to give evidence of matters which are relevant. He is not permitted to give evidence of all matters relating to the issue. Matters which are related to the issue are not necessarily relevant to the issue and under the Evidence Act it is the duty of the Judge to decide whether any particular fact is relevant or irrelevant and to rule out their relevant then and there.

If a witness is permitted to give his testimony in the form of a narration two things will happen :—

(i) The witness will in all probability tell *all* facts relevant as well as related and this introduce irrelevant matter and

(ii) The action that a Judge may be able to take to rule out irrelevant matters will be *ex-post facto*.

On the other hand if the witness was required to give his testimony in the form of answers to questions, two objects will be achieved:—

(i) his testimony could be made to confine to relevant matters only not being permitted to wander and

(ii) the Court can immediately check and rule out the introduction of irrelevant testimony.

3.

4. With regard to the examination of witnesses, there are two questions which are distinct and which are regulated by different law. The *order* in which parties are to produce their witnesses for examination, and the *course* of Examination to which each witness is to be subjected when he is produced before the Court, are two separate questions.

Sections 135,138

The order in which witnesses are to be produced by the parties is a matter which is regulated by the Civil and Criminal Procedure Codes. While the course of examination to which a witness is to be subjected, when produced, is laid down by the Evidence Act.

§ Order of Production of Witnesses

1.	*In Civil cases*	*In Criminal cases*	
	Order XVIII Rule 1.	Summons cases	224 Cr. P. C.
		Warrant cases	252
			254
			257
		Summary cases.	262

Rule seems to be this.

1. The first question to be determined is who has the right to begin.

2. The right to begin depends upon on whom is the burden of proof.

§ Course of Examination

1. The Course of examination of a witness prescribed by the Evidence Act is to consist of *3* parts.

Section 138

(i) Examination in chief.

(ii) Cross Examination.

(iii) Re-Examination.

2. Examination in chief is the Examination of the witness by the party who calls him.

Section 137

Cross Examination is the examination of the witness by the adverse party.

Re-Examination is the examination of the witness by the party who called him subsequent to his cross examination by the adverse party.

Questions to be considered

3. Examination in chief is a matter of choice. No one can compel a party to call witnesses. But if witnesses are called and examined in chief, then the question that arises is this:— Is Cross-Examination and Re-Examination a matter of *right* or a matter of *privilege,* which may be granted or withheld according to the discretion of the Court ?

The answer to this question is that Cross-Examination and Re-examination are matters of right and not of privilege. The Court cannot stop a party from Cross-examining or Re-examining a witness who has been examined in chief by the party. What about a witness who is *called by the Court* and not by any party to the proceedings ? Is there any right to cross examine such a witness ? If so which party ? The Evidence Act makes no provision for such a case. It has however been held that a witness summoned and examined by the Court *cannot* as of right be Cross-Examined by either party without the permission of the Judge.

(1894) 2 Q. B. 316,

3 B. L. R. 145

11 W.R. 110

24 Col. 288

5 Cal. 614

16 W. R. 257.

4. When can the right to Cross examine be exercised ?

As to this, there is a difference between civil cases and criminal cases.

(i) In *Civil Cases,* the right must be exercised immediately. It cannot be postponed to a future date.

(ii) In Criminal Cases, in a summons case before the Magistrate and in the Sessions case the right must be exercised immediately. But in a warrant case, the accused has a right to postpone the Cross-examination of the prosecution witness to the next date of hearing.

The case of a person who is called as a witness by both the parties : In a litigation between A and B, C is cited as a witness by both A and B. First he is called as a witness by A on his behalf. After his cross-examination by B and Re-Examination by A, he is called as a witness by B on his behalf.

Can B Cross-examine C ?

There is no specific provision answering this question in the law of evidence. It is a question of judicial opinion. On this question there is a divergence of view.

(1) One view is that, when a person once gets a right to Cross-examine a witness, that right continues to him at all subsequent stages of the case against that witness, no matter in what role the witness reappears, so that, even if he comes as his own witness he can Cross-examine him. This view is based on the theory that every witness is favourably disposed towards the party calling him.

(2) The other view is that, each party should alternatively have the right of X Examining such a witness as to his adversary's case, while both should be precluded in the course of the respective Examinations-in-Chief from leading questions with regard to their own case. So that a Plaintiff may Cross-Examine any of his own witnesses, on hearing afterwards called on behalf of the Defendant.

The better opinion is that the right to X Examine does not survive and he cannot be asked leading questions on his Second Examination. If the adversary again called the same witness who has been examined by the other side and Cross-examined by him, he could clearly examine him in-chief.

This rule appears to have been adopted by the Evidence Act

5. Does this prescribed course of Examination apply to every witness ?

1. There are three sorts of witnesses who are called before the Court:

(i) Those who are called to depose to relevant facts.

(ii) Those who are called to speak to character.

(iii) Those who are called to produce documents.

2. With regard to witnesses who are called to depose to relevant facts or to speak to character, they are subject to the full prescribed course of examination, Cross-examination and Re-examination. But the witness, who is called to produce documents, stands on a different footing. He is not a witness and therefore cannot be cross-examined.

6. Can one Co-accused Cross-examine a witness called by another co-accused ? Can one Co-defendant Cross-examine another co-defendant or the witness called by a co-defendant ?

(1) The Section does not make special provision for the case of Cross-examination by co-accused and co-defendants.

(2) The Evidence Act gives a right to Cross-examine witnesses called by the *adverse* party and to no other. Consequently, it follows that one co-accused can cross-examine a witness called by another Co-accused only when the case of the second is adverse to that of the first.

21 Cal. 401.

(3) The rule of English law in this respect is different. Under the English law the right of a defendant (and *a fortiori* an Accused) to Cross-examine a co-defendant or co-accused is, according to the English-cases, is unconditional and not dependent upon the fact that the cases of the accused and co-accused are adverse or that there is an issue between the defendant and his co-defendant. And one co-defendant may Cross-examine a co-defendant's witness and the co-defendant if he gives evidence.

The reasons for this English rule are :

(i) It is settled that the evidence of one party cannot be received as evidence against another party unless the latter has had an opportunity of testing it by Cross-examination.

Allen vs. *Allen. L. R. P. D. (1894) 248/254.*

(ii) It is also scaled that all evidence taken, whether in examination-in-chief or Cross-examination, is common open to all the parties.

Lord vs. *Coloin. 3 Drewery 222.*

(iii) It follows that if all evidence is common and that which is given by one party may be used for or against another party, the latter must have the right to Cross-examine.

7. What is the effect of a default in the course of the examination of a Witness prescribed by law ?

(1) This question can arise only when there is a default in Cross-examination or Re-examination. Until there is Examination-in-Chief, there is no evidence at all in the legal sense of that term.

It is only when evidence has been given by the witness in his Examination-in-Chief that this question can arise. The question to be considered reduces itself to the effect of default of Cross-examination or Re-examination on the testimony of a witness.

(2) Such default takes place when the witness dies or falls ill, becomes insane or paralytic or disappears after his Examination-in-Chief or before X Examination.

(3) The Evidence Act does not in clear terms state in express terms what the effect will be. Whether, for want of Cross-examination or Re-examination of a witness, his testimony given in Examination-in-Chief will cease to be evidence in the legal sense of the word and will have to be cancelled and excluded from the consideration of the Court or whether it will merely affect its evidentiary value, is not stated in the Evidence Act. The question is determined by Judicial interpretation.

According to judicial interpretation, two propositions are well established.

(1) Such default does not make the evidence inadmissible. It only affects its credibility.

(2) Whether it would be credible or incredible, must depend upon the reasons for the default in Cross-examination.

There are two ways in which default in X Examination may take place:

(i) Where a party could have X Examined but did not do so.

(ii) Where a party would have X Examined but could not do so.

The question of credibility could arise only in the second case. It could not arise in the first. The Law can give an opportunity and nothing more. If opportunity is not taken, the law holds there is no injury.

§ Regular Course of Examination

1. The Course of examination of a witness must be *regular*.

2. A Course of Examination to be *regular* must be in accordance with the rules laid down in the Evidence Act ?

3. The rules for a Regular Course of Examination relate to :

(i) Scope of Examination.

(ii) Manner of Examination.

(iii) Limits of Examination.

§ Scope of Examination of a witness

Under this head, we must deal with matters on which it is permissible to a party to ask questions to a witness.

1. The objects underlying the examination of a witness are chiefly two :

(i) to elicit from him what he knows.

(ii) to test the truth of what he states.

2. The object of testing the truth of what the witness has stated can be achieved, only if, the Examination of the witness is extended to such questions as relate :

(i) to the corroboration and contradiction of the witness.

(ii) to the confirmation or impeachment of the credit or character of the witness.

3. Under *Scope of examination,* we shall therefore be concerned with Rules relating to the following subjects:

(i) Rules relating to matters which can or cannot be elicited in the course of the Examination of the witness.

(ii) Rules for testing the credibility or incredibility of a witness.

(iii) Rules regarding the corroboration or contradiction of matters deposed to by the witness.

1§ Matters which can or cannot be elicited in the course of an Examination

1. This question is dealt with by Sections 138 and 146. The effect of these sections is that there axe two kinds of matters which can be elicited from a witness in the course of his examination.

(i) Matters which are relevant to the issue and

(ii) Matters which relate to the credibility of the witness.

These are the only two matters on which a witness can be examined.

2. But every party is not entitled to examine a witness on both these matters

(1) With regard to matters which are relevant, both parties are entitled to examine the witness, the party who called him and the adverse party. Indeed the rule is not that the party is entitled to examine the witness on all relevant matters ; the rule is that the examination of a witness must be confined to relevant facts.

This rule applies not only to Examination-in-Chief but also to Cross-examination. The only difference is that Cross-examination need not be confined to matters raised in Examination-in-Chief. It may be extended to other matters not raised in Examination-in-Chief. But these other matters must also be *relevant* matters. Nothing that is irrelevant is permissible either in Examination-in-Chief or Cross-examination.

There is therefore no difference in the scope of the Examination-in-Chief or Cross-examination so far as relevant matters are concerned.

(Here concludes Page 203 of the M.S. Page 204 is missing. Following text starts from Page 205—ed.)

There is agreement on the absence of the particular virtue of truth telling has the necessary effect of shaking the man's credit and therefore such questions as relate to this aspect of the witness character are always permissible and can be asked in Cross-examination.

But there is no general agreement as to the absence of general good character on the veracity of a witness.

There are two views on the subject. One is that, bad general character necessarily involves an impairment of the truth telling capacity and therefore to show general moral degeneration is to show an inevitable degeneration in veracity. The other view is, a bad general disposition does not necessarily or commonly involve a lack of veracity and that, therefore, a bad general disposition is of no probative value for the purpose of shaking a witness's credit.

Under the English law, for the purposes of shaking credit by injury to character, general character is excluded and character for veracity only is taken into account.

§ Impeachment of Character otherwise than by Cross-examination

Section 155

1. Impeachment of character of a witness is permitted by the production of independent evidence under the provisions of Section 155.

2. *This again is a right of the adverse party*. So that a party who calls a witness cannot impeach the character of that witness by evidence of other persons.

3. *The impeachment may be undertaken in the following ways :*

(1) by evidence of persons who testify from personal knowledge that the witness is unworthy of credit.

(2) by proof that has been bribed or accepted the offer of a bribe or has received other corrupt inducement to give his evidence.

(3) by proof of former statements *inconsistent* with any part of his evidence which is liable to be contracted.

(4) by proof in rape that the prosecutrix was of generally immoral character.

3 § Rules regarding corroboration and contradiction of a witness

1. *Definition of a Corroborative Evidence*—Corroborative evidence simply means evidence which has the effect of confirming the truthfulness of the testimony of a witness. It is evidence which makes the assurance of a witness doubly sure.

2. *Kinds of Corroborative Evidence*.—The Evidence Act recognises two kinds of Corroborative Evidence.

(i) Evidence of facts other than relevant facts.

(ii) Additional evidence of.

Section 156.

§ Corroborative Evidence of facts other than relevant facts

There are two requirements which must be fulfilled.

(i) The Corroborative circumstance of which evidence is being given must have been observed by the witness *at or near to the time* at which the relevant fact occurred.

(ii) The Court must be of opinion that such circumstances, if proved, would corroborate the testimony of the witness as to the relevant fact

Illus.

> A and B jointly committed robbery at a certain place. B is charged and A, the accomplice gives evidence against him. In his evidence A describes various incidents unconnected with the robbery which occurred on the way.

Prosecution call independent witnesses to prove the truth of the testimony of the accomplice relating to the *incidents on the way.*

The relevant question is whether *B* committed robbery. The Evidence tendered by the prosecution does not relate to the relevant question. Still it will be allowed as a corroborative evidence if the Court is of opinion that it will help to corroborate the testimony of the accomplice as to robbery.

§ Corroborative Evidence by way (of)* Additional Evidence of relevant facts

Section 157.

1. *This can be done by giving evidence of any former statement made by the witness relating to the same fact.* This is based upon the principle that he, who is consistent, deserves to be believed. The mere fact of a man, having on a previous occasion made the same assertion, may add little or nothing to the truthfulness. One may persistently adhere to falsehood once uttered, if there is a motive for it so that if consistency was conclusive nothing would be easier for designing and unscrupulous persons to procure the conviction of any innocent man, who might be obnoxious to them, by first committing offences and afterwards making statements to different people and at different times or places implicating the innocent man. *R.* vs. *Malappa, 11 Bom. H. C. R. 196 (198).*

2. The previous statement may be a statement made on oath or otherwise and either in ordinary conversation or before some persons who had authority to investigate and question the person who made it. It may be verbal or in writing. *There is one distinction between a previous statement made before a person who has authority to investigate and a previous statement* made before a person not so authorised. If not made before any

*Word inserted—ed.

person legally complain to investigate the fact, then to be admissible, must have been made at or about the time when the fact took place. This condition does not apply to a previous statement made before a person having authority to inquire.

25 Mad. 210.

Illus.

(i) A statement by a girl, alleging that she was raped made immediately after the rape, is admissible.

(ii) The dying declaration of a man, who chances to live, is admissible as a corroborative piece of evidence.

(iii) The first information given to the police is admissible as corroborative evidence of the testimony of the informant.

(iv) The Panchnama is admissible as a corroborative.

Two points must be urged by way of caution.

(1) The use of statements made to the police in the course of investigation under Section 162, Criminal Procedure Code. These are also *previous statements* made before a person who is authorised to investigate.

Can they be used for the purposes of corroboration ?

At one time it was held that they could be so used.

36 Cal. 281.

35 Mad. 397.

39 Bom. 58.

The Amendment to Section 162 of the Criminal Procedure Code excludes both the written record and *viva voce* statement made to the Police. Though previous statements, they cannot be used as a corroboration.

(2) The distinction between corroborative evidence and substantive evidence is important, because, on this depends the use of corroborative evidence. Corroborative evidence is not substantive evidence.

Illus.

In a trial of a prisoner, the depositions of witnesses given in a previous trial of other persons charged with having been

engaged in the same offence, were used against him. The witnesses instead of being examined in the ordinary way, were re-sworn and said "I gave evidence before in this Court and that evidence is true".

Held that this evidence was inadmissible. It was only corroborative evidence and could be used only when substantive Evidence is given. If substantive Evidence is not given, then corroborative evidence cannot be given.

12 W. R. Cr. 3.

Similarly—If a panch does not identify the accused, the Panchanama of identification as corroborative evidence could be inadmissible.

In this connection there arises the question of giving corroborative evidence of a person who cannot be called to give substantive evidence by reason of the fact that the witness is dead or who cannot be found or who has become incapable of giving evidence or whose attendance cannot be procured without an amount of delay or expense, which under the circumstances the Court thinks unreasonable.

Section 158 permits corroborative evidence being given although no substantive evidence is tendered. This is an exception to the general rule. That exception applies only *if the witness cannot be procured.*

This is an exception created by Statute. Another exception created by Statute is contained in Section 288 of the Criminal Procedure Code. By that Section, evidence before the committing Magistrate is treated as evidence before the Sessions Court for *all* purposes i.e. substantive Evidence of all facts deposed therein.

§ 3/2 § Rules regarding the contradiction of a witness

1. This is a matter which must necessarily be governed by two considerations :

(i) The object of inquiry by the Court is to get at the truth and therefore contradiction must be permitted.

(ii) If contradiction is permitted, the inquiry will be endless and therefore there must be some limit on the process of contradiction.

2. *In what cases can a witness be contradicted ?*

The Section which deals with the contradiction of a witness is Section 153. For the purposes of contradiction, the Section divides the answers of the witness into two classes (1) Answers to questions relating to relevant facts and (2) Answers to questions relating to the credit of a witness.

3. *Are the answers of a witness to questions relating credit liable to contradiction ?*

The answer given in Section 153 is positive to the effect that such answers shall not be contradicted.

There are only two exceptions to the rule :

(i) If previous conviction is denied, you can contradict it by evidence.

(ii) If the witness denies partiality he may be contradicted.

In this connection, it must be borne in mind that under the provisions of Section 155, the answers of a witness giving reasons in X-Examination for his belief in the untrustworthiness of another witness are not liable to be contradicted.

In all these cases, where the answers of a witness to questions relating to credit are not liable to contradiction, the law provides that if their answers are false they may afterwards be charged with giving false evidence.

4. Are answers of a witness to questions on relevant facts liable to contradiction ?

(1) Section 153 is negative in character and merely states cases in which contradiction is not allowed. It does not state in what cases contradiction will be allowed.

(2) It does not include answers to relevant questions in its prohibition. By implication it seems to permit contradiction of such answers.

(3) There is illustration (c) to Section 153 which shows that the legislature intended to permit contradiction of such answers.

5. Section 153, therefore, lays down the rule that you can contradict answers to relevant questions. But you cannot contradict answers to questions on credit.

§ Contradiction on relevant facts

1. The next question is; *Is such contradiction permitted to the party who called the witness or Is it permitted to the adverse party only ?*

2. That, a party may contradict the answers given by the witness called on behalf of the adverse party, is beyond question and is always permissible. The defence witnesses are thereto contradict. But it does not seem to be quite so obvious in the other case. A witness is called on behalf of a party. In answer to a question on a relevant fact, he gives a particular answer which the party who called him feels is untrue. Can the party, who called him, call another witness to contradict him ?

3. *The answer is that he can.* The law seems to make difference between discrediting his own witness by attacking his general character and showing that in a particular respect his testimony is incorrrect.

§ Manner of Examination of a Witness

1. *Manner of Examination means the manner of interrogating the witness,* i.e. the manner of putting questions.

2. This matter is left not to the discretion of the party interrogating the witness, but is regulated by law.

3. From the standpoint of the manner of putting questions, questions are either leading questions or not leading questions.

4. A leading question is generally said to be a question which can be answered by a mere yes or no. Although, all such questions undoubtedly come within the rule, the character of leading question is not limited to them.

The Evidence Act defines a leading question as one, which suggests a particular answer, which the questioner expects to have from the witness. ?

Illus.

On a charge for murder by stabbing, to ask a witness 'Did you see the accused covered with blood and with a knife in coming away from the corpse ?' is a leading question.

5. A distinction must be made between two sorts of leading questions,

(i) A leading question which suggests the answer.

(ii) A leading question which directs the attention of the witness to the *subject* respecting which he is questioned.

As an illustration of the second sort of leading question, take the following:

A was sued for defamation by *B* for having said in a conversation to *C* that *B* was in bankrupt circumstances and that his name would appear in the London Gazette among bankrupts. Question was asked to the witness.

"*Was anything said about the Gazette ?*"

This is not a leading question in the sense of a question which suggests an answer. It is a leading question which directs the attention of the witness to the *subject* about which he is being questioned.

The manner of interrogation in Examination-in-Chief varies from the manner of investigation in Cross-examination.

In Cross-examination, a witness may be interrogated in the form of leading questions. But leading questions must not be asked in Examination-in-Chief, if objected to by the opposite party.

In Examination-in-Chief, the witness must be asked merely such question as "What did you see ?" "What did you hear ?" "What happened next ?"

Reasons for the Rule

(1) A witness has a bias in favour of the party calling him and hostile to the opponent. He is, therefore, likely to agree to the answers suggested to him by the pleader of the party.

(2) That the party calling a witness has an advantage over his adversary, in knowing before hand what the witness will prove, or at least expected to prove ; and that, consequently, if he were allowed to lead, he might interrogate him in such a manner as to extract only so much of the knowledge of the witness as

would be favourable to his side, or even put a false gloss upon the whole.

Exceptions to the Rule.

Leading questions are permissible in Examination-in-Chief in the following cases :—

(i) Where the matters are merely introductory, such as a name, occupation of a witness.

(ii) Identification of persons or thing.

(iii) About matters which are not in dispute.

(iv) When a question from its very nature cannot be put except in a leading form.

(v) To contradict evidence already given by a witness on the other side.

E. G.—If the Plaintiff has sworn that the defendant said, "The goods need not all be equal to sample", the Defendant can and should be asked, "Did you ever say to the Plaintiff that the Goods need not all be equal to sample or any other words to that effect ?"

(vi) Where the witness is hostile. Difference between a hostile and a witness who is unfavourable.

A Witness should always state what happened according to his own personal recollection, and not according to what he has since been told.

Suppose the witness cannot recall the facts and his memory fails, what is to be done ?

There are two ways open :

(1) To assist the memory of a witness by leading questions.

(2) To permit him to refresh his memory by permitting him to refer to any writing which is a record of the fact.

Examples of writings used to refresh memory are—

(i) Entries in diaries.

Entries in call books.

Entries in account-books.

Entries in Railway time-tables.

A witness may refresh his memory by referring to any writing or document *made by himself*. But he may also refresh his memory from documents made by other persons under his immediate observation.

The only condition is that the document must have been made at the time when the transaction was fresh in his mind or was *read by him,* if made by another person, at the time when the transaction was fresh in his memory and knew it to be correct.

A copy may be used if the original cannot be produced for reasons which satisfy the Court for its non-production.

Refreshing memory by inspecting a writing or document does not make it documentary evidence. So that a document which could be inadmissible in evidence for want of stamp would be admissible for refreshing memory.

There is a difference between referring to a writing for refreshing memory and using a document for corroboration.

A document which could not be used for corroboration can be used for refreshing.

Example : USE OF POLICE DIARIES

In connection with a document used for refreshing memory, it must be ascertained whether a memorandum does assist the memory or not.

The law, therefore, requires that such writing shall be produced and shown to the adverse party, if he requires it and he may cross-examine the witness thereupon, if he so desires.

8 Cal. 739 (745).

The grounds upon which the opposite party is permitted to inspect are threefold ; (i) to secure the full benefit of the witness's recollection as to facts; (ii) to check the use of improper documents and (iii) to compare his oral testimony with his written word.

Can the adverse party compel the witness to refresh his memory by referring to the writing.

It may be very advantageous to an accused person that Police Officer should state a certain fact. The Police Officer does not recall fact and would not refresh his memory by reference to his diary.

(8 Cal. 154), (8 Cal. 739) Says he cannot be compelled.

A. 1. R, (1924) Pat. 829, Says he can be compelled.

§ On the Limitations on the Examination of a witness

1. The subject-matter to be considered under this head relates to the questions a witness is bound or is not bound to answer.

2. The general rule is that a witness must answer *all* questions put to him.

Section 132.

Section 132 puts the matter negatively.

3. This rule is subject to *two* qualifications:

(i) Certain questions a witness cannot be *compelled* to answer.

(ii) Certain questions a witness is not to be empowered to answer.

4. Sections which deal with questions which cannot be *compelled* to answer are : 121, 122, 124, 125, 129.

5. Sections which deal with questions which a witness is not empowered to answer are : 123, 126, 127, 128.

DISCHARGE OF THE BURDEN OF PROOF

1. Effect of Evidence may be :

(i) To prove a fact.

(ii) To disprove a fact.

(iii) To fail to prove and therefore disprove.

2. Burden of Proof is discharged when :

(i) The fact required to be proved is proved.

(ii) The fact required to be disproved is disproved.

3. Burden of proof is *not* discharged when the Party on whom the Burden lies fails to prove or disprove as the case may be.

4. When can a fact be said to be proved or disproved ? And when can it be said to be not proved.

The answer to this question is given in section 3.

NOTE.— Two things must be noted.

(i) Proof does not mean rigid mathematical demonstration.

(ii) Moral conviction is not proof.

Proof means Evidence.

But such evidence as would induce a reasonable man to come to some conclusion.

(1911) I. K. B. 988 (995).

31 Bom. L.R. 516.

The question of proof is one of probability and not of certainty.

Discharge of Burden of Proof and Quantum of Evidence

(I) Under the English Law corroboration is necessary in certain cases:

(1) High Treason—Two witnesses.

(2) Perjury—

(3) Breach of Promise—

(4) Bastard—Mother's testimony must be corroborated.

(II) Under the Indian Law the rule is absolute. The Court may act on the testimony of a single witness even though uncorroborated.

Exception.

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PART V

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WAITING FOR A VISA

** Here are some of the reminiscences drawn by Dr. Ambedkar in his own handwriting. The MSS traced in the collection of the People's Education Society were published by the society as a booklet on 19th March 1990.—ed.*

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WAITING FOR A VISA

Foreigners of course know of the existence of untouchability. But not being next door to it, so to say, they are unable to realize how oppressive it is in its actuality. It is difficult for them to understand how it is possible for a few untouchables to live on the edge of a village consisting of a large number of Hindus, go through the village daily to free it from the most disagreeable of its filth and to carry the errands of all the sundry, collect food at the doors of the Hindus, buy spices and oil at the shops of the Hindu Bania from a distance, regard the village in every way as their home, and yet never touch nor be touched by any one belonging to the village. The problem is how best to give an idea of the way the untouchables are treated by the caste Hindus. A general description or a record of cases of the treatment accorded to them are the two methods by which this purpose could be achieved. I have felt that the latter would be more effective than the former. In choosing these illustrations I have drawn partly upon my experience and partly upon the experience of others. I begin with events that have happened to me in my own life.

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ONE

Our family came originally from Dapoli Taluka of the Ratnagiri District of the Bombay Presidency. From the very commencement of the rule of the East India Company my fore-fathers had left their hereditary occupation for service in the Army of the Company. My father also followed the family tradition and sought service in the Army. He rose to the rank of an officer and was a Subhedar when he retired. On his retirement my father took the family to Dapoli with a view to settling down' there. But for some reasons my father changed his mind. The family left Dapoli for Satara where we lived till 1904. The first incident which I am recording as well as I can remember, occured in about 1901 when we were at Satara. My mother was then dead. My father was away on service as a cashier at a place called Koregaon in Khatav Taluka in the Satara District, where the Government of Bombay had started the work of excavating a Tank for giving employment to famine stricken people who were dying by thousands. When my father went to Koregaon he left me, my brother who was older than myself and two sons of my eldest sister who was dead, in charge of my aunt and some kind neighbours. My aunt was the kindest soul I know, but she was of no help to us. She was somewhat of a dwarf and had some trouble with her legs which made it very difficult for her to move about without the aid of somebody. Often times she had to be lifted. I had sisters. They were married and were away living with their families. Cooking our food became a problem with us especially as our aunty could not on account of her helplessness, manage the job. We four children went to school and we also cooked our food. We could not prepare bread. So we lived on Pulav which we found to be the easiest dish to prepare, requiring nothing more than mixing rice and mutton.

Being a cashier my father could not leave his station to come to Satara to see us, therefore he wrote to us to come to Koregaon and spend our summer vacation with him. We children were thoroughly excited over the prospect especially as none of us had up to that time seen a railway train.

Great preparations were made. New shirts of English make, bright beje welled caps, new shoes, new silk-bordered dhoties were ordered for the journey. My father had given us all particulars regarding our journey and had told us to inform him on which day we were starting so that he would send his peon to the Railway Station to meet us and to take us to Goregaon. According to this arrangement myself, my brother and one of my sister's sons left Satara, our aunt remaining in charge of our neighbours who promised to look after her. The Raiway Station was 10 miles distant from our place and a *tonga* (a one-horse carriage) was engaged to take us to the Station. We were dressed in the new clothing specially made for the occasion and we left our home full of joy but amidst the cries of my aunt who was almost prostrate with grief at our parting.

When we reached the station my brother bought tickets and gave me and my sister's son two annas each as pocket money to be spent at our pleasure. We at once began our career of riotous living and each ordered a bottle of lemonade at the start. After a short while the train whistled in and we boarded it as quickly as we could for fear of being left behind. We were told to detrain at Masur, the nearest railway station for Goregaon.

The train arrived at Masur at about 5 in the evening and we got down with our luggage. In a few minutes all the passengers who had got down from the train had gone away to their destination. We four children remained on the platform looking out for my father or his servant whom he had promised to send. Long did we wait but no one turned up. An hour elapsed and the station-master came to enquire. He asked us for our tickets. We showed them to him. He asked us why we tarried., We told him that we were bound for Goregaon and that we were waiting for father or his servant to come but that neither had turned up and that we did not know how to reach Goregaon. We were well dressed children. From our dress or talk no one could make out that we were children of the untouchables. Indeed the station-master was quite sure we were Brahmin children and was extremely touched at the plight in which he found us. As is usual among the Hindus the staion-master asked us who we were. Without a moment's thought I blurted out that we were Mahars. (Mahar is one of the

communities which are treated as untouchables in the Bombay Presidency). He was stunned. His face underwent a sudden change. We could see that he was overpowered by a strange feeling of repulsion. As soon as he heard my reply he went away to his room and we stood where we were. Fifteen to twenty minutes elapsed; the sun was almost setting. The father had not turned up nor had he sent his servant, and now the station-master had also left us. We were quite bewildered and the joy and happiness which we felt at the beginning of the journey gave way to the feeling of extreme sadness.

After half an hour the station-master returned and asked us what we proposed to do. We said that if we could get a bullock-cart on hire we would go to Goregaon and if it was not very far we would like to start straightway. There were many bullock-cans plying for hire. But my reply to the station-master that we were Mahars had gone round among the cartmen and not one of them was prepared to suffer being polluted and to demean himself carrying passengers of the untouchable classes. We were prepared to pay double the fare but we found that money did not work. The station-master who was negotiating on our behalf stood silent not knowing what to do. Suddenly a thought seemed to have entered his head and he asked us, "Can you drive the can ?" Feeling that he was finding out a solution of our difficulty we shouted, "Yes, we can". With that answer he went and proposed on our behalf that we were to pay the cartman double the fare and drive the cart and that he should walk on foot along with the cart on our journey. One cartman agreed as it gave him an opportunity to earn his fare and also saved him from being polluted.

It was about 6.30 p.m. when we were ready to start. But we were anxious not to leave the station until we were assured that we would reach Goregaon before it was dark. We therefore questioned the cartman as to the distance and the time he would take to reach Goregaon. He assured us that it would be not more than 3 hours. Believing in his word, we put our luggage in the can, thanked the station-master and got into the cart. One of us took the reins and the cart started with the man walking by our side.

Not very far from the station there flowed a river. It was quite dry except at places where there were small pools of water. The

owner of the cart proposed that we should halt there and have our meal as we might not get water on our way. We agreed. He asked us to give a part of his fare to enable him to go to the village and have his meal. My brother gave him some money and he left promising to return soon. We were very hungry and were glad to have had an opportunity to have a bite. My aunty had pressed our neighbours' women folk into service and had got some nice preparation for us to take on our way. We opened tiffin basket and started eating. We needed water to wash things down. One of us went to the pool of water in the river basin nearby. But the water really was no water. It was thick with mud and urine and excreta of the cows and buffaloes and other cattle who went to the pool for drinking. In fact that water was not intended for human use. At any rate the stink of the water was so strong we could not drink it. We had therefore to close our meal before we were satisfied and wait for the arrival of the cartman. He did not come for a long time and all that we could do was to look for him in all directions. Ultimately he came and we started on our journey. For some four or live miles we drove the cart and he walked on foot. Then he suddenly jumped into the cart and took the reins from our hand. We thought this to be rather a strange conduct on the part of a man who had refused to let the cart on hire for fear of pollution to have set aside all his religious scruples and to have consented to sit with us in the same cart but we dared not ask him any questions on the point. We were anxious to reach Koregaon our destination as quickly as possible. And for sometime we were interested in the movement of the cart only. But soon there was darkness all around us. There were no street lights to relieve the darkness. There were no men or women or even cattle passing by to make us feel that we were in their midst. We became fearful of the loneliness which surrounded us. Our anxiety was growing. We mustered all the courage we possessed. We had travelled far from Masur. It was more than three hours. But there was no sign of Koregaon. There arose a strange thought within us. We suspected that the cartman intended treachery and that he was taking us to some lonely spot to kill us. We had lot of gold ornaments on us and that helped to strengthen our suspicion. We started asking him how far

Koregaon was, why we were so late in reaching it. He kept on saying, "It is not very far, we shall soon reach it". It was about 10.00 at night when finding that there was no trace of Koregaon we children started crying and abusing the cartman. Our lamentations and wailings continued for long. The cartman made no reply. Suddenly we saw a light burning at some distance. The cartman said, "Do you see that light ? That is a light of the toll-collector. We will rest there for the night." We felt some relief and stopped crying. The light was distant, but we could never seem to reach it. It took us two hours to reach the toll-collector's hut. The interval increased our anxiety and we kept on asking the cartman all sorts of questions, as to why there was delay in reaching the place, whether we were going on the same road, etc.

Ultimately by mid-night the cart reached the toll-collector's hut. It was situated at the foot of a hill but on the other side of the hill. When we arrived we saw a large number of bullock-carts there all resting for the night. We were extremely hungry and wanted very much to eat. But again there was the question of water. So we asked our driver whether it was possible to get water. He warned us that the toll-collector was a Hindu and that there was no possibility of our getting water if we spoke the truth and said that we were Mahars. He said, "Say you are Mohammedans and try your luck". On his advice I went to the toll-collector's hut and asked him if he would give us some water. "Who are you ?", he inquired. I replied that we were Musalmans. I conversed with him in Urdu which I knew very well so as to leave no doubt that I was a real Musalman. But the trick did not work and his reply was very curt. "Who has kept water for you ? There is water on the hill, if you want to go and get it, I have none." With this he dismissed me. I returned to the cart and conveyed to my brother his reply. I don't know what my brother felt. All that he did was to tell us to lie down.

The bullocks had been unyoked and the cart was placed sloping down on the ground. We spread our beds on the bottom planks inside the cart, and laid down our bodies to rest. Now that we had

come to a place of safety we did not mind what happened. But our minds could not help turning to the latest event. There was plenty of food with us. There was hunger burning within us ; with all this we were to sleep without food; that was because we could get no water and we could get no water because we were untouchables. Such was the last thought that entered our mind. I said, we had come to a place of safety. Evidently my elder brother had his misgivings. He said it was not wise for all four of us to go to sleep. Anything might happen. He suggested that at one time two should sleep and two should keep watch. So we spent the night at the foot of that hill.

Early at 5 in the morning our cartman came and suggested that we should start for Koregaon. We flatly refused. We told him that we would not move until 8 O'clock. We did not want to take any chance. He said nothing. So we left at 8 and reached Koregaon at 11. My father was surprised to see us and said that he had received no intimation of our coming. We protested that we had given intimation. He denied the fact. Subsequently it was discovered that the fault was of my father's servant. He had received our letter but failed to give it to my father.

This incident has a very important place in my life. I was a boy of nine when it happened. But it has left an indelible impression on my mind. Before this incident occured, I knew that I was an untouchable and that untouchables were subjected to certain indignities and discriminations. For instance, I knew that in the school I could not sit in the midst of my class students according to my rank but that I was to sit in a corner by myself. I knew that in the school I was to have a separate piece of gunny cloth for me to squat on in the class room and the servant employed to clean the school would not touch the gunny cloth used by me. I was required to carry the gunny cloth home in the evening and bring it back the next day. While in the school I knew that children of the touchable classes, when they felt thirsty, could go out to the water tap, open it and quench their thirst. All that was necessary was the permission of the teacher. But my position was separate. I could not touch the tap and unless it was opened for it by a touchable person, it was not possible for me to quench

my thirst. In my case the permission of the teacher was not enough. The presence of the school peon was necessary, for, he was the only person whom the class teacher could use for such a purpose. If the peon was not available I had to go without water. The situation can be summed up in the statement—no peon, no water. At home I knew that the work of washing clothes was done by my sisters. Not that there were no washermen in Satara. Not that we could not afford to pay the washermen. Washing was done by my sisters because we were untouchables and no washerman would wash the clothes of an untouchable. The work of cutting the hair or shaving the boys including myself was done by our elder sister who had become quite an expert barber by practising the art on us, not that there were no barbers in Satara, not that we could not afford to pay the barber. The work of shaving and hair cutting was done by my sister because we were untouchables and no barber would consent to shave an untouchable. All this I knew. But this incident gave me a shock such as I never received before, and it made me think about untouchability which, before this incident happened, was with me a matter of course as it is with many touchables as well as the untouchables.

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TWO

In 1916 I returned to India. I had been sent to America by His Highness the Maharaja of Baroda for higher education. I studied at Columbia University in New York from 1913 to 1917. In 1917 I came to London and joined the post-graduate department of the School of Economics of the University of London. In 1918 I was obliged to return to India without completting my studies. As I was educated by the Baroda State I was bound to serve the State. Accordingly on my arrival I straightway went to Baroda. The reasons why I left Baroda service are quite irrelevant to my present purpose. I do not therefore wish to enter into them. I am only concerned with my social experiences in Baroda and I will confine myself to describing them.

My five years of stay in Europe and America had completely wiped out of my mind any consciousness that I was an untouchable and that an untouchable whenever he went in India was a problem to himself and to others. But when I came out of the station my mind was considerably disturbed by a question, "Where to go ? Who will take me ?" I felt deeply agitated. Hindu hotels, called Vishis, I knew, there were. They would not take me. The only way of seeking accommodation therein was by impersonation. But I was not prepared for it because I could well anticipate the dire consequences which were sure to follow if my identity was discovered as it was sure to be. I had friends in Baroda who had come to America for study. "Would they welcome me if I went ?" I could not assure myself. They may feel embrassed by admitting an untouchable in their household. I stood under the roof of the station for sometime thinking, where to go, what to do. It then struck me to enquire if there was any place in the camp. All passengers had by this time gone. I alone was left. Some hackney drivers who had failed to pick up any traffic were watching and waiting for me. I called one of them and asked him if he knew if there was a hotel in the camp. He said that there was a Parsi inn and that they took paying guests. Hearing that it was an inn maintained by the Parsis my heart was gladdened. The

Parsis are followers of the Zoroastrian religion. There was no fear of my being treated by them as an untouchable because their religion does not recognize untouchability. With a heart glad with hope and a mind free from fear I put my luggage in a hackney carriage and asked the driver to drive me to Parsi inn in the camp.

The inn was a two storied building on the ground floor of which lived an old Parsi with his family. He was a caretaker and supplied food to tourists who came there to stay. The carriage arrived and the Parsi caretaker showed me upstairs. I went up while the carriage driver brought up my luggage. I paid him and he went away. I felt happy that after all I had solved my problem of finding a sojourn. I was undressing as I wanted to be at ease. In the meantime the caretaker came with a book in his hand. Seeing as he could well see from my half undressed state that I had no Sadra and Kasti, the two things which prove that one is a Parsi, in a sharp tone he asked me, who I was. Not knowing that this inn was maintained by the Parsi community for the use of Parsis only, I told him that I was a Hindu. He was shocked, and told me that I could not stay in the inn. I was thoroughly shocked by his answer and was cold all over. The question returned again where to go ? Composing myself I told him that though a Hindu I had no objection to staying there if he had no objection. He replied, "How can you ? I have to maintain a register of all those who stay here in the inn." I saw his difficulty. I said I could assume a Parsi name for the purpose of entering it in the register. "Why do you object if I do not object, you will not lose, you will earn something if I stay here." I could see that he was inclined favourably. Evidently he had had no tourist for a long time and he did not like to forego the opportunity of making a little money. He agreed on condition that I pay him a rupee and a half per day for board and lodging and entered myself as a Parsi in his register. He went downstairs and I heaved a sigh of relief. The problem was solved and I felt very happy. But alas ! I did not then know how short was to be this happiness. But before I describe the tragic end of my stay in this inn I must describe how I passed my time during the short period I lived therein.

The inn on the first floor had a small bed-room and adjoining it was one small bath room with a water tap in it. The rest was one big hall. At the time of my stay the big hall was filled up with all sorts of rubbish, planks, benches, broken chairs, etc. In the midst of the surroundings I lived a single solitary individual. The caretaker came up in the morning with a cup of tea. He came again at about 9.30 with my breakfast or morning meal. A third time he came up at about 8.30 in the evening with my dinner. The caretaker came up only when he could not avoid it and on these occasions he never stayed to talk to me. The day was spent somehow.

I was appointed a probationer in the Accountant General's Office by the Maharaja of Baroda. I used to leave the inn at about 10 a.m. for the office and return late at about 8 in the evening contriving to while away outside the inn as much time in company of friends as I could. The idea of returning to the inn to spend the night therein was most terrifying to me and I used to return to the inn only because I had no other place under the sky to go for rest. In this big hall on the first floor of the inn there were no fellow human beings to talk to. I was quite alone. The whole hall was enveloped in complete darkness. There were no electric lights nor even oil lamps to relieve the darkness. The caretaker used to bring up for my use a small hurricane lamp. Its light could not extend beyond a few inches. I felt that I was in a dungeon and I longed for the company of some human being to talk to. But there was none. In the absence of the company of human beings I sought the company of books and read and read. Absorbed in reading I forgot my lonely condition. But the chirping and flying about of the bats, which had made the hall their home, often distracted my mind and sent cold shivers through me reminding me of what I was endeavouring to forget, that I was in a strange place under strange conditions. Many a time I must have been angry. But I subdued my grief and my anger by the feeling that though it was a dungeon, it was a shelter and that some shelter was better than no shelter. So heart-rending was my condition that when my sister's son came from Bombay bringing my remaining luggage which I had left behind and when he saw my

state, began to cry so loudly that I had to send him back immediately. In this state I lived in the Parsi inn impersonating a Parsi. I knew that I could not long continue this impersonation as I would be discovered some day. I was therefore trying to get a State bungalow to stay in. But the Prime Minister did not look upon my request with the same urgency. My petition went from officer to officer and before I got the final reply the day of my doom arrived.

It was 11th day of my stay in the inn. I had taken my morning meal and had dressed up and was about to step out of my room to go to office. As I was picking up some books which I had borrowed overnight for returning them to the library I heard footsteps of a considerable number of people coming up the staircase. I thought they were tourists who had come to stay and was therefore looking out to see who these friends were. Instantly I saw a dozen angry looking, tall, sturdy Parsis, each armed with a stick, coming towards my room. I realised that they were not fellow tourists and they gave proof of it immediately. They lined up in front of my room and fired a volley of questions. "Who are you ? Why did you come here ? How dare you take a parsi name ? You scoundrel! You have polluted the Parsi inn ! "I stood silent. I could give no answer. I could not persist in impersonation. It was in fact a fraud and the fraud was discovered, and I am sure if I had persisted in the game I was playing I would have been assaulted by the mob of angry and fanatic Parsis and probably doomed to death. My meekness and my silence averted this doom. One of them asked when I thought of vacating. At that time my shelter I prized more than my life. The threat implied in this question was a grave one. I therefore broke my silence and implored them to let me stay for a week at least, thinking that my application to the Minister for a bungalow would be decided upon favourably in the meantime. But the Parsis were in no mood to listen. They issued an ultimatum. They must not find me in the inn in the evening. I must pack off. They held out dire consequences and left. I was bewildered. My heart sank within me. I cursed all and wept bitterly. After all I was deprived of my precious possession—namely my shelter. It was no better than a prisoners's cell. But it was to me very precious.

After the Parsis were gone I sat for some time engaged in thinking to find a way out. I had hopes that I would soon get a State bungalow and my troubles would be over. My problem was therefore a temporary problem and I thought that going to friends would be a good solution. I had no friends among the untouchables of Baroda State. But I had friends among other classes. One was a Hindu, the other was an Indian Christian. I first went to my Hindu friend and told him what had befallen me. He was a noble soul and a great personal friend of mine. He was sad and also indignant. He, however, let fall one observation. He said, "If you come to my home my servants will go". I took the hint and did not press him to accommodate me. I did not like to go to the Indian Christian friend. Once he had invited me to go and stay with him. But I had declined preferring to stay in the Parsi inn. My reason was that his habits were not congenial to me. To go now would be to invite a rebuff. So I went to my office but I could not really give up this chance of finding a shelter. On consulting a friend I decided to go to him and ask him if he would accommodate me. When I put the question his reply was that his wife was coming to Baroda the next day and that he would have to consult her. I learnt subsequently that it was a very diplomatic answer. He and his wife came originally from a family which was Brahmin by caste and although on conversion to Christianity the husband had become liberal in thought, the wife had remained orthodox in her ways and would not have consented to harbour an untouchable in her house. The last ray of hope thus flickered away. It was 4 p.m. when I left the house of my Indian Christian friend. Where to go was the one supreme question before me. I must quit the inn and had no friend to go to ! ! The only alternative left was to return to Bombay.

The train to Bombay left Baroda at 9 p.m. There were five hours to be spent. Where to spend them ? Should I go to the inn ? Should I go to my friend ? I could not buck up sufficient courage to go back to the inn. I feared the Parsis might come and attack me. I did not like to go to my friend. Though my condition was pitiable I did not like to be pitied. I decided to spend the five hours in the public garden which is called Kamathi Baug, on the border of the city and the camp. I sat there partly

with a vacant mind, partly with sorrow at the thought of what had happened to me, and thought of my father and mother as children do when they are in a forlorn condition. At 8 p.m. I came out of the garden, took a carriage to the inn, brought down my luggage. The caretaker came out but neither he nor I could utter a word to each other. He felt that he was in some way responsible for bringing him into trouble. I paid him his bill. He received it in silence and I took his leave in silence. I had gone to Baroda with high hope. I had given up many offers. It was war time. Many places in the Indian Educational service were vacant. I knew very influential people in London. But I did not seek any of them. I felt that my duty was to offer my services first to the Maharaja of Baroda who had financed my education. And here I was driven to leave Baroda and return to Bombay after a stay of only eleven days.

This scene of a dozen Parsis armed with sticks lined before me in a menacing mood and myself standing before them with a terrified look imploring for mercy is a scene which so long a period as 18 years has not succeeded in fading away. I can even now vividly recall it and never recall it without: tears in my eyes. It was then for the first time that I learnt that a person who is an unouchable to a Hindu is also an untouchable to a Parsi.

THREE

The year was 1929. The Bombay Government had appointed a Committee to investigate the grievances of the untouchables. I was appointed a member of the Committee. The Committee had to tour all over the province to investigate into the allegations of injustice, oppression and tyranny. The Committee split up. I and another member were assigned the two districts of Khandesh. My colleague and myself after finishing our work parted company. He went to see some Hindu saint. I left by train to go to Bombay. At Chalisgaon I got down to go to a village on the Dhulia line to investigate a case of social boycott which had been declared by the caste Hindus against the untouchables of that village. The untouchables of Chalisgaon came to the station and requested me to stay for the night with them. My original plan was to go straight to Bombay after investigating the case of social boycott. But as they were keen I agreed to stay overnight. I boarded the train for Dhulia to go to the village, went there and informed myself of the situation prevailing in the village and returned by the next train to Chalisgaon.

I found the untouchables of Chalisgaon waiting for me at the station. I was garlanded. The Maharwada, the quarters of the untouchables, is about 2 miles from the Railway station and one has to cross a river on which there is a culvert to reach it. There were many horse carnages at the station plying for hire. The Maharwada was also within walking distance from the station. I expected immediately to be taken to the Maharwada. But there was no movement in that direction and I could not understand why I was kept waiting. After an hour or so a *tonga* (one horse carriage) was brought close to the platform and I got in. The driver and I were the only two occupants of the *tonga*. Others went on foot by a short cut. The *tonga* had not gone 200 paces when there would have been a collision with a motor car. I was surprised that the driver who was paid for hire every day should have been so inexperienced. The accident was averted only

because on the laud shout of the policeman the driver of the car pulled it back.

We some how came to the culvert on the river. On it there are no walls as there are on a bridge. There is only a row of stones fixed at a distance of five or ten feet. It is paved with stones. The culvert on the river is at right angles to the road we were coming by. A sharp turn has to be taken to come to the culvert from the road. Near the very first side stone of the culvert the horse instead of going straight took a turn and bolted. The wheel of the *tonga* struck against the side stone so forcibly that I was bodily lifted up and thrown down on the stone pavement of the culvert and the horse and the carriage fell down from the culvert into the river. So heavy was the fall that I lay down senseless. The Maharwada is just on the other bank of the river. The men who had come to greet me at the station had reached there ahead of me. I was lifted and taken to the Maharwada amidst the cries and lamentations of the men, women and children. As a result of this I received several injuries. My leg was fractured and I was disabled for several days. I could not understand how all this happened. The *tongas* pass and repass the culvert every day and never has a driver failed to take the tonga safely over the culvert.

On enquiry I was told the real facts. The delay at the railway station was due to the fact that the tongawalas were not prepared to drive the tonga with a passenger who was an untouchable. It was beneath their dignity. The Mahars could not tolerate that I should walk to their quarters. It was not in keeping with their sense of my dignity. A compromise was therefore arrived at. That compromise was to this effect: the owner of the tonga would give the tonga on hire but not drive. The Mahars may take the *tonga* but find some one to drive it. The Mahars thought this to be a happy solution. But they evidently forgot that the safety of the passenger was more important than the maintenance of his dignity. If they had thought of this they would have considered whether they could get a driver who could safely conduct me to my destination. As a matter of fact none of them could drive because it was not their trade. They therefore asked someone from amongst themselves to drive. The man took the reins in his

hand and started thinking there was nothing in it. But as he got on he felt his responsibility and became so nervous that he gave up all attempt to control. To save my dignity the Mahars of Chalisgaon had put my very life in jeopardy. It is then I learnt that a Hindu *tongawalla,* no better than a menial, has a dignity by which he can look upon himself as a person who is superior to all untouchables even though he may be a Barristar-at-law.

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FOUR

In the year 1934, some of my co-workers in the movement of the depressed classes expressed a desire to go on a sight-seeing tour if I agreed to join them. I agreed. It was decided that our plan should at all events include a visit to the Buddhist caves at Verul. It was arranged that I should go to Nasik and the party should join me at Nasik. To go to Verul we had to go to Aurangabad. Aurangabad is a town in the Mohammedan State of Hyderabad and is included in the dominion of His Exalted Highness, the Nizam. On the way to Aurangabad we had first to pass another town called Daulatabad which is also in the Hyderabad State. Daulatabad is a historical place and was, at one time, the capital of a famous Hindu King by name Ramdeo Rai. The fort of Daulatabad is an ancient historical monument and no tourist while in that vicinity should omit a visit to it. Accordingly our party had also included in its programme a visit to the fort of Daulatabad.

We hired some buses and touring cars. We were about 30 in number. We started from Nasik to Yeola as Yeola is on the way to Aurangabad. Our tour programme had not been announced and quite deliberately. We wanted to travel incognito in order to avoid difficulties which an untouchable tourist has to face in outlying parts of the country. We had informed our people at those centres only at which we had decided to halt. Accordingly, on the-way although we passed many villages in the Nizam State none of our people had come to meet us. It was naturally different at Daulatabad. There our people had been informed that we were coming. They were waiting for us and had gathered at the entrance to the town. They asked us to get down and have tea and refreshment first and then to go to see the fort. We did not agree to their proposal. We wanted tea very badly but we wanted sufficient time to see the fort before it was dusk. We therefore left for the fort and told our people that we would take tea on our return. Accordingly we told our drivers to move on and within a few minutes we were at the gate of the fort.

The month was Ramjan, the month of fast for the Mohammedans. Just outside the gate of the fort there is a small tank of water full to brim. There is all around a wide stone pavement. Our faces, bodies and clothes were full of dust gathered in the course of our journey and we all wished to have a wash. Without much thought some members of the party washed their faces and their legs on the pavement with the water from the tank. After these ablutions we went to the gate of the fort. There were armed soldiers inside. They opened the big gates and admitted us into the archway. We had just commenced asking the guard the procedure for obtaining permission to go into the fort. In the meantime an old Mohammedan with white flowing beard was coming from behind shouting "the Dheds (meaning untouchables) have polluted the tank". Soon all the young and old Mohammedans who were near about joined him and all started abusing us. "The Dheds have become arrogant. The Dheds have forgotten their religion (i.e. to remain low and degraded). The Dheds must be taught a lesson". They assumed a most menacing mood. We told them that we were outsiders and did not know the local custom. They turned the fire of their wrath against the local untouchables who by that time had arrived at the gate. "Why did you not tell these outsiders that this tank could not be used by untouchables !" was the question they kept on asking them. Poor people ! They were not there when we entered tank. It was really our mistake because we acted without inquiry. They protested that it was not their fault. But the Mohammedans were not prepared to listen to my explanation. They kept on abusing them and us. The abuse was so vulgar that it had exasperated us. There could easily have been a riot and possibly murders. We had however to restrain ourselves. We did not want to be involved in a criminal case which would bring our tour to an abrupt end.

One young muslim in the crowd kept on saying that every one must conform to his religion, meaning thereby that the untouchables must not take water from a public tank. I had grown quite impatient and asked him in a some what angry tone, "Is that what your religion teaches ? Would you prevent an untouchable from taking water from this tank if he became a Mohammedan ?" These straight questions seemed to have

some effect on the Mohammedans. They gave no answer and stood silent. Turning to the guard I said, again in an angry tone, "Can we get into the fort or not ? Tell us, if we can't we don't want to stop". The guard asked for my name. I wrote it out on a piece of paper. He took it to the Superintendent inside and came out. We were told that we could go into the fort but we could not touch water anywhere in the fort and an armed soldier was ordered to go with us to see that we did not transgress the order.

I gave one instance to show that a person who is an untouchable to a Hindu is also an untouchable to a Parsi. This will show that person who is an untouchable to a Hindu is also an untouchable to a Mohammedan.

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FIVE

The next case is equally illuminating. It is a case of an Untouchable school teacher in a village in Kathiawar and is reported in the following letter which appeared in the '**Young India'** a journal published by Mr. Gandhi in its issue of 12th December 1929. It expresses the difficulties he had expressed in persuading a Hindu doctor to attend to his wife who had just delivered and how the wife and child died for want of medical attention. The letter says:

> "On the 5th of this month a child was born to me. On the 7th, she fell ill and suffered from loose stools. Her vitality seemed to ebb away and her chest became inflamed. Her breathing became difficult and there was acute pain in the ribs, I went to call a doctor—but he said he would not go to the house of a Harijan nor was he prepared to examine the child. Then I went to Nagarseth and Garasia Darbar and pleaded them to help me. The Nagarseth stood surety to the doctor for my paying his fee of two rupees. Then the doctor came but on condition that he would examine them only outside the Harijan colony. I took my wife out of the colony along with her newly born child. Then the doctor gave his thermometer to a Muslim, he gave it to me and I gave it to my wife and then returned it by the same process after it had been applied. It was about eight o'clock in the evening and the doctor on looking at the thermometer in the light of a lamp said that the patient was suffering from pneumonia. Then the doctor went away and sent the medicine. I brought some linseed from the bazar and used it on the patient. The doctor refused to sec her later, although I gave the two rupees fee. The disease is dangerous and God alone will help us.
>
> The lamp of my life has died out. She passed away at about two o'clock this afternoon."

The name of the Untouchable school teacher is not given. So also the name of the doctor is not mentioned. This was at the request of the Untouchable teacher who feared reprisals. The facts are indisputable.

No explanation is necessary. The doctor, who inspite of being educated refused to apply the thermometer and treat an ailing woman in a critical condition. As a result of his refusal to treat her, the woman died. He felt no qualms of conscience in setting aside the code of conduct which is binding on his profession. The Hindu would prefer to be inhuman rather than touch an Untouchable.

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SIX

There is one other incident more telling than this. On the 6th of March 1938, a meeting of the Bhangis was held at Kasarwadi (behind Woollen Mills) Dadar, Bombay, under the Chairmanship of Mr. Indulal Yadnik. In this meeting, one Bhangi boy narrated his experience in the following terms:

"I passed the Vernacular Final Examination in 1933. I have studied English up to the 4th Standard. I applied to the Schools Committee of the Bombay Municipality for employment as a teacher but I failed as there was no vacancy. Then, I applied to the Backward Classes Officer, Ahemadabad, for the job of a Talati (village Patwari) and I succeeded. On 19th February 1936, I was appointed a Talati in the office of the Mamlatdar of the Borsad Taluka in the Kheda District.

Although my family originally came from Gujarat, I had never been in Gujarat before. This was my first occasion logo there. Similarly, I did not know that untouchability would be observed in Government Offices. Besides in my application the facts of my being a Harijan was mentioned and so I expected that my colleagues in the office would know before-hand who I was. That being so, I was surprised to find the attitude of the clerk of the Mamlatdar's office when I presented myself to take charge of the post of the Talati.

The Karkun contemptuously asked, "Who are you ?" I replied, "Sir, lam a Harijan". "He said," Go away, stand at a distance. How dare you stand so near me. You are in office, if you were outside I would have given you six kicks, what audacity to come here for service ? "Thereafter, he asked me to drop on the ground my certificate and the order of appointment as a Talati. He then picked them up. While I was working in the Mamlatdar's office at Borsad I experienced great difficulty in the matter of getting water for drinking. In the verandah of the office there were kept cans containing drinking water. There was a waterman incharge of these water cans. His duty was to pour out water to clerks in office whenever they needed it. In the absence of the waterman they could themselves take water out of the cans and drink it. That was impossible in my case. I could not touch the cans for my touch would pollute the water, I had therefore to depend upon the mercy of the waterman. For my use there was kept a small rusty pot. No one would touch it or wash it except myself. It was in this pot that the waterman would dole out water to mc. But I could get water only if the waterman was present. This

waterman did not like the idea of supplying me with water. Seeing that I was coming for water he would manage to slip away with the result that I had to go without water and the days on which I had no water to drink were by no means few.

I had the same difficulties regarding my residence. I was a stranger in Borsad. No caste Hindu would rent a house to me. The Untouchables of Borsad were not ready to give me lodgings for the fear of displeasing the Hindus who did not like my attempt to live as a clerk, a station above me. Far greater difficulties were with regard to food. There was no place or person from where I could get my meals. I used to buy 'Bhajhas 'morning and evening, eat them in some solitary place outside the village and come and sleep at night, on the pavement of the verandahs of the Mamlatdar's office. In this way, I passed four days. All this became unbearable to me. Then I went to live at Jentral, my ancestral village. It was six miles from Borsad. Every day I had to walk eleven miles. This I did for a month and a half.

There after the Mamlatdar sent me to a Talati to learn the work. This Talati was in charge of three villages, Jentral, Khapur and Saijpur. Jentral was his headquarters. I was in Jentral with this Talati for two months. He taught me nothing and I never once entered the village office. The headman of the village was particularly hostile. Once he had said,' you fellow, your father, your brother are sweepers who sweep the village office and you want to sit in the office as our equal ? Take care, better give up this job.'

One day the Talati called me to Saijpur to prepare the population table of the village. From Jentral I went to Saijpur, I found the Headman and the Talati in the villege office doing some work. I went, stood near the door of the office and wished them 'good morning' but they look no notice of me. I stood outside for about 15 minutes. I was already tired of life and felt enraged at being thus ignored and insulted. I sat down on a chair that was lying there. Seeing me seated on the chair the Headman and the Talati quietly went away without saying anything to me. A short while after, people began to come and soon a large crowd gathered round me. This crowd was led by the Librarian of the village library. I could not understand why an educated person should have led this mob. I subsequently learnt that the chair was his. He started abusing me in the worst terms. Addressing the Ravania (village servant) he said, 'Who allowed this dirty dog of a Bhangi to sit on the chair ?' The Ravania

unseated me and took away the chair from me. I sat on the ground. Thereupon the crowd entered the village office and sun-rounded me. It was a furious crowd raging with anger, some abusing me, some threatening to cut me to pieces with Dharya (a sharp weapon like the sword). I implored them to excuse me and to have mercy upon me. That did not have any effect upon the crowd. I did not know how to save myself. But an idea came to me of writing to the Mamlatdar about the fate that had befallen me and telling him how to dispose of my body in case I was killed by the crowd. Incidentally, it was my hope that if the crowd came to know that I was practically reporting against them to the Mamlatdar they might hold their hands. I asked the Ravania to give me a piece of paper which he did. Then with my fountain pen I wrote the following on it in big bold letters so that everybody could read it:

"To,

The Mamlatdar, Taluka Borsad.

Sir,

Be pleased to accept the humble salutations of Parmar Kalidas Shivram. This is to humbly inform you that the hand of death is falling upon me today. It would not have been so if I had listened to the words of my parents. Be so good as to inform my parents of my death."

The Librarian read what I wrote and at once asked me to tear it off, which I did. They showered upon me innumerable insults. 'You want us to address you as our Talati ? You are a Bhangi and you want to enter the office and sit on the chair ?' I implored for mercy and promised not to repeat this and also promised to give up the job. I was kept there till seven in the evning when the crowd left. Till then the Talati and the Mukhiya had not come. Thereafter I took fifteen days' leave and returned to my parents in Bombay."

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PART VI
MISCELLANEOUS NOTES

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PART VI

MISCELLANEOUS NOTES

1. The Constitution of British India.
2. Notes on Parliamentary Procedure.
3. Notes on History of India.
4. Manu and the Shudras.
5. Preservation of Social Order.
6. With the Hindus.
7. Frustration.
8. The problem of Political suppression.
9. Which is worse ? Slavery or Untouchability.

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THE CONSTITUTION OF BRITISH INDIA

I. Introductory : Limits of the Subject.

The Constitution of British India is contained in an enactment called the Government of India Act, 1919. A student of the Constitution of India therefore has not to search for the constitution as the student of the English Constitution has to do. His position is very much like the position of the student of the American Constitution, whose problem is nothing more than to understand and to interpret the statute embodying the Constitution of the United States. From this point of view it would seem unnecessary to raise the question what is Constitutional Law and what are the questions that usually fall within its scope. Secondly assuming that it is necessary to define the limits of the subject of Constitutional Law the question is whether such an inquiry should form a preliminary to the discussion of the subject or whether it should form a concluding part of it. The late Professor Maitland in his Study of the English Constitutional History adopted the latter course. And there is a great deal to be said in favour of such a course. There are reasons however why such a course would not be suitable to the study of the Indian Constitution.

The reasons why the question what is Constitutional Law must be raised at the outset, so that we could be clear as to the limits of our subject and the topics that must fall within it will be obvious from one or two illustrations. The Government of India Act does not say anything about the Writ of Habeas Corpus or the Writ of Mandamus or Certiorari. It does not speak of Martial Law or Administrative Law. It does not speak of the right of Paramountcy, what the Government of India undoubtedly exercises in respect of their dealings with the Indian States. Is it necessary to study these questions or is it not ? Are they proper subject to the study of the Indian Constitutional Law or are they not ? Judging by the tests of how these subjects have been dealt with in

other countries by authorities who have studied the Constitutional Law of these countries there can be no doubt that by common consent all these matters are treated as pertaining to the domain of constitutional law. If therefore these subjects which do not find a place in the Government of India Act but which all the same must form a part of the study of Constitutional Law, the question of the definition of the subject becomes important.

To the question, what is Constitutional Law, different people have given different answers. One may take Austin and Maitland as types representing two schools of thought. Austin subdivides Public Law or what he calls the Law of Political Conditions into two classes, Constitutional Law and Administrative Law. According to him Constitutional Law determines the persons or the classes of persons who shall bear the sovereign power in the State. He defines the mode in which these persons shall share those powers. Austin's definition of Constitutional Law as is obvious includes only those rules which determine the constitution and composition of the sovereign body. He excludes from the Constitutional Law all rules which deal with the **exercise of the sovereignty** by the sovereign body. While Austin makes the definition of the Constitutional Law depend upon the logic of his principles, Maitland makes the limits of Constitutional Law a matter of conscience. To Maitland, Constitutional Law includes not only the rules which determine the rules of the composition of the sovereign body, but it would also include the Privy Council, the Departments of the State, the Secretaries of the State, Judges, Justices of the Peace, Poor Law Guardians, Boards of Health and Policemen. These views represent the two extremes and if Austin's is too narrow, Maitland's undoubtedly is too wide.

There is however a middle position which can be founded upon the views of Prof. Holland—expressed in his Jurisprudence. A right is a capacity residing in one person of controlling, with the assent and assistance of the State, the actions of another. Rights which may be conferred by one citizen against another constitute the subject matter of Private Law. The rights which the State claims to itself against the subjects and the rights which it permits against itself constitute Public Law.

Constitutional Law is undoubtedly part of Public Law and as far as it is so it must discuss the rights of the State against the subjects and the rights of the subjects against the State. But Constitutional Law include more than this. It must include the study of the organization of the state for the State is an artificial person which claims the right to punish, to possess property, to make contracts and to regulate its rights and duties as between itself and the subjects and also as between the subjects themselves. It is necessary to inquire how this artificial person is constituted. The study of the Constitutional Law therefore must include the study of three matters: (1) The organization of the State, (2) The rights of the State against the subjects and (3) The rights of the subjects against the State. It is this view of the limits and scope of the Constitutional Law that I propose to follow in these lectures on the Government of India Act and it is the view adopted by Prof. Anson in his Study of the English Constitution.

There is another question which is bound to crop up and which has better be disposed of at the outset. Is the treatment of the subject to be historical or to be descriptive? Some history cannot be avoided in the study of the Government of India Act. The Government of India Act says that all remedies that were available against the East India Company shall continue to be available against the Secretary of State. The Government of India Act also says that His Majesty may establish High Courts by Letters Patent. The Letters Patent say that the High Court shall exercise all the powers of the Supreme Court which they superseded. Many other Sections of similar character in the Government of India Act could be referred to. But the two mentioned are sufficient to illustrate that history cannot be avoided. For, in dealing with the Constitution of India, to understand the remedies available against the Secretary of State one must inquire what were the remedies open to a subject against the East India Company. Nor can one understand the powers of the High Court until one enquires what were the powers with which the Supreme Court was invested. Although some history would be necessary, there can be no justification in a study of the Constitutional Law as it operates today

to study every part of it historically. All past is of no moment to the present. Only the part of the present need be adverted to, and that is what I propose to do when any particular question requires historical treatment for its proper understanding.

[We have not received any other essay on this subject—ed.]

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NOTES ON PARLIAMENTARY PROCEDURE

Forms of Procedure are determined by functions of a body. The important functions of a Parliamentary Body are :

(1) Power to express an opinion on and criticize any executive action.

(2) Power to have Laws.

(3) Power to provide money for carrying on the administration.

I. Power to express an opinion on or criticize any action taken by the Executive. Rules of Business permit:

1. to ask Questions.

2. to move Resolutions.

3. to move an adjournment of the House.

4. to move a motion of want of confidence in the Government.

(1) **Power to ask Questions.**

Rule 7

This is subject to the following restrictions.

Arrangement of Business

I. Order of precedence.

1. Questions 1 hour : 1/2 hour during voting of demands.

2. Bills.

3. Motions to amend Standing Orders.

4. Resolutions.

President may give priority to any item.

II. Priority with regard to Bills, Motions and Resolutions.

(i) Bills and Motions

The most advanced have priority over the less advanced.

(ii) Resolutions

Priority is determined by Ballot.

Quorum

25 members in Bombay.

President shall adjourn to next day if there is no Quorum.

Rule 27. The Budget is dealt with in two stages.

(i) a general discussion ; and

(ii) the voting of demands for grants.

Governor may allot as many days as he likes for general discussion.

No motion is to be made Nor the Budget to be submitted to the vote of the Council when the General discussion is going on.

Rule 29. Voting of Grants.

Not more than twelve days shall be allotted by the Governor for the voting of the demands. Not more than 2 days for any demand. On the last appointed day the President shall forthwith put every Question necessary to dispose of all outstanding matters in connection with the demands for grants.

Rule 30.

No motion for appropriation can be made except on the recommendation of the Governor communicated to the Council. Motions may be moved to reduce any grant or to omit or reduce any item in a grant, but not to increase or alter the destination of the grant.

Rule 31. Excess Grants

(Left blank by the author—ed.)

Rule 32. Supplementary or additional grant.

When the amount falls short

When need arises of provision of new source.

Public Accounts Committee

Rule 33. Constitution of Public Accounts Committee.

(Left blank by the author—ed.)

Rule 34. Duties of the Public Accounts Committee :

(1) To satisfy itself that money is spent within the scope of the demand and to bring to the notice.

Conduct of Business

This is regulated by the Standing Orders.

I. Council Session

1. The Council can meet only at a time or place apppointed by the Governor by notification.

2. Session is prorogued by the order of the Governor.

3. The Council shall sit on such days and at such times as the President shall direct.

Effect of Prorogation

On prorogation all pending notices shall lapse and fresh notices must be given for the next Session except in the following cases :

(1) Question (2) Statutory motions (3) Bills introduced (4) Motion to amend Standing Orders which have been referred to a Select Committee.	These are carried over to the list of Business for the next Session.

Procedure

With regard to

I. Question

Shall be put and answers given in such manner as the President may, in his discretion, determine.

II. **Motion for Adjournment**

30 members to rise

4 O'clock for the purpose of discussing the motion. Debate shall terminate at 6 p.m. and thereafter no question respecting the motion shall be put.

III. Bills

(1) Four Stages

1. Introduction. Asking the leave of the House.
2. First Reading
3. Second Reading
4. Third Reading

(1) Constitution of Australia.	Sec. 49.
(2) Constitution of Canada.	Sec. 18.
(3) Constitution of South Africa.	Sec. 57.

There is no Section in the Government of India Act which gives any privilege to the Legislature.

The Government of India Act confers only two privileges upon members of the Legislature.

I. Freedom of Speech.

Sep. 67(7).

> There shall be freedom of speech in both chambers of the Indian Legislature. No person shall be liable to any proceedings in any Court by reason of his speech or vote in either chamber or by anything contained in any **official** report of the proceedings of either chamber.

Sec. 72 D (7).

> There shall be freedom of speech in the Governor's Legislative Council. No person shall be liable to any proceedings in any Court by reason of his speech or vote in any such Council, or by reason of anything contained in any **official** report of the proceedings of any such Council.

This privilege of Freedom of Speech is subject to two restrictions.

(1) Standing orders.

(2) Official report.

II. Freedom from Arrest.

This privilege is not granted by the Government of India Act. It is granted by an Act of the Indian Legislature. It is called

Legislative Members Exemption Act, 1925. [No. 23 of 1925]

UNDER THIS ACT

1. Members of the legislative bodies constituted under the Government of India Act are exempt from liability to serve as jurors or assessors.

2. No person is liable to arrest or detention in prison under civil process—

(a) If he is a member of a legislative body constituted under the Government of India Act, during the continuance of any meeting of such body.

(b) If he is a member of any Committee of such body, during the continuance of any meeting of such body.

(c) If he is a member of either chamber of Indian Legislature, during the continuance of a joint sitting of the chambers, or of a meeting of a conference or joint Committee of the chambers of which he is a member, and during 14 days before and after such meeting or sitting.

Points to note.

(1) Freedom is only from Civil Arrest.

(2) Liable to re-arrest after the period.

Procedure of the Legislatures

I. The Procedure of the Indian Legislature is regulated by

(1) Rules of Business and

(2) Standing Orders.

Section 67 (1) Section 67 (6)	permit Rules and Standing Orders to be made for the Central Legislature.

Section 72 D (6) Section 72 D (7)	permit Rules and Standing Orders to be made for the Local Legislature.

II. Legislatures have no authority to make rules and standing orders.—

The Dominions have it.

In India the matter is governed by Section 129A.

Governor General in Council to make rules and Standing Orders.

Difference between Standing Orders and Rules

1. Rules are not subject to alteration or repeal by the Indian Legislature, Local or Central.

2. Subject to certain conditions Standing Orders may be amended.

Different purposes of Rules and Standing Orders

Two Questions:

1. What matters a Legislature can discuss and what is within its competence and what is not ?

2. Assuming any particular matter is within its competence, How is that matter to be discussed ? How is it to be brought to an issue ? In what order are members to speak ? Has anybody priority in speaking ? How are votes recorded ? How are they counted ? How are they valued.

The first Question is settled by the Rules of Business. The second is settled by the standing orders. To use the language of the Act:

Rules of Business Regulate the **Course of business.**

Standing Orders regulate the **Conduct of business.**

Rules of Business and Freedom of Action

Do the Rules of Business give the Legislators the necessary freedom to discharge their functions ?

* **Rule 8.**—A Question may be asked for the purpose of obtaining information on a matter of public concern within the special cognizance of the member to whom it is addressed.

Period of Notice.

(a) The President may disallow a question if it does relate to a matter which is not primarily the concern of the Local Government.

(b) A Question which is allowed by the President may be disallowd by the Governor if it relates to

(i) any matter affecting the relations of H. M's Government or of the Government of India, or of the Governor or the Governor in Council, with any foreign State.

(ii) any matter affecting the relations of any of the foregoing authorities with any Prince or Chief under the suzerainty of His Majesty, or relating to the affairs of any such Prince or Chief or to the administration of the territory of any such Prince or Chief.

(iii) any matter which is under adjudication by a Court of Law having jurisdiction in any part of His Majesty's Dominions.

N. B.—If any doubt arises the Governor shall decide the point and his decision shall be final.

(c) In a controversy between the Governor General in Council or the Secretary of State and Local Government no question shall be asked except as to matters of fact, and the answer shall be confined to a statement of fact.

(ii) Right to move Resolutions.

Rules 22-23.

Rule 23. (1) Every resolution shall be in the form of a specific recommendation addressed to the Government.

Statutory Restrictions

Resolution cannot be moved regarding a matter relating to which a question cannot be asked.

Rule 22. Apart from the Statutory restrictions on the right to move resolutions, the Governor has the power **within the period of notice** to disallow any resolution, on the ground that it cannot be moved without detriment to the public interest or on the ground that it relates to a matter which is not primarily the concern of the Local Government.

Prohibitions against Resolutions

Rule 24A. No discussion of a matter of general public interest shall take place **otherwise** than on a resolution moved in accordance with rules governing the moving of resolutions except with the consent of the President & the member of the Government to whose department the motion relates.

2. It shall not be permissible to the President or to the member of the Government concerned to give his consent to the moving of any motion in regard to any of the subjects in regard to which a resolution cannot be moved.

(iii) Motion for adjournment

Rules 11 and 12

Rule 11. A motion for an adjournment of the business of the Council for the purpose of discussing a definite matter of urgent public importance may be made.

Rule 12. This is subject to the following restrictions.

(i) Only one such motion shall be made at the same sitting.

(ii) Not more than **one matter** can be discussed. It must be restricted to **specific matter** of **recent** occurrence.

(iii) Motion must not raise a matter already disposed of: must not revive.

(iv) Motion must not anticipate a matter already on the agenda or of which notice is given.

1. A motion must not deal with a matter on which a resolution could not be moved.

2. The President must give his consent.

(iv) Motion of Want of Confidence

Rule 12A. A motion expressing want of confidence in a minister or a motion disapproving the policy of the minister in a particular.

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NOTES ON HISTORY OF INDIA

[Reproduced from the handwritten manuscripts—ed.]

I

More important for the history of India were the conquests of the Sakas and Yueh-chih, nomad tribes of Central Asia similar to the modern Turkomans.[1] The former are first heard of in the basin of the river Ili, and being dislodged by the advance of the Yueh-chih moved southwards reaching north-western India about 150 B.C. Here they founded many small principalities, the rulers of which appear to have admitted the suzerainty of the Parthians for some time and to have borne the title of Satraps. It is clear that western India was parcelled out among foreign princes called Sakas, Yavanas, or Pallavas whose frontiers and mutual relations were constantly changing. The most important of these principalities was known as the Great Satrapy which included Surashtra (Kathiawar) with adjacent parts of the mainland lasted until about 395 A. D

The Yueh-chih started westwards from the frontiers of China about 100 B. C. and, driving the Sakas before them, settled in Bactria. Here Kadphises, the chief of one of their tribes, called the Kushans, succeeded in imposing his authority on the others who coalesced into one nation henceforth known by the tribal name. The chronology of the Kushan Empire is one of the vexed questions of Indian history and the dates given below are stated positively only because there is no space for adequate discussion and are given with some scepticism, that is desire for more knowledge founded on facts. Kadphises I (c. 15-45 A. D.) after consolidating his Empire led his armies southwards, conquering Kabul and perhaps Kashmir. His successor Kadphises II (c. 45-78 A. D.) annexed

1 But perhaps not in language. Recent research marks it probable that the Kushans or Yueh-chih used an Iranian idiom.

the whole of north-western India, including northern Sind, the Punjab and perhaps Benares. There was a considerable trade between India and the Roman Empire at this period and an embassy was sent to Trojan, apparently by Kanishka (c. 78-123), the successor of Kadphises. This monarch played a part in the later history of Buddhism comparable with that of Asoka in earlier ages.[1] He waged war with the Parthians and Chinese, and his Empire which had its capital at Peshawar included Afghanistan, Bactria, Kashgar, Yarkhand, Khotan[2] and Kashmir. These dominions, which perhaps extended as far as Gaya in the east, were retained by his successors Huvishka (123-140 A. D.) and Vasudeva (140-178 A. D.) but after this period the Andhra and Kushan dynasties both collapsed as Indian powers, although Kushan kings continued to rule in Kabul. The reasons of their fall are unknown but may be connected with the rise of the Sassanids in Persia. For more than a century, the political history of India is a blank and little can be said except that the kingdom of Surastra continued to exist under a Saka dynasty.

Light returns with the rise of the Gupta dynasty, which roughly marks the beginning of modern Hinduism and of a reaction against Buddhism. Though nothing is known of the fortunes of Patali-putra, the ancient imperial city of the Mauryas, during the first three centuries of our era, it continued to exist. In 320 a local Raja known as Candragupta I increased his dominions and celebrated his coronation by the institution of the Gupta era. His son Samudra Gupta continued his conquests and in the course of an extraordinary campaign, concluded about 340 A. D. appears to have received the submission of almost the whole peninsula. He made no attempt to retain all this territory but his effective authority was exercised in a wide district extending from the Hugli to the rivers Jumna and Chambal in the west and from the Himalayas to the Narbuda. His son Candragupta II or Vikramaditya added to these possessions Malwa, Gujarat and Kathiawar and for more than half a century the Guptas ruled undisturbed over nearly all northern India except

1 Fleet and Franke consider that Kanishka preceded the two Kadphises and began to reign about 58 B. C.

2. He appears to have been defeated in these regions by the Chinese general Pan-chao about 90 A. D. but to have been more successful about fifteen years later.

Rajputana and Sind. Their capital was at first Pataliputra, but afterwards Kausambi and Ayodhya became royal residences.

The fall of the Guptas was brought about by another invasion of barbarians known as Huns, Ephthalites [1] or White Huns and apparently a branch of the Huns who invaded Europe. This branch remained behind in Asia and occupied northern Persia. They invaded India first in 455, and were repulsed, but returned about 490 in greater force and overthrew the Guptas. Their kings Tormana and Mihiragula were masters of northern India till 540 and had their local capital at Sialkot in the Panjab, though their headquarters were rather in Bamiyan and Balkh. The cruelties of Mihiragula provoked a coalition of Hindu princes. The Huns were driven to the north and about 565 A. D. their destruction was completed by the allied forces of the Persians and Turks. Though they founded no permanent states their invasion was important, for many of them together with kindered tribes such as the Gurjars (Gujars) remained behind when their political power broke up and, like the Sakas and Kushans before them, contributed to form the population of north-western India, especially the Rajput clans.

The defeat of the Huns was followed by another period of obscurity, but at the beginning of the seventh century Harsha (606-647 A. D.), a prince of Thanesar, founded after thirty five years of warfare, a state which though it did not outlast his own life, emulated for a time the dimensions and prosperity of the Gupta Empire. We gather from the account of the Chinese pilgrim Hsuan Chaung, who visited his court at Kanauj, that the kings of Bengal, Assam and Ujjain were his vassals but that the Panjab, Sind and Kashmir were independent. Kalinga, to the south of Bengal was depopulated but Harsha was not able to subdue Pulakesin II, the Calukya king of the Deccan.

Let us now turn for a moment to the history of the south. It is even more obscure both in events and chronology than that of the north, but we must not think of the Dravidian countries as uninhabited or barbarius. Even the classical writers of Europe had some

1. For authorities see Vincent Smith, *Early History of India,* 1908, p. 401.

knowledge of them. King Pandion (Pandya) sent a mission to Augustus in 20 B. C.[1] Pliny[2] speaks of Modura (Madura) and Ptolemy also mentions this town with about forty others. It is said[3] that there was a temple dedicated to Augustus at Maziris, identified with Craganore. From an early period the extreme south of the peninsula was divided into three states known as the Pandya, Cera and Cola kingdoms.[3] The first corresponded to the districts of Madura and Tinnevelly. Cera and Kerala lay on the west coast in the modern Travancore. The Cola country included Tanjore, Trichinopoly, Madras, with the greater part of Mysore. From the sixth to the eighth century A. D. a fourth power was important, namely the Pallavas, who apparently came from the north of the Madras presidency. They had their capital at Canjeevaram and were generally at war with the three kingdoms. Their king, Narasimha-Varman (625-645 A. D.) ruled over part of the Deccan and most of the Cola country but after about 750 they declined, whereas the Colas grew stronger and Rajaraja (985-1018) whose dominions included the Madras Presidency and Mysore made them the paramount power in southern India, which position they retained until the thirteenth century.

As already mentioned, the Deccan was ruled by the Andhras from 220 B. C. to 236 A. D., but for the next three centuries nothing is known of its history until the rise of the Calukya dynasty at Vatapi (Badami) in Bijapur. Pulakesin II of this dynasty (608-642), a contemporary of Harsha, was for some time successful in creating a rival Empire which extended from Gujarat to Madras, and his power was so considerable that he exchanged embassies with Khusru II, King of Persia, as is depicted in the frescoes of Ajanta. But in 642 he was defeated and slain by the Palavas.

With the death of Pulakesin and Harsha begins what has been called the Rajput period, extending from about 650 to 1000 A. D. and characterized by the existence of numerous kingdoms ruled by dynasties nominally Hindu, but often descended from northern

1. Strabo xv. 4. 73.

2. Hist. Nat. vi. 23. (26).

3. The inscriptions of Asoka mention four kingdoms, Pandya, Keralaputra, Cola, and Satiyaputra.

invaders or non-Hindu aboriginal tribes. Among them may be mentioned the following :—

1. Kanauj or Panchala. This kingdom passed through troublous times after the death of Harsha but from about 840 to 910 A. D. under Bhoja (or Mihira) and his son, it became the principal power in northern India, extending from Bihar to Sind. In the twelfth century it again became important under the Gaharwar dynasty.

2. Kanauj was often at war with the Palas of Bengal, a line of Buddhist kings which began about 730 A. D. Dharmapala (c. 800 A. D.) was sufficiently powerful to depose the king of Kanauj. Subsequently the eastern portion of the Pala Kingdom separated itself under a rival dynasty known as the Senas.

3. The districts to the south of the Jumna known as Jejak-abhukti (Bundelkhand) and Cedi (nearly equivalent to our Central Provinces) were governed by two dynasties known as Candels and Kalacuris. The former are thought to have been originally Gonds. They were great builders and constructed among other monuments the temples of Khajurao. Kirtivarman Chandel (1049-1100) greatly extended their territories. He was a patron of learning and the allegorical drama Prabodhacandrodaya was produced at his Court.

4. The Paramara (Pawar) dynasty of Malwa were likewise celebrated as patrons of literature and kings Munja (974-995) and Bhoja (1018-1060) were authors as well as successful warriors.

II

Saka Period

According to Vincent Smith, after first adopting A. D. 78 which appeared the most probable, finally chose 120 A. D. and we may agree that this date marks the beginning of the Saka period inaugurated by Kanishka.

The order in which the chief Kushan kings followed is still doubtful. It is generally agreed that Kanishka came after Kadphises I (Kujula Kara Kadphises) and II (Vima Kadphises). The

former of these two, a Bactrinized Scythian, must, in Dr. Smith's view, have assumed power about 40 A. D. He seized Gandhara and the country of Taxila from Gondophares, the Parthian prince who, according to the apocryphal acts of the apostles, received St. Thomas. His son Vima (78-110) carved out a great empire for himself, embracing the Punjab and the whole western half of the Ganges basin.

There seems to have been an interval of about 10 years between Kadphises and Kanishka, the latter was the son of one Vajheshka and no relation of his predecessor, he seems to have been from Khotan, not Bactria, and indeed he spent the summer at Kapisi in Paropan... *[1] and the winter at Purushapura (Peshawar) the axis of his empire was no longer in the (midst)*[2] of the Graeco-Iranian country.

The empire of Kanishaka did not last long. Of his two sons, Vasishka and Havishka only the second survived him.

The power of the Kushans in the third century was reduced to Bactria with Kabul and Gandhara, and they fell beneath the yoke of the Sassanids.

Kshatrappas or Satraps.

This title, which is Iranian, is borne by two dynasties founded by the Sakus who had been driven from their country by the Yuch-chi invasion.

I. The first was established in Surashtra (Kathewar). One prince of this line Chasthana, seems to have held Malwa before the great days of the Kushans and to have become a vassal of Kanishka; he ruled over Ujjayini, which was the centre of the Indian civilization.

II. The second line to which the name of Kshaharata is more particularly attached, was the hereditary foe of the Andhras; it ruled over Maharashtra, the country between modern Surat and Bombay. It was this latter Saka state that was annihilated by the

*[1]Letters missing in ms. —ed.

*[2]inserted as eaten by termite—ed.

Satakarni and it was the former which arranged it, when Rudraman, the Satrap of Ujjayini conquered the Andhra King. The antagonism between the eastern & western states seems to have been accompanied by a difference of ideals. The Sakas, like all the Scythians of India or Serindia, such as the Thorkhans, retained from their foreign origin a sympathy for Buddhism, whereas the Andhras were keen supporters of Brahmanism.

The Guptas

The events of the third century are unknown to history and we have very little information about the Kushan empire.

Day light returns in 318-19, when there arises in the old country of Magadha a new dynasty-Gupta.

The Guptas-Chandragupta II conquered the country of Malvas, Gujrath and Surashtra (Kathiwar) overthrowing the 1st great Satrap of the Saka dynasty of Ujjain. As an extension of his territory westward he made Ayodhya and Kausambi his capitals instead of Pataliputra. About 155 (B.C.) he conquered the whole of the lower Indus and Kathewar, waged war in Rajputana, and Oudh but took Mathura (Muttra) on the Jumna, and even reached Pataliputra.

He was severely defeated by Pushyamitra (?). Bactriana was at least in the north, a barrier between Parthia and India. India was therefore less exposed to attack from Parthia. Nevertheless, there was at least one Parthian ruler, Mithradates I (171-136) who annexed the country of Taxila for a few years, about 138.

End of the independence of Parthia and Bactria

The event that put an end to the independence of Parthia and Bactria was a new invasion, resulting from a movement of tribes, which had taken place far away from India in the Mongolian steppes.

About 170 (B. C.) a horde of nomadic Scythians, the Yuch-chi or Tokharians, being driven from Gobi, the present Kansu, by the

Hiang-nu or Huns, started on a wild migration which upset the whole balance of Asia.

They fell on the Sakas, who were Iranianized Scythians dwelling north of the Persion empire and settled in their grazing grounds north of the Jazartes. The expelled Sakas fell on Parthia and Bactriana, obliterating the last vestiges of Greek rule, between 140 and 120 (B. C.) Then the Tokharians, being defeated in their turns by the Wu-Sun tribe, established themselves on the Oxus, and after that took all the country of the Sakas in eastern Iran at the entrance to India. That entrance was found in the first century after Christ.

The conquest of India was the work of the Kushans (Kushana), a dynasty which united the Yue-Chi tribes and established their dominion both over their own kinsfolk the Sakas of Parthia and over peoples of the Punjab.

The accession of the principal King of this line, Kanishka, was placed at uncertain dates between 57 B. C. and A. D. 200.

Pushyamitra—a mayor of the Palace as Sybrani Livi called him.

The Seleucid Empire ruled by Antiochos III (261-246 B. C.) and lost two provinces Parthia and Bactriana which emancipated themselves simultaneously. The Parthians whom the Indians called Pahalvas, were related to the nomads of the Turkoman steppes and occupied the country south-east of the Caspian. The Bactrians bordered on the Parthians on the north-east and were settled between the Hindu Kush and the Oxus ; the number and wealth of their towns were legendary. These two peoples seem to have taken advantage of the difficulties of Antiochos and his successors, Seleucos II (246-226 B. C.) and III (226-223 B. C.) in the west to break away.

The Parthian revolt was a natural movement, led by Arsaces, the founder of a dynasty which was to rule Persia for nearly 500 years.

The Bactrian rising was brought about by the ambition of a Greek satrap. Diodotos, represents an outbreak of Hellennism in the heart of Asia.

There is no doubt that the formation of these enterprizing nations on the Indo-Iranian border helped to shake the empire of Ashoka in the time of his successors.

The Punjab, once a Persian satrapy and then a province of Alexander, was to find itself still more exposed to attack, now that smaller but turbulent states had arisen at its doors. After Diodotos I & II, the King of Bactria was Euthidemes, who went to war with Antioches the Great of Syria. Peace was concluded with the recognition of Bactrian independence about 208. But during hostilities Syrian troops had crossed the Hindu Kush and enterning the Kabul valley had severely dispoiled the ruler Subhagasena. Demetrius, the son of Enthidemos, increased his dominion not only in the present Afghanistan but in India proper, and bore the title of King of the Indians (200-190). Between 190 and 180 there were Greek adventurers reigning at Taxila, named Paleon & Agathocles. From 160 to 140 roughly, Kabul and the Punjab were held by a pure Greek, Milinda or Minander, who left a name in the history of Buddhism.

III

Huns

In the last years of Kumargupta new Iranian peoples assailed the empire, but they were kept back from the frontiers. Under Skandagupta, the first wave of formidable migration came down upon the same frontiers. This consisted of nomad Mongoloids to whom India afterwards gave the genuine name of Huna, under which we recognised the Huns who invaded Europe.

Those who reached India after the middle of the fifth century were white Huns or Ephthalites, who in type were closer to the Turks than to the hideous followers of Attila. After a halt in the valley of the Oxus they took possession of Persia and Kabul. Skandagupta had driven them off for a few years (455 A. D.) but after they had slain Firoz the Sassanid in 484, no Indian state could stop them. One of them, named Toramana, established himself among the Malavas in 500 and his son Mihirgula set up his capital at Sakol (Sialkot) in the Punjab.

A native prince Yeshodharman shook off the yoke of Mihirgula. The expulsion of the Huns was not quite complete everywhere. A great many resided in the basin of the Indus.

At the beginning of the 7th century a power arose from the chaos in the small principality of Sthanvisvara (Thaneshwar, near Delhi). Here a courageous Raja Prabhakar Vardhan organized a kingdom, which showed its mettle against the Gurjars, the Malwas and other neighbouring princes. Shortly after his death in 604 or 605 his eldest son was murdered by the orders of the king of Gauda in Bengal. The power fell to his younger brother Harsha.

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4

MANU AND THE SHUDRAS

[This is a 31 page handwrittten Ms. of Dr. Ambedkar. The chapter has no title. It is also left incomplete. The title is suggested—editor.]

I

The reader is now aware that in the Scheme of Manu there were two principal social divisions: those outside the Chaturvarna and those inside the Chaturvarna. The reader also knows that the present day Untouchables are the counterpart of those outside the Chaturvarna and that those inside the Chaturvarna were contrasted with those outside. They were a composite body made up of four different classes, the Brahmins, the Kshatriyas, the Vaishyas and the Shudras. The Hindu social system is not only a system in which the idea of classes is more dominant than the idea of community but it is a system which is based on inequality between classes and therefore between individuals. To put it concretely, the classes i.e. the Brahmins, Kshatriyas, Vaishyas, Shudras and Antyajas (Untouchables) are not horizontal, all on the same level. They are vertical i.e. one above the other. No Hindu will controvert this statement. Every Indian knows it. If there is any person who would have any doubt about it he can only be a foreigner. But any doubt which a foreigner might have will be dissolved if he is referred to the law of Manu who is the chief architect of the Hindu society and whose law has formed the foundations on which it is built. For his benefit I reproduce such texts from the Manu Smriti as go to prove that Hindu society is based on the principle of inequality.

II

It might be argued that the inequality prescribed by Manu in his Smriti is after all of historical importance. It is past history and cannot be supposed to have any bearing on the present conduct of the Hindu. I am sure nothing can be greater error than this. Manu is not a matter of the past. It is even more than a past of the present. It is a 'living past' and therefore as really present as any present can be.

That the inequality laid down by Manu was the law of the land under the pre-British days may not be known to many foreigners. Only a few instances will show that such was the case.

Under the rule of the Marathas and the Peshwas the Untouchables were not allowed within the gates of Poona city, the capital of the Peshwas between 3 p.m. and 9 a.m. because, before nine and after three, their bodies cast too long a shadow; and whenever their shadow fell upon a Brahmin it polluted him, so that he dare not taste food or water until he had bathed and washed the impurity away. So also no Untouchable was allowed to live in a walled town ; cattle and dogs could freely enter but not the Untouchables[1].

Under the rule of the Marathas and the Peshwas the Untouchables might not spit on the ground lest a Hindu should be polluted by touching it with his foot, but had to hang an earthen pot round his neck to hold his spittle. He was made to drag a thorny branch of a tree with him to brush out his footsteps and when a Brahman came by, had to lie at a distance on his face lest his shadow might fall on the Brahman[2].

In Maharashtra an Untouchable was required to wear a black thread either in his neck or on his wrist for the purpose of ready identification.

In Gujarat the Untouchables were compelled to wear a horn as their distinguishing mark[3].

In the Punjab a sweeper was required while walking through streets in towns to carry a broom in his hand or under his armpit as a mark of his being a scavenger[4].

In Bombay the Untouchables were not permitted to wear clean or untorn clothes. In fact the shopkeepers took the precaution to see that before cloth was sold to the Untouchable it was torn & soiled.

1. Dr. Murray Mitchell-Great Religions of India, p. 63
2. Bombay Gazetteer. Vol. XII. p. 175.
3. Ency R &. E. Vol. IX p. 636 (b).
4. Punjab Census Report 1911 p. 413.

In Malabar the Untouchables were not allowed to build houses above one storey in height[1] and not allowed to cremate their dead [2].

In Malabar the Untouchables were not permitted to carry umbrellas, to wear shoes or golden ornaments, to milk cows or even to use the ordinary language of the country[3].

In South India Untouchables were expressly forbidden to cover the upper part of their body above the waist and in the case of women of the Untouchables they were compelled to go with the upper part of their bodies quite bare[4].

In the Bombay Presidency so high a caste as that of Sonars (gold- smiths) was forbidden to wear their Dhoties with folds[5] and prohibited to use *Namaskar* as the word of salutation[6].

Under the Maratha rule any one other than a Brahmin uttering a Veda Mantra was liable to have his tongue cut off and as a matter of fact the tongues of several Sonars (goldsmiths) were actually cut off by the order of the Peshwa for their daring to utter the Vedas contrary to law.

1. Bhattacharya-p. 259.

2. Madras Census 1891. p. 299

3. Bhatacharya-Hindu Castes-p. 259.

4. Madras Census 1891 p. 224

5. This mode of wearing dhoties was referred for Brahmins only. The Shudras were to wear it without folds.

6. The following letter will be interesting to the reader as it throws a flood of light as to whether the Dharma prescribed by Manu was or was not the law of the land-

"To

Damulsett Trimbucksett

Head of the Caste of Goldsmiths.

"The Hon'ble the President in Council having thought proper to prohibit the Caste of Goldsmiths from making use of the from of salutation termed Namaskar, you arc hereby pre-emptorily enjoined to make known this order and resolution to the whole caste and to take care that the same be strictly observed.

By order

Bombay Castle sig. W. Page

9th August 1779. Secretary to Government.

Resolution of Government

Dated 28th July 1779

"Frequent disputes having arisen for some time between the Brahmins and Goldsmiths respecting a mode of salutation termed "Namaskar" made use of by the latter, and which the Brahmins allege they have no right to perform, and that the exercise of such ceremony by the Goldsmiths is a great breach and profanation of the rights of the Gentoo [Hindu] Religion, arid repeated complaints having been made to us by the Brahmins, and the Peishwa also having several times written to the President, requesting the use of the Namaskar might be prohibited to the Goldsmiths-Resolved as it is necessary. This matter should be decided by us in order that the dispute between the two castes may be put an end to and the Brahmins appear to have reason for their complaint, that the Goldsmiths be forbidden the use of the Namaskar, and this being a matter wherein the Company's interest is not concerned, our Resolution may be put on the looting of a compliment to the Peishwa whom the President is desired to make acquainted with our determination."

All over India Brahamin was exempt from capital punishment. He could not be hanged even if he committed murder.

Under the Peshwas distinction was observed in the punishment of the criminals according to the caste. Hard labour and death were punishments mostly visited on the Untouchables[1].

Under the Peshwas Brahmin clerks had the privilege of their goods being exempted from certain duties and their imported corn being carried to them without any ferry charges; and Brahmin landlords had their lands assessed at distinctly lower rates than those levied from other classess. In Bengal the amount of rent for land varied with the caste of the occupant and if the tenant was an Untouchable he had to pay the highest rent.

These facts will show that Manu though born some time before B. C. or sometime after A. D. is not dead and while the Hindu Kings reigned, justice between Hindu and Hindu, touchable and untouchable was rendered according to the Law of Manu and that law was avowedly based on inequality.

III

This is the dharma laid down by Manu. It is called Manav Dharma i.e. Dharma which by its inherent goodness can be applied to all men in all times and in all places. Whether the fact that it has not had any force outside India is a blessing or a curse I do not stop to inquire. It is important to note that this Manav Dharma is based upon the theory that the Brahman is to have all the privileges and the Shudra is not to have even the rights of a human being, that the Bramhan is to be above everybody in all things merely by reason of his high birth and the Shudra is to be below everybody and is to have none of the things no matter how great may be his worth.

Nothing can show the shamelessness and absurdity of this Manava Dharma better than turning it upside down. I know of no better attempt in this behalf than that of Dr. R.P. Pranjape a great Educationist, Politician and Social reformer and I make no appology for reproducing it in full—

1. G. B. Forrest, *Official Writings of Mount Stuart Elphinstone,* 1884. pp. 310-11.

A Peep Into the Future[1]

* * * * *

This piece was written against the Non-Brahmin Parties which were then in power in the Bombay and Madras Presidency and in the Central Provinces. The Non-Brahmin parties were founded with the express object of not allowing a single community to have a monopoly in State Service. The Brahamins have a more or less complete monopoly in the State services in all provinces in India and in all departments of State. The Non-Brahmin parties had therefore laid down the principle, known as the principle of communal ratio, that given minimum qualifications candidates belonging to non-Brahmin communities should be given preference over Brahmin candidates when making appointments in the public services. In my view there was nothing wrong in this principle. It was undoubtedly wrong that the administration of the country should be in the hands of a single community however clever such a community might be.

The Non-Brahamin Party held the view that good Government was better than efficient Government was not a principle to be confined only to the composition of the Legislature & the Executive. But that it must also be made applicable to the field of administration. It was through administration that the State came directly in contact with the masses. No administration could do any good unless it was sympathetic. No administration could be sympathetic if it was manned by the Brahamins alone. How can the Brahamin who holds himself superior to the masses, despises the rest as low caste and Shudras, is opposed to their aspiration, is instinctively led to be partial to his community and being uninterested in the masses is open to corruption be a good administrator ? He is as much an alien to the Indian masses as any foreigner can be. As against this the Brahmins have been taking their stand on efficiency pure & simple. They know that this is the only card they can play successfully by reason of their advanced position in education. But they forget that if efficiency was the only criterion then in all probability there would be very

1. Reproduced from-Gujarati Punch-May 1921 (Not quoted in the Ms.—ed.)

little chance for them to monopolize State service in the way and to the extent they have done. For if efficiency was made the only criterion there would be nothing wrong in employing Englishmen, Frenchmen, Germans & Turks instead of the Brahmins of India. Be that as it may, the Non-Brahmin Parties refused to make a fetish to efficiency and insisted that there must be introduced the principle of communal ratio in the public services in order to introduce into the administration an admixture of all castes & creeds and thereby make it a good administration. In carrying out this principle the Non-Brahmin Parties in their eagerness to cleanse the administration of Brahmindom while they were in power, did often forget the principle that in redressing the balance between the Brahmins and non-Brahmins in the public services they were limited by the rule of minimum efficiency. But that does not mean that the principle they adopted for their guidance was not commendable in the interests of the masses.

This policy no doubt set the teeth of many Brahmins on edge. They were vehement in their anger. This piece by Dr. Paranjpe is the finest satire on the policy of the non-Brahmin Party. It caricatures the principle of the non-Brahman party in a manner which is inimitable and at the time when it came out, I know many non-Brahmin leaders were not only furious but also speechless. My complaint against Dr. Paranjpe is that he did not see the humour of it. The non-Brahmin Party was doing nothing new. It was merely turning Manu Smriti upside down. It was turning the tables. It was putting the Brahmin in the position in which Manu had placed the Shudra. Did not Manu give privileges to Brahmin merely because he was a Brahmin ? Did not Manu deny any right to the Shudra even though he deserved it ? Can there be much complaint if now the Shudra is given some privileges because he is a Shudra ? It may sound absurd but the rule is not without precedent and that precedent is the Manu Smriti itself. And who can throw stones at the non-Brahmin Party ? The Brahmins may if they are without sin. But can the authors and worshippers, upholders of Manu Smriti claim that they are without sin ? Dr. Paranjpe's piece is the finest condemnation of the inquity that underlies this Manav Dharma. It shows as nothing else does what a Brahmin feels when he is placed in the position of a Shudra.

IV

Inequality is not confined to Hindus. It prevailed elsewhere also and was responsible for dividing society into higher and lower free and servile classes. (Left incomplete in Ms—ed.)

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5

PRESERVATION OF SOCIAL ORDER

[These are four handwritten pages of the manuscripts by Dr. Ambedkar with extracts from scriptures typed intermittently. The first page is numbered 56, which shows that the earlier part is not available. So also later portion is missing Title of the Chapter is suggested—ed.]

* * * *

> XII, 100. "Command of armies, royal authority, power of inflicting punishment, and sovereign dominion over all nations, he only well deserves, who perfectly understands the Veda Sastra. (i.e. one who is a Brahmin) (**Manu Smriti**)

The second technique devised for the maintainance and preservation of the Established Order is quite different from the first. Really speaking it is this which constitutes a special feature of the Hindu Social Order.

In the matter of the preservation of the Social Order from violent attack it is necessary to bear in mind three considerations. The outbreak of a Revolution is conditioned by three factors. (1) The existence of a sense of wrong, (2) Capacity to know that one is suffering from a wrong and (3) availability of arms. The second consideration is that there are two ways of dealing with a rebellion. One is to prevent a rebellion from occurring and the other is to suppress it after it has broken out. The third consideration is that whether the prevention of rebellion would be feasible or whether the suppression of rebellion would be the only method open, would depend upon the rules which govern the three prerequites of rebellion.

Where the Social Order denies oppurtunity to rise, denies right to education, and denies right to use arms it is in a position to prevent rebellion against the Social Order. Where on the other hand a Social Order allows oppurtunity to rise, allows right to education, and permits the use of arms it cannot prevent rebellion by those who suffer wrongs. Its only remedy to preserve the

Social Order by suppressing rebellion by the use of force and violence. The Hindu Social Order has adopted the first method. It has fixed the social status of the lower orders for all generations to come. Their economic status is also fixed. There being no disparity between the two there is no possibility of a grievance growing up. It has denied education to the lower orders. The result is that no one is conscious that his low condition is a ground for grievance. If there is any consciousness it is that no one is responsible for the low condition. It is the result of fate. Assuming there is a grievance, assuming there is consciousness of grievance there cannot be a rebellion by the lower orders against the Hindu Social Order because the Hindu Social order denies the masses the right to use arms... Social Orders such as use of . . . . . follow the opposite course. They allow equal opportunity to all. They allow freedom to acquire knowledge, they allow the right to bear arms and take upon themselves the odium of suppressing rebellious force & violence. To deny freedom of oppuortunity, to deny freedom to acquire knowledge, to deny the right to arms is a most cruel wrong. Its result to . . . . . .and man. The Hindu Social Order is not ashamed to this. It has however achieved two things. It has found the most effective even though it be the most shamless method of preserving the established Order. Secondly notwithstanding the use of most inhuman means of killing manliness, it has given to the Hindus the reputation of being a very humane people.

Another special feature of the Hindu Social Order relates to the technique devised for its preservation.

The technique is twofold.

The first technique is to place the responsibility of upholding and maintaining the social order upon the shoulders of the King. Manu does this in quite express terms.

> VIII. 410. "The king should order each man of the mercantile class to practice trade, or money-lending, or agriculture and attendance on cattle ; and each man of the servile class to act in the service of the twice-born."

VIII. 418. "With vigilant care should the King exert himself in compelling merchants and mechanics to perform their respective duties ; for, when such men swerve from their duty, they throw this world into confusion."

Manu does not stop with the mere enunciation of the duty of the King in this behalf. He..... to ensure that the King shall at all times perform his duty to maintain and preserve the Established Order. Manu therefore makes two further provisions. One provision is to make the failure of the King to maintain the Established Order an offence for which the King become liable for prosecution and punishment like a common man. This would be clear from the following citations from Manu—

VIII. 335. "Neither a father, nor a preceptor, nor a friend, nor a mother, nor a wife, nor a son, nor a domestic priest must be left unpunished by the king, if they adhere not with firmness to their duty."

VIII. 336. "Where another man of lower birth would be fined one pana, the king shall be fined a thousand, and he shall give the fine to the priests, or cast it into the river, this is a sacred rule."

The other provision made by Manu against a King who is either negligent or opposed to the Established Order is to invest the three classes, Brahmins, Kshatriya and Vaishya with a right to rise in armed rebellion against the King.

VIII. 348. "The twice-born may take arms, when their duty is obstructed by force ; and when, in some evil time, a disaster has befallen the twice-born classes."

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6

WITH THE HINDUS

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It is impossible to believe that Hindus will ever be able to absorb the Untouchables in their society. Their Caste System and the Religion completely negative any hope being entertained in this behalf. Yet there are incorrigible optimists more among the Hindus than among the Untouchables, who believe in the possibility of the Hindus assimilating the Untouchables. Whether these incorrigible optimists are honest or dishonest in their opinion is a question which cannot be overlooked. Within what time this assimilation will take place, they are unable to define. Assuming that the optimists are honest, there can be no question that this process of assimilation is going to be a long drawn process extending over many centuries. In the meantime the Untouchables will have to live under the Social and political sway of the Hindus, and continue to suffer all the tyrannies and oppressions to which they have been subjected in the past. Obviously no sane man will think of leaving them to the will and the pleasure of the Hindus in the hope that some day in the unpredictable future they will be assimilated by the Hindus. Long or short, there will be a period of transition and some provision must be made against the tyranny and oppression by the Hindus. What provisions should be made in this behalf ? If the question is left to the Untouchables they will ask for two provisions being made : one for Constitutional Safeguards and two for Separate Settlements.

I

The nature of Constitutional Safeguards for the protection of the Untouchables have been defined by the All-India Scheduled Caste Federation, apolitical organization of the Untouchables of India in the form of resolutions. Resolution Nos. 3 and 7 in which they are defined are set out below :

Resolution No. 3

[Quote p. 359]

(Not written in the Ms—ed.)

Resolution No. 7

[Quote p. 361]

(Not written in the Ms—ed.)

The Hindus are very reluctant to allow the Untouchables these safeguards. The objection is general. There is also objection to particular safeguards. The general objection that the Untouchables are not a minority and therefore they are not entitled to safeguards which may be allowed to other minorities. The argument proceeds that the basis of a community to be called a minority is Religion if one is entitled to be recognized as a minority. The Untouchables are not separate from the Hindus in the matter of the religion. Consequently they are not a minority. That this definition of a minority is childish will be obvious to all those who have studied the question.

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7
FRUSTRATION

The Untouchables are the weariest, most loathed and the most miserable people that history can witness. They are a spent and sacrificed people. To use the language of Shelley they are—

> "pale for weariness of climbing heaven, and gazing on earth, wandering companionless
>
> Among the stars that have a different birth"

To put it in simple language the Untouchables have been completely overtaken by a sense of utter frustration. As Mathew Arnold says[1] "life consists in the effort to affirm one's own essence ; meaning by this, to develop one's own existence fully and freely, to have ample light and air, to be neither (. . . . . .)* nor overshadowed. Failure to affirm ones own essence is simply another name for frustration. Its nonfulfilment of one's efforts to do the best, the withering of one's faculties, the stunting of one's personality."

Many people suffer such frustrations in their history. But they soon recover from the blight and rise to glory again with new vibrations. The case of the Untouchables stands on a different footing. Their frustration is frustration for ever. It is unrelieved by space or time.

In this respect the story of the Untouchables stands in strange contrast with that of the Jews.

Their captivity in Egypt was the first calamity that visited the Jewish people. As the Bible says

[Quote Childern's Bible-39] (Quotation not recorded—ed.)

Ultimately Pharaoh yielded. The Jewish people escaped captivity and went to Cannan and settled there in the land flowing with milk and honey.

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[1] Essays on Democracy

* Erased from the MS—ed.

The second calamity which overtook the Jews was the Babylonian Captivity. (Some pages are missing—ed.)

We can now explain why the Untouchables have suffered frustration. They have no plus condition of body and mind. They have nothing in their dull drab deadening past for a hope of a rise in the future to feed upon. This is due to no fault of theirs. The frustration which is their fate is the result of the unpropitious social environment born out of the Hindu Social Order which is so deadly inimical to their progress.

Their fate is entirely unbearable. As Carlyle has said—

[Quote p. 201]

(Quotation not cited—ed.)

Some are thinking of revolutions, even bloody revolutions to overthrow the Hindu Social Order. All are saying what Cabli Williams once said—

[Quote p. 152]

(Quotation not cited—ed.)

Such is the degree of frustration they feel

III

The Covenant with God may be interpreted to mean in the language of Emerson a **plus** condition of mind and body. As Emerson has said "Success is constitutional-depends on a **plus** condition of mind and body—on power of work—on courage. Success goes invariably with a certain plus or positive power : An ounce of Power must balance an ounce of weight."

If the Jews rose after their first captivity, it was primarily because of their **plus** condition of mind and body. This plus condition of mind and body can arise from two sources. It can arise from reliance on God. God, if nothing else is at least a source of power and in emergency man needs mental power, the plus condition of

* Erased-ed. Essay on Democracy.

mind and body which is necessary for success. There is therefore nothing wrong in the suggestion that the Jews succeeded because of their Covenant of God if it is interpreted in the right way.

IV

This plus condition of body and mind is also the result of Social Environment, if the Environment is propitious. In a society where there is exemption from restraint, a secured release from obstruction, in a society where every man is entitled not only to the means of being, but also of well-being, where no man is forced to labour so that another may abound in luxuries, where no man is deprived of his right to cultivate his faculties and powers so that there may be no competition with the favoured, where there is emphasis of reward by mento, where there is goodwill towards all, (Further portion of this part is erased and not legible—ed.)

(The above portions are in the handwriting of Dr. Ambedkar. Each part is written on a separate sheet—ed.).

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8

The Problem of Political Suppression*

The introduction of the principle of political liberty in India has been very tardy & gradual. It began in the year 1892 when the principle of popular representation in the Constitution of the Legislatures was introduced. It was expanded in 1909. There were two defects in the popular representation as it stood in 1909. The first defect was the franchise was very high. It was so high that a large mass of people were excluded. Those to whom it reached were the aristocracy of the Hindus and the Muslims. The second defect was that the scheme of popular representation was confined to the Legislature. It did not extend to the Executive. The Executive continued to be independent. The Legislature could neither make or unmake the Executive. The next was taken in 1919. Curiously enough, in the scheme of 1919 the principle of popular representation was applied to the Executive without applying it in commensurate degree to the Legislature. This happened because the political movement in India was led largely by the higher classes. They have always been more anxious for Executive power than for extension of franchise. It is natural. For they stood to gain by executive power. While those who would gain by franchise were the masses.

The higher classes having the ear of the British authorities pressed for executive power and succeeded getting it without the extension of franchise.

The franchise was no doubt extended much beyond the bounds fixed in 1909. But it did not touch the Untouchables. Indeed they are so poor that nothing except adult franchise would bring the Untouchables on the electoral roll.

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* This is a six page handwritten manuscript of Dr. Ambedkar numbered as Chapter XIII of the scheme 'Hindu Social Order.' From the last sentence, the chapter seems to have been left incomplete—ed.

The Government of India was very much perturbed. They could do very little. But they did express their anxiety about placing the Untouchables under the political domination of the high caste Hindus without giving the Untouchables the right to vote in the election. In their despatch of 19th March 1919 the Government of India observed—

[Quote]

The situation was altered in 1935 under the scheme proposed by the British Government under what is called the Communal Award.

(i) The Untouchables were to have a differential franchise so as to enfranchise about ten per cent of their population.

(ii) The Untouchables were not only to have a differential franchise, they were to have certain number of seats reserved for them in the Provincial and Central Legislatures.

(iii) The seats reserved for them were to be filled by separate Electorates formed exclusively of voters belonging to the Untouchable Community.

(iv) In addition to having a vote in the Separate Electorates the Untouchables were to have a second or additional vote in the general election for seats open to Hindus other than the Untouchables.

Mr. Gandhi who had been objecting to separate representation of the Untouchables raised a protest against the proposal of the British Government and threatened to fast unto death if these concessions were not withdrawn. Mr. Gandhi's objection was mainly to Separate Electorates and as the British Government refused to withdraw their proposals unless there was an agreement between the Untouchables and the Hindus. Thereupon Mr. Gandhi started his fast. Eventually an agreement was arrived at between the Hindus and the Untouchables in September 1932. That agreement is known as the Poona Pact. Its terms are reproduced below :

POONA PACT *

(1) There shall be seats reserved for the Depressed Classes out of the general electorate seats in the Provincial Legislatures as follows :

Madras 30 : Bombay with Sind 15 ; Punjab 8 ; Bihar and Orissa 18 ; Central Provinces 20 ; Assam 7 ; United Provinces 20 ; Total 148.

These figures are based on the total strength of the Provincial Councils, announced in the Prime Minister's decision.

(2) Election to these seats shall be by joint electorates subject, however, to the following procedure:

All the members of the Depressed Classes registered in the feneral electoral roll in a constituency will form an electoral college, which will elect a panel of four candidates belonging to the Depressed Classes for each of such reserved seats, by the method of the single vote ; the four persons getting the highest number of votes in such primary election, shall be candidates for election by the general electorate.

(3) Representation of the Depressed Classes in the Central Legislature shall likewise be on the principal of joint electorates and reserved seats by the method of primary election in the manner provided for in Clause two above, for their representation in the Provincial Legislatures,

(4) In the Central Legislatures, eighteen per cent of the seats allotted to the general electorate for British India in the said legislature shall be reserved for the Depressed Classes.

(5) The system of primary election to a panel of candidates for election to the Central and Provincial Legislatures, as hereinbefore mentioned, shall come to an end after the first ten years, unless terminated sooner by mutual agreement under the provision of Clause six below.

(6) The system of representation of the Depressed Classes by reserved seats in the Provincial and Central Legislature as provided for in Clauses 1 and 4 shall continue untill determined by mutual agreement between the communities concerned in the settlement.

(7) Franchise for the Central and Provincial Legislatures for the Depressed Classes shall be as indicated in the Lothian Committee Report.

(8) There shall be no disabilities attaching to any one on the ground of his being a member of the Depressed Classes in regard to any elections to local bodies or appointment to the Public Services. Every endeavour shall be made to secure fair representation of the Depressed Classes in these respects, subject to such educational qualifications as may be laid down for appointment to the Public Services.

* Signed on 25th September 1932.

(9) In every province out of the educational grant, an adequate sum shall be earmarked for providing educational facilities to the members of the Depressed Classes.

This pact forms the charter of the political liberty of the Untouchables. The first election . . . . . .

(Left incomplete—ed.)

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9

WHICH IS WORSE ? SLAVERY OR UNTOUCHABILITY ?

[Dr. Ambedkar has dealt with the subject of Slavery and Untouchability in chapter 3 & 8 of Vol. 5 of this series, under the caption- 'Roots of the Problem' 'Parallel cases'.

We have however now come in possession of a booklet in which there are certain paragraphs which do not find place in Vol. No. V chapter 3 & 8.

The material reproduced here when read together, makes consistent and complete reading. We have also no reason to doubt the genuineness of the material as the publisher of the said booklet Shri Devi Dayal was associated with Dr. Ambedkar during 1943-47. The facsimile of the title at the beginning of the chapter, as printed in the booklet vouchsafe the authorship of Dr. Ambedkar. Earlier paragraphs in the booklet i.e. from page 1 to 11 upto 'considerations of humanity' are already printed in Vol. 5 at page nos. 80 to 88. Mr. Bhagwandas of Delhi deserves credit for publishing this article for Mr. Devi Dayal—Editor]

Slavery in India

Among the claims made by the Hindus for asserting their superiority over other nations the following two are mentioned. One is that there was no slavery in India among the Hindus and the other is that Untouchability is infinitely less harmful than slavery.

The first statement is of course untrue. Slavery is a very ancient institution of the Hindus. It is recognized by Manu, the law giver and has been elaborated and systematized by the other Smriti writers who followed Manu. Slavery among the Hindus was never merely ancient instititution which functioned only in some hoary past. It was an institution which continued throughout all Indian history down to the year 1843 and, if it had not been abolished by the British Government by law in that year, it might have continued even today. While slavery lasted it applied to both the touchables as well as the untouchables.

The untouchables by reason of their poverty became subject to slavery oftener than did the touchables. So that up to 1843 the untouchables in India had to undergo the misfortune of being held in double bondage-the bondage of slavery and the bondage of untouchability. The lighter of the bonds has been cut and the untouchable is made free from it. But because the untouchables of today are not seen wearing the chains of slavery on them, it is not to be supposed that they never did. To do so would be to tear off whole pages of history.

The first claim is not so widely made. But the second is. So great a social reformer and so great a friend of the untouchables as Lala Lajpat Rai in replying[1] to the indictment of the Hindu Society by Miss Mayo insisted that untouchability as an evil was nothing as compared with slavery and he fortified his conclusion by a comparison of the Negro in America with the untouchables in India and showed that his conclusion was true. Coming as it does from Lala Lajpat Rai the matter needs to be more closely examined.

Is untouchability less harmful than slavery ? Was slavery less human than untouchability ? Did slavery hamper the growth more than untouchability does ? Apart from the controversy raised by Lala Lajpat Rai, the questions are important and their discussions will be both interesting and instructive. To understand this difference it is necessary to begin by stating the precise meaning of the term slavery. This is imperative because the term slavery is also used in a metaphorical sense to cover social relationship which is kindered to slavery but which is not slavery. Because the wife was entirely in the power of the husband, because he sometimes ill-used her and killed her, because the husband exchanged or lent his wife and because he made her work for him, the wife was sometimes spoken of as a slave. Another illustration of the metaphorical use of the term is its application to serfs. Because a serf worked on fixed days, performed fixed services, paid fixed sums to the lord and was fixed to the land, he was spoken of as a slave. These are instances of curtailment of freedom, and inasmuch as they are akin to slavery because slavery

[1] Unhappy India.

also involves loss of freedom. But this is not the sense in which the word is used in law, and to avoid arguing at cross purpose, it would be better to base the comparison on the legal meaning of the word slavery.

In layman's language, a person is said to be slave when he is the property of another. This definition is perhaps too terse for the lay reader. He may not understand the full import of it without further explanation. Property means something, a term which is used to denote a bundle of rights which a person has over something which is his property, such as the right to possess, to use, to claim the benefit of, to transfer by way of sale, mortgage or lease and destroy. Ownership therefore means complete dominion over property. To put it concretely, when it is said that the slave is the property of the master, what it means is that the master can make the slave work against his will, take the benefit of whatever the slave produces without the consent of the slave. The master can lease out, sell or mortgage his slave without consulting the wishes of the slave and the master can even kill him in the strictest legal connotation of the term. In the eye of the law the slave is just a material object with which his master may deal in any way he likes.

In the light of this legal definition, slavery does appear to be worse than untouchability. A slave can be sold, mortgaged or leased ; an untouchable cannot be sold, mortgaged or leased. A slave can be killed by the master without being held guilty for murder ; an untouchable cannot be. Whoever causes his death will be liable for murder. In fact, the slave could not be killed with impunity, the law did recognize his death as being culpable homicide as it did in the case of the death of a freeman. But taking the position of the slave as prescribed by laws the difference between the condition of the slave and the untouchable is undoubtedly clear-that the slave was worse off than the untouchable.

There is however another way of defining a slave which is equally legal and precise although it is not the usual way. This other way of defining a slave is this : A slave is a human being who is not a person in the eye of the law. This way of defining a slave may perhaps puzzle some. It may therefore be necessary to state that in the eye of the law the term person is identical with the term human being. In law, there may be human beings whom the law does not regard as persons. Contrariwise there are in law persons

who are not human beings. This curious result arises of the meaning which the law attaches to the word person. For the purposes of law a person is defined as an entity, human or non-human, in whom the law recognized a capacity for acquiring rights and bearing duties. A slave is not a person in the eye of the law although he is a human being. An idol is a person in the eye of the law although an idol is an inanimate object. The reason for this difference will be obvious. A slave is not a person although he is a human being, because the law does not regard him as an entity endowed with the capacity for rights and duties. Concisely an idol is a person though not a human being because the law does-whether wisely or not is another question-recognize the capacity for rights and duties. To be recognized as a person is of course a very important fact fraught with tremendous consequences. Whether one is entitled to rights and liberties upon this issue, the rights which flow from this recognition as person are not only as life but are as vital as life. They include right over material things, their acquisition, their enjoyment and their disposal—called right to property. There are others far more important than these rights over material things. Firstly, there is the right in respect of one's own person—a right not to be killed, maimed or injured without due process of law called a right to life, a right not to be imprisoned save in due process of law-called right to liberty. Secondly, there is a right to reputation-a right not to be ridiculed or lowered in the estimation of fellow men, the right to his good name i.e. the right to the respect so far as it is well founded which others feel for him shall not be diminished. Thirdly, there is the right to the free exercise of powers and liberties[1].

[1] There is a distinction between Rights. Powers and Liberties which perhaps need to be explained especially in a treatise intended for the common man. When it is vain that a person has a right it means that it is a duty on some other person either to make the right real by fulfilling his duty or not to injure that right by a wrong doing or non-doing.

There is a distinction between right and liberty which is some times lost by using the word right in a wider sense so as to include liberty. For instance ibis said that a person has a right i.e. he is at liberty to do as he pleases with his own ; but this omits to take into account that a person has no right and he is not at liberty to interfere with the liberty of another. The distinction between right and liberty may be stated thus ; Rights of person are concerned with things which other persons "ought" to do for him. Liberties of a person are concerned with things he 'may' do for himself.

Liberties are acts which a person may do without being restrained by the law. The sphere of a person's legal liberty is that sphere of activity within which the law is content to leave him alone.

Every person is entitled without molestation to perform all lawful acts and to enjoy all the privileges which attach to him as a person. The most specific right of this kind is to be the unmolested pursuit of the occupation by which a man chooses to gain his livelihood. Under the same head falls the right of every person to the free use of the public highways, of navigable rivers and all public utilities. It also includes the right of every person that the machinery of the law, which is established for the protection of all persons shall not be maliciously set in motion to his detriment. Thirdly, there is the right of immunity from damage by fraud or coercion-it is a right not to be induced by fraud to assent to a transaction which causes damage, and not to be coerced into acting contrary to one's desire by force. Fourthly, the rights of a person are those which are collectively called Family Rights. These family rights may be distinguished as 'marital', 'parental', 'tutelary', and 'dominical'. The marital right, the right of a husband as against the world, is that no other man shall, by force or persuasion, deprive him of his wife's society, still less be criminally intimate with her. An analogous right might conceivably be recognized as being vested in the wife and is recognized in parts of America. The parental right extends to the custody and control of children, to the produce of their labour till they arrive at the age of discretion without interference. The tutelary right is the right of the parent to act as the guardian not for the benefit of the guardian but for that of the ward. . . . . whose want of understanding he supplements and whose affairs he manages. The dominical right is the right to use labour of the ward. The right is infringed by killing, by injuring so as to make him less valuable or by enticing him away.

Not being a person, a slave had, so far as law is concerned, none of these rights. The untouchable is a person in the eye of the law. It cannot therefore be said that he has none of the rights which the law gives to a 'person'. He has the right to property, to life, liberty, reputation, family and to the free exercise of his liberties and his powers. Define the slave as one may, either as a piece of property or as one who is not a person, it appears that the slave was worse off than the untouchable.

This is so if we consider only the *de jure* position of the slave. Let us consider what was the *de facto* position of the slave in the Roman Empire and in the United States. I take the following extracts from Mr. Barrow[1] :

> "Hitherto, it is the repulsive side of household slavery that has been sketched. There is also another aspect. The literature reveals the vast household as normal. It is, of course, the exception. Large slave staffs undoubtedly existed, and they are generally to be found in Rome. In Italy and the Provinces there was less need of display ; many of the staff of the Villa were engaged in productive work connected with land and its produce. The old-fashioned relationship between foreman and slave remained there; the slave was often a fellow worker. The kindliness of Pliny towards his staff is well-known. It is in no spirit of self-righteousness and in no wish to appear in a favour able light in the eyes of the future generations which he hoped would read his. letters that he tells of his distress at the illness and death of his slaves. The household (of Pliny) is the salves' republic. Pliny's account of his treatment of his slaves is sometimes regarded as so much in advance of general or even occasional practice as to be valueless as evidence. There is no reason for this attitude.
>
> From reasons both of display and genuine literary interest, the rich families attached to their households, slaves trained in literature and art. Calvisices Sabinus is said by Seneca to have had eleven slaves taught to recite Homer, Hesioid, and nine lyric poets by heart. 'Book cases would be cheaper', said a rude friend. 'No, what the household knows the master knows 'was the answer. But, apart from such abuses, educated slaves must have been a necessity in the absence of printing;. . . . . The busy lawyer, the dilettante poet, the philosopher and educated gentlemen of literary tastes had need of copyists and readers and secretaries. Such men were naturally linquistic also; a librarius who dies at the age of twenty boasts that he was '*literatus Graecis at Latinis*'. *Amanuensis* were common enough ; librarians are to be found in public and private

[1] Slavery in the Roman Empire, pp. 47-49

libraries. . . . .Shorthand writing was in common use under the Empire, and slave Notary were regularly employed. . . .

Many freemen, rhetoricians and grammarians are collected by Snetonius in a special treatise. Verrius Flaccus was tutor to Austus's grandsons, and at death was publicly honoured by a statue. Scribonius Aphrodisius was the slave and disciple of Orbilius and was afterwards freed by Scribenia. Hyginus was librarian of the Palatine Library, in which office he was followed by Jullius Modestus, his own freedman. We hear of freedmen historians of a slave philosopher who was encouraged to argue with his master's, friends' slaves and freed architects, Freemen as doctors occur frequently in the inscriptions, some of them specialists ; they had been trained in big households as slaves, as is shown by one or two examples; after Manumission they rose to eminence and became notorious for their high fees."

"The tastes of some section of society demanded that dancers, singers, musicians, montebanks, variety artists, athletic trainers and messeiurs should be forthcoming. All these are to be found in slavery, often trained by teachers who had acquired some reputation"[1].

* * * *

"The age of Augustus was the beginning of a period of commercial and industrial expansion. . . . . slaves had indeed been employed (in arts and crafts) before, but the sudden growth of trade. . . .their employment in numbers that would otherwise have been unnecessary. Romans engaged more freely and more openly in various forms of commercial and industrial venture. Yet, even so the agent became more important, for commercial activities became more widespread; and such agents were almost necessarily slaves.....(this is so) because the bonds of slavery (are elastic). They could be so relaxed as to offer an incentive (to the slave) to work by the prospect of wealth and freedom, and so tightened as to provide a guarantee to the master against loss from the misconduct of his slave. In business contracts between slave and master third person seem to have been common, and the work thus done, and no doubt, the profits

[1] Slavery in the Roman Empire, p. 63.

were considerable. . . . . Renting of land to the slave has already been noticed. . . . and in industry much the same system was used in various forms; the master might lease a bank, or a business of the use of a ship, the terms being a fixed return or the slave being paid on a commission basis"[1].

"The earnings of the slave became in law his peculium. Once the peculium was saved it might be used to a variety of purposes. No doubt in many cases this fund was expended in providing food or pleasure..... But peculium must not be regarded merely as petty savings, casually earned and idly spent. The slave who made his master's business yield profits, to his own profit too, very often, had a keen sense of the best use to make up his own money. Often he reinvested it in his master's business or in enterprises entirely unrelated to it. He could enter into business relations with his master, from whom he came to be regarded as entirely distinct, or he could make contracts with a third person. He could even have procurators to manage his own property and interests. And so with the peculium may be found not only land, houses, shops but rights and claims.

"The activities of slaves in commerce are innumerable; numbers of them are shopkeepers selling every variety of food, bread, meat, salt, fish, wine vegetables, beans, Aupine-seed, honey, curd, ham, ducks and fresh fish, others deal in clothing—sandals, shoes, gowns and mantles. In Rome, they plied their trade in the neighbourhood of the Circus Maximus, or the Porticus Trigeminus; or the Esquiline Market, or the Great Mart (on the Caolian Hill) or the Suburra[2] . . . . .

The extent to which slave secretaries and agents acted for their masters is shown very clearly in the receipts found in the house of Caecilius Jucundus at Pompei[3].

That the State should possess slaves is not surprising; war, after all, was the affair of the State and the captive might well be State-property. What is surprising is the remarkable use made of public slaves under the Empire and the extraordinary social position occupied by them. . . . . "

[1] Slavery in the Roman Empire, pp. 101-102.

[2] Ibid, p. 105.

[3] Slavery in the Roman Empire, p. 106.

> "Public slave came to mean before the Empire a slave of the state employed in its many offices, and the term implied a given occupation and often social position. The work of slaves of the State, slaves of the townships, and slaves of Caesar comprises much of what would now fall to parts of the higher and the whole of the lower branches of the civil services and of the servants of Municipal Corporations, working both with head and hands... In the subordinate levels (of the Treasury) there worked numbers of clerks and financial officers, all freedmen and slaves. The business dealt with must have been of vast range. ... The Mint . . . the immediate head was a knight, in charge of the minting processes . . . . a freed man was placed under him, served freedmen and slaves.... From one branch of State service, at any rate, slaves were rigorously excluded, except on one or two occasions of exceptional stress. They were not allowed to fight in the Army because they were not thought worthy of honour. Doubtless other motives were present also; it would be dangerous experiment to train too many slaves systematically in the use of Arms. If, however, slaves served merely in the fighting line, they are regularly to be found in great numbers behind it employed as servants, and in the commissariat and transport. In the fleet slaves were common enough[1]."

Such was the *de facto* position of the slave in Roman Society. Let us trun to the *de facto* position of the Negro in the United States during the period in which he was slave in the eye of the law. Here are some facts[2] which shed a good deal of light on his position :

> "Lafayette himself had observed that white and black seamen and soldiers had fought and messed together in the Revolution without bitter difference. Down in Granville County, North Carolina, a full blooded Negro, John Chavis, educated in Princeton University, was conducting a private school for white students and was a licentiate under the local Presbytary, preaching to white congregations in the State. One of his pupils became Governor of North Carolina, another the State's most prominent Whig senator. Two of his pupils were sons of the Chief Justice

1 *Ibid,, pp.* 130-147.

2 Charles C. Johnson's '*The Negro in American Civilisation*'.

of North Carolina. The father of the founder of the greatest military academy of the State attended his school and boarded in his home....

Slave labour was used for all kinds of work and the more intelligent of the Negro slaves were trained as artisans to be used and leased. Slave artisans would bring twice as much as an ordinary field hand in the market. Master craftsmen owned their staff. Some masters, as the system became more involved, hired slaves to their slave artisans. Many slave artisans purchased their freedom by the savings allowed them above the normal labour expected."

"The advertisements for runaways and sales are an index to this skill. They received the same or better wages than the poor white labourer and with the influence of the master got the best jobs. The Contractors for masons' and carpenters' work in Athens, Georgia in 1838 were petitioned to stop showing preference to Negro labourers. "The white man is the only real, legal, moral, and civil proprietor of this country and state. The right of his proprietorship reached from the date of the studies of those whitemen. Copernicus and Galileo, who indicated the sphericity of the earth; which sphericity hinted to another white man, Columbus, the possibility by a westerly course of sailing, of finding land. Hence by whitemen alone was this continent discovered, the whitemen alone, aye, those to whom you decline to give money for bread or clothes for their famishing families, in the logical manner of withholding work from them defending Negroes too in the bargain." In Atlanta in 1858, a petition signed by 2 white mechanics and labourers sought protection against the black slave artisans of masters who resided in other sections. The very next year sundry white citizens were aggrieved that the City Council tolerated a Negro dentist to remain and operate in their midst. 'Injustice to ourselves and the community it ought to be abated. We, the residents of Atlanta, appeal to you for justice'. A Census of free Negroes in Richmond County, Georgia, in 1819 showed carpenters, barbers, boatcorkers, saddlers, spinners, millwrights, holsters, weavers, harness makers, sawmill attendants and steamboat

pilots. A Negro shoe-maker made by hand the boots in which President Munrow was inaugurated. Harriet Martineau marvelled at the slave workmanship in the delicately tiled floors of Thomas Jefferson's home at Monticello. There still stands in the big house of the old plantation, heavy marks of the hands of these Negro craftsmen, strong mansions built of timber hewn from the original oak and pinned together by wooden pins. Negro women skilled in spinning and weaving worked in the mills. Buckingham in 1839 found them in Athens. Georgia, working alongside with white girls without apparent repugnance of objection.

Negro craftsmen in the South, slave and free fared better than their brothers in the North. In 1856 in Philadelphia, of 1637 Negro craftsmen recorded, less than two-thirds could use their trades; 'because of hostile prejudice'. The Irish who were pouring into America from the very beginning of the nineteenth century were being used in the North on approximately the same motives of preference which governed Negro slavery. 'An Irish Catholic', it was argued in their favour, 'seldom attempts to rise to a higher condition than that in which he is placed, while the Negro often makes the attempt with success. Had not the old Puritan Oliver Cromwell, while the traffic in black slaves was on, sold all the Irish not killed in the Drogheda Massacre into Barbados ?' Free and fugitive Negroes in New York and Pennsylvania were in constant conflict with this group and the bitter hostility showed itself most violently in the draft riots of the New York. These Hibernians controlled the load carrying and the common labour jobs, opposing every approach of the Negro as a menace to their slight hold upon America and upon a means of livelihood."

Such was the *de facto* condition of the Roman slave and the American Negro slave. Is there anything in the condition of the Untouchables of India which is comparable with the condition of the Roman slave and the American Negro slave ? It would not be unfair to take the same period of time for comparing the condition of the Untouchables with that of the slaves under the Roman Empire. But I am prepared to allow the comparison of the condition of the slaves in the Roman Empire to be made with the

condition of the Untouchables of the present day. It is a comparison between the worst of one side and the best of the other, for the present times are supposed to be the golden age for the Untouchables. How does the *de facto* condition of the Untouchables compare with the *de facto* condition of the slaves ? How many Untouchables are engaged as the slaves in Rome were, in professions such as those of Librarians, Amanuenses, Shorthand writers ? How many Untouchables are engaged, as the slaves in Rome were, in such intellectual occupations as those of rhetoricians, grammarians, philosophers, tutors, doctors and artists ? How many untouchables are engaged in trade, commerce or industry as were the slaves in Rome ? Even comparing his position with that of the Negro while he was a slave it cannot be said that the condition of the Untouchable has been better. Is their any instance of untouchables having been artisans ? Is there any instance of untouchable having maintained a school where Brahmin children have come to sit at his feet in search of learning ? Why such a thing is unthinkable ? But it has happened in the United States of America. In comparing the *de facto* condition of the Roman slave and the American Negro I have purposely taken the recent condition of the Untouchables as a basis of comparison for the simple reason that the present times are supposed to be the golden age for the untouchables. But comparing even the condition of the untouchables in modern times they are certainly a sunken community as compared with the condition of slaves in time which historians call barbarous. There can therefore, be no doubt that untouclables have been worse off than slaves. This of course means that untouchability is more harmful to the growth of man than slavery ever was. On this there is a paradox. Slaves who were worse off in law than the untouchables were in fact better off than untouchables and untouchables who were better off in law than slaves were worse off in fact than slaves. What is the explanation of this paradox ? The question of all questions is this ; what is it which helped the slave to overcome the rigorous denial of freedom by law and enabled them to prosper and grow ? What is it that destroyed the effect of the freedom which the law gave to the untouchables and sapped his life of all vitality and stunted his growth.

The explanation of this paradox is quite simple. It will be easily understood if one bears in mind the relation between law and public opinion, Law and public opinion are two forces which govern the conduct of men. They act and react upon each other. At times law goes ahead of public opinion and checks it and redirects in channels which it thinks proper. At times public opinion is ahead of the law. It rectifies the rigour of the law and moderates it. There are also cases where law and public opinion are opposed to each other and public opinion being the stronger of the two forces, disregards or sets at naught what the law-prescribes. Whether through compulsion arising out of convenience of commerce and industry or out of the selfish desire to make the best and the most profitable use of the slaves or out of considerations of humanity, public opinion and law were not in accord with regard to the position of the slave either in Rome or in the United States. In both places the slave was not a legal person in the eye of the law. But in both places he remained a person in the sense of a human being in the eye of the society. To put it differently the personality which the law withheld from the slave was bestowed upon him by society. There lies a profound difference between slavery and untouchability. In the case of the untouchable just the opposite has happened; The personality which the law bestowed upon the untouchables is withheld by society. In the case of the slave the law by refusing to recognize him as a person could do him no harm because society recognized him more amply than it was called upon to do. In the case of the untouchables the law by recognising him as a person failed to do him any good because Hindu society is determined to set that recognition at naught. A slave had a personality which counted notwithstanding the command of the law. An untouchable has no personality in spite of the command of the law. This distinction is fundamental. It alone can explain the paradox—the social elevation of the slave loaded though he was with the burden of legal bondage and the social degradation of the untouchable aided as he has been with the advantages of legal freedom.

Those who have condemned slavery have no doubt forgotten to take into consideration the fact that in a sense slavery was

an apprenticeship in a business, craft or art, albeit compulsory. Unmitigated slavery with nothing to compensate the loss of freedom is of course to be condemned. But to enslave a person and to train him is certainly better than a state of barbarity accompanied by freedom. Slavery did mean an exchange of semi-barbarism for civilization, a vague enough gift but none the less real. The full opportunities for civilized life could only be fully used in freedom, no doubt, but slavery was an apprenticeship, or in the words of Prof. Myres "an initiation into a higher culture".

This view of slavery is eminently a correct view. This training, this initiation of culture was undoubtedly a great benefit to the slave. Equally it involved considerable cost to the master to train his slave, to initiate him into culture. "There can have been little supply of slaves, educated or trained, before enslavement. The alternative was to train them when young slaves in domestic work or in skilled craft, as was indeed done to some extent before the Empire, by Cato, the Elder, for example. The training was done by his owner and his existing staff indeed the household of the rich contained special pedagogy for this purpose. Such training took many forms : industry, trade, arts and letter".

The question is why was the slave initiated into the high culture and why did it not fall to the lot of the untouchable to be so initiated ? The question is very pertinent and I have raised it because the answer to the question will further reinforce the conclusion that has been reached namely that untouchability is worse than slavery and that is because the slave had a personality and the untouchable has not.

The reason why the master took so much trouble to train the slave and to initiate him in the higher forms of labour and culture was undoubtedly the motive of gain. A skilled slave as an item was more valuable than an unskilled slave. If sold he would fetch better price, if hired out he would bring in more wages. It was therefore an Investment to the owner to train his slave. But this is not enough to account for the elevation of the slave and the degradation of the untouchable. Suppose Roman society had an objection to buy vegetables, milk, butter, water or wine from the hands of the slave ? Suppose Roman society had an objection to

allow slaves to touch them, to enter their houses, travel with them in cars, etc. would it have been possible for the master to train his slave, to raise him from semi-barbarism to a cultured state ? Obviously not. It is because the slave was not held to be an untouchable that the master could train him and raise him. We again come back therefore, to the same conclusion-namely, that what has saved the slave is that his personality was recognised by society and what has ruined the untouchable is that Hindu society did not recognize his personality, treated him as unfit for human association and common dealing.

That the slave in Rome was no less of a man because he was a slave, that he was fit for human intercourse although he was in bondage is proved by the attitude that the Roman Religion had towards the slave. As has been observed—

> ".....Roman religion was never hostile to the slave. It did not close the temple doors against him ; it did not banish him from its festivals. If slaves were excluded from certain ceremonies, the same may be said of free men and women-being excluded from the rites of Bono Dea, Vesta and Ceres, women from those of Hercules at the Ara Maxima. In the days when the old Roman divinities counted for some-thing, the slave came to be informally included in the family, and could consider himself under the protection of the gods of the household .....Augustus ordered that freed women should be eligible as priestesses of Vesta. The law insisted that a slave's grave should be regarded as sacred and for his soul Roman mythology provided no special heaven and no particular hell. Even Juvenal agrees that the slave, soul and body is made of the same stuff as his master..."

SLAVE IN LAW

There was no stigma attached to his person. There was no gulf social or religious which separated the slave at any rate in Rome from the rest of the society. In outward appearance he did not differ from the free man ; neither colour nor clothing revealed his conditions ; he witnessed the same games as the freemen, he shared in the life of the Municipal towns, and employed in state service, enaged himself in trade and commerce as all free men

did. Often apparent equality in outward things counts far more to the individual than actual identify of rights before the Jaw. Between the slave and the free, there seems often to have been little social barrier. Marriage between slave and freed slave was very common. The slave status carried no stigma on the man in the society. He was touchable and even respectable.

Enough has been said to show that untouchability is worse than slavery. The only thing that is comparable to it is the case of the Jews in the middle ages. The servility of the Jews does resemble to some extent the condition of the untouchables. But there is this to be said about it. Firstly the discrimination made against the Jews was made upon a basis which is perfectly understandable though not justifiable. It was based upon the Jews obstinacy in the matter of religion. He refused to accept the religion of the gentiles and it is his obstinacy which brought about those penalties. The moment he gave up his obstinacy he was free from his disabilities. This is not the case with the untouchable. His disabilities are not due to the fact that he is a protestant or nonconformist. The second thing to be said about these disabilities of the Jews is that the Jews preferred them to being completely assimilated and lost in the Gentiles. This may appear strange but there are facts to prove it. In this, connection reference may be made to two instances recorded in history which typify the attitude of the Jews. The first instance relates to the Napoleonic regime. After the National Assembly of France had agreed to the declaration of the Rights of Man to the Jews, the Jewish question was again reopened by the guild merchants and religious reactionaries of Alsace. Napoleon resolved to submit the question to the consideration of the Jews themselves.

"He convened an Assembly of Jewish Notables of France, Germany and Italy in order to ascertain whether the principles of Judaism were compatible with the requirements of citizenship as he wished to fuse the Jewish element with the dominant population. The Assembly, consisting of 111 deputies, met in the Town Hall of Paris on 25th July, 1806, and was required to frame replies to twelve questions relating mainly to the possiblity of Jewish patriotism, the permissiblity of intermarriage between

Jew and non-Jew, and the legality of usury. So pleased was Napoleon with the pronouncements of the Assembly that he summoned a Sanhedrin after the model of the ancient council of Jerusalem to convert them into the decrees of a legislative body. The Sanhedrin, comprising 71 deputies from France, Germany, Holland and Italy, met under the presidency of Rabbi Sinzheim of Strassburg on 9th February 1807, and adopted a sort of charter which exhorted the Jews to look upon France as their father land, to regard its citizens as their brethren, and to speak its language, and which also pressed toleration of marriages between Jews and Christians while declaring that they could not be sanctioned by the synagogue". It will be noted the Jews refused to sanction intermarriages between Jews and non-Jews. They only agreed to tolerate them. The second instance related to what happend when the Batavian Republic was established in 1795. The more energetic members of the Jewish community pressed for the removal of many disabilities under which they laboured. "But the demand for the full rights of citizenship made by the progressive Jews was at first, strangely enough, opposed by the leaders of the Amsterdam community, who feared that civil equality would militate against the conservation of Judaism and declared that their co-religionists renounced their rights of citizenship in obedience to the dictates of their faith. This shows that the Jews preferred to live as strangers rather than as members of the community. It is as an 'eternal people' that they were singled out and punished. But that is not the case with the untouchables. They too are in a different sense art "eternal people" who are separate from the rest. But this separateness is not the result of their wish. They are punished not because they do not want to mix. They are punished because they want to.

Untouchability is worse than slavery because slave has personality in the Society while the untouchable has no personality has been made abundantly clear. But this is not the only ground why untouchability is worse than slavery. There are others which are not obvious but which are real none-the-less.

Of these the least obvious may be mentioned as the first. Slavery, if it took away the freedom of the slave, it imposed upon the master the duty to maintain the slave in life and body. The slave was relieved of all responsibility in respect of his food, his clothes and his shelter. All this the master was bound to provide. This was of course no burden because the slave earned more than his keep. But a security for board and lodging is not always possible forevery freeman as all wage earners now know to their cost. Work is not always available even to those who are ready to toil but a workman cannot escape the rule according to which he gets no bread if he finds no work. This rule, no work no bread, the ebbs and tides of business, the booms and depression are vissicitudes through which all free wage earners have to go. But they do not affect the slave who is free from them. He gets his bread-perhaps the same bread, but bread-whether it is boom or whether it is depression. Untouchability is worse than slavery because it carries no such security as to livelihood as the latter does. No one is responsible for the feeding, housing and clothing of the untouchable. From this point of view untouchability is not only worse than slavery but is positively cruel as compared to slavery. In slavery the master has the obligation to find work for the slave. In a system of free labour workers have to compete with workers for obtaining work. In this scramble for work what chances has the untouchable for a fair deal ? To put it shortly in this competition with the scales always weighing against him by reason of his social stigma he is the last to be employed and the first to be fired. Untouchability is cruelty as compared to slavery because it throws upon the untouchables the responssibility for maintaining without any way of earning his living. From another aspect also untouchability is worse than slavery. The slave was property, and that gave the slave an advantage over a free man. Being valuable, the master out of sheer self interest, took great care of the health and well being of the slave. In Rome the slaves were never employed on marshy and malarial land. On such a land only freemen were employed. Cato advises Roman farmers never to employ slaves on marshy and malarial land. This seems stranger. But a little examination will show that this was quite natural. Slave was valuable property and as such a prudent man

who knows his interest must not expose him to the ravages of malaria. The same care need not be taken in the case of free man because he is not valuable property. This consideration resulted to the great benefit of the slave. He was cared for as no one was. This consideration is completely absent in the case of the untouchable. He is neglected and left to starve and die.

The second or rather the third difference between untouchability and slavery is that slavery was never obligatory. But untouchability is obliged. A person is "permitted" to hold another as his slave. There is no compulsion on him if he does not want to. A Hindu on the other hand is "enjoined" to hold another as untouchable. There is compulsion on the Hindu which he cannot escape whatever his personal wishes in the matter may be.

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by

Vasant Moon

Dr. Babasaheb Ambedkar : Writings and Speeches

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Kumari Selja

Minister for Social Justice and Empowerment
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MESSAGE

Babasaheb Dr. B.R. Ambedkar, the Chief Architect of Indian Constitution was a scholar par excellence, a philosopher, a visionary, an emancipator and a true nationalist. He led a number of social movements to secure human rights to the oppressed and depressed sections of the society. He stands as a symbol of struggle for social justice.

The Government of Maharashtra has done a highly commendable work of publication of volumes of unpublished works of Dr. Ambedkar, which have brought out his ideology and philosophy before the Nation and the world.

In pursuance of the recommendations of the Centenary Celebrations Committee of Dr. Ambedkar, constituted under the chairmanship of the then Prime Minister of India, the Dr. Ambedkar Foundation (DAF) was set up for implementation of different schemes, projects and activities for furthering the ideology and message of Dr. Ambedkar among the masses in India as well as abroad.

The DAF took up the work of translation and publication of the Collected Works of Babasaheb Dr. B.R. Ambedkar published by the Government of Maharashtra in English and Marathi into Hindi and other regional languages. I am extremely thankful to the Government of Maharashtra's consent for bringing out the works of Dr. Ambedkar in English also by the Dr. Ambedkar Foundation.

Dr. Ambedkar's writings are as relevant today as were at the time when these were penned. He firmly believed that our political democracy must stand on the base of social democracy which means a way of life which recognizes liberty, equality and fraternity as the principles of life. He emphasized on measuring the progress of a community by the degree of progress which women have achieved. According to him if we want to maintain democracy not merely in form, but also in fact, we must hold fast to constitutional methods of achieving our social and economic objectives. He advocated that in our political, social and economic life, we must have the principle of one man, one vote, one value.

There is a great deal that we can learn from Dr. Ambedkar's ideology and philosophy which would be beneficial to our Nation building endeavor. I am glad that the DAF is taking steps to spread Dr. Ambedkar's ideology and philosophy to an even wider readership.

I would be grateful for any suggestions on publication of works of Babasaheb Dr. Ambedkar.

(Kumari Selja)

Collected Works of Babasaheb Dr. Ambedkar (CWBA)

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FOREWORD

The Government of Maharashtra has made a signal contribution to the study and understanding of the history of modern India by undertaking the monumental task of compiling, editing and publishing the works of Babasaheb Ambedkar. The present volume is the thirteenth in the series they have brought out. It is devoted exclusively to the writings and speeches of Dr. B. R. Ambedkar on the Constitution of India. As Chairman of the Drafting Committee and as the one who piloted this historic document through the Constituent Assembly, he was the principal architect of the Constitution.

Shri T. T. Krishnamachari, a colleague of his in the Drafting Committee, said in one of his speeches in the Constituent Assembly:

> "The House is perhaps aware that of the seven members nominated by you, one had resigned from the House and was replaced. One had died and was not replaced. One was away in America and his place was not filled up, and another person was engaged in State affairs, and there was a void to that extent. One or two people were far away from Delhi and perhaps reasons of health did not permit them to attend. So it happend ultimately that the burden of drafting this Constitution fell upon Dr. Ambedkar and I have no doubt that we are grateful to him for having achieved this task in a manner which is undoubtedly commendable."

Dr. Ambedkar carried out this herculean intellectual labour "in spite of his indifferent health" as Dr. Rajendra Prasad put it, and "added lustre to the work he has done." His writings and speeches throw floodlight on the principles and ideas behind the Constitution, on its numerous provisions affecting the whole gamut of the life of the nation and the rights and liberties and obligations of the people. To read these to-day is an experience akin to being present at the creation of the Constitution. As Shri R. Venkataraman, the former President of India, said : "Dr. Ambedkar anticipated every conceivable requirement of the new polity." His words light up the context and the intent of the provisions of the Constitution that are periodically being interpreted and re-interpreted by our Courts. They also contain salutary warnings that we must pay heed to if we are to preserve the structure and the spirit of the Constitution, the unity of the nation and the welfare and progress of the people that it was intended to protect and advance.

Pandit Jawaharlal Nehru had described Dr. Ambedkar as "a symbol of the revolt against all the oppressive features of Hindu society." Dr. Ambedkar was indeed a symbol of revolt by all the oppressed and deprived sections of our society, a symbol which is to-day inspiring millions of our people into widespread social and political action. A passionate believer in democracy he also believed that "social and economic democracy are the tissues and the fibre of political democracy". He warned in one of his speeches in the Constituent Assembly that:—"To leave equality between class and class, between sex and sex which is the soul of Hindu society untouched and to go on passing legislation relating to economic problems is to make a farce of our Constitution and to build a palace on a dung heap." It is this passion for equality and social justice which was expressed in different but equally impassioned forms by Mahatma Gandhi

and Jawaharlal Nehru and embodied in the Constitution that has made Indian democracy not a fragile "palace on a dung heap" but a solid edifice that has stood the stresses and strains of our myriad and massive problems. Dr. Ambedkar's contribution to this was of seminal importance.

It is interesting to recall that Dr. Ambedkar defined democracy as: "A form or method of government whereby revolutionary changes in the economic and social life of the people are brought about without bloodshed." While a revolutionary he was also an uncompromising constitutionalist who advocated that changes, however radical should be effected through constitutional methods and within the constitutional framework. He repeatedly emphasized the paramount need for the diffusion of "constitutional morality" in society, which he held "is not a natural sentiment. It has to be cultivated. We must realize that our people have yet to learn it." In his devotion to the practice of constitutional morality he went to the extent of ruling out even non-violent extra-constitutional methods like "satyagraha" from the politics of post-independent India. He visualized democracy as the "golden mean" the method of the Buddha which in his view was the best and the safest method of action. His vision of India and the future of the oppressed sections and the minorities in the country was in line with this basic philosophy. In one of his important speeches he said : "In this country both the minorities and the majorities have followed a wrong path. It is wrong for the majority to deny the existence of minorities. It is equally wrong for the minorities to perpetuate themselves. A solution must be found which will serve a double purpose. It must recognize the existence of the minorities to start with. It must also be such that it will enable majorities and minorities merge some day into one." He believed that the Constitution drafted under his Chairmanship will serve this double purpose.

Dr. Ambedkar had faith in the Constitution that he helped to fashion for India. "I feel", he said, "that it is workable, it is flexible and it is strong enough to hold the country together both in peace time and in war time. Indeed, if I may say so, if things go wrong under the new Constitution, the reason will not be that we had a bad Constitution. What we will have to say is, that Man was vile." His faith in the future of India and in the people of India was profound. He told the Constituent Assembly, "I know to-day we are divided politically, socially and economically. We are a group of warring camps, and I may even go to the extent of confessing that I am probably one of the leaders of such a camp. But, Sir, with all this, I am quite convinced that given time and circumstances nothing in the world will prevent this country from becoming one." Dr. Ambedkar emerges from this Volume not only as a man of immense erudition and foresight, but one who had faith in the people of India and in the future of India under a political system which is at once strictly constitutional and socially and economically progressive.

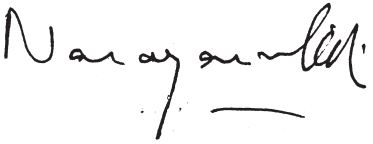

New Delhi,
April 5, 1994

(K. R. NARAYANAN)
Vice-President of India

PREFACE

Dr. Ambedkar is the prime architect of free India's Constitution which has served the country well for 44 years. A constitution is the grand norm of legislation. Laws made by the Parliament and the State legislatures are examined in the light of the paramount constitutional provisions. Preparation of the Constitution, therefore, is a matter of great importance. The existing constitutional provisions have their roots in the discussions that had taken place in the Constituent Assembly. This perception of the genesis of the Constitution is the first step towards its understanding. Dr. Ambedkar and the Constitution have become synonymous. The present volume contains the Draft Constitution as conceived by him. There have been some amendments afterwards with reference to the changing social context, but the basic features of the Constitution have remained unaltered. The life, liberty and the pursuit of happiness enshrined in the fundamental rights which are available to citizens constitute its basic features and there is the golden thread of humanism and reasonableness in its framework.

The Indian Constitution is a detailed document which takes cognizance of every aspect of the Government. Its detailed character is sometimes assailed by critics as a lawyer's paradise. However, 44 years of its working has shown that the common man is the central theme of the Constitution. The reader will be able to appreciate the present Constitution in the light of the background material which is contained in the present volume. The originality of approach and masterly organisation of details

of principles which we find in the Indian Constitution are the fruits of scholarly research and high pragmatism of Dr. Ambedkar. The volume will be useful to jurists, constitutionalists and lay readers alike and should prove a welcome addition to the literature on and by Dr. Ambedkar.

(Sharad Pawar)
Chief Minister of Maharashtra State

EDITOR'S NOTE

The present volume of speeches and writings of Dr. Ambedkar brings out his pivotal role as the Chairman of the Drafting Committee of the Constitution. It contains the various motions he moved for amendments, his explanation and exposition of principles, his magnanimity in appreciating his opponents point of view and his readiness to change his views in the process. Truly, the volume brings out the quintessential democrat in Dr. Ambedkar who laid the foundation of the democratic edifice of the Government which is the government by discussion and criticism. His colleagues in the Constituent Assembly bestowed on him generous praise and candid approval of his role as the principle architect of our Constitution, and perhaps, Dr. Pattabhi Sitaramayya summed up the sentiments of the Constituent Assembly when he said, "What a steam-roller intellect he brought to bear upon this magnificent task : irresistible, indomitable, unconquerable, levelling down tall palms and short poppies; whatever he felt to be right he stood by, regardless of consequences".

Editing this volume has been an exciting, educative and illuminating experience. While the task has been difficult and every care has been bestowed on including every sentence of Dr. Ambedkar, there could be some shortcomings in comments, clarifications and in footnotes which one hopes would be corrected by frank criticism of readers and suggestions for improvement which will be gratefully acknowledged and deeply appreciated.

The Editor's Note will be incomplete without placing on record the grateful thanks :

* to His Excellency Shri K. R. NARAYANAN, the Vice President of India for the Foreword he has contributed to the present volume.

* to Shri SHARAD PAWAR, Hon. Chief Minister of Maharashtra whose encouragement has made this volume possible;

* to Shri PRABHAKAR DHARKAR, Hon'ble Minister for Education who took keen interest in the project;

* to Shri Navajeevan Lakhanpal, Secretary, Technical and Higher Education whose ready assistance and competent guidance enabled the Editor to resolve many administrative problems;

* to Shri B. M. Ambhaikar, Additional Municipal Commissioner, Municipal Corporation of Greater Bombay and Dr. Narendra Jadhav, Director, Department of Economic Analysis and Policy of the Reserve Bank of India for advice, suggestions and guidance in editing this volume.

Thanks are also due to :

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* to Dr. Keshao Phalkey, State Liaison Officer, Mantralaya and Shri J. M. Abhyankar, Dy. Director of Education, Greater Bombay for clearing various administrative

problems; Professor Pramod Ramteke and Shri Vijay Survade for sparing the illustrations; and members of the staff of the Education Department, *viz.* Shri Ravindra Sutar and Smt. S. M. Nevrekar who cheerfully typed and verified the material.

Last but not the least, the Members of the Committee who stood by the Editor in all those arduous assignments and reposed their confidence in him and there are of course many nameless admirers and well-wishers imbued with the philosophy and spirit of Dr. Ambedkar who helped the Editor in every way and whose names are too many and too numerous to be mentioned here.

Scholarship means essentially a collective enterprise and the Editor hopes that he would profit by the collective wisdom of criticism and suggestions coming from all quarters.

Bombay : **(Vasant Moon)**
April 14, 1994 Editor

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ERRATA

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442	16	negatived	adopted
449	29	word used is wjckd (Pradhan)	word used is (Pradhan)
375	21	though	thought
489	15	(Speech of N. A.)	substitute asterisks
504	29	inheres	inherent
538	Foot Note	*p. 1349	*p. 1347
566	8	Nagiruddin	Naziruddin
586	21	partically	practically
601	4	the articles speaking for myself	the articles relating to the Auditor-General in this House, assigns to him. Personally speaking for myself
606	3	Tahi	Tahir
783	18	Article 253 (contd.)	delete
822	2	withdraw	withdrawn
834	———	———	Put 'Article 284' as title
847	31	Bhopender Singh	Bhoopender Singh
888	(note in bracket)	Das were withdraw	Das was withdrawn
923	29	"That in entry 50 of List II the words 'or roads' be added at the end".	delete
1018	27	whome	whom
1163	1	englosing	eulogising
1168	19	Brabhu Dayal	Prabhu Dayal
1178	19	Mr. President	delete
Index	Under R	Round Table, a book	Round Table, a magazine

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Rajendra Prasad

Jawaharlal Nehru

B. Pattabhi Sitaramayya

H. Mahalaswami

C. P. Ramaswamy Reddy

Alladi Krishnaswami Iyer

Amman Swaminadhan

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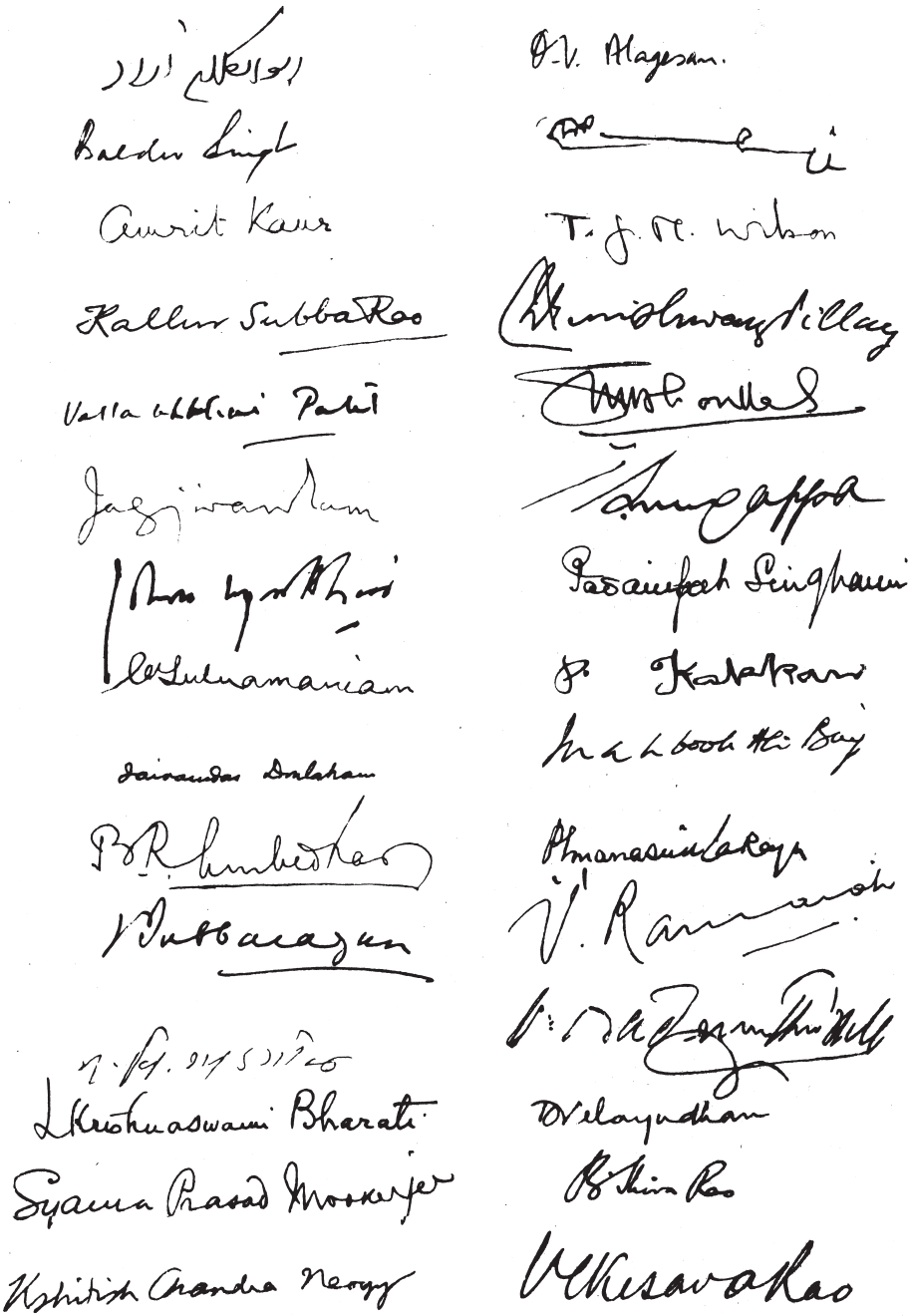

PART I

From Dr. Ambedkar's entry into the Constituent Assembly to the presentation of the Draft of the Indian Constitution to the Constituent Assembly

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SECTION ONE

December 9, 1946 to July 31, 1947

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Resolution regarding Aims and Objects

[*After the end of the second world war in 1945, the question of India's freedom assumed priority. The British Government sent three-men delegation to India to suggest the ways and means for the smooth transfer of power. This delegation, called Cabinet Mission, announced on 16 March 1946 its proposals in which, it was suggested that a Constituent Assembly be set up to frame a Constitution for the future governance of India.*

Accordingly elections to the Constituent Assembly were held in which members were elected by the Provincial Legislative Assemblies. Dr. Ambedkar, having failed to get elected from Bombay due to Congress opposition, managed to enter the Constituent Assembly through the Bengal Assembly with the support of Jogendranath Mandal and other Scheduled Caste members.

The Constituent Assembly started its work of framing free India's Constitution on 9th December 1946. In all 296 members were entitled to take part in the inaugural session. But only 207 attended, the absentees were mainly the Muslim League members who had boycotted the Constituent Assembly.]

The first meeting of the Constituent Assembly of India commenced in the Constitution Hall, New Delhi on Monday, the 9th December 1946, at Eleven of the Clock.

Acharya J. B. Kripalani requested Dr. Sachchidanand Sinha to take the chair as temporary Chairman. The Chairman gave an inaugural address to the House. This was followed by nomination of Shri Frank Anthony as the Deputy Chairman.

The members then presented the credentials and signed their names in the register. Dr. B. R. Ambedkar signed as a member from Bengal.

The Assembly passed the rules for the election of the Chairman of the Constituent Assembly on 10th December 1946. The Assembly thereafter elected Dr. Rajendra Prasad as permanent Chairman of the Assembly on 11th December 1946.

On 13th December 1946, the Hon'ble Pandit Jawaharlal Nehru moved the resolution regarding Aims and Objects as under:—

"*(1) This Constituent Assembly declares its firm and solemn resolve to proclaim India as an Independent Sovereign Republic and to draw up for her future governance a Constitution;

(2) WHEREIN the territories that now comprise British India, the territories that now form the Indian States, and such other parts of India as are outside British India and the States as well as such other territories as are willing to be constituted into the Independent Sovereign India, shall be a Union of them all; and

(3) WHEREIN the said territories, whether with their present boundaries or with such others as may be determined by the Constituent Assembly and thereafter according to the Law of the Constitution, shall possess and retain the status of autonomous Units, together with residuary powers, and exercise all powers and functions of government and administration, save and except such powers and functions as are vested in or assigned to the Union, or as are inherent or implied in the Union or resulting therefrom ; and

(4) WHEREIN all power and authority of the Sovereign Independent India, its constituent parts and organs of government, are derived from the people ; and

(5) WHEREIN shall be guaranteed and secured to all the people of India justice, social, economic and political; equality of status, of opportunity, and before the law ; freedom of thought, expression, belief, faith, worship, vocation, association and action, subject to law and public morality ; and

(6) WHEREIN adequate safeguards shall be provided for minorities, backward and tribal areas, and depressed and other backward classes ; and

(7) WHEREBY shall be maintained the integrity of the territory of the Republic and its sovereign rights on land, sea, and air according to justice and the law of civilised nations, and

(8) This ancient land attains its rightful and honoured place in the world and make its full and willing contribution to the promotion of world peace and the welfare of mankind."

[*This was followed by speeches by Pandit Nehru, Purushottam Das Tandon and the Chairman, Dr. Rajendra Prasad. The Assembly then adjourned till 16th December 1946.*—Ed]

* * * * *

[Dr. M. R. Jayakar, moved his amendment to the above resolution on 16th December 1946.—Ed.]

†The Right Hon'ble Dr. M. R. Jayakar (Bombay General)**:** Well, I will read the amendment. I wanted to save your time by a few minutes. This is the amendment:

"This Assembly declares its firm and solemn resolve that the Constitution to be prepared by this Assembly for the future governance of India shall be for a

*Constituent Assembly Debates (Hereinafter called CAD.), Vol 1, 13th December 1946, p. 59.

†CAD, Vol. I, 16th December 1946, p. 73.

free and democratic Sovereign State ; but with a view to securing, in the shaping of such a constitution, the co-operation of the Muslim League and the Indian States, and thereby intensifying the firmness of this resolve, this Assembly postpones the further consideration of this question to a later date, to enable the representatives of these two bodies to participate, if they so choose, in the deliberations of this Assembly."

In substance, my amendment means that the further consideration of this Resolution should be postponed to a later stage,—the stage of Union constitution-making at which, I take it, the Indian States and the Muslim League are expected to be present.....

[*Dr. M. R. Jayakar objected to the timing of the resolution. He moved an amendment, seeking postponement of the passing of the resolution, as he wanted the Muslim League to join the task of laying down the fundamentals of the Constitution. This resolution created a tense atmosphere in the House. Amidst this tense situation Dr. Ambedkar was invited by the President Dr. Rajendra Prasad unexpectedly to have his say on 17th December 1946. When Dr. Ambedkar started, the House was all attention.*

Dr. Dhananjay Keer writes, " Everybody thought that Dr. Ambedkar by playing such dangerous role would go under with the mover of the amendment to rise against the will and the objections of the Congress bosses, who were the nation's most powerful leaders, was to meet one's Waterloo. The Congress members were ready with their hands raised to cripple their avowed enemy and throw him down". This historic speech changed the course of Dr. Ambedkar's political career. The speech drew the longest and the most vociferous applause. As Mr. N. V. Gadgil, an eye-witness to this event observed "His speech was so statesmanlike, so devoid of bitterness and so earnestly challenging that the whole of Assembly listened to it in rapt silence. The speech was greeted with tremendous ovation and he was smothered with congratulations in the lobby". The speech had its ultimate effect and the Constituent Assembly postponed the considertion of the objective resolution till the next session. The said speech of Dr. Ambedkar is as under.—Ed.]

***Mr. Chairman :** Dr. Ambedkar.

Dr. B. R. Ambedkar : (Bengal : General) : Mr. Chairman, I am indeed very grateful to you for having called me to speak on the Resolution. I must however confess that your invitation has come to me as a surprise. I thought that as there were some 20 or 22 people ahead of me, my turn, if it did come at all, would come tomorrow.

*CAD, Vol. I, 17th December 1946, pp. 99-103.

I would have preferred that as today I have come without any preparation whatsoever. I would have like to prepare myself as I had intended to make a full statement on an occasion of this sort. Besides you have fixed a time limit of 10 minutes. Placed under these limitations, I don't know how I could do justice to the Resolution before us. I shall however do my best to condense in as few words as possible what I think about the matter.

Mr. Chairman, the Resolution in the light of the discussion that has gone on since yesterday, obviously divides itself into two parts, one part which is controversial and another part which is non-controversial. The part which is non-controversial is the part which comprises paragraphs (5) to (7) of this Resolution. These paragraphs set out the objectives of the future constitution of this country. I must confess that, coming as the Resolution does from Pandit Jawaharlal Nehru who is reputed to be a Socialist, this Resolution, although non-controversial, is to my mind very disappointing. I should have expected him to go much further than he has done in that part of the Resolution. As a student of history, I should have preferred this part of the Resolution hot being embodied in it at all. When one reads that part of the Resolution, it reminds one of the Declaration of the Rights of Man which was pronounced by the French Constituent Assembly. I think I am right in suggesting that, after the lapse of practically 450 years, the Declaration of the Rights of Man and the principles which are embodied in it has become part and parcel of our mental makeup. I say they have become not only the part and parcel of the mental make-up of modern man in every civilised part of the world, but also in our own country which is so orthodox, so archaic in its thought and its social structure, hardly anyone can be found to deny its validity. To repeat it now as the Resolution does is, to say the least, pure pedantry. These principles have become the silent immaculate premise of our outlook. It is therefore unnecessary to proclaim as forming a part of our creed. The Resolution suffers from certain other lacuna. I find that this part of the Resolution, although it enunciates certain rights, does not speak of remedies. All of us are aware of the fact that rights are nothing unless remedies are provided whereby people can seek to obtain redress when rights are invaded. I find a complete absence of remedies. Even the usual formula that no man's life, liberty and property shall be taken without the due process of law, finds no place in the Resolution. These fundamental rights set out are made subject to law and morality. Obviously what is law, what is morality will be determined by the Executive of the day and when the Executive may take one view another Executive may take another view and we do not know what exactly

would be the position with regard to fundamental rights, if this matter is left to the Executive of the day. Sir, there are here certain provisions which speak of justice, economical, social and political. If this Resolution has a reality behind it and a sincerity, of which I have not the least doubt, coming as it does from the Mover of the Resolution, I should have expected some provision whereby it would have been possible for the State to make economic, social and political justice a reality and I should have from that point of view expected the Resolution to state in most explicit terms that in order that there may be social and economic justice in the country, that there would be nationalisation of industry and nationalisation of land, I do not understand how it could be possible for any future Government which believes in doing justice socially, economically and politically, unless its economy is a socialistic economy. Therefore, personally, although I have no objection to the enunciation of these propositions, the Resolution is, to my mind, somewhat disappointing. I am however prepared to leave this subject where it is with the observations I have made.

Now I come to the first part of the Resolution, which includes the first four paragraphs. As I said from the debate that has gone on in the House, this has become a matter of controversy. The controversy seems to be centred on the use of that word 'Republic'. It is centred on the sentence occurring in paragraph 4 "the sovereignty is derived from the people". Thereby it arises from the point made by my friend Dr. Jayakar yesterday that in the absence of the Muslim League it would not be proper for this Assembly to proceed to deal with this Resolution. Now, Sir, I have got not the slightest doubt in my mind as to the future evolution and the ultimate shape of the social, political and economic structure of this great country. I know to-day we are divided politically, socially and economically. We are a group of warring camps and I may go even to the extent of confessing that I am probably one of the leaders of such a camp. But, Sir, with all this, I am quite convinced that given time and circumstances nothing in the world will prevent this country from becoming one. (*Applause*): With all our castes and creeds, I have not the slightest hesitation that we shall in some form be a united people (*Cheers*). I have no hesitation in saying that notwithstanding the agitation of the Muslim League for the partition of India some day enough light would dawn upon the Muslims themselves and they too will begin to think that a United India is better even for them. (*Loud cheers and applause*).

So far as the ultimate goal is concerned, I think none of us need have any apprehensions. None of us need have any doubt. Our difficulty is not about the ultimate future. Our difficulty is how to make the heterogeneous mass that we have to-day take a decision in common and march on the way which leads us to unity. Our difficulty is not with regard to the ultimate, our difficulty is with regard to the beginning. Mr. Chairman, therefore, I should have thought that in order to make us willing friends, in order to induce every party, every section in this country to take on to road it would be an act of greatest statesmanship for the majority party even to make a concession to the prejudices of people who are not prepared to march together and it is for that, that I propose to make this appeal. Let us leave aside slogans, let us leave aside words which frighten people. Let us even make a concession to the prejudices of our opponents, bring them in, so that they may willingly join with us on marching upon that road, which as I said, if we walk long enough, must necessarily lead us to unity. If I, therefore, from this place support Dr. Jayakar's amendment, it is because I want all of us to realise that whether we are right or wrong, whether the position that we take is in consonance with our legal rights, whether that agrees with the Statement of May the 16th or December 6th, leave all that aside. This is too big a question to be treated as a matter of legal rights. It is not a legal question at all. We should leave aside all legal considerations and make some attempt, whereby those who are not prepared to come, will come. Let us make it possible for them to come, that is my appeal.

In the course of the debate that took place, there were two questions which were raised, which struck me so well that I took the trouble of taking them down on a piece of paper. The one question was, I think, by my friend, the Prime Minister of Bihar who spoke yesterday in this Assembly. He said, how can this Resolution prevent the League from coming into the Constituent Assembly ? Today my friend. Dr. Syama Prasad Mookherjee, asked another question. Is this Resolution inconsistent with the Cabinet Mission's Proposal? Sir, I think they are very important questions and they ought to be answered and answered categorically. I do maintain that this Resolution whether it is intended to bring about the result or not, whether it is a result of cold calculation or whether it is a mere matter of accident is bound to have the result of keeping the Muslim League out. In this connection I should like to invite your attention to Paragraph 3 of the Resolution, which I think

is very significant and very important. Paragraph 3 envisages the future constitution of India. I do not know what is the intention of the mover of the Resolution. But I take it that after this Resolution is passed, it will act as a sort of a directive to the Constituent Assembly to frame a constitution in terms of para. 3 of the Resolution. What does paragraph 3 say ? Paragraph 3 says that in this country there shall be two different sets of polity, one at the bottom, autonomous Provinces or the States or such other areas as care to join a United India. These autonomous units will have full power. They will have also residuary powers. At the top, over the Provincial units, there will be a Union Government, having certain subjects for legislation, for execution and for administration. As I read this part of the Resolution, I do not find any reference to the idea of grouping, an intermediate structure between the Union on the one hand and the provinces on the other. Reading this para, in the light of the Cabinet Mission's Statement or reading it even in the light of the Resolution passed by the Congress at its Wardha session, I must confess that I am a great deal surprised at the absence of any reference to the idea of grouping of the provinces. So far as I am personally concerned, I do not like the idea of grouping (*hear, hear*) I like a strong united Centre, (*hear, hear*) much stronger than the Centre we had created under the Government of India Act of 1935. But, Sir, these opinions, these wishes have no bearing on the situation at all. We have travelled a long road. The Congress Party, for reasons best known to itself consented, if I may use that expression, to the dismantling of a strong Centre which had been created in this country as a result of 150 years of administration and which I must say, was to me a matter of great admiration and respect and refuge. But having given up that position, having said that we do not want a strong centre, and having accepted that there must be or should be an intermediate polity, a sub-federation between the Union Government and the Provinces I would like to know why there is no reference in para. 3 to the idea of grouping. I quite understand that the Congress Party, the Muslim League and His Majesty's Government are not *ad idem* on the interpretation of the clause relating to grouping. But I always thought that,—I am prepared to stand corrected if it is shown that I am wrong,—at least it was agreed by the Congress Party that if the Provinces which are placed within different groups consent to form a Union or Sub-federation, the Congress would have no objection to that proposal. I believe I am correct in interpreting the mind of the

Congress Party. The question I ask is this. Why did not the Mover of this Resolution make reference to the idea of a Union of Provinces or grouping of Provinces on the terms on which he and his party was prepared to accept it ? Why is the idea of Union completely effaced from this Resolution ? I find no answer. None whatever. I therefore say in answer to the two questions which have been posed here in this Assembly by the Prime Minister of Bihar and Dr. Syama Prasad Mookherjee as to how this Resolution is inconsistent with the Statement of May 16th or how this Resolution is going to prevent the Muslim League from entering this Constituent Assembly, that here is para. 3 which the Muslim League is bound to take advantage of and justify its continued absentation. Sir, my friend Dr. Jayakar, yesterday, in arguing his case for postponing a decision on this issue put his case, if I may say so, without offence to him, somewhat in a legalistic manner. The basis of his argument was, have you the right to do so ? He read out certain portions from the Statement of the Cabinet Mission which related to the procedural part of the Constituent Assembly and his contention was that the procedure that this Constituent Assembly was adopting in deciding upon this Resolution straightaway was inconsistent with the procedure that was laid down in that Paper. Sir, I like to put the matter in a somewhat different way. The way I like to put it is this, I am not asking you to consider whether you have the right to pass this Resolution straightaway or not. It may be that you have the right to do so. The question I am asking is this. Is it prudent for you to do so ? Is it wise for you to do so ? Power is one thing ; wisdom is quite a different thing and I want this House to consider this matter from the point of view, namely, whether it would be wise, whether it would be statesmanlike, whether it would be prudent to do so at this stage. The answer that I give is that it would not be prudent, it would not be wise. I suggest that another attempt may be made to bring about a solution of the dispute between the Congress and the Muslim League. This subject is so vital, so important that I am sure it could never be decided on the mere basis of dignity of one party or the dignity of another party. When deciding the destinies of nations, dignities of people, dignities of leaders and dignities of parties ought to count for nothing. The destiny of the country ought to count for everything. It is because I feel that it would in the interest not only of this Constituent Assembly so that it may function as one whole, so that it may have the reaction of the Muslim League before it proceeds to decision that

I support Dr. Jayakar's amendment—we must also consider what is going to happen with regard to the future, if we act precipitately. I do not know what plans the Congress Party, which holds this House in its possession, has in its mind ? I have no power of divination to know what they are thinking about. What are their tactics, what is their strategy, I do not know. But applying my mind as an outsider to the issue that has arisen, it seems to me there are only three ways by which the future will be decided. Either there shall have to be surrender by the one party to the wishes of the other—that is one way. The other way would be what I call a negotiated peace and the third way would be open war. Sir, I have been hearing from certain members of the Constituent Assembly that they are prepared to go to war. I must confess that I am appalled at the idea that anybody in this country should think of solving the political problems of this country by the method of war. I do not know how many people in this country support that idea. A good many perhaps do and the reason why I think they do, is because most of them, at any rate a great many of them, believe that the war that they are thinking of, would be a war on the British. Well, Sir, if the war that is contemplated, that is in the minds of people, can be localised, circumscribed, so that it will not be more than a war on the British, I probably may not have much objection to that sort of strategy. But will it be a war on the British only ? I have no hesitation and I do want to place before this House in the clearest terms possible that if war comes in this country and if that war has any relation to the issue with which we are confronted to-day, it will not be a war on the British. It will be a war on the Muslims. It will be a war on the Muslims or which is probably worse, it will be a war on a combination of the British and the Muslims. I cannot see how this contemplated war be of the sort different from what I fear it will be. Sir, I like to read to the House a passage from Burke's great speech on Conciliation with America. I believe this may have some effect upon the temper of this House. The British people as you know were trying to conquer the rebellious colonies of the United States, and bring them under their subjection contrary to their wishes. In repelling this idea of conquering the colonies this is what Burke said:—

> "First, Sir permit me to observe, that the use of force alone is but temporary. It may subdue for a moment; but it does not remove the necessity of subduing again ; and a nation is not governed which is perpetually to be conquered. "My next objection is its uncertainty. Terror is not always the effect of force and an armament is not a victory. If you do not succeed, you are without resource for, conciliation failing, force remains ; but, force failing, no further

hope of reconciliation is left. Power and authority are sometimes bought by kindness; but they can never be begged as alms by an impoverished and defeated violence.....

"A further objection to force is, that you impair the object by your very endeavours to preserve it. The thing you fought for is not the thing which you recover ; but depreciated, sunk, wasted and consumed in the contest".

These are weighty words which it would be perilous to ignore. If there is anybody who has in his mind the project of solving the Hindu-Muslim problem by force, which is another name of solving it by war, in order that the Muslims may be subjugated and made to surrender to the Constitution that might be prepared without their consent, this country would be involved in perpetually conquering them. The conquest would not be once and for ever. I do not wish to take more time than I have taken and I will conclude by again referring to Burke. Burke has said somewhere that it is easy to give power, it is difficult to give wisdom. Let us prove by our conduct that if this Assembly has arrogated to itself sovereign powers it is prepared to exercise them with wisdom. That is the only way by which we can carry with us all sections of the country. There is no other way that can lead us to unity. Let us have no doubt on that point.

* * * * *

Interim Report on Fundamental Rights

***The Hon'ble Pandit Hirday Nath Kunzru :** ... That Government is faced with an extraordinary difficult problem and clause 8(*e*) shows a strange disregard of the existing state of things there. I think, Sir, that this right can be conferred only under certain conditions which have to be clearly defined.

Dr. B. R. Ambedkar (Bengal : General)**:** I do not wish to interrupt the speaker; but in dealing with clause 8(*e*)†, he is rather giving a wrong impression of the whole clause.

Dr. B. Pattabhi Sitaramayya (Madras : General)**:** Instead of giving illustrations to make his points clear, he is going into a discussion of the merits.

The Hon'ble Pandit Hirday Nath Kunzru : As a parliamentarian, Sir, you understand what I am doing. As regards Dr. Ambedkar's objection, I may say—and I am sure you will bear me out,—I read out the entire clause including the proviso.

Mr. President : I would request the Member to confine himself to the point which he wants to illustrate and not go into the merits of the proposal.

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*CAD, Vol. Ill, 29th April 1947, p. 402.

† Clause (e) read as under ;—"*Provision may be made by law to impose such reasonable restrictions as may be necessary in the public interest including the protection of minority groups and tribes.*".—Ed.

* * * * *

CLAUSE 11.—RIGHTS OF FREEDOM

***The Hon'ble Sardar Vallabbhai Patel :** Clause 11 is as regards forced labour and it reads :

"11. (*a*) Traffic in human beings, and

(*b*) Forced labour in any form including *begar* and involuntary servitude except as a punishment for crime whereof the party shall have been duly convicted,

are hereby prohibited and any contravention of this prohibition shall be an offence."

Explanation—

"Nothing in this sub-clause shall prevent the State from imposing compulsory service for public purposes without any discrimination on the ground of race, religion, caste or class.

Now we have to try to discuss this and abridge it and put it in a comprehensive form instead of separate clauses and put it in one clause "traffic in human beings".

* * * * *

† **Dr. B. R. Ambedkar** (Bengal : General) : The point that I want to make is this, that, while I have no objection to the redrafting of sub-clause (a) and (b) in order that they may run in a compact manner, I have certain amount of doubt as to whether the dropping of the Explanation is in consonance with the desire of the majority of the members of the Advisory Committee that the State should not have power in any way for introducing compulsory service. Mr. Munshi suggests that, if the clause stands as redrafted and if the Explanation is omitted, none-the-less, the State will have the right to introduce compulsory military service. I have not had sufficient time to apply my mind to the consequences of the proposed change, *i.e.,* the dropping of the Explanation but I fear that the dropping of the Explanation and retaining the clause in the form in which it is stated may have opposite and serious consequences. Because '*begar*' is also something which is imposed by the State. So far as I know, in Bombay, '*begar*' is demanded by the State for certain public purpose, and if the State is prohibited from having 'begar' it is perfectly possible for anybody to argue that even compulsory military service is *begar*. I am, therefore, not quite satisfied that the dropping of the Explanation is something which is advisable at this stage. I am not in a position to suggest any definite course of action in this matter, but I think I shall be sufficiently discharging my duties if I draw the attention of the House to the doubt which I have in mind about the effect which the dropping of the Explanation may have on the right of the State in regard to compulsory

*CAD, Vol. III, 1st May 1947, p. 478

†*Ibid.,* Vol. III, 1st May 1947, p. 480.

service either for military purposes or for social purposes for the State. My suggestion would be that at this stage we should not drop the Explanation, but leave it as it is and have the whole matter reconsidered when the Provincial Constitution and the Federal Constitution are drafted in their final form.

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***Dr. B. R. Ambedkar :** May I make a suggestion ? We have heard the arguments of Sir Alladi Krishnaswami Ayyar who has said that according to his reading of the rulings of the Supreme Court of the United States, even if the Explanation was not there, the State would be permitted to have compulsory military service. Fortunately, for me I also happened to look into the very same cases which I am sure Sir Alladi has in mind. I think he will agree with me, if he looks at the reasoning of the judgment given by the Supreme Court, he will find that they proceeded on the hypothesis that in a political organisation the free citizen has a duty to support the Government and as every citizen has a duty to support the Government therefore compulsory military law was doing nothing more than calling upon the citizen to do the duty which he already owes to the State. I submit that that is a very precarious foundation for so important a subject as the necessity of compulsory military service for the defence of the State.

I submit that we ought not to rest content with that kind of reasoning which the Supreme Court in India may adopt or may not adopt. Therefore, my suggestion is this, that, just as in the case of the other clause dealing with citizenship you were good enough to remit the matter to a small Committee to have it further examined, it will be desirable that this question as to whether the Explanation should be retained or not may also be remitted to a small committee which should report to this House. It will then be possible for the House to take a correct decision in the matter.

Mr. President : I think it is not necessary to have any further discussion if the suggestion which has been made by Dr. Ambedkar is acceptable to the House.

Mr. R. K. Sidhwa (C.P. and Berar : General) **:** The question regarding compulsory military service may be discussed here.

Mr. President: We are not deciding here whether we ought to have conscription or not. The question is whether under fundamental rights conscription is prohibited. I think it is best to refer it to the same committee to which the other clause has been remitted.

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*CAD, Vol. III. 1st May 1947, pp. 483-84.

An Hon'ble Member : The whole clause 11.

Mr. President : Yes, the whole clause 11.

The clause was remitted.

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CLAUSE 17

***The Hon'ble Sardar Vallabhbhai Patel :** Sir, I move Clause 17.

> "Conversion from one religion to another brought about by coercion or undue influence shall not be recognised by law."

Mr. K. M. Munshi : Sir, I beg to move the following amendment:

> "That for clause 17 substitute the following clause:
> Any conversion from one religion to another of any person brought about by fraud, coercion or undue influence or of a minor under the age of 18 shall not be recognised by law' "

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†Dr. B. R. Ambedkar : Mr. President, Sir, I am sorry to say that I do not find myself in agreement with the amendment which had been moved by Mr. Munshi relating to the question of the conversion of minor children. The clause, as it stands, probably gives the impression to the House that this question relating to the conversion of minors was not considered by the Fundamental Rights Committee or by the Minorities Sub-Committee or by the Advisory Committee. I should like to assure the House that a good deal of consideration was bestowed on this question and every aspect was examined. It was, after examining the whole question in all its aspects, and seeing the difficulties which came up, that the Advisory Committee came to the conclusion that they should adhere to the clause as it now stands.

Sir, the difficulty is so clear to my mind that I find no other course but to request Mr. Munshi to drop his amendment.

With regard to children, there are three possible cases which can be visualised. First of all, there is the case of children with parents and guardians. There is the case of children who are orphans, who have no parents and no guardians in the legal sense of the word. Supposing you have this clause prohibiting the conversion of children below 18, what is going to be the position of children who are orphans ? Are they not going to have any kind of religion ? Are they not to have any religious instruction given to them by some one who happens to take a kindly interest in them ? It seems to me that, if the clause as

*CAD, Vol. III, 1st May 1947, p. 488.

†*Ibid.,* Vol. III, 1st May 1947, pp. 501-2

worded by Mr. Munshi was adopted, *viz.,* that no child below the age of 18 shall be converted it would follow that children who are orphans, who have no legal guardians, cannot have any kind of religious instruction. I am sure that this is not the result which this House would be happy to contemplate. Therefore, such a class of subjects shall have to be excepted from the operation of the amendment proposed by Mr. Munshi.

Then, I come to the other class, *viz.,* children with parents and guardians. They may fall into two categories. For the sake of clarity it might be desirable to consider their cases separately ; the first is this: where children are converted with the knowledge and consent of their guardians and parents. The second case is that of children of parents who have become converts.

It does seem to me that there ought to be a prohibition upon the conversion of minor children with legal guardians, where the conversion takes place without the consent and knowledge of the legal guardians. That, I think, is a very legitimate proposition. No missionary who wants to convert a child which is under the lawful guardianship of some person, who according to the law of guardianship is entitled to regulate and control the religious faith of that particular child, ought to deprive that person or guardian of the right of having notice and having knowledge that the child is being converted to another faith. That, I think, is a simple proposition to which there can be no objection.

But when we come to the other case, *viz.*, where parents are converted and we have to consider the case of their children, then I think we come across what I might say a very hard rock. If you are going to say that, although parents may be converted because they are majors and above the age of 18, minors below the age of 18, although they are their children, are not to be converted with the parent, the question that we have to consider is, what arrangement are we going to make with regard to the children ? Suppose, a parent is converted to Christianity. Suppose a child of such a parent dies. The parent, having been brought up in the Christian faith, gives the Christian burial to the dead child. Is that act on the part of the parent in giving a Christian burial to the child, to be regarded as an offence in law ? Take another case. Suppose a parent who has become converted has a daughter. He marries that daughter according to Christian rites. What is to be the consequence of that marriage ? What is to be the effect of that marriage ? Is that marriage legal or not legal ?

If you do not want that the children should be converted, you have to make some other kind of law with regard to guardianship in order to prevent the parents from exercising their rights to influence and shape the religious life of their children. Sir, I would like to ask whether it would be possible for this House to accept that a child of five, for instance, ought to be separated from his parents merely because the parents have adopted Christianity, or some religion which was not originally theirs. I refer to these difficulties in order to show that it is those difficulties which faced the Fundamental Rights Committee, the Minorities Committee and the Advisory Committee and which led them to reject this proposition. It was, because we realised, that the acceptance of the proposition, namely, that a person shall not be converted below the age of 18, would lead to many disruptions, to so many evil consequences, that we thought it would be better to drop the whole thing altogether (*Hear, hear*). The mere fact that we have made no such reference in clause 17 of the Fundamental Rights does not in my judgment prevent the legislature when it becomes operative from making any law in order to regulate this matter. My submission, therefore, is that the reference back of this clause to a committee for further consideration is not going to produce any better result. I have no objection to the matter being further examined by persons who feel differently about it, but I do like to say that all the three Committees have given their best attention to the subject. I have therefore, come to the conclusion that having regard to all the circumstances of the case, the best way would be to drop the clause altogether. I have no objection to a provision being made that children who have legal and lawful guardians should not be converted without the knowledge and notice of the parents. That, I think, ought to suffice in the case.

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[*The clause was referred back to the Advisory Committee.*—Ed.]

CLAUSE 18—CULTURAL AND EDUCATIONAL RIGHTS

***The Hon'ble Sardar Vallabhbhai Patel :** I move clause 18 now.

"(1) Minorities in every Unit shall be protected in respect of their languages, script and culture, and no laws or regulations may be enacted that may operate oppressively or prejudicially in this respect.

(2) No minority whether based on religion, community or language shall be discriminated against in regard to the admission into State educational institutions, nor shall any religious instruction be compulsory on them.

(3) (a) All minorities whether based on religion, community or language shall be free in any Unit to establish and administer educational institutions of their choice.

*CAD, Vol. III, 1st May 1947, p. 503.

(b) The State shall not, while providing State aid to schools, discriminate against schools under the management of minorities whether based on religion, community or language."

I move this clause for the acceptance of the House.

Shri Mohanlal Saksena (United Provinces : General) **:** Sir, with your permission, I would like to move that this clause be referred back to the Advisory Committee for reconsideration. There are certain aspects which require reconsideration, and, on the whole, I think it would be much better that this whole clause be referred to the Advisory Committee for their reconsideration.

Mr. President : Mr. Mohanlal Saksena has moved that this clause also be referred back to the Advisory Committee for further consideration.

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***Mr. K. M. Munshi :** I move that sub-clause (2) of clause 18 be referred back to the Advisory Committee. It was the general sense of many of the members that this clause should be reconsidered in the light of discussion that took place.

†Dr. B. R. Ambedkar : Mr. President, Sir, I confess that I am considerably surprised at these amendments—both by Mr. Munshi as well as Mr. Tyagi. They have, I submit, given no reason why this clause 18 should be referred back to the Committee. The only reason in support of this proposal—one can sense—is that the rights of minorities should be relative, that is to say, we must wait and see what rights the minorities are given by the Pakistan Assembly before we determine the rights we want to give to the minorities in the Hindustan area. Now, Sir, with all deference, I must deprecate any such idea. Rights of minorities should be absolute rights. They should not be subject to any consideration as to what another party may like to do to minorities within its jurisdiction. If we find that certain minorities in which we are interested and which are within the jurisdiction of another State have not got the same rights which we have given to minorities in our territory, it would be open for the State to take up the matter in a diplomatic manner and see that the wrongs are rectified. But no matter what others do, I think we ought to do what is right in our own judgement and personally I think that the rights which are indicated in clause 18 are rights which every minority, irrespective of any other consideration is entitled to claim. The first right that we have given is the right to use their language, their script and their culture. We have stated that "there shall be no discrimination on the ground of religion, language, etc." in the matter

*CAD, Vol. III. 1st May 1947, p. 504.

†*Ibid.,* pp. 507-8.

of admission into State educational institutions. We have said that "no minority shall be precluded from establishing any educational institution which such minority may wish to establish". It is also stated there that whenever a State decides to provide aid to schools or other educational institutions maintained by the minority, they shall not discriminate in the matter of giving grant on the basis of religion, community or language. Sir, I cannot understand how there can be any objection to these rights which have been indicated in clause 18. At any rate, nobody who has supported the motion that this may be referred back to the Committee has advanced any argument that either these rights are in excess of what a minority ought to have or are such that a minority ought not to have them. Therefore, it seems to me a great pity that the labours of three Committees which have evolved these provisions should be so brusquely set aside simply because for some reasons people want that this matter should be referred back to the Committee. I do not know what objection my friend Mr. Munshi has to sub-clause (2) as it stands, but if it is necessary that this sub-clause may be referred back to the Committee, I certainly would raise no objection. That sub-clause may be referred back because I understand that we have limited this matter to State educational institutions and we have said nothing about those which are only State-aided. If that point needs to be further clarified the matter may be referred back, but, because there may be something to be said in favour of the reference back of sub-clause (2) I do not see that the same logic could be extended to the whole of the clause. I submit therefore that the clause as it stands, should be passed, barring sub-clause (2) which may, if necessary, be referred back to the Committee for consideration.

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***Mr. President :** Now, there are two clauses that had been referred to a committee of five. We may now take them up one by one. The new clause 3 may now be moved.

Report of the Union Constitution Committee
Clause 3

Mr. K. M. Munshi : I move that the following clause be substituted for the original clause :—

> "Every person both in the Union and subject to its jurisdiction, every person either of whose parents was at the time of such person's birth, a citizen of

*CAD. Vol. III. 2nd May 1947, p. 526.

the Union, and every person naturalised in the union shall be a citizen of the Union.

Further provision regarding the acquisition and termination of Union citizenship may be made by the law of the Union."

The reasons have already been given fully in the Report of the *Ad Hoc* Committee. I have nothing to add to it.

Sri K. Santhanam : Sir, I move that the following be added at the end of the first paragraph of this clause:

"Every person born or naturalised in India before the commencement of the Union and subject to its jurisdiction shall be a citizen of the Union."

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***Dr. B. R. Ambedkar** (Bombay : General) : Mr. President, Sir, I think there can be no doubt that the point raised by Mr. Santhanam is a point of great importance and we have to take this matter seriously. The difficulty that has arisen will be seen easily if one reads the very first sentence of the clause as drafted by the Committee. The draft says, "every person born in the Union". Obviously that has reference to future, those who will be born in the Union after the Union is formed. The question is this. What is going to be the position of people who are born in India, but who are born before the Union has come into being ? In my judgment, in order to cover that case, we shall have to introduce another clause. I am not suggesting an amendment, I am putting forth an idea. The new clause shall have to be something like this :

"All persons born in India, as defined in the General Clauses Act and who are residing in the Union and subject to the jurisdiction of the Union shall be citizens of the Union."

I think that a clause somewhat on these lines is necessary and it will cover the case of people who are born in India, who will be the subjects of the Union, when the Union comes into being. Without this clause, large numbers of people will be denationalised. They will have no nationality at all. I, therefore, suggest that it may be as well to send the whole clause back for further consideration.

Mr. President : A suggestion has been made that the whole clause be held over for further consideration.

Mr. R. K. Sidhwa : This is not a matter for lawyers only. This question has a bearing on every ordinary person.

Mr. President : The Advisory Committee will be free to consider it, and if it so feels, it can put forward any suggestions at the next sitting.

(Clause 3 was held over).

Clause 24

***The Honourable Sir N. Gopalaswami Ayyangar :** Sir, I move Clause 24:

> "24. The superintendence, direction and control of all elections, whether Federal or Provincial, held under this constitution including the appointment of election tribunals for decision of doubts and disputes arising out of or in connection with such elections shall be vested in a Commission to be appointed by the President."

The object of this clause, Sir, is to ensure as far as possible that elections in the country, Federal or Provincial, are conducted in an impartial manner. The idea is to set up a Commission appointed by the President under whose auspices all these various aspects of election activities and post-election activities will be regulated and controlled.

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†Dr. B. R. Ambedkar (Bombay : General) **:** Mr. Vice-Chairman, I think it is desirable that I should state to the House the origin of this clause.

Although this clause appears in the Constitution which deals with the Union, as a matter of fact this matter was dealt with by the Fundamental Rights Committee. The Fundamental rights Committee came to the conclusion that no guarantee regarding minorities or regarding elections could be given if the elections were left in the hands of the Executive of the day. Many people felt that if the elections were conducted under the auspices of the Executive authority and if the Executive authority did have power, as it must have, of transferring officers from one area to another with the object of gaining support for a particular candidate who was a favourite with the party in office or with the Government of the day, that will certainly vitiate the free election which we all wanted. It was therefore unanimously resolved by the members of the Fundamental Rights Committee that the greatest safeguard for purity of election, for fairness in election, was to take away the matter from the hands of the Executive authority and to hand it over to some independent authority. Although Clause 23 does not specifically refer to the details of the scheme that was considered in the Fundamental Rights Committee, I should like to state to the House that the Scheme that was in the minds of the members of the Fundamental Rights Committee was that there would be a Central Commission appointed by the President in order to deal with the elections throughout India. Although that was the scheme contemplated

*CAD. Vol. IV, 29th July 1947, p. 915.

†*Ibid.,* pp. 917-18.

that there should be a Central Commission appointed by the President to superintend, direct and control elections, it was never contemplated that there would be only one Commission sitting in Delhi or at some centre where the Central Government was seated. The scheme was that there would be one Central Commission which probably would deal with the elections to the Federal Parliament but that the Commission would have also subordinate to it a Commission in each Province or, if a Provinces was too small to have a single commission, for two or three provinces combined together, so that their affairs so far as elections were concerned, may be carried on by a Local Commission. From the very beginning the idea was that this thing should be decentralized. There should be one Central Commission for Federal election and there should be several Commissions for the elections conducted in the various Provinces. My submission is this that if that scheme comes into operation, the point which my friend Mr. Pataskar has in mind in moving the amendment would be gained, because so far as I understood from him, what he wanted was that there should be a local authority or a Local Commission which would deal and be concerned with elections in that Province. I think that was our intention although that scheme has not been mentioned in Clause 24. That undoubtedly was the matter we had in mind. However, if my friend Mr. Pataskar still persists in putting his amendment through, I would like to ask him one question which remains a matter of doubt when you read the amendment as drafted by him. He wants to omit the words 'all elections' and substitute the words 'all-Federal elections'. I have no very great objection to his amendment provided he satisfies me on one point. I want to ask him whether or not he accepts the principle—and after all what we are concerned with is the principle—what I want to ask him is this—does he accept the principle that elections should be placed in the hands of an independent body outside the executive ? If he accepts that, personally, as I said, I will have no objection if it is agreed by the House that a similar clause which is contained in Clause 24 be introduced in the Provincial Part of the Constitution. I have no desire for centralization. What we had in mind was that the elections should be taken out of the hands of the Government of the day.

[*The Cabinet Mission had recommended the setting up of an advisory committee on Fundamental Rights, Minorities etc. Accordingly, the assembly constituted the Advisory Committee under the Chairmanship*

of Sardar Patel by a resolution on 24th January 1947. The Committee consisted of 50 members in which Dr. Ambedkar was one. To facilitate its work, the Advisory Committee appointed the following four subcommittees.

1. *Fundamental Rights sub-committee.*
2. *Minorities sub-committee.*
3. *North-East Frontier Tribal Areas sub-committee.*
4. *Excluded and partially excluded areas (other than those in Assam) sub-committee.*

Dr. Ambedkar was a member of the first two sub-committees and took keen interest in their deliberations. He also submitted a memorandum to the Fundamental Rights sub-committee in which he gave concrete shape to his ideas. This memorandum was later published for wider circulation under the title 'States and Minorities, what are their rights and how to secure them in the Constitution of free India'.

The Constituent Assembly also appointed three other committees, namely (1) the Union Power Committee, (2) the Union Constitution Committee and (3) the provisional Constitution Committee. Prime Minister Pandit Jawaharlal Nehru was the Chairman of the first two committees while the third one was under the Chairmanship of Sardar Vallabh Bhai Patel. These Committees were set up by a resolution on 30th April 1947.

Dr. Ambedkar was member of the Union Constitution Committee. The report of the Committee was submitted to the President of the Assembly by its Chairman Pandit Nehru on 4th July 1947. The work done by Dr. Ambedkar in various sub-committees of the Assembly was considered very useful and convinced the Congress bosses beyond doubt that the legislation and solidification of freedom would not be easy without the services of Dr. Ambedkar. Consequent upon the partition of Bengal, Dr. Ambedkar ceased to be a member of the Constituent Assembly. The Congress Party which had earlier opposed tooth and nail his entry into the Constituent Assembly came forward and sponsored his candidature.

In his letter dated 30th June 1947, Dr. Rajendra Prasad, President of the Constituent Assembly requested Mr. B. G. Kher, the then Prime Minister of Bombay to elect Dr. Ambedkar immediately. He wrote, "Apart from any other consideration we have found Dr. Ambedkar's work both in the Constituent Assembly and the various committees to which he was appointed to be of such an order as to require that we

should not be deprived of his services. As you know, he was elected from Bengal and after the division of the Province he has ceased to be a member of the Constituent Assembly. I am anxious that he should attend the next session of the Constituent Assembly commencing from the 14th July and it is therefore necessary that he should be elected immediately".

Accordingly, Dr. Ambedkar was re-elected in July 1947 from Bombay as a member of the Constituent Assembly. Soon after, Prime Minister Nehru invited him to join the Cabinet he formed on 15th August 1947 on the eve of independence. Dr. Ambedkar accepted the invitation and became India's first Law Minister. On 29th August the Assembly unanimously elected him as Chairman of the Drafting Committee which was assigned the task of framing the Constitution. Dr. Ambedkar, who was a strong opponent of Congress had now become their friend, philosopher and guide in the Constitutional matters.—Ed.)

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SECTION TWO

August 14, 1947 to February 25, 1948

BLANK

COMMITTEE TO SCRUTINISE DRAFT CONSTITUTION

***Shri Satyanarayan Sinha :** Sir, I beg to move—

"This Assembly resolves that a Committee consisting of—

(1) Shri Alladi Krishnaswami Ayyar,

(2) Shri N. Gopalaswami Ayyangar,

(3) The Honourable Dr. B. R. Ambedkar,

(4) Shri K. M. Munshi,

(5) Saiyid Mohd. Saadulla,

(6) Sir B. L. Mitter,

(7) Shri D. P. Khaitan,

be appointed to scrutinise and to suggest necessary amendment to the Draft Constitution of India prepared in the Office of the Assembly on the basis of the decision taken in the Assembly".

(The motion was adopted—Ed.)

REPORT OF THE CONSTITUENT ASSEMBLY FUNCTIONS COMMITTEE

†The Honourable Dr. B. R. Ambedkar (Bombay : General) **:** Mr. President, I beg to move that this Assembly do proceed to take into consideration the Report on the functions of the Constituent Assembly under the Indian Independence Act, 1947, submitted by the Committee appointed by the President in pursuance of the decisions of the Assembly on the 20th August 1947.

Sir, the Report of the Committee has already been circulated to the Members of the House and, I do not think that, at this stage, when the Report has been in the hands of the Members at least for the last two days, I need expatiate at great length upon the work of this Committee. I think it would be enough if I, in the first instance, draw attention to the recommendations of the Committee.

Altogether the Committee has made five recommendations. Its first recommendation is that it is open to the Constituent Assembly to

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*Constituent Assembly Debates, (Hereinafter called CAD.) Official Report, Vol. V, dated 29th August 1947, pp. 293-94.

†*Ibid.,* pp. 310-12.

function as Legislature and that it should function as such; (2) that while functioning as Legislature it should adopt the rules of the Legislative Assembly as far as possible with necessary amendments ; (3) the necessary amendments should be made under the orders of the President of the Constituent Assembly ; (4) the work of the Constituent Assembly as a Constitution-making body and as an ordinary legislature should be separated and should be conducted in separate sessions to be held on separate days ; (5) the power of prorogation should vest in the President and not in the Governor-General as found in the Adaptation of the Government of India Act. After having made these recommendations, the Committee considered whether there were any difficulties which would stand in the way of giving effect to their recommendations and found three which they had to resolve in order to give effect to their recommendations.

The first was whether one and the same person should preside over both the bodies, the Constituent Assembly and the Legislature. This difficulty arose because section 22 of the Government of India Act, which related to the office of the Speaker, has been dropped by the Adaptations which have been carried out under the Indian Independence Act with the result that the President is the one person who has to preside over both, the Constitution-making body as well as the Legislature. Ordinarily speaking, this should not create any difficulty, but in the circumstance where for instance the President is a Minister of the State, this difficulty may arise. For instance, it would be an anomalous thing if the President who is a Minister of State also were to preside over the Constituent Assembly when it was functioning as a law-making body. Consequently the Committee thought that either of two courses has to be adopted ; either the President should cease to be a Minister, or, if he continues to be a Minister, the Assembly should elect another officer to be called the Speaker or Deputy President whose functions it would be to preside over the Constituent Assembly when it is in session for the purpose of making laws.

The second difficulty which the Committee came across was with regard to the representatives of the States. The House will remember that the Constituent Assembly, when it will be meeting for the purposes of law making, would be operating upon the whole field which has been included in List No. 1 of the Seventh Schedule to the Government of India Act. The House also will recall that the States at the present moment have joined the Constituent Assembly on a basis of what is

called the Instrument of Accession which does not altogether tally with the subjects included in List No. 1. In fact the subjects included in the Instrument of Accession fall considerably short of the subjects included in List No. 1. The question, therefore, that arises is this, whether a body of people, who are Members of the Constituent Assembly and who are bound by the Instrument of Accession and have responsibility for a shorter number of items, should be permitted to take part in motions and in debates relating to certain other subjects which were not included in the list contained in the Instrument of Accession. There were of course two ways of dealing with this matter. One way of dealing with this matter was to adopt the procedure of what is called 'in and out', that they should sit in the Assembly and vote when an item which was being debated was common to both the Instrument of Accession as well as List No. 1, and when an item was being discussed in the House which did not form part of the Instrument of Accession, they should not be permitted to participate. The Committee came to the conclusion that although theoretically the second course was more logical, from a practical point of view such a distinction need not be made in the circumstances in which we stand and, therefore, the Committee made the recommendation that notwithstanding the subjects contained in List No. 1 and the Instrument of Accession, the representatives of the Indian States should continue to take part in all motions that may relate to all subjects irrespective of the distinction between the two lists.

The third question which the Committee felt they had to deal with was the position of the Ministers. As the House knows, there are certain Ministers who are at present not Members of the Constituent Assembly. They are live in all who fall in that category. The question therefore arises for consideration whether the Ministers who are members of the Constituent Assembly should take part in the proceeding of the Constituent Assembly and also in the Legislature. So far as their participation in the work of the Legislature is concerned, the position is safeguarded by reason of the fact that Section 2 sub-clause (2) of the Government of India Act is retained by the Adaptation and Members of the House know under the provisions contained in Section 10 sub-clause (2) a person, notwithstanding the fact that he is not a Member of the Legislature, may still continue to participate in the work of the Legislature and be a Minister. Under that, therefore, the Ministers who are not Members of the Constituent Assembly will be eligible to sit

in the Constituent Assembly when it functions as a Legislature, without ceasing to be Ministers of State.

The question that remains is, what is to happen with regard to their relationship to the Constituent Assembly. At present, as they are not Members of the Constituent Assembly, they are not entitled to participate in the work of the Constituent Assembly so far as it relates to the making of the Constitution. The Committee came to the conclusion that it was necessary that their guidance should be available to the Constituent Assembly in the matter of constitution-making and therefore just as Section 10 sub-clause (2) permits them to participate in the work of the Legislature, so also the Constituent Assembly should make a provision which would permit Members of Government who are not Members of the Constituent Assembly also to participate in the work of the Constituent Assembly.

Sir, there are two other matters about which the Committee has made no recommendation and it is necessary that I should refer to them. The first matter is the question of double membership. As the House knows there are certain Members of the Constituent Assembly who are also Members of the Provincial Legislature. So far there is no anomaly, because the Constituent Assembly is not a Legislature. But when the Constituent Assembly begins to function as a Legislative Body, this conflict due to double membership will undoubtedly arise. I might also draw attention to the provision contained in Section 68 (2) of the Government of India Act which deals with this matter. Section 68 (2) did not permit a member to hold double membership of two Legislatures, the Central or Provincial. But this provision has now been dropped by the adaptation. Consequently, it is permissible for Members of the Constituent Assembly when they are functioning as Members of the Legislature also to be Members of another Legislative Body. The anomaly, of course, purely and from a strictly constitutional point of view does remain. It is for the Constituent Assembly to decide whether they will accept the principle embodied in the omission of Section 68 (2) and permit double membership or whether notwithstanding the dropping of Section 68 (2) they will take such suitable action as to prevent double membership.

Second question about which the Committee has made no recommendation is relating to the administrative organization of the Assembly. As the administrative organization in the Assembly is a single unified organization, it is under the exclusive control of the

President of the Constituent Assembly. So long as the Constituent Assembly had only this single and solitary function to perform, namely, to prepare the constitution, there was no difficulty in this matter. But when the Constituent Assembly will function in its double capacity, once as the Constitution-making body and another time as a law-making body with another person at the head of it, namely, the Speaker or the Deputy Speaker, questions with regard to the adjustment of the staff may arise. But the Committee thought that they were not entitled under the terms of reference to deal with this matter and therefore did not make any reference to it at all.

Sir I do not think it is necessary for me to take the time of the House any more than I have done. I think what I have said will sufficiently remind Members of what the Committee has done and will enable them to proceed to deal with the report in the best way they like.

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***Mr. President :** I think we have had enough discussion on this, I would now call upon Dr. Ambedkar to reply.

The Honourable Dr. B. R. Ambedkar : Mr. President, the report made by the Committee obviously has received a mixed reception. Some members of the House have described it as a messy document. I do not propose to give any reply to those who have described the Report in those terms, because personally I think that the arguments advanced by them do not deserve sufficient consideration. All that I propose to do in reply is to meet some technical points which have been raised by my friends Dr. Deshmukh and Mr. Biswanath Das. Dr. Deshmukh refers to two recommendations made by the Committee. One was the recommendation relating to the permission to be granted to the Members representing the States for taking part in all the deliberations of the Committee. The second recommendation to which he referred was the recommendation in respect of the Ministers of the State to whom the Committee said it might not be desirable to permit to take part also in the proceedings of the Assembly. Dr. Deshmukh said that all that the Committee observed was logical or convenient. The Committeee did not say whether this was constitutional. I am very much surprised at the question particularly because Dr. Deshmukh happens to be a lawyer. As a matter of fact he ought to have realised that we have really no constitution at all. The Constituent Assembly is making a Constitution, and anything that the Constituent Assembly does would

*CAD, Official Report, Vol. V, 29th August 1947, pp. 327-31.

be constitutional (*Hear, hear*). If the Constituent Assembly say that the State representatives should not take part that would be perfectly constitutional. If the Constituent Assembly said that they should, that would also be perfectly constitutional. Therefore that sort of observation I thought was entirely misplaced. With regard to the point raised by my friend Mr. Biswanath Das, I also feel a considerable amount of surprise that he should have thought fit to make the observations he made. If I remember correctly what he said, his observations related to two points. He said that the Committee was dividing the Constituent Assembly into two parts, that it was an indivisible body, that it was functioning as an integral, one whole. Well, I do not know whether he is not in a position to appreciate that the working of a constitution is quite different from the making of ordinary law. The distinction, it seems to me to put it in a nutshell, is that the Constituent Assembly is not bound by the Constitution. But a Legislature is bound by the Constitution. When the Constituent Assembly functions as a Legislature it would be bound by the Government of India Act as adapted under the Independence Act. Anybody would be in a position to raise a point of order. Anybody would be in a position to say whether a particular motion is *ultra vires* or *intra vires*. But such a question can certainly not arise when the Constituent Assembly is functioning as a body framing the Constitution. And I thought that was a sufficiently substantial distinction to enable us to understand notionally at any rate that the two functions were different, that the purposes were different, that the work was different and if we are intending to avoid confusion, the practical way of doing so would be let the Constituent Assembly meet in a separate session as distinct from a legislature. He also raised some grouse against the adaptations. Now, I must frankly say that no one here is responsible for the adaptations that have been introduced in the Government of India Act, 1935.

If he refers to section 8 sub-clause (1) of the Indian Independence Bill, he will realise that under that section the power of adapting the Government of India Act of 1935 to suit the new status, which the Constituent Assembly has as a legislature, has been vested entirely in the Governor-General. I think it is possible that the Governor-General did take advice from some source in order to decide what adaptations to introduce. Therefore, at the present moment, nobody is responsible for it. If the Constituent Assembly is not satisfied with the adaptations which have been introduced in the Government of India Act, the very same Section 8 sub-clause (1). states that the Constituent Assembly

would be perfectly within its competence to change the adaptations and to introduce any other that it may like. I therefore, submit, Sir, that there is no substance in the points that have been raised by the crities of the Committee.

One other point to which my friend Mr. Krishnamachari referred. He said that Mr. Munshi's resolution omitted to take into account the second part of the report which dealt with the question that the President was the sole authority both on the deliberative and administrative side. He questioned why the resolution which has been framed and submitted to us by Mr. Munshi, practically accepting all the proposals of the Committee did not contain this particular provision. I should like to say that if Mr. Krishnamachari reads the report carefully, he will find that that particular part of the report is an observation on the part of the Committee and not a recommendation and therefore, I submit my friend Mr. Munshi was perfectly justified in not referring to it.

Pandit Lakshmi Kanta Maitra : Sir, I want to ask Dr. Ambedkar certain information. First of all I want to know from him..... etc.

An Honourable Member : Is it a speech or a question ?

Mr. President: I would remind Pandit Maitra that he cannot make a speech. He has put the question and Dr. Ambedkar will answer if he chooses.

An Honourable Member : Even the question is out of order.

Pandit Lakshmi Kanta Maitra : Why is it not permissible ? When the Honourable member replies to the debate and an Honourable member does not understand, he is perfectly within his right in asking further questions to get points cleared up.

Mr. President: You have put the question. Dr. Ambedkar will reply.

The Honourable Dr. B. R. Ambedkar : I shall be brief. The first question was whether we contemplate any change in the adaptations of the Government of India Act. My answer is that that is a matter for the House to determine what adaptations the House wants. But I want to assure my friends here that we have got the power to change the adaptations. The Government of India Act with its adaptations is not entirely binding on us in the sense that a change is not beyond our purview. If the House, on a reconsideration of the matter, finds that certain adaptations ought to be changed, it would be perfectly possible to undertake that provision.

The second question which my Honourable Friend Mr. Maitra put to me was whether the unity of administration is likely to be affected and there is likely to be a conflict in view of the fact that there may be two offices, one President presiding over the Constituent Assembly and secondly a Speaker presiding over the legislative body. What the

Committee has said is that there is a theoretical possibility of conflict. But I take it that there need not necessarily be a conflict. In practice, it should be perfectly possible tor the two offices, the President and the Speaker of the Assembly to work in union and to so arrange the timing of the Constituent Assembly as well as the legislative body in perfect order so that notwithstanding the fact that we have two offices, we need not be afraid that there would necessarily be a conflict.

With regard to the third question, obviously, the arrangement that we are making now for the purpose of converting the Constituent Assembly into a legislative body, undoubtedly will be temporary. It would last so long 4s the function of Constitution-making has not been completed. When the function of Constitution-making is completed, obviously one or the other arrangement would vanish and we shall then continue only to function as a legislature.

Mr. Naziruddin Ahmad : One more question. The Honourable member has said that re-adaptation may be made by the House. Is it possible for the Governor-General to make further adaptations ?

The Honourable Dr. B. R. Ambedkar : It is a question of law. This House has power to change the adaptation.

Mr. Naziruddin Ahmad : I do not deny that. That question is whether in the opinion of the Honourable member, the Governor-General can make further adaptation.

The Honourable Dr. B. R. Ambedkar : He cannot, because he will have to act on the advice of his Ministers.

Mr. Naziruddin Ahmad : Whether he can do so on the advice of his Ministers ?

An Honourable Member: Is this a law court, or a cross examination.

The Honourable Dr. B. R. Ambedkar : I am not sure and I do not like to give an offhand answer.

Mr. President : I think we have to put the motion clause by clause as was suggested.

[Clause by Clause motions were adopted. Thereafter the resolution as under was adopted.—Ed.**]**

Mr. President : The question is :

That the Resolution as a whole be adopted, namely:

"1. That with reference to the Motion by the Honourable Dr. B. R. Ambedkar regarding the consideration of the Report on the functions of the Constituent Assembly under the Indian Independence Act, it is hereby resolved that—

(i) The functions of the Assembly shall be—

(a) to continue and complete the work of Constitution-making which commenced on the 9th December, 1946, and

(b) to function as the Dominion Legislature until a Legislature under the new Constitution comes into being.

(ii) The business of the Assembly as a Constitution-making body should be clearly distinguished from its normal business as the Dominion Legislature, and different days or separate sittings on the same day should be set apart for the two kinds of business.

(iii) The recommendations contained in para. 6 of the Report regarding the position of representatives of Indian States in the Assembly be accepted.

(iv) Suitable provision should be made in the Rules of the Constituent Assembly for the election of an officer to be designated the Speaker to preside over the deliberations of the Assembly when functioning as the Dominion Legislature.

(v) The power of summoning the Assembly for functioning as the Dominion Legislature and proroguing it should vest in the President.

(vi) Ministers of the Dominion Government, who are not members of the Constituent Assembly, should have the right to attend and participate in its work, of Constitution-making though until they become members of the Constituent Assembly they should not have any right to vote.

(vii) Necessary modifications, adaptations and additions should be made—

(a) by the President of the Constituent Assembly to the Rules and Standing Orders of the Indian Legislative Assembly to bring them into accord with the relevant provisions of the Government of India Act as adapted under the Indian Independence Act, 1947.

(b) the Constituent Assembly or the President, as the case may be to the Rules and Standing Orders to carry out the provisions of para. 9 of the Report and where necessary to secure an appropriate adaptation of the relevant section of the Government of India Act to bring it into conformity with the new Rule".

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ADDITIONAL REPRESENTATION TO EAST PUNJAB

***Mr. President :** Just to avoid longer discussion may I make a statement with regard to the procedure that has been followed in connection with this particular resolution ? The matter came up before the Steering Committee and the Steering Committee felt that it was necessary to refer it to a very small committee to go into these figures. This committee consisted of—

Dr. B. R. Ambedkar,

Diwan Chaman Lall,

Giani Gurmukh Singh Musafir,

Mr. Rafi Ahmed Kidwai, and

Mr. Ananthasayanam Ayyangar,

and after taking into consideration all these figures and such information as was available with regard to the migration of population from one side to the other the Committee made certain recommendations on the basis of which the Resolution has come before the House. The matter has been considered by a Sub-Committee which I had appointed on the recommendation of the Steering Committee. Of course it is open to the House to accept it or not. I thought I had better explain that

*CAD, Official Report, Vol. VI, 27th January 1948,, p. 9.

position. I am sorry that the report of that Sub-Committee not been circulated and only the Resolution has been circulated. If that report had been before the members probably much of the discussion might have been avoided but that has not been done. I am sorry.

ADDITION OF NEW RULES 38-A TO 38-V

***Shrimati G. Durgabai** (Madras : General) : Mr. President, Sir, I beg to move the motion that stands in my name, namely :—

> That the following amendments to the Constituent Assembly Rules be taken into consideration :—
>
> After Rule 38, insert the following :—
>
> The proposed Rules lay down in a Chapter, Chapter VI-A, the procedure for legislation for making provision as to the Constitution of India. They spread over above 22 Sections from 38-A to 38-B, and are divided into two categories.

[This motion was followed by discussion. Then Dr. Ambedkar rose to reply to the criticism.—Ed.)

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†The Honourable Dr. B. R. Ambedkar : (Bombay : General) : Mr. President, Sir, I rise to explain some of the criticisms which have been levelled by Mr. Santhanam against the Motion moved by Shrimati Durgabai proposing the adoption of certain Rules by this Constituent Assembly. One of the criticisms levelled against her proposal is by Mr. Santhanam. Mr. Santhanam's main criticism is that the existing Rule 24 is quite sufficient for the purpose we have in view and that no new Rules are necessary. I am sure that Mr. Santhanam has not given enough attention to the question when he rose to oppose the motion. Rule No. 24 speaks of a motion and says that anything can be done in this House by a Motion. That is quite true. But I am sure that Mr. Santhanam has failed to realize that this omnibus Rule will not suffice and that further detailed Rules are necessary. For motions fall into two categories. There is a motion which has no further stage; it is exhausted by the decision taken by the House on that particular motion. But there is also another category of motions which involve further stages. A particular illustration of a motion of this sort is a motion introducing a Bill. A Bill which is introduced by a motion is not

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*Constituent Assembly Debates, Official Report. Vol. VI, 27th January 1948, p. 18.

† *Ibid,* pp. 25-28.

exhausted by that particular motion if the House decided in favour of that motion. There are further stages which have to be gone through and it is therefore very necessary that the further stages of a motion of this sort should be regulated by specific rule. I think if my friend Mr. Santhanam had referred to the Constituent Assembly (Legislative) Rules he could have seen that the provision which has been made in the new rules which was moved by Shrimati Durgabai was modelled on the provisions contained in the rules and the standing orders of the Constituent Assembly. For instance, he will find that analogous to Rule No. 24 in the rules of the Constituent Assembly there is Standing Order No. 30 worded exactly in the same terms as Rule No. 24. Notwithstanding that, there is a further Standing Order *i.e.* No. 37, which provides for bills and which lays down what further motions can be moved in the House with regard to them and therefore, on that footing the proposal made for adopting the new rule is in line with the procedure adopted by the Constituent Asesmbly in its legislative capacity. I should think that if the Constituent Assembly rested purely on rule No. 24 for carrying out its business in so far as it related to legislation, there is not the slightest doubt in my mind that there would be utter chaos. If there was only Rule 24 there could be no limit as to the number of motions or the nature of motions that one could move. In the Legislative Assembly rules Honourable Members will find that after a Bill has been introduced there are only three motions which are permitted. One is motion to circulate, motion to refer the Bill to a Select Committe or motion to pass the Bill. If we had nothing but Rule 24 to govern our proceedings it would be open for any member to move any sort of motion which he may fancy. Indeed it would be necessary in certain cases not to allow freedom to move anyone of these three motions. In our procedure for the purpose of passing the Bill embodying our new constitution we have curtailed the list of motions that could be moved by a member. In the new rules proposed we have not permitted a motion for the circulation of the constitution because we think that would be dilatory. In short what is important to bear in mind is that unless these rules were adopted, it would be quite impossible to control the further stages of the Bill and therefore the point raised by Mr. Santhanam is, I think, a point without substance.

The other point of criticism levelled by Mr. Santhanam relates to one of the new Rules which requires the assent of the Governor-General to the passing of a Bill adopted by the Constituent Assembly. As the Members of this House will remember, the Committee, which reported on the bifurcation of the functions of the Constituent Assembly into (1) Constituent Assembly for making laws relating to the Constitution and (2) Dominion Legislature for making ordinary law, divided the work of the Constituent Assembly into two parts, one part related to the making of the *future* constitution and the other relating to the amending of the existing Constitution as contained in the Government of India Act, 1935, and the Indian Independence Act of 1947. With regard to its power to make and pass the future Constitution the Governor-General has no place. His assent is not necessary. The Constituent Assembly is supreme. Not merely is the assent of the Governor-General not necessay, but even the assent of the President is not required by the Rules now prepared. The only power which the President has been given after the Constitution has been passed by this Assembly is to sign it merely as a token that that is the final Act of Constitution. It is not assent in the ordinary sense of the word. The assent of the Governor-General has been retained with regard to the amendment of the existing constitution. I know there are certain members who feel hurt that such a provision should have been retained. But, I will tell the House that this matter was considered by the best lawyers that were available and they all came to the conclusion that the retention of the assent of the Governor-General was not only desirable but necessary. I should like to explain the reasons. In the first place, as everybody knows, the Governor-General possesses the power of adapting the Constitution. Adaptation is merely another name for amending the Constitution. There is not much difference between adapting the Constitution and amending the Constitution. They are just one and the same thing. The question that arises is that if it is necessary that the Governor-General should have the power to amend the Constitution in the form of adapting it. What harm can there be if the power was retained with regard to a Bill as distinguished from adaptation which has the same purpose, namely, the amendment of the Constitution.

Shri K. Santhanam : May I know why then you want the Bill at all?

The Honourable Dr. B. R. Ambedkar : The answer is simple, after all, the power of adaptation will be exhausted by the 31st of March. What is to happen thereafter if the necessity for amending the existing Constitution arose ? Of course if the power of adaptation comes to an end, on the 1st of April and if our future Constitution also became operative on the 1st of April, the problem would not arise at all. There would be the new Constitution taking complete possession of the territory occupied by the existing Constitution. But, we are not quite sure that such would not be the case. It may be there might be a time lag between the commencement of the new Constitution and the first of April 1948. It may be a month or two may elapse between the 31st of March and the commencement of the Constitution. It is also equally clear that the whole of the Constitution as framed and passed by this House may not come into operation all at once. It may come into operation in parts. There may be transitional provisions, supplementary provisions for the purpose of defining constituencies for the purpose of giving effect to what are called incidental matters. All that requires undoubtedly some time. Consequently, the process of adapting the Constitution which will come to an end by the 31st March will have to be continued and it can be continued only by the known process of a Bill passed by this House.

In the light of this it will be clear that a provision for changing the exiting Constitution by a Bill is necessary. Those who realize this fact and also realize that the purpose of adaptation is the same as that of the Bill amending the Constitution cannot question the validity of the provision for requiring the Governor-General's assent to the Bill. If the purpose of both is the same and if adaptation requires assent of the Governor-General, the question that arises is, why should a Bill of amendment not require the assent of the Governor-General ? Certainly, there is no logical inconsistency at all. I may further point out that the committee was to a large extent guided by the provision contained in sub-clause (3) of section 6 of the Independence Act which says that all laws passed by the Dominion Legislature will be assented to by the Governor-Genenral. What that clause means is a matter of uncertainty today. The Governor-General has the power to assent. The question is, does it mean that the Assembly is bound to submit a Bill amending the existing Constitution to the Governor-General by virtue

of the fact that he is endowed with the power by the Independence Act to give his assent ? We were not able to give any categorical opinion. We thought that notwithstanding feasibility of the argument that merely because of the existence of sub-clause (3) in section 6 there is no obligation to submit the Amending Bill to the Governor-General for his assent, a court of law may hold otherwise and declare an Act passed by this Assembly, not submitted to the Governor-General for assent, as being *ultra vires* and we did not want that legislation passed by this Assembly should be put in that sort of jeopardy. It is therefore out of abundant caution and also out of the feeling that there was nothing illogical in it that we inserted the new Rule. I hope the House will understand that whatever has been done by the Drafting Committee, to which this matter was referred, is perfectly in order and that the points raised by Mr. Santhanam and the friends who followed him have really no substance in them.

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***Mr. President :** Before I put the motion to vote, I would like to ask the Mover whether she would like to say anything in reply.

Shri M. Ananthasayanam Ayyangar : Before that, Sir, I beg your permission to interrupt for a little while. I would like to ascertain from the Honourable Dr. Ambedkar whether he has considered the consequences that would follow if this motion is adopted, because, under Section 32 of the Government of India Act as adapted, the Governor-General has the right either to give or withhold his assent when a Bill is referred to him. Are we contemplating that so far as a Bill seeking to amend the existing constitution is concerned, the Governor-General shall have the power either to give or withhold his consent ?

The Honourable Dr. B. R. Ambedkar : He is a constitutional Governor. He acts on advice.

Shri M. Ananthasayanam Ayyangar : Another point which requires elucidation is this. It is laid down that when the Dominion Legislature pases a Bill, that Bill will require the assent of the Governor-General. But doest this apply in so far as amendment of the present Constitution is concerned, because we are not sitting here as Dominion

*CAD, Official Report, Vol. VI, 27th January 1948, p. 29

Legislature, but as the Constituent Assembly of India which is a sovereign body ? That is why I say you have the power, as President. We do not even say Speaker here. Does the Honourable Dr. Ambedkar realise that just as the new Constitution is not going to be referred to the Governor-General, the amendment of the existing Constitution also need not be referred to him ?

Mr. President : That is a point which Dr. Ambedkar has answered in his own way. Whether the member is satisfied or not is a different question. I shall now call upon the Mover if she wishes to say anything in reply.

Shrimati G. Durgabai : Mr. President, Sir, I do not think there is much left for me to say in reply, because Dr. Ambedkar has very kindly taken upon himself to explain the whole position as well as answer the points raised by my Honourable friends. I think he has sufficiently met them and clarified the whole position, but I appreciate that much has been said by some of the members about the provision retained here about the assent of the Governor-General with regard to Bills referred to in 38-A. Dr. Ambedkar dealt with that point also, so I need not say much about it, but I would like to remind Honourable members of this fact that we are governed today by the 1935 Act as adapted which still retains that provision……..

[The motion of Smt. Durgabai was adopted.—Ed.**]**

Mr. President : Mr. Naziruddin Ahmad can move his amendment.

Mr. Naziruddin Ahmad : Sir, I beg to move—

> That in the proposed rule 38-B, for the words "Introduce a Bill" the words "Introduce such a Bill" he substituted.

Sir, this amendment is necessary because the Bill is qualified in the earlier part of the clause and the addition of the word "such" will make it very clear.

The Honourable Dr. B. R. Ambedkar : Sir, if I may reply to this point. If the Honourable Mover will only refer to the heading of the chapter he will see that the chapter is called "Legislation for making provision as to the Constitution of India". These rules relate to no other Bill except the Bill amending the Constitution. Therefore the word "such" is absolutely unnecessary.

*CAD, Official Report, Vol. VI, 27th January 1948, pp-32-33.

Mr. Naziruddin Ahmad : After this clarification, Sir, I beg leave to withdraw.

The amendment was, by leave of the Assembly, withdrawn.

The Honourable Dr. B. R. Ambedkar : Sir, If I may make a suggestion with a view to economise time. These are all drafting amendments. If this House were to pass a resolution that all these amendments should be taken into consideration by the official draftsmen and incorporated wherever he thinks necessary, that will be better. If we were to take up the amendments one by one, it will take more than a whole day. After all different people use different language for the purpose of conveying the same thought. It is better to leave it to the draftsmen who are particularly qualified in this matter than laymen who merely want to exercise their time in this matter.

[Rule 38-B was adopted.—Ed.**]**

[*The Drafting Committee first met on August 30, 1947 and elected Dr. Ambedkar as its Chairman unanimously. The Committee sat from October 27, 1947 day to day, discussing and revising articles of the Draft prepared by the office of the Constitutional adviser. The Committee met in all on 44 days till February 13, 1948 in which Dr. Ambedkar himself conducted all the business. Fresh Draft of the Constitution as settled by the Drafting Committee was submitted to the President of the Assembly on February 21, 1948. The Committee continued to function and dealt with suggestions for amendments made from time to time. The Draft Constitution had been before the public for eight months and came up before the Constituent Assembly for discussion on 4th November 1948.*—Ed.]

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SECTION THREE

November 4, 1948 to November 9, 1948

BLANK

FIRST READING OF THE DRAFT CONSTITUTION

The Constituent Assembly of India met in the Constitution Hall, New Delhi on Thursday the 4th November 1948.

After completing the formalities of presentation of credentials, signing the register and taking the pledge, the President, Hon'ble Dr. Rajendra Prasad addressed the Members to rise in their seats to pay homage and reverence to the Father of the Nation. He described Mahatma Gandhi as one, 'who breathed life into our dead flesh and bones, who lifted us out of darkness of despondency and despair to the light and sunshine of hope and achievement and who led us from slavery to freedom'.

The Members stood up in silence.

Thereafter, the deaths of Quaid-E-Azam Mohamed Ali Jinnah, Shri D. P. Khaitan and Shri D. S. Gurung, were also mourned by standing in the seat and observing silence.

At the outset the Assembly discussed the Motion moved by Smt. G. Durgabai from Madras which was the amendment to Constituent Assembly Rules 5-A & 5-B. This was accepted by the House.

Then the President, Dr. Rajendra Prasad rose and addressed the House. He explained what would be the programme of the business. This was followed by discussion.

In the afternoon session, the President called upon Dr. Ambedkar to move his motion. Accordingly, Dr. Ambedkar introduced the Draft Constitution to the Assembly for consideration.

After the Draft Constitution was presented to the Constituent Assembly on 4th November 1948, a brief general discussion followed, which is called the first reading of the Constitution. The second reading commenced on 15th November. 1948. In the

second reading the Constitution was discussed clause by clause in detail. The discussion concluded on 17th October 1949.

The Constituent Assembly again sat on the 14th November 1949 for the third reading. This was finished on the 26th November1949 when the Constitution was declared as, passed and there after the President of the Assembly signed it.

The Draft Constitution is placed in this part as Annexure. It will help the reader to understand the clauses and the discussion thereon by referring to the original articles.

—Editor

Draft Constitution—Discussion

MOTION *re* DRAFT CONSTITUTION

Mr. President : I think we shall now proceed with the discussion. I call upon the Honourable Dr. Ambedkar to move his motion.

***The Honourable Dr. B. R. Ambedkar** (Bombay : General) **:** Mr. President, Sir, I introduce the Draft Constitution as settled by the Drafting Committee and move that it be taken into consideration.

The Drafting Committee was appointed by a Resolution passed by the Constituent Assembly on August 29, 1947.

The Drafting Committee was in effect charged with the duty of preparing a Constitution in accordance with the decisions of the Constituent Assembly on the reports made by the various Committees appointed by it such as the Union Powers Committee, the Union Constitution Committee, the Provincial Constitution Committee and the Advisory Committee on Fundamental Rights, Minorities, Tribal Areas, etc. The Constituent Assembly had also directed that in certain matters the provisions contained in the Government of India Act, 1935, should be followed. Except on points which are referred to in my letter of the 21st February 1948 in which I have referred to the departures made and alternatives suggested by the Drafting Committee, I hope the Drafting Committee will be found to have faithfully carried out the directions given to it.

The Draft Constitution as it has emerged from the Drafting Committee is a formidable document. It contains 315 Articles and 8 Schedules. It must be admitted that the Constitution of no country could be found to be so bulky as the Draft Constitution. It would be difficult for those who have not been through it to realize its salient and special features.

The Draft Constitution has been before the public for eight months. During this long time friends, critics and adversaries have had more

*Constituent Assembly Debates, (Hereinafter called CAD.) Official Report, Vol. VII, 4th November 1948, pp. 31-44.

than sufficient time to express their reactions to the provisions contained in it. I dare say that some of them are based on misunderstanding and inadequate understanding of the Articles. But there the criticisms are and they have to be answered.

For both these reasons it is necessary that on a motion for consideration I should draw your attention to the special features of the Constitution and also meet The criticism that has been levelled against it.

Before I proceed to do so I would like to place on the table of the House Reports of three Committees appointed by the Constituent Assembly (1) Report of the Committee on Chief Commissioners Provinces (2) Report of the Expert Committee on Financial Relations between the Union and the States, and (3) Report of the Advisory Committee on Tribal Areas, which came too late to be considered by that Assembly though copies of them have been circulated to Members of the Assembly. As these reports and the recommendations made therein have been considered by the Drafting Committee it is only proper that the House should formally be placed in possession of them.

Turning to the main question. A student of Constitutional Law, if a copy of a Constitution is placed in his hands, is sure to ask two questions. Firstly, what is the form of Government that is envisaged in the Constitution ; and secondly, what is the form of the Constitution ? For these are the two crucial matters which every Constitution has to deal with. I will begin with the first of the two questions.

In the Draft Constitution there is placed at the head of the Indian Union a functionary who is called the President of the Union. The title of this functionary reminds one of the President of the United States. But beyond identity of names there is nothing in common between the forms of government prevalent in America and the form of Government proposed under the Draft Constitution. The American form of Government is called the Presidential system of Government. What the Draft Constitution proposes is the Parliamentary system. The two are fundamentally different.

Under the Presidential system of America, the President is the Chief head of the Executive. The administration is vested in him. Under the Draft Constitution the President occupies the same position as the King under the English Constitution. He is the head of the State but not of

the Executive. He represents the Nation but does not rule the Nation. He is the symbol of the nation. His place in the administration is that of a ceremonial device on a seal by which the nation's decisions are made known. Under the American Constitution the President has under him Secretaries in charge of different Departments. In like manner the President of the Indian Union will have under him Ministers in charge of different Departments of administration. Here again there is a fundamental difference between the two. The President of the United States is not bound to accept any advice tendered to him by any of his Secretaries. The President of the Indian Union will be generally bound by the advice of his Ministers. He can do nothing contrary to their advice nor can he do anything without their advice. The President of the United States can dismiss any Secretary at any time. The President of the Indian Union has no power to do so, so long as his Ministers command a majority in Parliament.

The Presidential system of America is based upon the separation of the Executive and the Legislature. So that the President and his Secretaries cannot be members of the Congress. The Draft Constitution does not recognise this doctrine. The Ministers under the Indian Union are members of Parliament. Only members of Parliament can become Ministers. Ministers have the same rights as other members of Parliament, namely, that they can sit in Parliament, take part in debates and vote in its proceedings. Both systems of Government are of course democratic and the choice between the two is not very easy. A democratic executive must satisfy two conditions—(1) It must be a stable executive and (2) it must be a responsible executive. Unfortunately it has not been possible so far to devise a system which can ensure both in equal degree. You can have a system which can give you more stability but less responsibility or you can have a system which gives you more responsibility but less stability. The American and the Swiss systems give more stability but less responsibility. The British system on the other hand gives you more responsibility but less stability. The reason for this is obvious. The American Executive is a non-Parliamentary Executive which means that it is not dependent for its existence upon a majority in the Congress, while the British system is a Parliamentary Executive which means that it is dependent upon a majority in Parliament. Being a non-Parliamentary Executive,

the Congress of the United States cannot dismiss the Executive. A Parliamentary Government must resign the moment it loses the confidence of a majority of members of Parliament. Looking at it from the point of view of responsibility, a non-Parliamentary Executive being independent of Parliament tends to be less responsible to the Legislature, while a Parliamentary Executive being more dependent upon a majority in Parliament become more responsible. The Parliamentary system differs from a non-Parliamentary system in as much as the former is more responsible than the latter but they also differ as to the time and agency for assessment of their responsibility. Under the non-Parliamentary system, such as the one that exists in the U.S.A., the assessment of the responsibility of the Executive is periodic. It takes place once in two years. It is done by the Electorate. In England, where the Parliamentary system prevails, the assessment of responsibility of the executive is both daily and periodic. The daily assessment is done by members of Parliament, through Questions, Resolutions, No confidence motions, Adjournment motions and Debates on Addresses. Periodic assessment is done by the Electorate at the time of the election which may take place every five years or earlier. The daily assessment of responsibility which is not available under the American system is, it is felt, far more effective than the periodic assessment and far more necessary in a country like India. The Draft Constitution in recommending the Parliamentary system of Executive has preferred more responsibility to more stability.

So far I have explained the form of Government under the Draft Constitution. I will now turn to the other question, namely, the form of the Constitution.

Two principal forms of the Constitution are known to history—one is called Unitary and other Federal. The two essential characteristics of a Unitary Constitution are : (1) the supremacy of the Central Polity and (2) the absence of subsidiary Sovereign polities. Contrary wise, a Federal Constitution is marked : (1) by the existence of a Central polity and subsidiary polities side by side, and (2) by each being sovereign in the field assigned to it. In other words, Federation means the establishment of a Dual Polity. The Draft Constitution is, Federal Constitution inasmuch as it establishes what may be called a Dual Polity. This Dual Polity under the proposed Constitution will consist of the

Union at the Centre and the States at the periphery each endowed with sovereign powers to be exercised in the field assigned to them respectively by the Constitution. The dual polity resembles the American Constitution. The American polity is also a dual polity, one of it is known as the Federal Government and the other States which correspond respectively to the Union Government and the States Government of the Draft Constitution. Under the American Constitution the Federal Government is not a mere league of the States nor are the States administrative units or agencies of the Federal Government. In the same way the Indian Constitution proposed in the Draft Constitution is not a league of States nor are the States administrative units or agencies of the Union Government. Here, however, the similarities between the Indian and the American Constitution come to an end. The differences that distinguish them are more fundamental and glaring than the similarities between the two.

The points of differences between the American Federation and the Indian Federation are mainly two. In the U.S.A. this dual polity is followed by a dual citizenship. In the U.S.A. there is a citizenship of the U.S.A. But there is also a citizenship of the State. No doubt the rigours of this double citizenship are much assuaged by the fourteenth amendment to the Constitution of the United States which prohibits the States from taking away the rights, privileges and immunities of the citizen of the United States. At the same time, as pointed out by Mr. William Anderson, in certain political matters, including the right to vote and to hold public office, States may and do discriminate in favour of their own citizens. This favouritism goes even farther in many cases. Thus to obtain employment in the service of a State or local Government one is in most places required to be a local resident or citizen. Similarly in the licensing of persons for the practice of such public professions as law and medicine, residence or citizenship in the State is frequently required ; and in business where public regulation must necessarily be strict, as in the sale of liquor, and of stocks and bonds, similar requirements have been upheld.

Each State has also certain rights in its own domain that it holds for the special advantage of its own citizens. Thus wild game and fish in a sense belong to the State. It is customary for the States to charge higher hunting and fishing license fees to non-residents than to its own

citizens. The States also charge non-residents higher tuition in State Colleges and Universities, and permit only residents to be admitted to their hospitals and asylums except in emergencies.

In short, there are a number of rights that a State can grant to its own citizens or residents that it may does legally deny to non-residents, or grant to non-residents only on more difficult terms than those imposed on residents. These advantages, given to the citizen in his own State, constitute the special rights of State citizenship. Taken all together, they amount to a considerable difference in rights between citizens and non-citizens of the States. The transient and the temporary sojourner is everywhere under some special handicaps.

The proposed Indian Constitution is a dual polity with a single citizenship. There is only one citizenship for the whole of India. It is Indian citizenship. There is no State citizenship. Every Indian has the same rights of citizenship, no matter in what State he resides.

The dual polity of the proposed Indian Constitution differs from the dual polity of the U.S.A. in another respect. In the U.S.A. the Constitutions of the Federal and the State Governments are loosely connected. In describing the relationship between the Federal and State Governments in the U.S.A. Bryce has said:

> "The Central or National Government and the State Governments may be compared to a large building and a set of smaller buildings standing on the same ground, yet distinct from each other."

Distinct they are, but how distinct are the State Governments in the U.S.A. from the Federal Government ? Some idea of this distinctness may be obtained from the following facts :

> 1. Subject to the maintenance of the republican form of Government, each State in America is free to make its own Constitution.
>
> 2. The people of a State retain for ever in their hands, altogether independent of the National Government, the power of altering their Constitution.

To put it again in the words of Bryce :

> "A State (in America) exists as a commonwealth by virtue of its own Constitution, and all State Authorities, legislative, executive and judicial are the creatures of, and subject to the Constitution."

This is not true of the proposed Indian Constitution. No States (at any rate those in Part I) have a right to frame its own Constitution. The Constitution of the Union and of the States is a single frame from which neither can get out and within which they must work.

So far I have drawn attention to the differences between the American Federation and the proposed Indian Federation. But there are some other

special features of the proposed Indian Federation which mark it off not only from the American Federation but from all other Federations. All federal systems including the American are placed in a tight mould of federalism. No matter what the circumstances, it cannot change its form and shape. It can never be unitary. On the offer hand the Draft Constitution can be both unitary as well as federal according to the requirements of time and circumstances. In normal times, it is framed to work as a federal system. But in times of war it is so designed as to make it work as though it was a unitary system. Once the President issues a Proclamation which he is authorised to do under the Provisions of Article 275, the whole scene can become transformed and the State becomes a unitary State. The Union under the Proclamation can claim if it wants (1) the power to legislate upon any subject even though it may be in the State list, (2) the power to give directions to the States as to how they should exercise their executive authority in matters which are within their charge. (3) the power to vest authority for any purpose in any officer, and (4) the power to suspend the financial provisions of the Constitution. Such a power of converting itself into a unitary State no federation possesses. This is one point of difference between the Federation proposed in the Draft Constitution, and all other Federations we know of.

This is not the only difference between the proposed Indian Federation and other Federations. Federalism is described as a weak if not an effective form of Government. There are two weaknesses from which Federation is alleged to suffer. One is rigidity and the other is legalism. That these faults are inherent in Federalism, there can be no dispute. A Federal Constitution cannot but be a written Constitution and a written Constitution must necessarily be a rigid Constitution. A Federal Constitution means division of Sovereignty by no less a sanction than that of the law of the Constitution between the Federal Government and the States, with two necessary consequences (1) that any invasion by the Federal Government in the field assigned to the States and *vice versa* is a breach of the Constitution and (2) such breach is a justiciable matter to he determined by the Judiciary only. This being the nature of federalism, a Federal Constitution cannot escape the charge of legalism. These faults of a Federal Constitution have been found in a pronounced form in the Constitution of the United States of America.

Countries which have adopted Federalism at a later date have attempted to reduce the disadvantages following from the rigidity and legalism which are inherent therein. The example of Australia may well be referred to in this matter. The Australian Constitution has adopted the following means to make its federation less rigid:

(1) By conferring upon the Parliament of the Commonwealth large powers of concurrent Legislation and few powers of exclusive Legislation.

(2) By making some of the Articles of the Constitution of a temporary duration to remain in force only "until Parliament otherwise provides."

It is obvious that under the Australian Constitution, the Australian Parliament can do many things, which are not within the competence of the American Congress and for doing which the American Government will have to resort to the Supreme Court and depend upon its ability, ingenuity and willingness to invent a doctrine to justify in the exercise of authority.

In assuaging the rigour of rigidity and legalism the Draft Constitution follows the Australian plan on a far more extensive scale than has been done in Australia. Like the Australian Constitution, it has a long list of subjects for concurrent powers of legislation. Under the Australian Constitution concurrent subjects are 39. Under the Draft Constitution they are 37. Following the Australian Constitution there are as many as six Articles in the Draft Constitution, where the provision are of a temporary duration and which could be replaced by Parliament at any time by provisions suitable for the occasion. The biggest advance made by the Draft Constitution over the Australian Constitution is in the matter of exclusive powers of legislation vested in Parliament. While the exclusive authority of the Australian Parliament to legislate extends only to about 3 matters, the authority of the Indian Parliament as proposed in the Draft Constitution will extend to 91 matters. In this way the Draft Constitution has secured the greatest possible elasticity in its federalism which is supposed to be rigid by nature.

It is not enough to say that the Draft Constitution follows the Australian Constitution or follows it on a more extensive scale. What is to be noted is that it has added new ways of overcoming the rigidity and legalism inherent in federalism which are special to it and which are not to be found elsewhere.

First is the power given to Parliament to legislate on exclusively provincial subjects in normal times. I refer to Articles 226, 227 and 229. Under Article 226 Parliament can legislate when a subject becomes a matter of national concern as distinguished from purely Provincial concern, though the subject is in the State list, provided a resolution is passed by the Upper Chamber by $^{2}/_{3}$rd majority in favour of such exercise of the power by the Centre. Article 227 gives the similar power to Parliament in a national emergency. Under Article 229 Parliament can exercise the same power if Provinces consent to such exercise. Though the last provision also exists in the Australian Constitution the first two are a special feature of the Draft Constitution.

The second means adopted to avoid rigidity and legalism is the provision for facility with which the Constitution could be amended. The provisions of the Constitution relating to the amendment of the Constitution divide the Articles of the Constitution into two groups. In the one group are placed Articles relating to (a) the distribution of legislative powers between the Centre and the States, (b) the representation of the States in Parliament, and (c) the powers of the Courts. All other Articles are placed in another group. Articles placed in the second group cover a very large part of the Constitution and can be amended by Parliament by a double majority, namely, a majority of not less than two-thirds of the members of each House present and voting and by a majority of the total membership of each House. The amendment of these Articles does not require ratification by the States. It is only in those Articles which are placed in group one that an additional safeguard of ratification by the States is introduced.

One can therefore safely say that the Indian Federation will not suffer from the faults of rigidity or legalism. Its distinguishing feature is that it is a flexible federation.

There is another special feature of the proposed Indian Federation which distinguishes it from other federations. A Federation being a dual polity based on divided authority with separate legislative, executive and judicial powers for each of the two polities is bound to produce diversity in laws, in administration and in judicial protection. Upto a certain point this diversity does not matter. It may be welcomed as being an attempt to accommodate the powers of Government to local needs and local circumstances. But this very diversity when it goes beyond a certain point is capable of producing chaos and has produced

chaos in many Federal States. One has only to imagine twenty different laws—if we have twenty States in the Union—of marriage, of divorce, of inheritance of property, family relations, contracts, torts, crimes, weights and measures, of bills and cheques, banking and commerce, of procedures for obtaining justice and in the standards and methods of administration. Such a state of affairs not only weakens the Slate but becomes intolerant to the citizen who moves from State to State only to find that what is lawful in one State is not lawful in another. The Draft Constitution has sought to forge means and methods whereby India will have Federation and at the same time will have uniformity in all the basic matters which are essential to maintain the unity of the country. The means adopted by the Draft Constitution are three

(1) a single judiciary,

(2) uniformity in fundamental laws, civil and criminal, and

(3) a common All-India Civil Service to man important posts.

A dual judiciary, a duality of legal codes and a duality of civil services, as I said, are the logical consequences of a dual polity which is inherent in a federation. In the U.S.A. the Federal Judiciary and the State Judiciary are separate and independent of each other. The Indian Federation though a Dual Polity has no Dual Judiciary at all. The High Courts and the Supreme Court form one single integrated Judiciary having jurisdiction and providing remedies in all cases arising under the constitutional law the civil law or the criminal law. This is done to eliminate all diversity in all remedial procedure. Canada is the only country which furnishes a close parallel. The Australian system is only an approximation.

Care is taken to eliminate all diversity from laws which are at the basis of civic and corporate life. The great Codes of Civil & Criminal Laws, such as the Civil Procedure Code. Penal Code, the Criminal Procedure Code, the Evidence Act, Transfer of Property Act. Laws of Marriage, Divorce, and Inheritance, are either placed in the Concurrent List so that the necessary uniformity can always be preserved without impairing the federal system.

The dual polity which is inherent in a Federal system as I said is followed in all Federations by a dual service. In all Federations there is a Federal Civil Service and a State Civil Service. The Indian Federation though a Dual Polity will have a Dual Service but with one

exception. It is recognized that in every country there are certain posts in its administrative set up which might be called strategic from the point of view of maintaining the standard of administration. It may not be easy to spot such posts in a large and complicated machinery of administration. But there can be no doubt that the standard of administration depends upon the calibre of the Civil Servants who are appointed to these strategic posts. Fortunately for us we have inherited from the past system of administration which is common to the whole of the country and we know what are these strategic posts. The Constitution provides that without depriving the States of their right to form their own Civil Services there shall be an All India Service recruited on an All-India basis with common qualifications, with uniform scale of pay and the members of which alone could be appointed to these strategic posts throughout the Union.

Such are the special features of the proposed Federation. I will now turn to what the critics have had to say about it.

It is said that there is nothing new in the Draft Constitution, that about half of it has been copied from the Government of India Act of 1935 and that the rest of it has been borrowed from the Constitutions of other countries. Very little of it can claim originality.

One likes to ask whether there can be anything new in a Constitution framed at this hour in the history of the world. More than hundred years have rolled over when the first written Constitution was drafted. It has been followed by many countries reducing their Constitutions to writing. What the scope of a Constitution should be has long been settled. Similarly what are the fundamentals of a Constitution are recognized all over the world. Given these facts all Constitutions in their main provisions must look similar. The only new things, if there can be any, in a Constitution framed so late in the day are the variations made to remove the faults and to accommodate it to the needs of the country. The charge of producing a blind copy of the Constitutions of other countries is based, I am sure, on an inadequate study of the Constitution. I have shown what is new in the Draft Constitution and I am sure that those who have studied other Constitutions and who are prepared to consider the matter dispassionately will agree that the Drafting Committee in performing its duty has not been guilty of such blind and slavish imitation as it is represented to be.

As to the accusation that the Draft Constitution has produced a good part of the provisions of the Government of India Act, 1935, I make no apologies. There is nothing to be ashamed of in borrowing. It involves no plagiarism. Nobody holds any patent rights in the fundamental ideas of a Constitution. What I am sorry about is that the provisions taken from the Government of India Act, 1935, relate mostly to the details of administration. I agree that administrative details should have no place in the Constitution. I wish very much that the Drafting Committee could see its way to avoid their inclusion in the Constitution. But this is to be said on the necessity which justifies their inclusion. Grote, the historian of Greece, has said that:

> "The diffusion of constitutional morality, not merely among the majority of any community but throughout the whole, is the indispensable condition of government at once free and peaceable ; since even any powerful and obstinate minority may render the working of a free institution impracticable, without being strong enough to conquer ascendency for themselves."

By constitutional morality Grote meant "a paramount reverence for the forms of the Constitution, enforcing obedience to authority acting under and within these forms yet combined with the habit of open speech, of action subject only to definite legal control, and unrestrained censure of those very authorities as to all their public acts combined too with a perfect confidence in the bosom of every citizen amidst the bitterness of party contest that the forms of the Constitution will not be less sacred in the eyes of his opponents than in his own." (*Hear, hear*).

While everybody recognizes the necessity of the diffusion of the Constitutional morality for the peaceful working of a democratic Constitution, there are two things interconnected with it which are not, unfortunately, generally recognized. One is that the form of administration has a close connection with the form of the Constitution. The form of the administration must be appropriate to and in the same sense as the form of the Constitution. The other is that it is perfectly possible to prevent the Constitution, without changing its form by merely changing the form of the administration and to make it inconsistent and opposed to the spirit of the Constitution. It follows that it is only where people are saturated with Constitutional morality such as the

one described by Grote, the historian that one can take the risk of omitting from the Constitution details of administration and leaving it for the Legislature to prescribe them. The question is, can we presume such a diffusion of Constitutional morality ? Constitutional morality is not a natural sentiment. It has to be cultivated. We must realize that our people have yet to learn it. Democracy in India is only a top-dressing on an Indian soil, which is essentially undemocratic.

In these circumstances it is wiser not to trust the Legislature to prescribe forms of administration. This is the justification for incorporating them in the Constitution.

Another criticism against the Draft Constitution is that no part of it represents the ancient polity of India. It is said that the new Constitution should have been drafted on the ancient Hindu model of a State and that instead of incorporating Western theories the new Constitution should have been raised and built upon village Panchayats and District Panchayats. There are others who have taken a more extreme view. They do not want any Central or Provincial Governments. They just want India to contain so many village Governments. The love of the intellectual Indians for the village community is of course infinite if not pathetic (*laughter*). It is largely due to the fulsome praise bestowed upon it by Metcalfe who described them as little republics having nearly everything that they want within themselves, and almost independent of any foreign relations. The existence of these village communities each one forming a separate little State in itself has according to Metcalfe contributed more than any other cause to the preservation of the people of India, through all the revolutions and changes which they have suffered, and is in a high degree conducive to their happiness and to the enjoyment of a great portion of the freedom and independence. No doubt the village communities have lasted where nothing else lasts. But those who take pride in the village communities do not care to consider what little part they have played in the affairs and the destiny of the country ; and why ? Their part in the destiny of the country has been well described by Metcalfe himself who says :

> "Dynasty after dynasty tumbles down. Revolution succeeds to revolution. Hindoo, Pathan, Mogul, Maharatha, Sikh, English, are all masters in turn but the village communities remain the same. In times of trouble they arm and fortify themselves. A hostile army passes through the country. The village communities collect their little cattle within their walls and let the enemy pass unprovoked."

Such is the part the village communities have played in the history of their country. Knowing this, what pride can one feel in them ? That they have survived through all viscisitudes may be a tact. But mere survival has no value. The question is on what plane they have survived. Surely on a low, on a selfish level. I hold that these village republics have been the ruination of India. I am therefore surprised that those who condemn Provincialism and communalism should come forward as champions of the village. What is the village but a sink of localism, a den of ignorance, narrow-mindedness and communalism ? I am glad that the Draft Constitution has discarded the village and adopted the individual as its unit.

The Draft Constitution is also criticised because of the safeguards it provides for minorities. In this, the Drafting Committee has no responsibility. It follows the decisions of the Constituent Assembly. Speaking for myself, I have no doubt that the Constituent Assembly has done wisely in providing such safeguards for minorities as it has done, in this country both the minorities and the majorities have followed a wrong path. It is wrong for the majority to deny the existence of minorities. It is equally wrong for the minorities to perpetuate themselves. A solution must be found which will serve a double purpose. It must recognize the existence of the minorities to start with. It must also be such that it will enable majorities and minorities to merge some day into one. The solution proposed by the Constituent Assembly is to be welcomed because it is a solution which serves this two-fold purpose. To diehards who have developed a kind of fanaticism against minority protection I would like to say two things. One is that minorities are an explosive force which, if it erupts, can blow up the whole fabric of the State. The history of Europe bears ample and appalling testimony to this fact. The other is that the minorities in India have agreed to place their existence in the hands of the majority. In the history of negotiations for preventing the partition of Ireland, Redmond said to Carson "ask for any safeguard you like for the Protestant minority but let us have a United Ireland." Carson's reply was "Damn your safeguards, we don't want to be ruled by you." No minority in India has taken this stand. They have loyally accepted the rule of the majority which is basically a communal majority and not a political majority. It is for the majority to realize its duty not to discriminate against

minorities. Whether the minorities will continue or will vanish must depend upon this habit of the majority. The moment the majority loses the habit of discriminating against the minority, the minorities can have no ground to exist. They will vanish.

The most criticized part of the Draft Constitution is that which relates to Fundamental Rights. It is said that Article 13 which defines fundamental rights is riddled with so many exceptions that the exceptions have eaten up the rights altogether. It is condemned as a kind of deception. In the opinion of the critics Fundamental Rights are not Fundamental Rights unless they are also absolute rights. The critics rely on the Constitution of the United States and to the Bill of Rights embodied in the first ten Amendments to that Constitution in support of their contention. It is said that the Fundamental Rights in the American Bill of Rights are real because they are not subjected to limitations or exceptions.

I am sorry to say that the whole of the criticism about fundamental rights is based upon a misconception. In the first place, the criticism in so far as it seeks to distinguish fundamental rights from non-fundamental rights is not sound. It is incorrect to say that fundamental rights are absolute while non-fundamental rights are not absolute. The real distinction between the two is that non-fundamental rights are created by agreement between parties while fundamental rights are the gift of the law. Because fundamental rights are the gift of the State it does not follow that the State cannot qualify them.

In the second place, it is wrong to say that fundamental rights in America are absolute. The difference between the position under the American Constitution and the Draft Constitution is one of form and not of substance. That the fundamental rights in America are not absolute rights is beyond dispute. In support of every exception to the fundamental rights set out in the Draft Constitution one can refer to at least one judgment of the United States Supreme Court. It would be sufficient to quote one such judgment of the Supreme Court in justification of the limitation on the right of free speech contained in Article 13 of the Draft Constitution. In *Gitlow Vs. New York* in which the issue was the constitutionality of a New York "criminal anarchy" law which purported to punish utterances calculated to bring about violent change, the Supreme Court said :

> "It is a fundamental principle, long established, that the freedom of speech and of the press, which is secured by the Constitution, does not confer an absolute right to speak or publish, without responsibility, whatever one may choose, or an unrestricted and unbridled license that gives immunity for every possible use of language and prevents the punishment of those who abuse this freedom."

It is therefore wrong to say that the fundamental rights in America are absolute, while those in the Draft Constitution are not.

It is agreed that if any fundamental rights require qualification, it is for the Constitution itself to qualify them as is done in the Constitution of the United States and where it does not do so, it should be left to be determined by the Judiciary upon a consideration of all the relevant considerations. All this, I am sorry to say, is a complete misrepresentation, if not a misunderstanding of the American Constitution. The American Constitution does nothing of the kind. Except in one matter, namely the right of assembly, the American Constitution does not itself impose any limitations upon the fundamental rights guaranteed to the American citizens. Nor is it correct to say that the American Constitution leaves it to the Judiciary to impose limitations on fundamental rights. The right to impose limitations belongs to the Congress. The real position is different from what is assumed by the critics. In America, the fundamental rights as enacted by the Constitution were no doubt absolute. Congress, however, soon found that it was absolutely essential to qualify these fundamental rights by limitations. When the question arose as to the constitutionality of these limitations before the Supreme Court, it was contended that the Constitution gave no power to the United States Congress to impose such limitation, the Supreme Court invented the doctrine of police power and refuted the advocates of absolute fundamental rights by the argument that every State has inherent in its police power which is not required to be conferred on it expressly by the Constitution. To use the language of the Supreme Court in the case I have already referred to, it said:

> "That a State in the exercise of its police power may punish those who abuse this freedom by utterances inimical to the public welfare, tending to corrupt public morals, incite to crime or disturb the public peace, is not open to question....."

What the Draft Constitution has done is that instead of formulating fundamental rights in absolute terms and depending upon our Supreme Court to come to the rescue of Parliament by inventing the doctrine of police power, it permits the State directly to impose limitations upon the fundamental rights. There is really no difference in the result. What

one does directly the other does indirectly. In both cases, the fundamental rights are not absolute.

In the Draft Constitution the Fundamental Rights are followed by what are called "Directive Principles". It is a novel feature in a Constitution framed for Parliamentary Democracy. The only other constitution framed for Parliamentary Democracy which embodies such principles is that of the Irish Free State. These Directive Principles have also come up for criticism. It is said that they are only pious declarations. They have no binding force. This criticism is of course superfluous. The Constitution itself says so in so many words.

If it is said that the Directive Principles have no legal force behind them, I am prepared to admit it. But I am not prepared to admit that they have no sort of binding force at all. Nor am I prepared to concede that they are useless because they have no binding force in law.

The Directive Principles are like the Instrument of Instructions which were issued to the Governor-General and to the Governors of the Colonies and to those of India by the British Government under the 1935 Act. Under the Draft Constitution it is proposed to issue such instruments to the President and to the Governors. The texts of these Instruments of Instructions will be found in Schedule IV of the Constitution. What are called Directive Principles is merely another name for Instrument of Instructions. The only difference is that they are instructions to the Legislature and the Executive. Such a thing is to my mind to be welcomed. Wherever there is a grant of power in general terms for peace, order and good government, it is necessary that it should be accompanied by instructions regulating its exercise.

The inclusion of such instructions in a Constitution such as is proposed in the Draft becomes justifiable for another reason. The Draft Constitution as framed only provides a machinery for the government of the country. It is not a contrivance to install any particular party in power as has been done in some countries. Who should be in power is left to be determined by the people as it must be, if the system is to satisfy the tests of democracy. But whoever captures power will not be free to do what he likes with it. In the exercise of it, he will have to respect these instruments of instructions which are called Directive Principles. He cannot ignore them. He may not have to answer for their breach in a Court of Law. But he will certainly have to answer for them before the electorate at election time. What great value these

directive principles possess will be realized better when the forces of right contrive to capture power.

This it has no binding force is no argument against their inclusion in the Constitution. There may be a difference of opinion as to the exact place they should be given in the Constitution. I agree that it is somewhat odd that provisions which do not carry positive obligations should be placed in the midst of provisions which do carry positive obligations. In my judgment their proper place is in Schedules III A & IV which contain Instrument of Instructions lo the President and the Governors. For, as I have said, they are really Instruments of Instructions to the Executive and the Legislatures as lo how they should exercise their powers. Bui that is only a matter of arrangement.

Some critics have said that the Centre is too strong. Others have said that it must be made stronger. The Draft Constitution has struck a balance. However much you may deny powers to the Centre, it is difficult to prevent the Centre from becoming strong. Conditions in modern world are such that centralization of powers is inevitable. One has only to consider the growth of the Federal Government in the U.S.A. which, notwithstanding the very limited powers given to it by the Constitution has out-grown its former self and has overshadowed and eclipsed the State Governments. This is due to modern conditions. The same conditions are sure to operate on the Government of India and nothing that one can do will help to prevent it from being strong. On the other hand, we must resist the tendency lo make it stronger. It cannot chew more than it can digest. Its strength must be commensurate with its weight. It would be a folly to make it so strong that it may fall by its own weight.

The Draft Constitution is criticized for having one sort of constitutional relations between the Centre and the Provinces and another son of constitutional relations between the Centre and the Indian States. The Indian States are not bound to accept the whole list of subjects included in the Union List but only those which come under Defence, Foreign Affairs and Communications. They are not bound to accept subjects included in the Concurrent List. They are not bound to accept the State List contained in the Draft Constitution. They are free lo create their own Constituent Assemblies and to frame their own constitutions. All this, of course, is very unfortunate and. I submit quite indefensible.

This disparity may even prove dangerous to the efficiency of the State. So long as the disparity exists, the Centre's authority over all-India matters may lose its efficacy. For, power is no power if it cannot be exercised in all cases and in all places. In a situation such as may be created by war, such limitations on the exercise of vital powers in some areas may bring the whole life of the State in complete jeopardy. What is worse is that the Indian States under the Draft Constitution are permitted to maintain their own armies. I regard this as a most retrograde and harmful provision winch may lead to the break-up of the unity of India and the overthrow of the Central Government. The Drafting Committee, if I am not misrepresenting its mind, was not at all happy over this matter. They wished very much that there was uniformity between the Provinces ; and the Indian States in their constitutional relationship with the Centre. Unfortunately, they could do nothing to improve matters. They were bound by the decisions of the Constituent Assembly, and the Constituent Assembly in its turn was bound by the agreement arrived at between the two negotiating Committees.

But we may take courage from what happened in Germany. The German Empire as founded by Bismark in 1870 was a composite State, consisting of 25 units. Of these 25 units, 22 were monarchical States and 3 were republican city States. This distinction, as we all know, disappeared in the course of time and Germany became one land with one people living under one Constitution. The process of the amalgamation of the Indian States is going to be much quicker than it has been in Germany. On the 15th August 1947 we had 600 Indian States in existence. Today by the integration of the Indian States with Indian Provinces or merger among themselves or by the Centre having taken them as Centrally Administered Areas there have remained some 20/30 States as viable States. This is a very rapid process and progress. I appeal to those States that remain to fall in line with the Indian Provinces and to become full units of the Indian Union on the same terms as the Indian Provinces. They will thereby give the Indian Union the strength it needs. They will save themselves the bother of starting their own Constituent Assemblies and drafting their own separate Constitution and they will lose nothing that is of value to them.

I feel hopeful that my appeal will hot go in vain and that before the Constitution is passed, we will be able to wipe off the differences between the Provinces and the Indian States.

Some critics have taken objection to the description of India in Article 1 of the Draft Constitution as a Union of States. It is said that the correct phraseology should be a Federation of States. It is true that South Africa which is a unitary State is described as a Union. But Canada which is a Federation is also called a Union. Thus the description of India as a Union, though its constitution is Federal, does no violence to usage. But what is important is that the use of the word Union is deliberate. I do not know why the word 'Union' was used in the Canadian Constitution. But I can tell you why the Drafting Committee has used it. The Drafting Committee wanted to make it clear that though India was to be a Federation, the Federation was not the result of an agreement by the States to join in a Federation and that the Federation not being the result of an agreement no State has the right to secede from it. The Federation is a Union because it is indestructible. Though the country and the people may be divided into different States for convenience of administration the country is one integral whole, its people a single people living under a single *imperium* derived from a single source. The Americans had to wage a civil war to establish that the States have no right of secession and that their Federation was indestructible. The Drafting Committee thought that it was better to make it clear at the outset rather than to leave it to speculation or to dispute.

The provisions relating to amendment of the Constitution have come in for a virulent attack at the hands of the critics of the Draft Constitution. It is said that the provisions contained in the Draft make amendment difficult. It is proposed that the Constitution should be amendable by a simple majority at least for some years. The argument is subtle and ingenious. It is said that this Constituent Assembly is not elected on adult suffrage while the future Parliament will be elected on adult suffrage and yet the former has been given the right to pass the Constitution by a simple majority while the latter has been denied the

same right. It is paraded as one of the absurdities of the Draft Constitution. I must repudiate the charge because it is without foundation. To know how simple are the provisions of the Draft Constitution in respect of amending the Constitution one has only to study the provisions for amendment contained in the American and Australian Constitutions. Compared to them, those contained in the Draft Constitution will be found to be the simplest. The Draft Constitution has eliminated the elaborate and difficult procedures such as a decision by a convention or a referendum. The Powers of amendment are left with the Legislatures, Central and Provincial. It is only for amendments of specific matters—and they are only few—that the ratification of the State legislatures is required. All other Articles of the Constitution are left to be amended by Parliament. The only limitation is that it shall be done by a majority of not less than two-thirds of the members of each House present and voting and a majority of the total membership of each House. It is difficult to conceive a simple method of amending the Constitution.

What is said to be the absurdity of the amending provisions is founded upon a misconception of the position of the Constituent Assembly and of the future Parliament elected under the Constitution. The Constituent Assembly in making a Constitution has no partisan motive. Beyond securing a good and workable constitution it has no axe to grind. In considering the Articles of the Constitution it has no eye on getting through a particular measure. The future Parliament, if it met as a Constituent Assembly, its members, will be acting as partisans seeking to carry amendments to the Constitution to facilitate to the passing of party measures which they have failed to get through Parliament by reason of some Article of the Constitution which has acted as an obstacle in their way. Parliament will have an axe to grind while the Constituent Assembly has none. That is the difference between the Constituent Assembly and the future Parliament. That explains why the Constituent Assembly though elected on limited franchise can be trusted to pass the Constitution by simple majority and why the Parliament though elected on adult suffrage cannot be trusted with the same power to amend it.

I believe I have dealt with all the adverse criticisms that have been levelled against the Draft Constitution as settled by the Drafting Committee. I don't think that I have left out any important comment or criticism that has been made during the last eight months during which the Constitution has been before the public. It is for the Constituent Assembly to decide whether they will accept the Constitution as settled by the Drafting Committee or whether they shall alter it before passing it.

But this I would like to say. The Constitution has been discussed in some of the Provincial Assemblies of India. It was discussed in Bombay, C.P., West Bengal, Bihar, Madras and East Punjab. It is true that in some Provincial Assemblies serious objections were taken to the financial provisions of the Constitution and in Madras to Article 226. But excepting this, in no Provincial Assembly was any serious objection taken to the Articles of the Constitution. No Constitution is perfect and the Drafting Committee itself is suggesting certain amendments to improve the Draft Constitution. But the debates in the Provincial Assemblies give me courage to say that the Constitution as settled by the Drafting Committee is good enough to make in this country a start with. I feel that it is workable, it is flexible and it is strong enough to hold the country together both in peace time and in war time. Indeed, if I may say so, if things go wrong under the new Constitution, the reason will not be that we had a bad Constitution. What we will have to say is, that Man was vile. Sir, I move.

[*After the speech of Dr. Ambedkar, members of the Constituent Assembly rose and spoke on the Draft Constitution. Here are some excerpts eulogising the work of Dr. Ambedkar and the Drafting Committee*—Ed.]

***Mr. Frank Anthony** (C.P. and Berar : General) : Mr. President, Sir, although Dr. Ambedkar is not present in the House I feel that, as a lawyer at least. I ought to congratulate him for the symmetrical and lucid analysis which he gave us of the principles underlying our Draft Constitution. Whatever different views we may hold about this Draft Constitution. I feel that this will be conceded that it is a monumental document at least from the physical point of view, if from no other point of view. And I think it would be churlish for us not to offer a word of special thanks, to the members of the Drafting Committee, because I am certain that they must have put in an infinite amount of labour and skill to be able to prepare such a vast document.....

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†Lastly I wish to endorse the sentiment expressed by Dr. Ambedkar when he commended the provisions on behalf of the minorities. I know that it is an unsavoury subject (after what India has gone through) to talk of minorities or in terms of minority problems. And I do not propose to do that I do not propose to commend these minority provisions, because they have already been accepted by the Advisory Committee ; they have been accepted by the Congress Party ; they have also been accepted by the Constituent Assembly. But I feel I ought to thank and to congratulate the Congress Party for its realistic and statesmanlike approach to this not easy problem ; and I feel we ought particularly to thank Sardar Patel for his very realistic and statesmanlike approach. There is no point in blinking or in shirking the fact that minorities do exist in this country, but if we approach this problem in the way the Congress has begun to approach it. I believe that in ten years there will be no minority problem in this country. Believe me, Sir, when I tell you that I, at any rate, do not think that there is a single right minded minority that does not want to see this country reach, and reach in the shortest possible time, the goal of a real secular democratic State. We believe—we must believe—that in the achievement of that go allies the greatest guarantee of any minority section in this country. As Dr. Ambedkar has said, we have struck a golden mean in this matter. The minorities too have been helpful.....

*CAD, Vol. VII. 5th November 1948. p. 227.

†*Ibid.,* pp. 227-29.

Asterisk and dots indicate the portion omitted.—Ed.

Finally Sir, I wish to say that it is not so much on the written word of the printed Constitution that will ultimately depend whether we reach that full stature, but on the spirit in which the leaders and administrators of the country implement this Constitution of ours and on the spirit in which they approach the vast problems that face us; on the way in which we discharge the spirit of this Constitution will depend the measure of our fulfilment of the ideals which we all believe in.

***Shri Krishna Chandra Sharma** (United Provinces : General) : I join in the pleasant task to compliment Dr. Ambedkar for the well worked out scheme he has placed before the House, the hard work he was put in, and his yesterday's able and lucid speech.

Sir, in considering a Constitution we have to take note of the fact that the Constitution is not an end in itself. A Constitution is framed for certain objectives and these objectives are the general good of the people, the stability of the State and the growth and development of the individual. In India when we say the growth and development of the individual we mean his self realisation, self-development and self-fulfilment. When we say the development of the people we mean to say a strong and united nation.....

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†Shri T. T. Krishnamachari (Madras : General) **:** Mr. President, Sir, I am one of those in the House who have listened to Dr. Ambedkar very carefully. I am aware of the amount of work and enthusiasm that he has brought to bear on the work of drafting this Constitution. At the same time I do realise that that amount of attention that was necessary for the purpose of drafting a Constitution so important to us at this moment has not been given to it by the Drafting Committee. The House is perhaps aware that of the seven members nominated by you, one had resigned from the House and was replaced. One died and was not replaced. One was away in America and his place was not filled up and another person was engaged in State affairs and there was a void to that extent. One or two people were far away from Delhi and perhaps reasons of health did not permit them to attend. So it happened ultimately that the burden of drafting this Constitution fell on Dr. Ambedkar and I have no doubt that we are grateful to him for having achieved this task in a manner which is undoubtedly commendable. But my point really is that the attention that was due to a matter like

*CAD, Vol. VII, 5th November 1948, p.229.

†*Ibid.* pp. 231-32.

this has not been given to it by the Committee as a whole. Some time in April the Secretarial of the Constituent Assembly had intimated me and others besides myself that you had decided that the Union Powers Committee, the Union Constitution Committee and the Provincial Constitution Committee, at any rate the members thereof, and a few other selected people should meet and discuss the various amendments that had been suggested by the members of the House and also by the general public. A meeting was held for two days in April last and I believe a certain amount of good work was done and I see that Dr. Ambedkar has chosen to accept certain recommendations of the Committee, but nothing was heard about this committee thereafter. I understand that the Drafting Committee—at any rate Dr. Ambedkar and Mr. Madhava Rau—met thereafter and scrutinised the amendments and they have made certain suggestions, but technically perhaps this was not a Drafting Committee. Though I would not question your ruling on this matter, one would concede that the moment a Committee had reported that Committee became *functus officio,* and I do not remember your having reconstituted the Drafting Committee.....

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***Shri Biswanath Das** (Orissa : General) **:** Mr. Vice-President. Sir, I rise to thank the Honourable Dr. Ambedkar for the brilliant analysis of the Constitution that he presented to the Constituent Assembly. Sir, I equally thank his colleagues who laboured hard for six long months to forge the Constitution that is presented to this House.....

†**Shri H. Das** (Orissa : General) : Mr. Vice President. Sir, at the outset I must pay my tribute to the Drafting Committee that did a greatly arduous work and put into shape and form the Constitution Bill which we are considering today and which we have to alter according to our will, so that a proper sovereign Constitution will be designed for India. While I pay my tribute to Dr. Ambedkar and his colleagues, I must also pay the tribute that your advisers deserve.....

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‡**Shri Lokanath Misra** (Orissa : General):.....Sir, this Constituent Assembly which represents the sovereignty of India and which is supposed to give shape and form and prestige to our freedom is here deliberating on a Constitution that is supposed to be the guardian of our future. With that end in view, our leaders have laboured enough

*CAD. Vol. VII. 5th November 1948. p. 237.

†*Ibid.*, p 239.

‡*Ibid.,* p. 240.

and hard and have produced a Draft Constitution which we are now going to discuss.

Sir, my first point is this : that although Dr. Ambedkar has delivered a very brilliant, illuminating, bold and lucid speech completely analysing the Draft Constitution.....

.... I would have taken some more time to X-ray the speech of Dr. Ambedkar. I bow down to his knowledge. I bow down to his clarity of speech. I bow down to his courage. But I am surprised to see that so learned a man so great a son of India knows so little of India. He is doubtless the very soul of the Draft Constitution and he has given in his Draft something which is absolutely un-Indian. By un-Indian I mean that however much he may repudiate, it is absolutely a slavish imitation of—nay much more—a slavish surrender to the West.

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***Kazi Syed Karimuddin** (C.P. and Berar : Muslim) : Mr. President, Sir. I congratulate Dr. Ambedkar for the introduction of the motion for the consideration of the Draft Constitution of India. The speech that he delivered was a remarkable one and I am sure that his name is bound to go down to posterity as a great constitution-maker.....

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†**Prof. K. T. Shah** (Bihar: General) : Sir. I have to join in the chorus of congratulations that have been offered to the Drafting Committee and its Chairman for the very elaborate Draft Constitution that they have placed before this House. I have particularly to felicitate the Law Minister for the very lucid way in which he has put forward the salient features of the Constitution for our consideration, and given us thought-provoking ideas, with reasons why certain items have been included and why certain others have been put in the manner they have been.....

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‡**Pandit Lakshmi Kanta Maitra** (West Bengal : General) : Sir. I would be failing in my duly if I do not at the very outset congratulate my Honourable friend and old colleague. Dr. Ambedkar for the magnificent performance he made yesterday. The House appreciates the stupendous amount of time and energy he has spent in giving the constitutional proposals a definite shape.....

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*CAD, Vol. VII, 5th November 1948. p. 242.

†*Ibid.,* p. 244.

‡*Ibid.* p. 246.

***Shri Ramnarayan Singh** (Bihar : General) : Sir, I congratulate my Honourable friend Dr. Ambedkar on the opportunity he got of introducing this Constitution Bill and I support his motion.....

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†Dr. F. S. Deshmukh (C.P. & Berar : General) : Sir. I am thankful to you for giving me this opportunity to express my views on the proposed Constitution. The time is limited and therefore my observations can only be of a very general nature. When consideration of the various clauses takes place I shall unfortunately not be present here. I am therefore all the more grateful to have these few minutes.

The speech delivered by my Honourable friend Dr. Ambedkar was an excellent performance and it was an impressive commentary on the Draft that has been presented. As is well known, he is an Advocate of repute and I think he ably argued what was before him. He would perhaps have shaped the Constitution differently if he had the scope to do so. In any case I think he admitted his difficulties fully when he said that after all you cannot alter the administration in a day. And if the present Constitution can be described in a nutshell it is one intended to fit in with the present administration.....

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‡**Shri S. Nagappa :** Mr. Vice-President, Sir, I join the previous speakers in congratulating the Honourable Chairman of the Drafting Committee and all members of it. They have taken care to see that all aspects of all problems and all the reports of the various committees have been consolidated and looked into.....

Sir, I am one of those who plead for a strong Centre, especially as we all know that we have won our freedom very recently. We require sufficient time to consolidate it and to retain it for all time to come. For another reason also the Centre has to be strong. We have been already divided in so many respects, communally and on religious grounds. Now let us not be divided on the basis of provinces. So, in order to unite all the provinces and to bring about more unity, it is in the country's interests as a whole to have a strong Centre.

Another reason why we should have a strong Centre I will mention presently. Some people say that we should have a strong Centre with a war mentality. I do not think we should have that mentality at all. We have been trained to be non-violent and truthful. These are our principles. When that is the case, there is no likelihood of the Centre having war mentality.

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*CAD, Vol. VII. 5th November 1948. p. 252

†*Ibid.*, p 250.

‡*Ibid.,* p.252

The Honourable Dr. Ambedkar, in introducing his report and the Draft Constitution, mentioned that the Constitution was federal in structure but unitary in character. I believe, Sir, especially at this stage we require such a Constitution. We were told that he has borrowed from the Government of India Act. When we find something good in it, we copy it. If we find something useful and suitable to us, to our custom and to our culture, in other constitutions, there is no harm in adopting it.

The minorities have been very well provided for in the Constitution. I am glad about it and the representatives who have been returned to this House to safeguard the interests of the minorities are also glad about it. For this we have to congratulate the majority community. We have to congratulate the majority community for conceding certain special privileges to the minorities.....

Sir, I once again thank the Honourable Dr. Ambedkar for having taken the trouble of drafting this Constitution. No doubt it is an elaborate task but he has done it so successfully and in such a short time.

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***Shri Arun Chandra Guha** (West Bengal : General) : Mr. Vice President, Sir..... Now to the Draft Constitution. I am afraid the Drafting Committee has gone beyond the terms. I am afraid the whole constitution that has been laid before us has gone beyond the main principles laid down by the Constituent Assembly. In the whole Draft Constitution we see no trace of Congress outlook, no trace of Gandhian social and political outlook. The learned Dr. Ambedkar in his long and learned speech has found no occasion to refer to Gandhiji or to the Congress. It is not surprising, because I feel the whole Constitution lacks in Congress ideal and Congress ideology particularly. When we are going to frame a constitution, it is not only a political structure that we are going to frame ; it is not only an administrative machinery that we are going to set up ; it is a machinery for the social and economic future of the nation.....

As for the Fundamental Rights, Dr. Ambedkar,—he is a learned professor and I acknowledge his learning and his ability and I think the Draft Constitution is mainly his handicraft—in his introductory speech, he has entered into a sort of metaphysical debate. He has introduced a new term ; I feel. Sir, there is no right in the world which is absolute. Every right carries with it some obligation ; without obligation there cannot be any right.....

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*CAD, Vol. VII, 4th November 1948. pp. 255-56.

Mr. Vice President (Dr. H. C. Mookherjee) **:** Before I call upon the next member to address the House, I have here forty slips of members who wish to speak. The matter is so urgent and so important that I should like everybody to have an opportunity of airing his views on the Draft Constitution. May I therefore appeal to the speakers not to exceed the time-limit which I have fixed as ten minutes ?

***Shri T. Prakasam :** (Madras : General): Sir, the Draft Constitution introduced by Dr. Ambedkar, the Honourable member in charge, is a very big document. The trouble taken by him and those who are associated with him must have been really very great. My Honourable friend Mr. T. T. Krishnamachari, when he was speaking, explained the handicap under which the Honourable Dr. Ambedkar had been labouring on account of' as many as live or six members of the Committee having dropped out and their places not having been filled up.....

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†**Dr. Joseph Alban D'souza** (Bombay : General) : Mr. Vice-President. never before in the annals of the history of this great nation, a history that goes back to thousands of years has there ever been, and probably will there ever be, greater need—nay. Sir, I may even say as much need—as at this most vital and momentous juncture when this Honourable House will be considering clause by clause, article by article, the Draft Constitution for a Free, Sovereign, Democratic Indian Republic—as much need for a quiet and sincere introspection into our individual consciences for the purpose of giving unto Caesar what unto Caesar is due as much need for a keen spirit of fraternal accommodation and co-operation whereby peace, harmony and goodwill will be the hall-marks of our varied existences individually as well as collectively ; as much need for a sufficient breadth of vision so that the complex and the difficult problems that we have to face in connection with this constitutional set-up may be examined primarily from the broader angle of the prosperity and progress of the country as a whole ; and lastly, as much need for an adequately generous and altruistic display of that well-known maxim "Love thy neighbour as Thyself", so that in the higher interests of the nation as a whole, sentimental, emotional, parochial particularisms may not be allowed unduly to influence the decisions of fundamental policy affecting the nation as a whole.

It has been admitted by several Members—particularly by every Member who has spoken before me—that the Draft Constitution is an excellent piece of work. May I say that it is a monumental piece of

*CAD, Vol. VII. 6th November 1948. p. 257.

† *Ibid.,* p. 260.

work put up by the Honourable Dr. Ambedkar and his Drafting Committee after months of laborious work which may definitely be qualified as the work of experts, work which is comparative, selective and efficient in character right from the beginning to the end.....

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The Honourable Shri K. Santhanam: .....The Drafting Committee have done a good job of work, but at the same time I am afraid they cannot escape two valid criticisms. The Committee, I think illegitimately, converted themselves into a Constitution Committee. They have taken upon them selves the responsibility of changing some vital provisions adopted in the open House by this Assembly.....

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†**Shri R. K. Sidhwa** (C.P. & Berar: General): Mr. Vice-President, Sir, as an able and competent lawyer, the Honourable Dr. Ambedkar has presented the Draft Constitution in this House in very lucid terms and he has impressed the outside world and also some of the Honourable Members here, but that is not the criterion for judging the constitution. This is a Constitution prepared for democracy in this country and Dr. Ambedkar has negatived the very idea of democracy by ignoring the local authorities and villages.....

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‡**Shri Jainarain Vyas** (Jodhpur) : *Mr. Vice-President, Sir, Dr. Ambedkar and his colleagues as also the typist and copists have to be thanked for the labour expended in preparing the Draft Constitution that is before us. This is a very big Draft and many things have been included in it.....

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#**Shri B. A. Mandloi** (C. P. and Berar: General): Mr. Vice-President, Sir, Dr. Ambedkar, Chairman of the Drafting Committee, in a very lucid speech explained the salient points of the Draft Constitution. In answer to the questions which are raised, namely, what is the form of the Government and what is the constitution of the country, he has pointed out that it is a federal type of Government with a strong Centre and a parliamentary system of Government with a single judiciary and uniformity in fundamental laws. He has also said that the emphasis has been placed on responsibility rather than on stability. It is strong enough in peace-time as well as in war-time. He has answered in his speech the various criticisms levelled against the Draft Constitution and

*CAD, Vol. VII, 6th November 1948. p. 262.

†*Ibid.. p.* 265.

‡*Ibid* p. 269.

#*Ibid,* p. 271.

I submit that his peech is a very lucid exposition of the Draft Constitution. The Draft Constitution prepared by the Drafting Committee is based on the reports of the various Committees, namely, the Union Power Committee, the Provincial Constitution Committee, the Advisory Committee and the Minority Committee. The Constituent Assembly in its very first session passed a Resolution with respect to the objective of our Constitution. That Resolution was moved by our respected leader, Pandit Jawaharlal Nehru, and was unanimously passed. We have to see that our Constitution is based on that fundamental Resolution—on that Objectives Resolution—in which the claims for justice, liberty, equality and fraternity had been granted. I submit that the Draft Constitution is a true reflection of the Objectives Resolution and therefore we can say that it has fulfilled our object.

There is another touch-stone with which to see whether the Draft Constitution answers the purpose of our country and our nation. That touch-stone is whether it would maintain our freedom, our independence and our democratic, secular Government. I am of opinion that, looking from that point of view also, this Draft Constitution serves our purpose.....

Sir, our Constitution is a Constitution which has been evolved by us from comparison of the various constitutions prevailing in the civilized countries all over the world. Various good points from all the constitutions have been taken with such modifications as are necessary in the interests of our country. If we faithfully and honestly work out the Constitution, I feel sure that our country would be prosperous, would be happy, would be strong, and we would be able to maintain our independence and not only maintain our independence but would be fulfilling the great mission of our departed leader, the Father of the Nation, who said that hereafter India would be in such a position as to free the other dependent countries and bring peace and prosperity in the whole world.

With these words. Sir, I submit that the Motion moved by Dr. Ambedkar be accepted by the House.

***Pandit Balkrishna Sharma** (United Provinces : General) **:** Mr. Vice-President, Sir, so many friends have come here and offered their congratulations to the Honourable the Law Minister who was in charge

*CAD, Vol. VII. 6th November 1948, pp. 272-73.

of this Draft Constitution that it will sound almost a tautology if I repeat the same sentiments again. But I think I will be failing in my duty if I do not offer my humble and respectful congratulations to the learned Law Minister for the very lucid manner in which he has presented this Draft Constitution for our consideration.

Many friends and critics have come here and levelled certain charges against our Constitution. The one charge which has been repeated by many friends is that ours is a very bulky Constitution. The Mover himself referred to the bulky nature of this document. When we really examine the clauses and articles of the various other Constitutions we come to the conclusion that ours is indeed a bulky Constitution. Sir, as you know, it contains 315 Articles, whereas the Constitution of British North America, that is Canada, contains only 147 Articles ; the Commonwealth of Australia Act contains about 128 Articles ; the Union of South Africa Act contains 153 Articles ; the Irish Constitution contains only 63 Articles ; the U. S. Constitution contains 28 Articles ; the U.S.S.R. Constitution 146 Articles ; the Swiss Federal Constitution 123 Articles; the German Reich Constitution contains 181 Articles, and the Japanese Constitution 103 Articles. A glance at these Constitutions shows that none of them contains more than 200 Articles whereas our Constitution contains 315 Articles.

Critics have tried to make a great deal out of this bulkiness of our Constitution. But we must not forget that ours is a big country of 330 millions and we are making a Constitution for almost one fifth of humanity. Therefore there should be no wonder that our Constitution is bulky.....

Sir, our is a country which has got its own problems. In no country in the world are there what we call the principalities—the States—and there should be no wonder that in order to bring all these various factors in line with the present day democratic principles, the draftsmen of our Constitution could not compress into a few Articles all that they wanted to do. Therefore the charge that has been levelled against our Constitution that it is bulky seems to me to be frivolous.....

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***Pandit Thakur Dass Bhargava** (East Punjab : General) : ..... Since my friends insist that I should speak in English, I bow to their

*CAD, Vol. VII, 6th November 1948, p. 275.

wishes. It is true that I am able to express myself with greater ease in Hindi but at the same time I do wish that I should be understood by all the members of the House.

Sir, I wish to join in the chorus of praise which has been showered in this House on the Drafting Committee, but I cannot do so without reservation. When I bear in mind the complaints made by some friends here, I do feel that the Drafting Committee has not done what we expected it to do. Some of the members were absent, some did not join, some did not fully apply their minds.....The real soul of India is not represented by this Constitution, and the autonomy of the villages is not fully delineated here and this camera (holding out the Draft Constitution) cannot give a true picture of what many people would like India to be. The Drafting Committee had not the mind of Gandhiji, had not the mind of those who think that India's teeming millions should be reflected through this camera. All the same, Sir, I cannot withhold my need of praise for the labour, the industry and the ability with which Dr. Ambedkar has dealt with this Constitution. I congratulate him on the speech that he made without necessarily concurring with him in all the sentiments that he expressed before this House.

I think, Sir, that the soul of this Constitution is contained in the Preamble and I am glad to express my sense of gratitude to Dr. Ambedkar for having added the word 'fraternity' to the Preamble. Now, Sir, I want to apply the touch-stone of this Preamble to the entire Constitution. If Justice, Liberty, Equality and Fraternity are to be found in this Constitution, if we can get this ideal through this Constitution, maintain that the Constitution is good.

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***Prof. Shibban Lal Saksena** (United Provinces : General) :..... Mr. Vice-President, we are today called upon to discuss the principles underlying our Draft Constitution. To begin with, I must congratulate the learned Doctor who has placed this motion before us. I have read the speech, which he delivered, several times and I think it is a masterpiece of lucid exposition of our Constitution. I certainly think that there could not have been an abler advocacy for the Draft Constitution.....

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*CAD, Vol. VII, 6th November 1948, p. 284.

*.....Lastly, Sir, I thank the Drafting Committee for providing us with a very fine Constitution. I also feel that the suggestions that I have made will be discussed at the amendment stage and finally find a place in the Constitution of our country. Sir, with these words, I commend the motion to the House.

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†**Shri Sarangdhar Das** (Orissa States): Mr. Vice-President, Sir, like all the previous speakers I congratulate the Drafting Committee, and especially its Chairman. Dr. Ambedkar for the hard work that they have put in. But at the same lime, there are certain things in his speech with which I cannot agree.....

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‡**Shri R. R. Diwakar** (Bombay : General) : Mr. Vice-President, Sir, Honourable Members who have spoken before me have covered enough ground and I think I should nut take much time of the House in going over the same ground. I would like to make a few points which from my point of view are very important when we are on the eve of giving a new Constitution to our country. One thing which I wish to make quite clear is that the Draft Constitution which is before us is really a monumental work and we all of us have already given congratulations to the Drafting Committee and its Chairman who is piloting it through this House. At the same time I would like to point out that the Drafting Committee has not only drafted the decisions of the Constituent Assembly but in my humble opinion it has gone far beyond mere drafting, I may say that it has reviewed the decisions, it has revised some of the decisions and possibly recast a number of them. It might be that it was inevitable to do so under the circumstances, but at the same time we, the Members of the Constituent Assembly, should be aware of this fact when we are considering the Draft and when we are thinking in terms of giving our amendments.....

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#**Mahboob Ali Baig Sahib Bahadur** (Madras : Muslim) : Mr. Vice-President, Sir, Dr. Ambedkar's analysis and review were remarkably lucid, masterly and exceedingly instructive and explanatory. One may not agree with his views but it is impossible to withhold praise for

*CAD, Vol. VII, 6th November 1948, p. 286.

†*Ibid.,* p. 286.

‡*Ibid.,* p. 291.

#*Ibid.,* 8th November 1948, p. 295.

his unique performance in delivering the speech he did while introducing his motion for the consideration of this House.....

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***Mr. Z. H. Lari :** .....In order to assess the value of the provisions, we have to bear in mind two things : firstly, certain admissions made by the Honourable Mover of the Resolution, I mean the Honourable Dr. Ambedkar, and secondly our experience of the working of democracy in the last fifteen months after the attainment of independence. When the House adopted resolutions which are the basis of the Draft Constitution, we had no such experience before us ; but now we have. The first admission that the Honourable Mover made was, and I will use his own words : "Democracy in India is only a top-dressing on Indian soil, which is essentially undemocratic".....".It is wiser not trust the legislatures to prescribe forms of administration. "With respect, I say he is mainly right.

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†**Mr. Hussain Imam :** .....I must say that I find the position of the President of the Drafting Committee unenviable. He has been attacked from the left for not having copied the Soviet Constitution, and from the right for not having gone back to the village panchayat as his unit. May I say that there is an element of confusion in some of our friends minds, when they want that the Constitution should provide for all the ills to which Indians are subject. It is not part of the Constitution that it should provide for cloth and food. A very revered Member of this Constituent Assembly regretted that this Constitution does not contain any provision for that purpose. My submission, Sir, is that the Constitution is based on the needs of a country to which it is applied. We have to see whether this Constitution does supply those essentials which are peculiar to our own circumstances.....

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‡**Begum Aizaz Rasul** (United Provinces: Muslim)**:** Sir, I congratulate the Honourable Dr. Ambedkar for his lucid and illuminating exposition of the draft Constitution. He and the Drafting Committee had no ordinary task to perform and they deserve our thanks.

Sir, I feel it a great privilege to be associated with the framing of the Constitution. I am aware of the solemnity of the occasion. After

*CAD, Vol. VII, 8th November 1948. p. 298.

†*Ibid.,* p. 302.

‡*Ibid.,* p. 305.

two centuries of slavery India has emerged from the darkness of bondage into the light of freedom, and today, on this historic occasion we are gathered here to draw up a Constitution for Free India which will give shape to our future destiny and carve out the social, political and economic status of the three hundred million people living in this vast sub-continent. We should therefore be fully aware of our responsibilities and set to this task with the point of view of how best to evolve a system best suited to the needs, requirements, culture and genius of the people living here.....

*.....A lot of criticism has been made about Dr. Ambedkar's remark regarding village polity. Sir, I entirely agree with him. Modern tendency is towards the right of the citizen as against any corporate body and village panchayats can be very autocratic.....

Sir, as a woman, I have very great satisfaction in the fact that no discrimination will be made on account of sex. It is in the fitness of things that such a provision should have been made in the Draft Constitution, and I am sure women can look forward to equality of opportunity under the new Court.

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***Dr. Monomohan Das** (West Bengal : General) : Mr. Vice-President, Sir, a few days have passed since the Draft Constitution was introduced on the floor of this house by our able Law Minister and Chairman of the Drafting Committee, Dr. Ambedkar. During these few days, the Draft Constitution has met with scorching criticism at the hands of different members of this House. With the exception of a very few members who questioned the very competency and authenticity of this House to pass the Draft Constitution, all the other members have been unanimous in their verdict. They have accepted the Draft Constitution with some alterations, additions and omissions, in some clauses and articles, as a fairly workable one to begin with. One very re-assuring feature that we find in the Constitution is the single citizenship. As the Chairman of the Drafting Committee has said, unlike the American Constitution, the Draft Constitution has given us a single citizenship, the citizenship of India. In these days of provincialism, when every province likes to thrive at the cost of its neighbouring ones,

*CAD, Vol. VII, 8th November 1948, p. 305.

†*Ibid.,* p. 307.

when we have forfeited the sympathy and goodwill of our neighbouring provinces, it is indeed a great re-assuring feature. I, as a member from "West Bengal, especially find myself elated to think that henceforth when this Constitution is passed, when this clause of single citizenship, with its equal rights and privileges all over India, is passed, the door of our neighbouring provinces will be open to us, so that our unfortunate brethern from the Eastern Pakistan, will find a breathing space in our neighbouring provinces.....

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***Shri V. I. Muniswamy Pillai** (Madras : General) **:** Mr. Vice-President, Sir, nobody in this august Assembly or outside can belittle the efforts and the services rendered by the Drafting Committee that has presented the Draft Constitution for the approval of this House. The future generation will feel great pride that this Drafting Coommittee has been able to digest the various constitutions that are obtaining in the world today and to cull from them such of the provisions as are needed for the elevation of this great sub-continent.....

With these few observation, I congratulate the President and members of the Drafting Committee for their great service in presenting the Draft Constitution to this Assembly and I commend the motion to this House for its acceptance.

†Shrimati Dakshayani Velayudhan (Madras : General): Mr. Vice-President, Sir, now that the draft is before us for general discussion, I request you to permit me to express my views on the same. The able and eloquent Chairman of the Drafting Committee has done his duty creditably within the scope of the general set-up of the new State of India. I feel that even if he wanted he could not have gone beyond the broad principles under which transfer of power took place and I therefore think that any criticism that is levelled against him is totally uncharitable and undeserved. Even if there is any blame—and I think there is—it should go only to those of us who are present here and who were sent for the purpose of framing a Constitution and on whom responsibilities were conferred by the dumb millions of this land who by virtue of their suffering for independence had great hopes when they sent us to this Assembly. But this does not mean that I have not got any criticism about the Draft.....

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*CAD, Vol. VII, 8th November 1948, p. 308.

†*Ibid.,* 310.

***Shri Deshbandhu Gupta** (Delhi) : Mr. President, I am sorry I cannot congratulate Dr. Ambedkar, the Chairman of the Drafting Committee who has received congratulations from different members of the House.....

.....This is what I wanted to say. As far as Delhi and other places are concerned. I would like to urge that we should take into consideration the fact that Delhi is the Capital and that as such it must be given a distinct status. I am one with Lata Deshbandhu Gupta on this question. But the small regions like Ajmer-Merwara, Coorg. Pantipiploda etc. should be merged in the provinces. It is no use making them centrally administered areas. This much I would like to submit to Doctor Sahib. He is a great scholar, and as such he should treat this country also as a land of wisdom. It is my appeal to him that he should give a place to the soul of India in this constitution.....

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†Giani Gurmukh Singh Musafir (East Punjab : Sikh) : Mr. President, like my Honourable friend Shri Deshbandhu Gupta. I cannot say that Dr. Ambedkar. President of the Drafting Committee does not deserve any congratulation. On several matters he deserves congratulation for several reasons and the Committee's labour in framing this first Constitution is certainly praiseworthy. In spite of that, if anybody discovers any error, he mentions it, according to the measure of his understanding

‡The Honourable Rev., J. J. M. Nichols-Roy (Assam : General): Mr. Vice-President, Sir. it is indeed a great privilege to associate myself in rendering tribute to Dr. Ambedkar and the other members of the Drafting Committee for the stupendous task they have undertaken to bring out this Draft Constitution. They all deserve our best thanks.....

#I must especially thank the Drafting Committee for accepting the draft for the creation of District Councils with autonomy in the hill districts in Assam which in the Sixth Schedule are called autonomous districts.

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$Mr. Mohammed Ismail Sahib (Madras : Muslim) : Mr. Vice-President..... Sir, it is indeed a great speech in which the Honourable Dr. Ambedkar has commended the consideration of the Draft Constitution

*CAD, Vol. VII. 8th November 1948. pp. 312-17.

†*Ibid.,* p. 324.

‡*Ibid.,* p. 327.

#*Ibid.,* p. 327.

$*Ibid.,* p. 330.

to the House. For lucidity, for persuasiveness, impressiveness and logic. I do not think that it could be beaten. All congratulations to him but this does not mean that one is agreeing with everything that is said by him in the speech.....

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***Shri Alladi Krishnaswami Ayyar** (Madras : General) : Sir, Before making a few remarks on the Draft Constitution, I should like lo join in the tribute of praise to the Honourable Dr. Ambedkar for the lucid and able manner in which lie has explained the principles of the Draft Constitution, though I owe it lo myself to say that I do not share the views of my Honourable Friend in his general condemnation of village communities in India. I must also express my emphatic dissent from his observation that Democracy in India is only a top-dressing on Indian soil.....

Before I proceed to make my remarks on the Draft Constitution, in view of certain observations of my honourable Friend Mr. T. T. Krishnamachari on the work of the Drafting Committee and the part taken by its members. I owe it to myself and to the House to explain my position. As a member of the Committee, in spite of my indifferent health, I look a fairly active part in several of its meetings prior to the publication of the Draft Constitution and sent up notes and suggestion for the consideration of my colleagues even when I was unable to attend its meetings. Subsequent to the publication of the draft for reasons of health, I could not take part in any of its deliberations and I can claim no credit for the suggestions as lo the modifications of the draft.....

†.....A brief survey of the draft Constitution must convince the Members that it is based upon sound principles of democratic government and contains within itself elements necessary for growth and expansion and is in line with the most advanced democratic Constitution of the world. It is well to remember that a Constitution is after all what we make of it. The best illustration of this is found in the Constitution of the United States which was received with the least enthusiasm when it was finally adopted by the different States but has stood the test of time and is regarded as a model Constitution by the rest of the democratic world.

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*CAD, Vol. VII. 8th November 1984, p. 334.

†*Ibid.,* p. 338.

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***Pandit Govind Malaviya :** Sir, before I say anything else, I should like to offer my cordial congratulations to ourselves and to the Drafting Committee and its versatile Chairman, our friend, Dr. Ambedkar, for the very excellent work which, they have done in giving us this Draft Constitution. If was a difficult problem which they had to face and they have tackled it most excellently. There may be many things in the Draft Constitution which one might have wished to be slightly different, but then that must be so about anything which can be produced anywhere.....

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†Shri R. Sankar (Travancore) : Sir, I must at the very out set congratulate the framers of the Draft Constitution on the very efficient manner in which they have executed their duty ; and I must particularly congratulate Dr. Ambedkar on the very lucid and able exposition of the principles of the Draft Constitution that he gave us by his brilliant speech. I do not propose to go into the details of the Draft Constitution but will content myself with dealing with one or two aspects of it. I think the most salient features of the Draft Constitution are a very strong Centre and rather weak but homogeneous Units. Dr. Ambedkar made a fervent appeal to the representatives of the States to take up such an attitude as to make it possible for all the States and the provinces to follow the same line, and in course of time to establish homogeneous units of the Federation without any distinction between the States and the provinces.....

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‡Shri M. Ananthasayanam Ayyangar (Madras : General) : Sir, objections of fundamental importance have been raised to the Draft Constitution as it has emerged from the Drafting Committee. I agree that there is nothing characteristic in this Constitution reflecting our ancient culture or our traditions. It is true that it is a patch work of some of the old constitutions of the west,—not even some of the modern constitutions of the west,—with a replica of the Government of India Act, 1935. It is true that they have been brought together and put into

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*CAD, Vol. VII, 8th November 1948, p. 340.

†*Ibid.,* 9th November 1948, p. 345.

‡ *Ibid.,* 352.

a whole. Dr. Ambedkar is not responsible for this ; we alone have been responsible for this character of the Constitution. We have not thought that we must imprint upon this a new characteristic which will bring back to our memories our ancient culture. It is more our fault than the fault of Dr. Ambedkar.....

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***Shri Rohini Kumar Chaudhari** (Assam : General) : Sir. I am deeply grateful to you for having given me this opportunity of participating in this debate of momentous importance but before I proceed. I should like lo pay my share of tribute lo the members of the Drafting Committee, its worthy President and above all, our Constitutional Adviser whose services to our poor Province. Assam, in the heyday of his youth are still remembered with affection and gratitude.....

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†**Shri L. Krishnaswami Bharathi** (Madras : General) : Mr. Vice-President,.....Dr. Ambedkar deserves the congatulations of this House for the learned and brilliant exposition of the Draft Constitution. No congratulations are due to him for the provisions in the Draft for the simple reason they are not his. Honourable members may remember that most of the clauses in the Draft Constitution were discussed, debated and decided upon in this House. Only a very few matters were left over for incorporation by the Drafting Committee. The House, however, would tender its thanks for his labours in putting them in order.....

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‡**Shri Vishwambhar Dayal Tripathi** (United Provinces : General) : Sir,.....To come directly to the subject-matter, it has been a formality with almost all the speakers to congratulate the Members of the Drafting Committee and its Chairman on the labour they have put in and also on the merits of the Constitution. I would not undergo that formality. There is no doubt, of course, that they have put in a good deal of labour and have placed before us a complete picture of a Constitution on the principles that we laid down in this Constituent Assembly. I am also aware that there is a good deal of merit in the draft Constitution. They

*CAD. Vol. VII. 8th November 1948, p. 354.

†*Ibid.,* p. 365.

‡*Ibid.,* p. 369.

have no doubt thoroughly studied the constitutions of different countries and have tried to make a choice out of them and to adapt those constitutions to the needs of this country. This is the chief merit of this Draft Constitution. In one word, it is an 'orthodox' Constitution.....

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***Shri S. V. Krishnamurthy Rao** (Mysore) : Mr. Vice-President, I thank you for giving me an opportunity to speak on the Draft Constitution. I join the various speakers who have paid a chorus of tribute to the Drafting Committee and its Chairman. Dr. Ambedkar.

An attempt has been made in this Draft Constitution to put in the best experience of the various democratic constitutions in the world, both unitary and federal. Of course no Constitution can be perfect and even our Constitution will have to undergo some modifications before it finally emerges from this House.....

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†Shri N. Madhava Rau (Orissa States)**. :** Mr. Vice-President, I had not intended to join in this discussion, but in the course of the debate, several remarks were made not only on the provisions of the Draft Constitution, but on the manner in which the Drafting Committee had done their work. There was criticism made on alleged faults of commission and omission of the Committee. Mr. Alladi Krishnaswami Iyer who spoke yesterday and Mr. Saadulla who will speak on behalf of the Committee a little later have cleared or will clear the misapprehensions on which this criticism is based. I felt that as a member of the Committee who participated in many of its meetings after I had joined the Committee I should also contribute my share in removing these misapprehensions if they exist among any large section of the House.

It is true that the Draft Constitution does not provide for all matters, or in just the way, that we would individually have liked. Honourable Members have pointed out for instance, that cow-slaughter is not prohibited according to the Constitution, Fundamental Rights are too profusely qualified, no reference is made to the Father of the Nation the National Flag or the National Anthem. And two of our Honourable friends have rightly observed that there is no mention even of God in the Draft Constitution. We have all our favourite ideas ; but however sound or precious they may be intrinsically in other contexts, they

*CAD, Vol. VII. 9th November 1948. p. 382.

†*Ibid* pp. 384-85.

cannot be imported into the Constitution unless they are germane to its purpose and are accepted by the Constituent Assembly.

Several speakers have criticised the Draft on the ground that it bears no impress of Gandhian philosophy and that while borrowing some of its provisions from alien sources, including the Government of India Act, 1935, it has not woven into its fabric any of the elements of ancient Indian polity.

Would our friends with Gandhian ideas tell us whether they are prepared to follow those ideas to their logical conclusions by dispensing for instance, with armed forces ; by doing away with legislative bodies. whose work, we have been told on good authority, Gandhiji considered a waste of time ; by scrapping our judicial system and substituting for it some simple and informal methods of administering justice ; by insisting that no Government servant or public worker should receive a salary exceeding Rs. 500 per month or whatever was the limit finally fixed ? I know some of the Congress leaders who sincerely believe that all this should and could be done. But we are speaking now of the Constitution as it was settled by the Constituent Assembly on the last occasion.....

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***Syed Muhammad Saadulla** (Assam : Muslim): Mr. Vice President, Sir.....The Drafting Committee is not self-existent. It was created by a Resolution of this House in August 1947, if I remember right. I personally was lying seriously ill at the lime and I could not attend that session. But, Sir, I find from the proceedings that as the Drafting Committee has been asked lo frame the Constitution within the four corners of the Objective Resolution, we will be met with the criticisms which we have heard now. Wise men even in those days had anticipated this and to the official Resolution an amendment was moved by the learned Premier of Bombay, Mr. Kher, wherein we are given this direction. I will read from his speech. He moved an amendment to the original Resolution for Constituting this Drafting Committee and there he said—"That the Drafting Committee should be charged with the duties of scrutinising the draft of the text of the Constitution of India prepared by the Constitutional Adviser giving effect to the decisions taken already in the Assembly and including all matters which are ancillary thereto or which have to be provided in such a Constitution

*CAD, Vol. VII. 9th November 1948. p. 388.

and to submit to the Assembly for consideration the text of the draft Constitution as revised by the Committee”.....

.....That was the amendment which was accepted by the House. Sir, after this amendment of the Honourable Mr. Kher which was accepted by the House, it does not lie in the mouth of the Members of the Constituent Assembly to say that we have gone far beyond our jurisdiction.....

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Mr. Vice-President : Let us proceed with the subject.

***Syed Muhammad Saadulla :** .....How can I tell Honourable Members that we toiled and moiled that we did our best, that we ransacked all the known Constitutions, ancient and recent from three different continents, lo produce a Draft which has been termed to be nothing but patch-work ? Bui those who are men of art, those who love crafts, know perfectly well that even by patch-work, beautiful patterns, very lovable designs can be created. I may claim that in spite of the deficiencies in our Draft we have tried to bring a complete picture, to give this Honourable House a document as full as possible which may form the basis of discussion in this House. The Drafting Committee never claimed this to be the last word on the Constitution, that its provisions are infallible or that these Articles cannot be changed. The very fact that this Draft has been placed before this august House for final acceptance shows that we are not committed lo one policy or the other. Where we had differed from the recommendations of Committees, or where who had the temerity to change a word here or a word there from the accepted principles of this august House, we have given sufficient indication in foot-notes, so that nothing can be put in surreptitiously there. The attention of the House has been drawn so that their ideas may be focussed on those items in which the Drafting Committee thought that they should deviate from the principles already accepted or from the recommendations of the Committees.

[*After Mr. Saadulla’s speech, the motion was put to vote as under.*—Ed.]

Mr. Vice-President : The question is :

> “That the Constituent Assembly do proceed to take into consideration the Draft Constitution of India settled by the Drafting Committee appointed in pursuance of the resolution of the Assembly dated the 29th day of August. 1947.”

The motion was adopted.

[*The Draft Constitution is appended herewith. Clause by clause discussion of the Draft Constitution followed. Dr. Ambedkar’s piloting of the Constitution may be seen in the next two parts of this Volume.—Ed.*]

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*CAD, Vol. VII. 9th November 1948, p. 389.

Annexure
to
Part I

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REGISTERED No. L. 8181

The Gazette of India

EXTRAORDINARY
PUBLISHED BY AUTHORITY

NEW DELHI, THURSDAY, FEBRUARY 26, 1948

CONSTITUENT ASSEMBLY OF INDIA.

New Delhi, the 26th February, 1948.

No. CA/99/Cons./47.—The Draft Constitution of India, as settled by the Drafting Committee of the Constituent Assembly, together with a letter from the Chairman of the Committee to the President of the Constituent Assembly, is hereby published for general information. The Draft will be taken into consideration at the next session of the Constituent Assembly:—

New Delhi, 21st February, 1948.

To

The Hon'ble The PRESIDENT of the

Constituent Assembly of India, New Delhi.

Dear Sir,

Introductory.—On behalf of the Drafting Committee appointed by the resolution of the Constituent Assembly of August 29, 1947, I submit herewith the Draft of the new Constitution of India as settled by the Committee.

Although I have been authorized to sign the Draft on behalf of the members of the Committee, I should make it clear that not all the members were present at all the meetings of the Committee. But at every meeting at which any decision was taken the necessary quorum was present and the decisions were either unanimous or by a majority of those present.

In preparing the Draft the Drafting Committee was of course expected to follow the decisions taken by the Constituent Assembly or by the various Committees appointed by the Constituent Assembly. This the Drafting Committee has endeavoured to do as far as possible. There were however some matters in respect of which the Drafting Committee felt it necessary to suggest certain changes. All such changes have been indicated in the Draft by underlining or side-lining the relevant portions. Care has also been taken by the Drafting Committee to insert a footnote explaining the reasons for every such change. I however think that, having regard to the importance of the matter, I should draw your attention and the attention of the Constituent Assembly to the most important of these changes.

2. Preamble.—The Objectives Resolution adopted by the Constituent Assembly in January, 1947, declares that India is to be a Sovereign Independent Republic. The Drafting Committee has adopted the phrase Sovereign Democratic Republic, because independence is usually implied in the word "Sovereign", so that there is hardly anything to be gained by adding the word "Independent", The question of the relationship between this Democratic Republic and the British Commonwealth of Nations remains to be decided subsequently.

The Committee has added a clause about fraternity in the preamble, although it does not occur in the Objectives Resolution. The Committee felt that the need for fraternal concord and goodwill in India was never greater than now and that this particular aim of the new Constitution should be emphasised by special mention in the preamble.

In other respects the Committee has tried to embody in the preamble the spirit and, as far as possible, the language of the Objectives Resolution.

Article 1

3. Description of India.—In article 1 of the Draft, India has been described as a Union of States. For uniformity the Committee has thought it desirable to describe the Units of the Union in the new Constitution as States, whether they are known at

present as Governors' Provinces, or Chief Commissioners' Provinces or Indian States. Some difference between the Units there will undoubtedly remain even in the new Constitution; and in order to mark this difference, the Committee has divided the States into three classes: those enumerated in Part I of the First Schedule, those enumerated in Part II, and those enumerated in Part III. These correspond respectively to the existing Governors' Provinces, Chief Commissioners' Provinces and Indian States.

It will be noticed that the Committee has used the term Union instead of Federation. Nothing much turns on the name, but the Committee has preferred to follow the language of the preamble to the British North America Act, 1867, and considered that there are advantages in describing India as a Union although its Constitution may be federal in structure.

Articles 5 & 6

4. Citizenship.—The Committee has given anxious and prolonged consideration to the question of citizenship of the Union. The Committee has thought it necessary that, in order to be a citizen of the Union at its inception, a person must have some kind of territorial connection with the Union whether by birth, or descent, or domicile. The Committee doubts whether it will be wise to admit as citizens those who, without any such connection with the territory of India, may be prepared to swear allegiance to the Union; for if other States were to copy such a provision, we might have within the Union a large number of persons who, though born and permanently resident therein, would owe allegiance to a foreign State. The Committee has, however, kept in view the requirements of the large number of displaced persons who have had to migrate to India within recent months, and has provided for them a specially easy mode of acquiring domicile and, thereby citizenship. What they have to do (assuming that they or either of their parents or any of their grand-parents were born in India or Pakistan) is—

(a) to declare before a District Magistrate in India that they desire to acquire a domicile in India, and

(b) to reside in India for at least a month before the declaration.

Articles 7 to 27

5. Fundamental Rights.—The Committee has attempted to make these rights and the limitations to which they must necessarily be subject as definite as possible, since the courts may have to pronounce upon them.

Article 59

6. Powers of the President of the Union.—The Committee has considered it desirable to provide that the President should have power to suspend, remit or commute death sentences passed in an Indian State, as in other Units, without prejudice to the powers of the Ruler.

Article 278

It will be remembered that the new Constitution empowers the Governor, in certain circumstances, to issue a proclamation suspending certain provisions of the Constitution; he can do so only for a period of two weeks and is required to report the matter to the President. The Committee has provided that upon receipt of the report the President may either revoke the proclamation or issue a fresh proclamation of his own, the effect of which will be to put the Central Executive in the place of the State Executive and the Central Legislature in the place of the State Legislature. In fact, the State concerned will become a centrally administered area for the duration of the proclamation. This replaces the "Section 93 regime" under the Act of 1935.

Article 60

7. Executive Power in respect of Concurrent List subjects.—Under the present Constitution, executive authority in respect of a Concurrent List subject vests in the Province subject in certain matters to the power of the Centre to give directions as to how the executive authority shall be exercised, vide Parts I & II of the Concurrent Legislative List in the Seventh Schedule to the Government of India Act, 1935. In the Draft Constitution the Committee has departed slightly from this plan and has provided that the executive power shall vest in the Province (now called the State) "save as expressly provided in this Constitution or by any law made by Parliament." The effect of this saving clause is that it will be open to the Union

Parliament under the new Constitution to confer executive power on Union authorities, or, if necessary, to empower Union authorities to give directions as to how executive power shall be exercised by State authorities. In making this provision the Committee has kept in view the principle that executive authority should for the most part be co-extensive with legislative power.

Article 67

8. Composition of the Council of States.—According to a decision taken by the Constituent Assembly, the Council of States was to contain not more than 25 members (out of a total not exceeding 250) to be elected from panels or constituencies on a functional basis. The panel system having hitherto proved unsatisfactory in the country from which it was copied (Ireland), the Committee has thought it best to provide for 15 members to be nominated by the President for their special knowledge or practical experience in Literature, Art, Science, etc. The Committee considers that no special representation for labour or commerce and industry among these nominations is necessary, in view of the fact that they are certain to be adequately represented in the elected element of the Union Parliament owing to adult suffrage.

Articles 63 and 151.

9. Duration of Union Parliament and of State Legislatures.—The Committee considers that under the parliamentary system, particularly at the beginning of a new Constitution on the basis of adult suffrage, a longer term than four years is desirable. New ministers require some time to acquaint themselves with the details of administration, and their last year of office is usually taken up in preparing for the next general election. With a four-year term they will not have enough time for any kind of planned administration.

Articles 107 and 200

10. Supreme Court and High Courts.—Following the practice prevailing in the United Kingdom and the United States of America, the Committee has proposed that in certain circumstances retired judges may be invited to serve in particular cases both in the Supreme Court and in the High Courts.

Article 131.

11. Mode of selection of Governors.—Some members of the Committee feel that the co-existence

of a Governor elected by the people and a Chief Minister responsible to the Legislature might lead to friction. The Committee has therefore suggested an alternative mode of appointing Governors: the Legislature should elect a panel of four persons (who need not be residents of the State) and the President of the Union should appoint one of the four as Governor.

Article 138.

12. Deputy Governors.—The Committee has not thought it necessary to make any provision for Deputy Governors, because a Deputy Governor will have no function to perform so long as the Governor is there. At the Centre, the position is different, because the Vice-President is also the ex-officio Chairman of the Council of States; but in most of the States there will be no Upper House and it will not be possible to give the Deputy Governor functions similar to those of the Vice-President. There is a provision in the Draft enabling the Legislature of the State (or the President) to make necessary arrangements for the discharge of the functions of the Governor in any unforeseen contingency.

Articles 212 to 214.

13. Centrally administered areas.—In accordance with a resolution of the Constituent Assembly, you, as the President, appointed a Committee of seven members for the purpose of recommending constitutional changes in the centrally administered areas namely, Delhi, Ajiner-Merwara, Coorg, Panth Piploda and the Andaman and Nicobar Islands. The Committee submitted its report on October 21, 1948.

The Committee's recommendations were briefly these:—

(1) Each of the provinces of Delhi, Ajmer-Merwara and Coorg should have a Lieutenant-Governor appointed by the President of India.

(2) Each of these provinces should normally be administered by a Council of ministers responsible to the Legislature.

(3) Each of these provinces should have an elected Legislature.

As regards Panth Piploda the Committee recommended that it should be added to Ajmer-Merwara and as regards the Andaman and Nicobar Islands

the Committee recommended that they should continue to be administered by the Government of India as at present, with such adjustments as might be deemed necessary: in other words, these Islands were to continue as a Chief Commissioner's province. The member representing Ajmer-Merwara and the member representing Coorg on this Committee appended a note to the Committee's report, in which they said that the special problems arising out of the smallness, geographical position and scantiness of resources of these areas might at no distant future necessitate the joining of each of these areas to a contiguous unit. They therefore urged that there should be a specific provision in the Constitution to make this possible after ascertaining the wishes of the people concerned.

So far as Delhi is concerned, it seems to the Committee that as the capital of India it can hardly be placed under a local administration. In the United States, Congress exercises exclusive legislative power in respect of the seat of the Government; so too in Australia. The Drafting Committee has, therefore, come to the conclusion that a more comprehensive plan than that recommended by the ad hoc Committee is desirable. Accordingly, the Drafting Committee has proposed that these central areas may be administered by the Government of India either through a Chief Commissioner or a Lieutenant-Governor or through the Governor or the Ruler of a neighbouring State. What is to be done in the case of a particular area is left to the President to prescribe by order; he will, of course, in this, as in other matters, act on the advice of responsible ministers. He may, if so advised, have a Lieutenant-Governor in Delhi; he may, again, if so advised, administer Coorg either through the Governor of Madras or through the Ruler of Mysore after ascertaining the wishes of the people of Coorg. He may also by order create a local Legislature or a Council of advisers with such constitution, powers and functions, in each case, as may be specified in the order. This seems to the Drafting Committee to be a flexible plan which can be adjusted to the diverse requirements of the areas concerned.

The Committee has also provided that Indian States (such as those of the Orissa group) which have ceded full and exclusive authority, jurisdic-

tion and powers to the Central Government may be administered exactly as if they were Centrally Administered Areas, i.e., through a Chief Commissioner, or Lieutenant-Governor, or through the Governor or the Ruler of a neighbouring State, according to the requirements of each case.

Articles 216 to 232.

14. Distribution of Legislative Powers.—For the most part, the Drafting Committee has made no change in the Legislative Lists as recommended by the Union Powers Committee and adopted by the Constituent Assembly, but I would draw attention to three matters in respect of which the Drafting Committee has made changes:

(a) The Committee has provided in effect that when a subject, which is normally in the State List, assumes national importance, then the Union Parliament may legislate upon it. To prevent any unwarranted encroachment upon State powers, it has been provided in the Draft that this can be done only if the Council of States, which may be said to represent the States as Units, passes a resolution to that effect by a two-thirds majority.

(b) The Committee has considered it desirable to put into the Concurrent List the whole subject of succession, instead of only succession to property other than agricultural land. Similarly, the Committee has put into the Concurrent List all the matters in respect of which parties are now governed by their personal law. This will facilitate the enactment of a uniform law for India in these matters.

(c) While putting land acquisition for the pur poses of the Union into the Union List and land acquisition for the purposes of a State into the State List, the Committee has provided that the principles on-which compensation for acquisition is to be determined shall in all cases be in the Concurrent List, in order that there may be some uniformity in this matter.

In addition, in view of the present abnormal circumstances which require Central control over essential supplies, the Committee has provided that for a term of five years from the commencement of the Constitution, trade and commerce in, and the production, supply and distribution of, certain essential commodities as also the relief and rehabilitation of displaced persons shall be on the same footing as Concurrent List subjects. In adopting this course, the Committee has followed the provisions of the India (Central Government and Legislature) Act, 1946.

Articles 247 to 269.

15. Financial provisions.—Broadly speaking, the Drafting Committee has incorporated in the Draft the recommendations of the Expert Finance Committee, except those relating to the distribution of revenues between the Centre and the States. In view of the unstable conditions which at present prevail in this field, the Drafting Committee has thought it best to retain the status quo in the matter of distribution of revenues for a period of five years, at the end of which a Finance Commission may review the situation.

Articles 281 to 283.

16. Services.—The Committee has refrained from inserting in the Constitution, any detailed provisions relating to the Services; the Committee considers that they should be regulated by Acts of the appropriate Legislature rather than by constitutional provisions, as the Committee feels that the future Legislatures in this country, as in other countries. may be trusted to deal fairly with the Services.

Articles 289 to 291.

17. Elections, Franchise, etc.—The Committee has not thought it necessary to incorporate in the Constitution electoral details including the delimitation of constituencies. These have been left to be provided by auxiliary legislation.

Article 304.

18. Amendment of the Constitution.—The Committee has inserted a provision giving a limited constituent power to the State Legislatures in respect of certain defined matters.

Articles 292, 294 and 305.

19. Safeguards for Minorities.—The Draft embodies the decisions of the Constituent Assembly and of the Advisory Committee in respect of the

reservation of seats in the Legislatures and of posts in the public services. Although these provisions do not extend to the Indian States, nevertheless, in the larger interests of India, the Indian States should adopt similar provisions for the minorities therein. The Drafting Committee has specially asked me to draw your attention to the importance of this matter.

First Schedule.

20. Linguistic Provinces.—I would invite special attention to Part I of the First Schedule and the footnote thereto. If Andhra or any other linguistic region is to be mentioned in this Schedule before the Constitution is finally adopted, steps will have to be taken immediately to make them into separate Governors' Provinces under section 290 of the Government of India Act, 1935, before the Draft Constitution is finally passed. Of course, the new Constitution itself contains provisions for the creation of new States, but this will be after the new Constitution comes into operation.

Fifth and Sixth Schedules

21. Scheduled Tribes, Scheduled Areas and Tribal Areas.—The Committee has embodied in the Schedules to the Constitution the recommendations of the Sub-Committees on these subjects.

22. A separate note recorded by Shri Alladi Krishnaswami Ayyar on certain points (not involving any question of principle) is appended to the Draft at his request.

23. I cannot transmit to you this Draft Constitution without placing on record the Committee's gratitude for the assistance the Committee has received in this difficult task from Sir B. N. Rau, the Constitutional Adviser, Shri S. N. Mukerjee, Joint Secretary and Draftsman, and the staff of the Constituent Assembly Secretariat.

Yours truly,

B. R. AMBEDKAR.

THE GAZETTE OF INDIA EXTRAORDINARY, FEB. 26,1948 137

DRAFT CONSTITUTION OF INDIA

Preamble.

WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a **SOVEREIGN DEMOCRATIC REPUBLIC*** and to secure to all its citizens:

JUSTICE, social, economic and political;

LIBERTY of thought, expression, belief, faith and worship;

EQUALITY of status and of opportunity; and to promote among them all

FRATERNITY assuring, the dignity of the individual and the unity of the Nation;

IN OUR CONSTITUENT ASSEMBLY this——————of——————(day of May, 1948 A.D.), do **HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION.**

*This follows the decision taken by the Constituent Assembly. The question of the relationship between this Democratic Republic and the British, Commonwealth of Nations remains to be decided subsequently.

PART I

The Union and its Territory and Jurisdiction

Name and territory of the Union.

*1. (1) India shall be a Union of States.

(2) The States shall mean the States for the time being specified in Parts I, II and III of the First Schedule.

(3) The territory of India shall comprise—

(a) the territories of the States;

(b) the territories for the time being specified in Part IV of the First Schedule; and

(c) such other territories as may be acquired.

Admission and establishment of new States.

2. Parliament may, from time to time, by law admit into the Union, or establish, new States on such terms and conditions as it thinks fit.

Formation of new States and alteration of areas, boundaries or names of existing States.

3. Parliament may by law—

(a) form a new State by separation of territory from a State or by uniting two or more States or parts of States;

(b) increase the area of any State;

(c) diminish the area of any State;

(d) alter the boundaries of any State;

(e) alter the name of any State:

Provided that no Bill for the purpose shall be introduced in either House of Parliament except by the Government of India and unless—

(a) either—

(i) a representation in that behalf has been made to the President by a majority of the representatives of the territory in the Legislature of the State from which the territory is to be separated or excluded; or

*The Committee considers that, following the language of the Preamble to the British North America Act, 1867, it would not be inappropriate to describe India as a Union although its Constitution may be federal in structure.

(ii) a resolution in that behalf has been passed by the Legislature of any State whose boundaries or name will be affected by the proposal to be contained in the Bill; and

(b) where the proposal contained in the Bill affects the boundaries or name of any State, other than a State for the time being specified in Part III of the First Schedule, "the views of the Legislature of the State both with respect to the proposal to introduce the Bill and with respect to the provisions thereof have been ascertained by the President; and where such proposal affects the boundaries or name of any State for the time being specified in Part III of the First Schedule, the previous consent of the State to the proposal has been obtained.

Law made under articles 2 and 3 to provide for the amendment of the First Schedule and incidental and consequential matters.

4. (1) Any law referred to in article 2 or article 3 of this Constitution shall contain such provisions for the amendment of the First Schedule as may be necessary to give effect to the provisions of the law and may also contain such incidental and consequential provisions as Parliament may deem necessary.

(2) No such law as aforesaid shall be deemed to be an amendment of this Constitution for the purposes of article 304.

*The Committee is of opinion that in the case of any State other than a State specified in Part III of the First Schedule, the previous consent of the State is not necessary and it would be enough if the views of the Legislature of the State were obtained by the President.

PART II

Citizenship

Citizenship at the date of commencement of the Constitution.

5. At the date of commencement of this Constitution—

(a) every person who or either of whose parents or any of whose grand-parents was born in the territory of India as defined in this Constitution and who has not made his permanent abode in any foreign State after the first day of April, 1947; and

(b) every person who or either of whose parents or any of whose grand-parents was born in India as defined in the Government of India Act, 1935 (as originally enacted), or in Burma, Ceylon or Malaya, and who has his domicile in the territory of India as defined in this Constitution,

shall be a citizen of India, provided that he has not acquired the citizenship of any foreign State before the date of commencement of this Constitution.

Explanation.—For the purposes of clause (b) of this article, a person shall be deemed to have his domicile in the territory of India—

(i) if he would have had his domicile in such territory under Part II of the Indian Succession Act, 1925, had the provisions of that Part been applicable to him, or

*(ii) if he has, before the date of commencement of this Constitution, deposited in the office of the District Magistrate a declaration in writing of his desire to acquire such domicile and has resided in the territory of India for at least one month before the date of the declaration.

Parliament to regulate the right of citizenship by law.

6. Parliament may, by law, make further provision regarding the acquisition and termination of citizenship and all other matters relating thereto.

*The Committee is of opinion that auxiliary action whether by legislation or otherwise may have to be taken before the commencement of this Constitution for the receipt of declarations, keeping of registers of such declarations and other incidental matters for the purpose of clause (ii) of the Explanation.

PART III

Fundamental Rights

GENERAL

Definition.

7. In this Part, unless the context otherwise requires, "the State" includes the Government and Parliament of India and the Government and the Legislature of each of the States and all local or other authorities within the territory of India.

Savings.

8. (1) All laws in force immediately before the commencement of this Constitution in the territory of India, in so far as they are inconsistent with the provisions of this Part, shall, to the extent of such inconsistency, be void.

(2) The State shall not make any law which takes away or abridges the rights conferred by this Part and any law made in contravention of this clause shall, to the extent of the contravention, be void:

*Provided that nothing in this clause shall prevent the State from making any law for the removal of any inequality, disparity, disadvantage or discrimination arising out of any existing law.

(3) In this article, the expression "law" includes any Ordinance, order, bye-law, rule, regulation, notification, custom or usage having the force of law in the territory of India or any part thereof.

Rights of Equality

Prohibition of discrimination on grounds of religion, race, caste or sex.

9. (1) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex or any of them.

In particular, no citizen shall, on grounds only of religion, race, caste, sex or any of them, be subject

*The proviso has been added in order to enable the State to make laws removing any existing discrimination. Such laws will necessarily be discriminatory in a sense, because they will operate only against those who hitherto enjoyed an undue advantage. It is obvious that laws of this character should not be prohibited.

to any disability, liability, restriction or condition with regard to—

(a) access to shops, public restaurants, hotels and places of public entertainment, or

(b) the use of wells, tanks, roads and places of public resort maintained wholly or partly out of the revenues of the State or dedicated to the use of the general public.

(2) Nothing in this article shall prevent the State from making any special provision for women and children.

Equality of opportunity in matters of public employment.

10. (1) There shall be equality of opportunity for all citizens in matters of employment under the State.

(2) No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth or any of them, be ineligible for any office under the State.

(3) Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any backward class of citizens who, in the opinion of the State, are not adequately represented in the services under the State.

(4) Nothing in this article shall affect the operation of any law which provides that the incumbent of an office in connection with the affairs of any religious or denominational institution or any member of the governing body thereof shall be a person professing a particular religion or belonging to a particular denomination.

Abolition of Untouchability.

11. "Untouchability" is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of "Uhtouchability" shall be an offence punishable in accordance with law.

Abolition of titles.

12. (1) No title shall be conferred by the State.

(2) No citizen of India shall accept any title from any foreign State.

(3) No person holding any office of profit or trust under the State shall, without the consent of the President, accept any present, emolument, title or office of any kind from or under any foreign State.

*The Committee is of opinion that before the words "class of citizens" the word "backward" should be inserted.

Protection of certain rights regarding freedom of speech, etc.

13. (1) Subject to the other provisions of this article, all citizens shall have the right—

(a) to freedom of speech and expression;

(b) to assemble peaceably and without arms;

(c) to form associations or unions;

(d) to move freely throughout the territory of India;

(e) to reside and settle in any part of the territory of India;

(f) to acquire, hold and dispose of property; and

(g) to practise any profession, or to carry on any occupation, trade or business.

(2) Nothing in sub-clause (a) of clause (1) of this article shall affect the operation of any existing law, or prevent the State from making any law, relating to libel, slander, defamation, sedition or any other matter which offends against decency or morality or undermines the authority or foundation of the State.

(3) Nothing in sub-clause (b) of the said clause shall affect the operation of any existing law, or prevent the State from making any law, imposing in the interests of public order restrictions on the exercise of the right conferred by the said sub-clause.

(4) Nothing in sub-clause (c) of the said clause shall affect the operation of any existing law, or prevent the State from making any law, imposing, in the interests of the general public, restrictions on the exercise of the right conferred by the said sub-clause.

(5) Nothing in sub-clauses (d), (e) and (f) of the said clause shall affect the operation of any existing law, or prevent the State from making any law, imposing restrictions on the exercise of any of the rights conferred by the said sub-clauses either in the interests of the general public or *for the protection of the interests of any aboriginal tribe.

(6) Nothing in sub-clause (g) of the said clause shall affect the operation of any existing law, or prevent the State from making any law, imposing in the interests of public order, morality or health,

*The Committee is of opinion that no protection to any minority group is necessary in this article.

restrictions on the exercise of the right conferred by the said sub-clause and in particular prescribing, or empowering any authority to prescribe, the professional or technical qualifications necessary for practising any profession or carrying on any occupation, trade or business.

Protection in respect of conviction of offence

14. (1) No person shall be convicted of any offence except for violation of a law in force at the time of the commission of the act charged as an offence, nor be subjected to a penalty greater than that which might have been inflicted under the law at the time of the commission of the offence.

(2) No person shall be punished for the same offence more than once.

(3) No person accused of any offence shall be compelled to be a witness against himself.

Protection of life and personal liberty and equality before law.

*15. No person shall be deprived of his life or personal liberty except according to procedure established by law, nor shall any person be denied equality before the law or the equal protection of the laws within the territory of India.

Freedom of trade, commerce and intercourse throughout the territory of India

**16. Subject to the provisions of article 244 of this Constitution and of any law made by Parliament, trade, commerce and intercourse throughout the territory of India shall be free.

*The Committee is of opinion that the word "liberty" should be qualified by the insertion of the word "persona" before it, for otherwise it might be construed very widely so as to include even the freedoms already dealt with in article 13.

The Committee has also substituted the expression "except according to procedure established by law" for the words "without due process of law" as the former is more specific (c.f. Art. XXXI of the Japanese Constitution, 1946). The corresponding provision in the Irish Consitution runs ; "No citizen shall be deprived of his personal liberty have in accordance with law".

The Committee is also of opinion that the words "or the equal protection of the laws" should be inserted after the words "equality before the law" as in section 1 of Article XIV of the U.S.A. Constitution (1865).

**The Committee has omitted the words "by and between the citizens" which occurred alter the words "trade, commerce and intercourse" in the provision as adopted by the Constituent Assembly. The qualifying words might necessitate elaborate inquiries at State frontiers as to the nationality of the consignor and consignee.

Prohibition of traffic in human beings and enforced labour

17. (1) Traffic in human beings and begar and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.

(2) Nothing in this article shall prevent the State from imposing compulsory service for public purposes. In imposing such service the State shall not make any discrimination on the ground of race, religion, caste or class.

Prohibition of employment of children in factories, etc.

18. No child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous employment.

Rights relating to Religion

Freedom of conscience and free profession, practice and propagation of religion.

19. (1) Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practise and propagate religion.

Explanation.—The wearing and carrying of kirpans shall be deemed to be included in the profession of the Sikh religion.

(2) Nothing in this article shall affect the operation of any existing law or preclude the State from making any law—

(a) regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice;

(b) for social welfare and reform or for throwing open Hindu religion institutions of a public character to any class or section of Hindus.

Freedom to manage religious affairs and to own, acquire and administer properties for religious or charitable purposes.

20. Every religious denomination or any section thereof shall have the right—

(a) to establish and maintain institutions for religious and charitable purposes;

(b) to manage its own affairs in matters of religion;

(c) to own and acquire movable and immovable property; and

(d) to administer such property in accordance with law

Freedom as to payment of taxes for promotion and maintenance of any particular religion or religious denomination.

21. No person may be compelled to pay any taxes, the proceeds of which are specifically appropriated in payment of expenses for the promotion or maintenance of any particular religion or religious denomination.

Freedom as to attendance at religious instruction or religious worship in certain educational institutions.

*22. (1) No religious instruction shall be provided by the State in any educational institution wholly maintained out of State funds:

Provided that nothing in this clause shall apply to an educational institution which is administered by the State but has been established under any endowment or trust which requires that religious instruction shall be imparted in such institution.

(2) No person attending any educational institution recognised by the State or receiving aid out of State funds shall be required to take part in any religious instruction that may be imparted in such institution or to attend any religious worship that may be conducted in such institution or in any premises attached thereto unless such person, or if such person is a minor, his guardian has given his consent thereto.

(3) Nothing in this article shall prevent any community or denomination from providing religious instruction for pupils of that community or denomination in an educational institution outside its working hours.

Cultural and Educational Rights

Protection of interests of minorities.

23. (1) Any section of the citizens residing in the territory of India or any part thereof having a distinct language, script and culture of its own shall have the right to conserve the same.

*This article follows the recommendation of the *ad hoc* Committee.

(2) No minority whether based on religion, community or language shall be discriminated against in regard to the admission of any person belonging to such minority into any educational institution maintained by the State.

(3) (a) All minorities whether based on religion, community or language shall have the right to establish and administer educational institutions of their choice.

(b) The State shall not, in granting aid to educational institutions, discriminate against any educational institution on the ground that it is under the management of a minority, whether based on religion, community or language.

Right to Property

Compulsory acquisition of property.

24. (1) No person shall be deprived of his property save by authority of law.

(2) No property, movable or immovable, including any interest in, or in any company owning, any commercial or industrial undertaking, shall be taken possession of or acquired for public purposes under any law authorising the taking of such possession or such acquisition, unless the law provides for the payment of compensation for the property taken possession of or acquired and either fixes the amount of the compensation, or specifies the principles on which, and the manner in which, the compensation is to be determined.

(3) Nothing in clause (2) of this article shall affect—

(a) the provisions of any existing law, or

(b) the provisions of any law which the State may hereafter make for the purpose of imposing or levying any tax or for the promotion of public health or the prevention of danger to life or property.

Right to Constitutional Remedies

Remedies for enforcement of rights conferred by this Part.

25, (1) The right to move the Supreme Court by appropriate proceedings for the enforcement of the rights conferred by this Part is guaranteed.

(2) The Supreme Court shall have power to issue directions or orders in the nature of the writs of

habeas corpus, mandamus, prohibition, quo warranto and certiorari, whichever may be appropriate, for the enforcement of any of the rights conferred by this Part.

(3) Parliament may by law empower any other court to exercise within the local limits of its jurisdiction all or any of the powers exercisable by the Supreme Court under clause (2) of this article.

(4) The rights guaranteed by this article shall not be suspended except as otherwise provided for by this Constitution.

Power to Parliament to modify the rights guaranteed in this Part in their application to Forces.

26. Parliament may by law determine to what extent any of the rights guaranteed in this Part shall in their application to the members of the Armed Forces or the Forces charged with the maintenance of public order be restricted or abrogated so as to ensure the proper discharge of their duties and the maintenance of discipline among them.

Legislation to give effect to the provisions of this Part.

27. Notwithstanding anything elsewhere contained in this Constitution, Parliament shall have, and the Legislature of a State for the time being specified in Part I or Part III of the First Schedule shall not have, power to make laws—

(a) with respect to any of the matters which under this Part are required to be provided for by legislation by Parliament, and

(b) for prescribing punishment for those acts which are declared to be offences under this Part;

and Parliament shall, as soon as may be after the commencement of this Constitution, make laws to provide for such matters and for prescribing punishment for such acts :

Provided that any law in force in the territory of India or in any part thereof with respect to any of the matters referred to in clause (a) of this article or providing for punishment for any act which is declared to be an offence under this Part shall continue in force therein until altered or repealed or amended by Parliament or other competent authority.

PART IV

Directive Principles of State Policy

Definition.

28. In this Part, unless the context otherwise requires, "the State" has the same meaning as in Part III of this Constitution.

Application of the principles set forth in this Part.

29. The provisions contained in this Part shall not be enforceable by any court, but the principles therein laid down are nevertheless fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws.

State to secure a social order for the promotion and welfare of the people.

30. The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life.

Certain principles of policy to be followed by the State.

31. The State shall, in particular, direct its policy towards securing—

(i) that the citizens, men and women equally, have the right to an adequate means of livelihood;

(ii) that the ownership and control of the material resources of the community are so distributed as best to subserve the common good;

(iii) that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment;

(iv) that there is equal pay for equal work for both men and women;

(v) that the strength and health of workers, men and women and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength;

(vi) that childhood and youth are protected against exploitation and against moral and material abandonment.

Right to work, to education and to public assistance in certain cases.

32. The State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in case of unemployment, old age, sickness, disablement, and other cases of undeserved want.

Provision for just and humane conditions of work and maternity relief.

33. The State shall make provision for securing just and humane conditions of work and for maternity relief.

Living wage, etc., for workers

34. The State shall endeavour to secure, by suitable legislation or economic organisation or in any other way, to all workers, industrial or otherwise, work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities.

Uniform civil code for the citizens.

35. The State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India.

Provision for free primary education.

36. Every citizen is entitled to free primary education and the State shall endeavour to provide, within a period of ten years from the commencement of this Constitution, for free and compulsory education for all children until they complete the age of fourteen years.

Promotion of educational and economic interests of Scheduled Castes Scheduled tribes and other weaker sections.

37. The State shall promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and the scheduled tribes, and shall protect them from social injustice and all forms of exploitation.

Duty of the State to raise the level of nutrition and the standard of living and to improve public health

38. The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties.

Protection, preservation and maintenance of monuments and places and objects of national importance.

39. It shall be the obligation of the State to protect every monument or place or object of artistic or historic interest, declared by Parliament by law to be of national importance, from spoliation, destruction, removal, disposal or export, as the case may be, and to preserve and maintain according to law made by Parliament all such monuments or places or objects.

Promotion of international peace and security.

40. The State shall promote international peace and security by the prescription of open, just and honourable relations between nations, by the firm establishment of the understandings of international law as the actual rule of conduct among governments and by the maintenance of justice and respect for treaty obligations in the dealings of organised people with one another.

PART V

The Union

CHAPTER I—The Executive

THE PRESIDENT AND VICE-PRESIDENT

The President of India.

41. There shall be a President of India.

Executive power of the Union.

42. (1) The executive power of the Union shall be vested in the President and may be exercised by him in accordance with the Constitution and the law.

(2) Without prejudice to the generality of the foregoing provision, the supreme command of the Defence Forces of India shall be vested in the President and the exercise thereof shall be regulated by law.

(3) Nothing in this article shall—

(a) be deemed to transfer to the President any functions conferred by any existing law on the Government of any State or other authority; or

(b) prevent Parliament from conferring by law functions on authorities other than the President.

Election of President.

43. The President shall be elected by the members of an electoral college consisting of—

(a) the members of both Houses of Parliament, and

(b) the elected members of the Legislatures of the States.

Manner of election of President.

44. (1) As far as practicable, there shall be uniformity in the scale of representation of the different States at the election of the President.

*(2) For the purpose of securing such uniformity the number of votes which each elected member of Parliament and of the Legislature of each State is entitled to cast at such election shall be determined in the following manner:— 5

(a) every elected member of the Legislature of a State shall have as many votes as there are multiples of one thousand in the quotient obtained by dividing the population of the State by the total number of elected members of the Legislature; 10

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*The method of calculation set out in clause (2) of article 44 may be illustrated as follows :—

Illustration to sub-clause (a) and (b) of clause (2) :—

(i) The population of Bombay is 20,849,840. Let us take the total number of elected members in the Legislative Assembly of Bombay to be 208 (*i.e.,* one member representing one lakh of the population). To obtain the number of votes which each such elected member will be entitled to east at the election of the President, we have first to divide 20,849,840 (which is the population) by 208 (which is the total number of elected members), and then to divide the quotient by 1,000. In this case, the quotient is 100239. The number of votes which each such member will be entitled to cast would be 100,239/1000 *i.e.*, 100 (disregarding the remainder 239 which is less than five hundred).

(ii) Again, the population of Bikaner is 1,292,938. Let us take the total number of elected members of the Legislature of Bikaner to be 130 (*i.e.,* one member representing roughly ten thousand of the population). Now, applying the aforesaid process, if we divide 1,292,938 (*i.e.*, the population) by 130 (*i.e.,* the -total number of elected members), the quotient is 9945. Therefore, the number of votes which each member of the Bikaner Legislature would be entitled to cast is 9945/1000 that is 10 (counting the remainder 945 which greater than five hundred as equivalent to 1000).

Illustration under sub-clause (c) of clause (2) :—

If the total number of votes assigned to the members of the Legislatures of the States in accordance with the above calculation be 74,940 and the total number of elected members of both the Houses of Parliament be 750, then to obtain the number of votes which each member of either House of Parliament will be entitled to cast at the election of the President, we should have to divide 74,940 by 750. Thus the number of votes which each -such member will be entitled to cast in the case would be $\frac{74,940}{750} = 99\frac{23}{25}$ i.e., 100 (the fraction $\frac{23}{25}$ which exceeds one-half being counted as one).

(b) if, after taking the said multiples of one thousand, the remainder is not less than five hundred, then the vote of each member referred to in sub-clause (a) of this clause shall be further increased by one;

(c) each elected member of either House of Parliament shall have such number of votes as may be obtained by dividing the total number of votes assigned to the members of the Legislatures of the States under sub-clauses (a) and (b) of this clause by the total number of such members, fractions exceeding one-half being counted as one and other fractions being disregarded.

(3) The election of the President shall be held in accordance with the system of proportional representation by means of the single transferable vote and the voting at such election shall be by secret ballot.

Explanation.—In this article, the expression "the Legislature of a State" means, where the Legislature is bicameral, the Lower House of the Legislature, and the expression "population" means the population as ascertained at the last preceding census.

Term of office of President.

45. The President shall hold office for a term of five years from the date on which he enters upon his office:

Provided that—

(a) the President may, by resignation under his hand addressed to the Chairman of the Council of States and the Speaker of the House of the People, resign his office;

(b) the President may, for violation of the Constitution, be removed from office by impeachment in the manner provided in article 50 of this Constitution;

(c) the President shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office

Eligibility for re-election.

46. A person who holds, or who has held, office as President shall be eligible for re-election to that office once, but only once.

Qualifications for election as President.

47. (1) No person shall be eligible for election as President unless he—

(a) is a citizen of India,

(b) has completed the age of thirty-five years, and

(c) is qualified for election as a member of the House of the People.

(2) A person shall not be eligible for election as President if he holds any office or position of emolument under the Government of India or the Government of any State or under any local or other authority subject to the control of any of the said Governments.

Explanation,—For the purposes of this clause a person shall not be deemed to hold any office or position of emolument by reason only that—

(a) he is a minister either for India or for any State for the time being specified in Part I of the First Schedule; or

(b) he is a minister for any State for the time being specified in Part III of the First Schedule, if he is responsible to the Legislature of the State, or, where there are two Houses of the Legislature of the State, to the Lower House of the Legislature, and if not less than three-fourths of the members of the Legislature or House, as the case may be, are elected.

Conditions of President's office

48. (1) The President shall not be a member either of parliament or of the Legislature of any State, and if a member of Parliament or of the Legislature of any State be elected President, he shall be deemed to have vacated his seat in Parliament or such Legislature, as the case may be, on the date on which he enters upon his office as President.

(2) The President shall not hold any other office or position of emolument.

(3) The President shall have an official residence and there shall be paid to the President such emoluments and allowances as may be determined by Parliament by law and, until provision in that behalf is so made, such emoluments and allowances as are specified in the Second Schedule.

(4) The emoluments and allowances of the President shall not be diminished during his term of office.

Affirmation or oath by the President or person acting as, or discharging the functions of the, President before entering office.

49. Every President and every person acting as President or discharging the functions of the President shall before entering upon his office make and subscribe in the presence of the Chief Justice of India an affirmation or oath in the following form, that is to say—

"I, A. B., do solemnly affirm (or swear) that I will faithfully execute the office of President (or discharge the functions of the President) of India and will to the best of my ability preserve, protect and defend the Constitution and the law and that I will devote myself to the service and well-being of the people of India."

Procedure for impeachment of the President.

50. (*1*) When a President is to be impeached for violation of the Constitution, the charge shall be preferred by either House of Parliament.

(2) No such charge shall be preferred unless—

(a) the proposal to prefer such charge is contained in a resolution which has been moved after a notice in writing signed by not less than thirty members of the House has been given of their intention to move the resolution, and

(b) such resolution has been supported, by not less than two-thirds of the total membership of the House.

(3) When a charge has been so preferred by either House of Parliament, the other House shall investigate the charge or cause the charge to be investigated and the President shall have the right to appear and to be represented at such investigation.

(4) If as a result of the investigation a resolution is passed, supported by not less than two-thirds of the total membership of the House by which the charge was investigated or caused to be investigated, declaring that the charge preferred against the President has been sustained, such resolution shall have the effect of removing the President from his office as from the date on which the resolution is so passed.

Time of holding elections to fill vacancies in the office of President and the term of office of persons elected to fill casual vacancies.

51. (1) An election to fill a vacancy caused by the expiration of the term of office of President shall be completed before the expiration of the term.

(2) An election to fill a vacancy in the office of President occurring by reason of his death, resignation or removal, or otherwise shall be held as soon as possible after, and in no case later than six months from, the date of occurrence of the vacancy; and the person elected to fill the vacancy shall be entitled to hold office for the full term of five years as provided in article 45 of this Constitution,

The Vice-President of India.

52. There shall be a Vice-President of India.

The Vice-President to be ex-officio Chairman of the Council of States.

53. The Vice-President shall be ex-officio Chairman of the Council of States and shall not hold any other office or position of emolument:

Provided that during any period when the Vice-President acts as President or discharges the functions of the President under article 54 of this Constitution, he shall not perform the duties of the office of Chairman of the Council of States.

The Vice-President to act as President or to discharge his functions during casual vacancies in the office, or the absence, of the President.

54. (1) In the event of the occurrence of any vacancy in the office of the President by reason of his death, resignation or removal, or otherwise, the Vice-President shall act as President until the date on which a new President elected in accordance with the provisions of this Chapter to fill such vacancy enters upon his office.

(2) When the President is unable to discharge his functions owing to absence, illness or any other cause, the Vice-President shall discharge his functions until the date on which the President resumes his duties.

(3) The Vice-President shall, during, and in respect of, the period while he is so acting as, or discharging the functions of the, President, have all the powers and immunities of the President.

Election of Vice-President

55. (1) The Vice-President shall be elected by the members of both Houses of Parliament assembled at a joint meeting in accordance with the system of

proportional representation by means of the single transferable vote and the voting at such election shall be by secret ballot.

(2) The Vice-President shall not be a member either of Parliament or of the Legislature of any State, and if a member of Parliament or of the Legislature of any State be elected Vice-President, he shall be deemed to have vacated his seat in Parliament or such Legislature, as the case may be, on the date on which he enters upon his office as Vice-President.

(3) No person shall be eligible for election as Vice-President unless he—

(a) is a citizen of India;

(b) has completed the age of thirty-five years; and

(c) is qualified for election as a member of the Council of States.

(4) A person shall not be eligible for election as Vice-President if he holds any office or position of emolument under the Government of India or the Government of any State or under any local or other authority subject to the control of any of the said Governments.

Explanation.—For the purposes of this clause, a person shall not be deemed to hold any office or position of emolument by reason only that—

(a) he is a minister either for India or for any State for the time being specified in Part I of the First Schedule; or

(b) he is a minister for any State for the time being specified in Part III of the First Schedule, if he is responsible to the Legislature of the State, or, where there are two Houses of the Legislature of the State, to the Lower House of such Legislature, and if not less than three-fourths of the members of such Legislature or House, as the case may be, are elected.

(5) An election to fill a vacancy caused by the expiration of the term of office of Vice-president shall be completed before the expiration of the term.

(6) An election to fill a vacancy in the office of Vice-President occurring by reason of his death, resignation or removal, or otherwise shall be held as soon as possible after the occurrence of the vacancy, and the person elected to fill such vacancy shall be entitled to hold office for the full term of five years as provided in article 56 of this Constitution.

Term of office of Vice-President.

56. The Vice-President shall hold office for a term of five years from the date on which he enters upon his office:

Provided that—

(a) a Vice-President may, by writing under his hand addressed to the President, resign his office;

(b) a Vice-President may be removed from his office for incapacity or want of confidence by a resolution of the Council of States passed by a majority of all the then members of the Council and agreed to by the House of the People; but no resolution for the purpose of this clause shall be moved unless at least fourteen days' notice has been given of the intention to move the resolution;

(c) a Vice-President shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office.

Power of Parliament to provide for the discharge of the functions of the Presdient in any other contingency.

57. Parliament may make such provision as it thinks fit for the discharge of the functions of the President in any contingency not provided for in this Chapter.

Matters relating to or connected with the election of a President or Vice-Presidont.

58. (1) All doubts and disputes arising out of or in connection with the election of a President or Vice-President shall be inquired into and decided by the Supreme Court whose decision shall be final.

(2) Subject to the provisions of this Constitution, Parliament may by law regulate any matter relating to or connected with the election of a President or Vice-President.

Power of President to grant pardons, etc., and to suspend, remit or commute sentences in certain cases.

59. (1) The President shall have the power to grant pardons, reprieves, respites or remissions of punishment or to suspend, remit or commute the sentence of any person convicted of any offence—

(a) in all cases where the punishment or sentence is by a Court Martial;

(b) in all cases where the punishment or sentence is for an offence under any law relating to a matter with respect to which Parliament has, and the Legislature of the State in which the offence is committed has not, power to make laws;

*(c) in all cases where the sentence is a sentence of death.

(2) Nothing in sub-clause (a) of clause (1) of this article shall affect the power conferred by law on any officer of the Armed Forces of India to suspend, remit or commute a sentence passed by a Court Martial.

(3) Nothing in sub-clause (c) of clause (1) of this article shall affect the power to suspend, remit or commute a sentence of death exercisable by the Governor or the Ruler of the State under any law for the time being in force.

Extent of executive power of the Union.

60. (1) Subject to the provisions of this Constitution, the executive power of the Union shall extend—

(a) to the matters with respect to which Parliament has power to make laws; and

(b) to the exercise of such rights, authority and jurisdiction as are exercisable by the Government of India by virtue of any treaty or agreement:

*The Committee is of opinion that the President should have power to suspend, remit or commute a death sentence passed in any State, without prejudice to the powers of the Governor or Ruler.

*Provided that the executive power referred to in sub-clause (a) of this clause shall not, save as expressly provided in this Constitution or in any law made by Parliament, extend in any State to matters with respect to which the Legislature of the State has also power to make laws.

(2) Until otherwise provided by Parliament, a State and any officer or authority of a State may, notwithstanding anything contained in this article, continue to exercise in matters with respect to which Parliament has power to make laws for that State such executive power or functions as the State or officer or authority thereof could exercise immediately before the commencement of this Constitution.

Council of Ministers

Council of ministers to aid and advise President.

61. (1) There shall be a Council of ministers with the Prime Minister at the head to aid and advise the President in the exercise of his functions.

(2) The question whether any, and if so what, advice was tendered by ministers to the President shall not be inquired into in any court.

Other provisions as to ministers.

62. (1) The Prime Minister shall be appointed by the President and the other ministers shall be appointed by the President on the advice of the Prime Minister.

(2) The ministers shall hold office during the pleasure of the President.

(3) The Council shall be collectively responsible to the House of the People.

(4) Before a minister enters upon his office, the President shall administer to him the oaths of office and of secrecy according to the forms set out for the purpose in the Third Schedule.

*The Committee has inserted this proviso on the view that the executive power in respect of Concurrent List subjects should' vest primarily in the State-concerned except as otherwise provided in the Constitution or in any law made by Parliament.

(5) A minister who, for any period of six consecutive months, is not a member of either House of Parliament shall at the expiration of that period cease to be a minister.

(6) The salaries and allowances of ministers shall be such as Parliament may from time to time by law determine and, until Parliament so determine, shall be as specified in the Second Schedule.

The Attorney-General for India

Attorney-General for India.

*63. (1) The President shall appoint a person, who is qualified to be appointed a judge of the Supreme Court, to be Attorney-General for India.

(2) It shall be the duty of the Attorney-General to give advice to the Government of India upon such legal matters and to perform such other duties of a legal character, as may from time to time be referred or assigned to him by the President, and to discharge the functions conferred on him by or under this Constitution or any other law for the time being in force.

(3) In the performance of his duties the Attorney-General shall have right of audience in all courts in the territory of India.

(4) The Attorney-General shall hold office during the pleasure of the President, and shall receive such remuneration as the President may determine.

Conduct of Government Business

Conduct of business of the Government of India.

64. (1) All executive action of the Government of India shall be expressed to be taken in the name of the President.

(2) Orders and other instruments made and executed in the name of the President shall be authenticated in such manner as may be specified

*The Committee has substituted the term "Attorney-General for India" for "Advocate-General for India" partly to distinguish him from the Provincial Advocates-General and partly to follow the terminology prevalent in other countries like the U.K. and the U.S.A.

in rules to be made by the President, and the validity of an order or instrument which is so authenticated shall not be called in question on the ground that it is not an order or instrument made or executed by the President.

Duties of Prime Minister as respects the furnishing of information to the President, etc.

65. It shall be the duty of the Prime Minister—

(a) to communicate to the President all decisions of the Council of ministers relating to the administration of the affairs of the Union and proposals for legislation;

(b) to furnish such information relating to the administration of the affairs of the Union and proposals for legislation as the President may call for; and

(c) if the President so requires, to submit for the consideration of the Council of ministers any matter on which a decision has been taken by a minister but which has not been considered by the Council.

CHAPTER II—Parliament

GENERAL

Constitution of Parliament.

66. There shall be a Parliament for the Union which shall consist of the President and two Houses to be known respectively as the Council of States and the House of the People.

Composition of Houses of Parliament.

67. (1) The Council of States shall consist of two hundred and fifty members of whom—

(a) fifteen members shall be nominated by the President in the manner provided in clause (2) of this article; and

(b) the remainder shall be representatives of the States:

Provided that the total number of representatives of the States for the time being specified in Part III of the First Schedule shall not exceed forty per cent of this remainder.

*(2) The members to be nominated by the President under sub-clause (a) of clause (1) of this article shall consist of persons having special knowledge or practical experience in respect of such matters as the following, namely,—

(a) literature, art, science and education;

(b) agriculture, fisheries and allied subjects;

(c) engineering and architecture;

(d) public administration and social services.

(3) The representatives of each State for the time being specified in Part I or Part III of the First Schedule in the Council of States shall—

(a) where the Legislature of the State has two Houses, be elected by the elected members of the Lower House;

(b) where the Legislature of the State has only one House, be elected by the elected members of that House; and

(c) where there is no -House of the Legislature for the State, be chosen in such manner as Parliament may by law prescribe.

(4) The representatives of the States for the time being specified in Part II of the First Schedule in the Council of States shall be chosen in such manner as Parliament may by law prescribe.

*The Committee is of opinion that not more than fifteen members should be nominated by the President to represent special interests in the Council of States and that no special representation for Labour or Commerce and Industry is necessary in view of adult suffrage. The Committee understands that the panel system of election hitherto in force under the Irish Constitution has proved very unsatisfactory in practice. In the absence of any other guidance in this matter the Committee has provided for nomination by the President in place of election, while retaining a certain measure of functional representation. Since the Committee has had to substitute nomination for election and as the Committee thinks that no special representation for Labour or Commerce and Industry is necessary, the Committee is of opinion that it would be enough to provide for fifteen nominated members.

(5) (a) Subject to the provisions of articles 292 and 293 of this Constitution, the House of the People shall consist of not more than five hundred representatives of the people of the territories of the States directly chosen by the voters.

(b) For the purpose of sub-clause (a), the States of India shall be divided, grouped or formed into territorial constituencies and the number of representatives to be allotted to each such constituency shall be so determined as to ensure that there shall be not less than one representative for every 750,000 of the population and not more than one representative for every 500,000 of the population:

Provided that the ratio of the total number of representatives of the States for the time being specified in Part III of the First Schedule to their total population shall not be in excess of the ratio of the total number of representatives of the States for the time being specified in Parts I and II of that Schedule to the total population of such States.

(c) The ratio between the number of members to be elected at any time for each territorial constituency and the population of that constituency as ascertained at the last preceding census shall, so far as practicable, be the same throughout India.

(6) The election to the House of the People shall he on the basis of adult suffrage; that is to say, every citizen who is not less than twenty-one years of age and is not otherwise disqualified under this Constitution or under any Act of Parliament on the ground of non-residence, unsoundness of mind, crime or corrupt or illegal practice shall be entitled to be registered as a voter at such elections.

(7) Parliament may, by law, provide for the representation in the House of the People of territories other than States.

(8) Upon the completion of each census the representation of the several States in the Council of States and of the several territorial constituencies in the House of the People shall, subject to the provisions of article 289 of this Constitution, be

readjusted by such authority, in such manner and with effect from such date as Parliament may, by law, determine.

(9) When States for the time being specified in Part III of the First Schedule are grouped together for the purpose of returning representatives to the Council of States, the entire group shall be deemed to be a single State for the purposes of this article.

Duration of Houses of Parliament.

68. (1) The Council of States shall not be subject to dissolution, but as nearly as possible one-third of the members thereof shall retire as soon as may be on the expiration of every second year in accordance with the provisions made in that behalf by Parliament by law.

(2) The House of the People, unless sooner dissolved, shall continue for *five years from the date appointed for its first meeting and no longer, and the expiration of the said period of *five years shall operate as the dissolution of the House:

Provided that the said period may, while a Proclamation of Emergency is in operation, be extended by the President for a period not exceeding one year at a time and not extending in any case beyond a period of six months after the Proclamation has ceased to operate.

Sessions of Parliament, prorogation and dissolution.

69. (1) The Houses of Parliament shall be summoned to meet twice at least in every year, and six months shall not intervene between their last sitting in one session and the date appointed for their first sitting in the next session.

(2) Subject to the provisions of this article, the President may from time to time—

(a) summon the Houses or either House of Parliament to meet at such time and place as he thinks fit;

*The Committee has inserted "five years" instead of "four years" as the life of the House of the People as it considers that under the Parliamentary system of Government the first year of a minister's term of office would generally be taken up in gaining knowledge of the work of administration and the last year would be taken up in preparing for the next general election, and there would thus be only two years left for effective work which would be too short a period for planned administration.

(b) prorogue the Houses;

(c) dissolve the House of the People.

Right of President to address and send messages to Houses.

70. (1) The President may address either House of Parliament or both Houses assembled together, and for that purpose require the attendance of members.

(2) The President may send messages to either House of Parliament, whether with respect to a Bill then pending in Parliament or otherwise, and a House to which any message is so sent shall with all convenient despatch consider any matter required by the message to be taken into consideration.

Special address by the President at the commencement of each session of Parliament and discussion in Parliament of matters referred to in the address.

71. (1) At the commencement of every session the President shall address both Houses of Parliament assembled together and inform Parliament of the causes of its summons.

(2) Provision shall be made by the rules regulating the procedure of either House for the allotment of time for discussion of the matters referred to in such address and for the precedence of such discussion over other business of the House.

Right of ministers and Attorney-General as respects Houses.

72. Every minister and the Attorney-General of India shall have the right to speak in, and otherwise to take part in the proceedings of, either House, any joint sitting of the Houses and any committee of Parliament of which he may be named a member, but shall not by virtue of this article be entitled to vote.

Officers of Parliament

The Chairman and Deputy Chairman of the Council of States.

73. (1) The Vice-President of India shall be ex-officio Chairman of the Council of States.

(2) The Council of States shall, as soon as may be, choose a member of the Council to be Deputy Chairman thereof, and so often as the office of Deputy Chairman becomes vacant the Council shall choose another member to be Deputy Chairman thereof.

Vacation and resignation of, and removal from the office of, Deputy Chairman.

74. A member holding office as Deputy Chairman of the Council of States—

(a) shall vacate his office if he ceases to be a member of the Council;

(b) may at any time, by writing under his hand addressed to the Chairman, resign his office; and

(c) may be removed from his office for incapacity or want of confidence by a resolution of the Council passed by a majority of all the then members of the Council:

Provided that no resolution for the purpose of clause (c) of this article shall be moved unless at least fourteen days' notice has been given of the intention to move the resolution.

Power of the Deputy Chairman or other persons to perform the duties of the office of, or to act as, Chairman.

75. (1) While the office of Chairman is vacant, or during any period when the Vice-President is acting as, or discharging the functions of the, President under article 54 of this Constitution, the duties of the office shall be performed by the Deputy Chairman, or if the office of Deputy Chairman is also vacant, by such member of the Council of States as the President may appoint for the purpose.

(2) During the absence of the Chairman from any sitting of the Council of States, the Deputy Chairman or, if he is also absent, such person as may be determined by the rules of procedure of the Council, or, if no such person is present, such other person as may be determined by the Council, shall act as Chairman.

The Speaker and Deputy Speaker of the House of the People.

76. The House of the People shall, as soon as may be, choose two members of the House to be respectively Speaker and Deputy Speaker thereof, and, so often as the office of Speaker or Deputy Speaker becomes vacant, the House shall choose another member to be Speaker or Deputy Speaker, as the case may be.

Vacation and resignation of, and removal from, the offices of Speaker and Deputy Speaker

77. A member holding office as Speaker or Deputy Speaker of the House of the People—

(a) shall vacate his office if he ceases to be a member of the House of the People;

(b) may at any time by writing under his hand addressed, if such member is the Speaker, to the Deputy Speaker, and if such member is the Deputy Speaker, to the Speaker, resign his office; and

(c) may be removed from his office for incapacity or want of confidence by a resolution of the House of the People passed by a majority of all the then members of the House:

Provided that no resolution for the purpose of clause (c) of this article shall be moved unless at least fourteen days' notice has been given of the intention to move the resolution:

Provided further that, whenever the House of the People is dissolved, the Speaker shall not vacate his office until immediately before the first meeting of the House of the People after the dissolution.

Power of the Deputy Speaker or other persons to performs the duties of the office of, or to act as, Speaker.

78. (1) While the office of Speaker is vacant, the duties of the office shall be performed by the Deputy Speaker, or if the office of Deputy Speaker is also vacant, by such member of the House of the People as the President may appoint for the purpose.

(2) During the absence of the Speaker from any sitting of the House of the People, the Deputy Speaker or, if he is also absent, such person as may be determined by the rules of procedure of the House, or, if no such person is present, such other person as may be determined by the House, shall act as Speaker.

Salaries and allowances of the Chairman and Deputy Chairman and the Speaker and the Deputy Speaker.

79. There shall be paid to the Chairman and the Deputy Chairman of the Council of States, and to the Speaker and the Deputy Speaker of the House of the People, such salaries and allowances as may be respectively fixed by Parliament by law, and, until provision in that behalf is so made, such salaries and allowances as are specified in the Second Schedule.

Conduct of Business

Voting in Houses; power of Houses to act notwithstanding vacancies and quorum

80. (1) Save as provided in this Constitution, all questions at any sitting or joint sitting of the Houses shall be determined by a majority of votes of the members present and voting, other than the Chairman or Speaker or person acting as such.

The Chairman or Speaker or person acting as such shall not vote in the first instance, but shall have

and exercise a casting vote in the case of an equality of votes.

(2) Either House of Parliament shall have power to act notwithstanding any vacancy in the membership thereof, and any proceedings in Parliament shall be valid notwithstanding that it is discovered subsequently that some person who was not entitled so to do sat or voted or otherwise took part in the proceedings.

(3) If at any time during a meeting of a House, less than one-sixth of the total number of members of the House are present, it shall be the duty of the Chairman or Speaker or person acting as such either to adjourn the House, or to suspend the meeting until at least one-sixth of the members are present.

Disqualifications of Members

Declaration by members.

81. Every member of either House of Parliament shall, before taking his seat, make and subscribe before the President, or some person appointed in that behalf by him, a declaration according to the form set out for the purpose in the Third Schedule.

Vacation of seats.

82. (1) No person shall be a member of both Housed of Parliament and provision shall be made by Parliament by law for the vacation by a person who is chosen a member of both Houses of his seat in one House or the other.

(2) If a member of either House of Parliament—

(a) becomes subject to any of the disqualifications mentioned in clause (1) of the next succeeding article; or

(b) resigns his seat by writing under his hand addressed to the Chairman or the Speaker, as the case may be,

his seat shall thereupon become vacant.

(3) If for a period of sixty days a member of either House of Parliament is without permission of the House absent from all meetings thereof, the House may declare his seat vacant:

Provided that in computing the said period of sixty days no account shall be taken of any period during which the House is prorogued or is adjourned for more than four consecutive days.

Disqualifications for membership.

83. (1) A person shall be disqualified for being chosen as, and for being, a member of either House of Parliament—

(a) if he holds any office of profit under the Government of India or the Government of any State other than an office declared by Parliament by law not to disqualify its holder;

(b) if he is of unsound mind and stands so declared by a competent court;

(c) if he is an undischarged insolvent;

*(d) if he is under any acknowledgment of allegiance or adherence to a foreign power, or is a subject or a citizen or entitled to the rights or privileges of a subject or a citizen of a foreign power; and

(e) if he is so disqualified by or under any law made by Parliament.

(2) For the purposes of this article a person shall not be deemed to hold an office of profit under the Government of India or the Government of any State by reason only that—

(a) he is a minister either for India or for any State for the time being specified in Part I of the First Schedule; or

(b) he is a minister for any State for the time being specified in Part III of the First Schedule, if he is responsible to the Legislature of the State, or where there are two Houses of the Legislature of the State, to the Lower House of such Legislature and if not less than three-fourths of the members of such Legislature or House, as the case may be, are elected.

Penalty for sitting and voting before making declaration under article 81 or when not qualified or when disqualified.

84. If a person sits or votes as a member of either House of Parliament before he has complied with the requirements of article 81 of this Constitution, or when he knows that he is not qualified, or that he is disqualified for membership thereof, or that he is prohibited from so doing by the provisions of any law made by Parliament, he shall be

* The Committee has inserted this sub-clause, following the provisions of Section 44 (i) of the Commonwealth of Australia Constitution Act.

liable in respect of each day on which he so sits or votes to a penalty of five hundred rupees to be recovered as a debt due to the Government of India.

Privileges and Immunities of Members

Privileges, etc. of members.

85. (1) Subject to the rules and standing orders regulating the procedure of Parliament, there shall be freedom of speech in Parliament.

(2) No member of Parliament shall be liable to any proceedings in any court in respect of anything said or any vote given by him in Parliament or any committee thereof, and no person shall be so liable in respect of the publication by or under the authority of either House of Parliament of any report, paper, votes or proceedings.

(3) In other respects, the privileges and immunities of members of the Houses shall be such as may from time to time be defined by Parliament by law, and, until so defined, shall be such as are enjoyed by the members of the House of Commons of the Parliament of the United Kingdom at the commencement of this Constitution.

(4) The provisions of clauses (1), (2) and (3) of this article shall apply in relation to persons who by virtue of this Constitution have the right to speak in, and otherwise take part in the proceedings of, a House of Parliament as they apply in relation to members of Parliament.

Salaries and allowances of members.

86. Members of either House of Parliament shall be entitled to receive such salaries and allowances as may from time to time be determined by Parliament by law and, until provision in that respect is so made, allowances at such rates and upon such conditions as were immediately before the date of commencement of this Constitution applicable in the case of members of the Legislature of the Dominion of India.

Legislative Procedure

Provisions as to Introduction and passing of Bills.

87. (1) Subject to the provisions of articles 89 and 97 of this Constitution with respect to Money Bills and other financial Bills, a Bill may originate in either House of Parliament.

(2) Subject to the provisions of articles 88 and 89 of this Constitution, a Bill shall not be deemed to have been passed by the Houses of Parliament unless it has been agreed to by both Houses, either without amendment or with such amendments only as are agreed to by both Houses.

(3) A Bill pending in Parliament shall not lapse by reason of the prorogation of the Houses.

(4) A Bill pending in the Council of States which has not been passed by the House of the People shall not lapse on a dissolution of the House of the People.

(5) A Bill which is pending in the House of the People or which having been passed by the House of the People is pending in the Council of States shall, subject to the provisions of article 88 of this Constitution, lapse on a dissolution of the House of the People.

Joint sitting of both Houses in Certain cases.

88. (1) If after a Bill has been passed by one House and transmitted to the other House—

(a) the Bill is rejected by the other House; or

(b) the Houses have finally disagreed as to the amendments to be made in the Bill; or

(c) more than six months elapse from the date of the reception of the Bill by the other House without the Bill being passed by it,

the President may, unless the Bill has lapsed by reason of a dissolution of the House of the People, notify to the Houses by message if they are sitting or by public notification if they are not sitting, his intention to summon them to meet in a joint sitting for the purpose of deliberating and voting on the Bill:

Provided that nothing in this clause shall apply to a Money Bill.

(2) In reckoning any such period of six months as is referred to in clause (1) of this article, no account shall be taken of any time during which both Houses are prorogued or adjourned for more than four days.

(3) Where the President has under clause (1) of this article notified his intention of summoning the Houses to meet in a joint sitting, neither House shall proceed further with the Bill, but the President may at any time after the date of his notification summon the Houses to meet in a joint sitting for the purpose specified in the notification and, if he does so, the Houses shall meet accordingly.

(4) If at the joint sitting of the two Houses the Bill with such amendments, if any, as are agreed to in joint sitting, is passed by a majority of the total number of members of both Houses present and voting, it shall be deemed for the purposes of this Constitution to have been passed by both Houses:

Provided that at a joint sitting—

(a) if the Bill, having been passed by one House, has not been passed by the other House with amendments and returned to the House in which it originated, no amendment shall be proposed to the Bill other than such amendments (if any) as are made necessary by the delay in the passage of the Bill;

(b) if the Bill has been so passed and returned, only such amendments as aforesaid shall be proposed to the Bill and such other amendments as are relevant to the matters with respect to which the Houses have not agreed;

and the decision of the person presiding as to the amendments which are admissible under this clause shall be final.

(5) A joint sitting may be held under this article and a Bill passed thereat, notwithstanding that a dissolution of the House of the People has intervened since the President notified his intention to summon the Houses to meet therein.

Special procedure in respect of Money Bills.

89. (1) A Money Bill shall not be introduced in the Council of States.

(2) After a Money Bill has been passed by the House of the People it shall be transmitted to the Council of States for its recommendations and the Council of States shall within a period of thirty days

from the date of its receipt of the Bill return the Bill to the House of the People with its recommendations and the House of the People may thereupon either accept or reject all or any of the recommendations of the Council of States.

(3) If the House of the People accepts any of the recommendations of the Council of States, the Money Bill shall be deemed to have been passed by both Houses with the amendments recommended by the Council of States and accepted by the House of the People.

(4) If the House of the People does not accept any of the recommendations of the Council of States, the Money Bill shall be deemed to have been passed by both Houses in the form in which it was passed by the House of the People without any of the amendments recommended by the Council of States.

(5) If a Money Bill passed by the House of the People and transmitted to the Council of States for its recommendations is not returned to the House of the People within the said period of thirty days, it shall be deemed to have been passed by both Houses at the expiration of the said period in the form in which it was passed by the House of the People.

Definition of "Money Bills"

90. (1) For the purposes of this Chapter, a Bill shall be deemed to be a Money Bill if it contains only provisions dealing with all or any of the following matters, namely:—

(a) the imposition, abolition, remission, alteration or regulation of any tax;

(b) the regulation of the borrowing of money or the giving of any guarantee by the Government of India, or the amendment of the law with respect to any financial obligations undertaken or to be undertaken by the Government of India;

(c) supply;

(d) the appropriation of the revenues of India;

(e) the declaring of any expenditure to be expenditure charged on the revenues of India or the increasing of the amount of any such expenditure;

(f) the receipt of money on account of the revenues of India or the custody or issue of such money or the audit of the accounts of the Government of India; or

(g) any matter incidental to any of the matters specified in items (a) to (f) of this clause.

(2) A Bill shall not be deemed to be a Money Bill by reason only that it provides for the imposition of fines or other pecuniary penalties, or for the demand or payment of fees for licences or fees for services rendered or by reason that it provides for the imposition, abolition, remission, alteration or regulation of any tax by any local authority or body for local purposes.

(3) If any question arises whether a Bill is a Money Bill or not, the decision of the Speaker of the House of the People thereon shall be final.

(4) There shall be endorsed on every Money Bill when it is transmitted to the Council of States under the last preceding article, and when it is presented to the President for assent under the next succeeding article, the certificate of the Speaker of the House of the People signed by him that it is a Money Bill.

Assent to Bills.

91. When a Bill has been passed by the Houses of Parliament, it shall be presented to the President, and the President shall declare either that he assents to the Bill, or that he withholds assent therefrom:

Provided that the President may, not later than six weeks after the presentation to him of a Bill for assent, return the Bill if it is not a Money Bill to the Houses with a message requesting that they will reconsider the Bill or any specified provision thereof, and, in particular, will consider the desirability of introducing any such amendments as he may recommend in his message, and the Houses shall reconsider the Bill accordingly.

Procedure in Financial Matters

Annual financial statement

92. (1) The President shall in respect of every financial year cause to be laid before both the Houses of Parliament a statement of the estimated receipts

and expenditure of the Government of India for that year, in this Part of this Constitution referred to as the "annual financial statement".

(2) The estimates of expenditure embodied in the annual financial statement shall show separately—

(a) the sums required to meet expenditure described by this Constitution as expenditure charged upon the revenues of India; and

(b) the sums required to meet other expenditure proposed to be made from the revenues of India,

and shall distinguish expenditure on revenue account from other expenditure.

(3) The following expenditure shall be expenditure charged on the revenues of India—

(a) the emoluments and allowances of the President and other expenditure relating to his office;

(b) the emoluments and allowances of the Chairman and the Deputy Chairman of the Council of States and the Speaker and the Deputy Speaker of the House of the People;

(c) debt charges for which the Government of India is liable including interest, sinking fund charges and redemption charges, and other expenditure relating to the raising of loans and the service and redemption of debt;

(d) (i) the salaries, allowances and pensions payable to ox in respect of judges of the Supreme Court;

(ii) the pensions payable to or in respect of judges of the Federal Court;

(iii) the pensions payable to or in respect of judges of any High Court which exercises or immediately before the commencement of this Constitution exercised jurisdiction within any area included in the States for the time being specified in Parts I and II of the First Schedule;

(e) any sums required to satisfy any judgment, decree or award of any court or arbitral tribunal; and

(f) any other expenditure declared by this Constitution or by Parliament by law to be so charged.

Procedure in Parliament with respect to estimates.

93. (1) So much of the estimates as relates to expenditure charged upon the revenues of India shall not be submitted to the vote of Parliament, but nothing in this clause shall be construed as preventing the discussion in either House of Parliament of any of these estimates.

(2) So much of the said estimates as relates to other expenditure shall be submitted in the form of demands for grants to the House of the People and the House of the People shall have power to assent, or to refuse to assent to any demand, or to assent to any demand subject to a reduction of the amount specified therein.

(3) No demand for a grant shall be made except on the recommendation of the President.

Authentication of schedule of authorised expenditure.

94. (1) The President shall authenticate by his signature a schedule specifying—

(a) the grants made by the House, of the People under the last preceding article;

(b) the several sums required to meet the expenditure charged on the revenues of India, but not exceeding in any case, the sum shown in the statement previously laid before Parliament.

(2) The schedule so authenticated shall be laid before the House of the People, but shall not be open to discussion or vote in Parliament.

(3) Subject to the provisions of the next two succeeding articles, no expenditure from the revenues of India shall be deemed to be duly authorised unless it is specified in the schedule so authenticated.

Supplementary statements of expenditure.

95. If in respect of any financial year further expenditure from the revenues of India becomes necessary over and above the expenditure theretofore authorised for that year, the President shall cause to be laid before both the Houses of Parliament a

supplementary statement showing the estimated amount of that expenditure, and the provisions of the preceding articles shall have effect in relation to that statement and that expenditure as they have effect in relation to the annual financial statement and the expenditure mentioned therein.

Excess grants.

*96. If in any financial year expenditure from the revenues of India has been incurred on any service for which the vote of the House of the People is necessary in excess of the amount granted for that service and for that year, a demand for the excess shall be presented to the House of the People and the provisions of articles 93 and 94 of this Constitution shall have effect in relation to such demand as they have effect in relation to a demand for a grant.

Special provisions as to financial Bills.

97. (1) A Bill or amendment making provision for any of the matters specified in items (a) to (f) of clause (1) of article 90 of this Constitution shall not be introduced or moved except on the recommendation of the President and a Bill making such provision shall not be introduced in the Council of States:

Provided that no recommendation shall be required under this clause for the moving of an amendment making provision for the reduction or abolition of any tax.

(2) A Bill or amendment shall not be deemed to make provision for any of the matters aforesaid by reason only that it provides for the imposition of fines or other pecuniary penalties, or for the demand or payment of fees for licences or fees for services Tendered or by reason that it provides for the imposition, abolition, remission, alteration or regulation of any tax by any local authority or body for local purposes.

(3) A Bill which, if enacted and brought into operation, would involve expenditure from the revenues of India shall not be passed by either House of Parliament unless the President has recommended to that House the consideration of the Bill.

*This article follows the recommendations of the Expert Committee on the Financial provisions of the Constitution.

Procedure Generally

Rules of procedure.

98. (1) Each House of Parliament may make rules for regulating', subject to the provisions of this Constitution, its procedure and the conduct of its business.

(2) Until rules are made under clause (1) of this article, the rules of procedure and standing orders in force immediately before the commencement of this Constitution with respect to the Legislature of the Dominion of India shall have effect in relation to Parliament subject to such modifications and adaptations as may be made therein by the Chairman of the Council of States or the Speaker of the House of the People, as the case may be.

(3) The President, after consultation with the Chairman of the Council of States and the Speaker of the House of the People, may make rules as to the procedure with respect to joint sittings of, and communications between, the two Houses.

(4) At a joint sitting of the two Houses the Speaker of the House of the People,* or in his absence such person as may be determined by rules of procedure made under clause (3) of this article, shall preside.

Language to be used in Parliament.

99. (1) In Parliament business shall be transacted in Hindi or English:

Provided that the Chairman of the Council of States or the Speaker of the House of the People, as the case may be, may permit any member who cannot adequately express himself in either language to address the House in his mother tongue.

(2) The Chairman of the Council of States or the Speaker of the House of the People may, whenever he thinks fit, make arrangements for making available in the Council of States or the House of the People, as the case may be, a summary in Hindi or English of the speech delivered by a member in any other language and such summary shall be included in the record of the proceedings of the House in which the speech has been delivered.

*The Committee is of opinion that the Speaker of the House of the People should preside at a joint sitting of the two Houses of Parliament as the House of the People is the more numerous body.

Restrictions on discussion in Parliament.

100. (1) No discussion shall take place in Parliament with respect to the conduct of any judge of the Supreme Court or a High Court in the discharge of his duties except upon a motion for presenting an address to the President praying for the removal of the judge as hereinafter provided.

(2) In this article the reference to a High Court shall be construed as including a reference to any court in a State for the time being specified in Part III of the First Schedule which is a High Court for any of the purposes of Chapter IV of this Part.

Courts not to inquire into proceedings of Parliament.

101. (1) The validity of any proceedings in Parliament shall not be called in question on the ground of any alleged irregularity of procedure.

(2) No officer or other member of Parliament in whom powers are vested by or under this Constitution for regulating procedure or the conduct of business, or for maintaining order, in Parliament shall be subject to the jurisdiction of any court in respect of the exercise by him of those powers.

CHAPTER III—Legislative Powers of the President

Power of President to promulgate Ordinances during recess of Parliament.

102. (1) If at any time, except when both Houses of Parliament are in session, the President is satisfied that circumstances exist which render it necessary for him to take immediate action, he may promulgate such Ordinances as the circumstances appear to him to require.

(2) An Ordinance promulgated under this article shall have the same force and effect as an Act of Parliament assented to by the President, but every such Ordinance—

(a) shall be laid before both Houses of Parliament and shall cease to operate at the expiration of six weeks from the reassembly of Parliament, or, if before the expiration of that period resolutions disapproving it are passed by both Houses, upon the passing of the second of those resolutions; and

(b) may be withdrawn at any time by the President.

Explanation:—Where the Houses of Parliament are summoned to re-assemble on different dates, the period of six weeks shall be reckoned from the later of those dates for the purposes of this clause.

(3) If and so far as an Ordinance under this article makes any provision which Parliament would not under this Constitution be competent to enact, it shall be void.

CHAPTER IV—The Federal Judicature

Establishment and constitution of Supreme Court.

103. (1) There shall be a Supreme Court of India consisting of a Chief Justice of India and such number of other judges not being less than *seven as Parliament may by law prescribe.

(2) Every judge of the Supreme Court shall be appointed by the President by warrant under his hand and seal after consultation with such of the judges of the Supreme Court and of the High Courts in the States as may be necessary for the purpose and shall hold office until he attains the age of sixty-five years:

Provided that in the case of appointment of a judge, other than the Chief Justice, the Chief Justice of India shall always be consulted:

Provided further that—

(a) a judge may, by writing under his hand addressed to the President, resign his office;

(b) a judge may be removed from his office in the manner provided in clause (4).

(3) A person shall not be qualified for appointment as a judge of the Supreme Court unless he is a citizen of India and—

(a) has been for at least five years a judge of a High Court or of two or more such courts in succession; or

* The Committee considers that seven judges would in the beginning be sufficient and Parliament might, by law, afterwards increase the number.

(b) has been for at least ten years an advocate of a High Court or of two or more such courts in succession.

Explanation I:—In this clause 'High Court' means a High Court which exercises, or which before the commencement of this Constitution exercised, jurisdiction in any part of the territory of India.

Explanation II:—In computing for the purpose of this clause the period during which a person has been an advocate, any period during which a person held judicial office, after he became an advocate, shall be included.

(4) A judge of the Supreme Court shall not be removed from his office except by an order of the President passed after an address supported by not less than two-thirds of the members present and voting has been presented to the President by both Houses of Parliament in the same session for such removal on the ground of proved misbehaviour or incapacity.

(5) Parliament may by law regulate the procedure for, the presentation of an address and for the investigation and proof of the misbehaviour or incapacity of a judge under the last preceding clause.

(6) Every person appointed to be a judge of the Supreme Court shall, before he enters upon his office, make and subscribe before the President or some person appointed in that behalf by him a declaration according to the form set out for the purpose in the Third Schedule.

(7) No person who has held office as a judge of the Supreme Court shall plead or act in any court or before any authority within the territory of India.

Salaries etc. of judges.

104. The judges of the Supreme Court shall be entitled to such salaries and allowances, and to such rights in respect of leave and pensions, as may from time to time be fixed by or under law made by Parliament, and until they are so fixed shall be entitled to such salaries, allowances and rights in respect of leave of absence or pension as are specified in the Second Schedule:

Provided that neither the salary of a judge nor his rights in respect of leave of absence or pension shall be varied to his disadvantage after his appointment.

Appointment of acting Chief Justice.

105. When the office of Chief Justice of India is vacant or when the Chief Justice is, by reason of absence or otherwise, unable to perform the duties of his office, the duties of the office shall be performed by such one of the other judges of the court as the President may appoint for the purpose.

Appointment of ad hoc judges.

106. (1) If at any time there should not be a quorum of the judges of the Supreme Court available to hold or continue any session of the court, the Chief Justice may, after consultation with the Chief Justice of the High Court concerned, request in writing the attendance at the sittings of the court, as an ad hoc judge, for such period as may be necessary, of a judge of a High Court to be nominated by the Chief Justice of India.

(2) It shall be the duty of the judge, who has been so nominated, in priority to other duties of his office, to attend the sittings of the Supreme Court at the time and for the period for which his attendance is required, and while so attending he shall have all the jurisdiction, powers and privileges, and shall discharge the duties, of a judge of the Supreme Court.

Attendance of retired Judges at settings of the Supreme court.

*107. Notwithstanding anything contained in this Chapter, the Chief Justice of India may at any time, subject to the provisions of this article, request any person who has held the of a of a judge of the Supreme Court or of the Federal Court to sit and act as a judge of the Supreme Court, and every such person so requested shall, while so sitting and acting, have all the jurisdiction, powers and privileges of, but shall not otherwise be deemed to be, a judge of that court:

Provided that nothing in this article shall be deemed to require any such person as aforesaid to sit and act as a judge of that court unless he consents so to do.

*The employment of retired judges follows the practice in the United Kingdom and in the United States of America.

Seat of Supreme Court.

108. The Supreme Court shall be a court of record and shall sit in Delhi and at such other place or places, if any, as the Chief Justice may, with the approval of the President, from time to time, appoint.

Original jurisdiction of the Supreme Court.

109. Subject to the provisions of this Constitution, the Supreme Court shall, to the exclusion of any other Court, have original jurisdiction in any dispute—

(a) between the Government of India and one or more States, or

(b) between the Government of India and any State or States on one side and one or more. other States on the other; or

(c) between two or more States,

if in so far as the dispute involves any question (whether of law or fact) on which the existence or extent of a legal right depends:

Provided that the said jurisdiction shall not extend to—

(i) a dispute to which a State for the time being specified in Part III of the First Schedule is a party, if the dispute arises out of any provision of a treaty, agreement, engagement, sanad or other similar instrument which was entered into or executed before the date of commencement of this Constition and has, or has been, continued in operation after that date;

(ii) a dispute to which any State is a party, if the dispute arises out of any provision of a treaty, agreement, engagement, sanad or other similar instrument which provides that the said jurisdiction shall not extend to such a dispute.

Appellate jurisdiction of Supreme Court in appeals from High Courts in States in certain cases.

110. (1) An appeal shall lie to the Supreme Court from any judgment, decree or final order of a High Court in a State, whether in a civil, criminal or other proceeding, if the High Court certifies that the case involves a substantial question of law as to the interpretation of this Constitution.

(2) "Where the High Court has refused to give such a certificate, the Supreme Court may, if it is satisfied that the case involves a substantial question of law as to the interpretation of this Constitution, grant special leave to appeal from such judgment, decree or final order.

(3) Where such a certificate is given, or such leave is granted, any party in the case may appeal to the Supreme Court not only on the ground that any such question as aforesaid has been wrongly decided, but also on any other ground.

Explanation.—For the purposes of this article, the expression "final order" includes an order deciding an issue which, if decided in favour of the appellant, would be sufficient for the final disposal of the case.

Appellate jurisdiction of Supreme Court in appeals from High Courts in the territory of India except the States for the time being specified in Part III of the First Schedule in other cases.

111. (1) An appeal shall lie to the Supreme Court from a judgment, decree or final order in a civil proceeding of a High Court in the territory of India except the States for the time being specified in Part III of the First Schedule, if the High Court certifies—

(a) that the amount or value of the subject-matter of the dispute in the court of first instance and still in dispute on appeal was and is not less than twenty thousand rupees; or

(b) that the judgment, decree or final order involves directly or indirectly some claim or question respecting property of the like amount or value; or

(c) that the case is a fit one for appeal to the Supreme Court;

and, where the judgment, decree or final order appealed from affirms the decision of the court immediately below, in any case other than one referred to in clause (c), if the High Court further certifies that the appeal involves some substantial question of law.

(2) Notwithstanding anything contained in article 110 of this Constitution, any party appealing to the Supreme Court under clause (1) of this article may

urge as one of the grounds in such appeal that the case involves a substantial question of law as to the interpretation of this Constitution which has been wrongly decided.

Special leave to appeal by the Supreme Court in certain other cases.

112. The Supreme Court may, in its discretion, grant special leave to appeal from any judgment, decree or final order in any cause or matter, passed or made by any court or tribunal in the territory of India except the States for the time being specified in Part III of the First Schedule, in cases where the provisions of article 110 or article 111 of this Constitution do not apply.

Reference to the Supreme Court by High Courts in States for the time being specified in Part III of the First Schedule in certain cases.

113. (1) If in the course of any civil, criminal or other proceeding in a High Court in any State for the time being specified in Part III of the First Schedule, any question as to the applicability or interpretation of any law of Parliament or of the Legislature of any State other than such State, which is material for the determination of any issue in such proceeding, arises, the High Court may, either of its own motion or on the application of any of the parties, draw up a statement of the case with particular reference to such question with its own opinion thereon and refer such question to the Supreme Court for opinion.

(2) The Supreme Court may, where any such High Court refuses to state a case under clause (1) of this article, require a case to be so stated.

(3) When a case is so stated either under clause (1) or under clause (2) of this article, the High Court shall stay all proceedings until the opinion of the Supreme Court is received.

(4) The Supreme Court shall, after giving the parties an opportunity of being heard, decide the question so referred, and shall cause a copy of its opinion to be transmitted to the High Court and such High Court shall on receipt thereof proceed to dispose of the case in conformity with the opinion of the Supreme Court.

(5) The Supreme Court may at any stage return any case stated under this article in order that further facts may be stated therein.

Enlargement of the jurisdiction of the Supreme Court.

114. (1) The Supreme Court shall have such further jurisdiction and powers with respect to any of the matters in the Union List as Parliament may by law confer.

(2) The Supreme Court shall have such further jurisdiction and powers with respect to any matter as the Government of India and any State may by special agreement confer, if Parliament by law provides for the exercise of such jurisdiction and powers by the Supreme Court.

Conferment on the Supreme Court of powers to issue certain writs.

115. Parliament may, by law, confer on the Supreme Court power to issue directions or orders in the nature of the writs of habeas corpus, mandamus, prohibition, quo warranto and certiorari, or any of them, for any purposes other than those mentioned in clause (2) of article 25 (which relates to the enforcement of fundamental rights) of this Constitution.

Ancillary powers of Supreme Court

116. Parliament may by law make provision for conferring upon the Supreme Court such supplemental powers not inconsistent with any of the provisions of this Constitution as may appear to be necessary or desirable for the purpose of enabling the court more effectively to exercise the jurisdiction conferred upon it by or under this Constitution.

Law declared by Supreme Court to be binding on all courts.

117. The law declared by the Supreme Court shall be binding on all courts within the territory of India.

Enforcement of decrees and orders of Supreme Court and orders as to discovery, etc.

118. (1) The Supreme Court in the exercise of its jurisdiction may pass such decree or make such order as is necessary for doing complete justice in any cause or matter pending before it, and any decree so passed or order so made shall be enforceable throughout the territory of India in such manner as may be prescribed by or under any law made by Parliament.

(2) Subject to the provisions of any law made in this behalf by Parliament the Supreme Court shall, as respects the whole of the territory of India, have all and every power to make any order for the purpose of securing the attendance of any person, the

discovery or production of any documents, or the investigation or punishment of any contempt of itself.

Power of President to consult Supreme Court.

119. (1) If at any time it appears to the President that a question of law or fact has arisen, or is likely to arise, which is of such a nature and such public importance that it is expedient to obtain the opinion of the Supreme Court upon it, he may refer the question to that court for consideration and the court may, after such hearing as it thinks fit, report to the President its opinion thereon.

(2) The President may, notwithstanding anything contained in clause (i) of the proviso to article 109 of this Constitution, refer a dispute of the kind mentioned in the said clause to the Supreme Court for decision, and the Supreme Court shall thereupon, after giving the parties an opportunity of being heard, decide the same and report the fact to the President.

Civil and judicial authorities to act in aid of the Supreme Court.

120. All authorities, civil and judicial, in the territory of India shall act in aid of the Supreme Court.

Rules of Court, etc.

*121. (1) Subject to the provisions of any law made by Parliament, the Supreme Court may from time to time, with the approval of the President,

*In the Supreme Court of the United States of America all the judges of the Court are entitled to participate in the hearing of every matter, and the Court never sits in divisions. The judges of that Court attach the greatest importance to this practice. The Committee is of opinion that this practice should be followed in India at least in two classes of cases, namely, those which involve questions of interpretation of the Constitution and those which are referred to the Supreme Court for opinion by the President. Whether the same practice should not be extended to other classes of cases is a matter which Parliament may regulate by law.

Item (b) giving the Court power to make rules for regulating the time to be allowed to advocates to make their submissions to the Court has also been inserted in the article. This follows the practice prevalent in the Supreme Court of the United States, where the advocates are normally allowed only one hour to argue each case, the rest of their submissions being in writing. (One member of the Committee, Shri Alladi Krishnaswami Ayyar, considers it unnecessary expressly to mention this power in this article, because in his view the position of the Supreme Court in India, in respect of its general appellate functions, is different from that of the Supreme Court of the United States.)

make rules for regulating generally the practice and procedure of the Court including—

(a) rules as to the persons practising before the court,

(b) rules as to the procedure for hearing appeals and other matters including the time within which appeals to the Court are to be entered and the time to be allowed to advocates appearing before the court to make their submissions in respect thereof,

(c) rules as to the costs of and incidental to any proceedings in the court and as to the fees to be charged in respect of proceedings therein,

(d) rules as to the granting of bail,

(e) rules as to stay of proceedings, and

(f) rules providing for the summary determination of any appeal which appears to the court to be frivolous or vexatious or brought for the purpose of delay.

(2) The minimum number of judges who are to sit for the purpose of deciding any case involving a substantial question of law as to the interpretation of this Constitution, or for the purpose of hearing any reference under article 119 of this Constitution shall be five:

Provided that it shall be open to every judge to sit for the said purposes unless owing to illness, personal interest or other sufficient cause he is unable to do so.

(3) No opinion for the purpose of any report under article 119 of this Constitution and no judgment shall be delivered by the Supreme Court save in open court.

(4) No such report shall be made and no judgment shall be delivered by the Supreme Court save with the concurrence of a majority of the judges present at the hearing of the case but nothing in this clause shall be deemed to prevent a judge who does not concur from delivering a dissenting opinion or judgment.

Salaries, allowances and pensions of officers and servants and the expenses of the Supreme Court.

122. (1) The salaries, allowances and pensions payable to or in respect of the officers and servants of the Supreme Court shall be fixed by the Chief Justice of India in consultation with the President.

(2) The administrative expenses of the Supreme Court, including all salaries, allowances and pensions payable to or in respect of the officers and servants of the court, shall be charged upon the revenues of India, and any fees or other moneys taken by the court shall form part of those revenues.

Construction of references to High Courts in States specified in Part III of the First Schedule.

123. (1) References in articles 103 and 106 of this Chapter to a High Court in, or exercising jurisdiction in, a State for the time being specified in Part III of the First Schedule shall be construed as references to any court which the President may, upon being satisfied after consultation with the Supreme Court and the Ruler of the State that such court is a court comparable to any of the High Courts in the States for the time being specified in Part I of that Schedule, declare to be a High Court for the purposes of those articles.

(2) References in articles 110 and 113 of this Chapter to a High Court in a State for the time being specified in Part III of the First Schedule shall be construed as references to the court of final jurisdiction in the State with regard to the proceeding in respect of which an appeal or reference is provided for in those articles.

CHAPTER V—Auditor = General of India

Auditor-General of India.

124. (1) There shall be an Auditor-General of India, who shall be appointed by the President and shall only be removed from office in like manner and on the like grounds as a judge of the Supreme Court.

(2) The salary, allowances and other conditions of service of the Auditor-General shall be such as may be determined by Parliament by law and until they are so determined shall be as specified in the Second Schedule:

Provided that neither the salary of an Auditor-General nor his rights in respect of leave of absence, pension or age of retirement shall be varied to his disadvantage after his appointment.

(3) The Auditor-General shall not be eligible for further office either under the Government of India or under the Government of any State after he has ceased to hold his office.

(4) The salaries, allowances and pensions payable to or in respect of members of the staff of the Auditor-General shall be fixed by the Auditor-General in consultation with the President.

(5) The salaries, allowances and pensions payable to or in respect of the Auditor-General and members of his staff shall be charged upon the revenues of India.

Duties and powers of the Auditor-General.

125. The Auditor-General shall perform such duties and exercise such powers in relation to the accounts of the Government of India and of the Government of any State as are or may be prescribed by or under any law made by Parliament.

Explanation.—In this article the expression "law made by Parliament" includes any existing law for the time being in force in the territory of India.

Power of Auditor-General of India to give directions as to accounts.

126. The accounts of the Government of India shall be kept in such form as the Auditor-General of India may, with the approval of the President, prescribe and. in so far as the Auditor-General of India may, with the like approval, give any directions with regard to the methods or principles in accordance; with which any accounts of the Government of any State ought to be kept, it shall be the duty of the Government of the State to cause accounts to be kept accordingly.

Audit reports.

127. The reports of the Auditor-General of India relating to the accounts of the Government of India shall be submitted to the President, who shall cause them to be laid before Parliament.

PART VI

The States in Part I of the First Schedule

CHAPTER I—GENERAL

Definition.

128. In this Part, unless the context otherwise requires, the expression "State" means a State for the time being specified in Part I of the First Schedule.

CHAPTER II—THE EXECUTIVE

The Governor

Governors of States.

129. There shall be a Governor for each State.

Executive power of States

130. (1) The executive power of the State Shall be vested in the Governor and may be exercised by him in accordance with the Constitution and the law.

(2) Nothing in this article shall—

(a) be deemed to transfer to the Governor any functions conferred by any existing law on any other authority; or

(b) prevent Parliament or the Legislature of the State from conferring by law functions on any authority subordinate to the Governor.

Election of Governor.

131. The Governor of a State shall be elected by direct vote of all persons who have the right to vote at a general election for the Legislative Assembly of the State.

Alternatively

Appointment of Governor.

*131. The Governor of a State shall be appointed by the President by warrant under his hand and seal from a panel of four candidates to be elected by the members of the Legislative Assembly of the State,

*Some of the members of the Committee are strongly in favour of this alternative, because they consider that the co-existence of a Governor elected by the people and a Prime Minister responsible to the Legislature might lead to friction and consequent weakness in administration.

or, where there is a Legislative Council in the State, by all the members of the Legislative Assembly and of the Legislative Council of the State assembled at a joint meeting, in accordance with the system of proportional representation by means of the single transferable vote and the voting at such election shall be by secret ballot.

Term of office of Governor.

132. The Governor shall hold office for a term of *five years from the date on which he enters upon his office:

Provided that—

(a) a Governor may, by resignation under his hand addressed to the Speaker of the Legislative Assembly of the State or where there are two Houses of the Legislature of the State, to the Speaker of the Legislative Assembly and the Chairman of the Legislative Council of the State, resign his office;

(b) a Governor may, for **violation of the Constitution, be removed from office by impeachment in the manner provided in article 137 of this Constitution;

(c) a Governor shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office.

Eligibility for re-election/re-appointment as Governor.

***133. A person who holds, or who has held, office as Governor shall be eligible for re-election/re-appointment to that office once, but only once.

Qualifications for election as Governor.

134. (1) No person shall be eligible for election as Governor unless he is a citizen of India and has completed the age of thirty five years.

*The Committee is of opinion that the term of office of the Governor should be five years instead of four years in view of the change suggested by the Committee in the life of the Assembly from four years to five years.

**The Committee is of opinion that the Governor should be impeached only for violation of the Constitution as in the case of the President and not for any misbehaviour.

***If the second alternative is adopted in article 131, the word "re-appointment" will have to be used in this article instead of the word "re-election"

(2) A person shall not be eligible for election as a Governor of a State—

(a) if he is disqualified for being chosen as a member of the Legislative Assembly of the State:

Provided that it shall not be necessary for any such person to be a resident of the State; or

(b) if he holds any office or position of emolument under the Government of India or the Government of any State for the time being specified in the First Schedule, or under any local or other authority subject to the control of any of the said Governments.

Explanation.—For the purposes of this clause a person shall not be deemed to hold any office or position of emolument by reason only that—

(a) he is a minister either for India or for any State for the time being specified in Part I of the First Schedule; or

(b) he is a minister for any State for the time being specified in Part III of the First Schedule, if he is responsible to the Legislature of the State, or, where there are two Houses of the Legislature of the State, to the Lower House of such Legislature, and if not less than three-fourths of the members of such Legislature or House, as the case may be, are elected.

Alternatively

Qualifications for appointniont as Governor.

*134. (1) No person shall be eligible for appointment as Governor unless he is a citizen of India and has completed the age of thirty-five years.

(2) A person shall not be eligible for appointment as Governor of a State if he is disqualified for being chosen as a member of the Legislative Assembly of the State*

Provided that it shall not be necessary for any such person to be a resident of the State.

Conditions of Governor's office.

135. (1) The Governor shall not be a member either of Parliament or of the Legislature of any State for the time being specified in the First

*If the second alternative is adopted in article 131, this alternative will have to be adopted in the present article.

Schedule, and if a member of Parliament or of the Legislature of any such State be elected/*appointed Governor, he shall be deemed to have vacated His seat in Parliament or such Legislature, as the case may be, on the date on which he enters upon his office as Governor.

(2) The Governor shall not hold any other office or position of emolument.

(3) The Governor shall have an official residence, and there shall be paid to the Governor such emoluments and allowances as may be determined by the Legislature of the State by law and, until provision in that behalf is so made, such emoluments and allowances as are specified in the Second Schedule.

(4) The emoluments and allowances of the Governor shall not be diminished during his term of office.

Affirmation or oath by the Governor or person discharging the functions of the Governor before entering office.

136. Every Governor and every person discharging the functions of the Governor shall before entering upon his office make and subscribe in the presence of the members of the Legislature of the State an affirmation or oath in the following form, that is to say:—

> "I, A. B., do solemnly affirm (or swear) that I will faithfully execute the office of Governor (or discharge the functions of the Governor) of _____ (name of the State) and will to the best of my ability preserve, protect and defend the Constitution and the law and that I will devote myself to the service and well-being of the people of_____ (name of the State)."

Procedure for impeachment of the Governor.

137. (1) When a Governor is to be impeached for violation of the Constitution, the charge shall be preferred by the Legislative Assembly of the State.

(2) No such charge shall be preferred unless—

(a) the proposal to prefer such charge is contained in a resolution which has been moved after a notice in writing signed by not less than thirty members of the Assembly has been given of their intention to move the resolution, and

*If the second alternative is adopted in article 131, the word "appointed" will have to be used in clause (1) of this article instead of the word "elected".

(b) the resolution has been supported by not less than two-thirds of the total membership of the Assembly.

(3) When a charge has been so preferred, the Speaker of the Assembly shall inform the Chairman of the Council of States and thereupon the Council of States shall appoint a committee which may consist of or include persons who are not members of the Council, to investigate the charge and the Governor shall have the right to appear and to be represented at such investigation.

(4) If as a result of the investigation a resolution is passed, supported by not less than two-thirds of the total membership of the Council of States declaring that the charge preferred against the Governor has been sustained, such resolution shall have the effect of removing the Governor from his office as from the date on which the resolution is communicated to the Speaker of the Assembly.

Power of the Legislature of the State/the President to provide for the discharge of the functions of the Governor in certain contingencies.

*138. The Legislature of a State may make such provision as it thinks fit/<u>The President may make such provision as he thinks fit</u> for the discharge of the functions of the Governor of the/a State in any contingency not provided for in this Chapter.

*If the second alternative is adopted in article 131, the words "The President may make such provision as he thinks fit" will have to be used in this article instead of the words "The Legislature of a State may make such provision as it thinks fit" and the words "a State" will have to be used for the words "the State" in this article.

The Committee is of opinion that whether the Governor is elected by the people or appointed by the President from a panel elected by the Legislature, it is unnecessary to have **a** Deputy Governor. Unlike the Vice-President at the Centre, the Deputy Governor cannot be made *ex-officio* Chairman of the Upper House, because in most of the States there will be no Upper House. The result is that the Deputy Governor will have no definite function to perform so long as the Governor is there. The only ground for creating the office of a Deputy Governor appears to be that there must be some person to step into the position of the Governor upon the occurrence of a sudden vacancy. The making of such a provision can be left to the Legislature of the State or to the President, as the case may be, *e.g.,* the Legislature or the President may provide in advance that, in the event of a sudden vacancy occurring in the office of the Governor, the Chief Justice shall discharge the functions of the Governor (*cf.* paragraph. 6 of the Letters Patent constituting the office of Governor-General of the Union of South Africa, where it is provided that the Chief Justice of South Africa may, in certain contingencies, exercise the powers of the Governor-General.)

Time of holding elections/ time of holding elections to constitute a panel for the filling of vacancies in the office Governor.

*139. (1) An election/An election to constitute a panel for the purpose of filling a vacancy caused by the expiration of the term of office of a Governor shall be completed before the expiration of the term.

(2) An election /An election to constitute a panel for the purpose of filling a vacancy in the office of Governor occurring by reason of his death, resignation or removal or otherwise shall be held as soon as possible after the occurrence of the vacancy and the person elected/appointed to fill the vacancy shall be entitled to hold office for the full term of five years as provided in article 132 of this Constitution.

Matters relating to or connected with the election of a Governor/ the election to constitute a panel for the appointment of a Governor.

**140. (1) All doubts and disputes arising out of or in connection with the election of a Governor/the election to constitute a panel for the purpose of the appointment of a Governor shall be inquired into and decided by the Supreme Court whose decision shall be final.

(2) Subject to the provisions of this Constitution, the Legislature of the State may, by law, regulate any matter relating to or connected with the election of a Governor/the election to constitute a panel for the purpose of the appointment of a Governor.

Power of Governor to grant pardons, etc., and to suspend, remit or commute sentences in certain cases

141. The Governor of a State shall have the power to grant pardons, reprieves, respites or remissions of punishment, or to suspend, remit or commute the sentence, of any person convicted of any offence against any law relating to a matter with respect to which the Legislature of the State has power to make laws.

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*If the second alternative is adopted in article 131, then the words "An election to constitute a panel" will have to be used in clauses (1) and (2) of this article instead of the words "An election" and the word "appointed" will have to be used in clause (2) of this article instead of the word "elected".

**If the second alternative is adopted in article 131, then the words "the election to constitute a panel for the purpose of the appointment of a Governor" will have to be used in clauses (1) and (2) of this article instead of the words "the election of a Governor".

Extent of executive power of States.

142. Subject to the provisions of this Constitution, the executive power of each State shall extend—

(a) to the matters with respect to which the Legislature of the State has power to make laws, and

(b) to the exercise of such rights, authority and jurisdiction as are exercisable under any agreement entered into with any State or group of States for the time being specified in Part III of the First Schedule under article 236 or article 237 of this Constitution.

Council of Ministers

Council of ministers to aid and advise Governor.

143. (1) There shall be a Council of ministers with the Chief Minister at the head to aid and advise the Governor in the exercise of his functions, except in so far as he is by or under this Constitution required to exercise his functions or any of them in his discretion.

(2) If any question arises whether any matter is or is not a matter as respects which the Governor is by or under this Constitution required to act in his discretion, the decision of the Governor in his discretion shall be final, and the validity of anything done by the Governor shall not be called in question on the ground that he ought or ought not to have acted in his discretion.

(3) The question whether any, and if so what, advice was tendered by ministers to the Governor shall not be inquired into in any court.

Other provisions as to ministers.

144. (1) The Governor's ministers shall be appointed by him and shall hold office during his pleasure:

Provided that in the States of Bihar, Central Provinces and Berar and Orissa, there shall be a minister in charge of tribal welfare who may in addition be in charge of the welfare of the Scheduled Castes and backward classes or any other work.

(2) Before a minister enters upon his office, the Governor shall administer to him the oaths of office and of secrecy according to the forms set out for the purpose in the Third Schedule.

(3) A minister who, for any period of six consecutive months, is not a member of the Legislature of the State shall at the expiration of that period cease to be a minister.

(4) In choosing his ministers and in his relations with them the Governor shall be generally guided by the Instructions set out in the Fourth Schedule, but the validity of anything done by the Governor shall not be called in question on the ground that it was done otherwise than in accordance with such Instructions.

(5) The salaries and allowances of ministers shall be such as the Legislature of the State may from time to time by law determine and, until the Legislature of the State so determine, shall be as specified in the Second Schedule.

(6) The functions of the Governor under this article with respect to the appointment and dismissal of ministers shall be exercised by him in his discretion.

The Advocate=General for the State

Advocate-General for State.

145. (1) The Governor of each State shall appoint a person who is qualified to be appointed a judge of a High Court, to be Advocate-General for the State.

(2) It shall be the duty of the Advocate-General to give advice to the Government of the State upon such legal matters and to perform such other duties of a legal character as may from time to time be referred or assigned to him by the Governor, and to discharge the functions conferred on him by or under this Constitution or any other law for the time being in force.

(3) The Advocate-General shall retire from office upon the resignation of the Chief Minister in the State, but he may continue in office until his successor is appointed or he is reappointed.

(4) The Advocate-General shall receive such remuneration as the Governor may determine.

Conduct of Government Business

Conduct of business of the Government of a State.

146. (1) All executive action of the Government of a State shall be expressed to be taken in the name of the Governor.

(2) Orders and other instruments made and executed in the name of the Governor shall be authenticated in such manner as may be specified in rules to be made by the Governor, and the validity of an order or instrument which is so authenticated shall not be called in question on the ground that it is not an order or instrument made or executed by the Governor.

Duties of Chief Minister as respects the furnishing of information to Governor, etc.

147. It shall be the duty of the Chief Minister of each State—

(a) to communicate to the Governor of the State all decisions of the Council of ministers relating to the administration of the affairs of the State and proposals for legislation;

(b) to furnish such information, relating to the administration of the affairs of the State and proposals for legislation as the Governor may call for; and

(c) if the Governor so requires, to submit for the consideration of the Council of ministers any matter on which a decision has been taken by a minister but which has not been considered by the Council.

CHAPTER III—The State Legislature

General

Constitution of Legislatures in States in Part I of the First Schedule.

148. (1) For, every State there shall be a Legislature which shall consist of the Governor; and

(a) in the States of_____,* two Houses,

(b) in other States, one House.

(2) Where there are two Houses of the Legislature of a State, one shall be known as the Legislative Council and the other as the Legislative Assembly and where there is only one House, it shall be known as the Legislative Assembly.

*The names of these States will be filled in when it has been ascertained which of the States are to have two Houses.

Composition of the Legislative Assemblies.

149. (1) Subject to the provisions of articles 294 and 295 of this Constitution the Legislative Assembly of each State shall be composed of members chosen by direct election.

(2) The election shall be on the basis of adult suffrage; that is to say, every citizen who is not less than twenty-one years of age and is not otherwise disqualified under this Constitution or any law made by the Legislature of the State on the ground of non-residence, unsoundness of mind, crime or corrupt or illegal practice shall be entitled to be registered as a voter at such elections.

(3) The representation of each territorial constituency in the Legislative Assembly of a State shall be on the basis of the population of that constituency as ascertained at the last preceding census and shall, save in the case of the autonomous districts of Assam, be on a scale of not more than one representative for every lakh of the population:

Provided that the total number of members in the Legislative Assembly of a State shall in no case be more than three hundred or less than sixty.

(4) Upon the completion of each census, the representation of the several territorial constituencies in the Legislative Assembly of each State shall, subject to the provisions of article 289 of this Constitution, be readjusted by such authority, in such manner and with effect from such date as the Legislature of the State may by law determine:

Provided that such readjustment shall not affect representation to the Legislative Assembly until the dissolution of the then existing Assembly.

Composition of the Legislative Councils.

150. (1) The total number of members in the Legislative Council of a State having such a Council shall not exceed twenty-five per cent of the total number of members in the Legislative Assembly of that State.

(2) Of the total number of members in the Legislative Council of a State—

(a) one-half shall be chosen from panels of candidates constituted under clause (3) of this article;

(b) one-third shall be elected by the members of the Legislative Assembly of the State in accordance with the system of proportional representation by means of the single transferable vote; and

(c) the remainder shall be nominated by the Governor.

(3) Before the first general election and, thereafter, before each triennial election under clause (2) of article 151 of this Constitution to the Legislative Council of a State, five panels of candidates shall be formed, of which one shall contain the names of representatives of universities in the State and the remaining four shall respectively contain the names of persons having special knowledge or practical experience in respect of the following subjects, namely:—

(a) literature, art and science;

(b) agriculture, fisheries and allied subjects;

(c) engineering and architecture;

(d) public administration and social services.

(4) Each panel of candidates constituted under clause (3) of this article shall contain at least twice the number to be elected from such panel.

(5) For bye-elections clauses (3) and (4) of this article shall have effect subject to such adaptations and modifications as may be prescribed by the Legislature of the State by law.

Duration of State Legislatures.

151. (1) Every Legislative Assembly of every State, unless sooner dissolved, shall continue for = five years from the date appointed for its first meeting and the expiration of the said period of *five years shall operate as a dissolution of the Assembly.

*The Committee has inserted "five years" instead of "four years" as the life of the Assembly, as it considers that under the Parliamentary system of Government the first year of a Minister's term of office would generally be taken up in gaining knowledge of the work of administration and the last year would be taken up in preparing for the next general election, and there would thus be only two years left for effective work which would be too short a period for planned administration.

(2) The Legislative Council of a State shall not be subject to dissolution, but as nearly as may be one-third of the members thereof shall retire as soon as may be on the expiration of every third year in accordance with the provisions made in that behalf by the Legislature of the State by law.

Age-limit for membership of the State Legislature.

152. A person shall not be qualified to be chosen to fill a seat in the Legislature of a State unless he is, in the case of a seat in a Legislative Assembly, not less than twenty-five years of age and in the case of a seat in a Legislative Council, not less than thirty-five years of age.

Sessions of the State Legislature, prorogation and dissolution.

153. (1) The House or Houses of the Legislature of the State shall be summoned to meet twice at least in every year, and six months shall not intervene between their last sitting in one session and the date appointed for their first sitting in the next session.

(2) Subject to the provisions of this article, the Governor may from time to time—

(a) summon the Houses or either House to meet at such time and place as he thinks fit;

(b) prorogue the House or Houses;

(c) dissolve the Legislative Assembly,

(3) The functions of the Governor under sub-clauses (a) and (c) of clause (2) of this article shall be exercised by him in his discretion.

Right of Governor to address and send messages to the Houses.

154. (1) The Governor may address the Legislative Assembly or in the case of a State having a Legislative Council, either House of the Legislature of the State, or both Houses assembled together, and may for that purpose require the attendance of members.

(2) The Governor may send messages to the House or Houses of the Legislature of the State whether with respect to a Bill then pending in the

Legislature or otherwise, and a House to which any message is so sent shall with all convenient despatch consider any matter required by the message to be taken into consideration.

Special address by the Governor at the commencement of each session and discussion in the Legislature of matters referred to in the address.

*155. (1) At the commencement of every session, the Governor shall address the Legislative Assembly or in the case of a State having a Legislative Council, both Houses assembled together and inform the Legislature of the cause of its summons.

(2) Provision shall be made by the rules regulating the procedure of either House for the allotment of time for a discussion of the matters referred to in such address and for the precedence of such discussion over other business of the House.

Rights of ministers and Advocate-General as respects the Houses.

156. Every minister and the Advocate-General for a State shall have the right to speak in, and otherwise to take part in the proceedings of, the Legislative Assembly of the State or, in the case of a State having a Legislative Council, both Houses and any joint sitting of the Houses, and to speak in, and otherwise to take part in the proceedings of, any committee of the Legislature of which he may be named a member, but shall not, by virtue of this article, be entitled to vote.

Officers of The State Legislature

The Speaker and Deputy Speaker of the Legislattive Assembly.

157. Every Legislative Assembly of a State shall, as soon as may be, choose two members of the Assembly to be respectively Speaker and Deputy Speaker thereof, and, so often as the office of Speaker or Deputy Speaker becomes vacant, the Assembly shall choose another member to be Speaker or Deputy Speaker, as the case may be.

*This clause which is based on the practice prevalent in the Parliament of the United Kingdom has been inserted by the Committee as it considers that it will prove useful in our Constitution also.

Vacation and, resignation of, and removal from the office of, Speaker and Deputy Speaker.

158. A member holding office as Speaker or Deputy Speaker of an Assembly—

(a) shall vacate his office if he ceases to be a member of the Assembly;

(b) may at any time by writing under his hand addressed, if such member is the Speaker, to the Deputy Speaker, and if such member is the Deputy Speaker, to the Speaker, resign his office; and

(c) may be removed from his office for incapacity or want of confidence by a resolution of the Assembly passed by a majority of all the then members of the Assembly:

Provided that no resolution for the purpose of clause (c) of this article shall be moved unless at least fourteen days' notice has been given of the intention to move the resolution:

Provided further that, whenever the Assembly is dissolved, the Speaker shall not vacate his office until immediately before the first meeting of the Assembly after the dissolution.

Power of the Deputy Speaker or other persons to perform the duties of the office of or to act as, Speaker.

159. (1) While the office of Speaker is vacant the duties of the office shall be performed by the Deputy Speaker, or if the office of Deputy Speaker is also vacant, by such member of the Assembly as the Governor may appoint for the purpose.

(2) During the absence of the Speaker from any sitting of the Assembly, the Deputy Speaker or, if he is also absent such person as may be determined by the rules of procedure of the Assembly, or, if no such person is present, such other person as may be determined by the Assembly, shall act as Speaker.

The Chairman and Deputy Chairman of the Legislative Council.

160. The Legislative Council of every State having such Council, shall, as soon as may be, choose two members of the Council to be respectively Chairman and Deputy Chairman thereof and, so often as the office of Chairman or Deputy Chairman becomes vacant, the Council shall choose another member to be Chairman or Deputy Chairman, as the case may be.

Vacation and resignation of, and removal from, the office of Chairman and Deputy Chairman.

161. A member holding office as Chairman or Deputy Chairman of a Legislative Council—

(a) shall vacate his office if he ceases to be a member of the Council;

(b) may at any time by writing under his hand addressed, if such member is the Chairman, to the Deputy Chairman, and if such member is the Deputy Chairman, to the Chairman, resign his office; and

(c) may be removed from his office for incapacity or want of confidence by a resolution of the Council passed by a majority of all the then members of the Council:

Provided that no resolution for the purpose of clause (c) of this article shall be moved unless at least fourteen days' notice has been given of the intention to move the resolution.

Power of the Deputy Chairman or other persons to perform the duties of the office of, or to act as, Chairman.

162. (1) While the office of Chairman is vacant, the duties of the office shall be performed by the Deputy Chairman or if the office of Deputy Chairman is also vacant by such member of the Council as the Governor may appoint for the purpose.

(2) During the absence of the Chairman from any sitting of the Council, the Deputy Chairman or, if he is also absent such person as may be determined by the rules of procedure of the Council, or, if no such person is present, such other person as may be determined by the Council, shall act as Chairman.

Salaries and allowances of and Deputy Speaker and the Chairman and Deputy Chairman.

163. There shall be paid to the Speaker and the Deputy Speaker of the Legislative Assembly and to the Chairman and the Deputy Chairman of the Legislative Council such salaries and allowances as may be respectively fixed by the Legislature of the State by law, and, until provision in that behalf is so made, such salaries and allowances as are specified in the Second Schedule.

Conduct of Business

Voting in Houses ; power of Houses to act notwithstanding vacancies and quorum.

164, (1) Save as provided in this Constitution, all questions in a House or a joint sitting of two Houses of the Legislature of a State shall be determined by a majority of votes of the members present and voting, other than the Speaker or Chairman or person acting as such.

The Speaker or Chairman or person acting as such shall not vote in the first instance but shall have and exercise a casting vote in the case of an equality of votes.

(2) **A** House of the Legislature of a State shall have power to act notwithstanding any vacancy in the membership thereof, and any proceedings in the Legislature of a State shall be valid notwithstanding that it is discovered subsequently that some person who was not entitled so to do, sat or voted or otherwise took part in the proceedings.

(3) If at any time during a meeting of the Legislative Assembly or the Legislative Council of a State there is no quorum, it shall be the duty of the Speaker or Chairman or person acting as such either to adjourn the House or to suspend the meeting until there is a quorum.

The quorum shall be ten members or one-sixth of the total number of members of the House, whichever is greater.

Disqualifications of Members

Declaration by members

165. Every member of the Legislative Assembly or the Legislative Council of a State shall, before taking his seat, make and subscribe before the Governor or some person appointed in this behalf by him, a declaration according to the form set out for the purpose in the Third Schedule.

Vacation of seats.

166. (1) No person shall be a member of both Houses of the Legislature of a State and provision shall be made by the Legislature of the State by law for the vacation by a person who is chosen a member of both Houses of his seat in one House or the other.

(2) No person shall be a member both of Parliament and of the Legislature of a State and if a person is chosen a member both of Parliament and of the Legislature of a State, then, at the expiration of such period as may be specified in rules made by the Governor of the State, that person's seat in the Legislature of the State shall become vacant, unless he has previously resigned his seat in Parliament.

(3) If a member of a House of the Legislature of a State—

(a) becomes subject to any of the disqualifications mentioned in clause (1) of the next succeeding article; or

(b) resigns his seat by writing under his hand addressed to the Speaker or the Chairman, as the case may be,

his seat shall thereupon become vacant.

(4) If for a period of sixty days a member of a House of the Legislature of a State is without permission of the House absent from all meetings thereof, the House may declare his seat vacant:

Provided that in computing the said period of sixty days no account shall be taken of any period during which the House is prorogued or is adjourned for more than four consecutive days.

Disqualifications for membership.

167. (1) A person shall be disqualified for being chosen as, and for being, a member of the Legislative Assembly or Legislative Council of a State—

(a) if he holds any office of profit under the Government of India or the Government of any State for the time being specified in the First Schedule other than an office declared by the Legislature of the State by law not to disqualify its holder;

(b) if he is of unsound mind and stands so declared by a competent court;

(c) if he is an undischarged insolvent;

*(d) if he is under any acknowledgment of allegiance or adherence to a foreign power, or is a subject or a citizen or entitled to the rights or privileges of a subject or a citizen of a foreign power;

(e) if he is so disqualified by or under any law made by the Legislature of the State.

(2) For the purposes of this article, a person shall not be deemed to hold an office of profit under the Government of India or the Government of any State for the time being specified in the First Schedule by reason only that—

(a) he is a minister either for India or for any State for the time being specified in Part I of the First Schedule; or

*The Committee has inserted this sub-clause following the provisions of section 44 (i) of the Australia Constitution Act,

(b) he is a minister for any State for the time being specified in Part III of the First Schedule, if he is responsible to the Legislature of the State, or where there are two Houses of the Legislature of the State, to the Lower House of such Legislature and if not less than three-fourths of the members of such Legislature or House, as the case may be, are elected.

Penalty for sitting and voting before making declaration under article 165 or when not qualified or when disqualified.

163. If a person sits or votes as a member of the Legislative Assembly or the Legislative Council of a State before he has complied with the requirements of article 165 of this Constitution, or when he knows that he is not qualified or that he is disqualified for membership thereof or that he is prohibited from so doing by the provisions of any law made by the Legisture of the State, he shall be liable in respect of each day on which he so sits or votes to a penalty of five hundred rupees to be recovered as a debt due to the State.

Privileges and Immunities of Members

Privileges, etc, of members.

169. (1) Subject to the rules and standing orders regulating the procedure of the Legislature, there shall be freedom of speech in the Legislature of every

(2) No member of the Legislature of a State shall be liable to any proceedings in any court in respect of anything said or any vote given by him in the Legislature or any committee thereof, and no person shall be so liable in respect of the publication by or under the authority of a House of such a Legislature of any report, paper, votes or proceedings.

(3) In other respects the privileges and immunities of members of a House of the Legislature of a State shall be such as may from time to time be defined by the Legislature by law, and until so defined shall be such as are enjoyed by the members of the House of Commons of the Parliament of the United Kingdom at the commencement of this Constitution.

(4) The provisions of clauses (1), (2) and (3) of this article shall apply in relation to persons who by virtue of this Constitution have the right to speak in, and otherwise take part in the proceedings of, a House of the Legislature of a State as they apply in relation to members of that Legislature.

Salaries and allowances of members

170. Members of the Legislative Assembly and the Legislative Council of a State shall be entitled to receive such salaries and allowances as may from time to time be determined by the Legislature of the State by law, and, until provision in that respect is so made, allowances at such rates and upon such conditions as were immediately before the date of commencement of this Constitution applicable in the case of members of the Provincial Legislative Assembly for that State.

Legislative Procedure

Provisions as to introduction and passing of Bills.

171. (1) Subject to the provisions of articles 173 and 182 of this Constitution with respect to Money Bills and other financial Bills, a Bill may originate in either House of the Legislature of a State which has a Legislative Council.

(2) Subject to the provisions of articles 172 and 173 of this Constitution, a Bill shall not be deemed to have been passed by the Houses of the Legislature of a State having a Legislative Council unless it has been agreed to by both Houses either without amendment or with such amendments only as are agreed to by both Houses.

(3) A Bill pending in the Legislature of a State shall not lapse by reason of the prorogation of the House or Houses thereof.

(4) A Bill pending in the Legislative Council of a State which has not been passed by the Legislative Assembly shall not lapse on a dissolution of the Assembly.

(5) A Bill which is pending in the Legislative Assembly of a State, or which having been passed by the Legislative Assembly is pending in the Legislative Council, shall lapse on a dissolution of the Assembly.

Joint sitting of both Houses in States having Legislative Councils in certain eases.

172. (1) If after a Bill has been passed by the Legislative Assembly of a State having a Legislative Council and transmitted to the Legislative Council, more than six months elapse from the date of the reception of the Bill by the Council without the Bill being passed by both Houses, the Governor may, unless the Bill has lapsed by reason of a dissolution of the Legislative Assembly, summon the Houses to

meet in a joint sitting for the purposes of deliberating and voting on the Bill:

Provided that nothing in this clause shall apply to a Money Bill.

(2) In reckoning any such period of six months as is referred to in clause (1) of this article, no account shall be taken of any time during which both Houses are prorogued or adjourned for more than four days.

(3) If at the joint sitting of the two Houses summoned in accordance with the provisions of this article the Bill, with such amendments, if any, as are agreed to in joint sitting, is passed by a majority of the total number of members of both Houses present and voting, it shall be deemed for the purposes of this Constitution to have been passed, by both Houses:

Provided that at a joint sitting—

(a) if the Bill has not been passed by the Legislative Council with amendments and returned to the Legislative Assembly, no amendment shall be proposed to the Bill other than such amendments (if any) as are made necessary by the delay in the passage of the Bill;

(b) if the Bill has been so passed and returned by the Legislative Council, only such amendments as aforesaid shall be proposed to the Bill and such other amendments as are relevant to the matters with respect to which the Houses have not agreed;

and the decision of the person presiding as to the amendments which are admissible under this clause shall be final.

Special procedure in respect of Money Bills.

*173. (1) A Money Bill shall not be introduced in a Legislative Council.

(2) After a Money Bill has been passed by the Legislative Assembly of a State having a Legislative Council, it shall be transmitted to the Legislative Council for its recommendations, and the Legislative

*This article and all other provisions in this Chapter relating to "Money Bills" have been inserted to give effect to the recommendations of the Expert Committee on the Financial Provisions of the Constitution.

Council shall within a period of thirty days from the date of its receipt of the Bill return the Bill to the Legislative Assembly with its recommendations, and the Legislative Assembly may thereupon either accept or reject all or any of the recommendations of the Legislative Council.

(3) If the Legislative Assembly accepts any of the recommendations of the Legislative Council, the Money Bill shall be deemed to have been passed by both Houses with the amendments recommended by the Legislative Council and accepted by the Legislative Assembly.

(4) If the Legislative Assembly does not accept any of the recommendations of the Legislative Council, the Money Bill shall be deemed to have been passed by the Legislative Assembly without any of the amendments recommended by the Legislative Council.

(5) If a Money Bill passed by the Legislative Assembly and transmitted to the Legislative Council for its recommendations is not returned to the Legislative Assembly within the said period of thirty days, it shall be deemed to have been passed by both Houses at the expiration of the said period in the form in which it was passed by the Legislative Assembly.

Definition of "Money Bills."

174. (1) For the purposes of this Chapter, a Bill shall be deemed to be a Money Bill if it contains only provisions dealing with all or any of the following matters, namely:—

(a) the imposition, abolition, remission, alteration or regulation of any tax;

(b) the regulation of the borrowing of money or the giving of any guarantee by the State, or the amendment of the law with respect to any financial obligations undertaken or to be undertaken by the State;

(c) supply;

(d) the appropriation of the revenues of the State;

(e) the declaring of any expenditure to be expenditure charged on the revenues of the State, or the increasing of the amount of any such expenditure;

(f) the receipt of money on account of the revenues of the State or the custody or issue of such money or the audit of the accounts of the State; or

(g) any matter incidental to any of the matters specified in items (a) to (f) of this clause.

(2) A Bill shall not be deemed to be a Money Bill by reason only that it provides for the imposition of fines or other pecuniary penalties, or for the demand or payment of fees for licences or fees for services rendered or by reason that it provides for the imposition, abolition, remission, alteration or regulation of any tax by any local authority or body for local purposes.

(3) If any question arises whether a Bill introduced in the Legislature of a State which has a Legislative Council is a Money Bill or not, the decision of the Speaker of the Legislative Assembly of such State thereon shall be final.

(4) There shall be endorsed on every Money Bill when it is transmitted to the Legislative Council under the last preceding article, and when it is presensed to the Governor for assent under the next succeeding article, the certificate of the Speaker of the Legislative Assembly signed by him that it is a Money Bill.

Assent to Bills.

175. A Bill which has been passed by the Legislative Assembly of a State or, in the case of a State having a Legislative Council, has been passed by both Houses of the Legislature of the State, shall be presented to the Governor and the Governor shall declare either that he assents to the Bill or that he withholds assent therefrom or that he reserves the Bill for the consideration of the President :

Provided that where there is only one House of the Legislature and, the Bill has been passed by that House, the Governor may, in his discretion, return the Bill together with a message requesting that the House will reconsider the Bill or any specifed provisions thereof and, in particular, will reconsider the desirability of introducing any such amendments as he may recommend in his Message and, when a Bill is so returned the House shall reconsider it accordingly and if the Bill is passed

again by the House with or without amendment and presented to the Governor for assent, the Governor shall not withhold assent therefrom.

Bills reserved for consideration

176. When a Bill is reserved by a Governor for the consideration of the President, the President shall declare either that he assents to the Bill or that he withholds assent therefrom:

Provided that where the Bill is not a Money Bill the President may direct the Governor to return the Bill to the House or, as the case may be, the Houses of the Legislature of the State together with such a message as is mentioned in the proviso to the last preceding article and, when a Bill is so returned, the House or Houses shall reconsider it accordingly within a period of six months from the date of receipt of such message and, if it is again passed by them with or without amendment, it shall be presented again to the President for his consideration.

Procedure in Financial Matters

Annual financial statement.

177. (1) The Governor shall in respect of every financial year cause to be laid before the House or Houses of the Legislature of the State a statement of the estimated receipts and expenditure of the State for that year, in this Part of this Constitution referred to as the "annual financial statement"

(2) The estimates of expenditure embodied in the annual financial statement shall show separately—

(a) the sums required to meet expenditure described by this Constitution as expenditure charged upon the revenues of the State; and

(b) the sums required to meet other expenditure proposed to be made from the revenues of the State;

and shall distinguish expenditure on revenue account from other expenditure.

(3) The following expenditure shall be expenditure charged on the revenues of each State—

(a) the emoluments and allowances of the Governor and other expenditure relating to his office;

(b) the emoluments and allowances of the Speaker and the Deputy Speaker of the Legislative Assembly, and in the case of a State having a Legislative Council, also of the Chairman and the Deputy Chairman of the Legislative Council;

(c) debt charges for which the State is liable including interest, sinking fund charges and redemption charges, and other expenditure relating to the raising of loans and the service and redemption of debt;

(d) expenditure in respect of the salaries and allowances of judges of any High Court;

(e) any sums required to satisfy any judgment, decree or award of any court or arbitral tribunal;

(f) any other expenditure declared by this Constitution or by the Legislature of the State by law to be so charged.

Procedure in Legislature with respect to estimates.

178. (1) So much of the estimates as relates to expenditure charged upon the revenues of a State shall not be submitted to the vote of the Legislative Assembly, but nothing in this clause shall be construed as preventing the discussion in the Legislature of those estimates.

(2) So much of the said estimates as relates to other expenditure shall be submitted in the form of demands for grants to the Legislative Assembly, and the Legislative Assembly shall have power to assent, or to refuse to assent, to any demand, or to assent to any demand subject to a reduction of the amount specified therein.

(3) No demand for a grant shall be made except on the recommendation of the Governor.

Authentication of schedule of authorised expenditure.

179. (1) The Governor shall authenticate by his signature a schedule specifying—

(a) the grants made by the Assembly under the last preceding article;

(b) the several sums required to meet the expenditure charged on the revenues of the State, but not exceeding in any case, the sum shown in the statement previously laid before the House or Houses.

(2) The schedule so authenticated shall be laid before the Assembly but shall not be open to discussion or vote in the Legislature.

(3) Subject to the provisions of the next two succeeding articles, no expenditure from the revenues of the Stale shall be deemed to be duly authorised unless it is specified in the schedule so authenticated.

Supplementary statements of expenditure.

180. If in respect of any financial year further expenditure from the revenues of the State becomes necessary over and above the expenditure theretofore authorised for that year, the Governor shall cause to be laid before the House or Houses a supplementary statement showing the estimated amount of that expenditure, and the provisions of the preceding articles shall have effect in relation to that statement and that expenditure as they have effect in relation to the annual financial statement and the expenditure mentioned therein.

Excess grants

*181. If in any financial year expenditure from the revenues of the State has been incurred on any service for which the vote of the Legislative Assembly is necessary in excess of the amount granted for that service and for that year, a demand for the excess shall be presented to the Assembly and the provisions of articles 173 and 179 of this Constitution shall have effect in relation to such demand as they have effect in relation to a demand for a grant.

Special provisions as to financial Bills.

182. (1) A Bill or amendment making provision for any of the matters specified in items (a) to (f) of clause (1) of article 174 of this Constitution shall not be introduced or moved except on the recommendation of the Governor, and a Bill making such provision shall not be introduced in a Legislative Council:

Provided that no recommendation shall be required under this clause for the moving of an amendment making provision for the reduction or abolition of any tax.

*This article has been inserted to follow the recommendation of the Expert Committee on the Financial Provisions of the Constitution.

(2) A Bill or amendment shall not be deemed to make provision for any of the matters aforesaid by reason only that it provides for the imposition of fines or other pecuniary penalties, or for the demand or payment of fees for licences or fees for services rendered, or by reason that it provides for the imposition, abolition, remission, alteration or regulation of any tax by any local authority or body for local purposes.

(3) A Bill which, if enacted and brought into operation, would involve expenditure from the revenues of a State shall not be passed by a House of the Legislature of the State unless the Governor has recommended to that House the consideration of the Bill.

Procedure Generally

Rules of Procedure.

183. (1) A House of the Legislature of a State may make rules for regulating, subject to the provisions of this Constitution, its procedure and the conduct of its business.

(2) Until rules are made under clause (1) of this article, the rules of procedure and standing orders in force immediately before the commencement of this Constitution with respect to the Provincial Legislature for the State shall have effect in relation to the Legislature of that State subject to such modifications and adaptations as may be made therein by the Speaker of the Legislative Assembly, or the Chairman of the Legislative Council, as the case may be.

(3) In a State having a Legislative Council the Governor, after consultation with the Speaker of the Legislative Assembly and the Chairman of the Legislative Council, may make rules as to the procedure with respect to joint sittings of, and communications between, the two Houses.

(4) At a joint sitting of the two Houses the Speaker of the Legislative Assembly*, or in his absence such person as may be determined by rules of procedure made under clause (3) of this article, shall preside.

*The Committee is of opinion that the Speaker of the Assembly should preside at a joint sitting of the two Houses as the Assembly is the more numerous body.

Language to be used in the Legislatures of States.

184. (1) In the Legislature of a State, business shall be transacted in the language or languages generally used in that State or in Hindi or in English.

(2) The Speaker of the Legislative Assembly or the Chairman of the Legislative Council may, whenever he thinks fit, make arrangements for making available in the Assembly or the Council, as the case may be, a summary in any language generally used in the State or in English of the speech delivered by a member in any other language, and such summary shall be included in the record of the proceedings of the House in which the speech has been delivered.

Restrictions on discussion in the Legislatures of States

185. (1) No discussion shall take place in the Legislature of a State with respect to the conduct of any judge of the Supreme Court or of a High Court in the discharge of his duties.

(2) In this article, the reference to a High Court shall be construed as including a reference to any court in a State for the time being specified in Part III of the First Schedule which is a High Court for any of the purposes of Chapter IV of Part V of this Constitution.

Courts not to inquire into proceedings of the Legislature.

186. (1) The validity of any proceedings in the Legislature of a State shall not be called in question on the ground of any alleged irregularity of procedure

(2) No officer or other member of the Legislature of a State in whom powers are vested by or under this Constitution for regulating procedure or the conduct of business, or for maintaining order, in the Legislature shall be subject to the jurisdiction of any court in respect of the exercise by him of those powers.

CHAPTER IV—Legislative Power of the Governor

Power of Governor to promulgate Ordinances during recess of Legislature.

187. (1) If at any time, except when the Legislative Assembly of a State is in session, or where there is a Legislative Council in a State, except when both Houses of the Legislature are in session, the

Governor is satisfied that circumstances exist which render it necessary for him to take immediate action, he may promulgate such Ordinances as the circumstances appear to him to require:

Provided that the Governor shall not, without instructions from the President, promulgate any such Ordinance if an Act of the Legislature of the State containing the same provisions would under the provisions of this Constitution have been invalid unless, having been reserved for the consideration of the President, it had received the assent of the President.

(2) An Ordinance promulgated under this article shall have the same force and effect as an Act of the Legislature of the State assented to by the Governor, but every such Ordinance—

(a) shall be laid before the Legislative Assembly of the State, or where there is a Legislative Council in the State, before both the Houses, and shall cease to operate at the expiration of six weeks from the reassembly of the Legislature, or if before the expiration of that period a resolution dis-approving it is passed by the Legislative Assembly and agreed to by the Legislative Council, if any, upon the passing of the resolution or, as tie case may be, on the resolution being agreed to by the Council; and

(b) may be withdrawn at any time by the Governor.

Explanation.—Where the Houses of the Legislature of a State having a Legislative Council are summoned to re-assemble on different dates, the period of six weeks shall be reckoned from the later of those dates for the purposes of this clause.

(3) If and so far as an Ordinance under this article makes any provision which would not be valid if enacted in an Act of the Legislature of the State assented to by the Governor, it shall be void:

Provided that, for the purposes of the provisions of this Constitution relating to the effect of an Act of the Legislature of a State which is repugnant to

an Act of Parliament or an existing law with respect to a matter enumerated in the Concurrent List, an Ordinance promulgated under this article in pursuance of instructions from the President shall be deemed to be an Act of the Legislature of the State which has been reserved for the consideration of the President and assented to by him.

CHAPTER V—Provisions in Cases of Grave Emergencies

Power of Governor in grave emergencies.

188. (1) If at any time the Governor of a State is satisfied that a grave emergency has arisen which threatens the peace and tranquillity of the State and that it is not possible to carry on the Government of the State in accordance with the provisions of this Constitution, he may, by proclamation, declare that his functions shall, to such extent as may be specified in the proclamation, be exercised by him in his discretion, and any such proclamation may contain such incidental and consequential provisions as may appear to him necessary or desirable for giving effect to the objects of the proclamation including-provisions for suspending in whole or in part the operation of any provisions of this Constitution relating to any body or authority in the State:

Provided that nothing in this clause shall authorise the Governor to suspend, either in whole or in part, the operation of any provision of this Constitution relating to High Courts.

(2) The proclamation shall be forthwith communicated by the Governor to the President who may, thereupon either revoke the proclamation or take such action as he considers appropriate in exercise of the emergency powers vested in him under article 278 of this Constitution.

(3) A proclamation under this article shall cease to operate at the expiration of two weeks unless revoked earlier by the Governor or by the President by public notification.

(4) The functions of the Governor under this article shall be exercised by him in his discretion.

CHAPTER VI—Scheduled and Tribal Areas

Definitions.

189 In this Constitution—

(a) the expression "scheduled areas" means the areas specified in Parts I to VII of the table appended to paragraph 18 of the Fifth Schedule in relation to the States to which those Parts respectively relate;

(b) the expression "tribal areas" means the areas specified in Parts I and II of the table appended to paragraph 19 of the Sixth Schedule.

Administration of scheduled and tribal areas.

190. (1) The provisions of the Fifth Schedule shall apply to the administration and control of the scheduled areas and scheduled tribes in any State for the time being specified in Part I of the First Schedule.

(2) The provisions of the Sixth Schedule shall apply to the administration of the tribal areas in the State of Assam.

CHAPTER VII—The High Courts in the States

Meaning of "High Court".

191. (1) For the purposes of this Constitution the following courts shall, in relation to the territory of India except the States for the time being specified in Part III of the First Schedule, be deemed to be High Courts, that is to say,—

(a) the High Courts in Calcutta, Madras, Bombay, Allahabad, Patna and Nagpur, the High Court of East run jab and the Chief Court in Oudh;

(b) any other court in any of these States constituted or re-constituted under this Chapter as a High Court; and

(c) any other court in any of these States which may be declared by the appropriate Legislature by law to be a High Court for the purposes of this Constitution:

Provided that if provision is made by the appropriate Legislature for the establishment of a High Court to replace any court or courts mentioned in this clause, then, as from the establishment of the new court, this article shall have effect as if the new court were mentioned therein in lieu of the court or courts so replaced.

(2) Save as otherwise provided, the provisions of this Chapter shall apply to every High Court referred to in clause (1) of this article.

Constitution of High Courts.

192. Every High Court shall be a court of record and shall consist of a Chief Justice and such other judges as the President may from time to time deem it necessary to appoint:

Provided that the judges so appointed together with any additional judges appointed by the President in accordance with the following provisions of this Chapter shall at no time exceed in number such maximum as the President may by order fix in relation to that Court.

Appointment and conditions of the office, of a High Court.

193. (1) Every judge of a High Court shall be appointed by the President by a warrant under his hand and seal after consultation with the Chief Justice of India, the Governor of the State, and in the case of appointment of a judge other than the Chief Justice, the Chief Justice of the High Court of the State, and shall hold office until he attains the age of sixty years *<u>or such higher age not exceeding sixty-five years as may be fixed in this behalf by law of the Legislature of the State:</u>

*The provision for a higher age than 60 years does not exist in the Government of India Act, 1935. The result is that the best men from the Bar often refuse appointments on the Bench because under the existing age-limit of 60 years they would not have time to earn a full pension. It hay also been pointed out that when the age-limit for judges of the Supreme Court is 65 years it would not be possible to hold that a judge was too old for a High Court after 60. In view of the different conditions prevailing in different States, the Committee has added the underlined words in this article so as to enable the Legislature of each State to fix any age-limit not exceeding 65 years.

Provided that—

(a) a judge may, by writing under his hand addressed to the Governor, resign his office;

(b) a judge may be removed from his office by the President in the manner provided in clause (4) of article 103 of this Constitution for the removal of a judge of the Supreme Court;

(c) the office of the judge shall be vacated by his being appointed by the President to be a judge of the Supreme Court or of any other High Court.

(2) A person shall not be qualified for appointment as a judge of a High Court unless he is a citizen of India and—

(a) has held for at least ten years a judicial office in any State in or for which there is a High Court; or

(b) has been for at least ten years an advocate of a High Court or of two or more such courts in succession.

Explanation I.—For the purposes of this clause—

(a) in computing the period during which a person has been an advocate of a High Court, there shall be included any period during which a person held judicial office after he became an advocate;

(b) in computing the period during which a person has held judicial office in a State; for the time being specified in Part I or Part II of the First Schedule or been an advocate of a High Court, there shall be included any period before the commencement of this Constitution during which he held judicial office in any area which was comprised before the fifteenth day of August, 1947, within British India as defined by the Government of India Act, 1935, or has been an advocate of any High Court in any such area, as the case may be.

Explanation II.—In sub-clauses (a) and (b) of this clause, the reference to a High Court shall be construed as including a reference to a court in a State for the time being specified in Part III of the First Schedule which is a High Court for the purposes of articles 103 and 106 of this Constitution.

Application of certain provisions relating to Supreme Court to High Courts.

194. The provisions of clauses (4) and (5) of article 103 of this Constitution shall apply in relation to a High Court as they apply in relation to the Supreme Court with the substitution of references to the High Court for references to the Supreme Court.

Declaration by judges of High Courts before entering office.

195. Every person appointed to be a judge of a High Court in a State shall, before he enters upon his office, make and subscribe before the Governor of the State or some person appointed in that behalf by him a declaration according to the form set out for the purpose in the Third Schedule.

Prohibition of practising in courts or before any authority by a person who held office as a judge of a High Court.

*196. No person who has held office—

(a) as a judge of a High Court, or

(b) as an additional judge or temporary judge of a High Court on having been recruited from the Bar,

shall plead or act in any Court or before any authority within the territory of India.

Salaries, etc. of judges.

197. The judges of each High Court shall be entitled to such salaries and allowances, and to such rights in respect of leave and pensions, as may from time to time be fixed by or under law made by the Legislature of the State in which the Court has its principal seat, and until they are so fixed, shall be entitled to such salaries, allowances and rights in respect of leave of absence or pension as are specified in the Second Schedule:

Provided that the salary of the Chief Justice of a High Court shall not be less than four thousand

*The Committee is of opinion that a person who has held office as judge of a High Court should be prohibited from practicing in any court or before any authority and so also persons who have held office as additional judges or temporary judges of the court on having been recruited from the Bar.

rupees per month and the salary of any other judge of a High Court shall not be less than three thousand and five hundred rupees per month:

Provided further that neither the salary of a judge nor his rights in respect of leave of absence or pension shall be varied to his disadvantage after his appointment.

Temporary judges.

198. (1) When the office of Chief Justice of a High Court is vacant or when any such Chief Justice is, by reason of absence or otherwise, unable to perform the duties of his office, the duties of the office shall be performed by such one of the other judges of the court as the President may appoint for the purpose.

(2) (a) When the office of any other judge of a High Court is vacant or when any such judge is appointed to act temporarily as a Chief Justice, or is unable to perform the duties of his office by reason of absence or otherwise, the President may appoint a person duly qualified for appointment as a judge to act as a judge of that court.

(b) The person appointed shall, while so acting, be deemed to be a judge of the court.

(c) Nothing contained in this clause shall prevent the President from revoking any appointment made under this clause.

Additional judges.

199. If by reason of any temporary increase in the business of any High Court or by reason of arrears of work in any such court, it appears to the President that the number of the judges of the court should be for the time being increased, the President may, subject to the foregoing provisions of this Chapter with respect to the maximum number of judges, appoint persons duly qualified for appointment as judges to be additional judges of the court for such period not exceeding two years as he may specify.

Attendance of retired judges at sittings of High Courts

*200. Notwithstanding anything contained in this Chapter, the Chief Justice of a High Court may at any time, subject to the provisions of this article, request any person who has held the office of a judge of that court to sit and act as a judge of the court, and every such person so requested shall, while so sitting and acting, have all the jurisdiction, powers and privileges of, but shall not otherwise be deemed to be, a judge of that court:

Provided that nothing in this article shall be deemed to require any such person as aforesaid to sit and act as a judge of that court unless he consents so to do.

Jurisdiction of existing High Courts.

201. Subject to the provisions of this Constitution and to any provisions of any law of the appropriate Legislature made by virtue of the powers conferred on that Legislature by this Constitution, the jurisdiction of, and the law administered in, any existing High Court, and the respective powers of the judges thereof in relation to the administration, of justice in the court, including any power to make rules of court and to regulate the sittings of the court and of members thereof sitting alone or in division courts, shall be the same as immediately before the commencement of this Constitution:

Provided that any restriction to which the exercise of original jurisdiction of any of the High Courts with respect to any matter concerning the revenue or concerning any act ordered or done in the collection thereof was subject immediately before the commencement of this Constitution shall no longer apply to the exercise of such jurisdiction.

Power of High Courts to issue certain writs.

202. (1) Notwithstanding anything contained in article 25 of this Constitution, every High Court shall have power, throughout the territories in relation to which it exercises jurisdiction, to issue directions or orders in the nature of the writs of habeas corpus, mandamus, prohibition, quo warranto and certiorari, for the enforcement of any of the rights conferred by Part III of this Constitution and for any other purpose.

*The employment of retired judges follows the practice in the United Kingdom and in the United States of America.

(2) The power conferred on a High Court by clause (1) of this article shall not be in derogation of the power conferred on the Supreme Court by clause (2) of article 25 of this Constitution.

Administrative functions of High Courts.

203. (1) Every High Court shall have superintendence over all courts throughout the territories in relation to which it exercises jurisdiction.

(2) The High Court may—

(a) call for returns from such courts;

(b) direct the transfer of any suit or appeal from any such court to any other court of equal or superior jurisdiction, or withdraw such suit or appeal from any such court to itself;

(c) make and issue general rules and prescribe forms for regulating the practice and proceedings of such courts; and

(d) prescribe forms in which books, entries and accounts shall be kept by the officers of any such courts.

(3) The High Court may also settle tables of fees to be allowed to the sheriff and all clerks and officers of such courts and to attorneys, advocates and pleaders practising therein:

Provided that any rules made, forms prescribed or tables settled under clause (2) or clause (3) of this article shall not be inconsistent with the provisions of any law for the time being in force, and shall require the previous approval of the Governor.

Transfer of certain cases to High Court for trial.

204. If the High Court is satisfied that a case pending in a court subordinate to it involves a substantial question of law as to the interpretation of this Constitution, it shall withdraw the case to itself and dispose of the same.

Explanation.—In this article, "High Court" includes a court of final jurisdiction in a State for the time being specified in Part III of the First Schedule with regard to the case so pending.

Salaries, allowances and pensions of officers and servants and the expenses of High Courts.

205. (1) The salaries, allowances and pensions payable to or in respect of the officers and servants of a High Court shall be fixed by the Chief Justice of the court in consultation with the Governor of the State in which the High Court has its principal seat.

(2) The administrative expenses of a High Court, including all salaries, allowances and pensions payable to or in respect of officers and servants of the court, and the salaries and allowances of the judges of the court, shall be charged upon the revenues of the State, and any fees or other moneys taken by the court shall form part of those revenues.

Power to constitute or re-constitute High Court.

206. (1) The Legislature of a State for the time being specified in Part I of the First Schedule may, by law, constitute a High Court for the State or any part thereof or reconstitute in like manner any existing High Court for that State or for any part thereof, or where there are two High Courts in that State, amalgamate those courts.

(2) Where any court is reconstituted, or two courts are amalgamated, as aforesaid, the law made by the Legislature of the State shall provide for—

(a) the continuance in their respective offices of all the existing judges of the court or courts and of such of the existing officers and servants of the court or courts as may be deemed necessary; and

(b) the carrying on before the reconstituted court or the new court of all pending matters.

and may contain such other provision as may appear to be necessary by reason of the re constitution or amalgamation.

Extension of or exclusion from the jurisdiction of High Courts.

207. Parliament may by law—

(a) extend the jurisdiction of a High Court to, or

(b) exclude the jurisdiction of a High Court from,

any State other than, or any area not within, the State in which the High Court has its principal seat:

Provided that no Bill for any such purpose shall be introduced in either House of Parliament unless—

(i) where the jurisdiction is to be extended to or excluded from a State for the time being specified in Part I or Division A of Part III of the First Schedule or any area within such State, the consent of such other State has been obtained; and

(ii) where the jurisdiction is to be extended, the consent of the State in which the High Court has its principal seat has also been obtained

Restrictions on the power of the Legislatures of States to make laws with respect to jurisdiction of a High Court in a State having jurisdiction outside that State.

208. Where a High Court exercises jurisdiction in relation to any area outside the State in which it has its principal seat, nothing in this Constitution shall be construed—

(a) as empowering the Legislature of the State in which the court has its principal seat to increase, restrict or abolish that jurisdiction;

(b) as empowering the Legislature of a State for the time being specified in Part I or Part III of the First Schedule in which any such area is situate, to abolish that jurisdiction; or

(c) as preventing the Legislature having power to make laws in that behalf for any such area, from passing, subject to the provisions of clause (b) of this article, such laws with respect to the jurisdiction of the court in relation to that area as it would be competent to pass if the principal seat of the court were in that area.

Interpretation.

209. Where a High Court exercises jurisdiction in relation to more than one State or in relation to a State and an area not forming part of the State—

(a) references in this Chapter to the Governor in relation to the judges of a High Court shall be construed as references to the Governor of the State in which the court has its principal seat;

(b) the reference to the approval by the Governor of rules, forms and tables for subordinate courts shall be construed as a refer-

ence to the approval thereof by the Governor or the Ruler of the State in which the subordinate court is situate, or if it is situate in an area not forming part of any State for the time being specified in Part I or Part III of the First Schedule, by the President; and

(c) references to the revenues of the State shall be construed as references to the revenues of the State in which the court has its principal seat.

CHAPTER IX—*Auditors-in-Chief for the States

Auditor-in-Chief for a State.

210. (1) The Legislature of a State for the time being specified in Part I of the First Schedule may by law provide for the appointment of an Auditor-in-Chief for the State and when such provision has been made an Auditor-in-Chief for that State may be appointed by the Governor in his discretion and the Auditor-in-Chief so appointed shall only be removed from office in like manner and on the like grounds as a judge of the High Court of the State.

(2) An Act passed under clause (1) of this article by the Legislature of a State shall provide that no appointment of an Auditor-in-Chief for the State shall be made until the expiration of at least three years from the date of the publication after assent of the Act.

(3) Every such Act shall prescribe the conditions of service of the Auditor-in-Chief and the duties which shall be performed and the powers which shall be exercised by the Auditor-in-Chief in relation to the accounts of the State and shall declare the salary, allowances and pension payable to or in respect of the Auditor-in-Chief to be charged on the revenues of the State.

*The Committee is of opinion that the person performing the functions of an Auditor-General in a State should be designated as Auditor-in-Chief to distinguish him from the Auditor-General of India.

(4) The Auditor-in-Chief of the State shall be eligible for appointment as Auditor-General of India or as Auditor-in-Chief for any other State for the time being specified in Part I of the First Schedule but not for any other appointment either under the Government of India or under the Government of any State after he has ceased to hold his office.

(5) The salaries, allowances and pensions payable to or in respect of members of the staff of the Auditor-in-Chief of a State shall be fixed by the Auditor-in-Chief in consultation with the Governor and shall be charged upon the revenues of the State.

(6) Nothing in this article shall derogate from the power of the Auditor-General of India to give such directions in respect of the accounts of the States for the time being specified in Part I of the First Schedule as are mentioned in article 126 of this Constitution.

Audit reports

211. The reports of the Auditor-General of India or the Auditor-in-Chief of the State, as the case may be, relating to the accounts of a State for the time being specified in Part I of the First Schedule shall be submitted to the Governor of the State, who snail cause them to be laid before the Legislature of the State.

PART VII

*The States in Part II of the First Schedule

Administration of States in Part. II of the First Schedule.

212. (1) Subject to the other provisions of this Part, a State for the time being specified in Part II of the First Schedule shall be administered by the President acting, to such extent as he thinks fit, through a Chief Commissioner or a Lieutenant-Governor to be appointed by him or through the Governor or Ruler of a neighbouring State:

Provided that the President shall not act through the Governor or Ruler of a neighbouring State save after—

(a) consulting the Governor or Ruler concerned; and

(b) ascertaining in such manner as the President considers most appropriate the wishes of the people of the State to be so administered.

**(2) Any State for the time being specified in Part III of the First Schedule whose Ruler has ceded full and exclusive authority, jurisdiction and powers for and in relation to the governance of the State to the Government of India shall be administered in all respects as if the State were for the time being specified in Part II of the First Schedule; and, accordingly, all the provisions of this Constitution relating to States specified in the said Part II shall apply to such State.

*The Committee is of opinion that it is not necessary to make any detailed provisions with regard to the Constitution of the States specified in Part II of the First Schedule which are at present Chief Commissioners' Provinces on the lines suggested by the *ad hoc* Committee on Chief Commissioners' Provinces in their recommendations. The revised provisions proposed in this Part would enable the recommendations of the *ad hoc* Committee, if adopted by the Constituent Assembly, to be given effect to by the President by order.

**This clause has been inserted by the Committee to provide for the administration of State.; in Part III of the First Schedule (*e.g.* the Orissa States) which have ceded full and exclusive authority, jurisdiction and powers to the Government of India.

Creation or continuance of local Legislature or Council of Advisors.

213. The President may, by order, create or continue for any State for the time being specified in Part II of the First Schedule and administered through a Chief Commissioner or Lieutenant-Governor—

(a) a local Legislature, or

(b) a Council of Advisers

or both, with such constitution, powers and functions, in each case, as may be specified in the order.

Coorg.

214. Until other provision is made in this behalf by the President, the constitution, powers and functions of the Coorg Legislative Council and the arrangements with respect to revenues collected in Coorg and expenses in respect of Coorg shall remain unchanged.

Part VIII

The Territories in Part IV of the First Schedule and other Territories Not Specified in that Schedule

Administration of territories specified in Part IV of the First Schedule and other territories not specified in that Schedule.

215. (1) Any territory specified in Part IV of the First Schedule and any other territory comprised within the territory of India but not specified in that Schedule shall be administered by the President acting, to such extent as he thinks fit, through a Chief Commissioner or other authority to be appointed by him.

(2) The President may make regulations for the peace and good government of any such territory and any regulation so made may repeal or amend any law made by Parliament or any existing law which is for the time being applicable to such territory and, when promulgated by the President, shall have the same force and effect as an Act of Parliament which applies to such territory.

PART IX

Relations between the Union and the States

CHAPTER I—Legislative Relations

DISTRIBUTION OF LEGISLATIVE POWERS

Extent of laws made by Parliament and by the Legislatures of States.

216. (1) Subject to the provisions of this Constitution, Parliament may make laws for the whole or any part of the territory of India, and the Legislature of a State may make laws for the whole or any part of the State.

(2) No law made by Parliament shall be deemed to be invalid on the ground that it would have extra-territorial operation.

Subject-matter of laws made by Parliament and by the Legislatures of States.

*217. (1) Notwithstanding anything in the two next succeeding clauses, Parliament has exclusive power to make laws with respect to any of the matters enumerated in List I in the Seventh Schedule (in this Constitution referred to as the "Union List").

(2) Notwithstanding anything in the next succeeding clause, Parliament and, subject to the preceding clause, the Legislature of any State for the time being specified in Part I of the First Schedule also, have power to make laws with respect to any of the matters enumerated in List III in the

*Shri Alladi Krishnaswami Ayyar was of opinion that instead of following the old plan of legislative distribution this clause might, in view of the fact that the residuary power is to be in Parliament, begin with the legislative powers of the State, then deal with the concurrent powers and then with the legislative powers of Parliament. As the question was merely one of form, the majority of the members preferred not to disturb the existing arrangement.

Seventh Schedule (in this Constitution referred to as the "Concurrent List").

(3) Subject to the two preceding clauses, the Legislature of any State for the time being specified in Part I of the First Schedule has exclusive power to make laws for such State or any part thereof with respect to any of the matters enumerated in List II in the Seventh Schedule (in this Constitution referred to as the "State List").

(4) Parliament has power to make laws with respect to any matter for any part of the territory of India not included for the time being in Part I or Part III of the First Schedule notwithstanding that such matter is a matter enumerated in the State List.

Legislation with respect to the Supreme Court.

*218. Parliament has the exclusive power to make laws with respect to the constitution, organisation, jurisdiction and powers of the Supreme Court.

Power of Parliament to provide for the establishment of certain additional courts.

219. Notwithstanding anything in this Chapter, Parliament may by law provide for the establishment of any additional courts for the better administration of laws made by Parliament or of any existing law with respect to a matter enumerated in the Union List.

Legislation with respect to constitution and organisation of High Courts.

*22G. (1) The Legislature of a State for the time being specified in Part I of the First Schedule has the exclusive power to make laws with respect to the constitution and organisation of any High Court having its principal seat within such State.

(2) Parliament has power to make laws with respect to the constitution and organisation of any High Court having its principal seat in a State for the time being specified in Part II of the First Schedule.

*Some members of the Committee consider that articles 218, 220, 221 and 222 are not necessary in view of article 217.

Legislation with respect to jurisdiction and powers of High Courts.

*221. (1) Parliament has the exclusive power to make laws regarding the jurisdiction and powers of any High Court with respect to any of the matters enumerated in the Union List.

(2) The Legislature of a State for the time being specified in Part I of the First Schedule in relation to which or in relation to any area within which a High Court exercises jurisdiction has the exclusive power to make laws regarding the jurisdiction and powers of such High Court in relation to such State or area with respect to any of the matters enumerated in the State List.

(3) Parliament and also the Legislature of a State for the time being specified in Part I of the First Schedule in relation to which or in relation to any area within which a High Court exercises jurisdiction have power to make laws regarding the jurisdiction and powers of such High Court in relation to such State or area with respect to any of the matters enumerated in the Concurrent List.

(4) Parliament has power to make laws regarding the jurisdiction and powers of a High Court in relation to a State for the time being specified in Part II of the First Schedule or any area within such State with respect to any of the matters enumerated in the State List.

Legislation with respect to the procedure to be followed by High Courts in civil and criminal matters.

*222. Parliament and also the Legislature of a State for the time being specified in Part I of the First Schedule in which a High Court has its principal seat have power to make laws with respect to the procedure to be followed by such High Court in civil and criminal matters.

Residuary powers of legislation.

223. (1) Parliament has exclusive power to make any law with respect to any matter not enumerated in the Concurrent List or State List.

(2) Such power shall include the power of making any law imposing a tax not mentioned in either of those Lists.

*Some members of the Committee consider that articles 218, 220, 221 and 222 are not necessary in view of article 217.

Restriction on powers of Parliament to make laws with respect to certain matters in relation to States in Part III of the First Schedule.

*224. Notwithstanding anything in clause (1) of article 217 of this Constitution—

(a) Parliament shall not have power to make laws with respect to any right relating to posts and telegraphs in any State or group of States for the time being specified in Part III of the First Schedule subsisting at the date of commencement of this Constitution until such right is extinguished by agreement between the Government of India and that State or group of States or is acquired by the Government of India:

Provided that nothing in this clause shall prevent Parliament from making any law for the regulation and control of posts and telegraphs in such State or group of States;

(b) the power of Parliament to make laws with respect to telephones, wireless, broadcasting and other like forms of communication in any State for the time being specified in Part III of the First Schedule shall extend only to the making of laws for their regulation and control;

(c) the power of Parliament to make laws with respect to corporations shall not include the power to make laws with respect to the incorporation, regulation and winding up of corporations owned or controlled by a State for the time being specified in Part III of the First Schedule and carrying on business only within that State.

Extent of power to legislate for States in Part III of the First Schedule.

225. Notwithstanding anything in this Chapter, the power of Parliament to make laws for a State or a group of States for the time being specified in Part III of the First Schedule shall be subject to the terms of any agreement entered into in that behalf by that State or group of States with the Government of India and the limitations contained therein.

* The Committee is of opinion that some articles of this Chapter will require rearrangement before the Constitution is finally passed by the Constituent Assembly.

Power of Parliament to legislate with respect to a matter in the State List in the national interest.

*226. Notwithstanding anything in the foregoing provisions of this Chapter, if the Council of States has declared by resolution supported by not less than two-thirds of the members present and voting that it is necessary or expedient in the national interest that Parliament should make laws with respect to any matter enumerated in the State List specified in the resolution, it shall be lawful for Parliament to make laws for the whole or any part of the territory of India with respect to that matter.

Power of Parliament to legislate with respect to any matter in the State List if a Proclamation of Emergency is in operation.

227, (1) Notwithstanding anything in this Chapter, Parliament shall, while a Proclamation of Emergency is in operation, have power to make laws for the whole or any part of the territory of India with respect to any of the matters enumerated in the State List.

(2) A law made by Parliament which Parliament would not but for the issue of a Proclamation of Emergency have been competent to make shall, to the extent of the incompetency, cease to have effect on the expiration of a period of six months after the Proclamation has ceased to operate, except as respects things done or omitted to be done before the expiration of the said period.

Inconsistency between laws made by Parliament under articles 226 and 227 and laws made by the Legislatures of States.

**228. Nothing in articles 226 and 227 of this Constitution shall restrict the power of the Legislature of a State to make any law which under this Constitution it has power to make, but if any provision of a law made by the Legislature of a State is repugnant to any provision of a law made by Parliament which Parliament has under either of the said articles power to make, the law made by Parliament,

* The Committee is of opinion that power should be provided for Parliament to legislate with respect to any matter in the State List when it assumes national importance; and has inserted this article for the purpose.

** The Committee by a majority has decided that when Parliament makes a law with respect to any matter in the State List in the national interest it should be treated as akin to a matter in the Concurrent List, but Shri Alladi Krishnaswami Ayyar is against the retention of power of legislation to the States in such cases as in his opinion the retention of such power would offer a premium for the union gradually encroaching on the State field and, striking at the federal structure of the constitution.

whether passed before or after the law made by the Legislature of the State shall prevail, and the Jaw made by the Legislature of the State shall to the extent of the repugnancy, but so long only as the law made by Parliament continues to have effect, be inoperative.

Power of Parliament to legislate for one or more States by consent and adoption of such legislation by any other State.

229. (1) If it appears to the Legislature or Legislatures of one or more States to be desirable that any of the matters with respect to which Parliament has no power to make laws for the State or States except as provided in articles 226 and 227 of this Constitution should be regulated in such State or States by Parliament by law, and a resolution or resolutions to that effect is or are passed by the House or, where there are two Houses, by both the Houses of the Legislature of the State or of each of the States, it shall be lawful for Parliament to pass an Act for regulating that matter accordingly, and any Act so passed shall apply to such State or States and to any other State by which it is adopted afterwards by resolution passed in that behalf by the House or. where there are two Houses, by each of the Houses of the Legislature of that State.

*(2) Any Act so passed by Parliament may be amended or repealed by an Act of Parliament passed or adopted in like manner but shall not, as respects any State to which it applies, be amended or repealed by an Act of the Legislature of that State.

Legislation for giving effect to international agreements.

**230. Notwithstanding anything in the foregoing provisions of this Chapter, Parliament has power to make any law for any State or part thereof for implementing any treaty, agreement or convention with any other country or countries.

* The Committee is of opinion that an Act passed by Parliament with the consent of the States should not he allowed to be amended or repealed by any Act of the Legislature of any State to which it applies, but should be amended or repealed only by an Act of Parliament passed or adopted in the same manner in which the principal Act was passed or adopted. This is in conformity with the provisions of section 51 (*xxxvii*) read with section 109 of the Commonwealth of Australia Constitution Act.

** The Committee is of opinion that Parliament should have unfettered power to make any law for any State or part thereof for implementing any treaty, agreement or convention with any foreign country or countries.

Inconsistency between laws made by Parliament and laws made by the Legislatures of States.

231. (1) If any provision of a law made by the Legislature of a State is repugnant to any provision of a law made by Parliament which Parliament is competent to enact, or to any provision of any existing law regarding a matter with respect to which Parliament has power to make laws, then, subject to the provisions of clause (2) of this article, the law made by Parliament, whether passed before or after the law made by the Legislature of such State or, as the case may be, the existing law shall prevail and the law made by the Legislature of the State shall, to the extent of the repugnancy, be void.

(2) Where a law made by the Legislature of a State for the time being Specified in Part I of the First Schedule with respect to one of the matters enumerated in the Concurrent List contains any provision repugnant to the provisions of an earlier law made by Parliament or any existing law with respect to that matter, then the law so made by the Legislature of such State shall, if it has been reserved for the consideration of the President and has received his assent, prevail:

Provided that nothing in this clause shall prevent Parliament from enacting at any time any law with respect to the same matter including a law adding to, amending, varying or repeating the law so made by the Legislature of the State.

Restriction on Legislative Powers

Requirements as to recommendations to be regarded as matters of procedure only.

232. No Act of Parliament or of a Legislature of a State for the time being specified in Part I of the First Schedule and no provision in any such Act shall be invalid by reason only that some recommendation required by this Constitution was not given, if assent to that Act was given—

(a) where the recommendation required was that of the Governor, either by the Governor or by the President;

(b) where the recommendation required was that of the President, by the President.

CHAPTER II—Administrative Relations

General

Obligation of States and the Union.

233. The executive power of every State shall be so exercised as to ensure compliance with the laws made by Parliament and any existing laws which apply in that State and the executive power of the Union shall extend to the giving of such directions to a State as may appear to the Government of India to be necessary for this purpose.

Duty of States not to impede or prejudice authority of the Union.

234. (1) The executive power of every State shall be so exercised as not to impede or prejudice the exercise of the executive power of the Union, and the executive power of the Union shall extend to the giving of such directions to a State as may appear to the Government of India to be necessary for that purpose.

(2) The executive power of the Union shall also extend to the giving of directions to a State as to the construction and maintenance of means of communication declared in the direction to be of national or military importance:

Provided that nothing in this clause shall be taken as restricting the power of Parliament to declare highways or waterways to be national highways or national waterways or the power of the Union with respect to the highways or waterways so declared or the power of the Union to construct and maintain means of communication as part of its functions with respect to naval, military and air force works.

Power of the Union to confer powers, etc. on States in certain cases.

235. (1) Notwithstanding anything in this Constitution, the President may with the consent of the Government of a State, entrust either conditionally or unconditionally to that Government or to its officers functions in relation to any matter to which the executive power of the Union extends.

(2) A law made by Parliament which applies in any State may, notwithstanding that it relates to a matter with respect to which the Legislature of the State has no power to make laws, confer powers and

impose duties, or authorise the conferring of powers and the imposition of duties, upon the State or officers and authorities thereof.

(3) Where by virtue of this article powers and duties have been conferred or imposed upon a State or officers or authorities thereof, there shall be paid by the Government of India to the State such sum as may be agreed or, in default of agreement, as may be determined by an arbitrator appointed by the Chief Justice of India in respect of any extra costs of administration incurred by the State in connection with the exercise of those powers and duties.

Power of the Union to undertake legislative, executive or judicial functions in certain States.

236. (1) The Government of India, may by agreement with any State for the time being specified in Part III of the First Schedule, but subject to the provisions of this Constitution in regard to the relationship between the Union and such State, undertake any executive, legislative or judicial functions vested in that State.

(2) The Government of India may also enter into such an agreement with the Government of any Indian State not specified for the time being in the First Schedule, but every such agreement shall be subject to, and governed by, the law relating to the exercise of foreign jurisdiction for the time being in force.

Explanation.—In this clause, the expression "Indian State" means any territory, not being part of the territory of India which the President recognises as being such a State.

(3) If an agreement entered into with any State under clause (1) of this article provides for any matter with respect to which provision has been already made in an agreement entered into with such a State under article 237 of this Constitution by the Government of any State for the time being specified in Part I of the First Schedule, then the latter agreement shall, in so far as it provides for such matter, be deemed to be revoked and of no effect on and from the date of conclusion of the former agreement.

(4) On an agreement under clause (1) of this article being concluded between the Union and a State for the time being specified in Part III of the First Schedule—

(a) the executive power of the Union shall extend to any matter specified in that behalf in such agreement;

(b) Parliament shall have power to make laws with respect to any matter specified in that behalf in such agreement; and

(c) the Supreme Court of India shall, subject to the provisions of clause (2) of article 114 of this Constitution, have jurisdiction with respect to any matter specified in that behalf in such agreement.

Power of States in Part I of the First Schedule to undertake legislative, executive or judicial functions in a State in Part III of the First Schedule.

237. (1) It shall be competent for the Government of a State for the time being specified in Part I of the First Schedule with the previous sanction of the President to undertake, by an agreement made in that behalf with any State for the time being specified in Part III of the First Schedule, any legislative, executive or judicial functions vested in the latter State, if such agreement relates to a matter which is enumerated in the State List or the Concurrent List.

(2) On an agreement under clause (I) of this article being concluded between a State for the time being specified in Part I of the First Schedule and a State for the time being specified in Part III of that Schedule—

(a) the executive power of the State specified in Part I of the said Schedule shall extend to any matter specified in that behalf in such agreement;

(b) the Legislature of the State specified in Part I of the said Schedule shall have power to make laws with respect to any matter specified in that behalf in such agreement; and

(c) the High Court and other appropriate courts in the State specified in Part I of the said Schedule shall have jurisdiction with respect to any matter specified in that behalf in such agreement.

Public acts, records and judicial proceedings.

*238. (1) Full faith and credit shall be given throughout the territory of India to public acts, records and judicial proceedings of the Union and of every State.

(2) The manner in which and the conditions under which the acts, records and proceedings referred to in clause (1) of this article shall be proved and the effect thereof determined shall be as provided by law.

(3) Final judgments or orders delivered or passed by civil courts in any part of the territory of India shall be capable of execution anywhere within that territory according to law:

Provided that the provisions of clauses (1) and (3) of this article shall not apply to public acts, records and judicial proceedings of, and the final judgment or order delivered or passed by civil courts in, any State for the time being specified in Part III of the First Schedule unless Parliament has, under the terms of any agreement entered into in that behalf by such State with the Union, power to make laws with respect to the matters enumerated in entries 2, 4 and 5 of the Concurrent List.

Interference with Water-Supplies

Complaints as to interference with water supplies

239. If it appears to the Government of any State for the time being specified in Part I or Part III of the First Schedule that the interests of that State, or of any of the inhabitants thereof, in the water from any natural source of supply in any State have been, or are likely to be affected prejudicially by—

(a) any executive action or legislation taken or passed, or proposed to be taken or passed; or

* The Committee is of opinion that this article should more-appropriately be included in this Chapter than in Part III dealing with Fundamental Rights.

The Committee is further of opinion that effect ought not to be given to the provisions of this article in relation to every State for the time being specified in Part III of the First Schedule as the laws relating to subjects, such as Civil Procedure, Criminal Procedure and Evidence, enumerated in the Concurrent List may be different in different States. The Committee has therefore revised this clause so as to restrict its application only to such of those States as have acceded to the Union in respect of such subjects in the Concurrent List.

(b) the failure of any authority to exercise any of their powers.

with respect to the use, distribution or control of water from that source, the Government of the State may complain to the President.

Decision of complaints.

240. (1) If the President receives such a complaint as aforesaid, he shall, unless he is of opinion that the issues involved are not of sufficient importance to warrant such action, appoint a Commission consisting of such persons having special knowledge and experience in irrigation, engineering, administration, finance or law as he thinks fit, and request that Commission to investigate in accordance with such instructions as he may give to them, and to report to him on the matters to which the complaint relates, or such of those matters as he may refer to them.

(2) A Commission so appointed shall investigate the matters referred to them and present to the President a report setting out the facts as found by them and making such recommendations as they think proper.

(3) If it appears to the President upon consideration of the Commission's report that anything therein contained requires explanation, or that he needs guidance upon any point not originally referred by him to the Commission, he may again refer the matter to the Commission for further investigation and a further report.

(4) For the purposes of assisting a Commission appointed under this article in investigating any matters referred to them, the Supreme Court, if requested by the Commission so to do, shall make such orders for the purposes of the proceedings of the Commission as they may make in the exercise of the jurisdiction of the court.

(5) The report of the Commission shall include a recommendation as to the Government or persons by whom the expenses of the Commission and any costs incurred by any State or persons in appearing before the Commission are to be paid and as to the amount of any expenses or costs to be so paid; and an order made by the President under this article, in so far as it relates to expenses or costs, may be enforced as if it were an order made by the Supreme Court.

(6) After considering any report made to him by the Commission the President shall, subject as hereinafter provided, make orders in accordance with the report,

(7) If upon consideration of the Commission's report the President is of opinion that anything therein contained involves a substantial question of law. he shall refer the question to the Supreme Court under article 119 of this Constitution and on receipt of the opinion of the Supreme Court thereon shall, unless the Supreme Court has agreed with the Commission's report, return the report to the Commission together with the opinion and the Commission shall thereupon make such modifications in the report as may be necessary to bring it in accord with such opinion and present the report as so modified to the President.

(8) Effect shall be given, in any State affected, to any order made under this article by the President, and any Act of the Legislature of a State which is repugnant to the order shall, to the extent of the repugnancy, be void.

(9) The President, on application made to him by the Government of any State affected, may at any time, if a Commission appointed as aforesaid so recommend, vary any order made under this article.

Interference with water supplies of States in Part II of the First Schedule.

241. If it appears to the President that the interests of any State for the time being specified in Part II of the First Schedule, or of any of the inhabitants of such a State, in the water from any natural source of supply in any State for the time being specified in Part I or Part III of the First Schedule have been or are likely to be affected prejudicially by—

(a) any executive action or legislation taken or passed, or proposed to be taken or passed; or

(b) the failure of any authority to exercise any of their powers,

with respect to the use, distribution or control of water from that source, he may, if he thinks fit, refer the matter to a Commission appointed in accordance with the provisions of the last preceding article and

thereupon those provisions shall apply as if the State for the time being specified in Part II of the First Schedule were a State for the time being specified in Part I of that Schedule and as if a complaint with respect to the matter had been made by the Government of that State to the President.

Jurisdiction of courts excluded.

242. Notwithstanding anything in this Constitution, neither the Supreme Court nor any other court shall have jurisdiction to entertain any action or suit in respect of any matter, if action in respect of that matter might have been taken under any of the three last preceding articles by the Government of a State or the President.

Inter-State Trade and Commerce

Prohibition of preference or discrimination to one State over another by any law or regulation relating to trade or commerce.

*243. No preference shall be given to one State over another nor shall any discrimination be made between one State and another by any law or regulation relating to trade or commerce, whether carried by land, water or air.

Restriction on trade, commerce and intercourse between States.

*244. Notwithstanding anything contained in article 16 or in the last preceding article of this Constitution, it shall be lawful for any State—

(a) to impose on goods imported from other States any tax to which similar goods manufactured or produced in that State are subject, so, however, as not to discriminate between goods so imported and goods so manufactured or produced; and

(b) to impose by law such reasonable restrictions on the freedom of trade, commerce or intercourse with that State as may be required in the public interests;

Provided that during a period of five years from the commencement of this Constitution the provisions

* The Committee is of opinion that the provisions contained in articles 243 and 244 should more appropriately be included in this Chapter than in Part HI dealing with Fundamental Rights.

of clause (b) of this article shall not apply to trade or commerce in any of the commodities mentioned in clause (a) of article 306 of this Constitution.

Appointment of authority to carry out the provisions of articles 243 and 244.

*245. Parliament shall by law appoint such authority as it considers appropriate for the carrying out of the provisions of articles 243 and 244 of this Constitution and confer on the authority so appointed such powers and such duties as it thinks necessary.

Co-ordination between States

Provisions with respect to an Inter-State Council

246. If at any time it appears to the President that the public interests would be served by the establishment of a Council charged with the duty of—

(a) inquiring into and advising upon disputes which may have arisen between States;

(b) investigating and discussing subjects in which some or all of the States, or the Union and one or more of the States have a common interest; or

(c) making recommendations upon any such subject and, in particular, recommendations for the better co-ordination of policy and action with respect to that subject,

it shall be lawful for the President by order to establish such a Council and to define the nature of the duties to be performed by it and its organisation and procedure.

*The Committee is of opinion that it would be more appropriate to provide for the appointment of an authority by law for the purpose of carrying out the provisions of articles 243 and 244 instead of providing for an Inter-State Commission with limited powers as such a Commission, if appointed with powers only to adjudicate disputes as to trade or commerce, may not have sufficient work to do.

PART X

Finance, Property, Contracts and Suits

CHAPTER I—Finance

*DISTRIBUTION OF REVENUES BETWEEN THE UNION AND THE STATES

Interpretation

247. In this Part, unless the context otherwise requires,—

(a) "Finance Commission" means a Finance Commission constituted under article 260 of this Constitution;

(b) "State" does not include a State for the time being specified in Part II of the First Schedule;

(c) references to States for the time being specified in Part II of the First Schedule shall include references to any territory specified in Part IV of the First Schedule and any other territory comprised within the territory of India but not specified in that Schedule.

Meaning of "revenues of India" and "revenues of the State. "

248. Subject to the following provisions of this Chapter with respect to the assignment of the whole or part of the net proceeds of certain taxes and duties to States, the expression 'revenues of India' includes all revenues and public moneys raised or received by the Government of India and the expression 'revenues of the State' includes all revenues and public moneys raised or received by the Government of a State.

*The Committee has not embodied in the Draft the recommendations of the Expert Committee on the Financial Provisions of the Constitution with regard to the distribution of revenues between the Union and the States, as the Committee is of opinion that in view of the unstable conditions prevailing at the present moment the existing distribution of such revenues under the Government of India Act. 1935, should continue for at least five years, after which a Finance Commission may review the position. The Committee agrees with the Export Committee that steps should be taken for the collection, compilation and maintenance of statistical information referred to in paragraph 66 of the report of the Export Committee in order that such information might be available to the Finance Commission when appointed.

Duties levied by the Union but collected and appropriated by the States.

249, (1) Such stamp duties and such duties of excise on medicinal and toilet preparations as are mentioned in the Union List shall be levied by the Government of India but shall be collected—

(a) in the case where such duties are leviable within any State for the time being specified in Part II of the First Schedule, by the Government of India, and

(b) in other cases, by the States within which such duties are respectively leviable.

(2) The proceeds in any financial year of any such duty leviable in that year within any State shall not form part of the revenues of India, but shall be assigned to that State.

Taxes levied and collected by the Union but assigned to the States.

250. (I) The following duties and taxes shall be levied and collected by the Government of India but shall be assigned to the States in the manner provided in clause (2) of this article, namely:—

(a) duties in respect of succession to property other than agricultural land;

(b) estate duty in respect of property other than agricultural land;

(c) terminal taxes on goods or passengers carried by railway or air;

(d) taxes on railway fares and freights.

(2) The net proceeds in any financial year of any such duty or tax, except in so far as those proceeds represent proceeds attributable to States for the time being specified in Part II of the First Schedule, shall not form part of the revenues of India, but shall be assigned to the States within which that duty or tax is leviable in that year, and shall be distributed among those States in accordance with such principles of distribution as may be formulated by Parliament by law.

Taxed levied and collected by the Union and distributed between the Union and the States.

251. (1) Taxes on income other than agricultural income shall be levied and collected by the Government of India and distributed between, the Union and the States in the manner provided in clause (2) of this article.

(2) Such percentage, as may be prescribed, of the net proceeds in any financial year of any such

tax, except in so far as those proceeds represent proceeds attributable to States for the time being specified in Part II of the First Schedule or the saxes payable in respect of Union emoluments, shall not form part of the revenues of India, but shall be assigned to the States within which that tax is leviable in that year, and shall be distributed among those States in such manner and from such time as may be prescribed.

(3) For the purposes of clause (2) of this article : in each financial year such percentage as may be prescribed of so much of the net proceeds of taxes on income as does not represent the net proceeds of taxes payable in respect of Union emoluments shall be deemed to represent proceeds attributable to States for the time being specified in Part II of the First Schedule.

(4) In this article—

(a) "taxes on income" includes any sum levied by the Government of India in lieu of any tax on income as referred to in clause (a) of the proviso to article 266 of this Constitution but does not include a corporation tax;

(b) "prescribed" means—

(i) until a Finance Commission has been constituted, prescribed by the President by order, and

(ii) after a Finance Commission has been constituted, prescribed by the President by order after considering the recommendations of the Finance Commission.

(c) "Union emoluments" includes all emoluments and pensions payable out of the revenues of India in respect of which income-tax is chargeable.

Surcharge on certain duties and taxes for purposes of the Union.

252. Notwithstanding anything contained in articles 250 and 251 of this Constitution, Parliament may at any time increase any of the duties or taxes referred to in those articles by a surcharge for purposes of the Union and the whole proceeds of any such surcharge shall form part of the revenues of India.

Taxes which are levied and collected by the Union and may be distributed between the Union and the States.

*253. (1) No duties on salt shall be levied by the Union.

(2) Union duties of excise other than such duties of excise on medicinal and toilet preparations as are mentioned in the Union List shall be levied and collected by the Government of India, but, if Parliament by law so provides, there shall be paid out of the revenues of India to the States to which the law imposing the duty extends, sums equivalent to the whole or any part of the net proceeds of that duty, and those sums shall be distributed among those States in accordance with such principles of distributon as may be formulated by such law.

Distribution of duty on jute or jute products.

254. Notwithstanding anything in article 263 of this Constitution, such proportion, as Parliament may by law determine, of the net proceeds in each year of any export duty on jute or jute-products shall not form part of the revenues of India, but shall be assigned to the States in which jute is grown in accordance with such principles of distribution as may be formulated by such law:

Provided that until Parliament so determine, there shall be assigned to those States out of the net proceeds of the duty in each year such part thereof and in such proportions as may have been fixed in that behalf by any order made under the Government of India Act, 1935, and in force immediately before the commencement of this Constitution.

Grants from the Union to certain States,

255. Such sums, as Parliament may by law provide, shall be charged on the revenues of India in each year as grants-in-aid of the revenues of such States as Parliament may determine to be in need of assistance, and different sums may be fixed for different States:

Provided that there shall be paid out of the revenues of India as grants-in-aid of the revenues of a State for the time being specified in Part I of the

* The majority of the members of the Committee are of opinion that there should be no constitutional prohibition regarding the duty on salt and its levy should be left to the discretion of Parliament and accordingly clause (I) of this article is not necessary ; but Shri Alladi Krishnaswami Ayyar is of opinion that this clause should be retained.

First Schedule such capital and recurring sums as may be necessary to enable that State to meet the costs of such schemes of development as may be undertaken by the State with the approval of the Government of India for the purpose of promoting the welfare of the scheduled tribes in that State or raising the level of administration of the scheduled areas in that State to that of the administration of the rest of the areas of that State:

Provided further that there shall be paid out of the revenues of India as grants-in-aid of the revenues of the State of Assam sums, capital and recurring, equivalent to—

(a) the average excess of expenditure over the revenues during the three years immediately preceding the commencement of this Constitution in respect of the administration of the tribal areas specified in Part I of the table appended to paragraph 19 of the sixth Schedule; and

(b) the costs of such schemes of development as may be undertaken by that State with the approval of the Government of India for the purpose of raising the level of administration of the said areas to that of the administration of the rest of the areas of that State.

Taxes on professions, trades, callings and employments.

256. (1) Notwithstanding anything in article 217 of this Constitution but subject to the provisions, of clauses (2) and (3) of this article, the Legislature of a State shall have power to make laws with respect to taxes on professions, trades, callings and employments for the benefit of the State or of a municipality, district board, local board or other local authority therein.

(2) The total amount payable in respect of any one person to the State or to any one municipality, district board, local board or other local authority in the State by way of taxes on professions, trades, callings and employments shall not exceed two hundred and fifty rupees per annum:

Provided that, if in the financial year immediately preceding the commencement of this Constitution there was in force in any State or any such munici-

pality, board or authority, a tax on professions, trades, callings or employments, the rate, or the maximum rate, of which exceeded two hundred and fifty rupees per annum, such tax may continue to be levied until provision to the contrary is made by Parliament by law. and any law so made by Parliament may be made either generally or in relation to any specified States, municipalities, boards or authorities.

(3) The power of the Legislature of a State to make laws as aforesaid with respect to taxes on professions, trades, callings and employments shall not be construed as limiting in any way the power of Parliament to make laws with respect to taxes on income accruing from or arising out of professions, trades, callings and employments.

Savings.

257. Any taxes, duties, cesses or fees which immediately before the commencement of this Constitution, were being lawfully levied by the Government of any State or by any municipality or other local authority or body for the purposes of the State, municipality, district or other local area may, notwithstanding that those taxes, duties, cesses or fees are mentioned in the Union List, continue to be levied and to be applied to the same purposes until provision to the contrary is made by Parliament.

Agreement with States specified in Part III of the First. Schedule with regard to the levy, collection and distribution of taxes and duties.

258. (1) Notwithstanding anything contained in this Chapter, the Union may, subject to the provisions of clause (2) of this article, enter into an agreement with a State for the time being specified in Part III of the First Schedule with respect to the levy and collection of any tax or duty leviable by the Government of India in such State and for the distribution of the proceeds thereof otherwise than in accordance with the provisions of this Chapter and, when an agreement is so entered into, the provisions of this Chapter shall in relation to such State have effect subject to the terms of such agreement.

(2) An agreement entered into under clause (1) of this article shall continue in force for a period not exceeding ten years from the commencement of this Constitution:

Provided that the President may at any time after the expiration of five years from such commencement terminate or modify any such agreement if after consideration of the report of the Finance Commission he thinks it necessary to do so.

Calculation of "net proceed", etc.

259. (1) In the foregoing provisions of this Chapter, "net proceeds" means in relation to any tax or duty the proceeds thereof reduced by the cost of collection, and for the purposes of those provisions the net proceeds of any tax or duty, or of any part of any tax or duty, in or attributable to any area shall be ascertained and certified by the Auditor-General of India, whose certificate shall be final.

(2) Subject as aforesaid, and to any other express provision in this Chapter, a law made by Parliament or an order of the President may, in any case where under this Part of this Constitution the proceeds of any duty or tax are, or may be, assigned to any State, provide for the manner in which the proceeds are to be calculated, for the time from or at which and the manner in which any payments are to be made, for the making of adjustments between one financial year and another, and for any other incidental or ancillary matters.

Finance Commission.

260. (1) The President shall, at the expiration of five years from the commencement of this Constitution and thereafter at the expiration of every fifth year or at such other time as the President considers necessary, by order constitute a Finance Commission which shall consist of a Chairman and four other members to be appointed by the President.

(2) Parliament may, by law, determine the qualifications which shall be requisite for appointment as members of the Commission and the manner in which they shall be selected.

(3) It shall be the duty of the Commission to make recommendations to the President as to—

(a) the distribution between the Union and the States of the net proceeds of taxes which are to be, or may be, divided between them under this Chapter and the allocation between the States of the respective shares of such proceeds;

(b) the principles which should govern the grants-in-aid to the States out of the revenues of India;

(c) the continuance or modification of the terms of any agreement entered into by the Union with any State for the time being specified in Part III of the First Schedule as respects the levy, collection and distribution of any tax or duty leviable by the Government of India in such State; and

(d) any other matter referred to the Commission by the President in the interest of sound finance.

(4) The Commission shall determine their procedure and shall have such powers in the performance of their functions as Parliament may by law confer on them.

Recommendations of the Finance Commission.

261. The President shall cause every recommendation made by the Finance Commission under the foregoing provisions of this Chapter together with an explanatory memorandum as to the action taken thereon to be laid before Parliament.

Miscellaneous Financial Provisions

Expenditure defrayable out of the revenues of India.

262. The Union or a State may make any grants for any public purpose, notwithstanding that the purpose is not one with respect to which Parliament or the Legislature of the State, as the case may be, may make laws.

Provisions as to the custody of public moneys.

263. (1) Rules may be made by the President and by the Governor of a State for the purpose of securing that all moneys received on account of the revenues of India or of the State, as the case may be, shall, with such exceptions, if any, as may be specified in the rules, be paid into the public accounts of India or of the State, and the rules so made may prescribe, or authorise some person to prescribe, the procedure to be followed in respect of the payment of moneys into the said account, the withdrawal of moneys thereform, the custody of moneys therein and any other matter connected with or ancillary to the matters aforesaid.

(2) Notwithstanding anything in this article, Parliament may by law regulate the custody of moneys received on account of the revenues of India their payment into the public account of India and the withdrawal of moneys from such account, and the Legislature of a State may by law regulate the custody of all moneys received on account of the revenues of the State, their payment into the public account of the State and the withdrawal of moneys from such account, and any rules made under this article shall have effect subject to the provisions of any such law.

Exemption of certain public property from taxation.

264. The property of the Union shall, save in so far as Parliament may by law otherwise provide, be exempt from all taxes imposed by or by any authority within a State:

Provided that until Parliament, by law, otherwise provides, any property of the Union which was immediately before the commencement of this Constitution liable or treated as liable to any such tax shall, so long as that tax continues, continue to be liable or to be treated as liable thereto.

Exemption from taxes on electricity.

265. Save in so far as Parliament may, by law, otherwise provide, no law of a State shall impose, or authorise the imposition of, a tax on the consumption or sale of electricity (whether produced by Government or other person) which is—

(a) consumed by the Government of India, or sold to the Government of India for consumption by that Government; or

(b) consumed in the construction, maintenance or operation of a Union railway by the Government or a railway company operating that railway or sold to that Government or any such railway company for consumption in the construction, maintenance or operation of a Union railway,

and any such law imposing, or authorising the imposition of, a tax on the sale of electricity shall secure that the price of electricity sold to the Government of India for consumption by that Government, or to any such railway company as aforesaid for consumption in the construction, maintenance or

operation of a Union railway, shall be less by the amount of the tax than the price charged to other consumers of a substantial quantity of electricity.

Exemption of the Governments of States in respect of Union taxation

266. Subject as hereinafter provided, the Government of a State shall not be liable to Union taxation in respect of lands or buildings situate within the territory of India, or income accruing, arising or received within such territory:

Provided that—

(a) where a trade or business of any kind is carried on by or on behalf of the Government of a State, nothing in this article shall exempt that Government from any Union tax or the levy of a sum in lieu of such tax in respect of that trade or business or any operations connected therewith, or any income arising in connection therewith, or any property occupied for the purposes thereof;

(b) nothing in this article shall exempt the Ruler of any State for the time being specified in Part III of the First Schedule from any Union tax in respect of lands, buildings or income being his personal property or personal income.

Explanation.—For the purposes of this article, any operations incidental to the ordinary functions of the Government of a State, such as, the sale of the forest produce of any forest under the control of the Government of a State or of any article produced in any jail within a State, shall not be deemed to be a trade or business carried on by or on behalf of the Government of the State.

Adjustments in respect of certain expenses and pensions.

267. Where under the provisions of this Constitution the expenses of any court or Commission, or pensions payable to or in respect of a person who has served before the commencement of this Constitution under the Crown in India, are charged on the revenues of India or the revenues of a State for the time being specified in Part I of the First Schedule, then if—

(a) in the case of a charge on the revenues of India, the court or Commission serves any of the separate needs of a State so specified, or the person has served wholly or in part in connection with the affairs of such a State; or

(b) in the case of a charge on the revenues of a State so specified, the court or Commission serves any of the separate needs of the Union or another State so specified, or the person has served wholly or in part in connection with the affairs of the Union or another such State,

there shall be charged on and paid out of the revenues of the State or, as the case may be, the revenues of India or of the other State, such contribution in respect of expenses or pensions as may be agreed, or as may in default of agreement be determined by an arbitrator to be appointed by the Chief Justice of India.

CHAPTER II—Borrowing

Borrowing by the Government of India.

268. The executive power of the Union extends to borrowing upon the security of the revenues of India within such limits, if any, as may from time to time be fixed by Parliament by law and to the giving of guarantees within such limits, if any, as may be so fixed.

Borrowing by States.

269. (1) Subject to the provisions of this article, the executive power of a State for the time being specified in Part I of the First Schedule extends to borrowing within the territory of India upon the security of the revenues of the State within such limits, if any, as may from time to time be fixed by the Legislature of such State by law and to the giving of guarantees within such limits, if any, as may be so fixed.

(2) The Government of India may, subject to such conditions, if any, as it may think fit to impose, make loans to States for the time being specified in Part I

or Part III of the First Schedule or so long as any limits fixed under the last preceding article are not exceeded, give guarantees in respect of loans raised by any such State and any sums required for the purpose of making such loans shall be charged on the revenues of India.

(3) A State for the time being specified in Part I or Part III of the First Schedule may not without the consent of the Government of India raise any loan if there is still outstanding any part of a loan which has been made to the State by the Government of India or its predecessor Government or in respect of which a guarantee has been given by the Government of India or by its predecessor Government.

A consent under this clause may be granted subject to such conditions, if any, as the Government of India may think fit to impose.

CHAPTER Ill—Property, Contracts, Liabilities and Suits

Succession to assets and debts, rights and liabilities

270. As from the commencement of this Constitution, the Government of India and the Government of each State for the time being specified in Part I of the First Schedule shall respectively be the successors of the Government of the Dominion of India and of the corresponding Governors' Provinces as regards all property, assets and liabilities subject to any adjustment made or to be made by reason of the creation before the commencement of this Constitution of the Dominion of Pakistan or of the Provinces of West Bengal, East Bengal, West Punjab and East Punjab.

Property accruing by escheat or lapse or as bona vacantia

271. Subject as hereinafter provided, any property in the territory of India except the States for the time being specified in Part III of the First Schedule which, if this Constitution had not come into operation, would have accrued to His Majesty by escheat or lapse, or as bona vacantia for want of a rightful owner, shall, if it is property situate in a State for the time being specified in Part I of the First Schedule, vest in such State for the purposes of

the Government of that State, and shall, in any other case, vest in the Union for the purposes of the Government of India:

Provided that any property which at the date when it would have so accrued to His Majesty was in the possession or under the control of the Government of India or the Government of a State for the time being specified in Part I of the First Schedule shall, according as the purposes for which it was then used or held were purposes of the Union or of a State so specified, vest in the Union for the purposes of the Government of India or in the State for the purposes of the Government of that State.

Power to acquire property

272. (1) The executive power of the Union and of each State for the time being specified in Part I of the First Schedule shall extend, subject to any Act of the appropriate Legislature, to the grant, sale, disposition or mortgage of any property held for the purposes of the Union or of such State, as the case may be, and to the purchase or acquisition of property for those purposes respectively, and to the making of contracts.

(2) All property acquired for the purposes of the Union or of a State for the time being specified in Part I of the First Schedule shall vest in the Union or any such State, as the case may be.

Contracts.

273. (1) All contracts made in the exercise of the executive power of the Union or of a State for the time being specified in Part I of the First Schedule shall be expressed to be made by the President, or by the Governor of the State, as the case may be, and all such contracts and all assurances of property made in the exercise of that power shall be executed on behalf of the President or the Governor by such persons and in such manner as he may direct or authorise.

(2) Neither the President, nor the Governor of a State, shall be personally liable in respect of any contract or assurance made or executed for the purposes of this Constitution, or for the purposes of any enactment relating to the Government of India heretofore in force, nor shall any person making or executing such contract or assurance on behalf of any of them be personally liable in respect thereof.

Suits and proceedings.

274. (1) The Government of India may sue or be sued by the name of the Government of India and the Government of a State for the time being specified in Part I of the First Schedule may sue or be sued by the name of the State and may, subject to any provisions which may be made by Act of Parliament or by the Legislature of such State, enacted by virtue of powers conferred by this Constitution, sue or be sued in relation to their respective affairs in the like cases as the Dominion of India and the corresponding Provinces might have sued or been sued if this Constitution had not been enacted.

(2) If at the date of commencement of this Constitution—

(a) any legal proceedings are pending to which the Dominion of India is a party, the Government of India shall be deemed to be substituted for the Dominion in those proceedings; and

(b) any legal proceedings are pending to which a Province is a Party, the corresponding State shall be deemed to be substituted for the Province in those proceedings.

PART XI

Emergency Provisions

Proclamation of Emergency.

275. (1) If the President is satisfied that a grave emergency exists whereby the security of India is threatened, whether by war or domestic violence, he may by proclamation, make a declaration to that effect.

(2) A proclamation issued under clause (1) of this article (in this Constitution referred to as "a Proclamation of Emergency")—

(a) may be revoked by a subsequent proclamation;
(b) shall be laid before each House of Parliament;
(c) shall cease to operate at the expiration of six months, unless before the expiration of that period it has been approved by resolutions of both Houses of Parliament.

(3) A Proclamation of Emergency declaring that the security of India is threatened by war or by domestic violence may be made before the actual occurrence of war or of any such violence if the President is satisfied that there is imminent danger thereof.

Effect of Proclamation of Emergency.

276. Where a Proclamation of Emergency is in operation, then, notwithstanding anything contained in this Constitution—

(a) the executive power of the Union shall extend to the giving of directions to any State as to the manner in which the executive power thereof is to be exercised;

(b) the power of Parliament to make laws with respect to any matter shall include power to make laws conferring powers and imposing duties or authorising the conferring of powers and the imposition of duties upon the Government of India or officers and authorities of the Government of India as respects that matter.

Application of provisions relating to distribution of revenues during the period a Proclamation of Emergency is in operation.

277. The President may, while a Proclamation of Emergency is in operation, by order, direct that all or any of the provisions of articles 249 to 259 of this Constitution shall for such period, not extending in any case beyond the expiration of the financial year in which such proclamation ceases to operate, as may be specified in the order, have effect subject to such exceptions or modifications as he thinks fit.

Provisions in case of failure of constitutional machinery in States in Part I of the First Schedule.

278. (1) If the President, on receipt of a proclamation issued by the Governor of a State under article 188 of this Constitution, is satisfied that a situation has arisen in which the government of the State cannot be carried on in accordance with the provisions of this Constitution, he may by proclamation—

(a) assume to himself all or any of the functions of the Government of the State and all or any of the powers vested in or exercisable by the Governor or any body or authority in the State other than the Legislature of the State;

(b) declare that the powers of the Legislature of the State shall be exercisable only by Parliament;

and any such proclamation may contain such incidental and consequential provisions as may appear to him to be necessary or desirable for giving effect to the objects of the proclamation, including provisions for suspending in whole or in part the operation of any provisions of this Constitution relating to any body or authority in that State:

Provided that nothing in this clause shall authorise the President to assume to himself any of the powers vested in or exercisable by a High Court or to suspend, either in whole or in part, the operation of any provision of this Constitution relating to High Courts.

(2) Any such proclamation may be revoked or varied by a subsequent proclamation.

(3) A proclamation under this article—

(a) shall be laid before each House of Parliament;

(b) except where it is a proclamation revoking a previous proclamation, shall cease to operate at the expiration of six months:

Provided that, if and so often as a resolution approving the continuance in force of such a proclamation is passed by both Houses of Parliament, the proclamation shall, unless revoked, continue in force for a further period of twelve months from the date on which under this clause it would otherwise have ceased to operate, but no such proclamation shall in any case remain in force for more than three years.

(4) Where by a proclamation issued under clause (1) of this article it has been declared that the powers of the Legislature of the State shall be exercisable only by Parliament, it shall be competent—

(a) for Parliament to make laws conferring powers and imposing duties, or authorising the conferring of powers and the imposition of duties, upon the Government of India or officers and authorities of the Government of India;

(b) for the President to promulgate Ordinances under article 102 of this Constitution except when both Houses of Parliament are in session.

(5) Any law made by Parliament which Parliament would not but for the issue of a proclamation under this article have been competent to make shall to the extent of the incompetency cease to have effect on the expiration of a period of one year after the proclamation has ceased to operate, except as respects things done or omitted to be done before the expiration of the said period unless the provisions which shall so cease to have effect are sooner repealed or re-enacted with or without modification by Act of the Legislature of the State.

Suspension of provisions during emergencies,

279. While a Proclamation of Emergency is in operation, nothing in article 13 of Part III of this Constitution shall restrict the power of the State as defined in that Part to make any law or to take any executive action which the State would otherwise be competent to make or to take.

Suspension of the rights guaranteed by article 25 of this Constitution during emergencies.

*280. Where a Proclamation of Emergency is in operation, the President may by order declare that the rights guaranteed by article 25 of this Constitution shall remain suspended for such period not extending beyond a period of six months after the proclamation has ceased to be in operation as may be specified in such order. 5

* The Committee is of opinion that no provision should be made for suspension of the Fundamental Rights under article 13 or for suspension of the enforcement of such rights under article 25 where an emergency is declared by the Government of a State for the time being specified in Part III of the First Schedule as it will create unnecessary complications.

PART XII

Services under the Union and the States

CHAPTER I—*Services

Interpretation.

281. In this Part, unless the context otherwise requires, the expression "State" means a State for the time being specified in Part I of the First Schedule.

Recruitment and conditions of service of persons serving the Union or a State.

282. (1) Subject to the provisions of clause (2) of this article, Acts of the appropriate Legislature may regulate the recruitment and the conditions of service of persons appointed to public services, and to posts in connection with the affairs, of the Union or any State.

(2) No person who is a member of any civil service or holds any civil post in connection with the affairs of the Government of India or the Government of a State shall be dismissed, removed or reduced in rank until he has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him:

Provided that this clause shall not apply—

(a) where a person is dismissed, removed, or reduced in rank on the ground of conduct which has led to his conviction on a criminal charge; or

(b) where an authority empowered to dismiss a person or remove him or reduce him in rank is satisfied that for some reason to be recorded by that authority in writing it is not reasonably practicable to give that person an opportunity of showing cause.

Transitional provisions.

283. Until other provision is made in this behalf tinder this Constitution, any rules which were in force immediately before the commencement of this

* The Committee is of opinion that detailed provisions with regard to recruitment and conditions of service of persons in Defence services or serving the Union or a State in a civil capacity should not be included in the Constitution but should be left to be regulated by Acts of the appropriate Legislature.

Constitution and were applicable to any public service or any post which has continued to exist after the commencement of this Constitution as a service or post under the Union or a State shall continue in force so far as consistent with the provisions of this Constitution.

CHAPTER II—Public Service Commissions

Public Service Commissions for the Union and for the States.

284. (1) Subject to the provisions of this article there shall be a Public Service Commission for the Union and a Public Service Commission for each State.

(2) Two or more States may agree—

(a) that there shall be one Public Service Commission for that group of States; or

(b) that the Public Service Commission for one of the States shall serve the needs of all the States;

and any such agreement may contain such incidental and consequential provisions as may appear necessary or desirable for giving effect to the purposes of the agreement and shall, in the case of an agreement that there shall be one Commission for a group of States, specify by what Governor or Governors the functions which are under this Part of this Constitution to be discharged by the Governor of a State are to be discharged.

(3) The Public Service Commission for the Union if requested so to do by the Governor of a State may, with the approval of the President, agree to serve all or any of the needs of the State.

(4) References in this Constitution to the Union Public Service Commission or a State Public Service Commission shall, unless the context otherwise requires, be construed as references to the Commission serving the needs of the Union, or, as the case may be, the State as respects the paricular matter in question.

Composition and staff of Commissions.

285. (1) The Chairman and other members of a Public Service Commission shall be appointed, in the case of the Union Commission, by the President, and in the case of a State Commission, by the Governor of the State in his discretion:

Provided that at least one-half of the members of every Public Service Commission shall be persons who at the dates of their respective appointments have held office for at least ten years either under the Government of India or under the Government of a State and in computing the said period of ten years any period before the commencement of this Constitution during which a person has held office under the Crown shall be included.

(2) In the case of the Union Commission, the President and, in the case of a State Commission, the Governor of the State in his discretion, may by regulations—

(a) determine the number of members of the Commission, their tenure of office and their conditions of service; and

(b) make provision with respect to the number of members of the staff of the Commission and their conditions of service.

(3) On ceasing to hold office—

(a) the Chairman of the Union Commission shall be ineligible for further employment either under the Government of India or under the Government of a State;

(b) the Chairman of a State Commission shall be eligible for appointment as the Chairman or a member of the Union Commission or as the Chairman of another State Commission, but not for any other employment either under the Government of India or under the Government of a State;

(c) no other member of the Union or of any State Commission shall be eligible for any other appointment either under the Government of India or the Government of a State without the approval, in the case of an appointment in connection with the

affairs of a State, of the Governor of the State and, in the case of any other appointment, of the President.

Functions of Public Service Commissions.

286. (1) It shall be the duty of the Union and the State Public Service Commissions to conduct examinations for appointments to the services of the Union and the services of the State respectively.

(2) It shall also be the duty of the Union Public Service Commission, if requested by any two or more States so to do, to assist those States in framing and operating schemes of joint recruitment for any services for which candidates possessing special qualifications are required.

(3) The President as respects the All India Services and also as respects other services and posts in connection with the affairs of the Union, and the Governor as respects other services and posts in connection with the affairs of a State, may make regulations specifying the matters in which either generally, or in any particular class of case or in any particular circumstances, it shall not be necessary for a Public Service Commission to be consulted, but, subject to regulations so made and to the provisions of the next succeeding clause, the Union Commission or, as the case may be, the State Commission shall be consulted—

(a) on all matters relating to methods of recruitment to civil services and for civil posts;

(b) on the principles to be followed in making appointments to civil services and posts and in making promotions and transfers from one service to another and on the suitability of candid tes for such appointments, promotions or transfers;

(c) on all disciplinary matters affecting a person serving under the Government of India or the Government of a State in a civil capacity, including memorials or petitions relating to such matters;

(d) on any claim by or in respect of a person who is serving or has served under the Government of India or the Government of a State or under the Crown, in a civil capacity that any costs incurred by him

in defending legal proceedings instituted against him in respect of acts done or purporting to be done in the execution of his duty should be paid out of the revenues of India or, as the case may be, the State;

(e) on any claim for the award of a pension in respect of injuries sustained by a person while serving under the Government of India or the Government of a State or under the Crown in a civil capacity, and any question as to the amount of any such award,

and it shall be the duty of a Public Service Commission to advise on any matter so referred to them and on any other matter which the President or, as the case may be, the Governor may refer to them.

(4) Nothing in this article shall require a Public Service Commission to be consulted as respects the manner in which appointments and posts are to be allocated as between the various communities in the Union or a State.

Power to extend functions of Public Service Commissions .

287. Subject to the provisions of this article, an Act made by Parliament or by the Legislature of the State may provide for the exercise of additional functions by the Union Public Service Commission, or, as the case may be, by the State Public Service Commission:

Provided that where the Act is made by the Legislature of a State, it shall be a term of such Act that the functions conferred by it shall not be exercisable in relation to any person who is not a member of one of the services of the State except with the consent of the President.

Expenses of Public Service Commissions.

288. The expenses of the Union or a State Public Service Commission, including any salaries, allowances and pensions payable to or in respect of the members or staff of the Commission, shall be charged on the revenues of India or, as the case may be, the State.

PART XIII

Elections

Superintendence, direction and control of elections to be vested in an Election Commission.

289. (1) The superintendence, direction and control of all elections to Parliament and of elections to the offices of President and Vice-President held under this Constitution, including the appointment of election tribunals for the decision of doubts and disputes arising out of or in connection with the elections to Parliament, shall be vested in a Commission to be appointed by the President.

(2) The superintendence, direction and control of all elections to the Legislature of a State for the time being specified in Part I of the First Schedule and of elections to the office of Governor of the State *elections to constitute a panel for the purpose of the appointment of a Governor of the State held under this Constitution including the appointment of election tribunals for the decision of doubts and disputes arising out of or in connection with elections to the Legislature of such State shall be vested in a Commission to be appointed by the Governor of the State.**

Elections to Parliament.

290. Subject to the provisions of this Constitution, Parliament may, from time to time, by law, make provision with respect to all matters relating to or in connection with elections to either House of Parliament including matters necessary for securing the due constitution of the two Houses of Parliament and the delimitation of constituencies.

Elections to the Legislatures of States.

291. Subject to the provisions of this Constitution, the Legislature of a State for the time being specified in Part I of the First Schedule may, from time to time, by law, make provision with respect to all matters relating to or in. connection with elections to the House or Houses of the Legislature of the State including matters necessary for securing the due constitution of such House or Houses and the delimitation of constituencies.

* The words "elections to constitute a panel for the purpose of the appointment of a Governor of the State" will have to be used in this clause in place of the words "elections to the office of Governor of the State" if the second alternative is adopted in article 131.

** The Committee is of opinion that the Election Commission to superintend., direct and control elections to the Legislature of a. State in Part I of the First Schedule should be appointed by the Governor of the State.

PART XIV

Special Provisions Relating to Minorities

Reservation of seats for minorities in the House of the People.

292. Seats shall be reserved in the House of the People for—

(a) the Muslim community and the Scheduled Castes;

(b) the scheduled tribes in every State for the time being specified in Part I of the first Schedule; and

(c) the Indian Christian community in the States of Madras and Bombay,

according to the scale prescribed in sub-clause (b) of clause (5) of article 67 of this Constitution.

Special provisions regarding the representation of the Anglo-Indian community in the House of the People.

293. Notwithstanding anything contained in article 67 of this Constitution, the President may, if he is of opinion that the Anglo-Indian community is not adequately represented in the House of the People, nominate not more than two members of the community to the House of the People.

Reservation of seats for minorities in the Legislative Assemblies of the States.

294. (1) Seats shall be reserved for—

(a) the Muslim community, the Scheduled Castes and the scheduled tribes (except the scheduled tribes in the autonomous districts of Assam) in the Legislative Assembly of every State for the time being specified in Part I of the First Schedule; and

(b) the Indian Christian community in the Legislative Assemblies of the States of Madras and Bombay,

according to the scale prescribed in clause (3) of article 149 of this Constitution.

(2) Seats shall be reserved also for the autonomous districts in the Legislative Assembly of the State of Assam.

(3) The number of seats reserved for any community in the Legislative Assembly of any State for the time being specified in Part I of the First Schedule shall bear, as nearly as may be, the same proportion

to the total number of seats in that Assembly as the population of the community in the State bears to the total population of the State.

Explanation.—All the Scheduled Castes in a State shall be deemed to be a single community for the purposes of this clause and so also all the scheduled tribes in a State.

(4) The number of seats reserved for an autonomous district in the Legislative Assembly of the State of Assam shall bear to the total number of seats in that Assembly a proportion not less than the population of the district bears to the total population of the State.

(5) The constituencies for the seats reserved for any autonomous district of the State of Assam shall not comprise any area outside that district.

(6) No person who is not a member of a scheduled tribe of any autonomous district of the State of Assam shall be eligible for election to the Legislative Assembly of the State from any constituency of that district *[except from the constituency comprising the cantonment and municipality of Shillong].

Special provisions regarding the representation of the Anglo-Indian community in the Legislative Assemblies of the States.

295. Notwithstanding anything contained in article 149 of this Constitution, the Governor of a State may, if he is of opinion that the Anglo-Indian community is not adequately represented in the Legislative Assembly of the State, nominate such number of members of the community to the Legislative Assembly as he considers appropriate.

Claims of minority communities to services and posts.

296. Subject to the provisions of the next succeeding article the claims of all minority communities shall be taken into consideration, consistently with the maintenance of efficiency of administration, in the making of appointments to services and posts in connection with the affairs of the Union or of a

* The words within square brackets should be deleted if the words 'excluding the town of Shillong' is retained in item 1 of Part I of the table appended to paragraph 19 of the Sixth Schedule to the Constitution.

State for the time being specified in Fart I of the First Schedule.

Special provision for Anglo-Indian community in certain services.

297. (1) During the first two years after the commencement of this Constitution, appointments of members of the Anglo-Indian community to posts in the railway, customs, postal and telegraph services of the Union shall be made on the same basis as immediately before the fifteenth day of August 1947.

During every succeeding period of two years, the number of posts reserved for the members of the said community in the said services shall, as nearly as possible, be less by ten per cent than the numbers so reserved during the immediately preceding period of two years:

Provided that at the end of ten years from the commencement of this Constitution all such reservations shall cease.

(2) Nothing in clause (1) shall bar the appointment of members of the Anglo-Indian community to posts other than, or in addition to, those reserved for the community under that clause if such members are found qualified for appointment on merit as compared with the members of other communities.

Special provision with respect to educational grants for the benefit of Anglo-Indian community.

298. During the first three financial years after the commencement of this Constitution, the same grants, if any, shall be made by the Union and by each State for the time being specified in Part I of the First Schedule for the benefit of the Anglo-Indian community in respect of education as were made in the financial year ending on the 31st day of March 1948.

During every succeeding period of three years the grants may be less by ten per cent than those for the immediately preceding period of three years;

Provided that at the end of ten years from the commencement of this Constitution, such grants, to the extent to which they are a special concession to the Anglo-Indian community, shall cease:

Provided further that no educational institution shall be entitled to receive any grant under this

article unless at least forty per cent of the annual admissions therein are made available to members of communities other than the Anglo-Indian community.

Special Officers for minorities for the Union and the States.

299. (1) There shall be a Special Officer for minorities for the Union who shall be appointed by the President, and a Special Officer for minorities for each State for the time being specified in Part I of the First Schedule who shall be appointed by the Governor of the State.

(2) It shall be the duty of the Special Officer for the Union to investigate all matters relating to the safeguards provided for minorities under this Constitution in connection with the affairs of the Union and to report to the President upon the working of the safeguards at such intervals as the President may direct, and the President shall cause all such reports to be laid before Parliament.

(3) It shall be the duty of the Special Officer for a State so specified to investigate all matters relating to the safeguards provided for minorities under this Constitution in connection with the affairs of the State and to report to the Governor of the State upon the working of the safeguards at such intervals as the Governor may direct and the Governor shall cause all such reports to be laid before the Legislature of the State.

Control of the Union over the administration of Scheduled areas and welfare of scheduled tribes in States in Part I of the First Schedule.

300. (1) The President may at any time and shall, on the expiration of ten years from the commencement of this Constitution, by order, appoint a Commission to report on the administration of the scheduled areas and the welfare of the scheduled tribes in the States for the time being specified in Part I of the First Schedule.

The order may define the composition, powers and procedure of the Commission and may contain such incidental or ancillary provisions as the President may consider necessary or desirable.

(2) The executive power of the Union shall extend to the giving of directions to such a State as to the drawing up and execution of schemes specified in the direction to be essential for the welfare of the scheduled tribes in the State.

Appointment of a Commission to Investigate the conditions of backward classes.

301. (1) The President may by order appoint a Commission consisting of such persons as he thinks fit to investigate the conditions of socially and educationally backward classes within the territory of India and the difficulties under which they labour and to make recommendations as to the steps that should be taken by the Union or any State to remove such difficulties and to improve their condition and as to the grants that should be given for the purpose by the Union or any State and the conditions subject to which such grants should be given, and the order appointing such Commission shall define the procedure to be followed by the Commission.

(2) A Commission so appointed shall investigate the matters referred to them and present to the President a report setting out the facts as found by them and making such recommendations as they think proper.

(3) The President shall cause a copy of the report so presented, together with a memorandum explaining the action taken thereon to be laid before Parliament.

PART XV

Miscellaneous

Protection of President and Governors,

302. (1) The President or the Governor of a State shall not be answerable to any court for the exercise and performance of the powers and duties of his office or for any act done or purporting to be done by him in the exercise and performance of those powers and duties:

Provided that the conduct of the President may be brought under review by any court, tribunal or body appointed or designated by either House of Parliament for the investigation of a charge under article 50 of this Constitution:

Provided further that nothing in this clause shall be construed as restricting the right of any person to bring against the Government of India or the Government of a State such proceedings as are mentioned in Chapter III of Part X of this Constitution.

(2) No criminal proceedings whatsoever shall be instituted or continued against the President or the Governor of a State in any court during his term of office.

(3) No process for the arrest or imprisonment of the President or the Governor of a State shall issue from any court during his term of office.

(4) No civil proceedings in which relief is claimed against the President or the Governor of a State shall be instituted during his term of office in any court in respect of any act done or purporting to be done by him in his personal capacity, whether before or after he entered upon his office as President or Governor of such State, until the expiration of two months next after notice in writing has been delivered to the President or the Governor, as the case may be, or left at his office stating the nature of the proceedings, the cause of action therefor, the name, description and place of residence of the party by whom such proceedings are to be instituted and the relief which he claims.

Interpretation etc.

303, (1) In this Constitution, unless the context otherwise requires, the following expressions have the

meanings hereby respectively assigned to them, that is to say—

(a) "agricultural income" means agricultural income as defined for the purposes of the enactments relating to Indian income-tax;

(b) "an Anglo-Indian" means a person whose father or any of whose other male progenitors in the male line is or was of European descent but who is domiciled within the territory of India and is or was born within such territory of parents habitually resident therein and not established there for temporary purposes only;

(c) "an Indian Christian" means a person who professes any form of the Christian religion and is not a European or an Anglo-Indian;

(d) "borrow" includes the raising of money by the grant of annuities, and "loan" shall be construed accordingly;

(e) "Chief Justice" includes in relation to a High Court a Chief Judge;

(f) "corporation tax" means any tax on income, so far as that tax is payable by companies and is a tax in the case of which the following conditions are fulfilled:—

(i) that it is not chargeable in respect of agricultural income;

(ii) that no deduction in respect of the tax paid by companies is, by any enactments which may apply to the tax, authorised to be made from dividends payable by the companies to individuals ;

(iii) that no provision exists for taking the tax so paid into account in computing for the purposes of Indian income-tax the total income of individuals receiving such dividends, or in computing the Indian income-tax payable by, or refundable to, such individuals;

(g) "corresponding Province" or "corresponding State" means in cases of doubt such Province or State as may be determined

by the President to be the corresponding Province or, as the case may be, the corresponding State for the particular purpose in question;

(h) "debt" includes any liability in respect of any obligation to repay capital sums by way of annuities and any liability under any guarantee, and "debt charges" shall be construed accordingly;

(i) "existing law" means any law, Ordinance, order, bye-law, rule or regulation passed or made before the commencement of this Constitution by any legislature, authority or person having power to make such a law, Ordinance, order, bye-law, rule or regulation but does not include any Act of Parliament of the United Kingdom or any Order in Council made under any such Act;

(j) "Federal Court" means the Federal Court constituted under the Government of India Act, 1935;

(k) "goods" includes all materials, commodities, and articles;

(l) "guarantee" includes any obligation undertaken before the commencement of this Constitution to make payments in the event of the profits of an undertaking falling short of a specified amount;

(m) "pension" means a pension, whether contributory or not, of any kind whatsoever payable to or in respect of any person, and includes retired pay so payable, a gratuity so payable and any sum or sums so payable by way of the return, with or without interest thereon or any other Addition thereto, of subscriptions to a provident fund;

(n) "public notification" means a notification in the Gazette of India, or, as the case may be, the official Gazette of a State;

(o) "securities" includes stock;

(p) "taxation" includes the imposition of any tax or impost, whether general or local or special, and "tax" shall be construed accordingly;

(q) "tax on income" includes a tax in the nature of an excess profits tax;

(r) "railway" includes a tramway not wholly within a municipal area;

(s) "Union railway" does not include an Indian State railway but, save as aforesaid, includes any railway not being a minor railway;

(t) "Indian State railway" means a railway owned by a State for the time being specified in Fart III of the First Schedule and either operated by such State, or operated on behalf of such State otherwise than in accordance with a contract made with that State by or on behalf of the Government of India, or any company operating a Union railway;

(u) "minor railway" means a railway which is wholly situate in one State and does not form a continuous line of communication with a Union railway, whether of the same gauge or not;

(v) "Schedule" means a Schedule to this Constitution;

(w) "Scheduled Castes" means in relation to any State for the time being specified in Part I of the First Schedule such castes, races or tribes or parts of or groups within castes, races or tribes as are specified in the Government of India (Scheduled Castes) Order, 1936, to be scheduled castes for the purposes of the Fifth and Sixth Schedules to the Government of India Act, 1935, in relation to the corresponding Province;

(x) "scheduled tribes" means the tribes or communities specified in Parts I to IX of the Eighth Schedule in relation to the States for the time being specified in Part I of the First Schedule to which those Parts respectively relate.

(2) Unless the context otherwise requires, the General Clauses Act, 1897 (X of 1897), shall apply for the interpretation of this Constitution.

(3) Any reference in this Constitution to Acts or laws of, or made by, Parliament or Acts or laws of, or made by, the Legislature of a State for the time being specified in Fart I of the First Schedule shall be construed as including a reference to an Ordinance made by the President or, as the case may be, to an Ordinance made by a Governor.

PART XVI

Amendment of the Constitution

Procedure for amendment of the Constitution.

304 (1) An amendment of the Constitution may be initiated by the introduction of a Bill for the purpose in either House of Parliament, and when the Bill is passed in each House by a majority of the total membership of that House and by a majority of not less than two-thirds of the members of that House present and voting, it shall be presented to the President for his assent and upon such assent being given to the Bill, the Constitution shall stand amended in accordance with the terms of the Bill:

Provided that if such amendment seeks to make any change in—

*(a) any of the Lists in the Seventh Schedule;

(b) the representation of States in Parliament; or

(c) the powers of the Supreme Court,

the amendment shall also require to be ratified by the Legislatures of not less than one-half of the States for the time being specified in Part I of the First Schedule and the Legislatures of not less than one-third of the States for the time being specified in Part III of that Schedule.

**(2) Notwithstanding anything in the last preceding clause, an amendment of the Constitution seeking to make any change in the provisions of this Constitution relating to the ***method of choosing a Governor or the number of Houses of the

*The Committee is of opinion that item (a) of the proviso to clause (1) of this article should contain reference to all the Lists in the Seventh Schedule.

**The Committee is also of opinion that provision should be included in this article for enabling the Legislature of a State in Part I of the First Schedule to initiate a Bill for the amendment of the provisions of this Constitution relating to the choosing of the Governor and the number of Houses of the Legislature in such State provided such Bill is passed by an absolute majority of the Legislature of such State and is thereafter ratified by Parliament by an absolute majority, and has added clause (2) to this article for the purpose.

*** The words "the method of choosing a Governor or" should be retained in this clause only if the second alternative in article 131 is not adopted.

Legislature in any State for the time being specified in Part I of the First Schedule may be initiated by the introduction of a Bill for the purpose in the Legislative Assembly of the State or, where the State has a Legislative Council, in either House of the Legislature of the State, and when the Bill is passed by the Legislative Assembly or, where the State has a Legislative Council, by both Houses of the Legislature of the State, by a majority of the total membership of the Assembly or each House, as the case may be, it shall be submitted to Parliament for ratification, and when it is ratified by each House of Parliament by a majority of the total membership of that House it shall be presented to the President for assent and upon such assent being given to the Bill, the Constitution shall stand amended in accordance with the terms of the Bill.

Explanation.—Where a group of States is for the time being specified in Part III of the First Schedule, the entire group shall be deemed to be a single State for the purposes of the proviso to clause (1) of this article.

"Reservation of seats for minorities to remain inforce for only ten years unless continued in operation by amendment of the Constitution.

305. Notwithstanding anything contained in article 304 of this Constitution, the provisions of this Constitution relating to the reservation of seats for the Muslims, the Scheduled Castes, the scheduled tribes or the Indian Christians either in Parliament or in the Legislature of any State for the time being specified in Part I of the First Schedule shall not be amended during a period of ten years from the commencement of this Constitution and shall cease to have effect on the expiration of that period unless continued in operation by an amendment of the Constitution.

PART XVII

Temporary and Transitional Provisions

Temporary power to to make laws with respect to certain matters in the State List as if they were matters in the Concurrent List.

*306. Notwithstanding anything in this Constitution, Parliament shall, during a period of five years from the commencement of this Constitution, have power to make laws with respect to the following matters as if they were enumerated in the Concurrent List, namely;—

(a) trade and commerce within a State in, and the production, supply and distribution of, cotton and woollen textiles, paper (including newsprint), foodstuffs (including edible oil-seeds and oil), petroleum and petroleum products, spare parts of mechanically propelled vehicles, coal, iron, steel and mica;

(b) relief and rehabilitation of displaced persons;

(c) offences against laws with respect to any of the matters mentioned in clauses (a) and (b) of this article, inquiries and statistics for the purposes of any of those matters, jurisdiction and powers of all courts except the Supreme Court with respect to any of those matters, and fees in respect of any of those matters but not including fees taken in any court;

but any law made by Parliament, which Parliament would not but for the provisions of this article have been competent to make, shall to the extent of the incompetency cease to have effect on the expiration

* The Committee is of opinion that in view of the. present conditions regarding the production, supply and distribution of foodstuffs and certain other commodities and the special problem of the relief and rehabilitation of refugee, power should be provided for Parliament to make Jaws with respect to these matters for a period of five years, although normally these matters fall in the State List. Similar power was conferred for a limited period by the India (Central Government and Legislature) Act, 1946.

of the said period except as respects things done or omitted to be done before the expiration thereof.

Continuance in force of existing laws and their adaptation.

307. (1) Subject to the other provisions of this Constitution, all the law in force in the territory of India immediately before the commencement of this Constitution shall continue in force therein until altered or repealed or amended by a competent Legislature or other competent authority.

(2) The President may, by Order, provide that, as from such date as may be specified in the Order, any law in force in the territory of India or in any part of such territory shall, until repealed or amended by a competent Legislature or other competent authority, have effect subject to such adaptations and modifications, whether by way of repeal or amendment, as appear to him to be necessary or expedient for bringing the provisions of that law into accord with the provisions of this Constitution and any such adaptation or modification shall not be questioned in any court of law,

Explanation I.—The expression "law in force" in this article shall include a law passed or made by a Legislature or other competent authority in the territory of India before the commencement of this Constitution and not previously repealed, notwithstanding that it or parts of it may not be then in operation either at all or in particular areas.

Explanation II.—Any law passed or made by a Legislature or other competent authority in the territory of India which immediately before the commencement of this Constitution has extra territorial effect as well as effect in the territory of India shall, subject to any such adaptations and modifications as aforesaid, continue to have extra-territorial effect.

Explanation III.—Nothing in this article shall be construed as continuing any temporary Act in force beyond the date fixed for its expiration.

Judges of the Federal Court to become judges of the Supreme Court and proceedings pending in the Federal Court or before His Majesty in Counoil to be transferred to the Supreme Court.

308. (1) The judges of the Federal Court holding office immediately before the date of commencement of this Constitution shall, unless they have elected otherwise, become on that date the judges of the Supreme Court and shall thereupon be entitled to such salaries and allowances and to such rights in respect of leave and pensions as are provided for under article 104 of this Constitution in respect of the judges of the Supreme Court.

(2) All suits, appeals and proceedings, civil or criminal, pending in the Federal Court at the commencement of this Constitution shall stand removed to the Supreme Court, and the Supreme Court shall have jurisdiction to hear and determine the same and the judgments and orders of the Federal Court delivered or made before the commencement of this Constitution shall have the same force and effect as if they had been delivered or made by the Supreme Court.

*(3) On and from the date of commencement of this Constitution the jurisdiction of His Majesty in Council to entertain and dispose of appeals and petitions from or in respect of any decree or order of any court within the territory of India including the jurisdiction in respect of criminal matters exercisable by His Majesty by virtue of His Majesty's prerogative shall cease, and all appeals and other proceedings pending before His Majesty in Council on the said date shall be transferred to, and disposed of, by the Supreme Court.

(4) Further provision may be made by Parliament by law to give effect to the provisions of this article.

*The Committee thinks that all appeals and other proceedings pending before His Majesty-in-Council shall be finally disposed of by the time the Constitution comes into operation. If, however, some appeals or other proceedings remain pending before His Majesty-in-Council at the time of the commencement of the Constitution and any difficulty is experienced with regard to their transfer to, or disposal by, the Supreme Court, the President may pass necessary orders under the "removal of difficulties" clause (article 313).

Courts, authorities and officers to continue to function after the commencement of this Constitution subject to the provisions thereof.

309. All courts of civil, criminal and revenue jurisdiction, all authorities and all officers, judicial, executive and ministerial, throughout the territory of India shall continue to exercise their respective functions subject to the provisions of this Constitution.

Provisions as to judges of High Courts.

310. The judges of a High Court in any Province holding office immediately before the date of commencement of this Constitution shall, unless they have elected otherwise, become on that date the judges of the High Court in the corresponding State, and shall thereupon be entitled to such salaries and allowances and to such rights in respect of leave and pensions as are provided for under article 197 of this Constitution in respect of the judges of such High Court.

Provisions as to provisional Legislature of the Union, President, etc.

311. (1) Until both Houses of Parliament have been duly constituted and summoned to meet for the first session under this Constitution, the Constituent Assembly of the Dominion of India shall itself exercise all the powers and perform all the duties conferred on Parliament and may in particular make law for securing the due constitution of the two Houses of Parliament and for providing for all matters relating to or connected with elections to either House of Parliament including the delimitation of constituencies and for such other ancillary and consequential matters as may be deemed necessary for the purpose of giving effect to the provisions of this Constitution.

Explanation:—For the purposes of this clause, the Constituent Assembly of the Dominion of India includes members chosen to till casual vacancies in that Assembly in accordance with rules made in that behalf by the Assembly, but shall not include any members representing any territory not included in the First Schedule.

(2) The Speaker of the Constituent Assembly when functioning as the Dominion Legislature under the Government of India Act, 1935, shall

continue to be the Speaker of such Assembly functioning under clause (1) of this article.

*(3) Such person as the Constituent Assembly of the Dominion of India shall have elected in this behalf shall be the provisional President of India until a President has been elected in accordance with the provisions contained in Chapter I of Part V of this Constitution and has entered upon his office.

(4) All persons holding office as ministers for the Dominion of India immediately before the commencement of this Constitution shall after such commencement become members of the Council of ministers of the provisional President under this Constitution.

Provisions as to provisional Legislature, Governor, etc. in each State in Part I of the First Schedule.

312. (1) Until the House or Houses of the Legislature of each State for the time being specified in Part I of the First Schedule has or have been duly constituted and summoned to meet for the first session under the provisions of this Constitution, the House or Houses of the Legislature of the corresponding Province functioning immediately before the commencement of this Constitution shall exercise the powers and perform the duties conferred by the provisions of this Constitution on the House or Houses of the Legislature of such State.

(2) Any person holding office as Speaker of the Legislative Assembly or President of the Legislative Council of a Province immediately before the commencement of this Constitution shall after such commencement be the Speaker of the Legislative Assembly or the Chairman of the Legislative Council, as the case may be, of the corresponding State for the time being specified in Part I of the First Schedule while such Assembly or Council functions under clause (1) of this article.

*Two members of the Committee, the Honourable Dr. B.R. Ambedkar and Shri Alladi Krishnaswami Ayyar, are of opinion that for clause (3) of article 311 , the following clause should be substituted :—

"(3) The President of the Constituent Assembly of India shall become the provisional President of India until a President has been elected in accordance with the provisions contained in Chapter I of Part V of this Constitution and has entered upon his office".

(3) Any person holding office as Governor in any Province immediately before the commencement of this Constitution shall after such commencement be the provisional Governor of the corresponding State for the time being specified in Part I of the First Schedule until a new Governor has been elected/appointed* in accordance with the provisions of Chapter II of Part VI of this Constitution and has entered upon his office.

(4) All persons holding office as ministers in a Province immediately before the commencement of this Constitution shall after such commencement become members of the Council of ministers of the provisional Governor of the corresponding State for the time being specified in Part I of the First Schedule.

Power of the President remove difficulties.

313. (1) Subject to the Provisions of clause (1) of article 311 of this Constitution, the President may, for the purpose of removing any difficulties, particularly in relation to the transition from the provisions of the Government of India Act, 1935, to the provisions of this Constitution, by Order, direct that this Constitution shall, during such period as may be specified in the Order, have effect subject to such adaptations, whether by way of variation, addition, or repeal, as he may deem to be necessary or expedient:

Provided that no such order shall be made after the first meeting of Parliament duly constituted under Chapter II of Part V of this Constitution.

(2) Every order made under clause (1) of this article shall be laid before each House of Parliament.

*If the second alternative is adopted in article 131, the word "appointed" will have to be used in this clause instead of the word "elected".

PART XVIII

Commencement and Repeals.

Commencemeat.

314. This Constitution shall come into force on ... .

Repeals.

315. The Indian Independence Act, 1947, and the Government of India Act, 1935, including the India (Central Government and Legislature) Act, 1946, and all other enactments amending or supplementing the Government of India Act, 1935, shall cease to have effect.

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FIRST SCHEDULE

[Articles 1 and 4]

THE STATES AND THE TERRITORIES OP INDIA

*Part I

The territories known immediately before the commencement of this Constitution as the Governors' Provinces of—

1. Madras,
2. Bombay,
3. West Bengal,
4. The United Provinces,
5. Bihar,
6. East Punjab,
7. The Central Provinces and Berar,
8. Assam,
9. Orissa.

Part II

The territories known immediately before the commencement of this Constitution as the Chief Commissioners' Provinces of—

1. Delhi,
2. Ajmer-Merwara including Panth Piploda,
3. Coorg.

*The Committee has anxiously considered the question whether Andhra should be specifically mentioned as a separate State in this Schedule. There was recently a statement by the Government on this subject, in which it was said that Andhra could be included among the Provinces in the Constitution as was done in the case of Orissa and Sind under the Government of India Act, 1935. Accordingly the Committee was at one stage inclined to mention Andhra as a distinct State in the Schedule. On fuller consideration, however, the Committee feels that the bare mention of the State in the Schedule will not suffice to bring it into being from the commencement of the new Constitution. Preparatory steps will have to be taken immediately under the present Constitution in order that the new State, with all the machinery of government, may be in being from the commencement of the new Constitution. This was what was done in the case of Orissa and Sind under the Act of 1935: they were made into separate Provinces with effect from April 1, 1936, while the Act came into operation on April 1, 1937. The Committee therefore recommends that a Commission should be appointed to work out or inquire into all relevant matters not only as regards Andhra but also as regards other linguistic regions, with instructions to submit its report in time to enable any new States whose formation it may recommend to be created under section 290 of the Act of 1935 and to be mentioned in this Schedule before the Constitution is finally adopted.

Part III

DIVISION A

The following Indian States—

1. Mysore,
2. Kashmir,
3. Gwalior,
4. Baroda,
5. Travancore,
6. Cochin,
7. Udaipur,
8. Jaipur.
9. Jodhpur,
10. Bikaner,
11. Alwar,
12. Kotah,
13. Indore,
14. Bhopal,
15. Rewa,
16. Kolhapur,
17. Patiala,
18. Mayurbhanj,
19. United State of Kathiawar.

DIVISION B*

All other Indian States which were within the Dominion of India immediately before the commencement of this Constitution.

Part IV

The Andaman and Nicobar Islands.

* It is not possible to enumerate each of the States because owing to mergers of various kinds many of the States may disappear in larger units. It will be necessary however to enumerate all the States by name before the Constitution is finally adopted.

SECOND SCHEDULE

[Articles 48 (3), 62 (6), 79, 104, 124 (2), 135 (3), 145 (5), 163 and 197]

Part I

PROVISIONS AS TO THE PRESIDENT AND THE GOVERNORS OF STATES FOR THE TIME BEING SPECIFIED IN PART I OF THE FIRST SCHEDULE

1. There shall be paid to the President and to the Governors of the States for the time being specified in Part I of the First Schedule the following emoluments per mensem, that is to say:—

The President	...	5,500 rupees.
The Governor of a State	...	4,500 rupees.

2. There shall be also paid to the President and to the Governors the following allowances per mensem during their respective terms of offices to enable them to discharge conveniently and with dignity the duties of their respective offices, that is to say:—

The President	...	——rupees.
The Governor of a State	...	——rupees.

3. There shall be paid to the President and a Governor an allowance equal to the actual expenses respectively incurred by them in travelling with their families, if any, and their and their families' effects to take up the appointment of the President or Governor as the case may be.

4. The President and each Governor throughout their respective terms of office shall be entitled without payment of rent or hire to the use of the official residences and of the railway saloons, river craft, air craft and motor cars provided for their respective use and no charge shall fall on them personally in respect of the maintenance thereof.

5. While the Vice-President or any other person is discharging the functions of the, or is acting as, President, or any person is discharging the functions of the Governor, he shall be entitled to the same emolument and allowance under paragraphs 1 and 2 of this Schedule as the President or the Governor whose functions he discharges or for whom he acts, as the case may be, and during the period he so discharges the functions or acts, the provisions of paragraph 4 of this Schedule shall apply to him, but the provisions of paragraph 3 thereof shall not apply to him.

Part II

PROVISIONS AS TO THE MINISTERS FOR THE UNION AND FOR THE STATES IN PART I OF THE FIRST SCHEDULE

6. There shall be paid to the Prime Minister and to each of the other Ministers for the Union such salaries and allowances as were payable respectively to the Prime Minister and to each of the other Ministers for the Dominion immediately before the commencement of this Constitution.

7. There shall be paid to the Ministers for any State for the time being specified in Part I of the First Schedule such salaries and allowances as were payable to such Ministers for the corresponding Province immediately before the commencement of this Constitution.

Part III

PROVISIONS AS TO THE SPEAKER AND THE DEPUTY SPEAKER OF THE HOUSE OF THE PEOPLE, AND THE CHAIRMAN AND THE DEPUTY CHAIRMAN OF THE COUNCIL OF STATES AND THE SPEAKER AND THE DEPUTY SPEAKER OF THE LEGISLATIVE ASSEMBLIES OF STATES IN PART I OF THE FIRST SCHEDULE AND THE CHAIRMAN AND THE DEPUTY CHAIRMAN OF THE LEGISLATIVE COUNCILS OF SUCH STATES

8. There shall be paid to the Speaker of the House of the People and the Chairman of the Council of States such salaries and allowances as were payable to the Speaker of the Constituent Assembly of the Dominion of India immediately before the commencement of this Constitution, and there shall be paid to the Deputy Speaker of the House of the People and to the Deputy Chairman of the Council of States such salaries and allowances as were payable respectively to the Deputy President of the Legislative Assembly and to the Deputy President of the Council of State immediately before the fifteenth day of August, 1947.

9. There shall be paid to the Speaker and the Deputy Speaker of the Legislative Assembly of a State for the time being specified in Part I of the First Schedule and to

the Chairman and the Deputy Chairman of the Legislative Council of such State such salaries and allowances as were payable respectively to the Speaker and the Deputy Speaker of the Legislative Assembly and the President and the Deputy President of the Legislative Council of the corresponding Province immediately before the commencement of this Constitution and where the corresponding Province had no Legislative Council immediately before such commencement there shall be paid to the Chairman and the Deputy Chairman of the Legislative Council of the State such salaries and allowances as the Governor of the State may determine.

Part IV

PROVISIONS AS TO THE JUDGES OF THE SUPREME COURT AND OF THE HIGH COURTS

10. There shall be paid to the judges of the Supreme Court and of each High Court within the territory of India except the States for the time being specified in Part III of the First Schedule in respect of time spent on actual service salary at the following rates per mensem, that is to say:—

Chief Justice of the Supreme Court .	5,000 rupees:
Any other judge of the Supreme Court .	4,500 rupees:
Chiei Justice of a High Court .	4,000 rupees:
Any other judge of a High Court .	3,500 rupees:

Provided that if a judge of the Supreme Court at the time of his appointment is in receipt of a pension (other than a disability or wound pension) in respect of any previous service under the Government of India or any of its predecessor Governments or under the Government of a State for the time being specified in Part I of the First Schedule or any of its predecessor Governments, his salary in respect of service in the Supreme Court shall be reduced by the amount of that pension.

11. The Chief Justice or any other judge of the Supreme Court or a Chief Justice or any other judge of a High Court within the territory of India except the States for the time being specified in Part III of the First Schedule shall receive such reasonable allowances to reimburse him for expenses Incurred in travelling on duty within the territory of India and shall be afforded such reasonable facilities in connection with travelling as the President in the case of the Chief

Justice or any other judge of the Supreme Court, or the Governor of the State in the case of the Chief Justice or any other judge of such High Court, may from time to time prescribe.

12. (1) The rights in respect of leave of absence or pension of the Chief Justice or any other judge of the Supreme Court shall be governed or shall continue to be governed, as the case may be, by the provisions which were applicable to any such judge of the Federal Court.

(2) The rights in respect of leave of absence or pension of the Chief Justice or any other judge of a High Court within the territory of India except the States for the time being specified in Part III of the First Schedule shall be governed or shall continue to be governed, as the case may be, by the same provisions which were applicable immediately before the commencement of this Constitution to any such judge of such High Court.

(3) For the purposes of this paragraph, a person who was serving as an ad hoc judge, acting judge or additional judge at the commencement of this Constitution shall be deemed to have been serving as a judge at that date if, but only if, his service as such ad hoc judge, acting judge or additional judge continued without interruption until his subsequent permanent appointment as a judge.

13. In this Part, unless the context otherwise requires,—

(a) the expression "Chief Justice" includes an acting Chief Justice, and a "judge" includes an ad hoc judge, an acting judge and an additional judge;

(b) "actual service" includes—

(i) time spent by a judge on duty as a judge or in the performance of such other functions as he may be directed by the President or the Governor, as the case may be, or by the Commission appointed under Article 289 of this Constitution to discharge;

(ii) vacations, excluding any time during which the judge is absent on leave; and

(iii) joining time on transfer from a High Court to the Supreme Court or from one High Court to another.

Part V

PROVISIONS AS TO THE AUDITOR-GENERAL OF INDIA

14. There shall be paid to the Auditor-General of India a salary at the rate of four thousand rupees per mensem.

15. The rights in respect of leave of absence or pension of the Auditor-General of India shall be governed or shall continue to be governed, as the case may be, by the provisions which were applicable to the Auditor-General of India immediately before the commencement of this Constitution and all references in those provisions to the Governor-General shall be construed as references to the President.

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THIRD SCHEDULE

[Articles 62 (4), 81, 103 (6), 144 (2), 165 and 195]

FORMS OF DECLARATIONS

I

Form of oath of office for a Minister for the Union:— 5

"I, A.B., do solemnly affirm (or swear) that I will bear true faith and allegiance to the Constitution of India as by law established, that I will faithfully and conscientiously discharge my duties as a Minister for the Union and that I will do right to all manner of people in accordance with the 10 Constitution and the law, without fear or favour, affection or illwill."

II

Form of oath of secrecy for a Minister for the Union:—

"I, A.B., do solemnly affirm (or swear) that I will not 15 directly or indirectly communicate or reveal to any person or persons any matter which shall be brought under my consideration or shall become known to me as a Minister for the Union except as may be required for the due discharge of my duties as such Minister." 20

III

Form of declaration to be made by a member of Parliament:—

"I, A.B., having been elected (or nominated) a member of the Council of States (or the House of the People) do solemnly and sincerely promise and declare that I will bear 25 true faith and allegiance to the Constitution of India as by law established and that I will faithfully discharge the duty upon which I am about to enter."

IV

Form of declaration to be made by the judges of the Supreme 30 Court:—

"I, A.B., having been appointed Chief Justice (or a judge) of the Supreme Court of India do solemnly and sincerely promise and declare that I will bear true faith and allegiance to the Constitution of India as by law established, that 35 I will duly and faithfully and to the best of my ability, knowledge and judgment perform the duties of my office without fear or favour, affection or illwill and that I will uphold the Constitution and the laws."

V

Form of oath of office for a Minister for a State for the time being specified in Part I of the First Schedule:—

"I, A.B., do solemnly affirm (or swear) that I will bear true faith and allegiance to the Constitution of India as by law established, that I will faithfully and conscientiously discharge my duties as a Minister for the State of———— and that I will do right to all manner of people in accordance with the Constitution and the law without fear or favour, affection or illwill."

VI

Form of oath of secrecy for a Minister for a State for the time being specified in Part I of the First Schedule:—

"I, A.B., do solemnly affirm (or swear) that I will not directly or indirectly communicate or reveal to any person or persons any matter which shall be brought under my consideration or shall become known to me as a Minister of———— ————except as may be required for the due discharge of my duties as such Minister or as may be specially permitted by the Governor in the case of any matter pertaining to the functions to be exercised by him in his discretion."

VII

Form of declaration to be made by a member of the Legislature of a State for the time being specified in Part I of the First Schedule:—

"I, A.B., having been elected (or nominated) a member of the Legislative Assembly (or Legislative Council), do solemnly and sincerely promise and declare that I will bear true faith and allegiance to the Constitution of India as by law established and that I will faithfully discharge the duty upon which I am about to enter."

VIII

Form of declaration to be made by the judges of a High Court:—

"I, A. B., having been appointed Chief Justice (or a judge) of the High Court at (or of) ----- do solemnly and sincerely promise and declare that I will bear true faith and allegiance to the Constitution of India as by law established, that I will duly and faithfully and to the best of my ability, knowledge and judgment perform the duties of my office without fear or favour, affection or illwill and that I will uphold the Constitution and the laws."

FOURTH SCHEDULE

[Article 144 (4)]

INSTRUCTIONS TO THE GOVERNORS OF STATES IN PART I OF THE FIRST SCHEDULE

1. In these instructions, unless the context otherwise requires, the term "Governor" shall include every person for the time being discharging the functions of the Governor according to the provisions of this Constitution.

2, In making appointments to his Council of ministers the Governor shall use his best endeavours to select his ministers in the following manner, that is to say, to appoint in consultation with the person who in his judgment is most likely to command a stable majority in the Legislature those persons (including so far as practicable members of important minority communities) who will best be in a position collectively to command the confidence of the Legislature. In so acting, he shall bear constantly in mind the need for fostering a sense of joint responsibility among the ministers.

3. In all matters within the scope of the executive power of the State, save in relation to functions which he is required by or under this Constitution to exercise in his discretion, the Governor shall, in the exercise of the powers conferred upon him, be guided by the advice of his ministers.

4. The Governor shall do all that in him lies to maintain standards of good administration, to promote all measures making for moral, social and economic welfare and tending to fit all classes of the population to take their due share in the public life and government of the State, and to secure amongst all classes and creeds co-operation, goodwill and mutual respect for religious beliefs and sentiments.

FIFTH SCHEDULE

[Articles 189 (a) and 190 (1)]

PROVISIONS AS TO THE ADMINISTRATION AND CONTROL OF SCHEDULED AREAS AND SCHEDULED TRIBES

Part I

GENERAL

1. Executive power of a State in scheduled areas.—Subject to the provisions of this Schedule the executive power of a State for the time being specified in Part I of the First Schedule extends to the scheduled areas therein.

2. Report by the Governor to the Government of India regarding the administration of the scheduled areas.—The Governor of each State having scheduled areas therein shall annually, or whenever so required by the Government of India, make a report to that Government regarding the administration of the scheduled areas in that State and the executive power of the Union shall extend to the giving of directions to the State as to the administration of the said areas.

Part II

PROVISIONS AS TO THE STATES OF MADRAS, BOMBAY. WEST BENGAL, BIHAR, THE CENTRAL PROVINCES AND BERAR, AND ORISSA

3. Application of Part II.—The provisions of this Part shall apply to the States of Madras, Bombay, West Bengal, Bihar, the Central Provinces and Berar, and Orissa.

4. Tribes Advisory Council.—(1) As soon as may be after the commencement of this Constitution, there shall be established in the States of Madras, Bombay, West Bengal, Bihar, the Central Provinces and Berar, and Orissa, a Tribes Advisory Council consisting of not less than ten and more than twenty-five members, of whom, as nearly as may be, three-fourths shall be elected representatives of the scheduled tribes in the. Legislative Assembly of the State.

(2) It shall be the duty of the Tribes Advisory Council generally to advise the Government of the State on all matters pertaining to the administration of the scheduled areas, if any, and the welfare of the scheduled tribes in the State.

(3) The Governor may make rules prescribing or regulating as the case may be—

(a) the number of members of the Council, the mode of their appointment and of the appointment of its Chairman and of the officers and servants thereof;

(b) the conduct of its meetings and its procedure in general;

(c) its relations with officials and local bodies in the State; and

(d) all other incidental matters.

5. Law applicable to scheduled areas.—(1) The Governor may, if so advised by the Tribes Advisory Council for the State, by public notification direct that any particular Act of Parliament or of the Legislature of the State shall not apply to a scheduled area or any part thereof in the State or shall apply to a scheduled area or any part thereof in the State subject to such exceptions and modifications as he may with the approval of the said Council specify in the notification:

Provided that where such Act relates to any of the following subjects, that is to say—

(a) marriage;

(b) inheritance of property;

(c) social customs of the tribes;

(d) land, other than lands which are reserved forest under the Indian Forest Act, 1927 or under any other law for the time being in force in the area in question, including rights of tenants, allotment of land and reservation of land for any purpose;

(e) any matter relating to village administration including the establishment of village panchayats,

the Governor shall issue such direction when so advised by the Tribes Advisory Council,

(2) The Governor may, after consultation with the Tribes Advisory Council for the State, make Regulations for any scheduled area in the State with respect to any matter not provided for by any law for the time being in force in such area.

(3) The Governor may also make regulations for any scheduled area in the State with respect to the trial of cases relating to offences other than those which are punishable with

death, transportation for life or imprisonment for five years or upwards or relating to disputes other than those arising out of any such laws as may be defined in such regulations, and may by such regulations empower the headmen or panchayats in any such area to try such cases.

(4) Any regulations made under this paragraph when promulgated by the Governor shall have the same force and effect as any Act of the appropriate Legislature which applies to such area and has been enacted by virtue of the powers conferred on that Legislature by this Constitution.

6. Alienation and allotment of lands to non-tribals in scheduled areas.—(1) It shall not be lawful for a member of the scheduled tribes to transfer any land in a scheduled area to any person who is not a member of the scheduled tribes;

(2) No land in a scheduled area vested in the State within which such area is situate shall be allotted to, or settled with, any person who is not a member of the scheduled tribes except in accordance with rules made in that behalf by the Governor in consultation with the Tribes Advisory Council for the State.

7. Regulation of money-lending in scheduled areas.—The Governor may, and if so advised by the Tribes Advisory Council for the State shall, by public notification direct that no person shall carry on business as a money-lender in a scheduled area in the State except under or in accordance with the conditions of a licence issued by an officer authorised in this behalf by the Government of the State and every such direction shall provide that a breach of it shall be an offence, and shall specify the penalty with which it shall be punishable.

8. Estimated receipts and expenditure pertaining to scheduled areas to be shown separately in the annual financial statement.—The estimated receipts and expenditure pertaining to a scheduled area in a State which are to be credited to, or is to be met from, the revenues of the State shall be shown separately in the annual financial statement of the State to be laid before the Legislature of the State under article 177 of this Constitution.

9. Application of Part II to areas other than Scheduled areas.—(1) The Governor may, at any time by public notification, direct that all or any of the provisions of this Part

shall on and from such date as may be specified in the notification apply in relation to any area in the State inhabited by members of any scheduled tribe other than a scheduled area as they apply in relation to a scheduled area in the State, and the publication of such notification shall be conclusive evidence that such provisions have been duly applied in relation to such other area.

(2) The Governor may by a like notification direct that all or any of the provisions of this Part shall on and from such date as may be specified in the notification cease to apply in relation to any area in the State in respect of which a notification may have been issued under sub-paragraph (1) of this paragraph.

Part III

PROVISIONS AS TO THE STATE OF THE UNITED PROVINCES

10. Application of Part III.—The provisions of this Part shall apply only to the State of the United Provinces.

11. Scheduled Areas Advisory Committee.—(1) As soon as may be after the commencement of this Constitution the Governor shall by order appoint for the State a Scheduled Areas Advisory Committee, two-thirds of the members of which shall be the members of the Scheduled tribes. Such order may define the composition, powers and procedure of the Committee and may contain such incidental or ancillary provisions as the Governor may consider necessary or desirable.

(2) It shall be the duty of the Scheduled Areas Advisory Committee generally to advise the Government of the State on all matters pertaining to the development of scheduled areas in the State.

12. Power of Governor to make regulations in certain cases.—(1) The Governor may make regulations for any scheduled area in the State with respect to the trial of cases relating to offences other than those which are punishable with death, transportation for life or imprisonment for five years or upwards or for the trial of such classes of suits or cases of small pecuniary value as may be specified in such regulations, and may also by such regulations empower the headmen or panchayats in any such area to try such cases or suits.

(2) The Governor may also make regulations so as to prohibit the transfer of any land in a scheduled area in the State by a member of the scheduled tribes to any person who is not a member of the scheduled tribes.

(3) Any regulations made under this paragraph when promulgated by the Governor shall have the same force and effect as any Act of the appropriate Legislature which applies to such area and has been enacted by virtue of the powers conferred on that Legislature by this Constitution.

13. Estimated receipts and expenditure pertaining to scheduled areas to be shown separately in the Annual Financial Statement.—The estimated receipts and expenditure pertaining to the scheduled areas in the State which are to be credited to, or is to be met from, the revenues of the State shall be shown separately in the Annual Financial Statement of the State to be laid before the Legislature of the State under Article 177 of this Constitution.

Part IV

PROVISIONS AS TO THE STATE OF EAST PUNJAB

14. Application of Part IV.—The provisions of this Part shall apply only to the State of East Punjab.

15. Appointment of Scheduled Areas Advisory Committee.—(1) As soon as may be after the commencement of this Constitution the Governor shall by order appoint for the State a Scheduled Areas Advisory Committee, two-thirds of the members of which shall be the residents of the scheduled areas in the State. Such order may define the composition, powers and procedure of the Committee and may contain such incidental or ancillary provisions as the Governor may consider necessary or desirable.

(2) It shall be the duty of the Scheduled Areas Advisory Committee generally to advise the Government of the State on all matters pertaining to the administration of the scheduled areas in the State.

16. Application of Acts of Parliament or of the Legislature of the Slate to scheduled areas.—The Governor may by public notification direct that any particular Act of Parliament or of the Legislature of the State shall not apply to a scheduled area or any part thereof in the State or shall apply to a scheduled area or any part thereof in the State subject to such exceptions and modifications as he may specify in the notification.

17. Power of Governor to make regulations.—(1) The Governor may make regulations for any scheduled area in the State with respect to the trial of cases relating to offences other than those which are punishable with death, transportation for life or imprisonment for five years or upwards, or for the trial of such classes of suits or cases of small pecuniary value as may be specified in such regulations, and may also by such regulations empower the headmen or panchayats in any such area to try such cases or suits.

(2) The Governor may also make regulations so as to prohibit the transfer of any land in a scheduled area in the State by a member of the scheduled tribes to any person who is not a member of the scheduled tribes.

(3) Any regulations made under this paragraph when promulgated by the Governor shall have the same force and effect as any Act of the appropriate Legislature which applies to such area and has been enacted by virtue of the powers conferred on that Legislature by this Constitution.

Part V

SCHEDULED AREAS

***18.** Scheduled areas.—(1) The areas specified in Parts I to VII of the Table below shall be the scheduled areas within the meaning of this Constitution, and any reference in the said Table to any division, district, administrative area, tahsil or estate shall be construed as a reference to that division, district, area, tahsil or estate as existing on the date of commencement of this Constitution.

(2) The President may at any time by Order—

(a) direct that the whole or any specified part of a scheduled area shall cease to be a scheduled area or a part of such an area;

(b) alter, but only by way of rectification of boundaries, any scheduled area;

*The Committee is of opinion that a provision on the lines of section 91(2) of the Government of India Act, 1935, as originally enacted, should be included in this paragraph to enable any area to be excluded from or included in the scheduled areas and the Committee has accordingly added sub-paragraph (2) to this paragraph.

(c) on any alteration of the boundaries of a State for the time being specified in Part I of the First Schedule or on the inclusion in Part I of that Schedule of a new State admitted into the Union or established by Parliament by law, declare any territory not previously included in any State so specified to be, or to form part of, a scheduled area,

and any such Order may contain such incidental and consequential provisions as appear to the President to be necessary and proper.

TABLE

I—MADRAS

The Laccadive Islands (including Minicoy) and the Amindivi Islands.

The East Godavari Agency and so much of the Vizagapatam Agency as is not transferred to Orissa under the provisions of the Government of India (Constitution of Orissa) Order, 1936.

II—BOMBAY

In the West Khandesh District:—The Navapur Petha, the Akrani Mahal and the villages belonging to the following Mehwassi Chiefs: (1) the Parvi of Kathi, (2) the Parvi of Nal, (3) the Parvi of Singpur, (4) the Walwi of Gaohali, (5) the Wassawa of Chikhli, and (6) the Parvi of Navalpur,

In the East Khandesh District:—The Satpura Hills reserved forest areas.

In the Nasik District:—The Kalvan Taluk and Peint Petha.

In the Thana District:—The Dahanu and Shahapur Talukas and Mokhada and Umbergaon Pethas.

III.—THE UNITED PROVINCES

The Jaunsar-Bawar Pargana of the Dehra Dun District. The portion of the Mirzapur District south of the Kaimur range.

IV.—EAST PUNJAB

Spiti and Lahaul in the Kangra District.

V.—BIHAR

The Ranchi and Singhbhum Districts, and the Latehar sub-division of the Palamau District of the Chota Nagpur Division.

The Santal Parganas District excluding the Godda and Deogarh Sub-divisions.

VI.—THE CENTRAL PROVINCES AND BERAR

In the Chanda district, the Ahiri Zamindari in the Sironcha Tahsil and the Dhanora, Dudmala, Gewardha, Jharapapra Khutgaon, Kotgal, Muramgaon, Palasgarh, Rangi, Sirsundi Sonsari, Chandala, Gilgaon, Pai-Muranda and Potegaon Zamindaris in the Garchiroli Tahsil.

The Harrai, Gorakghat, Gorpani, Batkagarh, Bardagarh Partabgarh (Pagara), Almod and Sonpur Jagirs of the Chhindwara District, and the portion of the Pachmarhi jagir in the Chhindwara District.

The Mandla District.

The Pendra, Kenda, Matin, Lapha, Uprora, Chhuri and Korba Zamindaris of the Bilaspur District.

The Aundhi, Koracha, Panabaras and Ambagarh Ghauki Zamindaris of the Drug District.

The Baihar Tahsil of the Balaghat District.

The Melghat Taluk of the Amraoti District.

The Bhainsdehi Tahsil of the Betul District,

VII—ORISSA

The Ganjam Agency Tracts including Khondmals.

The Koraput District.

SIXTH SCHEDULE

[Articles 189 (b) and 190 (2)]

PROVISIONS AS TO THE ADMINISTRATION OF THE TRIBAL AREAS IN ASSAM

1. Autonomous districts and autonomous regions.—(1) The tribal areas in each item of Part I of the Table appended to paragraph 19 of this Schedule for the time being included in that Part shall be an autonomous district.

(2) If there are different scheduled tribes in an autonomous district, the Governor may, by public notification, divide the area or areas inhabited by them into autonomous regions.

(3) The Governor may, by public notification—

(a) include any area in Part I of the said Table,

(b) create a new autonomous district,

(c) increase the area of any autonomous district,

(d) exclude any area from Part I of the said Table,

(e) diminish the area of any autonomous district:

Provided that no order shall be made by the Governor under clause (b) or clause (c) of this sub-paragraph except after consideration of the report of a Commission appointed under sub-paragraph (1) of paragraph 14 of this Schedule:

Provided further that no order shall be made by the Governor under clause (d) or clause (e) of this sub-paragraph unless a resolution to that effect is passed by the District Council of the autonomous district concerned.

2, Constitution of District Councils and Regional Councils.—(1) There shall be a District Council for each autonomous district consisting of not less than twenty and not more than forty members of whom not less than three-fourths shall be elected on the basis of adult suffrage.

(2) The territorial constituencies for elections to each District Council shall be so delimited that as far as possible the areas inhabited by the different scheduled tribes of the district and the areas, if any, inhabited by other persons shall form separate constituencies:

Provided that no constituency shall be formed which has a total population of less than five hundred.

(3) There shall be a separate regional Council for each area constituted an autonomous region under sub-paragraph (2) of paragraph 1 of this Schedule.

(4) Each District Council and each Regional Council shall be a body corporate by the name respectively of "the District Council of (name of District)" and "the Regional Council of (name of Region)", shall have perpetual succession and a common seal and shall by the said name sue and be sued.

(5) Subject to the provisions of this Schedule the administration of an autonomous district shall, in so far as it is not vested under this Schedule in any Regional Council within such district, be vested in the District Council for such district and the administration of an autonomous Region shall be vested in the Regional Council for such region.

(6) In an autonomous district with Regional Councils, the District Council shall have only such powers with respect to the areas under the authority of the Regional Council as may be delegated to it by the Regional Council in addition to the powers conferred on it by this Schedule with respect to such areas.

(7) The Governor shall make rules for the first constitution of District Councils and Regional Councils in consultation with the existing tribal Councils or other representative tribal organisations within the autonomous districts or regions concerned and such rules shall provide for—

(a) the composition of the District Councils and Regional Councils and the allocation of seats therein;

(b) the delimitation of territorial constituencies for the purpose of elections to those Councils;

(c) the qualifications for voting at such elections and the preparation of electoral rolls;

(d) the qualifications for being elected at such elections as members of such Councils;

(e) any other matter relating to or connected with elections or nominations to such Councils;

(i) the procedure and the conduct of business in the District and Regional Councils;

(g) the appointment of officers and staff of the District and Regional Councils.

(8) The District or the Regional Council may after its first constitution make rules with regard to the matters specified in sub-paragraph (7) of this paragraph and may also make rules regulating—

(a) the formation of subordinate local Councils or Boards and their procedure and the conduct of their business; and

(b) generally all matters relating to the transaction of business pertaining to the administration of the district or region, as the case may be:

Provided that until rules are made by the District or the Regional Council under this sub-paragraph the rules made by the Governor under sub-paragraph (7) of this paragraph shall have effect in respect of elections to, the officers and staff of, and the procedure and the conduct of business in, each such Council:

Provided further that the Deputy Commissioner or the Sub-Divisional Officer, as the case may be, of the Mikir and North Cachar Hills shall be the Chairman ex-officio of the District Council in respect of the territories included in items 5 and 6 respectively of Part I of the Table appended to paragraph 19 of this Schedule and shall have power for a period of six years after the first constitution of the District Council, subject to the control of the Governor, to annul or modify any resolution or decision of the District Council or to issue such instructions to the District Council, as he may consider appropriate, and the District Council shall comply with every such instruction issued.

3. Powers of the District Councils and Regional Councils to make laws.—(1) The Regional Council for an autonomous region in respect of all areas within such region and the District Council for an autonomous district in respect of all areas within the district except those which are under the authority of Regional Councils, if any, within the district shall have power to make laws with respect to—

(a) the allotment, occupation or use, or the setting apart of land other than any land which is a reserved forest for the purposes of agriculture or grazing or for residential or other non-agricultural purposes or for any other purpose likely to promote the interests of the inhabitants of any village or town:

Provided that nothing in such laws shall prevent the compulsory acquisition of any land whether occupied or unoccupied for public purposes by the State of Assam in accordance with the law for the time being in force authorising such acquisition;

(b) the management of any forest not being a reserved forest;

(c) the use of any canal or water-course for the purpose of agriculture;

(d) the regulation of the practice of jhum or other forms of shifting cultivation;

(e) the establishment of village or town committees or councils and their powers;

(f) any other matter relating to village or town administration including village or town police and public health and sanitation;

(g) the appointment or succession of Chiefs or Headmen;

(h) the inheritance of property;

(i) marriage;

(j) social customs.

(2) In this paragraph, a "reserved forest" means any area which is a reserved forest under the Assam Forest Regulation, 1899, or under any other law for the time being in force in the area in question.

4. Administration of justice in autonomous districts and autonomous regions.—

(1) The Regional Council for an autonomous region in respect of areas within such region and the District Council for an autonomous district in respect of areas within the district other than those which are under the authority of the Regional Councils, if any, within the district may constitute village Councils or courts for the trial of suits and cases other than those to which the provisions of sub-paragraph (1) of paragraph 5 of this Schedule apply or those arising out of any law made under paragraph 3 of this Schedule, to the exclusion of any court in the State, and may appoint suitable persons to be members of such village Councils or presiding officers of such courts, and may also appoint such officers as may be necessary for the administration of the laws made under paragraph 3 of this Schedule.

(2) Notwithstanding anything in this Constitution the Regional Council for an autonomous region or any court constituted in this behalf by the Regional Council or, if in respect of any area within an autonomous district there is no Regional Council, the District Council for such district, or any court constituted in this behalf by the District Council, shall exercise the powers of a Court of Appeal in respect of ail suits and cases between the parties all of whom belong to scheduled tribes within such region or area, as the case may be, other than those to which the provisions of sub-paragraph (1) of paragraph 5 of this Schedule apply, and no other Court

in the State shall have appellate jurisdiction over such suits or cases and the decision of such Regional or District Council or Court shall be final.

5. Conferment of powers under the Code of Civil Procedure, 1908 and the Code of Criminal Procedure, 1898 on the Regional and District Councils and on certain courts and officers for the trial of certain suits and offences.—(1) The Governor may, for the trial of suits or cases arising out of any law in force in any autonomous district or region being a law specified in this behalf by the Governor, or for the trial of offences punishable with death, transportation for life, or imprisonment for a term of not less than five years under the Indian Penal Code or under any other law for the time being applicable to such region or district, confer on the District Council or the Regional Council having authority over such district or region or on courts constituted by such District Council or on any officer appointed in this behalf by the Governor, such powers under the Code of Civil Procedure, 1908 or, as the case may be, the Code of Criminal Procedure, 1898, as he deems appropriate, and thereupon the said Council, court or officer shall try the suits, cases or offences in exercise of the powers so conferred.

(2) The Governor may withdraw or modify any of the powers conferred on a District Council, Regional Council, court or officer under sub-paragraph (1) of this paragraph.

(3) Save as expressly provided in this paragraph the Code of Civil Procedure, 1908 and the Code of Criminal Procedure 1898, shall not apply to the trial of any suits, cases or offences in an autonomous district or in any autonomous region.

6. Powers of the District Council to establish primary schools, etc.—The District Council for an autonomous district may establish, construct, or manage primary schools, dispensaries, markets, cattle pounds, ferries, fisheries, roads and waterways in the district and in particular may prescribe the language and the manner in which primary education shall be imparted in the primary schools *in* the district.

7. District and Regional Funds.—(1) There shall be constituted for each autonomous district, a District Fund and for each autonomous region, a Regional Fund to which shall be credited all moneys received respectively by the District Council for that district and the Regional Council for that region in the course of the administration of such district or region, as the case may be, in accordance with the provisions of this Constitution.

(2) Subject to the approval of the Governor rules may be made by the District Council and by the Regional Council for the management of the District Fund or, as the case may be, the Regional Fund; and the rules so made may prescribe the procedure to be followed in respect of payment of money into the said Fund, the withdrawal of moneys therefrom, the custody of moneys therein and any other matter connected with or ancillary to the matters aforesaid.

8. Powers to assess and collect land revenue and to impose taxes.—(1) The Regional Council for an autonomous region in respect of all lands within such region and the District Council for an autonomous district in respect of all lands within the district except those which are in the areas under the authority of Regional Councils, if any, within the district, shall have the power to assess and collect revenue in respect of such lands in accordance with the principles for the time being followed by the Government of Assam in assessing lands for the purpose of land revenue in the State of Assam generally,

(2) The Regional Council for an autonomous region in respect of areas within such region and the District Council for an autonomous district in respect of all areas in the district except those which are under the authority of Regional Councils, if any, within the district, shall have power to levy and collect taxes on land and buildings, and tolls on persons resident within such areas.

(3) The District Council for an autonomous district shall have the power to levy and collect all or any of the following taxes within such district, that is to say—

(a) tax on professions, trades, callings and employments:

(b) a tax on animals, vehicles and boats;

(c) taxes on the entry of goods into a market for sale therein, and tolls on passengers and goods carried in ferries; and

(d) taxes for the maintenance of schools, dispensaries or roads.

(4) A Regional Council or District Council, as the case may be, may make regulations to provide for the levy and collection of any of the taxes specified in sub-paragraphs (2) and (3) of this paragraph.

9. Licences or leases for the purpose of prospecting for, or extraction of, minerals.—(1) No licence or lease shall be granted by the Government of Assam for the purpose of prospecting

for, or the extraction of, minerals in any area comprised with in an autonomous district, save in consultation with the District Council for that district.

(2) Such share of the royalties accruing each year from licences or leases for the purpose of prospecting for, or the extraction of, minerals granted by the Government of Assam in respect of any area within an autonomous district as may be agreed upon between the Government of Assam and the District Council of such district shall be made over to that District Council.

(3) If any dispute arises as to the share of such royalties to be made over to a District Council, it shall be referred to the Governor for determination and the amount determined by the Governor in his discretion shall be deemed to be the amount payable under sub-paragraph (2) of this paragraph to the District Council and the decision of the Governor shall be final.

10. Power of District Council to make regulations for the control of money-lending and trading by non-tribals.—(1) The District Council of an autonomous district may make regulations for the regulation and control of money-lending or trading within the district by persons other than scheduled tribes resident in the district.

(2) Such regulations may—

(a) prescribe that no one except the holder of a licence issued in that behalf shall carry on the business of money-lending;

(b) prescribe the maximum rate of interest which may be charged or be recovered by a money-lender;

(c) provide for the maintenance of accounts by money-lenders and for the inspection of such accounts by officers appointed in this behalf by the District Council;

(d) prescribe that no person who is not a member of the scheduled tribes resident in the district shall carry on wholesale or retail business in any commodity except under a licence issued in that behalf by the District Council:

Provided that no such regulations may be made under this paragraph unless they are passed by a majority of not less than three-fourths of the total membership of the District Council:

Provided further that it shall not be competent under any such regulations to refuse the grant of a licence to a money-lender or a trader who has been carrying on business within the district since before the time of the making of such regulations, 5

11. Publication of laws, rules and regulations made under the Schedule.—All laws, rules and regulations made under this Schedule by a District Council or a Regional Council shall be published forthwith in the Official Gazette of the State and shall on such publication have the force of law. 10

12. Application of Acts of Parliament and of the Legislature of the State to autonomous districts and autonomous regions—Notwithstanding anything contained in this Constitution—

(a) no Act of the Legislature of the State in respect of any of the matters specified in paragraph 3 of this Schedule as matters with respect to which a District Council or a Regional Council may make laws, and no Act of the Legislature of the State prohibiting or restricting the consumption of any non-distilled alcoholic liquor shall apply to any autonomous district or autonomous region unless in either case the District Council for such district or having jurisdiction over such region by public notification so directs, and the District Council in giving such direction with respect to any Act may direct that the Act shall in its application to such district or region or any part thereof have effect subject to such exceptions or modifications as it thinks fit; 15 20 25 30

(b) the Governor may, by public notification, direct that any Act of Parliament or of the Legislature of the State to which the provisions of clause (a) of this paragraph do not apply shall not apply to an autonomous district or an autonomous region, or shall apply to such district or region or any part thereof subject to such exceptions or modifications as he may with the approval of the District Council for such district or the Regional Council for such region specify in the notification, if a resolution recommending the issue of such direction is passed by such District Council or such Regional Council, as the case may be. 35 40

13. Estimated receipts and expenditure pertaining to autonomous districts to be shown separately in the annual financial statement.—The estimated receipts and expenditure pertaining to an autonomous district which are to be credited to, or is to be made from, the revenues of the State of Assam shall be shown separately in the annual financial statement of the State to be laid before the Legislature of the State under article 177 of this Constitution.

14. Appointment of Commission to inquire into and report on the administration of autonomous districts.—(1) The Governor of Assam may at any time appoint a Commission to examine and report on any matter specified by him relating to the administration of the autonomous districts in the State, or may appoint a Commission to inquire into and report from time to time on the administration of autonomous districts in the State generally and in particular on—

(a) the provision of educational and medical facilities and communications in such districts;

(b) the need for any new or special legislation in respect of such districts; and

(c) the administration of the laws, regulations and rules made by the District and Regional Councils; and define the procedure to be followed by such Commission.

(2) The report of every such Commission with the recommendations of the Governor with respect thereto shall be laid before the Legislature of the State by the minister concerned together with an explanatory memorandum regarding the action proposed to be taken thereon by the Government of Assam.

(3) In allocating the business of the Government of the State among his ministers the Governor of Assam may place one of his ministers specially in charge of the welfare of the autonomous districts in the State.

15. Annulment or suspension of acts and resolutions of the District or Regional Councils.—(1) If at any time the Governor is satisfied that an act or resolution of a Regional Council or a District Council is likely to endanger the safety of India, he may annul or suspend such act or resolution and take such steps as he may consider necessary (including the suspension of the Council and the assumption to himself of all or any of the powers vested in or exercisable by the Council) to prevent the commission or continuance of such act, or the giving of effect to such resolution.

(2) Any order made by the Governor under sub-paragraph (1) of this paragraph together with the reasons therefor shall be laid before the Legislature of the State as soon as possible and the order shall, unless revoked by the Legislature of the State, continue in force for a period of twelve months from the date on which it was so made:

Provided that if and so often as a resolution approving the continuance in force of such order is passed by the Legislature of the State the order shall unless cancelled by the Governor continue in force for a further period of twelve months from the date on which under this paragraph it would otherwise have ceased to operate.

(3) The functions of the Governor under this paragraph shall be exercised by him in his discretion.

16. Dissolution of a District or Regional Council.—The Governor may on the recommendation of a Commission appointed under paragraph 14 of this Schedule by public notification order the dissolution of a Regional or a District Council and—

(a) direct that a fresh general election shall be held immediately for the reconstitution of the Council, or

(b) subject to the previous approval of the Legislature of the State assume the administration of the area under the authority of such Council himself or place the administration of such area under the Commission appointed under the said paragraph or any other body considered suitable by him for a period not exceeding twelve months:

Provided that when an order under clause (a) of this paragraph has been made the Governor may take the action referred to in clause (b) of this paragraph with regard to the administration of the area in question pending the re-constitution of the Council on fresh general election:

Provided further that no action shall be taken under clause (b) of this paragraph without giving the District or the Regional Council, as the case may be, an opportunity of being heard by the Legislature of the State.

17. Application of the provisions of this Schedule to areas specified in Part II of the table appended to paragraph 19.—(1) The Governor of Assam may—

(a) subject to the previous approval of the President, by public notification, apply all or any of the foregoing provisions of this Schedule to any tribal area specified in Part II of the table appended to paragraph

19 of this Schedule or any portion of such area and thereupon such area or portion shall be administered in accordance with such provisions, and

(b) may also with like approval exclude any tribal area specified in Part II of the said table or any portion thereof from the said table.

(2) Until a notification is issued under sub-paragraph (1) of this paragraph in respect of any tribal area specified in Part II of the said table or any portion of such area, the administration of such area or portion thereof, as the case may be, shall be carried on by the President through the Governor of Assam as his agent and the provisions of Part VIII of this Constitution shall apply thereto as if such area or portion thereof were a territory specified in Part IV of the First Schedule.

18. Transitional provisions.—As soon as possible after the commencement of this Constitution the Governor of Assam shall take steps for the constitution of a District Council for each autonomous district in the State under this Schedule and until a District Council is so constituted for an autonomous district the administration of such district shall be vested in the Governor in his discretion and the following provisions shall apply to the administration of the areas within such district instead of the provisions contained in this Schedule, namely:—

(a) no Act of Parliament or of the Legislature of the State shall apply to such area unless the Governor by public notification so directs; and the Governor in giving such a direction with respect to any Act may direct that the Act shall in its application to the area or to any specified part thereof, have effect subject to such exceptions or modifications as he thinks fit;

(b) the Governor may make regulations for the peace and good government of such area and any regulations so made 'may repeal or amend any Act of Parliament or of the Legislature of the State or any existing law which is for the time being applicable to such area. Regulations made under this clause shall be submitted forthwith to the President and until assented to by him shall have no effect;

(c) the Governor shall exercise his functions under clauses (a) and (b) of this paragraph in his discretion.

19. Tribal areas.—The areas specified in Parts I and II of the table below shall be the tribal areas within the State of Assam, and any reference in the said table to any district or administrative area shall be construed as a reference to that district or area as existing on the date of commencement of this Constitution:

TABLE

Part I

1. The Khasi and Jaintia Hills District excluding the town of Shillong.
2. The Garo Hills District.
3. The Lushai Hills District.
4. The Naga Hills District.
5. The North Cachar Sub division of Cachar District.
6. The Mikir Hills portion of Nowgong and Sibsagar Districts excepting the mouzas of Barpathar and Sarupathar.

Part II

1. The Sadiya and Balipara Frontier Tracts.
2. The Tirap Frontier Tract (excluding the Lakhimpur Frontier Tract)
3. The Naga Tribal Area.

SEVENTH SCHEDULE.

[Article 217.]

LIST I—Union List

*1. The defence of the territory of India and of every part thereof and generally all preparation for defence as well as all such acts as may be conducive in times of war to its successful prosecution and after its termination to effective demobilisation.

2. Central Intelligence Bureau.

3. Preventive detention in the territory of India **for reasons connected with defence, external affairs or the security of India.

***4. The raising, training, maintenance and control of the Naval, Military and Air Forces of the Union and their employment; the strength, organisation and control of the armed forces raised and employed in States for the time being specified in Part III of the First Schedule.

5. Industries declared by Parliament by law to be neces sary for the purpose of defence or for the prosecution of war.

6. Naval, Military and Air Force works.

7. Local self-government in cantonment areas, the constitution and powers within such areas of cantonment authorities, the regulation of house accommodation in such areas and the delimitation of such areas.

8. Arms, firearms, ammunition and explosives.

9. Atomic energy and mineral resources essential to its production.

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* The Committee has omitted the entry 'Requisitioning of lands for defence purposes including training and manoeuvres' as the matter will be covered by entry 43.

** The words 'reasons connected with defence, external affairs or the security of India have been substituted for the words 'reasons of State' in this entry to avoid conflict with entry 1 of the State List relating to preventive detention for reasons connected with the maintenance of public order.

*** This follows the entry as adopted by the Constituent Assembly, but the Chairman of the Drafting Committee strongly feels that the second part of the entry relating to armed forces in States in Part III of the first Schedule should be deleted in order to preclude such States from maintaining any armed forces of their own.

10. Foreign Affairs; all matters which bring the Union into relation with any foreign country.

11. Diplomatic, consular and trade representation.

12. United Nations Organisation.

13. Participation in international conferences, associations and other bodies and implementing of decisions made thereat.

14. War and Peace.

15. The entering into and implementing of treaties and agreements with foreign countries.

16. Foreign jurisdiction.

17. Trade and Commerce with foreign countries.

18. Foreign loans.

19. Citizenship, naturalisation and aliens.

20. Extradition.

21. Passports and visas.

22. Piracies, felonies and offences against the law of nations committed on the high seas and in the air.

23. Admission into, and emigration and expulsion from the territory of India,

24. Pilgrimages to places beyond India.

25. Port quarantine; seamen's and marine hospitals, and hospitals connected with port quarantine.

26. Import and export across customs frontiers as defined by the Government of India.

27. *Posts and telegraphs.

28. **Telephones, wireless, broadcasting and other like forms of communication.

29. Post Office Savings Bank.

30. Airways; aircraft and air navigation; provision of aerodromes; regulation and organisation of air traffic and of aerodromes; provision for aeronautical education and training and regulation of such education and training provided by States and other agencies.

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* For restrictions on the power of Parliament to make laws with respect to 'Posts and telegraphs' in relation to States for the time being specified in Part III of the First Schedule, see article 224 (a).

**For restrictions on the power of Parliament to make laws with respect to 'Telephones, wireless, broadcasting and other like forms of communication' in relation to States for the time being specified in Part III of the First Schedule see article 224 (b).

31. National highways declared to be such by Parliament by law.

32. Shipping and navigation on inland waterways, declared by Parliament by law to be national waterways, as regards mechanically propelled vessels, and the rule of the road on such waterways; carriage of passengers and goods cm such waterways.

33. Maritime shipping and navigation, including shipping and navigation on tidal waters; provision of education and training for the mercantile marine and regulation of such education and training provided by States and other agencies.

34. Admiralty jurisdiction.

35. Ports declared to be major ports by or under law made by Parliament or existing law including their delimitation and the constitution and powers of port authorities therein.

36. Lighthouses, including lightships, beacons and other provision for the safety of shipping and aircraft.

37. Carriage of passengers and goods by air or by sea.

38. Union railways; the regulation of all railways other than minor railways in respect of the safety, maximum and minimum rates and fares, station and service terminal charges, interchange of traffic and the responsibility of railway administrations as carriers of goods and passengers; the regulation of minor railways in respect of safety and the responsibility of the administrations of such railways as carriers of goods and passengers.

39. The institutions known on the 15th day of August, 1947, as the Imperial Library, the Indian Museum, the Imperial War Museum, the Victoria Memorial and any other institution financed by the Government of India wholly or in part and declared by Parliament by law to be an institution of national importance.

40. The institutions known on the 15th day of August, 1947, as the Benares Hindu University and the Aligarh Muslim University.

41. The Survey of India, the Geological, Botanical and Zoological Surveys of India; Union Meteorological organisations.

42. Property of the Union and the revenue therefrom, but as regards property situated in a State subject always to legislation by the State, save in so far as Parliament by law otherwise provides.

*43. Acquisition or requisitioning of property for the purposes of the Union subject to the provisions of List III with respect to regulation of the principles on which compensation is to be determined for property acquired or requisitioned for the purposes of the Union. 5

44. Reserve Bank of India.

45. Public debt of the Union.

46. Currency, foreign exchange, coinage and legal tender.

47. Banking.

48. Cheques, bills of exchange, promissory notes and other like instruments. 10

49. Insurance.

**50. Corporations, that is to say, the incorporation, regulation and winding up of trading corporations, including banking, insurance and financial corporations but not including co-operative societies, and of corporations, whether trading or not, with objects not confined to one State, but not including universities. 15

51. Patents, copyright, inventions, designs, trademarks and merchandise marks. 20

***52. Constitution, organisation, jurisdiction and powers of the Supreme Court and fees taken.

53. Extension of the jurisdiction of a High Court having its principal seat in any State within the territory of India except the States for the time being specified in Part III of the First Schedule to, and exclusion of the jurisdiction of any such High Court from, any area outside that State. 25

54. Jurisdiction and powers of all courts, other than the Supreme Court, with respect to any of the matters in this List.

*The Committee is of opinion that the principle on which compensation is to be paid for the acquisition or the requisitioning of property should be the subject-matter of the Concurrent List and this entry has been revised accordingly and a new entry 35 has been inserted for the purpose in the Concurrent List.

** For restrictions on the power of Parliament to make laws with respect to 'Corporations' in relation to States for the time being specified in Tart III of the First Schedule, see article 224 (c).

*** The Committee is of opinion that the reference to 'Federal Judiciary' should be omitted from this entry as there should not be parallel Judiciaries in the Union. The Committee has, however, inserted a new article 219 providing power to Parliament to establish additional courts for the better administration of the laws made by Parliament and existing laws with respect to matters in the Union List on the lines of Section 101 of the British North America Act, 1867.

55. Census.

56. Inquiries, surveys, and statistics for the purposes of the Union.

57. Union agencies and institutes for the following purposes, that is to say, for research, for professional or technical training, or for the promotion of special studies.

58. Union Public Services and Union Public Service Commission.

59. Industrial disputes concerning Union employees.

*60. Ancient and Historical Monuments declared by Parliament, by law to be of national importance; archaeological sites and remains.

61. Establishment of standards of weight and measure.

62. Opium, so far as regards cultivation and manufacture, or sale for export.

63. Petroleum and other liquids and substances declared by Parliament by law to be dangerously inflammable, so far as regards possession, storage and transport.

64. Development of industries where development under the control of the Union is declared by Parliament by law to be expedient in the public interest.

65. Regulation of labour and safety in mines and oilfields.

66. Regulation of mines and oilfields and mineral development to the extent to which such regulation and development under the control of the Union is declared by Parliament by law to be expedient in the public interest.

67. Extension of the powers and jurisdiction of members of a police force belonging to any part of a State for the time being specified in Part I or Part II of the First Schedule to any area in any other State so specified, but not so as to enable the police of one part to exercise powers and jurisdiction elsewhere without the consent of the government of the State; extension of the powers and jurisdiction of members of a force belonging to any State to railway areas outside that State.

68. Elections to Parliament and of the President and Deputy President; and Election Commission to superintend, direct and control such elections.

*The Committee is of opinion that Ancient and Historical Monuments declared by Parliament by law to be of national importance should be mentioned in this entry and not any and *every* Ancient and Historical Monument.

69. The emoluments and allowances and rights in respect of leave of absence of the President, the salaries and allowances of the Ministers for the Union and of the Chairman and Deputy Chairman of the Council of States and of the Speaker and Deputy Speaker of the House of the People; the salaries, allowances and privileges of the members of Parliament; the salary, allowances and the conditions of service of the Auditor-General of India.

70. The enforcement of attendance of persons for giving evidence or producing documents before committees of Parliament.

71. Migration from one State to another.

72. Inter-State quarantine.

73. Inter-State trade and commerce subject to the provision of entry 33 of List II.

74. The devlopment of inter-State waterways for purposes of flood control, irrigation, navigation and hydro-electric power.

75. Fishing and fisheries beyond territorial waters.

76. Manufacture and distribution of salt by Union agencies; regulation and control of manufacture and distribution of salt by other agencies.

77. Provision for dealing with grave emergencies in any part of the territory of India affecting the Union.

78. Lotteries organised by the Government of India or the Government of any State.

*79. Stock Exchanges and futures market and taxes other than stamp duties on transactions therein.

80. The rates of stamp duty in respect of bills of exchange, cheques, promissory notes, bills of lading, letters of credit, policies of insurance, transfer of shares, debentures, proxies and receipts.

81. Duties in respect of succession to property other than agricultural land.

82. Estate duty in respect of property other than agricultural land.

83. Terminal taxes on goods or passengers, carried by railway or air; taxes on railway fares and freights.

84. Taxes on income other than agricultural income.

85. Duties of customs including export duties.

*This entry has been inserted to follow the recommendation of the Expert Committee on the Financial Provisions of the Constitution.

*86. Duties of excise on tobacco and other goods manufactured or produced in India except—

(a) alcoholic liquors for human consumption;

(b) opium, Indian hemp and other narcotic drugs and narcotics; non-narcotic drugs;

but including medicinal and toilet preparations containing alcohol, or any substance included in sub-paragraph (b) of this entry.

87. Corporation tax.

88. Taxes on the capital value of the assets, exclusive of agricultural land, of individuals and companies; taxes on the capital of companies.

89. Offences against laws with respect to any of the matters in this List.

90. Fees in respect of any of the matters in this List, but not including fees taken in any court.

91. Any other matter not enumerated in List II or List III including any tax not mentioned in either of those Lists.

List II—State List

1. Public order (but not including the use of naval, military or air forces in aid of the civil power); preventive detention for reasons connected with the maintenance of public order; persons subjected to such detention.

2. The administration of justice; constitution and organisation of all courts, except the Supreme Court, and fees taken therein.

3. Jurisdiction and powers of all courts except the Supreme Court, with respect to any of the matters in this List; procedure in Rent and Revenue Courts.

4. Police, including railway and village police.

*The Committee is of opinion that duties of excise on medicinal and toilet preparations containing alcohol or any substance included in sub-paragraph (b) of this entry should be included in this entry as duties leviable by the Union, as it thinks that uniform rates of excise duty should be fixed in respect of these goods in all Statos for the sake of development of the pharmaceutical industry. The levy of different rates in different States is likely to lead to a discrimination in favour of goods imported from foreign countries which would be detrimental to the interests of Indian manufacturers as was pointed out by the Drugs Enquiry Committee in their report in 1931.

5. Prisons, reformatories, Borstal institutions and other institutions of a like nature, and persons detained therein; arrangements with other States for the use of prisons and other institutions.

6. Public debt of the State.

7. State Public Services and State Public Service Commissions.

8. Works, lands and buildings vested in or in the possession of the State.

*9. Compulsory acquisition of land except for the purposes of the Union subject to the provisions of List III with respect to regulation of the principles on which compensation is to be determined for property acquired or requisitioned for the purposes of a State.

10. Libraries, museums and other similar institutions controlled or financed by the State.

**11. Elections to the Legislature of the State and of the Governor of the State/for the constitution of a panel for the propose of the appointment of a Governor for the State; and Election Commission to superintend, direct and control such elections.

12. The emoluments and allowances and rights with respect to leave of absence of the Governor of the State, salaries and allowances of the Ministers for the State, of the Speaker and Deputy Speaker of the Legislative Assembly, and if there is a Legislative Council, of the Chairman and Deputy Chairman thereof; the salaries, allowances and privileges of the members of the Legislature of the State.

13. The enforcement of attendance of persons for giving evidence or producing documents before Committees of the Legislature of the State.

14. Local Government, that is to say, the constitution and powers of municipal corporations, improvement trusts, district boards, mining settlement authorities and other local authorities for the purpose of local self-government or village administration.

15. Public health and sanitation; hospitals and dispensaries; registration of births and deaths.

*See footnote to entry 43 of List I (Union List).

**The words 'for the constitution of a panel for the purpose of the appointment of a Governor for the State' will have to be used for the words 'of the Governor of the State' in this entry if the second alternative is adopted in article 131.

16. Pilgrimages, other than pilgrimages to places beyond India.

17. Burials and burial grounds; cremations and cremation grounds.

18. Education including Universities other than those specified in entry 40 of List I. 5

19. Communications, that is to say, roads, bridges, ferries, and other means of communication not specified in List I; minor railways subject to the provisions of List I with respect to such railways; municipal tramways; ropeways; 10 inland waterways and traffic thereon subject to the provisions; of List I and List III with regard to such waterways; ports, subject to the provisions in List I with regard to major ports; vehicles other than mechanically propelled vehicles.

20. Water, that is to say, water supplies, irrigation and 15 canals, drainage and embankments, water storage and water power subject to the provisions of entry 74 of List I.

21. Agriculture, including agricultural education and research, protection against pests and prevention of plant 20 diseases

22. Improvement of stock and prevention of animal diseases; veterinary training and practice.

23. Pounds and the prevention of cattle trespass.

24. Land, that is to say, rights in or over land, land tenures including the relation of land-lord and tenant, and 2 the collection of rents; transfer and alienation of agricultural land; land improvement and agricultural loans; colonization.

25. Courts of Wards, encumbered and attached estates.

26. Treasure trove.

27. Forests. 30

28. Regulation of mines and oilfields and mineral development subject to the provisions of List I with respect to regulation and development under the control of the Union.

29. Fisheries.

30. Protection of wild birds and wild animals. 35

31. Gas and gasworks.

32. Trade and commerce within the State; markets and fairs.

33. Regulation of trade, commerce and intercourse with Other States for the purposes of the provisions of article 244 of 40 this Constitution.

31. Money lending and money lenders; relief of agricultural indebtedness.

35. Inns and inn-keepers.

36, Production, supply and distribution of goods.

37. Development of industries, subject to the provisions in List I with respect to the development of certain industries under the control of the Union,

38. Adulteration of foodstuffs and other goods.

39. Weights and measures except establishment of standards.

40. Intoxicating liquors and narcotic drugs, that is to say, the production, manufacture, possession, transport, purchase and sale of intoxicating liquors, opium and other narcotic drugs, but subject, as respects opium, to the provisions of List I and, as respects poisons and dangerous drugs, to the provisions of List III.

41. Relief of the poor; unemployment.

42. The incorporation, regulation, and winding up of corporations not being corporations specified in List I, or Universities; unincorporated trading, literary, scientific, religious and other societies and associations; co-operative societies

43. Charities and charitable institutions, charitable and religious endowments and religious institutions.

44. Theatres, dramatic performances and cinemas, but not including the sanction of cinematograph films for exhibition

45. Betting and gambling.

46. Land revenue, including the assessment and collection of revenue, the maintenance of land records, survey for revenue purposes and records of rights, and alienation of revenues.

47. The rates of stamp duty in respect of documents other than those specified in the provisions of List I with regard to rates of stamp duty.

48. Duties in respect of succession to agricultural land.

49. Estate duty in respect of agricultural land.

50. Taxes on passengers and goods carried on inland waterways.

51. Taxes on agricultural income.

52. Duties of excise on the following goods manufactured or produced in the State and countervailing duties at the same or lower rates on similar goods manufactured or produced

elsewhere in the territory of India:—

(a) alcoholic liquors for human consumption;

(b) opium, Indian hemp and other narcotic drugs and narcotics, non-narcotic drugs;

*but not including medical and toilet preparations containing alcohol or any substance included in sub-paragraph (b) of this entry.

53. Taxes on lands and buildings.

54. Taxes on mineral rights, subject to any limitations imposed by Parliament by law relating to mineral development.

55. Capitation taxes.

56. Taxes on professions, trades, callings and employments.

57. Taxes on animals and boats.

**58. Taxes on the sale, turnover or purchase of goods including taxes in lieu thereof on the use or consumption within the State of goods liable to taxes within the State on sale, turnover or purchase; taxes on advertisements.

59. Taxes on vehicles suitable for use on roads, whether mechanically propelled or not, including tramcars.

60. Taxes on the consumption or sale of electricity.

61. Taxes on the entry of goods into a local area for consumption, use or sale therein.

62. Taxes on luxuries, including taxes on entertainments, amusements, betting and gambling.

63. Tolls.

64. Inquiries and statistics for the purpose of any of the matters in this last.

65. Offences against laws with respect to any of the matters in this List.

66. Fees in respect of any of the matters in this List, but not including fees taken in any court.

List III—Concurrent List

1. Criminal Law, including all matters included in the Indian Penal Code at the date of commencement of this Constitution, but excluding offences against laws with respect to

* See footnote to entry 86 of List I (Union List).

** This entry has been revised to follow the recommendation of the Expert Committee on the Financial Provisions of the Constitution.

any of the matters specified in List I or List II and excluding the use of the naval, military and air forces in aid of the civil power.

2. Criminal Procedure, including all matters included in the Code of Criminal Procedure at the date of commencement of this Constitution.

3. Removal of prisoners and accused persons from one State to another State.

4. Civil Procedure, including the law of Limitation and all matters included in the Code of Civil Procedure at the date of commencement of this Constitution; the recovery in a State for the time being specified in Part I or Part II of the First Schedule of claims in respect of taxes and other public demands including arrears of land revenue and sums TPC verable as such, arising outside that State.

5, Evidence and oaths; recognition of laws, public acts and records and judicial proceedings.

6. Marriage and divorce; infants and minors; adoption.

*7. Wills, intestacy and succession; joint family and partition; all matters in respect of which parties in judicial proceedings were immediately before the commencement of this Constitution subject to their personal law.

8. Transfer of property other than agricultural land; registration of deeds and documents.

9. Trusts and Trustees.

10. Contracts, including partnership, agency, contracts of carriage, and other special forms of contracts, but not including contracts relating to agricultural land.

11. Arbitration.

12. Bankruptcy and insolvency.

13. Administrators-general and official trustees.

14. Stamp duties other than duties or fees collected by means of judicial stamps, but not including rates of stamp duty.

15. Actionable wrongs, save in so far as included in laws with respect to any of the matters specified in List II.

16. Jurisdiction and powers of all courts, except the Supreme Court, with respect to any of the matters in this List.

* The Committee is of opinion that if there is to be a uniform personal law, e.g., for Hindus, throughout India, all the matters included therein at present should be put into the Concurrent List. Hence the enlargement of his entry.

17. Legal, medical and other professions.

18. Newspapers, books and printing presses.

19. Lunacy and mental deficiency, including places for the reception or treatment of lunatics and mental deficients.

20. Poisons and dangerous drugs. 5

21. Mechanically propelled vehicles.

22. Boilers.

23. Prevention of cruelty to animals.

24. Vagrancy; nomadic and migratory tribes.

25. Factories. 10

26. Welfare of labour; conditions of labour; provident funds; employers' liability and workmen's compensation; health insurance, including invalidity pensions; old age pensions.

27. Unemployment and social insurance. 15

28. Trade Union; industrial and labour disputes.

29. The prevention of the extension from one State to cm-other of infectious or contagious diseases or pests affecting men, animals or plants.

30. Electricity. 20

31. Shipping and navigation on inland waterways as regards mechanically propelled vessels, and the rule of the road on such waterways, and the carriage of passengers and goods on inland waterways subject to the provisions of List I with respect to National waterways. 23

32. The sanctioning of cinematograph films for exhibition.

33. Persons subjected to preventive detention under the authority of the Union.

34. Economic and social planning.

*35. The principles on which compensation is to be determined for property acquired or requisitioned for the purposes of the Union or a State. 30

36. Inquiries and statistics for the purpose of any of the matters in this List.

37. Fees in respect of any of the matters in this List, but not including fees taken in any court. 35

* See footnote to entry 43 of List I (Union last).

EIGHTH SCHEDULE

[Article 303 (I) (x)]

SCHEDULED TRIBES

Part I

MADRAS

1. Bagata
2, Bhottadas — Bodo Bhottada, Muria Bhottada and Sano Bhottada.
3. Bhumias — Bhuri Bhumia and Bodo Bhumia.
4. Bissoy — Barangi Jodia, Bennangi Daduva, Frangi, Hollar, Jhoriya, Kollai, Konde, Paranga, Fenga Jodia, Sodo Jodia and Takora.
5. Dhakkada
6. Dombs — Andhiya Dombs, Audiniya Dombs, Chonel Dombs, Christian Dombs, Mirgani Dombs, Oriya Dombs, Ponaka Dombs, Telega and Ummia.
7. Gadabas — Boda Gadaba, Cerllam Gadaba, Franji Gadaba, Jodia Gadaba, Olaro Gadaba, Fangi Gadaba and Paranga Gadaba.
8. Ghaais. — Boda Ghasis and San Ghasls.
9. Gondi. — Modya Gond and Rajo Gond.
10. Goudus — Bato, Bhirithya, Dudhokouria, Hato, Jatako and Joria.
11. Kosalya Goudus Bosothoriya Goudus, Chitti — Goudus, Dangayath Goudus, Doddu Kamariya, Dudu Kamaro, Ladiya Goudus and Pullosoriya Goudus.
12. Magatha Goudus Bernia Goudu, Boodo Magatha, — Dongayath Goudu, Ladya Goudu, Ponna Magatha and Sana Magatha.
13. Seerithi Goudus
14. Holva.
15. Jadapus.
16. Jatapus.

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17.	Kammaras.		
18.	Khattis-Khatti, Kommaro and Lohara.		
19.	Kodu.		
20.	Kommar.		
21.	Konda Dhoras.		5
22.	Konda Kapus.		
23.	Kondareddia.		
24.	Kondhs	— Desaya Kondhs, Dongria Kondhs, Kuttiya Kondhs, Tikiria Kondhs and Yenity Kondhs.	10
25.	Kotia .	— Bartika, Bentho Oriya, Dhulia or Dulia, Holva Paiko, Putiya, Sanrona and Sidho Paiko.	
26.	Koya or Goud Raja of Rasha Koyas, Lingadhari with its subsects,	— Koyas, (ordinary) and Kottu Koyas	15
27	Madigas		
28.	Malas or Agency Malas or Valmikies		
29.	Malis.	— Korchia Malis, Paiko Malis and Pedda Malis.	20
30.	Maune.		
31.	Manna Dhora.		
32.	Mukha Dhora.	— Nooka Dhora.	
33.	Muli or Muliya.		
34.	Muria.		25
35.	Ojulus or Metta Komsalies.		
36.	Omanaito.		
37.	Paigarapu.		
38.	Palasi.		
39.	Palli.		30
40.	Pentias.		
41.	Porjas .	— Bodo, Bonda, Daruva, Didua, Jodia, Mundili, Pengu, Pydi and Saliya,	
42.	Reddi Dhoras.		5
43.	Relli or Sachandi.		
44.	Ronas.		
45.	Savaras.	— Kapu Savaras, Khutto Savaras and Maliya Savaras.	

46. The residents of the Laccadive, Minicoy and Amindivi Islands.

Part II

BOMBAY

1. Barda.
2. Bavacha.
3. Bhil.
4. Chodhra.
5. Dhanka.
6. Dhodia.
7. Dubla.
8. Gamit, or Gamta.
9. Gond.
10. Kathodi, or Katkari.
11. Konkna
12. Koli Mahadeb.
13. Mavchi.
14. Naikda, or Nayak.
15. Pardhi, including Advichincher or Phanse Pardhl.
16. Patelia.
17. Pomla.
18. Powara.
19. Rathawa.
20. Tadvi Bhill.
21. Thakur.
22. Valvai.
23. Varli.
24. Vasava.

Part III

WEST BENGAL

1. Botia.
2. Chakma.

3. Kuki.
4. Lepcha.
5. Munda.
6. Magh.
7. Mro.
8. Oraon.
9. Santal.
10. Tippera.
11. Any other tribe notified by the Government of West Bengal.

Part IV
THE UNITED PROVINCES

1. Bhuinya.
2. Baiswar.
3. Baiga.
4. Gond.
5. Kharwar.
6. Kol.
7. Ojha.
8. Any other tribe notified by the Government of the United Provinces.

Part V
EAST PUNJAB

The Tibetans in Spiti and Lahaul in the Kangra District.

Part VI
BIHAR

I. A resident of the State of Bihar belonging to any of the following tribes:—

1. Asur.
2. Banjara.

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3. Bathudi.
4. Bentkar.
5. Binjhia.
6. Birhor.
7. Birjia.
8. Chero.
9. Chik Baraik.
10. Gadaba.
11. Ghatwar.
12. Gond.
13. Gorait.
14. Ho.
15. Juang.
16. Karmali.
17. Kharia.
18. Kharwar.
19. Khetauri.
20. Khond.
21. Kisan.
22. Koli.
23. Kora.
24. Korwa.
25. Mahli.
26. Mal Paharia.
27. Munda.
28. Oraon.
29. Parhiya.
30. Santal.
31. Sauria Paharia.
32. Savar.
33. Tharu.

II. A resident in any of the following districts or police stations, that is to say, the districts of Ranchi, Singhbhum, Hazaribagh and the Santal Parganas, and the police stations of Arsha, Balarampur, Jhalda, Jaipur Baghmundi, Chandil, Ichagarh, Barahabhum, Patamda Banduan and Manbazar

in the district of Manbhum, belonging to any of the following tribes:—

1. Bauri.
2. Bhogta.
3. Bhuiya.
4. Bhumij.
5. Ghasi.
6. Pan.
7. Rajwar.
8. Turi.

III. A resident in the Dhanbad sub-division or in any of the following police stations in the Manbhum District, that is to say, Purulia, Hura, Pancha, Raghunathpur, Santuri, Nituria, Para, Chas, Chandankiari and Kashipur, belonging to the Bhumij tribe.

Part VII
THE CENTRAL PROVINCES

1. Gond.
2. Kawar.
3. Maria.
4. Muria.
5. Halba.
6. Pardhan.
7. Oraon.
8. Binjhwar.
9. Andh.
10. Bharia-Bhumia.
11. Koli.
12. Bhattra.
13. Baiga.
14. Kolam.
15. Bhil.
16. Bhuinhar.
17. Dhanwar.
18. Bhaina.
19. Parja.
20. Kamar.

21. Bhunjia.
22. Nagarchi.
23. Ojha.
24. Korku.
25. Kol.
26. Nagasia.
27. Sawara.
28. Korwa.
29. Majhwar.
30. Kharia.
31. Saunta.
32. Kondh.
33. Nihal.
34. Birhul (or Birhor).
35. Rautia.
36. Pando.

Part VIII
ASSAM.

The following tribes and communities:—

1. Kachari.
2. Boro or Boro-Kachari.
3. Rabha.
4. Miri.
5. Lalung.
6. Mikir.
7. Garo.
8. Hajonfi.
9. Deori.
10. Abor.
11. Mishmi.
12. Dafla.
13. Singpho.
14. Khampti.
15. Any Naga or Kuki tribe.
16. Any other tribe or community notified by the Government of Assam.

Part IX
ORISSA.

I. A resident of the State of Orissa belonging to any of the following tribes:—

1. Bagata.
2. Banjari.
3. Chenchu.
4. Gadaba.
5. Gond.
6. Jatapu.
7. Khond (Kond).
8. Konda-Dora.
9. Koya.
10. Paroja.
11. Saora (Savar).
12. Oraon.
13. Santal.
14. Kharia.
15. Munda.
16. Banjara.
17. Binjhia.
18. Kisan.
19. Koli.
20. Kora.

II. A resident of any of the following areas, that is to say, the Koraput and Khondmals Districts and the Ganjam Agency belonging to either of the following tribes:—

1. Dom or Dombo.
2. Pan or Pano.

III. A resident of the Sambalpur District belonging to any of the following tribes:—

1. Bauri.
2. Bhuiya
3. Bhumij.
4. Ghasi.
5. Turi.
6. Pan or Pano.

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APPENDIX

Separate notes submitted to the Constituent Assembly by Shri Alladi Krishnaswami Ayyar, Member, Drafting Committee

While I may point out that there is no difference in principle between my colleagues and myself either in regard to the distribution of legislative power between the Parliament and the Units or in regard to the Union Parliament assuming power over a subject in the Provincial (State) List when it assumes or becomes of national importance, I should like to submit the following separate note for the consideration of the Constituent Assembly in regard to the articles bearing on the above matters, i.e., Articles 217, 223(1) and 226.

Distribution of Legislative Powers. —Articles 217 and 223(1)

2. The question as to the distribution of legislative power has been decided by the Constituent Assembly and it is settled that the residuary power should vest in the Centre. The only question, therefore, is how to frame the articles so as to carry out this idea. My colleagues have decided to follow the scheme in Section 100 of the Government of India Act and to have a separate article for the residuary power as also to have it as an item in the list of subjects allotted to the Union. The point of my plan is that inasmuch as it is agreed that the residuary power is to vest in the Centre (Union Parliament), the various enumerated items in the Union list are merely illustrative of the general residuary power vested in the Centre. The proper plan, therefore, is to define the powers of the States or Provincial Units in the first instance, then deal with the concurrent power and lastly deal with the power of the Centre or the Union Parliament while at the same time making out a comprehensive list of the powers vested in the Centre by way of illustration to the general power. The plan adopted in Section 100 of the Government of India Act was to some extent accounted for by the fact that there was no agreement then among political parties as regards the location of residuary power and it was left for the Governor-General to decide by which Legislature the residuary power was to be exercised in any particular place in cases not covered by any of the Lists. There is no such problem facing us now. A canvassing of the meaning and import of individual items in the Central List has become of much less importance now than under the provisions of the Government of India Act.

The repetition of "notwithstanding" in every clause of Section 100 has been the subject of prolonged and unnecessary arguments in courts.

No complication is likely to arise by reason of the States in Part III coming into the scheme of the Union as according to the draft Constitution the scheme of distribution is subject to agreement between the States and that is provided for by articles 224 and 225.

Further, in the articles as framed there is no provision to the effect that the power of legislation carries with it the power to make any provisions essential to the effective exercise of the legislative authority. Some such provisions occur in the Australian and American Constitutions, *vide* Section 51 of the Australian Constitution and Article I, Section 8, Sub-section 18 of the American Constitution.

I would, therefore, suggest for the consideration of the Constituent Assembly the following article as a substitute for Articles 217 and 223(1) in the draft.

(1) The Legislature of the States in Part I, Schedule I, shall have exclusive power to make laws for the State or for any part thereof in relation to matters falling with the classes of subjects specified in List I (corresponding to Provincial Legislative List).

"(2) The Legislature of any of the States in Part I, Schedule I, shall in addition to the powers under Clause (1) have power to make laws for the State of any part thereof in relation to matters falling within the classes of subjects specified in List II, provided, however, that the Union Parliament shall also have power to make laws in relation to the same matters within the entire area of the Union or any part thereof, and an Act of the legislature of the State shall have effect in and for the State as long as and as far only as it is not repugnant to any Act of the Union Parliament.

"(3) In addition to the powers conferred by the previous sub-section, the Union Parliament may make laws for the peace, order and good government of the Union or any part thereof in relation to all matters not falling within the classes of subjects enumerated in List I and in particular and without prejudice to the generality of the foregoing, the Union Parliament shall have exclusive power to make laws in relation to all matters falling within the classes of subjects enumerated in List III.

"(4) (a) The Union Parliament shall have power to make laws for the peace, order and good government of the States in Part II, Schedule I.

(b) Subject to the general powers of Parliament under Sub-section (a), the Legislature of the States in Part II, Schedule I, shall have the power to make laws in relation to matters coming within the following classes of subjects:

Provided, however, that any law passed by that Unit shall have effect in and for that Unit so long and as far only as it is not repugnant to any law of the Union Parliament.

(This provision is necessary, if the recommendations of the *ad hoc* Committee on Chief Commissioners' Provinces in this regard are accepted.)

"(5) The power to legislate either of the Union Parliament or the Legislature of any State shall extend to ail matters essential to the effective exercise of the legislative authority; vested in the particular legislature.

"(6) Where a law of a State is inconsistent with a law of the Union Parliament or to any existing law with respect to any of the matters enumerated in List I or (List II), the law of the Parliament or as the case may be the existing law shall prevail and the law of the State shall to the extent to repugnancy be void."

(This follows the Australian and American provisions. Without embarking upon an examination of each section and each clause, a court may easily come to the conclusion that an Act taken as a whole is repugnant to another law).

If it is felt necessary, special provision may be inserted in regard to laws in respect of matters in the Concurrent List on the lines of Article 231(2) though I think such a provision may not be necessary in view of the overriding power of the Central Legislature.

Articles 226 and 228

3. I accept the principle underlying article 226 that if any subject in the Provincial List assumes national importance or becomes one of national interest in the language of the article, it ought to be possible for the Union to encroach (if one may use that expression) upon the Provincial field and take to itself the power to legislate on any subject in the Provincial List. But the very basis of the assumption of that power is that the subject can no longer be regarded as one merely of importance for the particular State but has assumed national dimensions.

If these premises be correct, there is no justification for a State to continue to retain the power. The object of the assumption of the power by the Union is not by some simple or easy method without having recourse to a change in the Constitution to convert what is Provincial or State power into a concurrent power. This principle is not kept in view in Article 228 which provides that the province will continue to have the legislative power in the particular subject. The conversion of what is a Provincial power into a concurrent power would offer a premium for interference by the Centre and may strike ultimately at the federal structure of the Constitution itself. I would, therefore, suggest the substitution of the following words :—

"on the ground that any matter enumerated in the State List has assumed national importance" for the words:

"or expedient in the national interest.....resolution" and add the words :

"that Parliament should make laws with respect to such matter";

before the words "it shall be lawful for the Parliament etc."

In article 228 for the words "Nothing in articles 226 and 227" substitute "Nothing in article 227".

ALLADI KRISHNASWAMI.

Article 218 is unnecessary, as it deals with the Supreme Court which is an item in List I.

Article 221 deals with a High Court. There is no point in specially providing for the jurisdiction as the jurisdiction of all Courts including the High Court is covered by items relating to the jurisdiction in the 3 Lists. As the articles dealing with the distribution of legislative power specially refer to the Lists, a separate article dealing with the Supreme High Court is superfluous and unnecessary.

ALLADI KRISHNASWAMI.

By Order,
H. V. R. IENGAR,

Secretary.

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Dr. AMBEDKAR being sworn-in as the First Law Minister of Free India by the President Dr. RAJENDRA PRASAD

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PART II

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SECTION FOUR

Clausewise Discussion

15th November 1948 to 8th January 1949

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Note

The discussion on the Articles of the Draft Constitution Commenced on 15th November 1948.

The amendments adopted by the House were those which Dr. Ambedkar had accepted. These amendments are incorporated here

Some of the amendments were not accepted by Dr. Ambedkar initially, but no detailed explanations were furnished. Some of these amendments are mentioned. But later, during the discussion on each Article, Dr. Ambedkar explained elaborately why he accepted particular amendments and why the others were not accepted. The amendments thus rejected were large enough. Their inclusion would have made the volume bulky and they are not for this reason included. The amendments adopted by the Assembly are given in detail. These accepted amendments along with Dr. Ambedkar's explanation, 'nay help the reader to understand the import of the Article.

This volume is mainly concerned with Dr. Ambedkar's work which incorporates everything he said in the Assembly and which finds place in the Debates. Comments and criticism by the Hon'ble Members are included where they are relevant to elucidate and appreciate the views of Dr. Ambedkar and which are related to the specific context and situation.—Editor.

ARTICLE 1

***The Honourable Dr. B. R. Ambedkar** (Bombay : General) : Mr. Vice-President, Sir, I regret that I cannot accept the amendment of Prof. K. T. Shah.† My objections, stated briefly, are two. In the first place the Constitution, as I stated in my opening speech in support of the motion I made before the House, is merely a mechanism for the purpose of regulating the work of the various organs of the State. It is not a mechanism whereby particular members of particular parties are installed in office. What should be the policy of the State, how the Society should be organised in its social and economic side are matters which must be decided by the people themselves according to lime and circumstances. It cannot be laid down in the Constitution itself, because that is destroying democracy altogether. If you stale in the Constitution that the social organisation of the State shall lake a particular form, you are, in my judgment, taking away the liberty of the people to decide what should be the social organisation in which they wish to live. It is perfectly possible today, for the majority people to hold that the Socialist organisation of society is better than the Capitalist organisation of society. But it would be perfectly possible for thinking people to devise some other form of social organisation which might be better than the socialist organisation of today or of tomorrow. I do not see therefore why the Constitution should tie down the people to live in a particular form and not leave it to the people themselves to decide it for themselves. This is one reason why the amendment should be opposed.

The second reason is that the amendment is purely superfluous. My Honourable Friend, Prof. Shah, does not seem to have taken into account the fact that apart from the Fundamental Rights, which we have embodied in the Constitution, we have also introduced other sections which deal with directive principles of State policy. If my Honourable friend were to read the Articles contained in Part IV, he will find that both the Legislature as well as the Executive have been placed by this Constitution under certain definite obligations as to the form of their policy. Now, to read only Article 31, which deals with this matter : It says ;

> "The State shall, in particular, direct its policy towards securing—
>
> (i) that the citizens, men and women equally, have the right to an adequate means of livelihood ;

*CAD. (Official Report). Vol. VIII, 15th November 1948, pp. 401-02.

†*Amendment of Prof. K. T. Shah is placed offer Dr. Ambedkar's speech.*

(ii) that the ownership and control of the material resources of the community are so distributed as best to subserve the common good ;

(iii) that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment;

(iv) that there is equal pay for equal work for both men and women :....."

There are some other items more or less in the same strain. What I would like to ask Professor Shah is this : If these directive principles to which I have drawn attention are not socialistic in their direction and in their content, I fail to understand what more socialism can be.

Therefore my submission is that these socialist principles are already embodied in our Constitution and it is unnecessary to accept this amendment.

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[The amendment of Prof. K. T. Shah as under was put to vote.]

***Mr. Vice-President :** The question is :

"That in clause (1) of Article 1 after the words 'shall be a' the words 'Secular, Federal, Socialist' be inserted."

The motion was negatived.

Mr. Vice-President: I want to make one thing clear. After the reply has been given by Dr. Ambedkar, I shall not permit any further discussion. I have made a mistake once. I am not going to repeat it. (*Laughter*).

Mahboob Ali Baig Sahib Bahadur (Madras : Muslim) : Mr. Vice-President, Sir, I move :

"That in clause (1) of article 1, for the word 'States' the word 'provinces' be substituted."

You, Sir. will remember that when Dr. Ambedkar moved the motion for the consideration of this Draft Constitution, when he was dealing with the form of Government, he stated that.....

Mr. Vice-President : We do not want a discussion of this nature. I appeal to the Honourable Member to speak only if he has something new to say.

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***Mahboob Ali Baig Sahib Bahadur :** If Dr. Ambedkar says that the word "Union" was used not with any great significance, there is no reason why we should not use the correct word "Federation", but if on the other hand the word "Union" was used with a purpose so that in course of time this federal form of government may be converted into a unitary form of government, then it is for this House now to

*CAD, Vol. VII, 15th November 1948, p. 403.

†CAD, (Official Report). Vol. VIII, 15th November 1948, p. 404.

use the correct word so that it may be difficult in future for any power-seeking party that may come into power easily to convert this into a unitary form of government. So, it is for the House to use the correct word "Federation" instead of the word "Union". This is my justification, Sir, for moving this amendment. If you mean that the government must be a federal government and not a unitary government and if you want to prevent in future any power-seeking party to convert it into a unitary form of government and become fascist and totalitarian, then it is up to us now to use the correct word, which is "Federation". Therefore, Sir, I move that the word "Federation" may be substituted for the word "Union".

The Honourable Dr. B. R. Ambedkar : I do not accept the amendment.

The amendment was negatived.

* * * * *

The Honourable Shri Ghanshyam Singh Gupta (C.P. & Berar : General) : Sir, I move:

"That in Article 1 for the word 'State' wherever it occurs, the word 'Pradesh' be substituted and consequential changes he made throughout the Draft Constitution."

* * * * *

†**The Honourable Dr. B. R. Ambedkar :** I oppose the amendment. Mr. Vice-President : The question is :

"That in article 1 for the word "State" wherever it occurs, the word "Pradesh" he substituted and consequential changes be made throughout the Draft Constitution."

I think the Noes have it.

Shri H. V. Kamath : I ask a division.

Mr. Vice-President: It seems to me that the "Noes" have it. It is not necessary for me to call for a division. I have the power not to grant this request. I would request Honourable Members to consider the position. It seems to be quite obvious that the "Noes" have it.

The Honourable Shri Ghanshyam Singh Gupta : I accept the position that the "Noes" have it.

The Honourable Pandit Jawaharlal Nehru : May I suggest that instead of making our requests, we could raise our hands. That would give a fair indication how the matter stands.

Mr. Vice-President: Does the Honourable Shri G. S. Gupta admit that the "Noes" have it ?

The Honourable Shri Ghanshyam Singh Gupta : I accept the position that the "Noes" have it.

The amendment was negatived.

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*CAD, (Official Report). Vol. VII. 15th November 1948, p. 406.

†*Ibid.*, p. 412.

Shri H. V. Kamath : Sir, I beg to move :

"That in clause (1) of Article 1, for the word 'Slates' the word 'Provinces' he substituted."

(Discussion follows)

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***The Honourable Dr. B. R. Ambedkar :** Sir, I do not accept the amendment.

(At this stage Shri Himmat Singh K. Maheshwari rose to speak.)

Mr. Vice-President : The Honourable Dr. Ambedkar has already replied to the debate and I am sorry I cannot allow any further debate on the motion.

Pandit Hirday Nath Kunzru (United Provinces : General) **:** Sir, it after every motion is moved by a member and you ask Dr. Ambedkar whether he agrees to it and after allowing him to express his views you debar other members from speaking on the subject, it will be very hard on the House.

Mr. Vice-President : I am afraid Pandit Hirday Nath Kunzru has not realised exactly my position. I am always prepared to give every possible facility to every member here, which I need not demonstrate further than by reference to what I have done in the last few days. But just now we are pressed for time. After Mr. Kamath moved his amendment I wailed for some time to see if anybody would stand up and nobody stood up and when specially I found that Mr. Kamath had repeated the arguments which had been formerly staled by him, I thought that I would not be going against the wishes of the House by asking Dr. Ambedkar the question whether he wished to reply. If I failed to understand the attitude of the House I am very sorry.

Pandit Hirday Nath Kunzru : You are perfectly within your right in not allowing discussion of a clause which you regard as trivial and on which you think there has been sufficient discussion. You have the power to stop discussion and ask the Member in charge to reply. If in exercise of this power you asked Dr. Ambedkar to reply, there can be no objection to what you have done.

Mr. Vice-President: Then I will put the amendment to vote.

The motion of Mr. Kamath was negatived.

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†Shri Mahavir Tyagi : Sir, I am not very keen to have all the words mentioned in my amendment inserted. I do not also want to make a

*CAD, (Official Report), Vol. VII. 15th November 1948, p. 413.

†*Ibid.,* p. 413.

speech and waste the time of the House. However, I want to make one point clear and with that end in view, I shall formally move this amendment :

"That in clause (1) of article 1. for the word 'States' the words 'Republican States and the sovereignty of the Union shall reside in the whole body of the people' he substituted."

* * * * *

***Mr. Vice-President:** I shall now put tills amendment to vote.

Shri Mahavir Tyagi : Mr. Vice-President, Sir, in view of what the learned draftsman has said, namely, that the sovereignty remains vested, in spite of this draft, in the people, I do not wish to press my amendment. I hope, Sir, Dr. Ambedkar agrees that this draft means that it vests with the people, and his explanation may well go down into the records for future reference.

The Honourable Dr. B. R. Ambedkar : Beyond doubt it vests with the people. I might also tell my friend that I shall not have the least objection if this matter was raised again when we are discussing the Preamble.

Shri Mahavir Tyagi : Then I beg leave of the House to withdraw my amendment.

The amendment was, by leave of the Assembly, withdrawn..

Prof. K. T. Shah : Mr. Vice-President, Sir, I beg to move :

"That in clause (1) of Article 1, after the word 'States' the words 'equal *inter se*' he added."

(Prof, shah explained the amendment and the discussion followed.)

†The Honourable Dr. B. R. Ambedkar : Sir, I oppose the amendment.

Mr. Vice-President : I put the amendment to vote.

The amendment was negatived.

Mr. Naziruddin Ahmad : Sir, I beg to move :

"That at the end of clause (1) of Article 1. the following he inserted : 'and shall he known as the United States of India'. "

Sir, this is a non-controversial amendment.....

.....The other amendment is an alternative to this. I move:

"That at the end of clause (1) of Article I. the following he inserted :

'and shall be known as the Union of India'."

* * * * *

.....My other amendment is this. I move:

"That at the end of clause (1) of Article 1. the following he inserted :

'and shall he known as the Indian Union'."

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*CAD. (Official Report), Vol. VII. 15th November 1948. p. 418.

†*Ibid.,* p. 421.

Sir, I submit these are three alternatives. I would prefer the first but it all depends on the House as to what it thinks about them.

[After Mr. Kamath's criticism on the Amendment, Dr. Ambedkar rose to reply,]

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***The Honourable Dr. B. R. Ambedkar:** Sir, I oppose all these amendments. With regard to the first amendment that India should be known as the United States of India, the argument set out by my friend Mr. Kamath is a perfectly valid argument and I accept it wholeheartedly. I have given my own views as to why I used the word 'Union' and did not use the word 'Federation'.

With regard to the other amendment that India should be known as the Union of India, I also say that this is unnecessary, because we have all along meant that this country should be known as India, without giving any indication as to what are the relations of the component parts of the Indian Union in the very title of the name of the country. India has been known as India throughout history and throughout all these past years. As a member of the U.N.O. the name of the country is India and all agreements are signed as such and personally I think the name of the country should not in any sense give any indication as to what are the subordinate divisions it is composed of. I therefore oppose the amendments and maintain that the Draft as it is presented to the House is the best so far as these amendments are concerned.

Mr. Vice-President: I shall now put the amendments one by one to the vote.

Mr. Naziruddin Ahmad: Sir, I beg leave to withdraw the amendments.

The amendments were, by leave of the Assembly, withdrawn.

Mr. Vice-President: Amendment No. 113.

Mr. Naziruddin Ahmad : I am not moving 113.

But I am moving 114. Sir, I beg to move:

"That in clause (2) of Article 1, the word 'The' occurring at the beginning be deleted."

* * * * *

†The Honourable Dr. B. R. Ambedkar : Sir, I raise a point of order. My point of order is that this is not an amendment. Unless it changes the substance of the original proposition, it is not an amendment. I am trying to find out the reference in May's Parliamentary Practice. But I would like to raise this point at this moment. If my

*CAD, (Official Report). Vol. VII, 15th November 1948. p. 422.

† *Ibid.,* pp. 422-24.

friend will forgive me, I think he is in the habit of moving all sorts of amendments, asking for a comma here, no commas there and so on and I think we must put a stop to this sort of thing in the very beginning.

Mr. Naziruddin Ahmad : On the very threshold of independence, if I am to be stopped like this, I shall bow down and submit to the decision of the Chair.

Mr. Vice-President: What is your reply to the point of order?

Mr. Naziruddin Ahmad : My reply to the point of order raised is this, I want to remove the word "The" from the article and therefore it is an amendment. This is certainly a drafting amendment. It may be opposed on the ground that it is insignificant, illogical or purposeless or useless and so forth. But Dr. Ambedkar is not right in asserting that it is not an amendment at all. It cannot be ruled out on the technical ground that it is not an amendment.

And with regard to my Honourable Friend's remarks as to my habit of moving amendments like punctuations and other changes, I am happy to inform him and the House that I have ceased to follow that habit so far as this amendment is concerned, (*Laughter*).

Mr. Vice-President: You say it is a drafting amendment. Can't we leave it to the Drafting Committee and its Chairman for seeing to it at the third reading ? I am sure they will accept these amendments if there is any substance in them.

Mr. Naziruddin Ahmad: In that case, it would be leaving the matter to the Drafting Committee, instead of leaving it to the judgment of the House. The spokesman of the Drafting Committee has already given out his mind. Therefore, if I were to agree to leave it to the Drafting Committee, it would be as good as withdrawing it. Therefore, I have to submit, again, that the word "The" is not part of the name.

Mr. Vice-President : I am waiting to hear Dr. Ambedkar on this point.

The Honourable Dr. H. R. Ambedkar : Sir, I do not know why the Honourable Member objects to the word 'the'. 'The' is a definite article, and it is quite necessary, because we are referring to the States in the Schedule. We are not referring to States in general, but to certain specific Stales which are mentioned in the Schedule. Therefore the definite article 'the' is necessary. It refers to the definite States included in the Schedule.

Secondly. I would like to submit this, that it would be wrong—and I speak about myself—for any Indian to presume such precise command aver the English language as to insist in a dogmatic manner that a

comma is necessary here, a semi-colon is necessary there, or article 'a' is proper here and article 'the' would be proper there and so on. But if my friend chooses to arrogate to himself the authority of a perfect grammarian so far as English is concerned, I would like to draw his attention to the Australian Constitution from which we have borrowed these words and the definite article 'the' is used there. So I take shelter or refuge under the Australian Constitution which, I suppose, we may take it, was drafted by men who were good draftsmen and who knew the English language and whom we cannot hold guilty of having committed an error in the language.

Mr. Vice-President : I put the amendment to vote.

The amendment was negatived.

Mr. Vice-President : Amenement No. 119, Mr. Naziruddin Ahmad.

Mr. Naziruddin Ahmad : Sir, I beg to move :

"That in sub-clause (c) of clause (3) of Article 1, after the words 'as may' the word "hereafter" be inserted.

Sir, I have moved this amendment after, I believe, taking great risks of having to displease the Honourable Chairman of the Drafting Committee. But I have to submit most respectfully that things which occur to Members should be placed before the House and the opinion of the House should be taken. If 1 have offended any member by moving.....

Mr. Vice-President : There is no question to offending any one.

Mr. Naziruddin Ahmad : Sir, I beg to submit that the context indicates the word "hereafter" that is. States which may hereafter be acquired. So the word "hereafter" would be appropriate and I beg the House to consider insertion of this word.

The Honourable Dr. B. R. Ambedkar : I say it is quite unnecessary, and I oppose it.

Mr. Vice-President : I put the amendment to vole.

The amendment was negatived.

[The House was adjourned till 17th November 1948]

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***Mr. Vice-President :** (Dr. H. C. Mookherjee) : We shall now go on with the amendments. Amendment No. 126—Prof. Shah.

Prof. K. T. Shah (Bihar : General) **:** Mr. Vice-President, Sir, I beg to move :

"That at the end of sub-clause (c) of clause (3) of article 1. the following he added :

'or as may agree to join or accede to of merge with the Union'."

[This was followed by speech of Prof. Shah.]

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*CAD. (Official Report), Vol. VII, 17th November 1948. p. 425.

***The Honourable Dr. B. R. Ambedkar** (Bombay : General)**:** Sir, I oppose the amendment.

The motion was negatived.

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Prof. K. T. Shah : Mr. Vice-President, Sir, this amendment which stands in my name is as follows :

"That the following proviso be added to article 1 :

'Provided that within a period not exceeding ten years of the date when this Constitution comes into operation, the distinction or difference embodied in the several Schedules to this Constitution and in the various articles that follow shall he abolished, and the member States of the Union of India shall be organised on a uniform basis of groups of village Panchayats co-operatively organised *inter se.* and functioning as democratic ' units within the Union'."

[This was followed by discussion.]

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†The Honourable Dr. B. R. Ambedkar : I oppose the amendment.

Mr. Vice-President : I will now put the amendment to vote.

[The amendment (of Prof. Shah) was negatived.]

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‡Mr. Naziruddin Ahmad (West Bengal : Muslim) **:** Sir, I move :

"That at the beginning of the heading above article I, the word and Roman figure 'CHAPTER I', be inserted."

[This was followed by Mr. Ahmed's speech.]

#The Honourable Dr. B. R. Ambedkar : Sir, I oppose the amendment.

The motion was negatived.

$The Honourable Pandit Govind Vallabh Pant (United Provinces : General)**:** Sir, I move that we now pass on to Article 2 and postpone discussion on the remaining amendments to Article 1. So far we have not been able to reach unanimity on this important point. I am not without hope that if the discussion is postponed, it may be possible to find some solution that may be acceptable to all. So nothing will be lost....

[Mr. Pant's suggestion was supported by Mr. R. K, Sidhwa.]

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@The Honourable Dr. B. R. Ambedkar : I support the suggestion made by Pandit Govind Ballabh Pant.

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*CAD, (Official Report), Vol. VII, 15th November 1948, p. 426.

†*Ibid.,* p. 426.

‡*Ibid.,* p. 430.

#*Ibid.*, p. 430.

$*Ibid.*, p. 431.

@*Ibid.,* p.431.

Seth Govind Das (C.P. & Berar : General) **:** Sir, I wholeheartedly support Pandit Pant's proposition....

Shri H. V. Kamath : I only wanted to know for how long the amendments will be held over.

An Honourable Member : It may be a day, a week or a fortnight.

Mr. Vice-President : I hold that a discussion of these few clauses should be held over till sufficient time has been given for arriving at some sort of understanding. This will be to the best interests of the House and of the country at large.

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ARTICLE 2 *

Mr. Naziruddin Ahmad : Sir I beg to move :

"That for article 2 and article 3. the following be substituted :

2. Parliament may by law—

(a) admit into the Union new States ;

(b) sub-divide any State to form two or more States :

(c) amalgamate any two or more of the following classes of territories to form a State, namely—

(i) Stales,

(ii) part or parts of any State.

(iii) newly acquired territory ;

(d) give a name to any State admitted under item (a) or created under items (b) and (c) of this article ;

(e) alter the name of any State :

Provided that no Bill for the purpose shall be introduced in either House of Parliament except on the recommendation of the President and unless—

(a) where the proposal contained in the Bill affects the boundaries or name of any State or States for the time being specified in Part I of the First Schedule, the views of the Legislative Assembly or in the case of a bi-cameral Legislature, of both Houses of the Legislature, of the State, or as the case may be, of each of the States both with respect to the proposal to introduce the Bill and with respect to the provisions thereof have been ascertained by the President; and

(b) where the proposal affects the boundaries or name of any State or States for the time being specified in Part III of the First Schedule, the previous consent of the State, or as the case may be, of each of the States to the proposal has been ascertained'.".

[This was followed by the speech of the mover.]

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†**Mr. Naziruddin Ahmad :** ...My next amendment which I shall move in this connection is as follows :—

"That in Article 2 the words 'from time to time' be delected."

[Mr. Ahmed explains his amendment]

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‡**Shri M. Ananthasayanam Ayyangar :** Sir, I oppose these amendments. These are verbal matters and I would even appeal to you

* CAD, (Official Report). Vol. VII, 15th November 1948, p. 431.

†*Ibid.,* 18th November 1948, p. 435.

‡*Ibid.,* 18th November 1948, p. 435.

not to allow such amendments. I request you to put it to vote now.

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***The Honourable Dr. B. R. Ambedkar :** I oppose the amendments.

Mr. Vice-President : I will put the amendments Nos. 131 and 132 to vole. Dr. Ambedkar has spoken already and there cannot he any further discussion.

The amendments were negatived..

* * * * *

Shri H. V. Kamath : Sir, I wish to speak on Article 2.

Mr. Vice-President Sir, it appears to me that lucre is a little lacuna in this Article which my Honourable friend, the able jurist and constitutional lawyer that he is, will rectify when it is finally dialled by the committee. If we turn to the report of the Union Constitution Committee.—I am reading from the report of (he Committee, second series, from July to August 1947. copy of which was supplied to each member last year—there Article 2 begins thus :—"The Parliament of the Federation" of course, we have changed the word Federation into Union but here you import the word 'Parliament' suddenly in Article 2 without saying to which Parliament it refers. This is a lacuna, because there is nothing so far in the previous article regarding Parliament. So we must say here the "Parliament of the Union." This lacuna, I hope. will be rectified.

The Honourable Dr. B. R. Ambedkar : We shall take note of what Mr. Kamath has said.

Article 2 was added to the Constitution.

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ARTICLE 3

†The Honourable Shri K. Santhanam (Madras : General) **:** Sir, I move :

> "That in clause (a) of article 3, the following words be added at the end:
>
> 'or by addition of other territories to States or parts of States'."

* * * * *

Shri M. Ananthasayanam Ayyangar : I request the House to accept the amendment because by this addition alone will the article become complete.

The Honourable Dr. B. R. Ambedkar : Mr. Vice-President. I am agreeable to the principle of the amendment moved by my friend Mr. Santhanam. The only point is that I like slightly to alter the language to read "or by uniting any territory to a part of any State".

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*CAD. (Official Report), Vol. VII. 18th November 1948. p. 435.

† *Ibid.,* p. 435.

The Honourable Shri K. Santhanam : I am agreeable to the change.

The motion was adopted.

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***Rai Bahadur Syamanandan Sahaya** (Bihar ; General) : Sir, may I make a submission. I think that if Dr. Ambedkar moves his next amendment things will be clarified and such of us as have amendments in our names will be able to decide whether we should move them or not.

Mr. Vice-President : I agree with you fully. Dr. Ambedkar may move his amendment.

The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That for the existing proviso to article 3, the following proviso he substituted :

'Provided that no Bill for the purpose shall be introduced in either House of Parliament, except on the recommendation of the President and unless—

(a) where the proposal contained in the Bill affects the boundaries or name of any State or States for the time being specified in Part I of the First Schedule, the views of the Legislature of the State, or as the case may be, of each of the States both with respect to the proposal to introduce the Bill and with respect to the provisions thereof have been ascertained by the President; and

(b) where such proposal affects the boundaries or name of any State or States for the time being specified in Part III of the First Schedule, the previous consent of the State, or as the case may be, of each of the States to the proposal has been obtained.'."

Mr. Vice-President, if one were to compare the amended proviso with the original proviso as it was set out in the Draft Constitution, the members will see that the new amendment introduces two changes. One is this : in original draft the power to introduce the Bill was given exclusively to the Government of India. No private Member of Parliament had the power, under the original draft, to propose any legislation of this sort. Attention of the Drafting Committee was drawn to the fact that this was a somewhat severe and unnecessary curtailment of the right of the members of Parliament to move any motion they liked and in which they felt concerned. Consequently we deleted this provision giving the power exclusively to the Government of India, and gave it to the President and stated that any such Bill whether it was brought by the Government of India or by any private Member should have the recommendation of the President. That is one change.

The second change is this : under the original Article 3, the power of the Government of India to introduce legislation was restricted by two conditions which are mentioned in (a) (i) and (ii). The conditions were that there must be, before the initiation of any action, representation

* CAD. (Official Report), Vol. VII, 17th November 1948. pp. 439-40.

made to the President by a majority of the representatives of the territory in the Legislature of the State, or a resolution in that behalf passed by the Legislature of any State whose boundaries or name will be affected by the proposal contained in the Bill. Here again, it was represented that there might be a small minority which felt very strongly that its position will not be safeguarded unless the boundary of the State were changed and that particular minority was permitted to join their brothers in the other State, and consequently if these brothers remained there, action would be completely paralysed. Consequently, we propose now in the amended draft, to delete (i) and (ii) of (a) and also (b) of the original draft. These have been split up into two parts, (a) and also (b). (a) deals with reorganisation of territory in so far as it affects the States in Part I, that is to say. Provinces and, (b) of the new amendment relates to what are now called Indian States. The main difference between the new sub-clauses (a) and (b) of my amendment is this : In the case of (a), that is to say, reorganisation of territories of States falling in Part I, all that is necessary is consultation. Consent is not required. All that the President is called upon to do is to be satisfied, before making the recommendation, that their wishes have been consulted.

With regard to (b), the provision is that there shall be consent. The distinction, as I said, is based upon the fact that, so far as we are at present concerned, the position of the Provinces is different from the position of the States. The States are sovereign States and the provinces are not sovereign States. Consequently, the Government need not be bound to require the consent of the provinces to change their boundaries ; while in the case of the Indian States, it is appropriate, in view of the fact that sovereignty remains with them that their consent should be obtained.

As regards the amendment moved by Prof. Shah, I do not see much difference between my amendment as contained in sub-clause (a) of the new proviso and his. He says that the discussion shall be initiated in the States. My sub-clause (a) of the proviso also provides that the States shall be consulted. I have not the least doubt about it that the method of consulting, which the President will adopt, will be to ask either the Prime Minister or the Governor to table a resolution which

may be discussed in the particular State legislature which may be affected, so that ultimately the initiation will be by the local legislature and not by the Parliament at all. I therefore submit that the amendment of Professor Shah is really unnecessary.

The Honourable Shri K. Santhanam : .....But, unfortunately, in his enthusiasm for what he calls the principle, he has tabled an amendment which altogether defeats his object. I therefore suggest that the amendment should be rejected and the proposition moved by Dr. Ambedkar should be accepted.

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Mr. Vice-President : Let us hear what Mr. Sidhwa has to say. We will certainly take up the amendments to which Mr. Kamath has drawn attention.

Shri R. K. Sidhwa : I do not accept the arguments advanced by Mr. Santhanam against the amendment moved by Professor Shah.....

.....Dr. Ambedkar's amendment is very clear and comprehensive..... I therefore commend the amendment of Dr. Ambedkar to the House.

[Amendment of Naziruddin Ahmed was not moved.]

***Mr. Vice-President :** Pandit Hirday Nath Kunzru.

Pandit Hirday nath Kunzru (United Provinces : General) : Mr. Vice-President, I beg to move:

> "that in the amendment of Dr. Ambedkar as just moved, for the words 'the previous consent' the words 'the views' and for the words 'has been' the words 'have been' be substituted respectively."

[This was followed by speech and discussion.]

†Shri Rohini Kumar Chaudhari (Assam : General) : Sir, it is my misfortune to have to oppose the amendments moved by the two stalwart members of this House, namely, Prof. Shah and Pandit Kunzru. I oppose them not because I like them less, but because I like Dr. Ambedkar's amendment more, as it meets the present situation very well.....

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†Shri R. K. Sidhwa (C. P. Berar : General) : ..... I would like Dr. Ambedkar to enlighten the House as to why this difference has been made between States and Provinces.....

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*CAD, (Official Report), Vol. VII, 17th November 1948, p. 441.

†*Ibid.,* p. 446.

‡*Ibid.* pp. 456-59.

With these observations, I support the amendment strongly and I hope Dr. Ambedkar will clear the point why a differentiation has been made in the case of the States, why he has stated that the views of the legislature should be ascertained in the case of the provinces, whereas in the case of the States he has stated that their previous consent should be obtained.

Mr. Vice-President : Dr. Ambedkar.

An Honourable Member : The question be now put, Sir.

Maulana Hasrat Mohani : (United Provinces : Muslim) : Sir, I rise to a point of order. Dr. Ambedkar has only moved an amendment and therefore, I submit, he has not got any right of reply. I have got a ruling of this House in which it is said definitely.....

Shri R. K. Sidhwa : I understand the whole article is under discussion. If the article is under discussion, Dr. Ambedkar has a right of reply.

Maulana Hasrat Mohani : Dr. Ambedkar has already spoken ; he has no right to make any further speech.

Mr. Vice-President : Please address the Chair.

Maulana Hasrat Mohani : Sir, I beg to point out, that the Ruling says—I am quoting from the printed proceedings of this House—the mover of an amendment has no right of reply. He cannot make a second speech.

Mr. Vice-President: I hold that the Article as well as the amendment are under discussion. Dr. Ambedkar.

The Honourable Shri Ghanshyam Singh Gupta (C.P. & Berar : General) **:** Sir, the mover has a right of reply.

Mr. Vice-President : That makes my position stronger.

The Honourable Shri Ghanshyam Singh Gupta : What I mean to say, Sir ..... I submit that every mover of an amendment has got a right of reply.

Mr. Vice-President: You do not object to Dr. Ambedkar replying ?

The Honourable Shri Ghanshyam Singh Gupta : Not only do I not object, but I want to establish this practice that the mover of an amendment has a right of reply, because our rules differ widely from the rules that have been framed for the legislative side.

Mr. Vice-President: We shall decide that later on alter Dr. Ambedkar has made his reply.

Shri Lakshminarayan Sahu (Orissa : General) **:** Sir, there is an amendment in my name.

Mr. Vice-President: Kindly take your seat, Mr. Sahu. Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar (Bombay : General) **:** The amendment moved by my friend Mr. Kunzru is an amendment which carries a great deal of my sympathy but unfortunately in the circumstances in which we stand. I am not in a position to accept the same. The arguments urged by my friend in supporting his amendment was that what I had stated originally in moving my amendment was inconsistent with some of the other clauses or articles contained in the Constitution. He said that the plea I had urged in justification of the distinction between the provinces and the States in the matter of the provisions contained in article 3 was inconsistent with Articles 226, 230 and 294. Now my submission is this that there is no inconsistency whatever in the plea I have urged in supporting a distinction between the provinces and the States and the various articles to which he has made reference.

With regard to Article 226 which gives power to the Central Legislature to pass legislation on matters included in Provincial list, my submission is this that that authority will be exercised by Parliament by virtue of a Resolution passed by two-third majority of the Upper Legislature. He will realize that the Upper House or Council of States will include representatives of the States as much as the representatives of the Provinces. They will undoubtedly participate in the proceedings of that particular Resolution which seeks to confer power upon Parliament to legislate on the matters included in that Resolution. Consequently it is hardly fair to say that Article 226 automatically usurps the sovereignty of the Indian States. It is really a measure which confers sovereignty by a special resolution passed by the Upper Chamber in which the States are fully represented. That is therefore no illustration of inconsistency at all.

With regard to Article 230, my submission is also the same. My learned friend will remember that the Indian States apart from what they do after the Constitution is passed have at any rate for the present, acceded on the basis of three subjects and one of the subjects is Foreign Affairs. Obviously implementation of the treaty is nothing but an exercise of the power conferred upon the Central Parliament for implementation of the treaty which is the subject matter covered by Foreign Affairs. Therefore that again cannot be said to be an usurpation of their sovereignty rights.

With regard to 294 which deals with the extension of the provisions of the protection of minorities in Indian States, that undoubtedly may appear for the moment to be a sort of encroachement of their sovereignty but it is nothing of the kind. It is merely one of the proposals which we shall be making to the Indian States that when they seek admission to the Indian Union they will have to accept Article 294. I might say that this extension was made by the Drafting Committee because the Drafting Committee heard that the Constituent Assemblies of some of the Indian States were making provisions in this regard so diverse and so alarming that the Drafting Committee thought it best to lay down what sort of arrangements for minority protection the Union Government will accept and what it will not accept.

Now, Sir, with regard to this question of differentiation between the Indian States and the Provinces of British India a great lot has been said, and I quite realise that the House is terribly excited over the distinction that the Constitution seeks to make but I should like to tell the house two things. One is this that we are at the present moment bound by the terms of agreement arrived at between the two Negotiating Committees, one appointed by the Indian Constituent Assembly representing the British provinces and the other of representatives nominated by the Indian States for the purpose of arriving at certain basis for drafting a common Constitution which would cover both parts. Now I do not wish to go into the details of the reports made by the Negotiating Committees but if my Honourable Friend Pandit Kunzru would refresh his mind by going over the report of that Committee, he will find that here is a distinct provision that nothing in the Negotiating Committee Report will be understood to permit the Indian Union to encroach upon the territories of the Indian States. My submission is, if that is an understanding—I do not mean to say a contract or agreement—arrived at between the two parties, at this stage we would do well in respecting that understanding. I would like to point out another tiling,—another article in the Constitution to which I am sorry to say my Friend Mr. Kunzru has made no reference—that is Article 212 which is a very important article and I should like to explain what exactly are the possibilities provided by the Indian Draft Constitution with regard to the Indian States. Honourable members must have seen that Article 3 provides for the admission of the Indian States

on the basis of such Instrument of Accession as may be executed by the Indian States in favour of the Indian Union. When a State as such is coming into the Indian Union, its position *vis-a-vis* the Central Government and *vis-a-vis* the provinces would and must be regulated by the terms contained in the Instrument of Accession but the Instrument of Accession is not the only method of bringing the Indian States into the Indian Constitution. There is another and a very important article in the Constitution which is 212. 212 provides that any Ruler of an Indian State may transfer the whole of his sovereignty to the Indian Union with respect to his particular State. When the whole of the sovereignty is transferred under the provisions of 212, the territory of that particular ruler becomes so to say the territory of India, with complete sovereignty vested in the Indian Union. Power is then given under Article 212 so that that particular territory the sovereignty over which has been fully transferred by the ruler to the Indian Union can then be governed as a province of India in which case Part II of the Constitution which defines the Constitution of the Indian provinces will automatically apply to that Indian State or it may be administered as a Centrally Administered area ; so that the President and the Central Parliament will have the fullest authority to devise any form of administration for that particular territory. Consequently my submission to the House is that there is no necessity—if I may use an expression—to be hysterical over this subject. If we have a little patience I have not the least doubt about it that our minister for the Indian States, who has done so much to reduce the chaos that existed before we started *on* the making of our Constitution, will exercise the *de facto* of paramountcy which the Union Government has obtained and reduce the chaos further and bring about an order either by inducing the Indian States to accept the same provisions which we have applied to Indian States or to follow the provisions of section 212 and surrender to us complete sovereignty so that the Indian Union may be able to deal with the Indian States in the same way in which it is able to deal with the provinces.

For the present I submit we shall be acting wisely by respecting the agreement which has been arrived at by the two Negotiating Committees and following it up until by further agreement we are in a position to change the basis rather with goodwill peace and honour to both sides. Sir, I oppose the amendment (*Cheers*).

Mr. Vice-President : I shall now put Amendment No. 150, as modified by the amendment of Pandit H. N. Kunzru to vote. (*Interruptions*). Kindly permit me to conduct the proceedings in the manner I wish it to be conducted.

* * * * *

***Mr. Vice-President**: I am going to give my ruling. Under the Rules of the House I am not aware that there is anything which gives a right to the mover of an amendment to give a reply. If I asked Dr. Ambedkar to give a reply it was because he was asked certain questions and I thought it right and proper and fair that he should be given an opportunity of explaining his position. That is my ruling.

Now I shall put Pandit Kunzru's amendment to the vote.

[The motion was negatived. The motion of Dr. Ambedkar alone was adopted.]

* * * * *

†Mr. Vice-President : It seems to me that the amendment of Prof. K. T. Shah, as well as the next set of amendments up to No. 175 fall through alter the acceptance of Dr. Ambedkar's amendment.

(Amendment No. 176 was not moved.)

.....That finishes Article 3. Is there anyone who wishes to discuss the Article as a whole ?

Pandit Lakshmi Kanta Maitra (West Bengal : General) **:** What will be the position if the Honourable member is allowed to speak on the Article as a whole ? Will Dr. Ambedkar be called upon to reply to that again ?

Mr. Vice-President : Most certainly not.

Pandit Lakshmi Kanta Maitra : That whole article has not yet been disposed of and Dr. Ambedkar has so far replied only to the amendment and not to the whole article.

Mr. Vice-President : We shall listen to the Honourable member and if he traverses old ground, we shall ask him to desist.

Pandit Lakshmi Kanta Maitra : Therefore, Dr. Ambedkar is not entitled to reply as a right ?

Mr. Vice-President : No.

Shri M. Ananthasayanam Ayyangar (Madras : General) **:** That is hypothetical. It does not arise.

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*CAD, (Official-Report), Vol. VII. 18th November 1948, p. 461.

†*Ibid.,* p. 462.

***Mr. Vice-President :** The question is :

"That Article 3, as amended, form part of the Constitution."

The Motion was adopted.

ARTICLE 4

* * * * *

Mr. Naziruddin Ahmad (Bengal : Muslim) : Sir, I beg to move :

"That the words 'of this Constitution' he deleted in clause (1) of article 4 and throughout the Draft Constitution wherever the said words occur in the same context; and a now definition (bb) he inserted in clause (1) of article 303 :—

'(bb) "article" means article of this Constitution'."

[This was followed by speech.]

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Mr. Vice-President : The Honourable Member may move all his amendments to Article 4, one after the other up to amendment No. 181 on the order paper, and be as brief as possible.

Mr. Naziruddin Ahmad: Sir, I move:

"That in clause (1) of article 4, for the words 'article 2 or article 3', the words and figures ' article 2 or 3', be substituted."

I submit that the word 'article' need not be repealed as it is done in clause (1) and, in fact in many places in this Draft Constitution.

Then I move:

"That in clause (1) of article 4, for the winds and figures 'article 2 or article 3', the word and figure 'article 3' he substituted."

I move next :

"That in clause (1) of article 4, for the words 'shall contain such provisions for', the words 'shall also provide for' he substituted."

This is very simple amendment.

I now move my last amendment to this article :

"That in clause (2) of article 4, for the words 'for the purposes of', the words 'within the meaning of' be substituted."

This is only a verbal amendment.

* * * * *

Mahboob Ali Baig Sahib Bahadur (madras : Muslim) : Sir, I move **amendment No.** 184 **:**

"That in clause (2) of article 4. for the words ' for the purposes of article 304', the words 'under article 304' be substituted."

The retention of the existing words will lead to some sort of complication. Therefore we should substitute the words 'under article 304'.

Shri H. V. Kamath : Mr. Vice-President, by your leave, I shall make a very brief observation on amendment No. 177 of my Honourable

*CAD, (Official Report), Vol. VII. 18th November 1948, pp. 465-66.

friend Mr. Naziruddin Ahmad. Before you call upon Dr. Ambedkar to reply, may I request him, in case he holds that amendment No. 177 should be rejected, to give us some reasons for his opposition and not merely repeat the trite formula 'I oppose this amendment' ?.....

.....In conclusion I repeat my request to Dr. Ambedkar not to merely repeat the formula 'I oppose', but give reasons as to why he does so.

Shri Rohini Kumar Chaudhari : I have come to the rostrum to honour my friend Mr. Naziruddin Ahmed by opposing this amendment (*Laughter*).....

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***The Honourable Dr. B. R. Ambedkar** : Mr. Vice-President, Sir, I did not think that this was a matter which required any speech from me, but as Mr. Kamath has expressed a desire that I must not merely negative the amendment but should offer an explanation as to why I was not prepared to accept the amendments suggested by my Honourable Friend, Mr. Naziruddin Ahmad, I have come here to make my explanation. I think it will be agreed that in mailers of this sort, which relate merely to phraseology and not to the substance of the article itself, it cannot be staled that it is a matter of principle at all. It is a mere matter of precedent how different Constitutions have used language in matters which are analogous. My submission is that in the language we have used we are absolutely covered by precedent with regard to the question of repeating the phrase "of this Constitution". My friend, Mr. Kamath, stated that he has examined several constitutions such as that of Australia and of some other countries but did not find this phrase "of this Constitution" contained therein. I am sorry that he did not extend his researches to the Irish Constitution. If he had, he would have found that the phraseology used in the Draft Constitution is the same as is used in the Irish Constitution. For his reference, I would like to draw his attention to Article 19 of the Irish Constitution, article 27, sub-clause (4), article 32 and article 46, sub-clause (5) where he will find that, wherever the word "article" occurs, it is followed by the phrase "of this Constitution".

I may also point out to Mr. Kamath that in this respect we have also followed the phraseology contained in the Government of India Act 1935. I am sorry I have not had the time to examine all the sections of the Government of India Act but I have just, fortunately for myself, found one section which is 142-A where similar phraseology has been

*CAD, (Official Report). Vol. VII. 18th November 1948. pp. 467-68.

used. So far therefore as the first part of the amendment moved by my Honourable friend, Mr. Naziruddin, is concerned, my submission is that we have not acted in any eccentric manner but that whatever phraseology we have used is covered by the Constitutions of other countries as well.

With regard to his second amendment that we should not repeat the word "article" alter the word "or" and that we should merely say, "article 2 or 3", my submission is again the same. There again we have followed well known Constitutions and if my friend will examine them, he will find that similar phraseology occurs elsewhere also. For his information, I would ask him to refer to section 69, sub-clause (3), of the Government of India Act. The word used there is "paragraph". It says, "paragraph (d) or paragraph (e)". It does not merely say, "paragraph (d) or (e)". Therefore this can hardly be a matter of debate or a matter of difference of opinion so far as the principle is concerned. It is a mere matter of precedent and the question to be asked is : Have we done something which is not covered by precedent ? And my submission is this, that whatever we have done in the matter of using phraseology is covered by precedent and therefore, there can be no objection to any clause as it stands in the draft.

Mr. Naziruddin Ahmad : Then what about clause (2) of Article 4 ? I think there should be a short notice amendment to use the words "of this Constitution" in clause (2) in order to make the draft clear.

Mr. Vice-President: We cannot create a bad precedent by admitting a short notice amendment.

The Honourable Dr. B. R. Ambedkar : I cannot accept it, Sir.

Mr. Vice-President : In that case, I shall put the amendments to vote one by one.

[All the amendments of Mr. Naziruddin Ahmed were negatived and clause (1) and clause (2) of Article 4 stood part of the Constitution.]

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ARTICLE 28

***Mr. Vice-President :** The next amendment stands in the name of Mr. Kamath, No. 838. Are you moving amendment No. 838 ?

Shri H. V. Kamath : Mr. Vice-President, I move :

"That in the heading under Part IV for the word 'Directive', the word 'Fundamental' to substituted."

*CAD, (Official Report), Vol. VII. 19th November 1948. p. 474.

Sir, while moving this amendment for the consideration or" my Honourable Friend Dr. Ambedkar and of the House, I would like to advance only two reasons for the same.....

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***The Honourable Dr. B. R. Ambedkar** (Bombay : General) **:** Sir, I am sorry I cannot accept either of the two amendments.† Mr. Kamath's amendment is really incorporated in the phraseology as it now stands ; the word "Fundamental" occurs, as Mr. Kamath will find, in the very first Article of this part. Therefore his object that these principles should be treated as fundamental is already achieved by the wording of this Article.

With regard to the word "directive" I think it is necessary and important that the word should be retained because it is to be understood that in enacting this part of the Constitution the Constituent Assembly, as I said, is giving certain directions to the future legislature and the future executive to show in what manner they are to exercise the legislative and the executive power which they will have. If the word "directive" is omitted I am afraid the intention of the Constituent Assembly in enacting this part will fail in its purpose. Surely, as some have said, it is not the intention to introduce in this part these principles as mere pious declarations. It is the intention of the Assembly that in future both the legislature and the executive should not merely pay lip service to these principles enacted in this part, but that they should be made the basis of all executive and legislative action that may be taken hereafter in the matter of the governance of the country. I therefore submit that both the words "fundamental" and "directive" are necessary and should be ratained.

[The motion of Mr. Kamath was negatived.]

Shri H. V. Kamath : Sir, I beg leave of the House to withdraw my amendment.

The amendment was, by leave of the Assembly, withdrawn.

Mr. Vice-President : We shall now take up amendment Nos. 841 to 846. The movers will kindly move them one after another and then there will be a discussion.

Amendment No. 841 is a negative one and therefore it is ruled out of order.

*CAD, (Official Report). Vol. VII, 19th November 1948, p. 476.

†This amendment of Mr. Kamath included No. 838 and 840.

Since the Member concerned is not here, Amendment No. 842 falls Through.

Amendment Nos. 843 to 846—Mr. Naziruddin Ahmad.

Mr. Naziruddin Ahmad : I shall be moving Nos. 843, 844 and 846. I shall not be moving No. 845.

Sir, I move.

"That in article 28. the words 'unless the context otherwise requires' be omitted."

"That in article 28, for the word 'requires'. the word 'indicates' be substituted."

"That in article 28, for the words 'the State'. the word 'State' be substituted."

[This was followed by Mr. Ahmed's speech.]

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***The Honourable Dr. B. R. Ambedkar :** Sir, I oppose the amendments of my Friend, Mr. Naziruddin Ahmad. The words "the State" in Article 28 have been used deliberately. In this Constitution, the word "State" has been used in two different senses. It is used as the collective entity, either representing the Centre or the Province, both of winch in certain parts of the Constitution are spoken of as "State". But the word used there is in a collective sense. Here the words "the State" are used both in a collective sense as well as in the distributive sense. If my friend were to refer to part III, which begins with Article 7 of the Constitution, he will see in what sense the word "State" is used. In this part, unless the context otherwise requires, "the State" includes the Government and the Parliament of India and the Government and the Legislature of each of the States and all local or other authorities within the territory of India. So that, so far as the Directive Principles are concerned, even a village *panchayat* or a district or local board would be a State also. In order to distinguish the sense in which we have used the word we have thought it desirable to speak of 'State' and also 'the State'. Honourable Members will find this distinction also made in Article 12 of the Constitution. There we say :

"No title shall be conferred by the State ;

"No citizen of India shall accept any title from any foreign State."

There we do not use the words "the State"; but in the first part we use the words 'the State'. We do not want any of the authorities, either of the Centre or of the provinces, to confer any title upon any individual. That being the distinction, the House will realise that the retention of the words 'the State' in Article 28 is in consonance with

*CAD. (Official Report), Vol. VII, 19th November 1948, pp. 477-78

the practice we have adopted in drafting this Constitution.

Mr. Vice-President : I shall now put these three amendments to vote.

[All the amendments of Mr. Naziruddin Ahmad were negatived. Article 28 was added to the Constitution.]

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[All the amendments to article 29 were negatived and the article was adopted.]

ARTICLE 30

***Mr. Naziruddin Ahmad :** .....Sir, I beg to move:

"That in article 30, the words 'strive to' be omitted."

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†Shri H. V. Kamath : Sir I move amendment No. 870 :

"That in article 30, the word "The" occurring before the words "national life" be deleted."

Sir, I was rather reluctant to give notice of this amendment, considering that it is or a minor character; but somehow the word 'the' jarred upon my ear and ultimately I decided to send it on. I am not so presumpous as to advise my learned Friend Dr. Ambedkar or his wise colleagues of the Drafting Committee on matters of language ; but I do hope that in this case, the word 'the' jars upon their ears as much as it does on mine, and it does violence to the laws of euphony. So I request him to omit it.

The Honourable Dr. B. R. Ambedkar : I accept the amendment.

Mr. Vice-President : No 871 not moved.

Now the Article is open for general discussion.

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†Shri Mohanlal Gautam : Is the discussion going to be closed now ?

Mr. Vice-President : I have given a reasonable time for discussion, both for and against the amendments.

Shri Mohanlal Gautam : Will you please permit me to speak ?

Mr. Vice-President : I maintain that we have had a reasonable amount of time—merely an hour—for discussion and Dr. Ambedkar should now address the House.

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*CAD, (Official Report). Vol. VII, 19th November 1948, p.487.

†*Ibid.,* pp. 487-88.

‡*Ibid.,* p. 493.

The Honourable Dr. B. R. Ambedkar : Mr. Vice-President, I see that there is a great deal of misunderstanding as to the real provisions in the Constitution in the minds of those members of the House who are interested in this kind of directive principles. It is quite possible that the misunderstanding or rather inadequate understanding is due to the fact that I myself in my opening speech in support of the motion that I made, did not refer to this aspect of the question. That was because, not that I did not wish to place this matter before the House in a clear-cut fashion, but my speech had already become so large that I did not venture to make it more tiresome than I had already done ; but I think it is desirable that I should take a few minutes of the House in order to explain what I regard as the fundamental position taken in the Constitution. As I stated, our Constitution as a piece of mechanism lays down what is called parliamentary democracy. By parliamentary democracy we mean 'one man, one vote'. We also mean that every Government shall be on the anvil, both in its daily affairs and also at the end of a certain period when the voters and the electorate will be given an opportunity to assess the work done by the Government. The reason why we have established in this Constitution a political democracy is because we do not want to instal by any means whatsoever a perpetual dictatorship of any particular body of people. While we have established political democracy, it is also the desire that we should lay down as our ideal economic democracy. We do not want merely to lay down a mechanism to enable people to come and capture power. The Constitution also wishes to lay down an ideal before those who would be forming the Government. That ideal is economic democracy, whereby, so far as I am concerned, I understand to mean, 'one man, one vote'. The question is : Have we got any fixed idea as to how we should bring about economic democracy ? There are various ways in which people believe that economic democracy can be brought about ; there are those who believe in having a socialistic state as the best form of economic democracy ; there are those who believe in having a socialistic state as the best form of economic democracy ; there are those who believe in the communistic idea as the most perfect form of economic democracy.

*CAD, (Official Report), Vol. VII, 22nd November 1948. p.p 494-95.

Now, having regard to the fact that these various ways by which economic democracy may be brought about, we have deliberately introduced in language that we have used, in the directive principles, something which is not fixed or rigid. We have left enough room for people of different ways of thinking, with regard to the reaching of the ideal of economic democracy, to strive in their own way, to persuade the electorate that it is the best way of reaching economic democracy, the fullest opportunity to act in the way in which they want to act.

Sir, that is the reason why the language of the articles in Part IV is left in the manner in which this Drafting Committee thought it best to leave it. It is no use giving a fixed, rigid form to something which is not rigid, which is fundamentally changing and must, having regard to the circumstances and the times, keep on changing. It is, therefore, no use saying that the directive principles have no value. In my judgment, the directive principles have a great value, for they lay down that our ideal is economic democracy. Because we did not want merely a parliamentary form of Government to be instituted through the various mechanisms provided in the Constitution, without any direction as to what our economic ideal, as to what our social order ought to be, we deliberately included the Directive Principles in our Constitution. I think, if the friends who are agitated over this question bear in mind what I have said just now that our object in framing this Constitution is really two-fold : (i) to lay down the form of political democracy, and (ii) to lay down that our ideal is economic democracy and also to prescribe that every Government whatever, it is in power, shall strive to bring about economic democracy, much of the misunderstanding under which most members are labouring will disappear.

My friend Mr. Tyagi made an appeal to me to remove the word 'strive', and phrases like that. I think he has misunderstood why we have used the word 'strive'. The word 'strive' which occurs in the Draft Constitution, in my judgment, is very important. We have used it because our intention is that even when there are circumstances which prevent the Government, or which stand in the way of the Government giving effect to these Directive Principles, they shall, even under hard and unpropitious circumstances, always strive in the fulfilment of these Directives. That is why we have used the word 'strive'. Otherwise, it would be open for any Government to say that the circumstances

are so bad, that the finances are so inadequate that we cannot even make an effort in the direction in which the Constitution asks us to go. I think my friend Mr. Tyagi will see that the word 'strive' in this context is of great importance and it would be very wrong to delete it.

As to the rest of the amendments, I am afraid I have to oppose them.

Mr. Vice-President : Only two amendments have been moved : I shall put them to vote. The first is amendment No. 863 by Shri Damodar Swamp Seth.

The amendment was negatived.

Shri H. V. Kamath : I am not pressing my amendment, Sir.

Mr. Vice-President : The next one is amendment No. 867 by Mr. Naziruddin Ahmad.....

The amendment was negatived.

***Shri L. Krishnaswami Kharathi** (Madras : General) : Sir, Mr. Kamath must have the leave of the House to withdraw his amendment.

Mr. Hussain Imam : The Mover has accepted the amendment !

Mr. Vice-President : Does the House give him leave to withdraw ?

Several Honourable Members : Yes.

Shri L. Krishnaswami Bharathi : I object to leave being granted.

The Honourable Dr. B. R. Ambedkar : If he wants to withdraw, I have no objection ; let him withdraw.

Shri H. V. Kamath : There seems to be some conflict in the House over this. One Honourable Member thinks that Dr. Ambedkar has accepted it. I did not know that he had accepted it. If he has accepted it, then, no question of withdrawal arises.

Mr. Vice-President : Do you wish to withdraw ?

Shri H. V. Kamath : Yes. The amendment was, by leave of the Assembly, withdrawn.

Article 30 was added to the Constitution.

ARTICLE 30-A

†Mr. Vice-President (Dr. H. C. Mookherjee) **:** .....We shall now resume discussion on new Article 30-A. Does any member want to speak on amendment No. 872 ?

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*CAD, (Official Report), Vol. VII, 10th November 1948, p. 495.

†*Ibid.,* 22nd November 1948, p. 501.

***The Honourable Dr. B. R. Ambedkar** (Bombay : General) **:** Sir, I have not followed exactly what it is, hut if it is a matter which relates to prohibition...

Mr. Vice-President : Yes.

The Honourable Dr. B. R. Ambedkar : Then, it has been agreed between myself and Mr. Tyagi that he will move an amendment to Article 38, and I propose to accept his amendment. So, this matter may be postponed until we come to the consideration of Article 38.

Mr. Vice-President : Then we shall pass on to the next amendment No. 873.

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†Mr. Vice-President : I have not been able to make out whether this amendment (No. 874) has been formally moved.

Shri Raj Bahadur : I have not formally moved it. I have simply had my say on it, to invoke the attention of the House on this question.

Shri H. V. Kamath (C.P. & Berar : General) : ..... I do not want to traverse the ground which I covered in the course of my speech on Dr. Ambedkar's motion. I would only express the hope that where the type of capitalist, parliamentary democracy typified by Europe and America and the centralised socialism typified by the Soviet Union have failed to bring peace, happiness and prosperity to mankind, we in India might be able to set up a new political and economic pattern, and that we would be able to realise the vision of Mahatma Gandhi's Panchayat Raj and, through this system of decentralised socialism, we will lead mankind and the world to the goal of peace and happiness.

I, therefore with your leave formally move this amendment and make a personal request to you to hold this over till such time as the other amendments to this Article are ready for discussion, I shall read my amendment.

> "That after article 30, the following new article he inserted :
>
> '30-A. The State shall endeavour to promote the healthy development of Gram Panchayats with a view to ultimately constituting them as basic units of administration.'."

Mr. Vice-President : Does Dr. Ambedkar wish to say anything on this amendment ?

The Honourable Dr. B. R. Ambedkar : I move that this matter do stand over.

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*CAD, (Official Report), Vol. VII, 22nd November 1948, p. 501.

†*Ibid.,* pp. 503-04

Mr. Vice President : I find that there is an amendment, to add a new article 31-A, numbered 927 in the list, standing in the name of Shri K. Santhanam. This, as well as that amendment may be considered together. Is it the wish of the House that this may be done ?

Honourable Members : Yes.

ARTICLE 31

* * * * *

***Mr. Vice-President :** The House will now take up article 31, for discussion.

Mr. Naziruddin Ahmad (West Bengal : Muslim) **:** Sir, I beg to move :

> "That in clause (i) of article 31, the words 'men and women equally' be omitted."

* * * * *

The Honourable Dr. B. R. Ambedkar : I oppose the amendment, Sir.

* * * * *

†Shri S. V. Krishnamoorthy Rao (Mysore) **:** Sir, I move :

> "That in clause (v) of article 31, for the words 'that the strength and health' the words 'that the health and strength' be substituted."

My amendment is only in order to rearrange the phraseology. My only justification is that strength follows health and the phraseology sounds better, Sir, I move.

* * * * *

‡Shri Brajeshwar Prasad (Bihar : General) **:** May I speak, Sir ?

Mr. Vice-President: I am very sorry. I think there has been sufficient discussion. Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar : Mr. Vice-President, Sir, of the many amendments that have been moved to this particular article, there are only four that remain for consideration. I will first take up the amendment of Mr. Krishnamoorthy Rao. It is a mere verbal amendment and I say straightaway that I am quite prepared to accept that amendment.

Then there remain the three amendments moved by my friend, Professor K. T. Shah. His first amendment is to substitute the words "every citizen" for the words "the citizens". Now, if that was the

*CAD, (Official Report. Vol. VII, 22nd November 1948. p. 504.

†*Ibid.,* p. 513.

‡*Ibid.,* p. 518.

only amendment he was moving, I would not have found myself in very great difficulty in accepting his amendment, but he also proposes to remove the words "men and women equally" to which I have considerable objection. I would therefore ask him not to press this particular amendment on the assurance that, when the Constitution is gone through in this House and is remitted back to the Drafting Committee for the consideration of verbal changes, I shall be quite prepared to incorporate his feelings as I can quite understand that "every citizen" is better phraseology than the words "the citizens".

With regard to his other amendments, *viz.,* substitution of his own clauses for sub-clauses (ii) and (iii) of Article 31, all I want to say is this that I would have been quite prepared to consider the amendment of Professor Shah if he had shown that what be intended to do by the substitution of his own clauses was not possible to be done under the language as it stands. So far as I am able to see, I think the language that has been used in the Draft is a much more extensive language which also includes the particular propositions which have been moved by Professor Shah, and I therefore do not see the necessity for substituting these limited particular clauses for the clauses which have been drafted in general language deliberately for a set purpose. I therefore oppose his second and third amendments.

Mr. Vice-President : I shall now put the amendments to the vote, one by one.

* * * * *

[In all eight amendments were negatived. One was dropped. Only one amendment, that of Mr. Krishnamoorthy Rao was accepted and adopted. Article 31 was accordingly amended and added to the Constitution.]

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ARTICLE 31-A

* * * * *

†Mr. Vice-President : Let Mr. Santhanam move.

The Honourable Shri K. Santhanam : Sir, I beg to move :

"That alter article 31. the following new article he added: —

"**31-A.** The State shall take steps to organise village panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-Government."

The Honourable Dr. B.R. Ambedkar: Sir, I accept the amendment.

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*CAD, (Official Report), Vol. VII, 22nd November 1948, pp. 518-19

†*Ibid.,* p. 520.

* * * * *

***The Honourable Dr. B. R. Ambedkar :** Sir, as I accept the amendment. I have nothing more to add.

(An Honourable Member rose to speak.)

Mr. Vice-President : In this matter my decision is final. I have not yet found anybody who has opposed the motion put forward by Mr. Santhanam. There might be different ways of praising it, but at bottom and fundamentally, these speeches are nothing but praising the amendment.

The motion was adopted.

Article 31-A was added to the Constitution.

ARTICLE 32

†Shri Syamanandan Sahay (Bihar : General) : Sir, I will move amendments Nos. 933 and 934 together with your permission. I move :

"(i) That in the article 32 after the word 'education' a comma and the words 'to medical aid' be added ; and

(b) that for the words 'of undeserved want' the words "deserving relief be substituted."

* * * * *

‡The Honourable Dr. B. R. Ambedkar (Bombay : General) : Sir, I oppose the amendments.

Mr. Vice-President (Dr. H. C. Mookherjee) : I put the amendments to vote.

[Amendments Nos. 933 and 934, and 936 as further amended were negatived.]

ARTICLE 34

* * * * *

#Mr. Vice-President: The amendment of Mr. Ramalingam Chettiar runs as follows :

"And in particular the State shall endeavour to promote cottage industries on co operative lines in rural areas."

That is the language of the amendment moved by Mr. Chettiar. Therefore, it is in order. Now the article is open for general discussion.

* * * * *

$Shri S. Nagappa (Madras : General) **:** Sir, I do not want to take time of the House. I just want to make an amendment. After the words 'to all workers, industrial', the word 'agricultural' may be added.

*CAD, (Official Report). Vol. VII, 22nd November 1948. p. 527.

†*Ibid*., 23rd November 1948. p. 329.

‡*Ibid*., p. 529.

#*Ibid*., p. 532.

$*Ibid*., pp. 534-35.

Sir, I need not say that the bulk of the working population consists of agricultural workers.

Mr. Vice-President : This is out of order.

The Honourable Dr. B. R. Ambedkar : Mr. Vice-President, Sir, as there is a considerable amount of feeling that the Directive Principles should make some reference to cottage industries, I am agreeable in principle to introduce in article 34 some words to give effect to the wishes of the Members of this House. I am therefore prepared to accept the amendment moved by my friend Mr. Ramalingam Chettiar, subject to the substitution of one or two words. One substitution that I would like to make is this. After the words "cottage industries on" I would like to add the words "individual or". I would like to substitute his word 'lines' by the word 'basis '. So that the amendment would read as follows :

> "And in particular the State shall endeavour to promote cottage industries on individual or co-operative basis in rural areas."

That, I think, would meet the wishes of most of the Members who are particularly interested in the subject.

I may also add that I am quite agreeable to accept the amendment moved by Mr. Nagappa that the word 'agricultural' be added after the word 'industrial'.

Vice-President : That was not allowed.

The Honourable Dr. B. R. Ambedkar : I have no objection if you allow that. I think Mr. Nagappa's suggestion that agricultural labour is as important as industrial labour and should not be merely referred to by the word 'otherwise' has some substance in it. However, it is a matter of ruling and it is for you to decide.

Shri T. A. Ramalingam Chettiar : I accept Dr. Ambedkar's amendments.

Shri L. Krishnaswami Bharathi : (Madras :General) : Sir, may I suggest that we may stop with the word collage industries and omit the rest. Why do you want the words 'on individual or co-operative basis' ? There is no point in adding these words unless you want to lay special emphasis on co-operative basis. I would like these words 'on individual or co-operative basis' to be omitted.

Honourable Dr. B. R. Ambedkar : May I explain, Sir ? I find among the Members who are interested in the subject, there are two

divisions : one division believes in cottage industries solely on a cooperative basis ; the other division believes that there should be cottage industries without any such limitation. In order to satisfy both sides. I have used this phraseology deliberately, which, I am sure, will satisfy both views that have been expressed.

Shri M. Ananthasayanam Ayyangar : (Madras : General) : I do not want to speak.

Mr. Vice-President : I think we have discussed this matter sufficiently. We shall pass on to the actual voting.

Shri Mahavir Tyagi : In the hope that this will all be done on the basis of self-sufficiency, I accept the amendment to my amendment as finally proposed by Dr. Ambedkar and in that case I shall have to withdraw mine.

The amendment was, by leave of the Assembly, withdrawn.

Shri Amiyo Kumar Ghosh : Sir, I want to know whether 'agricultural workers' have been included or not.

Mr. Vice-President: It has not been included but I am quite prepared to go back on my ruling provided the House as a whole, without any dissention, accepts the suggestion of Dr. Ambedkar.

Honourable Members : Yes.

Mr. Vice-President : Then I shall put the amendment of Shri Ramalingam Chettiar as amended by Dr. Ambedkar to the vote.

The amendment, as amended, was adopted.

The amendment, as further modified by Mr. Nagappa was adopted.

Article 34, as amended, was added to the Constitution.

* * * * *

ARTICLE 35

***Mr. Vice-President :** Now, we come to article 35.

The Honourable Dr. B. R. Ambedkar : Sir, I have to request you to allow this article to stand over for the present.

Mr. Vice-President : This article is allowed to stand over for consideration later. Is it agreed to by the House ?

Honourable Members : Yes.

*CAD. (Official Report). Vol. VII. 23rd November 1948, p. 538.

ARTICLE 36

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Pandit Lakshmi Kanta maitra : (West Bengal: General): Mr. Vice-President, Sir I beg to move:

> "That in article 36, the words 'Every citizen is entitled to free primary education and' be deleted."

Sir, I will strictly obey the injunction given by you regarding curtailment of speeches. I will put in half a dozen sentences to explain the purpose of this amendment. If this amendment is accepted by the House, as I hope it will be, then the article will read as follows :

> "The State shall endeavour to provide, within a period of ten years from the commencement of this Constitution, for free and compulsory education for all children until they complete the age of fourteen years." .....

* * * * *

Mr. Naziruddin Ahmad : (West Bengal : Muslim) : Sir, I beg to move :

> "That in article 36, for the word 'education', the words 'primary education' be substituted."

* * * * *

***The Honourable Dr. B. R. Ambedkar :** Sir, I accept the amendment proposed by my friend, Mr. Maitra, which suggests the deletion of the words "every citizen is entitled to free primary education and". But I am not prepared to accept the amendment of my Friend, Mr. Naziruddin Ahmad. He seems to think that the objective of the rest of the clause in article 36 is restricted to free primary education. But that is not so. The clause as it stands after the amendment is that every child shall be kept in an educational institution under training until the child is of 14 years. If my Honourable Friend, Mr. Naziruddin Ahmad had referred to article 18, which forms pan of the Fundamental Rights, he would have noticed that a provision is made in article 18 to forbid any child being employed below the age of 14. Obviously, if the child is not to be employed below the age of 14, the child must be kept occupied in some educational institution. That is the object of article 36, and that is why I say the word "primary" is quite inappropriate in that particular clause, and I therefore oppose his amendment.

[The motion of Pandit Maitra was adopted. The motion of Naziruddin Ahmad was negatived.]

Article 36, as amended, was added to the Constitution.

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*CAD, (Official Report), Vol. VII, 22nd November 1948, p. 538.

†*Ibid.*, 540

ARTICLE 35

***Mr. Mohamad Ismail Sahib** (Madras : Muslim) **:** Sir, I move that the following proviso be added to article 35 :

> "Provided that any group, section or community of people shall not be obliged to give up its own personal law in case it has such a law."

* * * * *

†The Honourable Dr. B. R. Ambedkar : Sir, I am afraid I cannot accept the amendments which have been moved to this article. In dealing with this matter, I do not propose to touch on the merits of the question as to whether this country should have a Civil Code or it should not. That is a matter which I think has been dealt with sufficiently for the occasion by my Friend, Mr. Munshi, as well as by Shri Alladi Krishnaswami Ayyar. When the amendments to certain fundamental rights are moved, it would be possible for me to make a full statement on this subject, and I therefore do not propose to deal with it here.

My friend, Mr. Hussain Imam, in rising to support the amendments, asked whether it was possible and desirable to have a uniform Code of laws for a country so vast as this is. Now I must confess that I was very much surprised at that statements, for the simple reason that we have in this country a uniform code of laws covering almost every aspect of human relationship. We have a uniform and complete Criminal Code operating throughout country, which is contained in the Penal Code and the Criminal Procedure Code. We have the Law of Transfer of Property, which deals with property relations and which is operative throughout the country. Then there are the Negotiable Instruments Acts ; and I can cite innumerable enactments which would prove that this country has practically a Civil Code, uniform in its content and applicable to the whole of the country. The only province the Civil Law has not been able to invade so far is Marriage and Succession. It is this little corner which we have not been able to invade so far and it is the intention of those who desire to have article 35 as part of the Constitution to bring about that change. Therefore, the argument whether we should attempt such a tiling seems to me somewhat misplaced for the simple reason that we have, as a matter of fact, covered the whole lot of the field which is covered by a uniform Civil Code in this country. It is therefore too late now to ask the question whether we could do it. As I say, we have already done it.

*CAD. Vol. VII, 23rd November 1948, p. 540.

†*Ibid.*, p. 550.

Coming to the amendments, there are only two observations which I would like to make. My first observation would be to state that members who put forth these amendments say that the Muslim personal law, so far as this country was concerned, was immutable and uniform through the whole of India. Now I wish to challenge that statement. I think most of my friends who have spoken on this amendment have quite forgotten that up to 1935 the North-West Frontier Province was not subject to the Shariat Law. It followed the Hindu Law in the matter of succession and in other matters, so much so that it was in 1939 that the Central Legislature had to come into the Held and to abrogate the application of the Hindu Law to the Muslims of the North-West Frontier Province and to apply the Shariat Law to them. That is not all.

My Honourable friends have forgotten, that, apart from the Northwest Frontier Province, up till 1937 in the rest of India, in various parts, such as the United Provinces, the Central Provinces and Bombay, the Muslims to a large extent were governed by the Hindu Law in the matter of succession. In order to bring them on the plane of uniformity with regard to the other Muslims who observed the Shariat Law, the Legislature had to intervene in 1937 and to pass an enactment applying the Shariat Law to the rest of India.

I am also informed by my friend, Shri Karunakara Menon, that in North Malbar the Marumakkathayam Law applied to all—not only to Hindus but also to Muslims. It is to be remembered that the Marumakkathayam Law is a Matriarchal form of law and not a Partriarchal form of law.

The Mussulmans, therefore, in North Malbar were up to now following the Marumakkathayam law. It is therefore no use making a categorical statement that the Muslim law has been an immutable law which they have been following from ancient times. That law as such was not applicable in certain parts and it has been made applicable ten years ago. Therefore if it was found necessary that for the purpose of evolving a single civil code applicable to all citizens irrespective of their religion, certain portions of the Hindu Law, not because they were contained in Hindu Law but because they were found to be the most suitable, were incorporated into the new civil code projected by article 35, I am quite certain that it would not be open to any Muslim to say that the farmers of the civil code had done great violence to the sentiments of the Muslim community.

My second observation is to give them an assurance. I quite realise their feelings in the matter, but I think they have read rather too much into article 35, which merely proposes that the Slate shall endeavour to secure a civil code for the citizens of the country. It does not say that after the Code is framed the State shall enforce it upon all citizens merely because they are citizens. It is perfectly possible that the future Parliament may make a provision by way of making a beginning that the Code shall apply only to those who make a declaration that they are prepared to be bound by it, so that in the initial stage the application of the Code may be purely voluntary. Parliament may feel the ground by some such method. This is not a novel method. It was adopted in the Shariat Act of 1937 when it was applied to territories other than the North-West Frontier Province. The law said that here is a Shariat law which should be applied to Mussulmans provided a Mussulman who wanted that he should be bound by the Shariat Act should go to an officer of the State, make a declaration that he is willing to be bound by it, and after he has made that declaration the law will bind him and his successors. It would be perfectly possible for Parliament to introduce a provision of that sort ; so that the fear which my friends have expressed here will be altogether nullified. I therefore submit that there is no substance in these amendments and I oppose them.

[The motion of Mohd. Ismail Saheb and that of B. Pocker Sahib Bahadur were negatived. Article 35 was added to the Constitution.]

ARTICLE 37

***Sardar Hukum Singh** (East Punjab : Sikh) **:** Mr. Vice-President, I move :

> "That in article 37, for the words 'Scheduled Castes' the words 'Backward communities of whatever class or religion' be substituted."

Sir, "Scheduled Castes" has been defined in article 303 (w) of this Draft Constitution as castes and races specified in the Government of India (Scheduled Castes) Order 1936. In that Order, most of the tribes, castes and subcastes are described and include Bawaria, Chamar, Chuhra, Balmiki, Od, Sansi, Sirviband and Ramdasis. It would be conceded that they have different faiths and beliefs. For instance, there are considerable numbers of Sikh Ramdasis, Odes, Balmikis and

*CAD. Vol. VII, 23rd November 1948, pp. 552-53.

Chamars. They are as backward as their brethren of other beliefs. But, so far, these Sikh backward classes have been kept out of the benefits meant for Scheduled Castes. The result has been either conversion in large numbers or discontent.

I do realise that so far as election to legislatures was concerned, there could be some justification as the Sikhs had separate representation and the Scheduled Castes got their reservation out of General Seats. There is the famous case of S. Gopal Singh Khalsa who could not be allowed to contest a seat unless he declared that he was not a Sikh. Such cases have led to disappointment and discontent on account of a general belief that some sections were being discriminated against.

Now the underlying idea is the uplift of the backward section of the community so that they may be able to make equal contribution in the national activities. I fully support the idea. I may be confronted with an argument that at least there is the first part of the article which provides for promotion "of educational and economic interests of 'weaker sections' of the people". So far it is quite good and it can apply to every class. But, as the "weaker sections" are not defined anywhere, the apprehension is that the whole attention would be directed to the latter part relating to 'Scheduled Castes' and 'weaker sections' would not mean anything at all. Even the article lays the whole stress on this latter portion by centralising attention through the words 'in particular' of the 'Scheduled Castes'.

I may not be misunderstood in this respect. I do not grudge this special care of the State being directed towards "Scheduled Castes". Rather, I would support even greater concessions being given and more attention being paid to backward classes. My only object is that there should be no discrimination. That is not the intention of the article either. But, as I have said, so far the "Scheduled Castes" have been understood by general masses to exclude the members of the same castes professing Sikh religion. We should be particular in guaranteeing against any misconstruction being placed or any discrimination being exercised by those who would be responsible for actual working of it. Under the present article, it is the "educational and economic interests" that are to be promoted and therefore it should be made clear that it is to be done for all backward classes, and not for persons professing this or that particular religion or belief. I commend this motion for the acceptance of the House.

Shri A. V. Thakkar (United Stales of Kathiawar : Saurashtra) **:** Sir, I beg to move this amendment (983) which asks for the inclusion of the backward castes among Hindus and among Muslims...

The Honourable Dr. B. R. Ambedkar : May I just make a statement ? I believe both these amendments dealing with the backward classes, etc. would be more appropriate to the Schedule and could be better considered when we dealt with the Schedule. I would suggest that the consideration of these amendments may be postponed.

Shri A. V. Thakkar : My amendment seeks to lay down certain principles...

Mr. Vice-President : Dr. Ambedkar proposes to give the fullest possible consideration to these in the Schedule.

Shri A. V. Thakkar : Does he agree to include all backward classes ?

Mr. Vice-President : He can hardly agree to anything now. The matter is open to discussion later.

Shri A. V. Thakkar : Then I do not move my amendment now.

Mr. Naziruddin Ahmad : Sir, I am not moving my amendment No. 985. It merely seeks to use capital letters in the case of the Scheduled Castes. I would respectfully draw the attention of the Chairman of the Drafting Committee to article 303 (1), items (w) and (x) on page 147 of the Draft Constitution. We have there specified two definitions, 'Scheduled Castes' and 'Scheduled Tribes'. 'Scheduled Castes' have everywhere been spelt with capital letters, but 'Scheduled tribes' have been spelt with small letters.

The Honourable Dr. B. R. Ambedkar : We shall consider that.

Sardar Hukum Singh : I beg leave to withdraw my amendment.

The amendment was, by leave of the Assembly, withdrawn.

* * * * *

Article 37 was added to the Constitution.

ARTICLE 38

* * * * *

***Mr. Vice-President:** We shall commence today's proceedings with the consideration of the particular article with which we are concerned today in the Draft Constitution. The introduction of the Bill will be taken up after a little while.

*CAD, Vol. VII, 24th November 1948, p. 555

Prof. Shibban Lal Saksena : (United Provinces : General) : I am tabling an amendment which is an amendment of Mr. Mahavir Tyagi's. I hope it will be acceptable to him, because in his amendment, he has not included the words 'except for medicinal purposes'. I think that if the amendment of Mr. Mahavir Tyagi is accepted as amended by my amendment, it would become much better. I wish Dr. Ambedkar to accept my amendment which is mentioned in No. 86 of list IV.

Sir I beg to move :

"That at the end of article 38, the following he substituted:—

'and shall endeavour to bring about prohibition of the consumption of intoxicating drinks and drugs which are injurious to health except for medicinal purposes' ".

* * * * *

***The Honourable Dr. B. R. Ambedkar :** Mr. Vice-President, I accept the amendment of Prof. Shibban Lal Saksena subject to a further amendment, namely, that after the word ' and ' at the beginning of his amendment (86 of List IV) the words " in particular " be added.

Shri Mahavir Tyagi : I really cannot understand how that amendment can be accepted by the Honourable Dr. Ambedkar. The amendment under discussion is mine.

The Honourable Dr. B. R. Ambedkar : Sir, I accept the amendment of Mr. Tyagi as amended by the amendment of Prof. Shibban Lal Saksena (Laughter).

Mr. Vice-President : Mr. Tyagi is a great stickler for rights.

The Honourable Dr. B. R. Ambedkar : Sir, if I may say so, the right really belongs to me, because it is I who drafted the amendment he moved. (Renewed laughter.)

Mr. Vice-President : That puts the matter in a new light.

The Honourable Dr. B. R. Ambedkar : I do not think the House would have found any difficulty in accepting this amendment. Two points have been raised against it. One is by Prof. Khandekar who represents Kolhapur in this Assembly. I am sure that Mr. Khandekar has not sufficiently appreciated the fact that this clause is one of the clauses of an Article which enumerates what are called Directive Principles of Policy. There is therefore no compulsion on the State to act on this principle. Whether to act on this principle and when to do so are left to the State and public opinion. Therefore, if the State thinks that the time has not come for introducing prohibition or that it might

*CAD. Vol. VII, 24th November 1948. pp. 566-67.

be introduced gradually or partially, under these Directive Principles it has full liberty to act. I therefore do not think that we need have any compunction in this matter.

But, Sir, I was quite surprised at the speech delivered by my friend Mr. Jaipal Singh. He said that this matter ought not to be discussed at this stage, but should be postponed till we take up for consideration the report of the Advisory Committee on Tribal Areas. If he had read the Draft Constitution, particularly the Sixth Schedule, paragraph 12, he would have found that ample provision is made for safeguarding the position of the tribal people with regard to the question of prohibition. The scheme with regard to the tribal areas is that the law made by the State, whether by a province or by the Centre, does not automatically apply to that particular area. First of all, the law has to be made. Secondly, the District Councils or the Regional Councils which are established under this Constitution for the purposes of the administration of the affairs of these areas are given the power to say whether a particular law made by a province or by the Centre should be applied to that particular region inhabited by the tribal people or not, and particular mention is made with regard to the law relating to prohibition. I shall just read out sub-paragraph (a) of paragraph 12 which occurs on page 184 of the Draft Constitution. It says :

> "Notwithstanding anything contained in this Constitution—
>
> (a) no Act of the legislature of the State in respect of any of the matters specified in paragraph 3 of this Schedule as matters with respect to which a District Council or a Regional Council may make laws, and no Act of the Legislature of the State prohibiting or restricting the consumption of any non-distilled alcoholic liquor shall apply to any autonomous district or autonomous region unless in either case the District Council for such district or having jurisdiction over such region by public notification so directs, and the District Council in giving such direction with respect to any Act may direct that the Act shall in its application to such district or region or any part thereof have effect subject to such exceptions or modifications as it thinks fit;"

Now, I do not know what more my friend, Mr. Jaipal Singh, wants than the provision in paragraph 12 of the Sixth Schedule. My fear is that he has not read the Sixth Schedule : if he had read it, he would have realised that even though the State may apply its law regarding prohibition in any part of the country, it has no right to make it applicable to the tribal areas without the consent of the District Councils or the Regional Councils.

Mr. Vice-President : There are three amendments. One is by Mr. Mahavir Tyagi. That is No. 71 in List II. If I read the situation aright, that has been practically withdrawn. Am I right, Mr. Tyagi ?

Shri Mahavir Tyagi : I have not withdrawn my amendment. I have only accepted the words which Prof. Shibban Lal Saksena intends to add to my amendment.

Mr. Vice-President : I want to know whether you want that your amendment should be put separately to the vote.

Shri Mahavir Tyagi : Yes, Sir, of course. As I have said, I want to abolish liquor altogether. He wants to add the words "except for medical purposes". Therefore my amendment is the original amendment.

Mr. Vice-President : I understand the situation. I shall now put to the vole the amendment of Mr. Mahavir Tyagi as modified by Professor Shibban Lal Saksena and further modified by Dr. Ambedkar.

Shri Mahavir Tyagi: On a point of order, Dr. Ambedkar has added the word "particular" but he has not taken my permission.

Mr. Vice-President : I take your permission on behalf of Dr. Ambedkar.

Shri Mahavir Tyagi : I accept his amendment also, Sir.

Mr. Vice-President: This particular amendment as amended is now put to the vote.

The amendment was adopted.

[Article 38 as amended, was added to the Constitution.]

* * * * *

ARTICLE 38-A.

***Pandit Thakur Dass Bhargava** (East Punjab : General) **:** †[Mr. President, the words of the amendment No. 72 which I am moving in place of amendment No. .1002, are as follows :—

> "That for amendment No. 1002 of the lists of amendments to 38-A the following he substituted :—
>
> "38-A. The State shall endeavour to organise agriculture and animal husbandry on modem and scientific lines and shall in particular take steps for preserving and improving the breeds of cattle and prohibit the slaughter of cow and other useful cattle, specially milch and draught cattle and their young stock

At the very outset I would like to submit that this amendment...

Shri S. Nagappa : (Madras : General) : Sir, on a point of order, my Honourable friend, who can speak freely in English, is deliberately

*CAD, Vol. VII, 24th November 1948, p. 568.

† Translation of Hindustani speech.

talking in Urdu or Hindustani which a large number of South Indians cannot follow.

Mr. Vice-President : The Honourable Member is perfectly entitled to speak in any language he likes but I would request him to speak in English though he is not bound to speak in English.

Pandit Thakur Dass Bhargava : I wanted to speak in Hindi which is my own language about the cow and I would request you not to order me to speak in English. As the subject is a very important one, I would like to express myself in the way in which I can express myself with greater ease and facility. I would therefore request you kindly to allow me to speak in Hindi.

*[Mr. Vice-President, with regard to this amendment I would like to submit before the house that in fact this amendment like the other amendment, about which Dr. Ambedkar has stated, is his manufacture....

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***The Honourable Dr. B. R. Ambedkar** : I accept the amendment of Pandit Thakur Dass Bhargava.

Mr. Vice-President : I shall now put the amendments one by one to the vote. The amendment of Pandit Thakur Dass Bhargava. That is No. 72 in List II.

[The motion was adopted.]

Article 38-A, as amended, was added to the Constitution.

ARTICLE 39

†Mr. Vice-President : Shall we now go on to the next item in the agenda ? No. 1003 has been covered by one of the previous amendments. No. 1004 has also been disposed of. Then No. 1005. The first part of it cannot be moved, but the second part can be moved. (Not moved.)

Then the motion before the House is that article 39 forms part of the Constitution. There are several amendments to this.

(Nos. 1006, 1007 and 1008 were not moved.) No. 1009 by Dr. Ambedkar and his colleagues.

The Honourable Dr. B. R. Ambedkar : Sir, I move :

> "That in article 39, after the words 'from spoliation' the word 'disfigurement' be inserted."

*CAD, Vol. VII, 24th November 1048, p. 580.

†*Ibid,* p. 581.

Prof. Shibban Lal Saksena : Mr. Vice-President, Sir, I beg to move :

"That in article 39, after the words 'from spoliation' the word 'disfigurement' be inserted, and all the words after the words 'may he' to the end of the article be deleted."

The Honourable Dr. B. R. Ambedkar : Why do you want to make a speech when I am going to accept it ?

Prof. Shibban Lal Saksena : I am glad that Dr. Ambedkar is going to accept it. Because this article is to be a directive principle, it should not mention about laws of Parliament and so we must omit the words "to preserve and maintain according to law made by Parliament all such monuments or places or objects."

The Honourable Dr. B. R. Ambedkar : Sir, I accept the amendment.

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Mr. Vice-President : I am now putting the amendments one by one.

The motion was adopted.

Mr. Vice-President : There is the amendment of Prof. Shibban Lal Saksena.

Begum Aizaz Rasul : (United Provinces : Muslim) : May I know if Dr. Ambedkar has accepted Prof. Shibban Lal Saksena's amendment ? If not, I wish to oppose the second part.

Mr. Vice-President : There is no second part so far as I am aware. It only refers to deletion of certain words. The first part is the same.

Begum Aizaz Rasul : I wish to oppose that motion.

Mr. Vice-President : I am afraid it is too late now. The motion was adopted.

Article 39, as amended, was added to the Constitution.

ARTICLE 39-A

***The Honourable Dr. B. R. Ambedkar** : Mr. Vice-President, Sir, I move:

"That after article 39, the following new article be inserted :—

'39-A. That State shall take steps to secure that, within a period of three years from the commencement of this Constitution, there is separation of the judiciary from the executive in the public services of the State.'."

I do not think it is necessary for me to make any very lengthy statement in support of the amendment which I have moved. It has been the desire of this country from long past that there should be separation of the judiciary from the executive and the demand has been

*CAD, Vol. VII, 24th November 1948, p. 582.

continued right from the time when the Congress was founded. Unfortunately, the British Government did not give effect to the resolutions of the Congress demanding this particular principle being introduced into the administration of the country. We think that the time has come when this reform should be carried out. It is, of course, realised that there may be certain difficulties in the carrying out of this reform ; consequently this amendment has taken into consideration two particular matters which may be found to be matters of difficulty. One is this : that we deliberately did not make it a matter of fundamental principle, because if we had made it a matter of fundamental principle it would have become absolutely obligatory instantaneously on the passing of the Constitution to bring about the separation of the judiciary and the executive. We have therefore deliberately put this matter in the chapter dealing with directive principles and there too we have provided that this reform shall be carried out within three years, so that there is no room left for what might be called procrastination in a matter of this kind. Sir I move.

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ARTICLE 39-A

***Mr. Vice-President** (Dr. H. C. Mookherjee) : Notice of an amendment has been received from Dr. Ambedkar. Will you please move your amendment, Dr. Ambedkar ?

The Honourable Dr. B. R. Ambedkar (Bombay : General) : Mr. Vice-President, I move:

> That in article 39-A delete the words beginning from " secure" up to "separation of" and in their place substitute the word, "separate".

so that the article 39-A, with this amendment would read as follows :—

> "The State shall take steps to separate the judiciary from the executive in the public services of the State."

The House will see that the object of this amendment is to eliminate the period of three years which has been stated in the original article as proposed by 39-A. The reasons why I have been obliged to make this amendment are these. There is a section of the House which feels that in these directive principles we ought not to introduce matters of details relating either to period or to procedure. These directive

*CAD. Vol. VII, 25th November 1948, pp. 585-86

principles ought to enunciate principles and ought not to go into the details of the working out of the principles. That is one reason why I feel that the period of three years ought to be eliminated from article 39-A.

The second reason why I am forced to make this amendment is this. The expression "three years" has again brought about a sort of division of opinion amongst certain members of the House. Some say, if you have three years period, then no government is going to take any step until the third year has come into duration. You are practically permitting the provincial legislatures not to take any steps for three years by mentioning three years in this article. The other view is that three years may be too short. It may be that three years may be long enough so far as provinces are concerned, where the administrative machinery is well established and can be altered and amended so as to bring about the separation. But we have used the word "State" in the directive principles to cover not only the provincial governments but also the governments of the Indian States. It is contended that the administration in the Indian States for a long time may not be such as to bring about this desired result. Consequently the period of three years, so far as the Indian States are concerned, is too short. All these arguments have undoubtedly a certain amount of force which it is not possible to ignore. It is, therefore, thought that this article would serve the purpose which we all of us have in view, if the article merely contained a mandatory provision, giving a direction to the State, both in provinces as well as in the Indian States, that this Constitution imposes, so to say, an obligation to separate the judiciary from the executive in the public services of the State, the intention being that where it is possible, it shall be done immediately without any delay, and where immediate operation of this principle is not possible, it shall, nonetheless, be accepted as an imperative obligation, the procrastination of which is not tolerated by the principles underlying this Constitution. I therefore submit that the amendment which I have moved meets all the points of view which are prevalent in this House, and I hope that this House will give its accord to this amendment.

Prof. Shibhan Lal Saksena (United Provinces : General) **:** Sir, Dr. Ambedkar has already moved an amendment, that is he has added a new article No. 39-A. Is it permissible to a member to amend his own amendment ?

Mr. Vice-President : Yes. I would request you all to bear in mind that we have to go to the fundamentals and not to technicalities.

Shri R. K. Sidhwa (C. P. and Berar: General)**:** Mr. Vice-President, Sir, I am very glad that Dr. Ambedkar has moved this amendment and that at this late stage better counsels and sense have prevailed....

The motion was adopted.

Article 39-A was added to the Constitution.

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***Mr. Mohd. Tahir** (Bihar : Muslim) **:** Mr. Vice-President, Sir, I beg to move : That after article 39, the following new article be inserted and the rest of the articles be renumbered :—

"40. It shall he the duty of the State to protect, safeguard arid preserve the places of worship such as Gurdwaras, Churches, Temples, Mosques including the graveyards and burning ghats."

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†The Honourable Dr. B R. Ambedkar : Sir, I not accept the amendment.

Mr. Vice-President : I will now put the amendment to vote.

The amendment was negatived.

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THE ARTICLE 40

‡Mr. Vice-President : No. 1018. Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar : I understand Mr. Kamath is moving an amendment.

Shri H. V. Kamath : I shall be moving my amendment after Dr. Ambedkar has moved his.

The Honourable Dr. B. R. Ambedkar : Sir, I move : "that for the existing article 40, the following be substituted :—

"40. The State shall—

(a) promote international peace and security ;

(b) seek to maintain just and honourable relations between nations ; and

(c) endeavour to sustain respect for international law and treaty obligations in the dealings of organised people with one another."

Sir, this, amendment merely simplifies the original article 40 and divides it into certain parts separating each idea front the other so that any one who reads the article will get a clear and complete idea of what is exactly intended to be covered by article 40. The propositions

*CAD. Vol. VII, 25th November 1948, p. 593.

†Ibid., p. 594.

‡Ibid., p. 595.

contained in this new article are so simple that it seems to be super-arrogation to try to explain them to the House by any lenghty speech.

Sir, I move.

Mr. Vice-President : There are certain amendments to this which I am calling out. No. 74 Mr. Sarwate.

Shri V. S. Sarwate (United States of Gwalior-Indore-Malwa-Madhya Bharat). Mr. Vice-President, Sir, I beg to move an amendment to this amendment. My amendment stands thus :

"That in amendment No. 1018 of the list of amendments, in article 40, after the words "The State shall" and lie fore sub-clause (a), this new clause he inserted and the existing clause be renumbered accordingly :—

(a) foster truthfulness, justice, and sense of duty in the citizens."

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***Shri H. V. Kamath :** .....Sir, I move—

"That in amendment 1018 of the list of Amendments in article 40, after the word, 'shall' the words ' endeavour to ' be inserted, in clause (b) the wods 'seek to' be deleted in clause (c) the words 'endeavour to ' be deleted."

Mr Vice-President : The question is that for the existing article 40, the following be substituted :—

So that if this amendment be accepted by the House the amendment of the Drafting Committee will read as follows :—

"40. The State shall endeavour to—

(a) promote international peace and security ;

(b) maintain just and honourable relations between nations ;

(c) foster respect for international law and treaty obligations in the dealings of organised people with one another, and

(d) encourage the settlement of international disputes by arbitration."

This amendment seek only a slight structural change in the amendment brought forward by Dr. Ambedkar so as to bring out or indicate the directive character of the principle embodied in article 40 .....

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†Mr. President : Mr. Ayyangar, will you move it formally ?

Shri M. Ananthasayanam Ayyangar : Sir, I move that in the amendment of Dr. Ambedkar, at the end add the following sub-clause :—

"and (*d*) to encourage the settlement of international disputes by arbitration."

The motion was adopted.

‡The Honourable Dr. B. R. Ambedkar : Sir I accept Mr. Kamath's three amendmednts. I accept Dr. Subbarayan's amendment and I accept the amendment moved by my Honourable friend, Mr. Ananthasayanam Ayyangar. I do not accept any other amendment.

The motion was negatived.

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*CAD, Vol. VII, 25th November 1948. p. 596.

†Ibid., pp. 595

‡Ibid., p. 604.

ARTICLE 7

The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That the following words be added at the end of article 7 :—

'or under the control of the Government of India'."

Sir, this amendment was thought necessary because apart from the territories which form part of India, there may be other territories which may not form part of India, but may none-the-less be under the control of the Government of India. There are many cases occurring now in international affairs where territories are handed over to other countries for the purposes of administration either under a mandate or trusteeship. I think it is desirable that there ought to be no discrimination so far as the citizens of India and the residents of those mandated or trusteeship territories are concerned in fundamental rights. It is therefore desirable that this amendment should be made so that the principle of Fundamental Rights may be extended to the residents of those territories as well.

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†**Mr. Vice-President :** I would request Dr. Ambedkar to enlighten us about the points raised here by Mr. Ali Baig. We are laymen and we would like to hear him.

The Honourable Dr. B. R. Ambedkar : Mr. Vice-President, I must confess that although I had concentrated my attention on the speech of my friend who moved this amendment, I have not been able to follow what exactly he wanted to know. If his amendment is to delete the whole of article 7, I can very easily explain to him why this article must stand as part of the Constitution.

The object of the Fundamental Rights is two-fold. First, that every citizen must be in a position to claim those rights. Secondly, they must be binding upon every authority—I shall presently explain what the word "authority" means—upon every authority which has got either the power to make laws or the power to have discretion vested in it. Therefore, it is quite clear that if the Fundamental Rights are to be clear, then they must be binding not only upon the Central Government, they must not only be binding upon the Provincial Government, they must not only be binding upon the Government established in the Indian States, they must also be binding upon District Local Boards, Municipalities, even village panchayats and taluk boards, in fact, every authority which has been created by law and which has got certain power to make laws, to make rules, or make by-laws.

*CAD, Vol. VII. 25th November 1948, p. 607.

†*Ibid.,* 610.

If that proposition is accepted—and I do not see anyone who cares for Fundamental Rights can object to such a universal obligation being imposed upon every authority created by law—then, what are we to do to make our intention clear ? There are two ways of doing it. One way is to use a composite phrase such as "the State", as we have done in article 7 ; or, to keep on repeating every time, "the Central Government, the Provincial Government, the State Government, the Municipality, the Local Board, the Port Trust, or any other authority". It seems to me not only most cumbersome but stupid to keep on repeating this phraseology every time we have to make a reference to some authority. The wisest course is to have this comprehensive phrase and to economise in words. I hope that my friend will now understand why we have used the word "State" in this article and why this article must stand as part of this Constitution.

Mr. Vice-President: I will now put tins amendment to the vote. First of all, we have amendment No. 21 of Mr. Naziruddin Ahmad, which is an amendment to amendment No. 246.

The question is :

> "That with reference to amendment No. 246 of the List of Amendments, in article 7 the words" and all local or other authorities, within the territory of India or under the control of the Government of India "he deleted."

The motion was negatived.

Mr. Vice-President : The next amendment is No. 246 moved by Dr. Ambedkar.

The question is : that the following words be added at the end of article 7 :

> "or under the control of the Government of India."

The motion was adopted.

[Two more amendments were negatived.]

Article 7, as amended, was added to the Constitution.

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ARTICLE 8

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***Mr. Vice-President :** We have a quarter of an hour more. We can resume discussion of article 8 of the Draft Constitution.

Pandit Lakshmi Kanta Maitra (West Bengal : General) **:** We may adjourn now.

Mr. Vice-President : Our time is valuable. We should not waste a quarter of an hour.

*CAD, Vol. VII, 26th November 1948, p. 640.

The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That for clause (3) of Article 8, the following he substituted :—

'(3) In this article—

(a) the expression 'law' includes any ordinance, order, bye-law. rule, regulation, notification, custom, or usage having the force of law in the territory of India or any part thereof;

(b) the expression 'laws in force' includes laws passed or made by a Legislature or other competent authority in the territory of India before the commencement of this Constitution and not previously repealed, notwithstanding that any such law or any part thereof may not be then in operation either at all or in particular areas."

Sir, the reason for bringing in this amendment is this : It will be noticed that in article 8 there are two expressions which occur. In sub-clause (1) of article 8, there occurs the phrase "laws in force", while in sub-clause (2) the words "any law" occur. In the original draft as submitted to this House, all that was done was to give the definition of the term "law" in sub-clause (3). The term "laws in force" was not defined. This amendment seeks to make good that lacuna. What we have done is to split sub-clause (3) into two parts (a) and (b). (a) contains the definition of the term "law" as embodied in the original sub-clause (3), and (b) gives the definition of the expression "laws in force" which occurs in sub-clause (1) of article 8. I do not think that any more explanation is necessary.

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***Mr. Naziruddin Ahmad :** Sir, before I move my amendment, I beg to point out that as a comprehensive amendment has been moved by the Honourable Dr. Ambedkar, I think the present amendment should be suitably adapted to apply to that amendment. I wish to move the second part of it only.

Mr. Vice-President : First of all, find out whether he accepts it or not.

Mr. Naziruddin Ahmad : Unless I argue the matter, he will not accept it. I think. Sir, this amendment will have to be accepted.

I beg to move :

That in amendment No. 260 which has been moved by Dr. Ambedkar, the words "custom or usage having the force of law in the territory of India or any part thereof be deleted.

Mr. Vice-President : How can you add to that amendment without giving notice ? It is out of order. You can only make a suggestion.

*CAD. Vol. VII. 26th November 1948, p. 641.

Mr. Naziruddin Ahmad : I have already given notice of an amendment to the original article. In view of the amendment of Dr. Ambedkar, there should be consequential changes.

Mr. **Vice-President :** All right.

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***Mr. Naziruddin Ahmad :** I am very glad for the kind interruption. It does not remove my difficulties at all. Does it mean to say that the State 'makes' a custom or usage ? Still you have the difficulty to face that the State has to make a law including custom or usage.

The Honourable Shri B. G. Kher : Of course, it means ' whenever necessary'. That is always understood in law. I am sorry to interrupt.

The Honourable Dr. B. R. Ambedkar : Probably he may not find it necessary to continue his speech if I refer to him this fact, namely, that the expression "law" in (3) (a) has reference to law in 8 (1).

Mr. Naziruddin Ahmad : I am again grateful for the kind interruption of Dr. Ambedkar that the words 'custom and usage' have the force of law and so forth....

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†Mr. Vice-President : Shall we resume discussion of article 8 ? Is there any Honourable Member who wishes to speak on it ?

The Honourable Dr. B. R. Ambedkar (Bombay : General) **:** Mr. Vice-President, the amendment of Mr. Naziruddin Ahmad, I think, creates some difficulty which it is necessary to clear up. His amendment was intended to remove what he called an absurdity of the position which is created by the Draft as it stands. His argument, if I have understood it correctly, means this, that in the definition of law we have included custom, and having included custom, we also speak of the State not having the power to make any law. According to him, it means that the State would have the power to make custom, because according to our definition, law includes custom. I should have thought that that construction was not possible, for the simple reason, that sub-clause (3) of article 8 applies to the whole of the article 8, and does not merely apply to sub-clause (2) of article 8. That being so, the only proper construction that one can put or it is possible to put would be to read the word 'Law' distributively, so that so far as article 8, sub-clause (1) was concerned, 'Law' would include custom, while so-far as sub-clause (2) was concerned, 'Law' would not include custom.

*CAD. Vol. VII, 26th November 1948. p. 642.

†*Ibid.,* VII. 29th November 1948, pp. 644-45.

That would be, in my judgment, the proper reading, and if it was read that way, the absurdity to which my Friend referred would not arise. But I can quite understand that a person who is not properly instructed in the rules of interpretation of Statute may put the construction which my Friend Mr. Naziruddin Ahmad is seeking to put, and therefore to avoid this difficulty, with your permission, I would suggest that in the amendment which I have moved to sub-clause (3) of article 8, I may be permitted to add the following words after the words "In this article". The words which I would like to add would be—

"Unless the context otherwise requires"

so that the article would read this way—

'In this article, unless the context otherwise requires—

(a) The expression 'law' includes any Ordinance, order, bye-law, rule, regulation, notification, custom, or usage having the force of law in the territory of India or any part thereof;

(b) the expression .....'"

I need not read the whole thing.

So, if the context in article 8 (1) requires the term 'law' to be used so as to include custom, that construction would be possible. If in sub-clause (2) of article 8, it is not necessary in the context to read the word 'law' to include custom, it would not be possible to read the word 'law' to include custom. I think that would remove the difficulty which my Friend has pointed out in his amendment.

Mr. Vice-President : I shall put the amendments, one by one, to vote. I am referring to the numbering of the amendments in the old list....

I put amendment No. 252, standing in the name of Mr. Mahboob Ali Baig to vote. The question is :

"That the proviso to clause (2) of article 8 he deleted."

The amendment was adopted.

[Amendment No. 259, standing in the name of Shri Lokanath Misra was negatived.]

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***Mr. Vice-President :** Then I put amendment No. 260, as amended by Dr. Ambedkar. The question is :

"That for clause (3) of article 8, the following be substituted:—

* (3) In this article, unless the context otherwise requires,

(a) The expression 'law' includes any Ordinance, order, bye-law, rule, regulation, notification, custom, or usage having the force of law in the territory of India or any part thereof;

*CAD, Vol. VII, 26th November 1948, p. 645.

(b) the expression 'laws in force' includes laws passed or made by a Legislature or other competent authority in the territory of India before the commencement of this Constitution and not previously repeated, notwithstanding that any such law or any part thereof may not he then in operation either at all or in particular areas '"

The amendment was adopted.

[Two more amendments were negatived.]

Article 8. as amended was added to the Constitution.

ARTICLE 8-A

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***Mr. Vice-President :** The next amendment is No. 273 in the new list in the name of Mr. L. N. Misra.

Shri Loknath Misra (Orissa : General) : Sir, I beg to move :

"That after article S, the following new article 8-A he inserted :

Right op Suffrage and Election

8-A. (1) livery citizen who is not less than 21 years of age and is not otherwise disqualified under this Constitution or any law made by the Union Parliament or by the Legislature of his State on any ground, *e.g.,* non-residence, unsoundness of mind, crime or corrupt or illegal practice, shall be entitled to be registered as a voter at such elections.

(2) The elections shall be on the basis of adult suffrage as described in the next preceding sub-clause hut they may be indirect, *i.e.,* the Poura and Grama Punehayats or a group of villages, a township or a part of it having a particular number of voters or being an autonomous unit of local self-government shall he required to elect primary members, who in their turn, shall elect members to the Union Parliament and lo the State Assembly.

(3) The Primary Members shall have the right to recall the member they elected Lo the Parliament or the Assembly of the State.

(4) A voter shall have the right to election and the cost of election shall be met by the State.

(5) Every candidate will be elected by the People and even if there is no rival, no candidate shall be elected unless he gels at least ½ of the total votes."

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†**Shri Algu Rai Shastri** (United Provinces : General) : Mr. President‡ I rise to oppose the amendment moved by my Friend. My first reason for doing so is that it has no relation to the question raised here. Matters relating lo elections have been dealt with in the Draft Constitution at other places where it has been staled as to how the Legislature shall be formed ; who shall be the members of the Legislatures ; what shall be their rights ; what shall be the procedure of their elections. Amendments of this nature may be moved in the article dealing with such things. This amendment is totally irrelevant lo Fundamental Rights of the Draft Constitution....

*CAD, Vol. VII. 29th November 1948. p. 646.

†*Ibid.,* 646.

‡Translation of Hindustani .speech.

...This amendment should be rejected outright and should never be accepted.

The Honourable Dr. B. R. Ambedkar : I cannot accept this amendment.

The motion of Loknath Misra was negatived.

ARTICLE 9

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***Mr. Vice-President :** Amendment No. 313 is disallowed as being verbal. Amendment No. 314. Dr. Ambedkar.

Shri H. V. Kamath : Mr. Vice-President, Sir, may I ask whether this is merely a verbal or at best a formal amendment liable to be disallowed ? It merely seeks to substitute the words 'State funds' in place of the words 'the revenues of the State'.

Mr. Vice-President : I shall keep that in mind. Dr. Ambedkar, will you please deal with that point also ?

The Honourable Dr. B. R. Ambedkar : Sir, I move :

> "That in sub-clause (b) of the second paragraph of clause (1) of article 9, for the words 'the revenues of the State' the words 'State funds' he substituted."

The reason why the Drafting Committee felt that the words "the revenues of the State" should be replaced by the words "State funds" is a very simple tiling. In the administrative parlance which has been in vogue in India for a considerably long time, we are accustomed to speak of revenues of a Provincial Government or revenues of the Central Government. When we come to speak of local boards or district boards, we generally use the phrase local funds and not revenues. That is the terminology which has been in operation throughout India in all the provinces. Now, the Honourable members of the House will remember that we are using the word 'State' in this Part to include not only the Central Government and the Provincial Governments and Indian States, but also local authorities, such as district local boards or taluka local boards or the Port Trust authorities. So far as they are concerned, the proper word is 'Fund'. It is therefore, desirable, in view of the fact that we are making these Fundamental Rights obligatory not merely upon the Central Government and the Provincial Governments, but also upon the district local boards and taluka local boards, to use a wider

*CAD, Vol. VII. 96th November 1948. pp. 653-34.

phraseology which would be applicable not only to the Central Government, but also to the local boards which are included in the definition of the word 'State'. I hope that my Honourable Friend Mr. Kamath will now understand that the amendment which I have moved is not merely verbal, but has some substance in it.

Sir, I move.

* * * * *

*(One or two honourable Members rose to speak.)

Mr. Vice-President : You must forgive me if I am unable to meet the wishes of Honourable Members. I want the full co-operation of the House and I ask it specially just now. Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar : Sir, dealing with the amendments which have been moved, I accept Amendment No. 280 moved by Mr. Rouf.

Shri Syamanandan Sahaya (Bihar : General): Will the Honourable Member give his views also about amendments which have not been moved ?

The Honourable Dr. B. R. Ambedkar : I am very sorry I cannot give opinions regarding amendments which have not been moved.

Shri Syamanandan Sahaya : It was no fault of the member concerned.

The Honourable Dr. B. R. Ambedkar : I cannot help it. I accept the amendment of Mr. Rouf adding the words "place of birth". I also accept the amendment (No. 37 in List I) by Mr. Subramaniam to amendment No. 276 dropping the words "In particular" in clause (1) of article 9.

With regard to amendment No. 303 moved by Mr. Guptanath Singh. I am prepared to accept his amendment provided he is prepared to drop the word "kunds" from his amendment.

Shri Guptanath Singh: I have already done that, Sir.

The Honourable Dr. B. R. Ambedkar : Then, among the many amendments which I am sorry I cannot accept. I think it is necessary for me to say something about two of them. One is amendment No. 315 moved by Mr. Tahir which requires that any contravention of the provisions contained in article 9 should be made a crime punishable by law. My friend Mr. Tahir who moved this amendment referred

*CAD, Vol. VII, 29th November 1948, p.p. 660-64.

particularly to the position of the untouchables and he said that in regard to these acts which prevent the untouchables from sharing equally the privileges enjoyed by the general public, we will not be successful in achieving our purpose unless these acts, preventing them from using places of public resort, were made offences. There is no doubt that there is no difference of opinion between him and other Members of this House in this matter because all of us desire that this unfortunate class should be entitled to the same privileges as members of the other communities without any let or hindrance from anybody. But he will see that that purpose is carried out entirely by the provisions contained in article 11 which specifically deals with untouchability : instead of leaving it to Parliament or to the State to make it a crime, the article itself declares that any such interference with their rights shall be treated as an offence punishable by law. If his view is that there should be a provision in the Constitution dealing generally with acts which interfere with the provisions contained in article 9, I would like to draw his attention to article 27 in the Constitution which places an obligation on Parliament to make laws declaring such interferences to be offences punishable by law. The reason why such power is given to Parliament is because it is felt that any offence which deals with the Fundamental rights should be uniform throughout the territory of India, which would not be the case if this power was left to the different States and Provinces to regulate as they like. My submission therefore is that, so far as this point is concerned, the Constitution contains ample provision and nothing more is really necessary.

With regard to amendment No. 323 moved by Professor K. T. Shah, the object of which is to add "Scheduled Castes" and "Scheduled Tribes" along with women and children, I am afraid it may have just the opposite effect.

The object which all of us have in mind is that the Scheduled Castes and Scheduled tribes should not be segregated from the general public.

For instance, none of us, I think, would like that a separate school should be established for the Scheduled Castes when there is a general school in the village open to the children of the entire community. If these words are added, it will probably give a handle for a State to say, "Well, we are making special provision for the Scheduled Castes". To my mind they can safely say so by taking shelter under the article

if it is amended in the manner the Professor wants it. I therefore think that it is not a desirable amendment.

Then I come to my Friend Mr. Nagappa. He has asked me to explain some of the words which have been used in this article. His first question was whether "shop" included laundry and shaving saloon. Well, so far as I am concerned, I have not the least doubt that the word ' shop ' does include laundry and shaving place. To define the word 'shop' in the most generic term one can think of is to state that 'shop' is a place where the owner is prepared to offer his service to anybody who is prepared to go there seeking his service. A laundryman therefore would be a man sitting in his shop offering to serve the public in a particular respect, namely, wash the dirty clothes of a customer. Similarly, the owner of a shaving saloon would be sitting there offering his service for any person who enters his saloon.

The Honourable Shri B. G. Kher (Bombay : General) **:** Does it include the offices of a doctor and a lawyer 7

The Honourable Dr. B. R. Ambedkar : Certainly it will include anybody who offers his services. I am using it in a generic sense.

I should like to point out therefore that the word 'shop' used here is not used in the limited sense of permitting entry. It is used in the larger sense of requiring the services if the terms of service are agreed to.

The second question put to me was whether 'place of public resort' includes burial grounds. I should have thought that very few people would be interested in the burial ground, because nobody would care to know what happens to him after he is dead. But, as my Friend Mr. Nagappa is interested in the point should say that I have no doubt that a place of public resort would include a burial ground subject to the fact that such a burial ground is maintained wholly or partly out of public funds. Where there are no burial grounds maintained by a municipality, local board or taluka board or Provincial Government or village panchayat, nobody of course has any right, because there is no public place about which anybody can make a claim for entry. But if there is a burial ground maintained by the State out of State funds, then obviously every person would have every right to have his body buried or cremated therein.

Then my Friend asked me whether ponds are included in tanks. The answer is categorically in the affirmative. A tank is a larger thing which must include a pond.

The other question that he asked me was whether rivers, streams, canals and water sources would be open to the untouchables. Wells, rivers, streams and canals no doubt would not come under article 9 ; but they would certainly be covered by the provisions of article 11 which make any interference with the rights of an untouchable for equal treatment with the members of the other communities an offence. Therefore my answer to my Friend Mr. Nagappa is that he need have no fears with regard to the use of rivers, streams, canals, etc., because it is perfectly possible for the Parliament to make any law under Article 11 to remove any such disability if found.

Shri S. Nagappa : What about the courses of water ?

The Honourable Dr. B. R. Ambedkar : I cannot add anything to the article at this stage. But I have no doubt that any action necessary with regard to rivers and canals could be legitimately and adequately taken under article 11.

Shri R. K. Sidhwa : What about the interpretation of the word 'public' ?

The Honourable Dr. B. R. Ambedkar : My Friend Mr. Sidhwa read out some definition from the Indian Penal Code of the word 'public' and said that the word 'public' there was used in a very limited sense as belonging to a class. I should like to draw his attention to the fact that the word 'public' is used here in a special sense. A place is a place of public resort provided it is maintained wholly or partly out of State funds. It has nothing to do with the definition given in the Indian Penal Code.

Shri Mahavir Tyagi (united Provinces : General)**:** May I know what is to happen to the amendments which have been declared by you as verbal amendments ? Among them I fear there are some which really aim at making a substantial change in the meaning of the clause or article concerned.

Mr. Vice-President : In that matter I am the sole judge. You have given me discretionary power and I propose to exercise that power in my own way.

Shri Mahavir Tyagi : I want information. I do not dispute your judgment or your right, I only want to know whether the sense of the House will be accommodated in regard to the amendments ruled out or whether such amendments will be considered by the Drafting Committee or some other body ? My suggestion is that you will be doing well the House if you will kindly appoint a small sub-committee which will go into these verbal amendments and find out whether some of them at least aim at effecting a change in the meaning of the clause concerned. I do not dispute what you said. They are out of order because you have ruled them as such. But even commas and fullstops have some value. My only request is that ...

Mr. Vice-President: May I suggest a better way which might appeal to you, a way which is better than the appointment of a sub-committee ? Those who think that their amendments are of some substance may

I am sure due consideration will be shown to them.

Shri Mahavir Tyagi : Now I am satisfied, Sir.

Mr. Mohd. Tahir : As the Honourable Dr. Ambedkar has answered my points to my satisfaction with regard to amendment No. 315,1 ask for leave to withdraw it.

The amendment was, by leave of the Assembly, withdrawn.

Mr. Vice-President : Now I will put the rest of the amendments to the vote of the House. Dr. Ambedkar has accepted the first one.

[Following amendments were adopted as per suggesting Dr. Ambedkar.]

(1) "That for amendment No. 276 in the List of Amendments, the following be substituted

'That the second para, of clause (1) of article 9 be numbered as new clause (1a), and the words 'In particular' in the new use so formed, be deleted.

* * * * *

Mr. Vice-President ; The next one is No. 280 which, I understand Dr. Ambedkar has accepted. The question is :

(2) No- 280—

"That in article 9, after the word 'sex' wherever it occurs, the words 'place of birth' be inserted."

(3) No- 286—(by Mr. C. Subramaniam).

"That in sub-clause (a) of clause (1) of article 9. after the words ' restaurants, hotels 'the words' Dharamsalas, Musafirkhanas be inserted."

(4) No. 303—(by Mr. Guptanath Singh).

"That in sub-clause (b) of the second paragraph of clause (1) of article 9, after the words 'wells, tanks' the words 'bathing ghats' be inserted."

(5) No. 314—

"That in sub-clause (b) of the second paragraph of clause (1) of article 9, for the words 'the revenues of the State' the words 'State funds' be substituted."

[Rest of the amendments were negatived.]

Article 9, as amended, was added to the Constitution.

ARTICLE 10

***Mr. Vice-President:** Shall we pass on to the next article, new article 9-A ? The amendments here are in the form of Directive Principles. I disallow them. Then we go to article 10.

Shri T. T. Krishnamachari (Madras : General) **:** I think the idea is to hold this over.

The Honourable Dr. B. R. Ambedkar : I request you to hold this article over.

Mr. Vice-President : Then we may go to the next article, 10-A.

(Amendment No. 369 was not moved.)

ARTICLE 11

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†The Honourable Dr. B. R. Amedkar : I cannot accept the amendment of Mr. Naziruddin Ahmad.

Mr. Vice-President : Dr. Ambedkar, do you wish to reply to Mr. Shah's suggestion 7

The Honourable Dr. B. R. Ambedkar : No.

The Vice-President : I now put amendment No. 372 to vote.

The question is :

"That for article 11, the following article be substituted:—

'11. No one shall on account of his religion or caste be treated or regarded as an 'untouchable' ; and its observance in any form may be made punishable by law'."

[This amendment of Mr. Nazaruddin was negatived.]

Article 11 was adopted and added to the Constitution.

Honourable Members : "Mahatma Gandhi ki Jai".

[Six members spoke on this Article. Dr. Ambedkar did not make any speech.]

ARTICLE 11-A AND B

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Mr. Z. H. Lari (United Provinces : Muslim) **:** Mr. Vice-President,

*CAD, Vol. VII, 29th November 1948, pp. 664.

†*Ibid.,* 30th November 1948, p. 669.

I move:

"That after article U the following new article be inserted:-—

'II-A- Imprisonment for debt is abolished.

11-B. Capital punishment except for sedition involving use of violence is abolished'."

Sir, the two clauses are distinct and consequently when considering and adopting them it is not necessary for the House to accept both simultaneously or to reject both. It is open to the House to accept one and not to accept the other or to accept both.

Mr. Vice-President : Why not move that separately

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***The Honourable Dr. B. R. Ambedkar** (Bombay : General) **:** I do not accept the amendment.

Mr. Vice-President : I shall put the amendment to vote.

The amendment was negatived.

ARTICLE 10

Mr. Vice President : We can now go back to Article No. 10. The motion before the House is :

That Article 10 form part of the Constitution.

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‡Shri H. V. Kamath : On a point of clarification, Sir, may I know from my Honourable Friend, Mr. Alladi Krishnaswami Ayyar whether the words here expressed" any State for the time being specified in the First Schedule" applies to all the four parts of the First Schedule ? The first Schedule consists of four parts. Three parts refer to the States and the last part refers to the Andaman and Nicobar Islands ; and we have already adopted article 1 which states in sub-clause (2) that "the States shall mean the States for the time being specified in Parts I, II and III of the First Schedule. May I know from him whether" any State for the time being specified in the First Schedule "means all the States and territories comprised in all the four parts of the First Schedule ? In that case the language of this amendment will have to be modified. It will have to read" under any State or territory in the first four parts I, II, III and IV of the First Schedule, "and if you want to retain only the word 'State' then it will be 'under any State specified in Parts I, II and III of the First Schedule.'

*CAD, Vol. VII, 30th November 1948, p. 672.

†*Ibid.,* 672.

‡*Ibid.,* 678.

The Honourable Dr. B. R. Ambedkar : It is quite obvious that we have not specified parts. We have merely said 'First Schedule' and First Schedule includes all the States in the First Schedule.

Shri H. V. Kamath : Article 1 says 'the States included for the time being specified in Parts I, II and III of the First Schedule.' The territories comprised in Part IV is not a State according to our Constitution.

The Honourable Dr. B. R. Ambedkar : There should be no attempt to make any distinction at all.

Shri H. V. Kamath : If my point is unanswerable, I have nothing to say.

Shri Alladi Krishnaswami Ayyar : If you only refer to the First Schedule, you will find that Part I refers to the territories known immediately before the commencement of this Constitution as the Governor's Provinces. Part II deals with the territories known immediately before the commencement of this Constitution as the Chief Commissioners' provinces of Delhi, Ajmer-Merwara and so on. Part III deals with Indian States. All these three categories are referred to and described as 'States' in Article 1. Part IV of Schedule 1 are Andamans and Nicobar Islands. These are not States but territories.

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***The Honourable Dr. B. R. Ambedkar :** Mr. Vice-President, Sir, I am going to say at the outset, before I deal with the specific questions that have been raised in the course of debate, that I cannot accept amendment No. 334 moved by Mr. Misra ; nor can I accept the two amendments moved by my friend, Mr. Naziruddin Ahmad, Nos. 336 and 337. I am prepared to accept the amendment of Mr. Imam No. 338, as amended by amendment No. 77 moved by Mr. Ananthasaynam Ayyangar. I am also prepared to accept the amendment of Mr. Kapoor, *viz*.. No. 340, as amended by amendments Nos. 81 and 82 moved by my friends Mr. Munshi and Mr. Alladi Krishnaswami Ayyar.

I do not think that I am called upon to say anything with regard to amendments Nos. 334, 336 and 337. Such observations, therefore, as I shall make in the course of my speech will be confined to the question of residence about which there has been so much debate and the use of the word "backward" in clause (3) of article 10. My friend Mr. T. T. Krishnamachari, has twitted the Drafting Committee that the

*CAD, Vol. VII, 30th November 1948, pp. 699-702.

Drafting Committee, prohably in the interests of some members of that Committee, instead of producing a Constitution, have produced a paradise for lawyers. I am not prepared to say that this Constitution will not give rise to questions which will involve legal interpretation or judicial interpretation. In fact, I would like to ask Mr. Krishnamachari if he can point out to me any instance of any Constitution in the world which has not been a paradise for lawyers. I would particularly ask him to refer to the vast storehouse of law reports with regard to the Constitution of the United States, Canada and other countries. I am therefore not ashamed at all if this Constitution hereafter for purposes of interpretation is required to be taken to the Federal Court. That is the fate of every Constitution and every Drafting Committee. I shall therefore not labour that point at all.

Now, with regard to the question of residence. The matter is really very simple and I cannot understand why so intelligent a person as my friend Mr. T. T. Krishnamachari should have failed to understand the basic purpose of that amendment.

Shri T. T. Krishnamachari: For the same reason as my Honourable friend had for omitting to put that word originally in the article.

The Honourable Dr. B. R. Ambedkar : I did not quite follow. I shall explain the purpose of this amendment. (It is the feeling of many persons in this House that, since we have established a common citizenship throughout India, irrespective of the local jurisdiction of the provinces and the Indian States, it is only a concomitant thing that residence should not be required for holding a particular post in a particular State because, in so far as you make residence a qualification, you are really subtracting from the value of a common citizenship which we have established by this Constitution or which we propose to establish by this Constitution. Therefore in my judgment, the argument that residence should not be a qualification to hold appointments under the State is a perfectly valid and a perfectly sound argument.) At the same time, it must be realised that you cannot allow people who are flying from one province to another, from one State to another as mere birds of passage without any roots, without any connection with that particular province, just to come, apply for posts and, so to say, take the plums and walk away. Therefore, some limitation is necessary. It was found, when this matter was investigated, that already today in

very many provinces rules have been framed by the provincial governments prescribing a certain period of residence as a qualification for a post in that particular province. Therefore the proposal in the amendment that, although as a general rule residence should not be a qualification, yet some exception might be made, is not quite out of the ordinary. We are merely following the practice which has been already established in the various provinces. However, what we found was that while different provinces were laying down a certain period as a qualifying period for posts, the periods varied considerably. Some provinces said that a person must be actually domiciled. What that means, one does not know. Others have fixed ten years, some seven years and so on. It was therefore felt that, while it might be desirable to fix a period as a qualifying test, that qualifying test should be uniform throughout India. Consequently, if that object is to be achieved, *viz.,* that the qualifying residential period should be uniform, that object can be achieved only by giving the power to Parliament and not giving it to the local units, whether provinces or States. That is the underlying purpose of this amendment putting down residence as a qualification.

With regard to the point raised by my friend, Mr. Kamath, I do not propose to deal with it because it has already been dealt with by Mr. Munshi and also by another friend. They told him why the language as it now stands in the amendment is perfectly in accord with the other provisions of this Constitution.

Now, Sir, to come to the other question which has been agitating the members of this House, *viz.,* the use of the word "backward" in clause (3) of article 10. I should like to begin by making some general observations so that members might be in a position to understand the exact import, the significance and the necessity for using the word "backward" in this particular clause. If members were to try and exchange their views on this subject, they will find that there are three points of view which it is necessary for us to reconcile if we are to produce a workable proposition which will be accepted by all. Of the three points of view, the first is that there shall be equality of opportunity for all citizens. It is the desire of many Members of this House that every individual who is qualified for a particular post should be free to apply for that post, to sit for examinations and to have his qualifications tested so as to determine whether he is fit for the post

or not and that there ought to be no limitations, there ought to be no hindrance in the operation of this principle of equality of opportunity. Another view mostly shared by a section of the House is that, if this principle is to be operative—and it ought to be operative in their judgment to its fullest extent—there ought to he no reservations of any sort for any class or community at all, that all citizens, if they are qualified, should be placed on the same footing of equality so far as the public services are concerned. That is the second point of view we have. Then we have quite a massive opinion which insists that, although theoretically it is good to have the principle that there shall be equality of opportunity, there must at the same time be a provision made for the entry of certain communities which have so far been outside the administration. As I said, the Drafting Committee had to produce a formula which would reconcile these three points of view, firstly, that there shall be equality of opportunity, secondly that there shall be reservations in favour of certain communities which have not so far had a 'proper look-in' so to say into the administration. If Honourable members will bear these facts in mind—the three principles, we had to reconcile,—they will see that no better formula could be produced than the one that is embodied in sub-clause (3) of article 10 of the Constitution ; they will find that the view of those who believe and hold that there shall be equality of opportunity, has been embodied in sub-clause (1) of Article 10. It is a generic principle. At the same time, as I said, we had to reconcile this formula with the demand made by certain communities that the administration which has now—for historical reasons—been controlled by one community or a few communities, that situation should disappear and that the others also must have an opportunity of getting into the public services. Supposing, for instance, we were to concede in full the demand of those communities who have not been so far employed in the public services to the fullest extent, what would really happen is, we shall be completely destroying the first proposition upon which we are all agreed, namely, that there shall be an equality of opportunity. Let me give an illustration. Supposing, for instance, reservations were made for a community or a collection of communities, the total of which came to something like 70 per cent of the total posts under the State and only 30 per cent are retained as the unreserved. Could anybody say that the reservation of

30 per cent as open to general competition would be satisfactory from the point of view of giving effect to the first principle, namely, that there shall be equality of opportunity ? It cannot be in my judgment. Therefore the seats to be reserved, if the reservation is to be consistent with sub-clause (1) of Article 10, must be confined to a minority of seats. It is then only that the first principle could find its place in the Constitution and effective in operation. If Honourable Members understand this position that we have to safeguard two things, namely, the principle of equality of opportunity and at the same time satisfy the demand of communities which have not had so far representation in the State, then, I am sure they will agree that unless you use some such qualifying phrase as "backward" the exception made in favour of reservation will ultimately eat up the rule altogether. Nothing of the rule will remain. That I think, if I may say so, is the justification why the Drafting Committee undertook on its own shoulders the responsibility of introducing the word 'backward' which, I admit, did not originally find a place in the fundamental right in the way in which it was passed by this Assembly. But I think Honourable Members will realise that the Drafting Committee which has been ridiculed on more than one ground for producing sometimes a loose draft, sometimes something which is not appropriate and so on, might have opened itself to further attack that they produced a Draft Constitution in which the exception was so large, that it left no room for the rule to operate. I think this is sufficient to justify why the word "backward" has been used.

With regard to the minorities, there is a special reference to that in Article 296, where it has been laid down that some provision will be made with regard to the minorities. Of course, we did not lay down any proportion. That is quite clear from the section itself, but we have not altogether omitted the minorities from consideration. Somebody asked me : "What is a backward community" ? Well, I think any one who reads the language of the draft itself will find that we have left it to be determined by each local Government. A backward community is a community which is backward in the opinion of the Government. My Honourable Friend Mr. T. T. Krishnamachari asked me whether tills rule will be justiciable. It is rather difficult to give a dogmatic answer. Personally I think it would be a justiciable matter. If the local

Government included in this category of reservations such a large number of seats; I think one could very well go to the Federal Court and the Supreme Court and say that the reservation is of such a magnitude that the rule regarding equality of opportunity has been destroyed and the court will then come to the conclusion whether the local Government or the State Government has acted in a reasonable and prudent manner. Mr. Krishnamachari asked : "Who is a reasonable man and who is a prudent man ? These are matters of litigation". Of course, they are matters of litigation, but my Honourable Friend Mr. Krishnamachari will understand that the words "reasonable persons and prudent persons" have been used in very many laws and if he will refer only to the Transfer of Property Act, he will find that in very many cases the words "a reasonable person and a prudent person "have very well been defined and the court will not find any difficulty in defining it. I hope, therefore that the amendments which I have accepted, will be accepted by the House.

Mr. Vice-President : I am now going to put the amendments to vote, one by one.

The Honourable Dr. B. R. Ambedkar : I am sorry I forgot to say that I accept amendment No. 342.

[Following amendments were accepted by Dr. Ambedkar and adopted by the House.]

"(i) That in clause (1) of article 10, for the words 'in matters of employment', the words 'in mutters relating to employment or appointment to office' be substituted."

(ii) That in clause (2) of article 10. after the words 'ineligible for any' the words 'employment or ' be inserted."

(iii) "That in clause (2) article 10. after the words 'place of birth' the word 'in India' be added.

(iv) "That in clause (2) of articles 10, after the word 'birth' the word 'residence' be inserted."

"(2a) Nothing in this article shall prevent Parliament from making any laws prescribing in regard to a class or classes of employment or appointment to an office under any State for the time being specified in the First Scheduled or any local or other authority within its territory any requirement as to residence within that State prior to such employment or appointment."

That after clause (2) of article 10, the following new clause be inserted :—

(v) "That in clause (2) of article 10, after the word 'ineligible' the words 'or discriminated against' be inserted."

[Rest eight amendments were negatived.]

Article 10, as amended, was added to the Constitution.

ARTICLE 12

***Shri T. T. Krishnamachari :** Sir, I move :

"That in clause (1) of article 12 after the word "title" the words 'not being a military or academic distinction' be inserted."

Sir, article 12 clause (1) will read, as amended, as follows:

"No title not being a military or academic distinction shall be conferred by the State."

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†**The Honourable Dr. B. R. Ambedkar :** Sir, I accept the amendment moved by my friend Mr. T. T. Krishnamachari.

With regard to the amendment moved by my friend Mr. Naziruddin Ahmad, he wanted the word "accepted" to be substituted by the word "recognised". His argument was, supposing the citizen does accept a title, what is the penal provision in the Constitution which would nullify that act ? My answer to that is very simple : that it would be prefectly open under the Constitution for Parliament under its residuary powers to make a law prescribing what should be done with regard to an individual who does accept a title contrary to the provisions of this article. I should have thought that that was an adequate provision for meeting the case which he has put before the House.

With regard to the second point of Mr. Kamath, if I have understood him correctly, he asked whether this is a justiciable right. My reply to that is very simple : it is not a justiciable right. The non-acceptance of titles is a condition of continued citizenship ; it is not a right, it is a duty imposed upon the individual that if he continues to be the citizen of this country then he must abide by certain conditions, one of the conditions is that he must not accept a title because it would be open for Parliament, when it provides by law as to what should be done to persons who abrogate the provisions of this article, to say that if any person accepts a title contrary to the provisions of article 12 (1) or (2), certain penalties may follow. One of the penalties may be that he may lose the right of citizenship. Therefore, there is really no difficulty in understanding tills provision as it is a condition attached to citizenship by itself it is not a justiciable right.

Shri H. V. Kamath : My point is about recognition of existing titles by the State.

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*CAD, Vol. VII, 30th November 1948, p. 704.

†*Ibid.,* pp. 708-09

The Honourable Dr. B. R. Ambedkar : As I said in reply to my friend Mr. Naziruddin Ahmad, it is open for Parliament to take such action as it likes, and one of the actions which Parliament may take is to say that we shall not recognise these titles.

Shri H. V. Kamath : I want Dr. Ambedkar to accept the principle. Parliament can do what it likes later on.

The Honourable Dr. B. R. Ambedkar : Certainly it is just commonsense that if the Constitution says that no person shall accept a title, it will be an obligation upon Parliament to see that no citizen shall commit a breach of that provision.

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***Mr. Vice-President** (Dr. H. C. Mookherjee) **:** We shall try to meet the wishes of the House.

We finished our discussion on Article 12 and Dr. ambedkar gave his reply. I am sorry I cannot accommodate those Members who want to reopen it. I shall now put the different amendments to the vote one after the other.

Mr. Vice-President : The question is :

"That in clause (1) of article 12, after the word 'title' the words 'not being a military or academic distinction' he inserted. "

The motion of Shri Krishnamachari was adopted.

[Rest 4 amendments were negatived.]

Article 12, as amended, was added to the Constitution.

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ARTICLE 13

†Mahboob Ali Baig Sahib Bahdur: ...Anyhow I pose this question to the Chairman of the Drafting Committee whether in these circum stances, *viz.,* where there is in existence a provision in the Constitution itself empowering the legislature or the executive to pass an order or law abridging the rights mentioned in clause (1), the court can go into the merits or demerits of the order or law and declare a certain law invalid or a certain Act as not justified. In my view the court's jurisdiction is ousted by clearly mentioning in the Constitution itself that the State shall have the power to make laws relating to libel, association or assembly in the interest of public order, restrictions on the exercise of .....

The Honourable Dr. B. R. Ambedkar (Bombay : General) **:** Sir, if I might interrupt my Honourable Friend, I have understood his point

*CAD, Vol. VII. 1st December 1948, p. 711.

†*Ibid.,* p. 735.

and I appreciate it and I undertake to reply and satisfy him as to what it means. It is therefore unnecessary for him to dilate further on the point.

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***Pandit Thakur Dass Bhargva :** ...Similarly, at present you have the right to assemble peaceably and without arms and you have in 1947 passed a law under which even peaceable assemblage could be bombed without warning from the sky. We have today many provisions which are against this peaceable assembling. Similarly in regard to ban on association or unions.

The Honourable Dr. B. R. Ambedkar : Is it open to my Honourable friend to speak generally on the clauses ?

Mr. Vice-President : That is what I am trying to draw his attention to.

The Honourable Dr. B. R. Ambedkar : This is an abuse of the procedure of the House. I cannot help saying that. When a member speaks on an amendment, he must confine himself to that amendment. He cannot avail himself of this opportunity of rambling over the entire field.

Pandit Thakur Dass Bhargava : I am speaking on the amendment; but the manner in which Dr. Ambedkar speaks and expresses himself is extremely objectionable. Why should he get up and speak in a threatening mood or a domineering tone ?

Mr. Vice-President: Everybody seems to have lost his temper except the Chair (*Laughter*). I had given a warning to Mr. Bhargava and, just now, was about to repeat it when Dr. Ambedkar stood up. I am perfectly certain that he was carried away by his feeling. I do not see any reason why there should be so much feeling aroused. He has been under a strain for days together. I can well understand his position and I hope that the House will allow the matter to rest there.

Now, I hope Mr. Bhargava realises the position.

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†The Honourable Dr. B. R. Ambedkar : Sir, I move :

"that with reference to amendment No. 454....."

Shri H. V. Kamath : On a point of order, Sir, has amendment No. 454 been moved ?

Mr. Vice-President : Please continue.

The Honourable Dr. B. R. Ambedkar :

"with reference to amendment No. 454 of the List of Amendments—

(i) in clause, (3), (4), (5) and (6) of article 13, after the words ' any existing law ' the words ' in so far as it imposes ' be inserted; and

*CAD, Vol. VII, 1st December 1948, p. 738

†*Ibid.,* pp. 740-42

(ii) in clause (6) of article 13, after the words 'in particular' the words 'nothing in the said clause shall affect the operation of any existing law in so far as it prescribes or empowers any authority to prescribe, or prevent the State from making any law' be inserted."

Syed Abdur Rouf (Assam : Muslim) **:** On a point of order, Sir, I think that Dr. Ambedkar's amendment cannot be an amendment to amendment No. 454. Amendment No. 454 seeks to delete clauses (2), (3), (4), (5) and (6), whereas Dr. Ambedkar's amendment seeks to insert some words in those clauses and cannot therefore be moved as an amendment to an amendment.

Mr. Vice-President : It seems to me that what Dr. Ambedkar really seeks to do is to retain the original clauses with certain qualifications. Therefore I rule that he is in order.

Shri H. V. Kamath : This will have the effect of negativing the original amendment.

Mr. Vice-President : Kindly take your seat.

The Honourable Dr. B. R. Ambedkar : From the speeches which have been made on article 13 and article 8 and the words "existing law" which occur in some of the provisos to article 13, it seems to me that there is a good deal of misunderstanding about what is exactly intended to be done with regard to existing law. Now the fundamental article is article 8 which specifically, without any kind of reservation, says that any existing law which is inconsistent with the Fundamental Rights as enacted in this part of the Constitution is void. That is a fundamental proposition and I have no doubt about it that any trained lawyer, if he was asked to interpret the words "existing law" occurring in the sub-clauses to article 13, would read "existing law" in so far as it is not inconsistent with the fundamental rights. There is no doubt that that is the way in which the phrase "existing law" in the sub-clauses would be interpreted. It is unnecessary to repeat the proposition stated in article 8 every time the phrase "existing law" occurs, because it is a rule of interpretation that for interpreting any law, all relevant sections shall be taken into account and read in such a way that one section is reconciled with another. Therefore the Drafting Committee felt that they have laid down in article 8 the full and complete proposition that any existing law, in so far as it is inconsistent with the Fundamental Rights, will stand abrogated. The Drafting Committee did not feel it necessary to incorporate some such qualification in using

the phrase "existing law" in the various clauses where these words occur. As I see, many people have not been able to read the clause in that way. In reading "existing law", they seem to forget what has already been stated in article 8. In order to remove the misunderstanding that is likely to be caused in a layman's mind, I have brought forward this amendment to sub-clauses (3), (4), (5) and (6) I will read for illustration sub-clause (3) with my amendment.

> "Nothing in sub-clause (b) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law, imposing in the interests of public order."

I am accepting Mr. Bhargava's amendment and so I will add the word "reasonable" also.

> "Imposing in the interests of public order reasonable restrictions on the exercise of the right conferred by the said sub-clause."

Now, the words "in so far as it imposes" to my mind make the idea complete and free from any doubt that the existing law is saved only in so far as it imposes reasonable restrictions. I think with that amendment there ought to be no difficulty in understanding that the existing law is saved only to a limited extent, it is saved only if it is not in conflict with the Fundamental Rights.

Sub-clause (6) has been differently worded, because the word there is different from what occurs in sub-clauses (3), (4) and (5). Honourable Members will be able to read for themselves in order to make out what it exactly means.

Now, my friend, Pandit Thakur Dass Bhargava entered into a great tirade against the Drafting Committee, accusing them of having gone out of their way to preserve existing laws. I do not know what he wants the Drafting Committee to do. Does he want us to say straightaway that all existing laws shall stand abrogated on the day on which the Constitution comes into existence ?

Pandit Thakur Dass Bhargava : Not exactly.

The Honourable Dr. B. R. Ambedkar : What we have said is that the existing law shall stand abrogated in so far as they are inconsistent with the provisions of this Constitution. Surely the administration of this country is dependent upon the continued existence of the laws which are in force today. It would bring down the whole administration to pieces if the existing laws were completely and wholly abrogated.

Now, I take article 307. He said that we have made provisions that the existing laws should be continued unless amended. Now, I should

have thought that a man who understands law ought to be able to realize this fact that after the Constitution comes into existence, the exclusive power of making law in this country belongs to Parliament or to the several local legislatures in their respective spheres. Obviously, if you enunciate the proposition that hereafter no law shall be in operation or shall have any force or sanction, unless it has been enacted by Parliament, what would be the position ? The position would be that all the laws which have been made by the earlier legislature, by the Central Legislative Assembly or the Provincial Legislative Assembly would absolutely fall to pieces, because they would cease to have any sanction, not having been made by the parliament or by the local legislatures, which under this Constitution are the only body which are entitled to make law. It is, therefore, necessary that a provision should exist in the Constitution that any laws which have been already made shall not stand abrogated for the mere reason that they have not been made by Parliament. That is the reason why article 307 has been introduced into this Constitution. I, therefore, submit, Sir, that my amendment which particularises the portion of the existing law which shall continue in operation so far as the Fundamental Rights are concerned, meets the difficulty, which several Honourable Members have felt by reason of the fact that they find it difficult to read article 13 in conjunction with article 8, I, therefore, think that this amendment of mine clarifies the position and hope the House will not rind it difficult to accept it.

[After this clarification several amendments were not moved.]

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***The Honourable Dr. B. R. Ambedkar :** Sir I move—

"That in clause (4) of article 13, for the words 'the general public' the words 'public order or morality' be substituted."

These words are inappropriate in that clause.

Mr. Vice-President : 477 is identical. 479, 480 and 486 are of similar import.

(Amendments Nos. 479, 480 and 486 were not moved.)

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*CAD, Vol. VII, 1st December 1948, p. 744.

***The Honourable Dr. B. R. Ambedkar :** Mr. Vice-President, Sir, I move :

"That in clause (5) of article 13. for the word 'aboriginal', the word 'scheduled' he substituted."

When the Drafting Committee was dealing with the question of Fundamental Rights, the Committee appointed for the Tribal Areas had not made its Report, and consequently we had to use the word 'aboriginal' at the time when the Draft was made. Subsequently, we found that the Committee on Tribal Areas had used the phrase "Scheduled Tribes" and we have used the words "scheduled tribes" in the schedules which accompany this Constitution. In order to keep the language uniform, it is necessary to substitute the word "Scheduled" for the word "aboriginal".

Mr. Vice-President : There is, I understand, an amendment to this amendment, and that is amendment No. 56 of List I, standing in the name of Shri Phool Singh.

(Amendment No. 56 of list I was not moved.)

Mr. Vice-President : That means this amendment No. 491 stands as it is.

Then we come to amendment No. 488.

(Amendment No. 488 was not moved.)

The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That in clause (6) of article 13, for the words 'public order, morality or health', the words 'the general public' be substituted."

The words ' public order, morality or health ' are quite inappropriate in that particular clause.

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†Shri M. Ananthasayanan Ayyangar : ...Now, therefore, except the amendments which are acceptable to Dr. Ambedkar, the others should not be accepted. They are objectionable and ought not to find a place in the Constitution.

Shri Satyanarayan Sinha (Bihar: General)**:** I move that the question be now put.

Mr. Vice-President : An enquiry was made of me as to how I have tried to conduct the proceedings of this House. I refused to supply the information at that time, because I thought it might be left to my discretion to explain how I conduct the proceedings. I see that I have not been able to satisfy all the members who desire to speak. At the

*CAD, Vol. VII. 1st December 1948. p. 746.

†*Ibid.,* 2nd December 1948, pp. 779-83.

present moment I have here 25 notes from 25 different gentlemen all anxious to speak. There is no doubt that each one of them will be able to contribute something to the discussion. But the discussion cannot be prolonged indefinitely. This does not take into account those other gentlemen equally competent to give their opinion who stand up and who have denied to themselves the opportunity of sending me notes. I have tried to get the views of the house as a whole. If Honourable Members will kindly go through the list of speakers who have already addressed the House they will find that every province has been represented and every so-called minority from every province has been represented. In my view, in spite of what Pandit L. K. Maitra says Bengalees are a majority. In my view therefore the question has been fully discussed. But, as always, I would like to know whether it is the wish of the House that we should close this discussion.

Honourable Members : Yes, yes;

Mr. Vice-President : Then I call upon Dr. Ambedkar to reply.

The Honourable Dr. B. R. Ambedkar (Bombay : General) **:** Mr. Vice-President, Sir, among the many amendments that have been moved to this article 13, I propose to accept amendment No. 415, No. 453 as amended by amendment No. 86 of Mr. Munshi, and amendment No. 49 in list I as modified by Mr. Thakur Dass Bhargava's amendment to add the word ' reasonable'.

Mr. Vice-President : Will you kindly tell us how you proposed to accept amendment No. 415 ?

The Honourable Dr. B. R. Ambedkar : The amendment which seeks to remove the words 'subject to the other provisions of this article'.

Mr. Vice-President : And then ?

The Honourable Dr. B. R. Ambedkar : Then I accept No. 453 as modified by amendment No. 86, and amendment No. 49 in List I as modified by the amendment of Pandit Thakur Dass Bhargava which introduces the word 'reasonable'.

Now, Sir, coming to the other amendments and the point raised by the speakers in their speeches in moving those amendments, I find that there are just a few points which call for a reply.

With regard to the general attack on article 13 which has centred on the sub-clauses to clause (1), I think I may say that the House now

will be in a position to feel that the article with the amendments introduced therein has emerged in a form which is generally satisfactory. My explanation as to the importance of article 8, my amendment to the phrase "existing laws" and the introduction of the word "reasonable" remove, in my judgement, the faults which were pointed out by Honourable members when they spoke on this article, and I think the speeches made by my friends, Professor Shibban Lal Saksena and Mr. T. T. Krishnamachari and Mr. Algu Rai Shastri, will convince the House that the article as it now stands with the amendments should find no difficulty in being accepted and therefore I do not want to add anything to what my friends have said in support of this article. In fact I find considerable difficulty to improve upon the arguments used in their speeches in support of this article.

I will therefore take up the other points. Most of them have also been dealt with by my friend, Mr. Ananthasayanam Ayyangar and if, Sir, you had not called upon me, I would have said that his speech may be taken as my speech, because he has dealt with all the points which I have noted down.

Now, the only point which I had noted down to which I had thought of making some reference in the course of my reply was the point made by my friend, Professor K. T. Shah, that the Fundamental Rights do not speak of the freedom of the press. The reply given by my friend, Mr. Ananthasayanam Ayyangar, in my judgment is a complete reply. The press is merely another way of stating an individual or a citizen. The press has no special rights which are not to be given or which are not to be exercised by the citizen in his individual capacity. The editor of a press or the manager are all citizens and therefore when they choose to write in newspapers, they are merely exercising their right of expression, and in my judgment therefore no special mention is necessary of the freedom of the press at all.

Now, with regard to the question of bearing arms about which my friend Mr. Kamath was so terribly excited, I think the position that we have taken is very clear. It is quite true and everyone knows that the Congress Party had been agitating that there should be right to bear arms. Nobody can deny that. That is history. At the same time I think the House should not forget the fact that the circumstances when such resolutions were passed by the Congress no longer exist.

Shri H. V. Kamath : A very handy argument.

The Honourable Dr. B. R. Ambedkar : It is because the British Government had refused to allow Indians to bear arms, not on the ground of peace and order, but on the ground that a subject people should not have the right to bear arms against an alien government so that they could organise themselves to overthrow the Government, and consequently the basic considerations on which these resolutions were passed in my judgment have vanished. Under the present circumstances, I personally myself cannot conceive how it would be possible for the State to carry on its administration if every individual had the right to go into the market and purchase all sorts of instruments of attack without any let or hindrance from the State.

Shri H. V. Kamath : On a point of clarification, Sir, the proviso is there restricting that right.

The Honourable Dr. B. R. Ambedkar : The proviso does what ? What does the proviso say ? What the proviso can do is to regulate, and the term 'regulation' has been judicially interpreted as prescribing the conditions, but the conditions can never be such as to completely abrogate the right of the citizen to bear arms. Therefore regulation by itself will not prevent a citizen who wants to exercise the right to bear arms from having them. I question very much the policy of giving all citizens indiscriminately any such fundamental right. For instance, if Mr. Kamath's proposition was accepted, that every citizen should have the fundamental right to bear arms, it would be open for thousands and thousands of citizens who are today described as criminal tribes to bear arms. It would be open to all sorts of people who are habitual criminals to claim the right to possess arms. You cannot say that under the proviso a man shall not be entitled to bear arms because he belongs to a particular class.

Shri H. V. Kamath : If Dr. Ambedkar understands the proviso fully and clearly, he will sec that such will not be the effect of my amendment.

The Honourable Dr. B. R. Ambedkar : I cannot yield now. I have not got much time left. I am explaining the position that has been taken by the Drafting Committee. The point is that it is not possible to allow this indiscriminate right. On the other hand my submission is that so far as bearing of arms is concerned, what we ought to insist upon is not the right of an individual to bear arms but his duty to bear arms.

(An Honourable Member: *Hear, hear.*) In fact, what we ought to secure is that when an emergency arises, when there is a war, when there is insurrection, when the stability and security of the State is endangered, the State shall be entitled to call upon every citizen to bear arms in defence of the State. That is the proposition that we ought to initiate and that position we have completely safeguarded by the proviso to article 17.

Shri H. V. Kamath : (rose to interrupt).

Mr. Vice-President: You do not interrupt, Mr. Kamath. You cannot say that I have not given you sufficient latitude.

The Honourable Dr. B. R. Ambedkar : Coming to the question of saving personal law, I think this matter was very completely and very sufficiently discussed and debated at the time when we discussed one of the Directive Principles of this Constitution which enjoins the State to seek or to strive to bring about a uniform civil code and I do not think it is necessary to make any further reference to it, but I should like to say this that, if such a saving clause was introduced into the Constitution, it would disable the legislatures in India from enacting any social measure whatsoever. The religious conceptions in this country are so vast that they cover every aspect of life, from birth to death. There is nothing which is not religion and if personal law is to be saved, I am sure about it that in social matters we will come to a standstill. I do not think it is possible to accept a position of that sort. There is nothing extraordinary in saying that we ought to strive hereafter to limit the definition of religion in such a manner that we shall not extend beyond beliefs and such rituals as may be connected with ceremonials which are essentially religious. It is not necessary that the sort of laws, for instance, laws relating to tenancy or laws relating to succession, should be governed by religion. In Europe there is Christianity, but Christianity does not mean that the Christians all over the world or in any part of Europe where they live, shall have a uniform system of law of inheritance. No such tiling exists. I personally do not understand why religion should be given this vast, expansive jurisdiction so as to cover the whole of life and to prevent the legislature from encroaching upon that field. After all, what are we having this liberty for ? We are having this liberty in order to reform our social system, which is so full of inequities, so full of inequalities, discrimi-

nations and other things, which conflict with our fundamental rights. It is, therefore, quite impossible for anybody to conceive that the personal law shall be excluded from the jurisdiction of the State. Having said that I should also like to point out that all that the State is claiming in his matter is a power to legislate. There is no obligation upon the State to do away with personal laws. It is only giving a power. Therefore, no one need be apprehensive of the fact that if the State has the power, the State will immediately proceed to execute or enforce that power in a manner that may be found to be objectionable by the Muslims or by the Christians or by any other Community in India.

We must all remember—including Members of the Muslim community who have spoken on this subject, though one can appreciate their feelings very well—that sovereignty is always limited, no matter even if you assert that it is unlimited, because sovereignly in the exercise of that power must reconcile itself to the sentiments of different communities. No Government can exercise its power in such a manner as to provoke the Muslim community to rise in rebellion. I think it would be a mad Government if it did so. But that is a matter which relates to the exercise of the power and not to the power itself.

Now, Sir, my friend, Mr. Jaipal Singh asked me certain questions about the Adibasis. I thought that that was a question which could have been very properly raised when we were discussing the Fifth and the Sixth Schedules, but as he has raised them and as he has asked me particularly to give him some explanation of the difficulties that he had found, I am dealing with the matter at this stage. The House will realize what is the position we have laid down in the Draft Constitution with regard to the Adibasis. We have two categories of areas,— scheduled areas and tribal areas. The tribal areas are areas which relate only to the province of Assam, while the scheduled areas are areas which are scattered in provinces other than Assam. They are really a different name for what we used in the Government of India Act as 'partially excluded areas'. There is nothing beyond that. Now the scheduled tribes live in both, that is, in the scheduled areas as well as in the tribal areas and the difference between the position of the scheduled tribes in scheduled areas and scheduled tribes in tribal areas is this : In the case of the scheduled tribes in the scheduled areas, they are governed by the provisions contained in paragraph V of the Fifth

Schedule. According to that Schedule, the ordinary law passed by Parliament or by the local legislature applies automatically unless the Governor declares that that law or part of that law shall not apply. In the case of the scheduled tribes in tribal areas, the position is a little different. There the law made by Parliament or the law made by the local legislature of Assam shall not apply unless the Governor extends that law to the tribal area. In the one case it applies unless excluded and in the other case, it does not apply unless extended. That is the position.

Now, coming to the question of the scheduled tribes and as to why I substituted the word "scheduled" for the word "aboriginal", the explanation is this. As I said, the word "scheduled tribe" has a fixed meaning, because it enumerates the tribes, as you will see in the two Schedules. Well, the word "Adibasi" is really a general term which has no specific legal *de jure* connotation, something like the Untouchables, it is a general term. Anybody may include anybody in the term 'untouchable'. It has no definite legal connotation. That is why in the Government of India Act of 1935, it was felt necessary to give the word 'untouchable' some legal connotation and the only way it was found feasible to do it was to enumerate the communities which in different parts and in different areas were regarded by the local people as satisfying the test of untouchability. The same question may arise with regard to Adibasis. Who are the Adibasis ? And the question will be relevant, because by this Constitution, we are conferring certain privileges, certain rights on these Adibasis. In order that, if the matter was taken to a court of law, there should be a precise definition as to who are these Adibasis, it was decided to invent, so to say, another category or another term to be called 'Scheduled tribes' and to enumerate the Adibasis under that head. Now I think my friend, Mr. Jaipal Singh, if he were to take the several communities which are now generally described as Adibasis and compare the communities which are listed under the head of scheduled tribes, he will find that there is hardly a case where a community which is generally recognised as Adibasis is not included in the Schedule. I think, here and there, a mistake might have occurred and a community which is not an Adibasi community may have been included. It may be that a community which is really an Adibasi community has not been included, but if there is

a case where a community which has hitherto been treated as an Adibasi Comunity is not included in the list of scheduled tribes, we have added, as may be seen in the draft Constitution, an amendment whereby it will be permissible for the local government by notification to add any particular community to the list of scheduled tribes which have not been so far included. I think that ought to satisfy my friend, Mr. Jaipal Singh.

He asked me another question and it was this. Supposing a member of a scheduled tribe living in a scheduled area or a member of a scheduled tribe living in a tribal area migrates to another part of the territory of India, which is outside both the scheduled area and the tribal area, will he be able to claim from the local government, within whose jurisdiction he may be residing, the same privileges which he would be entitled to when he is residing within the scheduled area or within the tribal area ? It is a difficult question for me to answer. If that matter is agitated in quarters where a decision on a matter like this would lie, we would certainly be able to give some answer to the question in the form of some clause in this Constitution. But, so far as the present Constitution stands, a member of a scheduled tribe going outside the scheduled area or tribal area would certainly not be entitled to carry with him the privileges that he is entitled to when he is residing in a scheduled area or a tribal area. So far as I can see, it will be practically impossible to enforce the provisions that apply to tribal areas or scheduled areas, in areas other than those which are covered by them.

Sir, I hope I have met all the points that were raised by the various speakers when they spoke upon the amendments to this clause, and I believe that my explanation will give them satisfaction that all their points have been met. I hope that the article as amended will be accepted by the House.

Mr. Vice-President : I shall now put the amendments which have been moved, which number thirty, to the vote one by one.

[Following amendments were accepted by Dr. Ambedkar and were adopted by the House. Rest 28 amendments were negatived.]

(i) "That in clause (1) of article 13. the words "Subject to the other provisions of this article" he deleted."

(ii) That for clause (2) of article 13, the following he substituted :—

"(2) Nothing in sub-clause (a) of clause (1) of this article shall affect the operation of any existing law in so far as it relates to. or prevent the

State from making any law relating to libel, stander, defamation or any matter which offends against decency or morality or which undermines the security of, or tends to overthrow, the State."

(iii) "That with reference to amendment No. 454 of the List of amendments—

(i) in clauses (3), (4), (5) and (6) of article 13. after the words "any existing law" the words "in so far as it imposes" be inserted, and

(ii) in clause (6) of article 13, after the words "in particular" the words "nothing in the said clause shall affect the operation of any existing law in so far as it prescribes or empowers any authority to prescribe, or prevent the State from making any law" be inserted."

(iv) "That in clauses (3), (4), (5) and (6) of article 13, before the word "restrictions" the word "resonable " be inserted."

(v) "That in clause (4) of article 13, for the words "the general public" the words "public order or morality" be substituted."

(vi) "That in clause (5) of article 13, for the word "aboriginal" the word "Scheduled" be substituted."

(vii) "That in clause (6) of article 13. for the words "morality or health" the words "the general public" be substituted."

Article 13 was added to the Constitution.

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ARTICLE 14

***Shri T. T. Krishnamachari** (Madras : General) **:** Mr. Vice-President, Sir, the point I have to place before the House happens to be a comparatively narrow one....

I recognise that I am rather late now to move an amendment. What I would like to do is to word the clause thus : 'No person shall be prosecuted and punished for the same offence more than once.' If my Honourable Friend Dr. Ambedkar will accept the addition of the words 'prosecuted and' before the word 'punished' and if you. Sir. and the House will give him permission to do so, it will not merely be a wise tiling to do but it will save a lot of trouble for the Governments of the future. That is the suggestion I venture to place before the House. It is for the House to deal with it in whatever manner it deems fit.

Mr. Vice-President: Does the House give the permission asked for by Shri T. T. Krishnamachari ?

Honourable Members : Yes.

Mr. Vice-President : Now I will call upon Dr. Ambedkar to move the amendment suggested by Shri T. T. Krishnamachari.

*CAD. Vol. VII. 2nd December, 1948. pp. 795-97.

The Honourable Dr. B. R. Ambedkar : Mr. Vice-President, Sir, with regard to the amendments that have been moved to this article, I can say that I am prepared to accept the amendment moved by Mr. T. T. Krishnamachari. Really speaking, the amendment is not necessary but as certain doubts have been expressed that the word 'punished' may be interpreted in a variety of ways, I think it may be desirable to add the words "prosecuted and punished."

With regard to amendments Nos. 506 and 509 moved by my friend, Mr. Naziruddin Ahmad .....

Mr. Naziruddin Ahmad : It is No. 510.

The Honourable Dr. B. R. Ambedkar : Anyhow, I have examined the position the whole day yesterday and I am satisfied that no good will be served by accepting these amendments. I am however prepared to accept amendment No. 512 moved by Mr. Karimuddin. I think it is a useful provision and may find a place in our Constitution. There is nothing novel in it because the whole of the clause as suggested by him is to be found in the Criminal Procedure Code so that it might be said in a sense that this is already the law of the land. It is perfectly possible that the legislatures of the future may abrogate the provisions specified in his amendment but they are so important so far as personal liberty is concerned that it is very desirable to place these provisions beyond the reach of the legislature and I am therefore, prepared to accept his amendment.

With regard to amendment No. 513 moved by my friend, Mr. Kakkan .....

An Honourable Member : It was not moved.

Mr. Vice-President : What about amendments Nos. 505 and 506 ?

The Honourable Dr. B. R. Ambedkar : I have already said that I am not prepared to accept amendment Nos. 506 and 510.

Mr. Vice-President : Have you anything to say about amendment No. 505, the second part of it as modified by amendment No. 92 in List V ? perhaps you have overlooked it. It is in the name of Pandit Thakur Dass Bhargava.

The Honourable Dr. B. R. Ambedkar : I accept the amendment moved by him.

Mr. Vice-President : I am putting the amendments one by one to the vote.

Amendment No. 505 as modified by amendment No. 92 of List V. I understand that Dr. Ambedkar accepts it. The question is:

"That in clause (1) of article 14, for the words ' under the law at the time of the commission 'the words' under the law in force at the tune of the commission ' be substituted. "

The amendment was adopted.

[Two amendments were negatived.]

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Mr. Vice-President : Amendment No. 512 moved by Kazi Syed Karimuddin and accepted by Dr. Ambedkar. The question is : That in article 14, the following be added as clause (4):—

"(4) The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures shall not be violated and no warrants shall issue but upon probable cause supported by oath or affirmation and particularly describing the place to be searched and the persons or things to be seized."

I think the 'Ayes' have it.

Shri T. T. Krishnamachari : The Noes have it.

Mr. Vice-President : I will again put it to the vote.

I think the ' Ayes ' have it.

Shri T. T. Krishnamachari : No, Sir, the 'Noes' have it.

Mr. Vice-President : I shall first of all call for a show of hands.

(The Division Bell was rung.)

Shri Mahavir Tyagi (United Provinces : General) : May I proposed that this question might be postponed for the time being and a chance be given for the Members to confer between themselves and arrive at a decision. Even the British House of Commons, sometimes converts itself into a committee to give various parties a chance to confer and arrive at an agreed solution.

Mr. Vice-President : I am prepared to postpone the voting on this amendment provided the House gives me the requisite permission. I would request the House to be calm. This is not the way to come to decisions which must be reached through co-operative effort and through goodwill. Does the House give me the necessary power to postpone voting on this ?

The Honourable Pandit Jawaharlal Nehru : Mr. Vice-President, Sir, as apparently a slight confusion has arisen in many members' minds on this point, I think. Sir, that the suggestion made is eminently desirable, that we might take up this matter a little later, and we may

proceed with other things. It will be the wish of the House that will prevail of course. I would suggest to you, Sir, and to the House that your suggestion be accepted.

Dr. B. V. Keskar (United Provinces : General) : Can it be done after the division bell has rung ?

Mr. Vice-President : I never go by technicalities. I shall continue to use common-sense as long as I am here. I have little knowledge of technicalities, but I have some knowledge of human nature. I know that in the long run it is good sense, it is common-sense, it is goodwill which alone will carry weight. I ask the permission of the House to postpone the voting.

Honourable Members : Yes.

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ARTICLE 16

***The Honourable Dr. B. R. Ambedkar** : Mr. Vice-President, what I understood from Mr. Subramaniam, if I have understood him correctly is not that he objects to article 16, but his objection is directed to the place which this article finds. He says that although there may be utility and necessity so far as this article is concerned, it ought not to find a place in the fundamental rights. And his second point, if I have understood him correctly is that as this article is made subject to article 244, article 16 may be completely nullified, and to use his own words, no residue of it might be left if the powers given under article 244 were exercised. I think I am right in thus summarising what he said.

Now, I quite appreciate the argument that this article 16 is out of place in the list of fundamental rights, and to some extent, I agree with Mr. Suhramaniam. But I shall explain to him why it was found necessary to include this matter in the fundamental rights. My Friend, Mr. Suhramaniam will remember that when the Constituent Assembly began, we began under certain limitations. One of the limitations was that the Indian Stales would join the Union only on three subjects-foreign affairs, defence and communications. On no other matter they would agree to permit the Union Parliament to extend its legislative and executive jurisdiction. So he will realise that the Constituent

*CAD, Vol. VII. 3rd December 1948, pp. 802-03.

Assembly, as well as the Drafting Committee, was placed under a very serious limitation. On the one hand it was realised that there would be no use and no purpose served in forming an All-India Union if trade and commerce throughout India was not free. That was the general view. On the other hand, it was found that so far as the position of the States was concerned, to which I have already made a reference, they were not prepared to allow trade and commerce throughout India to be made subject to the legislative authority of the Union Parliament. Or to put it briefly and in a different language, they were not prepared to allow trade and commerce to be included as an entry in List No. I. If it was possible for us to include trade and commerce in list I, which means that Parliament will have the executive authority to make laws with regard to trade and commerce throughout India, we would not have found it necessary to bring trade and commerce under article 16, in the fundamental rights. But as that door was blocked, on account of the basic considerations which operated at the beginning of the Constituent Assembly, we had to find some place, for the purpose of uniformity in the matter of trade and commerce throughout India, under some head. Alter exercising a considerable amount of ingenuity, the only method we found of giving effect to the desire of a large majority of our people that trade and commerce should be free throughout India, was to bring under fundamental rights. That is the reason why, awkward as it may seem, we thought that there was no other way left to us, except to bring trade and commerce under fundamental rights. I think that will satisfy my friend Mr. Subramaniam why we gave this place to trade and commerce in the list of fundamental rights, although theoretically, I agree, that the subject is not germane to the subject-matter of fundamental rights.

With regard to the other argument, that since trade and commerce have been made subject to article 244, we have practically destroyed the fundamental right, I think I may fairly say that my friend Mr. Subramaniam has either not read article 244, or has misread that article. Article 244 has a very limited scope. All that it does is to give powers to the provincial legislatures in dealing with inter-State commerce and trade, to impose certain restrictions on the entry of goods manufactured or transported from another State, provided the legislation is such that it does not impose any disparity, discrimination between the goods

manufactured within the State and the goods imported from outside the State. Now, I am sure he will agree that that is a very limited law. It certainly does not take away the right of trade and commerce and intercourse throughout India which is required to be free.

Shri C. Subramaniam : The clause says that it shall be lawful for any State to impose by law such reasonable restrictions on the freedom of trade, commerce or intercourse... as may be required in the public interests.

The Honourable Dr. B. R. Ambedkar : Yes, but reasonable restrictions do not mean that the restrictions can be such as to altogether destroy the freedom and equality of trade. It does not mean that at all.

Sir, I therefore, submit that the article as it stands is perfectly in order and I commend it to the House.

Article 16 was adopted and added to the Constitution.

ARTICLE 17

***Mr. Vice-President** : Now we come to article 17.

The motion before the House is that article 17 form part of the Constitution.

There are a number of amendments to this article, and they will be gone through now. The first in my list is No. 543. It is a negative one and is therefore ruled out.

There is an amendment to this amendment, that is No. 93 in List V, standing in the name of Shri Ram Chandra Upadhyaya.

(Interruption by Mr. Kamath).

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†The Honourable Dr. B. R. Ambedkar : Mr. Vice-President, I should like to state at the outset what amendments I am prepared to accept and what, I am afraid, I cannot accept. Of the amendments that have been moved, the only amendment which I am prepared to accept is the amendment by Prof. K. T. Shah, No. 559, which introduces the word "only" in clause (2) of article 17 after the words "discrimination on the ground". The rest of the amendments, I am afraid, I cannot accept. With regard to the amendments which, as I said, I cannot accept one is by Prof. K. T. Shah introducing the word 'devadasis' ! Now

*CAD, Vol. VII, 3rd December 1948. p. 803.

†*Ibid.,* pp. 812-13.

I understand that his arguments for including 'devadasis' have been replied to by other members of the House who have taken part in this debate and I do not think that any useful purpose will be served by my adding anything to the arguments that have already been urged.

With regard to the amendment of my Honourable Friend, Mr. H. V. Kamath, he wants the words 'social and national' in place of the word 'public'. I should have thought that the word 'public' was wide enough to cover both 'national' as well as 'social' and it is, therefore, unnecessary to use two words when the purpose can be served by one, and I think, he will agree that that is the correct attitude to take.

With regard to the amendment of my Honourable Friend Shri Damodar Swamp Seth, it seems to be unnecessary and I, therefore,do not accept it. With regard to the amendment of Sardar Bhopinder Singh Man, he wants that wherever compulsory labour is imposed by the State under the provisions of clause (2) of article 17 a proviso should be put in that such compulsory service shall always be paid for by the State. Now, I do not think that it is desirable to put any such limitation upon the authority of the State requiring compulsory service. It may be perfectly possible that the compulsory service demanded by the State may be restricted to such hours that it may not debar the citizen who is subjected to the operation of this clause to find sufficient time to earn his livelihood, and if, for instance, such compulsory labour is restricted to what might be called 'hours of leisure' or the hours, when, for instance, he is not otherwise occupied in earning his living, it would be perfectly justifiable for the State to say that it shall not pay any compensation.

In this clause, it may be seen that non-payment of compensation could not be a ground of attack ; because the fundamental proposition enunciated in sub-clause (2) is this : that whenever compulsory labour or compulsory service is demanded, it shall be demanded from all and if the State demands service from all and does not pay any, I do not think the State is committing any very great inequity. I feel, Sir, it is very desirable to leave the situation as fluid as it has been left in the article as it stands.

Shri H. V. Kamath : On a point of information, Sir, is Dr. Ambedkar's objection to my amendment merely on the ground that

it consists of two words in place of one ? In that case, I shall be happy if the wording is either 'social' or 'national' in place of 'public'.

The Honourable Dr. B. R. Ambedkar : It is better to use a wider phraseology which includes both.

Shri Rohini Kumar Chaudhuri (Assam : General) **:** May I know, Sir, does the Honourable Member accept amendment No. 548, which deals with prostitution, and which was moved by Giani Gurmukh Singh Musafir ?

The Honourable Dr. B. R. Ambedkar : I understand it was not moved.

Mr. Vice-President : It was not moved.

I shall now put the amendments to vote one by one.

Amendment No. 544 standing in the name of Kazi Syed Karimuddin was negatived.

Amendment No. 545 standing in the name of Shri Damodar Swarup Seth was negatived.

Amendment No. 546 standing in the name of Professor K. T. Shah was also negatived.

Amendment No. 560 standing in the name of Sardar Bhopinder Singh Man was withdrawn.

[Amendment No. 556 standing in the name of Mr. Kamath was negatived.]

Amendment No. 559 standing in the name of Professor K. T. Shah, was accepted by Dr. Ambedkar and was adopted.

> "That in clause (2) of article 17. after the words "discrimination on the ground "the word" only "be added."

Article 17, as amended was adopted and added to the Constitution.

ARTICLE 18

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***The Honourable Dr. B. R. Ambedkar** : I do not accept the amendment moved by Mr. Damodar Swarup—No. 564.

The amendment was negatived.

Article 18 was adopted and addded to the Constitution.

*CAD, Vol. VII, 3rd December 1948, p. 815.

ARTICLE 19

***Mr. Vice-President :** Amendment No. 596, Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar (Bombay : General) **:** Sir, I beg to move :

> "That in clause (2) of article 19. for the word "preclude" the word "prevent" be substituted."

This is only for the purpose of keeping symmetry in the language that we have used in the other articles.

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†The Honourable Shri K. Santhanam : Sir, we have adopted a directive asking the State to endeavour to evolve a uniform civil code, and this particular amendment is a direct negation of that directive. On that ground also, I think this is altogether inappropriate in this connection.

Mr. Vice-President: Would you like to say anything on this matter, Dr. Ambedkar ? I should value your advice about this amendment being in order or not, on account of the reasons put forward by Mr. Santhanam.

The Honourable Dr. B. R. Ambedkar : I was discussing another amendment with Mr. Ranga here and so .....

The Honourable Shri K. Santhanam : Amendment No. 612 about personal law is sought to be moved.

The Honourable Dr. B. R. Ambedkar : This point was disposed of already, when we discussed the Directive Principles, and also when we discussed another amendment the other day.

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‡Mr. Vice-President: I have on my list here 15 amendments, most of which have been moved before the House. I should think that they give the views on this particular article from different angles. We had about seven or eight speakers giving utterance to their views. I think that the article has been sufficiently debated. I call upon Dr. Ambedkar to reply.

The Honourable Dr. B. R. Ambedkar : Mr. Vice-President, Sir, I have nothing to add to the various speakers who have spoken in support of this article. What I have to say is that the only amendment I am prepared to accept is amendment No. 609.

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*CAD, Vol. VII, 6th December 1948, p. 826.

†*Ibid.,* pp.. 829-30.

†*Ibid.,* p. 838.

Shri H. V. Kamath : May I ask whether it will be enough if Dr. Ambedkar says : "I oppose, I have nothing to say". I should think that in fairness to the House, he should reply to the points raised in the amendments and during the debate.

Mr. Vice-President : I am afraid we cannot compel Dr. Ambedkar to give reasons for rejecting the various amendments.

Mr. Naziruddin Ahmad (West Bengal : Muslim) **:** Mr. Vice-President, may I say that amendment No. 609 which has been accepted by the Honourable Dr. Ambedkar is a mere verbal amendment 7

Mr. Vice-President : It will be recorded in the proceedings. We shall now consider the amendments one by one.

[Following amendment was accepted by Dr. Ambedkar and was adopted by the House. In all 12 amendments were negatived and one was withdrawn.]

"That in clause (2) of article 19 for the word "preclude" the word "prevent" be substituted."

The amendment was adopted.

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***Mr. Vice-President :** The question is :

"That in sub-claue (b) of clause (2) of article 19 for the words "any class or section "the words" all classes and sections ' he substituted."

Have you accepted it. Dr. Ambedkar 7

The Honourable Dr. B. R. Ambedkar : Yes, Sir.

Mr. Vice-President : The amendment has been accepted by Dr. Ambedkar.

The amendment was adopted.

[Article 19 as amended by Amendments Nos. 596 and 609 was adopted and added to the Constitution.]

ARTICLE 14 *(Continued)*

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†Mr. Vice-President : We shall go back to Article 14. So far as I remember—I am sorry I have mislaid my notes—in article 14 there were a number of amendments which were put to the vote one after the other, and that only two amendments were being considered, when, for reasons already known to the House, we postponed their consideration. One was amendment No. 512 moved by Kazi Syed Karimuddin, and the other was a suggestion—am I right in saying that it was a suggestion made by Mr. T. T. Krishnamachari ? Mr. T. T. Krishnamachari, will you please enlighten me ? Was it a suggestion or was it a short notice amendment ?

*CAD, Vol. VII, 6th December 1948, p. 839.

† *Ibid.,* p. 840.

Shri T. T. Krishnamachari : It was a short notice amendment.

Mr. Vice-President : It was a short notice amendment admitted by me. These two only remained to be put to the vote.

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***Mr. Vice-President :** We come to Mr. Krishnamachari's amendment which was accepted by Dr. Ambedkar.

Shri H. V. Kamath : Is it necessary to say that Dr. Ambedkar has accepted or rejected everytime ?

Mr. Vice-President : Sometimes it is necessary. Not always. I now put the amendment to vote.

The question is :

"That in clause 2 of article 14 after the word 'shall he' the words ' prosecuted and 'be inserted."

The amendment wass adopted.

Article 14, as amended was added to the Constitution.

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ARTICLE 15 *(Contd.)*

†Mr. Vice President (Dr. H. C. Mookherjee)**:** We can now resume general discussion on article 15.

The Honourable Dr. B. R. Ambedkar (Bombay : General) **:** Sir, May I request you to allow this matter to stand over for a little while ?

Mr. Vice-President : Is that the wish of the House ?

Honourable Members : Yes.

ARTICLE 20

Mr. Vice-President : Then we can go to the next article, that is article 20.

The motion before the House is :

"That article 20 form part of the Constitution".

I have got a series of amendments which I shall read over. Amendment No. 613 is disallowed as it has the effect of a negative vote. Nos. 614 and 616 are almost identical ; No. 614 may be moved.

The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That in the beginning of article 20, the words 'Subject to public order, morality and health' be inserted."

Sir, it was just an omission. Honourable Members will see that these words also govern article 19 ; as a matter of fact they should also have governed article 20 because it is not the purpose to give absolute rights

*CAD, Vol. VII, 6th December 1948, p. 842.

†*Ibid.,* 7th December 1948. p. 859.

in these matters relating to religion. The State may reserve to itself the right to regulate all these institutions and their affairs whenever public order, morality or health require it.

Mr. Vice-President : I can put amendment No. 616 to the vote if it is to be pressed. Has any Member anything to say on the matter ?

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(Amendment No. 616 was not moved.)

***Mr. Tajamul Husain :**

"Every religious denomination or any section thereof shall have the right—

(a) to establish and maintain institutions for religious and charitable purposes ;"

These are the exact words in the article. I want these words to remain where they are. I do not want these words to be deleted.

The Honourable Dr. B. R. Ambedkar : I have nothing to say.

Mr. Vice-President : I will now put the amendments, one by one, to vote.

The question is :

"That in the beginning of article 20. the words "Subject to public order, morality and health", be inserted."

The amendment was adopted.

[Four other amendments were negatived.]

Article 20, as amended, was added to the Constitution.

NEW ARTICLE 20-A

†The Honourable Dr. B. R. Ambedkar: I do not accept amendment No. 632 or amendment No. 633.

Shri H. J. Khandekar (C. P. and Berar : General) **:** Sir, I want to speak.

Mr. Vice-President : I am afraid it is too late. I shall now put the amendments to the vote.

[Both the following amendments were negatived.]

(1) "That in article 21. after the word "which" the words "wholly or partly" be inserted."

(2) "That in article 21, for the words "the proceeds of which are "the words" on any income which is "be substituted."

Article 21 was added to the Constitution.

ARTICLE 22

‡Mr. Vice-President : Amendment No. 645 standing in the name of Dr. Ambedkar.

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*CAD, Vol. VII. 7th December 1948, p. 863.

†*Ibid.,* p. 866.

‡*Ibid.,* p. 871.

The Honourable Dr. B. R. Ambedkar: Sir, I move:

"That in clause (1) of article 22, the words "by the State" he omitted."

The object of this amendment is to remove a possibility of doubt that might arise. If the words "by the State" remain in the draft as it now stands, it might be construed that this article permits institutions other than the State to give religious instruction. The underlying principle of this article is that no institution which is maintained wholly out of State funds shall be used for the purpose of religious instruction irrespective of the question whether the religious instruction is given by the Slate or by any other body.

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***Mr. Vice-President :** Much as I would like to accommodate other members, for whose opinions I have great respect, I find we have already had a number of speakers. Twelve amendments have to be put to vote. Nine amendments have been moved and I think six speakers have already spoken. I feel this article has been discussed sufficiently. I now call on Dr. Ambedkar to speak.

Pandit Lakshmi Kanta Maitra (West Bengal : General) **:** Sir, I want to get one or two points cleared. I am not going to make a speech. I want only to get one or two points explained.

Mr. Vice-President : I have already given my ruling. I cannot allow any further speeches, especially as you and I belong lo the same Province.

Pandit Lakshmi Kanta Maitra : Belonging to the same province has nothing lo do with this. I only wanted lo have clarification on one point.

Mr. Vice-President : My decision is final, Panditji. Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar : Mr. Vice-President, Sir, out of the amendments that have been moved, I can persuade myself to accept only amendment No. 661 moved by Mr. Kapoor to omit sub-clause (3) from the article, and I am sorry that I cannot accept the other amendments.

It is perhaps, desirable, in view of the multiplicity of views that have been expressed on the floor of the House to explain at some length as to what this article proposes to do. Taking the various amendments that have been moved, it is clear that there are three different points of view. There is one point of view which is represented by my friend Mr. Ismail who comes from Madras. In his opinion, there ought to be

*CAD. Vol. VII. 7th December 1948. pp. 882-86

no bar for religious instruction being given. The only limitation which he advocates is that nobody should be compelled to attend them. If I have understood him correctly, that is the view he stands for. We have another view which is represented by my friend Mr. Man and Mr. Tajamul Husain. According to them, there ought to be no religious instruction at all, not even in institutions which are educational. Then there is the third point of view and it has been expressed by Prof. K. T. Shah, who says that not only no religious instruction should be permitted in institutions which are wholly maintained out of State funds, but no religious instruction should be permitted even in educational institutions which are partly maintained out of State funds.

Now, I take the liberty of saying that the draft as it stands, strikes the mean, which I hope will be acceptable to the House. There are three reasons, in my judgment, which militate against the acceptance of the view advocated by my friend Mr. Ismail, namely that there ought to be no ban on religious instructions, rather that religious instructions should be provided ; and I shall state those reasons very briefly.

The first reason is this. We have accepted the proposition which is embodied in article 21, that public funds raised by taxes shall not be utilised for the benefit of any particular community. For instance, if we permitted any particular religious instruction, say, if a school established by a District or Local Board gives religious instructions, on the ground that the majority of the students studying in that school are Hindus, the effect would be that such action would militate against the provisions contained in article 21. The District Board would be making a levy on every person residing within the area of that District Board. It would have a general tax and if religious instruction given in the District or Local Board was confined to the children of the majority community, it would be an abuse of article 21, because the Muslim community children or the children of any other community who do not care to attend these religious instructions given in the schools would be none-the-less compelled by the action of the District Local Board to contribute to the District Local Board funds.

The second difficulty is much more real than the first, namely the multiplicity of religions we have in this country. For instance, take a city like Bombay which contains a heterogeneous population believing in different creeds. Suppose for instance, there was a school in the City of Bombay maintained by the Municipality. Obviously, such a school

would contain children of the Hindus believing in the Hindu religion, there will be pupils belonging to the Christian community, Zoroastrian community, or to the Jewish community. It one went further, and I think it would be desirable to go further than this, the Hindus again would be divided into several varieties ; there would be *Sanatani* Hindus, Vedic Hindus believing in the Vedic religion, there would be the Buddhists, there would be the Jains—even amongst Hindus there would be the Shivites, there would be the Vaishnavites. Is the educational institution to be required to treat all these children on a footing of equality and to provide religious instruction in all the denominations ? It seems to me that to assign such a task to the State would be to ask it to do the impossible.

The third tiling which I would like to mention in this connection is that unfortunately the religions which prevail in this country are not merely non-social ; so far as their mutual relations are concerned they are anti-social, one religion claiming that its teachings constitute the only right path for salvation, that all other religions are wrong. The Muslims believe that anyone who does not believe in the dogma of Islam is a **Kafir* not entitled to brotherly treatment with the Muslims. The Christians have a similar belief. In view of this, it seems to me that we should be considerably disturbing the peaceful atmosphere of an institution if these controversies with regard to the truthful character or" any particular religion and the erroneous character of the other were brought into juxtaposition in the school itself. I therefore say that in laying down in article 22 (1) that in State institutions there shall be no religious instruction, we have in my judgment travelled the path of complete safety.

Now, with regard to the second clause I think it has not been sufficiently well-understood. We have tried to reconcile the claim of a community which has started educational institutions for the advancement of its own children either in education or in cultural matters, to permit to give religious instruction in such institutions, notwithstanding the fact that it receives certain aid from the State. The State, of course, is free to give aid, is free not to give aid ; the only limitation we have placed is this, that the State shall not debar the institution from claiming aid under its grant-in-aid code merely on the ground that it is run and maintained by a community and not maintained by a public body. We

* *Misprinted in the original as 'Fakir'.*

have there provided also a further qualification, that while it is free to give religious instruction in the institution and the grant made by the State shall not be a bar to the giving of such instruction, it shall not give instruction to, or make it compulsory upon, the children belonging to other communities unless and until they obtain the consent of the parents of those children. That, I think, is a salutary provision. It performs two functions . . . . . .

Shri H. V. Kamath : On a point of clarification, what about institutions and schools run by a community or a minority for its own pupils—not a school where all communities are mixed but a school run by the community for its own pupils ?

The Honourable Dr. B. R. Ambedkar : If my Friend Mr. Kamath will read the other article he will see that once an institution, whether maintained by the community or not. gets a grant, the condition is that it shall keep the school open to all communities. That provision he has not read.

Therefore, by sub-clause (2) we are really achieving two purposes. One is that we are permitting a community which has established its institutions for the advancement of its religious or its cultural life, to give such instruction in the school. We have also provided that children of other communities who attend that school shall not be compelled to attend such religious instructions which undoubtedly and obviously must be the instruction in the religion of that particular community, unless the parents consent to it. As I say, we have achieved this double purpose and those who want religious instruction to be given are free to establish their institutions and claim aid from the State, give religious instruction, but shall not be in a position to force that religious instruction on other communities. It is therefore not proper to say that by this article we have altogether barred religious instruction. Religious instruction has been left free to be taught and given by each community according to its aims and objects subject to certain conditions. All that is baaed is this, that the Stale in the institutions maintained by it wholly out of public funds, shall not be free to give religious instruction.

Pandit Lakshmi Kanta Maitra : May I put the Honourable Member one question 7 There is, for instance, an educational institution wholly managed by the Government, like the Sanskrit College, Calcutta. There the *Vedas* are taught, *Smrithis* are taught, the *Gita* is taught, the

Upanishads are taught. Similarly in several parts of Bengal there are Sanskrit Institutions where instructions in these subjects are given. You provide in article 22 (1) that no religious instruction can be given by an institution wholly maintained out of State funds. These are absolutely maintained by State funds. My point is, would it be interpreted that the teaching of *Vedas,* or *Smrithis,* or *Shastras,* or *Upanishads* conies within the meaning of a religious instruction ? In that case all these institutions will have to be closed down.

The Honourable Dr. B. R. Ambedkar: Well, I do not know exactly the character of the institutions to which my Friend Mr. Maitra has made reference and it is therefore quite difficult for me.

Pandit Lakshmi Kanta Maitra : Take for instance the teaching of Gita, Upanishads, the Vedas and things like that in Government Sanskrit Colleges and schools.

The Honourable Dr. B. R. Ambedkar : My own view is this, that religious instruction is to be distinguished from research or study. Those are quite different things. Religious instruction means this. For instance, so far as the Islam religion is concerned, it means that you believe in one God, that you believe that *Paigambar* the Prophet is the last Prophet and so on, in other words, what we call "dogma". A dogma is quite different from study.

Mr. Vice-President : May I interpose for one minute ? As Inspector of Colleges for the Calcutta University, I used to inspect the Sanskrit College, where as Pandit Maitra is aware, students have to study not only the University course but books outside it in Sanskrit literature and in fact Sanskrit sacred books, but this was never regarded as religious instruction ; it was regarded as a course in culture.

Pandit Lakshmi Kanta Maitra : My point is this. It is not a question of research. It is a mere instruction in religion or religious branches of study.

I ask whether lecturing on Gita and Upanishads would be considered as giving religious instruction ? Expounding Upanishads is not a matter of research.

Mr. Vice-President: It is a question of teaching students and I know at least one instance where there was a Muslim student in the Sanskrit College.

Shri H. V. Kamath : On a point of clarification, does my friend Dr. Ambedkar contend that in schools run by a community exclusively for pupils of that community only, religious education should not be compulsory ?

The Honourable Dr. B. R. Ambedkar : It is left to them. It is left to the community to make it compulsory or not. All that we do is to lay down that that community will not have the right to make it compulsory for children of communities which do not belong to the community which runs the school.

Prof. Shibban Lal Saksena : The way in which you have explained the word "religious instruction" should find a place in the Constitution.

The Honourable Dr. B. R. Ambedkar : I think the courts will decide when the matter comes up before them.

Mr. Naziruddin Ahmad : The Honourable Member has proposed to accept the deletion of clause (3). It is an explanatory note. I would ask if its deletion will rule out the application of the principle contained therein even apart from the deletion.

The Honourable Dr. B. R. Ambedkar : Well, the view that I take is this, that clause (3) is really unnecessary. It relates to a school maintained by a community. After school hours, the community may be free to make use of it as it likes. There ought to be no provision at all in the Constitution.

Now, Sir, there is one other point to which I would like to make reference and that is the point made by Prof. K. T. Shah that the proviso permits the State to continue to give religious instruction in institutions the trusteeship of which the State has accepted. I do not think really that there is much substance in the point raised by Prof. Shah. I think he will realise that there have been cases where institutions in the early part of the history of this country have been established with the object of giving religious instruction and for some reason they were unable to have people to manage them and they were taken over by the State as a trustee for them. Now, it is obvious that when you accept a trust you must fulfil that trust in all respects. If the State has already taken over these institutions and placed itself in the position of trustee, then obviously you cannot say to the Government that notwithstanding the fact that you were giving religious instruction in these institutions, hereafter you shall not give such instruction. I think that would be not

only permitting the State but forcing it to commit a breach of trust. In order therefore to have the situation clear, we thought it was desirable and necessary to introduce the proviso, which to some extent undoubtedly is not in consonance with the original proposition contained in sub-clause (1) of article 20. I hope, Sir, the House will find that the article as it now stands is satisfactory and may be accepted.

Mr. Vice-President : I am now putting the amendments to vote one after another.

[In all, 12 amendments were negatived. Only one amendment of Mr. Kapoor as shown below was accepted by Dr. Ambedkar and was adopted.]

The question is :

"That clause (3) of article 22 be omitted."

[Article 22 as amended was adopted and added to the Constitution.]

ARTICLE 22A (New Article)

***Prof. K. T. Shah** : Sir, I beg to move :

"That after article 22, the following new article he inserted :—

'22-A. All privileges, immunities or exemptions of heads of religious organisations shall be abolished'."

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†The Honourable Dr. B. R. Ambedkar : Mr. Vice-President, Sir, the amendment probably is quite laudable in its object but I do not know whether the amendment is necessary at all. In the first place all these titles and so on which religious dignitaries have cannot be hereafter conferred by the State because we have already included in the fundamental rights that no title shall be conferred and obviously no such title can be conferred by the State. Secondly, as my Honourable Friend is aware perhaps, no suit can lie merely for the enforcement of a certain title which a man chooses to give himself. If a certain man calls himself a Sankaracharya and another person refuses to call him a Sankaracharya no right of suit can lie. It has been made completely clear in Section 9 of the Civil Procedure Code that no suit can lie merely for the enforcement of what you might call a dignity. Of course if the dignity carries with it some emoluments or properly of some sort, that is a different matter, but mere dignity cannot be a ground of action it all.

*CAD, Vol. VII, 7th December 1948, p. 8X8.

†*Ibid.* , p. 891.

With regard to the amenities which perhaps some of them enjoy, it is certtainly within the power of the executive and the legislature to withdraw them. It is quite true, as my Honourable Friend Mr. Chaudhari said, that in some cases summons are sent by the magistrate. In other cases when the man concerned occupies a bigger position in life, instead of sending summons, he sends a letter. Some persons, when appearing in courts, are made to stand while some other persons are offered a chair. All these are matters of dignity which are entirely within the purview of the legislature and the government. If there was any anomaly or discrepancy or disparity shown between a citizen and a citizen, it is certainly open both to the legislature and the executive to remove those anomalies. I therefore think that the amendment is quite unnecessary.

[The motion of Prof, Shah was negatived.]

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ARTICLE 23 *(Contd.)*

***Mr. Vice-President (Dr. H. C. Mookherjee):** We shall now resume discussion of article 23 to which two amendments have been moved. Amendment No. 677 relates to national language and script and is therefore postponed. Amendments Nos. 678,679, 680 and 681 (1st part) are to be considered together as they are of similar import. I can allow No. 678 to be moved.

The Honourable Dr. B. R. Ambedkar (Bombay : General) : Sir, I move—

> "That in clause (1) of article 23, for the words "script and culture" the words "script or culture" be substituted."

The only change is from and 'to' 'or' and the necessity of the change is so obvious that I do not think it is necessary for me to say anything regarding the same.

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†Mr. Vice-President : Amendment No. 679.

Shri H. V. Kamath (C.P. & Berar: General): I have been forestalled by Dr. Ambedkar. So, I do not move No. 679.

Mr. Vice-President : Do you wish to press No. 680 ?

Mohamed Ismail Sahib (Madras : Muslim) **:** Yes.

Mr. Vice-President : Do you wish that 681 first part should be put to vote ?

Prof. K. T. Shah (Bihar : General) **:** First part is covered by Dr. Ambedkar's amendmednt. But I would like to move the second part.

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*CAD. Vol. VII, 8th December 1948. p. 895.

† *Ibid.,* p. 895.

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***Shri Jaipal Singh** (Bihar : General) **:** Mr. Vice-President, Sir, I have great pleasure in welcoming this article, more so as it has been suitably amended by Dr. Ambedkar, and I hope his amendment will be accepted by the House. Sir, to me this article seems to open a new era for India....

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†**Mr. Vice-President :** Dr. Ambedkar.

Prof. Shibban Lal Saksena (United Provinces : General) **:** Sir. I have to say something, and

Mr. Vice-President : I cannot allow the discussion to be prolonged any longer, and my decision is final in this matter.

Prof. Shibban Lal Saksena: To allow some people and not to allow others is not proper.

Mr. Vice-President : I know it is considered improper. Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar : Sir, of the amendments which have been moved to article 23, I can accept amendment No. 26 to amendment No. 687 by Pandit Thakur Dass Bhargava. I am also prepared to accept amendment No. 31 to amendment No. 690, also moved by Pandit Thakur Dass Bhargava. Of the other amendments which have been moved I think there are only two that I need reply to, they are, No. 676 by Mr. Lari and amendment No. 714 also by Mr. Lari. I think it would be desirable, if in the course of my reply I separate the questions which have arisen out of these two amendments.

Amendment No. 676 deals with cultural rights of the minorities, while the other amendment. No. 714, raises the question whether a minority should not have the Fundamental Right embodied in the Constitution for receiving education in the primary stage in the mother tongue.

With regard to the first question, my Friend, Mr. Lari, as well as my Friend, Maulana Hasrat Mohani, both of them, charged the Drafting Committee for having altered the original proposition contained in the Fundamental Right as was passed by this House. It is quite true that the language of paragraph 18 of the Fundamental Rights Committee has been altered by the Drafting Committee, but I have no hesitation

*CAD. Vol. VII, 8th December 1948, p. 907.

† *Ibid.* pp. 922-25.

in saying that the Drafting Committee in altering the language had sufficient justification.

The first point that I would like to submit to the House as to why the Drafting Committee thought it necessary to alter the language of paragraph 18 of the Fundamental Rights is this. On reading the paragraph contained in the original Fundamental Rights, it will be noticed that the term "minority" was used therein not in the technical sense of the word "minority" as we have been accustomed to use it for the purposes of certain political safeguards such as representation in the Legislature, representation in the services and so on. The word is used not merely to indicate the minority in the technical sense of the word, it is also used to cover minorities which are not minorities in the technical sense, but which are nonetheless minorities in the cultural and linguistic sense. For instance, for the purposes of this article 23, if a certain number of people from Madras came and settled in Bombay for certain purposes, they would be, although not a minority in the technical sense, cultural minorities. Similarly, if a certain number of Maharashtrians went from Maharashtra and settled in Bengal, although they may not be minorities in the technical sense, they would be cultural and linguistic minorities in Bengal. The article intends to give protection in the matter of culture, language and script not only to a minority technically, but also to a minority in the wider sense of the terms as I have explained just now. That is the reason why we dropped the word "minority" because we felt that the word might be interpreted in the narrow sense of the term, when the intention of this House, when it passed article 18, was to use the word "minority" in a much wider sense, so as to give cultural protection to those who were technically not minorities but minorities nonetheless. It was felt that this protection was necessary for the simple reason that people who go from one province to another and settle there, do not settle there permanently. They do not uproot themselves from the province from which they have migrated, but they keep their connections. They go back to their province for the purpose of marriage. They go back to their province for various other purposes, and if this protection was not given to them when they were subject to the local Legislature and the local Legislature were to deny them the opportunity of conserving their culture, it would be very difficult for these cultural minorities to

go back to their province and to get themselves assimilated to the original population to which they belonged. In order to meet the situation of migration from one province to another, we felt it was desirable that such a provision should be incorporated in the Constitution.

I think another thing which has to be borne in mind in reading article 23 is that it does not impose any obligation or burden upon the State. It does not say that, when for instance the Madras people come to Bombay, the Bombay Government shall be required by law to finance any project of giving education either in Tamil language or in Andhra language or any other language. There is no burden cast upon the State. The only limitation that is imposed by article 23 is that if there is a cultural minority which wants to preserve its language, its script and its culture, the State shall not by law impose upon it any other culture which may be either local or otherwise. Therefore this article really is to be read in a much wider sense and does not apply only to what I call the technical minorities as we use it in our Constitution. That is the reason why we eliminated the word "minority" from the original clause.

But while omitting this word "minority" I think my Friend, Mr. Lari forgot to see that we have very greatly improved upon the protection such as was given in the original article as it stood in the Fundamental Rights. The original article as it stood in the Fundamental Rights only cast a sort of duty upon the State that the State shall protect their culture, their script and their language. The original article had not given any Fundamental Right to these various communities. It only imposed the duty and added a clause that while the State may have the right to impose limitations upon these rights of language, culture and script, the State shall not make any law which may be called oppressive, not that the State had no right-to make a law affecting these matters, but that the law shall not be oppressive. Now, I am sure about it that the protection granted in the original article was very insecure. It depended upon the goodwill of the State. The present situation as you find it stated in article 23 is that we have converted that into a Fundamental Right, so that if a State made any law which was inconsistent with the provisions of this article, then that much of the law would be invalid by virtue of article 8 which we have already passed.

My Friend, Mr. Lari and the Maulana will therefore see that there has been from their point of view a greater improvement than what was found in the original article. Certainly there has been no deterioration in the position at all as a result of the change made by the Drafting Committee.

Coming to the other question, namely, whether this Constitution should not embody expressly in so many terms, that I he right to receive education in the mother tongue is a Fundamental Right: Let me say one thing and that is that I do not think that there can be any dispute between reasonably-minded people that if primary education is to be of any service and is to be a reality it will have to be given in the mother tongue of the child. Otherwise primary education would be valueless and meaningless. There is no dispute, I am sure, about it and in saying that I do not think it necessary for me to obtain the authority of the Government to which I belong. It is such a universally accepted proposition and it is so reasonable that there cannot be any dispute on the principle of it at all. The question is whether we should incorporate it in the law or in the Constitution. I must frankly say that I find some difficulty in putting this matter into a specific article of the Constitution. It is true, as my Honourable Friend Pandit Kunzru observed, that the difficulty that might be felt in administering such a Fundamental Right is to some extent mitigated or obviated by the amendment moved by my Friend Mr. Karimuddin *viz.,* that such a principle should become operative in the case a substantial number of such students were available. I would like to draw the attention of my friend Mr. Karimuddin that his amendment does not really solve the difficulty, which stands in the way of his accepting the principle. First, who is to determine what is a substantial number ? Let me give an illustration. Supposing the matter is to be left to the Executive, as it must be, and the Executive made a regulation that unless there were 49 per cent of such children seeking education in a primary school, then and then only it will be regarded as a substantial number. Will that satisfy him if such an authority was left with the Executive ? Then supposing you make this matter a justiciable matter, is it undoubtedly would be when you are introducing it as a Fundamental Right and no Fundamental Right is fundamental unless it is justiciable, is it proper, is it desirable that the question whether in any particular school a

substantial number was available or not should be dragged into a court of law, to be determined by the court ? I cannot see any other way out of the difficulty. Either you must leave the interpretation of the word "substantial" to the Executive or to the judiciary and in my judgment neither of the methods would be a safe method to enable the minority to achieve its object. Therefore my submission is that we should be satisfied with the fact that it is such a universal principle that no provincial government can justifiably abrogate it without damage to a considerable part of the population in the matter of its educational rights. Therefore, I submit that the article as amended should be accepted by the House.

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[Following 3 amendments were adopted. Six amendments were negatived.]

(1) "That in clause (1) of article 23, for the words "script and culture" the words "script or culture" he substituted ".

(2) That in clause (3) of article 23, the word "community" wherever it occurs be deleted.

(3) That for clause (2) of article 23, the following be substituted :—

"No citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds on grounds only of religion, race, caste, language or any of them" ;
and sub-clauses (a) and (b) of clause (3) of article 23 be renumbered as new article 23-A."

[Article 23, as amended was adopted and added to the Constitution.]

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ARTICLE 24

***Shri T. T. Krishnamachari** (Madras : General) **:** It is the desire of many Honourable Members of this House that this article should not be taken up now, but taken up later, because we are really considering various amendments to it so as to arrive at a compromise and Dr. Ambedkar will bear me out in regard to this fact.

The Honourable Dr. B. R. Ambedkar (Bombay : General) **:** Yes, Sir, I request that article No. 24 be kept back.

Mr. Vice-President : Is that the wish of the House ?

Hoonourable Members : Yes.

Mr. Z. H. Lari (United Provinces : Muslim) **:** Then what about article 15, Sir?

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*CAD, Vol. VII, 9th December 1948, p. 930.

Mr. Vice-President : The consideration of that article has been postponed for the time being.

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ARTICLE 25

***The Honourable Dr. B. R. Ambedkar :** Sir, I do not think that because this article is subject to the provisions of the other articles to which my Honourable Friend, Mr. Karimuddin has referred, it is not possible for us to consider this article now, because, as will be seen, supposing we do make certain changes in article 285 or others relating to that matter, we could easily make consequential changes in article 25. Therefore, it will not be a bar. Therefore, it is perfectly possible for us to consider article 25 at this stage without any prejudice to any consequential change being introduced therein. Supposing some changes were made in the articles that follow .....

Kazi Syed Karimuddin : Then why not postpone this ?

The Honourable Dr. B. R. Ambedkar : No.

Mr. Vice-President : I am going to put this amendment to vote, because if it is carried, then the consideration of all the amendments will be postponed.

Mr. Vice-President : The question is :

> "That the consideration of this clause be postponed till the consideration of Part XI of this Draft Constitution."

The motion was negatived.

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†Mr. Naziruddin Ahmad : Perhaps there is some mis-print; I do not know. If there is no mis-print it is certainly open to the comment that it is vague.

The only point that I had in mind was that the right to move the Supreme Court by appropriate proceedings is guaranteed. I wanted to allow the people to move other Courts also. If there is a fundamental right granted here, and if any poor man is forced to move the Supreme Court

The Honourable Dr. B. R. Ambedkar : See sub-clause (3).

Mr. Naziruddrn Ahmad : That sub-clause empowers some other specified Courts to deal with this subject ; but I wanted to make it more general, that the fundamental rights should be capable of being enforced by a motion in any Court....

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*CAD, Vol. VII, 9th December 1948, p. 931.

† *Ibid.,* 931.

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Shri H. V. Kamath : ...I hope that Dr. Ambedkar will tell us why he thinks it necessary to specify the particular writs here and not just leave it to the Supreme Court to decide what particular writs or orders or directions it should issue in any particular case. I hope he will not merely send or prestige or some such consideration will give satisfactory and valid reasons why we should insist on mentioning these particular writs in this clause of the article.

***The Honourable B. R. Ambedkar :** Sir, I understand that Mr. M. A. Baig is not in the House. Will you permit me to move 789. I am going to accept this amendment. It shall have to be moved formally.

Mr. Naziruddin Ahmad : I desire to move it if that is acceptable to the House.

Mr. Vice-President: Does the House permit Mr. Naziruddin Ahmad to move this ?

Honourable Members : Yes.

Mr. Naziruddin Ahmad : Sir, I move:

> "That in clause (2) of article 25, for the words 'in the nature of the writs of the words 'or writs, including writs in the nature of' be substituted."

Sir, this is a red letter day in my life in this House, that this is a single amendment which is going to be accepted. This amendment is a foster-child of mine and that is why perhaps the Honourable Member is going to accept it. It requires no explanation.

Shri H. V. Kamath : On a point of order. Is my Friend right in saying it is going to be accepted when it is only moved.

Mr. Naziruddin Ahmad : I heard a rumour that it is going to be accepted.

Mr. Vice-President : Nos. 791 and 792 are disallowed as verbal amendments.

(Amendment No. 793 was not moved.)

Mr. Vice-President : Nos. 794, 795 and 799 are similar and are to be considered together. 794 is allowed to be moved.

The Honourable Dr. B. R. Ambedkar : With your permission I will just make one or two corrections to some words which crept into the drafting by mistake. Sir, with those corrections, my amendment will read as follows : *

> "That for the existing sub-clause (3) of article 25, the following clause be substituted :
>
> 'Without pejudice to the powers conferred on the Supreme Court by clause (1) and (2) of this article. Parliament may by law empower any other Court to exercise within the local limits of its jurisdiction all or any of the powers exercisable by the Supreme Court under clause (2) of this article.' "

*CAD. Vol. VII, 9th December 1948, p. 933.

The reason for inserting these clauses (1) and (2) is because clauses (1) and (2) refer to the Supreme Court.

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The Honourable Dr. B. R. Ambedkar : Mr. Vice-President, Sir, of the amendments that have been moved to this article I can only accept amendment No. 789 which stood in the name of Mr. Baig but which was actually moved by Mr. Naziruddin Ahmad. I accept it because it certainly improves the language of the draft. With regard to the other amendments I shall first of all take up the amendment (No. 801) moved by Mr. Tajamul Husain and the amendment (No. 802) moved by Mr. Karimuddin. Both of them are of an analogus character. The object of the amendment moved by Mr. Tajamul Husain is to delete altogether sub-clause (4) of this article and Mr. Karimuddin's amendment is to limit the language of sub-clause (4) by the introduction of the words 'in case of rebellion or invasion'.

Now, Sir, with regard to the argument that clause (4) should be deleted, I am afraid, if I may say so without any offence, that it is a very extravagent demand, a very tall order. There can be no doubt that while there are certain fundamental rights which the State must guarantee to the individual in order that the individual may have some security and freedom to develop his own personality, it is equally clear that in certain cases where, for instance, the State's very life is in jeopardy, those rights must be subject to a certain amount of limitation. Normal peaceful times are quite different from times of emergency. In times of emergency the life of the State itself is in jeopardy and if the State is not able to protect itself in times of emergency, the individual himself will be found to have lost his very existence. Consequently, the superior right of the State to protect itself in times of emergency, so that it may survive that emergency and live to discharge its functions in order that the individual under the aegis of the State may develop, must be guaranteed as safely as the right of an individual. I know of no Constitution which gave fundamental rights but which gives them in such a manner as to deprive the State in times of emergency to protect itself by curtailing the rights of the individual. You take any Constitution you like, where fundamental rights are guaranteed ; you will also find that provision is made for the State to

*CAD, Vol. VII, 9th December 1948, p. 950.

suspend these in times of emergency. So far, therefore, as the amendment to delete clause (4) is concerned, it is a matter of principle and I am afraid I cannot agree with the Mover of that amendment and I must oppose it.

Now, Sir, I will go into details. My Friend Mr. Tajamul Husain drew a very lurid picture by referring to various articles which are included in the Chapter dealing with Fundamental Rights. He said, here is a right to take water, there is a right to enter a shop, there is freedom to go to a bathing ghat. Now, if clause (4) came into operation, he suggested that all these elementary human rights which the Fundamental part guarantees—of permitting a man to go to a well to drink water, to walk on the road, to go to a cinema or a theatre, without any let or hindrance—will also disappear. I cannot understand from where my friend Mr. Tajamul Husain got this idea. If he had referred to article 279 which relates to the power of the President to issue a proclamation of emergency, he would have found that clause (4) which permits suspension of these rights refers only to article 13 and to no other article. The only rights that/ would be suspended under the proclamation issued by the President under emergency are contained in article 13 ; all other articles and the rights guaranteed thereunder would remain intact, none of them would be affected. Consequently, the argument which he presented to the House is entirely outside the provisions contained in article 279.

Shri H. V. Kamath : What about article 280 ?

The Honourable Dr. B. R. Ambedkar : All that it does is to suspend the remedies. I thought I would deal with that when I was dealing with the general question as to the nature of these remedies, and therefore I did not touch upon it here.

Taking up the point of Mr. Karimuddin, what he tries to do is to limit clause (4) to cases of rebellion or invasion. I thought that if he had carefully read article 275, there was really no practical difference between the provisions contained in article 275 and the amendment which he has proposed. The power to issue a proclamation of emergency vested in the President by article 275 is confined only to cases when there is war or domestic violence.

Kazi Syed Karimuddin : Even if war is only threatened ?

The Honourable Dr. B. R. Ambedkar : Certainly. An emergency does not merely arise when war has taken place—the situation may very well be regarded as emergency when war is threatened. Consequently, if the wording of article 275 was compared with the amendment of Mr. Karimuddin, he will find that practically there is no difference in what article 275 permits the President to do and what he would be entitled to if the amendment of Mr. Karimuddin was accepted. I therefore submit, Sir, that there is no necessity for amendments Nos. 801 and 802. So far as I am concerned No. 801 is entirely against the principle which I have enunciated.

I will take up the amendments of my friend Mr. Kamath, No. 787 read with No. 34 in List III, and the amendment of my friend Mr. Sarwate, No. 783 as amended by No. 43. My friend Mr. Kamath suggested that it was not necessary to particularize, if I understood him correctly, the various writs as the article at present does and that the matter should be left quite open for the Supreme Court to evolve such remedies as it may think proper in the circumstances of the case. I do not think Mr. Kamath has read this article very carefully. If he had read the article carefully, he would have observed that what has been done in the draft is to give general power as well as to propose particular remedies. The language of the article is very clear.

> "The right to move the Supreme Court by appropriate proceeding for the enforcement of the rights conferred by this Part is guaranteed.
>
> The Supreme Court shall have power to issue directions or orders in the nature of the writs of....."

These are quite general and wide terms.

Shri H. V. Kamath : On a point of explanation. Sir. With the accepted amendment of my friend Mr. Baig, the clause will read thus :

> "The Supreme Court shall have power to issue directions or orders or writs, including writs in the nature of *habeas corpus*....."

The Honourable Dr. B. R. Ambedkar : Yes, the words "directions and orders" are there.

Shri H. V. Kamath : And "writs".

The Honourable Dr. B. R. Ambedkar : Yes.

While the powers of the Supreme Court to issue orders and directions are there, the draft Constitution has thought it desirable to mention these particular writs. Now, the necessity for mentioning and making reference to these particular writs is quite obvious. These writs have

been in existence in Great Britain for a number of years. Their nature and the remedies that they provided are known to every lawyer and consequently we thought that as it is impossible even for a man who has a most fertile imagination to invent something new, it was hardly possible to improve upon the writs which have been in existence for probably thousands of years and which have given complete satisfaction to every Englishman with regard to the protection of his freedom. We therefore thought that a situation such as the one which existed in the English jurisprudence which contained these writs and which, if I may say so, have been found to be knave-proof and fool-proof, ought to be mentioned by their name in the Constitution without prejudice to the right of the Supreme Court to do justice in some other way if it felt it was desirable to do so. I, therefore, say that Mr. Kamath need have no ground of complaint on that account.

My friend Mr. Sarwate said that while exercising the powers given under this article, the Court should have the freedom to enter into the facts of the case. I have no doubt about it that Mr. Sarwate has misunderstood the scope and nature of these writs. I therefore, think, that I need make no apology for explaining the nature of these writs. Anyone who knows anything about the English law will realise and understand that the writs which are referred to in the article fall into two categories. They are called in one sense "prerogative writs", in the other case they are called "writs in action". A writ *of mandamus,* a writ of prohibition, a writ of *certiorari,* can be used or applied for both ; it can be used as a prerogative writ or it may be applied for by a litigant in the course of a suit or proceedings. The importance of these writs which are given by this article lies in the fact that they are prerogative writs ; they can be sought for by an aggrieved party without bringing any proceedings or suit. Ordinarily you must first file a suit before you can get any kind of order from the Court, whether the order is of the nature of *mandamus,* prohibition or *certiorari* or anything of the kind. But here, so far as this article is concerned, without filing any proceedings you can straightaway go to the Court and apply for the writ. The object of the writ is really to grant what I may call interim relief. For instance, if a man is arrested, without filing a suit or a proceedings against the officer who arrests him, he can file a petition to the Court for setting him at liberty. It is not necessary for him to

first file a suit or a proceeding against the officer. In a proceeding of this kind where the application is for a prerogative writ, all that the Court can do is to ascertain whether the arrest is in accordance with law. The Court at that stage will not enter into the question whether the law under which a person is arrested is a good law or a bad law, whether it conflicts with any of the provisions of the Constitution or whether it does not conflict. All that the Court can inquire in a *habeas corpus* proceedings is whether the arrest is lawful and will not enter into the question—at least that is the practice of the Court—of the merits of the law. When a person is actually arrested and his trial has commenced, it is in the course of those proceedings that the court would be entitled to go into the facts and to come to a decision whether a particular law under which a person is arrested is a good law or a bad law. Then the court will go into the question whether it conflicts with the provisions of the Constitution. Consequently, the amendment moved by my friend Shri V. S. Sarwate, if I may say so, is quite out of place. It is not here that such a provision could be made. If he refers to article 115, he will find that a provision for similar writs has been made there. But those are writs which could be issued in connection with questions of fact and law. They would certainly be investigated by the Courts.

Now, Sir, I am very glad that the majority of those who spoke on this article have realised the importance and the significance of this article. If I was asked to name any particular article in this Constitution as the most important—an article without which this Constitution would be a nullity—I could not refer to any other article except this one. It is the very soul of the Constitution and the very heart of it and I am glad that the House has realised its importance.

There is however one thing which I find that the Members who spoke on this have not sufficiently realised. It is to this fact that I would advert before I take my seat. These writs to which reference is made in this article are in a sense not new. *Habeas corpus* exists in our Criminal Procedure Code. The writ of *Mandamus* finds a place in our law of Specific Relief and certain other writs which are referred to here are also mentined in our various laws. But there is this difference between the situation as it exists with regard to these writs and the situation as will now arise after the passing of this Constitution. The writs which exist now in our various laws are at the mercy of the legislature. Our

Criminal Procedure Code which contains a provision with regard to *habeas corpus* can be amended by the existing legislature. Our Specific Relief Act also can be amended and the writ of *habeas corpus* and the right of *mandamus* can be taken away without any difficulty whatsoever by a legislature which happens to have a majority and that majority happens to be a single-minded majority. Hereafter it would not be possible for any legislature to take away the writs which are mentioned in this article. It is not that the Supreme Court is left to be invested with the power to issue these writs by a law to be made by the legislature at its sweet will. The Constitution has invested the Supreme Court with these rights and these writs could not be taken away unless and until the Constitution itself is amended by means left open to the Legislature. This in my judgment is one of the greatest safeguards that can be provided for the safety and security of the individual. We need not therefore have much apprehension that the freedoms which this Constitution has provided will be taken away by any legislature merely because it happens to have a majorty.

Sir, there is one other observation which I would like to make. In the course of the debates that have taken place in this House both on the Directive Principles and on the Fundamental Rights. I have listened to speeches made by many members complaining that we have not enunciated a certain right or a certain policy in our Fundamental Rights or in our Directive Principles. References have been made to the Constitution of Russia and to the Constitutions of other countries where such declarations, as members have sought to introduce by means of amendments, have found a place. Sir, I think I might say without meaning any offence to anybody who has made himself responsible for these amendments that I prefer the British method of dealing with rights. The British method is a peculiar method a very real and a very sound method. British jurisprudence insists that there can be no right unless the Constitution provides a remedy for it. It is the remedy that make a right real. If there is no remedy, there is no right at all, and I am therefore not prepared to burden the Constitution with a number of pious declarations which may sound as glittering generalities but for which the Constitution makes no provision by way of a remedy. It is much better to be limited in the scope of our rights and to make them real by enunciating remedies than to have a lot of pilous wishes

embodied in the Constitution. I am very glad that this House has seen that the remedies that we have provided constitute a fundamental part of this Constitution. Sir, with these words I commend this article to the House.

Shri H. V. Kamath : On a point of clarification, Sir, as we are dealing with justiciable fundamental rights and the guaranteeing of these by the Supreme Court and in view of the fact that article 280 has also been invoked, will it not be more desirable to say that "the rights guaranteed by this article shall not be suspended wholly or in part" ..... or any similar set of words which the legal luminaries may choose ?

The Honourable Dr. B. R. Ambedkar : "Shall not be suspended" covers both. It is unnecessary to specify it.

The amendment was negatived.

* * * * *

Mr. Vice-President : The question is :

Mr. Vice-President : Amendment No. 787 standing in the name of Mr. Kamath.

Shri H. V. Kamath : In view of the remarks made by Dr. Ambedkar on this matter, I do not wish to press it.

The amendment was, by the leave of the Assembly withdrawn.

Mr. Vice-President: Then we come to amendment No. 789 standing in the name of Mr. Mahboob Ali Baig, but moved by Mr. Naziruddin Ahmad.

The question is :

"That in clause (2) of article 25, for the words "in the nature of the writs of the words 'or writs, including writs in the nature of be substituted."

The amendment was adopted.

Mr. Vice-President : Amendment No. 794 standing in the names of Dr. Ambedkar, Mr. Mahdava Rau and Mr. Saadulla.

The question is :

"That for existing clause (3) of article 25, the following clause be substituted :

'(3) Without prejudice to the powers conferred on the Supreme Court by clause (1) and (2) of this article. Parliament may by law empower any other court to exercise within the local limits of its jurisdiction all or any of the powers exercisable by the Supreme Court under clause (2) of this article'."

The amendment was adopted.

Mr. Vice-President : Amendment No. 43 of List 1 standing in the name of Mr. Sarwate.

Shri V. S. Sarwate : I do not wish to press it.

The amendment was, by leave of the Assembly, withdrawn.

[Four other amendments were negatived.]

Article 25, as amended, was adopted and added to the Constitution.

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ARTICLE 26

***Mr. Vice-President:** We then come to article 26. The motion before the House *is* :

That article 26 form part of the Constitution. Amendment No. 809 is of a negative character and therefore disallowed.

(Amendment No. 810 was not moved.)

Amendments Nos. 811 and 812 are of similar import. I should say they are almost identical. I allow 811 to be moved.

The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That in article 26 for the words 'guaranteed in' the words 'conferred by' be substituted."

This part does not guarantee but only confers these rights. Therefore to bring the language in conformity, I propose this amendment.

[Amendment of Dr. Ambedkar alone was adopted. Article 26 as amended was adopted and added to the Constitution.]

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ARTICLE 27

†Mr. Vice-President : Amendments Nos. 817 and 818 are to be considered together. 817 may be moved ; it stands in the name of Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar : Sir, I move.

"That for clause (a) of article 27 the following be substituted :

'(a) with respect to any of the matters which under clause (2a) of article 10, article 16, clause (3) of article 25, and article 26, may be provided for by legislation by Parliament, and,' "

The object of introducing this addition of clause (2a) of article 10 is because this is a new clause which was adopted by this House. It is, therefore, necessary to make a reference to it in this article.

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*CAD, Vol. VII, 9th December 1948, p. 955.

†*Ibid.,* pp. 956-58.

Mr. Vice-President : There is an amendment to this amendment.

The Honourable Dr. B. R. Ambedkar: I have moved it as amended.

Mr. Vice-President : I see.

(Amendment No. 818 was not moved.)

Amendment No. 819 is a verbal amendment. Amendment No. 820 may be moved.

The Honourable Dr. B. R. Ambedkar : Sir, I move.

"That for the words 'to provide for such matters and for prescribing punishment for such acts' the words 'for prescribing punishment for the acts referred to in clause (b) of this article' be substituted."

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Mr. Vice-President: Amendment Nos. 822 and 823 are of similar import. No. 822 can be moved.

The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That for the proviso and explanation to article 27, the following be substituted : 'Provided that any law in force immediately before the commencement of this Constitution in the territory of India or any part thereof with respect to any of the matters referred to in clause (a) of this article or providing for punishment for any act referred to in clause (b) of this article, shall, subject to the terms thereof, continue in force therein, until altered or repealed or amended by Parliament.'

'*Explanation*.—In this article the expression 'law in force' has the same meaning as in article 307 of this Constitution'."

(Amendment Nos. 50 of List No. 1, 65 of List No. IV and 823 were not moved.)

Mr. Vice-President : The article is now open for discussion.

(At this stage Mr. Kamath rose to speak.)

Mr. Vice-President: I hope you will permit me to get the things through before we disperse in which case, I shall adjourn the House at 1 o'clock.

Shri H. V. Kamath : I am equally anxious. Mr. Vice-President, I am here seeking only a little light from Dr. Ambedkar with regard to his amendment No. 820 moved by him. I fail to see clearly why the words in the article as it stands at present should be substituted by the words he proposes to. In case his amendment is accepted, it will mean that Parliament shall have power only for prescribing punishment for the acts referred to in clause (b). Then what about the Parliament's power to make laws with respect to any of the matters which under this power are required to be provided for by legislation in clause (a) ? Does he intend by his amendment to take away the power which is

sought to be conferred by clause (a) of this article ? ..... I want to know exactly what the import of his amendment is and why this clause (a) is sought to be amended in this fashion.

The Honourable Dr. B. R. Ambedkar : I am sorry, Mr. Kamath has not been able to understand the scheme which is embodied in article 27. This article embodies three principles. The first principle is that wherever this Constitution prescribes that a law shall be made for giving effect to any Fundamental Right or where a law is to be made for making an action punishable, which interferes with Fundamental Rights, that right shall be exercised only by Parliament, notwithstanding the fact that having regard to the List which deals with the distribution of power, such law may fall within the purview of the State Legislature. The object of this is that Fundamental Rights, both as to their nature and as to the punishments involved in the infringement thereof, shall be uniform throughout India. Therefore, if that object is to be achieved, namely, that Fundamental Rights shall be uniform and the punishments involved in the breach of Fundamental Rights also shall be uniform, then that power must be exercised only by the Parliament, so that there may be uniformity.

The second tiling is this. If there are already Acts which provide punishments for breaches of Fundamental Rights, unless and until the Parliament makes another or a better provision, such laws will continue in operation. That is the whole scheme of the tiling. I do not see why there should be any difficulty in understanding the provisions contained in article 27.

Shri H. V. Kamath : I am sorry, Sir, that Dr. Ambedkar has not been able to follow me clearly *(Laughter).*

The Honourable Dr. B. R. Ambedkar : It is quite possible.

Mr. Vice-President : Mr. Kamath, it may be the other way.

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Shri H. V. Kamath : I am addressing you. Sir, as I always do. The difficulty that arises is this. In the article as it stands at present, clause (a) gives Parliament alone the power. I do not question this : I agree Parliament and Parliament alone should have the right. You say here Parliament shall have power to make laws with regard to any of the matters. Further on, you say that parliament shall, as soon as may be, after the commencement of this Constitution, make laws to provide

etc., Now, Dr. Ambedkar wants to substitute this latter part by amendment No. 820. You want to omit the words "provide for such matters" and retain only the proviso as regards punishment. What about making laws for such matters ? Why do you delete that portion ? Why do you retain only the part regarding punishment ? That was my point, but Dr. Ambedkar has answered a different point.

The Honourable Dr. B. R. Ambedkar: The reason why for instance, I have introduced an amendment in clause (a) is because it is only in specific matters that Parliament has been given this penal authority and these articles are referred to in my amendment. My friend Mr. Kamath will see that clause (a) contains no reference to any of the articles which specifically give parliament the power to make laws. It is to make that point clear that I thought it would be desirable to make a reference to clause (2a) of article 10, article 16, clause (3) of article 25 and article 26, because, these are the specific articles which are to be dealt with exclusively by Parliament.

Mr. Vice-President : I shall now put the amendments to vote. All of them stand in the name of Dr. Ambedkar.

[Amendment Nos. 817, 820 and 822 moved by Dr. Ambedkar were adopted Article 27, as amended was adopted and added to the Constitution.]

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ARTICLE 27A

***Mr. Vice-President :** I am well aware that there are many more Members who want to speak and who are fully competent to deal with this subject, but I think that it has been discussed sufficiently. Therefore I shall call upon Dr. Ambedkar. I am sorry to disoblige honourable Members, but I think they will recognise the fact that we have to make a certain amount of progress daily.

Shri Loknath Misra (Orissa : General)**:** But many points have been left untouched.

Mr. Vice-President : Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar : (Bombay : General) : Mr. Vice-President, Sir, this matter, as Honourable Members will recall, was debated at great length when we discussed one of the articles in

*CAD, Vol. VII, 10th December 1948, pp. 967-68.

the Directive Principles which we have passed. It was at my instance that it was sought to incorporate in the Directive Principles an item relating to the separation of the executive and the judiciary. Originally the proposition contained a time limit of three years. Subsequently as a result of discussion and as a result of pointing out all the difficulties of giving effect to that principle, the House decided to delete the time limit and to put a sort of positive imposition upon the provincial governments to take steps to separate the executive from the judiciary. On that occasion, all this matter was gone into and I do not think that there is any necessity for me to repeat what I said there. There is no dispute whatsoever that the executive should be separated from the judiciary.

With regard to the separation of the executive from the legislature, it is true that such a separation does exist in the Constitution of the United States ; but if my friend, Prof. Shah, had read some of the recent criticisms of that particular provision of the Constitution of the United States, he would have noticed that many Americans themselves were quite dissatisfied with the rigid separation embodied in the American Constitution between the executive and the legislature. One of the proposals which has been made by many students of the American Constitution is to obviate and to do away with the separation between the executive and the judiciary completely so as to bring the position in America on the same level with the position as it exists, for instance, of the U. K. In the U. K. there is no differentiation or separation between the executive and the legislature. It is advocated that a provision ought to be made in the Constitution of the United States whereby the members of the Executive shall be entitled to sit in the House of Representatives or the Senate, if not for all the purposes of the legislautre such as taking part in the voting, at least to sit there and to answer questions and to take part in the legal proceedings of debate and discussion of any particular measure that may be before the House. In view of that, it will be realised that the Americans themselves have begun to feel a great deal of doubt with regard to the advantage of a complete separation between the Executive and the Legislature. There is not the slightest doubt in my mind and in the minds of many students of political science, that the work of Parliament is so complicated, so vast that unless and until the Members of Legislature receive direct guidance and initiative

from the Members of the Executive, sitting in Parliament, it would be very difficult for Members of Parliament to carry on the work of the Legislature. The functioning of the members of the Executive along with Members of Parliament in a debate on legislative measures has undoubtedly this advantage, that the Members of the legislature can receive the necessary guidance on complicated matters and I personally therefore, do not think that there is any very great loss that is likely to occur if we do not adopt the American method of separating the Executive from the Legislature.

With regard to the question of separating the Executive from the judiciary, as I said, there is no difference of opinion and that proposition, in my judgment, does not depend at all on the question whether we have a presidential form of government or a parliamentary form of government, because even under the parliamentary form of Government the separation of the judiciary from the Executive is an accepted proposition, to which we ourselves are committed by the article that we have passed, and which is now forming part of the Directive Principles. I, therefore, think that it is not possible for me to accept this amendment.

[Prof. Shaha's amendment was negatived.]

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ARTICLE 41

***Mr. Vice-President :** You need not give the reasons for Dr. Ambedkar's action.

Shri H. V. Kamath : I just wanted to put forward the reasons that might have actuated Dr. Ambedkar and put forward my own point of view. So I would like to know from Dr. Ambedkar, in view of the article as passed by the Assembly last year unanimously, why he and his colleagues of the Drafting Committee have sought to delete this word 'Rashtrapati' from the article as it appears in the Draft Constitution.

The Honourable Dr. B. R. Ambedkar : Mr. Vice-President, Sir, before I take up the points raised by Prof. K. T. Shah in moving his amendment, I would like to dispose of what I might say, a minor criticism which was made by Mr. Kamath. Mr. Kamath took the Drafting Committee to task for having without any warrant altered the

*CAD, Vol. VII, 10th December 1948, pp. 973-74.

language of the report made by the committee dealing with the Union Constitution. If I understood him correctly, he accused the Drafting Committee for having dropped the word "Rashtrapati" which is included in the brackets after the word President, in paragraph 1 of that committee's report. Now, Sir, this action of the Drafting Committee has nothing to do with any kind of prejudice against the word "Rashtrapati" or against using any Hindi term in the Constitution. The reason why we omitted it is this. We were told that simultaneously with the Drafting Committee, the President of the Constituent Assembly had appointed another committee, or rather two committees, to draft the Constitution in Hindi as well as in Hindustani. We, therefore, felt that since there was to be a Draft of the Constitution in Hindi and another in Hindustani, it might be as well that we should leave this word "Rashtrapati" to be adopted by the members of those committees, as the word "Rashtrapati" was not an English term and we were drafting the Constitution in English. Now my friend asked me whether I was not aware of the fact that this term "Rashtrapati" has been in current use for a number of years in the Congress parlance. I know it is quite true and I have read it in many places that this word "Rashtrapati" is used, there is no doubt about it. But whether it has become a technical term, I am not quite sure. Therefore before rising to reply, I just thought of consulting the two Draft Constitutions, one prepared in Hindi and the other prepared in Hindustani. Now, I should like to draw the attention of my friend Mr. Kamath to the language that has been used by these two committees. I am reading from the draft in Hindustani, and it says :—

"HIND KA EK PRESIDENT HOGA....."

The word "Rashtrapati" is not used there.

Then, taking the draft prepared by the Hindi Committee, in article 41 there, the word used is w]ckd (PRADHAN). There is no "Rashtrapati" there either.

Shri H. V. Kamath : But, Sir, the point I raised was that the article as adopted by this House had word "Rashtrapati" incorporated in it. The reports of the Hindi or Hindustani Committees are not before the House, and all that I wanted was that this word should find a place in the Draft Constitution now being considered here.

The Honourable Dr. B. R. Ambedkar: And I am just now informed that in the Urdu Draft, the word used is "Sardar" (*Laughter*).

Now, Sir, I come to the question which has been raised substantially by the amendment of Prof. K. T. Shah. His amendment, if I understood him correctly, is fundamentally different from the whole scheme as has been adopted in this Draft Constitution. Prof. K. T. Shah uses the word "Chief Executive and the Head of the State". I have no doubt about it that what he means by the introduction of these words is to introduce the American presidential form of executive and not the parliamentary form of executive which is contained in this Draft Constitution. If my friend Prof. Shah were to turn to the report of the Union Constitution Committee, he will see that the Drafting Committee has followed the proposals set out in the report of that Committee. The report of that Committee says that while the President is to be the head of the executive, he is to be guided by a Council of Ministers whose advice shall be binding upon him in all actions that he is supposed to take under the power given to him by the Constitution. He is not to be the absolute supreme head, uncontrolled by the advice of anybody, and that is the parliamentary form of government. In the United States undoubtedly, there are various Secretaries of State in charge of the various departments of the administration of the United States, and they carry on the administration, and I have no doubt about it, that they can also and do as a matter of fact, tender advice to the President with regard to matters arising under their administration. All the same, in theory, the President is not bound to accept the advice of the Secretaries of State. That is why the United States President is described as the Chief Head of the Executive. We have not adopted that system. We have adopted the parliamentary system, and therefore my submission at this stage is that this matter which has been raised by Prof. K. T. Shah cannot really be disposed of unless we first dispose of article 61 of the Draft Constitution which makes it obligatory upon the President to act upon the advice of the Council of Ministers. Do we want to say it or not, that the President shall be bound by the advice of his Ministers 7 That is the whole question. If we decide that the President shall not be bound by the advice of the Council of Ministers, then, of course, it would be possible for this House to accept the amendment of Prof. K. T. Shah. But my submission is that at this stage, the matter is absolutely premature. If we accept the deletion of article 61 then I agree that we would be in a position to make such

consequential changes as to bring it into line with the suggestion of Prof. Shah. But at this moment, I am quite certain that it is premature and should not be considered.

Mr. Vice-President: I am now going to put the amendment to vote, amendment No. 1036, first part, standing in the name of Prof. K. T. Shah.

The motion was negatived.

Article 41 was adopted and added to the Constitution.

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ARTICLE 42

***Shri Alladi Krishnaswami Ayyar** (Madras : General) : Mr. Vice-President, Sir, Prof. Shah's amendment, if it meets with the acceptance of the House, would mean that the House, for the reasons which Prof. Shah has assigned, is going back upon the decision reached by various Committees of this House as well as by the Constituent Assembly after considerable deliberation on previous occasions....

* * * * *

...An infant democracy cannot afford, under modern conditions, to take the risk of a perpetual cleavage, feud or conflict or threatened conflict between the Legislature and the Executive. The object of the present constitutional structure is to prevent a conflict between the Legislature and the Executive and to promote harmony between the different parts of the Governmental system. That is the main object of a Constitution. These then, are the reasons which influenced this Assembly as well as the various Committees in adopting the Cabinet system of Government in preference to the Presidential type. It is unnecessary to grow eloquent over the Cabinet system. In the terms in which Bagehot has put it, it is a hyphen between the Legislature and the Executive. In our country under modern conditions, it is necessary that there should be a close union between the Legislature and the Executive in the early stages of the democratic working of the machinery. It is for these reasons that the Union Constitution Committee and this Assembly have all adopted what may be called, the Cabinet System of Government, the Presidential system has worked splendidly in America due to historic reasons. The President no doubt certainly commands very great respect but it is not merely due to the Presidential

*CAD. Vol. VII, 10th December 1948, p. 985.

system but also to the way in which America has built up her riches. These are the reasons for which I would support the Constitution as it is and oppose the amendment of Prof. Shah.

The Honourable Dr. B. R. Ambedkar : I am sorry I cannot accept any of the amendments that have been moved. So far as the general discussion of the clause is concerned, I do not think I can usefully add anything to what my friends Mr. Munshi and Shri Alladi Krishnaswamy Ayyar have said.

Mr. Vice-Presient : I am putting the amendments one by one to vote.

All 5 amendments were negatived.

[Article 42 was added to the Constitution.}

ARTICLE 43

***Mr. Vice-President** : I am not putting amendment No. 1063 standing in the name of Dr. Ambedkar and others to vote, because it is identical with 1064 which has just been moved.

Do you accept it, Dr. Ambedkar ?

The Honourable Dr. B. R. Ambedkar (Bombay : General) **:** Yes, Sir.

Mr. Vice-President : Then I will not put it to vote.

An amendment to amendment No. 1064 standing in the name of Shri Gokulbhai Daulatram Bhatt was not moved as the Honourable Member is not in the House.

I disallow, as merely verbal, amendments Nos. 1065 and 1066.

Shri S. Nagappa (Madras : General) **:** I do not move amendment No. 1069, Sir.

The Honourable Dr. B. R. Ambedkar: Mr. Vice-President, I move :

> "That to article 43 the following explanation be added :—
>
> "Explanation.—In this and the next succeeding article, the expression "the Legislature of a State" means, where the Legislature is bi-cameral. the Lower House of the Legislature'."

It is desirable that this amendment should be made, because there may be two legislatures in a State and consequently if this amendment is not made it will be open also to the Member of the Upper Chamber to participate in the election of the President. That is not our intention.

*CAD, Vol. VII, 10th December 1948, p. 994.

We desire that only Members who are elected by popular vote shall be entitled (o take part in the election of the President. Hence this amendment.

Mr. Vice-President : Mr. Mohd. Tahir may now move his amendment No. 23 to this amendment.

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***The Honourable Dr. B. R. Ambedkar** : Mr. Vice-President, Sir, of the amendments that have been moved, I can only accept 1064 and I very much regret that I cannot accept the other amendments.

Now, Sir, turning to the general debate on this article, the most important amendment is the amendment of Prof. K. T. Shah, which proposes that the President should be elected directly by adult suffrage. This matter, in my judgment, requires to be considered from three points of view. First of all, it must be considered from the point of view of the size of the electorate. Let me give the House some figures of the total electorate that would be involved in the election of the President, if we accepted Prof. K. T. Shah's suggestion.

So far as the figures are available, the total population of the Governors' provinces and the Commissioners' provinces is about 228, 163, 637. The total population of the States conies to 88, 808, 434, making altogether a total of nearly 317 millions for the territory of India. Assuming that on adult franchise, the population that would be entitled to take part in the election of the President would be about 50 per cent of the total population, the electorate will consist of 158.5 millions. Let me give the figures of the electorate that is involved in the election of the American President. The total electorate in America, as I understand—I speak subject to correction,—is about 75 millions. I think if honourable Members will bear in mind the figure which I have given ; namely, 158.5 million, they would realise the impossibility of an election in which 158.5 millions of people would have to take part. The size of the electorate, therefore, in my judgement forbids our adopting adult suffrage in the matter of the election of the President.

The second question which has to be borne in mind in dealing with this question of adult suffrage is the administrative machinery. Is it possible for this country to provide the staff that would be necessary to be placed at the different polling stations to enable the 158.5 millions

*CAD, Vol. VII, 13th December 1948, pp. 997-08.

to come to the polls and to record the voting ? I am sure about it that not many candidates would be standing for election and they would not like non-official agencies to be employed, for the simple reason, that the non-official agency would not be under the control of the State and may be open to corruption, to bribery, to manipulations and to other undesirable influences. The machinery therefore, will have to be entirely supplied from the Government administrative machinery. Is it possible either for the Government of India or for the State Governments to spare officials sufficient enough to manage the election in which 158.5 millions would be taking part? That again seems to me to be a complete impossibility. But apart from these two considerations, one important consideration which weighed with the Drafting Committee, and also with the Union Committee, in deciding to rule out adult suffrage, was the position of the President in the Constitution. If the President was in the same position as the President of the United States, who is vested with all the executive authority of the United States, I could have understood the argument in favour of direct election, because of the principle that wherever a person is endowed with the same enormousness of powers as the President of the United States, it is only natural that the choice of such a person should be made directly by the people. But what is the position of the President of the Indian Union ? He is, if Prof. K. T. Shah were to examine the other provisions of the Constitution, only a figurehead. He is not in the same position as the President of the United States. If any functionary under our Indian Constitution is to be compared with the United States President, he is the Prime Minister, and not the President of the Union. So far as the Prime Minister is concerned, it is undoubtedly provided in the Constitution that he shall be elected on adult suffrage by the people. Now, having regard to the fact, to which I have referred, that the President has really no powers to execute, the last argument which one could advance in favour of the proposition that the President should be elected by adult suffrage seems to me to fall to the ground. I, therefore submit that, having regard to the size of the electorate, the paucity of administrative machinery necessary to manage elections on such a vast scale and that the President does not possess any of the executive or administrative powers which the President of the United States possesses, I submit that it is unnecessary to go into the question of adult suffrage and to provide for the election of the President on that basis.

Our proposals in the Draft Constitution, in my judgment, are sufficient for the necessities of the case. We have provided that he shall be elected by the elected members of the Legislature of the States, who themselves are elected on adult suffrage. He is also to be elected by both Houses of Parliament. The Lower House of the Parliament is also elected directly by the people on adult suffrage. The Upper Chamber is elected by the Lower Houses of the States Legislatures, which are also elected on adult suffrage. Therefore, having regard to these provisions, I think Prof. K. T. Shah's amendment is quite out of place. I, therefore, oppose that amendment.

Mr. Vice-President : I shall now put the amendments to vote, one by one....

In all 5 amendments were negatived.

Following amendments were adopted :—

"That in clause (a) of article 43, for the words 'the members' the words ' the elected members ' be substituted."

Amendment No. 1070 standing in the name of Dr. Ambedkar.

"That to article 43, the following explanation be added :— "Explanation.—In this and the next succeeding article, the expression "the Legislature of a State" means, where the Legislature is bi-cameral, the Lower House of he Legislature."

Article 43, as amended, was adopted and added to the Constitution.

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ARTICLE 15

***Mr. Vice-President :** With the permission of the House, I should like to revert to an article left over: that is article 15. I have before me the proceedings of the House from which it appears—this was considered on the 6th December last—that general discussion had concluded and I had called upon Dr. Ambedkar to reply. At that time it was suggested that efforts should be made to arrive at some kind of understanding so that those who had submitted certain amendments might feel satisfied. I do not know the position now ; but we cannot wait any longer. Dr. Ambedkar, will you please make the position clear ? If no understanding has been arrived at, I would ask you to reply.

*CAD, Vol. VII, 13th December 1948. pp. 999-101.

The Honourable Dr. B. R. Ambedkar : Mr. Vice-President, I must confess that I am somewhat in a difficult position with regard to article 15 and the amendment moved by my Friend Pandit Bhargava for the deletion of the words "procedure according to law" and the substitution of the words "due process".

It is quite clear to any one who has listened to the debate that has taken place last time that there are two sharp points of view. One point of view says that "due process of law" must be there in this article ; otherwise the article is a nugatory one. The other point of view is that the existing phraseology is quite sufficient for the purpose. Let me explain what exactly "due process" involves.

The question of "due process" raises, in my judgment, the question of the relationship between the legislature and the judiciary. In a federal constitution, it is always open to the judiciary to decide whether any particular law passed by the legislature is *ultra vires* or *intra vires* in reference to the powers of legislation which are granted by the Constitution to the particular legislature. If the law made by a particular legislature exceeds the authority of the power given to it by the Constitution, such law would be *ultra vires* and invalid. That is the normal tiling that happens in all federal constitutions. Every law in a federal constitution, whether made by the Parliament at the Centre or made by the legislature of a State, is always subject to examination by the judiciary from the point of view of the authority of the legislature making the law. The 'due process' clause, in my judgment, would give the judiciary the power to question the law made by the legislature on another ground. That ground would be whether that law is in keeping with certain fundamental principles relating to the rights of the individual. In other words, the judiciary would be endowed with the authority to question the law not merely on the ground whether it was in excess of the authority of the legislature, but also on the ground whether the law was good law, apart from the question of the powers of the legislature making the law. The law may be perfectly good and valid so far as the authority of the legislature is concerned. But, it may not be a good law, that is to say, it violates certain fundamental principles; and the judiciary would have that additional power of declaring the law invalid. The question which arises in considering this matter is this. We have no doubt given the judiciary the power to

examine the law made by different legislative bodies on the ground whether that law is in accordance with the powers given to it. The question now raised by the introduction of the phrase 'due process' is whether the judiciary should be given the additional power to question the laws made by the State on the ground that they violate certain fundamental principles.

There are two views on this point. One view is this : that the legislature may be trusted not to make any law which would abrogate the fundamental rights of man, so to say, the fundamental rights which apply to every individual, and consequently, there is no danger arising from the introduction of the phrase 'due process'. Another view is this : that it is not possible to trust the legislature ; the legislature is likely to err, is likely to be led away by passion, by party prejudice, by party considerations, and the legislature may make a law which may abrogate what may be regarded as the fundamental principles which safeguard the individual rights of a citizen. We are therefore placed in two difficult positions. One is to give the judiciary the authority to sit in judgment over the will of the legislature and to question the law made by the legislature on the ground that it is not good law, in consonance with fundamental principles. Is that a desirable principle ? The second position is that the legislature ought to be trusted not to make bad laws. It is very difficult to come to any definite conclusion. There are dangers on both sides. For myself I cannot altogether omit the possibility of a Legislature packed by party men making laws which may abrogate or violate what we regard as certain fundamental principles affecting the life and liberty of an individual. At the same time, I do not see how five or six gentlemen sitting in the Federal or Supreme Court examining laws made by the Legislature and by dint of their own individual conscience or their bias or their prejudices be trusted to determine which law is good and which law is bad. It is rather a case where a man has to sail between Charybdis and Scylla and I therefore would not say anything. I would leave it to the House to decide in any way it likes.

Mr. Vice-President : I shall now put the amendments one by one to vote.

[In all five amendments were negatived and one was withdrawn. No amendment was adopted. Article 15 was adopted and added to the Constitution.]

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ARTICLE 44

***Mr. Vice-President :** We shall now take up article 44. The motion is : The article 44 form part of the Constitution. I am going to call over the amendments one by one.

Amendment No. 1075—Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar :

Sir, I move—

> "That in sub-clause (c) of clause (2) of article 44, for the words "such member" the words "the elected members of both Houses of Parliament" be substituted."

Before proceeding to give the reasons for the amendment I would like with your permission to go back for a minute to clause (2) of this article and explain the scheme as set out in sub-clauses (a) and (b) of that clause. Honourable Members will see that the President is to be elected by elected Members of the Lower House of each State Legislature and by elected Members of both Houses of Parliament—the two to form a single electoral college. Sub-clause (1) of article 44 says that as far as practicable there shall be uniformity in the scale of representation of the different States in the election of the President. It would have been possible to achieve this uniformity by the simple method of assigning each member of the electoral college one vote. But this is not possible because of the disparity between the members of the Legislature and their ratio to population that exists between the different classes of States. In the case of States in Part I of the First Schedule, article 149(3)fixes the scale of representation—one representative for every one lakh of population. In the case of States in Part III, no such scale is laid down. The scale may vary from State to State. In one State, it may be one representative for every 10,000 population. In another, it may be one for every 20,000. That being the position, the value of the votes cast in the election of the President by the members of the Slate Legislatures cannot be measured by the simple rule of assigning one vote one value. The problem, therefore, is how to bring about uniformity in the value of the votes cast by members who do not represent the same electoral unit. The formula adopted to obtain the value of a vote cast by an elected member of the Legislature of a State is to divide the population of that State by the total number of elected members of the Legislature of that State ; and to divide the

*CAD. Vol. VII. 13th December 1948, pp. 1001-03.

quotient so obtained by 1,000 and if the remainder is not less than 500 then add one to the dividend. This is what is stated in sub-clauses (b) and (c) of clause (2).

I now come to the amendment to sub-clause (c) which I have moved. With regard to the votes cast by members of Parliament, we are confronted by the same problem, namely, the disparity in the electoral units and consequent disparity in the value of the votes cast by them. This disparity also arises from the same causes. In the first place, the Council of States being elected by the State Legislature reflects the same disparity which exists between States in Part I and States in Part III. In the second place, there is the same disparity in the ratio of seats to population as between States in Part I and Part III in the election of members of Parliament.

There are two ways of achieving uniformity in the voting by members of Parliament. One is to divide the total number of votes capable of being cast by members of all the State Legislatures by the total number of members of all the State Legislatures and the quotient will be the number of votes which each member will be entitled to cast. The other method is to divide the total number of votes capable of being cast by members of the Legislatures of all the States by the total number of elected members of both Houses of Parliament. The first method is set out in sub-clause (c) as it stands. The second method is embodied in the amendment to sub-clause (c) which I have moved. The difference between the two methods lies in this. In the first method all members of the electoral college taking part in the election of the President are treated on the same footing in the matter of valuation of their votes. According to the second method the members of Parliament are given equal strength in the matter of voting as the members of the State Legislautres will have. It is felt that members of Parliament should have a better voice than what sub-clause (c) as it stands does. Hence the amendment.

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ARTICLE 44 *(Could.)*

***The Honourable Dr. B. R. Ambedkar :** Mr. Vice-President, Sir, I accept the amendment No. 25 of List 1 to amendment No. 1083 moved by my friend Mr. Naziruddin Ahmad. The other amendments I am sorry, I cannot accept. Now, Sir in the course of the general debate, two

*CAD, Vol. VII. 13th December 1948. pp. 1016-18.

questions have been raised. One is on the amendment of Mr. Naziruddin Ahmad. It has been pointed out by various speakers that it would be very wrong to base any election on the last census viz., of 1941. I am sure there is a great deal of force in what has been said by the various speakers on this point. It is true that the 1941 census was in some areas, at any rate, a cooked census ; a census was cooked by the local Government that was in existence, in favour of certain communities and operated against certain other communities. But apart from that, it is equally true that on account of the partition of India there has been a great change in the population and its communal composition in certain provinces of India, for instance, in the East Punjab, Bombay, West Bengal and to some extent in U.P. also. In view of the fact that the Constitution provides for representation to various communities in accordance with their ratio of population to the general population, it is necessary that not only the total population of every particular province should be ascertained but that the proportion of the various communities to which we have guaranteed representation in accordance with their population should also be ascertained before the foundations of the Constitution are laid down in terms of election.

I have no doubt about it that the Government will pay attention to the various arguments that have been made in favour of having a true census of the people before the elections are undertaken. If I may say so, one of the reasons which persuaded me to accept the amendment of my friend Mr. Naziruddin Ahmad is that he used the word 'latest' in preference to the word 'last'. I thought that the word ' last' had a sort of a local colour in the sense that the last census may mean the periodical census which is taken every ten years ; and the 'latest'* census means the census taken before any operation of election is started.

Mr. Naziruddin Ahmad : I did not use those words. I said the last preceding census.

The Honourable Dr. B. R. Ambedkar : Anyhow, I did not pay much attention to what he said. But that certainly is my idea, that this clause shall not prevent the Government from having a new census before proceeding to have elections for the new legislature. I think that should satisfy most Members who have an apprehension on this point.

**Misprinted as 'last' in the debates.*

Shri Mahavir Tyagi : May I take it that you give an assurance that such a census will be taken ?

The Honourable Dr. B. R. Ambedkar : I cannot possibly give an assurance. But no government will overlook the vast changes that have taken place in the composition and the total population of the different provinces. We have guaranteed representation to a great population consisting of various minorities. There has been a great deal of debate, as Honourable Members know, over the question of weightage, and we know that weightage has been disallowed. If we now have the elections and allow them to take place and the seats to be assigned on the existing basis of population, when as a matter of fact, that basis has been lost by migrations, it might result in weightage to various communities, and no representation to certain communities. Obviously in order to avoid such a kind of thing and to see that no community has any weightage, undoubtedly, government will have to see that the census is a proper census.

Pandit Lakshmi Kanta Maitra : I want to know whether the Honourable Member means that no election under the new Constitution should be held unless this census was taken.

Honourable Dr. B. R. Ambedkar : Well, it seems to me only a natural conclusion, because the seals for the elections cannot be assigned unless the populations of the various communities are ascertained. Therefore, that seems to me the logical conclusion, and a new census will be inevitable.

The other question that was greatly agitated by Mr. Tyagi and by Begum Aizaz Rasul and certain other members related to the election of the President. Now, there are two ways of electing the President. One way is to elect him by what is called a bare majority of the House. If a man got 51 per cent, he would be elected. That is one way of electing the President and that is the simple and straightforward one. Now, with regard to that, it may just happen that the majority party would be in a position to elect the President without the minority party having any voice in the election of the President. Obviously no Member of the House would like the President to be elected by a hare majority or by a system of election in which the minorities had no part to play. That being so, the election of the President by a bare majority has to be eliminated, and we have to provide a system whereby the minorities

will have some voice in the election of the President. The only method of giving the minorities a voice in the election of the President is, so to say, to have separate electorates and to provide that the President must not only have a majority but he must have a substantial number of votes from each minority. But that again, seems to me, to be a proposition which we cannot accept having regard to what we have laid down in the Constitution, namely, that there shall be no separate electorates. The only other method, therefore, that remained was to have a system of election in which the minorities will have some hand and some play, and that is undoubtedly the system of proportional representation, which has been laid down in the Constitution.

Mr. Naziruddin Ahmad : There is to be transferability. How can there be proportional representation when there is only one man to be elected ?

The Honourable Dr. B. R. Ambedkar : I really cannot go into this question in detail. To do so I will have to open a class and lecture on the subject ; but I cannot undertake that task at this stage. However, it is well-known and everybody knows how the system works.

Mr. Vice-President: These interruptions show that some Members are not aware of the true nature of proportional representations. You need not pay attention to these interruptions.

Maulana Hasrat Mohani: What are you going to do if there is only one candidate ?

The Honourable Dr. B. R. Ambedkar : If there is only one candidate, he will be elected unanimously (Laughter), and no question of majority or minority arises at all.

The other question asked by Mr. Tyagi was whether there was any procedure for eliminating candidates.

Shri Mahavir Tyagi : On a point of information, Sir.

The Honourable Dr. B. R. Ambedkar : No. I cannot yield. I am answering your point. Your point was whether there was a process of elimination. The point before me is that I want that the election of the President or the General representation involves elimination. Otherwise it has no meaning. The only thing that we have done is that instead of having several proportional representations, we have provided one single proportional represenation, in which every candidate at the

bottom will be eliminated, until we reach one man who gets what is called a "quota".

Shri Mahavir Tyagi: But in the Parliament the system of alternative votes is adopted.

The Honourable Dr. B. R. Ambedkar : Alternative is only another name for proportional.

Sir, I have nothing further to say on this point.

Shri Mahavir Tyagi : Sir, I want to know

Mr. Vice-President : Mr. Tyagi, my difficulty is I cannot compel the Chairman of the Drafting Committee to answer your questions. Neither can I compel him to clarify your doubts.

I am going to put these amendments, one by one to vote.

I put amendment No. 1075 to vote. (This was moved by Dr. Ambedkar).

[Following two amendments were adopted and two others were negatived.]

(1) That in sub-clause (c) of clause (2) of article 44, for the words "such member" the words "the elected members of both Houses of Parliament" be substituted.

Following amendment moved by Mr. Naziruddin Ahmad was accepted by Dr. Ambedkar.)

(2) That for the Explanation to article 44, the following Explanation be substituted :

> "Explanation.—In this article, the expression 'population' means the population as ascertained at the last preceding census of which the relevant figures have been published."

Article 44, as amended, was adopted and added to the Constitution.

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ARTICLE 45

***Shri T. T. Krishnamachari :** Sir, the Honourable Member's amendment is substantially the same as the article, and deals only with the substantive part of the clause and not with the proviso. Is there any object in the Honourable Member moving his amendment ?

Mr. Mohd. Tahir : There is a difference in the meaning of the amendment and the article, and I shall explain how.

The Honourable Dr. B. R. Ambedkar : It is not an amendment at all : it is merely a transposition of the words. There is no difference at all.

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*CAD, Vol. VII, 13th December 1948, p. 1019.

***Mr. Vice-President :** Amendment No. 1086 is disallowed as it is a verbal amendment.

Amendments Nos. 1087 and 1088 are identical. Dr. Ambedkar may move No. 1087.

The Honourable Dr. B. R. Ambedkar : Sir, I move :

That in clause (a) of the proviso to article 45, for the word "resignation" the word "writing" be substituted.

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†Mr. Vice-President : As no Member has desired to speak on the general discussion of this article, I propose to ask Dr. Ambedkar to reply to the debate. I have received a slip requesting for an opportunity to speak just now. It has come too late.

The Honourable Dr. B. R. Ambedkar : Sir, the only amendment that I accept is No. 1090 as amended by Mr. Gupte's amendment. The others, I am sorry, I cannot accept. There has been no point raised by any Member which requires any explanation.

Mr. Vice-President : I am going to put the amendments to vote.

[In all five amendments were negatived as they were not accepted by Dr. Ambedkar. Only two amendments as shown below were adopted.]

Mr. Vice-President : Now, the question is—

That in clause (a) of the proviso to article 45 for the word 'resignation' the word 'writing' be substituted.

[This amendment moved by Dr. Ambedkar was adopted.]

* * * * *

Mr. Vice-President : Now I shall put amendment No. 1090 as modified by amendment No. 26(A) standing in the name of Shri B. M. Gupte to the vote of the House.

The question is :

That—

(1) Article 45 be re-numbered as clause (1) of that article.

(2) In clause (a) of the proviso to the said clause as so re-numbered for the words "Chairman of the Council of States and the Speaker of the House of the People" the word 'Vice-President' be substituted.

(3) In the said article as re-numbered add the following clause :—

"(2) Any resignation addressed to the Vice-President under clause (a) of the proviso to clause (1) of this article shall forthwith be communicated by him to the Speaker of the House of the People."

The amendment was adopted.

Article 45, as amended, was adopted and added to the Constitution.

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*CAD, Vol. VII, 13th December 1948. pp. 1019-20.

† *Ibid.,* p. 1022.

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ARTICLE 46

***The Honourable Dr. B. R. Ambedkar :** Mr. Vice-President, Sir, I am prepared to accept the amendment of Mr. Sharma, i.e., No. 1098, for the deletion of the words "once, but only once".

With regard to Mr. Kamath's amendment, I think the proper time when this matter could be discussed will be when the issue as to the qualifications of the person standing for Presidentship is raised.

To Mr. Tyagi I may say that in view of the deletion of the words "once, but only once", his fears about the Vice-President are groundless.

Mr. Vice-President : I shall now put the amendments one by one to the vote. Amendment No. 1098. The question is :

"That in article 46 the words 'one, hut only once' be deleted."

The amendment was adopted.

Mr. Vice-President : Then amendment No. 1100.

Shri H. V. Kamath : In view of Dr. Ambedkar's statement, I do not want to press it.

The amendment was, by leave of the Assembly, withdrawn.

Mr. Vice-President: Then Mr. Tyagi's amendment. It does not arise after Dr. Ambedkar's speech, but some *pandit* of technicalities *might* say that I did not put it to the vote. So I want to know if Mr. Tyagi withdraws it or not.

Shri Mahavir Tyagi : Sir, I withdraw it.

The amendment was, by leave of the Assembly, withdrawn.

Mr. Vice-President : The question is :

That article 46, as amended, form part of the Constitution.

The motion was adopted.

Article 46, as amended, was added to the Constitution.

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*CAD, Vol. VII, 13th December 1948. p. 1024.

ARTICLE 47

***Mr. Vice-President :** Amendment No. 1109, Verbal ; disallowed. Amendments numbers 1110 to 1112 are of similar import. The first of these may be moved. It stands in the name of Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar : (Bombay : General): Mr. Vice-President, Sir, I move :

> "That in clause (2) of article 47, and in Explanation to clause 2, for the words 'any office or position of emolument', wherever they occur, the words 'any office of profit' be substituted."

Sir, this amendment is merely intended to improve the language of the draft.

Mr. Vice-President : Amendment No. 1111. Should that be put to the vote?

Shri H. V. Kamath (C. P. & Berar : General) **:** Dr. Ambedkar has stolen a march over me; this does not arise.

Mr. Vice-President : Amendment No. 1112.

Shri Mihir Lal Chattopadhyay (West Bengal : General) **:** That is already covered, Sir.

(Amendment No. 1113 was not moved.)

Mr. Vice-President : Amendment numbers 1114, 1115 and 1116 are verbal and are disallowed.

Amendment No. 1117, Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar : Sir, I move:

> "That for sub-clause (a) of the Explanation to clause (2) of article 47, the following be substituted :—
>
> "(a) he is the Governor of any State for the time being specified in Part I of the First Scheduled or is a minister either for India or for any such State ; or"

The object of this amendment is to remove a disqualification that might arise on account of the fact that a Governor of a State or a Minister is holding an office of profit under the Crown. It is desirable that the Governor of a State as well as a Minister both at the Centre and in the States should be permitted to stand for election and the rule of office of profit under the Crown should not stand in their way.

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*CAD, Vol. VII, 27th December 1948, p. 1027.

***Mr. Vice-President:** Dr. Ambedkar.

Shri Syamanadan Sahaya (Bihar: General)**:** Sir, I have

Mr. Vice-President: I have called Dr. Ambedkar, I am sorry. But have you any amendment ?

Shri Syamanadan Sahaya : No, I have no amendment, but

Mr. Vice-President: If you had come to the front, you could have caught my eyes, because in that direction there is a bad glare.

Shri R. K. Sidhwa (C. P. & Berar : General)**:** But, Sir, we have not had adequate discussion of this article. Only one member has spoken.

The Honourable Dr. B. R. Ambedkar: If they want further discussion, I have no objection.

Mr. Vice-President: Dr. Ambedkar has been good enough to say he does not mind if other Members also speak. Will Shri Syamanandan Sahaya please come to the mike ?

Shri R. K. Sidhwa: Sir .....

Mr. Vice-President: Mr. Sidhwa will always have the last word. I shall give him the last word.

Shri Syamanandan Sahaya : Mr. Vice-President, Sir, I am here to support the amendment which has been moved by Prof. K. T. Shah.

The Honourable Dr. B. R. Ambedkar : Which amendment of Prof. Shah ?

Shri Syamanandan Sahaya: Amendment No. 1124 which reads like this.

> 'provided that any such Minister shall, before offering himself as candidate for such election, resign his office '.

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†The Honourable Dr. B. R. Ambedkar : Mr. Vice-President, I regret that I am unable to accept any of the amendments which have been moved by my honourable Friend, Prof. K. T. Shah. There are three amendments which have been moved by Prof. K. T. Shah. One of them relates to the Minister as a candidate for the Presidency and the other two amendments relate to the President. I propose to divide my observations in reply to his speeches on the three amendments into two parts. In the first part I propose to devote myself to his amendment relating to the Minister.

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*CAD, Vol. VII, 27th December 1948, p. 1031.

† *Ibid.,* pp. 1034-37.

Prof. K. T. Shah's amendment requires that if a person is holding the office of a Minister and wishes to contest an election, the first condition must be that he shall resign his office as a Minister. In other words, ministership by itself would be a disqualification for election. It seems to me that Prof. K. T. Shah has not devoted sufficient attention to his amendment. In the first place, if a Minister resigns then this amendment is unnecessary. The second point which I think Prof. Shah has not considered and which seems to me to be very crucial is this. Supposing we accept his amendment that a Minister shall resign before he stands as a candidate for Presidentship, it is quite clear that between the period of the dissolution of the old Parliament and the time when the new Parliament assembles there can be no Ministers at all in charge of the administration. And the question that we have to consider is this. What is to happen to the administration during the period which is involved between the dissolution of the old Parliament and the assembly of the new Parliament ? Are we to hand over the administration to the bureaucrats or the heads of the administratiave departments to carry on until the new Parliament is elected ? Or is there to be some kind of expedient whereby we are to go about and find a set of temporary Ministers who would take charge of Government during this short period of two or three months and thus forego the opportunity of contesting elections and becoming Ministers themselves in a new Parliament for the full period of their term 7 It seems to me that the amendment of Prof. K. T. Shah, if accepted, would create complete administrative chaos in the Government of the country and therefore I submit.....*

Shri L. Krishnaswami Bharathi (Madras : General)**:** It does not refer to all Ministers : it only refers to one minister.

Shri Mahavir Tyagi (United Provinces : General)**:** And to Deputy Minister also.

The Honourable Dr. B. R. Ambedkar : Supposing every Minister wants to contest the election and therefore every Minister will have to resign.

Prof. K. T. Shah referred to the fact that the Ministers generally monkeyed with the election or may manipulate or exercise their influence over the administration. That of course, to some extent, is probably true. But in order to eliminate the influence which Ministers

*Dots in the original debates indicate interruption.

exercise or might exercise on the elections the draft Constitution has provided under certain articles (articles 289 to 292) for a special machinery to be in charge of what are called Election Commissions both in the centre as well as in the Provinces, which would take charge of the elections to Parliament as well as to the State legislatures. They are to have complete superintendence, control and management of elections, so that whatever possibility that there exists of Ministers exercising their influence over elections has been sought to be eliminated and consequently the fear which Prof. K. T. Shah entertains has really no place at all. I am therefore, for these reasons, unable to accept his amendment.

Coming to his amendments which deal with the President, his first amendment No. 1108 sets out certain disqualifications such us conviction for treason, any offence against the State or any violation of the Constitution, etc. The reason why, for instance, we have not specifically mentioned in this particular article under discussion these disqualifications, will be obvious if the Members recall that we have made other provisions which would have the same object which Prof. Shah has in his mind. In this connection I would like to draw the attention of the House to sub-clause (*c*) of article 48 which requires that "the President shall be a person who shall be qualified for election to Parliament". Now the qualifications for election to Parliament are laid down in article 83. Sub-clause (*e*) of article 83 leaves it to the Parliament to add any disqualifications which Parliament may think it necessary or desirable to add. It is therefore possible that the Parliament when it exercises the powers which are given to it under sub-clause (*e*) of article 83 may think it desirable to include in the list of disqualifications (it is empowered to add to those already enumerated under article 83) some of the propositions which Prof. K. T. Shah has enunciated in his amendment. I therefore submit that, although this particular clause does not refer to the disqualifications mentioned by Professor Shah, it is quite possible and open to Parliament to add them by any law that it may make in sub-clause (*e*) of 83.

Shri H. V. Kamath : On a point of clarification, Mr. Vice-President, if matters like 'unsound mind' and 'undischarged insolvent' are found important enough to be embodied in the article itself, what is the point

in leaving this more vital and fundamental thing to Parliament and not giving it a place in the Constitution itself?

The Honourable Dr. B. R. Ambedkar : I do not know. It is a mere matter of logic. It is perfectly possible to say that every disqualification should be laid down here. It is perfectly possible to say that some essential things may be laid down here and the others left to the Parliament. I cannot see any inconsistency in that at all.

Now coming to the last amendment of Professor Shah, No. 1125, I think a careful perusal of the language he has used is very essential. What the Professor wants is that every person who has to be a President shall, before assuming office, divest himself of his interest, right, title, etc. in any business or concern which is being sponsored by Government or carried on by Government either itself or through any agency, and secondly that the Government should buy that interest from the President. In regard to this, the first thing that strikes me is that this is one of the most novel propositions that I have ever seen. I do not remember that there is any Constitution anywhere in the world which lays down any such condition. I should have thought that if any such condition was necessary it is in the Constitution of the United States where the President has got an opportunity of exercising administrative control, and administrative discretion and therefore the greatest opportunity of personal aggrandisement exists there. And yet, the Constitution of the United States is absolutely silent about any such condition at all. Professor Shah no doubt has tabled his amendment because he looks upon it as a merely consequential amendment to the original proposition which he had enunciated in the form of his amendment, namely, that the President should have the same position as that of the President of the United States. But our Constitution has completely departed from the position which has been assigned to the President of the United States. As I have stated over and over again, our President is merely a nominal figurehead. He has no discretion ; he has no powers of administration at all. Therefore, so far as our President is concerned, this provision is absolutely unnecessary. If at all it is necessary it should be with regard to the Prime Ministers and the other Ministers of State, because it is they who are in complete control of the administration of the State. If any person under the Government of India has any opportunity of aggrandising himself, it

is either the Prime Minister or the Ministers of State and such a provision ought to have been imposed upon them during their tenure and not on the President.

The third question that arises—I think it is a very concrete question—is this. Supposing we laid down any such condition ; is it possible in the circumstances in which we are living, to obtain any candidate who would offer himself for the Presidentship and subject himself to the conditions which have been laid down by Professor Shah ? I doubt very much whether even Professor Shah would offer himself to be President of the Indian Union if these conditions are laid down.

Prof. K. T. Shah : It is not my custom to interrupt speakers at all. But may I give him this categoric assurance that as far I myself am concerned, he can rest assured that there will be complete fulfilment of these conditions. (Laughter).

The Honourable Dr. B. R. Ambedkar : I am glad. But this country could not carry on under the assumption that Professor Shah would be the only candidate who would offer himself for Presidentship. (Laughter) Safety lies in multiplicity of candidates. Therefore we have to consider whether, from a practical point of view, we should have a sufficient number of candidates offering themselves for this particular post. And I have not the least doubt about it that, notwithstanding the very virtuous character of this amendment we should practically be suspending this particular provision from the Constitution if we accept this amendment.

For these reasons I do not accept any of the amendments.

Shri H. V. Kamath : Is Dr. Ambedkar opposed even to the disclosure of the candidate's interest or share ? Is he opposed even to a declaration like that ?

The Honourable Dr. B. R. Ambedkar : But that is not the amendment.

Shri H. V. Kamat: That is part of the amendment.

The Honourable Dr. B. R. Ambedkar: But that is not the amendment.

Mr. Vice-President: I will now put the amendments to vote one by one.

[Following two amendments were adopted ; three amendments were negatived.]

Mr. Vice-President: The question is :

"That ill clause (2) of article 47, and in Explanation to clause 2, for the words 'any office or position of emolument', wherever they occur, the words 'any office of profit he substituted".

Mr. Vice-President: The question is :

That for sub-clause (a) of Explanation to clause (2) of article 47, the following he substituted :

> '(a) he is the Governor of any State for the time being specified in Part I of the First Schedule or is a minister either for India or for any such State; or'."

Article 47, as amended, was adopted and added to the Constitution.

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ARTICLE 47-A

***Mr. Tajamul Hussain :** ..... Now. Sir, in my opinion, this is a fair amendment but I am afraid that this amendment will not be accepted by the Honourable Dr. Ambedkar. Professor Shah comes forward with beautiful amendments but they are all lost because the honourable Member in charge of the Draft Constitution is not in favour of them. Therefore, with your permission, I want to move a verbal amendment to this.

Mr. Vice-President: I cannot allow you to do that. In that case other people would also come forward with verbal amendments. You may make a suggestion for the acceptance of Dr. Ambedkar.

Mr. Tajamul Hussain : My suggestion is this : Mr. Shah's amendment does not say that when a person is elected President he should declare and divest himself of all his personal property. He only says that he should divest himself of his rights, shares or interests in any concern aided or supported by government and that such rights, etc. should be taken over and held in trust for him by the Government of India. I say that as it would come to the Government of India, I thought that Dr. Ambedkar would accept it. If, Dr. Ambedkar as the Law Minister of the Government of India is not going to accept it, then instead of the 'Government of India', let it go to the President's wife and children. That is a very simple matter .....

I support the amendment and I move my oral amendment.

Mr. Vice-President : There is no amendment to be moved.

The Honourable Dr. B.R. Ambedkar : Sir, I have nothing to say.

[Amendment of Prof. K. T. Shah was put to vote but was negatived by the House.]

*CAD. Vol. VII. 27th December 1948, p. 1040

ARTICLE 48

***Mr. Vice-President :** On going through the amendments one by one. I find that amendments Nos. 1127, 1128 and 1130 are of similar import. Amendment No. 1130 seems to be the most comprehensive and may be moved.

The Honourable Dr. B. R. Ambedkar : Mr. Vice-President, Sir, I move:

"That in clause (1) of article 48 :—

'(a) for the words 'either of Parliament or' the words 'of either House of Parliament or of a House' be substituted ;

(b) for the words 'member of Parliament or' the words 'member of either House of Parliament or of a House' be substituted ;

(c) for the words 'in Parliament of such Legislature, as the case may be,' the words 'in that House 'be substituted'."

There was some defect in the original language and we have tried to improve it.

Mr. Naziruddin Ahmad (West Bengal : Muslim) **:** Mr. Vice-President, we have already decided by accepting certain rules that amendments which are intended to beautify the language of an article will not be allowed. Improving the language is not now one of the objectives of an amendment. Before the amendment was moved, it looked like an imposing amendment, but Dr. Ambedkar has clearly admitted that it was intended merely to improve the language of the article. In that view, although it has been moved, it need not be put to the vote.

Mr. Vice-President : Certain powers have been given to the Chair and the Chair is going to exercise them in the way which seems best.

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†The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That in clause (2) of article 48, for the words 'or position of emolument' the words 'of profit' be substituted."

Sir, this amendment is just for the sake of uniformity.

Mr. Vice-President : Amendment No. 1134. Do you want me to put this lo the vote ?

Shri H. V. Kamath : I have been forestalled by Dr. Ambedkar; But I would like to move amendment No. 1135.

Mr. Vice-President : We have now only come up to amendment No. 1134. Amendment No. 1135. You can move it.

*CAD, Vol. VII. 27th December 1948, p. 1040.

†*Ibid* p. 1042.

Shri H. V. Kamath : I move, Sir,

"That in clause (3) of article 4X, the words the President shall have an official residence and 'he deleted."

That is to say, the clause will read thus, if the amendment is accepted.

"There shall be paid to the President such emoluments and allowances, etc. etc....."

In moving this amendment, Sir, I seek a little light from Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar : Which amendment ?

Shri H. V. Kamath : Amendment No. 1135. My purpose in moving this amendment before the House is to request Dr. Ambedkar to throw a little light upon the necessity for incorporating such an insignificant, such a minor detail in our Constitution....

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***The Honourable Dr. B. R. Ambedkar :** Mr. Vice-President, Sir, I regret I cannot accept the amendments which have been moved. Professor Shah's amendment No. 1138 seems to be somewhat superfluous. It provides that the President shall be given Secretariat assistance. There is no doubt about it that it will be done whether there is any provision in the Constitution or not.

With regard to his second amendment No. 1140 prescribing that a pension be given to the President on his retirement, I find that while I am agreeable to the sentiment that he has expressed that persons who serve the public by becoming members of Parliament undergo a great deal of personal sacrifice and that it is desirable that they should not be left unprovided for towards the end of their lives, it seems rather difficult to accept this particular armendment also. According to him, every person who becomes President and serves his term of office, which is 5 years, shall, at the end of 5 years, be entitled lo a pension. The second difficulty is that according to his amendment his pension shall not be altered during his life-time. Now supposing for instance one person who has been a President and has filled his full terms of years and has obtained a pension under the amendment of Professor Shah, suppose that he is again elected to be the President, what is the position ? The position is that he continues to get his salary as the President in addition to that he will also be entitled to his pension.

*CAD, Vol. VII, 27th December 1948, pp. 1044-46.

We would not be in a position even to reduce the pension in order to bring it down to his salary. Therefore, in the form in which the amendment is moved, I do not think that it is a practical proposition for anyone to accept. But there is no doubt about the general view that he has expressed, that after a certain period of service in Parliament, Members, including the President, ought to be entitled to some sort of pension, and I think it is a laudable idea which has been given effect to in the British Parliament, and I have no doubt about it that our future Parliament will bear this fact in mind.

Then with regard to the question raised by Professor Kamath about residential.....*

Shri H. V. Kamath : Sir, I am not Professor Kamath.

The Honourable Dr. B. R. Ambedkar : But he is quite entitled to be called Professor because he speaks so often. (*Laughter*.)

Shri H. V. Kamath : God forbid I should ever become a professor, (*Laughter*.)

The Honourable Dr. B. R. Ambedkar : Well, my friend Mr. Kamath asked me to explain why we have included this provision here, with regard to the official residence of the President, and he also twitted me on the fact that I was burdening the Constitution by mentioning it and other small minutiae. It might be though that this is a small matter and might not have been included in the Constitution. But the question I would like to ask Mr. Kamath is this. Does he or does he not intend that the President should have an official residence and that Parliament should make provision for it ? And is there very much of a wrong if the proposition was stated in the Constitution itself? If the intention is that.....

Shri H. V. Kamath : Sir, may I know whether the Prime Minister will or will not have an official residence 7

The Honourable Dr. B. R. Ambedkar : Yes, this is merely a matter of logic. I want to know if he does or does not support the proposition that the President should have an official residence. If he accepts that proposition, then it *seems* to me a matter of small import whether a provision is made in the Constitutiom itself or whether the matter is left for the future Parliament to decide. The reason why we have introduced this matter in the Constitution is that in the Government

*Dots in the original debates indicate interruption.

of India Act, in the several Orders in Council which have been issued by the Secretary of State under the authority conferred upon him by the Second Schedule of the Government of India Act, official residences, both for the Governor-General and the Governors have been laid down ; and we have merely followed the existing practice in incorporating this particular provision in the Constitution ; and I do not think we have done any very great violence either to good taste or done something which we do not intend to do.

Shri H. V. Kamath : On a point of clarification, Sir, may I know whether this particular clause of article 48 will stand in the way of the President being provided with more than one official residence ? It speaks of the President having "an official residence. "

The Honourable Dr. B. R. Ambedkar : Not at all. There may be two official residences.

Then, with regard to the amendment of Mr. Sarwate, No. 28,1 would like to say that this matter may have to be considered when we deal with the Constitution of the States which will accede to the Indian Union. Today the situation is so fluid that it is very difficult to make any provision of the sort which has been suggested by Mr. Sarwate.

Mr. Vice-President: The amendments will now be put to vote, one by one. Amendment No. 1130, standing in the name of Dr. Ambedkar.

[*All amendments of Dr. Ambedkar as shown were accepted. Amendments standing in the name of Mr. Sarwate, Mr. Naziruddin Ahmed, Mr. Kamath and Prof. K. T. Shah were negatived. Article 48, as amended, was adopted and added to the Constitution.*]

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ARTICLE 49

***Mr. Vice-President :** We now come to article 49.

Shri T. T. Krishnamachari : Mr. Vice-President, Sir, I move :

> "That in article 49 after the words 'Chief Justice of India' the words 'or, in his absence the senior-most Judge of the Supreme Court available' he inserted."

Sir, this is only making a provision in case the Chief Justice of India is not present, some other Judge should do his function, and it is but proper that the senior-most judge of the Supreme Court should do this function. Sir, I trust the House will accept the amendment because it needs no further explanation.

*CAD, Vol. VII, 27th December 1948, p. 1047.

Mr. Vice-President : Dr. Ambedkar, do you accept that amendment ?

The Honourable Dr. B. R. Ambedkar : Yes, I do.

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***Mr. Vice-President :** Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar: Mr. Vice-President, Sir, I am prepared to accept the amendment moved by Mr. T. T. Krishnamachari, that is No. 1144, and also amendment No. 1146 by Mr. Kaniath, as amended by Mr. Tyagi's amendment.

With regard to the first amendment, that moved by Mr. T. T. Krishnamachari, not much argument is necessary. His amendments is certainly better than the amendment that stood in my name.

With regard to the second amendment, No. 1146, in view of the fact that 1 am prepared to accept it in the form amended by Mr. Tyagi, I do not think I am called upon to enter into the merits of the question. But perhaps, it might be as well that I should say a few words as to why the Drafting Committee itself did not introduce in its original draft, the words "in the name of God." Sir, I do not think that this matter was considered fully by the Drafting Committee and therefore I cannot advance any adequate reason why they did not originally put in those words.

So far as I am concerned, I feel that this was a matter which required some consideration. If the House will permit me, I would express my own views on the matter. The way I felt about it is this. The word "God" so far as my reading goes, has a different significance in different religious. Christians and Muslims believe in God not merely as a concept, but as a force which governs the world and which governs, therefore, the moral and spiritual actions of those who believe in God. So far as Hindu theology was concerned, according to my reading—and I may be wholly wrong, I do not pretend to be a student of the subject—I felt that the word "Eswara" or to use a bigger word, "Parameswara" is merely a summation of an idea, of a concept. As I said, to use the language of integral calculus, you put sums together and find out something which is common, and you call that "S" which is merely a summation. There is nothing concrete behind it. If in Hindu

*CAD, Vol. VII, 27th December 1948, pp. 1060-62.

theology there is anything concrete, it is "Brahma", "Vishnu", "Mahesh", "Siva", "Sakti". There are things which are accepted by Hindus as forces which govern the world. It seems to me, that it would have been very difficult for the Drafting Committee to have proceeded upon this basis and to have introduced phraseology which would have required several underlinings—God, below that Siva, below that Vishnu, below that Brahma, below that Sakti and so on and so on. It is because of this embarrassment that we left the situation blank, as you will find in the Drafting Committee.

Shri A. V. Thakkar [United State of Kathiawar (Saurashtra)] **:** But there is one above all.

The Honourable Dr. B. R. Ambedkar : I am, however, quite happy that this amendment has been introduced. Now, some Members have raised objections to the amendment. They are afraid that the introduction of the word God in the Constitution is going to alter the nature of what has been proclaimed to be a secular State. In my judgment, the introduction of the word God does not raise that question at all. The reason why the word God is introduced is a very simple one. The Constitution lays down certain obligations upon the President. Those obligations are obviously divisible into two categories, obligations for which there is legal sanction and legal punishment provided, and there are obligations for which there are no legal rules provided, nor any punishment is provided. Consequently, in every constitution this question always arises. What is to be the sanction of such duties, such obligations, as have been imposed upon a particular functionary for which it is not possible by law to provide a criminal sanction, a penalty ? It is obvious that unless and until we decide or we believe that these moral duties for which there is no criminal or legal sanction are not mere pious platitudes, we must provide some kind of sanction. To some people God is a sanction. They think if they take a vow in the name of God, God being the governing force of the Universe, as well as of their individual lives, that oath in the name of God provides the sanction which is necessary for the fulfilment of obligations which are purely moral and for which there is no sanction provided.

There are people who believe that their conscience is enough of a sanction. They do not need God, an external force, as a sentinel or

a watchman to act by their side. They think a solemn affirmation coming out of their conscience is quite enough of a sanction. If honourable Members have read the history of this matter which is embodied in the struggle between Mr. Bradlaugh and the House of Commons, they will realize that as early as 1880 or so, Mr. Bradlaugh insisted that he was a perfectly moral being, that his conscience was quite active, and that if he took the oath his conscience was enough of a sanction for him to keep him within the traces, so to say. After a long long struggle in the House of Commons, in which on one occasion Mr. Bradlaugh was almost beaten to death by the Sergeant-at-Arms for trying to sit in the House of Commons and taking part in its proceedings without taking the oath to which he raised objection. Mr. Gladstone ultimately had to yield and to provide an additional or alternative form which is called solemn affirmation. Therefore the issue that is involved in this amendment has nothing to do with the character of the State. Whether it is a secular or a religious State is a matter quite outside the bounds of the issue raised. The only question raised is whether we ought not to provide some kind of a sanction for the moral obligation we impose on the President. If the President thinks that God is a mentor and that unless he takes an oath in the name of God he will not be true to the duties he assumes, I think we ought to give him the liberty to swear in the name of God. If there is another person with whom God is not his mentor, we ought to give him the liberty to affirm and carry on the duties on the basis of that affirmation.

I therefore submit that the amendment is a good one and I am prepared to accept it.

Mr. Vice-President : You have nothing to say on the amendments moved by Mr. Karimuddin and Prof. Shah'?

The Honourable Dr. B. R. Ambedkar : No, Sir.

[Amendment moved by T. T. Krishnamachari as mentioned before was adopted.]

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Mr. Vice-President : The next amendment to be put to the vote is No. 1146. But this is identical with Mr. Mahavir Tyagi's amendment and if Mr. Kamath agrees I shall put this one to the vote.

Shri H. V. Kamath : I have no objection to Mr. Tyagi's amendment, as there is a mere verbal difference between his and mine.

Mr. Vice-President : Then I shall put Mr. Tyagi's amendment, which is an amendment to amendment No. 1146, to vote.

Shri H. V. Kamath : No, Sir. My amendment as amended by Mr. Tyagi should be put to the vote.

Mr. Vice-President : Yes, yes ; that is understood, I did not know that you were such a stickler for forms ; You break so many forms systematically !

The question is :

"That in article 49 for the words 'do solemnly affirm (or swear)', the following be substituted :—

$$\text{'do}\ \frac{\text{swear in the name of God}}{\text{solemnly affirm}}\text{'."}$$

The amendment was adopted.

Article 49, as amended, was adopted and added to the Constitution.

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***Mr. Vice-President:** Amendment Nos. 1166, 1167, 1168 and 1169 are of similar import. Amendment No. 1167 may be moved. It stands in the name of Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar (Bombay : General) **:** Sir, I move :

"That in sub-clause (b) of clause (2) of article 50, for the words 'supported by' the words 'passed by a majority of' be substituted."

Mr. Vice-President : Amendment No. 1166 standing in the names of Mr. Mohd. Tahir and Saiyid Jafar Imam.

Mr. Mohd. Tahir : I want to discuss it. My amendment is quite different from Dr. Ambedkar's. They are not the same.

Mr. Vice-President : It can be put to the vote. You can take part in the general discussion and make your point then. That will be much better, I think.

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†Mr. Vice-President : ...Amendment No. 1177 may be moved.

The Honourable Dr. B. R. Ambedkar : Sir, I beg to move :

"That in clause (4) of article 50. for the words 'passed, supported by' the words 'passed by a majority of' be substituted."

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‡The Honourable Dr. B. R. Ambedkar : Mr. Vice-President, Sir, of the many amendments winch have been moved to this article, I can accept only two. One is No. 1158 moved by my Friend, Mr. Gupte

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*CAD, Vol. VII, 28th December 1948. p. 1065.

†*Ibid* p. 1067.

‡*Ibid.,* pp. 1070-82.

providing of fourteen days' notice for the discussion of a motion to impeach the President. The second amendment which I am prepared to accept is amendment No. 1160 moved by my Friend Mr. Deo, as amended by Mr. T. T. Krishnamachari. I think the original provision in the Draft Constitution did not lay down sufficient number of members as a condition precedent for the initiation of the motion. I think the change provided by the amendment is for the better and I am therefore prepared to accept it.

Now, Sir, I come to the other amendments which I am sorry to say I have not been able to accept but which I think call for a reply. The amendments which call for a reply are the amendments moved by Prof. K.T. Shah Nos. 1151, 1171, 1173, 1176 and 1186. Sir, the amendments which have been moved by Prof. K. T. Shah refer to two questions. The first is the scheme of impeachment which has been laid down in the Draft Constitution and the second relates to the right of the President to appear and defend through a lawyer before the House which is investigating the charge against the President. So far as the second amendment of Prof. K. T. Shah is concerned, I do not see that there is any necessity for any such amendment at all; because Prof. Shah referred to the article—I think it is sub-clause (4) or (3),—it makes ample provision for permitting the President not only to appear before the investigating House, but also to be represented by any other person, namely, a lawyer. All that Prof. K. T. Shah has done is to separate this particular part of that clause and to put it as sub-clause (3) (a) in order to make it an independent proposition by itself. I do not think that there is any such necessity for the device that he has adopted.

Now, I come to the first part, namely, the drawbacks which he has shown in the scheme of impeachment provided in the Draft Constitution. Before I proceed to reply to his points, I think it is desirable that the House should have before it a clear picture of the provisions of the scheme embodied in the Draft Constitution. Any one who analyses this article will find that it embodies four, different propositions. Firstly, the motion for impeachment may be initiated in either House, either in the Council of States or in the House of the People. Secondly, such motion must have the support of a required number of members. Thirdly, the House which has passed the motion for investigation shall not be entitled to investigate the charge. And

fourthly, that the House which has investigated the charge, if it finds the President guilty must do so by a majority of two-thirds.

These are the four propositions which have been embodied in this particular article. Now Prof. Shah's proposition is that the Upper House should have nothing to do with the impeachment of the President and that the jurisdiction to impeach the President, to investigate and to come to its own conclusions must be solely vested in the House of the People. I have not been able to understand the reasons why Prof. K. T. Shah thinks that the Lower House is in a special way entitled to have this jurisdiction vested in it. After all the trial of the President or his impeachment is intended to see that the dignity, honour and the rectitude of the office is maintained by the person who is holding that particular office. Obviously, the honour, the dignity and the rectitude of that office is not merely a matter of concern to the Lower House, it is equally a matter of concern for the Upper House as well. I do not, therefore, understand why the Upper Chamber which, as I said, is equally interested in seeing that the President conducts himself in conformity with the provisions of the Constitution should be ousted from investigating or entertaining a charge of any breach of conduct on the part of the President in his integrity and it is equally concerned as the House of the People. Prof. K. T. Shah felt so sure about the correctness of his proposition that he said in the course of his argument that only those who have been slavishly copying the other constitutions would have the courage to oppose his amendments. I do not mind the dig which he has had at the Drafting Committee. As I said in my opening address, the Drafting Committee in the interests of this country has not been afraid of borrowing from other constitutions wherever they have felt that the other constitutions have contained some better provisions than we could ourselves devise. But I thought Prof. K. T. Shah forgot that if there was any person, so far as I am able to see, who has practised slavish imitation of the Constitution of the United States, I cannot point to any other individual except Prof. Shah. (*Laughter*). I thought his whole scheme which was just a substitute for the scheme of Government embodied in the Draft Constitution was bodily borrowed with commas and semi-colons from the United States Constitution, and when he was defeated on his main proposition, his worship of the United States Constitution has been so profound, so

deep, that he has been persisting in moving the other amendments which, as he himself knows, are only consequential and have no substance in themselves. I therefore do not mind the dig that he has had at the Drafting Committee,

The other proposition which Prof. K. T. Shah has sought to introduce in the Constitution is that there should be a concurrence of the other House. He has evidently decided to accept the main scheme embodied in the Draft Constitution. What he wants is that even if the one House which has investigated the offence has come to a conclusion, that conclusion ought not to have effect unless it has been adopted by the other House. I cannot understand why, for instance, the verdict of a jury—and this is no doubt a sort of jury, which will investigate and come to a conclusion—I do not understand why the verdict of one House, which it would have come to after investigation should be submitted to another jury. I have never known of any such principle or percedent at all. Secondly, I do not understand what is to be the effect if the other House does not adopt. Is the other House required to adopt only by bare majority or two-thirds majority ? Supposing the other House does not adopt the conclusion which has been arrived at by one House, what is to be done ? Obviously there will be a tie. Prof. K. T. Shah provided in my judgment, no remedy for the dissolution of that tie. For these reasons, I am unable to accept any of the amendments moved by Prof. K. T. Shah.

There is another amendment which I might deal with because it is analogous to the amendments moved by Prof. K. T. Shah, and that is amendment No. 1178 moved by my Friend, Mr. Mohd. Tahir. He says that it is unnecessary to provide for a two-thirds majority for a charge of being guilty of violation of the Constitution. He thinks that a bare majority is enough. Now, Sir, I think my Friend, Mr. Mohd. Tahir has not taken sufficient notice of the fact that a motion for impeachment is very different from a motion of no confidence. A motion of no confidence does not involve any shame or moral turpitude. A motion of no confidence merely means that the party does not accept or the House does not accept the policy of the Government. Beyond that no other censure is involved in a no confidence motion. But, an impeachment motion stands on a totally different footing. If a man is convicted on a motion for impeachment, it practically amounts to the ruination

of his public career. That being the difference, I think it is desirable that such an important consequence should not be permitted to follow from the decision of a bare majority. It is because of this difference that the Drafting Committee provided that the verdict of guilty should be supported by a two-thirds majority.

Now, Sir, I come to the amendments of my honourable Friend. Kazi Syed Karimuddin. His first amendment which I propose to take for consideration is amendment No. 1152. By this amendment he wants to add treason, bribery and other high crimes and misdemeanours after the words, 'violation of the Constitution'. My own view is this. The phrase 'violation of the Constitution' is quite a large one and may well include treason, bribery and other high crimes or misdemeanours. Because treason, certainly, would be a violation of the Constitution. Bribery also will be a violation of the Constitution because it will be a violation of the oath by the President. With regard to crimes, the Members will see that we have made a different provision with regard to the trial of the President for any crimes or misdemeanours that he may have made. Therefore, in my view, the addition of these words, treason and bribery, are unnecessary. They are covered by the phrase "violation of the Constitution".

His other amendment is amendment No. 1170, whereby Mr. Karimuddin seeks to provide that when an investigation is being made into the charge of impeachment, the Chief Justice of India shall preside. I have no quarrel with his proposition that any investigation that may be undertaken by any House which happens to be in charge of the impeachment matter should have the investigation conducted in a judicial manner, having regard to all the provisions which are embodied in the Criminal Procedure Code and the Evidence Act. As I said, I have no quarrel with his objective ; in fact, I share it. The only point is this : whether this is a matter which should be left for the two Houses to provide in the Rules of Procedure or whether it is desirable to place this matter right in the Constitution in a definite and express manner. My friend Mr. Karimuddin will see that in sub-clause (3) it is provided that the House shall investigate, and therefore it is quite clear that both the Houses of Parliament in making the rules of procedure will have to embody in it a section dealing with the procedure relating to impeachment. Because, it may be, at one time the initiation may take

place in the Upper Chamber and trial may take place in the Lower Chamber, and *vice versa*. So, both the Houses will have to have a section dealing with this matter in the procedure of each House. That being so, there is nothing to prevent the legislature from setting out in that part of the procedure of the two Houses that wherever that investigation is made, either the Chief Justice shall preside or some other judicial officer may preside, and therefore it seems to me that his object will be achieved if what I submit is carried out by the procedural part of the Rules of the two Houses. This provision is therefore quite unnecessary.

I come to his third amendment, No. 1187. He wants that the Constitution should lay down the disqualifications which must necessarily arise out of a charge of guilt on impeachment. The language that he has borrowed I see is from the United States Constitution. My view with regard to this matter is this. So far as membership of the legislature is concerned, as I pointed out on an earlier occasion, the matter is covered by the provision contained in article 83 which lays down the disqualifications for membership of the legislature. As I then stated, it would be perfectly posssible for Parliament in laying down additional disqualifications to introduce a clause saying that a person who has been impeached under the Constitution shall not be qualified to be a member of the legislature. Therefore, by virtue of article 83, it would be perfectly possible to exclude a President who has been impeached from membership of the legislature.

The only other matter that remains is the question of appointment to office. It seems to me that there are several considerations to be borne in mind. It is quite true that the provisions of the Draft Constitution leave this matter open. But, I think it would be perfectly possible for Parliament, when enacting, a Civil Servants Act, as I have no doubt the future Parliament will be required to do, to lay down the qualifications for public service, their emoluments and all other provisions with regard to public service. Obviously, it would be open to Parliament to say that any person who has been impeached under the law of the Constitution shall not be a fit person to be appointed to any particular post, either an ambassadorial post, outside the Government, or inside the Government in any particular department. Therefore, that matter, I see, can also be covered by parliamentary legislation.

Shri H. V. Kamath : Am I to understand that Dr. Ambedkar is personally in favour of this amendments ?

The Honourable Dr. B. R. Ambedkar: Yes ; I think there is nothing in this amendment except the fact that this was met by other ways.

Now, Sir, the other question is this : is it necessary to have these disqualifications laid down specifically and expressly in the Constitution ? It seems to me that there is no necessity, for two reasons. One is that no person who has been shamed in this manner by a public trial and declared to be a public enemy would ever have the courage to offer himself as a candidate for any particular post. Therefore, that possibility, I think, is excluded by this consideration. The second is this : whether the people of this country would be so wanting in sense of public duty and public service to elect any such person, if he, as a matter of fact, stood. I think it would be too shameful an imputation to the people of this country to say that it is necessary to make an express provision of this sort in the Constitution because the people of this country are likely to elect persons who are criminals, who have committed breach of trust and who have failed the public in the performance of their public duties. I think these weaknesses are inherent in all societies and no good purpose will be served by advertising them by putting them in the Constitution. I therefore think that the amendments, however laudable they are, are not necessary to be embodied in the Constitution.

Mr. Vice-President: The amendments which have been moved will now be put to vote.

[Following amendments were accepted by Dr. Ambedkar and adopted by the House.]

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***Mr. Vice-President :** I now put to vote amendment No. 1160 as modified by the amendment of Mr. T. T. Krishnamachari. The question is :

> "That is sub-clause (a) of clause (2) of article 50. for the words 'thirty members'. the words 'one-fourth of the total number of members' be substituted."

The amendment was adopted.

Mr. Vice-President : The question is :

> "That in sub-clause (a) of clause (2) of article 50. for the words 'after a notice' the words 'after at least 14 days notice' be substituted."

The amendment was adopted.

* CAD, Vol. VIII, 28th December 1948, p. 1083.

Mr. Vice-President : The question is :

"'That in sub-clause (b) of clause (2) of article 50, for the words 'supported by' the words 'passed by a majority of' be substituted."

The amendment was adopted.

[In all 15 amendments were negatived. One of them was discussed as under.]

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***Mr. Vice-President :** The question is : Amendment No. 1185.

Mr. Naziruddin Ahmad : Sir, no reply has been given to my amendment by Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar : Sir, I said I oppose it.

Mr. Vice-President : The question is :

"That in clause (4) of article 50. for the words 'date on which' the words 'time when' be substituted."

The amendment was negatived.

[Article 50, as amended was adopted and added to the Constitution.]

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ARTICLE 51

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†Mr. Vice-President : Amendments Nos. 1195, 1196 and 1197 are disallowed, being verbal ones. Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar : Sir, I am sorry I cannot accept the amendment moved by Prof. K. T. Shah. His amendment seems to be covered altogether by article 54 (1). I fail to find any difference between the amendment that he has moved and the provision contained in sub-clause (1) of article 54. I think if he considers this article, he will find that his amendment is unnecessary and superfluous.

With regard to the other amendment, the point of difference is that any one who is elected as a result of the resignation and so on, should only occupy the Chair of the Presidentship during the balance of the term, while the provision contained in the Constitution is to the effect that if a person is elected as a result of resignation, death and so on, he should continue to be the President for the full term perscribed by the Constitution. I see no reason why the term of office of a person who has been elected to the office should not be the full term prescribed by the Constitution and why he should be limited only to the balance of the term. I therefore, see no justification for the amendment at all.

[All the three amendments were negatived. Article 51 was adopted to the Constitution. The motion was adopted. Article 51 was added to the Constitution.]

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*CAD, Vol. VII, 28th December 1948, p. 1084.

†*Ibid.*, p. 1087.

ARTICLE 52

[Article 52 was adopted without discussion and added to the Constitution.]

ARTICLE 53

***Mr. Vice-President :** Then we come to article 53. Amendment No. 1201 is being disallowed because it has the effect of a negative vote. Amendments Nos. 1202 and 1203 seem to be identical and I therefore allow amendment No. 1202 to be moved.

The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That in article 53 for the words 'or position of emolument' the words 'of profit' be substituted."

Mr. Vice-President : Then No. 1204 standing in the name of Mr. Mohd. Tahir.

Mr. Mohd. Tahir : I am not moving it, Sir.

Mr. Vice-President : Then amendment No. 1205 standing in the name of Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That to the proviso to article 53, the following be added : —

'and shall not be entitled to any salary or allowance payable to the Chairman of the Council of States under article 79 of this Constitution.'"

The provision is intended to prevent making a double profit.

Mr. Vice-President : There is one amendment sent in by Mr. Naziruddin Ahmad, No. 33. This is formal and is disallowed.

Now I am putting these amendments to vote. Has any Member anything to say on these amendments ?

Shri H. V. Kamath : On a point of information, Sir, with reference to amendment No. 1205, will the Vice-President, when he acts as President, draw the salary and allowances of the President or those of the Vice-President only ?

The Honourable Dr. B. R. Ambedkar : The salary of the President. salary of the office.

Mr. Vice-President : Then I am putting these amendments to vote. I shall put No. 1202 standing in the name of Dr. Ambedkar.

The question is :

"That in article 53, for the words 'or position of emolument' the words 'of profit' be substituted."

The amendment was adopted.

* CAD, Vol. VII, 28th December 1948, pp. 1088-89.

Mr. Vice-President : Do you want me to put your amendment to vote, Mr. Naziruddin Ahmad, which is identical with the previous one ?

Mr. Naziruddin Ahmad : No, Sir.

Vice-President : Then I shall put to vote amendment No. 1205.

The question is :

"That to the proviso to article 53. the following be added :—

'and shall not be entitled to any salary or allowance payable to the Chairman of the Council of States under article 79 of this Constitution'."

The amendment was adopted.

Article 53, as amended, was adopted and added to the constitution.

ARTICLE 54

***Mr. Naziruddin Ahmad :** Sir, I beg to move :

"That in clause (1) of article 54. for the words 'date on which', the words 'time when' be substituted."

(Speech of N.A.)

Mr. Vice-President : ...Amendments Nos. 1211 and 1210 are of similar import but the former is more comprehensive and may be moved.

The Honourable Dr. B. R. Ambedkar : Sir. I move :

"That to clause (3) of article 54. the following be added:—

'and be entitled to such privileges, emoluments and allowances as may be determined by Parliament by law and until provision in that behalf is so made, such privileges, emoluments and allowances as are specified in the Second Schedule'."

This merely makes good an omission in the Draft Constitution.

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The Honourable Dr. B. R. Ambedkar : Mr. Vice-President, I find that in the amendments that have been moved there are really three points which have been raised. One point which has been raised by my friend Mr. Naziruddin Ahmad relates to time. We all know by now how very meticulous my friend Mr. Naziruddin Ahmad is and he wants to have the Constitution specifically state the time when a President frees himself from office and another persons takes over that office. I do not know whether so much meticulousness is necessary in this Constitution. However, what I find difficult to accept in the amendment which he has moved is that he has not particularised what is system of timing which he has in mind. Is it the Greenwich time, the Standard time, the Bombay or Calcutta time?.....†

*CAD, Vol. VII, 28th December 1948, pp. 1089-92.

†Dots in the original debates indicate interruption.

Mr. Naziruddin Ahmad : I mean the actual time of appointment.

The Honourable Dr. B. R. Ambedkar : What is the time may be very different. Unless he prescribes the system I do not think that the introduction of the word 'time' introduces any greater clarity or definiteness at all.

Secondly, so tar as this particular clause is concerned 1 find that his amendment is quite unnecessary, because if he will read sub-clause(1) of article 54 he will see that it is stated "to fill such vacancy enters upon his office". Surely the entering upon office will he at sometime in the day—it may be midnight or it may be 12 o'clock in the day therefore time is specified so to say by implication and this amendment is therefore quite unnecessary.....*

Mr. Naziruddin Ahmad : The clause provides that the Vice-President shall act until the 'date' on which the new President enters upon his office and not the time when lie does so.

The Honourable Dr. B. R. Ambedkar : Surely it will be sometime on some day on which he will enter the office. He may probably consult an astrologer to find out what is the auspicious moment. However, the amendment is quite unnecessary.

My friend Mr. Kamath said that in replying to the debate on the previous article I stated or rather in moving my amendment I stated that the Vice-President when acting as the President shall have the same emoluments as the President. He found some difficulty in reconciling that statement with the amendment which I have moved, which gives the Parliament the power to fix the salary of the Vice-President when acting as the President. If my Friend Mr. Kamath were to turn to page 161 of the Draft Constitution he will find that there is a schedule fixing the salary of the President and paragraph 5 of that schedule definitely provides for the salary of the President. Surely when a person is acting as the President, no matter at what early stage in life he has climbed to that post, he will be entitled to get that salary according to this Constitution. But it was felt that it might be necessary to leave the matter to Parliament to fix a different scale of salary for a person who is assuming the office of the President expressly for a very short duration. Parliament may not like to give him the same salary, because the tenure of his office is certainly not of the same duration as that of the President himself. Consequently, if Parliament makes no

*Dots in the original debates indicate interruptions.

provision, then he gets the salary of the President. But Parliament may make provision to give him a different salary. It is for that purpose the amendment has been moved.

Shri H. V. Kamath : Sir, may I invite the attention of my Honourable Friend Dr. Ambedkar to article 48 clause (4) which lays down that the emoluments and allowances of the President shall not be diminished during his term of office ? Am I to understand that you make a distinction between the Vice-President acting as President and the President ?

The Honourable Dr. B. R. Ambedkar : Yes, certainly.

Shri H. V. Kamath : Sir, Just now when I raised objection to an amendment to the last article. Dr. Ambedkar said that the Vice-President shall draw the salary and allowances of the President while acting as President.

The Honourable Dr. B. R. Ambedkar : Unless Parliament otherwise provides, the Vice-Presidents gets the salary of the President when he acts for him. There is no reason why Parliament should not be given authority to fix the scales of pay of a President who may be there for a short duration.

Pandit Bhargava raised another point and that was to the effect that there was no provision for the impeachment of the Vice-President when acting as President. Obviously, when a Vice-President becomes the President, all the duties and obligations which are imposed upon the President fall upon him without making any express mention of the fact at all. If during his tenure of office as President, the Vice-President commits any of the offences or acts which expose the President to the risk of being impeached, he will not have any kind of immunity by reason of the fact that he is either a Vice-President or is acting as President, *pro tempore*. There is therefore no necessity for making any provision for it.

Mr. Naziruddin Ahmad : Mr. Vice-President, may I ask.....

The Honourable Dr. B. R. Ambedkar : I do not submit myself to any cross examination at this stage.

Mr. Vice-Pesident : Mr. Naziruddin Ahmad may go back to his seat.

Mr. Naziruddin Ahmad : I want to draw the attention of the Honourable Dr. Ambedkar to an oversight.

Mr. Vice-President : He refuses to listen to it. What can I do ? I cannot compel him to listen.

Mr. Naziruddin Ahmad : No one can compel him. The point is that in clause (3) of article 54.....

Mr. Vice-President : I am going to put the amendment to vote. Dr. Ambedkar has said that he will not give any reply.

Mr. Naziruddin Ahmad : I hope he will reconsider the matter.

Mr. vice-President: I have not called upon Mr. Naziruddin Ahmad to speak.

Mr. Naziruddin Ahmad : Sir, I want only to draw the attention of the House to a point which might influence the votes.

Mr. Vice-President : Why not do so at the third reading stage ? I am going to put the amendment to vote.

Mr. Naziruddin Ahmad : But, Sir, this is a matter of great importance.

Mr. Vice-President : You think so. May I ask you respectfully to go back to your seat ?

Mr. Naziruddin Ahmad : I shall comply with your request.

Mr. Vice-President: I shall now put amendment No. 1205 standing in the name of Mr. Naziruddin Ahmad to vote.

The amendment was negatived.

[Amendment by Dr. Ambedkar as mentioned earlier was adopted.]

Article 54, as amended, was adopted and added to the constitution.

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ARTICLE 55

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***Mr. Vice-President :** ... Amendment No. 1224 Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar : Sir, I move.

"That in clause (2) of article 55. for the words 'either of Parliament or' the words 'of either House of Parliament or of a House 'for the words' member of Parliament or 'the words 'member of either House of Parliament or of a House', and for the words 'in Parliament or such Legislature, as the case may be' the words 'in that Houe' be substituted respectively."

This is only to improve the language. There is no point of substance in it.

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*CAD, Vol. VII, 28th December 1948, p. 1095.

***Mr. Vice-President :** The next two amendments Nos. 1232 and 1233 are disallowed as being verbal.

Amendments Nos. 1234 standing in the name of Dr. Ambedkar, 1235 and 1239 standing in the name of Mr. Naziruddin Ahmad are of similar import and I am, therefore asking Dr. Ambedkar to move his amendment, which seems to me the most comprehensive one.

The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That in clause (4) of article 55, for the words 'or position of emolument' wherever they occur the words 'of profit' be substituted."

Mr. Vice-President : Amendment No. 1235 stands in the name of Mr. Naziruddin Ahmad. Does he want me to put this to the vote ?

Mr. Naziruddin Ahmad : No, Sir, the previous amendment will cover it.

Mr. Vice-President : What about amendment No. 1239 ?

Mr. Naziruddin Ahmad : The same consideration would apply.

(Amendment No. 1236 was not moved.)

Mr. Vice-President : Amendments Nos. 1237 and 1238 are verbal and are, therefore, disallowed.

Amendment No. 1240 stands in the name of Dr. B. R. Ambedkar. He may move it.

The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That for sub-clause (a) of the Explanation to clause (4) of article 55, the following be substituted :—

'(a) he is the Governor of any State for the time being specified in Part I of the First Schedule or is a minister either for India or for any such State, of'."

This matter has already been debated last time.

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†Mr. Vice-President : Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar (Bombay : General) **:** Mr. Vice-President, Sir, I regret that I cannot accept any of the amendments which have been moved, to this article. So far as the general debate is concerned, I think there are only two amendments which call for any reply. The first is the amendment moved by Mr. Tahir, No. 1215. Mr. Tahir's amendment proposes that the same system of election which has been prescribed for the President should be made applicable to the election of the Vice-President. Now, Sir, the difference which has

CAD, Vol. VII, 28th December 1948, p. 1096.

†*Ibid.,* 29th December 1948, pp. 1100-02.

been made in the Draft Constitution between the system of election to the Presidentship and the system of election for the Vice-Presidentship is based upon the functions which the two dignitaries are supposed lo discharge. The President is the Head of the State and his powers extend both to the administration by the Centre as well as of the Slates. Consequently, it is necessary that in his election, not only Members of Parliament should play their part, but the Members of the State Legislatures should also have a voice. But when we come to the vice-President, his normal functions are merely to preside over the Council of States. It is only on a rare occasion, and that too for a temporary period, that he may be called upon to assume the duties of a President. That being so, it does not seem necessary that the Members of the State Legislatures should also be invited to take part in the election of the Vice-President. That is the justification why the Draft Constitution has made a distinction in the modes of election of these two dignitaries.

The second amendment which calls for a reply is the amendment moved by Mr. Naziruddin Ahmad. No. 1219. He has suggested that the word "assembled" should be dropped. Now, the reason why the word "assembled" has been introduced in this article is to avoid election being conducted by posting of ballot papers. We all know that the postal system, when used for the purpose of electioneering is liable to result in failure. Either the ballot papers posted may not reach the destination and may be lost in transit ; or it is perfectly possible for a candidate to send round his agents in order to collect the ballot papers so that he may obtain possession of them, sign them himself and send them on without giving any opportunity to the elector himself to exercise his freedom in the matter of election. It is for this reason that it was decided that the election should take place when the two Houses assemble, so as to prevent the misuse of posting. Now, I do not think that the calling together of a meeting of the Members of Parliament for this purpose is going to introduce in practice a difficulty, or is going to introduce any inconvenience. Alter all. Members of Parliament would be meeting together for the purposes of legislation, and it would be perfectly possible to have the election during one of those sessions. I, therefore, submit that the original language is the more justifiable one, in view of the circumstances I have mentioned.

Now, Sir, with regard to Prof. K. T. Shah's amendment that the disqualifications, with regard to the Vice-President should be specified in the Constitution itself, that is a matter which I have already dealt with when replying to a similar amendment moved by him with regard to the President, and I said that this is a matter which could be provided for by law made by Parliament.

With regard to the suggestion which has been made both by Mr. Bhurathi and Mr. Naziruddin Ahmad about the use of the words "alternative vote", all I can say is this. If it is merely a matter of change of language, it might be possible for the Drafting Committee at a later stage, to consider this matter. But if—and I am not prepared to commit myself one way or the other—the alternative vote does involve some change of substance, then I am afraid it will not be possible for us to consider this matter at any stage at all.

Mr. Vice-President : I am now going to put the different amendments to vote, one by one.

[All the amendments except those moved by Dr. B. R. Ambedkar were negatived. Or. Ambedkar's amendments are mentioned earlier.]

Article 55, as amended, was adopted and added to the Constitution.

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ARTICLE 56

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***The Honourable Dr. B. R. Ambedkar :** Mr. Vice-President, Sir, I regret my inability to accept any of the amendments that have been moved to article 50. I should, however, like to meet some of the points that have been made by those who have moved the amendments. Sir, the first amendment was by Prof. Shah which laid down that provision should be made for pay and pension for the Vice-President. This is a matter which Prof. Shah has also raised in connection with the office of the President and I had stated my objection to making any such provision in the Constitution itself.

The Honourable Shri K. Santhanam (Madras : General) **:** May I point out that in Second Schedule express provision has been made ?

*CAD, Vol. VII, 29th December 1948, pp. 1113-15.

The Honourable Dr. B. R. Ambedkar : Having explained my position with regard to that point, I shall not repeat what I have said then. Coming to sub-clause (b) of article 56, various points have been raised. First of all a point has been raised that the words 'bribery, corruption etc.' should be added. Personally I do not think that any such particular phrase is necessary. Want of confidence is a very large phrase and is big enough to include any ground such as corruption, bribery etc. Therefore that amendment, in my judgment, is not necessary. The second point that has been made is that the removal of the Vice-President should be governed by the same rules as the removal of the President *viz.,* that there should be a majority of two-thirds. Now, Sir, with regard to that point. I would like to draw the attention of the House that although the Constitution speaks of Vice-President, he really is a Chairman of the Council of States. In other words, so far as his functions are concerned, he is merely an opposite number of the Speaker of the House of People. Consequently in making a comparison or comment upon the provisions contained in sub-clause (*b*) of article 56 those provisions should be compared with the articles dealing with the removal of the Speaker and they are contained in article 77(c). If this article 56(b) is compared with the article 77(c), members will find that the position is exactly identical. The same rules which are made applicable to the removal of the Speaker are also made applicable to the removal of the Vice-President who, as I have stated, is really another name for the Chairman of the Council of States. Consequently, the requirement of two-thirds majority is unnecessary.

And then my friend Mr. Kamath has raised what I might call a somewhat ticklish question. He said that sub-clause (*b*) of this article speaks of a majority, while when the reference is made to the House of the People, no such phraseology is used. Now, the matter is quite simple. Whenever we have said that a certain resolution has to be passed, it is understood that it has to be passed by a majority of the House. It is only when a special majority is mentioned that a reference is made to a majority and not otherwise. Now, I quite agree that his argument is that although we do not mention or specify any particular majority with respect to the Council of States, we have still used the phraseology—passed by a majority. Why is this distinction made ? Why is this distinction between the phraseology used in regard to the Council

of States and in regard to the House of the People ? Now, the difference has been made because of the word "then" occurring there. That word "then" is important. The word "then" means all members whose seats are not vacant. It does not mean members sitting or present and voting. It is because of this provision, that all members who are members of Parliament and whose seats are not vacant, that their votes also have to be counted, that we have said—passed by a majority of the then members.

Shri H. V. Kamath : Does it mean the total number of members of the Council of States ?

The Honourable Dr. B, R. Ambedkar : Yes, The word 'then' is necessary.

Shri H. V. Kamath : On a point of clarification, Sir. Yesterday in article 50, we used the phraseology 'passed by a majority 'in place of the two-thirds majority. Should we not do the same thing here to make the meaning clearer ?

The Honourable Dr. B. R. Ambedkar : I shall explain it presently. The reason is due to the fact that we have to use the word 'then' which is intended to distinguish the case of members present and voting, and members who are members of the House whose seats are not vacant, and voting.

Shri H. V. Kamath : Am I to understand that unless otherwise specified, when you say a resolution is passed or adopted, it means that it is by a simple majority ?

The Honourable Dr. B. R. Ambedkar : Yes.

Now, coming to the point raised by my friend Mr. Tahir, amendment No. 1266. If I understood him correctly, what he says is that the resolution of no confidence should require to be passed by two-thirds. This may be good or it may be bad. I cannot say. All I can say is that this provision is also on a par with the provision regarding the want of confidence in the Speaker. There also we do not require that it should be passed by two-thirds majority or two-thirds of the members of the House.

Then, coming to the amendment of my friend Mr. Naziruddin Ahmad, who wants that in clause (c) after the word "term" words such as resignation etc. should be inserted. This amendment is absolutely unnecessary, because this article does not make any

provision for tilling casual vacancies. There is no necessity for making any provision for casual vacancies because under article 75, sub-clause (1) there is always the Deputy Chairman who is there to step in whenever there is any casual vacancy. Consequently such an amendment is unnecessary.

Sir, I hope that with this explanation, the House will accept the article as it stands.

Mr. Vice-President : I may now put the amendments, one by one to vote.

[All the amendments were negatived. Article 56 was adopted and added to the Constitution.]

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ARTICLE 57

***The Honourable Dr. B. R. Ambedkar :** I am afraid Prof. K. T. Shah has not considered the matter as fully as he ought to have before moving his amendment. The omission of the Vice-President from article 57 is a very deliberate one, because as my friend Mr. Tajamul Husain has just now pointed out, his main functions, which are those of the Chairman of the Council of States, have been amply provided for by article 75 (1) where there is a Deputy Chairman who will function in his absence. It is therefore unnecessary to introduce any such amendment in article 57.

My friend Prof. Shah said that I was really borrowing very liberally from the amendments of other friends whenever I found that the Draft was in some way defective. I think Prof. K. T. Shah, if I may say so, has indirectly paid me a compliment because, as Emerson has said, "A genius is the most indebted man" and I am certainly most indebted to my friends.

Mr. Vice-President : I am now putting the amendments to vote.

The question is :

> "That in article 57, after the words 'the functions of President' the words 'or Vice-President' be added."

The amendment was negatived.

Mr. Vice-President : There are no other amendments. The question is :

"That article 57, stand part of the Constitution."

The motion was adopted.

Article 57 was added to the Constitution.

* CAD, Vol. VII, 29th December 1948, p. 1117.

[Article 58 was added to the Constitution without any amendment.]

ARTICLE 59

***Mr. Vice-President :** Does Dr. Ambedkar wish to say anything on this amendment moved by Mr. Tajamul Husain ?

The Honourable Dr. B. R. Ambedkar : Yes, Sir. It might be desirable that I explain in a few words in its general outline the scheme embodied in article 59. It is this : the power of commutation of sentence for offences enacted, by the Federal Law is vested in the President of the Union. The power to commute sentences for offences enacted by the State Legislatures is vested in the Governors of the State. In the case of sentences of death, whether it is inflicted under any law passed by Parliament or by the law of the States, the power is vested in both, the President as well as the State concerned. This is the scheme.

With regard to the amendment of my friend Mr. Tajamul Husain, his object is that the power to commute sentences of death permitted to the Governor should be taken away. Now, sub-clause (*3*) embodies in it the present practice which is in operation under which the power of commuting the death sentences is vested both in the Governor as well as in the President. The Drafting Committee has not seen any very strong arguments for taking away the power from the Governor. After all, the offence is committed in that particular locality. The Home Minister who would be advising the Governor on a mercy petition from an offender sentenced to death would be in a better position to advise the Governor having regard to his intimate knowledge of the circumstances of the case and the situation prevailing in that area. It was therefore felt desirable that no harm will be done if the power which the Governor now enjoys is left with him. There is, however, a safeguard provided. Supposing in the case of a sentence of death the mercy petition is rejected, it is always open under the provisions of this article, for the offender to approach the President with another mercy petition and try his luck there. I do not think there is any great violation of any fundamental principle involved or any inconvenience that is likely to arise if the provisions in the draft article are retained as they are.

Mr. Vice-President: Now I will put the amendment of Mr. Tajamul Husain to vote. The question is :

"That clause (3) of article 59 be deleted."

The amendment was negatived.

*CAD, Vol. VII, 29th December 1948, pp. 1119-20.

Mr. Vice-President: I shall now put article 59 to vote. The question is :

"That article 59 stand part of the Constitution."

Article 59 was adopted and added to the Constitution.

ARTICLE 60

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***The Honourable Dr. B. R. Ambedkar** (Bombay : General) **:** Mr. Vice-President, Sir, I am sorry that I cannot accept either of the two amendments which have been moved to this proviso, but I shall state to the House very briefly the reasons why I am not in a position to accept these amendments. Before I do so, I think it is desirable that the House should know what exactly is the difference between the position as stated in the proviso and the two amendments which are moved to that proviso. Taking the proviso as it stands it lays down two propositions. The first proposition is that generally the authority to excute laws which relate to what is called the Concurrent field, whether the law is passed by the Central Legislature or whether it is passed by the Provincial or State Legislature, shall ordinarily apply to the Province or the State. That is the first proposition which this proviso lays down. The second proposition which the proviso lays down is that if in any particular case Parliament thinks that in passing a law which relates to the Concurrent field, the execution ought to be retained by the Central Government, Parliament shall have the power to do so. Therefore, the position is this ; that in all cases, ordinarily, the executive authority so far as the Concurrent List is concerned will rest with the units, the Provinces as well as the States. It is only in exceptional cases that the Centre may prescribe that the execution of a Concurrent law shall be with the Centre. The amendments which have been moved are different in their connotation. The first amendment is that the Centre should have nothing to do with regard lo the administration of a law which relates to matters placed in the Concurrent field. The second amendment which has been moved by my Honourable Friend, Pandit Kunzru, although it does not permit the Centre to take upon itself the execution of a law passed in the Concurrent field, is prepared to permit the Centre issue directions, with regard to matters falling within Items

*CAD, Vol. VII, 30th December 1948, pp. 1136-40.

25 and 37, to the Provincial Governments. That is the difference between the two amendments.

The first amendment really goes much beyond the present position as set out in the Government of India Act, 1935. As Honourable Members know, even under the present Government of India Act, 1935, it is permissible for the Central Government at least to issue directions to the Provinces, setting out the method and manner in which a particular law may be carried out. The first amendment I say even takes away that power which the present Government of India Act, 1935, gives to the Centre. The amendment of my Honourable Friend, Pandit Kunzru wishes to restore the position back to what it now found in the Government of India Act, 1935.

Pandit Hirday Nath Kunzru : I go a little beyond that. The second part of my amendment goes beyond any power which the Government of India now enjoy under the Government of India Act, 1935.

The Honourable Dr. B. R. Ambedkar : Well, that may be so. That I said is the position as I understand it. Now, Sir, I will deal with the major amendment which wants to go back to a position where the Centre will not even have die power to issue directions, and for that purpose, it is necessary for me to go into the history of this particular matter. It must have been noticed—and I say it merely, as a matter of fact and without any kind of insinuation in it at all,—that a large number of members who have spoken in favour of the first amendment are mostly Muslims. One of them, my Friend Mr. Pocker, thought that it was a sacred duty of every Member of this House to oppose the proviso. I have no idea.....*

B. Pocker Sahib Bahadur : I have not said that. Sir. I only said that it is the duty of every Member to act according to his conscience.

The Honourable Dr. B. R. Ambedkar: By which I mean, I suppose that every Member who has conscience must oppose the proviso. It cannot mean anything else. (*Laughter.*)

B. Pocker Sahib Bahadur : Certainly not.

The Honourable Dr. B. R. Ambedkar : Now, Sir. this peculiar phenomenon of Muslim members being concerned in this particular proviso, as I said, has a history behind it, and I am sorry to say that my Honourable Friend, Pandit Kunzru forgot altogether that history ; I have no doubt about it that he is familiar with that history as I am myself.

*Dots in the original debates indicate interruption.

This matter goes back to the Round Table Conference which was held in 1930. Everyone who is familiar with what happened in the Round Table Conference, which was held in 1930 will remember that the two major parties who were represented in that Conference, namely the Muslim League and the Indian National Congress, found themselves at loggerheads on many points of constitutional importance.

One of the points on which they found themselves at loggerheads was the question of provincial autonomy. Of course, it was realised that there could not be complete provincial autonomy in a Constitution which intended to preserve the unity of India, both in the matter of legislation and administration. But the Muslim League took up such an adamant attitude on this point that the Secretary of State had to make certain concessions in order to reconcile the Muslim League to the acceptance of some sort of responsible Government at the Centre. One of the things which the then Secretary of State did was to introduce this clause which is contained in Section 126 of the Government of India Act which stated that the authority of the Central Government, so far as legislation in the concurrent field was concerned, was to be strictly limited to the issue of directions and it should not extend to the actual administration of the matter itself. The argument was that there would have been no objection on the part of the Muslim League to have the Centre administer a particular law in the concurrent field if the Central Government was not likely to be dominated by the Hindus. That was so expressly stated, I remember, during the debates in the Round Table Conference. It is because the Muslim League Governments which came into existence in the provinces where the Muslims formed a majority, such as for instances in the North-West Frontier Province, the Punjab, Bengal and to some extent Assam, did not want it in the field which they thought exclusively belonged to them by reason of their majority, that the Secretary of State held to make this concession. I have no doubt about it that this was a concession. It was not an acceptance of the principle that the Centre should have no authority to administer a law passed in the concurrent field. My submission therefore is that the position stated in Section 126 of the Government of India Act, 1935, is not to be justified on principle ; it is justified because it was a concession made to the Muslims. Therefore, it is not proper to rely upon Section 126 in drawing any

support for the arguments which have been urged in favour of this amendment.

Sir, that the position stated in Section 126 of the Government of India Act was fundamentally wrong was admitted by the Secretary of State in a subsequent legislation which the Parliament enacted just before the war was declared. As Honourable Members will remember, Section 126 was supplemented by Section 126-A by a law made by Parliament just before the war was declared. Why was it that the Parliament found it necessary to enact Section 126-A ? As you will remember Section 126-A is one of the most drastic clauses in the Government of India Act so far as concurrent legislation is concerned. It permits the Central Government to legislate not only on provincial subjects, but it permits the Central Government to take over the administration both of provincial as well as concurrent subjects. That was done because the Secretary of State felt that at least in the war period, Section 126 might prove itself absolutely fatal to the administration of the country. My submission therefore is that Section 126-A which was enacted for emergency purposes is applicable not only for an emergency, but for ordinary purposes and ordinary times as well. My first submission to the House therefore is this ; that no argument that can be based on the principle of Section 126 can be valid in these days for the circumstances which I have mentioned.

Coming to the proviso.....*

B. Pocker Sahib Bahadur : With your permission, Sir, may I just correct my learned Friend ? This Constitution is being framed for the present Indian Union in which there is not a single province in which the Muslims are in a majority and therefore there is absolutely no point in saying that it is the Muslim members that are moving this amendment in the interests of the Muslim League. It is a very misleading argument based on a misconception of fact and the Honourable Minister for Law forgets the fact that we in the present Indian Union, Muslims as such, are not in the least to be particularly benefited by this amendment.

The Honourable Dr. B. R. Ambedkar : I was just going to say that although that is a statement of fact which I absolutely accept, my complaint is that the Muslim members have not yet given up the philosophy of the Muslim League which they ought to. They are repeating arguments which were valid when the Muslim League was

*Dots in the original debates indicate interruption.

there and the Muslim Provinces were there. They have no validity now. I cannot understand why the Muslims are repeating them. (*Interruption.*)

Mr. Vice-President : Order, order.

The Honourable Dr. B. R. Ambedkar : I was saying that there is no substance in the argument that we are departing from the provision contained in Sectiion 126 of the Government of India Act. As I said, that section was not based upon any principle at all.

In support of the proviso, I would like to say two things. First, there is ample precedent for the proposition enshrined so to say in this proviso. My honourable Friend Mr. T. T. Krishnamachari has dealt at some length with the position as it is found in various countries which have a federal Constitution. I shall not therefore labour that point again. But I would just like to make one reference to the Australian Constitution. In the Australian Constitution we have also what is called a concurrent field of legislation. Under the Australian Constitution it is open to the Commonwealth Parliament in making any law in the concurrent field to take upon itself the authority to administer. I shall just quote one short paragraph from a well known book called "Legislative and Executive Powers in Australia" by a great lawyer Mr. Wynes. This is what he says :

"Lastly, there are Commonwealth Statutes. Lefroy states that executive power is derived from legislative power unless there be some restraining enactment. This proposition is true, it seems, in Canada, where the double enumeration commits to each Government exclusive legislative powers, but is not applicable in Australia. Where the legislative power of the Commonwealth is exclusive—e.g., in the case of defence—the executive power in relation to the subject of the grant inheres in the Commonwealth, but in respect of concurrent powers, the executive function remains with the States until the Commonwealth legislative power is exercised."

Which means that in the concurrent field, the executive authority remains with the States so long as the Commonwealth has not exercised the power of making laws which it had. The moment it does, the execution of that law is automatically transferred to the Commonwealth. Therefore, comparing the position as setout in the proviso with the position as it is found in Australia, I submit that we are not making

any violent departure from any federal principle that one may like to quote. Now, Sir, my second submission is that there is ample justification for a proviso of this sort, which permits the Centre in any particular case to take upon itself the administration of certain laws in the Concurrent List. Let me give one or two illustrations. The Constituent Assembly has passed article 11, which abolishes unreliability. It also permits Parliament to pass appropriate legislation to make the abolition of untouchability a reality. Supposing the Centre makes a law prescribing a certain penalty, certain prosecution for obstruction caused to the untouchables in the exercising of their civic rights. Supposing a law like that was made, and supposing that in any particular province the sentiment in favour of the abolition of untouchability is not as genuine and as intense nor is the Government interested in seeing that the untouchables have all the civic rights which the Constitution guarantees is it logical, is it fair that the Centre on which so much responsibility has been cast by the Constitution in the matter of untouchability, should merely pass a law and sit with folded hands, waiting and watching as to what the Provincial Governments are doing in the matter of executing all those particular laws ? As everyone will remember, the execution of such a law might require The establishing of additional police, special machinery for taking down if the offence was made cognizable, for prosecution and for all costs of administrative matters without which the law could not be made good. Should not the Centre which enacts a law of this character have the authority to execute it ? I would like to know it there is anybody who can say that on a matter of such vital importance, the Centre should do nothing more than enact a law.

Let me give you another illustration. We have got in this country the practice of child marriage against which there has been so much sentiment and so much outcry. Laws have been passed by the Centre. They are left to be executed by the provinces. We all know what the effect has been as a result of this dichotomy between legislative authority resting in one Government and executive authority resting in the other. I understand (and I think my friend Pandit Bhargava who has been such a staunch supporter of this matter has been stating always in this House) that notwithstanding the legislation, child marriages are as rampant as they were. Is it not desirable that the Centre which is

so much interested in putting down these evils should have some authority for executing laws of this character ? Should it merely allow the provinces the liberty to do what they liked with the legislation made by Parliament with such intensity of feeling and such keen desire of putting it into effect ? Take, for instance, another case—Factory Legislation. I can remember very well when I was the Labour Member of the Government of India, cases after cases in which it was reported that no Provincial government or at least a good many of them were not prepared to establish Factory Inspectors and to appoint them in order to see that the Factory Laws were properly executed. Is it desirable that the labour legislations of the central Government should be mere paper legislations with no effect given to them ? How can effect be given to them unless the centre has got some authority to make good the administration of laws which it makes ? I therefore submit that having regard to the cases which I have cited—and I have no doubt honourable Members will remember many more cases after their own experience—that a large part of legislation which the centre makes in the Concurrent Held remains merely a paper legislation, for the simple reason that the Centre cannot execute its own laws. I think it is a crying situation which ought to be rectified which the proviso seeks to do.

There is one other point which I would like to mention and it is this. Really speaking, the Provincial Governments ought to welcome this proviso because there is a certain sort of financial anomaly in the existing position. For the Centre to make laws and leave to provinces the administration means imposing certain financial burdens on the provinces which is involved in the employment of the machinery for the carrying out of those laws. When the centre takes upon itself the responsibility of the executing of those laws, to that extent the provinces are relieved of any financial burden and I should have thought from that point of view this proviso should be a welcome additional relief which the provinces seek so badly. I therefore submit. Sir, that for the reasons I have given, the proviso contains a principle which this House would do well to endorse. (*Cheers*).

[All 4 amendments were negatived. Article 60 was adopted without any amendment and added to the Constitution.]

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ARTICLE 61

***Mr. Vice-President:** Dr. Ambedkar.

Shri Lakshminarayan Sahu : (Orissa : General): Sir, this is a very important article on which I would like to.....

Mr. Vice-President: I know there are many Members who would like to speak on this article, but the time at the disposal of the House is extremely limited and I also feel that it has been sufficiently debated on.

Shri Lakshminarayan Sahu: But, Sir.....

Mr. Vice-President: Kindly do not try to over-rule the Chair. Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar : Mr. Vice-President, Sir, I am sorry I cannot accept any of the amendments which have been tabled, either by Mr. Baig or Mr. Tahir or Prof. K. T. Shah. In reply to the point that they have made in support of the amendments they have moved, I would like to state my position as briefly as I can.

Mr. Mahboob Ali baig's amendment falls into two parts. The first part of his amendment seeks to fix the number of the Cabinet Ministers. According to him they should be fifteen. The second part of his proposition is that the Members of the Cabinet must not be appointed by the Prime Minister or the President on the advice of the Prime Minister but should be chosen by the House by proportional representation.

Now, Sir, the first part of his amendment is obviously impracticable. It is not possible at the very outset to set out a fixed number for the Cabinet. It may be that the Prime Minister may find it possible to carry on the administration of the country with a much less number than fifteen. There is no reason why the Constitution should burden him with fifteen Ministers when he does not want as many as are fixed by the Constitution. It may be that the business of the Government may grow so enormously big that fifteen may be too small a number. There may be the necessity of appointing more members than fifteen. There again it will be wrong on the part of the Constitution to limit the number of Ministers and to prevent him from appointing such number as the requirements of the case may call upon to do so.

*CAD, Vol. VII, 30th December 1948, pp. 1156-61.

With regard to the second amendment, namely, that the Ministers should not be appointed by the President on the advice of the Prime Minister, but should be chosen by proportional representation, I have not been able to understand exactly what is the underlying purpose he has in mind. So far I was able to follow his arguments, he said the method prescribed in the Draft Constitution was undemocratic. Well, I do not understand why it is undemocratic to permit a Prime Minister, who is chosen by the people, to appoint Ministers from a House which is also chosen on adult suffrage, or by people who are chosen on the basis of adult suffrage. I fail to understand why that system is undemocratic. But I suspect that the purpose underlying his amendment is to enable minorities to secure representation in the Cabinet. Now if that is so, I sympathise with the object he has in view, because I realise that a great deal of good administration, so to say, depends upon the fact as to in whose hands the administration vests. If it is controlled by a certain group, there is no doubt about it that the administration will function in the interests of the group represented by that particular body of people in control of administration. Therefore, there is nothing wrong in proposing that the method of choosing the Cabinet should be such that it should permit members of the minority communities to be included in the cabinet. I do not think that that aim is either unworthy or there is something in it to be ashamed of. But I would like to draw the attention of my friend, Mr. Mahboob Ali Baig, that his purpose would be achieved by an addition which the Drafting Committee proposes to make of a schedule which is called Schedule 3-A. It will be seen that we have in the Draft Constitution introduced one schedule called Schedule 4 which contains the Instrument of Instructions to the Governor as to how he has to exercise his discretionary powers in the matter of administration. We have analogous to that, decided to move an amendment in order to introduce another schedule which also contains a similar Instrument of Instructions to the President. One of the clauses in the proposed Instrument of Instruction will be this :

> "In making appointment to his Council of Ministers, the President shall use his best endeavours to select his Ministers in the following manner, that is to say, to appoint a person who has been found by him to be most likely to command a stable majority in Parliament as the Prime Minister, and then to appoint on the advice of the Prime Minister those persons, including so far as practicable, members of minority communities, who will best be in a position collelectively to command the confidence of Parliament."

I think this Instrument of Instructions will serve the purpose, if that is the purpose which Mr. Mahboob Ali Baig has in his mind in moving his amendment. I do not think it is possible to make any statutory provision for the inclusion of members of particular communities in the cabinet. That, I think, would not be possible, in view of the fact that our Constitution, as proposed, contains the principle of collective responsibility, and there is no use foisting upon the Prime Minister a colleague simply because he happens to be the member of a particular minority community, but who does not agree with the fundamentals of the policy which the Prime Minister and his party have committed themselves to.

Coming to the amendment of my friend, Mr. Tahir, he wants to lay down that the President shall not be bound to accept the advice of the Ministers where he has discritionary functions to perform. It seems to me that Mr. Tahir has merely bodily copied Section 50 of the Government of India Act before it was adopted. Now, the provision contained in Section 50 of the Government of India Act as it originally stood was perfectly legitimate, because under that Act the Governor-General was by law and statute invested with certain discretionary functions, which are laid down in Sections 11, 12, 19 and several other parts of the Constitution. Here, so far as the Governor-General is concerned, he has no discretionary functions at all. Therefore, there is no case which can arise where the President would be called upon to discharge his functions without the advice of the Prime Minister or his cabinet. From that point of view the amendment is quite unnecessary. Mr. Tahir has failed to realise that all that the President will have under the new Constitution will be certain prerogatives but not functions and there is a vast deal of difference between prerogatives and functions as such.

Under a parliamentary system of Government, there are only two prerogatives which the King or the Head of the State may exercise. One is the appointment of the Prime Minister and the other is the dissolution of Parliament. With regard to the Prime Minister it is not possible to avoid vesting the discretion in the President. The only other way by which we could provide for the appointment of the Prime Minister without vesting the authority or the discretion in the President, is to require that it is the House which shall in the first instance choose

its leader, and then on the choice being made by a motion or a resolution, the President should proceed to appoint the Prime Minister.

Mr. Mohd. Tahir : On a point of order, how will it explain the position of the Governors and the Ministers of the State where discretionary powers have been allowed to be used by the Governors ?

The Honourable Dr. B. R. Ambedkar : The position of the Governor is exactly the same as the position of the President, and I think I need not over-elaborate that at the present moment because we will consider the whole position when we deal with the State Legislatures and the Governors. Therefore, in regard to the Prime Minister, the other thing is to allow the House to select the leader, but it seems that that is quite unnecessary. Supposing the Prime Minister made the choice of a wrong person either because he had not what is required, namely, a stable majority in the House, or because he was *a persona non-grata* with the House : the remedy lies with the House itself, because the moment the Prime Minister is appointed by the President, it would be possible for the House or any Member of the House, or a party which is opposed to the appointment of that particular individual, to table a motion of no-confidence in him and get rid of him altogether if that is the wish of the House. Therefore, one way is as good as the other and it is therefore felt desirable to leave this matter in the discretion of the President.

With regard to the dissolution of the House there again there is not any definite opinion so far as the British constitutional lawyers are concerned. There is a view held that the President, or the King, must accept the advice of the Prime Minister for a dissolution if he finds that the House has become recalcitrant or that the House does not represent the wishes of The people. There is also the other view that notwithstanding the advice of the Prime Minister and his Cabinet, the President, if he thinks that the House has ceased to represent the wishes of the people, can *suo moto* and of his own accord dissolve the House.

I think these are purely prerogatives and they do not come within the administration of the country and as such no such provision as Mr. Tahir has suggested in his amendment is necessary to govern the exercise of the prerogatives.

Now, Sir, I come to the amendments of Prof. K. T. Shah. It is rather difficult for me to go through his long amendments and to extract what

is really the *summon bonum* of each of these longish paragraphs. I have gone through them and I find that Prof. K. T. Shah wants to propose four things. One is that he does not want the Prime Minister, at any rate by statute. Secondly, he wants that every Minister on his appointment as Minister should come forward and seek a vote of confidence of the Legislature. His third proposition is that a person who is appointed as a Minister, if he does not happen to be an elected Member of the House at the time of his appointment, must seek election and be a Member within six months. His fourth proposition is that no person who has been convicted of bribery and corruption and so on and so forth shall be appointed as a Minister.

Now, Sir, I shall take each of these propositions separately. First, with regard to the Prime Minister, I have not been able to understand why, for instance. Prof. K. T. Shah thinks that the Prime Minister ought to be eliminated. If I understood him correctly, he thought that he had no objection if by convention a Prime Minister was retained as part of the executive. Well, if that is so, if Prof. K. T. Shah has no objection for convention to create a Prime Minister, I should have thought there was hardly any objection to giving statutory recognition to the position of the Prime Minister.

In England, too, as most students of constitutional law will remember, the Prime Minister was an office which was recognised only by convention. It is only in the latter stages when the Act to regulate the salaries of the Ministers of Cabinet was enacted. I believe in 1939 or so, that a statutory recognition was given to the position of the Prime Minister. Nonetheless, the Prime Minister existed.

I want to tell my friend Prof. K. T. Shah that his amendment would be absolutely fatal to the other principle which we want to enact, namely collective responsibility. All Members of the House are very keen that the Cabinet should work on the basis of collective responsibility and all agree that that is a very sound principle. But I do not know how many Members of the House realise what exactly is the machinery by which collective responsibility is enforced. Obviously, there cannot be a statutory remedy. Supposing a Minister differed from other Members of the Cabinet and gave expression to his views which were opposed to the views of the Cabinet, it would be hardly possible for the law to come in and to prosecute him for having committed a breach

of what might he called collective responsibility. Obviously, there cannot be a legal sanction for collective responsibility. The only sanction through which collective responsibility can be enforced is through the Prime Minister. In my judgment collective responsibility is enforced by the enforcement of two principles. One principle is that no person shall be nominated to the Cabinet except on the advice of the Prime Minister. Secondly, no person shall be retained as a member of the cabinet if the Prime Minister says that he shall be dismissed. It is only when Members of the Cabinet both in the matter of their appointment as well as in the matter of their dismissal are placed under the Prime Minister, that it would be possible to realise our ideal of collective responsibility. I do not see any other means or any other way of giving effect to that principle.

Supposing you have no Prime Minister, what would really happen ? What would happen is this, that every Minister will be subject to the control or influence of the President. It would be perfectly possible for the President who is not *ad idem* with a particular Cabinet, to deal with each Minister separately, singly, influence them and thereby cause disruption in the Cabinet. Such a thing is not impossible to imagine. Before collective responsibility was introduced in the British Parliament you remember how the English King used to disrupt the British Cabinet. He had what was called a Party of King's Friends both in the cabinet as well as in Parliament. That sort of thing was put a stop to by collective responsibility. As I said, collective responsibility can be achieved only through the instrumentality of the Prime Minister. Therefore, the Prime Minister is really the keystone of the arch of the Cabinet and unless and until we create that office and endow that office with statutory authority to nominate and dismiss Ministers there can be no collective responsibility.

Now, Sir, with regard to the second proposition of my friend Prof. K. T. Shah that a Minister on appointment should seek a vote of confidence. I am sure that Prof. K. T. Shah will realise that there is no necessity for any such provision at all. It is true that in the early history of the British Cabinet every person who, notwithstanding the fact that he was a Member of Parliament, if he was appointed a Minister, was required to resign his seat in Parliament and to seek re-election because it was fell that a person if he is appointed a Minister will likely

to be under the influence of the Crown and do things in a manner not justified by public interest. The British themselves have now given up that system; by a statute they abrogated that rule and no person or Member of Parliament who is appointed a Minister is now required to seek re-election. That provision, therefore, is quite unnecessary. As I explained a little while ago, if the Prime Minister does happen to appoint a Minister who is not worthy of the post, it would be perfectly possible for the Legislature to table a motion of no confidence either in that particular Minister or in the whole Ministry and thereby get rid of the Prime Minister or of the Minister if the Prime Minister is not prepared to dismiss him on the call of the Legislature. Therefore, my submission is that the second proposition of Prof. K. T. Shah is also unnecessary.

With regard to his third proposition, *viz.,* that if a person who is appointed a member of the Cabinet is not a member of the Legislature, he must become a member of the Legislature within six months, I may point out that this has been provided for in article 62(5). This amendment is therefore unnecessary.

His last proposition is that no person who is convicted may be appointed a Minister of the State. Well, so far as his intention is concerned, it is no doubt very laudable and I do not think any Member of this House would like to differ from him on that proposition. But the whole question is this : whether we should introduce all these qualifications and disqualifications in the Constitution itself. Is it not desirable, is it not sufficient that we should trust the Prime Minister, the Legislature and the public at large watching the actions of the Ministers and the actions of the Legislature to see that no such infamous thing is done by either of them ? I think this is a case which may eminently be left to the good-sense of the Prime Minister and to the good sense of the Legislature with the general public holding a watching brief upon them. I therefore say that these amendments are unnecessary.

Shri H. V. Kamath : I am afraid Dr. Ambedkar has lost sight of amendment No. 47 in List IV of the fifth Week.

Mr. Vice-President: He is not bound to reply to everything. The reply to that amendment has been given by Mr. Tajamul Husain.

The Honourable Dr. B. R. Ambedkar : That does not require any reply. All that has to be left to the Prime Minister.

Mr. Vice-President: I will now put the amendments, one by one, to vote.

[All 5 amendments were negatived. Article 61 was adopted and added to the Constitution.]

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ARTICLE 62

Mr. Vice-President: (Dr. H. C. Mookherjee) : We shall now resume discussion of article 62.

(Amendments Nos. 1310 and 1311 were not moved.)

Nos. 1312 and 1329 are of similar Import. No. 1329 may be moved. Dr. Ambedkar.

***The Honourable Dr. B. R. Ambedkar :** (Bombay : General): Sir, I move :

> "That utter clause (5) of article 62 the following new clause he inserted ;—(5) (a) In the choice of his Ministers and the exercise of his other functions under this Constitution, the President shall he generally guided by the instructions set out in Schedule III-A, hut the validity of anything done by the President shall not he called in question on the ground that it was done otherwise than in accordance with such instructions.'"

* * * * *

†Shri Mahavir Tyagi : ...Then there is the amendment of Prof. Shah in which he says that Ministers should know the English language for ten years, and Hindi after the next ten years. I happen to be an anarchist by faith so far as literacy is concerned, I do not believe in the present-day education. I am opposed to the notion of literacy also, even though it has its own value. If I were a boy now, I would refuse to read and write. As it was, I practically refused to read and write and hence I am a semi-literate. The majority in India are illiterate persons. Why should they be denied their share in the administration of the country ? I wonder, why should literacy be considered as the supreme achievement of men. Why should it be made as the sole criterion for entrusting the governance of a country to a person, and why Art, Industry, Mechanics, Physique or Beauty be not chosen as a better criterion. Ranjit Singh was not literate. Shivaji was not literate. Akbar was not much of a literate. But all of them were administering

*CAD, Vol. VII, 31st December 1948, p. 1167.

†*Ibid.,* p. 1184.

their States very well. I submit. Sir, that we should not attach too much importance to literacy. I ask Dr. Ambedkar, does he ever write ? Probably he has got writers to write for him and readers to read to him. I do not see why Ministers need read and write. Whenever they want to write anything, they can use typists. Neither reading nor writing is necessary. What is necessary is initiative, honesty, personality, integrity, intelligence and sincerity. These are the qualifications that a man should have to become a Minister. It is not literacy which is important.

Shri H. V. Kamath : Does my redoubtable friend want to keep India as illiterate as she is today?

The Honourable Dr. B. R. Ambedkar : Have you any conscientious objection against literacy ?

Shri Mahavir Tyagi: No, Sir.

* * * * *

***The Honourable Dr. B. R. Ambedkar :** Mr. Vice-President, of the amendments that have been moved I am prepared to accept amendment No. 1322 and 1326 as amended by No. 71 on List V. As to the rest of the amendments I should just like to make a sort of running commentary.

These amendments raise three points. The first point relates to the term of a Minister, the second relates to the qualifications of a Minister and the third relates to condition for membership of a Cabinet. I shall take the first point for consideration, *viz.,* the term of a Minister. On this point there are two amendments, one by Mr. Pocker and the other by Mr. Karimuddin. Mr. Pocker's amendment is that the Minister shall continue in office so long as he continues to enjoy the confidence of the House, irrespective of other considerations. He may be a corrupt minister, he may be a bad minister, he may be quite incompetent, but if he happened to enjoy the confidence of the House then nobody shall be entitled to remove him from office. According to Mr. Karimuddin, the position that he has taken, if I have understood him correctly, is just the opposite. His position seems to be that the Minister shall be liable to removal only on impeachment for certain specified offences such as bribery, corruption, treason and so on, irrespective of the question whether he enjoys the confidence of the House or not. Even

*CAD, Vol. VII, 31st December 1948, pp. 1185-89.

if a minister lost the confidence of the House, so long as there was no impeachment of that Minister on the grounds that he has specified, it shall not be open either to the Prime Minister or the President to remove him from office. As the Honourable House will see both these amendments are in a certain sense inconsistent, if not contradictory. My submission is that the provision contained in sub-clause (2) of article 62 is a much better provision and covers both the points. Article 62, (2) states that the ministers shall hold office during the pleasure of the President. That means that a Minister will be liable to removal on two grounds. One ground on which he would be liable to dismissal under the provisions contained in sub-cluase (2) of article 62 would be that he has lost the confidence of the House, and secondly, that his administration is not pure, because the word used here is "pleasure". It would be perfectly open under, that particular clause of article 62 for the President to call for the removal of a particular Minister on the ground that he is guilty of corruption or bribery or maladministration, although that particular Minister probably is a person who enjoyed the confidence of the House. I think honourable Members will realise that the tenure of a Minister must be subject not merely to one condition but to two conditions and the two conditions are purity of administration and confidence of the House. The article makes provision for both and therefore the amendments moved by my Honourable Friends, Messrs. Pocker and Karimuddin are quite unnecessary.

With regard to the second point, namely, the qualifications of Ministers, we have three amendments. The first amendment is by Mr. Mohd. Tahir. His suggestion is that no person should be appointed a Minister unless at the time of his appointment he is an elected member of the House. He does not admit the possibility of the cases covered in the proviso, namely, that although a person is not at the time of his appointment a. member of the House, he may nonetheless be appointed as a Minister in the cabinet subject to the condition that within six months he shall get himself elected to the House. The second qualification is by Prof. K. T. Shah. He said that a Minister should belong to a majority party and his third qualification is that he must have a certain educational status. Now, with regard to the first point, namely, that no person shall be entitled to be appointed a Minister

unless he is at the time of his appointment an elected member of the House. I think it forgets to take into consideration certain important matters which cannot be overlooked. First is this.—it is perfectly possible to imagine that a person who is otherwise competent to hold the post of a Minister has been defeated in a constituency for some reason which, although it may be perfectly good, might have annoyed the constituency and he might have incurred the displeasure of that particular constituency. It is not a reason why a member so competent as that should be not permitted to be appointed a member of the cabinet on the assumption that he shall be able to get himself elected either from the same constituency or from another constituency. After all, the privilege that is permitted is a privilege that extends only for six months. It does not confer a right to that individual to sit in the House without being elected at all. My second submission is this, that the fact that a nominated Minister is a member of the cabinet, does not either violate the principle of collective responsibility nor does it violate the principle of confidence, because if he is a member of the Cabinet, if he is prepared to accept the policy of the Cabinet, stands part of the Cabinet and resigns with the Cabinet, when he ceases to have the confidence of the House his membership of the Cabinet does not in any way cause any inconvenience or breach of the fundamental principles on which parliamentary government is based. Therefore, this qualification, in my judgment, is quite unnecessary.

With regard to the second qualification, namely, that a member must be a member of the majority party, I think Prof. K. T. Shah has in contemplation or believes and hopes that the electorate will always return in the election a party which will always be in majority and another party which will be in a minority but in opposition. Now, it is not permissible to make any such assumption. It would be perfectly possible and natural, that in an election the Parliament may consist of various number of parties, none of which is in a majority. How is this principle to be invoked and put into operation in a situation of this sort where there are three parties none of which has a majority ? Therefore, in a contingency of that sort the qualification laid down by Prof. K. T. Shah makes government quite impossible.

Secondly, assuming there is a majority party in the House, but there is an emergency and it is desired both on the part of the majority party

as well as on the part of the minority party that party quarrels should stop during the period of the emergency, that there shall be no party Government, so that Government may be able to meet an emergency—in that event, again, no such situation can be met except by a coalition Government and if a coalition Government takes the place, *ex hypothesi* the members of a minority party must be entitled to become members of the Cabinet. Therefore, I submit that on both these grounds this amendment is not a practicable amendment,

With regard to the educational qualification, notwithstanding what my friend Mr. Mahavir Tyagi has said on the question of literary qualification, when I asked him whether in view of the fact that he expressed himself so vehemently against literary qualification whether he has any conscientious objection to literary education, he was very glad to assure me that he has none. All the same, I wonder whether there would be any Prime Minister or President who would think it desirable to appoint a person who does not know English, assuming that English remains the official language of the business of the Executive or of Parliament. I cannot conceive of such a tiling. Supposing the official language was Hindi, Hindustani or Urdu—whatever it is—in that event, I again find it impossible to think that a Prime Minister would be so stupid as to appoint a Minister who did not understand the official language of the country or of the Administration and while therefore it is no doubt a very desirable thing to bear in mind that persons who would hold a portfolio in the Government should have proper educational qualification, I think it is, rather unnecessary to incorporate this principle in the Constitution itself.

Now, I come to the third condition for the membership of a Cabinet and that is that there should be a declaration of the interests, rights and properties belonging to a Minister before he actually assumes office. Tins amendment moved by Prof. K. T. Shah is to some extent amended by Mr. Kamath. Now, this is not the first time that this matter has been debated in the House. It was debated at the time when similar amendments were moved with regard to the article dealing with the appointment and oath of the President and I have had a great deal to say about it at that particular time and I do not wish to repeat what I said then on this occasion. My Friend Mr. Kamath reminded me of what I said on the occasion when the article dealing with the President

was debated in this House and I do remember that I did say that such a provision might be necessary.....*

Shri H. V. Kamath : May I remind Dr. Ambedkar of what exactly he said? I am reading from the official type-script of the Assembly Secretariat. These are his very words :

> "If any person in the government of India has any opportunity of aggrandizing himself, it is either the Prime Minister or the Ministers of State and such a provision *ought* to have been imposed upon them for their tenure hut not upon the President."

The Honourable Dr. B. R. Ambedkar : That is what I was saying. What I said was that such a provision might be necessary in the case of Ministers, and my Friend Mr. Kamath also read some section from the Factory Act requiring similar qualifications for a Factory Inspector. Now, Sir, the position that we have to consider is this : no doubt, this is a very laudable object, namely, that the Ministers in charge should maintain the purity of administration. I do not think anybody in this House can have any quarrel over that matter. We all of us are interested in seeing that the administration is maintained at a high level, not only of efficiency but also of purify. The question really is this? what ought to be the sanctions for maintaining that purity ? It seems to me there are two sanctions. One is this, namely, that we should require by law and by Constitution,—if this provision is to be effective—not only that the Ministers should make a declaration of 'their' assets and their liabilities at the time when they assume office, but we must also have two supplementary provisions. One is that every Minister on quitting office shall also make a declaration of his assets on the day on which he resigns, so that everybody who is interested in assessing whether the administration was Corrupt of not during the tenure of his office should be able to see what increase there is in the assets of the Minister and whether that increase can be accounted for by the savings which he can make out of his salary. The other provision would be that if we find that a Minister's increases in his assets on the day on which he resigns are not explainable by the normal increases due to his savings, then there must be a third provision to charge the Minister for explaining how he managed to increase his assets to an abnormal degree during that period. In my judgment, if you want to make this clause effective, then there must be three provisions as I stated. One is a declaration at the outset; second is a declaration at the end of the quitting of this office; thirdly, responsibility for explaining as to how the assets have

*Dots in the original debates indicate interruption.

come to be so abnormal and fourthly, declaring that to be an offence, followed up by a penalty or by a fine. The mere declaration at the initial state.....*

Mr. Naziruddin Ahmad : How could you trace or check invisible assets or secret assets ?

The Honourable Dr. B. R. Ambedkar : The whole thing is simply good for nothing, so to say. It might still be possible, notwithstanding this amendment for the Minister to arrange the transfer of his assets during the period in such a manner that nobody might be able to know what he has done and therefore, although the object is laudable, the machinery provided is very inadequate and I say the remedy might be worse than the disease.

Shri H. V. K a math : May I, Sir, presume that Dr. Ambedkar at least accepts the amendment in principle and that he has not resiled from the view which he propunded the other day, that he has not recanted,?

The Honourable Dr. B. R. Ambedkar : I do not resile from my view at all. All I am saying is that the remedy provided is very inadequate and not effective, and therefore, I am not in a position to accept it.

Prof. Shibban Lal Saksena : Make it more comprehensive.

The Honourable Dr. B. R. Ambedkar : I cannot do it now. It was the business of those who move the amendment to make the tiling foolproof and knave-proof, but they did not.

Now, Sir, I was saying that nobody has any objection, nobody quarrels with the aim and object which is behind this amendment. The question is, what sort of sanction we should forge. As I said, the legal sanction is inadequate. Have we no other sanction at all ? In my judgment, we have a better sanction for the enforcement of the purity of administration, and that is public opinion as mobilised and focussed in the Legislative Assembly. My Honourable Friend. Mr. H. V. Kamath cited the illustration of the Factory Act. The reason why those disqualifications had been introduced in the case of the Factory Inspector is because public opinion cannot touch him, but public opinion is every minute glowing, so to say, against the Ministry, and if the House so desires at any time, it can make itself felt on any particular point of maladministration and remove the Ministry; and my

*Dots in the original debates indicate interruption.

submission, therefore, is that there is far greater sanction in the opinion and the authority of the House to enforce purity of administration, so as to nullify the necessity of having an outside legal sanction at all.

Shri Lokanath Misra (Orissa; General)**:** Is that not a more impossible task ?

The Honourable Dr. B. R. Ambedkar : Democracy has to perform many more impossible tasks. If you want democracy, you must face them.

Now, Sir, I come to the amendment of my Honourable Friend, Mr. Naziruddin Ahmad. He wants the deletion of the latter part of the amendment which I moved. His objection was that if the latter part of my amendment remained, it would nullify the earlier part of my amendment, namely, the obligation of the Minister to follow the directions given in the Instrument of Instructions. Yes, theoretically that is so. There again the question that arises is this. How are we going to enforce the injunctions which will be contained in the Instrument of Instructions ? There are two ways open. One way is to permit the court to enquire and to adjudicate upon the validity of the thing. The other is to leave the matter to the legislature itself and to see whether by a censure motion or a motion of no confidence, it cannot compel the Ministry to give proper advice to the President and impeachment to see that the President follows that advice given by the Ministry. In my judgment, the latter is the better way of effecting our purpose and it would be unfair, inconvenient, if everything done in the House is made subject to the jurisdiction of the court, so that any recalcitrant Member may run to the Supreme Court and by a writ of injunction against the Speaker prevent him from carrying on the business of the House, unless that particular matter is decided either by the Supreme Court or the High Court as the case may be. It seems to me that that would be an intolerable interference in the work of the Assembly. Even in England the Parliament is not subject to the authority of the Court in matters of procedure and in the conduct of its own business and I think that is a very sound rule which we ought to follow, especially when it is perfectly possible for the House to see that the Instrument of Instructions is carried out in the terms in which it is intended by the President and by the Ministry. Sir, I oppose this amendment.

Prof. Shibban Lal Saksena : What about nominated members being in the Cabinet ?

The Honourable Dr. B. R. Ambedkar : I have dealt with that.

Mr. Vice-President: I shall now put the amendments one by one to vote.

(Amendments which were adopted are give below:-

(Amendments by Dr. Ambedkar)

(1) "That after clause (5) of article 62, the following new clause be inserted—

'5 (a) In the choice of his Ministers and the exercise of his other functions under this Constitution, the President shall be generally guided by the Instructions set out in Schedule III-A but the validity of anything done by the President shall not be called in question on the ground that it was done otherwise than in accordance with such instructions.'"

(2) That in clause (3) of article 62, after the word 'Council' the words 'of Minister' be inserted.

Amendment No. 1326 as amended by amendment No. 71 of List V as further amended by Shri Krishnamachari and Shri Kamath.

"That in clause (5) of article 62, for the words 'for any period of six consecutive months, is' the words 'from the date of his appointment is for a period of six corrective months', be substituted."

[Article 62, as attended was adopted and added to the Constitution.]

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ARTICLE 66

***The Honourable Dr. B. R. Ambedkar** (Bombay : General)**:** I do not accept any of the amendments, nor do I think that any reply is called for.

Mr. Vice-President: I shall now put the amendments one by one **to** vote. Amendment No. 1358. The question is:

That in article 66 the words and two Houses tone know respectively as the council of State 'be deleted."

The amendment was negatived.

Mr. Vice-President: amendment No. 1356. The question is:

"That in article 66 for the words 'There shall be a Parliament for the Union which' the words The Legislatures the Union shall be called the Indian National Congress and be substituted."

The amendment was negative.

Mr. Vice-President: Amendment No. 1357. The question is :

"That in article 66, the words 'The President and' be deleted."

The amendment was negative.

*CAD, Vol. VII, 3rd January 1948, pp. 1199-1200.

Mr. Vice-President: The question is':

"That article 66 stand part of the constitution."

The motion was adopted.

Article 66 was added to the constitution.

ARTICLE 67

Mr. Vice-President: We next come to article 67. The motion: is :

"That article 67 form part of the Constitution."

Shri L. Krishnaswami Bharathi (Madras : General): Mr. Vice-President, I have an humble suggestion to make in the matter of procedure when we deal with this article. You will be pleased to see that this article relates to the composition of the Houses of Parliament, the two Houses, namely, the Council of states and the House of the People. It contains nine clauses, and I would suggest that in the interest of clarity of discussion, this article may be split up into three parts : one relating to the composition of the council of states—clauses (1) to (4); clauses (5) to (7) relate to the composition of the House of the People, clauses (8) and (9) are consequential, relating to both the Houses, regarding the census and the effect on the enumeration of the census.

I talked this matter over with Dr. Ambedkar and he himself said that he had marked it like that in his book, and that he proposed to make certain changes of transposition during the third reading. It may not be therefore quite possible straightway to split it at present, but I would request you to have all the amendments to the Council of States, clauses (1) to (4), taken together and discussions may be concentrated regarding them first, and the article may be kept open for amendments. After the discussion is over, you may put the whole clause together. All this I suggest in the interest of clarity so that when Honourable Members deaf with the Council of States they may confine their discussion on it and later on they may concentrate their discussion on the part of the article relating to, the House of the People.

Mr. Vice-President: Have you anything to say, Dr. Ambedkar, regarding this matter, namely, the suggestion of Mr. Bharathi ?

The Honourable Dr. B. R. Ambedkar : I am quite agreeable to the suggestion for the purpose of facilitating discussion.

Mr. Vice-President: Then we can take up the amendments in their particular order.

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***The Honourable Dr. B. R. Ambedkar :** Sir, I move:

"That for clause (1) of article 67, the following be substituted :

'(1) The Council of States shall consist of not more than two hundred and fifty members of whom—

(a) twelve members shall be nominated by the President in the manner provided in clause (2) of this article; and

(b) the remainder shall be representatives of the States.' "

The only important tiling is that the number fifteen has been brought down to twelve.

(Amendment Nos. 1371, 1373 and 1374 were not moved.)

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† Mr. Vice-President : There are three amendments which may be considered together, amendments numbers 1371, 1373 and 1374. Of these, the first seems to be the most comprehensive and may be moved.

Amendments Nos. 1371, 1373 and 1374 were not moved.

Amendments Nos. 1375 and 1376. Amendment No. 1375 may be moved.

Amendment No. 1376 is idential with amendment No. 1375, so I am not going to put it to vote. Amendment No. 1375, Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar : Mr. Vice-President, Sir, I beg to move:

"That the proviso to clause (1) of article 67 be deleted."

With your permission, Sir, may I also move amendment No. 1378 ? It is in substitution of this proviso.

Mr. Vice-President: Yes.

The Honourable Dr. B. R. Ambedkar: Sir, I beg to move:

"That the following new clause be added after clause (1) of article 67 :

'(1a) The allocation of seats to representatives of the States in the Council of States shall be in accordance with the provisions in that behalf contained in Schedule III-B.' "

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‡Mr. Vice-President: Amendment No. 1380 standing in the name of Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar : Mr. Vice-President, Sir, I move :

"That for clause (2) of article 67, the following be substituted :

'(2) The members to be nominated by the President under sub-clause (a) of clause (1) of this article shall consist of persons having special knowledge or practical experience in respect of such matters as the following, namely :

Letters, art, science and social services.' "

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*CAD, Vol. VII, 3rd January 1949, p. 1202.

† *Ibid.,* p. 1205.

‡ *Ibid.,* p. 1211.

***Mr. Vice-President:** Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar : Mr. Vice-President, I am agreeable to amendments Nos. 1369, 1375, 1378, 1380, 1400 and 1403. With regard to the last two amendments (Nos. 1400 and 1403) those are also covered by an amendment moved by Mr. Mahboob Ali baig. It is amendment No. 1407. I would have been glad to accept that amendment but unfortunately, on examining the text of that amendment, I find that it does not fit in with the generality of the language used in clause (3) of article 67. That is the only reason why I prefer to accept amendment No. 1403, because the language fits in properly with the language of the article.

With regard to the other amendments, I think there are only three which call for special consideration. One is an amendment by Mr. Kunhiraman. The aim and object ..... †

Mr. Vice-President: It was not moved.

The Honourable Dr. B. R. Ambedkar : Then I do not think I need say anything about it. There remain only two—one is the amendment of Mr. Kunzru. He was very naturally considerably agitated over the proviso which stood in the Draft Constitution and which provided for the 40 per cent representation to representatives of the States. I think it is desirable that I should celar the ground and explain what exactly was the reason why this proviso was introduced and what is the present position. It is quite true that in the Government of India Act, it was provided that although the States population formed one-quarter of the total population of India as it then stood in the Lower House, the States got representation which was one-third of the total and in the council of States they got two-fifths representation which was 40 per cent. That is not one origin as to why this proviso was introduced in the Draft Constitution. I should therefore like to go back and give the history of this clause.

Members of the House will remember that this House had appointed a Committee known as the Union Powers Committee. That Committee recommended a general rule of representation, both for people in British India as well as people in the Indian States and the rule was this : That there should be one seat for every million up to five millions, plus

*CAD, Vol. VII, 3rd January 1949, pp. 1225-28.

†Dots in the original debates indicate interruption.

one seat for every additonal two millions. As I said, this was to be a rule to be applicable both to the provinces as well as the States. But when the report of the Union Powers Committee came before the Constituent Assembly for consideration, it was found that the representatives of the States had moved a large number of amendments to this part of the report of the Union Powers Committee. Great many negotiations took place between the representatives of Indian provinces and the representatives of the Indian States. Consequently, if honourable Members will refer to the debates of the Constituent Assembly for 31st July 1947, my friend and colleague, Mr. Gopalaswami Ayyangar, who moved the adoption of the report of the Union Powers Committee, moved an amendment that the States representation shall not exceed 40 per cent. Now that rule had to be adopted or introduced in the Draft Constitution. So far as I have been able to examine the proceedings, I believe that this proviso of granting the States 40 per cent representation was introduced not so much with the aim of giving them weightage but because the number of States was so many that it would not have been possible to give representation to every State who wanted to enter the Union unless the total of the representation granted to the States had been enormously increased. It is in order to bring them within the Union that this proviso was introduced. We find now that the situation has completely changed. Some States have merged among themselves and formed a larger Union. Some States have been integrated in British Indian provinces, and a few States only have remained in their single individual character. On account of this change, it has not become as necessary as it was in the original State of affairs to enlarge the representation granted to the States, because those areas which are now being integrated in the British Indian provinces do not need separate representation. They will be represented through the provinces. Similarly, the States which have merged would not need separate representation each for itself. The totality of representation granted to the merged States would be the representation which would be shared by every single unit which originally stood aloof. Consequently, in the amendment which I have introduced, and which speaks of Schedule 3-A, which unfortunatly is not before the House, but will be introduced as an amendment when we come to the schedules, what is proposed to be done is this :

We have removed this 40 per cent ratio granted to the States and there will be equality of representation in the Upper Chamber, both to the Indian States us well as to the Provinces, and I am in a position to give some figures, which although they are not exact for the moment, are sufficient to give a picture of what is likely to be the contents of Schedule 3-A.

According to Schedule 3-A, the Provinces will have 141 seats. The Chief Commissioners' Provinces will have two and the States will have seventy altogether. Consequently, the total of elected members to the Upper Chamber will be 213. Add to that twelve nominated seats; That would bring the total to 225. Our clause, as amended, says that the total strength of the Council of States shall not exceed 250. You will thus see that the allocation of seats which it is proposed to make in Schedule 3-A satisfies two conditions, in the first place it removes? weightage and secondly, it brings the total of the House within the maximum that has been prescribed by the amendment that I have made, I think the House will find that this is a very satisfactory position.

Pandit Hirday Nath Kunzru : May I ask my honourable Friend whether the Staes in Part III of the first Schedule have been represented in accordance with their population?,

The Honourable Dr. B. R. Ambedkar: Yes, everybody will now. get population ratio.

Then I come to the second amendment—No. 1377 by Prof. K.T. Shah. Prof. K. T. Shah proposes that there should be a council pf the representatives of agriculture, industry, commerce and other special interests created by statute. It will be a permanent body of people. The States shall be required to give them salaries, allowances, and the duty of this council, as proposed by Prof. K. T. Shah, is that it shall have the statutory duty of giving advice to Government, and the Government will have the statutory obligation of consulting this body, and it shall not be permissible for the Government, I take it, to introduce any measure which, on the face of it, does not bear the endorsement that the statutory body has been consulted with regard to the contents of that Bill. I believe that is the purpose of Prof. K. T. Shah's amendment.

There are various objections to this. In the first place anyone who has held any portfolio in the Government of India or in the Provincial

Governments will know that this is the normal method which the Government of India and the Provincial Governments adopt before they finalise their legislative measures : there is no proposal brought forth by the Government of India in which the Government of India has not taken sufficient steps to consult organised opinion dealing with that particular matter. It seems to me that his provision which is a matter of common course is hardly necessary to be put in the Constitution. I therefore, think, that from that point of view it is unnecessary.

Then I should like to tell the House that it is proposed that at a later stage I should bring in an amendment which would permit the President to nominate three persons, either to the Council of States or to the House of the People, who shall be experts with regard to any matter which is being dealt with by any measure introduced by Government. If it is a matter of commerce, some person who has knowledge and information and who is an expert in that particular branch of the subject dealt with by the Bill, will be appointed by the President either to the Council of States or to the Lower House. He shall continue to be a member of the Legislature until the Bill is disposed of, he shall have the right to address the House, but he shall not have the right to vote. It is through that amendment that the Drafting Committee proposes to introduce into the House such expert knowledge as the Legislature at any particular moment may require. That justifies, as I said, the rejection of Prof. K. T. Shah's amendment; and also the other amendments which insisted that the other clauses of this article requiring that agriculture, industry and so on be also represented, become unnecessary. Because, whenever any such expert assistance is necessary, this provision will be found amply sufficient to carry out that particular purpose. Honourable members might remember that in the 1919 Act when Diarchy was introduced in the Provinces, a similar provision was introduced in the then Government of India Act, which permitted Provincial Governors to nominate experts to the House to deal with particular measures. Sir, I suppose and I believe that this particular proposal, which I shall table before the House through an amendment, will be sufficient to meet the requirements of the case.

Shri R. K. Sidhwa : Will the nomination clause remain ?

The Honourable Dr. B. R. Ambedkar : Yes.

Mr. Vice-President : I shall now put amendment No. 1379 to vote.

"That for clause (1) of article 67, the following be substituted :

'(1) The Council of States shall consist of not more than two hundred and fifty members of whom—

(a) twelve members shall be nominated by the President in the manner provided in clause (2) of this article; and

(b) the remainder shall be representative of the States.'

The amendment was adopted.

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***Mr. Vice-President :** I shall put amendment No. 1375, standing in the name of Dr. Ambedkar, to vote. It reads.

"That the proviso to clause (1) of article 67 be deleted."

Shri L. Krishnaswami Bharathi: On a point of Order, Sir, Amendment No. 1375 is out of order in view of the fact that we have already adopted amendment No. 1369 which is a substitution of the clause including the proviso. The proviso has been omitted now by the acceptance of the new clause. There is no point in having an amendment about something which is not in existence.

Mr. Vice-President: Then I shall not put it to vote.

[Five amendments as shown below were adopted, 23 amendments were negatived.]

Amendment No. 1378 :

"That the following new clause be added after clause (1) of article 67 :

"(1-a) The allocation of seats to representatives of the States in the Council of States shall be in accordance with the provisions in that behalf contained in Schedule III-B.' "

The amendment was adopted.

Amendment No. 1380. (by Dr. B. R. Ambedkar)

"That for clause (2) of article 67, the following be substituted :

"(2) The members to he nominated by the President under sub-clause (a) of Clause (1) of this article shall consist of persons having special knowledge or practical experience in respect of such matters as the following, namely : ' Letters, art, science and social services.' "

The amendment was adopted.

Amendment No. 1400.

"That at the end of sub-clause (a) of clause (3) of article 67, the following words be added :

'in accordance with the system of proportional representation by means of the single transferable vote.' "

The amendment was adopted.

* CAD, Vol. VII, 3rd January 1949, pp. 1229-31.

Amendment No. 1403.

"That in sub-clause (b) of clause (3) of article 67, after the words 'of that House' the words 'in accordance with the system of proportional representation by means of the single transferable vote' be inserted."

The amendment was adopted.

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***Mr. Vice-President:** The first part of amendment No. 1425 and amendment No. 1426 standing in the name of Mr. Kamath are identical. I propose that amendment No. 1425 may be moved, the first as well as the second part. Mr. Kamath, do you want your amendment No. 1426 to be put to vote ?

Shri H. V. Kamath: I see that Dr. Ambedkar has stolen a march over me and so I do not propose to move my amendment.

Mr. Vice-President: Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar (Bombay : General) **:** I am not moving it.

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†Pandit Thakur Dass Bhargava : Signing the name can be learnt in two month.

Shri M. Ananthasayanam Ayyangar : With what effect ? It is idle to think that merely if a man is able to sign his name, he will immediately become such a literate and educated man as to exercise his vote properly; I should say such a qualification is unnecessary....

I support the formal amendments moved by my Friend Dr. Ambedkar and oppose the amendments moved by Mr. Karimuddin and Mr. Baig and also by Prof. Shah.

The Honourable Dr. B. R. Ambedkar : Mr. Vice-President, sir, I accept the amendments Nos. 1417, 1426, 1431 of Prof. Shah, 1434 as amended by the mover of that amendment and as amended by the amendment No. 42 of List II and No. 43 of List II. Of the other amendments, on a careful examination, I find that there is only one amendment on which I need offer any reply. That is amendment No. 1415 of my friend Mr. Karimuddin. His amendment aims at prescribing that the election to the House of the People in the various States shall be in accordance with the propotional representation by single transferable vote. Now, I do not think it is possible to accept this amendment, because, so far as I am able to Judge the merits of the system of

*CAD, Vol. VII, 4th January l949, p. 1239.

† *Ibid.,* pp. 1261-63.

proportional representation, in the light of the circumstances as they exist in this country, I think, that amendment cannot be accepted. My Friend Mr. Karimuddin will, I think, accept the proposition that proportional representation presupposes literacy on a large scale. In fact, it presupposes that every voter shall be literate, at least to the extent of being in a position to know the numericals, and to be in a position to mark them on a ballot paper. I think, having regard to the extent of literacy in this country, such a presupposition would be utterly extravagant. I have not the least doubt on that point. Our literacy is the smallest, I believe, in the world, and it would be quite impossible to impose upon an illiterate mass of voters a system of election which involves marking of ballot papers. That in itself, would, T think, exclude the system of proportional representation.

The second thing to which I like to draw the attention of the House is that at any rate, in my judgment, proportional representation is not suited to the from of Government which this constitution lays down. The form of Government which this constitution lays down is what is known as the parliamentary system of Government, by which we understand that a government shall continue to be in office not necessarily for the full term prescribed by law, namely, five years, but so long as the Government continues to have the confidence of the majority of the House. Obviously it means that in the House where there is the parliamentary system of government, you must necessarily have a party which is in majority and which is prepared to support the Government. Now, so far as I have been able to study the results of the systems of parliamentary or proportional representation. 1 think, it might be said that one of the disadvantages of proportional representation is the fragmentation of the legislature into a number of small groups. I think the House will know that although the British Parliament appointed a Royal Commission in the year 1910, for the purpose of considering whether their system of single-member constituency, with one man one vote, was better or whether the proportional representation system was better, it is, I think, a matter to be particularly noted that Parliament was not prepared to accept the recommendations of that Royal Commission. The reason which was given for not accepting it was, in my judgement, a very sound reason, that proportional representation would not permit a stable government to

remain in office, because Parliament would be so divided into so many small groups that every time anything happened which displeased certain groups in Parliament, they would, on that occasion, withdraw their support from the government, with the result that the Government losing the support of certain groups and units, would fall to pieces. Now, I have not the least doubt in my mind that whatever else the future government provides for, whether it relieves the people from the wants from which they are suffering now or not, our future government must do one thing, namely, it must maintain a stable Government and maintain law and order. (*Hear, hear*). I am therefore, very hesitant in accepting any system of election which would damage the stability of Government. I am therefore, on that account, not prepared to accept this arrangement.

There is a third consideration which I think, it is necessary to bear in mind. In this country, for a long number of years, the people have been divided into majorities and minorities. I am not going into the question whether this division of the people into majorities and minorities was natural, or whether it was an artificial thing, or something which was deliberately calculated and brought about by somebody who was not friendly to the progress of this country. Whatever that may be, the fact remains that there have been these majorities and minorities in our country; and also that, at the initial stage when this Constituent Assembly met for the discussion of the principles on which the future constitution of the country should be based, there was an agreement arrived at between the various minority communities and the majority community with regard to the system of representation. That agreement has been a matter of give and take. The minorities who, prior to that meeting of the Constituent Assembly, had been entrenched behind a system of separate electrorates, were prepared, or became prepared to give up that system and the majority which believed that there ought to be no kind of special reservation to any particular community permitted, or rather agreed that while they could not agree to separate electorates, they would agree to a system of joint electorates with reservation of seats. This agreement provides for two things. It provides for a definite quota of representation to the various minorities, and it also provides that such a quota shall be returned through joint electorates. Now, my submission is this, that while it is still open to

this House to revise any part of the clauses contained in this draft constitution and while it is open to this House to revise any agreement that has been arrived at between the majority and the minority, this result ought not to be brought about either by surprise or by what I may call, a side-wind. It had better be done directly and it seems to me that the proper procedure for effecting a change in articles 292 and 293 would be to leave the matter to the wishes of the different minorities themselves. If any particular minority represented in this House said that it did not want any reservation, then it would be open to the House to remove the name of that particular minority from the provisions of article 292. If any particular minority preferred that although it did not get a cent per cent deal, namely, did not get a separate electorate, but that what it has got in the form of reservation of seats is better than having nothing, then I think it would be just and proper that the minority should be permitted to retain what the Constituent Assembly has already given to it.

Pandit Thakur Dass Bhargava : But there was no agreement about reservation of seats among the communities and a number of amendments were moved by several Members for separate electorates and so on, but they were all voted down. There was no agreement at all in regard to these matters.

The Honourable Dr. B.R. Ambedkar : I was only saying that it may be taken away, not by force, but by consent. That is my proposition, and therefore, I submit that this proportional representation is really taking away by the back-door what has already been granted to the minorities by this agreement, because proportional representation will not give to the minorities what they wanted, namely, a definite quota. It might give them a voice in the election of their representatives. Whether the minorities will be prepared to give up their quota system and prefer to have a mere voice in the election of their representatives, I submit, in fairness ought to be left to them. For these reasons, Sir, I am not prepared to accept the amendment of Mr. Karimuddin.

Mr. Vice-President: I shall now put the amendments, one by one, to the vote of the House.

Shri H. J. Khandekar : On a point of information, Sir, may I ask Dr. Ambedkar, what about the preceding census. He has not said anything when he amended article 35 the other day. About the preceding

census, is he prepared to amend it by saying 'the latest census'?

Mr. Vice-President: Mr. Khandekar may come to the rostrum and speak.

The Honourable Dr. B. R. Ambedkar: I have accepted the amendment of Mr. Naziruddin Ahmad as amended by him and as amended by Shri Bhargava.

[In all 8 amendments were negatived. Following amendments were adopted.]

[1] " That in sub-clause (a) of clause (5) of article 67, for the words 'representatives of the people of the territories of the states directly chosen by the voters', the words 'members directly elected by the voters in the States' be substituted."

[2] " That in sub-clause (b) of clause (5) of article 67, the words 'of India' be deleted."

[3] " That the proviso to sub-clause (b) of clause (5) of article 67 be deleted."

[4] " That with reference to amendment No. 1434 of the List of amendments, in sub-clause (c) of clause (5) of article 67, for the words ' members to be elected at any time for ', the words 'representatives allotted to' be substituted."

[5] " That in sub-clause (c) of clause (5) of article 67, for the words 'last preceding census' the words 'last preceding census of which the relevant figures have been published' be substituted."

[6] " That in clause (7) of article 67, for the word 'may' the word 'shall', for the word 'territories' the words 'the territories' and for the words 'other than States' the words 'directly governed by the centre on the same basis as in the case of states which are constituent parts of the Union' be substituted respectively."

[7] "That with reference to amendment No. 1450 of the List of amendments, after clause (8) of article 67, the following new proviso be inserted :—

'Provided that such readjustment shall not affect representation to the House of the People until the dissolution of the then existing House'."

[8] "That to article 67, the following new clause (10) be added :—

'(10) The election to the House of the People shall be in accordance with the system of proportional representation by means of a single transferable vote."

Article 67, as amended, was added to the Constitution.

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ARTICLE 147-A

***Mr. Vice-President :** Dr. Ambedkar will reply to the amendment.

The Honourable Dr. B. R. Ambedkar (Bombay : General) **:** Sir, I oppose the amendment, and all that I need say is this, that the basic principle of the amendment is so fundamentally opposed to the basic principles on which the Draft Constitution is based, that I think it is almost impossible now to accept any such proposal.

Mr. Vice-President : I am now going to put the amendment to vote. The question is :

"That before article 14X, the following new article 147-A be added :—

"147-A. The legislature of every state shall be wholy separate from independent of Executive or the Judiciary in the State'.

[This amendment of Prof. K. T. Shah was negatived.]

* CAD, Vol. VII, 6th January 1949, p. 1304.

ARTICLE 148

Mr. Vice-President : There is an amendment to this amendment—No. 46 of List 11, standing in the name of Dr. Ambedkar. Is the Honourable Member going to move it 7

***The Honourable Dr. B. R. Ambedkar :** Sir, I move:

"That for amendment No. 2231 of the List of Amendments, the following be substituted:—

'That in sub-clause(a) of clause (1) of article 148, after the words 'in the states of' the words 'Madras, Bombay, West Bengal, the United Provinces, Bihar and East Punjab' be inserted'."

Sir, I should like to state to the House that the question of whether to have a second chamber in the provinces or not was discussed by the Provincial Constitution Committee, which was appointed by this House. The decision of that Committee was that this was a matter which should be left to the decision of each province concerned. If any particular province decided to have a second chamber it should be allowed to have a second chamber : and if any particular province did not want a second chamber, a second chamber should not be imposed upon it. In order to carry out this recommendation of the Provincial Constitution Committee it was decided that the Members in the Constituent Assembly, representing the different provinces should meet and come to a decision on this issue. The Members of the different provinces represented in this Assembly therefore met in groups of their own to decide this question and as a result of the deliberations carried on by the Members it was reported to the office that the provinces which are mentioned in my amendment agree to have a second chamber for their provinces. The only provinces which decided not to have a second chamber are the C. P. & Berar, Assam and Orissa. My amendment gives effect to the results of the deliberations of the representatives of the different provinces in accordance with the recommendation of the Provincial constitution committee.

Sir, I move:

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†Mr. Vice-President: Dr. Ambedkar.

Shri H. V. Kamath (C.P. & Berar: General) : Mr. Vice-President

Mr. Vice-President: Mr. Kamath comes from the C. P. which has no upper chamber. (*Laughter*.)

Shri H. V. Kamath : That is exactly. Sir, why I would like to speak.

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*CAD, Vol. VII, 6th January 1949, p. 1309.

† *Ibid.,* pp. 1316-17.

Mr. Vice-President: I think the point has been sufficiently discussed. Some four more Honourable Members would probably like to speak, but we have already spent one and a half hours, and we have to make a definite progress every day. I offer my apologies to those gentlemen who have been disappointed; that is all I can offer in the present circumstances. Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar : Mr. Vice-President, Sir, I regret I cannot accept any of the amendments that have been moved to this particular article. I find from the speeches that have been made that there is not the same amount of unanimity in favour of the principle of having a second chamber in the different provinces. I am not surprised at the views that have been expressed in this House against second chambers. Ever since the French Constituent Assembly met, there has been consistently a view which is opposed to second chambers. I do not think the view of those who are opposed to second chambers can be better put than in the words of Abbe Seiyes. His criticism was two-fold. He said that if the upper House agreed with the lower one, then it was superfluous. If it did not agree with the lower House, it was a mischievous body and we ought not to entertain it. (*Laughter*). The first part of the criticism of Abbe Seiyes is undoubtedly valid, because it is so obvious. But nobody has so far agreed with the second part of the criticism of Abbe Seiyes. Even the French nation has not accepted that view; they too have consistently maintained the principle of having a second chamber.

Now, speaking for myself, I cannot say that I am very strongly prepossessed in favour of a second Chamber. To me, it is like the Curate's egg-good only in parts. (*Laughter*.) All that we are doing by this Constitution is to introduce the second chamber purely as an experimental measure. We have not by the draft Constitution, given the second chamber a permanent place, we have not made it a permanent part of our Constitution. It is a purely experimental measure, as I said, and there is sufficient provision in the present article 304 for getting rid of the second chamber. If, when we come to discuss the merits of article 304 which deals with the abolition of the second chamber, Honourable Members think that some of the provisions contained in article 304 ought to be further relaxed so that the process of getting rid of the second chamber may be facilitated. Speaking for myself, I should raise no difficulty (*Hear, Hear*), and I therefore suggest to the House, as a sort of compromise, that this article may be allowed to be retained in the Constitution.

Mr. Vice-President: I am now going to put the amendments to vote, one by one. The question is—

"That for amendment No. 2231 of the List of Amendments, the following be substituted :—

"That in sub-clause (a) of clause (1) of article 148, after the words 'in the State of' the words 'Madras, Bombay, West bengal, the United Provinces, Bihar and East Punjab' be inserted.' "

[The amendment of Dr. Ambedkar was adopted. Two more amendments were negatived.]

Article 148, as amended, was adopted and added to the constitution.

ARTICLE 149

***Mr. Vice-President:** Then we come to article 149. ...Amendment No. 2241 may be moved. It stands in the name of Dr. Ambedkar.

An Honourable Member: It is not being moved. (Voices: 'member not in the House' (*Laughter.*)

Mr. Vice-President : (Seeing the Honourable Dr. Ambedkar coming into the Chamber) Honourable Members are at perfect liberty to go out to take a cup of coffee or have a smoke. They will kindly realise the difficulties of those who are accustomed to both these types of relaxation. Honourable Members will agree that Dr. Ambedkar is entitled to relaxation of that sort. The Chair has nothing to do but to listen to the debates, but Dr. Ambedkar has to listen to the debates and reply. (*Laughter.)*

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†Mr. Vice-President : ...Shall we now go on to amendment No. 2250, standing in the name of Dr. Ambedkar ?

The Honourable Dr. B. R. Ambedkar: Not moving.

Mr. Vice-President: In that case amendment No. 59 in List III, falls through.

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‡The Honourable Dr. B. R. Ambedkar: Sir, I beg to move:

"That for the proviso to clause (3) of article 149, the following be substituted :—

'Provided that where the total population of a state as ascertained at the last preceding census exceeds three hundred lakh s, the number of members in the Legislative Assembly of the State shall be on a scale of not more than one member for every lakh of the population of the State up to a population of three hundred

*CAD, Vol. VII, 6th January 1949, p. 1318.

†*Ibid.,* p. 1323.

‡*Ibid., p.* 1324.

lakhs and not more than five members for every complete ten lakh; of the population of the state in excess of three hundred lakhs :

Provided further that the total number of members in the Legislative Assembly of a state shall in no case be more than four hundred and fifty or less than sixty'."

***Mr. Vice-President :** So much goodwill has been shown to me by the House, so much kindness is bestowed on me that I suggest that I do not call upon Dr. Ambedkar to make his reply today but that we pass on the some other business, so that all the parties concerned may have an opportunity of putting their heads together and arriving at an agreed solution. After all, framing the Constitution is a co-operative effort and we must do all that we can to make it a success.

Some Honourable Members : Thank you. Sir.

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ARTICLE 63

Mr. Vice-President : There are number of amendments to that amendment.

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†Shri Prabhudayal Himatsingka (West Bengal : General)**:** Sir, I beg to oppose the amendments moved by Mr. Naziruddin Ahmad and Prof. K. T. Shah. The article as it stands is what should be accepted by the House. There is certainly difference between the Advocate-General of a province and the Attorney-General of India. Sub-clause (4) provides that the Attorney-General shall hold office at the pleasure of the President and I think that should serve the purpose. If there is a change in the Ministry that necessarily need not mean the going out of office of the Attorney-General also, but in the provinces with the change of ministry the Advocate-General should be required to retire unless he is appointed again. Therefore, I oppose the amendments moved and I support the article as it stands.

Mr. Vice-President: Dr. Ambedkar.

Mr. Naziruddin Ahmad : He has not listened. He is getting his instructions. Sir.

Mr. Vice-President: That is hardly a charitable remark to make.

Mr. Naziruddin Ahmad : It is not. I am forced to make the remark, Sir.....

Mr. Vice-President: Will the Honourable Member kindly resume his seat ?

The Honourable Dr. B. R. Ambedkar (Bombay : General)**:** Sir, I do not know whether any reply is necessary.

[All the amendments were negatived and Article 63 was added to the Constitution.]

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*CAD. Vol. VII, 7th January 1949, p. 1349.

† *Ibid.,* p. 1347.

ARTICLE 64

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***Shri Raj Bahadur** (United State of Matsya)**:** Mr. Vice-President, Sir, I come here to oppose the amendment that has been moved by Prof. K. T. Shah. From the various amendments that he has been moving from time to time, I am led to think that he is moving according to a set plan and that he wants the Presidential system of constitution instead of the Parliamentary system of democracy for the country. But, with all respect to his erudition and experience, I see that he has not been consistent even in that. When we discussed article 42, by which the entire executive power of the Union is vested in the President, he himself moved two amendments. Nos. 1040 and 1045 to that article and one of his amendment reads as follows :—

> "The sovereign executive power and authority of the Union shall be vested in the President, *and shall be exercised by him* in accordance with the Constitution and in accordance with the laws made thereunder and in force for the time being."

By implication it means obviously that all executive actions should be taken by and in the name of the President, which is exactly the import, meaning and the implication of article 64, under discussion. I therefore, fail to see any reason for Prof. K. T. Shah to go now behind the terms of his own amendment, which he moved to article 42. What we mean clearly enough is that the entire executive power of the Union vests in the President and all governmental orders, and instruments shall be made in the name of the President. It is no anomaly and no inconsistency under any known democratic principles to get the orders issued in the name of the President and as such, I submit, there is no reason for the house to accept the amendment which has been moved by Prof. Shah.

The Honourable Dr. B. R. Ambedkar : Mr. Vice-President, sir, I do not think any reply is called for.

[Two amendments were negatived. None was adopted. Article 64 was adopted and added to the Constitution.]

ARTICLE 65

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†Mr. Vice-President: There is only one amendment now before the House and the clause is open for general discussion. Dr. Ambedkar, would you like to say anything ?

The Honourable Dr. B. R. Ambedkar : No, Sir, I do not accept Mr. Kamath's amendment.

The amendment was negatived.

Article 65 was added to the Constitution.

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*CAD, Vol. VII, 7th January 1949, p. 1352.

† *Ibid., p.* 1354.

MOTION *re* PREPARATION OF ELECTORAL ROLL

***Mr. Vice-President:** Dr. Ambedkar.

May I suggest that you read the resolution in the accepted form before you reply ?

The Honourable Dr. B. R. Ambedkar : Yes; I will indicate the changes that I am going to accept.

Shri Deshbandhu Gupta : May I know, Sir, before Dr. Ambedkar proceeds to reply whether you have given any ruling on the point of order raised by me. I had raised a point of order that, unless the word "already" goes, tills resolution will be of no use because article 149 .....

Mr. Vice-President: I think the word "already" has already been omitted.

The Honourable Dr. B. R. Ambedkar : Mr. Vice-President, Sir, with your permission, I propose to reply to the debate on behalf of the mover of the resolution was Mr. Vice-President. of this resolution.

Before I proceed to deal with the detailed amendments, I should like to propose myself certain amendments in the Resolution as was moved by the Mover.

The first amendment that I propose is, to delete the word "already" from paragraph 2.

My second amendment is to delete clause (a) from sub-clause (1), and delete also the letter and brackets "(b)" in the beginning of the second sub-clause, so that sub-clause (1) will read thus :

> "That no person shall be included in the electoral roll of any constituency if he is of unsound mind and stands so declared by a competent court."

Then, in paragraph (4), I propose to make the following amendments. For the words "subject to the law of the appropriate legislature" in line of that paragraph, my amendment would be "notwithstanding anything in paragraph (3) above". In line 5 of that paragraph, for the words "a constituency", substitute the words "an area".

These are my amendments. I shall briefly explain my amendments. The amendment which I have moved to drop the word "already" meets

the points of order that was raised by Shri Deshbandhu Gupta.

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The Honourable Dr. B. R. Ambedkar : Sir, as I said, it is quite true that the word "already" raises the complications which Mr. Deshbandhu Gupta mentioned and it is only right that his objection should be removed by the deletion of the word "already".

*CAD. Vol. VII. 8th January 1949, pp. 1382-86.

With regard to the second amendment dropping clause (1), it seems to be quite unnecessary, because, the purport of that clause is embodied in paragraphs (3) and (4).

With regard to my next amendment to substitute the words "notwithstanding anything in paragraph (3) above" for the words "subject to the law of the appropriate legislature", my submission is that the original words were really unnecessary and inappropriate in a clause of that sort. Sub-clause (4) is really an exception to clause (3). That matter has been cleared by my amendment.

With regard to the word "constituency" I have substituted the word "area" in order to meet the criticism that at the stage when the rolls are prepared, there are no constituencies and all that a man can indicate is an area, not a constituency, because, constituencies are not supposed to be in existence then.

My amendment for the addition of the words "or makes" meets the criticism that has been made that there are many people who are illiterate, who may not be in a position to sign an application and file it before a particular officer. The addition of the words "or makes" permits an oral declaration to be made either before a district Matistrate or before an officer who is preparing the electoral rolls. I think that objection is fairly met.

I will now take into consideration the other amendments which have been moved to this resolution.

Shri L. Krishnswami Bharathi : May I suggest one amendment to the Mover that his reason for amending ' constituency 'in part, (4)

Mr. Vice-President: You cannot tell it to the House. You can tell it to Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar : I am prepared to make the necessary consequential changes. As I said, I will turn to the other amendments and I take the amendment of my friend Mr. Tyagi. If I understood him correctly he had no objection to the resolution in its general terms. What he wanted was that the details should be deleted. It seems to me that the position taken by my Friend Mr. Tyagi indicates that he has confusion in his mind about what the objective or the aim of the Resolution is. The aim of the Resolution is merely to make a declaration that it is the intention of this Assembly that as far as possible, election may be held sometime in 1950 but the object of the Resolution is to convey some positive directions to the authorities in charge of preparing the electoral rolls which is the basis of all elections. It would be futile and purposeless merely to make a declaration that this

Constituent Assembly desires that the election should take place in the year 1950 without giving the directions to the authorities concerned in the matter of preparing the electoral roll. Because unless the electoral rolls are prepared in time sufficiently before the date of the election, no election can take place at all. The second part of the resolution contains directions to the various authorities and unless the directions are embodied in the resolution, the Resolution is merely a pious declaration which means nothing. It is setting out an objective without setting out the methods and the instruments by which that objective can be carried out and I think my friend Mr. Tyagi will understand that really speaking the part of the resolution which he wants to omit is more important than the part of the Resolution which he wants to retain. Now I come to the amendment of my friend Mr. Hanumanthaiya.

Shri Mahavir Tyagi : What is your view about the word 'already' ?

The Honourable Dr. B. R. Ambedkar : I have already said that I would delete it. Coming to the amendment of Mr. Hanumanthaiya, he wants to omit the words 'in the year 1950'. His argument has a good deal of sense behind it, because according to him if this constituent assembly were to make this declaration by this Resolution fixing 1950 as a target and if for some reason, either connected with the preparation of electoral rolls or some other circumstances, it becomes impossible to have elections in 1950, the assembly would be placed in a somewhat difficult position. The Assembly might be accused of treating this as a trifling matter when as a matter of fact it is of great substance. But at the same time in view of what the Mover of the Resolution said that there is a certain amount of feeling in the country that we are not going as fast as we ought to in the passing of this Constitution, that our procedure is more leisurely, more dilatory and that is due to our not being very serious in having an early election, it is to remove that sort of feeling in the country that it is necessary to fix some target date and it is from that point of view that the retention of the words 'in the year 1950' becomes necessary. Of course, if reasons justified the postponement of the date, it would but be necessary for the Assembly to postpone the date of elections; and I am sure about it that if the Assembly is in a position to place before the country grounds which are substantial and which are not mere excuses the country will no doubt understand the change and the postponement of the date.

Now my friend Mr. Saksena wants that instead of the 1st Jan. 1949 the date 1st January 1950 be substituted. Mr. Bhargava wants that for 31st March 1948, the date 31st March 1949 be substituted. Now having regard to what has already been done, it is not possible to accept either of these amendments. Mr. Saksena's amendment, if I understood him correctly, has the object that there ought not to be a considerable time lag between the date on which the electoral roll is prepared and the date on which election is held. In other words, the electoral roll must not be very stale and out-of-date. Now it seems to me that if our election is going to take place in 1950, the electoral roll which is prepared on the basis of the voter's qualification as his being an adult on 1st January 1949 cannot, by any stretch of imagination, be deemed to be a stale roll. My Friend Mr. Saksena must be aware of the fact that all electoral rolls generally lag behind the date of election by one year.

Prof. Shibban Lal Saksena: It will become two years old !

The Honourable Dr. B. R. Ambedkar: Therefore if persons who are entitled to be voters in the electoral rolls on the basis of their single solitary qualification which we have, viz., his being a man of 21 years of age on the 1st January 1949 and if the election takes place in the year 1950 on some date not possible to prescribe, I think it cannot be said that the electoral roll will be a stale roll.

Now I am coming to the amendment of Pandit Bhargava. He wants that the date of 31st March 1949 be substituted. It is not possible to accept that amendment because in the expectation of the election taking place in the year 1950, instructions were already issued to the various Provincial Governments on the 1st March 1948 to proceed to prepare the electoral rolls on the basis of adult suffrage. It seems to me that if we accept the amendment of Pandit Bhargava, we shall have to waste all the work that has already been done by Provincial Governments on that basis. I do not think there will be any waste of work already done, because all those who on the 1st January, 1948 would be adults, would be added on to the roll that has already been prepared.

The Honourable Shri K. Santhanam: Is it not necesary also to change the date 1st January 1949 to 31st March 1948, in sub-para. (2) ?

The Honourable Dr. B. R. Ambedkar: No. I do not think so.

Now, I come to the amendment of my friend Mr. Chaudhari. It seems to me that he is asking for something which is quite impossible, if

not ridiculous. He says that every person who is of unsound mind should be deprived of his vote. We all agree that unsound persons should not be included in the voters' list. But the question remains as to who is to determine whether a person is of unsound mind or not. It seems to me that unless the qualification which is introduced in this motion says that a person can be excluded from the electoral roll only when he has been adjudged to be of unsound mind by some impartial judicial authority, seems to be the soundest proposition. Otherwise, to give the authority to a village Patwari not to enter a certain person in the electoral roll because he thinks that he is of unsound mind is really to elevate a cabin boy to the position of the captain of a ship, and I think it is not possible to accept such an amendment.

My friend Mr. Kamath raised some question with regard to a clause that was passed the other day, in which in addition to unsoundness of mind, certain other disqualifications were mentioned, particularly those relating to crime.

Shri Deshhandhu Gupta : Will all the inmates of lunatic asylums be included in the electoral rolls, in the first instance ?

The Honourable Dr. B. R. Ambedkar : I do not know the case of other provinces, but so far as Bombay is concerned, unless the Chief Presidency Magistrate declares a person to be of unsound mind no lunatic asylum would admit him.

Mr. Vice-President: Yes, that is the case in Bengal.

The Honourable Dr. B. R. Ambedkar : And it seems to be the case in Bengal also. It is there in the Lunacy Act.

Now, with regard to the question of crime all that I need say is this that the Drafting Committee, in using the word 'crime' in that particular article was merely reproducing the provision contained in the Sixth Schedule of the Government of India Act, and I do not think that the Drafting Committee had anything more in mind than what is stated in that article. According to that article, the commission of a crime is not by itself any disqualification. The disqualification is only when a person is punished and detained in imprisonment. It is during the period of imprisonment that he loses the right to vote. That point can be further accommodated when we come to the additional disqualifications mentioned in the article to which Mr. Kamath referred.

Shri H. V. Kamath : Am I to understand that grounds of crimes, corrupt or illegal practices etc. of which a person may be convicted in the past will not act as a disqualification or bar to his registration as a voter ?

The Honourable Dr. B. R. Ambedkar : Yes, and those will be prescribed by Parliament.

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Mr. Vice-President: I know that schoolboys on the eve of the vacation behave not always wisely.

The next amendment is that of Pandit Thakur Dass Bhargava. The question is :

"That for the words 'files a declaration' substitute *the words* 'expresses the intention'."

But this is covered by what Dr. Ambedkar has accepted.

Then his other amendment is that in paragraph 3, for the words "31st March 1948" substitute the words of 31st March 1949."

The amendment was negatived.

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Mr. Vice-President: Then we come to the amendment of Mr. Nagappa. But that is covered by Dr. Ambedkar's amendment and so it will not be put to vote.

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Mr. Vice-President: The second part has been accepted by Dr. Ambedkar and therefore need not be voted on. Then we come to the third part. But that is also covered by Dr. Ambedkar's amendment.

But he has a further amendment to the effect.

The question is :

"That the word 'permanently' in the last line of sub-para, (4) be deleted."

The amendment was negatived.

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Mr. Vice-President: Now, I put the Resolution, as amendment by Dr. Ambedkar's amendments to vote. Does the House want me to read it out ?

Honourable Members : No, no.

Mr. Vice-President: So the question is :

"That the Resolution as amended, be accepted."

* Resolved that instructions be issued forthwith to the authorities concerned for the preparation of electoral rolls and for taking all necessary steps so that elections

to the Legislature under the new Constitution may be held as early as possible in the year 1950.

Resolved further that the State electoral rolls he prepared on the basis of the provisions of the new Constitution agreed to by this Assembly and in accordance with the principles hereinafter mentioned, namely :—

(1) That no person shall be included in the electoral roll of any area if he is of unsound mine and stands so declared by a competent court.

(2) That 1st January 1949 shall be the date with reference to which the age of the electors is to be determined.

(3) That a person shall not be qualified to be included in the electoral roll for any area unless he has resided in that area for a period of not less than 180 days in the year ending on the 31st March 1948. For the purposes of this paragraph, a person shall be deemed to be resident in any area if he ordinarily resides in that area or has a permanent place of residence therein.

(4) That, notwithstanding anything in paragraph (3) above, a person who has migrated into a Province or according State on account of disturbances or fear of disturbances in his former place of residence shall be entitled to be included in the electoral roll of an area if he files or makes a declaration of his intention to reside permanently in that area.

(Then motion, as amended was adopted.)

[The motion, as amended, was adopted 5 amendments were rejected.]

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ARTICLE 149 *(Contd.)*

***Mr. Vice-President:** Now we come to article 149. I think there has been sufficient discussion on this article and Dr. Ambedkar will now reply.

The Honourable Dr. B. R. Ambedkar: Mr. Vice-President, Sir, in reply to the debate on article 149, I wish, first of all, to make clear my position with regard to my own amendment which was No. 2255. I want the permission of the House to withdraw this amendment; and in lieu of that I accept amendment No. 2249, as amended by amendment No. 48 of List II by Mr. Naziruddin Ahmad.

I also accept amendments Nos. 62 and 66 of List IV by Shri T.T. Krishnamachari, amendment No. 2252 as modified by the amendment of Mr. Bhargava and amendment No. 2263 as modified by amendment No. 67 of Shri Shibban Lal Saksena,

Now, Sir, so far as the general debate on the article is concerned, it seems to me that there are only two points that call for reply. The first point is with regard to the census figures to be adopted for the purpose of the new elections. A great deal of argument was concentrated

*CAD, Vol. VII, 8th January 1949, pp. 1387-89.

by many speakers on the fact that the census in certain provinces is not accurate and does not represent the true state of affairs so far as the relative proportions of the different communities are concerned. I think there is a great deal of force in such arguments and, if I may say so, there is enough testimony which one can collect from the Census Commissioners' reports themselves to justify that criticism. I had intended to refer to the statements made by the Census Commissioners on this issue. But, as there is no time, I think I had better not refer to them. Further, the large majority of the members who have spoken on this subject know the facts better than I do. I only want to add one thing and that is that if any people have suffered most in the matter of these manipulations of census calculations by reason of political factors, they are the Scheduled Castes (*Hear, Hear*). In Punjab for instance, the other communities are trying to eat up the Scheduled Castes in order to augment their strength and to acquire larger representation in the legislature for themselves. These poor people who have been living mostly as landless labourers in villages scattered here and there, with no economic independence, with no support form the authorities,—the police or the magistracy,—have been, by certain powerful communities, either compelled to return themselves as members of that particular community or not to enumerate at the elections at all. The same thing has happened to a large extent, I know, in Bengal. For some reason which I have not been able to understand, a large majority of the Scheduled Castes there refused to return themselves as Scheduled Castes. That fact has been noted by the Census Commissioners themselves. I therefore completely appreciate the points that have been made by various members who spoke on the subject that it would not be fair to take the figures of that census.

An Honourable Member: What about Assam ?

The Honourable Dr. B. R. Ambedkar: It may be true of Assam also. I am not very well acquainted with it. As I said I fully appreciate the point that to take those census figures and to delimit constituencies or allocate seats between the different constituencies and between the majority and minority communities would not be fair. Something will have to be done in order to see that the next election is a proper election, related properly to the population figures of the provinces as well as

of the communities. All that I can do at this stage is to give an assurance that I shall communicate these sentiments to those who will be in charge of this matter and I have not the least doubt about it that the matter will be properly attended to.

Sir, if the Members who are interested in it are not satisfied with the assurance that I am giving now, they can at some stage—it is not possible to do it now—move an amendment to article 149 permitting the President to have an interim census, if he deems it necessary taken for the purpose of removing the grievances to which they have referred. In fact, I have with me a draft which might be considerd at a later date. Some such draft like this may be considered : "Provided further that the initial representation of the several territorial constituencies of the legislative assembly of any State may be determined in such other manner as the President may by order direct." That would be general enough and would deal with the difficulty which has been pointed out.

An Honourable Member : Why do you not move it now ?

The Honourable Dr. B. R. Ambedkar : There is no time for it now. If Members are not prepared to rely upon the assurance given by me some such motion may be moved at the appropriate stage.

With regard to the point raised by my honourable friend Prof. Saksena in amendment No. 64, I may say that I whole heartedly support it. I think the proviso he has sought to introduce is a very necessary one. The House will remember that it deals with weightage in representation. We have, in this Constitution, eliminated all sorts of weightages. Weightage to all minorities we have eliminated. Weightage to territories in the representation in the Central Legislature we have eliminated. Weightage between representatives in British India and representatives of Indian States we have eliminated. I think therefore that it is only right that the same principle should apply to representation in legislatures. I therefore accept that amendment.

Sir, I do not think there is any other point worthy of consideration or calling for reply. I therefore recommend to the House the acceptance of article 149, as amended.

Mr. Vice-President: I am now going to put the amendments to vote one by one.

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Mr. Vice-President: Amendment No. 48 of List II. The question is :

"That for amendment No. 2249 of the List of Amendments, the following be substituted :—

'That in clause (3) of article 149, for the words "last preceding census" the words "last preceding census of which the relevant figures have been published " be substituted'."

Following amendments were adopted by the House :

(1) That with reference to amendments Nos. 2249 and 2250 of the list of amendments in clause (3) of article 149, for the words 'every lakh' the words 'every seventy-live thousand' be substituted."

(2) "With reference to amendment No. 2252 of the list of Amendments, after the words 'autonomous districts of Assam' the words and the constituency comprising the cantonment and municipality of Shillong' be added.

(3) "With reference to amendments Nos. 2256, 2257 and 2258 of List of Amendments, in the proviso to clause (3) of article 149, for the words 'three hundred' the words 'five hundred' be substituted."

(4) "That after clause (3) of article 149, the following New Clause be inserted :—

'(3-a) The ratio between the number of members to be alloted to each territorial constituency in a State and the population of that constituency as ascertained at the last preceding census of which the relevant figures have been published shall, so far as particable, be the same throughout the State'."

The amendment was adopted.

(Article 149, as amended was added to the Constitution.)

[The assembly then adjourned till Monday the 16th May 1949.]

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SECTION FIVE

Clausewise Discussion

16th May 1949 to 16th June 1949

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Draft Constitution

ARTICLE 67-A

***Mr. President:** ...We shall now proceed to the consideration of the Draft Constitution. The House dealt with articles up to 67. We shall now proceed further. The Steering Committee was of the opinion that we might adopt the articles dealing with election matters first. That is, I think, the wish of this House also. But I understand that it will not be possible to proceed with those articles today and we can take them up from tomorrow. Today we begin with article 68 and such articles only dealing with election matters as fall within today's discussion, and those that come later will be taken up tomorrow.

There is one article of which notice has been given by way of amendment, *i.e.,* 67-A. It will be taken up first.

NEW ARTICLE 67-A

The Honourable Dr. B. R. Ambedkar (Bombay : General) : Mr. President, Sir, I move :

> " That after article 67, the following new article be inserted :—
>
> 67-A. (1) The President may nominate persons not exceeding three in number to assist and advise the Houses of Parliament in connection with any particular Bill introduced or to be introduced in either House of Parliament.
>
> (2) Every person so nominated in connection with any particular Bill shall, in relation to the said Bill, have the right to speak in, and otherwise to take part in the proceedings of either House and any joint sitting of the Houses of Parliament and any Committee of Parliament of which he may be named a member, but shall not, by virtue of such nomination, be entitled to vote nor shall he be entitled to speak in or otherwise to take part in the proceedings of either House or any joint sitting of the Houses or any Committee of Parliament in relation to any other matter.' "

Sir, the necessity for this article being inserted in the Constitution is this : The House will remember that the composition of the Upper Chamber was originally set out in paragraph 14 of the report of the Union Constitution Committee. In that paragraph it was stated that the Drafting Committee should adopt as its model the Irish system nominating fifteen members of the Upper Chamber out of a panel

* CAD, Official Report, Vol. VIII, 18th May 1949. pp. 82-83.

constituted by various interests such as science, literature, agriculture, engineering and so on. When the Drafting Committee took up this matter, Sir, B. N. Rau, who had in the meanwhile gone on tour, had a discussion with Mr. De Valera and the other members of the Irish Government as to how far this system which was in operation in Ireland had been a successful thing, and he was told that the panel system had completely failed with the result that the Drafting Committee decided to drop the provision suggested in paragraph 14 of the report of the Union Constitution Committee, and proposed a simple measure, *viz.,* to endow the President with the authority to nominate fifteen persons to the Upper Chamber representing special knowledge or practical experience in science, literature and social services. After the Drafting Committee had prepared this draft, the matter was again reconsidered by the Union Constitution Committee and at this session of the Union Constitution Committee, the Committee proposed that the total number of nominations which was originally restricted to fifteen should be divided into two classes, *viz.,* that there should be a set of people nominated as full members of the House and they should have special knowledge and practical experience in art, science, literature and social services and that three other persons should be nominated as experts to assist and advise Parliament in the matter of any particular measure that the Parliament may be considering at the moment.

The first part of the recommendation of the second session, if I may say so, of the Union Constitution Committee has already been incorporated in article 67 which has already been passed by the Assembly. It is to give effect to the second part of the recommendation of the Union Constitution Committee that this article is proposed to be introduced in the Constitution. Honourable Members will see that this article limits the functions of the members nominated thereunder. The functions are to assist and advise the Houses in a particular measure that may be before the House; in other words, the members who would be nominated under article 67-A, their term and their duration will be co-terminous with the proceedings with regard to a particular hill in relation to which they are nominated by the President to advise and assist the House.

From the second paragraph of article 67-A it will be noticed that they are only entitled to take part in the debate, whether the debate is taking place in the House as a whole or in a particular committee to which

they are nominated by the House as members thereof; but they are not entitled to vote at all, so that the addition of these three members will certainly not affect the voting strength of the House. I am sure that the House will accept this new provision contained in article 67-A. If I may point out to the House, the provision contained in article 67-A of nominating experts to the House is not at all a new suggestion. Those members of the House who are familiar with the provisions of the Government of India Act of 1919 know when it introduced a popular element in the House, it also contained a provision which empowered the Governors of the different provinces to appoint experts to deal in a particular manner when the House is considering such a measure. I think it is a useful provision and it would do a lot of good if such a provision was introduced in the Constitution.

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***Mr. President:** The suggestion is that this thing was not circulated before and Members wish to have time.

The Honourable Dr. B. R. Ambedkar : I have no objection if the House wants that the consideration of this matter be postponed.

Mr. President: We shall postpone it today and we shall take it up later.

ARTICLE 68

Mr. President: The motion is :

"That article 68 form part of the Constitution."

We shall now take up the amendments to this article.

(Amendments Nos. 1453 and 1454 were not moved.)

Amendment No. 1455 stands in the name of Mr. Naziruddin Ahmad. I think that is a verbal amendment. Will you like to move it ? With regard to these verbal amendments, I was going to make a suggestion to the Honourable Dr. Ambedkar. With regard to them, he might consider them in consutaltion with the Members who have given notice of such verbal amendments and such of them as would be accepted could be taken up at the time when the motion is placed before the House as having been accepted and we would save the time of the House in that way, but with regard to those which are not acceptable, of course, we shall have to consider what to do with them.

*CAD, Vol. VIII, 18th May 1949, p. 84.

The Honourable Dr. B. R. Ambedkar : The Drafting Committee may be very glad to follow that procedure.

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***The Honourable Dr. B. R. Ambedkar :** Sir I move :

> "That in the proviso to clause (2) of article 68, for the words 'by the President' the words 'by Parliament by law' be substituted."

It is not necessary to offer any explanation for the amendment which I have moved. It will be seen that the clause as it stands vests the power of extending the life of Parliament in the President. It is felt that this is so much of an invasion of the ordinary constitutional provisions that such a matter should really be vested in Parliament and that Parliament should be required to make such a provision for extending the life of itself by law and not by any other measure such as a resolution or motion.

Mr. President : Amendment No. 1465 : that is covered by Dr. Ambedkar's amendment. It is not necessary to take it up.

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†The Honourable Dr. B. R. Ambedkar : Mr. President, Sir, I do not think that anything has been said in the course of the debate on my amendment No. 1464, which calls for a reply. I think the amendment contains a very sound principle and I hope the House will accept it.

With regard to the amendment moved by my friend Prof. Shah, I think some of the difficulties which arise from it, have already been pointed out by my friend Mr. T.T. Krishnamachari. Election, after all, is not a simple matter. It involves a tremendous amount of cost and I think it would be unfair to impose both upon the Government and upon the people this enormous cost of too frequent elections for short periods. I quite sympathise with the point of view expressed by Prof. Shah, that it has been the experience throughout that whenever an election takes place immediately after a war, people sometimes become so unbalanced that the election cannot be said to represent the true mind of the people. But at the same time, I think it must be realised that war is not the only cause or circumstance which leads to the unhinging, so to say, of the minds of the people from their normal moorings. There are many other circumstances, many incidents which are not actually wars, but which may cause similar unbalancing of the mind of the people. It is no use, therefore, providing for one contingency and leaving the other contingencies untouched, by the amendment which prof. Shah has moved. Therefore, it seems to me that on the whole it is much better to leave the situation as it is set out in the Draft Constitution.

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*CAD, Vol. VIII, 18th May 1949, p. 85.

†*Ibid.,* p. 88.

Mr. President : Then I put the whole article as amended by Dr. Ambedkar's amendment.

The question is :

"That article 68, as amended, stand part of the Constitution."

The Motion was adopted. Article 68 as amended was added to the Constitution.

ARTICLE 68-A

***Mr. President:** Now I come to the new article sought to be put in article 68-A. Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar : Mr. President, Sir, I beg to move:

" That the following new article be inserted after article 68 :—

' 68-A. A person shall not be qualified to be chosen to fill a seat in Parliament unless he—

(a) is a citizen of India;

(b) is, in the case of a seat in the Council of States, not less than thirty-five years of age and, in the case of a seat in the House of the People, not less than twenty-five years of age, and

(c) possesses such other qualifications as may be prescribed in this behalf by or under any law made by Parliament.' "

Sir, the object of the article is to prescribe qualifications for a person who wants to be a candidate at an election. Generally, the rule is that a person who is a voter, merely by reason of the fact that he is a voter, becomes entitled to stand as a candidate for election. In this article, it is proposed that while being a voter is an essential qualification for being a candidate a voter who wishes to be a candidate must also satisfy some additional qualifications. These additional qualifications are laid down in this new article 68-A.

I think the House will agree that it is desirable that a candidate who actually wishes to serve in the Legislature should have some higher qualifications than merely being a voter. The functions that he is required to discharge in the House require experience, certain amount of knowledge and practical experience in the affairs of the world, and I think if these additional qualifications are accepted, we shall be able to secure the proper sort of candidates who would be able to serve the House better than a mere ordinary voter might do.

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†Shri T. T. Krishnamachari : ...Much has been made about this rather trifling point by saying that the amendment of Dr. Ambedkar is mischievous and iniquitous. I do hope that the House would realise that

*CAD, Vol. VIII, 18th May 1949, p. 89.

†*Ibid.,* p. 94.

these remarks really exaggerate the position and have really no bearing on the problem. I support the amendment of Dr. Ambedkar as amended by Shrimati Durgabai's amendment.

The Honourable Dr. B. R. Ambedkar: I am prepared to accept the amendment of Shrimati Durgabai. I cannot accept any other amendment.

Mr. President: Do you wish to reply ?

The Honourable Dr. B. R. Ambedkar: I do not think it is necessary for me to reply except to say that if I accept the amendment of Shrimati Durgabai, it would in certain respects be inconsistent with article 152 and 55, because in the case of the provincial Upper House we have fixed the limit at thirty-five and also for the Vice-President we have the age limit at thirty-five. It seems to me that even if this distinction remains, it would not matter very much. Further still it is open to the House, if the House so wishes, to prescribe a uniform age limit.

Mr. President: I will now put the amendment to vote

[Following amendment of Smt. Durgabai was adopted.]

"That in the new article 68-A proposed for insertion after article 68, in clause (b) for the word 'thirty-five' the word 'thirty' be substituted."

Article 68-A as amended was added to the Constitution.

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ARTICLE 69

***The Honourable Dr. B. R. Ambekar:** Sir, I regret that I cannot accept any of the amendments which have been moved to this article. I do not think that any of the amendments except the one which I have chosen now for my reply calls for any comment. The amendments moved by Prof. Shah raise certain points. His first amendment (No. 1470) and his second amendment (No. 1479) refer more or less to the same subject and consequently I propose to take them together to dispose of the arguments that he has urged. In those two amendments Prof. Shah insists that the interval between any two sessions of the Parliament shall not exceed three months. That is the sum and substance of the two amendments.

I might also take along with these two amendments of Prof. Shah the amendment of Mr. Kamath (No. 1471) because it also raises the same question. It seems to me that neither Prof. Shah nor Mr. Kamath has understood the reasons why these clauses were originally introduced in

*CAD, Vol. VIII, 18th May 1949. pp. 104-07.

the Government of India Act, 1935. I think Prof. Shah and Mr. Kamath will realise that the political atmosphere at the time of the passing of the Act of 1935 was totally different from the atmosphere which prevails now. The atmosphere which was then prevalent in 1935 was for the executive to shun the legislature. In fact before that time the legislature was summoned primarily for the purpose of collecting revenue. It only met for the purpose of the budget and after the executive had succeeded in obtaining the sanction of the legislature for its financial proposals, both relating to taxation as well as to appropriation of revenue, the executive was not very keen to meet the legislature in order to permit the legislature either to question the day-to-day administration by exercising its right of interpellation or of moving legislation to remove social grievances. In fact, I myself have been very keenly observing the conduct of some of the provincial legislatures in India which function under the Act of 1935, and I know of one particular province (I do not wish to mention the name) where the legislature never met for more than 18 days in the whole year and that was for the purpose of the legislature's sanction to the proposals for collecting revenue.

Mr. Tajamul Husain : Who was responsible for that ?

The Honourable Dr. B. R. Ambedkar : As I was going to explain the same, mentality which prevailed in the past of the executive not wishing to meet the legislature and submitting itself and its administration to the scrutiny of the legislature was responsible for this kind of conduct.

Pandit Hirday Nath Kunzru : Which province was it ?

The Honourable Dr. B. R. Ambedkar : You better let that lie. I can tell my honourable Friend privately which province it was. It was felt that if such a tiling happended as did happen before 1935, it would be a travesty of popular government. To summon the legislature merely for the purpose of getting the revenue and then to dismiss it summarily and thus deprive it of all the legitimate opportunities which the law had given it to improve the administration either by questions or by legislation was, as I said, a travesty of democracy. In order to prevent that sort of thing happening this clause was introduced in the Government of India Act, 1935. We thought and personally I also think that the atmosphere has completely changed and I do not think any executive would hereafter be capable of showing this kind of callous conduct towards the legislature. Hence we thought it might be desirable

as a measure of extra caution to continue the same clause in our present Constitution. My Friends Mr. Kamath and Prof. Shah feel that that is not sufficient. They want more frequent sessions. The clause as it stands does not prevent the legislature from being summoned more often than what has been provided for in the clause itself. In fact, my fear is, if I may say so, that the sessions of Parliament would be so frequent and so lengthy that the members of the legislature would probably themselves get tired of the sessions. The reason for this is that the Government is responsible to the people. It is not responsible merely for the purpose of carrying on a good administration : it is also responsible to the people for giving effect to such legislative measures as might be necessary for implementing their party programme.

Similarly there will be many private members who might also wish to pilot private legislation in order to give effect to either their fads or their petty fancies. Again, there may be a further reason which may compel the executive to summon the legislative more often. I think the question of getting through in time the taxation measures, demands for grants and supplementary grants is another very powerful factor which is going to play a great part in deciding this issue as to how many times the legislature is to be summoned.

Therefore my submission to the House is that what we have provided is sufficient by way of a minimum. So far as the maximum is concerned the matter is left open and for the reasons which I have mentioned there is no fear of any sort of the executive remaining content with performing the minimum obligation imposed upon them by this particular clause.

I come to the amendment of Prof. Shah (No. 1477). By this particular amendment Prof. Shall wants to omit the words " either House " from clause 67 (2) (a). I could not understand Ms argument. He seemed to convey the impression—he will correct me if I am wrong—that because the Upper Chamber is not subject to dissolution it is not necessary for the President to summon it for the transaction of business. It seems to me that there is a complete difference between the two situations. A House may not be required to be dissolved at any stated period such as the Lower House is required to be dissolved at the end of five years; but the summoning of that House for transacting business is a matter that still remains. The House is not going to sit here in Delhi every day for 24 hours and all the twelve months of the year. It will be called and

the members will appear when they are summoned. Therefore it seems to me that the power of summoning even the Upper House must be provided for as it is provided for in the case of the Lower Chamber.

Then I take the two other amendments of Prof. Shah (Nos. 1473 and 1478). The amendments as they are worded are rather complicated. The gist of the amendments is this. Prof. Shah seems to think that the President may fail to summon the Parliament either in ordinary times in accordance with the article or that he may not even summon the legislature when there is an emergency. Therefore he says that the power to summon the Legislature where the President has failed to perform his duty must be vested either in the Speaker of the Lower House or in the Chairman or the Deputy Chairman of the Upper House. That is, if he have understood it correctly, the proposition of Prof. K. T. Shah. It seems to me that here again Prof. Shah has entirely misunderstood the whole position. First of all, I do not understand why the President should fail to perform an obligation which has been imposed upon him by law. If the Prime Minister proposes to the President that the Legislature be summoned and the President, for no reason, purely out of wantonness or cussedness, refuses to summon it, I think we have already got a very good remedy in our own Constitution to displace such a President. We have the right to impeach him, because such a refusal on the part of the President to perform obligations which have been imposed upon him would be undoubtedly violation of the Constitution. There is therefore ample remedy contained in that particular clause.

But, another difficulty arises if we are to accept the suggestion of Professor K.T. Shah. Suppose for instance the President for good reason does not summon the Legislature and the Speaker and the Chairman do summon the Legislature. What is going to happen? If the President does not summon the Legislature it means that the Executive Government has no business which it can place before the House for transaction. Because, that is the only ground on which the President, on the advice of the Prime Minister, may not call the Assembly in session. Now, the Speaker cannot provide business for the Assembly, nor can the Chairman provide it. The business has to be provided by the Executive, that is to say, by the Prime Minister who is going to advise the President to summon the Legislature. Therefore, merely to give the power to the Speaker or the Chairman to summon the Legislature without making

proper provisions for the placing of business to be transacted by such an Assembly called for in a session by the Speaker or the Chairman would to my mind be a futile operation and therefore no purpose will be served by accepting that amendment.

With regard to the last amendment No. 1482 moved by Prof. K. T. Shah, the purpose is that the President should not grant the dissolution of the House unless the Prime Minister has stated his reasons in writting for dissolution. Well, I do not know what difference there can be between a case where a Prime Minister goes and tells the President that he thinks that the house should be dissolved and a case where the Prime Minister writes a letter stating that the house should be dissolved. Professor K. T. Shah, in the course of his speech, has not stated what purpose is going to be served by this written document which he proposes to be obtained from the Prime Minister before dissolution is sanctioned. I am therefore unable to make any comment. If the object of Prof. K. T. Shah is that the Prime Minister should not arbitrarily ask for dissolution, I think that object would be served if the convention regarding dissolution was properly observed. So far as I have understood it, the King has a right to dissolve Parliament. He generally dissolves it on the advice of the Prime Minister, but at one time, certainly at the time, when Macaulay wrote English History where he has propounded this doctrine of the right of dissolution of Parliament, the position was this : it was agreed by all politicians that, according to the convention then understood; the King was not necessarily bound to accept the advice of the Prime Minister who wanted a dissolution of Parliament. The King could, if he wanted, ask the leader of the Opposition, if he was prepared to come and form a Government so that the Prime Minister who wanted to dissolve the house may be dismissed and the leader of the Opposition could take charge of the affairs of Government and carry on the work with the same Parliament without being dissolved. The King also had the right to find some other Member from the house if he was prepared to take the responsibility of carrying on the administration without the dissolution of the House. If the King failed either to induce the leader of the Opposition or any other Member of Parliament to accept responsibility for governing and carry on the administration, he was bound to dissolve the House. In the same way, the President of the Indian Union will test the feelings of the House whether the House agrees that

there should be dissolution or whether the House aggrees that the affairs should he carried on with some other leader without dissolution. If he finds that the feeling was that there was no other alternative except dissolution, he would, as a Constitutional President, undoubtedly accept the advice of the Prime Minister to dissolve the House. Therefore it seems to me that the insistence upon having a document in writing stating the reasons why the Prime Minister wanted a dissolution of the House seems to be useless and not worth the paper on which it is written. There are other ways for the President to test the feeling of the House and to find out whether the Prime Minister was asking for dissolution of the House for *bona fide* reasons or for purely party purposes. I think we could trust the President to make a correct decision between the party leaders and the house as a whole. Therefore I do not think that this amendment should be accepted.

Mr. President: I shall now put the amendments to vote one by one.

[All amendments were rejected. Article 69 was added to the Constitution.]

ARTICLE 71

***The Honourable Dr. B. R. Ambedkar :** Prof. K. T. Shah simply wants, in the terms in which he has used, stated explicitly; what in my judgment is implicit in the phrase 'causes of its summons'. I think this phrase is wide enough to include everything that Prof. K. T. Shah wants and if I may say so, this phraseology, namely "shall address and inform Parliament of the causes of its summons" is a phrase which we find used in the British Parliament. If Prof. Shah were to refer to Campion's book on the rules of the House of Commons, he will find that this phraseology is used there and after a long and great deal of search for a proper phraseology, we are fortunate enough in finding these words in Campion and I think it is a good phrase and ought to be retained since it covers all that Prof. K. T. Shah wants. Prof. K. T. Shah said that there ought to be a provision for the President also to send messages and to otherwise address the House. I thought that there was definite provision in article 70 which we just now passed, which enables the President to address both Houses of Parliament, also to send messages and the messages may be in relation to a particular Bill or may be any other proceedings before Parliament. I do not think that anything more is

* CAD., Vol. VIII 18th May 1949, p. 110

required than what is contained in article 70 so far as the independent right of the President addressing the House is concerned and that is amply provided for in article 70. I therefore think that there is no necessity for this amendment at all.

[The only amendment of Prof. K. T. Shah was negatived. Article 71 was added to the constitution.]

ARTICLE 72

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***The Honourable Dr. B. R. Ambedkar :** Sir, I do not think Professor Shah has really understood the underlying purpose of article 72. In order that the matter may be quite clear. I might begin by stating some simple fundamental propositions. Every House is an autonomnus House that is to say, that he will not allow anybody who is not a member of that House either to participate in its proceedings or to vote at the conclusion of the proceedings. The only persons who are entitled to lake part in the proceedings and to vote are the persons who are members of that House. Now, we have got an anomalous situation and it is this. We have got two Houses so far as the Centre is concerned, the Upper House and the Lower House. It is quite possible that a person who is appointed a Minister is a member of the Lower House. If he is in charge of a particular Bill, and the Bill by the constitution requires the sanction of both the Houses, obviously, the Bill has not only to be piloted in the Lower House, but it has also to be piloted in the Upper House. Consequently, if a person in charge of the Bill is a member of the Lower House, he would not ordinarily be in a position to appear in the Upper House and to pilot the Bill unless some special provision was made. It is to enable a person who is a member of the Lower House and who happens to be the Minister in charge of a Bill, to enable him to enter the Upper House, to address it, to take part in its proceedings that article 72 is being anacted. Article 72 is really an exception to the general rule that no person can take part in the proceedings of a House unless that person is a Member of that House. It is essential that the Minister who happens to be a member of the Upper House must have the right to go to the Lower House and address it in order to get the measure through. Similarly if he is a member of the Lower House, he must have the liberty to appear in the Upper House, address it and get the measure through.

* CAD. Vol. VIII, 18th May 1949, pp. 113-14

It is for this sort of thing that article 72 is being enacted. The same applies to the Attorney-General. The Attorney-General may be a member of the Lower House. He may have to go to the Upper House but being a member of the Lower House he may not have the legal right to appear in the Upper House. Consequently the provision has been made. Similarly if he is a member of the Upper House he may not be having a legal right to enter the Lower House and address it. It is therefore for this purpose that this is enacted. We have limited this right to take part in the proceedings only. We do not thereby give the right to vote to any Minister who is taking part in the proceedings of the other House. Because we do not think that voting power is necessary to enable him to carry out the proceedings with regard to any particular Bill. I thought my friend also said that the word 'Minister' ought to be omitted, and the word 'elected person' ought to be introduced ; but that again would create difficulty because we have stated in some part of our Constitution that it should be open for a person who is not an elected member of the House to be appointed a Minister for a certain period. In order to enable even such a person it is necessary to introduce the word 'Minister' and not 'person' .That is the reason why the word 'Minister' is so essential in this context. I oppose the amendment.

[Amendment of Prof. K. T. Shah was negatived and Article 72 was added to the Constitution.]

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ARTICLE 73

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***The Honourable Dr. B. R. Ambedkar** (Bombay : General)**:** Mr. President,. Sir, I cannot help saying that the amendment moved by Mr. Naziruddin Ahmad is a throughly absurd one and is based upon an utter misconception of what the clause deals with. He does not seem to understand that there is a distinction between re-election of a person to the same office and a new election. What we are dealing with in article 73 is not re-election, but a new election. A new election is the result of a vacancy in the office by reason of the circumstances mentioned in article 74. By reason of article 74 the same person has ceased to be a member of the House and obviously, that person having ceased to be

*CAD, Vol. VIII, 19th May 1949, p. 119.

a member of the House, you cannot say that they may elect 'a member' which may mean the same person who previously held office. Consequently in order to meet this contingency, the proper wording is 'another member' because that member has become disqualified under article 74. Therefore the wording of article 73 is perfectly in order. I may state here that if a member ceases to be a member by efflux of time, he can be re-elected, because he is 'another member'.

[Amendment of Mr. Naziruddin Ahmed was rejected. Article 73 was added to the Constitution.]

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NEW ARTICLE 75-A

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***The Honourable Dr. B. R. Ambedkar :** Mr. President, Sir, no such difficulty as has been pointed out by Mr. Kamath is likely to arise, and there is, I submit, no lacuna whatsoever. The position will be this ; If the Chairman is being tried, so to say—I am using the popular phrase— then, although he is present, the Deputy Chairman shall preside. If the Deputy Chairman is being tried, the Chairman will preside; and when the Deputy Chairman is being tried, if the Chairman is not present to preside, then what the new clause says is that clause (2) of article 75 will apply. Clause (2) of article 75 says that " During the absence of the Chairman or the Deputy Chairman from any sitting of the Council of States, such person as may be determined by the rules of procedure of the Council, or if no such person is present, such other person as may be determined by the Council, shall act as Chairman." Therefore that difficulty is met by the application of clause (2) of article 75 to the case dealt with by this new article 75-A.

Mr. President: The question is :

(Motion by Mr. T. T. Krishnamachari)

"That after article 75, the following new article be inserted :—

"75-A. At any sitting of the Council of States, while any resolution for the removal of the Vice-President from his office is under consideration, the Chairman, or while any resolution for the removal of the Deputy Chairman from his office is under consideration, the Deputy Chairman, shall not, though he is present, preside, and the provisions of clause (2) of the last preceding article shall apply in relation to every such silting as they apply in relation to a sitting from which the Chairman or, as the case may be, the Deputy Chairman, is absent.' "

The motion was adopted.

Article 75-A was added to the Constitution.

* CAD. Vol. VIII. 19th May 1949. p. 121.

ARTICLE 76

***Mr. President :** The motion is :

"That article 76 stand part of the constitution."

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Mr. Naziruddin Ahmad : I do not wish to formally move this amendment, but I want to make a few remarks. A similar amendment of mine was very kindly characterised by Dr. Ambedkar as absurd. I submit. Sir, my amendment was not absurd....

The Honourable Dr. B. R. Ambedkar : We have already dealt with that amendment, and a similar amendment was moved by my Honourable Friend to article 73.

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ARTICLE 77

†The Honourable Dr. B. R. Ambedkar : Sir, I am sorry I cannot accept the amendment moved by my honourable friend, Mr. Kamath. The existing article is based upon a very simple principle and it is this, that a person normally tenders his resignation to another person who has appointed him. Now the Speaker and the Deputy Speaker are persons who are appointed or chosen or elected by the House. Consequently these two people, if they want to resign, must tender their resignations to the House which is the appointing authority. Of course, the House being a collective body of people a resignation could not be addressed to each member of the House separately. Consequently, the provision is made that the resignation should be addressed either to the Speaker or to the Deputy Speaker, because it is they who represent the House. Really speaking, in theory, the resignation is to the House because it is the House which has appointed them. The President is not the person who has appointed them. Consequently, it would be very incongruous to require the Deputy Speaker or the speaker to tender their resignations to the President, who has nothing to do with House and who should have nothing to do with the House in order that the house may be independent of the executive authority exercised either through the President or through the Government of the day.

Shri H. V. Kamath : On a point of information, may I know from Dr. Ambedkar what is the procedure prevailing in the case of the Speaker of the Central Legislative Assembly today ?

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* CAD. Vol. VIII, 19th May 1949, p. 121

† *Ibid,* p. 123

The Honourable Dr. B. R. Ambedkar : The position today is so different. Does he ask about the present position or the position that he wants to create ? Under the Government of India Act the Assembly and the Speaker are the creatures of the Governor-General. Consequently, the Speaker is required to address his resignation to the Governor-General. We do not want that situation to be perpetuated. We want to give the President as complete and as independent position of the executive as we possibly can.

Shri H. V. Kamath : Even under the Government of India Act, is not the Speaker elected by the Assembly ?

The Honourable Dr. B. R. Ambedkar : That is wrong. He is no doubt elected; but his election is required to be approved by the Governor General.

Shri H. V. Kamath : I beg leave to withdraw the amendment, Sir.

The amendment was, by the leave of the Assembly, withdrawn.

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NEW ARTICLE 79-A

***Mr. President :** There is article 79-A given notice of by Dr. Ambedkar and Shri Ghanshayam Singh Gupta.

The Honourable Dr. B. R. Ambedkar : I would like this to stand over.

Mr. President : Article 79-A stands over.

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ARTICLE 80

†Mr. President : I remember that; it is not necessary to repeat that. We take it that that amendment is not moved. We may go to article 80. The motion is :

"The article 80 form part of the Constitution."

The Honourable Dr. B. R. Ambedkar : Mr. President, Sir, I move :

"That in clause (1) of article 80, for the words 'Save as provided in this Constitution' the words 'Save as otherwise provided in this Constitution' he substituted. "

Sir, this is just a slip and it has to be corrected.

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Shri T. T. Krishnamachari : May I point out that the House has already adopted 68-A which is exactly the same as the amendment now sought to be moved by Mr. Kamath ?

The Honourable Dr. B. R. Ambedkar : Yesterday we adopted 68-A which covers the same point.

* CAD, Vol. VIII, 19th May 1949, p. 126.

Mr. President : He is dealing with 1538 and first part of 1541.

Shri T. T. Krishnamachari : I am sorry.

The Honourable Shri K. Santhanam : I suggest Mr. Kamath may move them separately. We may want to support one and oppose the other.

Shri H. V. Kamath : 1538 and 1541 go together; otherwise the picture will not be complete. If my amendments are accepted, the article would read thus—

> " Save as otherwise provided in this constitution, all questions at any sitting of either House or joint sitting of the Houses shall be determined by a majority of votes of the members present and voting :
>
> Provided that the Chairman or Speaker, etc."

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***The Honourable Dr. B. R. Ambedkar :** Sir, I am sorry I cannot accept the amendment of Mr. Kamath.

Shri H. V. Kamath : Which of my amendments ? I moved three amendments, separately.

The Honourable Dr. B. R. Ambedkar : The one which he moved just now. I find in the book, one consolidated amendment. He might have spoken on different parts of it. But the amendment as it stands is a single one.

Shri H. V. Kamath : Sir, I sent them separately, and I spoke on them separately. With your leave, Sir, I may point them out firstly, adding " of either House " after the words " at any silting " Secondly deletion of the words " other than the Chairman or Speaker or person acting as such ". Thirdly inserting the words " provided that " at the commencement of the second para. I would like to know which of these three the Honourable Member is accepting, whether he is rejecting all the three or two or one.

The Honourble Dr. B. R. Ambedkar : I am referring to the Honourable Member's amendment No. 1538, which so far as the official document is concerned, appears to be a single amendment.

Shri H. V. Kamath : Sir, I asked your leave, to move them separately.

Mr. President : Mr. Kamath has moved these three things. But they can be separately taken also. As amended, the article would read like this :

> "Save as otherwise provided in this Constitution, all questions at any sitting of either House or joint sitting of the Houses shall be ....."

* CAD Vol. VIII 19th May 1949, pp. 128-29.

The Honourable Dr. B. R. Ambedkar : I find I can accept No. 87 in the consolidated list of amendments. It serves my purpose, and therefore I accept it.

[Article 80 as amended was added to the Constitution.]

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ARTICLE 81

The Honourable Dr. B. R. Ambedkar : Sir, I move :

> " That in article 81 for the words 'a declaration' , the words 'an affirmation or oath' be substituted."

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Shri H. V. Kamath : Mr. President, Sir, I have come here just to seek a little clarification from my honourable Friend, Dr. Ambedkar, in regard to his amendment No. 1554 which he has just now moved and which seeks to substitute for the words " a declaration ", the words " an affirmation or oath ". May I, Sir, invite your attention to the fact that the House has already adopted article 49 which provides for an affirmation or oath by the President or person acting as or discharging the functions of the President before entering office. The affirmation or oath provided therein was amended to the effect that the President or person acting as or discharging the functions of the President, should, before he enters upon his office take the oath or affirmation in the following form :—

> " I, A, B, in the name of God, do swear ", or " I, A, B, do solemnly affirm"……..

May I have an assurance from my honourable Friend Dr. Ambedkar as well as from the House that the affirmation or oath referred to in article 81 will be on the same lines as provided for in the amended article 49 of the Constitution ?

Mr. President : I take it that it is obvious that the Schedule will have to be amended so as to fit in with the wordings of this clause....

The Hononurable Dr. B. R. Ambedkar : Sir, I am sorry to say that I cannot accept the amendment moved by my friend Professor Shah. I think Prof. Shah has really misunderstood the sequence of events, if I may say so, in the life of a candidate who has been elected until the time that he becomes a member of the House. If Prof. Shah were to refer to article 81 and also note the heading "Disqualifications of

* CAD, Vol. VIII, 19th May 1949, pp. 130-32.

Members" the first thing he will realise is that merely because a candidate has been elected to Parliament, does not entitle him to become a member of Parliament. There are certain, what I may call, ceremonies that have to be gone through before a duly elected candidate can be said to have become a Member of Parliament. One such thing which he has to undergo is the taking of the oath. He must first take the oath before he can take his seat in the House. Unless and until he takes the oath he is not a member and so long as he is not a member he is not entitled to take a seat in the House. That is the provision. Unless candidates take their oath and take their seats they do not become members and they do not become entitled to elect the Speaker. That is the sequence of events,— election, taking of the oath, becoming a member and then becoming entitled to the election of the Speaker. Therefore the election of the Speaker must be preceded by the taking of the oath.

Having regard to this sequence of events it would be impossible to say that the oath shall be taken before the Speaker, because the Speaker is not there and the Speaker cannot be elected until the elected candidates become members. Therefore the authority to administer the oath must necessarily be vested in some person other than the Speaker. That being the position the question is, in whom this power to administer the oath shall be vested. Obviously, it can be vested only in the President or in some other person to whom the President may transfer his authority in this behalf. In accordance with this sequence of events the only course to adopt is to vest the authority to administer the oath either in the President or in some other person appointed in that behalf by him. It cannot be done by vesting the authority in the Speaker, because the Speaker does not exist at all then.

Now I come to the point raised by our President. What happens to a newly elected member in a bye-election with regard to the taking of the oath ? Has he to go to the President or can he take the oath before the Speaker ? The answer to that question is that the President will, after the Speaker has been elected, confer upon him by order the authority to administer the oath on his behalf, so that when a newly elected candidate appears in Parliament for the purpose of taking the oath, it will be administerd to him by the Speaker as the person authorised by the President. Consequently, in the case of a newly elected person, it would not be necessary for him to go before the President or some other presiding authority appointed by the President.

That is the sequence of events and it would be seen that article 81 is so framed as to fit in with this sequence. Even today, if I may say so, the same procedure is followed. The President (or the Governor-General) appoints somebody when the House meets for the first time to preside over it. Every member then takes the oath or makes the affirmation before the presiding authority. After the oath is taken the presiding authority proceeds to conduct the election of the Speaker and when the election of the Speaker is completed, the person chosen as the presiding officer retires and the Speaker continues to occupy the place of the presiding officer with the authority of the President to administer the oath to any member who comes thereafter. Therefore, as I said, the original Draft is in keeping with the sequence of events and the provision which is usually made for the President to confer his authority on the Speaker will prevent the newly elected person from having to go to the President to take the oath.

Mr. President : Should it be necessary for the speaker to derive his authority to administer the oath from the President ?

The Honourable Dr. B. R. Ambedkar : I submit constitutionally, it is, because the administration of the oath is an incident in the constitution of the House, over which the Speaker has no authority…….

Mr. President: I am not thinking of that stage. I am thinking of a subsequent stage after the Speaker has been elected.

The Honourable Dr. B. R. Ambedkar : I think there is nothing wrong or derogatory, for the simple reason that the constitution of the House, its making up, the legal form of the House is a matter which is outside the purview of the Speaker. The Speaker is in charge of the affairs of the Parliament when the Parliament is constituted and the Parliament is not constituted unless the oath is taken by the members. Therefore the taking up of the oath is really a part and parcel of constituting the House in accordance with the provision and so far as that is concerned I think that auhtority does not belong to the Speaker and need not belong to the Speaker.

Mr. President: Supposing at a subsequent meeting of the House the Speaker happens to be absent and a new member comes on a day when the Deputy Speaker or some other person is in the Chair.

The Honourable Dr. B. R. Ambedkar : The authority given to the Speaker becomes vested not only in the Speaker but also in the Deputy Speaker, in the Panel of Chairmen or any other person occupying the Chair for the time being.

Mr. President: The Speaker will have to depend upon the delegation of authority.

The Honourable Dr. B. R. Ambedkar : We have to depend upon the goodwill of all the functionaries created by the Constitution.

[Amendment of Dr. Ambedkar as shown above was adopted. Article 81 was added to the Constitution]

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ARTICLE 82

***The Honourable Dr. B. R. Ambedkar :** Mr. President, Sir, I beg to move :

"That after clause (1) of article 82, the following new clause be inserted :—

' 1. (a) No person shall he a member both of Parliament and of the Legislature of a State for the time being specified in Part I or Part III of the First Schedule, and if a person is chosen a member both of Parliament and of the Legislature of such a State, then at the expiration of such period as may be specified in rules made by the President that person's seat in Parliament shall become vacant unless he has previously resigned his seat in the Legislature of the State .'

Sir, it requires no comment. It is the ordinary rule.

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†The Honourable Dr. B. R. Ambedkar : I do not accept any of the amendments of Mr. Naziruddin Ahmad or of Mr. Kamath either.

Mr. President : I shall now put the amendments to vote one after another.

[Amendment of Dr. Ambedkar alone as given above was accepted. Article 82, as amended, was added to the Constitution.]

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ARTICLE 83

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‡The Honourable Dr. B. R. Ambedkar : Mr. President, Sir, I move :

" That for sub-clause (d) of clause (1) of article 83, the following be substituted :

'(d) If he has ceased to be a citizen of India, or has voluntarily acquired the citizenship of a foreign State, or is under any acknowledgement of allegiance or adherence to a foreign State and.' "

* * * * *

#Mr. President : There is one point which I would like the Drafting Committee to consider in this case. If we refer to clause (2) of this article, there is no mention of Chairman or Vice-Chairman, Speaker or Deputy Speaker of the House of People. They also hold positions of profit. They are also paid officers.

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* CAD, Vol. VIII, 19th May 1949, p. 133

† *Ibid, p.* 136.

‡ *Ibid.,* p. 138.

Ibid., p. 141.

The Honourable Dr. B. R. Ambedkar : Not under the Government. So they do not come under this.

Mr. President : That is all right.

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***Mr. President :** Does anyone else want to speak ? Has Dr. Ambedkar to say anything ?

The Honourable Dr. B. R. Ambedkar : I do not accept any of the amendments, except amendment No. 1587, standing in the name of the Honourable Shri G. S. Gupta.

(Amendment of Dr. Ambedkar was adopted)

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†Mr. President : Then there is the amendment of Mr. Kamath, No. 1585. But that does not arise now after accepting Dr. Ambedkar's amendment.

There is then Mr. Gupta's amendment No. 1587, that the word "and" should be deleted. Or has it to be substituted by " or " ?

The Honourable Dr. B. R. Ambedkar : It is the same thing; either deleted "and" or substitute ' or ' for ' and '

Mr. President : The question is :

" That the word ' and ' occurring at the end of sub-clause (d) of clause (1) of article 83 he deleted."

The amendment was adopted.

Article 83, as amended, was added to the Constitution.

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ARTICLE 85

‡Mr. President : We have had a very interesting discussion on something which is not the subject-matter of any amendment. There is no amendment moved to alter or modify the particular clause on which Pandit Maitra has spoken. There is no amendment on that point at all.

Now, I will take votes. Does Dr. Ambedkar wish to say anything ?

The Honourble Dr. B. R. Ambdkar : No, unless Mr. Kamath wants me to say something in reply to him. Mr. Alladi and others have already given the reply, and I will also be saying mostly the same thing, probably in a different way.

Mr. President : Then No. 1627, Shri Jaspat Roy Kapoor's amendment. I understand Dr. Ambedkar is willing to accept it.

The question is :

" That in clause (4) of article 85, after the words ' a House of Parliament' the words ' or any committee thereof ' be inserted."

The amendment was adopted.

[Article 85 was added to the constitution.]

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* CAD, Vol. VIII, 19th May 1949, P. 142.

† *Ibid,* p. 143.

‡ *Ibid,* pp. 155-56.

ARTICLE 86

***The Honourable Dr. B. R. Ambedkar :** (Bombay : General): Sir, I am sorry I cannot accept the amendment of my Friend Mr. Lari. I think it unnecessary to give an elaborate reply to the arguments advanced by the mover, in view of my complete agreement with what has been said on the other side by Mr. Ananthasayanam Ayyangar and Mr. T. T. Krishnamachari. I do not think it would be desirable to waste the time of the House in adding anything to what they have said.' Their reply I find is quite complete.

I, however, accept the amendment of Mr. Santhanam for the substitution of the words ' Constitutent Assembly ' for the words ' Legislature of the Dominion of India '.

[Except the amendment of Mr. Santhanam, other amendments were rejected. Article 86, as amended was added to the Constitution]

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ARTICLE 88

†The Honourable Dr. B. R. Ambedkar : Sir, I move:

" That in clause (2) of article 88, for the words ' both Houses are ' the words ' the House referred to in sub-clause (c) of that clause is ' be substituted."

Sir, it is just a matter of clarification by referring to the House referred to in sub-clause (c).

Mr. President : Amendment No. 1651. I think that is covered.

(Amendment No. 1652 was not moved.)

The Honourable Dr. B. R. Ambedkar : Sir, I move :

" That in clause (2) of article 88, before the last word ' days ' the word 'consecutive' be inserted."

(Amendment No. 1654 was not moved.)

The Honourable Shri K. Santhanam : Sir, I move :

" That in clause (4) of article. 88, the words ' total number of ' be deleted."

Sir, I do not want to press the deletion of the proviso. I want to amend the amendment to that extent....

The Honourable Dr. B. R. Ambedkar : I shall be grateful if my Honourable Friend would leave this matter to the Drafting Committee to consider and then we can bring it up afterwards ?

The Honourable Shri K. Santhanam : I agree, Sir.

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ARTICLE 88

‡The Honourable Dr. B. R. Ambedkar : Sir, there is only one amendment moved by my Friend Mr. Kamath which calls for some

* CAD, Vol. VIII, 20th May 1949 p. 172.

† *Ibid,* p. 178.

‡ *Ibid.,* p. 183.

reply. His amendment is No. 1656 by which he seeks the omission of the wards " for the purposes of this Constitution ". My submission is that those words are very essential and must be retained. The reason why I say this will be found in the provisions contained in clause (2) of article 87 and article 91. According to clause (2) of article 87, the main provision therein is that the Bill shall be passed independently by each House by its own members in separate sittings. After that has taken place, the Constitution requires under article 91 that the Bill shall be presented to the President for his assent. My Friend Mr. Kamath will realise that the provisions contained in article 88 are a deviation from the main provisions contained in clause (2) of article 87. Therefore it is necessary to state that the Bill passed in a joint sitting shall be presented to the President notwithstanding the fact that there is a deviation from the main provisions contained in clause (2) of article 87. That is why I submit that the words " for the purposes of this Constitution" are in my judgment necessary and are in no sense redundant.

With regard to the observations that have been made by several speakers regarding the provisions contained in article 88, all I can say is, there is some amount of justification for the fear they have expressed, but as other Members have pointed out, this is not in any sense a novel provision. It is contained in various other constitutions also and therefore my suggestion to them is to allow this article to stand as it is and see what happens in course of time. If their tears come true I have no doubt that some Honourable Member will come forward hereafter to have the article amended through the procedure we have prescribed for the amendment of the Constitution.

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***The Honourable Dr. B. R. Ambedkar :** Sir, while going over this article, I find that it requires further to be considered. I would therefore request you not to put this article to vote today.

Mr. President : There are four amendments moved to this article, and the first amendment is No. 1669 that in clause (1) of article 90, the word 'only' be deleted. Mr. Naziruddin Ahmad wishes to emphasise the importance of that amendment. That may be taken into consideration by the Drafting Committee. The whole article is going to be reconsidered.

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* CAD, Vol. VIII, 20th May 1949 p. 191.

ARTICLE 91

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***The Honourable Dr. B. R. Ambedkar :** Sir, I move :

"That in the proviso to article 91, for the words ' not later than six weeks ' the words ' as soon as possible ' he substituted."

Mr. Naziruddin Ahmad : I have an amendment to this amendment, No. 94.

Mr. President : I think that is of a drafting nature.

Mr. Naziruddin Ahmad : There would be a difference in actual practice.

Mr. President : So, you consider it to be substantial ?

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Shri T. T. Krishnamachari : There is slight difference in language. I think Dr. Ambedkar's proposal will be the better one.

Mr. President : I shall put this to the vote. It need not be moved.

Amendment No. 1689 : this is also the same as amendment No. 1688 of Dr, Ambedkar. We have taken it as having been moved. Is it necessary to move this ? You can move it if there is some slight difference.

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†Mr. President : I would now put the amendments to vote. Do you want to say anything, Dr. Ambedkar ?

The Honourable Dr. B. R. Ambedkar : No. Sir, I do not think any reply is necessary.

Naziruddin Ahmad's amendment was negatived.

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Mr. President : I would now put the amendments to vote. Do you want to say anything, Dr. Ambedkar ?

[Dr. Ambedkar's amendments were accepted. Others were rejected. Article 91., as amended, was added to the Constitution.]

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ARTICLE 67-A

‡Mr. President : We will take up article 67-A which was taken up the other day and was postponed.

The Honourable Dr. B. R. Ambedkar : (Bombay : General) : Sir, I move for permission of the House to withdraw this article.

Mr. President : I think he did not move it and so there is no question of withdrawing it.

Mr. B. Pocker Sahib : (Madras : Muslim) : No, it was taken up and the House is in possession of it. The Honourable Member should therefore give his reasons for withdrawing it.

* CAD, Vol. VIII, 20th May 1949, p. 192.

† *Ibid.,* p. 195.

‡ *Ibid.,* p. 197.

Mr. President : Yes, I am sorry I made a mistake. The Hnourable Dr. Ambedkar may give his reasons for withdrawing the article.

The Honourable Dr. B. R. Ambedkar : Sir, my reason is this. As I explained on the last occasion, we have made a provision for nominating certain persons to Parliament. The original proposal was to nominate fifteen persons; subsequently it was decided that these fifteen persons should be divided into two categories, viz., twelve representing literature, science, arts, social services, and so on; and a further provision should be made for the nomination of three persons to assist and advise the Houses of Parliament in connection with any particular Bill, I feel Sir, that the provision which is already contained in article 67 which permits the President to have twelve persons nominated to Parliament would serve the purpose which underlines this new article 67-A. The services that would be rendered by the persons nominated, if article 67-A were passed into law, would be also rendered by the persons who would be nominated under article 67; and therefore the nominations under article 67-A would be merely a duplication of the nominative system covered in article 67. Besides, it is fell that in an independent Parliament which is fully sovereign and representative of the people there should not be too much of an element of nomination. We have already twelve; there may be some nominations also regarding the Anglo-Indians and it is felt that to add to that nominated quantum would be derogatory to the popular and representatiave character of Parliament. That is why I wish to withdraw this article 67-A.

Article 67-A was, by leave of the Assembly withdrawn

STATEMENT *re:* ARTICLE 92 TO 99

***The Honourable Dr. B. R. Ambedkar :** Sir, I propose that we start now with article 100.

Mr. President : I take it that the discussion on articles 92 to 99 should be held over for the time being to enable the business relating to finance and finance bills to be considered further.

The Honourable Dr. B. R. Ambedkar : Yes. The position is this. When article 90 was under debate I suggested that the debate should not be concluded and that the article should not be put to the vote because I discovered, at the last moment, a flaw in the article, which I thought it was necessary to rectify. Now if that flaw is to be rectified, then articles 96 to 99 also require to be reconsidered in the light of that article. Article 91 we have passed. Articles 92 to 99 require further

* CAD, Vol. VIII, 23rd May 1949. pp. 197-98

consideration and therefore I want those articles to be held over for the lime being. But we can begin with article 100.

[Article 100 was adopted and added to the Constitution as suggested by Dr. Ambedkar.]

ARTICLE 101

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***The Honourable Dr. B. R. Ambedkar :** Sir, with regard to the amendment of Mr. Kamath, I do not think it is necessary, because where can the proceedings of Parliament be questioned in a legal manner except in a court ? Therefore the only place where the proceedings of Parliament can be questioned in a legal manner and legal sanction obtained is the court. Therefore it is unnecessary to mention the words which Mr. Kamath wants in his amendment.

For the reason I have explained, the only forum where the proceedings can be questioned in a legal manner and legal relief obtained either against the President or the Speaker or any officer or Member, being the Court, it is unnecessary to specify the forum. Mr. Kamath will see that the marginal note makes it clear.

With regard to the amendment moved by my Friend Mr. Naziruddin Ahmad, he has not understood that the important words in sub-clause (2) are ‘ in whom powers are vested ’.

Mr. Naziruddin Ahmad : For maintaining order.

The Honourable Dr. B. R. Ambedkar : ‘No officer or other Member of Paliament in whom powers are vested ’ are the persons who are protected by sub-clause (2). The Speaker is already an officer and also a Member. No powers has to be conferred upon him. The Constitution confers the power on him. Therefore, having regard to the fact that it is only ‘ other Member that is to say, Member besides the Speaker or the Deputy Speaker as the case may be, who requires to be protected. Therefore the word ‘other’ is important.

Mr. President : What is the effect of the words ‘ or for maintaining order’ ?

The Honourable Dr. B. R. Ambedkar : Supposing there is a brawl in the House I do not like to put it that way. But, supposing there is a brawl in the House, and the Speaker, not finding any officer at hand to remove a certain Member, asks certain other Member who is present to remove the Member who is causing the brawl. Then that particular Member is the Member who is invested with this authority by the Speaker and he would come under “other Member ”.

* CAD. Vol. VIII, 23rd May 1949, pp. 200-01

Mr. President : 'Or any other officer who is not a Member of the House' does he come under that ?

The Honourable Dr. B. R. Ambedkar : 'Officer' would he there.

Shri H. V. Kamath : May I ask for some clarification ? Mr. Santhanam, referring to my amendment said that the validity of any amendment can he called in question not merely in a court of law, but also in a legislature. Does Dr. Ambedkar agree with him ?

The Honourable Dr. B. R. Ambedkar : I am responsible for the explanation I have given.

Shri H. V. Kamath : As regards the other point mentioned by Dr. Ambedkar that the marginal sub-head is clear, may I point out that in the other forum, viz., the Legislative Assembly, I was told that the marginal headings have nothing to do with legislation as such and that articles or sections are taken without reference to the marginal headings. If this so, if you do not read the marginal heading and the article together, the meaning to my mind is not clear.

The Honourable Dr. B. R. Ambedkar : On that point there are two views. One is that the marginal note is not part of the section and the other view is that the marginal note is : for instance, Mr. Mavalankar, when he was in Bombay, held the view that the marginal note was not part of the section, but the present Speaker of the Bombay Assembly recently said that the marginal note was very much part of the section as it gives the key to the meaning of the section.

[Two amendments were negatived. Article 101 was added to the Constitution.]

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ARTICLE 102

***The Honourable Dr. B. R. Ambedkar :** Mr. President, Sir, my friend, Pandit Kunzru, has raised some fundamental objections to the provisions contained in this article 102. He said in the course of his speech that we were really reproducing the provisions contained in the Government of India Act, 1935, which were condemned by all parties in this country. It seems to me that my friend. Pandit Kunzru, has not borne in mind that there are in the Government of India Act, 1935, two different provisions. One set of provisions is contained in section 42 of the Government of India Act and the other is contained in section

* CAD, Vol. VIII, 23rd May 1949, pp. 213-17.

43. The provisions contained in section 43 conferred upon the Governor-General the power to promulgate ordinances which he felt necessary to discharge the functions that were imposed upon him by the Constitution and which he was required to discharge in his discretion and individual judgment. In the ordinances which the Governor-General had the power to promulgate under section 43, the legislature was completely excluded. He could do anything—whatever he liked—which he thought was necessary for the discharge of his special functions. The other point is this; that the ordinances promulgated by the Governor-General under section 43 could be promulgated by him even when the legislature was in session. He was a parallel legislative authority under the provisions of section 43. It would be seen that the present article 102 does not contain any of the provisions which were contained in section 43 of the Government of India Act. The President, therefore, does not possess any independent power of legislation such as the powers possessed by the Governor-General under Section 43. He is not entitled under this article to promulgate ordinances when the legislature is in session. All that we are doing is to continue the powers given under Section 42 to the Governor-General to the President under the provisions of article 102. They relate to such period when the legislature is in recess, not in session. It is only then that the provisions contained in article 102 could be invoked. The provisions contained in article 102 do not confer upon him any power which the Central Legislature itself does not possess, because he has no special responsibility, he has no discretion and he has no individual judgment. Consequently, my submission is that the argument which was profounded by my friend, Pandit Kunzru, went a great deal beyond the provisions of article 102. If I may say so, this article is somewhat analogous—I am using very cautious language—to the provisions contained in the British Emergency Powers Act, 1920. Under that Act also, the King is entitled to issue a proclamation, and when a proclamation was issued, the executive was entitled to issue regulations to deal with any matter, and this was permitted to be done when Parliament was not in session. My submission to the House is that it is not difficult to imagine cases where the powers conferred by the ordinary law existing at any particular moment may be deficient to deal with a situation which may suddenly and immediately arise. What is

the executive to do ? The executive has got a new situation arisen, which it must deal with *Ex hypothesi* it has not got the power to deal with that in the existing code of law. The emergency must be dealt with, and it seems to me that the only solution is to confer upon the President the power to promulgate a law which will enable the executive to deal with that particular situation because it cannot resort to the ordinary process of law because, again *Ex hypothesi,* the legislature is not in session. Therefore, it seems to me that fundamentally there is no objection to the provisions contained in article 102.

The point was made by my friend, Mr. Pocker, in his amendment No. 1796, whereby he urged that such an ordinance should not deprive any citizen of his fundamental right of personal liberty except on conviction after trial by a competent court of law. Now, so far as his amendment is concerned,. I think he has not read clause (3) of article 102. Clause (3) of article 102 lays down that any law made by the President under the provisions of article 102 shall be subject to the same limitations as a law made by the legislature by the ordinary process. Now, any law made in the ordinary process by the legislature is made subject to the provisions contained in the Fundamental Rights articles of this Draft Constitution. That being so, any law made under the provisions of article 102 would also be automatically subject to the provisions relating to fundamental rights of citizens, and any such law therefore will not be able to over-ride those provisions and there is no need for any provision as was suggested by my friend, Mr. Pocker, in his amendment No. 1796.

The amendment suggested by my friend, Mr. Kamath, *i.e.,* 1793, seems to me rather purposeless. Suppose one House is in session and the other is not. If a situation as I have suggested arises, then the provisions of article 102 are necessary because according to this Constitution, no law can be passed by a single House. Both Houses must participate in the legislation. Therefore the presence of one House really does not satisfy the situation at all.

Shri H. V. Kamath : Does it mean that when one House only is in session, say, the House of the People, the President will still have this power ?

The Honourable Dr. B. R. Ambekdar : Yes, the power can be exercised because the framework for passing law in the ordinary process does not exist.

Shri H. V. Kamath : Shameful, I should say.

The Honourable Dr. B. R. Ambedkar : Now, I come to the other question raised by my friend, Mr. Kunzru, in his amendment No. 1802. His suggestion is that such legislation enacted by the President under article 102 should automatically come to an end at the end of thirty days from the promulgation of the ordinance. The provision contained in the draft article is that it shall continue for six weeks after the meeting of Parliament. Now, the reason why my friend. Pandit Kunzru, has brought in his amendment is this; he says that under the provisions contained in the draft article, a much longer period might elapse than six weeks, because he thinks that the executive may take, say, a month or two for summoning Parliament. If Parliament is summoned, say in four months, then the six weeks also might be there—that would be practicable—or it might be longer if the Executive delays the summoning of the Parliament. Well, I do not know what exactly may happen, but my point is this that the fear which my Honourable friend Pandit Kunzru has is really unfounded, because we have provided in another article 69, which says that six months shall not elapse between two sessions of the Parliament, and I believe, that owing to the exigencies of parliamentary business, there will be more frequent sessions of the Parliament than Honourable Members at present are inclined to believe. Therefore, I say, having regard to article 69, having regard to the exigencies of business, having regard to the necessity of the government of the day to maintain the confidence of Parliament, I do not think that any such dilatory process will be permitted by the Executive of the day as to permit an ordinance promulgated under article 102 remain in operation for a period unduly long, and I, therefore, think that the provisions as they exist in the draft article might be permitted to remain.

Shri H. V. Kamath : Mr. President, Sir, may I ask one last question ? Is it not repugnant to our ideas or conceptions of freedom and democracy, which are, I pressume. Dr. Ambedkar's also, not to lay down the maximum life of an ordinance in this article ?

The Honourable Dr. B. R. Ambedkar : My own feeling is this that a concrete reason for the sentiment of hostility which has been expressed by my honourable friend, Mr. Kamath as well as my honourable friend Mr. Kunzru, really arises by the unfortunate heading of chapter " Legislative powers of the President". It ought to be " Power to legislate when Parliament is not in session". I think if that sort of

innocuous heading was given to the chapter, much of the resentment to this provision will die down. Yes. The word 'Ordinance' is a bad word, but if Mr. Kamath with his fertile imagination can suggest a better word, I will be the first person to accept it. I do not like the word "ordinance", but I cannot find any other word to substitute it.

Mr. President : There is another amendment which has been moved by Sardar Hukam Singh in which he says that the President may promulgate ordinances after consultation with his Council of Ministers.

The Honourable Dr. B. R. Ambedkar : I am very grateful to you for reminding me about this. The point is that that amendment is unnecessary, because the President could not act, will not act except on the advice of the Ministers.

Mr. President : Where is the provision in the draft Constitution which binds the President to act in accordance with the advice of the Ministers ?

The Honourable Dr. H. R. Ambedkar : I am sure that there is a provision, and the provision is that there shall be a Council of Ministers to aid and advise the President in the exercise of his functions.

Mr. President : Since we are having this written Constitution, we must have that clearly put somewhere.

The Honourable Dr. B. R. Ambedkar : Though I cannot point it out just now, I am sure there is a provision. I think there is provision that the President will be bound to accept the advice of the Ministers. In fact, he cannot act without the advice of his Ministers.

Some Honourable Members : Article 61 (1).

Mr. President : It only lays down the duly of the Ministers, but it does not lay down the duty of the President to act in accordance with the advice given by the Ministers. It does not lay down that the President is bound to accept the advice. Is there any other provision in the Constitution ? We would not be able even to impeach him, because he will not be acting in violation of the Constitution if there is no provision.

The Honourable Dr. B. R. Ambedkar : May I draw your attention to article 61, which deals with the exercise of the President's junctions. He can not exercise any of his functions, unless he has got the advice, ' in the exercise of his functions. It is not merely to ' aid and advise '. " In the exercise of his functions " those are the most important words.

Mr. President : I have my doubts if this word could bind the President. It only lays down that there shall be a council of ministers with the Prime Minister at the head to aid and advise the President in the exercise of his functions. It does not say that the President will be bound to accept that advice.

The Honourable Dr. B. R. Ambedkar : If he does not accept the advice of the existing ministry, he shall have to find some other body of ministers to advise him. He will never be able to act independently of ministers.

Mr. President : Is there any real difficulty in providing somewhere that the President will be bound by the advice of the ministers.

The Honourable Dr. B. R. Ambedkar : We are doing that. If I may say so, there is a provision in the Instrument of Instructions.

Mr. President : I have considered that also.

The Honourable Dr. B. R. Ambedkar : Paragraph 3 reads : In all matters within the scope of the executive power of the Union, the President shall, in the exercise of the powers conferred upon him, be guided by the advice of his ministers. We propose to make some amendment to that.

Mr. President : You want to change that. As it is, it lays down that the President will be guided by the ministers in the exercise of executive powers of the Union and not in its legislative power.

The Honourable Dr. B. R. Ambedkar : Article 61 follows almost literally various other constitutions and the Presidents have always understood that that language means that they must accept the advice. If there is any difficulty, it will certainly be remedied by suitable amendment.

Shri H. V. Kamath : You will be leaving this article silent on the subject of the maximum life of an ordinance which can extend to seven and a half months. It is impossible.

Mr. President : is Mr. Kamath going to make a second speech on his amendment.

The Honourable Dr. B. R. Ambedkar : Our President is quite different from the President of the United Stales.

[All 6 amendments were rejected. Article 102 was added to the Constitution.]

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***The Honourable Dr. B. R. Ambedkar :** Sir, I move :

"That in the heading to Chapter IV of Part V, for the words ' federal Judicature ' the words ' Union Judiciary ' be substituted."

This is merely consequential to the earlier article where India has been described as a Union.

The amendment was adopted.

ARTICLE 102-A

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Mr. President : It is eight O'clock now. I think we had better close the discussion.

Shri Brajeshwar Prasad : (Bihar : General) : May I have one minute of the lime of the House to speak on this motion.

Mr. President : I think the House is not willing to hear further speaches now.

The Honourable Dr. B. R. Ambedkar : Sir, I do not think any reply is necessary. If I may say so. it was rather unfortunate that Professor Shah should have moved this amendment. This matter was discussed in great detail when we were discussing the directive principles of State Policy. I do not therefore see why this matter was raised again and why there was a debate. The matter had been partically concluded in article 39-A.

Mr. President : I will now put the amendment to vote.

[The amendment was negatived.]

ARTICLE 103

‡The Honourable Dr. B. R. Ambedkar : (Bombay : General): Mr. President, Sir, I move:

> "That in clause (1) of article 103, for the words ' and such number of other judges not being less than seven, as Parliament may by law prescribe ' the words ' and until Parliament by law prescribes a larger number, of seven other judges ' be substituted."

The object of this amendment is that the constitution of the Supreme Court should not be held over until Parliament by law prescribes the number of Judges. The amendment lays down that seven Judges will constitute the Supreme Court.

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#The Honourable Dr. B. R. Ambedkar : Sir, I move :

> " That in Explanation II to clause (3) after the words ' judicial office ' the words ' not inferior to that of a district judge ' be inserted."

* CAD. Vol. VIII. 23rd May 1949. p.218.

† *Ibid,* p. 227.

‡ *Ibid* 24th May 1949. p. 230.

Ibid., pp. 242-43.

I also move :

" That in clause (4) of article 103. for the words ' supported by not less than two-thirds of the members present and voting has been presented to the President by both Houses of Parliament' the words ' by each House of Parliament supported by a majority of the total membership of that House and by a majority of not less than two-thirds of the members of that House present and voting has been presented to the President' be substituted ".

Mr. President : There is an amendment to this amendment by Dr. Bakshi Tek Chand, of which he has given notice. It is No. 101 in the printed pamphlet containing the amendments to amendments.

The amendment was not moved.

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***Mr. President :** Amendment No. 1857 is a verbal amendment.

Amendment No. 1858 stands in the name of Professor K. T. Shah.

Is not that covered by the words ' incapacity and misbehaviour ' ?

Prof. K.T. Shah : I would accept it if you think that they are covered. I do not move it.

* * * * *

Mr. President : ...Amendment No. 1862 stands in the name of Dr. B. R. Ambedkar. That is also a formal amendment to substitute for the words "a declaration" the words "an affirmation or oath". We have made similar changes whereever that expression occurs in other parts of the draft Constitution. I take it that it is moved.

The Honourable Dr. B. R. Ambedkar : Sir, I formally move :

" That in clause (6) of article 103, for the words * a declaration ' the words ' an affirmation or oath ' be substituted."'

* * * * *

†Mr. President : ...Dr. Ambedkar, would you like to say anything about the amendments.

The Honourable Dr. B. R. Ambedkar : Mr. President, Sir, I am prepared to accept two amendments. One of them is No. 1829 moved by Mr. Santhanam, and the other is No. 1845, moved by Mr. Kamath, by which he proposes that even a jurist may be appointed as a Judge of the Supreme Court. But with regard to Mr. Kamath's amendment No. 1845, I should like to make one reservation, and it is this. I am not yet determined in my own mind whether the word " distinguished " is the proper word in the context. It has been suggested to me that the word " eminent " might be more suitable. But as I said, I am not in a position to make up my mind on this subject; and I would, therefore, like to make this reservation in favour of the Drafting Committee, that the Drafting Committee should be at liberty when it revises the Constitution, to say

* CAD. Vol. VIII 24th May 1949, p. 244.

† *Ibid* pp. 257-60.

whether it would accept the word "distinguished" or substitute "eminent" or some oilier suitable word.

Now, Sir. with regard to the numerous amendments that have been moved, to this article, there are really three issues that have been raised. The first is, how are the Judges of the Supreme court to be appointed ? Now, grouping the different amendments which are related to this particular matter, I find three different proposals. The first proposal is that the Judges of the Supreme Court should be appointed with the concurrence of the Chief Justice. That is one view. The other view is that the appointments made by the President should be subject to the confirmation of two-thirds vote by Parliament and the third suggestion is that they should be appointed in consultation with the council of States.

With regard to this matter, I quite agree that the point raised is of the greatest importance. There can be no difference of opinion in the House that our judiciary must both be independent of the executive and must also be competent in itself. And the question is how these two objects could be secured. There are two different ways in which this matter is governed in other countries. In Grexat Britain the appointments are made by the Crown, without any kind of limitation whatsoever, which means by the executive of the day. There is the opposite system in the United States where, for instance, offices of the Supreme Court as well as other offices of the Slate shall be made only with the concurrence of the Senate in the United States. It seems to me, in the circumstances in which we live today, where the sense of responsibility has not grown to the same extent to which we find it in the United States, it would be dangerous to leave the appointments to be made by the President, without any kind of reservation or limitation, that is to say, merely on the advice of the executive of the day. Similarly, it seems to me that to make every appointment which the executive wishes to make subject to the concurrence of the Legislature is also not a very suitable provision. Apart from its being cumbrous, it also involves the possibility of the appointment being influenced by political pressure and political considerations. The draft article, therefore, steers a middle course. It does not make the President the supreme and the absolute authority in the matter of making appointments. It does not also import the influence of the Legislature. The provision in the article is that there should be consultation of persons who are *ex hypothesi,* well qualified to give proper advice in matters of this sort, and my judgment is that this sort of provision may be regarded as sufficient for the moment.

With regard to the question of the concurrence of the Chief Justice, it seems to me that those who advocate that proposition seem to rely implicitly both on the impartiality of the Chief Justice and the soundness of Ms judgment. I personally feel no doubt that the Chief Justice is a very eminent person. But after all, the Chief Justice is a man with all the failings, all the sentiments and all the prejudices which we as common people have; and I think, to allow the Chief Justice practically a veto upon the appointment of judges is really to transfer the authority to the Chief Justice which we are not prepared to vest in the President or the Government of the day. I therefore, think that that is also a dangerous proposition.

The second issue that has been raised by the different amendments moved to this article relates to the question of age. Various views have been expressed as to the age. There are some who think that the judges ought to retire at the age of sixty. Well, so far as High Courts are concerned, that is the present position. There are some who say that the constitution should not fix any age-limit whatsoever, but that the age-limit should be left to be fixed by Parliament by law. It seems lo me that that is not a proposition which can be accepted, because if the matter of age was left to Parliament to determine from time to time, no person could be found to accept a place on the Bench, because an incumbent before he accepts a place on the bench would like to know for how many years in the natural course of things, he could hold that office; and therefore, a provision with regard to age, I am quite satisfied, cannot be determined by Parliament from time to time, but must be fixed in the Constitution itself. The other view is that if you fix any age-limit what you are practicality doing is to drive away a man who notwithstanding the age that we have prescribed, *viz.,* sixty-five, is hale and hearty, sound in mind and sound in body and capable for a certain number of years of rendering perfectly good service to the Slate. I entirely agree that sixty-five cannot always be regarded as the zero hour in a man's intellectual ability. At the same time, I think Honourable Members who have moved amendments to this effect have forgotten the provision we have made in article 107, where we have provided that it should be open to the Chief Justice to call a retired Judge to sit and decide a particular case or cases. Consequently by the operation of article 107 there is less possibility, if I may put it, of our losing the talent of individual people who have already served on the Supreme Court. I therefore submit that the arguments or the fears that were expressed

in the course of the debate with regard to the question of age have no foundation.

Now, I come to the third point raised in the course of the debate on this amendment and that is the question of the acceptance of office by members of the judiciary after retirement. There are two amendments on the point,—one of Prof. Shah and the other by shri Jaspat Roy Kapoor. I personally think that none of these amendments could be accepted. These amendments have been moved more or less on the basis of the provisions that have been made in the Draft Constitution relating to the Public Service Commission. It is quite true that the provision has been made that no member of the Public Services Commission shall be entitled to hold an office under the crown for a certain period after he has retired from the Public Services Commission. But it seems to me that there is a fundamental difference between the members of the judiciary and the members of the Federal Public Services Commission. The difference is this. The Public Services Commission is serving the Government and deciding matters in which Government is directly interested, *viz..,* the recruitment of persons to the civil service. It is quite possible that the minister in charge of a certain portfolio may influence a member of the Public Services Commission by promising something else after retirement if he were to recommend a certain candidate in whom the Minister was interested. Between the Federal Public Services Commission and the Executive the relation is a very close and integral one. In other words, if I may say so, the Public Services Commission is at all times engaged in deciding upon matters in which the Executive is vitally interested. The judiciary decides eases in which the Government has, if at all, the remotest interest, in fact no interest at all. The judiciary is engaged in deciding the issue between citizens and very rarely between citizens and the Government. Consequently the chances of influencing the conduct of a member of the judiciary by the Government are very remote, and my personal view, therefore, is that the provisions which are applied to the Federal Public Services Commission have no place so far as the judiciary is concerned. Besides, there are very many cases where the employment of judicial talent in a specialised form is very necessary for certain purposes. Take the case of our Friend Shri Varadachariar. He has now been appointed member of a Commission investigating income-tax questions.

Shri Jaspat Roy Kapoor : Let it be in an honorary capacity.

The Honourable Dr. B. R. Ambedkar : No, he is paid. It is an office of profit under the crown.

Therefore, who else can be appointed to positions like this, except persons who had judicial talent ? It would be a very great handicap if these very persons who possess talent for doing work of this sort were deprived by provisions such as Shri Jaspat Roy Kapoor suggests. And I have said that the relation between the executive and judiciary are so separate and distinct that the executive has hardly any chance of influencing the judgment of the judiciary. I therefore suggest that the provision suggested is not necessary and I oppose all the amendments.

Following two amendments were accepted.

(1) Amendment by Mr. Santhanam :—

"That in clause (2) of article 103. for the words 'may be' the words 'the President may deem' he substituted.

(2) Amendment by Mr. kamath :—

"That in clause (3) of article 103, the following new sub-clause be added :—

(c) or is an eminent jurist' ".

All four amendments of Dr. Ambedkar as shown before were adopted. In all 18 amendments moved by other members were rejected.

[Article 103, as amended, was added to the Constitution]

ARTICLE 103-A.

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***The Honourable Dr. B. R. Ambedkar :** I should like to dispose of this mailer in as few words as possible. Before I do so, I should like to state what I understand to be the idea underlying this particular amendment. For the purpose of understanding the main idea underlying this amendment, I think we have to take up three different cases. One case is the case of a Judge of the Supreme Court who has been appointed to an executive office with no right of reversion to the Supreme Court. Thai is one case. The second case is the appointment of a Supreme Court Judge after he has held that post to an executive office of a non-judicial character. The third ease is the case of a Supreme Court Judge being given or assigned duties of a non-judicial character with the right to revert to the Supreme Court. I understand that—my friend Dr. Sen may correct me if I am wrong—this amendment refers to the third proposition, *viz.,* the assignment of a Supreme Court Judge to non-judicial duties for a short period with the right for him to revert to the Supreme Court.

With regard to the first case that I mentioned, *viz.,* the appointment of a Supreme Court Judge to an executive office provided the Supreme

* CADVol. VIII. 24th May 1949, pp.266-67

Court Judge resigns his post as a Judge of the Supreme Court, I do not see any objection at all, because he goes out of the Supreme Court altogether.

With regard to the second case, viz., the assignment of duties to a Supreme Court Judge who has retired, we have just now disposed of it. There ought to be no limitation at all.

With regard to the third case, I think it is a point which requires consideration. We have had two cases in this country. One was the case which occured during the war when a Judge of the Federal Court was sent round by the then Government of India on diplomatic missions. We have also had during the regime of this Government the case where the Chief Justice or a Judge—I forget now—on one of the High Courts, was sent out on a diplomatic mission. On both occasions there was some very strong criticism of such action. My Friend, Mr. Chimanlal Setalvad, came out with an article in the *Times of India,* criticising the action of the Government. Personally I share those sentiments. I am, however, at present not in a position to accept the amendment as worded by Dr. P. K. Sen because the wording either goes too wide or in some cases too narrow. I am prepared to recommend to the Drafting Committee that this point should be taken into consideration. On that assurance, I would request him to withdraw his amendment.

Shri Jaspat Roy Kapoor : May I request that a decision on this clause may be held over till tomorrow because many of us would like to study it carefully.

Mr. President: Dr. Ambedkar has told us that he is willing to refer it to the drafting Committee for its consideration.

Shri Jaspat Roy Kapoor : It might stand over

Mr. President: When it is referred to the Drafting Committee, it means that it stands over, because when it comes back again, it will come back in the form in which it is approved by the Drafting Committee.

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ARTICLE 104

***The Honourable Dr. B. R. Ambedkar** (Bombay : General): Sir, I would request that article 104 be postponed.

ARTICLE 106

†The Honourable Dr. B. R. Ambedkar : I accept the two amendments—No. 124 of List No. VI and amendment No. 1883.

* CADVol. VIII, 27th May 1949. p. 375.

†*Ibid.* p. 377.

Mr. President: There have been two amendments moved. Both have been accepted by Dr.Ambedkar. I will now put them to the vote.

"That with reference to amendment No. 1883 of the List of amendments, in clause (1) of article 106, after the words ' Chief Justice may ' the words ' with the previous consent of the President and ' be inserted."

" That in clause (1) of article 106, after the words ' High Court' where they occur for the second time, the words 'duly qualified for appointment as a judge of the Supreme Court' be inserted."

Folling amendments were adopted.

[Both the above amendments were accepted. Article 106, as amended, was added to the constitution]

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ARTICLE 107

Mr. President: Amendment No. 1884. This is a negative amendment. So I rule it out.

Amendment No. 1885. That question has been decided. So this need not be moved.

Shri Jaspat Roy Kapoor : I am not moving amendment No. 1886 as there is another amendment on the same lines.

Mr. President: Amendment No. 1887 is more or less a verbal amendment. So it need not be moved.

***The Honourable Dr. B. R. Ambedkar :** Sir, I beg to move:

"That in article 107 the words ' subject to the provisions of this article ' be deleted."

Those words are quite unnecessary.

Shri T. T. Krishnamachari : I move :

" That in article 107, in line 3, after the words ' at any time ', the words ' with the previous consent of the President' be inserted."

(Amendment Nos. 1889 and 1890 were not moved.)

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†Mr. President: We have now the amendments and the article for discussion.

The Honourable Dr. B. R. Ambedkar : I accept amendment 125 moved by Shri T. T. Krishnamachari.

The amendment was adopted.

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ARTICLE 108

‡The Honourable Dr. B. R. Ambedkar : Mr. President, Sir, I move :

"That for amendment No. 1891 of the List of Amendments, the following be substituted :—

"That for article 108, the following articles be substituted :

108. The Supreme Court shall be a court of record and shall have all the powers of such a court including the power to punish for contempt of itself.

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* CAD, Vol. VIII, 27th May 1949, p.377.

† *Ibid* p. 377.

‡ *Ibid,* p. 379.

108-A. The Supreme Court shall sit in Delhi or at such other place or places, as the Chief Justice of India may, with the approval of the President, from time to time, appoint."

Sir, after the general debate, I will say why the amendment that I am moving is necessary.

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***The Honourable Dr. B. R. Ambedkar :** Mr. President, the amendment which I have moved covers practically all the points which have been raised both by Mr. Kamath as well as by Mr. Jaspat Roy Kapoor.

Sir, the new article 108 is necessary because we have not made any provision in the Draft Constitution to define the status of the Supreme Court. If the House will turn to article, 192, they will find exactly a similar article with regard to the High Courts in India. It seems therefore necessary that a similar provision should be made in the Constitution in order to define the position of the Supreme Court. I do not wish to take much time of the House in saying what the words ' a court of record ' mean. I may briefly say that a court of record is a court the records of which are admitted to be of evidentiary value and they are not to be questioned when they are produced before any court. That is the meaning of the words 'court of record'. Then, the second part of article 108 says that the court shall have the power to punish for contempt of itself. As a matter of fact, once you make a court a court of record by statute, the power to punish for contempt necessarily follows from that position. But, it was felt that in view of the fact that in England tills power is largely derived from Common Law and as we have no such thing as Common Law in this Country, we felt it better to state the whole position in the statute itself. That is why article 108 has been introduced.

With regard to article 108-A, Mr. Kamath raised a point as to why the word Delhi should occur. The answer is very simple. A court must have a defined place where it shall sit and the litigants must know where to go and whom to approach. Consequently, it is necessary to state in the statute itself as to where the court should sit and that is why the word Delhi is necessary and is introduced for that purpose. The other words which occur in article 108-A are introduced because it is not yet defined whether the capital of India shall continue to be Delhi. If you do not have the words which follow, " or at such other place or places, as the Chief Justice of India may, with the approval of the President,

* CAD, Vol. VIII, 27th May 1949, p. 382.

from time to time, appoint "then, what will happen is this. Supposing the capital of India was changed, we would have to amend the Constitution in order to allow the Supreme Court to sit at such other place which Parliament may decide as the capital. Therefore, I think the subsequent ward are necessary. With regard to the point raised by my honourable Friend Mr. Kapoor. I think the answer given by my friend Mr. Krishnamachari is adequate and I do not propose to say any more.

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***Shri Jaspat Roy Kapoor :** May I seek a small clarification from Dr. Ambedkar ? Will it be open to the Supreme Court so long as it is sitting in Delhi, to have a circuit court anywhere else in this country simultaneously ?

The Honourable Dr. B. R. Ambedkar : Yes, certainly. A circuit court is only a Bench.

[Amendments of Dr. Ambedkar were accepted. Rest rejected. Article 108 and 108-A as amended, were added to the Constitution.]

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†The Honourable Dr. B. R. Ambedkar : Sir, I want articles 109 to 114 be held over. The reason why I want these articles to be held over is because these articles while they state general rules, also make certain reservations with regard to the States in Part III of Schedule I. It is understood that the matter as to the position of the States in Part III is being reconsidered, so that the States in Part III will be brought on the same level and footing as the States in Part I. If that happens, then, there will be no necessity to introduce these reservations in these articles 109—114. I suggest these may be held over.

Mr. President: We will pass them over for the present.

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‡Mr. President: Amendment No. 1939, in the name of Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar : Sir, I move :

> "'That in article 115. the words and brackets ' (which relates to the enforcement of fundamental rights)' he deleted."

The words are superflous.

Mr. President : No. 1940 is the same as the one just now moved and so need not be moved. No. 1941 standing in the name of Mr.

* CAD, Vol. VIII, 27th May 1949, p. 383.

† *Ibid,* pp. 383-84.

‡ *Ibid.,* p. 385.

Naziruddin Ahmad is also of a drafting nature and need not be moved No. 1942 is not moved.

I think these are the amendments that we have now.

Does any Member wish to say anything ?

We shall now put the amendments.

I will first take Dr. Ambedkar's amendment No. 1939 (mentioned above).

The amendment was adopted.

[Dr. Bakshi Tek Chand's amendment to amendment No. 1938, as given below was also adopted.]

"That in article 115, for the words ' or orders in the nautre of the writs ' the words ' orders or writs, including writs in the nature ' be substituted. "

[Article 115, as amended, was added to the Constitution.]

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ARTICLE 117

***The Honourable Dr. B. R. Ambedkar :** Sir, there is one point which I should like to mention. It is not certainly the intention of the proposed article that the Supreme Court should be bound by its own decision like the House of Lords. The Supreme Court would be free to change its decision and take a different view from the one which it had taken before. So far as the language is concerned I am quite satisfied that the intention is carried out.

Shri H. V. Kamath : Then why not say " all other courts " ?

The Honourable Dr. B. R. Ambedkar : " All courts " means " all other courts."

[Article 117 was adopted without amendment and added to the Constitution.]

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ARTICLE 119

†Mr. President: Amendment No. 1951 is ruled out.

Shri H. V. Kamath : Sir, the point which I wish to raise in my amendment No. 1952 is a simple one. The article contemplates that the Supreme Court should report to the President its opinion or in its discretion it may with held its opinion. I believe what is meant is that when once the President refers the matter to the Supreme Court for its opinion there is no option for the Supreme Court. If that is not meant then the language is right. But if it is meant that once the President refers the matter to the Supreme Court it must report its opinion thereon to the President, then the word "shall" must come in. I wanted a clarification on that point.

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* CAD, Vol. VIII, 27th May 1949, p. 386.

† *Ibid* p. 387.

The Honourable Dr. B. R. Ambedkar : The Supreme court is not bound.

Shri H. V. Kamath : Then I do not move my amendment.

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***The Honourable Dr. B. R. Ambedkar :** May I request you, Sir, to hold over this article 119, because it has also reference to article 109 to 114 which we have decided to hold over.

Shri H. V. Kamath : Then, Sir, I shall reserve my right to move the amendment later on.

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ARTICLE 121

†The Honourable Dr. B. R. Ambedkar : I would request Sir, that this article be allowed to stand over.

ARTICLE 122

The Honourable Dr. B. R. Ambedkar : Sir, I move :

" That for the existing article 122, the following be substituted :—

' 122. *Officers and servants and the expenses of the Supreme Court.*—(1) Appointments of officers and servants of the Supreme Court shall be made by the chief Justice of India or such other judge or officer of court as he may direct:

Provided that the President may by rule require that in such cases may be specified in the rule, no person not already attached to the court shall be appointed to any office connected with the court, save after consultation with the Union Public Service Commission.

(2) Subject to the provisions of any law made by Parliament, the conditions of service of officers and servants of the Supreme court shall be such as may be prescribed by rules made by the Chief Justice of India or by some other judge or officer of the court authorised by the Chief Justice of India to make rules for the purpose :

Provided that the salaries, allowances and pensions payable to or in respect of such officers and servants shall be fixed by the chief Justice of India in consultation with the President.

(3) The administrative expenses of the Supreme Court, including all salaries, allowances and pensions payable to or in respect of the officers and servants of the court, shall be charged upon the revenues of India, and any fees or other moneys taken by the court shall form part of those revenues.' "

The object of this redraft is to make a better provision for the independence of the Supreme Court and also to make provision that the administrative expenses of the Supreme Court shall be a charge on the revenues of India.

Sir, there is an amendment to this amendment, which I should like to move at this stage :

"That in amendment No. 1967, for the proviso to clause (2) of the proposed article 122, the following proviso be substituted :—

' Provided that the rules made under this clause shall, so far as they relate to salaries, allowances, leave or pensions, require the approval of the President' "

* CAD, Vol. VIII, 27th May 1949, p.387

† *Ibid* p.388.

Mr. President: There is an amendment of Mr. Kapoor to this amendment.

Shri Jaspat Roy Kapoor : It is now covered by the new amendment moved by Dr. Ambedkar. So I consider it unnecessary to move it.

(Amendment Nos. 1968 and 1969 were not moved.)

Mr. President: So there is only the amendment of Dr. Ambedkar. I shall first take the amendment he has moved to his own amendment.

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***The Honourable Dr. B. R. Ambedkar :** Mr. President, Sir, I would just like to make a few observations in order to clear the position. Sir, there is no doubt that the House in general, has agreed that the independence of the Judiciary from the Executive should be made as clear and definite as we could make it by law. At the same time, there is the fear that in the name of the independence of the Judiciary, we might be creating, what my Friend Mr. T.T. Krishnamachari very aptly called an "*Imperium in Imperio*". We do not want to create an *Imperium in Imperio* and at the same time we want to give the Judiciary ample independence so that it can act without fear or favour of the Executive. My friends, it they will carefully examine the provisions of the new amendment which I have proposed in place of the original article 122, will find that the new article proposes to steer a middle course. It refuses to create an *Imperium in Imperio,* and I think it gives the Judiciary as much independence as is necessary for the purpose of administering justice without fear or favour. I need not therefore, dilate on all the provisions contained in this new article 122, because I find that even among the speakers who have taken part in the debate on this article, there is general agreement that certain clauses of the new article 122 are unexceptionable, that is to say, clause (1), clause (3) and even clause (2). The only point of difference seems to be on proviso to clause (2). In the original proviso, the provision was that with regard to salaries, allowances and so on and so on, the Chief Justice shall fix the same, in consultation with the President. The amended proviso provides that the Chief Justice shall do it with the approval of the President, and the question really is whether the original provision that this should be done in consultation with the President or whether it might be done with the approval of the President, which of these two alternatives we have to choose. No doubt, the original draft, "Consultation with the President,"

* CAD, Vol. VIII. 27th May 1949, pp.397-99

left or appeared to leave the final decision in the hands of the Chief Justice, while the new proviso with the words "approval of the President" seemed to leave, and in fact does, and is intended to leave the final decision in the hands of the President. Now Sir, in deciding this matter, two considerations may be taken into account. One is, what is the present provision regarding the Federal Court ? If honourable Members will refer to Section 216, sub-clause (2) of the unadapted Government of India Act, 1935, they will find that the provisions contained therein leave the matter to the approval—I am sorry it is section 242 sub-clause (4)—leaves the matter to the approval of the Governor-General. From that point of view, we are really continuing the position as it exists now. But it seems to me that there is another consideration which goes to support the proposition that we should retain the phrase "with the approval of the President" and it is this. It is undoubtedly a desirable thing that salaries, allowances and pensions payable to servants of the State should be uniform, and there ought not to be material variations in these matters with regard to the civil service. It is likely to create a great deal of heart-burning and might impose upon the treasury an unnecessary burden. Now, if you leave the matter to the Chief Justice to decide, it is quite conceivable—I do not say that it will happen—but it is quite conceivable that the chief Justice might fix scales of allowances, pensions and salaries very different from those fixed for civil servants who are working in other departments, besides the Judiciary, and I do not think that such a state of things is a desirable thing, and consequently in my judgment, the new draft, the new amendment which I have tabled contains the proper solution of this matter, and I hope the House will be able to accept that in place of the original proviso.

There is one other matter which I might mention, although it has not been provided for in my amendment, nor has it been referred to by Members who have taken part in this debate. No doubt, by clause (3) of my new article 122 we have made provision that the administration charges of the Supreme Court shall be a charge on the revenues of India, but the question is whether this provision contained in clause (3) is enough for the purpose of securing the independence of the judiciary. Now, speaking for myself, I do not think that this clause by itself would

be sufficient to secure the independence of the Judiciary. After all, what does it mean when we say that a particular charge shall be a charge on the consolidated funds of the State ? All that it means is this, that it need not be put to the vote of the House. Beyond that it has no meaning. We have ourselves said that when any particular charge is declared to be a charge on the revenues of India, all that will happen is that it will become a sort of non-votable thing although it will be open to discussion by the Legislature. Therefore, reading clause (3) of article 122, in the light of the provisions that we have made, all that it means is this, that part of the budget relating to the Judiciary will not be required to be voted by the Legislature annually. But I think there is a question which goes to the root of the matter and must take precedence and that is who is to determine what are the requirements of the Supreme Court. We have made no such provision at all. We have left it to the executive to determine how much money may be allotted year after year to the judiciary. It seems to me that that is a very vulnerable position and requires to be rectified. At this stage I only wish to draw the attention of the House to the provisions contained in section 216 of the Government of India Act, 1935, which says that the Governor-General shall exercise his individual judgment as to the amount to be included in respect of the administrative expenses of the Federal Court in any estimates of expenditure laid by him before the Chambers of the Federal legislature. So that if the executive differed from the chief Justice as to the amount of money that was necessary for running properly the Federal Court, the Governor-General may intervene and decide how much money should be allotted. That provision now of course is incompatible with the pattern of the Constitution we are adopting and we must therefore, in my judgment, find some other method of securing for the chief Justice and adequacy of funds to carry on his administration. I do not wish for the moment to delay the article on that account. I only mention it to the House, so that if it considers desirable some suitable amendment may be brought in at a later stage to cover the point.

[Dr. Amhedkar's both the amendments were accepted Article. 122, as amended, was added to the Constitution.]

ARTICLE 124

***The Honourable Dr. B. R. Ambedkar** (Bombay : General)**:** Mr. President, I cannot say that I am very happy about the position which the Draft Constitution, including the amendments which have been moved to the articles. Speaking for myself, I am of opinion that this dignitary or officer is probably the most important officer in the Constitution of India. He is the one man who is going to see that the expenses voted by Parliament are not exceeded or varied from what has been laid down by Parliament in what is called the Appropriation Act. If this functionary is to carry out the duties—and his duties, I submit, are far more important than the duties even of the Judiciary—he should have been certainly as independent as the Judiciary. But, comparing the articles about the Supreme Court and the articles relating to the Auditor-General, I cannot help saying that we have not given him the same independence which we have given to the Judiciary, although I personally feel that he ought to have far greater independence than the Judiciary itself.

One difference, if I may point out, between the position which we have assigned to the Judiciary and which we propose to assign to the Auditor-General is this. It is only during the course of the last week that I moved an amendment to the original article 122 vesting in the Supreme Court the power of appointment of officers and servants of the Supreme court. I see both from the original draft as well as from the amendments that are moved that the Auditor-General is not to have any such power. The absence of such a power means that the staff of the Auditor-General shall be appointed by the Executive. Being appointed by the Executive, the Staff shall be subject to the Executive for disciplinary action. I have not the slightest doubt in my mind that if an officer does not posses the power of disciplinary control over his immediate subordinates, his administration is going to be thoroughly demoralised. From that point of view, I should have thought that it would have been proper in the interests of the people that such a power should have been given to the Auditor-General, But, sentiment seems to be opposed to investing the Auditor-General with such a power. For the moment, I feel that nothing more can be done than to remain content with the sentiment such as it is today. This is my general view.

*CAD, Vol. VIII, 30th May 1949, pp. 407-08.

Coming to the amendments, I accept the amendments moved by Mr. T. T. Krishnamachari and one amendment moved by Mr. B. Das, No. 1975. These amendments, certainly to a large extent, improve the position of the Auditor-General which has been assigned to him in the draft Constitution or in the various amendments. But, I find that even with the article as amended by these amendments, Mr. Sidhva seems to have a complaint. If I understand him properly, his complaint was that the expenses of the Auditor-General should not be made a charge on the Consolidated Fund, but that they should be treated as ordinary supplies and services which should be voted upon by Parliament. His position was that there is no good reason why Parliament should be deprived of its right to discuss the charges and the administrative expenses of the Auditor-General. I think my honourable Friend Mr. Sidhva has completely misunderstood what is meant by charging certain expenses on the revenues of India. If my honourable friend Mr. Sidhva will turn to article 93, which deals with this matter, he will find that although certain expenses may be charged upon the revenues of India, the mere fact that that has been done, does not deprive Parliament of the right to discuss those charges. The right to discuss is there. The only thing is that the right to vote is not given. It is a non-votable item. The reason why it is made non-votable is a very good reason because just as we do not want the Executive to interfere too much in the necessities as determined by the Auditor-General with regard to his own requirements, we do not want a lot of legislators who might have been discontended for some reason or other or because they may have some kind of a fad for economy, to interfere with the good and efficient administration of the Auditor-General. That is why this provision has been made. My Friend Mr. Sidhva will also realise that this provision is not in any way extraordinary. It is really on a par with the provision we have made with regard to the Supreme Court. I therefore think that there is no good ground for accepting the criticism that has been made by Mr. Sidhva on this point.

Sir, I move that the article as amended be adopted. I accept the amendments Nos. 25 in List I, 1975 of Mr. B. Das, 130 of Mr. T. T. Krishnamachari, 131 of Mr; T. T. Krishnamachari and 25-C of List I also by Mr. Krishnamachari.

Mr. President: I will now put the amendments to vote.

[Following amendments were adopted.]

1 "That with reference to amendment No. 1975 of the List of Amendments, in Chapter V, of Part V for the word 'Auditor-General' wherever it occurs, (including the heading) the words 'Comptroller and Auditor-General' be substituted."

2 "That in clause (1) of article 124 after the word 'President' the words 'by warrant under his hand and seal' be inserted."

3 "That with reference to amendment No. 1975 of the List of amendments, after clause (1) of article 124, the following new clause be inserted :—

'(1-a) Every person appointed to be the comptroller and Auditor-General of India shall, before he enters upon his office, make and subscribe before the President or some person appointed in that behalf by him an affirmation or oath according to the form set out for the purpose in the Third Schedule.'"

4 "That for amendment No. 25-A of List-I (Third Week) of amendments to Amendments, dated the 2Sth May 1949, the following be substituted :—

"that with reference to amendment No. 1980 of the List of amendments, for clause (4) of article 124, the following clause be substituted :—

'(4) Subject to the provisions of any law made by Parliament; the conditions of service of members of the staff of the Comptroller and Auditor-General shall be such as may be prescribed by rules made by the Comptroller and Auditor-General :

Provided that the rules made under this clause shall, so far as they relate to salaries, allowances, leave or pensions, require the approval of the President.'"

5 "That with reference to amendment No. 1981 of the List of amendments, for clause (5) of article 124, the following clause be substituted :—

"(5) The administrative expenses of the office of the Comptroller and Auditor-General, including all salaries, allowances and pensions payable to or in respect of the Comptroller and Auditor-General and members of his staff, shall be charged upon the revenues of India.'"

Article 124, as amended was added to the constitution.

ARTICLE 125

***Mr. President:** Amendment No. 1986, by Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar : Mr. President, Sir, I move :

"That for the Explanation to article 125, the following Explanation be' substituted :—

"*Explanation.*— In this article, the expression 'law made by Parliament' includes any law ordinance, order, bye-law, rule or regulation passed or made before the commencement of this Constitution and for the time being in force in the territory of India'."

The House probably will remember that the functions of the Auditor-General are regulated not by law made by Parliament, but by Ordinance, order, bye-law, rule or regulation, etc., made by the Governor-General, under the powers conferred upon him by the Government of India Act,

*CAD, Vol. VIII, 30th May 1949, p. 412.

1935. Consequently, in order to keep alive the ordinances, orders, bye-laws, rules and regulations made by the Governor-General, it is necessary to amplify the explanation so as to include these orders also.

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***The Honourable Dr. B. R. Ambedkar :** Sir, with regard to the amendment of my Friend Mr. Kunzru I am prepared to accept it provided he is prepared to drop the words "or any local".....†

Pandit Hirday Nath Kunzru : I have dropped them.

The Honourable Dr. B. R. Ambedkar: Because local audit is a matter which is within the control of the Provincial Governments. But the addition of the words "other authority" I think may be necessary or even useful. As he has himself said, the policy of the Government of India today is to create a great many corporations to manage undertakings which it is not possible to manage departmentally and consequently it is necessary that the Government of India should make some provision for the audit of these corporations. That being so I think it is desirable to vest the Central Government with power to allow the Auditor-General to audit even the accounts of all such authorities. Subject to the modification I have suggested, I am prepared to accept the amendment.

With regard to the point made by my Friend Mr. Sidhva that many of these rules with regard to the duties of the Auditor-General are made by the executive, and, therefore, since by the amendment which I have suggested we are continuing to give these powers the same operation which they had before, we are practically investing the Executive with the authority to prescribe the duties of the Auditor-General. Obviously, there is an incongruity in this position, in that an officer who is supposed to control the Executive Government with regard to the administration of the finance should have his duties prescribed by rules laid by the Executive. Now the only reply that I can give to my honourable Friend, Mr. Sidhva, is this that these provisions have been taken bodily to a large extent from the provisions contained in section 151 of the present Government of India Act, 1935, which deal with the custody of public money, and section 166 which deals with the rules made by the Governor-General with regard to the duties of the Auditor-General.

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*CAD, Vol. VIII, 30th May 1949, pp. 414-15.

†Dots indicate interruption.

Under the scheme of that Act the rules were required to be made by the Governor-General in the exercise of what is called his individual judgment, that is to say, he would not be required to take the advice of his Ministry in making these rules. To that extent the rules made by the Governor-General prescribing the duties of the Auditor-General would undoubtedly be independent of the Executive. Today we are not vesting the President with any such power of independent judgment so that if any modification in these rules were to be made by the President he would undoubtedly be acting on the advice of the Ministry of the day, that is to say, the Executive. I admit that to that extent there is a certain amount of anomaly, but I do hope that my honourable friend, Mr. Sidhva, who, I hope, will continue to function as a Member when the new Parliament is constituted, will take on himself the earliest opportunity of urging Parliament to change the position and to convert the rules into laws made by Parliament.

[Following amendment of Pandit Kunzru in addition to that of Dr. Ambedkar mentioned before was accepted.]

"That in clause (1) of article 130, after the word 'may' the words 'on behalf of the people of the State' be inserted."

(Article 125, as amended, was added to the Constitution.)

ARTICLE 127

***The Honourable Dr. B. R. Ambedkar :** Sir I move :

"That in article 127, for the word 'Parliament' the words 'each House of Parliament' be substituted."

It is only a formal amendment.

The amendment was adopted.

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ARTICLE 130

†The Honourable Dr. B. R. Ambedkar : Sir, this article is an exact reproduction of article 42 which deals with the executive power of the Union. There is no change made at all. Word for word this article is a reproduction of article 42. I find from the book of amendments that exactly similar amendments were tabled to article 42 and they were debated at great length. I do not think I can usefully add anything to what I said in the course of the debate on article 42 and the amendments

* CAD, Vol. VIII, 30th May 1949, p. 415.

† *Ibid.,* p. 423.

thereon. Therefore, I submit that I am not prepared to accept any of the amendments that have been moved here.

[All the three amendments moved by Prof. K.T. Shah, Mr. Mod. Tahi and Mr. Naziruddin Ahmad were rejected by the House.]

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ARTICLE 131

***Mr. President:** It is only a question of the order in which the amendments are taken. I want to dispose of the question of election first.

Shri T. T. Krishnamachari: The choice of the alternative may be left to the mover. Dr. Ambedkar may say which he proposes to move. Normally the procedure will be to move a particular article. The Chairman of the Drafting Committee will be the person to make the choice, if you allow it to him, that will solve the problem. He might move one of the alternatives. This procedure is going to come in the way of normal procedure later on. So, I think the best thing is to leave the discretion to the mover. If you recognise Dr. Ambedkar as mover, then he may be asked to move one or other of the alternatives.

Mr. President: Is Dr. Ambedkar prepared to accept one of the other alternatives ?

The Honourable Dr. B. R. Ambedkar: Sir, I want to say a word regarding procedure to be followed. Taking the article 131, as it is, no doubt it is put in an alternative form. The two alternatives have one tiling in common *viz.,* that they propose the Governor to be elected. The form of election is for the moment a subsidiary question. As against that, there are three or four amendments here which set out a principle which is completely opposed to the two alternative drafts of 131 and they suggest that the Governor should be nominated. If the amendment which proposes that the Governor should be nominated were to be accepted by the House, then both the alternatives would drop out and it will be unnecessary for the House to consider them. Therefore my suggestion would be that it would be desirable to take up No. 2010 of Mr. Gupte, and then Mr. Kamath and then No. 2015. If this matter was taken up first and the House came to the conclusion on whether the principle of appointment by the President should be accepted, then obviously there

* CAD, Vol. VIII, 30th May 1949, p. 425.

would be no purpose served in discussing article 131 in either of its alternative forms. That would be my suggestion subject to your ruling in the matter.

Mr. President: There are several amendments which support the idea of election or appointment by President. The other amendments are regarding the method of election. First I want to get rid of the question of election so that all amendments relating to method of election will go. Then we can take up the question of appointment and the appointment in that case will be by the President.

Shri Alladi Krishnaswami Ayyar (Madras : General): If the question of appointment or not is taken up first, that will automatically eliminate the election question. I agree with Dr. Ambedkar's views in the matter.

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***The Honourable Dr. B. R. Ambedkar** (Bombay : General)**:** Mr. President, Sir after such a prolonged debate on the amendment I think it is quite unnecessary for me to take the time of the House in making any prolonged speech. I have risen only to make two things clear; one is to state to the House the exact co-relation between the two alternatives that have been placed by the Drafting Committee before the House and amendment No. 2015 which has been debated since yesterday. My second purpose is to state the exact issue before the House, so that the House may be able to know what it is that it is called upon to bear in mind in deciding between the alternatives presented by the Drafting Committee and the new amendment.

Sir, the first alternative that has been put by the Drafting Committee is an alternative which is exactly in terms of the decision made by this House some time ago in accordance with the recommendations of a Committee appointed to decide upon the principles governing the Provincial Constitution. The Drafting Committee had no choice in the matter at all, because according to the directions given to the Drafting Committee it was bound to accept the principle which had been sanctioned by the House itself. The question, therefore, arises : why is it that the Drafting Committee thought it tit to present an alternative ? Now, the reason why the Drafting Committee presented an alternative

* CAD, Vol. VIII, 31st May 1949, pp. 467-69

is this. The Drafting Committee felt, as everybody in this House knows, that the Governor is not to have any kind of functions—to use a familiar phraseology, "no functions which he is required to discharge either in his discretion or in his individual judgment." According to the principles of the new Constitution he is required to follow the advice of his Ministry in all matters. Having regard to this fact it was felt whether it was desirable to impose upon the electorate the obligation to enter upon an electoral process which would cost a lot of time, a lot of trouble and I say a lot of money as well. It was also felt, nobody, knowing full well what powers he is likely to have under the Constitution, would come forth to contest an election. We felt that the powers of the Governor were so limited, so nominal, his position so ornamental that probably very few would come forward to stand for election. That was the reason why the Drafting Committee thought that another alternative might be suggested.

It has been said in the course of the debate that the argument against election is that there would be a rivalry between the Prime Minister and the Governor, both deriving their mandate from the people at large. Speaking for myself, that was not the argument which influenced me because I do not accept that even under election there would be any kind of rivalry between the Prime Minister and the Governor, for the simple reason that the Prime Minister would be elected on the basis of policy, while the Governor could not be elected on the basis of policy, because he could have no policy, not having any power. So far as I could visualise, the election of the Governor would be on the basis of personality : is he the right sort of person by his status, by his character, by his education, by his position in the public to fill in a post of Governor ? In the case of the Prime Minister the position would be; is his programme suitable, is his programme right ? There could not therefore be any conflict even if we adopt the principle of election.

The other argument is, if we are going to have a Governor, who is purely ornamental, is it necessary to have such a functionary elected at so much cost and so much trouble ? It was because of this feeling that the Drafting Committee felt that they should suggest a second alternative. Now, so far as the course of debate has gone on in this House, the impression has been created in my mind that most speakers feel that there is a very radical and fundamental difference between the

second alternative suggested by the Drafting Committee and this particular amendment. In my judgment there is no fundamental distinction between the second alternative and the amendment itself. The second alternative suggested by the Drafting Committee is also a proposal for nomination. The only thing is that there are certain qualifications, namely, that the President should nominate out of a panel elected by the provincial Legislature. But fundamentally it is a proposal for nomination. In that sense there is no vital and fundamental difference between the second alternative proposed by the Drafting Committee and the amendment which has been tabled by Mr. Brajeshwar Prasad. In other words, the choice before the House, if I may say so, is between the second alternative and the amendment. The amendment says that the nomination should be unqualified. The second alternative says that the nomination should be a qualified nomination subject to certain conditions. From a certain point of view I cannot help saying that the proposal of the Drafting Committee, namely that it should be a qualified nomination is a better thing than simple nomination. At the same time I want to warn the House that the real issue before the House is really not nomination or election—because as I said this functionary is going to be a purely ornamental functionary; how he comes into being, whether by nomination or by some other machinery, is a purely psychological question—what would appeal most to the people—a person nominated or a person in whose nomination the Legislature has in some way participated. Beyond that, it seems to me it has no consequence. Therefore, the thing that I want to tell the House is this : that the real issue before the House is not nomination or election, but what powers you propose to give to your Governor. If the Governor is a purely constitutional Governor with no more powers than what we contemplate expressly to give him in the Act, and has no power to interfere with the internal administration of a Provincial Ministry, I personally do not see any very fundamental objection to the principle of nomination. Therefore my submission is.....

Shri Rohini Kumar Chaudhari : Can he contemplate any situation, where a Governor—whether you call him a mere symbol or not—will not have the power to form the first Ministry ? Will he not be competent to call upon any one, whether he has a big majority or a substantial minority ? And that is a very big power of which he cannot be deprived under any circumstances.

The Honourable Dr. B. R. Ambedkar : Well that power an elected or a nominated Governor will have. If he happens to call the wrong person to form a Ministry, he will soon find to his cost that he has made a wrong choice. That is not a thing that could be avoided by having an elected Governor. Such a Governor may have a friend of his choice whom he can call in to form a Ministry and that issue can be settled by the House itself by a motion of no-confidence or confidence. But that is not the aspect of the question which is material. The aspect of the question which is material is. Is the Governor going to have any power of interference in the working of a Ministry winch is composed of a majority in the local Legislature ? If that Governor has no power of interference in the internal administration of a Ministry which has a majority, then it seems to me that the question whether he is nominated or elected is a wholly immaterial one. That is the way I look at it and I want to tell the House that in coming to their decision they should not bother with the more or less academic question—wether the Governor has to be nominated or to be elected—they should bear in mind this question : What are the powers with which the Governor is going to be endowed ? That matter, I submit, is not before us today. We shall take it up at a later stage when we come to the question of articles 175 and 188 and probably by "amendment or the addition of some other clause which would give him powers. The House should be careful and watchful of these new sections that will be placed before them at a later stage. But today it seems to me, if the Constitution remains in principle the same as we intend that it should be, that the Governor should be a purely constitutional Governor, with no power of interference in the administration of the province, then it seems to me quite immaterial whether he is nominated or elected.

Shri L. Krishnaswami Bharathi : Is the honourable Member accepting the amendment ?

The Honourable Dr. B. R. Ambdekar : I am leaving it to the House.

Mr. President: I shall then put amendment 2015 moved by Shri Brajeshwar Prasad to the vote.

The question is :

"That for article 131. the following be substituted :—

'131. The Governor of a State shall be appointed by the President by warrant under his hand and seal.'"

The amendment was adopted.

Mr. President: I think after this all the other amendments to this article fall to the ground and therefore I shall put the article as amended to the vote.

Article 131, as amended, was added to the Constitution.

ARTICLE 132

***Mr. President:** There is an amendment by Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar: Sir, I move :

"That with reference to amendments Nos. 2033 and 2041 of the List of Amendments for article 132, the following article be substituted :—

'*Term of office of Governor*.—132. (1) The Governor shall hold office during the pleasure of the President.

(2) The Governor may. by writing under his hand addressed to the President, resign his office.

(3) Subject to the foregoing provisions of this article, a governor shall hold office for a term of five years from the date on which he enters upon his office :

Provided that a Governor shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office'."

Now, Sir, this article.....†

Prof. Shibban Lal Saksena : On a point of order. Amendment No. 2033 has not been moved. There is another amendment 2041, to which this is an amendment. But even that has not been moved.

Mr. President: But that has not been moved.

Shri T. T. Krishnamachari : Amendment No. 2041, stands in the name of Dr. Ambedkar.

Mr. President: Well, he may formally move it.

The Honourable Dr. B. R. Ambedkar : I have said that I am moving this in place of that amendment.

Mr. President: Dr. Ambedkar is moving No. 2041.

* * * * *

‡The Honourable Dr. B. R. Ambedkar : Sir, the position is this : This power of removal is given to the President in general terms. What Professor Shah wants is that certain grounds should be stated in the Constitution itself for the removal of the Governor. It seems to me that when you have given the general power, you also give the power to the President to remove a Governor for corruption, for bribery, for violation of the Constitution or for any other reason which the President no doubt feels is legitimate ground for the removal of the Governor.

* CAD, Vol. VIII, 31st May 1949, p. 470.

†Dots indicate interruption.

‡ *Ibid.,* p. 474.

It seems, therefore, quite unnecessary to burden the Constitution with all these limitations stated in express terms when it is perfectly possible for the President to act upon the very same ground under (he formula that the Governor shall hold office during his pleasure. I, therefore, think that it is unneccessary to categories the conditions under which the President may undertake the removal of the Governor.

[Amendment of Dr. Ambedkar as given above, was accepted. Article 132, as amended was added to the Constitution.]

ARTICLE 134

***Mr. President:** We have dropped the first alternative, and we have to take the amendments only to the second alternative, and I think amendment No. 164 standing in the name of Dr. Ambedkar would cover.

The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That with reference to amendment No. 2061 of the List of Amendments, for article 134, the following be substituted :—

Qualifications for appointment as Governor. —'No person shall be eligible for appointment as Governor unless he is a citizen of India has completed the age of thirty-five years'."

Sir, may I take it that the amendment is moved ?

Shri T. T. Krishnamachari : Mr. President, the Chair and the House can permit the substitution of an amendment.

Mr. President : You need not read the amendment in full.

The Honourable dr. B. R. Ambedkar : Sir, I move Amendment No. 2061,.Sir, I also move that for amendment No. 2061, the following be substituted :—

"*Qualifications for appointment as Governor.*—" No person shall be eligible for appointment as Governor unless he is a citizen of India has completed the age of thirty-five years."'

[Motion was accepted. Article 134 was added to the Constitution.]

ARTICLE 135

†The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That in clause (1) of article 135, for the words 'either of Parliament or,' the words 'of either House of Parliament or of a House' be substituted."

This is a formal amendment. Sir, I move :

"That in clause (1) of article 135—

(a) for the words 'member of Parliament or' the words 'member of either House of Parliament or of a House' be substituted.

(b) for the words 'in Parliament or such legislature as the case may be' the words 'in that House' be substituted."

* CAD, Vol. VIII, 31st May 1949, p. 475.

† *Ibid.,* p. 476.

Sir, I move :

"That in clause (2) of article 135, for the words or position of emolument' the words 'of profit' be substituted."

Shri H. V. Kamath : (C. P. Berar: General): Mr. President, I move :

"That in clause (3) of article 135 the words "the Governor shall have an official residence, and" be deleted."

Mr. President : "There" also must be deleted.

Shri H. V. Kamath: "There" will remain.....I do not know which constitution has given inspiration to Dr. Ambedkar and his collegues of the Drafting Committee.

An Honourable Member : Irish constitution.

The Honourable Dr. B. R. Ambedkar : We have passed article 48 exactly in the same terms with reference to the President. Here, we are merely following article 48.

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(All amendments of Dr. Ambedkar were accepted. Other rejected.)

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[Article 135 as amended was adopted and added to the Constituted.]

***Mr. President:** There is notice of an amendment by Professor Shah suggesting the addition of a new article after article 135.

The Honourable Dr. B. R. Ambedkar : Before we go to the next amendment I would like to suggest that in article 135, the word "elected" be dropped.

Mr. President: That is understood.

ARTICLE 136

†The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That in article 136 for the words 'in the presence of the members of the Legislature of the State' the words 'in the presence of the Chief Justice or, in his absence, any other judge of the High Court exercising jurisdiction in relation to the State' be substituted."

* * * * *

Mr. President : As amendments Nos. 2107, 2108 and 2109 are not, I understand, being moved, does Dr. Ambedkar wish to make any reply to the amendments moved ?

The Honourable Dr. B. R. Ambedkar : Sir, I accept the amendment moved by Shri T. T. Krishnamachari and also the one moved by my friend Mr. Kamath.

*CAD, Vol. VIII, 31st May l948, p. 482.

† *Ibid p.* 484.

(The amendments which were accepted by Dr. Ambedkar were as under :)

"That for amendment No. 2104 of the List of Amendments, the following be substituted :—

"That in article 136, for the words 'in the presence of the members of the Legislature of the State' the words 'in the presence of the Chief Justice of the High Court exercising jurisdiction in relation to the State or, in his absence the senior-most judge of that Court available' be substituted'."

"That for amendment No. 2106 of the List of Amendments, the following be substituted :—

"That in article 136, for the words 'I, A, B., do solemnly affirm (or swear)' the following be substituted :—

"I, A, B, do $\frac{\text{swear in the name of God"}}{\text{solemnly affirm}}$

Pandit Hirday Nath Kunzana : (United Provinces ; General): How does the oath read ? Is it, "I do swear in the name of God, or I do solemnly affirm." or not ? The question is this : Some people may think that the Governor should take the in the name of God. There may however be people in this country who are athiests. (Interruption). (Mr. President read out the oath.) I see that there is an alternative. That is what I wanted to know. Nobody should be compelled to swear in the name of God if he does not want to do so.

Mr. President : No. no.

The question is ;

"That article 136, as amended, stand part of the Constitution."

(The motion was adopted.)

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Article 136, as amended, was added to the Constitution.

Assembly then adjourned till Eight of the clock on Wednesday, the 1st June, 1949.

ARTICLE 137

***Mr. President :** We begin with article 137 today. There is an amendment to this of which notice has been given by Mr. Brajeshwar Prasad, but that is a negative one.

(Amendment No. 2111 was not moved.)

Shri T. T. Krishnamachari (Madras: General) **:** This article cannot be moved in view of the decision that has been made earlier.

Shri Brajeshwar Prasad (Bihar : General) **:** It must be put to the vote of the House.

The Honourable Dr. B. R. Ambedkar (Bombay : General) **:** It may be put to the vote.

Mr. President : None of the other amendments is going to be moved, I take it.

[Article 137 was deleted from the Constitution]

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* CAD, Vol. VIII, 1st June 1948, p. 487.

ARTICLE 143

***The Honourable Dr. B. R. Ambedkar :** Mr. President, Sir, I did not think that it would have been necessary for me to speak and take part in this debate after what my friend, Mr. T. T. Krishnamachari, had said on tins amendment of Mr. Kamath, but as my Friend, Pandit Kunzru, pointedly asked me the question and demanded a reply, I thought that out of courtesy I should say a few words. Sir, the main and the crucial question is, should the Governor have discretionary powers? It is that question which is the main and the principal question. After we come to some decision on this question, the other question whether the words used in the last part of clause (1) of article 143 should be retained in that article or should be transferred somewhere else could be usefully considered. The first thing, therefore, that I propose to do is to devote myself to this question which, as I said, is the crucial question. It has been said in the course of the debate that the retention of discretionary power in the Governor is contrary to responsible government in the provinces. It has also been said that the retention of discretionary power in the Governor smells of the Government of India Act, 1935, which in the main was undemocratic. Now, speaking for myself, I have no doubt in my mind that the retention in on the vesting the Governor with certain discretionary powers is in no sense contrary to or in no sense a negation of responsible government. I do not wish to take up the point because on this point I can very well satisfy the House by reference to the provisions in the Constitution of Canada and the Constitution of Australia. I do not think anybody in this House would dispute that the Canadian system of government is not a fully responsible system of government, nor will anybody in this House challenge that the Australian Government is not a responsible form of government. Having said that. I would like to read section 55 of the Canadian Constitution.

> "*Section 55.*—Where a Bill passed by the Houses of Parliament is presented to the Governor-General for the Queen's assent, he shall, according to his discretion and subject to provisions of this Act, either assent thereto in the Queen's name or withhold the Queen's assent or reserve the Bill for the signification of the Queen's pleasure."

Pandit Hirday Nath Kunzru : May I ask Dr. Ambedkar when the British North America Act was passed ?

The Honourable Dr. B. R. Ambedkar : That does not matter at all. The date of the Act does not matter.

Shri H. V. Kamath : Nearly a century ago !

* CAD, Vol. VIII, 1st June, pp. 500-02.

The Honourable Dr. B. R. Ambedkar : This is my reply. The Canandians and the Australians have not found it necessary to delete this provision even at this stage. They are quite satisfied that the retention of this provision in section 55 of the Canadian Act is fully compatible with responsible government. If they had felt that this provision was not compatible with responsible government, they have even today, as Dominions, the fullest right to abrogate this provision, They have not done so. Therefore, in reply to Pandit Kunzru, I can very well say that the Canadians and the Australians do not think that such a provision is an infringement of responsible government.

Shri Lokanath Misra (Orissa : General) **:** On a point of order, Sir, are we going to have the status of Canada or Australia ? Or are we going to have a Republican Constitution ?

The Honourable Dr. B. R. Ambedkar : I could not follow what he said. If, as I hope, the House is satisfied that the existence of a provision vesting a certain amount of discretion in the Governor is not incompatible or inconsistent with responsible government, there can be no dispute that the retention of this clause is desirable and, in my judgment, necessary. The only question that arises is.....

Pandit Hirday Nath Kunzru : Well, Dr. Ambedkar has missed the point of the criticism altogether. The criticism is not that in article 175 some powers might not be given to the Governor, the criticism is against vesting the Governor with certain discretionary powers of a general nature in the article under discussion.

The Honourable Dr. B. R. Ambedkar : I think he has misread the article. I am sorry I do not have the draft Constitution with me. "Except in so far as he is by or under this Constitution," those are the words. If the words were "except whenever he thinks that he should exercise this power of discretion against the wishes or against the advice of the ministers," then I think the criticism made by my honourable Friend Pandit Kunzru would have been valid. The clause is a very limited clause; it says : "except in so far as he is by or under this Constitution". Therefore, article 143 will have to be read in conjunction with such other articles which specifically reserve the power to the Governor. It is not a general clause giving the Governor power to disregard the advice of his ministers in any matter in which he finds he ought to disregard. There, I think, lies the fallacy of the argument of my honourable Friend, Pandit Kunzru.

Therefore, as I said, having stated that there is nothing incompatible with the retention of the discretionary power in the Governor in specified cases with the system of responsible Government. The only question

that arises is, how should we provide for the mention of this discretionary power ? It seems to me that there are three ways by which this could be done. One way is to omit the words from article 143 as my honourable Friend, Pandit Kunzru, and others desire and to add to such articles as 175, or 188 or such other provisions which the House may hereafter introduce, vesting the Governor with the discretionary power, saying notwithstanding article 143, the Governor shall have this or that power. The other way would be to say in article 143 "that except as provided in articles so and so specifically mentioned—articles 175, 188. 2(H) or whatever they are". But the point I am trying to submit to the House is that the House cannot escape from mentioning in some manner that the Governor shall have discretion.

Now the matter which seems to find some kind of favour with my honourable Friend, Pandit Kunzru and those who have spoken in the same way is that the words should be omitted from here and should be transferred somewhere else or that the specific articles should be mentioned in article 143. It seems to me that this is a mere method of drafting. There is no question of substance and no question of principle. I personally myself would be quite willing to amend the last portion of clause (I) of article 143 if I knew at this stage what are the provisions that this Constituent Assembly proposes to make with regard to the vesting of the Governor with discretionary power. My difficulty is that we have not as yet come either to article 175 or 188 nor have we exhausted all the possibilities of other provisions being made, vesting the Governor with discretionary power. If I knew that. I would very readily agree to amend article 143 and to mention the specific article, but that cannot be done now. Therefore, my submission is that no wrong could be done if the words as they stand in article 143 remain as they are. They are certainly not inconsistent.

Shri H. V. Kamath : Is there no material difference between article 61(1) relating to the President *vis-a-vis* his ministers and this article ?

The Honourable Dr. B. R. Ambedkar : Of course there is, because we do not want to vest the President with any discretionary power. Because the provincial Governments are required to work in subordination to the Central Government and therefore, in order to see that they do act in subordination to the Central Government the Governor will reserve certain things in order to give the President the opportunity to see that the rules under which the provincial Governments are supposed to act according to the Constitution or in subordination to the Central Government are observed.

Shri H. V. Kamath : Will it not be better to specify certain articles in the Constitution with regard to discretionary powers, instead of conferring general discretionary powers like this ?

The Honourable Dr. B. R. Ambedkar : I said so, that I would very readily do it. I am prepared to introduce specific articles, if I knew what are the articles which the House is going to incorporate in the Constitution regarding vesting of the discretionary powers in the Governor.

Shri H. V. Kamath : Why not hold it over ?

The Honourable Dr. B. R. Ambedkar : We can revise. This House is perfectly competent to revise article 143. If after going through the whole of it, the House feels that the better way would be to mention the articles specifically, it can do so. It is purely a logomachy.

[Two amendments were rejected. Article 143 was added to the Constitution.]

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ARTICLE 144

The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That fur clause (1) of article 144, the following be substituted .—

"144. (1) The Chief Minister shall he appointed by the Governor and the other ministers shall be appointed by the Governor on the advice of the Chief Minister and the ministers shall hold office during the pleasure of the Governor".

Provided that in the States of Bihar. Central Provinces and Berar and Orissa there shall be a minister in charge of tribal welfare who may in addition be in charge of welfare of the Scheduled Castes and Backward classes or any other work.

(la) The Council shall be collectively responsible to the Legislative Assembly of the state'."

Shri T. T. Krishnamachari : May I suggest that the Honourable Dr. Ambedkar might vary the wording in clause (la) of article 144 by the addition of the words "Of ministers "to the words "The Council" ?

The Honourable Dr. B. R. Ambedkar : That is all right. It will bring it into line with article 62. I move that amendment.

Shri Mahavir Tyagi : May I know what is the method for the appointment of that particular Minister for Bihar and other places ? Whether the minister will be appointed *by* the Governor on the advice of the Chief Minister—that is clear certainly, because you say "Provided" and this means that whatever we have said before will not apply in the case of these ministers.

The Honourable Dr. B. R. Ambedkar : What it says is among the ministers appointed under clause (1) which means they are appointed by the Governor on the advice of the Chief Minister, one minister will be in charge of this portfolio.

* CAD, Vol. VIII, 1st June 1949, p. 503

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***The Honourable Dr. B. R. Ambedkar :** Mr. President, I beg to move:

"That in clause (4) of article 144, for the words 'In choosing his ministers and in his relations with them' the words 'In the choice of his ministers and in the exercise of his other functions under the Constitution' be substituted."

Sir, this is nothing but a verbal amendment.

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†The Honourable Dr. B. R. Ambedkar : Sir, I move:

"That clause (*6*) of article 144 he omitted."

Shri Brajeshwar Prasad : Why ?

The Honourable Dr. B. R. Ambedkar : Because we do not want to give more discretionary powers than has been defined in certain articles, we are trying to meet you.

‡Shri Jaspat Roy Kapoor : If any member has any technical objection it is another matter but this is an amendment which is acceptable to Dr. Ambedkar and most other Members whom I have consulted. There seems to be no harm in permission being given to this. If Dr. Deshmukh is opposed to this amendment, of course he will have his say on the merits of it, and he will have an opportunity to convince the house to reject it.

Mr. President: Would that not open up discussion again ?

Dr. P. S. Deshmukh : Yes. If Dr. Ambedkar is prepared to accept it, there is another way out of it. The proviso could be separately put and if it is defeated, it will be deleted.

Mr. President: Yes, that is a way out.

The Honourable Dr. B. R. Ambedkar : I am not accepting the omission of the proviso but I am quite prepared to have the proviso transferred from this article to the Instrument of Instructions.

Pandit Thakur Das Bhargava : May I propose that this article be held over ?

The Honourable Dr. B. R. Ambedkar : Why, after having debated so long ?

Mr. President : The question is whether it should stand here or it should be transferred to the Instrument of Instructions....

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* CAD, Vol. VIII, 1st June 1949, p. 506.

† *Ibid* p. 507.

‡ *Ibid* p. 519.

***Mr. President:** ...Dr. Ambedkar.

***The Honourable Dr. B. R. Ambedkar :** Mr. President, in the course of tills debate on the various amendments moved I have noticed that there are only lour points which call for a reply. The first point raised in the debate is that instead of the provision that the Ministers shall hold office during pleasure it is desired that provision should be made that they shall hold office while they have the confidence of the majority of the House. Now, I have no doubt about it that it is the intention of this Constitution that the Ministry shall hold office during such time as it holds the confidence of the majority. It is on that principle that the Constitution will work. The reason why we have not so expressly stated it is because it has not been slated in that fashion or in those terms in any of the Constitutions which lay down a parliamentary system of Government. 'During pleasure' is always understood lo mean that the 'pleasure' shall not continue notwithstanding the fact that the Ministry has lost the confidence of the majority. The moment the Ministry has lost the confidence of the majority it is presumed that the President will exercise his 'pleasure' in dismissing the Ministry and therefore it is unneccessary to differ from what I may say the stereotyped phraseology which is used in all responsible governments. The amendment of my Friend Prof. Saksena, substituting the words "Lower House" I am afraid, cannot be accepted, because under the provisions of the Constitution, it is open to the Prime Minister not only to select his Ministers from the Lower, but also from the Upper House. It is not the scheme that the Minister shall be taken only from the Lower House and not from (he Upper House. Consequently the provision that the Minister shall be appointed for six months, although he is not elected must be MO extensive as to cover both cases, and for that reason I am unable to accept his amendment.

The third amendment which has been considerably debated was moved by my Friend Mr. Kamath and Prof. Shah. With minor amendments, they are more or less of the same tenor. In that connection, what I would like to say is tills, that the House will recall that amendment No. 1332 to article 62, which is a provision analogous to article 144, was moved by Prof. Shah and was debated at considerable

* CAD, Vol. VIII, 1st June 1949, p. 520-21.

†*Ibid* p.p. 520-21.

length. On that occasion I expressed what views I held on the subject, and it seems to me, therefore, quite unnecessary to add anything to what I have said on that occasion.

Shri H. V. Kamath : My honourable Friend Dr. Ambedkar did not accept the amendment on that occasion because in his view it was not comprehensive enough. Now it is more comprehensive.

Mr. President : You have already said all that.

The Honourable Dr. B. R. Ambedkar : The fourth point is the one which have been raised by my Friend Mr. Jaipal Singh, and to some extent by Mr. Rohini Kumar Chaudhuri. The reason why this particular clause came to be introduced in the Draft Constitution is to be found in the recommendations of the sub-committee on tribal people appointed by the Minorities Committee of the Constituent Assembly. In the report made by that committee, it will be noticed that there is an Appendix to it which is called "Statutory Recommendation". The proviso which has been introduced in this article is the verbatim reproduction of the suggestion and the recommendation made by this particular committee. It is said there, that in the Provinces of Bihar, Central Provinces and Berar and Orissa, there shall be a separate Minister for tribal welfare, provided the Minister may hold charge simultaneoulsy of welfare work pertaining to Schedule Castes and backward classes or any other work. Therefore, the Drafting Committee had no choice except to introduce this proviso because it was contained in that part of the report of the Tribal Committee which was headed "Statutory Recommendation". It was the intention of this committee that this provision should appear in the Constitution itself, that it should not be relegated to any other part of it. That is why this has come from the Drafting Committee and it merely follows the recommendation of the other Committee.

With regard to the suggestion of my Friend Mr. Jaipal Singh, that Bombay should be included on account of the fact that as a result of the mergers that have taken place into the Bombay Presidency, the number of tribal people has increased. I am sorry to say that at this stage, I cannot accept it because this is a matter on which it would be necesssary to consult the Ministry of Bombay and unfortunately my Friend the Honourable Mr. Kher who was present in the Constitutent Assembly during the last few days is not here now, and I am therefore not able to accept this amendment.

Shri H. V. Kamath : With reference to my amendment, may I know if Dr. Ambedkar has realised from the view that he expressed previously—if he has recanted ?

Mr. President : I do not think that kind of cross-examination can be allowed. Now I shall take up the amendments.

There are two amendments moved by Mr. Tahir and Mr. Mohd. Ismail Nos. 2174 and 2175 which relate to this article 144, clause (l).

If Dr. Ambedkar's amendment No. 2165 is carried, probably they will drop automatically. Therefore, I would put Dr. Ambedkar's amendment to vote.

[Dr. Ambedkar's all amendments mentioned hereinbefore were adopted, rest were negatived. Article 144, as amended was added to the Constitution.]

ARTICLE 145

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The Honourable Dr. B. R. Ambedkar : I do not think I need add anything to the debate that has taken place. All that I want to say is this : I am prepared to accept the amendment of Mr. Naziruddin Ahmad No. 2210.

***Mr. President :** Then I put Amendment No. 2210 which includes within itself 2211 also.

[Following amendment of Naziruddin Ahmed was accepted by Dr. Ambedkar and the House.]

"That for clauses (2) and (4) of article 145, the following be substituted :—

'(3) The Advocate-General shall hold office during the pleasure of the Governor, and shall receive such remuneration as the Governor may determine'."

[Article 145, as amended was added to the Constitution.]

ARTICLE 146

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†The Honourable Dr. B. R. Ambedkar (Bombay : General)**:** Sir, I do not accept the amendment. Article 146 is only a logical consequence of article 130. Article 130 says that the executive power of the State shall be vested in the Governor. That being so, the only logical conclusion is that all expression of executive action must be in the name of the Governor as is provided for in article 146.

In regard to the observations made by my Honourable Friend Prof. K. T. Shah that under the old regime, all executive action was expressed in the name of the Government of India, my reply is that that was due

* CAD, Vol. VIII, 1st June 1949, p. 528

† *Ibid,* 2nd June 1949. P. 532

to the fact that under the old system, the civil and military Government of India was vested not in the Governor-General, but in the Governor-General in Council, and consequently, all action had to be expressed in the name of the Government of India. Today, the position has altogether changed so far as article 130 is concerned.

[No amendment was accepted Article 146 was added to the constitution.]

ARTICLE 147

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***The Honourable Dr. B. R. Ambedkar :** Mr. President, Sir, I must say that I am considerably surprised at the very excited debate which has taken place on this article 147. I should like, at the very outset, to remind the House that this article 147 is an exact reproduction of article 65 which this House has already passed. Article 65 gives the President the same power as article 147 proposes to give to the Governor. Consequently, I should have thought that all the debate that took place, when article 65 was before the House, should have sufficed for the purpose of article 147.

Shri H. V. Kamath : May I remind the Honourable Dr. Ambedkar that the President is elected and the Governor nominated..... (Interruption).

The Honourable Dr. B. R. Ambedkar : As the debate has taken place and as several Members of the House seem to think that there is something behind this article 147 which would put the position of the Ministers and of the Cabinet in the provinces in jeopardy, I propose to offer some explanation.

The first thing I would like the House to bear in mind is this. The Governor under the Constitution has no functions which he can discharge by himself; no functions at all. While he has no functions, he has certain duties to perform, and I think the House will do well to bear in mind this distinction. This article certainly, it should be borne in mind, does not confer upon the Governor the power to overrule the Ministry on any particular matter. Even under this article, the Governor is bound to accept the advice of the Ministry. That, I think, ought not to be forgotten. This article, nowhere, either in clause (a) or clause (b) or clause (c), says that the Governor in any particular circumstances may

* CAD, Vol. VIII, 2nd June 1949, PP. 545-547.

overrule the Ministry. Therefore, the criticism that has been made that this article somehow enables the Governor to interfere or to upset the decision of the Cabinet is entirely beside the point, and completely mistaken.

Shri H. V. Kamath : Won't he be able to delay or obstruct.....?

The Honourable Dr. B. R. Ambedkar : My friend will not interrupt while I am going on At the end, he may ask any question and if 1 am in a position to answer, I shall answer.

A distinction has been made between the functions of the Governor and the duties which the Governor has to perform. My submission is that although the Governor has no functions still, even the constitutional Governor, that he is, has certain duties to perform. His duties, according to me, may be classified in two parts. One is, that he has to retain the Ministry in office. Because, the Ministry is to hold office during his pleasure, he has to see whether and when he should exercise his pleasure against the Ministry. The second duty which the Governor has, and must have, is to advise the Ministry, to warn the Ministry, to suggest to the Ministry an alternative and to ask for a reconsideration. I do not think that anybody in this House will question the fact that the Governor should have this duty cast upon him; otherwise, he would be an absolutely unnecessary functionary : no good at all. He is the representative not of a party; he is the representative of the people as a whole of the State. It is in the name of the people that he carries on the administration. He must see that the administration is carried on a level which may be regarded as good, efficient, honest administration. Therefore, having regard to these two duties which the Governor has, namely to see that the administration is kept pure, without corruption, impartial, and that the proposals enunciated by the Ministry are not contrary to the wishes of the people, and therefore to advise them, warn them and ask them to reconsider—I ask the House, how is the Governor in a position to carry out his duties unless he has before him certain information ? I submit that he cannot discharge the constitutional functions of a Governor which I have just referred to unless he is in a position to obtain the information. Suppose, for instance, the Ministers pass a resolution,—and I know this has happened in many cases, in many provinces today,—that no paper need be sent to the Governor, how is the Governor to discharge his functions ? It is to enable the Governor to discharge his functions in respect of a good and pure administration that we propose to give the -Governor the power to call for any

information. If I may say so, I think I might tell the House how the affairs are run at the Centre. So far as my information goes all cabinet papers are sent to the Governor-General. Similarly, there are what are called weekly summaries which are prepared by every Ministry of the decisions taken in each Ministry on important subjects relating to public affairs. These summaries which come to the Cabinet, also go to the Governor-General. If, for instance, the Governor-General, on seeing the weekly summaries sent up by the departments finds that a Minister, without reference to the cabinet has taken a decision on a particular subject which he thinks is not good, is there any wrong if the Governor-General is empowered to say that this particular decision which has been taken by an individual Minister without consulting the rest of the Ministers should be reconsidered by the Cabinet ? I cannot see what harm there can be, I cannot see what sort of interference that would constitute in the administration of the affairs of the Government. I therefore, submit that the criticisms levelled against this article are based upon either a misreading of this article or upon some misconception which is in the minds of the people that this article is going to give the Governor the power to interfere in the administration. Nothing of the sort is intended and such a result I am sure will not follow from the language of the article 147. All that the article does is to place the Governor in a position to enable him to perform, what I say, not functions because he has none, but the duties which every good Governor ought to discharge. (*Cheers.*)

Shri H. V. Kamath : May I ask Dr. Ambedkar some questions ?

Mr. President: What is the use of asking question now ? You had your chance.

Shri H. V. Kamath : Dr. Ambedkar said that I could put questions at the end of his speech.

Mr. President : I do not like this practice of putting questions at the end of the discussions. All questions have been answered. I will now put the article to vote as there is no amendment to this.

Mr. President : The question is :

"That article 147 stand part of the Constitution."

The motion was adopted.

Article 147 was added to the Constitution.

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ARTICLE 151

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***Mr. President :** 2308.—Dr. Ambedkar.

The Honourable Dr. H. R. Ambedkar : Sir I move :

"Thai in clause (2) of article 151, for the words 'third year' the words 'second year' he substituted."

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†The Honourable Dr. B. R. Ambedkar : The article has been passed that the Second Chamber shall be there. This article deals only with how the Members will re-elect themselves.

Prof. Shibban Lal Saksena : We have to decide whether a particular Council should live for nine years or six years, and that will depend upon the composition of the Council. The composition will determine the period al the end of which one-third of the members should retire.

Mr. President : That does not depend on the composition of the Council. Whatever may be the life of the House, the composition will be according lo the decision we may take on article 150.

Prof. Shibban Lal Saksena : Well Sir, I bow to your ruling....

Then it has been said that one-third of the Council will retire every third year. I am glad Dr. Ambedkar has now proposed that the period will now be two years instead of three. That will make the life of the Council only six years which is almost equal to the life of the Assembly. It also ensures greater freshness to the Council. I therefore, support the amendment of Dr. Ambedkar.

Mr. President : Dr. Ambedkar, do you wish to say anything ?

The Honourable Dr. B. R. Ambedkar : I accept Mr. Gupte's amendment.

Mr. President : Now I shall put Mr. Gupte's amendment which has been accepted by Dr. Ambedkar, to vole. It becomes the original amendment.

The question is :

"That with reference to amendment No. 2304 of the List of Amendment, after clause (1) of article 151, the following proviso be inserted :

'Provided that the said period may. while a Proclamation of Emergency is in operation, he extended by Parliament by law for a period not exceeding one year at a time and not extending in any case beyond a period of six months after the Proclamation has ceased to operate.' "

The amendment was adopted.

Mr. President : Mr. Brajeshwar Prasad's amendment.

The amendment was, by leave of the Assembly, withdrawn.

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*CAD, Vol. VIII, 2nd June 1948, p. 548

† *Ibid.*, pp. 549-50.

Mr. President: Then I put Dr. Ambedkar's amendment, No. 2308.

[Already mentioned.]

The amendment was adopted.

Article 151, as amended, was added to the Constitution.

ARTICLE 152

***Mr. President:** Then we come to article 152. To this article, there is the amendment of Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar: Sir, I move:

"That for article 152, the following be substituted:-—

152. *Qualification for membership of the State Legislature.*—A person shall not he qualified lo be chosen to fill a seat in the Legislature of a State unless he—

(a) is a citizen of India;

(b) is. in the case of a seat in a Legislative Assembly, not less than twenty-live years of age and, in the case of a seat in the Legislative Council, not less than thirty-five years of age, and

(c) possesses such other qualifications as may lie prescribed in that a behalf by or under any law made by the Legislature of the State'."

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† **The Honourable Dr. B. R. Ambedkar:** Sir, I accept the amendment moved by Shrimati Purnima Banerji. With regard to the fear that she expressed about clause (c) that this clause might enable the prescription of property qualifications by Parliament for candidates, I certainly can say that such is not the intention underlying sub-clause (c). What is behind this clause is the provision of such disqualifications as bankruptcy, unsoundness of mind, residence in a particular constituency and things of that sort. Certainly there is no intention that the property qualification should be included as a necessary condition for candidates.

Then, with regard to the amendment of Professor K. T. Shah about literacy. I think that is a matter which might as well be left to the Legislatures. If the Legislatures at the time of prescribing qualifications feel that literacy qualification is a necessary one, I no doubt think that they will do it.

Sir, there is only one point about which 1 should like to make a specific reference. Sub-clause (c) is in a certain manner related to articles 290 and 291 which deal with electoral matters. We have not passed those articles.

If during the course of dealing with articles 290 and 291, the House comes to the conclusion that the provision contained in clause (c) should be prescribed by the law made by Parliament, then I should like to

*CAD, Vol. VIII, 2nd June 1948, p. 550.

† *Ibid.,* pp. 553-54.

reserve for the Drafting Committee the right to reconsider the last part of sub-clause (c). Subject to that, I think the article, as amended, may be passed.

[Article 152 as amended was added to the Constitution]

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ARTICLE 153

The Honourable Dr. B. R. Ambedkar : Sir. I move :

"That clause (3) of article 153 be omitted."

This clause is apparently inconsistent, with the scheme for a Constitutional Governor.

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†Shri Gopal Narain : (United Provinces : General) : Mr. President, Sir, before speaking on this article, I wish to lodge a complaint and seek redress from you. I am one of those" who have attended all the meetings of this Assembly and sit from beginning to the end, but my patience has been exhausted now, I find that there are a few Honourable members of this House who have monopolised all the debates, who must speak on every article, on every amendment and every amendment to amendment. I know, Sir, that you have your own limitations and you cannot stop them under the rules, though I see from your face that you also feel sometimes bored, but you cannot stop them. I suggest to you, Sir, that some time-limit may be imposed upone some Members. They should not be allowed to speak for more than two or three minutes. So far as this article is concerned, it has already taken fifteen minutes, though there is nothing new in it, and it only provides discretionary powers to the Governor. Still a member comes and oppose it. I seek redress from you, but if you cannot do this, then you must allow us at least to sleep in our seats or do something else than sit in this House. Sir, I support this article.

Mr. President: I am afraid I am helpless in this matter. I leave it to the good sense of the Members.

Shri Brajeshwar Prasad : (Rose to speak).

Mr. President : Do you wish to speak after tins ? (*Laughter*)

The Honourable Dr. B. R. Ambedkar : I do not think I need reply. This matter has been debated quite often.

[Except Dr. Ambedkar's amendment, none else was accepted. Article 153 was added to the Constitution.]

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*CAD, Vol. VIII, 2nd June 1948, p. 555.

† *Ibid.,* p. 557.

ARTICLE 153-A

***Mr. President :** Does any one wish to say anything about this amendment ?

The Honourable Dr. B. R. Ambedkar : Sir, I do not accept the amendment.

[The amendment of Prof K. T. Shah was negatived and Article 154 was added to the Constitution.]

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ARTICLE 160

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†**Mr. President:** Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar : I have nothing to say.

Article 160 was adopted and added to the Constitution.

NEW ARTICLE 163-A

‡**Mr. President:** There is the new article 163-A which has to be moved. That is amendment No. 39 List I.

The Honourable Dr. B. R. Ambedkar : Sir, it has to be held over.

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ARTICLE 165

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Shri T. T. Krishnamachari : The Chair has on previous occasions permitted Dr. Ambedkar to move such amendments, and I think the same practice may be continued and it may be moved formally.

The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That in article 165 for the words 'a declaration' the words 'an affirmation or oath' be substituted."

The motion was adopted.

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ARTICLE 166

#**The Honourable Dr. B. R. Ambedkar :** Sir, I move :

"That after clause (1) of article 166. the following new clause be inserted :—

'(la) No peson shall be a member of the Legislature of two or more States and if a person is chosen a member of the Legislatures of two or more States, then at the expiration of .such period as may be specified in rules made by the President that person's seat in the Legislatures of all the States shall become vacant, unless he has previously resigned his seat in the Legislatures of all but one of the States'."

This is a clause which provides for a case where a person is a member of the Legislatures of two States; the former clause dealt with a person who is a member of the Legislature of a State and of Parliament.

*CAD, Vol. VIII, 2nd June 1948, p. 558.

† *Ibid.,* p. 564.

‡ *Ibid.,* p. 566.

Ibid., p. 567.

Mr. President : There is the amendment of Mr. Naziruddin Ahmad, No. 2403, hut that is covered by the one now moved. No. 2404.

The Honourable Dr. B. R. Ambedkar : I move :

"Thai clause (2) of article 166 be deleted."

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***Mr. President:** I shall put the amendments moved by Dr. Ambedkar, one by one.

Shri H. V. Kamath : Will not Dr. Ambedkar answer the point raised by me ?

The Honourable Dr. B. R. Ambedkar : I do not consider it necessary.

[All amendments by Dr. Ambedkar mentioned hereinbefore were accepted. Article 166, was added to the Constitution.]

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ARTICLE 167

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†The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That for sub-clause (*d*) of clause (1) of article 167, the following be substituted :—

'(*d*) if he has ceased to he a citizen of India or has voluntarily acquired the citizenship of a foreign State, or is under any acknowledgement of allegiance or adherence to a foreign State'."

Shri Mahavir Tyagi : What will be our position in regard to England, now that we are in the Commonwealth ? Will our allegiance to the King be also a disqualification ?

Mr. President: That is a matter of interpretation of the Constitution.

The Honourable Dr. B. R. Ambedkar : That will be dealt with by the Nationality Act.

(Amendments Nos. 2420 to 2423 were not moved.)

Shri H. V. Kamath : I think my amendment No. 2424 is a purely verbal amendment and I leave it to the Drafting Committee.

Mr. President : I think it is of a substantial nature.

Shri H. V. Kamath : If that be so, I will move it.

I move :

"That in sub-clause (*d*) of clause (I) of article 167, after the semi-colon at the end, the word 'or' be added."

...Whether the word 'and' is deleted, or in its place 'or' is substituted, more or less comes to the samething, according to my untrained mind. Thai is why I said I leave it to the wise men of the drafting Committee, because I am a mere novice in these matters. I

*CAD, Vol. VIII, 2nd June 1948, p. 568.

†*Ibid*., pp. 570-71.

thought 'or' would be more appropriate, because if any one of these disqualifications arises—if a person disqualified for any of these reasons—then the article will apply.

Mr. President : Dr. Ambedkar might consider it.

Shri H. V. Kamath : As I said, I leave the decision to the wise men of the drafting committee.

The Honourable Dr. B. R. Ambedkar : I think it is perfectly all right, Sir.

Mr. President : Won't they read cumulatively ?

Honourable Dr. B. R. Ambedkar : No, Sir, they won't read cumulatively.

Mr. President : If 'or' is added it will put it beyond all doubt.

The Honourable Dr. B. R. Ambedkar : I do not think it necessary.

(Amendments Nos. 2425, 2426 and 2427 were not moved.)

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***The Honourable Dr. B. R. Ambedkar :** I rise only for the sake of my Friend. Mr. Tyagi, as he has asked me one or two pointed questions. As he himself says that he is an illiterate, I can very well understand his difficulty in understanding the word 'adherence'. I would therefore explain to him what the word 'adherence' means. When one country is invaded by another country, what happens is this that the local people either out of fear or out of martial law sometimes give obedience to the laws made by the military governor who acts in the name of the invading country. Such a conduct is often excused while the invasion countinues and the military occupation continues. It often happens that when there is no real necessity to obey the invader or the military governor, either because there has been a relaxation of control or because the hostility has ceased, certain people still continue to render obedience to the military governor or the invader. Their conduct under law is referred to as 'adherence'. It is distinct from acknowledging. It is to protect this kind of case that the word 'adherence' has been used.

Mr. Friend, Mr. Tyagi, was also very much agitated over the question of who are to be regarded as foreign countries. I am sure about it that it is not the intention of my Friend, Mr. Tyagi, to involve me in any discussion about Commonwealth relationship which is a matter which has already been discussed and disposed of in the House, but I would like to tell him that I propose to introduce an amendment to article 303, sub-clause (1), to define what would be regarded as foreign country,

*CAD, Vol. VIII, 2nd June 1948, pp. 573-74.

and if my friend, Mr. Tyagi has got Volume II of the printed List of amendments, he will see what the proposed amendment is. The proposed amendment gives power to the President to declare what are not foreign countries, and that declaration would govern whether a particular country is or is not a foreign country. For the benefit of my Friend, Mr. Tyagi, I would also like to add one word of explanation. Many people seem to be rather worried that when a country is declared not to be a foreign country under the proposed amendment, or the Commonwealth Agreement, all such people who are inhabitants of those countries would *ipso facto* acquire all the rights of citizenship which are being conferred by this Constitution upon the people of this country. I want to tell my friends that no such consequence need follow. The position under commmonwealth relationship would be this; In all the dominion countries, the residents would be divided into three categories, citizens, aliens and a third category of what may be called Dominion residents residing in a particular country. All that would mean is this, that the citizens of the dominions residing in India would not be treated as aliens, they would have some rights which aliens would not have, but they would certainly not be entitled, in my judgment, to get the full rights of citizenship which we would be giving to the people of our country. I hope my friend, Mr. Tyagi, has got something which will remove the doubts which he has in his mind.

Shri Mahavir Tyagi : I heartily thank you for the interesting speech that you have made.

[The amendments moved by Dr. Ambedkar and that of Shri T. T. Krishnamachari were carried. Article 167, was accordingly added to the Constitution]

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ARTICLE 169

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***The Honourable Dr. B. R. Ambedkar :** (Bombay : General) : Sir, not very long ago this very matter was debated in this House, when we were discussing the privileges of Parliament and I thought that as the House had accepted the article dealing with the privileges and immunities of Parliament, no further debate would follow when we were really reproducing the very same provision with regard to the State legislature. But as the debate has been raised and as my Friend Mr. Kamath said that even the press is agitated, I think it is desirable that I should state what exactly is the reason for the course adopted by the Drafting Committee, especially as when the debate took place last time I did not intervene in order to make the position clear.

*CAD, Vol. VIII, 3rd June 1949, pp. 582-84.

I do not know how many Members really have a conception of what is meant by privilege. Now the privileges, which we think of, fall into two different classes. There are first of all, the privileges belonging to individual members, such as for instance freedom of speech, immunity from arrest while discharging their duty. But that is not the whole thing covered by privilege.

Dr. P. S. Deshmukh : We do not want any enumeration of the privileges nor any lecture on how they are exercised. What we want **to** know is whether it is not possible to embody them into the Constitution. That is the real question.

Mr. President : He is dealing with the matter.

The Honourable Dr. B. R. Ambedkar : I am mentioning the difficulty. If we were only concerned with these two things, namely freedom of speech and immunity from arrest, these matters could have been very easily mentioned in the article itself and we would have had no occasion to refer to the House of Commons. But the privileges which we speak of in relation to Parliament are much wider than the two privileges mentioned and which relate to individual members. The privileges of Parliament extends, for instance, to the rights of Parliament as against the public. Secondly, they also extend to right as against the individual members. For instance, under the House of Commons' powers and privileges it is open to Parliament to convict any citizen for contempt of Parliament and when such privilege is exercised the jurisdiction of the court is ousted. That is an important privilege. Then again, it is open to Parliament to take action against any individual member of Parliament for anything that has been done by him which brings Parliament into disgrace. These are very grave matters—e.g., to commit to prison. The right to lock up a citizen for what Parliament regards as contempt of itself is not an easy matter to define. Nor is it easy to say what are the acts and deeds of individual members which bring Parliament into disrepute.

Pandit Thakur Das Bhargava : We are only concerned with the privileges of members and not with the privileges of Parliament.

The Honourable Dr. B. R. Ambedkar : Let me proceed. It is not easy, as I said, to define what are the acts and deeds which may be deemed to bring Parliament into disgrace. That would require a considerable amount of discussion and examination. That is one reason why we did not think of enumerating these privileges and immunities.

But there is not the slightest doubt in my mind and I am sure also in the mind of the Drafting Committee that Parliament must have certain privileges, when that Parliament would be so much exposed to calumny, to unjustified criticism that the parliamentary institution in this country might be brought down to utter contempt and may lose all the respect which parliamentary institutions should have from the citizens for whose benefit they operate.

I have referred to one difficulty why it has not been possible to categorise. Now I should mention some other difficulties which we have felt.

It seems to me, if the proposition was accepted that the Act itself should enumerate the privileges of Parliament, we would have to follow three courses. One is to adopt them in the Constitution, namely to set out in detail the privileges and immunities of Parliament and its members. I have very carefully gone over May's Parliamentary Practice which is the source book of knowledge with regard lo the immunities and privileges of Parliament. I have gone over the index to May's Parliamentary Practice and I have noticed that practically 8 or 9 columns of the index are devoted to the privileges and immunities of Parliament, So that if you were to enact a complete code of the privileges and immunities of Parliament based upon what May has to say on this subject, I have not the least doubt in my mind that we will have to add not less than twenty or twenty-five pages relating to immunities and privileges of Parliament. I do not know whether the members of this House would like to have such a large categorical statement of privileges and immunities of Parliament extending over twenty or twenty-live pages. That I think is one reason why we did not adopt that course.

The other course is to say, as has been said in many places in the Constitution, that Parliament may make provision with regard to a particular matter and until Parliament makes that provision the existing position would stand. That is the second course which we could have adopted. We could have said that Parliament may define the privileges and immunities of the members and of the body itself, and until that happens the privileges existing on the date on which the Constitution comes into existence shall continue to operate. But unfortunately for us, as Honourable Members will know, the 1935 Act conferred no

privileges and no immunities on Parliament and its members. All that it provided for was a single provision that there shall be freedom of speech and no member shall be prosecuted for anything said in the debate inside Parliament. Consequently that course was not open, because the existing Parliament or Legislative Assembly possesses no privilege and no immunity. Therefore we could not resort to that course.

The third course open to us was the one which we have followed, namely, that the privileges of Parliament shall be the privileges of the House of Commons. It seems to me that except for the sentimental objection to the reference to the House of Commons I cannot see that there is any substance in the argument that has been advanced against the course adopted by the Drafting Committee. I therefore suggest that the article has adopted the only possible way of doing it and there is no other alternative way open to us. Thai being so, I suggest that this article be adopted in the way in which we have drafted it.

Dr. P. S. Deshmukh : The honourable Member has said nothing about my other suggestion.

The Honourable Dr. B. R. Ambedkar : As I said, if you want to categorise and set out in detail all the privileges and immunities it will take not less than twenty-five pages....*

Mr. President: Dr. Deshmukh's suggestion was that in this article which deals with the legislatures of the States we might only say that the members of a State legislature will have the same privileges as Members of our Parliament.

The Honourable Dr. B. R. Ambedkar : That is only a drafting suggestion. For instance, it can be said that most of the articles we are adopting for the State Legislatures are more or less the same articles which we have adopted for the Parliament at the centre. We might as well say that in most of the other cases the same provisions will apply to the State Legislature but as we have not adopted that course, it would be rather odd to adopt it in this particular case.

Mr. President : I shall first put the amendment of Mr. Jaspat Roy Kapoor to the House.

> "That in clause (4) of article 169 alter the words 'a House of the Legislature of a State' the words 'or any committee thereof' be inserted."

The amendment was adopted.

Article 169, as amended, was added to the constitution.

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*Dots indicate interruption

ARTICLE 170

***Shri L. Krishnaswami Bharathi** (Madras : General) **:** Sir, I beg to move :

"That in article 170, after the winds 'so made' the words 'salaries and' he inserted."

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†Mr. Naziruddin Ahmad : We have not had notice that article 109 will be taken up today.

The Honourable Dr. B. R. Ambedkar : What does it matter

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ARTICLE 109

‡The Honourable Dr. B. R. Ambedkar : Mr. President, Sir, I move :

"That in article 109 for the words 'if in so far as' the words 'if and in so far as' be substituted."

(Amendments Nos. 1896 and 1897 were not moved.)

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#The Honourable Dr. B. R. Ambedkar : I do not think it is necessary to say anything. I accept Mr. T. T. Krishnamachari's amendment

(The amendment was as under):—

"That for the proviso to article 109, the following he substituted :—

'Provided that the said jurisdiction shall not extend to a dispute to which any State is a party, if the dispute arises out of any provision of a treAty agreement, engagement, sanad or other similar instrument which provides that the said jurisdiction shall not extend to such dispute."

[The amendment was adopted along with that of Dr. Ambedkar as shown earlier.]

Article 109, as amended, was added to the Constitution.

ARTICLE 110

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@ **Mr. President:** Does No. 111 cover cases of criminal nature also ?

Mr. Naziruddin Ahmad : No.

The Honourable Dr. B. R. Ambedkar : We are making provision for that by a separate article.

Mr. Naziruddin Ahmad : I am very grateful to you Sir, for pointing out that article 111 does not make any provision for criminal case……

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*CAD, Vol. VIII, 3rd June 1948, p. 584.

†*Ibid.,* p. 588.

‡*Ibid.,* p. 588.

#*Ibid.,* p. 590.

@*Ibid.,* pp. 593-94.

***The Honourable Dr. B. R. Ambedkar :** I move :

"That in clause (3) of article 110, for the words 'not only on the ground that any such question as aforesaid has been wrongly decided, hut also, the words on the ground that any such question as aforesaid has been wrongly decided and with the leave of the Supreme Court,' be substituted."

The existing language is somewhat awkward and that is the reason why we are putting it in a different way so that it may read without any difficulty. The clause now will read as follows :—

"Where such a certificate is given, or such leave is granted, any party in the case may appeal to the Supreme Court on the ground that any such question as aforesaid has been wrongly decided, and with the leave of the Supreme Court, on any other ground."

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†The Honourable Dr. B. R. Ambedkar : Sir, I cannot help saying that the debate has really gone off the track and the Members have really wandered far away from the immediate point raised by my Friend Mr. Naziruddin Ahmed in his amendments Nos. 1904 and 1907. All that is before us is amendment No. 1904. According to that amendment what my friend Mr. Naziruddin Ahmed wants to do is to suggest that the last few words of sub-clause (1) of article 110, namely the words as to the interpretation of this Constitution should be deleted. I am sorry I was not able to hear exactly the grounds which he urged for the deletion of the phrase 'as to' the interpretation of this Constitution'. Although I tried hard to catch his very words, all that I could hear him say as the reason for moving amendment No. 1904 was that he felt that those words were words of limitation, and that if those words remained there would be no provision for an appeal to the Supreme Court in cases where a question of constitutional law did not arise.

Mr. Naziruddin Ahmad : I believe I am right.

The Honourable Dr. B. R. Ambedkar : No question of certificate arises.

Mr. Naziruddin Ahmad : You wanted to delete that yesterday.

The Honourable Dr. B. R. Ambedkar : I think my honourable Friend Mr. Naziruddin Ahmad has probably n(H grasped the scheme of the articles which deal with the Supreme Court.

Mr. Naziruddin Ahmad : That is your stock argument.

The Honourable Dr. B. R. Ambedkar : We have in this Draft Constitution made separate provision for appeal in cases where

*CAD, Vol. VIII, 3rd June 1948, p. 595.

†*Ibid.,* pp. 612-14.

questions of constitutional law arise, and cases where no such question arises. Appeals where constitutional points arise are provided for in article 110. Questions where Constitutional law are not involved are provided for in article 111. The reason why this separation is made between the two sorts of appeals is also probably not realised by my Friend Mr. Naziruddin Ahmed. I should therefore like to make that point clear. There is going to come an amendment to article 121 which deals with the rules to be made by the Supreme Court. I have tabled an amendment to clause (2) of article 121 which says that wherever an appeal comes before the Supreme Court and it involves questions of Constitutional law, the minimum number "of judges, which would sit to hear such a case shall be five, while in other cases of appeals where no question of Constitutional law arises, we have left the matter to the Supreme Court to constitute the Bench and define the number of judges who would be required to sit on it by rules made thereunder. Now that is an important distinction, namely, that a Constitutional matter coming before the Supreme Court will be decided by a number of judges not less than five, while oilier cases of appeals may be decided by such number of judges as may be prescribed by rule. My friend therefore will understand that the existence of the words 'as to the interpretation of this Constitution' does not in any way debar appeals other than those in which Constitutional law is involved, and he will also understand why we propose to put these two types of appeals in two separate articles, the number of judges being different in the two cases.

Now I come to the other point which has been debated at great length, namely, whether the Supreme Court should have criminal jurisdiction or not. As I said, so far as article 110 is concerned and the amendment moved by my Friend Mr. Naziruddin Ahmad is concerned, all this debate is absolutely irrelevant and beside the point and really ought not to influence our decision so far as article 110 is concerned. But in as much as a great deal of debate has taken place, I would like to say a few words. Members will find that there is provision in article 110 for a criminal matter coming before the Supreme Court if that matter involves a question of Constitutional law. Therefore that is one of the ways by which criminal matters may come up and the criminal matters that may come up under article 110 may be very small matters.

Again, there is article 112 where the jurisdiction of the Privy Council

has been vested in the Supreme Court. For the moment I would like to draw the attention of honourable Members to the words 'decree or final order in any case or matter whether civil or criminal' so that the Supreme Court may, by special leave, draw to itself even a criminal matter under the provisions of article 112. I have noticed that there is considerable feeling among criminal lawyers that there ought to be a provision.....*

Pandit Lakshmi Kanta Maitra : Practising criminal law.

The Honourable Dr. B. R. Ambedkar : I am sorry, 'practising criminal law', that just as article 111 confers upon the Supreme Court powers of hearing civil appeals, civil only, there ought to be a conferment of power upon the Supreme Court to hear criminal appeals, if not all appeals, at least appeals of a limited character such as involving death sentences. Now, I do not want to say that there is no force in the argument that has been used in support of this plea that the Supreme Court should have criminal jurisdiction but the question is how is it to be done ? Should we do it by a specific clause in the Constitution itself that in the following matter there shall be right to appeal to the Supreme Court, or should we permit Parliament to confer criminal jurisdiction of an appellate sort upon the Supreme Court ? I am of the opinion for the moment—I do not wish to dogmatise nor do I wish to say anything positive at this stage; I have an open mind although, if I may say so, it is not an empty mind—that it might be enough at this stage to confer upon Parliament the power to vest the Supreme Court with jurisdiction in matters of criminal appeals. Parliament may then, after due consideration, after investigation, after finding out how much work there will be for the Supreme Court if it is conferred jurisdiction in criminal matters and how much work it will be possible for the Supreme Court to handle, having regard to the number of judges that the finances of this country could provide to cope with that work—I think it would be much better to leave it to Parliament because this is a matter which would certainly require some kind of statistical investigation. My other view is that rather than have a provision for conferring appellate power upon the Supreme Court to whom appeals in cases of death sentence can made, I would much rather support the abolition of the death sentence, itself. (*Hear, hear.*) That, I think, is the proper course to follow, so that it will end this controversy. After

*Dots indicate interruption.

all, this country by and large believes in the principle of non-violence. It has been its ancient tradition, and although people may not be following it in actual practice, they certainly adhere to the principle of non-violence as a moral mandate which they ought to observe as far as they possibly can and I think that, having regard to this fact, the proper thing for this country to do is to abolish the death sentence altogether.

***Pandit Lakshmi Kanta Maitra :** All the criminal courts also.

The Honourable Dr. B. R. Ambedkar : I think we ought to confine ourselves to the amendment moved to article 110 and the amendments moved by my Friend Mr. Naziruddin Ahmed.

* * * * *

[Following amendments were adopted.]

(1) "That in clause (1) of article 110. for the word 'Stale' the words 'the territory of India' be substituted."

(2) "That in clause (3) of article 110. for the words 'not only on the ground that any such question as aforesaid has been wrongly decided, but also,' the words 'on the ground that any such question as aforesaid has been wrongly decided and with the leave of the Supreme Court' be substituted."

[Article 110, as amended, was added to the Constitution.]

ARTICLE 111

* * * * *

†The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That with reference to amendments Nos. 1916 to 1919 of the List of Amendments, in sub-clause (a) of clause (1) of article 111, utter the words 'twenty thousand rupees', the words 'or such other sum as may be specified hi this behalf by Parliament by law,' be inserted."

* * * * *

The Honourable Dr. B. R. Ambedkar : Sir, I beg to move :

"That to clause (1) of article 111 the following proviso be added :—

"Provided that no appeal shall lie to the Supreme Court from the judgment, decree or order of one Judge of a High Court or of one Judge of a Division Court thereof, or of two or more Judges of a High Court, or of a Division Court constituted by two or more Judges of a High Court, where such Judges are equally divided in opinion and do not amount in number to a majority of the whole of the Judges of the High Court at the time being.'"

* * * * *

‡The Honourable Dr. B. R. Ambedkar (Bombay ; General)**:** Sir, I move :

"That in clause (2) of article 111, for the words 'the case involves a substantial question of law as to the interpretation of this Constitution which

*CAD, Vol. VIII, 2nd June 1949, p. 615.

†*Ibid.,* 3rd Tune 1949, p. 617.

‡*Ibid.,* 6th June 1949, p. 620.

has been wrongly decided', the words 'a substantial question of law as to the interpretation of the Constitution has been wrongly decided' be substituted."

* * * * *

***The Honourable Dr. B. R. Ambedkar :** Sir, I move:

"That with reference to amendments Nos. 1916 to 1919 of the List of Amendments, in sub-clause (a) of clause (1) of article 111, after the words 'twenty thousand rupees' the words 'or such other sum as may be specified in this behalf by Parliament by law' be inserted."

* * * * *

†The Honourable Dr. B. R. Ambedkar : Sir, I would begin by reminding the House as to exactly the point which the House is required to consider and decide upon. The point is involved between two amendments : one is the amendment moved by my Friend Prof. Shibban Lai Saksena, which is in a sense an exudation of amendment 1911 and my own amendment, which is amendment No. 25 in List No. 1 of the Fourth Week. Before I actually deal with the point that is raised by these two amendments, I should like to make one or two general observations.

The first observation that I propose to make is this. Article 111 is an exact reproduction of sections 109 and 110 of the Civil Procedure Code. There is, except for the amendments which I am suggesting, no difference whatsoever between article 111 and the two sections in the Civil Procedure Code. The House will therefore, remember that so far as article 111 is concerned, it does not in any material or radical sense alter the position with regard to appeals from the High Court. The position is exactly as it is stated in the two sections of the Civil Procedure Code.

The second observation that I would like to make is this. Sections 109 and 110 of the Civil Procedure Code are again a reproduction of the powers conferred by paragraph 39 of the Letters Patent by which the different High Courts in the Presidency Towns were constituted by the King. There again, Sections 109 and 110 are a mere reproduction of what is contained in paragraph 39.

The third point that I should like to make is this : that these Letters Patent were instituted or issued in the year 1862. These Letters Patent also contain a power for the Legislature to alter the powers given by the Letters Patent. But although this power existed right from the very

*CAD, Vol. VIII, 6th June 1949, p. 631.

†*Ibid.*, pp. 631-32.

beginning when the Letters Patent were issued in the year 1865, the Central Legislature, or the Provincial Legislatures, have not thought fit in any way to alter the powers of appeal from the decree, final order or judgment of the High Court. Therfore, the House will realize that these sections which deal with the right of appeal from the final order, decree and judgment of the High court have history extending over practically 75 to 80 years. They have remained absolutely undisturbed. Consequently, in my judgment, it would require a very powerful argument in support of a plea that we should now, white enacting a provision for the constitution of the Supreme Court, disturb a position which has stood the test of lime for such a long period.

It seems to me that not very long ago, this House sitting in another capacity as a Legislative Assembly, had been insisting that these powers which under the Government of India Act were exercised by the Privy Council, should forthwith, immediately, without any kind of dimunition or denudation be conferred upon the Federal Court. It therefore seems to me somewhat odd that when we have constituted a Supreme Court, which is to take the place of the Federal Court, and when we have an opportunity of transferring powers of the Privy Council to the Supreme Court, a position should have been taken that these provisions should not be reproduced in the form in which they exist today. As I say, that seems to me somewhat odd. Therefore, my first point is this that there is no substantial, no material, change at all. We are merely reproducing the position as between the High Court and the Privy Council and establishing them as between the High Court and the Supreme Court.

Now, Sir, I will come to the exact amendments of which I made mention in the opening of my speech, namely, Prof. Shibban Lai Saksena's amendment and my amendment No. 25. If my amendment went through, the result would be this : that (he Supreme Court would continue to be a Court of Appeal and Parliament would not be able to reduce its position as a Court of Appeal, although it may have the power to reduce the number of appeals, or the nature of appeals that may go to the Supreme Court. In any case, sub-clause (c) of article 111 would remain intact and beyond the power of Parliament. My view is that although we may leave it to Parliament to decide the monetary value of cases which may go to the Privy Council, the last part of clause (I) of article 111, which is (c), ought to remain as it is and Parliament

should not have power to dabble with it because it really is a matter not so much of law as a mailer of inherent jurisdiction. If the High Court, for reasons which are patent to any lawyer does certify that notwithstanding that the cause of the matter involved in any particular case does not fall within (a) and (b) by reason of the fact that the property qualification is less than what is prescribed there, nonetheless it is a cause or a matter which ought to go to the Supreme Court by reason of the fact that the point involved in it does not merely affect the particular litigants who appear before the Supreme Court, but as a matter which affects the generality of the public, I think it is a jurisdiction which ought to be inherent in the High Court itself and I therefore think that clause (c) should not be placed within the purview of the power of Parliament.

On the other hand if the amendment moved by my friend Prof. Saksena were to go through, two things will happen. One thing that will happen has already been referred to by my friend Bakshi Tek Chand that Parliament may altogether take away the Appellate jurisdiction of the Supreme Court in civil matters. It seems to me that that would be a disastrous consequence. To establish a Supreme Court in this country and to allow any authority in Parliament to denude and to take away completely all the powers of appeal from the Supreme Court would be to my mind a very mendacious thing. We might ourselves take courage in our own hands and say that the Supreme Court shall not function as a court of appeal in civil matters and confine it to the same position which has been given to the Federal Court.

The other thing will be that Parliament would be in a position to take away sub-clause (c) which, as I said, ought to remain there permanently, because it is reallly a matter of inherent jurisdiction. Therefore it seems to me that the plea that the appellate power of the Supreme Court should be made elastic is completely satisfied by my amendment No. 25, because under my amendment it would be open to Parliament to regulate the provisions contained in (a) and (b) without in any way taking away the appellate jurisdiction of the Supreme Court completely or without affecting the provisions contained in (c). Sir, I therefore oppose Mr. Saksena's amendment.

[In all 4 amendments were adopted, one was rejected. Article 111, as amended, was added to the Constitution]

ARTICLE 112

***The Honourable Dr. B. R. Ambedkar :** I do not think there is anything for me to say.

Mr. President : The question is :

> "That in article 112, the words 'except the States for the time being specified, in Part III of the First Schedule, in cases where the provisions of article 110 or article 111 of this Constitution do not apply' be deleted."

The amendment was adopted.

Article 112, as amended, was added to the Constitution.

NEW ARTICLE 112-A

†Mr. President: There is notice of a new article to be moved by Dr. Ambedkar, amendment No. 191.

The Honourable Dr. B. R. Ambedkar : Sir, I beg to move :

> "That with reference to amendment No. 1932 of the List of Amendments, after article 112, the following new article be inserted :—

Review of judgments or order passed by the Supreme Court.

> '112-A Subject to the provisions of any law made by Parliament or any rule made under article 121 of this Constitution the Supreme Court shall have power to review any judgment pronounced or order passed by it.'"

Sir, the draft Constitution, as it stands now,.....‡

Prof. Shibban Lal Saksena : On a point of order, Sir, amendment No. 1932 has not been moved.....

Mr. President: That has not been moved : I am taking this as a fresh article.

Shri T. T. Krishnamachari : May I mention, Sir, that amendment No. 1932 is exactly the same as amendment No. 1928 ? Actually, if amendment 1928 is moved, amendment 1932 cannot be moved.

Mr. President: I have already said that I have taken it as a fresh article.

The Honourable Dr. B. R. Ambedkar : The Draft Constitution contains no provision for review of its judgments. It was felt that that was a great lacuna and this new article proposes to confer that power upon the Supreme Court.

The Honourable Shri K. Santhanam (Madras : General) **:** Sir, I am afraid that the drafting of this is not quite as happy as it should be For one tiling, I do not think it is right to put an article in the Constitution giving a power to the Supreme Court and say that that

*CAD, Vol. VIII, 6th June 1949, p. 640.

†*Ibid.,* pp. 640-41.

‡Dots indicate interruption.

power shall be limited by rules made by the Supreme Court. I think it is bad law. Parliament has no right to interfere even with its ordinary power of review.

Mr. President : This refers to its own decisions.

The Honourable Shri K. Santhanam : I am coming to that. I think there is a greater reason why the Supreme Court should be left unfettered to review its own judgment. In these two respects, the tiling is rather defective. I would suggest to Dr. Ambedkar to see if it should go in this form or whether the form should not be reconsidered.

The Honourable Dr. B. R. Ambedkar : I think my friend Mr. Santhanam is completely mistaken in the observations that he has made. First of all, we are not conferring any power to the Supreme Court to make any rules. That power is being delegated by article 121. If he refers to that article, he will see that it reads thus :

> "Subject to the provisions of any law made by Parliament, the Supreme Court may from tune to time with the approval of the President, make rules for regulating generally the practice and procedure of the Court including, etc., etc."

Therefore it is not correct to say that we are giving power to the Supreme Court. The power is with the Supreme Court and is to be exercised with the approval of President. Another tiling which has misled Mr. Santhanam is that he has not adverted to the fact that I proposed by amendment 42 in List I to add one more clause to article 121 which is (bb) and which deals with the rules to be made with regard to review. Therefore, having regard to these two circumstances, it is necessary that the review power of the Supreme Court must be made subject both to article 121 and also the amendment contained in No. 42.

[Article 112-A was adopted and added to the Constitution.]

ARTICLE 113

Mr. President : No. 113.

Shri T. T. Krishnamachari : The house has expressly excluded reference to State in Part III of the First Schedule all along and therefore this article may not be necessary. You can formally put it to the House so that the House can negative it.

The Honourable Dr. B. R. Ambedkar : That is so.

[Article 113 was deleted from the Constitution.]

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ARTICLE 114

Mr. President : Article 114. There is one amendment by Mr. Gupte.

(The amendment was not moved.)

"Does anyone wish to speak ?

***The Honourable Dr. B. R. Ambedkar :** My attention has been drawn by my friend Shri Alladi Krishnaswami Ayyar that the articles of this Draft Constitution dealing with powers of the Supreme Court do not expressly provide for appeals in income-tax cases. I wish to say that I am considering the matter and if on examination it is found that none of the articles could be used for the purpose of conferring such an authority upon the Supreme Court, I propose adding a special article dealing with that matter specifically. But this article may go in.

[Article 114 was added to the Constitution.]

ARTICLE 121

* * * * *

†The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That for clause (3) of article 121, the following be substituted :-

'(3) No judgment shall be delivered by the Supreme Court save in open court, and no report shall be made under article 110 of this Constitution save in accordance with an opinion also delivered in open court.'"

Sir, I shall move also amendment No. 1966 :

"That for clause (4) of article 121, the following be substituted :—

'(4) No judgment and no such opinion shall be delivered by the Supreme Court save with the concurrence of a majority of the judges present at the hearing of the case hut nothing in this clause shall be deemed to prevent a judge who does not concur from delivering a dissenting judgment or opinion.'

* * * * *

‡The Honourable Dr. B. R. Ambedkar : Mr. President, I regret very much that I cannot accept the amendment moved by my Honourable Friend Mr. Lari. It seems to me that he has completely misunderstood what is involved in his amendment.

The reason why it is necessary to make the rule-making power of the Supreme Court subject to the approval of the President is because the rules may, if they were left entirely to the Supreme Court, impose a considerable burden upon the revenues of the country. For instance, supposing a rule was made that a certain matter should be heard by two Judges. Thai may be a simple rule made by the Supreme Court. But, undoubtedly, it would involve a burden on public revenues. There

*CAD, Vol. VIII, 6th June 1949, p. 542.

† *Ibid., p.* 645.

‡*Ibid.,* pp. 649-50.

are similar provisions in the rules, for instance, regarding the regulation of fees. It is again a matter of public revenue. It could not be left to the Supreme Court. Therefore, my submission is that the provisions contained in article 121 that the rules should be subject to the approval of the President is the proper procedure to follow. Because, a matter like this which imposes a burden upon the public revenues and which burden must be financed by the legislature and the Executive by the imposition of taxation could not be taken away out of the purview of the Executive.

I may also point out that the provisions contained in article 121 are the same as the provisions contained in article 214 of the Government of India Act, 1935 relating to the Federal Court and article 224 relating to the High Courts. Therefore, there is really no departure from the position as it exists today. With regard to the comments made by my Honourable Friend, Mr. Santhanam relating to amendment No. 42 moved by Honourable Friend. Mr. T. T. Krishnamachari, I am afraid, I have not been able to grasp exactly the point that he was making. All that, therefore, I can say is this, that this matter willl be looked into by the Drafting Committee when it sits to revise the Constitution, and if any new phraseology is suggested, which is consistent with the provisions in the article which we have passed conferring power of review by the Supreme Court, no doubt it will be considered.

There is one other point to which I would like to refer and that is amendment No. 43. In amendment No. 43, which has been moved by my Honourable Friend, Shri Alladi Krishnaswami Ayyar, and to winch I accord my wholehearted support, there is a proviso which says that if a question about the interpretation of the Constitution arises in a matter other than the one provided in article 110, the appeal shall be referred to a Bench of live judges and if the question is disposed of it will be referred back again to the original bench. In the proviso as enacted, a reference is made to article 111, but I quite see that if the House at a later stage decides to confer jurisdiction to entertain criminal appeals, this proviso will have to be extended so as to permit the Supreme Court to entertain an appeal of this sort even in a matter arising in a criminal case. I, therefore, submit that this proviso also will have to be extended in case the House follows the suggestion that has been made in various quarters that the Supreme Court should have criminal jurisdiction.

[5 amendments including 2 of Dr. Ambedkar were adopted. One was negatived. Article 121 as amended was added to the Constitution.]

ARTICLE 191

***The Honourable Dr. B. R. Ambedkar :** Sir, I formally move.

"That in sub-clause (a) of clause (I) of article 191, for the words 'the High Court of East Punjab, and the Chief Court in Oudh' the words 'and the High Courts of East Punjab, Assam and Orissa' be substituted."

Sir, I move:

"That with reference to amendments Nos. 2567 and 2570 of the List of Amendments, for article 191 the following article be substituted :—

'191. (1) There shall be a High Court for each State.

(2) For the purposes of this Constitution the High Court existing in any Province immediately before the commencement of this Constitution shall be deemed to be the High Court for the corresponding State.

High Courts for State

(3) The provisions of this Chapter shall apply to every High Court referred to this article'."

Shri T. T. Krishnamachari : We might take up the discussion of this amendment first because if this is accepted by the House all the other amendments will be unnecessary. This alters the entire contour of the article while, it also simplifies it.

Mr. President : There are some amendments of which I have got notice, I shall run over them and see.

(Amendments Nos. 2568 to 2577 were not moved.)

Mr. President: There is therefore no other amendment except the one moved by Dr. Ambedkar. Does anyone wish to say anything about the amendment or the article ?

The amendment was adopted.

[Article 191, as amended, was added to the Constitution.]

ARTICLE 192

(Amendments 2578 to 2580 were not moved.)

†Mr. President : Amendment No. 2581 is in Dr. Ambedkar's name. This has to be formally moved.

The Honourable Dr. B. R. Ambedkar : Sir, I formally move :

"That in the proviso to article 192, the words beginning with 'together with any' and ending with 'of this chapter' be deleted, and after the word 'six' the words 'from time to tune' be inserted."

Sir, I move :

"That with reference to amendment No. 2581, of the List of Amendments, for article 192. the following new articles be substituted :—

High Courts of Records

192. Every High Court shall be a court of record and shall have all the powers of such a court including the power to punish for contempt of itself.

*CAD, Vol. VIII, 6th June 1949, p. 656.

† *Ibid.,* p. 657.

Constitution of High Courts

'192-A. Every High Court shall consist of a chief Justice and such other judges as the President may from time to time deem it necessary to appoint:

"Provided that the judges so appointed shall at no time exceed in number such maximum at the President may. from time to time, by order fix in relation to that Court.'"

* * * * *

ARTICLE 193

***Mr. President :** We were dealing with article 193 yesterday. We shall now resume consideration of that article. One amendment was moved but there are several other amendment. There is another amendment No. 2592 which is in the name of Dr. Ambedkar which, I think, will cover all these amendments except about the question of age. So I think that if Dr. Ambedkar moves his amendment first, probably it may not be necessary to take up these other amendments with regard to matters other than the age. With regard to the age, we may take up that question separately.

The Honourable Dr. B. R. Ambedkar (Bombay : General) **:** I am not moving that amendment.

Mr. President : Then we shall have to take up the other amendments.

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†The Honourable Dr. B. R. Ambedkar : Mr. President, Sir, I move:

"That with reference to amendment No. 2610 of the List of amendments, in clause (c) of the proviso to clause (1) of article 193, after the words 'High Court' the words 'in any State for the time being specified in the first Schedule' he inserted."

Sir, the object of this amendment is to remove all distinctions between provinces and Indian States so that there may be complete interchangeability between the incumbents of the different High Courts.

Sir, I formally move amendment No. 2614 in the List of Amendment.

"That in sub-clause (*a*) of clause (2) of article 193 for the word 'State' the words 'State for the time being specified in the first Schedule 'be substituted.'"

Sir, I move :

"That with reference to amendment No. 2614 of the List of amendments, in sub-clause (*a*) of clause (2) of article 193 the words 'in any State in or for which there is a High Court' the words 'in the territory of India' be substituted."

"That with reference to amendment No. 2614 of the List of amendments, in sub-clause (*b*) of clause (2) of article 193, after the words 'High Court' the words 'in any State for the time being specified in the First Schedule' be inserted."

*CAD, Vol. VIII, 7th June 1049, p. 661.

†*Ibid.,* pp. 664-65.

"That with reference to amendment No. 2614 of the List of the amendments, in sub-clause (b) of Explanation I to clause (2) of article 193, for the words 'in a State for the time being specified in Part I or Part II of the First Schedule' the words 'in the territory of India' be substituted."

"That with reference to amendment No. 2614 of the List of Amendments, in clause (*h*) of Explanation I to clause (2) of article 193 for the words 'British India' the word 'India' be substituted."

"That with reference to amendment no. 2622....."

Mr. President : Before moving that, you may formally move amendment No. 2622.

The Honourable Dr. B. R. Ambedkar : Sir, I formally move:

"Thai for Explanation II lo clause (2) of article 193, the following be substituted :—

'Explanation II.—In sub-clauses (*a*) and (*b*) of this clause, the expression 'High Court' with reference to a State for the lime being specified in Part HI of the first Schedule means a Court which the President has under article 123 declared to be a High Court for the purposes of articles 103 and 106 of this constitution.'"

Sir, I move :

"That with reference to amendment No. 2622 of the List of amendments, Explanation II to clause (2) of article 193 be omitted."

The object of all these amendments 196 to 200 is to remove all distinctions between British India and the Indian States. Some of the amendments particularly amendments 199 and 200 are merely consequential upon the main amendment.

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***Mr. President :** Dr. Ambedkar, do you wish to speak on this ?

The Honourable Dr. B. R. Ambedkar : No, Sir. I do not think that any reply is called for.

[Only 4 amendments were adopted. Rest were rejected. Article 193, as amended, was added to the Constitution.]

ARTICLE 193-A

†Mr. President : Dr. Ambedkar, do you wish to say anything about Prof. Shah's motion ?

The Honourable Dr. B. R. Ambedkar : Mr. President, Sir, I regret that I cannot accept this amendment by Prof. Shah. Ill understood Prof. Shah correctly, he said that the underlying object of his amendment was to secure or rather give effect to the theory of separation between the judiciary and the executive. I do not think there is any dispute that there should be separation between the Executive and the Judiciary and in fact all the articles relating to the High Court as well as the Supreme

*CAD, Vol. VIII, 7th June 1949, p. 674.

†*Ibid.,* pp. 678-79.

Court have prominently kept that object in mind. But the question that arises is this : how is this going to bring about a separation of the judiciary and the executive. So far as I understand the doctrine of the separation of the judiciary from the executive, it means that while a person is holding a judicial office he must not old any post which involves executive power ; similarly, while a person is holding an executive office he must not simultaneously hold a judicial office. But this amendment deals with quite a different proposition so far as I am able to see it. It lays down what office a person who has been a member of the judiciary shall hold after he has put in a certain number of years in the service of the judiciary. That raises quite a different problem in my judgment. It raises the same problem which we might consider in regard to the Public Service Commission, as to whether a Member of the Public Service Commission after having served his term of office should be entitled to any office thereafter or not. It seems to me that the position of the members of the judiciary stands on a different looting from that of the Members of the Public Service Commission. The Members of the Public Service Commission are, as I said on an earlier occasion, intimately connected with the executive with regard to appointments to Administrative Services. The judiciary to a very large extent is not concerned with the executive : it is concerned with the adjudication of the rights of the people *and* to some extent of the rights of the Government of India and the Units as such. To a large extent it would be concerned in my judgment with the rights of the people themselves in which the government of the day can hardly have any interests at all. Consequently the opportunity for the executive lo influence the judiciary is very small and it seems to me that purely for a theoretical reason to disqualify people from holding other offices is to carry the thing too far. We must remember that the provisions that we are making for our judiciary are not, from the point of view of the persons holding the office, of a very satisfactory character. We are asking them to quit office at sixty while in England a person now can hold office up to seventy years. It must also be remembered that in the United Stales practically an office in the Supreme Court is a life tenure, so that the question of a person seeking another office after retirement can very seldom arise either in the United States or in Great Britain.

Similarly, in the United States, so far as pension is concerned, the pension of a Supreme Court Judge is the same as his salary : there is

no distinction whatsoever between the two. In England also pension, so far as I understand, is something like seventy or eighty per cent. of the salary which the Judges get. Our rules, as I said, regarding retirement impose a burden upon a man inasmuch as they require him to retire at sixty. Our rules of pension are again so stringent that we provide practically a very meagre pension. Having regard to these circumstances I think the amendment proposed by Prof. K. T. Shah is both unnecessary for the purpose he has in mind, namely of securing separation of the judiciary from the executive, and also from the point of view that it places too many burdens on the members who accept a post in the judiciary.

Shri H. V. Kamath : May I say that this amendment applies not to retired Judges but to Judges serving on the bench at the moment ?

The Honourable Dr. B. R. Ambedkar : If I may say so, the amendment seems to be very confused. It says that it shall appply to a person who has served "for a period of live years continuously". That means if the President appointed a Judge for less than live years he would not be subject to this; which would defeat the very purpose that Prof. K. T. Shah has in mind. It would perfectly be open to the President in any particular case to appoint a Judge for a short period of less than five years and reward him by any post such as that of Ambassodor or Consul or Trade Commissioner, etc. The whole thing seems to me quite ill-conceived.

Mr. President : The question is :

"That the following new article 193-A after article 193 be added :

'193-A. No one who has been a Judge of the Supreme Court, or of the Federal Court or of any High Court for a period of 5 years continuously shall he appointed to any executive office under the Government of India or the Government of any State in the Union, including the office of an Ambassador, Minister, Plenipotentiary, High Commissioner, Trade Commissioner, Consul, as well as of a Minister in the Government of India or under the Government of any Stale in the Union'."

[This amendment of Prof. K. T. Shah was negatived.]

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ARTICLE 195

***The Honourable Dr. B. R. Ambedkar :** I move :

"That, in article 195 for the words 'a declaration' the words 'an affirmation or oath' be substituted."

It is a very formal amendment.

The amendment was adopted.

Article 195, as amended, was added to the Constitution.

*CAD, Vol. VIII, 7th June 1949, p. 680.

ARTICLE 196

***The Honourable Dr. B. R. Ambedkar :** Sir, I move:

"That for article 196, the following article be substituted :

Prohibition of practising in court or before any authority by a person who held office as a judgment a High Court.

'196. No person who was held office as a judge of a High Court after the commencement of this Constitution shall plead or act in any court or before any authority within the territory of India'."

It is simply a rewording of the same.

Shri Prabhu Dayal Himatsingka : In view of the amendment moved by Dr. Ambedkar now, my amendment (No. 2632) is not necessary.

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†Mr. President: Dr. Ambedkar do you wish to say anything ?

The Honourable Dr. B. R. Ambedkar : I do not think anything is necessary.

Mr. President : I will first put Sardar Hukam Singh's amendment to the vote. If that is accepted, Dr. Ambedkar's amendment will stand amended by this.

[The amendment was negatived. Dr. Ambedkar's amendment was adopted. Article 196, as amended, was added to the Constitution.]

ARTICLE 196-A

(Amendment No. 2639 was not moved)

Mr. President : A similar amendment, No. 1870 was moved and discussed at great length and it was held over.

The Honourable Dr. B. R. Ambedkar : I suggest that article 196-A may be held over. A similar article, (No. 103-A) was held over.

Mr. President: I agree. This article will then stand over.

ARTICLE 197

The Honourable Dr. B. R. Ambedkar : Article 197 also may be held over.

Mr. President: I agree, this article also is held over.

ARTICLE 198

‡The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That for article 198, the following article be substituted :—

Temporary appointment of acting Chief Justice.

"198. When the office of Chief Justice of a High court is vacant or when any such Chief Justice is, by reason of absence or otherwise, unable to perform the duties of his

*CAD, Vol. VIII, 7th June 1949, p. 680.

†*Ibid.,* p. 085.

‡*Ibid.,* p. G85.

office the duties of the office shall he performed by such one of the other judges of the court as the President may appoint for the purpose'."

Shri T. T. Krishnamachari : Sir, amendment No. 2650 is covered by the amendment moved by Dr. Ambedkar, because it relates to clause (2).

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ARTICLE 200

Dr. Ambedkar's amendment is substantially the same ; it deletes clause (2) and only retains clause (1).

Dr. P. K. Sen : I do not want to move that amenement.

(Amendments Nos. 2651, 2652 and 2653 were not moved.)

[The motion of Dr. Ambedkar was adopted. Article 198 as amended was added to the Constitution.]

***Mr. President :** There is amendment No. 201 of which notice has been given by Dr. Ambedkar which is exactly the same as the amendment moved by Mr. Jaspat Roy Kapoor. That amendment need not be moved.

The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That in article 200, the words 'subject to the provisions of this article 'be omitted."

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† The Honourable Dr. B. R. Ambedkar : Sir, I did not think that this article would give rise to such a prolonged debate, in view of the fact that a similar atrticle has been passed with regard to the Supreme Court. However, as the debate has taken place and certain Members have asked me certain definite questions, I am here to reply to them.

My Friend Mr. Kamath said that he did not know whether there was any precedent in any other country for article 200. I am sure he has not read the Draft Constitution, because the loot-note itself says that a similar provision exists in America and in Great Britain. (Inaudible interruption by Mr. Kamath) in fact, if I may say so; article 200 is word for word taken from section 8 of the Supreme Court of Judicature Act in England. There is no difference in language at all. That is my answer, so far as precedent is concerned.

But, Sir, apart from precedent, I think there is every ground for the provision of an article like article 200. As the House will recall we have now eliminated altogether any provision for the appointment of

*CAD, Vol. VIII, 7th June 1949, p. 688.

†*Ibid.,* pp. 693-95.

temporary or additional judges, and those clauses which referred to temporary or additional judges have been eliminated from Constitution. All judges of the High Court shall have to be permanent. It seems to me that if you are not going to have any temporary or additional judges you must make some kind of provision for the disposal of certain business, for which it may not be feasible to appoint a temporary judge in time to discharge the duties of a High Court Judge with respect to such matters. And therefore the only other provision which would be compatible with article 196 (which requires that no judge after retirement shall practise) is the provision which is contained in article 200. As my Friend Dr. Tek Chand said, there seems to be a lot of misgiving or misunderstanding with regard to the purpose or the intention of the article. It is certainly not the intention of the article to import by the back door for any length of time persons who have retired from the High Courts. Therefore nobody need have any misgiving with regard to this.

The other question that has been asked of me is with regard to the proviso. Many people who have spoken on the proviso have said that it appeared to them to be purposeless and meaningless. I do not agree with them. I do think that the proviso is absolutely necessary. If the proviso is not there it would be quite open for the authorities concerned to impose a sort of penalty upon a judge who refuses to accept the invitation. It may also happen that a person who refuses to accept the invitation may be held up for contempt of Court. We do not want such penalties to be created against a retired High Court Judge who either for the reason that he is ill, incapacitated or because he is otherwise engaged in his private business does not think it possible to accept the invitation extended to him by the Chief Justice. That is the justification for the proviso. The other question that has been asked is whether the word 'privilege' in article 200 will entitle a retired judge to demand the full salary which a judge of the High Court would be entitled to get. My reply to that is that this is a matter which will be governed by rules with regard to pension. The existing rule is that when a retired person is invited to accept any particular job under Government he gets the salary of the post *minus* the pension. I believe that is the general rule. I may be mistaken. Anyhow, that is a matter which is governed by the Pension Rules. Similarly this matter may be left to be governed by the rules regarding pension and we need not specifically say anything about it with regard to this matter in the article itself. This is all I have to say with regard to the points of criticism that have been raised in the course of the debate.

Shri H. V. Kamath : Is there such a provision in the Constitution of the United Slates ?

The Honourable Dr. B. R. Ambedkar : I have not got the text before me. In the United States the question does not arise because the salary and pension are more or less the same.

I am prepared to accept amendment No. 89 of Mr. Kapoor, because some people have the feeling that article 200 is likely to be abused by the Chief Justice inviting more than once a friend of his who is a retired judge. I therefore am prepared to accept the proposal of Mr. Kapoor that the invitation should be extended only after the concurrence of the President has been asked for.

Shri Jaspat Roy Kapoor: May I know whether it is the intention that the interpretation of the term 'privileges' should be left to the Parliament ?

The Honourable Dr. B. R. Ambedkar : It may have to be defined. There is no doubt about it that Parliament will have to pass what may be called a Judiciary Act governing both the Supreme Court and the High Courts and in that the word 'privilege' may be determined and defined.

Shri Jaspat Roy Kapoor : But the privileges will be the same in the case of a judge who has been called back and that of the permanent judges. That is what article 200 lays down.

The Honourable Dr. B. R. Ambedkar : Yes, but privilege does not mean full salary.

Mr. President : Amendment No. 89 moved by Mr. Jaspat Roy Kapoor has been accepted by Dr. Ambedkar. I will now put it to vote.

> "That in article 200 after the words 'at any time', the words 'with the previous consent of the President' be inserted."

The amendment was adopted.

[Dr. Ambedkar's original amendment was also adopted and article 200 as amended, was added to the Constitution.]

ARTICLE 202

***Dr. Bakshi Tek Chand :** ...I hope the amendment which I have moved will be accepted by Dr. Ambedkar and that the article, as amended, will be passed by the House.

Mr. President: Dr. Ambedkar, do you wish to move amendment No. 2663 ?

The Honourable Dr. B. R. Ambedkar : No. Sir, I accept bakshi Tek Chand's amendment. I do not think that any reply is necessary.

*CAD, Vol. VIII, 7th June 1949, p. 697.

Shri H. V. Kamath : There has been an amendment to substitute "or" for "and".

The Honourable Dr. B. R. Ambedkar : There is no difference as to the substance of the article.

Shri H. V. Kamath : It makes a difference as to the meaning.

(Amendment by Dr. Bakshi Tek Chand.)

"That with reference to amendment No. 2661 of the list of Amendments, in clause (1) of article 202, for the words 'or orders in the nature of the writs' the words 'orders or writs including writs in the nature' be substituted."

The amendment was adopted.

[Article 202, as amended, was added to the Constitution.]

ARTICLE 203

***The Honourable Dr. B. R. Ambedkar :** Sir, I wish that article 203 be held over.

Mr. President: Article 203 is held over.

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ARTICLE 204

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†The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That the explanation to article 204 be omitted."

Sir, it is unnecessary.

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‡Mr. Tajmal Hussain : ...The amendment moved by Dr. Ambedkar is perfectly correct. I support that amendment.

Mr. President: I want to dispose of this article before we rise. It is already twelve.

The Honourable Dr. B. R. Ambedkar : I am afraid I have to go to a Cabinet Meeting at 12 o'clock.

Mr. President: Then I do not think "there is much to be said either against or for the amendment. All that could be said has been said. No more speeches.

The Honourable Dr. B. R. Ambedkar : With regard to the observations made by my Friend Mr. Bharathi.

Shri H. V. Kamath : Sir, you have called upon me to speak. I shall not take more than 2 or 3 minutes. Shall I speak now or tomorrow ?

Mr. President: Tomorrow.

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#Mr. President: We shall now take up the discussion of article 204.

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*CAD, Vol. VIII, 7th June 1949, p. 698.

†*Ibid*., p. 699.

‡*Ibid.,* 701.

#*Ibid,* 8th June 1949, pp. 703-04.

The Honourable Dr. B. R. Ambedkar (Bombay : General) Sir, I would like to move an amendment to article 204, I mentioned that I would have to consider the position; I have since considered it and I would like to move the amendment. Sir, with your permission I move :

"That with reference to amendment No. 2674 of the List of Amendments, for article 204 the following article be substituted :

Transfer of certain cases to High Court.

'204. If the High Court is satisfied that a case pending in a court subordinate to it involves a substantial question of law as to the interpretation of this Constitution the determination of which is necessary for the disposal of the case, it shall withdraw the case and may—

(a) either dispose of the case itself, or

(b) determine the said question of law and return the case to the court from which the case has been so withdrawn together with a copy of its judgement on such question, and the said court shall on receipt thereof proceed to dispose of the case in conformity with such judgment'."

That is the amendment. If you like, Sir, I will speak something about it now. But I would rather reserve my remarks to the end to save time instead of speaking twice.

Mr. President: Just as you please.

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***The Honourble Dr. B. R. Ambedkar :** Sir, I do not think any very long discussion is necessary to come to a decision on the amendment I have moved. The House will remember when we were dealing yesterday with article 204 my Friend Mr. Bharathi raised a question which related to the last sentence in article 204, *viz.*, that the High Court shall withdraw the case to itself and dispose of the same. The question which Mr. Bharathi put, which I thought was a very relevant one, was this. Why should the High Court be required to withdraw the whole case and dispose of it, when all that the main part of article 204 required was that it should deal with a substantial question of law as to the interpretation of the Constitution ? His position was that in a suit many questions might be involved. One of them might be a question involving a substantial question of law as to the interpretation of this Constitution. The other questions may be questions as to the interpretation of ordinary law made by Parliament. If there was a case of this sort which was a mixed case, containing an issue relating to the interpretation of the Constitution and other issues relating to the interpretation of the ordinary law while it may be right for the High Court to possess the power to decide and pronounce upon the question relating to the interpretation of law, why should the High Court be required to withdraw the whole case and decide not merely upon the issue relating

*CAD, Vol. VIII, 8th June 1949, pp. 716-19.

to the interpretation of the Constitution but also upon other issues relating to the interpretation of ordinary law ? As I said, that was a very pertinent question the force of which I did feel when I heard his argument and I therefore asked your permission to allow this article to be kept back.

Now, if I may say so, a similar question was raised by my Friend Shri Alladi Krishnaswami Ayyar when we were dealing with article 121. which also dealt with appeals to the Supreme Court in cases which were of a mixed type, namely, cases where there was a question of constitutional law along with questions of the interpretation of ordinary law made by Parliament. According to the original draft it was provided that in all cases where there was an issue relating to the interpretation of the constitutional law, such an appeal should be decided by a Bench of five Judges. The question that was raised by Shri Alladi Krishnaswami Ayyar was that a party may, quite wickedly so to say—for the purpose of getting the benefit of a bench of five—raise in his grounds of appeal a question relating to the interpretation of constitutional law which ultimately might be found to be a bogus one having no substance in it. Why should five Judges of the Supreme Court waste their time in dealing with an appeal where as a matter of fact there was no question of the interpretation of constitutional law ? The House will remember that his argument was accepted and accordingly, if the House has got papers containing the Fourth Week's Amendment List No. 1, Amendment 43, they will find that we then introduced a proviso which said that in a case of this sort where an appeal comes from a High Court involving not necessarily the question of the interpretation of law but involving other questions, the appeal should go to an ordinary bench constituted under the rules made by the Supreme Court which may, I do not know, be a Bench of either two Judges or three Judges. If after hearing the appeal that particular Bench certifies that there is as a matter of fact a substantial question of the interpretation of the Constitution, then and then alone the appeal-may be referred to a bench of five Judges. Even then the Bench of the five Judges to which such an appeal would be referred would decide only the constitutional issue and not the other issues. After deciding constitutional issues the Judges would direct that the case be sent back to the original bench of the Supreme Court consisting either of two or three Judges to dispose of the same.

My first submission is this, that in making tills amendment to article 204 which I have mewed this morning we are doing no more than carrying out the substance of the proviso to clause (2a) of article 121 contained in amendment No. 42. Here also what we say is this : that the High Court, if satisfied, may take the case to itself, decide the issue on constitutional law and send back the case to the subordinate Judge for the disposal of other issues involving the interpretation of ordinary law made by Parliament. I do not think we are making anything new, novel, strange or extraordinary as compared to what we have done with regard to the Supreme Court. Therefore my submission is this that if we accept, as we have accepted, the proviso to clause (2a) of article 121, the House cannot be making any very grave mistake or any very grave departure.....

Shri Alladi Krishnaswami Ayyar : On a point of explanation, Sir, I shall feel obliged if it is your view that there is no distinction between a point arising in the appellate stage and a point arising when the case is pending in the court of first instance.

The Honourable Dr. B. R. Ambedkar : I am only dealing with the general framework of the amendment. My submission is that the amendment I have moved is exactly on a par with the proviso that we have added to clause (2a) of article 121. Therefore my submission is that there is no very grave departure from what we have already done.

Then two questions have been raised. One is with regard to the use of the word 'judgment' It has been said that the word 'judgment' has been differently interpreted and that the party whose case has been withdrawn by the High Court for the purposes of determining the constitutional issue may not be in a position to approach the supreme Court, because under article 110 we have said that an appeal to the Supreme Court shall lie only from the judgment or the final order of the High Court. The contention is that the judgment may not be regarded as a judgment within the meaning of article 110 or may not be regarded as a final order. Well, having used the word 'judgment' in article 110 in that prticular sense, namely a decision from which an appeal would lie to the Supreme Court, I do not personally understood why the use of word 'judgment 'in this amendment should not be capable of the same interpretation. But if the contention is correct I think the matter could be easily rectified by using the word 'decision' instead of 'judgment' and adding an explanation such as this that "the decision shall be regarded as a final order for the purpose of article 110". I do not think that that difficulty is insuperable.

With regard to the question of appeal it would certainly he open to the party whose case has been withdrawn to do what it likes. Once the judgment has been delivered by the High Court, in a case which has been withdrawn for the purpose of decision of the issue regarding the interpretation of the Constitution, it may straightway go to the Supreme Court and have that question finally decided, or it may wait until all issues have been decided by the subordinate Judge, an appeal has gone through the High Court on findings of fact with regard to those particular issues and thereafter take the matter to the Supreme Court. We do not bind the party to any of the procedure if the issue regarding the interpretation of the Constitution is on the same footing as what we may call a preliminary issue so that when a decision is taken it will be a decision of the whole case. I have no doubt about it that the party affected will, rather than proceed with the rest of the case before the subordinate Judge, go immediately to the Supreme Court and have an interpretation of the Constitution. I see no difficulty at all in this.

Now, the other question that was raised was this : my Friend Shri Alladi Krishnaswami Ayyar said something silting there. I could not hear him. Bui in private conversation he mentioned that it may be very difficult for a High Court to make a severance between an issue relating to the interpretation of the Constitution and the other issues and it may be that for the interpretation of the other issues and for the interpretation of the issue relating to the interpretation of the Constitution the High Court may have to consider other issues as well. It was also suggested that supposing the case was really a small one, but did involve the question of interpretation of law, why should the High Court be not permitted to dispose of such a small case rather than have it sent back to the subordinate court ? Well, in order to meet both these contingencies, the amendment gives the power to the High Court to dispose of the case itself. I do not think that that would not be found sufficient for the difficulties which have been pointed out. I therefore submit that the amendment does carry out the intentions we have, namely, that the High Court should not be encumbered with a decision of all the issues when it considers the whole case; it may be left free to decide a particular issue with regard to the specific question of the interpretation of the Constitution.

May I say one more thing ? There is no doubt a power under the Civil Procedure Code contained in section 24 permitting the High Court to withdraw any case to itself and determine it. But the difficulty with section 24 is that if the High Court decides upon withdrawal it shall have to withdraw the whole case. It has no power of partial withdrawal,

while our object is that the High Court should be permitted to withdraw that part of the case which refers to the interpretation of the Constitution. My submission, therefore, *is* that unless you provide specifically as we are doing now under article 204, the High Court will have to withdraw the whole case to itself if it wants to decide the question of the interpretation of this Constitution.

I would like to say one thing more. You will remember that there was no time between yesterday and this morning to apply all that close attention to the wording of this particular amendment which I have moved. I am therefore moving this amendment because I think it is very wrong to keep on holding up article after article because of certain minor defects or discrepancies. I should like to say that while I move this amendment I would like to have an opportunity given to the Drafting Committee to make such changes as it may deem necessary in order to remove the defects that have been mentioned if there are any, and bring it into line with the other articles which the assembly has passed.

Mr. President: I will now put the amendment of Professor Shah No. 2674 to vote.

Mr. H. V. Kamath : I thought Dr. Ambedkar's amendment superseded this amendment.'

The Honourable Dr. B. R. Ambedkar : I am substituting the entire article. You may withdraw amendment No. 2674.

Mr. President: Your amendment is for substituting the whole article. I will then put your amendment to vote.

The question is :—

"Thai for article 204, the following article he substituted :—

Transfer of certain cases to High Courts.

'204. If the High Court is satisfied that a case pending in a court subordinate to it involves a substantial question of law as to the interpretation of this Constitution the determination of which is necessary for the disposal of the case, it shall withdraw the case and may—

(a) either dispose of the case itself, or

(b) determine the said question of law return to case to the court from which the case has been so withdrawn together with a copy of its judgment on such question, and the said court shall on receipt thereof proceed to dispose of the case in conformity with such judgment.'"

The amendment was adopted.

Mr. President : Now this becomes the original article. It disposes of all the amendment moved. The question is :—

"That article 204, as amended, stand part of the Constitution."

The motion was adopted.

Article 204, as amended, was added to the Constitution.

[Dr. Ambedkar's amendment was carried. Article 204, as amended, was added to the Constitution.]

ARTICLE 205

***Mr. President:** The House will now consider article 205. There is an amendment to this by Dr. Ambedkar, No. 2676.

The Honourable Dr. B. R. Ambedkar: Sir, I move:

"That for article 205, the following be substituted ;—

Officers and servants and the expenses of High Courts,

'205. (1) Appointments of officers and servants of a High court shall he made by the Chief Justice of the Court or such other judge or officer of the Court as he may direct:

Provided that the Governor of the State in which the High Court has its principal seat may by rule require that in such cases as may he specified in the rule, no person not already attached to the Court shall he appointed to any office connected with the Court save after consultation with the State Public service Commission.

(2) Subject to the provisions of any law made by the Legislature of the State, the conditions of service of officers and servants of a High Court shall he such as may be prescribed by rules made by the Chief Justice of the Court or by some other judge or officer of the Court authorised by the Chief Justice to make rules for the purpose :

Provided that the salaries, allowance and pensions payable to or in respect of such officers and servants shall be fixed by the Chief Justice of the Court in consultation with the Governor of the State in which the High Court has its principal seat.

(3) The administrative expenses of a High Court, including all salaries, allowances and pensions payable to or in respect of the officers and servants of the Court and the salaries and allowances of the Judges of the Court, shall he charged upon the revenues of the State, and any fees or other moneys taken by the Court shall form part of those revenues.'"

Mr. President : There is an amendment by Mr. Kapoor.

The Honourable Dr. B. R. Ambedkar : Sir, I have an amendment to this amendment. If you will allow me I will move it. It is on page 3 of List II.

Mr. President: You can move it. —

The Honourable Dr. B. R. Ambedkar: Sir I move :

"That with reference to amendment No. 2676 of the List of Amendments, for the proviso to clause (2) of the proposed article 205, the following proviso be substituted.—

'Provided that the rules made under this clause shall, so far as they relate to salaries, allowances, leave or pensions, require the approval of the Governor of the State in which the High Court has its principal seat'."

Sir, these provisions are exactly the same as the provisions for the Supreme Court.

Mr. President : That covers your amendment, Mr. Kapoor.

Shri Jaspat Roy Kapoor (United Provinces : General) **:** Yes, Sir, it obviates the necessity for moving my amendment.

[Dr. Ambedkar's amendment was adopted. Article 205, as amended, was added to the Constitution.]

*CAD, Vol. VIII, 8th June, pp. 710-20.

ARTICLE 206

***The Honourable Dr. B. R. Ambedkar :** Sir, I move that this article be deleted.

Article 206 was deleted from the Constitution.

ARTICLE 90—*Contd.*

The Honourable Dr. B. R. Ambedkar: Sir, I would request you now to take the financial article. We may go back to article 90 which was under discussion.

Mr. President: We had a number of amendments to tills article which were moved that day before we adjourned discussion. They are amendments Nos. 3, 4 and 6 standing in the name of Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar: Sir, I move :

> "That for sub-clauses (c) and (d) of clause (1) of article 90, the following sub-clauses be substituted :
>
> '(c) the custody of the Consolidated Fund or the Contingency Fund of India, die payment of moneys into or the withdrawal of moneys from any such fund;
>
> (d) the appropriation of moneys out of the Consolidated Fund of India;'"

Sir, Amendment No. 4 is covered by amendment No. 3 and so I am not moving it. Sir, I also move :

> "That in sub-clauses (e) and (f) of clause (l) of article 90, for the words 'revenues of India', the words 'Consolidated Fund of India' be substituted."

Sir, Amendment No. 5 standing in the name of Pandit Kunzru is also covered and therefore, it is necessary.

Sir, with your permission, I would like at this stage to make a short introductory speech in order to give the House an idea of some of the changes which are not covered by the specific amendments which I have moved just now, but which relate to the changes that have been made in the financial procedure to be observed with regard to financial matters.

The changes that we have made by the various amendments that I have proposed to move in connection with tills matter are these. The first change that has been made is that there shall be no taxation without law. If any levy is to be made upon the people, the sanction must be that of law. That is provided for in article 248 which will come at a later stage. In order to give the House a complete idea of what we are

*CAD, Vol. VIII, 8th June 1949, pp. 721-26.

doing, I mention the matter now. There was no such provision in the existing Draft Constitution. The second thing which is proposed to be done is to introduce the idea of what is called a Consolidated Fund. That will be done by the new article 248-A which will come at a later stage. We also wish to provide for the establishment of a Contingency Fund which Parliament may want to establish. That will be done by the new article 248-B.

I do not think that any explanation is necessary for the first provision, namely, that there should be no tax except by law. It is a very salutary provision and the executive should not have any power of levy upon the people unless they obtain the sanction of Parliament. With regard to the Consolidated Fund, it is really in a sense not a new idea at all; it is merely a new wording. The existing wording is "Public Account of the Governor General of India." If Honourable Members will refer to a volume called the Compilation of Treasury Rules, Volume I, they will find that the Public Account is also referred to as the Consolidated Fund. I shall read the definition. "Public Account of the Central Government means the Consolidated Fund into which moneys, received on account of the revenues of the Governor-General as defined in section 136 of the Act are paid and credited and from which all disbursements by or on behalf of Government are made."

Therefore, the use of the word "Consolidated Fund" is merely a change in nomenclature because that word is already used as an equivalent of the Public Account of the Central Government.

There is also an important idea behind this notion of a Consolidated Fund. Tills notion of a Consolidated Fund, as Members might know, arose in England some time about 1777. The object why the Consolidated Fund was created in England was tills. Originally Parliament voted taxes to the King, leaving the King to collect and spend it on such purposes as he liked. Oftentimes, the King spent the money for purposes quite different from the purposes for which he had asked it. Parliament could have no control after having voted the taxes. At a later stage. Parliament followed another procedure, namely, to levy a tax and to appropriate the proceeds of that tax for a certain purpose, with the result that when they came to passing the budget, there was practically no money left, all the taxes having been appropriated to specific purposes. Nothing was left for the general purposes of the

budget. In order to avoid his squandering of money, so to say, by appropriation of individual taxes for particular purposes, it was necessary to see that all revenues raised by taxes or received in other ways were, without being appropriated to any particular purpose, collected together into the one fund so that Parliament when it conies to decide upon the Budget has with it a fund which it could disburse. In other words, a Consolidated Fund is a necessary tiling in order to prevent the proceeds of taxes being frittered away by laws made by Parliament in individual purposes without regard to the general necessity of the people at all. I therefore submit that the House will have no difficulty in accepting the provision for a Consolidated Fund because it is a very necessary thing. If I may say so, there is no Constitution which does not provide for a Consolidated Fund. If you compare the constitution of Australia, Canada, South Africa or Ireland, or any Constitution, you will find that they all have a provision which says that all funds raised by taxes or otherwise shall be pooled together in a Consolidated Fund. We are therefore not making any departure at all.

Then, the other provision which we seek to make is to provide for an Appropriation Act in the place of a certified Schedule by the President. Honourable Members, if they refer to article 94 of the Draft Constitution, will see what the present procedure is. First of all, what happens is this : the President, that is to say, the Government of the day is required by article 92 to present a Financial Statement to Parliament in a certain form, which form is laid down in sub-clause (2) of article 94, dividing the expenditure into two categories, one category containing the expenditure charged upon the revenues of India and the other category of expenditure not charged upon the revenues of India, that is to say, upon the Consolidated Fund. After that is presented, then comes the next stage which is provided for in article 93. Under article 93 what happens is this : Parliament proceeds to discuss the Financial Statement submitted to it, head by head, sub-head by sub-head, item by item and either agrees with the provisions made as to the amount by the executive or reduces it. This thing is done by resolutions passed by the House on any cut motion. After that is done, under the present procedure, the provisions of article 94 apply, namely, that the President then certifies what the Assembly has done in the

matter of making provision for the various heads of expenditure placed before it by Parliament. The new provision is that the procedure regarding certification by the President should be replaced by a proper Appropriation Act, passed by the legislature.

The argument in favour of substituting the procedure for an Appropriation Bill for the provisions contained in article 94 of the Draft Constitution is this. The legislature votes the supplies. It is, therefore, proper that the legislature should pass what it has done in the form of an Act. Why should the work done by the legislature in the matter of voting supplies be left to the President to be certified by an executive act, so to say ? That is the principal point that we have to consider. In the matter of Finance, Parliament is supreme, because, no expenditure can be incurred unless it has been sanctioned by Parliament under the provisions of article 93. If Parliament has sanctioned any particular expenditure on any particular head, then the proper authority to certify what it has done with regard to expenditure on any particular head is the Parliament and not the President. Therefore, the procedure of an Appropriation Act is substituted for the procedure contained in article 94 of this Draft Constitution.

I may also mention that article 94 was appropriate under the Government of India Act of 1935 for the simple reason that the Governor-General had a right to certify what expenditure was necessary for him for discharging his functions which were in his discretion and in his individual judgment. The expenditure which the Governor-General wanted to incur in respect of functions which were in his discretion and in his judgment were outside the purview and outside the power of Parliament. He was entitled to change the amount, to alter that, to add to them. It was consequently necessary that the Governor-General should be the ultimate authority for certification because he had independent power of making such budget provision as he wanted to make in order to discharge his special functions. Under our new Constitution the President has no functions at all either in his discretion or in his individual judgment. He has therefore no part to play in the assignment of sums for expenditure for certain services. That being so, the certification procedure is entirely out of place under the new Constitution. I might also say that the appropriation procedure is a procedure which is employed in all Parliamentary Governments in

Canada, Australia, South Africa and in Great Britain. I might also mention that, when this matter was discussed in 1935 when the Government of India Act was on the anvil, the proposal was made by the Secretary of State himself that the authentication of the expenditure sanctioned by the Assembly would be done by an Appropriation Act and not by certification, but the Government of India of the day did not like the idea of an Appropriation Bill for the reason that the Governor-General had power to fix certain amounts in the budget in order to provide for the discharge of his own functions. Otherwise the Secretary of State himself, as I said, was in favour of this proposal but his proposal was turned down by the Government of India in 1935. But my submission is this, that there is no necessity now for retaining this function which really gives the executive the authority to fix the amount and also to spend the money. I think it would be desirable to bring our procedure in line with the procedure that is prevailing in all countries where Parliament is supreme in the matter of sanctioning money for expenditure.

The other provision which is new which we have inserted is what is called vote on account. Now, it is necessary perhaps to explain why we have introduced it. For that purpose I should again like the House to refer to article 93 as it stands. Under article 93 no money can be issued or spent for any services unless the whole of the detailed budget is passed by Parliament. If you read article 93, that is the effect of it. The budget has to be presented under heads, sub-heads and items. Parliament has to pass that budget with regard to head, sub-heads and items. That is what is called passing the budget. Now, as you all know the budget is an enormous thing involving expenditure of something like 250 crores distributed on various items. If the provision of article 93 is to remain intact *viz.,* no money is to be spent unless all the details are passed by Parliament and if you also have the provision that the budget must be passed before the end of the official year is over, then you must have a very limited time fixed for the discussion of the budget because under the provisions of article 93 you cannot spend any money unless the budget had been passed in alt its details. Either, as I said, you give up your right to discuss the budget in full or you make a change in article 93, or you may make another provision making an exception to article 93. The vote on account procedure which we propose to

introduce by an amendment provides for Parliament allowing a lump sum grant to the executive to be spent upon the services of the year for say about two months or so, so that the two months time will be available to Parliament to discuss in a much greater length—I don't say fully—the budget provisions and the financial provisions of the Government. Unless, therefore, you have a provision for a vote on account *i.e.,* lump sum grant given to executive to cover an expenditure for about two or three months, that may be decided by some agreement between the Government and the Leader of the Opposition—unless you make a provision for a vote on account you will not get time to discuss the budget at any greater length than what you have now. The House will remember that last time there was a great deal of feeling in the House that the Budget was rushed through, people had not more than seven or eight days given to them for the discussion of the different items and that the guillotine was applied. If the House therefore desires that it should have more time to discuss the details of the budget, to discuss the details of the financial provision, then some provision has got to be made in the Constitution whereby it will be open to the House to allow the executive to have a lump sum out of the Consolidated Fund, covering an expenditure of two months if the House wants two months for discussion. Since the provisions of article 93 are very stringent in the sense that no money can be spent unless the whole of the budget in all its details is passed we have got to make an exception to the provisions contained in article 93. Those exceptions are made by a provision which is called 'Provision for Votes on account'. These are, if I may say so, the three main changes that we have made in the Draft Constitution, Sir, with these words I move the amendments I have tabled.

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***Shri B. Das :** ...I again feel happy that these articles, as now going to be amended, will be fool-proof and the Ministers will not play truant and will not be extravagant in expenditure. I again congratulate Dr. Ambedkar over it.

The Honourable Rev. J. J. M. Nichols-Roy (Assam : General)**:** Sir, before I speak, I would like to ask Dr. Ambedkar some clarification of certain points. Does this amendment force the Government of India

*CAD, Vol. VIII, 8th June 1948, p. 737.

to have a fund which is to be called a Consolidated Fund ? Or is it an enabling amendment ?

The Honourable Dr. B. R. Ambedkar : It is already there. It is only a change of name.

The Honourable Rev. J. J. M. Nichols-Roy : Then there must be an Appropriation Act passed in a Legislature and that must be passed in the same session ?

The Honourable Dr. B. R. Ambedkar : Yes.

The Honourable Rev. J. J. M. Nichols-Roy : That will take time no doubt. Sir, in view of this I would make a few remarks. There has been a good deal of criticism regarding the expenditure of money and waste of money by the Ministers of the Government of India or it might be by the Governments of the Provinces. I suppose the principles in this article 90 will apply to the provincial Governments also—the same principles are in article 174.

The Honourable Dr. B. R. Ambedkar : Yes.

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***The Honourable Rev. J. J. M. Nichols-Roy :** ...I want to ask Dr. Ambedkar whether that is the position or whether every province will be forced to pass an Appropriation Act in order to appropriate money for expenditure.

The Honourable Dr. B. R. Ambedkar : The Appropriation Act will be compulsory, but the Vote on Account is optional for each Ministry. If any Ministry wants money on Vote on Account, it may ask the Legislature.

The Honourable Rev. J. J. M. Nichols-Roy : Suppose the Ministry in Assam or in any Province wants to follow the same procedure that we are having now, with the certificate of the Governor, will it be open to **it** to do so ?

The Honourable Dr. B. R. Ambedkar : There is no certificate at all of the Governor now.

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† **The Honourable Dr. B. R. Ambedkar :** I do not think I can add anything usefully to what Mr. T. T. Krishnamachari has said. I should reserve my observations for the various amendments which will come up as I have no doubt the same arguments will be put forth.

[Amendments by Dr. Ambedkar mentioned earlier were adopted, others were rejected. Article 90, as amended, was added to the Constitution.]

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*CAD, Vol. VIII, 8th June 1948, p. 738.

† *Ibid.,* p. 741.

HINDI NUMERALS ON CAR NUMBER PLATES

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***Pandit Balkrishna Sharma :** ...My submision to him has always been that Delhi as a Province is surrounded on all sides by Provinces which have declared Hindi as their Government language and Devanagari as the Government script.

Mr. President: Order, order. I have got the information which you wanted to give me. As I said, Honourable Members will not insist upon my giving a ruling on the question of privilege. It may not be in their interest. As I have said, the matter will be taken up with the Government.

The Honourable Dr. B. R. Ambedkar (Bombay : General) **:** There is no privilege to break the law.

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ARTICLE 92

The Honourable Dr. B. R. Ambedkar : Sir, I move :

1. "That in sub-clause (b) of clause (3) of article 92, for the words 'emoluments' the words 'salaries' be substituted."

That is the usual wording we are using.

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†The Honourable Dr. B. R. Ambedkar : Sir, I beg to move :

2. "That in sub-clauses (a) and (b) of clause (2) of article 92. for the words 'revenues of India' the words 'Consolidated Fund of India' be substituted."

3. "That in clause (3) of article 92, for the words 'revenues of India' the words 'Consolidated Fund of India' be substituted."

4. "That after sub-clause (d) of clause (3) of article 92, the following sub-clause be inserted :—

(dd) the salary, allowances and pension payable to or in respect of the Comptroller 'and Auditor-General of India'."

With regard to 9, all I, need say is that the House has already passed article 124, clause (5) which contains the present amendment. It is therefore here, because, it was felt that all items which are declared to be charges on the Consolidated Fund of India had better be brought in together, rather than be scattered in different parts of the Constitution.

[All four amendments of Dr. Ambedkar as shown above were accepted others were rejected. Article 92 as amended was added to the constitution.]

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ARTICLE 93

‡The Honourable Dr. B. R. Ambedkar: Sir, I move :

"That in clause (1) of article 93, for the words 'revenues of India' the words 'Consolidated Fund of India' be substituted."

[Amendment was carried. Article 93, as amended, was added to the constitution.]

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*CAD, Vol. VIII, 10th June 1949, pp. 746-48.

†*Ibid.,* p. 750.

‡*Ibid.,* p. 754.

ARTICLE 94

***The Honourable Dr. B. R. Ambedkar :** Sir, I move:

"Thai for article 94, the following article be substituted :—

Appropriation Bills

'94. (1) As soon as may be after the grunts under the last preceding article have been made by the House of the People there shall be introduced a Bill to provide for the appropriation out of the Consolidated Fund of India all moneys required to meet—

(a) the grants so made by the House of the People: and

(b) the expenditure charged on the Consolidated Fund of India but not exceeding in any case the amount shown in the statement previously laid before Parliament.

(2) No amendment shall be proposed to any such Bill in either House of Parliament which will have the effect of varying the amount or altering the destination of any grant so made or of varying the amount of any expenditure charged on the Consolidated Fund of India, and the decision of the person presiding as to the amendments which are admissible under this clause shall be final.

(3) Subject to the provisions of the next two succeeding articles no money shall be withdrawn from the Consolidated fund of India except under appropriation made by law passed in accordance with the provisions of this article."'

As I explained yesterday the object of this new article 94 is to replace the provisions contained in the old article relating to the certification of a schedule by the Governor-General.

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†The Honourable Dr. B. R. Ambedkar : Mr. President, Sir, I thought that the observations made by my Friend Mr. T. T. Krishnamachari would have been regarded as sufficient to meet the objections raised by my Friend Mr. Santhanam, but since my Friend Mr. Bharathi by his speech has indicated that at any rate his doubts have not been cleared, I find it necessary to rise and to make a few observations. My Friend Mr. Santhanam said that we were unnecessarily borrowing the procedure of an Appropriation Bill and that the existing procedure of an authenticated schedule should have been sufficient for our purposes. His argument if I understood him correctly was this : that an Appropriation Bill is necessary in the House of Commons because the supply estimates are dealt with by a Committee of the whole House and not by the House itself. Consequently the Appropriation Bill is, in his opinion, a necessary concomitant of a procedure of estimates being dealt with by sort of Committee of the House. Personally, I think there is no connection between the Committee procedure of the House of Commons and the necessity of an Appropriation Bill. I might tell the

*CAD, Vol. VIII, 10th June 1949, pp. 754-55.

†*Ibid., pp.* 762-64.

House as to how this procedure of the House of Commons going into a Committee of Supply to deal with the estimates came into being. The House will remember that there was a time in English political history when the King and the House of Commons were at loggerheads. There was not such pleasant feeling of trust and confidence which exists now today between the House of Commons and the King. The King was regarded as a tyrant, as an oppressor, as a person interested in levying taxes and spending them in the way in which he wanted. It was also regarded that the Speaker of the House of Commons instead of being a person chosen by the House of Commons enjoying the confidence of the House of Commons was regarded as a spy of the King. Consequently, the members of the House of Commons always feared that if the whole House discussed the estimates, the Speaker who had a right to preside when the House as a whole met in session would in all probability, to secure the favour of the King, report the names of the members of the House to the King who criticised the King's conduct, his wastefulness, his acts of tyranny. In order therefore to get rid of the Speaker who was, as I said in the biginning, regarded as a spy of the King carrying tales of what happened in the House of Commons to the King, they devised this procedure of going into a Committee; because when the House met in Committee the Speaker has no right to preside. That was the main object why the House of Commons met in Committee of Supply. As I said, even if the House did not meet in Committee of Supply, it would have been necessary for the House to pass an Appropriation Bill. As my Friend—at least the lawyer friends—will remember, there was a time when the House of Commons merely passed resolutions in Committee of Ways and Means to determine the taxes that may be levied, and consequently the taxes were levied for a long time—I think up to 1913 on the basis of mere resolutions passed by the House of Commons Committee of Ways and Means. In 1913 this question was taken to a Court of law whether taxes could be levied merely on the basis of resolutions passed by the House of Commons in the Committee of Ways and Means, and the High Court declared that the House of commons had no right to levy taxes on the basis of mere resolutions. Parliament must pass a law in order to enable Parliament to levy taxes. Consequently, the British Parliament passed what is called a Provincial Collection of taxes Act.

I have no doubt about it that if the expenditure was voted in Committee of .Supply and the resolutions of the House of Commons were to be treated as final authority, they would have also been condemned by Courts of law, because it is an established proposition that what operates is law and not resolution. Therefore my first submission is this : that the point made by my Friend Mr. Santhanam, that the Appropriation Bill procedure is somehow an integral part of the Committee procedure of the House of Commons has no foundation whatsoever. I have already submitted why the procedure of an authenticated schedule by the Governor-General is both uncalled for, having regard to the altered provision of the President who has no function in his discretion or in his individual judgment, and how in matters of finance the authority of Parliament should be supreme, and not the authority of the executive as represented by the President. I therfore need say nothing more on this point.

Then my Friend, Mr. Santhanam, said, if I understood him correctly, that article 95—I do not know whether he referred to article 96; but he certainly referred to article 95—would nullify clause (3) of the new article 94. Clause (3) stated that no money could be spent except under an appropriation made by law. He seemed to be under the impression that supplementary, additional or excess grants which are mentioned in new article 95, and votes on account, or votes on credit or exceptional grants mentioned in the new article 96 would be voted without an Appropriation law. I think he has not completely read the article. If he were to read sub-clause (2) of the new article 95 as well as the last para of new article 96 and also a further article which will be moved at a later stage—winch is article 248A—he will see that there is a provision made that the moneys can be drawn, whether for supplementary or additional grants or for votes on account or for any purpose, without a provision made by law for drawing moneys on Consolidated Fund. I can quite understand the confusion which probably has arisen in the minds of many Members by reason of the fact that in some place we speak of a Consolidated Fund Act while in another place we speak of an Appropriation Act. The point is this : fundamentally, there is no difference between a Consolidated Fund Act and an Appropriation Act. Both have the same purpose, namely, the purpose of authorising an authority duly constituted to draw moneys from the Consolidated Fund.

The difference between a Consolidated Fund Act and the Appropriation Act is just this. In the Consolidated Fund Act a lump sum is mentioned while in the Appropriation Act what is mentioned is all the details—the main head, the sub-heads and the items. Obviously, the procedure of an Appropriation Bill cannot be brought into operation at the stage of a Consolidated Fund Bill because Parliament has not gone through the whole process of appropriating money for heads, for sub-heads and for items included under the sub-heads. Consequently when money is voted under a Consolidated Fund Act, it means that the executive may draw so much lump sum out of the Consolidated Fund which will at a subsequent stage be shown in what is called the final Appropriation Act. If Honourable Friends will remember that there is no authority given to the executive to draw money except under a Consolidated Fund Act or under an Appropriation Act, they will realize that so far as possible an attempt is made to make these provisions as fool-proof and knave-proof as one can possibly do.

[Dr. Ambedkar's motion was adopted. Article 94, as amended was added to Constitution.]

ARTICLE 95

***The Honourable Dr. B. R. Ambedkar:** Sir, I move:

"That for article 95, the following article be substituted :

Supplementary, additonal or excess grants.

'95 (1) The President shall—

(a) if the amount authorised by any law made in accordance with the provisions of article 94 of this Constitution to be expended for a particular service for the current financial year is found to be insufficient for the purposes of that year or when a need has arisen during the current financial year for supplementary or additional expenditure upon some new service not contemplated in the annual financial statement for that year; or

(b) if any money has been spent on any service during a financial year in express of the amount granted for that service and for that year, cause to be laid before both the Houses of Parliament another statement showing the estimated amount of that expenditure or cause, to be presented to the House of the People a demand for such excess, as the case may be.

(2) the provision of the last three preceding articles shall have effect in relation to any such statement and expenditure or demand and also to any law to be made authorising the appropriation of moneys out of the Consolidated Fund of India to meet such expenditure or the grant in respect of such demand as they have effect in relation to the annual financial statement and the expenditure mentioned therein; or to a demand for a grant and the law to be made for the authorization of appropriation of moneys out of the Consolidated Fund of India to meet such expenditure or grant.'"

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*CAD, Vol. VIII, 10th June 1949, p. 765.

***The Honourable Dr. B. R. Ambedkar :** Mr. President, Sir, I find that the financial provisions which are placed before this House have given considerable worry to the Members. I can appreciate that, for I remember that when Mr. Churchill's father became the Lord Chancellor, a budget was placed before him showing figures in decimals and dots thereon. Evidently he was not a student of mathematics and could not understand what the figures meant with a dot in it. So he wrote on the file, "what do these damned dots mean ?", asking for an explanation from the Secretary of the Finance Department. Having regard to such difficulty of understanding from persons so highly placed as Mr. Churchill's father, I am not at all surprised if the members of this House also find similar difficulty in understanding these provisions. I should therefore like to go somewhat into elementary propositions in order to place the House in a right frame of mind.

Sir, I should like to tell the House the effect of the provisions contained in article 92, article 93(2) and article 94. Article 92 places upon the President the obligation to lay before Parliament a financial statement for the year—I would like to emphasise the words "for the year"—showing the expenditure in certain categories, those charged on the revenues of India and those not charged on the revenues of India. After that is done, then comes into operation article 93(2), which states how the estimates are to be dealt with. It says that the estimates shall be presented to the House in the form of demands and shall be voted upon by the House of the People. After that work is done, article 94 comes into operation, the new article 94 which says that all these grants made by the House of the People shall be put and regularised in the form of an Appropriation Act No. I would like to ask the Members to consider what the effect is of articles 92, 93 (2) and 94. Suppose we did not enact any other article, what would be the effect ? The effect of the provisions contained in articles 92, 93(2) and 94 in my judgment would be that the President would not be in a position constitutionally to present before Parliament any other estimates during the course of the year. Those are the only estimates which the President could present according to law. That would mean that there would be no provision for, submitting supplementary grants, supplementary demands, excess grants on the other grants which have been referred to such as votes

*CAD; Vol. VIII, 10th June 1949. pp. 768-70.

on credit and things of that sort. If no provision was made for the presentation of supplementary grants and the other grants to which I have referred, the whole business of the executive would be held up. Therefore, while enacting the general provision that the president shall be bound to present the estimates of expenditure for the particular year before Parliament, he is also authorised by law to submit other estimates if the necessity for those estimates arises. Unless therefore we make an express provision in the Constitution for the presentation of supplementary and excess grants, articles 92, 93(2) and 94 would debar any such presentation. The House will now understand why it is necessary to make that provision for the presentation of these supplementary demands.

The question has been raised as to excess grants. The difficulty, I think, is natural. Members have said that when it is stated that no moneys can be spent by the executive beyond the limits fixed by the Appropriation Act, how is it that a case in excess grants can arise ? That, I think, is the point. The reply to that is this. We are making provisions in the terms of an amendment moved by my Friend Pandit Kunzru, which is new article 248-B on page 27 of List I, where there is a provision for the establishment of a Contingency Fund out of the Consolidated Fund of India. Personally myself, I do not think that such a provision is necessary because this question had arisen in Australia, in litigation between the state of New South Wales and the Commonwealth of Australia and the question there was whether the Commonwealth was entitled to establish a Contingency Fund when the law stated that all the revenues should be collected together into a Consolidated Fund, and the answer given by the Australia-Commonwealth High Court was that the establishment of a Consolidated Fund would not prevent the legislature of the Parliament from establishing out of the Consolidated Fund any other fund, although that particular fund may not be spent during that year because it is merely an appropriation although in a different from. However to leave no doubt on this point that it would be open to Parliament notwithstanding the provision of a Consolidated Fund to create a Contingency Fund. I am going to accept the amendment of my Friend, Pandit Kunzru for the incorporation of a new article 248-B. It is, therefore, possible that appart from the Fund that is issued on the basis of an Appropriation Act to the executive, the executive would still be in possession of the Consolidated Fund and such other fund as may be created by law from

time to time. It would be perfectly possible for the executive without actually having any intention to break the Appropriation Act to incur expenditure in excess of what is voted by Parliament and draw upon the Contingency Fund or the other fund. Therefore a breach of the Act has been committed and it is possible to commit such an act because the executive in an emergency thinks it ought to be done and there is provision of fund for them to do so. The question, therefore, is this : when an act like this is done, are you not going to make a provision for the regularisation of that act ? In fact, if I may say so, the passing of an excess grant is nothing else but an Indemnity Act passed by Parliament to exonerate certain officers of government who have in good faith done something which is contrary to the law for the time being. There is nothing else in the idea of an excess grant and I would like to read to the Members of the House paragraph 230 from the House of Commons—Manual of Procedure for the public business. This is what paragraph 230 says :—

> "An excess grant is needed when a department has by means of advances from the Civil Contingencies Fund or the Treasury Chest Fund or cut of funds derived from extra receipts or otherwise spent the money on any service during any financial year in excess of the amount granted for that service and for that year."

Therefore, there is nothing very strange about it. The only tiling is that when there is a supplementary estimate the sanction is obtained without excess expenditure being incurred. In the case of excess grant the excess expenditure has already been incurred and the executive comes before Parliament for sanctioning what has already been spent. Therefore, I think there is no difficulty; not only there is no difficulty but there is a necessity, unless you go to the length of providing that when any executive officer spends any money beyond what is sanctioned by the Appropriation Act, he shall be deemed to be a criminal and prosecuted, you shall have to adopt this procedure of excess grant.

The Honourable Shri K. Santhanam : May I ask if under the provisions of the law as stated in the new article 95(2) the three preceding articles will have effect ? Does it mean that every supplementary demand should be followed by a supplementary Appropriation Act.

The Honourable Dr. B. R. Ambedkar : Yes; that would be the intention.

The Honourable Shri K. Santhanam : The appropriation will not be for the whole year ?

The Honourable Dr. B. R. Ambedkar : There may be supplementary appropriation. That always happens in the House of Commons.

Prof. Shibban Lal Saksena : What about my amendment. Sir ?

The Honourable Dr. B. R. Ambdkar : I am very sorry. Prof. Shibban Lal Saksena says that the financial year should be changed. Well, I have nothing to say except that I suspect that his motives are not very pure. He perhaps wants a winter session so that he can spin as long as he wants. If he wants longer sessions, he must sit during summer months as we are now doing.

[Dr. Ambedkar's amendment was accepted. Article 95, as amended, as mentioned earlier was added to the Constitution.]

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ARTICLE 96

***The Honourable Dr. B. R. Ambedkar :** Sir, I move :

"That for article 96, the following article be substituted:—

Votes on account, votes on credit and exceptional grants.

'96. (1) Notwithstanding anything contained in the foregoing provisions of this Chapter, the House of the People shall have power—

(a) to make any grant in advance in respect of the estimated expenditure for a part of any financial year pending the completion of the procedure prescribed in article 93 of this Constitution for the voting of such grant and the passing of the law in accordance with the provisions of article 94 of this Constitution in relation to that expenditure;

(b) to make a grant for meeting an unexpected demand upon the resources of India when on account of the magnitude or the indefinite character of the service the demand cannot be staled with the details ordinarily given in an annual financial statement;

(c) to make an exceptional grant which forms no part of the current service of any financial year;

and to authorise by law the withdrawal of moneys from the consolidated Fund of India for the purpose for which the said grants are made.

(2) The provisions of articles 93 and 94 of this Constitution shall have effect in relation to the making of any grant under clause (1) of this article and to any law to be made under that clause as they have effect in relation to the making of a grant with regard to any expenditure mentioned in the annual financial statement and the law to be made for the authorisation of appropriation of moneys out of the Consolidated Fund of India to meet such expenditure.'"

The Honourable Shri K. Santhanam : Sir, I do not want to reopen the general principle which has been accepted; hut I wish to say that the drafting of this article is rather defective.

For instance, in clause (1) it says, "the House of the People shall have power" and this is followed by, after sub-clause (c), "and to authorise by law……." I think according to the Constitution, the House of the People cannot authorise by law.

The Honourable Dr. B. R. Ambedkar : I should say, Sir, that the Drafting Committee reserves to itself the liberty to re-draft the last three lines following sub-clause (c).

*CAD, Vol. VIII, 10th June 1949, pp. 711-713.

The Honourable Shri K. Santhanam : Sir, I am unable to understand this. In the House here we pass something which is obviously wrong and unconstitutional and then leave it to the Drafting Committee. I do not think we can leave it to the Drafting Committee to tamper with the provisions we are making unless there is some lacuna or a mistake. We do not want to be faced with a new Constitutional together and subjected to the trouble of looking at it article by article again. I do not think it is right for this House to pass a clause which is obviously wrong. Either he must say Parliament shall have power……

The Honourable Dr. B. R. Ambedkar : I am prepared to accept the amendment right now. You may suggest it. "Parliament shall have power to authorise by law.

The Honourable Shri K. Santhanam : Sir, the amendment may be, "and Parliament shall have power to authorise by law the withdrawal of moneys from the Consolidated Fund of India for the purposes for winch the said grants are made."

Coming to clause (2), it says "that the provisions of articles 93 and94 of this Constitution shall have effect in relation to the making of any grant...;" I want to know if this means that there will have to bean Appropriation Act for this and that Appropriation Act will also show all the divisions, charged and non-charged, votable and non-votable, as stated in the previous article. If that is the implication…….

The Honourable Dr. B. R. Ambedkar : That cannot be.

The Honourable shri K. Santhanam : Article 93 says…..

Shri T. T. Krishnamachari : If it will help the Honourable Member, we can say, there will be a Consolidated Fund Bill No. I before an Appropriation Act, which will have the main skeleton.

The Honourable Shri K. Santhanam : What I want to know is whether the Consolidated Fund Bill No. I will also consist of the charged and non-charged amounts and voted and non-voted amounts, or will give only the votable portion.

The Honourable Dr. B. R. Ambedkar : The charged portion occurs only in the final Appropriation Act. This voting account gives what in the technical language of the House of Commons are called supply services as distinct from services charged on the revenues.

The Honourable Shri K. Santhanam : This article says that the provisions of articles 93 and 94 will have to be complied with.

The Honourable Dr. B. R. Ambedkar : Articles 93 and 94 mean the voting of Appropriation Act.

The Honourable Shri K. Santhanam : Article 93, first part, says that the charged portion would be shown and the second part says that such portion as is votable shall be presented to the vote. I want to know whether both these portions will be appplicable to the voting account.

The Honourable Dr. B. R. Ambedkar : Article 93 says that the vote of the House is not necessary for services charged on the revenues of India.

The Honourable Shri K. Santhanam : But, they will have to be shown in the Appropriation act.

The Honourable Dr. B. R. Ambedkar : When passed. This is what is called Consolidated Fund Act I.

The Honourable Shri K. Santhanam : Article 94 does not deal with Consolidated Fund Act.

The Honourable Dr. B. R. Ambedkar : That is also the Appropriation Act. As I stated before, there is no distinction. The Appropriation Act shows the details while the Consolidated Fund Act does not show details.

The Honourable Shri K. Santhanam : I do not think Dr. Ambedkar's explanations can override the precise provisions of an article. As the article stands, all the provisions of articles 93 and 94 will apply to this Consolidated Fund as to the other. Therefore, the entire budget procedure will have to be duplicated.

The Honourable Dr. B. R. Ambedkar : If the honourable Member will read carefully sub-clause (2), he will see what sub-clause it deals with. It says, "The provisions of articles 93 and 94 of this Constitution shall have effect in relation to the making of any grant under clause (I).

The Honourable shri K. Santhanam : Please read on.

The Honourable Dr. B. R. Ambedkar : As I stated, there is no question of grant with regard to services charged *on* the revenues.

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***The Honourable Dr. B. R. Ambedkar :** Sir, I do not think there is any necessity to say anything more. I am only moving an amendment:

> "That after sub-clause (c), of clause (1), the following words be added after 'and' and before 'to':—
>
> 'Parliament shall have power.'"

[Amendment was accepted along with Dr. Ambedkar's previous motion. Article 96, as amended, was added to the Constitution]

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*CAD, Vol. VIII, 10th January 1949, p. 774.

ARTICLE 97

The Honourable Dr. B. R. Ambedkar : I do not think any reply is called for, but I would like. Sir, with your permission to move one amendment myself. I move :

> "That with reference to amendment No. 1723 of the List of Amendments, in clause (3) of article 97, for the words 'revenues of India' the words 'Consolidated Fund of India' be substituted."

Shri H. V. Kamath : The words at the end of the clause have been needlessly repeated.

The Honourable Dr. B. R. Ambedkar : I do not think so.

* * * * *

Mr. President : I shall now put Dr. Ambedkar's amendment. The question is :

> "That with reference to amendment No. 1723 of the List of Amendments, in clause (3) of article 97, for the words 'revenues of India' the words 'Consolidated Fund of India' be substituted."

The amendment was adopted.

Article 97, as amended, was added to the Constitution.

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ARTICLE 98

†**The Honourable Dr. B. R. Ambedkar :** All that I can say is that I cannot accept Mr. Jaspat Roy Kapoor's amendment. It is much better that the matter be left elastic to be provided for by rules. With regard to Mr. Kamath's amendment, I certainly feel drawn to it. But for the moment I cannot commit myself, but I can assure him that this matter will be considered by the Drafting Committee.

Mr. President : Then I do not put Mr. Kamath's amendment to the vote. I treat it as a drafting amendment which the Drafting Committee will consider.

With regard to Mr. Jaspat Roy Kapoor's amendment No. 15 I would like to draw Dr. Ambedkar's attention to one point. In clause (2) of article 98 we have the words :

> "With respect to the Legislature of the Dominion of India."

In another place we have used the expression "Constituent Assembly of India". I suppose Dr. Ambedkar would like to have the same expression here also ?

The Honourable Dr. B. R. Ambedkar : Yes.

Mr. President : I was pointing out that here in this clause (2), the expression "Legislature of the Dominion of India" occurs. Perhaps, the expression 'Constituent Assembly of India' will be better ?

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*CAD, Vol. VIII, 10th January 1949, pp. 777-78

† *Ibid.,* pp. 780-81.

The Honourable Dr. B. R. Ambedkar : We have now got two Assemblies so to say, the Constituent Assembly sitting as Constituent Assembly and the Constituent Assembly sitting as legislature. We have rules on both sides. I think therefore it would be desirable to retain the words 'Dominion of India', so that we could adopt the rules which are prevalent on the other side.

Shri Jaspat Roy Kapoor : My submission is that for the words 'Legislature of the Dominion of India' we may have the words 'Constituent Assembly of India' and the words 'Legislative' with in brackets. That is how we have describing our Constituent Assembly when it functions as Legislature.

The Honourable Dr. B. R. Ambedkar : We have to use the language of the India Independence Act. We have to restrict ourselves to the terminology of the Act.

Mr. President : If it will not create any difficulty, I do not mind it. I will put the amendment moved by Shri Jaspat Roy Kapoor to vote.

Shri Jaspat Roy Kapoor : Sir, I seek leave of the House to withdraw it. I do not want it to have the fate of a defeated amendment.

Mr. President: If the House grants him leave to withdraw his amendment, it may be withdrawn.

[The amendment was, by leave of the Assembly, withdrawn. Article 98 was added to the Constitution.]

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NEW ARTICLE 98-A

***Mr. President:** We have notice of an amendment to insert a new article by Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar : I move :

"That after article 98, the following new article he inserted :—

Regulation by law of procedure in Parliament in relation to financial business.

'98-A. Parliament may. for the purpose of the timely completion of the financial business, regular by law the procedure of, and the conduct of business in, each House of Parliament in relation to any financial matter or to any Bill for appropriation of moneys out of the Consolidated fund of India' and. if and in so far as the provision of any law so made is inconsist with any rule made by a House of Parliament under the last preceding article or with any rule or standing order having effect in relation to Parliament under clause (2) of that article, such provision shall prevail.'"

Mr. President : As no Member desires to speak on this amendment, I shall put the motion to vote.

The motion was adopted.

Article 98-A was added to the Constitution.

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*CAD, Vol. VIII, 10th June 1949, p. 781.

ARTICLE 173

***Mr. President :** ...Dr. Ambedkar may move the next amendment, No. 2464.

The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That in clause (4) of article 173, alter the words 'deemed to have been passed' the words by 'both Houses in the form in which it was passed' be inserted."

[The amendment of Dr. Ambedkar was accepted.]

Article 173, as amended, was added to the Constitution.

ARTICLE 174

†Mr. President: Dr. Ambedkar, there are two amendments in your name Nos. 69 and 70 of List I. These are only to bring this article into line with the provisions which we have already adopted.

The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That for sub-clause (c) and (d) of clause (1) of article 174, the following be substituted :

(c) the custody of the Consolidated Fund or the Contingency fund of the State, the payment of moneys into or the withdrawal of moneys from any such fund;

'(d) the appropriation of moneys out of the Consolidated Fund of the State'."

and also —

"That in sub-clause (e) and (f) of clause (1) of article 174, for the words 'revenue of the State 'the words 'Consolidated Fund of the State' be substituted."

‡Mr. President: There are no other amendments to this article. I shall now put it to vote.

Shri H. V. Kamath : Does not Dr. Ambedkar want to say anything in the matter ?

The Honourable Dr. B. R. Ambedkar : All I can say is that I shall look into the matter when we take up the revision of the Constitution.

[Dr. Ambedkar's amendments were adopted.]

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#Shri H. V. Kamath : As Dr. Ambedkar has promised to look into the matter, I will leave it to his wisdom. He might exercise it at a later stage.

Mr. President : Both the amendments ?

The Honourable Dr. B. R. Ambedkar: There is only one amendment.

Shri H. V. Kamath : May I ask which one he promised to look into ? Perhaps he will make it clear.

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*CAD, Vol. VIII, 10th June 1949, p. 782.

† *Ibid.,* pp. 782-83.

‡*Ibid., p.* 783.

#*Ibid.,* p. 784.

The Honourable Dr. B. R. Ambedkar : Amendment No. 2466.

Mr. President : Very well, then, 1 will not put them to vote.

Article 174, as amended, was added to the Constitution.

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***The Honourable Dr. B. R. Ambedkar :** I want article 175 to be held over.

Shri T. T. Krishnamachari : I suggest articles 175 and 176 may be held over as they affect some problems which the Drafting Committee are still considering. Article 177 may be taken.

Mr. President : Then we shall take up article 177.

ARTICLE 177

†The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That in sub-clauses (a) and (h) of clause (2) of article 177. for the words 'revenues of the State' the words 'Consolidated Fund of the State' be substituted."

I move:

"That in clause (3) of article 177, for the words 'revenues of each State', the words 'Consolidated Fund of each State' be substituted."

Sir, I also move :

"That in sub-clause (b) of clause (3) of article 177, for the word 'emoluments' the word 'salaries' be substituted."

[Dr. Ambedkar's all amendments were carried.]

ARTICLE 178

‡The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That in clause (1) of article 178, for the words 'revenues of a State', the words 'Consolidated Fund of a State' be substituted."

(Amendment No. 2490 was not moved).

Mr. President : The question is :

"That in clause (1) of article 178, for the words 'revenues of a State', the words 'Consolidated Fund of a State' be substituted."

The amendment was adopted.

Mr. President: The question is :

"That article 178 as amended, stand part of the Constitution."

The motion was adopted.

Article 178, as amended, was added to the Constitution.

ARTICLE 179

#The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That for article 179, the following be substituted :—

Appropriation Bills

'179. (1) As soon as may be after the grants under the last preceding article have been made by the Assembly there shall be introduced a Bill to provide for the appropriation out of the Consolidated Fund of the Slate all money required to meet—

*CAD, Vol. VIII, 10th June 1949, p. 7S4.

† *Ibid.,* p. 784.

‡ *Ibid., pp.* 785-86.

Ibid., pp. 785-86.

(a) the grants so made by the Assembly, and

(b) the expenditure charged on the Consolidated Fund of the State but not exceeding in any case the amount shown in the statement previously laid before the House or Houses.

(2) No amendment shall he proposed to any such Bill in the I louse or either House of the Legislature of the State which will have the effect of varying the amount or altering the destination of any grant so made or of varying the amount of any expenditure charged on the Consolidated Fund of the State, and the decision of the person presiding as to the amendments which are admissible under this clause shall be final.

(3) Subject to the provisions of the next two succeeding articles no money shall be withdrawn from the Consolidated Fund of the State except under appropriation made by law passed in accordance with the provisions of this article'."

Mr. President : There is no other amendment to this article,

[The motion was adopted. Article 179, as amended, was added to the Constitution.]

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ARTICLE 180

***The Honourable Dr. B. R. Ambedkar :** Sir I move :

"That for article 180, the following article be substituted :—

'180(1) The Governor shall—

Supplementary additional or excess grants.

(a) if the amount authorised by any law made in accordance with the provisions of article 179 of this Constitution to be expended for a particular service for the current financial year is found to be insufficient for the purposes of that year or when a need has arisen during the current financial year for supplementary or additional expenditure upon some new service not contemplated in the annual financial statement for that year, or

(b) if any money has been spent on any service during a financial year in excess of the amount granted for that service and for that year, cause to be laid before the House or the Houses of the Legislature of the State another statement showing the estimated amount of that expenditure or cause to be presented to the Legislative Assembly of the State a demand for such excess, as the case may be.

(2) The provisions of the last three preceding articles shall have effect in relation to any such statement and expenditure or demand and also to any law to be made authorising the appropriation of moneys out of the Consolidated Fund of the State to meet such expenditure or the grant in respect of such demand as they have effect in relation to the annual financial statement and the expenditure mentioned therein or to a demand for a grant and the law to be made for the authorisation of appropriation of moneys out of the consolidated Fund of the State to meet such expenditure or grant.'"

Article 180, as amended, was added to the constitution

Amendment was adopted

ARTICLE 181

†The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That for article 181. the following article be substituted :

Votes on account, votes on credit and exceptional grants.

181. (1) Notwithstanding anything contained in the foregoing provisions of this Chapter, the Legislative Assembly of a state shall have power.

*CAD, Vol. VIII, 10th June 1949, pp. 786-87.

†*Ibid.,* pp. 787-88.

(a) to make any grant in advance in respect of the estimated expenditure for apart of any financial year pending the completion of the procedure prescribed in article 178 of this Constitution for the voting of such grant and the passing of the law in accordance with the provisions of article 17° of this constitution in relation to that expenditure ;

(b) to make a grant for meeting an unexpected demand upon the resources of the State when on account of the magnitude or the indefinite character of the service the demand cannot lie stated with the details ordinarily given in an annual financial statement;

(c) to make an exceptional grant which forms no part of the current service of any financial year :

and the Legislature of the state shall have power to authorise by law the withdrawal of moneys from the Consolidated Fund of the State for the purposes for which the said grants are made.

(2) The provisions of articles 178 and 179 of this Constitution shall have effect in relation to the making of any grant under clause (1) of this article and to any Jaw to be made under that clause as they have effect in relation to the making of a grant with regard to any expenditure mentioned in the annual financial statement and the law to be made for the authorisation of appropriation of moneys out of the Consolidated Fund of the State to meet such expenditure.'"

[Motion was adopted. Article 181 as amended, was added to the Constitution.]

ARTICLE 182

***Mr. President :** The question is :

"That article 182 form part of the constitution."

The Honourable Dr. B. R. Ambedkar : With your permission, Sir, I seek to move a small amendment.

"That in article 182, for the words 'revenues of the State' the words 'Consolidated fund of the State' be substituted."

Mr. President : There is no other amendment.

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[The amendment was adopted. Article 182, as amended was added to the Constitution.]

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ARTICLE 183

†**Mr. President:** Does anyone else wish to say anything ?

The Honourable Dr. B. R. Ambedkar : I do not accept this amendment. (of Mr. Sidhwa)

Mr. President: The question is :

"That in clause (1) of article 183, the word 'shall' be substituted for the word 'may 'and the following be added at the end :—

'within 6 months from the date of the first session of the assembly.'

The amendment of Mr. R. K. Sidhva was negatived.

Article 183 was added to the Constitution.

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*CAD, Vol. VIII, 10th June 1949, p. 788.
†*Ibid,* p. 789.
‡*Ibid.,* p. 790.

NEW ARTICLE 183-A

‡**Mr. President:** There is a new article 183-A proposed by Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar : Sir, I beg to move :

"That after article 183, the following new article be inserted:—

Regulation by law of procedure in the Legislature of the State in relation to financial business.

'183-A. The Legislature of a State may, for the purpose of the timely completion of the financial business, regulate by law the procedure of, and the conduct of business in, the House or Houses of the Legislature of the State in relation to any financial matter or to any Bill for the appropriation of moneys out of the Consolidated Fund of the State, and. if in so far as the provision of any law so made is consistent with any rule made by the House or either House of the Legislature of the State under the last preceding article or with any rule or standing order having effect in relation to the Legislature of the state under clause (2) of that article, such provision shall prevail.'"

Mr. President : Does anyone wish to say anything ? The question is :

"That new article 183-A be added to the constitution."

The motion was adopted.

Article 183-A, was added to the Constitution.

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ARTICLE 217

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***Mr. President:** I have not seen any amendment.

Prof. Shibban Lal Saksena : I gave notice of it this morning. I beg to move…..

The Honourable Dr. B. R. Ambedkar (Bombay : General)**:** We have not got copies of his amendment.

Shri L. Krishnaswami Bharathi (Madras : General)**:** We cannot follow what he is moving.

Mr. President : He gave notice of his amendment a few minutes before we actually sat. But I am told it is more or less word for word the same as No. 2741.

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†**Prof. Shibban Lal Saksena :** Sir, I feel that articles of this fundamental importance should not go unnoticed in this House merely because certain amendments are not moved by Members who gave notice of them.

The Honourable Dr. B. R. Ambedkar : I would like to raise one or two points about this. This seems to be a rather important matter. The first thing I want to know is whether this is an amendment or an amendment to an amendment. If it is an amendment to an amendment, it cannot be moved unless the main amendment is moved.

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*CAD, Vol. VIII, 13th June 1949, p. 793.

† *Ibid.,* p. 794.

Mr. President: It is an amendment to amendment No. 2743 which has been moved by Mr. Naziruddin Ahmad. The Honourable Member in his notice says that his amendment is an amendment to Nos. 2741, 2742, 2743, 2744 or 2745.

The Honourable Dr. B. R. Ambedkar : If it is to be taken as an amendment to No. 2743, then obviously, as this goes far beyond the scope of 2743, it cannot be moved unless the Member satisfies you that he is not substantially changing the original amendment. As it is, it is a pure reproduction of the amendment which stands in the names of Messrs. Santhanam, Ananthasayanam Ayyangar and others.

Following amendments moved by Mr. T. T. Krishnamachari were adopted.

"That in clause (2) of article 217, after the word and figure 'Part I' the words and figures 'or Part III' be inserted."

"That in clause (3)ofarticle217,after the word and figure 'Part ' the words and figures "or Part III' be inserted."

The amendments were adopted

Article 217, as amended, was added to the Constitution.

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ARTICLE 224

***The Honourable Dr. B. R. Ambedkar :** I wish that article 224 and 225 be held over.

Mr. President: Article 224 and 225 are held over.

ARTICLE 226

The Honourable Dr. B. R. Ambedkar : I formally move amendment No. 2775.

Then I move an amendment to this.

Sir I move:

"That for amendment No. 2775 of the List of Amendments, the following be substituted :—

"That article 226 be renumbered as clause (1) of article 226, and

(a) at the end of the said clause as so renumbered the words 'while the resolution remains in force 'be added : and

(b) after clause (1) of article 226, as so renumbered, the following clauses be added :—

(2) A resolution passed under clause (1) of this article shall remain in force for such period not exceeding one year as may be specified therein :

Provided that if and so often as a resolution approving the continuance in force of any such resolution is passed in the manner provided in clause (1) of this article, such resolution shall continue in force for a further period of one year from the date on which under this clause it would otherwise have ceased to be in force.

(3) A law made by Parliament which Parliament would not but for the passing of a resolution under clause (1) of this article have been competent to make shall to the extent of the incompetency cease to have effect on the expiration of a period of six months after the resolution has ceased to be in force, except as respects things done or omitted to be done before the expiration of the said period'."

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†Mr. President: Before I put the amendment to the vote, do you wish to say anything, Dr. Ambedkar ?

*CAD, Vol. VIII, 13th June 1949, pp. 799-800.

† *Ibid.,* p. 809.

The Honourable Dr. B. R. Ambedkar : Much has already been said. Unless you desire me to speak, 1 would rather not say anything.

Mr. President : That is your choice.

[Article 226, as amended by Dr. Ambedkar's amendment was adopted and added to the Constitution.]

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ARTICLE 229

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***The Honourable dr. B. R. Ambedkar :** Sir, I move :

"That with reference to amendments Nos. 2781 and 2783 of the List of Amendments, for clause (1) of article 229, the following clause be substituted :—

'(1) If it appears to the Legislatures of two or more States to be desirable that any of the matters with respect to which Parliament has no power to make laws for the States except as provided in article 226 and 227 of this Constitution should he regulated in such States by Parliament bylaw, and resolutions to that effect are passed by the House or. where there are two Houses, by both the Houses of the Legislature of each of the States, it shall be lawful for Parliament, to pass an Act for regulating that matter accordingly and any Act so passed shall apply to such States and to any other State by which it is adopted afterwards by resolution passed in that behalf by the House or. where there are two Houses, by each of the Houses of the Legislature of that State.'"

I would like to explain this amendment in a few brief sentences. The original article as it stood said : "If it appears to the Legislature or Legislatures of one or more States to be desirable, etc." The new amendment said "if it appears to the Legislatures of two or more States to be desirable etc." Under the new amendment it would be open to invoke the aid of Parliament to make a law only if two or more States join, and sent a resolution. The other changes in sub-clause (1) of article 229 are merely consequential to this principal amendment, namely, that the power can be invoked only if two or more States desire, but not by a single State.

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†The Honourable Dr. B. R. Ambedkar : Sir, I quite appreciate the point raised by my Honourable Friend Mr. Santhanam; but 1 think he has not carefully read sub-clause (2). The important words are : 'in like manner', so that if the State legislatures in whose interest this legislation is passed in like manner, that is to say by resolution, agree that such legislation be amended or repealed. Parliament would be bound to do so.

The Honourable Shri K. Santhanam : "May be amended".

The Honourable Dr. B. R. Ambedkar : 'May' means shall. There is no difficulty at all.

[Dr. Ambedkar's amendment was adopted. Article 229 as amended, was added to the Constitution.]

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*CAD, Vol. VIII, 13th June 1949, p. 811.

†*Ibid.,* p. 512.

ARTICLE 230

***The Honourable Dr. B. R. Ambedkar :** Sir, I move :

"That in article 230, for the words 'for any Slate or part thereof', the words 'for the whole or any part of the territory of India' be substituted."

[The amendment was adopted without further discussion. Article 230, as amended, was added to the Constitution.]

ARTICLE 231

†The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That with reference to amendment No. 2788 of the List of amendments, in clause (2) of article 231, after the word and figure 'Part I' the words and figures 'or Pari III' be inserted."

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‡The Honourable Dr. B. R. Ambedkar : Sir, I agree that Mr. Thanu Pillai's point requires explanation. Now the explanation is this. I am sure he will agree that the rule regarding repugnancy which is mentioned in article 231 must be observed so far as future laws made by Parliament are concerned. He will see that the wording in article 231 is 'whether passed before or alter'. Surely with regard to laws made by Parliament after the commencement of this Constitution, the rule of repugnancy must have universal application with regard to laws made both by the States in Part I and by the States mentioned in Part III. With regard to the question of repugnancy as to the laws made before the passing of this Constitution, the position is this. As I have said so often in this House, it is our desire and I am sure the desire of the House that all articles in the Constitution should be made generally applicable to all States without making any specific differentiation between States in Part I and Part III. It is no good that whenever you pass an article you should have added to that article a proviso making some kind of saving in favour of States in Part III, although there is no doubt about it that some savings will have to be made with regard to laws made by States in Part III. That is proposed to be done, as I said, in a new Part or a new Schedule where the reservation in respect of States in Part III will be enacted, so that so far as laws made before the Constitution comes into existence are concerned, they would be saved by some provision enacted in that special form or special Schedule. I should like to add to that one more point *viz.,* that while it is proposed to make reservations in that special part in favour of Part III States, nonetheless that reservation could not be absolute because the reservations made therein, at any rate some provisions in that special part, will be governed by article 307 which gives the President the power to make adaptations. Now that adaptation will apply both to States in Part I as well as to States

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*CAD, Vol. VIII, 13th June 1949, p. 813.

† *Ibid.*, p. 813.

‡ *Ibid.,* pp. 814-15.

in Part III. Therefore so far as regards laws made by Parliament or the Legislatures of States in Part III before the commencement, they will in the first instance be saved from the operation of article 231 but they will also be subject to the provisions of article 307 dealing with adaptation.

[Dr. Ambedkar's amendment, as mentioned earlier was accepted. Article 231, as amended, was added to the Constitution.]

ARTICLE 232

***Mr. President:** We take up article 232.

The Honourable Dr. B. R. Ambedkar : Sir, I beg to move :

"That the heading to article 232 'Restriction on Legislative Powers' be omitted."

With your permission I move my new amendment:

"(i) That after the word and figure 'Part I' the words and figures 'or Part III' be inserted ; and

(ii) after clause (a) of article 232, the following clause be inserted :—

'(aa) where the recommendation required was that of the Ruler, either by the Ruler or by the President'."

Now Sir, I have come to understand that there is some sentimental objection to the use of the word 'ruler'. I am prepared to yield to that sentiment and what I therefore propose is that the House should accept this amendment for the moment and leave the matter to the Drafting Committee to find a better word to replace the word 'ruler'. Otherwise the whole of the article would have to be unnecessarily held over for no other reason except that we cannot find at the moment a better word to substitute for the word 'ruler'.

[All the above amendments of Dr. Ambedkar were adopted. Article 232, as amended, was added to the Constitution.]

ARTICLE 234

Mr. President: We take up No. 234.

†The Honourable Dr. B. R. Ambedkar : Sir, I move :

That the following new clause be added to article 234 :—

(3) Where by virtue of any direction given to a State as to the construction or maintenance of any means of communication under the last precending clause of this article costs have been incurred in excess of those which would have been incurred in the discharge of the normal duties of the State if such direction had not been given, there shall be paid by the Government of India to the State such sum as may be agreed or, in default of agreement, as may be determined by an arbitrator appointed by the Chief Justice of India in respect of the extra costs so incurred by the State.

[The amendment was adopted. Article 234, as amended was added to the Constitution.]

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*CAD, Vol. VIII, 13th June 1949, p. 815.

†*Ibid.,* p. 816.

ARTICLE 238

***The Honourable Dr. B. R. Ambedkar :** Sir, I formally move No. 2807 :

"That in the proviso to article 238, for the words 'under the terms of any agreement entered into in that behalf by such State with the Union' the words 'under the terms of any instrument or agreement entered into in that behalf by such State with the Government of the Dominion of India or the Government of India or of any law made by Parliament under article 2 of this Constitution' be substituted."

I move further:

"(1) That with reference to amendment No. 2807 of the List of Amendments, in clause (2) of article 238, after the words 'bylaw 'the words 'made by Parliament' be added.

(2) That with reference to amendment No. 2807 of the List of Amendments, the proviso to article 238 be deleted."

The amendment was adopted.

Article 238, as amended, was added to the Constitution.

ARTICLE 239

†The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That in article 239, before the word 'State 'where it occurs for the second tune in line 29, the word 'other' be inserted."

The amendment was adopted.

Article 239, as amended, was added to the Constitution.

ARTICLE 240

‡The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That for clause (1) of article 240, the following new clauses be substituted :—

'(I) If the President receives such a complaint as aforesaid, he shall, unless he is of opinion that the isues involved are not sufficient importance to warrant such action, appoint a Commission to investigate in accordance with such instructions as he may give to them, and to report to him on the matters to which the complaint relates, or that of those matters as he may refer to them.

(1a) The Commission shall consist of such persons having special knowledge and experience in irrigation, engineering, administration, finance or law as the President may deem necessary for the purposes of such investigation'."

[The amendment was adopted Article 240 as amended, was added to the Constitution.]

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*CAD, Vol. VIII, 13th June 1949, p. 817.
† *Ibid.,* p. 817.
‡ *Ibid.,* p. 818.

ARTICLE 112-B

***The Honourable Dr. B. R. Ambedkar :** Sir, I move :

"That for amendment No.23, the following amendment he substituted :—

"That after the new article 112-A, the following article he inserted :—

Conference on the Supreme Count of Appellate jurisdiction with regard to criminal matters.

112-13 Parliament may by law confer on the Supreme Court power to entertain and hear appeals hum any judgment, final order or sentence of a High Court in the territory of India in the exercise of its criminal jurisdiction subject to such conditions and limitations as may be speed led in such law.

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ARTICLE 111-A

†**Mr. President:** Dr. Ambedkar will now move his amendment.

The Honourable Dr. B. R. Ambedkar (Bombay : General) **:** Sir, I move :

"That with reference to amendments Nos. 23 and 24 of List I (Fifth Week) for the new article 111-A, the following be substituted :—

Appellate jurisdiction of Supreme Court with regard to criminal matters.

111-A (1) The Supreme Court shall have power to entertain and hear anneals from any judgment, final order or sentence in a criminal proceeding of a High Court in the territory of India—

(a) if the High Court has on appeal reversed the order of acquital of an accused person and sentenced him to death; or

(b) if the High Court has withdrawn for trial before itself any case from any court subordinate to its authority and has in such trial convicted the accused person and sentenced him to death; or

(c) if the High Court certifies that the case is a fit one for appeal to the Supreme Court:

Provided that an appeal under sub-clause (c) of this clause shall lie subject to such rules as may from time to time he made by the Supreme Court and to such conditions as the High Court may establish or require.

(2) Parliament may by law confer on the Supreme Court any further powers to entertain and hear appeals from any judgment, final order or sentence in a criminal proceeding of a High Court in the territory of India subject to such conditions and limitations as may be specified in such law."

I do not wish to say anything at this stage but I shall reserve my remarks towards the end after hearing the course of debate on my new amendment.

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‡**The Honourable Dr. B. R. Ambedkar :** Mr. President, Sir, I rise to make just a few observations in order to give the House the correct idea of what is proposed to be done by the introduction of this new article 111-A. The first tiling which I should make clear is that it is not the intention of article 111-A to confer general criminal appellate jurisdiction upon the Supreme Court. The jurisdiction sought to be conferred is of a very limited character.

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*CAD, Vol. VIII, 13th June 1949, p. 824.

† *Ibid.,* 14th June 1949, p. 840.

‡ *Ibid.,* 14th .Tune 1949, pp. 853-57.

In showing the necessity why it is desirable in my judgment to confer appellate criminal jurisdiction upon (be Supreme Court as specified in the sub-clauses of article 111-A, I propose to separate sub-clauses (a) and (b) from sub-clause (c) because they stand on a different footing. As the House knows, (a) and (b) confine the appellate jurisdiction of the Supreme Court only to those cases where there has been a sentence of death : in no other case the Supreme Court is to have criminal appellate jurisdiction. That is the first point that bas to be borne in mind.

I shall state briefly why it is necessary to confer upon the Supreme Court this limited appellate jurisdiction in cases where there bas been a sentence of death passed upon an accused person. The House should note that so far as our criminal jurisprudence, as it is enshrined in the Criminal Procedure Code, is concerned, there is one general principle which has been accepted without question and that principle is this that where a man has been condemned to death he should have at least one right of appeal, if not more.

Mr. President: May I just point out one thing? Your amendment does not cover the case of a person whose sentence has been enhanced to a sentence of death.

The Honourable Dr. B. R. Ambedkar : We do not propose to give such a thing. That is the point. With regard to enhancement of the sentence we do not propose to confer criminal jurisdiction of an appellate nature on the Supreme Court. We do it with open eyes and I think everybody ought to know it. That is not the intention. It must be generally accepted that where a man has been condemned lo death he should have at least one right of appeal. Starting with that premise and examining the provisions of the Criminal Procedure Code it will be found that there are three cases where this principle is, so to say, violated or not carried into effect. The first case is the case where, for instance, the District Judge acting as a Sessions Judge acquits an accused person; the Government which has been invested with a right of appeal against the acquittal appeals lo the High Court, and the High Court i n its appellate jurisdiction condemns the man to death. In a case like this no appeal is provided. That is one exception to the premise.

The second case is the case of the Sessions Judge in the High Courts of Bombay, Calcutta and Madras, where sitting in a Sessions Court he acquits a criminal; then the government takes an appeal to the High Court

on its appellate side and the appellate side on hearing the appeal condemns the man to death. There again there is no appeal. Then there is the third case, which is worse, namely, that under section 526 of the Criminal Procedure Code a High Court, in exercising of the powers conferred upon it by that section, withdraws a case to itself and passes a sentence of death. There again there is no appeal.

Mr. Naziruddin Ahmad : There is a right of appeal in such cases.

The Honourable Dr. B. R. Ambedkar : No. No appeal from the High Court.

Mr. Naziruddin Ahmad : Under section 411-A of the Criminal Procedure Code.

The Honourable Dr. B. R. Ambedkar : Section 411-A applies only to the High Courts of Calcutta, Bombay and Madras. Even there it does not apply to all cases or to cases where such High Courts have acted under section 506. Section 411-A is confined to appeals from the judgment of High Courts sitting on the original side, in sessions. Therefore, Sir.....*

Pandit Lakshmi Kanta Maitra : Section 526 generally refers to transfer of cases.

The Honourable Dr. B. R. Ambedkar : When a case is transferred and tried by the High Court, there is no right of appeal. It has extraordinary jurisdiction. Therefore these are three flagrant cases where the general principles that a man who has been condemned to death ought to have at least one appeal is not observed. I think, having regard to the enlightened conscience of the modern world and of the Indian people, such a provision ought to be made. The object of sub-clauses (a) and (b) therefore is to provide a right of appeal to a person who has been acquitted in the first instance and has been condemned to death finally by the High Court. I do not think that on grounds of conscience or of humanity there would be anybody who would raise objection to the provisions contained in sub-clauses (a) and (b).

Now I come to sub-clause (c). With regard to this the House will remember that it has today an operative force under the Criminal Procedure Code, section 411, so far as the High Courts of Calcutta, Madras and Bombay are concerned. This right of appeal to the Privy Council on a certificate from the High Court that it is a lit case was conferred by the Legislative Assembly in the year 1943, and very deliberately. We have therefore before us two questions with regard to the

*Dots indicate interruption.

provision contained in section 411 of the criminal Procedure Code. There are two courses open to this House : either to take away this provision altogether or to extend this provision to all the High Courts. It seems to me that if you take away the provisions contained in section 411 which permit an appeal on a certificate from the High Court, you will be deliberately taking away an existing right which has been exercised and enjoyed by people, at any rate, in three different provinces. That seems to me an unnatural proceeding—to take away a judicial right which has already become, so to say, a vested right. The only alternative course therefore is to enlarge the provisions in such a manner that it will apply to all the High Courts. And the course that has been adopted in my amendment is the second course, namely, to extend it to all the High Courts. My Friends who are agitated that this might open the flood-gates of criminal appeals to the Supreme Courts have, I think, forgotten two important considerations. One important consideration is that the power of hearing appeals which is proposed to be conferred on the Supreme Court under sub-clauses (a) and (b) of clause (1) of the new article may vanish any moment that the legislature abolishes the death penalty. There will be no such necessity left for appeals to the Supreme Court if the legislature, thinking of what is being said in other parts of the world with regard to death penalty, and taking into consideration the traditions of this country, abolishes the death penalty; in that case sub-clauses (a) and (b) would ultimately fall into desuetude and the work of the Supreme Court so far as criminal side is concerned will diminish if not vanish.

With regard to sub-clause (c) it will be noticed that it has been confined in very rigid limits by the proviso which goes along with it, namely "Provided that an appeal under sub-clause (c) of this clause shall lie subject to such rules as may from time to time be made by the Supreme Court and to such conditions as the High Court may establish or require." Therefore, the certificate is not going to be an open process available merely for the asking. It will be subject at both ends to the conditions and limitations laid down by the High Court and the rules made by the Supreme Court. Therefore it will be realised that sub-clause (c) is a very rigid provision. It is not flexible and not as wide as people may think.

Pandit Lakshmi Kanta Maitra : Modified by the proviso.

The Honourable Dr. B. R. Ambedkar: Yes, as modified by the proviso.

Now, I come to clause (2) of my amendment. There you have got the general power given to Parliament to enlarge the criminal jurisdiction of the Supreme Court beyond the three cases laid down in my amendment. There was a point of view that the three cases mentioned in clause (1) of my amendment ought to be enough and that there ought not to be a door kept open for Parliament for enlarging the criminal jurisdiction of the Supreme Court and that sub-clauses (a), (b) and (c) ought to be the final limit of criminal jurisdiction of the High Court. Well, the only answer I could give is this : It is difficult to imagine what circumstances may arise in future. I think it would be better to believe it if a man said that there would be no circumstances arising at all requiring Parliament to confer some kind of criminal appellate jurisdiction upon the Supreme Court. Supposing such a contingency did arise and if the provisions of clause (2) of my new article were not there, what would be the position ? The position would be that the Constitution would have to be amended by the procedure we are proposing to lay down in a subsequent part of this Constitution. The question therefore is this : should we made it as hard as that, that the Parliament should also not have the power unless the Constitution is amended, or should we leave the position flexible by enabling Parliament to enact such law leave the time, the circumstances and the choice to the Parliament of the day ?

The Honourable Shri K. Santhanam (Madras : General) May I point out that under article 114 Parliament will still have the power to invest the Supreme Court with jurisdiction.

The Honourble Dr. B. R. Ambedkar : I am afraid 114 does not deal with that matter. I have not got the copy with me; otherwise I would have replied. It is only with regard to the Union List.

The Honourable Shri K. Santhanam : It deals with the jurisdiction of the Supreme Court in relation to mailers contained in the Union List.

The Honourable Dr. B. R. Ambedkar : Yes, but supposing they want to enalrge the jurisdiction with regard, for instance, to the Concurrent List, List III, they cannot use article 114.

Now, Sir, I come to some of the observations which were made by my Friend, Mr. Alladi Krishnaswami Ayyar. His observations related mostly to sub-clause (3). His first question was, what is the use of having sub-

clause (3) if the provisions of sub-clause (3) are hedged round by the provisions contained in the proviso which goes with it, viz., rules to be made by the Supreme Court.

Pandit Lakshmi Kanta Maitra : It is sub-clause (c) and not sub-clause (3).

The Honourable Dr. B. R. Ambedkar : I am sorry, it is sub-clause (c). His point is that there is no use of having sub-clause (c) hedged as it is by the provisions laid down in the proviso. The first thing I would like to remind my Friend, Mr. Alladi Krishnaswami Ayyar is this, that the proviso which is attached to sub-clause (c) is word for word the proviso attached to Section 411 of the Criminal Procedure Code and word for word the proviso contained in article 109 of the Civil Procedure Code. My Friend, Mr. Alladi Krishnaswami Ayyar, will remember that we have introduced in the appellate civil jurisdiction of the Supreme Court a clause which is absolutely word for word the same as sub-clause (c) of clause (1) of article 111-A. Now, I should have thought that if there was some residue of good in sub-clause (c) of clause (1) of article 111**,** hedged as it is with all the limitations as lo the rules to be made by the Supreme Court, as a man of commonsense, I should think, that there must be some residue of good left in sub-clause(c) here, notwithstanding the limitations contained in the proviso. My Friend also stated that there is a provision contained in article 112 which confers upon the Supreme Court the right lo admit an appeal by special leave, which article is not limited to civil appeal but is a general article which speaks of any cause or mailer. His point was that if that is there, why have sub-clause (c) ? My answer to him is again the same. If 112 defines the jurisdiction which the Supreme Court has over the High Courts, if that is there in civil mailers, why have sub-clause (c) in clause (1) of Article 111-A ? My answer to him is this : If we can have sub-clause (c) in civil mailers, notwithstanding the fact that we have 112, what objection can there be to have sub-clause (c) though we have 112 7 The point to be borne in mind is this that with regard to 112 we have left the Supreme Court with perfect freedom to lay down the conditions on which they will admit appeals. The law does not circumscribe their jurisdiction in the mailer.

Shri Alladi Krishnaswami Ayyar : There is a condition in the case of civil appeals.

The Honourable Dr. B. R. Ambedkar : It is true. Now, I do not know how this article 112 will be interpreted by the Supreme Court. We have left it to them to interpret it. They may interpret it in the way in which the Privy Council has interpreted it or they may interpret it in any manner they choose ; either they may put a limited interpretation or they may put a wider interpretation. In case they put a limited interpretation, then I have no doubt about it that sub-clause (c) will have some value. I therefore submit, Sir, that my amendment is such that it meets the exigencies of the cases, satisfies the conscience of some people who object to people being hanged without having any right of appeal. I think it is so worded that the Supreme Court will not administratively or otherwise be overburdened with criminal appeals. I hope my Friends will now withdraw their amendments and accept mine.

Shri C. Subramaniam (Madras : General) **:** On a point of clarification, as to the implication of the difference of language.....

The Honourable Dr. B. R. Ambedkar : It is too late now.

Mr. President: The Honourable Doctor has not shown in his reply why he makes a distinction between cases in which death sentence has been passed for the first time by the High Court in revision by way of enhancement of sentence and cases in which death sentence is passed in reversal of a judgment of acquittal.

The Honourable Dr. B.R. Ambedkar : The case of an appeal against enhancement of sentence differs from a case of an appeal against acquittal in two respects. When the High Court enhances the sentence against an acused person it is not convicting him for the first time. The accused already stands convicted. In the case of an appeal against acquittal the High Court is reversing the finding of the trial court and convicting the accused. The second point of differenee is that in the case of enhancement the proceedings are converted into regular appeal so that in an enhancement proceedings the accused gets a statutory right of appeal under the Criminal Procedure Code to show that not only enhancement of sentence is not warranted but even his conviction is not justified by the facts of the case. In enhancement cases there is already one appeal. That being so, no further appeal is necessary. Thirdly, the amendment recognizes conviction or acquittal as the basis for a right of appeal to the Supreme Court. It does not recognize the nature of sentence or the type of punishment as the basis for a right of appeal.

Mr. President: Supposing in a ease the trial court holds that it is a case of grievous hurt, although it has resulted in death and passes a sentence of imprisonment and supposing there is an appeal to the High Court which by way of revision holds that it is a case of murder and not grievous hurt and gives a sentence of death. For the first time, the conviction is for murder by the High Court and the sentence of death is also passed for the first time.

The Honourable Dr. B. R. Ambedkar : For the moment I am not prepared to go beyond the proposition as set out in my amendment. If Parliament later on thinks that such a case ought to be provided, it has perfect liberty under clause (2).

Mr. President: It is a different matter and is for the House to decide. For myself, I have not been able to find the distinction.

Shri H. V. Pataskar (Bombay : General) **:** I have moved amendment No. 25 to the original amendment No. 24 of the Honourable Dr. Ambedkar.

Mr. President : There is no time for that. I think you are too late now. We cannot allow it at this stage.

I have to put the various amendments now and those Honourable Members who think that their amendments are covered by the new amendment of Dr. Ambedkar, I hope, would withdraw them.

[The amendment of Dr. Ambedkar was adopted. Other amendments were mostly withdrawn. One was rejected. Article 111-A as amended, was added to the Constitution.]

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ARTICLE 164

***The Honourable Dr. B. R. Ambedkar :** Sir, I move :

"That in clause (1) of article 164 for the words 'Save as provided' the words 'Save as otherwise provided' be substituted."

[Without discussion Amendment was accepted. Article 164, as amended was added to the Constitution.]

ARTICLE 167-A

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†The Honourable Dr. B. R. Ambedkar : Sir, various points have been raised in the course of this detabe and I should like to deal with them one by one. If I heard my Friend Mr. Sidhva correctly he referred to article 165 dealing with the question of the taking of the oath or making the affirmation. The point about article 165 is this that if the provisions of

*CAD, Vol. VIII, 14th June 1949, p. 860.

†*Ibid.,* pp. 865-67.

article 165 are not complied with it does not cause a vacancy—the seat does not become vacant. All that 165 says is that no person can take part in the voting or in the proceedings of the House unless lie has taken the oath. That is all. Therefore I do not see any difficulty about it at all.

Shri R. K. Sidhva : Why should it go to the Election Commission ?

The Honourable Dr, B. R. Ambedkar : I am coming to that. So far as 165 is concerned I think he will understand the fundamental distinction between that article and article 167. In the case of 165, there is no vacancy caused : there is only disability of taking part in the proceedings of the House.

Now, I come to the main amendment moved by my Honourable Friend Mr. T. T. Krishnamachari and that is article 167-A. Except for one point to which I shall refer immediately I think the amendment is well founded. The reason why the decision is left with the Governor is because the general rule is that the determination of disqualification involving a vacancy of a seat is left with that particular authority which has got the power to call upon the constituency to elect a representative to fill that seal. Although it is not so expressly stated, it is well understood that the question whether a seat is vacant or not by reason of any disqualification such as those mentioned in article 167 must lie with that authority which has got the power to call upon the constitutency to elect a representative to fill that seat. There is no doubt about it that in the new Constitution it is the Governor who has been given the power lo call upon a constituency to choose a representative. That being so, the power to declare a seat vacant by reason of disqualification must as a consequence rest with the Governor. For this reason so far as clause (1) of article 167-A is concerned, I find no difficulty in accepting it.

Now, I come to clause (2). This is rather widely worded. It says that any question regarding disqualification shall be decided by the Governor provided he obtains the option of the Election Commission and that he is bound lo act in accordance with such option. If members will turn to article 167, they will find that, so far as the disqualifications mentioned in (a) to (d) are concerned, the Commission is really not in a position to advise the Governor at all, because they are matters outside the purview of the Election Commission. For instance, whether any particular person holds an office of profit or whether a person is of unsound mind and has been declared by a competent court to be so, or whether he is an undischarged insolvenet or whether he is under any acknowledgment or adherence to a foreign power are matters which are entirely outside the purview of the Election Commission. They therefore could not be the proper body to advise the Governor. But when you come to sub-clause (e)

I think it is a matter which is within the purview of the Election Commission, because under (e) disqualifications might arise by reason of any corruption or any un-professional practice that a candidate may have engaged himself in and which may have been made a matter of disqualification by the Electoral Law.

Shri L. Krishnaswami Bharathi : Cannot the Election Commission make the necessary enquiries ?

The Honourable Dr. B. R. Ambedkar : There is no question of making any enquiry here. To ascertain whether a man is an undischarged insolvent no enquiry is necessary. Therefore my submission is that while clause (2) of article 167-A is right, it ought to be confined to circumstances falling within sub-clause (e) of article 167.I would therefore with your permission propose to amend clause (2) thus : "Before giving any decision on any question relating to disqualifications arising under sub-clause (e) of clause (1) of the last preceding article, the Governor shall obtain the opinion of the Election Commission and shall act according to such opinion."

Mr. President : As I read the amendment proposed by Shri T. T. Krishnamachari, it seems to me that it does not contemplate a case which has happened before the election or during the election. It contemplates cases arising after the election where a man after becoming a member of the legislature incurrs certain disqualifications. These will be dealt with by the Election Commission.

The Honourable Dr. B. R. Ambedkar : What happens is that, after filing a petition, the Commission may find a candidate guilty of certain offences during the course of the election, after the election has taken place and the member has taken his seat.

Mr. President : Is not the Election Commission entitled to deal with such cases ?

The Honourable Dr. B. R. Ambedkar : Yes, but what happens is that a man as soon as he is elected is entitled to take his seat on taking the oath or making the affirmation. He does so and subsequently his rival files an election petition and he is dislodged on the finding of the Court that he has committed offences under the Election Act. That would also come under (e). After a man has taken his seat.....

Mr. President: It seems to me that there are two kinds of disqualifications. A member may have incurred certain disqualifications before he became a member or during the course of the election. The election tribunal will be entitled to deal with such cases.

The Honourable Dr. B. R. Ambedkar : That would depend upon what sort of procedure we lay down at a later stage.

Mr. President: But a man may become subject to a disqualification after taking his seat in the House.

The Honourable Dr. B. R. Ambedkar : That is what (e) provides for.

Mr. President : Then other disqualification may also come in. He might become unsound in mind and might be declared as such or he might become an undischarged insolvent.

The Honourable Dr. B. R. Ambedkar : Those are dealt with here. They are all about sitting members.

Shri L. Krishnaswami Bharathi : Please read the amendment.

The Honourable Dr. B. R. Ambedkar : There are two sorts of disqualifications : disqualifications which are attached to the candidature as such, namely, that such and such persons who are disqualified shall not stand for election. Then, after they are chosen, certain persons shall not sit in the House if they incur the disqualifications in 167. Let us not confuse the two things.

The Honourable Shri K. Santhanam : Both are covered by 167-A.

The Honourable Dr. B. R. Ambedkar : That may be so. Let me explain. It all depends on what kind of procedure we adopt. If we adopt the procedure that whether a candidate is qualified for election-or not shall be treated as a preliminary issue, that will not be a disqualification under article 167. If on the other hand we have the procedure, which we now have, that every question relating to election, including the question whether a candidate is a qualified candidate or not, can be taken up, then article 167 will apply. My intention as well as the intention of the Drafting Committee is to make a provision permitting the Election Commission to dispose of certain preliminary questions so that the election issue may be fought only on the question whether the election was properly conducted or not. Today we have the things lumped together.

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Mr. President: Then Mr. T. T. Krishnamachari's amendment.

"That for amendment No. 2441 of the List of Amendments, the following be substituted :—

"That after article 167, the following new article be inserted :—

Decision on questions as to disqualification of memebers.

167-A. (1) If any question arises to whether a member of a House of the Legislature of a State has become subject to any of the disqualifications mentioned in clause (1) of the last preceding article, the question shall be referred for the decision of the Governor and his decision shall final.

(2) Before giving any decision on any such question, the Governor shall obtain the opinion of the Election Commission and shall act according to such opinion."

The amendment was adopted.

New Article 167-A was added to the Constitution.

[Article 167-A, as amended by Dr. Ambedkar's amendment was added to the Constitution.]

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ARTICLE 203

***Mr. President:** We take up 203.

The Honourable Dr. B. R. Ambedkar: It is to be held over.

Shri T. T. Krishnamachari : 203 (2) (b)—there is the question of whether the particular sub-clause should be retained or modified. We require some time and we might be ready with it tomorrow.

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NEW ARTICLE 209-A

† **Mr. President:** There are certain new articles proposed, No. 209-A.

The Honourable Dr. B. R. Ambedkar : 209-A is to be held over.

Mr. President : Mr. Shibban Lal Saksena has given notice of one.

Prof. Shibban Lal Saksena : That also may be held over.

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ARTICLE 203

‡**The Honourable Dr. B. R. Ambedkar** (Bombay : General) **:** Mr. President, Sir, I move :

"That in article 203, for the marginal heading, the following be substituted :—

'Power of superintendence over all courts by the High Court'."

I also move:

"That in clause (2) of article 203, before the words 'The High Court may', the words 'Without prejudice to the generality of the foregoing provisions', be inserted."

I further move:

"That with reference to amendment No. 2664 of the List of Amendments—

(i) in clause (1) of article 203, after the words 'all courts 'the words 'and tribunals 'be inserted;

(ii) in clause (2) of article 203, sub-clause (b) be omitted."

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Amendments were adopted.

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[Article 203, as amended by the above amendments was added to the Constitution.]

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ARTICLE 270

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#**The Honourable Dr. B. R. Ambedkar :** Sir, I move :

"That with reference to amendments Nos. 2975 and 2976 of the List of amendments, in article 270, for the words 'assets and liabilities' the words 'assets, liabilities and obligations' be substituted."

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*CAD, Vol. VIII, 14th June 1949, p. 873.

†*Ibid.,* p. 873.

‡*Ibid.,* 15th June 1949, p. 875.

#*Ibid*, p. 877.

Now, as regards the amendment moved by Mr. Naziruddin Ahmad, may I say that he has evidently forgotten that we are using the words "Government of India" to indicate the Government that will come into existence under the new Constitution, while the "Government of the Dominion of India" is a term which is being used to indicate the Government at the present moment. Consequently, if his amendment is accepted, it would mean that the Government of India is succeeding to the liabilities, obligations and assets of the Government of India. It would make absurd reading. Therefore the words as they are there, are very appropriate and ought to be retained.

The Honourable Shri K. Santhanam (Madras : General) **:** I am afraid we are passing tills article in a hurry. As it has been our attempt to bring the Indian States into line with the provinces, we are here simply providing that the old provinces will be continued while no such provision is made for the States.

The Honourable Dr. B, R. Ambedkar : What is your amendment ?

The Honourable Shri K. Santhanam : I am not moving any amendment....

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***The Honourable Dr. B. R. Ambedkar :** Mr. President, Sir, I did not think that this article would raise so much debate as it has in fact done, and I therefore feel it necessary to say a few words in order to remove any misapprehension or doubts and difficulties to which reference has been made.

The first question that is asked is, why is it necessary to have article 270 at all in the Constitution ? The reply to that, is a very simple one. Honourable Members will remember that before the Act of 1935 the assets and liabilities and the properties belonging to the Government of India were vested in a Corporation called the Secretary of State-in-Council. It was the Secretary of State-in-Council which held all the revenues of India, the properties of India and was liable to all the obligations that were contracted on behalf of the Government of India. The Government of India before 1935 was a unitary Government. There was no such thing as properties belonging to the Government of India and properties belonging to the Provinces. They were all held by that single Corporation which was called the Secretary of State-in-Council which was liable to be sued and had the right to sue. The Government of India Act, 1935 made a very significant change, viz., it divided the assets and

*CAD, Vol. VIII, 15th June 1949, pp. 883-85

liabilities held by the Secretary of State-in-Council on behalf of the Government of India into two parts—assets and liabilities, which were apportioned and set apart for the Government of India and the assets and liabilities and properties which were set apart for the Provinces. It is true that as the Secretary of State had not completely relinquished his control over the Government of India, the properties so divided between the Government of India on the one hand and the different Provinces on the other were said in the Government of India Act, Section 172 which is the relevant section, that they shall he held by His Majesty for the Government of India and they shall also he held by His Majesty for the different Provinces. But apart from that the fact is this, that the liabilities, assets and properties were divided and assigned to the different units and to the Government of India at the Centre. Now let us understand what we are doing by the passing of this Constitution, What we are doing by the passing of this Constitution is to abrogate and repeal the Government of India Act, 1935. As you will see in the Schedule of Acts repealed, the Government of India Act, 1935 is mentioned. Obviously when you are repealing the Government of India Act which makes a provision with regard to assets and liabilities and properties, you must say somewhere in this Constitution that notwithstanding the repeal of the Government of India Act, such assets as belong to the different Provinces do belong notwithstanding the repeal of the Government of India Act to those Provinces. Otherwise what would happen is this, that there would be no provision at all with regard to the assets and liabilities once the Government of India Act 1935 is repealed. In fact we are doing no more than what we commonly do when we repeal an Act that notwithstanding the repeal of certain Acts, the acts done will remain therein. It is the same sort of thing. What this article 270 practically says is that notwithstanding the repeal of the Government of India Act, 1935, the assets and liabilities of the different units and the Central Government will continue as before. In other words they will be the successor of the former Government of India and the former Provinces as existed and constituted by the Act of 1935. I hope the House will now understand why it is necessary to have tins clause.

Now I come to the other question which has been raised that this article 270 does not make any reference to the liabilities and assets and properties of the Indian States. Now, there are two matters to be distinguished. First,

we must distinguish the case of Indian States which are going to be incorporated into the Constitution as integral entities without any kind of modification with regard to their territory or any other matter. For instance, take Mysore, which is an independent State today and will come into the Constitution as an integral State without perhaps any kind of modifications. The other case relates to States which have been merged together with neighbouring Indian Provinces; and the third case relates to those States that are united together to form a larger union but have not been merged in any of the Indian Provinces. Now in regard to a State like Mysore there is no doubt that the Constitution of Mysore will contain a similar provision with regard to article 270 that the assets and liabilities and properties of the existing Government of Mysore shall continue to be the properties, assets and liabilities of the new Government. Therefore it is not necessary to make any provision for a case of the kind in article 270. Similarly about States which have been united together and integrated, their Covenant will undoubtedly provide for a case which is contemplated in article 270. Their Covenant may well state that the assets and liabilities of the various States which have joined together to form a new State will continue to be the assets and liabilities of the new integrated State which has come into being by the joining together of the various States.

Then we come to the last case of States which have been mergd with the Provinces. With regard to that I see no difficulty whatever about article 270. Take a concrete case. If a State has been merged in an Indian Province obviously there must have been some agreement between that State which has been merged in the neighbouring Province and that neighbouring Province as to how the assets and liabilities of that merged State are to be carried over,— whether they are to vanish, whether the merged State is to take its own obligations, or whether the obligations are to be taken by the Indian Province in which the State is merged. In any case what the article says is that from the commencement of this Constitution—these words are important and I will for the moment take it that it will commence on 26th January—any agreement arrived at before that date between the Indian Province and the State that has merged into it will be the liability of the Province at the commencement of the Constitution. If, for instance, no agreement has been reached before the commencement of the Constitution, then the Central Government as well as the Provincial Governments would be perfectly free to create any

new obligations upon themselves as between them and the unit or merged State or any other unit that you may conceive of. Therefore, with regard to any transaction that is to take place after the commencement of the Constitution it will be regulated by the agreement which the Provinces will be perfectly free under the Constitution to make, and we need therefore make no provision at all. With regard to the other class of States, as I said, in a case like Mysore it will be independent to make its own arrangement. When that arrangement is made we shall undoubtedly incorporate that in the special part which we propose to enact dealing with the special provisions relating to States in Part III, Therefore, so far as article 270 is concerned, I think there can be no difficulty in regard to it and I think it should be passed as it stands.

Shri Mahavir Tyagi : May I know it the agreement mentioned here relates only to financial agreement or does it relate to territorial agreement also ?

The Honourable Dr. B. R. Ambedkar: It speaks of assets and liabilities and obligations. If, for instance, a Province has admitted a certain State and has undertaken an obligation to pay the Ruler a certain pension, that will be an obligation within the meaning of article 270. The transfer of territory will be governed by other provisions.

Shri H. V. Kamath : May I know why the word "rights" mentioned in the marginal sub-head is omitted in the article ?

The Honourable Dr. B. R. Ambedkar : The Drafting Committee will look into it.

Shri B. Das : With regard to properties possessed by India in foreign countries, specially in the U. K. may I know why those are not included among properties in article 270 ?

The Honourable Dr. B. R. Ambedkar : I think that property is subject to partition between India and Pakistan, *e.g.,* the India Office Library, etc., I understand that is being discussed.

Shri B. Das : What about the Sterling Balances ?

The Honourable Dr. B. R. Ambedkar : My Honourable Friend knows more about it than I do.

[Article 270, as amended by the only amendment of Dr. Ambedkar, was added to the Constitution.]

ARTICLE 271

The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That in article 271 —

(i) the words 'for the purposes of the Government of that State' in the two places where they occur, be omitted;

(ii) the words 'for the purposes of the Government of India', in the two places where they occur, be omitted."

[Amendment was carried. Article 271, as amended was added to the Constitution.]

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NEW ARTICLE 271-A

†The Honourable Dr. B. R. Ambedkar : Sir, I beg to move :

"That the following new article be added after article 271—

All lands, minerals and other things of value lying within territorial waters vest in the Union.	271-A. All lands minerals and other things of value underlying the ocean within the territorial waters of India shall vest in the Union and be held for the purposes of Union'."

This is a very important article. We are going to have intergrated into the territory of India several States which are for the time being maritime States and it may be quite possible for such States to raise the issue that anything underlying the ocean within the territorial waters of such States will vest in them. In order to negative any such contention being raised hereafter it is necessary to incorporate this article.

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‡Shri H. V. Kamath : ...Then again, the article says "All lands, minerals and other things of value underlying the ocean within the territorial waters of India ". In Schedule I we have defined the States and the territories of India. But nowhere in this Constitution have we defined what the 'Indian territorial waters 'are. The Constitution is silent on this point.

Mr. President: It is a well-understood expression in International Law.

The Honourable Dr. B. R. Ambedkar : It is unnecessary to define it separately.

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#Shri H. V. Kamath : I hope Dr. Ambedkar will clarify the position before the House proceeds to vote on this article.

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*CAD, Vol. VIII, 15th .Tune 1949, p. 886.

†*Ibid.,* p. 887.

‡*Ibid.,* p. 887.

#*Ibid.,* p. 888.

Shri A. Thanu Pillai (Travancore States)**:** Mr. President, Sir, I hope Dr. Ambedkar will enlighten the House as to the necessity for this provision in the form in which it is worded.

The Honourable Dr. B. R. Ambedkar : May I ask what exactly I have to explain ?

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***Shri M. Ananthasayanam Ayyangar :** I would say "all lands, minerals and other things of value underlying the ocean within the territorial waters and the territorial waters of India shall vest in the Union and be held for the purposes of the Union."

An Honourable Member : What about the air ?

Another Honourable Member : What about the heavens ?

The Honourable Dr. B. R. Ambedkar : Sir, I gave in my speech when I moved the amendment the reasons why we thought such an article was necessary. There seems to be some doubt raised by my Honourable Friend Mr. Pillai that this might also include the right to fisheries. Now I should like to draw his attention to the fact that fisheries are included in List II—entry No. 29.

Shri A. Thanu Pillai : My objection related to other matters as well.

The Honourable Dr. B. R. Ambedkar : I will come to that. I am just dealing with this for the moment. Therefore this entry of fisheries being included expressly in List No. II means that whatever jurisdiction the Central Government would get over the territorial waters would be subject to Entry 29 in List No. II. Therefore, fisheries would continue to be a provincial subject even within the territorial waters of India. That I think must be quite clear to my Honourable Friend, Mr. Pillai, now.

With regard to the first question, the position is this. In the United States, as my Honourable Friend, Shri Alladi Krishnaswami Ayyar said, there has been a question as to whether the territorial waters belong to the United States Government or whether they belong to several States, because you know under the American Constitution, the Central Government gets only such powers as have been expressly given to them. Therefore, in the United States it is a moot question as yet, I think, whether the territorial waters belong to the States or they belong to the Centre. We thought that this is such an important matter that we ought not to leave it

*CAD, Vol. VIII, 15th June 1949, pp. 891-93.

either to speculation or to future litigation or to future claims, that we ought right now to settle this question, and therefore this article is introduced. Ordinarily it is always understood that the territorial limits of a State are not confined to the actual physical territory but extend beyond that for three miles in the sea. That is a general proposition which has been accepted by International Law. Now the fear is—I do not want to hide this fact—that if certain maritime States such as, for instance, Cochin, Travancore or Cutch came into the Indian Union, unless there was a specific provision in the Constitution such as the one we are trying to introduce, it would be still open to them to say : "Our accession gives jurisdiction to the Central Government over the physical territory of the original States; but our territory which includes territorial waters is free from the jurisdiction of the Central Government and we will still continue to exercise our jurisdiction not only on the physical territory, but also on the territorial waters, which according to the International Law and according to our original status before accession belong to us." We therefore want to state expressly in the Constitution that when any maritime States join the Indian Union, the territorial waters of that Maritime State will go to the Central Government. That kind of question shall never be subject to any kind of dispute or adjudication. That is the reason why we want to make this provision in article 271-A.

Shri M. Ananthasayanam Ayyangar : What about the ownership of the waters themselves ?

The Honourable Dr. B. R. Ambedkar : What do you want to own water for ? You may then want to own the sky above.

Shri M. Ananthasayanam Ayyangar : For the manufacture of salt, etc.

The Honourable Dr. B. R. Ambedkar : Your laws will prevail over that area. Whatever law you make will have its operation over the area of three miles from the physical territory. That is what is wanted and that you get by this.

Shri Mahavir Tyagi : Waters have not been included.

The Honourable Dr. B. R. Ambedkar : According to the International Law, the territory of a State not only includes its physical territory, but also three miles beyond. Any law that you make will operate over that area.

Shri Mahavir Tyagi : What about the rest of the waters ?

The Honourable Dr. B. R. Ambedkar : Anything below the air you get.

Shri Mahavir Tyagi: What about waters beyond three miles ?

Shri M. Ananthasayanam Ayyangar : May I ask Dr. Ambedkar if he is not aware that water is as much a property as anything else, if not better property and disputes over water have arisen in plenty ? To avoid disputes between a Province and the Union, is it not desirable to include waters also in the property of the Indian Union ?

Mr. President: He has answered that; he thinks it is not necessary to say that.

The Honourable Dr. B. R. Ambedkar : Anything above the land goes with the land. If there is a tree above the land, the tree goes with the land. Water is above the land and it goes with the land,

An Honourable Member : Sir.....

Mr. President: I think we have sufficiently discussed and Dr. Ambedkar has replied to the debate. We need have no further discussion. I will put the article to vote.

Shri K. Hanumanthaiya (Mysore State)**:** I want one clarification, Sir. As Dr. Ambedkar says if territorial waters, that is, land three miles beyond the coast-line, belongs to the Union, where is the necessity for this section at all ?

Mr. President: That is the question which he has answered.

Shri K. Hanumanthaiya : If the interpretation of Dr. Ambedkar holds good.

Mr. President: No more discussion about it. Dr. Ambedkar has said what he has to say. Members have to take it.

I shall now put the article to vote.

The question is :

"That the following new article be added, after article 271 :—

All lands, minerals and other things of value lying things of value lying within territorial Waters vest in the Union.	271-A. All lands, minerals and other things of value underlying the ocean within the territorial waters of India shall vest in the Union and he held for the purposes of the Union.

The motion was adopted.

Article 271-A was added to the Constitution.

ARTICLE 272

***The Honourable Dr. B. R. Ambedkar :** Sir, I move :

"That in article 272, after the word and figure 'Part I' in the two places where they occur, the words and figures 'or Part III' he inserted."

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†Mr. President : Would you like to speak, Dr. Ambedkar ?

The Honourable Dr. B. R. Ambedkar : I think Mr. Munshi has clearly explained and I do not like to add anything to it. The amendment was adopted. Article 272, as amended, was added to the Constitution.

ARTICLE 273

‡Mr. President : We take up 273. Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar : Sir, I beg to move :

"That in clause (1) of article 273, after the word and figure 'Part I' the words and figures 'or Part III' be inserted.

That with reference to amendment No. 201 above, in clause (l)of article 273, after the word 'Governor' in the two places where it occurs, the words 'or the Ruler' be inserted.

That with reference to amendment No. 201 above, in clause (2) of article 273, for the word 'the Governor of a state' the words 'the Governor or the Ruler' be substituted."

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#The Honourable Dr. B. R. Ambedkar : Sir, my Honourable Friend Mr. Kamath had something to say about the use of the word "assurances", and I think his argument was that we were using the word "contracts" in one place and "assurances" in another. "Assurance" is a very old word in English conveyancing; it was used and is being used to cover all kinds of transfers and therefore the word "assurance" includes the word "contract". So there is no difficulty if both these words are used because assurance as a transfer of property has the significance of a contract.

Shri H. V. Kamath : My difficulty was about the language. The article starts with "all contracts" and then we have "all such contracts and all assurances of property", etc.

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*CAD, Vol. VIII, 15th Tune 1949, p. 893.

†*Ibid.,* 895.

‡*Ibid,* p. 895.

#*Ibid*., pp. 898-99.

The Honourable Dr. B. R. Ambedkar : If there is any difficulty about the language it will be looked into by the Drafting Committee. I was explaining the technical difference between assurance and contract.

Then Mr. Tyagi asked why a person should be freed of liability if lie signs a contract. I think much of the objection raised by Mr. Tyagi would fully disappear if he were made a member of the Cabinet: I should like him to answer the question whether any contract that he has made on behalf of the Government of India should impose a personal liability on him. I am sure he knows the ordinary commercial procedure. A principal appoints an agent to do certain things on his behalf. Unless the agent has acted outside the scope of the authority conferred upon him by the principal, the agent has no personal liability in regard to any contract that he has made for the benefit of the principal. It is the same principle here. My Honourable Friend Mr. Tyagi does not know that there is a well established system in the Government of India whereby it is laid down that it is only a document or letter issued by an officer of a certain status that binds the Government of India; a document or letter issued by any other officer does not bind the Government of India. We have therefore by rule specifically to say whether it is the Under-Secretary who would have the power to bind the Government of India, or the Joint Secretary or the Additional Secretary or the Secretary alone. Therefore I do not see why the person who is acting merely on behalf of the Government of India as a signing agency should be fastened upon for personal liability, because he is acting on the authority of the Government of India or within the authority of the Government of India. If the Government of India approves of any particular transaction to which the legislature raises any objection as being unnecessary, unprofitable or outside the scope of the legislative authority conferred by Parliament upon the executive Government, it is a matter between the Government and the Parliament. Parliament may either remove the Government or repudiate the contract or do anything it likes. But I do not understand how a personal liability can be fixed upon a man who is merely appointed as an agent to assure the other party that he is signing in the name of the Government of India. There is no substance in the objection raised by my friend Mr. Tyagi.

Mr. President : I will now put the various amendments to vote.

[All the three amendments by Dr. Ambedkar were accepted. Article 273, as amended, was added to the Constitution]

ARTICLE 274

***Mr. President :** Article 274 is now for discussion.

The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That in clause (1) of article 274, for the words 'Government of India', in the second place where they occur, the words 'Union of India' be substituted."

Sir, with your permission I will also move my other amendments to this article now. I move:

"That in sub-clause (a) of clause, (2) of article 274, for the words 'Government of India' the words 'Union of India' be substituted."

I move:

"That with reference to amendment No. 2980 of the List of Amendments, in clause (1) of article 274, after the word and figure 'Part I' the words and figures 'or Part III' be inserted."

I move:

"That with reference to amendments Nos. 2980 and 2981 of the List of Amendments, in clause (1) of article 274, for the words 'by the Legislature' the words 'of the Legislature' be substituted."

I move :

"That with reference to amendment No. 204 above, in clause {1) of article 274, after the words 'corresponding Provinces' the words 'or the corresponding Indian States' be inserted."

I move:

"That with reference to amendment No. 206 above, in sub-clause (2) of article 274—

(i) after the words 'a Province', the words 'or an Indian State' be inserted; and (ii) after the words 'the Province' the words 'or the Indian State' be inserted."

Shri Jaspat Roy Kapoor (United provinces : General) **:** I am not moving my amendments Nos. 2981 and 2984. They may well be referred to the Drafting Committee for consideration.'

†The Honourable Dr. B. R. Ambedkar : Sir, perhaps it might be desirable if I read to the House how the article would stand if the various amendments which I have moved were incorporated in the article. The article would read thus :

"The Government of India may sue or be sued in the name of the Union of India, and the Government of a State for the tune being specified in Part I or Part III of the First Schedule may sue or be sued in the name of the State and may, subject to any provisions which may be made by Act of Parliament or by the Legislature of such State, enacted by virtue of the powers conferred by this Constitution sue or be sued in relation to their respective spheres in the like cases as the Dominion of India and the

*CAD, Vol. VIII, 15th June 1949, p. 900.

†*Ibid.*, pp. 901-02.

corresponding Provinces or the corresponding Indian States might have sued or been sued if this Constitution had not been enacted.

(2) if at the date of commencement of this Constitution—

(a) any legal proceedings are pending to which the Dominion of India is a party, the Union of India—"

that it is the new thing—

"shall he deemed to he substituted for the Dominion in those proceedings; and (b) any legal proceedings are pending to which a Province or an Indian State is a party, the corresponding State shall be deemed to be substituted for the province or the Indian State in those proceedings."

Now this article, as it will be seen, merely prescribes the way in which suits and proceedings shall be stated. This has no other significance at all. The original wording was that it shall be sued in the name of the Government of India. Obviously the Government of India, that is to say, the executive government, is a fleeting body, being there at one time and then disappearing and some other people coming in and taking charge of the executive.

Shri H. V. Kamath : The Government is not fleeting; the personnel of the government may be fleeting.

The Honourable Dr. B.R. Ambedkar : There is a difference between the Government of India and the Union of India. The Government of India is not a legal entity ; the Union of India is a legal entity, a sovereign body which possesses rights and obligations and therefore it is only right that any suit brought by or against the Central Government should be in the name of the Union or against the Union.

Now, with regard to the term "corresponding States" some difficulty was expressed. It may no doubt be quite difficult to say which State corresponds to the old State. In order to meet this difficulty, provision has been made in article 303 (1) (g), which you will find on page 145 of the Draft Constitution, where it has been provided that a corresponding Province or corresponding State means in cases of doubt such Province or State as may be determined by the President to be the corresponding Province or, as the case may be, the corresponding State for the particular purpose in question. Therefore this difficulty—since the exact equivalent of an old Province or State is difficult to judge as there are bound to be some variations as to territory and so on—can be solved only by giving power to the President to determine which new particular State corresponds to which particular old State. So that provision has been made.

Sub-clause (2) deals with pending proceedings and all that sub-clause (2) suggests is this : that when any proceedings are pending, where the

entities to sue or be sued are different from what we are providing in sub-clause (1), the Union of India or the corresponding State shall be inserted in the old proceedings, so that the States may be sued in accordance with 274 (1). With regard to the objection taken by my Honourable Friend, Mr. Santhanam that the words "enacted by virtue of powers conferred by this Constitution" as being superfluous, all I can say is I disagree with him and I think these are very necessary.

[All the amendments of Dr. Ambedkar were accepted and Article 274 was added to the Constitution]

ARTICLE 274-A

***The Honourable Dr. B. R. Ambedkar :** Sir, I would like this article to be held over.

Mr. President : Then there is a long amendment, a new part to be added by Mr. Sidhva.

Shri T. T. Krishnamachari : May I suggest that the House may take up Part XIII—the election chapter, article 289 and onwards as put in the Order Paper ?

Shri R. K. Sidhva : Sir, this new article which I seek to move relates to the delimitation in local areas, urban and rural of the entire territory of India.

The Honourable Dr. B. R. Ambedkar : This is to be held over.

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ARTICLE 289

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†The Honourable Dr. B. R. Ambedkar : Mr. President, Sir, I move :

"That for article 289, the following article be substituted :—

Superintendance, directions and control of elections to be vested in an election commission.

289. (1) The superintendence, direction and control of the preparation of the electoral rolls for, and the conduct of, all elections to Parliament and to the Legislature of every State and of elections to the offices of President and Vice-President held under this Constitution, including the appointment of election tribunals for the decision of doubts and disputes arising out of or in connection with elections to Parliament and to the Legislatures of States shall lie vested in a Commission Rreferred to in this Constitution as the Election Commission) to be appointed by the President.

(2) The Election Commission shall consist of the Chief Election Commissioner and such number of other Election Commissioners, if any, as the President may, from time to time appoint, and when any other Election Commissioner is so appointed, the Chief Election Commissioner shall act as the Chairman of the Commisssion.

*CAD, Vol. VIII, 15th June 1949, p. 903.

†*Ibid.,* pp. 904-07.

(3) Before each general election to the House of the People and to the Legislative Assembly of each State and before the first general election and thereafter before each biennial election to the Legislative Council of each State having such Council, the President shall also appoint after consultation with the Election Commission such Regional Commissioners as he may consider necessary to assist the Election Commission in the performance of the functions conferred on it by clause (1) of this article.

(4) The conditions of service and tenure of office of the Election Commisssioners and the Regional Commissioners shall be such as the President may by rule determine :

Provided that the Chief Election Commissioner shall not be removed from office except in like manner and on the like grounds as a judge of the Supreme Court and the conditions of the service of the Chief Election Commissioner shall not be varied to his disadvantage after his appointment:

Provided further that any other Election Commissioner or a Regional Commissioner shall not be removed from office except on the recommendation of the Chief Election Commissioner.

(5) The President or the Governor or Ruler of a State shall, when so requested by the Election Commission, make available to the Election Commission or to a Regional Commissioner such staff as may be necessary for the discharge of the functions conferred on the Election Commission by clause (1) of this article."

Mr. President: I have notice of a number of amendments, some in substitution of the articles 289,290 and 291 and some amendments to the amendments which are going to be moved. I think I had better take the amendments which are in the nature of substitution of these articles. Dr. Ambedkar has moved one. There is another amendment in the name of Pandit Thakur Das Bhargava.

Pandit Hirday Nath Kunzru (United Provinces : General) **:** May I ask, Sir, whether Dr. Ambedkar is not going to say anything in support of the proposition that he has moved ? It concerns a very important matter. Is it not desirable that Dr. Ambedkar who has put forward an amendment to article 289 should say something in support of his amendment. I think he would be proceeding on sound lines if he took the trouble of explaining to the House the reasons for asking it to replace the old article 289 by a new article. The matter is of the greatest importance and it is a great pity that Dr. Ambedkar has not considered it worth his while to make a few remarks on this proposition.

The Honourable Dr. B. R. Ambedkar : Mr. President, Sir, I did not make any observation in support of the motion for two reasons. One reason was that if a debate took place on this article,—it is quite likely that a debate would undoubtedly take place—there would be certain points that will be raised in the debate, which it would be profitable for me to reply to at the close so as to avoid a duplication of any speech on my part. That is one reason.

The second reason was that I thought that everybody must have read my amendment; it is so simple that they must have understood what it meant. Evidently, my Honourable Friend Pandit Kunzru in a hurry has not read my new Draft.

Pandit Hirday Nath Kunzru : I have read every line of it; I only want that the Honourable Member should treat the House with some respect.

The Honourable Dr. B. R. Ambedkar : The House will remember that in a very early stage in the proceedings of the Constituent Assembly, a Committee was appointed to deal with what are called Fundamental Rights. That Committee made a report that it should be recognised that the independence of the elections and the avoidance of any interference by the executive in the elections to the Legislature should be regarded as a fundamental right and provided for in the chapter dealing with Fundamental Rights. When the matter came up before the House, it was the wish of the House that while there was no objection to regard this matter as of fundamental importance, it should be provided for in some other part of the Constitution and not in the Chapter dealing with Fundamental rights. But the House affirmed without any kind of dissent that in the interests of purity and freedom of elections to the legislative bodies, it was of the utmost importance that they should be freed from any kind of interference from the executive of the day in pursuance of the decision of the House, the Drafting Committee removed this question from the category of Fundamental rights and put it in a separate part containing articles 289,290 and so on. Therefore, so far as the fundamental question is concerned that the election machinery should be outside the control of the executive government, there has been no dispute. What article 289 does is to carry out that part of the decision of the Constituent Assembly. It transfers the superintendence, direction and control of the preparation of the electoral rolls and of all elections to Parliament and the Legislatures of States to a body outside the executive to be called the Election Commission. That is the provision contained in sub-clause (1).

Sub-clause (2) says that there shall be a Chief Election Commissioner and such other Election Commissioners as the President may, from time to time appoint. There were two alternatives before the Drafting Committee, namely, either to have a permanent body consisting of four or live members of the Election Commission who would continue in office throughout without any break, or to permit the President to have an *ad hoc*

body appointed at the time when there is an election on the anvil. The Committee, has steered a middle course. What the drafting committee proposes by sub-clause (2) is to have permanently in office one man called the Chief Election Commissioner so that the skeleton machinery would always be available. Elections no doubt will generally take place at the end of five years; but there is this question namely that a bye-election may take place at any time. The Assembly may be dissolved before its period of five years has expired. Consequently, the electoral rolls will have to be kept up to date all the time so that the new election may take place without any difficulty. It was therefore felt that having regard to these exigencies, it would be sufficient if there was permanently in session one officer to be called the Chief Election Commissioner, while when the elections are coming up, the President may further add to the machinery by appointing other members to the Election Commission.

Now, Sir, the original proposal under article 289 was that there should be one Commission to deal with the elections to the Central Legislature, both the Upper and the Lower House, and that there should be a separate Election Commission for each province and each State, to be appointed by the Governor or the Ruler of the State. Comparing that with the present article 289, there is undoubtedly, a radical change. This article proposes to centralise the election machinery in the hands of a single Commission to be assisted by regional Commissioners, not working under the provincial Government, but working under the superintendence and control of the Central Election Commission. As I said, this is undoubtedly a radical change. But, this change has become necessary because today we find that in some of the provinces of India, the population is a mixture. There are what may be called original inhabitants, so to say, the native people of a particular province. Along with them there are other people residing there, who are either racially, linguistically or culturally different from the dominant people who are the occupants of that particular Province. It has been brought to the notice both of the Drafting Committee as well as of the central Government that in these provinces the executive Government is instructing or managing things in such a manner that those people who do not belong to them either racially, culturally or linguistically, are being excluded from being brought on the electoral rolls. The House will realise that franchise is a most fundamental thing in a democracy. No person who is entitled to be brought into the electoral rolls on the grounds

which we have already mentioned in our Constitution, namely, an adult of 21 years of age, should be excluded merely as a result of the prejudice of a local Government, or the whim of an officer. That would cut at the very root of democratic Government. In order, therefore, to prevent injustice being done by provincial Governments to people other than those who belong to the province racially, linguistically and culturally, it is felt desirable to depart from the original proposal of having a separate Election Commission for each province under the guidance of the Governor and the local Government. Therefore, this new change has been brought about, namely, that the whole of the election machinery should be in the hands of a central Election Commission which alone would be entitled to issue directives to returning officers, polling officers and others engaged in the preparation and revision of electoral rolls so that no injustice may be done to any citizen in India, who under this Constitution is entitled to be brought on the electoral rolls. That alone is, if I may say so, a radical and fundamental departure from the existing provisions of the Draft Constitution.

So far as clause (4) is concerned, we have left the matter to the President to determine the conditions of service and the tenure of office of the members of the Election Commission, subject to one or two conditions, that the Chief Election Commissioner shall not be liable to be removed except in the same manner as a Judge of the Supreme Court. If the object of this House is that all matters relating to elections should be outside the control of the Executive Government of the day, it is absolutely necessary that the new machinery which we are setting up, namely, the Election Commission should be irremovable by the executive by a mere *fiat* We have therefore given the Chief Election Commissioner the same status so far as removability is concerned as we have given to the Judges of the Supreme Court. We, of course, do not propose to give the same status to the Other members of the Commission. We have left the matter to the President as to the circumstances under which he would deem fit to remove any other member of the Election commission, subject to one condition that the Chief Election Commissioner must recommend that the removal is just and proper.

Then the question was whether the Electoral Commission should have authority to have an independent staff of its own to carry on the work which has been entrusted to it. It was felt that to allow the Election

Commission to have an independent machinery to carry on all the work of the preparation of the electoral roll, the revision of the roll, the conduct of the elections and so on would be really duplicating the machinery and creating unnecessary administrative expense which could be easily avoided for the simple reason, as I have stated, that the work of the Electoral Commission may be at times heavy and at other times it may have no work. Therefore we have provided in clause (5) that it should be open for the Commission to borrow from the provincial Governments such clerical and ministerial agency as may be necessary for the purposes of carrying out the functions with which the Commission has been entrusted. When the work is over, that ministerial staff will return to the provincial Government. During the time that it is working under the Electoral Commission, no doubt administratively, it would be responsible to the Commission and not to the Executive Government. These are the provisions of this article and I hope the House will now realise what it means and in what respects it constitutes a departure from the original articles of the draft Constitution.

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***The Honourable Dr. B. R. Ambedkar** (Bombay : General): Mr. President, Sir, this amendment of mine has been subjected to criticism from various points of view. But in my reply I do not propose to spread myself over all the points that have been raised in the course of the debate. I propose to confine myself to the points raised by my Friend Professor Shibban Lal Saksena and emphasized by my Friend Pandit Hirday Nath Kunzru. According to the amendment moved by my Friend Professor Saksena, there are really two points which require our consideration. The one point is with regard to the appointment of the Commissioner to this Election Commission and the second relates to the removal of the Election Commissioner. So far as the question of removal is concerned, I personally do not think that any change is necessary in the amendment which I have proposed, as the House will see that so far as the removal of the members of the Election Commission is concerned the Chief Commissioner is placed on the same footing as the Judges of the Supreme Court. And I do not know that there exists any measure of greater security in any other Constitution which is better than the one we have provided for in the proviso to clause (4).

*CAD, Vol. VIII, 16th June 1949, pp. 928-30.

With regard to the other Commissioners the provision is that, while the power is left with the President to remove them, that power is subjected to a very important limitation, *viz.,* that in the matter of removal of the other Commissioners, the President can only act on the recommendation of the Chief Election Commissioner. My contention therefore is, so far as the question of removal is concerned, the provisions which are incorporated in my amendment are adequate and nothing more is necessary for that purpose.

Now with regard to the question of appointment I must confess that there is a great deal of force in what my friend Professor Saksena said that there is no use making the tenure of the Election Commissioner a fixed and secure tenure if there is no provision in the Constitution to prevent either a fool or a knave or a person who is likely to be under the thumb of the Executive. My provision—I must admit—does not contain anything to provide against nomination of an unfit person to the post of the Chief Election Commissioner or the other Election Commissioners. I do want to confess that this is a very important question and it has given me a great deal of headache and I have no doubt about it that it is going to give this House a great deal of headache. In the U.S.A. they have solved this question by the provision contained in article 2 Section (2) of their Constitution whereby certain appointments which are specified in Section (2) of article 2 cannot be made by the President without the concurrence of the Senate; so that so far as the power of appointment is concerned, although it is vested in the President it is subject to a check by the Senate so that the Senate may, at the time when any particular name is proposed, make enquiries and satisfy itself that the person proposed is a proper person. But it must also he realised that that is a very dilatory process, a very difficult process. Parliament may not be meeting at the time when the appointment is made and the appointment must be made at once without waiting. Secondly, the American practice is likely and in fact does introduce political considerations in the making of appointments. Consequently, while I think that the provisions contained in the American Constitution is a very salutary check upon the extravagance of the President in making his appointments, it is likely to create administrative difficulties and I am therfore hesitating whether I should at a later stage recommend the adoption of the American provisions in our Constitution. The Drafting Committee had paid considerable attention to this

question because as I said it is going to be one of our greatest headaches and as a *via media* it was thought that if this Assembly would give or enact what is called an Instrument of Instructions to the President and provide therein some machinery which it would be obligatory on the President to consult before making any appointment, I think the difficulties which are felt as resulting from the American Constitution may be obviated and the advantage which is contained therein may be secured. At this stage it is impossible for me to see or anticipate what attitude this House will take when the particular draft Instructions come before the House. If the House rejects the proposal of the Drafting Committee that there should be an Instrument of Instructions to the President which might include, among other things, a provision with regard to the making of appointments, this problem would then be solved by that method. But, as I said, it is quite difficult for me to anticipate what may happpen. Therefore in order to meet the criticism of my Honourable Friend Prof. Saksena, supported by the criticism of my Honourable Friend Pandit Kunzru, I am prepared to make certain amendments in amendment No. 99. I am sorry I did not have time to circulate these amendments, but when I read them the House will know what I am proposing.

My first amendment is :

"That the words 'to be appointed by the President' at the end of clause (1) be deleted."

"In clause (2) in line 4, for the word 'appoint' substitute the word 'fix' after which insert the following :—

"The appointment of the Chief Election Commissioner and other Election Commissioners shall, subject to the provisions of any law made in this behalf by Parliament, be made by the President."

"The rest of the clause from the words 'when any other Election Commissioner is so appointed' etc., should be numbered clause (2a).

Shri M. Ananthasayanam Ayyangar (Madras : General)**:** Sir, on a point of order, new matter is being introduced which ought not to be allowed at this stage. Otherwise there will have to be another debate.

The Honourable Dr. B. R. Ambedkar : I hope the Chair will allow other members to offer there views.

Mr. President: In that case I think the best course would be to postpone consideration of this article.

The Honourable Dr. B. R. Ambedkar : These amendments are quite inoffensive; they merely say that anything done should be subject to laws made by Parliament.

Shri T. T. Krishnamachari (Madras : General)**:** I suggest that these amendments may be cyclostyled and circulated, and they may be taken up later on.

The Honourable Shri K. Santhanam (Madras : General) **:** I suggest that these may be considered by the Drafting Committee. Even if they are merely technical we must have an opportunity of considering them.

The Honourable Dr. B. R. Ambedkar : These amendments have been brought after consultation with the Drafting Committee.

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***Mr. President:** Let the amendments be moved.

The Honourable Dr. B. R. Ambedkar : My next amendment is :

"That in the beginning of clause (4) the following words should be inserted :—

'subject to the provisions of any law made in this behalf by Parliament'."

The Honourable Shri K. Santhanam : Sir, this is a material amendment because the President's discretion may be fettered by parliamentary law.

Mr. President: I do not think any further discussion is necessary; let these be moved.

The Honourable Dr. B. R. Ambedkar: You cannot deal with a Constitution on technical points. Too many technicalities will destroy constitution-making.

Shri H. V. Kamath : Sir, you ruled some days ago that substantial amendments would be postponed.

Mr. President: If these are considered to be substantial amendments they will be held over. As there sems to be a large body of opinion in the House in favour of postponement, the discussion will be held over.

NEW ARTICLE 289-A

†The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That with reference to amendment No. 110 of List I (Fifth Week), for the proposed new article 289-A, the following article be substituted : —

No person to be inelligible for inclusion in, or to claim to be excluded from the electoral roll on grounds of religion, race, caste or sec.	289-A. There shall be one general electoral roll for every territorial constituency for election to either House of Parliament or to the House or either House of the Legislature of a State and no person shall be ineligible for inclusion in, or claim to be excluded from, any such roll on grounds only of religion, race, caste, sex or any of them."

*CAD, Vol. VIII, 16th June 1949, p. 930.

†*Ibid.,* pp. 930-31.

Sir, the object of this is merely to give effect to the decision of the House that there shall hereafter be no separate electorates at all. As a matter of fact this clause is unnecessary because by later amendments we shall be deleting the provisions contained in the Draft Constitution which make provision for representations of Muslims, Sikhs, Anglo-Indians and so on. Consequently this is unnecessary. But it is the feeling that since we have taken a very important decision which practically nullifies the past it is better that the Constitution should in express terms State and that is the reason why I have brought forward this amendament.

Mr. President: Do I take it that only for the purpose of discussion you have brought it up and that you do not want it to be passed ?

The Honourable Dr. B. R. Ambedkar : No, Sir, not like mat. I have moved the amendment. I was only giving the reasons why I have brought it up.

I shall move the other amendment also for inserting new article 289-B, I move :

"That for amendment No. 3087 of the List of Amendments, the following be substituted :—

"That after article 289-A, the following new article be inserted :—

Elections to the House of the People and to the Legislative Assemblies of states to be on the basis of adult suffrage.

289-B. The elections to the House of the People and to the Legislative assembly of every State shall be on the basis of adult suffrage, that is to say, every citizen, who is not less than twenty-one years of age on such date as may be fixed in this behalf by or under any law made by the appropriate Legislature and is not otherwise disqualified under this Constitution or any law made by the appropriate Legislature on the ground of non-residence, unsoundness of mind, crime or corrupt or illegal practice, shall be entitled to be registered as a voter at any such election."'

[Amendment was adopted. Article 289-B was added to the Constitution.]

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ARTICLE 290

***The Honourable Dr. B. R. Ambedkar :** Sir, I move :

"That for article 290, the following article be substituted :—

Power of Parliament to make provisions with respect to elections to Legislatures.

290. Subject to the provisions of this Constitution, Parliament may from time to time by law make Provisions with respect to ail matters relating to, or in connection with, elections to either House of Parliament or to the House or either House of the Legislature of a State including matters necessary for securing the due constitution of such House or Houses and the delimitation of constituencies."

*CAD, Vol. VIII, 16th June 1949, p. 932.

Sir, with your permission I would also like to move the other amendment which amends this. I move :

"That with reference to amendment No. 123 of List I (Fifth Week) in the new article 290, after the word 'including' the words 'the preparation of electoral rolls and all other' be inserted."

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***Mr. President:** I find that there is notice of an amendment by Prof. Shibban Lal Saksena to article 290. He was not here at the time the amendments were moved. Anyhow it is not an amendment of substantial character.

If Dr. Ambedkar does not want to say anything in reply I shall put the amendment to vote.

The Honourable Dr. B. R. Ambedkar : I have nothing to say, Sir.

[Abovementioned amendments of Dr. Ambedkar were adopted. Article 290, as amended was added to the Constitution.]

ARTICLE 291

†The Honourable Dr. B. R. Ambedkar : I move :

"That for article 291, the following article be substituted :—

Power of Legislature of a State to make provisions with respect to election to such Legislature.	291. Subject to the provisions of this Constitution and in so far as provision in that behalf is not made by Parliament, the Legislature of a State may from time to time by law make provisions with respect to all matters relating to, or in connection with, the elections to the House or either House of the Legislature of the State including matters necessary for securing the due Constitution of such House or Houses."

Sir, with you permission I move also amendment No. 211 of List VI Fifth week.

The amendment runs thus :

"That with reference to amendment No. 128 of List I (Fifth Week) in the new article 291., after the word 'including' the words 'the preparation of electoral rolls and all other' be inserted."

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‡The Honourable Dr. B. R. Ambedkar : I think Mr. Kamath has not properly read or has not properly understood the two articles 290 and 291. While 290 gives power to Parliament, 291 says that if there is any matter which is not provided for by Parliament, then it shall be open to the State Legislature to provide for it. This is a sort of residue which

*CAD, Vol. VIII, 16th June 1949, p. 933.

†*Ibid.,* p. 934.

‡*Ibid.,* p. 935.

Parliament may leave to the State Legislature. This is a residuary article. Beyond that, there is nothing.

Shri A. Thanu Pillai (Travancore State)**:** When steps have to be taken according to the time schedule, is the local Legislature to wait and see what the Central Parliament does ?

The Honourable Dr. B. R. Ambedkar : Primarily it shall be the duty of the Parliament to make provision under 290. The obligation is squarely placed upon Parliament. It shall be the duty and the obligation of the Parliament to make provision by law for matters that are included in 290, In making provisions for matters which are specified in 290, if any matter has not been specifically and expressly provided for by Parliament, then 291 says that the State Legislature shall not be excluded from making any .provision which Parliament has failed to make with regard to any matter included in 290.

Shri A. Thannu Pillai: May I know from Dr. Ambedkar whether it would not be better for either the central Legislature or the Local Legislature to be charged with full responsibility in this matter so that elections may go on according to the time schedule ?

The Honourable Dr. B. R. Ambedkar : I do not-agree. There are matters which are essential and which Parliament might think should be provided for by itself. There are other matters which Parliament may think are of such local character and liable to variations from province to province that it would be better for Parliament to leave them to the Local Legislature. That is the reason for the distinction between 290 and 291.

[Amendments of Dr. Ambedkar were adopted. Article 291 as amended was added to the Constitution.]

ARTICLE 291—A

***The Honourable Dr. B. R. Ambedkar :** Sir, I move :

"That after article 291, the following new article be inserted :—

Bar to jurisdiction of courts in electoral matters.

Bar to jurisdiction of courts in electoral matters.

291 -A. Notwithstanding anything contained in this Constitution—

(a) the validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies, made or purporting to be made under article 290 or article 291 of this Constitution shall not be called in question in any court;

(b) no election to either I louse of Parliament or to the House or either House of the Legislature of a State shall be called in question except by an election petition

*CAD, Vol. VIII, 16th June 1949, p. 936.

presented to such authority and in such manner as may be provided for by or under any law made by the appropriate Legislature;

(c) provision may be made by or under any law made by the appropriate Legislature for the finality of proceedings relating to or in connection with any such election at any stage of such election."

Sir, I also move :

"That with reference to amendment No. 132 of List I (Fifth Week) in the new article 291-A, clause (c) be omitted."

[Article 291-A, as amended by Dr. Ambedkar's amendment was added to the Constitution.]

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ARTICLE 297

***Shri H. V. Kamath :** Mr. President, Sir, I move :

"That in clause (2) of article 297, for the words 'if such members are found qualified for appointment on merit as compared with the members of other communities', the words 'provided that such appointment is made on ground only of merit as compared with the members of other communities' be substituted."

I think, Sir, that this is an amendment more or less of a drafting nature and I leave it to the cumulative wisdom of the Drafting Committee to consider it at the appropriate stage.

The Honourable Dr. B. R. Ambedkar : I do not see that it is of a drafting nature. However we shall consider it later on.

[Article 297 was added to the Constitution]

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ARTICLE 300

†The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That with reference to amendment No. 3186 of the List of Amendments clause (1) of article 300 after the word and figure 'Part I' the words and figure 'Part III' be inserted."

‡Mr. President: Dr. Ambedkar, do you wish to say anything ?

The Honourable Dr. B. R. Ambedkar : No. Sir.

[Dr. Ambedkar's above amendment was adopted. Article 300, as amended, was added to the Constitution.]

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ARTICLE 301

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#The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That in clause (3) of article 301 for the word 'Parliament' the words 'each House of Parliament' be substituted."

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*CAD, Vol. VIII, 16th June 1949, p. 937

†*Ibid.,* p. 942.

‡*Ibid., p.* 943.

#*Ibid.,* p. 945.

[Article 301, as amended by Dr. Ambedkar's amendment was added to the Constitution]

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***Mr. President:** You are again assuming that it will be a session of the House.

Shri Jaspat Roy Kapoor: My submission were based on that assumption surely, but I do not know if there can be any other assumption. We find everywhere that members shall be electing the President, Vice-President and members of the Council of States as members of the legislature and in no other capacity. For instance, we find in article 55 that the Vice-President will be elected by members of both Houses of Parliament in a meeting.

The Honourable Dr. B. R. Ambedkar: The wording is "at a joint meeting" and not "silting".

Shri Jaspat Roy Kapoor: It will be all right if that point is authoritatively stated on the Floor of the House so as to avoid the possibility of this article being interpreted differently....

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ARTICLE 289

†Mr. President: I will first put the amendment which Dr. Ambedkar has moved last.

The question is :

"That in amendment No. 99 of List I in the proposed article 289—

(i) in clause (1) the words 'to be appointed by the President' occurring at the end be deleted.

(ii) for clause (2), the following clauses be substituted :—

'(2) The election Commission shall consist of the Chief Election Commissioner and such number of other Election Commissioners, if any, us the President may from time to time fix and die appointment of the Chief Election Commissioner and other Election Commissioners shall, subject to the provisions of any law made in this behalf by Parliament, be made by the President."

'(2a) When any other Election Commissioner is so appointed the Chief Election Commissioner shall act as the Chairman of the Commission.'

(iii) in clause (4), before the words "The conditions of service' the words 'subject to the provisions of any law made by Parliament' be inserted."

The amendment was adopted.

[Six amendments by other members were negatived.]

[Article 289, as amended was added to the Constitution]

[The Assembly was adjourned until a date in July 1949 to be fixed by the President.]

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*CAD, Vol. VIII, 16th June 1949, p. 952.

†*Ibid.,* p. 958.

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SECTION SIX

Clausewise Discussion

30th July 1949 to 16th September 1949

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NEW ARTICLE 79-A

***The Honourable Dr. B. R. Ambedkar** (Bombay : General) **:** Sir, I move :

That in amendment No. 1 of List I (First Week) of Amendments to Amendments,' for the proposal new article 79-A, the following be substituted :—

Secretariat of Parliament "79-A. (I) Each House of Parliament shall have a separate Secretarial Staff:

Provided that nothing in this clause shall be construed as preventing the creation of posts common to both Houses of Parliament.

(2) Parliament may by law regulate the recruitment, and the conditions of service of persons appointed, to the secretarial staff of either House of Parliament.

(3) Until provision is made by Parliament under clause (2) of this article, the President may, after consultation with the Speaker of the House of the People or the Chairman of the Council of States, as the case may be, make rules regulating the recruitment and the conditions of service of persons appointed to the secretarial staff of the House of the People or the Council of States, and any rules so made shall have effect subject to the provisions of any law made under the said clause."

The House will see that this is a new article which is sought to be introduced in the Constitution. The reason why the Drafting Committee felt the necessity of introducing an article like this lies in the recent Conference that was held by the Speakers of the various Provinces in which it was said that such a provision, ought to be made in the Constitution.

It was, as every one most probably in this House knows, a matter of contention between the Executive Government and the President ever since the late Mr. Vithalbhai Patel was called upon to occupy the President's Chair in the Assembly. A dispute was going on between the Executive Government and the President of the Assembly. The President had contended that the Secretariat of the Assembly should be independent of the Executive Government. The Executive Government of the day, on the other hand, contended that the Executive had the right to nominate, irrespective of the wishes and the control of the President, the personnel and the staff required to serve the purposes of the Legislative Assembly. Ultimately, the Executive Government in 1928 or 1929 gave in and accepted the contention of the then President and created an independent secretariat for the Assembly. So far,

* CAD, Vol. IX, 30th July 1949, pp. 2-3.

therefore, as the Central Assembly is concerned, there is really no change effected by this new article 79-A, because what is provided in clause (1) of article 79-A is already a fact in existence.

But, if was pointed out that this procedure which has been adopted in the Central Legislature as far back as 1928 or 1929 has not been followed by the various provincial legislatures. In some provinces, the practice still continues of some officer who is subject to the disciplinary jurisdiction of the Legislative Department being apppointed to act as the secretary of the Legislative Assembly, with the result that that officer is under a sort of a dual control, control exercised by the department of which he is an officer and the control by the President under whom for the time being he is serving. It is contended that this is derogatory to the dignity of the Speaker and the independence of the Legislative Assembly.

The Conference of the Speakers passed various resolutions insisting that besides making this provision in the Constitution, several other provisions should also be made in the Constitution so as to regulate the strength, appointment, conditions of service, and so on and so on. The Drafting Committee was not prepared to accept the other contentions raised by the Speakers' Conference. They thought that it would be quite enough if the Constitution contained a simple clause stating that Parliament should have a separate secretarial staff and the rest of the matter is left to be regulated by Parliament. Clause (3) provides that, until any provision is made by Parliament, the President may, in consultation with the Speaker of the House of the People or the Chairman of the Council of States, make rules for the recruitment and the conditions of service. When Parliament enacts a law, that law will override the rules made *pro tempore* by the President in consultation with the Speaker of the House of the People. I think that the provision that we have made is sufficient to meet the main difficulty which was pointed out by the Speakers' Conference. I hope the House will find no difficulty in accepting this new article.

[Amendments 43 and 44 of List II (First Week) were not moved.]

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***The Honourable Dr. B. R. Ambedkar :** Sir, nothing that has been said, in my judgment, calls for a reply.

*CAD, Vol. IX, 30th July 1949, p. 9.

[All the 8 amendments were negatived. The motion of Dr. Ambedkar as shown above was adopted.]

New article 79-A was added to the constitution.

ARTICLE 104

***The Honourable Dr. B. R. Ambedkar :** Sir, I move:

That for article 104, the following article he substituted :—

Salaries etc of Judges

"104. There shall be paid to the judges of the Supreme Court such salaries as are specified in the Second Schedule.

(2) Every judge shall be entitled to such privileges and allowances and to such rights in respect of leave of absence and pension as may from time to time be determined by or under law made by Parliament, and until so determined, to such privileges, allowances and rights as are specified in the Second Schedule :

Provided that neither the privileges nor the allowances of a judge nor his rights in respect of leave of absence or pension shall be varied to his disadvantage after his appointment."

Sir, all that I need say is that the present article is the same as the original article except that the word "privileges" has been introduced which did not occur in the original text. What those privileges are I would not stop to discuss now. We will discuss them when we come to the second schedule where some of them might be specifically mentioned.

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†Shri R. K. Sidhva : .....Unless you amend the language of this Schedule in view of the amended resolution, I think, Sir, this article will be rather in a confused state. I want to know what are the implications after the amendment of this article moved by Dr. Ambedkar. I find that he has not made any reference to the Schedule and I do not know whether he is going to make any reference to the Schedule hereafter, because thai complicates the issue, and the purpose will be defeated if the matter is left to Parliament, who can against the wishes of the House pass orders that the Chief Justice can be given a furnished house.

‡The Honourable Dr. B. R. Ambedkar : Mr. Vice-president, Sir, I am sorry I cannot accept the amendment moved by my honourable Friend, Pandit Kunzru, and I tliink there are two valid objections which could be presented to the House for rejecting his amendment. In the

* CAD, Vol. IX, dated 30th July 1949, p. 10

†*Ibid.,* p. 12.

‡*Ibid.,* pp. 12-13.

first place, as regards the principle for which he is fighting, namely, that the rights of a judge to his salary and pension once he is appointed have accured to him and shall not be liable to be changed by Parliament by any law that Parliament may like to make with regard to that particular matter. I think, so far as my new article is concerned, I have placed that matter outside the jurisdiction of Parliament. Parliament, no doubt, has been given the power from time to time to make laws for changing allowances, pensions etc., but it has been provided in the article that that shall apply only to new judges and shall not affect the old judges if that is adverse to the rights that have already accrued. Therefore, so far as the principle is concerned for which he is fighting, that principle has already been embodied in this article.

From another point of view, his amendment seems to be quite objectionable and the reason for this is as follows. As everybody knows pensions have a definite relation to salary and the number of years that a judge has served. To say, as my honourable Friend, Pandit Kunzru suggests, that the Supreme Court judges should get a pension not less than the pension to which each one of them would be entitled in pursuance of the rules that were applicable to judges of the Federal Court, seems to presume that the Federal Court judge if he is appointed a judge of the Supreme Court shall continue to get the same salary that he is getting. Otherwise that would be a breach of the principle that pensions are regulated by the salary and the number of years that a man has put in. We have not yet come to any conclusion as to whether the Federal Court Judges should continue to get the same salary that they are getting when they are appointed to the Supreme Court. That matter, as I said, has not been decided and I doubt very much (I may say in anticipation) whether it will be possible for the Drafting Committee to advocate any such distinction as to salary between existing judges and new judges. The amendment, therefore, is premature. If the House accepts the proposition for which my honourable Friend, Pandit Kunzru is contending that the Federal Court Judges should continue to get the same salary, then probably there might be some reason in suggesting this sort of amendment that he has moved. At the present moment, I submit it is quite unnecessary and it is impossible to accept it because it seeks to establish a pension on the basis that the existing salary will be continued which is a proposition not yet accepted by the House.

Shri R. K. Sidhwa: The Honourable Dr. Ambedkar has not answered my point as to how the Parliament is competent to give a furnished house to the Chief Justice.

The Honourable Dr. B. R. Ambedkar: We are not rejecting it. Nothing is said about the furnished house. We shall discuss that.

[The amendment of Pandit Kunzru was negatived and the motion moved by Dr. Ambedkar as shown before was accepted. Article 104, as amended was added to the Constitution.]

NEW ARTICLE 148-A

***The Honourable Dr. B. R. Ambedkar:** Sir, I move :

That after article 148, the following new article be inserted :—

Abolition or creation of Legislative Councils to States

"148A. (1) Notwithstanding anything contained in article 148 of this Constitution, Parliament may by law provide for the abolition of the Legislative Council of a State having such a Council, or for the creation of such a Council in a State having no such Council, if the Legislative Assembly of the State passes a resolution to that effect by a majority of the total membership of the Assembly and by a majority of not less than two-thirds of the members of the Assembly present and voting.

(2) Any law referred to in clause (1) of this article shall contain such provisions for the amendment of this Constitution as may be necessary to give effect to the provisions of the law and may also contain such incidental and consequential provisions as Parliament may deem necessary.

(3) No such law as aforesaid shall be deemed to be an amendment of this Constitution for the purpose of article 304 thereof."

As honourable members will see, this new article 148A provides for two contingencies : (i) for the abolition of the Second Chamber in those province which will have a Second Chamber at the commencement of the Constitution and (ii) for the creation of a Legislative Council in a province which at the commencement of the Constitution has decided not to have a Legislative Council but may subsequently decide to have one.

The provision of this article follow very closely the provisions contained in the Government of India Act, section 60, for the creation of the Legislative Council and section 308 which provides for the abolition. The procedure adopted here for the creation and abolition is that the matter is really left with the Lower Chamber, which by a resolution may recommend either of the two courses that it may decide upon. In order to facilitate any change made either in the abolition of

* CAD, Vol. IX, dated 30th July 1949, pp. 13-14.

the Second Chamber or in the creation of a Second Chamber, provision is made that such a law shall not be deemed to be an amendment of the Constitution, in order to obviate the difficult procedure which has been provided in the Draft Constitution for the amendment of the Constitution.

I commend this article to the House.

* * * * *

***The Honourable Dr. B. R. Ambedkar :** I do not think any reply is called for.

Mr. President : I shall now put the amendments to the vote. I shall take up Prof. Saksena's amendment first and I shall put it in two parts.

[3 Amendments were negatived, one was withdrawn and the motion of Dr. Ambedkar as mentioned above was adopted New article 148A was added to the Constitution.]

ARTICLE 150

†The Honourable Dr. B. R. Ambedkar : Sir, I move :

That for article 150. the following be substituted :—

Composition of the Legislative Councils.

"150 (1) The total number of members in the Legislative Council of a State having such a Council shall not exceed

twenty-five per cent of the total number of members in the Assembly of the State : Provided that the total number of members in the Legislative Council of a State shall in no case be less than forty.

(2) The allocation of seats in the Legislative Council of a State, the manner of choosing persons to fill those seats, the qualifications to be possessed for being so chosen and the qualification entitling persons to vote in the choice of any such persons shall be such as Parliament may by law prescribe."

The original article was modelled in part on article 60 of the first Draft of the Drafting Committee. Now, the House will remember that that article 60 of the original Draft related to the composition of the Upper Chamber at the Centre. For reasons, into which I need not go at the present stage, the House did not accept the principle embodied in the old article 60. That being so, the Drafting Committee felt that it would not be consistent to retain principle which has already been abandoned in the composition of the upper chamber for the Provinces. -That having been the resulting position, the Drafting Committee was presented with a problem to suggest an alternative. Now I must confess, that the Drafting Committee could not come to any definite conclusion

* CAD, Vol. IX, dated 30th July 1949, p. 20

†*Ibid.,* pp. 21-22.

as to the composition of the upper chamber. Consequently they decided—you might say that they merely decided to postpone the difficulty—to leave the matter to Parliament. At the present moment I do not think that the Drafting Committee could suggest any definite proposal for the adoption of the House, and therefore they have adopted what might be called the line of least resistance in proposing sub-clause (2) of article 150. That, as I said, also creates an anomaly, namely, that the Constitution prescribes that certain provinces shall have a second chamber, as is done in article 148-A, but leaves the matter of determining the composition of the second chamber to Parliament.

These are, of course, anomalies. For the moment there is no method of resolving those anomalies, and I therefore request the House to accept, for the present, the proposals of the Drafting Committee as embodied in article 150 which I have moved.

[Amendment No. 90 of List III (First Week) was not moved.]

Shri H. V. Kamath : Sir, I move :

"That in amendment No. 5 of List I (First Week) of Amendments to Amendments, in clause (2) of the proposed article 150, for the words 'the qualifications to be possessed for being chosen' the words 'qualifications and disqualifications for membership of the Council' be substituted.'

The House will see that on a previous occasion with regard to the election of members to the legislature of a State they adopted various articles in the relevant parts. I would invite the attention of the House to article 167 for instance, which lays down the disqualifications for membership of the State Assembly in addition to the qualifications which have gone before. In providing for representation in the upper chamber and election of members to this Council I do not see why this House should not with equal validity, equal reason and equal force lay down not merely the qualifications of members to be chosen to the upper chamber but also what the disqualifications should be. Article 167 lays down how under various circumstances a member is to be disqualified for being chosen as or being a member of the Assembly or the Council of a State. Therefore I do not see any reason why the same thing should not be explicitly stated in article 150 moved by Dr. Ambedkar.

There is one other point about the article and that is this. The new amendment lays down that the strengthf of the Council shall not exceed one-fourth or 25 per cent of the total number of members in the lower

House. It also lays down further in a proviso, "Provided that the total number of members in a Legislative Council of a State shall in no case be less than forty." How these two can be reconciled in particular cases passes my understanding. For instance, we have adopted article 148.....

The Honourable Dr. B. R. Ambedkar : I would ask the honourable Member to read article 167 again.

Shri H. V. Kamath : I am talking of the next point.

The Honourable Dr. B. R. Ambedkar : What about the first point ? Do you favour it ?

Shri H. V. Kamath : I do not favour it. Dr. Ambedkar says that article 167 lays down the disqualifications.....

The Honourable Dr. B. R. Ambedkar : Both for the Assembly and the Council of States.

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***Mr. Naziruddin Ahmad** (West Bengal : Muslim) **:** ...This clause looked very simple and inoffensive and the effect was that the number of members of the Legislative Council shall not be more than 25 per cent.

The Honourable Dr. B. R. Ambedkar : Sir, I rise on a point of Order. My Friend is criticisng a draft which is not before the House.

"Mr. Naziruddin Ahmad : I was trying to show how this unsatisfactory state of affairs in today's amendments arose.

The Honourable Dr. B. R. Ambedkar : It is not before the Members.

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†The Honourable Dr. B. R. Ambedkar : Sir, there are only two points of comment, which I think call for a reply. The one point of comment, that was made both by Mr. Kamath as well as by my Friend, Mr. Naziruddin Ahmad, was that according to the proposal now placed before the House, there is a certain amount of disproportion between the membership of the Upper House and the membership of the Lower House in certain provinces. He cited the instance. I believe, if I heard him correctly, that in the province of Orissa, the members of the Lower House, on the principles which we have laid down in article 149 of the Constitution, would be near about 60. Consequently, if the minimum for an Upper House was 40, in Orissa the Upper House would be disproportionate to the Lower House in strength. Now, I think my

* CAD, Vol. IX, dated 30th July 1949, p. 27.

†*Ibid.,* pp. 35-37.

Friend, Mr. Naziruddin Ahmad, has not taken into consideration the circumstances which have intervened during the interval. He has for instance completely forgotten that Orissa is now a much bigger province on account of the merger of the several States, which were at one time independent of Orissa, and I understand that taking the area of the States and the population which will be included in the boundaries of Orissa, the Lower House is likely to be 150. Consequently, the possibility of any such disparity, as he pointed out, no longer exists. I may also at tins stage say that if the House passes what is proposed as article 172 which regulates the question of difference of opinion between the Upper House and the Lower House, this question of disparity of principles between the Lower House and the Upper House loses all its importance, because under article 172 we no longer propose to adopt the same procedure that was adopted with regard to the two Chambers at the Centre, namely a joint session. What we propose to do is to permit the view of the Lower House to prevail over the view of the Upper House in certain circumstances. Consequently, the Upper House by reason of this different political complexion has no possibility of overturning the decision of a majority or a large majority of the Lower House. That I think, completely disposes of the first point of comment raised by my honourable Friend, Mr. Naziruddin Ahmad.

I come to the second question which was very strongly raised by my honourable Friend, Pandit Lakshmi Kanta Maitra. His argument was : Why should you leave it to Parliament ? How can it be left to Parliament ? I think the answer that I can give to him, at any rate, so far as I am concerned, is quite satisfactory. I should like to point to him in the first instance that it is not to be presumed that the Drafting Committee did not at any stage make a constructive proposal for the composition, of the Upper House in the Constitution itself. If my honourable Friend will remember there stood in the name of myself and my Friend, Mr. T. T. Krishnamachari an amendment which is No. 139 in this consolidated list of amendments to amendments which has been circulated and there he will find that we have made a constructive suggestion for the composition of the Upper House. Unfortunately that was not accepted in another place and consequently, we did not think it advisable to continue to press that particular amendment. He will therefore see that the Drafting Committee must be exonerated from all

blame that might be attached to it by reason of not having made any effort to solve this difficulty ; they did try, but they did not succeed. My honourable Friend will also realize that the Drafting Committee was presented with altogether 28 amendments on this subject. They range here in this list from 123 to 148. If he were to read the amendments carefully in all their details, he will notice the bewildering multiplicity of the suggestions, the conflicting points of view and the unwillingness of the movers of the various amendments to resile from their position to come to some kind of a common conclusion. It was because of this difficult situation the Drafting Committee thought that rather than put forth a suggestion which was not likely to be accepted by the majority of the House, it would leave it to Parliament.

Shri H. V. Kamath : Is Dr. Ambedkar sure that Parliament will be presented with less multiplicity ?

The Honourable Dr. B. R. Ambedkar : If my honourable Friend will give me time, I will reply to that part also.

My honourable Friend, Pandit Maitra, said : How is it conceivable that a part of the Constitution of so important an institution as the Upper Chamber could be left to be decided by Parliament and not be provided in the Constitution ? I think my honourable Friend, Pandit Maitra, will realize and I should like to point out to him quite definitely what we are doing with regard to the Lower House both in the Provinces or the States as well as at the Centre. If he will refer to article 149, which we have already passed, what we have done is we have merely stated that there shall be certain principles to govern the delimitation of constituencies, that a constituency is not to have less than so many and more than so many, but the actual work of delimiting the constituencies is left to Parliament itself and unless Parliament passes a law delimiting the various constituencies for the Lower House at the Centre, it will not be possible to constitute the Lower House.

Pandit Lakshmi Kanta Maitra : That is inevitable.

The Honourable Dr. B. R. Ambedkar : Again take another illustration, namely, the allocation of seats. The actual allocation will have to be done by law by Parliament. Therefore, if such important matters of detail could be left to Parliament to determine by law, I do not see what grave objection could there be for a matter regarding the composition of the Upper Chamber being also left to Parliament. I cannot

see any objection at all. Secondly, I feel personally that having regard to the conflicting view-points that have been presented in the 28 amendments that are before the House, I thought it would be much better for Parliament to take up the responsibility because Parliament will certainly have more time at its disposal than the Drafting Committee had and Parliament would have more information to weigh this proposal, because Parliament then would be in a position to correspond with the various provincial Governments, to find out their difficulties, to find out their points of view and their proposals and to arrive at some common *via media* which might be put into law. Therefore, in putting forth this proposal, I think, we are not making any very serious departure from the principles we have already adopted and as my honourable Friend, Mr. T. T. Krishnamachari said, taking all these into consideration, there is nothing for the Drafting Committee to apologize but to recommend the proposal to the House.

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***Pandit Govind Malaviya** (United Pro vices : General)**:** I move, Sir, that the consideration of this article be held over.

Shri Brajeshwar Prasad : I beg to second this proposal.

The Honourable Dr. B. R. Ambedkar : I have no objection. We can have another go at it.

Mr. President : Then I take it that Members are agreed that this article should be held over.

Honourable Members : Yes.

NEW ARTICLE 163-A

†The Honourable Dr. B. R. Ambedkar : Sir, I beg to move :

"That in amendment No. 12 of List 1 (First Week) of Amendments to Amendments for the proposed new article 163-A, the following be substituted :—

"163-A. (1) The House or each House of the Legislature of a State shall have a secretarial staff of State Legislatures separate secretarial staff:

Provided that nothing in this clause shall, in the case of the Legislature of a State having a Legislative Council, be construed as preventing the creation of posts common to both Houses of such Legislature.

(2) The Legislature of a State may by law regulate the recruitment and the conditions of service of persons appointed to the secretarial staff of the House or House of the Legislature of the State.

(3) Until provision is made by the Legislature of the State under clause (2) of this article, the Governor may after consultation with the Speaker of the Legislative Assembly or the Chairman of the Legislative Council, as the case may be, make

* CAD, Vol. IX, dated 30th July 1949, p. 37.

†*Ibid.,* n. 37.

rules regulating the recruitment and the conditions of service of persons appointed to the secretariat staff of the Assembly or the Council, and any rules so made shall have effect subject to the provisions of any law made under the said clause.'"

This article is merely a counterpart of article 79-A which we considered this morning.

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***Shri H. V. Kamath :** Mr. President, Sir.....In articles 79-A and 148-A, points of substance were made out by various amendments by my honourable Friend, Prof. Shibban Lai Saksena and myself. But when his turn came, Dr. Ambedkar was good enough, wise enough just to say that he did not wish to say anything.

The Honourable Dr. B. R. Ambedkar : I said no reply was called for.

Shri H. V. Kamath : That is left to his judgment. But, when certain substantial points are raised, they call for some sort of reply. Of course, he is buttressed, fortified by the fore-knowledge of the fact that when he says, 'yes' he will carry the House with him. It is of course upto him to decide what he will reply to and what he will not. But, the House is entitled to hear his view. If he is too tired, too fatigued, he may ask one of his wise colleagues.....

The Honourable Dr. B. R. Ambedkar: Who is to determine whether the points are points of substance ? If the President gave a ruling that the point is one of substance, I should certainly reply. I cannot leave the matter to be determined by Mr. Kamath himself.

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†Mr. President : Does any Member wish to say anything ?

(No Member rose to speak.)

Would Dr. Ambedkar like to say anything ?

The Honourable Dr. B. R. Ambedkar : No.

Mr. President : I will then put the amendments to vote.

[All 8 amendments were negatived. Article 163-A as moved by Dr. Ambedkar was put to vote and adopted. New Article 163-A was added to the Constitution.]

ARTICLE 175

‡Mr. President : Shall we take up 172 now ?

* CAD, Vol. IX, dated 30th July 1949, p. 38.

†*Ibid., p.* 40.

‡*Ibid.,* pp. 41-42.

The Honourable Dr. B. R. Ambedkar : We shall keep it back for the moment.

Mr. President : Shall we take up No. 175 ?

The Honourable Dr. B. R. Ambedkar : Yes.

Shri H. V. Kamath : What about 127-A ?

Mr. President : That will come up along with 210.

Let us take up new 175. There are some amendmednts to it.

(Amendments Nos. 16 and 17 were not moved.)

***The Honourable Dr. B. R. Ambedkar :** Mr. President, Sir I beg to move that:

> '"That for the proviso to article 175 the following proviso he substituted :—
>
> 'Provided that the Governor may, as soon as possible after the presentation to him of the Bill for assent, return the Bill if it is not a money Bill together with a message requesting that the House or Houses will reconsider the Bill or any specified provisions thereof and, in particular, will consider the desirability of introducing any such amendments as he may recommend in his message, and when a Bill is so returned, the House or Houses shall reconsider the Bill accordingly, and if the Bill is passed again by the House or Houses with or without amendment and presented to the Governor for assent, the Governor shall not withhold assent therefrom.'"

Sir, this is in substitution of the old proviso. The old proviso contained three important provisions. The first was that it conferred power on the Governor to return a Bill before assent to the Legislature and recommend certain specific points for consideration. The proviso as it stood left the matter of returning the Bill to the discretion of himself. Secondly, the right to return the Bill with the recommendation was applicable to all Bills including money Bills. Thirdly, the right was given to the Governor to return the Bill only in those cases where the Legislature of a province was unicameral. It was felt then that in a responsible government there can be no room for the Governor acting on discretion therefore the new proviso deletes the word 'in his discretion'. Similarly it is felt that this right to return the Bill should not be extended to a money Bill and consequently the words 'if it is not a money Bill' are introduced. It is also felt that this right of a Governor to return the Bill to the Legislature need not necessarily be confined to cases where the Legislature of the province is unicameral. It is a salutary provision and may be made use of in all cases even where the Legislature of a province is bicameral.

It is to make provision for these three changes that the new proviso is sought to be substituted for the old one, and I hope the House will accept it.

* CAD, Vol. IX, 30th July 1949. pp. 41-42.

Mr. President: I have notice of some amendments which are printed in the Supplementary List. Does any Member wish to move any of the amendments ? They are in the names of Shri Satish Chandra, Shri B. M. Gupte and Prof. Shibban Lal Saksena.

(The amendments were not moved.)

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***Mr. President :** We were dealing with article 175 day before yesterday before we rose. We shall now continue discussion on article 175....

Shri T. T. Krishnamachari (Madras : General) **:** Sir, may I submit that that article has very little to do with article 172. ...I suggest that article 175 be considered apart from 172.

Mr. President : Would it not be better if we were to dispose of 172 first?

Shri T. T. Krishnamachari : That is entirely to be decided at your discretion. We may take up 172 first and then have the vote on 175.

Mr. President : Do you have any objection ?

The Honourable Dr. B. R. Ambedkar (Bombay : General)**:** I have no objection. Sir, I am entirely in your hands.

Mr. President: Then we shall dispose of 172 first and then go to 175.

ARTICLE 172

†The Honourable Dr. B. R. Ambedkar: Mr. President, Sir, I move :

"That for article 172, the following article be substituted:—

Restriction of powers of Legislative Council us to Bill other than Money Bills.

'172. (1) If after a Bill has been passed by the Legislative Assembly of a State haying a Legislative Council and transmitted to the Legislative Council—

(a) the Bill is rejected by the Council; or

(b) more than two months elapse from the date on which the Bill is laid before the Council without the Bill being passed by it; or

(c) the Bill is passed by the Council with amendments to which the Legislative Assembly does not agree, the Legislative Assembly may again pass the Bill in the same or in any subsequent session with or without any amendments which have been made, suggested or agreed lo by the Legislative Council and then transmit the Bill as so passed lo the Legislative Council.

(2) If after a Bill has been so passed for the second time by the Legislative Assembly and transmitted to the Legislative Council—

(a) the Bill is rejected by the Council; or

* CAD, Vol. IX, 1st August 1049, p. 43.

†*Ibid.,* pp. 43-44.

(b) more than one month elapses from the date on which the Bill is laid before the Council without the Bill being passed by it; or

(c) the Bill is passed by the Council with amendments to which the Legislative Assembly does not agree ; the Bill shall be deemed to have been passed by the Houses of the Legislature of the State in the form in which it was passed by the Legislative Assembly with such amendments if any, as have been agreed to by the Legislative Assembly.

(3) Nothing in this article shall apply to a Money Bill.'"

The House will remember that when we discussed the question of the resolution of the differences between the Council of States and the House of the People, we discussed the different methods by which such differences would be resolved, and we came to the conclusion that having regard to the Federal character of the Central Legislature it was proper that the differences between the two Houses should be resolved by a joint session of both the Houses called by the President for that purpose. It was at that time suggested that instead of adopting the procedure of a joint session we should adopt the procedure contained in the Parliament Act of 1911 under which the decision of the House of Commons with regard to any particular Bill, other than a Money Bill prevails in the final analysis when the House of Lords has failed to agree or refused to agreee, to the amendment suggested by the House of Commons after a certain period has elapsed. On a consideration of this matter, it was felt that the procedure laid down in the Parliament Act for the resolution of the differences between the two Houses of the Legislature was more appropriate for the resolution of difference between the two Houses set up in the Provinces. Consequently we have made a departure from the original article and introduce this new article embodying in it the proposal that the decision of the more popular House representing the people as a whole ought to prevail in case of a difference of opinion which the two Houses have not been able to reconcile by mutual agreement.

Sir, I move.

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***Pandit Hirday Nath Kunzru :** ...I think considering the changes that have been made by the Drafting Committee itself from time to time there is no principle on which it is proceeding. My honourable Friend Dr. Ambedkar says there is a very good principle.

Honourable Dr. B. R. Ambedkar : I say there is no principle.

Pandit Hirday Nath Kunzru : I am glad my honourable Friend admits that there is no principle underlying the amendment that he has suggested to the House.

* CAD, Vol. IX, date 1st August 1949, p. 52.

The Honourable Dr. B. R. Ambedkar : It is a matter of expediency and practicality.

Pandit Hirday Nath Kunzru : He admits it is a question of expediency and practicality....

* * * * *

***The Honourable Dr. B. R. Ambedkar :** Mr. President, Sir, as I listened to the debate, I find that there are some very specific questions which have been raised by the various speakers who have taken part in the debate. The first point was raised by my Friend Mr. Santhanam and I would like to dispose of that before I turn to the other points. Mr. Santhanam said that a provision ought to be made in clause (1) of the article to provide for a case where the Upper House has not passed the Bill in the form in which it was passed by the Assembly. I think that on further consideration, he will find that his suggestion is actually embodied in sub-clause(c), although that clause has been differently worded. We have as a matter of fact provided for three cases on the occurrence of which the Lower House will take jurisdiction to act on its own authority. The three cases are : firstly when the Bill is considered but rejected completely; secondly, when the Upper House is either sitting tight and taking no action or has taken action but has delayed beyond the time which is permitted to it for consideration of the Bill ; and thirdly, when they do not agree to pass the Bill in the same form in which it lias been passed by the Assembly, which practically means what my Friend Mr. Santhanam is suggesting. I therefore do not think there is any necessity to revise this part of the article. I might say incidentally that in devising the three categories or conditions on the occurrences of which the Lower House would have the power to act on its own authority, the words have more or less been taken closely from article 57 of the Australian Constitution.

Now, I come to the general points that have been raised. It seems to me in discussing this matter, there are three different questions that arise for consideration. The first question is how many journeys the Bill should undertake before the will of the Lower House becomes paramount. Should it be one journey, two journeys or more than two journeys ? That is one question. The second question is, what should be the period that should be allotted to the Upper House for each journey,

* CAD, Vol. IX, dated 30th July 1949, pp. 57-59.

both going and coming back ? The third question is, how is the period within which the Council is to act to be reckoned. To use the phraseology which is familiar to those who know the law of limitation, what is to be the starting point ? So far as the present amendment is concerned, it is proposed that the Bill should have two journeys. It goes in the first instance, it comes back and it goes again. It may be possible to argue that more journeys than two are to be permitted. As I said, this is a question of practical politics. We must see some end, or dead end, at which we must allow the authority of the Lower House to become paramount, and the Drafting Committee thought that two journeys were enough for the purpose to allow the Upper House to act as a revising Chamber.

Now, with regard to the time to be permitted, to the Upper House during these journeys to consider the Bill, the proposal of the Drafting Committee is two months. Now it may be three months, in the first case, as I am accepting the amendment moved by my Friend, Mr. T. T. Krishnamachari, and in the second case it would be one month.

My Friend Pandit Kunzru said that the Drafting Committee had no fixed mind, that it was changing from moment to moment, that it was fickle, and he referred to the original Draft set out in the Draft Constitution laying down six months. Here again, I should like to point out to him that the period lo be allowed to each House is not a matter of principle at all. It is a matter only of practical politics and the Drafting Committee came to the conclusion that six months was too long a period. In fact, it felt that even three months was too long a period. But it is quite conceivable that a Bill like the Zamindari Bill which has a large number of clauses, may emerge from the Lower House and may be sent to the Upper House for consideration. But for such exceptional cases, I think my Friend will agree that other measures would not, be of the same magnitude or the same substance. Consequently, we thought that three months was a reasonable period to allow to the Upper House in the case when the Bill goes on its first journey, because after all what is the Upper House going to do ? The Upper House in acting upon a Bill which has been sent to it by the Lower Chamber is not going to re-draft the whole thing ; it is not going to alter every clause. It is only certain clauses which it may feel of public importance that it would like to deal with, and I should have thought that for a limited legislative activity of that sort, three months in the first instance was a large enough period to allow to the Upper House and would not certainly curtail the

legitimate activity of a Second Chamber. In the second case, we felt that when the Lower House had more or less indicated to the Upper House what are the limits to which they can go in accepting the amendments suggested by the Upper House, one month for the second journey, was also quite enough. Therefore, as I said, there being no question of principle here but merely a question of practical politics, we thought that three months and one month were sufficient.

Now, I come to the last question, namely, what is to be the starting point of calculating the three months or the one month. I think Mr. Kunzru will forgive me for saying that he has failed to appreciate the importance of the changes made by the Drafting Committee. If this provision had not been there in Draft article 172 as it stands, I have no doubt—and the Drafting Committee had no doubt—that the powers of the Upper Chamber would have been completely negatived and nullified. Let me explain that; but before I do so, let me state the possibilities of determining what I call the starting point of limitation. First of all, it would have been possible to say that the Bill must be passed by the Upper House within a stated period from the passing of the Bill by the Lower House. Secondly, it would have been possible to say that the Upper House should pass the Bill in the stated period from the time of the reception of the Bill by that House. Now supposing we had adopted either of these two possibilities, the consequences would have been very disastrous to the Upper House. Once you remember that the summoning of the Upper House is entirely in the hands of the executive—which may summon when it likes and not summon when it does not like—it would have been quite possible for a dishonest executive to lake advantage of this clause by not calling the Upper House in session at all. Or supposing we had taken the reception as the starting point, they' could have also cheated the Upper House by not putting the Bill on the agenda and not thereby giving the Upper House an opportunity to consider it. We thought that this sort of procedure was wrong ; it would result in penalising the Upper House for no fault of that House. If the House is not called certainly it cannot consider the Bill, and such a Bill could not be deemed to have been considered by the Upper House. Therefore in order to protect the Upper House the Drafting Committee rejected both these possibilities of determining the starting point, namely, the passing of the Bill and the reception of the Bill, a proposal which was embodied by them in the draft article as it stands. And they deliberately adopted the provisions contained in the

new article as is now proposed, namely, when the Bill has been tabled for consideration if the Upper House does not finish its consideration within the particular time fixed by this clause, then obviously the right of the Upper House to deal with the matter goes by its own default, and no one can complain ; certainly the Upper House cannot complain. My honourable Friend Pandit Kunzru will therefore see that rather than whittle down the rights of the Upper House the new proposal has given the Upper House rights which the executive could not take away.

Pandit Hirday Nath Kunzru : Does this childish explanation satisfy the honourable Member himself ?

The Honourable Dr. B. R. Ambedkar : If my honourable Friend chooses to call it childish he may do so, but I have no doubt that the new clause is a greater improvement than the clause as it stood. I am sorry if Pandit Kunzru is not satisfied, but he did not raise any point to which I have not given an explanation.

Mr. President : The question is :

"That in sub-clause (b) of clause (1) of the proposed article 172, for the words 'two months' the words 'three months be substituted."

The amendment was adopted.

Article 172, as proposed and amended, was added to the Constitution.

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ARTICLE 176

***Mr. President :** Then we go to article 176.

The Honourable Dr. B. R. Ambedkar : I suggest that it would be better if we take up 83-A and dispose it of.

Mr. President : I do not think there is much in article 176. We can take up now. There is hardly any amendment....

[Now there is no amendment to this article 176. Article 176 was adopted and added to the Constitution.]

ARTICLE 83-A

†Mr. President : Shall we go back now to article 83 ?

The Honourable Dr. B. R. Ambedkar : Mr. President, Sir, I move:

"That after article 83 the following new article be inserted :—

Decision on question as to disqualify canons of members.

'83-A. (1) If any question arises as to whether a member of either House of Parliament has been subject to any of the disqualifications mentioned in clause (1) of the last preceding article, the question shall be referred for the decision of the President his decision shall be final.

* CAD, Vol. IX, dated 1st August 1949. p. 62

†*Ibid.,* p. 62.

(2) Before giving any decision on any such question, the President shall obtain opinion of the Election Commission and shall act according to such opinion.'"

This article is a replica, so to say, of article 167-A which we passed the other day which applies to similar cases in the provinces and I do not therefore think that any more explanation will be necessary.

[The New Article 83-A was adopted and added to the Constitution]

ARTICLE 127-A

***Mr. President :** I think we had better take up articles 210 and 211. Thereafter we shall come to article 127-A.

Shri T. T. Krishnamachari : Either way it does not matter because if this is accepted then article 210 and 211 get automatically dropped.

The Honourable Dr. B. R. Ambedkar : Mr. President, Sir, I move:—

"That after article 127, the following new article be inserted:—

Audit reports relating to accounts of a State.

'127-A. The reports of the Comptroller and Auditor-General of India relating to the accounts of a State shall be submitted to the Governor or Ruler of the State, who shall cause them to be laid before the Legislature of the State.'"

The House will remember, it has now adopted articles whereby the auditing and accounting will become one single institution, so to say, under the authority of the Comptroller and Auditor-General. It is, therefore, necessary that we should make some provision that the reports relating to the audit and accounts of a particular State shall be submitted to the Legislature by the Governor or the Ruler for its consideration and that is what this article provides for.

Mr. President: Does any one wish to say anything about this article ?

Honourable Members : No.

New article 127-A was added to the Constitution

ARTICLE 197

†Mr. President : Shall we take up article 212 ?

Shri T. T. Krishnamachari : Article 188 may be taken up ; it has got to be deleted.

The Honourable Dr. B. R. Ambedkar : I was suggesting that articles 188 and 278 may be taken together. It would be better if the whole thing is explained.

Mr. President : Then, we shall taken up article 197.

* CAD, Vol. IX, dated 1st August 1949, p. 63.

†*Ibid.,* p. 64.

The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That for article 197, the following article be substituted:—

'197. (1) There shall be paid to the Judges of each High Court such salaries as are specified in the Second Schedule.

Salaries, etc of Judges.

(2) Every Judge shall be entitled to such allowances and to such rights in respect of leave of absence and pensions as may from time to time be determined by or under law made by Parliament, and until so determined, to such allowances and rights as are specified in the Second Schedule :

Provided that neither the allowances of a Judge nor his rights in respect of leave of absence or pension shall be varied to his disadvantage after his appointment.'"

This section corresponds to the other article which related to the Supreme Court Judges.

Mr. President : There is an amendment by Pandit Kunzru.

[Amendments 20, 21 and 22 of List I (Second Week) were not moved.]

Mr. President : There is no amendment moved to this. 1 shall put to vote the article as moved by Dr. Ambedkar today.

The motion was adopted.

Article 197 as amended was added to the Constitution.

ARTICLE 212 to 214

***Mr. President :** Shall we take up article 212 ?

The Honourable Dr. B. R. Ambedkar : Sir, I would like articles 212 to 214 to he held over. I think article 275 may be taken up.

Shri L. Krishnaswami Bharathi (Madras : General) **:** Sir, article 212 to 214 are sought to be held over. I think the House would like to have an explanation as to why they are being held over.

The Honourable Dr. B. R. Ambedkar : The explanation is this : that we are having the prospect of some of the Settlements coming over to India like Chandernagore and other places. We have to make some provision for them, and this might be the appropriate place where provision for them might be made. It has been just suggested that it **is** felt that it might be more properly incorporated and so on, Consequently, we want some time to consider that question. Perhaps, we might be in a position to take up these articles even today.

Mr. President : Then, we may take up article 188, and in that connection, the other emergency provisions.

The Honourable Dr. B. R. Ambedkar: We might also take up article 275 which is also an emergency provision.

* CAD, Vol. IX, dated 1st August 1949, p. 65.

Mr. President : Let us take up article 275.

Mr. Naziruddin Ahmad : May I rise on a point of order, Sir ?

It is very inconvenient for some members to follow the procedure which is being adopted in the House. We have in the agenda paper today some articles which are set down *seriatim*. It was understood on the last occasion that articles will be taken up in the order laid down in the Order Paper. I do not wish to raise any technical objection ; but the difficulty is that Members have got to come prepared to intelligently take part in the debate. Instead of following a regular procedure even after the recess we had, the House is expected to jump from one article to another backwards and forwards. I submit this is causing some amount of inconvenience and I submit that the House should be asked to proceed in some regular order. Otherwise, there would be no intelligent debate.

Mr. President : I am inclined to agree with Mr. Naziruddin Ahmad that it is inconvenient to Members to jump from article 211 to 275.

The Honourable Dr. B. R. Ambedkar : I am prepared to take up article 212 and go on.

Mr. President : I think that is much better. If anything happens, we can provide for that later on regarding Chandernagore. Let us take up article 212.

The Honourable Dr. B. R. Ambedkar : Sir, I move :

> "That with reference to amendment No. 2713 of the List of Amendments, clause
>
> (2) of article 212 be omitted."

The reason why this amendment is being moved is because all provisions with regard to the States specified in Part III are being made separately in a separate Schedule. Consequently it is unnecessary to retain clause (2) here.

I also move :

> "That in clause (1) and the proviso to claue (1) of article 212. for the words 'Governor or Ruler', wherever they occur, the expression 'Government' be substituted."

Mr. President: We have quite a number of amendments to this article of which notice has been given. I shall take them one by one.

* * * * *

[After discussion on various amendments Article 212 as amended by Dr. Ambedkar's amendment was adopted and added to the Constitution.]

ARTICLE 213

The Honourable Dr. B. R. Ambedkar : Sir I move. :

"That with reference to amendment No. 2722 of the List of Amendments, for article 213, the following article be substituted :—

'213. (1) Notwithstanding anything contained in this Constitution Parliament may by law create or continue for any State for the time being specified in Part II of the First Schedule and administered through a Chief Commissioner or Lieutenant Governor—

Creation or continuance of local Legislatures or Council of Advisers or Ministers.

(a) a body, whether nominated, elected or partly nominated and partly elected, to function as a Legislature for the State ; or

(b) a council of advisers or ministers or both with such constitution, powers and functions in each case, as may be specified in the law.

(2) Any law referred to in clause (1) of this article shall not be deemed to be au amendment of this Constitution for the purposes of article 304 thereof notwithstanding that it contains any provision which amends or has the effect of amending the Constitution."

Sir, the principal change sought to be effected by this amendment is this. In the original Draft the power of creating a body, whether nominated or elected, for purposes of representation and a Council of Advisers or Ministers was a matter which was left to the President. The new Draft gives the power to Parliament and not to the President. That is the only substantial change which has been effected by this new article. Otherwise the provision remains the same.

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†**The Honourable Dr. B. R. Ambedkar** (Bombay : General) **:** Mr. President, Sir, with regard to the amendment moved by my Friend Lala Deshbandhu Gupta, I am quite certain that this is not the place where the amendment properly come in. The amendment also raises a question of principle, namely, that it provides for a weightage in representation to certain areas. Now, the House will remember that at one stage, this question of weightage in representation was debated at considerable length and the House accepted the principle that weightage should not be allowed. However, I might say that by reason of article 67 where certain principles of representation are laid down, it might be possible that if some territories of India are unable to obtain even a single representative by reason of the rule, we will have to make some special provision. We cannot allow by reason of a mathematical rule to deprive any territory of representation in the State. In that connection, this matter

* CAD, Vol. IX, dated 1st August 1949, p. 73.

†*Ibid*., dated 2nd August 1949, pp. 100-01.

may have to he considered, and I can say at this stage that when such areas are brought into existence, and the Drafting Committee is called upon to make some provisions with regard to their representation, then the whole matter might be examined and a fresh article, something after article 67, say article 67-A, might be incorporated. Beyond that, I cannot at this stage, say anything more.

Mr. President : I will put the amendment to vote now.

[Article 213, as amended by Prof. Shibban Lal Saksena's ammendment was adopted and added to the Constitution.]

ARTICLE 213-A

***Mr. President :** Then we go to article 213-A.

The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That after article 213, the following new article be inserted:—

High Courts for states in Part II of the First Schedule.

'213 (1) Parliament may by law constitute a High Court for a State for the time being specified in Part II of the First Scheduled or declare any Court in such State to be a High Court for the purposes of this Constitution.

(2) The Provisions of Chapter VII of Part VI of this Constitution shall apply in relation to every High Court referred to in clause (1) of this article as they apply in relation to a High Court referred to in article 191 of this Constitution subject to such modifications or exceptions as Parliament may by law provide.

(3) Subject to the provisions of this Constitution and to any provisions of any law of the appropriate Legislature made by virtue of the powers conferred on that Legislature by or under this Constitution, every High Court exercising jurisdiction immediately before the commencement of this Constitution in relation to any State for the time being specified in Part II of the First Schedule or any area included therein shall continue to exercise such jurisdiction in relation to that State or area after such commencement.

(4) Nothing in this article derogates from the power of Parliament to extend or exclude the jurisdiction of a High Court in any State for the time being specified in Part I or Part III of the First Schedule to, or from, any State for the time being specified in Part II of that Schedule or any area included within that State."

Sir, it will be remembered that when the House discussed the constitution of States in Part I, it was decided that every State should have a High Court. States in Part II are also States ; consequently the provision which applies to States in Part I, namely, that each State should have an independent High Court, must also apply to States in Part II. Unfortunately, this provision had not been made in the Draft as it stands now. Consequently it has become necessary to introduce this article 213-A in order to provide that even in States included in

* CAD, Vol. IX, dated 2nd August 1949, p. 102.

Part II there shall be a High Court, or if there is a High Court that High Court shall be treated as a High Court. Provision is also made in clause (8) of this article that if there is no High Court and if it is not possible to create a High Court exclusively for any particular area included in States in Part II, it will be open for Parliament to declare that a certain other Court situated in any adjacent area may be treated as a High Court for purposes of that particular area. That is the purpose of this article.

Mr. President: There is no amendment to this article. Does anyone wish to say anything on it ? Then I shall put it to vote.

The question is :

"That new article 213-A stand part of the Constitution."

The motion was adopted.

Article 213-A. was added to the Constitution.

ARTICLE 214

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***Mr. President :** Then we will take up amendment No. 52 standing in the name of Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar : Sir, I move.

"That with reference to amendment No. 2728 of the List of Amendments, for article 214, the following article be substituted :—

'214. (1) Until Parliament by law otherwise provides, the constitution, powers and functions of the Coorg Legislative Council shall be the same as they were immediately before the commencement of this Constitution.

(2) The arrangements with respect to revenues collected in Coorg and expenses in respect of Coorg shall, until other provision is made in this behalf by the President by order, continue unchanged.'"

There is nothing new in this article except that the two parts in this are separate while they were lumped together in the original article.

(Article 214, was added to the Constitution)

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ARTICLE 275

†**Mr. President :** Then we go to article 275. Amendment No. 111. Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That for article 275, the following article be substituted :—

'275. (1) If the President is satisfied that a grave emergency exists whereby the security of India or of any part of the territory thereof is threatened, whether by war or external aggression or internal disturbance, he may, by Proclamation, make a declaration to that effect.

Proclamation of Emergency.

* CAD, Vol. IX, dated 2nd August 1949, p. 103.

†*Ibid.,* pp. 103-04.

(2) A Proclamation issued under clause (1) of this article (in this Constitution referred to as 'a Proclamation of Emergency')—

(a) may be revoked by a subsequent Proclamation ;

(b) shall be laid before each House of Parliament;

(c) shall cease to operate at the expiration of two months unless before the expiration of that period it has been approved by resolutions of both Houses of Parliament:

Provided that if any such Proclamation is issued at a time when the House of the People has been dissolved or if the dissolution of the House of the People takes place during the period of two months referred to in sub-clause (c) of this clause and the Proclamation has not been approved by a resolution passed by the House of the People before the expiration of that period, the Proclamation shall cease to operate at the expiration of thirty days from the date on which the House of the People first sits after its reconstitution unless before the expiration of that period resolutions approving the Proclamation have been passed by both Houses of Parliament.

(3) A Proclamation of Emergency declaring that the security of India or of any part of the territory thereof is threatened by war or by external aggression or by internal disturbance may be made before the actual occurrence of war or of any such aggression or disturbance if the President is satisfied that there is imminent danger thereof."

This article is virtually the old article 275 as it stands in the Draft Constitution. The changes which are made by this amendment are very few. The first change that is made is in clause (1). The original words were "war or domestic violence". The present clause as amended would read as "war or external aggression, or internal disturbance." It was thought that it was much better to use these words rather than the word "domestic violence" because it may exclude external aggression, which is not actually war, or less than war.

The second change that is introduced is in sub-clause (c) of clause (2). Originally it was provided that the Proclamation shall cease to operate at the expiration of six months. It is now proposed that it should cease to operate at the expiration of two months. Six months was felt to be too long a period.

The proviso is also a new one and it provides for a case where the Proclamation is issued when the House of the People is dissolved or the Proclamation is issued during the dissolution. The provision contained in the new proviso is that if the Proclamation is issued when the House has been dissolved, or between the dissolution of the old House and the election of the new House, then the new House may ratify it within thirty days.

The last clause is self-explanatory and it merely provides what I think is the intention of clause (1) that even though there is not the actual

occurrence, if the President thinks that there is an imminent danger of it, he can act under the provisions of this article.

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***Shri T. T. Krishnamachari :** ...Therefore, I say that most of the points that have been raised against these provisions are pointless because the powers of the Parliament are preserved and all that I wanted to convey by intervening in the debate was to say that nobody will be happy that he has to put the provision in this Constitution, but at the same time we would be failing in our duty if we do not put provisions in the Constitution which will enable those people who have the control of the destinies of the country in future times to safeguard the Constitution, so that people were in this House and elsewhere will understand that these emergency provisions have got to be tolerated as a necessary evil, and without those provisions it is well nigh possible that all our efforts to frame a Constitution may ultimately be jeopardized and the Constitution might be in danger unless adequate powers are given to the executive to safeguard the Constitution. Sir, I support the amendment moved by the Honourable Dr. Ambedkar.

Shri H. V. Kamath : May I tell my honourable Friend, Mr. T. T. Krishnamachari that the point T made out with reference to article 48 of the Weimer Constitution is that Hitler used those very provisions to establish his dictatorship.

Mr. President : Dr. Ambedkar may like to speak.

The Honourable Dr. B. R. Ambedkar : I do not know ; so much time has been taken up in the debate. If the Members who have taken part in the debute desire that I should say something, I should be glad to do so and even then it can only be done tomorrow.

Mr. President: I think that Mr. T. T. Krishnamachari has dealt with all the points that have been raised and it may not be necessary for you to reply to the points which have been raised by the Members.

Pandit Thakur Das Bhargava : We do not require any other reply.

Mr. President: I do not think it shows any disrespect to the Members who have expressed their views if you do not reply, but if you want to reply, I cannot certainly prevent you from doing so. Would you take much time to reply ?

The Honourable Dr. B. R. Ambedkar : I would take some time. I thought that no reply was necessary because Mr. T. T. Krishnamachari has replied to the points already.

* CAD, Vol. IX, dated 2nd August 1949, pp. 125-26.

Prof. Shibban Lal Saksena: Let us hear him tomorrow. In any case we want to hear him.

Mr. President : I am only thinking of the time. I do not think any reply is particularly called for. I will put the amendments to vote now.

[All the 4 amendments were negatived and the Article 276 as moved by Dr. Ambedkar was adopted and added to the Constitution.]

ARTICLE 276

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***Mr. Naziruddin Ahmad** (West Bengal : Muslim) **:** May I point out that 3003 is a drafting amendment ? It merely transposes a few words from one place to another.

The Honourable Dr. B. R. Ambedkar (Bombay : General) **:** If that is so, I agree.

(Amendments Nos. 3004 and 3005 were not moved.)

Mr. President : No. 3006 is not exactly of a drafting nature. 3006 is consequential to 3003. So, better move both.

The Honourable Dr. B. R. Ambedkar : Sir, I beg to move :

> "That in article 276, the words 'notwithstanding anything contained in this Constitution' after the word 'then' he deleted and the words 'notwithstanding anything contained in this Constitution' be inserted at the beginning of clause (a) of the same article."

I also move:

> "That in clause (b) of article 276, the words 'notwithstanding that it is one which is not enumerated in the Union List' be added at the end".

(Amendment No. 119 of Supplementary List was not moved.)

Mr. President : There is no other amendment.

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†Shri T. T. Krishnamachari (Madras : General) **:** Mr. President, Sir, I am afraid .if my Friend Mr. Naziruddin Ahmad will look at section 126A of the Government of India Act, he will find why Dr. Ambedkar's amendment is necessary, because 276(b) gives executive power to the Union in times of emergency, when an emergency is declared, and these words are necessary in order to make the meaning perfectly clear. The tiling has been clarified, in terms of the language used in the Government of India Act, section 126A. If he will read the section once again, he will find that there is no objection to the inclusion of these words in this article.

* CAD, Vol. IX, date 3rd August 1949, p 129

†*Ibid.,* p. 130.

Mr. President : You do not wish to say anything. Dr. Ambedkar ?
The Honourable Dr. B. R. Ambedkar : No Sir. It is not necessary for me to say anything.

Mr. President : Then I will put the amendments to vote now.

[Dr. Ambedkar's amendment was adopted. Article 276, as amended was added to the Constitution.]

ARTICLES 188, 277-A, 278 AND 278-A

***Mr. President :** Then we come to article 277.

The Honourable Dr. B. R. Ambedkar : I would like to hold article 277 back, for the present.

Mr. President : Shall we then take up article 277-A 7 Article 277 is held back for the present and we take up article 277-A now.

The Honourable Dr. B. R. Ambedkar : Sir, I think it would be better if the three amendments were taken together, namely, amendment to drop article 188, introduction of a new article 277-A and the substitution of the old article 278 by the two new articles 278 and 278-A because they are cognate matters. They might be put separately for voting purposes. But for discussion, I think they might be taken together.

Mr. President : Articles 188, 278 and 278-A may be taken together because they deal with cognate matters and it would be better if the discussion of all the articles is taken up together, although we may put them to vote separately.

The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That article 188 he deleted."

Sir, I move:

"That after article 277, the following new article be inserted :—

Duty of the Union to protect state against external aggression and internal disturbance.

'277-A. It shall be the duty of the Union to protect every State against external aggression and internal disturbance and to ensure that the Government of every State is carried on in accordance with the provisions of this Constitution'."

And then, Sir, I move amendment No. 160 of List II, which reads as follows:

"That for article 278, the following articles be substituted : —

Provisions in case of failure Constitutional machinery in State.

278. (1) If the President, on receipt of a report from the Governor or Ruler of a State or otherwise, is satisfied that the Government of the State cannot be carried on in accordance with the provisions of this Constitution, the President may by Proclamation—

(a) assume to himself all or any of the functions of the Government of the State and all or any of the powers vested in or exercisable by the Governor or

*CAD, Vol. IX, dated 3rd August 1949, pp. 130-35.

Ruler, as the case may be, or any body or authority in the State other than the Legislature of the State ;

(b) declare that the powers of the Legislature of the State shall be exercisable by or under the authority of Parliament;

(c) make such incidental and consequential provisions as appear to the President to be necessary or desirable for giving effect to the objects of the Proclamation, including provisions for suspending in "whole or in part the operation of any provisions of this Constitution relating to any body or authority in the State :

Provided that nothing in this clause shall authorise the President to asssume to himself any of the powers vested in or exercisable by a High Court or to suspend in whole or in part the operation of any provisions of this Constitution relating to High Courts.

(2) Any such Proclamation may be revoked or varied by a subsequent Proclamation.

(3) Every Proclamation under this article shall be laid before each House of Parliament and shall, except where it is a Proclamation revoking a previous Proclamation, cease to operate at the expiration of two months unless before the expiration of that period it has been approved by resolutions of both Houses of Parliament :

Provided that if any such Proclamation is issued at a time when the House of the People is dissolved or if the dissolution of the House of the People takes place during the period of two months referred to in this clause and the Proclamation has not been approved by a resolution passed by the House of the People before the expiration of that period, the Proclamation shall cease to operate at the expiration of thirty days from the date on which the House of the People first sits after its reconstitution unless before the expiration of that period resolutions approving the Proclamation have been passed by both Houses of Parliament.

(4) A Proclamation so approved shall, unless revoked, cease to operate on the expiration of a period of six months from the date of the passing of the second of the resolutions approving the Proclamation under clause (3) of this article :

Provided that if and so often as a resolution approving the continuence in force of such a Proclamation is passed by both Houses of Parliament Proclamation shall unless revoked continue in forces for a further period of six months from the date on which under this clause it would otherwise have ceased to operate, but no such Proclamation shall in any case remain in force for more than three years ;

Provided further that if the dissolution of the House of the People takes place during any such period of six months and a resolution approving the continuance in force of such Proclamation has not been passed by the House of the People during the said Period, the Proclamation shall cease to operate at the expiration of thirty days from the date on which the House of the People first sits after its reconstitution unless before the expiration of that period resolutions approving the Proclamation have been passed by both Houses of Parliament.

"278-A. (1) Where by a Proclamation issued under clause (1) of article 278 of this Constitution it has been declared that the powers of the Legislature of the State shall be exercisable by or under the authority of Parliament, it shall be competent—

(a) for Parliament to delegate the power to make laws for the State to the President or any other authority specified by him in that behalf;

(b) for Parliament or for the President or other authority to whom the power to make laws is delegated under sub-clause (a) of this clause to make laws conferring powers and imposing duties or authorising the conferring of powers and the imposition of duties upon the Government of India or officers and authorities of the Government of India ;

(c) for the President to authorise when the House of the People is not in session expenditure from the Consolidated Fund of the State pending the sanction of such expenditure by Parliament;

(d) for the President to promulgate Ordinances under article 102 of this Constitution except when both Houses of Parliament are in session.

(2) Any law made by or under the authority of Parliament which Parliament or the President or other authority referred to in sub-clause (a) of clause (1) of this article would not, but for the issue of a Proclamation under article 278 of this Constitution, have been competent to make shall to the extent of the incompetency cease to have effect on the expiration of a period of one year after the Proclamation has ceased to operate except as respects things done or omitted to be done before the expiration of the said period unless the provisions which shall so cease to have effect are sooner repealed or re-enacted with or without modification by an Act of the Legislature of the State."

Shri H. V. Kamath (C.P. and Berar : General) **:** Article 188 also ?

The Honourable Dr. B. R. Ambedkar : I have said that 188 will be deleted. It is not really necessary to move the amendment, but to give the House an idea of the whole picture I have said that we propose to delete article 188.

Sir, I anticipate that there will be probably a full-dress debate on this article and I may at some stage be called upon to offer explanation of the points of criticism that mighty be raised so that I think it would be right if I did not enter upon a very exhaustive treatment of the various points that arise out of the new scheme. I propose at the outset merely to give an outline of the pattern of things which we provide by the dropping of article 188, by the addition of article 277-A and by the substitution of two new articles 278 and 278-A for the old article 278.

I think I can well begin by reminding the House that it has been agreed by the House, when we were considering general principles of the Constitution, that the Constitution should provide some machinery for the breakdown of the Constitution. In other words, some provision should be introduced in the Constitution which would be somewhat analogous to the provisions contained in section 93 of the Government of India Act, 1935. At the stage when this principle was accepted by the House, it was proposed that if the Governor of the Province feels that the machinery set up by this Constitution for the administration of the affairs of the Province breaks down, the Governor should have the power by Proclamation to take over the administration of the Province himself for a fortnight and thereafter communicate the matter to the President of the Union that the machinery has failed, that he has issued a Proclamation and taken over the administration to himself, and on the report made by the Governor under the original article 188 the President could act under article 278. That was the original scheme.

It is. now felt that no useful purpose could be served, if there is a real emergency by which the President is required to act, by allowing the Governor, in the first instance, the power to suspend the Constitution merely for a fortnight. If the President is ultimately to take the responsibility of entering into the provincial field in order to sustain the constitution embodied in this Constitution, then it is much better that the President should come into the field right at the very beginning. On the basis that that is the correct approach to the situation, namely that if the responsibility is of the President then the President from the very beginning should come into the field, it is obvious that article 188 is a futility and is not required at all. That is the reason why I have proposed that article 188 be deleted.

Now I come to article 277-A. Some people might think that article 277-A is merely a pious declaration, that it ought not to be there. The Drafting Committee has taken a different view and I would therefore like to explain why it is that the Drafting Committee feels that article 277-A ought to be there. I think it is agreed that our Constitution, notwithstanding the many provisions which are contained in it whereby the Centre has been given powers to override the Provinces, nonetheless is a Federal Constitution and when we say that the Constitution is a Federal Constitution it means this, that the Provinces are as sovereign in their field which is left to them by the Constitution as the Centre is in the field which is assigned to it. In other words, barring the provisions which permit the Centre to override any legislation that may be passed by the Provinces, the Provinces have a plenary authority to make any law for the peace, order and good government of that Province. Now, when once the Constitution makes the provinces sovereign and gives them plenary powers to make any law for the peace, order and good government of the province, really speaking, the intervention of the Centre or any other authority must be deemed to be barred, because that would be an invasion of the sovereign authority of the province. That is a fundamental proposition which, I think, we must accept by reason of the fact that we have a Federal Constitution. That being so, if the Centre is to interfere in the administration of provincial affairs, as we propose to authorise the Centre by virtue of articles 278 and 278-A, it must be by and under some obligation, which the Constitution imposes upon the Centre. The invasion must not be an invasion which

is wanton, arbitrary and unauthorised by law. Therefore, in order to make it quite clear that articles 278 and 278-A are not to be deemed as a wanton invasion by the Centre upon the authority of the province, we propose to introduce article 277-A. As Members will see, article 277-A says that it shall be the duty of the Union to protect every unit, and also to maintain the Constitution. So far as such obligation is concerned, it will be found that it is not our Constitution alone which is going to create this duty and this obligation. Similar clauses appear in the American Constitution. They also occur in the Australian Constitution, where the constitution, in express terms, provides that it shall be the duty of the Central Government to protect the units or the States from external aggression or internal commotion. All that we propose to do is to add one more clause to the principle enunciated in the American and Australian Constitutions, namely, that it shall also be the duty of the Union to maintain the Constitution in the provinces as enacted by this law there is nothing new in this and as I said, in view of the fact that we are endowing the provinces with plenary powers and making them sovereign within their own field, it is necessary to provide that if any invasion of the provincial field is done by the Centre it is in virtue of this obligation. It will be an act in fulfilment of the duty and the obligation and it cannot be treated, so far as the Constitution is concerned, as a wanton, arbitrary, unauthorised act. That is the reason why we have introduced article 277-A.

With regard to articles 278 and 278-A although they appear as two separate clauses, they are merely divisions of the original article 278. 278 has something like seven clauses. The first four clauses are embodied in the new article 278. Clause (4) onwards are put in article 278-A. The reason for making this partition, so to say, is because otherwise the whole article 278 would have been such a mouthful that probably it would have been difficult for Members to follow the various provisions contained therein. It is to break the ice, so to say, that this division has been made.

With regard to article 278, the first change that is to be noted is that the President is to act on a report from the Governor or otherwise. The original article 188 merely provided that the President should act on the report made by the Governor. The word "otherwise" was not there. Now it is felt that in view of the fact that article 277-A, which precedes

article 278, imposes a duty and an obligations upon the Centre, it would not be proper to restrict and confine the action of the President, which undoubtedly will be taken in fulfilment of the duty, to the report made by the Governor of the province. It may be that the Governor does not make a report. None-the-less, the facts are such that the President feels that his intervention is necessary and imminent. I think as a necessary consequence to the introduction of article 277-A, we must also give liberty to the President to act even when there is no report by the Governor and when the President has got certain facts within his knowledge on which he thinks he ought to act in the fulfilment of his duty.

The second change which article 278 makes is this : that originally the authority and powers of the legislature were exerecisable only by Parliament. It is now provided that this authority may be exerecisable by anybody to whom Parliament may delegate its authority. It may be too much of a burden on Parliament to take factual and *de facto* possession of legislative powers of the provincial legislatures which may be suspended because Parliament may have already so much work that it may not be possible for it to deal with the legislation necessary for the provinces whose legislature has been suspended under the Proclamation. In order, therefore, to facilitate legislation, it is now provided that Parliament may do it itself or Parliament may authorise, under certain conditions and terms and restraints, some other authority to carry on the legislation.

Another very important change that is made is that the Proclamation will cease to be in operation at the expiration of two months, unless before the expiration of that period Parliament by resolution approves its further continuance. Originally, the provision was that it will continue in operation for six months, unless extended by Parliament. In the present draft, the period is restricted to only two months. After that, if the Proclamation is to be continued, it has to be ratified by Parliament by a Resolution.

The second change that is made is this, that in the original article, if Parliament had once ratified the Proclamation, that Proclamation could run automatically without further ratification for twelve months. That position again has been altered. The twelve months is now divided into two periods of six months each and after the first ratification, the

Proclamation could run for six months and then it shall have to be ratified by Parliament again. After Parliament has ratified, it will again run for six months only. There will be further ratification by Parliament, so that six months is the period which is permitted for a Proclamation after it has been ratified by Parliament. Further continuance would require further ratification and we have put an outside limit of three years. At the end of three years, neither Parliament nor the President can continue the state of affairs in existence in the province under which this Proclamation has taken effect.

Then I come to article 278-A. Sub-clause (a) which provides for Parliament to delegate power to make laws for the State to the President or any other authority specified by him in that behalf is a new one.

Sub-clause (b) of the article is merely a consequential change, consequential upon sub-clause (a) of clause (1) of article 278-A. It says that authority may be conferred upon anybody, either upon the officers of the Government of India or officers of even Provincial Governments to carry into effect any law that may be made by Parliament or by any agency appointed by Parliament in this behalf.

Sub-clause (c) of clause (I) of article 278-A is a new clause. It provides for the sanctioning of the budget. In the original draft article 278 no provision was made as to how to sanction and prepare the Budget of a province whose legislature has been suspended. That matter is now made clear by the introduction of sub-clause (c) of clause (1) to article 278-A which expressly provides that the President may authorise, when the House of the People is not in session, expenditure from the Consolidated Fund of the State, pending the sanction of such expenditure by Parliament.

Sub-clause (d) makes it quite clear—which probably was already implicit in the article—that the President also can exercise his powers conferred upon him by article 102 to issue Ordinances with regard to the running of the administration of any particular province which has been taken over when both the Houses are not in session. The original article 102 was confined to Ordinances to be issued with regard to the Central Government. We now make it clear by sub-clause (d) that this power will also be exercised by the President with regard to any Ordinance that may be necessary to be passed for the conduct of the administration of a province which has been taken up.

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***Mr. President :** I find that there are many other speakers and the House has already taken five hours over this debate. I think we should now close the discussion and I do not think that any fresh arguments will be advanced. If honourable Members have not made up their minds after hearing the arguments so far advanced, they are not likely to do so after hearing a few more speeches. I would like to know whether the House would like to close the discussion.

Several Honourable Members : The question be put, the question be put.

Mr. President : Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar (Bombay : General) **:** Sir, although these articles have given rise to a debate which has lasted for nearly five hours, I do not think that there is anything which has emerged from this debate which requires me to modify my attitude towards the principles that are embodied in these articles. I will therefore not detain the House much longer with a detailed reply of any kind.

I would first of all like to touch for a minute on the amendment suggested by my Friend Mr. Kamath in article 277-A. His amendment was that the word "and" should be substituted by the word "or". I do not think that that is necessary because the word "and" in the context in which it is placed is both conjunctive as well as disjunctive, which can be read in both ways, "and" or "or", as the occasion may require. I, therefore, do not think that it is necessary for me to accept that amendment, although I appreciate his intention in making the amendment.

The second amendment to which I should like to refer is that moved by my Friend Prof. Saksena, in which he has proposed that one of the things which the President may do under the Proclamation is to dissolve the legislature. I think that is his amendment in substance. I entirely agree that that is one of the things which should be provided for, because the people of the province ought to be given an opportunity to set matters right by reference to the legislature. But I find that that is already covered by sub-clause (a) of clause (1) of article 278 because sub-clause (a) proposes that the President may assume to himself the powers exercisable by the Governor or the ruler. One of the powers which is vested and which is exercisable by the Governor is to dissolve the House. Consequently, when the President issues a Proclamation and assumes

* CAD, Vol. IX, dated 4th August 1949, p. 175.

these powers under sub-clause (a), that power of dissolving the legislature and holding a new election will be automatically transferred to the President—which powers no doubt the President will exercise on the advice of his Ministers. Consequently my submission is that the proposition enunciated by my Friend Prof. Saksena is already covered by sub-clause (a), it is implicit in it and there is therefore no necessity for making any express provision of that character.

Now I come to the remarks made by my Friend Pandit Kunzru. The first point, if I remember correctly, which was raised by him was that the power to take over the administration when the constitutional machinery fails is a new thing which is not to be found in any constitution. I beg to differ from him and I would like to draw his attention to the article contained in the American Constitution where the duty of the United States is definitely expressed to be to maintain the Republican form of the Constitution. When we say that the Constitution must be maintained in accordance with the provisions contained in this Constitution we practically mean what the American Constitution means, namely that the form of the constitution prescribed in this Constitution must be maintained. Therefore, so far as that point is concerned we do not think that the Drafting Committee has made any departure from an established principle.

The other point of criticism was that articles 278 and 278-A were unnecessary of view of the fact that there are already in the Constitution articles 275 and 276. With all respect I must submit that he (Pandit Kunzru) has altogether misunderstood the purposes and intentions which underlie article 275 and the present article 278. His argument was that after all what you want is the right to legislate on provincial subjects. That right you get by the terms of article 276, because under that article the Centre gets the power, once the Proclamation is issued, to legislate on all subjects mentioned in List II. I think that is a very limited understanding of the provisions contained either in article 275 and 276 or in articles 278 and 278-A.

I should like first of all to draw the attention of the House to the fact that the occasions on which the two sets of articles will come into operation are quite different. Article 275 limits the intervention of the Centre to a state of affairs when there is war or aggression, internal or external. Article 278 refers to the failure of the machinery by reasons

other than war or aggression. Consequently the operative clauses, as I said, are quite different. For instance, when a proclamation of war has been issued under article 275, you get no authority to suspend the provincial constitution. The provincial constitution would continue in operation. The legislature will continue to function and possess the powers which the constitution gives it; the executive will retain its executive power and continue to administer the province in accordance with the law of the province. All that happens under -article 276 is that the Centre also gets concurrent power of legislation and concurrent power of administration. That is what happens under article 276. But when article 278 comes into operation, the situation would he totally different. There will he no legislature in the province, because the legislature would have been suspended. There will be practically no executive authority in the province unless any is left by the proclamation by the President or by Parliament or by the Governor. The two situations are quite different. I think it is essential that we ought to keep the demarcation which we have made by component words of article 275 and article 278. I think mixing the two things up would cause a great deal of confusion.

Pandit Hirday Nath Kunzru (United Provinces : General) **:** May I ask my honourable Friend to make one point clear ? Is it the purpose of articles 278 and 278-A to enable the Central Government to intervene in provincial affairs for the sake of good government of the provinces ?

The Honourable Dr. B. R. Ambedkar : No, no. The Centre is not given that authority.

Pandit Hirday Nath Kunzru : Or only when there is such mis-government in the province as to endanger the public peace ?

The Honourable Dr. B. R. Ambedkar : Only when the government is not carried on in consonance with the provisions laid down for the constitutional government of the provinces. Whether there is good government or not in the province is for the Centre to determine. I am quite clear on the point.

Pandit Hirday Nath Kunzru : What is the meaning exactly of "the provisions of the Constitution" taken as a whole ? The House is entitled to know from the honourable Member what is his idea of the meaning of the phrase 'in accordance with the provisions of the Constitution.'

The Honourable Dr. B. R. Ambedkar : It would take me very long now to got into a detailed examination of the whole thing and, referring to each article, say, this is the principle which is established in it and say, if any Government or any legislature of a province does not act in accordance with it, that would act as a failure of machinery. The expression "failure of machinery", I find has been used in the Government of India Act, 1935. Everybody must be quite familiar therefore with its *de facto* and *de jure* meaning. I do not think any further explanation is necessary.

Shri H. V. Kamath (C. P. & Berar : General)**:** What about the other amendments moved by Professor Saksena and myself? Is not Dr. Ambedkar replying to them ?

The Honourable Dr. B. R. Ambedkar : I do not accept them. I was only replying or referring to those amendments which I thought had any substance in them. I cannot go on discussing every amendment moved.

Shri H. V. Kamath : Dr. Ambedkar is answering only verbal amendments moved. Should he not reply to all the amendments moved ?

Mr. President : I cannot force Dr. Ambedkar to reply in any particular way. He is entitled to give his reply in his own way.

The Honourale Dr. B. R. Ambedkar : In regard to the general debate which has taken place in which it has been suggested that these articles are liable to be abused, I may say that I do not altogether deny that there is a possibility of these articles being abused or employed for political purposes. But that objection applies to every part of the Constitution which gives power to the Centre to override the Provinces. In fact I share the sentiments expressed by my honourable Friend Mr. Gupte yesterday that the proper tiling we ought to expect is that such articles will never be called into operation and that they would remain a dead letter. If at all they are brought into operation, I hope the President, who is endowed with these powers, will take proper precautions before actually suspending the administration of the provinces. I hope the first thing he will do would be to issue a mere warning to a province that has erred, that things were not happening in the way in which they were intended to happen in the Constitution. If that warning fails, the second thing for him to do will be to order an election allowing the people of the province to settle matters by themselves. It is only when these

two remedies fail that he would resort to this article. It is only in those circumstances he would resort to this article. I do not think we could then say that these articles were imported in vain or that the President had acted wantonly.

Shri H. V. Kamath : Is Dr. Ambedkar in a position to assure the House that article 143 will now be suitably amended ?

The Honourable Dr. B. R. Ambedkar : I have said so and I say now that when the Drafting Committee meets after the Second Reading, it will look into the provisions as a whole and article 143 will be suitably amended if necessary.

Mr. President : I will now put the amendment to vote one after another.

The question is :

"The article 188 be deleted."

The motion was adopted.

Article 188 was deleted from the Constitution.

ARTICLE 279

***The Honourable Dr. B. R. Ambedkar:** Mr. President, I think there are only two points which have been raised which require a reply. The amendment which has been moved by my Friend Professor Saksena was to the effect that any change in the Fundamental Right should be made by Parliament and not by the State during emergency. Now if my friend were to refer to the provisions of article 13, he himself will find that we have permitted both the Centre and the Provinces to make any changes which may affect the Fundamental Rights provided the changes made by them are reasonable. Therefore under normal circumstances, the authority to make laws affecting Fundamental rights is vested in both and there is no reason why, for instance, this normal right which the State possesses should be taken away during emergency.

Prof. Shibban Lal Saksena : But they will be suspended during emergency.

The Honourable Dr. B. R. Ambedkar : Suspension comes in another article. This article merely says that power may be exercised by the State—meaning both Parliament as well as the provinces—notwithstanding whatever is said in article 13.

* CAD, Vol. IX, dated 4th August 1949, p. 185.

Prof. Shibban Lal Saksena : During emergency ?

The Honourable Dr. B. R. Ambedkar : Yes. Because that is a normal power even in other cases. When there is no emergency both have got power to legislate on the subject. I see therefore no reason why that power should be taken away during emergency. On the other hand I should have thought that emergency was one of the reasons why such a power should be given to the State.

Then with regard to my Friend Mr. Kamath's criticism that the next article 280, was enough for the purpose, I think that is a misunderstanding of the whole situation, because unless power is given to modify, the suspension has no consequence at all. Therefore article 280 deals with quite a separate matter and has nothing to do with this article. This article should be accepted in the form in which it is proposed.

Mr. President : I will put the amendments to vote.

[3 amendments were negatived. Article 279 was added to the Constitution.]

ARTICLE 280

***Mr. President :** Then we take up article 280.

Amendment No. 3028—Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That for the existing article 280, the following article be substituted :—

'280. Where a Proclamation of Emergency is in operation, the President may by order declare that the right to move any court for the enforcement of the rights conferred by Part III of this Constitution and all proceedings pending in any court for the enforcement of any right so conferred shall remain suspended for the period during which the Proclamation is in operation or for such shorter period as may be specified in the order.'"

The House will see that this article 280 is really an improvement on the original article 280. The original article 280 provided that the order of the President suspending the operation of article 25 should continue for a period of six months after the proclamation has ceased to be in operation. That is to say, that the guarantee such as *habeas corpus,* writs and so on, would continue to be suspended even though the necessity for suspension had expired. It has been felt that there is no reason why this suspension of the guarantee should continue beyond the necessities of the case. In fact the situation may so improve that the guarantees may become operative even though the Proclamation has not ceased to be in operation. In order, therefore, to permit that the suspension order shall not continue beyond the Proclamation, and may even come to an end much before the time the Proclamation has ceased

* CAD, Vol. IX, date 4th August 1949, p. 186.

to be in force, this new draft has been presented to this Assembly, and I hope the Assembly will have no difficulty in accepting this.

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***The Honourable Dr. B. R. Ambedkar :** May I say a word ? In view of the point that has been made as to whether the suspension of the proceedings should take place by the order of the President which of course means on the advice of the Executive, which of course also means that the Executive has the confidence of the Legislature, there is no doubt a difference of opinion as to whether suspension should take place by an act of the Executive or by law made by Parliament. I should like therefore that this article may be held over to provide the Drafting Committee opportunity to consider the matter. We might take up the other articles.

Mr. President : This article may be held over.

Then we shall go to article 247.

ARTICLE 247

†The Honourable Dr. B. R. Ambedkar : Sir, I move that—

"That for the heading to the articles commencing with article 247, the following heading be substituted :—

'General'"

Mr. President : I do not suppose any discussion of that is required. The question is :

"That for the heading to the articles commencing with article 247, the following heading be substituted :—

'General'"

The motion was adopted.

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Mr. President : Does anyone wish to speak ?

The Honourable Dr. B. R. Ambedkar : All that I need say is that those words are included by way of 'abundant caution'. It may be they may be unnecessary, but it may be they may be found necessary. We want to retain those words.

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Article 247 was added to the Constitution.

ARTICLE 248

‡Mr. President : Then we take up article 248.

The Honourable Dr. B. R. Ambedkar : Sir, I move :

Taxes not to be imposed save by authority of Law.

"That for article 248, the following articles be substituted :—

"248. No tax shall be levied or collected except by authority of law.

* CAD, Vol. IX, dated 4th August 1949, p. 198.

† *Ibid.* pp. 198-99.

‡ *Ibid.,* p. 199.

Consolidated Fund.

248-A. (1) Subject to the provisions of this Chapter with respect to the assignment of the whole or part of the net proceeds of certain taxes and duties to States, all revenues or public moneys raised or received by the Government of India shall form one Consolidated Fund to be entitled "the Consolidated Fund of India", and all revenues or public moneys raised or received by the Government of a State shall form one Consolidated Fund to be entitled "the Consolidated Fund of the State."

(2) No moneys out of the Consolidated Fund of India or of a State shall be appropriated except in accordance with law and for the purposes and in the manner provided in this Constitution."

These amendments are only consequential to what we have already accepted previously.

[The Article as amended by the above amendment was adopted and added to the Constitution.]

ARTICLE 249

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***Mr. President :** Any one else who wishes to speak ? (No Member rose.)

Dr. Ambedkar, do you wish to say anything ?

The Honourable Dr. B. R. Ambedkar (Bombay : General)**:** There is nothing to be said.

Mr. President : I shall now put the amendments to vote.

The question is :

"That in clause (2) of article 249, the words 'in that year' be deleted."

The amendment was adopted.

Mr. President : The question is :

"That in clause (1) of article 249, after the words 'such stamp duties' the words 'as are imposed under any law made by Parliament' be inserted."

The amendment was adopted.

Mr. President : The question is :

"That in clause (2) of article 249, for the words 'revenues of India' the words 'Consolidated Fund of India' be substituted."

The amendment was adopted.

Mr. President : The question is :

"That article 249, as amended, stand part of the Constitution."

The motion was adopted.

(Article 249 as amended, was added to the Constitution.)

ARTICLE 250

†Mr. President : The motion is :

"That article 250, form part of the Constitution."

(Amendments Nos. 2842 to 2850 were not moved.)

Shri R. K. Sidhva (C. P. & Berar: General)**:** Mr. President, I move :

"That at the end of article 250, the following be added :

"The net proceeds of said distribution shall be assigned by the States to the local authorities in the jurisdiction'."

* CAD, Vol. IX, dated 4th August 1949, p. 208.

† *Ibid.,* p. 209.

[Mr. Sidhwa moved another amendment which was followed by his speech.]

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***The Honourable Dr. B. R. Ambedkar :** I am very sorry, Sir. I should have requested you at the very outset to allow this article to stand over.

Mr. President : It is suggested that this article be held over.

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ARTICLE 251

†The Honourable Dr. R. R. Ambedkar : Sir, I beg to move :

"That in clause (2) of article 251, for the words 'revenues of India' the words 'Consolidated Fund of India' be substituted."

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‡The Honourable Dr. B. R. Ambedkar : Sir, I can explain the tiling now. Before I do that, I will take up the other amendments.

There is an amendment by Mr. Barman and there is another amendment by Prof. Saksena. I am sorry to say that I cannot accept either of the amendments.

This question whether the percentage of revenue collected by way of Income-tax should be prescribed in the Constitution itself either as sixty per cent, or any other percentage or should be left to the President to decide is a matter over which considerable thought has been bestowed both by the Central Government as well as by the provincial Governments in the Conference which took place the other day to discuss this matter. It was agreed that the best thing would be to leave the matter to be prescribed by the President and that no proportion should be fixed in the Constitution itself.

With regard to the other question raised by Prof. Sakesna, that instead of the word "prescribed", the wording should be "prescribed by Parliament", again I am sorry to say that I cannot accept the amendment. Our schemes is to allow the President to prescribe the proportion in the first instance by himself and in the second instance after a consideration of the recommendations of the Finance Commission. We do not propose to bring the Parliament in. Because, in that case, there would be a great deal of wrangle between the representatives of the different provinces and great injustice may be done by reason of the fact that certain provinces may have a very large majority in the Parliament and certain other provinces may have a small representation. Consequently, to leave the matter to Parliament practically means leaving it to the voice of those provinces who happen to have a larger

* CAD, Vol. IX, dated 5th August 1949, p. 209.

†*Ibid.,* p. 211.

‡*Ibid,* pp. 221-23.

representation at the Centre, and that I think would cut at the root of the justice which you want to be done to the various provinces.

Now, Sir, coming to the difficulty that you have raised, the words "States within which that tax is leviable in that year" are necessary.

They occur in the Government of India Act, 1935. The reason why these words were then introduced was because Income-tax was not to be levied in the Indian States which were to come within the Indian Union. In lieu of the Income-tax, the Indian States were required to make certain contributions, therefore, if the tax was not to be levied in that State, that State would not be entitled to obtain a share. We do not know what is going to be the procedure under the present Constitution. This matter is being examined by a Committee which has been appointed to investigate into the finances of the Indian States. If the recommendation of that Committee is that Income-tax should be leviable in all the States whether they originally constituted Indian Provinces or Indian States, then naturally these words would have to be altered. While moving this article, I retain liberty to the Drafting Committee to suggest to some amendment in that respect when the report of that Committee comes before us. That is the reason why these words are here.

Mr. President : Just one thing more. May I take it that it is not intended to cover cases within what used to be British India ?

The Honourable Dr. B. R. Ambedkar : No, no ; States in Part III.

Shri B. Das : Dr. Ambedkar has referred to decisions of a Conference of Prime Ministers of Provinces and the Drafting Committee. Tins House has no knowledge of what passed between them and what the result of their discussions is. Unless a Minute of those discussions is laid on the table of the House in the form of a note or otherwise, we are not in a position to come to any conclusion as to the action of the Drafting Committee.

Mr. Pesident : I take it, if there had been any question raised by any of the Premiers of the Provinces, they would be here to raise them if they did not agree with the draft. Therefore I take the draft as now placed before the House has the concurrence or the consent of the Premiers.

Shri B. Das : The House is not bound by what the Premiers and Finance Ministers did outside this House. If any decision was taken, it is the privilege and prerogative of this House to have copies of those documents.

Mr. President : No one is bound here by any decision taken by the Premiers and the Drafting Committee. The House is free to cast its vote in any way it likes.

Pandit Lakshmi Kanta Maitra : I would like to ask for clarification from Dr. Ambedkar on one point. The point is this. This article provides that the revenue shall be distributed among the States in such a manner and from such time as may be prescribed. ... Will the interim allocation be decided on the recommendations of the Finance Committee ? It is not clear as to what is going to happen with regard to the period immediately following the coming into operation of the Constitution, and before the appointment of the Commission envisaged in a subsequent period.

***The Honourable Dr. B. R. Ambedkar :** Sir, the explanation is very simple. If we wanted that there should be no interim enquiry before the President made an order of allocation, we would have merely said that such allocation as existed before the commencement of the Constitution shall continue until they are re-determined by the President on the recommendation of the Commission. We have not said that, and we have not said that deliberately, because we want that an enquiry should be made and on the basis of the enquiry the President may prescribe by order. That is the reason for the difference in language.

Pandit Lakshmi Kanta Maitra : That is to say, the interim Commission will be appointed straightaway now and on the recommendation of that Commission the President will prescribe by order ?

The Honourable Dr. B. R. Ambedkar : Yes. Otherwise we would have merely said that the existing allocation will continue until the President isued the new order.

Mr. President : I will now put the various amendments to vote. I will first put amendment No. 2858, moved by Shri Upendra Nath Barman.

Shri Upendra Nath Barman : Sir, in view of the statement of Dr. B. R. Ambedkar, I wish to withdraw my amendment.

The amendment was, by leave of the Assembly, withdrawn.

Mr. President : Then I put amendment No. 76, moved by Dr. Ambeddkar. That is a verbal amendment.

The question is :

> "That in clause (2) of article 251, for the words 'revenues of India' the words 'Consolidated Fund of India' be substituted."

The amendment was adopted.

Mr. President : Then there is the amendment of Shri T.T. Krishnamachari.

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* CAD, Vol. IX. date 5th August 1949, pp. 222-23.

The question is :

"That in sub-clause (c) of clause (4) of article 251, for the words 'revenues of India' the words 'Consolidated Fund of India' be substituted."

The amendment was adopted.

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[Prof. Saksena's amendment was negatived.]

Article 251, as amended, was added to the Constitution.

ARTICLE 253

***Mr. President :** Then we take up article 253.

(Amendments Nos. 2883 and 2884 were not moved.)

Mr. President : What about amendment No. 2885 ? Do you wish to move it, Dr. Ambedkar ?

The Honourable Dr. B. R. Ambedkar : No ; Mr. Tyagi will move Ins amendment.

(Amendments Nos. 2886 to 2896 were not moved.)

Mr. President : Do you move, your amendment No. 2897, Mr. Bardoloi ?

The Honourable Shri Gopinath Bardoloi (Assam : General) **:** I do not want to move the amendment, but I would like to speak on the article.

(Amendments Nos. 2898 to 2902 were not moved.)

Shri Mahavir Tyagi (United Proivinces : General) **:** Sir, I had an amendment.

Mr. President : I have not finished all the amendments. I am taking them in order and will come to your amendment later. Amendment No. 81.

The Honourable Dr. B. R. Ambedkar : Sir I move :

"That in clause (2) of article 253. for the words 'revenues of India' the words 'Consolidated Fund of India' be substituted."

Mr. President : Then amendment No. 214, in the name of Shri Mahavir Tyagi.

Shri Mahavir Tyagi : Sir, I move:

"That with reference to amendment No. 2886 of the List of Amendments, clause (1) of article 253 he deleted."

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†Mr. President : Dr. Ambedkar, do you wish to say anything ?

The Honourable Dr. B. R. Ambedkar : Sir, I am prepared to accept the amendment moved by Mr. Tyagi, and I think it is necessary that

* CAD, Vol. IX, dated 5th August 1949, p. 224.

†*Ibid.,* pp. 238-39.

I should offer some explanation on behalf of the Drafting Committee as to why it has proposed to accept this amendment.

Before I begin with the main points, which justify the acceptance of the amendment. I should like to meet the point of criticism which has been levelled against the Drafting Committee by my Friend Professor Saksena.

Professor Saksena said that it was not proper for the Drafting Committee to have originally put clause (1) in the article and now be ready to accept the amendment moved by Mr. Tyagi. I should like to state that clause (1) which the Drafting Committee put, does not have its origin in the deliberations of the Drafting Committee itself. That clause was suggested, if I remember correctly, in the report of the Union Powers Committee where a decision was taken that there should be no imposition of any salt duty. As the Drafting Committee was bound by the directions and the principles contained in the report of the Union Powers Committee, they had no option except to incorporate that suggestion in the article which deals with this matter. Therefore, there is really no question of vacillation, so to say, on the part of the Drafting Committee.

I now come to the practical difficulties that are likely to arise if that clause was retained. It will be recalled that in List I, we have two entries, entry 86 which permits the levy of excise by the Central Government, we have also entry 85 which permits the levy of a duty of customs. Now, if sub-clause (1) of article 253 remained as part of the Constitution, it is obvious that the Central Government would not be entitled to employ either entry 86 or entry 85 for the purpose of levying an excise or custom on salt. That is quite clear, because clause (1) takes away legislative power with respect to salt duty which was otherwise levied by entry 86, or entry 85. Now, it was represented that while the non-employment of the powers given under entry 86 to levy excise may not cause much difficulty to the country, the embargo, if I may say so, on the utilisation of the powers given under entry 85 to levy a customs duty may cause a great deal of difficulty, because (hat would permit the importation of foreign salt to be brought into India without the Government of India being in a position to apply any kind of legislative remedy to stop such influx of salt which may practically destroy the Indian salt industry. It was, therefore, felt that the better thing would be to remove the embargo and to leave the matter to the future Parliament, to act in accordance with circumstances that might arise at any particular

moment. That is the reason why the Drafting Committee is prepared to accept the amendment of my Friend Mr. Tyagi.

Shri R. K. Sidhva : May I know why the item of prohibition was entered in the directive policy ? If clause (1) of this article is to be deleted, may I know why the item regarding prohibition was inserted in the Directive Principles of the Government, and may I also know why the wearing of Kirpans was also put in the Fundamental Rights ?

The Honourable Dr. B. R. Ambedkar : Oh, Kirpans stand on quite a different footing.

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***Several Honourable Members :** No speeches now.

Mr. President: Let there be no speeches. If the Members so desire, I may allow the article to be held over for further consideration.

The Honourable Shri K. Santhanam : The article may be held over.

The Honourable Dr. B. R. Ambedkar : The article may beheld over.

Shri Mahavir Tyagi : The article may be held over.

Mr. President : This article will stand over.

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ARTICLE 253 (*Contd.*)

† **Mr. President :** We shall take up consideration of article 254, to begin with.

The Honourable Dr. B. R. Ambedkar (Bombay : General) **:** Sir, before we begin discussion of article 254,1 would request you to allow consideration of Mr. Tyagi's amendment to article 253, because the Prime Minister wishes to speak on it. Although the debate is closed, I would request you to allow the Prime Minister to make a speech, before you put the amendment to vote.

Mr. President : Yes. Honourable Pandit Jawaharlal Nehru.

* * * * *

[Article 253, as amended, by Dr. Ambedkar's amendment was added to the Constitution.]

ARTICLE 254

‡**The Honourable Dr. B. R. Ambedkar:** Mr. President, Sir, I move :

"That for article 254, the following be substituted :—

Grants in lieu of export duty on Jute and Jute products

254. (1) There shall be charged on the Consolidated Fund of India in each year as grants-in-aid of the revenues of the States of Bengal, Bihar, Assam and Orissa in lieu of assignment of any share of the net proceeds in each year of export duty on jute and jute-products to these States such sums as may be prescribed by the President.

* CAD, Vol. IX, dated 5th August 1949, p. 240.

†*Ibid.,* dated 8th August 1949, p. 241.

‡*Ibid.,* dated 8th August 1949, pp. 242-43.

(2) The sums so prescribed shall continue to be charged on the Consolidated Fund of India so long as export duty on jute or jute-products continues to be levied by the Government of India or until the expiration of ten years, whichever is earlier.

(3) In this article, the expression 'prescribed' 'has the same meaning as in article 251 of this Constitution."

Sir, this amendment makes an important change in the existing system of sharing the export duty on jute and jute-products. Under the Government of India Act, it was provided that certain provinces which are mentioned in this article should be entitled to a certain share in the proceeds of the export duty on jute and jute-products for the reason the jute forms a very important commodity in the economy of the provinces mentioned in this article. The proposal in the amended article is to do away with this right of certain provinces to claim a share in the export duty on jute and jute-products. The reason, if I may say so, is a very simple one. Ordinarily all export and import duties belong to the Central Government and no province has any right to a share in the export duty levied on any particular commodity which, as I said, happens to form an important commodity in the economy of that particular province. In view of the fact, however, that the finances of Bengal, particularly, could not be balanced without a share in the export duty, an exception was made in the Government of India Act, 1935, whereby the Bengal Government and the other Governments were given vested rights, so to say, to claim a share in the export duty which, as I said, was contrary to the general principle that the export and import duties belong to the Central Government. It is now felt that this exception which was made in the Government of India Act, 1935, should not be allowed to be continued hereafter. The reason why it is felt that this vicious principle should be stopped right now is that it is perfectly possible to imagine that other provinces also who have certain commodities grown in their area and exported outside on which the Government of India collects an export duty may also lay claim to a share in the export duty on those products. If that tendency develops it would be a very difficult position for the Government of India. Consequently it has been decided that that principle should now definitely be abrogated.' But it is equally clear that if that principle of sharing in the export duty was withdrawn suddenly it might create a difficulty in balancing the budgets of the several provinces which were

up to now dependent upon a share in the export duty. Therefore a provision is made that instead of giving specifically a share in the export duty an equivalent sum or such other amount as the President might determine may be made over or assigned to those provinces for the period the export duty continues to be levied or until the expiration often years, whichever is earlier. The latter is introduced in order to enable those provinces to get sufficient time to develop their resources so that after the period mentioned in this article they would be in a position to balance their budgets.

I hope, Sir, the salutary principle which is now embodied in this amended article 254 will be acceptable to the House.

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***The Honourable Dr. B. R. Ambedkar** (Bombay : General) **:** Mr. President, Sir, in my reply to the debate, I do not propose to go over the many tales of woe that have been sung in this House by Members from different provinces who feel that they have been badly treated in the distribution of revenues that has been ordered under the Government of India Act, 1935. I just propose to take the few more concerete points to reply to.

First of All, I propose to say a word with regard to the amendment moved by my Friend, Professor Shibban Lai Saksena. He wants that the grants, instead of being fixed by the President, should be fixed by Parliament. Now, in the course of the debate on other financial articles that took place last time, I said that it was not the intention to bring Parliament in the matter of the distribution, because we do not want that the distribution of revenue should become a subject matter either of log-rolling between different provinces or wrangling between the representatives of different provinces. We want this matter to be decided by the President or by the President on the advice of the Finance Commission. That is the reason why I am not prepared to accept Professor Saksena's amendment.

Then I come to the point raised by my Friend, Mr. Maitra. His first argument was that he saw no reason why the Drafting Committee should now bring forth an amendment so as to change the original article. I am sure he forgot to refer to the recommendations of. the Expert Committee on Finance. If he will refer to that, I think that he will agree with me that it was the Expert Committee who recommended that the

* CAD, Vol. IX, dated 8th August 1949, pp. 259-61.

system of allocation of the jute duty and the duty on jute-products should be altered. It was therefore not a matter of any volition or wish on the part of the Drafting Committee to effect a change in the original article.

Pandit Lakshmi Kanta Maitra: They referred to compensation also.

The Honourable Dr. B. R. Ambedkar: I will come to that. The only tiling which the Drafting Committee did not accept was the allocation suggested by the Expert Committee on Finance, to be given to the different provinces which would be losing their share in the export duty on jute. It was felt by the Drafting Committee that probably the figures suggested by the Expert Committee required further examination. Having regard to the very short time that was at the disposal of the Expert Committee the Drafting Committee did not feel sure that the figures suggested by the Expert Committee could be accepted by them without further examination. It was because of that fear that the Drafting Committee, instead of adopting the figures suggested by the Expert Committee, adopted their own formula which now finds a place in the new article, viz. that the grants-in-aid in lieu of compensation for the loss of the jute duty shall be prescribed by the President. There is therefore, no desire on the part of the Drafting Committee either to take away a legitimate source of revenue from the four provinces which have been mentioned in this particular article, in which, so to say, they have a vested right, nor has the Drafting Committee attempted to make any fundamental alterations in the figures suggested by the Expert Committee. All that they have done is to leave the matter to the President.

Now, my Friend, Pandit Hirday Nath Kunzru, pointed out that the Drafting Committee was wrong in inserting a definition of the word "prescribe" in the article now before the House. He went further to say that even in the last article which we passed, which is 260, the word "prescribed" ought not to be there. Now, it seems to me somewhat difficult, whatever may be the merits of the proposition that he has urged, to avoide the definition of the word "prescribed". We have said in the main part of article 254 that the grants-in-aid shall be such as may be prescribed. Now, any lawyer would want to know what the word "prescribed" means. Either we would have to have a special definition of the word "prescribed" which would be confined to or circumscribed by the provisions of article 254 or we would have to alter the provisions contained in article 260 where the word "prescribed" has been defined.

Mr. President : Probably you refer to 251.

The Honourable Dr. B. R. Ambedkar: I am sorry. I stand corrected. It is 251. It seems to me that so far as prescription of allocation is concerned, the Drafting Committee has suggested two different definitions of the word "prescribed". One definition of" prescribed "means prescribed by the President when there is no report before him of the Finance Commission and the second definition of "prescribed" is prescribed when the President has got before him the recommendations of the Finance Commission. The reason why the Drafting Committee has been required to give two different definitions of interpretations of the word "prescribed" is this. It is quite clear that the Provinces want that the existing allocation not merely of the jute duty but the allocation of other sources of revenue provided under other articles of the Constitution must not be the same as are now existing, because their complaint is that the amounts now given to them are neither adequate nor just and that some revision of the allocation is necessary. Obviously, if the allocation is to take place immediately so that the new allocation would commence on the commencement of the Constitution, it is obvious that such allocation can be made only by the President without waiting for the recommendations of the Finance Commission because it is inconceivable that no matter what amount of hurry the Central Government was prepared for, it will not be possible to appoint a Commission to have its report, before the Constitution commences. Consequently, we had to devise this double definition of the word "prescribed". In the first place the prescription will be by the President without the recommendation of the Finance Commission. That, of course, does not mean that the President will act arbitrarily. That does not mean that the President would act merely on the advice of his Cabinet, which might be interested in safeguarding and securing the position of the Centre *vis-a-vis* the Provinces. It is, I think, in the contemplation of the Central Government and I should like to make that matter quite clear that the Central Government does propose to appoint some Committee, which will be an Expert Committee or some expert officer, which would of course not be a Commission within the meaning of this Constitution, for going into the question and finding out whether the existing allocation, not merely of the jute duty and duty on jute-products, but other allocations of other sources of revenue require to

be so revised as to do justice between province and province and between the Centre and the provinces. Consequently, when the first order of the President would be issued, it would not be issued, as I said, arbitrarily by the President or merely on the advice of the Executive at the Centre, but he would have some independent, some expert opinion by which he would be guided. After that when the further question arises of revising the orders, the question that will arise is this, whether the President should act on the advice of Parliament or whether he should act on his own advice or whether he should act on the advice and recommendation of the Finance Commission which is to be appointed under the Constitution. As I said, there are three different alternatives which we could adopt. I know my honourable Friend, Pandit Kunzru with the best of motives, suggests that the President should act independently and not be guided by the recommendations of the Finance Commission. There is a section of opinion represented by my honourable Friend, Professor Saksena, that no allocation should be made by the President even upon the recommendation of the Finance Commission unless Parliament gives sanction to it. As I have said there are defects in both these positions. I do not think that it is right for the President, after having appointed a Commission to recommend the allocation, that he should altogether disregard the recommendations of that Commission, pursue his own point of view and make the allocation. That I think would be showing disrespect to the Commission. As I have said, the third alternative of leaving the matter to Parliament seems to me to be full of danger, involving provincial controversies, and provincial jealousies. Therefore, the Drafting Committee has adopted, if I may say so, the middle way, namely, that although the matter may be debated in Parliament, in the action taken by the President, he should be guided by the recommendations made by the Fiscal Commission and should not act arbitrarily. I hope the House will accept this. This is the most reasonable compromise of the three methods and it is the best way of dealing with this matter.

[The amendment of Dr. Ambedkar as mentioned earlier was adopted.]

Article 254 was added to the Constitution.

NEW ARTICLE 254-A

***Mr. President :** Then we shall take up 254-A.

Mr. Naziruddin Ahmad : I have a point of order. Sir, the point of order is that amendment No. 82 seeking to introduce a new article 254-A is entirely a new matter. We have already decided in the House that amendments to the Constitution should be presented by a certain date. We have presented our amendments. No further amendments to the Constitution could be allowed according to the rules. The only amendments which are admissible today would be amendments to the original amendments as well as amendments to regular amendments. I submit that the present amendment is not related to any amendment at all... It says that "after article 254 the following article be substituted". There is here no attempt or even a pretence of it being with reference to or related to or being in connection with any amendment. I submit, Sir, that this article cannot be inserted in this way.

The Honourable Dr. B. R. Ambedkar : No doubt the point raised by my honourable Friend is quite valid, but I submit that you have infinite discretion in this matter to allow any amendment if it is an amendment of importance.

Mr. President: I think on previous occasions also we have allowed new articles to be inserted and this is a new article which is sought to be inserted after article 254.

Shri T. T. Krishnamachari : When you have allowed the Drafting Committee to function, it will be its duty continually to examine the Draft Constitution and if they find that there is a lacuna, because of the fact that the Committee is in existence, it has got to take steps to till in this lacuna. The present amendment arises out of that necessity.

Mr. President: On previous occasions I have allowed fresh articles to be introduced, and this is a new article which is sought to be introduced after article 254 and so I allow this.

Dr. Ambedkar, you may move the amendment.

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* CAD, Vol. IX, dated 8th August 1949, pp. 261-64.

The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That after article 254 the following article be inserted :—

Prior recommendation of President required to Bills affecting taxation in which States are interested.

254-A. (1) No Bill or amendment which imposes or varies any tax or duty in which States are interested, or which varies the meaning of the expression 'agricultural income' as defined for the purpose of the enactments relating to Indian Income-tax or which affects the principles on which under any of the foregoing provisions of this Chapter moneys are or may be distributable to States, or which imposes any such surcharge for the purposes of the Union as is mentioned in the foregoing provisions of this Chapter, shall be introduced or moved in either House of Parliament except on the recommendation of the President.

(2) In this article the expression 'tax or duty in which Slates are interested' means—

(a) a tax or duty the whole or part of the net proceeds whereof are assigned to any State ; or

(b) a tax or duty by reference to the net proceeds whereof sums are for the time being payable out of the Consolidated Fund of India to any State."

Sir, I might mention one or two reasons why we felt that at the fag end, so to say, this new article be inserted in the Constitution. A similar provision exists in the Government of India Act. The Drafting Committee considered the matter. They did not think it necessary to incorporate and transfer that article into the new Constitution. However, when a Conference of Premiers was held, it was suggested that such an article would be useful and perhaps necessary, because, once an allocation has been made by Parliament between the provinces and the States, such an allocation should not be liable to be disturbed by any attempt made by any private member to bring in a Bill to make alteration in matters in which the provinces become interested by reason of the allocation. It is because of this that the Drafting Committee has now brought forth this amendment in order to give an assurance to the provinces that no change will be made in the system of allocation unless a Bill to that effect is recommended by the President.

Mr. President : There is no amendment to this article.

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Mr. President : Do you wish to speak, Dr. Ambedkar ?

The Honourable Dr. B. R. Ambedkar : I do not think any reply is necessary.

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Article 254-A was added to the Constitution.

ARTICLE 255

***Mr. President :** We go to article 255.

(Amendment No. 83 was not moved.)

The Honourable Dr. B. R. Ambedkar : Sir, I beg to move :

"That in article 255, for the words 'revenues of India', wherever they occur, the words 'Consolidated Fund of India' be substituted.

"That in the first proviso to article 255, the words and figures 'for the time being specified in Part I of the First Schedule' be omitted.

"That in clause (a) of the second proviso to article 255, for the words 'three years 'the words 'two years' be substituted."

The first two amendments are just formal.....

Mr. Naziruddin Ahmad : On a point of Order. No. 86 is entirely new and not related to anything. It is not a formal matter. It is a serious matter.

The Honourable Dr. B. R. Ambedkar : That is what I am trying to explain.

Mr. Naziruddin Ahmad : It is not an amendment to an amendment. It is an amendment to the Constitution.

The Honourable Dr. B. R. Ambedkar: I move it with the permission of the Chair.

Mr. Naziruddin Ahmad : I wanted Dr. Ambedkar to be forced to take the permission of the Chair to move it.

The Honourable Dr. B. R. Ambedkar : I have taken his permission. The President can give his permission before or after moving it.

This matter refers to grants and the provision in the original article itself is that an average of three years should be paid to Assam. It was represented to us that if the average of three years is taken, the Assam Government will get very little because in the first year they did not spend anything but if we took the average of two years, they would get more. It is to meet this difficulty that the Drafting Committee has introduced the words two years instead of three years.

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ARTICLE 255 *(Contd.)*

†The Honourable Dr. B. R. Ambedkar (Bombay : General) **:** Mr. President, Sir, I can at once say that I am prepared to accept the

* CAD, Vol. IX, dated 8th August 1949, pp. 264-65.

†*Ibid.,* dated 9th August 1949, pp. 293-94.

amendment moved by my Friend, Mr. Nichols Roy. The draft of this article does seem to give the impression that until Parliament determines each year what the grants are to be, the President will have no power to do so. That certainly is not the intention of the Drafting Committee. The Drafting Committee would like the President to exercise his powers of making grants under article 255 even before Parliament has made any determination of this matter. And in order to make this position quite clear, I am, as I said before, prered to accept the amendment moved by Mr. Nichols Roy. I would, however, at this stage, like to say that I have not yet had sufficient time to examine the exact language he has put in his amendment; and therefore, subject to the reservation that the Drafting Committee would have the liberty to change the language in order to suit the text as it stands in article 255, I am prepared to accept his amendment.

Mr. President : I will now put the amendments to vote.

[All the amendments of Dr. Ambedkar, as given above, were adopted.]

Mr. President : And then I put Rev. Nichols Roy's amendment. The question is :

"That in article 255,—

(a) after the words 'Parliament may by law provide 'the words 'or until Parliament thus provides, as may be prescribed by the President' be inserted ;

(b) after the words 'Parliament may determine' the words 'or until Parliament determines as the President may determine' be inserted ; and

(c) the following Explanation be added at the end of the article :—

"*Explanation.*—The word "prescribed "has the same meaning as in article 251 (4)(*b*)."

The amendment was adopted.

[Article 255, as amended, was added to the Constitution.]

ARTICLE 256

***Mr. President:** We now take up article 256. Amendment No. 2925 by Dr. Ambedkar, in Vol. II, of the printed list.

The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That for clause (1) of article 256 the following-clause be substituted:—

'(1) Notwithstanding anything in article 217 of this Constitution, no law of the legislature of a State relating to taxes for the benefit of the State or of a municipality, district borad, local board or other local authority therein, in respect

* CAD, Vol. IX, dated 9th August 1949, p. 301.

of professions, trades, callings or employments shall be invalid on the ground that it relates to a tax on income.' "

Sir, it is proposed in a subsequent article to permit local authorities to levy certain taxes on professions, trades callings and employments up to a certain limit. It is feared that such a tax, if levied by the State, might be called in question on the ground that it amounts to a tax on income and being within the exclusive authority of the Centre. It is to prevent any such challenge to any law made for the purposes mentioned in sub-clause (1) that this provision has been deemed by the Drafting Committee to be very necessary, and accordingly I move this amendment.

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Mr. President : Then Nos. 89 and 90 in the name of Mr. P.D. Himatsingka. He is not moving them. No. 91 in the name of Dr. Ambedkar.

The Honourabe Dr. B. R. Ambedkar : Sir, I do not wish to move it.

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The Honourable Dr. B. R. Ambedkar : Sir, I do not think that any very detailed reply is called for. The position is simply this, that in every Constitution the taxing resources of a State are generally distributed between the Centre and the States. The question of distributing the resources between the States and the local authorities is left to be done by law made by the State, because the local authority is purely a creation of the State. It has no plenary jurisdiction ; it is created for certain purposes ; it can be wound up by the State if those purposes are not properly carried out. This article, which I am proposing, is really an exception to the general rule that there ought to be no provision in a Constitution dealing with the financial resources of what are called local authorities which are subordinate to the State. But having regard to the fact that there are at present certain local authorities and their administration is dependent upon certain taxes which they have been levying and although those taxes have been contrary to the spirit of the Income-tax law, the Drafting Committee, having taken into consideration the existing circumstances, is prepared to allow the existing state of affairs to continue. In fact exception was taken to the limit fixed by the Expert Committee which was Rs. 250. The proposal was that

* CAD, Vol. IX, dated 9th August 1949, p. 301.

it ought to be brought down to Rs. 150. The Drafting Committee on reconsideration decided that that need not be done and under the present state of affairs may be continued up to the limit and within the scope that it occupies today. I therefore say that this is a pure exception, and on principle I am definitely opposed to it and I am therefore not prepared to accept any amendment that may have been moved by any honourable Friend.

[Amendment of Dr. Ambedkar, as given earlier was adopted and the Article 256, as amended** was **added to the Constitution.]

ARTICLE 257

***The Honourable Dr. B. R. Ambedkar :** Sir, I move :

"That the words 'by law' be added at the end of article 257."

It is a little inadvertent omission.

Mr. President : There are two other amendments which do not arise after the amendment of Dr. Ambedkar.

The amendment as above was adopted.

Article 257 as amended, was added to the Constitution.

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ARTICLE 259

†The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That in clause (1) of article 259, for the word 'Auditor-General' the words 'Comptroller and Auditor General' be substituted."

This is done in order to bring the same monenclature in article 259 which has been given to this officer in the previous article this Assembly has passed.

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The amendment was adopted.

Article 259, as amended, was added to the Constitution.

ARTICLE 260

‡Mr. President : Then we go to article 260.

The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That for amendment No. 2943 of the List of Amendments the following be substituted : —

That for clause (1) of article 260, the following clause be substituted :—

'(1) The President shall, within two years from the commencement of this Constitution and thereafter at the expiration of every fifth year or at such earlier time as the President considers necessary, by order, constitute a Finance Commission which shall consist of a Chairman and four other members to the appointed by the President.' "

* CAD, Vol. IX, dated 9th August 1949, p. 302.

†*Ibid.,* p. 302.

‡*Ibid,* p. 303.

Sir, the point of this amendment is this. Originally, as the article stood, it stated that the Commission shall be appointed at the end of five years. It is felt that it is necessary to permit the President to appoint the Commission much earlier and consequently we are now providing that it should be appointed within two years from the commencement of the Constitution.

Mr. President : You may move amendment No. 96 also.

The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That in sub-clause (b) of clause (3) of article 260, for the words 'revenues of India' the words 'Consolidated Fund of India' be substituted."

This is a formal one.

Mr. President : There are amendments to this article, which have been printed in the Book.

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Pandit Hirday Nath Kunzru : ...This article shows that the framers of the Constitution feel that under the provisions of article.....

The Honourable Dr. B. R. Ambedkar : It has not been passed yet.

Pandit Hirday Nath Kunzru : That is why I am referring to it now otherwise there would have been no point in referring to it.

The Honourable Dr. B. R. Ambedkar : I have a right to withdraw it.

Pandit Hirday Nath Kunzru : Dr. Ambedkar says he has a right to withdraw it. I hope he will be wise enough to withdraw it.

The Honourable Dr. B. R. Ambedkar : No, it might be modified.

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***The Honourable Dr. B. R. Ambedkar :** Sir, the House must have realised that my honourable Friend Dr. Kunzru's amendment referred to clause (3) of article 260 where the functions of the Finance Commission are laid down. But, in order to understand the exact significance of the amendments he has moved, I personally feel that it is desirable to know the method of allocation of revenues already provided for in the two articles we have already passed, namely 251 and 253. It will be realised that the Draft Constitution separates the distribution and allocation of the income-tax from the distribution and allocation of central duties of excise. With regard to income-tax the distribution and allocation of the proceeds is a matter which is left to the President to decide. That will follow from reading article 251(2)

* CAD, Vol. IX, dated 9th August 1949, p. 311.

with clause (4) (b) (i) and (ii). On the other hand with regard to the distribution and allocation of the proceeds of the central duties of excise the matter is left entirely to be determined by law made by Parliament, which you will find set out cleanly in article 253.

As it is one O'clock I will continue my speech tomorrow.

The Assembly then adjourned till 9 of the clock on Wednesday, the 10th August 1949.

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ARTICLE 260 *(Contd.)*

***Mr. President :** Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar (Bombay : General) **:** At the close of yesterday's sitting, Sir, I was dealing with the argument advanced by my Friend Pandit Kunzru in support of his amendment. I began by saying that it was desirable to remind the House of the provision contained in article 251(2) and article 253 as a sort of background to enable honourable Members to follow what exactly Pandit Kunzru wanted by his amendment.

Now I would briefly summarise what I said yesterday. The position is that so far as income-tax is concerned, the distribution and allocation of the proceeds are left to the President to determine, while the distribution and allocation of the Central duties of excise are left to be determined by law made by Parliament.

The next point to bear in mind are the provisions contained in article 260 which deals with the Finance Commission. Under clause (3) of article 260, it is provided that the Finance Commission is to advise and make recommendations with regard to the distribution and allocation, not merely of the taxes which are made distributable by law made by Parliament, but also with regard to the distribution and allocation of the income-tax. Now, what my Friend, Pandit Kunzru, wants to do, if I have understood him correctly, is that he wants to take out the collection, allocation and distribution of income-tax from the purview, so to say of the Finance Commission. His point was this that while the President may well take the advice of the Finance Commission in making the allocations of Central duties of excise, he should be, so to say, made independent of the Finance Commission with regard to the income-tax. The only qualification that he wants to urge is this that so far as the initial distribution of the income-tax is concerned, the

* CAD, Vol. IX, dated 10th August 1949, pp. 313-15.

President may well consult the Finance Commission and act in accordance with or after taking into consideration the recommendations made by the Finance Commission, but any subsequent variation of the income-tax allocation may be left to be done by the President independently of any recommendations that may be made by the Finance Commission. I think I am right in interpreting what he intends to do by his own amendment. The question, therefore, is a very simple and small one. Should the President be left altogether independent of any recommendations of the Finance Commission in varying the distribution of the income-tax between the provinces and the Centre and the allocation of the proceeds of the income-tax so set apart between the different provinces ? The draft amendment as I have moved provides that the President shall take into consideration the recommendations of the Finance Commission in making any variations that he may want to do with regard to the distribution and allocation of the income-tax. I quite appreciate his point of view that, if this was left to be decided by the President on the recommendations of the Finance Commission, the hands of the President may be so tied that he may have to yield to the recommendations of the Finance Commission or to the clamour that may be made by the provinces with the result that he may be forced to do injury to the Central finances. I share his feelings that the Centre should be made as independent as one can make it so far as finance is concerned, because in my mind there can be no doubt that we must not do anything in the Constitution which would jeopardise either the political or the financial existence of the Central Government, but there is also the other side to the matter, *viz.,* supposing there was a clamour made by all the provinces, which is perfectly possible to imagine because it is their common interest, urging the President to allocate more revenue to the provinces, would it not be placing the President at the mercy of the provinces ? If, on the other hand, there was a report of the Commission containing recommendations that the Centre should not give more revenue under the income-tax to the provinces, it would, in my judgment, strengthen the hands of the President in refusing to accede to such a clamour from the provinces. If I may use the language with which we are now familiar under the Government of India Act, the difference between the draft article as it stands now and the amendment proposed is that according to Pandit Kunzru, the President should be

free to act in his discretion, while the draft as proposed by me says that he should act in his individual judgment which means.....

Pandit Hirday Nath Kunzru (United Provinces : General) **:** Will the honourable Member permit me to make my point clear, because I feel that he has probably not completely understood what I said ? May I make clear what I said in one or two sentences. Under clause (3) of article 260 the President may refer any matter he likes to the Finance Commission for its opinion. I do not, therefore, want to debar the President from consulting the Commission in any matter that he likes. All that I am objecting to is that the Finance Commission without any reference from the President, should have the power to say that the allocation of the net proceeds of the income-tax between the Centre and the provinces is not what it should be and that new percentages recommended by it should be fixed. This is all that I said yesterday.

The Honourable Dr. B. R. Ambedkar : That rather makes the situation far more complicated because I cannot see how the Finance Commission can make any recommendation unless the point has been specifically referred to it or included in the terms of reference.

Pandit Hirday Nath Kunzru : Under sub-clause (a) of clause (3) of article 260 the Commission may on its own initiative make recommendations on that subject. Let my Friend read the sub-clause to understand the meaning.

The Honourable Dr. B. R. Ambedkar : "any other matter referred to the Commission by the President in the interest of sound finance."

Pandit Hirday Nath Kunzru : That is (d). Will the honourable Member refer to article 260, the article which we are disucussing, with particular reference to the clause that I dealt with yesterday ? Sub-clause (a) of clause (3) of article 260 says—

> "It shall be the duty of the Commission to make recommendations to the President as to the distribution between the Union and the States of the net proceeds of taxes which are to be, or may be, divided between them....."

That is the thing that I am objecting to. The power of the President under sub-clause (d) of clause (3) to refer any other matter that he likes to the Finance Commission will not be disturbed if my amendment is accepted.

The Honourable Dr. B. R. Ambedkar : I do not know. The position is quite clear whether the President is to be left in his complete discretion

to make any allocation he likes with regard to the income-tax or whether he should be guided by the recommendations made by the Commission. It seems to me that the position of the President will be considerably strengthened if he could refer as a jutifying cause to the recommendations made by the Finance Commission. It seems to me that the Finance Commission will be acting as a bumper between the President and the provinces winch may be clamouring for more revenue from income-tax. I therefore do not think there is any reason for accepting the amendment moved by my Friend, Mr. Kunzru.

Mr. President : I have now to put the two amendments to the vote. First, amendment No. 95 moved by Dr. Ambedkar.

[Dr. Ambedkar's amendment was adopted. Article 260, as amended, was added to the Constitution.]

ARTICLE 261

***The Honourable Dr. B. R. Ambedkar :** Sir, I move :

"That in article 261, for the word 'Parliament' the words 'each House of Parliament' be substituted."

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†The Honourable Dr. B. R. Ambedkar : Mr. President, Sir, I am sorry I cannot accept the amendments moved to this article. It seems to me that the amendment are based upon a complete misunderstanding of the provisions contained in article 261, and I feel that no amendment is necessary at all. In order to understand exactly what article 261 means, you have to go back to the previous articles which deal with the distribution of the income-tax and the distribution of the net proceeds of the Centrally collected excise duties. Obviously, with regard to the distribution of the income-tax, the article which we have passed so far leave the matter entirely with the President acting on the recommendations of the Finance Commission. That being so, it would not now be possible to say by an amendment that so far as the recommendations with regard to the distribution of the income-tax are concerned, the matter may be left to Parliament. My submission is that that issue is now closed, we having passed an article leaving to the President the allocation and the distribution of the income-tax either in the initial stage or in the subsequent variations.

* CAD, Vol. IX, dated 10th August 1949, p. 315.

†*Ibid.,* Pp. 328-29.

Now, the other matter which is covered by article 261 relates to the distribution of the revenue collected from Centrally levied excise duties. It is also clear from the article that we have passed that this matter shall be governed by the law made by Parliament. The President cannot do it himself. Therefore the words "shall put before Parliament a memorandum stating the action that has been taken" merely means this that the President shall say, as he is bound to say, that a Bill shall be introduced before Parliament to regularise or sanction the proceeds of the excise duties and the manner in which they are to be allocated. Consequently, if my Friend, Prof. Shibban Lai Saksena will read article 261 in relation to the other articles that we have passed, he will realise that so far as the distribution of the excise duties is concerned, the result will be the same as what he proposes to bring about by his amendment therefore I think that his amendment is quite unnecessary.

Mr. President : I will now put the amendments to the vote.

[Articles 261, as amended by Dr. Ambedkar's amendment was adopted and added to the Constitution.]

ARTICLE 263

***The Honourable Dr. B. R. Ambedkar :** Sir, I move:

"That for article 263 the following be substituted :—

'263. (1) The custody of the Consolidated Fund of India, the payments of moneys into such Fund, the withdrawal of moneys therefrom and all other matters connected with or ancillary to the matters aforesaid shall be regulated by law made by Parliament, and until provision in that behalf is so made by Parliament, shall be regulated by rules made by the President.

Custody of Consolidated Funds, the payment of moneys into and withdrawal of moneys from such funds.

(2) The custody of the Consolidated Fund of a State, the payments of moneys into such Fund and the withdrawal of moneys therefrom, and all other matters connected with or ancillary to the matters aforesaid shall be regulated by law made by the Legislature of the State, and, until provision in that behalf is so made by the Legislature of the State shall be regulated by rules made by the Governor of the State.' "

I do not think any explanation is necessary.

Pandit Hirday Nath Kunzru : Mr. President, I move :

"That in the amendment just moved by Dr. Ambedkar, after the words 'Consolidated Fund', wherever they occur, the words 'and the Contingency Fund' be inserted ; and for the words 'such Fund', wherever they occur, the words 'such Funds' be substituted."

* CAD, Vol. IX, dated 10th August 1949, p. 330.

The House has already agreed to the establishment of a Contingency Fund. It is therefore necessary to provide for the manner in which money may be put into the Contingency Fund and may be withdrawn from it. This is a purely formal amendment and I trust that the House will accept it.

Mr. President : I take it that Dr. Ambedkar will accept Pandit Kunzru's amendment.

The Honourable Dr. B. R. Ambedkar : I accept the amendment.

Article 263, as amended, was added to the Constitution.

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ARTICLE 267

***The Honourable Dr. B. R. Ambedkar :** Sir, I move :

"That in article 267—

(i) after the words 'Crown in India' the words 'or after such commencement in connection with the affairs of the Union or of a State' be inserted ;

(ii) for the words 'revenues of India' wherever they occur, the words 'Consolidated Fund of India' be substituted ;

(iii) for the words 'revenues of a State' wherever they occur, the words 'Consolidated Fund of the State' be substituted ;

(iv) the words and figure 'for the time being specified in Part I of the First Schedule' be omitted ; and

(v) for the words 'revenues of the State', the words 'Consolidated Fund of the State' be substituted."

It is just consequential.

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The Honourable Dr. B. R. Ambedkar : Sir, I do not accept any amendment.

Mr. President : I put the amendments to vote.

[Dr. Ambedkar's amendment was adopted. All other amendments moved by Prof. S. L. Saksena, H. V. Kamath and Dr. P. S. Deshmukh were rejected. Article 267, as amended, was added to the Constitution]

ARTICLE 268

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†The Honourable Dr. B. R. Ambedkar : Sir, except for the last oration of my Friend Prof. K. T. Shah in which he suggested that we should introduce a clause putting limitation upon the authority of Parliament to sanction loans, I was really quite unable to understand the dissent which has been expressed by other speakers with regard to the provision contained in article 268. It is admitted that it is the executive alone which can pledge the credit of the country for borrowing purposes,

* CAD, Vol. IX, dated 10th August 1949, pp. 330-34.

†*Ibid.,* pp. 339-40.

for borrowing is an executive act in one aspect of the case, but in this article it is not proposed that the power of the executive to borrow is to the unfettered by any law that is to be made by Parliament. This article specifically says that the borrowing power of the executive shall be subject to such limitations as Parliament may by law prescribe. If Parliament does not make a law, it is certainly the fault of Parliament and I should have thought it very difficult to imagine any future Parliament which will not pay sufficient or serious attention to this matter and enact a law. Under the article 268 I even concede that there might be an Annual Debt Act made by Parliament prescribing or limiting the power of the executive as to how much they can borrow within that year. I therefore do not see what more is wanted by those who expressed their dissent from the provisions of article 268. It is of course a different matter for consideration whether we should have a further provision limiting the power of the Parliament to pledge the credit of the country. It seems to me that even that matter may be left to Parliament because it will be free for parliament to say that borrowing shall not be done on the pledging of certain resources of the country. I do not see how tins article prevents Parliament from putting upon itself the limitations with regard to the guarantees that may be given by Parliament for the ensurement of these loans or borrowings. I therefore think that from all points of view this article 268 as it stands is sufficient to cover all contingencies and I have no doubt about it that, as my friend Mr. Ananthasayanam Ayyangar said, we hope that Parliament will take this matter seriously and keep on enacting laws so as to limit the borrowing authority of the Union,—I go further and say that I not only hope but I expect that Parliament will discharge its duties under this article.

Shri H. V. Kamath : Would not Dr. Ambedkar agree to the deletion of the words, "if any" ?

The Honourable Dr. B. R. Ambedkar : I have been considering that, but I do not think that will improve matters, because the words are "as may from time to time".

Mr. President : I take it the amendment to substitute the words "Consolidated Fund of India" is accepted.

Article 268, as amended, was' added to the Constitution.

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ARTICLE 269

***Mr. President :** There are some amendments which are printed in the II Volume of the printed amendments on page 313. Then we shall take up amendment No. 107 by Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That in clause (1) of article 269, the words and figures 'for the time being specified in Part I of the First Schedule', be omitted."

"That in clause (1) of article 269, for the words 'revenues of the State' the words 'Consolidated Fund of the State', be substituted."

"That with reference to amendment No. 2972 of the List of Amendments, for clause (2) of article 269, the following clause be substituted :—

'(2) The Government of India may, subject to such conditions as may be laid down by or under any law made by Parliament, make loans to any State or, so long as any limits fixed under article 26S of this Constitution are not exceeded, give guarantees in respect of loans raised by any State, and any sums required for the purpose of making such loans shall be charged on the Consolidated Fund of India.' "

The important change by my amendment No. 107 is that originally the Government of India was given a free hand in this matter ; now the action, of the Government of India is subject to such conditions as may be laid down by or under any law made by Parliament.

Sir, I move :

"That in clause (3) of article 269, the- words and figures 'for the time being specified in Part I or Part in of the First Schedule' be omitted."

The Honourable Dr. B. R. Ambedkar : I do not think. Sir, any reply is called for.

[Article 269, as amended by Dr. Ambedkar's amendment was adopted and added to the Constitution]

ARTICLES 5 AND 6

†Mr. President : We have now to take up articles 5 and 6 of the original draft. I find there is a veritable jungle of amendments, something like 130 or 140 amendments, to these two articles. I suggest that the best course will be for Dr. Ambedkar to move the articles in the form in which he has finally framed them and I shall then take up the amendments to this amended draft. Both 5 and 6 go together, I think, Dr. Ambedkar.

Prof. K. T. Shah : May I know what happens to the amendments in the Printed List 7 They have all been tabled as amendments to the

* CAD, Vol. IX, dated 10th August 1949, pp. 340-42.

†*Ibid.,* pp. 343-44.

original draft. I do not quite understand your suggestion as to the process in which the amendments would now be taken up.

Mr. President: If there is any amendment which is of a substantial nature, which touches any of the amended drafts as proposed by the Drafting Committee, I shall certainly take it up, but I leave it to the Members to point out to me which particular amendment they wish to move.

Dr. P. S. Deshmukh : If the original draft is not moved, all the amendments tabled to that draft go by the wind.

Mr. President : We do not move the original draft, but it will be taken as moved and then the other amendments come in.

Members will find that Dr. Ambedkar has given notice of certain amendments which have been circulated to Members. The first is No. 1 in List I.

The Honourable Dr. B. R. Ambedkar : Sir, May I give the references ? The amendments of which notice has been given about the citizenship clause are spread over various lists, and I propose to give in the beginning to Members the references to the various lists. The first amendment is No. 1 of List I. Then come amendments Nos. 128, 129, 130, 131, 132 and 133 of List IV. These are the various proposals of the Drafting Committee with regard to this article. I feel that the House may not be in a position to get a clear and complete idea if these amendments were moved bit by bit, separately. Therefore what I propose to do is this that I will move a consolidated amendment, so to say, which I have prepared, consisting of amendments Nos. 1, 128, 129, 130 and 133. My Friend, Mr. T. T. Krishnamachari, will subsequently move the other two amendments which are Nos. 131 and 132 in List IV. In amendment No. 129, it should read "of the proposed article 5A" instead of "of the proposed article 5." It is a printing error. With these preliminary observations, so to say, I move my amendment:

"That for articles 5 and 6, the following articles be substituted :—

"5. At the date of commencement of this Constitution, every person who has his domicile the territory in India and—

Citizenship at the date of Commencement this Constitution.

(a) who was horn in the territory of India ; or
(b) either of whose parents was born in the territory of India ; or
(c)who has been ordinarily resident in the territory of India for not less than five years immediately preceding the date of such commencement.

shall be a citizen of India, provided that he has not voluntarily acquired the citizenship of any foreign State.

Rights of citizenship of certain persons who have nugrated to India from Pakistan.

5-A. Notwithstanding anything contained in article 5 of this Constitution, a person who has migrated to the territory of India from the territory now included in Pakistan shall be deemed to be a citizen of India at the date of commencement of this Constitution if—

(a) he or either of his parents or any of his grand-parents was born in India as defined in the Government of India Act, 1935 (as originally enacted); and

(b) (i) in the case where such person has so migrated before the nineteenth day of July 1948, he has ordinarily resided within the territory of India since the date of his migration; and

(ii) in the case where such person has so migrated on or after the nineteenth day of July 1948 he has been registered as a citizen of India by an officer appointed in this behalf by the Government of the Dominion of India on an application made by him therefor to such officer before the date of commencement of this Constitution in the form prescribed for the purpose by that Government:

Provided that no such registration shall be made unless the person making the application has resided in the territory of India for at least six months before the date of his application.

Rights of citizenship of certain migrants to Pakistan.

5-AA. Notwithstanding anything contained in articles 5 and 5-A of this Constitution a person who has after the first day of March 1947. migrated from the territory of India to the territory now included in Pakistan shall not be deemed to be a citizen of India :

Provided that nothing in this article shall apply to a person who, after having so migrated to the territory now included in Pakistan has returned to the territory of India under a permit for resettlement or permanent return issued by or under the authority of any law and every such person shall for the purposes of clause (h) of article 5-A of this Constitution be deemed to have migrated to the territoty of India after the nineteenth day of July 1948.

Shri Jaspat Roy Kapoor (United Provinces : General) **:** This, you had said, would be moved by Mr. T. T. Krishnamachari.

The Honourable Dr. B. R. Ambedkar : I have included it in the consolidated article as I am proposing to accept the amendment which will be moved by him.

Right of citizenship of certain persons of Indian origin residing outside India.

5-B. Notwithstanding anything contained in articles 5 and 5-A of this Constitution, any person who or either of whose parents or any of whose grand parents was born in India as defined in the Government of India Act, 1935 (as originally enacted) and who is ordinarily residing in any territory outside India as so defined shall be deemed to he a citizen of India if he has been registered as a citizen of India by the diplomatic or consular representative of India in the country where he is for the time being residing on an application made by him therefor to such diplomatic or consular representative, whether before or after the commencement of this Constitution in the form prescribed for the purpose by the Government of the Dominion of India or the Government of India.

Continuance of the rights of Citizenship.

5-C. Every person who is a citizen of India under any of the foregoing provisions of this Part shall, subject to the provisions of any law that may be made by Parliament, continue to be such citizen.

Parliament to regulate the right of citizenship by law.

6. Nothing in the foregoing provisions of this Part shall derogate from the power of Parliament to make any provision with respect to the acquisition and termination of citizenship and all other matters relating to citizenship."

Sir, I would reserve my remarks alter the amendments to my draft are moved by Mr. T. T. Krishnamachari and that will complete the thing.

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***Mr. President :** If we take up all the other amendments, I think there will not be any end to them. First, let Dr. Ambedkar explain his proposition and then the oilier amendments may be moved.

The Honourable Dr. B. R. Ambedkar : Mr. President, Sir, except one other article in the Draft Constitution, I do not think that any other article has given the Drafting Committee such a headache as this particular article. I do not know how many drafts were prepared and how many were destroyed as being inadequate to cover all the cases which it was thought necessary and desirable to cover. I think it is a piece of good fortune for the Drafting Committee to have ultimately agreed upon the draft which I have moved, because I feel that this is the draft which satisfies most people, if not all.

An Honourable Member : Question.

The Honourable Dr. B. R. Ambedkar : Now, Sir, this article refers to citizenship not in any general sense but to citizenship on the date of the commencement of this Constitution. It is not the object of this particular article to lay down a permanent law of citizenship for this country. The business of laying down a permanent law of citizenship has been left to Parliament, and as Members will see from the wording of article 6 as I have moved, the entire matter regarding citizenship has been left to Parliament to determine by any law that it may deem fit. The article reads—

> "Nothing in the foregoing provisions of this Part shall derogate from the power of Parliament to make any provision with respect to the acquisition and termination of citizenship and all other matters relating to citizenship."

The effect of article 6 is this, that Parliament may not only take away citizenship from those who are declared to be citizens on the date of the commencement of this Constitution by the provisions of article 5

* CAD, Vol. IX, dated 10th August 1949, pp. 346-49.

and those that follow, but Parliament may make altogether a new law embodying new principles. That is the first proposition that has to be borne in mind by those who will participate in the debate on these articles. They must not understand that the provisions that we are making for citizenship on the date of the commencement of this Constitution are going to be permanent or unalterable. All that we are doing is to decide *ad hoc* for the time being.

Having said that, I would like to draw the attention of the Members to the fact that in conferring citizenship on the date of the commencement of this Constitution, the Drafting Committee has provided for five different classes of people who can, provided they satisfy the terms and conditions which are laid down in this article, become citizens on the date on which the Constitution commences.

These five categories are :

(1) Persons domiciled in India and bom in India : In other words, those who form the bulk of the population of India as defined by this Constitution ;

(2) Persons who are domiciled in India but who are not born in India but who have resided in India. For instance persons who are the subjects of the Portuguese Settlements in India or the French Settlements in India like Chandernagore. Pondicherry, or the Iranians for the matter of that who have come from Persia and although they are not born here, they have resided for a long tune and undoubtedly have the intention of becoming the citizens of India.

The three other categories of people whom the Drafting Committee proposes to bring within the ambit of this article are :

(3) Persons who are residents in India but who have migrated to Pakistan ;

(4) Persons resident in Pakistan and who have migrated to India ;

and

(5) Persons who or whose parents are born in India but are residing outside India.

These are the live categories of people who are covered by the provisions of this article. Now the first category of people *viz.,* persons who are domiciled in the territory of India and who are born in the territory of India or whose parents were born in the territory of India are dealt with in article 5 clauses (a) and (b). They will be citizens under those provisions if they satisfy the conditions laid down there.

The second class of people to whom I referred, viz., persons who have resided in India but who are not born in India are covered by clause (c) of article 5, who have been ordinarily resident in the territory of India for not less than five years immediately preceding the date of such commencement. The condition that it imposes is this that he must be

a resident of India for five years. All these clauses are subject to a general limitation, *viz.,* that they have not voluntarily acquired the citizenship of any foreign State.

With regard to the last class *viz.,* persons who are residing abroad but who or whose parents were born in India, they are covered by my article 5-B which refers to persons who or whose parents or whose grandparents were born in India as defined in the Government of India Act, 1935, who are ordinarily residing in any territory outside India—they are called Indians abroad. The only limitation that has been imposed upon them is that they shall make an application if they want to be citizens of India before the commencement of the Constitution to the Consular Officer or to the Diplomatic Representative of the Government of India in the form which is prescribed for the purpose by the Government of India and they must be registered as citizens. Two conditions are laid down for them—one is an application and secondly, registration of such an applicant by the Consular or the Diplomatic representative of India in the country in which he is staying. These are as I said very simple matters.

We now come to the two categories of persons who were residents in India who have migrated to Pakistan and those who were resident in Pakistan but have migrated to India. The case of those who have migrated to India from Pakistan is dealt with in my article 5-A. The provisions of article 5-A are these—

Those persons who have come to India from pakistan are divided into two categories—

(a) those who have come before the 19th day of July 1948, and

(b) Those who have come from Pakistan to India after the 19th July 1948.

Those who have come before 19th July 1948, will automatically become the citizens of India.

With regard to those who have come after the 19th July 1948, they will also be entitled to citizenship on the date of the commencement of the Constitution, provided a certain procedure is followed, *viz.,* he again will be required to make an application to an Officer appointed by the Government of the Dominion of India and if that person is registered by that Officer on an application so made.

The persons coming from Pakistan to India in the matter of their acquisition of citizenship on the date of the commencement of the Constitution are put into two categories—those who have come before 19th July 1948 and those who have come afterwards. In the case of those who have come before the 19th July 1948, citizenship is automatic. No conditions, no procedure is laid down with regard to them. With regard to those who have come thereafter certain procedural conditions are laid down and when those conditions are satisfied, they also will become entitled to citizenship under the article we now propose.

Then I come to those who have migrated to Pakistan but who have returned to India after going to Pakistan. There the position is this. I am not as fully versed in this matter as probably the Ministers dealing with the matter are, but the proposal that we have put forth is this if a person who has migrated to Pakistan and, after having gone there, has returned to India on the basis of a permit which was given to him by the Government of India not merely to enter India but a permit which will entitle him to resettlement or permanent return, it is only such person who will be entitled to become a citizen of India on the commencement of this Constitution. This provision had to be introduced because the Government of India, in dealing with persons who left India for Pakistan and who subsequently returned from Pakistan to India, allowed them to come and settle permanently under a system which is called the 'Permit system'. This permit system was introduced from the 19th July 1948. Therefore the provision contained in article 5-B deals with the citizenship of persons who after coming from Pakistan went to Pakistan and returned to India. Provision is made that if a person has come on the basis of a permit issued to him for resettling or permanent return, he alone would be entitled to become a citizen on the date of the commencement of the Constitution.

I may say, Sir, that it is not possible to cover every kind of case for a limited purpose, namely, the purpose of conferring citizenship on the date of the commencement of the Constitution. If there is any category of people who are left out by the provisions contained in this amendment, we have given power to Parliament subsequently to make provision for them. I suggest to the House that the amendments which I have proposed are sufficient for the purpose and for the moment and I hope the House will be able to accept these amendments.

Shri B. M. Gupta (Bombay : General) **:** Was the permit system brought in on 19th July 1948 ?

The Honourable Dr. B. R. Ambedkar : Yes, on the 19th July '48 there was an ordinance passed that no person shall come in unless he has a permit, and certain rules were framed by the Government of India under that, on 19th July 1948, whereby they said a permit may be issued to any person coming from Pakistan to India specifically saying that he is entitled to come in. There are three kinds of permits. Temporary Permit, Permanent Permit and permit for resettlement or permanent return. It is only the last category of persons who have been permitted to come back with the express object of resettlement and permanent return, it is only those persons who are proposed to be included in this article, and no other.

Mr. President : I think we shall take up the amendments tomorrow.

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***Mr. President** : I do not think any useful purpose will be served by further speeches. The amendments are all there before the Members ; they are free to vote in favour of any amendment they like.

The Honourable Dr. B. R. Ambedkar (Bombay : General) **:** Mr. President. Sir, it has not been possible for me to note down every point that has been made by those who have criticised the draft articles which I have moved. I do not think it is necessary to pursue every line of criticism. It is enough if I take the more substantial points and meet them.

My Friend, Dr. Deshmukh, said that by the draft articles we had made our citizenship a very cheap one. I should have though that if he was aware of the rules which govern the law of citizenship, he would have realised that our citizenship is no cheaper than would have been made by laws laid down by other countries.

With regard to the point that has been made by my Friend Prof. K. T. Shah that there ought to be positive prohibition in these articles limiting Parliament's authority to make law under article 6 not to give citizenship to the residents of those countries who deny citizenship to Indians resident there, I think that is a matter which might well be left for Parliament to decide in accordance with the circumstances as and when they may arise.

* CAD, Vol. IX, dated 12th August 1049, pp. 422-24.

The points of criticism with which I am mostly concerned are those which have been levelled against those parts of the articles which relate to immigrants from Pakistan to India and to immigrants from India to Pakistan. With regard to the first part of the provisions which relate to immigrants coming from Pakistan to India, the criticism has mainly come from the representatives of Assam, particularly as voiced by my Friend Mr. Rohini Kumar Chaudhuri. If I understood him correctly, his contention was that these articles relating to immigrants from Pakistan to India have left the gates open both for Bengalis as well as Muslims coming from East Bengal into Assam and either disturbing their economy or disturbing the balance of communal proportions in that Province. I think. Sir, he has entirely misunderstood the purport of the articles which deal with immigrants from Pakistan to India.

If he will read the provisions again, he will find that it is only with regard to those who have entered Assam before 19th July 1948, that they have been declared, automatically so to say, citizens of Assam if they have resided within the territory of India. But with regard to those who have entered Assam, whether they are Hindu Bengalees or whether they are Muslim, after the 19th July 1948, he will find that citizenship is not an automatic business at all. There are three conditions laid down for persons who have entered Assam after the 19th July 1948. The first condition is that such a person must make an application for citizenship. He must prove that he has resided in Assam for six months and, thirdly, there is a very severe condition, namely that he must be registered by an officer appointed by the Government of the Dominion of India. I would like to state very categorically that this registration power is a plenary power. The mere fact that a man has made an application, the mere fact that he has resided for six months in Assam, would not involve any responsibility or duty or obligation on the registering officer to register him. Notwithstanding that there is an application, notwithstanding that he has resided for six months, the officer will still have enough discretion left in him to decide whether he should be registered or he should not be registered. In other words, the officer would be entitled to examine, on such material as he may have before him, the purport for which he has come, such as whether he has come with a *bona fide* motive of becoming a permanent citizen of India or whether he has come with any other purpose. Now, it seems to me that, having regard

to these three limiting conditions which are made applicable to persons who enter Assam after 19th July 1948, any fear such as the one which has been expressed by my Friend Mr. Rohini Kumar Chaudhuri that the flood-gates will be opened to swamp the Assamese people either by Bengalees or by Muslims, seems to me to be utterly unfounded. If he has any objection to those who have entered Bengal before 19th July 1948—in this ease on a showing that the man has resided in India, citizenship becomes automatic—no doubt that matter will be dealt with by Parliament under any law that may be made under article 6. If my friends from Assam will be able to convince Parliament that those who have entered Assam before 19th July 1948 should, for any reason that they may have in mind or they may like to put before Parliament, be disqualified, I have no doubt that Parliament will take that matter into consideration. Therefore, so far as the criticism of these articles relating to immigrants from Pakistan to Assam is concerned, I submit it is entirely unfounded.

Then I come to the criticism which has been levelled on the provisions which relate to immigrants from India to Pakistan, I think that those who have criticised these articles have again not clearly understood what exactly it is proposed to be done. I should like, therefore, to re-state what the articles say. According to the provisions which relate to those who are immigrants from India to Pakistan, any one who has left India after the first March 1947, barring one small exception, has been declared not to be citizens of India. That, I think, has got to be understood very carefully. It is a general and universal proposition which we have enunciated. It is necessary to enunciate this proposition, because on the rule of International Law that birth confers domicile, a person has not to acquire what is called domicile of origin by any special effort either by application or by some other method or by some kind of a grace. The origin of domicile goes with birth. It was felt that those persons who left India, but who were born in India notwithstanding that they went to Pakistan, might, on the basis of the rule of International Law, still claim that their domicile of origin is intact. In order that they should not have any such defence, it is thought wise to make it absolutely clear that any one who has gone to Pakistan after the 1st March—you all know that we have taken 1st March very deliberately, because that was the date when the disturbances started and the exodus began and we thought that there would be no violation of any principle of International justice if we presumed that any man who, as a result of the disturbances

went to Pakistan with the intention of residing permanently there, loses his right of citizenship in India. It is to provide for these two things that we converted this natural assumption into a rule of law and laid down that anyone who has gone to Pakistan after 1st March shall not be entitled to say that he still has a domicile in India. According to article 5 where domicile is an essential ingredient in citizenship, those persons having gone to Pakistan lost their domicile and their citizenship.

Now I come to an exception. There are people who, having left India for Pakistan, have subsequently returned to India. Well, there again our rule is that anyone who returns to India is not to be deemed a citizen unless he satisfies certain special circumstances. Going to Pakistan and returning to India does not make any alteration in the general rule we have laid down, namely that such a person shall not be a citizen. The exception is this : as my honourable Friend Shri N. Gopalaswami Ayyangar said, in the course of the negotiations between the two Governments, the Government of India and the Government of Pakistan, they came to some arrangement whereby the Government of India agreed to permit certain persons who went from India to Pakistan to return to India and allowed them to return not merely as temporary travellers or as merchants or for some other purpose of tempoary character to visit a sick relation, but expressly permitted them to return to India and to settle permanently and to remain in India permanently. We have got such persons in India now. The question therefore is whether the rule which I have said we have enunciated in this article, not to permit anyone who has gone from India to Pakistan after the 1st March 1947, should have an exception or not. It was felt and speaking for myself I submit very rightly felt that when a Government has given an undertaking to a person to permit him to return to his old domicile and to settle there permanently, it would not be right to take away from that person the eligibility to become a citizen. As my Friend, Mr. Gopalaswami Ayyangar has said, the class of people covered by this category, having regard to the very large population both of Hindus and Muslims we have, is very small, something between two to three thousand. It would, in my judgement look very invidious, it would in my judgement look a breach of faith if we now said that we should not allow these people whom our-own Government, whether rightly or wrongly, allowed to come away from pakistan for the purpose of permanent residents here, to have this prividege. It would be quite open to this House to bring in a Bill to prevent the Government of India from continuing the permit

system hereafter. That is within the privilege and power of this House, but I do not think that the House will be acting rightly or in accordance with what I call public conscience if it says tht these people who, as I said, are so small, who have come on the assurance of our own Government to make their home here, should be denied the right of citizenship. Sir, I do not think therefore that there is any substance in the criticism that has been levelled against these articles and I hope the House will accept them as they are.

SECTION 291

of Government of India Act, 1935

(Amendment) Bill

***The Honourable Dr. B. R. Ambedkar :** Mr. Vice-President, Sir, I find from the speeches to which I have listened so far that there is a great deal of misunderstanding as to what this particular Bill, particularly clause 4 of it, proposes to do. I think it is desirable at the outset to tell the House what exactly is intended to be done by clause 4. In order to put the House in a proper frame of mind—if I may say so without meaning any offence—I should like to draw the attention of the House to the wording of Section 291 of the Government of India Act as it was in operation before it was adapted after the Independence Act. Now I shall read just a few lines of that Section 291.

> "In so fur as provision with respect to matters hereinafter mentioned is not made by this Act. His Majesty in Council (and I want to emphasise these words His Majesty in Council) may from time to time make provision with respect to those matters or any of them. etc.. etc."

The first tiling that I would like to draw the attention of the House is this that in clause 4 of this Bill the matters which are enumerated from (b) to (j) are exactly the matters which are enumerated in the old Section 291. Therefore, it has to be understood at the outset that this clause, clause 4, is not making any fundamental change in the provisions contained in the original Section 291. The matters for which the Governor-General is going to be given powers by the provisions of the new Sectiion 291, as embodied in this Bill, are the same which were given by the original Section 291 to His Majesty in Council. (An Honourable Member : No.) I hope that this will be now clear to everybody and I do not think there can be any doubt on it, for anyone who compares the different clauses in this Bill and in the original Section 291 will have all his doubts removed.

* CAD. Vol. IX, dated 18th August 1949, pp. 465-68.

The question, therefore, may be asked as to why is it that we are now, giving the power to the Governor-General. The difficulty, if I may say so, is this. Somehow when the Government of India Act, 1935, came to be adapted after the Independence Act, there was, in my judgment, at any rate, a slip that took place and that slip was this, that this power which originally vested in His Majesty in Council, logically speaking, ought to have been transferred to the Governor-General, because the Governor-General under the Dominion law stepped into the shoes of His Majesty in Council. But, unfortunately, as I said, what happened was this that in adapting this Section 291, the power which we are now giving to the Governor-General was given to the local Legislature, I will read that adapted Section 291. I ask my friends who have been agitating over this to read the section as adapted. This is how it reads :

> "In so far as provision with respect to matters herein mentioned is not made in this Act in relation lo any Povincial Legislature, provision may he made by Act of that Legislature with respect to those matters or any of them, etc.. etc."

It has now been discovered that that was an error, that really speaking, when the section was adapted at that stage, the Governor-General should have been endowed with those powers, because those powers under the provisions of Section 291 were vested in His Majesty in Council and not in any local legislature what we are doing by this Bill is merely to restore the old position as it existed under the unadapted Section 291. I, therefore, want to submit that any criticism which has been levelled by any Member of the Assembly that there was some kind of a deep-laid game in order to upset the constitution for political motives is absolutely unwarranted. All that we are trying to do is to correct a slip that had taken place then.

I come to the next point, namely, the addition of the words "the composition of the Chamber or Chambers of the legislature." I quite agree.....*

Dr. P. S. Deshmukh : May I ask one question, Sir ? Does not the alteration of the words "in so far as provision with respect to matters hereinafter mentioned is not made by this Act", the ommission of these words and making of these provisions applicable to.....

The Honourable Dr. B. R. Ambedkar : That is what exactly I am explaining. As I said, the only difference that will now be found between the original article 291 as unadapted and the proposed new clause is this that it is proposed by this new article to give power to the Governor-General to alter the provisions with regard to the composition of the Legislature. I admit that that is a change.

*Dots indicate interruption.

Dr. P. S. Deshmukh : Which includes schedules 5 and 6.

The Honourable Dr. B. R. Ambedkar : Oh, yes ; that is quite true. I admit without any kind of reservation that that is a change which is being made. Now the question is why should we make that change. The reason why we have to make the change in order to give the Governor-General the power even to alter the composition is to be found in the situation in which we find ourselves. Honourable Members will remember that there has been a considerable shifting of the population on account of partition. The population of East Punjab is surely not in any stereotyped condition. Refugees are coming and going. On the 1st April the population numbered so much ; six months thereafter it may number something quite different from what it was then. Similarly with regard to West Bengal and many other provinces where refugees have been taken by the Government of India under their scheme of rehabilitation or the refugees themselves have voluntarily travelled from one area to another. Obviously you cannot allow the provisions contained in the Fifth and Sixth Schedules with regard to the numbers in the legislature to remain what they were when we know as a matter of fact that the population has lost all relation to the numbers then prescribed in the Schedules. It is therefore in order to take into account the shifting of the population that power is given to the Governor-General to alter even the Schedules winch deal with the composition of the legislature.

I hope my honourable Friends will now understand that in giving this additional power of making an order with regard to the composition of the Chamber or Chambers the intention is to permit the Governor-General to make an order which will bring the strength of the different legislatures in the provinces affected to suit the numbers in those provinces. There is no nefarious purpose.

Dr. P. S. Deshmukh : You had two full years to rectify this position.

The Honourable Dr. B. R. Ambedkar : That is a different matter. I am only explaining why these provisions are being introduced by this new clause.

I have said that the other provisions are merely reproductions of what is contained in the original Section 291. This power is not being taken for a wanton or an unnecessary purpose nor is it intended to be used for anything other than a *bona fide* purpose. Therefore having regard to these circumstances my submission is that clause 4 is a perfectly justifiable proposal, both from the point of view of conferring these powers, which originally vested in His Majesty in Council, to be vested

in the Governor-General who is his successor and to give him additional power to alter the composition, because the pattern of the numbers in the different provinces have changed from the 15th August 1947.I quite realise that there has been an error in the Statement of Objects and Reasons where unfortunately a particular reference has been made to West Bengal. I should like to assert that this clause has been intended as a general provision which may be used by the Governor-General for rectifying any of the matters with regard to any province, not particularly West Bengal; and I think that was against somehow a slip which ought not to have taken place. Members of the House have picked up that particular wording of that particular clause where a pointed reference has been made to West Bengal in order to charge the Government with *malafide,* with having some kind of a bad motive towards the legislature in West Bengal. As I said, it is nothing of the kind. These clauses are general; they may be used if a situation arises : which calls far their use in West Bengal. They may be used for my province of Bombay where probably today, at any rate, no such circumstance appears. Therefore from that unfortunate statement—if I may say so—no conclusion ought to be drawn that there is any kind of underhand dealing so far as this clause is concerned.

Shri Suresh Chandra Majumdar (West Bengal : General) **:** Is it not possible to drop the words "West Bengal" ?

The Honurable Dr. B. R. Ambedkar : I have been telling my honourable Friends that the Statement of Objects and Reasons is not a part of the Act and therefore there can be no amendment moved to the deletion of any word or clause or sentence in the Statement of Objects and Reasons. As soon as this Bill becomes an Act, that Statement of Objects and Reasons will be thrown into the dustbin. It is different from a Preamble and I want Members of the House to concentrate on the Preamble where there is no such reference to West Bengal. Therefore my submission is that there is really nothing to quarrel with in this particular clause. In the first place it restores the original provision as it existed in the Government of India Act, 1935, in its unadapted condition, and secondly it proposes to give power which it has become necessary to give because of the altered position in the provinces.

An Honourable Member : Sir, I move that the question be now put.

Shri H. V. Kamath : Sir, on a point of order, Dr. Ambedkar has raised fresh points which we wish to discuss and under rule 33 of our Rules you may hold that there has not been sufficient debate, and so refuse to accept this motion for closure.

Dr. P. S. Deshmukh : But Dr. Ambedkar is not the Minister in charge.

Mr. Vice-President : Yes, that is so ; and the Honourable Member Mr. Kamath has had ample opportunity to speak on this clause. I therefore accept the motion for closure.

The question is :

"That the question be now put."

The motion was adopted.

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ARTICLE 150 *(Contd.)*

***Mr. Vice-President:** (Shri V. T. Krishnamachari)**:** Today we begin with article 150. The House will remember that there was a debate on this article as it originally stood and after three amendments were moved, the article was recommitted to the Drafting Committee. Dr. Ambedkar has now given notice of a new article. I request him to move that article, amendment No. 1 of List I (Fourth Week).

Mr. Naziruddin Ahmad (West Bengal; Muslim)**:** Sir, I have a point of Order. Shall I move it just now or after the amendment is moved ?

Mr. Vice-President : You may move it just now.

Mr. Naziruddin Ahmad : Mr. Vice-President, Sir, as I have been observing for some time that the Drafting Committee has been springing surprise after surprise on the Members. Every day new amendments of a sweeping character are being sent in by the Draftting Committee. They come in all of a sudden like Air Raids.

The Honourable Dr. B. R. Ambedkar (Bombay : General)**:** Where is the point of Order ?

Mr. Vice-President: May I remind the honourable Member that this amendment has been brought before the House by Dr. Ambedkar and the Drafting Committee in response to the desire universally expressed in the House. For this reason, I rule out this point of Order. I now ask Dr. Ambedkar to move his amendment.

The Honourable Dr. B. R. Ambedkar : Mr. Vice-President, Sir, I move :

"That for article 150, the following be substituted:—

Composition of the Legislative Council.

150. (1) The total number of members in the Legislative Council of a .State having such a Council shall not exceed one-fourth of the total number of members in the Assembly of that State ;

Provided that the total number of members in the Legislative Council of a State shall in no case be less than forty.

* CAD, Vol. IX, dated 19th August 1949, pp. 473-74

(2) Until Parliament may by law otherwise provide, the composition of the Legislative Council of a State shall he as provided in, clause (3) of this article.

(3) Of the total number of members in the Legislative Council of a State—

(a) as nearly as may be, one-third shall be elected by electorates consisting of members of municipalities, district broads and such other local authorities as Parliament may by law specify ;

(b) as nearly as may be, one-twelfth shall be elected by electorates consisting of persons who have been for at least three years graduates of any university in the State and persons possessing for at least three years qualifications prescribed by or under any law made by Parliament as equivalent to that of a graduate of any such university ;

(c) as nearly as may be, one-twelfth shall be elected by electorates consisting of persons who have been for at least three years engaged in teaching in such educational institutions within the State, not lower in standard than that of a secondary school as may be prescribed by or under any law made by Parliament;

(d) as nearly as may be, one-third shall be elected by the members of the Legislative Assembly of the State from amongst persons who are not members of the Assembly ;

(e) the remainder shall be nominated by the Governor in the manner provided in clause (5) of this article.

(4) The members to be elected under sub-clauses (a), (b) and (c) of clause (3) of this article shall be chosen in such territorial constituencies as may be prescribed by or under any law made by Parliament, and the elections under the said sub-clauses and under sub-clause (d) of the said clause shall be in accordance with the system of proportional representation by means of the single transferable vote.

(5) The members to be nominated by the Governor under sub-clause (e) of clause (3) of this article shall consist of persons having special knowledge or practical experience in respect of such matters as the following, namely :—

literature, science, art, co-operative movement and social services.'"

As you have said, Sir, this article in a different form was before the House last time. The article as it then stood, merely said that the composition of the Upper Chamber shall be as may be prescribed by law made by Parliament. The House thought that that was not the proper way of dealing with an important part of the constitutional structure of a provincial legislature, and that there shall be something concrete and specific in the matter of the constitution of the Upper Chamber. The President of the Constituent Assembly said that he shared the feelings of those Members of the House who took that view, and suggested that the matter may be further considered by the Drafting Committee with a view to presenting a draft which might be more acceptable to those Members who had taken that line of criticism. As honourable Members will see, the draft presented here is a compromise between the two points of view. This draft sets out in concrete terms

the composition of the Upper Chamber in the different provinces. The only thing it does is that it also provides that Parliament may by law alter at any time the composition laid down in this new article 150. I hope that this compromise will be acceptable to the House and that the House will be in a position to accept this amendment.

* * * * *

***The Honourable Dr. B. R. Ambedkar :** Mr. Vice-President, Sir, out of the amendments that have been moved, I am prepared to accept the amendments moved by Mr. Sarwate. I think he has spotted a real difficulty in the draft as it stands. The draft says—'University in the State'. It is quite obvious that there are many States with at present no university. All the same there are graduates from other Universities who are residing in mat State. It is certainly not the intention to take away the right of a graduate residing in a State to participate in the elections to the Upper Chamber merely because he does not happen to be a graduate of a University in that particular State. In order therefore to make the way clear for graduates residing in the particular Stale, I think this amendment is necessary and I propose to accept it. I would only say that the word 'habitually' is perhaps not necessary because residence as a qualification will be defined under the provisions of article 149 where we have the power to describe qualifications and disqualifications.

With regard to the other points of criticisms I do not know that those who have indulged in high-flown phraseology in denouncing this particular article have done any service either to themselves or to the House. This is a matter which has been debated more than once. Whether there should be a Second Chamber in the province or not was a matter which was debated and the proposition has been accepted that those provinces who want Second Chambers should be permitted to have them. I do not know that any good purpose is served by repeating the same arguments which were urged by those Members at the time when that matter was discussed.

With regard to the merits of the proposition which has been tabled before the House, I have not seen any single constructive suggestion on the part of any Member who has taken part in this debate as to what should be the alternative constitution of the Second Chamber. Here and

* CAD, Vol. IX, dated 19th August 1949, pp. 490-91.

there bits have been taken and denunciations have been indulged in to point out either that that is a useful provision or a dangerous provision. Well, I am prepared to say that this is a matter where there can be two opinions and I am not prepared to say that the opinion I hold or the opinion of the Drafting Committee is the only correct one in this matter. We have to provide some kind of constitution and I am prepared to say that the constitution provided is as reasonable and as practicable as can be thought of in the present circumstances.

Then there were two points that were made, one of them by my Friend Mr. Nagappa. He wanted that a provision should be made for there presentation of agricultural labour. I do not know that any such provision is necessary for the representation of agricultural labour in the Upper Chamber, because the Lower Chamber will be in my judgment having a very large representation of agricultural labour in view of the fact that the suffrage on which the Lower Chamber would be elected would be adult suffrage and I do not know.....

Shri S. Nagappa : If that is the case, all other sections also to whom you are giving will also get representation in the Lower Chamber.

The Honourable Dr. B. R. Ambedkar : They are provided for very different reasons but agricultural labour would be amply provided in the Lower Chamber.

My friend Shri Muniswami Pillai by an amendment raised the question that there should be special representation for the Scheduled Castes in the Upper Chamber. Now, I should like to point out to Mm that so far as the Drafting Committee is concerned, it is governed by the report of the Advisory Committee which dealt with this matter. In the report of the Advisory Committee which was placed before the House during August 1947 the following provision finds a place :—

> "(c) There shall be reservation of seats for the Muslims in the Lower House of the Central and Provincial Legislatures on the basis of their population."
>
> "3. (a) The section of Hindu community referred to as scheduled caste and defined in scheduled to the Government of India Act 1935 shall have the same rights and benefits which are herein provided for etc., etc., "which means that the representation to be guaranteed to the Scheduled Castes shall be guaranteed only in the Lower Houses of the Central and Provincial Legislatures. That being the decision of the Constitutent Assbmely, I do not think it is competent for the Drafting Committee to adopt any proposition which I do not want to injure anybody's feeling, that if any one was vociferously in favour of this decision, it was my Friend Mr. Muniswamy Pillay and I think he ought to be content with what he agreed to abide by then."

Mr. Vice-President : Dr. Ambedkar you have to formally withdraw amendment No. *2*.

The Honourable Dr. B. R. Ambedkar : Yes, I have to withdraw it. The amendment was, by leave of the Assembly, withdraw.

[6 amendments were negatived and five including the one by Dr. Ambedkar were withdrawn.]

* * * * *

***Mr. Vice-President :** I now put Mr. Sarwate's amendment to the House. The question is :

"That in sub-clause (b) of clause (3) of the proposed article 150, after words 'consisting of persons' the words 'resident in the State' be added, and for the words 'in the State' the words 'in the territory of India' be substituted."

The amendment was adopted.

[Article 150, as amended, was added to the Court.]

PART VIII-A

ARTICLE 215-A

†The Honourable Dr. B. R. Ambedkar : Sir, I move my amendment No. 6, List 1, Fourth Week.

"That after Part VIII, the following new Part be inserted : —

"PART VIII-A

THE SCHEDULED AND TRIBAL AREAS

215-A. In this Constitution—

(a) the expression 'scheduled areas' means the areas specified in Parts I to VII of Definitions the Table appended to paragraph 18 of the Fifth Schedule in relation to the States to which those Parts respectively relate subject to any order made under sub-paragraph (2) of that paragraph ;

(b) the expression 'tribal areas 'means the areas specified in Parts I and II of the Table appended to paragraph 19 of the Sixth Schedule subject to any order made under sub-paragraph (3) of paragraph 1 or clause (b) of sub-paragraph (1) of paragraph 17 of that Schedule.

Administration of scheduled and tribal areas.

215B. (1) The provisions of the Fifth Schedule shall apply to the administration and control of the scheduled areas and scheduled tribes in any State for the time being specified in Part I or Part III of the First Schedule other than the State of Assam.

(2) The provisions of the Sixth Schedule shall apply to the administration of the tribal areas in the State of Assam. "

Sir, my amendment merely replaces the original articles 189 and 190. The only thing we are doing is that we are transferring the provisions contained in articles 189 and 190 to another and a separate part. It is because of the transposition that it has become necessary to re-number them in order to secure the necessary logical sequence of the new part. Barring minor changes, there are no changes of substance at all, in the new articles proposed by me—article 215 A and article 215B.

* * * * *

* CAD, Vol. IX, dated 19th August 1949, p. 492.

† *Ibid.,* pp. 492-93.

***The Honourable Dr. B. R. Ambedkar :** I do not think there is any necessity to offer any remarks in reply.

The motion was adopted.

[Part VIIIA and articles 215A and 215B were added to the Constitution]

ARTICLE 250

†The Honourable Dr. B. R. Ambedkar : Sir, I move :—

"That in sub-clause (c) of clause (1) of article 250, after the word 'railway' a comma and the word 'sea' be inserted."

Sir, I move my next amendment also.

"That in clause (2) of article 250, for the words 'revenues of India' the words 'Consolidated Fund of India' be substituted."

Mr. Naziruddin Ahmad : ...At present there is a Bill before the Legislature for charging estate duty. Here we are legislating for a long time. Therefore we should have both estate or succession duty.

The Honourable Dr. B. R. Ambedkar : Succession duty is covered by (a) which says 'Duties in respect of succession to property'. Why repeat that in (b) ?

Mr. Naziruddin Ahmad : The two might have been combined.

* * * * *

‡Mr. Vice-President : ...Anyway, does Dr. Ambedkar want to say anything ?

The Honourable Dr. B. R. Ambedkar : I do not want to say anything.

Mr. Vice-President : I will not put the amendments to the House.

[Both the amendments of Dr. Ambedkar, mentioned above, were adopted. Other amendments were rejected. Article 250 as amended was added to the Constitution.]

ARTICLE 277

The Honourable Dr. B. R. Ambedkar : Sir, I beg to move :

"That article 277 be re-numbered as clause (1) of article 277, and to the said article as so re-numbered the following clause be added :—

'(2) Every order made under clause (1) of this article shall, as soon as may be after it is made, be laid before each House of Parliament.'"

This article 277 is a consequential article. It lays down what shall be the financial consequences of the issue of an emergency proclamation by the President. Clause (1) of the article says that provisions relating to financial arrangements between provinces and the Centre may be

* CAD, Vol. IX, dated 19th August 1949, p. 495.

† *Ibid.,* pp. 499-500.

‡*Ibid.,* p. 504.

modified by the President by order during the period of the emergency. It was felt that it was not proper to give the President this absolute and unrestricted power to modify the financial arrangements between the Provinces and the States and that the Parliament should also have a say in the matter. Consequently it is now proposed to add clause (2) to article 277 whereby it is provided that any order made by the President varying the arrangements shall be laid before each House of Parliament. It follows that after the matter is placed before the Parliament. Parliament will take such action as it deems proper, which the President will be bound to carry out.

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***The Honourable Dr. B. R. Ambedkar** (Bombay : General) **:** Mr. Vice-President, Sir, I have given as close an attention as it is possible to give to the amendment moved by my honourable Friend Pandit Kunzru, and I am sorry to say that I do not see eye to eye with him, because I feel that in a large measure his amendment seems to be quite unnecessary.

Let us begin by having an idea as to what financial relations between the Centre and the provinces are normally going to be, I think it is clear from the articles which have already been passed that the provinces will be drawing upon the Centre in the normal course of things :

(1) proceeds of income-tax under article 251 ;

(2) a share of the central excise duties under article 253 ; and

(3) certain grants and subventions under article 255.

I am not speaking of the jute duty because it stands on a separate footing and has been statutorily guaranteed.

Let us also have an idea as to what the article as proposed by me proposes to do. What the article proposes to do is this, that it should be open to the President when an emergency has been proclaimed to have the power to reallocate the proceeds of the income-tax, the excise duties and the grants which the Centre would be making under the provisions of article 255. The article, as proposed by me, gives the President discretion to modify the allocations under these three heads. That is the position of the draft article as presented to the House by the Drafting Committee.

Now, what does my Friend Pandit Kunzru propose to do by his amendment ? If I have understood him correctly, he does not differ from the Drafting Committee in leaving with the President complete discretion to modify two of the three items to winch I have made reference, that

* CAD, Vol. IX, dated 20th August 1949, pp. 520-23.

is to say, he is prepared to leave with the President full and complete discretion to modify any allocation made to the provinces by the Centre out of the proceeds of the excise duty and the grants made by the Centre under article 255. If I understood him correctly, he would have no difficulty if the President, by order, completely wiped off any share that the Centre was bound to give in normal times to the provinces out of the proceeds of the excise duties and the grants made by the Centre.

Pandit Hirday Nath Kunzru (United Provinces : General) **:** I never said any such thing.

The Honourable Dr. B. R. Ambedkar : Your amendment is limited only to the income-tax. That is what I am trying to point out. You do not by your amendment, in any way suggest that there should be any different method of dealing with the proceeds of the excise duties or the grants made by the Centre under article 255.

Pandit Hirday Nath Kunzru : The reason why I cast my amendment in that form is this. In so far as the distribution of the proceeds of any taxes depends on a statute passed by Parliament that power cannot be taken away from Parliament but it does not belong to the President. But so far as income-tax is concerned, the Government of India Act, 1935, envisaged the transfer of the full share of the provinces to them within a certain period and allowed the Governor-General, in case there was an emergency, to delay the transfer to the provinces and thus lengthen the total period in which the provinces were to get their full share. That was the only reason ; the inference drawn by my honourable Friend is completely unjustified.

The Honourable Dr. B. R. Ambedkar : I am entitled to draw the most natural inference from the amendment as tabled.

Pandit Hirday Nath Kunzru : The Honourable Member is completely misunderstanding me. Under my amendment the President will have no power to alter the distribution of the proceeds of the Union excise duties.

The Honourable Dr. B. R. Ambedkar : I am sorry the honourable Member did not make the matter clear in his amendment. And if he wants to put a new construction now and make a fundamental change the amendment should have been such as to give me perfect notice as to what was intended. There is nothing in the amendment to suggest that the honourable Member wants to alter the provisions of articles 253 and 255. It may be an after thought but I cannot deal with after thoughts ; I have to deal with the amendment as it is tabled. Therefore, as I read the amendment, my construction is very natural.

Pandit Hirday Nath Kunzru : The honourable Member is utterly unjustified.

The Honourable Dr. B. R. Ambedkar : That is the honourable Member's opinion. My reading is that something new is being put forward now.

Pandit Hirday Nath Kunzru : The honourable Member is misrepresenting me and knows that he is doing so.

The Honourable Dr. B. R. Ambedkar : The Honourable Member is misrepresenting his own thoughts. Therefore, as I understand it, there is no question of my honourable Friend suggesting any alteration in the system of modifying the proceeds of the excise duty and the grant. The only question that he raised is the question of the modification of the allocation of income-tax during an emergency. Even so what do I find ? If I again read his amendment correctly, he is: not altogether taking away the discretion which is left to the President in the matter of the modification of the allocation of the income-tax. All that he is doing is that if the President was to make a modification of the allocation of the income-tax as contained in the previous order, then the President should proceed in a certain manner which he has stated in his amendment. In other words, the only difference between the draft clause as put by me and the amendment of my honourable Friend Pandit Kunzru is this that, so far as the discretion of the President is concerned, it should not be left unregulated, that it should be regulated in the manner winch he suggests.

My reply to that is this : Where is the reason to believe that in modifying or exercising the power of the President to modify the provisions relating to the distribution of the income-tax he will act so arbitrarily as to take away altogether the proceeds of the income-tax ? Where is the ground for believing that the President will not even adopt the suggestion made by my honourable Friend. Pandit Kunzru, in the amendment as he has put it ? There is no reason to suppose or to make such an arbitrary suggestion that the President is going to wipe out altogether the total proceeds which the provinces are entitled to receive under the allocation. After all the President will be a reasonable man ; he will know that to a very considerable extent the proceeds of the income-tax do form part of the revenues of the provinces ; and he will also know that, notwithstanding the fact that there is an emergency, it is as much necessary to help the Centre as it is necessary to keep the provinces going.

Therefore in my judgment there is no necessity to tie down the hands of the President to act in a particular manner in the way suggested by the amendment of my Friend Pandit Kunzru. It might be that the President on consultation with the provinces or on consultation with the Finance Commission or any other expert authority might find some other method of dealing with the proceeds of the income-tax in an emergency, and the suggestion that he might have then might prove far better than what my Friend Pandit Kunzru is suggesting. I therefore think that it would be very wrong to tie down the hands of the President to act in a particular manner and not leave him the liberty or discretion to act in many other ways that might suggest themselves to him. I suggest that it is better to leave the draft as elastic as it is proposed to be done by the Drafting Committee ; no advantage will be gained by accepting the amendment of my Friend Pandit Kunzru.

As I have said, I have made another amendment in the original draft which left the matter entirely and completely to the discretion of the President and Parliament had no say in the matter. By the new amendment I have proposed it is now possible for Parliament to consider any order that the President may make with regard to the allocation of the revenues ; and therefore if the President is doing something which is likely to be very deleterious or injurious to the interests of the provinces', surely many representatives in Parliament who would be drawn from the provinces and who would undoubtedly not forget the interests of the provinces would be in a position to set matters right. I therefore think that the original arrangement should be maintained by virtue of the fact that it is far more elastic than what is suggested by my honourable Friend Pandit Kunzru.

[Amendment of Dr. Ambedkar was adopted and that of Pandit Kunzru was negatived. Article 277, as amended was added to the Constitution.]

ARTICLE 280

***The Honourable Dr. B. R. Ambedkar :** Sir, I move :

"That for article 280, the following article be substituted :—

'280. (1) Where a Proclamation of Emergency is in operation, the President may by order suspension of the rights declare that the right to move any court for the enforcement of such of the rights conferred by part III of this Constitution as may be mentioned in the order and all proceeedings pending in any court for the enforcement of the rights so mentioned shall remain suspended for the period during which the Proclamation is in force or for such shorter period as may be specified in the Order.

Suspension of the rights guaranteed by article 25 of the Constitution during emergencies.

* CAD, Vol. IX, dated 19th August 1949, p. 523.

(2) An order made as aforesaid may extend to the whole or any part of the territory of India.

(3) Every order made under clause (1) of this article shall as soon as may be after it is made be laid before each House of Parliament.' "

Sir, the House will realise that clauses (2) and (3) are additions to the old article. In the old article there was a provision that while a Proclamation of Emergency was in force the President may suspend the provisions for the rights contained in Part III throughout India. Now, it is held that, notwithstanding the fact that there may he emergency, it may he quite possible to keep the enforcement of the rights given by Part III in certain areas intact and there need not be a universal suspension throughout India merely by reason of the proclamation. Consequently clause (2) has been introduced into the draft article to make that provision.

Thirdly, the original article did not contain any provision permitting Parliament to have a say in the matter of any order issued under clause (1). It was the desire of the House that the order of suspension should not be left absolutely unfettered in the hands of the President and consequently it is now provided that such an order should be placed before Parliament, no doubt with the consequential provision that Parliament will be free to take such action as it likes.

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***The Honourable Dr. B. R. Ambedkar:** Sir, I am not at all surprised at the strong sentiments which have been expressed by some speakers who have taken part in the debate on this article against the provisions contained in the clause as I have put forward. The article deals with fundamental matters-and with vital matters relating to rights of the people and it is therefore proper that we should approach a subject of this sort not only with caution but—I am also prepared to say—with some emotion. We have passed certain fundamental rights already and when we are trying to reduce them or to suspend them we should be very careful as to the ways and means we adopt in curtailing or suspending them.

* CAD, Vol. IX, dated 20th August 1049, pp. 548-51.

Therefore my friends who have spoken against that article will, I hope, understand that I am in no sense an opponent of what they have said. In fact I respect their sentiments very much. All the same I am sorry to say that I do not find it possible to accept either any of the amendments which they have moved or the suggestions that they have made. I remain, if I may say so, quite unconvinced. At the same time, I may say that I am no less fond of the fundamental rights than they are.

I propose to deal in the course of my reply with some general questions. It is of course not possible for me to go into all the detailed points that have been urged by the various speakers. The first question is whether in an emergency there should be suspension of the fundamental rights or there should be no suspension at all; in other words, whether our fundamental rights should be absolute, never to be varied, suspended or abrogated, or whether our fundamental rights must be made subject to some emergencies. I think I am right in saying that a large majority of the House realises the necessity of suspending these rights during an emergency ; the only question is about the ways and means of doing it.

Now if it is agreed that it is necessary to provide for the suspension of these rights during an emergency, the next question that legitimately arises for consideration is whether the power to suspend them should be vested absolutely in the President or whether they should be left to be determined by Parliament. Now having regard to what is being done in other countries—and I am sure every one in this House will agree that we must draw upon the experience and the provisions contained in the constitutions of other countries—the position is this. As to the suspension of the right of what is called *habeas corpus* the matter under the English law must of course be dealt with by law. It is not open to the executive to suspend the right *of habeas corpus*. That is the position in Great Britain. Coming next to the position in the United States, we find that while the Congress has power to deal with what are called constitutional guarantees including the suspension of the writ of *habeas corpus* the President is not altogether left without any power to deal with the matter. I do not want to go into the detailed history of the

matter. But I think I am right in saying that while the power is left with the Congress, the President is also vested with what may be called the *ad interim* power to suspend the writ. My friends shake their heads. But I think if they referred to a standard authority Corwin's book on 'the President', they will find that that is the position.

Pandit Hirday Nath Kunzru : Will you let me interrupt him, Sir ? I am sure he is familiar with Ogg's Government of America. Perhaps he will regard that book as a standard book.

The Honourable Dr. B. R. Ambedkar : Yes. That is not the only book. There are one hundred books on the American Constitution. I am certainly familiar with some fifty of them.

Pandit Hirday Nath Kunzru : It is stated there that the best legal opinion is that the right to suspend the privilege of the writ of *habeas corpus* vests in the Congress and that the President may exercise it only where, as Commander-in-Chief of the Armed Forces he considers it necessary for the security of the military operations.

The Honourable Dr. R. R. Ambedkar : Yes. My submission is that in the *United* States while the Congress has the power, the President also, as the Executive Head of the State, has the *ad interim* power to suspend.

Now, in framing our Constitution, we have more or less followed the American precedent. By the amendment which I have made, Parliament has been now vested with power to deal with this matter. We also propose to give the President an *ad interim* power to take such action as he thinks is necessary in the matter of the constitutional guarantee.

Therefore, comparing the draft article and comparing the position as you find in the United States, there is certainly not very great difference betwen the two. Here also the President does not take action in his personal capacity. We have a further safeguard which the American Constitution does not have, namely, our President will be guided by the advice of the executive and, our executive would be subject to the authority of Parliament. Therefore, so for as the question of vesting all the power to suspend the guarantees is concerned, my submission is

that ours is not altogether a novel proposal which is made without either reference to any precedent or made in a wanton planner without caring to what happens to the fundamental rights.

Now, having dealt with that question, I come to amendment No. 74 of Mr. Bhargava. I think that is an important matter and should therefore explain what exactly the provision is. His amendment really refers to article 279, although he has put it as an amendment to article 280. What he wants in that, any action taken by the State under the authority conferred upon it by the emergency provisions to suspend the fundamental rights should automatically cease with the ceasing of the Proclamation. I think that is what he wants so far as amendment No. 74 is concerned. My submission is that if the article is read properly, that is exactly what it means. I would like to draw his attention to article 279. He will see that that article does not save anything done under any law made under the powers given by the emergency. In order that the matter may be clear to him I would like again to draw his attention to article 227. If he compares the two, he will see that there is a fundamental difference between the two articles. Article 227 is also an article which gives power to the Centre to pass certain laws in an emergency even affecting the State List. I would draw his attention to clause (2) of article 227. He will find at the end of it that all acts cease to have effect on the expiration of a period of six months after the Proclamation has ceased to operate except as respect things done or omitted to be done before the expiration of the same period. This clause does not occur in article 279. Therefore, not only any law that will be made under the provisions of article 279 will vanish, but anything done will also cease to be validly done. Thus, a person who was arrested under the provisions of any law made under article 279, would when the law has ceased to be in force not be governed by it merely because it has been done under any law made under that article. Under this article 279, not only the law goes, but the act done also goes.

Then I would draw attention to clause (2) of article 8. That again is an important article which must be read with article 279. Article 8 is an exception to the general provisions contained in this Constitution

that the existing law will continue to operate. What article 8 says is that any existing law which is inconsistent with any of fundamental rights will be inoperative. Article 8 clause (1) deals with the existing law and clause (2) deals with future laws. Thus, 'any law made under article 279' would be a future law. When the emergency ceases any law made under article 279 will come under clause (2) of article 8 so that if it becomes inconsistent with the fundamental rights it would automatically cease.

Therefore my submission is that, so far as amendment 74 is concerned the fears expressed are groundless. There is ample provision in the existing law which would cover all the cases my honourable Friend Pandit Thakur Das Bhargava has in mind.

Pandit Thakur Das Bhargava : In article 277 (2) the reference is to a law made by Parliament. It has no reference to any action taken by the executive. Secondly, it speaks of law made by Parliament whereas under article 13 we have reference to a law made by a State as defined therein.

The Honourable Dr. B. R. Ambedkar : The State there means both, because the word 'State' used in article 279 is used in the same sense in which it is used in Part III where it means both the Centre, the provinces and even the municipalities.

Pandit Thakur Das Bhargava : Whereas in 227 (1) the reference is only to Parliament.

The Honourable Dr. B. R. Ambedkar : That is what I say. 279 will also be governed by 8. Therefore any law which is inconsistent with the fundamental rights granted will cease to operate.

Now, I proceed to deal with amendment No. 78 of Pandit Bhargava. In that amendment he has stated that the order issued by the President suspending the provisions of any of these fundamental rights shall be expressly ratified. He says that there must be express ratification by Parliament of an order issued by the President. The draft article proposed by the Drafting Committee provides that the ratification may be presumed unless Parliament by a positive action cancels the order of the President. That is the real difference between his amendment and the article as I have formulated.

Pandit Thakur Das Bhargava : But it is a very fundamental difference.

The Honourable Dr. B. R. Ambedkar : That is a very fundamental thing. In a sense it is fundamental and in a sense it is not fundamental because we have provided that the Proclamation shall be placed before Parliament. That obligation I have now imposed. Obviously if the Parliament is called and the Proclamation is placed before it, it would be a stupid thing if the people who come into the Parliament do not take positive action and such a Parliament would be an unnecessary thing and not wanted.

Pandit Thakur Das Bhargava : Is it not necessary to say that the law will only be applicable for the period of the emergency and not for shorter period and not for six months after the proclamation ?

The Honourable Dr. B. R. Ambedkar : I am coming to that, but so far as this question is concerned, it is a matter of mere detail whether the Parliament should by an express resolution say that we want the President to withdraw it, or we want the President to continue it, or we want the President to continue it in a modified form. Once Parliament is called and Parliament has become seized of the matter, is it not proper that the matter should be left to Parliament and its consent presumed to have been given unless it has decided otherwise ? Where is the difficulty ? I do not see anything with regard to the amendment.

An Honourable Member : It is one o'clock now.

Mr. Vice-President : We are going to finish this article.

The Honourable Dr. B. R. Ambedkar : Mr. Gupte has moved an amendment which is an amendment to the amendment of Pandit Bhargava, No. 78. He wants that a definite period should be mentioned, that the Proclamation should be placed before Parliament within two months. Pandit Bhargava's amendment was one month, I think, if I mistake not and my original proposal is "as soon as possible". Well I do not know whether anybody wants to make this a matter of conscience and if this matter was not guaranteed, we are going to fast unto death. I think "as soon as possible" may be worked in such a manner that the matter may be placed before Parliament within one month, within two months or may be even a fortnight. It is a most elastic phrase and therefore, I submit that the provision as contained in the draft is the best under the circumstances and I hope the House will accept it.

Mr. Vice-President: I now place the amendments before the House.

[All amendments except that of Dr. Ambedkar were either withdrawn or rejected. Article 280 as amended was added to the Contributed.]

***The Honourable Dr. B. R. Ambedkar** (Bombay : General) **:** Sir, I move :

"That for article 254 the following article be substituted :—

Public Service Commissions for the Union and for the State.

284. (1) Subject to the provisions of this article, there shall be a Public Service Commission for the Union and a Public Service Commission for each State.

(2) Two or more Slates may agree that there shall be one Public Service Commission for that group of states, and if a resolution to that effect is passed by the House or, where there are two Houses, by each House of the Legislature of each of those States Parliament may by law provide for the appointment of a Joint Public Service Commission (referred to in this Chapter as Joint Commission) to serve the needs of those States.

(2a) Any such law as aforesaid may contain such incidental and consquential provisions as may appear necesary or desirable for giving effect to the purposes of clause *(2)* of this article.

The Public Service Commission for the Union, if requested so to do by the governor or Ruler of a State, may with the approvel of the President agree to serve all or any of the needs of the State.

(4) References in this Constitution to the Union Public Service Commission or a State Public Service Commission shall, unless the context otherwise requires, be construed as references to the Commision serving the needs of the Union or, as the case may be, the State as respects the particular matter in question."

The article is self-explanatory and I do not think that any observations are necessary to clear up any point in this article. I will therefore reserve may remarks to the stage when I may be called upon to reply to any criticism that may be made.

Shri Lakshminarayan Sahu (Orissa : General) **:** May I know, Sir, why the provision as to any such law by Parliament is introduced and also why mention has been made of Ruler in these provisions ?

The Honourable Dr. B. R. Ambedkar: If I understand my friend Mr. Sahu correctly, he wants to know why we have introduced the provision for Parliament to make law. He will understand that the basic principle is that each State should have its own Public Service Commission. But, if, for administrative purposes or for financial purposes it is not possible for each State to have a Public Service Commission of its own, power is left open for two States by a resolution to confer power upon the centre to make provision for a joint Regional Commission to serve the needs of two such States which, as I have said, either for administrative or for financial reasons are not in a position to have a separate independent Commission for themselves. Obviously, when such a power is conferred upon the Centre, it must be that the power so conferred must be regulated by law made by Parliament and it should not be open to the President either to constitute a Joint Commission for two States by purely executive

*CAD, Vol. IX, 22nd August 1949, pp. 555-556.

order. It is for that purpose that power is given to Parliament to regulate the composition of any Commission which is to serve two States.

Shri Lakshminarayan Sahu : The other point as to why the 'Ruler' has been mentioned ?

The Honourable Dr. B. R. Ambedkar : Because it may be that even a State in Part III may find it unnecessary to have an independent Public Service Commission for itself Consequently, the door again there should not be closed to a State in Part III if that State were to agree to any State in Part I jointly to make a request to the President that a Joint Commission may be appointed. That is the reason why 'Rule' is included in the provisions of this article.

Shri R. K. Sidhva (C. P. & Berar : General)**:** I want one clarification. In clause (3) it is stated "with the approval of the President, agree to serve all or any of the needs of the State." May I know if any local body wants to utilise the services of the Service Commission, will that be allowed ?

The Honourable Dr. B. R. Ambedkar : Yes. There is a separate article for that making provision that if a local authority wants its needs to be served by the Public Service Commission, it will be possible for Parliament to confer such authority upon the Public Service Commission also to serve the needs of such local authority.

(Amendment No. 2 was not moved)

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***Mr. President :** Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar : I do not think there is anything that I need say.

[All amendments except that of Dr. Ambedkar were rejected Article 284 as amended was added to the Constitution.]

ARTICLE 285

Mr. Naziruddin Ahmad : ...I think it is difficult for anyone to try to follow these changes. I therefore object not only on the ground of their being in breach of the rules but also on the ground they are in a form not readily intelligible and they should have been expressed as amendments to the Constitution itself.

The Honourable Dr. B. R. Ambedkar: This is not the first time when my friend has raised a point of Order. You have been good enough to allow the Drafting Committee to depart from the technicalities of the Rules of Procedure and I therefore submit that in this case also you will be pleased to allow us to proceed.

*CAD, Vol. IX, 22nd August 1949, p. 571.

Ibid., p. 572.

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†**Mr. President :** ...Dr. Ambedkar may explain how the separate articles came into being. You move them together and we may take them separately at the time of voting.

The Honourable Dr. B. R. Ambedkar : Yes, they may be put separately.

Sir I move :

"That for article 285, the following articles be substituted :—

Appointment and term of office of members

285. *(1)* The Chairman and other members of a Public Service Commission shall be appointed, in the case of the Union Commission or a Joint Commission, by the President, and in the case of a State Commisssion, by the Governor or Ruler of the State:

Provided that at least one-half of the members of every Public Service Commission shall be persons who at the dates of their respective appointments have held office for at least ten years either under the Government of India or under the Government of a State, and in computing the said period of ten years any period before the commencement of this Constitution during which a person has held office under the Crown shall be included.

(2) A member of a Public Service Commission shall hold office for a term of six years from the date on which he enters upon his office or until he attains, in the case of the Union Commission, the age of sixty-five years, and in the case of a State Commission or a Joint Commission, the age of sixty years, whichever is earlier :

Provided that—

(a) a member of a Public Service Commission may by writing under his hand addressed, in the case of the Union Commission or a Joint Commission, to the President and in the case of a State Commission, to the Governor or Ruler of the State, resign his office;

(b) a member of a Public Service Commission may be removed from his office in the manner provided in clause *(1)* or clause *(3)* of article 285-A of this Constitution.

(3) A person who holds office as a member of a Public Service Commision shall, on the expiration of his tern of office, be ineligible for re-appointment to that office.

Removal and suspension of a member of a public Service Commission

285A. *(1)* Subject to the provisions of clause *(3)* of this article, the Chairman or any other member of a Public shall only be removed from office by order of the President on the ground of misbehaviour after the Supreme Court on a reference being made to it by the President has, on inquiry held in accordance with the procedure prescribed in that behalf under article 121 of this Constitution, reported that the Chairman or such other member, as the case may be, ought on any such ground be removed.

(2) The President in the case of the Union Commission or a Joint Commission and the Governor or Ruler in the case of a State Commission may suspend from office the Chairman or any other member of the Commission in respect of whom

*CAD, Vol. IX, 22nd August 1949, p. 572.

† *Ibid.,* pp. 573-576.

a reference has been made to the supreme Court under clause *(1)* of this article until the President has passed orders on receipt of the report of the Supreme Court on such reference.

(3) Notwithstanding anything contained in clause *(1)* of this article, the President may, by order, remove from office the Chairman or any other member of a Public Service Commission if the Chairman or, such other member, as the case may be—

(a) is adjudged as insolvent; or

(b) engages during his term of office in any paid employment outside the duties of his office; "

And here I want to add a third one, as *(c)* :

"*(c)* is in the opinion of the President unfit to continue in office by reason of infirmity of mind or body.

(4) For the purpose of clause *(1)* of this article, the Chairman or any other member of a Public Service Commission may be deemed to be guilty of misbehaviour if he is or becomes in any way concerned or interested in any contract or agreement made by or on behalf of the Government of India or the Government of a State or participates in any way in the profit thereof or in any benefit from emoluments arising therefrom otherwise than as a member and in common with the other members of any incorporated company.

Power to make regulations as to conditions of service of members and staff of the Commission

285-B. In the case of the Union Commission or a Joint Commission, the President and, in the case of a State Commission, the Governor or Ruler of the State, may by regulation—

(a) determine the number of members of the Commission, and their conditions of service; and

(b) make provision with respect to the number of members of the staff of the Commission and their conditions of service : Provided that the conditions of service of a member of a Public Service Commission shall not be altered to his disadvantage after his appointment.

285-C. On ceasing to hold office—

Bar to the holding of offices by members of to be such members.

(a) the Chairman of the Union Public Service Commissions on ceasing Commission shall be ineligible for further employment either under the Government of India or under the Government of a State;

(b) the chairman of a State Public Service Commission shall be eligible for appointment as the Chairman or any other member of the Union Public Service Commission or as the Chairman of any other State Public Service Commission but not for any other employment either under the Government of India or under the Government of a State;

(c) a member other than the Chairman of the Union Public Service Commission shall be eligible for appointment as the Chairman of the Union Public Service Commission or as the Chairman of a State Public Service Commission but not for any other employment either under the Government of India or under the Government of a State;

(d) a member other than the Chairman of a State Public Service Commission shall be eligible for appointment as the Chairman or any other member of the Union Public Service Commission or as the Chairman of that or any other State Public Service Commission, but not for any other employment either Under the Government of India or under the Government of a State.

Sir, these are the clauses which deal with the Public Services Commissions, their tenure of offce and qualifications and disqualifications and their removal and suspension. I should very briefly like to explain to the House the matters embodied here, the principal matters that are embodied in these articles.

The first point is with regard to the tenure of the Public Service Commission. That is dealt with in article 285. According to the provisions contained in that article the term of office of a member of the Public Service Commission is fixed at six years or in the case of the Union Commission, until he reaches the age of 65 and in the case of a State Commission untill he reaches the age of 60. That is with regard to the term of office.

Then I come to the removal of the members of the Public Service Commission. That matter is dealt with in article 285-A. Under the provisions of that article, a member of the Public Service Commission is liable to be removed by the President on proof of misbehaviour. He is also liable to be removed by reason of automatic disqualification. This automatic disqualification can result in three cases. One is insolvency. The second is engaging in any other employment and the third is that he becomes infirm in mind or body. With regard to misbehaviour, the provision is some what peculiar. The honourable House will remember that in the case of the removal of High Court Judges or the Judges of the Supreme Court, it has been provided in the articles we have already passed that they hold their posts during good behaviour, and they shall not be liable to be removed until a resolution in that behalf is passed by both Chambers of Parliament. It is felt that it is unnecessary to provide such a stiff and severe provision for the removal of members of the Public Service Commission. Consequently it has been provided in this article that the provisions contained in the Government of India Act for the removal of the Judges of the High Court would be sufficient to give as much security and as much protection to the members of the Public Service Commission. I think the House will remember that in the provision contained in the Government of India Act, what is necessary for the removal of a Federal Court Judge or a High Court Judge is an enquiry made by the Federal Court in the case of the High Court Judges or by the Privy Council in the case of the Federal Court Judges, and on a report being made that there has been a case of misbehaviour, it is open to the Governor-General to remove either the Federal Court Judge or the Judge of the High Court. We have adopted the same provision with regard to

the removal of Public Service Commission, wherever there is a case of misbehaviour.

With regard to automatic disqualifications, I do not think that there could be any manner of dispute because it is obvious that if a member of the Public Service Commission has become insolvent, his integrity could not be altogether relied upon and therefore it must act as a sort of automatic disqualification. Similarly, if a member of the Public Service Commission who is undoubtedly a whole-time officer of the State, instead of discharging his duties to the fullest extent possible and devoting all his time, were to devote a part of his time in some other employment, that again should be a ground for automatic disqualification. Similarly the third disqualification, namely, that he has become infirm in body and mind may also be regarded, without any kind of dispute, as a fit case for automatic disqualification. Members of the House will also remember that while reading article 285-A, there is a provision made for suspension of a member of the Public Services Commission during an enquiry made by the Supreme Court. That provision is, I think, necessary. If the President thinks that a member is guilty of misbehaviour, it is not desirable that the member should continue to function as a member of the Public Services Commission unless his character has been cleared up by a report in his favour by the Supreme Court.

Now, I come to the other important matter relating to the employment or eligibility for employment of the members of the Public Services Commission bom—the Union and State Public Services Commissions. Members will see mat according to article 285, clause *(3),* we have made both the Chairman and the Members of the Central Public Services Commission as well as the Chairman of the State Commission, and the members of the State Commission ineligible for reappointment to the same posts: that is to say, once a term of office of a Chairman and Member is over, whether he is a Chairman of the Union Commission or the Chairman of a State Commission, we have said that he shall not be reappointed. I think that is a very salutary provision, because any hope that might be held out for reappointment, or continuation in the same appointment, may act as a sort of temptation which may induce the Member not to act with the same impartiality that he is expected to act in discharging his duties. Therefore, that is a fundamental bar which has been provided in the draft article.

Then the second thing is that according to article 285-C, there is also a provision that neither of these shall be eligible for employment in any

other posts. There is therefore a double disqualification. There is no permission to continue them in their office, nor is there provision for their appointment in any other posts. Now, the only exceptions, that is to say, cases where they could be appointed are these :

> The Chairman of a State Public Services Commission is permitted to be a Chairman or a Member of the Union Commission, or a Chairman of any other State Commission.
>
> Secondly, the Members of the Union Commission can become Chairman of the Union Commission or any other State Commission.
>
> Thirdly, the Members of the State Commission can become a Chairman or a member of the Union Commission, or the Chairman of a State Commission.

In other words, the exceptions are : namely, that one man, who is a Member of the Union Public Services Commission, may become a Chairman of the State Public Services Commission can become a Chairman of the Union Public Services Commission, or become a Member of the Union Public Services Commission. The principal point to be noted is this, that neither the Chairman nor the Member of a State Commission can have employment under the same State. He can be appointed by another State as a Chairman or he can be appointed by the Central Government as the Chairman of the Union Public Services Commission or a Member of the Union Public Services Commission., the object being not to permit the State to exercise any patronage in die matter either of giving continued employment in the same post, or in any other post, so that it is hoped that with these provisions the Members of the Commission will be as independent as they are expected to be.

I do not think there is any other point which calls for explanation.

Shri Lakshminarayan Sahu : What about Members of Joint Commissions ?

The Honourable Dr. B. R. Ambedkar : A Joint Commission is the State Commission. That is defined in clause *(4)* of article 284.

Dr. Monomohan Das (West Bengal : General) **:** I would like to be clear on some points about 285-A. If the Supreme Court as being referred by the President reports that the Chairman or some other Member of the Public Service Commission should be removed, then will it be obligatory on the part of the President to remove him ?

The Honourable Dr. B. R. Ambedkar : Certainly.

Mr. Naziruddin Ahmad : You have asked the honourable Member to explain to the House the difference between the new draft and the original. That would have been helpful for a proper appreciation of the real changes.

The Honourable Dr. B. R. Ambedkar : If any point is raised in the course of the debate, I will explain it in the course of my reply.

Mr. Naziruddin Ahmad : I do not know whether to oppose or not to oppose.

The Honourable Dr. B. R. Ambedkar : You must have read both drafts. The only thing you might not have read are the commas and semicolons.

Mr. President : I will now take up the amendments.

* * * * *

***The Honourable Dr. B. R. Ambedkar :** Mr. President, Sir, there are just a few points on which I would like to say a word or two in reply to the criticism made on the articles which I have submitted to the House.

The first criticism is with regard to the composition of the Public Service Commission. The reservation made there that at least one-half of the members of the Public Service Commission should have been servants of the Crown has been objected to on the ground that this is really a paradise prepared for the I.C.S. people. I am sorry to say that those who have made this criticism do not seem to have understood the purpose, the significance and the functions of the Public Service Commission. The function of the Public Service Commission is to choose people who are fit for Public Service. The judgment required to come to a conclusion on the question of fitness presupposes a certain amount of experience on the part of the person who is asked to judge. Obviously nobody can be a better judge in this matter than a person who has already been in the service of the Crown. The reason therefore why a certain proportion is reserved to persons in service is not because there is any desire to oblige persons who are already in the service of the Crown but the desire is to secure persons with the necessary experience who would be able to perform their duties in the best manner posible. However, I am prepared to accept an amendment if my Friend Mr. Kapoor is prepared for it. I am prepared to say—

> "Provided that as nearly as may be one-half" instead of saying
>
> "Provided that at least one-half"

Shri H. V. Kamath : Why not say "not more than one-half"?

The Honourable Dr. B. R. Ambedkar : No, I have done my best.

With regard to the second question, that persons who have been in the Public Service Commission should be permitted to accept an honorary office under the State, personally I am not now inclined to accept that suggestion. Our whole object is to make the members of the Public Service Commission independent of the executive. One way of making

*CAD, Vol. IX, 22nd August 1949, pp. 592-593.

them independent of the executive is to deprive them of any office with which the executive might tempt them to depart from their duty. It is quite true that an office which is not an office of profit but an honorary office does not involve pay. But as every body knows pay is not the only thing which a person obtains by reason of his post. There is such a tiling as "pay, pickings and pilferings". But even if it is not so. there is a certain amount of influence which an office gives to a person. And I think it is desirable to exclude even the possibility of such a person being placed in a post where, although he may not get a salary, he may obtain certain degree of influence.

Now, I come to the amendment of my Friend Mr. Kunzru. I quite agree with him that there is obviously a distinction made between the services to be employed under the Public Service Commission and the services to be employed under the High Court, the Supreme Court and the Auditor-General. I would like to explain why we have made this distinction. With regard to the staff of the High Court and the Supreme Court, at any rate those who are occupying the highest places are required to exercise a certain amount of judicial discretion. Consequently we felt that not only their salaries and pensions should he determined by the Chief Justice with the approval of the President but the conditions of their service also should be left to be determined by the Chief Justice. In the case of the Public Service Commission much of the staff—in fact the whole of the staff—will be merely concerned with what we call "ministerial duties" where there is no authority and no discretion is left. That is the reason why we have made this distinction. But I quite see that my argument is probably not as sound as it might appear. All the same I would suggest to my honourable Friend Pandit Kunzru to allow this article to go through on the promise that at a later stage if I find that there is a necessity to make a change I will come before the House with the necessary amendment.

Sir, my attention is drawn to the fact in the cyclostyled copy of my amendment to article 285-A in sub-clause *(3)(b)* the words ought to be 'in any paid employment'.. They have been typed wrongly as 'in any body's employment.' I hope the correction will be made.

As I said to Pandit Kunzru, the Drafting Committee will look into the matter and if it feels that there are grounds to make any alteration they will, with the permission of the House come forward with an amendment so that the position may be rectified.

Mr. President : I will now put the amendments to vote first.

The question is :—

> "That in amendment No. 3 above, in the proviso to clause (1) of the proposed article 285, for the word 'one-half' the word 'one third' be substituted."

Shri Jaspat Roy Kapoor : In the place of this I accept the suggestion made by Dr. Ambedkar to have nearly 'as may be one-half'.

Mr. President : Then I shall put that to vote. The question is :

"That in amendment No. 3 above, in the proviso to clause *(1)* of the proposed article 285, for the words 'at least one-half' the words 'as nearly as may be one-half' be substituted."

[The amendment was adopted. Article 285, as amended, was added to the Constitution.]

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ARTICLES 286 TO 288-A

***Mr. President :** We shall now proceed with the consideration of article 286 and the subsequent articles.

The Honourable Dr. B. R. Ambedkar (Bombay : General)**:** Sir, May I, with your permission, move amendments Nos. 12, 16, 17 and 19 together ? They all relate to the same subject. There may be a common debate and then you might put each amendment separately.

Mr. President : Yes, I agree.

The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That for article 286, the following article be substituted :—

Functions of Public Service Commission

286 *(1)* It shall be the duty of the Union and the State Public Service Commissions to *conduct* examinations for appointments to the services of the Union und the services of the State respectively.

(2) It shall also be the duty of the Union Public Service Commission, if requested by any two or more States so to do, to assist those Stales in framing and operating schemes of joint recruitment for any services for which candidates possessing special qualifications are required.

(3) The Union Public Service Commission or the State Public Service Commission, as the case may be, shall be consulted—

(a) on all matters relating to methods of recruitment to civil services and for civil posts ;

(b) on the principles to be followed in making appointments to civil services and posts and in making promotions and transfers from one service to another and on the suitability of candidates for such appointment, promotions or transfers;

(c) on all disciplinary matters affecting a person serving under the Government of India or the Government of a State in a civil capacity, including memorials or petitions relating to such matters;

(d) on any claim by or in respect of a person who is serving or has served under the Government of India or the Government of a State or under the Crown, in a civil capacity, that any costs incurred by him in defending legal proceedings instituted against him in respect of acts done or purporting to be done in the execution of his duty should be

*CAD, Vol. IX, 23nd August 1949, pp. 597-598.

paid out of the Consolidated Fund of India or, as the case may be, of the State;

(e) on any claim for the award of a pension in respect of injuries sustained by a person while serving under the Government of India or the Government of a State or under the Crown in a civil capacity, and any question as to the amount of any such award,

and it shall be the duty of a Public Service Commission to advise on any matter so referred to them and on any other matter which the President or, as the case may be, the Governor or Ruler of the State may refer to them :

Provided that the President as respects the All India Services and also as respects other services and posts in connection with the affairs of the Union, and the Governor or Ruler, as the case may be, as respects other services and posts in connection with the affairs of a State, may make regulations specifying the matters in which either generally, or in any particular class of case or in any particular circumstances, it shall not be necessary for a Public Service Commission to be consulted.

(4) Nothing in clause *(3)* of this article shall require a Public Service Commission to be consulted as respects the manner in which appointments and posts are to be reserved in favour of any backward class citizens in the Union or a State.

(5) All regulations made under the proviso to clause *(3)* of this article by the President or the Governor or Ruler of a State shall be laid for non less than fourteen days before each House of Parliament or the Houses or each House of the Legislature of the State, as the case may be, as soon as possible after they are made, and shall be subject to such modifications, whether by way of repeal or amendment, as both Houses of Parliament or the House or both Houses of the Legislature of the State may make during the session in which they are so laid."

"That for article 287, the following be substituted :—

Power to extend functions of Public Service Commission

287. An Act made by Parliament or. as the case may be, the Legislature of a State may provide for the exercise of additional functions by the Union Public Service Commission or the State Public Service Commission as respects the services of the Union or the State and also of any local authority or other body corporate constituted by law or public institution."

"That for article 288, the following be substituted :—

Expenses of Public service Commissions

288. The expenses of the Union or a State Public service Commission, including any salaries, allowances and pensions payable to or in respect of the members or staff of the Commission, shall be charged on the Consolidated Fund of India or, as the case may be, the State."

"That for amendment No. 3075 of the List of Amendments the following be substituted :—

"That after article 288, the following new article be added :—

Reports of the Public Service Commissions

288-A. *(1)* It shall be the duty of the Union Commission to present annually to the President a report as to the work done by the Commission and on receipt of such report the President shall cause a copy thereof together with a memorandum explaining, as respects the cases, if any, where the advice of the Commission was not accepted, die reasons for such non-acceptance to be laid before each House of Parliament.

(2) It shall be the duty of a State Commission to present annually to the Governor or Ruler of the State a report as to the work done by the Commission, and it shall be the duty of a Joint Commission to present annually to the Governor or Ruler or each of the States the needs of which are served by the Joint Commission a report as to the work done by the Commission in relation to that State, and in either case the Governor or Ruler, as the case may be, shall, on receipt of such report, cause a copy thereof together with a memorandum explaining as respects the cases, if any, where the advice of the Commission was not accepted, the reasons for such non-acceptance to be laid before the Legislature of the State."

The articles are self-explanatory and I do not think that at this stage it is necessary for me to make any comments to bring out any of the points, because the points are all very plain. I would therefore reserve my remarks towards the end when after the debate probably it may be necessary for me to offer some explanation of some of the points raised.

Sir, I move.

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***Mr. President:** Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar: Mr. President, Sir, after the speeches that have been made by my Friend Mr. Ananthasayanam Ayyangar and my Friend Mr. Kunzru, there is very little that is left for me to say in reply to the various points that have been made. Mr. Jaspat Roy Kapoor said that clause *(2)* was unnecessary. I do not agree with him because clause *(2)* deals with a matter which is quite different from the one dealt with in the original article 284.1 think it is necessary, therefore, to retain both the clauses.

The only point that remains for me to say anything about is the question that is raised about the Scheduled Castes and the Backward Classes. I think I might say that enough provision has been made, both in article 296 which we have to consider at a later stage and in article 10, for safeguarding the interests of what are called the Scheduled Castes, the Scheduled Tribes and the Backward Classes. I do not think that any purpose will be served by making a provision whereby it would be obligatory upon the President to appoint a member of what might be called either a Scheduled Caste, or Scheduled Tribe or a member belonging to the backward classes.

Shri A. V. Thakkar (Saurashtra)**:** Other backward classes.

The Honourable Dr. B. R. Ambedkar: The function of a member of the Public Service Commission is a general one. He cannot be there to protect the interests of any particular class. He shall have to apply his mind to the general question of finding out who is the best and the most

*CAD, Vol. IX, 23nd August 1949, pp. 629-630.

efficient candidate for an appointment. The real protection, the real method of protection is one that has been adopted, namely, to permit the Legislature to fix a certain quota to be tilled by these classes. I am also asked to define what are backward classes. Well, I think the words "backward classes" so far as this country is concerned is almost elementary. I do not think that I can use a simpler word than the word "Backward Classes". Everybody in the province knows who are the backward classes, and I think it is, therefore, better to leave the matter as has been done in this Constitution, to the Commission which is to be appointed which will investigate into the conditions of the state of society, and to ascertain which are to be regarded as backward classes in this country.

Shri A. V. Thakkar : May I ask whether it will not take several years before that is done ?

The Honourable Dr. B. R. Ambedkar : Yes, but in the meantime, there is no prohibition on any provincial government to make provisions for what are called the backward classes. They are left quite free, by article 10. Therefore, my submission is that there is no fear that the interests of the backward classes or the Scheduled Castes will be overlooked in the recruitment to the services. As my Friend Pandit Kunzru has said, the articles I have presented to the House are certainly a very great improvement upon what the articles were before in the Draft Constitution. We have, if 1 may say so for myself, studied a great deal the provisions in the Canadian law and the provisions in the Australian law, and we have succeeded, if I may say so, in finding out a *via media* which I hope the House will not find any difficulty in accepting.

[Article 286, as proposed by Dr. Ambedkar not adopted and added to the Constitution.]

ARTICLE 292

***The Honourable Dr. B. R. Ambedkar :** I move that for article 292, the following be substituted :

"292 *(1)* Seats shall be reserved in the House of the People for—

Reservation of seats for Scheduled castes and Scheduled Tribes in the House of the people

(a) the Scheduled Castes;

(b) the scheduled tribes except the scheduled tribes in the tribal areas of Assam;

(c) the scheduled tribes in the autonomous districts of Assam.

(2) The number of seats reserved in any State for the Scheduled Castes or the Scheduled Tribes under clause *(1)* of this article shall bear, as nearly as may be, the same proportion to the total number of seats allotted to that state in the House of the

*CAD, Vol. IX, 23nd August 1949, p. 633.

People as the population of the Scheduled Castes in that State or of the Scheduled Tribes in that State or part of that State as the case may be, in respect of which scats are so reserved bears to the total population of that State."

This article 292 is an exact reproduction of the decisions of the Advisory Committee in this matter and I do not think any explanation is necessary.

Mr. President : This represents the decision which was taken at another session of this House when we considered the Advisory Committee's report. This puts in form the decision then taken....

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***The Honourable Dr. B. R. Ambedkar** (Bombay : General)**:** I was going to suggest, with regard to the amendment which stands in the name of Rev. Nichols Roy, that this is more relevant to the interpretation clause where the Scheduled Castes and the tribal people will be defined. If my friend is keen on moving this amendment, I think it should properly stand over until we come to that part of the Constitution—article 303.

Mr. President : Have you followed Dr. Ambedkar ?

The Honourable Rev. J. J. M. Nichols-Roy (Assam : General)**:** Yes, I have. My amendment was based on the amendment which was going to be moved by Mr. Thakkar, No. 3108, and I now find that the amendment (No. 28) which he is now going to move is in a different form. However, if Mr. Thakkar is not going to move this amendment, I also will not move my amendment now. But I reserve the right that I shall move my amendment at the time when this matter will be discussed under article 303.

The Honourable Dr. B. R. Ambedkar : I also suggest that the amendments which stand in the name of Mr. Thakkar should stand over and be taken at the same time when we are dealing with article 303.

The Honourable Rev. J. J. M. Nichols-Roy : If Mr. Thakkar agrees. I will agree.

Shri A. V. Thakkar (Saurashtra) **:** I completely agree.

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†Sardar Bhopinder Singh Man (East Punjab : Sikh) **:** As a number of amendments have been moved, it seems to me that some time be given to oppose those amendments.

Mr. President : As I said we have discussed this very proposition for two full days in this House, and every section of the House had full

*CAD, Vol. IX, 24nd August 1949, pp.643-644.

†*Ibid.,* pp. 657-658:

opportunity of expressing itself on the general principles. Now it is those very principles which are sought to be embodied in the resolution which has been placed before the House by Dr. Ambedkar. I do not think any further discussion will help the Members. I therefore call upon Dr. Ambedkar to speak.

The Honourable Dr. B. R. Ambedkar : Mr. President, Sir, a great many of the points which were raised in the course of the debate on this article and the various amendments are, in my judgment, quite irrelevant to the subject matter of this article. They might well be raised when we will come to the discussion of the electoral laws and the framing of the constituencies. I, therefore, do not propose to deal with them at this stage.

There are just three points which, I think, call for a reply. One point is the one which is raised by Mr. Laskar by his amendment. His amendment is to introduce the words "save in the case of the Scheduled Castes in Assam". I have completely failed to understand what he intends to do by the introduction of these words. If these words were introduced it would mean that the Scheduled Castes in Aasam will not be entitled to get the representation which the article proposes to give them in the Lower House of the Central Parliament, because if the words stand as they are, "save in the case of the Scheduled Castes in Assam" unaccompanied by any other provision, I cannot see what other effect it would have except to deprive the Scheduled Castes of Assam of the right to representation which has been given to them. If I understand him correctly, I think the matter, which he has raised, legitimately refers to article 67B of the Constitution which has already been passed. In that article it has been provided that the ratio of representation in the Legislature should have a definite relation to certain population figures. It has been laid down that the representation in the Lower House at the Centre shall be not less than one representative for every 7,50,000 people, or not more than one representative for a population of 5,00,000. According to what he was saying—and I must confess that it was utterly impossible for me to hear anything that he was saying— but if I gathered the purport of it, he seems to be under the impression that on account of the division of Sylhet district the population of the Scheduled Castes in Assam has been considerably reduced and that there may not be any such figure as we have laid down, namely 7,50,000 or 5,00,000, with the result that he feels that the Scheduled Castes of Assam will not get any representation. But I should like to tell him that the provision in article *61(5)(b)* does not apply to the Scheduled Castes.

It applies to the constituency. What it means is that if a constituency consists of 7,50,000 people, that constituency will have one seat. It may be that within that constituency the population of the Scheduled Castes is much smaller, but that would not prevent either the Delimitation Committee or Parliament from allotting a seat for the Scheduled Castes in that particular area. His fear, therefore, in my judgment, is utterly groundless.

Then I come to the amendment moved by Sardar Hukam Singh in which he suggests that provision ought to be made whereby the Scheduled Castes and the Scheduled Tribes would be entitled to contest seats which are generally not reserved for the Scheduled Castes or the Scheduled Tribes. He said that the Drafting Committee has made a deliberate omission. I do not think that is correct. It is accepted that, the Scheduled Castes and the Scheduled Tribes shall be entitled to contest seats which are not reserved seats, which are unreserved seats. That is contained in the report of the Advisory Committee which has already been accepted by the House. The reason why that particular provision has not been introduced in article 292 is because it is not germane at this place. This proposition will find its place in the law relating to election with which this Assembly or the Assembly in its legislative capacity will have to deal with. He therefore need have no tear on that ground.

With regard to the point raised by my Friend Mr. Pillai that the population according to which seats are to be reserved should be estimated by a fresh census, that matter has been agitated in this House on very many occasions. I then said that it was quite impossible for the Government to commit itself to taking a fresh census but the Government has kept its mind open. If it is feasible the government may take a fresh census in order to estimate the population of the Scheduled Castes or the Scheduled Tribes in order to calculate the total representation that they would be entitled to in accordance with the provisions of article 292. The Government is also suggesting that if in any case it is not possible to have a fresh census, they will estimate the population of these communities on the basis of the voters' strength which may be calculated from them, in which case we might be able to arrive at what might be called a rough and ready estimate of the population. I do not think it is possible for me to go beyond that.

All the other amendments I oppose.

[Article 292, as amended by Dr. Ambedkar's motion was added to the Constitution.]

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ARTICLE 293

***Mr. President :** Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar : I do not think it is necessary to say anything.

[Article 293 was added to the constitution without any amendment.]

ARTICLE 294

†The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That for article 294, the following be substituted :—

Reservation of seats for minorities in Legislative Assemblies of the States

294. (1) Seats shall be reserved for the Scheduled Castes and the Scheduled Tribes, except the Scheduled Tribes in the tribal areas of the Assam in the Legislative Assembly of every State for the time being specified in Part I or Part III of the First Schedule.

(2) Seats shall be reserved also for the autonomous districts in the Legislative Assembly of the State of Assam.

(3) The number of seats reserved for the Scheduled Castes or the Scheduled Tribes in the Legislative assembly of any State under clause {*I)* of this article shall bear, as nearly as may be, the same proportion to the total number of seats in the assembly as the population of the Scheduled Castes in the State or of the Scheduled Tribes in the State or part of the State, as the case may be, in respect of which seats are so reserved bears to the total population of the State.

(4) The number of seats reserved for an autonomous district in the Legislative Assembly of the State of Assam shall bear to the total number of seats in that Assembly a proportion not less than the population of the district bears to the total population of the State.

(5) The constituencies for the seats reserved for any autonomous district of the State of Assam shall not comprise any area outside that district except in the case of the constituency comprising the cantonment and the Municipality of Shillong.

(6) No person who is not a member of a Scheduled Tribe of any autonomous district of the State of Assam shall be eligible for election to the Legislative Assembly of the State from any constituency of that district except from the constituency comprising the cantonment and municipality of Shilong.' "

This article is exactly the same as the original article as it stood in the Draft Constitution. The only amendment is that the provision for the reservation of seats for the Muslims and the Christians has been omitted from clasue *(1)* of article 294. That is in accordance with the decision taken by this Assembly on that matter.

ARTICLE 295-A

‡The Honourable Dr. B. R. Ambedkar : Sir, I move :

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*CAD, Vol. IX, 24nd August 1949, pp. 662.

†*Ibid.,* p. 663.

‡*Ibid.,* p. 674.

"That after article 295, the following new article be inserted :—

Reservation of seats for Scheduled Castes and Scheduled Tribes to cease to be in force after the expiration of ten years from the commencement of this constitution

'295-A. Notwithstanding anything contained in the foregoing provisions of this Part, the provisions of this Constitution relating to the reservation of seats for the Scheduled Castes and the Scheduled Tribes either in the House of the People or in the Legislative Assembly of a State shall cease to have effect on the expiration of a period of ten years from the commencement of this Constitution."

This is also in accordance with the decision of the House. I do not think any explanation is necessary.

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***Mr. President :** Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar (Bombay : General)**:** Mr. President, Sir, there are just four amendments about which I would like to say a few words. I will first take the amendment of my Friend Mr. Bhargava, and say that I am prepared to accept his amendment, because I find that although in the general body of the report that was made to this House, no mention as to time-limit was made to the proposal for allowing representation to Anglo-Indians by nomination, I find that in the subsequent debate which took place on that report, there is an amendment moved by my friend Pandit Bhargava which is very much in the same terms as the amendment which he has now moved, and I find that that amendment of his was accepted by the House. I, therefore, am bound to accept the amendment that he has moved now.

Next, with regard to the question raised by Mr. Naziruddin Ahmad, one part of it has been, I think, met by the amendment moved by my Friend Mr. Krishnamachari which I also accept. I am not at all clear in my own mind at the present stage whether the words in the clause mean that the time-limit should begin to operate from the commencement of the Constitution or whether from the date of the first election to the new Parliament. But all I can say at this stage is that that is a matter which the Drafting Committee will consider and if it is necessary, they will bring about some amendment to carry out the intention that the period should be from the date of first meeting of the first Parliament.

With regard to the other arguments which have been used by my friends Mr. Muniswami Pillai and Mr. Monomohan Das, I am sorry it is not possible to accept that amendment. Their proposal is that while they are prepared to leave the clause as it is, they propose to vest Parliament with the power to alter this clause by further extension of the period of ten years. Now first of all we have as I said, introduced this matter in the

*CAD, Vol. IX, 25th August 1949, pp. 696-697.

Constitution itself, and I do not think that we should permit any change to be made in this, except by the amendment of the Constitution itself.

I would like to say one or two words on the remarks of Members of the Scheduled Castes who have spoken in somewhat passionate and vehement terms on the limitation imposed by this article. I have to say that they have really no cause for complaint, because the decision to limit the thing to ten years was really a decision which has been arrived at with their consent. I personally was prepared to press for a larger time, because I do feel that so far as the Scheduled Castes are concerned, they are not treated on the same footing as the other minorities. For instance, so far as I know the special reservation for the Mussalmans started in the year 1892; so to say, the beginning was made then. Therefore, the Muslims had practically enjoyed these privileges for more or less sixty years. The Christians got this privilege under the Constitution of 1920 and they have enjoyed it for 28 years. The Scheduled Castes got this only in the Constitution of 1935. The commencement of this benefit of special reservation practically began in the year 1937 when that Act came into operation. Unfortunately for them, they had the benefit of this only for two years, for from 1939 practically up to the present moment, or up to 1946, the Constitution was suspended and the Scheduled Castes were not in a position to enjoy the benefits of the privileges which were given to them in the 1935 Act, and it would have been quite proper I think, and generous on the part of this House to have given the Scheduled Castes a longer term with regard to these reservations. But as I said, it was all accepted by the House. It was accepted by Mr. Nagappa and Mr. Muniswamy Pillai and all these Members, if I may say so—I am not making any complaint—were acting on the other side, and I think it is not right now to go back on these provisions. If at the end of the ten years, the Scheduled Castes find that their position has not improved or that they want further extension of this period, it will not be beyond their capacity or their intelligence to invent new ways of getting the same protection which they are promised here.

Shri A. V. Thakkar (Saurashtra) **:** What about the Scheduled Tribes who are lower down in the scale ?

The Honourable Dr. B. R. Ambedkar : For the Scheduled Tribes I am prepared to give far longer time. But all those who have spoken about the reservations to the Scheduled Castes or to the Scheduled Tribes have been so meticulous that the thing should end by ten years. All I want to

say to them, in the words of Edmund Burke, is "Large Empires and small minds go ill together".

Mr. President : I shall now take up the amendments one by one....

Shri Yudhisthir Mishra (Orissa States)**:** Sir, I would like to withdraw my amendment.

(The amendment was, by leave of the Assembly, withdrawn.)

Mr. President: Amendment No. 40 (List I—Fifth Week)

Shri S. Nagappa : In view of the explanation given by Dr. Ambedkar I do not wish to press my amendment.

(The amendment was, by leave of the Assembly, withdrawn.)

Mr. President : Amendment No. 99 (List III—Fifth Week).

Shri V. I. Muniswamy Pillay : I was not present in the House on the 25th May when the Second Report of the Minorities Committee was considered. However, in view of what Dr. Ambedkar has said I would like to withdraw my amendment.

The amendment was, by leave of the Assembly, withdrawn.

***Mr. Naziruddin Ahmad :** The principle of my amendment has been substantially accepted by Mr. T. T. Krishnamachari's amendment. Therefore, I wish to withdraw my amendment.

[The amendment was, by leave of the Assembly, withdrawn.]

Mr. President : The next amendment is No. 113 by Pandit Thakur Das Bhargava. This has been accepted by Dr. Ambedkar. The question is :

"That in amendment No. 38 of List 1 (Fifth Week) of Amendments to Amendments, in the proposed new article 295-A, after the word 'Constitution' the brackets and letter *'(a)'* be inserted and after the word 'State', the following be inserted :—

'*(b)* relating to the representation of the Anglo-Indian community either in the House of the people or in the "Legislative Assemblies of the States through nomination.' "

(The amendment was adopted.)

Mr. President : The next amendment is Drafting Committee's amendment No. 114. The question is :

"That in amendment No. 38 of List I (Fifth Week) of Amendments to Amendments, to the proposed article 295-A, the following proviso be added :—

'Provided that nothing in this article shall affect the representation in the House of the People or in the Legislative Assembly of a State until the dissolution of the then existing House or the Assembly, as the case may be.' "

[The amendment was adopted. Article 295-A, as amended, was added to the Constitution.]

*CAD, Vol. IX, 25th August 1949, p. 698.

ARTICLE 296

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***Mr. Naziruddin Ahmad :** .....My point is that the amendment should be rejected on technical as well as substantial grounds

Shri T.T. Krishnamachari (Madras : General) **:** May I submit, Sir, that my honourable Friend is wholly out of order in raising this point of Order, bacause this matter was accepted by the House. The honourable Member had two clear days' notice of it and if he is not able to understand the significance of the amendment in two days, I am sure he cannot understand it in two months.

Mr. President : Is it suggested that when the question was reopened last time with regard to reservation of seats this also was one of the points considered and on this point also a decision was taken then ?

Shri T. T. Krishnamachari : My suggestion is that since Muslims and Indian Christians are no longer to be treated as minorities this point does not arise.

Mr. Naziruddin Ahmad : Not at all. I submit that what was considered was the question of representation of minorities in the legislature. But this new article relates to a different matter, *viz.,* the protection of the minorities in getting minor jobs in the secretariats and districts etc. On the matter of representation in the legislature Sardar Patel was kind enough to consult as and we agreed not to have any reservation in the legislature.

The Honourable Dr. B. R. Ambedkar (Bombay : General)**:** Sir, the position is this. The report of the Minorities Committee provided that all minorities should have two benefits or privileges, namely, representation in the legislatures and representation in the services. Paragraph 9 of the report which was accepted by this House contained this :

> "In the all-India and provincial services the claims of all minorities shall be kept in view in making appointments to these services consistently with the consideration of efficiency in the administration."

That was the original proposition passed by this House. Subsequently the Advisory Committee came to the conclusion on the consent of the two minorities—Muslims and Christians—that they were not to be treated as minorities. When the House has now accepted that the only minorities to be provided for in this manner are the Scheduled Castes and the Scheduled Tribes obviously the Drafting Committee is bound by the decision of the House and to alter the article in terms of such decision.

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*CAD. Vol. IX. 26th August 1949, p. 702.

Mr. President : The point of Order taken is that what was decided at the time of reconsideration of the articles relating to minorities referred only to reservation of seats and that the question of services was not taken into consideration and that point was not decided.

The Honourable Dr. B. R. Ambedkar : As I understand it, the decision was that they were not minorities and therefore they are not to have either of the two privileges.

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ARTICLE 299

***The Honourable Dr. B. R. Ambedkar :** Sir, I beg to move :

"That for article 299, the following article be substituted :—

'299. *(1)* There shall be a Special Officer for minorities to be appointed by Special Officer for minorities the Special Officer, President.

(2) It shall be the duty of the Special Officer to investigate all matters relating to the safeguards provided for minorities under this Constitution and to report to the President upon the working of the safeguards at such intervals as the president may direct, and the President shall cause all such reports to be laid before each House of Parliament.' "

The original article provided that there should be a minority officer both in the Centre and in each of the provinces. It is now felt that, as the number of minorities has been considerably reduced, it is not desirable to have a cumbrous provision like that for having an officer in each province. The purpose of the original article will be carried out if the Centre appoints an officer and makes him report to the President.

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THIRD SCHEDULE

†The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That in the Third Schedule, in Form I of the Declarations, for the words and brackets solemnly affirm (or swear)', the following be substituted :—

'solemnly affirm
swear in the name of God.' "

Sir, I also move :

"That in the Third Schedule, in Form II of the Declarations, for the words and brackets solemnly affirm (or swear)', the following be substituted :—

'solemnly affirm
swear in the name of God.' "

"That in the Third Schedule, in Form III of the Declarations,—

(a) for the word 'declaration' the words 'affirmation or oath' be substituted;

"CAD, Vol. IX, 26th August 1949, p. 703.

† *Ibid.* pp. 706-707.

(b) for the words 'solemnly and sincerely promise and declare' the following be substituted :—

'solemnly affirm
swear in the name of God.' "

"That is the Third Schedule, in Form IV of the Declarations,—

(a) for the word 'declaration' the words 'affirmation or oath' be substituted;

(b) for the words 'solemnly and sincerely promise and declare' the following be substituted :-—

'solemnly affirm
swear in the name of God.' "

"That in the Third Schedule, in Form V of the Declarations,—

(a) the words and figure 'for the time being specified in Part I of the First Schedule be omitted;

(b) for the words and brackets 'solemnly affirm (or swear)', the following be substituted :—

'solemnly affirm
swear in the name of God.' "

"That in the Third Schedule, in Form VI of the Declarations,—

(a) the words and figure ' for the time being specified in Part I of the First Schedule be omitted ;

(b) for the words and brackets 'solemnly affirm (or swear)' the following be substituted :—

'solemnly affirm
swear in the name of God.' "

"That in the Third Schedule, in Form VII of the Declarations,—

(a) for the word 'declaration' the words 'affirmation or oath' be substituted;

(b) the words and figure 'for the time being specified in Part I of the First Schedule' be omitted;

(c) for the words 'solemnly and sincerely promise and declare' the following be substituted :—

'solemnly affirm
swear in the name of God.' "

"That in the Third Schedule, in Form VIII of the Declarations,—

(a) for the word 'declaration' the words 'affirmation or oath' be substituted;

(b) for the words 'solemnly and sincerely promise and declare' the following be substituted :—

'solemnly affirm
swear in the name of God.' "

Sir, I also move :

"That in the Third Schedule for the heading 'Forms of Declarations' the heading 'Forms of affirmations or Oaths' be substituted."

Mr. President : I take it that there is no objection to the heading being changed.

Mr. Naziruddin Ahmad : There is no objection, Sir.

Mr. President : Then the heading is changed....

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***The Honourable Dr. B. R. Ambedkar :** Sir, I move :

"That in Form VI of the Forms of Declarations in the third Schedule, the words 'or as may be specially permitted by the Governor in the case of any matter pertaining to the functions to be exercised by him in his discretion' be omitted."

These are unnecessary because we do not propose to leave any discretion in the Governor at all.

Shri H. V. Kamath : May I remind Dr. Ambedkar that 143 has not yet been amended ?

The Honourable Dr. B. R. Ambedkar : Yes, I remember that.

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Mr. President : We have abolished all discretion.

Mr. Naziruddin Ahmad : The difficulty arises in connection with the phraseology occurring at the end of Form VI.

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Mr. President : That is why Dr. Ambedkar has moved for its deletion.

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†The Honourable Dr. B. R. Ambedkar : In proposing this amendment, I have not the slightest desire to offend the sentiments of some of the Members who have spoken against the draft on the ground that God has been placed below the line. Sir, in this matter I must admit that we have really no consistent policy which we have followed, for instance, in article 49, which has been passed. God has been, I think, placed above the line and affirmation below the line. In article 81, we have placed affirmation first and the oath afterwards. In this article, to which we have moved amendments, we have merely followed the wording of the principal clause, which runs : "Affirm or Swear". That being the language of the principal clause, the logical sequence was that the affirmation was placed above the line and the oath was placed below. It is a purely logical thing. Now, the reason why we have thought it desirable to place affirmation first and oath afterwards, was because in this country, at any rate, the Hindu, when he is called upon in any Court of Law to give evidence, generally begins by an affirmation. It is only Christians, Anglo-Indians and Muslims who swear. The Hindus do not like to utter the name of God. I therefore thought that in a matter of this sort, we ought to respect the sentiments and practice of the majority community, and consequently we have introduced this particular method by stating the position as to affirmation and oath. As I said, I have neither one view nor the other. I am perfectly prepared to carry out the wishes of the House. If the House is of the opinion that Mr. Kamath's amendment should be accepted—and

*CAD, Vol. IX, 26th August 1949, pp. 711-712.

†*Ibid.,* pp. 714-715.

I submit that that would be contrary to the practice prevalent in this country so far as the Hindus are concerned—then what I would suggest is this, that my amendments would be allowed at this stage, with the liberty that the Drafting Committee will take into consideration all the other articles which have been incorporated in the Constitution so far as to bring the whole matter in line. It will not be proper to make a change here and to leave the other articles as they stand.

Shri Mahavir Tyagi : Let grammer not stand in the way of God !

Shri H. V. Kamath : With regard to article 81, there was no amendment before the House, It was stated that every Member in each House of Parliament should make an affirmation and an oath according to the Third Schedule. But what the House has already adopted is the oath or affirmation for the President and the Governors, and that is in the form set out by me in my amendment today.

Mr. President : It is not necessary to have a discussion over this matter. You had better vote on it. It is not a question on which there is room for much discussion. As Dr. Ambedkar has said, he has no particular feeling in the matter, and if the House decides one way, he will ask for the liberty TO put all the articles in mat form. So I shall put the amendment to the vote.

Mr. Naziruddin Ahmed : My amendments have not been touched by Dr. Ambedkar at all.

Mr. President : That is different.

The Honourable Dr. B. R. Ambedkar : Alter the word "sincerely"? After "sincerely" I would like to add something more. It would not be enough.

Mr. President : He wants the omission of the word "affection".

(after a pause)

Well, I will take up the amendment.

(Following amendment was adopted)

'That in Amendment Nos. 56 to 63 of List I (Fifth Week) of Amendments to Amendments, in the form of the oath or affirmation in the Third Schedule, for the words

'solemnly affirm

swear in the name of God.' "

(Proposed to be substituted), the following be substituted :—

'solemnly affirm

swear in the name of God.' "

(The amendment was adopted.)

Mr. President : I take it that the House gives leave to Dr. Ambedkar to put the other articles, wherever such similar expressions occur in the same order.

Honourable Member : Yes.

Shri Jaspat Roy Kapoor : May I suggest that in all the places where we have the words "affirmation or oath" we may have the 'oath' first and 'affirmation' afterwards. It should be so in the substantive clause also.

Mr. President: That is so. It should be put in the same order wherever the expression occurs.

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Mr. President : The question is :

"That with reference to amendment No. 56 of List I (Fifth Week) of Amendments to Amendments, in the Third Schedule, in Form I of the Declarations, for the words ' all manner of people ' the words ' all people ' be substituted."

Mr. Naziruddin Ahmad: This may be left to the Drafting Committee.

Mr. President : It is not pressed. So I take it that it is dropped.

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Mr. President : The question is :

"That in Form VI of the Forms of Declarations in the Third Schedule, the words 'or as may be specially permitted by the Governor in the case of any matter pertaining to the functions to be exercised by him in his discretion' be omitted."

(The amendment was adopted.)

Mr. President : I do not think it is necessary to put the other amendments to vote, because the voting will be the same as with regard to the other amendments.

Mr. Naziruddin Ahmad : They may be formally put and rejected by the House.

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***Mr. President :** Then I put the proposition moved by Dr. Ambedkar, as amended by Mr. Kamath's amendment and Dr. Ambedkar's own amendment, with regard to all these forms. I do not think it is necessary to read them separately.

(The motion was adopted.)

Mr. President : The question is :

"That the Third Schedule, as amended, stand part of the Constitution."

The motion was adopted.

The Third Schedule as amended, was added to the Constitution.

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†Mr. President : I do not think the Member has any justification for supposing that other members do not study the amendments.

Mr. Naziruddin Ahmad : I have been assured by some very serious Members that they have not read the amendments. Therefore, in view of

*CAD, Vol. IX, 26th August 1949, p. 717.

†*Ibid.,* 29th August 1949, p. 721.

the serious nature of the amendments I say that the house should have time to consider them....

Mr. President : If any question is raised with regard to any particular amendment or item and if Members want time, we shall consider that at that time. Let us now proceed item by item.

The Honourable Dr. B. R. Ambedkar (Bombay : General)**:** I would like to say that these amendments were circulated on Saturday, day before yesterday.

Mr. President : Were they circulated on Saturday ?

Some Honourable Members : Yes, Sir.

The Honourable Dr. B. R. Ambedkar : On Saturday evening, I think. So far as Mr. Naziruddin Ahmad is concerned, there are some forty amendments standing in his name.

Mr. Naziruddin Ahmad : Only twenty.

The Honourable Dr. B. R. Ambedkar : They cover the whole of List I. Therefore my submission is that the complaint, so far as he is individually concerned, that he did not have time, must be regarded as absolutely unfounded.

UNION LIST

ENTRY 1

***Mr. President :** You (Dr. P. S. Deshmukh) had not given notice of this amendment originally, not even in the first instance.

The Honourable Dr. B. R. Ambedkar : This is not an amendment to an amendment.

Mr. President : This is altogether a new amendment.

Dr. P. S. Deshmukh : I am moving this amendment on the same principle as that on which Dr. Ambedkar has been moving his amendments so far as the articles are concerned.

Mr. President : There was previously no notice of an amendment to entry 1. This is the first time we have an amendment to this entry.

Dr. P. S. Deshmukh : It is a fact. Sir. If Dr. Ambedkar feels that a rewording of this Entry is necessary, he might perhaps accept it; otherwise I am prepared to withdraw it.

The Honourable Dr. B. R. Ambedkar : This is merely a paraphrase of Entry 1. You have ruled that we should not spend more than five minutes on an Entry and it is already more than five minutes.

Mr. President : As Dr. Ambedkar has pointed out, this being merely a paraphrase of the Entry, we might leave it to him to consider. I do not

*CAD, Vol. IX, 29th August 1949, p. 722.

think we should have much discussion on these matters, especially when they do not happen to be new ideas.

[Entry 1 was added to the Union List.]

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ENTRY 2

***The Honourable Dr. B. R. Ambedkar :** Sir, I move :

"That for entry 2 of List I, the following entry be substituted.

'2. Central Bureau of Intelligence and Investigation.' "

The only words added are "and Investigation". Otherwise the entry is the same as it exists in the draft.

Shri Mahavir Tyagi: What is the significance of this addition ? Will you please throw light as to why you have added these words ?

The Honourable Dr. B. R. Ambedkar : The idea is this that at the Union office there should be a sort of Bureau which will collect all information with regard to any kind of crime that is being committed by people throughout the territory of India and also make an investigation as to whether the information that has been supplied to them is correct or not and thereby be able to inform the Provincial Governments as to what is going on in the different parts of India so that they might themselves be in a position to exercise their Police powers in a much better manner than they might be able to do otherwise and in the absence of such information.

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†Mr. President : Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar : Sir, I am not in a position to accept any of the amendments moved by my Friend Mr. Naziruddin Ahmad. These amendments seem to be the result of a muddled head

Mr. President : Dr. Ambedkar need not use strong language.

The Honourable Dr. B. R. Ambedkar : Amendment No. 146 seeks to remove the words 'and investigation'. The ground for removing the word 'investigation', as suggested by my Friend Mr. Naziruddin Ahmad, is that there would be conflict between the jurisdiction of the Centre and the Provinces. If that is how he understands the entry as I have moved it, I do not quite understand how he can consent to allow the word 'investigation' to remain in the two subsequent amendments which he has moved, numbers 147 and 148.

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*CAD, Vol. IX, 29th August 1949, p. 724.

†*Ibid.,* p. 726.

Mr. President : 147 only.

The Honourable Dr. B. R. Ambedkar : He has got another.

Mr. President : Amendment No. 148 has not been moved.

The Honourable Dr. B. R. Ambedkar : The point of the matter is, the word "investigation" here does not permit and will not permit the making of an investigation into a crime because that matter under the Criminal Procedure Code is left exclusively to a police officer. Police is exclusively a State subject; it has no place in the Union List. The word "investigation" therefore is intended to cover general enquiry for the purpose of finding out what is going on. This investigation is not investigation preparatory to the filing of a charge against an offender, which only a police officer under the Criminal Procedure Code can do.

[Entry 2, as amended by Dr. Ambedkar's amendment, was added to the Union List.]

ENTRY 3

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***The Honourable Dr. B. R. Ambedkar :** Sir, I beg to move :

"That for entry 3 of List I, the following entry be substituted :—

'3. Preventive detention in the territory of India for reasons connected with defence, foreign affairs, or the security of India; persons subjected to such detention.' "

Comparing this entry with the original entry in the Draft Constitution, it will be noticed that there are only two changes : for the words 'external affairs' we have now used the words 'foreign affairs'. "Persons subjected to such detention" is an addition; this did not exist in entry 3 as it stands. But, this again has already been passed by the House in the amendment to the Government of India Act. Therefore, substantially, there is no change in the amendment that I am proposing.

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†The Honourable Dr. B. R. Ambedkar : In answer to the question put to me by my Friend Mr. Kamath I should like to tell him that there can be no provision for the externment of a citizen. There can be detention and not externment. The externment law can be applied only to aliens, and there is an entry in our list dealing with aliens etc. According to that, the State will be able to deal with an alien, if it wants to extern him.

Shri H. V. Kamath : Where is the entry in the list ?

*CAD, Vol. IX, 29th August 1949, p. 727.

†*Ibid.*, 729-730.

The Honourable Dr. B. R. Ambedkar : Entry No. 19. Now, with regard to the question put to me by my Friend Dr. Deshmukh, he wants that the words "for reasons connected with the State" should be substituted. In my judgment, that would be a limiting entry; and ours is a much better one as it specifies the subject-matter in connection with which the preventive detention may be ordered.

And then Mr. Brajeshwar Prasad wants public safety to be introduced.

Shri Brajeshwar Prasad : I did not want it. I only wanted to know whether the phrase "reasons connected with defence etc." included "public safety or interest."

The Honourable Dr. B. R. Ambedkar : Yes, "security of India" is a very wide term.

Shri Brajeshwar Prasad : I am not referring to "security of India" but to "public safety or interest".

The Honourable Dr. B. R. Ambedkar : Now, with regard to Mr. Naziruddin Ahmad's question, he wants the words "persons subjected to such detention" to be deleted.

Mr. President : No, he has not moved that amendment. He only wants to substitute the word "external" for the word "foreign".

The Honourable Dr. B. R. Ambedkar : We are hitherto using the word "foreign" throughout, and I think it is better we keep to the same word.

Shri H. V. Kamath : Is the security of India the same as the security of any part of it ? And is the present entry in consonance with article 275?

The Honourable Dr. B. R. Ambedkar : Yes, undoubtedly.

Mr. President : I shall put amendment No. 149 of Mr. Naziruddin Ahmad to vote.

[The amendment was negatived.]

Mr. President : Then I put Dr. Deshmukh's amendment.

[The amendment was also rejected.]

Mr. President : Then I put the entry as it was moved by Dr. Ambedkar.

[The amendment was adopted.]

UNION LIST

ENTRY 4

***Mr. President :** Then we come to entry 4.

*CAD, Vol. IX, 29th August 1949. p. 731.

The Honourable Dr. B. R. Ambedkar : I move :

"That for entry 4 of List I, the following entry be substituted :—

'4. Naval, military and air forces; any other armed forces of the Union.' "

Honourable Members will see that this entry was a very large entry, and it consisted of two parts. Part one of the entry related to the raising of the forces by the Union. Part two related to the forces of the States mentioned in Part III. In view of the fact that it has been decided to put the States in Part III on the same footing as the States in Part I, it is desirable to delete the second part of this entry. And so far as any States have today any forces, it would be provided for by a provision in the part dealing with the transitory provisions of this Constitution.

With regard to the first part of the entry, it is felt that it is a mouthful, and that many of the words are not necessary, and that the short phraseology now proposed—naval, military and air-forces—would be quite sufficient to give the Union all the powers that are necessary for the purposes of maintaining an army, navy and air-force.

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***The Honourable Dr. B. R. Ambedkar :** It is necessary to retain the words "any other armed forces of the Union" because, besides the regular army, there are certain other forces which come under the armed forces and which are maintained by the Centre. For instance, there are what are called the "Assam Rifles" to guard the border. There are certain armed police forces maintained by the Centre with regard to the certain Indian States. In order, therefore, to give them a legal basis, it is desirable to include them in this entry 4.1 might also mention mat they were also recognised in entry I of the Government of India Act, 1935 as distinct from the navel, military and air forces.

Mr. President : I shall put Sardar Hukam Singh's amendment to the House.

[The amendment was negatived.]

Mr. President : Then I put the entry moved by Dr. Ambedkar.

(The amendment was adopted. Entry 4, as amended, was added to the Union List.)

ENTRY 5

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†The Honourable Dr. B. R. Ambedkar : Sir, entry No. 5 should be read along with entry No. 64. Entry 64 deals with the control

*CAD, Vol. IX, 29th August 1949, p. 732.

† *Ibid.,* p. 733.

of industries which Parliament has declared to be necessary in the interests of the public. This, that is entry 5, relates to the taking over of industries for the purpose of defence or for the prosecution of the war. That being the important difference, I think it would hamper war effort considerably if entry 5 was made analogous to entry 64. Declaration by Parliament will be necessary in both cases. But the scope of entry 5 is much wider man that of entry 64. Having regard to the different ends and aims in view, it is sought to differentiate entry 5 from entry 64.

[Entry 5 was added to the Union List.]

ENTRY 6

(Entry 6 was added to the Union List.)

ENTRY 7

***The Honourable Dr. B. R. Ambedkar :** Sir, I move :

"That for entry 7 of List I, the following entry be substituted :—

'7. Delimitation of cantonment areas, local self-government in such areas, the constitution and powers within such areas of cantonment authorities and the regulation of House accommodation (including the control of rents) in such areas.' "

There is an amendment to this standing in the name of my honourable Friend Mr. T.T. Krishnamachuri the effect of which is merely to omit the word "self" in the expression "local self-Government" so that it will read "local government".

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Shri Mahavir Tyagi : Sir, may I suggest that the entry be held over ?

The Honourable Dr. B. R. Ambedkar : Why 7 I do not understand. If you have any comments to make we are quite prepared to hear and give you a reply.

Shri Mahavir Tyagi : I feel that either we must be given a full chance of tabling our amendments and pulling our case before the House, or such articles as are controversial may please be ordered to be held over.

The Honourable Dr. B. R. Ambedkar : This amendment standing in the name of Mr. Sidhva has been there from 26th January! My friend has now become awake to the situation. There was plenty of time for him to give an amendment and I am even now prepared to say that he can make out his case for such changes as he wants and I am prepared to satisfy him.

*CAD, Vol. IX, 29th August 1949. p. 735.

Shri Mahavir Tyagi : Sir, we have accepted Dr. Ambedkar's speed—he is going very fast—we have taken no objection to that. But on items like these he might agree

The Honourable Dr. B. R. Ambedkar : Why don't you say what you want to say ?

Shri Mahavir Tyagi : My submission is that such items on which there are controversies or on which honourable Members say or feel that they want to table an important amendment, such items may please be held over. It will smooth the way, It will accelerate the work.

Mr. President : Then the House will adjourn till 9 o'clock tomorrow. We shall take all the amendments tomorrow as they come, but I shall not give any further time.

The Honourable Dr. B. R. Ambedkar : I am entirely in your hands, Sir, so far as this amendment is concerned. If I can know what objections my Friend Mr. Tyagi has, I am prepared to deal with his case now in the House.

* * * * *

***The Honourable Dr. B. R. Ambedkar** (Bombay : General) **:** Sir, the amendments moved by my Friend Mr. Tyagi are the only amendments which call for reply. His amendments are in alternative form. In the first place, he wants to delete the whole part dealing with regulation of house accommodation including the control of rent. In his alternative amendment he is prepared to retain the control and regulation of house accommodation, but wishes to delete the words 'rent control'. It seems to me, the matter is really one of commonsense. If my Friend has no objection to the retention of the words "regulation of house accommodation", as is clear from his alternative amendment, then it seems to me that the control of rent is merely incidental to the power of regulation of house accommodation. It will be quite impossible to carry out the purpose, namely, of regulating house accommodation, if the authority which has got this power has not also the power to control rents. Therefore my submission is that the control of rents is incidental to the regulation of house accommodation. If Mr. Tyagi has no fundamental objection to the retention of the power to deal with house accommodation, I think he must not have any objection to the transfer of control also.

*CAD, Vol. IX, 29th August 1949, p. 739.

Mr. President : I will now put the amendments to vote. The first is that of Dr. Deshmukh.

Dr. P. S. Deshmukh : I will be content if the Drafting Committee will be pleased to consider it at the time of the final draft.

Mr. President : It is only a matter of drafting so far as I can see. So we might leve it to the Drafting Committee.

(The amendment was negatived.)

[Amendment of Dr. Ambedkar was alone adopted Entry 7 as amended was added to the Union List]

ENTRY 12

* * * * *

***The Honourable Dr. B. R. Ambedkar :** Sir, there are various considerations which arise with regard to this amendment. As my honourable Friend, Mr. Kamath will see this is not the only entry which relates to foreign nations. There is, in the first place, an entry called Foreign Affairs which is broad-enough to be operated upon by this country if it wishes to establish itself as a member of any international organization. There is also the entry following, which we are dealing with now, which permits legislation relating to participation in any international conference or any international body. In view of that, I should have thought that the kind of amendment which has been moved by my honourable Friend, Mr. Kamath is really unnecessary. Secondly, it must be remembered that this is merely a legislative entry. It enables the State to make legislation with regard to any of the entries which are included in List I. If there was an article in the body of the Draft Constitution which limited the legislative power of the State given by any one of these entries, the question such as the one raised by my honourable Friend, Mr. Kamath would be very relevant, but I do not find that there is any limiting article in the Constitution itself which confines the legislative power given under this entry to the membership of the United Nations Organization and there is no such entry at all in the article. Therefore the State can act under any of the other items and be a member of any other international organization. But if the House is particular about it, I think no harm can be done if Mr. Kamath's amendment is accepted and therefore, I leave the matter to the House to decide.

[Entry 12 was added to the list]

*CAD, Vol. IX, 29th August 1949, p. 743.

NEW ENTRY 9-A

***Mr. President :** There is notice of one amendment by Prof. Shibban Lal Saksena for adding one more entry ; "Cosmic energy, and scientific and industrial research and other resources needed for its production, development and use."...

Would you like to move it. Mr. Shibban Lal Saksena ?

The Honourable Dr. B. R. Ambedkar : I do not know what it means.

Mr. President : We have atomic energy; he wants to have cosmic energy also.

* * * * *

Prof. Shibban Lal Saksena : ... I hope Dr. Ambedkar will see that this lacuna is removed.

The Honourable Dr. B. R. Ambedkar : Sir, all I can say is that if the amendment moved by my Friend Prof. Shibban Lal Saksena is at all necessary, I think we have enough power under entry No. 91 of List I to deal with that : "any other matter not enumerated in List II or List III including any tax not mentioned in either of those Lists". That matter could be covered by this.

Mr. H. V. Kamath : That would cover many of the entries in the List itself.

(The motion was negatived.)

†Mr. President : Entry 14. Dr Ambedkar, would you like to say anything in reply ?

The Honourable Dr. B. R. Ambedkar : No elucidation is necessary.

(Entry No. 14 was added to the Union list.)

ENTRY 22

‡The Honourable Dr. B. R. Ambedkar : Sir, I move :

> "That for entry 22 of List I, the following entry be substituted : —
>
> '22. Piracies and crimes committed on the high seas or in the air; offences against the law of nations committed on land or the high seas or in the air.' "

The second part of this entry—"offences against the law of nations committed on land or the high seas or in the air" is new. It was an omission made in the earlier part of the draft. With regard to the first part, we are substituting the word "crimes" for "felonies and offences", as it is the common word used in India. "Felonies and offences" are English

*CAD. Vol. IX, 30th August 1949, p. 744.

†*Ibid.,* p. 745.

‡*Ibid.,* pp. 747-748.

technical terms. We are also taking out of the first part, the words, "against the law of nations" because piracies and crimes are matters which can be regulated by any country by reason of its own legal jurisdiction and authority. It has nothing to do with the law of nations.

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The Honourable Dr. B. R. Ambedkar : Sir, listening to what my honourable Friend Mr. Naziruddin Ahmad said, I am afraid I have again to say that he has not got a very clear notion of what this entry 22 proposes to do.

Mr. Naziruddin Ahmad : The difficulty was that Dr. Ambedkar was engaged in conversation and did not hear me.

The Honourable Dr. B. R. Ambedkar : I was no doubt engaged in conversation; but I was quite *avadhan* to what he was saying.

My Friend first posed the question as to why we should use the term "piracy and crime" in plural. Well, the other way in which we can use piracy and crime would be in collective terms. I think in matters of this sort, where criminal legislation is provided for, it is much better not to use the word in collective form. He cited some examples, but he forgets the fact that in some cases the generic use of the term is quite sufficient; in other cases it is not sufficient. The Drafting Committee, therefore, has deliberately used the word "piracies and crimes" in plural because it is appropriate in the context in which it is used.

My Friend Mr. Naziruddin Ahmad said as a second count against this entry that there ought to be a semi-colon after 'Piracies'. Now, that, I think, would distort the meaning and the purport of item 22. Supposing we had a semi-colon after 'piracies', 'piracies ' in item 22 would be dissociated from the rest of the entry. Now, if piracies are dissociated from the rest of the entries, it would mean that the centre would have the right to legislate on all piracies, including piracies in inland rivers also. It is not the intention of this entry to give to the Central Legislature the power to legislate on piracies of all sorts. The words "committed on high seas or in the air" are words which not only qualify the word "crime" but they are also intended to qualify the word "piracy".

Then, the third count of my friend was that we should omit the words "on land, on high seas and in the air" after the words "offences against the law of nations". That would not make it clear that the second entry is an all-pervasive entry and gives the power contrary to the first part of the entry to the Central Legislature to deal with offences against the law

*CAD, Vol. IX. 30th August 1949, pp. 750-751.

of nations, not merely on the high seas and is the air but also on land. In other words, the States will have no kind of power so far as the second part of the entry is conderned. I, therefore, submit that the entry as proposed carries the intention of the draftsman and no amendment is necessary.

Mr. Naziruddin Ahmad : The honourable Member has not heard me. What about offences committed against the law of nations, which is neither on land, nor on high seas, nor in the air, but in the low seas?

The Honourable Dr. B. R. Ambedkar : It can only be in his imagination, it cannot be anywhere else.

Sardar Hukam Singh (East Punjab : Sikh) **:** If piracies are not dissociated from the remaining items, then would these words 'in the air' also qualify the word 'piracy' ?

The Honourable Dr. B. R. Ambedkar : There may be piracies in the air also.

Mr. Naziruddin Ahmad : Piracies are always on water, never on land or in the air,

Mr. President : I will now put the amendments to vote.

Mr. Naziruddin Ahmad : I would like only the last one to be put to vote.

[Except the amendment of Dr. Ambedkar, other amendments were negatived Entry 22, as amended was added to the Union List.]

ENTRY 26

The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That for entry 26 of List I the following be substituted :—

'26. Import or export across customs frontiers; definition of customs frontiers.' "

This is just a re-arrangement of the original entry.

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Mr. Naziruddin Ahmad : ...The word "and" in "import and export" in my amendment is most important. As I have said already this is more or less of a drafting nature and therefore I would leave it to the Drafting Committee to deal with it without having my motion put to the House.

The Honourable Dr. B. R. Ambedkar : Sir, I am content with clarity and I do not wish to run after elegance.

[The amendment was adopted. Entry 26, as amended, was added to the Union List.]

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*CAD, Vol. IX, 30th August 1949, p. 752.

ENTRY 26-A

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Prof. Shibban Lal Saksena : Sir, there have been cases in the Supreme Court of America on this subject and I would like it to be clearly stated. I would therefore like to move my amendment. Sir, I move :

"That after entry 26 of List I, the following new entry be added :—

* 26-A. Ownership of and dominion over the lands, minerals, and other things of value underlying the ocean seaward of the ordinary low watermark on the coast exceeding three nautical miles.' "

* * * * *

***The Honourable Dr. B. R. Ambedkar :** This matter is already covered, if I may say so, by article 271 A. My difficulty is : my friend Prof. Shibban Lal's amendment speaks of ownership. Now, in all these legislative lists, we only deal with power to make law, not power to appropriate. That is a matter which is regulated by another law, and not by legislative entries. I therefore cannot accept it.

Mr. President: He has referred to a judgment of the Supreme Court of the United States, but I think that is based on the absence of something like article 271-A of our Constitution.

The Honourable Dr. B. R. Ambedkar: We discovered that there was no entry and this was therefore a matter of doubt and in order to clear that doubt we put in 271 A. It is practically a *verbatim* reproduction of Mr. Shibban Lal's amendment.

ENTRY 31

†Mr. President : I find there are some amendments to entry 31.

The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That for entry 31 of List I the following entry be substituted :

'31. Highways declared to be national highways by or under law made by Parliament.' "

It is just transposition of words to make the matter clear.

[Entry 31, as amended, was added to the List]

ENTRY 37

‡The Honourable Dr. B. R. Ambedkar : Sir, I move :

** That in amendment 12 of List I, in entry 37, for the words 'by air or by sea' the words 'by railway, by sea or by air' be substituted".

This is just caused by an omission.

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*CAD, Vol. IX, 30th August 1949, pp. 753-754.

†*Ibid.,* p. 754.

‡*Ibid.,* p. 755.

Dr. P. S. Deshmukh : Sir, I beg to move :

"That in amendment No. 12 of List I (Sixth Week), in entry 37 of List I. for the words 'by railway, by sea or by air' (proposed to be substituted), the words 'by land, sea or air' be substituted".

* * * * *

***The Honourable Dr. B. R. Ambedkar :** Sir, I am afraid I cannot accept the amendment moved by Dr. Deshmukh, because if we include it, it will become a central subject.

Dr. P. S. Deshmukh : If it is between two provinces?

The Honourable Dr. B. R. Ambedkar : That will come under inter-State traffic.

Dr. P. S. Deshmukh : I am prepared to withdraw my amendment.

(The amendment ws, by leave of the Assembly, withdrawn.)

(Shri H. V. Kamath did not press his amendment.)

ENTRY 38

†The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That for entry 38 of List I, the following entry be substituted : — '38. Railways.' "

I think this change requires some explanation. If honourable Members will turn to entry 38 as it stands in the Draft Constitution, they will notice in the first place the distinction made between Union railways and minor railways. The distinction was necessary because, in respect of the Union railways, the Centre would have the authority to legislate with regard to safety, minimum and maximum rates and fares, etc. The responsibility of actual administration as carriers of goods and passengers, in respect of minor railways, was limited. In other words, so far as maximum and minimum rates and fares, station and service terminal charges etc. are concerned, they were taken out of the jurisdiction of the Central legislature. It is felt that it is desirable that, as the railway service is one uniform service throughout the territory of India, there should be a single legislative authority to deal with railways in all matters on a uniform basis. Consequently the entry in the First Part is now extended to all railways including minor railways. Again, as legislation is intended to be uniform, it is felt that it is unnecessary to retain the second part of the entry which makes a distinction between Union railways and minor railways. I might also say that this entry is purely a legislative entry. It is not an entry which deals with ownership. That means that even if the Centre had

*CAD, Vol. IX, 30th August 1949, p. 757.

†*Ibid.,* p. 757.

power to regulate minimum and maximum fares and rates and terminal charges, every State which owned a minor railway, whether it is a State in Part I or Part III, if it was the owner of the particular railway, would be entitled to receive and keep the proceeds of the rates and fares as may be fixed by the Centre. It does not affect the rights of ownership at all. They remain as they are. If the Centre wishes to acquire any minor railway now owned by any State either in Part I or Part III the Union will have to acquire it in the ordinary way. Therefore this is purely a legislative entry. The object of the amendment is to have a uniform law with respect to all matters dealing with railways and it does not affect any question of ownership at all.

The question of tramways is however separated from the question of railways. We propose in the Interpretation Clause to define railways in such a manner as to exclude tramways so that the States in Parts I and III will retain the power to regulate tramways in all respects as though they are not covered by 'railways'.

Shri R. K. Sidhva : There is a Minor Railways act which is worked by the Provincial Governments. May I know whether it is intended to repeal that Act and bring it into the Union ?

The Honourable Dr. B. R. Ambedkar : Yes, the Union will have power to abrogate that Act, make any other law or retain it if it so feels. It is only an enabling entry which will enable the centre either to make different laws regulating the major and minor railways or make one single law regulating all railways irrespective of whether they are major railways or minor railways.

Shri R. K. Sidhva : Then the minor railways will be governed by the Minor Railways Act ?

The Honourable Dr. B. R. Ambedkar : Yes, the existing law will continue until Parliament changes it. This is merely to give power to the Parliament to change it.

Mr. President : I would now put entry 38 to the vote. I am told there is an amendment which I have received this morning after nine. I am afraid I cannot accept it.

[Entry 38, as amended by Dr. Ambedkar's amendment, was added to the Union List.]

ENTRY 39

***The Honourable Dr. B. R. Ambedkar :** Sir, I move :

"That for entry 39 of List I. the following entry be substituted :—

*CAD, Vol. IX. 30th August 1949. p. 758.

'39. The institutions known on the date of commencement of this Constitution as the National Library, the Indian Museum, the Imperial War Museum, the Victoria Memoraial, the Indian war Memorial, and any other institution financed by the Government of India wholly or in part and declared by Parliament by law to be an institution of national importance.' "

The substance of the entry is the same as it exists at present, except for a few verbal changes which have taken place in the nomenclature of the institutions subsequent to the 15th August 1947.

Shri B. Das (Orissa : General) **:** When the Constitution comes into force, will the name "Imperial War Museum" be changed to "National War Museum" as "Imperial Library" has been changed to "National Library" ?

The Honourable Dr. B. R. Ambedkar : I understand that the "Imperial Library" has been changed to "National Library", but the Imperial War Museum retains its existing name. These descriptions are intended merely to identify the institutions, whenever Parliament wishes to make any law about them.

Shri B. Das : I want to know whether when the Constitution comes into force and the Adaptations are made, the word "Imperial" will go. I expect words like "His Majesty's Government", "The Crown" etc., will vanish.

Honourable Dr. B. R. Ambedkar : Adaptations will apply to laws and not to names.

Mr. President : This entry gives the right to the Central Legislature to change the names.

There is an amendment to this by Mr. Naziruddin Ahmad, No. 160.

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The Honourable Dr. B. R. Ambedkar : I do not think that much explanation is necessary as to why I cannot accept the amendment of Mr. Naziruddin Ahmad. As you will see the entry really falls into two parts. In the first part it deals with specific institutions which are enumerated therein. In the second part it deals with institutions which are either financed by the Government of India, wholly or in part. Therefore, it is not possible to use the words "similar" because that would circumscribe the object of the entry, which is to give the Central Government power to take over any institution which is either financed by itself or financed partly by itself and partly by the Provinces.

*CAD, Vol. IX, 30th August 1949, p. 760.

[Out of 3 amendments by Mr. Naziruddin Ahmed, 2 were not passed by him and one was rejected with Dr. Ambedkar's amendment, Entry 39 was added to the Union List.]

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ENTRY 40

***The Honourable Dr. B. R. Ambedkar :** Sir, I move :

"That for entry 40 of List I, the following entry be substituted :—

'40. The institutions known on the date of commencement of this Constitution as the benares Hindu University, the Aligarh Muslim University, and the Delhi University and any other institution declared by Parliament by law to be an institution of national importance.' "

I submit the word "university" is a mistake and it ought to be "institution" and I hope you will permit me to substitute it.

There is no fundamental change in this except that the latter part permits also Parliament to take over any institution which it thinks is of national importance.

Dr. P. S. Deshmukh : May I suggest that 40-A may also be taken together ? It is part and parcel of the same thing.

The Honourable Dr. B. R. Ambedkar : Sir, I move :—

"That after entry 40 of List I the following new entry be inserted :—

'40A. Institutions for scientific or technical education financed by the government of India wholly or in part and declared by Parliament by law to be institutions of national importance.' "

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†The Honourable Dr. B. R. Ambedkar : Sir, I find my honourable Friends, Mr. Naziruddin Ahmad and Dr. Deshmukh, running at cross-purposes. One wants to enlarge the scope of the article by adding the word "academy". The other wants to limit the scope of the article by dropping the word "Delhi University and any other institution declared by Parliament by law to be an institution of national interest".

So far as Dr. Deshmukh's amendment is concerned, it seems to me quite unnecessary to introduce the word "academy" because the word 'institution' is large enough to include both University and academy. Therefore, that is quite unnecessary.

With regard to the amendment of my honourable friend Mr. Naziruddin Ahmad, Delhi University is as was pointed out by him already under the central Legislature by virtue of the fact that the Delhi University is in a commissioner's province, which is subject to the legislation of the centre. Therefore, in introducing the words "Delhi University" we are really not

*CAD, Vol. IX, 30th August 1949, p. 761.

†*Ibid.,* p. 767.

departing from the existing state of affairs. With regard to the subsequent part of the entry relating to any other institution declared b y law by Parliament, it seems to me, that it is desirable to retain those words, because there might be institutions which are of such importance from a cultural or from a national point of view and whose financial position may not be as sound as the position of any other institution and may require the help and assistance of the centre. In view of that, I think the last part of the entry is necessary and I am not prepared to accept his amendment.

Now with regard to my honourable friend, Mr. Kamath, he wanted to introduce the words "research institution". He has forgotten, or probably is attention has not been drawn to my amendment dealing with entry No. 57-A which deals with research institutions. Of course, that entry is limited to coordination and maintenance of standards. Mr. Kamath has, perhaps, in mind agencies established by the provinces and which it may be desirable for the Centre to take over. It seems to me that it is no use overloading the Centre with every kind of institution. It would be enough if, as I said, the provisions contained in 57A were allowed to pass because that will give the Centre enough power to maintain by law coordination and the maintenance of standards for higher education in scientific and technical institutions. I think that ought to suffice for the present.

Mr. President : I will now put the amendments.

(All 3 amendments were negatived.)

[Entry 40, as amended by Dr. Ambedkar's amendment, was added to the Union List.]

* * * * *

ENTRY 41

***The Honourable Dr. B. R. Ambedkar :** Sir, I move :

"That in entry 41 of List I for the words "and Zoological" the words "Zoological and Anthropological" be substituted."

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†The Honourable Dr. B. R. Ambedkar : The word "anthropological" is very wide and would cover even "ethnology".

* * * * *

‡The Honourable Dr. B. R. Ambedkar : Sir, I am afraid my Friend Mr. Sidhva has drawn too much upon the altitude of neglect and indifference shown by the Central Government in the past towards geological surveys in India. I quite admit that hitherto this matter has been neglected

*CAD, Vol. IX, 30th August 1949, p. 769.

†*Ibid., p.* 769.

‡*Ibid., p.* 770.

by the Centre, but it does not follow from that that the provinces are going to take any more interest in geology than the Centre has taken hitherto.

First of all, this is a matter of very great magnitude involving a great deal of expense and I do not think that the provinces will be able to find the resources to develop the minerals which are to be found within their area. From that point of view I think there will be no advantage in transferring geology to the Concurrent List so as to give the provinces an opportunity to legislate about it.

The second difficulty I find in accepting his amendment is that we have in the Union List an entry stating that the mineral resources of India may be developed by the Centre. If Parliament were to make a law that the mineral development of the country shall be a central subject obviously there would be very great difficulty created in the way of Parliament executing that law or developing the mineral resources, if the provinces retained with themselves concurrent power of legislation. Therefore, my request to Mr. Sidhva is to allow the entry to remain as it is.

Mr. President : Then I put the amendments to vote. The first amendment moved by Mr. Kamath .....

Shri H. V. Kamath : As Dr. Ambedkar assures me that the word "anthropological" includes the word "ethnological", I accept his superior wisdom and won't press the amendment.

(The amendment was, by leave of the Assembly, withdrawn.)

Mr. President : Then Mr. Sidhva's amendment..

Shri R. K. Sidhva : In view of the assurance given, I beg leave to withdraw the amendment.

(The amendment was by leave of the Assembly, withdrawn.)

(The amendment of Dr. Ambedkar was adopted.)

[Entry 41, as amended, was added to the Union List.]

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ENTRY 43

***Mr. President:** Now we take up entry 43. Dr. Ambedkar has to move an amendment.

The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That for entry 43 of List I. the following entry be substituted :

'43. Acquisition or requisitioning of property for the purposes of the Union.' "

Members will see that the original entry as it stood had other words along with it, namely, the principles of compensation etc. Those words, it is proposed to put in a separate entry in the Concurrent List. So it is

*CAD, Vol. IX, 30th August 1949. pp. 771-772.

unnecessary to retain those words here. That entry will be entry 35 in the Concurrent List.

Shri Syamanandan Sahaya (Bihar : General) **:** Sir, I want to make a suggestion.

Mr. President : Just wait a little. There is an amendment to be moved.

Shri Syamanandan Sahaya : I want to make it before the amendment is moved. This item on the list which is proposed by Dr. Ambedkar will have a deal to do with the language of article 24 and I suggest therefore that this item be held over till we have passed article 24....

The Honourable Dr. B. R. Ambedkar : I submit that is unnecessary because the power to lay down principles in any case will have to be given to the legislature. The question is whether the centre; should have a separate entry and the Province should have a separate entry for laying down principles of acquisition. What is proposed is this, that for both Centre as well as the provinces, there should be a commmon entry in the Concurrent List. Therefore, whatever happens to article 24, this entry regarding principles will have to be put in somewhere. Unless my friend has any objection to putting the matter in the concurrent List, there is no object served by postponing the consideration of this entry.

Shri Syamanandan Sahaya : I was thinking of a case where even in the matter of acquisition by States the principle may have to be decided by the Central Parliament.

The Honourable Dr. B. R. Ambedkar : That is exactly the point. If my friend would understand it, if we put it in the Concurrent List, the Centre also will have power.

Shri Syamanandan Sahaya : Precisely, but you say that the "Centre also will have". My submission is

The Honourable Dr. B. R. Ambedkar : What I am saying is this : that we are cutting out the words "principles" etc. and putting them in entry 35 of the Concurrent List. If my friend will refer to the two entries, 43 in the Union List and 9 in the State List he will rind both of them are exactly in the same terms. In other words, both of them not only give the power to compulsorily acquire property but also give the power to lay down principles. Instead of distributing the entry regarding principles between the Centre and the provinces independently of each other, it is now proposed to take out those words "principles" etc., and put them in entry 35 of the Concurrent List.

Prof. Shiban Lal Saksena : Would there be any harm if the thing is postponed until the other article is passed ?

The Honourable Dr. B. R. Ambedkar : No good will be served by postponing. I am not in favour of having these things postponed. There is already so much time taken in the consideration of this matter.

Dr. P. S. Deshmukh : Sir, I move :

"That in amendment No. 21 of List I (Sixth Week), in the proposed entry 43 of List I, after the words "of property" the words 'according to law of the Union' be inserted."

...I therefore, hope that the amendment proposed by me which specifies that any acquisition or requisitioning of property shall be by law passed by the Parliament and shall not be undertaken arbitrarily will be accepted.

The Honourable Dr. B. R. Ambedkar : It is quite unnecessary. These entries do deal with legislative power. What is the use of adding the words 'according to the law of the Union' ? According to the entry as it is, the Union will have the power to make the law. It cannot mean anything else.

Dr. P. S. Deshmukh : I beg leave to withdraw my amendment.

[The amendment was, by leave of the Assembly, withdrawn. Entry 43, as amended, by Dr. Ambedkar's amendment was added to the Union List.]

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ENTRY 50

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***Shri Jagat Narain Lal :** ...This will make the meaning quite clear. There will be no ambiguity. I suggest this to Shri T.T. Krishnamachari. The object they have in view can be achieved by adopting my suggestion.

The Honourable Dr. B. R. Ambedkar: I will consider the matter. For the present the entry proposed by Shri T. T. Krishnamachari may go in.

[The following amendment of Mr. Krishnamachari was adopted.]

Mr. President : *The* question is.

"That for entry 50 of List I, the following entries be substituted :—

'50. The incorporation, regulation and winding up of trading corporations, including banking, insurance and financial corporations but not including co-operative societies.

50-A. The incorporation, regulation and winding up of corporations, whether trading or not with objects not confined to one State but not including universities'."

[Entries 50 and 50-A were added to the Union List.]

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ENTRY 52

†The Honourable Dr. B. R. Ambedkar : I move :

"That for entry 52 of List I, the following entry be substituted :—

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*CAD, Vol. IX, 30th August 1949, pp. 773-774.

†*Ibid.,* p. 774

'52. Constitution and organisation of the Supreme Court and the High Courts; jurisdiction and powers of the Supreme Court and fees taken therein; persons entitled to practice before the Supreme Court or any High Court'."

The last words are additions. It is found necessary to have them because the time has come when it is necessary to regulate the right to practise of persons practising in both the High Court and the Supreme Court.

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***The Honourable Dr. B. R. Ambedkar :** I do not wish to interrupt the debate, but I would like to point out that we have already passed articles 192A, 193. 197, 201 and 207 which deal with the constitution of the High Courts. Under these-articles, except for pecuniary jurisdiction, the whole of the High Courts are placed, so far as their Constitution, organisation and territorial jurisdiction are concerned in the centre. It seems to me, therefore, that this amendment is out of order.

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†Mr. Naziruddin Ahmad :...The original entry dealt with the Supreme Court only. In the new entry proposed by Dr. Ambedkar, it reads : "Constitution and organisation of the Supreme Court and the High Courts;" Then again, he has added "persons entitled to practise before the Supreme Court or any High Court".

My first objection is as to the surreptitious manner in which important things are interpolated into the entries. I could have well understood...

(Interruption).

Shri Mahavir Tyagi : On a point of order, Sir, is the word "surreptitiously" parliamentary ?

†The Honourable Dr. B. R. Ambedkar : Is it a proper argument, Sir, to say that the Drafting Committee has surreptitiously tried to introduce something ? My honourable friend is entitled to ask me an explanation as to why I have altered the entry. There is nothing surreptitious. I am perfectly prepared to justify every item and every part of it.

Shri Mahavir Tyagi : I want your ruling, Sir, is the word "surreptitiously" parliamentary ?

Mr. President : I confess I am not acquainted with parliamentary practice to such an extent as to say whether 'surreptitiously' is or is not parliamentary. I would ask the honourable Member not to use expressions which may be offensive.

Mr. Naziruddin Ahmad : I bow down to your ruling, Sir....

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*CAD, Vol. IX, 30th August 1949, p. 775.

†*Ibid.,* p. 778.

***Shri T. T. Krishnamachari :** The attention of the Members of the House has already been drawn by Dr. Ambedkar to article 207. May I say, Sir, in view of that that the honourable Member need not labour this point ?

The Honourable Dr. B. R. Ambedkar : I can reply. I want only ten minutes. I have understood what he wants to say.

Mr. Naziruddin Ahmad : There is a promise to reply but it would be an unusually fortunate thing for me actually to get a reply from Dr. Ambedkar.... This is too important a matter to b e lightly dealt with. I submit that if we assume that the drafting Committee is entitled to do whatever it likes, then of course I am entirely out of court. I feel I am faced with certain defeat irrespective of reason.

The Honourable Dr. B. R. Ambedkar : Sir, I am constrained to begin by stating that I have on very many occasions noted that my friend Mr. Naziruddin Ahmad has got into the habit of speaking of the drafting Committee in most derisive terms. I have not descended to his level in order to reply to him, but I should like to give him a warning that if he persists in doing this kind of thing, I shall certainly not fail to pay him in the same coin.

Mr. Naziruddin Ahmad : Are members to be threatened in this manner ? Of course it produces no effect on me.

The Honourable Dr. B. R. Ambedkar : This is not a threat. This is a warning.

Now coming to the points raised by my friend Dr. Panjabrao Deshmukh, I am very sorry that I cannot accept his suggestion. Because he wants to enlarge entry 52 in such a manner and to such a magnitude as to include every court in this country. It is an impossible proposition and I am afraid I cannot accept it.

I shall now deal with the arguments of my Friend Mr. Naziruddin Ahmad. First of all, he said that we were trying to smuggle in the High Court in this entry 52, because it did not find a place in the entry as it stood before. The House will remember that the Drafting Committee has been from time to time revising not only the entries but also the articles. I am not here to claim any omniscience on the part of the Drafting Committee. If the Drafting Commmittee has failed to grasp the whole thing at one grasp, I am not prepared to blame the Drafting Committee nor am I prepared to allow anybody to sit in judgment over it and pass censure upon the Drafting Committee. It is a huge task and we are bound to go slowly on our way.

Shri H. V. Kamath : Cannot the House sit in judgment on the Drafting Committee ?

*CAD, Vol. IX, 30th August 1949, pp. 780-782.

The Honourable Dr. B. R. Ambedkar : But the House should recognise what I am saying *viz.,* that it is not possible for the Drafting Committee to bringforth before the House a neat and complete formula which will not require reconsideration. Now Sir, my friend said that we have brought in the High Courts. Well, we have deliberately brought in the High Courts because we felt that it was necessary lo bring in High Courts in view of certain articles that we have already passed. My Friend, Mr. Naziruddin Ahmad, evidently forgot articles 192A, 193, 197,201 and 207 which deal with the High Courts and if he were patiently to apply his mind to these articles, he will find that the only matter that is left to the Provincial Legislatures is to fix jurisdiction of the High Courts in a pecuniary way or with regard to the subject matter. The rest of the High Court is placed within the jurisdiction of the Centre. Obviously when considering entries in the Union List which are meant to give complete power to the Centre, we were bound to make good this lacuna and to bring in the High Courts which, as I said, by virtue of these articles excepting for two cases have been completely placed within the purview of the Parliament. There is nothing surreptitious about it. This is merely correcting and error which originally crept in by reason of the fact that the article and entry were not properly composed. That is the reason why High Courts have been brought in.

Coming to the question as to why we have brought in the entry—Persons entitled to practice before the Supreme Court and the High Court—the position has been already explained by my friend Mr. Alladi Krishnaswami Ayyar ; but I will put the same matter very shortly, and it is this that, really speaking, there is nothing very extraordinary in bringing in these words— persons entitled to practice before Supreme Court or High Court—as Members will see article 121 which gives Parliament the power to make any law with regard to persons practising before the Supreme Court. Therefore, that power is already there and there is nothing new so far as the entry refers to persons entitled to practise before the Supreme Court.

Now with regard to the High Court, the position is this. The power which the Centre have today is contained in entry 17 of the Concurrent List which deals with professions, and legal profession is one of the professions. It is, therefore, perfectly possible for Parliament to enact a taw regulating the practice of persons appearing in the High Court by virtue of the power given to it by entry 17 which is in the Concurrent List, but the trouble with that is this. Concurrent List means that both parties can legislate. The Centre can legislate and the provinces can legislate and the legislation may be not quite in consonance with each oilier. Consequently it was fell that while leaving entry 17 as it is in the Concurrent List lo cover all professions,

to pick out a part of the legal profession and to put it here so as to make any legislation with regard to legal profession in so far as it relates to practice of persons before High Courts an exclusive subject for legislation by the Centre, and the reason why we did it was because of the hard cases referred to by my friend Mr. Alladi Krishnaswami Ayyar and I may repeat one of them. Probably you have not heard what he said. Supposing, for instance, a lawyer or a barrister from Madras appears in a case in the Supreme Court and the Supreme Court instead of deciding the case remanded the case to Bombay High Court. What happens ? The Bombay Government or Bombay law if enacted under entry 17 may not permit a person from Madras to appear in the Bombay High Court, with the result that one Madras, Lawyer who appeared in the Supreme Court conducted the whole case but if the case is remitted back to the High Court of Bombay, that High Court may by law prevent him from appearing before it. I think it will be agreed that is a great hardship. In order therefore to have a uniform position with regard to persons practising in different High Courts what this entry proposes to do is to cut it from entry 17 dealing with professions and to put it here so that the practice of persons appearing in the High Court may be regulted by uniform law. There is nothing revolutionary and there is nothing surreptitious in entry 52 as is proposed by the Drafting Committee.

Mr. President : I will now put the amendments to vote.

(All amendments except that of Dr. Ambedkar as given before, were rejected.)

[Entry 52 as amended was added to the Union List]

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ENTRY 53

***The Honourable Dr. B. R. Ambedkar** (Bombay : General) **:** Sir, I move :

> "That in Entry 53 of List I, the words and the figure 'except the States for the time being specified in Part III of the First Schedule' be omitted."

This is because we propose to make no distinction between a State in Part I and Part III.

Shri H. V. Kamath (C.P. & Berar : General) **:** There is a little amendment of mine, No. 198. Sir, I move :

> "That with reference to amendment No. 25 of List I (Sixth Week), in entry 53 of List I, for the words and exclusion of the jurisdiction of any such High Court from, the words ' and exclusion from the jurisdiction of any such High Court of be substituted."

*CAD, Vol. IX, 31st August 1949, pp. 783-784.

This is only an interposition of words, I know, but it changes the meaning slightly and brings out what is intended in the entry. I believe that this entry has reference to exclusion from the jurisdiction of any High Court of certain areas....

The Honourable Dr. B. R. Ambedkar : Sir, Mr. Kamath's amendment is wholly unnecessary because the object of my amendment is to delete altogether that portion of entry No. 53 beginning from "except" to the end. If I was retaining any part of the entry then of course the question might arise whether the phraseology used in the entry is better than the one suggested by Mr. Kamath or *vice versa*.

Shri H. V. Kamath : My amendment has reference to the entry itself not to the amendment.

The Honourable Dr. B. R. Ambedkar : I think that cannot arise because I am omitting the whole thing. The second point is that the language used in entry 53 has to be in keeping with the language employed in article 207.

Shri H. V. Kamath : If this is accepted the language in the other article which has already been passed will have to be amended—at the third reading.

Mr. President : I find that Dr. Ambedkar's amendment refers only to a part of this entry.

The Honourable Dr. B. R. Ambedkar : I am taking out the last part "except the States for the time being specified in Part III of the First Schedule". The entry as amended would stand:

"Extension of the jurisdiction or of a High Court having its principal seat in any State within the territory of India to and exclusion of the jurisdiction of any such High Court from, any area outside that State."

The entry merely provides for the extension or the exclusion of the jurisdiction.

Shri H. V. Kamath : My amendment refers to the second part, "exclusion of the jurisdiction of any such High Court from any area outside that State".

The Honourable Dr. B. R. Ambedkar : I am not accepting your quibbling.

Shri H. V. Kamath : It is no quibble. It is a question of correct English.

The Honourable Dr. B. R. Ambedkar : If it is a matter of mere English we can take it up at the next stage.

Mr. President : Then I shall put Mr. Kamath's amendment to vote.

(The amendment was negatived.)

Mr. President : I shall now put Dr. Ambedkar's amendment to vote.

(The amendment was adopted.)

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ENTRY 56

The Honourable Dr. B. R. Ambedkar : I move :

"That for entry 56 of List I the following entry be substituted :—

'56. Inquiries, surveys and statistics for the purpose of any of the matters in this List

There is hardly any difference. We have merely made it "for the purpose of any of the matters in this List".

Mr. Naziruddin Ahmad (West Bengal : Muslim) **:** Though my amendment No. 167 will improve the text, I do not want to move it.

(Amendment No. 254 was not moved.)

Shri Phool Singh (United Provinces: General)**:** Mr. President, Sir, the amendment suggested by Dr. Ambedkar will limit the scope of this entry...,With these few words 1 request Dr. Ambedkar to reconsider the situation.

The Honourable Dr. B. R. Ambedkar : Sir, I think the fear expressed by my friend is somewhat groundless and arises from the fact that he has not adverted to the fact that all other inquiries and so on relating to the States, and other matters, are now put in the Concurrent List. So there is no absence of any such purpose that he wants.

(Entry 56, as amended, was added to the Union List.)

ENTRY 51

†**The Honourable Dr. B.R. Ambedkar :** Sir, I move :

"That for entry 57 of List I, the following be substituted :

'57. Union agencies and Union institutes for the following purposes, that is to say, for research, for professional, vocational or technical trining, for scientific or technical assistance in the investigation or detection of crime, for the training of police officers, or for the promotion of special studies'."

The entry is somewhat enlarged by the introduction of the words "vocational training" and "investigation or detection or crime, for the training of police officers" and so on.

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‡ **Mr. President :** There is an amendment to this entry 57, standing in the name of Mr. Karimuddin (No. 3544). As it is not being moved. Dr. Ambedkar may reply.

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*CAD, Vol. IX, 31st August 1949, pp. 784-785.

†*Ibid.,* p. 785.

‡*Ibid.,* pp. 787-788

The Honourable Dr. B. R. Ambedkar : Mr. President, I have compared the amendments moved by my honourable Friend Mr. Kamath with the entry as proposed by me. I think except for one matter, it will be quite open to Central Government to carry out the purpose which my honourable Friend Mr. Kamath has in mind. The only thing which the Central Government will not be able to effectuate under entry 57 is spiritual research. I do not think that this House, knowing full well the various problems with which the Central Government has to carry on these days, would like to burden it with any such agency as spiritual research. The rest of the objects of the amendment will be covered by entry 57.

Shri H. V. Kamath : How do you say that the administrative service officers are covered by the entry as proposed ?

The Honourable Dr. B. R. Ambedkar : I think so, because the training is not only for police officers. The language used is "research, for professional, vocational or technical training". Anything can be brought in under the above.

* * * * *

Mr. President : I will now put the entry as moved by Dr. Ambedkar in the amended form. The question is :

"That for entry 57 of List I, the following entry be substituted :

'57. Union agencies and Union institutes for the following purposes, that is to say, for research, for professional, vocational or technical training, for scientific or technical assistance in the investigation or detection of crime, for the training of police officers, or for the promotion of special studies'."

(The amendment was adopted.)

(Entry 57, as amended, was added to the Union List.)

ENTRY 57(A)—(*contd.*)

***The Honourable Dr. B. R. Ambedkar :** Sir, I move :

"That after entry 57 of List I, the following new entry be inserted :—

"57A. Co-ordination and maintenance of standards in institutions for higher education scientific and technical institutions and institutions for research'."

This entry is merely complementary to the earlier entry, No. 57. In dealing with institutions maintained by the provinces, entry 57-A proposes to give power to the Centre to the limited extent of co-ordinating the research institutions and of maintaining the standards in those institutions to prevent their being lowered.

Sir, I also move :

"That in amendment No. 28 of List I (Sixth Week), in the proposed new entry 57A of List I, for the word 'maintenance' the word 'determination' be substituted."

*CAD, Vol. IX, 31st August 1949, p. 788.

***Shri Basanta Kumar Das** (West Bengal : General) **:** I have an amendment No. 29.

Mr. Vice-President : I thought they were new articles. Dr. Ambedkar, would you prefer that to be moved before you speak ?

The Honourable Dr. B. R. Ambedkar : Yes.

Mr. Vice-President : Mr. Das, you may move No. 29.

* * * * *

†The Honourable Dr. B. R. Ambedkar : Mr. President Sir, I think there is a certain amount of admixture made by my friends who have spoken on this entry 57A. So far as I have been able to gather, their contention is that this entry 57A should be allowed only if mere was some grant made by the Central Government to the Provinces. It seems to me quite unnecessary to mix up the two matters. The question of grants from the centre to the Provinces has been dealt with in, two separate articles— 255 and 262. Article 255 provides for grants to be made by the centre to the Provinces for assistance—

> "Such sums, as Parliament may by law provide, shall he charged on the Consolidated Fund of India in each year as grants-in-aid of the Consolidated Fund of such States as Parliament may determine to be in need of assistance ..."

Therefore, the provision for supporting the States by way of financial help is already there in article 255.1 should also like to draw the attention of the Members of the House to another important article, which is article 262, which is much wider in scope. It says—

> "The Union or a State may make any grants for any public purpose, notwithstanding that the purpose is not one with respect to which Parliament or the Legislature of the State, as the case may be, may make laws."

As the House will see, it has a much wider scope. It says that although a subject may not be within List I, none-the-less, Parliament would be free to make a grant. Therefore, this question having been dealt with separately, I think there is no necessity to mix it up with entry 57A.

Entry 57A merely deals with the maintenance of certain standards in certain classes of institutions, namely, institutions imparting higher education, scientific and technical institutions, institutions for research, etc. You may ask, "Why this entry ?" I shall show why it is necessary. Take for instance the B.A. Degree examination which is conducted by the different Universities in India. Now, most Provinces and the Centre, when advertising for candidates, merely say that the candidate should be a graduate of a university. Now, suppose the Madras University says that a candidate at the

*CAD, Vol. IX. 31st August 1949, p. 793.

†*Ibid.*, p. 796.

B. A. Examination, if he obtained 15 per cent of the total marks shall be deemed to have passed that examination; and suppose the Bihar University says that a candidate who has obtained 20 per cent of marks shall be deemed to have passed the B.A. Degree examination; and some other university fixes some other standard, then it would be quite a chaotic condition, and the expression that is usually used, that the candidate should be a graduate, I think, would be meaningless. Similarly, there are certain research institutes, on the results of which so many activities of the Central and Provincial Governments depend. Obviously you cannot permit the results of these technical and scientific institutes to deteriorate from the normal standard and yet allow them to be recognised either for the central purposes, for all-India purposes or the purposes of the State.

Consequently, apart from the question of financial aid, it is absolutely essential, both in the interest of the centre as well as in the interests of the Provinces that the standards ought to be maintained on an all-India basis. That is the purpose of this entry and in my judgment it is a very important and salutary provision, in view of the fact that there are many provinces who are in a hurry to establish research institutes or establish universities or lightly to lower their standards in order to give the impression to the world at large that they are producing much better results than they did before.

Dr. P. S. Deshmukh : Is it the government's intention to fix the percentages and marks for passes ?

The Honourable Dr. B. R. Ambedkar : They may do so. It is up to government to maintain the standard by any means which they think proper. I can not say what a government may do.

[Amendment moved by Shri B. K. Das were withdrawn. Dr. Ambedkar's motion was adopted, Entry 57-A was added to the union List.]

ENTRY 58

***The Honourable Dr. B. R. Ambedkar :** Sir, I move :

"That for entry 58 of List I, the following entry be substituted : —

'58. Union Public Services. All-India Services : Union Public Service Commission.' "

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†The Honourable Dr. B. R. Ambedkar : With regard to the amendment of my Friend Dr. Punjabrao Deshmukh requiring the deletion of All-India services, it is not possible to accept that for the simple reason that

*CAD, Vol. IX, 31st August 1949. p. 797.

†*Ibid.,* pp. 798-799.

heretofore the All-India services and the regulation thereof did not figure in the Government of India Act because that was a matter which was kept exclusively in the hands of the Secretary of State. The Secretary of Stale having disappeared, it is necessary to provide for the regulation of the all-India services, somewhere by some agency, in the Constitution and the most appropriate agency therefore is the Centre. List I deals with matters which are within the purview of the Centre. The natural place for All-India services is therefore in list I. That is one argument.

The second argument is this that there are already two sorts of All-India services at present in existence. There are the remnants of the old I.C.S. still continuing lo serve the Government of India. Secondly, there have been in stituted during the course of the last two years what are called the All-India Administrative Service and the All-India Police Service. Whether the Centre continue lo recruit civil servants on the basis of the All-India administrative Service or the All-India Police Service is a matter which has to be determined in the course of a subsequent article with which we will be concerned. But there is no doubt about it that these services have been brought into existence with the consent of the Provinces. Secondly, they being there, it is necessary to make provision for their regulation. And I submit that the Union List is the proper list where this provision can be made.

With regard to my Friend Mr. Kamath's suggestion that the Joint Commission should be mentioned in this entry, my submission is that on a deeper consideration that would create complications. The Joint Commission, so far as its constitution, the appointment of its members and their removal are concerned—and only in these three respects—is an All-India subject, and provision for these three matters is already made in article 284. In all other respects it is really a State Public Service Commission: say, for instance, for the purpose of excluding certain services or consulting them in certain matters, it will still be a State Public Service Commission. And it is not desirable to oust the jurisdiction of the Slates in these matters as would be the consequence if the Joint Commission was also mentioned in entry 58. It is for that purpose that I object to Mr. Kamath's proposal.

Shri H. V. Kamath : May I know if this will go lo the Concurrent List ?

The Honourable Dr. B. R. Ambedkar : No.

Shri H. V. Kamath : Where will it go ?

The Honourable Dr. B. R. Ambedkar : It can be the Centre only in certain respects : for instance, if the States jointly say that a Joint Public

Service Commission should be constituted, then as a result of the resolution the Centre gets jurisdiction and not otherwise. In all fundamental matters, it is distributively, if I may say so, a State Public Service Commission.

Dr. P. S. Deshmukh : I beg leave to withdraw my amendment.

(The amendment was, by leave of the Assembly, withdrawn.)

Mr. President : I shall put Mr. Kamath's amendment to vote.

[It was withdrawn. Dr. Ambedkar 's amendment was carried. Entry 58, as amended, was added to the Union List.]

ENTRY 58-A

***The Honourable Dr. B. R. Ambedkar :** I move :

"That after entry 58 of List I, the following entry be inserted :

'58-A. Union pensions, that is to say, pensions payable by the Government of India or cut of the Consolidated Fund of India'."

This entry did not exist in the draft. We felt it necessary to have such an entry as a measure of caution.

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The Honourable Dr. B. R. Ambedkar : I do not think that the amendment suggested by my Friend Dr. Deshmukh is any improvement or has any substantial difference from the amendment as I have moved. The difference that is sought to be made is this that there may be certain pensions which may be payable out of the Consolidated Fund of India, which means out of the proceeds of taxes. It may be perfectly possible for the Government of India to institute pensions which are of a contributory character in which case the burden may not be on the Consolidated Fund but on the person who has already contributed to a Fund. That is the distinction. And that is why the entry has been worded in the way I have worded it.

Dr. P. S. Deshmukh : I would like to withdraw my amendment.

(The amendment was, by leave of the Assembly, withdrawn.)

[The motion of Dr. Ambedkar was adopted and Entry 58A wax added to the Union List.]

ENTRY 60

†The Honourable Dr. B. R. Ambedkar : Sir, I move :—

"That for entry 60 of List I, the following entry be substituted :—

'60 Ancient and Historical Monuments and records declared by Parliament by law to be of national importance'."

*CAD, Vol. IX, 31st August 1949, pp. 799-801.

†*Ibid.,* p. 800.

The rest of the entry as it originally stood, namely, "archaeological sites and remains" is proposed to be transferred to the Concurrent List.

Shri H. V. Kamath : ... I think Dr. Ambedkar has advanced no cogent reasons for changing the language of article 39 which is sought to be embodied now in this entry. I therefore move amendment No. 206 and commend it to the House for its acceptance.

Mr. President : Would you like to say anything on amendment No. 206 ?

The Honourable Dr. B. R. Ambedkar : No Sir, it is quite unnecessary to say anything on this subject.

Mr. President : Then I will put the amendment moved by Mr. Kamath to vole

[The amendment was negatived. The motion of Dr. Ambedkar was adopted and Entry 60, as amended, was added to the Union List]

Prof. Shibban Lal Saksena : Sir, may I be permitted to move my amendments ? -

Mr. President : You were not here when I called them out. I am sorry it is too late now.

Prof. Shibban Lal Saksena : They are very important amendments, Sir, and I think they are independent also.

The Honourable Dr. B. R. Ambedkar : You have no equity in your favour.

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ENTRY 61

***Mr. President :** Let me finish the List and then we shall see. Now, entry No. 61. There is an amendment in the Printed List, of which notice is given by Dr. Ambedkar. No. 3548.

The Honourable Dr. B. R. Ambedkar : Sir, I am not moving that.

Mr. President : Then there are two amendments in the name of Mr. Santhanam.

The Honourable Shri K. Santhanam : I am not moving them.

Mr. President : Then I put Entry No. 61 to vote.

(Entry 61 was added to the Union List.)

*CAD, Vol. IX, 31st August 1949, p. 802.

ENTRY 61-A

The Honourable Dr. B. R. Ambedkar : I move :

"That after entry 61 of List I, the following entry he inserted :—

'61-A. Establishment of standards of quality for goods to be exported across customs, frontier or transported from one Slate to another'."

We have already got entry 61 which deals with standard of weights and measures and it is felt that there ought to he a provision for establishment of standards of quality for goods.

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†**The Honourable Dr. B. R. Ambedkar :** Sir, the point raised by my Friend Dr. Deshmukh might well be raised when we discuss the entries in List II. They are matters within the jurisdiction of the States. We are dealing here only with List I, which is intended to circumscribe the power of the centre so as not to interfere with the internal affairs of the States. Consequently the entry has been worded in a very cautious manner. As my Friend will see, the entry speaks of standards of goods to be transported from one State to another. In regard to these it is not intendd to give the centre power to interfere with the administration of the States. If he wants to raise this question he may do so when we discuss the State List. ?

Dr. P. S. Deshmukh : May I suggest that this entry might be held over and the Agricultural Ministry consulted before we finalise this List ?

The Honourable Dr. B. R. Ambedkar : When we come to List II, we can discuss the matter.

Mr. President : I will put the amendments to vote.

(The amendments of Dr. Deshmukh were negatived.)

Mr. President : I shall now put the new entry 61-A to vote.

(The motion of Dr. Ambedkar was put to vote.)

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‡**Shri V. S. Sarwate :** I would like to know from Dr. Ambedkar what the meaning of the term 'exported across customs frontier' is ?

Mr. President : I am afraid the questions comes too late, after the voting has taken place.

The Honourable Dr. B. R. Ambedkar : I will explain it to the honourable Member if he will come to me afterwards.

Mr. President : The question has been put.

The motion was adopted. Entry 61-A was added to the Union List.

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*CAD, Vol. IX, 31st August 1949, p.802.

†*Ibid.,* p. 803.

‡*Ibid.,* p. 804.

ENTRY 63

***Mr. President :** ... We may now take up entry 63.

The Honourable Dr. B. R. Ambedkar : Mr. President, I am not moving amendment No. 3551 to the original entry. In regard to amendment 34 which I am moving I shall in doing so incorporate in it amendment No. 212 also. Sir, I move :

"That for entry 63 of List I, the following entry be substituted :—

'63. Regulation and development of oilfields and mineral oil resources; petroleum and petroleum products; other liquids and substances declared by Parliament by law to he dangerously inflammable'."

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†The Honourable Dr. B. R. Ambedkar : I do not think that either of these two amendments is necessary. The purpose which my Friend's Professor Shibban Lai Saksena has in view, *viz,,* that entry 63 should also permit the centre to regulate prospecting for oil, etc., would be served by the words we have used "Regulation and development". With regard to the addition of the word "corrosive", I think it is not necessary to have any such power at all.

[With the lone amendment by Dr. Ambedkar, Entry 63 was added to the Union List.]

ENTRY 64

‡The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That for entry 64 of List I, the following entry be substituted :—

'64. Industries, the control of which by the Union is declared by Parliament by law to be expendient in the Public interest'."

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@The Honourable Dr. B. R. Ambedkar : Sir, the entry as it stands is perfectly all right and carries out the intention that the drafting Committee has in mind. My submission is that once the Centre obtained jurisdiction over any particular industry as provided for in this entry, that industry becomes subject to the jurisdiction of Parliament in all its aspects, not merely development but it may be in other aspects. Consequently, we have thought that the best thing is to put the industries first so as to give undoubted jurisdiction to Parliament to deal with it in any manner it likes, not necessarily development. Therefore, the entry is far wider than Mr. Kamath intends it to be.

[Two amendments were rejected Dr. Ambedkar's above motion was adopted, Entry 64, as amended was added to the Union List.]

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*CAD, Vol. IX, 31st August 1949, pp. 804.

†*Ibid.,* p. 805.

‡ *Ibid.,* p. 806.

@ *Ibid,* p. 807.

ENTRY 64-A

***The Honourable Dr. B. R. Ambedkar :** Sir, with regard to the amendment to have a new entry 64A. I may say that this matter was placed before the Premiers' Conference and the Premiers' Conference did not agree to the proposal.

With regard to the question of distribution of food, we have provided in article 206, that for a period of live years, the Centre may have control over the distribution of food.

With regard to the second amendment, namely, the introduction of the new entry 64B...

Mr. President : That has not been moved.

The Honourable Dr. B. R. Ambedkar : Sir, I cannot accept the amendment moved.

Mr. President : I shall put the amendment to vote. The question is :

> "That after entry 64 of List I, the following new entry be added :—
>
> '64-A, Co-ordination of the development of agriculture including animal husbandry, forestry and fisheries and the supply and distribution of food.' "

(The amendment was negatived.)

* * * * *

†**The Honourble Dr. B. R. Ambedkar :** With regard to the first part of the amendment, there is the proposal of the Drafting Committee to put this matter in the Concurrent List, and if my Friend Prof. Saksena were to examine the Concurrent List, he will find that there is an entry corresponding to entry 64B, *(a)* in entry 35A of the concurrent List.

With regard to *(b)* it is a matter of controversy and the Drafting Committee has not yet come to any conclusion on the question. The Drafting Committee feels that *(a)* is a perfectly logical consequence of the power which we have already given to Parliament to declare certain industries of national importance. If Parliament has the power to declare certain industries to be of national importance, then Parliament should also have the power to regulate the goods and the products of such industries. But *(b)* is about goods of industries other than those declared by Parliament to be of national importance. As I said, that is a matter of some controversy and the Drafting Committee has not come to any conclusion. I suggest Prof. Saksena may allow the matter to stand over till we reach entry 35 in the Concurrent List.

Prof. Shibban Lal Saksena : I have no objection to waiting.

Mr. President : Then it is held over.

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*CAD, Vol. IX, 31st August 1949, pp. 809-810.

†*Ibid.,* p. 811.

ENTRY 65

* * * * *

The Honourable Dr. B. R. Ambedkar : With regard to Mr. Kamath's amendment, it seems to me to be quite unnecessary because the word "oilfields" is used in general terms. Wherever it occurs, the Centre shall have jurisdiction. If an oilfield can occur below water...#

Mr. President : He says "and submarine regions".

Shri H. V. Kamath : I say "mines, oilfields and submarine regions."

The Honourable Dr. B. R. Ambedkar : What my friend has in mind is diving operations.

Shri H. V. Kamath : No, the Pearl industry.

The Honourable Dr. B. R. Ambedkar : All I can say is that I shall consider that matter.

Mr. President : Then I will first put the amendment moved by Prof. Saksena. The question is :

> "That in entry 65 of List I. after the word 'Regulation' the words 'and welfare' be inserted."

The amendment was negatived.

Shri H. V. Kamath : In view of Dr. Ambedkar's assurance, I do not press my amendment now. It may be considered by the Drafting Committee.

[The motion was adopted. Entry 65 was added to the Union List]

ENTRY 66

†**The Honourable Dr. B. R. Ambedkar :** Sir, I move :

> "That in entry 66 of List I, the words 'and oilfields' be deleted."

It has already been transferred to entry 63.

* * * * *

‡**Shri Jagat Narain Lal** (Bihar : General)**:** Mr. President,... I simply wanted to oppose the amendment—I am sorry—moved by Mr. Brajeshwar Prasad.... I support the amendment moved by Dr. Ambedkar and oppose the amendments moved to them.

Shri Brajeshwar Prasad : Dr. Ambedkar's amendment deletes the word "oilfields".

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*CAD, Vol. IX, 31st August 1949, p. 813.

†*Ibid.*, p. 813

‡*Ibid.,* p. 816.

#The dots indicate interruption

Shri Jagat Narain Lal : The words "the oilfields" have to be deleted as those words have come earlier.

Mr. President : Would you like to say anything ?

The Honourable Dr. B. R. Ambedkar : No. Sir, I would not like to accept any amendment.

Mr. President : We will take the amendment by Mr. Brajeshwar Prasad.

Shri Brajeshwar Prasad : Sir, I beg to withdraw it.

(The amendment was, by leave of the Assembly, withdrawn.)

[Mr. Kamath's amendment was withdrawn, Dr. Ambedkar's amendment was accepted. Entry 66, as amended was added to the Union List.]

ENTRY 67

***The Honourable Dr. B. R. Ambedkar :** Sir, I move :

"That for entry 67 of List I, the following entry be substituted :—

'67. Extension of the powers and jurisdiction of members of a police force belonging to any State to any area not within such State, but not so as to enable the police of one State to exercise powers and jurisdiction in any area not within that State without the consent of the Government of the State in which such area is situated; extension of the powers and jurisdiction of members of a police force belonging to any State to railway areas outside that State.'

Mr. President : There is an amendment by Sardar Hukam Singh for deletion. That need not be moved. Dr. Deshmukh has an amendment to this entry which I understand he is not moving, so I will put the motion to vote.

(The amendment was adopted.)

[Entry 67, as amended, was added to the Union List]

ENTRY 68

†The Honourable Dr. B. R. Ambedkar : I move :

"That for entry 68 of List I, the following entry be substituted :—

*Elections to Parliament and to Legislatures of States and of the President and Vice President; and Election Commission to superintendent, direct and control such elections.'

* * * * *

Mr. President : There is an amendment to this standing in the name of Mr. Santhanam. I think it does not arise in view of the decision we have taken with regard to some other articles.

*CAD, Vol. IX, 31st August 1949, p. 817.

†*Ibid.,* p. 818.

The Honourable Dr. B. R. Ambedkar : It is unnecessary to accept this amendment, because the Election Commission will include Regional Commissioners also.

[The amendment was negatived. Entry 68, as amended by Dr. Ambedkar's motion was adopted and added to the Union List]

ENTRY 69

***The Honourable Dr. B. R. Ambedkar :** Sir, I move :

"That for entry 69 of List I, the following entries be substituted :—

'69. The emoluments and allowances and rights in respect of leave of absence of the President and governors; the salaries and allowances of the Ministers of the Union and of the Chairman and Deputy Chairman of the Council of States and of the Speaker and Deputy Speaker of the House of the People; the salaries and allowances of the members of Parliament; the salaries, allowances and the conditions of service of the Comptroller and Auditor General of India.

69A. The privileges, immunities and powers of each House of Parliament and of the members and the committees of each House.' "

Mr. President : There is an amendment to this, No. 219 standing in the name of Mr. Kamath.

Shri H. V. Kamath : I do not want to move my amendment, but I would ask how Dr. Ambedkar has forgotten or lost sight of the Supreme Court Judges.

The Honourable Dr. B. R. Ambedkar : Their salaries etc., are provided for in the Schedule. We have said that their salaries shall be such as are specified in the Schedule.

Mr. President : Then amendment No. 220 by Dr. Deshmukh. Does it not go more appropriately to the State List ?

Dr. P. S. Deshmukh : No. Sir. I move :

"That in amendment No. 39 of List I (Sixth Week), after the proposed entry 69 of List I, the following new entry be added :—

69A. Priviliges, immunities and powers of the members of the State Legislatures and their Committees.' "

...I think it is very necessary that the priviliges should be uniform and that they should not differ from State to Stale.

Shri Brajeshwar Prasad : Hear, Hear.

The Honourable Dr. B. R. Ambedkar : It is only proper that each Legislature should have the authority to define its own privileges, immunities and powers, and it is for that reeason that we have provided that Parliament should have power to specify the privileges, immunities and powers of its own members, and the State Legislatures should have

*CAD. Vol. IX, 31st August 1949, pp. 819-820

similar power with regard to their own members. I do not think that the whole power should be concentrated in the Centre. I should have thought that if Parliament passes an Act defining the privileges, immunities and powers of its members, the State Legislatures will probebly follow suit and copy the thing *verbatin* with such minor amendments as they think desirable.

[Dr. Ambedkar's motion was adopted. Amendment by Dr. Deshmukh was rejected. Entry 69 and 69-A, as amended were added to the Union List]

ENTRY 70

***The Honourable Dr. B. R. Ambedkar :** Sir, I move :

"That at the end of entry 70 of List I, the words 'or Commissions appointed by Parliament' be added."

As it stands, the entry refers only to Committees.

Mr. President : I do not think that there is any other amendment to

[The motion was adopted. Entry 70, as amended, was added to the Union List]

ENTRY 70A

†The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That after entry 70 of List I, the following entry be inserted :— '70A. The sanctioning of cinematograph films for exhibition.' "

This entry was originally placed in the concurrent List. It is now proposed to put it in List I.

* * * * *

‡The Honourable Dr. B. R. Ambedkar : Mr. President, Sir, the object bringing this entry which was originally in the Concurrent List to the Union List is two-fold firstly to prescribe as far as possible a uniform standard for sanction of films; and secondly, to prevent an injury being done to any producer of a film whose film may not be sanctioned by any particular province by reason of some idiosyncracy or by reason of some standards which are of an extraordinary character and do not conform to general standards which ought to be prevalent in a matter of sanctioning of Cinematograph. Therefore, I think it is very necessary that this matter of sanctioning instead of being distributed between the Centre and provinces so that each

*CAD, Vol. IX, 31st August 1949, p. 820.

†*Ibid.,* p. 821.

‡*Ibid,* p. 824.

province may go on prescribing its own standard and the Centre be required to persuade each province to examine its standard and point out whether the standards are good or bad, it is much better to bring it over to the Union List. So far as the rest of that matter is concerned it is proposed to leave the entry 43 in List II as it is so that the provinces will retain all the control they have over theatres, dramatic performances and cinemas *minus* the question of sanctioning. I do not think that any injury will be caused to any particular interest by the proposal I have made. On the other hand, as I have stated there would be distinct advantages in concentrating the power of sanctioning in a single body like the Centre.

Shri Raj Bahadur : Only sanctioning ?

The Honourable Dr. B. R. Ambedkar : Once the Centre has sanctioned that the film is a good film and conforms to moral standards, I do not see any reason why there should be any further provision for the exhibition at all. The matter ends.

Mr. President : I put the amendment No.222 to vote.

Dr. P. S. Deshmukh : I would like to withdraw it. (The amendment was, by leave of the Assembly, withdrawn.)

Shri Raj Bahadur : I would like to withdraw my amendment No. 266.

[The amendment was, by leave of the assembly, withdrawn. Entry 70A was added to the Union List.]

ENTRY 73

***Mr. President :** Then comes entry 73. Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar : Sir I move :

"That for entry 73 of List I, the following entry be substituted :—

'73. Inter-State trade and commerce.' "

The words that follow these words in entry 73 are unnecessary, because there is a proposal to drop entry 33 of List II.

Mr. President : There is an amendment to this, amendment No. 226 of Mr. Naziruddin Ahmad.

Mr. Naziruddin Ahmad : I am not moving it.

Mr. President : Then there is no amendment to this entry. I put the entry, as moved by Dr. Ambedkar, to the House.

[The amendment was adopted. Entry 73, as amended, was added to the Union List. Entries which are not mentioned here have no coments by Dr. Ambedkar in the debates. Most of these were adopted without any discussion.]

*CAD, Vol. IX, 31st August 1949, p. 825.

ENTRY 73-A

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***Mr. Naziruddin ahmad :** ...So if inter-planetary travel is to be included in the list as it must, this amendment will also have to be accepted. A journey from the Earth to the Moon and back is likely to be the earliest achievement. But Mr. Kamath's amendment will not make it possible. My amendment should be accepted to make the original amendment complete. I hope. Sir, if the amendment is to be rejected, it is rejected in a more satisfactory way by vote.

Mr. President : I do not suppose any further speech is necessary !

The Honourable Dr. B. R. Ambedkar : I do not quite understand whether the proposals of my Friend relate to matters which are unknowable or which relate to matters which are unknown. If they are unknown, then we have wasted our lime. But if they arc unknown and not unknowable, then we have enough powers to deal with them. Why bother with any entry at all ?

Mr. President: I will put Mr. Naziruddin Ahmad's amendment to the vote.

(The amendment was negatived.)

LIST I

ENTRY 74

†The Honourable Dr. B. R. Ambedkar : (Bombay : General): Sir, I move:

> "That for entry 74 of List I, the following entry be substituted:—
>
> '74. The regulation and development of inter-Stale rivers and river-valleys to the extent to which such regulation or development under the control of the Union is declared by Parliament by law to be expedient in the public interest.' "

Shri Brajeshwar Prasad : (Bihar : General): Mr. President, may I with your permission, say one word before I move my amendment? Somehow, due to my fault perhaps, one word is missing from this amendment. I want the inclusion of the word "regulation". Sir, I beg to move:

That in amendment 3562 of the List of Amendments, for the proposed entry 74 of List I, the following be substituted :—

> "74. The regulation and development of inter-State rivers and inter-State waterways, including flood controol, irrigation, navigation and hydro-electric power and for other purposes, where such development under the control of the Union is declared by Parliament by law to be necessary or expedient in the public interest."

*CAD. Vol. IX, 31st August 1949, p. 828.

†*Ibid.,* 1st September 1949, p. 830.

Sir, I have only the comment to offer, that this amendment of mine is more comprehensive than the amendment moved by Dr. Ambedkar.

* * * * *

The Honourable Dr. B. R. Ambedkar : Sir, all that I would like to say is that whatever Shri Brajeshwar Prasad wants is included in my amendment and it is therefore unnecessary to accept it.

[Shri Brajeshwar Prasad withdrawn the amendment, The amendment of Dr. Ambedkar was adopted. Article 74, as amended was added to the Constitution.]

ENTRY 75

[Amendment to Entry 75 moved by Naziruddin Ahmad was not accepted by Dr. Ambedkar. It was therefore negatived by the House. Entry 75, as amended, was added to the List.]

ENTRY 76

***Honourable Dr. B. R. Ambedkar :** Sir, I move.

"That for entry 76 of List I, the following entry be substituted :—

'76. Manufacture, supply and distribution of salt by Union agencies; regulation and control of manufacture supply and distribution of salt by other agencies'."

[Entry 76 as amended was added to the Union List.]

Shri Mahavir Tyagi: (United Province : General): Sir, when you put the question to vote, Dr. Ambedkar says "Ayes" beyond the mike; with the result that the Ayes have an undue volume of their voice.

ENTRY 79

†The Honourable Dr. B. R. Ambedkar : Sir, with regard to entry 79, I have to make one observation. Some Members of the House are under the impression that if entry 79 remained in List I it would be opened also to the Centre to appropriate the proceeds of any taxes that may be levied on the Stock Exchanges and futures market and taxes other than stamp duties on transactions therein. I would like to make it clear that in putting Stock Exchanges and futures market in List I, there is no intention on the part of the Drafting Committee that the Centre should have any right to appropriate the proceed of any taxes that might be levied under this entry. Consequently, the Drafting Committee proposes, in order to remove all sorts of doubts, to amend article 250 which requires the proceeds of certain taxes to be distributed among the provinces. What we propose to do is,

*CAD, Vol. IX, 1st September 1949, p. 831.

†*Ibid.,* p. 832.

as a consequential provision, to add to article 250 which contains clauses *(a)* to *(d)* enumerating the taxes to be distributed, 'proceeds of any taxes on Stock Exchanges and futures market', so that they too will be subject to distribution among the provinces. That would, I am sure, remove all doubts that certain Members have that this entry if it remains in List I would give power to the Centre to appropriate the taxes. That is not the intention. The entry there is purely legislative. It would have no financial implications at all.

Pandit Hirday Nath Kunzru : (United Provinces : General): May I ask Dr. Ambedkar whether he intends also to bring in a modification of article 277 in this connection?

The Honourable Dr. B. R. Ambedkar : Well, I shall consider any consequential provision necessary to bring in to make the matter consistent.

[Entry 79 was added to the Union List.]

ENTRY 81

***Shri Brajeshwar Prasad :** Mr. President, Sir, I beg to move :

"That for amendment No. 3572 of the List of amendments, the following be substituted :—

"That for entry 81 of List I, the following be substituted :—

"81. Duties in respect of succession to property including agricultural land."

* * * * *

†The Honourable Dr. B. R. Ambedkar : I may mention, Sir, that this matter was considered at the conference with the Provincial Premiers. They were of option that, although the principle might be sound, they were at the present moment not prepared to make this radical change.

[The amendment of Mr. Brajeshwar Prasad was withdrawn and Entry 81 was added to the Union List.]

ENTRY 83

‡Mr. President : There are two amendments to this.

The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That in entry 83 of List I, after the word 'railway' a comma and the word 'sea' be inserted."

The intention is to complete the entry by the addition of the word "sea" which was inadvertently omitted.

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*CAD, Vol. IX, 1st September 1949, p. 833.

†*Ibid.,* p. 835.

‡*Ibid.,* p. 836.

***The Honourable Dr. B. R. Ambedkar :** Sir, I cannot accept Dr. Deshmukh's amendment because the inclusion of the word "land" would also permit the Centre to levy Terminal Tax on goods and passengers carried by "road". Under our scheme Terminal Taxes on goods and passengers carried by road will be a matter which will be exclusively within the jurisdiction of the different States. That is the principal objection why I cannot accept his amendment. You will remember, Sir, that he tried to move a similar amendment on another occasion which had been rejected by the House.

Now with regard to Mr. Sidhva, this matter again was debated last time and I said that although these taxes were leviable by the Centre, the proceeds of all of them would be distributable among the different Provinces. The Centre would not claim any interest. If the Provinces after getting the proceeds want to pass on any part of those proceeds to the local bodies they are free to do so. It is not possible in this Constitution to make a provision for any matter of taxation that may be available to a local authority. That is a matter *inter se* between the State and the local authority and therefore it is not possible now to alter this entry either by way of amending it or by way of transferring it to List No. II.

(Shri R. K. Sidhva and Dr. P. S. Deshmukh withdrew their amendments)

"That in entry 83 of List I, after the word 'railway' a comma and the word 'sea' be inserted."

[The amendment of Dr. Ambedkar was adopted. Entry No. 83, as amended, was added to the Union List.]

ENTRY 86

(Amendment No. 54 was not moved)

†**The Honourable Dr. B. R. Ambedkar :** Sir, I move:

"That in entry 86 of List I, the words 'non-narcotic drugs' be deleted."

The proposed list put non-narcotic drugs in the concurrent List.

* * * * *

‡**The Honourable Dr. B. R. Ambedkar** : It is quite true, Sir, that at present this entry is in the provincial list. But, there are two facts to be recognised. One is that no province has at any time so far levied any tax on these items. Therefore, it has not been exploited by the provinces for their financial purposes. Secondly, even when the matter becomes con-

*CAD, Vol. IX, 1st September 1949, p. 837.

†*Ibid.,* p. 838.

‡*Ibid.,* p. 839.

current, and any legislation is made by the Centre, which has a revenue aspect, the revenue will be liable to be distributable under the provisions of clause *(2)* of article 253. Consequently, so far as finances are concerned, there is really no loss to the provinces at all. Then, it is necessary that we should have an All-India Drugs Act operating throughout the area. That cannot happen unless non-narcotic drugs are put in the Concurrent List. That also saves the power of the Provinces to make such local legislation as they may like with regard to these drugs.

Mr. President : I put the amendment moved by Dr. Ambedkar. The question is :

[The amendment was adopted. Entry 86, as amended, was added to the Union List.]

ENTRY 86A

***Shri H. V. Kamath :** I do not know if the medical and scientific terminology used in my amendment has been misunderstood. This terminology will be found in any standard book on Pharmacology.

The Honourable Dr. B. R. Ambedkar : We have got the power. It is covered by entry 20 which we are going to put in the Concurrent List.

(The amendment of Shri H. V. Kamath was negatived).

ENTRY 88A

* * * * *

†The Honourable Dr. B. R. Ambedkar : I hope my friends is not going to read that 4-pages printed judgement of the Supreme Court of the United States. It has been circulated to everybody.

Shri Deshbandhu Gupta : It is wrong for my friend to presume that the whole judgement will be read. Of course, if it is necessary to read some extracts I will do so. I am only referring to the parts which are relevant to point raised by me. I wish to point out that exception was taken by those publishers on the ground that the tax violated the Federal Constitution in two particulars (1) that it abridges the freedom of the press in contravention of the due process clause contained in Section 1 of the Fourteenth Amendment; (2) that it denies appellees the equal protection of the laws in contravention of the same amendment.

The Honourable Dr. B. R. Ambedkar : I am also rising on a point of order.

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*CAD, Vol. IX, 1st September 1949, p. 840.

†*Ibid.,* p. 841.

Mr. Naziruddin Ahmad : There could not be two points of order at the same time.

The Honourable Dr. B. R. Ambedkar : My point of order is an elementary one whether my friend who is a signatory to this amendment—his name is mentioned here after Shri Sitaram Jajoo—having already given notice of this amendment can he now say that this is not in order?

Shri Deshbandhu Gupta : My friend has amended his own amendments hundred times.

The Honourable Dr. B. R. Ambedkar : If he was to propose an amendment to his amendment, that would be in order.

Shri Deshbandhu Gupta : I have every right to change my opinion just as my friend has done very often.

Mr. President : Even if he has signed the notice, I do not know whether he signed for 88A.

The Honourable Dr. B. R. Ambedkar : His name is Shri Deshbandhu Gupta.

* * * * *

***Mr. President :** I should like to hear the Members on the main question. But before I do that, I would like to know whether the Drafting Committee would reconsider this item...

The Honourable Dr. B. R. Ambedkar : We should like to hear the various points of view as expressed in this House, and then if the House or you. Sir, find that it is not possible to come to any definite conclusion right now, then the matter may be remitted to the Drafting Committee so that the Committee, in view of the various expressions of opinion, might find out some formula acceptable to the House. But I do not think, as it is, it is any use trying to recast it. We have got here very definite amendments. One is by my friend here and there is another by my Friend Mr. Jhunjhunwala—quite definite amendments.

Mr. President : There are really two point to be considered. One is whether the amendment which is proposed to be moved by Mr. Goenka is in order, in view of the previous article which we have already passed. And the second is...

The Honourable Dr. B. R. Ambedkar : Sir, If I may say so, this matter cannot be decided on the basis of whether something will be *ultra vires* or whether something will not be *ultra vires*. This House is not competent to decide that. That is a judicial matter. All that the House must decide is whether we want to give protection to the newspapers from the

*CAD, Vol. IX, 1st September 1949, pp. 843-844.

various entries which are included, either in List I, List II or List III; and if we want to give them any exemption from these entries, then to what extent we should give sure about. We cannot give any assurance to any newspaperman here and now that we have made a case which is fool-proof and knave-proof. We cannot give that assurance. So we had better decide the particular question whether we do want to give protection to newspapers from the operation of the various entries. That is the main question.

* * * * *

***Mr. President :** You should also consider the question whether it does not offend against Article 13.

The Honourable Dr. B. R. Ambedkar : On that we have some views and if you are prepared to hear, I will submit them.

* * * * *

†The Honourable Dr. B. R. Ambedkar : Sir, I should like at the outset to state what the point of order is, or how I have understood it, because I should like to be corrected at the outset, if I am wrong. The point of order seems to be this that in view of the fact that this Assembly has passed article 13 which is a part of the Fundamental Rights and which says that all citizens shall have the right to freedom of speech or expression,—in view of this, as it open to this House to pass an article which would curtail the fundamental right given by article 13 ? I take it that is the point that we have now to consider.

In support of the proposition that this House is now debarred from considering any proposal which would have the effect of limiting freedom of speech, there has been cited a judgement of the Supreme Court of the United States in which—I have not read the whole thing, but only parts— it has been said that any tax levied on the press is *ultra vires,* in view of the fact—I am using the language of the United States—that it abridges the freedom of the press.

Shri Deshbandhu Gupta : Barring income-tax. It is stated in the judgement itself.

The Honourable Dr. B. R. Ambedkar : Now, Sir, it is not clear from the statement of fact of that particular case what the nature of the particular tax was which was called in question, nor is it clear as to the severity of that particular tax which was called in

*CAD, Vol. IX, 1st September 1949, p. 845.

†*Ibid.*, pp. 848-851.

question. In my judgement, apart from the levy of the tax, the severity of the tax also would be an element in considering whether the tax was *ultra vires* or not. As I said, there is no reference to this important fact in this judgement. I am therefore not prepared to go by that judgement.

I am proceeding along other lines of arguments which I think are substantial and are not open to any criticism. The first point I want to submit is this: that, notwithstanding the fact that the constitutional guarantees which were given in the Constitution of the United States, the United States Supreme Court itself has held that these fundamental rights guaranteed by the Constitution are not absolute and that the Congress of the United States has, notwithstanding the language used in the Constitution, the right to impose reasonable restrictions on those fundamental rights. In fact I may remind the House that, in the opening speech which I made in support of the motion that this House do proceed to take into consideration the Draft Constitution, I devoted a considerable part to the consideration of this matter, because I had noticed some criticisms in papers and by others, to whom I was bound to pay a certain amount of respect and attention, that our fundamental rights were of no value at all, as they were subjected to various limitations which were enumerated in propositions that follow article 13, namely clauses *(2), (3), (4)* and *(5).*

In order to meet those criticisms, I took some trouble to examine the decisions of the Supreme Court on this matter. I did so because at one time I felt that in view of the fact that the constitutional guarantees which were called fundamental rights were enunciated in the Constitution of the United States in absolute terms without any qualifications, it may not have been open to the Supreme Court of the United States to limit those provision. But to my great surprise I found that the United States Supreme Court had taken the very same attitude that we have taken in the framing of the Constitution, namely that fundamental rights, however fundamental they may be, could not be absolute rights. They must be subject to certain limitations.

Now, if the House will permit me I shall quote only one passage from my speech. This is what I said.

> "In Gitlow *vs.* New York, in which the issue was the constitutionaly of a New York, 'criminal anarchy' law which purported to punish utterances calculated to bring about violent change, the Supreme Court said :
>
> "It is a fundamental principle, long established that the freedom of speech and of the press, which is secured by the Constitution, does not confer an absolute right

to speak or publish, without responsibility whatever one may choose, or an unrestricted and unbridled licence that gives immunity for every possible use of language and prevents the punishment of those who abuse this freedom'."

And I quoted many other cases. My whole point is this: that even in the United States itself, it is an acknowledged proposition that there must be some limitations upon the fundamental rights. On that there can be no question at all, in my judgement. Therefore, in so far as our entry—I am not going into the amendments for the moment— deals with tax on advertisements, my submission is that that entry could not be questioned as an entry which is *ultra vires* of this House, because it is going to put some kind of limitation upon the freedom of the press if it is acted upon by the provincial Governments. I entirely refuse to accept that interpretation that any tax levied under the head 'Advertisements' would be *ultra vires* because it would infringe article 13.

The proposition which I submit could be enunciated and which is plausible and which may be accepted is this: that any imposition upon a newspaper of a tax of a severe nature which will result in wiping it out altogether, such an exercise of the taxation power, would be *ultra vires,* because if would completely wipe out the freedom of speech which has been guaranteed by article 13. In so far as the taxation imposed upon advertisements is not of a reasonable nature and is discriminatory, that is to say, it is merely confined to newspapers and all other forms of advertisements are exempted, then I can understand that that would violate article 15 under which we propose to give equal protection to all. Therefore my submission is that any argument which goes to the length of saying that anything which affects newspapers and the freedom of speech or writing in a newspaper would be *ultra vires,* I take the liberty to say, is not an argument which I am prepared to accept and which. I hope, this House will not accept.

Now I come to the other question. It is quite true that, in view of certain circumstances which have come to the surface in certain provinces, it may be necessary to transfer this particular entry regarding newspapers from List I to List II or place it in List III. That is a matter not of constitutional law. That is a matter of policy and a matter of confidence; whether you are prepared to put more confidence in the Centre or whether you are prepared to put more confidence in the provinces or whether you are prepared to put confidence in

the provinces but would like to reserve to the Centre a certain amount of liberty and power to correct any wrong that a province might do is a matter which of course is open for discussion. That is what we have been discussing; whether any particular entry should remain in List I or part in List I and part in List II or in List III.

On that the House has got perfect liberty to decide, because it is a matter on which the House has got complete freedom, and nobody is going to suggest that the House has its hands tied down by reason of article 13 and that it cannot do anything to impose any kind of limitation upon the newspapers. I repudiate that argument absolutely.

Now, Sir, I should like to deal with the various amendments. If you will permit me, I would like to deal with them because those who may follow me may criticise what I am saying. It seems to me that the friends who are interested in newspapers are really trying to get complete immunity, so to say, from any kind of taxation that may be levied by the provinces. The first amendment moved by my Friend, Mr. Goenka, and several others—there are some fifty or sixty names—is that it should be transferred to the Union List, List I. In doing that, they have done something which we ourselves had not done. Our newspaper entry is not connected with taxation. Those members who have closely watched the arrangement in List I and List II will realise that we have separated the entries in to two parts, entries which are purely legislative and entries which are taxational. You will remember that newspapers, although they are mentioned in List III, they are mentioned only among the legislative entries. Now, the amendment moved by my Friend Mr. Goenka, has done the worst from his point of view, viz., he has put the newspapers in that part of List I which deals with taxation. It means that it would be open now for the Centre to levy a tax on newspapers. (*Hear, hear.*) I do not like newspapers and I am not interested in either injuring them or in protecting them. I am prepared to place the whole matter in the hands of the House to do what it likes.

The second amendment moved by my friend, Mr. Jhunjhunwala, does what? He thinks that, although newspapers may be transferred to List I, newspapers as goods open to sale, will still remain in List II because the entry in that list is a very broad entry and would cover newspapers as goods and therefore he feels that there is no

purpose served by merely accepting the amendment of Mr. Goenka because they would be liable to be taxed by the provinces under the entry relating to taxes on sale of goods. Therefore he has moved his amendment to get the newspapers out of the Sales Tax Act.

Now, the question to be considered is whether the provinces would agree that so important a part of what I may call the base of their taxation as constituted by the newspapers should be altogether eliminated from the field of provincial taxation. It is a matter which has to be considered. Sir, being a financial matter, I do not think that the Drafting Committee would be prepared to take the responsibility on its own shoulders without consultation either with the Finance Ministry or with the Finance Ministers of the Provinces. We have been taking a great deal of responsibility so far as purely legislative entries are concerned. When the question of finance is concerned, we have a sort of standing convention that we should always consult the Central Finance Ministry as well as the Finance Ministers of the various provinces.

Therefore these are the difficulties that are involved in these amendments. Now I do not know if you transfer the entry on newspapers to the Union List, the Centre may levy a tax on newspapers as manufacturers, because the Centre is entitled to put an excise duty on any goods manufactured in any part of India. It seems to me therefore that it would be difficult for the newspapers to escape taxation. All these things have to be taken into consideration. That is to say, these are extraneous matters to which I have given expression at this stage because I think that every Member who wants to take part in the debate, ought to know what the difficulties are. All that I am interested in at the moment is this that there is no bar to the House considering any kind of limitation, notwithstanding that we have passed article 13. The proposition which is being sought to be placed before the House for its acceptance is in my judgement a very dangerous proposition. It would eliminate even taxation absolutely. Even article 24 could not be there. Many other complications would arise. If you say that because fundamental rights are guaranteed therefore the taxation power should also not be exercised because that would result in the limitation or the destruction of the fundamental rights, it is too large a proposition and I do not think that anybody will ever accept this.

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Pandit Thakur Das Bhargava : Supposing there is not complete destruction of this right, but there is material curtailment or abridgement, will it not be covered by this?

The Honourable Dr. B. R. Ambedkar : What is reasonable the Court will decide.

Shri Alladi Krishnaswami Ayyar : I have nothing to add to my speech.

(At this stage Shri Deshbandhu Gupta rose to speak.)

Mr. President : I do not think there is any right of reply in a matter like this.

Shri Deshbandhu Gupta : On a point of order, I want to clear one or two points which seems to have created confusion.

Mr. President : No. It is a question whether you have the right to reply or not.

An honourable Member : The President has already said that the honourable Member has no right of reply.

Shri Deshbandhu Gupta : Sir, as some points have been raised and I would request you to explain these points particularly as no speaker from this side has spoken after Shri Alladi Krishnaswami Ayyar raised the points.

Mr. President : I think a larger number of people spoke from your side and from your point of view.

I have understood the point of order that has been raised. I shall have to consider it and I will give my ruling later, but in the meantime I would ask Dr. Ambedkar to consider the other point which he himself has raised, supposing I rule that it is in order, then in that case I would expect him to be ready with the answer on the merits also as to whether you will have it in the form in which it is sought to be moved by Mr. Goenka or sought to be amended by Mr. Jhunjhunwala.

The Honourable Dr. B. R. Ambedkar : In that case, they should withdraw the amendment.

Shri Deshbandhu Gupta : The amendment has not been moved. I took exception to the moving of the amendment.

Mr. President : I shall give my ruling later. We shall take up the other items now. Certain new items have been proposed. Some are in the printed list. Before we go to that, let us go through the other entries.

*CAD, Vol. IX, 1st September 1949, p. 853.

ENTRY 91

***Mr. Naziruddi Ahmad :** I shall not move the amendment; but I shall speak on the entry itself.

The Honourable Dr. B. R. Ambedkar : Why not present the baby with the song? Why the song only? You may move the amendment and make a speech.

* * * * *

†The Honourable Dr. B. R. Ambedkar : Mr. President, I propose to deal with the objection raised by my friend Sardar Hukam Singh. I do not think he has realised what is the purpose of entry 91 and I should therefore like to state very clearly what the purpose of 91 in List is. It is really to define a limit or scope of List I and I think we could have dealt with this matter, viz., of the definition of and scope of Lists II and III by adding an entry such as 67 which would read :

"Anything not included in List II or III shall be deemed to fall in List I."

That is really the purpose of it. It could have been served in two different ways, either having an entry such as the one 91 included in List I or to have an entry such as the one which I have suggested— 'that anything not included in List II or III shall fall in List I'. That is the purpose of it. But such an entry is necessary and there can be no question about it. Now I come to the other objection which has been repeated if not openly at least whispered as to why we are having these 91 entries in List I when as a matter of fact we have an article such as 223 which is called residuary article which is "Parliament has exclusive power to make any law with respect to any matter not enumerated in the Concurrent List or State List". Theoretically I quite accept the proposition that when anything which is not included in List II or List III is by a specific article of the Constitution handed over to the Centre, it is unnecessary to enumerate these categories which we have specified in List I. The reason why this is done is this. Many States people, and particularly the Indian States at the beginning of the labours of the Constituent Assembly, were very particular to know what are the legislative powers of the Centre. They wanted to know categorically and particularly; they were not going to be satisfied by saying that the Centre will

*CAD, Vol. IX, 1st September 1949, p. 854.

†*Ibid.,* pp. 856-857.

have only residiary powers. Just to allay the fears of the Provinces and the fears of the Indian States, we had to particularise what is included in the symbolic phrase "residuary powers". That is the reason why we had to undergo this labour, notwithstanding the fact that we had article 223.

I may also say that there is nothing very ridiculous about this, so far as our Constitution is concerned, for the simple reason that it has been the practice of all federal constitutions to enumerate the powers of the Centre, even those federations which have got residuary powers given to the Centre. Take for instance the Canadian constitution. Like the Indian constitution, the Canadian constitution also gives what are called residuary powers to the Canadian Parliament. Certain specified and enumerated powers are given to the Provinces. Notwithstanding this fact, the Canadian constitution. I think in article 99, proceeds to enumerate certain categories and certain entries on which the Parliament of Canada can legislate. That again was done in order to allay the tears of the French Provinces which were going to be part and parcel of the Canadian Federation. Similarly also in the Government of India Act; the same scheme has been laid down there and section 104 of the Government of India, Act, 1935 is similar to article 223 here. It also lays down the proposition that the Central Government will have residuary powers. Notwithstanding that, it had its List I. Therefore, there is no reason, no ground to be over critical about this matter. In doing this we have only followed as I said, the requirements of the various Provinces to know specifically what these residuary powers are, and also we have followed well-known conventions which have been followed in any other federal constitutions. I hope the House will not accept either the amendment of my Friend Sardar Hukam Singh nor take very seriously the utterings of my Friend Mr. Naziruddin Ahmad.

[All amendments were negatived. Entry 91 was added to the Union List.]

***Mr. President :** I think it is not necessary to have any further discussion on this point. However, if Dr. Ambedkar has anything to say about it, I would hear him; but otherwise I do not think any discussion is necessary on a point like this.

The Honourable Dr. B. R. Ambedkar : No discussion is necessary. I do not wish to say anything.

*CAD, Vol. IX, 1st September 1949, p. 859.

Shri Brajeshwar Prasad : I would like to withdraw my amendment.

[The amendment of Shri Brajeshwar Prasad was not allowed to be withdrawn. It was put to vote and negatived.]

ENTRY 70-A

LIST I

***Mr. President :** Has Dr. Ambedkar anything to say on this?

The Honourable Dr. B. R. Ambedkar : No, Sir, I have nothing to say in reply. Young men and young women are capable of taking care of themselves. Why bother about them?

[The amendment was negatived. Similar amendment by Prof. S. L. Saksena was also negatived.]

ENTRY 59

†Shri Raj Bahadur : ...We have got to realise the seriousness of the problem. As I said, I would not move any of the other amendments, because I feel somewhat discouraged to see that the Honourable Chairman of the Drafting Committee is not even taking the trouble to reply to most of the amendments moved by other members suggesting new entries.

Shri T. T. Krishnamachari : He is engaged in studying the amendment moved by you.

Shri Raj Bahadur : I would be very fortunate if I get a reply to my motion.

The Honourable Dr. B. R. Ambedkar : Sir, as my friend expects a reply from me, I would just say one or two words.

The question of control and eradication of beggary is a matter which has been already provided for in List III in entry 24 'Vagrancy' which includes beggary. The only point is whether it should remain there or should be brought in List I. I think it will be better to leave it in List III so that both the Provinces and the Centre could operate upon that entry.

[The amendment of Shri Raj Bahadur was withdrawn.]

LIST II

ENTRY I

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‡Mr. President : Do you want to say anything, Dr. Ambedkar ?

*CAD, Vol. IX, 1st September 1949, pp. 860-861.

†*Ibid.,* p. 863.

‡*Ibid.,* p. 865.

The Honourable Dr. B. R. Ambedkar : I do not want to say anything.

Shri Brajeshwar Prasad : I withdraw my amendment.

Mr. President : The House evidently is not in a mood to give permission for this amendment to be withdrawn. I will put it to the vote. The question is:

"That entry I of list II be transferred to List I as new entry 2A".

(The amendment was negatived.)

Mr. President : There is an amendment by Dr. Ambedkar, amendment No. 63.

The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That in entry I of List II, the following words be deleted :

'preventive detention for reasons connected with the maintenance of public order; persons subjected to such detention.' "

It is proposed that this entry should be put in List III. That is the reason why I propose that these words be deleted.

Sardar Hukam Singh : Sir, I move :

"That in entry I of List II, after the words "naval, military or air forces" the words "or any other armed forces of the Union" be inserted."

My purpose in moving this amendment is that I feel that it is a lacuna, an omission on the part of the Drafting Committee. If I am told that it has been deliberately omitted...

The Honourable Dr. B. R. Ambedkar : I am prepared to accept this amendment.

[The amendment was adopted. Entry 1, as amended was added to the State List.]

ENTRY 2

***The Honourable Dr. B. R. Ambedkar :** Sir, I move :

"That for entry 2 of List II, the following entry be substituted :—

'2, The administration of justice, constitution and organisation of all courts except the Supreme Court and the High Courts; fees taken in all courts except the Supreme Court.' "

The only change made is that the High Courts have been brought in because as I explained yesterday so far as the constitution and organization of High Courts are concerned, they are completely under the control of the Centre.

[Entry 2 as amended, was added to the State lis.]

ENTRY 4

†Shri Brajeshwar Prasad : I will move my amendment without offering any comment, *i.e.,* I will not deliver any speech. Sir, I move:

*CAD, Vol. IX, 1st September 1949, p. 866.

†*Ibid.*, pp. 867-868.

"That for amendment No. 3589 of the List of Amendments, the following be substituted :—

'That entry 4 in List II be omitted from that List and be included in List I.' "

Sir, I may with your permission say that instead of List I the entry should be included in List III. It will meet the objection of Mr. T. T. Krishnamachari. Sir, I regard "Police" as a vital subject and I think it should be included in the concurrent powers and thus brought under the Centre.

Shrimati Purnima Banerji (United Provinces : General)**:** I want to ask whether you are satisfied that 'Police' includes the Home Guards and the Pranthiya Raksha Dal.

The Honourable Dr. B. R. Ambedkar : That depends upon any legislation made by the province. If under the Police Act they enrol a certain person, he is a police for that purpose or if they enrol under some other Act and they are given the powers of the Police, that will also be police.

Shri Mahavir Tyagi : May I ask whether the Home Guards and the Pranthiya Raksha Dal go under the residuary powers of the Government of India or be controlled by the local Government? Where will they go?

The Honourable Dr. B. R. Ambedkar : If it is not Police, then it will go under the Central government. "Police" is used in contradiction to "Army". Anything which is not "army" is Police.

Shri Mahavir Tyagi : Let that go down as your ruling within questions.

Pandit Hirday Nath Kunzru : If Dr. Ambedkars' interpretation is correct, then a province can raise an army without calling it by that name.

The Honourable Dr. B. R. Ambedkar : No, I do not think they can do it.

Dr. P. S. Deshmukh : That is what is happening already.

The Honourable Dr. B. R. Ambedkar : An army is enrolled under the Indian Army Act 1911 and there are stringent conditions laid down as to enrolment in that Act. A province has no right to legislate on that entry at all.

Pandit Hirday Nath Kunzru : A province will not legislate with regard to the creation of an army at all. But, it can raise a force and give it military training without calling it an army.

Shri T. T. Krishnamachari : I might mention, Sir, that there are special armed police in the provinces. They are recruited under the powers given under the Police Act. They are considered to be a police force even though they are on a *quasi* military basis.

Shri Mahavir Tyagi : Why don't you add the word home Guard and make it clear?

The Honourable Dr. B. R. Ambedkar : There are armed police; there are unarmed police.

Mr. President : The question put by Pandit Kunzru is whether a province will be able to raise an army, without calling it an army, but calling it police.

The Honourable Dr. B. R. Ambedkar : I am sure if a province is going to play a fraud on the Constitution, the Centre will be strong enough to see that that fraud is not perpetrated.

[Amendment of Mr. Brijeshwar Prasad was withdrawn. Entry 4 was added to the State List.]

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ENTRY 7A

***The Honourable Dr. B. R. Ambedkar :** Sir, I move :

"That after entry 7 of List II, the following entry be inserted :—

'7-A. State pensions, that is to say, pensions payable by the State or out of the Consolidated Fund of the State.' "

This is merely a corresponding entry to what we have already done so far as List I is concerned.

(List 7-A was added to the State List)

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ENTRY 9

†The Honourable Dr. B. R. Ambedkar : Sir, I move:

"That for entry 9 of List II, the following entry be substituted :—

'9. Acquisition or requisitioning of property except for the purposes of the Union, subject to the provisions of entry 35 of List III.' "

The only change is that the underlined words are now put in the Concurrent List and it is therefore necessary to omit them from this entry. This is also what we have done with regard to a similar entry in List I.

[Dr. Ambedkar's motion was adopted Entry 9, as amended, was added to the State List.]

ENTRY 10A

‡The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That after entry 10 of List II, the following entry be inserted :—

'10-A. Ancient and Historical Monuments other than those specified in entry 60 of List I.'"

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*CAD, Vol. IX, 1st September 1949, p. 869.

†*Ibid.,* pp. 869-870.

‡*Ibid.,* p. 871.

We have distributed this entry, kept apart in List I and the other part is now placed in List II.

(Entry 10-A was added to the State List)

ENTRY 12

***The Honourable Dr. B. R. Ambedkar :** Sir, I move :

"That for entry 12 of List II, the following entries be substituted:—

'12. The salaries and allowances of Ministers for the State, of the Speaker and Deputy Speaker of the Legislative Assembly, and if there is a Legislative Council, Council of the Chairman and Deputy Chairman thereof; the salaries and allowances of the members of the Legislature of the State.'

'12-A. The priviledges, immunities and powers of the Legislative Assembly and of the members and the Committees thereof and if there is a Legislative Council, of that Council and of the members and the Committees thereof.' "

This is merely a counterpart of what we have done so far as List I is concerned regarding the Centre.

(Entries 12 and 12-A were added to the State List)

ENTRY 14

†Mr. President : Now the question is whether we should have an additional entry as "Regulation and control of Houses and Rents". Mr. Tyagi, you move it as a separate entry.

The Honourable Dr. B. R. Ambedkar : Yes, he may move it as a separate entry.

Shri Mahavir Tyagi : I am grateful to you and also to Dr. Ambedkar. He has for the first time been generous to me.

Sir, I do submit that it is really embarrassing to move an amendment to the list which has been submitted by the Drafting Committee, for the Drafting Committee is always very resourceful and it is very difficult to struggle with them successfully.

Mr. President : But you are moving an additional entry.

Shri Mahavir Tyagi : Yes, Sir, but the acceptance of the Drafting Committee has to be sought After all it is primarily they who accept suggestions, and if they accept them, then the House readily agrees to them.

The House has already agreed to one entry which says that all the residuary powers will go to the Centre, all that is not mentioned in List II or List III. I submit that the control of Houses in urban areas and the control of rents of those houses are an important matter today. It was not

*CAD, Vol. IX, 1st September 1949, p. 871.

†*Ibid.,* pp. 873-874.

in the original list of the Government of India Act 1935, because at that time the control over the houses and their rents was not needed and it was not prevalent in India. But...

The Honourable Dr. B. R. Ambedkar : I understand the honourable Member's argument and I could reply to him in a few minutes.

Shri Mahavir Tyagi: Yes, and I therefore only submit that this subject of control of the houses and the control of the rents should be there. I would even go further and say that the control of good grains also should come in. If the House agrees, it may be brought in as an independent item somewhere.

The Honourable Dr. B. R. Ambedkar : Sir, there are, I think three distinct questions, although they have not been stated by Mr. Tyagi in that form. The first question is whether the Provincial legislature should or should not have any power to regulate and control houses and house-rent. I think on that issue, there can be no difference of opinion, that the Provincial Governments must have such power. The question then is whether the Draft Constitution and the entries in the list make any provision for the provincial legislatures to exercise powers for the purpose of regulating and controlling the houses and the rents. Now, my submission is that the specific entry as proposed by Mr. Tyagi is quite unnecessary, because there are two other entries, namely entry 24 of List II which deals with "land, rights in or over land, land tenures including the relation of land-lord and tenant, and the collection of rents, etc." That is one entry. Then there is another entry No. 8 in List III about transfer of property other than agricultural land; registration of deeds and documents. These two entries have been found to be quite sufficient to enable the Provincial Governments to make laws relating to the regulation and control of Houses and rents,—My Friend Mr. Tyagi knows also, that notwithstanding the fact that such an entry does not exist even today, under List II of the Government of India Act, none-the-less, the Provinces have enacted laws in this matter. Therefore entry 24 relating to land and the other entry. No. 8 about transfer of property are quite sufficient to give the power which Mr. Tyagi wants that they should have.

Another difficulty in the way of accepting the amendment of Mr. Tyagi is this. Suppose we were now to include this entry, it would cause a certain amount of doubt on the laws that have already been made by the provinces for the purpose of regulation of houses and the control of rents. It would appear that the legislature itself felt that the entry as it already existed, was not sufficient for the purpose of giving the legislature power

to make laws for this purpose. And therefore it was necessary specifically to give this power. I think we would unnecessarily casting doubts upon the validity of laws already made. Therefore, this is an additional ground against accepting the amendment. In the first place, as I have said it is unnecessary because the provinces have got sufficient power to make such laws and the other is this question of validity of laws made.

Now I come to the third part. My Friend Mr. Tyagi has been struggling to some extent when I was dealing with the question of cantonments to remove the power of allowing cantonments to regulate rents and the premises within their areas. If my friend's intention is that by getting this entry accepted, it would be possible for the provinces to nullify the power which has already been given by the entry in List I, as it has been already passed, then I think, he is completely under a mistake. Not with standing the fact that this entry may become part of the Constitution, the entry which we have already passed would be valid; notwithstanding any power vested in the Provinces, the Cantonments will have the power to make regulations with regard to the premises and the rent of the premises situated in that area. Therefore, I submit to my Friend mr. Tyagi that his purpose is already served and it is unnecessary to have this entry, especially because it would be causing a certain amount of doubt on the validity of the laws already made under these entries as they stand.

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***Shri Mahavir Tyagi :** ....Suppose the owner of a house takes objection on the ground that the provincial government has no right to control rents, then what happens?

The Honourable Dr. B. R. Ambedkar : No, he cannot because under the General Clauses Act, land includes the buildings.

Shri Mahavir Tyagi : It is a new interpretation of the law, that land includes the building.

The Honourable Dr. B. R. Ambedkar : It is new because law is not the profession of Mr. Tyagi.

ENTRY 15

†The Honourable Dr. B. R. Ambedkar : Sir, I move:

> "That in entry 15 of List II, the words 'registration of births and deaths' be deleted."

This is transferred to the concurrent list.

*CAD, Vol. IX, 1st September 1949, pp. 874-875.

†*Ibid.*, p. 875.

* * * * *

***The Honourable Dr. B. R. Ambedkar :** I do not accept any of the amendments moved.

[Amendments by Shri Kamath and Brijeshwar Prasad were rejected. The motion of Dr. Ambedkar was adopted. Entry 15, as amended, was added to the State List.]

ENTRY 18

†The Honourable Dr. B. R. Ambedkar: Sir, I move :

"That for entry 18 of List II, the following entry be substituted :—

'18. Education including universities, subject to the provisions of entries 40, 40-A, 57 and 57-A of List I and entry 17-A of List III.' "

[All amendments to Entry 24 were rejected by Dr. Ambedkar and were negatived by the House. Entry 24 was added to the State List.]

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Sardar Hukam Singh (East Punjab : Sikh): Sir, Now, that Pandit Bhargava has moved this amendment that this entry should be transferred to the Concurrent List there is no need for me to move my amendment and I wholeheartedly support Pandit Bhargava's amendment.

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‡The Honourable Dr. B. R. Ambedkar : Sir, I am prepared to accept this amendment (of Pandit Bhargava as below):

"That with reference to amendment No. 3626 of the List of Amendments, entry 43 in List II be transferred to List III as entry 9-A."

(The motion was adopted.)

Entry 43 of List II was transferred to the Concurrent List.

ENTRY 45

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#The Honourable Dr. B. R. Ambedkar : Sir, I am very much afraid that both my friends, Mr. Shibban Lal and Mr. Sahu, have entirely misunderstood the purport of this entry 45 and they are further under a great misapprehension that if this entry was omitted, there would be no betting or gambling in the country at all. I should like to submit to them that if this entry was omitted, here would be absolutely no control of betting and gambling at all, because if entry 45 was there it may either be used for the purpose of permitting betting and gambling or it may be used for the purpose of prohibiting them. If this entry is not there, the provincial governments would be absolutely helpless in the matter.

*CAD, Vol. IX, 2nd September 1949, p. 880.

†*Ibid.,* p. 881.

‡*Ibid.,* p. 914.

#*Ibid.,* pp. 917-918.

I hope that they will realise what they are doing. If this entry was omitted, the other consequence would be that this subject will be automatically transferred to List I under entry 91. The result will be the same, viz., the Central Government may either permit gambling or prohibit gambling. The question therefore that arises is this whether this entry should remain here or should be omitted here and go specifically as a specified item in list I or be deemed to be included in entry 91. If my friends are keen that there should be no betting and gambling, then the proper thing would be to introduce an article in the Constitution itself making betting and gambling a crime, not to be tolerated by the State. As it is, it is a preventive thing and the State will have full power to prohibit gambling. I hope that with this explanation they will with draw their objection to this entry.

[The motion was adopted. Entry 45 was added to the State List.]

ENTRY 38—*(contd.)*

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***The Honourable Dr. B. R. Ambedkar:** May I request you to go back to entry 38 and to amendment No. 311 standing in the name of Pandit Lakshmi Kanta Maitra? I heard, Sir, that you were pleased to direct Mr. T. T. Krishnamachari to have this entry held back, but I am prepared to accept the amendment suggested by my honourable Friend, Pandit Maitra.

Mr. President: Very well. The question is :

"That entry 38 of List II be transferred to List III."

(The amendment was adopted.)

Entry 38 was transferred to the Concurrent List.

ENTRY 46

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†The Honourable Dr. B. R. Ambedkar : I cannot accept this amendment. As our system of revenue assessment is at present regulated, it would upset the whole of the provincial administration. The matter may, at a subsequent stage be investigated either by Parliament or by the different provinces, and if they come to some kind of an arrangement as to the levy of land revenue and adopt the principles which are adopted in the levy of income-tax, the entry may be altered later on but today it is quite impossible. The matter was considered at great length in the

*CAD, Vol. IX, 2nd September 1949, p. 918.

†*Ibid.,* p. 919.

Conference with the Provincial Premiers and they were wholly opposed to any change of the place which has been given to this entry.

[Two amendments were negatived. The motion was adopted Entry 46 was added to the State List.]

ENTRY 48

Shri Brajeshwar Prasad : Sir, I beg to move:

"That in amendment No. 3631 of the List of Amendments, for the word 'deleted' 'the words and figure 'transferred to List I' be substituted."

Prof. Shibban Lal Saksena : I also move my amendment No. 316 :

"That entry 48 of List II be transferred to List III."

The Honourable Dr. B. R. Ambedkar : I do not accept that.

[Both amendments were rejected. Entry 48 was added to the State Listed.]

ENTRY 49

* * * * *

***The Honourable Dr. B. R. Ambedkar :** For the reasons which I have given while dealing with entry 46, I do not accept the amendment.

Mr. President : The question is :

"That in amendment No. 3632 of the List of Amendments, for the word 'deleted' the words and figure 'transferred to List I' be substituted."

The amendment was negatived.

Mr. President : The question is :

"That entry 49 of List II be transferred to List III."

[The amendment was negatived. Entry 49 was added to the State List.]

ENTRY 50

†The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That in entry 50 of List II, the words 'or roads' be added at the end."

The Honourable Dr. B. R. Ambedkar : I do not accept the amendment.

"That in entry 50 of List II, the words 'or roads' be added at the end."

[The amendment of Dr. Ambedkar was adopted. The motion was adopted. Entry 50, as amended, was added to the State List.]

ENTRY 52

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‡The Honourable Dr. B. R. Ambedkar: Sir, I move:

"That in entry 52 of List II, the words 'non-narcotic drugs' be omitted."

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*CAD, Vol. IX, 2nd September 1949, p. 920.

†*Ibid.,* p. 920.

‡*Ibid.,* p. 922.

This is merely consequential.

[The amendment was adopted. The motion was adopted. Entry 52, as amended was added to the State List.]

ENTRY 56

***Prof. Shibban Lal Saksena :** Sir, I move :

"That entry 56 of List II be transferred to List III and the following explanation be added at the end :—

'*Explanation.*—Nothing in this entry will be construed as limiting in any way the authority of the Union to make laws with respect to taxes on income accruing from or arising out of professions, trades, callings and employments.' "

* * * * *

†The Honourable Dr. B. R. Ambedkar : Sir, I think this amendment is rather based upon a mis-conception. This entry is a purely provincial entry. It cannot limit the power of the Centre to levy Income-tax. On the other hand, this entry 56 may be so worked as to become an encroachment upon Income-tax that is leviable only by the Centre. You may recall, Sir, that I introduced an amendment in article 256 to say that any taxes levied by the local authorities shall not be deemed to be Income-tax. This amendment is not necessary.

Prof. Shibban Lal Saksena : I do not press the amendment, Sir.

(The amendment was, by leave of the Assembly, withdrawn.)

[Entry 56 was added to the State List.]

ENTRY 58

‡The Honourable Dr. B. R. Ambedkar: Sir, I move :

"That for entry 58 of List II, the following entries be substituted :—

'58. Taxes on the sale or purchase of goods.

58-A. Taxes on advertisements.' "

We are trying to cut out the word 'turnover'.

* * * * *

#Shri V. L. Muniswamy Pillay (Madras : General)**:** I move :

"That with reference to amendment No. 3638 of the List of Amendments, in entry 58 of List II, after the words 'purchase of goods' the words 'other than Newspapers' and after the words 'taxes on advertisements' the words; 'other than those appearing in Newspapers' be inserted respectively."

Shri Deshbandhu Gupta (Delhi)**:** I suggest this may be also held over.

Mr. President : This was a question which was raised yesterday. I held it over for my ruling.

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*CAD, Vol. IX, 2nd September 1949, p. 923.

†*Ibid.,* p. 923.

‡*Ibid.,* p. 923.

#*Ibid.,* p. 924.

The Honourable Dr. B. R. Ambedkar : I suggest that amendment No. 122 might be treated as an independent thing which may be brought in by an additional entry. Then subsequently the Drafting Committee may work the two things together if accepted. Subject to that, this entry may go. Those interested in 122 may be permitted to bring in this in the form of an additional entry.

Mr. President : Your point is not touched so far as newspaper and advertisement is concerned.

Shri Deshbandhu Gupta : If it is felt that the Drafting Committee should provide this somewhere else then it would become difficult to revise the past, once a decision is taken by the House on this entry.

The Honourable Dr. B. R. Ambedkar : Before we conclude discussion of the three Lists this matter may be brought up.

Mr. President : I am prepared to allow this to be taken up separately when we take up 88-A which we held over yesterday. So the position is that the question relating to advertisement is held over, but apart from that, this entry is to be put to vote, as amended by Dr. Ambedkar.

Prof. Sibban Lal Saksena : When a ruling is pending how can it be passed?

Shri Deshbandhu Gupta: It will be simpler if it is held over.

Mr. President: Well, let it be held over. We will take it up along with 88-A which we held over yesterday.

Entry 58 of List II was held over.

ENTRY 59

***Mr. President :** Entry 59.

The Honourable Dr. B. R. Ambedkar : I move :

> "That in entry 59 of List II, the following be added at the end :—
>
> 'Subject to the provinces of entry 21 of List III' "

In List III we are going to say that the Centre should have the power to lay down the principle of taxation.

[The motion of Dr. Ambedkar was adopted. Entry 59, as amended, was added to the State List.]

ENTRY 64

†The Honourable Dr. B. R. Ambedkar : Sir, I move:

> "That entry 64 of List II be deleted."

That is taken in the Concurrent List.

[The motion was adopted. Entry 64 of List II was deleted from the State List.]

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*CAD, Vol. IX, 2nd September 1949, p. 924.

†*Ibid.,* p. 925.

ENTRY 67

* * * * *

***The Honourable Dr. B. R. Ambedkar :** Sir, this matter will be covered by the Part of the Constitution which we propose to add to the existing Draft, the part where all the payments that are to be made to the rulers will be dealt with, and for the present I do not see any necessity for any such amendment. I think my Friend, after seeing that part which we propose to introduce by way of an amendment, may see whether his object is carried out by our proposal. If not, he may be quitre in order in moving an amendment to that part when that part comes before the House.

Kaka Bhagwant Roy : Sir, I wish to withdraw my amendment. (The amendment was, by leave of the Assembly, withdrawn.)

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ENTRY 2-A

†Mr. President : Then we come to entry 2-A. Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That after entry 2 of List III, the following entry be inserted :—

'2A. Preventive detention for reasons connected with stability of the Government established by law and the maintenance of public order and services or supplies essential to the life of the community; persons subjected to such detention.' "

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SEVENTH SCHEDULE—*(contd.)*

LIST III

(Concurrent List)

ENTRY 2-A

‡Mr. Vice-President: **(Shri V. T. Krishnamachari)**: We are now doing entry 2-A of the Concurrent List.

Mr. Naziruddin Ahmad : (West Bengal: Muslim): Mr. Vice-President, Sir I would seek your permission to make a verbal change in my amendment No. 290. No. 289 has been moved by Mr. Kamath. I wish to move the next entry and I seek your permission to make a slight verbal alteration I know that the amendment will never be accepted—that it will not even be considered. So there is no harm in making the amendment look better. May I have your permission to substitute for the words "overthrow of the Government by force" in my amendment, the words

*CAD, Vol. IX, 2nd September 1949, p. 926.

†*Ibid*., p. 926.

‡*Ibid.,* 3rd September 1949, pp. 929-930.

"security of the State" ? The wording "security of the State" seems to be more proper and the change is only verbal.

Mr. Vice-President: Yes.

Mr. Naziruddin Ahmad : Sir, I beg to move ...

The Honourable Dr. B. R. Ambedkar: (Bombay : General): Sir, may I suggest to my Friend that if he is prepared to accept the wording as I suggest now, namely, "connected with the security of the State" instead of the words "connected with stability of the Government established by law" I shall be prepared to accept it, because I find that that is exactly the language we have used in amended entry 3 in List I—We have used the word "security of India" there. If my Friend is satisfied with the wording I have now suggested I shall be prepared to accept it.

Mr. Naziruddin Ahmad : I am grateful to Dr. Ambedkar, but this is exactly the change which I was asking to the Vice-President to permit me to make.

The Honourable Dr. B. R. Ambedkar : Your words were different.

Mr. Naziruddin Ahmad : I was going to move an amended amendment and that is exactly on the lines, word for word, as the one that Dr. Ambedkar now suggests.

The Honourable Dr. B. R. Ambedkar : Then there is nothing to speak about it. If my honourable Friend will move the amendment as I have suggested then I am prepared to accept it.

Mr. Naziruddin Ahmad : I must move my amendment.

Mr. Vice-President: As. Dr. Ambedkar is accepting it, is it necessary for the honourable Member to move the amendment and speak on it?

Mr. Naziruddin Ahmad : If my honourable Friend fails to recognize that I was going to move an amendment which is correct and exactly corresponds to his ideas, I cannot help it. But let me move my amendment.

Sir, I beg to move:

> "That in amendment No. 124 of List I (Sixth Week), in the proposed new entry 2-A of List III, for the words "stability of the Government" the words "security of the State" be substituted."

The expression "stability of the Government" is not proper...

The Honourable Dr. B. R. Ambedkar : I do not think any argument is needed as I am accepting the amendment.

Mr. Naziruddin Ahmad : I know. But there is the House. I will say only one or two words. The expression "stability of the Government" is rather vague in the context of the new entry proposed by Dr. B. R. Ambedkar, namely, "preventive detention for reasons connected with the

stability of the Government". "Government" and "State" are different things.

The Honourable Dr. B. R. Ambedkar : That is the reason why I have accepted it.

Mr. Naziruddin Ahmad : But, Sir, he has not made it clear as to why he has accepted it

The Honourable Dr. B. R. Ambedkar : I have said that "security of the State" is the proper expression. So there is no necessity of an argument.

Mr. Vice-President : The amendment proposed by the honourable Member having been accepted, there is no need for elaborate arguments.

Mr. Naziruddin Ahmad : But the House should know. Why should there be so much nervousness about the exposure of bad drafting? That is the point.

The Honourable Dr. B. R. Ambedkar : If my honourable Friend is satisfied with an admission on my part that I have made a mistake I am prepared to make it.

Mr. Naziruddin Ahmad : It should be appreciated not merely by the House but by the world at large. Drafted as it is, "stability of the Government" may mean insecurity of the Ministry for which they might imprison the opposition.

The Honourable Dr. B. R. Ambedkar : Very well, we have bungled. Is that enough?

* * * * *

***The Honourable Dr. B. R. Ambedkar :** Sir, the amendment as amended has to be put and not as in the Notice Paper.

Mr. Vice-President: I will now put amendment No. 124 as revised by Dr. Ambedkar. The question is :

> "That after entry 2 of List III, the following entry be inserted :—
>
> '2-A. Preventive-detention for reasons connected with the security of the State and the maintenance of public order and services or supplies essential to the life of the community; persons subjected to such detention.' "

(The motion was adopted.)

Entry 2-A, as amended, was added to the Concurrent List.

ENTRY 3

†The Honourable Dr. B. R. Ambedkar : Sir, I move:

> "That for entry 3 of List III, the following entry be substituted :—

*CAD, Vol. IX, 3rd September 1949, p. 831.

†*Ibid.*, p. 931.

'3. Removal from one State to another State of prisoners, accused persons and persons subjected to preventive detention for reasons specified in entry 2A of this List.' "

Mr. Naziruddin Ahmad : I am not moving amendment No. 291.

Mr. Vice-President : Amendment No. 292. The Member is not present and the amendment is not therefore moved.

I will put Dr. Ambedkar's amendment to vote.

[The amendment was adopted. Entry 3, as amended, was added to the Concurrent List.]

ENTRY 4

***The Honourable Dr. B. R. Ambedkar :** I Move :

"That in entry 4 of List III, the words and figures 'for the time being specified in Part I or Part II of the First Schedule' be deleted."

[Entry 4 as amended, by Dr. Ambedkar's amendment was added to the Concurrent List.]

ENTRY 6

* * * * *

†The Honourable Dr. B. R. Ambedkar : Sir, there can be no doubt that the amendment of my honourable Friend, Dr. Deshmukh, in so far as it seeks to interpolate certain words dealing with the protection of children in entry 6 are out of place because entry 6 no doubt refers to infants and minors, but it has to be borne in mind that taking the entry as a whole, that entry deals with status. In so far as the status of infants and minors are concerned, these categories are included in entry 6, but "care and protection of destitute and abandoned children and youth" are not germane to their status.

Dr. P. S. Deshmukh : That was exactly why I had wanted to introduce an independent entry. There is an amendment already in my name which seeks to have an additional entry separately.

The Honourable Dr. B. R. Ambedkar : I was just going to deal with the amendment moved by him. These words could not be interpolated in this entry 6, without seriously damaging the structure of that entry No. 6. Therefore at this stage I certainly cannot accept the proposition of interpolating these words.

Now, Sir, I will deal with the general question of the protection of children. There can be no doubt about it that every Member in the House including myself and the members of the Drafting Committee could ever take any exception to the protection of children being provided for by the

*CAD, Vol. IX, 3rd September 1949, p. 931.

†*Ibid.,* pp. 935-936.

State, and there can by no difference of opinion; but the only question is whether in the list as framed by the Drafting Committee that matter is not already covered. In framing these entries, what we have done in to mention and categorize subjects of legislation and not the objects of purposes of legislation.

Protection of children is a purpose which a legislature is entitled to achieve if in certain circumstances it thinks that it must do so. The question is whether under any of these entries, it would not be possible for the State to achieve that purpose, namely, the protection of children.

It seems to me that any one of these entries which are included in List II could be employed by the State for the purpose of framing laws to protect children. For instance, under entry 2 of List II, administration of justice, it would be open for the State to establish juvenile courts for children.

Dr. P. S. Deshmukh : That is not what I meant. I never referred to juvenile Courts.

The Honourable Dr. B. R. Ambedkar : For instance, take prisons and reformatory and Borstal institutions, they may be empowered to establish special kinds of prisons where there would be, not the principle of punishment, but the principle of reformation. Take the case of education.

Shrimati G. Durgabai : May I submit, Sir, the case of delinquent children stands absolutely on different footing and from destitute and abandoned children?

The Honourable Dr. B. R. Ambedkar : As I was saying entry 18, which deals with education in List II, could be used by the State for the purpose of establishing special kinds of schools for children including even abandoned children. Under entry 42, dealing with the incorporation of societies and so on, it would be open to the State to register societies for the purpose of looking after children or they may themselves start some kind of corporation to do this.

Therefore, if my friends contend that the statement, which I am making in all sincerity, that there is every kind of provision which the State may make for the purpose of protecting children under the entries which are included in List II, I think there is no purpose, in having a separate entry dealing with the protection of children. As I stated, protection of children cannot be a subject of legislation; it can be the object, purpose of legislation.

Dr. P. S. Deshmukh : You have made provision for the protection of wild birds, even!

The Honourable Dr. B. R. Ambedkar : I can quite see both of my Friends are very persistent in this matter. I would therefore request them

to withdraw their amendment on the assurance that the Drafting Committee in the revising stage will go into the matter and if any such entry can be usefully put in any of the Lists, they will consider that matter and bring a proposal before the House. At this stage, I find it rather difficult to accept it because I have not had sufficient time to devote myself to a full consideration of the subject which is necessary before such an entry is introduced.

Mr. Vice-President : Does Dr. Deshmukh wish to press his amendment?

Dr. P. S. Deshmukh : I would like to request Dr. Ambedkar at least to say that by the time my next amendment for in independent entry is reached, he will be able to say something more favourable than he has been able to say now.

The Honourable Dr. B. R. Ambedkar : I will consider the whole matter.

[The amendment was withdrawn. Entry 6 was added to the Concurrent List.]

ENTRY 15

***The Honourable Dr. B. R. Ambedkar :** Sir, I move :

"that for entry 15 of List III, the following entry be substituted :—

'15. Actionable wrongs'."

The words which I seek to omit are really unnecessary.

(The motion was adopted. Entry 15 as amended was added to the Concurrent List.)

* * * * *

NEW ENTRY 17-A

†The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That after entry 17 of List III, the following entry be inserted :—

'17-A. Vocational and technical training of labour'."

[Entry 17-A as amended was added to the Concurrent List.]

ENTRY 20

‡The Honourable Dr. B. R. Ambedkar : Sir, I move:

"That for entry 20, the following entry be submitted:

'20. Drugs and poisons, subject to the provisions in entry 62 of List I with respect to opium'."

(Mr. Kamath did not move his amendment.)

(The amendment was adopted.)

(Entry 20, as amended, was added to the Concurrent List.)

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*CAD, Vol. IX, 3rd September 1949, p. 937.

†*Ibid.,* p. 939.

‡*Ibid.,* p. 939.

ENTRY 21

The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That for entry 21 of List III, the following entry be substituted:—

'21. Mechanically propelled vehicles including the principles on which taxes on such vehicles are to be levied'."

(The amendment was adopted.)

Entry 21, as amended, was added to the Concurrent List.

NEW ENTRY 25-A

***The Honourable Dr. B. R. Ambedkar :** Sir, I move :

"That after entry 25 of List III, the following new entry be inserted :—

'25-A. Vital statistics including registration of births and deaths'."

[The motion was adopted. Entry 25A was added to the Concurrent List.]

ENTRY 26

†The Honourable Dr. B. R. Ambedkar: Sir, I beg to move :

"That for entry 26 of List III the following entry be substituted :—

'26, Welfare of labour including conditions of work, provident funds, employers liability, workmen's compensation, invalidity and old age pensions and maternity benefits'."

[The amendment was adopted. Entry 26, as amended, was added to the Concurrent List.]

NEW ENTRY 26-A

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‡The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That after entry 26 of List III, the following entry be inserted :—

'26-A. Social insurance and social security'."

(Entry 26-A was added to the Concurrent List.)

NEW ENTRY 26-B

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#The Honourable Dr. B. R. Ambedkar : Sir, may I explain? There seems to be a certain amount of confusion and misunderstanding about the entries in the List. With regard to my Friend Dr. Deshmukh's amendment, he wants welfare of peasants, farmers and agriculturists of all sorts. Well, I would like to have some kind of a clear conception of what these omnibus words, "agriculturists of all sorts" mean. Does he want that the State should also undertake the Welfare of zamindars who pay Rs. 5 lakhs as land revenue?

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*CAD, Vol. IX, 3rd September 1949, p. 940.

†*Ibid.,* p. 940.

‡*Ibid.,* p. 940.

#*Ibid.,* p. 944.

Shri R. K. Sidhva : You can drop those words.

***The Honourable Dr. B. R. Ambedkar :** It will also include malguzars. Before I accept any entry, I must have in my mind a clear and consistent idea as to what the words mean. The word "agriculturists" has no precise meaning. It may mean a rack-renter. It may mean a person who is actually a cultivator. It may mean a person who has got two acres. It may also mean a person who has five thousand acres, or five lakhs acres.

Dr. P. S. Deshmukh : I am prepared to omit that particular expression.

The Honourable Dr. B. R. Ambedkar : That is one difficulty I find. The second point is my Friend Dr. Deshmukh does not seem to pay much attention to the different entries and what they mean. So far as agriculture is concerned, we have got two specific entries in List II—No. 21 which is Agriculture and No. 24 which is Land. If he were to refer to these two entries he will find...†

Dr. P. S. Deshmukh : What fallacious arguments are being advanced ! For that matter, Labour welfare is a specific entry and yet you wanted separate provision for their vocational training? Do not advance fallacious arguments.

The Honourable Dr. B. R. Ambedkar : It is not my business to answer questions relating to the faults of administrations. I am only explaining what the entries mean. As I said, we have already got two entries in List II. Entry 21 is there for Agriculture "including agricultural education and research, protection against pests and prevention of plant diseases".

Dr. P. S. Deshmukh : Then why do you want "welfare of labour"?

The Honourable Dr. B. R. Ambedkar : Why can't you have some patience? I know my job. Do you mean to say I do not know my job? I certainly know my job.

Dr. P. S. Deshmukh : I know your attitude also. Do not try to fool everybody!

The Honourable Dr. B. R. Ambedkar : There is already an entry which will empower any State to do any kind of welfare work not merely with regard to agriculture but with regard to agriculturists as well. In addition to that we have entry 24 where it is provided that laws may be made with regard to "rights in or over land, land tenures including the relation of land-lord and tenant". All the economic interests

*CAD, Vol. IX, 3rd September 1949, pp. 944-946.

†Dots indicate interruption in original.

of the peasants can be dealt with under this entry. Therefore, so far as entries are concerned there is nothing that is wanting to enable the Provincial Governments to act in the matter of welfare of agricultural classes.

Then I come to the question raised by my Friend Mr. Sidhva which, I think, is a very legitimate question. Hill question was what was the connotation of the word "labour" and he asked me a very definite question whether 'labour' meant both industrial as well as agricultural labour. I think that was his question. My answer is emphatically that it includes both kinds of labour. The entry is not intended to limit itself to industrial labour. Any kind of welfare work relating to labour, whether the labour is industrial labour or agricultural labour, will be open to be undertaken either by the Centre or by the Province under entry 26.

Similarly, conditions of work, provident funds, employers' liability workmen's compensation, health insurance, including invalidity pensions—all these matters—would be open to all sorts of labour, whether it is industrial labour or agricultural labour. Therefore, so far as this entry, No. 26, is concerned, it is in no sense limited to industrial labour and therefore the kind of amendment which has been proposed by my Friend Dr. Deshmukh is absolutely unnecessary, besides; its being—what I might call—vague and indefinite, to which no legal connotation can be given.

Dr. P. S. Deshmukh : Is there no class of persons except agricultural labour in this country? Has Dr. Ambedkar ever heard of a class called "farmers" and "peasants" ?

The Honourable Dr. B. R. Ambedkar: Their welfare will be attended to under entries 21 and 24 of the Provincial List, as I have already explained.

[Dr. P. S. Deshmukh's amendment was negatived. Dr. Ambedkar's amendment was adopted. Entry 27, as amended was added to the Concurrent List.]

ENTRY 27

***The Honourable Dr. B. R. Ambedkar:** Sir, I move :

"That for entry 27 of List III, the following entry be substituted :—

'27. Employment and unemployment' ".

The amendment was adopted.

Entry 27, as amended, was added to the Concurrent List.

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*CAD, Vol. IX, 3rd September 1949, p. 946.

ENTRY 28

* * * * *

***Mr. Vice-President :** I will now put the question.

The Honourable Dr. B. R. Ambedkar : I want to say a word. The words "trade union" with regard to welfare of labour have a very wide connotation and may include trade unions not only of industrial organisations but may also include trade unions of agricultural labour. That being so, I am rather doubtful whether by introducing the word 'industrial' here, we are not trying to limit the scope and meaning of the term 'trade union'. But I am not moving any amendment. I would like to reserve an opportunity to the Drafting Committee to examine the term and to consider this. I want the entry to stand as it is now. I have expressed my doubt that in view of the wide connotation of 'trade union', a part of the entry may require amendment.

Mr. Vice-President: Subject to what Dr. Ambedkar says, I put entry 28 to vote. The question is :

"That entry 28 stand part of List III.

(The motion was adopted.)

Entry 28 was added to the Concurrent List.

NEW ENTRY 28-A

†The Honourable Dr. B. R. Ambedkar : I move :

"That after entry 28 of List III, the following new entry be inserted :—

'28-A. Commercial and industrial monopolies, combines and trusts'."

The motion was adopted. Entry 28-A was added to the Concurrent List.

ENTRY 29

‡Mr. Vice-President: As there is no amendment to entry 29, I will put it to vote.

Entry 29 was added to the Concurrent List.

Dr. P. S. Deshmukh : Sir, a part of this amendment of mine was very kindly accepted yesterday. But, so far as the wording is concerned, we have yet to decide it. When we were discussing the State List, it was decided that we should transfer 'adulteration food' to List III and therefore it would probably be relevant if we take up the wording of this entry at this stage. At the same time I would like that the first amendment of mine should also be accepted.

*CAD, Vol. IX, 3rd September 1949, p. 947.

†*Ibid.,* p. 947.

‡*Ibid.,* p. 948.

The Honourable Dr. B. R. Ambedkar : May I draw attention to the fact that the introduction of entry 29A has already been covered by entry 61A in List I which has been passed by the House in much wider terms? The words used are "goods" which will include agricultural products, etc. Similarly 29B was accepted yesterday on the motion of Mr. Maitra and it is now entry 20A in List III.

Dr. P. S. Deshmukh : I accept the first part of my friend's suggestion. I do not move for additing 29A. But I am not clear whether it is the mere transposition of the entry as it stood in List II that is proposed?

The Honourable Dr. B. R. Ambedkar : It is transferred to Concurrent List as 20A. That was the motion passed by the House.

Dr. P. S. Deshmukh : Would it not be better to enlarge its scope?

The Honourable Dr. B. R. Ambedkar : 'Adulteration of food' includes everything, I think.

Dr. P. S. Deshmukh : If that is so, I do not move this amendment.

Mr. Vice-President : Then I will put entries 30 and 31 to vote.

Entries 30 and 31 were added to the Concurrent List.

NEW ENTRY 31-A

***The Honourable Dr. B. R. Ambedkar :** I move :

"That after entry 31, the following new entry be inserted :—

'31-A. Ports, subject to the provisions of List I with respect to major ports'."

[Motion was adopted. Entry 31-A was added to the Concurrent List]

ENTRY 32

†The Honourable Dr. B. R. Ambedkar : I move:

"That entry 32 of List III be deleted."

This has been transferred to List I.

Entry 32 was deleted from the Concurrent List.

ENTRY 33

‡The Honourable Dr. B. R. Ambedkar : I move :

"That entry 33 of List III be deleted."

As I said, this also has been transferred to List I.

Entry 33 was deleted from the Concurrent List.

*CAD, Vol. IX, 3rd September 1949, p. 948.

†*Ibid.,* p. 949.

‡ *Ibid.,* p. 949.

ENTRIES 33A AND 33B

***The Honourable Dr. B. R. Ambedkar :** Sir, I move :

"That after entry 33 of List III, the following new entries be inserted :—

'33A. Custody, management and disposal of property (including agricultural land) declared by law to be evacuee property.

33B. Relief and rehabilitation of persons displaced from their original place of residence by reason of the setting up of the Dominions of India and Pakistan.' "

(Amendment No. 296 was not moved.)

[Entries 33A and 33B were added to the Concurrent List.]

ENTRY 34

†Shri Brajeshwar Prasad: ...Sir, there is another aspect of the question to which I would like to draw the attention of the House. Entry 34 reads thus:

"Economic and social planning."

What about political planning?

Some Honourable Member : It will be too disastrous.

The Honourable dr. B. R. Ambedkar : It can be done by way of amendment of the Constitution.

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‡The Honourable Dr. B. R. Ambedkar : Sir, I am very sorry but I cannot accept this amendment moved by Shrimati Purnima Banerji. The introduction of the word "education" seems to me to be quite unnecessary. The word "social" is quite big enough to include anything that relates to society as a whole except, of course, religious planning, and a contradiction would be only between 'social' and 'religious'. What the State would not be entitled to plan would be 'religions'; everything else would be open to the State.

With regard to the observations of my honourable Friend Shri Rohini Kumar Chaudhuri, I think he will realize that this entry finds a place in the Concurrent List and the State also would have the freedom to do its own planning in its own way. It is only when the Centre begins to have a plan and if that plan conflicts with the plan prepared by the State that the plan prepared by the State will have to give way and this is in no sense an encroachment upon the planning power of the State and therefore, this entry, I submit, should stand in the language in which it stands now.

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*CAD, Vol. IX, 3rd September 1949, p. 949.

†*Ibid.*, p. 950.

‡*Ibid,* p. 952.

Mr. Vice-President: The question is :

"That for entry 34 of List III, the following be substituted :—

'34. Economic, educational and social planning'."

The amendment was negatived.

[Entry 34 was added to the Concurrent List.]

ENTRY 34-A

***The Honourable Dr. B. R. Ambedkar :** Sir, I move:

"That after entry 34 of List III, the following new entry be inserted :—

'34A. Archaeological sites and remains'."

This would be Concurrent.

[Entry 34A was added to the Concurrent List.]

ENTRY 35

†The Honourable dr. B. R. Ambedkar : Sir, I move :

"That for entry 35 of List III, the following entry be substituted :—

'35. The principles on which compensation for property acquired or requisitioned for the purposes of the Union or of a State or for any other public purpose is to be determined and the form and the manner in which such compensation is to be given.'"

(The amendment was adopted)

Entry 35, as amended was, added to the concurrent List.

ENTRY 35-A

‡The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That after entry 35 of List III, the following new entry be inserted :—

'35A. Trade and commerce in and the production, supply and distribution of the products of industries where the control of such industries by the Union is declared by Parliament by law to be expedient in the public interest.' "

(The motion was adopted.)

Entry 35A was added to the Concurrent List.

ENTRY 36

#The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That for entry 36 of List III, the following entry be substituted :—

'36. Industries and statistics for the purposes of any of the matters specified in list II or List III.' "

Mr. President : There is no amendment.

[Entry 36 was added to the Concurrent List.]

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*CAD, Vol. IX, 3rd September 1949, p. 952.

†*Ibid.,* p. 953.

‡*Ibid.,* p. 953.

#*Ibid.,* p. 953

NEW ENTRY

***Mr. President:** There is new entry proposed by Pandit Govind Ballabh Pant.

(Amendment No. 144 was not moved)

†Dr. P. S. Deshmukh : Sir, I move :

'That the following new entry be added in List III:—

'Protection of children and youth from exploitation and abandonment, *vide* article of *(vi).'* "

Sir, I had moved similar amendments on two occasions...

The Honourable Dr. B. R. Ambedkar: This amendment was considered along with other amendments and I gave a reply telling my friend that this matter will be considered by the Drafting Committee. He was then agreeable.

Dr. P. S. Deshmukh : My only submission is that the wording may be altered as the Drafting Committee may decide but provisionally the entry may be accepted as proposed by me. It should not merely be left to be considered by the Drafting Committee. Any wording that may be suitable may be put in; but there should be an entry which refers to the protection of children and youth from exploitation and abandonment. I hope Dr. Ambedkar will kindly accept this.

The Honourable Dr. B. R. Ambedkar : I have told my friend that if I find that the purpose which he has in mind is not covered by any of the other entries, I will do my best to introduce some such entry. I have given him that assurance.

Dr. P. S. Deshmukh : This is a question to which I and at least some Members of the House attach very considerable importance. ... I hope, Sir, no damage will be done if we have an entry like the one I have proposed in the case of children.

The Honourable dr. B. R. Ambedkar : I will give my best consideration to the matter. I am in entire sympathy with its object. What more can I say?

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‡Mr. Naziruddin Ahmad : One speaker has just now given out that prostitution should be entirely prohibited...

The Honourable Dr. B. R. Ambedkar : Is this a question which we need debate? The only question is whether there is power with the State or with the Centre or should it be Concurrent. How the power is to be

*CAD, Vol. IX, 3rd September 1949, p.954.

†*Ibid.,* p. 954.

‡*Ibid.,* pp. 957-958.

exercised whether to permit partially or prohibit completely is a matter for each legislature, which we must leave to the legislature.

Mr. Naziruddin Ahmad : My submission is that it is relevant. The amendment provides for "regulation and control of prostitution."...

Shri V.I. Muniswamy Pillay (Madras : General): I wish to speak, Sir.

Mr. President: Closure has been moved. The question is :

"That the question be now put".

The motion was adopted.

The Honourable Dr. B. R. Ambedkar : Sir, there is enough power given to the State under these entries to regulate these matters, namely, either for dealing with public houses or having some large-scale farming. If my Friend, Dr. Deshmukh were to refer to List II, entry 1, which deals with public order, and entry 4 which deals with police and the Concurrent entry which deals with criminal law, he will find that there is more than enough power given to regulate these matters. If he were to refer to entry 24 dealing with land, entry 21 dealing with agriculture in the State List, he will find that there is more than enough power in the States to have state farms or whatever they like.

Therefore, the only question that remains, is this, whether this subject relating to the creation of farms and the regulation of public houses should be in the Concurrent List. In my judgement, the criterion to decide whether this matter should be in the Concurrent List or in the State List is whether these matters are of all-India concern or of purely local concern. In my judgement prostitution, the regulation of public houses, and creation of farms are matters of local concern and it is therefore better to leave them to be dealt with by the States. They have got more than enough power for that. I do not know how the Centre can do the job. The Centre has not got any agricultural land. If the Centre wants to establish a farm, the Centre has to acquire the property from the farmers. The same thing could be done by the State. I do not see what purpose would be served by having these entries in the Concurrent List; and it must also be remembered that our States which we call States are far bigger than many States in Europe.

Shrimati G. Durgabai: Will Dr. Ambedkar make one point clear? The entry speaks of regulation or prohibition of prostitution. I do not understand the meaning of "regulation" here, and I think it should be complete prohibition.

The Honourable Dr. B. R. Ambedkar : The States can regulate them and also prohibit them. The States can do it.

(All amendments were negatived)

NEW ENTRY 88-A

***The Honourable Dr. B. R. Ambedkar :** I am prepared to accept the amendment moved by the 58 gentlemen.

Shri Mahavir Tyagi : May I inform you, Sir, that a large section of the House would like the deletion of the entry and so you might kindly agree to hold over the item for further consideration of the Drafting Committee?

The Honourable Dr. B. R. Ambedkar : Sir, if the mover of this amendment cares to move it, I am prepared to accept it.

Shri Ramnath Goenka (Madras : general)**:** Sir, the other day, you requested Dr. Ambedkar to be ready with his alternative proposal.

The Honourable dr. B. R. Ambedkar : He did not say anything of that kind.

Shri Ramnath Goenka : This item will take some time, Sir.

The Honourable Dr. B. R. Ambedkar : Sir, the amendment is here.

Shri Ramnath Goenka: What I suggest is that we could get in touch with the Drafting Committee and come to a formula acceptable to all.

The Honourable dr. B. R. Ambedkar : This is a formula which you have proposed.

Shri Ramnath Goenka: We will have the benefit of consultation with you.

The Honourable dr. B. R. Ambedkar : Sir, I am prepared to accept entry 88A if they move it.

Shri S. Nagappa : It has been moved.

The Honourable Dr. B. R. Ambedkar : It has not been moved yet. That was entry 88A in List I—not in the State List. Objection was taken that it was not in order and it was not moved. Therefore, if Mr. Goenka wishes to move it...†

Shri Deshbandhu Gupta: Sir, I formally move that the matter be held over.

The Honourable Dr. B. R. Ambedkar : Why? We tried to finish the whole list. That is why we hurried up, not allowing many Members

*CAD, Vol. IX, 3rd September 1949, p. 960-963.

†Dots indicate interruption.

to speak to the extent they used to. Now that we have got a clear-cut amendment signed by many people I do not see why it should be held over.

Shri Deshbandhu Gupta : It is not in a clear-cut form as Dr. Ambedkar himself saw something objectionable in the draft and was prepared to help us with a better draft.

Mr. President : As I understood Dr. Ambedkar the other day, the only question was whether it should be in List I or List II. He said the question of policy had to be decided.

The Honourable Dr. B. R. Ambedkar : If you want to put it in List I, I am prepared to accept it.

The President : So far as the particular place where this entry will go, that is to be left to the Drafting Committee.

The Honourable Dr. B. R. Ambedkar : The whole trouble is this. This entry was originally in List II. There objection was that it would not be in List II but it should be in this form in List I. I am prepared to accept that if they want it.

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Shri Deshbandhu Gupta : Sir, on a point of information, may I inquire as to what will happen to entry No. 58 in the second List which was held over yesterday?

Mr. President : It would go.

Shri Deshbandhu Gupta : It was held over yesterday because these two go together.

Mr. President : It was held over because there was an amendment which wanted to transfer this to List II. If it is passed in List I then that amendment will be out of order.

Shri Deshbandhu Gupta : There are two amendments. There is one that this may be transferred to List I and there is another defining the scope of entry 58. The amendment was held over yesterday because this matter was not before the House at that time. They must go together.

The Honourable dr. B. R. Ambedkar : I am not bound to accept it. They do not go together. I refuse to accept that.

Mr. President: There was an amendment, No. 122, consideration of which was held over because of this amendment. If the amendment which has been just moved is accepted then in that case amendment No. 122 becomes out of order, and the only proposition before the

*Dots indicate interruption.

House will be Dr. Ambedkar's proposition namely amendment No. 121.

Shri Ramnath Goenka : Will there not be a consequential amendment in List II? In the State List certain powers are given to the State for taxes on sale as well as on advertisement. If this is transferred to List I, then the consequential amendment of which we have given notice...

Mr. President : The notice is that it be included in List I. If it is taken in List I then it goes out.

Shri Ramnath Goenka : But the exception will have to be provided for in List II in the entry; sale of goods excepting newspapers.

Mr. President : It is not necessary.

The Honourable Dr. B. R. Ambedkar : It is not a consequential amendment at all. Both the amendments are quite independent. One amendment is that the entry should be expanded by the addition of a new entry to be called 88-A. Then there is another amendment which is amendment to my amendment to entry 58 in List II dealing with sales tax. That amendment says that the word "goods" should be so qualified as to exclude newspapers. That will be dealt with on its own merits. The immediate question we have to deal with is whether List I is to be expanded, by the addition of entry 88-A in terms as moved here.

Shri Ramnath Goenka : The position is this. We have proposed an entry in List I that taxes on newspapers including advertisements therein, should be transferred to List I and that the Provinces should not have the authority to levy and taxes on newspapers. Therefore the amendment No. 57 is a consequential amendment to the amendment No. 122 in entry 58 in List II. So both these amendments will have to be taken together. Yesterday when this question of entry 58 in List II came before us, you put it off until you gave a ruling and said a decision could be taken together on these entries.

The Honourable Dr. B. R. Ambedkar : Take them one by one. Let both the amendments be put one after the other.

Shri Ramnath Goenka: May I suggest, Sir, that we put entry 58 in List II first and then 88-A?

The Honourable Dr. B. R. Ambedkar : You can have it in any way you like, but I want to tell you that voting in a particular manner on the second amendment would be inconsistent with voting on the first in another manner. It will be open to the House to accept the one and reject the other.

Shri Ramnath Goenka : I would like to have your ruling on this matter. If you transfer the taxes on newspapers to List I then it cannot have any place in List II also. If it has a place in List I then it necessarily goes out from List II.

The Honourable Dr. B. R. Ambedkar : It will go out of List II only so far as taxes are concerned. But so far as the sale of goods is concerned it would remain. You want to get that out also? Your object, if I understand, is two fold, namely, that the newspapers should not be liable to any duty and should not be liable to any tax under the Sales Tax Act also. I am not prepared to give you both the advantages, to be quite frank.

Shri Ramnath Goenka : May I request you, Sir, to hold this matter over till Monday morning so that we can put our heads together and come to you, because whatever the interpretation, what is said, is the object of our amendment. If that object is not carried we will have to put in other amendments. But that is our intention. We are only laymen and we will be guided by Dr. Ambedkar. The entire taxation should be taken away from the Provinces to the Centre. If that purpose is not being carried out I am afraid some other amendment will have to be moved which will have the effect of carrying out our intentions. These are our intentions.

Mr. President : Dr. Ambedkar, will you object if the matter is held over?

The Honourable Dr. B. R. Ambedkar : I will be quite frank about it. I have a mandate to accept entry 88A. I am prepared to follow that mandate and accept entry 88A. I have no such mandate with regard to the other thing (amendment No. 122). I am sure that it will be difficult to accept it. To have a complete exemption from any kind of taxation on newspapers is to me an impossible proposition.

Shri Ramnath Goenka : It is not so. I want taxation to be left to the Centre and not the Provinces. If I may tell Dr. Ambedkar, the mandate was that it should be taken away from the Provinces.

The Honourable Dr. B. R. Ambedkar : You are not to interpret the mandate for me. I know what it is. It is quite clear to me.

Shri Ramnath Goenka : As it is, I am interpreting it to you. (Interruption).

Shri Deshbandhu Gupta : Since Dr. Ambedkar has referred to the mandate I may make it clear that when this question was taken

up with the authority which gave the mandate, it was absolutely clear that the two amendments went together. We wanted this tax to remain a Central tax and not a Central as well as a provincial tax.

The Honourable Dr. B. R. Ambedkar : It is not right to refer here to matters discussed elsewhere. But, as I said, I am quite prepared to abide by that mandate. The other matter was brought in surreptitiously by our friends after they heard what I said in another place as to what a mess they had made by bringing in this amendment.

Shri Ramnath Goenka : As Dr. Ambedkar suggests that we have made a mess we want a way out of the mess.

(Interruption)

Mr. President : I find there is a much feeling in the matter. So we had better take it up on some other day when the feelings are a bit cooler....

FIFTH SCHEDULE

***Mr. President :** We will take up the Fifth Schedule.

The Honourable Dr. B. R. Ambedkar : (Bombay : General): Sir, I move:

That for the Fifth Schedule, the following Schedule be substituted :—

"*FIFTH SCHEDULE*

[Article 215-A(a) and 215-B(1)]

PROVISIONS AS TO THE ADMINISTRATION AND CONTROL OF SCHEDULED AREAS AND SCHEDULED TRIBES

PART I

GENERAL

1. *Interpretation.*—In this Schedule, unless the context otherwise requires, the expression "State" means a State for the time being specified in Part I or Part III of the First Schedule.

2. *Executive power of a State in scheduled areas.*—Subject to the provisions of this Schedule, the executive power of a State extends to the scheduled areas therein.

3. *Report by the Governor or Ruler to the Government of India regarding the administration of the Scheduled areas.*—The Governor or Ruler of each State having scheduled areas therein shall annually, or whenever so required by the Government of India, make a report to that Government regarding the administration of the scheduled areas in that State and the executive power of the Union shall extend to the giving of directions to the State as to the administration of the said areas.

*CAD, Vol. IX, 5th September 1949, pp. 965-967.

PART II

Administration and Control of Scheduled Areas and Scheduled Tribes

4. *Tribes Advisory Council.—(1)* There shall be established in each State having scheduled areas therein and, if the President so directs, also in any State having scheduled tribes but not scheduled areas therein, a Tribes Advisory Council consisting of not more than twenty members of whom as nearly as may be, three-fourths shall be the representatives of the scheduled tribes in the Legislative Assembly of the State :

'Provided that if the number of representatives of the scheduled tribes in the Legislative Assembly of the State is less than the number of seats in the Tribes Advisory Council to be filled by such representatives, the remaining seats shall be filled by other members of those tribes.

(2) It shall be the duty of the Tribes Advisory Council to advise on such matters pertaining to the welfare and advancement of the scheduled tribes in the State as may be referred to them by the Governor or Ruler, as the case may be.

(3) The Governor or Ruler may make rules prescribing or regulating as the case may be—

(a) the number of members of the Council, the mode of their appointment and the appointment of its Chairman and of the officers and servants thereof;

(b) the conduct of its meetings and its procedure in general; and

(c) all other incidental matters.

5. Law *Applicable to scheduled areas.—(1)* Notwithstanding anything contained in this Constitution the Governor of Tuler, as the case may be, may by public notification direct that any particular Act of Parliament of the Legislature of the State shall not apply to a scheduled area or any part there of in the State or shall apply to a scheduled area or any part thereof in the State subject to such exceptions and modifications as he may specify in the notification.

(2) Governor or Ruler as the case may be, may make regulations for the peace and good government of any area in a State which is for the time being a scheduled area.

In particular and without prejudice to the generality of the foregoing power, such regulations may—

(a) prohibit or restrict the transfer of land by or among members of the scheduled tribes in any such area;

(b) regulate the allotment of land to members of the scheduled tribes in such areas;

(c) regulate the carrying on of business as money-lender by persons who lend money to members of the scheduled tribes in such areas;

(3) In making any regulation as is referred to in sub-paragraph *(2)* of this paragraph the Governor or Ruler may repeal or amend any Act of Parliament or of the Legislature of the State or any existing law which is for the time being applicable to the area in question.

(4) All regulations made under this paragraph shall be submitted forthwith to the President and until assented to by him shall have no effect.

(5) No regulation shall be made under this paragraph unless the Governor or the Ruler making the regulation has in the case where there is a Tribes Advisory Council for the State, consulted such Council.

PART III

SCHEDULED AREAS

6. *Scheduled Areas.—(1)* In this Constitution, the expression "scheduled areas" means such areas as the President may by order declare to be scheduled areas.

(2) The President may at any time by order—

(a) direct that the whole or any specified part of a scheduled area shall cease to be a scheduled area or a part of such area;

(b) alter, but only by way of rectification of boundaries, any scheduled area;

(c) on any alteration of the boundaries of a State or on the admission into the Union or the establishment of a new State, declare any territory not previously included in any State to be, or to form part of a scheduled area, and any such older may contain such incidental and consequential provisions as appear to the President to be necessary and proper, but save as aforesaid, the order made under sub-paragraph *(1)* of this paragraph shall not be varied by any subsequent order.

PART IV

AMENDMENT OF THE SCHEDULE

7. *Amendment of the Schedule.—(1)* Parliament may from time to time by law amend by way of addition, variation or repeal any of the provisions of this Schedule and when the Schedule is so amended any reference to this schedule in this Constitution shall be construed as a reference to such schedule as so amended.

(2) No such law as is mentioned in sub-paragraph (1) of this paragraph shall be deemed to be an amendment of this Constitution for purposes of article 304 thereof."

I would like very briefly to explain the principal changes which have been made in the Fifth Schedule as amended and put forward before the House. The first important change is in paragraph 4 which deals with the creation of the Tribes Advisory Council. As the paragraph originally stood in the Draft Constitution, it was obligatory to have a Tribes Advisory Council in every state where there were scheduled areas or scheduled tribes. It was felt that there was no necessity by the Constitution to create an Advisory Council for a State where there were some members of the Scheduled tribes living in some part of the State but which had no scheduled area. It was felt that if there was a necessity for creating an Advisory Council for the purposes of the scheduled tribes who are not living in a scheduled area, it would be better to leave that matter to the President whether or not to creat an Advisory Council. Consequently the words "and, if the President so directs, also in any State having scheduled tribes but not scheduled areas therein, a Tribes Advisory Council". In the case of scheduled areas there is an obligation to create an Advisory Council. In the case of scheduled tribes it is not obligatory by the Constitution to create an Advisory Council but it is left to the-discretion of the President.

The other paragraph which has undergone an important change is paragraph 5. Paragraph 5 deals with the applicability of the laws made by Parliament and by the local Legislature to the scheduled areas. Paragraph 5, as it originally stood, required that if the Tribes Advisory Council directed that the law made by Parliament or made by the local Legislature should be made applicable to the scheduled areas in a modified form, then the Governor was bound to carry out the order or the decision of the Tribes Advisory Council. It was felt that it would be much better to let the Governor have the discretion in the matter of the application of the laws made by Parliament or by the local Legislature to the scheduled areas and that his discretion should not be controlled absolutely, as it was proposed to be done by the original provision contained in paragraph 5.

The other important thing to which I should like to call the attention of honourable Members is to paragraph 6. Paragraph 6, as originally drafted, set out a scheduled of what are to be scheduled areas. This provision has become necessary particularly because it is not possible at this stage to know what are going to be the scheduled areas in States in Part III. It is felt that both for meeting the difficulty to which I have referred as well as to make the provisions elastic, it would be much better to leave the power with the President rather than to have a definite part dealing with the scheduled areas.

Another important amendment to which I should like to draw attention is paragraph 7 which is included in Part IV and which deals with the Amendment of the Fifth Schedule. Originally, as the paragraph stood, there was no provision for the amendment of the Fifth Schedule. It is now provided that Parliament may amend this Schedule and I think it is desirable that Parliament should have the power to amend this Schedule. It is no use of creating a sort of a State within a State and it is not desirable that this kind of special provision under which certain tribes would be excluded from the general operation of the law made by the legislature as well as Parliament and the provision contained in sub-paragraph (*2*) of paragraph 5, where, so to say, 'the Governor is constituted a law-making body for making regulations of certain character which are mentioned in *(a), (b)* and *(c)* and which are to have over-riding powers in so far as they relate to these matters over any law made by Parliament or by the legislature, should not be sterotyped for all times and that it should be open to Parliament to make such changes as time and circumstances may require. Consequently, it has been provided in the new Paragraph 7 of Part

IV that Parliament shall have such power to make such amendments as it finds necessary and any such amendment of the Schedule shall not be deemed to be an amendment of the Constitution, but shall be made by the ordinary process of law.

I may mention that the Drafting Committee in putting forth this new Schedule had discussed the matter with the representatives of the provinces who are concerned with this particular matter, namely of scheduled areas and scheduled tribes. We had also taken into consideration the opinion of my honourable Friend, Mr. Thakkar, who knows a great deal about this matter and I may say without contradiction that this new schedule has the approval of all the parties who are concerned in this matter, and I hope that the House will have no difficulty in accepting the new Schedule in place of the old one.

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***Mr. President :** So far as I can see, there is no other amendment to the Fifth Schedule as now proposed.

Prof. Shibban Lal Saksena : I have some amendments.

Mr. President : Coming at the last moment, these amendments have not been circulated to Members. They came in at 8.58 this morning.

The Honourable Dr. B. R. Ambedkar : I have no idea about them. These should not be allowed.

Mr. President : If you have any amendments, you may make your observations. I may tell the House that I have a set of new amendments sent in by Prof. Shibban Lal Saksena and Dr. Deshmukh.

The Honourable Dr. B. R. Ambedkar : We have no copies. We do not know what they are talking about.

Mr. President : Dr. Deshmukh's amendment came in at 9.20 in the morning. Prof. Saksena's came in at 8.58 in the morning. Technically you are just before the commencement of the session but I think it is very inconvenient to the other Members.

Dr. P. S. Deshmukh (C. P. & Berar: General)**:** My amendments are of a drafting nature.

Mr. President : Very well, they will be handed over to the Drafting Committee. I do not think there is any substance in any of your amendments, Prof. Saksena ?

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*CAD, Vol. IX, 5th September 1949, pp. 978-979.

***Mr. President :** I wish to close the discussion now. Does Dr. Ambedkar wish to say anything?

The Honourable Dr. B. R. Ambedkar : Mr. Munshi has said everything that was needed to be said and I do not think I can usefully add anything.

Mr. President : Then I shall put the amendments to vote now.

Mr. Naziruddin Ahmad : My amendments need not be put to vote, but they could be considered by the Drafting Committee.

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Paragraph 3 was added to the Fifth Schedule.

SIXTH SCHEDULE

†Mr. President : We now go to the Sixth Schedule.

The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That in sub-paragraph *(1)* of paragraph 1, before the words, 'The tribal areas' the words 'Subject to the provisions of this paragraph' be inserted."

Originally, the draft merely said that the Tribal areas were those which were included in the table attached to this Schedule. There was no power given to define the boundaries of those areas included in the Table. It is felt that it is necessary to give the Governor the power to define the boundaries of those areas, included in the Table. In order to provide for this power for the Governor, it is necessary to add the words which are contained in this amendment.

Mr. President : Amendment number 99 also relates to paragraph 1.

The Honourable Dr. B. R. Ambedkar : May I move that?

Mr. President : Yes.

The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That for sub-paragraph *(3)* of paragraph 1, the following sub-paragraph be substituted :—

'*(3)* The Governor may, by public notification—

(a) include any area in Part I of the said Table,

(b) create a new autonomous district,

(c) increase the area of any autonomous district,

(d) diminish the area of any autonomous district,

(e) unite two or more autonomous districts or parts thereof so as to form one autonomous district,

(f) define the boundaries of any autonomous district:

Provided that no order shall be made by the Governor under clauses *(b), (c), (d)* and *(e)* of this sub-paragraph except after consideration of the report of a Commission appointed under sub-paragraph *(1)* of paragraph 14 of this Schedule.' "

*CAD, Vol. IX, 3rd September 1949, p. 999.

†*Ibid.,* pp. 1001-1002.

In this amendment, the new things to which attention must be drawn are included in sub-clauses *(e)* and *(f)* of sub-paragraph *(3)*. As necessary because it may be required, in any particular state of affairs, that two or more autonomous districts may be united together. The power contained in sub-clause (f) is also necessary because it may be desirable to define the boundaries in case there is any particular dispute between the different tribes.

The proviso introduces a change. By comparing the proviso with the original provisos, it will be seen that there were to provisos to subparagraph *(3)*. In the first proviso, the Governor could act under clause *(b)* or clause *(c)* on the recommendation of a Commission. But, if he wanted to act under clauses *(d)* or *(e)* he was required to have a resolution of the District Councils of the Autonomous Districts concerned. It is felt that this distinction made by the two provisos for the different parts of sub-paragraph *(3)* is not necessary. It is better to make it uniform by requiring the Governor to act after consideration of the report of a Commission which is proposed to be appointed under sub-paragraph *(1)* of paragraph 14 of this Schedule.

Mr. President : As regards this Schedule, as the Schedule as a whole has not been changed but only certain amendments to some of the paragraphs have been suggested, I propose to take this paragraph by paragraph. Regarding the first para, these are the two amendments which have been moved on behalf of the Drafting Committee. I will now take the other amendments of which notice has been given. There are some printed in the second volume of the list of amendments.

(Amendments 3489, 3490 and 3491 were not moved)

There is one amendment that paragraph 1 to 16 be deleted. I do not know whether to take it.

The Honourable Dr. B. R. Ambedkar : That need not be taken.

***Mr. President :** ...Dr. Ambedkar, would you like to say anything?

The Honourable Dr. B. R. Ambedkar : Sir, there are just two points which have been raised in the course of the remarks made on these amendments which call for reply. The first question is the one, which was raised by Mr. Chaliha. I must say I was somewhat surprised at the amendment tabled by Mr. Chaliha, because like the Fifth Schedule the Sixth Schedule also has arisen, so to say, out of an agreement between the Drafting Committee and the Premier of Assam, my Friend,

*CAD, Vol. IX, 5th September 1949, pp. 1004-1005.

Mr. Nichols Roy and at which conference Mr. Chaliha also was present, and he accepted the new schedule as amended by the Drafting Committee. However, it cannot take long to dispel the doubt he has in his mind as to who would constitute this Commission, who would be its members, and all matters relating to the Commission. I think if Mr. Chaliha had only read carefully the wroding of the Sixth Schedule he would have seen that in appointing the Commission the Governor is not going to act in his discretion. There is no discretion left in the Governor. That being so, it is quite obvious that in consulting the Commission, and defining its terms of reference, the Governor would be guided by the advice of the local ministers, and I do not think, therefore, there need be any fears such as the one that he has expressed.

Now, with regard to the amendment of my Friend, Mr. Brajeshwar Prasad, this is the one amendment I think in which so far as I am concerned, I feel that he has urged some serious argument. He says that the whole of the tribal area should be lifted from the Province of Assam and should be made a Centrally administered area, because there cannot be any other effect of the amendment which he has put forward except the one which I have suggested. It means practically constituting the area as a Centrally administered area. But he seems to have forgotten two things. The first is this. Although we have constituted autonomous districts for the purpose of the satisfaction of the tribal people living in those areas that they will have, at any rate for the first ten years, autonomy in the matter of the government of their areas, we have now here provided that the autonomous districts shall not constitute part of the province of Assam. That being so, it is very difficult to leave part of the province to be governed by the Governor of the province and part of the province to be administered as a Centrally administered area.

The second point he has forgotten is this. He has forgotten to take note : of the fact that even in constituting the autonomous areas, the Drafting Committee has not forgotten that there are what are called certain "frontier areas", bordering on the autonomous districts. It has been provided in this Schedule that so far as the administration of these frontier areas of Assam is concerned, the Governor would be acting under the President. Consequently whatever strategic importance, the frontier areas may have, the Centre would certainly have ample jurisdiction to see that none of the disturbing factors to which he has made reference will find any place there. I therefore, think that all these amendments are unnecessary and out of place.

Shri Kuladhar Chaliha : Is amendment No. 139 accepted?

The Honourable Dr. B. R. Ambedkar : I cannot say off-hand now. I am only dealing with your amendment and the amendment of Mr. Brajeshwar Prasad, and I think they are unnecessary.

Mr. President : And amendment No. 139 has not been moved at all. It deals with paragraph 14.

The Honourable Dr. B. R. Ambedkar : We shall deal with it when we reach paragraph 14.

[Amendment of Dr. Ambedkar as mentioned above was adopted. Others were rejected. Paragraph 1, as amended, was added to the Sixth Schedule.]

SIXTH SCHEDULE—*(contd.)*

(Paragraph 2)

***The Honourable Dr. B. R. Ambedkar :** (Bombay : General): Sir, I beg to move :

"That in sub-paragraph *(1)* of paragraph 2, for the words 'not less than twenty and not more than forty members' the words 'not more than twenty-four members' be substituted."

This amendment is introduced because it was felt that the original number forty might be too large.

Sir, I move:

"That sub-paragraph *(2)* of paragraph 2 be deleted."

The reason why the deletion is made is because we propose to leave the delimitation of constituencies to rules rather than provide it in the Constitution itself.

Sir, I move:

"That after clause *(d)* of sub-paragraph *(7)* of paragraph 2, the following clause be added :—

'*(dd)* the term of office of members of such Councils.' "

This was omitted from the rule-making powers.

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†The Honourable Dr. B. R. Ambedkar : If you like, Sir, I would make a few observations at this stage and then probably many people may not find it necessary to speak and all these doubts, I think, would have been dispelled.

Prof. Shibban Lal Saksena : I only wanted to say that if this scheme of things is going to be put in a permanent Constitution that will mean that some areas of Assam shall remain beyond the control of Parliament for ever....

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*CAD, Vol. IX, 6th September 1949, p. 1007.

†*Ibid.,* p. 1013.

Mr. President : Power is given to the Parliament under the paragraph 20 to repeal the whole of the Schedule, if it thinks necessary. What more do you want?

Prof. Shibban Lal Saksena : Sir, I have referred to this fact in my speech.

Mr. President: Does Dr. Ambedkar like to say anything at this stage?

The Honourable Dr. B. R. Ambedkar : If you like, Sir, now that honourable Members want to speak, let them speak.

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***Mr. President:** I will call upon Dr. Ambedkar to reply. I think, we had better finish this now. We have had enough discussion.

The Honourable Dr. B. R. Ambedkar : We have debated this question for two hours and I think the debate was mostly on points that are really not concerned with the Schedule. It is time that we attended to the Schedule itself, unless any particular Member has something very new to say, we need not continue the debate.

Mr. President : I have already called upon you to reply.

The Honourable Dr. B. R. Ambedkar : I am very much obliged to you. Sir, we have two amendments before us and I propose to deal with them before I reply to the general debate.

The first amendment is No. 100 moved by Mr. Chaliha. With regard to this, I do not see how it is appropriate in sub-paragraph *(5)* of paragraph 2. Sub-paragraph *(5)* merely deals with the jurisdiction of the Regional and District Councils. It has nothing to do with any directions that may be given by the Governor or the legislature of the State. We are simply creating a District Council and a Regional Council. If the honourable Member wanted to move any such amendment he ought to do to the appropriate provision. This Schedule deals with the subject matter with which the District Council and the Regional Council will be concerned. So I fail to understand altogether the appropriateness of the amendment at this particular place.

With regard to amendment No. 257 whereby the honourable Member seeks to limit the number on the Council to fifteen, it seems to me, again, quite unnecessary, because my own amendment says, 'not more than twenty-four'. Twenty-four is the maximum. Consequently, if it was necessary to have a Council of less than fifteen, even then my

*CAD, Vol. IX, 6th September 1949, pp. 1024-1028.

†*Ibid.*

amendment should suffice. I therefore say that amendment number 257 is quite unnecessary.

Now, having disposed of these amendments, I will turn to the general debate on the question whether there should be Regional and District Councils for the purpose of the tribals living in Assam. Sir, in dealing with this matter, I am sorry to say, many Members who took part in the debate did not properly study the provisions contained in this Sixth Schedule. I am sure about it that if they had properly studied the provisions of this schedule they would not have raised the point which they raised that by creating these Regional and District Councils we were creating a kind of segregated population. It does nothing of the kind.

Now, the position of the tribals in Assam stands on a somewhat different footing from the position of the tribals in other parts of India.

Shri A. V. Thakkar : Hill tribals please.

The Honourable Dr. B. R. Ambedkar : I am not concerned with the terminology. I am speaking of Assam and other areas for the moment. The difference seems to be this. The tribal people in areas other than Assam are more or less Hinduised, more or less assimilated with the civilisation and culture of the majority of the people in whose midst they live. With regard to the tribals in Assam that is not the case. Their roots are still in their own civilization and their own culture. They have not adopted, mainly or in a large part, either the modes or the manners of the Hindus who surround them. Their laws of inheritance, their laws of marriage, customs and so on are quite different from that of the Hindus. I think that is the main distinction which influenced us to have a different sort of scheme for Assam from the one we have provided for other territories. In other words, the position of the tribals of Assam, whatever may be the reason for it, is somewhat analogous to the position of the red Indians in the United States as against the white emigrants there. Now, what did the United States do with regard to the Red Indians? So far as I am aware, what they did was to create what are called Reservations or Boundaries within which the Red indians lived. They are a republic by themselves. No doubt, by the law of the United States they are citizens of the United States. But that is only a nominal allegiance to the Constitution of the United States. Factually they are a separate, independent people. It was felt by the United States that their laws and modes of living, their habits and manners of life were so distinct that it would be dangerous to bring them at one shot, so

to say, within the range of the laws made by the white people for white persons and for the purpose of the white civilization.

I agree that we have been creating Regional and District Councils to some extent on the lines which were adopted by the United States for the purpose of the Red Indians. But my point is that those who have based their criticism of this Schedule on this fact, namely that we are creating Regional and District Councils, have altogether failed to understand the binding factors which we have introduced in this Constitution. I should therefore like to refer to some of the provisions which nullify this segregation, so to say.

The first thing that we have done is this: That we have provided that the executive authority of the Government of Assam shall extend not merely to non-tribal areas in Assam, but also to the tribal areas, that is to say, the executive authority of the Assam Government will be exercised even in those areas which are covered by the autonomous districts. This, as will be seen, is a great improvement over the provisions contained in the Government of India Act, 1935. In the provisions contained in that Act, the executive was divided into two categories, one was called the Government of the province and the other executive was called the Governor in his discretion, so far as the tribal areas were concerned. This applied not only to the tribal areas in Assam, but also to completely excluded areas in other areas. The executive authority which operated upon those areas was not the executive of the province, but the Governor in his discretion. We have abolished that distinction so that the whole of the tribal area including those in the autonomous districts is now under the authority of the provincial Government. The thing which is a binding thing, to which honourable Members have paid no attention is this. That, barring such functions as law-making in certain specified fields such as money-lending, land and so on, and barring certain judicial functions which are to be exercised in the village panchayats or the Regional Councils or the District Councils, the authority of Parliament as well as the authority of the Assam Legislature extends over the Regional Councils and the District Councils. They are not immune from the authority of Parliament in the matter of lawmaking, nor are they immune—and that is the aim of the new amendment—from the jurisdiction of the High Court or the Supreme Court. This, I submit, is one binding influence.

The other binding influence is this : that the laws made by Parliament and the laws made by the Legislature of Assam will automatically apply

to these Regional Councils and to the District Councils unless the Governor thinks that they ought not to apply. In other words, the burden is thrown upon the Governor to show why the law which is made by the Legislature of Assam or by the Parliament should not apply. Generally, the laws made by the local Legislature and the laws made by Parliament will also be applicable to these areas. I say that this is another unifying influence. Yet another unifying influence to which I must make reference is this. We are not saying that the political authority or power we have given to the tribal people through the constitution of the Regional Councils or the district Councils is all the sphere of influence to which they will be entitled. On the other hand, we have provided that the tribal people who will have Regional Councils and District Councils will have enough representation in the Legislature of Assam itself, as well as in Parliament, so that they will play their part in making laws for Assam and also in making laws for the whole of India. Now, if these cycles of participation, if I may say so, to which I have referred, *viz.,* representation in the legislature of Assam and representation in Parliament, the application of the laws made by Parliament and the application of the laws made by the Assam legislature are not binding forces, I would like to know what greater binding forces we can provide for the purpose of unifying the Regional Councils and the district Councils with the political life of the province as a whole.

I do not therefore agree that in creating the Regional Councils and the district Councils, we have cut up the population of Assam into two water-tight compartments, *viz.,* tribals and non-tribals. On the other hand, we have provided, as I have stated, many cycles of participation in which both can politically come together, influence each other, associate themselves with each other, and learn something from one another. I am sure about it that the argument which has been urged against the provision of Regional Councils and District Councils is entirely based upon a misunderstanding and inadequate reading of the other provisions contained in this Schedule.

Sir, I was rather surprised at the attitude taken by my Friend, Mr. Chaliha, in moving his amendment, also at the attitude of my Friend, Mr. Rohini Kumar Chaudhari. I feel that they are not now a happy and united family. What is the cause of it I do not understand, but I can say that, when these amendments were made, they were made with the consent of Mr. Chaliha, they were made with the consent of the Premier of Assam, and also with the consent of my friend, Mr. Nichols Roy, who is a principal

party concerned in this. I see they are now indulging in criticising each other because of factors which lie outside this Schedule. I cannot find any other reason for this dissension, for this open dissension and hostility which has been exhibited by one against the other, and I do not wish therefore to enter into what I regard is a purely domestic quarrel.

Shri Rohini Kumar Chaudhari : Is the Honourable Dr. Ambedkar entitled to make the insinuations against us?

The Honourable Dr. B. R. Ambedkar : I am not making any insinuations; I was only saying, Sir, that it was a domestic quarrel into which I would not enter. My own view is that we have made the best provision...*

Shri Kuladhar Chaliha : I object to Dr. Ambedkar imputing motives for honest opinion expressed.

The Honourable Dr. B. R. Ambedkar : I am not imputing any motives. Mr. Chaliha was a party to every change that has been made in this Schedule. I would like him to deny that fact. Can he deny it?

Shri Kuladhar Chaliha : Yes, I deny. I told Mr. Bardoloi that I did not agree with some things.

The Honourable Dr. B. R. Ambedkar : He might have whispered in the ears of Mr. Bardoloi. He did not say a single word against these changes in the Drafting Committee. I did not get his signature as I did in certain other cases, because I do not want any Member to go back upon his word. However, what I was saying was that the Regional Councils and the District Councils have been given certain autonomy for certain purposes and at the same time they have been bound together in the life of the province and in the life of the country as a whole. If these circumstances which are of a unifying character, do not bind, do not bring the tribal people with the rest of the plains people in Assam and in the country, then the cause for such an unfortunate event must be found in something else. My friend, Mr. Rohini Kumar Chaudhari, stated that if you create the Regional Councils, the tribal areas will go the way of Tibet and go the way of some other area. I do not know that that prophecy could be confined only to the tribal areas. I fear that Assam itself might go. For that we cannot make any provision in the Constitution. I am sure about it.

Shri B. Das (Orissa : General) **:** May I ask Dr. Ambedkar if he is aware that British agents are still working on the Assam—Burma border and that they have been responsible for the troubles between the Karens and the Burmans, and whether those same British agents are not still working in the tribal areas of Assam? After hearing the speech of my Friend, Rev.

*Dots indicate interruption.

Nichols Roy, I think that he wants the tribal areas to be a separate entity so that British influence could permeate these tribals areas. As a Member of the Government, Dr. Ambedkar knows well—and I have known something—about these tribal areas.

The Honourable Dr. B. R. Ambedkar : All I can say is that it is perfectly possible to devise some means by which we can eliminate this foreign influence altogether.

Shri B. Das: The Drafting Committee...

The Honourable Dr. B. R. Ambedkar : The Drafting Committee has nothing to do with eliminating this foreign influence. It is the function of some other body but I can assure my friend that it would not be difficult to get rid of this foreign influence.

[Paragraph 2, as amended was added to the Schedule.]

(Paragraph 3)

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***Shri Kuladhar Chaliha :** ...In fact this amendment is the same as mine and therefore Dr. Ambedkar should have accepted mine than by adding like this and watering down and making a fuss of making laws. It is better to accept by amendment No. 113 than the amendment of the Drafting Committee.

The Honourable Dr. B. R. Ambedkar : The honourable Member has already moved it for me. If you will take it as if moved by me, it will save time.

Mr. President : I take it that he has moved.

The Honourable Dr. B. R. Ambedkar : Shall I move it formally?

Mr. President : Yes.

The Honourable Dr. B. R. Ambedkar : Sir, I move:

"That after sub-paragraph *(2)* of paragraph 3, the following sub-paragraph be added :—

'*(3)* All laws made under this paragraph shall be submitted forthwith to the Governor and until assented to by him shall have no effect.' "

Shri Rohini Kumar Chaudhuri : Mr. President, Sir, I beg to move:

"That in amendment No. 114 of List I (Seventh Week), for the proposed sub-paragraph *(3)* of paragraph 3, the following be substituted :—

'*(3)* All laws made under this paragraph shall be submitted to the Governor who shall forthwith place them before the legislature of the State and until agreed to by the Legislature and assented to by the Governor such laws shall have no effect'."

The amendment was negatived

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*CAD, Vol. IX, 6th September 1949, p. 1029.

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***Mr. President:** Dr. Ambedkar, do you wish to say anything? I do not think there is anything in this to discuss.

The honourable Dr. B. R. Ambedkar : Sir, with regard to my Friend Mr. Chaliha's amendment No. 113, I really do not understand what it means. It says: "The Governor shall make laws and regulations and entrust the District Council and Regional Councils with such powers as the State legislature may approve." I cannot understand what it means. I am therefore unable to say that I accept it.

With regard to my amendment and the amendment moved by my honourable Friend Mr. Rohini Kumar Chaudhari, there is hardly any difference except a failure to understand on the part of my honourable Friend as to what the word 'Governor' means. He says that the laws shall be approved by the legislature of Assams. According to my amendment, the laws will be approved by the Governor as advised by the Ministry of Assam, because in all this scheme we are dropping the words 'in his discretion'. Wherever the word Governor occurs, it means Governor acting on the advice of the Ministry. I should like to ask him whether he really thinks there is very serious difference between a law being approved by the Governor acting on the advice of the Ministry and a law being approved by the legislature of Assam itself. I think my scheme is much more consistent with the originals of the scheme, namely, that the tribal people themselves should have a certain inherent right given by the constitution to make laws in certain respects. That being so, my paragraph *(3)* is much more consistent with the scheme and gives the Assam Ministry some power to advice the Governor as to whether he should accept or not accept any law. The intervention of the legislature is quite unnecessary.

Shri Rohini Kumar Chaudhari : If I have understood the Honourable Dr. Ambedkar aright, I would be prepared to withdraw my amendment. I mean, if the Governor is to be advised by the Ministry and the Ministry takes the opinion of the legislature, then, I have no objection. If the advice of the Ministry means that the Ministry will take no such action until the house has had an opportunity of discussing it, then, I think it is the same thing which I want and which Dr. Ambedkar wants. In that case, I shall withdraw.

The Honourable dr. B. R. Ambedkar : I think he is under standing more than what I have said. I am not prepared to give him that assurance at all.

*CAD, Vol. IX, 6th September 1949, p. 1031.

[Amendment was negatived. Paragraph 3, as amended, was added to the Schedule.]

(*Paragraph 4*)

***The Honourable Dr. B. R. Ambedkar:** Sir, I move :

"That in sub-paragraph (1) of paragraph 4, the words and figures 'or those arising out of any law made under paragraph 3 of this Schedule' be deleted.' "

They are unnecessary.

Sir, I also move:

"That in sub-paragraph *(2)* of paragraph 4, for the words 'shall have appellate jurisdiction over such suits or cases and the decision of such Regional or District Council or Court shall be final' the words 'except the High Court and the Supreme Court shall have jurisdiction over such suits or cases' be substituted.' "

Sir, I also move:

"That after sub-paragraph *(2)* of paragraph 4 the following sub-paragraph be added :—

(3) the High Court of Assam shall have and exercise such jurisdiction over the suits and cases to which the provisions of sub-paragraph *(2)* of this paragraph apply, as the Governor may from time to time by order specify'."

This amendment makes an important change. Originally under sub-paragraph *(2)* of Paragraph 4 the decision of the District Court was final. Now we have provided that they shall be subject to appellate jurisdiction of the High Court and the Supreme Court which was a necessary provision.

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†The Honourable Dr. B. R. Ambedkar : Sir, I must say that I was somewhat surprised by my honourable Friend's putting me these questions. I think he could have answered them himself. But I will now answer them as he has put them to me.

With regard to the first question of whether lawyers will be allowed to appear in courts established in the tribal area, the answer is very simple. In the first place, the Provincial Government will have the power, under the entry in List III dealing with professions, to make any law with regard to the legal profession; and if under that law they provide that lawyers shall be entitled to appear in the courts in the districts which are known as autonomous districts, then that law will apply unless the governor thinks that that law should not apply. Therefore, that matter is quite clear.

With regard to the question of appeals from the decisions of the tribunals which are created under this paragraph, the answer again is quite simple. The paragraph first provides that a court of appeal may be

*CAD, Vol. IX, 6th September 1949, p. 1033.

†*Ibid.*, pp. 1035-1036.

constituted there. Now the Governor or the Provincial Ministry may either constitute a new court of appeal in which case appeals will go to that court, or may declare the District Judge's Court as a court of appeal which will hear appeals from decisions made by the village panchayats and other courts. Therefore, there again there is a provision for appeal. According to my amendment now, there may be a further appeal from the District Court of appeal either to the High Court or to the Supreme Court.

Shri Rohini Kumar Chaudhari : I particularly read out these lines of sub-paragraph *(2)*:—

> "...the Regional council for an autonomous region or any court constituted in this behalf by the Regional Council or, if in respect of any area within an autonomous district there is no Regional Council, the District Council for such district, or any court constituted in this behalf by the District Council, shall exercise the powers of a Court of Appeal in respect of all suits and cases between the parties all of whom belong to scheduled tribes..."

What would happen when one of the parties is not a member of a scheduled tribe?

The Honourable Dr. B. R. Ambedkar : If the parties are such that one is a tribal and the other a non-tribal, then the ordinary law will apply.

Shri Rohini Kumar Chaudhari : Where have you provided it?

The Honourable Dr. B. R. Ambedkar : It follows from it. Even now it says, "where the parties are..."*. I do not think there is any difficulty and I hope my friend has understood it.

Shri Rohini Kumar Chaudhari : There is no provision made anywhere, Sir.

The Honourable Dr. B. R. Ambedkar : The jurisdiction of the ordinary court is ousted only to the extent provided for in paragraph 4. Otherwise the jurisdiction of the ordinary courts continues. These will not be the only courts in this area; there will be other courts established by the Provincial Government for the purpose of administration of the general law of the Province.

[Paragraph 4, as amended, was added to the Schedule.]

(Paragraph 9)

†**The Honourable Dr. B. R. Ambedkar :** Sir, I move:

> "That sub-paragraph *(1)* of paragraph 9 be deleted."

The paragraph refers to licence or lease granted by the Government of Assam for the prospecting for or the extraction of minerals. That matter now is with the Central Government and therefore it is unnecessary to have this sub-paragraph here.

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*Dots indicate interruption.

†CAD, Vol. IX, 6th September 1949, p. 1039.

(Paragraph 10)

***The Honourable Dr. B. R. Ambedkar :** Sir, I move:

"That in sub-paragraph *(2)* of paragraph 10, for the words 'Such regulations may' the words 'In particular and without prejudice to the generality of the foregoing power, such regulations may' be substituted."

It is merely a drafting change.

I also move:

"That after sub-paragraph *(2)* of paragraph 10, the following sub-paragraph be added :—

'*(3)* All regulations made under this paragraph shall be submitted forthwith to the Governor and, until assented to by him, shall have no effect'."

(The amendment was adopted)

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†The Honourable Dr. B. R. Ambedkar : May I say a word or two with regard to matters about which my friend is terribly excited? There are three things provided by way of safeguards which my friend has not taken into consideration. The first provision to paragraph 10 says: "Provided that no such regulations may be made under this paragraph unless they are passed by a majority of not less than three-fourths of the total membership of the District Council:" This is one safeguard. The second safeguard is contained on page 184 of the Draft Constitution. It says: 'Provided further that it shall not be competent under any such regulations to refuse the grant of a licence to a money-lender or a trader who has been carrying on business within the district since before the time of the making of such regulations." Therefore, existing rights are not affected.

The third thing to which my friend has not cared to pay any attention is the amendment I have moved, viz., "All regulations made under this paragraph shall be submitted forthwith to the Governor, and until assented to by him shall have no effect."

These precautions are there.

As regards his remarks that what the Drafting Committee has done is a barbaric thing, not done even by the British Government. I may point out that he forgets the fact that this excluded area was entirely within the discretion of the Governor; it was his fault. We have altogether taken away that discretion of the Governor. He can now act only subject to the advice of the Ministry.

*CAD, Vol. IX, 6th September 1949, p. 1041.

†*Ibid.,* pp. 1041-1042.

I wonder now whether my Friend Shri Rohini Kumar Chaudhari is satisfied with the explanation, I have given ?

Honourable Members : Not at all.

The Honourable Dr. B. R. Ambedkar : I know you want something more than what I can give. You are like hungry David Coperfield asking for more gruel.

[Paragraph 10, as amended by Dr. Ambedkar's above mentioned amendment, was added to the Schedule.]

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(Paragraph 12)

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***The Honourable Dr. B. R. Ambedkar :** May I draw attention to my amendment No. 128 on the Order Paper? As that is going to be moved, this amendment of my friend will be quite unnecessary. Therein I am proposing the omission of the words objected to by him.

Shri Kuladhar Chaliha : I am glad that for once some kind of sense has dawned upon the Drafting Committee. It is fortunate that for the first time sense has dawned on the Drafting Committee.

The Honourable Dr. B. R. Ambedkar : That is because for the first time you have convinced me by your arguments.

Sir, I will now move my amendment No. 128 :

"That in clause *(b)* of paragraph 12, for the words 'with the approval of the District Council for such district or the Regional Council for such region specify in the notification, if a resolution recommending the issue of such direction is passed by such District Council or such Regional Council, as the case may be' the words 'specify in the notification' be substituted."

The Governor, by this amendment, is freed from the trammels of any resolution that may be passed by the District Council or the Regional Council. He can now act on the advice of the Ministry whether a particular law passed by Parliament or by the Legislature of Assam is to apply to that area or not.

[Amendment was adopted. Paragraph 12, as amended, was added to the Schedule.]

(Paragraph 13)

†Mr. President: Amendment No. 129.

The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That in paragraph 13, after the words 'the State of Assam shall' the words 'be first placed before the District Council for discussion and then after such discussion' be inserted."

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*CAD, Vol. IX, 6th September 1949, p. 1043.

†*Ibid.,* p. 1044.

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Shri Rohini Kumar Chaudhuri : Mr. President, Sir, I move ?

"That is amendment No. 129 above, in paragraph 13, after the words 'and then after such discussion' (proposed to be inserted) the words 'and such separate statement pertaining to autonomous districts shall be subject to such modifications and alterations as the State Legislature may make' be inserted."

Mr. President : Would you like to say anything, Dr. Ambedkar, about Mr. Rohini Kumar Chaudhuri's amendment?

The Honourable Dr. B. R. Ambedkar : I must complain that, although the words "Section 177" occur in the original draft, my Friend Mr. Rohini Kumar Chaudhuri has thought it fit to bring in this amendment No. 130. The effect of regarding it as a financial statement within the meaning of 177 means that it will be discussed by the Assam Legislature and, voted upon. Amendments may be moved and the appropriation law would apply. The only thing is that before the Assam Legislature deals with it, it is desirable to allow the District Councils to have their say as to how the money should be allocated. I hope he is now content.

(Paragraph 13, as amended, was added to the Schedule)

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(Paragraph 14)

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***The Honourable Dr. B. R. Ambedkar :** Sir, I do not think that this amendment is necessary. So far as ...

Mr. President : You have yourself certain amendments to move first.

The Honourable Dr. B. R. Ambedkar : Yes, Sir, I will move them first. Sir, I move:

"That in sub-paragraph *(1)* of paragraph 14, after the words 'autonomous districts in the State' the words, brackets, letters and figures 'including matters specified in clauses *(b), (c), (d)* and *(e)* of sub-paragraph *(3)* of paragraph 1 of this Schedule' be inserted."

"That in sub-paragraph *(1)* of paragraph 14, after the words 'autonomous districts' in the two places where they occur, the words 'and autonomous regions' be inserted."

"That in clause *(a)* and *(b)* of sub-paragraph *(1)* of paragraph 14, after the words 'districts' in the two places where it occurs, the words 'and regions' be inserted."

"That in sub-paragraph *(3)* of paragraph 14, after the words 'autonomous districts' the words 'and autonomous regions' be inserted."

Some of these amendments are consequential. Others are purely verbal.

Shri Kuladhar Chaliha : Mr. President, Sir, I move :

"That with reference to amendment Nos. 3500 and 3501 of the List of Amendments (Vol. II), after clause *(c)* of sub-paragraph (1) of paragraph 14, the following new clause be added :—

*CAD, Vol. IX, 6th September 1949, pp. 1046-1048.

'*(d)* inclusion or exclusion of any tribal area from any district or Regional Council.' "

...I trust the Drafting Committee will reciprocate the kindness after all the unkindness they have shown and that they will accept this and include my amendment in *(d),* it will greatly improve the clause.

The Honourable Dr. B. R. Ambedkar : I should like to draw my honourable Friend's attention to the amendment which I moved to paragraph 1 of this schedule, in which the provisions of sub-paragraph *(3)* were altered in certain respects. This matter which he now wants to provide is to be regulated on the recommendation of the Commission. That paragraph has already been passed, and therefore, it is not necessary.

Shri Kuladhar Chaliha : Is it amendment No. 99 ?

The Honourable Dr. B. R. Ambedkar : Yes, it is 99.

Shri Kuladhar Chaliha : But yet you have limited the commission here in paragraph 14 to *(a), (b)* and *(c).* That is my difficulty.

The Honourable Dr. B. R. Ambedkar : That is what had been passed.

Shri Kuladhar Chaliha : It has already been passed, but all the same you have limited it in *(a), (b)* and *(c).*

The Honourable Dr. B. R. Ambedkar : If I may explain to my honourable Friend, the operation of sub-paragraph *(3)* which deals with the alterations in the tribal areas either by inclusion or exclusion, are divided into two categories. The first is this : Inclusion in any part of the said table which is *(a).* That the Governor can do, as the very start. For that no recommendation of Commission is necessary. But according to my amendment if action is to be taken under *(b), (c), (d)* and *(e),* then the Commission's recommendation is necessary and as I said that part has been passed by the House. It is not possible to re-open this now.

Shri Kuladhar Chalihar : You have limited it again with the consideration of the report of the Commission appointed under sub-paragraph *(1)* of paragraph 14 of this Schedule. You have provided amendment No. 99 but limited it again. I should like to hear what Dr. Ambedkar has to say about it.

The Honourable Dr. B. R. Ambedkar : It is not limited by paragraph 14.

Shri T.T. Krishnamachari : If the honourable Member will please look at amendment No. 134, which wants the inclusion of the words "including matters specified in clauses *(b), (c), (d)* and *(e)* of sub-paragraph *(3)* of paragraph 1 of this Schedule" after the words "autono-

mous districts in States" in sub-paragraph *(1)* of paragraph 14 then he will find the object that he has in mind has already been served by this amendment.

Shri Kuladhar Chaliha : Thank you, Sir.

Pandit Hirday Nath Kunzru (United Provinces : General): I have some difficulty in understanding this. The amendment moved by Mr. Chaliha is to the effect that the Commission that may be appointed by the Governor should consider not merely the inclusion of any new tribal area but also its exclusion. An area may be excluded from an existing tribal area without its being included in another tribal area and that thing has not been provided for here. All that the amendment No. 99 of Dr. Ambedkar provides is that an area may be taken out of one tribal area and united to another area but there is no power given to the Commission to inquire and to report about the desirability of excluding an area altogether. Only Parliament will have the power to exclude an area, from a tribal area, but without having the considered recommendations of the Commission before it because this Commission will not be empowered to deal with the matter.

The Honourable Dr. B. R. Ambedkar : If I may deal with my honourable Friend, Pandit Kunzru's difficulty, I think my honourable Friend has not clearly understood the purpose of Mr. Chaliha's amendment. Mr. Chaliha's amendment is "inclusion or exclusion of any tribal area from any District or Regional Council," that is to say, the diminution of the jurisdiction of the District or Regional Council. That is what Mr. Chaliha is speaking of. What my honourable Friend is speaking of is with the taking away altogether from an autonomous district any area and include it in the general territory of Assam. These are two quite different matters.

Pandit Hirday Nath Kunzru : Why should not the Commission be asked to report on that matter?

The Honourable Dr. B. R. Ambedkar: The Commission has got power to report. If my honourable Friend will read the provision, he will find the following : "The Government of Assam may at any time appoint a Commission to examine and report 'on any matter'. "Any matter" may include also the provisions contained in paragraph 1 and they are also specifically mentioned "specified by him relating to the administration of the autonomous districts in the State or may appoint a Commission to inquire into and report from time to time on the administration of Autonomous districts" includes matters specified, that is "any matters".

My amendment No. 134 I have moved in order to make it quite clear and not to lead to interpretation of the words "any matter". I have now specifically mentioned that these may "include matters specified in clauses *(b), (c), (d)* and *(e)* of sub-paragraph *(3)* of paragraph 1 of this Schedule," and these will be referred to the Commission. That is the purport of my amendment No. 134.

Pandit Hirday Nath Kunzru : I understand the purport of the amendment all right and I am well aware of the contents of clauses *(b), (c), (d)* and *(e)* of the paragraph but what I say is that the Commission that will be appointed to deal with any matter connected with the administration of the autonomous regions does not seem to me to have the power of reporting that an area already included in a tribal area may be excluded from it and amalgamated with an ordinary administered area.

The Honourable Dr. B. R. Ambedkar : My honourable Friend ought to refer to *(d)* of paragraph *(3)* of the said table.

Pandit Hirday Nath Kunzru : That has been removed by your own amendment.

The Honourable Dr. B. R. Ambedkar : That I think will have to be done by Parliament by law.

Pandit Hirday Nath Kunzru : Without having the considered recommendations of the Commission. Parliament should have before it the report of the Commission but now it will have to deal with the matter entirely on the strength of such knowledge as it may have.

The Honourable Dr. B. R. Ambedkar : This is a matter which is not within the competence of the Governor. As passed, the exclusion of any area from the tribal areas is a matter which is taken out of the purview of the Governor. It is left to Parliament to decide. This Commission is merely to guide the Governor to deal with matters which are mentioned in clauses *(b), (c), (d)* and *(e)* of sub-para. *(3).* Any matter which is outside it is a matter for Parliament. Parliament may appoint a Commission independently of this Commission and then legislate.

Prof. Shibban Lal Saksena : There is no provision for it.

The Honourable Dr. B. R. Ambedkar : No provision is necessary. Parliament may act upon the advice of the Assam Ministry. If Parliament thinks that that advice is not independent and that there should be independent evidence, Parliament is free to appoint a Commission and make an enquiry of its own.

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***Shri Rohini Kumar Chaudhuri : ...**If the option of the members from the province of Assam counts for anything in regard to the discussion on this Sixth Schedule which relates primarily to Assam, I think the Honourable Dr. Ambedkar would agree to accept any amendment. I think we are fairly unanimous—I do not know about the two Ministers, but the rest of us are unanimous—on the need for accepting this amendment.

Prof. Shibban Lal Saksena : The Governor is free to appoint anybody to the Commission.

The Honourable Dr. B. R. Ambedkar : There are no limitations at all on the Governor.

Shri Rohini Kumar Chaudhuri : I say two members should be elected by the legislature.

The Honourable Dr. B. R. Ambedkar : He is not prevented from doing so.

Shri Rohini Kumar Chaudhuri : There is no harm in saying that. A man may live or die. Why do you say, die? I want to say live. Please accept my amendment.

The Honourable Dr. B. R. Ambedkar : The Governor will proceed to appoint a Commission on the advice of the Ministry. You think your Ministry will not appoint two members from the legislature.

Shri Rohini Kumar Chaudhuri : I want them to be elected by legislature. I attach certain importance to election by the Assembly. I think the Honourable Dr. Ambedkar also used to give such importance; but he may change his mind now.

Mr. President : There are certain other amendments proposed by Mr. Brajeshwar Prasad : 207,—"President" for "Governor" ; 208,— "President" for "Governor"; 209,—"Parliament" for "State legislature"; 210,— "Union" for "Assam"; 211,—"Union" for "State"; 212,—"President" for "Governor"; 213,—"in the State of Assam" for "in the State".

Shri Brajeshwar Prasad : I do not want to move these.

Mr. President : All the amendments to this paragraph have been moved. Would you like to say anything, Dr. Ambedkar?

The Honourable Dr. B. R. Ambedkar : No.

*CAD, Vol. IX, 6th September 1949, p. 1049.

Mr. President : I would put the amendments now.

[Following amendments were accepted.]

1. "That for amendment Nos. 3500, 3501, and 3502 of the List of Amendments (Vol. II), the following be substituted :—

   "That for paragraph 14 of the Sixth Schedule, the following be substituted :—

   "The Governor of Assam as the agent of the President may at any time appoint a Commission consisting of not less than seven members, of whom not less than three shall be members of the scheduled tribes and the rest shall be chosen from the ranks of eminent anthropologists, retired judges of the Supreme Court and of the High Courts and men of science and letters, to examine and report on any matter specified by him relating to the administration of the autonomous districts and autonomous regions in the State, or may appoint a similar commission to inquire into and report from time to time on the administration of autonomous districts and autonomous regions in the State generally and in particular on—

   (a) the provision of educational, cultural, medical economic and religious facilities and communications in such districts and regions;

   (b) the need for any new or special legislation in respect of such districts and regions;

   (c) the administration of the laws, regulations and rules made by the District and Regional Councils, and define the procedure to be followed by such Commission.'"

2. "That in sub-paragraph *(1)* of paragraph 14 after the words 'autonomous districts' in the State the words, brackets, letters and figures 'including matters specified in clauses *(b), (c), (d)* and *(e)* of sub-paragraph *(3)* off paragraph 1 of this schedule' be inserted."

3. "That in sub-paragraph *(1)* of paragraph 14 after the words 'autonomous districts', in the two places where they occur, the words 'and autonomous regions' be inserted."

4. "That in clause *(a)* and *(b)* of sub-paragraph *(1)* of paragraph 14, after the word 'districts 'in the two places where it occurts, the words 'and regions' be inserted."

5. "That in sub-paragraph *(3)* of paragraph 14, after the words 'autonomous districts' the words 'and autonomous regions' be inserted."

The amendment was adopted.

[Paragraph 14, as amended, was added to the Schedule.]

(Paragraph 15)

(Amendment No. 140 was not moved.)

***The Honourable Dr. B. R. Ambedkar :** Sir, I move :

"That sub-paragraph *(3)* of paragraph 15 be omitted."

That is because it gives discretion to the Governor which it is not proposed now to leave with him.

*CAD, Vol. IX, 6th September 1949, p. 1051.

Mr. President : Amendment No. 142 : we have dealt with the question of discretion so many times. Is it necessary to move it?

Shri Brajeshwar Prasad : As you direct me, Sir.

Mr. President : I do not think it is necessary. Amendment 214 : again "President" for "Governor"; Amendment 215: "Parliament" for "legislature of the State"; Amendment 216: that is the same as Dr. Ambedkar's. These are all the amendments. Dr. Ambedkar, would you like to say anything?

The Honourable Dr. B. R. Ambedkar : No. As I have said we are taking away the discretion from the Governor which we had originally laid with him and it is therefore necessary to delete this sub-para *(3)*.

(The amendment of Dr. Ambedkar was adopted.)

[Paragraph 15, as amended, was added to the Schedule.]

Shri Brajeshwar Prasad : Sir, I would suggest that we sit for a few minutes more and finish this schedule.

Mr. President : It will take time. We may not be able to finish. I was just going to remind the House that we are very much behind our scheduled time and something will have to be done to catch up the lost time.

Shri R. K. Sidhva (C. P. & Berar: General)**:** Today we have no other words and we may sit in the afternoon.

The Honourable Dr. B. R. Ambedkar : Tomorrow if you like we can sit. Today we have called a meeting of the Drafting Committee to take up some articles which have remained for consideration.

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(Paragraph 16)

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***Mr. President:** There are two other amendments which I rule out, because they are on the same lines as the other amendment of Shri Brajeshwar Prasad. Dr. Ambedkar, do you wish to say anything?

The Honourable Dr. B. R. Ambedkar : (Bombay: General): I should like to hear the Premier of Assam, if he has any views on this matter.

The Honourable Shri Gopinath Bardoloi (Assam : General)**:** Sir, with reference to the amendment moved by Srijut Chaliha just now for the deletion of the second proviso to paragraph 16, all that I have to say is that in every case where action of this kind is taken—the parties

*CAD, Vol. IX, 7th September 1949, p. 1054.

affected thereby are given an opportunity of being heard I agree that in this proviso no machinery by which this could be done has been laid down. Therefore, if Srijut Chaliha would modify his amendment as follows, namely, that instead of the words "opportunity of being heard by the legislature" the words "an opportunity of placing the views of the Regional Council" may be substituted, then the purpose of his amendment would be served.

Shri Kuladhar Chaliha : I am prepared to do that.

The Honourable Dr. B. R. Ambedkar : I am prepared to accept the amendment of Mr. Bardoloi to the amendment of Mr. Chaliha, which he has accepted, the proviso will now read like this :

"Provided further that no action shall be taken under clause *(b)* of this paragraph without giving the District or the Regional Council as the case may be an opportunity of placing their views before the legislature of the State."

Mr. President : The question is :

"That for the second proviso to paragraph 16 of the Sixth Schedule, the following be substituted :

'Provided further that no action shall be taken under clause *(b)* of this paragraph without giving the District or the Regional Council as the case may be an opportunity of placing their views before the legislature of the State.' "

The amendment was adopted

[Paragraph 16, as amended, was added to the Sixth Schedule.]

(*New Paragraph 16-A*)

The Honourable Dr. B. R. Ambedkar : Sir, I beg to move :

"That after paragraph 16, the following paragraph be inserted:—

'16A. *Exclusion of areas from autonomous districts in forming constituencies in such districts.*—For the purpose of elections to the Legislative Assembly of Assam the Governor may by order declare that any area within an autonomous district shall not form part of any constituency to fill a seat or seats in the Assembly reserved for any such districts but shall form part of a constituency to fill a seat or seats in the Assembly not so reserved to be specified in the order'."

The object of this is to give the people who are included in the autonomous districts but really who are not part and parcel of the people inhabiting the autonomous districts an opportunity to have a place in the Legislative Assembly by having their own constituencies marked out for them.

(Paragraph 16-A was added to the Sixth Schedule.)

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(Paragraph 17)

***The Honourable Dr. B. R. Ambedkar :** Sir, I move :

"That after sub-paragraph *(2)* of paragraph 17 the following sub-paragraph be added :—

*CAD, Vol. IX, 7th September 1949, p. 1055.

'*(3)* In the discharge of his functions under sub-paragraph *(2)* of this paragraph as the agent of the President, the Governor shall act in his discretion.'"

* * * * *

***The Honourable Dr. B. R. Ambedkar :** I do not accept it, Sir.

Mr. President : Then I put Dr. Ambedkar's amendment first. The question is:

"That after sub-paragraph *(2)* of paragraph 17, the following sub-paragraph be added :—

"*(3)* In the discharge of his functions under sub-paragraph *(2)* of this paragraph as the agent of the President, the Governor shall act in his discretion."

(The amendment was adopted.)

(Amendment of Brajeshwar Prasad was rejected).

[Paragraph 17, as amended, was added to the Sixth Schedule.]

(Paragraph 18)

The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That in paragraph 18, in line 22, the words 'in his discretion' be deleted."

"That clause *(c)* of paragraph 18 be deleted."

Mr. President: Amendment Nos. 148 and 149 are ruled out. Then we have amendments Nos. 223, 224, 225 and 226 which are more or less on the same lines. Would you like to move No. 226, Mr. Brajeshwar Prasad? The other three I have ruled out.

Shri Brajeshwar Prasad : I do not like to move any of my amendments, Sir.

Mr. President: Then, I put Dr. Ambedkar's amendments No. 146 and 147.

(The amendments were adopted.)

[Paragraph 18, as amended, was added to the Sixth Schedule.]

(Paragraph 19)

†The Honourable Dr. B. R. Ambedkar : Sir, I move:

"That with reference to amendments No. 150 and 151 of List I (Seventh Week) for paragraph 19 and the Table appended to it the following paragraph and Table be substituted :—

"19. *Tribal areas.—(1)* The areas specified in Parts I and II of the Table below shall be the tribal areas within the State of Assam.

(2) The United Khasi-Jaintia Hills District shall comprise the territories which before the commencement of this Constitution were known as the Khasi States and the Khasi and Jaintia Hills District, excluding any areas for the time being comprised within the cantonment and municipality of Shillong, but including so much of the area comprised within the municipality of Shillong as formed part of the Khasi State of Mylliem :

*CAD, Vol. IX, 7th September 1949, p. 1056.

†*Ibid.,* pp. 1056-1057.

Provided that for the purposes of clauses *(e)* and *(f)* of sub-paragraph (*1*) of paragraph 3, paragraph 4 and paragraph 5 and sub-paragraph *(2),* clauses *(a), (b)* and *(d)* of sub-paragraph *(3)* and sub-paragraph *(4)* of paragraph 8 of this Schedule, no part of the area comprised within the municipality of Shillong shall be deemed to be within the District.

(3) Any reference in the Table below to any district (other than the United Khasi—Jaintia Hills District) or administrative area, shall be construed as a reference to that district or area on the date of commencement of this Constitution:

Provided that the tribal areas specified in Part II of the Table below shall not include any such areas in the Plains as may, with the previous approval of the President, be notified by the Governor of Assam in this behalf.

Table

PART—I

1. The United Khasi-Jaintia Hills District.
2. The Garo Hills District.
3. The Lushai Hills District.
4. The Naga Hills District.
5. The North Cachar Hills.
6. The Mikir Hills District.

PART—II

1. North East Frontier Tract including Balipara Frontier Track, Tirap Frontier Tract Abor Hills District, Misimi Hills District.
2. The Naga Tribal Area.'"

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***Shri Rohinikumar Chaudhari :** ...But I would say that the amendment which he (Dr. Ambedkar) has moved this morning is merely a Camouflage.

The Honourable Dr. B. R. Ambedkar : Camouflage for what?

Shri Rohini Kumar Chaudhuri : Because Dr. Ambedkar seems to indicate by this amendment that he has altered his view in regard to the inclusion of any part of the Shillong Municipality in the autonomous district.

Dr. Honourable Dr. B. R. Ambedkar : I have not altered my view.

Shri Rohini Kumar Chaudhuri : Paragraph *(2)* of the amendment as it stands includes...

Shri T. T. Krishnamachari : May I point out, Sir, that we here are completely disinterested in this matter and there is no need for any comouflage at all.

Mr. President : There is no question of comouflage because the paragraph is perfectly clear that he wants to exclude, the Municipality of Shillong except that part of it which is comprised in the state of Mylliem.

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*CAD, Vol. IX, 7th September 1949, pp. 1063-1064.

†*Ibid.,* p. 1064.

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***The Honourable Dr. B. R. Ambedkar :** Sir, I did not think that my amendment No. 331 substituting a new text of paragraph 19 would cause any kind of difficulty such as the one which I now find. I did not, therefore, consider it necessary to spend much time in explaining the provisions contained in paragraph 19. But now that so much debate has taken place of an acrimonious sort I am bound to explain the provisions as contained in the new amended paragraph 19.

Now, the chief part of the controversy has centred round sub-paragraph *(2)* of paragraph 19. I should like to explain what this means. It means that so far as the United Khasi-Jaintia Hills District is concerned which is mentioned as entry 1 in Part I of the Table, that portion of the area comprised within the municipality of Shillong and which forms part of the Khasi State of Mylliem shall be part and parcel of the United Khasi-Jaintia Hills District. It means that the part of the Mylliem State which is included in Shillong will form part of the United Khasi-Jaintia Hills District. It is realised that this part of the Mylliem State is really subject now under the new provisions of paragraph 19 to two separate jurisdictions. It is subject to the jurisdiction of the Municipality of Shillong, because by this provision we are not altering the boundaries of the Shillong municipality. The boundaries of the Shillong municipality, as defined by the Municipal Act passed by the Assam legislature, remains intact. According to that Act this particular part of the Mylliem State is part of the municipality. It is recognised that this double jurisdiction, namely the United Khasi-Jaintia Hills District and the municipality might come in conflict. In order to overcome this conflict, I have added the proviso to sub-clause *(2)*. The effect of the proviso is this that for the purposes mentioned in the proviso the jurisdiction of the District Council of the United Khasi-Jaintia Hills District is ousted and to the extent that the jurisdiction of the municipality is restricted to this purpose mentioned in the proviso the jurisdiction of the District Council will continue over this area. The idea of the proviso is to avoid conflict of jurisdiction. Some people on the other side have said that the Mylliem State area should be completely excluded from the United Khasi-Jaintia Hills District and should be made exclusively part and parcel of the Shillong municipality.

Pandit Hirday Nath Kunzru : As it is now.

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*CAD, Vol. IX, 7th September 1949, pp. 1070-1074.

The Honourable Dr. B. R. Ambedkar : I do not know whether that is so. The point is this, that as some one from that side said—I think my Friend Shri Rohini Kumar Chaudhuri—three-fourths of the municipality is really covered by this area. There is not the slightest doubt about it that so far as marriage laws, inheritance laws and other customs and manners are concerned, the people living in this part of the Mylliem State share the same laws, the same customs, the same marriage laws and ceremonies of the whole district. Consequently what will happen is this. Supposing this area were completely excluded from the United Khasi-Jaintia Hills districts, the result will be that these people although they are fundamentally alike to their brethren in the rest of the part of the Mylliem State with regard to marriage laws, their customs, etc., etc., they will become at once subject to the general law of inheritance, general law of marriage, all general laws which the Parliament may make or which the Assam Legislature may make. I do not think that it is right that a part of the people who are homogenous in certain matters should be severed in this manner. A part will obtain autonomy so far as their tribal life is concerned and a part will be subject to the general law to which the rest of the population is subject. It is for this reason that the Drafting Committee felt that the provision contained in sub-clause *(2)* and the proviso which accompanies it was the proper solution of this problem, namely, that for the purpose of the municipality as defined in the proviso that part of the Mylliem State which is part of the municipality should remain subject to the municipality, while for purposes for which the district council is constituted that part should remain subject to the district council. There is no conflict and it helps to sub-serve the fundamental purpose, namely, that a homogeneous people should be subject to the same sort of laws and to the same sort of administrative system which all of them should have and have.

Now, there may be some controversy as to whether the proviso is sufficiently big enough to cover all matters that ought to be covered or whether it is too narrow. I am not prepared to express any opinion about it. The Drafting Committee has been guided in this matter by the two principal representatives, who must be credited with sufficient knowledge and information about this matter, namely, the Premier of Assam and his colleague, Rev. Nichols-Roy. If they in their wisdom think that some other matters ought to be included, the Drafting Committee will certainly not raise any objection because the Drafting Committee has nothing to do with this matter.

Shri Rohini Kumar Chaudhuri : Is it that the non-tribal people who live in Shillong have no voice in this matter?

The Honourable Dr. B. R. Ambedkar : In what matter?

Shri Rohini Kumar Chaudhuri : In whatever matter you are touching on now.

The Honourable Dr. B. R. Ambedkar : I cannot understand the point. What we have done is that the people living in this part have a double right. They have a right to elect their representatives under the Shillong Municipality and they will have a right to elect their representatives in the District Councils. Beyond that, the jurisdiction is quite separate. I do not think there is any other point so far as this new paragraph 19 is concerned.

Shri Rohini Kumar Chaudhuri : On a point of information, does the Member who is now speaking, mean to say that those people in Dimapur where there is not a single tribal person, and those people in Shillong, are to be guided entirely by the opinion of Rev. Nichols-Roy.

Mr. President : He has not said anything about Dimapur. He is dealing with the question by Mr. Bardoloi that paragraph 10, sub-clause *(d)* of sub-paragraph *(2)* might be included in the proviso.

The Honourable Dr. B. R. Ambedkar : I have no objection. We leave the matter to them. If they think that certain matters should be included, why should we object? We are acting upon their advice.

Pandit Hirday Nath Kunzru : May I ask Dr. Ambedkar for information on the point? Has the Drafting Committee or Mr. Bardoloi and the Rev. J. J. M. Nichols-Roy who signed the report of the Tribal Areas Committee of Assam received any representation asking for a change in regard to the position of the tribal people living within the limits of the Shillong municipality?

The Honourable Dr. B. R. Ambedkar : I have not questioned their credentials nor have I examined whether they have fortified themselves with any such representation.

Pandit Hirday Nath Kunzru : I put this question because my honourable Friend referred to the authority of the Prime Minister of Assam and Rev. Nichols-Roy. Both these gentlemen have signed the report of the Committee to which I have referred and that Committee says that the limits of the Shillong Municipality should be what they are now and does not suggest any change in the status of the people living in that area.

The Honourable Dr. B. R. Ambedkar : That they may have done but the report cannot act as an estoppel for further re-examination! I do not think we can carry the matter any further. As I said the Drafting Committee felt that this was such a local matter that they could not act without the authority or advice of the principal participants in this matter. We took their advice and we carried out the work. If they think...*

Shri Kuladhar Chaliha: In Dimapur people from all over India reside.

Mr. President: There is no use saying anything about Dimapur. He has said nothing about Dimapur.

The Honourable Dr. B. R. Ambedkar : I have so far said nothing about it; I am coming to it.

Now I come to the exclusion of certain areas from the autonomous districts.

In this connection I would like to remind the House of the new article 16-A which has just been passed. I would like you to refer to that. In framing article 16-A, two questions were raised. One question related to some two mouzas of what are called the Garo Hills. Along with that the question of the Dimapur area was also raised by my Friend Mr. Chaliha, and I think I am justified in saying that he was present at the Conference. There were three representatives of Assam who were also present at this Conference. Mr. Bardoloi, Rev. Nichols-Roy and Mr. Chaliha and it was considered whether these mouzas of the Garo Hills and the Dimapur area should be separated from the autonomous district. It was said that the conference that it was not desirable to separate them from the autonomous districts because the life of these mouzas—their economic life—was closely bound up with the life of the people in the autonomous districts. It was therefore said that it would be enough if these areas, that is to say, the three mouzas from the Garo Hills and the Dimapur area were separated purely for giving political representation to the inhabitants of this area in the Legislative Assembly. That was definitely stated by my Friend, Mr. Chaliha, who has now raised the question of the Dimapur area. It was therefore at their request and at the instance of these three representatives of Assam that paragraph 16-A was framed in the terms in which it has been framed. If at that time they agreed that there should be a complete separation, that this should not form part of the autonomous area, we would have had no objection to carrying out their wishes. Therefore, it is no use blaming the Drafting Committee: for doing some-

*Dots indicate interruption.

thing which it was not advised to do. That is my first submission. Paragraph 16-A embodies the concretes conclusions of the Drafting Committee and of the three representatives of Assam, including Mr. Chaliha, who for the first time raised the matter of the Dimapur area

Shri Kuladhar Chalihar : May I submit that I was asked to go there as an Adviser and to see. I never felt that I was a member of the Drafting Committee and you will not find my name there.

Mr. President: No one has suggested that you were a member of the Drafting Committee. He has said that you were present.

The Honourable Dr. B. R. Ambedkar : That is his opinion. There is a further point to be made, namely, under amendment 99 which gives power to the Governor to alter boundaries, to diminish areas and so on. It would be perfectly possible for the Governor to sever any area, exclude any area from the area now to be included in the autonomous area. If that is not clear, the Drafting Committee would be quite prepared to include an express clause to that effect. But I do like to say that it is very unfortunate, to put it in the very mildest terms possible, that representatives should come to a conference, agree to certain agreement, and then resile from that agreement, bring in amendments and make it a point to comment against the Drafting Committee and say that they have done something which is either contrary to the wishes of the representation...*

Shri Kuladhar Chaliha : No.

The Honourable Dr. B. R. Ambedkar : I am very sorry. All I can...*

Shri Kuladhar Chaliha : No, no.

The Honourable Dr. B. R. Ambedkar : I am very sorry. Therefore, so far as paragraph 16-A is concerned, it provides separation for the purpose of political requirements. If complete separation is wanted I submit it is already provided for in the paragraph we have passed. If it does not do that, I am prepared to add a clause to make that thing quite clear that the Governor will have power to exclude any area if he thinks fit. So far as my amendment contained in new paragraph 19 is concerned I believe that all points of controversy have been answered.

Now, Sir, I propose to deal with my honourable Friend Mr. Kunzru's amendment which is for the addition of another paragraph. It will be noticed that his amendment is nothing but a repetition of paragraph 5 of the Fifth Schedule which has already been passed and which deals with tribal areas or scheduled areas in States other than Assam. There is nothing more in his amendment than this. My submission as against his

*Dots indicate interruption as shown in the original.

amendment is this : so far as sub-clause *(1)* of his new paragraph is concerned, it is quite unnecessary. It is governed by paragraph *12(b)* of the Sixth Schedule which gives the Governor the power either to apply or not to apply or if apply, apply with modifications laws made by Parliament or laws made by the Legislature of Assam. Therefore, that provision is absolutely unnecessary, and is already contained in our Draft.

With regard to the second sub-clause *(2),* the position is this. It is quite true that so far as the Fifth Schedule is concerned, we do give the Governor the power to make regulations in respect of that area, but we do not propose to give that power to the Governor in the case of the Sixth Schedule. It is for this reason that in the case of the Fifth Schedule the tribes have no authority to make any regulations for themselves, but in the case of the Sixth Schedule, we have given the district council and the regional council the right to make laws in certain respects. It seems to me, therefore, that where the tribes have not been given the power to make regulations it is necessary to give the power to the Governor to make regulations. But, where the tribal councils themselves have been given power to make regulations it seems to me that conferring powers upon the Governor to make similar regulations is utterly superfluous. That is the reason why we do not propose to give the power to the Governor so far as the Sixth Schedule is concerned. I therefore submit that this amendment is quite unnecessary.

There is one other point which I would like to make quite clear. The power to make regulations which it is proposed to give to the District Council under the Sixth Schedule is not a new power at all. As a matter of fact there exists now in Assam certain regulations which give the tribes the same power of making regulations which we are giving by our Schedule. The Schedule therefore is not anything new it is merely continuing the existing position, namely, that the tribes have the power now to make regulations in certain matters. Therefore, for the reasons I have explained his amendment is quite unnecessary. I therefore oppose it.

Mr. President : I was going to suggest that there is really not as much difference in the view points expressed here as would appear from the discussion that we have had. As I have followed Dr. Ambedkar's statement, I believe that if two suggestion are accepted, probably much of the differences will disappear, I was going to suggest therefore that he should include clause *(d)* of sub-paragraph *(2)* of paragraph 10 in the proviso.

The Honourable Dr. B. R. Ambedkar : If we leave it to the Drafting Committee it will do that.

Mr. President : I was going to suggest that we add to clause *(d)* of sub-paragraph *(3)* in amendment No. 99, after the words "diminish the area of an autonomous district" the words "or exclude any are from an autonomous district." This would cover all the points.

The Honourable Dr. B. R. Ambedkar : That we are quite prepared to do.

Mr. President : I find this difficulty. Most of the Members of the House including myself are not acquainted with the local situation and are therefore not in a position to take any definite line of our own with regard to Assam. We have to be guided by friends from there. Since there is difference in some respects among them, our position becomes very difficult. I would therefore suggest that it would be best to leave the thing to be dealt with by the local Government. The suggestions which I have made will enable the local Government to deal with this matter. I understand that Dr. Ambedkar has no objection to the two suggestions I have made.

The Honourable Dr. B. R. Ambedkar : No, Sir. I am prepared to add 10*(2)(d)* to the proviso and also add, 'power to exclude' in the other case.

Mr. President : I think that will satisfy the Friends from Assam.

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***Mr. President :** The proposal is different under paragraph 19.

The Honourable Rev. J. J. M. Nichols-Roy : I do not see any reason why you should put under paragraph 19 a matter which is already covered by paragraph 10.

Mr. President : The idea is to put in "sub-clause *(d)* of sub-paragraph *(2)* of paragraph 10", not the whole of paragraph 10.

The Honourable Rev. J. J. M. Nichols-Roy : What is the use of putting it here in this proviso? It is already there under paragraph 10.

The Honourable Dr. B. R. Ambedkar : Sub-clause *(d)* of sub-paragraph *(2)* of paragraph 10 covers only trading, not money-lending. That is what is sought to be included.

Mr. President : As regards the question of exclusion, it was in the original draft.

The Honourable Dr. B. R. Ambedkar : Mr. Nichols-Roy, it is all right. I do not think you stand to lose anything.

The Honourable Rev. J. J. M. Nichols-Roy : I am asking you whether or not you are going to put in the text an amendment to the effect giving power to Governor to exclude any area of an autonomous district.

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*CAD, Vol. IX, 7th September 1949, pp. 1075-1076.

The Honourable Dr. B. R. Ambedkar: "Exclude" also we are giving. To "diminish" means really "exclude".

Mr. President: "Diminish" means "exclude".

[Paragraph 19, as amended and the Table, Parts I and II were added to the Sixth Schedule.]

(*Paragraph 20*)

***The Honourable Dr. B. R. Ambedkar :** Sir, I move:

"That after paragraph 19, the following new paragraph be inserted :—

'20. *Amendment of the Schedule.—(1)* Parliament may from time to time by law amend by way of addition, variation or repeal any of the provisions of this Schedule and when the Schedule is so amended, any reference to this Schedule in this Constitution shall be construed as a reference to such Schedule as so amended.

(2) No such law as is mentioned in sub-paragraph *(1)* of this paragraph shall be deemed to be an amendment of this Constitution for purpose of article 304 thereof."

* * * * *

†The Honourable Dr. B. R. Ambedkar : I do not accept the amendment (to paragraph 20 of Sibban Lal Saksena).

[The motion of Dr. Ambedkar was adopted. Paragraph 20 was added to the Sixth Schedule. Schedule VI, as amended, was added to the Constitution.]

ARTICLE 281

‡Mr. President: Then we go to Article 281.

The Honourable Dr. B. R. Ambedkar : I move :

"That for article 281 the following be substituted :—

Interpretation

'281. In this Part, unless the context otherwise requires, the expression 'State' means a State for the time being specified in Part I or Part III of the First Schedule.' "

(Article 281 was added to the Constitution.)

ARTICLE 282 TO 282-C

The Honourable B. R. Ambedkar : Sir, I move

"That with reference to amendment No. 3034 of the List of Amendments (Volume II), for article 282, the following articles be substituted :—

'Recruitment and conditions of service of persons serving the Union or a State.'

282. Subject to the provisions of this Constitution, Acts of the appropriate Legislature may regulate the recruitment and conditions of service of persons appointed to public services, and to posts in connection with the affairs of the Union or of any State.

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*CAD, Vol. IX, 7th September 1949, p. 1079.

†*Ibid.,* pp. 1081-1082.

‡*Ibid.,* p. 1082.

Provided that it shall be competent for the President in the case of services and posts in connection with the affairs of the Union and for the Governor or, as the case may be, the Ruler of a State in the case of services and posts in connection with the affairs of the State to make rules regulating the recruitment and the conditions of service of persons appointed to such services and posts until provision in that behalf is made by or under an Act of the appropriate Legislature under this article, and any rules so made shall have effect subject to the provisions of any such Act.

Tenure of office or persons serving the Union or a State

282-A. (*1*) Except as expressly provided by this Constitution, every person who is a member of a defence service or of a civil service of the Union or of an all-India service or holds any post connected with defence or any civil post under the Union, holds office during the pleasure of the President and every person who is a member of a civil service of a State or holds any civil post under a State holds office during the pleasure of the Governor or, as the case may be, the Ruler of the State.

(2) Notwithstanding that a person holding a civil post under the Union or a State holds office during the pleasure of the President or, as the case may be, of the Governor or Ruler of the State, any contract under which a person, not being a member of a defence service or of an All-India service or of a civil service of the Union or a State, is appointed under this Constitution to hold such a post may, if the President or, the Governor or the Ruler, as the case may be deems it necessary in order to secure the services of a person having special qualifications, provide for the payment to him of compensation if before the expiration of an agreed period that post is abolished or he is for reasons not connected with any misconduct on his part, required to vacate that post.

Dismissal, removal or reduction in rank of persons employed in the Union or State.

282-B. *(1)* No person who is a member of a civil service of the Union or an all-India service or a civil service of a State or holds a civil post under the Union or a State shall be dismissed or removed by an authority subordinate to that by which he was appointed.

(2) No such person as aforesaid shall be dismissed or removed or reduced in rank until he has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him:

Provided that this cause shall not apply—

(a) where a person is dismissed, or removed or reduced in rank on the ground of conduct which has led to his conviction on a criminal charge;

(*b*) where an authority empowered to dismiss or remove a person or to reduce him in rank is satisfied that for some reason to be recorded by that authority in writing it is not reasonably practicable to give that person an opportunity of showing cause;

(*c*) where the President or Governor or Ruler, as the case may be, is satisfied that in the interest of the security of the State it is not expedient to give to that person such an opportunity.

(3) If any question arises whether it is reasonably practicable to give notice to any person under clause *(b)* of the proviso to clause *(2)* of this article, the decision thereon of the authority empowered to dismiss or remove such person or to reduce him in rank, as the case may be, shall be final.

All-India Services:

282-C. *(1)* Notwithstanding anything in Part IX of this Constitution, if the Council of States has declared by resolution supported by not less than two-thirds of the members present and voting that it is necessary or expedient in the national interest so to do. Parliament may by law provide for the creation of one or more All-India Services common to the Union and the States, and subject to the other provisions of this Chapter, regulate the recruitment and the conditions of service of persons appointed to any such service.

(2) The services known on the date of commencement of this Constitution as the Indian Administrative Service and the Indian Police Service shall be deemed to be services created by Parliament under this article.' "

Sir, I do not propose, at this stage, to say anything on the amendment I have moved, because the article themselves are quite clear. There are several amendments which may raise some points of criticism, and I shall then be in a position to give the House the explanations that may be necessary in order to dispose of those amendments.

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***The Honourable Dr. B. R. Ambedkar:** I think my friend has said enough on the point and he need not continue. We have understood his point. We must get through today at least one article.

Dr. Monomohan Das : If that is the case, I shall stop.

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†Mr. President: The honourable Member (Mr. Kamath) has exceeded his time-limit. Does Dr. Ambedkar like to speak?

The Honourable Dr. B. R. Ambedkar : I do not accept any of the amendments.

[All amendments were negatived.]

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ARTICLE 282-B

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‡Shri R. K. Sidhva: We are prepared to sit and finish. We can sit for seven or eight hours.

Mr. President: That is not possible. We cannot sit for eight hours. After all we work like human beings. We cannot work like machines. So

*CAD, Vol. IX, 7th September 1949, p. 1088.

†*Ibid.,* p. 1090.

‡*Ibid.,* p. 1094.

I do not think it will be possible. What do you say, Dr. Ambedkar, is it possible to have an afternoon sitting today?

The Honourable Dr. B. R. Ambedkar : I expect to be back from the Cabinet meeting at about half past five. If the House is prepared to sit for two hours after that, I am quite prepared, but we have a Drafting Committee meeting from half past five onwards, because unless we are ready with the articles which have already been held up, it will be difficult to proceed. We have to go to another place to obtain a decision and then to come here. If the House so wishes, we can change the sitting of the Drafting Committee to some other time.

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***Mr. Naziruddin Ahmad :** ... There are various offences like assault, trespass, technical defamation and similar things which are compendiously described as offences not involving moral turpitude. In all such cases if the office master tries to drive him off, all that we ask for is that he should be given an opportunity to show cause.

The Honourable Dr. B. R. Ambedkar (Bombay : General)**:** There is no amendment to delete clause *(3)*. Your amendment is only to delete sub-clause *(b)*.

Mr. Naziruddin Ahmad : Yes, I have given notice of this amendment too. See amendment No. 246.

The Honourable Dr. B. R. Ambedkar : There is an amendment by Mr. Jaspat Roy Kapoor to delete clause *(3)* of 282B.

Mr. President: There is an amendment by the Honourable Member (Mr. Naziruddin Ahmad) also.

The Honourable Dr. B. R. Ambedkar: He can go on; I merely wanted to draw his attention.

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†Mr. President: I shall now put the amendments to vote Dr. Ambedkar, do you wish to say anything?

The Honourable Dr. B. R. Ambedkar : I should like to say one or two words, Sir.

As I listened to the criticisms made by the various speakers who have moved their amendments I have come to the conclusion that they have not succeeded in making a clear distinction between two matters which are absolutely distinct and separate: these matters are grounds for dismissal and grounds for not giving notice. This article 282-B does not deal

*CAD, Vol. IX, 8th September 1949, p. 1104.

†*Ibid.,* pp. 1112-1114.

with the grounds of dismissal. The matter will be dealt with by the law that will be made by the appropriate legislature under the provisions of article 282. In what cases a person appointed to the civil service should be dismissed from service would be a matter that would be regulated by law made by Parliament. It is not the purpose of this article 282-B to deal with that matter.

This article is 282-B merely deals with, as I stated, the grounds for not giving notice before dismissal so that a person may have an opportunity of showing cause against the action proposed to be taken against him. The purport of this clause is to lay down a general proposition that in every case notice shall be given, but in three cases which have been mentioned in sub-clauses *(a), (b)* and *(c),* notice need not be given. 'That is all what the article says. It has been, in my judgement, a very wrong criticism which has been made by my honourable Friend Mr. Kamath that this article is a disgrace or a shame or a blot on the Constitution.

Shri H. V. Kamath : (Interruption)...

The Honourable Dr. B. R. Ambedkar : I should have thought that that was probably the best provision that we have for the safety and security of the civil service, because it contains a fundamental limitation upon the authority to dismiss. It says that no man shall be dismissed unless he has been given an opportunity to explain why he should not be dismissed. If such a provision is a matter of disgrace, then I must differ from my honourable Friend Mr. Kamath in his sense of propriety.

Shri H. V. Kamath : I am referring to the provisos to the article.

The Honourable Dr. B. R. Ambedkar: I am coming to the provisos. So far as clause *(2)* is concerned, I have no doubt in my mind that everybody who has got common sense would agree that this is the best proviso that could have been devised for the protection of the persons engaged in the civil service of the State. The question has been raised that any person who has been convicted in any criminal case need not be given notice. There, again, I must submit that there has been a mistake, because, the regulations made by a State may well provide that although a person is convicted of a criminal offence, if that offence does not involve moral turpitude, he need not be dismissed from the State service. It is perfectly open for Parliament to so legislate. It is not in every criminal charge, for instance, under the motoring law or under some trivial law made by Parliament or by a State making a certain act an offence, that that would necessarily be a ground for dismissal. It would be open to Parliament to say in what cases there need not be any dismissal. It would be perfectly

open to Parliament to exclude political offences. This clause in so many words merely deals with the question of giving notice. Parliament may exempt punishment for offences of a political character, exempt offences which do not involve moral turpitude. That liberty of the Parliament is not touched or restricted by sub-clause *(a)*. I want to make this clear.

With regard to sub-clause *(b),* this has been bodily taken from section 240 of the Government of India Act. I think it will be agreed that the object of introducing section 240 of the Government of India Act was to give protection to the services. Even the British people, who were very keen on giving protection to the civil services, thought it necessary to introduce a proviso like sub-clause *(b)*. We have therefore not introduced a new thing which had not existed before. With regard to sub-clause *(c),* it has been felt that there may be certain cases where the mere disclosure of a charge might affect the security of the State. Therefore it is provided that under sub-clause *(c)* the President may say that in certain cases a notice shall not be served. I think that is a very salutary provision and notwithstanding the obvious criticism that may be made that it open a wide door to the President to abrogate the provisions contained in sub-clause *(2),* I am inclined to think that in the better interests of the State, it ought to be retained.

Coming to clause *(3),* this has been deliberately introduced. Suppose, this clause *(3)* was not there, what would be the position? The position would be that any person, who has not been given notice under sub-clause *(a)* or *(b)* or *(c),* would be entitled to go to a court of law and say that he has been dismissed without giving him an opportunity to show cause. Now, courts have taken two different views with regard to the word 'satisfaction' : is it a subjective state of mind of the officer himself or an objection state, that is to say, depending upon circumstances? It has been felt in a matter of this sort, it is better to oust the jurisdiction of the court and to make the decision of the officer final. That is the reason why this clause *(3)* had to be introduced that no Court shall be able to call in question if the officer feels that it is impracticable to give reasonable notice or the President thinks that under certain circumstances notice need not be given.

Now, another misapprehension which I should like to clear is this. Some people think that under the provisions regarding civil service which I have introduced the Government has an absolute unfettered right to dismiss any civil servant and that this power is aggravated by the introduction of sub-clauses *(a), (b)* and *(c)* of clause *(2)*. I submit that

again is a misapprehension because under the provisions relating to Public Service Commission which we have passed already there is a provision that every civil servant who is aggrieved by any action taken by an officer relating to the conditions of service will have a right of appeal to the Public Service Commission. Therefore, even in cases where the Government has not given the officer an opportunity to show cause, even such an officer will have the right to go to the Public Service Commission and to file an appeal that he has been wrongfully dismissed contrary to the provisions contained in the rules made relating to his service. I, therefore, think that the apprehensions which have been expressed by honourable Members with regard to the provisions contained in this article are entirely misfounded and are due to misunderstanding of the provisions of this Act, the provisions of article 282 and the provision relating to Public Service Commission.

[In all 15 amendments were negatived. The original amendment of Dr. Ambedkar—Article 282-B was adopted, and added to the Constitution.]

ARTICLE 282-C

***Mr. President:** There is no other amendment to this article. You wanted to speak, Dr. Deshmukh.

Dr. P. S. Deshmukh : Sir, I support the amendment moved by my Friend Shri Brajeshwar Prasad in regard to the omission of the words :

> "If the Council of States has declared by resolution supported by not less than two-thirds of the members present and voting that it is necessary or expedient in the national interest so to do."

I had intended to move a similar amendment, No. 250, but I do not propose to move it now since an identical amendment has been moved. I have been unable to understand this provision. Nowhere has the initiative in any important matter been left to any other House except the House of the People in the Central Parliament. But here for the first time, according to my knowledge and information, we give the initiative to the Council of States. Sir, either the central services are desirable or they are undesirable. If they are desirable, then they should not be cramped with so many impediments, created in the way of their being started. If they are undesirable, then there should not have been any provision whatsoever. I think, more and more there will be the tendency to have all-India services, and therefore in my opinion mere was no point in making their introduction so difficult. Why should the proposal have the support of not less man two-thirds of the members present and voting of the Council of

*CAD, Vol. X, 8th September 1949, p. 1118.

States? I think these words are absolutely unnecessary, unless they are intended to clothe the useless House of the Council of States with some dignity or some function. I think that appears to be the only anxiety at the root of this brain-wave, of giving the initiation of such an important matter to the Council of States. I see no purpose for these words and therefore move that they be omitted.

Mr. President : Dr. Ambedkar, would you like to say anything?

The Honourable Dr. B. R. Ambedkar : Just one word. I think neither Mr. Brajeshwar Prasad nor my friend Dr. Deshmukh, the one in moving the amendment and the other in supporting it, seems to have read carefully the provisions of article 282. Article 282 proceeds by laying down the proposition that the Centre will have the authority to recruit for services which are under the Centre and each State shall be free to make recruitment and lay down conditions of service for persons who are to be under the State service. We have, therefore, by article 282 provided complete jurisdiction. 282C to some extent takes away the autonomy given to the States by article 282, and obviously if this autonomy is subsequently to be invaded, there must be some authority conferred upon the Centre to do so, and the only method of providing authority to the Centre to run into, so to say, article 282 is to secure the consent of two thirds of the members of the Upper Chamber. The Upper Chamber is the only body mentioned in article 282. *Ex-hypothesi* the Upper Chamber represents the States and therefore their resolution would be tantamount to an authority given by the States. That is the reason why these words are introduced in article 282C.

[The motion of Dr. Ambedkar was adopted. Amendment by Brijeshwar Prasad was rejected. Article 282-C was added to the Constitution.]

ARTICLE 283

***Mr. President :** Then we come to article 283. Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar : Sir, I move:

"That for amendment No. 3037 of the List of Amendments (Volume II), the following be substituted :—

"That for article 283 the following article be substituted :—

283. Until other provisions is made in this behalf under this Constitution, all the laws in force immediately before the commencement of this Constitution and applicable to any public service or any post which continues to exist after the commencement of this Constitution, as an All-India service or as service or post under the Union or a State shall continue in force so far as consistent with the provisions of this Constitution'."

Transitional Provision.

*CAD, Vol. IX, 8th September 1949, p. 1119.

This is a purely transitional provision.

[The motion was adopted. Article 283 was added to the Constitution.]

ARTICLE 302

Mr. President: Then we take up article 302. Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar: I move :

"That in clause *(1)* of article 302, after the words 'Governor' the words 'or Ruler' be inserted."

"That in the second proviso to clause *(1)* of article 302, for the words and figures 'bring against the Government of India or the Government of a State such proceedings as are mentioned in Chapter III of Part X of this Constitution' the words 'bring appropriate proceedings against the Government of India or the Government of a State' be substituted."

"That in clause *(2)* of article 302, after the word 'Governor' the word 'Ruler' be inserted."

"That in clause *(3)* of article 302, after the word 'Governor' the words 'or Ruler' be inserted."

"That in clause *(4)* of article 302—

(a) after the word 'Governor' in the first place where it occurs, the words 'or Ruler' be inserted;

(b) for the word 'Governor' in the second place where it occurs, the words 'as Governor or Ruler' be substituted; and

(c) after the word 'Governor' in the third place where it occurs, the words 'or the Ruler' be inserted."

An Honourable Member: What about 13, Sir?

Mr. President: It is not in the Order paper. It is held over.

The Honourable Dr. B. R. Ambedkar : Amendments 14,16,17 and 18 are purely drafting amendments. The only amendment perhaps which requires an explanation is No. 15. The reason for bringing in this amendment is that reference to Chapter III really means reference to article 274. Article 274 deals with the right of suit against Government and that article is divided into two parts. One part deals with the right of suit as exists on the date of the commencement of the Constitution. The other part is regarding the power of Parliament to make further provision with regard to the right of suit against Government. If the words as there remain, it would only mean that the right of suit against Government would be in terms of 274 as it would be on the date of commencement of the Act. The substitution of the words "appropriate proceedings" is intended to cover not only the right of suit as it would exist on the date of commencement of the Act, but also as to subsequent proceedings which Parliament may by law provide against the Government of the day. That is the reason for this amendment.

*CAD, Vol. IX, 8th September 1949, pp.1119-1120.

I might also mention to the House that I find that if this amendment is carried, I shall also have to bring in a small consequential amendment in article 202 where there has been a sort of omission.

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***Mr. President:** Dr. Ambedkar, there is an amendment moved by Mr. Kamath that in clause *(1)* of article 302, for the word "duties" the word "functions" be substituted.

The Honourable Dr. B. R. Ambedkar : The word "functions" is a large word and it includes both powers and duties. We have said powers and duties which include all the functions that we can have. It is unnecessary to have any kind of amendment like that.

Mr. President: The question is :

"That is clause *(1)* of article 302 for the word 'duties' the word 'functions' be substituted."

The amendment was negatived.

Mr. President: That is the only amendment that has been moved. I shall now put the amendment put by Dr. Ambedkar.

Shri T. T. Krishnamachari : The whole lot can be put together.

Mr. President: If the Members want that, I shall put them separately. Very well. I shall put them together.

* * * * *

†The Honourable Dr. B. R. Ambedkar : Sir, I move;

"That the heading above article 243, and article 243, 244 and 245 be omitted."

That might be put, so that the others may be taken separately. It is an independent thing.

(The motion was adopted.)

The heading above article 243, and articles 243, 244 and 245 were deleted.

PART XA

‡The Honourable Dr. B. R. Ambedkar : Sir, I move:

"That after Part X, the following new Part be inserted, namely :—

"PART XA

Trade, Commerce and Intercourse within the territory of India.

Freedom of trade commerce and intercourse throughout the territory.

274-A. Subject to the other provisions of this Part, trade, commerce and intercourse throughout the territory of India shall be free.

*CAD, Vol. IX, 8th September 1949, p. 1122.

†*Ibid.,* p. 1123.

‡*Ibid.,* pp. 1123-1124.

Power of Parliament to impose restrictions on trade, commerce and intercourse by law.

274-B. Parliament may, by law enacted by virtue of powers conferred by this Constitution, impose such restrictions on the freedom of trade, commerce or intercourse between one State and another or within any part of the territory law of India as may be required in the public interest.

Restrictions of the legislative powers of the Union and of the States with regard to the trade and commerce.

274-C. *(1)* Notwithstanding anything contained in article 274-B of this Constitution neither parliament nor the Legislature of a State shall have power to make any law giving or authorising the giving of preference to one State over another or making any discrimination or authorising the making of any discrimination between one State and another by virtue of any entry relating to trade or commerce in any of the Lists in the Seventh Schedule.

(2) Nothing in clause *(1)* of this article shall prevent Parliament from making any law giving any preference or making any discrimination as aforesaid if it is declared by such law that it is necessary to do so for the purpose of dealing with a situation arising from scarcity of goods in any part of the territory of India.

Restrictions on trade, commerce and intercourse among State.

274-D. Notwithstanding anything contained in article 274 or article 274-C of this Constitution, the legislature of a State may, by law—

(a) impose on goods which have been imported from other States any tax to which similar goods manufactured or produced in that State are subject, so, however, as not to discriminate between goods so imported and goods so manufactured or produced; and

(b) impose such reasonable restrictions on the freedom of trade, commerce or intercourse with or within that State as may be required in the public interest:

Provided that no Bill or amendment for the purpose of clause *(b)* of this article shall be introduced or moved in the legislature of the State nor shall any Ordinance be promulgated for the purpose by the Governor or Ruler of the State without the previous sanction of the President.

Appointment of authority to carry out the provisions of articles 274A to 274D.

274-E. Parliament may by law appoint such authority as it considers appropriate for carrying out the purposes of articles 274-A, 274-B, 274-C and 274-D of this Constitution, and confer on authority so appointed such powers and such duties as it thinks necessary.' "

Sir, all that I need do at this stage is to inform the House that originally the articles dealing with freedom of trade and commerce were scattered in different parts of the Draft Constitution. One article found its place in the list of Fundamental Rights, namely, article 16, which said that trade and commerce, subject to any law made by Parliament, shall be free throughout the territory of India. The other articles, namely, 243, 244 and 245 were included in some other part of the Draft Constitution. It was found in the course of discussion that a large number of members of the House

were not in a position to understand the implications of articles 243, 244 and 245, because these articles were dissociated from article 16. In order, therefore, to give the House a complete picture of all the provisions relating to freedom of trade and commerce the Drafting Committee felt that it was much better to assemble all these different articles scattered in the different parts of the Draft Constitution into one single part and to set them out *seriatim,* so that at one glance it would be possible to know what are the provisions with regard to the freedom of trade and commerce throughout India I should also like to say that according to the provisions contained in this part it is not the intention to make trade and commerce absolutely free, that is to say, deprive both Parliament as well as the States of any power to depart from the fundamental provision that trade and commerce shall be free throughout India. The freedom of trade and commerce has been made subject to certain limitations which may be imposed by Parliament or which may be imposed by the Legislatures of various States, subject to the fact that the limitation contained in the power of Parliament to invade the freedom of trade and commerce is confined to cases arising from scarcity of goods in any part of the territory of India and in the case of the States it must be justified on the ground of public interest. The action of the States in invading the freedom of trade and commerce in the public interest is also made subject to a condition that any Bill affecting the freedom of trade and commerce shall have the previous sanction of the President; otherwise, the State would not be in a position to undertake such legislation. Article 274-E is merely an article which would enable Parliament to establish an authority such as the Inter-State Commission as it exists in the United States. Without specifically mentioning any such authority it is thought desirable to leave the matter in a fluid state so as to leave Parliament freedom to establish any kind of authority that it may think fit.

If any further points are raised in the course of the debate, I shall be glad to offer the necessary explanation.

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ARTICLE 274-A

***The Honourable Dr. B. R. Ambedkar :** Mr. President, I do not think that I can usefully add anything to what my friends Shri T. T. Krishnamachari and Shri Alladi Krishnaswami Ayyar have said.

[All 3 amendments were negatived. Article 274-A was added to the Constitution.— Ed.]

*CAD, Vol. IX, 8th September 1949, p. 1142.

ARTICLE 264

***The Honourable Dr. B. R. Ambedkar :** (Bombay : General): Sir, I move:

"That for article 264, the following article be substituted :—

"264. *(1)* The property of the Union shall be exempt from all taxes imposed by a State or by any authority within a State.

Exemption of property of the Union from State Taxation.

(2) Nothing in clause *(1)* of this article shall, until Parliament by law otherwise provides, prevent any local authority within a State from imposing any tax on any property of the Union to which such property was immediately before the commencement of this Constitution liable or treated as liable so long as that tax continues to be levied in that State."

I will speak after the amendments have been moved, if there is any debate.

* * * * *

†Pandit Laxmi Kant Maitra: ...According to the Act of 1941, if there is a notification to that effect by the Government local taxes in respect of them, could be collected. But the taxes would be in a modified form. There the criterion is services rendered.

The Honourable Dr. B. R. Ambedkar : You have taken more than five minutes.

* * * * *

‡Shri Chimanlal Chakubhai Shah : .. .I would therefore request Dr. Ambedkar to consider these two points, namely, (1) whether in article 266 it is not necessary...

The Honourable Dr. B. R. Ambedkar: We are for the moment considering 264 and 266. That may be dealt with when we come to article 266.

* * * * *

#Mr. President: The view points have been placed before the House. Dr. Ambedkar will now reply to the debate.

The Honourable Dr. B. R. Ambedkar : Sir, I will first refer to the provisions contained in clause *(2)* of the proposed article 264. I think it would be agreed that the intention of this clause *(2)* is to maintain the *status quo*. Consequently under the provisions of clause *(2)* those munici-

*CAD, Vol. IX, 9th September 1949, p. 1147.

†*Ibid.,* p. 1153.

‡*Ibid.,* p. 1155.

#*Ibid.,* pp. 1157-1160.

palities which are levying any particular tax on the properties of the Union immediately before the commencement of the Constitution or on such property as is liable or treated as liable for the levy of these taxes, will continue to levy those taxes. All that clause *(2)* does is that Parliament should have the authority to examine the nature of the taxes that are being imposed at present. There is nothing more in clause *(2),* except the saving clause, viz., "until Parliament by law otherwise provides". Until Parliament otherwise provides the existing local authorities, whether they are municipalities or local boards, will continue to levy the taxes on the properties of the Centre. Therefore, so far as the *status quo* is concerned, there can be no quarrel with the provisions contained in article 264.

The only question that can arise is whether the right given by clause *(2)* should be absolute or should be subject to the proviso contained therein, until Parliament otherwise provides. In another place where this matter was discussed I submitted certain arguments for the consideration of the House.

Pandit Hirday Nath Kunzru : (United Provinces : General): Which is the other place that my honourable Friend is referring to? Is there any other Chamber of the Assembly?

The Honourable Dr. B. R. Ambedkar : It is unmentionable and therefore I am saying "another place". Because the arguments that I presented there have been reproduced in a garbled fashion I think they have not succeeded in impressing the House with their importance and therefore I should like to repeat my arguments because they are my own, and I should like to repeat them in the way I should like the House to understand them.

I said then that it was difficult to give a *carte blanche* to the local authority to levy taxes on the properties of the Union without any kind of limitation or condition and the arguments were two-fold. First of all, I said and I say right now here that it is impossible theoretically to conceive of any property of a person who is not represented or whose interests are not represented in any particular organisation,—to allow that organisation a right *ad infinitum* to levy any tax upon the property of such persons. It is a principle contrary to the principles of natural justice and I said that so far as the local authorities are concerned, whether they are municipalities or local or district boards, there is practically no representative of the Central Government in those bodies. I said the same thing elsewhere. Secondly, I said that the taxing authority of a local body is derived from a law made by the local legislature, the legislature of the

State. It is quite impossible for the Centre to know what particular source of taxation, which has been made over by the Constitution to the State legislature, will be transferred by such State legislature to the local authority. After all, the taxing power of the local authority will be derived from a law made by the State Legislature. It is quite impossible at present to know what particular tax a local body may be authorised by the State Legislature to tax the property of the Central Government. Consequently, not knowing what is to be the nature of the tax, what is to be the extent of the tax, it is really quite impossible to expect the Central Government to surrender without knowing the nature of the tax, the nature of the extent of the tax, to submit itself to the authority of the local body.

That is the reason why in clause *(2)* it is proposed to make this reservation that parliament should have an opportunity to examine the taxing power of the local authority, the amount of tax that they propose to levy, before parliament will submit itself to allow its property to be taxed by the local authority. As I said, there is not the slightest intention on the part of the parliament or on the part of those who have proposed this article, that parliament when it exercises this authority which is given to it by clause *(2)* will exempt itself completely from the taxation levied by the local authority. The only reason why this proviso is introduced is to allow Parliament an opportunity to examine the taxation proposals before it is called upon to submit itself to that taxation. I do not think that there is any inequity so far as clause *(2)* is concerned. Secondly, clause *(2)* does not take away anything by way of the financial resources now possessed by the local authorities from what they are getting now.

There is, however, one point which I have discovered now, that is a sort of lacuna in clause *(1)* which I am prepared to rectify. Clause *(2)* deals with the cases of those municipalities or local authorities which have been levying that tax. We also think that it is desirable that this right should not be confined to those municipalities or local authorities which have been exercising that right, but Parliament may also extend that privilege of taxing the property of the Centre to those municipalities and local boards which have not so far exercised that power or failed to do that. Therefore, I am prepared to introduce these words in clause *(1)*:

> "After the words 'The property of the Union shall' the words 'save in so far as Parliament may by law otherwise provide', be added."

That is to say, it would permit Parliament to confer power or to recognise taxation by other municipalities and other local boards which are so far not recognised. I think that is a lacuna which I am prepared to

make good so that there may be no discrimination between local authorities which have been taxing and those which have not been taxing. It would be open to Parliament, even after the passing of the Constitution, to make a law permitting those municipalities and local authorities which have not so far levied a tax to levy a tax. Beyond that I am not prepared to go.

Shri Syamanandan Sahaya : (Bihar: General): Even under the existing Government of India Act, 1935, municipalities were not allowed to tax buildings belonging to the Government of India.

The Honourable Dr. B. R. Ambedkar : That is what I have said. I could have elaborated the argument a great deal but I do not want to do it because I have accepted that the *status quo* should be maintained. Purely from the constitutional point of view, I would have tremendous objection to clause *(2)* and I would not allow it, but we are not having a clean slate; we are having so much written on it and therefore I do not want to wipe off what is written. That is the reason why I will have clause *(2)* and also modify clause *(1)* to permit Parliament to enable those municipalities which have not been taxing Central property to tax them.

Babu Ramnarayan Singh : Dr. Ambedkar said Parliament will consider the respective claims of the local bodies later on. I want to know what will be the immediate effect of the passing of this Constitution. For instance, in my province of Bihar certain district boards, especially the District Board of Hazaribagh, always gets a large amount of money from the Government colliery as road cess. May I know whether that payment will be stopped as soon as this Constitution is passed or will it continue to be paid till it is decided upon by the Parliament?

The Honourable Dr. B. R. Ambedkar: Sir, I cannot express any opinion upon individual taxes that are being levied, but the general proposition is quite clear that if any municipality or local board has been levying a tax that tax will continue to be levied against the property of the Centre and against such other property as will be held liable to taxation. There will be no change in the position of those municipalities which are levying those taxes.

Shri R. K. Sidhva : At present under the Indian Railways Taxation Act, a notification has to be issued in the event of local bodies demanding payment of tax. May I know whether Dr. Ambedkar is prepared to consider that section to be amended? Of course it cannot be amended here but is there any assurance from the Railway Minister that it is going to be amended in Parliament?

The Honourable B. R. Ambedkar : Sir, I wish my Friend Mr. Sidhva drew a proper lesson from the Railway Taxation Act. Parliament voluntarily submitted itself by passing an Act to allow the properties of the Railways to be taxed by the local authorities. Any Parliament can voluntarily submit its properties to be taxed by local authorities and there is no reason to suspect that Parliament will not volunteer to allow its other properties also to be taxed in the same manner. If the Railway Property Taxation Act is not properly carried out or if there is any lacuna, it would be open to Parliament to amend it, and I suppose it would be also open to Mr. Sidhva to go to a court of law and have the money paid if it becomes payable and due under the Railway Property Taxation Act.

[Mr. Sidhva withdrew his amendment. Article 264, as modified by Dr. Ambedkar's amendment was adopted and added to the Constitution.]

ARTICLE 265

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***The Honourable Dr. B. R. Ambedkar :** Sir, I move :

"That in article 265, for the words 'a Union railway', wherever the occur, the words 'any railway', be substituted."

This is mainly consequential upon the changes we have made in List I of Schedule VII.

[The amendment was adopted. Article 265, as amended, was added to the Constitution.]

NEW ARTICLE 265-A

†The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That after article 265, the following article be inserted:—

Exemption from taxation by States in respect of water or electricity in case of certain authorities.

'265-A. *(1)* Save in so far as the President may by order otherwise provide, no law of a State in force immediately before the commencement of this Constitution shall impose, or authorise the imposition of a tax in respect of any water or electricity stored, generated, consumed, distributed or sold by any authority established by any existing law or any law made by Parliament for regulating or developing any inter-State river or river-valley.

Explanation.—In this clause, the expression "law in force" has the same meaning as in article 307 of this Constitution'."

In the following paragraph of the article, I wish to introduce some new words with your permission and move it with those words.

"*(2)* The Legislature of a State may by law impose, or authorise the imposition of, any such tax as is mentioned in clause *(1)* of this article but no such law shall have any effect unless it has after having been

*CAD, Vol. IX, 9th September 1949, p. 1160.

†*Ibid.,* p. 1161.

reserved for the consideration of the President, received his assent; and if any such law provides for the fixation of the rates and other incidents of such tax by means of rules or orders to be made under the law by any authority, the law shall provide for the previous consent of the President being obtained to the making of any such rule or order."

[New Article 265-A was added to the Constitution.]

ARTICLE 266

***The Honourable Dr. B. R. Ambedkar :** Sir, I move:

"That for article 266 the following article be substituted :—

'266. *(1)* The property and income of a State shall be exempt from Union Taxation.

Exemption of the Government of States in respect of Union Taxation.

(2) Nothing in clause *(1)* of this article shall prevent the Union from imposing or authorising the imposition of any tax to such extent, if any, as Parliament may by law provide in respect of a trade or business of any kind carried on by, or on behalf of, the Government of a State, or any operations connected therewith, or any property used or occupied for the purposes thereof, or any income occuring or arising therefrom.

(3) Nothing in clause *(2)* of this article shall apply to any trade or business, or to any class of trade or business, which Parliament, may, by law declare as being incidental to the ordinary functions of government'."

* * * * *

SEVENTH SCHEDULE

ARTICLE 250—*(contd.)*

†**The Honourable Dr. B. R. Ambedkar :** Sir, I move :

"That after entry 88 in List I of the Seventh Schedule, the following entry be inserted :—

'88.A. Taxes on the sale or purchase of newspapers and on advertisements published therein'."

I also move:

"That for entry 58 of List II of the Seventh Schedule, the following entries be substituted :—

'58. Taxes on the sale or purchase of goods other than newspapers.

58-A. Taxes on advertisements other than advertisements published in newspapers.' "

Sir, with your permission I shall move the other amendment—No. 374—to article 250 also as it is really part of this.

I move:

"That in clause *(1)* of article 250, after sub-clause *(d),* the following sub-clauses be added:—

"*(e)* taxes other than stamp duties on transactions in stock-exchanges and futures market;

(f) taxes on the sale or purchase of newspapers and on advertisements published therein.' "

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*CAD, Vol. IX, 9th September 1949, p. 1161.

†*Ibid.,* pp. 1172-1173.

Shri T. T. Krishnamachari: I would like to mention that the formal permission of the House will have to be obtained to reopen article 250 which it will be necessary to do in respect of amendment No. 374.

Shri R. K. Sidhva : I raise a point of order that an article which has been completed and passed by the House cannot be reopened.

Mr. President: That is just the point that Mr. Krishnamachari has raised.

Shri R. K. Sidhva: No, Sir. He has moved an amendment to reopen the subject I am raising a point or order that it cannot be reopened.

The Honourable Dr. B. R. Ambedkar: That the President will decide—whether you are right or he is right.

Mr. Naziruddin Ahmad : There is another matter to which I would like to draw your attention. In regard to the amendment to entry 88-A it is the same amendment as that of Mr. Jhunjhunwala. It has now been stolen by the Drafting Committee and is being passed on as their own. Curiously enough, Dr. Ambedkar's amendment No. is 379 which is the section of the Indian Penal Code relating to theft. Can this sort of literary piracy be allowed?

Mr. President: You can take credit for having pointed it out.

The Honourable Dr. B. R. Ambedkar : He is quite content with that. He has not lodged a complaint of theft or robbery.

Mr. Naziruddin Ahmad : But theft is a cognizable offence. It is also non-compoundable. It does not depend on the complaint of any one, absence of objection will not execuse it.

Mr. President: We shall deal with the entries first.

The Honourable Dr. B. R. Ambedkar : Sir, when this matter came up last time before the House there was a lot of debate as to what was exactly intended, what the House could do and what I was prepared to accept. You were kind enough to say that the matter might be recommitted to the Drafting Committee. The Drafting Committee after consideration of the same has brought forth new proposals. The proposals are that newspapers and taxes on advertisements in newspapers should be put in List I. That is a matter to which the Drafting Committee has now agreed. The second amendment—No. 379—is merely a consequential thing because since newspapers and taxes on the sale of newspapers and advertisements therein have been brought into List I, it is necessary to exclude the taxation on newspapers under the Sales Tax Act and advertisement therein from the jurisdiction of the State Legislature.

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ENTRY 58

***The Honourable Dr. B. R. Ambedkar :** Sir, in view of what my honourable Friend Mr. Sidhva said that I have been inconsistent in my attitude towards these entries, I should like to offer one or two observations by way of explanation. Sir, I said in the course of the debate that took place last time over this matter that the newspapers were very intimately connected with article 13 which deals with Fundamental Rights. Therefore in making any provision with regard to newspapers that is a matter which has to be borne in mind.

The second thing is that so far as any regulation of fundamental rights is concerned, under article 27 of the Constitution which we have already passed we have left all matters of legislation regarding fundamental rights to Parliament and we have not left any power with the States. It therefore appeared to me and also to the Drafting Committee that in view of these consideration, namely, that newspapers were coming under fundamental rights, and all laws regarding fundamental rights were being left to Parliament, it was only a natural corollary that newspapers for purposes of taxation should also come under the authority of the Centre.

A third consideration which prevailed with the Drafting Committee as well as with myself was that in view of the fact that newspapers were connected with fundamental rights, namely, the freedom of expression and thought, it was desirable that any imposition that was levied upon them should be uniform and not vary from province to province. Such uniformity can be obtained only if the matter was left to Parliament to make laws. There are the three considerations which prevailed with me and prevailed with the Drafting Committee in the view that they have taken.

The only other consideration of importance was that this item was not purely an item dealing with making laws. It also dealt with lavying a tax in so far as newspapers were included in the term goods in entry 58 of List II. We therefore thought that in order not to deprive the provinces of such revenue as they might be able to make by imposing a levy upon newspapers under the Sales Tax Act, the proper thing to do was to include the sales tax on newspapers in article 250 which includes many other items and provides that if any taxation was levied upon them, the proceeds shall be distributed among the various provinces.

Therefore, the only question for consideration that arises is whether by making this transfer from List II to List I, we are injuring so to say the finances of the provinces. My answer is that we are not doing any injury

*CAD, Vol. IX, 9th September 1949, p. 1182-1183.

to the provinces because if the House would agree to carry my amendment No. 374, the provinces will get such portion of any tax on the sale of newspapers as they may have raised and now receive, under the amendment No. 374. In making these proposals, we have taken into consideration as I said the general proposition that newspapers having been connected, with fundamental rights, ought to come under the jurisdiction of the Centre, and that any financial gain which the provinces would have got should not be lost sight of. Both these considerations have prevailed with the Drafting Committee in making these changes.

I submit, notwithstanding the declarations of my honourable Friend Mr. Sidhva which I can understand, because he is smarting under a great injury which he suffered in another place, I say that there can be no objection to the entries that we have proposed.

Shri R. K. Sidhva : Sir, I take exception to Dr. Ambedkar's remarks when he said that I am smarting under some injury. I shall pay him in his own coins unless you ask him to withdraw those remarks.

The Honourable Dr. B. R. Ambedkar : I am quite prepared to withdraw them, Sir. But, I know it very well.

Mr. President : That settles the matter.

[The original amendment of Dr. Ambedkar, as shown above, was adopted and other amendments were rejected. Entries 58 and 58-A, as amended, were added to the State List of the Seventh Schedule.]

ARTICLE 250

***Shri T. T. Krishnamachari :** Dr. Ambedkar has already moved it. It is only a formal matter and it can be put to vote.

Mr. President : Does any one wish to say anything about amendment No. 374 moved by Dr. Ambedkar?

(No Member rose)

The Honourable Dr. B. R. Ambedkar : It is only a consequential thing, Sir.

Mr. President : There is no amendment to this. I shall put this to vote.

The question is :

"That in clause *(I)* of article 250, after sub-clause *(d),* the following sub-clauses be added : —

"(e) taxes other than stamp duties on transactions in stock-exchanges and futures market;

(f) taxes on the sale or purchase of newspapers and on advertisements published therein'."

(The amendment was adopted.)

*CAD, Vol. IX, 9th September 1949, p. 1184.

†*Ibid.,* pp. 1184-1185.

ARTICLE 202

Mr. President : Article 202.

The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That in clause *(1)* of article 202, after the words 'to issue' the words 'to any person or authority including in appropriate cases any Government within those territories,' be inserted."

I said when moving an amendment to article 302 that a consequential amendment would be necessary in article 202. I am therefore moving this Article 202 as amended will now read as follows :—

"Notwithstanding anything contained in article 25 of this Constitution, every High Court shall have power, throughout the territories in relation to which it exercises jurisdiction to issue to any person or authority including in appropriate cases any Government within those territories directions or orders in the nature of writs of *habeas corpus,* mandamus, prohibition, *quo warranto* and *certiorari,* for the enforcement of any of the rights conferred by Part III of this Constitution for any other purposes."

It is just consequential.

Pandit Thakur Das Bhargava : (East Punjab : General) : Why do you say in appropriate cases?

The Honourable Dr. B. R. Ambedkar : Because appropriate cases will be laid down by law of Parliament.

[The amendment was adopted.]

ARTICLE 234-A

***The Honourable Dr. B. R. Ambedkar :** Sir, I move :

"That after article 234, the following new article be inserted : —

'234-A. *(1)* The executive power of the Union shall also extend to the giving of direction to a State to the measures to be taken for the protection as respects protection of railways, of the railways within the State.

Control of the Union over States as respects protection of Railways

(2) Where by virtue of any direction given to a State under clause *(1)* of this article costs have been incurred in excess of those which would have been incurred in the discharge of the normal duties of the State if such direction had not been given there shall be paid by the Government of India to the State such sum as may be agreed or, in default of agreement, as may be determined by an arbitrator appointed by the Chief Justice of India in respect of the extra costs so incurred by the State.' "

Sir, all police first of all are in the Provincial list. Consequential the protection of railway property also lies within the field of Provincial Government. It was felt that in particular cases the Centre might desire that the property of the railway should be protected by taking special measures by the province and for that purpose the Centre now seeks to be endowed with power to give directions in their behalf. It is possible

*CAD, Vol. IX, 9th September 1949, pp. 1185-1186.

that by reason of the special directions given by the Centre some extra cost above the normal may be incurred by the provinces. In that event what that extra cost is, may either be determined by agreement or if there is no agreement, by an arbitrator chosen by the Chief Justice of India. The second clause is analogous to many of the clauses that we have passed in the Constitution for settling the disputes between the Centre and the Provinces so far as extra cost is concerned.

Dr. P. S. Deshmukh : Mr. President, I do not feel convinced about the necessity of this provision which refers only to railway property....

Shri Brajeshwar Prasad : Mr. President, Sir, I rise to extend my hearty support to clause *(1)* of this article, but I am thoroughly opposed to clause *(2)*. ...Therefore I want that if there is any conflict between the Centre and the provinces as far as the costs are concerned, the matter may be left entirely in the hands of the president.

The Honourable Dr. B. R. Ambedkar : Sir, this clause is very necessary. My Friend Mr. Deshmukh when he said, that there were adequate provisions in the existing article we have passed—I am sorry to say—he is fundamentally mistaken. Railway Police is a subject within the authority of the State. Police as an entry does not find a place in List I. Consequently the Centre has no authority to make a law with regard to any police matter at all, nor, not having the legal authority, has it any executive authority. Therefore so far as protection of the railway property is concerned, the matter is entirely within the executive authority of the State. That being so, there are only two methods of doing it. Either the Centre should be endowed with police authority for the purpose of protecting their own property in which case an article such as the one which I have moved is unnecessary or we should have the provision which I have suggested *viz.,* to give directions. Supposing the Centre has a police to protect railways, that police may come in conflict with the police authority of the State. Therefore the double jurisdiction has been avoided by the scheme which has been suggested *viz*., that the Centre should have the authority to give directions that more police may be posted on the railways, better precautions may be taken, so that there will not be any conflict, and should more expenditure be incurred the Centre should be ready to bear it. I cannot see what difficulty there can be. Dr. Deshmukh's premise that this matter is already covered is hopelessly wrong.

Dr. P. S. Deshmukh : What is the reason, why we do not need any protection so far as the rest of the property of the Union is concerned? How do you distinguish between railway property and others?

The Honourable Dr. B. R. Ambedkar : Because we find the railway property needs more attention. The safety of passengers is there.

[The motion of Dr. Ambedkar was adopted. New Article 234-A was added to the Constitution.]

NEW ARTICLE 242-A

***Mr. President :** Dr. Ambedkar, you may move amendment No. 372-A, regarding the heading.

Shri T. T. Krishnamachari : If No. 373 is passed, then the deletion of heading is consequential.

The Honourable Dr. B. R. Ambedkar : Sir, I move amendment No. 373 :

"That after article 242, the following new article be inserted : —

'242-A. *(1)* Parliament may by law provide for the adjudication of any dispute or complaint with respect to the use, distribution or control of the waters of, or in, any inter-State river or river valley.

Adjudication of disputes relating to waters of inter state rivers or river valleys.

(2) Notwithstanding anything contained in this Constitution, Parliament may, by law, provide that neither the Supreme Court nor any other court shall exercise jurisdiction in respect of any such dispute or complaint as is referred to in clause *(1)* of this article.' "

Sir, originally this article provided for Presidential action. It was thought that these disputes regarding water and so on may be very rare, and consequently they may be disposed of by some kind of special machinery that might be appointed. But in view of the fact that we are now creating various corporations and these corporations will be endowed with power of taking possession of property and other things, very many disputes may arise and consequently it would be necessary to appoint one permanent body to deal with these questions. Consequently it has been felt that the original draft or proposal was too hide-bound or too stereo-typed to allow any elastic action that may be necessary to be taken for meeting with these problems. Consequently I am now proposing this new article which leaves it to Parliament to make laws for the settlement of these disputes.

Shri R. K. Sidhva : Article 242 is proposed to be deleted, and so how does this new article 242-A come up alter article 242?

The Honourable Dr. B. R. Ambedkar : This one only indicates the position.

[Motion was adopted, New article 242-A was added to the constitution.]

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*CAD, Vol. IX, 9th September 1949, p. 1187.

***Mr. President :** Amendment No. 372-A.

The Honourable Dr. B. R. Ambedkar : Sir, I move; :

"That the heading above article 239, and articles 239, 240, 241 and 242 be deleted."

These are covered by article 242-A and therefore are unnecessary.

Mr. President : Does anyone wish to say anything about this amendment? There is no amendments. I then put it to the house.

(The motion was adopted.)

The heading above article 239, and articles 239, 240, 241, and 242 were deleted.

ARTICLES 248-A, 263 AND 263-A

†The Honourable Dr. B. R. Ambedkar : Sir, I should like to move the three amendments 380, 381 and 382 introducing three new articles, and I begin with amendment No. 382 becuase the rest are consequential.

Mr. President : All right.

The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That after article 263, the following new article be inserted : —

'263-A. All moneys received by or deposited with—

Custody of suiter's deposits and other moneys received by public servants and courts.

(a) any officer employed in connection with the affairs of the Union or of a State in his capacity as such, other than revenues or public moneys raised or received by the Government of India or the Government of a State, as case may be, or

(b) any court within the territory of India to the credit of any cause, matter, account or persons shall be paid into the public account of India or of the State, as the case may be.' "

Sir, if you permit me, I shall move the other amendments also and then offer some general observations to enable Members to understand the changes that we propose to make.

Mr. President : Yes.

The Honourable Dr. B. R. Ambedkar : I move amendment No. 380 and amendment No. 381. I move :

"That for article 248-A, the following article be substituted:—

Consolidated Funds and Public Accounts of India and of the States.

'248A. *(1)* Subject to the provisions of article 248B of this Constitution and to the provisions of this Chapter with respect to the assignment of the whole or part of the net proceeds of certain taxes and duties to States, all revenues received by the Government of India and all loans raised by them by the issue of treasury bills, loans or ways and means advances and all moneys received in repayment of loans shall form one consolidated fund to be entitled "The Consolidated Fund of India" and

*CAD, Vol. IX, 9th September 1949, pp. 1188.

†*Ibid.,* pp. 1188-90.

all revenues received by the Government of a State, loans raised by the Government of a State by the issue of treasury bills, loans or ways and means advances and all moneys received by a State in repayment of loans shall form one consolidated fund to be entitled " The Consolidated Fund of the State."

(2) All over public moneys received by or on behalf of the Government of India or the Government of a State shall be credited to the public account of India, or of the State, as the case may be.

(3) No moneys out of the Consolidated Fund of India or of a State shall be appropriated except in accordance with law and for the purposes and in the manner provided in this Constitution.' "

Amendment No. 381.

"That for article 263, the following article be substituted : —

'263. *(1)* The custody of the Consolidated Fund and the Contingency Fund of India, the payment of moneys into such Funds, the withdrawal of moneys therefrom, the custody of public moneys other than those credited to such Funds received by or on behalf of the Government of India, their payment into the public account of India and the withdrawal of moneys from such account and all other matters connected with or ancillary to matters aforesaid shall be regulated by law made by Parliament, and, until provision in that behalf is so made by Parliament, shall be regulated by rules made by the President.

Custody of Consolidated Funds, Contingency Funds and moneys credited to the public accounts and the payment of moneys into and withdrawal of moneys from such Funds and public accounts.

(2) The custody of the Consolidated Fund and the Contingency Fund of a State, the payment of moneys into such Funds, the withdrawal of moneys therefrom, the custody of public moneys other than those credited to such Funds received by or on behalf of the Government of a State, their payment into the public account of the State and the withdrawal of moneys from such account and all other matters connected with or ancillary to matters aforesaid shall be regulated by law made by the Legislature of the State, and until provisions in that behalf is so made by the Legislature of the State, shall be regulated by rules made by the Governor of the Slate.' "

Briefly, he changes are two-fold. In the original article No. 248A as it stood, the scope of the Consolidated Fund was limited. The Consolidated Fund did not specifically refer to the proceeds of loans, treasury bills and ways and means advances. We now propose to make a specific mention of them so that they will form part of the Consolidated Fund.

The second thing is that in drawing the definition of the Consolidated Fund we lumped along with it certain other moneys which were received by the state, but which were not the proceeds of taxes or loans, etc., with the result that public money receive by the state otherwise than as part of the revenues or loans also because subject to an Appropriation Act, namely, the provision contained in sub-clause *(3)* of article 248A. Obviously the withdrawal of money which should strictly not "form part of the

Consolidated Fund of the State cannot be made subject to any Appropriation Act. They will be left open to be drawn upon in such manner, for such purposes and at such times subject to such conditions as may be laid down by Parliament in that behalf specifically. It is, therefore, to enlarge the definition expressly of the Consolidated Fund and to separate the Consolidated Fund from other funds which go necessarily into the public account that these changes are made. There is no other purpose in these changes. The Finance Ministry drew attention to the fact that our provision in regard to the Appropriation Act was also made applicable to other moneys which generally went into the public account and that that was likely to create trouble. It is in order to remove these difficulties that these provisions are now introduced in the original article.

[Motion was adopted. New article 263-A was added to the Constitution.]

ABOLITION OF PRIVY COUNCIL JURISDICTION BILL

***Mr. President :** The first item on the Order Paper today is notice of a motion by Dr. Ambedkar to introduce a Bill to abolish the jurisdiction of His Majesty in Council.

The Honourable Dr. B. R. Ambedkar : (Bombay : General) : Sir, I move for leave to introduce a Bill to abolish the jurisdiction of His Majesty in Council in respect of Indian appeals and petitions.

Mr. President : The question is :

> "That leave be granted to introduce a Bill to abolish the jurisdiction of His Majesty in Council in respect of Indian appeals and petitions."

(The motion was adopted.)

The Honourable Dr. B. R. Ambedkar : Sir, I introduce the Bill.

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DRAFT CONSTITUTION

NEW PART XIV-A—*(contd.)*

†Mr. President : I think these are all the amendments. If I have left out any, the Member who has given notice of the amendments may point out otherwise they may be taken as withdrawn by leave of the Assembly.

I shall now put the amendments moved by Mr. Munshi. But, there is an amendment by Mr. Tyagi to number the paragraphs.

The Honourable Dr. B. R. Ambedkar : That is a matter we will look to later on.

Shri Mahavir Tyagi : It has been accepted, Sir.

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*CAD, Vol. IX, 14th September 1949, p. 1425.

†*Ibid.,* p. 1485.

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***Shri T. T. Krishnamachari :** May I suggest, Sir, before adjourning the House, that you may put to vote articles 99 and 184 which this Chapter supersedes?

The Honourable Dr. B. R. Ambedkar : No; no. It is not in today's Order Paper.

Mr. President : This brings the proceedings of this evening to a close but before adjourning the House I desire just to say a few words of congratulation. I think we have adopted a Chapter for our Constitution which will have very far reaching consequences in building up the country as a whole. Never before in our history did we have one language recognised as the language of rule and administration in the country as a whole....

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NEW ARTICLE 112-B

†The Honourable Dr. B. R. Ambedkar : (Bombay : General) : Mr. President, Sir, I move :

"That after article 112-A, the following new article be inserted : —

'112-B. Until Parliament by law otherwise provides, the Supreme Court shall also have jurisdiction and powers with respect to matters other than those referred to in the foregoing provisions of this Chapter in relation to which jurisdiction and powers were exercisable by His Majesty in Council immediately before the commencement of this Constitution under any existing law'."

Jurisdiction and powers of His Majesty in Council under existing law in certain cases to be exercisable by the Supreme Court.

Sir, the position is this that according to the ruling of the Privy Council there is a distinction between civil matters and matters relating to Income-tax and, for instance, acquisition proceedings. It has been held that the proceedings relating to Income tax and to acquisition of property do not lie within the purview of what are called 'civil proceedings.' And it might therefore be held that unless a special provision was made the powers of the Supreme Court were confined to civil proceedings. In order to remove that doubt this article 112-B is now proposed to be introduced so as to give the Supreme Court full powers over all proceedings, including civil proceedings and other proceedings which are not of a civil nature. That is the reason why this article is sought to be introduced.

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*CAD, Vol. IX, 14th September 1949, p. 1489.

†Ibid., 15th September 1949, p. 1493

***Mr. President :** Dr. Ambedkar, would you like to say anything?

The Honourable Dr. B. R. Ambedkar : Sir, with regard to the amendment of my Friend, Pandit Thakur Das Bhargava, I do not think that that amendment is necessary if he is really enlarging the jurisdiction of the Court. The word "practice" is generally taken to cover matters of procedure, and article 112-B which I have proposed does not deal with procedure but deals with substantive matter of jurisdiction. Therefore his amendment "or practice" is unnecessary.

With regard to the amendment of my Friend Prof. Shibban Lal Saksena, there are two points to which I would like to reply. The first is this, that if there is to be an appeal to the Supreme Court in matters of sentence of death passed by Courts-martial, then such a provision could be easily made by the Indian Army Act giving the accused person the right to appeal, and it has been provided, if I may draw my friend's attention to clause *(1)* of article 114, that the Supreme Court shall have such further jurisdiction and power with respect to any matters in the Union List. It reads : —

> "114*(1)* The Supreme Court shall have such further jurisdiction and powers with respect to any of the matters in the Union List as Parliament may by law confer."

If Parliament thinks that such a power should be vested in the Supreme Court, there is no impediment in the way of Parliament making an appropriate provision in the Army Act conferring such a power on them.

Again, I should like to draw attention to article 112 which deals with matters of special need. Under that it would be open to the Supreme Court to entertain an appeal against a Court-martial because therein the words used are—

> "any cause or matter made by any court or tribunal,"

and therefore, the wording being so large, no Court or tribunal could escape from the special jurisdiction of the Supreme Court provided under article 112. Therefore, my submission is that his amendment is also quite unnecessary.

With regard to the amendment of my friend Mr. Naziruddin Ahmad to omit the words "existing law"...

Mr. Naziruddin Ahmad : I have not moved that.

Mr. President : He has not moved it, he has left it to the Drafting Committee.

The Honourable Dr. B. R. Ambedkar : If he has left it to the Drafting Committee I am very glad, Sir. We shall certainly pay the best attention that his point deserves.

*CAD, Vol. IX, 15th September 1949, pp. 1495-1496.

Mr. President : Then I will put the amendments.

Prof. Shibban Lal Saksena : In view of the assurances given, I would like to withdraw my amendments.

Pandit Thakur Das Bhargava : I too am withdrawing my amendment, Sir.

The amendments were, by leave of the Assembly, withdrawn.

(Article 112B was added to the Constitution.)

NEW ARTICLE 15A

***Mr. President :** Then we go back to New Article 15A.

The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That after article 15, the following article be inserted : —

Protection against certain arrests and detentions.

'15A. (*1*) No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest nor shall he be denied the right to consult a legal practitioner of his choice.

(2) Every person who is arrested and detained in custody shall be produced before the nearest magistrate within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place of arrest to the court of the magistrate and no such person shall be detained in custody beyond the said period without the authority of a magistrate.

(3) Nothing in this article shall apply—

(a) to any person who for the time being is an enemy alien; or

(b) to any person who is arrested under any law providing for preventive detention :

Provided that nothing in sub-clause *(b)* of clause *(3)* of this article shall permit the detention of a person for a longer period than three months unless—

(a) an Advisory Board consisting of persons who are or have been or are qualified to be appointed as judges of a High Court has reported before the expiration of the said period of three months that there is in its opinion sufficient cause for such detention,

or

(b) such person is detained in accordance with the provisions of any law made by Parliament under clause *(4)* of this article.

(4) Parliament may by law prescribe the circumstances under which and the class or classes of cases in which a person who is arrested under any law providing for preventive detention may be detained for a period longer than three months and also the maximum period for which any such person may be so detained'."

Sir, the House will recall that when at a previous session of this Assembly we were discussing article 15, there was a great deal of controversy on the issue as to whether the words should be "except according to procedure established by law", or whether the words "due process" should be there in place of the words which now find a place

*CAD, Vol. IX, 15th September 1949, pp. 1496-1498.

in article 15. It was ultimately accepted that instead of the words "due process", the words should be "according to procedure established by law". I know that a large part of the House including myself were greatly dissatisfied with the wording of article 15. It will also be recalled that there is no part of our Draft Constitution which has been so violently criticised by the Public outside as article 15 because all that article 15 does is this, it only prevents the executive from making an arrest. All that is necessary is to have a law and the law need not be subject to any conditions or limitations. In other words, it was felt that while this matter was being included in the Chapter dealing with Fundamental Rights, we were giving a *carte blanche* to Parliament to make and provide for the arrest of any person under any circumstances as Parliament may think fit. We are therefore now, by introducing article 15A, making, if I may say so, compensation for what was done then in passing article 15. In other words, we are providing for the substance of the law of "due process" by the introduction of article 15A.

Article 15A merely lifts from the provisions of the Criminal Procedure Code two of the most fundamental principles which every civilised country follows as principles of international justice. It is quite true that these two provisions contained in clause *(1)* and clause *(2)* are already to be found in the Criminal Procedure Code and therefore probably it might be said that we are really not making any very fundamental change. But we are, as I contend, making a fundamental change because what we are doing by the introduction of article 15A is to put a limitation upon the authority both of Parliament as well as of the Provincial Legislature not to abrogate these two provisions, because they are now introduced in our Constitution itself.

It is quite true that the enthusiasts for personal liberty are probably not content with the provisions of clauses *(1)* and *(2)*. They probably want something more by way of further safeguards against the inroads of the executive and the legislature upon the personal liberty of the citizen. I personally think that while I sympathise with them that probably this article might have been expanded to include some further safeguards, I am quite satisfied that the provisions contained are sufficient against illegal or arbitrary arrests.

As Members will see, the provisions contained in clauses *(1)* and *(2)* of article 15A are made subject to certain limitations which are set out in clause *(3)* which says that the provisions contained in clauses *(1)* and *(2)* of article 15A will not apply to any person who for the time being is

an enemy alien. I do not think that there could be any further objection to the reservation made in clauses *(3)(a)* in respect of an enemy alien.

With regard to sub-clause *(b)* of clause *(3)* I think it has to be recognised that in the present circumstances of the country, it may be necessary for the executive to detain a person who is tampering either with public order as mentioned in the Concurrent List or with the Defence Services of the country. In such a case I do not think that the exigency of the liberty of the individual should be placed above the interest of the State. It is on that basis that sub-clause *(b)* has been included within the provisions of clause *(3)*.

There again, those who believe in the absolute personal liberty of the individual will recognise that this power of preventive detention has been held in by two limitations : one is that the Government shall have power to detain a person in custody under the provisions of clause *(3)* only for three months. If they want to detain him beyond three months they must be in possession of a report made by an advisory board which will examine the papers submitted by the executive and will probably also give an opportunity to the accused to represent his case and come to the conclusion that the detention is justifiable. It is only under that that the executive will be able to detain him for more than three months. Secondly, detention may be extended beyond three months if Parliament makes a general law laying down in what class of cases the detention may exceed three months and state the period of such detention.

I think, on the whole, those who are fighting for the protection of individual freedom ought to congratulate themselves that it has been found possible to introduce this clause which, although it may not satisfy those who hold absolute views in this matter, certainly saves a great deal which had been lost by the non-introduction of the words 'due process of law'. Sir, I commend this article to the House.

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***Pandit Thakur Das Bhargava :** ...The House has just heard the speech of the honourable Mover of the main motion. I need not recall to the memory of the House the heated controversy which raged about a year and a quarter ago round the words 'due process of law'. Now a substantive part of the 'due process' has practically been given up after 70 per cent, being secured in article 13. I should think that in the circumstances of our country, this provision of 'due process' is certainly necessary cent per cent. It is the only right process in this country....

*CAD, Vol. IX, 15th September 1949, pp. 1500-1501.

The Honourable Dr. B. R. Ambedkar : Sir, may I say a word? I am prepared to accept one of the amendments of my honourable Friend which says that the accused shall have the right to be defended. I can add these words in the last line of clause *(1)* of article 15A. It will run thus : 'be denied the right to consult or to be defended by lawyers of his choice.' I think that will carry out my honourable Friends intention.

Pandit Thakur Das Bhargava : In trials as well as in criminal proceedings?

The Honourable Dr. B. R. Ambedkar : 'Defended' means that.

Could we not curtail the debate now?

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***Shri H. V. Kamath :** ...In order to obviate or at least mitigate the evils or the harm that might accrue from unjust arrest of people by the police or other authorities I wish to provide through this amendment specifically that the person arrested shall be informed of the grounds of his arrest within seven days following his arrest. The words used in this article moved by Dr. Ambedkar are "as soon as may be". I would be happy if the person is informed of the grounds even at the time of his arrest.

The Honourable Dr. B. R. Ambedkar : That is the intention. You are worsening the position by your amendment.

Shri H. V. Kamath : Why not then make it specific? I would welcome the substitution of the words "as soon as may be" by the word "immediately". My Friend Shrimati Purnima Banerjee, has also moved an amendment to the same article, where she wishes to substitute the words "as soon as may be" by "not less than fifteen days". I think fifteen days is far too long a period. I think twenty-four hours would be the best. In any case if there is any hitch in informing the arrestee of the grounds of his arrest, I think in no case should it exceed more than a week.

Coming, Sir, to the next amendment (No. 108), I beg to move :

> "That in amendment No. 1 of List I (Eighth Week), in clause *(2)* of the proposed new article 15A, after the word 'magistrate', occuring at the end, the words 'who shall afford such person an apportunity of being heard' be added."

The Honourable Dr. B. R. Ambedkar : I must tell my honourable Friend Mr. Kamath that he is worsening the position. Our intention is that the words "as soon as possible" really mean immediately after arrest, if not before arrest. Clause *(2)* says that every person who is arrested and detained in custody shall be produced before the nearest magistrate within

*CAD, Vol. IX, 15th September 1949, pp. 1515-16.

a period of twenty-four hours of such arrest. No magistrate can exercise his authority in permitting longer detention unless he knows the charges on which a man has been detained.

Shri H. V. Kamath : I know a little of the Criminal Procedure. I have known of cases where magistrates have remanded persons for fifteen days at a stretch without the police filling a *chalan* or charge sheet before him. I know of magistrates who have remanded persons without caring to go into the *prima facie* merits of the case. Another thing that Dr. Ambedkar said was that the words "as soon as may be" really means "immediately".

The Honourable Dr. B. R. Ambedkar : It means in any case within twenty-four hours.

Shri H. V. Kamath : May I invite his attention to certain articles where the words "as soon as may be" have been used without any specific connotation. Take for instance article 280 which relates to the Emergency Powers of the President.

The Honourable Dr. B. R. Ambedkar : The interpretation of the meaning of the words "as soon as may be" must differ with the context.

Shri H. V. Kamath : I do not know whether Dr. Ambedkar will be always in India to interpret and argue with doubting layers and doubting judges as to the meaning of the words and phrases used in this Constitution. I am sorry Dr. Ambedkar will not be immortal to guide our judges and lawyers in this country. As the Constitution is being framed not for Dr. Ambedkar's life time, but for generations to come, I think we must be specific in what we say.

The Honourable Dr. B. R. Ambedkar : You are selling your immortality very cheap.

Shri H. V. Kamath : I have no desire for physical immortality. It appears however that Dr. Ambedkar presumes he will be immortal.

The Honourable Dr. B. R. Ambedkar : You might admit you have made a mistake in tabling this amendment.

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***Shri H. V. Kamath :** ...Dr. Ambedkar in his speech referred to the enthusiastic champions of absolute liberty. I shall make it quite clear that I am not an advocate of *absolute* liberty.

Mr. President : He did not talk of absolute liberty today.

Shri H. V. Kamath : He did, Sir, if I remember aright. (The Honourable Dr. Ambedkar noded in the affirmative). He referred to absolute personal liberty. I am not a champion or advocate of absolute personal liberty....

*CAD, Vol. IX, 15th September 1949, p. 1518.

ARTICLE 15A

***Shri Mahavir Tyagi** (United Provinces : General) **:** Sir, Dr. Ambedkar will please pardon me when I express my fond wish that he and the other members of the Drafting Committee had had the experience of detention in jails before they became members of the Drafting Committee.

The Honourable Dr. B. R. Ambedkar : I shall try hereafter to acquire that experience.

Shri Mahavir Tyagi : I may assure Dr. Ambedkar that, although the British Government did not give him this privilege, the Constitution he is making with this own hands will give him that privilege in his life-time. There will come a day when they will be detained under the provisions of the very same clauses which they are making *(Interruption).*

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†Smt. G. Durgabai : ...Sir, I commend this article for the acceptance of the House.

Mr. President : I understand Dr. Ambedkar has to make certain suggestions to meet the criticisms that have been made against this article. I would therefore give him a chance to speak at this stage and if any further question arises we can consider it.

Babu Ramnarayan Singh (Bihar : General) **:** Does he agree to remove the article altogether?

Mr. President : No.

The Honourable Dr. B. R. Ambedkar : Sir, I relly did not think that so much of the time of the House would be taken up in the discussion of this article 15-A. As I said, I myself and a large majority of the Drafting Committee as well as members of the public feel that in view of the language of article 15, *viz.,* that arrest may be made in accordance with a procedure laid down by the law, we had not given sufficient attention to the safety and security of individual freedom. Ever since that article was adopted I and my friends had been trying in some way to restore the content of due procedure in its fundamentals without using the words "due process". I should have thought that Members who are interested in the liberty of the individual would be more than satisfied for being able to have the prospect before them of the provisions contained in article 15-A and that they would have accepted this with good grace. But I am sorry that is not the spirit which actuates those who have taken part in this

*CAD, Vol. IX, 16th September 1949, p. 1547.

†*Ibid.,* p. 1556-1565.

debate and put themselves in the position of not merely critics but adversaries of this article. In fact their extreme love of liberty has gone to such a length that they even told me that it would be much better to withdraw this article itself.

Now, Sir, I am not prepared to accept that advice because I have not the least doubt in my mind that that is not the way of wisdom and therefore I will stick to article 15-A. I quite appreciate that there are certain points which have been made by the various critics which require sympathetic consideration, and I am prepared to bestow such consideration upon the points that have been raised and to suggest to the House certain amendments which I think will remove the criticism which has been made that certain fundamentals have been omitted from the draft article 15-A. In replying to the criticism I propose to separate the general part of the article from the special part which deals with preventive detention; I will take preventive detention separately.

Now turning to clause *(1)* of article 15-A, I think there were three suggestions made. One is with regard to the words "as soon as may be". There are amendments suggested by Members that these words should be deleted, and in place of those words "fifteen days" and in some places "seven days" are suggested. In my judgement, these amendments show a complete misunderstanding of what the words "as soon as may be" mean in the context in which they are used. These words are integrally connected with clause *(2)* and they cannot, in my judgement, be read otherwise than by reference to the provisions contained in clause *(2),* which definitely say that no man arrested shall be detained in custody for more than 24 hours unless at the end of the 24 hours the police officer who arrests and detains him obtains an authority from the magistrate. That is how the section has to be read. Now it is obvious that if the police officer is required to obtain a judicial authority from a magistrate for the continued arrest of a person after 24 hours, it goes without saying that he shall have at least to inform the magistrate of the charge under which that man has been arrested, which means that "as soon as" cannot extend beyond 24 hours. Therefore all those amendments which suggest fifteen days or seven days are amendments which really curtail the liberty of the individual. Therefore I think those amendments are entirely misplaced and are not wanted.

The second point raised is that while we have given in clause *(1)* of article 15-A a right to an accused person to consult a legal practitioner of his choice, we have made no provision for permitting him to conduct

his defence by a legal practitioner. In other words, a distinction is made between the right to consult and the right to be defended. Personally I thought that the words "to consult" included also the right to be defended because consultation would be utterly purposeless if it was not for the purpose of defence. However, in order to remove any ambiguity or any argument that may be raised that consultation is used in a limited sense, I am prepared to add after the words "to consult" the words "and be defended by a legal practitioner", so that there would be both the right to consult and also the right to be defended. A question has been raised by the last speaker as to the meaning of the words "legal practitioner of his choice". No doubt the words "of his choice" are important and they have been deliberately used, because we do not want the Government of the day to foist upon an accused person a counsel whom the Government may think fit to appear in his case because the accused person may not have confidence in him. Therefore we have used the words "of his choice". But the words "of his choice" are qualified by the words "legal practitioner". By the phrase "legal practitioner" is meant what we usually understand, namely, a practitioner who by the rules of the High Court or of the Court concerned, is entitled to practise.

Now, Sir, I come to clause *(2)*. The principal point is that raised by my Friend Mr. Pataskar. So far as I was able to understand, he wanted to replace the word "Magistrate" by the words "First class Magistrate". Well, I find some difficulty in accepting the words suggested by him for two reasons. We have in clause *(2)* used very important words, namely, "the nearest Magistrate" and I thought that was very necessary because otherwise it would enable a police officer to keep a man in custody for a longer period on the ground that a particular Magistrate to whome he wanted to take the accused, or the Magistrate who would be ultimately entitled to try the accused, was living at a distance far away and therefore he had a justifiable ground for detaining him for the longer period. In order to take away any such argument, we had used the words "the nearest Magistrate". Now supposing, we were to add the words "the nearest First Class Magistrate" : the position would be very difficult. There may be "the nearest Magistrate" who should be approached by the police in the interests of the accused himself in order that his case may be judicially considered. But he may not be a First Class Magistrate. Therefore, we have really to take a choice; whether we shall give the accused the earliest opportunity to have his matter decided and looked into by the Magistrate near-about, or whether we should go in search of

a First Class Magistrate. I think "the nearest Magistrate" is the best provision in the interests of the liberty of the accused. I might also point out to my Friend, Mr. Pataskar, that even if I were to accept his amendment—"the nearest First Class Magistrate"—it would be perfectly possible for the Government of the day to amend the Criminal Procedure Code to confer the powers of a First Class Magistrate on any Magistrate whom they want and thereby cheat the accused. I do not think therefore that his amendment is either desirable or necessary and I cannot accept it.

Now, those are the general provisions as contained in article 15*(a),* and I am sure...*

Pandit Thakur Das Bhargava : Kindly consider...

The Honourable Dr. B. R. Ambedkar : Now, my Friend, Pandit Thakur Das Bhargava has raised the question of the right of cross-examination.

Pandit Thakur Das Bhargava : And for reasons recorded.

The Honourable Dr. B. R. Ambedkar : Well, that I think is a salutary provision, because I think that the provision which occurs in several provisions of the Criminal Procedure Code making it obligatory upon the Magistrate to record his reasons in writing enables the High Court to consider whether the discretion left in the Magistrate has been judicially exercised. I quite agree that that is a very salutary provision, but I really want my friend to consider whether in a matter of this kind, where what is involved is remand to custody for a further period, the Magistrate will not have the authority to consider whether the charge framed against the accused by the police is *prima facie* borne out.

Pandit Thakur Das Bhargava : At present also under section 167(3) these words are there. It is today incumbent upon every Magistrate to whom a person is taken to record the reasons if he allows the detention to continue.

The Honourable Dr. B. R. Ambedkar : That is quite true. They are there. But are they very necessary ?

Pandit Thakur Das Bhargava : Absolutely necessary!

The Honourable Dr. B. R. Ambedkar : Personally, I do not think they are necessary. Let us take the worst case. A Magistrate, in order to please the police, so to say, got into the habit of granting constant remands, one after the other, thereby enabling the police to keep the accused in custody. Is it the case that there is no remedy open to the

*Dots indicate interruption as shown in original.

accused ? I think the accused has the remedy to go to High Court for revision and say that the procedure of the Court is being abused.

Pandit Thakur Das Bhargava : How can a poor person go to the High Court ?

The Honourable Dr. B. R. Ambedkar : I do not want to close my mind on it. If there is the necessity I think the Drafting Committee may be left to consider this matter at a later stage, whether the introduction of these words are necessary. As at present advised, we think those words are not necessary.

Now I come to the second part of article 15*(3)* dealing with preventive detention. My Friend, Mr. Tyagi, has been quite enraged against this part of the article. Well, I think I can forgive my Friend, Mr. Tyagi, on that ground because after all, he is not a lawyer and he does not really know what is happening. He suddenly wakes up, when something which is intelligible to a common mind, crops up without realizing that what crops up and what makes him awake is really merely consequential. But I cannot forgive the layer members of the House for the attitude that they have taken.

What is it that we are doing ? Let me explain to the House what we are doing now. We had before us the three Lists contained in the Seventh Schedule. In the three Lists there were included two entries dealing with preventive detention, one in List I and another in List III. Supposing now, this part of the article dealing with preventive detention was dropped. What would be the effect of it ? The effect of it would be that the Provincial Legislatures as well as the Central Legislature would be at complete liberty to make any kind of law with preventive detention, because if this Constitution does not by a specific article put a limitation upon the exercise of making any law which we have now given both to the Centre and to the Provinces, there would be no liberty left, and Parliament and the Legislatures of the States would be at complete liberty to make any kind of law dealing with preventive detention. Do the lawyer Members of the House want that sort of liberty to be given to the Legislatures of the States and Parliament ? My submission is that if their attitude was as expressed today, that we ought to have no such provision, then what they ought to have done was to have objected to those entries in List I and List III. We are trying to rescue the thing. We have given power to the Legislatures of the State and Parliament to make laws regarding preventive detention. What I am trying to do is to curtail that power and put a limitation upon it. I am not doing worse. You have done worse.

Coming to the specific provision contained in the second part, I will first...*

Pandit Thakur Das Bhargava : Who made those Lists ?

The Honourable Dr. B. R. Ambedkar : I made them : you passed them !

I had these limitations in mind. Now I come to the proviso to clause 3*(b)*.

Shri Mahavir Tyagi : Will you help laymen to understand as to why you have not provided for the revision by the Advisory Board of the cases under clause *(4)* ?

The Honourable Dr. B. R. Ambedkar : I cannot explain to him the legal points in this House. This House is not a law class and I cannot indulge in that kind of explanation now. The honourable Member is my friend; if he does not understand he can come and ask me afterwards.

Now I will deal with the proviso which is subject to two sorts of criticisms. One criticism is this : that in the case of persons who are being arrested and detained under the ordinary law as distinct from the law dealing with preventive detention, we have made provision in clause *(1)* of article 15A that the accused person shall be informed of the grounds of his arrest. I said we do not make any such provision in the case of a person who is detained under preventive detention. I think that is a legitimate criticism. I am prepared to redress the position, because I find that, even under the existing laws made by the various provincial governments relating to preventive detention, they have made provision for the information of the accused regarding the grounds on which he has been detained. I personally do not see any reason why when provinces who are anxious to have preventive detention laws have this provision, the Constitution should not embody it. Therefore I am prepared to incorporate the following clause after clause *(3)* in article 15A :

> "*(3a)* Where an order is made in respect of any person under sub-clause *(b)* of clause *(3)* of this article, the authority making an order shall...."

Babu Ramnarayan Singh : Sir, Dr. Ambedkar says that provinces want the inclusion of this clause...

Mr. President : He has not said anything of that sort. What he has said is that several of the Acts which have been passed by the provinces for preventive detention contain certain provisions. He wants to incorporate a similar provision in this article.

Babu Ramnarayan Singh : I wanted to know whether we are passing legislation at the dictates of the provinces.

Mr. President : Nothing of the sort.

*Dots indicate interruption.

The Honourable Dr. B. R. Ambedkar : I find that Mr. Ramnarayan Singh is somewhat disaffected with the provincial government to which he belongs.

As I was saying, I think this provision ought to do :

After clause *(3)* of article 15A, the following clause be inserted :

"*(3a)* Where an order is made in respect of any person under sub-clause *(b)* of clause *(3)* of this article the authority making an order shall as soon as may be communicate to him the grounds on which the order has been passed and afford him the earliest opportunity of making a representation against the order.

(b) Nothing in clause *(3a)* of this article, shall require the authority making any order under sub-clause *(b)* of clause *(3)* of this article to disclose the facts which that authority considers to be against the public interest to disclose."

These are the exact words in some of the Acts of the provinces and I do not see any reason why they should not be introduced here, so that this ground of criticism that we arc detaining a person merely because his case comes under preventive detention, without even informing him of the grounds on which we detain him. Now that is met by the amendment which I have proposed.

The other question is...*

The Honourable Shri K. Santhanam (Madras : General) **:** Is it in addition to the provision in clause *(1)* ? There is already a provision that no person shall be detained in custody without being informed.

The Honourable Dr. B. R. Ambedkar : It does not deal with persons arrested for preventive detention.

The Honourable Shri K. Santhanam : Does it not include a person who is arrested for preventive purposes ? I thought clause *(1)* includes every kind of detention.

The Honourable Dr. B. R. Ambedkar : No. That is not our understanding anyhow. The cases are divided into two categories.

Shri Mahavir Tyagi : He is a lawyer.

The Honourable Dr. B. R. Ambedkar : That is in a court of law, not here.

Mr. President : He is not a lawyer.

The Honourable Dr. B. R. Ambedkar : I think it would be much better to say : Nothing in clauses *(1)* and *(2)* shall apply to clause *(3)*. That is the intention. So I have met that part of their criticism.

Now I come to the question of three months' detention without enquiry or trial. Some Members have said that it should not be more than 15 days and others have suggested some other period and so on. I would like to tell the House why exactly we thought that three months was a tolerable

*Dots indicate interruption.

period and 15 months too long. It was represented to us that the cases of detenus may be considerable. We do not know how the situation in this country will develop, what would be the circumstances which would face the country when the Constitution comes into operation, whether the people and parties in this country would behave in a constitutional manner in the matter of getting hold of power, or whether they would resort to unconstitutional methods for carrying out their purposes. If all of us follow purely constitutional methods to achieve our objective, I think the situation would have been different and probably the necessity of having preventive detention might not be there at all.

But I think in making a law we ought to take into consideration the worst and not the best. Therefore if we follow upon that position, namely, that there may be many parties and people who may not be patient enough, if I may say so, to follow constitutional methods but are impatient in reaching their objective and for that purpose resort to unconstitutional methods, then there may be a large number of people who may have to be detained by the executive. Supposing there is a large number of people to be detained because of their illegal or unlawful activities and we want to give effect to the provisions contained in sub-clause *(a)* of that proviso, what would be the situation ? Would it be possible for the executive to prepare the cases, say against one hundred people who may have been detained in custody, prepare the brief, collect all the information and submit the cases to the Advisory Board ? Is that a practical possibility ? Is it a practical possibility for the Advisory Board to dispose of so many cases within three months, because I will say that the provisions contained in sub-clause *(a)* of the proviso are peremptory in that if they want to detain a person beyond three months they must obtain an order from the Advisory Board to that effect.

Therefore, having regard to the administrative difficulties in this matter, the Drafting Committee felt that the exigencies of the situation would be met by putting a time limit of three months. There is no other intention on the part of the Drafting Committee in prescribing this particular time limit and I hope having regard to the facts to which I have referred the House will agree that this is as good and as reasonable a provision that could be made.

Now, I come to the Advisory Board. Two points have been raised. One is what is the procedure of the Advisory Board. Sub-clause *(a)* does not make any specific reference to the procedure to be followed by the Advisory Board. Pointed questions have been asked whether under sub-

clause *(a)* the executive would be required to place before the Advisory Board all the papers connected with the case which have led them to detain the man under preventive custody.

The pointed question has been asked whether the accused person would be entitled to appear before the Board, cross-examine the witnesses, and make his own statement. It is quite true that this sub-clause *(a)* is silent as to the procedure to be followed in an enquiry which is to be conducted by the Advisory Board. Supposing this sub-clause *(a)* is not improved and remains as it is, what would be the consequences ? As I read it, the obtaining of the report in support of the order is an obligatory provision. It would be illegal on the part of the executive to detain a man beyond three months unless they have on the day on which the three months period expires in their possession a recommendation of the Advisory Board. Therefore, if the executive Government were not to place before the Advisory Board the papers on which they rely, they stand to lose considerably, that is to say, they will forfeit their authority to detain a man beyond three months.

Therefore, in their own interest it would be desirable. I think necessary, for the executive Government to place before the Advisory Board the documents on which they rely. If they do not, they will be taking a very grave risk in the matter of administration of the preventive law. That in itself, in my judgement, is enough of a protection that the executive will place before it.

If my friends are not satisfied with that, I have another proposal and that is that, without making any specific provisions with regard to procedure to be followed in sub-clause *(a)* itself, to add at the end of sub-clause *(4)* the following words :—"and Parliament may also prescribe the procedure to be followed by an Advisory Board in an enquiry under clause *(a)* of the proviso to clause *(3)* of this article," I am prepared to give the power to Parliament to make provision with regard to the procedure that may be followed by the Advisory Board. I think that ought to meet the exigencies of the situation.

Sir, these are all the amendments I am prepared to make in response to the criticisms that have been levelled against the different parts of the article 15A.

I will now proceed to discuss some miscellaneous suggestions.

Shri Jaspat Roy Kapoor : In that case, probably sub-section *(b)* of the proviso to clause *(2)* will go ?

The Honourable Dr. B. R. Ambedkar : Nothing will go.

Dr. Bakhshi Tek Chand (East Punjab : General) **:** You have agreed that the grounds of the detention will be communicated to the person affected and his explanation taken.

The Honourable Dr. B. R. Ambedkar : And he will also be given an opportunity to put in a written statement.

Dr. Bakhshi Tek Chand : Will you agree also to the other point to which I drew attention, namely, that as in the Madras Act, the explanation will be placed before the Board ?

The Honourable Dr. B. R. Ambedkar : All papers may be placed before him. That is what I say.

Dr. Bakhshi Tek Chand : All papers may not be placed before him. I have some experience. They will say that this is a very small matter. If you give him an opportunity to submit an explanation within a specified time, why do you light shy of incorporating this provision ? In sub-clause *(2)* of sub-section *(1)* of section 3 of the Madras Act there is provision that the explanation will be placed before the Board.

The Honourable Dr. B. R. Ambedkar : That, I consider, is implicit in what I said.

Dr. Bakhshi Tek Chand : Why not make it clear ? It is not there in the Bombay Act or in the United Provinces Act.

The Honourable Dr. B. R. Ambedkar : As I stated, in the requirement regarding the submission of papers to the Advisory Board under sub-clause *(a)* is implicit the submission of a statment by the accused. If that is not so, I am now making a further provision that Parliament may by law prescribe the procedure, in which case Parliament may categorically say that these papers shall be submitted to the Advisory Board. Now I am not prepared to make any further concession at all.

Shri Mahavir Tyagi : Dr. Ambedkar will please give me one minute ?

The Honourable Dr. B. R. Ambedkar : Not now.

Shri Mahavir Tyagi : I want to know whether the detenus under clause *(4),* according to the law made by Parliament or by the provinces, will have the benefit of their case being reviewed by the tribunal ?

Sir, I want to know whether the detenus who will be detained under the Act which Parliament will enact under clause *(4)* will have the privilege of their case being reviewed by the tribunal proposed ?

The Honourable Dr. B. R. Ambedkar : My Friend Mr. Tyagi is acting as though he is overwhelmed by the fear that he himself is going to be a detenu. I do not see any prospect of that.

Shri Mahavir Tyagi : I am trying to safeguard your position.

The Honourable Dr. B. R. Ambedkar : I will now deal with certain miscellaneous suggestions made.

Pandit Thakur Das Bhargava : What about the safeguards regarding cross-examination and defence ?

The Honourable Dr. B. R. Ambedkar : The right of cross-examination is already there in the Criminal Procedure Code and in the Evidence Act. Unless a provincial Government goes absolutely stark mad and takes away these provisions it is unnecessary to make any provision of that sort. Defending includes cross-examination.

Pandit Thakur Das Bhargava : They even try to usurp power to this extent.

The Honourable Dr. B. R. Ambedkar : If you can give a single instance in India where the right of cross-examination has been taken away, I can understand it. I have not seen any such case.

Sir, the question of the maximum sentence has been raised. Those who want that a maximum sentence may be fixed will please note the provisions of clause *(4)* where it has been definitely stated that in making such a law, Parliament will also fix the maximum period.

Pandit Hirday Nath Kunzru : The word is 'may'.

The Honourable Dr. B. R. Ambedkar : 'May' is 'shall'.

Pandit Hirday Nath Kunzru : Parliament may or may not do that.

The Honourable Dr. B. R. Ambedkar : That is true, but if it does, it will fix the maximum.

Another question raised is as regards the maintenance of the detenus and their families.

Shri Jaspat Roy Kapoor : What about periodical reviews ?

The Honourable Dr. B. R. Ambedkar : I am coming to that. That is not a matter which we can introduce in the Constitution itself. For instance, it may be necessary in some cases and may not be necessary in other cases. Besides, clause *(4)* gives power to Parliament also to provide that maintenance shall be given.

Personally, myself, I think the argument in favour of maintenance is very weak. If a man is really digging into the foundations of the State and if he is arrested for that, he may have the right to be fed when he is in prison; but he has very little right to ask for maintenance. However, *ex-gratia* Parliament and the Legislature may make provision. I think such a provision is possible under any Act that Parliament may make under clause *(4)*.

With regard to the review of the cases of detenus, there again, I do not see why it should not be possible for either the provincial Governments in their own law to make provision for periodical review or for Parliament in enacting a law under clause *(4)* to provide for periodical review. I think this is a purely administrative matter and can be regulated by law.

My Friend Mr. Ananthasayanam Ayyangar, said that I really do not have much feeling for the detenus, because I was never in jail, but I can tell him that if anybody in the last Cabinet was responsible for the introduction of a rule regarding review, it was myself. A very large part of the Cabinet was opposed to it. I and one other European member of the Cabinet fought for it and got it. So, it is not necessary to go to jail to feel for freedom and liberty.

Then there is another point which was raised by my Friend, Mr. Kamath. He asked me whether it was possible for the High Courts to issue writs for the benefit of the accused, in cases of preventive detention. Obviously the position is this. A writ of *habeas corpus* can be asked for and issued in any case, but the other writs depend upon the circumstances of each different man, because the object of the writ of *habeas corpus* is a very limited one. It is limited to finding out by the Court whether the man has been arrested under law, or whether he has been arrested merely by executive whim. Once the High Court is satisfied that the man is arrested under some law, *habeas corpus* must come to an end. If he has not been arrested, under any law, obviously the party affected may ask for any other writ which may be necessary and appropriate for redressing the wrong. That is my reply to Mr. Kamath.

Sir, I hope that with the amendments I have suggested the House will be in a position to accept the article 15A.

Mr. President : I will now put the amendments to the vote.

The Honourable Dr. B. R. Ambedkar : They might all be withdrawn.

Mr. Naziruddin Ahmad (West Bengal : Muslim) **:** New clauses have just been added. Will they be put to the vote now ?

Mr. President : Yes, just now ?

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***Mr. President :** The question is :

> "That in amendment No. 1 above, in clause *(1)* of the proposed new article 15A, for the words 'a legal practitioner of his choice' the words 'and he defended by a legal practitioner of his choice in all criminal proceedings and trials' be substituted."

*CAD, Vol. IX, 16th September 1949, p. 1566.

(The amendment was negatived.)

Mr. President : Then No. 7.

Shri T. T. Krishnamachari : Dr. Ambedkar has accepted a portion of this amendment. It need not be voted upon. If it is rejected, then Dr. Ambedkar will not be able to accept a portion of it.

The Honourable Dr. B. R. Ambedkar : Mine are independent amendments.

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***Mr. President :** ...I think these are all the amendments which we moved yesterday. Dr. Ambedkar has moved certain amendments today and I would put them to vote now.

[Six amendments were rejected.]

[Following amendments were adopted.]

"That in clause *(1)* of article 15A, after the word 'consult' the words 'and be defended by' be inserted."

"That in clause *(3)* of article 15A for the words "Nothing in this article' the words, brackets and figures 'Nothing in clauses *(1)* and *(2)* of the article' be substituted."

"That after clause *(3)* of article 15A, the following clauses be inserted —

'*(3a)* Where an order is made in respect of any person under sub-clause *(b)* of clause *(3)* of this article the authority making an order shall as soon as may be communicated to him the grounds on which the order has been made and afford him the earliest opportunity of making a representation against the order.

(3b) Nothing in clause *(3a)* of this article shall require the authority making any order under sub-clause *(b)* of clause *(3)* of this article to disclose the facts which such authority considers to be against the public interest to disclose.' "

"That at the end of clause *94)* of article 15A, the following be added : —

'and Parliament may also prescribed by law the procedure to be followed by an Advisory Board in an enquiry under clause *(a)* of the proviso to clause *(3)* of this article.' "

Article 15 A, as amended, was added to the Constitution.

Mr. President : I am sorry I forgot to put Dr. Bakhshi Tek Chand's amendment to vote. Of course it was not necessary. It is covered by Dr. Ambedkar's amendments.

ARTICLE 209A

†The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That after article 209, between Chapters VII and IX of Part VI the following be inserted : —

*CAD, Vol. IX, 16th September 1949, p. 1570.

†*Ibid.,* pp. 1570-1571.

"CHAPTER VIII

SUBORDINATE COURTS

Appointment of District Judges

209A. *(1)* Appointments of persons to be, and the posting and promotion of, district judges in any State shall be made by the Governor of the state in consultation with the High Court exercising jurisdiction in relation to such State.

(2) A person not already in the service of the Union or of the State shall only be eligible to be appointed as district judge if he has been for not less than seven years as advocate or a pleader and is recommended by the High Court for appointment.

Recruitment of other than district judges to the Judicial service.

209B. Appointments of persons other than district judges to the judicial service of a State shall be made by the Governor in accordance with rules made by him in this behalf after consultation with the State Public Service Commission and with the High Court.

Control over subordinate Courts

209C. The control over district courts and courts subordinate thereto including the posting and promotion of, and the grant of leave to, persons belonging to the judicial service of a State and holding any post inferior to the post of district judge shall be vested in the High Court but nothing in this article shall be construed as taking away from any such person, the right of appeal which he may have under the law regulating the conditions of his service or as authorising the High Court to deal with him otherwise than in accordance with the conditions of his service prescribed under such law.

Interpretation

209D. *(1)* In this chapter—

(a) the expression "district judge" includes judge of a city civil court, additional district judge, joint district judge, assistant district judge, chief judge of a small cause court chief presidency magistrate, additional chief presidency magistrate, sessions judge, additional sessions judge and assistant sessions judge;

(b) the expression "judicial service " means a service consisting exclusively of persons intended to fill the post of district judge and other civil judicial posts interior to the post of district judge.

Application of the provisions of this Chapter to certain classes of Magistrates.

209F. The Governor may by public notification direct that the foregoing provisions of this Chapter and any rules made thereunder shall with effect from such date as may be fixed by him in this behalf apply in relation to any class or classes of magistrates in the State as they apply in relation to persons appointed to the judicial service of the State subject to such exceptions and modifications as may be specified in the notification.' "

Sir, the object of these provisions is two-fold; first of all, to make provision for the appointment of district judges and subordinate judges and their qualifications. The second object is to place the whole of the civil judiciary under the control of the High Court. The only thing which has been excepted from the general provisions contained

in article 209A, 209B and 209C is with regard to the magistracy, which is dealt with in article 209E. The Drafting Committee would have been very happy if it was in a position to recommend to the House that immediately on the commencement of the Constitution, provisions with regard to the appointment and control of the Civil Judiciary by the High Court were also made applicable to the magistracy. But it has been realised, and it must be realised that the magistracy is intimately connected with the general system of administration. We hope that the proposals which are now being entertained by some of the provinces to separate the judiciary from the Execution will be accepted by the other provinces so that the provisions of article 209E would be made applicable to the magistrates in the same way as we propose to make them applicable to the civil judiciary. But some time must be permitted to elapse for the effectuation of the proposals for the separation of the judiciary and the execution. It has been felt that the best thing is to leave this matter to the Governor to do by public notification as soon as the appropriate changes for the separation of the judiciary and the executive are carried through in any of the province. This is all I think I need say. There is nothing revolutionary in this. Even in the Act of 1935, appointment and control of the civil judiciary was vested in the High Court. We are marely continuing the same in the present draft.

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***Shri R. K. Sidhva** (C. P. & Berar : General) **:** Sir, could you kindly call me again ? I had been out on some office business when my name was called; but I have to move an amendment which is important.

The Honourable Dr. B. R. Ambedkar : Absence cannot be an execuse.

Mr. President : I am afraid it is too late now.

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†The Honourable Dr. B. R. Ambedkar : With regard to the observations of the last speaker, I should like to say that this chapter will be part of the Provincial Constitution, and we will try to weave this language into that part relating to States in Part III by special adaptation at a later stage.

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*CAD, Vol. IX, 16th September 1949, p. 1575.

†*Ibid.,* pp. 1578-1579

There are two amendments—one by Mr. Chaliha and the other by Pandit Kunzru—which call for some explanation.

With regard to the amendment moved by Mr. Chaliha, I am sorry to say I cannot accept it, for two reasons : one is that we do not want to introduce any kind of provincialism by law as he wishes to do by his amendment. Secondly, the adoption of his amendment might create difficulties for the province itself because it may not be possible to find a pleader who might technically have the qualifications but in substance may not be fitted to be appointed to the High Court, and I think it is much better to leave the ground perfectly open to the authority to make such appointment provided the incumbent has the qualification. I therefore cannot accept that amendment.

The amendment of my Friend, Pandit Kunzru, raises in my judgement a very small point and that point is this : whether the posting and promotion of the District Judges should be with the Governor, that is to say, the government of the day, or should be transferred to 209C to the High Court ? Now the provision as contained in the Government of India Act, 1935 was this that the appointment, posting and promotion of the District Judge was entirely in the hands of the Governor. The High Court had no place in the appointment, posting and promotion of the District Judge. My Friend Mr. Kunzru, will see that we have considerably modified that provision of the Government of India Act, because we have added the condition namely, that in the matter of posting, appointment and promotion of the District Judges, the High Courts shall be consulted. Therefore the only point of difference is this : whether the High Court should have exclusive jurisdiction which we propose to give in the matter of posting, promotion and leave etc. of the Subordinate Judicial Service other than the District Judge, or, whether the High Court should have jurisdiction in these matters over all subordinate Judges including the District Judge. It seems to me that the compromise we have made is eminently suitable. The only difference ultimately will be that in the case of Subordinate Judges any notification with regard to posting, promotion and grant of leave will issue from the High Court, while in the case of the District Judge any such notification will be issued from the Secretariat. Fundamentally and substantially, there is no difference at all. The District Judge will have the protection of the High Court because the consultation is made obligatory and I think that ought to satisfy the exigencies of the situation.

ARTICLE 215

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***The Honourable Dr. B. R. Ambedkar :** I have nothing to say, Sir.

Sardar Hukam Singh : Sir, I have no amendment to move. I have one objection to clause *(2)* of this article, to which I want to draw the attention of the President of the Drafting Committee. The phraseology looks to me as derogatory to the sovereignty of the Parliament and I would request him, if possible to change the words :

... I only want to bring this to the notice of the Chairman of the Drafting Committee.

Mr. President : Sardar Hukam Singh has made certain suggestions with regard to paragraph 2. He says that it is derogatory to the authority of Parliament to say that the President will repeal or amend any law made by Parliament and that the words should be so modified as to indicate that the power of Parliament is not in any way subordinated.

The Honourable Dr. B. R. Ambedkar : That is so. It is a kind of adaptation. In regard to the autonomous districts of Assam the Governor of Assam has similar power to adapt the laws made by Parliament when he thinks fit so to do. The whole law made by Parliament cannot be applied to certain peculiarly constituted territories unless they are adapted.

Sardar Hukam Singh : Is that a sufficient answer, Sir ? My suggestion was that it is derogatory to the sovereignty of Parliament to say that the President would repeal an Act passed by Parliament.

Mr. President : The suggestion is about a word and not about the power ?

The Honourable Dr. B. R. Ambedkar : The President is part of Parliament. There is no difficulty at all.

Mr. President : I will now put the amendment of Shri Brajeshwar Prasad to vote.

[Amendment was negatived. Article 215 was added to the constitution.]

ARTICLE 303

†Mr. President : Article 303. We can now take up the definition article 303.

The Honourable Dr. B. R. Ambedkar : Mr. President, I move :

"That sub-clause *(c)* of clause *(1)* of article 303 be omitted."

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The motion was adopted.

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*CAD, Vol. IX, 16th September 1949, pp. 1581-1582.

† *Ibid.,* p. 1583.

***The Honourable Dr. B. R. Ambedkar :** As regards *(b),* I would just like to make one point. We are proposing to drop from the Constitution two Parts which we had originally proposed in which certain communities had been enumerated as Scheduled Castes and certain communities as Scheduled Tribes. We thought that was cumbering the Constitution too much and that this could be left to be done by the President by order. That is our present proposal. It seems to me that, in that event, it will be necessary to transfer the definition clauses of the Scheduled Castes and the Scheduled Tribes to some other part of the Constitution and make provision for them in a specific article itself, saying that the President shall define who are the Scheduled Castes and who are the Scheduled Tribes. Now it seems to me that the question has been raised with regard to article 296 and 299 which have been held over. It may be that the definition of 'Anglo-Indian' and 'Indian Christian' which is referred to in *(b)* and *(c)* may have to be reconsidered along with that proposition. I request you to hold them over for the present.

Shri V. I. Muniswami Pillai (Madras : General) : The whole thing regarding the Scheduled Castes, etc. may be held over.

Mr. President : I take it that the House agrees to hold over the consideration of items *(b)* and *(c).*

[Sub-clauses *(b)* and *(c)* were held over.]

Mr. President : There are no amendments to item *(d).*

The question is :

"That sub-clause *(d)* be adopted."

The motion was adopted.

The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That sub-clause *(e)* of clause *(1)* of article 303 be deleted."

Mr. President : There is no Chief Judge now. There used to be subordinate High Courts which were called Chief Courts and they used to have Chief Judges.

* * * * *

The amendment was adopted.

Sub-clause *(e)* of clause *(1)* was deleted from article 303.

(Amendment No. 3219 was not moved.)

Mr. President : Then *(f).* There is no amendment to this. The question is :

"That sub-clause *(f)* of clause *(1)* stand part of article 303."

The motion was adopted.

*CAD, Vol. IX, 16th September 1949, pp. 1583.-1584.

The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That for sub-clauses *(g)* of clause *(1)* of article 303 the following sub-clause be substituted, namely :—

'*(g)* 'corresponding Province', 'corresponding Indian State' or 'corresponding State' means in cases of doubt such Province, Indian State or State as may be determined by the President to be the corresponding Province, the corresponding Indian State or the corresponding State, as the case may be, for the particular purpose in question;' "

We have only included Indian States.

Shri H. V. Kamath : Are we still going to retain the distinction between 'State' and 'Indian State'?

The Honourable Dr. B. R. Ambedkar : The distinction in this : A State now means a constituent part of the Union. An Indian State means a State which is outside the Union but under the paramountey or control of the Union.

Shri R. K. Sidhva : Is the Cutch State which is now administered by the Centre an 'Indian State'? So also Bhopal?

The Honourable Dr. B. R. Ambedkar : An Indian State is defined at a later stage.

Mr. President : There is a definition of an Indian State given later on in amendment No. 140.

Shri T. T. Krishnamachari : There seems to be some confusion in the minds of Members. The terms "corresponding province" and "corresponding Indian State" these are terms pertaining to the period before the commencement of the Constitution. The term "corresponding State" comes into existence after the commencement of the Constitution. The difference between the two is only this. I hope there will now be no confusion on this matter.

[Amendment of Dr. Ambedkar was adopted. Sub-clause (g), of clause (1), as amended was added to article 303.]

Mr. President : Then *(h)*. There is no amendment to this.

[Sub-clause (h) of clause (1) was added to article 303.]

***The Honourable Dr. B. R. Ambedkar :** Sir, I move :

"That in sub-clause *(i)* of clause *(1)* of article 303, the words 'but does not include any Act of Parliament of the United Kingdom or any Order in Council made under any such Act' be omitted."

Such Acts as the Merchant Shipping Act might have to be retained until Parliament otherwise provides.

Shri H. V. Kamath : With regard to this *(i),* there is evidently a slight lacuna. It speaks of laws and bye-laws. But only 'rule' is mentioned. Why not 'bye-rule' as well ?

The Honourable Shri K. Santhanam : I have got an amendment to this...

The Honourable Dr. B. R. Ambedkar : Whether a law is in force or not would depend upon various considerations. First of all, the merger itself may have provided that certain laws shall not be in operation. It may

*CAD, Vol. IX, 16th September 1949, p. 1585-1586.

be that the Bombay Government after that territory has been merged, may retain the laws for that particular territory known as Baroda, or its own legislation might abrogate it. Therefore any existing law means the law that is in force at the date of commencement of the Constitution.

The Honourable Shri K. Santhanam : I do not press my amendment.

[Above amendment of Dr. Ambedkar was adopted. Sub-clause (i) of clause (1), as amended, was added to article 303.]

Mr. President : Then *(j)*. There is no amendment to this. The question ist :

"That sub-clause *(j)* of clause *(1),* stand part of article 303."

(The motion was adopted)

Honourable Dr. B. R. Ambedkar : Sir, I move :

"That after sub-clause *(j)* of clause *(1)* of article 303, the following sub-clause be inserted : —

'*(jj)*' 'foreign State' means any State other than India but does not include a State notified in this behalf by the President.' "

The Honourable Shri K. Santhanam : Would Dr. Ambedkar kindly explain what is meant by the latter portion of this sub-clause *(jj)*? Will he give an illustration of that ?

* * * * *

***The Honourable Dr. B. R. Ambedkar :** Sir, the position is this : If one were to stop with the word "India", it means what a Foreign State ordinarily means. Every State is foreign to another State. That is quite clear from the first part of the definition. Therefore, there can be no quarrel with that part of the definition. In fact that definition may not be necessary even, but in view of the fact that we have used the words "Foreign State" in some part of our Constitution and in view of the fact that it may be necessary for certain purposes to declare that a Foreign State, although it is a Foreign State in the terminological sense of the word, is not a Foreign State for certain purposes, it is necessary to have this definition and to give the power to the President to declare that for certain purposes a State of that kind will not be a Foreign State. The case of Malaya, I understand, is very much in point. Therefore, it really means that for certain purposes the President may declare that although a State is a Foreign State in the sense that it is outside India, for certain purposes will not be treated as a Foreign State. It is for that purpose that this definition is sought to be introduced.

The Honourable Shri K. Santhanam : This sub-clause does not authorize the President to notify for certain purposes. It gives a definition.

The Honourable Dr. B. R. Ambedkar : That will, of course be remembered duly by the President when he issues the notification.

[The amendment of Dr. Ambedkar as shown above was adopted.]

*CAD, Vol. IX, 16th September 1949, p. 1586.

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SECTION SEVEN

17th September 1949 to 16th November 1949.

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ABOLITION OF PRIVY COUNCIL JURISDICTION BILL

***Mr. President :** The first item is the Bill. Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar (Bombay : General) **:** Mr. President, Sir, I move :

> "That the Bill to abolish the jurisdiction of His Majesty in Council in respect of Indian appeals and petitions introduced on the 14th September 1949, be taken into consideration by the Assembly."

I would like to say just one or two words and inform the House as to why this Bill has become a necessity and what the Bill proposed to do in substance. The necessity for the Bill arises because of two circumstances. One is the provision contained in clause *(3)* of the proposed Article 308. This article 308 is to be found in the midst of what are called transitional provisions. Clause *(3)* of article 308 provides that :

> "On and from the date of commencement of this Constitution the jurisdiction of His Majesty in Council to entertain and dispose of appeals and petitions from or in respect of any decree or order of any court within the territory of India, including the jurisdiction in respect of criminal matters exercisable by His Majesty by virtue of His Majesty's prerogative, shall cease, and all appeals and other proceedings pending before His Majesty in Council on the said date shall be transferred to and disposed of, by the Supreme Court,"

which means that on the date on which the Constitution comes into operation, the jurisdiction of the Privy Council will completely vanish.

The second circumstance which has necessitated the Bill is that it is proposed that this Constitution should come into operation sometime about the 26th January 1950. The effect of these two circumstances is that the Privy Council will have no jurisdiction to entertain any appeal or petition after the 26th January 1950, assuming that that becomes the date of the commencement of the Constitution. But what is more important is this that the Privy Council will not even have jurisdiction to deal with and

*CAD, Vol. IX, 17th September 1949, pp. 1589-1590.

dispose of appeals and petitions which may be pending before it on the 26th January, 1950. Now taking stock of the situation as it will be on the 26th January 1950 the position is this. There are at present seventy civil appeals and ten criminal appeals pending before the Privy Council. The Calendar of cases which is prepared for the next sitting of the Privy Council has set down twenty appeals for hearing and disposal. It is also a fact that that is probably the only sitting which the Privy Council will hold for the purposes of disposing of the Indian appeals before the date on which the Constitution comes into operation.

According to the information which we have, this list of cases which is prepared for hearing at the next session of the Privy Council contains about twenty appeals, which means that on the 26th January, 1950, sixty appeals will remain pending undisposed of; and the question really that we are called upon to consider is this. What is to be done with regard to these sixty appeals which are likely to remain pending before the Privy Council on the 26th January, 1950?

There are, of course, two ways of dealing with this matter. One way was to continue the jurisdiction of the Privy Council and dispose of all the appeals that are now pending before it. That was the procedure that was adopted in the Irish Constitution by article 37 whereby it was stated that nothing in their Constitution would affect the jurisdiction of the Privy Council to deal with matters that may be pending before them on the date of the Constitution. But as I pointed out, in the proposed article 308 clause (3), we do not propose to leave any jurisdiction to the Privy Council. We propose to terminate the jurisdiction of the Privy Council on the 26th January, 1950. The only way out, therefore, is to provide that the jurisdiction of the Privy Council shall terminate, that their jurisdiction shall be conferred on the Federal Court and that they shall transfer all the cases which are pending before them on the 10th October, except the twenty cases to which I made a reference earlier to the jurisdiction of the Federal Court. This is what the Bill does.

Now, Sir, coming to the specific provisions of the Bill, it will be noticed that clause 2 abolishes the jurisdiction of the Privy Council over all courts in the territory of India. Clause 3 abolishes the jurisdiction of the Privy Council over the Federal Court, and clause 5 is the converse of clauses 2 and 3, because it proposes to confer the Privy Council jurisdiction on the Federal Court. Clause 4 deals with the matters that are pending before the Privy Council. Although clause 5 confers the Privy Council's jurisdiction on the Federal Court, clause 4 is a saving clause and saves the jurisdiction of the Privy Council in certain appeals and petitions which are

pending before it. They may be classified under four heads : (1) Appeals and petitions in which judgement has been delivered, but Order in Council has not been made before the 10th October, (2) appeals entered in the Cause List for Michaelmas sitting which begins on the 12th October, (3) petitions which are already lodged and may be lodged before the 10th October, and (4) appeals and petitions on which judgement has been reserved by the Privy Council although the hearing has been completed. In clause 6, all those matters which do not come under clause 4 stand automatically transferred to the Federal Court even though they may be pending before the Privy Council. Clauses 7 and 8 are mere matters of construction.

While curtailing the jurisdiction of Privy Council, it is felt that it is desirable to repeal and amend certain sections of the Government of India Act, 1935 which are necessary as a matter of consequence and which are also necessary to remove some of the anomalies in the Government of India Act with regard to the jurisdiction and powers of the Federal Court. As I have said, clause 3 repeals Sections 208 and 218 of the Government of India Act which deal with the Privy Council and appeals from the Federal Court, and appeals from a court outside India. Both these changes are consequential.

It is proposed to amend Section 205 which deals with the appellate jurisdiction of the Federal Court, and Section 209 which deals with the form of judgement and the drawing up of decrees, 210 which deals with jurisdiction of the Federal Court over other courts and Section 214 which deals with jurisdiction of the Federal Court over courts outside India.

It is proposed, therefore, by these consequential and other necessary amendments to make the jurisdiction of the Federal Court complete and independent. This measure, undoubtedly, is an interim measure, because these powers will last only upto the 26th January 1950 when the Constitution comes into operation. On the 26th January 1950, the powers of the Federal Court will be those that are set out in the Constitution.

Sir, I move.

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Clause 2

***The Honourable Dr. B. R. Ambedkar :** Sir, it is contained in clause 3 if my friend will read it. 'Federal Court' is provided for in sub-clause *(2)* of clause 3. That is why the words "(other than the Federal Court)" are there in clause 2.

*CAD, Vol. IX, 17th September 1949, p. 1597.

Pandit Thakur Das Bhargava : In this list it is in clause 2 and my amendment applies to it only.

Mr. President : You can leave it out for the present.

The Honourable Dr. B. R. Ambedkar : I do not accept the amendment. It is quite unnecessary.

Shri B. Das (Orissa : General) : I beg to move :

"That is sub-clause *(1)* of Clause 2, the words 'or otherwise' be deleted."

Sir, it is very humiliating to me...

***The Honourable Dr. B. R. Ambedkar :** Sir, I do not think this amendment is very necessary, because the jurisdiction of the Privy Council may be derived also from the prerogative conferred by Statute. Therefore the words 'or otherwise' are quite necessary. We want to put an end completely to the jurisdiction not merely arising from the prerogative but from other sources also.

Mr. President : I will now put the amendments to vote.

[All amendments were rejected, clause 2 was added to the Bill.]

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Clause 3

†Shri T. T. Krishnamachari (Madras : General) **:** My friend's remarks can be cut short if I explain there are really no appeals pending before the Privy Council from the Federal Court.

The Honourable Dr. B. R. Ambedkar : There is no pending appeal.

Pandit Thakur Das Bhargava : I heard from Dr. Ambedkar and Dr. Bakhshi Tek Chand that there is no appeal pending, but there may be other proceedings. My submission is that if there are proceedings whereby remedy is possible to be given the persons concerned should not be deprived of their rights, merely because we are doing away with the jurisdiction of the Privy Council.

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‡The Honourable Dr. B. R. Ambedkar : I do not think it is necessary to accept the amendment moved by my Friend. Pandit Thakur Das Bhargava. As my Friend, Mr. Krishnamachari, has stated, there are really no appeals pending before the Privy Council from the Federal Court, and consequently it is quite unnecessary to make any saving as proposed by my Friend, Pandit Thakur Das Bhargava, because nobody is really adversely affected, there being no pending cases.

*CAD, Vol. IX, 17th September 1949, p. 1597.

†*Ibid.,* p. 1598.

‡ *Ibid.,* p. 1599.

With regard to the amendment moved by my Friend, Mr. Naziruddin Ahmad, I cannot understand why we should depart from the principle which has been laid down that any criminal matter which is lodged before the Privy Council before the appointed day may be heard by them for purposes of admission but they would be returned to the Federal Court for final disposal. He wants to make a departure from it but I have not been able to see that the reasons he has advanced warrant it. Therefore I cannot accept his amendment.

[Amendment of Pandit Thakur Das Bhargava was rejected and that of Naziruddin Ahmed was withdrawn. Clause 3 was added to the Bill.]

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Clause 4

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***The Honourable Dr. B. R. Ambedkar :** Sir, I move :

"That for sub-clause *(b)* of clause 4, the following sub-clauses be substituted : —

(b) any Indian appeal or petition on which the Judicial Committee has, after healing the parties, reserved judgment or order; or

(c) any Indian appeal which has been entered before the appointed day in the list of business of the Judicial Committee for the Michaelmas sittings of the year 1949 and which after that day is not directed to be removed therefrom by or under the authority of the Judicial Committee; or;

and sub-clause *(c)* be re-lettered as sub-clause *(d)."*

What probably requires some explanation is sub-clause *(c)*. Although we have stated in the main clause that business or cases entered upon the calendar for the Michaelmas term may be left with the Privy Council for disposal, it is not quite certain how many of them may remain undisposed of. Therefore, we propose to give permission to the Privy Council at the outset to say that, although a matter or a case is entered upon the cause list for the Michaelmas term, they will not be able to hear some of the matters, so that there may be no balance of pending cases left. In that event, those cases which the Privy Council directs that they will not be able to hear would also become automatically transferred to the Federal Court. It is to provide for that sort of contingency that I am adding this sub-clause *(c)* in terms of the amendment.

Pandit Thakur Das Bhargava : Sir, I move :

"That sub-clause *(c)* of clause 4 be deleted."

*CAD, Vol. IX, 17th September 1949, pp. 1599-1600.

...**The Honourable Dr. B. R. Ambedkar :** Sir, I do not accept the amendment of Pandit Thakur Das Bhargava.

[Amendment of Pandit Bhargava was rejected. Dr. Ambedkar's amendment was adopted. Clause 4 was added to the bill.]

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Clause 5

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***The Honourable Dr. B. R. Ambedkar :** Sir, I move :

"That in sub-clause *(3)* of Clause 5, for the brackets, letters and word *'(b)* or *(c),* the brackets, letters and word *'(b), (c)* or *(d)'* be substituted."

It is purely consequential.

[The amendment was adopted and clause 5, was added to the bill.]

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Clause 7

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†**Mr. Naziruddin Ahmad :** Sir, I beg to move :

"That is Clause 7, the comma after the word 'effect' be deleted."...

Mr. President : I do not think this need be put to vote, this question of 'comma'.

The Honourable Dr. B. R. Ambedkar : This will be looked into. This need not be put to vote.

[Clause 7 was added to the Bill.]

Clause 8

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‡**The Honourable Dr. B. R. Ambedkar :** I do not accept the amendment.

[The amendment of Mr. B. Das was negatived. Clause 8 was added to the Bill.]

Clause 9

#**The Honourable Dr. B. R. Ambedkar :** Sir, with your permission, I would like to move the amendment which have been put in a somewhat different form because I thought that the amendments as tabled rather create a confusion. If you will allow me, I have put all these in a consolidated form. There is no substantial change at all. It is just a matter of form and I thought that the House would be in a better position to get at the idea of what we are doing in clause 9.

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*CAD, Vol. IX, 17th September 1949, pp. 1601.

† *Ibid.,* p. 1602.

‡ *Ibid.,* p. 1604.

Ibid., pp. 1604-1605.

Mr. President : Yes.

The Honourable Dr. B. R. Ambedkar : Sir, I move :

For clause 9, the following clause be substituted : —

"9. *(1)* In section 205 of the Government of India Act, 1935 (hereinafter referred to as the said Act), for sub-section *(2)* the following sub-section shall be substituted, namely:—

Amendments of the Government of India Act, 1935.

"(2) Where such certificate is given, any party in a case may appeal to the Federal Court on the ground that any question us aforesaid has been wrongly decided and, with the leave of the Federal Court, on any other ground."

(2) In section 209 of the said Act, for sub-sections *(1)* and *(2)* the following sub-sections shall be substituted, namely : —

"(1) The Federal Court in the exercise of its appellate jurisdiction may pass such decree or make such order as is necessary for doing complete justice in any cause or matter pending before it, including an order for the payment of costs, and any decree so passed or order so made shall be enforceable throughout the territory of India"."

Act V of 1908

I should like to add one or two words to be interpolated, which have been omitted :

"In the manner provided in that behalf in the Code of Civil Procedure, 1908, or in such other manner as may be prescribed by or under a law of the Dominion Legislature, or subject to the provisions of any such law, in the manner prescribed by rules made by the Federal Court."

"*(3)* In clause *(a)* of sub-section (3) of Section 210 of the said Act, for the word, brackets and figure "sub-section *(2)",* the word, brackets and figure "sub-section *(1)"* shall be substituted."

"(4) In section 214 of the said Act, after sub-section *(1)* the following sub-section shall be inserted, namely : —"

I should like to add a few words at the beginning.

"*(IA)* Subject to the provisions of the Code of Civil Procedure, 1908, or any law made by the Dominion Legislature, the Federal Court may also from time to time, with the approval of the Governor-General, make rules of court for regulating the manner in which any decree passed or order made by it in the exercise of its appellate jurisdiction may be enforced."

Act V of 1908.

The object of clause 9 is to make the Federal Court a complete and independent Court. There were certain limitations under the existing Government of India Act, 1935 which prevented the Federal Court from drawing up its own decrees. It had to send the matter to the Trial Court. All these limitations it is necessary to withdraw because the Federal Court is going to take the place of the Privy Council.

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***The Honourable Dr. B. R. Ambedkar :** That amendment, I submit, is outside the scope of the Bill. The Bill deals merely with the transfer of jurisdiction.

*CAD, Vol. IX, 17th September 1949, pp. 1605-1606.

Pandit Thakur Das Bhargava : It is not a question of transfer of jurisdiction. I only give what is contained in clause 5 and am defining what jurisdiction shall be conferred, not leaving it to investigation as to what the prerogative of His Majesty was, I am only making these powers in a concrete form from what it is in the abstract...

The Honourable Dr. B. R. Ambedkar : This Bill does not propose to give any direction to the Federal Court as to the manner in which they should exercise the jurisdiction with which they become vested under the present Bill.

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Clause 11

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***The Honourable Dr. B. R. Ambedkar :** Sir, I do not accept that amendment, it is quite unnecessary.

[The amendment of Mr. Naziruddin Ahmad was negatived.]

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Clause 1

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†Mr. President : Do you wish to say anything about this ?

The Honourable Dr. B. R. Ambedkar : The emphasis is on the abolition of the jurisdiction of the Privy Council, and obviously that emphasis could not be realised if the words "abolition of jurisdiction" were put in brackets.

Mr. President : Do you wish to say anything about the 7th amendment ?

The Honourable Dr. B. R. Ambedkar : Sir, the acceding States were never subject to the jurisdiction of the Privy Council. But as a measure of extreme caution, it will be seen that in sub-clause *(2)* the words used are "within the territory of India". Therefore, it is unnecessary to make any mention of the acceding States.

Mr. President : I shall now put the amendments to vote.

[All amendments were rejected. Clause 1 was added to the Bill.]

The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That the Bill, as amended, be passed".

[The motion was adopted.]

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*CAD, Vol. IX, 17th September 1949, p. 1612.

†*Ibid.,* p. 1613.

ARTICLE 303—*(contd.)*

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***The Honourable Dr. B. R. Ambedkar :** I move :

"That after sub-clause *(1)* of clause *(1)* of article 303, the following sub-clauses be inserted, namely :—

(II) "High Court" means any court which is deemed for the purposes of this Constitution to be a High Court for any State and includes—

(i) any court in the territory of India constituted or re-constituted under this Constitution as a High Court and

(ii) any other court in the territory of India which may be declared by Parliament by law to be a High Court for all or any of the purposes of this Constitution.

(III) "Indian State" means—

(i) as respects the period before the commencement of this Constitution, any territory which the Government of the dominion of India recognised as such a State; and

(ii) as respects any period after the commencement of this Constitution, any territory not being part of the territory of India which the President recognises as being such a State.' "

Mr. President : There is no amendment to this. As no one wishes to speak on this I will put it to vote.

[The motion was adopted.]

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†The Honourable Dr. B. R. Ambedkar : I beg to move :

"That after sub-clause *(n)* of clause *(1)* of article 303, the following sub-clause be inserted, namely : —

"(nn) 'Ruler' in relation to a State for the time being specified in Part III of the First Schedule means the person who for the lime being is recognised by the President as the Ruler of the State and includes any person for the time being recognised by the President as exercising the powers of the Ruler of the State, and in relation to an Indian State means the Prime, Chief or other person recognised by the Government of the Dominion of India or the President as the Ruler of the State'."

* * * * *

Mr. President : There is no amendment to this. I will put it to vote.

[The amendment was adopted.]

‡The Honourable Dr. B. R. Ambedkar : Sir, I move :

*CAD, Vol. IX, 17th September 1949, p. 1633.

† *Ibid.,* p. 1633.

‡ *Ibid.,* pp. 1636-1637.

"That with reference to amendment No. 147 of List IV (Eighth Week), for sub-clause *(w)* of clause *(1)* of article 303, the following sub-clause be substituted : —

'*(w)* 'Scheduled Castes' means such castes, races or tribes or parts of or groups within such castes, races or tribes as are deemed under article 300A of this Constitution to be Scheduled Castes for the purposes of this Constitution.' "

The only change is, the word 'specified' has been changed to 'deemed', Sir, I move :

"That with reference to amendment No. 148 of list IV (Eighth Week), for sub-clause *(x)* of clause *(1)* of article 303, the following sub-clause be substituted : —

'*(x)* 'Scheduled tribes' means such tribes or tribal communities or parts of or groups within such tribes or tribal communities as are deemed under article 300B of this Constitution to be scheduled tribes for the purposes of this Constitution;"

I am incorporating the other amendment which has also been tabled. Shall we take up, the two other articles also at the same time ?

Mr. President : Yes.

NEW ARTICLE 300A AND 300B

The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That after article 300, the following articles be inserted : —

Scheduled Castes.

300A. *(1)* The President may, after consultation with the Governor or Ruler of a State, by public notification specify the castes, races or tribes or parts of or groups within castes, races or tribes, which shall for purposes of this Constitution be deemed to be Scheduled Castes in relation to that State.

(2) Parliament may by law include in or exclude from the list of Scheduled Castes specified in a notification issued by the President under clause *(1)* of this article any caste, race or tribe or part of or group within any caste, race or tribe, but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification.

Scheduled Tribes.

300B. *(1)* The President may after consultation with the Governor or Ruler of a State, by public notification specify the tribes or tribal communities or parts of or groups within tribes or tribal communities which shall for purposes of this Constitution be deemed to be scheduled tribes in relation to that State.

(2) Parliament may by law include in or exclude from the list of scheduled tribes specified in a notification issued by the President under clause *(1)* of this article any Tribe or Tribal community or part of or group within any Tribe or Tribal community, but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification."

The object of these two articles, as I stated, was to eliminate the neccessity of burdening the Constitution with long lists of Scheduled Castes and Scheduled Tribes. It is now proposed that

the President, in consultation with the Governor or Ruler of a State should have the power to issue a general notification in the Gazette specifying all the Castes and Tribes or groups thereof deemed to be Scheduled Castes and Scheduled Tribes for the purposes of the privileges which have been defined for them in the Constitution. The only limitation that has been imposed is this : that once a notification has been issued by the President, which, undoubtedly, he will be issuing in consultation with and on the advice of the Government of each State, thereafter, if any elimination was to be made from the List so notified or any addition was to be made, that must be made by Parliament and not by the President. The object is to eliminate any kind of political factors having a play in the matter of the disturbance in the Schedule so published by the President.

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***Mr. President :** Does anyone else wish to speak ? Do you wish to say anything Dr. Ambedkar ?

The Honourable Dr. B. R. Ambedkar : I do not accept the amendment of Pandit Thakur Das Bhargava.

Mr. President : Then I put the amendments

[Both the above amendments of Dr. Ambedkar were adopted. Following amendment of Pandit Bhargava was negatived.]

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"That in amendment No. 201 of list V (Eighth Week), in clause *(2)* of the proposed new article 300A, the following be added at the end : —

'for a period of ten years from the commencement of this Constitution.'"

* * * * *

†Mr. President : Then I put Mr. Krishnamachari's amendment which has really been accepted by Dr. Ambedkar—218A. The question is :

"That in amendment No. 201 of List V (Eighth Week), in the proposed new article 300B—

(a) in clause *(1),* for the word 'communities' in the two places where it occurs, the words 'tribal communities' be substituted;

(b) in clause *(2)* for the word 'community', in the two places where it occurs, the words 'tribal community' be substituted."

(The amendment was adopted.)

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*CAD, Vol. IX, 17th September 1949, p. 1639.

†*Ibid.,* p. 1640.

Mr. President : Then I put article 300B as proposed by Dr. Ambedkar.

(Article 300B was adopted and added to the Constitution)

EIGHTH SCHEDULE

***The Honourable Dr. B. R. Ambedkar :** Sir, I move :

"That the Eighth Schedule be deleted."

Mr. President : There are certain amendments to the Eighth Schedule. They would not arise now.

The Honourable Dr. B. R. Ambedkar : No. Sir, they would not arise.

(Schedule Eight was deleted from the Constitution).

ARTICLE 303—*(contd.)*

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†The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That in clause *(2)* of article 303, the following words be added at the end : —

'as it applies for the interpretation of an Act of the Legislature of the Dominion of India.' "

The reference is to the General Clauses Act.

Shri Jaspat Roy Kapoor : I wonder whether there is any real necessity for making this. Even if it is, I do not know how far it would be correct if you have it like this "as it applies for the interpretation of an Act of the Legislature of the Dominion of India". Because, hereafter when the Constitution has come into force, there shall be no law which has been made by 'the Legislature of the Dominion of India'. The Dominion of India will cease then and all the Acts in force within the Dominion of India will automatically become Acts of the Union.

The Honourable Dr. B. R. Ambedkar : The point is this that the General Clauses Act applies to Acts, Regulations and Ordinances. It is therefore necessary to say to which class of these laws this will apply. That is the reason why this amendment is proposed.

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Shri Jaspat Roy Kapoor : What I mean to submit is that after the Constitution comes into force there shall be no law in existence which could be said to be a law of the ' Dominion of India'. So I think our purpose would be fully served if we say " as it applies for the interpretation of any existing Act."

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*CAD, Vol. IX, 17th September 1949, p. 1640.

†*Ibid.,* p. 1641.

The Honourable Dr. B. R. Ambedkar : I am afraid you have not examined the General Clauses Act.

Shri Jaspat Roy Kapoor : It is no use introducing some provision without carefully scrutinising it.

The Honourable Dr. B. R. Ambedkar : It had better be left to the draftsmen as to what is necessary and what is not.

Shri Jaspat Roy Kapoor : I agree that any necessary corrections should be left to the Drafting Committee. But there is no harm in submitting a mistake if it is a mistake.

The Honourable Dr. B. R. Ambedkar : I refuse to accept, it is a mistake.

Shri Jaspat Roy Kapoor : I know it is not easy to convince you.

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***The Honourable Dr. B. R. Ambedkar :** Sir, I have said what I had to say and after having seen the General Clauses Act right here, I am quite convinced that the amendment I have moved is a very necessary amendment.

Mr. President : The question is :

"That in clause *(2)* of article 303, the following words be added at the end :—

'as it applies for the interpretation of an Act of the Legislature of the Dominion of India.' "

(The amendment was adopted)

Mr. President : Then clause *(3)*. There is amendment No. 156.

The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That in clause *(3)* of article 303—

(i) after the word and figure ' Part I' the words and Figures ' or Part III' be inserted.

(ii) for the words 'as the case may be, to an Ordinance made by a Governor' the words 'to an Ordinance made by a Governor or Ruler, as the case may be' be substituted."

It is purely consequential.

The amendment was adopted.

[Article 303, as amended, was added to the Constitution.]

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ARTICLE 304

†The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That for article 304, the following be substituted :—

*CAD, Vol. IX, 17th September 1949, pp. 1641-1642.

†*Ibid.,* p. 1643.

'304. An amendment of the Constitution may be initiated by the introduction of a Bill for the purpose in either House of Parliament and when the Bill is passed in each House by a majority of the total membership of that House and by a majority of not less than two-thirds of the members of that House present and voting, it shall be presented to the President for his assent and upon such assent being given to the Bill the Constitution shall stand amended in accordance with the terms of the Bill:

Procedure for amendment of the Constitution.

Provided that if such amendment seeks to make any change in—

(a) any of the Lists in the Seventh Schedule, or

(b) the representation of States in Parliament, or

(c) Chapter IV of Part V, Chapter VII of Part VI, and article 213A of this Constitution,

the amendment shall also require to be ratified by the Legislatures of not less than one half of the States for the time being specified in Parts I and III of the First Schedule.'"

I will move my other amendment also, No. 207. I move:

"That in amendment No. 118 of List III (English Week), for the proviso to the proposed article 304 the following proviso be substituted :—

'Provided that if such amendment seeks to make any change in—

(a) article 43, article 44, article 60, article 142 or article 213A of this Constitution, or

(b) Chapter IV of Part V, Chapter VII of Part VI, or Chapter I of Part IX of this Constitution, or

(c) any of the Lists in the Seventh Schedule, or

(d) the representation of States in Parliament, or

(e) the provisions of this article,

the amendment shall also require to be ratified by the Legislatures of not less than one half of the States for the time being specified in Parts I and III of the First Schedule by resolutions to that effect passed by those Legislatures before the Bill making provision for such amendment is presented to the President for assent.'"

Sir, I do not wish to say anything at this stage because I anticipate that there would be considerable debate on this article and I propose to reserve my remarks towards the end so that I may be in a position to explain the points that might be raised against this amendment.

Mr. Naziruddin Ahmad : It is far better to give the arguments in advance to avoid any unnecessary debate.

The Honourable Dr. B. R. Ambedkar: If my friend will guarantee to me that he will not take time, I will do it, but I know my friend will have his cake and eat it too.

Mr. Naziruddin Ahmad : Sir, Dr. Ambedkar will give no argument at the beginning, saying that he will await arguments and speak in reply. But in the end on hearing arguments, he will merely say "I oppose the amendments and reject the arguments"!

Mr. President : We shall take up the amendments. No. 119.

Shri T. T. Krishnamachari : Sir, I am not moving amendment No. 119 because it is incorporated in Dr. Ambedkar's amendment. It is covered by No. 207.

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***The Honourable Dr. B. R. Ambedkar :** Mr. President, Sir, of the many amendments that have been made and the speeches made thereon, it is not possible for me to pursue every amendment and to pursue every speaker. But I am going to take as a general alternative suggested by the various speakers that our Constitution should be made open for amendment by the future Parliament either by a simple majority or by a method which is much more facile than that embodied in article 304.

Sir, before I proceed to explain the provisions contained in article 304, I should like to remind the House of the provisions which are contained in other constitutions on the question of amending the Constitution. I should begin by telling the House that the Canadian Constitution does not contain any provision for the amendment of the Canadian Constitution. Although Canada today is a Dominion, is a sovereign State with all the attributes of sovereignty and the power to alter the Constitution, the Canadians have not thought it fit to introduce a clause even now permitting the Canadian Parliament to amend their Constitution. It has also to be remembered that the Canadian Constitution was forged as early as 1867 and there is not the slightest doubt about it in the mind of anybody who has read the different books on the Canadian Constitution that there has been a great deal of discontent over the various clauses in the Canadian Constitution and even on the interpretation given by the Privy Council on the provisions of the Canadian Constitution; nonetheless the Canadian people have not thought fit to employ to powers that have been given to them to introduce a clause relating to the amendment of the Constitution.

I come to the Irish Constitution. In the Irish Constitution there is a provision that both Houses by a simple majority may alter, or repeal any part of the Irish Constitution provided that the decision of the Houses to amend, repeal or alter the Constitution is submitted to the people in a referendum and approved by the people by a majority.

*CAD, Vol. IX, 17th September 1949, pp. 1659-1663.

Then let us take the Swiss Constitution. In that constitution too, the legislature may pass an amending Bill, but that amendment does not have any operative force unless two conditions are satisfied: one is that the majority of the cantons accept the amendment, and secondly—there is a referendum also—in the referendum the majority of the people accept the amendment. The mere passing of a Bill by the Legislature in Switzerland has no effect so far as changing the Constitution is concerned.

Let me now take the Australian Constitution. In that Constitution the provision is this : That the amendment must be passed by an absolute majority of the Australian Parliament. Then, after it has been so passed, it must be submitted to the approval of persons who are entitled to elect representatives to the Lower House of the Australian Parliament. Then again it has to be submitted to a referendum of the people or the electors. A further condition is this: that it must be accepted by a majority of the States and also by a majority of the electors.

In the United Constitution the provision is that an amendment must be accepted by two-thirds majority of both Houses subject to the fact that the decision of both Houses by two-thirds majority must be ratified by the decision of two-thirds majority of the States in favour of the amendment. I cite these facts in order to point out that in no country to which I have made reference it is provided that the Constitution should be amended by a simple majority.

Now let me turn to the provision of our Constitution. What is it that we propose to do with regard to amendment of our Constitution ? We propose to divide the various articles of the Constitution into three categories. In one category, we have placed certain articles which would be open to amendment by Parliament by a simple majority. That fact unfortunately has not been noticed by reason of the fact that mention of this matter has not been made in article 304, but in different other articles of the Constitution. Let me refer to some of them. Take for instance articles 2 and 3 which deal with the States. So far as the creation of new States in concerned or the re-constitution of existing States is concerned, this is a matter which can be done by Parliament by a simple majority. Similarly, take for example article 148-A which deals with the Upper Chambers in the provinces. Parliament has been given perfect freedom to either abolish the Upper Chamber or to create new Second Chambers in provinces which do not now have them by a simple majority. Now take article 213 which deals with the States in Part II. With regard to the constitution of the States, the draft Constitution also leaves the making of

constitution of States in Part II and their modification to Parliament to be decided by a simple majority.

Again take Schedule V and VI. They are also left to be amended by Parliament by a simple majority. I can cite innumerable articles in the Constitution, such as article 255, which deals with grants and financial provisions which leave the matter subject to law made by Parliament. The provisions are 'until Parliament otherwise provides'. Therefore in many matters—I have not had time to examine the whole of the draft Constitution and so I am only just illustrating my point—we have left things in our Constitution in a way which is capable of being amended by a simple majority. If my friends who have been persisting in the criticism that Parliament should have more extenstive powers of amending or altering the Constitution by a simple majority had suggested to me a concrete case and referred to any definite article that that should also be put in that category, it would have been open to the Drafting Committee to consider the matter. Instead of that, to say that the whole of the Constitution should be left liable to be amended by Parliament by majority is, in my judgement, too extravagant and too tall an order to be accepted by people responsible for drafting the Constitution.

Therefore, the first point which I wanted to emphasise was that it is absolutely a misconception to say that there is no article in the constitution which could not be amended by Parliament by a simple majority. As I said, we have any number of articles in our Constitution which it would be open for Parliament to amend by a bare majority.

Now, what is it we do ? We divide the articles of the Constitution under three categories. The first category is the one which consists of articles which can be amended by Parliament by a bare majority. The second set of articles are articles which require two-thirds majority. If the future Parliament wishes to amend any particular article which is not mentioned in Part III or article 304, all that is necessary for them is to have two-thirds majority. Then they can amend it.

Mr. President: Of Members present.

The Honourable Dr. B. R. Ambedkar : Yes. Now, we have no doubt put certain articles in a third category where for the purposes of amendment the mechanism is somewhat different or double. It requires two-thirds majority plus ratification by the States. I shall explain why we think that in the case of certain articles it is desirable to adopt this procedure. If Members of the House who are interested in this matter are to examine the articles that have been put under the proviso, they will find that they

refer not merely to the Centre but to the relations between the Centre and the Provinces. We cannot forget the fact that while we have in a large number of cases invaded provincial autonomy, we still intend and have as a matter of fact seen to it that the federal structure of the Constitution remains fundamentally unaltered. We have by our laws given certain rights to provinces, and reserved certain rights to the Centre. We have distributed legislative authority; we have distributed executive authority and we have distributed administrative authority. Obviously to say that even those articles of the Constitution which pertain to the administrative, legislative, financial and other powers, such as the executive powers of the provinces should be made liable to alteration by the Central Parliament by two-thirds majority, without permitting the provinces or the States to have any voice, is in my judgement altogether nullifying the fundamentals of the Constitution. If my honourable Friends were to refer to the articles which are included in the proviso they will see that we have selected very few. Article 43 deals with the election of the President; article 44 deals with the manner of election of the President. It was the view of the Drafting Committee that the President, while no doubt in charge of the affairs of the Centre, none the less was the head of the Union, and as such, the provinces were as much interested in his election and in the manner of his election as the Centre. Consequently we thought that this was a proper matter to be included in that category of articles which would require ratification by the provinces.

Take article 60 and article 142. Article 60 deals with the extent of the executive authority of the Union and article 142 deals with the extent of the executive authority of the State. We have laid down in our Constitution the fundamental proposition that executive authority shall be co-extensive with legislative authority. Supposing, for instance, the Parliament has the power to make an alteration in article 60 for extending the executive authority beyond the provisions or the limit contained in article 60, it would undoubtedly undermine or limit the executive authority of the States as defined in article 142 and we therefore thought that that also was a fundamental matter and ought to require the ratifications of the States.

Chapter IV, Part V, deals with the Supreme Court. There can be no doubt about it that the Supreme Court is a court in which both the Centre and the provinces or the units and every citizen of this country are interested, and it was therefore a matter which ought not to be left to be

decided merely by a two-thirds majority. The same about the High Courts, mentioned in Chapter VII of Part VI.

Chapter I of Part IX which is included in the third category, deals with the distribution of legislative power, and *(a)* deals with the lists of the Seventh Schedule. Nobody can deny that the provinces have a fundamental interest in this matter and that they should not be altered without their consent. Similarly the representation of the States in the Council of States which is dealt with in article 67.

I think honourable Members will see that the principles adopted by the Drafting Committee are unquestionable, except in the sight of those who think that the Constitution should be liable, should be open to be amended every article of that—by a simple majority. As I said, I am not prepared to accept that position. The Constitution is a fundamental document. It is a document which defines the position and power of the three organs of the State—the executive, the judiciary and the legislature. It also defines the powers of the executive and the powers of the legislature as against the citizens, as we have done in our Chapter dealing with Fundamental Rights. In fact, the purpose of a Constitution is not merely to create the organs of the State but to limit their authority, because if no limitation was imposed upon the authority of the organs, there will be complete tyranny and complete oppression. The legislature may be free to frame any law; the executive may be free to take any decision; and the Supreme Court may be free to give any interpretation of the law. It would result in utter chaos. Sir I have not been able to understand when it is said that the Constitution must be made open to amendment by a bare majority. I can, applying my mind to this particular feeling, conceive of only three reasons. One is that the Drafting Committee has prepared a draft which from the drafting point of view is very bad. I can quite understand that position. If that is the thing....*

Shri Mahavir Tyagi : It is not so.

The Honourable Dr. B. R. Ambedkar : It may not be so. If it is so, I as Chairman of the Drafting Committee and I think my other colleagues of the Drafting Committee would not at all object if this Constituent Assembly were to appoint another Drafting Committee or to import a Parliamentary draftsman submit this draft to him and ask him to suggest and find out what defects there are. That would be an honest procedure and I have no objection to it at all.

*Dots indicate interruption.

If that is not the ground on which the argument rests, then the other ground is that this Constitution proceeds on some wrong principles. Sir, so far as this matter is concerned, it seems to me that a modern constitution can proceed only on two bases : One base is to have a parliamentary system of government. The other base is to have a totalitarian or dictatorial form of government. If we agree that our Constitution must not be a dictatorship but must be a Constitution in which there is parliamentary democracy where government is all the time on the anvil, so to say, on its trial, responsible to the people, responsible to the judiciary, then I have no hesitation in saying that the principles embodied in this Constitution are as good as, if not better than, the principles embodied in any other parliamentary constitution.

The other argument which perhaps might have been urged—I was not able to hear every Member who spoke—is that this Assembly is not a representative assembly as it has not been elected on adult suffrage, that the large mass of the people are not represented in this Constitution. Consequently this Assembly in framing the Constitution has no right to say that this Constitution should have the finality which article 304 proposes to give it. Sir, it may be true that this Assembly is not a representative assembly in the sense that Members of this Assembly have not been elected on the basis of adult suffrage. I am prepared to accept that argument, but the further inference which is being drawn that if the Assembly had been elected on the basis of adult suffrage, it was then bound to possess greater wisdom and greater political knowledge is an inference which I utterly repudiate.

Mr. Naziruddin Ahmad : It would have been worse !

The Honourable Dr. B. R. Ambedkar : It might easily have been worse, says my Friend Mr. Naziruddin Ahmad, and I agree with him. Power and knowledge do not go together. Often times they are dissociated, and I am quite frank enough to say that this House, such as it is, has probably a greater modicum and quantum of knowledge and information than the future Parliament is likely to have. I therefore submit, Sir, that the article as proposed by the Drafting Committee is the best that could be conceived in the circumstances of the case.

Mr. President: I shall now put the amendments to vote.

[The amendments were negatived and those of Dr. Ambedkar, as mentioned earlier were adopted. Article 304, as amended, was added to the Constitution.]

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***Shri Brajeshwar Prasad :** Sir, now the time is seven o'clock.

Seth Govind Das : There is so much still to be done that I do not think that we shall be able to finish It. So, I propose that either we should sit at nine o'clock tonight and go on till twelve o'clock or we may sit tomorrow morning.

The Honourable Dr. B. R. Ambedkar: We have got only three articles.

Shri T. T. Krishnamachari: We have only three articles, two of which are of a formal nature.

Mr. President: I think it would be very inconvenient to adjourn now and come back again to the House. So we have to sit until we finish or we have to sit tomorrow.

The Honourable Dr. B. R. Ambedkar : We have got two or three articles and I am sure they are non-contentious and it would not take even half an hour.

Seth Govind Das : I do not think we can finish in one hour. There is the question of the name of the country in article I to be settled. I do not think we shall be able to finish all these.

Mr. President: The majority of the House seems to think that we shall continue. Am I correct ?

Many Honourable Members : Yes, Sir.

The Honourable Dr. B. R. Ambedkar : We can finish the thing.

Mr. Naziruddin Ahmad : It cannot be done. There is article 1 and unless the sweets are arranged by Dr. Ambedkar, the *namkaranam* ceremony cannot be done today.

ARTICLE 99

Mr. President: Then we shall take articles 99 and 184.

†The Honourable Dr. B. R. Ambedkar : Sir, I move.

"That for article 99, the following article be substituted :—

Language to be used in Parliament.

'99. *(1)* Notwithstanding anything contained in Part XIVA of this constitution but subject to the provisions of article 301-F thereof, business in Parliament shall be translated in Hindi or in English.

Provided that the Chairman of the Council of States or Speaker of the House of the People or person acting as such, as the case may be, may permit any member, who cannot adequately express himself in either of the languages aforesaid to address the House in the mother tongue.

*CAD, Vol. IX, 17th September 1949, p. 1665.

†*Ibid.,* p. 1666.

(2) Unless Parliament by law otherwise provides, this article shall, after the expiration of a period of fifteen years from the commencement of this Constitution, have effect as if the words 'or in English' were omitted therefrom.'"

May I move the other one also. This is an analogous thing.

Mr. President: I suppose the argument will be the same in respect of both.

The Honourable Dr. B. R. Ambedkar: They are substantially the same.

Mr. President: I shall put them separately to vote.

The Honourable Dr. B. R. Ambedkar : We can have one discussion. So far as the discussion is concerned, the argument will be more or less the same. Sir, I move :

'That for article 184, the following article be substituted :—

'184. *(1)* Notwithstanding anything contained in Part XIVA of this Constitution but subject to the provisions of article 301-F thereof, business in the Legislature of a State shall be transacted in the official language or languages of the State or in Hindi or in English.

Language to be used in the legislatures of States

Provided that the Speaker of the Legislative Assembly or Chairman of the Legislative Council or person acting as such, as the case may be, may permit any member who cannot adequately express himself in any of the languages aforesaid to address the House in his mother tongue.

(2) Unless the Legislature of the State otherwise provides, this article shall, after the expiration of a period of fifteen years from the commencement of this Constitution, have effect as if the words 'or in English' were omitted therefrom'."

Sir, I think no observations are necessary. The articles are very clear in themselves.

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***Mr. Nazaruddin Ahmad :** ...If you do not allow the regional languages also to develop, their contribution towards the development of the official language will be very small.

Mr. President: Is that not given in the amendment as proposed now ?

Mr. Naziruddin Ahmad: I shall ask the Drafting Committee to consider that. This is only a suggestion; it should fit in somehow. I know this is only a pious sentiment on my part because it is not going to be accepted.

Pandit Lakshmi Kanta Maitra : Are you going to allow discussion on the language question ? The whole language question is coming before the House.

The Honourable Dr. B. R. Ambedkar : No, No. The whole question has been discussed and decided.

*CAD, Vol. IX, 17th September 1949, p. 1667.

[Amendments of Dr. Ambedkar mentioned above were adopted Articles 99 and 184, as amended were added to the Constitution.]

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ARTICLE 1

***Mr. President:** There is one more article, article 1.

The Honourable Dr. B. R. Ambedkar : Sir, I propose to move amendment No. 130 and incorporate in it my amendment No. 197 which makes a little verbal change in sub-clause *(2)*.

Sir, I move:

"That for clauses *(1)* and *(2)* of article 1, the following clauses be substituted :—

"(*1*) India, that is, Bharat shall be a Union of States.

(2) The States and the territories thereof shall be the States and their territories for the time being specified in Parts I, II and III of the First Schedule.'"

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†Mr. President: If I adjourn at all, it will be for the next session. It will be best to adjourn till the next session.

The Honourable Dr. B. R. Ambedkar : Sir, this can be finished in a short time.

Mr. President: What can we do ? It is open to any Member to obstruct. Eighty six Members are present and under our rules one-third of the total number of Members should constitute the quorum, and that is about 97. So now, there is no quorum. I have to adjourn the House, there is no help.

An Honourable Member : Let this article go to the next session.

Another Honourable Member : We can meet tomorrow.

Another Honourable Member: There is no guarantee of quorum even tomorrow.

The Honourable Dr. B. R. Ambedkar : We can bring some Members who may be outside. The bell may be rung.

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‡Shri H. V. Kamath : ...Some ascribe it (name of Bharat) to the son of Dushyant and Shakuntala who was also known as "Sarvadamana" or all conqueror and who established his suzerainty and kingdom in this ancient land. After him this land came to be known as Bharat. Another school of research scholars hold that Bharat dates back to Vedic...

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*CAD, Vol. IX, 17th September 1949, p. 1669. .

†*Ibid., p.* 1670.

‡*Ibid.,* 18th September 1949, p. 1674

The Honourable Dr. B. R. Ambedkar (Bombay : General)**:** Is it necessary to trace all this ? I do not understand the purpose of it. It may be well interesting in some other place. My friend accepts the word "Bharat". The only thing is that he has got an alternative. I am very sorry but there ought to be some sense of proportion, in view of the limited time before the House.

Shri H. V. Kamath : I hope it is not for Dr. Ambedkar to regulate the business of the House.

Mr. President: What amendment are you moving ?

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***Mr. President:** You can move one. I permitted you to move both of them, but I find that the two amendments are contradictory.

Shri H. V. Kamath: Are they contradictory, Sir ? If you say they are contradictory, I have nothing to say.

Mr. President: Yes, if one is accepted, the other is ruled out.

Shri H. V. Kamath : My object is that if one is not accepted, the other may be accepted.

The Honourable Dr. B. R. Ambedkar: Why all this eloquence over it ?

Shri Shankarrao Deo (Bombay : General)**:** There should be no arguing with the Chair.

Shri H. V. Kamath : I know the rules, Mr. Shankarrao Deo.

Mr. President: You can move one.

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†The Honourable Dr. B. R. Ambedkar: It is proposed to alter the clause in article 3 dealing with the reorganisation of the provinces and States. States in both Parts I and III will be brought on the same level. There is an amendment to the article and that difference is going to be eliminated and it will disappear.

Shri B. M. Gupte: That is alright but as I was saying I am not against making the Centre strong. But at the same time we have given a glorified name to the units. We are taking away the powers of the States and bringing them in the Central or Concurrent list; and yet we have adopted the word State for the unit....

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*CAD, Vol. IX, 18th September 1949, p. 1675.

†*Ibid.,* p. 1685.

***The Honourable Dr. B. R. Ambedkar :** Sir, this matter was debated at great length last time. When this article came before the House, it was kept back practically at the end of a very long debate because at that time it was not possible to come to a decision as to whether the word "Bharat" should be used after the word "India" or some other word, but the whole of the article including the term "Union"—if I remember correctly— was debated at great length. We are merely now discussing whether the word "Bharat" should come after "India". The rest of the substantive part of the article has been debated at great length.

Shri B. M. Gupte : I do not say that we should go back upon what we have done. I am merely pointing out the implications and the result of all this....

†Shri Kamalapati Tripathi: ...When we pronounce this word (Bharat) we are reminded of Shankaracharya, who gave a new vision to the world. When we pronounce this word, we are reminded of the mighty arms of Bhagwan Rama which by twanging the chord of the bow sent echoes through the Himalayas, the seas around this land and the heavens. When we pronounce this word, we are reminded of the wheel of Lord Krishna which destroyed the terrible Imperialism of Kshatriyas from India and relieved this land of its burden.

The Honourable Dr. B. R. Ambedkar : Is this all necessary, Sir?

Shri Kamalapati Tripathi: I am just telling you to hear relevant things, Sir.

The Honourable Dr. B. R. Ambedkar : There is a lot of work to be done.

Shri Kamalapati Tripathi: When we pronounces this word we are reminded of Bapu who gave a new message to humanity.

We are pleased to see that this word has been used and we congratulate Dr. Ambedkar on it. It would have been very proper, if he had accepted the amendment moved by Shri Kamath, which states "Bharat as is known in English language 'India'" ... etc.

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*CAD, Vol. IX., 18th September 1949, p. 1686.

†*Ibid.,* p. 1689.

ARTICLE 306

***Mr. President:** We shall now proceed with the consideration of the articles relating to transitory provisions. Article 306.

The Honourable Dr. B. R. Ambedkar (Bombay : General) **:** Sir, I Move :

"That for clauses *(a), (b)* and *(c)* of article 306, the following clauses be substituted :—

"(a) trade and commerce within a State in, and the production, supply and distribution of, cotton and woollen textiles, raw cotton (including ginned cotton and unginned cotton or *Kapas*), cotton seed, paper (including newsprint), foodstuffs (including edible oilseeds and oil), coal (including coke and derivatives of coal), iron steel and mica ;

(b) offences against laws with respect to any of the matters mentioned in clause (a), jurisdiction and powers of all courts except the Supreme Court with respect to any of those matters, and fees in respect of any of those matters but not including fees taken in any court.'"

The only changes which the amendment seeks to make in the original article 306 are these. From sub-clause *(a),* it is now proposed to omit petroleum and petroleum products and mechanically propelled vehicles. The reason why petroleum and petroleum products are sought to be omitted from sub-clause *(a)* is because that item is now included in List I of the Seventh Schedule. Mechanically propelled vehicles are omitted because they are at present de-controlled and they are placed in the Concurrent List. If the Centre wishes to legislate, it can legislate. Sub-clause *(b)* of the original article, relief and rehabilitation of displaced persons, is no longer necessary because that is also put in the Concurrent List. In regard to sub-clause (c), Inquiries and Statistics is also included in the Concurrent List and therefore this is also omitted. It is only a consequential thing. These are all the changes which this amendment seeks to make in the original article 306.

Mr. President : May I enquire of Dr. Ambedkar ? My impression is that cattle fodder including oil cakes and other concentrates was one of the things, adequate control over which was at one time felt necessary. The Government of India Act was sought to be amended; but it would not be amended at the time and considerable difficulty was being felt. I do not know whether you have considered that.

The Honourable Dr. B. R. Ambedkar : This article was re-drafted in consultation with the Industry and Supply Department. We have put in these matters which they thought were necessary to be controlled by the Centre, for a period of five years. If the House thinks that any particular addition may be made to the items included in sub-cluse (a), I certainly have no objection.

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*CAD, Vol. X, 7th October 1949, pp.3-4.

Mr. President: I speak from my experience which is now rather out of date.

The Honourable Dr. B. R. Ambedkar : I think it is rather desirable to include that item.

Dr. P. S. Deshmukh (C.P. & Berar : General): That may be done in consultation with the Agriculture Department.

Mr. President : That is what I suggest.

The Honourable Dr. B. R. Ambedkar : I think we shall add that. I can put in, foodstuffs including cattle fodder.

Mr. President: Cattle fodder including oil cakes and other concentrates.

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***Mr. President :** Does anyone else wish to speak ? Dr. Ambedkar ?

The Honourable Dr. B. R. Ambedkar : Sir, I have only to say this much. I am not able to accept the amendment moved by Shri Brajeshwar Prasad. With regard to the other amendment suggested by yourself and by my Friend Dr. Kunzru, I may say that I have an open mind and I am prepared to introduce the necessary amendments after consultation with the Ministry of Industry and Supply. Therefore my amendment may be put through now.

Mr. President : And the Ministry of Agriculture also. You may consult that Ministry also.

The Honourable Dr. B. R. Ambedkar : Yes, Sir, I will consult the Ministries concerned.

Mr. President: Subject to what Dr. Ambedkar has said, I will put the article to vote. I take up the amendments first. Amendment No. 2 of Dr. Deshmukh is more or less verbal and he may leave it to the Drafting Committee also No. 3. What about No. 4 ?

Dr. P. S. **Deshmukh :** I am not moving it.

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[Amendment of Dr. Ambedkar was adopted. Article 306, as amended was added to the constitution.]

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ARTICLE 309

†Mr. President : Then we take up article 309.

The Honourable Dr. B. R. Ambedkar : There is an amendment by Shri Brajeshwar Prasad adding a new article 307 A.

Mr. President : But shall we take it up now ?

The Honourable Dr. B. R. Ambedkar : It may be kept back.

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[Article 309 was adopted and added to the Constitution.]

*CAD, Vol. X, 7th October 1949, p. 6.

†*Ibid.,* p. 7.

ARTICLES 310-A AND 310-B

***Shri T. T. Krishnamachari :** The next article *viz.,* 310 is linked to article 308. These two may be considered together.

Mr. President : Consideration of article 310 is postponed. Then the House will take up consideration of the next articles 310-A and 310-B.

The Honourable Dr. B. R. Ambedkar : Sir, with your permission I move amendment No. 12 in a slightly amended form, thus :

" That after article 310, the following new articles be inserted :—

Provisions as to Comptroller and Auditor-General of India.

'310 A. The Auditor-General of India holding office immediately before the date of commencement of this Constitution shall, unless he has elected otherwise, become on that date the Comptroller and Auditor-General of India and shall thereupon be entitled to such salaries and allowances and to such rights in respect of leave and pension as are provided for under clause (2) of article 124 of this Constitution in respect of the Comptroller and Auditor-General of India and shall be entitled to continue to hold office until the expiration of his term of office as determined under the provisions (?) which were applicable immediately before such commencement'.

Provisions as to Public Service Commission.

310 B. *(1)* The members of the Public Service Commission for the Dominion of India holding Office immediately before the date of commencement of this Constitution shall, unless they have elected otherwise, become on that date the members of the Public Service Commission for the Union and shall, notwithstanding anything contained in clauses (*1*) and (*2*) of article 285 of this Constitution but subject to the proviso to clause (*2*) of that article continue to hold office until the expiration of their term of office as determined under the rules which were applicable immediately before such commencement to such members.

(2) The members of a Public Service Commission of a Province or of a Public Service Commission serving the needs of a group of Provinces holding office immediately before the date of commencement of this Constitution shall, unless they have elected otherwise, become on that date the members of the Public Service Commission for the corresponding State or the members of the Joint Public Service Commission serving the needs of the corresponding States, as the case may be, and shall, notwithstanding anything contained in clauses (*1*) and (*2*) of article 285 of this Constitution but subject to the proviso to clause (*2*) of that article, continue to hold office until the expiration of their term of office as determined under the rules which were applicable immediately before such commencement to such members."

Sir, these articles merely provide for the continuance of certain incumbents of the posts which are regulated by the Constitution such as the members of the Public Service Commission and the Auditor-General.

There is no matter of principle involved in these articles.

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†The Honourable Dr. B. R. Ambedkar : I do not propose to accept the amendment of Dr. Deshmukh. It is unnecessary.

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*CAD, Vol. X, 7th October 1949, p. 8.

†*Ibid.,* p. 9.

Mr. President : I will first put the amendment of Dr. Deshmukh to vote. The question is :

"That in amendment No. 12 of List I (First Week), in the proposed new article 310-B, after the words 'commencement of this Constitution' wherever they occur, the words 'whose services have not, for any reason, been terminated be inserted."

The amendment was negativated.

Mr. President: I will now put the articles contained in the amendment of Dr. Ambedkar one by one to vote.

[All amendments of Dr. Ambedkar were carried Articles 310-A and 310-B were added to the constitution.]

ARTICLE 311-A

***The Honourable Dr. B. R. Ambedkar :** Sir, I move :

"That after article 311, the following new article be inserted :

Provisions as to Provisional President

'311A. *(1)* Such person as the Constituent Assembly of the Dominion of India shall have elected in this behalf shall be the Provisional President of India until a President has been elected in accordance with the provisions contained in Chapter I of Part V of this Constitution and has entered upon his office.

(2) In the event of the occurrence of any vacancy in the office of the Provisional President by reason of his death, resignation, or removal, or otherwise, it shall be filled by a person elected in this behalf by the Provisional Parliament functioning under article 311 of this Constitution, and until a person is so elected, the Chief Justice of India shall act as the Provisional President'."

Mr. President : There are two amendments to this. One is for the deletion of the word "provisional" before the word "President".

The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That in amendment No. 28 of List II (First Week), in clause *(1)* of the proposed article 311 A the word 'Provisional' be deletedd."

"That in amendment No. 28 of List II (First Week), in clause *(2)* of the proposed article 311 A, for the words 'provisional President' in the first place where they occur, the words 'President so elected by the Constituent Assembly of the Dominion of India', be substituted."

"That in amendment No. 28 of List II (First Week), in clause (*2*) of the proposed article 311 A, for the words 'the provisional President' in the second place where they occur, the word 'President' be substituted."

Dr. P. S. Deshmukh : Since the principle underlying my amendment has been accepted, I do not see any reason for moving my amendment.

Mr. President : The article and the amendments are now open to discussion.

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†Prof. Shibban Lal Saksena : Mr. President, Sir, ...I hope Dr. Ambedkar will see the reasonableness of this suggestion and will omit the

*CAD, Vol. X, 7th October 1949, p. 9.

†*Ibid.,* p. 10.

word "provisional" before the word "Parliament", as he has done in the case of the President.

The Honourable Dr. B. R. Ambedkar: I do not think there can be any great objection to the retention of the words "provisional Parliament". I do not propose to make any change in that. It would not be called the "Provisional Parliament" but for purposes of the language of this article I think it is necessary to say that it is the Provisional Parliament.

Shri R. K. Sidhva: But I thought that Dr. Ambedkar has agreed to omit the word "Provisional".

Mr. President: No, this is with reference to the Parliament. Mr. Shibhan Lal Saksena wanted that the word "Provisional" should be omitted before the word "Parliament".

Dr. P.S. Deshmukh: If that is so, I would like to move my amendment for the deletion of the word "Provisional" in the other place also.

Mr. President : Does your amendment refer to Parliament also ?

Dr. P. S. Deshmukh : Yes, Sir.

Mr. President : Mr. Shibhan Lal Saksena has moved it. That will be put to the vote. I will now put the various amendments to vote. The question is :

> "That in amendment No. 23 of List II (First Week), in clause (*1*) of the proposed article 311-A the word 'provisional' be deleted."

The amendment was adopted.

The Honourable Shri K. Santhanam (Madras : General) : Does it mean the word "Provisional" will be deleted before the word "Parliament" also ?

Mr. President : No ; that comes later on.

The question is—

> "That in amendment No. 28 of List II (First Week), in clause (*2*) of the proposed article 311-A, for the words 'provisional President' in the first place where they occur, the words 'President so elected by the Constituent Assembly of the Dominion of India' be substituted."

The amendment was adopted.

Mr. President : The question is :

> "That in amendment No. 28 of List II (First Week), in clause (*2*) of the proposed article 311-A, for the words 'the provisional President' in the second place where they occur, the word 'President' be substituted."

The amendment was adopted.

Mr. President: Then I take up the amendment which was sought to be moved by Dr. Deshmukh but which was actually moved by Mr. Shibban Lal Saksena.

The question is :

"That in clause (2) of the proposed new article 311-A, the word 'provisional' occurring before the word 'Parliament' be deleted."

The amendment was negatived.

(Article 311-A, as amended, was added to the Constitution.)

ARTICLE 311-B

***The Honourable Dr. B. R. Ambedkar :** Sir, I move :

" That after article 311-A the following new article be inserted :

'311-B. Such persons as the provisional President may appoint in this behalf shall become members of the Council of Ministers of the provisional President under this Constitution, and until appointments are made, all persons holding office as Ministers for the Dominion of India immediately before the commencement of the Constitution shall become and shall continue to hold office as members of the Council of Ministers of the Provisional President under the Constitution."

Council of Ministers of the Provisional President.

Dr. P. S. Deshmukh : Sir, I thank you for giving me this opportunity of moving this amendment of mine. I move :

"That in amendment No. 13 above, in the proposed new article 311-B, the word 'provisional' wherever it occures, be deleted."

May I add that since the Honourable Dr. Ambedkar has accepted the sense behind this amendment I do not wish to take up the time of the House any more. It becomes more or less a consequential amendment.

(Amendment No. 15 was not moved.)

Mr. President : I take it that Dr. Ambedkar accepts the amendment.

The Honourable Dr. B. R. Ambedkar : Yes, Sir, I do.

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†The Honourable Dr. B. R. Ambedkar: Mr. President, Sir, this article 311-B is merely a formal article permitting the President, so to say, to carry over the Ministry that may be existing immediately before the commencement of the Constitution. This article is analogous to the other article which we have already passed, relating to members of the Public Service Commission and to the Auditor-General. Consequently there is really no fundamental difference between those articles and this article. If those who have commented upon the provisions of this article 311-B contend that no Ministry ought to be appointed or function on the 26th of January, 1950, unless that Ministry has the confidence of the Parliament, I am quite prepared to accept that contention. But I do not quite understand how this article makes it impossible either for the Parliament or for the Ministry to obtain what might be called a vote of confidence. If the memers of Parliament do not think that the existing Ministry is competent enough to

*CAD, Vol. X, 7th October 1949, p. 12.

†*Ibid.,* pp. 14-15.

discharge the functions which it has to perform, it is open to this House before the 26th of January to pass a vote of no confidence in the Ministry and thereby dismiss the Ministry. It would be equally open to the Prime Minister, before submitting the names of the members of the Cabinet to the provisional President, to obtain also a positive vote of confidence in himself and his Ministry from the House. If neither the Prime Minister nor the House desires to apply the test of no confidence or confidence before the 26th of January, 1950—assuming that to be the date for the operation of the Constitution—this article 311-B does not take away the power from the House after the 26th of January to table a no-confidence motion and to dismiss that Ministry. Nor is the Prime Minister prevented by this article from coming forward after the appointment of the Ministry to obtain a positive vote of confidence in himself and the Ministry.

Therefore it seems to me that those who have commented upon the provisions of article 311-B, probably under the impression that this is a surreptitious attempt on the part of the existing Ministry to smuggle themselves, so to say, under the new Constitution, have been labouring under a misapprehension. The doors are perfectly open at present, and even after the 26th of January, for the House to take such action as the House prefers and to dismiss the Ministry if they do not like it. Therefore, this article is merely, as I said, a formal article permitting the carrying over of the existing Ministry into the New Constitution.

Shri H. V. Kamath : The Honourable Dr. Ambedkar has not answered the points raised by me. What about the oath of office I referred to ?

The Honourable Dr. B. R. Ambedkar : That will be taken undoubtedly. "Appointment" means taking the oath of office. Otherwise there is no apppointment.

Shri H. V. Kamath : On that very day ?

The Honourable Dr. B. R. Ambedkar : Yes, certainly. On that very day. "Appointment" includes oath of office.

Mr. President: I shall put Dr. Deshmukh's amendment to vote—I take it that it has been accepted by the Mover.

[The amendment was adopted. Article 311-B, as amended, was added to the Constitution.]

ARTICLE 312

***The Honourable Dr. B. R. Ambedkar :** Sir, I move :

"That for article 312, the following article be substituted :—

Provisions as to Provincial Legislature in each Slate.

'312. (1) Until the House or Houses of the Legislature of each State for the time being specified in part of the First Schedule has or have been duly constituted and summoned to meet for the first section under the provisions of this Con-

*CAD, Vol. X, 7th October 1949, p. 15.

stitution, the House or Houses of the Legislature of the corresponding Province functioning immediately before the commencement of this Constitution shall exercise the powers and perform the duties conferred by the provisions of this Constitution on the House or Houses of the Legislature of such State.

(2) Notwithstanding anything contained in clause (*1*) of this article, where a general election to reconstitute the Legislative Assembly of a Province was ordered before the commencement of this Constitution, the election may be completed after such commencement as if this Constitution has not come into operation and the assembly so reconstituted shall be deemed to be the Legislative Assembly of that Province for the purposes of that clause.

(3) Any person holding office as Speaker of the Legislative Assembly or President of the Legislative Council of a Province immediately before the commencement of this Constitution shall after such commencement be the Speaker of the Legislative Assembly or the Chairman of the Legislative Council, as the case may be of the corresponding State for the time being specified in Part I of the First Schedule while such Assembly or Council functions under clause (*1*) of this article :

Provided that where a general election was ordered for the reconstitution of the Legislative Assembly of a Province before the commencement of this Constitution and the first meeting of the Assembly as so reconstituted is held after such commencement the provisions of this clause shall not apply and the Assembly as reconstituted shall elect a member of the Assembly as the Speaker thereof.'"

The provisions are quite clear and I do not think that they require any explanation.

Mr. President : Are there any amendments to this ? I do not see any.

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***Shri M. Ananthasayanam Ayyangar :** It all depends how long the interim period lasts, if it is a short one, there may not be any need for the dissolution. But what if it is otherwise ? We know every sitting Member will be anxious to continue and every other person who has not had a chance may like to have the House dissolved. I am not casting any aspersions on any particular Member. I only say that in the circumstances I have mentioned, there must be some provision whereby, if necessary, an opportunity can be had of changing the Assembly and going to the electorate.

The Honourable Dr. B. R. Ambedkar : Sir, after what has fallen from you, I do not think it is necessary for me to pursue the matter any further. So far as the merits of the amended article are concerned, I do not think anything has been said which calls for a reply.

Shri H. V. Kamath : What about the clause concerning the Speaker ?

The Honourable Dr. B. R. Ambedkar : That was there in the original draft.

Mr. President : I will now put article 312 to vote. The question is :

"That the proposed article 312 stand part of the Constitution."

The motion was adopted.

Article 312 was added to the Constitution.

*CAD, Vol. X, 7th October 1949, p. 23.

ARTICLES 312-A TO 312-E, 312G AND 312-H

***The Honourable Dr. B. R. Ambedkar :** Sir, I move :

"That after article 312, the following new aticles be inserted :—

'312A. Any person holding office of Governor in any Province immediately before the commencement of this constitution shall after such commencement be the provisional Governor of the corresponding State for the time being specified in Part I of the First Schedule until a new Governor has been appointed in accordance with the provisions of chapter II of Part VI of this Constitution and has entered upon his office.

Provisions as to provincial Governor of Provinces

312B. Such persons as the provisional governor of a State may appoint in this behalf shall become members of the council of Ministers of the provisional Governor under this Constitution, and until appointments are so made, all persons holding office as Ministers for the corresponding State immediately before the commencement of this constitution shall become and shall continue to hold office as members of the Council of Ministers of the provisional Governor of the State under this Constitution.

Council of Ministers of Provisional Governors.

312C. Until the House or Houses of the Legislature of a State for the time being specified in Part III of the First Schedule has or have been duly constituted and summoned to meet for the first session under the provisions of this Constitution, the body or authority functioning immediately before such commencement as the Legislature of the corresponding Indian State shall exercise the powers and perform the duties conferred by the provisions of this Constitution on the House or Houses of the Legislature of the State so specified.

Provisions as to provisional legislatures in States in Part III of the First Schedule

312D. Such persons as the Rajpramukh of a State for the time being specified in Part III of the First Schedule may appoint in this behalf shall become members of the council of Ministers of such Rajpramukh under this Constitution and until appointments are so made, all persons holding office as Ministers immediately before the commencement of this Constitution in the corresponding Indian State shall become and shall continue to hold office as members of the council of Ministers of such Rajpramukh under this Constitution.

Council of Ministers for States in Part III of the First Schedule.

For article 312E I propose amendment No. 21 :

"That in amendment No. 16 above, for the proposed new article 312E, the following substituted :—

"312E. For the purposes of elections held under any of the provisions of this Constitution during a period of three years from the commencemet of this Constitution the population of India or any part thereof may, notwithstanding anything contained in this Constitution, be determined in such manner as the President may by order direct.'"

"312G. A Bill which immediately before the commencement of this Constitution was pending in the Legislature of the Dominion of India or in the legislature of Province or Indian Stale may, subject to any provision to the contrary, which may be included in rules made by Parliament or the Legislature of the corresponding State under this Constitution, be continued in Parliament or the Legislature of the corresponding State, as the case may be, as if the proceedings taken with reference

Provision as to Bills pending in the dominion Legislature and in the Legislatures of Provinces and Indian States.

*CAD. Vol. X, 7th October 1949, pp. 23-24.

to the Bill in the Dominion Legislature or in the Legislature of the Province or Indian State had been taken in Parliament or the Legislature of the corresponding State.

Transactions occuring between the commencement of the Constitution and the 31st of March, 1950.

312H. The provisions of this Constitution relating to the Consolidated Fund of India or of any State and appropriation of moneys out of such fund shall not apply in relation to moneys received or raised or expenditure incurred by the Government of india or the Government of any State between the commencement of this Constitution and the thirty-first day of March, 1950, both days inclusive, and any expenditure incurred during that period shall be deemed to be duly authorised if the expenditure was specified in a scheduled in a schedule of authorised expenditure athenticated in accordance with the provisions of the Government of India Act, 1935, by the Governor-General of the Dominion of India or the Governor of the correspoding Province or is authorised by the Rajprmukh of the State in accordence with such rules as were applicable to the authorisation of expenditure from the revenues of the corresponding Indian State immediately before such commencement"

I do not think there is anything necessary to say by way of explanation of these articles.

There are two amendments Nos. 18 and 19 on the Notice Paper proposing to omit the word 'provisional' in articles 312A and 312B. I propose to accept these amendments in consonance with what we have already done.

Dr. P. S. Deshmukh : Mr. President, I move :

"That in amendment No. 16 above, in the proposed new article 312B, the word 'provisional', wherever it occures, be deleted."

"That in amendment No. 16 above, in the proposed new article 312A, the word 'provisional' where it occurs be deleted."

I am glad that the amendments are acceptable to Dr. Ambedkar. My reason for these are that it would be derogatory to the dignity of the President or the Governor to be described as 'provisional'. I commend the amendments for the aceptance of the House.

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***The Honourable Dr. B. R. Ambedkar :** I cannot accept this amendment. My Friends Mr. Kamat and Prof. Saksena have read a great deal into this article 312-E. As a matter of fact the article is of very limited importance and the question that is dealt with in this article is the determination of the population of any particular area. My friends very well know that according to the article which we have already passed the population for purposes of election is to be taken as determined by the last census. It is also accepted that having regard to the partition of India the census fgures for 1941 cannot be taken as accurate, and consequently the delimitation of constituencies and the fixation of seats cannot be based upon the truncated provinces whose population figures have been consid-

*CAD, Vol. X, 7th October 1949, pP. 26-27.

erably distrubed. Therefore, it is as well to have some one in authority to determine what the population should be taken to be and whether the population is to be taken as enumerated in the census or by a fresh enumeration or, as I said, by merely determining the population on the basis of the voting strength. These are the matters that are left to the President and I do not see what the approval of Parliament is going to do in a matter of this sort. It is a purely administrative matter necessitated by the special circumstances of the case and I think it is much more desirable to leave the matter to the President, if we want really that the elections should be expedited. I am therefore unable to accept the amendment moved by my Friend Mr. Kamath.

Shri H. V. Kamath : Has Dr. Ambedkar any objection to the principle of my amendment ?

The Honourable Dr. B. R. Ambedkar : I do not accept it. The import of this article is very limited. It is the determination of the population, not delimitation of constituencies. The delimitation of constituencies will take place according to the provisions of the Constitution.

[Articles 312-A to 312-E, 312-G and 312-H as proposed by Dr. Ambedkar and as amended by Dr. P. S. Deshmukh's amendment were adopted and added to the Constitution.]

ARTICLE 313

***The Honourable Dr. B. R. Ambedkar** : Sir, I move :

"That for article 313, the following be substituted :—

Power of the President to remove difficulties.

313. (1) The President may, for the purpose of removing any dificulties, particularly in relation to the transition from the provisions of the Government of India Act, 1935, to the provisions of this Constitution, by order, direct that this Constitution shall, during such period as may be specified in the Order, have effect subject to such adaptations, whether by way of modification, addition or omission, as he may deem to be necessary or expedient:

Provided that no such order shall be made after the first meeting of Parliament duly constituted under Chapter II of Part V of this Constitution.

(2) Every order made under clause (1) of this article shall be laid before each House of Parliament."

This is a reproduction of the provision contained in the Government of India Act, which is necessary for the transition period.

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†The Honourable Dr. B. R. Ambedkar : Sir, there seems to be considerable missapprehension as to the necessity of the provisions

*CAD, Vol. X, 7th October 1949, pp. 27-28.

†*Ibid.,* pp. 30-31.

contained in article 313. My Friend Dr. Deshmukh who has moved his amendment very kindly said that if I gave a satisfactory explanation as to the provsions contained in article 313 he would not press his amendment. With regard to article 313 I think certain facts will be admitted. The first fact which I expect will be admitted on all hands is this. During the transition period there are bound to arise certain difficulties which it is not possible for the Drafting Committee, or for the matter of that any Member of this House, to fully foresee right now and to make any provision. Therefore, It is necessary that there should reside somewhere some power to resolve these unforeseen difficulties.

The question therefore is to what extent and up to what period these powers should be lodged in that particular authority. My friend, Dr. Deshmukh, said that under section 310 of the Goverment of India Act, the power was to last for six months. I think he is under a mistake. The power was to last for six months after Part III had come into operation. Ours is a very limited provision. The power to resolve difficulties by constitutional provisions vested by articls 313 would automatically come to an end on the day of which the new Parliament under the new provisions comes into existence. We therefore do not propose under this article to allow the President to exercise the powers given to him under 313 a day longer than the proper authority entitled to make amendments comes into being. That is one feature of this article 313.

Admitting the fact that difficulties will arise and that they must be resolved and the power must vest with somebody, the question that really arises for consideration is this : whether this power should vest in the President or it should vest in the provisional Parliament. There cannot be any other alternative. The reason why the Drafting Committee has felt that it would be desirable to adopt the provisions contained in article 313 and vest the power in the President is because the duration of the transitional Parliament is so small and it might be busy with so many other matters requiring Parliamentary legislation that it would not be possible for the Parliament sitting during the transitional period to grapple with a matter which must be immediately solved.

Let me give one or two illustrations of the difficulties that are likey to arise. By our Constitution we have made considerable changes in the powers of taxation of the States and Centre. On the 26th January next, when the Constitution comes into existence, the powers of taxation of the Indian States enjoyed by them under the existing Government of India Act would automatically come to an end. It would create a crisis and

therefore this matter sould be regularised. If we were to get it regularised by the provisional Parliament, I think my friend would realise that it would take such a long time that the crisis would continue. Therefore, rather than adopt the ordinary Parliamentary procedure of having a Bill read three times, sent to Select Committee, having a consideration motion, circulation and so on, I think it is desirable, for the purpose of saving the Constitution from difficulties, to lodge this power with the President so that he may expeditiously act. Therefore, as I said, on the merits the provision is necessary. Comparing it with the provisions contained in section 310, ours is a much limited proposal, and I submit that having regard to these circumstances there cannot be any serious or fundamental objection to the House acepting article 313.

With regard to the point made by my Friend Mr. Kamat, I think he will realise that there is no error on the part of the Drafting Committee in refering to the Government of India Act, 1935, without making a distinction between the original Statute and the Statute as adapted, because he will see that the Statute as adapted itself provides that its short title shall be, "Government of India Act, 1935", and I have no doubt that it is in that sense that it will be understood when this article comes to be interpreted.

Dr. P. S. Deshmukh : May I ask a question ? If the Parliament is asked to approve the order passed by the President would there be any harm ?

The Honourable Dr. B. R. Ambedkar : But "approval" means what ? It may nullity the action taken by the President, and the object of this provision is to provide an effective remedy. That way it cannot come into force quickly while what we want is that the matter should come into force at once.

Mr. President: I shall put the amendments now. Amendment No. 37 moved by Dr. Ambedkar.

The question is :

> "That in amendment No. 23 of List I (First Week), in clause (2) of the proposed article 313, the words 'each House of' be deleted."

The amendment was adopted.

Dr. P. S. Deshmukh : Sir, I beg leave to withdraw my amendments Nos. 30, 31 and 32 but not 33.

Amendments Nos. 30, 31 and 32 were, by leave of the Assembly, withdrawn.

Article 313, as amended, was added to the constitution.

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ARTICLE 307

***Shri Biswanath Das :** My complaint in this regard is that neither the Law Department nor the office of the Constituent Assembly have moved an inch in this regard. I expect that they should have kept ready the adaptations and examined the laws in operation.

Mr. President: Without knowing what the Constitution is going to be!

The Honourable Dr. B. R. Ambedkar : (Bombay : General) : My Friend is thoroughly misinformed. He does not know what is being done.

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[Article 307 as amended was added to the Constitution.]

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ARTICLE 308

†Mr. President : We go to article 308. Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That for clause (3) of article 308 the following clause be substituted : —

'(3) Nothing in this Constitution shall operate invalidate the exercise of jurisdiction by His Majesty in Council to dispose of appeals and petitions from, or in respect of, any judgement, decree or order of any court within the territory of India in so far as the exercise of such jurisdiction is authorised by law, and any order of His Majesty in Council made on any such appeal or petition after the commencement of this Constitution shall for all purposes have effect as if it were an order or decree made by the Supreme Court in the exercise of the jurisdiction conferred on such court by this Constitution."

Also :

"That after clause (3) of article 308, the following new clause be inserted :—

'*(3a)* On and from the date of commencement of this Constitution the jurisdiction of the authority functioning as the Privy Council in a State for the time being specified in Part III of the First Schedule to entertain and dispose of appeals and petitions from or in respect of any judgement, decree or order of any court within that State shall cause, and all appeals and other proceedings pending before the said authority on the said date shall be transferred to, and disposed of, by the Supreme Court."

Sir, the purpose of the first amendment is merely to continue the authority of the Privy Council to dispose of certain appeals which might be pending before it under the law which the Constituent Assembly very recently passed section 4 —in case they are not finally disposed of before the 26th January, assuming that to be the date on which this Constitution comes into existence. The important words are— "to dispose of the appeal". There is no power to entertain an appeal. And the other important words are— "such jurisdiction authorised by law", that is to say, references to the recent Act that was passed. The Privy Council will have no other jurisdiction, no more jurisdiction than what we have

*CAD, Vol. X, 10th October 1949, p. 65.

†*Ibid.,* pp. 72-73

conferred. It has been so arranged by consultation that in all probability, on the date on which this Constitution comes into existence the Privy Council would have disposed of all the cases which had been left to them for disposal under that particular enactment. But it might be that either a case remains part-heard, or a case has been disposed of in the sense that the hearing has been closed, but the decree has not been drawn, and in that sense it is pending before them. It was felt that rather than to provide for a transfer of undisposed of part-heard cases to the Supreme Court which would cause a great deal of hardship to litigants, it was desirable, to make an exception to our general rule, that the jurisdiction of the Privy Council will end on the date on which the Constitution comes into existence. That is the main purpose of amendment No. 6.

With regard to amendment No. 7, it is well-known that in some of the Indian States there are Privy Councils which supervise the judgements of their High Courts, for the reason that they did not recognise the jurisdiction of the Privy Council or rather, the Privy Council of His Majesty in England. They, therefore, had their own Privy Council. Now it is felt that in view of the provision in the Constitution that there should be direct relationship between the Supreme Court and the High Court, in the different States, both in Part III and in Part I, this intermediary institution of a Privy Council of an Indian State in Part III should be statutorily put an end to, so that on the 26th January, all appeals in any State from a High Court in a State in Part III will automatically come up to be disposed of by the Supreme Court.

I am told that these Privy Councils are called by different names in the different States. If that is so, the Drafting Committee proposes to get over that difficulty by having definition of Privy Council in our article 306 so as to cover the the different nomenclatures and variations of these institutions.

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***Mr. President :** Dr. Ambedkar, would you like to say anyting ?

The Honourable Dr. B. R. Ambedkar : Sir, I do not think that anything that has been urged in favour of the amendments that have been moved raises any matter of substance. It is more a matter of sentiment, and I think from the point of view of convenience it is much better that we should have this clause and not feel in any way humiliated in doing it, because even if the Privy Council were to continue to exercise jurisdiction, within the limited terms mentioned in clause (3), it should not be forgotten, and I think my friends who have moved the amendments

*CAD, Vol. X, 10th October 1949, p. 76.

do seem to have forgotton the fact, that that jurisdiction is not the inherent jurisdiction of the Privy Council but the jurisdiction which this Assembly has conferred upon them. The Privy Council as a matter of fact would be acting as the agent of this Assembly to do a certain amount of necessary and important work. I, therefore, do not think there is any cause for feeling any humilation or that we are really bartering away our independence.

With regard to the point raised by my Friend Prof. Saksena in which he referred to the foot-note to article 308. I am quite free to confess that on a better consideration, it was found by the Drafting Committee that the removal of difficulties clause may not be properly used for this purpose. In order to remove all doubt, we thought it was better to have a separate clause like this to confer jurisdiction by the Constituion itself.

Mr. President : Then I will put he amendments to vote.

[Both the amendments moved by Dr. Ambedkar as mentioned before were adopted: Other amendments were negatived. Article 308, as amended, was added to the Constitution.]

ARTICLE 310

***The Honourable Dr. B. R. Ambedkar :** Sir, I move :—

"That for article 310, the following be substituted :—

310. (1) Notwithstanding anything contained in clause (2) of article 193 of this Constitution, the judges of a High Court in any Province holding office immediately before the date of commencement of this Constitution shall, unless they have elected otherwise, become on his date the judges of the High Court in the corresponding State, and shall hereupon be entitled to such salaries and allowances and to such rights in respect of leave and pensions as are provided for under article 197 of this Constitution in respect of the judges of such High Court.

(2) The judges of a High Court in any Indian State corresponding to any State for the time being specified in Part III of the First Schedule holding office immediately before the date of commencement of this Constitution shall, unless they have elected otherwise, become on that date the judges of the High Court in the State so specifed and shall, notwithstanding anything contained in clauses (1) and (2) of artcle 193 of this Constitution but subject to the provisio to clause (1) of that article, continue to hold office until the expiration of such period as the President may by order determine.

(3) In this article the expression 'judge' does not include n acting judge or an additional judge."

this article is merely what we used to call a "carry over article" merely carrying over the incumbents to the new offices in the new High Courts if they choose to elect to be appointed.

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*CAD, Vol. X, 10th October 1949, p. 77.

***Mr. Nazirudin Ahmad :** Sir, I move :

"That in amendment No. 8 of List I (Second Week), in clause (1) of the proposed article 310, for the words 'as are provided for under article 197 of this Constitution in respect of the judges of such High Court' the words as they were entitled to immediately before the said commenceient' be substituted."

Clause (1) of this article provides that the Judges of High Court would on the date on which the Constitution comes into force (provisionally on the 26th of January 1950), shall continue to be Judges of the same High Court.

The Honourable Dr. B. R. Ambedkar : May I draw attention to the fact that this amendment anticipates Schedule II ? This matter is to be dealt with under Schedule II and the proper time would be when Schedule II is before the House.

[Amendment of Mr. Ahmed was negatived. Dr. Ambedkar's amendment as mentioned earlier was adopted. Article 310 was added to the constitution.]

ARTICLE 311

†The Honourable Dr. B. R. Ambedkar: Sir, I move :

"That for article 311, the following article be substituted :—

Provisions as to provincial Presidents of the Union and the Speaker and Deputy Speaker thereof.

"311. (1) Until both Houses of Parliament have been duly constituted and summoned to meet for the first session under the provisions of this Constitution, the body functioning as the Constituent Assembly of the Dominion of India immediately before the commencement of this Constitution shall exercise all the powers and perform all the duties conferred by the provisions of this Constitution on Parliament.

Explanation.—For the purposes of this clause, the Constituent Assembly of the Dominion of India includes—

(i) the members chosen to represent any State or other territory for which representation is provided under clause (2) of this article, and

(ii) the members chosen to fill casual vacancies in the said Assembly.

(2) The President may by rules provide for—

(*a*) the representation in the provisional Parliament functioning under clause (1) of this article of any State or other territory which was not represented in the Constituent Assembly of the Dominion of India immediately before the commencement of this Constitution,

(*b*) the manner in which the representatives of such States or other territories in the provisional parliament shall be chosen, and

(*c*) the qualifications to be possessed by such representatives.

(3) If a member of the Constituent Assembly of the Dominion of India was on the sixth day of October, 1949, also a membr of a House of the Legislature of a Governor's Province or an Indian State, then, as from the date of commencemnt

*CAD, Vol. X, 10th October 1949, p. 77.

†*Ibid.,* pp. 79-80.

of this Constitution that person's seat in the said Assembly shall, unless he has ceased to be a member thereof earlier, become vacant, and every such vacancy shall be deemed to be a casual vacancy.

(4) Any person holding office immediately before the commencement of this Constitution as Speaker or Deputy Speaker of the Constituent Assembly when functioning as the Dominion Legislature under the Government of India Act, 1935, shall continue to be the Speaker or, as the case may be, the Deputy Speaker of the provisional Parliament functioning under clause (1) of this article."

Sir, I move :

"That in amendment No. 9 of List I (Second Week), for clause (3) of the proposed article 311, the following be substituted :—

'(3) If a member of the Constituent Assembly of the Dominion of India was on the sixth day of October, 1949, or thereafter becomes at any time before the commencement of this Constitution a member of a House of the Legislature of a Governor's Province or an Indian State corresponding to any State for the time being specified in Part III of the First Schedule or a minister for any such State, then as from the date of commencement of this Constitution the seat of such member in the Constituent Assembly shall, unless he has ceased to be a member of that Assembly earlier, become vacant and every such vacancy shall be deemed to be a casual vacancy'."

Sir, I move :

"That in amendment No. 9 of List I (Second Week), after clause (3) of the proposed article 311, the following new clause be inserted :—

'(*3a*) Notwithstanding that any such vacancy in the Constituent assembly of the Dominion of India as is mentioned in clause (3) of this article has not occurred under that clause, steps may be taken before the commencement of this Constitution for the filling of such vacancy, but any person chosen before such commencement to fill the vacancy shall not be entitled to take his seat in the said Assembly until after the vacancy has so occurred.'"

The object of this clause is that when constituting a provisional Parliament, it is proposed to dispense with what is called double membership.

The other provisions are merely ancillary.

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***Mr. President :** Dr. Ambedkar, have you anything to say ?

The Honourable Dr. B. R. Ambedkar (Bombay : General) : Sir, before I begin, I would like your permission to omit the word "becomes" in clause (3) of amendment No. 195, occurring between "thereafter" and "at any time before...". The word is unnecessary.

Now, with regard to the various amendments, it seems to me that there are only three that call for some consideration. The first is the amendment of my Friend Mr. Kamath who said that in clause (*4*) of this article, there is a certain account of discrepancy between the provisions relating to the

*CAD, Vol. X, 11th October 1949, pp. 98-100.

carry-over of the Deputy Speaker of the Centre and the absence of any such provision with regard to the carry-over of the Speaker in the Provinces. I myself, and the Drafting Committee were conscious of this difference between the two provisions, and we had intended to introduce subsequently an amendment to make good the lacuna. Mr. Kamath may, therefore, rest assured that the Drafting Committee will not allow this difference to continue, but will make good by an amendment.

The other point of some substance was the one raised by my Friend Mr. Muniswamy Pillay with regard to the representation of the Scheduled Castes in the Provisional Parliament. The position is this. There are at present 310 Members of this Assembly, and the Provisional Parliament will also continue to consist of 310 Members. On the basis of population which is the principle adopted for the representation of the Scheduled Castes in the future Parliament, on a purely population basis, they should get 45 seats out of this 310. They have, as a matter of fact, today only 28 seats. The article makes a definite provision that there shall be no diminution in the 28 seats they have now. But with regard to making good the difference between the 45 to which they are entitled on the basis of population and the 28 which they have got, I think we have left enough power in the hands of the President to adopt and modify the rules so as to make good the deficiency, as far as it would be practicable to do so under the provisions of new article 312 F.

Now I come to the amendment of Mr. Pataskar. So far as I have been able to understand him, there is really no difference between the draft article and the amendment suggested by him, in principle. Both article 311 as I have moved and the amendment as moved by Mr. Pataskar agree that we ought to make a provision for the abolition of dual membership. The only question that remains is how it is to be done. According to the provisions contained in this article, what is stated is that the vacancy shall occur only from the commencement of the Constitution. He will continue sitting and functioning as a Member until that date, that is to say, 25th January 1950, assuming that the Constitution comes into existence on the 26th January. But elections to fill the seats which have so become vacant may be held at any time before the commencement of this Constitution so that when the Constituent Assembly meets as the provisional Parliament there may not be any sudden depletion in its membership. What my Friend Mr. Pataskar wants is that the vacancy should come into effect from the commencement of the Constitution, and that the unseating should take place from one month thereafter. That is the only difference.

It seems to me that it is really a matter of detail as to which date we should adopt for vacancy and which date we should adopt for unseating. The reason why we have adopted the 6th October 1949 as the date with reference to which the right of a Member to continue as such Member is to be determined is because it is the date on which we commenced this session of the Constituent Assembly. I do not wish to dogmatise that there is any particular virtue in the 6th October 1949, nor will Mr. Pataskar say that there is any virtue in the provision that he has moved by his amendment. As I said, there is no difference in principle, and we are all agreed that double membership should be avoided, and I, therefore, think that the amendment that I have moved.

Shri H. V. Pataskar : My amendment gives the option to the Member.

The Honourable Dr. B. R. Ambedkar : That, I think, will create a lot of complication. If the Member is given the option, that will create complication, because it may be that the same evil which we want to do away with may be repeated. We must take precaution to see that the evil is not repeated. I, therefore, submit that the provisions contained in 311 should commend themselves to the House.

Shri Ram Sahai (Madhya Bharat) **:** What about the amendment moved by Mr. Sita Ram Jajoo ?

The Honourable Dr. B. R. Ambedkar : We had anticipated the point raised by him, and we have modified by amendment 195 in which I have made provision for Indian States. The only thing I have not made provision for is for persons holding offices of profit.

Mr. President : I shall now put the amendments to vote one by one.

[6 Amendments by Mr. Kamath, 2 by Mr. Tyagi, 4 by Mr. Muniswamy Pillay, one by Mr. Saksena and 4 by others were negatived. Article 311 as amended by Dr. Ambedkar's amendment was added to the Constitution.]

ARTICLE 312-F

***The Honourable Dr. B. R. Ambedkar :** Sir, I move :

"That after article 312-E, the following new article be inserted :—

Provisions as to this filling of casual vacancies in the provisional President and the Provisional legislatures of the States.

'312-F. (1) Casual vacancies in the seats of members of the provisional Parliament functioning under clause (*1*) of article 311 of this Constitution [including vacancies referred to in clauses 3 and (3*a*) of that article] shall be filled and all matters in connection with the filling of such vacancies (including the decision of doubts and disputes arising out of, or in connection with eletions to fill such vacancies shall) be regulated—

*CAD, Vol. X, 11th October 1949, pp. 103-104.

(*a*) in accordance with such rules as may be made in this behalf by the President, and

(*b*) until rules are so made, in accordance with the rules relating to the filling of casual vacancies in the Constituent Assembly of the Dominion of India and matters connected therewith in force at the time of the filling of such vacancies or immediately before the commencement of this Constitution, as the case may be, subject to such exceptions and modifications as may be made therein before such commencement by the President of that Assembly and thereafter by the President of the Union :

Provided that where any such seat as is mentioned in this article is, immediately before it becomes vacant, held by a person belonging to the Scheduled Castes or to the Muslim or Sikh community and representing a State for the time being specified in Part I of the First Schedule, the person to fill such seat shall, unless the President of the Constituent Assembly or the President of the Union, as the case may be, considers it necessary or expedient to provide otherwise, be of the same community:

Provided further that at an election to fill any such vacancy in the seat of a member representing a State for the time being specified in Part I of the First Schedule, every member of the Legislative Assembly of that State shall be entitled to participate and vote.

Then I am moving my amendment No. 205 to substitute a different explanation.

"That in amendment No. 164 of List III (Second Week), for the Explanation to clause (1) of the proposed new article 312-F, the following Explanation be substituted :—

Explanation.—For the purpose of this clause

(*a*) all such castes, races or tribes or parts of or groups within castes, races or tribes as are specified in the Government of India (Scheduled Castes) Order, 1936, to be Scheduled Castes in relation to any Province shall be deemed to be Scheduled Castes in relation to that Province or the corresponding State until a notification has been issued by the President under clause (1) of article 300-A specifying the Scheduled Castes in relation to that corresponding State ;

(*b*) all the Scheduled Castes in any Province or State shall be deemed to be a single community."

Then I come to sub-clause (2).

(2) Casual vacancies in the seats of members of a House of the provisional Legislature of a State functioning under article 312 or article 312-C of this Constitution shall be filled, and all matters in connection with the filling of such vacancies (including the decision of doubts and disputes arising out of or in connection with elections to fill such vacancies) shall be regulated in accordance with such provisions governing the filling of such vacancies and regulating such matters as were in force immediately before the commencement of this Constitution subject to such exception and modifications as the President may by order by direct."

I do not think that any explanation is necessay. The provisions are quite clear. If any point is raised in the course of the debate, I shall be quite prepared to offer such explanation as I could give.

* * * * *

***The Honourable Dr. B. R. Ambedkar :** Sir, just one or two points that have been raised in the course of this debate. The first point that has been touched upon by Mr. Saksena and Pandit Bhargava was in relation to the continuance of the representation of the Muslims and the Siks during this interim period. They object to this carry over on the ground that the Muslims and Sikhs have surrendered their right to special representation under the arrangements which have been entered into during the course of the proceedings of this Constituent Assembly. My, submission on this point is this, that whatever arrangements have been made, those arrangements are made in respect of the permanent structure of Parliament which is to come into operation under this Constitution. That being so, I think it would not be right nor justifiable to alter the structure of the Constituent Assembly which in the main we are carrying over and constituting it as a Provisional Parliament.

With regard to the amendment of Shrimati Purnima Banerjee, I do not think it is necessary to make a specific provision for the retention of women in this Constituent Assembly. I have no doubt about it that the President in the exercise of his powers of rule-making will bear this fact in mind and see that cerain number of women members of the Constituent Assembly or of the various parties will be brought in as members of the Provisional Parliament.

With regard to Mr. Munniswamy Pillay's amendment, the new thing he seeks to introduce is the provision for the Scheduled Tribes. As a matter of fact there is no objection to making provision for the Scheduled Tribes but the point is this that at present there is no enumeration of Scheduled Tribes, because Scheduled Tribes as such has not been recognised under the Government of India Act, 1935. Whatever tribes are included for the purposes of representation under the Government of India Act are called backward tribes. Consequently, if my Friend Mr. Munniswamy Pillay were to leave this matter in the hands of the Drafting Committee, we shall probably make some suitable arrangement to give effect to his amendment.

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*CAD, Vol. X, 11th October 1949, pp. 112-113.

Mr. President : I will put the amendment to vote now.

[3 amendments were negatived. Article 312-F as amended by Dr. Ambedkar's amendment was added to the Constitution]

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***Mr. President :** Then we take up Schedule IV.

Shri T. T. Krishnamachari : Sir, I move that Schedule IV be deleted.

Some Honourable Members : How can it be deleted ?

Mr. President : So far as the Drafting Committee is concerned, they have been moving for deletion of particular articles. Now, there are amendments to this Schedule IV. I think it will be better if Dr. Ambedkar were to explain the position as to why the Schedule is dropped, because Members have given notice of amendments. That will make the position clear.

The Honourable Dr. B. R. Ambedkar : Mr. Krishnamachari will explain.

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†The Honourable Dr. B. R. Ambedkar : Sir, with regard to the Instrument of Instructions, there are two points which have to be borne in mind. The purpose of the Instrument of Instructions as was originally devised in the British Constitution for the Government of the colonies was to give certain directions to the head of the states as to how they should exercise their discretionary powers that were vested in them. Now the Instruments were effective in so far as the particular Governor or Viceroy to whom these instructions were given was subject to the authority of the Secretary of State. If in any particular matter which was of a serious character, the Governor for instance, persistently refused to carry out the Instrument of Instructions issued to him, it was open to the Secretary of State to remove him, and appoint another and hereby secure the effective carrying out of the Instrument of Instructions. So far as our Constitution is concerned, there is no functionary created by it who can see that these Instruments of Instructions are carried out faithfully by the Governor.

Secondly, the discretion which we are going to leave with the Governor under this Constitution is very very meagre. He has hardly any discretion at all. He has to act on the advice of the Prime Minister in the Matter of the election of members of the Cabinet. He has also to act on the advice of the Prime Minister and his Ministers of State with respect to any particular executive or legislative action that he takes. That being so,

*CAD, Vol. X, 11th October 1949, p. 114

†*Ibid.,* pp. 115-116.

supposing the Prime Minister does not propose, for any special reason or circumstances, to include in his Cabinet members of the minority community, there is nothing which the Governor can do, notwithstanding the fact that we shall be charging him through this particular Instrument of Instruction to act in a particular manner. It is therefore felt, having regard to the fact there is no discretion in the Governor and there is no functionary under the Constitution who can enforce this, that no such directions should be given. They are useless and can serve no particular purpose. Therefore, it was felt in the circumstances it is not desirable to have such Instrument of Instructions which really can be effective in a different set of circumstances which can by no stretch of imagination be deemed to exist after the new Constitution comes into existence. That is the principal reason why it is felt that this Instrument of Instructions is undesirable.

Mr. President : The question is :

"That the Fourth Schedule be deleted."

The motion was adopted.

The Fourth Schedule was deleted from the Constitution.

SECOND SCHEDULE

***Mr. President :** The House will now take up Schedule II.

The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That for Part I of the Second Schedule, the following be substituted :—

PART I

Provisions as to the President and the Governors of States for the time being specified in Part I of the First Schedule.

1. There shall be paid to the President and to the Governors of the States for the time being specified in Part I of the First Schedule the following emoluments per mensum, that is to say :

   The President—10,000 rupees.

   The Governor of a State—5,500 rupees.

   There shall also be paid to the President and to the Governors such allowances as were payable respectively to the Governor-General of the Dominion of India and to the Governors of the corresponding Provinces immediately before the commencement of this Constitution

3. The President and the Governors throughout their respective terms of office shall be entitled to the same privileges to which the Governor-General and the Governors of the corresponding Provinces were respectively before the commencement of this Constitution.

*CAD, Vol. X, 11th October 1949, pp. 116-18.

4. While the Vice-president or any other person is discharging the functions of, or is acting as President, or any person is discharging the functions of the Governor, he shall be entitled to the same emoluments, allowances and privileges as the President or the Governor whose functions he discharges or for whom he acts, as the case may be."

PART II

"That in the heading in Part II, after the word and figure 'Part I' the words and figures 'or Part III' be inserted."

"That for paragraph 7, the following paragraph be substituted :—

'7. There shall be paid to the ministers for any State for the time being specified in Part I or Part III of the First Schedule such salaries and allowances as were payable to such ministers for the corresponding Province or the corresponding Indian State, as the case may be, immediately before the commencement of this Constitution."

PART III

"That in paragraph 8, for the words 'respectively to the Deputy President of the Legislative Assembly and to the Deputy President of the Council of State immediately before the fifteenth day of August 1947' the words 'to the Deputy Speaker of the Constituent Assembly of the Dominion of India immediately before such commencement' be substituted."

PART IV

"That for Part IV of the Second Schedule, the following be substituted :—

PART IV

Provisions as to the Judges of the Supreme Court and of the High Courts of States in Part I of the First Schedule

10. (1) There shall be paid to the judges of the Supreme Court, in respect of time spent on actual service, salary at the following rates per mensem, that is to say :—

The Chief Justice—5,000 rupees :

Any other judge—4,000 rupees :

Provided that if a Judge of the Supreme Court at the time of his appointment is in receipt of a pension (other than a disability or wound pension) in respect of any previous service under the Government of India or of its predecessor, Governments or under the Government of a State or any of its predecessor Governments, his salary in respect of service in the Supreme Court shall be reduced by the amount of that pension.

(2) Every judge of the Supreme Court shall be entitled without payment of rent to the use of an official residence.

(3) Nothing in sub-paragraph (2) of this paragraph shall apply to a judge who was appointed as a judge of the Federal Court before the thirty-first day of October, 1948, and has become on the date of the commencement of this Constitution a judge of the Supreme Court under clause (1) of article 308 of this Constitution, and every such judge shall in addition to the salary specified in sub-paragraph (1) of this paragraph be entitled to receive as special pay an amount equivalent to the difference between the salary so specified and the salary which was payable to him as a judge of the Federal Court immediately before such commencement.

(4) Every judge of the Supreme Court shall receive such reasonable allowances to re-imburse him for expenses incurred in travelling on duty within the territory of India and shall be afforded such reasonable facilities in connection with travelling as the President may from time to time prescribe.

(5) The rights in respect of leave of absence (including leave allowances) and pension of the judges of the Supreme Court shall be governed by the provisions which, immediately before the commencement of this Constitution, were applicable to the judges of the Federal Court.

11.(1) There shall be paid to the judges of the High Court of each State for the time being specified in Part I of the First Schedule, in respect of time spent on actual service, salary at the following rates per mensem, that is to say :—

The Chief Justice—4,000 rupees

Any other judge—3,500 rupees

(2) Every person who was appointed permanently as a judge of a High Court in any Province before the thirty-first day of October, 1948, and has on the date of the commencement of this Constitution become a judge of the High Court in the corresponding State under clause (1) of article 310 of this Constitution, and was immediately before such commencement drawing a salary at a rate higher than that specified in sub-paragraph (1) of this paragraph, shall be entitled to receive as special pay in amount equivalent to the difference between the salary so specified and the salary which was payable to him as a judge of the High Court immediately before such commencement.

(3) Every such judge shall receive such reasonable allowances to re-imburse him for expenses incurred in travelling on duty within the territory of India and shall be afforded such reasonable facilities in connection with travelling as the President may from time to time prescribe.

(4) The rights in respect of leave of absence (including leave allowances) and pension of the judges of any such High Court shall be governed by the provisions which, immediately before the commencement of this Constitution, were applicable to the judges of the High Court of the corresponding Province.

12. In this Part, unless the context otherwise requires.

(a) the expresion "Chief Justice" includes an acting Chief Justice, and a "Judge" includes an *ad hoc* judge.

(b) "actual service" includes—

(i) time spent by a judge on duty as a judge or in the performance of such other functions as he may at the request of the President undertake to discharge;

(ii) vacations, excluding any time during which the judge is absent on leave; and

(iii) joining time on transfer from a High Court to the Supreme Court or from one High Court to another."

PART V

"That in the heading of Part V, for the word 'Auditor-General' the words 'Comptroller and Auditor-General' be substituted.

'That for paragraph 14, the following paragraph be substituted :—

'14. (1) There shall be paid to the Comptroller and Auditor-General of India a salary at the rate of four thousand rupees per mensem.

(2) The person who was holding office immediately before the commencement of this Constitution as Auditor-General of India and has become on the date of such commencement the Comptroller and Auditor-General of India under article 310A of this Constitution shall in addition to the salary specified in sub-paragraph (1) of this paragraph be entitled to receive as special pay an amount equivalent to the difference between the salary so specified and the salary which was payable to him as Auditor-General of India immediately before such commencement."

"That in paragraph 15, for the word 'Auditor-General' in the first place where it occurs, the words 'Comprtoller and Auditor-General' be substituted."

With your permission, I will explain the provisions tomorrow.

Mr. President : The House stands adjourned till 10 o'clock tomorrow morning.

The Assembly then adjourned till Ten of the Clock on Wednesday, the 12th October 1949.

WEDNESDAY, THE 12TH OCTOBER 1949

The Constituent Assembly of India met in the Constitution Hall, New Delhi, at Ten of the Clock (Wednesday, the 12th October 1949), Mr. President (the Honourable Dr. Rajendra Prasad) in the Chair.

SECOND SCHEDULE—(*contd.*)

***The Honourable Dr. B. R. Ambedkar** (Bombay : General) **:** Mr. President, Sir, I would like to say a few words in explanation of the provisions contained in the Second Schedule, and I would like to begin with that part which deals with the salary of judges.

First of all, with regard to the Supreme Court, it will be seen that the salaries of the judges of the Supreme Court on the commencement of the Constitution will be for the Chief Justice Rs. 5,000 per month *plus* a free house, and the salary for a puisne judge will be Rs. 4,000 per month *plus* a free house. With regard to the Supreme Court, the position is this, that

*CAD, Vol. X, 12th October 1949, pp. 119-122.

according to the Constitution, any Federal Court judge who chooses to become a judge of the Supreme Court will be appointed as a judge of the Supreme Court. If any judge of the Federal Court therefore chooses to become a judge of the Supreme Court, the question that arises is this : whether he should get the standard salary which has been fixed under the Constitution for the judges of the Supreme Court or whether any provision Should be made for allowing him to continue to draw the salary which he now gets as a judge of the Federal Court. The decision of the Drafting Committee has been that while the normal salaries of the Supreme Court judges should be as stated in the Second Schedule, provision ought to be made to enable the Federal Court Judges to draw the salary which they are drawing at present in case they choose to become judges of the Supreme Court. For this purpose, the judges of the Federal Court are divided into two categories—those who are appointed as permanent judges before the 31st October 1948 and those who are appointed after 31st October 1948. In the case of the first category, *i.e.,* those who are appointed before the 31st October 1948, they will get a personal pay which would be equivalent to the difference between the salary which has been fixed by the Second Schedule and the salary that was payable to such a judge immediately before the commencement of the Constitution. With regard to those who are appointed after the 31st October 1948, they will get at the rates fixed in the Second Schedule, so that the Chief Justice of the Supreme Court will get Rs. 2,000 more than the salary fixed for the Chief justice under the Constitution, while the puisne judges of the Federal Court, if they go to the Supreme Court, will be getting Rs. 1,500 in excess of the normal salary which is fixed for the puisne judge of the Supreme Court.

Coming to the High Court, the normal salary fixed under the Constitution for the Chief Justice is Rs. 4,000 and the normal salary for the puisne judges is Rs. 3,500. Here again, we have got a provision in the Constitution that any judge of a High Court, if he wishes to be appointed to the High Court, under the Constitution, the President is bound to appoint him and consequently the same problem which arises under the Supreme Court also arises in the case of the High Court, because those judges who are now existing judges draw, in some cases, a higher salary than the salary that is fixed in the Second Schedule. In order, therefore, to remove any possible grievance, it has also been decided to follow the same procedure as has been followed in the case of the Federal Court, namely, to divide the judges into two categories those appointed before

the 31st October 1948 and those appointed thereafter. Thus, those in category one will get an additional pay as personal pay which will be equivalent to the difference between the salary fixed by the Constitution and the salary which they are drawing, and those who are in category two will get the salary as fixed by the Constitution.

Perhaps, it might be necessary to explain why we have adopted the 31st October 1948 as the dividing line. The answer is that the Government of India had notified to the various High Courts and the Federal Court that any judge who is appointed before the 31st October 1948 will continue to get the salaries which he was getting now but that the same assurance could not be given with respect to judges appointed after the 31st October 1948. It is in order to guarantee this assurance, so to say, that this dividing line has been introduced.

I would like to say a word or two with regard to the scale of salary fixed in Schedule II and the scale of salary obtaining in other countries, for instance, in the United States the Chief Justice gets Rs. 7,084 per month while the puisne judges get Rs. 6,958. In Canada the Chief Justice gets Rs. 4,584 and the puisne judges get Rs. 3,662. In Australia the Chief Justice of the High Court gets Rs. 3,750 and the puisne judge gets Rs. 3,333. And in South Africa the Chief Justice gets Rs. 3,892 and the puisne judges get Rs. 3,611. Anyone who compares the standard salary that we have fixed in Schedule II with the figures which I have given I think, will realise that our salaries if at all, compare much better with the salaries that are fixed for similar functionaries in other countries except the U.S.A.

In fixing these salaries we have been as fair as we could be. For instance, it would have been perfectly open for the Drafting Committee to say, following the rule that those who have been appointed before the 31st October 1948, if their salary is in excess of what is the normal salary fixed by the Constitution, we could have also made a provision that the judges of the High Court of Nagpur shall get less than the normal salary, because their salary is less than the normal salary as at present existing. But we do not propose to perpetuate any such grievance and therefore we have not introduced a countervailing provision which in strict justice to the case, the Drafting Committee would have been justified in doing. I therefore submit that so far as the salary of the judiciary is concerned there can hardly be any ground for complaint.

I come to the question of the president. The president of the Union is obviously a functionary who would replace the present Governor-General

and in fixing the salary which we have fixed, namely Rs. 10,000 we have to consider, in coming to a conclusion, as to whether it is less or more than the salary that the Governor-General has been drawing.

As every one knows, under the Government of India Act, 1935, the salary of the Governor-General was fixed at Rs. 2,50,800 a year which came to Rs. 20,900 *per mensem*. This salary was of course subject to income-tax. Under the recent Act passed by the Legislative Assembly the salary of the Governor-General was fixed at Rs. 5,500 but that salary was free of income-tax. I am told that if the salary of the Governor-General was subject to income-tax it would come to somewhere about Rs. 14,000. In fixing the salary of the President at Rs. 10,000 we have taken into consideration two factors. One factor is that the salary of the President should be subject to income-tax. It was felt by the Drafting Committee as well as by a large body of Members of this House that no person who is a functionary under the Constitution or a civil servant under the Constitution should be immune from any liability imposed by any fiscal measure for the general people of this country. Consequently, we felt that it was desirable to increase the salary of the president if we were to make it subject to income-tax.

The other reason why we fixed the salary at Rs. 10,000 is to be found in the salary of the existing Chief Justice of the Supreme court, which is Rs. 7,000. It was the feeling of the Drafting Committee that since the President was the highest functionary in the State there ought to be no individual who would be drawing a higher salary than the President and if the Chief Justice of the Supreme Court was drawing a salary of Rs. 7,000 it was absolutely essential, from that point of view, that the salary of the President should be somewhat above the salary of the Chief Justice. Taking all these factors into consideration we thought that the proper salary would be Rs. 10,000.

Then, the president's salary carries with it certain allowances. With regard so these allowances I might mention that when the Government of India Act, 1935, was passed, the Act merely fixed the salary for the Governor-General. With regard to the allowances the Act says that His Majesty in Council shall fix the same by Order but unfortunately the provisions of Part II of the Government of India Act, 1935, were never brought into force and consequently no such Order was ever made by His Majesty in Council although a draft of such an order was prepared in the year 1937. So far therefore as the Government of India Act is concerned, there is nothing stated with regard to the allowances and therefore that Act

did not furnish the Drafting Committee any material basis for coming to any definite conclusion. Consequently the Drafting Committee has left the matter with the provision that the President shall continue to get the same allowances which the Governor-General got at the commencement of the Constitution. Later on the Parliament may change the salary and allowances of the President subject to this, that they shall not be changed during the tenure of the President concerned.

I should like to give the House some idea as to what are the allowances which the President would be entitled to get if the provision suggested by the Drafting Committee, that the allowances payable to the Governor-General at the commencement of the Constitution should operate.

I find from the budget estimates for 1949-50 the following figures were included in the budget under the heading "Allowances to the Governor-General":

(1) Sumptuary allowance of Rs. 45,000 per annum.

(2) Expenditure from contract allowance Rs. 4,65,000.

(3) State conveyance : Motor cars : Rs. 73,000.

(4) Tour expenses : Rs. 81,000.

Total allowances are Rs. 6,64,000 per annum, according to the budget estimate of 1949-50.

I need not say, as I said, anything about the allowances, because the allowances are liable to be changed by Parliament at any time. The important question is about the salary and I submit that the salary of the President as fixed at Rs. 10,000 seems to me as also to the Drafting Committee to be a very reasonable figure, having regard to the circusmstances to which I have referred.

I need not say much about the salary of the Governors. That has been fixed by an Order made recently by the Governor-General, and they appear to me to be quite reasonable and it also observes the same principle that in the provinces where the highest paid official is the Chief Justice the Governor should get something more than the Chief Justice of the province. It is from that point of view that the figure for the salary of the Governors has been fixed.

The only other provision to which I would like to refer is that originally it was not proposed to make any provision with regard to the salary of the Comptroller and Auditor General. There again, the salary has been fixed at Rs. 4,000 by Schedule II, subject to the proviso that while the present incumbent continues to function as the Comptroller and Auditor General he will get as personal pay the difference between the salary fixed

by Schedule II and the salary which he is at present getting. When that incumbent disappears and another is appointed he will get the salary that is fixed by the Schedule.

I hope that the figures suggested by the Drafting Committee as salaries for the various functionaries dealt with in this Schedule will commend themselves to the House.

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***Shri Prabhu Dayal Himatsingha :** ...Sir, I support the article put forward by Dr. Ambedkar.

Pandit Hirday Nath Kunzru : (United Provinces : General) : Mr. President, Sir, the Draft Constitution provided that the President should get a salary of Rs. 5,000 a month and the Governor of a State Rs. 4,500 a month. It was then proposed....‡

The Honourable Dr. B. R. Ambedkar : President Rs. 5,500 a month.

* * * * *

†The Honourable Dr. B. R. Ambedkar : Sir, all I wish to say is that there are three points which have been raised and which require some reply. Mr. Kamath attacked the provision in Schedule II allowing the judges of the Supreme Court a free house. This question of providing for a house in the Constitution for the judges of the Supreme Court was decided upon after careful consideration. It was felt that a large number of judges who would be appointed to the Supreme Court would be coming from the far ends of this country to the capital city and that it would not be proper to throw them on their own resources to find a house which would be in keeping with the dignity of their office. That was the principal reason why the Drafting Committee felt that the Government should have the obligation to provide a house.

With regard to the question of the house being free of rent, we thought that was a sort of compensation for the reduction in the salaries of the Supreme Court judges, which we had proposed in comparison with the salaries of the judges of the Federal Court. Personally I was somewhat surprised at the derisive remarks made by my honourable Friend Mr. Kamath on this particular point, because if he is objecting to a free house to anybody I should have expected him to say something about the free house which we provide both for the President as well as for the Governor-General and I personally....‡

Shri H. V. Kamath : I did not refer to rent and I do not know whether it is a free house or not.

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*CAD, Vol. X, 12th October 1949, p. 144.

†*Ibid.,* pp. 146-148.

‡Dots indicate interruption—Ed.

The Honourable Dr. B. R. Ambedkar : I do not think there is any substance in this particular point made by Mr. Kamath.

With regard to the question of the amount of salaries there have been a variety of views expressed in the House. My Friend Mr. Shibban Lal Saksena went to the length of saying that the President ought not to get more than one rupee. Well, I suppose, on that remuneration no one would be available to function as the President, except a wandering Sanyasi, and I have no doubt that a wandering Sanyasi would be the most unfit person to be the President of the Union, whatever may be his other virtures.

With regard to the judges' salary two questions have been raised. There are some here in this House who have said that the judges' salaries should be at a higher level than what is fixed in the Schedule. There are others who have said that the standard of salary we have fixed has no relation to the capacity of the country to pay. In my judgement, the slogan that anything that we could fix in this country should have relation to the income of the people is a good piece of political slogan, but I am not prepared to say that it is practical politics. Salaries in this country, as well as in every other country, most depend upon the law of supply and demand. Unfortunately or fortunately, there are many number of people who can be found suitable to function as Members of the Legislature, consequently we fix their salaries at a much lower level. Fortunately or unfortunately, the supply of persons who can function as judges is very limited. I do not propose to say that it is a rarity. But certainly it is a very difficult commodity to obtain and consequently we are required to pay the market price. I am sure that in my judgment the salary fixed in this Schedule conforms to what might be called the market price. Therefore, I do not think that there can be any serious quarrel on the level of salary that we have fixed.

Then I come to the amendment moved by my Friend, Mr. Himatsingka. I should like to say that he and I have the same case in mind and I have the greatest sympathy for the case he has in mind. But what he wants to do is to ask me to accept a general proposition, that is to say, a proposition saying "any judge appointed in any territory mentioned in Part I". I think it is not desirable to introduce in these clauses an amendment in general terms, for the simple reason that after the 31st October 1948, having regard to the provisions of our Constitution, there can be no distinction in the salary of judges on a provincial basis. All judges have been placed on the same basis irrespective of the High Court of the area within which that High Court is situated. Therefore, a general provision to remove any anomaly is not necessary because such an anomaly is not likely to recur.

The anomaly exists because in the Government of India Act certain provisions with regard to the salary of judges did make a distinction between province and province. What I would like to tell my Friend is this; that the Drafting Committee hopes that this particular case will be provided for in another manner. If that happened there would be no necessity of adopting this particular amendment and the individual affected thereby would also be benefited. But if the Drafting Committee finds that does not happen, then the Drafting Committee will reserve to itself the right of bringing in a specific amendment to remove the grievance of the specific individual we have in mind.

Before I close, I would like to ask your permission to introduce one or two phrases in the clause which have been inadvertently omitted. I refer to Part IV, paragraph 11 of sub-paragraph (2). I would like to introduce after the word "shall" in the seventh line the following words :

"In addition to the salaries specified in sub-paragraph (1) of this paragraph."

I have also another amendment in sub-paragraph 3 of paragraph 11.1 I would omit the first "such" and after the word "judge" I would add :

"of the High Court."

Shri H. V. Kamath : That is my amendment.

The Honourable Dr. B. R. Ambedkar : I accept it, and I now hope the House will accept the Schedule as amended.

Shri R. K. Sidhva : What about my amendment regarding the salaries and allowances of the President and the Governor ?

The Honourable Dr. B. R. Ambedkar : That will be decided by Parliament.

Mr. President : I shall now put the amendments to the Schedule according to the Parts. We are now on Part I of the Schedule.

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Mr. President : The third part to amendment 270 was the one accepted by Dr. Ambedkar. As it is, the third part reads :

"In sub-paragraph (2) of paragraph 11 in proposed Part IV of the schedule, after the words 'specified in sub-paragraph 4(1) of this paragraph, shall' add the words in addition to the salary specified in sub-paragraph (1) of this paragraph."

The Honourable Dr. B. R. Ambedkar : I would like to have my own words.

†***[All the amendments of Dr. Ambedkar were adopted. The second Schedule as amended, was added to the Constitution.]***

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*CAD, Vol. X, 12th October 1949, p. 148.

† *Ibid.,*

The Assembly re-assembled after Lunch at Four of the Clock, Mr. President (The Honourable Dr. Rajendra Prasad) in the Chair.

PART VI-A

***Mr. President :** We shall now take up Part VI-A.

The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That after Part VI, the following new Part be inserted :—

PART VI-A

THE STATES IN PART III OF THE FIRST SCHEDULE

Application of provisions of Part VI to States in Part III of the First Schedule.

211 A. The provisions of Part VI Of this Constitution shall apply in relation to the States for the time being specified in Part III of the First Schedule as they apply in relation to the States for the time being specified in Part I of that Schedule subject to the following modifications and omissions, namely :—

(1) For the word "Governor" wherever it occurs in the said Part VI, except where it occurs for the second time in clause (*b*) of article 209, the word "Rajpramukh" shall be substituted.

(2) In article 128, for the word and figure "Part I" the word and figure "Part III" shall be substituted.

(3) Articles 131, 132 and 134 shall be omitted.

(4) In article 135,—

(*a*) in clause (1), for the words, "be appointed" the word "becomes" shall be substituted;

(*b*) for clause (3), the following clause shall be substituted, namely :—

"(3) The Rajpramukh shall be entitled without payment of rent to the use of his residences, and there shall be paid to the Rajpramukh such allowances as the President may, by general or special order, determine".;

(*c*) in clause (*4*), the words 'emoluments and' shall be omitted.

(5) In article 136, after the words "senior-most judge of that court available" the words 'or in such other manner as may be prescribed in this behalf by the President' shall be inserted.

(6) In article 144, the proviso to clause (*1*) shall be omitted.

(7) In article 148, for clause (*1*) the following clause shall be substituted, namely :—

"(1) For every State there shall be a Legislature which shall consist of the Rajpramukh and—

(a) in the State of Mysore, two Houses;

(b) in other States, one House."

(8) In article 163, for the words "as are specified in the Second Schedule" the words "as the Rajpramukh may determine" shall be substituted.

*CAD, Vol. X, 12th October 1949, pp. 154-155.

(9) In article 170 for the words "as were immediately before the date of commencement of this Constitution applicable in the case of members of the Provincial Legislative Assembly for that State" the words "as the Rajpramukh may determine" shall be substituted.

(10) In clause (3) of article 177—

(a) for sub-clause *(a),* the following sub-clause shall be substituted, namely :—

"*(a)* the allowances of the Rajpramukh and other expenditure relating to his office as determined by the President by general or special order;

(b) after sub-clause *(e),* the following sub-clause shall be inserted, namely :—

"*(ee)* in the case of the State of Travancore-Cochin, a sum of fifty-one lakhs of rupees required to be paid annually to the Devaswom fund under the covenant entered into before the commencement of this Constitution by the Rulers of the Indian States of Travancore and Cochin for the formation of the United States of Travancore and Cochin;"

(11) In article 183, for clause (2), the following clause shall be substituted, namely :—

"(2) Until rules are made under clause *(1)* of this article, the rules of procedure and standing orders in force immediately before the commencement of this Constitution with respect to the Legislature for the State or, where no House of the Legislature for the State existed, the rules of procedure and standing orders in force immediately before such commencement with respect to the Legislative Assembly of such Province, as may be specified in this behalf by the Rajpramukh of the State, shall have effect in relation to the Legislature of the State subject to such modifications and adaptations as may be made therein by the Speaker of the Legislative Assembly or the Chairman of the Legislative Council, as the case may be."

(12) In clause (2) of article 191, for the word "Province" the words "Indian State" shall be substituted.

(13) For article 197, the following article shall be substituted, namely :—

Salaries etc. of Judges.

"197. The judges of each High Court shall be entitled to such salaries and allowances and to such rights in respect of leave of absence and pension as may from time to time be determined by the President after consultation with the Rajpramukh :

Provided that neither the salary of a judge nor his rights in respect of leave, of absence or pension shall be varied to his disadvantage after his appointment.'"

I think I will move the other amendments afterwards.

As will be seen, the underlying idea of this Part is that Part VI of this Constitution which deals with the Constitution of the States will now automatically apply under the provisions of article 211-A to States in Part III. But it is realized that in applying Part VI to the Indian States

which will be in Part III there are special circumstances for which it is necessary to make some provision and the purpose of this particular amendment 217 is to indicate those particular articles in which these amendments are necessary to be made in order to deal with the special circumstances of the States in Part III. Otherwise the States in Part III so far as their internal constitution is concerned will be on a par with the States in Part I.

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***Prof. Shibban Lal Saksena :** The amendment that I am moving is 288 of List XII.

Mr. President : I have just received it. You can move it.

Shri T. T. Krishnamachari : But that has not been moved.

The Honourable Dr. B. R. Ambedkar : How can you move it ?

Prof. Shibban Lal Saksena : I am not moving the amendment which the President read out. I am moving No. 288 of List XII.

* * * * *

The Constituent Assembly of India met in the Constitution Hall, New Delhi, at Ten of the Clock, Mr. President (The Honourable Dr. Rajendra Prasad) in the Chair.

PART VI-A—*(contd.)*

†Mr. President : I think it would be better to take the other articles which are sought to be amended in connection with the States and take all the amendments, and then have the general discussion. I do not think it is necessary for Dr. Ambedkar to read the whole thing.

The Honourable Dr. B. R. Ambedkar (Bombay : General) **:** Sir, I move

"That article 224 be omitted."

"That article 225 be omitted."

"That after article 235, the following new article be inserted, namely :—

Armed forces in States in part III of the First Schedule.

'235A. (1) Notwithstanding anything contained in this Constitution, a State for the time being specified in Part III of the First Schedule having any armed force immediately before the commencement of this Constitution may, until Parliament by law otherwise provides, continue to maintain the said force after such commencement subject to such general or special orders as the President may from time to time issue in this behalf.

(2) Any such armed force as is referred to in clause (1) of this article shall form part of the forces of the Union.'"

*CAD, Vol. X, 12th October 1949, p. 158.

†*Ibid,* pp. 175-177.

"That for article 236, the following article be substituted, namely :—

Power of the Union to undertake executive, legislative or judicial functions in relation to any territory not being part of the territory of India.

236. The Government of India may by agreement with the Government of any territory not being part of the territory of India undertake any executive, legislative or judicial functions vested in the Government of such territory, but every such agreement shall be subject to and governed by, any law relating to the exercise of foreign jurisdiction for the time being in force.'"

"That article 237 be omitted."

"That after article 274D, the following new articles be inserted, namely :—

Power of certain States in Part III of the First Schedule to impose restrictions on trade and commerce by the levy of certain taxes and duties on goods imported into or exported from such States.

'274DD. Notwithstanding anything contained in the foregoing provisions of this Part, the President may enter into an agreement with a State for time being specified in Part III of the First impose restrictions Schedule with respect to the levy and collection of any tax or duty leviable by the State on goods imported into the State from other States or on goods exported from the State to other States, and any agreement entered into under this article shall continue in force for such period not exceeding ten years from the commencement of this Constitution as may be specified in the agreement:

Provided that the President may at any time after the expiration of five years from such commencement terminate or modify any such agreement if after consideration of the report of the Finance Commission constituted under article 260 of this Constitution he thinks it necessary to do so.

Effect of articles 274A and 274C on existing laws.

'274DDD. Nothing in articles 274A and 274C of this Constitution shall affect the provisions of any existing law except in so far as the President may by order otherwise provide.

"That after article 302, the following new article be inserted, namely :—

Rights and privileges of Rulers of Indian States.

'302A. In the exercise of the power of Parliament or of the Legislature of a State to make laws or in the exercise of the executive power of the Union or of a State, due regard shall be had to the guarantee or assurance given under any such covenant or agreement as is referred to in article 267A* of this Constitution with respect to the personal rights, privileges and dignities of the Ruler of an Indian State.'"

'That after article 306, the following new articles be inserted :—

Temporary provisions with respect to States in Part III of the First Schedule.

"306B. Notwithstanding anything contained in this Constitution, during a period of ten years from the commencement thereof, or during such longer or shorter period as Parliament may by law Provide in respect of any State, the Government of every State for the time being specified in Part III of the First Schedule shall be under the general control of, and comply with such particular directions, if any, as may from time to time be given by the President, and any failure to comply with such directions shall be deemed to be a failure to carry out the Government of the State in accordance with the provisions of this Constitution :

"Provided that the President may by order direct that the provisions of this article shall not apply to any State specified in the order.,' "

"That for clause (1) of article 258, the following clause be substituted :—

'(1) Notwithstanding anything contained in this Chapter, the Government of India may, subject to the provisions of clause (2) of this article, enter into an agreement with the Government of a State for the time being specified in Part III of the First Schedule with respect to—

(a) the levy and collection of any tax or duty leviable by the Government of India in such State and for the distribution of the proceeds thereof otherwise than in accordance with the provisions of this Chapter;

(b) the grant of any financial assistance by the Government of India to such State in consequence of the loss of any revenue which that State used to derive from any tax or duty leviable under this Constitution by the Government of India or from any other sources;

(c) the contribution by such State in respect of any payment made by the Government of India under clause (1) of article 267A of this Constitution, and when an agreement is so entered into, the provisions of this Chapter shall in relation to such State have effect subject to the terms of such agreement.' "

"That in chapter I of Part IX, after article 267, the following new article shall be inserted, namely :—

'267A. (1) Where under any covenant or agreement entered into by the Ruler of any Indian State before the commencement of this Constitution, the payment of any sums, free of tax, has been guaranteed or assured by the Government of the Dominion of India to any Ruler of such State as Privy Purse—

Privy purse sums of Rulers.

(a) such sums shall be charged on, and paid out of, the Consolidated Fund of India; and

(b) the sums so paid to any Ruler shall be exempt from all taxes on income.

(2) Where the territories of any such Indian State as aforesaid are comprised within a State specified in Part I or Part III of the First Schedule there shall be charged on, and paid out of, the Consolidated Fund of that State such contribution, if any, in respect of the payments made by the Government of India under clause (1) of this article and for such period as may, subject to any agreement entered into in that behalf under clause (1) of article 258 of this Constitution, be determined by order of the President,' "

"That after article 270, the following new article be inserted :—

'270A. (1) As from the commencement of this Constitution—

(a) all assets relating to any of the matters enumerated in the Union List vested immediately before such commencement, in any Indian State corresponding to any State for the time obligations of being specified in Part III of the First Schedule shall be vested in the Government of India, and

Succession to property assets, liabilities and obligations of Indian States.

(b) all liabilities relating to any of the said matters of the Government of any Indian State corresponding to any State for the time being specified in Part III of the First Schedule shall be the liabilities of the Government of India,

subject to any agreement entered into in that behalf by the Government of India with the Government of that State.

(2) As from the commencement of this Constitution the Government of each State for the time being specified in Part III of the First Schedule shall be the successor of the Government of the corresponding Indian State as regards all property, assets, liabilities and obligations other than the assets and liabilities referred to in clause (1) of this article.' "

Shri Brajeshwar Prasad (Bihar : General) **:** Sir, I would like to suggest that these two amendments No. 218 and 219 relating to articles 224 and 225 should be disposed of first, or the amendments standing in the name of honourable Members to these articles will also have to be moved.

Mr. President : They have to be deleted. It does not take any time to dispose them of.

[Article 224 was deleted from the Constitution.]

ARTICLE 306B

***Mr. President :** Amendment No. 222 : Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar : I have already moved that.

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The Assembly re-assembled after Lunch at Four of the Clock, Mr. President (the Honourable Dr. Rajendra Prasad) in the Chair. (13th October 1949).

ARTICLE 3

(REOPENED)

†Mr. President : We shall now take up those consequential amendments No. 226 etc.

The Honourable Dr. B. R. Ambedkar : I would ask Mr. T. T. Krishnamachari to move the amendments on my behalf.

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ARTICLE 296

‡Mr. President : We shall now take up article 296; amendment No. 15. We have got a large number of amendments. Some of the amendments are amendments to the amendment to be moved on behalf of the Drafting Committee. Some are amendments to other amendments which are to be moved by other Members. Many of them overlap. Therefore, I think Members will themselves exercise a certain amount of discretion in not insisting upon amendments which are only overlapping and which are covered by other amendments.

Shri H. V. Kamath (C. P. & Berar: General)**:** We shall abide by your ruling, Sir.

Mr. President : I do not want to give any ruling if I can help it.

*CAD, Vol. X, 13th October 1949, p. 183.

†*Ibid.,* p. 210.

‡*Ibid.,* 14th October 1949, p. 229.

The Honourable Dr. B. R. Ambedkar (Bombay : General) **:** Sir, I move :

"That with reference to amendment No. 3163 of the List of amendments for article 296 the following article be substituted:—

'296. The claims of the members of the Scheduled Castes and the Scheduled Tribes shall be taken into consideration consistently with the maintenance of efficiency of administration, in the making of appointments to services and posts in connection with the affairs of the Union or of a State.' "

Claims of Scheduled Castes and Scheduled Tribes to services and posts

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***Mr. President :**... The next amendment which purpoorts to substitute is No.23, which stands in the name of Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar : I do not propose to move it.

Mr. President : Then No. 24.

The Honourable Dr. B. R. Ambedkar : Not being moved.

[The amendment of Dr. Ambedkar mentioned above was adopted Article 296, as amended, was added to the Constitution.]

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ARTICLE 299

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†Sardar Hukam Singh : My question has not been answered. Have these four Sikh Classes been included in the Scheduled Castes.

The Honourable Dr. B. R. Ambedkar : Of course, they will be.

Shri K. M. Munshi : The President is empowered to issue, under article 300-A, a list of Scheduled Castes. In that, these Scheduled Castes will find a place.

Sardar Hukam Singh : Where is the guarantee that the President will include these people in that list ? We have given up all safeguards to secure this in the Constitution. That has not been done.

Shri K. M. Munshi : The President has that power. The President is sure to keep to the pledge which has been given. This decision finds a place in the Advisory Committee's Report that the Sikh Scheduled Castes will form part of the Scheduled Castes and provided with the safeguards under article 296 which we have already passed. There is no question of going back upon that pledge, you may take it from me. I repeat the Sikh Scheduled Castes will be included in the list of Scheduled Castes and Scheduled Tribes in the Punjab.

[Article 299, as amended, was added to the Constitution.]

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*CAD, Vol. X, 14th October 1949, pp. 236-237.

†*Ibid.,* p. 262.

ARTICLE 48

***Shri H. V. Kamath :** Dr. Ambedkar was quite clear when he gave his answer to me the other day, but now he seems to have some doubt in his own mind, and he has come now with an amendment seeking to provide residences to Governors and the President, without payment of rent. We should, proceed logically, provide rent-free accommodation to Ministers also.

The Honourable Dr. B. R. Ambedkar : Sir, if I may say a word. This amendment is merely consequential or analogous to the provision we have made with regard to the Rajpramukhs. In the clauses that were moved the other day with regard to the residences of Rajpramukhs, we have definitely stated that they will be rent-free. On comparing the similar clauses relating to the Governors, we found that somehow there was a slip and we did not mention rent-free houses. It is to make good that lacuna, and to bring the cases of the Governors and the President on the same footing as the Rajpramukhs that this amendment is needed.

With regard to the question of Ministers, that will be regulated by law made by Parliament. Whether Parliament will be prepared to give them salary with house, and if with house, whether it will be free of rent or with rent, are all matters that will be regulated by Parliament, because the offices of Ministers are political offices dependent upon the goodwill and the confidence of the House, and it seems to me that Mr. Kamath will very easily understand that it would be not proper to remove the Ministers from the purview and jurisdication of Parliament.

Mr. President: I would like to put it to vote.

The question is :

"That in clause (3) of article 48, for the words 'The President shall have an official residence, the words 'The President shall be entitled to the use of the Government House without payment of rent' be substituted."

[The amendment was negatived.]

Mr. President : Then I put the amendment moved by Shri T. T. Krishnamachari.

The question is :

"That in clause (3) of article 48, for the words 'The President shall have an official residence' the words 'The President shall be entitled without payment of rent to the use of his official residences' be substituted."

The amendment was adopted.

Shri T. T. Krishnamachari : Sir, I move amendment No. 360.

"That clause *(5a)* of article 62 be omitted."

*CAD, Vol. X, 14th October 1949, p. 268.

The reason for this is, as I told the House the other day on behalf of Dr. Ambedkar, that we do not propose to move Schedule IIIA and also the Schedule which deals with Instructions to Governors. The clause in question reads thus : "(*5a*) In the choice of his ministers and in the exercise of his other functions under this constitution, the President shall be generally guided by Instructions set out in Schedule IIIA." Actually, since Schedule IIIA is not moved, this clause becomes superfluous. Therefore I have moved for its omission.

Shri H. V. Kamath : Sir, you might remember that some months ago you raised the important point whether the President would always be bound to accept the advice of his Council of Ministers. Our Constitution is silent on that point. It only says that there shall be a Council of Ministers to aid and advise the President. Dr. Ambedkar at that time undertook to insert some provision somewhere in the Constitution in order to make this point clear. That is my recollection. The President will kindly say whether I am right or wrong. Nowhere in the Draft Constitution has this point been clarified. I hope Dr. Ambedkar will do so, and not leave it vague as at present.

***The Honourable Dr. B. R. Ambedkar :** Sir, I wish I had notice of this, so that I could give the necessary quotations. But I can make a general statement. The point whether there is anything contained in the Constitution which would compel the President to accept the advice of the Ministry is really a very small one as compared with the general question. I propose to say something about the general question.

Every Constitution, so far as it relates to what we call parliamentary democracy, requires three different organs of the State, the executive, the judiciary and the legislature. I have not anywhere found in any Constitution a provision saying that the executive shall obey the legislature, nor have I found anywhere in any Constitution a provision that the executive shall obey the judiciary. Nowhere is such a provision to be found. That is because it is generally understood that the provisions of the Constitution are binding upon the different organs of the State. Consequently, it is to be presumed that those who work the Constitution, those who compose the Legislature and those who compose the executive and the judiciary know their functions, their limitations and their duties. It is therefore to be expected that if the executive is honest in working the Constitution, then the executive is bound to obey the Legislature without any kind of compulsory obligation laid down in the Constitution.

Similarly, if the executive is honest in working the Constitution, it must act in accordance with the judicial decisions given by the Supreme Court.

*CAD, Vol. X, 14th October 1949, pp. 269-70.

Therefore my submission is that this is a matter of one organ of the State acting within its own limitations and obeying the supremacy of the other organs of the State. In so far as the Constitution gives a supremacy to that is a matter of constitutional obligation which is implicit in the Constitution itself.

I remember, Sir, that you raised this question and I looked it up and I had with me two decisions of the King's Bench division which I wanted one day to bring here and refer in the House so as to make the point quite clear. But I am sorry I had no notice today of this point being raised. But this is the answer to the question that has been raised.

No constitutional Government can function in any country unless any particular constitutional authority remembers the fact that its authority is limited by the Constitution and that if there is any authority created by the Constitution which has to decide between that particular authority and any other authority, then the decision of that authority shall be binding upon any other organ. That is the sanction which this Constitution gives in order to see that the President shall follow the advice of his Ministers, that the executive shall not exceed in its executive authority the law made by Parliament and that the executive shall not give its own interpretation of the law which is in conflict with the interpretation of the judicial organ created by the Constitution.

Shri H. V. Kamath : If in any particular case the President does not act upon the advice of his Council of Ministers, will that be tentamount to a violation of the Constitution and will he be liable to impeachment?

The Honourable Dr. B. R. Ambedkar : There is not the slightest doubt about it.

The Honourable Shri K. Santhanam (Madras : General)**:** I may add to Dr. Ambedkar's statement, and point out that there are certain marginal cases in which the President may not accept the advice of the Ministers. When a Ministry wants dissolution it will be open to the President to say that he will instal another Ministry which has the confidence of the majority and continue to run the administration. There are some marginal cases where he may have in the interests of responsible government itself to over-ride the advice of his responsible Ministers.

The Honourable Dr. B. R. Ambedkar : I would only like to say one thing in reply. That was once the position. It has been defined very clearly in Macaulay's History of England what the King can do. But I say that these are matters of convention. In Canada this question arose when Mr. Mackenzie King wanted dissolution. The question was whether the Governor-General was bound to give a decision or wheher he was free

to call the leader of the Opposition to form an alternative Ministry. On the advice of the British Government, the Governor-General accepted the advice of Mr. Mackenzie King and dissolved the Parliament.

Shri H. V. Kamath : Instead of Dr. Ambedkar's *obiter dictum* why not have a Constitutional provision ?

The Honourable Dr. B. R. Ambedkar : We cannot discuss this question in this way.

[Amendment No. 360 mentioned earlier of Mr. T. T. Krishnamachari was adopted. Clause (5a) of Article 62 was omitted.]

ARTICLE 303

***The Honourable Shri K. Santhanam :** May I enquire whether a person, who has lost his State by merger in a province continues to be a Ruler or he has become successor ?

Shri T. T. Krishnamachari : The whole difficulty is, this is rather intricate. It is baffling. I admit that a person who has lost his State is nevertheless a Ruler, under the definition in (nn), and also for the purpose of article 267-A.

The Honourable Shri K. Santhanam : Why not his son also be a Ruler ?

Shri T. T. Krishnamachari : Might be.

The Honourable Dr. B. R. Ambedkar : If I may say so, this definition of Ruler is intended only for the limited purpose of making payments out of the privy purse. It has no other reference at all.

The Honourable Shri K. Santhanam : My point is whether it will be so construed as to mean two people at the same time entitled to the allowances. I want to ensure that at a time there will be only one person who will be entitled under the covenant to receive payment.

Mr. President: I think that is just secured by this, because the person recognised as the Ruler alone will be entitled to the payment.

The Honourable Dr. B. R. Ambedkar : That would be governed by the provisions regarding recognition. I am sure the President is not going to recognise two or three or four persons. This expression is deliberately used in order to give the power to the President.

The Honourable Shri K. Santhanam : He might be called the Ruler or successor.

Mr. President : Mr. Santhanam, I think that is quite clear. ...I do not suppose any further discussion is necessary. I shall put it to vote.

[The amendment of Shri T. T. Krishnamachari to substitute sub-clause* (nn) *of clause (1) of Article 303 was adopted.]

*CAD, Vol. X, 14th October 1949, p. 282.

***Mr. President :** We then go to the Schedule. ...

FIRST SCHEDULE

The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That for the First Schedule the following be substituted :—

"FIRST SCHEDULE"

(ARTICLES 1 AND 4)

THE STATES AND THE TERRITORIES OF INDIA

PART I

Names of States	*Names of corresponding Provinces*
1. Assam	Assam
2. Bengal	West Bengal
3. Bihar	Bihar
4. Bombay	Bombay
5. Koshal-Vidarbha	Central Provinces and Berar
6. Madras	Madras
7. Orissa	Orissa
8. Punjab	East Punjab
9. United provinces.	United Provinces.

TERRITORIES OF STATES

The territory of the State of Assam shall comprise the territories which immediately before the commencement of this Constitution were comprised in the province of Assam, the Khasi States and the Assam Tribal Areas.

The territory of the State of Bengal shall comprise the territory which immediately before the commencement of this Constitution was comprised in the Province of West Bengal."

Shri B. Das (Orissa : General) **:** We wanted Utkal to be the name of ORISSA.

The Honourable Dr. B. R. Ambedkar : You may move an amendment.

"The territory of the State of Bombay shall comprise the territory which immediately before the commencement of this Constitution was comprised in the Province of Bombay and the territories which by virtue of an order made under section 290A of the Government of India Act, 1935, were immediately before such commencement being administered as if they formed part of that Province or which immediately before such commencement were being administered by the Government of that Province under the provisions of the Extra-Provincial Jurisdiction Act. 1947.

The territory of each of the other States shall comprise the territories which immediately before the commencement of this constitution were comprised in the corresponding Province and the territories which, by virtue of an order made under section 290A of the Government of India Act, 1935, were immediately before such commencement being administered as if they formed part of that Province.

*CAD, Vol. X, 14th October 1949, pp. 286-288.

PART II.

Names of States.

1. Ajmer
2. Bhopal
3. Bilaspur
4. Coorg
5. Cooch-Behar
6. Delhi
7. Himachal Pradesh
8. Kutch
9. Manipur
10. Rampur
11. Tripura

TERRITORIES OF STATES

The territory of the State of Ajmer shall comprise the territories which immediately before the commencement of this Constitution were comprised in the Chief Commissioner's Provinces of Ajmer-Merwara and Panth Piploda.

The territory of each of the States of Coorg and Delhi shall comprise the territory which immediately before the commencement of this Constitution was comprised in the Chief Commissioner's Province of the same name.

The territory of each of the other States shall comprise the territories which, by virtue of an order made under section 290 A of the Government of India Act, 1935, were immediately, before the commencement of this Constitution administered as if they were a Chief Commissioner's Province of the same name.

PART III.

Names of States.

1. Hyderabad
2. Jammu and Kashmir
3. Madhya Bharat
4. Mysore
5. Patiala & East Punjab States Union
6. Rajasthan
7. Saurashtra
8. Travancore-Cochin
9. Vindhya Pradesh

TERRITORIES OF STATES

The territory of the State of Rajasthan shall comprise the territories which immediately before the commencement of this Constitution were comprised in the United State of Rajasthan and the territories which immediately before such commencement were being administered by the Government of that State under the provisions of the Extra-Provincial Jurisdiction Act, 1947.

The territory of the State of Saurashtra shall comprise the territories which immediately before the commencement of this Constitution were comprised in the United States of Kathiawar (Saurashtra) and the territories which immediately before such commencement were being administered by the Government of that State under the provisions of the Extra-Provincial Jurisdiction Act, 1947.

The territory of each of the other states shall comprise the territory which immediately before the commencement of this Constitution was comprised in the corresponding Indian State.

The Andaman and Nicobar Islands."

Sir, I do not think the amendment which I have moved calls for any explanation.

Shri Jainarain Vyas : I would like to know if Sirohi State has been put in anywhere.

The Honourable Dr. B. R. Ambedkar : Sirohi, I understand is administered under the Extra-Provincial Jurisdiction Act, 1947, partly by Bombay and partly by Rajasthan. That is the reason why it has not been separately mentioned.

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ARTICLE 264A

***The Honourable Dr. B. R. Ambedkar** (Bombay: General) **:** Sir, I move amendment No. 425.

"That in amendment No. 307 of List XIII (Second Week), for the proposed article 264A the following be substituted :—

Restriction as to imposition of tax on Sale or purchase of goods.

'264A. (1) No law of a State shall impose, or authorise the imposition of a tax on the sale or purchase of goods where such sale or purchase takes place—

(a) outside the State; or

(b) in the course of the import of the goods into, or export of the goods out of, the territory of India.

Explanation.—For the purposes of sub-clause *(a)* of this clause a sale or purchase shall be deemed to have taken place in the State in which the goods have actually been delivered as a direct result of such sale or purchase for the purpose of consumption in that State, notwithstanding the fact that under the general law relating to sale of goods the property in the goods has by reason of such sale or purchase passed in another State.

(2) Except in so far as Parliament may by law otherwise provide, no law of a State shall impose, or authorise the imposition of, a tax on the sale or purchase of any goods where such sale or purchase takes place in the course of inter-State trade or commerce :

Provided that the President may by order direct that any tax on the sale or purchase of goods which was being lawfully levied by the Government of any State immediately before the commencement of this Constitution shall, notwithstanding that the imposition of such tax is contrary to the provisions of this clause, continue to be levied until the thirty-first day of March, 1951.

(3) No law made by the Legislature of a State imposing, or authorising the imposition of, a tax on the sale or purchase of any such goods as have been declared by Parliament by law to be essential for the life of the community shall have effect unless it has been reserved for the consideration of the President and has received his assent.' "

*CAD, Vol. X, 16th October 1949, pp. 325-327.

Sir, as everyone knows, the sales tax has created a great deal of difficulty throughout India in the matter of freedom of trade and commerce. It has been found that the very many sales taxes which are levied by the various Provincial Governments either cut into goods which are the subject matter of imports or exports, or cut into what is called inter-State trade or commerce. It is agreed that this kind of chaos ought not to be allowed and that while the provinces may be free to levy the sales tax there ought to be some regulations whereby the sales tax levied by the provinces would be confined within the legitimate limits which are intended to be covered by the sales tax. It is, therefore, felt that there ought to be some specific provisions laying down certain limitations on the power of the provinces to levy sales tax.

The first thing that I would like to point out to the House is that there are certain provisions in this article 264A which are merely reproductions of the different parts of the Constitution. For instance, in sub-clause *(1)* of article 264A as proposed by me, sub-clause *(b)* is merely a reproduction of the article contained in the Constitution, the entry in the Legislative List that taxation of imports and exports shall be the exclusive province of the Central Government. Consequently so far as sub-clause *(1)(b)* is concerned there cannot be any dispute that this is in any sense an invasion of the right of provinces to levy as sales tax.

Similarly, sub-clause *(2)* is merely a reproduction of Part XA which we recently passed dealing with provisions regarding inter-State trade and commerce. Therefore so far as sub-clause *(2)* is concerned there is really nothing new in it. It merely says that it any sales tax is imposed it shall not be in conflict with the provisions of Part XA.

With regard to sub-clause *(3)* it has also been agreed that there are certain commodities which are so essential for the life of the community throughout India that they should not be subject to sales tax by the province in which they are to be found. Therefore it was felt that if there was any such article which was essential for the life of the community throughout India, then it is necessary that, before the province concerned levies any tax upon such a commodity, the law made by the province should have the assent of the President so that it would be possible for the President and the Central Government to see that no hardship is created by the particular levy proposed by a particular province.

The proviso to sub-clause *(2)* is also important and the attention of the House might be drawn to it. It is quite true that some of the sales taxes which have been levied by the provinces do not quite conform to the

provisions contained in article 264A. They probably go beyond the provisions. It is therefore felt that when the rule of law as embodied in the Constitution comes into force all laws which are inconsistent with the provisions of the Constitution shall stand abrogated. On the date of the inauguration of the Constitution this might create a certain amount of financial difficulty or embarrassment to the different provinces which have got such taxes and on the proceeds of which their finances to a large extent are based. It is therefore proposed as an explanation to the general provisions of the Constitution that notwithstanding the inconsistency or any sales tax imposed by any province with the provisions of article 264A, such a law will continue in operation until the 31st day of March 1951, that is to say, we practically propose to give the provinces a few months more to make such adjustments as they can and must in order to bring their law into conformity with the provisions of this article.

I do not think any further explanation is necessary so far as my amendment is concerned but if any point is raised I shall be very glad to say something in reply to it when I reply to the debate.

* * * * *

***Shri Mahavir Tyagi :** ...There are so many defects in the present system of sales tax. Now, in Delhi, there is no sales tax; in the United Provinces, there is a sales tax on motor car, radios, on bicycles and other things. Whenever any citizen in Meerut wants a motor car or a bicycle, he does not go to the local shop there. The local agency suffers. He comes to Delhi. I see Dr. Ambedkar beckoning me to keep quite; he is using undue influence.

The Honourable Dr. B. R. Ambedkar : I have followed the point.

Shri Mahavir Tyagi : Have you followed it ? Have you also appreciated it ? Are you prepared to accommodate me ? You have got the delegates of the People behind you. Dr. Ambedkar, I can assure you, if you are just, if you recognise justice, you might become later on the Supreme Judge of India in your life, if you do justice to the citizen. I submit, Sir, this is the manner in which that tax is being levied....

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†**The Honourable Dr. B. R. Ambedkar :** Sir, there are three amendments before the House. The first is the amendment of my Friend Prof. Shibban Lal Saxena. According to his amendment, what he proposes is that the power practically to levy sales tax should be with the Parliament.

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*CAD, Vol. X, 16th October 1949, pp. 330-331.

†*Ibid.,* pp. 339-340.

There are two fundamental objections to this proposal. In the first place, this matter was canvassed at various times between the Provincial Premiers and the Finance Department of the Government of India in which the proposal was made that in order to remove the difficulties that arise in the levy of the sales tax it would be better if the tax was levied and collected by the Centre and distributed among the Provinces either according to some accepted principles or on the basis of a report made by some Commission. Fortunately or unfortunately, the Provincial premisers were to a man opposed to this principle and I think, Sir, that their decision was right from my point of view.

Although I am prepared to say that the financial system which has been laid down in the scheme of the Draft Constitution is better than any other special system that I know of. I think it must be said that it suffers from one defect. That defect is that the Provinces are very largely dependent for their resources upon the grants made to them by the Centre. As well as know, one of the methods by which a responsible Government works is the power vested in the Legislature to throw out a Money Bill. Under the scheme that we have proposed; a Money Bill in the Province must be of a very meagre sort. The taxes that they could directly levy are of a very minor character and the Legislature may not be in a position to use this usual method of recording its "no confidence" in the Government by refusing taxes. I think, therefore, that while a large number of resources on which the Provinces depend have been concentrated in the Centre, it is from the point of view of constitutional government desirable at least to leave one important source of revenue with the Provinces. Therefore, I think that the proposal to leave the sales tax in the hands of the Provinces, from that point of view, is a very justifiable thing. That being so, I think the amendment of my Friend Prof. Shibban Lal Saxena falls to the ground.

With regard to the amendment of my Friend Mr. Tyagi, I would like to say that I am in great sympathy with what he has said. There is no doubt about it that the sales tax when it began in 1937 was an insignificant source of revenue. I have examined the figures so far as Bombay and Madras are concerned. The tax in the year 1937 in Madras was somewhere about Rs. 2.35 crores. Today it is very nearly Rs. 14 crores. With regard to Bombay the same is the situation, namely, that the tax about Rs. 3.5 crores in 1937 and today it is somewhere in the neighbourhood of Rs. 14 crores. This must be admitted as a very enormous increase and I do not think that it is desirable to play with the sales tax for the purpose of

raising revenue for the simple reason that a taxation system can be altered on the basis, so far as I know, of two principles. One is the largest equity between the different classes. If one class is taxed more than another class it is justifiable to employ the taxation system to equalise the burden.

The second important principle which, I think, is accepted all over the world is that no taxation system should be so manipulated as to lower the standard of living of the people, and I have not the slightest doubt in my mind that the sales tax has a very intimate connection with the standard of living of the people of the province. But, with all the sympathy that I have with my friend, I again find that if his amendment was accepted it would mean that the power of the provinces to levy the sales tax would not be free and unfettered. It would be subject to a ceiling fixed by Parliament. It seems to me that if we permit the sales tax to be levied by the provinces, then the provinces must be free to adjust the rate of the sales tax to the changing situation of the province, and, therefore, a ceiling from the Centre would be a great handicap in the working of the sales tax. I have, no doubt that my Friend Mr. Tyagi, if he goes into the Provincial legislature, will carry his ideas through by telling the Provincial Governments that the sales tax has an important effect on the standard of living of the people, and therefore, they ought to be very careful as to where they fix the pitch.

Shri Mahavir Tyagi : Have I become so inconvenient to you ?

The Honourable Dr. B. R. Ambedkar : Not at all. If I were a Premier, I would have taken the same attitude as you have taken.

Now, coming to the amendment of my honourable Friend Pandit Kunzru, I am inclined to think that the purpose of his amendment is practically carried out in the explanation to sub-clause (1) where also we have emphasised the fact that the sales tax in its fundamental character must be a tax on consumption and I do not think that his amendment is going to improve matters very much.

There is only one point, I think, about which I should like to say a word. There are, I know, some friends who do not like the phraseology in sub-clause *(1),* in so far as it applies, "in the course of export and in the course of import." Now, the Drafting Committee has spent a great deal of time in order to choose the exact phraseology. So far as they are concerned, they are satisfied that the phraseology is as good as could be invented. But I am prepared to say that the Drafting Committee will further examine this particular phraseology in order to see whether some other phraseology could not be substituted, so as to remove the point of

criticism which has been levelled against this part of the article. Sir, I hope the House will now accept the amendment.

Mr. President: Before putting the proposition moved by Dr. Ambedkar to vote, I desire to say a few words, particularly because I see in front of me the Honourable the Finance Minister. I do not wish to say anything either in support of or in opposition to the article which has been moved, but I desire to point out that there is a considerable feeling in the provinces that their sources of revenue have been curtailed a great deal, and also, particularly among the provinces, which are poor, that the distribution of the income-tax is not such as to give them satisfaction. I desire to ask the Finance Minister to bear this in mind when he comes to consider the question of the distribution of the income-tax, so that it may not be said that the policy of the Government of India is such as to give more to those who have much and to take away the little from those who have little.

I shall now put the various amendments to vote.

All amendments were negatived.

[Original proposition moved by Dr. Ambedkar was adopted. Article 264-A, as amended, was added to the constitution.]

***The Honourable Dr. B. R. Ambedkar :** I would like you to take up article 280-A.

Pandit Hirday Nath Kunzru : I strongly object to that article being taken up today. I received the amendment only this morning. The matter with which it deals is a very important one and we should be allowed some time to consider it and to put forward amendments, if we want to do so.

Mr. Naziruddin Ahmad : In addition, this article proposes to introduce a new kind of emergency unknown in any system.

The Honourable Dr. B. R. Ambedkar : Sir, I hope you will not allow these technicalities to stand in the way of the business of the House. Now, even if the honourable Member got the amendment at nine o'clock, from nine to twelve he had time. I do not think there is anything obscure in this amendment. A man of much less intelligence than my honourable Friend Pandit Kunzru could understand it on first reading. I have no doubt about it.

Pandit Hirday Nath Kunzru : Sir, it is a very important matter and Dr. Ambedkar's impatience and rudeness should not be allowed to override the rights of the Members—rights which they clearly enjoy under the rules. I demand, Sir, that we should be given more time to consider

*CAD, Vol. X, 16th October 1949, p. 342.

this amendment notwithstanding the obvious desire of Dr. Ambedkar to rush the amendment through the House.

Mr. President : I would suggest that we go in the order in which it is on the agenda and take up article 274-DD.

The Honourable Dr. B. R. Ambedkar : I am prepared to do that, Sir, but I must say that we are so much pressed for time that I do not think that these technicalities ought to be given more importance than they deserve.

Pandit Hirday Nath Kunzru : It is a pity that the Chairman of the Drafting Committee, who, by virtue of his position may be supposed to appreciate the rights of others, makes light of them.

ARTICLE 274-DD.

***The Honourable Dr. B. R. Ambedkar :** Sir, I move :

"That with reference to amendment No. 400 of List XVII (Second Week), after article 274D, the following article be inserted :—

Power of certain States in Part III of the First Schedule in impose restrictions on trade and commerce by the levy of certain taxes and duties on the import of goods into or the export of goods from such States.

'274DD. Notwithstanding anything contained in the foregoing provisions of this Part or in any other provisions of this Constitution, any State which before the commencement of institution was levying any tax or duty on the import of goods into the State from other States or on the export of goods from the State to other States may, if an agreement in that behalf has been entered into between the Government of India and Government of that State, continue to levy and collect such tax of duty subject to the terms of such agreement and for such period not exceeding ten years from the commencement of this Constitution as may be specified in the agreement :

Provided that the President may at any time after the expiration of five years from such commencement terminate or modify any such agreement if, after consideration of the report of the Finance Commission constituted under article 260 of this Constitution, he thinks it necessary to do so.' "

Sir, this new article is a mere consequential amendment to article 258, which the House has already accepted, whereby the power is given to the Government of India to enter into agreement with States in Part III for the purposes of making certain financial adjustments during a temporary period.

[Article 274DD was adopted and added to the constitution.]

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*CAD, Vol. X, 16th October 1949, p. 342.

†*Ibid.,*

***The Honourable Dr. B. R. Ambedkar** : If my honourable Friend Pandit Kunzru has now no objection we may proceed with the new article 280A. He has had another half an hour.

Mr. President : I think we had better take it up a little later.

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ARTICLE 280A

†The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That after article 280, the following new article be inserted :

'280-A. (1) If the President is satisfied that a situation has arisen whereby the financial stability or credit of India or of any part of the territory thereof is threatened, he may by a proclamation make a declaration to that effect.

Provisions as to financial emergency.

(2) The provisions of clause (2) of article 275 of this constitution shall apply in relation to a proclamation issued under clause (1) of this article as they apply in relation to a Proclamation of Emergency issued under clause (1) of the said article 275.

(3) during the period any such proclamation as is mentioned in clause (1) of this article is in operation, the executive authority of the Union shall extend to the giving of directions to any State to observe such canons of financial properiety as may be specified in the directions, and to the giving of such other directions as the President may been necessary and adequate for the purpose.

(4) Notwithstanding anything contained in this Constitution—

(a) any such direction may include—

(i) a provision requiring the reduction of salaries and allowances of all or any class of persons serving in connection with the affairs of a State;

(ii) a provision requiring all money bills or other bills to which the provisions of article 182 of this Constitution apply to be reserved for the consideration of the President after they are passed by the Legislature of the State;

(b) it shall be competent for the President during the period any proclamation issued under clause (1) of this article is in operation to issue directions for the reduction of salaries and allowances of all or any class of persons serving in connection with the affairs of the Union including the judges of the Supreme Court and the High Courts.

(5) Any failure to comply with any directions given under clause (3) of this article shall be deemed to be a failure to carry on the Government of the State in accordance with the provisions of this Constitution.' "

Sir, having regard to the present economic and financial situation in this country there can hardly be any Member of this Assembly who would dispute the anxiety of some such provision as is embodied in this new article 280A and I therefore, do not propose to spend any time in giving any justification for the inclusion of this article in our Draft Constitution. All that I propose to say is this, that this article more or less follows the pattern

*CAD, Vol. X, 16th October 1949, p. 345.

†*Ibid.,* p. 361.

of what is called the National Recovery Act of the United States passed in the year 1930 or thereabouts, which give the power to the President to make similar provisions in order to remove the difficulties, both economic and financial, that had overtaken the American people as a result of the great depression from which they were suffering. The reason why, for instance, we have thought it necessary to include such a provision in the Constitution is because we know that under the American Constitution within a very short time the legislation passed by the President was challenged in the Supreme Court and the Supreme Court declared the whole of the legislation to be unconstitutional, with the result that after that declaration of the Supreme Court, the President can hardly do anything which he wanted to do under the provisions of the National Recovery Act. A similar fate perhaps might overwhelm our President if he were to grapple with a similar financial and economic emergency. In order to prevent any such difficulty we thought it was much better to make an express provision in the Constitution itself and that is the reason why this article has been brought forth.

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***Mr. President :** Have you anything to say ?

The Honourable Dr. B. R. Ambedkar : If you think it is necessary, I will speak.

Mr. President : No, no. I do not say so. Then I will put the amendment to the vote.

Shri H. V. Kamath : I suggest that Dr. Ambedkar might consider the change of the wording from "threatened" to "gravely threatened."

Mr. President : You did make your suggestion. He will consider whether it is worth considering. I do not think I should allow you to make a second speech in the form of a suggestion to Dr. Ambedkar.

Srijut Rohini Kumar Chaudhuri (Assam : General) **:** I wanted to make my only speech.

Mr. President : But I have already closed the debate.

[All 8 amendments were negatived. Original amendment of Dr. Ambedkar was adopted, Article 280A was added to the Constitution.]

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†**Shri B. Das :** I wish Dr. Ambedkar should make it clear whether the tribunal in the territory of India applies to the Income-tax tribunal or the different Railway tribunals that we have. If the power is extended, then the Income-tax tribunal must be dissolved at once. We have got the Income-tax tribunal which is the final authority.

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*CAD, Vol. X, 16th October 1949, pp. 372.

†*Ibid., p.* 378-80.

The Honourable Dr. B. R. Ambedkar : Are they relevant to this discussion ? How does the Income-tax tribunal come here ?

Shri B. Das : In this article it is stated :—

> "The Supreme Court may, in its discretion, grant special leave to appeal from any judgement, decree, determination, sentence or order in any cause or matter passed or made by any court or tribunal in the territory of India."

I only wish to be assured by you that the 'tribunal' does not mean the 'Income-tax tribunal'.

The Honourable Dr. B. R. Ambedkar : You said other personnel also. So far as my memory goes, this has been amended to make provision for income-tax cases also to be taken up in the Supreme Court. I know that it has been amended.

Pandit Thakur Das Bhargava : Sir, in my humble opinion clause (2) seems to be very wide and unnecessary. It reads as follows :

> "Nothing in clause (1) of this article shall apply to any judgement, determination, sentence or order passed or made by any court or tribunal constituted by or under any law relating to the Armed Forces."

So far as offences relating to the military personnel and military offences are concerned, they may be immune from the jurisdiction of the Supreme Court; but there are many laws relating to the Armed Forces which countenance the judgements etc. by courts constituted under those Acts and the accused in those cases are the civil an population or military personnel accused of civil offences. In regard to, say, the Cantonment Act or in regard to the Territorial Forces Act, there are some offences in which the members of the civil population are accused and there is no reason whatsoever why such sentences should not be subject to the jurisdiction of the Supreme Court. I, therefore, think that this clause is too widely worded and needs amendment.

The Honourable Dr. B. R. Ambedkar : Mr. President, Sir, in view of the observation made by my honourable Friend, Prof. Shibban Lal Saksena, it has become incumbent upon me to say something in relation to me proposed article moved by my honourable Friend, Mr. T. T. Krishnamachari. It is quite true that on the occasion when we considered article 112 and the amendment moved by my honourable Friend, Prof. Shibban Lal Saksena. I did say that under article 112 there would be jurisdiction in the Supreme Court to entertain an appeal against any order made by a Court-martial. Theoretically that proposition is still correct and there is no doubt about it in my mind, but what I forgot to say is this : That according to the rulings of our High Courts as well as the rulings of the British Courts including those of the Privy Council, it has been a well recognized principle that civil courts, although they have jurisdiction under the statute, will not exercise that jurisdiction in order to disturb any

finding or decision given or order made by the Court-martial. I do not wish to go into the reason why the civil courts of superior authority, which notwithstanding the fact that they have this jurisdiction have said that they will not exercise that jurisdiction; but the fact is there and I should have thought that if our courts in India follow the same decision which has been given by British Courts—the House of Lords, the King's Bench Division as well as the Privy Council and if I may say so also the decision given by our Federal Court in two or three cases which were adjudicated upon by them—there would be no necessity for clause *(2);* but unfortunately the Defence Ministry feels that such an important matter ought not be left in a condition of doubt and that there should be a statutory provision declaring that none of the superior civil courts whether it is a High Court or the Supreme Court shall exercise such jurisdiction as against a court or tribunal constituted under any law relating to the Armed Forces.

This question is not merely a theoretical question but is a question of great practical moment because it involves the discipline of the Armed Forces. If there is anything with regard to the armed forces, it is the necessity of maintaining discipline. The Defence Ministry feel that if a member of the armed forces can look up either to the Supreme Court or to the High Court for redress against any decision which has been taken by a court or tribunal constituted for the purpose of maintaining discipline in the armed forces, discipline would vanish. I must say that that is an argument against which there is no reply. That is why clause *(2)* has been added in article 112 by this particular amendment and a similar provision is made in the provisions relating to the powers of superintendence of the High Courts. That is my justification why it is now proposed to put in clause *(2)* of article 112.

I should, however, like to say this that clause *(2)* does not altogether take away the powers of the Supreme Court or the High Court. The law does not leave a member of the armed forces entirely to the mercy of the tribunal constituted under the particular law. For, notwithstanding clause *(2)* of article 112, it would still be open to the Supreme court or to the High Court to exercise Jurisdiction, if the court martial has exceeded the jurisdiction which has been given to it or the power conferred upon it by the law relating to armed forces. It will be open to the Supreme Court as well as to the High Court to examine the question whether the exercise of jurisdiction is within the ambit of the law which creates and constitutes this court or tribunal. Secondly, if the court-martial were to give a finding without any evidence, then, again, it will be open to the Supreme Court as well as the High Court to entertain an appeal in order to find out whether there is evidence. Of course, it would not be open to the High

Court or the Supreme Court to consider whether there has been enough evidence. That is a matter which is outside the jurisdiction of either of these Courts. Whether there is evidence or not, that is a matter which they could entertain. Similarly, if I may say so, it would be open for a member of the armed forces to appeal to the courts for the purpose of issuing prerogative writs in order to examine whether the proceedings of the court martial against him are carried on under any particular law made by Parliament or whether they were arbitrary in character. Therefore, in my opinion, this article, having regard to the difficulties raised by the Defence Ministry, is a necessary article. It really does not do anything more but give a statutory recognition to a rule that is already prevalent and which is recognised by all superior courts.

I am told that some people feel some difficulty with regard to the law relating to the armed forces. It is said that there are many persons in the armed forces who are really not what are called men of the line, men behind the line. It seemed to me quite impossible to make distinction between persons who are actually bearing arms and others who are enrolled under the Army Act, because the necessity of discipline in the armed forces is as great as the necessity of maintaining discipline among those who are not included among the armed forces.

My honourable Friend Mr. Sidhva raised the question that sometimes when a member of the armed forces commits a certain crime, kills somebody by rash driving or any such act, he is generally tried by court-martial, and there is nothing done so as to bring him to book before the ordinary courts of criminal law. Well, I do not know; but I have no doubt in my mind that so far as a member of the armed forces is concerned, he is subject to double jurisdiction. He is no doubt subject to the jurisdiction of the court which is created under the military law. At the same time, he is not exempt from the ordinary law of the land. If a man, for instance, commits an offence which is an offence under the Indian Penal Code and also under the Army Act, he will be liable to be prosecuted under both the Acts. If a member of the army has escaped any such prosecution, it is because people have not pursued the matter. The general theory of the law is that because a man becomes a member of the armed forces, he does not cease to be liable to the ordinary law of the land. He continues to be liable, but in addition to that liability, he takes a further liability under the Act under which he is enrolled.

Shri Mahavir Tyagi : Can he have two punishments for one crime ?

The Honourable Dr. B. R. Ambedkar : Oh, yes.

Shri R. K. Sidhva : Why not make it clear ?

The Honourable Dr. B. R. Ambedkar : It is quite clear. Section 2 of the Indian Penal Code says : "every person". "Every person" means High or low, armed or unarmed.

Mr. President : Mr. T. T. Krishnamachari, would you like to say anything after this ?

Shri T. T. Krishnamachari : No, Sir.

Mr. President : I shall put the amendments to vote.

[Amendment was negatived.]

I shall put article 112 as proposed in amendment No. 421. The question is :

"That with reference to amendment No. 364 of List XV (Second Week), for article 112, the following article be substituted :—

Special leave to appeal by the Supreme Court.

'112. (1) The Supreme Court may, in its discretion, grant special leave to appeal from any judgment, decree, determination, sentence or order in any cause or matter passed or made by any court or tribunal in the territory of India.

(2) Nothing in clause *(1)* of this article shall apply to any judgement, determination, sentence or order passed or made by any court or tribunal constituted by or under any law relating to the Armed Forces.' "

The motion was adopted.

Article 112, as amended, was added to the Constitution.

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***Mr. President :** Now we are at the fag end of the clauses and over four or five clauses we need not quarrel.

The Honourable Shri K. Santhanam : But some of the amendments tabled are matters of substance which, I think, will have to be debated at length. I leave it to you, Sir, but so far as this is concerned I think the words "made by Parliament" are absolutely essential to make the meaning precise and clear.

The Honourable Dr. B. R. Ambedkar (Bombay : general) **:** Sir, the amendment moved by my Friend Mr. Santhanam is quite unnecessary. It has been brought in by him because he has forgotten to take account of the provisions contained in article 60. Article 60 says that the executive power of the Union shall extend to all matters with respect to which Parliament has power to make laws, provided that it shall not so extend, unless the Parliament, law so provides, to matters with respect to which the Legislature of the States has also power to make laws that is, matters in the concurrent List. Therefore, the amendment moved by my Friend Mr. Krishnamachari in sub-clause *(b)* of clause *(1)* of article 59 cannot go beyond the power of Parliament to make laws.

*CAD, Vol. X, 17th October 1949, p. 390.

The Honourable Shri K. Santhanam : The article does not limit it only to those laws; it can also extend further.

The Honourable Dr. B. R. Ambedkar : No, it cannot extend further. The necessity for bringing an amendment in sub-clause *(b)* is this; that the executive power of the centre extends not only to matters enumerated in List I, but may also extend to matters enumerated in List III, and the position of the Drafting Committee is this, that whenever a law is made by Parliament, in respect of any matter contained in List III if the law confers executive power on the Centre, the power of the President to grant reprieve must extend to that law. Therefore, these words are necessary. Mr. Santhanam's amendment is absolutely unnecessary and out of place because article 60 covers the point.

(Amendment of Mr. Santhanam was negatived.)

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***The Honourable Dr. B. R. Ambedkar :** The clause moved by my Friend Mr. Krishnamachari is of old standing. It occurs in the Instrument of Instructions issued to the Governor of the provinces under the Government of India Act, 1935.

Paragraph 17 of the Instrument of Instructions says :

> "Without prejudice to the generality of his powers as to reservation of Bills, our Government shall not assent in our name to, but shall reserve for the consideration of our Governor-General any Bill or any of the clauses herein specified, *i.e.*
>
> *(b)* any Bill which in his opinion would, if it became law so derogate from the powers of the High Court as to endanger the position that that Court is, by the Act, designed to fulfil."

This clause is the old Instrument of Instructions the Drafting Committee had bodily copied in the Fourth Schedule which they had proposed to introduce and it will be found in Vol. II of the amendments at pages 368-369. In view of the fact that the House on my recommendation came to the conclusion that for the reasons which I then stated it was unneccessary to have any such schedule containing instructions to the Governors of the States in Part I, it is felt by the Drafting Committee that, at any rate, that particular part of the proposed Instrument of Instructions, paragraph 17, should be incorporated in the Constitution itself. Now, Sir, the reasons for doing this are these :

The High Courts are placed under the Centre as well as the Provinces. So far as the organisation and the territorial jurisdiction of the High Court are concerned, they are undoubtedly under the Centre and the Provinces have no power either to alter the organization of the High Court or the

*CAD, Vol. X, 17th October 1949, pp. 393-394.

territorial jurisdiction of the High Court. But with regard to pecuniary jurisdiction and the jurisdiction with regard to any matters that are mentioned in List II, the power rests under the new Constitution with the States. It is perfectly possible, for instance, for a State Legislative to pass a Bill to reduce the pecuniary jurisdiction of the High Court by raising the value of the suit that may be entertained by the High Court. That would be one way whereby the State would be in a position to diminish the authority of the High Court.

Secondly, in enacting any measure under any of the entries contained in List II, for instance, debt concellation or any such matter, it would be open for the Provinces to say that the decree made by any such Court or Board shall be final and conclusive, and that the High Court should have no jurisdiction in that matter at all.

It seems to me that any such Act would amount to a derogation from the authority of the High Court which this Constitution intends to confer upon it. Therefore, it is felt necessary that before such law becomes final, the President should have the opportunity to examine whether such a law should be permitted to take effect or whether such a law was so much in derogation of the authority of the High Court that the High Court merely remained a shell without any life in it.

I, therefore, submit that in view of the fact that the High Court is such an important institution intended by the Constitution to adjudicate between the Legislature and the Executive and between citizen and citizen such a power given to the President is a very necessary power to maintain an important institution which has been created by the Constitution. That is the purpose for which this amendment is being introduced.

Shri H. V. Kamath : What about my suggestion to simplify the language?

The Honourable Dr. B. R. Ambedkar : I cannot at this stage consider any drafting amendments.

Shri H. V. Kamath : All right : Do it later on.

Mr. President : I will now put it to vote.

(Amendment of Mr. T. T. Krishmachari)

The question is :

"That to article 175 the following proviso be added :

Provided further that the Governor shall not assent to, but shall reserve for the consideration of the President any which in the opinion of the Governor would, if it became law, so derogate from the powers of the High Court as to endanger the position which that court is by this Constitution designed to fill.' "

The amendment was adopted.

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***Mr. President :** Would you like to reply, Dr. Ambedkar ?

The Honourable Dr. B. R. Ambedkar : Sir, this article is to be read along with article 8.

Article 8 says—

> "All laws in force immediately before the commencement of this Constitution in the teritory of India, in so far as they are inconsistent with the provisions of this Part, shall, to the extent of such inconsistency be void."

And all that this article says is this, that all laws which relate to libels, slander, defamation or any other matter which offends against decency or morality or undermines the security of the State shall not be affected by article 8. That is to say, they shall continue to operate. If the words "contempt of court" were not there, then to any law relating to contempt of court article 8 would apply, and it would stand abrogated. It is prevent that kind of situation that the words "contempt of court" are introduced, and there is, therefore, no difficulty in this amendment being accepted.

Now with regard to the point made by my Friend Mr. Santhanam, it is quite true that so far as fundamental rights are concerned, the word "State" is used in a double sense, including the Centre as well as the Provinces. But I think he will bear in mind that notwithstanding this fact, a State may make a law as well as the Centre may make a law; some of the heads mentioned here such as libel, slander, defamation, security of State, etc., are matters placed in the Concurrent List so that if there was any very great variation among the laws made, relating to these subjects, it will be open to the Centre to enter upon the field and introduce such unformity as the Centre thinks it necessary for this purpose.

The Honourable Shri K. Santhanam : But contempt of court is not included in the Concurrent List or any other list.

The Honourable Dr. B. R. Ambedkar : Well, that may be brought in.

Mr. President : Then I will put these two amendments to vote. As a matter of fact. Pandit Thakur Das Bhargavas's amendment is not an amendment to Mr. Krishnamachari's amendment, it is independent altogether I will put them separately. First I put Mr. Krishnamachari's amendment to vote.

The question as :

> "That in clause *(2)* of article 13, after the word 'defamation' the words 'contempt of court', be inserted"

*CAD, Vol. X, 17th October 1949, p. 402.

The amendment was adopted.

Pandit Thakur Das Bhargava's amendment was negatived.

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***Mr. President :** Then we take up the new article 302AAA, *i.e.* amendment No. 450, Mr. Santhanam has made a suggestion that in order to complete the amendment which has just been passed, "Contempt of Court" must be included in the Concurrent List, and I think it is consequential and we had better take that thing.

The Honourable Dr. B. R. Ambedkar : I will move an amendment straightaway, Sir, I move :

"That after entry 15 in the Concurrent List, the following entry be added :

"15A. Contempt of Court"

Mr. President : I do not think there can be any objection to that.

Mr. Naziruddin Ahmed : There may be many more such things.

Mr. President : May be, but they will come up in time. So, I will put this to vote.

The above amendment was adopted.

Entry 15A was added to the Concurrent List.

NEW ARTICLE 302AAA

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†The Honourable Dr. B. R. Ambedkar : Sir, I think my Friend Mr. Sidhva has entirely misunderstood the position. If he will refer to List II, in Schedule Seven, items 30 and 35 which relate to the matters covered by the amendment moved by my Friend Shri T. T. Krishnamachari, he will see that the power of legislation given to the Centre under items 30 and 35 is of a very limited character. The power given under item 30 is for the purpose of regulation and organisation of air traffic. The power given under 35 is for the purpose of delimitation of the Constitution and the powers of port authorities. He will very readily see that, so far as the territory covered by aerodromes or air ports and ports is concerned, it is put of the territory of the province and concequently any law made by the State is applicable to the area covered by the aerodrome or the port. These entries 30 and 35 do not give the Centre power to legislate for all matters which lie within the purview of the Central Government under the entries. The powers are limited. Therefore the proposal in this article is this : that while it retains areas covered by the aerodromes and by the ports

*CAD, Vol. X, 17th October 1949, p. 403.

†*Ibid.,* pp. 405-406.

as part of the area of the provinces, it does not exclude them—it retains the power of the States to make laws under any of the items contained in List II so as to be applicable to the areas covered by the aerodromes and the areas covered by the ports. What the amendment says is that if the Central Government think that for any particular reason such as for instance sanitation, quarantine, etc., a law is made by the State within whose jurisdiction a particular aerodrome or port is located, then it will be open for the President to say that this particular law of the State shall apply to the aerodrome or to the port subject to this, that or the other notification. Beyond that, there is no invasion on the part of the Centre over the dominion of the States in respect of framing laws relating to entries contained in List II, so far as aerodromes and ports are concerned. I hope my Friend, Mr. Sidhva, will now withdraw his objection.

Mr. President : I shall now put amendment No. 450 to the vote. The question is :

"That after article 302AA, the following new article be inserted :

"302AAA. (1) Notwithstanding anything contained in this Constitution, the President may by public notification direct that as from such date as may be specified in notification—

Special provisions as to major ports and aerodromes

(a) any law made by Parliament or by the Legislature of a State shall not apply to any major port or aerodrome or shall apply thereto subject to such exceptions or modifications as may be specified in the notification, or

(b) any existing law shall cease to have effect in any major port or aerodrome except as respects things done or omitted to be done before the said date, or shall in its application to such port or aerodrome have effect subject to such exceptions or modifications as may be specified in the notification.

(2) In this article :—

(a) 'major port' means a port declared to be a major port by or under any law made by Parliament or any existing law and includes all areas for the time being included within the limits of such port ;

(b) 'aerodrome' means aerodrome as defined for the purposes of the enactments relating to airways, aircraft and air navigation.' "

The motion was adopted.

Article 302AAA was added to the Constitution.

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***Mr. President :** Now I have to put the amendment moved by Mr. Kamath to vote. There is no alternative left to me.

The Honourable Dr. B. R. Ambedkar : He may be asked to withdraw it.

*CAD, Vol. X, 17th October 1949, p. 442.

Mr. President : I suggested to him not to move it. It rests with him to withdraw it.

Shri H. V. Kamath : I am not withdrawing it.

Mr. President : He says he does not withdraw it.

The question is :

"That in amendment No. 2 of the List of Amendments (Volume I), the following be substituted for the proposed preamble :—

"In the name of the God,

We, the people of India,

having solemnly resolved to constitute India into a Sovereign democratic republic, and to secure to all her citizens

Justice, social, economic and political;

Liberty of thought, expression, belief, faith and worship ;

Equality of status and of opportunity; and to promote among them all;

Fraternity, assuring the dignity of the individual and the unity of the nation ;

In our Constituent Assembly do hereby adopt, enact give to ourselves the Constitution.' "

Shri H. V. Kamath : I claim a division.

Pandit Govind Malaviya : I also want a division on this question.

Maulana Hasrat Mohani : I also want a division on this question.

Pandit Govind Malaviya : I want a division because I feel that we are doing an injustice to this country and to its people and I want to know who says what on this matter.

The assembly divided by show of lands.

Ayes: 41

None; 68

The amendment was nagatived.

Honourable Members : Closure, closure.

***Mr. President :** I take it that closure is accepted. I shall now ask Dr. Ambedkar to reply.

The Honourable Dr. B. R. Ambedkar : Mr. President, Sir, the point in the amendment which makes it, or is supposed to make it, different from the Preamble drafted by the Drafting Committee lies in the addition of the words "from whom is derived all power and authority". The question therefore is whether the Preamble as drafted, conveys any other meaning than what is the general intention of the House, *viz,* that this Constitution should emanate from the people and should recognise that the sovereignty to make this Constitution vests in the people. I do not think that there is any other matter that is a matter of dispute. My contention is that what is suggested in this amendment is already contained in the draft Preamble.

*CAD, Vol. X, 17th October 1949, pp. 454-456.

Maulana Hasrat Mohani : Then why don't you accept it ?

The Honourable Dr. B. R. Ambedkar : I propose to show now, by a detailed examination; that my contention is true.

Sir, this amendment, if one were to analyse it, falls into three distinct parts. There is one part which is declaratory. The second part is descriptive. The third part is objective and obligatory, if I may say so. Now, the declaratory part consists of the following phrase : 'We the people of India, in our Constituent Assembly, this day, this month..... do hereby adopt, enact and give to ourselves this Constitution.' Those Members of the House who are worried as to whether this Preamble does or does not state that this Constitution and the power and authority and sovereignty to make this Constitution vest in the people should separate the other parts of the amendment from the part which I have read out, namely the opening words 'We the people of India in our Constituent Assembly, this day, do hereby adopt enact and give to ourselves this constitution' Reading it in that fashion.....*

Shri Mahavir Tyagi : Where do the people come in ? It is the Constituent Assembly Members that come in.

The Honourable Dr. B. R. Ambedkar : That is a different matter. I am for the moment discussing this narrow point: Does this Constitution say or does this Constitution not say that the Constitution is ordained, adopted and enacted by the people. I think anybody who reads its plain language, not dissociating it from the other parts, namely the descriptive and the objective cannot have any doubt that that is what the Preamble means.

Now my Friend Mr. Tyagi said that this Constitution is being passed by a body of people who have been elected on a narrow franchise. It is quite true that it is not a Constituent Assembly in the sense that it includes every adult male and female in this country. But if my Friend Mr. Tyagi wants that this Constitution should not become operative unless it has been referred to the people in the form of a referendum that is quite a different question which has nothing to do with the point which we are debating whether this Constitution should have validity if it was passed by this Constituent Assembly or whether it will have validity only when it is passed on a referendum. That is quite a different matter altogether. It has nothing to do with the point under debate.

*Dots indicate interruption.

The point under debate is this : Does this Constitution or does it not acknowledge, recognise and proclaim that it emanates from the people ? I say it does.

I would like honourable Members to consider also the Preamble of the Constitution of the United States. I shall read a portion of it. It says : "We the people of the United States"— I am not reading the other parts— "We the people of United States do ordain and establish this Constitution for the United States of America." As most Members know, that Constitution was drafted by a very small body. I forget now the exact details and the number of the States that were represented in that small body which met at Philadelphia to draw up the Constitution. (Honourable Members : There were 13 States). There were 13 States. Therefore, if the representatives of 13 States assembled in a small conference in Philadelphia could pass a Constitution and say that what they did was in the name of the people, on their authority, basing on it their sovereignty. I personally myself, do not understand, unless a man was an obsolute pedant, that a body of people 292 in number, representing this vast continent, in their representative capacity, could not say that they are acting in the name of the people of this country. (*'Hear, hear')*

Maulana Hasrat Mohani : I do not think, it is only a community.

The Honourable Dr. B. R. Ambedkar : That is a different matter, Maulana. I cannot deal with that. Therefore, so far as that contention is concerned, I submit that there need be no ground for any kind of fear or apprehension. No person in this House desires that there should be anything in this Constitution which has the remotest semblance of its having been derived from the sovereignty of the British Parliament. Nobody has the slightest desire for that. In fact we wish to delete every vestige of the sovereignty of the British Parliament such as it existed before the operation of this Constitution. There is no difference of opinion between any Member of this House and any Member of the Drafting Committee so far as that is concerned.

Some Members, I suppose, have a certain amount of fear or apprehension that, on account of the fact that earlier this year the Constituent Assembly joined in making a declaration that this country will be associated with the British Commonwealth, that association has in some way derogated from the sovereignty of the people. Sir, I do not think that is a right view to take Every indepedent country must have kind of a treaty with some other country. Because one sovereign country makes a treaty with another sovereign country, that country does not become less

sovereign on that account. (Interruption). I am taking the worst example. I know that some people have that sort of fear. (Interruption).

Shrimati Purnima Banerji : May I, sir.....

Mr. President : Let Dr. Ambedkar proceed. He has not insinuated anything.

The Honourable Dr. B. R. Ambedkar : I say that this Preamble embodies what is the desire of every Member of the House that this Constitution should have its root, its authority, its sovereignty, from the people. That it has.

Therefore I am not prepared to accept the amendment. I do not want to say anything about the text of the amendment. Probably the amendment is somewhat worded, if I may say so with all respect in a form which would not fit in the Preamble as we have drafted, and therefore on both these grounds I think there is no justification for altering the language which has been used by the Drafting Committee.

[The amendment was negatived. The motion was adopted and The Preamble was added to the Constitution.]

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Mr. President : We are now coming to the close of this session. Before I actually adjourn the House, there are certain things which have to be settled at this stage. One of the questions which have to be decided is the next session for the Third Reading of the Constitution, and on previous occasions the House gave me permission to call it at any time I thought necessary, and this time also I suppose the House would give me that permission, but I would ask Mr. Satyanarayan Sinha to move a formal resolution to that effect.

The Honourable Shri Satyanarayan Sinha : Sir, I move :

> "That the Assembly do adjourn until such day in November 1949 as the President may fix".

Mr. President : The question is :

> "That the Assembly do adjourn until such day in November 1949 as the President may fix".

The motion was adopted.

Mr. President : I think we have done with all the amendments, of which we had notice, and I need not say anything more about them. Now that we have concluded the second Reading of the Constitution, by virtue of the powers vested in me under Rule 38-R as recently passed by this House, I shall refer the Draft Constitution with the amendments to the Drafting Committee in order to carry out such redraft of the articles, revision of punctuations, revision and completion of the marginal notes,

and for recommending such formal or consequential or necessary amendments of the Constitution as may be required. This has to be done to complete the work and I do that by virtue of the authority which you have given me, with this, we now adjourn till such date as I may announce.

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The Constituent Assembly then adjourned to a date in November 1949 to be fixed by the President.

TAKING THE PLEDGE AND SIGNING THE REGISTER .

***Mr. President :** I understand that there are two Members who have to take the Pledge and sign the Register.

The following Member took the pledge and signed the register :—

Shri M. R. Masani (Bombay General).

Mr. President : We have now to take up the consideration of the Draft Constitution.

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†**The Honourable Dr. B. R. Ambedkar** (Bombay General) **:** Mr. President, Sir, I have to present the report of the Drafting Committee together with the Draft Constitution of India as revised by the Committee under rule 38-R of the Constituent Assembly rules. Sir, I move—

> "That the amendments recommended by the Drafting Committee in the Draft Constitution of India be taken into consideration."

Sir, I do not propose to make any very long statement of the report or on the recommendations made by the Drafting Committee for the purpose of revising or altering the articles as they were passed at the last session of this Assembly. The only thing that I wish to say is that I would not like to apologise to the House for the long list of corrigenda which has been placed before the House or the supplementary list of amendments included in list II. In my judgement it would have been much better if the Drafting Committee had been able to avoid this long list of corrigenda and the supplementary list of amendments contained in List II, but the House will realise the stress of time under which the Drafting Committee had been working. It is within the knowledge of all the Members of the House that the last session of the Constituent Assembly ended on the 17th of October. Today is the 14th of November. Obviously there was not even one full month available for the Drafting Committee to carry out this huge

*CAD, Official Report, Vol. X, 14th November 1949, p. 459

†*Ibid.,* pp. 462-464.

task of examining not less than 395 articles which are now part of the Constitution. As I said, the Drafting Committee had not even one month, but that even is not a correct statement, because according to Rule 38-R and other rules, the Drafting Committee was required to circulate the Draft Constitution as revised by them five days before this session of the House. As a matter of fact the Constitution was circulated on the 6th of November, practically eight days before the commencement of this session. Consequently the time available for the Drafting Committee was shorter by eight days. Again, it must be taken into consideration that in order to enable the Drafting Committee to send out the Draft Constitution in time, they had to hand over the draft they had prepared to the printer some days in advance to be able to obtain the copies some time before they were actually despatched. The draft was handed over to the printer on the 4th of November. It will be seen that the printer had only one day practically to carry out the alterations and the amendments suggested by the Drafting Committee. It is impossible either for the printer or for the Drafting Committe or the gentleman in charge of proof corrections to produce a correct copy of such a huge document containing 395 articles within one day.

That in my judgement, is a sufficient justification for the long corrigenda which the Drafting Committee had to issue in order to draw attention to the omissions and the mistakes which had been left uncorrected in the copy as was presented to them by the printer on the 5th. Deducting all these days, it will be noticed that the Drafting Committee had barely ten days left to them to carry out this huge task. It is this shortness of time, practically ten days, which in my judgement justifies the issue of the second list of amendments now embodied in List II. If the Drafting Committee had a longer time to consider this matter they would have been undoubtedly in a position to avoid either the issue of the corrigenda or the Supplementary List of Amendments, and I hope that the House will forgive such trouble as is likely to be caused to them by having to refer to the corrigenda and to the Second List of Amendments for which the Drafting Committee is responsible.

Sir, it is unnecessary for me to discuss at this stage the nature of the amendments and changes proposed by the Drafting Committee in the Draft Constitution. The nature of the changes have been indicated in paragraph 2 of the Report. It will be seen that there are really three classes of changes which the Drafting Committee has made. The first change is merely renumbering of articles, clauses, sub-clauses and the

revision of punctuation. This has been done largely because it was felt that the articles as they emerged from the last session of the Constituent Assembly were scattered in different places and could not be grouped together under one head of subject-matter. It was therefore held by the Drafting Committee that in order to give the reader and the Members of the House a complete idea as to what the articles relating to any particular subject-matter are, it was necessary to transpose certain articles from one Part to another Part, from one Chapter to another Chapter so that they may be conveniently grouped together and assembled for a better understanding and a better presentation of the subject-matter of the Constitution. The second set of changes as are described in the report are purely formal and consequential, such as the omission of the words "of this Constitution" which occurs in the draft articles at various places. Sometimes capital letters had been printed in small type and that correction had to be made. Other alterations such as reference to Ruler and Rajpramukh had to be made because these changes were made towards the end when we were discussing the clauses relating to definition. The other changes may be compendiously called 'necessary alterations.' Now those necessary alterations fall into two classes, alterations which do not involve a substantial change in the article itself. These are alterations which are necessary because it was found that in terms of the language used when the articles were passed in the last session, the meaning of some articles was not clear, or there was some lacuna left which had to be made good. That the Drafting Committee has endeavoured to do without making any substantial change in the content of the articles affected by those changes. There are, however, other articles where also necessary changes have been made, but those necessary changes are changes which to some extent involve substantial change. The Drafting Committee felt that it was necessary to make these changes although they were substantial, because if such substantial changes were not made there would remain in the article as passed in the last session various defects and various omissions which it was undesirable to allow to continue, and the Drafting Committee has therefore taken upon itself the responsibility of suggesting such changes which are referred to in sub-clause *(d)* of paragraph 2 and I hope that this House will find it agreeable to accept those changes. As to the substantial alterations that have been made, in regard to some of them sufficient explanation has been given in paragraph 4, and I need not repeate what has been said in the report in justification of those changes.

Sir, I do not think it is necessary for me to add anything to the report of the Drafting Committee and I hope that the House will be able to accept the report as well as the changes recommended by the Drafting Committee both in the report as well as in List II which has already been circulated to the Members of the House.

Amendments of Articles

Mr. President: Dr. Ambedkar has presented the report and the motion now before the House is that the amendments recommended by the Drafting Committee, and the Draft Constitution be taken into consideration....*

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†**Mr. President :** As I understand the point of order which you are raising Pandit Kunzru, it is this, that this article as it is now proposed goes beyond the decisions of this House and it is not a necessary consequence of any decision which has been taken.

The Honourable Dr. B. R. Ambedkar : (Bombay : General): The only question on this point of order that could arise is whether the change proposed by the Drafting Committee in article 365 is a consequential change. It is quite clear in the judgment of the Drafting Committee that this is not only necessary but consequents, for the simple reason that, once there is power given to the Union Government to issue directions to the States that in certain matters they must act in a certain way, it seems to me that not to give the Centre the power to take action when there is failure to carry out those directions is practically negativing the directions which the Constitution proposes to give to the Centre. Every right must be followed by a remedy. If there is no remedy then obviously the right is purely a paper right, a nugatory right which has no meaning, no sense and no substance. That is the reason why the Drafting Committee regarded that such an article was necessary on the ground that it was a consequential article.

But, Sir, I propose to say something more which will show that the Drafting Committee has really not travelled beyond the provisions as they were passed at the last session of the Constituent Assembly. I would ask my honourable Freind Pandit Kunzru to refer to article 280-A, clause *(5),* and article 306-B. Article 280-A, clause *(5),* and the provisions contained in the concluding portion of the main part of 306-B are now

*Dots indicate interruption.

†CAD, Official Report, Vol. X, 15th November 1949, pp. 507-509

embodied in article 365. To that extent, article 365 cannot be regarded as a new article interpolated by the Drafting committee. If my honourable Friend....*

Pandit Hirday Nath Kunzru : May I interrupt my honourable Friend ? Article 306-B relates only to the power of the Central Executive over Governments of the States included in Part B of the first Schedule. My honourable Friend has extended that power of the Central Executive over all State Governments.

The Honourable Dr. B. R. Ambedkar : If my honourable Friend would allow me to complete, I would like to read article 280-A, not of the present draft, but of the old, as was passed at the second reading. These are financial provisions. Clause *(5)* of the article 280-A says : "Any failure to comply with any directions given under clause *(3)* of this article shall be deemed to be a failure to carry on the Government of the State in accordance with the provisions of this Constitution." Therefore, article 365 merely seeks to incorporate this clause *(5)* of the article 280-A. My honourable Friend, If he refers again to article 306-B....†

Pandit Hirday Nath Kunzru : Will my honourable Friend allow me to interrupt him again ?

The Honourable Dr. B. R. Ambedkar : I think it would be better if he speaks after I have completed my argument. If he refers to article 306-B which deals again with the power to issue instructions and directions to States in Part III which are now States in Part-B of the First Schedule, he will see that the last portion says : "any failure to comply with such directions shall be deemed to be a failure to carry on the Government of the State in accordance with the provisions of this "Constitution." Therefore my contention is that article 365 does not introduce any new principle at all. It merely gathers together or assembles the different sections in which the power to issue directions is given and states in general terms that wherever power is given to issue directions and there is a failure, it would be open to the President to deem that a situation has arisen in which there has been a failure to carry out the provisions of this Constitution. The only articles in which such a power to deem that there has been a failure to carry on the Government in accordance with the provisions of the Constitution was not specifically mentioned were articles 256 and 257. It merely said that the Centre had the power to give directions. Therefore, if there is at all any extention of

*Dots indicate interruption.

†Ibid.,

the principle embodied in articles 280-A(5) and 306-B in the new article 365 it is with regard to some of the articles in which this fact was not positively stated. My submission is that when the Constitution does say that with respect to certain articles where the power to issue directions is given, the president shall be entitled or it shall be lawful for the President to deem that there has been a failure to carry on the Government in accordance with the provisions of the Constitution, it seems difficult to justify that certain other articles in which also the power to issue directions has been given should have been omitted from the purview of article 365. The object of article 365 is to make the thing complete and to extend the express provision contained in article 280-A and article 306-B which have been passed by the House already. Therefore, I submit that there is no innovation of any kind at all. It merely makes good the omission which had taken place with regard to some of the article which are, I submit, on the same footing as article 280-A, clause (5) and 306-B.

Pandit Hirday Nath Kunzru : May I point out the reference by Dr. Ambedkar to article 280-A and 306-B in the Draft Constitution as amended by the Constituent Assembly is not to the point ? Article 280-A refers only to financial emergencies. The power conferred on the President under that article can be exercised only when he has declared that the financial stability or credit of India or any part thereof is threatened. The scope of that article therefore is very limited. There is another article in the Constitution which enables the President to issue a proclamation of emergency. Such a proclamation can be issued only when India is threatened by war or internal disturbances. But, these articles do not justify the extension of the power that the Central Executive may exercise in certain emergencies to all cases. Article 306-B is definitely limited to the case of State mentioned in Part B of the First Schedule. Such a provision was not made in the Constitution in refererence to States mentioned in Part A of the First Schedule. Dr. Ambedkar has himself admitted that he has extended the provisions of article 306-B and article 280-A. He has generalised them and brought even the States mentioned in Part A of the First Schedule under the wider exercise of the powers of the Central Executive referred to in articles 306-B and 280-A. I submit, Sir, that the analogy is unjustified and, in any case, incomplete. Whatever the Assembly may have done in the case of States mentioned in Part B of the First Schedule, it does not follow from this that the same provisions must be extended to the States mentioned in Part A of the first Schedule. I submit, therefore, that the language of article 365 goes beyond the

express decisions of the Constituent Assembly. A certain difference has to be maintained between the States mentioned in Part A of the First Schedule and part B of the First Schedule. The difference cannot be obliterated simply because the Drafting Committee desires that they should be removed.

Pandit Balkrishna Sharma (United Provinces : General)**:** May I offer some remarks ?

Mr. President : On the point of order ?

Pandit Balkrishna Sharma : Yes, Sir.

Mr. President : Dr. Ambedkar has already replied.

The Honourable Dr. B. R. Ambedkar : I would like to draw your attention that even in the present Government of India Act there is a provision to the same effect contained in section 126, which empowers the Governor-General to give directions to the provinces and if it appears to the Governor-General that effect has not been given to any such directions he can in his discretion issue orders to the Governor who was to act in his discretion in the matter of carrying out the directions given by the Governor-General. This provision, if I may say so, is very necessary because we all know—those of us who were Ministers during the time of the war—how these mere powers of giving directions turned out to be infructuous when the Punjab Government would not carry out the food policy of the Government of India. The whole Government can be brought to a standstill by a province not carrying out the directions and the Government of India not having any power to enforce those directions. This is a very important matter and I submit that the change made is not only consequential but very necessary for the very stability of the Government.

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***Pandit Hirday Nath Kunzru :** ...I should like Sir, to refer to one more point before I sit down. The Drafting Committee has referred to a number of articles in this Constitution in justfication of the language of article 365. Now, one of the articles so referred to this article 371 which corresponds to the old article 306-B. Had that article been omitted, then there might have been some justification for article 365, but article 306-B has not been omitted from this Constitution. It figures as article 371 but I have not been able to compare the languages of article 371 in the Constitution as revised by the Drafting Committee and article 306-B in the Constitution as amended by the Constituent Assembly last month....

*CAD, Official Report, Vol. X, 15th November 1949, p. 519.

The Honourable Dr. B. R. Ambedkar: Before my honourable Friend proceeds further, I would like to point out that the words "and any failure to comply with such directions shall be deemed to be a failure to carry on the Government of the State in accordance with the provisions of this Constitution" have been omitted from article 371 which corresponds to the original article 306-B.

Pandit Hirday Nath Kunzru : Then I stand corrected in that respect. If article 365 is deleted as proposed by my honourable Friend, Pandit Thakur Das Bhargava, then the Drafting Committee can revert to the old draft of article 306-B. Apart from this, Sir, since this question has been referred to by Dr. Ambedkar, I should like to point out that article 306-B in the Constitution as amended by the Constituent Assembly, which corresponds to article 371 in the present Draft of the Constitution that we are discussing now, is of limited duration. It will remain in operation for ten years only, and this provision cannot be referred to as a justification for introducing a new provision in the Constitution that will be permanent.

Sir, I was referring to articles 353 and 360 when my honourable Friend, Dr. Ambedkar, pointed out to me the change that had been made in the draft of article 306-B.

Shri H. V. Kamath : May I point out that article 371 provides for a period longer than ten years also ?

The Honourable Dr. B. R. Ambedkar : "Notwithstanding anything in this Constitution 'during a period of ten years from the commencement thereof, or during such longer or shorter period as Parliament may be law provide..." etc.‡

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***Shri Mahavir Tyagi :** Sir, I hope President means the President of the Constituent Assembly, and not the 'Governmental President'.

Mr. President: There is no other President except the President of the Union.

The Honourable Dr. B. R. Ambedkar : I propose to explain this matter in my reply. Mr. Sidhva may conclude his remarks.

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†The Honourable Dr. B. R. Ambedkar : Sir, I move :

> "That in sub-clause (b) of clause (1) of article 72, for the words 'offence under any law' the words 'offence against any law' be substituted."

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*CAD, Official Report, Vol. X, 15th November 1949, p. 525.

†*Ibid.,* p. 536.

‡Dots indicate interruption.

***Shri R. K. Sidhva :** If we get an answer to any doubts it will be helpful.

The Honourable Dr. B. R. Ambedkar : Sir, If my friend Mr. Sidhva were to refer to clause (12) of article 366 in the draft as revised by the Drafting Committee, he will notice that there is really nothing new in sub-clause (*3*) of article 367 which is the subject-matter of amendment No. 562-A. Article 366 is a definition article and clause (12) there attempts to define what a foreign State is within the meaning of the Constitution. It was felt that clause (12) of article 366 as passed by the Assembly was rather cryptic and too succinct and that it was desirable to give it a more elaborate shape and form. Consequently the Drafting Committee thought that the best way would be to delete clause (12) of article 366. This is done by amendment No. 497 and it is sought to be replaced now by the present amendment No. 562-A. In the draft as presented to the House with the report the main provision was that it was open to the President to declare by an order that a certain country was not a foreign State so far as India was concerned. The main part of clause *(3)* of article 367 is just the same. The only thing that has been added is that Parliament may legislate on this subject and, while legislating, endow the President with power to proclaim by an order what country is not a foreign State. It was further felt by the Drafting Committee that it was not desirable to confer this power in such rigid terms as would follow from the proviso if the words "for such purposes as may be specified in the order" were not there. The President and Parliament may then be confronted with two inescapable alternatives, either to say that a foreign country was a foreign State or to say that a certain country was not a foreign State with the result that the subjects of the country which is declared not to be a foreign State would become automatically citizens of India and be entitled to all the rights which the citizens of India are entitled to under this Constitution. It may be in the interests of this country that, while it might be desirable to recognize a certain foreign country as not a foreign State, it should be limited to such purposes as may be specified in the order so that while making the order the President would have his position made perfectly elastic enabling him to say that while we declare that a certain country is not a foreign State the subjects of that foreign State will be entitled only to certain rights and privileges which are conferred upon the citizens of India and not to all. It is for that purpose and in order to make a

*CAD, Official Report, Vol. X, 15th November 1949, pp. 550-551.

provision for those other matters that we thought it desirable to transpose clause (12) of article 366 and bring it as clause (3) of article 367.

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***Mr. President :** Pandit Bhargava has suggested that there is still time between now and the 25th for the Members to come to an agreement on this question. If it is agreed to by them, that can be done.

The Honourable Dr. B. R. Ambedkar : (Bombay: General) : I think the difficulty could be easily got over if this assembly before it closes its session on the 26th November could pass an Act amending the Government of India Act, 1935, section 290, permitting the Governor-General among other things which he is empowered to do to change also the name of a Province so that the President can act under article 391 and amend the schedule in order to carry out the action that has been taken by the Governor-General under the Government of India Act, as proposed. This matter cannot take more than a few minutes. It would be possible for the Drafting Committee or the Home Department to bring before this Assembly a Bill to amend the Government of India Act 1935, section 290. Such a Bill could be passed before the 26th January.

The Honourable Shri K. Santhanam : Our difficulty is not objection to changing the name but only to 'Aryavarta'. Similarly we cannot allow the Governor-General also to change the name to 'Aryavarta'.

The Honourable Dr. B. R. Ambedkar : It cannot be Aryavarta as the party has given its verdict on that. I am sure Babu Purushotam Das Tandon has taken note of that.

The Honourable Pandit Govind Ballabh Pant (United Provinces : General) **:** What you have rejected will not be put forward by the U.P. Government nor accepted by the Governor-General. That we all accept.

Mr. President : Then nothing has to be done at present.

The Honourable Pandit Govind Ballabh Pant : On the understanding that an amending Bill of the nature suggested by Dr. Ambedkar will be passed before we disperse.

Mr. President : That is for Dr. Ambedkar to do.

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†**Mr. President :** ...Now, we have finished all the amendments, and there is no time for any further general discussion. But as a matter of fact, we have discussed everything which came up and which required discussion. So I would request Dr. Ambedkar to reply to the debate on the various amendments.

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*CAD, Official Report, Vol. X, 16th November 1949, p. 574.

†*Ibid.,* pp. 575-582.

Shri Raj Bahadur : Sir, I want to refer to only one point. May I request that the order about Sirohi be placed before the House so that we may know what its contents are, and whether this Assembly can ratify or endorse it, or in any way take note of it or not.

Mr. President : I do not think that is a matter which comes before this House. It is a matter for the other House, not for this House. Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar : Mr. President, Sir, in my reply I propose to take certain articles which have been subjected to stronger criticism by the Members of the Assembly. It is, of course, impossible for me to touch upon every article to which reference has been made by the members in the course of their observations. I therefore, propose to confine myself to the more important ones against which serious objections were raised.

I begin with article 22. Listening to the debate, I found that this article 22 and its provisions as amended by the Drafting Committee's amendments, have not been completely understood, and I should therefore like to state in some precise manner exactly what the article as amended by the Drafting Committee's amendments proposes to do. The provisions of article 22, as amended by the Drafting Committee, contain the following important points.

First, every case of preventive detention must be authorised by law. It cannot be at the will of the executive.

Secondly, every case of preventive detention for a period of longer than three months must be placed before a judicial board, unless it is one of those cases in which Parliament, acting under clause *(7),* sub-clause *(a)* has, by law, prescribed that it need not be placed before a judicial board for authority to detain beyond three months.

Thirdly, in every case, whether it is a case which is required to be placed before the judicial board or not, Parliament shall prescribe the maximum period of detention so that no person who is detained under any law relating to preventive detention can be detained indefinitely. There shall always be a maximum period of detention which Parliament is required to prescribe by law.

Fourthly, in cases which are required by article 22 to go before the Judicial Board, the procedure to be followed by the Board shall be laid down by Parliament. I would like Members to consider the provisions of this new article 22 as amended by the Drafting Committee, with the original article 15-A. It will be seen that the original article 15-A was open

to two criticisms. One was that (4)(a) did not appear to be subject to maximum period of detention prescribed under clause (7). Clause (4)(a) appeared to stand by itself, independent of clause (7). The second defect was that the requirements as to the communication of the grounds of detention did not apply to person detained under (4)(a). It will now be seen that the present (4) of article 22 removes these two defects as they existed in the original draft of 15-A.

Notwithstanding the improvement made by article 22, I find from the observations of Mrs. Purnima Banerji that she has still some complaint against the article. In the course of a speech yesterday, she said that preventive detention can take place without the authority of law, and secondly, that there are still cases which need not go to the Judicial Board. With regard to her first comment, I should like to say respectfully that she is very much mistaken. Although preventive detention is different from detention under ordinary law, nonetheless, preventive detention must take place under law. It cannot be at the will of the executive. That point is perfectly clear. With regard to the second comment which she has made, that the new article 22 excepts certain cases from the purview of the Judicial Board. I admit that that statement is correct. But I also say that it is necessary to make such a distinction, because there may be cases of detention where the circumstances are so severe and the consequences so dangerous that it would not even be desirable to permit the members of the Judicial Board to know the facts regarding the detention of any particular individual. It might be too dangerous, the disclosure of such facts, to the very existence of the State. No doubt, she will realise that there are two mitigating circumstances even in regard to the last category of persons who are to be detained beyond three months, without the intervention of the Judicial Board. The first is this, that such cases will be defined by Parliament. They are not to be arbitrarily decided by the executive. It is only when Parliament lays down in what cases the matter need not go to the Judicial Board, it is only in those cases that the Government will be entitled to detain a person beyond a period of three months. But what is more important to realise is that in every case, whether it is a case which is required to go before the Judicial Board or whether it is a case which is not required to go before the Judicial Board, there shall be a maximum period of detention prescribed by law.

I think, having regard to these amendments, which have been suggested by the Drafting Committee in article 22, there is a great deal of improvement in the original harshness of the provisions embodied in

article 15A. Sir, having said what I think is necessary to say about article 22, I will next proceed to take article 373, because that article is intimately connected with article 22.

There has been a great deal of criticism against article 373 and some Members have even challenged the legitimacy or propriety of including such an article in the Constitution. But, in reply, I would like to invite the attention of the Members to this question. What would happen if this article did not find a place in the Constitution ? I think it is quite clear that what would happen if this article 373 did not find a place in the Constitution is this, that all persons detained under preventive detention would have to be released forthwith on the 26th of January 1950, if by that date they have undergone the three months' detention permitted by article 22 and if Parliament is not able to pass a law under clause (7) of article 22 permitting a longer period of detention. The question is this : is this a desirable consequence ? Is it desirable to allow all persons who are detained under the present law to be released on the 26th of January, simply because Parliament is not in a position to make a law on the 26th of January, 1950 permitting a further period of detention. It seems to me that that would be a very disastrous consequence. Consequently, it is necessary, in view of the fact that it is quite impossible for Parliament immediately or before the 26th of January to meet and to pass a law which will take effect from that date, to empower some authority under the Constitution to do the work which Parliament is expected to do in order to give full effect to the provisions of article 22. Who is such an authority under the Constitution ? Obviously the President. The President is the only authority who will be in existence on or before the 26th of January and who could expeditiously make a law stepping into the shoes of Parliament and giving affect to the provisions of article 22 permitting a longer period of detention. It is, therefore, absolutely essential to provide for a break-down of the law relating to preventive detention, to have an article such as 373 empowering the President to enact a law which is within the power of Parliament to enact. Sir, I should further like to add that there is nothing very novel in the provisions contained in article 373, because we have given power by other articles to the President to adapt existing laws in order that they may be brought in confirmity with the provisions of the Constitution. Such modification can only be made by Parliament, but we also realise that it would not be possible for Parliament immediately on the 26th of January to adapt so many voluminous laws enacted by the Indian Legislature to bring them in confirmity with the

Constitution. That power has, therefore, been given to the President. Similarly, by another article we have given to the President the power to amend temporarily this very Constitution for the purpose of removing difficulties. I, therefore, submit that there is nothing novel, there is nothing sinister in this article 373. On the other hand, it is a very necessary complementary article to prevent the break-down of any law relating to preventive detention.

Now, Sir, I come to article 34 which relates to martial Law. This article, too, has been subjected to some strong criticism. I am sorry to say that Members who spoke against article 34 did not quite realise what article 20, clause (1) and article 21 of the Constitution propose to do. Sir, I would like to read article 20, clause (A) and also article 21,because without a proper realisation of the provisions contained in these two articles it would not be possible for any Members to realise the desirability of—I would even go further and say the necessity for—article 34.

Article 20, clause (1) says :

> "No person shall be convicted of any offence except for violation of a law in force at the time of the commission of the act charged as an offence."

Article 21 says :

> "No person shall be deprived of his life or personal liberty except according to procedure established by law."

Now, it is obvious that when there is a riot, insurrection or rebellion, or the overthrow of the authority of the State in any particular territory, martial law is introduced. The officer in charge of martial law does two things. He declares by his order that certain acts shall be offences against his authority, and, secondly, he prescribes his own procedure for the trial of persons who offend against the acts notified by him as offences. It is quite clear that any act notified by the military commander in charge of the disturbed area is not an offence enacted by law in force, because the Commander of the area is not a law-making person. He has no authority to declare that a certain act is an offence, and secondly the violation of any order made by him would not be an offence within the meaning of the phrase "law in force", because "law in force", can only mean law made by a law-making authority. Moreover, the procedure that the Commander-in-Chief or the military commander prescribes is also not procedure according to law, because he is not entitled to make a law. These are orders which he has made for the purpose of carrying out his functions, namely, of restoring law and order. Obviously, if article 20 clause (1) and article 21 remain as they are without any such qualification as is mentioned in article 34, martial law would be impossible in the

country, and it would be impossible for the State to restore order quickly in an area which has become rebellious.

It is therefore necessary to make a positive statement or positive provisions to permit that notwithstanding anything contained in article 20 or article 21, any act proclaimed by the Commander-in-Chief as an offence against his order shall be an offence. Similarly, the procedure prescribed by him shall be procedure deemed to be established by law. I hope it will be clear that if article 34 was not in our Constitution, the administration of martial law would be quite impossible and the restoration of peace may become one of the impossibilities of the situation. I therefore submit, Sir, that article 34 is a very necessary article in order to mitigate the severity of articles 20(*1*) and 21.

Shri H. V. Kamath : May I ask why the indemnification of persons other than public servants is visualised in this article ?

The Honourable Dr. B. R. Ambedkar : Because my friend probably knows if he is a lawyer....*

Shri H. V. Kamath : I am not.

The Honourable Dr. B. R. Ambedkar : *...that when martial law is there it is not merely the duty of the Commander-in-Chief to punish people, it is the duty of every individual citizen of the State to take the responsibility on his own shoulder and come to the help of the Commander-in-Chief. Consequently if it was found that any person who was an ordinary citizen and did not belong to the Commander-in-Chief's entourage, so to say, does any act, it is absolutely essential that he also ought to be indemnified because whatever act he does, he does it in the maintenance of the peace of the State and there is a no reason why a distinction should be made for a military officer and a civilian who comes to the rescue of the State to establish peace. Now, Sir, I come to article 48 which relates to cow slaughter. I need not say anything about it because the Drafting Committee has put in an agreed amendment which is No. 549 in List IV. I hope that would satisfy those who were rather dissatisfied with the new draft of article 48 as proposed by the Drafting Committee.

Then I come to article 77 which deals with rules of business. In the course of the debate on this article, some members could not understand why this article was at all necessary. Some members said that if at all this article was necessary the authority to make rules of business should be vested in the Prime Minister. Others said that if this article was at all necessary it was necessary for the purpose of the efficient transaction of

*Dots indicate interruption.

business and consequently the word "efficient" ought to be introduced in this clause. Now, Sir, I am sorry to say that not many members who participated in the debate on article 77 have understood the fundamental basis of this article. With regard to the point that the authority to make rules of business should be vested in the Prime Minister. I think it has not been understood properly that in effect that will be so for the simple reason that although the article speaks of the President, the President is also bound to accept the advice of the Prime Minister. Consequently, the rules that will be issued by the President under article 77 will in fact be issued by the Prime Minister and on his advice.

Now, Sir, in order to understand the exact necessity of article 77, the first thing which is necessary to realise is that article 77 is closely related to article 53. In fact, article 77 merely follows on to article 53. Article 53 makes a very necessary provision. According to the general provisions of the Constitution all executive authority of the Union is to be exercised by the President. It might be contended that, under that general provision, that the executive authority of the Union is to be exercised by the President, such authority as the President is authorised and permitted to exercise shall be exercised by him personally. In order to negative any such contention, article 53 was introduced which specifically says that the executive authority of the Union may be exercised by the President either directly or indirectly through others. In other words, article 53 permits delegation by the President to others to carry out the authority which is vested in him by the Constitution. Now, Sir, this specific provision contained in article 53 permitting the President to exercise his authority through others and not by himself must also be given effect to. Otherwise article 53 will be nugatory. The question may arise as to why it is necessary to make a statutory provision as is proposed to be done in article 77 requiring the President to make rules of business. Why not leave it to the President to do so or not to do so as he likes? The necessity for making a statutory provision in terms of article 77 is therefore necessary to be explained.

There are two things which must be borne in mind in criticising article 77. The first is that if the President wants to delegate his authority to some other officer or some other authority, there must be some evidence that he has made the delegation. It is not possible for persons who may have to raise such a question in a court of law to prove that the President has delegated the authority. Secondly, if the President by his delegation proposes to give authority to any particular individual to act in his name

or in the name of the Government, then also that particular person or that particular officer must be specifically defined. Otherwise a large litigation may arise in a court of law in which the questions as to the delegation by President, the question as to the authority of any particular individual exercising the powers vested in the Union President may become matters of litigation. Those who have been familiar with litigation in our courts will remember that famous case of Shibnath Banerjee *versus* Government of Bengal. Under the Defence of India Act, the Governor had made certain rules authorising certain persons to arrest certain individuals who committed offences against the Defence of India Act. The question was raised as to whether the particular individual who ordered the arrest under that particular law had the authority to act and in order to satisfy itself the Calcutta High Court called upon the Government of Bengal to prove to its satisfaction that the particular individual who was authorised to arrest was the individual meant by the Government of Bengal. The Government of Bengal had to produce its rules of business for the inspection of the Court before the Court was satisfied that the person who exercised the authority was the person meant by the rules of business.

It is in order to avoid this kind of litigation as to delegation of authority for acts, that we thought, it was necessary to introduce a provision like article 77, This article of course does not take away the powers of the Parliament to make a law permitting other persons to have delegated authority as to permit them to act in the name of the Government of India. But while Parliament does make such a provision, it is necessary that the President shall so act as to avoid any kind of litigation that may arise otherwise.

With regard to article 100 which relates to the question of quorum, I do not know whether it is necessary for me to say anything in reply. All that I would say is that, there is a fear having regard to the comparative figures relating to quorum prescribed in other legislative bodies in other countries that the quorum originally fixed was probably too high and we therefore suggested that the quorum should be reduced. The Drafting Committees' proposal is not an absolute proposal, because it is made subject to law made by Parliament. If Parliament after a certain amount of experience as to quorum comes to the conclusion that it is possible to carry on the business of Parliament with a higher quorum, there is nothing to prevent Parliament from altering this provision as contained in article 100. The provision therefore is very elastic and permits the

existing situation to be taken into account and permits also the future experience to become the guide of Parliament in altering the provision.

Something was said with regard to article 128. It was contended that we ought not to pamper our judges too much. All that I would say is that, the question with regard to the salaries of judges is not now subject to scrutiny. The House has already passed a certain scale of salary for existing judges and a certain scale of salary for future judges. The only question that we are called upon to consider is when a person is appointed as a judge of a High Court of a particular State, should it be permissible for the Government to transfer him from that Court to a High Court in any other State? If so, should this transfer be accompanied by some kind of pecuniary allowance which would compensate him for the monetary loss that he might have to sustain by reason of the transfer ? The Drafting Committee felt that since all the High Courts so far as the appointment of judges is concerned form now a central subject, it was desirable to treat all the judges of the High Courts throughout India as forming one single cadre like the I.C.S. and that they should be liable to be transferred from one High Court to another. If such power was not reserved to the Centre, the administration of justice might become a very difficult matter. It might be necessary that one judge may be transferred from one High Court to another in order to strengthen the High Court elsewhere by importing better talent which may not be locally available. Secondly, it might be desirable to import a new Chief Justice to a High Court because it might be desirable to have a man who is unaffected by local politics and local jealousies. We thought therefore that the power to transfer should be placed in the hands of the Central Government.

We also took into account the fact that this power of transfer of judges from one High Court to another may be abused. A Provincial Government might like to transfer a particular judge from its High Court because that judge had become very inconvenient to the Provincial Government by the particular attitude that he had taken with regard to certain judicial matters, or that he had made a nuisance of himself by giving decisions which the Provincial Government did not like. We have taken care that in effecting these transfers, no such considerations ought to prevail. Transfers ought to take place only on the ground of convenience of the general administration. Consequently, we have introduced a provision that such transfers shall take place in consultation with the Chief Justice of India who can be trusted to advise the Government in a manner which is not affected by local or personal prejudices.

The only question, therefore, that remained was whether such transfer should be made so obligatory as not to involve any provision for compensation for loss incurred. We felt that that would be a severe hardship. A judge is generally appointed to the High Court from the local bar. He may have a household there. He may have a house and other things in which he will be personally interested and which form his belongings. If he is transferred from one High Court to another, obviously, he cannot transfer all his household. He will have to maintain a household in the original province in which he worked and he will have to establish a new household in the new Province to which he is transferred. The Drafting Committee felt therefore justified in making provision that where such transfer is made it would be permissible for Parliament to allow a personal allowance to be given to a judge so transferred. I contend that there is nothing wrong in the amendment proposed by the Drafting Committee.

With regard to article 148 I need say nothing at this stage for the simple reason that the amendment moved by my friend Mr. T. T. Krishnamachari (No. 618) is one which has found itself agreeable to all those who had taken interest in this particular article.

Similarly article 320 over which there was so much controversy (if I may say so, without offence, utterly futile controversy) all controversy has now been set at rest by the revised amendment No. 558, which removes the objectionable parts which Members at one stage did not like.

With regard to article 365 there has been already considerable amount of debate and discussion. I also participated in that debate and stated my point of view. I am sure that after taking all that I said into consideration, Members will find that article 365 is a necessary article and does not in any sense over-ride the decision taken by the House at an earlier stage.

I come to article 378. It was contended that this article should contain a provision of a uniform character for determining the population for election purposes. I am sorry to say that I am not in a position to accept this proposal of a uniform rule. It is quite impossible to have a uniform rule in the changing circumstances of the different Provinces. The Centre therefore must retain to itself the liberty to apply different tests to different Provinces for the purpose of determining the population. If any grave departure is made by reason of applying different rules to different Provinces, the matter is still open for the future Parliament to determine, because all matters which have relevance to constituencies will undoubtedly be placed before the Parliament and Parliament will then be in a position to see for itself whether the population as ascertained by the

Central Government is proper, or below or above. Now, Sir, I come to article 391.

Pandit Balkrishna Sharma : Article 379 ?

The Honourable Dr. B. R. Ambedkar : About article 379 I can quite appreciate the objection of my honourable Friend Mr. Sharma. He objects to the words principally, "Dominion of India". I tried yesterday with the help of Mr. Mukerjee, the Chief Draftsman, my hand to redraft the article with the object of eliminating those words 'Dominion of India'. But I confess that I failed. I would therefore request Mr. Sharma to allow the article to stand as it is. It is unfortunate, but there is no remedy to it that I can see within the short time that was left to us.

Now coming to article 391, the position is this : The Constitution contains two sets of provisions for the creation of new provinces. Provinces can be created after the commencement of the Constitution. New Provinces can be created between 26th November and 26th January. With regard to the creation of Provinces after the commencement of the Constitution, the articles that would become operative are articles 3 and 4. They give power to Parliament to make such changes in the existing boundaries of the provinces in order to create new Provinces. Those articles are so clear that I do not think any further commentary from me is necessary.

With regard to the creation of new Provinces between now and the 26th of January, the article that would be operative would be section 290 of the Government of India Act of 1935 and article 391 of the present Constitution. Sir, article 391 says that, if between now and the 26th of January the authority empowered to take action under the Government of India Act, 1935 does take action, then the President, under article 391 is empowered to give effect to that order made under the Government of India Act section 290. 'Notwithstanding the fact' — this is an important 'thing' notwithstanding the fact that on the 25th January, the Government of India Act, 1935, would stand repealed', the action would stand. The President is empowered under article 391 to carry over that action taken under the Government of India Act, 1935 and to give effect to it by an order amending the First Schedule and consequentially the Fourth Schedule which deals with representation in the Council of States.

An Honourable Member : He can only act after 26th January.

The Honourable Dr. B. R. Ambedkar : He can act at any time. The Constituent Assembly will not be able to take notice of it, because it will not be in existence for this purpose after the 26th November. The point

is this that the Government of India Act, 1935 will continue in operation after the 25th November. So long as that Act continues, the Governor-General's right to act under it also continues. He may take action at any time that he likes.

My friend Mr. Sidhva raised one question, namely that any action that may be taken between now and the 25th January should be subject to the scrutiny of Parliament. I think what he intends is that it should not be merely the act of the executive. My friend Mr. Sidhva will remember that our Constitution will come into operation on the 26th of January. Till the 25th of January, the Constitution which will be operative in India will be the Constitution embodied in the Government of India Act, 1935, as adapted on 15th August 1947. Therefore, between now and the 25th of January, the Constitution is not the Constitution that we shall be passing, but the Constitution embodied in the Government of India Act, 1935. Therefore in replying to his question whether the Parliament should have the right or the Indian legislature should have the right to be consulted in this matter, must be determined by the terms contained in section 290 of the Government of India Act, 1935.

If my friend Mr. Sidhva were to turn to section 290 of the Government of India Act, he will see that the Governor-General is not required to ascertain the views of the Provincial Legislature nor is he required to ascertain the views of the Indian Legislature. All that he is required to do is to ascertain the views of the Government of any Province affected by the order. Therefore, so far as the operation of section 290 is concerned— and it is the only section which can be invoked so far as any action with regard to reconstitution of Provinces between now and the 25th January is concerned—this has placed both the Provincial Legislature and the Indian Legislature outside the purview of any consultation that the Governor-General may make for acting under section 290. Therefore with the best wishes in the world it is not possible to carry out the wishes of my friend Mr. Sidhva. He must therefore remain content with such provisions as we have got under section 290. Sir, I do not think any other article calls for a reply. I would therefore close with the hope that the House will be in a position to accept the amendments proposed by the Drafting Committee. *(Cheers).*

Mr. President : I will now put the amendments one by one to vote. Members have noticed that there are many amendments which arise on some amendment or other of the Drafting Committee. It may be that some of the amendments which have been moved by members may be accept-

able to the Drafting Committee and it may be that some Members are willing to withdraw the amendments which they have moved.

[In all 95 amendments of the Drafting Committee alone were accepted. 66 amendments were negatived and 36 withdrawn.]

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***Mr. President :** Before we adjourn for the day we shall make some arrangement regarding the time-table as to what we propose to do. I take it that we do not sit this afternoon. I want to know from Members how many of them would like to speak, so that I might fix an order as also the time. As regards sitting on Saturday next it is not possible for me to decide now. I shall decide it on Friday as to whether we shall sit on Saturday or not. As regards the sessions from day to day, what is the wish of the House ?

Several Honourable Members : Five hours a day.

Prof. N. G. Ranga (Madras : General) **:** One sitting from 2-30 to 6-30 p.m., so that we shall come only once.

Mr. President : What is the time-limit for each speaker?

Shri K. M. Munshi : I suggest 15 minutes and five hours a day so that Members might get a few days between this and the next session.

Several Honourable Members : Half an hour.

Mr. President : As a compromise the time-limit will be 20 minutes for each speaker.

The Honourable Dr. B. R. Ambedkar : All that we can do now is to decide whether we should sit tomorrow. In the meantime it would be desirable if you could invite Members who desire to speak to send in their names to you. After ascertaining the number of speakers who desire to take part in the general debate it will be possible for you to determine whether we should have two sessions a day and also as to the time-limit for every speaker. At the moment nobody is in a position to know how many Members wish to speak. If the number of speakers are not too many it will be possible to increase the time for each Member and it will also be possible to have one session a day. I therefore suggest that you should only fix the meeting for tomorrow and in the meantime ask Members to indicate their wishes to you, so that you may have a list of speakers and then we can come to a decision as to other points, such as the time-limit for each speaker and the number of the daily sessions, whether it should be one or two.

*CAD, Official Report Vol. X, 16th November 1949, p 606.

Mr. President : I think that is a practical suggestion.

Shri T. T. Krishnamachari : May I say, Sir, that we sit tomorrow as usual from ten to one and from three to five ?

Mr. President : For the present I decide that we meet tomorrow as usual at Ten of the Clock and I expect Members to send to the office by this evening their names if they wish to take part in the debate. That information will enable me to decide the hours of sitting, etc. I may say that it would be open to a Member not to participate in the debate even though he has given his name.

The House stands adjourned till Ten of the Clock tomorrow.

The Assembly then adjourned till Ten of the Clock on Thursday, the 17th November, 1949.

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PART III

November 17, 1949 to November 26, 1949

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SECTION EIGHT

Third Reading of the Draft Constitution

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The Constituent Assembly of India met in the Constitution Hall, New Delhi, at Ten of the Clock, Mr. President (The Honourable Dr. Rajendra Prasad) in the Chair. (Thursday the 17th November 1949).

***Mr. President :** We shall now take up the third reading of the Constitution. Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar (Bombay : General)**:** Mr. President, Sir, I move :

"That the Constitution as settled by the Assembly be passed."

(Cheers)

Shri Mahavir Tyagi (United Provinces : General) **:** Congratulations.

Shri H. V. Kamath (C. P. & Berar : General) **:** Let Dr. Ambedkar kindly speak.

The Honourable Dr. B. R. Ambedkar : I propose to speak at the end. It is not the usual thing to speak now.

The Honourable Shri N. V. Gadgil (Bombay : General) **:** This question be now put. *(Laughter).*

Shri Mahavir Tyagi : What is the opinion of Dr. Ambedkar about this Constitution we are passing ?

Mr. President : I think we must now proceed with the business. Dr. Ambedkar has moved that the Constitution as settled by the Assembly be passed. The Motion is now open for discussion. Yesterday we were discussing the time that we would take for this Third Reading and I requested Members to give me names. Till yesterday evening I had received 71 names of members who want to speak, and some additional names have come this morning; but even as it is, it seems to me that if we take about twenty minutes each and if we sit three days this week and five days next week, we shall have twenty-four hours, and twenty minutes for each speaker will give seventy-two speakers, so far as the time is concerned, I think we can very well manage within this time giving opportunities to every speaker who has expressed a desire to speak. So, it is not necessary to sit longer.

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Shri H. V. Kamath : Let us sit for four hours.

Mr. President : At this rate we shall not require to sit four hours.

*CAD, Official Report, Vol. X, 17th November 1949, pp. 607-608.

Shri H. V. Kamath : If we sit four hours, we will be able to finish the session by next Thursday instead of Friday. If we finish earlier, we will have a longer interval before the session of the Legislature.

Dr. P. S. Deshmukh (C. P. & Berar : General) **:** Some hounourable Members may come here later and give their names hereafter.

Mr. President : They may come. We have got some other work also to attend to. Today and tomorrow at any rate or till the end of this week, we sit only for three hours, and if necessary and if we find that sufficient progress is not made, we may have a second session next week.

Shri L. Krishnaswami Bharathi (Madras : General) **:** Is it from ten to one ?

Mr. President : Yes.

Shri L. Krishnaswami Bharathi : We are quite agreeable.

Mr. President : Now, I do not know in what order I should call members. I suppose I must follow the usual practice. If members stand in their places, I shall select one of them.

Shri H. J. Khandekar (C. P. & Berar : General) **:** They should be called alphabetically.

Mr. President : I think that would be too mechanical. I shall follow the usual procedure and I hope there will be no difficulty in that. Shri Muniswamy Pillay.

[Selected excerpts from the speeches of the members eulogising the services of the Drafting Committee, its chairman Dr. Ambedkar and describing the significance of the Constitution are reproduced here.—Ed.]

Shri V. I. Muniswamy Pillay (Madras : General)**:** Mr. President, Sir, I stand before this August Assembly to support the motion moved by my Honourable Friend, Dr. Ambedkar....

...Sir, I proceed now to appreciate the great services that have been rendered by the Drafting Committee whose services are so valuable to us; they have not spared days and nights in coming to decisions on important articles. I must say a word of praise to the calibre and capacity of the Chairman of the Drafting Committee—Dr. B. R. Ambedkar. *(Loud cheers.)* Coming as I do from a community that has produced Dr. Ambedkar, I feel proud that his capacity has now been recognized, not only by the Harijans but by all communities that inhabit India. The Scheduled Castes have produced a great Nandanar, a great devotee, a Tirupazanalwar, a great Vaishnaivite saint, and above all a Tiruvalluvar, the great philospher whose name and fame is not only known throughout the length and breadth of India but of the whole world.

To that galaxy of great men of Harijans now we have to add Dr. Ambedkar, who, as a man has been able to show to the world that the Scheduled Castes are no less important but they can rise to heights and give to the world their great services. I know, Sir, that he has served the community of the Harijans and also of India by his great service and sacrifice in preparing a Constitution which will be the order of the day from the 26th of January 1950 and I also feel. Sir, of the Chief Draftsman and of the staff that have worked in preparing the Constitution cannot be littled; they equally receive our praise....

***Seth Govind Das** (C. P. & Berar: General)**:** @ [Mr. President, I am very happy today on seeing that the third reading of the Constitution, completed by us in about three years, has now begun. On this occasion, I would at first like to congratulate Dr. Ambedkar who has laboured hard to put this Constitution into proper shape. Today he has moved the Motion that the Constitution as settled by the Assembly be passed. It has been said about Dr. Ambedkar that he is the Manu of the present age. Whatever be the truth of that statement, I can say that Dr. Ambedkar was quite equal to the task of constitution making that had been entrusted to him]....

†Shri Rohini Kumar Chaudhuri (Assam : General) **:** On a point of information; in describing Dr. Ambedkar as Manu, was the honourable Member referring to the Hindu Code ?

*CAD, Official Report, Vol. X, 17th November 1949, p. 610.

†*Ibid.,* p. 611.

Seth govind Das : @ [No, Sir, that statement did not have any reference to the Hindu Code, I believe that the House is aware that I am opposed to many of the provisions of the Hindu Code.]...

***Shri Laxminarayan Sahu :** ...Even though I sincerely compliment and congratulate Dr. Ambedkar for the hard labour he has put in this connection, yet I am afraid I cannot compliment him for this unnatural product of his labour which under constant changes has almost become shapeless and ludicrous. I know fully well and I believe that he is likely to say in reply that it is not entirely his handi-work. He had to frame the Constitution in accordance with the wishes of the majority party in the country....

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†Shri R. K. Sidhwa : Now coming to the Constitution, on the 6th of December 1946 before entering this House, this memorable hall which has been renovated particularly for framing of this Constitution which will be remembered in the history of India.... From experience we have seen that today is exactly three years, or rather to be more accurate 15 days less than three years, when we have completed this Constitution. On the 1st of February 1948 after our deliberations from the 9th December 1946 to 1947 a draft Constitution was presented to us. It included 313 articles in the Constitution. Today we have now presented to this House 395 articles, that is to say 82 new articles were inserted. Then there were nearly 220 old articles which were simply scrapped off and in the case of nearly 120 articles the phraseology is materially changed. Accepting the Preamble without a change or a single comma or punctuation, several articles have been changed and I am very glad and the House is also glad that we have by experience thought it desirable that it was not in a hurry that we should prepare a Constitution. We are therefore right in taking this long time and preparing a Constitution for which we shall all be proud. There have been criticisms outside this hall that we have taken a long time and wasted some money. I give no countenance to that. It was also stated that some of us were sending amendments for the purpose of sending amendments and making speeches. We did not countenance or listen to their arguments. We were lighting our battles in this Constitution Hall, to put our views and we have fought our battle very well, and I am glad that the Drafting Committee have taken our battles in the right spirit. We have done our duty. Proceedings in the matter of record are there for future generations to see and the historians will have to judge whether we have wasted the time or we have done our duty to the people of this country and framed a Constitution, for which all of us are proud and I am very proud too.

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*CAD, Official Report, Vol. X, 17th November 1949, p. 613.

†*Ibid.,* p. 623.

@Translation of Hindustani speech.

* History will judge this Constitution. It is certainly not perfect; there may be defects; I know there are defects. I told you that I fought my battles in this hall by moving my amendments and I lost them. But, it is my duty to say to the people that this is the best Constitution and I expect every Member of the Constituent Assembly to say, despite any difference of opinion, that this is a Constitution of which we are proud and we must proclaim to the world and the world will realise that this is a document worthy of reference by various countires in the world. Therefore I feel proud of this Constitution when it becomes law on the 26th day of January 1950, the historic day on which we shall inaugurate the Democratic Sovereign State.

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†**Shri Kuladhar Chaliha** (Assam : General)**:** Mr. President, Sir, at the outset it is necessary to appreciate the work of the Drafting Committee and more so of Dr. Ambedkar in producing a wonderful Constitution in spite of the difficulties with which they were faced. We must also appreciate the members of the Drafting Committee and especially Mr. Munshi who, though he was busy in many matters, always tried to bring about compromise formulae and we appreciate his work greatly and all those silent workers and staff who contributed greatly to the success of this Constitution. Sir, it is necessary to say that, though we may not have produced the best Constitution, at the same time we must say that it is one of the best that we can produce under the conditions prevailing in India. They faced facts and produced one that was necessary. It is said that members of the Drafting Committee were not in the forefront of the battle for liberty but I think that is an advantage because they could look into it dispassionately and produce the one that was necessary. At the beginning of the discussion of the Third Reading we heard from Mr. Muniswamy Pillay that 60 million people of Untouchables were satisfied with this Constitution. That is a great contribution really and if we have satisfied those untouchables whom we have neglected I think we have done a wonderful work. Therefore, my appreciation is due entirely to the Drafting Committee and to those members of the staff who worked hard without having any voice in it and produced the book that is before us....

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‡**Shri Gokulbhai Daulatram Bhatt:** @[When the Draft Constitution was brought before the House for the first time I observed that it was like a bunch of flowers that had been put together after having been brought from different places. I had proceeded to observe that it contained paper

*CAD, Official Report, Vol. X, 17th November 1949, pp. 625-626.

†*Ibid.,* 18th November 1949, p. 642.

‡ *Ibid.,* pp. 648-652.

flowers and in some parts roses and also a rare jasmine flower. Thus it contained flowers of differnet kinds and characters. The bunch that is now before us is one which we had put together ourselves, and I can dare say that some of the flowers that we have put into it have fine and pleasing smell. But we all know that in this world we need all types of things because if it was full of all roses alone and no thorns man would lose his mind because he cannot bear so much good in his life at one time. I therefore believe that to reduce the excess of the smell of the flowers in this bunch other articles have been put into it...

...It is my fervent hope that our people should very quickly move forward for the reconstruction of the country and for the use of the new Constitution. It is only then that our country would be following the proper course in the matter of reconstruction. Before I conclude I would like to reiterate my thanks to the Members of the Drafting Committee and to the other Members who have put in such labour.

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***Pandit Lakshmi Kanta Maitra :** ...Today I gladly join the chorus— of approbation of the services rendered by the Drafting Committee in which we have some of our most intimate and tried friends. I congratulate them on their achievement. I also want to record my appreciation of the work done by the Joint Secretary, Mr. Mukerji and the other members of the staff who have collaborated with us and made it possible for us to have this Constitution.

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†The Honourable Shri N. V. Gadgil : ...Sir, the Constitution is an instrument and not an end in itself. In the hands of a good workman, it is a good tool to work with, In the hands of a determined workman it will enable him to get what he wants. In the hands of a reluctant workman there is enough for him to complain. This Constitution is in my humble opinion, in spite of its defects (defects there are and I am not indiscriminate in my admiration although I do not, unlike others, want to repudiate like Vishvamitra), calculated to secure those social and economic aims for which the Preamble stands. With a far-sighted President, with a Prime Minister full of vigour and vision, with genial legislators and a responsible opposition, I think there is nothing to prevent us, under this Constitution, to achieve those aims for which every one of us stands.

‡Shri M. Ananthasayanam Ayyangar (Madras : General)**:** ...All communities have taken part in the framing of this Constitution— Hindus,

*CAD, Official Report, Vol. X 18th November 1949, p. 653.

†*Ibid.,* pp. 660-661.

‡*Ibid.,* pp. 663-665.

Muslims, Sikhs, Parsis, Scheduled Castes and representatives from the Scheduled Tribes. All political interests have been represented here. Leaders of all schools of thought are here. Even Dr. Ambedkar, who merely came to watch has taken a leading part in the framing of this Constitution and he is one of the architects of the Constitution we are now passing. The very person who came to doubt and to criticise has ultimately taken charge of this Constitution and framed it. I congratulate him and I congratulate ourselves for the goodwill shown to him and the manner in which he has reciprocated it. After all, by closer contact we can easily understand one another's view point. So long as we are at a great distance, we make much of the small angularities we have. If this Constitution is worked in the spirit in which it has been framed, I am sure we will be one of the foremost nations of the world.

There are also amongst us a number of eminent jurists like Mr. Alladi Krishnaswami Ayyar, whom we cannot easily forget. In spite of his weak and poor health, both inside the Assembly and outside in the Committees, he has been rendering yeoman service. We have amongst us also administrators like our Friend Mr. Gopalaswami Ayyangar. He has had great experience as a civil servant, and then as Dewan in the States and later in the Council of State. Though latterly he has gone out of the picture and has not been much in evidence in the Assembly here in the matter of the Constitution after Dr. Ambedkar has taken it over. I am sure we will not forget the enormous services that he has rendered. Every section of the Assembly has done its best. Some of our friends who have been very energetic in tabling amendments—Mr. Kamath, Mr. Shibban Lal Saksena, Mr. Sidhva and latterly Dr. Punjabrao Deshmukh who has added himself to this list—have all contributed their mite. Though we have not been able to accept many of the amendments tabled by our Friend, Prof. K. T. Shah, for whose learning, intelligence and capacity I have a good deal of admiration, he has confessed to me outside the House when I talked to him that though we were not going to accept his amendments, he tabled them because he wanted to lay his point of view before us. He has accepted the defeats in a spirit of good sportsmanship. Therefore I feel that this Constitution has been framed by every one of us doing his bit gladly. If there has been defeats to some, those defeats have been accepted in the spirit of a minority having to submit to the majority view in the hope of converting the majority view in their favour at some future date.... The peaceful and solemn voice of Mahatma Gandhi from our hearts. With him as our model, let

us march on, work from peace to peace until peace and prosperity reign supreme in the world. May God bless us.

***The Honourable Shri B. G. Kher** (Bombay : General) **:** Mr. President, Sir, I cannot let this occasion pass without expressing my gratification at the completion of a task which, it is very difficult to realise, we began quite three years ago. I remember our first meeting was held on 9th December 1946 and, in these three years were crowded events which would normally have taken possibly three decades for us to accomplish. Our Constitution also has undergone modifications as events outside took place. My first impulse therefore is to congratulate this House on having completed a very difficult, gigantic and monumental task and given a Constitution to free India. Every one will agree that it was a difficult task. Even as the manner in which India attained her independence was unique, so was the Constitution of this very Constituent Assembly. I do not think anywhere else a Constituent Assembly has gone on working as the Constitution making body and as the Parliament of the country for such a long period as nearly three years. After three years labour we have built up a Constitution of which we have every reason to be proud....

†Shri Brabhut Dayal Himat Singka(West Began : General)**:** ...Sir, a lot will depend on how the Constitution is worked and the person who works it. If you put X in charge of a thing he may do it very successfully but if you place another person, in spite of the fact that he has the same resources available to him, he may make a muddle of the whole thing. A lot will depend on how it works, who works it and the manner in which it is worked. People will always be able to find fault but on the whole it has been a very satisfactory Constitution and if properly worked and supported properly by those who can do it, I think the whole thing should proceed in a satisfactory manner....

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‡Shri H. V. Pataskar : ...In spite of the shortcomings we have made a very good provision in the Constitution, namely, the article by which it can be amended when occasion arises. A constitution is a living growth and I hope in course of time this provision will be made use of by those who come after us and according to changed circumstances change the constitution in any manner they like.

@Shri B. A. Mandloi (C. P. & Berar : General) **:** ...In conclusion, I would be failing in my duty, Sir, if I do not say a word about the Drafting

*CAD, Official Report, Vol. XI, 18th November 1949, p. 665.

† *Ibid.,* p. 670.

‡ *Ibid.,* p. 674.

@*Ibid.,* p. 676.

Committee. It is well known that the Committee had an arduous and very important task. The Members of the Committee under the chairmanship of Dr. Ambedkar did their job willingly and splendidly and presented us with a Draft Constitution. I know that during many controversial debates in this House the Chairman of the Drafting Committee put forward his point of view variably and succeeded in bringing the controversy to a satisfactory conclusion. This House appreciates the services of the Drafting Committee and I congratulate Dr. Ambedkar, Chairman of the Committee for successfully piloting the Constitution of free and independent India. The Constitution has been prepared within a record period of three years,—in fact we should eliminate from these three years the period during which we had troubles of unprevented matters and unsettled conditions. This is a great achievement. Sir, it is not enough to have a good Constitution on paper but it is the willingness of the people, the sincerity of the people and the earnest desire of the people to work it that is important. If the Constitution is worked in that spirit I feel sure that our country will have a bright future. We visualise a bright future for our country and we wish her to be one of the foremost countries in the world. If we work the Constitution in the spirit in which we have made it, I feel sure there is a bright future for the country. With these words I support the motion.

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***Pandit Thakur Das Bhargava** (East Punjab : General) : ...I would like, Sir, on this occasion to thank the other friends also who have helped us in drafting this Constitution. I would like particularly to mention Dr. H. C. Mukerjee who had presided over the proceedings of this House with great ability and tact at the time when you were lying sick and I offer my thanks to him. I do not know, Sir, the terms in which I should thank the Drafting Committee, particularly words fail to convey the gratitude that all of us feel for the legal acumen, the untiring industry, the consummate skill and the firmness, tempered with moderation, with which the Chairman of the Drafting Committee has piloted this Constitution through this House and has solved all the knotty questions arising in connection with it. In view of the great public spirit manifested by him I would appeal to Dr. Ambedkar—I regret he is not in the House today—who has so far considered himself the leader of the Scheduled Castes alone, to join the Congress. He has made for himself a high position in our hearts and I do hope that he shall thereby be able to enter the circle of Congress High

*CAD, Official Report, Vol. X, 18th November 1949, pp. 682.

Command—a position which is much more significant and important than the narrow one he is occupying today....

*...Sir, therefore, I am now going to conclude my observations with the remark that Constitutions are only a piece of paper and they by themselves cannot enable us to achieve our ideals. It is the spirit with which the Constitutions are framed and with which they are worked that enables a nation to achieve the objective underlying its Constitution. Therefore, on this occasion, Sir, when we are going to pass our Constitution, I would like to impress upon the minds of the Members who will be appending their signatures to this document on the 26th of January, 1950, that their task is not over by simply preparing the Constitutions but their real task is ahead. It is for them to work the Constitution in such a manner as may enable the people to have real freedom, happiness and prosperity.

Now with your permission, Sir, I would like to refer to only one more matter. It is very dear to me. We have given much to Scheduled Castes. We have provided reservation for them. We have embodied in the Constitution article 335 wherein assurance has been given to them in regard to services; we have provided facility for reservation for them in services under article 16. But I hope we will have not to see the day when the Government reserves posts for them. If we really want to establish here the classless society of Mahatma Gandhi, every one of us who signs the document of the Constitution must do so with the determination rather the pledge, that he must bring the depressed classes at par with him within ten years. He will be false to himself who signs the Constitution but does not work according to its principles....

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†**Mr. President :** We shall now continue the discussion. Mr. Kamath.

Shri H.V. Kamath (C. P. & Berar : General) **:** Mr. President, I rise to extend my limited and qualified support to the motion moved by Dr. Ambedkar. We, Sir, the people of India have come to the end of a long journey which is, however, the beginning of a longer, a more arduous and a more hazardous one.

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‡**Seth Damodar Swarup** (United Provinces : General) **:** @[Mr. President, the Second Reading of the Draft Constitution has ended and the

*CAD, Official Report, Vol. X, 18th November 1949, p. 688.

† *Ibid.,* 19th November 1949, p. 689.

‡ *Ibid.,* p. 693.

@Translation of Hindustani speech.

Third Reading is going on which will also conclude in three or four days. After that the inauguration of this Constitution will be held over till the historic day of the 26th January. All this is good and for that the Honourable Dr. Ambedkar and his other colleagues of the Drafting Committee deserve the congratulations of the whole House, because they have drafted this Constitution with great skill and labour....

***Shri T. Prakasam** (Madras : General): ...The Constitution is a great document and the friends who have been in charge of this framing of this—Dr. Ambedkar—is a great lawyer, is a very able man. He has shown by the work he has done here, how he would be competent to be a king's Counsel of Great Britain, to be perhaps competent to sit on the Woolsack only; but this is not a Constitution that we, the people of this country wanted. Mahatma Gandhi when he took up the organization of this country in the name or the Congress at once saw how this country could be helped and how the millions could be helped. Therefore he decided that the whole country should be divided on linguistic basis so that the people of each area would be competent to develop themeslves....

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†**Prof. Shibban Lal Saksena :** ...My criticism of the Constitution does not mean that I am blind to the achievements which we have made during these three years. I consider, this framing of the Constitution has by itself been the greatest single achievement of ours during the last three years. The barriers to the dawn of freedom which the British Government had erected by the artificial creation of the problem of minorities, the problem of Princes in the Indian States and the Heaven-born Civil Service, have all been wiped of as if by magic in the short space of the last 2 years. The delay in the framing of the Constitution has enabled us to incorporate in this Constitution similar provisions for the administration of the 566 Indian States which have now been transformed and integrated into nine provinces and put on a par with the other units of the Union. This single achievement will be regarded as the greatest task ever accomplished in any country....

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‡**The Honourable Rev. J. J. M. Nichols Roy** (Assam : General) : Mr. President, Sir, I am very glad to come here to give my hearty support to the motion moved by Dr. Ambedkar that the Constitution as settled by

*CAD, Official Report, Vol. X, 19th November 1949, p. 697.

†*Ibid.,* p. 707.

‡*Ibid.,* p. 708.

the Assembly be passed. I consider that this Constitution is the best that could be produced in the present circumstances in India and in the world. Though there are defects no doubt, though we would have liked to have had some provisions in another form, yet, Sir, I believe that this is the best that could be done under the present circumstances. I am glad, Sir, that I have had a part in the framing of this Constitution, though it may be in a very small way. The whole country has had a part in the framing of this Constitution either by way of criticism or by way of suggestions. The Draft Constitution was placed before the country over two years ago, and everyone of us had a chance either to criticise or to send suggestions, and everyone of us here in this Constituent Assembly has had a part in the framing of this Constitution. Therefore we can say that this is a Constitution for the whole country and by the whole country....

...Now, Sir, I want to speak about another thing and that is regarding the Sixth Schedule. I myself am personally indebted to Mr. S. N. Mukerji, the Draftsman, Sir. B. N. Rao and Dr. Ambedkar for giving special attention to the drafting of this Sixth Schedule. I am also indebted to the members of the Drafting Committee who gave us a chance to speak before them....

***Dr. Raghu Vira** (C. P. & Berar : General): ...@[It is only foreign ideals that have been incorporated in this Constitution. It has nothing Indian about it. I however, hope that some years hence this Constitution would not remain in the form in which it has been passed, and that it will come to acquire a genuine Indian character, and would fulfil the basic and fundamental requirements of the people of this country.]

†The Honourable Shri K. Santhanam (Madras: General): ... looking back, I feel that these three years have not been too long. In fact, it has enabled us to draft a better constitution than it would have been possible if we were able to finish it a year ago. Many criticisms have been made about this Constitution. My honourable Friend Mr. Naziruddin Ahmad has complained about drafting. But reading it as a whole, if we apply the criteria of clarity and precision, I think we have made a very good constitution indeed.

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‡Sardar Bhoopender Singh Man (East Punjab : Sikh): ...However, I feel that it is not the lifeless structure of a Constitution or the written

*CAD, Official Report, Vol. X, 19th November 1949, p. 715.

†*Ibid.,* p. 718.

‡*Ibid.,* 21st November 1949, p. 723.

@Translation of Hindustani speech.

word that ultimately counts. As time passes there are bound to grow certain conventions which are more akin and near to realities, which are more dynamic in character and I feel, Sir, that ultimately it will be the inherent good sense of the people that will count and not the letter but the spirit which shall prevail, and people here in the country will have equal opportunities of justice in every sphere, the sphere of administration and economic structure of the society.

*__Kazi Syed Karimuddin__ (C.P. & Berar : Muslim) : Mr. President, I congratulate the Drafting Committee for the stupendous work they have done and I have also to congratulate Mr. Naziruddin Ahmad for the arduous work he had undertaken for which he did not receive a word of thanks from the Drafting Committee. I particularly thank Dr. Ambedkar and congratulate him for his brilliant advocacy and the task he had undertaken in drafting this Constitution. I know that he had great handicaps and one of the instances of that handicap is the amendment that I had moved regarding the illegal searches—searches of houses and persons—which he had accepted and which was carried by the House and which was defeated after a week's time after its postponement....

†__Shri Shankarrao Deo__ (Bombay : General): While appointing the draftsmen of our constitution, we were eager to have the knowledge of the constitutional pandits, and the precisions of the constitutional lawyers and we have got them in full measure. Dr. Ambedkar and his associates or his colleagues of the Drafting Committee deserve our gratitude, and I think they could stand comparison to any of the constitution makers and draftsmen of any constitution in any country in the world....

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‡__Syed Muhammad Sa'adulla__ (Assam : muslim) : Sir, It is said that sometimes silence is golden while speech is silvern. In my humble opinion this should have been one of those occasions when silence would have befitted this August Assembly....

...I cannot stand here today without showing my dual personality, that is being a Member of this August Assembly as well as being a member of the Drafting Committee. To all those friends who have been kind enough to appreciate the hard and dreary labour that members of the Drafting Committee had to undertake throughout the last two years both on behalf of myself as well as on behalf of my colleagues of the Drafting

*CAD, Official Report, Vol. X, 21st November 1949, p. 723-724.

† *Ibid.,* pp. 730.

‡ *Ibid.,* pp. 732-733.

Committee I bow my head in grateful thanks. I am not unmindful of conveying our thanks even to those critics who in their superior wisdom had thought fit to criticise the shortcomings of the members of the Drafting Committee. But I am constrained to say that they have looked into this matter from a perspective that is faulty, from an outlook that is wrong and from a focus that is out of alignment.

Sir, the Drafting Committee was not a free agency. They were handicapped by various methods and circumstances from the very start. We were only asked to dress the baby and the baby was nothing but the Objectives Resolution which this Constitutent Assembly passed. We were told that the Constitution must conform and remain within the four corners of that Objectives Resolution. Moreover, Sir, whatever we did had to be considered and accepted by this House. How dare any member of the Drafting Committee be so arrogant as to thrust the opinion of seven members against a total number of 308 in this House ?

Sir, it is an acknowledged principle of psychology that man is a creature of environments. The Draft Constitution which the members of the Drafting Committee were privileged to place before this House could not evade this universal principle. They had to take the environment and the circumstances prevailing in the country into consideration and many of the provisions which are against the sense of democracy, even of the members of the Drafting Committee, had to be embodied here on account of forces which were superior to that of the Drafting Committee.

Sir, I remember that many sections of our Draft Constitution had to be recast as many as seven times. A draft section is prepared according to the best in each of the members of the Drafting Committee. It is scrutinised by the particular Ministerial department of Government. They criticise it and a fresh draft is made to meet their criticism or requirements. Then it is considered by the biggest bloc, the majority party in the House—I refer to the Congress Parliamentary Party, who alone can give the *imprimatur* of adoption in this House : and sometimes we found that they made their own recommendations which had to be put into the proper legal and constitutional shape by the members of the Drafting Committee.

Sir, no human-made constitution or document is perfect and it is a trite saying that the actual always falls short of the ideal. Even though I am a member of the Drafting Committee. I have very great objection to many of the principles that have been embodied in this Constitution. It does not lie in my mouth to criticise individual provisions of the Draft Constitution,

as I am as much responsible as any other member of the Drafting Committee for the incorporation in our Constitution.

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***Syed Muhammad Sa'adulla** (Assam : Muslim) : ...Sir, after two centuries of subjugation and humiliation, we have drafted our own Constitution. The very idea of it is thrilling to my mind; that very thought sends our hearts bumping and racing, but yet we cannot say with our hands on our hearts that we feel jubilation and joy over the present Draft Constitution to that extent. This Constitution which will be passed and come into law within a couple of months is a compromise Constitution. Many honourable Members have said that this is but a transitory Constitution. I do hope, Sir, that future legislators will try to make it as perfrect as possible. The test of the pudding is in the eating. Similarly nobody can say that this Constitution is to be commended or condemned. The working of the Constitution alone will show whether it is a workable Constitution of whether it is unsuited to the necessities of the times and the requirements of our people or to the genius of our nation, but if we work it in the spirit of the Preamble, we must say that we have a Constitution which can be made an ideal Constitution by working it in the proper spirit....

†...Let us all in all humility try to work this Constitution which has been drafted by people who gave their best to it, and if we work it in the spirit of the Preamble, *i.e.,* try to do justice to all, and try to work it in the spirit of equality and fraternity, we can turn even this dreary Constitution into a garden of paradise.

‡**Shri H. J. Khandekar** (C. P. & Berar : General) : Mr. President, Sir I stand here to support the motion moved by my Friend Honourable Dr. Ambedkar....

...I congratulate the Drafting Committee for the work that it has done to frame this Constitution. Sir, I also congratulate my Friend, Pandit H. V. Kamath, a devotee of G. G. for taking keen interest in the work of this Constitution-making....

...Now today, Sir, we are enacting a law of Independent India under the genius of Dr. Ambedkar, the President of the Drafting Committee. If I may do so, Sir, I call this Constitution the Mahar law, because Dr. Ambedkar is a Mahar and now when we inaugurate this Constitution on

*CAD, Official Report, Vol. X, 21st November 1949, p.p. 735-736.

†*Ibid.,* p. 736.

‡*Ibid.,* p. 736-737.

the 26th of January 1950 we shall have the law of Manu replaced by the law of Mahar and I hope that unlike the law of Manu under which there was never a prosperity in the country the Mahar law will make India virtually a paradise....

***Mr. Mahboob Ali Baig Sahib** (Madras : Muslim) **:** Mr. President, Sir, it is not mere formal or customary expression of appreciation if I express my deep sense of gratitude to you, for the manner in which you conducted the proceedings which left no ground for complaint and if I also congratulate Dr. Ambedkar for the outstanding ability with which he piloted the Draft Constitution. Some of us who did not belong to the dominant party which decided questions outside the House beforehand, either confirming or modifying the views of the Drafting Committee— and as it were, acted as the final arbiter—such of us who did not belong to this party would have been helpless if you had not come to our rescue and allowed us to have our say in the matter, for which fairness on your part. I heartily thank you. Dr. Ambedkar was unique in his clarity of expression and thought, and his mastery over the Constitutional problems including those of finance has been marvelous, unique, singular and complete. But, Sir, unlike you, he was not a free agent. So the evils or the defects in the Constitution as it is placed before us today are inherent in the situation in which he was placed and he cannot therefore be personally responsible for them....

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†Shri S. M. Ghose (West Bengal : General) : ...I have heard in this Assembly something about Manu which I consider is not a proper understanding of what Manu stands for or what Manu really means. Speaking about Dr. Ambedkar an honourable Memeber was pleased to say that he was not a Manu but a Mahar giving us law. But there is no knowing whether Manu belonged to the Brahmin or to the Mahar caste. But Manu represents a conception of Indian people,—an ideal of law given for humanity. In that sense Dr. Ambedkar was rightly called the Manu of the present age. It is not that anybody who is in charge of making law really makes anything, but he simplifies and codifies the law as seen by *rishidrishti, i.e.,* seen by intuition. In that sense, whether a man comes from Mahar community or Brahmin community or any other community, if he has that intuition, if he could see and codify things not only for

*CAD, Official Report, Vol. X, 21st November 1949, p. 742.

† *Ibid.,* p. 744.

his community, not as his community views things, but for the whole of humanity, he will be rightly called Manu....

***Shri P. J. Chacko :** (United State of Travancore and Cochin): I know that the success of a constitutional experiment depends more on the character of the people and on the conditions of the times than on the provisions contained in the Constitution itself. Hence, granting these defects, I know it is our duty now to make an honest endeavour to successfully work it. Let us believe that the darkness will be over soon and that in the morning to come we will be able to amend the Constitution and to treat all States alike, and to give some powers to the Constituent States also. Knowing its drawbacks let us try to successfully work it.

†Sardar Hukam Singh (East Punjab : Sikh) : Mr. President, Sir, I must start with paying my earnest and sincere tribute to our worthy President whose patience, forbearance and sense of justice have guided us throughout these proceedings and have contributed mostly to our successfully, going through all these stages.

I join my other friends in congratulating the Drafting Committee and particularly its leader for cheerfully carrying through this heavy strain during these months. It was a gigantic task and they must be feeling relieved after it...

‡Shri S. Nagappa (Madras : General): Mr. President, Sir, very many speakers that spoke before me have congratulated the Drafting Committee and its Chairman. I join them, Sir, I do so.

From the point of view of the Scheduled Classes, their point was achieved on the day on which Dr. Ambedkar was elected as Chairman of the Drafting Committee. He had been one of the stoutest champions of the cause of the Scheduled Classes. He was elected as the Chairman. Ever since he was elected, the other members of the Scheduled Classes were very reluctant to co-operate; not because they did not want to co-operate, but because they knew Dr. Ambedkar who was a champion of their cause was there to watch and provide such articles that will be safeguarding the interests of the Scheduled Classes. Well, Sir, this has proved to what heights Dr. Ambedkar, though he is a member of the Scheduled Classes, if an opportunity was given, can rise. He has proved this by his efficiency and the able way in which he has drafted and piloted this Constitution. Now I think this stigma of inefficiency attached to the

*CAD, Official Report, Vol. X, 21st November 1949, p. 748.

† *Ibid.,* p. 749.

‡ *Ibid.,* p. 754.

Scheduled Classes will be washed away and will not be attached hereafter. Only if opportunities are given, they will prove better than anybody else. Now for having played such a great part, on behalf of the Scheduled Classes I congratulate Dr. Ambedkar. It is not the strength of the Scheduled Classes that made him the President of the Drafting Committee but it is the generosity of the majority party and I am very much thankful to them for the same.

Now I call this, a Constitution for the benefit and betterment of the common man. It can be called a Common man's Constitution. This assures the right of common people more than that of the landed aristocracy or of industrialists and capitalists. This will go a long way for the betterment of the common people of this country. It is so because though Dr. Ambedkar happens to be a man of high status in society, yet he has been drawn from the lot of the common people. He has not forgotten the interest of the common people and he has been good enough to do all that is possible for their betterment. Articles 14 to 17 go a long way for the betterment of Scheduled Classes. Article 14 assures equality before law particularly to everyone. This is the most important one....

Mr. President : ...

***Shri Jaspat Roy Kapoor** (United Province : General) **:** ..... Dr. Ambedkar and his colleagues have rightly deserved the praise which has been showered on them by almost every speaker. I had started with a prejudice against Dr. Ambedkar, for I had felt very sore many years ago when Mahatma Gandhi was undergoing fast against grant of separate electorates to the Scheduled Castes and I had read in the papers the news that when he had been invited to see Mahatma Gandhi to discuss that question, he once said that for a day or two he was not free because he had to attend to some professional engagements. I felt very sorry then. I do not know how far it is correct. But even if it was so, the great work that he has done during these three years has washed away that particular sin or any other sins which he may have committed. I have developed an admiration and also affection for Dr. Ambedkar for the very useful work and the very patriotic work which he has done. His very first speech in this assembly had dispelled all my doubts and fears in relation to him and today I can say that I consider him to be one of the best patriots of this country. I have always found him to bring to bear upon the subject a very constructive approach. On many

*CAD, Official Report, Vol. X, 21st November 1949, p. 758.

an occasion when there seemed to be a deadlock, he came forward with suggestions which resolved those deadlocks. I always found him rise to the occasion except, unfortunately, on one occasion and that was when he did not agree to give up reservation of seats for the Scheduled Castes. Every other minority gave up the right of reservation of seats, but unfortunately Dr. Ambedkar would not agree to it. I wish he could have also agreed to it and I could have then been in a position today to say that he rose equal to every occasion, but unfortunately I cannot say it today. Be that as it may, the great work he has done except this must be recognised in very grateful terms....

***Begum Aizaz Rasul** (United Provinces : Muslim) **:** Mr. President, Sir, this is indeed a very solemn and auspicious occasion that this Constituent Assembly has finished its mighty task of drafting a Constitution for free India—a Constitution which embodies in itself the hopes and aspirations of the Indian people. If a constitution can be judged by its phraseology, or by the provisions it contains, then, certainly, our Constitution deserves a very high place in the constitutions of the world and I think we are justified in feeling proud of it. I would like to congratulate Dr. Ambedkar and members of the Drafting Committee on their wonderful work and to thank you, Mr. President, for the patient and efficient manner in which you have conducted the proceedings of this House. The Secretariat staff of the Constituent Assembly also deserve our thanks for their hard work and incessant labours.

Sir, the most outstanding feature of the Constitution is the fact that India is to be a purely secular State. The sanctity of the Constitution lies essentially in its affirmation of secularity and we are proud of it. I have full faith that this secularity will always be kept guarded and unsullied, as upon it depends that complete unity of the peoples of India without which all hopes of progress would be in vain.

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†**Pandit Hirday Nath Kunzru :** ... In this connection, Sir, we must all in fairness pay a tribute to the Drafting Committee for the efficiency and thoroughness with which it dealt with its task. Its members have had to work hard individually and collectively, and while it is impossible for anyone to say that all their recommendations are of such a character as to win the approval of all sections of the House, it must be admitted that they approached their duties, in so far as they were

*CAD, Official Report, Vol. X, 22nd November 1949, p. 114.

† *Ibid.,* p. 782.

free to give effect to their wishes, with a desire to enlarge the bounds of freedom....

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***Shri Syamanandan Sahaya** (Bihar : General): As I said before, the present is a unique occasion, and it is unique in many respects. It is unique in the annals of history, which depicts the past. If we look back to our history, it will be conceded that although we have had at one time milk and honey, flowing in this country under able rulers, and although we had what we are still striving for, *viz.,* Ram Rajya; but it was all the rule of a benevolent ruler, and not a law given unto ourselves by the representatives of the people. I therefore say, Sir, that this is a unique occasion even if you compare the present with our hoary past. Even the future, I submit, will have nothing to equal it. We may have reforms in this Constitution, and we may have better things in the future, but the originality that this Constitution will claim, would not possibly be available to any other....

... Last, though not the least, this Constitution is unique in another respect. Mahatmaji's methods once again proved how with goodwill, towards opponents, one could win over and conquer the worst of critics and we now see a practical example of a high ideal translated into action, namely that the achievement of independence would go to the credit of Mahatmaji, and its codification to one of Mahatamaji's worst critics, *viz.,* the great architect of our great Constitution Dr. Ambedkar. Dr. Ambedkar, Sir, deserves the gratitude not only of this Assembly but of this Nation. He and his colleagues on the Committee have laboured to find out the best things almost all over the world and to suit them to the needs of this country. The masterly way in which they prepared the draft and the masterly way in which Dr. Ambedkar piloted it will ever be remembered not only by us but by the posterity with gratitude. Many a defect has been pointed out in this Constitution. I do not think the framers of this Constitution claim any perfection for it, but it cannot be denied that there has been a sincere and a genuine effort to bring about as large a measure of perfection as it was possible under present conditions....

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†Smt. Hansa Mehta (Bombay: General) **:**... The goodness or badness of a Constitution depends on how it is going to work. If it works in the

*CAD, Official Report, Vol. X, 22nd November 1949, p. 787.

† *Ibid.,* p. 788.

‡ *Ibid.,* pp. 795-796.

interests of the people, it will be a good Constitution; if it works otherwise, it will be a bad Constitution. It is for the future electors to elect the right kind of persons, who will work the Constitution in the interests of the people. The responsibility, therefore, lies with the people. One thing, however, I would like to observe and that is in the circumstances in which we were placed, we could not have produced anything better. With such divergent views in the Assembly, it is indeed a miracle that we have achieved this measure of agreement. At one extreme we had Seth Govind Das, the champion of the cow and at the other extreme we had Professor K. T. Shah, the champion of the underdog, and in-between we had many variations; the last speaker (Shri Rohini Kumar Chawdhari) would supply a good example....

***Shri Lokanath Misra :** ...It is my view and so it may be that this, our Constitution Act will go as a great civilised document of the modern world. But I would not like to indulge in any kind of self-praise, praise either for the Drafting Committee or for the honourable Members or for our honourable President or for anybody else. The reason is, we have only done our duty, as best as we could and it is for the people to judge our labours....

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†Shri Jadubans Sahay (Bihar : General) : Sir, much has been said regarding the different aspects of this Constitution....

...The fact is that we are a nation born new and we have to learn the arts of democracy. The lessons of democracy are not taught in any book, but they have got to be developed. It all depends upon the character of a nation, the integrity, the honesty, our love for democratic principles and our zeal to pursue and follow them which can make or mar a constitution. The constitution of a country does not depend upon the cold letters, however beautifully or brilliantly printed in a book. It depends to its growth and development upon the character of a nation. It is the soil— the character of a nation—upon which the seeds of Constitution have got to germinate. If the soil is rocky or barren, then certainly howsoever good the Constitution might be and in howsoever grand language it may be worded, it is sure that the Constitution cannot lead us to our goal. But I have faith, Sir, in the innate genius of our country. I have faith also in the coming generation of tomorrow and we have nothing to despair over what we have done. I think that no amount of guarantees in the Consti-

*CAD, Official Report, Vol. X, 22nd November 1949, p. 797.

† *Ibid.*, p. 800.

tution or the filling up of the omissions mentioned will carry us to the goal. It depends upon those who work the Constitution. It depends on how we develop the spirit of tolerance and not on the Constitution or the letter of the law. It depends on the spirit of love towards those that are down trodden and those who call themselves minorities. We may enact in the Constitution that untouchability is abolished in every heart and home but that carries us nowhere. You should have love and sympathy for what we call the 'have-nots'. It does not depend on the Constitution or its articles. It depends upon our own character, our own vitality as a nation....

***Shri Gopal Narain** (United Provinces : General) **:** Mr. President, Sir, during the last three years when the Constitution was on the anvil I remained a calm and silent observer except twice when I broke the monotony. But at this final and Third Reading stage I wish to record my views plainly, openly and courageously.

At the outset I congratulate Dr. Ambedkar, the Chairman of the Drafting Committee and the members thereof for producing such a voluminous Constitution in which nothing has been left out. Even price control has been included in it. I venture to think that if they had the time they would have even prescribed a code of life in this Constitution. A word more for Dr. Ambedkar, Sir. There is no doubt, he is lucidity and clarity personified. He has made a name for himself....

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†**Shri Ajit Prasad Jain** (United Provinces : General)**:** Mr. President, Sir, it is but once in life that a nation decides to give a Constitution unto itself, and we who have participated in framing this Constitution have a good reason to be proud of our lot. In the history of India, there have been periods of greatness and glory, there have been periods of great empires and expansion and of benevolent and good kings, but never did we have a Constitution framed by the people for the people. Before proceeding further it is necessary that we offer our thanks to Dr. Ambedkar and the Drafting Committee who have sat day after day incessantly and worked hard....

‡**Shri S. V. Krishnamoorthy Rao** (Mysore state)**:** Mr. President, Sir, I deem it a great privilege to have had an opportunity of being associated in the framing of this Constitution under your able guidance and I stand before you to add my humble need of praise to the Chairman and

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*CAD, Official Report, Vol. X, 22nd November 1949, pp. 803-804.

† *Ibid.*, p. 805.

‡ *Ibid.,* p. 809.

members of the Drafting Committee for making an excellent job of the work that was entrusted to them. Sir, I submit that under the heavy stress and strain of time and circumstances under which they had to undertake this task, no other committee or no other body would have given us a better Constitution....

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***Shri Thirumala Rao :** ...Situated as we are, we are in possession of a Constitution which can be turned to best account by the persons that work it, by the legislators and by the Ministers that these legislators would choose. I say that it depends mostly on the Prime Ministers for the next few years of this country to see that the greatest benefit is derived from this Constitution. We have rightly selected, Sir, the Chakra as our emblem, as the historic reminiscence of the period of Asoka. Describing the meaning of this Chakra, Rhys David, the famous orientalist has said that this Chakra is intended to send rolling the Royal Chariot wheel of universal empire of truth and righteousness. If any country which departs from the essential moral principles on which it professes to stand it has no future. But this country in keeping with the ancient traditions and ideals has rightly chosen that Chakra which is called the Dharma Chakra of Asoka and Mahatma Gandhi has blessed this Chakra. With his spirit hovering over this nation and with this emblem of our flag, it is the duty of this House and the leaders of the future to uphold the Congress principles and fulfil the destiny of this Nation.

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†Shri Ari Bahadur Gurung (West Bengal : General) **:** Mr. President, Sir, I associate myself with my colleagues in congratulating the Chairman of the Drafting Committee for having brought this stupendous task to a successful conclusion....

‡Giani Gurumukh Singh Musafir (East Punjab : Sikh) **:** ...One word more and I have finished. In preparing the draft, Dr. Ambedkar and members of the Drafting Committee have worked very hard. They deserve our congratulations for preparing this draft within such a short time and under adverse circumstances....

@Shri R. V. Dhulekar (United Provinces : General) **:** Mr. President, Sir, I am here to support the Resolution that has been placed before this

*CAD, Official Report, Vol. X, 22nd November 1949, p. 820.

† *Ibid.*, 23rd November 1949, p. 821.

‡ *Ibid.,* p. 825.

@ *Ibid.,* p. 826.

House by Dr. Ambedkar. The Constitution has been discussed at very great length in these three years and therefore it is now too late to point out all the defects and the great points that are in the Constitution. I am satisfied that the Constitution on the whole is a very good one. Everybody knows that milk contains more than 15 per cent, of water and if the balance is good, it maintains our body and strengthens it. It gives a longer life....

... In the end, I have to place my heartfelt thanks on record to you, Sir, the President and Dr. Ambedkar. The work that was before us was a very great task. Dr. Ambedkar has performed a very great work. I would not say Herculean because that is a very small word. He has performed a task worthy of the great Pandava Bhim and worthy of the name that he has— Bhim Rao Ambedkar.—He has certainly justified his name—Bhim Rao— and he has performed the task with clarity of vision, clarity of thought and clarity of language. Throughout, he was very clear. He always tried to understand the opponent's view and he always tried to accommodate him, and he always tried to put his own views in the most clear language. We are very grateful to him....

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***Shri B. P. Jhunjhunwala** (Bihar : General) **:** Mr. President, Sir, there have been various criticisms of this Constitution and one of the criticisms levelled against the Drafting Committee is that they have done nothing more than adopt the Government of India Act of 1935. If this criticism can be levelled against the Drafting Committee, I should say it is most uncharitable. On the other hand, I would say that before adopting any article, the Drafting Committee has taken great pains to go through all the Constitutions of the world and looked into all the amendments with great care both from the point of view of theory as well as from the point of view of their practical application. If they have not accepted any theories it is not because these were not in the Government of India Act 1935, though those theories were applicable and right, but because they could not be practically applied here under the present condition....

‡**Shri Alladi Krishnaswami Ayyar :** (Madras : General) : Sir, in supporting the motion of the Honourable Dr. Ambedkar for the adoption of the Constitution, I crave the indulgence of the House for a short while. This Constitution has been settled by the Constituent Assembly in the

*CAD, Official Report, Vol. X, 23rd November 1949, pp. 828-829.

† *Ibid.,* pp. 831-832.

‡ *Ibid.,* p. 834.

light of the recommendations of the various committees appointed by this House and the draft as originally submitted by the Drafting Committee and as revised later. The Constitution as it has finally emerged, I submit, truly reflects the spirit of the Objectives Resolution with which this Assembly started its work and the Preamble of the Constitution which is mainly founded on the Objectives Resolution....

*...Before I conclude, I would be failing in my duty if I do not express my high appreciation of the skill and ability with which my friend the Hounourable Dr. Ambedkar has piloted this Constitution and his untiring work as the chairman of the Drafting Committee. Latterly I know he was ably assisted by my friend Mr. T. T. Krishnamachari. I would also be failing in my duty if I do not give my tributes to the services of Sir B. N. Rau and to the untiring energy, patience, ability and industry of the Joint Secretary, Mr. Mukherjee and his lieutenants.

In the end, you will pardon me, Sir, if I make some reference to your work in this Assembly as it may savour of flattery. You have given your whole life to the service of this country and this is the crowning act. There is none who is held in greater esteem and in love than yourself and you have showed yourself to be the worthy President of this Assembly. I am particularly grateful to you because on account of my state of health you have been pleased to permit me to address from my seat and I am also thankful to the Members of this House for the indulgence they have extended to me in that respect. It is some consolation to me that I might have been of some little use in the work of the various committees and in the work of this Assembly. *(Cheers).*

†Mr. Hyder Husein : ...This is not the stage, nor the time for criticising the various provisions of this Constitution. There has been a good deal of it, both inside and outside this hall. My answer is that this is the best that the available talent in the country could produce, and if we expect anything more, we have to produce men of greater intellect and scholarship in the land, if that is possible in the near future. I am however, bound to say that the product is one of which any nation can be proud. Let us then, pledge ourselves to give it our unstinted support, without any mental reservations whatsoever. We have attained political freedom, and the need of the day is the economic uplift of the country, as for this alone freedom was worth lighting for. This requires greater labour, greater work and greater sacrifice than even the light for freedom. It is not so difficult

*CAD, Official Report, Vol. X, 23rd November 1949, pp. 840-841.

† *Ibid.,* p. 842.

to destory a thing as it to construct it. With the termination of foreign domination in the land, we have full opportunity for constructive work. Let us then strive to build our India which will be worthy of its past and a pride for the future....

***Shri B. M. Gupte :** ...After all, a Constitution cannot be judged merely from its text or on paper.... So it is not the Constitution that matters nor the people who make it, but it is the men who work the Constitution and the spirit in which they work it. Any Constitution may be good on paper, but its success depends upon the manner in which it is worked....

...In spite of the initial trouble and occasional lapses I hope generally and ultimately the commonsense of the common man will triumph. It was for us only to fashion the instrument. It is for others to work it. As far as I can see, we can certainly make the claim that we have fashioned it to the best of our abilities and according to the best of our lights. It is an instrument fairly workable and fairly flexible. It ensures security and stability. If we study the provisions of this Constitution, we find that the one dominating concern of the Drafting Committee was the security of the new State. Therefore, this Constitution ensures security and stability without impeding progress. It promotes collective good without stifling the development of individual personality. But in my opinion, the real test of the Constitution would be whether it is able to bring about any speedy improvement in the miserable lot under which the common man has been suffering for generations past. If this Constitution brings him some solace, I shall certainly feel very proud of my association in the framing of it.

†Shri Balwant Sinha Mehta : ...The fact is that the Constitution drawn up by us is not only quite detailed but also quite good. I am quite sure that the foreigners would be wonderstruck when they would see how good a Constitution we have been able to give to ourselves. All the Members of this august Body and the members of the Drafting Committee and more particularly Dr. Ambedkar, T. T. Krishnamachari, Shri Alladi Krishnaswami and others have laboured hard for giving a proper shape to the constitution. I believe, these gentlemen deserve all the praise we can bestow upon them. We must also offer our homage to Pandit Jawaharlal Nehru, Sardar Patel and the other Congress leaders and martyrs....

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*CAD, Official Report, Vol. X, 23rd November 1949, p. 445.

† *Ibid.,* p. 461.

***Sardar Sochet Singh :** ...Our Constitution carries in it the impress of the high-souled nobility of the President—Dr. Rajendra Prasad, the universal vision of Pandit Jawaharlal Nehru, the unfailing judgment and strength of Sardar Vallabhbhai Patel, the scintillating and penetrating intellectuality of Dr. Pattabhi Sitaramayya, the erudition and labours of Dr. Ambedkar and above all, the Patriarchal blessings and divine inspiration of the Father of the Nation—our revered Mahatma Gandhi. It is my hope and prayer that such a monumental Charter of Freedom of millions of my countrymen will not fail to bring about peace, prosperity and happiness not only for this country, but for the whole world. *(Cheers.)*

†**Mr. T. J. M. Wilson** (Madras : General) **:** Mr. President, Sir, I also join in thanking you, the Rashtrapathi and the Chairman and members of the Drafting Committee for this Constitution....

‡...I now come to the criticism that is levelled against the Constitution that it has not provided for or conferred anything on the common man, that it has not provided for social and economic justice. That, I submit, Sir, is an erroneous contention, because it is based on an erroneous conception of the scope of the Constitution. A Constitution has a limited scope. Its main function is to provide for a machinery of Government, and this Constitution has provided for a machinery of the government, whatever its character. And whatever the privileges or rights put in certain chapters are only those rights and privileges which we have achieved so far. The Constitution embodies and gives sanction only to those rights that are achieved. That is the basic conception which I want to emphasise, because otherwise, if we had embodied certain rights in the Constitution which we have not achieved so far, that would, have given a distorted, dishonest and hypocritical picture of the country as a whole, and what is more, the Constitution would have been simply unworkable. Therefore, the Constitution has a limited purpose, and in spite of certain ugly features of the Constitution, for example the provision for the protection of property as a fundamental right, it would not and shall not prevent the country, as Mr. Santhanam has pointed out, from achieving socialism....

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@**Shri Dharanidhar Basu Matari** (Assam : General) **:** Mr. President, Sir, I feel I cannot leave the Constituent Assembly to return to my

*CAD, Official Report, Vol. X, 23rd November 1949, pp. 855-856.

† *Ibid.,* p. 856.

‡ *Ibid.,* p. 838.

@ *Ibid.,* p. 867.

province, Assam, without adding my own tribute to Dr. Ambedkar and the Drafting Committee for their great achievement in producing this Constitution. I think I am right in saying that everyone has some or the other criticism or grievance to air. The Constitution does not, and cannot satisfy every section from all points of view, but, taking everything from an all-India point of view, the Constitution is not disappointing and, in fact, the best that could have been framed under the difficult circumstances after Partition. It is not what has been put down in cold print in the Constitution, in the Articles, in the Schedules, that will matter. It will surely be the spirit in which the purpose of the Constitution is executed. If all sections co-operate honestly and unselfishly, I am certain India will progress along right lines....

***Shri Ari Bahadur Gurung :** Mr. President, Sir, I associate myself with my colleagues in congratulating the Chairman and other members of the Drafting committee for having brought this stupendous task to a successful conclusion. I have only a few observations to make. Firstly, the criticism of the Constitution that it does not provide for the establishment of socialism is as irrelevant as the complaint that it is likely to open the way to dictatorship is futile. The real test of democracy is to give the right to people to decide for themselves the nature of the Government they would like to have. The question of dictatorship or totalitarian communism will depend entirely upon the manner in which the people will work the Constitution. The Constitution will be subject to a continuous series of modifications according to the will of the people. Such provisions have been provided already in the Constitution. Sir, I personally feel that a Constitution is something of a sacred character which inspires future generations. It is the embodiment of the living faith and philosophy. Therefore we must not forget this gospel....

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†Shri Manikya Lal Varma (United State of Rajasthan) **:** [Mr. President, first of all I take this opportunity to offer my thanks to the Honourable Dr. Ambedkar and the Members of this House....

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†Shrimati Purnima Banerji (United Provinces : General) **:** Sir, at the cost of a little repetition, I would at the outset like to associate myself with my colleagues in their expression of thanks to the

*CAD, Official Report, Vol. X, 23rd November 1949, p. 868.

† *Ibid.,* 24th November 1949, p. 873.

‡ *Ibid.,* p. 878.

Members of the Drafting Committee, to you and to all others who played such an important and necessary role in the various stages of this Constitution. Without being open to the charge of making any invidious distinction, I would like to add a special word of thanks to you on behalf of the back-benchers of this House. For, at various stages of the Constitution, when we were rightly or wrongly exercised by certain doubts in regard to certain clauses of the Constitution, you used your good influence on our behalf with the Drafting Committee to clear these doubts.

Sir, the Constitution of a country always is a very important and precious document, because it gives us an idea of how the great people of a country fashion their institutions, how they want to live, what are the political arrangements under which they exercise their judgment and what are the hopes and aspirations which they entertain for the future.

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***Shri K. M. Jedhe** (Bombay : General) **:** Mr. President, Sir, I stand here to congratulate Dr. Ambedkar and his colleagues for having taken great pains in framing India's new Constitution. We have spent nearly three years and now we are completing our great work. Some Members while congratulating Dr. Ambedkar have called him the present Manu. I am certain that he would not like this appellation. I know he hates Manu, who has created four castes, the lowest of which is the untouchable class. I remember that he has publicly burnt Manu Smriti in the huge meeting of the untouchables at Mahad in 1929. He is the great leader of the Harijans and is greatly extolled by them as their champion and is worshipped as an idol. They are very proud of him. They call him Bhim and make it known to the public that he has framed Bhim Smriti. I also call it Bhim Smriti though I belong to the Sprasya Class. Dr. Ambedkar is a great lawyer and a man of great ability and intellect; nobody will doubt that. Untouchability has been removed by law and while framing the Constitution, Dr. Ambedkar was very keen and earnest in safeguarding the interests of the Harijans. All Harijans must be grateful to him. At the same time, we must also be grateful to our country's Father, Mahatma Gandhi, who gave us independence. He was a great soul who made great efforts during his life-time to remove untouchability. His great wish was to bring the Harijans to the level of touchables. He is not among us to see his great

*CAD, Official Report, Vol. X, 24th November 1949, p. 890.

wish fulfilled and bless us, because he fell a victim to a cruel and villainous plot....

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***Shri Jaipal Singh** (Bihar : General) **:** Mr. President, Sir, may I venture to ignore your counsel against repetition and add my own tribute, unqualified tribute, for the tremendous work Dr. Ambedkar and his hard-worked team have put in the making of the new Constitution and also, Sir, may I humbly add, for the inexhaustible patience you yourself have shown in guiding our deliberations....

†Shri A. Thanu Pillai : ...In conclusion, Sir, from what I have been able to see of the procedure of this Assembly, I must tell you I am amazed at the patience you have been showing. Even if it be a question of our communication with the Moon, if the rules permitted it, you were prepared to put it to the vote. (2) This was the extent of patience that we witnessed here on your part. I must also be permitted to add one word of thankfulness to all those concerned, for the ability of Dr. Ambedkar and Mr. Alladi Krishnaswami Ayyar, for the extreme interest that Mr. T. T. Krishnamachari and Mr. Santhanam and others took in the framing of the Constitution—when I mention a few of these names, it does not mean that there are no other names to be mentioned. Everybody concerned has functioned well....

‡Shri O. V. Alagesan (Madras : General) : Mr. President, Sir, the Drafting Committee and all those that have been connected with its labours have been rightly congratulated and we are sure to miss the stentorian voice of Dr. Ambedkar explaining in a crystal clear manner the provisions of the Constitution and also the shrill voice of my Friend Mr. T. T. Krishnamachari whose contribution to the making of this Constitution everybody acknowledges....

@...Sir, another charge is that this Constitution is full of checks and safeguards, and it curtails freedom of the individual and restricts State autonomy. I do not take it in that light. These safeguards are there only as fences intended to protect the infant freedom and democracy from stray cattle. A tiger cannot say, for instance, that it should be free to kill the lambs and take them away. This is my reply when the cry that civil liberty is in danger is raised and all these provisions are thrown in our face....

*CAD, Official Report, Vol. X, 24th November 1949, p. 893.

† *Ibid.,* p. 898.

‡ *Ibid.,* pp. 898-899.

@ *Ibid.,* p. 901.

Sir, under this Constitution, the foundations of a secular democracy have been well and truly laid, and if we are true to ourselves and to our traditions, and to our leader Mahatma Gandhi, we can safely hope that we will march from progress to progress and convert this Constitution into a blessing for this ancient land.

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***Shri L. Krishnaswami Bharathi :** Sir, no period in the history of India has contributed more memorable events than the short space of the past three years. Looking back upon the past three years since we commenced the stupendous task of framing this Constitution, one is bound to be struck by the kaleidoscopic changes that have happened in the history of our country.

Five memorable events of great magnitude and significance marked out this eventful period. To state them *seriatim,* they are : 1. the partition of our country, 2. the achievement of independence, 3. the passing away of Mahatma Gandhi, the Father of the Nation, 4. the integration of what are known as Indian States, and last but not least 5. the setting of the Constitution of free India....

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†Shri Sarangdhar Das : ...I disagree with most of my friends, particularly the Hindu friends who expatiate on the existence of the republican system of government, *i.e.,* republices in our old Hindu polity. I disagree with them. My contention is that our lower classes, the lower castes of our society, whom we call Harijans, have all along been kept in a depressed condition. Consequently, there was no democracy, If there was democracy, if there was a republic, it was amongst the higher classes, what we call the higher castes, If you look at the Constitution from that point of view. I think the removal of untouchability and the introduction of adult franchise are two of the very best elements that have been introduced in this Constitution. I may remind you, Sir, that in the American Constitution, the franchise was given only to free white citizens, because in those days, there were also white people who were slaves, working as slaves in the West Indies and the Caribbean Islands. They were debarred from the franchise. The black people, the Negroes, were nowhere. They were denied the vote. They came only in the time of Abraham Lincoln, when they were enfranchised. So, I say, in our Constitution, the conceding of adult franchise, of equality of women and of the removal of untouchability, these three things are the best in the Constitution....

*CAD, Official Report, Vol. X, 24th November 1949, p. 903.

† *Ibid.,* p. 913.

***Smt. Ammu Swaminathan :** ...We have also to pay our tribute to Dr. Ambedkar and the members of the Drafting Committee and the Secretariat of the Constituent Assembly for the very hard work that they had put in for so many weeks and months. I know their task has not been an easy one but they have overcome all difficulties and thus we are today on the eve of passing this great Constitution of our country. ...

†**Shri L. S. Bhatkar** (C. P. & Berar : General)**:** @[Mr. President, I congratulate Dr. Ambedkar and other members of the Drafting committee for preparing this Draft Constitution with so much labour and industry after our country had achieved its freedom.... Article 17 provides for the abolition of untouchability for which I congratulate the Drafting Committee.... ‡Article 338 refers to justice for the Scheduled Castes. Mr. President, I wish to tell you that the position of Harijans in the services hitherto is as follows :

C. P. & BERAR

			Population (1931 Census)	Gazetted posts
(1)			(2)	(3)
Brahmans	...	...	.5,42,556	448
Marathas & others	...	...	.18,82,654	17
Scheduled Castes	...	...	.30,51,413	3
Muslims	...	...	.7,83,697	99
Sikhs	....	...	.14,996	13
				580

Honourable Shri B. G. Kher gave the following figures in reply to a question in the Bombay Legislative Assembly by Shri R. M Nalwade :—

Community		Population in 1931	No. of Gazetted Officers	No. of Non-Gazetted Officers *i.e.* Clerks
(1)		(2)	(3)	(4)
Depressed classes	...	18,55,148	14	8,201
Marathas & others	...	42,07,159	606	43,360
Brahmans	...	9,18,120	1,370	21,448
Muslims	...	19,20,368	201	13.797
Others	...	...	.886	18,658

*CAD, Official Report, Vol. XI, 24th November 1949, p. 914.

† *Ibid.,* p. 915.

@Translation of Hindustani speech.

‡ *Ibid.,* p. 916.

This demonstrates clearly the necessity of making some provision assuring that such injustice will not continue any more, and there would be speedy action to end it. I request the Government of India and the provincial Governments to apply article 338 for our welfare and recruit Harijans in the services according to their population....

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***Shri Ram Chandra Gupta** (United Provinces : General) **:** Sir, I am very thankful to you for giving me this opportunity of speaking for a few minutes on this motion. The present Constitution will go down, in the annals of this nation, as a great "CHARTER OF FREEDOM", which our people have today achieved after a long and ceaseless struggle and much suffering. We have therefore every reason to be proud of it; and I have no manner of doubt posterity will continue to remember January 26th, 1950 as the sacred day when real freedom dawned in this country.

This Constitution which consists of nearly 400 clauses is the result of 3 year long hard labour, anxious thought, and much compromise. The country will no doubt feel grateful to all those who have had a hand in the shaping of this Constitution. Our thanks are due to all members of the Drafting Committee—particularly to Dr. Ambedkar, and to you, Sir, Both of you have demonstrated how accommodating you can be to others.

The Constitution, as it stands today, is the result of heated discussion and long debates carried over thousands of amendments moved by the honourable Members of this House. In fact there is not a single word in the Constitution which has not received the notice of some Member or the other. I can go to the length of stating that even punctuations, *viz.,* comma, semi colon, and full stops, have received due notice from our vigilant friend, Mr. Naziruddin Ahmad. It is true that unanimity could not be achieved on every matter, but there is no doubt that all clauses passed by the House always had the support of a very large majority. Almost all the important controversial questions were postponed many times for fuller consideration and the achievement of unanimity, if possible.

In one word, I can say that the present Constitution is the result of many happy compromises effected as a consequence of the spirit of 'give and take' so liberally manifested by the Members of this House. In such circumstances you cannot expect that all the Members will have the same degree of satisfaction on all matters incorporated in the Constitution. This really explains the mixed reaction accorded to the Constitution by the various speakers. While I myself do not agree with every thing incorporated

*CAD, Official Report, Vol. XI, 24th November 1949, pp. 919-920.

in the Constitution, I can say without the slightest fear of contradiction, that it has the substantial support of a very substantial section of this House.

It is no doubt true that the Constitution as originally drafted has undergone a radical change. Such a change was inevitable under the altered conditions of the country....

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*GOVERNMENT OF INDIA ACT (AMENDMENT) BILL

Mr. President : The first thing today is to take up the Bill of which notice has been given by Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar (Bombay : General) **:** Sir, I move for leave to introduce a Bill further to amend the Government of India Act, 1935.

Mr. President : The question is :—

> 'That leave be given to introduce a Bill further to amend the Government of India Act, 1935.'

The motion was adopted.

The Honourable Dr. B. R. Ambedkar : Sir, I introduce the Bill.

Mr. President: The Bill is introduced.

The Honourable Dr. B. R. Ambedkar : Sir, I move :

> "That the bill further to amend the Government of India Act, 1935, be taken into consideration by the Assembly at once."

Mr. President : Motion moved.

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The motion was adopted.

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†**The Honourable Dr. B. R. Ambedkar :** Sir, I am sure that there is some confusion in the mind of my friend Mr. Naziruddin Ahmad, as I find by reference to the various Acts that are passed by the Constituent Assembly the proposal in the Bill that it should be called the Fourth Amendment Act is the proper wording. The first Act that was passed by the Constituent Assembly is called the Government of India (Amendment) Act, 1949. The second one is called the Government of India I (Second Amendment) Act, 1949, which deals with the removal of prisoners from one unit to another unit. The third Amendment Act, 1949, deals with evacuee property, and the Bengal election.

Mr. Naziruddin Ahmad : It is not called an Amendment Act at all, it has got a different name.

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*CAD, Official Report, Vol. XI, 25th November 1949, p. 920.

† *Ibid.,* 25th November 1949. p. 923

‡ *Ibid.,* pp. 927-929.

The Honourable Dr. B. R. Ambedkar : If you look at clause 1, there you will see, "This Act may be called the Government of India (Second Amendment) Act, 1949." The next one is called the third Amendment Act, 1949, which deals with the custody, management and disposal of evacuee property and the election in West Bengal.

The confusion, I think, has arisen from the fact that we have passed two other Acts in the Constituent Assembly, one relating to the Abolition of Privy Council Jurisdiction and another amending the Central Government and Legislature Act, 1946. Those Acts are not amendments of the Government of India Act, at all. Although those Acts may have indirect effect on the Government of India Act, they are not amendments to the Government of India Act. We are, therefore, entitled to class this as the Fourth Amendment, because, so far as direct amendment of the Government of India Act, 1935 is concerned, this Assembly has passed only three Acts and no other.

Mr. Naziruddin Ahmad : But there is no Third Amendment Act, at all.

The Hounourable Dr. B. R. Ambedkar : Of course there is. The third Act deals with the custody, management and disposal of evacuee property. I have got the Act here before me.

Mr. President : There seems to be a little confusion about this matter. Fourth is not the number of the Act. what is described here is the fourth amendment of the Act. That is not the number of the Act itself. The number of the Act is separate.

The Honourable Dr. B. R. Ambedkar : It is a description of the present Act. It is a short title.

Mr. President : It is only a description. The number will be Act No. 6 of 1949.

The Honourable Dr. B. R. Ambedkar : That is so. This is a short title.

Mr. President : The constituent Assembly has passed five Acts upto now, in 1949 and this will be the sixth. But so far as amendments are concerned, it is the fourth amendment to the Government of India Act, and therefore it is called the Fourth amendment.

Pandit Hirday Nath Kunzru (United Provinces : General) **:** If out of the five Acts that we have already passed....

Mr. President : This is the sixth.

The Honourable Dr. B. R. Ambedkar : We have passed in this Assembly five Acts. Out of them two have nothing to do with any amendment of the Government of India Act, 1935.

Pandit Hirday Nath Kunzru : Why were they placed before the Constituent Assembly if they were not of a constitutional character?

The Honourable Dr. B. R. Ambedkar : The short title is quite different from the purport of the Act.

Pandit Hirday Nath Kunzru : The question is whether the right of a litigant to appeal to the Privy Council could have been taken away without an amendment to the Government of India Act, 1935.

The Honourable Dr. B. R. Ambedkar : The short title of the next Act was the Central Government and Legislature Amendment Act, 1949. that Act sought to amend the India (Central Government and Legislature) Act, 1946 which is an Act of Parliament and not the Government of India Act, 1935. The other Act was the abolition of Privy Council jurisdiction Act, 1949.

Pandit Hirday Nath Kunzru : But the earlier Act to which my honourable Friend has referred, namely, the Amendment to the Central Legislature Act was itself an amendment of the Government of India Act.

The Honourable Dr. B. R. Ambedkar : No, no, that is not, there was a separate Act passed by Parliament called the India (Central Government and Legislature) Act 1946. This amendment was an amendment to that Act. That Act was outside the Government of India Act, 1935.

Shri R. K. Sidhva : Perhaps Dr. Ambedkar will remember that the amendment to the Act from Cotton Seeds to Cotton was really an amendment to the Government of India Act, to which he has made no mention.

The Honourable Dr. B. R. Ambedkar : This would mean a sixth Act no doubt but the short title is something quite different to the number of the Acts. We are discussing the short titles.

Shri T. T. Krishnamachari (Madras : General) **:** This is a matter of nomenclature and in fact in the previous Acts amended by Parliament, they have given different names for Acts which in purport amended the Government of India Act, such as the India Burma Emergency Powers Act, 1942. The matter of nomenclature need not be pursued to its logical and bitter end. I suggest the House to proceed with the consideration of the Bill.

Mr. Naziruddin Ahmad : Is there any Act No. IV?

Mr. President : There seems to be.

The Honourable Dr. B. R. Ambedkar : There is.

Mr. Naziruddin Ahmad : I have not got it.

The Honourable Dr. B. R. Ambedkar : If you have not a copy, what can we do ?

Mr. President: After all, nothing will turn upon the title !

The Honourable Dr. B. R. Ambedkar : I can give him the number also, if he wants it.

Act No. I of 1949 is called by the short title of "The Government of India (amendment) Act 1949."

Act No. II of 1949 is called "The Government of India (second amendment) Act, 1949."

Act No. III of 1949 is called "The India (Central Government and legislature) Amendment Act, 1949."

Act No. IV of 1949 is called "The Government of India (Third Amendment) Act, 1949."

Act No. V of 1949 is called "The abolition of Privy Council Jurisdiction Act, 1949."

Acts III and V have nothing to do with the Govenment of India Act, 1935 and that is why we call this the fourth Amendment of the Government of India Act.

Mr. President : The question is :

"That in sub-clause (1) of clause 1, for the words 'Fourth Amendment' the words 'Third Amendment' be substituted."

The amendment was negatived.

Mr. President : The question is :

"That clause 1 do stand part of the Bill,"

The motion was adopted.

Clause 1 was added to the Bill.

Clause 2

***Mr. Naziruddin Ahmad :** Sir, I beg to move:

"That clause 2 be deleted."

Sir, I also beg to move :

"That in clause 2, the following statute reference be appended :

'52 & 53 vict., C.63.' "

* * * * *

†The Honourable Dr. B. R. Ambedkar : All that I can say is that this is the uniform clause that has been passed by this Assembly in the other Acts amending the Government of India Act, therefore, in order to keep up the uniformity and to provide for the interpretation of this particular Act, clause 2 is a very necessary part of the Bill.

*CAD, Official Report, Vol. XI, 25th November 1949, p. 929.

†*Ibid.,* p. 929.

With regard to the suggestion of my friend all that it means is that there should be a marginal note giving the chapter number of the Interpretation Act of 1889. That is a matter for the draftsman to consider, and if he thinks such a marginal note is necessary, he will no doubt consider the matter. But this marginal note is not added against the clause of the other Acts which amend the Government of India Act of 1935.

Mr. Naziruddin Ahmad : Although Dr. Ambedkar says that in all the previous Acts this clause appears, yet I beg to point out that in Act No. V, there is no such clause. I pointed out the omission but I was over-ruled.

The Honourable Dr. B. R. Ambedkar : That was a self-contained Act. It required no reference to the Interpretation Act at all.

[The amendments of Naziruddin Ahmad were negatived and clause 2 was added to the Bill.]

* * * * *

Clause 3

***Shri H. V. Pataskar :** Sir, I move :

"That in clause 3, after the words 'alter the name of any Province' the words 'after ascertaining the opinion of the members of the Legislature of the province whose name is proposed to be changed' be added."

* * * * *

†The Honourable Dr. B. R. Ambedkar : Sir, dealing first with the amendment of Mr. Pataskar, I am afraid I must point out that it would not fit in within the framework of section 290. My friend does not seem to have noticed that to the various sub-clauses of clause (*1*) of section 290 there is a general proviso which applies to all the sub-clauses *(a), (b), (c)* and *(d)*. If he refers to that proviso he will find that his amendment would introduce double conditions for the operation of the new clause, namely sub-clause *(e)*. Sub-clause *(e)* would be subject to the condition he wants to lay down in his amendment, namely, 'after ascertaining the opinion of the members of the legislature of the province whose name is proposed to be changed'. In addition to that, sub-clause *(e)* would also be governed by the proviso, namely that the Governor-General shall ascertain the views of the Government of the province. In view of this there would arise a very difficult condition, according to his amendment, the Governor-General will be bound to ascertain the wishes of the legislature. According to the proviso to section 290, he will be bound to ascertain the views of the Government of the province. He will therefore put himself in a double

*CAD, Official Report, Vol. XI, 25th November 1949, p. 930.

† *Ibid.,* pp. 935-937.

difficulty by reason of the fact that the Governor-General will have to consult two different bodies, that is not going to be a very easy matter. Secondly, he would realise that it is not quite justifiable that sub-clauses *(a)* to *(d)* should be governed by a single proviso, while the new sub-clause *(e)* should be governed by two provisions.

Shri H. V. Pataskar : That is not so.

The Honourable Dr. B. R. Ambedkar : That is what I say. How do you know? Therefore it seems to me that he is putting himself and the Governor-General in a somewhat difficult position by making such a suggestion. Do not therefore think that at this stage it would be logical to accept it, whatever be the merits of the suggestion.

Coming to the amendment of my friend, Mr. Sidhava, he seems to me to have completely confused the intention of this article and the provisions contained in the new Constitution. He speaks of Parliament and requires that the order made by the Governor-General be placed within three days of its making before Parliament. Mr. Sidhva has evidently forgotten that, when he speaks of the Parliament, he speaks of the legislature which comes into being on the 26th January 1950. On that date the Governor-General disappears, and this section 290 as well as the sub-clause *(e)* which I am trying to introduce by this measure will also disappear. On the 26th January what will be on the Statute Book and operative would be the provisions contained in article 3 of the new Constitution. He has, I am sorry to say, not paid sufficient attention to the point that I have sought to make.

Shri R. K. Sidhva : What the Governor-General does will be binding upon the President.

The Honourable Dr. B. R. Ambedkar : It seems to me that both these suggestions are impracticable. As to the general proposition whether Parliament should be brought in or not, we have to deal with two matters. One is that there is a general desire on the part of some of the provinces that the names by which they have been called under the Government of India Act 1935 do not smell sweet according to them, and they would like to begin with the names which they think are good enough for them on the date on which the Constitution commences. The Constituent Assembly felt at the time when the matter was discussed last time that this desire of some of the provinces whose names are not good enough in their own opinion has a good case and therefore a provision ought to be made for the Governor-General before the commencement of this Constitution to take such action as he thinks necessary to carry out the

desires of the provinces. Therefore it seems to me that such a provision is necessary.

A certain amount of fear has been expressed that some provinces might suggest to the Governor-General names which may not be possible in the opinion of the other provinces, and consequently names which have been rejectd by this House or disapproved by this House may be given to the new provinces without the knowledge of this Constituent Assembly or without the consent of the provincial legislatures concerned. It seems to me that that sort of suggestion is reading too much into section 290 as amended by this Bill because under section 290 the Governor-General has absolute discretion in this matter and is not bound to act upon the suggestion made either by the Provincial Government or, if I accept the amendment of Mr. Pataskar, the opinion of the legislature. He is free to act and the only authority who is to advise him to act is the Cabinet at the Centre. All that is required under section 290 is to ascertain the views of the Government of the Province. That does not mean that the Governor-General is bound to accept any name that has been suggested. I am quite certain in my own mind that the discussion that has taken place in this House, the opinions expressed by this House on the suggestion made by Professor Saksena in regard to the name of the United Provinces will be taken into consideration by the Central Executive and by the Governor-General before he decides to take any action under the proposed amendment to article 290.

Mr. President : I will now put the amendments to the vote. Mr. Naziruddin Ahmad, do you want your amendment to be put to the vote? It is only a matter of punctuation?

Mr. Naziruddin Ahmad : It may be left to the Drafting committee.

The Honourable Dr. B. R. Ambedkar : It is a worng amendment.

[Clause 3, Preamble and the title were adopted and added to the Bill.]

***The Honourable Dr. B. R. Ambedkar :** Sir, I move :

"That the Bill further to amend the Government of India Act, 1935, as settled by the Assembly, be passed."

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The motion was adopted.

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*CAD, Official Report, Vol. X, 25th November 1949, p. 937.

DRAFT CONSTITUTION—*(contd.)*

***Mr. Frank Anthony** (C. P. & Berar : General) : Mr. President, sir, first of all I wish to thank you for the unfailingly courteous and gracious manner in which you have invariably presided over the deliberations of this House. Deserving tribute has already been paid to the Drafting Committee for the way in which it has performed its arduous and responsible duties. I would like very briefly to pay a particular tribute to my honourable Friend, who is sitting on my right, Dr. Ambedkar. I do not believe that any one of us can really gauge the volume of work and the intensity of concentration that must have been involved in the production of this voluminous and by no means easy document. And while, on occasions, I may not have agreed with him, it always gave me the very greatest pleasure to listen to his tremendous grasp not only of fundamentals but of details, of the clarity with which he invariably presented his case. It has been said that this Constitution has received a mixed reception. It is inevitable that its reception should have been mixed because, inevitably, it is a mixed Constitution. It is composite in character. I believe that it is a blend and a proper blend between idealism on the one side and realism on the other. I know that some of my ardently idealistic friends have criticised it. They would like to have seen instead of this blend something in the nature of a decalogue or the Ten Commandments, something which was so wholly idealistic that it would have wilted and died under the first impact of administrative realities and political difficulties.

As I have said, I believe that we have borrowed enough from idealism to make the Constitution a fairly attractive and an aspiring document and on the other hand we have not based it entirely on material, from mundane considerations so as to retard or in any way to take away from this the inspiring elements. I realize, Sir, that it is not a perfect document, but at the same time I feel that in hammering it out, we have traversed all the processes of the democratic manufactory, that we have ranged through the whole gamut of democratic factors; there has been careful thought; there has been close analysis; there has been argument and counter-argument; there has been fierce controversy and at one time I thought that the controversy was so fierce that we might reach the stage of what the Romans called *Argumentum ad baculum* that is, settling it by actual physical force. But in the final analysis has pervaded a real sense of accommodating and a real feeling of forbearance....

*CAD, Official Report, Vol. X, 25th November 1949, pp. 938-939.

*...May I end on this note—I believe that by and large we have hammered out a good Constitution. It will be fallible and it will be necessarily imperfect as it is the product of imperfect human beings. But I believe we have done a good job of work and I believe that this Constitution deserves not only our good wishes but our blessings. But in sending it out on its mission with these blessings, I feel that the paramount consideration which should be before us permanently is not that we have framed a voluminous and important document—not that we have sought to give careful and elaborate guarantees to minorities, but that ultimately the final test by which this Constitution will be judged and by which it will stand or fall, the final test will be the intention and the spirit with which the provisions of this Constitution are worked.

†**Dr. Pattabhi Sitaramayya :** ...Finally let me ask you :— "What after all is a constitution ?" It is a grammar of politics, if you like, it is a compass to the political mariner. However good it may be, by itself it is inanimate, it is insensitive, and it cannot work by itself. It is of use to us only in the measure in which we are able to use it, because it has tremendous reserve force, and everything depends upon the manner in which we approach it, whether we observe the letter and ignore the spirit or whether we observe both the letter and the spirit in equal measure. The words of the lexicon are the same, but they give rise to different styles of composition with different authors. The tunes and the notes are the same, but they give rise to different music with different singers. The colours and the brushes are the same, but they are rendered into different pictures by different painters. So it is with a constitution. It depends upon how we work....

‡...When all is said and done, we must realize how much we owe to the half a dozen men that have fashioned this Constitution and given it a shape and form. Our friend, Dr. Ambedkar, has gone away, else I should have liked to tell him what a steam-roller intellect he brought to bear upon this magnificent and tremendous task : irresistible, indomitable, unconquerable, levelling, down tall palms and short poppies : whatever he felt to be right he stood by, regardless of consequences.

Then there was Sir Alladi, with his oceanic depths of learning, and a whole knowledge of the Constitutional Law of the world on his finger tips. He has made great contribution towards the drawing up of this

*CAD, Official Report, Vol. X, 25th November 1949, p. 942-943.

†*Ibid.,* p. 945.

‡*Ibid,* pp. 946-947.

Constitution. He only has to perfect it all by writing a commentary upon it. That was the latest request of Mr. Santhanam to him and I hope he will fulfil it.

Then we have Mr. Gopalaswami Ayyangar : coy as a maiden and unobtrusive, but rising to the full heights of the necessities of the occasion, combining always the real with the ideal, and bringing a soft and kindly judgment on to a severe issue.

Next you have Mr. Munshi, the like of whom we cannot see for his resilency and receptivity; his wide and varied knowledge, his sharp intellect and his ready resourcefulness have been a tremendous aid to us.

Mr. Madhava Rao is not here now. He was a Diwan of Mysore, he had laboured hard in our committee. He had vast experience from that of an Assistant Commissioner, Mysore, when I was still in my medical studies, until he became Diwan. He too has done his good bit in this work.

Then there is a man, who is almost unnoticed, and whose name has not been mentioned by any of my friends, to whom I would like to refer, the sweet and subdued Sa'adulla, who has brought a rich experience to bear upon the deliberations of this House.

Finally, comes the slim, tall man, who sits opposite to me, with his ready and rapier thrusts of repartee and rejoinder, whose sharp-pointed intellect always punctures or lacerates the opposition. But he is always able to cover up the injury with his plastic surgery and recuperative powers : and that is Mr. T. T. Krishnammachari.

We have all had the help of these people, but, Sir, the work of all these friends would have been of no use but for the sweetness, the gentleness, with which you turned towards a person when you wanted him to stop in his further speaking : the patience with which you waited in order to catch his eye,—not he to catch your eye,—and the very gentle manner in which you cast the hint that he should now wind up; and when some of us were rebellious, disorderly and chaotic, you simply smiled in order to choke that attitude.

It is a great thing I tell you that we have achieved. It is not right to under-estimate what we have achieved. Much has been done behind the curtains and but for the discipline and drilling of the majority party in this House, these deliberations would not have come to this happy end.

I thank you all for the great task that you have achieved and I congratulate you on it.

All that remains for me to say is that this Constitution is a good enough constitution for us to begin with. Work it, work upon it : work at it : work it out for all that you are worth and as the great Parliamentarian said in the seventies of the 19th Century when the franchise was developed, in the British House of Commons, say to yourselves. "Let us educate our Masters."

***Shri Jagat Narain Lal :** ...In the end, I wish to pay my high tributes both to the Chair, or President, and to the members of the Drafting Committee, particularly to Dr. Ambedkar, Mr. Munshi and Mr. Krishnamachari amongst many others.

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†Shri T. T. Krishnamachari : Mr. President, Sir, at the outset I would like to express the thanks of the Drafting Committee to the members of this Honourable House, who, whatever their views might be on certain provisons of this Constitution, have, practically, one and all, paid tributes, to the work of the Drafting Committee—and, Sir, not the least of them all to my septuagenarian leader who in such kind terms singled out every member of the Drafting Committee for recognition of his services, which I think we would all cherish to the end of our lives....

...‡But I am coming to the most vital portion of the manner in which the structure of the Constitution was undertaken. Honourable Members must realize that this Constitution as it has been mentioned by other members—before me is a result of compromise. 296 people who have assembled here hold different views on economic matters and we cannot frame a Constitution in which if I say that I am not going to allow a particular thing to be done and other people must follow that, then there will be no agreement. The whole Constitution practically—very important parts of this Constitution have been a matter of final agreement among the parties concerned and if anybody now objects to a single proposition after having agreed to most of the propositions. I am afraid they are doing something which is not proper. This Constitution has been completed as a result of agreement amongst most of us....

@Shri Mahavir Tyagi : Sir, I am grateful to you for giving me this apportunity.

Sir, I assure you these four or five minutes granted by you are the most precious of my life, past, present and future, and they are the most thrilling

*CAD, Official Report, Vol. X, 25th November 1949, p. 948.

†*Ibid.,* p. 949.

‡*Ibid.,* p. 960.

@*Ibid.,* p. 963.

moments. I stand today face to face with the picture of my old, old dreams and the fruits of my strenuous labours of thirty years. A concrete picture is before us. Dr. Ambedkar who was the main artist has laid aside his brush and unveiled the picture for the public to see and comment upon. The House has already liberally commented on it. It is a picture drawn by us all and I do not want to enter into a further commentary about it. I am in support of whatever has been said in favour of this picture, and I fully support it. After all, in all sincerity and humility we must bequeath to our posterity whatever is best in us, we have put in our best labour and given our best thought to it, and after a lot of discussions and deliberations we have arrived at this picture. We must now wholeheartedly bequeath it to posterity in the hope that they will forgive our shortcomings if any, and will make up these shortcomings with their wisdom. From the corner of my eye as I see it, and as also the world will see, the picture is also fraught with dangers....

***Shri Suresh Chandra Majumdar :** ...In conclusion, may I offer my respectful congratulations to Dr. Ambedkar and to my elders and colleagues in this House on the successful performance of a great, arduous and historic task ?. And I am sure I am echoing the sentiment of everyone here when I thank you, Mr. President, for the calm, patient, courteous and altogether exemplary manner in which you have guided the deliberations in this House. Jai Hind ! Vande Mataram !!

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†Shri Raj Bahadur (Rajasthan) **:** Mr. President, Sir, I am grateful to you for giving me this opportunity to associate myself with the high and well-deserved tributes that have been showered upon your good self, upon the Drafting Committee and the members of the staff of the Constituent Assembly. This is an occasion of the greatest historical significance. I say of the greatest significance because it is for the first time in our history that the chosen representatives of the nation have gathered together and framed a constitution for the country. It is doubly so because the great and worthy leaders who brought freedom to our country have been the architects of our Constitution....

...‡ I would simply add at the end that whatever be the merits or the demertis of this Constitution, every thing depends upon the working of it. As Bryce has said, "it is easy to transplant a constitution but

*CAD, Official Report, Vol. X, 25th November 1949, p. 966.

†*Ibid.,* p. 969.

‡*Ibid.,* p. 970.

it is not easy to transplant the temperament that is needed for the working of it."

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***The Honourable Dr. B. R. Ambedkar :** Sir, looking back on the work of the Constituent Assembly it will now be two years, eleven months and seventeen days since it first met on the 9th of December 1946. During this period the Constituent Assembly has altogether held eleven sessions. Out of these eleven sessions the first six were spent in passing the Objectives Resolution and the consideration of the Reports of Committees on Fundamental Rights, on Union Constitution, on Union Powers, on Provincial Constitution, on Minorities and on the Scheduled Areas and Scheduled Tribes. The seventh, eighth, ninth, tenth and the eleventh sessions were devoted to the consideration of the Draft Constitution. These eleven sessions of the Constitutent Assembly have consumed 165 days. Out of these, the Assembly spent 114 days for the consideration of the Draft Constitution.

Coming to the Drafting Committee, it was elected by the Constituent Assembly on 29th August 1947. It held its first meeting on 30th August. Since August 30th it sat for 141 days during which it was engaged in the preparation of the Draft Constitution. The Draft Constitution, as prepared by the Constitutional Adviser as a text for the Drafting Committee to work upon, consisted of 243 articles and 13 Schedules. The first Draft Constitution as presented by the Drafting Committee to the Constituent Assembly contained 315 articles and 8 Schedules. At the end of the consideration stage, the number of articles in the Draft Constitution increased to 386. In its final form, the Draft Constitution contains 395 articles and 8 Schedules. The total number of amendments to the Draft Constitution tabled was approximately 7,635. Of them, the total number of amendments actually moved in the house were 2,473.

I mention these facts because at one stage it was being said that the Assembly had taken too long a time to finish its work, that it was going on leisurely and wasting public money. It was said to be a case of Nero fiddling while Rome was burning. Is there any justification for this complaint ? Let us note the time consumed by Constituent Assemblies in other countries appointed for framing their Constitutions. To take a few illustrations, the American Convention met on May 25th, 1787 and completed its work on September 17, 1787 *i.e.,* within four months. The

*CAD, Official Report, Vol. X, 25th November 1949, pp. 972-981.

Constitutional Convention of Canada met on the 10th October 1864 and the Constitution was passed into law in March 1867 involving a period of two years and five months. The Australian Constitutional Convention assembled in March 1891 and the Constitution became law on the 9th July 1900, consuming a period of nine years. The South African Convention met in October 1908 and the Constitution became law on the 20th September 1909 involving one year's labour. It is true that we have taken more time than what the American or South African Conventions did. But we have not taken more time than the Canadian Convention and much less than the Australian Convention. In making comparisons on the basis of time consumed, two things must be remembered. One is that the Constitutions of America, Canada, South Africa and Australia are much smaller than ours. Our Constitution, as I said, contains 395 articles while the American has just seven articles, the first four of which are divided into sections which total up to 21, the Canadian has 147, Australian 128 and South African 153 sections. The second thing to be remembered is that the makers of the Constitutions of America, Canada, Australia and South Africa did not have to face the problem of amendments. They were passed as moved. On the other hand, this Constituent Assembly had to deal with as many as 2,473 amendments. Having regard to these facts the charge of dilatoriness seems to me quite unfounded and this Assembly may well congratualate itself for having accomplished so formidable a task in so short a time.

Turning to the quality of the work done by the Drafting Committee, Mr. Naziruddin Ahmed felt it his duty to condemn it outright. In his opinion, the work done by the Drafting Committee is not only not worthy of commendation, but is positively below par. Everybody has a right to have his opinion about the work done by the Drafting Committee and Mr. Naziruddin is welcome to have his own. Mr. Naziruddin Ahmed thinks he is a man of greater talents than any member of the Drafting Committee. The Drafting Committee does not wish to challenge his claim. On the other hand, the Drafting Committee would have welcomed him in their midst if the Assembly had thought him worthy of being appointed to it. If he had no place in the making of the Constitution it is certainly not the fault of the Drafting Committee.

Mr. Naziruddin Ahmad has coined a new name for the Drafting Committee evidently to show his contempt for it. He calls it a Drifting Committee. Mr. Naziruddin must no doubt be pleased with his hit. But he evidently does not know that there is a difference between drift without

mastery and drift with mastery. If the Drafting Committee was drifting, it was never without mastery over the situation. It was not merely angling with the off chance of catching a fish. It was searching in known waters to find the fish it was after. To be in search of something better is not the same as drifting. Although Mr. Naziruddin Ahmad did not mean it as a compliment to the Drafting Committee, I take it as a compliment to the Drafting Committee. The Drafting Committee would have been guilty of gross dereliction of duty and of a false sense of dignity if it had not shown the honesty and the courage to withdraw the amendments which it thought faulty and substitute what it thought was better. If it is a mistake, I am glad the Drafting Committee did not fight shy of admitting such mistakes and coming forward to correct them.

I am glad to find that with the exception of a solitary member, there is a general consensus of appreciation from the members of the Constituted Assembly of the work done by the Drafting Committee. I am sure the Drafting Committee feels happy to find this spontaneous recognition of its labours expressed in such generous terms. As to the compliments that have been showered upon me both by the members of the Assembly as well as by my colleagues of the Drafting Committee I feel so overwhelmed that I cannot find adequate words to express fully my gratitude to them. I came into the Constituent Assembly with no greater aspiration than to safeguard the interests of the Scheduled Castes. I had not the remotest idea that I would be called upon to undertake more responsible functions. I was therefore greatly surprised when the Assembly elected me to the Drafting Committee. I was more than surprised when the Drafting Committee elected me to be its Chairman. There were in the Drafting Committee men bigger, better and more competent than myself such as my friend Sir Alladi Krishnaswami Ayyar. I am grateful to the Constituent Assembly and the Drafting Committee for reposing in me so much trust and confidence and to have chosen me as their instrument and given me this opportunity of serving the country. *(Cheers.)*

The credit that is given to me does not really belong to me. It belongs partly to Sir B. N. Rau, the Constitutional Adviser to the Constituent Assembly who prepared a rough draft of the Constitution for the consideration of the Drafting Committee. A part of the credit must go to the members of the Drafting Committee who, as I have said, have sat for 141 days and without whose ingenuity to devise new formulae and capacity to tolerate and to accommodate different points of view,

the task of framing the Constitution could not have come to so successful a conclusion. Much greater share of the credit must go to Mr. S. N. Mukherjee, the Chief Draftsman of the Constitution. His ability to put the most intricate proposals in the simplest and clearest legal form can rarely be equalled, nor his capacity for hard work. He has been an acquisition to the Assembly. Without his help, this Assembly would have taken many more years to finalise the Constitution. I must not omit to mention the members of the staff working under Mr. Mukherjee, for, I know how hard they have worked and how long they have toiled, sometimes even beyond midnight. I want to thank them all for their effort and their co-operation. *(cheers.)*

The task of the Drafting Committee would have been a very difficult one if this Constituent Assembly has been merely a motely crowd, a tasseleted pavement without cement, a black stone here and a white stone there in which each member or each group was a law unto itself. There would have been nothing but chaos. This possibility of chaos was reduced to nil by the existence of the Congress Party inside the Assembly which brought into its proceedings a sense of order and discipline. It is because of the discipline of the Congress Party that the Drafting Committee was able to pilot the Constitution in the Assembly with the sure knowledge as to the fate of each article and each amendment. The Congress Party is, therefore, entitled to all the credit for the smooth sailing of the Draft Constitution in the Assembly.

The proceedings of this Constituent Assembly would have been very dull if all members had yielded to the rule of party discipline. Party discipline, in all its rigidity, would have converted this Assembly into a gathering of 'yes' men. Fortunately, there were rebels. They were Mr. Kamath, Dr. P. S. Deshmukh, Mr. Sidhva, Prof. Sexena and Pandit Thakur Das Bhargava. Along with them I must mention Prof. K. T. Shah and Pandit Hirday Nath Kunzru. The points they raised were mostly ideological. That I was not prepared to accept their suggestions, does not diminish the value of their suggestions nor lessen the service they have rendered to the Assembly in enlivening its proceedings. I am grateful to them. But for them, I would not have had the opportunity which I got for expounding the principles underlying the Constitution which was more important than the mere mechanical work of passing the Constitution.

Finally, I must thank you Mr. President for the way in which you have conducted the proceedings of this Assembly. The courtesy and the

consideration which you have shown to the Members of the Assembly can never be forgotten by those who have taken part in the proceedings of this Assembly. There were occasions when the amendments of the Drafting Committee were sought to be barred on grounds purely technical in their nature. Those were very anxious moments for me. I am, therefore, specially grateful to you for not permitting legalism to defeat the work of Constitution-making.

As much defence as could be offered to the Constitution has been offered by my friends Sir Alladi Krishnaswami Ayyar and Mr. T. T. Krishnamachari. I shall not therefore enter into the merits of the Constitution. Because I feel, however good a Constitution may be, it is sure to turn out bad because those who are called to work it, happen to be a bad lot. However bad a Constitution may be, it may turn out to be good if those who are called to work it, happen to be a good lot. The working of a Constitution does not depend wholly upon the nature of the Constitution. The Constitution can provide only the organs of State such as the Legislature, the Executive and the Judiciary. The factors on which the working of those organs of the State depend are the people and the political parties they will set up as their instruments to carry out their wishes and their politics. Who can say how the people of India and their parties will behave ? Will they uphold constitutional methods of achieving their purposes or will they prefer revolutionary methods of achieving them ? If they adopt the revolutionary methods, however good the Constitution may be, it requires no prophet to say that it will fail. It is, therefore, futile to pass any judgment upon the Constitution without reference to the part which the people and their parties are likely to play.

The condemnation of the Constitution largely comes from two quarters, the Communist Party and the Socialist Party. Why do they condemn the Constitution ? Is it because it is really a bad Constitution ? I venture to say 'no.' The Communist Party wants a Constitution based upon the principle of the Dictatorship of the Proletariat. They condemn the Constitution because it is based upon parliamentary democracy. The Socialists want two things. The first thing they want is that if they come in power, the Constitution must give them the freedom to nationalize or socialize all private property without payment of compensation. The second thing that the Socialists want is that the Fundamental Rights mentioned in the Constitution must be absolute and without any limitations so that if their Party fails to come into power, they would have the unfettered freedom not merely to criticize, but also to overthrow the State.

These are the main grounds on which the Constitution is being condemned. I do not say that the principle of parliamentary democracy is the only ideal form of political democracy. I do not say that the principle of no acquisition of private property without compensation is so sacrosanct that there can be no departure from it. I do not say that Fundamental Rights can never be absolute and the limitations set upon them can never be lifted. What I do say is that the principles embodied in the Constitution are the views of the present generation or if you think this to be an overstatement, I say they are the views of the members of the Constituent Assembly. Why blame the Drafting Committee for embodying them in the Constitution ? I say why blame even the Members of the Constituent Assembly ? Jefferson, the great American statesman who played so great a part in the making of the American Constitution, has expressed some very weighty views which makers of Constitution, can never afford to ignore. In one place, he has said :—

> "We may consider each generation as a distinct nation, with a right, by the will of the majority, to bind themselves, but none to bind the succeeding generation, more than the inhabitants of another country."

In another place, he has said :

> "The idea that institutions established for the use of the nation cannot be touched or modified, even to make them answer their end, because of rights gratuitously supposed in those employed to manage them in the trust for the public, may perhaps be a salutary provision against the abuses of a monarch, but is most absurd against the nation itself, Yet our lawyers and priests generally inculcate this doctrine, and suppose that preceding generations held the earth more freely than we do; had a right to impose laws on us, unalterable by ourselves, and that we, in the like manner, can make laws and impose burdens on future generations, which they will have no right to alter ; in fine, that the earth belongs to the dead and not the living;"

I admit that what Jefferson has said is not merely true, but is absolutely true. There can be no question about it. Had the Constitutent Assembly departed from this principle laid down by Jefferson it would certainly be liable to blame, even to condemnation. But I ask, has it ? Quite the contrary. One has only to examine the provision relating to the amendment of the Constitution. The Assembly has not only refrained from putting a seal of finality and infallibility upon this Constitution by denying to the people the right to amend the Constitution as in Canada or by making the amendment of the Constitution subject to the fulfilment of extraordinary terms and conditions as in America or Australia, but has provided a most facile procedure for amending the Constitution. I challenge any of the critics of the Constitution to prove that any Constituent

Assembly anywhere in the world has, in the circumstances in which this country finds itself, provided such a facile procedure for the amendment of the Constitution. If those who are dissatisfied with the Constitution have only to obtain a 2/3 majority and if they cannot obtain even a two-third majority in the parliament elected on adult franchise in their favour, their dissatisfaction with the Constitution cannot be deemed to be shared by the general public.

There is only one point of constitutional import to which I propose to make a reference. A serious complaint is made on the ground that there is too much of centralization and that the States have been reduced to Municipalities. It is clear that this view is not only an exaggeration, but is also founded on a misunderstanding of what exactly the Constitution contrives to do. As to the relation between the Centre and the States, it is necessary to bear in mind the fundamental principle on which it rests. The basic principle of Federalism is that the Legislative and Executive authority is partitioned between the Centre and the States not by any law to be made by the Centre but by the Constitution itself. This is what Constitution does. The States under our Constitution are in no way dependent upon the Centre for their legislative or executive authority. The Centre and the States are co-equal in this matter. It is difficult to see how such a Constitution can be called centralism. It may be that the Constitution assigns to the Centre too large a field for the operation of its legislative and executive authority than is to be found in any other federal Constitution. It may be that the residuary powers are given to the Centre and not to the States. But these features do not form the essence of federalism. The chief mark of federalism as I said lies in the partition of the legislative and executive authority between the Centre and the Units by the Constitution. This is the principle embodied in our Constitution. There can be no mistake about it. It is, therefore, wrong to say that the States have been placed under the Centre. Centre cannot by its own will alter the boundary of that partition. Nor can the Judiciary. For as has been well said :

> "Courts may modify, they cannot replace. They can revise earlier interpretations as new arguments, new points of view are presented, they can shift the dividing line in marginal cases, but there are barriers they cannot pass, definite assignments of power they cannot reallocate. They can give a broadening construction of existing powers, but they cannot assign to one authrority powers explicitly granted to another."

The first charge of centralisation defeating federalism must therefore fall.

The second charge is that the Centre has been given the power to override the States. This charge must be admitted. But before condemning the Constitution for containing such overriding powers, certain considerations must be borne in mind. The first is that these overriding powers do not form the normal feature of the Constitution. Their use and operation are expressly confined to emergencies only. The second consideration is : Could we avoid giving overriding powers to the Centre when an emergency has arisen ? Those who do not admit the justification for such overriding powers to the Centre even in an emergency, do not seem to have a clear idea of the problem which lies at the root of the matter. The problem is so clearly set out by a writer in that wellknown magazine "The Round Table" in its issue of December 1935 that I offer no apology for quoting the following extract from it. Says the writer :

> "Political systems are a complex of rights and duties resting ultimately on the question, to whom, or to what authority, does the citizen owe allegiance. In normal affairs the question is not present, for the law works smoothly, and a man goes about his business obeying one authority in this set of matters and another authority in that. But in a moment of crisis, a conflict of claims may arise, and it is then apparent that ultimate allegiance cannot be divided. The issue of allegiance cannot be determined in the last resort by a juristic interpretation of statutes. The law must conform to the facts or so much the worse for the law. When all formalism is stripped away, the bare question is, what authority commands the residual loyalty of the citizen, Is it the Centre or the Constituent State ?"

The solution of this problem depends upon one's answer to this question which is the crux of the problem. There can be no doubt that in the opinion of the vast majority of the people, the residual loyalty of the citizen in an emergency must be to the Centre and not to the Constituent States. For it is only the Centre which can work for a common end and for the general interests of the country as a whole. Herein lies the justification for giving to the Centre certain overriding powers to be used in an emergency. And after all what is the obligation imposed upon the constituent States by these emergency powers ? No more than this—that in an emergency, they should take into consideration alongside their own local interests, the opinions and interests of the nation as a whole. Only those who have not understood the problem, can complain against it.

Here I could have ended. But my mind is so full of the future of our country that I feel I ought to take this occasion to give expression to some of my reflections thereon. On 26th January 1950, India will be an independent country *(Cheers)*. What would happen to her independence ? Will she maintain her independence or will she lose it again ? This is

the first thought that comes to my mind. It is not that India was never an independent country. The point is that she once lost the independence she had. Will she lose it a second time ? It is this thought which makes me most anxious for the future. What perturbs me greatly is the fact that not only India has once before lost her independence, but she lost it by the infidelity and treachery of some of her own people. In the invasion of Sind by Mahommed-Bin-Kasim, the military commanders of King Dahar accepted bribes from the agents of Mahommed-Bin-Kasim and refused to fight on the side of their King. It was Jaichand who invited Mahommed Ghori to invade India and fight against Prithvi Raj and promised him the help of himself and the Solanki kings. When Shivaji was fighting for the liberation of Hindus, the other Maratha noblemen and the Rajput Kings were fighting the battle on the side of Moghul Emperors. When the British were trying to destroy the Sikh Rulers, Gulab Singh, their principal commander sat silent and did not help to save the Sikh kingdom. In 1857, when a large part of India had declared a war of independence against the British, the Sikhs stood and watched the event as silent spectators.

Will history repeat itself ? It is this thought which fills me with anxiety. This anxiety is deepened by the realization of the fact that in addition to our old enemies in the form of castes and creeds we are going to have many political parties with diverse and opposing political creeds. Will Indians place the country above their creed or will they place creed above country ? I do not know. But this much is certain that if the parties place creed above country, our independence will be put in jeopardy a second time and probably be lost for ever. This eventuality we must all resolutely guard against. We must be determined to defend our independence with the last drop of our blood. *(Cheers.)*

On the 26th of January 1950, India would be a democratic country in the sense that India from that day would have a government of the people, by the people and for the people. The same thought comes to my mind. What would happen to her democratic Constitution ? Will she be able to maintain it or will she lose it again. This is the second thought that comes to my mind and makes me as anxious as the first.

It is not that India did not know what is Democracy. There was a time when India was studded with republics, and even where there were monarchies, they were either elected or limited. They were never absolute. It is not that India did not know Parliaments or Parliamentary Procedure. A study of the Buddhist Bhikshu Sanghas discloses that not only there

were Parliaments—for the Sanghas were nothing but Parliaments—but the Sanghas knew and observed all the rules of Parliamentary Procedure known to modern times. They had rules regarding seating arrangements, rules regarding Motions, Resolutions, Quorum, Whip, Counting of Votes, Voting by Ballot, Censure Motion, Regularization, *Res Judicata,* etc. Although these rules of Parliamentary Procedure were applied by the Buddha to the meetings of the Sanghas, he must have borrowed them from the rules of the Political Assemblies functioning in the country in his time.

This democratic system India lost. Will she lose it a second time ? I do not know, but it is quite possible in a country like India—where democracy from its long disuse must be regarded as something quite new—there is danger of democracy giving place to dictatorship. It is quite possible for this new born democracy to retain its form but give place to dictatorship in fact. If there is a landslide, the danger of the second possibility becoming actuality is much greater.

If we wish to maintain democracy not merely in form, but also in fact, what must we do ? The first thing in my judgment we must do is to hold fast to constitutional methods of achieving our social and economic objectives. It means we must abandon the bloody methods of revolution. It means that we must abandon the method of civil disobedience, non-cooperation and satyagraha. When there was no way left for constitutional methods for achieving economic and social objectives, there was a great deal of justification for unconstitutional methods. But where constitutional methods are open, there can be no justification for these unconstitutional methods. These methods are nothing but the Grammar of Anarchy and the sooner they are abandoned, the better for us.

The second thing we must do is to observe the caution which John Stuart Mill has given to all who are interested in the maintenance of democracy, namely, not "to lay their liberties at the feet of even a great man, or to trust him with powers which enable him to subvert their institutions." There is nothing wrong in being grateful to great men who have rendered life-long services to the country. But there are limits to gratefulness. As has been well said by the Irish Patriot Daniel O'Connel, 'no man can be grateful at the cost of his honour, no woman can be grateful at the cost of her chastity and no nation can be grateful at the cost of its liberty.' This caution is far more necessary in the case of India than in the case of any other country, for in India, Bhakti or what may be called the path of devotion or hero-worship, plays a part in its politics

unequalled in magnitude by the part it plays in the politics of any other country in the world. Bhakti in religion may be a road to the salvation of the soul. But in politics, Bhakti or hero-worship is a sure road to degradation and to eventual dictatorship.

The third thing we must do is not to be content with mere political democracy. We must make our political democracy a social democracy as well. Political democracy cannot last unless there lies at the base of it social democracy. What does social democracy mean ? It means a way of life which recognizes liberty, equality and fraternity as the principles of life. These principles of liberty, equality and fraternity are not to be treated as separate items in a trinity. They form a union of trinity in the sense that to divorce one from the other is to defeat the very purpose of democracy. Liberty cannot be divorced from equality, equality cannot be divorced from liberty. Nor can liberty and equality be divorced from fraternity. Without equality, liberty would produce the supremacy of the few over the many. Equality without liberty would kill individual initiative. Without fraternity, liberty and equality could not become a natural course of things. It would require a constable to enforce them. We must begin by acknowledging the fact that there is complete absence of two things in Indian Society. One of these is equality. On the social plane, we have in India a society based on the principle of graded inequality which means elevation for some and degradation for others. On the economic plane, we have a society in which there are some who have immense wealth as against many who live in abject poverty. On the 26th of January 1950, we are going to enter into a life of contradictions. In politics we will have equality and in social and economic life we will have inequality. In Politics we will be recognizing the principle of one man one vote and one vote one value. In our social and economic life, we shall, by reason of our social and economic structure, continue to deny the principle of one man one value. How long shall we continue to live this life of contradictions ? How long shall we continue to deny equality in our social and economic life ? If we continue to deny it for long, we will do so only by putting our political democracy in peril. We must remove this contradiction at the earliest possible moment or else those who suffer from inequality will blow up the structure of political democracy which this Assembly has so laboriously built up.

The second thing we are wanting in is recognition of the principle of fraternity. What does fraternity mean ? Fraternity means a sense of common brotherhood of all Indians—if Indians being one people. It is the

principle which gives unity and solidarity to social life. It is a difficult thing to achieve. How difficult it is, can be realized from the story related by James Bryce in his volume on American Commnowealth about the United States of America.

The story is—I propose to recount it in the words of Bryce himself—that—

> "Some years ago the American Protestant Episcopal Church was occupied at its triennial convention in revising its liturgy. It was thought desirable to introduce among the short sentence prayers a prayer for the whole people, and an eminent New England divine proposed the words 'O Lord, bless our nation'. Accepted one afternoon on the spur of the moment, the sentence was brought up next day for reconsideration, when so many objections were raised by the laity to the word 'nation' as importing too definite a recognition of national unity, that it was dropped, and instead there were adopted the words 'O Lord, bless these United States'."

There was so little solidarity in the U.S.A. at the time when this incident occurred that the people of America did not think that they were a nation. If the people of the United States could not feel that they were a nation, how difficult it is for Indians to think that they are a nation. I remember the days when politically-minded Indians resented the expression "the people of India". They preferred the expression "the Indian nation." I am of opinion that in believing that we are a nation, we are cherishing a great delusion. How can people divided into several thousands of castes be a nation ? The sooner we realize that we are not as yet a nation in the social and psychological sense of the word, the better for us. For then only we shall realize the necessity of becoming a nation and seriously think of ways and means of realizing the goal. The realization of this goal is going to be very difficult—far more difficult than it has been in the United States. The United States has no caste problem. In India there are castes. The castes are anti-national. In the first place because they bring about separation in social life. They are anti-national also because they generate jealousy and antipathy between caste and caste. But we must overcome all these difficulties if we wish to become a nation in reality. For fraternity can be a fact only when there is a nation. Without fraternity, equality and liberty will be no deeper than coats of paint.

These are my reflections about me tasks that lie ahead of us. They may not be very pleasant to some. But there can be no gainsaying that political power in this country has too long been the monopoly of a few and the many are not only beasts of burden, but also beasts of prey. This monopoly has not merely deprived them of their chance of betterment, it has sapped them of what may be called the significance of life. These down-trodden classes are tired of being governed, they are

impatient to govern themselves. This urge for self-realization in the downtrodden classes must not be allowed to develop into a class struggle or class war. It would lead to a division of the House. That would indeed be a day of disaster. For, as has been well said by Abraham Lincoln, a house divided against itself cannot stand very long. Therefore the sooner room is made for the realization of their aspiration, the better for the few, the better for the country, the better for the maintenance for its independence and the better for the continuance of its democratic structure. This can only be done by the establishment of equality and fraternity in all spheres of life. That is why I have laid so much stress on them.

I do not wish to weary the House any further. Independence is no doubt a matter of joy. But let us not forget that this independence has thrown on us great responsibilities. By independence, we have lost the excuse of blaming the British for anything going wrong. If hereafter things go wrong, we will have nobody to blame except ourselves. There is great danger of things going wrong. Times are fast changing. People including our own are being moved by new ideologies. They are getting tired of government by the people. They are prepared to have Government for the people and are indifferent whether it is Government of the people and by the people. If we wish to preserve the Constitution in which we have sought to enshrine the principle of Government of the people, for the people and by the people, let us resolve not to be tardy in the recognition of the evils that lie across our path and which induce people to prefer Government for the people to Government by the people, nor to be weak in our initiative to remove them. That is the only way to serve the country. I know of no better.

Mr. President : The House will adjourn till Ten of the clock tomorrow morning when we shall take up the voting on the motion which was moved by Dr. Ambedkar.

The Assembly then adjourned till ten of the Clock on Saturday, the 26th November, 1949.

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(ADOPTION OF THE CONSTITUTION)

***President (Dr. Rajendra Prasad) :** ...Before I close, I must express my thanks to all the Members of this August Assembly from whom I have received not only courtesy but, if I may say so, also their respect and affection. Sitting in the chair and watching the proceeding from day to day, I have realised as nobody else could have, with rare what zeal and devotion the members of the Drafting committee and especially its Chairman, Dr. Ambedkar, in spite of his indifferent health, have worked. *(Cheers).* We could never make a decision which was or could be ever so right as when we put him on the Drafting Committee and made him its Chairman. He has not only justified his selection but has added lustre to the work which he has done. In this connection, it would be invidious to make any distinction as among the other members of the Committee. I know they have all worked with the same zeal and devotion as its Chairman, and they deserve the thanks of the country....

All deserve my thanks as I have received courtesy, co-operation and legal service from all. *(Prolonged cheers).*

It now remains to put the motion which was moved by Dr. Ambedkar, to the vote of the House. The question is :

"That the Constitution as settled by the Assembly be passed."

The motion was adopted. (*Prolonged Cheers*).

[President then authenticated the Constitution. The House gave authority to the President to call another session in January 1950 by a voice vote. The honourable Members then shook hands with Mr. President one by one.]

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(The Constituent Assembly had also legislative functions. These legislative functions encompassed usual parliamentary business, including amendments to various laws. Dr. Ambedkar's speeches relating to those legislations including the Hindu Code Bill, as distinguished from the framing of India's Constitution, are included in the next volume—Vasant Moon)

*CAD, Official Report, Vol. XI, 26th November 1949, p. 994.

Tabular statement showing articles of the Constitution of India, with corresponding clauses in the Draft Constitution and dates on which they were discussed and approved.—

ARTICLES OF THE CONSTITUTION OF INDIA

Article in Constitution of India	Corresponding clause in the Draft Constitution	Dates on which discussed and approved
1	2	3
1 ...	1 ...	15th November, 1948, 17 November, 1948. 17th September, 1949, 18th September, 1949.
2 ...	2 ...	17th November, 1948.
3 ...	3 ...	17th and 18th November, 1948. 13th October, 1949.
4 ...	4 ...	18th November, 1948.
5 ...	5 ...	10th August, 1949, 11th August, 1949 and 17th August, 1949.
6 ...	5A ...	10th, 11th and 12th August, 1949.
7 ...	5AA ...	10th, 11th and 12th August, 1949.
8 ...	5B ...	10th, 11th and 12th August, 1949.
9 (New) ...	... ...	29th November, 1949.
10 ...	5C ...	10th, 11th and 12th August, 1949.
11 ...	6 ...	10th, 11th and 12th August, 1949.
12 ...	7 ...	25th November, 1948.
13 ...	8 ...	25th, 26th and 29th November, 1948.
14 (New) ...	... ...	29th November, 1948.
15 ...	9 ...	29th November, 1948.
16 ...	10 ...	30th November, 1948.
17 ...	11 ...	29th November, 1948.
18 ...	12 ...	30th November, 1948 and 10th December, 1948.
19 ...	13 ...	1st and 2nd December, 1948. 16th October, 1949 and 17th October, 1949.
20 ...	14 ...	2nd, 3rd and 6th December, 1948.
21 ...	15 ...	6th and 13th December, 1948.
22 ...	15A ...	16th September, 1949.
23 ...	17 ...	3rd December, 1948.
24 ...	18 ...	3rd December, 1948.
25 ...	19 ...	3rd and 6th December, 1948.
26 ...	20 ...	7th December, 1948.
27 ...	21 ...	7th December, 1948.
28 ...	22 ...	7th December, 1948.
29 ...	23 ...	7th and 8th December, 1948.
30 ...	23A ...	7th and 8th December, 1948
31 ...	24 ...	10th September, 1949 and 12th September. 1949.
32 ...	25 ...	9th December, 1948.
33 ...	26 ...	9th December, 1948.

Article in Constitution of India	Corresponding clause in the Draft Constitution	Dates on which discussed and approved
1	2	3
34 (New) ...	... ...	...
35 ...	27 ...	9th and 16th December, 1948 and 16th October, 1949.
36 ...	28 ...	19th November, 1948.
37 ...	29 ...	19th November, 1948.
38 ...	30 ...	19th November, 1948.
39 ...	31 ...	22nd November, 1948.
40 ...	31A ...	22nd November, 1948.
41 ...	32 ...	23rd November, 1948.
42 ...	33 ...	23rd November, 1948.
43 ...	34 ...	23rd November, 1948.
44 ...	35 ...	23rd November, 1948.
45 ...	36 ...	23rd November, 1948.
46 ...	37 ...	23rd November, 1948.
47 ...	38 ...	23rd November, 1948 and 24th November, 1948.
48 ...	38A ...	24th November, 1948.
49 ...	39 ...	24th November, 1948.
50 ...	39A ...	24th November, 1948 and 25th November, 1948.
51 ...	40 ...	25th, November, 1948.
52 ...	41 ...	10th, December, 1948.
53 ...	42 ...	10th, 16th December, 1948 and 16th October, 1949.
54 ...	43 ...	10th and 13th December, 1948.
55 ...	44 ...	13th December, 1948.
56 ...	45 ...	13th December, 1948.
57 ...	46 ...	13th December. 1948.
58 ...	47 ...	27th December, 1948 and 13th October, 1949.
59 ...	48 ...	27th December, 1948 and 14th October, 1949.
60 ...	49 ...	27th December, 1948.
61 ...	50 ...	28th December, 1948.
62 ...	51 ...	28th December, 1948.
63 ...	52 ...	28th December, 1948.
64 ...	53 ...	28th December, 1948.
65 ...	54 ...	28th December, 1948.
66 ...	55 (1) —(4) ...	28th December, 1948, 29th December, 1948 and 13th October, 1949.
67 ...	56 ...	29th December, 1948.
68 ...	55 (5) —(6) ...	28th December, 1948, 29th December, 1948 and 13th October, 1949.
69 (New) ...	... ...	November, 1949.
70 ...	57 ...	29th December, 1948.
71 ...	58 ...	29th December, 1948.
72 ...	59 ...	29th December, 1948 and 17th October, 1949.
73 ...	60 ...	29th December, 1948 and 30th December, 1948.
74 ...	61 ...	30th December, 1948.

Article in Constitution of India	Corresponding clause in the Draft Constitution	Dates on which discussed and approved
1	2	3
75 ...	62 ...	30th December, 1948, 31st December, 1948, 14th October, 1949 and 17th October 1949.
76 ...	63 ...	7th January, 1949.
77 ...	64 ...	7th January, 1949.
78 ...	65 ...	6th January, 1949 and 7th January, 1949.
79 ...	66 ...	3rd January, 1949.
80 ...	67(1)—(4) ...	3rd and 4th January, 1949 and 13th and 17th October, 1949.
81 ...	67(5)—(8) ...	3rd and 4th January, 1949, 10th, 14th and 17th October, 1949.
82 ...	67A ...	18th May, 1949; 23rd May, 1949 and 13th October, 1949.
83 ...	68 ...	18th May, 1949.
84 ...	68A ...	18th May, 1949.
85 ...	69 ...	18th May, 1949.
86 ...	70 ...	18th May, 1949.
87 ...	71 ...	18th May, 1949.
88 ...	72 ...	18th May, 1949.
89 ...	73 ...	19th May, 1949.
90 ...	74 ...	19th May, 1949.
91 ...	75 ...	19th May, 1949.
92 ...	75A ...	19th May, 1949.
93 ...	76 ...	19th May, 1949.
94 ...	77 ...	19th May, 1949.
95 ...	78 ...	19th May, 1949.
96 ...	78A ...	18th May, 1949 and 19th May, 1949.
97 ...	79 ...	19th May, 1949.
98 ...	79A ...	30th July, 1949.
99 ...	81 ...	19th May, 1949.
100 ...	80 ...	19th May, 1949.
101 ...	82 ...	19th May, 1949.
102 ...	83 ...	19th May, 1949 and 13th October, 1949.
103 ...	83A ...	1st August, 1949.
104 ...	84 ...	19th May, 1949.
105 ...	85 ...	19th May, 1949 and 16th October, 1949.
106 ...	86 ...	20th May, 1949.
107 ...	87 ...	20th May, 1949.
108 ...	88 ...	20th May, 1949.
109 ...	89 ...	20th May, 1949.
110 ...	90 ...	20th May, 1949 and 8th June, 1949.
111 ...	91 ...	20th May, 1949.
112 ...	92 ...	8th June, 1949, 10th June, 1949 and 13th October, 1949.

Article in Constitution of India	Corresponding clause in the Draft Constitution	Dates on which discussed and approved
1	2	3
113 ...	93 ...	10th June, 1949.
114 ...	94 ...	10th June, 1949.
115 ...	95 ...	10th June, 1949.
116 ...	96 ...	10th June, 1949.
117 ...	97 ...	10th June, 1949.
118 ...	98 ...	10th June, 1949.
119 ...	98A ...	10th June, 1949.
120 ...	99 ...	17th September, 1949.
121 ...	100 ...	23rd May, 1949 and 13th October, 1949.
122 ...	101 ...	23rd May, 1949.
123 ...	102 ...	23rd May, 1949.
124 ...	103 ...	23rd May, 1949 and 24th May, 1949.
125 ...	104 ...	27th May, 1949 and 30th July, 1949.
126 ...	105 ...	27th May, 1949.
127 ...	106 ...	27th May, 1949.
128 ...	107 ...	27th May, 1949.
129 ...	108 ...	27th May, 1949.
130 ...	108A ...	27th May, 1949.
131 ...	109 ...	3rd June, 1949 and 14th October, 1949.
132 ...	110 ...	3rd June, 1949.
133 ...	111 ...	3rd June 1949, 6th June, 1949 and 16th October, 1949.
134 ...	111A ...	13th June, 1949 and 14th June, 1949.
135 ...	112B ...	...
136 ...	112 ...	6th June, 1949 and 16th October, 1949.
137 ...	112A ...	6th June, 1949.
138 ...	114 ...	6th June, 1949.
139 ...	115 ...	27th May, 1949.
140 ...	116 ...	27th May, 1949.
141 ...	117 ...	27th May, 1949.
142 ...	118 ...	27th May, 1949.
143 ...	119 ...	27th May, 1949.
144 ...	120 ...	27th May, 1949.
145 ...	121 ...	6th June, 1949.
146 ...	122 ...	27th May, 1949.
147 ...	122A ...	6th June, 1949 and 16th October, 1949.
148 ...	124 ...	30th May, 1949.
149 ...	125 ...	30th May, 1949.
150 ...	126 ...	30th May, 1949.
151 ...	127 ...	30th May, 1949.
152 ...	128 ...	30th May, 1949.
153 ...	129 ...	30th May, 1949.
154 ...	130 ...	30th May, 1949 and 16th October, 1949.
155 ...	131 ...	30th May, 1949 and 31st May, 1949.

Article in Constitution of India	Corresponding clause in the Draft Constitution	Dates on which discussed and approved
1	2	3
156 ...	132 ...	31st May, 1949.
157 ...	134 ...	31st May, 1949.
158 ...	135 ...	31st May, 1949 and 14th October, 1949.
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161 ...	141 ...	1st June, 1949 and 17th October, 1949.
162 ...	142 ...	1st June, 1949.
163 ...	143 ...	1st June, 1949.
164 ...	144 ...	1st June, 1949 and 14th October 1949.
165 ...	145 ...	1st June, 1949.
166 ...	146 ...	2nd June, 1949.
167 ...	147 ...	2nd June, 1949.
168 ...	148 ...	6th January, 1949.
169 ...	148A ...	30th July, 1949.
170 ...	149 ...	6th January, 1949, 7th January, 1949, 8th January, 1949 and 14th October, 1949.
171 ...	150 ...	2nd June, 1949, 30th July, 1949 and 19th August, 1949.
172 ...	151 ...	2nd June, 1949.
173 ...	152 ...	2nd June, 1949.
174 ...	153 ...	2nd June, 1949.
175 ...	154 ...	2nd June, 1949.
176 ...	155 ...	2nd June, 1949.
177 ...	156 ...	2nd June, 1949.
178 ...	157 ...	2nd June, 1949.
179 ...	158 ...	2nd June, 1949.
180 ...	159 ...	2nd June, 1949.
181 ...	159A ...	2nd June, 1949.
182 ...	160 ...	2nd June, 1949.
183 ...	161 ...	2nd June, 1949.
184 ...	162 ...	2nd June, 1949.
185 ...	162A ...	2nd June, 1949.
186 ...	163 ...	3rd June, 1949.
187 ...	163A ...	30th July, 1949.
188 ...	165 ...	2nd June, 1949.
189 ...	164 ...	2nd June, 1949 and 16th June, 1949.
190 ...	166 ...	2nd June, 1949.
191 ...	167 ...	2nd June, 1949.
192 ...	167A ...	14th June, 1949.
193 ...	168 ...	3rd June, 1949.
194 ...	169 ...	3rd June, 1949 and 16th October, 1949.
195 ...	170 ...	3rd June, 1949.
196 ...	171 ...	3rd June, 1949, 4th June, 1949 and 14th June, 1949.

Article in Constitution of India	Corresponding clause in the Draft Constitution	Dates on which discussed and approved
1	2	3
197 ...	172 ...	30th July, 1949 and 1st August, 1949.
198 ...	173 ...	10th June, 1949.
199 ...	174 ...	10th June, 1949.
200 ...	175 ...	14th June, 1949, 31st July, 1949, 1st August, 1949 and 17th October, 1949.
201 ...	176 ...	1st August, 1949.
202 ...	177 ...	10th June, 1949.
203 ...	178 ...	10th June, 1949.
204 ...	179 ...	10th June, 1949.
205 ...	180 ...	10th June, 1949.
206 ...	181 ...	10th June, 1949.
207 ...	182 ...	10th June, 1949.
208 ...	183 ...	10th June, 1949.
209 ...	183A ...	10th June, 1949.
210 ...	184 ...	10th June, 1949 and 17th September, 1949.
211 ...	185 ...	10th June, 1949.
212 ...	186 ...	10th June, 1949.
213 ...	187 ...	14th June, 1949.
214 ...	191 ...	6th June, 1949.
215 ...	192 ...	6th June, 1949.
216 ...	192A ...	6th June, 1949.
217 ...	193 ...	6th June, 1949 and 7th June, 1949.
218 ...	194 ...	7th June, 1949.
219 ...	195 ...	7th June, 1949.
220 ...	196 ...	7th June, 1949.
221 ...	197 ...	7th June, 1949.
222 ...	198 ...	1st August, 1949.
223 ...	199 ...	7th June, 1949.
224 ...	200 ...	7th June, 1949.
225 ...	201 ...	7th June, 1949.
226 ...	202 ...	7th June, 1949 and 9th September, 1949.
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229 ...	205 ...	8th June, 3949.
230 ...	207 ...	14th June, 1949.
231 ...	208 ...	14th June, 1949.
232 ...	209 ...	14th June, 1949.
233 ...	209A ...	19th June, 1949 and 16th September, 1949.
234 ...	209B ...	16th September, 1949.
235 ...	209C ...	16th September, 1949.
236 ...	209D ...	16th September, 1949.
237 ...	209E ...	16th September 1949.

Article in Constitution of India	Corresponding clause in the Draft Constitution	Dates on which discussed and approved
1	2	3
238 ...	211A ...	12th October, 1949 and 13th October, 1949.
239 ...	212 ...	1st August, 1949.
240 ...	213 ...	1st August, 1949 and 2nd August, 1949.
241 ...	213A ...	2nd August, 1949 and 16th October, 1949.
242 ...	214 ...	2nd August, 1949.
243 ...	215 ...	16th September, 1949.
244 ...	215B ...	19th August, 1949.
245 ...	216 ...	13th June, 1949.
246 ...	217 ...	13th June, 1949.
247 ...	219 ...	13th June, 1949.
248 ...	223 ...	13th June, 1949.
249 ...	226 ...	13th June, 1949.
250 ...	227 ...	13th June, 1949.
251 ...	228 ...	13th June, 1949.
252 ...	229 ...	13th June, 1949.
253 ...	230 ...	13th June, 1949 and 14th October, 1949.
254 ...	231 ...	13th June, 1949.
255 ...	232 ...	13th June, 1949.
256 ...	233 ...	13th June, 1949.
257 ...	234 & 234A ...	13th June, 1949 and 9th September, 1949.
258 ...	235 ...	13th June, 1949 and 13th October, 1949.
259 ...	235A ...	13th June, 1949.
260 ...	236 ...	13th June, 1949 and 13th October, 1949.
261 ...	238 ...	13th June, 1949.
262 ...	242A ...	9th September, 1949.
263 ...	246 ...	13th June, 1949.
264 ...	247 ...	13th June, 1949 and 4th August, 1949.
265 ...	248 ...	4th August, 1949.
266 ...	248A ...	4th August, 1949 and 7th September, 1949.
267 ...	248B ...	4th August, 1949 and 13th October, 1949.
268 ...	249 ...	4th August, 1949 and 5th August, 1949.
269 ...	250 ...	5th August, 1949, 19th August, 1949 and 9th September, 1949.
270 ...	251 ...	5th August, 1949.
271 ...	252 ...	5th August, 1949.
272 ...	253 ...	5th August, 1949 and 8th August, 1949.
273 ...	254 ...	8th August, 1949.
274 ...	254A ...	8th August, 1949.
275 ...	255 ...	8th August, 1949 and 9th August, 1949.
276 ...	256 ...	9th August, 1949.
277 ...	257 ...	9th August, 1949.
278 ...	258 ...	13th October, 1949.
279 ...	259 ...	9th August, 1949.

Article in Constitution of India	Corresponding clause in the Draft Constitution	Dates on which discussed and approved
1	2	3
280 ...	260 ...	9th August, 1949 and 10th August, 1949.
281 ...	261 ...	10th August, 1949.
282 ...	262 ...	10th August, 1949.
283 ...	263 ...	10th August, 1949, 9th September, 1949 and 13th October, 1949.
284 ...	263A ...	9th September, 1949.
285 ...	264 ...	9th September, 1949.
286 ...	264A ...	16th October, 1949.
287 ...	265 ...	9th September, 1949.
288 ...	265A ...	9th September, 1949.
289 ...	266 ...	9th September, 1949.
290 ...	267 ...	10th August, 1949.
291 ...	267A ...	13th October, 1949.
292 ...	268 ...	10th August, 1949.
293 ...	269 ...	10th August, 1949.
294 ...	270 ...	15th June, 1949 and 13th October, 1949.
295 ...	270A ...	13th October, 1949.
296 ...	271 ...	15th June, 1949.
297 ...	271A ...	15th June, 1949.
298 ...	272 ...	15th June, 1949.
299 ...	273 ...	15th June, 1949.
300 ...	274 ...	15th June, 1949.
301 ...	274A ...	15th June, 1949, and 8th September, 1949.
302 ...	274B ...	8th September, 1949.
303 ...	274C ...	8th September, 1949.
304 ...	274D ...	8th September, 1949.
305 ...	274DDD ...	8th September, 1949 and 13th October, 1949.
306 ...	274DD ...	8th September, 1949 13th October, 1949 and 16th October, 1949.
307 ...	274E ...	8th September, 1949.
308 ...	281 ...	7th September, 1949.
309 ...	282 ...	7th September, 1949.
310 ...	282A ...	7th September, 1949.
311 ...	282B ...	8th September, 1949.
312 ...	282C ...	8th September, 1949.
313 ...	283 ...	8th September, 1949.
314 ...	283A ...	10th October, 1949.
315 ...	284 ...	22nd August, 1949.
316 ...	285 ...	22nd August, 1949.
317 ...	285A ...	22nd August, 1949.
318 ...	285B ...	22nd August, 1949.
319 ...	285C ...	22nd August, 1949.
320 ...	286 ...	23rd August, 1949.

Article in Constitution of India	Corresponding clause in the Draft Constitution	Dates on which discussed and approved
1	2	3
321 ...	287 ...	23rd August, 1949.
322 ...	288 ...	23rd August, 1949.
323 ...	288A ...	23rd August, 1949.
324 ...	289 ...	15th June, 1949 and 16th June, 1949.
325 ...	289A ...	16th June, 1949.
326 ...	289B ...	16th June, 1949.
327 ...	290 ...	16th June, 1949.
328 ...	291 ...	16th June, 1949.
329 ...	291A ...	16th June, 1949.
330 ...	292 ...	23rd and 24th August, 1949.
331 ...	293 ...	24th August, 1949.
332 ...	294 ...	24th August, 1949.
333 ...	295 ...	24th August, 1949.
334 ...	295A ...	24th August, 1949 and 25th August, 1949.
335 ...	296 ...	14th October, 1949 and 26th August, 1949.
336 ...	297 ...	16th June, 1949.
337 ...	298 ...	16th June, 1949.
338 ...	299 ...	26th August, 1949 and 14th October, 1949.
339 ...	300 ...	16th June, 1949.
340 ...	301 ...	16th June, 1949.
341 ...	300A ...	17th September, 1949.
342 ...	300B ...	17th September, 1949.
343 ...	301A ...	12th September, 1949, 13th September, 1949 and 14th September, 1949.
344 ...	301B ...	12th September, 1949, 13th September, 1949, and 14th September, 1949.
345 ...	301C ...	12th September, 1949, 13th September, 1949 and 14th September, 1949.
346 ...	301D ...	12th September, 1949, 13th September, 1949 and 14th September, 1949.
347 ...	301E ...	12th September, 1949, 13th September, 1949 and 14th September, 1949.
348 ...	301F ...	12th September, 1949, 13th September, 1949 and 14th September, 1949.
349 ...	301G ...	12th September, 1949, 13th September, 1949 and 14th September, 1949.
350 ...	301H ...	12th September, 1949, 13th September, 1949 and 14th September, 1949.
351 ...	301I ...	12th September, 1949, 13th September, 1949 and 14th September, 1949..
352 ...	275 ...	2nd August, 1949.
353 ...	276 ...	3rd August, 1949.
354 ...	277 ...	19th August, 1949 and 20th August, 1949.

Article in Constitution of India	Corresponding clause in the Draft Constitution	Dates on which discussed and approved
1	2	3
355 ...	277A ...	3rd August, 1949 and 4th August, 1949.
356 ...	278 ...	3rd August, 1949 and 4th August, 1949.
357 ...	278A ...	3rd August, 1949 and 4th August, 1949.
358 ...	279 ...	4th August, 1949.
359 ...	280 ...	4th August, 1949 and 20th August, 1949.
360 ...	280A ...	16th October, 1949.
361 ...	302 ...	8th September, 1949.
362 ...	302A ...	13th October, 1949.
363 ...	302AA ...	16th October, 1949.
364 ...	302AAA ...	17th October, 1949.
365 (New) ...	... ...	...
366 ...	303(1) ...	16th September, 1949, 17th September, 1949 and 14th October, 1949.
367 ...	303(2 & 3) ...	16th September, 1949, 17th September, 1949 and 14th October, 1949.
368 ...	304 ...	17th September, 1949.
369 ...	306 ...	7th October, 1949.
370 ...	306A ...	13th October, 1949 and 17th October, 1949.
371 ...	306B ...	13th October, 1949.
372 ...	307 ...	10th October, 1949.
373 (New) ...	... ...	...
374 ...	308 ...	10th October, 1949.
375 ...	309 ...	7th October, 1949.
376 ...	310 ...	10th October, 1949.
377 ...	310A ...	7th October, 1949.
378 ...	310B ...	7th October, 1949.
379 ...	311 ...	10th October, 1949 and 11th October, 1949.
380 ...	311A ...	7th October, 1949.
381 ...	311B ...	7th October, 1949.
382 ...	312 ...	7th October, 1949.
383 ...	312A ...	7th October, 1949.
384 ...	312B ...	7th October, 1949.
385 ...	312C ...	7th October, 1949.
386 ...	312D ...	7th October, 1949.
387 ...	312E ...	7th October, 1949.
388 ...	312F ...	4th October, 1949, 7th October, 1949 and 11th October, 1949.
389 ...	312G ...	7th October, 1949.
390 ...	312H ...	7th October, 1949.
391 (New) ...	... ...	...
392 ...	313 ...	7th October, 1949.
393 ...	313A ...	17th October, 1949.
394 ...	314 ...	17th October, 1949.
395 ...	315 ...	17th October, 1949.

Schedule		Date
1	...	14th October, 1949 and 15th October, 1949.
2	...	11th October, 1949 and 12th October, 1949.
3	...	26th August, 1949 and 16th October, 1949.
4 (Schedule III-A)	...	17th October, 1949.
5	...	5th September, 1949.
5 (Part D)	...	5th September, 1949.
6	...	5th September, 6th September and 7th September, 1949. Para 1, 5th September, 1949, Paras 2—15, 6th September, 1949 and paras 16—20, 7th September, 1949.
7	...	26th August. 1949, 29th August, 1949, 30th August, 1949, 31st August, 1949, 1st September, 1949, 2nd September, 1949, 3rd September, 1949, 9th September, 1949, 13th October, 1949 and 17th October, 1949.
8 (Schedule VII-A)	...	14th September, 1949.

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DR. BABASAHEB AMBEDKAR
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Babasaheb Dr. B.R. Ambedkar

(14th April 1891 - 6th December 1956)

Courtesy : Artist Prof. Pramod Ramteke, Chitrakala Mahavidyalya, Nagpur

Significance of the Hindu Code

No law passed by the Indian Legislature in the past or likely to be passed in the future can be compared to it (Hindu Code) in point of its significance. To leave inequality between class and class, between sex and sex which is the soul of Hindu society, untouched and to go on passing legislation relating to economic problems is to make a farce of our Constitution and to build a palace on a dung heap. This is the significance I attached to the Hindu Code.

—Dr. Ambedkar on 'Hindu Code'

DR. BABASAHEB AMBEDKAR
WRITINGS AND SPEECHES

Vol. 14
PART ONE
(SECTIONS I TO III)

Edited

by

Vasant Moon

Dr. Babasaheb Ambedkar : Writings and Speeches

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Kumari Selja

Minister for Social Justice and Empowerment
& Chairperson, Dr. Ambedkar Foundation

MESSAGE

Babasaheb Dr. B.R. Ambedkar, the Chief Architect of Indian Constitution was a scholar par excellence, a philosopher, a visionary, an emancipator and a true nationalist. He led a number of social movements to secure human rights to the oppressed and depressed sections of the society. He stands as a symbol of struggle for social justice.

The Government of Maharashtra has done a highly commendable work of publication of volumes of unpublished works of Dr. Ambedkar, which have brought out his ideology and philosophy before the Nation and the world.

In pursuance of the recommendations of the Centenary Celebrations Committee of Dr. Ambedkar, constituted under the chairmanship of the then Prime Minister of India, the Dr. Ambedkar Foundation (DAF) was set up for implementation of different schemes, projects and activities for furthering the ideology and message of Dr. Ambedkar among the masses in India as well as abroad.

The DAF took up the work of translation and publication of the Collected Works of Babasaheb Dr. B.R. Ambedkar published by the Government of Maharashtra in English and Marathi into Hindi and other regional languages. I am extremely thankful to the Government of Maharashtra's consent for bringing out the works of Dr. Ambedkar in English also by the Dr. Ambedkar Foundation.

Dr. Ambedkar's writings are as relevant today as were at the time when these were penned. He firmly believed that our political democracy must stand on the base of social democracy which means a way of life which recognizes liberty, equality and fraternity as the principles of life. He emphasized on measuring the progress of a community by the degree of progress which women have achieved. According to him if we want to maintain democracy not merely in form, but also in fact, we must hold fast to constitutional methods of achieving our social and economic objectives. He advocated that in our political, social and economic life, we must have the principle of one man, one vote, one value.

There is a great deal that we can learn from Dr. Ambedkar's ideology and philosophy which would be beneficial to our Nation building endeavor. I am glad that the DAF is taking steps to spread Dr. Ambedkar's ideology and philosophy to an even wider readership.

I would be grateful for any suggestions on publication of works of Babasaheb Dr. Ambedkar.

(Kumari Selja)

Collected Works of Babasaheb Dr. Ambedkar (CWBA)

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PREFACE

Maharashtra has been fortunate in having a long tradition of social reforms. Just as in Europe, Christianity inaugurated the Era of equality by preaching that a prince and a pauper are equal in the eyes of God, saints like Dnyaneshwar, Namdeo, Tukaram, Gora Kumbhar and Chokhamela brought about a great social change by preaching the Gospel of compassion, equality and liberty of worship. Caste barriers were annihilated. The rise of the Maratha power under Shivaji the Great demonstrated that a popular hero could be crowned as a King. Shivaji heralded the dawn of political equality. These saints of Maharashtra preached the Gospel of democracy in religion, breaking down the barriers of classes and castes. The Warkari cult did not recognise caste. Members of the Warkari cult in procession, marched together eating the same food in the spirit of the true brotherhood. They shared the common quest for God. The Bhakti movement of the Warkaris broadened and deepened the freedom of worship.

Article 25 of the Constitution permits such freedom. The reforms introduced by Dr. Ambedkar in Hindu Law have been accepted by and large. He laid the foundation of the common Civil Code for the Hindus and the principle is capable of extension to other sections of the Indian society. However, reforms in religious beliefs and practices are slow and voluntary. It is hoped that the guidance given by Dr. Ambedkar in this respect will be availed of by leaders of different communities and they will initiate a dialogue within the country so as to facilitate reforms in laws. Reforms, religious and social, had stirred the Maharashtrian society. The soil was fertile for further changes within the framework of the Hindu Law. Over the years, the Hindu Law underwent transformation, opening the channels of communication.

Dr. Ambedkar, by codifying the Hindu Law in respect of marriage, divorce and succession, rationalised and restored it to its glory. Dr. Ambedkar has preserved marriage as sacrament and promoted the growth of family values. Consistent with the Constitution, the Hindu Law as modified permits people to practice and profess their religion. But as Dr. Ambedkar categorically stated, "the state has retained all along the right to interfere in the personal law of any community in this country", and therefore, there is a sound basis for liberalisation of personal laws so as to broaden the freedom of the individual and the unity of the country based on such freedom.

(MANOHAR JOSHI)

Bombay :
November 28, 1995.

Chief Minister,
Maharashtra State.

EDITORIAL

Present volume contains speeches of Dr. Ambedkar in the codification of the Hindu Law. The Bill to amend and codify certain branches of the Hindu Law was referred to the Select Committee consisting of eminent jurists and parliamentarians viz. Sir Alladi Krishnaswami Ayyar, Dr. Bakshi Tek Chand, Shri H. V. Kamat, Smt. G. Durgabai and many others. The list of the members of the Select Committee reads like the directory of eminent Indians.

Before the Hindu Succession Act, 1956 and the Hindu Marriage Act 1955 of which the Bill is a precurser, the Hindu Law was uncodified in a large measure, though certain branches of it were the subject of legislative intervention viz. Hindu Women's Right to Property Act, 1937. Scattered to innumerable decisions of the Indian High Courts and also of the Privy Council, it was a source of legislation and therefore, it was necessary to give a definite shape and form to the Hindu Law by consolidation and codification. The principles of codification covered (1) right to property, (2) order of succession to the property, (3) maintenance, marriage, divorce, adoption, minority and guardianship. The two schools of Hindu Law viz. Mitakshara and Dayabhag, created and sustained inequality. The Mitakshara school treated the property of the Hindu as belonging to a co-parcenary in which by reason of birth sons, grand-sons and great-grand sons had interest. The property passed by survivorship under Mitakshara whereas Dayabhag recognised the rule of personal interest and capacity to dispose of the property having interest in it. Further the Bill had the object of making the widow, the daughter and the widow of a pre-deceased son eligible to inherit property.

It is not fair to reproduce the reasons for introduction of the Bill nor it is necessary to refer to the provisions of the law relating to marriage and divorce as the reader will find them competently explained in the speeches of the distinguished members who along with Dr. Ambedkar contributed to the enfranchisement of women in the Indian sub-continent.

Dr. Ambedkar himself had explained lucidly the reasons for consolidation and codification. The chaotic condition of the Hindu Law was reduced to neat propositions in the form of judicial prenouncements and codification was the legislative recognition of the judge made law. 'Law must be stable and yet it must change to answer the felt needs of changing times', to paraphrase the words of Benjamin Nathan Cardoze in his 'Nature of judicial process'. The unanimous approval of the Constituent Assembly to the principles of the Bill is as much a tribute to the forensic skills of Dr. Ambedkar as to the training and temperament of those who were the members of the Constituent Assembly. The principles of the Bill are in harmony with the constitutional philosophy of equality of men and women.

Needless to add that the Bill was a part of social engineering via law. It was by the standard of the time a revolutionary measure. The debates in the Constituent Assembly provoked sharp reactions. However, by providing such sharp reactions, freedom of speech fulfilled its high purpose viz. to invite discussions and to raise disputes. Now that the dispute is over and women have become as assertive as men, if not more, younger generation may find delightful reading and may well imagine what blessings of freedom they enjoy under our noble Constitution.

Though the proposal for consolidation and codification of the Hindu Law passed through opposition, eventually it came to be approved and applauded.

This could be possible as there was sustained attempt to educate public opinion and to ameliorate the condition of

women. A list of the Acts modifying the Hindu Law relating to women would be instructive :—

(1) The Caste Disabilities Removal Act, 1850.

(2) The Hindu Widow Remarriage Act, 1856.

(3) The Indian Succession Act, 1925.

(4) The Native Convert's Marriage Dissolution Act, 1866.

(5) The Transfer of Property Act IV of 1882 as amended by Act XX of 1929.

(6) The Indian Majority Act, 1875.

(7) The Guardian and Wards Act, 1890.

(8) The Transfer of Property (Amendment) Supplementary Act XXI of 1929. This Act amends the Madras Act of 1914 and 1921 and the Hindu Disposition of Property Act, 1916 which related to transfers and bequests in favour of unborn person.

(9) The Hindu Gains of Learning Act, 1930. This Act makes all acquisitions by means of learning the separate property of the acquirer.

(10) The Hindu Women's Rights to Property Act XVIII of 1937.

So also it may be noted that the Indian Evidence Act, 1872, supersedes the rules of the Hindu Law of Evidence. The Indian Penal Code, 1859 supersedes the whole of the Hindu Criminal Law.

The passing of the measure by the Parliament was, therefore, the slow but sure effect of these legislative measures and was part of the social engineering which found its fulfilment in the Indian Constitution.

This volume comprises complete debate on the Hindu Code Bill introduced by Dr. B. R. Ambedkar in the Constituent Assembly on 11th April 1947. The Bill was moved for referring to the Select Committee on 9th April 1948. This was followed by debate which continued for more than 4 years and still remained inconclusive. In the words of Dr. Ambedkar, it was

killed and died unusept and unsung. This was probably the longest discussion on any single Bill in the free India's Parliament. Dr. Ambedkar felt that the Government and the party in power i.e. Congress were not eager to clear the Hindu Code. He, therefore, tendered his resignation on 27th September 1951 to the Prime Minister Pandit Jawaharlal Nehru but continued to participate in the Parliamentary debates till 10th October 1951 on the request of the Prime Minister. In his letter he expressed that he attached greatest importance to the Hindu Code Bill and would be prepared to undergo any strain on his health to get the Bill through. He wanted the Bill to be taken-up on top priority basis on 16th August and be finished by the 1st of September 1951. However, the opponents of the Hindu Code continued obstructive tactics and delayed the passing of the Bill. Dr. Ambedkar ultimately submitted his statement of resignation on 10th October and left the House in anguish.

The whole discussion on the Hindu Code right from its introduction in the Constituent Assembly till 10th October 1951 is divided into 4 sections in this Book. Section I consists of the introduction of the Bill for referring it to the Select Committee. Dr. Ambedkar's speech explaining the salient features and the speeches of Dr. Pattabhi Sitarammaya, Naziruddin Ahmad, Smt. Hansa Mehta, Shri Ram Sahay, Dr. B. V. Keskar, Begum Aizaz Rasul and Shri R. K. Chaudhary are also included. This part covers discussion between 17th November 1947 to 9th April 1948.

Second section of this volume is the draft Hindu Code as prepared by Dr. Ambedkar and the then existing Hindu Code as amended by the Select Committee. This is presented here with a view to have a glimpse of Dr. Ambedkar's original idea about the reform of the basic structure of the Hindu Law.

Third Section comprises general discussion on the Hindu Code. Some members questioned the authority of the Constituent Assembly to pass this radical legislation, some

objected to the reform of divorce and women's right to inherit property and some discarded the Bill totally as interference in the religious matters of the Hindu Society. However, progressive elements in the Assembly supported the move and praised Dr. Ambedkar for his courageous measure.

The fourth section covers the clausewise discussion on the Hindu Code Bill.

Although the volume is part of Dr. Ambedkar's writings, his attempt for reforming the Hindu Society through the introduction of Hindu Code is the most important event of his life. Discussion on the Hindu Code and Dr. Ambedkar's role played through the debates thereon are very useful for the students of Socio-religious study of the Hindu Society. The members of the Committee therefore felt that the whole discussion should be brought out in this volume rather than mere speeches of Dr. Ambedkar alone.

It is hoped that this compilation will be useful to the scholars, laymen and the historians alike to appreciate the freedom now available to different sections of the Hindu society.

This note will be incomplete without placing on record my grateful thanks to:

* Principal Manohar Joshi, the Chief Minister of Maharashtra and Shri Dattatraya Rane, Minister for Higher Education, Maharashtra State, who have shown keen interest in the thought of Dr. Babasaheb Ambedkar and encouraged this project; and

* Shri Navjeevan Lakhanpal, Secretary, Higher and Technical Education, Government of Maharashtra, whose guidance and encouragement has been always of a great help ;

The work of Editing of this volume has been made possible by the ready help, support and co-operation I have received :

* From Shri P. S. Bhogal, Director and Shri E. R. D'Souza, Archivist of the State Archives Department, Bombay, as well

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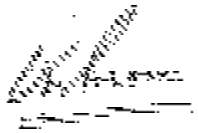

Bombay: (VASANT MOON)

November 28, 1995. Officer on Special Duty.

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SECTION I

HINDU CODE BILL REFERRED TO SELECT COMMITTEE

17th NOVEMBER 1947

TO

9th APRIL 1948

*HINDU CODE

The Honourable Dr. B. R. Ambedkar (Minister for Law): Sir, I move:

"That the Bill to amend and codify certain branches of the Hindu Law be continued."

Mr. Speaker : Motion moved :

"That the Bill to amend and codify certain branches of the Hindu Law be continued."

Mr. Naziruddin Ahmad (West Bengal: Muslim): May I know the present stage of this very important Bill ? I understand there has been a considerable amount of agitation among our Hindu friends over it and it is better we have a picture of the stage at which the Bill is at present.

The Honourable Dr. B. R. Ambedkar : It was only introduced. No further stage was taken.

Shri R. V. Dhulekar (U. P.: General): In the new set up we should have no Hindu Law and Muslim Law. We should have a general Law and therefore....

Mr. Speaker : Honourable Member is speaking on the merits. He will have an opportunity of saying it when the Bill comes before the House. At present the only question is whether the Bill should be continued or not continued.

Shri R. V. Dhulekar : So, Sir, I oppose, it should not be continued.

Mr. Speaker: The question is :

"That the Bill to amend and codify certain branches of the Hindu Law be continued."

The motion was adopted.

---

*HINDU INTERCASTE MARRIAGE REGULATING AND VALIDATING BILL

Shri Mohan Lal Saksena : (U. P. : General): Sir, since the Law Minister has informed me that he proposes to make a motion for reference of the Hindu Code to a Select Committee during the present session, I do not want to move this motion.

Mr. Speaker : Do I understand that the Honourable Member does not want to make a motion now, but he wishes to keep it alive?

Shri Mohan Lal Saksena : Yes, Sir, In case the Law Minister does not bring in his motion, I may have to move mine.

---

* Constituent Assembly of India (Legislative) Debates [Hereinafter called C.A. (Leg.) D.J, Vol. I, 17th November 1947, p. 41.

* C.A. (Leg.) D., Vol. I, 11th February 1948, p. 599.

*HINDU MARRIAGES VALIDITY BILL

Pandit Thakur Das Bhargava (East Punjab : General); Sir, I beg to move for leave to introduce a Bill to provide that marriages between Hindus, Sikhs, Jains and their different castes and sub-castes are valid.

Mr. Speaker : The question is:

"That leave be granted to introduce a Bill to provide that marriages between Hindus, Sikhs, Jains and their different castes and sub-castes are valid."

The motion was adopted.

Pandit Thakur Das Bhargava : Sir, I introduce the Bill.

*HINDU CODE

*** The Honourable Dr. B. R. Ambedkar** (Minister for Law) : I beg to move:

"That the Bill to amend and codify certain branches of the Hindu Law, be referred to a Select Committee consisting of Shri Alladi Krishnaswami Ayyar, Dr. Bakshi Tek Chand, Shri M. Anantthasayanam Ayyangar, Shrimati G. Durgabai, Shri L. Krishnaswami Bharathi, Shri U. Srinivasa Mallayya Shri Mihir Lal Chattopadhvay, Dr. P. S. Deshmukh, Shrimati Renuka Ray, Dr. P. K. Sen, Babu Ramnarayan Singh, Shri Kishorimohan Tripathi, Shrimati Ammu Swaminadhan, Pandit Balkrishna Sharma, Shri Khursheed Lal, Shri Brajeshwar Prasad, Shri B. Shiva Rao, Shri Baldeo Swarup, Shri V. C. Kesava Rao and the Mover, with instructions to report not later than the last day of the first week of the next session of the Assembly and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

Sir, it is a matter of great pity and also of great regret both for myself and I believe also for the members of the House that so important a measure as the codification of Hindu Law should have come for discussion before the House almost at the fag end of the session. We have, according to the arrangement announced by the Honourable speaker this morning, to conclude the debate on this motion by 7 O'clock from now, with an interval of half an hour. I think it my duty that within the limitations in which we are placed I should give more time to Members of the Legislature to express their views on the various points raised by this Bill and I should like to contribute my own mite to the fulfilment of this wish which I have expressed. The only way by which I could do it is to set an example by myself to make my opening speech as brief as

4 P.M.

*C.A. (Leg.) D., Vol. II, 26th February 1948, p. 1288.

*C.A. (Leg.) D., Vol. IV, 9th April 1948, pp. 3628-33.

I can possibly make. I regret it very much to have been required to come to that decision because this Bill is of such a vast character that if one were to expound it fully and thoroughly, and to explain its provisions as against the background of the existing Hindu Law, I have not the slightest doubt that such an effort would take not less than four or five hours. But that is impossible, and the House therefore, will forgive me if I confine myself to placing before it the most salient points which mark a departure from the existing law as we know it today.

Sir, this Bill, the aim of which is to codify the rules of Hindu Law which are scattered in innumerable decisions of the High Courts and of the Privy Council, which form a bewildering motley to the common man and give rise to constant litigation, seeks to codify the law relating to seven different matters. Firstly, it seeks to codify the law relating to the rights of property of a deceased Hindu who has died intestate without making a will, both female and male. Secondly, it prescribes a somewhat altered form of the order of succession among the different heirs to the property of a deceased dying intestate. The next topic it deals with is the law of maintenance, marriage, divorce, adoption, minority and guardianship. The House will see what is the ambit and the periphery of this Bill. To begin with the question of inheritance. Under this head the Bill enacts a new principle, at least for certain parts of British India. As many members who are lawyers in this House will know, so far as inheritance is concerned, the Hindus are governed by two different systems of law. One system is known as *Mitakashara* and the other is known as *Dayabhag*. The two systems have a fundamental difference. According to *Mitakshara*, the property of a Hindu is not his individual property. It is property which belongs to what is called a coparcenary, which consists of father, son, grandson and great grandson. All these people have a birth-right in that property and the property on the death of anyone member of this coparcenary passes by what is called survivorship to the members who remain behind, and does not pass to the heirs of the deceased. The Hindu Code contained in this Bill adopts the *Dayabhag* rule, under which the property is held by the heir as his personal property with an absolute right to dispose it of either by gift or by will or any other manner that he chooses.

That is one fundamental change which this Bill seeks to make. In other words, it universalises the law of inheritance by extending the *Dayabhag* rule to the territory in which the rule of the *Mitakshara* now operates.

Coming to the question of the order of succession among the heirs, there is also fundamental difference of a general character between the rule of the *Mitakshara* and the rule of the *Dayabhag*. Under the *Mitakshara* rule the agnates of a deceased are preferred to his cognates; under the *Dayabhag* rule the basis of heirship is blood relationship to the deceased and not the relationship based on cognatic or agnatic relationship. That is one change that the Bill makes; in other words, here also it adopts the rule of the *Dayabhag* in preference to the rule of the *Mitakshara*.

In addition to this general change in the order of succession to a deceased Hindu, the Bill also seeks to make four changes. One change is that the widow, the daughter, the widow of a pre-deceased son, all are given the same rank as the son in the matter of inheritance. In addition to that, the daughter also is given a share in her father's property; her share is prescribed as half of that of the son. Here again, I should like to point out that the only new change which this Bill seeks to make, so far as the female heirs are concerned is confined to daughter; the other female heirs have already been recognised by the Hindu Women's Right to Property Act of 1937. Therefore, so far as that part of the Bill is concerned, there is really no change in the Bill at all; the Bill merely carries the provisions contained in the Act to which I have made reference.

The second change which the Bill makes so far as the female heirs are concerned is that the number of female heirs recognised now is much larger than under either the *Mitakshara* or the *Dayabhag*.

The third change made by the (Bill is this that under the old law, whether the *Mitakshara* or the *Dayabhag*, a discrimination was made among female heirs, as to whether a particular female was rich or poor in circumstances at the death of the testator, whether she was married or unmarried, or whether she was with issue or without issue. All these consideration which led to discrimination in the female heirs are now abolished by this Bill. A woman who has a right to inherit

gets it by reason of the fact that she is declared to be an heir irrespective of any other considerations.

The last change that is made relates to the rule of inheritance in the *Dayabhag*. Under the *Dayabhag* the father succeeds before in preference to the mother; under the present Bill the position is altered so that the mother comes before the father.

So much for the order of succession of heirs to a deceased male Hindu. I now come to the provisions in the Bill which relates to intestate succession to females. As Members of the House who are familiar with Hindu Law will know, under the existing law the property held by a Hindu female falls into two categories; one is called her *stridhan*, and the other is called "woman's property". Taking first the question of *stridhan*, under the existing law *stridhan* falls into several categories; it is not one single category, and the order of succession to the *stridhan* of a female under the existing law varies according to the category of the *stridhan;* one category of *stridhan* has a different law of succession than another category and these rules are alike both as to *Mitakshara* as they are to the *Dayabhag*. So far as *stridhan* is concerned the present Bill makes two changes. The one change it makes is that it consolidates the different categories of *stridhan* into one single category of property and lays down a uniform rule of succession; there is no variety of heirs to the *stridhan* in accordance with the different categories of the *stridhan*—all *stridhan* is one and there is one rule of succession.

The second change which the Bill seeks to make with regard to the heirs is that the son also is now given a right to inherit the *stridhan* and he is given half the share which the daughter takes. Members will realise that in formulating this Bill and making changes in rules of succession, it is provided that while the daughter is getting half the share in the father's property, the son is also getting half the share in the mother's property so that in a certain sense the Bill seeks to maintain an equality of position between the son and the daughter.

Coming to the question of the "woman's estate", as members of the House will know under the Hindu Law where a woman inherits properly she gets only what is called a 'life estate' She can enjoy the income of the property, but she cannot deal with the corpus of the property except for legal necessity; the property must pass after

the death of the woman to the reversioners of her husband. The Bill, here again, introduces two changes. It converts this limited estate into an absolute estate just as the male when he inherits gets an absolute estate in the property that he inherits and secondly, it abolishes the right of the reversioners to claim the property after the widow.

An important provision which is ancillary to the rights of women to inherit property contained in this Bill is a provision which relates to *Dowry*. All members of the House know what a scandalous affair this *dowry* is; how, for instance, girls who bring enormous lot of property from their parents either by way of *dowry or stridhan* or gift are treated, nonetheless, with utter contempt, tyranny and oppression. The Bill provides in my judgment one of the most salutary provisions, namely, that this properly which is given as *dowry* to a girl on the occasion of her marriage shall be treated as a trust property, the use of which will inure to the woman and she is entitled to claim that property when she comes to the age of 18, so that neither her husband nor the relations of her husband will have any interest in that property; nor will they have any opportunity to waste that property and make her helpless for the rest of her life.

Coming to the provisions relating to maintenance, there is mostly nothing new in this part of the Bill. The Bill prescribes that the dependents of a deceased shall be entitled to claim maintenance from those who inherit his property either under the rules of intestate succession or who inherit the property under his will. There are 11 different kinds of dependants, enumerated in this Bill. I believe, at least speaking for myself, it is an unfortunate thing that even a concubine is included in the category of dependants, but there it is; it is a matter for consideration. The liability to maintenance is cast upon those who take the estate of the deceased. As I said, there is nothing very new in this part of the Bill.

There is another part of the Bill which is important and it relates to the rights of a wife to claim separate maintenance when she lives separate from her husband. Generally, under the provisions of the Hindu law, a wife is not entitled to claim maintenance from her husband if she does not live with him in his house. The Bill, however, recognises that there are undoubtedly circumstances where if the wife has lived away from the husband, it must be for causes beyond her control and

it would be wrong not to recognise the causes and not to give her separate maintenance. Consequently the Bill provides that a wife shall be entitled to claim separate maintenance from her husband if he is (1) suffering from a loathsome disease, (2) if he keeps a concubine, (3) if he is guilty of cruelty, (4) if he has abandoned her for two years, (5) if he has converted to another religion and (6) any other cause justifying her living separately.

The next topic to which I wish to make a reference concerns the question of marriage. The Code recognises two forms of marriages. One is called "sacramental" marriage and the other is called "civil" marriage. As members will know, this is a departure from the existing law. The existing Hindu law recognises only what is called "sacramental" marriage, but it does not recognise what we call a "civil" marriage. When one considers the conditions for a valid sacramental marriage and a valid registered marriage, under the Code there is really very little difference between the two. There are five conditions for a sacramental marriage. Firstly, the bridegroom must be 18 years old, and the bride must be 14 years old. Secondly, neither party must have a spouse living at the time of marriage. Thirdly, parties must not be within prohibited degree of relationship. Fourthly, parties must not be *sapindas* of each other. Fifthly, neither must be an idiot or a lunatic. Except for the fact that similarity of *sapindaship* is not a bar to a registered marriage, so far as other conditions are concerned, there is no difference between the sacramental marriage and the civil marriage. The only other difference is that the registered marriage must be registered in accordance with the provisions in the Bill while a sacramental marriage may be registered if parties desire to do so. Comparing the rules of marriage contained in the Bill and the existing law, it may be noticed that there are three differences which the Bill makes. One is this, that while the existing law requires identity of caste and sub-caste for a valid sacramental marriage, the Bill dispenses with this condition. Marriage under the Bill will be valid irrespective of the caste or sub-caste of the parties entering into the marriage.

Pandit Thakur Das Bhargava (East Punjab : General) If the marriage is between persons belonging to different castes, will it be valid?

The Honourable Dr. B. R. Ambedkar : Let me proceed with my speech. If the Honourable Member puts the question while making his speech, I shall reply to it.

The second provision in this Bill is that identity of *gotrapravara* is not a bar to a marriage while it is under the existing law. The third distinctive feature is this, that under the old law, polygamy was permissible. Under the new law it is monogomy which is prescribed. The sacramental marriage was a marriage which was indissoluble. There could be no divorce. The present Bill makes a new departure by introducing into the law provisions for the dissolution of marriage. Any party which marries under the new code has three remedies to get out of the contract of marriage. One is to have the marriage declared null and void; secondly, to have the marriage declared invalid; and thirdly, to have it dissolved. Now, the grounds for invalidation of marriage are two: One, if one party to the marriage had a spouse living at the time of marriage, then such a marriage will be null and void. Secondly, if the relationship of the parties fell within what is called the ambit of prohibited-degrees, the marriage could be declared null and void. The grounds for invalidation of the marriage are four. First, impotency. Second, parties being *sapinda*. Third, parties being either idiotic or lunatic. Fourth, guardian's consent obtained by force or fraud. In order not to keep the sword of dissolution hanging on the head, the Bill, in my judgment very wisely, has provided a limit to an action for invalidation. It provides that a suit for the invalidation of marriage must be filed within three years from the date of the marriage; otherwise the suit will be barred and the marriage will continue as though there was no ground for invalidity. The Bill also provides that even though the marriage may be invalidated and may be declared invalid by a court of Law, the invalidation of marriage will not affect the legitimacy of the children born and they would continue to be legitimate just the same.

Then coming to the question of divorce, there are seven grounds on which divorce could be obtained. (1) desertion, (2) conversion to another religion, (3) keeping a concubine or becoming a concubine, (4) incurably unsound mind, (5) virulent and incurable form of leprosy, (6) venereal diseases in communicable form and (7) cruelty.

Coming to the question of adoption, there again, most of the rules embodied in the Bill are in no way different from the rules obtaining under the present law. There are two new provisions in this part dealing with adoption. Firstly, under the Code, it will be necessary

for the husband if he wants to make an adoption to obtain the consent of his wife and if there are more than one, at least the consent of one of them. Secondly, it also lays down that if the widow wants to adopt, she can only adopt if there are positive instructions left by the husband authorising her to adopt and in order to prevent litigation as to whether the husband has, as a matter of fact, left instructions to his wife, the code provides that the evidence of such instructions shall be either by registered deed or by a provision in the will. No oral evidence would be admissible, so that chances of litigation are considerably mitigated. The Code also provides that the adoption may also be evidenced by registration. One of the most fruitful sources of litigation in this country is the question of adoption. All sorts of oral evidence is manufactured, concocted; witnesses are suborned; widows are fooled; they one day declare that they have made one adoption and subsequently they make an avowal that they have not adopted and in order that all this litigation may be put a stop to, the Code makes a salutary provision that there may be registration of adoption by a Hindu.

Then there is the question of minority and guardianship, the last subject which the Bill seeks to codify. There is nothing new in this part of the Code and, therefore, I do not propose to say anything so far as that part in the Bill is concerned.

As members will realize, the points which arise out of this Bill for consideration and which are new are these: First, the abolition of birth-right and to take property by survivorship. The second point that arises for consideration is the giving of half-share to the daughter. Thirdly, the conversion of the women's limited estate into an absolute estate. Fourthly, the abolition of caste in the matter of marriage and adoption. Fifthly, the principle of monogamy and sixthly the principle of divorce. I have sought to enumerate these points separately and categorically because I felt that in view of the limited time we have at our disposal, it would be of help to the Members of this House if I could point out what are the points of debate on which attention may be concentrated. These departures which are made in this Bill undoubtedly requires justification, but I think it would be a waste of time if at this stage undertook any defence of the departures enacted by this Bill. I propose to hear Honourable Members as to what they have to say on the points which I have enumerated and if I find that

it is necessary for me to enter upon a justification, I propose to do so in the course of my reply. Sir, I move.

Mr. Chairman : Motion moved :

"That the Bill to amend and codify certain branches of the Hindu Law, be referred to a Select Committee consisting of Shri Alladi Krishnaswami Ayyar, Dr. Bakshi Tek Chand, Shri M. Anantthasayanam Ayyangar, Shrimati G. Durgabai, Shri L. Krishnaswami Bharathi, Shri U. Srinivasa Mallayya, Shri Mihir Lal Chattopadhyay, Dr. P. S. Deshmukh, Shrimati Renuka Ray, Dr. P. K. Sen, Babu Ramnarayan Singh, Shri Kishorimohan Tripathi, Shrimati Ammu Swaminadhan, Pandit Balkrishna Sharma, Shri Khurshed Lal, Shri Brajeshwar Prasad, Shri B. Shiva Rao, Shri Baldeo Swarup, Shri V. C. Kesava Rao and the Mover, with instructions to report not later than the last day of the first week of the next session of the Assembly and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

*** Dr. B. Pattabhi Sitaramayya** (Madras : General): Mr. Chairman, Sir, I rise at an early moment in order to catch your eye in the hope that I shall have the ear of the House while having the eye of the Chairman. This is a very interesting piece of legislation which has been presented to this House, a piece of legislation for which the country has been whiting for long. This country having passed under the rule of foreigners for nearly a thousand years has not been able to effect that social progress which is incidental to changes in society in the world and which takes place imperceptibly by force of everchanging custom. Custom is a force which is generally patronized, appreciated and recognized by the rulers. Unfortunately, this country has had no kings for a long time to whose inspiring example the subjects could look up for any changes in society. In the West, even today, if a social change is required all that is to be done is for the King to initiate that change and all the people will follow as a matter of course. You might have heard the story of Edward the Eighth, who, when he was Prince of Wales, went to a far distant island and having heard from the people that their occupation was gone because of the change of fashions, asked what the fashion was which had ruined the occupation. They said formerly they were manufactures of straw hats and now straw hats had given place to felt hats and therefore, they had lost their occupation. The next day he appeared in public on a ceremonial occasion with a straw hat and

* C.A. (Leg.) D., Vol. IV, 9th April 1948, pp. 3633-39.

the straw hat industry was at once revived. That is the power of the king; he is not merely the political head of a State, but head of society, the exemplar, the mentor and the monitor. As such he evaluates the customs age long, traditional and hoary—sanctified by age and it lies in his power to change that custom one way or the other. But what has been our fate since the British rule had come into existence? So long as the Muslims were ruling this country, they copied our customs and we copied their customs; there was an inter-mixture and inter-currency of customs and therefore, some measures of social progress. But after the British came, when they came to be looked upon as untouchables and even unapproachables by the vast majority of the population of this country, the situation was that they were afraid to touch the customs of this country with the longest pole. They were afraid of any interference with the socio-religious structure which was a delicate structure almost like a chemical balance and bore the repercussions of the smallest change coming from abroad and from adventitious sources. They were afraid that such repercussions would be ruinous to the stability of their empire in this country and therefore, they adopted the plausible and seemingly reasonable altitude of not interfering with the religion or the custom of the land. In this manner the Judges of the High Courts always helped to register the custom as it had existed for long centuries behind, and never registered a change in the custom as marking a progress in society. Thus custom became petrified and when custom became petrified, progress became impeded altogether, and for a hundred and fifty years our society has not been able to make any progress. If social evils had been pointed out by missionaries at one stage they were so pointed out in a spirit of carping criticism rather than in a spirit of progressive helpfulness. And as time advanced and English education took root and as democracy spread its tentacles and got firm hold upon the affections of the people another change came into being. The very missionaries and clergymen who were so keen on educated Indians throwing off the trammels of their orthodoxy became suddenly conservative and critical of the drastic changes which the English educated people were taking to with a certain amount of irresponsible case. They began to inquire whether after all these people who were so readily taking to these changes meant to take to these changes or whether they were

simply throwing away by way of relaxation the rigid customs of age and of society. They did not like it because the spirit of reform is always destructive of their own power. In the encouraging of reform themselves they saw the dangers to their rule and the missionary saw at once that he was encouraging a certain amount of rebellious spirit in the nation. Now *Brahmoism* was looked upon as the saving factor in this country, but *Brahmoism* was thereupon condemned by the missionary because it provided a hailing house for the reform spirit of the nation. Thus the misssionary himself became conservative. Englishmen became conservative, custom became rigid, society became petrified and congealed and coagulated, as it were, in a chamber which was not wide or expansive, thus, we have suffered, so much so that the issue of a post-puberty marriage in the Punjab was declared illegitimate by the High Court. This was the last straw that broke the back of progressive society. Immediately, there was an attempt to break the bones of custom, by trying to reform the marriage law. Act 3 of 1870, popularly known as the *Brahmo* Marriage Act, required, however, a certain denial statement, "I repudiate that I am a Hindu or a Muslim or a Christian or a Parsee or a Jain or a Jew." This obnoxious declaration was associated with the provisions of that Act. Therefore, it did not become popular. Later on the *Sarda* Act came into being; fortunately it has set the seal of authority upon that piece of social reform which the heads of orthodoxy were imposing and were impeding. A new era has begun. The Indian National Congress which had started in 1885 had till 1919 associated with it as an ancillary and an auxiliary a social reform organisation which dealt with the social evils of the country and suggested various legislative measures also. But there was a non willingness on the part of the British Government to effect those legislative changes and as time progressed there was also an unwillingness on the part of society to accept the social reform at the hands of foreigners in this country.

Fortunately, Sir, today we have survived those times, I am glad I am alive to see the age when on the initiative of the National Government a progressive measure of reform, comprehensive in outlook, far-reaching in its result, medical in its nature, is being put forward, which embraces the rights of women in regard to inheritance, in regard to marriage, in regard to property, in regard to divorce, in

regard to personal freedom. And I hope, as time advances we shall have more and more of reforms in this direction to which this measure points today.

Let us start with the full rights that have been conferred upon the woman after the death of her husband. In our *Shastras* it has been briefly described that the woman is the bond slave of her father when she is young, to her husband when she is middle aged and to her son when she is a mother. Of course all epigrams, aphorisms, proverbs, platitubes and truisms are half truths. There is a core of truth about them. We sometimes find it useful to quote these things but there is a core of untruth also about them and we should try to understand the full significance of all these.

According to the measures before us, a woman will have property in her own right and be able to dispose of her property. I have been trying to see whether the Law Minister would explain when these rights would come into force. Suppossing after the passing of this measure a man dies and his widow inherits his property: what are her rights compared with the rights of a widow whose husband died one year ago? The latter possesses limited estates. What is the change sought to be introduced? Can widows with only limited estates convert those limited estates into full right estates with the right to give away, to mortgage, to sell and so on, irrespective of whether there is legal necessity in the interests of the family or not? That is a point which I have been trying to understand by turning up the pages of the measure before me but I have not been able to understand it. I dare say, in his reply the Mover of the Bill will be so good as to elucidate the point.

The 'rights' of the daughter is a matter on which I have been feeling very keenly. When speaking to English people or when discussing Indian conditions and society with savants and scholars coming from abroad, I have never been tired of praising my own system. If you wish to understand the basis of a system, or appraise any of its social customs or practices, you must not lake it in its present degenerate condition. But you must take it in all its pristine purity and glory. I look upon child marriage as a splendid institution as our ancients conceived it because they conceived it good for the average man and the average woman to be married. And this marriage is a

good thing because the child has to be grafted into another family and grafting should take place while the plant is young and not when the plant has become old. But then, the conception itself has changed. Now we live in an age when it is much more happy to be bachelors and criticise others' wives than to marry and beget children. Therefore, our ideals have changed and therefore, the principle of child marriage may not be binding upon us. Each one is at liberty to live his or her own life according to her or his pleasure and there is no obligation imposed by society and social conditions have changed. Under the circumstances we should not indeed be the victims of past tradition, past customs, past events.

But how shall we deal with the facts which exist at the present day: so many daughters and so many sisters are not merely vegetating but they are rotting in their homes. While we praise our systems to others, we cannot shut from our own eyes the fact that our sisters and daughters and other relations are rotting in their own homes unable to get any relief. Latterly I have suggested a love strike for our women. That is the only remedy which I have thought out and I have been able to think it out as a remedy directed against this custom. I read a book called "The Impregnable Women" while I was in the Ahmednagar Fort. There was a war in England and all the women wanted to resist the war. How could they resist? The men are greedy. The men are pugnacious and blood-thirsty. They want to fight. They want to measure the strength of the tiger and ape it them with the strength of the ape and tiger in others. Therefore, the women said : let us have a love strike. No young maiden would speak to her lover; no wife would speak to her husband; no mother would speak to her son. The men were boycotted. There was no social life between men and women until the war about to be declared was cancelled. They said they would not mix with these people. But, I will not push the matter further. I suggest that if in a village, or town, or mohalla, there is ill-treatment of a single woman, all our wives had better have a club and go away from our houses and live there for 24 hours and very soon the recalcitrant husband will be brought to his senses. All the men will bring their moral influence to bear upon this man and they will tell him: "What the hell are you doing? All our homes are

broken up and they will remain broken unless you take back your wife."

You may laugh now. But what else are you going to do? Are you going to prosecute the man? He will bring up his charges. Are you going to prosecute the wife? She will bring a number of charges. You should not enter into the quarrels between husband and wife. Once I found a husband beating his wife. I went and interfered. The woman turned round and came down on me like a wolf on the fold. She said: "It is my husband who is beating me. Who the hell are you to interfere?" Therefore, it is not possible for you easily to interfere in domestic affairs. After all the *Kowravas* and *Pandawas* when they fought, they used to say : "we are 100 against 5 but against a third party they said we are 100 *plus* 5" So in these domestic quarrels both are against us when we meddle in their affairs. So if the daughter is to be happy she must be able to inherit property in her own right I find that the position of a wife is most obsequious. Her sister's son comes. Her brother comes. She wants to give them a good present. But the wife has to wait upon the goodwill of her husband in order to get even Rs. 5. After all this man has his moods. And he may be in a good mood or a bad mood. So she must have some properly which she can call her own. Would you wish her to get rid of some of her jewels? The idea is fantastic. No woman will sell away her jewellery even after her husband's death because after her husband's death that jewellery stands as the symbol of the unity of herself and her deceased spouse. I know it. I have spoken to many women.

Mr. Chairman : Does the Honourable Member want to speak for a longer time?

Dr. B. Pattabhi Sitaramayya : I am sorry. I was not looking at the time. I would like to continue.

Mr. Chairman : The House will now adjourn for half an hour and reassemble at Half Past Five of the Clock.

The Assembly then adjourned till Half Past Five of the Clock in the afternoon.

The Assembly re-assembled at Half Past Five of the Clock with Mr. Speaker (The Honourable Mr. G. V. Mavalankar) in the Chair.

Dr. B. Pattabhi Sitaramayya : Mr. Speaker, I was dealing with the question of a share for the daughter from the patrimony. I am in the habit of twitting my lady friends by asking them "Why do you want a share ? You are going to become the queens of another home. My wife has become the queen of my home and she is the unquestioned head of the family. She is getting the keys of her own safe and so will you get the keys of the safe of another home." But that is not enough. It is not enough to be at the mercy of a husband, however dear that husband may be. A woman must have her own right and when she has her own right she is better respected by the husband and although the doctrine of self-effacement on the part of the woman has been carried on in our country and society for ages long, yet the fact remains that in the modern day the conception of self-respect has completely altered the position. One must be able to say that she has a little money to deal with in her own right.

Hitherto I have had a little doubt as to whether we are not depriving all the sons of the share to which they are legitimately entitled if the daughter also comes in for her share. Now the Bill before us gives a share in the *stridhana* to the sons to the same extent to which the daughter is given a share in the father's property. That largely equalises things and warns all parents that they should have an equal number of sons and daughters. That is the only condition that is imposed upon us and that will be able to balance our economy. We must also balance our progeny.

But there is another difficulty. After all as things stand, it looks as though we cannot say hereafter in marriage invitations that my daughter is being given in marriage to so and so, there will be a new language adopted. My daughter and so and so will marry each other. That is the new language adopted. Still the fact remains that except in Malabar, where the husbands go to their wives' houses, here our daughters generally go to their husbands' houses. Of course the position in Malabar is entirely the reverse of our conditions and it will take hours to deal with the question. I am not going to stray into that very interesting topic. Yet the fact remains when the daughter goes away from her father's home, the wonder is whether she is able to enjoy the property that is given to her by her parents. I have asked my Muslim sisters and brothers as to whether the age-long custom

of giving a half share to a daughter, half of the son's, is really practically, enjoyed. They said that except in towns it is not enjoyed. Somehow or other the brother does the sister in the eye and knocks off her property and gives her some compensation. That may or may not be so but the fact remains that there is that supreme danger and the greatest danger in this matter is that when you recognise the fact that 80 per cent of *pattadara* are able to pay only Rs. 10 as tax on 2½ acres of wet land or four or five acres of dry land, where on earth is there a chance for them to give a share to the daughter, which she can carry with her or which she can enjoy. I doubt very much from the practical side but on the theoretical side at any rate the thing is unquestionably quite correct.

When thus you have raised the status of women in society and when you have conferred upon her the right to absolute property then you must also give her certain rights which self-respect engenders in her naturally. The conditions of marriage are not conditions of slavery. It is all very well to say that marriages are made in heaven and that once a husband always a husband or once a wife always a wife. It is a very good rule but at the same time there are conditions like drunkenness, persistent cruelly, immoral character on the part of the husband, diseases like leprosy, impotency and various other conditions which are enumerated by the Law Minister which justify a separation of the husband from the wife. If a man feels free and has the right to stray abroad and to whatever he wants to do, if he can marry a second time when the first wife is alive, then of course it must be equally open for the wife also to marry a second husband while the first one is alive. Imagine that condition. I sometimes ask friends when I see a young man dressed in hat, boot and suit and by the side goes a nicely clad Hindu lady dressed in all the beautiful folds of the Hindu saree "Will you kindly reverse your dresses? Will the husband wear a *dhothi* and the wife a hat and skirt of a European woman, how will it look?" It will look absurd, as absurd as when you sign your name in your mother tongue over an English document. Once an officer asked me not to sign in Telugu over an English document. Then I said that the reverse situation of an English signature over a *Telugu* document is equally incongruous. Therefore, we must give full freedom to our sisters, mothers and daughters and enable

them to have judicial separation, if necessary and divorce. But I trust and hope that the distinguished ladies who are here and who have been labouring for years in the cause of rights for women will preach and propagate the fact and the doctrine that divorce is a reserve fund not to be drawn upon for current expenses, that divorce should be the ultimate resort for causes which are otherwise irremediable. Public opinion, personal influence, family persuasion, all these are there. You must remember that the quarrels between a husband and wife during the day are generally closed up in the night and therefore, there is not much chance of perpetuating these quarrels. We should not make much of them. In America there is a State called Indianopolis, where the porter cries "Indianopolis Station, Twenty minutes for divorce." The divorce court is in the railway station itself. Any husband and wife having a quarrel in the train, could apply for divorce and get it before the train departs. That should not be our position. Our divorce must be a kind of reserve fund like the jewellery on a woman's person, always to be drawn upon under conditions of the greatest necessity and never to be lightly utilised.

The question of adoption is a very difficult question, the Honourable Law Minister has assimilated the *Mitakashara* practice to that of the *Dayabhaga*. I suppose *Dayabhaga* obtains in Bengal and *Mitakashara* in South India and in Bombay there is a law called *Mayuka*, according to which amongst the non-Brahmins it is not necessary for the husband to give permission and the widow can adopt a child. I had read a judgment of the Privy Council some ten or twelve years ago. I want that law to be copied in other parts, where such adoption is not permissible according to *Mitakshara*. After all why does a family adopt a boy ? To perpetuate the family. Is it not the right of the widow to perpetuate the family as much as of the deceased husband? Is it only the exclusive right of the man who is deceased to perpetuate the family. If a boy could inherit the property, why should it not be open to the mother to adopt the boy in her own right apart from the written or the registered permission of her husband either by a document or by a will. In English law oral wills are permissible; whereas written wills require two signatures, oral wills require no such thing. After all, by oral wills properties worth lakhs and crores are alienated. "All to wife" on a newspaper bit is held to be a valid

will. Then why should it not be permissible in law for a husband to give permission orally to his wife in order that she can adopt. These are points which the Select Committee will have to give its consideration to. (*An Honourable Member:* "Why permission at all?") That is my contention. If permission is necessary why not oral permission? Relax the law regulating adoption as much as possible.

Then there is the question of monogamy. I am very sorry to note that young girls in their blooming youth do not understand all the conditions that must be observed in regard to the proper selection of match for marriage. We have an ancient saying which when rendered into English says : You must consider the prosperity, good looks, tradition, pedigree, culture—all these things you must consider before you select a husband. But now it has become rather common—and a very distinguished authority has confirmed the statement—that educated girls have the habit of picking readymade husbands who have already got a wife and five or six children. Why does this happen? It is due to the want of education during their college days about these matters. Somehow these things are considered taboo and everybody shrinks from talking about them although a lot of private talk is inevitably done in regard to these matters. The forbidden fruit has never remained untasted. Therefore, it is necessary that we provide teaching in regard to these matters. I once spoke to a certain friend of mine—he has given freedom to his daughter with regard to the selection of his son-in-law—and in the course of his conversation he told me a story which I later related to his daughter and son-in-law much to their amusement. She was asked by him, "Do you wish to marry so and so, a boy who is handsome, good-looking, is well educated, passed B.L., or is in the profession, is the son of a rich man and has an upstair house" and she said "No, father, has he got no motor car and elctric lights? If he has got a motor car and electric lights, no matter to whom you give me in marriage I am willing to marry him". Such are the temperaments, tendencies and trends of untutored youth and therefore, it is very necessary that we should teach them about all these matters. It is not enough to make laws: but it is necessary to propagate these laws and propagandize these laws in order to educate our young girls in the direction of monogamy. That is very necessary.

I welcome every aspect of this Bill. If there are defects which are obvious here and there I daresay they will be remedied by all the distinguished personalities whose names have been mentioned in connection with the formation of the Select Committee. I have taken a little more time than necessary. Perhaps, I can hold forth for hours together. I have got the experience of 68 years covering a careful study of all kinds of conditions and I would have liked very much to continue except for the fact that today's time is limited and we must apply the guillotine at 7 O'clock and some of our sisters and brothers are very anxious to speak and I am also anxious to hear them.

* **Mr. Naziruddin Ahmad** (West Bengal : Muslim): Sir, I am in the most unfortunate position of having been charged with the communication of certain views which have been entrusted to me by some of my friends. They are some criticisms of the Bill. I must however assure the House that personally I would fully support the Bill. Its provisions are largely in accord with the laws which prevail in my own community and the Bill tries to do absolute justice to all regardless of practical results. It is however, with some amount of nervousness that I have risen to speak. When I find that sturdy members of the House who would have spoken against the Bill have quailed before a powerful array of five distinguished members of the fair sex, ready to stand to their guns, little courage can I muster in giving out the views which I am charged to communicate.

Sir, the Honourable the Law Minister has not told us anything about the opinions that have been collected and printed in the pamphlets which have been circulated to us. They were made available to us at a very late stage. If it was desired that Honourable Members should read them, analyse them and tell the House the result of their analysis I think the time is too short. There is a pamphlet the Report of the Hindu Law Committee which contains a large number of opinions. I am sorry this was not circulated amongst the members. (*An Honourable Member* : "It was circulated"). It was not. This book was not circulated.

The Honourable Dr. B. R. Ambedkar : It was kept in the Library for a very long time.

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*C.A. (Leg.) D., Vol. IV, 9th April 1948, pp. 3639-42.

Mr. Naziruddin Ahmad : It was not kept in the Library for a very long time. It has been placed in the Library very recently. I had to buy it from the market. It is only recently that some copies were kept in the Liberary.

Prof. N. G. Ranga (Madras : General): What is it?

Mr. Naziruddin Ahmad : When an Honourable Member like Professor Ranga asks 'what is this?' it only shows. . .

Prof. N. G. Ranga : I asked what is it you are referring to.

Mr. Naziruddin Ahmad: The Report of the Hindu Law Committee.

Prof. N. G. Ranga: That is, the Rao Committee. Its Report has been before the public for a year.

Mr. Speaker: Whatever it be, the Honourable Member may proceed.

Mr. Naziruddin Ahmad: The Report has been published only recently. I submit that in this Report there is a dissentient minute of the late Justice D. N. Mitter. He has collected a large number of opinions against the Bill. I do not wish to read them. He has classified them province by province and subject by subject. There is no time to deal with them, but he has said that the principles of the Bill are opposed by the entire Hindu community, that is the orthodox section of the community.

I have studied as carefully as it was possible for me within the short time available, the recent opinions on the Bill obtained by the Government and circulated to us. I find there is a volume of opinion against the Bill. In fact, at the time when the Committee was hearing evidence the evidence in Bengal was also all one way. Now in the opinions circulated I find the opinion in West Bengal is all one way. It is clearly against the Bill. What is remarkable is that there is an opinion by the Secretary of the Government of Bengal in the Ministry of Law. That opinion is to be found in paper No. 4, opinion No. 17. That opinion is against the Bill. It says that this is not a proper time to take the Bill. (*An Honourable Member* : 'When was that '?) It bears no date. It has been circulated only recently—five or six days ago. In fact it says that the Bill is of far-reaching importance and enough consideration has not been given to the opinions expressed. The House will be pleased to consider the different categories of

objections. One is that, this Bill should not be considered by a mixed Legislature consisting of members of various communities. It is for this reason that I am particularly anxious to speak as it was feared that men of different communities will rather support the Bill and spoil the cause of orthodox Hinduism. It is for this reason that I hasten to declare that I am not supporting the Bill as the Hindu community is much against it.

One of the objections is that the introduction of women's shares would introduce litigation. There are many opinions that this would lead to excessive fragmentation that it will lead ultimately to the destruction of that joint family system amongst the Hindus which has saved the community from the destructive effects of fragmentation from which the Muslims most terribly suffer. It is said also that the Hindu law—the *Vedic* literature and the *post Vedic* literature known as the "*Srutis*" and the "*Smritis*" have a divine origin. But the present Bill goes, it is said, against the very structure, the very religious basis and the very religious structure of the Hindus. It is on this ground that is seriously opposed. It is argued that you cannot regard all this religious law, all this sacred literature as so much nonsensical superstition. They have kept the Hindu society alive for ages though it is quite true that society cannot remain stagnant. It must move. But it must move cautiously and with experience.

The present Bill makes a change with a sweeping stroke. Another point that has been made apparent in these objections is that the present Legislature was elected on one issue, namely the attainment of independence. The present Bill, which is really of a very sweeping and complicated character, and its principles have not been before the public and it would therefore, be better to wait to digest opinions and to pass a constitution and hold elections making this a definite issue before the public. It will then be seen whether the public at large really desire it. In fact it is said that the Bill was not properly circulated. Many associations got only a few days' time or even a few hours time to consider and give their opinions. In these circumstances it is argued that the Bill should not be taken into consideration at this stage.

Then there is another important aspect of the question. The Bill attempts to make the law applicable to Hindus uniformly throughout

India, but it has been pointed out that the effect of uniformity will not be attained in view of the shortness of time. It is well known that agricultural land is beyond the purview of this House. It is a provincial subject. Whatever law we may pass will affect only non-agricultural land, whatever that expression may mean. That expression is also vague. It has been defined in the Income Tax Act for the purpose of taxation and this Bill as well as many other Acts have taken that as the basis. There may be lands which lie midway between agricultural and non-agricultural lands. In fact, apart from this distinction, a large proportion of our property—about 80 per cent—consists of culturable land. Thus it is perfectly clear that the Provinces will have to deal with them and they may deal with them in a different manner and some provinces may not deal with them at all. And then again we have the acceded States. Though Hindu Law is to be the same—and it is attempted to make it uniform—the States people may legislate or may not legislate, and in case they legislate they may make different provisions. In fact the Provincial Governments and the States will be largely guided by local custom and local opinion and I believe it will be extremely difficult for the West Bengal Legislature to pass a law which is so much against the opinion of that Province. It will therefore come to this that if we pass this law the result would be that in the case of a man having two classes of properties—a house or building and certain agricultural land—one set of law will apply to non-agricultural land and another set of law will apply to agricultural land. Whatever law you pass, it should be uniform and it would be far better to collect opinions from the Provincial Governments and to ask for their consent to give jurisdiction to this House to pass a comprehensive legislation as we have done in some cases. If comprehensiveness and completeness is the objective, it is better that the Central Legislature should be armed with their consent and deal with it on an all-India basis, and it would also be a proper tiling to ask the States to co-operate in this matter. These are some of the difficulties. As we are working against time, it is impossible, as the Honourable the Law Minister has pointed out, to deal with even some of the salient features of the Bill. It is also impossible to deal with some of the objections except from the border point of view. One thing that strikes me is that the opinions have not been very carefully

studied. We have not got any analysis of these opinions collected point by point and supplied to the members to enable them to deal with them. It is very difficult for private Members to read the opinions at a high speed and to analyse them, store them in different compartments of their brains and use them in a classified form. On a matter of such great importance as this, it would have been extremely desirable for the Honourable Minister's Department to classify the opinions, as was done before in such cases, and circulate them to enable members to consider each point in the light of the objections or support in respect of each of them.

Shri L. Krishnaswami Bharati (Madras : General): It is there in the Report of the Law Committee, classified, analysed and all that.

Mr. Naziruddin Ahmad : I am grateful for the remark, but the opinions of which I am speaking have been received and circulated after the report. In fact the opinions which have been circulated by the Department were received only recently and they are on the Bill as it is. But the opinions collected in the Report of the Hindu Law Committee were collected before the drafting of the Bill, that is during the enquiry stage. The Honourable Member has missed the point that the opinions I am speaking of are not those publised in the Report. They were separately printed and circulated. These are the opinions which I talk of. I think these should have been carefully analysed and printed along with the various points. Sir, I do not wish to labour the matter. Personally I am in favour of the Bill, but these are some of the objections which I have been asked to put forward by certain of my friends. That is the reason why I have put them before the House. There are a large number of other points, but they are of a minor nature. In view of the shortness of the time at our disposal I think I should cut short my speech. Then again legislation should rather follow public opinion. It should follow rather than create or override public opinion, and I am giving a quotation from a famous authority, the father of modern politics, Edmond Burke. He said on a famous occasion:

> "To follow, not to force the public inclinations, to give direction, a form and technical dress and a specific sanction to the general sense of the community is the true end of legislation."

But it has been pointed in the objections that there is no public opinion behind this Bill. It is pointed out in some of the objections that only some of the educated section and some of the ultra-modern section are behind it, but the masses, most of whom are ignorant, are indifferent to it and it has not been fully circulated in the way a subject of this importance should have been. In these circumstances, I submit this for the consideration of the House that it would have been better if the House gave directions to the Select Committee in matters of a disputed nature, but in this case we are sending the Bill without any directions. I should seek a little clarification from the Honourable Minister for Law. With these few words, Sir, I hope the points raised in the objections would be carefully considered and due decisions would be reached.

With regard to the personnel of the Select Committee, nothing could be said. The ablest, the most authorititave and most well-informed of the Members have been taken in it and I hope and believe that they will do full justice to the objections raised against the Bill.

6-00 P.M.

* **Shrimati Hansa Mehta** (Bombay : General): Mr. Speaker, Sir, I congratulate the Honourable Minister for bringing this Bill even at this late hour of the Session. I also congratulate or rather I express my sense of gratitude to Sir B. N. Rau and his colleagues for the great labour they have bestowed on the Report on which these recommendations are based. This Bill to codify the Hindu Law is a revolutionary Bill and though we are not quite satisfied with it, it will be a great landmark in the social history of the Hindus. But since this Bill was drafted many things have happened and one of the biggest things that has happened is the achievement of our political freedom. Our new Constitution is in the making; we have already agreed upon the fundamental principles on which this new Constitution is to be drafted. The new State is going to be a democratic State and democracy is based on the equality of individuals. It is from this point of view that we have now to approach the problems of inheritance and marriage etc. that are before us. The Select Committee will therefore, have to see that the new Bill is drafted on these principles.

*C.A. (Leg.) D., Vol. IV, 9th April 1948, pp. 3642-44.

It is true that the Code has abolished the six discrimination with regard to inheritance. A woman is recognised as an heir and she is also entitled to enjoy her property in her full rights; that is, the Code has abolished the limited estate of the woman. Even then we feel that it does not go far enough. A daughter who is recognised an heir inherits the property, but she inherits half the share of the son. This violates the principle of equality on which we have again and again said that our new Constitution is going to be based—a Constitution which aims to secure for the people of this country justice, social, political and economic. We, therefore, feel that the daughter should get an equal share in the property of her father with the son and the son also should get an equal share in the property of his mother with the daughter. It is also argued that a daughter gets her share from her father as well as from her husband, while the man does not get anything from his wife. We have already proposed, that is the Women's Organisations have said, that the husband can also inherit the property of his wife in the same way that the wife inherits the property of her husband. In the Indian Succession Act the provision for the inheritance of husband is already there and I think we shall do well to copy that provision.

People have argued, and the honourable friend who spoke before me has said that if a daughter is given her share, especially in a landed property, there will be fragmentation of land. But why is this argument trotted out in the case of a daughter's inheritance? The same thing applies if a man has more than one son; if he has, say, four or five sons the land has to be fragmented; why is the argument not trotted out then, and only trotted out when the question of daughters inheriting the property comes up? The better thing would be that there should be law against fragmentation and the property should be sold if it goes below the prescribed limit. Or there is another alternative and that is collectivisation of the land.

Then with regard to the question of marriage. I am gratified, and the women of India will be very happy to know, that the principle of monogamy is recognised, and if the Code comes into being then the principle of monogamy will be established. Sir, we have felt that all civilised nations, all civilised communities have adopted the principle of monogamy. Disrespect for women and all the atrocities that we hear of perpetrated on women are I think due to the fact

that this principle of polygamy exists. If we had monogamy, I do not think that women would have been abducted, married off or other things would have happened to them. This is a very wholesome principle and I hope the House will accept it.

But with regard to some of the conditions of marriage there are one or two points that I would like to suggest. With regard to the marriage of the *sapindas* and the definition of *sapinda*, that requires a little revision; we are not quite satisfied with the definition that is given in the Code. Then again, we would like the age of marriage also to be a condition of a valid marriage. We have got the Sarda Act but that is not satisfactory; that has not satisfied the people because it has not been able to prevent child marriages; it is not effective. For that reason we would like the law to be more drastic. If we want sixteen to be the age of marriage, then it is very necessary that it should be included as one of the conditions of valid marriage and I would like the Select Committee to make that change.

Then with regard to divorce, even that from the point of view of some does not go far enough. There is, however, one thing that I would like to bring to the notice of the members of the Select Committee and that is, the time given for desertion. If a man or a woman deserts his or her spouse, it has been provided, he or she can divorce her or him after five years. Five years is the period given in the Code. Even in "*Narad Smriti*" it is given that a childless woman should wait for three years. After three years she can marry again. So why not also bring that particular provision here that if a woman is childless, she need not wait till five years, but can divorce her husband after three years? If a woman has got children, then five years would be the right period, but for a childless woman three years would be a reasonable period.

With regard to guardianship, here also the Code has not made any changes in the present law. Father is the natural guardian of the children. The mother does not come in. We would like the mother also to be a co-guardian of the children with the father.

With regard to adoption, I think the whole chapter should be scrapped. We are a secular State. We want to be a secular State. Adoption in Hindu law is for religious purposes. Why should a secular State have anything to do with a religious custom? What we are

concerned with is whether adoption which is for religious purposes should be recognised by the State for purposes of inheritance. We say that it should not. If a child is adopted—whether it is a boy or a girl—we would like a daughter also to be adopted—if a child is adopted not for religious purpose, but for real purpose, i.e. that the parents want a child, then that child should have the same rights as the natural child. But, if there is adoption for religious purposes, only then I think that adoption should not be recognised for purposes of inheritance.

These are some of the important points that I would like the Select Committee to consider. Speeches have been made, at least my Honourable friend Dr. Pattabhi has made a very long speech—praising all sorts of things about our past traditions. We have looked too much to the past. We must now look to the future. It is for the future generation that we are making this law. It is not for us, but for the future generation that is coming after us that this law will be applied. We have to look to the future conditions. After all, it is the conditions that determine the law. The law reflects the society. The law reflects the conditions in which the people live. We have to see that the future generation is not fettered by our own prejudices with regard to marriage or divorce or with regard to any other ideas that we may have today. I hope the Select Committee will consider that and produce a Bill which will be a great boon to the future Hindu society.

* **Shri Ram Sahai** (Gwalior State): (*English translation of the Hindi speech*) Mr. Speaker, Sir, I have nothing to say particularly in reference to the Bill. I appreciate the manner in which this Bill has been drafted after keeping in view the needs of the present day Hindu Society. But, I find in it one or two defects, and I think it necessary to explain them for the consideration of the Select Committee.

It has been laid down in Section 3(6) of Part IV of the Bill that in case of minor girls, the consent of her guardian must be obtained for her marriage. But so far as the question of declaring the marriage as invalid is concerned, it has been stated in Section 5 that it shall not be deemed to be invalid merely on the ground that such consent was not or had not been obtained. I fail to understand why it should not be deemed to be invalid when it has been expressely laid down

* C.A. (Leg.) D., 9th April 1948, pp. 3646-47.

that the consent of the guardian must be obtained. If the consent of the guardian had been obtained by means of fraud or force, that marriage can be deemed to be invalid, but if the consent had not been obtained at all, then why should not the marriage be deemed to be invalid? On the contrary it has been laid down that the marriage will not be deemed to be invalid merely for this reason. This is the one defect which should be considered by the Select Committee.

Another point which I have to mention is in regard to 'Succession' and which Mrs. Hansa Mehta has just referred to in her speech. But I do not see eye to eye with the views expressed by her and am of the opinion that the manner in which the order of succession has been prescribed ignores the fundamental tenets of *Dharam Shastras* (Hindu Code of Law). I do not mean that the women should not be given any rights. I am of the opinion that, they have been given more rights here than men. I may point out that while a daughter gets a share both in her patrimony and the property of her husband's family, there does not exist any such provision in this Bill which gives a man a share in the property of his father-in-law in addition to his patrimony. The men are thus, being subjected to the same injustice which has uptil now been done to the women. On the contrary, it can be argued that the share which his wife will get in her patrimony will make up the deficiency. But after considering objects underlying the Bill and the worldly conditions which have necessitated it, it is felt that the real problem remains unsolved. The reason for this is that the property which a woman acquires out of her patrimony shall be treated as her Stridhana and her husband will have no right to that, therefore, he will not derive any particular benefit from this. In this way, I submit this second point for consideration by the Select Committee which is very essential.

I have yet to say another thing. Whatever may be the differences between the tenets of *Dharam shastra* and the present day conditions, I feel that we must follow the fundamental principles propounded therein; and keeping these in view we should decide all the issues. We should make only those changes which are considered necessary in view of the present conditions and trend of the society. We should not resort to introduce any change merely under excitement or in imitation of the western civilisation which may obstruct the growth of our society and produce some sort of difficulties that may not be desirable.

Therefore, I would submit that those who are members of the Select Committee should consider these things and try to make necessary amendments.

* **Dr. B. V. Keskar** (U.P.: General): Sir, I take this opportunity of congratulating the Honourable the Law Minister for bringing this Bill forward in spite of the inordinate delay that has taken place since this idea was first conceived. Sir there is no doubt that this is a very, very important Bill. As my Honourable friend, Dr. Pattabhi said, I do not think there has been any bill so radical and so revolutionary which is trying to change the very foundations of Hindu society, a society which has remained fossilized for the last thousand years. No doubt and it is to that that I want to draw the attention of this House and the members of the Select Committee, the very fact that this society has remained fossilized for the last thousand years and has developed such inertia, such lethargy, in the body politic that all manner and all kinds of forces will come forward to impede the passing of this Bill and passing of any Bill to change the existing structure of Hindu society. It is to this inertia, this lethargy of Hindu society which has probably become its bane, that the members of the Select Committee and the honourable the Law Minister will have to look to, because I have no doubt that until this Bill is passed, to the very last moment every sort of effort, will be made to see that this Bill does not become a law. The changes that are suggested are such that there is a fundamental change in Hindu law. I know mat orthodoxy will try in every way. My honourable friend, Mr. Naziruddin Ahmad was good enough to voice the alarm of a certain section of the orthodox society about the revolutionary nature of this Bill. No doubt, some of the changes suggested appear revolutionary. But as Dr. Pattabhi rightly observed the changes are really not revolutionary. They are due to the fact that for the last so many centuries, Hindu society has not been allowed to evolve. So we have to try to change in a few days what would have been done in centuries. I would, therefore, ask the Members of the Select Committee not to fall a prey to the pressure of what is called the so-called orthodox opinion which is really the opinion of the inertia of so many centuries which does not want anything to change, but after thinking over it for years and years,

* C.A. (Leg.) D., Vol. IV, 9th April 1948, pp. 3647-48.

which really considers that any change is an attack on Hindu religion. I would ask them to guard against these and go forward in spite of all this pressure.

There is no doubt that quite apart from the question of making any radical change in Hindu law, the necessity for consolidating the Hindu law was very urgent. Sir, the present day Hindu law is a maze; it is a jungle like the *Tarai* or *Sunderbans* in which all sorts of practices and traditions come up; in which all that *puranic* book and prevailing customs in many parts of India, in many regions and provinces, in many castes, sub-castes; sub-sub-castes come into play and which is naturally a paradise for lawyers. This to a certain extent might not have been undesirable, but it has grown to such an extent that the time has come when this maze of traditions and counter-traditions should be put an end to and we must rationalize and consolidate the law. This is quite apart from any question of changing the Hindu Law. So from both points of view, I consider that a bill of this kind is overdue.

I rather would warn the members of the Select Committee to see that the Bill is not delayed too much. Already the first Committee was appointed in 1944. The idea and some of the proposals about the Bill have been circulating for the last so many years and even now we find before us proposals which will circulate it the more. Now, I would like them to try to curb this period of discussion as little as possible and to bring this Bill before the House, the latest before the next session. Sir, I welcome this Bill.

*** Begum Aizaz Rasul** (U.P.: Muslim): Sir, I do not desire to take up much time of the House, because I know that the time is very limited, but I think I would be failing in my duty if I do not stand up and welcome the measure that has just been brought before the House by the Honourable the Law Minister. Sir, it is in the fitness of things that with the achievement of freedom in this country and the establishment of a National Government, a measure of this kind should have been brought before this House. I only hope that the Select Committee will not delay giving its report and that this House will have an opportunity of passing this measure into law and putting it on the statute book as early as possible.

* C.A. (Leg.) D., Vol. IV, 9th April 1948, p. 3648.

There is no doubt, Sir, that the provisions of this Bill are extremely farreaching and the provisions about marriage, divorce, inheritance and adoption that are being brought forward are extremely redical measures. It is an extremely important matter and the codification of Hindu law will certainly be looked upon as one of the most momentous pieces of legislation that has ever been brought forward in this House.

Sir, without going into the different clauses of this Bill, I welcome this measure. Sir, it is by the status of the women of a country that the society of that country is judged and there is no doubt that the Hindu women were very backward in India. The Muslims have taken pride in the fact that the *Shariat* law gives them great rights. I agree with my Honourable friend, Dr. Pattabhi when he said that although the *Shariat* has given many rights, they are not followed in the letter and I do know that there are many parts in India today where in spite of the fact that Muslim women do enjoy all the rights given to them by *Shariat*, they are not being followed in the letter at all. In the Punjab the customary law still prevails and the daughters are absolutely disinherited from the property of their fathers. In the same way in the U.P. although in some parts of the Province *Shariat* has prevailed, Muslim women do not share in the property amongst the *talukdars* and therefore, I am glad that this piece of legislation that is being brought forward will put the Hindu women on a par with Muslim women as far as their rights are concerned. As I said, Sir, I hope that no section of society will oppose this measure. There is no doubt that this being such a fundamental treasure and also connected in many ways with religion, there will be certain sections of society amongst the Hindus who will oppose it, but, Sir, it needs courageous minds to bring forward courageous measures and therefore, I hope that orthodox opinion in the country which looks with disfavour upon this legislation will not stand in the way of its being passed and I hope that this Bill that is going now to the Select Committee will come out even in a more improved form and that this measure will not be delayed. Society should not be static and as we go forward on the road to progress, it is necessary that women should come into their own and unless the women of India stand on their own feet economically, it is absolutely impossible for India to go forward on the road to progress. With these few words, I give my whole-hearted support to this measure.

* **Shri Rohini Kumar Chaudhuri** (Assam : General): Sir, I think I must congratulate the Honourable Minister-in-charge of this Bill. He must have greatly liked this hour of the day when he has received so much ovation from certain sections of the House. But, I think, I should not be considered to be criticising in a wrong spirit when I say that the title of this Bill is a misnomer; it is not a Hindu Code but it should more appropriately have been called a Hindu Women's Code. Sir, I do not understand why only three or four days after we passed the Resolution about having a secular Government and stopping of communal organisations we should have gone out of our way to legislate in such a hasty manner only for a particular community. After having decided to eschew all communal organisations I should like to know why we should not have been given time to think out and draw up a piece of legislation which would include all subjects of the State, Hindu, Muslim, Christian, etc. If the Honourable Minister is not led away by fair influences in this House, I think it is not yet too late to withdraw this Bill and if he withdraws it with a promise to bring in a more comprehensive Bill at a later date, his action in so withdrawing would have greater merit than the withdrawal which he made a few minutes ago. I know that some women of our country are very anxious to snatch away a portion of inheritance from their brothers; I know some influential women of this country are anxious to put an end to marriages to which they were unwillingly led and which they have found unbearable. It is also perhaps a fact that some educated and progressive ladies of our country who cannot think of polygamy of any kind are now anxious to have legislation for the removal of these things. By enacting this Hindu Code you are revolutionising the whole structure of Hindu life and law and custom. But for whom are you doing it and who is going to be benefited by it? The large mass of people who depend on agriculture and agricultral property are outside the pale of this legislation. Are the poorer Hindus in our villages clamouring for divorce? Are they clamouring for properties to be got from their parents? Not at all. You want this legislation for what you call the enlightened section of our people, men and women. It is for the rich man who gave his daughter in marriage to a poor man who hoped to give his wife some

* C.A. (Leg.) D., Vol. IV, 9th April 1948, pp. 3648-50.

position but has not been able to give it and his daughter has become unhappy; and so he wants to get rid of this marriage. This legislation is going to help that kind of individual.

Then, Sir, with reference to custom and usage, custom plays a very important part in Hindu law as administered in my province. I want to lay particular stress on our province because there is no one who represents us in the Select Committee. As all lawyers would know, the customs which have taken the place of Hindu law in Assam are very peculiar. I can cite the Privy Council case of "*Maniram Katita*" versus "*Keri Kalitani*" which has practically revolutionised Hindu law as administered among the Hindus.

Then there is the question of tribal people. According to this Bill they would be considered Hindus and they are really Hindus if they have not adopted Islam or Christianity or Buddhism, etc. Are you going to thrust on them this piece of legislation? If you ask them to have this system of inheritance they will simply revolt against you. There are different kinds of custom in Assam. Amongst the *Khasia* people of Assam the youngest daughter inherits the property. Now you are giving it to the widow, the son's widow, the widowed daughter, the son's daughter-in-law and so forth. Will they tolerate it for a moment if you introduce this legislation among them? You have introduced sacramental marriage and civil marriage. Shall I tell you how the *Cacharis* get married? Some boy and girl come to know each other and the girl is forcibly taken away from the parents after which the ceremony of marriage takes place. Will you ask them to got to the Registrar's Office and get married there?

Then we are very much against dowry. These rich people who can afford to give dowry get their daughters married very quickly, even though they may be blind or ugly. If I had no money I would mortgage my house and everything that I possess in order to give a dowry and thus get rid of my daughter. But what will happen now? The daughter will inherit part of the property. So when I seek brides for my sons—fortunately I have five sons—I shall look forward to that family where the daughters will inherit something and not go to an ordinary person who will have to borrow or mortgage his property. Are you going to legislate for poor people in this way? Among the poor there is only agricultural property. If you include the tea gardens

that is different, but there is no agricultural property among them. And there is no question of big inheritance and therefore, the poor man's daughter, however beautiful and accomplished she may be has no chance. I think this measure requires very serious consideration, so far as customs and usage and other points are concerned and it is not proper to pass this legislation in such hurry. I should have said something more also, Sir, but in this House there are persons who are still unmarried; so it would not be fair on my part to disclose all my objections to this Bill.

*** The Honourable Dr. B. R. Ambedkar** : Mr. Speaker, my task is considerably lightened by the fact that the Bill has received such an ample measure of support from this House. I shall, therefore, confine myself to replying to some of the points which have been made by the speakers who have participated in this debate.

I would begin with the observations made by my honourable friend, Mr. Naziruddin Ahmad. Sir, I thought that the Legislature was not a court and that a Member of this House who is a lawyer certainly does not come here either to practise or to plead. But somehow my friend either for fee or out of pure generosity, undertook the task of representing the views of some of his clients who probably had not the courage to say what they had in their mind. I shall, however, not raise any technical objections but deal with the points that he has made.

Sir, his complaint was that the Bill had no sufficient publicity and that the public was not given as ample an opportunity as the importance of the measure required. I should have thought that the clients of my honourable friend had rather misinformed him on this point. This Bill had its origin in a legislation which took effect in the year 1937. Ever since that year the provisions of this Bill have been bandied from one side to the other, from committee to committee. For instance in the year 1941, the Home Department appointed a Committee to consider some of the difficulties that arose out of the Women's Rights to Property Act of 1937, to report upon the difficulties and to suggest remedies. This Committee which is known as the Rau Committee made its report on the 19th June 1941. My Honourable friend, if he had referred to this report would have seen the immense amount of publicity

*C.A. (Leg.) D., Vol. IV, 9th April 1948, pp. 3650-53.

that Committee gave to its proposals, the number of questionnaires that it issued, the statements that it received, the witnesses that it examined and the peregrinations it undertook from province to province in order to ascertain local public opinion. Again in 1942 this very Committee submitted two draft Bills, one on succession and the other on marriage. The Hindu Succession Bill was introduced in the Assembly in 1943. That was referred to a joint Committee of both Houses. That joint committee again invited public opinion and a volume of them were collected and circulated to the then legislature in existence. Having regard to all these, I am sure that the statement made by my honourable friend that the Government had not given sufficient publicity cannot be accepted as truth.

He also referred to the report, the Minority Report of Justice Mitter, where also he has analysed the *pros and cons* of the various points contained in this Bill. Sir, I do not like to say anything derogatory of a member of a Committee, who has done such useful work, but I cannot help saying that this member really ran away from his own opinion. If my honourable friend, Mr. Naziruddin Ahmad were to read the report of the majority he will find that all the propositions contained in that Bill which give rights to women were really based upon a publication of this member of the Committee in the year 1930. In that book he had propounded the view that the case law which had limited the rights of the women had no foundation. Ultimately for reasons best known to him he did no submit that there is no point in this argument.

My honourable friend also referred to the fact that this Bill is after all confined to property other than agricultural land. The conclusion he drew from that fact was that this codification was only a partial codification, because a large part of the property which is the subject matter of inheritance is felt untouched by the provisions of this Bill. Sir, there are two explanations for the non-inclusion of agricultural property*. My honourable friend, if he refers to the Schedules to the Government of India Act, where the subject matter of legislation for Centre and the Provinces have been set out will find that land is put in the "Provincial List". As a result of the judicial interpretation given by the Federal Court it was held that the word "land" or item "land",

* Misprinted as ' non-agricultural property, in the Debates at p. 3651.

which is included in the "Provincial List" not merely covered tenancy land but also covered succession to land and consequently any provision with regard to the succession to land made by the Central Legislature would be *ultra vires*. In order that this may not happen, the Committee very deliberately exempted agricultural land from the provisions of this Bill. But what I would like to say is something different. I should have thought that the omission of land from this Bill far from being a flaw or a fault in the Bill was probably an advantage because I believe there is no necessity that a uniform law of inheritance should apply to all sorts of property. Property varies in its nature, varies in its importance in the social life of the community and consequently it may be a matter of no mean advantage for society to have one set of law of inheritance for agricultural property and another set of law for non-agricultural property. It may be that on a better consideration of the situation, Indian or Hindu society may come to the conclusion that land which is the foundation of its economic life had better be governed by the law of primogeniture so that neither the junior sons nor females may take part in the inheritance. As I said, the question having been left open it is to the advantage of the society that it may consider the matter *de novo* and afresh. I do not, therefore, regard that the comment made by my honourable friend on the part of this Bill is really a matter to be apologised for.

Coming to my friend, Mr. Chaudhuri, he considers, this piece of legislation as a communal legislation. I agree that in as much as it refers to Hindu society, which is one of the many communities inhabiting this country, it might well in a logical sense be called a communal piece of legislation. But what is the alternative? If my honourable friend's alternative was that there ought not to be communal laws of inheritance and communal laws of marriage but there ought to be a common civil code, applying to all sections all communities, all persons: in fact applying to citizens without discrimination as to religion, creed or caste, I am certainly one with him. Certainly, that is not his conclusion. His conclusion is, if I understand him, that this legislation by reason of the fact that the other day a view was expressed that the future society here stated would be secular had no right to legislate for a secular community: that would be a most disastrous conclusion. This country is inhabited by very many communities. Each

one has its special laws and merely because the State desired to assume a secular character it should withdraw itself from regulating the lives of the various communities, undoubtedly would result in nothing but chaos and anarchy. I certainly myself am not prepared to subscribe to that sort of a proposition.

His second comment was that the Bill had not taken into consideration the customary law. He cited some ruling of the Privy Council. I should have thought that at this hour of the day it was unnecessary to cite the authority of the Privy Council because it has been well established by a long course of decisions, that so far as the Hindus are concerned custom would override the text of the "*Smriti*". We all know this. But what are we doing? What are we doing is this. We are shutting down the growth of new customs. We are not destroying existing customs. The existing customs we are recognising because the rules of law which are prevalent in Hindu society are the result of customs. They are born out of custom and we feel that they have now grown so sturdy that we can indeed give them flesh and life in the body politic by our legislation.

He also said that we had not taken into consideration the question of the tribal people, whose life is undoubtedly governed in a large measure by customary law. If my friend had read the definition in this code as to who is a Hindu and who is not and to whom this Code applied, he would have seen that there is a clause which merely said that persons who are not Muslims, Parsis or Christians shall be presumed to be Hindus: not that they are Hindus. The result is that if a tribal individual chooses to say that he is not a Hindu it would be perfectly open to him under this Code to give evidence in support of his contention that he is not a Hindu and if that conclusion is accepted by the Court he certainly would not be obliged by anything contained in this Bill.

Shri Rohini Kumar Chaudhuri : My point is that he did not like to be called a Hindu and still wanted to retain all the customs of the Hindu !

The Honourable Dr. B. R. Ambedkar : The position taken is this: that once a person chooses to call himself a Hindu, he must accept the generality of law which is prescribed for the Hindu. We do not want this anarchy. A Hindu is a Hindu for all purposes. If a tribal

person does not want to be a Hindu the way is open to him to prove that he is not and the Bill will not apply to him.

Then my friend, Dr. Sitaramayya asked me to tell him whether the rule of law contained in this Bill, whereby the women will acquire absolute estate in the property which they inherit, will apply to widows who have already taken the estate before the passing of the Act. I am afraid I must say that the Bill has no retrospective effect.

Nor would it be possible to give retrospective effect to the principles of the absolute property of women for the simple reason that long before this Bill will come into existence, vested rights would have been created in that estate and it would not be right and proper to divest them however much our suympathy may be with the widow.

Mrs. Hansa Mehta raised several questions indicating that the women and particularly herself were not satisfied with some of the provisions contained in the Bill relating to the rights of women. It may be that in an ideal sense the Bill does not come up to expectations. But I would like to tell her that she must remember that this society is an inert society. The Hindu Society has always believed that law-making is the function either of God or the "*Smriti*" and that Hindu Society has no right to change the law. That being so, the law in Hindu Society has remained what it was for generations to come. Society has never accepted its own power and its own responsibility in moulding its social, economic and legal life. It is for the first time that we are persuading Hindu Society to take this big step and I have not the slightest doubt in my mind that a society which has bucked up courage enough to tolerate the large step that we are asking it to take by reason of this Bill, will not hesitate to march on the path that remains to be trodden and reach the goal that she has in mind.

Sir, much has been made of the fact that there is a great deal of public opinion which is opposed to this Bill. I have certainly not weighed the opinions that we have received but I do like to say this, that this is hardly a question which we can decide by counting heads. This is not a question which we can decide in accordance with the opinion of the majority. When society is in a transitory stage, leaving the past, going to the future, there are bound to be opposing considerations: one pulling towards the past and one pulling towards the future and the test that we can apply is no other than the test

of one's conscience. I have not the slightest doubt in my mind that the provisions of this Bill are in perfect consonance with the conscience of the community, and I have therefore, no hesitation in putting forth this measure although it may be as a matter of fact that a large majority of our countrymen do not accept it.

Mr. Speaker: The question is:

"That the Bill to amend and codify certain branches of the Hindu Law, be referred to a Select Committee consisting of Shri Alladi Krishnaswami Ayyar, Dr. Bakshi Tek Chand, Shri M Ananthasayanam Ayyangar, Shrimati G. Durgabai, Shri L. Krishnaswami Bharathi, Shri U. Srinivasa Mallayya, Shri Mihir Lal Chattopadhyay, Dr. P.S. Deshmukh, Shrimati Renuka Ray, Dr. P. K. Sen, Babu Ramnarayan Singh, Shri Kishorimohan Tripathi, Shrimati Ammu Swaminadhan, Pandit Balkrishna Sharma, Shri Khurshed Lal, Shri Brajeshwar Prasad, Shri B. Shiva Rao, Shri Baldeo Swarup, Shri V. C. Kesava Rao and the Mover with instructions to report not later than the last day of the first week of the next session of me Assembly and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be Five."

The Motion was adopted.

Mr. Speaker: This brings to a close our long session which commenced on the 28th of January and I heartily thank all the Members for the sincere co-operation, which I have always had from them.

(The Assembly then adjourned sine die.)

❑ ❑

SECTION II

THE DRAFT HINDU CODE BILL

BY

DR. B.R. AMBEDKAR ALONG WITH

THE THEN EXISTING HINDU CODE AS

AMENDED BY THE SELECT COMMITTEE

THE HINDU CODE

BY

Dr. B. R. AMBEDKAR

NOTE

In order to give a clear picture of the amendments which the Government propose to move, the Code as proposed to be further amended is set out in this book on the left-hand side. For the sake of convenience the existing provisions of the draft Code as amended by the Select Committee are printed on the right-hand side. The actual amendments which are to be moved are shown on the left-hand side by having them either underlined or sidelined. Portions omitted are shown by asterisks; and where any page on either side of the book appears blank, it means either that there is no corresponding provision in the Select Committee's Code or that a portion of the Select Committee's Code has been omitted.

[AS PROPOSED TO BE FURTHER AMENDED]

(*Changes to be made are underlined or side-lined and portions to be omitted are shown by asterisks*)

A

Bill

to amend and codify certain branches of the Hindu Law

* * * * *

BE it enacted by Parliament as follows :—

PART I—PRELIMINARY

1. Short title and extent * * *.—(1) This Act may be called the Hindu Code, 1950

(2) It extends to the whole of India except the State of Jammu and Kashmir

* * * * *

[AS PROPOSED TO THE SELECT COMMITTEE]

A

BILL

to amend and codify certain branches of the Hindu Law

WHEREAS it is expedient to amend and codify certain branches of the Hindu Law as now in force in the Provinces of India;

It is hereby enacted as follows ;—

PART I—PRELIMINARY

Part I, See. I, Page I.

1. Short title, extent and commencement.—(1) This Act may be called the Hindu Code, 1948.

(2) It extends to all the Provinces of India.

(3) It shall come into force on the first of January, 195 .

*(2)

2. Application of Code.—(1) This Code applies—

(a) to all * * * * persons who are Hindus by religion in any of its forms or developments, including Virashaivas or Lingayatas and members of the Brahmo, the Prarthana or the Arya Samaj;

(b) to any person who is a Buddhist, Jaina or Sikh by religion;

(c) (i) to any child, legitimate or illegitimate both of whose parents are Hindus within the meaning of this section.

(ii) to any child, legitimate or illegitimate, one of whose parents is a Hindu within the meaning of this section: provided that such child is brought up as a member of the community, group or family to which such parent belongs or belonged; and

(d) to a convert to the Hindu, Budhist, Jain or Sikh religion,

(2) This Code also applies to any other person, who is not a Muslim, Christian, Parsi or Jew by religion :

Provided that if it is proved that such person would not have been governed by the Hindu law or by any custom or usage as part of that law in respect of any of the matters dealt with herein if this Code had not been passed, then, this Code shall not apply to that person in respect of those matters.

(3) The expression "Hindu" in any portion of this Code shall be construed as if it included a person who, though not a Hindu by religion is, nevertheless governed by the provisions of this Code.

* * * * * *

(3)

3. Definitions.—In this Code, unless the context otherwise requires,—

(i) "Aliyasantana law" means the system of law applicable to persons who, if this Code had not been passed would have been governed by the Madras Aliyasantana Act, 1949 (Madras Act IX of 1949);

(ii) the expressions "custom" and "usage" signify any rule which having been continuously and uniformly observed for a long time, has obtained the force of law among Hindus in any local area, tribe, community, group or family:

Provided that the rule is certain and not unreasonable or opposed to public policy; and

* Original page numbers of the Government of India publication are put above and below the respective portions in bracket.

2. Application of Code.—(1) This Code applies—

(a) to all Hindus, that is to say, to all persons professing the Hindu religion in any of its forms or developments, including Virashaivas or Lingayatas and members of the Brahmo, the Prarthana or the Arya Samaj;

Part I, section 2, page 1.

(b) to any person who is a Buddhist, Jaina or Sikh by religion;

(c) (i) to any child, legitimate or illegitimate, both of whose parents are Hindus within the meaning of this section.

(ii) to any child, legitimate or illegitimate, one of whose parents is a Hindu within the meaning of this section; provided that such child is brought up as a member of the community group or family to which such parent belongs or belonged; and

(d) to a convert to the Hindu religion.

(2) This Code also applies to any other person, who is not a Muslim, Christian, Parsi or Jew by religion :

Part I, section 2, page 1.

Provided that if it is proved that such person would not have been governed by the Hindu law or by any custom or usage as part of that law in respect of any of the matters dealt with herein if this Code had not been passed, then, this Code shall not apply to that person in respect of those matters.

(3) The expression "Hindu" in any portion of this Code shall be construed as if it included a person who, though not a Hindu by religion is, nevertheless, governed by the provisions of this Code.

(4) Notwithstanding anything contained in the Special Marriage Act, 1872 (III of 1872), this Code shall apply to all Hindus whose marriages have been solemnized under the provisions of that Act prior to the commencement of this Code.

Part I, section 6, page 2 and schedule I, page 30.

(2)

3. Definitions.—In this Code, unless there is anything repugnant in the subject or context,—

Part I, secs. 4 and 5, page 2.

(i) the expressions "custom" and "usage" signify any rule which having been continuously and uniformly observed for a long time, has obtained the force of law among Hindus in any local area, tribe, community, group or family:

Provided that the rule is certain and not unreasonable or opposed to public policy: and

Provided further that in the case of a rule applicable only to a family it has not been discontinued by the family;

(ii) the expression "district court" means the principal civil court of original jurisdiction and except in sections 44 and 49, includes the High Court in the exercise of its ordinary original civil jurisdiction;

Part I, sec. 5(d), page 2.

Provided further that in the case of a rule applicable only to a family it has not been discontinued by the family;

(iv) "full blood" and "half blood"—two persons are said to be related to each other by full blood when they are descended from a common ancestor by the same wife and by half blood when they are descended from a common ancestor but by different wives;

(v) "uterine blood".— two persons are said to be related to each other by uterine blood when they are descended from a common ancestress but by different husbands;

Explanation.—In Clauses (iv) and (v) "ancestor" includes the father and "ancestress" the mother;

(vi) "Marumakkattayam law" means the system of law applicable to persons:—

(a) who, if this Code had not been passed, would have been governed by the Madras Marumakkattayam Act, 1932 (Madras Act XXII of 1933), the Travancore Nair Act II of 1100, the Travancore Ezhava Act, III of 1100, the Nanjinad Vellala Act, 1101, the Travancore Kashatriya Act, 1108, the Travancore Krishnavaka—Marumukkathayam Act, 1115. the Cochin Thiyya Act VIII of 1107, the Cohin Nayar Act, XXIX of 1113, or the Cochin Marumakkathayam Act, XXXIII of 1113; or

(b) who belong to any community, the members of which are largely domiciled in the State of Travancore-Cochin or Madras and who, if this Code had not been passed would have been governed by any system of inheritance in which descent is traced through the female line;

but does not include the Aliyasantana law;

(vii) "Nambudri law" means the law applicable to persons who, if this Code had not been passed, would have been governed by the Madras Nambudri Act, 1932 (Madras Act XXI of 1933), the Cochin Nambudri Act (XVII of 1114) or the Travancore Malayala Brahmin Act of 1106 (Regulation III of 1106);

(viii) "Part" means a Part of this Code;

(ix) "prescribed" means prescribed by rules made under this Code;

(x) "related" means related by legitimate kinship:

Provided that illegitimate children shall be deemed to be related to their mother and to one another and their legitimate descendants shall be deemed to be related to them and to one another; and any word expressing relationship or denoting a relative shall be construed accordingly;

(xi) "son" includes an adopted son, whether adopted before or after the commencement of this Code, but does not include an illegitimate son.

(iii) "full blood" and "half blood"—two persons are said to be related to each other by full blood when they are descended from a common ancestor by the same wife and by half blood when they are descended from a common ancestor but by different wives; **Sec. 5(e)**

(iv) "uterine blood"—two persons are said to be related to each other by uterine blood when they are descended from a common ancestress but by different husbands; **Sec. 5(e)**

Explanation.—In this Clause "ancestor" includes the father and "ancestress" the mother;

(v) "Part" means any Part of this Code; **Sec. 5(h)**

(vi) "prescribed" means prescribed by rules made under this Code;

(vii) "related" means related by legitimate kinship: **Sec. 5(i)**

Provided that illegitimate children shall be deemed to be related to their mother and to one another and their legitimate descendants shall be deemed to be related to them and to one another; and any word expressing relationship or denoting a relative shall be construed accordingly;

(viii) "son" includes an adopted son, whether adopted before or after the commencement of this Code, but does not include an illegitimate son. **Part II, sec. 2(c), page 3.**

(3)

(4)

4. Overriding effect of Code.—Save as otherwise expressly provided in this Code,—

(a) any text, rule or interpretation of Hindu law or any custom or usage in force immediately before the commencement of this Code shall cease to have effect with respect to any of the matters dealt with in this Code; and

(b) any other law in force immediately before the commencement of this Code shall cease to have effect in so far as it is inconsistent with any of the provisions contained in this Code.

4. Overriding effect of Code.—Save as otherwise expressly provided in this Code, any text, rule or interpretation of Hindu law, or any custom or usage or any other law in force immediately prior to the commencement of this Code shall cease to have effect as respect any of the matters dealt with in this Code.

Part I, sec. 3, page 1.

(4)

(5)

PART II.—MARRIAGE AND ANNULMENT OF MARRIAGE

CHAPTER I

Marriage

5. Interpretation.—In this Part, unless the context otherwise requires,—

(a) "district court" includes any court subordinate to the district court which may be specified in this behalf by the State Government by notification in the Official Gazette;

(b) "Sapinda relationship"—a man is a *sapinda* of any of the persons mentioned in the first column of the First Division of the Third Schedule and a woman is a *sapinda* of any of the persons mentioned in the second column of the said Division;

(c) "degrees of prohibited relationship"—a man and any of the persons mentioned in the first column of the Second Division of the Third Schedule and a woman and any of the persons mentioned in the second column of the said Division are within the degrees of prohibited relationship.

Explanation.—For the purposes of clauses (b) and (c) relationship includes,—

(i) relationship by half or uterine blood as well as by full blood;

(ii) illegitimate blood relationship as well as legitimate;

(iii) relationship by adoption as well as by blood;

and all terms of relationship in those clauses shall be construed accordingly*.

* * * * * *

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PART II.—MARRIAGE AND DIVORCE

CHAPTER I

Marriage

Part VI, sec. 1, page 14.

5. Interpretation.—In this Part, unless there is anything repugnant in the subject or context,—

(a)(i) "sapinda relationship" with reference to any person extends as far as the third generation (inclusive) in the line of ascent through the mother and the fifth (inclusive) in the line of ascent through the father the line being traced upwards in each case from the person concerned, who is to be counted as the first generation:

(ii) two persons are said to be "sapindas" of each other if one is a lineal ascendant of the other with the limits of *sapinda* relationship or if they have a common lineal ascendant who is within the limits of *sapinda* relationship with reference to each of them.

(b) "degrees of prohibited relationship".— two persons are said to be within "the degrees of prohibited relationship" if one is a lineal ascendant of the other or was the wife or husband of a lineal ascendant or descendant of the other or if the two are brother and sister, uncle and niece, aunt and nephew or the children of two brothers or two sisters.

Explanation.—For the purposes of clauses (a) and (b) relationship includes.—

(i) relationship by half or uterine blood as well as by full blood;

(ii) illegitimate blood relationship as well as legitimate;

(iii) relationship by adoption as well as by blood;

and all terms of relationship in those clauses shall be construed accordingly.

Illustrations

(i) C, the common ancestor is the father's mother's fathers's father of A and the mother's father of B. As C is the fifth generation from A in A's father's line and the third generation from B in B's mother's line, A and B are *Sapindas* of each other.

(ii) A and B are consanguine brother and sister. Their descendants within the limits of *sapinda* relationship, will be *sapindas* of each other. The descendants of their father and his *ancestors* will also be *sapindas* of A and B and their descendants within the limits of *sapinda* relationship. But the maternal grandfather of A will not necessarily be a *sapinda* of the maternal grandfather of B, nor will a son of the former maternal grandfather necessarily he a *sapinda* of a son of the latter.

(iii) A and B are *uterine* brother and sister. Their descendants, within the limits of *sapinda* relationship, will be *sapinda* of each other. The descendants of their mother and her ancestors will also be *spindas* of A and B and their descendants within the limits of *sapinda* relationship. But the paternal grandfather of A will not necessarily be a *sapinda* of the paternal grandfather of B, nor will a son of the former paternal grandfather necessarily be a *sapinda* of a son of the latter.

(6)

6. Forms of Hindu marriage.—Save as otherwise expresly provided herein, no marriage between Hindus shall be recognised as valid unless it is solemnized—

(a) as a *Dharmik* marriage, or

(b) as a civil marriage, or

(c) in accordance with the provisions of section 24A in cases to which that section applies.

(7)

General provisions for a Dharmik marriage

7. Essentials for a valid Dharmik marriage.—A Marriage between any two Hindus solemnized in the *Dharmik* form shall be a valid marriage, if the following conditions are fulfilled, namely:—

(i) neither party has a spouse living at the time of the marriage;

(ii) neither party is an idiot or a lunatic at the time of the marriage;

(iii) the bridegroom has completed the age of eighteen years and the bride the age of fifteen years at the time of the marriage;

(iv) the parties are not within the degrees of prohibited relationship;

(v) the parties are not *sapindas* of each other unless the custom or usage governing each of them permits of a *Dharmik* marriage between the two;

(vi) where the bride has not completed her sixteenth year, the consent of her guardian in marriage has been obtained for the marriage.

(8)

General provisions for a Civil marriage

8. Essentials for a valid Civil marriage.—A Marriage between any two Hindus solemnized in the Civil form shall be a valid marriage, if the following conditions are fulfilled, namely:—

(i) neither party has a spouse living at the time of the marriage;

(ii) neither party is an idiot or a lunatic at the time of the marriage;

(iii) the bridegroom has completed the age of eighteen years and the bride the age of fifteen years at the time of the marriage;

(iv) the parties are not within the degrees of prohibited relationship;

(v) each party has, if he or she has not completed the age of twenty one years at the time of the marriage, obtained the consent of his or her guardian in marriage:

Provided that no such consent shall be required if the bride is a widow.

6. Forms of Hindu marriage.—Save as otherwise expresly provided herein, no marriage between Hindus shall be recognised as valid unless it is solemnized either as a sacramental marriage or as a civil marriage in accordance with the provisions of this Part.

Part IV, sec. 1, page 15.

(6)

Sacramental marriage

7. Conditions relating to a sacramental marriage.—A marriage between any two Hindus may be solemnized in the sacremental form, if the following conditions are fulfilled, namely:—

Part IV, sec. 3, page 15.

(1) neither party has a spouse living at the time of the marriage;

(2) neither party is an idiot or lunatic at the time of the marriage;

(3) the bridegroom has completed the age of eighteen years and the bride the age of fourteen years at the time of the marriage;

(4) the parties are not within the degrees of prohibited relationship;

(5) the parties are not *sapindas* of each other unless the custom or usage governing each of them permits of a sacramental marriage between the two;

(6) where the bride has not completed her sixteenth year the consent of her guardian has been obtained for the marriage.

(7)

Part IV, sec, 7, page 16.

10. Conditions relating to a civil marriage.—For a civil marriage between any two Hindus, the following conditions must be fulfilled, namely:—

(1) neither party has a spouse living at the time of the marriage;

(2) neither party is an idiot or a lunatic at the time of the marriage;

(3) the bridegroom has completed the age of eighteen years and the bride the age of fourteen years at the time of the marriage;

(4) the parties are not within the degrees of prohibited relationship;

(5) each party has, if he or she has not completed the age of twenty one years, obtained the consent of his or her guardian in marriage:

Provided that no such consent shall be required in the case of a widow.

(8)

(9)

Formalities for a Dharmik marriage

9. Ceremonies.—(1) A *Dharmik* marriage shall not be complete and binding on the parties unless it is solemnized in accordance with such customary rites and ceremonies of either party thereto as are essential for such marriage.

(2) Where such rites and ceremonies include the *Saptapadi* (that is, the taking of seven steps by the bridegroom and the bride jointly before the sacred fire) the marriage becomes complete and binding when the seventh step is taken.

(3) Notwithstanding anything contained in this section, no marriage solemnized in the *Dharmik* form shall, after the solemnization thereof, be deemed to be invalid merely by reason of any irregularity in the performance of any of the customary rites and ceremonies of either party thereto.

(10)

10. Registration of Dharmik marriage.—(1) For the purpose of facilitating the proof of any *Dharmik* marriage the State Government may by rules, provide that—

(a) particulars relating to such marriage shall be entered in such manner and under such circumstances as it thinks fit in the Hindu *Dharmik* marriage Register kept for this purpose; and

(b) the making of such entries shall be compulsory in the State or in such areas or such cases as may be specified in the rules.

(2) In making any rules under sub-section (1) the State Government may provide that a contravention thereof shall be punishable with fine which may extend to one hundred rupees.

(11)

Formalities for a Civil Marriage

11. Marriage Registrars.—The State Government may appoint one or more persons to be Registrars of Hindu Marriages, in this Part referred to as "the Registrar", for the State or any part thereof and the area for which any such Registrar has been appointed shall be called his district.

(12)

12. Notice of marriage to Registrar.—When a civil marriage is intended to be solemnized under this Part, the parties to the marriage shall give notice thereof in writing in the form specified in the Fourth Scheduled to the Registrar of the district in which at least one of the parties to the marriage has resided for a period of not less than thirty days preceding the date on which such notice is given.

8. Ceremonies required—(1) A sacramental marriage shall not be complete and binding on the parties unless it is solemnized in accordance with such customary rites and ceremonies of either party thereto as are essential for such marriage.

Part IV, sec. 4, page 15.

(2) Where such rites and ceremonies include the *Saptapadi* (that is, the taking of seven steps by the bridegroom and the bride jointly before the sacred fire) the marriage becomes complete and binding when the seventh step is taken.

(3) Notwithstanding anything contained in this section, no marriage solemnized in the sacramental form shall, after the solemnization thereof, be deemed to be invalid merely by reason of any irregularity in the performance of any of the customary rites and ceremonies of either party thereto.

(9)

9. Registration of Sacramental marriages.—(1) For the purpose of facilitating the proof of any *Sacramental* marriage the Provincial Government may by rules, provide that—

Part IV, sec. 6, page 15.

(a) particulars relating to such marriage shall be entered in the Hindu *Sacramental* marriage Register kept for this purpose in such manner and under such circumstances as it thinks fit; and

(b) the making of such entries shall be compulsory the such cases or in such areas as may be specified in the rules.

(2) In making any rules under sub-section (1) the Provincial Government may provide that a contravention thereof shall be punishable with fine which may extend to one hundred rupees.

(10)

11. Marriage Registrars.—The Provincial Government may appoint one or more persons to be Registrars of Hindu Marriages, in this Part referred to as "the Registrar", for the Province or any part thereof and the area for which any such Registrar has been appointed shall be called his district.

Part IV, sec. 8, page 16.

(11)

12. Notice of marriage to Registrar.—When a civil marriage is intended to be solemnized under this Part, the parties to the marriage shall give notice thereof in writing in the form specified in the Third Scheduled to the Registrar of the district in which at least one of the parties to the marriage has resided for a period of not less than thirty days preceding the date on which such notice is given.

Part IV, sec. 9, page 16.

(12)

(13)

13. Marriage Notice Book and publication.—(1) The Registrar shall keep all notices given under section 12 with the records of his office and shall also forthwith enter a true copy of every such notice in a book furnished to him for that purpose by the State Government to be called the "Hindu Civil Marriage Notice Book" and such book shall be open for inspection at all reasonable times, without fee by every person desirous of inspecting the same.

(2) The Registrar shall also publish every such notice in such manner as may be prescribed.

(14)

14. Objection to marriage.—(1) After the expiration of thirty days from the date on which notice of an intended marriage has been given under section 12, the marriage may be solemnized unless it has been objected to under sub-section (2).

(2) Any person may, before the expiration of thirty days from the giving of any notice of an intended marriage, object to the marriage on the ground that it would contravene one or more of the conditions specified in section 8.

(3) The nature of the objection made shall be recorded in writing by the Registrar in the Hindu Civil Marriage Notice Book, and shall, if necessary, be read over and explained to the person making the objection and shall be signed by him or on his behalf.

(15)

15. Procedure on receipt of objection.—(1) If an objection is made under section 14 to an intended marriage, the Registrar shall not allow the marriage to be solemnized until the expiration of thirty days from the receipt of such objection, if there is a court of competent jurisdiction open at the time or if no such court is open at the time, until the expiration of thirty days from the opening of such a court.

(2) The person objecting to the intended marriage may file a suit in the district court having local jurisdiction, * * * for a declaration that such marriage contravenes one or more of the conditions specified in section 8 and the court in which such suit is filed shall thereupon give the person presenting it a certificate to the effect that such suit has been field.

(3) If the certificate referred to in sub-section (2) is lodged with the Registrar within thirty days from the receipt by him of the objection, if there is a court of competent jurisdiction open at the time or if no such court

Part IV, sec. 10, page 10.

13. Marriage Notice Book and publication.—(1) The Registrar shall keep all notices given under section 12 with the records of his office and shall also forthwith enter a true copy of every such notice in a book furnished to him for that purpose by the Provincial Government to be called the "Hindu Civil Marriage Notice Book" and such book shall be open for inspection at all reasonable times, without fee by every person desirous of inspecting the same.

(2) The Registrar shall also publish every such notice in such manner as may be prescribed.

(13)

Part IV, sec. 11, page 16.

14. Objection to marriage.—(1) After the expiration of thirty days from the date on which notice of an intended marriage has been given under section 12, the marriage may be solemnized unless it has been objected to under sub-section (2).

(2) Any person may, before the expiration of thirty days from the giving of any notice of an intended marriage, object to the marriage on the ground that it would contravene one or more of the conditions prescribed in clauses (1), (2), (3), (4) and (5) of section 10.

(3) The nature of the objection made shall be recorded in writing by the Registrar in the Hindu Civil Marriage Notice Book, and shall, if necessary, be read over and explained to the person making the objection, and shall be signed by him or on his behalf.

(14)

Part IV, sec. 12, page 17.

15. Procedure on receipt of objection.—(1) If an objection is made under section 14 to an intended marriage, the Registrar shall not allow the marriage to be solemnized until the expiration of thirty days from the receipt of such objection, if there is a court of competent jurisdiction open at the time, or, if no such court is open at the time, until the expiration of thirty days from the opening of such a court.

(2) The person objecting to the intended marriage may file a suit in the District Court having local jurisdiction (or in any other Court empowered in this behalf by the Provincial Government and having such jurisdiction)* for a declaration that such marriage contravenes one or more of the conditions prescribed in clauses (1), (2), (3), (4) and (5) of section 10 and the court in which such suit is filed shall thereupon give the person presenting it a certificate to the effect that such suit has been filed.

**Dr. Ambedkar's remarks in his personal copy by blue pencil— 'omitted, unnecessary. See new definition of District Court.*—Ed.

is open at the time within thirty days from the opening of such a Court, the marriage shall not be solemnized until the decision of such court has been given and the period allowed by law for appeal from such decision has elapsed, or, if there is an appeal from such decision, until the decision of the appellate court has been given.

(4) If such certificate is not lodged in the manner and within the period laid down in sub-section (3), or if the decision of the court is that the marriage does not contravene any of the conditions specified in section 8, the marriage may be solemnized by the Registrar to whom the notice of marriage has been given.

(5) If the decision of the court is that the marriage contravenes any of the conditions specified in section 8, the marriage shall not be solemnized.

(16)

16. Power of court to fine when objection not reasonable.—If it appears to the court before which the suit is filed that the objection was not reasonable and *bona fide,* it may impose on the person objecting a fine not exceeding one thousand rupees and award it or any part thereof to the parties to the intended marriage.

(17)

17. Declaration by parties and witnesses.—(1) Before the marriage is solemnized, the parties and three witnesses, shall, in the presence of the Registrar, sign a declaration in the form specified in the Fifth Schedule and where either party has not completed the age of twenty-one years, the declaration shall also be signed by his or her guardian, except in the case of a widow.

(2) Every declaration made under sub-section (1) shall be countersigned by the Registrar.

(3) If the certificate referred to in sub-section (2) is lodged with the Registrar within thirty days from the receipt by him of the objection, if there is a court of competent jurisdiction open at the time or if no such court is open at the time within thirty days from the opening of such a Court, the marriage shall not be solemnized until the decision of such Court has been given and the period allowed by law for appeal from such decision has elapsed or if there is an appeal from such decision, until the decision of the appellate court has been given.

(4) If such certificate is not lodged in the manner and within the period laid down in sub-section (3), or if the decision of the court is that the marriage does not contravene any of the conditions prescribed in clauses (1), (2), (3), (4) and (5) of section 10, the marriage may be solemnized by the Registrar to whom the notice of marriage has been given.

(5) If the decision of the court is that the marriage contravenes any of the conditions prescribed in clauses (1), (2), (3), (4) and (5) of section 10, the marriage shall not be solemnized.

(15)

Part IV, sec. 13, page 17.

16. Power of court to fine when objection not reasonable.—If it appears to the court before which the suit is filed that the objection was not reasonable and *bonafide,* it may impose on the person objecting a fine not exceeding one thousand rupees and award it or any part thereof to the parties to the intended marriage.

(16)

Part IV, sec. 14, page 17.

17. Declaration by parties and witnesses.—(1) Before the marriage is solemnized, the parties and three witnesses, shall, in the presence of the Registrar, sign a declaration in the form specified in the Fourth Schedule and where either party has not completed the age of twenty-one years, the declaration shall also be signed by his or her guardian, except in the case of a widow.

(2) Every declaration made under sub-section (1) shall be countersigned by the Registrar.

(17)

(18)

18. Place and form of solemnization.—(1) The marriage may be solemnized,—

(a) at the office of the Registrar, or

(b) at such other place within reasonable distance therefrom as the parties may desire, upon such conditions and on the payment of such additional fees as may be prescribed.

(2) The marriage may be solemnized in any form:

Provided that it shall not be complete and binding on the parties unless each party says to the other in the presence of the Registrar and the three witnesses, I (A) take thee, (B), to be my lawful wife (or husband).

(3) The marriage shall be solemnized in the presence of the Registrar and the three witnesses.

(19)

19. Certificate of marriage—(1) When the marriage has been solemnized, the Registrar shall enter a certificate thereof, in the form specified in the Sixth Schedule in a book to be kept by him for that purpose and to be called the "Hindu Civil Marriage Certificate Book" and such certificate shall be signed by the parties to the marriage and the three witnesses.

(2) On a certificate being entered in the Hindu Civil Marriage Certificate Book by the Registrar, the certificate shall be deemed to be conclusive evidence of the fact that a civil marriage has been solemnized and that all formalities as respects the signatures of witnesses to the marriage have been complied with.*

(20)

20 When marriage not solemnized within three months after notice, new notice required.—Whenever a marriage is not solemnized within three calendar months after notice thereof has been given to the Registrar, as required by section 12 or where the person objecting to the intended marriage has filed a suit in a court of competent jurisdiction and the decision of such court has been given, within three calendar months of the date on which the period allowed by law for appeal from such decision expires, or if there is an appeal from such decision, within three calendar months from the date of decision of the appellate court, the notice and all other proceedings thereon shall be deemed to have lapsed and no Registrar shall allow the marriage to be solemnized until a new notice has been given in the manner prescribed in this Chapter.

*(*Under this section 19 Dr. Ambedkar's remarks in pencil in his personal copy are as under, 'It is not enough to say that formalities have been gone through. It carries us nowhere, conclusive evidence must be of solemnization and not of formalities.,'*—Ed.)

18. Place and form of solemnization.—(1) The marriage may be solemnized,— **Part IV, sec. 15, page 17.**

(a) at the office of the Registrar, or

(b) at such other place within reasonable distance therefrom as the parties may desire, upon such conditions and on the payment of such additional fees as may be prescribed.

(2) The marriage may be solemnized in any form:

Provided that it shall not be complete and binding on the parties unless each party says to the other in the presence of the Registrar and the three witnesses, I (A) take thee, (B), to be my lawful wife (or husband).

(3) The marriage shall be solemnized in the presence of the Registrar and the three witnesses.

(18)

19. Certificate of marriage.—(1) When the. Marriage has been solemnized, the Registrar shall enter a certificate thereof, in the form specified in the Fifth Schedule in a book to be kept by him for that purpose and to be called the "Hindu Civil Marriage Certificate Book" and such certificate shall be signed by the parties to the marriage and the three witnesses. **Part IV, sec. 17, page 18.**

(2) On a certificate being entered in the Hindu Civil Marriage Certificate Book by the Registrar, the certificate shall be deemed to be conclusive evidence of the fact that all formalities as respects the signatures of witnesses to a Civil marriage have been complied with.

(19)

20 When marriage not solemnized within three months after notice, new notice required.—Whenever a marriage is not solemnized within three calendar months after notice thereof has been given to the Registrar, as required by section 12 or where the person objecting to the intended marriage has filed a suit in a court of competent jurisdiction and the decision of such court has been given, within three calendar months of the date on which the period allowed by law for appeal from such decision expires, or if there is an appeal from such decision, within three calendar months from the date of decision of the appellate court, the notice and all other proceedings thereon shall be deemed to have lapsed and no Registrar shall allow the marriage to be solemnized until a new notice has been given in the manner prescribed in this Chapter. **(New)**

(20)

(21)

Registration of Dharmik marriages as civil marriages

21. Procedure for registration of certain Dharmik Marriages.—(1) Where any two Hindus have gone through a *Dharmik* form of marriage,—

(a) before the commencement of this Code, and doubts are entertained as respects the validity of any such marriage by reason of the provisions of any text, rule or interpretation of Hindu Law or any usage or custom in force at the time of the marriage, or

(b) after the commencement of this Code and such marriage is invalid by reason of the fact that it is in contravention of the provisions contained in clause (v) of section 7.

such persons may, at any time apply to the Registrar of the district in which either of them has resided for not less than thirty days immediately preceding the application to have their marriage registered as if it were a civil marriage solemnized before the Registrar.

(2) Upon receipt of any such application, the Registrar shall give public notice thereof in such manner as may be prescribed and after allowing a period of thirty days for objection and after hearing any objections received within that period the Registrar, if he is satisfied—

(a) that the ceremony of marriage was performed on the date mentioned in the application and that the parties have been living together as husband and wife ever since;

(b) that the conditions specified in clauses (i), (ii), (iii) and (iv) of section 8 are satisfied as between the parties to the marriage on the date of the application; and

(c) that, where either party not being a widow at the time of the marriage has not on the date of the application completed the age of twenty one years, the consent of his or her guardian in marriage has been obtained to the registration of the marriage as a civil marriage.

shall enter a certificate of the marriage in the Hindu *Dharmik* Marriage Register in the form specified in the Seventh Schedule and such certificate shall be signed by the parties to the marriage as well as by three witnesses.

(3) Upon the entry of any such certificate as is specified in sub-section (2),the marriage shall be deemed to have been valid for all purposes and all children born after the date on which the parties went through the *Dharmik* form of marriage (whose names shall also be entered in the Certificate and the Hindu *Dharmik* Marriage Register) shall, in all respects, be deemed to be and always to have been the legitimate children of their parents.

(4) Any party to such marriage aggrieved by any order passed under this section may appeal against that order to the district court as defined in section 3 within the local limits of whose jurisdiction the Registrar exercises jurisdiction and the decision of the district court on such appeal shall be final.

Part IV, sec. 18, page 18.

21. Procedure for registration of certain Sacramental Marriages.—(1) Where any two Hindus have gone through a sacramental form of marriage,—

(a) before the commencement of this Code and doubts are entertained as respects the validity of any such marriage by reason of the provisions of any text, rule or interpretation of Hindu Law or any usage or custom in force at the time of the marriage, or

(b) after the commencement of this Code and such marriage is invalid by reason of the fact that it is in contravention of the provisions contained in clause (5) of section 7.

such persons may, at any time apply to the Registrar of the district in which either of them has resided for not less than thirty days immediately preceding the application, to have their marriage registered as if it were a civil marriage solemnized before the Registrar.

(2) Upon receipt of any such application, the Registrar shall give public notice thereof in such manner as may be prescribed and after allowing a period of thirty days for objection and after hearing any objections received within that period the Registrar, if he is satisfied—

(a) that the ceremony of marriage was performed on the date mentioned in the application and that the parties have been living together as husband and wife ever since;

(b) that the conditions in clauses (1) to (4) of section 10 are satisfied as between the parties to the marriage on the date of the application; and

(c) that, where either party not being a widow at the time of the marriage has not on the date of the application completed the age of twenty one years, the consent of his or her guardian in marriage has been obtained to the registration of the marriage as a civil marriage;

shall enter a certificate of the marriage in the Hindu Sacramental Marriage Register in the form specified in the Sixth Schedule and such certificate shall be signed by the parties to the marriage as well as by three witnesses.

(3) Upon the entry of any such certificate as is specified in sub-section (2) the marriage shall be deemed to have been valid for all purposes and all children born after the date on which the parties went through the Sacramental form of marriage (whose names shall also be entered in the Certificate and the Hindu Sacramental Marriage Register) shall, in all respects, be deemed to be, and always to have been, the legitimate children of their parents.

(4) Any party to such marriage aggrieved by any order passed under this section may appeal against that order to the district court within the local limits of whose jurisdiction the Registrar exercises jurisdiction, and the decision of the district court on such appeal shall be final.

(22)

Use of marriage records

22. Marriage records to be open to inspection etc.—The Hindu *Dharmik* Marriage Register and the Hindu Civil Marriage Certificate Book shall, at all reasonable times, be open for inspection and shall be admissible as evidence of the truth of the statements therein contained.

Certified extracts therefrom shall, on application be given by the Registrar on payment to him of the prescribed fee.

(23)

23. Transmission of copies of entries in marriage records to the Registrar General of Births, Deaths and Marriages.—The Registrar shall send to the Registrar General of Births, Deaths and Marriages for the State within which his district is situate at such intervals as may be prescribed, a true copy in the prescribed form and certified by him of all entries made by him in the Hindu *Dharmik* Marriage Register and the Hindu Civil Marriage Certificate Book since the last of such intervals.

Part IV, sec. 19, page 18.

22. Marriage records to be open to inspection etc.—The Hindu Sacramental Marriage Register and the Hindu Civil Marriage Certificate Book shall, at all reasonable times, be open for inspection and shall be admissible as evidence of the truth of the statements therein contained.

Certified extracts therefrom shall, on application be given by the Registrar on payment to him of the prescribed fee.

(22)

23. Transmission of copies of entries in marriage records to the Registrar General of Births, Deaths and Marriages.—The Registrar shall send to the Registrar General of Births, Deaths and Marriages for the Province within which his district is situate, at such intervals as may be prescribed, a true copy in the prescribed form and certified by him of all entries made by him in the Hindu Sacramental Marriage Register and the Hindu Civil Marriage Certificate Book since the last of such intervals.

(23)

(24)

Guardianship in marriage

24. Priority among guardians in marriage.—(1) Subject to the provisions of Part IV, wherever the consent of a guardian in marriage is necessary under this Part the persons entitled to give such consent shall be the following in the order specified hereunder, namely,—

(1) the father,

(2) the mother,

(3) the brother,

* * * * * * *

* * * * * * *

(4) any other relative, the nearer being preferred to the more remote.

* * * * * * *

Explanation.—In determining which of the two relatives is nearer for the purposes of entry (4) above, the test shall be, which of them is first entitled to inherit to the ward's heritable properly according to the rules of intestate succession in Part VII.

(2) No person shall be entitled to act as a guardian in marriage under the provisions of this section unless such person has himself completed his or her twenty first year.

(3) Whether any person entitled to be the guardian in marriage under the foregoing provisions refuses or is by reason of absence, disability or other cause, unable or unfit, to act as such, the person next in order shall be entitled to be the guardian in marriage.

(4) Nothing in this Part shall affect the jurisdiction of a court to prohibit by injunction and intended marriage arranged by the guardian in marriage, if in the interests of the minor, the court thinks it necessary to do so.

Part IV sec. 22, page 19.

24. Guardianship in marriage.—(1) Subject to the provisions of Part IV, wherever the consent of a guardian in marriage is necessary under this Part the persons entitled to give such consent shall be the following in the order specified hereunder, namely,—

(1) the father;

(2) the mother,

(3) the paternal grandfather.

(4) The brother by full or half blood, a brother by full blood being preferred to one by half blood and as between brothers both by full or half blood, the elder being preferred;

(5) the paternal uncle by full or half blood, subject to the like rules of preference as are set out in entry (4) above;

(6) the maternal grandfather;

(7) the maternal uncle, subject to the like rules of preference as are set out in entry (4) above.

(8) any other relative, the nearer being preferred to the more remote and as between relatives related in the same way, subject to the like rules of preference as are set out in entry (4) above.

Explanation.—In determining which of the two relatives is nearer for the purposes of entry (8) above the test shall be, which of them is first entided to inherit to the ward's heritable property according to the rules of intestate succession in Part VII.

(2) No person shall be entitled to act as a guardian in marriage under the provisions of this section unless such person has himself completed his or her twenty-first year.

(3) Where any person entitled to be me guardian in marriage under the foregoing provisions refuses or is by reason of absence, disability or other cause, unable or unfit, to act as such, the person next in order shall be entitled to be the guardian.

(4) Nothing in this Part shall affect the jurisdiction of a court to prohibit by injunction an intended marriage arranged by the guardian, if in the interests of the minor, the court thinks it necessary to do so.

(25)

Special provisions for a valid marriage between Marumakkattayees, etc.

24A. Conditions relating to marriage of Marumakkattayam or Aliyasantana female.—(1) A marriage solemnized after the commencement of this Code between a female who, if this Code had not been passed, would have been governed by the Marumakkattayam or Aliyasantana law and a male Hindu, shall be a valid marriage if the conditions specified in section 7 are fulfilled;

Provided that the condition specified in clause (v)* of the said section shall not apply to any such marriage.

(2) Every marriage under this section shall be openly solemnized in accordance with the customary rites and ceremonies, if any, prevailing in the community to which the parties belong or either of them belongs;

Provided that no such marriage shall be deemed to be invalid merely by reason of any irregularity in the performance of any of the rites and ceremonies aforesaid.

(3) Notice of every marriage under this section shall be given by such person to such authority in such form and within such time as may be prescribed.

(4) Where a marriage is solemnized under the provisions of this section between a female who, if this Code had not been passed, would have been governed by the Marumakkattayam or Aliyasantana law, and a male Hindu who would not have been governed by such law, it shall be lawful for the parties to make a declaration in the notice given under sub-section (3) that they desire to be governed by the special provisions contained in this Part with respect to annulment of Marumakkattayam or Aliyasantana marriages, and unless any such declaration is made,—

(a) nothing contained in any such special provision (except this section) shall apply to either of the parties; and

(b) Chapters II and III of this Part shall apply to, or in relation to, such marriage as they apply to, or in relation to, a *Dharmik marriage.*

(5) If any person fails to give notice of a marriage as required by sub-section (3), he shall be punishable with fine, which may extend to fifty rupees;

Provided that the failure to give any such notice shall not invalidate the marriage or affect the legal rights of the parties to, or of the issue of, such marriage.

(26)

Penalties, etc.

***25. Bigamous marriage and punishment therefor.**—Any person who during the lifetime of his or her spouse, if the marriage of such person with such spouse has not been annulled in accordance with the provisions of this Code, or, at any time before the commencement of this Code, in accordance with the law, custom or usage in force at the time, contracts any other marriage after the commencement of this Code, shall be subject to the penalties provided in sections 494 and 495 of the Indian Penal Code (Act XLV of 1860) for the offence of marrying again during the lifetime of a husband or wife.

(27)

26. Penalty for signing false declaration or certificate.—Every person making, signing or attesting any declaration or certificate required under this Part, containing a statement which is false and which he either knows or believes to be false or does not believe to be true, shall be * * * * guilty of the offence described in section 199 of the Indian Penal Code (Act XLV of 1860).

* * * * *

* *Dr. Ambedkar's note in pencil on his personal copy, 'Recognises custom also to make matter clear'*—Ed.

25. Bigamous marriage and punishment therefor.— Any person who during the lifetime of his or her spouse, if the marriage of such person with such spouse has not been dissolved by a Court of competent jurisdiction, contracts any other marriage after the commencement of this Code, shall be subject to the penalties provided in sections 494 and 495 of the Indian Penal Code 1860 (XLV of 1860) for the offence of marrying again during the lifetime of a husband or wife.

Part V, sec. 24, page 19.

(26)

26. Penalty for signing false declaration or certificate.—Every person making, signing or attesting any declaration or certificate required under this Part, containing a statement which is false and which he either knows or believes to be false or does not believe to be true, shall be deemed to be guilty of the offence described in section 199 of the Indian Penal Code 1860 (XLV of 1860).

Part IV sec. 22, page 18.

(27)

(27)

CHAPTER II

Restitution of conjugal rights and judicial separation

27. Petition for restitution of conjugal rights.—When either the husband or the wife has, without reasonable excuse, withdrawn from the society of the other, the aggrieved party may apply, by petition to the district court for restitution of conjugal rights and the court, on being satisfied of the truth of the statements made in such petition and that there is no legal ground why the application should not be granted, may decree restitution of conjugal rights accordingly.

(29)

28. Answer to petition for restitution of conjugal rights.—Nothing shall be pleaded in answer to a petition for restitution of conjugal rights which would not be a ground for judicial separation or for a decree of annulment of marriage.

(29)

29. Judicial separation.—Either party to a marriage, whether solemnized before or after the commencement of this Code, may present a petition to the district court praying for a decree for judicial separation on the ground that the other party—

(a) has deserted the petitioner without cause for a period of not less than two years immediately preceding the presentation of the petition;

(b) has been guilty of such cruelty as to render it unsafe for the petitioner to live with the other party; or

(c) has, for a period of not less than one year immediately preceding the resentation of the petition, been suffering from venereal disease in a communicable form and not contracted from the petitioner;

(d) is suffering from a virulent form of leprosy; or

(e) has been habitually of unsound mind since the date of the marriage; or

(f) has committed adultery during the marriage.

Explanation.—In this section, the expression "to desert" with its grammatical variations and cognate expressions, means to desert the other party to a marriage without reasonable cause and without the consent or against the wish of such party.

31. Petition for restitution of conjugal rights.— When either the husband or the wife has, without reasonable excuse, withdrawn from the society of the other, the aggrieved party may apply, by petition to the district court for restitution of conjugal rights and the court, on being satisfied of the truth of the statements made in such petition, and that there is no legal ground why the application should not be granted, may decree restitution of conjugal rights accordingly. **(New)**

(28)

32. Answer to petition for restitution of conjugal rights.—Nothing shall be pleaded in answer to a petition for restitution of conjugal rights which would not be a ground for judicial separation or for a decree of dissolution of marriage. **(New)**

(29)

Judicial Separation

33. Judicial separation.—Either party to a marriage, whether solemnized before or alter the commencement of this Code, may present a petition to the District Court praying for a decree for judicial separation on the ground that the other party— **Part IV, sec. 30, page 21.**

(a) has deserted the petitioner for a period of not less than two years; or

(b) has been guilty of such cruelty as to render it unsafe for the petitioner to live with the other party; or

(c) has been suffering from incurable venereal disease in a communicable form, not contracted from the petitioner for a period of not less than one year immediately preceding the presentation of the petition; or

(d) is suffering from a virulent form of leprosy; or

(e) has been habitually of unsound mind since the date of marriage; or

(f) has committed adultery during the marriage.

Explanation.—In this section, the expression "to desert" with its grammatical variations and cognate expressions, means to desert the other party to a marriage without reasonable cause and without the consent or against the wish of such party.

(30)

(31)

CHAPTER III

General provisions relating to annulment of marriage

30. No marriage to be annulled except by order of court.— Notwithstanding anything contained in this Part, no marriage solemnized, whether before or after the commencement of this Code, shall be deemed to have been lawfully annulled except by a decree of a competent court passed in that behalf.

(32)

30A. Modes of annulment of marriage.—A marriage may be annulled by a decree of nullity, if it is void for any of the reasons set out in section 31, or by a decree of dissolution, if it is voidable for any of the reasons set out in section 32, or by a decree of divorce for any of the reasons set out in section 33, as the case may be.

Nullity of Marriages

31. Grounds for a decree of nullity.—(1) Any marriage solemnized before the commencement of this Code may be annulled by a decree of nullity—

(a) if by reason of the provisions of any law in force at the time of the marriage such marriage was invalid on the ground that either party had a spouse living at the time of the marriage or

(b) if the parties at the time of the marriage were within the degrees of prohibited relationship as defined by clause (c) of section 5 :

Provided that no such marriage shall be annulled under the provisions of clause (b) of this sub-section if it was valid under the provisions of any law in force at the time of the marriage.

(2) Any marriage solemnized after the commencement of this Code may be annulled by a decree of nullity—

(a) if, purporting to be a *Dharmik* marriage, it contravenes any of the conditions specified in clauses (i), (iv) and (v) of section 7.

(b) if, purporting to be a civil marriage, it contravenes any of the conditions specified in clauses (i) and (iv) of section 8:

Provided that nothing contained in this section shall apply to any case falling within the prohibition contained in clause (v) of section 7, if, before the institution of any proceeding for the annulment of marriage, the marriage is registered as a civil marriage under section 21.

34. No marriage to be avoided except by order of court.—Notwithstanding anything contained in this Part, no marriage solemnized, whether before or after the commencement of this Code, and whether such marriage is void or voidable, shall be deemed to have been lawfully dissolved unless a decree has been pronounced by a Competent Court declaring that the marriage is dissolved either on a petition for dissolution or in any other proceeding in which the validity of the marriage is in issue.

28. Void marriage.—(1) Any marriage solemnized before the commencement of this Code shall be void—

Part IV, sec. 29(2)(ii) page 2.

(a) if by reason of the provisions of any law in force at the time of the marriage such marriage was invalid on the ground that either party had a spouse living at the time of the marriage; or

(b) if the parties at the time of the marriage were within the degrees of prohibited relationship as defined by clause (b) of section 5;

Provided that no such marriage shall be deemed to be void under the provisions of clause (b) of sub-section (1) if it was valid under the provisions of any law in force at the time of the marriage.

(2) Any marriage solemnized after the commencement of this Code shall be void—

(a) if, purporting to be a sacramental marriage, it contravenes one or more of the conditions specified in clauses (1), (4) and (5) of section 7;

(b) if, purporting to be a civil marriage, it contravenes any of the conditions specified in clauses (1) and (4) of section 10:

Provided that in the case mentioned in clause (a) of sub-section (2) the condition specified in clause (5) of section 7 shall not apply when the marriage is subsequently registered at any time as a civil marriage under section 21, before any petition for dissolution is presented to any Court.

(34)

Dissolution of Marriage

32. Grounds for a decree of dissolution.—(1) Any marriage solemnized before the commencement of this Code may be annulled by a decree of dissolution on the ground that either party to the marriage was an idiot or a lunatic at the time of the marriage.

(2) Any marriage solemnized after the commencement of this Code may be annulled by a decree of dissolution—

(a) if, purporting to be a *Dharmik* marriage, it contravenes any of the conditions specified in clauses (ii), (iii) and (vi) of section 7;

(b) if, purporting to be a civil marriage, it contravenes any of the conditions specified in clauses (ii), (iii) and (v) of section 8:

Provided that, unless there was force or fraud, a *Dharmik* marriage shall not, after it has been completed, be deemed to be invalid or even to have been invalid merely on the ground that the consent of the bride's guardian in marriage to the marriage was not or had not been obtained.

* * * * * *

Part IV, sec. 5, page 15.

29. Voidable marriages.—(1) Any marriage solemnized before the commencement of this Code shall be voidable if either party to the marriage was an idiot or lunatic at the time of the marriage.

(2) Any marriage solemnized after the commencement of this Code shall be voidable—

(a) if, purporting to be sacramental marriage, it contravenes any of the conditions specified in clauses (2), (3) and (6) of section 7;

(b) if, purporting to be a civil marriage, it contravenes any of the conditions specified in clauses (2), (3) and (5) of section 10:

Provided that unless there was force or fraud, a sacramental marriage shall not, after it has been completed, be deemed to be invalid or ever to have been invalid merely on the ground that the consent of the bride's guardian to the marriage was not or had not been obtained.

(3) Any marriage, whether solemnized before or after the commencement of this Code, shall be voidable on any of the grounds specified in section 30.

(4) Where a period of limitation is prescribed for the presentation of any petition under this Part and no petition is presented within the time prescribed, the marriage shall be deemed to be valid and always to have been valid for all purposes.

36. Dissolution of marriage.—(1) Subject to the provisions of section 35, either party to a marriage may at any time present a petition for dissolution of marriage to the District Court on any of the grounds which makes a marriage void or voidable.

(2) Nothing in sub-section (1) shall be deemed to authorise a Court to pass a decree—

(i) in the case of marriage solemnized before the commencement of this Code which was valid at the time of solemnization, on the ground—

(a) that a former wife of the male party was living at the time of the marriage; or

(b) that the parties are within the degrees of prohibited relationship as defined by clause (b) of section 5;

(ii) in the case of a voidable marriage, whether solemnized before or alter the commencement of this Code, on the ground that either party was an idiot or lunatic at the time of the marriage or that the respondent was impotent at the time of the marriage and continued to be so until the institution of the proceeding, unless the petition for dissolution is

(35)

Divorce

33. Grounds for a decree of divorce.—Any marriage, solemnized whether before or after the commencement of this Code, may be annulled by a decree of divorce on any of the following grounds namely:—

(i) either party to the marriage was impotent at the time of the marriage and continued to be so until the institution of the proceeding;

(ii) the husband is keeping a * * * concubine or the wife has become the concubine of any other man or leads the life of a prostitute;

(iii) either party to the marriage has ceased to be a Hindu by conversion to another religion;

(iv) either party is incurably of unsound mind and has been continuously under treatment for a period of not less than five years preceding the petition; and

(v) either party is suffering from a virulent * * * form of leprosy..

(vi) either party has not resumed marital intercourse for a period of two years or upwards after a decree or order for judicial separation had been passed against the other party;

(vii) either party has failed to comply with a decree for restitution of conjugal rights for a period of two years or upwards.

presented within three years after the solemnization of the marriage, or in the ease of a marriage solemnized before the commencement of this Code, within two years of such commencement; or

(iii) in the case of a voidable marriage, whether solemnized before or after the commencement of this Code, on the ground that the consent of the petitioner or where the consent of his or her guardian is requisite, the consent of such guardian was obtained by force or fraud, unless the petition for dissolution is presented within one year alter the force had ceased to operate or the fraud had been discovered:

Provided that the Court shall dismiss such petition if—

(a) in the case of a voidable marriage solemnized before the commencement of this Code the force had ceased to operate or the fraud had been discovered before such commencement and the petition for dissolution is presented more than one year after the commencement of this Code; or

(b) the petitioner has, with his or her free consent, lived with the other party to the marriage as husband and wife after the force had ceased to operate or the fraud had been discovered, as the case may be.

(34)

Part IV sect's 29 & 30, page 2.

30. Other grounds for dissolution of marriage.— A marriage, whether solemnized before or after the commence ment of this Code, may be dissolved on any of the following grounds, namely, that—

(i) either party to the marriage was impotent at the time of the marriage and continued to be so until the institution of the proceeding;

(ii) the husband is keeping a woman as a concubine or the wife has become the concubine of any other man or leads the life of a prostitute;

(iii) either party to the marriage has ceased to be a Hindu by conversion to another religion;

(iv) either party is incurably of unsound mind and has been continuously under treatment for a period of not less than five years preceding the petition; and

(v) either party is suffering from a virulent and incurable form of leprosy.

(New)

38 Further grounds for dissolution.—Either party to a marriage whether solemnized before or after the commencement of this Code, may present a petition to the District Court prayin'g that his or her marriage may be dissolved on the ground that the other party—

(a) has not resumed marital intercourse for a period of two years or upwards after a decree or order for judicial separation had been passed against the respondent; or

(b) that the respondent has failed to comply with a decree for restitution of conjugal rights for a period of two years or upwards.

(35)

(36)

34. Right to have marriage annulled.—(1) A decree of nullity of marriage may be obtained either by a party to the marriage or by a Proctor or by any person affected by, or having an interest in, the marriage either on a petition for annulment by a decree of nullity or on a plea raised in any other proceeding.

(2) A petition for a decree of dissolution or for divorce shall lie only at the instance of a party to the marriage:

Provided that no party shall be entitled to take advantage of his or her own default or disability for the purpose of relief.

(37)

35. Appointment of Proctors.—(1) The State Government may appoint one or more Proctors for the State or any part thereof who shall have the right—

(i) to appear or intervene either *suo moto* in any proceeding for the annulment of any marriage, where in the opinion of the Proctor it is expedient in the public interest so to do or at the instance of any court;

(ii) to initiate any proceeding for the annulment of any marriage where the appropriate remedy for annulment is by a decree of nullity.

(2) The State Government may make rules regulating the manner in which the right of the Proctor shall be exercised and all matter incidental to or consequential on any exercise of the right.

35. Persons entitled to present petition for dissolution.—(1) Where a marriage, whether solemnized before or after the commencement of this Code, is impugned on the ground that it is a void marriage, the plea may be entertained by the Court either—

(i) on a petition for dissolution presented by either party to the marriage; or

(ii) on an issue being raised in any proceeding by any person affected by or having an interest in the marriage.

(2) Where a marriage, whether solemnized before or after the commencement of this Code, is impugned on the ground that it is a voidable marriage, no such plea shall be entertained by the Court except at the instance of either party to the marriage:

Provided that no party shall be entitled to take advantage of his or her own default or disability for the purpose of relief.

(38)

36. No petition for divorce to be presented within three years of marriage.—(1) notwithstanding anything contained in this Part, it shall not be competent for any court to entertain any petition for a decree for divorce, unless at the date of the presentation of the petition three years have elapsed since the date of the marriage:

Provided that the court may, upon application made to it in accordance with such rules as may be made by the High Court in that behalf, allow a petition to be presented before three years have elapsed since the date of the marriage on the ground that the case is one of exceptional hardship to the petitioner or of exceptional depravity on the part of the respondent, but, if it appears to the court at the hearing of the petition that the petitioner obtained leave to present the petition by any misrepresentation or concealment of the nature of the case, the court may, if it pronounces a decree, do so subject to the condition that the decree shall not have effect until after the expiry of tliree years from the date of the marriage or may dismiss the petition without prejudice to any petition which may be brought after the expiration of the said three years upon the same or substantially the same facts as those proved in support of the petition so dismissed.

(2) In disposing of any application under this section for leave to present a petilion for divorce before the expiration of tliree years from the date of the marriage, the court shall have regard to the interests of any children of the marriage and to the question whether there is a reasonable probability of a reconciliation between the parties before the expiration of the said three years.

(39)

Effect of annulment of marriage

37. Liberty to parties to marry again.—When a marriage has been annulled by a decree of a competent court and no appeal has been presented against such decree or when any such appeal has been dismissed, it shall be lawful for the respective parties to the marriage to marry again as if the prior marriage had been annulled by death.

(38)

50. Liberty to parties to marry again.—When six months after the date of an order of a High Court confirming the decree for dissolution of marriage made by a District Judge have expired, **(New)**

or when six months after the date of any decree of a High Court dissolving a marriage have expired and no appeal has been presented against such decree,

or when any such appeal has been dismissed or when as a result of such appeal any marriage is dissolved, it shall be lawful for the respective parties to the marriage to marry again as if the prior marriage had been dissolved by death.

(39)

(40)

38. Consequences of annulment of marriage.—(1) Where a marriage is annulled by a decree of nullity, * * * the parties thereto shall be deemed never to have been married, nor to have been related to each other as husband and wife:

Provided that where a marriage is annulled by a decree of nullity on the ground that a former husband or wife was living and it is adjudged that the subsequent marriage was solemnized in good faith and that one or both of the parties fully believed that the former husband or wife was dead, children begotten before the decree is passed shall be specified in the decree and shall in all respects to be deemed to be, and always to have been, the legitimate children of their parents.

(2) Where a marriage is annulled by a decree of dissolution or a decree of divorce, the parties shall cease to be related to each other as husband and wife from the date of the decree, and any children begotten of the marriage shall in all respects be deemed to be, and always to have been, the legitimate children of their parents and their names shall be specified in the decree.

(41)

Jurisdiction and procedure

39. Extent of power to grant relief under this Part.—Nothing contained in this Part shall authorise any Court.—

(a) to make decrees of nullity of marriage except where the marriage has been solemnized in India and the petitioner is resident in India at the time of presenting the petition.

(b) to make decrees of dissolution or divorce, except where the parties to the marriage are domiciled in India at the time of presenting the petition; or

(c) to grant any relief under this Part other than a decree of nullity of marriage or a decree of dissolution or divorce, except where the petitioner resides in India at the time of presenting the petition.

37. Effect of declaring marriage *null and void.*—(1) Where a marriage is dissolved on the ground that it is a void marriage, or where a marriage has been declared to be void, void marriage shall be deemed to have been void *ab initio,* and any children begotten of the marriage shall be deemed to be, and always to have been, illegitimate:

Provided that where a marriage is dissolved or declared to be void on the ground that a former husband or wife was living and it is adjudged that the subsequent marriage was solemnized in good faith and that one or both of the parties fully believed that the former husband or wife was dead, children begotten before the decree is made shall be specified in the decree and shall in all respects be deemed to be, and always to have been, the legitimate children of their parents.

(2) Where a marriage is dissolved on any of the grounds specified in sections 29 and 30, any children begotten of the marriage shall in all respects be deemed to be, and always to have been, the legitimate children of their parents and their names shall be specified in the decree.

Part IV, sec. 29(I), page 21.

(40)

Jurisdiction and procedure

39. Extent of power to grant relief under this Part.—Nothing contained in this Part shall authorise any Court.—

(a) to make decrees for dissolution of marriage—

(i) in the case of a void marriage or in the case of a voidable marriage which contravenes the provisions of clause (2) of section 7 or clause (2) of section 10 or which can be avoided on the ground that either party to the marriage was important at the time of the marriage and continued to be so until the institution of the proceeding, unless the marriage has been solemnized in a Province and the petitioner is resident in the Province at the time of presenting the petition ; or

(New)

(ii) in the case of a voidable marriage, not falling within sub-clause (i) of clause (a) of this section, unless the parties to the marriage are domiciled in a Province at the time when the petition for dissolution is presented; or

(b) to grant any relief under this Part, other than a decree for dissolution of marriage except where the petitioner resides in a Province at the time of presenting the petition.

(41)

(42)

40. Court to which petittion should be made and hearing *in camera.*— *(1)* Every petition under this Part shall be presented to the district court within the local limits of whose ordinary original civil jurisdiction the marriage was solemnized or the husband and wife reside or last resided together.

(2) A proceeding under this Part shall be conducted *in camera* If either party so desires or if the Court thinks ill to do so.

(43)

41. Contents and verification of petitions.—(1) Every petition presented under this Part shall state, as distinctly as the nature of the case permits, the facts on which the claim to relief is founded and every petition for the annulment of any marriage or for judicial separation shall state that there is no collusion between the petitioner and the other party to the marriage.

(2) The statements contained in every petition under this Part shall be verified by the petitioner or some other competent person in the manner required by law for the verification of plaints, and may at the hearing be referred to as evidence.

(44)

42. Application of the Code of Civil Procedure.—Subject to the other provisions contained in this Part, all proceedings under 'this Part between party and party shall be regulated, as far as may be, by the Code of Civil Procedure, 1908 (Act V of 1908).

(45)

43. Decree in proceeding.—In any petition presented under this Part, whether defended or not, if the court is satisfied that any of the grounds for granting relief exists and that the petition has not been presented or prosecuted in collusion with the respondent or that the adultery complained of, if any, has not been connived at or condoned, the court shall decree such relief accordingly.

40. Court to which petition should be made.— Every petition under this Part shall be presented to the District Court Act within the local limits of whose ordinary original civil jusidiction the husband and wife reside or last resided together.

Sec. 3(2), Ind. Div. Act.

48. Suits may be heard within Closed doors.—A proceeding under this part shall be conducted *in camera* at the instance of either party or if the Court thinks fit to do so.

(42)

41. Contents and verification of petitions.—(1) Every petition presented under this Part shall state, as distinctly as the nature of the case permits, the facts on which the claim to relief is founded and every petition for a decree of dissolution of marriage, or of judicial separation shall state that there is no collusion between the petitioner and the other party to the marriage.

Sec. 10, Ind. Div. Act.

(2) The statements contained in every petition under this Part shall be verified by the petitioner or some other competent person in the manner required by law for the verification of plaints, and may at the hearing be referred to as evidence.

(43)

42. Application of the Code of Civil Procedure.— Subject to the other provisions contained in this Part, all proceedings under this Part between party and party shall be regulated, as far as may be, by the Code of Civil Procedure, 1908 (V of 1908).

S. 15, Ind. Div. Act.

(44)

43. Decree in proceeding.—In any petition presented under this Part, whether defended or not, if the court is satisfied that any of the grounds for granting relief exists and that the petition has not been presented or prosecuted in collusion with the respondent or that the adultery complained of, if any, has not been connived at or condoned, the court shall decree such relief accordingly.

(45)

(46)

Other orders that may he passed in annulment proceeding

44. Alimony, *pendente lite*.—Where in any proceeding under this Part, it appears to the court that the wife has no independent income sufficient for her support and the necessary expenses of the proceeding, it may, on the application of the wife, order the husband to pay to her the expenses of the proceeding, and monthly during the proceeding such sum not exceeding one-fifth of her husband's net income as to the court seems reasonable.

(47)

45. Permanent alimony.—(1) Any court exercising jurisdiction under this Part may, at the time of passing any decree or at any time subsequent thereto, on application made to it for the purpose, order that the husband shall, while the wife remains chaste and unmarried, secure to the wife, for her maintenance and support, if necessary, a charge on the husband's property of such gross sum or such monthly or periodical payment of money for a term not exceeding her life as, having regard to her own property, if any, her husband's property and the conduct of the parties, shall be deemed just.

(2) If the court is satisfied that there is a change in the circumstances of either party at any time after it has made an order under sub-section (1), it may, at the instance of either party vary, modify or rescind any such order in such manner as the court may deem just.

(3) If the court is satisfied that the wife in whose favour an order has been made under sub-section (1) or (2) has remarried or has not remained chaste, it shall * * rescind the order.

(48)

46. Custody of children.—In any proceeding under this Part, the Court may, from time to time, pass such *interim* orders and make such provisions in the decree as it may deem just and proper with respect to the custody, maintenance and education of minor children, consistently with their wishes wherever possible, and may, after the decree, upon application by petition for the purpose, make, revoke, suspend or vary, from time to time, all such orders and provisions with respect to the custody, maintenance and education of such children as might have been made by such decree or *interim* orders in case the proceeding for obtaining such decree were still pending.

45. Alimony, *pendente lite.*—Where in any proceeding under this Part, it appears to the court that the wife has no independent income sufficient for her support and the necessary expenses of the proceeding, it may, on the application of the wife, order the husband to pay to her the expenses of the proceeding, and monthly during the proceeding such sum not exceeding one fifth of her husband's net income as to the court seems reasonable.

Sec. 6, Bombay Act

(46)

46. Permanent alimony.—(1) Any court exercising jurisdiction under this Part may, at the time of passing Act any decree or at any time subsequent thereto, on application made to it for the purpose, order that the husband shall, while the wife remains chaste and unmarried, secure to the wife, for her maintenance and support, if necessary, a charge on the husband's property of such gross sum or such monthly or periodical payment of money for a term not exceeding her life as, having regard to her own properly, if any, her husband's property and the conduct of the parties, shall be deemed just.

Sec. 6, Bombay Act

(2) If the court is satisfied that there is a change in the circumstances of either party at any time after it has made an order under sub-section (1), it may, at the instance of either party vary, modify or rescind any such order in such manner as the court may deem just.

(3) If the court is satisfied that the wife in whose favour an order has been made under sub-section (1) or (2) has remarried or has not remained chaste, it shall vary or rescind the order.

(47)

47. Custody of children.—In any proceeding under this Part, the Court may, from time to time, pass such interim orders and make such provisions in the decree as it may deem just and proper with respect to the custody, maintenance and education of minor children, consistently wilh their wishes wherever possible, and may, after the decree, upon application by petition for the purpose, make, revoke, suspend or vary, from time to time, all such orders and provisions wilh respect to the custody, maintenance and education of such children as might have been made by such decree or *interim* orders in case the proceeding for obtaining such decree were still pending.

Sec. 15, Bombay Act.

(48)

(49)

47. Disposal of property.—Any court exercising jurisdiction under this Part may at the time of passing any decree make such provisions in the decree as it may deem just and proper as respects—

(i) any property which belonged jointly to the husband and the wife immediately before the decree;

(ii) any property which belongs to the wife, whether by way of dowry as defined in section 93 or otherwise, and which is in the possession of the husband.

(50)

Execution of, and appeals from, decrees and orders

48. Enforcement of, and appeal from, decrees and orders.—All decrees and orders made by the court in any proceeding under this Part shall be enforcced in like manner as the decrees and orders of the court made in the exercise of its original civil jurisdiction are enforced, and may be appealed from under the law for the lime being in force:

* * * * * *

Provided that there shall be no appeal on the subject of costs only.

(49)

49. Enforcement of and appeal from orders and decrees.—All decrees and orders made by the court in any proceeding under this Part shall be enforced in like manner as the decrees and orders of the court made in the exercise of its original civil jurisdiction are enforced, and may be appealed from under the law for the time being in force: **(new)**

Provided that—

(a) there shall be no appeal from a decree of a District (New) Court for dissolution of marriage or from the order of the High Court confirming or refusing to confirm any such decree; **(New)**

(b) there shall be no appeal on the subject of costs only.

(50)

(51)

CHAPTER IV

Special provisions for annulment of Marumakkattayam or Aliyasantana marriage

49. Annulment of Marumakkattayam or Aliyasantana marriage.—(1) Save as provided in sub-section (4) of section 24A, a marriage solemnized under that section may be annulled—

(a) by a decree of nullity under section 49A;

(b) by an order of divorce under section 49B;

(c) by a registered instrument of dissolution executed by the parties to the marriage:

Provided that, if the female party to the marriage has not completed the age of eighteen years, no marriage shall be annulled by an order of divorce before she completes that age.

(2) The annulment of a marriage by a registered instrument of dissolution shall take effect from the date of the registration of the instrument.

(52)

49A. Grounds for a decree of nullity of Marumakkattayam or Aliyasantana marriage.—(1) Any marriage solemnized before the commencement of this Code under the Marumakkattayam or Aliyasantana law may be annulled by a decree of nullity,—

(a) if by reason of the provisions of any law in force at the time of the marriage, such marriage was invalid on the ground that either party had a spouse living at the time of the marriage; or

(b) if the parties at the time of the marriage were within the degrees of prohibited relationship as defined by clause (c) of section 5 :

Provided that no marriage so solemnized shall be annulled under the provisions of clause (b) of this sub-section, if it was valid under the provisions of any law in force at the time of the marriage.

(2) Save as provided in sub-section (4) of section 24A, a marriage solemnized under that section, may be annulled by a decree of nullity if it contravenes the condition specified in clause (i) or clause (iv) of section 7.

(3) Where a marriage is annulled by a decree of nullity under this section, the parties thereto shall be deemed never to have been married, nor to have been related to each other as husband and wife:

Provided that where a marriage is annulled by a decree of nullity on the ground that a former husband or wife was living and it is adjudged that the subsequent marriage was solemnized in good faith and that one or both of the parties fully believed that the former husband or wife was dead, children begotten before the decree is passed shall be specified in the decree and shall in all respects be deemed to be and always to have been the legitimate children of their parents.

(51)

(52)

(53)

49B. Petition and procedure for divorce in respect of Marumakkattayam or Aliyasantana marriage.—(1) Save as provided in sub-section (4) of section 24A, any party to a marriage under that section may present a petition to the district court for the annulment of such marriage by an order of divorce.

(2) The petition shall specify the place where, the date on which, and the name and address of the guardian, if any, with whose consent, the marriage was solemnized.

(3) A copy of such petition shall be served on the respondent at the cost of the petitioner.

(4) On the motion of the petitioner, made not earlier than six months and not later than one year after the date of the service of the copy of the petition aforesaid, if the petition is not withdrawn in the meantime, the court shall, on being satisfied, after such enquiry as it thinks fit that a marriage which is valid under section 24A was solemnized between the parties and that such marriage complied with both the conditions specified in clauses (i) and (iv) of section 7, by order in writing declare the marriage annulled.

(5) The annulment of the marriage shall take effect from the date of the order, and either party to the marriage shall then be at liberty to marry again subject to the provisions of this Part.

(6) Where a marriage is annulled by an order of divorce under this section, the parties shall cease to be related to each other as husband and wife from the date of the order, and any children begotten of the marriage shall in all respects be deemed to be and always to have been the legitimate children of their parents.

(54)

50. Application of certain provisions to Marumakkattayam or Aliyasantana marriage.—(1) The provisions of sections 39 to 48 inclusive shall apply, as far as may be, to proceedings for the annulment under this Chapter, whether by a decree of nullity or by an order of dissolution, of any marriage solemnized under section 24A.

(2) Nothing contained in this section shall affect the operation of subsection (4) of section 24A, and save as provided in sub-section (1), nothing contained in Chapter II or Chapter III shall apply to, or in relation to, any marriage solemnized under that section.

(53)

(54)

(55)

CHAPTER V

Savings

51. Saving of prior marriages and special provisions therefor.—(1) A *marriage solemnized between Hindus before the commencement of this Code,* which is otherwise valid, shall not be deemed to be invalid or ever to have been invalid by reason only of the fact that the parties thereto belonged to the same *gotra* or *pravara* or belonged to different castes or sub-divisions of the same caste.

(2) A marriage which was solemnized before the commencement of this Code between a female who was governed by the Marumakkattayam or Aliyasantana law at the time of the marriage and a male Hindu and which is valid and subsisting at the commencement of this Code shall continue to be a valid marriage, and the special provisions contained in this Code with respect to annulment of Marumakkaltayam or Aliyasantana marriages shall apply to, or in relation to, such marriage in like manner as they apply to, or in relation to, a marriage between persons both of whom are governed by that law.

(3) A conjugal union of a female belonging to any of the communities specified in clause (b) of the definition of "Marumakkattayam law" in section 3 with a male Hindu, whether governed by that law or not, which was openly solemnized before the commencement of this Code with the customary ceremonies prevailing in the community to which the parties belong or either of them belongs shall be deemed for all purposes [including sub-section (2)] to be and always to have been a valid marriage if the parties to the union are not related to each other in such degree of consanguinity or affinity that conjugal union between them is prohibited by any custom or usage of the community to which they belong or either of them belongs:

Provided that nothing contained in this sub-section shall be deemed to invalidate any dissolution of the marriage effected before the commencement of this Code in accordance with the custom prevailing in the community to which the parties belong or either of them belongs.

51A. Dissolution before or after Code of certain valid marriages not to effect rights of children.—Where a marriage solemnized before the commencement of this Code between a female governed by the Marumakkattayam or Aliyasantana law at the time and a male Hindu is a valid marriage by reason of any law, whether in force at the time of the marriage or passed subsequently, or by reason of sub-section (3) of section 51, the dissolution of the marriage, whether by death or otherwise and whether before or after the commencement of this Code, shall not affect in any way the legal

status or rights under this Code of the children of such marriage or of their descendants.

Part IV, sec. 3, page 15 (Explanation.)

27. Saving of prior marriages.—A marriage solemnized between Hindus before the commencement of this Code, which is otherwise valid, shall not be deemed to be invalid or ever to have been invalid, by reason only of the fact that the parties thereto belonged to the same *gotra* or *pravara* or belonged to different castes or sub-divisions of the same caste.

Part IV, sec. 34, page 22, sec. 17, Bombay Act.

51. Savings.—(1) Nothing contained in this Part shall be deemed to affect any right conferred by the Madras Marumakkattayam Act, 1932 (Madras Act XXII of 1932) to obtain the dissolution of a sacramental marriage, whether solemnized before or after the commencement of this Code.

(2) Nothing contained in this Part shall affect any proceeding under any other law for the time being in force for dissolution of marriage or for nullity of marriage or for judicial separation pending at the dale of the commencement of this Code, and any such proceeding may be continued and determined as if this

Code had not been passed.

(55)

51B. Saving of pending proceedings.—Nothing contained in this Part shall affect any proceeding under any other law for the time being in force

for the annulment of any marriage or for judicial separation pending at the date of the commencement of this Code, and any such proceeding may be continued and determined as if this Code had not been passed.

(56)

PART III-ADOPTION

CHAPTER I

Adoption generally

52. Prohibition of adoption in contravention of this Part.—(1) No adoption shall be made after the commencement of this Code by or to a male Hindu except in accordance with the provisions contained in this Part.

(2) Except in the cases referred to in sub-section (2) of section 66, any adoption made in contravention of this Part shall be void.

(3) An adoption which is void shall neither create any rights in the adoptive family in favour of any person which he could not have acquired except by reason of the adoption nor destroy the rights of any person in the family of birth.

(57)

53. Requisites of a valid adoption.—No adoption shall be valid unless—

(i) the person adopting has the capacity, and also the right, to take in adoption;

(ii) the person giving in adoption has the capacity to do so;

(iii) the person adopted is capable of being taken in adoption;

(iv) the adoption is completed by a physical giving and taking; and

(v) the adoption complies with the other conditions mentioned in this Part.

(58)

Capacity to take in adoption

54. Capacity of a male Hindu to take in adoption.—Any male Hindu who is of sound mind and has completed the age of eighteen years has the capacity to take a son in adoption;

Provided that a Hindu who has a wife living shall not adopt except with the consent of his wife or, if he has more than one wife, except with the consent of at least one of such wives, unless the wife or all

the wives, as the case may be, is or are incapable of giving consent.

Explanation.—For the purposes of this section, a wife shall be deemed to be incapable of giving consent if she is of unsound mind or has not attained the age of eighteen years.

Part VI, secs. 1, 17, and 27, pages 24, 27 and 28.

PART III-ADOPTION

CHAPTER I

Adoption generally

52. Prohibition of adoption in contravention of this Part.—(1) No adoption shall be made after the commencement of this Code by or to a male Hindu except in accordance with the provisions contained in this Part.

(2) Except in the case referred to in sub-section (2) of section 66, any adoption made in contravention of the provisions of this Part shall be void.

(3) An adoption which is void shall neither create any rights in the adoptive family in favour of any person which he could not have acquired except by reason of the adoption nor destroy the rights of any person in the family of birth.

Part VI, sec. 4, page 24

53. Requisites of a valid adoption.—No adoption shall be valid unless—

(i) the person adopting has the capacity, and also the right, to take in adoption;

(ii) the person giving in adoption has the capacity to do so;

(iii) the person adopted is capable of being taken in adoption;

(iv) the adoption is completed by a physical giving and taking; and

(v) the adoption complies with the other conditions mentioned in this Part.

Part VI, sec. 5(1), page 24

Capacity to take in adoption

54. Capacity of a male Hindu to take in adoption.—Any male Hindu who is of sound mind and has completed the age of eighteen years has the capacity to take a son in adoption:

Provided that a Hindu shall not adopt except with the consent of his wife or, if he has more than one wife, except with the consent of at least one of such wives, unless the wife or all the wives, as the case may be, is or are incapable of giving consent.

Explanation.—For the purposes of this section, a wife shall be deemed to be incapable of giving consent if she is of unsound mind or has not attained the age of eighteen years.

(58)

(59)

55. Capacity of widow to take in adoption.—(1) Any Hindu widow who is of sound mind and has completed the age of eighteen years has the capacity to take a son in adoption to her husband.

Provided that—

(a) her husband has not * * * * prohibited her from adopting, and

(b) her power to adopt has not terminated.

(2) Nothing in sub-section (1) shall be deemed to prevent a Hindu widow who has not completed the age of eighteen years from adopting a boy named by her husband in any authority conferred on her in the manner hereinafter provided.

(60)

56. Authority or prohibition in regard to adoption.—(1) Any male Hindu who has the capacity to take a son in adoption as aforesaid may authorise his wife to adopt a son to him after his death, or prohibit her from doing so.

(2) Where there are more wives than one, the authority may be given to, or the prohibition imposed on, any or all of them.

(3) Where a Hindu who has left two or more widows, has expressly authorised any one or more of them to adopt a son, he shall be deemed to have prohibited the others from adopting.

(61)

57. Manner of giving authority or imposing prohibition or revoking the same.—(1) No authority to adopt, and no prohibition of adoption, shall be valid unless given or imposed by an instrument registered under the Indian Registration Act, 1908 (XVI of 1908), or by a will executed in accordance with the provisions of section 63 of the Indian Succession Act, 1925 (XXXIX of 1925).

(2) Any authority or prohibition so given or imposed may be revoked

either by an instrument registered, or a will executed, as aforesaid.

Part VI sec. 5(2), page 24.

(3) If the authority or prohibition is given or imposed by a will, it may also be revoked in any of the other modes set out in section 70 of the Indian Succession Act, 1925 (XXXIX of 1925), as modified by Schedule III to that Act.

55. Capacity of widow to take in adoption.—(1) Any Hindu widow who is of sound mind and has completed the age of eighteen years has the capacity to take a son in adoption to her husband;

Provided that—

(a) her husband has not expressly or impliedly prohibited her from adopting ; and

(b) her power to adopt has not terminated.

(2) Nothing in sub-section (1) shall be deemed to prevent a Hindu widow who has not completed the age of eighteen years from adopting a boy named by her husband in any authority conferred on her in the manner hereinafter provided

Part VI, sec. 6, page 24.

(59)

56. Authority or prohibition in regard to adoption.—(1) Any male Hindu who has the capacity to take a son in adoption as aforesaid may authorise his wife to adopt a son to him after his death, or prohibit her from doing so.

(2) Where there are more wives than one, the authority may be given to, or the prohibition imposed on, any or all of them.

(3) Where a Hindu who has left two or more widows, has expressly authorised any one or more of them to adopt a son, he shall be deemed to have prohibited the others from adopting.

Part VI, sec. 7, page 24,

(60)

57. Manner of giving authority or imposing prohibition or revoking the same.—(1) No authority to adopt, and no prohibition of adoption, shall be valid unless given or imposed by an instrument registered under the Indian Registration Act, 1908 (XVI of 1908), or by a will executed in accordance with the provisions of section 63 of the Indian Succession Act, 1925 (XXXIX of 1925).

(2) Any authority or prohibition so given or imposed may be revoked either by an instrument registered, or a will executed, as aforesaid.

(3) If the authority or prohibition is given or imposed by a will, it may also be revoked in any of the other modes set out in section 70 of the Indian Succession Act, 1925 (XXXIX of 1925), as modified by Schedule III to that Act.

(61)

(62)

58. Right to adopt as between two or more widows.— Where a Hindu has left two or more widows with capacity to take a son in adoption to him, the right to adopt is determined as between them in accordance with the following provisions :—

(a) If he has granted to all or any of them authority to adopt, indicating the order of preference in that behalf, the right to adopt shall follow that order.

(b) If he has given no such indication, the right to adopt shall follow the order of the seniority of the widows to whom authority has been granted, as determined by section 59.

(c) If he has neither authorised nor prohibited an adoption, the right to adopt shall follow the order of the seniority of the widows as determined by section 59.

(d) A widow having the right to adopt under clause (b) or clause (c) may renounce it in favour of the next senior widow by a registered instrument, if she does not so renounce it and if, without just cause, she either refuses, or fails within a reasonable time, to exercise her right when called upon to do so by the next senior or any other widow, the right shall pass to the next senior widow, mid so on down to the last widow in the order of seniority

(63)

59. Seniority among wives and widows.—For the purpose of this Part, seniority among the wives or widows of a person is determined by the order in which they were married to him, the woman who was married earlier being reckoned senior to the woman who was married later.

(64)

Part VI, sec. 8, page 25.

60. Widow's right to adopt not exhausted by previous exercise.— A widow may, subject to the provisions of this Part, adopt several sons in succession, one after the death of another, unless the authority, if any, conferred upon her by her husband otherwise provides.

58. Right to adopt as between two or more widows.— Where a Hindu has left two or more widows with capacity to take a son in adoption to him, the right to adopt is determined as between them in accordance with the following provisions:—

(a) If he has granted to all or any of them authority to adopt, indicating the order of preference in that behalf, the right to adopt shall follow that order.

(b) If he has given no such indication, the right to adopt shall follow the order of the seniority of the widows to whom authority has been granted, as determined by section 59.

(c) If he has neither authorised nor prohibited an adoption, the right to adopt shall follow the order of the seniority of the widows as determined by section 59.;

(d) A widow having the right to adopt under clause (b) or clause (c) may renounce it in favour of the next senior widow by a registered instrument, if she does not so renounce it and if, without just cause, she either refuses, or fails within a reasonable time, to exercise her right when called upon to do so by the next senior or any other widow, the right shall pass to the next senior widow, and so on down to the last widow in the order of seniority.

Part VI, sec. 9, page 25.

(62)

59. Seniority among wives and widows.—For the purpose of this Part, seniority among the wives or widows of a person is determined by the order in which they were married to him, the woman who was married earlier being reckoned senior to the woman who was married later.

Part V, sec. 10, page 25.

(63)

60. Widow's right to adopt not exhausted by previous exercise.—A widow may, subject to the provisions of this Part, adopt several sons in succession, one after the death of another, unless the authority, if any, conferred upon her by her husband otherwise provides.

(64)

(65)

61. Termination of widow's right.—(1) A widow's right to adopt terminates—

(a) when she remarries, or

(b) when any Hindu son of her husband dies leaving him surviving a Hindu son, widow or son's widow, or

(c) if she ceases to be a Hindu.

Explanation.—In this sub-section, son means a son, son's son, or son's sons's son, whether by legitimate blood relationship or by adoption.

(2) The widow's right to adopt shall not revive after it has once terminated.

(66)

Capacity to give in adoption

62. Persons capable of giving in adoption.—(1) No person except the father or mother of the boy shall have the capacity to give the boy in adoption.

(2) Subject to the provisions of clauses (b) and (c) of sub-section (3), the father, if alive, shall alone have the right to give in adoption, but such right shall not be exercised save with the consent of the mother where she is capable of giving consent.

(3) The mother may give the boy in adoption—'

(a) if the father is dead,

(b) if he has completely and finally renounced the world in any of the modes set forth in sub-section (1) of section 110 of Part VII,

(c) if he has ceased to be a Hindu, or

(d) if he is not capable of giving consent:

Provided that the father has not prohibited her from doing so by an instrument registered under the Indian Registration Act, 1908 (XVI of 1908), or by a will executed in accordance with the provisions of section 63 of the Indian Succession Act, 1925 (XXXIX of 1925).

(4) The father or mother giving a boy in adoption must be of sound mind and must have completed the age of eighteen years.

Explanation.—For the purpose of this section,— **Part V, sec. 10, page 25.**

(i) the expressions "father", or "mother" do not include an adoptive father or an adoptive mother; and

(ii) a father or mother shall be deemed to be incapable of giving consent if he or she, as the case may be, is of unsound mind or has not completed the age of eighteen years.

61. Termination of widow's right.—(1) A widow's right to adopt terminates—

(a) when she remarries; or

(b) when any Hindu son of her husband dies leaving him surviving a Hindu son, widow or son's widow; or

(c) if she ceases to be a Hindu.

Explanation.—In this sub-section, son means a son, son's son, or son's son's son, whether by legitimate blood relationship or by adoption.

(2) The widow's right to adopt shall not revive after it has once terminated. **Part V, sec. 12, page 25.**

Capacity to give in adoption

62. Persons capable of giving in adoption.—(1) No person except the father or mother of the boy shall have the capacity to give the boy in adoption.

(2) Subject to the provisions of clauses (b) and (e) of sub-section (3), the father, if alive, shall alone have the right to give in adoption, but such right shall not be exercised save with the consent of the mother where she is capable of giving consent.

(3) The mother may give the boy in adoption—

(a) if the father is dead;

(b) if he has completely and finally renounced the world in any of the modes set forth in sub-section (1) of section 110 of Part VII;

(c) if he has ceased to be a Hindu ; or

(d) if he is not capable of giving consent:

Provided that the father has not prohibited her from doing so by an insuument registered under the Indian Registration Act, 1908 (XVI of 1908), or by a will executed in accordance with the provisions of section 63 of the Indian Succession Act, 1925 (XXXIX of 1925).

(4) The father or mother giving a boy in adoption must be of sound mind and must have completed the age of eighteen years.

Explanation.—For the purposes of this section,—

(i) the expressions "father", or "mother" do not include an adoptive father

or an adoptive mother; and

(ii) a father or mother shall be deemed to be incapable of giving consent if he or she, as the case may be, is of unsound mind or has not completed the age of eighteen years.

(66)

(67)

Capacity to be taken in adoption

63. Who may be adopted.—(1) No female shall be adopted by or to any male or female Hindu.

(2) No boy shall be capable of being taken in adoption, unless the following conditions are satisfied, namely, that—

(i) he is a Hindu;

(ii) he has not been married;

(iii) he has not been already adopted;

(iv) he has not completed the age of fifteen years.

(68)

64. Certain persons declared capable of being adopted.—For the avoidance of doubt, it is hereby declared that the adoption of the following persons is permissible, namely :—

(i) the eldest or the only son of his father;

(ii) the son of a woman whom the adoptive father could not have legally married, and in particular, is daughter's son, sister's son, or mother's sister's son: and

(iii) a stranger although near relatives of the adoptive father exist.

(69)

Essential ceremonies

65. Completion of adoption.—An adoption is not valid and binding unless the boy to be adopted is physically given and taken in adoption by the parents concerned or under their authority, with intent to transfer him from the family of his birth to the family of his adoption.

Part VI, sec. 3, page 24.

Explanation.—The performance of the *Datta homam* is not essential to the validity of an adoption.

Part VI, sec. 3, page 26.

Capacity to be taken in adoption

63. Who may be adopted.—(1) No female shall be adopted by or to any male or female Hindu.

(2) No boy shall be capable of being taken in adoption, unless the following conditions are satisfied, namely, that—

(i) he is a Hindu;

(ii) he has not been married ;

(iii) he has not been already adopted;

(iv) he has not completed the age of fifteen years.

Part VI, sec. 14, page 26.

(67)

64. Certain persons declared capable of being adopted.—For the avoidance of doubt, it is hereby declared that the adoption of the following persons is permissible, namely:—

(i) the eldest or the only son of his father;

(ii) the son of a woman whom the adoptive father could not have legally married, and in particular, is daughter's son, sister's son, or mother's sister's son; and

(iii) a stranger although near relatives of the adoptive father exist.

Part VI, sec. 15, page 26.

(68)

Essential ceremonies

65. Completion of adoption.—An adoption is not valid and binding unless the boy to be adopted is physically given and taken in adoption by the parents

concerned or under their authority, with intent to transfer him from the family of his birth to the family of his adoption.

Explanation.—The performance of the *Datta homam* is not essential to the validity of an adoption.

(69)

(70)

Other conditions for adoption

66. Other conditions.—(1) In every adoption, the following conditions must be complied with :—

(i) The adoptive father by or to whom the adoption is made must have no Hindu son, son's son, or son's son's son (whether by legitimate blood relationship or by adoption) living at the time of adoption.

Explanation.—A person not actually born at the time of adoption, although he may then be in the womb and is subsequently born alive, is not said to be living at the time of adoption for the purposes of this clause.

(ii) The same boy may not be adopted simultaneously by or to two or more persons nor may two or more boys be simultaneously adopted by or to the same person.

(iii) Every adoption must be made with the free consent of the person giving and of the person taking in adoption.

(2) Where the consent of the person giving or of the person taking in adoption has been obtained by coercion, undue influence, fraud, misrepresentation or mistake, either party may sue for a declaration that the adoption is invalid:

Provided that the Court shall dismiss such suit—

(a) if the suit is filed more than two years after the coercion or undue influence had ceased or the fraud, misrepresentation or mistake had been discovered; or

(b) if the person whose consent has been so obtained has confirmed the adoption after the coercion, undue influence has ceased, or after

the fraud, misrepresentation or mistake has been discovered, as the case may be, and such confirmation does not prejudice the rights of others.

Part VI, sec. 16, page 26.

(3) Where no suit is brought within the time limit specified in clause (a) of sub-section (2) or where an adoption has been confirmed under clause (b) of the said sub-section it shall be deemed to be valid and effectual for all purposes as from the date of adoption.

Other conditions for adoption

66. Other conditions.—(1) In every adoption, the following conditions must be complied with:—

(i) The adoptive father by or to whom the adoption is made must have no Hindu son, son's son, or son's son's son (whether by legitimate blood relationship or by adoption) living at the time of adoption.

Explanation.—A person not actually born at the time of adoption, although he may then be in the womb and is subsequently born alive, is not said to be living at the time of adoption for the purposes of this clause.

(ii) The same boy may not be adopted simultaneously by or to two or more persons nor may two or more boys be simultaneously adopted by or to the same person.

(iii) Every adoption must be made with the free consent of the person giving and of the person taking in adoption.

(2) Where the consent of the person giving or of the person taking in adoption has been obtained by coercion, undue influence, fraud, misrepresentation or mistake, either party may sue for a declaration that the adoption is invalid:

Provided that the Court shall dismiss such suit—

(a) if the suit is filed more than two years after the coercion or undue influence had ceased or the fraud, misrepresentation or mistake had been discovered; or

(b) if the person whose consent has been so obtained has confirmed, the adoption after the conrcion, undue influence has ceased, or after the fraud, misrepresentation or mistake has been discovered, as the

case may be, and such confirmation does not prejudice the rights of others.

(3) Where no suit is brought within the time limit specified in clause (a) of sub-section (2) or where an adoption has been confirmed under clause (b) of the said sub-section it shall be deemed to be valid and effectual for all purposes as from the date of adoption.

(70)

(71)

CHAPTER II

Effects of adoption

67. Effects of adoption.—An adopted son shall be deemed to be the son of his adoptive father for all purposes with effect from the date of the adoption and from such date all his ties in the family of his birth shall be deemed to be severed and replaced by those created by the adoption in the adoptive family.

Provided that—

(a) he cannot marry any person whom he could not have married if he had continued in the family of his birth;

(b) any property which vested in him before the adoption shall continue to vest in him subject to the obligations, if any, attaching to me ownership of such property, including the obligation to maintain relatives in the family of his birth;

(c) the adopted son shall not divest any person of any estate which vested in him or her before the adoption, except in the manner and to the extent specified in section 68.

(72)

68. Divesting of estates by adoption.—*Where, after the commencement of this Code, a widow makes an adoption, the adopted son shall take—

(a) one-half of the estate inherited by her and her co-widows, if any, as the heirs of the adoptive father * * * *;

(b) if the adoption is made after the death of a son, son's son, son's, son's son of the adoptive father, one-half of the estate the adoptive mother and her co-widows, if any, inherited from the adoptive father, and in addition, one-half of the estate inherited by the adoptive mother as the heir of her son, son's son, or son's son's son,

the share in the estate in each case being determined as it stood immediately before the adoption:

Provided that if the whole estate or any part thereof inherited by her or them is impartible by custom, usage or by the terms of any grant or enactment, the adopted son shall have the whole of such impartible estate as it stood immediately before the adoption in addition to what he may be entitled to under clause (a) or clause (b).

Part VI, sec. 18, page 27.

* * * * * *

CHAPTER II

Effects of adoption

67. Effects of adoption.—An adopted son shall be deemed to be the son of his adoptive father for all purposes with effect from the date of the adoption and from such date all his ties in the family of his birth shall be deemed to be severed and replaced by those created by the adoption in the adoptive family.

Provided that—

(a) he cannot marry any person whom he could not have married if he had continued in the family of his birth;

(b) any property which vested in him before the adoption shall continue to vest in him subject to the obligations, if any, attaching to the ownership of such property, including the obligation to maintain relatives in the family of his birth;

Part VI, sec. 19, page 27.

(c) the adopted son shall not divest any person of any estate which vested in him or her before the adoption, except in the manner and to the extent specified in section 68.

(71)

68. Divesting of estates by adoption.—(1) Where, after the commencement of this Code, a widow makes an adoption, the adopted son shall take—

(a) one-half of the estate inherited by her and her co-widows, if any, as the heirs of the adoptive father as it stood immediately before the adoption;

(b) if the adoption is made after the death of a son, son's son, son's son's son of the adoptive father, one-half of the estate the adoptive mother and her co-widows, if any, inherited from the adoptive father, and in addition, one-half of the estate inherited by the adoptive mother as the heir of her son, son's son, or son's son's son,

the share in the estate being determined as it stood immediately before the adoption:

Provided that if the whole estate or any part thereof inherited by her or them is impartible by custom, usage or by the terms of any grant or enactment, the adopted son shall have the whole of such impartible estate as it stood immediately before the adoption in addition to what he may be entitled to under clause (a) or clause (b).

(2) The provisions of sub-section (1) shall apply in respect of agricultural land, wherever situate in the Provinces of India.

(72)

(73)

69. Right of adoptive to dispose of their properties.—Subject to any agreement to the contrary, an adoption does not deprive the adoptive father or mother of the power to dispose of his or her property by transfer *inter vivos* or by will.

(74)

70. Determination of the adoptive mother in case of adoption by widower.—(1) Where a Hindu who has a wife living adopts a son, she shall be deemed to be the adoptive mother.

(2) Where a Hindu has more than one wife living—

(i) that wife in association with whom or with whose consent he makes the adoption, or

(ii) if more than one wife has been so associated or has so consented, the seniormost in marriage among the wives so associated or consenting;

shall be deemed to be the adoptive mother, and the other wives the stepmothers, of the adopted son.

(3) Where a widower adopts at any time after his wife's death, the wife who died last immediately preceding the adoption, shall be deemed to be the adoptive mother, and any other predeceased wife or any wife

subsequently married by him shall be deemed to be the step-mother, of the adoptive son, unless the adoptive father has directed or given a clear indication that some other of such wives shall be deemed to be the adoptive mother; in which case, any predeceased wife who is not the adoptive mother and any wife subsequently married by the adoptive father shall be deemed to be the stepmothers of the adopted son.

Part VI, sec. 21(2), page 27.

(4) Where a bachelor adopts, any wife subsequently married by him shall be deemed to be the step-mother of the adopted son.

69. Right of adoptive parents to dispose of their properties.—subject to any agreement to the contrary, an adoption does not deprive the adoptive father or mother of the power to dispose of his or her property by transfer *inter vivos* or by will.

Part VI, sec. 22, page 27, 28.

(73)

70. Determination of the adoptive mother in case of adoption by widower.—(1) Where a Hindu who has a wife living adopts a son, she shall be deemed to be the adoptive mother.

Part VI, sec 22(3), page 28.

(2) Where a Hindu has more than one wife living—

(i) that wife in association with whom or with whose consent he makes the adoption, or

(ii) if more than one wife has been so associated or has so consented, the seniormost in marriage among the wives so associated or consenting; shall be deemed to be the adoptive mother, and the other wives the step-mothers of the adopted son.

(3) Where a widower adopts at any time after his wife's death, the wife who died last immediately preceding the adoption, shall be deemed to be the adoptive mother, and any other predeceased wife or any wife subsequently married by him shall be deemed to be the step-mother, of the adopted son, unless the adoptive father has directed

or given a clear indication that some other of such wives shall be deemed to be the adoptive mother; in which case, any predeceased wife who is not the adoptive mother and any wife subsequently married by the adoptive father shall be deemed to be the step-mothers of the adopted son.

(4) Where a bachelor adopts, any wife subsequently married by him shall be deemed to be the step-mother of the adopted son.

(74)

(75)

71. Determination of the adoptive mother in case of adoption by widow.—(1) Where one of several widows of a deceased Hindu makes an adoption, she shall be deemed to be the adoptive mother, and the other widows the step-mothers, of the adopted son.

(2) Where two or more widows jointly make an adoption, the seniormost in marriage among the widows shall be deemed to be the adoptive mother, and the other widow or widows the step-mother or step-mothers, of the adopted son.

(76)

72. Valid adoption not to be cancelled.—No adoption which has been validly made can be cancelled by the adoptive father or mother or any other person, nor can the adopted son renounce his status as such adopted son and return to the family of his birth.

Part VI, sec. 23, page 28.

(77)

73. Certain agreements to be void.—An agreement not to adopt, or curtailing the rights of an adopted son, is void.

71. Determination of the adoptive mother in case of adoption by widow.—(1) Where one of several widows of a deceased Hindu makes an adoption, she shall be deemed to be the adoptive mother, and the other widows the step-mothers, of the adopted son.

(2) Where two of more widows jointly make an adoption, the seniormost in marriage among the widows shall be deemed to be the adoptive mother, and the other widow or widows the step-mother or step-mothers, of the adopted son.

(75)

72. Valid adoption not to be cancelled.—No adoption which has been validly made can be cancelled by the adoptive father or mother or any other person, nor can the adopted son renounce his status as such and return to the family of his birth.

Part VI, sec. 20, page 27.

(76)

73. Certain agreements to be void.—An agreement not to adopt, or curtailing the rights of an adopted son, is void.

(77)

(78)

CHAPTER III

Registration or record of adoptions

74. Registration and proof of adoptions.—(1) The State Government may, by notification in the Official Gazette, direct that in the State or in such areas as may be specified in the notification, no adoption made under the provisions of this Part shall be valid unless evidenced by a document in writing duly registered under any law for the time being in force relating to the registration of documents.

(2) Where an adoption is required to be evidenced by a registered document under sub-section (1) no evidence shall be given in proof of such adoption except the document itself.

74A. Recording of adoptions in cases to which section 74 does not apply.—Where no notification has been issued under section 74, the State Government may, for the purpose of facilitating the proof of any adoption made under the provisions of this Part, by rules, provide that particulars relating to such adoption shall be entered in the Register of Adoptions maintained in this behalf by such authority as may be appointed for this purpose by the State Government:

Provided that an application is made to such authority in the manner specified in section 75.

(79)

75. Application when to be made and particulars to be set out therein.—The application under section 74A shall be signed by the person taking, and the person giving, in adoption and shall be made within ninety days of the adoption. It shall state the following particulars and such other particulars as may be prescribed:—

(i) the date of the adoption;

(ii) the form of the adoption;

(iii) the name or names, and the age or ages, of the person or persons taking in adoption;

(iv) if the adoptive father is a married man, the name of his wife; and if he is a widower the name of his pre-deceased wife;

If there are two or more wives or pre-deceased wives, their names, the order in which, and the dates on which, they were married to him, and the name of the wife or pre-deceased wife who is the adoptive mother, if any;

Part VI, sec. 30, page 29.

(v) if the person adopting is a woman, the name of her husband and the names of her co-wives or co-widows, if any;

(vi) the name and age of the person giving in adoption;

(vii) the name of the adopted boy in the family of his birth;

(viii) the age of the adopted boy; and

(ix) the name of the adopted boy in the family of his adoption.

CHAPTER III

Record of adoptions

74. Application for recording of adoption.—When an adoption has been made under the provisions of this Part and the parties thereto desire to have the adoption recorded in the Register of Adoptions maintained for this purpose, they may apply in this behalf to such authority as may be appointed for this purpose by the Provincial Government, by notification in the official Gazette, and who has jurisdiction in the place where the adoption was made

Part VI sec. 31, page 29.

(78)

75. Application when to be made and particulars to be out therein.—The application shall be signed by the person taking, and the person giving, in adoption and shall be made within ninety days of the adoption. It shall state the following particulars and such other particulars as may be prescribed:—

(i) the date of the adoption;

(ii) the form of the adoption;

(iii) the name or names, and the age or ages, of the person or persons taking in adoption ;

(iv) if the adoptive father is a married man, the name of his wife; and if he is a widower the name of his pre-deceased wife;

If there are two or more wives or pre-deceased wives, their names,

the order in which, and the dates on which, they were married to him, and the name of the wife or pre-deceased wife who is the adoptive mother, if any;

(v) if the person adopting is a woman, the name of her husband and the names of her co-wives or co-widows, if any;

(vi) the name and age of the person giving in adoption;

(vii) the name of the adopted boy in the family of his birth ;

(viii) the age of the adopted boy; and

(ix) the name of the adopted boy in the family of his adoption.

(79)

(80)

76. Recording of adoption.—If the authority appointed under section 74A is satisfied that the application has been signed by the person taking and the person giving in adoption and that the adoption has taken place as stated, he shall cause a record of the adoption to be made in the Register of Adoption.

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(80)

(81)

PART IV—MINORITY AND GUARDIANSHIP

77. Definitions.—In this Part—

(a) "minor" means a person who has not completed the age of eighteen years;

(b) "natural guardian" means any of the guardians referred to in section 78, but does not include a guardian—

(i) appointed by the will of the minor's father, or

(ii) appointed or declared by a court, or

(iii) empowered to act as such by or under any enactment relating to any court of wards.

(82)

78. Natural guardians of a Hindu minor.—The natural guardians of a Hindu minor, in respect of the minor's person as well as in respect of the minor's property are—

(a) in the case of a boy or unmarried girl—the father, and after him, the mother : provided that the custody of a minor who has not completed the age of three years shall ordinarily be with the mother;

(b) in the case of an illegitimate boy or an illegitimate unmarried girl—the mother and after her, the father;

(c) in the case of a married girl—the husband:

Provided that no person shall be entitled to act as the natural guardian of a minor under the provisions of this section—

(a) if he has ceased to be a Hindu ; or

(b) if he has completely and finally renounced the world in any of the modes set forth in sub-section (1) of section 110.

Part V, sec. 1, page 22.

(83)

79. Natural guardianship of adopted son.—The natural guardianship of an adopted son who is a minor passes, on adoption, from the family of his birth to the family of his adoption.

PART IV—MINORITY AND GUARDIANSHIP

77. Definitions.—In this Part—

(a) "minor" means a person who has not completed the age of eighteen years;

Part V, sec. 4, page 22.

(b) "natural guardian" means any of the guardians referred to in section 78, but does not include a guardian—

(i) appointed by the will of the minor's father, or

(ii) appointed or declared by a court, or

(iii) empowered to act as such by or under any enactment relating to any Court of Wards.

(81)

78. Natural guardians of a Hindu minor.—The natural guardians of a Hindu minor, in respect of the minor's person as well as in respect of the minor's properly are—

(a) in the case of a boy or unmarried girl—the father, and after him, the mother: provided that the custody of a minor who has not completed the age of three years shall ordinarily be with the mother,

(b) in the case of an illegitimate boy or an illegitimate unmarried girl—the mother and after her, the father;

Part V, sec. 5, page 22.

(c) in the case of a married girl—the husband:

Provided that no person shall be entitled to act as the natural guardian of a minor under the provisions of this section—

(a) if he has ceased to be a Hindu ; or

(b) if he has completely and finally renounced the world in any of the modes set forth in sub-section (1) of section 110.

(82)

79. Natural guardianship of adopted son.—The natural guardianship of an adopted son who is a minor passes, on adoption, from the family of his birth to the family of his adoption.

(83)

(84)

80. Power of natural guardian.—(1) The natural guardian of a Hindu minor has power, subject to the provisions of this section, to do all acts which are necessary or reasonable and proper for the benefit of the minor or for the realization, protection or benefit of the minor's estate; but the guardian can in no case bind the minor by a personal covenant.

(2) The natural guardian shall not, without the previous permission of the court—

(a) mortgage or charge, or transfer by sale, gift, exchange or otherwise, any part of the immovable property of the minor; or

(b) lease any part of such property for a term exceeding five years or for a term extending more than one year beyond the date on which the minor will attain majority.

(3) Any disposal of immovable property by a natural guardian, in contravention of sub-section (1) or sub-section (2), is voidable at the instance of the minor or any other person affected thereby.

(4) No court shall grant permission to the natural guardian to do any of the acts mentioned in sub-section (2) except in case of necessity or for an evident advantage to the minor.

(5) The Guardians and Wards Act, 1890 (VIII of 1890), shall apply to, and in respect of, an application for obtaining the permission of the court under sub-section (2) in all respects as if it were an application for obtaining the permission of the court under section 29 of that Act, and in particular—

(a) proceedings in connection with the application shall be deemed to be proceedings under that Act within the meaning of section 4A thereof;

(b) the court shall observe the procedure and have the powers specified in sub-sections (2), (3) and (4) of section 31 of that Act; and

(c) an appeal shall lie to the High Court from an order of the court refusing permission to the natural guardian to do any of the acts mentioned in sub-section (2) of this section.

(6) In this section, "court" means the district court within the local limits of which the immovable property in respect of which the application is made, or any part thereof, is situated, or a court empowered under section 4A of the Guardians and Wards Act, 1890 (VIII of 1890).

80. Power of natural guardian.—(1) The natural guardian of a Hindu minor has power, subject to the provisions of this section, to do all acts which are necessary or reasonable and proper for the benefit of the minor or for the realization, protection or benefit of the minor's estate; but the guardian can in no case bind the minor by a personal covenant.

Part V, sec. 6, page 23.

(2) The natural guardian shall not, without the previous permission of the court—

(a) mortgage or charge, or transfer by sale, gift, exchange or otherwise, any part of the immovable property of the minor; or

(b) lease any part of such property for a term exceeding five years or for a term extending more than one year beyond the date on which the minor will attain majority.

(3) Any disposal of immovable property by a natural guardian, in contravention of sub-section (1) or sub-section (2), is voidable at the instance of the minor or any other person affected thereby.

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(a) proceedings in connection with the application shall be deemed to be proceedings under that Act within the meaning of section 4A

thereof;

(b) the court shall observe the procedure and have the powers specified in sub-sections (2), (3) and (4) of section 31 of that Act; and

(c) an appeal shall lie to the High Court from an order of the court refusing permission to the natural guardian to do any of the acts mentioned in sub-section (2) of this section.

(6) In this section, "court" means the district court within the local limits of which the immovable property in respect of which the application is made, or any part thereof, is situated, or a court empowered under section 4A of the Guardians and Wards Act, 1890 (VIII of 1890).

(84)

(85)

81. Revocation of authority by natural guardian.—Where the natural guardian of a Hindu minor authorises another person to take charge of the minor, the authority is revocable except—

(a) where it is not in the interests of the minor to permit revocation; or

(b) where the natural guardian has ceased to be a Hindu; or

(c) where for any other sufficient cause, it is not desirable to permit revocation.

(86)

82. Testamentary guardian and his powers.—(1) A Hindu father may, by will, appoint a guardian for any of his minor legitimate children in respect of the minor's person, or in respect of the minor's property, or in respect of both;

Provided that nothing in this section shall be deemed to authorise any person to act as the guardian of the person of the minor if the mother is alive and is capable of acting as the natural guardian of her minor child.

(2) The guardian so appointed has, after the death of the father, the right to act as the minor's guardian, and to exercise all the rights of a natural guardian under this Part to such extent and subject to such restrictions, if any, as may be specified in the will.

(3) Subject to the provisions of this Part, a Hindu widow may, by will appoint a guardian for any of her minor children in respect of the

**Dr. Ambedkar's remarks, in his copy 'Not to be moved'* —Ed.

person of the minor;

Part V, sec. 7, page 23.

Provided that her husband has not already by will appointed any person to be the guardian of the person of such child.

(4) The right of the guardian so appointed shall, where the minor is a girl, cease on her marriage.

(87)

***83. Duty of guardian regarding religious upbringing of minor.**— It shall be the duty of the guardian of a Hindu minor to bring up the minor in the religion of the father of the minor.

(88)

Part V, sec. 8, page 23.

84. De facto guardian not to deal with minor's property.—After the commencement of this Code, no person shall be entitled to dispose of, or deal with, the property of a Hindu minor merely on the ground of his or her being the *de facto* guardian of the minor.

81. Revocation of authority by natural guardian.— Where the natural guardian of a Hindu minor authorises another person to take charge of the minor, the authority is revocable except—

(a) where it is not in the interests of the minor to permit revocation; or

(b) where the natural guardian has ceased to be a Hindu ; or

(c) where for any other sufficient cause, it is not desirable to permit revocation.

(85)

82. Testamentary guardian and his powers.—(1) Hindu father may, by will, appoint a guardian for any of his minor legitimate children in respect of the minor's person, or in respect of the minor's property, or in respect of both;

Provided that nothing in this section shall be deemed to authorise any person to act as the guardian of the person of the minor if the mother is alive and is capable of acting as the natural guardian of her minor child.

Part V, sec. 9, page 23.

(2) The guardian so appointed has, after the death of the father, the right to act as the minor's guardian, and to exercise all the rights of a natural guardian under this Part to such extent and subject to such restrictions, if any, as may be specified in the will.

Part V, sec. 10, page 23.

(3) Subject to the provisions of this Part, a Hindu widow may, by will, appoint a guardian for any of her minor children in respect of the person of the minor:

Provided that her husband has not already by will appointed any person to be the guardian of the person of such child.

(4) The right of the guardian so appointed shall, where the minor is a girl, cease on her marriage.

(86)

83. Duty of guardian to bring up minor as a Hindu—It shall be the duty of the guardian of a Hindu minor to bring up the minor as a Hindu.

(87)

84. De facto guardian not to deal with minor's property.—Alter the commencement of this Code, no person shall be entitled to dispose of, or deal with, the property of a Hindu minor merely on the ground of his or her being the *de facto* guardian of the minor.

(88)

(89)

85. Welfare of minor to be paramount consideration.—In the appointment or declaration of any person as guardian of a Hindu minor by a court, the welfare of the minor shall be the paramount consideration and no person shall be entitled to the guardianship by virtue of the provisions of this Part or of section 24, if the Court is of opinion that his or her guardianship will not be for the welfare of the minor.

Part V, sec. 12, page 22.

85. Welfare of minor to be paramount consideration.— In the appointment or declaration of any person as guardian of a Hindu minor by a court, the welfare of the minor shall be the paramount consideration and no person shall be entitled to the guardianship by virtue of the provisions of this Part or of section 24, if the Court is of opinion that his or her guardianship will not be for the welfare of the minor.

(90)

PART V.—JOINT FAMILY AND CO-PARCENARY

CHAPTER I

General

86. Abrogation of right by birth and survivorship generally.—Except in the cases and to the extent expressly provided in this Part, no Hindu shall, after the commencement of this Code, acquire any right to, or interest in—

(a) any property of an ancestor during his lifetime merely by reason of the fact that he is born in the family of the ancestor, or

(b) any joint family property which is founded on the rule of survivorship.

(91)

87. Joint tenancy to be replaced generally by tenancy-in-common.—Except in the cases and to the extent expressly provided in this Part, * * * all persons holding, on the commencement of this Code, any property jointly as members of a joint family shall be deemed to hold the property as tenants-in-common, as if a partition had taken place between them as respects such property on such commencement and as if each one of them is holding his or her own share separately as full owner thereof;

Provided that nothing in this section shall affect the right to maintenance and residence, if any, of the members of the joint family other than the persons who have become entitled to hold their shares separately, and any such right can be enforced as if this Code had not been passed.

* * * * *

PART V.—JOINT FAMILY PROPERTY

86. Birth in family not to give rise to rights in property.—On and after the commencement of this Code, no right to claim any interest in any property of an ancestor during his lifetime, which is founded on the mere fact that the claimant was born in the family of the ancestor shall be recognised in any Court.

Part IIIA, sec. 2, page 12.

Explanation.—In this section, "property" includes both movable and immovable property, whether ancestral or not and whether acquired jointly with other members of the family or by way of acretion to any ancestral property or in any other manner whatsoever.

(90)

87. Joint tenancy to be replaced by tenancy-in-common.—On and after the commencement of this Code, no Court shall recognise any right to or interest in any joint family property, based on the rule of survivorship ; and all persons holding any joint family property on the day this Code comes into force shall be deemed to hold it as tenants-in-common as if a partition had taken place between all the members of the joint family as respects such property on the date of the commencement of this Code and as if each one of them is holding his or her own share separately as full owner thereof:

Part IIIA, sec. 2, page 11.

Provided that nothing in this section shall affect the right to maintenance and residence, if any, of the members of the joint family other than the persons who have become entitled to hold their shares separately, and any such right can be enforced as if this Code had not been passed :

Provided further that in the case of any female who becomes entitled to hold any share separately under the provisions of this section, she shall only take the limited estate known as the Hindu woman's estate under the law in force before the commencement of this Code and on her death such estate shall revert to the persons entitled thereto under the law in force prior to the commencement of this Code.

Part II, sec. 3, proviso p. 3.

(91)

(92)

88. Rule of pious obligation * * * * abrogated.—(1) After the commencement of this Code, no court shall, save as provided in sub-section (2), recognise any right to proceed against any male lineal descendant for the recovery of any debt due from any of his paternal ancestors or any alienation of property in respect of or in satisfaction of any such debt on the ground of the pious obligation of such descendant to discharge any such debt.

(2) In the case of any debt contracted before the commencement of this Code, nothing contained in sub-section (1) shall affect—

(a) the right of any creditor to proceed against any such descendant, or

(b) any alienation made in respect of or in satisfaction of any such debt,

and any such right or alienation shall be enforceable under the rule of pious obligation in the same manner and to the same extent as would have been the case if this Code had not been passed.

Explanation.—For the purposes of sub-section (2) the expression "such descendant" shall be deemed to refer to the male lineal descendant who was born or adopted prior to the commencement of this Code.

(93)

89. Liability of members of joint family for debts before Code not affected.—Where a debt has been contracted before the commencement of this Code by the manager or *Karta* of a joint family for family purposes, nothing herein contained shall affect the liability of any member of the joint family to discharge any such debt, and any such liability may be enforced against all or any of the persons liable therefor in the same manner and to the same extent as would have been the case if this Code had not been passed.

88. Rule of pious obligation of Hindu son abrogated.—(1) After the commencement of this Code, no court shall, save as provided in sub-section (2), recognise any right to proceed against a son, grandson or great-grandson for the recovery of any debt due from his father, grandfather or great grandfather any alienation of property in respect of, or in satisfaction of, any such debt on the ground of the pious obligation of the son, grandson or great-grandson to discharge any such debt.

(2) In the case of any debt contracted before the commencement of this Code, nothing contained in sub-section (1) shall affect—

(a) the right of any creditor to proceed against the son, grandson or great-grandson, as the case may be, or,

(b) any alienation made in respect of, or in satisfaction of, any such debt, and any such right or alienation shall be enforceable under the rule of pious obligation in the same manner and to the same extent as would have been the case if this Code had not been passed.

Explanation.—For the purposes of sub-section (2) the expression "son, grandson, or great-grandson" shall be deemed to refer to the son, grandson or great-grandson, as the case may be, who was born or adopted prior to the commencement of this Code.

(92)

89. Liability of members of joint family for debts before Code not affected.—Where a debt has been contracted before the commencement of this Code by the manager or *Karta* of a joint family for family purposes, nothing herein contained shall affect the liability of any member of the joint family to discharge any such debt, and any such liability may be enforced against all or any of the persons liable therefor in the same manner and to the same extent as would have been the case if this Code had not been passed.

(93)

(94)

CHAPTER II

Mitakshara Co-parcenary

90. Application of Chapter.—This Chapter applies to Hindus who would have been governed by the mitakshara school of Hindu law if this Code had not been passed.

90A. Definition.—In this Chapter,—

"ancestral property" means any property acquired by a male Hindu by way of inheritance from his father, father's father or father's father's father, and includes—

(a) any share in the property of any such paternal ancestor allotted to him on partition, and

(b) any accretions to ancestral property;

but shall not be deemed to include—

(i) any gains of learning as defined in the Hindu Gains of Learning Act, 1930 (XXX of 1930), acquired by him;

(ii) any property acquired by him otherwise than by way of inheritance;

(iii) any property acquired by him by way of inheritance from any person other than any of the three immediate paternal ancestors, and

(iv) any other separate property in his possession,

although all or any of such properties are for the time being shared by him jointly with a co-parcener.

Explanation.—Accretions to ancestral property include income from such properly, property purchased or acquired out of such income or with the assistance of such property, the proceeds of sale of such property, and property purchased out of such proceeds;

90B. Co-parcenary.—(1) A person becomes a co-parcener if the following conditions are fulfilled, namely:—

(i) that he—

(a) has either inherited any ancestral property, or

(b) is born in the family of the person who has inherited any such property and is a lineal descendant of such person in the male line ; and

(ii) that in the ease of any person referred to in sub-clause (b) of clause (i) he is not for the time being removed more than four degrees—

(a) from the person who has inherited any such property, or

(b) from any of the descendants of any person who has so inherited and who is the oldest living paternal ancestor of that person in the male line.

(2) For the purpose of computing the number of degrees under sub-section (1), the person concerned and the person with respect to whom the relationship is to be traced shall each be counted as one degree.

(3) When there is a partition among the members of a co-parcenary, the co-parceners who have separated shall cease to be co-parceners with respect to each other; but it shall not be presumed, until the contrary is proved:—

(a) that each of the persons so separating has, by reason only of such separation, ceased to be a co-parcener with respect to his own descendants in the male line; or

(b) that, where only one co-parcener has so separated, the remaining members of the co-parcenary have, by reason only of such separation, ceased to be co-parceners as amongst themselves.

(4) "Co-parcenary" is a body of two or more male persons who are for the time being co-parceners.

(95)

90C. Incidents of co-parcenary property.—The following rules shall apply to any ancestral property acquired, whether before or after the commencement of this Code, by a member of a co-parcenary :—

(a) every co-parcener shall by reason of his birth in the family of the person acquiring ancestral property have an interest in the property equal to that of his father;

(b) all the members of the co-parcenary shall hold the property as joint tenants;

(c) on the death of any co-parcener (other than the sole surviving member) his interest in the property shall devolve by survivorship on the surviving members of the co-parcenary and not by succession on his heirs ;

(d) notwithstanding anything contained in clause (c), where a coparcener dies, his widow and daughter shall amongst themselves have in the property—

(i) in the case of the widow, an interest equal to that of the son,

(ii) in the case of an unmarried daughter, an interest equal to onehalf of that of the son and, in the case of a married daughter, one quarter of that of the son.

(96)

90D. Extent of right of co-parcener to alienate co-parcenary property.—Neither any co-parcener nor any female who acquires an interest in any ancestral property by reason of the provisions contained in clause (d) of section 90C shall, by reason merely of the fact of being a co-parcener or of having acquired such interest, be entitled to transfer or charge in any way the property except his or her undivided or other interest therein, and no court shall, in execution of any decree passed against any such member or female, proceed against any ancestral property otherwise than against the interest in the property belonging to such co-parcener or female, as the case may be.

(97)

90E. Right to claim partition of to-parcenary property.—(1) Any co-parcener and any female who has acquired an interest in ancestral property by reason of the provisions contained in clause (d) of section 90C may, at any time, claim partition and separate enjoyment of his or her share in the property whether or not the other parties concerned are agreeable thereto.

(2) Where any female who has acquired any such interest as is referred to in sub-section (1) dies without claiming partition and obtaining separate enjoyment of her share in the property, her interest in the property shall, on her death, revert to the members of the co-parcenary.

(98)

90F. Right of co-parcener to buy off the share of another co-parcener, etc., in certain cases.—Notwithstanding anything contained in section 90D a co-parcener may require any other co-parcener who has ceased to be a Hindu by conversion to another religion or a female who has acquired an interest in ancestral property by reason of the provisions contained in clause (d) of section 90C to take his or her share in the ancestral property for separate enjoyment and thereupon the provisions of the Partition Act, 1893 (IV of 1893), shall apply as if there was a partition and as if the co-parcener who has ceased to be a Hindu or the female, as the case may be, were the transferee of a share of a dwelling house belonging to the co-parcenary.

(99)

90G. Allotment of shares on partition.—The following rules shall apply to regulate the allotment of shares to the members of a co-parcenary on a partition being made amongst them, namely:—

(a) where the partition is between a father and his sons, each son shall take a share equal to that of his father;

(b) where the partition is between brothers, they, shall take equal shares;

(c) where the partition is between co-parceners belonging to different branches of the family, the property shall be divided amongst the branches equally *per stirpes*;

(d) where the partition is between co-parceneras belonging to the same branch, the property shall be divided equally amongst them *per capita*.

(100)

90H. Termination of coparcenary.—So long as there is no other coparcener in the family, every person who acquires any ancestral property shall be entitled to hold the property as an absolute owner, and on his death, the property shall devolve on his heirs by succession and not by survivorship.

(101)

CHAPTER III

Marumakkattayam, Aliyasantana and Nambudri joint families

90I. Special provisions repecting Marumakkattayam, Aliyasantana and Nambudri joint families.—Nothing contained in this Part shall apply to any *tarwad, tavazhi, kutumba, kavaru* or *illom* to which the Marumakkattayam, Aliyasantana or Nambudri law would have applied if this Code had not been passed, and, notwithstanding anything contained in this Code, all matters relating to the rights (whether by way of succession or otherwise) of any person in, or the management or partition of, any such *tarwad, tavashi, kutumba, kavaru* or *illom* and of its properties shall continue to be regulated by the law which was applicable thereto immediately before the commencement of this Code, as if that law had not been repealed by this Code.

(102)

CHAPTER IV

Miscellaneous

90J. Savings.—Nothing contained in this Part shall apply to—

(a) any estate which descends to a single heir by a customary rule of succession or by the terms of any grant or enactment; or

(b) any estate attached to a *sthanam* (position of dignity) and enjoyed by a single person from time to time in accordance with any law, custom or usage in force in the State of Travancore-Cochin or in the districts of Malabar, South Canara and Nilgiris of the State of Madras ; or

(c) the following estates situated in the State of Travancore-Cochin, namely:—

Idapally, Poonjar and Kilimanoor Estates and the Valiamma Thampuran Kovilagam Estate including the Palace Fund.

90. Saving of impartible estates.—Nothing contained in this Part shall apply to any estate which descends to a single heir by a customary rule of succession or by the terms of any grant or enactment.

(102)

(103)

PART VI.—WOMAN'S PROPERTY

91. Nature of woman's property.—(1) Any property acquired by a woman after the commencement of this Code shall be her absolute property.

(2) Nothing in sub-section (1) shall apply to any property acquired by a woman by way of gift or under a will where the terms of the gift or the will, expressly or by necessary implication, prescribe a restricted estate in such property :

Provided that no such implication shall arise by reason only of her sex.

Explanation.—In this section "property" includes both movable and immovable property acquired by a woman, whether such acquisition was made before, at or after marriage or during widowhood and whether by inheritance or devise, or on partition, or in lieu of maintenance or arrears of maintenance, or by gift from any person, whether a relative or not, or by her own skill or exertion or by purchase or by prescription or in any other manner whatsoever.

(104)

92. Devolution of woman's property.—(1) Where any woman dies after the commencement of this Code any property acquired by her whether such acquisition was made before or after the commencement of this Code, shall, in so far as it consists of heritable property, devolve on her own heirs in the manner laid down in Part VII.

(2) Nothing in sub-section (1) shall apply to the property of a woman in which she had, at the time of her death, only the limited estate known as the Hindu woman's estate, and such property shall devolve as hereunder—

(i) where such limited estate was obtained by inheritance it shall devolve on the persons who under Part VII would have been the heirs of the last full owner thereof if such owner had died intestate immediately after her;

(ii) where such limited estate was obtained by partition or in any other manner not herein provided for it shall devolve on the persons who would have been entitled to it if this Code had not been passed.

PART VI.—WOMAN'S PROPERTY

91. Nature of woman's property.—(1) Any property acquired by a woman after the commencement of this Code shall be her absolute property.

Part II, Sec. 13, page 9.

(2) Nothing in sub-section (1) shall apply to any property acquired by a woman by way of gift or under a will where the terms of the gift or the will, expressly or by necessary implication, prescribe a restricted estate in such property:

Provided that no such implication shall arise by reason only of her sex.

Explanation.—In this section "property" includes both movable and immovable property acquired by a woman, whether such acquisition was made before, at or after marriage or during widowhood and whether by inheritance or devise, or on partition, or in lieu of maintenance or arrears of maintenance, or by gift from any person, whether a relative or not, or by her own skill or exertion or by purchase or by prescription or in any other manner whatsoever.

(103)

92. Devolution of woman's property.—(1) Where any woman dies after the commencement of this Code any property acquired by her whether such acquisition was made before or after the commencement of this Code, shall, in so far as it consists of heritable property, devolve on her own heirs in the manner laid down in Part VII.

Part II, Sec. 3, page 3.

(2) Nothing in sub-section (1) shall apply to the property of a woman in which she had, at the time of her death, only the limited estate known as the Hindu women's estate, and such property shall devolve as hereunder—

(i) where such limited estate was obtained by inheritance it shall devolve on the persons who under Part VII would have been the heirs of the last full owner thereof if such owner had died intestate immediately after her,

(ii) where such limited estate was obtained by partition or in any other manner not herein provided for it shall devolve on the persons who would have been entitled to it if this Code had not been passed.

(104)

(105)

93. Dowry to be held in trust for wife.—(1) In the case of any marriage solemnized after the commencement of this Code, any dowry given on the occasion of or as a condition of or as consideration for such marriage shall be deemed to be the properly of the woman whose marriage has been so solemnized.

(2) Where any dowry is received by any person other than the woman whose marriage has been so solemnized as aforesaid such person shall hold it in trust for the benefit and separate use of the woman and shall transfer it to her on her completing the age of eighteen years or if she dies before completing that age to her heirs as specified in Part VII.

Explanation.—In this section, "dowry" includes any property transferred or agreed to be transferred by or on behalf of, either party to the marriage or any of his relatives, to any relative of the other party, whether directly or indirectly on the occasion of or as a condition of or as consideration for such marriage, but does not include any small customary presents made to the bridegroom or to any relative of either party to the marriage.

Part IV, sec. 28, page 20.

93. Dowry to be held in trust for wife.—(1) In the case of any marriage solemnized after the commencement of this Code, any dowry given on the occasion of or as a condition of or as consideration for such marriage shall be deemed to be the property of the woman whose marriage has been so solemnized.

(2) Where any dowry is received by any person other than the woman whose marriage has been so solemnized as aforesaid such person shall hold it in trust for the benefit and separate use of the woman and shall transfer it to her on her completing the age of eighteen years or if she dies before completing that age to her heirs as specified in Part VII.

Explanation.—In this section, "dowry" includes any property transferred or agreed to be transferred by or on behalf of, either party to the marriage or any of his relatives, to any relative of the other party, whether directly or indirectly on the occasion of or as a condition of or as consideration for such marriage, but does not include any small customary presents made to the bridegroom or to any relative of either party to the marriage.

(106)

PART VII.—SUCCESSION

CHAPTER I

Application

94. Certain estates excluded from operation of Part.—This Part shall not apply to * * *,—

(i) any estate which descends to a single heir by a customary rule of succession or by the terms of any grant or enactment, or to any other estate specified in section 90J, or

(ii) any property which devolves by survivorship on the surviving members of a co-parcenary in accordance with the provisions of Part V, or

(iii) any property belonging to a tarwad, *tavazhi, kutumba, kavaru or illom* to which the provisions of section 901 apply.

(107)

95. Application of Part.—Save as otherwise expressly provided in section 94, this Part regulates the succession to the property of a Hindu dying intestate after the commencement of this Code in the following cases, namely:—

(a) where the property is movable property, unless it is proved that the intestate was not domiciled in the territories to which this Act extends at the time of his or her death ;

(b) where the property is immovable property situate in the said territories, whether the intestate was domiciled in the said territories at the time of his or her death or not.

Explanation—For the purposes of this Part, the domicile of a Hindu shall be determined in accordance with the provisions contained in section 6 to 18, both inclusive, of the Indian Succession Act, 1925 (XXXIX of 1925).

(108)

96. No distinction between divided and undivided sons, etc., for purposes of succession.—For purposes of intestate succession, no distinction shall be made,—

(1) between a son who was divided and a son who was undivided from the intestate or between a son who was divided and a son who was reunited with him;

(2) between a female heir * * * who is a widow and one who is not a widow or between a female heir who is poor and one who is rich or between a female heir with issue and one without issue or possibility of issue.

PART VII.—SUCCESSION

CHAPTER I

General

94. Certain estates excluded from operation of Part.— This Part shall not apply to.— **Part II, sec. 1, page 2.**

(i) agricultural land in Governors' Provinces; or

(ii) any estate which descends to a single heir by a customary rule of succession or by the terms of any grant or enactment.

(106)

95. Application of Part.—Save as provided in section 94, this Part regulates the succession to the property of a Hindu dying intestate after the commencement of this Code in the following cases, namely :— **Part II, sec. 3, page 3.**

(a) where the property is movable properly, unless it is proved that the intestate was not domiciled in any of the Provinces of India at the time of his or her death ;

(b) where the property is immovable property situate in any of the Provinces of India, whether the intestate was domiciled in any of the Provinces of India at the time of his or her death or not.

Explanation.—For the purposes of this Part, the domicile of a Hindu shall be determined in accordance with the provisions contained in section 6 to 18, both inclusive, of the Indian Succession Act, 1925 (XXXIX of 1925).

(107)

96. No distinction between divided and undivided sons, etc., for purposes of succession.—For purposes of intestate succession, no distinction shall be made,— **Part II, sec. 7, (Rules 2 and 4, page 6.**

(1) between a son who was divided and a son who was undivided from the intestate or between a son who was divided and a son who was reunited with him;

(2) between a female heir who is married and one who is unmarried or a female heir who is a widow and one who is not a widow or between a female heir who is poor and one who is rich or between a female heir with issue and one without issue or possibility of issue.

(108)

(109)

CHAPTER II

Intestate succession to the property of males

General Provisions

97. Definitions.—(1) In this Part, unless the context otherwise requires.—

(a) "agnate"—a person is said to be an agnate (*gotraja*) of another if the two are related by blood or adoption wholly through males;

(b) "cognate"—a person is said to be a cognate *(bandhu)* of another in the two are related by blood or adoption wholly through males;

(c) "heir" means any person, male or female, who is entitled to succeed to the property of an intestate under this Part.

(d) "intestate"—a person is deemed to die intestate in respect of property of which he or she has not made a testamentary disposition capable of taking effect;

(2) In this Part, unless the context otherwise requires, words importing the masculine gender shall not be taken to include females.

(110)

98. General rules of succession in the case of males.—Save as otherwise expressly provided in sections 105A to 105J inclusive, the property of a male Hindu dying intestate shall devolve according to the rules set out in this Part:—

(a) firstly, upon the preferential heirs, being the relatives specified in class I of the Eighth Schedule;

(b) secondly, if there is no preferential heir of class I, then upon the preferential heirs being the relatives specified in class II of the Eighth Schedule;

(c) thirdly, if there is no preferential heir of any of the two classes, then upon his relatives being the agnates specified in section 102 ; and

(d) lastly, if there is no agnate, then upon his relatives being the cognates specified in section 103.

(111)

99. Order of succession amongst preferential heirs.—As amongst the preferential heirs those in class I of the Eighth Schedule shall take together, and those standing in the first entry in class II shall be preferred to those standing in the second entry, and those in the second entry to those in the third entry and so on in succession.

CHAPTER II

Intestate succession

Succession to the property of a Hindu mile

Part II, sec. 2, page 2. Part II, sec. 5, page 2.

97. Definitions.—(1) In this Part, unless there is anything repugnant in the subject or context,—

(a) "agnate"—a person is said to be an agnate (*gotraja*) of another, if the two are related by blood or adoption wholly through males;

(b) "cognate"—a person is said to be a cognate (*bandhu*) of another in the two are related by blood or adoption but not wholly through males;

(c) "heir " means any person, male or female, who is entitled to succeed to the property of an intestate under this Part.

(d) "intestate"—a person is deemed to the intestate in respect of property of which he or she has not made a testamentary disposition capable of taking effect ;

(2) In this Part, unless there is anything repugnant in the subject or context, words importing the masculine gender shall not be taken to include females.

Part II, sec. 4, page 4

98. Rule of succession in the case of male Hindu.—Subject to the provisions of this Part, the property of a male Hindu dying intestate shall devolve according to the rules set out in this Part:—

(a) firstly, upon the preferential heirs, being the relatives specified in class I of the Schedule VII;

(b) secondly, if there is no preferential heir of class I, then upon the preferential heirs being the relatives specified in class II of Schedule VII;

(c) thirdly, if there is no preferential heir of any of the two classes, then upon his relatives being the agnates specified in section 102; and

(d) lastly, if there is no agnate, then upon his relatives being the cognates specified in section 103.

Part II, sec. 6, page 6.

99. Order of succession amongst preferential heirs.—As amongst the preferential heirs those in class I of Schedule VII shall take together, and those standing in the first entry in class II shall be preferred to those standing in the second entry, and those in the second entry to those in the third entry and so on in succession.

(112)

100. Distribution of property amongst preferential heirs in class I.—(1) The property of an intestate shall be divided among the preferential heirs in class I of the Eighth schedule so that the share of the widow shall be equal to that of each son, including a predeceased son leaving a son or a son's son living at the intestate's death, and the share of each unmarried daughter shall be half that of each son and the share of each married daughter shall be one-quarter of that of each son:

Provided that where a predeceased son leaves no son or son's son but leaves his widow or his son's widow living at the intestate's death, then the share of such predeceased son shall be half that of a son of the intestate.

(2) The share given to a predeceased son of the intestate under sub-section (1) shall be divided as follows:—

(a) If such predeceased son has left a son or a son's son living at the intestate's death then his share shall be divided so that the share of the widow of such predeceased son shall be equal to that of a son of such predeceased son including any son who may have died before the intestate leaving a son living at the intestate's death :

Provided that if any son of such predeceased son dies before the intestate leaving a widow but no son living at the intestate's death then the share of such son of the predeceased son shall be half that of any other son of such predeceased son.

(b) The share of any son of the predeceased son who may have died before the intestate shall be divided between his widow and his sons in equal shares.

(c) If such predeceased son has left a widow or a son's widow or widows of two or more sons but has not left a son or a son's son living at the intestate's death then the share of such predeceased son shall be divided between his widow and his son's widows so that the share of the predeceased son's widow shall be double the share of the widow of each son of such predeceased son.

(3) For the purposes of this section where a person has left more than one widow all the widows shall take between them equally the share which a single widow would have taken.

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* * * * *

Part IV, sec. 7, page 6.

100. Distribution of property amongst preferential heirs in class I.—(1) The property of an intestate shall be divided among the preferential heirs in class I so that the share of the widow shall be equal to that of eaeh son, including a predeceased son leaving a son or a son's son living at the intestate's death and the share of each daughter shall be equal to that of each son :

Provided that where a predeceased son leaves no son or son's son but leaves his widow or his son's widow living at the intestate's death, then the share of such predeceased son shall be half that of a son of the intestate.

(2) The share given to a predeceased son of the intestate under sub-section (1) shall be divided as follows:—

(a) If such predeceased son has left a son or a son's son living at the intestate's death then his share shall be divided so that the share of the widow of such predeceased son shall be equal to that of a son of such predeceased son including any son who may have died before the intestate leaving a son living at the intestine's death :

Provided that if any son of such predeceased son dies before the intestate leaving a widow but no son living at the intestate's death then the share of such son of the predeceased son shall be half that of any other son of such predeceased son.

(b) The share of any son of the predeceased son who may have died before the intestate shall be divided between his widow and his sons in equal shares.

(c) If such predeceased son has left a widow or a son's widow or widows of two or more sons but has not left a son or a son's son living at the intestate's death then the share of such predeceased son shall be divided between his widow and his son's widows so that the share of the predeceased son's widow shall be double the share of the widow of each son of such predeceased son.

(3) For the purposes of this section where a person has left more than one widow all the widows shall take between them equally the share which a single widow would have taken.

Illustrations

(i) The surviving heirs of an intestate are three sons, A, B and C, five grandsons by a predeceased son D, and two great grandsons by a predeceased son of another predeceased son E, A, B and C take one share each, and the branches of D and E get one share each. The grandson in D's branch and the great grandson in E's branch divide the stare allotted to their respective branches equally. Each son of the intestate, therefore, takes one fifth of the heritable property, each grandson one-twenty-fifth, and each great-grandson one-tenth.

(ii) Only a widow or daughter survives an intestate. She takes the whole of the heritable property.

(114)

101. Mode of distribution amongst preferential heirs in class II.—The property of an intestate shall be divided between the preferential heirs in any one entry in class II of the Eighth Schedule so that they share equally.

(115)

102. Agnates who are heirs.—In the absence of any preferential heirs specified in class I or classs II of the Eighth Schedule, agnates of the deceased, related to the intestate within five degrees, shall be entitled to succeed in accordance with the rules set out in this Part.

(iii) The surviving heirs are a widow and two grandsons by a predeceased son. The widow takes one share and the grandsons together take one share. The widow therefore, takes one half of the heritable property and each grandson one fourth.

(iv) The surviving heirs are a daughter and the widow of a predeceased son. The daughter takes one share, and the widow gets half a share.

(v) The surviving heirs are a son, a daughter, and the widow of a predeceased son. The son gets one share, the daughter gets one share, and the widow of the predeceased son gets half a share.

(vi) The surviving heirs are a son, a daughter, and the widow and the son of a predeceased son. The son gets one share, the daughter gets one share and the widow and the son of the predeceased son get between them one share, which has then to the distributed equally between them.

(vii) The surviving heirs are—

(a) a widow,

(b) a son.

(c) a daughter,

(d) the widow of a predeceased son,

(e) the widow and two sons of another predeceased son.

The widow gets one share; the son gets one share; the daughter gets one share; the widow of the first mentioned predeceased son—(d) above—gets half a share; and the heirs mentioned in (a) above between them get one share, which has then to be distributed equally among them.

(viii) The surviving heirs are—

(a) a son,

(b) the widow and three sons of a predeceased son,

(c) the widow of a predeceased son of the predeceased son referred to in (b), The son gets one share and the heirs in entries (b) and (c) together, get one share.

The latter share should be distributed so that the widow and each of the sons in entry (b) get portion each and the widow in entry (c) gets one-half of such a portion. In the result, the intestate's son gets one-half of the heritable property, the widow of his predeceased son gets one-ninth, each of the three sons of such predeceased son also gets one-ninth, and the widow of the intestate's grandson gets one-eighteenth

(113)

101. Mode of distribution amongst preferential heirs in class II.—The property of an intestate shall be divided between the preferential heirs in any one entry in class II of Schedule VII, so that they share equally.

(114)

102. Agnates who are heirs.—In the absence of any preferential heirs specified in class I or classs II of Schedule VII, agnates of the deceased, related to the intestate within five degrees, shall be entitled to succeed in accordance with the rules set out in this Part.

Part I, sec. 8, page 7.

(115)

(116)

103. Cognates who are heirs.—In the absence of any preferential heir and agnates, cognates of the deceased related to the deceased within five degrees, shall be entitled to succeed in accordance with the rules set out in this Part.

(117)

104. Order of succession amongst agnates and cognates.—The order of succession among agnates or cognates, as the case may be, shall be determined in accordance with the rules of preference laid down hereunder:—

Rule 1.—Of two heirs, the one who has fewer or no degrees of ascent is preferred.

Rule 2.—Where the number of degrees of ascent is the same or none, that heir is preferred who has fewer or no degrees of ascent.

Rule 3.—Where the number of degrees of descent is also the same or none, the heir who is in the male line is preferred to the heir who is in the female line at the first point (counting from the intestate to the heir) where the lines of the two heirs can be so distinguished.

Rule 4.—Where the two lines cannot be so distinguished, the heir who is a male is preferred in the heir who is a female.

Rule 5.—Where neither heir is entitled to be preferred to the other under the foregoing rules, they take together.

* * * * *

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Part I, sec. 8, page 7.

103. Cognates who are heirs.—In the absence of any preferential heir and agnates, cognates of the deceased related to the deceased within five degrees, shall be entitled to succeed in accordance with the rules set out in this Part.

(116)

Part II, sec. 9, pages 7 & 8.

104. Order of succession amongst agnates and cognates.—The order of succession among agnates or cognates, as the case may be, shall be determined in accordance with the rules of preference laid down hereunder:—

Rule 1.—Of two heirs, the one who has fewer or no degrees of ascent is preferred.

Rule 2.—Where the number of degrees of ascent is the same or none, that heir is preferred who has fewer or no degrees of ascent.

Rule 3.—Where the number of degrees of descent is also the same or none, the heir who is in the male line is preferred to the heir who is in the female line at the first point (counting from the intestate to the heir) where the lines of the two heirs can be so distinguished.

Rule 4.—Where the two lines cannot be so distinguished, the heir who is a male is preferred to the heir who is a female.

Rule 5.—Where neither heir is entitled to be preferred to the other under the foregoing rules, they take together.

Illustrations

In the following illustrations, the letters F and M stand for the father and mother respectively in that portion of the line which ascends from the intestate to the common ancestor, and the letters S and D for the son and daughter respectively in that portion of the line which descend from the common ancestor to the heir. Thus MFSS stands for the intestate's mother's father's son's son (mother's brother's son) and FDS stands for the intestate's father's daughter's son (sister's son).

(i) The competing heirs are (1) SDSS (son's daughter's son's son and (2) FDDS (sister's daughter's son). No. (1) who has no degree of ascent is preferred to No. (2) who has one degree of ascent.

(ii) The competing heirs are (1) FDDD (sister's daughter's daughter) and (2) MFSSD (maternal uncle's son's daughter). The former who has only one degree of ascent is preferred to the latter who has two such degrees.

(iii) The competing heirs are (1) FDSS (sister's son's son) and MFSSD (material uncle's son's daughter). The former who has only one degree of ascent is preferred to the latter who has two such degrees.

(iv) The competing heirs are (1) MFDSS (mother's sister's son's son) and (2) MFFDS (mother's father's sister's son). The former who has two degrees of ascent is preferred to the latter who has three such degrees.

(v) The competing heirs are (I) MFM (mother's father's mother) and (2) FFFDSS father's father's sister's son's son). The number of degrees of ascent in both cases is the same, viz., three, but the former has no degree of descent while the latter has three such degrees. The former (1) is therefore preferred.

(117A)

105. Computation of degrees.—(1) For the purposes of determining the order of succession amongst agnates or cognates, relationship shall be reckoned from the intestate to the heir in terms of degrees of ascent, or degrees of descent, or both, as the case may be.

(2) Degrees of ascent and degrees of descent shall be computed exclusive of the intestate.

(3) Every generation constitutes a degree either ascending or descending.

* * * * * *

(vi) The competing heirs are (1) FMF (father's mother's father) and (2) MFFF (mother's father's father). The number of degrees of ascent in both the cases is the same, and there are no degrees of descent. The lines of the two heirs diverge at the very first point. No. (1) being in the male line and No. (2) in the female line. No. (1) is preferred to No. (2).

(vii) The competing heirs are (1) FDSS (sister's son's son) and (2) FDDS (sister's daughter's son). The heirs are equally near both in ascent and descent. The dissimilarity in the lines occurs at the third point. At this point. No. (1) is in the male line and No. (2) father's mother's sister's son). The former is preferred.

(viii) The competing heirs are (1) FMFSS (father's mother's brother's son) and (2) FMFDS father's mother's sister's son). The former's preferred.

(ix) The competing heirs are (1) FDDS (sister's daughter's son) and (2) FDDD (sister's daughter's daughter). The former is preferred.

(117)

Part II, sec. 8, page 7.

105. Computation of degrees.—(1) For the purposes of determining the order of succession amongst agnates or cognates, relationship shall be reckoned from the intestate to the heir in terms of degrees of ascent, or degrees of descent, or both, as the case may be.

(2) Degrees of ascent and degrees of descent shall be computed exclusive of the intestate.

(3) Every generation constitutes a degree either ascending or descending.

Illustrations

(i) The heir to be considered is the father's mother's father of the intestate. He has no degrees of descent, but has three degrees of ascent represented in order by (1) the intestate's father, (2) that father's mother, and (3) her father (the heir).

(ii) The heir to be considered is the father's mother's father's mother of the intestate. She has no degrees of descent, but has four degrees of ascent represented in order by (1) the intestate's father, (2) that father's mother, (3) her father, and (4) his mother (the heir).

(iii) The heir to be considered is the son's daughter's son's daughters of the intestate. She has no degrees of ascent, but has four degrees of descent represented in order by (1) the intestate's son, (2) that son's daughter, (3) her son, and (4) his daughter (the heir).

(iv) The heir to be considered is the mother's father's father's daughter's son of the intestate. the has three degrees of ascent represented in order by (1) the intestate's mother, (2) her father and (3) the father's father, and two degrees of descent represented in order by (1) the daughter of the common ancestor, viz., the mother's father's father and (2) her son (the heir).

(117A)

(118)

Succession to the property of male Marumakkattayis, etc.

105 A. Rules of succession to male Marumakkattayis, etc. dying intestate.—Notwithstanding anything contained in this Chapter the separate or self-acquired property of a male Hindu who dies intestate in respect thereof, shall—

(a) in the case of a person to whom the Marumakkattayam or Aliyasantana law would have applied if this Code had not been passed, devolve in the order and according to the rules contained in sections 105-C to 105-1 inclusive; and

(b) in the case of a person to whom the Nambudri law would have applied if this Code had not been passed, devolve in the order and according to the rules set out in section 105-J.

(119)

105 B. Lineal descendant defined.—In sections 105C to 105J inclusive and in section 109A and 109B, the expression "lineal descendant", used with reference to any person, means any descendant of that person, whether in the male or female line or partly in the male and partly in the female line, and includes any child of that person.

(120)

105 C. Devolution of property, where there is a lineal descendant.—(1) Where the intestate has left him surviving a lineal descendant or descendants and his mother or a widow or widows or both his mother and a widow or widows, the whole of the intestate's property shall devolve on them.

(2) In the absence of the mother and widow, the whole of the property shall devolve on the lineal descendant or descendants.

(121)

105 D. Rules of distribution.—Where there is a lineal descendant, the distribution of the property among the heirs referred to in section 105C shall be made in accordances with the following rules, namely:—

(a) each child (son or daughter) shall be entitled to an equal share;

(b) where a child has predeceased the intestate, the lineal descendants of such child shall, subject to the provisions of clause (e), be entitled to the share which the child would have taken had he or she survived the intestate;

(c) grand-children of the intestate by a deceased child shall be entitled in equal shares to what such child would have taken had he or she survived the intestate;

Provided that where any such grand-child has also predeceased the intestate, the lineal descendants of such grand-child shall, subject to the provisions of clause (e), be entitled to the share which the grand-child would have taken had he or she survived the intestate;

(d) the property shall devolve in the like manner on the remoter surviving lineal descendants of the intestate;

(e) the descendants of a child, grand-child or other lineal descendant of the intestate shall not be entitled to any share in his property, if such child, grand-child or other descendant is living at the time of the death of the intestate;

(f) the widow, or, where there is more than one widow, all the widows together, shall be entitled to a share equal to that of a child, such share being taken equally by the widows where there is more than one;

(g) the mother shall be entitled to a share equal to that of a child.

(122)

105 E. Devolution of property, where there is no lineal descendant but there is a widow or mother.—(1) Where the intestate has not left him surviving any lineal descendant but has left his mother and a widow or widows, one-half of the property shall devolve on his mother and the other half on his widow or widows in equal shares.

(2) In the absence of a widow, the whole of the property shall devolve on the mother.

(123)

105 F. Devolution of property where there is no mother but there is a widow or lineal descendant of mother.—(1) Where the intestate has not left him surviving any lineal descendant or his mother but has left a widow or widows and also a lineal descendant or descendants of his mother, one-half of the property shall devolve on the widow or widows in equal shares and the other half on such lineal descendant or descendants.

(2) In the absence of any lineal descendant of the intestate's mother, the whole of the property shall devolve on the widow or widows in equal shares and, in the absence of the widow, the whole of the property shall devolve on the mother's lineal descendants.

(124)

105 G. Devolution where there is maternal grand-mother or her descendant or the father.—(1) Where the intestate has not left him surviving any of the heirs mentioned in sections 105C, 105E and 105F but has left his father and his maternal grand-mother or lineal descendant or descendants, one-half of the property shall devolve on his father and the other half on her maternal grand-mother or, in her absence, on her lineal descendant or descendants.

(2) In the absence of any lineal descendant of the maternal grand-mother the whole of the property shall devolve on the father, and, in the absence of the father, the whole of the property shall devolve on the maternal grandmother or her lineal descendant or descendants, as the case may be.

(125)

105 H. Devolution in other cases.—(1) Where the intestate has not left him surviving any of the heirs mentioned in sections 105C, 105E, 105F and 105G, the whole of the property shall devolve on his mother's maternal grand mother, or, in her absence, on her lineal descendant or descendants.

(2) In the absence of any such descendant, the whole of the property shall devolve on a remoter female ascendant of the intestate in the female line or, in her absence, on her lineal descendant or descendants, me nearer ascendant and her descendants, excluding the more remote ascendant and her descendants.

(126)

105 I. Rules for distribution among lineal descendants of mother or other ascendant.—The distribution of the intestate's property or any share thereof to which two or more lineal descendants of his mother or other ascendant are entitled under the forgoing sections shall be made in accordance with the rules specified in clauses (a) to (e) of section 105C, as if the mother or other ascendant had died intestate in respect of such property or share leaving her surviving the descendants aforesaid.

(127)

105 J. Special rules of succession to Nambudri males.—Notwithstanding anything contained in this Chapter, the separate or self-acquired property of a male Hindu who, if this Code had not been passed, would have been governed by the Nambudri law, shall, if he dies intestate in respect thereof, devolve in the order, and in accordance with the rules, specified below, namely:—

(a) where the intestate has left him surviving any lineal descendant or descendants or a widow or widows or both such descendant or descendants and a widow or widows, the whole of the property shall devolve on them in accordance with the rules specified in clauses (a) to (f) of section.

(b) where me intestate has not left him surviving any of me relatives referred to in clause (a) the property shall devolve in the order, and in accordance with the rules, specified in sections 97 to 108.

(128)

Intestate Succession to the property of female

General Provision

106. Heirs of a Hindu woman.—Except as otherwise expressly provided in sections 109A and 109B, the properly of a female Hindu dying intestate shall devolve, according to the rules set out in this Part,—

(a) firstly, upon the husband and children, including the children of any predeceased child, and

(b) secondly, if there is no heir specified in clause (a), then, upon the heirs specified in section 109 in the order named therein.

(129)

107. Division of shares among heirs.—(1) Where a Hindu woman dies-intestate leaving husband and children, the property of which she dies intestate shall be divided among her husband and children so that they share equally.

(2) Where a Hindu woman dies intestate leaving children but no husband, the property of which she dies intestate shall be divided among the children, so that they share equally.

(3) If any child of a Hindu woman dying intestate has died in her life time, leaving children alive at the time of her death, the children of such child shall take the share which such child would have taken if living at the intestate's death.

(130)

108. Husband succeeds where no children.—Where a Hindu woman dies Intestate leaving husband but no children, including children of any predeceased child entitled to succeed under section 107, the property of which she dies intestine shall devolve upon the husband.

Succession to the property of a Hindu woman

106. Heirs of a Hindu woman.—Subject to the provisions of this Chapter, the property of a Hindu woman dying intestate shall devolve—

Part II, sec. 14, page 9.

(a) firstly, upon the husband and children, including the children of any predeceased child, and

(b) secondly, if there is no heir specified in clause (a), then, upon the heirs specified in section 109 in the order named therein.

(128)

107. Division of shares among heirs.—(1) Where a Hindu woman diesintestate leaving husband and children, the property of which she dies intestate shall be divided among her husband and children so that they share equally.

Part II, sec. 14, page 9.

(2) Where a Hindu woman dies intestate leaving children but no husband, the property of which she dies intestate shall be divided among the children, so that they share equally.

Part II, sec. 14, page 9.

(3) If any child of a Hindu woman dying intestate has died in her life time, leaving children alive at the time of her death, the children of such child shall take the share which such child would have taken if living at the intestate's death.

(129)

108. Husband succeeds where no children.—Where a Hindu woman dies Intestate leaving husband but no children, including children of any predeceased child entitled to succeed under section 107, the property of which she dies intestate shall devolve upon the husband.

(130)

(131)

109. Other heirs of the woman's property.—Where a Hindu woman dies leaving no heirs specified in section 107 or 108, then the property of which she dies intestate shall devolve upon the following heir in the order named hereunder, namely,—

(1) mother, father;

(2) husband's heirs, in the same order and according to the same rules as would have applied, if the property had been his and he had died intestate in respect thereof immediately after his wife;

(3) mother's heirs, in the same order and according to the same rules as would have applied, if the property had been hers and she had died intestate in respect thereof immediately after her daughter;

(4) father's heirs, in the same order and according to the same rules as would have applied, if the property had been his and he had died intestate in respect thereof immediately after his daughter.

Part II, sec. 14, page 2.

109. Other heirs of the woman's property.—Where a Hindu woman dies leaving no heirs specified in sections 107 or 108, then the property of which she dies intestate shall devolve upon the following heir in the order named hereunder, namely,—

(1) mother, father;

(2) husband's heirs, in the same order and according to the same rules as would have applied, if the property had been his and he had died intestate in respect thereof immediately after his wife;

(3) mother's heirs, in the same order and according to the same rules as would have applied, if the property had been hers and she had died intestate in respect thereof immediately after her daughter;

(4) father's heirs, in the same order and according to the same rules as would have applied, if the property had been his and he had died intestate in respect thereof immediately after his daughter.

(132)

Succession to the property of female Marumakkattayis, etc.

109A. Rules of succession to Marumakkattayam or Aliyasantana female dying intestate.—Notwithstanding anything contained in this Part, the separate or self-acquired property of a female Hindu, who if this Code had not been passed would have been governed by the Marumakkattayam or Aliyasantana law shall, if she dies intestate in respect thereof, devolve in the order and according to the rules specified below, namely:—

(a) where the intestate has left her surviving a lineal descendant or descendants, the whole of such property shall devolve on such descendant or descendants in accordance with the provisions contained in clauses (a) to (c) of section 105D;

(b) in the absence of any lineal descendants of the intestate, the whole of the property shall devolve on the intestate's mother or, in her absence, on her lineal descendant or descendants;

(c) where the intestate has not left her surviving any lineal descendant of herself or of her mother but has left her husband and her maternal grand-mother or her lineal descendant or descendants, one-half of the property shall devolve on her grand-mother or, in her absence, on her lineal descendant or descendants;

(d) in the absence of the intestate's maternal grand-mother and her lineal descendants, the whole of the property shall devolve on the intestate's husband, and in the absence of the husband, the whole of the property shall devolve on her maternal grand-mother or her lineal descendant or descendants, as the case may be;

(e) where the intestate has not left her surviving any of the heirs mentioned in the forgoing clauses, the whole of the property shall devolve on her mother's maternal grand-mother or in her absence on her lineal descendant or descendants and, in the absence of any one descendant, on a remoter female ascendant in the female line or, in her absence, on her lineal descendant or descendants, the nearer ascendant and her descendants excluding the more remote ascendants and her descendants ;

(f) the distribution of the intestate's property or any share thereof to which two or more lineal descendants of her mother or other ascendant are entitled under the foregoing clauses shall be made in accordance will the rules specified in clauses (a) to (e) of section 105D, as if the mother or other ascendant had died intestate in respect of such property or shall leaving her surviving the descendants aforesaid.

(133)

109B. Rules of succession to Nambudri female dying intestate.—Notwithstanding anything contained in this Chapter, the separate or self-acquired property of a female Hindu who, if this Code had not been passed, would have been governed by the Nambudri law, shall, if she dies intestate in respect thereof, devolve in the order, and in accordance with the rules, specified below, namely :—

(a) where the intestate has left her surviving any lineal descendant or descendants, the whole of the property shall devolve on such descendant or descendants in accordance with the rules specified in clause (a) to (e) of section 105D.

(b) in the absence of any lineal descendant, the property shall devolve on her husband;

(c) in the absence of the husband, the property shall devolve upon the heirs in the order, and in accordance with the rules, specified in section 109.

(134)

Succession to the property of a hermit

110. Rules for hermits, etc.—(1) Where a person completely and finally renounces the world by becoming a hermit or an ascetic or a perpetual religious student his property shall devolve upon his heirs, in the same order and according to the same rules as would have applied if he had died intestate in respect thereof at the time of such renunciation.

(2) Any property acquired by such a person after his renunciation shall devolve on his death, not upon his relatives, but as follows:

(a) In the case of a hermit upon a spiritual brother belonging to the same hermitage;

(b) In the case of an ascetic subject to any custom or usage governing the case, upon his virtuous disciple; and

(c) In the case of a perpetual religious student, upon his preceptor.

Succession to the property of a hermit

110. Rules for hermits, etc.—(1) Where a person completely and finally renounces the world by becoming a hermit or an ascetic or a perpetual religious student his property shall devolve upon his heirs, in the same order and according to the same rules as would have applied if he had died intestate in respect thereof at the time of such renunciation.

Part I, sec. 11, page 9.

(2) Any property acquired by such a person after his renunciation shall devolve on his death, not upon his relatives, but as follows:—

(a) In the case of a hermit upon a spiritual brother belonging to the same hermitage,

(b) In the case of an ascetic subject to any custom or usage governing the case, upon his virtuous disciple; and

(c) In the case of a perpetual religious student, upon his preceptor.

(135)

General provisions relating to succession

111. Full blood preferred to half blood.—Heirs related to an intestate by full blood shall be preferred to heirs related by half blood, if the nature of the relationship is the same in every other respect.

* * * * * *

(136)

112. Mode of succession of two or more heirs.—If two or more heirs succeed together to the property of an intestate, they shall take the property—

(a) save as otherwise expressly provided in this Part, *per capita* and not *per stirpes ;* and

(b) as tenants-in-common and not as joint tenants.

(137)

113. Right of child in womb.—A person who was in the womb at the time of the death of an intestate and who is subsequently born alive shall have the same right to inherit to the intestate as if he or she had been born before the death of the intestate. The inheritance shall be deemed to vest in such a case with effect from the date of the death of the intestate.

(138)

114. Presumption of survivorship.—Where two persons have died in circumstances rendering it uncertain whether either of them, and if so which, survived the other then, for all purposes affecting succession to property, it shall be presumed, until the contrary is proved, that the younger survived the elder.

General provisions relating to succession

Part II, sec. 15, page 10.

111. Full blood preferred to half blood.—Heirs related to an intestate by full blood shall be preferred to heirs related by half blood, if the nature of the relationship is the same in every other respect.

Illustration

(i) A brother by full blood is preferred to a brother by half blood; but a brother by half blood succeeds before a brother's son by full blood, a brother being a nearer heir than a brother's son.

(ii) A paternal uncle by half blood is preferred to a paternal uncle's son by full blood, an uncle being a nearer heir than an uncle's son.

(iii) A full brother's daughter's is preferred to a half brother's daughter's daughter but the former is not preferred to a half brother's daughter's son, as the nature of the relationship is not the same in the two cases. The latter, who is a nearer heir by virtue of rule 4 in section 104 is preferred although he is only related by half blood.

(135)

Part II, sec. 24, page 11.

112. Mode of succession of two or more heirs.—If two or more heirs succeed together to the property of an intestate, they shall take the property—

(a) save as otherwise expressly provided in this Part, *per capita* and not *per stirpes;* and

(b) as tenants-in-common and not as joint tenants.

(136)

113. Right of child in womb.—A person who was in the womb at the time of the death of an intestate and who is subsequently born alive shall have the same right to inherit to the intestate as if he or she had been born before the death of the intestate. The inheritance shall be deemed to vest in such a case with effect from the date of the death of the intestate.

(137)

Part III-A, Divn. III, sec. 16, page 14.

114. Presumption of survivorship.—Where two persons have died in circumstances rendering it uncertain whether either of them, and if so which, survived the other then, for all purposes affecting succession to property, it shall be presumed, until the contrary is proved, that the younger survived the elder.

(138)

(139)

115. Application of Partition Act, 1893, in certain cases.—Where, after the commencement of this Code, a share in any immovable property of an intestate or in any business carried on by such intestate, whether solely or in conjunction with other,—

(a) devolve upon one or more of the intestate's son, son's son, son's son's son, together with other relatives, and one of the heirs sues for partition, or

(b) devolves upon a daughter, together with any of the male relatives specified in Class I of the Eighth Schedule, and any one of such male relatives compels the daughter to take her share of the property of the intestate for separate enjoyment (which he is hereby empowered to do),

the provisions of the Partition Act, 1893 (IV of 1893) shall apply as if there was a partition and as if he or she were the transferee of a share of a dwelling house and the intestate's family, were an undivided one.

(140)

Disqualification of heirs

116. Hermit, etc., disqualified.—A person who has completely and finally renounced the world in any of the modes set forth in sub-section (1) of section 110 shall be disqualified from inheriting the property of any of his relatives by blood, marriage or adoption.

(141)

117. Unchaste wife disqualified.—A woman, who after marriage, has been unchaste during her husband's lifetime, shall, unless he has condoned the unchastity, be disqualified from inheriting his property:

Provided that the right of a woman to inherit to her husband shall not be questioned on the above ground, unless a Court of law has found her to have been unchaste as aforesaid in a proceeding to which she and her husband were parties and in which the matter was specifically in issue, the finding of the Court not having been subsequently reversed.

(142)

118. Disqualification of certain widows remarrying.—The widow of a predeceased son, the widow of a predeceased son of a predeceased son, the father's widow and the brother's widow shall not be entitled to succeed as heirs, if on the date the succession opens, they have remarried.

115. Application of Partition Act, 1893, in certain cases.—Where, after the commencement of this Code, a share in any immovable property of an intestate or in any business carried on by such intestate, whether solely or in conjunction with others, devolves upon one or more of the intestate's son, son's son, son's son's son, together with other relatives, and one of the heirs sues for partition, the provisions of the Partition Act, 1893 (IV of 1893) shall apply as if there was a partition and as if he or she were the transferee of a share of a dwelling house and the intestate's family, were an undivided one.

Part II, sec. 12, page 9.

(139)

Disqualification of heirs

116. Hermit, etc., disqualified.—A person who has completely and finally renounced the world in any of the modes set forth in sub-section (1) of section 110 shall be disqualified from inheriting the property of any of his relatives by blood, marriage or adoption.

Part II, sec. 18, page 11.

(140)

117. Unchaste wife disqualified.—A woman, who after marriage, has been unchaste during her husband's lifetime, shall, unless he has condoned the unchastity, be disqualified from inheriting his properly:

Part II, sec. 19, page 1.

Provided that the right of a woman to inherit to her husband shall not be questioned on the above ground, unless a Court of law has found her to have been unchaste as aforesaid in a proceeding to which she and her husband were parties and in which the matter was specifically in issue, the finding of the Court not having been subsequently reversed.

(141)

118. Disqualification of certain widows remarrying.—The widow of a predeceased son, the widow of a predeceased son of a predeceased son, the father's widow and the brother's widow shall not be entitled to succeed as heirs, if on the date the succession opens, they have remarried.

(New)

(142)

(143)

119. Murderer disqualified.—A person who commits murder or abets the commission of murder shall be disqualified from inheriting the property of the person murdered, or any other property in furtherance of the succession to which he or she committed or abetted the commission of the murder.

(144)

120. Convert's descendants disqualified.—Where, before or after the commencement of this Code, a Hindu has ceased or ceases to be one by conversion to another religion, children born to him or her after such conversion and their descendants shall be disqualified from inheriting the property of any of their Hindu relatives, unless such children or descendants arc Hindus at the time when the succession opens.

(145)

121. Succession when heir disqualified.—If any person is disqualified from inheriting any property under this Chapter, it shall devolve as if such person had died before the intestate.

(146)

122. Disease, defect, etc., not to disqualify.—No person shall be disqualified from succeeding to any property on the ground of any disease, defect or deformity, or save as provided in this Chapter, on any other ground whatsoever.

(147)

Escheat

123. Failure of heirs.—If an intestate has left no heir qualified to succeed to his or her property in accordance with the provisions of this Part, such property shall go to the Government; and the Government shall take the property subject to all the obligations and liabilities to which an heir would have been subject.

119. Murderer disqualified.—A person who commits murder or abets the commission of murder shall be disqualified from inheriting the property of the person murdered, or any other property in furtherance of the succession to which he or she committed or abetted the commission of the murder.

Part II, sec. 20. page 11.

(143)

120. Convert's descendants disqualified.—Where, before or after the commencement of this Code, a Hindu has ceased or ceases to be one by conversion to another religion, children born to him or her after such conversion and their descendants shall be disqualified from inheriting the property of any of their Hindu relatives, unless such children or descendants are Hindus at the time when the succession opens.

Part II, sec. 20. page 11.

(144)

121. Succession when heir disqualified.—If any person is disqualified from inheriting any property under this Chapter, it shall devolve as if such person had died before the intestate.

Part II, sec. 22. page 11.

(145)

122. Disease, defect, etc., not to disqualify.—No person Part II, shall be disqualified from succeeding to any property on the ground of any disease, defect or deformity, or save as provided in this Chapter, on any other ground whatsoever.

Part II, sec. 23. page 11.

(146)

Escheat

123. Failure of heirs.—If an intestate has left no heir qualified to succeed to his or her property in accordance with the provisions of this Part, such property shall go to the Crown; and the Crown shall take the property subject to all the obligations and liabilities to which an heir would have been subject.

Part II, sec. 25. page 11.

(147)

(148)

CHAPTER III

Testamentary succession

124. Testamentary succession.—(1) Any Hindu may dispose of by will or other testamentary disposition any property which is capable of being so disposed of by him in accordance with the provisions of the Indian Succession Act, 1925 (XXXIX of 1925), or any other law for the time being in force and applicable to Hindus.

(2) Nothing herein contained shall authorise a Hindu—

(a) to deprive any person of any right to maintenance to which such person is entitled under the provisions of this Code or any other law for the time being in force;

(b) to create in property any interest or estate which he or she cannot lawfully create.

CHAPTER III

Testamentary succession

Part III, sec. 1. page 12.

124. Testamentary succession.—(1) Any Hindu may dispose of by will or other testamentary disposition any property which is capable of being so disposed of by him in accordance with the provisions of the Indian Succession Act, 1925 (XXXIX of 1925), or any other law for the time being in force and applicable to Hindus.

(2) Nothing herein contained shall authorise a Hindu—

(a) to deprive any person of any right to maintenance to which such person is entitled under the provisions of this Code or any other law for the time being in force;

(b) to create in property any interest or estate which he or she cannot lawfully create.

(149)

PART VIII.—MAINTENANCE

125. Maintenance explained.—In this Part, the expression "maintenance" includes—

(i) in all cases, provision for food, clothing, residence, education and medical attendance and treatment; and

(ii) in the case of an unmarried daughter, also the reasonable expenses of, mid incident to, her marriage.

Personal liability to maintain members of family

126. Maintenance of wife.—(1) Subject to the provisions of this section, a Hindu wife, whether married before or alter the commencement of this Code, shall be entitled to be maintained by her husband during his life-time and alter his death, by his father.

(2) A Hindu wife may claim maintenance from her husband only if and while she lives with him:

Provided that she shall be entitled to live separately from him without forfeiting her claim to maintenance—

(a) if he is suffering from a virulent form of leprosy or has been suffering from venereal disease in a communicable form and not contracted from her;

(b) if he keeps a concubine in the same house in which his wife is living ;

(c) if he has been guilty of such cruelty as to render it unsafe for her to live with him;

(d) if he is guilty of desertion, mat is to say, of abandoning her without just cause and without her consent or against her wish;

(e) if he has ceased to be a Hindu by conversion to another religion;

(f) if there is any other cause justifying her living separately.

(3)A Hindu wife shall not be entitled to separate residence and maintenance from her husband if she is unchaste or ceases to be a Hindu by conversion to another religion.

(150)

127. Maintenance of widowed daughter-in-law.—The obligation of a father-in-law to maintain his widowed daughter-in-law under section 126 only extends in so far as he has the means to do so and the widowed daughter-in-law is unable to maintain hereself out of her own property or to obtain maintenance from her husband's estate or from her son, if any, or his estate. Any such obligation shall cease on her remarriage.

PART VIII.—MAINTENANCE

Part III-A, sec. 3. page 2.

125. Maintenance explained.—In this Part, the expression "maintenance" includes—

(i) in all cases, provision for food, clothing, residence, education and medical attendance and treatment; and

(ii) in the case of an unmarried daughter, also the reasonable expenses of, mid incident to, her marriage.

Personal liability to maintain members of family

Part IV, sec. 26. page 19 and 20.

126. Maintenance of wife.—(1) Subject to the provisions of this section, a Hindu wife, whether married before or after the commencement of this Code, shall be entitled to be maintained by her husband during his life-time and after his death, by his father.

(2) A Hindu wife may claim maintenance from her husband only if and while she lives with him:

Provided that she shall be entitled to live separately from him without forfeiting her claim to maintenance—

(a) if he is suffering from a loathsome disease ;

(b) if he keeps a concubine in the same house in which his wife is living;

(c) if he has been guilty of such cruelty as to render it unsafe or undesirable for her to live with him;

(d) if he is guilty of desertion, that is to say, of abandoning her without just cause and without her consent or against her wish;

(e) if he has ceased to be a Hindu by conversion to another religion;

(f) if there is any other cause justifying her living separately.

(3) A Hindu wife shall not be entitled to separate residence and maintenance from her husband if she is unchaste or ceases to be a Hindu by conversion to another religion.

(149)

Part III-A, sec. 8, page 13.

127. Maintenance of widowed daughter-in-law.—The obligation of a father-in-law to maintain his widowed daughter-in-law under section 126 only extends in so far as he has the means to do so and the widowed daughter-in-law is unable to maintain herself out of her own property or to obtain maintenance from her husband's estate or from her son, if any, or his estate. Any such obligation shall cease on her remarriage.

(150)

(151)

128. Maintenance of children and aged parents.—(1) Subject to the provisions of this section, a Hindu is bound, during his life-time, to maintain his legitimate or illegitimate child and his aged parents.

(2) A legitimate or illegitimate child may claim maintenance from his or her father so long as he or she is a minor:

Provided that in the case of an unmarried daughter she may claim maintenance so long as she lives with her father and remains unmarried.

(3) A father may claim maintenance from his son if he is aged and infirm.

(152)

129. Maintenance of children by mother.—A Hindu woman is bound during her life-time to maintain her legitimate or illegitimate children if her husband is unable to do so and she has the necessary means to maintain them.

128. Maintenance of children and aged parents.— (1) Subject to the provisions of this section, a Hindu is bound, during his life-time, to maintain his legitimate or illegitimate child and his aged parents. **(New)**

(2) A legitimate or illegitimate child may claim maintenance from his or her father so long as he or she is a minor:

Provided that in the case of an unmarried daughter she may claim maintenance so long as she lives with her father and remains unmarried.

(3) A father may claim maintenance from his son if he is aged and infirm.

(151)

129. Maintenance of children by mother.—A Hindu woman is bound during her life-time to maintain her legitimate or illegitimate children if her husband is unable to do so and she has the necessary means to maintain them. **(New)**

(152)

(153)

Liability of heirs to maintain dependants out of estate

130. Maintenance of dependants.—(1) Subject to the provisions of section 131 the heirs of a deceased Hindu shall be bound to maintain the dependants of the deceased out of the estate inherited from the deceased by the heir.

(2) The following relatives of the deceased shall be deemed to be his dependants for the purposes of this Part, namely :—

(i) his father;

(ii) his mother;

(iii) his widow, so long as she does not remarry;

(iv) his son, son of his predeceased son, or son of a predeceased son of his predeceased son, who is a minor, so long he remains one, provided and to the extent that he is unable to obtain maintenance, in the case of a grandson, from his father's estate, and in the case of a great-grandson, from the estate of his father or father's father,

(v) his unmarried daughter, so long as she remains unmarried;

(vi) his married daughter;

Provided and to the extent that he is unable to obtain maintenance from her husband or from her son, if any, or his estate;

(vii) his widowed daughter:

Provided and to the extent that she is unable to obtain maintenance—

(a) from the estate of her husband, or

(b) from her son, if any, or his estate, or

(e) from her father-in-law or his father or the estate of either of them;

(viii) any widow of his son or of a son of his predeceased son, so long as she does not remarry:

Provided and to the extent that she is unable lo obtain maintenance from her husband's estate, or from her son, if any, or his estate; or in the case of a grandson's widow, also from her father-in-law's estate;

(ix) his minor illegitimate son, so long as he remains a minor;

(x) his unmarried illegitimate daughter, so long as she remains unmarried.

Liability of heirs to maintain dependants out of estate

Part III-A, sec. 5, page 12.

130. Maintenance of dependants.—(1) Subject to the provisions of section 131 the heirs of a deceased Hindu shall be bound to maintain the dependants of the deceased out of the estate inherited from the deceased by the heir.

(2) The following relatives of the deceased shall be deemed to be his dependants for the purposes of this Part, namely:—

(i) his father,

(ii) his mother;

(iii) his widow, so long as she does not remarry;

(iv) his son, son of his predeceased son, or son of a predeceased son of his predeceased son, who is a minor, so long as he remains one, provided and to the extent that he is unable to obtain maintenance, in the case of a grandson, from his father's estate, and in the case of a great-grandson, from the estate of his father or father's father,

(v) his unmarried daughter, so long as she remains unmarried;

(vi) his married daughter;

Provided and to the extent that she is unable to obtain maintenance from her husband or from her son, if any, or his estate;

(vii) his widowed daughter:

Provided and to the extent that she is unable to obtain maintenance—

(a) from the estate of her husband, or

(b) from her son, if any, or his estate, or

(c) from her father-in-law or his father or the estate of either of them;

(viii) any widow of his son or of a son of his predeceased son, so long as she does not remarry:

Provided and to the extent that she is unable to obtain maintenance from her husband's estate, or from her son, if any, or his estate; or in the case of a grandson's widow, also from her father-in-law's estate;

(ix) his minor illegitimate son, so long as he remains a minor,

(x) his unmarried illegitimate daughter, so long as she remains unmarried.

(154)

131. Extent of liability of heirs to maintain dependants.—Where a dependant has not obtained, by testamentary or intestate succession, any share in the estate of a male Hindu dying after the commencment of this Code, or

where, in a case of testamentary succession, the share so obtained by a dependant is less than what would be awarded to him or her by way of maintenance under this Part,

he or she is entitled, subject to the provisions of this Part, to maintenance from those who take the estate:

Provided that the liability of each heir shall be in proportion to the value of the share or part of the estate taken by him or her;

Provided further that no person who is himself or herself a dependant shall be liable to contribute to the maintenance of others, if he or she has obtained a share or part the value of which is, or would if the liability lo contribute were enforced become, less than what would be awarded to him or her by way of maintenance under this Part.

(155)

Amount of Maintenance

132. Amount of maintenance.—(1) In determining the amount of maintenance, if any, to be awarded to the wife, children or aged parents under this Part, regard shall be had to—

(a) the position and status of the parties;

(b) the reasonable wants of the claimant;

(c) if the claimant is living separately from the father, whether he or she is justified in doing so;

(d) the value of the claimant's property and any income derived from such property, or from the claimant's own earnings, or from any other source ;

(e) the number of persons who are entitled to maintenance under the provision of this Part.

(2) In determining the amount of maintenance, if any, to be awarded to a dependant under this Part, regard shall be had to—

(a) the net value of the estate of the deceased, after providing for the payment of his debts;

(b) the provision, if any, made under a will of the deceased in respect of the dependant;

(e) the position and status of the deceased and of the dependant;

(d) the degree of relationship between the two ;

(e) the reasonable wants of the dependants ;

(f) the past relations between the dependant and the deceased;

(g) the value of his or her property and any income derived from such properly, or from his or her own earnings, or from any other source;

(h) the number of dependants who are entitled to maintenance under the provisions of this Part;

(i) in the case of a widow, her conduct.

131. Extent of liability of heirs to maintain dependants.— Where a dependant has not obtained, by testamentary or intestate succession, any share in the estate of a male Hindu dying after the commencement of this Code, or

Part III-A, sec. 4, page 12.

where, in a case of testamentary succession, the share so obtained by a dependant is less than what would be awarded to him or her by way of maintenance under this Part,

he or she is entitled, subject to the provisions of this Part, to maintenance from those who take the estate:

Provided that the liability of each heir shall be in proportion to the value of the share or part of the estate taken by him or her;

Provided further that no person who is himself or herself a dependant shall be liable to contribute to the maintenance of others, if he or she has obtained a share or part the value of which is, or would if the liability to contribute were enforced become, less than what would be awarded to him or her by way of maintenance under this Part.

(154)

Amount of Maintenance

132. Amount of maintenance.—(1) In determining the amount of maintenance, if any, to be awarded to the wife children or aged parents under this Part, regard shall be had to—

Part III-A, sec. 6, page 13.

(a) the position and status of the parties;

(b) the reasonable wants of the claimant;

(c) if the claimant is living separately from the father, whether he or she is justified in doing so;

(d) the value of the claimant's property and any income derived from such property, or from the claimant's own earnings, or from any other source ;

(e) the number of persons who are entitled to maintenance under the provision of this Part.

(2) In determining the amount of maintenance, if any, to be awarded to a dependant under this Part, regard shall be had to—

(a) the net value of the estate of the deceased, after providing for the payment of his debts;

(b) the provision, if any, made under a will of the deceased in respect of the dependant:

(c) the position and status of the deceased and of the dependant;

(d) the degree of relationship between the two;

(e) the reasonable wants of the dependants;

(f) the past relations between the dependant and the deceased;

(g) the value of his or her property and any income derived from such property, or from his or her own earnings, or from any other source;

(h) the number of dependants who are entitled to maintenance under the provisions of this Part;

(i) in the case of a widow, her conduct.

(155)

(156)

133. Amount of maintenance in the discretion of court.—(1) It shall be in the discretion of the Court to determine whether any, and if so what, maintenance shall be awarded under the provisions of this Part, with due regard to the considerations set out in sub-section (1) or sub-section (2) of section 132, as the case may be, so far as they are applicable.

(2) The expenses that may be allowed to an unmarried daughter in respect of her marriage shall in no case exceed the value of one-half of what she would have inherited from the deceased, if he had died intestate.

(157)

134. Amount of maintenance may be altered on change of circumstances.—The amount of maintenance, whether fixed by a decree of court or by agreement, either before or after the commencement of this Code, may be altered subsequently, if there is a material change in the circumstances, justifying such alteration.

(158)

135. Debts to have priority.—Subject to the other provisions contained in this Part debts of every description shall have priority over the claims of dependants for maintenance under this Part.

(159)

136. maintenance when to be a charge.—A dependant's claim for maintenance under the provisions of this Part shall not be a charge on the estate of the deceased or any portion thereof, unless the same has been created by the will of the deceased, by a decree of court, by agreement between the dependant and the owner of the estate or portion, or otherwise.

(160)

137. Transfer where a third person is entitled to maintenance.—Where a third person has a right to receive maintenance out of an estate and such estate or any part thereof is transferred, the right to receive maintenance may be enforced against the transferee if the transferee has notice of the existence of such right, and in such a case the right can be enforced against the property to the extent to which it would have been liable had this Code not been passed.

133. Amount of maintenance in the discretion of court.—(1) It shall be in the discretion of the Court to determine whether any, and if so what, maintenance shall be awarded under the provisions of this Part, with due regard to the considerations set out in sub-section (1) or sub-section (2) of section 132, as the case may be, so far as they are applicable.

Part III-A, sec. 6(2), page 13.

(2) The expenses that may be allowed to an unmarried daughter in respect of her marriage shall in no case exceed the value of one-half of what she would have inherited from the deceased, if he had died intestate.

(156)

134. Amount of maintenance may be altered on change of circumstances.—The amount of maintenance, whether fixed by a decree of court or by agreement, either before or after the commencement of this Code, may be altered subsequently, if there is a material change in the circumstances, justifying such alteration.

Part III-A, sec. 7(2), page 14.

(157)

135. Debts to have priority.—Subject to the other provisions contained in this Part debts of every description shall have priority over the claims of dependants for maintenance under this Part.

Part III-A, sec. 8, page 14.

(158)

136. maintenance when to be a charge.—A dependant's claim for maintenance under the provisions of this Part shall not be a charge on the estate of the deceased or any portion thereof, unless the same has been created by the will of the deceased, by a decree of court, by agreement between the dependant and the owner of the estate or portion, or otherwise.

Part III-A, sec. 9, page 14.

(159)

137. Transfer where a third person is entitled to maintenance.—Where a third person has a right to receive maintenance out of an estate and such estate or any part thereof is transferred, the right to receive maintenance may be enforced against the transferee if the transferee has notice of the existence of such right, and in such a case the right can be enforced against the property to the extent to which it would have been liable had this Code not been passed.

(160)

(161)

PART IX.—MISCELLANEOUS

138. Power to make rules.—(1) The State Government may make rules to carry out the objects of this Code.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may prescribe—

(i) the particulars relating to *Dharmik* marriages which may be entered in the Hindu *Dharmik* Marriage Register and the manner in which and the circumstances under which such entries shall be made;

(ii) the cases and areas in which particulars of *Dharmik* marriages shall be compulsorily entered, and the punishment for any contravention thereof;

(iii) the areas for which Marriage Registrars shall be appointed and their duties and functions;

(iv) the manner in which Hindu *Dharmik* Marriage Register and the Hindu Civil Marriage Notice Books shall be kept and the manner in which notices of marriages under section 12 shall be published:

(v) the manner in which notices of applications under section 21 shall be given:

(vi) the fees payable for the solemnization of any civil marriage or for any other duties to be performed by the Registrar of Marriages:

(vii) the fees payable for the inspection of and for certified copies of extracts from the Hindu *Dharmik* Marriage Register and the Hindu Civil Marriage Certificate Book:

(viii) the form in which and the intervals within which copies of entries in the Hindu *Dharmik* Marriage Register and the Hindu Civil Marriage Certificate Book shall be sent to the Registrar Genial of Births, Deaths and Marriages;

(ix) *The person by whom, the form in which and the authority to which notice of any marriage under section 24A may he given ;*

(x) the particulars to be specified in applications for the recording of adoptions;

(xi) the fees payable for recording adoptions;

(xii) the form in which the Register of Adoptions shall be maintained; and

(xiii) the manner in which copies of entries in the Register of Adoptions may be certified.

(162)

139. Amendments and repeals.—The enactments mentioned in the third column of the First Schedule shall be amended to the extent specified in the fourth column thereof, and the enactments mentioned in the third column of the Second Schedule shall be repealed to the extent specified in the fourth column thereof.

PART IX.—MISCELLANEOUS

138. Power to make rules.—(1) The Provincial Government may make rules to carry out the objects of this Code.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may prescribe—

(i) the particulars relating to sacramental marriages which may be entered in the Hindu Sacramental Marriage Register and the manner in which and the circumstances under which such entries shall be made;

(ii) the cases and areas in which particulars of Sacramental marriages shall be compulsorily entered, and the punishment for any contravention thereof;

(iii) the areas for which Marriage Registrars shall be appointed and their duties and functions;

(iv) the manner in which Hindu Sacramental Marriage Register and the Hindu Civil Marriage Notice Books shall be kept and the manner in which notices of marriages under section 12 shall be published:

(v) the manner in which notices of applications under section 21 shall be given:

(vi) the fees payable for the solemnization of any civil marriage or for any other duties to be performed by the Registrar of Marriages:

(vii) the fees payable for the inspection of and for certified copies of, extracts from the Hindu Sacramental Marriage Register and the Hindu Civil Marriage Certificate Book:

(viii) the form in which and the intervals within which copies of entries in the Hindu Sacramental Marriage Register and the Hindu Civil Marriage Certificate Book shall be sent to the Registrar Genral of Births, Deaths and Marriages;

(ix) the particulars to be specified in applications for the recording of adoptions

(x) the fees payable for recording adoptions;

(xi) the form in which the Register of Adoptions shall be maintained; and

(xii) the manner in which copies of entries in the Register of Adoptions may be certified.

(161)

139. Amendments and repeals.—The enactment mentioned to the third column of the First Schedule shall be amended to the extent specified in the fourth column thereof, and the enactments mentioned in the third column of the Second Schedule shall be repealed to the extent specified in the fourth column thereof.

(162)

(163)

FIRST SCHEDULE

(*See* section 139)

AMENDMENTS

Year	No.	Short title	Amendments
1	2	3	4
1872	III	The Special Marriage Act, 1872	1. In the preamble, the words "and for persons who profess the Hindu, Buddhist, Sikh or Jain a religion" shall be omitted, 2. In section 2, the words "or between persons each of whom professes one or other of the following religions, mat is to say, the Hindu, Buddhist, Sikh or Jaina religions" shall be omitted. 3. Sections 23, 24, * * * * * 25 and 26 shall stand repealed.

FIRST SCHEDULE

(See section 139)

AMENDMENTS

Year	No.	Short title	Amendments
1	2	3	4
1872	III	The Special Marriage Act, 1872.	1. In the preamble, the words "and for persons who profess the Hindu, Buddhist, Sikh or Jaina religion" shall be omitted. 2. In section 2, the words "or between persons each of whom professes one or other of the following religions, that is to say, the Hindu, Buddhist, Sikh or Jaina religions" shall be omitted. 3. Sections 23,24, except in so far as they effect succession to agricultural land in Governors' Provinces, and the whole of sections 25 and 26 shall stand repealed.

(164)

SECOND SCHEDULE

(*See* section 139)

REPEALS

Year	No.	Short title	Extent of repeal
1	2	3	4
		Central Acts	
1866	XXI	The Native Converts' Marriage Dissolution Act, 1866.	The whole, in so far as it, in its application to Hindus, is inconsistent with the provisions of this Code.
1923	XII	The Hindu Inheritance (Removal of Disabilities) Act, 1928.	The whole. * * * *
1929	II	The Hindu Law of Inheritance (Amendment) Act, 1929.	Do.
1937	XVIII	The Hindu Women's Right to property Act, 1937.	Do.
1946	XIX	The Hindu Married Women's Right to Separate Residence and Maintenance Act, 1946.	Do.
1946	XXVIII	The Hindu Marriage Disabilities Removal Act, 1946.	Do.
		State Acts	
1933	XXI	The Madras Nambudri Act, 1932	The whole except as provided in Parts V and VII.
1933	XXII	The Madras Marumakkattayam Act, 1932.	Do.
1949	IX	The Madras Aliyasantana Act, 1949.	Do.
(Kollom	year)		
1100	II	The Travancore Nair Act, 1100.	Do.
1100	III	The TravancoreEzhava Act, 1100.	Do.
1101	VI	The Nanjinad Vellala Act, 1101.	Do.
1106	III	The Travancore Malayala Brahmin Act, 1106.	The whole except as provided in Part VII.
1108	VII	The Travancore Kshatriya Act, 1108.	The whole except as provided in Parts V and VII
1115	VII	The Travancore Krishnavaka Marumakkathayee Act, 1115.	Do.
1107	VIII	The Cochin Thiyya Act, 1107.	Do.
1113	XXIX	The Cochin Nayar Act, 1113.	Do.
1113	XXXIII	The Cochin Marumakkathayam Act, 1113.	Do.
1114	XVII	The Cochin Nambudri Act. 1114.	The whole except as provided in Parts VII.
1115	XVII	The Cochin Makkathayam Thiyya Act, 1115.	The whole.

SECOND SCHEDULE

(*See* section 139)

REPEALS

Year	No.	Short title	Extent of repeal
1	2	3	4
1866	XXI	The Native Converts' Marriage Dissolution Act, 1866.	The whole, in so far as it, in its application to Hindus, is inconsistent with the provisions of this Code.
1928	XII	The Hindu Inheritance (Removal of Disabilities) Act, 1928.	The whole except in so far as it affects succession to agricultural land in Governors' Provinces.
1929	II	The Hindu Law of Inheritance (Amendment) Act, 1929.	Do.
1937	XVIII	The Hindu Women's Right to property Act, 1937.	The whole
1946	XIX	The Hindu Married Women's Right to Separate Residence and Maintenance Act, 1946.	Do.
1946	XXVIII	The Hindu Marriage Disabilities Removal Act, 1946.	Do.

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THIRD SCHEDULE

First Division

[*See* section 5(a)]

Sapinda Relationship

Column 1	Column 2
1. Daughter.	1. Son.
2. Daughter's daughter.	2. Son's son.
3. Son's daughter.	3. Daughter's son.
4. Daughter's son's daughter.	4. Son's son's son
5. Son's son's daughter.	5. Daughter's son's son.
6. Daughter's daughter's son's daughter.	6. Son's daughter's son's son.
7. Daughter's son's son's daughter.	7. Son's son's son's son.
8. Son's daughter's son's daughter.	8. Daughter's daughter's son's son.
9. Son's son's son's daughter.	9. Daughter's son's son's son-
10. Mother.	10. Father's
11. Sister.	11. Brother.
12. Sister's daughter (niece).	12. Brother's son.
13. Brother's daughter.	13. Sister's son.
14. Sister's son's daughter.	14. Brother's son's son.
15. Brother's son's daughter.	15. Sister's son's son.
16. Sister's daughter's son's daughter.	16. Brother's daughter's son's son.
17. Sister's son's son's daughter.	17. Brother's son's son's son.
18. Brother's daughter's son's daughter.	18. Sister's daughter's son's son.
19. Brother's son's son's daughter	19. Sister's son's son's son.
20. Mother's mother.	20. Father's father.
21. Mother's sister.	21. Father's brother.
22. Mother's sister's daughter.	22. Father's brother's son.
23. Mother's brother's daughter.	23. Father's sister's son.
24. Mother's sister's son's, daughter.	24. Father's brother's son's son.
25. Mother's brother's son's daughter.	25. Father's sister's son's son.
26. Mother's sister's daughter's son's daughter.	26. Father's brother's daughter's son's son.
27. Mother's sister's son's son's daughter.	27. Father's brother's son's son's son.
28. Mother's brother's daughter's son's daughter.	28. Father's sister's daughter's son's son.
29. Mother's brother's son's son's daughter.	29. Father's sister's son's son's son.
30. Father's mother.	30. Mother's father.
31. Father's sister.	31. Mother's brother.
32. Father's sister's daughter.	32. Mother's brother's son.
33. Father's brother's daughter.	33. Mother's sister's son.
34. Father's sister's son's daughter.	34. Mother's brother's son's son.
35. Father's brother's son's daughter.	35. Mother's sister's son's son.
36. Father's sister's daughter's son's daughter.	36. Mother's brother's daughter's son's son.

Column 1	Column 2
37. Father's sister's son's son's daughter.	37. Mother's brother's son's son's son.
38. Father's brother's daughter's son's daughter.	38. Mother's sister's daughter's son's son.
39. Father's brother's son's son's daughter.	39. Mother's sister's son's son's son.
40. Father's mother's mother.	40. Father's father's father.
41. Father's mother's sister.	41. Father's father's brother.
42. Father's mother's sister's daughter.	42. Father's father's brother's son.
43. Father's mother's brother's daughter.	43. Father's father's sister's son.
44. Father's mother's sister's son's daughter.	44. Father's father's brother's son's son.
45. Father's mother's brother's son's daughter.	45. Father's father's sister's son's son.
46. Father's mother's sister's daughter's son's daughter.	46. Father's father's brother's daughter's son's son.
47. Father's mother's sister's son's son's daughter.	47. Father's father's brother's son's son's son.
48. Father's mother's brother's daughter's son's daughter.	48. Father's father's sister's daughter's son's son.
49. Father's mother's brother's son's son's daughter.	49. Father's father's sister's son's son's son.
50. Father's father's mother.	50. Father's mother's father.
51. Father's father's sister.	51. Father's mother's brother.
52. Father's father's sister's daughter.	52. Father's mother's brother's son.
53. Father's father's brother's daughter.	53. Father's mother's sister's son.
54. Father's father's sister's son's daughter.	54. Father's mother's brother's son's son.
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55. Father's father's brother's son's daughter.	55. Father's mother's sister's son's son.
56. Father's father's sister's daughter's son's daughter.	56. Father's mother's brother's daughter's son's son.
57. Father's father's sister's son's son's daughter.	57. Father's mother's brother's son's son's son.
58. Father's father's brother's daughter's son's daughter.	58. Father's mother's sister's daughter's son's son.
59. Father's father's brother's son's son's daughter.	50. Father's mother's sister's son's son's son
60. Father's mother's mother's mother.	60. Father's father's father's father.
61. Father's mother's mother's sister.	61. Father's father's father's brother.
62. Father's mother's mother's sister's daughter.	62. Father's father's father's brother's son.
63. Father's mother's mother's brother's daughter.	63. Father's father's father's sister's son.
64. Father's mother's mother's sister's son's daughter.	64. Father's father's brother's brother's son's son.
65. Father's mother's mother's brother's son's daughter.	65. Father's father's father's sister's son's son

Column 1	Column 2
66. Father's mother's mother's sister's daughter's son's daughter.	66. Father's father's father's brother's daughter's son's son.
67. Father's mother's mother's sister's son's son's daughter.	67. Father's father's father's brother's son's son's son.
68. Father's mother's mother's brother's daughter's son's daughter.	68. Father's father's father's sister's daughter's son's son.
69. Father's mother's mother's brother's son's son's daughter.	69. Father's father's father's sister's son's son's son.
70. Father's mother's father's mother.	70. Father's father's mother's father.
71. Father's mother's father's sister.	71. Father's father's mother's brother.
72. Father's mother's father's sister's daughter.	72. Father's father's mother's brother's son.
73. Father's mother's father's brother's daughter.	73. Father's father's mother's sister's son.
74. Father's mother's father's sister's son's daughter.	74. Father's father's mother's brother's son's son.
75. Father's mother's father's brother's son's daughter.	75. Father's father's mother's sister's son's son.
76. Father's mother's father's sister's daughter's son's daughter.	76. Father's father's mother's brother's daughter's son's son.
77. Father's mother's father's sister's son's son's daughter.	77. Father's father's mother's brother's son's son's son.
78. Father's mother's father's brother's daughter's son's daughter.	78. Father's father's mother's sister's daughter's son's son.
79. Father's mother's father's brother's son's son's daughter.	79. Father's father's mother's sister's son's son's son.
80. Father's father's mother's mother.	80. Father's mother's father's father.
81. Father's father's mother's sister.	81. Father's mother's father's brother.
82. Father's father's mother's sister's daughter.	82. Father's mother's father's brother's son.
83. Father's father's mothers brother's daughter.	83. Father's mother's father's sister's son.
84. Father's father's mother's sister's son's daughter.	84. Father's mother's father's brother's son's son.
85. Father's father's mother's brother's son's daughter.	85. Father's mother's father's sister's son's son.
86. Father's father's mother's sister's daughter's son's daughter.	86. Father's mother's father's brother's daughter's son's son.
87. Father's father's mother's sister's son's son's daughter.	87. Father's mother's father's brother's son's son's son.
88. Father's father's mother's brother's daughter's son's daughter.	88. Father's mother's father's sister's daughter's son's son.
89. Father's father's mother's brother's son's son's daughter.	89. Father's mother's father's sister's son's son's son.
90. Father's father's father's mother.	90. Father's mother's mother's father.
91. Father's father's father's sister.	91. Father's mother's mother's brother.
92. Father's father's father's sister's daughter.	92. Father's mother's mother's brother's son.
93. Father's father's father's brother's daughter.	93. Father's mother's mother's sister's son.

Column 1	Column 2
(167)	
94. Father's father's father's sister's son's daughter.	94. Father's mother's mother's brother's son's son.
95. Father's father's father's brother's son's daughter.	95. Father's mother's mother's sister's son's son.
96. Father's father's father's sister's daughter's son's daughter.	96. Father's mother's mother's brother's daughter's son's son.
97. Father's father's father's sister's son's son's daughter	97. Father's mother's mother's brother's son's son's son.
98. Father's father's father's brother's daughter's son's daughter.	98. Father's mother's mother's sister's daughter's son's son.
99. Father's father's father's brother's son's son's daughter.	99. Father's mother's mother's sister's son's son's son.
100. Husband's brother's widow.	100. Husband's brother's son.
101. Husband's brother's son's widow.	101. Husband's father's brother's son.
102. Husband's brother's son's son's widow.	102. Husband's father's father's son.

**Sr. No. 100 to 102 added by Dr. Ambedkar in his own handwriting* -Ed.

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SECOND DIVISION

Degrees of Prohibited Relationship

[*See* section 5 (b)]

Column 1	Column 2
1. Mother.	1. Father.
2. Father's widow (step mother).	2. Mother's husband (step father).
3. Mother's mother.	3. Father's father.
4. Mother's father's widow (step grand-mother).	4. Father's mother's husband (step grand-father).
5. Mother's mother's mother.	5. Father's father's father.
6. Mother's mother's father's widow (step great grand-mother).	6. Father's father's mother's husband (step great grand-father).
7. Mother's father's mother.	7. Father's mother's father.
8. Mother's father's father's widow (step great grand-mother).	8. Father's mother's mother's husband (step great grand-father).
9. Father's mother.	9. Mother's father.
10. Father's father's widow (step grand-mother).	10. Mother's mother's husband (step grand-father).
11. Father's mother's mother.	11. Mother's father's father.
12. Father's mother's father's widow (step great grand-mother).	12. Mother's father's mother's husband (step great grand-father).
13. Father's father's mother.	13. Mother's Mother's father.
14. Father's father's father's widow (step great grand-mother).	14. Mother's mother's mother's husband (step great grand-father).
15. Daughter.	15. Son.
16. Son's widow.	16. Daughter's husband.
17. Daughter's daughter.	17. Son's son.
18. Daughter's son's widow.	18. Son's daughter's husband.
19. Son's daughter.	19. Daughter's son.
20. Son's son's widow.	20. Daughter's daughter's husband.
21. Daughter's daughter's daughter.	21. Son's son's son.
22. Daughter's daughter's son's widow.	22. Son's son's daughter's husband.
23. Daughter's son's daughter.	23. Son's daughter's son.
24. Daughter's son's son's widow.	24. Son's daughter's daughter's husband.
25. Son's daughter's daughter.	25. Daughter's son's son.
26. Son's daughter's son's widow.	26. Daughter's son's daughter's husband.
27. Son's son's daughter.	27. Daughter's daughter's son.
28. Son's son's son's widow.	28. Daughter's daughter's daughter's husband.
29. Sister.	29. Brother.
30. Sister's daughter.	30. Brother's son.
31. Brother's daughter.	31. Sister's son.
32. Mother's sister.	32. Mother's brother.
33. Father's sister.	33. Father's brother.
34. Father's brother's daughter.	34. Father's brother's son
35. Mother's sister's daughter.	35. Mother's sister's son.

(169)

FOURTH SCHEDULE

(See section 12)

NOTICE OF MARRIAGE

To …….. a Registrar of Hindu Marriages under Part II of the Hindu Code for the …….. District.

We hereby give you notice that a civil marriage under Part II of the Hindu Code is intended to be solemnized between us within three calendar months from the date hereof.

Names	Condition	Rank or profession	Age	Dwelling place	Length of residence
A B	Unmarried	Land owner	.....	.....	.....
	Widower				
	Divorcee				
C D	Spinster	.....	.....	.....	.....
	Widow				

Witness our hands, this ……. day of ……., 19

(Signed) A B

C D

THIRD SCHEDULE

(*See* section 12)

NOTICE OF MARRIAGE

To ..... a Registrar of Hindu Marriages under Part II of the Hindu Code for the ..... District.

We hereby give you notice that a civil marriage under Part II of the Hindu Code is intended to be solemnized between us within three calendar months from the date hereof.

Names	Condition	Rank or profession	Age	Dwelling place	Length of residence
A B	Unmarried	Land owner	.....	.....	.....
	Widower				
	Divorcee				
C D	Spinster	.....	.....	.....	.....
	Widow				

Witness our hands, this ..... day of ....., 19

(Signed) A B

C D

(170)

FIFTH SCHEDULE

(See section 17)

DECLARATION TO BE MADE BY THE BRIDEGROOM

I. A B, hereby declare as follows:—

1. I am at the present time unmarried (or a widower, as the case may be).

2. I profess the Hindu religion (or the Buddhist, the Sikh or the Jaina religion, as the case may be).

3. I have completed ..... years of age.

4. I am not related to C D (the bride) within the degrees of relationship prohibited by Part II of the Hindu Code.

(And when the bridegroom has not completed the age of twenty-one years:

5. The consent of M N, my father (or guardian, as the case may be), has been given to a marriage between myself and C D, and has not been revoked.)

6. I am aware that, if any statement in this declaration is false, and if in making such statement, I either know or believe it to be false or do not believe it to be true, I am liable to imprisonment and also to fine.

(Signed) A B (the bridegroom).

DECLARATION TO BE MADE BY THE BRIDE

I, C D, hereby declare as follows:—

1. I am at the present time unmarried (or a widower, as the case may be).

2. I profess the Hindu religion (or the Buddhist, the Sikh or the Jaina religion, as the case may be).

3. I have completed ..... years of age.

4. I am not related to A B (the bridegroom) within the degrees of relationship prohibited by Part II of the Hindu Code.

(And when the bride has not completed the age of twenty-one unless she is a widow:

5. The consent of O P, my father (or guardian, as the case may be), has been given to a marriage between myself and AB, and has not been revoked.)

6. I am aware that, if any statement in this declaration is false, and if in making such statement, I either know or believe it to be false or do not believe it to be true, I am liable to imprisonment and also to fine.

(Signed) C D (the bride).

FOURTH SCHEDULE

(*See* section 17)

DECLARATION TO BE MADE BY THE BRIDEGROOM

I. A B, hereby declare as follows:—

1. I am at the present time unmarried (or a widower, as the case may be).

2. I profess the Hindu religion (or the Buddhist, the Sikh or the Jaina religion, as the case may be).

3. I have completed ..... years of age.

4. I am not related to C D (the bride) within the degrees of relationship prohibited by Part II of the Hindu Code.

(And when the bridegroom has not completed the age of twenty-one years :

5. The consent of M N, my father (or guardian, as the case may be), has been given to a marriage between myself and C D, and has not been revoked.)

6. I am aware that, if any statement in this declaration is false, and if in making such statement, I either know or believe it to be false or do not believe it to be true, I am liable to imprisonment and also to fine.

(Signed) A B (the bridegroom).

DECLARATION TO BE MADE BY THE BRIDE

1. C D, hereby declare as follows:—

1. I am at the present time unmarried (or a widow, as the case may be).

2. I profess the Hindu religion (or the Buddhist, the Sikh or the Jaina religion, as the case may be).

3. I have completed years of age.

4. I am not related to A B (the bridegroom) within the degrees of relationship prohibited by Part II of the Hindu Code.

(And when the bride has not completed the age of twenty-one years unless she is a widow:

5. The consent of O P, my father (or guardian, as the case may be), has been given to a marriage between myself and AB, and has not been revoked.)

6. I am aware that, if any statement in this declaration is false, and if in making such statement, I either know or believe it to be false or do not believe it to be true, I am liable to imprisonment and also to fine.

(Signed) C D (the bride).

(contd.) 219

Signed in our presence by the above-named A B and C D. So far as we are aware, there is no lawful impediment to the marriage.

G H
I J } (three witnesses).
K L

(And when the bridegroom or bride has not completed the age of twenty-one years, except in the case of a widow :

Signed in my presence and with my consent by the above-named A B and C D; M N (O P, the father (or guardian) of the above-named A B (or C D, as the case may be).

(Countersigned) E F,

Registrar of Hindu Marriages under Part II of the Hindu Code for the District of

Dated the ..... day of .....

Signed in our presence by the above-named A B and C D. So far as we are aware, there is no lawful impediment to the marriage.

G H
I J } (three witnesses).
K L

(And when the bridegroom or bride has not completed the age of twenty-one years, except in the case of a widow:

Signed in my presence and with my consent by the above-named A B and C D; M N (O P) the lather (or guardian) of the above-named A B (or C D, as the case may be).

(Countersigned) E F,

Registrar of Hindu Marriages under Part II of the

Hindu Code for the District of

Dated the ..... day of

(170)

(171)

SIXTH SCHEDULE

(*See* section 19)

REGISTRAR'S CERTIFICATE OF CIVIL MARRIAGE

I, E F, certify that, on the ..... of ..... 19 , A B, and C D appeared before me and that each of them, in my presence and in the presence of three credible witnesses who have signed hereunder, made the declarations required by Part II of the Hindu Code and that a marriage under the said Part was solemnized between them in my presence.

(Signed) E F,

Registrar of Hindu Marriages under Part II of the Hindu Code for the District of

(signed) A B

C D

G H

I J } (three witnesses)

K L

Dated this ..... day of. .....

FIFTH SCHEDULE

(*See* section 19)

REGISTRATR'S CERTIFICATE OF CIVIL MARRIAGE

I, E F, certify that, on the ..... of ..... 19 , A B, and C D appeared before me and that each of them, in my presence and in the presence of three credible witnesses who have signed hereunder, made the declarations required by Part II of the Hindu Code and that a marriage under the said Part was solemnized between them in my presence.

(Signed) E F,

Registrar of Hindu Marriages under Part II of the Hindu Code for the District of

(signed) A B

C D

G H

I J } (three witnesses)

K L

Dated this ..... day of .....

(171)

(172)

SEVENTH SCHEDULE

(*See* section 21)

REGISTRATR'S CERTIFICATE OF *Dharmik* MARRIAGE

I, E F, certify that A B and C D appeared before me this day and that each of them, in my presence and in the presence of three credible witnesses who have signed hereunder, declared that a *Dharmik* marriage was solemnized between them in a Hindu form on the …….. day of …….. 19 ……., and expressed their desire to have such marriage registered, and that in accordance with their desire, the said marriage has, this day, been registered under section 21 of Part II of the Hindu Code, having effect as such from the …….. day of …….. 19 …….., the date on which an application was made for the registration of their marriage under section 21 aforesaid.

The following children born to them after the solemnization of their marriage in the Hindu form as aforesaid shall be deemed to be, and always to have been, legitimate.

[Here enter the names of the children, in the order of their dates of birth, specifying against each child the date of his or her birth.]

(Signed) E F,

Registrar of Hindu Marriages under Part II of the Hindu Code for the District of

(Signed) A B

C D

G H

I J } (three witnesses)

K L

SIXTH SCHEDULE

(*See* section 21)

REGISTRAR'S CERTIFICATE OF SACRAMENTAL MARRIAGE

I, E F, certify that A B and C D appeared before me this day and that each of them, in my presence and in the presence of three credible witnesses who have signed hereunder, declared that a sacramental marriage was solemnized between them in a Hindu form on the ..... day of ..... 19 ....., and expressed their desire to have such marriage registered, and that in accordance with their desire, the said marriage has, this day, been registered under section 21 of Part II of the Hindu Code, having effect as such from the ..... day of ..... 19 ....., the date on which an application was made for the registration of their marriage under section 21 aforesaid.

The following children born to them after the solemnization of their marriage in the Hindu form as aforesaid shall be deemed to be, and always to have been, legitimate.

[Here enter the names of the children, in the order of their dates of birth, specifying against each child the date of his or her birth.]

(Signed) E F,

Registrar of Hindu Marriages under Part II of the Hindu Code for the District of

(Signed) A B

C D

G H

I J (three witnesses)

K L

(172)

(173)

EIGHTH SCHEDULE

PREFERENTIAL HEIRS

Class I

(*See* section 98)

Son; widow: * *(a)* daughter; son of a predeceased son; widow of a predeceased son; son of a predeceased son of a predeceased son; widow of a predeceased son of a predeceased son.

Class II

(*See* section 98)

I. Father ; mother.* *(b)*

II. (1) Son's daughter, (2) daughter's son, (3) daughter's daughter.

III. (1) Son's daughter's son, (2) son's son's daughter, (3) son's daughter's daughter, (4) brother, (5) sister.

IV. (1) Daughter's son's son, (2) daughter's son's daughter, (3) daughter's daughter's son, (4) daughter's daughter's daughter.

V. (1) Brother's son, (2) sister's son, (3) brother's daughter and (4) sister's daughter.

VI. Father's father; father's mother.

VII. Father's widow; brother's widow.

VIII. Father's brother; father's sister.

IX. Mother's father; mother's mother.

X. Mother's brother; mother's sister.

Explanation.—In this Schedule, references to a brother or sister, do not include references to a brother or sister by uterine blood.

*Corrected as (a) 'un-married daughter' and (b) ' married daughter' by Dr. Ambedkar in his personal copy.

SEVENTH SCHEDULE

PREFERENTIAL HEIRS

Class I

(*See* section 98)

Son; widow : daughter; son of a predeceased son; widow of a predeceased son ; son of a predeceased son of a predeceased son ; widow of a predeceased son of a predeceased son.

Class II

(*See* section 98)

I. Father; mother.

II. (1) Son's daughter, (2) daughter's son, (3) daughter's daughter.

III. (1) Son's daughter's son, (2) son's son's daughter, (3) son's daughter's daughter, (4) daughter's son's son, (5) daughter's son's daughter, (6) daughter's daughter's son, (7) daughter's daughter's daughter.

IV. Brother, sister.

V. (1) Brother's son, (2) sister's son, (3) brother's daughter and (4) sister's daughter.

VI. Father's father; father's mother.

VII. Father's widow; brother's widow.

VIII. Father's brother; father's sister.

IX. Mother's father; mother's mother.

X. Mother's brother; mother's sister.

Explanation.—In this Schedule, references to a brother or sister, do not include references to a brother or sister by uterine blood.

●●

SECTION III

DISCUSSION ON THE HINDU CODE AFTER RETURN OF THE BILL FROM THE SELECT COMMITTEE

11th FEBRUARY 1949

TO

14th DECEMBER 1950

* HINDU MARRIAGES VALIDITY BILL

Pandit Thakur Das Bhargava (East Punjab : General): I move :

"That the Bill to provide that marriages between Hindus, Sikhs, Jains and their different castes and sub-castes are valid, be referred to a Select Committee consisting of Giani Gurmukh Singh Musafir, Sardar Hukum Singh, Shri M. Ananthasayanam Ayyangar, Shri Deshbandhu Gupta, Shrimati G. Durgabai, Shrimati Renuka Ray, Shri Ramnath Goenka, Dr. Bakshi Tek Chand, Lala Achint Ram, Ch. Ranbir Singh, Shri Mahabir Tyagi, and the Mover and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

Sir, in making this motion, with your permission, I will just state what the present condition of the law is. At present in all matters, Hindus, Sikhs and Jains are bound by the Hindu Law. In regard to marriage today according to the terms of the Hindu Law, a marriage between a man and a woman belonging to different castes is not valid except in Bombay where *anuloma* marriages are allowed but the *pratiloma* marriages are not allowed. In Allahabad, Madras and Calcutta, the High Courts have been pleased to hold that even the *anuloma* marriages are not valid.

As regards persons belonging to different religions, I should say here also the position is very indefinite. According to custom any marriage is allowed which may not be allowed according to the strict principles of the Hindu Law. For instance, in the Punjab even *karvari* and *chandradari* marriages are allowed, and though according to strict Hindu Law marriages between members of different Hindu communities are not allowed, by custom in many places such marriages are allowed. For instance, in Nepal such marriages are held to be valid. In the Punjab, which is not a caste-ridden Province, marriages between the Sikhs and Hindus have been held to be valid not by the courts but by the society in general. Their children have been allowed to inherit and they have been treated just as though the marriages have taken place according to law. As between Jains and Hindus previously no marriages used to take place, but at present the pendulum has swung the other way and marriages take place between Jains and Hindus, especially Jain Aggarwals and Hindu Aggarwals, but it is very doubtful if a Jain Aggarwal could marry validly a Shudra or a Brahman. As regards sub-divisions and sub-castes also, before the Act of 1946 was passed marriages between sub-divisions of the Hindu community were declared legal in some places and in others illegal.

* C.A. (Leg.) D., Vol. I, 11th February 1949, pp. 419-28.

But that is beside the point here. If sub-division and sub-caste is the same, then I am sorry to have used the word "sub-caste" here. The marriage between the members of the sub-divisions of the principal caste have already been legalised. In regard to the rest, for instance, if persons belonging to different religions and different castes want to marry, my humble submission is that according to the present law such marriages are not legal. At present, public opinion clearly demands that this must go and the marriage between persons of different faiths as well as of different castes should be made legal. At present there are many young men and women who want to marry beyond their castes. So far as public opinion goes, I am on sure ground that we are a solid rock of foundation for this measure.

Taking it from a national standpoint, may I humbly submit to the House that to resolve the present friction between Hindus and Sikhs in the Punjab and to make them one solidified people if hundred girls of Sikhs and Hindus were married to hundred boys of Hindus and Sikhs, the whole trouble would have gone. In fact, I believe that if the Hindus and Muslims had married with each other, this Pakistan would not have been brought about. If we adopt this inter-marriage as a system among ourselves, I am prefectly sure that all the bitterness between the castes and the bitterness between persons of different faiths would go away. I do not understand why we should not adopt this measure. It may be said that the true principles of Hindus Dharm stand in our way, we are not well advised in adopting contrary measures. May I humbly submit that the first *sloka* in Mahabaratha begins in this manner that because there are not many Kshatriyas in the land, therefore some Brahmins may be brought and asked to procreate Kshatriyas. All our religion and our Vedic lore do tell us that among Hindus such marriages were not infrequent. As a matter of fact, before the caste system became stereotyped, it can very well be imagined that there was no prohibition among the Hindus for intermarriage so far as caste was concerned. Therefore taking it from the radical point of view, I should understand that there is no special difficulty with regard to this measure.

But all the same, the point that I wish to make is that it is an enabling measure. It does not force any person to marry outside his caste. If a person so wishes, if a young man and a woman are so minded, if their parents are so minded, all I want is that the couple should be enabled to marry and their offsprings should be legitimate.

At present, if a Hindu wants to marry outside his caste, it is not as if he cannot effect his purpose by resort to falsehood. According to the Arya Marriage Validation Act he can very well marry any Hindu outside his caste. Supposing a person does not belong to Arya Samaj, why should he have recourse to falsehood to effect his purpose ? Therefore, the thing which the law should care about is that persons be enabled to do things in a legal manner. I also know that according to the provisions of the Special Marriage Act (Act III of 1872) it was possible for a Hindu to contract a marriage under its unamended provisions provided he declared that he was a non-Hindu while continuing to be a Hindu. A very nice paradox is given in the Hindu Code by H. S. Gour in para 457. This is what it says:

> "It will thus be seen that the Special Marriage (Amendment) Act has created a paradox. If the Hindu declares himself to be a non-Hindu and marries, he remains subject to Hindu Law. If he does not so declare, he ceases to be subject to Hindu Law, giving rise to a conundrum : When is a Hindu a non-Hindu ? The answer is : When he marries as a Hindu under the Special Marriage (Amendment) Act."

When the Act of 1923 was passed—I have read the proceedings of that time—it appears that Dr, Gour was driven to a corner and he had to accept a situation which would never have been accepted had he been free. According to the Special Marriage (Amendment) Act, the situation is very strange. If a person wants to marry outside his religion, say, a Hindu wants to marry a non-Hindu, then under the Amendment Act, "their previous rights are un-affected to the extent provided in the Caste Disabilities Removal Act." But yet what happens if they marry ? The disability which they will suffer from, I am going to describe from Gour's Hindu Law. "Their previous rights are unaffected to the extent provided in the Caste Disabilities Removal Act. They no longer possess the right of adoption. And if the person so marrying is an adopted son, his adoptive father may, if so chooses, make another adoption." So mat the poor man who wants to marry, his rights as an adopted son go away and his father is competent to have another adoption. Then, "such marriage has the effect of dissolving the joint family." This is another very great disability. If a person wants to marry a non-Hindu, he must cease to be a Hindu so far as the joint family is concerned. Then, " succession to their property and to the property of their issue is regulated by the Indian Succession Act." My humble submission is that there is no reason why we should undergo these disabilities. Why should a man wants to marry a non-Hindu suffer from these things, which go to show

that as a matter of fact he must renounce all the laws which are dear to him and which he has inherited from generations. This is a wrong provision and leads to fraud and many other evils. There is no doubt that from the old position the present position is a bit better. I know of cases in which Arya Samajists married before the Arya Marriage Validation Act was passed and for years together they did not declare themselves as husband and wife. They were afraid of declaring, and what would happen to their off-spring ? It may be said that at present the Hindu Code Bill is on the anvil, so where is the necessity for this measure at this stage ? I would beg of you to allow me to meet this point.

In the first place, may submission is, I do not know when the Hindu Code Bill will be passed. It is doubtful if it will be passed in this session, next session or some other session. We do not know. Secondly, if this Bill is accepted, it would pave the way for such of the provisions of the Hindu Law as are given there and so it will be a help to passing that law. What would happen to many people who would not marry on account of this law not being there ? Or if a person dies will his rights to property not be affected ? At the same time, if this Bill is not allowed to be passed into law, many cases which could be governed by this law will be governed by the present law and people will suffer. The whole nation shall suffer in so far as we will not be able to make for conditions which would go to solidify the nation and make it homogeneous.

It may be said, it is a case of piecemeal legislation. We all know many instances of such piecemeal legislation. We know that we passed in 1946 the Act relating to validity of marriages between subsection of castes and then we passed in Bombay, the prevention of Bigamous Marriages Act; and many other laws have been passed. I do not know of any other objections that may be raised to this Bill. It is a very small measure and this is a one-class Bill. All that it says is that previous marriages will be regarded as valid and in future such marriages will be valid. It does not propose to do anything else. I did not, as a matter of fact, venture to come before the House with a straight motion that it be passed into law because I am afraid it is a convention of this House that all these measures should be taken to the Select Committee.

I am anxious that in this session, we should be able to pass this measure into law, so that so far as the public is concerned, they will

feel convinced that we mean business and we want to evolve a classless society. I know what I am saying may not be liked. I was taken to task for expressing such an opinion in the papers an opinion which I read today to the House but in this vital matter, we are not to fear anybody. Mahatma Gandhi has told us we must have a class-less society. This is the right way to have a class-less society. All differences between those people who are opposed to each other from the point of view of social rights, economic rights and political rights, will disappear and we will have one class-less society, if we adopt a measure like this. I would beseech the House to kindly pass this measure in this session after referring it to the Select Committee today.

Mr. Deputy Speaker : Motion moved:

> "That the Bill to provide that marriages between Hindus, Sikhs, Jains and their different castes and sub-castes are valid, be referred to a Select Committee consisting of Giani Gurmukh Singh Musafir, Sardar Hukum Singh, Shri M. Anathasayanam Ayyangar, Shri Deshbandhu Gupta, Shrimati G. Durgabai, Shrimati Renuka Ray, Shri Ramnath Goenka, Dr. Bakshi Tek Chand, Lala Achint Ram, Ch. Ranbir Singh, Shri Mahavir Tyagi and the Mover and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

The usual practice is to fix a date by which the report may be submitted to the House. With instructions to report by what date ?

Pandit Thakur Das Bhargava : By the end of this month, say the 28th of February.

Mr. Deputy Speaker : With instructions to report by the 28th of February, 1949.

Shri K. Hanumanthaiya (Mysore State): Sir, I have great pleasure in welcoming this Bill, Pandit Thakur Das Bhargava has advanced very good reasons in support of it. They hardly need any support or addition. Before August 1947, our watch-word was 'freedom' and Mahatma Gandhi gave us the phrase 'quit India' and after the attainment of freedom, Sardar Patel has given us the word consolidation. He is doing it on the political front and that is the greatest achievement that this country can boast of. (*Interruption*). And we have to do it also—may I say humbly with all sincerity and not with any levity—on the social front also. The great danger to India is 'disruptive tendencies', which are called communal tendencies and the marriage instruction is the bastion which keeps these various differences intact and in perpetuity. This measure in a very humble fashion makes a beginning to abolish those distinctions in times to come and consolidate the Hindu society to begin with. I heartily welcome

this measure and I suggest to the mover of this motion that he can take another Member into the Select Committee and I suggest Shrimati Annie Mascarene, M.A.B.L. being taken into the Select Committee.

Pandit Thakur Das Bhargava : I have no objection to add the name.

Shri K. M. Munshi (Bombay : General): I beg to support this motion. My honourable friend, Pandit Thakur Das Bhargava was pleased to describe this measure as a small measure. I beg to differ from him. It is a very big measure and a very important one. It should have been passed not now, but forty years ago. When the question was first raised before the courts and when the courts held in different provinces that marriage between the Hindus of different castes were invalid for one reason or the other. But in those days the Government benches were not prepared to allow the Hindu community to be dynamic and wanted to perpetuate the old customs which were enshrined in text books composed 700 or 800 years ago. I remember a case, Sir, I think it was some 40 years ago, when the validity of the marriage of a widow, whose husband had died several years ago was raised before the Bombay High Court and the High Court held that after long years of married life and leading case where I tried for four years to establish that the marriage bet-after having grand children, her marriage was invalid because she happened to belong to a higher caste than her husband. I was concerned in another leading case where I tried for four years to establish that the marriage between a Hindu of higher caste with a wife of a lower caste was invalid. But for the fact that Sir Lallubhai Shaw was a judge of catholicity, perhaps I would have won the case, but even then the validity of *anuloma* marriage as we call them,—between the husband of a superior Hindu caste and the wife of an inferior Hindu caste—is not accepted as valid in some of the provinces. The question has also risen with regard to Hindus and Jains in part of the country. Hindus and Jains marry freely, but the point has always come before the lawyers for opinion whether a marriage between a Hindu and a Jain was valid. Now these are questions which ought to have been solved, as I said, years and years ago. But we have reached a stage when this must be solved immediately.

My honourable friend, Pandit Thakur Das Bhargava referred to the special case of the Punjab. It is not a special case of any particular province; it affects the whole of the country. On account of education,

on account of freedom marriages between members of different castes take place. But they find themselves in great difficulty on account of this doctrine of Hindu Law. I know, not one or two, but dozens of cases where the parties merely profess to marry under the Civil Marriage Act, though they do not want to do it; they hated doing it; they do not want to disturb the joint family; they do not want that the succession Act should apply to them; they do not want to separate themselves from their parents; but because of the unfortunate state of the law, they have to marry under the Civil Marriage Act. Therefore, I submit, Sir, this a crying grievance which requires to be remedied as early as possible. I am glad that the mover has accepted your suggestion about the 28th of February and this Bill should be passed as early as possible.

There is one little point which I should like to mention and I am sure this deflect will be duly rectified in the Select Committee. The words as they stand are:

> Notwithstanding any text, rule, interpretation of Hindu Law, or any custom or usage to the contrary, no marriage among Hindus is or will he deemed to be invalid by reason of the fact that the parties thereto belong to different religions, castes or sub-castes.

This might lead possibly to a construction that this provision only applies to marriages between parties who are alive. I think it should be made perfectly clear that even marriages of this character which have taken place in the past and in respect of which the question of succession arises should be deemed valid hereafter. I am sure proper rectification will be made in the Select Committee. I therefore, Sir, heartily support this motion.

Shri Deshbandhu Gupta (Delhi): I rise to support the motion which is before the House just as my honourable friend, Shri Munshi has pointed out, I also feel that it is a really very important measure. For many years one tiling which has been standing in the way of Hindu solidarity and also in the way of our national solidarity is this division of the Hindu society in castes. I feel the time has come when we should pass a measure like this which seeks to abolish these artificial barriers without any further delay. I know of instances where some of my close friends who did not believe in civil marriages had to resort to civil marriages, simply because they happened to choose a mate which belonged to a different caste. You are aware, Sir, that the Arya Samaj has always been a believer in caste system by '*Guna* and *Karma*'. In spite of the fact that the founder of the Arya Samaj

preached that cult and from the very beginning they advocated that there was no caste by birth, Arya Samajists also had to suffer from the same disability from which other people are suffering today.

It was after many years of struggle that the Arya Marriage Validation Act was passed. But, I find public opinion amongst Hindu has also advanced sufficiently and not only Arya Samajists but today many more Hindus do not recognise the artificial barriers placed by the caste system based on birth. Therefore, there is no reason why they should be forced to have recourse to the Arya Marriage Validation Act or to the Civil Marriage Act. Today, when public opinion has advanced, and when the caste barriers that have stood in the way of the solidarity of the Hindus and in the way of creating a national feeling, have gone, I feel the passage of a measure like this should not be delayed.

There may of course be some point in saying that the Hindu Code is coming and therefore we should not have any piecemeal legislation. But along with many of my friends I too believe that a measure of this nature, which is in no way opposed to the reformist ideas contained in the Hindu Code, should not be delayed. Although, my honourable friend Dr. Ambedkar would like the Hindu Code to be passed into law this very session, many of us do not share that view. It may take time. After all, that is a very important measure and has got many controversial clauses. Therefore, I would urge that this measure should be welcomed by us and its passage should not be delayed.

I wholeheartedly support the motion moved by my honourable friend Pandit Thakur Das Bhargava and I hope Dr. Ambedkar will also accept it and that the house will pass this small measure which is of great importance to Hindu Society, in this very session.

Dr. Bakhshi Tek Chand (East Punjab : General): I wholeheartedly support the motion which Pandit Thakur Das Bhargava has made for referring this Bill to the Select Committee. The Bill has so far received support from various quarters of the House and I do hope that not a single discordant note will be raised against it.

The Bill, if I may say so, is no new measure. A Bill almost on identical terms was introduced in the old Imperial Legislative Council as it was then called, in 1919 by the late Mr. Vitthalbhai Patel. That Bill was circulated for opinion. Of course, different opinions were expressed, the orthodox element opposing it, officials opposing it and a number of persons and societies supporting it. But, before the Bill could come up for consideration before the Council, the Montagu

Chelmsford Reforms came into operation the council was dissolved and the Bill lapsed. After that, Dr. Gour attempted in 1923 to modify the old Bill of 1872 but then also, there was opposition and the Bill had to be modified in several particulars. It was only in the form of a civil marriage that persons of different castes or different sub-castes of Hindus could marry, sacramental marriages are not permitted. With regard to sacramental marriages under the Hindu Law, the position is different in the differnt provinces. Some provinces, as has been pointed out, permit what are called *Anuloma* Marriages ; other provinces do not allow that. In the latter provinces, the courts have held that though in some of the *Smiritis, Anuloma* marriages were permitted, they have become obsolete and they are not now recognised. In almost all Provinces, it is held that *Pratiloma* marriages are invalid. In the punjab and in some other provinces, where custom is the rule of decision, marriages between certain castes are allowed, but between certain other castes are not allowed. I think the time has now come when a bold step should be taken and this measure should be placed on the Statute book. No doubt, under the Hindu Code which is now before us, provisions to this effect have been made. The Hindu Code Bill is however a very comprehensive measure dealing with different subjects and covers a very much wider field. There is much opposition to some portions of it. We do not know how long it will take for the Bill to pass, in what form it will be passed, or whether it will be passed at all. (*Shri L Krishnaswami Bharathi*: "It will be passed.") It will certainly take time. There is no reason therefore, so far as this matter is concerned, to delay the passage of this simple measure, with which I think most people are aggreed. I therefore support the motion.

Shri Mahavir Tyagi (U.P.: General): I do also want to have the honour of recording my support to this Bill of great reform as my honourable friend Mr. Munshi has said .

It is long since india has suffered on account of communal differences. Marriages are the root cause and elections the 'fruit-cause' for all these differences; because, it is primarily at the time of the marriage that one enquires into the caste of the other. Every time when marriages are held, castes are enquired into. The next occasion, when the caste of a person is enquired into, is when one stands for election. Now that we have decided to have, joint electorates, we have to a great extent done away with the 'fruit-cause' of the communal

evil. Thus politically we have put ourselves on the right track. And as my friend Mr. Hanumanthaiya has just now said, the credit goes to the Honourable Sardar Patel for giving us political consolidation in the country. After this political consolidation, our next immediate need is to have social consolidation. This Bill will provide this need I am sure, if this Bill is passed into law, marriages will be free. I am a believer in free marriages. Now that India is free marriages must also be free and there should be no restrictions. I am sorry that the Bill has come at a very late stage in our lives: but let us pass this bill for our future generations to practice it. I hope that the country will enjoy the freedom given by this Act. I wholeheartedly support the motion.

Shri Upendranath Barman (West Bengal: General): I also beg to accord my whole hearted support to the Bill and its reference to the Select Committee. In my mind, I am convinced of one thing. The circumstance that stands in the way of our national sense is the caste barrier. So long as it lasts, the different sections of the Hindu community and other non-Muslim communities cannot unite together and imbibe a sense of nationality in its true sense. So long as one knows that he cannot marry his son or daughter with the son or daughter of his neighbour, the true sense that they are one cannot come. I think that by passing this measure that barrier will be won. It is the sense of kinship that is the real basis of national sense and I wholeheartedly support this Bill and I hope that it will be passed into law as soon as possible.

The Honourable Dr. B. R. Ambedkar (Minister for Law): With regard to this Bill, there cannot be any difference of opinion between myself and my honourable friend the mover for the simple reason that the Bill is merely a part of the Hindu Code which I am sponsoring. My only objection to the Bill is that the Legislature having accepted the principle that the Hindu Law ought to be codified, it is wrong now to proceed piece-meal with the legislation. I have no objection, as I said, to the principles underlying the Bill. In fact those are the very principles which are embodied in the Hindu Code and therefore what I will suggest to my honourable friend is that either he should withdraw this Bill or postpone the consideration of the Bill so that we may know exactly what happens to the Hindu Code.

I am afraid having regard to the fact that, I am sponsoring the Hindu Code and having regard to the fact that there being the motion

before the house for consideration of the Bill as reported by the Select Committee, I am afraid I cannot take any other attitude than the one I have taken.

Ch. Ranbir Singh *rose*—

Shri L. Krishnaswami Bharathi (Madras: General) : How can he be allowed to speak ?

The closure motion has been put.

Mr. Deputy Speaker: I allowed Dr. Ambedkar to speak and he is not the sponsor. The question was not put.

Ch. Ranbir Singh (East Punjab : General): (*English translation of the Hindi Speech*) Mr. Deputy Speaker, Sir, I have great pleasure in supporting this measure because I belong to that community amongst the Hindus who have always believed in the principle of mis Bill from the very outset. If there was any community amongst the Hindus which ever established relations outside its own sphere and that there existed no differences, it was the Jat community. It is true that there did exist some such element of difference and social ostracism but that was negligible. The very fact that this Bill will go a long way to establish throughout our country a principle in which we have believed since centuries past, affords me great pleasure to support this.

Secondly, just as my honourable friend Mr. Tyagi has stated, this will banish our mutual differences wliich were responsible for our slavery. By the integration of small states our leader the Honourable Sardar Vallabhbhai Patel has consolidated our country into one and that problem has been well solved. This Bill is a very good measure for solving our social problems.

So far as the Hindu Code Bill is concerned that is a big thing, It is not yet known whether or not the country or this House accepts it. It contaias some provisions over wliich our leaders have expressed some sort of difference. I, therefore, fail to understand how far it is correct to shelve or reject this Bill simply for the reason mat it forms part and parcel of that Bill, because if the Hindu Code Bill is passed, this measure will naturally be incorporated in it. If that is not passed, this Bill will at least have chances of being passed.

With these words I whole-heartedly support this.

Shri K. M. Munshi : Is it permissible for me to answer a point made by Dr. Ambedkar ?

An Honourable Member: Pandit Bhargava can deal with it.

Pandit Thakur Das Bhargava : Sir, I am very glad that all sections of the House have supported this measure. It is a measure of such a kind that I could not foresee with the highest flight of imagination that any sort of objection could be raised and I am very glad that this measure is liked by everybody. One objection has been raised and that is that since the Hindu Code Bill is on the anvil therefore, we should not proceed with this Bill. If the principles of this Bill and the principles which are the subject matter of the Hindu Code were antagonistic to each other, I could understand the objection, but where this measure proceeds on the same basis as the Hindu Code Bill, if we pass it in advance, it will really pave the way for the passing of the Hindu Code. I cannot understand how the passing of this will obstruct the passing of the Hindu Code—really it will accelerate its passage. May I enquire where is the law or rule or convention that if a Bill like the comprehensive Hindu code Bill is on the anvil therefore another Bill cannot be passed. There is no such convention. I cannot understand that if a measure is there which covers one of the points covered by another measure, therefore the second measure should not be passed.

Bakshi Tek Chand has pointed out that this measure was a subject matter of a Bill in 1919 and this measure is associated with the name of our revered President V. J. Patel. Now in point of time I think so far as Hindu Code is concerned, this kind of measure is much anterior. In a matter of this kind, these technicalities even if they be valid, should not be allowed to stand. What would happen to those thousands of men and women if this Hindu Code Bill is not passed and I think it is not going to be taken clause by clause this session and it may go on to September or October and not passed in this Session because it is a controversial measure and it may take a year; what would happen to those young men and women who desire to marry according to the provisions of this Bill and our activities which certainly conduce to the formation and consolidation of one nation ?

Sir, it is not a matter of joke. I am only helping Dr. Ambedkar whose marriage also will be legalised by this Bill. Why should he laugh at this ? This may or may not be applicable to him yet the disabilities if any will be removed. I know hundreds of people want to marry under this and is it wrong to marry under this rule ? I for one deprecate that anyone should place any obstacle to this Bill being

passed in this session. If this measure is not passed in this Session all our efforts and Gandhiji's efforts will be futile. So my submission is this and I beg Dr. Ambedkar to kindly withdraw his objection and agree to the passage of this Bill as soon as possible because this would also help him in getting this relevant portion of the Hindu code passed.

Shri K. Hanumanthiya: Has the honourable member accepted the name of Shrimati Annie Mascarene which I have suggested ?

Mr. Deputy Speaker: Yes, I suppose the honourable the Law minister wants to know the number of men on the waiting list.

The question is :

> "That the Bill to provide that marriages between Hindus, Sikhs, Jains and their different castes and sub-castes are valid, be referred to a Select Committee consisting of Giani Gurmukh Singh Musafir, Sardur Hukum Singh, Shri M. Ananthasayanam Ayyangar, Shri Deshbandhu Gupta, Shrimati G. Durgabai, Shrimati Renuka Ray, Shri Ramnath Goenka, Dr. Bakhshi Tek Chand, Lala Achint Ram, Ch. Ranbir Singh, Shri Mahavir Tyagi, Shrimati Annie Mascarene, and the Mover, with instructions to report by the 28th February 1949, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

The motion was adopted.

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*HINDU CODE—contd.

Mr. Speaker : The honourable Dr. B. R. Ambedkar.

Pandit Thakur Das Bhargava—*rose.*

Shri Jaspat Rai Kapoor (U. P. : General): Mr. Speaker, Sir, I have to raise a point of order which, if accepted, will bar any further discussion on the point of order raised in the previous session by my honourable friend Mr. Naziruddin Ahmad. I therefore, submit that I be permitted to place my point of order for your consideration.

Mr. Speaker : As Pandit Thakur Das Bhargava was on his legs, I think I ought to hear him first. I do not anticipate what he is going to say; I have my own views on the point of order raised but I will consider what Pandit Thakur Das has to say,

Pandit Thakur Das Bhargava (East Punjab : General): Sir, on the last occasion when the motion was made by the Honourable Dr. Ambedkar, Mr. Naziruddin Ahmad took a point of order on the point that the Bill considered by the Select Committee was not the

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* C.A. (Leg.) D., Vol. I, Part II, 17th February 1949, pp. 614-21.

Bill referred to it by the House. While that point was being considered. I was submitting for your consideration some grounds why the point of order was of great substance. While that was being done, you were pleased to stop the discussion and shorten the matter, as would appear on page 778 of me Proceedings, dated 31st August 1948. At that time, Sir, you were pleased to tell us what was passing in your mind and you told us that you will consider at the proper time two or three questions which are given on page 779 of this report. The two questions which seemed to agitate your mind were, firstly, whether the Select Committee went out of its way and went beyond the scope, and secondly, whether the Select Committee has gone beyond the scope of the reference. These were the two questions. The debate was taking place when ultimately you decided as given on page 780, that you would study all the facts and then give a ruling. With regard to that, I beg to lay some points for your consideration in regard to the point of order raised by Mr. Naziruddin Ahmad.

Mr. Speaker: As I see from the report, what I stated there was this— I have not got the printed report but I have got the proof-sheets here. After the Honourable member Shri Biswanath Das had raised a point, I stated as follows :—

> "As I said, I am not deciding this matter at all. I am keeping open the whole thing including the point of order, because it will be seen that it involves large questions of fact and I must study all these things myself, which I have not yet done. Shall I leave the matter as it is ?

Therefore, I left it for me to study it and I can now say that I have studied it. Whatever may have been said by honourable members with reference to the point of order, I have studied the report of the Select Committee, I have studied the first Bill and I have studied, of course, the other draft which was alleged to have come before the Select Committee. If the honourable member has to say anything with reference to that he may.

Pandit Thakur Das Bhargava : It is only with reference to that that I propose to speak just now. As a matter of fact, I also raised this very point of order, but Mr. Naziruddin was more fortunate in catching your eye. Therefore, I have something to say on this point.

Shri Mohan Lal Gautam (U. P. : General): On a point of order to this point of order, Sir, according to the Rules of Procedure, I do not find any provision for any point of order after a report has been presented to this House. I would request the honourable member to

quote that rule so that I may consult it and see for myself whether the point of order raised by the honourable member is not out of order.

Mr. Speaker : These are obvious matters which need not be argued. If we differ on the substance of the matter, let us devote time to that substance rather than take up the time in the technicalities of the matter. If people are against the Code then it is a matter of substance. If they are in favour of it, even then it is a matter of substance. But let us not take the time of the House in technicalities.

Subsequently, the point of order mentioned was that the Bill which was referred to the Select Committee was, on facts, not the Bill which the Select Committee considered and that therefore the report is based on something else. That is the point of order, put in short, and on that point of order arguments were addressed. If the honourable member Pandit Bhargava has to address or speak on facts, matters would stand differently; the matter is, I believe, covered amply by what Mr. Naziruddin Ahmad has stated. Has he to invite my attention to any other facts ?

Shri Jaspat Roy Kapoor : May I respectfully request you, Sir to permit me to place my point of order before, you ? It relates to the competency of this House, in the present session, to deal with this question at all; also, whether the point of order raised by my friend Mr. Naziruddin should be discussed in this session at all ? For, if my point of order is accepted it will shut out all discussion on the subject in the present session.

Mr. Speaker: I think I will go step by step. Let the first point of order be disposed of. Assumsing that the first point of order goes in favour of the Bill, then the second point of order which the honourable member has raised is competent and therefore he may raise the point later on.

Shri Jaspat Roy Kapoor : My submission is that even the discussion of the point of order raised by Mr. Naziruddin Ahmad is a point which should be considered by this house and the question is whether it is competent to discuss the subject at all.

Mr. Speaker: I do not agree that I should take that point first. It will be for the Chair to decide whether the Select Committee considered the Bill that was referred to it or something else, and whether, therefore, its report should or should not be taken into

consideration. After that is decided, it is perfectly competent for the honourable member to point out to me any points or any law or any practice by which this House is not competent to take into consideration the present Bill. That is the better way. Let us save time.

Shri Jaspat Roy Kapoor: May I say one word, Sir ?

Mr. Speaker: No, no Pandit Bhargava.

Pandit Thakur Das Bhargava : Sir, I only propose to lay before you some facts and some law as it would apply to those facts. For instance, I beg to point out that the proceedings before the Select Committee was an abuse of the rules of this House. The privilege of this House has been violated by the Select Committee and by the procedure of the Law Department. Secondly, if my facts are correct, another Bill was considered and not the Bill which was referred to it by the House. The question which arises then would be a question of law, whether such a procedure was justified and whether this House should consider this report as a report on this Bill which was referred to the Select Committee or whether it is a document which is not valid in law and is not a legal document. I will therefore confine myself to the two types of questions which I submit are quite related. In regard to the substance also, with your permission, I will subsequently have something to say provided your ruling is that this question is also relevant. In my humble opinion, the question divide itself into two parts. Number one, whether the report which has been presented to the House is a good report from the procedural point of view. Number two, whether the report has gone beyond the scope of the Bill. I propose to address the House on the second question subsequently.

First of all, with your permission, I will address the House on the first question before laying certain facts before the House. My humble submission is that according to what we have got in the Select Committee's report and from the papers which have been circulated to us and which are found in the Library, I have come to the conclusion that after the Bill was referred to the Select Committee, the Law department just substituted another Bill for this Bill, and this Bill was considered by the Select Committee. I do not know whether these facts are absolutely correct, but I have consulted some members who were in the Select Committee and they have informed me about it and at the same time from the report of the Select Committee also it appears that as a matter of fact . . . . .

Mr. Speaker : I am afraid the honourable member is practically repeating what the honourable member Mr. Naziruddin Ahmad has said. It is the same thing. I have gone through the report myself bearing in mind the points raised and while I would like to give the honourable member the fullest liberty to place any other facts not included in Mr. Naziruddin Ahmad's speech, I do not think we should go into the same repetition

Pandit Thakur Das Bhargava: I do not like to repeat. I only want to know if these facts are taken to be correct. If ultimately another honourable member gets up and says these facts are wrong, then the whole argument would fall down. Therefore, I want to place before you how I have come to the conclusion that these facts are correct. If you take them as correct, I do not want to trouble the House and your goodself. I submit that as a matter of fact it appears from the report of the Select Committee itself that the substituted Bill was alone considered, because from the majority committee's report as well as the dissentient's report it appears that no other Bill was considered and the Bill which was referred to the Committee was not at all considered.

Now, Sir, Dr. Ambedkar has kindly placed before us a comparative statement. If you will kindly see these tables, there are two parts, one shows how from this Bill the original Bill was different. He has given another table showing the difference between the Draft Bill and the Select Committee report. This also shows that only the re-drafted Bill was considered and not the original Bill. Any way, taking this to be the right tiling, if it is accepted that the re-drafted Bill was only considered, the question arises before you whether the re-drafted Bill could be considered by the Select Committee or not, and if this action of theirs is not tantamount to the breach of privileges of this House as well as abuse of the powers that this House granted to the Select Committee. Now, Sir, I may not be taken to say that there was any wrong motive behind it; such a course may have been intentional or non-intentional; it may have been done with the best of motives or with the worst of motives; I am not concerned with that. I am concerned with one central fact that the original Bill which this House referred to the Select Committee was never considered by the Select Committee.

The Honourable Shri K. Santhanam (Minister of State for Railways and Transport): On a point of order, I wish to know whether this House can go into the manner in which a Select Committee has

dealt with a Bill. In that case, it would require verbatim reports of all proceedings in a Select Committee. We can reject the report or accept the report or do anything with the report but how the Select Committee dealt with it is a matter which, I think is not relevant and it is not the practice of the House either to go into it. Otherwise, every future Select Committee will have to give us a verbatim record of its proceedings, so that we can judge of the propriety. . . .

Mr. Speaker : I am afraid various points of order are being raised and stated too widely. As regards the present point, if the position is that the Bill which was sent by this House was not considered at all by the Select Committee, I think it would be perfectly competent to go into the question as to whether the Select Committee did or did not consider. Then the question will arise as to how far it would be permissible to go into the proceedings of the Select Committee and to that my present reaction is that this House or myself will not be sitting as a fact-finding committee or court, but we shall take into consideration—we are entitled to take into consideration—what the Select Committee itself has stated in its report, and therefore, the matter will be more or less one for inference—coming inferentially to some conclusion as to what the Select Committee did and not by taking evidence of every member of the Select Committee and taking extra evidence. Now, I may point out to my friend Pandit Bhargava, that in spite of all that he has said the argument is not being advanced any further. Whether you call it a breach of the privileges of the House or abuse of procedure, the argument, in short, comes to this—that the Select Committee considered a substitute Bill; that it did not consider the original Bill sent by this House, and that this conclusion is based on certain remarks or observations in the Select Committee report—majority as well as the minority report—and therefore he infers—to state more correctly—from these documents that the original Bill was never considered. That, in short, is the point of order. The question of breach of privilege or abuse of procedure will arise, if we come to the conclusion that the Select Committee did as he infers, but if we come to the conclusion that the Select Committee was not guilty in the manner in which he infers it to be, then the question of breach of privilege or abuse of procedure does not arise at all. I can assure honourable members that I have carefully gone through every point that the honourable member is going to read from the report of the Select Committee and, perhaps, something more also,

and I have my own conclusions about it. I think I can make the whole thing short by stating what I have felt about the Bill and decide the matter rather than take up the time of the House. That is my feeling in the matter. (*Some Honourable Members:* "Quite so, Sir.") Anyway, we are not going to finish this Bill today. We can just clear the ground and I think without further going into arguments, I may perhaps . . . .

Pandit Thakur Das Bhargava: I do not want to go further into arguments after having heard from you how things have taken place, but I do wish to place before you some of the ruling which I have got which go to show that this Bill as emerging out of Select Committee is abosultely unwarranted, illegal and vitiates the entire report of the Committee and before the House there is no report at all. This is my submission. If you will permit, I will place some rulings before you.

Mr. Speaker: However, the rulings follow certain facts. In this case, it is alleged that, as a matter of fact, the Select Committee have failed to consider the original Bill. If that is established, then we shall have ample time to consider the rulings.

Pandit Thakur Das Bhargava: Nobody is denying this fact.

Mr. Speaker : That is just the point, as the honourable member will see. When I give my ruling which I have carefully prepared after reading all the papers. If any further points arise after the facts as stated by me are accepted, then those points of order may be considered.

Shri M. Tirumala Rao (Madras : General): Before you give your ruling, is there no other method of knowing the truth except by inference ?

The Honourable Dr. B. R. Ambedkar (Minister for Law): May I, with your permission, intervene for a minute to correct an impression which my friend Pandit Bhargava has sought to create in this House that the original Bill which was referred by this House to the Select Committee was never before the Select Committee ? I mink it is a gross mis-representation. If my honourable frined were to refer. . . . .

Mr. Speaker : I have myself studied the position in great details. I shall clarify it by reading out my decision.

Pandit Mukut Bihari Lal Bhargava (Ajmer-Merwara): I have additional facts.

Mr. Speaker: Order, order.

Pandit Mukut Bihari Lal Bhargava: There is one additional fact which has not come to the notice of the Chair. I wrote a letter to the Law Department to find out whether any re-drafted Bill was printed. The information given to me was that only a few copies were printed and they were available in the library of the House. I have referred to that Bill and it is a fact that a re-drafted Bill was printed in July 1948 prior to the meeting of the Select Committee. That Bill was considered clause by clause by the Select Committee and that is the Bill that has emerged from the Select Committee with its report. The report mentions this. Therefore my respectful submission is that that re-drafted Bill may be taken into consideration to find out whether the Select Committee applied its mind to the Bill that was referred to it or some other re-drafted Bill that was printed under the signature of Dr. Ambedkar, after scrutiny of the original Bill and absolutely in a different form. That is a very important material and additional fact which I respectfully bring to the notice of the Chair before the ruling is given.

Pandit Thakur Das Bhargava: I have got a copy of that Bill with me.

Mr. Speaker: I have some facts which honourable members do not have.

The Point of Order that the Honourable the Law Minister's motion for consideration of the Select Committee Report on Hindu Code is incompetent as raised by the honourable member Mr. Naziruddin and supported by a few other members on 31st August 1948, is based on a narrow limit of facts. The objection raised is presented as a chain of reasoning in the following form :

> "What the Select Committee considered was a 'substitute' of the original Bill in the form of 'a revised draft'. Therefore the Select Committee did not consider the Bill referred to it, but 'a new document', and the present report of the Select Committee, being a report on a new document, there is no Select Committee Report on the original Bill. The Honourable the Law Minister's motion for consideration of the Bill, as it emerged from the Select Committee, is, therefore, incompetent". That is the substance of the Point of Order. (*Shri Mahavir Tyagi:* "Is that your ruling ?") I believe I have stated the point correctly.

None of the members, Mr. Naziruddin Ahmad, Pandit Thakur Das Bhargava and Srijut Biswanath Das, who raised or supported the Point

of Order, were members of the Select Committee and naturally, therefore, have no personal knowledge as to what was considered at the meetings of the Select Committee. They, therefore, relied upon some statements in the report of the Select Committee and inferred that the original Bill, as referred to the Select Committee, was not taken into consideration by them.

The question thus raised is purely a question of facts, namely, whether the Bill referred to the Select Committee, meaning thereby the various substantive provisions thereof, as distinct from the form or sequence in which they were put, were or were not considered by the Select Committee; whether the Select Committee did or did not apply their mind to the substantive provisions of the Bill as referred to them.

It is not disputed that the Select Committee had a right to add, to or to delete from or to improve upon the provisions of the Bill as referred, provided the additions, deletions or improvements, etc. suggested by the Select Committee are within the scope of the Bill I need not therefore, enter into this aspect, as no such question about the Select Committee having gone beyond the scope of the Bill is raised before me.

I may now examine, in the light of the written as well as oral evidence before me, the statement of facts as formulated by the honourable members who have raised the Point of Order.

I may shortly state the facts as to how the Bill that was introduced came to be framed. As stated in the Statement of Objects and Reasons, the Central Government, by their Resolution dated the 20th January 1944, 'appointed a Hindu Law Committee for the purposes of formulating a Code of Hindu Law, which should be complete as far as possible.' This was done in pursuance of 'a growing public opinion in the country in favour of a consolidated and uniform Code dealing with the different topics of Hindu Law for all the provinces and for all sections of the Hindu Society'. It was also felt that, in view of the 'present conditions and trends in Hindu Society' there is a great need to alter the law so as to make it fit the new pattern, to which the Hindu society seems to be rapidly adjusting itself.'

When the motion for reference of the Bill to the Select Committee was carried on 9th April 1948, there was hardly any time for honourable members to express themselves on the substance as well as the form

and the drafting of the Bill. The Ministry of Law, having felt that the Bill 'as drafted by the Hindu Law Committee did not conform to the canons of a Code', decided to revise the draft of the Bill and to remove those defects, so as to enable one to have 'a full and complete picture of the provisions of the Code'. They, therefore, undertook the task of re-arranging the parts and divisions of the original Bill in consecutive sections and in a logical sequence, and also made some further suggestions as they thought proper for consideration by the Select Committee. The Ministry of Law simply placed before the Select Committee a sort of a proper form in which the original Bill could have been shaped by the Select Committee themselves at their meetings or they could have directed the draftsmen to carry out the changes.

It may be noted here that, while circulating the Code in a revised form, the Ministry of Law supplied to the members of the Select Committee an index also giving therein, for facility of reference, the place of a section in the revised Code with the corresponding section in the original Bill, as prepared by the Hindu Law Committee. The members of the Select Committee had thus before them, at all times and at every stage, the provisions of the Code as contained in the original Bill. The Ministry of Law further invited the attention of the members of the Select Committee to changes of substance suggested by them in the revised draft. It was, therefore, clear that at all stages of deliberations by the Select Committee of the provisions of the Bll, both the revised and the original were before them and the deliberations had proceeded on a comparative study of the original provisions and the provisions contained in the revision as suggested by the Ministry of Law.

Coming to the question of evidence as to the above facts, the only member of the Select Committee who spoke with reference to the Point of Order was, Pandit Balkrishna Sharma. Pandit Balkrishna Sharma stated in the House: "The Bill which the House asked us to consider was always before us." The evidence on record consisting of the main report, as also the dissenting minute, amply support this statement. The honourable members, who have raised this objection, relying upon passages in the Select Committee Report or the Dissenting Minutes seem to take certain passages out of the context and by themselves. This is what the main report says:

> "We, the undersigned, having considered the Bill"—not the revised draft— "have now the honour to submit etc." This is how they begin the Report.

They speak of having considered the Bill and not the revised draft. But further they say as follows :—

> "The Draft Hindu Code, as introduced in the Legislature did not receive any departmental scrutiny prior to its introduction and the Ministry of Law have now produced a revised draft, which, in our opinion, is more satisfactory in several respects. This revised draft does not make any substantial changes in the body of the original Bill, but within the framework of the original Bill, it has recast it so as to be in the form in which Bills are usually presented to the Legislature."

So it will be clear that the Select Committee had applied their mind to the original Bill and had come to the conclusion that there was revision thereof, not in substance but in respect of the form only.

They also mention the reasons why they considered the revised draft as better than the original one, and then they say:

> "Consequently we decided to confine our deliberations to the revised draft of the Bill."

The word "consequently" is important. Having seen the substantive provisions of the original Bill and the revised draft, it was natural and more appropriate to deliberate on the revised draft, which was nothing else than the substance of the original Bill in an improved form. The Select Committee further say :

> "References are given in the margin to each section indicating the corresponding section in the original Bill."

This is a further cogent proof that, though their deliberations were confined to the revised draft for finalising their conclusions, they had before them the view of each and every clause of the original Bill. This is made further very clear in the notes on clauses in which they deal with various parts and clauses of the Bill and state with reference to each part or clause the corresponding part or clause of the original Bill.

The joint minute of dissent of Dr. Bakshi Tek Chand and Pandit Balkrishna Sharma says, in passing at one place, that what the Select Committee considered was the revised draft and not the original Bill. This has to be interpreted in the light of what has been said above. The place where they make a mention of the revised draft being considered, the point of their contention is that the changes suggested by the revised draft were not merely changes of form, but related to matters of substance. It may be remembered that, in their detailed and able minute, they did not make any point that the original Bill was not considered by the Select Committee. Whether the changes suggested by the revised draft are good or otherwise, is the point they are making in their minute of dissent.

On the facts, therefore, as disclosed by records, I am clear that the Select Committee had given full and due consideration to the substantive provisions of the Bill that was referred to them? and the present motion of the Honourable the Law Minister is, therefore, competent, and in order.

Now, this being the decision on facts, what is the point of order of Mr. Kapoor ?

An Honourable Member : We may adjourn now; it is past five O'clock.

Mr. Speaker : The house may now adjourn.

The Assembly then adjourned till a Quarter to Eleven of the Clock on Friday the 18th February 1949.

(11-45 A.M.) *** HINDU CODE**—*contd.*

Mr. Deputy Speaker : We will proceed to the consideration of the Hindu Code.

Sbri Jaspat Roy Kapoor (U. P. : General): May I raise a point of order ?

The Honourable Dr. B. R. Ambedkar: *rose*—

Mr. Deputy Speaker : A point of order has been raised by Mr. Kapoor.

The Honourable Dr. B. R. Ambedkar (Minister of Law) : I was going to refer just to that. Sir, the Order Paper contains sixteen different motions, some of them raise points of order and some of them are siubstantive motions. I was going to express myself on them before I actually spoke on my motion. However, if my friend has to say something, let him do so.

Mr. Deputy Speaker: Let us hear his point of order.

Shri Jaspat Roy Kapoor : Sir, on the previous occasion when the motion was being taken up I stood up to raise a point of order. I was then directed by the Honourable Speaker to wail until the point of order raised by my friend Mr. Naziruddin Ahmad had been disposed of. That point of order was disposed of that day exactly at 5 p. m. thereafter the House rose for the day. I hope you will be kind enough to allow me to raise that point of order now. But before I do so I want to assure the House that my object . . .

*C.A. (Leg.) D., Vol. II, Part II, 24th February 1949, pp. 821-52.

Mr. Deputy Speaker: The honourable Member will kindly state his point of order. There need be no apology or argument. I should like to hear the point of order.

Shri Jaspat Roy Kapoor : My point of order relates firstly to the rights and privileges of the members of this House and secondly to the competency of this House in the present Session to deal with such an important and controversial measure as the Hindu Code Bill when a large number of members of this House are not attending and cannot attend, not for personal reasons, or party reasons, but for reasons of state and in the interest of the country as a whole, being at present busy in the provincial legislatures with the budget sessions, although they are very anxious and eager to attend this House and participate in the discussion of this motion materially affects the whole Hindu society.

Honourable Members : This is no point of order at all.

Mr. Deputy Speaker : I am here to decide whether it is a point of order or not. You will kindly bear with me. I expect he will conclude his sentence soon.

Shri Jaspat Roy Kapoor : I know many of my friends here are very impatient to proceed with the Bill. It was therefore, Sir, that I at the outset wanted to assure the House that my object is not to sabotage the Bill with many provisions of which I am in agreement. My object is that things should be done constitutionally, the right thing should be done at the right time and in the right manner. As you are aware ....

Mr. Deputy Speaker: I have heard the point of order. The honourable Member feels that this House is not competent to proceed With this Bill. This is number one. Number two is that certain members, whom he would like to have in this House, are not here. Neither is a point of order against the motion for consideration being taken up. This is a sovereign Legislative Assembly fit to pass any legislation it likes. I have heard the point of order and do not want to hear any more arguments in favour of it. As regards the absence of some members, it is no doubt true that a number of members could not be here both from the Provinces and the States. But it is always open to them to come here and take part.

Babu Ramnarayan Singh (Bihar : General): May I say,....

Mr. Deputy Speaker: So far as the Chair is concerned and so far as this House is concerned, no such direction has been given and therefore the House is competent to proceed with its business. Honourable Members can come in at any time and take part in the debate. I rule out this point of order.

Babu Ramnarayan Singh : With all respect to you . . .

Honourable Members : Order, order.

Mr. Deputy Speaker **:** I would not hear anything more.

Babu Ramnarayan Singh : The previous ruling given by your.....

Mr. Deputy Speaker : I have considered all the previous rulings. I have got them here.

Shri V. S. Sarwate (Madhya Bharat): I wish also to raise one point of order.

Mr. Deputy Speaker : Is it any point of order?

Shri V. S. Sarwate : Yes.

Mr. Deputy Speaker : The Honourable Member will kindly briefly state the point of order.

Shri V. S. Sarwate : I shall be very brief. My point of order is this: That for the purposes of this Bill the provisions regarding publication have not been satisfied. It is due to the Chair to see that those provisions are observed. I refer to rule No. 20 which says : "As soon as may be after a Bill has been introduced, the Bill, unless it has already been published, shall be published in the *Gazette*." There is also a provision that a report of a Select Committee has to be published with the amended Bill. My submission in this case is this : that the Bill was published originally sometime in April 1947 before the Independence day. The political set-up of India has since changed and changed for the better. What I wanted to draw your attention to is this : That the Indian States which were not a part of the then British India were not to be affected by this Bill. Subsequently some States have merged and some have acceded to the Union in all subjects in August 1948. This is subsequent to the publication. There has been a Covenant of these States as the Chair may know sometime in August 1948. The result of that Covenant is that the States would now be automatically governed by any legislation which the Centre passes either in its powers of exclusive jurisdiction or concurrent jurisdiction. I therefore submit that it is the duty of the Chair to protect and guard the rights of the people of these States concerned who are affected by any Bill. I submit that the object of this is two-fold. Such provision enjoining publication enables the constituencies or the people affected by any Bill to express their reactions, their opinions and their feelings about it. I believe this is a fundamental principle of democracy that no Bill shall be passed unless the people affected thereby are given

an opportunity to express their opinion thereon. Secondly, the object of this publication is that the members of this Assembly may have an opportunity to ascertain what their constituencies feel about it. I need not say that it is the duty of the members here not to represent their individual views. They have to represent the views of their constituencies when important matters are concerned. As far as details or minor matters are concerned they may have discretion to express their views. But when a measure affects the whole life, the whole structure of society, then in such cases, in such vital matters it is the duty of the members to ascertain the views of their constituencies and represent them here correctly. They should not state what they feel. They should state what their constituencies feel. For this purpose, it is necessary that the Bill should be published. I submit that the Bill was published in the Gazette, but it was not published at the time when the people of the acceding States and merged States were in a position to give that serious consideration to this Bill, which this Bill deserves. Therefore I submit it was not a proper publication, as far as those people are concerned and now, since the Chair is here to guard their interests, I appeal to the Chair to order that the Bill be published before it is taken up for consideration.

The Honourable Dr. B. R. Ambedkar : My reply to the point of order raised by my honourable friend is two-fold. In the first place, there is never any obligation cast upon this House for circulating any Bill for publication before the House can take the matter into consideration. It is only in special cases, when the House by a Resolution or the Government by any executive action desire that the Bill is so important that public opinion might be invited; that public opinion is invited. There is no such right, no obligation at all on the Legislature or on the Government and therefore, from that point of view the point of order is no point of order at all.

My second submission with regard to the point of order is this, that we have deliberately confined the operation of this Bill to the provinces of India, and so far as the Provinces are concerned, the opinion has been canvassed three times, and I do not think any more purpose would be served by canvassing public opinion for the fourth time. When the occasion comes for the extension of the Bill to the Indian States, no doubt, this Legislature when a proper motion is placed before it, or the Government of the day, will take care that the wishes and the intentions of the States which have come into the Indian Union, will be consulted.

Mr. Deputy Speaker : I agree with the Honourable Law Minister that inasmuch as the scope of this Bill is confined in the first instance only to Provinces of India and it is highly problematical whether it will be extended to the acceding States and if so, on what terms and conditions of accession, it will be time for them to consider whether they can come in or not. As regards the other one, it is not obligatory to send the Bill for circulation unless by a motion accepted by the House. The Select Committee has considered this matter and has found tliis has not been so materially altered as to necessitate a republication in the Official Gazette. For these reasons I rule out the point of order.

12 NOON

The Honourable Dr. B. R. Ambedkar : Sir, before I proceed to speak on my motion, I think it would be desirable if I .....

Shri B. Das (Orissa: General): There is obstruction everywhere. Everybody rises to a point of order. Mr. Naziruddin Ahmad rose six months ago.

Mr. Naziruddin Ahmad (West Bengal: Muslim): It is a different point of order. My honourable friends should have a little patience.

Mr. Deputy Speaker : I can only state that honourable members will kindly consider well before they raise a point of order. I also expect they will consider that if it should turn out to be a dialatory motion, they will invoke upon themselves the criticism of the House.

Mr. Naziruddin Ahmad : My point of order is not dialtory.

Mr. Deputy Speaker : It is open to any honourable member to raise a point of order. An honourable member can take as many points of order as are reasonable and proper.

Mr. Naziruddin Ahmad : The objection to the point of order is dilatory. My point of order is this : the honourable Minister for Law has already spoken on this motion. He completed the first part of the motion and then the subsequent stages began. He has a right to reply at the end of the debate. Now the motion has been made that the Bill be taken into consideration and a speech has been delivered on the 31st of August, 1948. We have on the agenda a list of amendments. We have to proceed straight to the agenda and then when a motion is made the Honourable Minister ceriainly has a right of reply, and in the end a general right of reply. At this stage, the Honourable Minister can not make a second speech on the motion.

Mr. Deputy Speaker : I find from the proceedings on the 31st of August, 1948 the following :—

"*The Honourable Dr. B. R. Ambedkar* (Minister for Law): Sir, I move: "That the Bill to amend and codify certain branches of the Hindu Law, as reported by the Select Committee, be taken into consideration."

Mr. Naziruddin Ahmad (West Bengal: Muslim): Sir, on a point of order.

Mr. Speaker : I shall hear the Honourable Minister first and then take the point of order.

The Honourable Dr. B. R. Ambedkar: Sir, in view of the urgency of other Government business which is on the agenda and to which Government feels it must give precedence, I do not propose to make a speech in support of my motion, because it is quite obvious that if I were to make a speech in support of my motion, that is bound to give rise to a debate which will result in the consumption of a great deal of the time of the Government. We have already few days let before the House is due to rise, and I, therefore, request you to allow this motion to stand over for further consideration in the next session of the Assembly."

In view of this, the Honourable Dr. Ambedkar is entitled to proceed. I am exceedingly sorry that this point of order has been raised. It is only a dilatory motion.

The Honourable Dr. B. R. Ambedkar : As I was going to say, it would facilitate my work a great deal if I were to know from you what procedure you propose to adopt with regard to the 16 motions that have been tabled as against the motion which I have made, and about which I propose to speak during the subsequent period. These 16 motions fall into three different categories. There are certain motions which propose that the Bill be further circulated for eliciting public opinion. There are certain motions which propose that the Bill be referred to a Select Committee, which is different from the Select Committee which already reported on the Bill. And there are motions which propose that the Bill may be re-committed to the same Select Committee which has already reported.

There was one other or rather two other motions, one standing in the name of my honourable friend, Shri Prabhu Dayal Himatsingka and the other standing in the name of my honourable friend, Shri Biswanath Das, which propose that the Bill should be circulated to people residing in the acceding States, before the Bill could be taken into consideration. With regard to these two motions, a point of order was raised recently by my honourable friend, Shri V. S. Sarwate, which you have been good enough to dispose of and I therefore take it that motions Nos. 7 and 8 must be taken to have been deleted from the agenda of today. The other motions remain and I want to know

whether it is your desire that these motions may be put simultaneously along with my motion, so that all of them may be debated together and ultimately each motion may be put to the House separately, or whether you propose to have these motions taken up before my motion, so that they may be disposed of and the ground may be cleared for my speech on the motion, which I have tabled.

I might say one or two points with regard to the motions that have been made. There are certain motions which you are bound to put, I agree, unless the movers of these motions by themselves voluntarily desire not to move these motions. There are certain motions which are within your discretion, and unless you are satisfied that these motions are not dilatory motions but have behind them certain points of substance, it would not be open in accordance with the rulings which have been given by previous speakers, who have dealt with these questions, to put these motions to the House, Because the Chair must be satisfied that they are motions behind which stand substantial grounds and they are not purely dialtory. For instance, the motion that, the Bill should not be taken into consideration now, but should be taken into consideration at some later stage is one of those motions, I submit, which according to the rulings of the Chair heretofore could fall within your discretion, where you are satisfied that the reasons advanced by my honourable friends are substantial reasons, and therefore, you should put the motion to the House. For instance, the motion for recommittal is one such motion, because if you will kindly refer to these two volumes of Rulings,—I am sure you have.....

Mr. Deputy Speaker : What I propose to do is this.

The Honourable Dr. B. R. Ambedkar : I should like to have your guidance in this matter.

Mr. Deputy Sopeaker : I have considered this matter and the number of motions that have been tabled. So far as motions 1 and 2 are concerned, motion 1 is that the Bill as amended by the Select Committee be withdrawn.

Pandit Thakur Das Bhargava (East Punjab : General): I do not propopse to move it at this stage: not that I am not entitled to move it.

Mr. Deputy Speaker : Then it is not necessary to go into the question whether it is in order out of order. The second motion is .....

Pandit Thakur Das Bhargava : I am not moving it at this stage.

Mr. Deputy Speaker : Then there is the amendment by Master Nand Lal that the consideration of the Bill be postponed to the Budget Session of 1951.

Master Nand Lal (East Punjab : General): I am not moving it.

Mr. Deputy Speaker : These three withdrawals clear the ground. By whatever name they may be called, these three motions, substantially are for adjournment of the debate. I thought that, before the Honourable Law Minister, the mover of the Bill proceeds the movers of these motions must have risen in their seats and pressed for the taking up of these motions, because, before their motions are disposed of, the honourable mover could not be allowed to speak. Inasmuch as they were not moved, I kept quiet. Now it is clear they are withdrawn. The other motions *viz*, those for re-circulation or for reference to Select Committee, whatever their nature might be, they are motions which under the Rules any person is competent to make. It is a question for the House to deal with them. So far as the Select Committee motions are concerned, I must be satisfied in the first instance, about their need. Apart from that, there is a motion for recirculation with respect to which some such requirements have not been laid down, so far as I can see in any rule or rulings. Therefore, I propose at this stage to allow the mover of the Bill to make his speech and after he concludes his speech, allow the motions for Select Committee and Circulation to be moved without any speech. Then, the discussion will go on on all the motions and I will put them one after another to the House.

***The Honourable Dr. B. R. Ambedkar :** I am obliged for your guidance, Sir. As usual when presenting a motion for the consideration of a Bill as reported by the Select Committee it is the duty of the Chairman of the Select Committee, in the first instance, to draw the attention of the house to such changes as may have been made by the Select Committee in the original Bill which has been referred to the Select Committee. I propose to follow that procedure in the first instance.

Sir, the first part of the Bill deals with marriage and divorce. So far as this part of the Bill is concerned, the Select Committee has added two clauses which relate to the restitution of conjugal rights and to judicial separation. These provisions specifically absent from the original Bill. The draftsmen of the original Bill felt themselves content by reference to the Indian Divorce Act of 1869 which contains provisions relating to the restitution of conjugal rights and judicial

*C.A. (Leg.) D., Vol. II, Part II, 24th February 1949, pp. 826-43.

separation. The original draftsmen of the Bill felt that a reference in this Bill to the Indian Divorce Act would be quite sufficient to invoke these two provisions which were contained in the Indian Divorce Act and consequently it was not necessary expressly to mention these two matters in the Code. The select Committee felt otherwise. The select Committee felt that as this was going to be a complete Code of Hindu Law, it was wrong to leave the code incomplete, and so to say, legislate by reference. They therefore thought that, instead of leaving this matter to be invoked by reference to the Indian Divorce Act, it would be desirable to embody in the Code itself the provisions contained in the Indian Divorce Act relating to these matters and consequently the part dealing with marriage and divorce has been expanded by the Select Committee by the addition of the clauses relating to these two matters. The House will see that there is no change as a matter of fact between the original Bill and the Bill as drafted by the Select Committee. AH that is done is that what was done by reference to the Indian Divorce Act has been done expressly and positively by the inclusion in the Code of specific sections relating to these matters.

With regard to adoption, the Select Committee has introduced a few new changes. The first change that they have made is that when a father is disqualified by reason of the fact that he had changed his religion and ceased to be a Hindu, the mother has been given the right to give a boy in adoption. In other words, change of religion by the father from Hinduism to some other religion has been introduced as disqualification in the matter of the right to give in adoption. Consequenly, a mother in those circumstances has been empowered to give a boy in adoption. Similarly, if a widow was there and there was a boy, that boy certainly could be given in adoption by the mother when the father was not living. There again, a disability has been introduced to the effect that if the widow ceased to be a Hindu, she would lose her right of giving the boy in adoption, which she would otherwise have.

Another change which has been made by the Select Committee is with regard to the different modes of taking a boy in adoption. Hitherto, as the House knows, there are various forms of adoption. The main form of adoption which is recognised by the Smritis is what is known as the Dattaka form of adoption. In addition to the Dattaka form of adoption, there have prevailed in the various parts of India, customary forms of adoption such as Godha Adoption, Kritrima Adoption, Dwyamushyayana Adoption. The Select Committee felt that

as they were codifying the law, it is desirable not to allow any room for customs to grow, because the effect of customs being permitted would be to eat into the Code and make the Code after certain time *null and void.* Therefore, the Select Committee decided that if anybody wants to adopt under this Code, nobody can make any adoption except in accordance with the provisions of this Code, and Dattaka shall be the only form and no other.

Then, Sir, we come to the question of the right of the adopted boy to divest the persons in whom property has been invested before the adoption takes place. As every member of this House, who is aware of the provisions of the Hindu Law, will know, under the existing Hindu law, it is permissible to a boy who has been adopted, no matter at what stage he has been adopted—he may have been adopted forty years after the death of the father—time makes no change at all in his rights—to file a suit to set aside any alienation or transfer of property made by the widow who has adopted him. Any amount of litigation goes on on this particular point. In fact, if anyone were to examine the total amount of litigation among the Hindus on the various points of Hindu law, I am sure they will find that litigation on the question of divesting the property by the adopted boy would be the largest volume. It is therefore desirable that this matter should be settled once and for all. The Rau committee adopted the procedure of dividing adoption into two categories—adoption made three years before the death of the father and the coming into operation of the Code: and adoption made after the Code. They laid down that a boy, if he was adopted three years before the death of the adoptive father would be entitled to the original rights which an adopted son had under the Hindu Code. But if he were adopted three years after he would not be entitled to set aside alienation.

The second thing that happened as a result of adoption under the Hindu Law was that he completely divested the widowed mother who made the adoption, with the result that the entire corpus of the property passed into the hands of the adopted boy, who, in a certain sense was a stranger, and notwithstanding the notional change that he entered into the family of the adopted father, he practically continued his affiliations with the members of the natural family. The result was that after the adoption had taken place, instead of the adopting mother getting any kind of security for hereself as a result of adoption which a natural mother would get from a natural son, she found that this new adopted boy ran away with the property and left the mother with

noting but the right of maintenance. We thought that that was not a desirable state of affairs from the point of view of giving security to women, and consequently certain changes were made. The original distinction that was adopted in the Rau Committee was deleted and a provision was made that the rights of the adopted son shall accrue to him not form the date of the death of his adopting father but shall accrue to him form the date of his adoption, so that any alienation that may have been made prior to his adoption were beyond his reach, were unchallengeable by him.

The second provision that we have made was that the adopted son shall not as a result of adoption deprive the adopting mother completely of her right of property. What the Bill says in its altered form is that only one half of the property of the widow will go to the adopted son. The other half, notwithstanding the fact that the widow has adopted will continue to be in the possession and enjoyment of the adopting mother. The result is that the Committee has permitted adoption which the Hindu community feels is a necessary thing for the purpose of perpetuating the family. But at the same time we have taken care to see that the adoption does not beggar the mother altogether.

Mr. Deputy Speaker : Is not that the result under the Deshmukh Act?

The Honourable Dr. B. R. Ambedkar: No. As **I** say, she gets only the maintenance.

Mr. Deputy Speaker: She gets half the share of the property.

The Honourable Dr. B. R. Ambedkar : As soon as the adoption takes place all that passes to the son.

Shri Prabhu Dayal Himatsingka (West Bengal : General): According to the 1937 Act she is a co-heir with the son.

Shri L. Krishnaswami Bharathi (Madras : General): The son comes later on.

The Honourable Dr. B. R. Ambedkar : That may be so. Now I am coming to minority and guardianship. Here there are only two changes made by the Select Committee in this part of the Bill. The first change is that the power of the Hindu father as a natural guardian of his minor son has been taken away if he renounces the world or ceases to be a Hindu. The original law was that the father was the natural guardian and no matter what change took place in his condition either by his religion or in any other way, he still continued to be the guardian of his minor son. The Committee felt that as this was

a Code intended to consolidate the Hindu society and their laws, it was desirable to impose this condition, namely, that the father shall continue to be the natural guardian so long as he continues to be a Hindu. The Code in its altered form also has introduced another change, namely, that a Hindu widow has been given power to appoint a testmentary guardian if her husband has not appointed anyone. She had not any such power and this power has been given to her by the Select Committe.

Now, Sir, I come to the part of the Bill which deals with succession and I will first refer to changes made in the succession to males. Now so far as what are called the compact series of heirs under the Hindu Law, which are placed in category I by the Rau Committee is concerned, the Select Committee has made no alteration at all. The compact series remains as it is, both in the line of heirs as well as in the order of heirs. That matter has not been altered at all. But with regard to persons which are included in clauses 1 to 4 of the Rau Committee, certain changes have been made both in the matter of the line of succession and also in the matter of priority of succession. The Committee has followed both the principles, namely, propinquity as well as natural love and affection, and it is on that basis that the Select Committee has made certain alterations in the heirs set out in clauses 1 to 4 of the original Bill. The select Committee has also done one thing more : it has curtailed the number of degrees of agnates and cognates who can become heirs to the deceased, and also it has removed the other heirs, such as for instance, heirs which are not related, such as Sam Brahmchari Guru and so on. The reason why the Select Committee has curtailed the number of heirs as provided for in the original Bill is this. We are under this code giving the right to make a will to every Hindu. A line of criticism has been levelled in a very important journal, namely, the journal of Comparative Legislation, in which a very eminent lawyer has made the point that when you give the right to make a will, it is unnecessary to provide such a long list of heirs which extend to the fourteenth degree from the deceased. If the deceased is interested in a man which is related to him in the fourteenth degree and is alive at the time of his death, it is open to him to make a will and to give a part of his property to the particular person in whom he is interested.

If the deceased himself during his lifetime has not chosen to remember a relation who is related to him by the 14th degree there is no particular reason why because of mere intestacy he should be

permitted to come in for a share. That is one of the reasons why the Select Committee adopted this provision.

I might also draw the attention of the House to the fact that with regard to widows a disqualification has been introduced by the Select Committee which says that a widow on remarriage shall lose her right of inheritance.

Then with regard to the daughter's share, which of course existed in the original Bill itself, the Select Committee has made a somewhat important alteration. The original Bill said that the daughter shall get a share equal to half the share of the son and in order to make equity equitable in devising the line of succession to the Stridhan property of the woman they had also provided that in that case the son will take one half of what the daughter takes, so that the daughter will take one half in the father's and the son will take one half in the mother's property. I cannot say that that was an inequitable proposition but somehow the Select Committee and I believe I can say against the best part of their judgement increased in their enthusiasm the share of the daughter in father's property from one half to one full share, equal to that of the son. (*An honourable Member:* "The son is also given.") I am aware of that. With regard to succession to females there are only two changes which the Select Committee has made. Under the existing rule the husband of a woman in the case of succession to females comes much later under the Hindu law and that provision was included by the old Rau Committee. The Select Committee felt that that was rather unjust, because it may be (it is often possible) that much of the property which is called Stridhan property or property which comes into the hands of a woman may, and perhaps does, to a very large extent come from the husband and if the husband is the principal source of the property, that comes into the hands of the woman, it is not proper that it should be postponed to other heirs. Consequently the Select Committee altered the provision and brought the husband in line with the other Stridhan heirs, so that the husband now shares simultaneously with the heirs of a woman, who share in the Stridhan property. As I said that because that increased the share of the daughter in the father's, they also *pari passu* made the share of the son in the mother's Stridhan property equal to that of the daughter.

Mr. Deputy Speaker : They balanced the son and daughter.

The Honourable Dr. B. R. Ambedkar : No change has been made in the law relating to maintenance which is worthy of requiring any mention to this House.

Then I come to the question of the joint family. It has been said that the provisions contained in the Bill as it has emerged from the Select Committee contained provisions relating to joint family which are absolutely new. I would like to take this occasion to repudiate that suggestion. No change has been done by the Select Committee. The provisions of the Mitakshara joint family were originally contained in the Bill as drafted by the Rau Committee and it was placed before this House on the 9th August, which the House accepted and sent to the Select Committee. (*Honourable Members:* 9th April) Therefore my first submission is that no new change has been made by this Select Committee. All that the Select Committee has done is to add two new clauses—clause No. 88 and clause No. 89. Clause 88 deals with the doctrine of what is called pious obligations. Clause 89 deals with the liability of the joint family to pay joint family debts. It was unnecessary to include these clauses, because once you break up coparcenary property it is not necessary to make any express provision with regard to the doctrine of pious obligation, because the doctrine of pious obligation is necessary where there is survivorship property : because by survivorship where A takes the property of B and the property of B is encumbered with debts, no special doctrine is necessary to impose an obligation upon B; because in hereditament which a person gets, he takes both the profit and the burden of it. But in view of the theory of the Mitakshara that every coparcener gets the property by survivorship, which does not belong to the deceased, the Patna high Court, if I may say so, as well as the Bombay High Court Bar pressed upon us very strongly that it was very desirable that these two things which were implicit, so to say, in the Mitakshara doctrine of joint family, shall be stated expressly in the Code, so that when the question of judicial interpretation arises there may be no occasion for any kind of dispute, doubt or controversy. As one of the objects of the code was to make the law clear not merely to the lawyers but to the ordinary citizens and as it is a suggestion which came from such a weighty authority as the Patna High Court and the Bombay High Court Bar, we thought it desirable to introduce these two things, namely no obligation to pay debts on the original ground of pious obligation and the liability to pay primary debts which belong to the family. Besides that there has been no change at all. If my friends have some doubt still on the subject that we have made fundamental changes in regard to the joint family of the mitakshara,

I would like to draw their attention to section 86 (Part v : Joint Family Property). Section 86 of the new Bill as it has emerged from the Select Committee is the same word for word, except for ordinary verbal changes, as part III-A section 2, on page 12 of the original Bill as drafted by the Rau Committee. Similarly section 87 which also deals with joint property is word for word the same as part III-A, section 2, page 12. Anybody who compares the two I am sure will accept the proposition which I have enunciated in this House that this is not an innovation by the Select Committee at all but they form part and parcel of the original Bill as drafted by the Rau Committee.

I should like to dispel any further doubt that may exist on this point by referring to the Rau Committee's Report (page 13). This is what the Rau Committee says (paragraph 51):

> "Turning now to the contents of the Draft Code the main proposals on which differences of opinion have manifested themselves in varying degree are the following :
>
> (1) the abolition of the right by birth and the principle of survivorship and the substitution of the *Dayabhaga* for *Mitakshra* in the *Mitakshra* Provinces;
>
> (2) giving of half a share to the daughter;
>
> (3) the conversion of the Hindu woman's limited estate into an absolute estate;
>
> (4) the introduction of monogamy as a rule of law;
>
> (5) the introduction of certain provisions for divorce."

I think Hon. Members will see that the Rau Committee in setting about its work made it perfectly known to everybody in this country that the Code that they had framed and which subsequently was embodied by them did contain the specific provision. I have no doubt about it that anybody who has read the volumes of evidence which have been collected by them previsouly by the joint Select Committee appointed by this House, by the Rau Comittee and by this Government by an executive order—would find that there is no person either in this House or outside, who has paid any attention to this part of the Code, who will be under any wrong impression that the Rau Committee had decided or propsoed that this co-parcenary should not be abolished. It is therefore not a new innovation of the Select Committee at all.

The Select Committee has made some changes with regard to the application of the Hindu Code. The Rau Committee's Bill contained a provision that the Bill should not extend to areas to which the Marumakkattayam and Aliyasanthanam laws apply. Somehow the Select Committee in its enthusiasm transgressed, if I may say so without any disrespect, the bounds of reasonablnness and came to the

conclusion that there ought to be no area which ought to be exempt from the operation of this Code. Consequently they deleted the provision.

Mr. Deputy Speaker : In the interests of uniformity.

The Honourable Dr. B. R. Ambedkar : I do not know whether it was done rightly or wrongly; that is a matter which the house will consider at a later stage.

Pandit Mukut Bihari Lal Bhargava (Ajmer-Merwara): May I ask whether the honourable speaker was dissenting from that view ?

The Honourable Dr. B. R. Ambedkar : I will dissent at a later stage perhaps. I have no empty mind but I have still an open mind.

Shri H. V. Kamath (C. P. and Berar: General): Not a vacant mind !

Pandit Thakur Das Bhargava : On every question I hope.

The Honourable Dr. B. R. Ambedkar : Sir, in the ordinary course a speech of the sort which I have made is generally regarded not only appropriate but sufficient for the occasion. But it would be futile on my part to disguise the fact that there is a section—if not a large section, a section in the house—which feels a certain amount of compunction over certains parts of the Bill. Neither can I disguise from myself the fact that outside the House there are many people who are not only interested in the Bill but, if I may say so, very deeply concerned about it. I therefore think that it is only right, if you will permit me, to add a few general observations with regard to the points of controversy which I have noticed in several newspapers which I have been persuing ever since the Bill has been on the anvil. I will take this matter also part by part and section by section. I will deal only with what I regard have been considered as points of controversy. Let me take marriage and divorce. Here I find that there are three points of controversy.—The first point of controversy is abolition of castes as a necessary requirement for a valid marriage; the second point of controversy is the prescription of monogamy; and the third point of controversy is permission for divorce.

I will take the first point of controversy, namely—abolition of caste restrictions. So far as this Bill is concerned, what it does is to arrive at a sort of compromise betweeen the new and the old. The Bill says that if member of a Hindu community wants to follow the orthodox system which requires that a marriage shall not be valid unless the

bride and bridegroom belong to the same *varna,* the same caste or the same sub-caste, there is nothing in this Code which can prevent him from giving effect to his wishes or giving effect to what he regards as his *dharma.* In the same way if one Hindu who is a reformist and who does not believe in *varna,* caste or sub-caste, chooses to marry a girl outside his *varna,* outside his caste, outside his sub-caste , the law regards his marriage also as valid. So far as the marriage law is concerned there is therefore no kind of imposition at all. The *vydhikas,* the orthodox, are left free to do what they think is right according to their *dharma.* The reformers who do not follow *dharma* but who follow reason, who follow conscience, have also been left to follow their reason and their conscience.

Shri Mahavir Tyagi (U. P. : General): Are they permitted to marry outside their religion also if their conscience directs them in that manner?

The Honourable Dr. B. R. Ambedkar : Well, we will have another Bill for that. I do not know whether my honourable friend Mr. Tyagi is unmarried. If he is I will hurry it up.

Shri Mahavir Tyagi : I want to make way for others.

The **Honourable Dr. B. R. Ambedkar :** Consequently, what will happen in Hindu society so far as marriage law is concerned if there will be a competition between the old and the new. And we hope that those who are following the new path will win subsequently. But, as I say, if they do not, we are quite content to allow two parallel systems of marriage to be operative in this country and anyone may make his choice. There is no violation of a *shastra,* no violation of a *smriti* at all.

With regard to monogamy it may be that it is a new innovation. But I must point out that I do think that any Member in this house will be able to point out having regard to customary law or having regard to our *shastras* that a Hindu husband had at all times an unfettered, unqualified right to polygamy. That was never the case. Even today, in certain parts of South India there are people who follow this, a section of the Nattukottai Chettiyars—the case has been reported in the Reports of the Privy Council itself, I am not depending on mere heresay evidence—but among the Nattukottai Chettiyars there is a custom that a husband cannot marry a second wife unless he obtains the consent of his wife. Secondly, when a consent is obtained, he must allot to her certain property which I think in the Tamil language

is called *moppu*. That property becomes her absolute property so that if after her consent the husband marries and ill-treats her, she has a certain amount of economic competence in her own hands to lead an independent life. I cite that as an illustration to show that there has not been an unqualified right for polygamy.

A second illustration wliich I would like to give would be from the Arthashastra of Kautilya. I do not know how many Members of the House have perused that book, I suppose many of them have. If they have, they will realise that the right to marry a second wife has been considerably limited by Kautilya. In the first place, no man can marry for the first ten or twelve years because he must be satisfied that the woman is not capable of producing children. That was one limitation. The second limitation imposed by Kautilya on the right of second marriage was that the husband was to return to the woman all the *stridhan* that she had acquired at the time of marriage. It is only under these two conditions that Kautilya's Arthashastra permitted a Hindu husband to marry a second time.

Thirdly, in our own country, in the ligislation that has been passed in various Provinces, monogamy has been prescribed. For instance in the *marumakkathayam* and the *aliyasanthanam* law both of them prescribe monogamy as a rule of marital life. Similarly, with regard to the recent legislation that has been passed in Bombay or in Madras, similarly in Baroda, the law is the law of monogamy.

I hope the House will see from the instances I have given that we are not making any very radical or revolutionary change. We have precedent for what we are doing, both in the laws that have been passed by various States in India, also in the ancient *shastras* such as Kautilya's Arthashastra. If I may go further, we have got the precedent of the whole world which recognises monogamy as the most salutary principle so far as marital relations are concerned.

Shri Deshbandhu Gupta (Delhi) : What about the Mohammadan Law?

The Honourable Dr. B. R. Ambedkar : We shall come to Mohammadan law when we discuss the Mohammadan law.

Coming to the question of divorce, there again I should like to submit to the House that this is in no way an innovation. Everybody in this House knows that communities wliich are called *shudra* have customary divorce and what is the total of what we call *shudra* ? Nobody has ever probably made any calculation as to the total number of *shudras* who go to compose the Hindu society, but I have not the

slightest doubt in my mind that the *shudras* form practically 90 per cent of the total population of the Hindus. What are called the Regenerated classes probably do not fill more than ten per cent of the total population of this country, and the question that I want to ask of honourable Members is this : are you going to have the law of the 90 per cent of the people as the general law of this country, or are you going to have the law of the 10 per cent of the people being imposed upon the 90 per cent ? That is a simple question which every Member must answer and can answer.

So far as the 'regenerated' classes are concerned there was a time, if one refers for instance to the time when the Narada *smriti* or the Parashara *smriti* were written, when the *smritis* recognised that a woman can divorce her husband when he has abandoned her, when he died, when he has taken *parivrija,* and she was entitled to have a second husband. Consequently, it may be that at a later stage I shall read to you some extracts from your *shastras* to show. (*An honourable member:* "Your *shastras*"). Yes, because I belong to the other caste.

I shall read the extracts to show that what has happened in this country is that somehow, unfortunately, unnoticed, unconsciously, custom has been Allowed to trample upon the text of the *shastras* which were all in favour of the right sort of marital relations. My submission, therefore, to the house is that so far as any new principles have been introduced in the law of marriage or divorce, whatever has been done is both just and reasonable and supported by precedent not only of our *shastras* but the experience of the world as a whole.

With regard to adoption, there are again three points of controversy. One point of controversy with regard to adoption is this, that like the old Hindu law we do not make similarity or identity of caste a requisite for a valid adoption. We follow the same rule that we have followed with regard to marriage. Here again, I may say that if a *Brahmin* wants to adopt a *Brahmin* boy, he is free to do so. If a *Kayasth* wants to adopt a *Kayasth* boy, he is free to do so. If a *Shudra* wants to adopt a boy of his own community he is free to do so. If a Brahmin is so enlightened as not to adopt a boy belonging to his own community but adopts a *Shudra,* he is also permitted to do so. There is therefore no kind of imposition.

Seth Govind Das (C. P. and Berar: General): Why do you consider such a Brahmin enlightened ?

The Honourable Dr. B. R. Ambedkar : Well, I do not know. From my point of view certainly he is enlightened; from your point of view he may be a very dark man, but that is a difference of opinion.

With regard to the question of the limitation on the right of an adopted son to challenge all alienations made by the widow before adoption, I do not think that there can be any controversy at all. There is no reason why we should continue the notion that a boy when adopted becomes the son of the adopted father right from the time when the adopted father died. This is a pure fiction. It has no value at all. It is not merely a fiction; it is a fiction which gives rise to tremendous litigation and tremendous difficulties. It is therefore right that the adoption should be simultaneous with the vesting of the property. I do not think any member of the House will think that this is a proposition which we ought not to accept at this stage. (*Shri B. Das :* "We all accept".)

Similarly, as I have stated, the limitation upon the right of a boy who is adopted to divest the mother completely and to make her nothing more than a dependant waiting for such maintenance as the adopted boy may give, I do not think that there is any member of the House who will think that such a situation can be justified on any ground whatsoever. I think it is right that we preserve the right of adoption which the orthodox community cherishes so much, but, Sir, I do not understand why there should be adoption. Most of us who make adoptions have no name to be recorded in history. Personally, I myself certainly would not like my name to go down in history, because my record is probably very poor. I am an unusual member of the Hindu community. But there are many who have no records to go down and I do not understand why they should indulge in adopting a son—a stupid boy, uneducated, without any character—not knowing his possibilities and fastening him and fathering him upon a poor woman, whom he can deprive of every property that she possessed. Therefore, my submission is this, that if you do want to cherish your old notions with regard to adoption at any rate make this provision that the adopted boy does not altogether deprive the mother of the property which is her mainstay. I do not think that that limitation can be at all a point of controversy.

With regard to the question of the abolition of customary adoption, I would like to say two things. There is a general argument which the House will be able to appreciate. It is this. A Code is inconsistent with customary law. That is a fundamental proposition. If you allow a Code to remain and at the same time permit custom to grow and custom to plead against the Code, there is no purpose in having a

Code at all, because a custom can always eat into the Code and make the Code *null and void*. With regard to this particular matter of customary adoption such as *Krithrim* adoption, *Godha* adoption and *Dwaimushayan* adoption, my submission is this, that these are really not adoption at all. As the Privy Council in one of its rulings has definitely stated, adoption is purely a religious affair. The getting of property by the adopted son is a secondary matter. He may get property, he may not get property, and even though he may not get property his adoption from a religious point of view may be valid. Therefore, my submission is this, that all these customary adoptions are nothing else but devices to keep property within the two families which enter into this bargain, and in my judgement, since we have passed the Constitution and included in the Directive Principles one article saying that the State should take steps not to allow property being concentrated in the hands of one or a few, such devices like the *Dwaimushayan* where two parties merely agree to share the property and keep it with them ought not to be tolerated. Besides, there is no reason why parties who want to make a genuine adoption should not conform to the rules and regulations regarding the *Dattaka* adoption which is permitted by the law.

Mr. Deputy Speaker: It is now one o'clock. The honourable Minister may continue after Lunch.

The Assembly then adjourned for Lunch till half Past Two of the Clock.

The Assembly re-assembled after Lunch at Half Past Two of the Clock, Mr. Deputy Speaker (Shri M. Ananthasayanam Ayyangar) in the Chair.

The Honourable Dr. B. R. Ambedkar : I want not to take up the points of controversy relating to the topic of co-parcenary law. The question is raised: Why does the Bill wish to seek to abolish the co-parcenary which is prescribed by what is called the Mitakshara law? Now, Sir, having applied my mind in the best way I can for the proper exposition of this subjects, I think this is a question which required to be considered from three different points of view. One is how large a volume of property is included within the ambit of what is called co-parcenary property. If the volume that is comprised

within what is called co-parcenary property is a very large part of the property which a man in these days holds, then no doubt some serious attention will have to be paid to this question. Therefore, that is the first aspect of the question that one has to examine.

The second aspect that we have to consider with regard to the retention of what is called co-parcenary property is whether any coparcener had individually the right to alienate property. Thirdly, whether any cop-parcener has a right in himself to break up the coparcenary. Obviously, if the property included within the class of property called co-parcenary property is a small part of the property, different questions will arise. Similarly, if any co-parcener, under the present existing Hindu law, has already got the right to alienate his share in the property, then obviously, the question whether this law or this Bill is abrogating co-parcenary property would stand on a different footing. Similarly, if under the existing Hindu law a coparcener has an inherent right to break up a co-parcenary, then my submission is that the question that this Bill breaks up the co-parcenary becomes very much less momentous than is thought of by most members of the House as well as people outside.

Let me therefore take the first question : What is the extent of the non-co-parcenary property which a co-parcener may hold, notwithstanding the fact that he is a member of the co-parcenary ? Now, my friends, who have paid attention to this subject and know what the position is under the Hindu law, will know that there is no disqualification upon a co-parcener to hold separate property while he continues to be a co-parcener. A co-parcener may have capacity to hold two different sorts of property—property which belongs to the co-parcenary and property which does not belong to the coparcenary, but belongs to himself and does not go, by what is called survivorship.

Let me give the House some idea of the extent and nature of the property which a co-parcener can hold, although he is a co-parcener. I have taken from the existing text books on the Hindu law, the following categories of property which a co-parcener can hold, notwithstanding the fact that he is a co-parcener. Firstly, property inherited by a hindu from a person other than his father, grand-father and great grand-father. If a Hindu gets property from a person who is not his father, grand-father or great grand-father, that property is

in his hand and is separate property and does not belong to the coparcenary. Secondly, property inherited by him from his maternal grand father, thirdly gift of ancestral moveables made to him by his father and fourthly property granted by government to an individual who is a member of the co-parcenary becomes his personal property and not the property of the co-parcenary. Then fifthly we have ancestral property lost to the family and recovered without the aid of the family property. That also, although originally co-parcenary property, becomes his private property. Then sixthly, there is the income from separate property and purchases made from the income of such property. They are also private property. 7, share of a co-parcener by partition if he has not male issue. 8, property held by a sole surviving co-parcener when there is no widow with the power to adopt. 9, separate earning of a member of a joint family co-parcenary and 10, gains of learning. Such vast amount of property included in these 10 categories is today under the Mithakshara law the private property of a co-parcener. It does not become the property of the co-parcenary.

Let me illustrate this by one plain illustration. There are hundreds and hundreds of clerks in our Secretariat, some drawing small salaries, some drawing huge salaries more than the salaries of the Members of the Cabinet—Rs. 4,000 (Honourable Members : "Clerks ? Are they clerks ?") I mean officers. In a certain sense they are glorified clerks.

The point I want to put to the house is this : that such large income as gains of learning, which come up in individual cases to Rs. 4,000, if there was a joint family in the true sense of the word, ought to go to the joint family for the joint maintenance of that family. What happens ? Under the Gains of Learning Act passed only a few years ago, this very Assembly, not I mean the Members, passed a law that such gains of learning, which form, as I say, the principal part of the income of a joint family and which a member is enabled to earn by reason of the education that was given to him out of the family income, have now been made his personal and private income. My submission to the House is this : when so large a property, as I have mentioned, included in these ten different categories have already been made in modification of the original laws of Mitakshara private property, what is the balance of property that is left which can be said to comprise the co-parcenary property ? My submission is that really very, very small volume of property is left to comprise within

what is called the co-parcenary. Let me take the other question. It is said that the co-parcenary—I hope Members understand that coparcenary is something very narrow and very limited and it is not the same thing as a joint family, which is quite a different matter—system enables the Hindus to preserve the property, to retain it, that there can be no break-up, there can be no squandering of money so to say on the part of any member of the family. A question that I want to put to the House is this : Is it true under the existing law of the Mitakshara that this property cannot be alienated, cannot be squandered ? The answer is completely in the negative. Let me give you one or two illustrations. I am taking the case of the father. The father can alienate joint property for antecedent debt. All that the father has to do is to first of all create a debt, say one thousand or two thousand rupees on a personal promissory note. Subsequently, after six months he becomes entitled to sell the whole of the co-parcenary property, if that becomes necessary for the purpose of meeting that antecedent debt. Now, a submission that I want to make to the House is this : Does the lodgment of such enormous power in the hands of a father to sell the property for purely antecedent and personal debts ? I want the house to bear in mind that the Mitakshara law makes a distinction between the father and the manager so far as the alienation of property is concerned. True a manager cannot alienate a property belonging to the co-parcenary unless and until it is proved that there is a family necessity for which alienation is necessary. But with regard to the father, there is no such obligation at all. A father can create a debt personally for himself and he becomes entitled to alienate that property for a purely personal debt which has not been incurred for the pruposes of the family. The only limitation that is imposed upon the right of the alienation of the father under the Mitakshara law is that the debt must not be impious, must not be for an immoral purpose and if it is not immoral, then the father can alienate the whole of the property of the co-parcenary. There is no limit at all.

Similarly, take the case of the son. It is also under the Mitakshara law within the competence of a son to demand the partition of the family property at any time he likes. I could have well understood the argument for the conservation of the co-parcenary property if the rule of Hindu Law was that no co-parcener was entitled to alienate the property, that the property must remain the property of the coparcenary, but that is not the case. The root of dissolution, the root

of destruction of the co-parcenary property is in the co-parcenary itself, because it is the co-parcenary law that gives a vested right, a right from the very birth to demand partition of the property and disrupt the whole of the society.

Thirdly, even if a son does not alienate his property, he can create a debt on the property for his own personal pruposes and the creditor who has advanced that money under Mitakshara law has a perfect right to sue for the partition of the co-parcenary in order to recover his debt. A stranger, therefore, under the Mitakshara law has a right to break up the co-parcener. I would like to ask my honourable friends, who are worried about this matter, where a large part of the estate, of the assets lies outside the co-parcenary property and so far as the co-parcenary property is concerned, the father has a right to alienate without any kind of limitation except the immorality of the debt, the son has a right to break up the property at any time he likes and the son has a right to create a charge on the property enabling the creditor to sue for partition, is it something which might be called a solid system, which is fool-proof and knave-proof ? My submission is this, that the co-parcenary property law as it stands, contains within itself the elements of disruption. Therefore, the Bill is doing nothing very radical in saying that the share shall be held separately. As we all know to-day the condition is such that everybody wants to live separately. The moment a father dies, the sons claim that there shall be a legal recognition to facts, as they exist to-day. There is nothing that is radical at all in this part of the Bill.

Of course, I should say one thing which I think is generally not realized. I started by saying that a distinction has to be made between co-parcenary and joint family. This Bill while it does away with coparcenary, maintains the joint family. It does not come in the way of the joint family being maintained. The only thing is that the joint family in the Mitakshara law will be on the same footing and of the same character as the joint family under the Dayabhaga law. It must not be supposed that because the mitakshara law docs not prevail in Bengal that there is no joint family. There is a joint family. The only distinction will be that the members of the joints family instead of holding their rights as joint tenants, will hold them as tenants in common. That will be the only distinction that will be between the existing law in the Mitakshara and the future law in the Mitakshara.

Now, I come to woman's property. I do not know how many members of this house are familiar with the intricacies of this subject.

So far as I have been able to study this subject, I do not think that there is any subject in the Hindu Law which is so complicated, so intricate as the women's property (An honourable Member: "As the woman herself ") : As the woman herself. If you ask the question, what is *stridhan,* before answering that question, you have to ask another question and find an answer for it. You must first of all ask, 'is she a maiden' or 'is she a married woman'. Because what property is *stridhan* and what property is not *stridhan* depends upon the status of the woman. Certain property is *stridhanam* if she has obtained it while she is a maiden; certain property is not *stridhan* if she has obtained it after marriage. Consequently, if you ask the question what is the line of inheritance to the *stridhan,* you have again to ask the question whether the *stridhan* belongs to a maiden or the *stridhan* belongs to a married woman. Because, the line of succession to the *stridhan* of a maiden is quite different from the line of succession to the *stridhan* belonging to a married woman. When you come to the question of succession to married woman's property, you have again to ask the question, does she belong to the Bengal School or does she belong to the Mitakshara School. If you ask the question whether she belongs to the Mitakshara school, you will never be able to find a definite answer unless you probe further and ask whether she belongs to the Mithila School or the Benares School or some other School. This is a most complicated subject. At the same time, I should like honourable members to bear two things in mind. One is this : so far as women's property is concerned., generally speaking, it falls into two categories. One category is called her *stridhan* and the other is called widow's property. The latter property is property which she inherits from a male member of her family, and according to the existing law property which she owns only during her life time and subsequently that property passes to the reversioners of the male heir. That is the position.

Therefore, so far as women's property is concerned, we have two different sorts of inheritance and two different sets of property, *stridhan* property and widow's property. The heirs to *stridhan* property are quite different and distinct from the heirs to the property she inherits from a male member. The question, therefore, we have to consider in codifying this particular branch of the Hindu Law is this. Are you going to maintain the two principal divisions which exist at present, namely, *stridhan* property and widow's property? Secondly, are you going to maintain the double line of succession; one line of succession

for the *stridhan* property and another line of succession for widow's property? These are the two principal questions which arise when one begin to codify this law. The Committee came to the conclusion that so far as codification was concerned, its purpose would be defeated if we allow the present chaos to continue. We must either decide that a woman will not be entitled to have absolute property or we must decide that a woman should have absolute property. We must also decide what should be the line of heirs for a woman: whether they should be uniform or they should be different. The Committee came to the conclusion that so far as right to property is concerned, there should be uniformity and uniformity should recognise that the woman has absolute property.

I know a great deal of the argument that is always urged against women getting absolute property. It is said that women are imbecile; it is said that they are always subject to the influence of all sorts of people and consequently, it would be very dangerous to leave women in the world subject to the influences of all sorts of wily men who may influence them in one way or another to dispose of property both to the detriment of themselves as well as to the detriment of the family from which they have inherited the family property. The view that, the Committee has taken is a very simple one. In certain matters or certain kinds of property which is called *stridhan* property the Smritis are prepared to invest woman with absolute right. There can be no question at all that a woman has an absolute right over her *stridhan* property. She can dispose it of in any way she likes. My submission to the House is this. If the woman can be trusted to dispose of her *stridhanam* property in the best way she likes, and nobody has ever raised an argument for the obliteration of that rule of Mitakshara, the burden of proof lies upon the opponents who say that the other part of the property, namely, widow's estate, which the woman has inherited, should not become her absolute property. It is they who must prove that while the women are competent to dispose of a certain part of the property which they possess, they are not competent to dispose of a certain other part. The Committee, on a very careful examination, failed to find a satisfactory solution of this dilemma. The Committee, in my judgement, very rightly, came to the conclusion that if in certain cases women were competent and intelligent to sell and dispose of their property, they must be held to be competent in respect of the disposal of the other property also. That is the reason why the Committee have made this rule that women should now possess absolute property.

The other question that arises on this issue, namely women's property is the share of the daughter. I know it would be a very great under-statement to say that this is a ticklish question; it is a very anxious question. There are many people in this world, in India today, both orthodox and unorthodox who cannot help producing daughters; they do. I do not know what would happen to this world if daughters were not born. At the same time, they do not want to extend to the daughter the same love and affection which a parent is bound to extend both to the male and female issue. But, I am not going to use any such high level of argument in favour of the proposition which has been enunciated by the Select Committee; I am going to speak on a much lower tone. The first thing that. I would like to address myself to this house is this. The inclusion of the daughter among the heirs is not an innovation which is made by this Committee. Honourable members who are familiar with the law of inheritance as it prevails both under the Mitakshara and Dayabagha, I am sure, will admit that the daughter is included by both of them under what is called the compact series. As members will know, Hindu heirs are divided into several.categories. The first category, is called, compact series. After that, there is a series of heirs spoken of as *Sapindas,* then comes *samanodaks.* After that comes the *bandhus. Bandhus* are divided into three categories : *Atma bandhus,* Pitru *bandhus* and Matru *bandhus.* The compact series is really a special class of heirs which does not conform strictly to the basic principles of heirship surrounded round *gotraja, samanodaka* and *bandhus,* because it is a mixed category. It is a category which is based on double foundation. It is based on propinquity; it is also based on religious efficacy. They do not conform to any of the criteria which have been laid down for determining the categories of *sapindas, samanodakas* and *bandhus.*

If you take both the laws, the Mitakshara as well as the Dayabhaga, you will see that the daughter is included within the category known as compact series. The only distinction between the Mitakshra and the Dayabhaga is this. According to the Dayabhaga the necessary element in heirship is the capacity to offer oblation. Consequently the Dayabhaga makes a rule between a daughter who is unmarried, a daughter who is married, a daughter who is married but has a son, and a daughter who is a widow. They give preference to a daughter who is married and has a son. Next to that they give preference to a daughter who is married. The unmarried daughter comes

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third. But it is within that category, the reason being that a daughter who is married and has a son, is ready there to offer oblation, because her son can offer oblation. A daughter who is unmarried, has no son, and therefore his possibility of offering an oblation does not exist. That is why she has been kept down. But the point I want to emphasize, and which I want the House to bear in mind is that there is no innovation as such in the inclusion of the daughter in the category of compact series. She has always been there both according to the Mitakshara and according to the Dayabhaga. The only innovation which the Bill seeks to make is to raise the status of the daughter. Under the Bill she becomes simultaneous heir, along with the son the widow, the widow of the predeceased son, son of a predeceased son of a predeceased son, widow of a predeceased son of a predeceased son.

The point is this that originally, and particularly according to the Mitakshara Law, no female was entitled to any kind of share at all. This law was changed in the year 1937 whereby the widow of the deceased, the widow of the predeceased son and of his grandson and great-grandson—they were all made simultaneous heirs along with the son. The only omission that was made was in respect of the daughter. The government at that time was not prepared to lend its support to put the daughter on the same level as the widow and the widows of the predeceased son and the predeceased son's son. This is therefore the only innovation that the Bill makes. It merely raises it up in the order of heirs. It is not that for the first time she has been made an heir.

Now I come to the question of her share. As the Rau Committee has pointed out, and as many of the witnesses who know the Shastras have pointed out, that it is impossible to deny the fact that the daughter according to the Smritis was a simultaneous heir along with the son and that she was entitled to one-fourth share of her father's property. That has been accepted as a text from the Yagnavalkya and also from Manu. I once counted 137 Smritis and I do not know why our ancient Brahmins were so occupied in writing Smritis and why they did not spend their time doing something else it is impossible to say, assuming that that occupation was a paramount occupation of the day. There is no doubt that the two Smritikars whom I have mentioned—Yagnavalkya and Manu, rank the highest among the 137 who had tried their hands in framing Smritis. Both of them have stated that the daughter is entitled to one-fourth share. It is a pity that somehow

for some reason custom has destroyed the efficacy of that text: otherwise, the daughter would have been, on the basis of our own Smritis, entitled to get one-fourth share. I am very sorry for the ruling which the Privy Council gave. It blocked the way for the improvement of our law. The Privy Council in an earlier case said that custom will override law, with the result that it became quite impossible to our Judiciary to examine our ancient codes and to find out what laws were laid down by our Rishis and by our Smritikars. I have not the least doubt about it that if the Privy Council had not given that decision, that custom will override text, some lawyer, some Judge would have found it quite possible to unearth this text of Yagnavalkya and Munusmriti, and women today would have been enjoying, if not more, at least one-fourth of the share of their property.

The original Bill had raised the share of the daughter to one-half. My Select Committee went a step further and made her share full and equal to that of the son.

I am not entitled to disclose what happened at the Select Committee and how this provision came to be made. I am perfectly .....

Shrimati Renuka Ray (West Bengal: General): Unanimously !

Mr. Deputy Speaker : Was it a compromise between twice the share of a son claimed and half the share provided in the Bill ?

The Honourable Dr. B. R. Ambedkar : It was not a compromise. My enemies combined with my enthusiastic supporters and my enemies thought that they might damn the Bill by making it appear worse than it was.

Shri. H. V. Kamath : Have you any enemies.

The Honourable Dr. B. R. Ambedkar : However, this is the position, namely, so far as the daughter's share is concerned, the only innovation that we are making is that her share is increased and that we bring her in the line with the son or the widow. That also, as I say, would not be an innovation if you accept my view that in doing this we are merely going back to the text of the Smritis which you all respect.

I might also say that in discussing this question about the share of the daughter, myself, and the members of the Law Department examined every system of inheritance. We examined the Muslim system of inheritance : We examined the Parsi system of inheritance : We examined also the Indian Succession Act and the line of succession

that had been laid down and we also examined the British system of inheritance, and nowhere could we find any case where a daughter. was excluded from a share. There is no system anywhere in the world where a daughter has been excluded.

Now, Sir one question has been brought forth constantly—that the giving of the share to the daughter means disruption of the family. I must frankly confess that I cannot appreciate the force of that argument. If a man has twelve sons and one daughter, and if the twelve sons on the day of the death of the father immediately decide on partition and obtain a twelfth of the total property of the father, is the partition going to be much more worse, if mere was a daughter, the thirteenth, who also demanded a share ?

Twelve share or 12 fragments is not a better situation than 13 fragments. If you want to prevent fragmentation we shall have to do something else, not by the law of inheritance but by some other law, whereby property shall not be fragmented so as to become less useful from a national point of view for purposes of national production.

Shri T. A. Ramalingam Chettiar (madras : General): Is the Hindu Code applied to agricultural land ?

The Honourable Dr. B. R. Ambedkar: It is not. I am saying generally.

I think I have, so far as I know, exhausted what I have to say on the various points of controversy which I had seen raised both by members of this House as well as by the members of the public. I hope that the clarification which I have given on the various points will allay the fears of members who are not well disposed towards this measure. They will realise that this is in no sense a revolutionary measure. I say that this is not even a radical measure and I should like to draw the attention of the members of this House to one important fact, namely the consitution and composition of the Rau Committee. There were four members of that committee but I should like to point out that two of them who have signed the report are far from radical members of the Hindu community. My friend Mr. Gharpure, whom I have known for a long number of years, is one of the most conservative members I know .....

Shri H. V. Kamath : Politically or Socially ?

The Honourable Dr. B. R. Ambedkar : Politically and socially also. In fact I have no hesitation in saying that he may on certain

occasions find it very difficult to touch me even with a barge pole. He is so conservative. My friend Mr. T. R. Venkatarama Sastri is no doubt a liberal but he is certainly not a radical so far as I know. If these people conservative in their attitude have signed the report I think we can take it for granted that the measure to which they have put their signature could not be revolutionary and certainly could not be destructive of the foundations of the Hindu Society. So far as I am concerned I am a very conservative person : Although some people may not accept that fact, I am indeed very conservative. All I say is that I am a progressive conservative and I should like to tell the House one important fact which I think every one of us must bear in mind, particularly the conservative members of this House. The great political philosopher Edmund Burke who wrote a big book against the French revolution because of its radicalism and revolutionism did not forget to tell his own countrymen who were very conservative, one very important truth. He said that those who want to conserve must be ready to repair and all I am asking of this house is this : that if you want to maintain the Hindu system, the Hindu culture, the Hindu society, do not hesitate to repair where repair is necessary. This Bill asks for nothing more than repairing those parts of the Hindu system which are almost become dilapidated.

Shri H. V. Kamath : Sir, on a point of reminder, the Honourable Dr. Ambedkar promised some citations from the Smrities. Will he keep promise ?

The Honourable Dr. B. R, Ambedkar : I shall do so at the end. Fortunately for me I have secured a copy of Mr. Dwarkanath Mitter's own book "Rights of Hindu Women". I was going to cite certain text, which show that the rights which the Vedas had given to women were taken by the Smrities in the meantime and some other smrities tried to restore those rights. I shall cite them in the course of my speech.

Shri Deshbandhu Gupta : Could the Honourable Minister enlighten the House as to the evidence which was produced before the Select Committee?

The Honourable Dr. B. R. Ambedkar : As Honourable Members know two bodies came to us and asked for evidence to be taken. The Committee decided that their evidence be taken. One body came and one body sent in a written reply. That body was the Dharma Nirnaya Mandal. In general they are absolutely in agreement with the provisions contained in the Bill. The other gentleman who came obviously was not.

Mr. Deputy Speaker : Motion moved:

"That the Bill to amend and codify certain branches of the Hindu Law, as reported by the Select Committee, be taken into consideration".

Two amendments were not pressed. What about the next amendment ?

Pandit Thakur Das Bhargava : Sir, I am not in a position to move any of my amendments.

Mr. Deputy Speaker : As I have already stated in answer to the suggestion made by the Honourable the Mover of the Bill I shall allow those motions to be made without any speeches at the time of moving the motion. After all the amendments are moved whichever are relevant and are admitted, there will be discussion on them as also on the original motion.

Shri Deshbandhu Gupta : On a point of order, Sir, is it open to an honourable Member to say that he is not in a position to move his amendments?

Mr. Deputy Speaker : It is.

Mr. Naziruddin Ahmad : Sir, I am directed .....

An Honourable Member : By whom ?

Mr. Naziruddin Ahmad : I am directed to move my amendment without a speech at the first instance. (*An honourable Member;* "Who has directed you?") I am directed by the Honourable Deputy Speaker. I find that honourable members are extremely impatient.

Shri R. K. Sidhva (C. P. and Berar: General): No, we are not. Proceed.

Mr. Naziruddin Ahmad : I have been directed, I repeat, to move my amendment without a speech. On account of the eloquence of my honourable friend the Law Minister I was already speech less .....

Shri L. Krishnaswami Bharathi : You are already disobeying your mandate.

Mr. Naziruddin Ahmad : There are the bright ladies who have also created a profound impression upon me and just before I stood up Pandit Thakur Das Bhargava, a very powerful member, said that he was not in a position to move.

Mr. Deputy Speaker : Is this preamble necessary for moving his amendment?

Mr. Naziruddin Ahmad : I was already rendered speechless and that is why I was expressing my gratitude for suggesting that I should not make any speech.

Mr. Deputy Speaker: The honourable Member will speak later.

Mr. Naziruddin Ahmad: Sir, I beg to move with considerable amount of nervousness :

> "That the Bill be circulated for the purpose of obtaining further opinion thereon by the end of 1949."

Mr. Deputy Speaker: Amendment moved :

> "That the Bill be circulated for the purpose of obtaining further opinion thereon by the end of 1949."

Shri B. Das: Sir, as this is a dilatory motion I suggest it may be ruled out of order.

Shri Mahavir Tyagi: On a point of order; in the morning also there was some ruling about dilatory motions. I submit, Sir, that they are the privilege of a Member. Although I stand by Dr. Ambedkar in many respects with regard to this Bill, I submit that dilatory motions are the privilege of those Members who are not in power—of individual Members as well as parties. Let it not be tabooed. It is a democratic right of Members to delay business if they choose to do so. Therefore a motion should not be disallowed because it is considered to be diatory. Dilatory motions are the privilege of a House of democracy.

Mr. Deputy Speaker: I do not see any point of order in what Mr. Tyagi has said. He wants full discussion to be allowed on this. As regards the point raised by Mr. B. Das I am not able to understand it. Does he mean to say that under any of the Rules such a motion is not allowable ? If so when Report is presented, the procedure is this. (*An honourable Member:* "What Rules are they ?") The rules that we adopted last session.

The Rule says :

> "If the member in-charge moves that the Bill be taken into consideration, any member may move as an amendment that the Bill be re-committed or be circulated or re-circulated for the purpose of obtaining opinion or further opinion thereon."

Therefore under the Rules this kind of motion is allowed. I want to know how I am expected to disallow this motion.

Shri B. Das : I am aware of that Rule. But I was guided by the ruling of this morning that no dilatory motions would be allowed. I therefore raised the point of order.

The Honourable Dr. B. R. Ambedkar: May I be permitted to say something ? I think the point raised by my friend Mr. B. Das is a perfectly correct point of order, because of this . . . . .

Honourable Members : No.

Pandit Thakur Das Bhargava: When the Deputy Speaker has given a ruling it cannot be questioned.

Mr. Deputy Speaker: The honourable Members will not speak all together. They will rise in their seats and speak one at a time. Let me hear the Honourable the Law Member. I will allow an opportunity to every Member to speak on this point provided he is able to make a proper contribution to the debate. Nobody need be impatient.

The Honourable Dr. B. R. Ambedkar: Sir, as you will recall the motions which are permissible under the Rules of Business fall into two categories : One set of motions are such that the Speaker must put them to the House; the other set of motions are such that the Speaker must first be satisfied that they are proper motions before he can put them to the House. Let me illustrate this by reference to a motion for adjournment. Under the Rules every honourable Member is permitted to move an adjournment motion. But merely because a certain member has tabled an adjournment motion that in itself does not authorise, enable or empower the Speaker to put it to the House, because it is laid down that unless the motion is held to be admissible by the Speaker the motion shall not be put. I can give various other illustrations. With regard to a motion like this, namely, the adjournment of the consideration of the Bill and circulations for further opinion, my submission is that such a motion falls within that category of motions where the Speaker is required to be satisfied before he can put the motion to the House. It has been the universal practice in this House that any such motion for the postponement of the consideration of the Bill or for circulation, made after the Select Committee has made its Report, is *prima facie* dilatory. Unless the member who makes the motion advances substantial reasons for such a motion and the Speaker is satisfied that the reasons advanced are substantial such a motion will not be admissible. There are many rulings in these books but I should like to draw attention to ruling No. 1 in book No. 1. In regard to this motion no substantial reasons have been given.

An Honourable Member: But he has not spoken at all.

Mr. Deputy Speaker: Let the honourable the Law Member conclude.

The Honourable Dr. B. R. Ambedkar : I was only drawing your attention to a ruling (No. 1) in this book. There are various others also. It says:

> "During the discussion on the Cotton Excise Duty Abolition Resolution a motion was moved to adjourn the debates on the Resolution. (*Which practically means sending it away for circulation or to leave it up.*)

"The President while accepting the motion on this particular occasion without creating a Precedent remarked :

"The Chair cannot allow a motion to adjourn consideration of a proposition to be moved merely in order to enable another item of business to come forward. It must be supported on substantial grounds."

Pandit Thakur Das Bhargava: The ruling says it is not a precedent but you want to make a precedent of it.

The Honourable Dr. B. R. Ambedkar: The President says 'I am ruling but I am not creating a precedent.'

Pandit Thakur Das Bhargava : In this matter I would call your attention to page 81 of ' Decisions of the Chair ' which says that there are certain motions which can be stated to be of a dilatory nature. The question of circulation is not certainly one of such nature. But there are motions of a dilatory nature and it is in the discretion and power of the Chair to allow them or not to allow them. One page 81 of this book in regard to re-committal of motions it has been held that though to start with, it may be regarded as a dilatory motion, if something happened in the Select Committee or some events have transpired since, the Chair is perfectly authorised to say that it is not a dilatory motion. Now the honourable Member has not been asked what the reasons are and before that my honourable friend gets up and says that it is a dilatory motion. It is absolutely wrong for him to suggest at the very outset that it is a dilatory motion. A circulation motion is not a dilatory motion. Unless the Speaker comes to the conclusion that nothing has transpired in the Select Committee or no further events have taken place which justify him to retard that motion I think the Speaker is not entitled to say that any of the motions are also dilatory. Ordinary motions countenanced by the rules cannot be regarded as dilatory motions.

Mr. Naziruddin Ahmad: Sir, I think matters can be cut short in a minute. The precedent relied upon by the Honourable the Minister of Law does not apply to this situation at all. The heading is, "Adjournment of Debate", ...

The Honourable Dr. B. R. Ambedkar: This is an adjournment of debate, if the motion is carried.

Mr. Naziruddin Ahmad : No, it is entirely different as I shall show. The sub-heading is "Adjournment of Debate: Motion when allowed to be moved:". I do not move for an adjournment of this debate, which certainly could be done under amendment No. 2, that is:

"That the consideration of the Bill, as reported by the Select Committee be postponed."

My object is continuance of the debate, consideration of the motion, and I want the consideration to be taken along with my motion. A further reading of the ruling relied upon by Dr. Ambedkar will make it absolutely clear:

> "During the discussion on the Cotton excise Duty Abolition Resolution a motion was moved to adjourn the debate on the Resolution.
>
> "The President while accepting the motion on this particular occasion without creating a precedent, remarked : The Chair cannot allow a motion to adjourn consideration of a proposition to be moved merely in order to enable another item of business to come forward. It must be supported on substantive grounds."

As I understand it, there was at the time one motion before the House and there was another perhaps more interesting or more important in advance. A Member proposed the adjournment of the discussion of a resolution which was under consideration so that another more interesting Motion may be taken up. It was the attempt to adjourn the first Motion that was said to be unacceptable. Here I do not propose adjournment of the debate.

The Honourable Dr. B. R. Ambedkar: It all comes to that.

Mr. Naziriruddin Ahmad: Here we are concerned with the interpretation of Rule 52. The plain reading of this rule would show that the motion is in order. Without abrogating the rule it cannot be held that it is out of order.

Pandit Hirday Nath Kunzru (U. P. : General): This Bill admittedly has created a great deal of feeling and it would be most undesirable to add to it by restraining the discussion in any way. I think the only way of making every section of the House feel that full opportunity was being given to it to express its opinion on this and to allow the discussion. Whatever our individual views regarding the merits of the Bill before us may be, that should be no ground for opposing the Motion of my honourable friend Mr. Naziruddin Ahmad.

Dr. Ambedkar quoted a ruling of the Chair in regard to a matter that is not on all fours with that under consideration now. In the first place the ruling was given in regard to a Resolution and not in regard to a Bill. In the second place, the rules lay down clearly that so far as a Bill is concerned a Motion may be made not merely that the Bill be circulated but that it may be recirculated, not merely that it should be referred to a Select Committee but that it should be recommitted to it. The language is therefore absolutely clear. If, whenever a Motion is made for the re-committal or re-circulation of a Bill, it is opposed on the ground that it is a dilatory Motion, the clear

rights, the rights most unequivocally given to Members by the Rules will be completely *null and void.* We may feel impatient that a Motion like that of Mr. Naziruddin Ahmad may be ruled out. We may be ready to turn it down, but that is no reason for not allowing it to be moved. In my humble opinion, it is most assuredly in order and we shall be doing a great injustice if in order to pass a law in which we are keenly interested we whittle down the rights of Members and try to interpret the Rules in a manner convenient to whatever may happen to be the majority at any particular time.

Shri L. Krishnaswami Bharathi : Sir, the only point is that under Rule 52(2) no doubt every Member has a right, but the important point is that it is subject to admissibility which is at the discretion of the Speaker. All that Dr. Ambedkar said was, that we have no doubt the right to ask interpellations, but that certainly does not mean that all interpellations should be put on the Agenda Paper; it is subject to admissibility. There being the discretion, all that you have got to decide now is, whether it is in the nature of a dilatory Motion. You may ask Mr. Naziruddin Ahmad to give his reasons. If you are satisfied that he has a good ground to move his Motion, then you have got the discretion to allow him to move it. Therefore, it is now for you, Sir, to ask him and be satisfied; and if you are satisfied that he has valid grounds, certainly he can move the motion. That is a point which Dr. Ambedkar raised. Every Member is entitled to speak and take his chance. All that you are concerned with, is a matter of procedure; the procedure being that a Motion is subject to admissibility, which is within your discretion. I may suggest that you may ask Mr. Naziruddin Ahmad to give his grounds and it is ultimately for you to decide whether it is in the nature of a dilatory motion, in which case you have to rule it out of order; but if you are satisfied about the grounds then, you may allow the motion to be moved.

Mr. Tajamul Hussain *rose—*

Babu Ramnarayan Singh : Sir, I have something important to say.

Mr. Deputy Speaker : On the point of order ?

Babu Ramnarayan Singh : Yes, Sir.

Mr. Deputy Speaker : All right.

Mr. Tajamul Husain (Bihar : Muslim): Sir, I caught your eye first. I have also got a point of order.

Mr. Deputy Speaker : After this point of order is disposed of Mr. Tajamul Husain's point of order will be considered.

Babu Ramnarayan Singh : Sir, you have already quoted the rule. I am sure no ruling can be given by any President against a Rule. The thing is this : there may be a subject under discussion in the House on which opinions may be divided—it is quite natural. One section of the people may look upon the subject as a boon, and the other section may look upon the subject as a danger, as a plague, as a curse. That section of the people who look upon the subject as a curse has the right not only to delay the Motion, but even to kill it. Here also, I think this section has the right to move the Motion and I think justice demands that they may have all the privileges and all the rights.

Mr. Tajamul Husain *rose*—

Mr. Deputy Speaker : There is another point of order which the honourable Member is raising, I will come to it next.

I am afraid the honourable Member Mr. Naziruddin has himself invited all these points of order because he started one this morning. Apart from any technicalities we may ask Mr. Naziruddin what his purpose is and what important points he has in view in making his motion for circulation.

Mr. Naziruddin Ahmad : I think this question .....

Pandit Hirday Nath Kunzru : May I ask you, before Mr. Naziruddin Ahmad replies, whether you have come to the conclusion that the right of the member to move the re-circulation of the Bill is subject to the discretionary power of the Chair ?

Honourable Member *rose*—

Mr. Deputy Speaker : Order, order. Members must respect the Chair. When I stand up, they will kindly sit down. I think I have heard sufficiently. Is it not open to the Chair to ask for reasons ? It does not mean that I have come to a conclusion one way or the other. I am trying to make up my mind. I have heard Mr. Bharathi's point. Apart from the question as to whether the Chair, under the rules, has got the right to allow or disallow, I want to know on what grounds—if there are any—this motion should be accepted. After hearing that, I shall give my ruling.

Mr. Naziruddin Ahmad : My reply to that is two-fold. The first is the admissiblity of the motion as a matter of law, and secondly as to the reasons for the motion, they are matters of merit. At present, I have been asked by the Chair not to make a speech and I have been entirely prevented from giving the arguments on the merits as

to why this motion should be accepted. I submit a distinction should be made between the legality and admissibility of the motion and the grounds on which it is based for the acceptance of the same by the house. I submit that at this stage, in order to admit the motion which I have made, I think, Sir, I may not say anything at all.

Mr. Deputy Speaker : I have heard sufficiently on this matter. So far as Mr. Das, point that this motion is one of a dilatory nature, I consider that this motion differs materially from the one referred to by the Honourable the Minister for Law. He quoted the rulings of the Chair and gave the instance of ruling No. 1 on the postponement or adjournment of the debate. When motions for postponement for which there are no particular rules of procedure are made, it is open to the Chair to treat them as dilatory motions and require to be satisfied on what substantial grounds an adjournment of the debate is necessary. So far as. the present motion for circulation is concerned, it is one for which provision is made in Rule 52(2). The honourable the Minister for Law referred to the analogy of adjournment motions, but regarding adjournment motions there are specific rules laid down here, giving power to the Speaker to come to a conclusion as to whether *prima facie* a motion is in order or not. I am referring to rule 36. The right to make adjournment motions depends upon certain conditions as in the case of questions. Unless a question comes under one or other categories provided for under the rules it is open to the Speaker to disallow it; similarly, with respect to adjournment motions also, there are six conditions which must be satisfied. There is provision also for asking for leave. First of all, it is open to the Chair, if it so chooses, to say that a motion is not in the public interest, it is old and so on. Secondly, even if he chooses to admit it, he must ask if the motion has the support of at least twenty five members of the House; then leave is granted. In such cases special provisions have been made. This present motion for circulation does not fall in the same category as the others.

As regards ruling 120 on page 81, it refers to Select Committee motions. I do not find any ruling of the Chair till now, in either of these two books "Decisions of the Chair" in point stating that a motion for re-circulation is a dilatory motion. In these circumstances, I do not want to curtail the powers of the house. It does not mean, if I allow the motion, the House is obliged to accept it. Even if it is moved, the House may reject it after debate if it is not satisfied. Under these circumstances, inasmuch as the rulings are not clear on this point,

I do not want to throttle this motion. The honourable Member may proceed. I have already said that honourable Members will first move the motions standing in their names and then there would be a debate on all the motions together. The next amendment stands in the name of Pandit Mukut Bihari Lal Bhargava and Shri Jhunjhunwala.

Pandit Mukut Bihari Lal Bhargava : The motion moved by my honourable friend Mr. Naziruddin Ahmad is substantially the same. Therefore, I would like to support his motion.

Mr. Deputy Speaker : He need not give his reasons for not presenting. What about Mr. Jhunjhunwala ?

Shri B. P. Jhunjhunwala (Bihar : General): I join my friend Mr. Bhargava.

Mr. Deputy Speaker : So he does not press. Nos. 7 and 8, I have already said are out of order. The scope of the Bill is confined to the provinces and not to any acceding State.

Mr. Naziruddin Ahmad : In regard to States which have entirely united themselves within the Indian Dominion, they stand on a different footing. The Eastern States have combined with the province of Orissa. They are now part of India. The bill will apply to them.

Mr. Deputy Speaker : I can understand it only this way,—Whether they have become part of a province or not if they are parts of a province, the Bill will apply. It is not necessary that a copy of the Gazette should be sent to every village and every corner of the country. If the State has become a part of province, it takes all the rights and liabilities of the province. I do not see any reason why the Bill should be once again circulated. Therefore I rule admenment No. 7 is out of order. No. 8 is also out of order. No. 9, does Mr. Bhargava move ?

Pandit Thakur Das Bhargava : I have already said that I do not propose to move.

Mr. Deputy Speaker : Then the next amendment. Mr. Naziruddin Ahmad.

Mr. Naziruddin Ahmad : Sir, I beg to move as an alternative to the one which I have already moved:

> "That the Bill be re-committed to the same Select Committee, to which it was sent, for a further report thereon with reference to the original Bill which was referred to it on the 9th April, 1948."

Mr. Deputy Speaker : Amendment moved :

> "That the Bill be re-committed to the same Select Committee to which it was sent for a further report thereon which reference to the original Bill which was referred to it on the 9th April 1948."

Shrimati Renuka Ray : In view of the Speaker's ruling, it is out of order. It goes against the Speaker's ruling.

Mr. Deputy Speaker : The re-circulation motion is before the House. Why should the House not consider this motion also after all ?

Shrimati Renuka Ray : It goes against the Speaker's ruling of the other day.

Mr. Deputy Speaker : May I ask the Lady Member how it goes against the Speaker's rulling ?

Shrimati Renuka Ray : The Speaker ruled that the Bill is the same as committed to the Select Committee and therefore there cannot be a motion for recommittal to the Select Committee. There has been no substantial change in the Bill.

Mr. Naziruddin Ahmad : There are many substantial changes as I shall show.

Mr. Deputy Speaker : No speeches across the benches please. So far as the arguments advanced by the Lady Member are concerned, what I feel is this. The Speaker certainly said that the Bill considered by the Select Committee is not different from the one committed to it. But recommittal may be on various other grounds. Therefore, unless any objection is taken on other grounds

Shrimati Renuka Ray : The words "original Bill" are there.

Mr. Deputy Speaker : Original Bill is the same as the other Bill. Therefore, he has said "original Bill". We will drop the word "original".

Shrimati Renuka Ray : I would humbly submit that the word "original" is there. Therefore, we cannot drop it now from the motion,

Mr. Deputy Speaker : The Speaker ruled that the Bill that came out of the Select Committee was the original Bill and therefore there is no harm in using the word "original". The objection taken was that the original Bill was not considered by the Select Committee. Hon'ble the Speaker ruled that it was the original Bill itself that was considered by the select Committee. Therefore, the honourable Member has stated in his amendment that the original Bill be recommitted to the Select Committee. The argument advanced by the Lady Member is against her own objection. I find there is nothing wrong in this motion.

Shri R. K. Sidhva : The Mover's intention is quite different. He does not consider this Bill as the original Bill and therefore he wants this to be sent to the same Select Committee.

Shri H. V. Kamath : Though the intention of the Mover is clear, I think my honourable friend Pandit Naziruddin Ahmad, in drafting the amendment has slightly over-reached himself. I would suggest to him that he may reconsider the whole matter and bring it up again sometime later.

Mr. Deputy Speaker : I do not consider that the use of the word 'original' affects the position at all. On the other hand, the Speaker's ruling was that it was the original Bill that was referred to the Select Committee and that it was that Bill that came back in a modified form. I cannot accept that as an objection. There is no good, spending more time over this matter.

Amendment No. 13 may be moved.

Pandit Mukut Bihari Lal Bhargava : My amendment is substantially the same as the one moved by Mr. Naziruddin Ahmad. I will speak in support of it and not move mine.

Mr. Deputy Speaker : The honourable Member will then have to take his turn after that of the Movers of the other amendments.

Amendment No. 14 is not moved.

Mr. Naziruddin Ahmad : I intend moving my next amendment if my amendment No. 10 is passed.

Shrimati Renuka Ray : I rise to a point of order. Amendment No. 15 goes against the Speaker's ruling.

Mr. Deputy Speaker : The Speaker's ruling does not cover this point. This House may not be satisfied with the re-arrangement made by the Select Committee. Therefore the original motion that it be referred to the Select Committee can stand. There is no point of order so far as this matter is concerned.

Mr. Naziruddin Ahmad : Then, Sir I move:

> "That the Bill be re-committed to the Select Committee with instructions for report on the original Bill as presented to the House restoring the original arrangement of self-contained separate Parts and Chapters for enactment separately".

Mr. Deputy Speaker : I am afraid, I must disallow this amendment. As there can be no objection to the re-arrangement of Parts and Chapters, I rule this amendment out of order.

Shri B. Das : Sir, before the next amendment is moved, I want your ruling as to whether one member can move five amendments ?

Mr. Deputy Speaker : Alternative amendments can be given notice of. The honourable Member has been sufficiently long in this house to know this.

In the next amendment of Mr. Naziruddin Ahmad, the only adddition is of the words "31st December 1949". I do not think he need move amendment No. 16.

Mr. Naziruddin Ahmad : The Select Committee referred to there is a separate select committee.

Mr. Deputy Speaker : I do not think I can allow this amendment to be moved. The honourable Member must have given the names of the Members for the Select Committee at the time of giving notice of the motion.

Mr. Naziruddin Ahmad : I have divided it into two parts. First of all there is the idea of the Select Committee. If it is acceptable . . .

Mr. Deputy Speaker : The house cannot be asked to give its opinion first in a matter of this kind. As the honourable member has not given the names of the Members for the select committee to the Chair earlier, his amendment is ruled out of order.

Discussion on the general motion may now be resumed. I call upon Seth Govind Das to speak now.

Seth Govind Das : *Sabhapathiji* . . . . .

Shri L. Krishnaswami Bharathi : During general discussion the honourable Member who has moved an amendment has the first right to speak.

Mr. Deputy Speaker : The honourable Member will leave it to the Chair. The Chair knows the procedure.

Mr. Tajamul Husain : I have been trying to raise a point of order for a long time. Sir, I shall be very brief. The honourable member Mr. Naziruddin Ahmad who is very keen on punctuation, on commas and full stops etc. has given notice of this amendment that this Bill be circulated. This is absolutely out of order. The honourable member should have worded his amendment thus. This Bill be re-circulated. That is my point of order. This is what the relevant rule says : 'any member may move as an amendment that the Bill as reported by the Select Committee be re-committed or re-circulated as the case may be for the purpose of obtaining opinion or further opinion thereon'. Therefore, the honourable member who is very keen on commas and full stops etc. should have put the words "re-circulated for further opinion". My point of order, therefore, is that as the wording of this amendment is not according to the rules, it may be ruled out of order.

Mr. Deputy Speaker : It is true that the honourable member who has tabled this motion, who is ordinarily careful with reference to punctuations has committed there error of not putting the word 're'. I ought not to decide it is a matter of form, but as one of substance and this motion for circulation comes after the report of the Select Committee has been received. Therefore, it means under the circumstances only 're-circulation'. I have already given the ruling. The ruling will stand. The debate will be continued by Seth Govind Das.

4 P.M.

Shri V. S. Sarwate : Mr. Deputy Speaker, Sir, I want to bring to your notice that I have already given a motion for re-circulation and it is based on those two motions. I do not know, why it was omitted in the consolidated list. These two motions are dated the 21st August 1948. I do not wish to take further time of the house. I will read the motion so that it can be taken up for further discussion. The motion stands thus ;

> "That the Bill as reported by the Select Committee be re-ciurculated for the purpose of obtaining further opinion thereon"

Mr. Deputy Speaker : Have honourable members got copies of this notice? (*An honourable Member:* "Yes, Sir") I will ask the honourable member to read it out.

Shri V. S. Sarwate : The motion runs as follows :

> "That the Bill as reported by the Select Committee be re-ciurculated for the purpose of obtaining further opinion thereon"

Mr. Deputy Speaker : When was this notice of amendment given ?

Shri V. S. Sarwate : Notice was given on 1st August 1948. The amendment forms part of Supplementary list No. 2.

Mr. Deputy Speaker : The motion was made on the 1st August and the 12th of August is the date of the Select Committee's report and possibly a week later it was presented to the House.

Shri L. Krishnaswami Bharathi : The motion was made on 31st of August.

Mr. Deputy Speaker : The motion need not be made. It is after the presentation of the report. But all notices lapse after the session is over. A fresh notice should have been given. I do not know if honourable Members have got copies of this.

Shri Jaspat Roy Kapoor : I have got a copy of this. It is a consolidated list; Notice of Amendments..... This was sent from

the office on the 28th August 1948. There are twenty-four amendments mentioned in this list and Mr. Sarwate's amendment stands as the fourth on this list.

Mr. Deputy Speaker : These notices were all for the last session. These notices have all lapsed at the end of that session. Only those amendments, copies of which have been placed on the table before each honourable Member now, these only will have to be taken for consideration. The other notices have lapsed. Therefore further debate will be continued by Seth Govind Das.

*** Seth Govind Das :** *(English translation of the Hindi speech)* Mr. Deputy Speaker, I find that the supporters and opponents of this Bill can be divided into four groups. One of the opponent groups consists of those persons who oppose this measure with the same viewpoint as was exhibited by certain antagonists at the time of enactment of law for the abolition of *Sati,* the law which was got passed by the late Shri Ishwar Chandra Vidyasagar for widow-remarriage and the measure put forth by Mr. Sharda for the prevention of child marriages being brought on the Statute Book. At the time of Sharda Bill, I was a member of the Council of State and I personally know the opposition that was then meted out to this Bill. This group is of the opinion that no change can be made in that what has been prescribed in the text of our *Vedas, Shastras* and *Smritis.* I do not belong to that group. It would be noticed even from reference to our *Dharmashastras* that if one *Rishi* (Sage) said something from time to time, the other said something else. Had this not been the case, our *Rishi* would not have written. *Smritis* numbering more than one hundred. If you go through these *Smritis,* you will find that the tenets laid down in one *Smriti* differ those contained in the other. Each of these *Smritis* enunciates a different principle. Then just as I have stated, I am not one of tliose groups who have opposed almost all the reforms that have been introduced hithertofore.

The second opposing group is that which on the one hand believe that there is obviously a necessity for making reforms in these affairs, but on the other hand, it holds that this is not the proper time for the enactment of such a legislation. This should be brought forth only after the new elections have taken place, and when our new representatives have been elected. I would like to say that there will

*C.A. (Leg.) D., Vol II, Part II, 24th February 1949, pp. 861-71.

not be any harm if instead of making any change in the Hindu Law at present, we do this even three years hence. This is a subject over which the whole country has got to think; all of us have to think, all of those who are sitting here have to think and those who are likely to occupy these seats in this House in the future shall have to think. Therefore, I feel that there is a good deal of force in the arguments advanced by the second group that it is neither the proper time nor the place to bring forth such a measure, and for this reason, I would urge that we should consider this aspect.

Just as I have stated, even the supporters of this Bill can be divided into two groups, one which does not at all like to see any of our old traditions, and does not want to recognise the fact that this country is one of the ancient countries having a brilliant past, glorious history, high culture and great traditions. Such type of reformers do not at all care as to what our past heritage is and how are we to reconstruct our country today ? These reformers have been considerably influenced by the Western education, and have scant regard for the ancient history, culture and even the old traditions in the sphere of social reforms. I would like to say that if such sort of reforms are introduced in this ancient country, this *Bharatvarsha* (India) will not longer remain as *Bharatvarsha*—but it would become something else. The other group of reformers is that which believe in the necessity of reforms being introduced but after having due regard to our ancient history, culture and traditions. I do not belong to the first group but to the second. I admit that it has become absolutely necessary to introduce reforms, but in spite of all this, we should carry out the reforms after keeping in view our old traditions, ancient culture and civilisation.

At this time when we are framing our Constitution, when we have already passed the clauses relating to the fundamental and justiciable rights and when it is hoped that our Constitution will be finally adopted sometime during the period intervening between the 16th of May and 15th of August next, it would have been quite in order had this measure been brought forth in consonance with the provisions of the new Constitution. Today when we call our country a ‘ Secular State ’, when we admit that all the persons in this country—whatever religion they believe in, to whatever community they may belong, may be Hindu, Muslim, Sikh, Parsi—whoever he may be—he should be given equal rights of citizenship. Therefore, I would say that the Honourable

Dr. Ambedkar should have presented to this House such a Bill which would have concerned not the Hindu's alone, but would have been made applicable to all the citizens of this country. While admitting this country as a 'Secular State', the idea of introducing a Hindu Code Bill seems to me quite inappropriate. Then again if we now see this Bill, we shall have to admit this that it .....

Shri R. K. Sidhva : The Honourable Dr. Ambedkar referred to the ancient *Shastras.* You may also point out which of the *Shastras* go against the provisions of Hindu Code ?

Seth Govind Das : Now if we see this Bill, we find that it contains many such Clauses to the acceptance of which there should not be any objection. And if at all this Bill is not postponed but is passed into Law, I am sure we shall accept these Clauses without indulging into any sort of controversy. But along with this, we also feel that it contains many such Clauses the acceptance of which is succeptible of being considerably harmful. The Honourable Dr. Ambedkar has himself admitted today that many of the Clauses arc of controversial nature and he has also thrown sufficient light on these controversial issues. The first controversial issue is ' marriage' and ' divorce ', If we take up the ' marriage ' and 'divorce', I would be prepared to accept one thing at least that we should make some such change in our legislation which would do away with the Caste System. And if any *Brahmana* wants to marry a *Sudra* or a *Sudra* a *Brahmana;* or setting aside the case of *Brahmana* and a *Sudra,* if any Hindu wants to marry a Muslim or any Muslim a Hindu, or if the members of any community wants to have inter-communal marriages, there should not be any bar to such marriages being solemnized. This Caste System has ruined our country. It has resulted in the remification of our country and society into small parts—may even the smallest sections. All of us are very well aware of the disabilities that exist in the marginal sphere today and which are the outcome of this dismemberment. The old people also know this and even today—they look upon the solemnization of such marriages with abhorence. They say that they have to marry their sons as well as daughters against their wishes. But I fully support such a freedom being given. I am even a supporter of 'divorce'. I would submit that notwithstanding the fact that no 'Marriage Code' has so far been invented in the world which may be regarded as the panacea for the removal of all ills, still we have got to see that if the husband and wife cannot live a harmonious life, they should be given the right of divorce. The Honourable Dr. Ambedkar

has stated that the system of divorce already prevails among 90 per cent of the people in this country. These 90 per cent. are called *Sudras*. I, on my part, do not find any difference between the *Brahmana* and *Sudra*, and feel that it would be the greatest crime to call them *Sudras* even . . . .

The Honourable Shri Jagjivan Ram (Minister of Labour): Does it not cut at the root of Hindu religon ?

Seth Govind Das : Divorce exists amongst the 90 per cent, of the *Sudras*. In this case too, it so looks to me that if we pass this legislation in utter disregard of their customs and usages, then 90 per cent, of the people ....

Shri Raj Bahadur (United State of Matsya): Sir, may I request the honourable member to use any Hindi equivalent for the word "*Talaq*" (divorce) ?

Seth Govind Das : I feel that the honourable member does not understand the implications of the Hindi language. All those words which have been included in Hindi belong to Hindi alone—may it be '*talaq*' or anything else. If he still wants to know the Hindi equivalent of '*talaq*', I would tell him that this can be substituted by the word "Vivah Vichhed" (विवाह-विच्छेद) (dissolution of the conjugal rights).

I was just telling you that if this legislation is passed after brushing aside the customs and usages prevalent amongst those 90 per cent. of the people, then it would mean that they would not be able to divorce in their traditional manner and they would thus be confronted with many difficulties. Therefore, it is bound to give rise to a very great difficulty inasmuch as it runs counter to the wishes expressed by the honourable Dr. Ambedkar that everybody should be given the full liberty to marry and divorce. I am in favour of such sort of liberty being completely given to all the men and women.

The Honourable Dr. Ambedkar also pointed out that 10 per cent. of the people amongst us who are called Caste Hindus Viz., *Brahmana, Kshatriyas,* or *Vaishyas* want to thrust some thing upon those who form the 90 per cent. It so looks to me that those of us—who are ten per cent, in number—who form the intelligentsia want to load a few things on those comprising of 90 per cent. It is not the *Brahmana, Kshatriyas* and *Vaishyas* who put the burden, but this is done by those people who have managed to come to this Assembly in some way or the other. I would also tell my sisters that I am not prepared to accept this view that my sister members, Shrimatis G. Durgabai and

Renuka Ray and other lady members who are sitting in this House represent the women; or those sisters who sit in the visitor's galleries represent them. I admit that those who are not present here, those who do not come in the visitor's galleries can represent this country better than those who are sitting here. We shall have to admit that the allegation which is being made today that some high-caste people want to thrust their opinion upon the low-castes is not correct. But in reality the position is that the ten per cent, educated people want to thrust their opinion upon the remaining 90 per cent. Without knowing anything as to what is the will of the people in this country, they should not thrust their opinion upon them. I do not want that any legislation should be passed in this House which is against the wishes of the people.

Shrimati Renuka Ray : Do 90 per cent, of the people know that you are drawing up a constitution ?

Seth Govind Dast : We know that the people are with us. To talk as if this is your own concern is not correct. We have come with a mandate from the people in that respect.

The other thing which has been mentioned here is in regard to 'Succession'. It has been stated that we are required to carry out drastic reforms in the law relating to Succession. I agree that there is a great scope of reforms being made in the Succession System. And I also admit that it would amount to the greatest possible injustice being done to the females if they are not conferred upon the right of succession and thus precluded from inheriting the property. The women should be given the right of succession. Now the question arises as to what extent should such right of succession be vested in the females. The Honourable Dr. Ambedkar has in support of this quoted from the *Smritis* of Manu and Yagnavalkya and pointed out that these *Smritis* also confer upon the females the right to inherit property to the extent of one fourth. I would like to say that in my opinion some improvement should necessarily be made in the domain of succession even if these are the views held by Manu and Yagnavalkya. There was a time when the matriarchal system existed in this country or even in the world. But in the present day society, the matriarchal system has been replaced by the partriarchal. So long as the matriarchal system existed in this country as well as in the world and the husband used to come and stay at the bride's house after marriage, it was quite appropriate that the daughter should have

a share in her father's property. But according to my viewpoint now when the patriarchal system is in vogue and the girl leaves her father's house for that of her father-in-law; it would not be proper to give her any share out of the father's property. In my opinion the daughter-in-law should be given the right to share her father-in-law's property. As soon as the marriage is consummated, the daughter-in-law should be given the share equal to that of the son. Today the son enjoys the full right, and if any woman becomes widow, she is entitled to the right of maintenance only *viz.*, rood and clothing. I am totally against it. Therefore, I would urge that the women should undoubtedly be given the right to share in the property, but that should be restricted to her father-in-law's property only and not that belonging to her father.

Shri Mohan Lal Gautam (U. P. : General): If there is no father-in-law ?

Seth Govind Das : Then in the husband's house.

Shri Mohan Lal Gautam : If there is no husband.

Seth Govind Das : Then in the son's house.

Shri Mohan Lal Gautam : And if there is no son ?

Mr. Tajamul Husain : And if she is not married then what would she do ?

Seth Govind Das : That is a separate thing. They do get from some source or the other. In the example which has been cited here that when there are twelve sons and thirteenth a daughter, and the twelve sons have got the right to distribute their father's property, then why should not the thirteenth daughter be given the same right ? I would say that all the twelve sons live in their father's house. The distribution which the twelve sons make is made at the same place.

Shri Krishna Chandra Sharma (U. P.: General): If the daughter also wants to live in the father's house ?

Seth Govind Das : Since the daughter has got to adopt another house, this cannot be made applicable in her case. Another thing that has been added in respect of succession to property is that the right of succession will not be governed in accordance with the contents of the will. In cases, where the wills are not executed, disputes will arise. Not only this, disputes will arise even otherwise. The Honourable Dr. Ambedkar who is a renowned lawyer is aware of the fact as to what percentage of the will executed hithertofore were brought up before the Courts and on how many wills were the suits instituted ?

I am afraid that as soon as the will comes in, neither the sons nor the daughters would be able to share the property under the provision of this law which seeks to confer upon them the right of succession. All that property will be grabbed by the lawyers.

Then again another thing will happen. The Honourable Dr. Ambedkar wants that the daughters should also be given the right of succession to the property. Then I would submit that in our society which is undivided at present, when the fathers execute the will, they will not bequeath anything to their daughters, but would give to the sons alone, and thus this would defeat the very object with which you want to confer the right of succession on the women. In regard to succession, I would like to say that just as Dr. Ambedkar has himself admitted, it is a very intricate subject. It so looks to us—we might or might not be Socialists or Communists—that on the one hand the industrialists have raised the voice that the industries are not being developed in this country and on the other hand the question of succession has been mooted out. Therefore, the best thing would be that you should abolish the system of private property. If after the liquidation of this private ownership, a new society is evolved—I do not say that the structure of that society should be based on the principles of Socialism and Communism—but I have since formed this opinion that a new class of society should be built after the liquidation of the individual holdings. If our capitalists see to this they will no doubt find that this wealth is no longer a source of solace to them. I belong to that very class which can be termed as capitalist. But we see who is deriving the real pleasure out of this hoarded wealth ? I have not come across any such capitalist who can fill his belly by eating and digesting 10 or 20 seers, while a poor man can be satiated by taking half a seer or three quarter of a seer. I have also not seen any such capitalist who puts on about 100, 200 or 400 yards of cloth at a time, while a poor man can cover his body with only five or six yards.

The Honourable Maulana Abdul Kalam Azad (Minister of Education): Some people do war !

Seth Govind Das : I am accustomed to live in palaces, and I would like to say that if any capitalist is made to sleep in one of the large halls of his palace, he cannot enjoy the sleep. For sleeping purpose, only one room measuring about 12 or 14 feet is required. Now-a-days wealth has become an affliction—for the wealthy too. Those

people who do not get this, they desire to acquire it and those who have got it suffer great hardships and on account of that they cannot live peacefully.

The Honourabel Maulana Abdul Kalam Azad : And they do not want us to give up also !

Seth Govind Das : They do not want to give up because the man who discards that wealth is looked upon with great esteem in the society.

Shri Sita Ram S. Jajoo (Madhya Bharat) : The man who renounces this or gives it in charity is also equally respected.

Seth Govind Das : It is alleged by our Socialists and Communists that all the capitalists are robbers, dacoits and wayfarers. Some of the Socialists, Communists might differ from this. I cannot ascribe this to all of them. But many of them would renounce their Socialistic and Communistic creed if they can acquire this wealth. The hoarders of wealth are even today held in esteem by the society. We should try to overhaul the conceptions and values of the society in such a manner so that the capitalists may in reality be treated as dacoits and robbers; and then only I would say that no capitalist would like to wear this collar around his neck. Therefore, with a view to tackle this knotty problem of succession, I would urge that our Honourable Law Minister Dr. Ambedkar may bring forth such a measure which should seek to abolish the system of private ownership and thus ameliorate the condition of those people who have fallen a victim to this.

Shrimati G. Durgabai (Madras : General): Will you not oppose that?

Seth Govind Das: In my opinion these are the only two points in this Bill which are subject to good deal of controversy. I am also of the opinion that keeping in view the trend of the time and without indulging into any sort of controversy, we postpone the enactment of this Bill till the formation of the new Assembly and in the meantime invite the opinion of the people in this connection; and after ascertaining the wishes of the people, we should bring forth this measure as soon as the fresh elections are held. We should not present this measure in the form of a Hindu Code but the proper course would be to pass it in the same manner in which we have passed our constitution which provides for the rights of every citizen in the country.

Dr. Mono Mohan Das (West Bengal; General): On a point of order, Sir, is there no time limit for allowing this kind of discussion ?

Mr. Deputy Speaker : There is no time limit.

Seth Govind Das : With these words I would conclude, and say that I feel it absolutely necessary that reforms should be made in our social laws. I also admit this that those people who oppose this Bill in the same manner in which they behaved at the time of the enactment of laws relating to the abolition of Sati, widow-marriage and prevention of child marriges are not following the right course of action. But along with this I also admit that this Bill has not been moved at the opportune time and we should postpone its consideration at the moment. We should present it only after ascertaining the public opinion. With these words, neither I support this, nor oppose this.

* **Shrimati Sucheta Kripalani** (U. P.: General): Sir, ever since we had a sovereign legislature, no piece of legislation has given rise to greater excitement and controversy than this Hindu Code Bill. If all this controversy had been based on reason and on the merits of the changes proposed in Hindu Law it would have been to the good but much of the controversy is clouded by irrelevent issues. The argument of Religion in Danger has inspired much of the propaganda against the Code. It is urged that it will shake the foundation of the Hindu religion. Those who put forward such argument do a great injustice to their own religion.

Hindu religion is primarily concerned with the spiritual emancipation of the individual, his progress towards self-realisation. The self-fulfilment of an individual stands in need of certain moral and spiritual principles as truth, justice, non-violence, etc. These are embodied in our scriptures. These are unchangeable and fundamental. The social arrangements, institutions, conversations and customs that have evolved through the ages are not religion. The Hindu Code does not seek to disturb the Hindu religion but to amend and modify the Hindu civil law. The law has changed from time to time. It is different from religion and has never been unchangeable and static. The authors of the *Dharma Shastras* changed the law from time to time according to the consciousness of the community at the time. The right to make changes was well recognised by the *Dharma Shastra*. The Hindu law became rigid and static only after the advent of the British.

It has been the boast of Hinduism that while the fundamentals have remained unchanged, the Hindu social institutions have changed to suit changing circumstances. Continuous adaptability has been the strength and essence of Hinduism. Unless Hindu society is to remain

*C.A. (Leg.) D., Vol. II, Part II, 24th February 1949, pp. 866-924.

static and dead the law must change to fit with the changing circumstances. We also know that the *Smrities* have not remained unchanged. The *smrities* did include other branches of law besides those of succession and marriage. These have been dealt with by the Indian legislature and some of them have been superseded. Hindu religion did not flounder. Hindu religion has survived that shock. If Hindu religion could survive the shock of these changes I am sure Hindu society and religion can survive the shock of a little more change.

We have also brought in social legislation of great importance. We have abolished the *Sati*: we have abolished child marriage : we have also abolished to a great extent untouchability. Hindu religion is a very catholic and liberal religion. So the argument of religion in danger does not behave us. Within the fold of this liberal and catholic religion people of various views, customs and manners have found shelter and lived. Today what has happened ? Why have we lost our faith in our own religion that we are raising the cry of religion in danger ? It does not mean that I want to say that all those who oppose us are orthodox and are reactionaries. I only want to point out that in forcing your point of view, you are only doing injustice to your religion when you put forward this argument.

Another argument is this that this Bill should not have been taken up for consideration now and that we have not given the country sufficient opportunity to get acquainted with the provisions of the Bill. As far as I know this Bill has been before the House and before the country for about the last ten years. Some of the measures embodied in the Bill as Succession Bill and Marriage Bill, I think, were introduced in the House in 1943. The Hindu Law Committee was appointed in 1944. Its Report was published, I think, in 1945 or 1946 and the draft Bill has been translated into thirteen Indian languages. Thousands of copies of this draft Bill have been circulated. Even after this if we do not know the provisions of the Hindu Code Bill, then, it is our fault and not the fault of the Government. Besides that the Bill won't be passed in a day here. We will take a lot of time to consider it. It will take a good deal of time when we consider it in detail. At that time we will have enough opportunity to go to the public, to acquaint them with the provisions of the Bill and also to ascertain their opinion. There is a whispering propoganda, a very strange propoganda, that this Bill should be postponed till after the next general election. Why should it be postponed ? Because this may adversely

affect our party's popularity ? Is it befitting or worthy of the Congress to put forward such arguments ? Have we ever considered our popularity before our duty ? If we think that a Bill is just, if we consider that a Bill is for the good of the people then it is our duty to go ahead with it. To shelve a Bill just in order to catch votes for the next election is not right. I think it is not even honest. For us the good of the people has always been the supreme consideration. If we don't take this point of view, if we don't keep this attitude before us, we will never be able to sponsor any radical change. Whatever be the field of our life when a radical change is sought to be made, we are bound to come against some vested interests and some established custom. There is always bound to be a cry against such changes. If we give up reform on that score then we shall never change anything.

I would like to say this. Much has been said about the volume of opinion against the Hindu Code Bill. I would like to say with all humility that there is also a very good group—an intelligent, thoughtful group—supporting the measure too. And that intelligent, thoughtful group does not consist of women alone. We have a lot of brothers with us in this measure. We have also seen in history in other countries whenever a radical change was introduced, whenever any reform was sought to be brought into being, it was a small conscious minority that forms up the cause, that educated the public, that did propioganda and after some time public opinion veered round it. So I am sure though it may be that there is a volume of opinion against the Hindu Code, if what we are trying to do is just and right, I am more than sure that public opinion will come with us. Not only will it come with us but it will bless us after a time for the good (*An Honourable Member:* "It is already with us") measure that we have passed. They say, they have got the majority with them. So this is my answer.

In the heat and controversy many times we forget that the Bill does not consist of merely the Succession and the Marriage provisions. We have tried to make a uniform and entire system of law. In this entire system of law or Code we have tried to put right a lot of discrepancies, inequities, and injustices. For instance this morning Dr. Ambedkar in his learned speech told us how the provisions regarding guardianship, maintenance, adoption etc. are going to be beneficial to the society. Those who are totally opposed to the Bill have been forgetting the good side of the Bill, the non-controversial side, and have concentrated all their attack on such the entire Bill.

Let us come to the question of Succession itself which is greatly opposed by large sections of the people.

Mr. Tajamul Hussain : It is opposed by vested interests only.

Shrimati Sucheta Kripalani: It is opposed by large sections. They had levelled two points—against the breakage of the joint family and the grant of absolute rights to women. I will take the second point first. We are seeking to have a society where men and women should be equal, where people of all castes will be equal. We are trying to bring about a perfect democracy of which we have dreamed all these years. We are pledged to give women equal status in society. We are pledged to do away with all sex discrimination and this peldge does not start from the time when we bring into effect the New Constitution. I would like to remind you that in the Karachi resolution these peldges are embodied. After that when we accepted office, then also we again reiterated that there shall be no discrimination on the basis of sex. If men and women are to work equally, if they are to function as equal citizens of the state, if they are to fulfil their obligations towards the state, how can we have such discriminatory rules in the matter of property rights of women ? Unless woman gets her full share of property you cannot expect her to fulfil her obligations to the state. Of course whenever we make any changes, established custom and established rules are disturbed. It causes a certain amount of dislocation and inconvenience, but we have to tolerate them and take them as inevitable. We must not try to enlarge the importance of the inconvenience that is caused to us. Dr. Ambedkar and others have told us that the *Smritis* recognize the right of property of women. What law gave us practice denied us. In practice the right was abrogated. What we are trying to do today is only this.—We are not going against the fundamentals of Hindu religion or Hindu custom or Hindu law; what was granted to us by Hindu law but which was arbitrarily denied to us, we are now trying to take back—or rather you are giving it to us, this which has been denied to us by society all these years. It is merely justice done—long deferred justice.

If you come to modern times, by the Act of 1937 you have given property right to the wife, to the daughter-in-law, to the grandson's wife and so on and so forth. The only person who is left out is the poor daughter. It is but in the fitness of things that now it should be included here. Therefore I do not see what is there to argue much about it. If we have given to other women tills right, if women can

inherit from the husband's side let her inherit from the father's side which is very natural and right.

The Honourable Shri Jagjivan Ram : They want her to develop to the other stages.

Shrimati Sucheta Kripalani : In regard to joint family there is a very great feeling about it. I do not know why there is such a feeling. Most of the people I come across are anxious to get out of the joint family. The sons do not like to stay with the father. I see most of the families distributed all over the country. So joint family is a very rapidly crumbling institution according to me. Even the legal position of the joint family is very faulty as Dr. Ambedkar has pointed out to us in the monring. Even under Mitakshara system a member of the joint family merely by expression of his will can bring about a partition.

I would therefore like to ask you where is the joint family about which you are crying so loudly ?

Much was said about the protection that is given to the unportected women in the joint family. I know in the past in the joint family unprotected women did get protection. Even now some of them do get protection but at the same time we know hundreds of women who, failing to get any shelter in the joint family, having no economic resources of their own, are hounded to a life of degradation and shame. Many of us women, who are doing social work, come across innumerable such cases. Therefore, not only is it right, not only is it just to give woman her portion but it is absolutely essential to give her the share if you want to safeguard the Hindu society about which you speak so loudly.

The Honourable Shri Jagjivan Ram : And something more.

Shrimati Sucheta Kripalani : So much the better. Give us a little more. You have denied us in the past, make it up now.

As regards marriage, the Bill merely seeks to introduce uniformity of practice to avoid confusion and uncertainty. This may entail a little difficulty to those classes which are governed by the customary law but the proposed sacramental and civil marriages are such that it can be put into practice by the poorest and the most backward classes. So I do not think it will create any great difficulty. There is some objection to the registration of sacramental marriages. I think it is purely sentimental because registration is only permissive. If you do not want to avail of the registration you are free not to avail of it.

An Honourable Member : It is compulsory.

The Honourable Dr. B. R. Ambedkar : No compulsion.

Mr. Tajamul Hussain : No compulsion, either would do.

Shrimati Sucheta Kripalani : If I am wrong, Dr. Ambedkar will correct me. It has been put there as a safeguard; that is all.

We come to the question of inter-caste and *sagothra* marriages. I was hearing my friend who preceded me. I do not know how we can wax eloquent over the objection to *sagothra* and inter-caste marriages because I find a very large number of such marriages taking place in the society. If we did not have such marriages it was all right, but when a very large number of such marriages are taking place, either we compel them to have irregular marriage or we drive them out of the Hindu fold or we make them go somewhere or they have to go to the civil registration office and get it done. When it is there, why not accept the fact ? When it is a practice why not recognise it and give it legality ? Therefore, it is but right at this stage, when Indian society has changed so considerably to allow inter-caste and *sagothra* marriages within the Hindu fold.

About monogamy, here also I feel that the society has on the whole accepted monogamy. Polygamy is looked down upon; polygamy finds no favour in our society, though cases do occur. Again, we recognise the current practice amongst an overwhelming majority of Hindus and we legalize it. Moreover as we are trying to bring about a society where men and women are equal, we cannot afford to have a double set of morality for men and women and I should think the men should be happy to have this introduced because by the provision of monogamy we are levelling up the standard of men's morality to that of women. I should think that the men should be thankful to us.

An Honourable Member : Very thankful. We can get easy divorces and marry again.

Shrimati Sucheta Kripalani : As for divorce, though we do not deny the sentiments of the orthodox, men and women, analysing it, we find, that divorce did exist in our ancient scriptures. The grounds of divorce that we have allowed are extremely reasonable and just. We have not allowed any divorce on frivolous grounds as it has been in some parts of the Western world. Care has also been taken to formulate such a procedure that divorce would be resorted to only under very grave circumstances. If we see the records of Baroda, Travancore, Cochin and Malabar where divorce is allowed, very few

people have availed themselves of the law. Only under exceptional circumstances it comes to help the people to get of a very difficult situation. Hindu social tradition is such that we will not on flimsy grounds rush to the court and break up a marriage. The people who fear that the grant of the right of divorce may amount to disruption of the family life of the Hindus are absolutely injustified.

Then I take Dr. Ambedkar's argument of the morning that divorce prevails among 90 per cent. of the Hindus, so why not extend it to the other 10 per cent. It will be very right and just when we see that these 10 per cent. divorce cases are occurring. If there had been no divorce cases then I would have understood it, but we see that whenever our men and women want a divorce, they leave the Hindu fold and become Muslims or Christians and by doing so they insult those religions of which they make a mere utility. Therefore, we should recognise the existing circumstances and allow divorces.

Sir, I have nothing more to say except that I want to tell my brothers here that we women even when we pressed for our rights have never forgotten the greater good, the larger good. We have been very conservative in this matter. You know even for our political rights we have never encouraged things which we have considered wrong. Even when the British were there, we have always stood for joint electorates. Even in the new Constitution we have never pressed for separate rights for overselves. We would have pressed for these if we did not think that they go against the benefit of the entire society. If Hindu women benefit, I am sure the Hindu society stands to benefit. This is for the larger good; that is why we are pressing this point.

Here, I would also like to say that our men on the whole been very co-operative and helpful to us. They have not stood against our progress. It may be that this is due to the benevolent influence of Mahatma Gandhi. You all know that Gandhiji was one of the greatest supporters of women's rights. The tradition that he has established has been followed by our men; because of Gandhiji's influence, because of the sympathetic attitude of our leaders, we have never had to fight for the political rights as women of other countries had to fight. Therefore, I am more than sure that now we will follow the good traditions, we will keep up the spirit of co-operation that we have had all these years and all my brother Members will support this Bill and consider this Bill not as a measure of right for the women, not as a measure of justice that you are giving to the woman, but as justice

done to the society. This is a measure by which we are trying to make Hindu society healthy and wholesome. The Hindu society is full of defects. We are now independent. If in the world we have to take our status, we have to set our house right; unless we do it we cannot take our position in society. Therefore, let us get together and remedy the defects that are in the house. I only appeal to you and I am sure we will have the support of all of you for this good measure.

The Assembly then adjourned till a Quarter to Eleven of the Clock on Friday the 25th February, 1949.

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* HINDU CODE—*contd.*

Mr. Deputy Speaker : The House will now proceed with the further consideration of the following motion moved by the Honourable Dr. B. R. Ambedkar on the 31st August 1948 :

> That the Bill to amend and codify certain branches of the Hindu Law, as reported by the Select Committee, be taken into consideration.

Pandit Thakur Das Bhargava.

Mr. Naziruddin Ahmad (West Bengal : Muslim): Sir, I have moved amendments and I think, it will be proper for me to advance arguments and for others to speak. Instead of that if I have to listen to them now and then speak, where would be the scope for them to reply ?

Mr. Deputy Speaker : I think the honourable member who has moved an amendment to the motion will be in a better position if he speaks later because as he knows he won't have an opportunity to reply.

Mr. Naziruddin Ahmad : I do not wish to reply.

Mr. Deputy Speaker : In that view it will be right that the honourable Member should hear certain speeches for and against his motion so that he may be able to reply and he may speak once for all. I have called Pandit Thakur Das Bhargava (*Interruption*). The duty of regulating the order of speakers is with the Chair. I feel it right to call upon Pandit Thakur Das Bhargava.

* **Pandit Thakur Das Bhargava** (East Punjab : General): *(English translation of the Hindi speeches)* Mr. Deputy Speaker, Sir, the Hindu Code Bill that has throughout India . . . .

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*C.A. (Leg.) D., Vol. II, Part II, 25th February 1949. pp. 877-78.

*C.A. (Leg.) D., Vol. II, Part II, 25th February 1949, pp. 895-936.

Mr. Deputy Speaker: In English please.

Pandit Thakur Das Bhargava : As this matter is of vital importance so for this very reason I wish to speak in Hindi.

Dr. Mono Mohan Das (West Bengal: General) : We can understand the Hindustani spoken by the honourable the Minister of Education. It is entirely different from the Hindi or Hindustani spoken **by** Seth Govind Das or Pt. Thakur Das Bhargava. As beginners we do not know which is Hindustani.

Mr. Deputy Speaker : There is no set standard which is copied here. Whatever is spoken is Hindustani.

Pandit Thakur Das Bhargava : Before I begin my speech, (*Honourable members*): "English please") as a number of honourable members desire that I should speak in English I have not the least hesitation in paying deference to their wishes. But all the honourable members know that it is easier to express oneself in his own mother tongue rather than in English. So, if they allow me I wish to speak in Hindi. But if they would insist on my speaking in English then I would not have the least objection in commencing my speech in English. (*Honourable members:* "Hindi, Hindi"). As I think that a majority of the honourable members do not insist upon my speaking in English so I like to speak in Hindi.

Shrimati G. Durgabai (Madras: General) : Kindly speak in simple Hindi so that we also may be able to understand.

Pandit Thakur Das Bhargava : I will try to speak in simplest Hindi. Today when I have stood up to deliver a speech before the House about the Hindu Code Bill a number of conflicting thoughts are clashing with one another in my heart. At the very outset I beg to submit that I am not one of those people who declare this Hindu Code Bill to be the death knell of the Hindu culture, and Hindu Civilization. I wish that the Hindu culture, the Hindu Society and the Hindu Civilization may survive till eternity, till the end of this world. I am, in no way, an opponent to this. I am not at all afraid that this Bill or any another Bill would in the least be able to put the Hindu Culture or Civilization to harm. I wish that those evils that have crept in the Hindu Society since long, and about which Dr. Ambedkar made an appeal before the House in the concluding parts of his speech, may be eradicated; and the appeal may be considered over very thoughtfully with a cool heart. But in fact if the Hindu Society is to be preserved then there is no doubt that if

necessity would be felt for repairing the society then repairs will have to be done. I strongly oppose those persons who hold that this Bill would put the Hindu Culture to an end.

12 NOON

I am not prepared to acknowledge even for one moment the fact that this Assembly or the Honourable members of this house, who have the same ability as the *Smritikars* of the old, do not have the right of making any changes in our Shastras or Laws. I hold that the members of each and every community have got the fullest rights to frame laws according to the needs of the time. Today if some one makes an appeal that this being an old custom so we must act accordingly; then about such an allegation I would submit that there is not a single custom that India has not experimented with. There are certain places in India where the system of inheritance is quite different from the other parts of India. Do we not know that among the Khasi tribes and in some parts of Southern Punjab the entire institution of inheritance depends upon the fact that the entire property devolves upon the daughters instead of sons. There are certain parts in India where instead of the girl going to her father-in-law's place the husband of the girl is imported into the wife's family.. India is such a country where every type of custom and law has been in vogue. Is there any such social system that we have not tried. Only yesterday Dr. Ambedkar told that in some *Smrities* it is mentioned that daughters should be declared similar heirs along with sons. So this provision was present since long. Apart from this I do not know of any other law that can be called a new one. Divorce is customary in many places even today. On going through the old *Smrities* it is found that divorce is mentioned there also. I am not prepared to accept that we must revert to those old ideals simply because for the reason that they are mentioned in the old *Smrities*. If we think that those ideals do not suit our present day society then why should those ideals be kept up. I know that in India there was a time when even the institution of marriage itself was not in vogue in India, and the people did not know anything about marriages. In olden days the system of *Niyog* continued for a long time in India. The Hindu Law mentions 8 kinds of marriages. Some of those kinds of marriages cannot even be called marriages. Can anyone assert that those ideals should be re-introduced in the present times. I do not think there is any. So I do not want to consider the question that is before us today from this view point as to what was in vogue in the olden days, how our ancestors used

to regulate the society by framing laws of their own. The question before me is that in the present times what things we require after fully taking into consideration our needs, our legal conceptions and our necessities. This Code has created throughout the whole country a great deal of unpleasantness, restlessness and uneasiness. Some women declare that they would have rights equal to those of men. This Code favours the women. Some declare that women have no rights. Very humbly I beg to submit to this House, that till the time the Bill is under consideration here, we must never pay any attention to the various slogans or any such things like the allegations that this Bill is favourable to women or it is favourable to men. With a cool heart we must think over whether this Bill is appropriate or not. Which man can say that he has not been born of a woman, and which woman can say that she is not the daughter of a man. So in a matter like this will we not treat our sisters, our daughters, and our mothers with kindness. Do our mothers, sisters and daughters demand that they will not behave properly with their husbands, their brothers and sons. So it is not necessary to introduce any bitter controversy in this matter. I know that this is a very delicate problem. We ought to consider it in the proper manner and with a cool head.

Before I discuss this point any further, I wish to submit a few things about a question so that at least the honourable, members of this House and my honourable sisters in particular may not think that I oppose or support this Bill with some set ideas. At the very outset I wish to submit that I belong to that school of thought who believes that till the women are not given their proper rights in both the immovable and movable properties their personality will not attain full development. I very strongly oppose the economic dependence of women. I do not like that *sloka* of Sitaji wherein she has said:

मितं ददाति हि पिता मितं भ्राता मितं सुतः
अमितस्यतु दातारं भर्तारन् का न पुजयेत ॥

I hold Ramayan in a very high esteem but I am not, for one moment, prepared to accept the principle that the women should always be kept dependent. I am not, for one moment, prepared to accept the verdict of a few of the *Smrities* that a woman till she is not married must remain under the control of her father, and after marriage under the control of her husband, and if she becomes a widow then under the control of her son. I oppose this verdict of the *Smrities* not for the reason that it is painful to women. I know that till the women

of India will not attain a strong personality, till the women will not improve their condition economically and till they will not have an all round development our genealogy will not, improve. Like men the women also should be given all kinds of opportunities for their development. I think that it is not at all justifiable to look at this question from a narrow angle of vision. We have to decide this question very prudently and keeping in view the welfare and advancement of our entire nation and country.

Since thousands of years we have been believing in certain prevailing customs and rites and have also been preserving them. But along with this we have also to decide our line of action as to how we should act upon the slogans that are being raised in the present day world like "women must have rights equal to men" We may not accept this principle *in toto* but we at least stand committed to afford them scope and facilities equal to men for their development. We will have to keep this principle in view. Therefore, I wish to submit without any reserve that women must get their lawful rights in the movable and immovable properties. I am strongly in support of this. I also congratulate Dr. Ambedkar for his accepting in this Bill the principle of the Abolition of Caste in marriages and adoption. I do not possess sufficient eloquence to let you know how important I consider this question to be. I look upon this question in this light that it is question of nation-building. It is a question of our life and death. This pertains to basic principles. If any thing has ruined India, marred her progress and became an instrument in creating Pakistan, it is this caste system. If there is anything that has entered our society and is eating into the vital: that has made Brahmins enemy of others, the Jats enemies of non-Jats and the Kshattriyas the enemy of all other communities, it is this caste system only. I do not know how can we refuse to follow the path of formation of a class-less society, the path pointed out to this country by Mahatma Gandhi, the Father of the Nation. The two things, that are instrumental in uniting the people of this country, are inter-dining and inter-marriages. As far as the question of inter-marriages is concerned, till this question is not resolved the problem of nation building in India cannot be solved. Therefore, as far as this question is concerned, I am strongly in its favour.

As far as the question of monogamy goes there may not be a single member against it. As far as the consequences of monogamy are concerned I know that its passing would badly affect the area I come

from. Because even today, according to the circumstances, it generally happens that when some one dies-leaving his widow, the widow is re-married to the younger brother. I know that in the coming times we should not continue these out of date-customs. I think that if the defects of this out of date system would be told and explained to those people whom it will affect then they would also readily agree to renounce it.

As regards the question of monogamy and the people about whom I am talking I wish to submit that these people according to their needs and intelligence thought out and adopted this principle in that time when widow remarriage was not in vogue in India. Without any reservation, I wish to submit that as far as the questions of monogamy, abolition of caste system and giving of the fullest rights to women, are concerned I am fully in support of them.

As regards the question of divorce I know that the system of divorce exists in a major portion of India. These days to some people this system of divorce appears to be bad. In fact in a country like ours where according to our customs the women used to commit *Sati,* the opposition of the system of divorce is not a thing to be wondered at. According to our beliefs marriage constitutes an indissoluble relationship, and from this point of view the right of divorce should not be given. But I like to submit that the system of divorce has always been in our country and is still present to this day. If the people wish to walk with their eyes closed, if they do not want to see as to what is happening in the world around them., then it is upto them to do so. Dr. Ambedkar told us that this system is found in 90 per cent. of the people of this country. I beg to submit that these figures are under-estimated rather than over-estimated. As regards the question of divorce and as far as it is in practice in India I am entirely in support of it, not for the reason that it is in vogue in the present day society but for the fact that it is one of our own customs. Therefore I am in favour of divorce.

The question arises that in this Hindu Code Bill, as it has emerged from the Select Committee the main defect is mat it does not go far enough. In fact the customs prevalent in our country and the reforms suggested by the Select Committee fall far too short. The people in Punjab are not so backward. As regards social reforms the people of Punjab are far ahead than those of the rest of India. This Code does not go to that extent even. For them this Code is not a kind

of social reform but it draws them back instead. If this Code would be shown to any Hindu or Sikh of the rural areas of Punjab then he would say, "Oh Sir, what are you doing ? You are retrogressing us to a great extent. We are far ahead of all this. You want to take us still backward." The people of Punjab will not be benefited by this Code. The present Code has emerged from the Select Committee in such a form that the needs of the people of Punjab have lagged far behind; the needs have not only been left behind but certain things in this Bill compel us that we will have to throw this Bill out if it remained in the present form. If we want to preserve our institutions then they cannot be preserved in the present form of the Bill, and thus this Bill becomes annoying.

Shri Mohan Lal Gautam (U. P. : General): Quote any example.

Pandit Thakur Das Bhargava : I just give an example. After this introduction, with your permission Sir, I beg to submit the objections that I have to raise against this Bill and say to what extent I have to support this Bill. There are many such provisions in this Bill about which no one may have any objection. There would be a very few persons who would say that they are against all the provisions of the Bill. But Sir, if you were to go through the Bill you would find that there are notes of dissent from 11 out of the 17 members of the Select Committee, and who are they ? Shrimati Ammu Swaminadhan and Shrimati Renuka Ray are among them. Notes of dissent from both of them are there.

Shrimati Renuka Ray (West Bengal: General): These notes are not on fundamental principles.

Pandit Thakur Das Bhargava : I am coming to that. To tell the truth these 11 members who have written notes of dissent, themselves oppose this Bill as it has emerged from the Select Committee. I was submitting as to who have written notes of dissent. One of the notes of dissent is from Bakshi Tek Chand who has worked for social uplift throughout his life and is prepared to go to any extent for social reforms. When he also writes a note of dissent then it is for us to think as to where are we going ? If these notes of dissent he carefully read then it would become clear that out of 17 members at least 11 strongly oppose this Bill as it has emerged from the Select Committee, After this introduction I beg to state why I am prepared to move such motions, which are generally considered dilatory against this Bill as it has emerged from the Select Committee.

Mr. Tajamul Hussain (Bihar : Muslim): Sir, I beg to raise a point of information. The honourable member has stated that 11 out of 17 members of the Select Committee have written note of dissent. If they are opposed to this Bill, then I would like to enquire from the honourable members how this Bill came to be recommended by the Select Committee so that we may pass it.

Pandit Thakur Das Bhargava : Mr. Deputy Speaker, Sir, in my opinion this question is neither a point for information nor a point of order even. You may go through this Bill yourself Sir. Mr. Bharathi has also written a note of dissent.

Shri L, Krishnaswami Bharathi : (Madras: General): Mine **is** little ahead of the Bill. I want to enlarge the scope of the Bill. That is my dissenting minute.

Mr. Deputy Speaker : Should honourable members go on explaining every remark and every sentence ? It is not necessary.

Shri L. Krishnaswami Bharathi : No, Sir, I was . . . .

Mr. Deputy Speaker : The honourable member's note of dissent is in print. He will have his turn if he wants to offer any explanation. It is no good going on interrupting a speaker and other honourable members also by simultaneously standing up.

Shri L. Krishnaswami Bharathi : May I say, Sir . . . .

Mr. Deputy Speaker : I have heard the honourable member sufficiently.

Shri L. Krishnaswami Bharathi : On a point of personal explanation, Sir ?

Mr. Deputy Speaker : Order, order.

Pandit Thakur Das Bhargava : Sir, I would not give Mr. Bharathi the trouble of explaining his viewpoint before the House. I myself present his view point. The note of Mr. Bharathi is that he is no way against the fundamental principles of this Bill. He wants that as a logical consequence the women must be given the right that all these women who own limited estates, he wants that they at once be made absolute owners. I am correct, I think.

Shri L. Krishnaswami Bharathi : I am not permitted to reply.

Mr. Deputy Speaker : The honourable member Pandit Bhargava may go on.

Pandit Thakur Das Bhargava : For this very reason Sir, I was submitting that a number of members of the Select Committee have

written notes of dissent on that form of the Bill as has emerged from the Select Committee. With what intension these notes of dissent were written, I will submit later on, but I wish that I may not be interrupted in the course of my speech.

Sir, I was submitting that although this Bill does go to a certain extent and I am prepared to go even beyond that in social reforms yet still I do not find myself in a position to fully support this Bill. And this is quite natural. Even Dr. Ambedkar himself, by whose kindness the Bill has taken this form and who has delivered such a speech of which every Indian and especially every Hindu must feel proud, is not in support of all the provisions of this Bill. Therefore he told that at places the Select Committee has gone out of reason. I do not want to use harsher words. But I say that he also is against this Bill and in this way there are 12 notes in its dissent. So I was submitting that when 12 out of 17 members are against this Bill then in such a condition the House should not feel astonished if I wish to support the amendment moved by Mr. Naziruddin Ahmad. The reason is quite clear. I do not wish that any of you may misunderstand me. There are many such sections of this Bill about which I do not wish that their passing be delayed even by a minute. Had his motion been dilatory I would not have supported him. Many of my motions also were not dilatory. I know that this Bill is not going to be passed in this Assembly *i.e.* in this Session of the Assembly. A special session of the Assembly will have to be called to pass this Bill. The next session will come off after about 6 months. The objection that I am raising can very easily be decided in this period of six months. With your permission Sir, I wish to submit that I do not want that the Bill may not again be sent back to Select Committee : and for such a move my reasons are quite different. Perhaps some of the honourable members might be thinking that I wish this Bill may anyhow come to an end. I do not want to kill this Bill. I wish mat this Bill be passed. I wish that all the good points of this Bill be accepted. So it is necessary to look upon this Bill with a cool heart. It is not necessary to infuse heat. Therefore, I wish that whatever I want to submit, you must hear it with a cool heart and I think that Dr. Ambedkar will not misunderstand it. I wish to submit all this very humbly and not with the spirit of antagonism. But I must have the courage to say what I want to say and I wish that others must interpret it at least fairly if not generously. I submit all this very respectfully and attach

no less importance to this. Now I wish to submit that as each and every honourable member of the house knows that new elections are to be held. All the present members have come here by indirect election. The members that are to come after us will come from direct election and adult sufferage. According to the resolution passed by us in the Constituent Assembly the elections will be held in 1950. Only then I would be prepared to call that, as you yourself Sir, had said, an absolute sovereign body. Yet still on the principle of propriety I beg to submit that instead of us deciding a matter that concerns the daily life of 30 crores of people it would be better that those people, who are to come from direct election and adult sufferage, should decide this issue. I would submit that this will be the proper course. I wish to submit on the principle of propriety. Some people feel that this Assembly can frame the constitution only. This is the same argument that was advanced yesterday that when fragmentation does not take place on dividing a property among twelve sons then there cannot be any if it is further divided so as to include a daughter as well. But I say that "one wrong cannot justify another".

Shri Mohan Lal Gautam has said that this Assembly is not also competent to frame the constitution even. I do not agree with his views but if you do agree then why are you repeating the mistake ? This is quite wrong. If you do not hold this view then it is another thing. In my opinion this constitution framing Assembly is a sovereign body. It is perfectly legal and in the same way this house is fully authorised to pass today any laws that it likes. Yet still the sense of propriety, the sense of proportion, demands of us that we must not make haste in this matter. We have been following these principles since thousands of years and therefore I wish to submit that in the next 6 months the sky will not fall down upon our heads, so that we may pass the Bill immediately with undue haste. Therefore I would very humbly submit that as you Sir, have written in your dissenting note: out of these twelve persons, the twelve signs of the Zodiac—you are one of them; and along with you Babu Ramnarayan Singh has also mentioned on page 11 :

> "The members have been elected indirectly and have no mandate from the electorate. The mass of opinion and the majority is against most of the provisions of the Bill and the Bill seeks to alter the fundamental structure of the Hindu Society."

I very humbly beg to submit that justice demands that the representatives of direct election after being elected to this Assembly

should be given the opportunity of deciding this matter. Our much respected and a true leader of the country Dr. Rajendra Prasad, agreeing with this principle, had also written a letter that this Bill as a whole be presented before the coming representative Assembly.

Mr. Tajamul Husain : What it was that the Governor-General had written ?

Pandit Thakur Das Bhargava : Sir, whatever you say about the Governor-General has been mentioned here. But I very respectfully beg to submit that I highly honour and esteem the opinion of the elders. This matter today concerns me, concerns every woman who lives in any distant village. Everybody will be affected by this and so every one has got a right to express his opinion. Why I do not agree is that yesterday my honourable sister Shrimati Sucheta Kripalani had said that in this manner centuries would pass. This Bill has been on the anvil for the last ten years. It was drafted in 1941. This argument does not appeal me. May I ask how much literacy is there in this country ? May I ask how many women of this country are literate ? I wish to address my honourable sisters here, who are the members of this house and whose opinion I highly esteem; but I would say whether thousands of their sisters who live in villages and towns have the right to express their opinion in this matter. For this reason I would urge my honourable sisters here that they should have patience in this matter and exercise some restraint. If I were to submit that the opinion of those also be included, who have full right to express their opinion, then this may not be considered a crime. Very respectfully I beg to submit that the people living in towns and villages are not at all aware what the Bill is and what its provisions are. Some honourable members say "*Hear*" "*Hear*". Very respectfully I beg to submit that those people who have not studied the provisions of this Bill and a number of members of this House have not at all realized what its importance is.

Shrimati G. Durgabai : When you consider women of this country fit enough to understand the provisions of your other Bills for reform, don't you think they will be able to understand the provisions of this Bill?

Pandit Thakur Das Bhargava : I welcome this interruption, because it gives me an opportunity to explain the real point. Sir, an objection has been raised that once upon a time the Sattee Bill was passed, widow marriage Bill was passed, Sharda Act was passed; and the Bill that is before the House today is also of the same category

which, according to Shrimati Durgabai, is something higher in level from those that can be passed taking into consideration the opinion of the common people.

Mr. Tajamul Husain : May I be allowed to move a point of order ?

Mr. Deputy Speaker : What is the point of order, please ?

Mr. Tajamul Husain : My point of order is this, Sir, that the contempt of the whole House has been committed by my honourable friend in this way; you heard him out and he says that there are members of this House who have not understood the Hindu Code Bill. This amounts to a contempt of this House and I want a ruling on this.

Mr. Deputy Speaker : I do not think that there is anything in this point of order. All that the honourable member means is that the full implications of the Bill may be understood differently by different sections of the people. According to him they have not been understood in the manner in which he would like honourable members to understand it.

Pandit Thakur Das Bhargava : Besides this Sir, I do not claim and I am not at all prepared to say that I have understood the provisions of this Bill any more than the other honourable members of the House About myself I am prepared to say that I have not understood fully all the provisions, all the clauses and all the implications of this Bill and this I can say about all the honourable members and myself in particular. The honourable members here, who are not lawyers, can say that they have fully understood the Bill; but the lawyers present here cannot say with confidence that they have understood all the provisions of the Bill as has emerged from the Select Committee. I am not permitted in this House but, if I be permitted then I like to put two or three questions to Mr. Tajamul Husain and he should give an answer whether he understands or not. It is not at all my intentions to commit contempt of the House. Very respectfully I beg to submit that it is not at all my intention . . .

Mr. Deputy Speaker : Every citizen is presumed to know the Law, every honourable member is presumed to have read this Bill. The honourable member can go on with his speech.

Pandit Thakur Das Bhargava : I was submitting Sir, after this introduction, I was submitting why I am in favour of Mr. Naziruddin Ahmad's amendment. Sir, I submitted some facts for your kind consideration, that this House is not so representative as it is to be tomorrow and this is not to take much time, in a few months the

new house will come into being and therefore it would have been proper to (postpone the discussion on this Bill till the new house comes into being).

A still stronger argument in favour of my submission is that you, Sir, are well aware of the fact that today property includes two different types of thing. One is lands and the other houses. As far as the landed property is concerned this Bill does not affect it. What will be its effect on succession in a country like India which is mainly an agricultural country and where 90 per cent of the people live in villages. After the death of a person his lands will be governed by one law and his house in the village will be governed by another law. What will happen to me ? If I have some property in Delhi then this property will be overned by one law and my landed property in Bahadurgarh will be governed by another law. My house built in my fields at Bahadurgarh will be governed by one law and my house at Delhi by another law. Is this uniformity? If such a thing is being maintained then what the result would be ? The appointment of an heir takes place at Bahadurgarh whom the Hindu Code does not recognise, then that boy, who is the appointed heir, will of course inherit the landed property at Bahadurgarh but on the residential house of the deceased some one else would have a claim. The boy will get the landed property but will have no claim on the house, then after all where the boy will go ? The effect of this Bill would be that it will not apply on landed property. I think that Dr. Ambedkar wishes to pass a Bill whereby economic holdings could be made and the landed property of average man may not be partitioned. But when this Act will come into being and when the abolition of zamindari takes place, I am not aware of this.

Shrimati Renuka Ray : You can introduce such a Bill immediately.

Pandit Thakur Das Bhargava : Respectfully I beg to submit that intentions are not so easily fulfilled in this world as my honourable sister thinks that simply by introducing a Bill this intention will be accomplished. This is a Bill for the benefit of the country, but how many obstacles this Bill is encountering. How much time the Land's Bill, whereby the rights of everybody will be usurped, will take and where will it be passed ? This is under the power of the Provincial Government. I wish that we may make such changes in our constitution whereby, as far as the question of lands is concerned, under

the constitution, this may also be within the powers of the Central Government. If this Bill is passed then I see in it the defect that it does affect the residential property and does not include the landed property. This is a great confusion. A change has now been made in the original Bill that now this Bill will also apply to the lands in the Centrally administered areas, i.e., it will be applicable on both the residential and landed properties of Ajmer Merwara and Delhi. In other provinces this Bill does not apply to lands. In Delhi and Ajmer-Merwara this will apply to both the rural and urban properties. This is a great defect of this Bill and which knock out its bottom.

As yet the people are not aware how this Bill would affect them. For this reason only I had submitted that full publicity has not been given to this Bill. I know that if today people were to know that through this Bill such far reaching and fundamental changes are being made in their law of inheritance, changes which will have affect on each and every family of India, then at one time the people of the whole of India on coming to Delhi would present their applications that this law may not be passed. Many people are not aware of this. The knowledge is shared by the members of this House. Bar associations and a few of those who read newspapers. You can well understand how small the number of such persons is. Such a Bill, which affects the entire Hindu Society, has not been given sufficient circulation and no opinions on this have been taken. A committee was set up, it took evidences at many places and the report of the committee is with me. If you would see as to where the members of this Committee went, what they did and whose evidences they recorded; then you would find that the committee has asked the opinion of some well placed and educated persons only and they have not taken the opinion of a major part of the country. In this there is no question of education. For this Bill every mother and father, who fully realize their responsibilities, can give their opinions. Everybody is affected by this and so every person is competent to give his opinion. Besides this I would submit that nobody has the knowledge of the changes that have been made-by the Select Committee in the original Bill. Only the members of the Assembly have information of these changes, the rest of the people do not know what changes the Select Committee has made. Now the question arises that as the Select Committee has made changes in this Bill so its circulation has become very necessary. Leave aside the old question that no law should make

rapid changes in the customs of the people till the opinion of a majority of those people, who are to be affected by it, be not taken. The Bill that is being introduced today is one wherein the Select Committee has made such changes as are of vital importance and about which everybody must have full information. For this reason only its circulation is all the more necessary.

Before I submit anything about these changes, I wish to draw the attention of the House towards one point. I regret to say that the Law Department itself which is an embodiment of law because its name even is Law Department, these same people do not respect the law. When these people themselves establish such a procedure that they must not have established, then I will have to say—

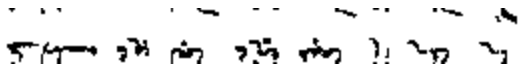

I do not want to touch the question that has been decided by your predecessor. That question has been decided. That ruling is final for me. I do not question it. I highly honour that ruling although I know that this ruling according to my opinion was not correct, yet I do not want to question it.

Mr. Tajamul Husain : No one can say inside the House that the ruling of the Chair is wrong.

Mr. Deputy Speaker : I am sorry the honourable member has not understood Mr. Bhargava at all. What he says is that he does not agree with the ruling but he cannot question the ruling here. It is open to any member to think for himself and also to say that in his opinion he does not accept it, but he is bound by the ruling. I think there is nothing wrong.

Pandit Thakur Das Bhargava : I am very sorry that whenever my honourable friend Mr. Tajamul Husain raises any point of order it does not survive even for a minute. I wish that he may raise such a point of order which I may also be able to reply. I know that at this time he is enquiring from another honourable member whether this Bill applied to lands or not but he pretends and says that he understands this Code Bill. Then I like to submit that I am perfectly within my rights if I say that on the ruling I hold a different opinion. I wish to submit a few other fundamentals that have not at all been touched by the Honourable the Speaker's ruling. Most humbly I beg to draw the attention of the House particularly towards the fact that this House which is a constitution making House, is a master of her

laws. None of our matters can be referred to any court in the country. If this house forsakes its principles for the sake of passing a certain Act then we commit such a mistake that we cannot be absolved of its responsibilities. I beg to submit that in this redrafted Bill, reported by the Select Committee, the mistakes that we have committed therein are of three types. Firstly when a Bill comes before the House, comes in the possession of the House, and is introduced in the House, then after this except for the House no member of the House, however big he might be, however good he might be, cannot even change a comma therein without the consent of the House. If there be any electrical mistakes then it is another thing; and if that also be a material mistake then it will have to be printed again and re-circulated and after again being introduced in the House can be referred to any committee. Very respectfully I beg to submit Sir, that I am presenting two or three technical points for your kind consideration., About these points I will have to submit very humbly to the other honourable member, but not to Dr. Ambedkar as he is familiar with technical rules and things, and he knows how much injustice can be done by forsaking these technical rules. So I was submitting that by forsaking these technical rules except injustice and unlawful things nothing beneficial can be accomplished. Mr. Oslow has been a very famous speaker of the house of Commons. He had said that no work should be done in contravention of the technical rules. For the protection of minorities, for the protection of the House as a whole, there are technical rules, and these rules are of such a fundamental character that whenever the limits will be transgressed nothing except mistakes can be accomplished. This principle has been laid down in the May's Parliamentary Practice, which is the convention of the mother of Parliaments. The convention is that as soon as Bill is introduced it passes out of the hands of the member introducing it and comes within the power of the House. I am translating the words of May's Parliamentary Practice which I will soon read out to you.

Mr. Deputy Speaker : I do not think anybody in the House doubts that any honourable member even though he may be the mover has got the right to change the Bill when once it has been placed before the House. As I understand it, the Honourable Speaker's ruling is that the very same Bill was considered in the Select Committee. Therefore, there is no good canvassing that position. The Honourable the Law Minister did not say that another Bill was considered in the Select

Committee though the other draft which he placed before the Select Committee was considered along with the original Bill. As any honourable member is entitled to place amendments before the Select Committee instead of sending piecemeal amendments, according to him, he printed all his amendments and placed them before the Committee. That is the ruling of the Honourable the Speaker. Barring that, the honourable member can go on. Nobody doubts the position stated in May's Parliamentary Practice that it is not open to a member even though he may be the mover of the Bill, to change the Bill when the house is seized of it. The Honourable the Speaker has said this has not been done. We are bound by that; otherwise the honourable member may go on.

Pandit Thakur Das Bhargava : I wanted to submit only this much that after hearing your opinion I have become still more staunch on my belief. You have decided that if it is somehow proved that in fact no amendments on this controversy came before the Select Committee then it should be accepted that the redrafted Bill should not have been considered. For this reason I would submit that I have no need to quote the ruling again before you. Sir, I have got a ruling of Hansard Vol. 215 of 1873 wherein at page 302 it has been laid down that if a member gives notice of introducing a Bill and this Bill is printed then that member cannot make any changes in the Bill before the second reading, and if he makes any changes then the Honourable the Speaker gave the ruling that the Bill be withdrawn—the Bill cannot be further discussed.

Mr. Deputy Speaker : The position of law is accepted, there is no need to convass that. I do not think the Honourable the Law Minister denies the postion of law that he is not entitled to changes . . .

The Honourable Dr. B. R. Ambedkar (Minister of Law): No.

Mr. Deputy Speaker : . . . . any comma or semi colon except as accepted by the Select Committee. But it is open to him to place matters before the Select Committee. I think that was the ruling of the Chair. The honourable member may go on.

Pandit Thakur Das Bhargva : Sir, very respectfully I wish to submit that if the other original Bill is placed before the House then I will have no objection. Had this Bill been considered in the House in this manner then nobody would have any objections. After being introduced in this manner the Bill should have been technically considered clause by clause and word by word. If this procedure has

not been adopted and if the Bill was sent to the Select Committee and in the Select Committee it was not considered word by word and clause by clause then I would like to ask if the first Bill was before the honourable member or was it in his pocket or had he come after reading it at his house. I wish to draw your attention Sir, towards Parliamentary Practice. No member of the Select Committee has any claims against this. I have with me strong reasons and I wish to draw your attention Sir, towards them. In the first place perhaps in the majority report it is written:

"We confined our deliberations to this redrafted Bill."

Shri L. Krishnaswami Bharathi : May I interrupt ? This is not correct.

Pandit Thakur Das Bhargava : The original Bill has not been considered clause by clause and word by word in the actual sense of the term. In the popular sense as the Honourable the Speaker said before and in the sense in which Shri Balkrishna Sharma submitted before the House, the Bill was before us, then I have no objection against the Bill. I am prepared to accept that whatever Shri Balkrishna Sharma and the Honourable the Speaker have stated . . . .

(*English translation of Hindi speeches is over*)

Shrimati G. Durgabai : On a point of order. He is questioning the ruling of the Speaker..

Mr. Deputy Speaker : I understand the honourable member, though I do not understand every word that he says, I am bound to safeguard the ruling of the Speaker. I am not interested in seeing that what I may have said today, may be upset by a Chairman who follows me. The ruling of the Speaker is there. Though the honourable member speaks forcibly on one or two points, I understand that he wants to persuade the house to allow the country an opportunity to consider the Bill. That is all that he means (Honourable Member "NO. no.". I may say immediately I do not intend to go behind the ruling of the Speaker.) Any arguments that may be advanced for consideration by the house of the country at large is welcomed but not in a spirit to question the ruling of the Speaker.

Dr. Mono Mohan Das : On a point of information. I want to be informed whether the next ten minutes will be taken up by the honourable Member so that we who do not understand Hindustani could return to our hotels.

Pandit Thakur Das Bhargava : Since you have been pleased to say that you do not follow me and I want every word to be followed by the House and by your goodself I will speak in my broken English.

Shri T. A. Ramalingam Chettiar (Madras : General): Hitherto you have had no consideration for those who did not know Hindi. There is a large number of them here and if you do not care for them and you do not want them to listen, it is your own look out.

Pandit Thakur Das Bhargava : I had already decided to speak in English and my friend's orders are only supplementary. But after what you have been pleased to say, I will continue in English.

Mr. Deputy Speaker : Whatever has been heared has been heared in Hindustani.

Pandit Thakur Das Bhargava : I am not going to repeat all that I have said as it will not be possible. In future I shall submit to you what I have to say, so that I may not be charged for attempting . . . .

Mr. Tajamul Husain : There should be no repetition.

Pandit Thakur Das Bhargava : I do not want to be ordered by Mr. Tajamul Husain. If he does not want to ...

Mr. Tajamul Husain : I am addressing the Chair.

Pandit Thakur Das Bhargava : I do not want Mr. Tajamul Husain to make unintelligent interruptions.

Mr. Deputy Speaker : I am sorry that, Mr. Tajamul Husain goes on interrupting repeatedly. I am here to protect the house so that there is no repetition. It is unfortunate that we are spending much time in this way.

Pandit Thakur Das Bhargava : I do not want to repeat. I submit that the manner in which the Honourable the Speaker gave his ruling I respect it and I will not say a word against the ruling, though I maintain. Sir, that ruling is not the last word.

Mr. Tajamul Husain : It is the last word in this House.

Pandit Thakur Das Bhargava : I am not going to be taunted by these things. I think the House can revise its own order. I can quote a ruling to this effect from the book 'Decisions of Chair. At the same time, let the house not think that I am asking the Deputy Speaker to review that order at this stage. I am not doing so. Let the House not be impatient. But may I ask where is the rule that a ruling once given cannot be revised ? There is no such rule. Since I am not attempting to get the ruling revised., this does not arise. What I was saying was that the ruling of the Speaker was to this effect that the Bill was considered along with this redrafted Bill not in the actual sense nor in the technical sense in which we understand what

"consideration" is. I submitted for your consideration that in the technical sense in which we use the word "considered" this Bill was never considered.

Shri Mohan Lal Gautam : I beg to state that this is a repitition of what he spoke in Hindustani.

Mr. Deputy Speaker : In so far as to enable me to understand the full implications.

Pandit Thakur Das Bhargava : Without these preliminary remarks I could not make myself understood and those who know would have realized that I could not do more than this.

I was submitting with a view to convince you that as a matter of fact the real consideration, technically so called, was only given to the redrafted Bill. I said that I wanted to submit certain arguments : firstly, the report says that "we confined our deliberations to the redrafted Bill". Secondly, Sir, the dissenting note of Bakshi Tek Chand as well as of Balkrishna Sharma says the same thing. I do not want to read further because the members have read it and it will be waste of time to read it again. When Mr. Balkrishna Sharma spoke the Honourable the Speaker was pleased to accept his statement. He again repeated in his speech that "we confined our attention to this redrafted Bill" : and when you see the report you will find that in the report itself there are some indications for instance in clause 99 that only the re-drafted Bill was considered in the technical *sense.*

Mr. Deputy Speaker : I am not able to follow what the honourable Member is driving at so far as this is concerned.

Pandit Thakur Das Bhargava : I am sorry I have not heard what has fallen from Mr. K. C. Sharma.

Honourable Members : Order, order.

Mr. Tajamul Hussain : Sit down !

Mr. Deputy Speaker : If you will permit me I will try to get along. There are two questions. If it is a question that we ought not to proceed with this Bill, then that point has been decided, The Bill has been taken into consideration. The Speaker has said that this Bill was before the Select Committee and with the other amendments that have been tabled. Therefore, so far as that matter is concerned, I may immediately say I am not in a position to go beyond the ruling of the Speaker. Apart from the question of a similar case in the Civil Procedure Code, a ruling has been given and it is not desirable to go over it in the same case. It may not be a precedent for some others.

When it comes up in any other connection it will be open to the Chair or members of the house or whoever might occupy the Chair for the time being to go behind the previous ruling. At this stage in the same proceedings I am not prepared to go behind it. In these circumstances I would like to ask the honourable member for what purpose these arguments are raised. If as I understood sometime ago, it is only for the purpose of persuading the House to accept the motion for circulation in view of the fact that the Select Committee did not look into the original draft but the other one, both of them were before the House. So it is not as a point of order but for the purpose of persuading the House, which I can understand. For that reason May's Parliamentary Practice and other rulings need not be referred to. So far as the matter of law is concerned enough has been said and I would request the honourable member, if possible, to conclude this portion of his argument and proceed to some other matter;

Siri R. K. Sidhva (C. P. and Berar: General) : Sir, the previous speaker, Pandit Thakur Das Bhargava said that the Speaker's ruling is not final. May I, Sir,' draw your attention . . .

Mr. Deputy Speaker : I do not want any further arguments on the matter. I have already given my ruling that so far as this proceeding is concerned the Speaker's ruling is final. I cannot allow any questioning of that. It is therefore unnecessary to reinforce the argument or to strengthen my hands.

Pandit Thakur Das Bhargava : Sir, it is far from my mind to invite you to give a ruling contrary to the Speaker's. I am not going to request you to do that. I can quite understand that it is not desirable to review a ruling when it is given in the same case, though I know according to law you are perfectly competent to give another ruling. The law is not so narrow as not to provide for cases in which injustice is perpetrated. So I shall desist from speaking any futher on this subject that the ruling of the Chair may be looked into. What I am submitting is mat mere are several motions before the House and it is not the only motion for circulation. This Bill could go before the same Select Committee and it could come back to the House in 15 days. As I submitted already it is not a matter of dilatory tactics. All that I want is that the house should adopt a procedure which is according to law and which is fundamentally right. I am a member of this House and as such I have a right to see that the Bill sent to Select Committee is considered in a manner which the law requires. There is no escape,

therefore, from its recommittal to the same Select Committee. This is the reason which I want to submit before you. After all the taxpayer has to pay for every minute of the time taken in this House and I hate to take a dilatory or obstructionists attitude. All the same . . .

Mr. Tajamul Husain : You are doing it all the same.

An Honourable Member : He is again on the Speaker's ruling.

Pandit Thakur Das Bhargava : I hope the house will bear with me for a little more time . . .

Mr. Deputy Speaker : Is the honourable Member likely to take more time ?

Pandit Thakur Das Bhargava : Yes, Sir.

(*The House rose for lunch*)

The Assembly re-assembled' after Lunch at

Half Past Two of the Clock

Mr. Deputy Speaker (Shri M. Ananthasayanam Ayyangar) in the Chair.

Pandit Thakur Das Bhargava : Sir, when the House rose for Lunch I was submitting for your consideration that the functions of a Select Committee are to go through the text of the Bill word by word ; the function of a Select Committee is to go into the text of the Bill clause by clause, and if necessary, word by word. I would refer to May's parliamentary Practice.

Mr. Deputy Speaker : May I request the honourable Member to proceed to another point because I have already given a ruling ?

Pandit Thakur Das Bhargava : I respect your ruling. You were pleased to say that you are not going to reverse the ruling given by the Chair and I do not want it to be reversed. As a matter of fact I am unfortunate that I have not been able to make myself fully appreciated. The ruling of the Chair says that this Bill was with the Select Committee at the time when the draft was being considered. I do not dispute that at all. My dispute is that the functions of a Select Committee were that they should have gone through the original Bill clause by clause and word by word. It is not only this. As the House is bound so is the Select Committee bound to consider the Bill clause by clause and word by word.

Mr. Deputy Speaker : We will assume that under the ruling both the original Bill and the amended draft were there and they looked into it clause by clause. What follows next? Is it the question that we ought not to go into this and it is not competent to do so ? If that is so, it has already been ruled. When once it has been ruled how is it open to go into it again ?

Pandit Thakur Das Bhargava : On a question of fact I would still request the Members of a Select Committee, to kindly enlighten the House whether both the Bills were taken and considered together. Assuming that this is correct my contention is that unless and until every clause of the original Bill was taken, unless and until it was considered clause by clause and word by word the requirement of law and procedure is not complied with.

Shri H. V. Kamath (C. P. and Berar: General): Has not the question of competence of the Select Committee been disposed of by the Speaker once for all ?

Mr. Deputy Speaker : I am trying to meet that point myself. Whenever I find it difficult, I will ask the honourable Member Mr. Kamath. to help me.

I have already said I am anxious to know what follows. I will assume for the moment that both the Bills were there and that the other draft Bill was considered clause by clause. What next ? What is the legal objection ?

Pandit Thakur Das Bhargava : I request you to give me two or three minutes to explain my position. There is another aspect of the case also. Besides this being a fundamental rule that the original Bill should be taken clause by clause and word by word the way in which the entire Bill is to be considered is that each clause must be considered of the original Bill, then the new clause, then the Schedule, then the new Schedule. Parliamentary Practice gives that. The next question is what is the effect. What follows—this is the question before you. I beg to call your attention in this connection to the general principles of practice and law as well as the particular point involved. In regard to the general practice the rule of law is absolutely clear that when any law or any practice or the general principle requires that a certain procedure is to be observed, unless and until that procedure is observed the thing cannot be regarded as having been validly done. For this principle I will quote another authority of the Privy Council itself which is 1936 Privy Council page 253.

Mr. Deputy Speaker : I am assuming the next step also. I am only taking the honourable Member's argument step by step. Let us assume it is so—that the Select Committee did not consider this or considered something else. Then the honourable Member evidently wants to say that I have no jurisdiction to go into the matter. It is with respect to that I want to say that it has already been ruled by the Speaker. I shall hear the honourable Member if he is able to satisfy me that that ruling does not cover the point he has stated. So far as I am concerned I have considered it carefully and I believe the same has been covered. I would therefore suggest to the honourable Member to proceed father without taking any more time. Already we have taken much time on this. There are other speakers also waiting to speak. I would like the honourable Member to dispose of this point as early as possible and go to any other point if he wants to.

Pandit Thakur Das Bhargava : My humble submission is that the previous ruling of the chair did not consider this point. The only point raised by Mr. Naziruddin Ahmad was that the motion cannot be allowed to be made as only the redraft was considered. That was the simple point. This point which I am urging in regard to taking up clause by clause was not even argued. The effect will be this that a Bill will be sent to Select Committee and if you don't observe this fundamental rule, any other Minister may, after the Bill, put a redraft, get it considered and the real purpose of this fundamental rule that it should be considered clause by clause will be defeated. This is sufficient ground that no person had a right to make any alteration whatever in the Bill—for this I would refer you, Sir, to the ruling of the Speaker in the Commons (page 301 of Hansard, Volume 215). If you agree with me in this and in the Committee being required to go through it clause by clause then the position is absolutely clear that this Bill must be recommitted to the same Select Committee. Let the Select Committee devote two hours—I do not want that the Report should not come in this session—I want them to devote two hours and consider the original Bill clause by clause, and we will consider it then. This point, I may submit was never considered by the Speaker and I beg of you kindly to consider this point.

Leaving aside this point as you have asked me not to spend any more time on it, I would take up the other points. Now the question is what is the effect of this. One met as I have already submitted is that we must abide by the rules, and the rules in a matter of this

kind are fundamental rules which cannot be disobeyed. Then what is the real effect of it? That I am submitting to you. Now the differences or discrepancies between the provisions of the original Bill and the Bill as it has emerged from the Select Committee relate not only to matters of procedure but to matters of great substance. In the Dissenting Note given by Bakshi Tek Chand and Pandit Balkrishna Sharma it has been pointed that as a matter of fact in the redrafted Bill very drastic changes were made and they have given examples of the changes. I am not satisfied that they have exhausted all the substantial changes in the minutes and I would beg of you to consider it from that point. When I began my speech I invited your attention to the fact that in this measure, as it has emerged from the Select Committee after the redrafted Bill was considered, many changes have been made which are certainly destructive of the institutions which we have not in the Punjab. I will first of all call your attention to the institution of appointment of an heir. In regard to the appointment of an heir we know the views of the Honourable Dr. Ambedkar. He himself stated that he thought that the adoption of heirs is an artificial affair. I also think so. We remember the speech made by Mrs. Hansa Mehta at the time when the Bill was sent to the Select Committee. She also made certain remarks. Now, according to the present measure, no person could adopt an heir in any form except in the *Debate* form whereas according to the original Bill the *Kritrim* and *Goda* forms were also allowable. So far as adoption is concerned adoption of a son is a mere fiction. How can such a son become a real son? But the Hindu law provides for it and I have no quarrel with those who believe in it. But in regard to appointing heirs to property, just as the Romans did by way of *Nominis Hereditio,* if the people in the Punjab had got practices like that nobody has the right to touch them. According to our institutions, in the appointment of an heir, though it is in effect just like an adoption; there is no religious efficacy, there are no particular ceremonies. There is no question of age. The son is not engrafted in the family of the adoption but he continues in his own family. There are various rules and the Punjab High Court has given hundreds of rulings over this point. That institution is too strongly fixed in the public mind and you will be tampering with the custom of at least a crore of people if you are not allowing it in this Code. According to the Hindu Code no other form of adoption will be allowed, that is the provision in the present: it does not go far enough. I understand that so far as custom is concerned, custom has been ruled out except to the extent which has been recognised.

When I read the speech of Dr. Ambedkar himself which he was pleased to deliver at the time when the Motion was referred to Select Committee, I found that his attitude was very reasonable and he made certain statements in regard to custom which are very much opposite to the provisions of the Bill. Sir, I doubt very much whether this Law Department Committee had on its personnel our Law Member himself. I do not know who those persons were who tampered with the Bill, but at the same time I can certainly say that I very strongly suspect—though I do not know it—that Dr. Ambedkar must not have been there because he is very anxious to see that the customs of the ninety per cent of the people are not affected—as I am anxious to see. Either this thing missed him—he may not have appreciated it—or some other persons might have been there who were not Members of the Select Committee. They entirely changed the face of the Bill, which they had not the right to do; then it was the other Bill which was considered—it is a fiction that the original Bill was there and considered. Sir, I would refer you to page 3652 of the proceedings (9th April 1948) in which Dr. Ambedkar said:

> "His second comment was that the Bill had not taken into consideration the customary law. He cited some ruling of the Privy Council. I should have thought that at this hour of the day it was unnecessary to cite the authority of the Privy Council because it has been well established by a long course of decisions, that so far as the Hindus are concerned custom would override the text of the " *Smriti*". We all know this. But what are we doing ? What are we doing is this. We are shutting down the growth of new customs. We are not destroying existing customs. The existing customs we are recognising because the rules and law which are prevalent in Hindu society are the result of customs. They are born out of customs and we feel that they have now grown so sturdy that we can indeed give them flech and life in the body politic by one legislation.

Dr. Ambedkar was referring to the speech of Srijut Rohini Kumar Chaudhuri: He also said :

> "that we had not taken into consideration the question of the tribal people, whose life is undoubtedly governed in a large measure by customary law. If my friend had read the definition in this code as to who is a Hindu and who is not and to whom this Code applied, he would have seen that there is a clause which merely said that persons who are not Muslims, Parsis, or Christians, shall be presumed to be Hindus : not that they are Hindus. The result is that if a tribal individual chooses to say that he is not a Hindu it would be perfectly open to him under this Code to give evidence in support of his contention that he is not a Hindu, and if that conclusion is accepted by the Court he certainly would not be obliged by anything contained in this Bill.

The position is this : if I accept my institutions as good, if I appoint my heirs according to the custom which governs me, then according to Dr. Ambedkar I am not a Hindu. That is my difficulty. Either you must provide for these one crore of people and accept their customs or. . . .

The Honourable Dr. B. R. Ambedkar (Minister of Law) : I have no desire to interrupt my friend, but I must say that I do not accept the interpretation that he puts upon that part of my speech. It refers to quite a different matter.

Pandit Thakur Das Bhargava : I am very glad that I am wrong. It gives me satisfaction that Dr. Ambedkar did not want that the one crore of people should go out of the pale of the Hindu law. But all the same, the argument I was admitting was this. If this custom was good—and I claim it is good because according to the definition given in this very code, the custom is ancient, reasonable and not opposed to public policy or morality—I claim this custom should have been recognised by the Code. But this custom is not recognised. To a certain extent the *kritrima* form was adopted as a good form by the original Bill but the present Bill says that no adoption will be recognised except this kind of adoption which according to Dr. Ambedkar is governed by certain rules. What are the rules? A man must not be more than 15 years of age. He must be given by somebody in adoption. He must not have married. Even according to the present law of adoption these rules are not there. Supposing a Hindu's daughter and son-in-law have died then the daughter's son cannot be adopted; the sister's son cannot be adopted, even the nephew cannot be adopted if the parents are not there. It is common knowledge that even today this rule that if a person is married he cannot be adopted, is not in practice and according to law in vogue, it is not necessary that a person should not have married before he is adopted. Similarly about age. So, all these measures have been changed in such a way that they cannot fit in with the present conditions, or they cannot be useful to us or cannot govern us.

We passed in the Constituent Assembly that we want a Civil Code. Even if this were not the Hindu Code and if Dr. Ambedkar was charged with the duty of framing a Civil Code, (I think he will be so charged after the Constitution is passed.) he will certainly include this civil institution—the nomination of an heir—in the Civil Code also. A man may be able to help, in their old age, those who appoint him the heir. My submission is that this point alone is sufficient to see that as a matter of fact the re-draft is much worse than the original Code and full attention was not paid to the original Bill. If full attention had been paid, this thing would have been considered. Had it been considered clause by clause, you would not have arrived at this.

The Honourable Dr. B. R. Ambedkar : This part of the Bill was, if I may say so, very much considered.

Pandit Thakur Das Bhargava : I am very glad, Sir, that the original Bill was considered. Then the only technical point remains, that it was not considered clause by clause, there is intrinsic evidence that it was not so considered. What is the effect? Supposing there are provisions omitted. How were those provisions considered? When the entire attention was on the draft of the other Bill those clauses could not have been considered. This is not a technical matter...

Mr. Deputy Speaker : The honourable Member is aware that the House is not bound by whatever the Select Committee has done. The Select Committee have sent a recommendation ; it is open to the honourable Member to accept or not to accept it; if he does not accept it, he can persuade the House not to accept it. We need not go into that again. After all, some Members were there. It is not right to go into what they considered or what they did not consider, the honourable Member would do better in addressing the House as to why we ought not to accept a provision or why we should accept it.

Pandit Thakur Das Bhargava : I will accept your advice, Sir, I will not refer in future to what happened before the Select Committee. I will only say this point, with your permission. Even if the Select committee acquiesced in this fraud that the original Bill is not to be considered and the substitute Bill is to be considered, we are not bound. An accused, before a criminal court, acquiesces in a certain procedure which is illegal; then it does not bind him. May I quote some rulings? A Court is required to go into a question and find out for itself whether there is good evidence or record to bind an accused under section 107 Criminal Penal Code. The accused says, "I agree to be bound in that evidence". The Court says, "You are bound". But the appellate Court still rules that the right procedure was not observed and the acquiescence of the accused in a wrong procedure does not make the order legal.

Mr. Deputy Speaker : Is not the honourable Member satisfied with tearing the report of the Select Committee in pieces ? Should he also say they are "accused" ?

Pandit Thakur Das Bhargava : Those who are guilty of disregard of the fundamental rules of procedure which govern a Select Committee are today accused before the House. I am sorry I have to say something which may not be wholesome to some of my friends, but I do so

in all humility and with a view to safeguarding the rights and prestigious of the House. I now leave this point and come to the second point.

In regard to marriage and divorce which are very important questions, what does the Code say and what are the facts at present ? In Punjab no specific ceremonies are required for marriages which are called *Karewa* and *Chadar, Andazi marriages.* The woman puts on the bangles supplied by the husband or the husband puts the *Chadar* on the wife and there the matter ends. (*Shri Mahavir Tyagi:* "Charming marriage") It is very easy for Mr. Tyagi to avail himself of such a procedure. It is not a sacramental or civil marriage. Again, in the original Code there was a loophole. Such persons could come to court and get themselves registered. The changed rules is that unless the marriage is sacramental, it cannot be registered. There are other points on which I shall have occasion to speak before you, but I wish to make certain general observations in regard to what is happening in regard to many persons and what has not been considered from the point of view of the common man.

In the mofussil areas, the people are illiterate. They are poor. They do not know the intricacies of the law. On the question of divorce, when Dr. Ambedkar said that he was speaking for ninety per cent. of the population, I know that he was saying nothing but the truth. In regard to this ninety per cent. How does the divorce take place today ? They go to a petition writer and get a letter of release. Another way is they congregate together and put a white sheet on the woman.

The Honourable Dr. B. R. Ambedkar: And supply a good deal of liquor to the fellows assembled !

Pandit Thakur Das Bhargava : That may be so, but it is not part of the ceremony. What is the present law, Sir ? What have our leaders done for you ? I am a representative of those poor people. I include myself in them. But when Dr. Ambedkar just by his finger indicates that he is one of those he will excuse me if I do not agree. Dr. Ambedkar lives here in a paradise.

The Honourable Dr. B. R. Ambedkar : I have lived in Improvement Trust chawls for several years who charged me rupees three as rent.

Pandit Thakur Das Bhargava : You can crush them under your feet: you can crush them under your thumb, but Sir, do you think that any poor villager getting about Re. 1 or Rs. 1/8/- a day could go to a district judge without the help of a lawyer ? Dr. Ambedkar

is a lawyer. He wants that this world may be peopled by lawyers alone like me and by nobody else. What would happen to these people ? Will they go to a district judge for dissolution of marriage or divorce ? (*An honourable Member,* "Impossible") And this is not sufficient. Even if he obtains a decree, it should be confirmed by a High Court, which so far as Punjab is concerned, to the High Court at Simla. Now, this procedure is unknown to people. It is a great tyranny upon those people. You are legislating for those who live in the Marine Drive in Bombay or in the palaces of Calcutta and Delhi and not for these poor people for whom you have such a soft corner in your heart.

Shri L. Krishnaswami Bharati : He wants to make it difficult. Do you want to make it easy ?

Pandit Thakur Das Bhargava : Another answer is that they want to make it difficult. I do not want to make divorce easy. Absolutely not. I am in favour of divorce on one condition only, that you enact laws in which it may be very difficult to bring about conditions in which divorce may take place. Chastity and continuity of family life are the very pivot of our culture. But if I agree to divorce, it is because I see so many deserted women. It is on account of that I agree. How can a poor man who is absolutely illiterate be able to engage a lawyer and go to a district or high court ? It is impossible to accept this. This old Act of 1869 was enacted, not for the poor people of the Punjab or any other part of India, it was enacted for Christians who were of the same caste as the then rulers. There is a world of difference between them and these people. If you go through the provisions from article 38 to 50 of the Bill, you will come to the conclusion that such a complicated and intricate procedure has been laid down that it is very difficult to follow it. If you think deeply, you will find that the whole Hindu society will rebel against you if you pass those provisions. According to your law, if a man marries his aunt's (father's sister) daughter, that marriage is good; if he marries the daughter of his maternal uncle—it is in vogue in certain parts of Bombay, I understand.....(*An honourable Member:* "And Madras."). But so far as we are concerned it is regarded as highly incestuous. There is a very great difference. (*Shri Mahavir Tyagi:* " The man may be killed.") Mr Tyagi is not very far being correct. It is a fact that in all the villages of East Punjab—and I speak with such feeling not because I want to speak with force but I regard it as true if you allow

this thing to be done, that man shall be killed and nobody will associate with him. (*Mr. Tajamal Husain:* "Is there any compulsion ?"). If a man marries his sister or mother, is there any compulsion ? Is this an enabling measure ? This is going into the very vitals of the society. It is intolerable. It is impossible for us to be reconciled to this situation simply because in regard to some people there is such a custom. I do not say that those people should not be protected, but for them provision can be made.

Shri L. Krishnaswami Bharati: Exactly that has been provided if you refer to clause 7(5)—the parties should not be sapindas of each other.

Pandit Thakur Das Bhargava: May I humbly enquire if a daughter of the aunt can be married to a man ? I have seen the rules. I submit for your consideration that in these matters the law has been changed, and unless the law is brought to suit our conditions it is difficult for us to support this measure. That can be done. In the Select Committee amendments can be moved. I do not want that the Bill should be throttled or killed:

The Honourable Dr. B. R. Ambedkar: It can also be done by an amendment in this House.

An Honourable Member: I hope you will accept.

The Honourable Dr. B. R. Ambedkar: I shall be prepared to accept any reasonable amendment.

Pandit Thakur Das Bhargava : I am very glad, and to that extent I am agreeable to support this Bill.

Mr. Tajamul Husain: Does the honourable Member intend to finish today?

Mr. Deputy Speaker: The honourable Member seems to be interested in this than other person, who are affected by this Bill. I have been noticing it. I cannot ask the honourable Member when he proposes to finish. It is open to him to take a reasonable time without repetition.

Pandit Thakur Das Bhargava : It is not my intention to take one more minute than is necessary. If I am repeating, I may be called to order. If a Bill is there which affects the lives of thirty crores of people, it is not too much to consider it for several days.

Now I come to the provisions made by the Select Committee and to the most crucial questions in this matter. They are, whether in regard

to succession and maintenance, what should be our attitude. I fell strongly on these. As I submitted in my earlier observation, I am in favour of giving to the women of India rights over property, moveable as well as immoveable, so that they may be economically independent. But, at the same time, I am opposed to giving the daughter a share in the property of the father. I want that, so far as an unmarried daughter is concerned, she may be given full share like the son as long as she does not marry. But as soon as she is married the position becomes different. I see that there is a lacunae in our law, but it may be met by enacting that, as a woman marries a man, then the man and woman, when they are united in love, they may be united in property. Ultimately the man and woman may be joint owners and, when the father of the husband dies, both of them may succeed equally. Further on, the devolution of the property may take place in a particular way. I know that perhaps the demand for equality may not be fully net thereby. But in a matter of this kind, I do not think our sisters are well advised in weighing every question in golden scales. The yard-stick employed by them is not correct.

3 P. M

May I submit that, in regard to maintenance, they have such laws and such provisions the equal of which is not to be found anywhere else. Sir, the question of succession and the question of maintenance must be considered together. If they are not considered together, the difficulty will be that the full implications of the provisions will not be realised. Now, in regard to maintenance the duties of a husband or a man are quite different from the duties laid upon women. According to the Chapter on Maintenance, the wife has a right to be maintained by the husband, but has the husband a right to be maintained by the wife ? I am only saying that the rights are not equal. I maintain that the rights cannot be equal. They are diverse. Ladies and men have to do different work in life and on this basis it should be so arranged that the woman gets her full right and not an absolutely equal right.

Then again, Sir, a father has a right to maintain a minor son ; but, so far as the daughter is concerned, what are the rights of a daughter. Sir ? If a daughter is widowed or is married or unmarried, in every ease and whatever the age of the daughter, her maintenance is absolute obligation. As a matter of fact so far as the provisions for maintenance are concerned, I certainly want to congratulate Dr. Ambedkar for proposing that the ladies should be protected in every way and that

they should be well provided for. But while this useful provision is there, there is also the other thing that the ladies should get a share in the father's property.

The Honourable Dr. Ambedkar told us yesterday that in times of old there was simultaneous devolution of property and that the daughter got about one-fourth according to Narad. I do not know what was the basis of social existance in those days and whether the family was then constituted as it is today. I do not know whether this point has been dealt with in some texts of Hindu Law. That is not an accepted proposition. Some say that this provision of simultaneous heirship refers only to unmarried woman. But, leaving that aside, I submit that, if in these times it was considered right, the question of questions is whether today, as we are situate after having observed the theory of Agnacy for a thousand years or more, are we justified in accepting the proposition that the daughter should get a share ? What happens in a family ? As long as the father is alive, the sons work with him in his business or in the field and they combine together to produce wealth. When the father dies of old age, that property which goes in the father's name is thus the result of the joint efforts of the sons and the father. Now, to say that the daughter should get a share of such a property which she had no share in producing—perhaps she was in some other place producing children, is not fair. Let me not be misunderstood. I do not want that the daughter should not be given full rights. She may have them. But I do not want that this innovation, which is of such a fundamental character that it will affect every home in our country, should be made. I know my people all right. Choudhari Ranbir Singh who is a Jat knows how his son-in-law will be received in the family. I have been a practising lawyer for forty years and I know that in the case of self-acquired property, the daughter gets a share when there are no sons. If this innovation is introduced in the villages, in regard to entire property the result will be endless trouble. In every home if you let the son-in-law and the father and the mother of the son-in-law to live together with aunt's son and his family, it will create an impossible situation. This is not because we do not love our daughters. We do everything for them. In our place, if a daughter comes home to her parents, something is always given to her by way of love.

Shrimati Renuka Ray : Daughters should not be born in this country.

Pandit Thakur Das Bhargava : To that I know what Dr. Ambedkar will say. He will say, 'Instead of son, daughters should be born. Do we not know that among many Rajputs, the daughters were killed ? I do not want that to be done. It is unnecessarily wrong. What I am submitting is that for hundreds of years we have lived in such a society. We have regarded the son as the very pivot of the family. Without a son the daughter does not count in the family. It is the son which protects a man from hell. (पतात त्रायते) If we were like the Muslims, we would certainly accept it, but it is very difficult. This interruption by Renuka Ray only brings into relief my argument that so far as the conceptions of the people are concerned and their mental outlooks are concerned, such an innovation would spell nothing but disaster. This is my humble submission and Mrs. Renuka Ray only supports me in this.

Mr. Krishnaswami Bharati : I do not know which part of the country he comes from, but it appears that he does not know the custom in the Punjab. In no other province I can say the conditions are the same. What are these conditions due to ? They are due to the fact that for thousands of years, our policy and our theory and our conception about the family has been exactly what has been in the Punjab. Sons-in-law are not all bad. Sons are not equally bad.

Shri Mahavir Tyagi (U.P.: General): It is the brother-in-law which matters.

Pandit Thakur Das Bhargava: There is a proverb which runs as follows :

(Translation of Urdu proverb)

(The following are the efficient causes of strife:

(1) Construction of house in the place meant for deposit of village refuse; (2) A field in the vicinity of village common ; and (3) The habitament of son-in-law in the village.)

Another proverb.

(Translation of Urdu proverb)

(The yama, the son-in-law, the maternal nephew, chowkidar and the goldsmith can never be yours. You may try them if you please.) This is the truth. Let me say : Ask any person to go to the Punjab and find out among the Sikhs and Jats.

So far as this Bill is concerned, when this Bill was introduced, I remember that in the Objects and Reasons, this thing appeared:

> "The Bill aims at providing uniformity in all branches of Hindu law for all provinces and for all sections. The old complex, intricate and different provisions

of Hindu Law have also been simplified. Most of the provisions in the Bill are of a permissive or enabling character and impose no sort of compulsion or obligation whatever on the orthodox section of the community. Their only effect is to give a growing body of Hindus, men and women, the liberty to lead the life which they wish to lead without in any way affecting or infringing the similar liberty of those who prefer to adhere to the old ways."

Now, Sir, in this very spirit, Dr. Ambedkar spoke yesterday. We want to see both the sections, the enlightened and the non-enlightened are accommodated. My humble submission to him is that so far as that is concerned, he is right; but for those humble people, whom you will neither regard as enlightened nor non-enlightened on the path of social life, you have not given the right provisions in the Bill and my humble request to Dr. Ambedkar is : Let him also kindly allow them to live on this earth.

Now, Sir, the very essence of a codification is that it includes certain enabling measures to accommodate the progressive and recognises customs which have grown in spite of texts to the contrary. It was never intended that established rights and provisions of law should be changed in this ruthless manner, which will create bad blood in the whole of the society. All our customs and all our cherished institutions are being crushed by this Bill.

When I come to the other provisions, as regards the succession, the position will be still more astounding. Now, Sir, so far as the Mitakshara is concerned, we know the consanguinity is the basis and so far as the Dayabhag law is concerned, religious efficacy is the basis of inheritance. Dr. Ambedkar has been kind enough to give us another basis of inheritance. I do not want to say that he is far from wrong in what he is doing. He is doing the right thing, but I do not know what is the barometer for weighing this natural love and affection. Love and affection may also be perhaps understood. What is natural love I do not know. According to our conceptions, the brother is very dear to us. In our sacred Ramayan, in Lakshman, brotherhood is enshrined. Sir, 'Uncles' who are just like parents are very dear to us. But what is the position of 'uncles and brothers' in Hindu Code. If I were to tell you how that position has been affected, where they have been relegated, where they have been put, in the list of heirs you will simply be astounded. If you kindly see the Seventh Schedule which has been sought to be made applicable to a Hindu in regard to inheritance, you will find that the first clause includes seven kinds of people and I want to know, Sir, how this new principle of natural

love and affection is affected by this provision. In the first place Son ; widow; daughter: this I can understand very well. Then you find 'son of a predeceased son': Even there I will allow it. Then comes 'widow of a predeceased son'. Sir, I do not understand how under the law of natural love and affection she is preferred to a daughter, son or an uncle. I do not think that so far as the question of natural affection is concerned, the widow of a predeceased son, or son of a predeceased son of a predeceased son can be accepted. My opinion is that the Bill is based on a wrong stand-point if it provides for them. I can understand if this is only for providing for ladies, if they were not provided elsewhere. If they wanted not a widow, but the wife of a predeceased son or the wife of a son, I can understand it.

The Honourable Dr. B. R. Ambedkar : This is by statute. If my honourable friend will read the Women's Property Act, 1937, he will understand why these people have been put in the category simultaneously.

Pandit Thakur Das Bhargava: The friend of Dr. Ambedkar knows it quite very well. But in that 1937 Act when that provision was made, the 'daughter' was not included.

The Honourable Dr. B. R. Ambedkar: I have said so.

Pandit Thakur Das Bhargava: You want to add this to enable the daughter to succeed a father and succeed the father-in-law too. This is absolutely unfair. I do not see why you do not provide for this when you are making a new Code. You were making laws in which all claims should have been satisfactorily met. How should you have put in these provisions, because the Act of 1937 was there. I do not think this committee was justified in doing this. They ought to have given a full code in which every claim was satisfied. You cannot justify it otherwise. Therefore, you took protection under that Act. That is the position, Sir.

When I come to clause 2 of the original bill the 'mother' was considered as the better heir, because the 'mother' was a class by itself and the mother succeeded alone. Here I can understand natural love. Now the father has been placed along with the mother and they both come together. But if you proceed further what I maintain will be better understood. When you come to the second case, you find son's daughter, daughter's daughter. The son's daughter has got a special place in Mitakshara law and according to Mitakshara, she is one of the favourite heirs. What happens now, Sir, is that in the original

Bill in the first class, the daughter's son preceded mother and father. Now the daughter's son is sent on to the bottom. Then if you proceed further, Sir, in class IV, the brother and the sister come. And in class V, brother's son, sister's son, brother's daughter all come in. I can only state that a brother's son is made equivalent to a sister's son and a sister's daughter. Now, this is equality run mad, I should say. In our families, we know what is a brother and a brother's son. This is the result of the system or the institution of a family as we have been observing for the last 1000 years. We cannot get away from this violent conflict. You are introducing provisions in this Bill which will make every person rebel against you, because these innovations in practices cannot be made by order. According to the provisions of this Bill, every Hindu, male and female has got an absolute right of making a will and every male and female in future will be absolute masters of this inheritance. You have given in my hand a power to the detriment of the ladies and I do not want that it should be used to the detriment of the ladies. After all, a father when dying will be within the power of the sons and the sons will see that the father disinherits the daughters by will. While I am saying this, I may tell you, I have a daughter and I have provided for her when I provided for my sons. In the house in which I have been living with my sons and in the house in which my sons' wives have been living, I do not want that the daughter and her husband, her father-in-law and mother-in-law, her elder-brother-in-law should all come and occupy some rooms. That would be an impossible proposition.

Mr. Deputy Speaker: Under the Bill there is not much chance of the father-in-law and mother-in-law being protected.

Pandit Thakur Das Bhargava : They can come with the son-in-law. I will show there is a very good chance of a thing like this taking place. The father who does not want to touch even water at the house of the daughter, will get the property of the daughter, and her husband. I am coming to that subsequently.

I am only submitting that the ladies will be under a greater jeopardy of losing their rights in this way. The father will disinherit the daughter. She is not a heir according to class I; she does not succeed to the property of the father-in-law as wife of the son; but she succeeds only as a widow. Where is she then ? I do not understand. She will be put to a great loss. I want, Sir, that the women should get their full rights. The theory which I have propounded.—I have not given

very great thought to it—I have only submitted it for the consideration of the entire House and for the consideration of Dr. Ambedkar—I do not know how it will affect other interests—there may be flaws and I do not vouch for it—but I consider, at the same time, that it will be a better arrangement than the present arrangement. The theory is that an unmarried daughter succeeds simultaneously equally with the son. The woman on marriage becomes joint owner in husband's property as husband would be joint owner in her property, then both succeed in husband's family.

Then, again, Sir, what would happen to the brother's son ? and the sister's son ? They are both on the same level. The brother's son lives in the same house probably or next door and does service everyday ; the sister's son lives at Allahabad or Madras or some other place. How will they be equal. In regard to other provisions also.—I want to be brief.—If the House wishes me to go into the other provisions also, I am perfectly prepared and I have got full notes about the changes and how they affect us—but I would be taking up the time or the House in such a manner as to deprive the other members of their opportunity.

Honourable Members : You may go on.

Pandit Thakur Das Bhargava : There are many other considerations which go to show that this provision in clause (2) is not well founded either from the point of view of consanguinity or religious efficacy and even from the point of view of natural affection and love.

Next, I come to the succession of the female. After the Hindu Code Bill comes into vogue, the lady succeeds to the property of the father as well as to the property of the husband. Suppose the lady dies leaving husband and children, it is clear that the husband has been given the right and the children also succeed. So far so good. Then, when the husband and the children are not there, who succeeds ? The father and mother of the lady. These people—there are lakhs like them—who do not even want to touch water from the house of the daughter, will get the property. *(Shri L. Krishnaswami Bharati:* "Why" You cannot understand this ; it is my difficulty. You cannot realise this. May I submit, Sir, that as soon as the father gives away the daughter to the son-in-law, the father never goes to the house of the daughter, never takes his food in her house and never even drinks water in her house, so that the purity is maintained that no daughter may be

given in marriage for mere consideration or any other material gain. That is the basis. There are many people who would not even go to the village where the daughter is married. We must recognise facts as they are; it is no use saying that they do not know. It is quite possible that they do not know. It will happen that the father-in-law would get property bequeathed by the lady. That will be an intolerable position. Supposing a lady does not leave a husband and children and neither a father nor a mother, what happens ? This is a crucial point. The property has been inherited by the lady from the father. The property, in the absence of husband, children, father or mother will not go to the son of her father. Let me put position clearly. The property belongs to A's family, The property will not go to A's family, the brother of the woman, the real brother made of the same flesh and blood, but the property will go to hundreds of people of the husband's family of the list that you have given here. Since the woman is dead, leaving no husband and children, father and mother, in that case, the property is not inherited by her brother or brother's son or others, but it goes to the family of the husband. Why is it so. Because your Select Committee have not been able to shake themselves from the considerations which have been influencing the entire community for a very long time. (*Shri L. Krishnaswami Bharati:* "What is the present position ?") We are not concerned with that. You know the present position very well. It is *stridhana* ; it is not inherited by the daughter ; the position is different. I was submitting, the property of one family is not inherited by the brother of the lady, but it goes to other people. This is a position which I cannot understand. But, you must realise that this is the position. You may remedy it; I beg of you to remedy it. This is a question on which you will be well advised to review. This is one of the points which I submit for your consideration. I will leave this question of succession at this ; there are many other considerations which could be placed before you.

Then, I come to the power of disposal. I quite understand the very great hardships when there were restricted rights in regard to women's property. So far as the joint family is concerned, it is sought to be crushed under this Bill. The joint family is mouldering away ; it is crumbling. From a very long time, certain circumstances have so arranged the fate of the joint Hindu family that it cannot survive. Sir, I do not want to shed tears over its going away. The Income-tax Act is the greatest monster in killing this joint Hindu family. I know that

the joint Hindu family cannot stay for long. But, so far as this Bill is concerned, if it says that in future they will be tenants in common. I have no quarrel. This was given in the other Bill and this is also given in this Bill. I am too much of a realist to cry that my sacred ancient joint Hindu family goes away. There were days when there was great use for the joint family. Now we are turning back to co operative forming, co-operative holding of properties, etc. At the same time, we are providing social insurance, etc. We are doing all these things in such a manner that we are reverting back to the principles on which the old joint Hindu family was doing. That is beside the mark ; so far as the law goes, so far as the general circumstances of the country go, so far as this joint family is concerned., I do not think that it must be said

The Honourable Shri Jagjivan Ram (Minister of Labour): It is a lost cause.

Pandit Thakur Das Bhargava : Whatever you may say, Sir, there is no question of cause here. I do not like the idea that legislation should kill the joint Hindu family.

In regard to marriage, Sir, I have to submit a few considerations more. It is a very difficult matter.

An Honourable Member: That has been dealt with before.

Pandit Thakur Das Bhargava : I have placed some considerations before.

An Honourable Member : This is second marriage.

Pandit Thakur Das Bhargava : I find myself in very good company when I make .....

The Honourable Shri Jagjivan Ram : You are with the Law Minister himself.

Pandit Thakur Das Bhargava : Shrimati Ammu Swamindhan, Mr. Shiva Rao and Shrimati Renuka Ray wrote as follows :

"Regarding claus 6 of Part II of the Code on 'Forms of Hindu Marriage we would point out that there are, in certain parts of the country, long-standing customs or usages which recognise as valid marriages which would not come under the category if either sacramental or civil marriages in accordance with the provisions of this Part. We would therefore suggest a proviso at the end of clause 6 to confer validity on such marriages."

What is this ? I understand that the trouble is the same in that part of India from which Mr. Bharati comes.

Shri L. Krishnaswami Bharati : Luckily I do not come from that part. I come from Tamilnad and they come from Malabar.

Pandit Thakur Das Bhargava : So far as the question of adoption is concerned I find a similar thing in this dissenting note. So it is not the Punjab alone. It is also in other parts in which the rules of marriage and divorce and adoption are different from the orthodox rules and all of them should be protected, and I am very glad that these dissenting members represented their constituencies too well in making the observation.

I was speaking of sacramental marriages. So far as the non-sacramental marriage is concerned I have not said a word about it. I want that to be protected. In regard to sacramental marriages, the havoc played by the Committee is inexplicable. I do not understand for once how the civil marriage should be included in this chapter. If it is a civil marriage, it is a subject for the civil code. We have the Act of 1872. It is a very defective Act and I have submitted a Bill to put it right, and the Bill which I moved a few days back in this House for validating the marriage of all others, that would protect us much more than the inclusion of this civil code here. I am in favour of a civil code for the whole of India and I want the rules to be the same for all. It is our duty to do so but why should we include the civil marriage here ? If it is to take away the evil effects of that law, then the other course is open. What happens in this civil code and the new kind of marriage which is neither sacramental nor civil but a registered sacramental marriage in which though the marriage takes place by virtue of sacrament, yet if it is originally incestuous, then you go to a registering officer and you get it validated ?

Shrimati G. Durgabai: It is only optional !

Pandit Thakur Das Bhargava : I have replied, it may be optional but does it conclude the matter ? The Hindu Code says that there are five conditions when the marriage takes place otherwise the marriage will not be permitted. The words are “conditions relating to sactramental marriage”. That means in fundamental matters, as soon as one of the provisions is contravened, you allow the law to secure you to get away from the effects of that flaw. As regards the prohibition of the sapinda relationship, I beg to submit the difficulty is that the uniformity of law which we aim at is very difficult to secure in a country like India. It has been said that bringing about such a uniformity will be miraculous. I congratulate Dr. Ambedkar in working out that miracle and I am for this miracle being worked out. But when there are legal difficulties in local matters in which the conflict from the

present position to the position that we want to see enacted is very great and very violent. I would ask of the House to so arrange matters that this conflict is avoided.

Now, Sir, I come from a place in the Punjab where there are villages upon villages having the same gotra and they believe that they are descended from the same common ancestor. You know this sapinda relationship which restricts the line of ascent and descent to three or five is not sufficient so far as those people are concerned. I do not want to say that you broaden it further. At the same time this will be unacceptable and a thing with which we could never reconcile ourselves, if you ask us to allow a marriage of sapindas. This is an impossible position so far as we are concerned, and if you allow this then you are really cutting at the very root of our social system as is enjoyed in the Punjab for a very long time. This is my feeling also for the whole of India. Of course, I do not speak for the rest of India because there are certain gentlemen who question it. My view is that in the whole of India the position should be the same. Well, I am not dogmatic about it, but this is a very wrong rule that we are enacting and that the requirements of section 7, that marrying couple should not be sapindas should be waived in so far as registered sacramental marriages are concerned. So far as the Sarda Act went, a marriage once celebrated according to the Hindu Law and our notions, was always indissoluble. We are making a break from this rule in so far as we are providing for disrupting marriage by codes or customs. Otherwise when rule 3 has been abrogated, you can convict a man and send him to jail. I have submitted to the House through a Bill that where a person not of proper age is married, instead of a fine he should be imprisoned and the law should not be vested with the discretion that he should be allowed to go free. The whole country was against the Sarda Act and the present provision shows that if Rule 3 is followed, then the marriage will become avoidable. This is going against principles which we have not accepted for more than 20 years.

So far as the main provisions in the Hindu Code are concerned, I have dealt with them in brief with a view to bring them to the notice of the House and since my feeling is that the Bill is not to going to be throttled out, I will deal with those matters when the clause to clause stage is reached.

To sum up, I want to say that so far as this House is concerned, it will be well advised in either sending this Bill out for circulation,

because in that case nothing will be lost—as a matter of fact much will be gained: public opinion will be consulted and the public will feel that they are being ignored. As a matter of fact many amendments have been made even after it has come from the Select Committee : even before the Select Committee the people in general did not know anything about it. In spite of all that has been said, I am convinced that people know about it. Dr. Ambedkar referred us to the two gentlemen who drafted this report and said that they were very good people and not such people as could be regarded as very much advanced in their views. I have got with me so many opinions of high court judges and more opinions are pouring in every day. All these people are against it. I did not want to read them out from the evidence that is printed in the report of the Hindu Law Committee. I would with your permission refer you to page 13 of this report, where there is the evidence of a lady, Miss Subrul, Principal, Fateh Chand College for Women. She said:

"The unmarried daughter, one who is not fit for marriage, or one who has made up her mind not to marry should get the same share as the son and she should also be subject to the same obligations as the son. A married daughter should not have any share in the property. If an unmarried daughter marries, her share should go back to her brothers."

When the Committee was in Lahore to record the evidence, it is said in the report.

"As a matter of fact in the Punjab where I was presiding over the meeting of this committee some 500 women entered the Commercial Museum Hall, Lahore, where the meeting was held said with folded hands 'Do not bring son-in-law into the family and ruin our business."

In regard to business if you kindly consider what effect this will have on the business people you will simply be scandalised, A prosperous business conducted by a father and his sons is going on. The father dies and the business is run by the joint efforts of all and then the son-in-law gets in. What will happen to the business ? It will go to dogs. I would refer the House to page 139 of the report. It is wrong to say that all the ladies are in favour. Thousands of enlightened ladies did not favour this, not because they did not want the daughter to be given any rights. I reiterate that so far as I am concerned as also those persons who think in the same way as myself, we do not want to see that the daughter is not given the full right or that women are not given their full right. We want women to rise to the same stature as man and to have the same rights. I am one with Dr. Ambedkar. I am like him a progressive conservative. I like

that expression very much. I do not belong to the advanced school of thought. This Bill is not either revolutionary or radical, as Dr. Ambedkar said. This Bill deals with certain matters but the Bill has to be improved. Today there is in the Hindu society some sort of introspection and it is able to see that there has been decay. It is our duty to see that the dilapidation is repaired in the words of Dr. Ambedkar, I therefore submit that from this point of view let no body run away with the thought that we do not want to do justice to our sisters and daughters. If our sisters and daughters carry an impression like this they are entirely mistaken. I know about your good self, Sir. You are also in favour of the view that their rights should be secured. I therefore submit that this should not be looked at from this point of view. I want this Bill to be circulated and it may be taken up after the next elections when we have a more representative House. I do not maintain that this House is not fully competent or sovereign. If the House persists in proceeding with this measure there is no wrong in it but I would like to see that this Bill is considered and that justice is done to every interest concerned. At the same time what I do want as a lawyer and as a member of this House is that this Bill should be considered again by the Select Committee, even if it be for two hours, so as to remove all these defects and to legalise the original Bill being considered clause by clause and then this very Bill may be substituted if the Select Committee so pleases. I maintain that it is absolutely wrong to say that the original Bill was considered in the way in which the law required it to be considered or that the amendments were moved or accepted in the usual manner as is done in every Select Committee. This was not done. We should be quite cautious that we do not allow the thing to be done in a way which is fundamentally wrong. I would beg of Dr. Ambedkar to consider the question if he is satisfied that my objection is right. I would beg of him kindly to consider the point of view of the poor Punjab people who had no representation on the Hindu Law Committee.

Honourable Members: What about Dr. Bakshi Tek Chand ?

Pandit Thakur Das Bhargava : If you speak of Dr. Tek Chand who was on this Select Committee I will be very glad if you will give his due. If he had not written this dissenting note where would you have been ? If you accept him as a man whose views ought to be respected then go by his views. This is my submission. I am only a mouthpiece or a loudspeaker of what Dr. Bakshi Tek Chand

has written. He has said in his note that you should allow nomination of an heir, that you allow divorce to take place in the same manner in which it is taking place today and he has also mentioned about non-sacramental marriages. In all these points when you take his name I beg of you kindly to follow him in what he has said in his dissenting note.

Mr. Deputy Speaker: Shrimati Renuka Ray.

Mr. Naziruddin Ahmad: Sir, my grievance is not being heard.

Mr. Deputy Speaker: The honourable Member's grievance will not go unheard.

Mr. Naziruddin Ahmad : May I submit that I had certain points and I would like to have got the advantage of those points being made and the replies given to them.

Mr. Deputy Speaker: The honourable Member will have the advantage of his observations going unchallenged.

Mr. Naziruddin Ahmad: I do not like it, Sir.

Mr. Deputy Speaker: I have already ruled that the honourable Member will not have his turn now. I have called Shrimati Renuka Ray.

* **Shrimati Renuka Ray :** The Bill that is under the consideration of this House now, or rather the principles embodied in it, have been on the anvil of this legislature since 1943 and the insistent demands for these changes that are embodied in this Bill have been before the country for a very much longer time. It was more than 100 years ago that Raja Ram Mohan Roy wrote a treatise called "The Rights of Females to inherit property and their rights of marriage", and this matter was first brought to public attention. Since 1931 and 1932 there has been an insistent demand throughout the country, and at that time the need for the removal of legal disabilities of women and the need for a uniform and comprehensive code of legislation was made manifest in this country. Due to the fact that on the anvil of the legislature there were a number of Bills dealing with this subject, due to the fact that piecemeal legislation was leading to anamolies in law and because of this insistent demand, the Government of that day was forced and compelled to appoint the Hindu Law Committee better known as the Rau Committee on Hindu Law. It was as a result of the report of this Committee that the two Bills on intestate succession and marriage were introduced in 1943. At that time the opposition that has now again reared its head also came to the forefront. The

*C.A. (Leg.) D., Vol. II, Part II, 25th February 1949, pp. 925-29.

substance of the opposition was the same as it is now but the approach was a very different one. The approach was naturally different because it was made to an alien government. The approach was made on the lines that they were the loyalists who were the ardent supporters of the Government, that it was the Congress, which was agitating, that was behind this demand which the women of India had brought forward and that the Government should not give any credence to it. I am not making statements without foundation. It is true that the nationalist press of this country did not give that opposition much chance. Yet the opposition did bring out many pamphlets wildely abusing our national leaders, not even sparing our belovd leader Mahatma Gandhi. There was a weekly paper produced called 'Hindu' in which these Bills were attacked and they were attacked on the basis that the national leaders of this country were behind it and it was due to their advice and under their influence that this was being done. Coupled with this factor, when the Government found that the women of this country were not willing to agree to those machinations which wanted to further divide and bring discord among them, when they realized that women were against separate electorates and that they stood behind those who were in the vanguard of the freedom movement of this country, then there was not much hope that a legislation of this type to improve the lot of women and to give them their rights would go through with the alien Government in power. It was then that we realized that it was necessary to wait till a national Government came in. Later the Government appointed the Hindu Law Committee, and the Bills were re-circulated. This Committee as the House knows, presented its Report after touring the country, taking the opinions of thousands of individuals and organisations in 1946 after the Intrim Government came in. I will not recapitulate the subsequent steps when this Bill was reintroduced after 1947 in the present Legislature as these are well known to the Members of this House. But I merely want to point out that the opposition which is in substance the same, in character the same, has a new approach. I would like to know who are they who were opposed to the Congress in those days to say today to the Congress 'You will lose your elections if the Hindu Code Bill goes through.' I would like to ask them when they were deliberately against the movement for freedom—when they neither supported it nor symalhised with it—when it was in spite of them that the Congress won the elections and the country's freedom, who are they today to tell the Congress that they will not win the elections. If anyone of them comes into the legislatures of the country today it is by the grace of the Congress and so it shall be tomorrow also.

This opposition that has reared its head and which is similar in character as before, has resorted to many devices. It has resorted to various types of tactics. The House is aware of the fact that the Governor-General's name was used and this was found to be a fraud. Only two or three days ago in a newspaper in Calcutta I saw the name of Shyama Prasad Mookerjee after that of two or three other well-known oppositionists and I was a bit surprised until I saw in small brackets the words "(of Uttarapara)". Sir, it was obviously intended to mislead, and if questioned they would have pointed out "of Uttarparah" These are the devices, these are the tactices that are being used by the opposition. As you know, we do not question those who have genuine differences of opinion. But this type of tactics that are employed today.....

Mr. Naziruddin Ahmad: On a point of information, is it not Dr. Syama Prasad Mookherjee ?

Shrimati Renuka Ray : No. It was not the Minister of the Central Cabinet. I do not know which Shyama Prasad Mookherjee he is.

Mr. Naziruddin Ahmad : I thought the description was "Dr. Shyama Prasad Mookherjee, President of the Hindu Mahasabha".

Shrimati Renuka Ray : That is not so. It was "of Uttarapara". Such are the tactics adopted by them that even Mr. Naziruddin Ahmad is taken in by them. The orthodox opposition has found its greatest champion from amongst the members of a community which recognizes the daughter's rights of inheritance. It is extremely surprising that the honourable Mr. Naziruddin Ahmad would deny to his Hindu sisters the rights that his own women have.

I would further say that there are some people who have asked "How is it that telegrams, circulars, and posters are being displayed by the opposition all over—at least in Delhi—and that M.C.A's are being flooded with wires ; and how is it that those who are in support of the measure do not do the same?" Sir, those who support this Code are also representatives of social welfare organisations; they are people who work for the good of this country. Today when there is a national emergency in regard to any funds that they have, they would not consider it right and proper that they should use such funds in sending wires and letters when they can be used for the rehabilitation of refugees. One wire to M.C.A's in this House costs Rs. 165. With that money for three months a refugee woman can be given vocational training for rehabilitation. Do you want that these wires should be sent

to you ? I think it would be wholly wrong for such a procedure to be adopted. If we have not issued posters and circulars and wires it does not mean that the demand for the changes does not continue to exist. I will not go into great detail on the provisions of the bill after the brilliant and masterly analysis of the Honourable Law Minister. It is quite unnecessary. Unity is something we desire in this country, and a uniform and comprehensive Code of law for Hindus who are the majority in the country is surely a necessity in that case.

Turning to monogamy I would like to ask, is there any one in this House or in the country who would contemplate with equanimity the fate for his own sister or his own daughter of being the first wife of a man who has married again. It is true that polygamy is not very customary : It is on the whole rare in the country. But in recent years we have seen that polygamy has become more frequent, and to the eternal shame of Indian womanhood. There have been women who have knowingly and willingly agreed to become the second wives of such men. I do not think that I need elaborate the point that law must come forward to redress the grievances and the miserable plight of the women who are first wives of such men.

Turning to inter-caste marriage and *sagotra* marriage, when in the Fundamental Rights of our Constitution we say that all discrimination on account of caste and sex and other such things should go, surely inter-caste marriage which is a permissible measure will be only the very first step towards it.

Mr. Deputy Speaker: Caste can go; how can sex go ?

Shrimati Renuka Ray : I said 'discrimination on account of caste and sex'.

Mr. Deputy Speaker: The honourable Member may go on.

Shrimati Renuka Ray : Turning to the divorce provision in this Code, I concede that these are restricted conditions. The home is the nucleus of society and I do believe that the primary reason for marriage is that it is for the protection of children and as such divorces should not be allowed on flimsy grounds, but for genuine cases of hardship we have to provide. Since 1943, when the Marriage Bill was first introduced, I have had scores of letters and scores of people have come to me with their daughters who have shown to me how grave and how terrible is the hardship which the women do suffer. Unless there is such a provision, both for men and women, it will not meet geneuine requirements.

Sir, let me dilate for a moment when I speak on this point, because the opposition about which I spoke have been going round telling many women who do not understand law or the provisions of a Code, that their own women were trying to bring in laws by which they will be divorced. They do not realise that it is only a permissive measure, that it is only the aggrieved person who can claim divorce, and for whom alimony is provided. These things are not mentioned. At hundreds of public meetings these matters were brought to me

4 P. M. and I had to explain the point, and I think the women Members of this Assembly can also say the same thing.

Turning to the joint Mitakshara family, I do not think there is any need for me to add one word to what the honourable the Law Minister has said on the subject. It has been fully amplified by him.

So far as the daughter's right of ineritance is concerned, it is the focus of the opposition. It is only natural because that alone proves that it is not bigotry so much, not blind prejudice so much, but it is the vested interests that are up in arms. The honourable the Law Minister has already spoken on this point, but I should like to say one or two more things. The economic status of a woman can only be established by the recognition of the daughter's right to inheritance. It was a point that was brought up by my honourable Friend Sheth Govind Das yesterday. He said—I do not know how far he believed in it—he said. "Why should we have inheritance ?" Certainly, I do agree that a time will come and must come—if we want and believe in equality of opportunity for all, if we believe that disparity of wealth shall go—a time must come when inherited property must go out. But until such time, if there is a difference between the daughter and the son, then that difference means a difference in the status. It is the daughter's status that has to be recognised; she as a daughter, as a woman, is a natural heir. It is not merely from the theoretical point of view that I mention this. We are dealing with intestate succession and it is far more natural that a father will not disinherit his daughter, than a father-in-law would, in spite of what my honourable friend Pandit Bhargava said. A woman's rights in the joint family, which in years gone by may have served a very useful purpose, have not under the existing conditions been so sure in recent years. My honourable Friend Sucheta Kripalani made a point yesterday which I would like to endorse. Those women or men who are social workers know that an analysis of the inmates of rescue homes in this country will go to prove how many of these women are those who have been

turned out of the joint family. Without having the training to earn their own living, turned out of their homes, these women have been forced to live a life of shame. That is a question which the Hindu society must face. I am sure those who propounded the Hindu laws would never have contemplated such a state of affairs.

Women are the mothers of the race. No race can advance till its women can be responsible mothers and conscious citizens. There has been a good deal of propaganda done about educated women. A handful of educated women, it is said, want this Hindu Code or want this very halting and mild measure of reform. Sir, so far as women are concerned, it must be a handful because after all the educated element of this country is 15 per cent and the women who are educated are about 3 or 4 per cent even now. So, so far as the women are concerned it must be a handful, but behind them are, not today only but from decades past, the large mass of enlightened and progressive men who stand behind them. It is not the women of this country who alone are responsible for the fact that there is no suffragette movement, no feminist movement in this country—it is because their champions have been enlightened men, for decades past. Today the same state of affairs exists and I am sure that the majority in this House are also behind us. It is not a demand from the educated women of this country but a demand from all those who want that India shall progress. For, without women becoming conscious citizens taking the rightful place in society, it is not possible for us to progress.

Sir, it is well-known that slaves have resisted when the Shackles of their slavery were removed. It is a fact serfs have objected to freedom. What is more, coming to our own country, it was held by the British that it was only the wretched Congress agitators who wanted freedom but that the mass of the people were quite willing to remain in the pathetic contentment of thraldom. If you speak today of pathetic contentment amongst the women, it is true, it is perfectly true that many women are not yet conscious. But is that a reason that you will not awaken them, that you will not make them conscious, that they should not become equal with men in the joint enterprise that is before us today of building a new India in an atmosphere of freedom ? I ask, is there anyone who feels that it is possible to go ahead without the women of this country ?

Before I conclude, I will say a word or two about what my honourable Friend Pandit Thakur Das Bhargava has said : I must say that I could not quite follow him. This morning he called into question

the competency of the Legislature, and in the afternoon just before he sat down he said that he.....

Pandit Thakur Das Bhargava : I never questioned the competence of this Legislature.

Shrimati Renuka Ray: So, I suppose what he said last is what goes. He spoke a good deal about the eleven notes of dissent. But as he knows and as the House knows, many of these notes of dissent were on minor issues and such notes of dissent are usually attached to all Bills and it does not mean therefore that a Bill should be recirculated. This morning Pandit Bhargava said that two wrongs do not make a right when he said that this Constituent Assembly obviously is not fitted to draw up the Constitution of India. I wonder, considering that it is such a wrong thing, how he remains in that wrong Assembly. I am not going to contradict him or speak again on all that he has said this afternoon, because I think it was very ably answered before he ever spoke by the Honourable the Law Minister and Pandit Bhargava contradicted some of them himself.

There is one last point that I would like to make. The cry has been raised that Hindu society is in danger because of this mild, halting measure of reform. I too think that Hindu society is in danger. It is in very grave danger—danger from those who would bind and fetter it; danger from those who would not allow out-worn customs to be changed but would allow them to choke up the life-blood of our society. If those who today appear to be so concerned about Hindu society would give a little thought, they would agree with what the Honourable the Law Minister said, namely, that you must repair if you want to survive. I do not know who has given a prerogative to some people to stand up for Hindu society. I do not consider those who wish to bind and fetter Hindu law which has been changing with changing times throughout the centuries to be the exponents of Hindu society and Hindu law and those who wish to improve it and bring it back once again to the culture and heritage of our forefathers as people against it. I think it is those who would bind and better it who are not the friends but the enemies of Hindu society. If Hindu society is to regain all that it has lost during the many years and the many centuries of decadence when Hindus were slaves, it has to come in line with the atmosphere of freedom that prevails in this country today. Men and women have to come forward equally to work for the country and there cannot be equality if there is no equality in the social laws

of this country. Therefore, I plead that those who today are opposing this Code should give it a little more thought. If they do not, it may be that Hindu society and Hindu law may be left behind, for the march onwards must go on and India is not going to go back to slavery or domination by others.

* **Shri V. S. Sarwate** (Madhya Bharat): I would offer my congratulations to Dr. Ambedkar for his learned and lucid exposition of the Bill, becoming as it was to a professor and an advocate that he is.

As regards the several provisions of the Bill, one would necessarily find himself in agreement with some and in disagreement with others. This is not the occasion to dilate much either on the points of agreement or on the points of difference. I would, in the general discussion, confine myself to certain broad principles and I would try to show that in these principles the Bill goes in a fundamentally opposite direction to the notions which have all along, in my humble opinion, been lying behind Hindu law.

There has been a considerable section of Hindu society against this measure. It cannot be denied ; it cannot be concealed. Some may say that it is a cry of "Religion in danger" ; it is sentimental; it is reasonless. All the same, those who are bent upon making legislation which vitally affects a society of more than 20 crores would do well to pause, ponder and consider its substance. They should consider what is there in the Bill which makes so many people—intelligent, educated people—to be against the Bill.

[*At this stage, Mr. Deputy Speaker vacated the Chair, which was then occupied by Shri S. V. Khshnamoorthy Rao (one of the Panel of Chairmen)*].

I submit that there are two reasons for this. The first point that I would refer to is the change in the nature of the joint property. I would submit that the co-parcenary aspect of the joint property has certain very noble ideas behind it. The co-parcenary means that there is a community of interest, as every member of the House knows. It means that every individual has the fullest right of enjoyment but he has no individual share nor the right to alienate the property. The whole trend of modern society, the progress of thought of the society, in my opinion, is in this direction. We may condemn Communists, but Communism in its pure form, pruned of certain things, is bound to come and would come. What does Communism mean in this aspect ? As I understand it, it means "From each man according to his ability

* C.A. (Leg.) D., Vol. II, Part II, 25th February 1949, pp. 929-34.

and to each man according to his necessity". In other words, a man is to enjoy the property in his hands to the minimum. He has to divert himself of individuality. He is never to consider that he has an exclusive individual interest in the property. If this is the basic understanding and if the world of progressive thought is moving towards this direction. I believe it would be admitted that it would be wrong to go into an opposite direction. Every effort should be made to promote such an idea and to promote such institutions as foster this idea. Dr. Ambedkar in his speech showed at length the attempts which have been made so far by the *Smritikars* and others to fritter away this idea of co-parcenership. Assuming that this is so, the effort now should have been in the opposite direction—not to complete the process of frittering but to restore the co-parcenary property.

Shri L. Krishnaswami Bharati : Impossible.

Shri V. S. Sarwate : Impossible ? Yes, everything that is not attempted is avoided by saying it is "impossible."

Nothing is impossible in this world if you try. Now therefore I submit that the idea behind the co-parcenary property system is admitted. Each individual member or co-parcener has to enjoy in full the common property, though he has no exclusive individual interest in it and he cannot alienate his interest in it. So when you attempt to deal with it, this co-parcenary you should take the idea as a whole. The idea of the joint property, as conceived by *Mitakshara,* seems to be this : that there is right of survivorship, and that each family is a unit and not an individual. It means also that the family continues though the individuals in it pass away and whether one is a male or a female one has a right of equal enjoyment. There is equality of sex in this sense. Therefore it follows that whatever is the property of the family has to go to those persons who constitute the family. Therefore if a daughter does not constitute the family, if she is the member of another family, she would necessarily not enjoy any right in that family. It is not neglect or unfairness or want of affection for a daughter. The very idea of a joint family is this : that whosoever is the member, whether widow, male or female, as long as he or she continues to be member of the family, he or she enjoys the property of the family which nobody has a right to alienate. I would have welcomed a provision to the effect that there would he no partition of joint family property and that no person or individual of the joint family has any right to alienate the family property. That would have

been very welcome and in the right direction. That would have been according to the idea which is fundamentally behind the joint family system. It is the family which is taken as a unit of society and not an individual. Conceived from this point of view, no sister of mine need think that she has been ill treated, because she and her brother enjoy equal rights in this respect. I would therefore submit for the consideration of the Honourable Dr. Ambedkar that in such a vast country like India, nothing would be lost if there are separate experiments on social units. If it is wanted that a individual should be a unit, let that experiment be tried somewhere. If the joint family should be the unit of society let that experiment also be continued in some places. We are a sufficiently large country to have different experiments in society. Let both continue and let the persons choose the law or system they want to follow. So, instead of having one codified uniform law for the 20 crores of India, nothing would be lost if we have more than one system prevailing in this country.

I may in this connection refer to one of the observations made by Dr. Ambedkar. I admire him for his erudition. I heard him with respect, because in the cause of his arguments he never descended to have a fling at somebody. His attacks were heavy, but they were straight and level. But, in the course of his remarks the other day, in the course of his otherwise lucid speech, he said that he did not know why the Brahmans of old were engaged in comprising so many as 137 *Smritis* and enquired whether they had no better engagement. I believe when the Honourable Minister said this, his historical perspective left him for a moment. I may remind him that these 137 *Smritis* were not written simultaneously. They were written in a period covering more than 250 years at the least. Thus on the average it took them about 20 years to write each *Smriti*. That means one for every generation. But here what happens is that during the space of one year the Honourable Doctor prepares more *Smritis* than one. So he need not have indulged in that unedifying observation. It was also very unnecessary for the development of his argument.

Sir, I was dealing with joint family property. I submit that the basic principle of joint family property is this : that it allows restricted enjoyment.

Sir, the question is often asked, what is Hindu culture; what is Hindu religion as such ? Where angels fear to trend it is difficult for others like me to rush. All the same one has sometimes to make

provisional attempts and I shall make that attempt. I think, as far as the present topic is concerned, the fundamental points which the Hindus have kept before themselves are that there should be restraint on enjoyment all along. Not encouragement of enjoyment but restraint on enjoyment was their rule and according to them, for the community of interest, the individual should lose himself.

Now, applying this principle of restraint, I submit that the whole Chapter on Marriage has to be recast. In this respect it has been stated that because ninety per cent, of the people by custom have this right of divorce, what are you going to do ? It is asked, are you going to impose this custom of ninety per cent, on the remaining ten percent ? I submit an argument of this sort is a very good piece of rhetoric, but not of logic. What we have to consider and what the Honourable Doctor has to consider is not what is the custom, but what is good and what is beneficial. We have to consider what ought to be there. That has been the criterion all along and that should be the criterion. There will otherwise be anomaly. For instance, among ninety per cent. of the people there is the custom of drinking. We are certainly not for the matter of that prohibiting prohibition. It cannot be denied that there is the custom of drinking.

The Honourable Dr. B. R. Ambedkar: It is not a custom.

Shri V. S. Sarwate : All right, you may think so. I am at liberty to express the thinking in that way. (*An honourable Member*;: "There are not ninety per cent, drunkards.") It is one think to call it a custom in the community and another thing to call them drunkards. That is the difference. It is no argument to say that a certain custom is there and therefore it should be continued by law. The argument should be whether it is beneficial and if we consider from this point of view, and if a certain section of the Hindu community says that marriage is indissoluble, why force them and say that there shall be a dissolution, if the parties so choose ? Argument may be advanced, that there is in this Bill no necessity, there is no compulsion, but there is an option. The option is always there. The option to a drunkard is he may or he may not go to the drinking shop. There is always the option, but he does go all the same when there is a drinking shop and a drinking shop has therefore to be closed by law. If it is to apply to a certain portion of the society, I would have welcomed it. In law of marriage, there should be monogamy. I admit it. I would go further and say that if you consider that from the point of view of restraint, there

should be no second marriage either of the women or of the men. That would have been a welcome provision, but instead of that we are going to the other extreme and providing that every marriage should be, if so chosen, liable to be dissolved. This is not desirable to my mind. No doubt Divorce was allowed by ancient Hindus at a certain point of time. It was prohibited later on whatever may have been the historical condition first. The reason appears to me is this that the unity of the family was to be kept intact. They wanted that the marriage once performed should not be dissolved so that no other woman should come in ; and that the woman who was in the family should not go away and another should not come in. That contingency should be avoided as far as possible. To my mind this was one of the reasons why a marriage was not allowed to be dissolve. Therefore, my suggestion is this: Let there be two parts in the section of' marriage. Those who want that their marriages should be dissolved, let them marry according to civil marriage and let there be free dissolution of marriage for them according to the provisions which you make here. Let the other part be there, which may be sacramental, and in that part let there be no dissolution of marriage. This would, I think, satisfy both the parties. My humble submission is this: Why should dissolution be forced ?

Shri Mahavir Tyagi : In that case they will have to decide for separation before they marry.

Shri V. S. Sarwate: I believe my honourable friend has misunderstood me totally. What I say is that those males and females who want that their marriages should not be dissolved should marry according to the sacramental rights and those who wish that their marriages should in future be dissolved let them marry according to civil marriage.

Mr. Tajamul Husain : Does my honourable friend mean that there should be divorce before the marriage ?

Shri V. S. Sarwate: Civil marriage does not mean divorce. It neither means separation nor divorce. When I say civil marriage, it means marriage; it cannot mean divorce.

Shri Mahavir Tyagi : It does not mean even marriage.

Mr. Chairman : Order, order. Let the honourable member proceed with his speech.

Shri V. S. Sarwate : My submission, Sir, is this : Let us get clear in our minds whether we are going to force certain things which certain

sections of the people do not want ? I go further and say when you once admit that sacramental marriages are sacramental, then let religion be the test for providing the conditions for such a marriage. If religion allows child-marriage and marriages of minors, let it be allowed. It is a contradiction in terms first" to say that a marriage should be according to religion and then to add that it shall be according to religion and also according to what is provided in this Bill. That is contradiction in terms. Either allow sacramental marriages or do not allow sacramental marriages, if you do not like that. In that case, say that all marriages will be civil. If you say sacramental marriage is to be allowed, then the marriage has to be performed according to the sacraments. This is my humble contention and in so far as the provisions of section 7 of the Bill are concerned, they are not according to sacraments. There are certain other things added to sacrament. That should be strictly according to the religion, if religion is to be allowed. This is the second thing which I bring to your notice and this can be very easily done. This would satisfy and may to a great extent remove the causes of dis-satisfaction which at present exist. Dealing with principles only, my simple suggestion is this, that in this very Act there should be provision which should allow society, and the joint family in co-parcenery form to continue. Nothing would be lost thereby. In this country there are Muslims, there are Christians, there are Parsis—Parsis are a very small community—and still if they are allowed to have their own law of succession etc. what would be lost if a certain larger section is allowed to have co-parcenery, if they so chose. If this principle is once accepted then changes can be made in the whole draft according to that principle.

My further submission is that the Bill may be re-circulated for opinion. Here I do not touch on the ruling which has been already given by the Chair. The question that then arose was whether for purposes of the rules publication was sufficient and the ruling was that it was sufficient. That does not however preclude me from raising the point whether it is desirable that the Bill should be re-circulated. My submission is that it has been lost sight of that the Bill if passed would be automatically applicable to States whatever Dr. Ambedkar may say to the contrary. My humble opinion is that it would apply to all those territories of states which have merged in the provinces and all those areas which have agreed that the Centre would have the power to legislate for them.

Shri Sita Ram S. Jajoo (Madhya Bharat): What is the objection if it applies to Indian States as well ?

Shri V. S. Sarwate : What I am saying is that it should apply. I am in favour of it. I do not understand, why honourable members without allowing me to speak, go on anticipating me and pass certain remarks. I was submitting that the Bill should apply to the Indian States. I was only submitting that if it is to so apply and that is very much my wish, then there arises a fundamental right, which you ought in justice grant to every large area which is to be governed by your bill, to express its opinion. This Bill was not published in these large areas and therefore the peoples there were not in a position to give to the Bill that serious consideration which they would otherwise have given. Now when they know that the Bill would apply to them, and the Bill is published they would be in a position to express their reaction. It is a fundamental right of every person to be given an opportunity to express his opinion regarding any legislation which is going to effect him. It is further the duty of every representative of theirs to ascertain their views before he gives his vote here. Therefore, both from the point of view of the representatives of the States and from the point of view of the people of the States, it is only just that some time should be allowed to them to give their opinion. Therefore, I suggest a *via media,* that if in any case this Bill is not going to be finished in this session, if that be the contingency, which I think it may be, the honourable the mover of the Bill may consider whether it would not be desirable to take this up in a special session later on ; the time that may intervene, namely two or three or four months would be quite sufficient to get the reactions of those people. I think this would be just and would also be in accordance with the spirit of the publication provisions. I appeal to the House to see whether justice does not require this. It should not be presumed that the last word has said been on the Code. It may be that the humblest of the humble may come forward with suggestions which may be useful to the learned Doctor. If opportunity is thus given, it would both satisfy the ends of justice and may be useful also.

With this appeal, I have finished, Sir.

Shri H. V. Kamath : Mr Chairman.....

Shri B. Das (Orissa: General): On a point of order, Sir, can a bachelor, who has not married and has not begotten a son too offer *pind* to his forefathers, make, a speech on this Bill and contribute to the discussion ?

Mr. Chairman : There is no point of order in this, as long as he is a Hindu, he can speak.

* **Shri H. V. Kamath :** I shall also answer the point of order. Sir, rising, as I do, after two lawyer friends and a woman friend, I fear I am labouring under a handicap. I have neither the legal argument of my honourable friends Pandit Thakur Das Bhargava and Mr. Sarwate, nor the sweet reasonableness of my honourable friend Shrimati Renuka Ray. As far as the lawyers are concerned. I am sure that my honourable friend the Law Minister will take care of them and will reply to the arguments that they have raised in the course of their speeches today. As regards Shrimati Renuka Ray, I am broadly in agreement with her and so there is no need for me to take up any of her arguments with a view to counter them.

My honourable friend Mr. B. Das raised a point of order when I stood up. That very point of order, I think, goes in my favour. I feel that my only claim to speak on this measure before the House is that because I have neither a wife nor children nor property worth the name, I can bring to bear a dispassionate mind to bear on this subject, unswayed by emotions of the heart. Most of the provisions of this Bill relate to marriage and property, adoption and succession, provisions regarding matters which could be summed up in two words of most of our philosophers, namely, *kamini* and *kanchan*. Not having been so far encumbered with either, I hope I will have your indulgence and the indulgence of the House in making a few remarks on this Bill in a more or less disinterested manner, not uninterested, but disinterested manner.

This century, the 20th Century after Christ has, as we all know witnessed the emergence of women upon the stage of history, in Asia, as well as in Europe and America. India and our Hindu society have been no exception to this world movement. Fatefully interlocked with all the revolutionary upheavals which in our own time have been ripping open and transforming old societies inherited from the nineteenth century and its long past are the relations between men and women. Our age has been marked by the dynamism of women who, with men, have set the world on fire. (*An honourable Member:* "But you are an exception.") and have also helped to frame plans for the world's reconstruction. Breathes there, I ask, a man with soul

*C.A. (Leg.) D., Vol. II, Part II, 25th February .1949, pp. 934-36.

so dead, who does not recall with pride, and a certain elation of the heart, the remarkable and heroic achievements of women—aye, poor, ignorant illiterate women—on the field of *non-violent* battle called Satyagraha, and ever on that more sanguinary Held of battle, of blood and iron, of fire and steel. The hand that rocks the cradle has shown itself strong enough to wield the sword and gentle enough when necessary to raise itself in benediction against the aggressor. Leaving aside other lands and other climes, in our own India, we all know how women, along with men, though quite ignorant of modern warfare and though quite uninured to the *lathi,* the bullet and the prison, how they have flocked in thousands to the banner of Mahatma Gandhi and Netaji Subhas Chandra Bose. This story is too well known, for me to recount at any length. It is in this context of fast developing social and economic change that we have to view the measure that has been brought before the House. For, no law can function or can be made in a vacuum and no law can be divorced or viewed apart from the social milieu in which it has had its birth. In short, this age can be summed up in the facetious remark of a wag who said that today, women sit in Parliament and stand in buses. This in a nutshell, is the revolutionary change that has overtaken the present age, Sir, I feel that I am more or less a political Parivrajaka परिव्राजक and I set forth a few obsrvation on this Bill.

I am glad that my honourable friends in this House who are not immediately affected by this measure have taken such great interest in this Bill. My honourable friend, the redoubtable Pandit Naziruddin— I feel, Sir, that the title is not entirely unreserved. If, Sir, Mountbatten could be called a "Pandit" on the 15th August 1947, I feel that Mr. Naziruddin has a greater claim to be called a "Pandit" than Lord Mountbatten of Burma. Many such friends have been taking an interest in this measure and I welcome it as a happy sign of the times and a good augury for the future, for thus we are going in the right way of being one unified society, and ere long we will have one uniform civil code for the whole of our country.

Those Members, within and without the House who are not wholly in favour of the Bill and who do not want to go the whole-hog in this regard, take their stand at least some of them—on the *Smritis,* the *Shastras* and our Dharma. Well, Sir, what is Dharma ? Unless we decide that question we cannot appreciate or reject the stand that some people in this country are taking with regard to this measure. Dharma ! Is it merely a code of ritual and externals and ceremonies,

or is it something deeper, that pertains to the soul, the heart, the mind and the spirit ? Dharma !The etymology of this word in Sanskrit is— Dharma is that by which the world is supported, *yenedam dharyate jagat.* That by which the world—"Jagat"—is supported is Dharma.

Now are we not to ask whether the observance of a few ceremonies, rituals, and formal conventions constitute Dharma, or whether it is something deeper ?

As regards the *Smritis* which are interlinked or interlocked with Dharma, my honourable friend Dr. Ambedkar said the other day that there are perhaps 137 *Smritis.* If I am wrong he will correct me. I believe he has counted them. Of the *Upanishads* it is stated there are 108 and so many other unknown and unearthed *Upanishads.* There may also be many more *Smritis* unknown and unearthed. Of the *Smritis* known to Dr. Ambedkar there are 137. And now we have got the 138th *Smritis.* He will pardon me if I refer to this, not in a light-hearted fashion, because this is also a measure, which although not revolutionary, has introduced changes in our Hindu social relations. So I can apply the same term as has been applied to the other Hindu social codes and social texts that have been already written for us. This we may call the 138th *Smriti.* I may call it the Bhim *Smriti.* I hope Dr. Ambedkar will pardon me if I refer to this as the Bhim *Smriti.* If I have got to include the name of the other protagonist of the movement, which has culminated in the drafting and the presentation of this Bill, I would refer to it as the Narasimha. It is the Rau Committee which has led to this Bill. Ultimately I will not refer to it as the Bhim *Smriti* but the Bhim Narasimha *Smriti.*

Coming to the measure before us : though the *Smritis* are well-known, still they differ among themselves. The same *Smritikara* at times differs in different texts of the Smriti. It is very well known that even a poet is not consistent in his poetry. Shakespeare referred to women in one play as "Frailty, thy name is woman" : in other play he goes on to describe a woman who was strong enough to inflict wounds in her own thigh : I mean Portia of Brutus ! Coming to our own country, the great poet and philosopher, Tulsidas has said: *dhor ganwar Shudra aru nari yah sab tadana ke adhikari.* For the benefit of my friends who do not know Hindi, it means that a rustic, an illiterate man, an animal, a shudra and a woman—these all deserve a beating.

Shri Raj Bahadur (United States of Matsya): I would inform the House that the interpretation put by Mr. Kamath upon this well known cuplet is absolutely incorrect.

Shri H. V. Kamath : I hope my friend will give us his interpretation when he has to speak.

Shri Raja Bahadur: It means that a Shudra who is like a *Dhol* or is uncivil and a "*nari*" (i.e. woman) who is like a pashu (beast) deserve admonition. It means that *Dhol,* (hollow) Shudra pasu, (beastly woman) deserve chastisement.

Shri H. V. Kamath : But our law-giver Manu says : *yatra naryastu pujyante ramante tatra devatah.*

It means that where women are respected, there the gods are happy.

Leaving aside the various *Smritis* and the *Shastras,* what does our own—the greatest *Shastra* to the Hindu—says? At the time when the *Gita* was preached by Srikrishna to Arjuna, there were so many customs among the Hindus which were derogatory to certain sections of the people that Srikrishna categorically told Arjuna in one of the well known texts on the highest goal of any human being :

Mr. Chairman : The honourable member can continue his speech on Monday.

The Assembly then adjourned till a Quarter to Eleven of the Clock on Monday the 28th February, 1949.

*HINDU MARRIAGES VALIDITY BILL

EXTENSION OF TIME FOR PRESENTATION OF REPORT OF SELECT COMMITTEE

Pandit Thakur Das Bhargava (East Punjab : General): I move:

> "That the time appointed for the presentation of the Report of the Select Committee on the Bill to provide that marriages between Hindus, Sikhs, Jains and their different castes and sub-castes are valid, be extended upto the 25th March, 1949."

The date given here on the order paper is 11th March, but with your permission I would like to amend it to 25th March as the honourable the Law Minister will be out of Delhi and he will not be able to devote much time to it. Therefore I move the motion with this amendment.

I want to say that I am very anxious that this Bill may be put before this House this session and therefore I request the honourable the Law Minister and the authorities in charge of this Bill to kindly see that the Select Committee makes its Report by the 25th March. I also beg the House to supplement my request to the authorities so that, as the Bill is a very important one, it may be passed this session.

Shri R. K. Sidhva (C. P. and Berar : General): The matter is entirely in the hands of the Select Committee. What has the House to do in this ? My honourable Friend should request the Select Committee to expedite the Report and I think they will be pleased to do it.

Pandit Thakur Das Bhargava : I want an extension of the date. I want to urge that it is my anxiety that the Law Minister should see that the report is made in time and the House should support me in this.

Mr. Chairman : The question is :

> "That the time appointed for the presentation of the Report of the Select Committee on the Bill to provide that marriages between Hindus, Sikhs, Jains and their different castes and sub-castes are valid, be extended upto the 25th March, 1949."

The motion was adopted.

* HINDU CODE—*contd.*

Mr. Chairman : The House will now proceed with the further consideration of the Hindu Code.

†Shri H. V. Kamath (C. P. and Berar : General): Mr. Chairman, when this House adjourned on Friday afternoon the name of Shri Krishna was on my lips. I was saying that even so far as the highest goal of human existance is concerned man and woman have been placed on an absolute footing of equality by Shri Krishna in the *Gita.* The *Gita* to the Hindus is the sacred *smriti,* the supreme *shastra,* the

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* C.A. (Leg.) D., Vol. II, Part II, 28th February 1949, pp. 940-56

†*Ibid,* pp. 941-50.

quintessence of all philosophy and all religion. In that, very well-known verse, Shri Krishna says—

"Streeyo vaishyastatha sudrastepi yanti paramgatim."

Women, Vaishyas and the *Shudras* who were apparently the down trodden and the suppressed classes or castes of that age, even they— Krishna says— are on a par, on a footing of equality, with Brahmana and the others.

Shri L. Krishnaswami Bharati (Madras : General): You are right, Mr. Kamath.

Shri H. V. Kamath : So far as *moksha* and the *paragati* are concerned, there is absolutely no bar to the attainment of the same by women. I am sorry that at the present day there are some men, and even certain *swamis*— so called religious or spiritual heads—who believe that man and woman should be placed on an unequal footing. I agree that they are not identical in all respects.....

Maulana Hasrat Mohani (U. P.: General): How are they equal ?

Shri H. V. Kamath : But to say that they are unequal and to buttress that argument by fantastic reasons is to my mind shocking. The other day I had the good-luck—or the ill-luck—of listening to a *swami* saying that man and woman are unequal. And, pray, what were the reasons for that statement ? He said fantastic, the House will agree—he said that man grows a moustache and woman does not. I am not joking, Sir, many of my friends were present at the meeting which the *swami* addresed, and he said it in all earnestness, in all seriousness, that man grows a moustache, woman cannot grow a moustache, and the woman at most can bear three, four or five children in a year.

An Honourable Member: In a year?

Shri H. V. Kamath : Depending upon whether she produces triplets, quadruplets or quintuplets. Sir, he went on to say that man, however is potentially capable of being the father of a hundred or more children. This, Sir, to my mind is a fantastic argument.

When we talk of equality of man and woman, we regard that on a spiritual basis which has been envisaged again by Shri Krishna in the Gita. He says:

"Sarvabhutasthamatmanam sarvabhutani chatmani"

That is the basis, that is the yardstick, that is the measuring rod for equality of human beings or between man and woman.

"*Yo mam pashyati sarvatra*

sarvam cha mayi pashyati."

This is the test, this is the criterion, this is the standard, this is the yardstick for equality of human beings, whether high or low, rich or poor, man or woman.

Well, Sir, I do not subscribe to that notion of inequality propounded by the *Swami* On the other hand, I also do not believe that woman— as some of them do today—attain equality with men by taking to smoking and drinking. That again. Sir, is something which is to be deprecated if by that they seek equality with man. Nor do I subscribe to the progressive conception of woman—progressive in the Western sense—who, perhaps in imitation of the West and so trying to be progrsssive, take to ball-room dancing and other Western habits. This, Sir, is also to my mind no way of securing equality with man.

Shrimati Purnima Banerjee (U. P.: General): It is not included in the Hindu Code. Does she dance alone without a partner?

Shri H. V. Kumuth : I know that but we are talking of the equality of man and woman. And here, Sir, our great savant and philosopher, Dr. Sarvapalli Radhakrishnan who is an authority on Hindu *dharma* and Hindu way of life, says :

"The modern woman, if I may say so, is losing her self-re sped. She does not respect her own individuality and uniqueness, but is paying an unconscious tribute to man by trying to imitate him. She is fast becoming masculine and mechanical.

Shri R. K. Sidhva (C. P. and Derar: General): What about the modern man ?

Shri H. V. Kamath : I hope, Sir, our women will take this to heart and will not undertake such attempts at equality with man.

Shreemati Annie Masearene (Travancore State): May I ask the question whether modern man is in any way better than that ?

Shri H. V. Kamath : That is for women to answer.

Well, Sir, when I therefore talk of equality between men and women I have before me the historical examples of Sita, Savitri, Damayanti, Gargi, Maitreyi and Ubhayabharati. Will you permit me to read from our own ancient hisiory about these women and the place these women occupied in our ancient Vedic times and even later, on which so many of our opponents to the Hindu Code depend today ? It is said that in the Vedic and Upanishadic age, women occupied a very high place in society. Among the exceptional women of Upanishadic times the name of Maitreyi stands out in bold relief. The lustre of her spiritual mind illumines the world even today. For sheer intelectual acumen two women stand out in singular brilliance. An All-India religious

conference took place—it has been the tradition in this country to have conferences of all sorts and religious conferences were not an exception—an all-India religious conference took place in the prehistoric age and another in the post-Buddhistic age. They had been summoned not for mere academic debate but for the establishment of principles that should govern the spiritual life of the nation. The former was championed by the sage Yagnavalkya, the same as our law-giver and the latter by the great Shankaraeharya. The first conference, Yagnavalkya's conference, was convened by King Janaka, the great Janaka, the *karma yogi,* when the sages assembled from all quarters of India, from Kashmir to Kanya Kumari and I suppose from Kliyber to Chcrapunji, are silenced, Gargi boldly rises on behalf of the women, championing the cause of the humiliated. That, Sir, is the ideal towards which our women ought to be progressing and which they will, I hope, attain. Ere long, Gargi is defeated, but only after putting up a tough fight.

In a second Conference, Sankara Acharya's conference, the task of presiding over this momentous meeting falls upon Mandanamishra's wife, Ubhayabharati. Now, it is very important—and I would like my women friends to mark this— that in the history of the world there is not a single instance of a woman being chosen as a judge of an important meeting and making such an exceptional demand on her intellectual ability as well as integrity. She gives—Ubhaya Bharathi— gives the verdict in favour of Shankaracharya. (*Honourable Members:* Hear, hear,.) With the result that her husband becomes a monk and a disciplie of his opponent, whose view henceforward becomes acknowledged as the paramount creed of the country. "In fact", the author says—I am reading from the" Cultural Heritage of India "published by the Ramakrishna Mission—"It is not the original authors"—mark these words 'it is not the original authors'—"with the emancipated mind of creative thinkers but the mechanically minded commentators"—Tikakars, not the *smritikars,* but those who wrote *tikas*—"who worked for the suppression of the rights of women, whom they bluntly assumed to be in league with ignorance and illusion."

Now, Sir, many of our friends who are opposing this measure,—I do not mean in the House but those who are outside-they take their stand on Dharma. The other day I posed this question, "What is Dharma?". One of the pamphlets issued by the Anti-Hindu Code Committee presumes to give us some advice, and what is that ? They

quote the old *sloke*—I do not remember exactly where it occurs— but the Panchatantra quotes it:

"*Nasasabha Yatra na Santi Vriddhah,*

vriddhnateye na vadanti dharmam."

'That is not a Sabha or Assembly where there are no vridhahs.'

An Honourable Member : But we have so many of them here !

Shri H. V. Kamath : That man is not a *vriddhah* who does not talk of Dharma. I, Sir, am sorry that our friends of this Anti-Hindu Code Committee have not exactly understood the meaning of "vriddhah"—who is a vridhah and who is not. In the Mahabharata there is a story : Saraswata Muni, a young boy of twelve, when there was famine in the country and all the old rishis who were fasting and doing penance on the shores of the Saraswati river tied for fear of their lives—they wanted to save their lives—this young boy at that time stuck to his post and his mother Saraswati, that is why Saraswati fed him on fish in the morning, fish at noon and fish at night—that is why Saraswat Brahmins even today eat fish. This Brahmin boy, inspite of the famine, stuck to his post. The story goes on to say that the famine raged for many years in the land—twelve years—but our young boy, Saraswat Muni—the progenitor of all Saraswats in the world—continued to stay. After the famine was over, the *rishis* who had fled for their lives started coming back in driblets, one after another, to the shores of the Saraswati river to resume their *tapasya* interrupted by the famine and they tried to boss over this young boy of 24. He was 12 when the famine started, and he was 24 when the famine ended. They started bossing over him. They said, "You sit at out feet; take instruction from us; learn from us; become our disciple." He said, "Fie on you. Shame on you pretend to be *munis, rishis, tapasvis,* and you fly for your lives ; fly for fear of death. You have got to sit at my feet and learn from me." Thus said the young man of 24 to those old men of 70 and 80. The Mahabharata goes on to say:

"*Na tena vridho bhavati yenasya palitam shirah*

yo vai yuvapyadhyanastam devah sthaviram viduh."

(A man is not a *vridha* merely by virtue of his grey hair. Even a youth who has studied well is called a wise man by the gods.) That man is *vriddhah* who has attained *vriddhi* Actually the word "*vriddhah*" is wrongly translated as old. It means that man who has

attained *vriddhi*, you call it, wisdom, growth, development—that is *vridhi*..... Here our friends say:

"Na sa sabha yatra na santi vriddhah—

Vriddha na te ye na vadanti dharmam "

I think that even in that sense of " *vriddhi*" or wisdom, there are a number of my friends here who will live up to that standard. But my friends have stopped short of quoting the whole *shloka*. They start by saying :

"Na sa sabha yatra na santi vridhah

Vriddha na te ye na vadanti dharmam."

But what is Dharam ? The sloka goes on to say later on what is *Dharma*. These fellows conveniently omit that portion of the sloka. The sloka goes on to say:

" Dharmah sa na yatra na satyamasti "

That is not *Dharma* where there is no *satya*. Therefore, my quarrel with those who take their stand on *dharma* is that they have not understood what is Hindu *Dharma*.

I will again crave your indulgence to tell the House what our great savant and philosopher, Dr. Sarvapalli Radhakrishnan has to say on the subject, especially Hindu Dharma. He tells us:

> "There has been no such thing as a uniform stationary, unalterable Hinduism whether in point of belief or practice. Hinduism is a movement; not a position ; a process, not a result; a growing tradition, not a fixed revelation. Its past history encourages us to believe that it will be found equal to any emergency that the future may throw up. whether on the field of thought or of history....."

We are happy that today the prediction is coming true. It was Swami Vivekananda who said fifty years ago that Vedanta will become the religion of humanity—the vedanta which has been given to the world by our seers, *rishis* and *munis* Radhakrishnan goes on to say:

> "We are beginning to look upon our ancient faith with fresh eyes. We feel that our society is in a condition of unstable equilibrium. There is much wood that is dead and diseased that has to be cleared away.

I hope, Sir, that most of our friends here are in their own way leaders of Hindu thought and practice, I am sure of that —

> "Leaders of Hindu thought and practice are convinced that the times require, not a surrender of the basic principles of Hinduism, but a restatement of them with special reference to the needs of a more complex and morbil social order.

"Such an attempt", he says, "will only be the repetition of a process which has occurred a number of times in the history of Hinduism. The work of readjustment is in process. Growth is slow when roots

are deep. But those who light a little candle in the darkness will help to make the whole sky aflame."

I would commend this statement of the Hindu *Dharma* to those of my friends who oppose the Bill, even the consideration of the Bill on grounds of *Dharma*. Who does not know and who does not recollect that this cry of '*Dharma* in danger' or 'Society in danger' was raised by those that wanted to block every reform of Society attempted in the past ? Is it not a fact that twenty-five years ago, when the movement against *asprisliyata* untouchability was started, some of our men, even high-class orthodox Hindus said that Hinduism was in danger, social order was in danger and that disruption of society was coming ? Yet, did we not persist in that much-needed reform ? Did we not help to accelerate the evolution of Hindu society on an egalitarian basis ? As a culmination of these attempts, have not we adopted an Article in the draft Constitution prohibiting untouchability and banning it in any shape or form ? If we could do that in spite of what the orthodox *pandits* claim for Hindu *Dharma* surely I do not see any reason why we should not proceed to legislate or provide for the regulation of social relations and personal law.

Again, Sir, honourable Members will recollect the opposition that was started against the Sarda Act, which tabooed child-marriage, on the ground that Hindu *Dharma* was in danger and that Hindu religion and Hindu society were in danger. In the last century when the custom of *sati*, cremation of the widow with her husband, was sought to be abolished, these same reactionaries who block the road to progress denounced the attempt stating that the Hindu-Dharma sanctioned *sati* and that it granted the highest salvation to women and therefore it should be continued. In spite of their agitation and obstruction, much-needed reforms like that were put through.

Pandit Thakur Das Bhargava said the other day that this Bill had not reached the rural population and that the rustics, the people in rural areas have not seen or read or considered it. He expressed anxiety to know their reactions to the Bill, before it was proceeded with in this House. When he said so, he forgot the fact that some of the Bills he himself had introduced had not been seen by the peasants of his own Hissar. I wonder if on his advice we are going to circulate copies of our Bills to every village and hamlet and homestead in the country.

Shri Mahavir *Tyagi* (U. P.: General): Peasants do not count these days.

Shri H. V. Kamath : I am astonished to hear from Mr. Tyagi that peasants do not count in these days. If they do not count, who does ?

Honourable Members: You.

Shri H. V. Kamath : **I** am indeed grateful for the compliment. I hope, Sir, in the near future, not merely I, but all my friends in the House will count equally with me.

Sir, while I have every sympathy with certain observations made by Pandit Thakurdas Bhargava, I do not think that his opposition to the Hindu Code Bill on the ground that there has been no circulation or proper publication among the people affected, can stand scrutiny. That argument is absolutely untenable. In that way, every Bill sought to be passed here, which affects the lives of millions, would have to be sent to them, in order that they may register their approval or disapproval of the same.

Now, Sir, this vexed question of equality, I hope, I have disposed of in a satisfactory manner. Sir, men and women are equal on a spiritual basis. The Gita, the Smritis and Shri Krishna himself have preached this doctrine of equality.

Coming, Sir to the question of property, property has been, according to most philosophers, political, social or otherwise, the root of almost all evil in the world. In this regard I subscribe to the proposition made by Seth Govind Das—he is not in the House now—that it would be best if private property were abolished. Even litigation will decrease a good deal if this is done. One of our greatest law-givers and statesmen of ancient times—not Manu or Yagnyavalkya—but a warrior statesman, Bheeshma Pitamaha has expounded his doctrine in two *parvus* of *Maha-Bharata,* viz., *Shanti Parva* and *Anusasanika Parva.* There he tells Yudhisthira about property: *akinchanasya shuddhasya na tulyamihia lakshyaye akinchanyamcha rajyamcha tulaya samatolayam atyarichyaia daridryam rajyadapi guradhikam nityodvignohi dhanavan mrityorasyagato yatha.* He tells Yudhisthira that his kingdom and voluntary poverty he has weighed in the balance. He says that this *akinchanya* voluntry poverty has proved more than the other. Because, he said, *nityo nilyodvignohi dhanavan mrityorasyagato yatha.* The nearest equivalent to this in English is “Uneasy lies the head that wears the crown”. If a man has property he is afraid of death.

I am in agreement with Pandit Thakur Das Bhargava when he says that a wife and husband should become one not merely in love, but in property as well. Sometimes it happens that love is their only

property. Husband and wife may have no property at all. Their only property may be their mutual love. But, Sir, we should face the stark reality of life today. It was, however, refreshing to hear Pandit Bhargava's personal experience in this respect. This world would be a happier place to live in, if men and women, husbands and wives are in the same happy position as Pandit Thakur Das Bhargava and his wife are. There are, however, hundreds of cases today where the relations between the wife and husband are not as happy as they should be, or as we wish them to be. *(Interruption)* I am speaking, Sir, from facts narrated to me by friends like my honourable friend. Mr. B. Das and I have come in possession of these facts, as told to me by my honourable friends, who have got experience in this direction.

Our Hindu Code Bill provides in this respect that a woman should be entitled to an absolute right in her property. In the Vedic ages and in the ancient ages, upon which our opponents of Dharma and the Hindu Code Bill take their stand, it was only in medieval times, when Hinduism was on the decline that women's rights to property came to be restricted—in the Vedic period the social position of women was generally high.

Mr. Chairman : There are a number of speakers, who want to speak. I appeal to the honourable Member kindly to be as short as possible.

Shri H. V. Kamath : I will try to be short, but I am afraid, the subject is so vast that it is difficult to be short.

The Honourable B. R. Ambedkar (Minister of Law): There will be plenty of occasion for Mr. Kamath to speak. There are at least 130 sections.

Shri H. V. Kamath : But I do not want to let some things remain unsaid today. Now in the Vedic period, I was saying that the social position of the women was high. An unmarried daughter was offered a share in her father's property, and the married daughter was given no interest therein, but she got ample dowry at the time of her marriage. So the argument advanced by my honourable friend, Pandit Thakur Das Bhargava, in this respect, I think, may be considered by the House and by the Honourable Minister sympathetically ; because fundamentally being opposed to property myself, I do not think that any purpose would be gained by making the property position worse than it is today. Dr. Ambedkar referred to an instance of the property of a Hindu family consisting of 12 sons and one daughter. That is very well for

him to quote that instance, but may I quote the other instance where there are 12 daughters and one son. What will happen if the Hindu Code Bill as it stands is applied in this case ? The family property will have to be divided among all the daughters and one son. The son will be left in a little corner of the house, and if the daughters get married, they have got the right to bring their husbands and they have the right to dispose of the portion of the House to a stranger. Therefore the one little son like a little mouse will creep here and there and he would not have even a comfortable cosy corner to live in.

Therefore, Sir, this question of property is a very vexed question and we might consider whether a daughter instead of getting the property herself, whether she might not be allowed an equivalent share of the property in cash or jewellery, or whatever she might choose to have, as it was done in ancient times and in Vedic times. There was no property share at the time of marriage but she was given ample dowry in leu of the share of the property.

The Assembly then adjourned for Lunch till Half Past Two of the Clock.

The Assembly re-assembled after Lunch at Half Past Two of the Clock.

Mr. Chairman (Shri S. V. Krishnamoorthy Rao) in the Chair.

Mr. Chairman : Before we begin the debate, I would like to make a suggestion. There are about 25 names on the list. This is a very important measure and as many speakers as possible would like to give their views on the Code. Therefore, I would request honourable Members to be as brief as possible and refer only to the relevant points for or against the Bill.

Babu Ramnarayan Singh (Bihar: General): Sir, my name also may be included in the list.

Shri B. Das (Orissa : General): I did not know that I had to send in my name; I thought I would catch the eye of the Speaker.

Mr. Chairman : That is why I am telling honourable members to be as brief as possible and refer only to the salient points for or against the Bill. Members who want to speak may kindly send chits.

Mr. Tajamul Husain (Bihar : Muslim): May I know, Sir, whether my name is in the list ? I spoke to the Deputy Speaker yesterday on Friday last.

Mr. Chairman : No harm in sending a fresh slip.

Shri H. V. Kamath : Sir, before I resume the thread of my little speech, I may assure you that I shall take much less lime than my honourable friend, Pandit Thakur Das Bhargava did.

Mr. Chairman : You have already taken an hour.

Shri H. V. Kamath : I said less lime than my honourable friend Pandit Thakur Das Bhargava.

I was speaking about property: me basis for the allotment of property, was the principle which was expressed by Kanwa after he bade farewell to Shakuntala. Kanwa said:

"Artho hi kanya parakiya eva tamadya sampreshya parigrahituh jato mamayam visliadah prakamam pratyarpiiaryasa ivantaratmo."

The first line, "Artho hi kanya" does not mean, as has been literally translated, that a girl is somebody else's property. It means that a girl separates herself from the father's home when she gets married. It was on this basis that she goes into another household that in olden times. Vedic and later times, that a daughter was given no interest in the property, but ample dowry was given. Again, in the Vedic and later Smriti times, only when a father had no son, he appointed his daughter as the Putrika and such a daughter was equal to the son. This principle can very well be considered by our new law makers. They may try to incorporate the gist of this principle in the Code.

I wish agricultural property were completely excluded as it has been already excluded so far as the Governors' provinces are concerned. I refer to Part VII Chapter I. Section 94 says: "This Part shall not apply to agricultural land in Governors' Provinces;" Already, there is a cry against the fragmentation of land. We may hasten slowly in this regard so that this may not lead to further aggravation of this evil. As a matter of fact, if the entire land is nationalised, then no difficulty will arise; so long as this question is hanging fire and is not finally settled, we may decide to exclude agricultural land not merely in the Governors' provinces, but also in the Centrally administered areas from the operation of this Part.

Now, I come to the great question which has agitated humanity from the dawn of time: I mean that of marriage and divorce. On this question, the principle that we should go by, that should be accepted in legislating on this subject must be, to my mind, "Marriage should be easy, but divorce difficult." I think if this sound rule were adopted for law making, it would solve many of our troubles.

Sardar Bhopinder Singh Man (East Punjab : Sikh): In your case, marriage is more difficult than divorce.

Shri H. V. Kamath : There are always exceptions to a rule ; I suppose I am one of them.

If I may be allowed to quote a recent historic instance, der Feuhrer Herr Hitler in Germany, when he fought the election in 1932, one of his election slogans was, "a job for every German man and a husband for every German woman". This slogan brought him, I understand, millions of women's votes, when he promised a husband for every German woman. This proves to the hilt the principle that I have sought to place before you that marriage should be easy and divorce difficult. My honourable Friend Pandit Thakur Das Bhargava, the other day, while speaking on this subject retered to this and said that there are usages and customs in various parts of the country according to which divorce could be effected. There is even this simplest custom, I am told, according to which the man says 'Talak' three times and the wife is divorced. It may be that or some such custom ; I do not know; that is why I said, I am told. I personally think that divorce should not be easy. One of the modern States, Soviet Russia, at its inception in the early twenties of this century, made marriage as well as divorce equally easy. But, by experience they have learnt that family as a social unit has got to be preserved and strengthened even in a communist State and therefore now, though marriage is easy, divorce is next to impossible. I therefore think, however much I am inclined to agree with Pandit Thakur Das Bhargava that certain usages and customs must be given currency and must be kept alive, as regards divorce, I think that the procedure adopted must be very difficult, so that, the family as a social unit may be strengthend and preserved.

There is one more observation that I would like to make on this subject. There are instances, Sir, where due to certain causes, a dissolution of marriage may not be quite desirable or may not even be agreed to by one of the spouses : by the husband or by the wife. In such cases, where the wife agrees that the husband may marry another wife, herself also living in the same or another house. I do not see any reason why, in spite of the reasons mentioned here, permission should not be granted to either of the spouses to marry when the other consents, without dissolution of marriage. In Delhi, we are aware of one notability who has got several wives living at the same time, though perhaps in different houses.

An Honourable Member : Who is that ?

Shri H. V. Kamath : No names here please.

Mr. Tajamul Husain : I have not been able to understand ; does my honourable friend agree with polyandry ?

Shri H. V. Kamath : I will only say that

Mr. Tajamul Hussain : Only an unmarried man can say so.

Shri H. V. Kamath : Sometimes, where a couple has been married for a long time, the Hindu mind cannot reconcile itself to the breaking of marriage ties with the wife even though the purpose of marriage is being frustrated. Therefore from the standpoint of love and humanity the new Code should provide, in my mind that on such an occasion a husband can get permission from his wife to marry another wife, and if she consents then the Court should not stand in the way. But the ideal of marriage as has been stated by Pandit Thakurdas Bhargava should be one in property and love. I shall go further and say that there should be two minds with but a single thought, two hearts that beat as one.

Shrimati Hansa Mehta (Bombay: General): In Polygamy there will be more than two hearts.

Shri H. V. Kamath : I am not against polyandry if the husband does not mind it.

Shrimati Purnima Banarjee : Very liberal !

Shri H. V. Kamath : I take my stand on the principle of equality and I go to the extreme limit for both man and woman. It has been a regretable incident or development of our history—our long and ancient Hindu history—that whatever rights women enjoyed in the early Aryan Age—the Vedic, Upanishad and Smriti age—these rights fell into disuse and were not given effect to in the later medieval age. I hope that this Code will so work that women, whose paradise was lost in the dark medieval age, paradise they will regain in the modern age.

I have received a little warning from a friend outside, telling me in the name of God, in the name of Mahatma Gandhi, the Father of the Nation, in the name of Netaji Subhas Chandra Bose, please do not vote for this Bill. That very argument, I think, very well applies to a vote in favour of the Bill. I can say .....

Shri B. L. Sondhi (East Punjab: General): Is mat friend male or female ?

Shri H. V. Kamath : I can say, I make bold to say that in the name of God who has created man and woman equal; in the name of the Mahatma, the Father of the Nation, who stood for the complete equality of man and woman; in the name of Netaji Subhas Chandra Bose, who sought and accomplished the complete emancipation of man and woman to the extent of calling women to battle if need be ; in the name of God, in the name of Gandhi, in the name of Subhas, I think this Bill is a forward measure which will lead to the greater glory of Hindu society.

I have only one more remark to make. My honourable Friend, Dr. Ambedkar, said the other day in his peroration that either repair betimes or perish. We have to repair. Indeed we are repairing. I think the time has well-nigh come when, if we do not repair, then society will be rent in twain. A stitch in time will always save nine : otherwise the rent will grow more and more till society will be rent in twain.

I began, Sir, on Friday, the day before *Maha Shivaratri* and I am closing my brief remarks on the day after *Maha Shivaratri.* This day is sacred to the memory of one of the great women of the age—Mahasati Ma Kasturba and it is sacred to the memory of another great man—Swami Dayananda Saraswati. I hope their sprits—the spirits of Ma Kasturba and Swami Dayananda Saraswati—will inspire us in our work and help us in our difficult task. It is my hope and prayer to God that man and woman may travel together as pilgrims of life, dedicating themselves and consecreating their lives to the achievement of *artha* and *kama,* the *artha* and *kama* which are rooted in *Dharma and which lead to the goal of moksha,* the liberation from bondage, the goal of the Living God, in whom we live and move and have our being, and in whom all men, all women, all Creation, are equal, free and divine.

हरिओऽम् तत्सत् । ब्रह्मार्पणमस्तु

Mr. Naziruddin Ahmad (West Bengal: Muslim): May I point out that I am getting more and more like an anachronism. 'I have undertaken the task of opposing the original motion but I have not spoken up till now. It may be that the proper time I will be squeezed out. There are too many speakers to come. To-morrow at four o'clock I understand the closure motion will be put.

Mr. Chairman : It is impossible to squeeze out Mr. Naziruddin Ahmad. The honourable Member will have a chance. Mr. Jhunjhunwala.

Shri B. P. Jhunjhunwala (Bihar : General): I would like to speak at another time.

Shri L. Krishnaswami Bharati : He either speaks now or he does not. According to the rules, if a Member is asked to speak, he must speak; otherwise he looses the chance to speak on the subject.

Mr. Chairman : Babu Ramnarayan Singh.

Babu Ramnarayan Singh : I thank you, Mr. Chairman for the opportunity you have so kindly given me today to do my part to oppose the obnoxious measure which has come on the floor of the House for discussion. Sir, at the outset I must tell the house that I am not an orthodox man.

The Honourable Dr. B. R. Ambedkar : You are not orthodox. I know you are not

***Babu Ramnarayan Singh** : I am one of those who wants that all that is old must be broken without delay. But everything must be done with wisdom. When a thing is to be done, wisdom demands that we should judge when it is to be done and how it is to be done. I tell my honourable Friend Dr. Ambedkar that I am one of his admirers. I feel that he is the pride of the country : he is my pride also. But I do not understand why such a learned man is engaged in such a useless and pernicious job. Sir, this is a government measure. I do not know what they understand by law. Law is nothing but the will of the people expressed in terms of law. I am sorry that the Government does not understand what is law. I say that a majority of the people of this country feel that this measure should not have come on the floor of this House.....

An Honourable Member : No.

Babu Ramnarayan Singh : Take a plebiscite and you will find it.

Shri L. Krishnaswami Bharati : We are here representing them.

Babu Ramnarayan Singh : Apparently it appears that there is a measure called the Hindu Code Bill and a discussion is going on in this House but in fact a conspiracy is being hatched to disrupt the Hindu society. I feel that it is something like a preparation to invade the Hindu society. Nobody can say how long this Hindu Society has lived and flourished in this would. I can say that since the very creation of the world, since the creation of the sun and the moon, since the very creation of the human race the Hindu society has lived and flourished and during all these periods there have been innumerable invasions of all descriptions against this Hindu society, Buddha came

* C.A. (Leg) D., Vol. II, Part II, 28th February 1949, pp. 950-53.

first. At one time it looked that Hindu Society would be no more but the world Guru Sankaracharya came and exported Buddhism from this country and re-established the Hindu society. Then Islam came. That was also an invasion like Buddhism but it was also a military one but I must say that Islam also failed in this country . . . .

Dr. Mono Mohan Das (West Bengal): Islam has become the Saviour and you have taken the protection of Islam.

Babu Ramnarayan Singh : Islam could not become the saviour but Islam too failed in this country. According to Islam there is no caste system in the Koran but some sort of caste system developed among those who followed Islam. In the same way Jainism, Sikhism all came in and originally they were all invasions against Hinduism but in course of time they became tolerant and tried to develop and flourish side by side with the Hindu society and religion. This time this is also a sort of invasion but this invasion is a democratic one, though the force behind it, is a dictatorial one.

Some of my friends have already said that there has been a discussion in this House as regards the authority of this house to enact this measure. It is true and I feel confident that this House is not competent to enact a measure of this kind. This is not a Constituent Assembly even ....

An Honourable Member: What is it ?

Babu Ramanarayan Singh: It is a part of the constituent assembly. A large number of members of this House either by order or by convention have been asked not to attend this Assembly ....

Shri L. Krishnaswami Bharathi: With that the House is not directly concerned. The Speaker has already said that that is not a matter for the House.

Babu Ramnarayan Singh : Whatever may be the ruling of the Speaker I am not talking against that. I bow to the ruling of the Speaker but I am bound to speak for the world about the competency or authority of this House to anact this measure. The mandate of the country to the Assembly is to frame the constitution of the country. But so long as that constitution is not complete or has not come into force the Government must go on. It was by a hotchpotch agreement with the foreign rulers that this arrangement had been arrived at in order to pass the budget and any other important legislation necessary for the administration of the country. But such a measure like this against

which there is a lot of hue and cry throughout this country should not have come before this House for discussion or enactment.

When I hear in this house as well as outside the cry about the equality of woman with man I fail to understand it . . . .

Mr. Tajamul Husain: May I ask the honourable Member why he accepted membership on the Committee when he is opposed to the constitution of this very honourable house.

Babu Ramnarayan Singh : There are many people who are confounded. The measure was sent to the Select Committee. This means that the House accepted the principle of the measure but this does not mean that every member has accepted the measure or accepted the principle of the measure. There are so many principles involved in this measure that so far as the house is concerned nobody can say that it has accepted anything and everything . . .

Shri L. Krishnaswami Bharathi: If it was sent to the Select Committee, it means that it accepts the principle.

Babu Ramnarayan Singh: I was talking about the equality of man and woman. According to our Shastras man is not complete; nor is woman complete. According to our Shastras woman is called Ardhangi and even so man is not complete . . .

An Honourable Member: What is man called ?

Babu Ramnarayan Singh : Man is also half. I may tell you ....

Pandit Lakshmi Kanta Maitra (West Bengal: General): Sir, it is impossible to speak in the house when an honourable member addresses it on an important measure like this there are innumerable criticism, and running commentaries, and laughter going on simultaneolusly. It is not in the interest of the dignity of the House. Members who do not like the speech may at least keep quiet so that those who want to listen may at least listen.

Mr. Chairman : Honourable members will kindly allow the speaker to proceed.

Babu Ramnarayan Singh : Sir, I thank my honourable friend Pandit Maitra for the encouragement he has given me. I was talking about equality. So far as the purposes of the world are concerned and so far as the continuity of the human race is concerned there

3 P M

is no question of equality or inequality between man and woman. Nobody can compare the hand with the feet, whether the hand is more useful or the feet are more useful, whether this eye

is more useful or that eye. Man and woman are one and nothing more than one. As regards law I tell my sisters throughout the country that law cannot help them. What can help everybody and also the womenfolk is love and nothing but love. Love between the pair is the only thing which can make the pair happy. Well, they may get the right of divorce. One woman may be divorced today ; other women may be coming for—marriage the next day. Monogamy may mean many-gamy; you won't allow a man to marry a second wife. The first wife will be divorced and he will marry the second day. The third day he will divorce that wife also and on the fourth day he will marry again. The process will continue. So far as pure love is concerned for that I think character of the people is most important. We must realize that in this country the people lost their character first and then anything afterwards. So, whatever we have to do in this matter we have to regain our character. As I say that the importance of hand cannot be compared with the importance of feet, so the importance of man cannot be compared with the importance of woman. I can rather say one thing. According to our *shastra* they are the goddess Lakshmi—Women are called in our society *Lokshmi, Saraswati, Grihalakshmi.* They are anything and everything. If I may compare man with woman. I can say woman is much more important in the world than man. I can explain this further. If we remove or kill all men from the world the world will still go on. (*An honourable Member:* 'Except one man.') Not even one man. I say if all the men in the world be killed, the world will still continue and the human race will continue. (*Honourable Members.* 'Question'). I can explain it. There are my friends who question my statement. Well, Sir, if you kill all men today there will be millions of men in the womb of the women. Women are therefore certainly more important so far as the world is concerned. But those who talk of equality between man and woman want really to separate woman from man. Instead of helping the pair to be happy they are really destructive. As I say their importance is there; they are the *Lakshmi.* But at the same time it is very difficult to compare man with woman. Nature has created man and woman. Their tasks are different, their duties are different and their functions are different. What is the use of comparing the two? No comparison can really stand in this case.

My friends have talked about the provisions of the Bill. I shall touch only one or two points as regards the daughter's share in the

father's property. First of all I was a son, then a brother, then a husband and then a father and so on. Not without exception, I cannot say, but I say that almost every Hindu father—I am also a Hindu father and I also have married my daughters here and there—every Hindu father is anxious to marry his daughter in a family which is superior in status, in wealth and in many other things to his own family. Now there is a talk of share of the daughter in the father's property. There have been jokes also. The daughter is respected in every way and is also given a share—you may call it a share—in the father's property by way of dowry and so on and so forth. When the question of share comes what will happen is this. Ordinarily if you come to my place as a guest I may show you hospitality as my friend or this and that but if you come by way of right I do not think you will receive any hospitality from me. I tell my friends that law will not help anybody, as soon as the right for the daughter will be created in the father's property I think all question of love will go. My friend Mr. Kamath—although he suggested many things with which I do not agree—said one thing. Here is a family in which a man has got one daughter and two or three sons. The daughter will be married several miles away. The property may be small and after the marriage when the son-in-law, the *damad*, will be coming to his father-in-law's place for share of the property, or as a share-holder, he will not be respected. Everything should develop in a proper manner and in a natural way. If this measure is enacted there may be a lot of complications and litigations and the principle of pure love will be killed in our society.

I, therefore, appeal to every Member in this House to consider the matter in a calm and quiet manner. As it has been suggested from several quarter in the House and as I also said before, this House is not competent to enact the measure. How is it that they are so very anxious that this measure may be passed today? Why have not the courage to wait for a year or two? May I say they are afraid of the new elections?

Shri L. Krishnaswami Bharathi: No; not at all.

Babu Ramnarayan Singh : The Hindu society has lived and flourished so long according to the same customs and same everything else, then, heavens will not fall if we send the measure for circulation as my friend Mr. Naziruddin has stated. I appeal to each and every Member of the House to consider the measure in a calm manner. People may be afraid of the next elections, that we Congress people may

not get votes. That question does not arise. We must be true to ourselves and to the constituency and people who have sent us.

So, I oppose this measure with all the emphasis at my command, and support the motion of my friend 'Pandit' Naziruddin Ahmad that the Bill may be circulated for public opinion.

***Shri H. Siddaveerappa (Mysore State) :** I congratulate the Honourable the Law Minister for the very lucid expression of the speech he gave while moving this Motion. Sir, a lot has been said that this measure vitally affects the Hindu society. I come from a part of this country, namely Mysore, where some of the fundamental things, this measure wants to introduce, are already in force. We have, for instance, got the law of adoption as also the law regarding the daughter's share, and several other things, though they are not on all fours with the present measure. But the principle is there. We have enacted a Bill as early as 1934, called the Hindu Women's Rights Regulation and for the last fourteen years that Bill is law in Mysore, but we have not found there any general upheaval. There is not much litigation nor is there any disruption of the Hindu society as has been feared by some of the honourable Members here. As a matter of fact, by our experience we have come to understand that the measure which is now in force is not of the extent that is needed and another Committee has been formed with a view to see that there is further improvement in the existing measure.

It was said that the measure before the House affects the caste system or some other fundamental beliefs or principles of the Hindu society. Well, Sir, my reading of some of the Hindu literature is that if we study the Vidic period, that is from 2000-1400 B.C., and study the Hindu society then in existence, we do not see any of these four castes in the Hindu society then in existence. Every man born, according to his *gitna* or *karma* had to go through all the *vamas* or *ashramas* in his life time. A boy, until he attained the age of twenty, had to perform the household duties and obey his *guru* and do all the other acts that were assigned to him, and he was called a *shudra*. After the age of twenty he was allowed to be married and he had to take the responsibility of maintaining the family, then, according to the duty that was imposed on him he was called a *vaishya*. After he enjoyed life for some time and after he reached the age of 40 or so, when there was need for every man to defend the State, he had to do the duty of a *kshatriya*. After he attained a particular age, say 60, when

* C.A. (Leg.) D., Vol. II, Part II, 28th February 1949, pp. 953-56.

he had seen so much of life, and on account of his experience and learning, he undertakes the task of teaching the disciples and doing oilier duties of wisdom, and he was called a Brahmana, a man who has got the *guna* of *Brahman*.

Therefore, this caste system in this country originated in a different way, and developed in a different way. But today we understand that there are nearly 13,000 castes and a much larger number of sub-castes which have got different traditions, different customs and what not.

We find today that we are one so far as political unity is concerned. If we want to have any uniform standard of rules or any uniform standard of our laws, it is absolutely essential that there must be some Code which gives a certain standard. May be if necessary at the consideration stage we may consider which of the clauses are necessary and which are not necessary; but if we say there is no need at all for a Code, I do not think any of us, if we apply a little commonsense, can accept that position. We see in this country there are people who profess different beliefs—*Dwaita* and *Adwaita*. There are people who practise monogamy and polygamy and in some places there is polyandry also prevailing. Under these circumstances, is it not necessary for us to see that we have got a uniform code for purposes of inheritance, marriage and several other things? During the time of the Britishers we found that in the guise of religious neutrality or non-interference, they never cared to see that any evils in the Hindu society were wiped out; they never attempted any reform in that direction. As a matter of fact, when Warren Hastings was impeached by Burke, it is said that one of the charges levelled against him was that he used those caste codes for purposes of his personal aggrandizement. The Britisher saw that the caste system was ideally suited for his own advantage, therefore he never interfered to bring about any needed reforms in the society. But that is no reason that at a time when we are free, we should not aim at bringing about this much desired reform. Somebody said, we are proceeding further, why should we take up this measure so early as this and why should we not wait for some more time? My point is this : this reform was long overdue; it ought to have come much earlier but for the fact that we were a dependent nation and that we were not masters of our own destiny. My submission is that it has not come a day too soon.

So many other objections were raised regarding the competency of this House etc. As a matter of fact, the honourable the learned

Mover has given a clear exposition as to how we are competent to bring about this desired result; So I do not wish to take the time of the House especially as there are many other speakers.

With regard to the principle of divorce, it is in my opinion a very much debated point. It is a thing which really agitates a large number of people in the Hindu society. Whether it be sacramental marriage or any other form of marriage, I do not wish to see that there should be under any circumstances an indissoluble tie of marriage. Instead of giving unfettered discretion to people. I would request the honourable the Mover to consider this point, namely, that a time-limit may be imposed—say five years or three years, whichever is approved by this House—within which the married people may be able to round off their angularities, having time to study each other, and if inspite of it they are badly off, it may be necessary that the marriage tie will have to be snapped.

Pandit Lakshmi Kanta Maitra : Marriage on probation, you mean ?

Shri H. Siddaveerappa : Not marriage on probation, but before anybody can have the benefit or advantage or whatever you call it of divorce, a particular period should be prescribed within which no married couple may be allowed divorce.

Shri L. Krishnaswami Bharathi: That is the English law. They have three years there.

Shri H. Siddaveerappa : Let us consider the experience in the Western countries; for instance, let us take America. We have the experience of a famous divorce court judge, Lindsay. Whenever anyone went to him for a divorce, he used to tell: "You people will live together for one or two months and then come to me again. Even inspite of it, if you feel that you must get yourself divorced then you may apply." He says that invariably his experience as a judge is that whenever people try to separate each other, it is because that they have not tried to understand each other. If there was occasion to judge each other, there may not be recourse to this extreme form of separation. Therefore, I suggest that some such period should be prescribed in regard to divorce.

Regarding the theory of fragmentation of property, we find that agricultural land is not at all affected by this measure. It is a good thing in itself.

Ch. Ranbir Singh (East Punjab : General): It is affected, in Centrally Administered Areas.

Shri H. Siddaveerappa : No, it is not. Only the Centrally Administered Area is affected, which is a very small area. So far as this agricultural land is concerned, I think the time has come when we should undertake agrarian reform in the interests of our own agriculture and our own existence so far as food is concerned. Not only that, with regard to inheritance the time has come when we shall have to have some such thing as the law of primogeniture. In view of the fact that 90 per cent, of the people of this country are living in the villages and their property is mostly agricultural, and in view of the fact that this property of the 90 per cent, of the people is taken away from the operation of this Act, I believe the theory of fragmentation does not stand to logic or reasoning.

With regard to custom, some of my friends submitted that custom ever rides law, therefore any custom having the sanction of law should be accepted. I think many of us, who have experience as lawyers, can easily see how custom conveniently comes in handy to take away the effect of any benevolent law. I may give one instance. There is a provision in the Indian Penal Code under which if any girl is dedicated for an immoral purpose it is an offence. The marks of dedication are the tying of some heeds round the neck of the girl. Now the ingenuity of a lawyer was able to invent the custom of tying of beeds and apply that custom even in cases where the dedication was done for immoral purposes. Apart from this, we also know how on account of custom litigation sets in and how enormous amounts are spent in it, at least it was so in the previous regime. People used to spend enarmous amounts in getting a decision on any particular point and squander money over judges distinguishing between two different judgments. Today this Bill is so simple, so lucid, that without recourse to any lawyer, any man can for about four annas ascertain what his position is with regard to law.

Pandit Lakshmi Kanta Maitra : He can manage everything with four annas, you mean ?

Shri H. Siddaveerappa : It is quite possible. A day will come. We will have to try for that also. As a matter of fact, we have been seeing how these judicial decisions affect some of the property rights and other things. A judge comes to one decision and that will be law for some time. Tomorrow they may find out some other law,

some text or *smriti* or some such old document, and we will be told that this law is overruled, with the result that nothing is settled in Hindu law. As a matter of fact, we have been seeing under the British regime, for the last 150 years, there have been so many decisions after decisions, any number of them and still they say nothing is settled in Hindu law. I want to ask when we will have a settled form of law wherein the ordinary man can understand what exactly is his position. As a matter of fact, when a creditor wants to give some money, he has to satisfy who are his heirs, who have shares and all that, with the result that on an agricultural land on which he can give Rs. 1,000 loan, he gives only Rs. 500 or so. Therefore, taken from any angle of view, I believe this is a very healthy measure, so I give my wholehearted support to it.

Mr. Chairman : The debate will continue tomorrow after Question Hour.

*HINDU CODE—*contd.*

† **Shrimati G. Durgabai** (Madras: General): It is with great pleasure that I rise to support the motion made by the Honourable Minister of Law. I also feel that I should express my deep debt of gratitude to Sir, B. N. Rau and his colleagues on the Committee who have bestowed great labour on the report which forms the basis of this Bill.

The Bill to codify the Hindu law when it goes on the State Book will be a great landmark in the social history of this country. Before I go in greater detail into the main provisions of this Bill I would like to stress one point. Honourable Members are aware of the fact that the provisions of this Bill are of a permissive or enabling nature. They impose no sort of obligation or compulsion on the orthodox section of the Hindus. Their only effect is to give the growing and clamant body of Hindus, men and women, the freedom to live a life which they wish to live without in any way affecting or infringing their liberty *to* adhere to the old ways.

I wish to confine my remarks only to one or two main objections that have been raised against the bill. The first objection is against the attempt at codification itself. It is urged that many of the principles of the Hindu Law are now well-settled, and as it would unsettle the settled law, a code is not called for at all. The other objection is that far from preserving the principles of Hindu Law which have been handed down from generation to generation an attempt at codification would tend to introduce principles which are quite alien to Hindu society. It has been said that the Legislature has no right to alter the law of *smritis, shrutis* and sages of great repute. An other charge against the Hindu Code Bill is that it seeks to introduce changes of a revolutionary character and therefore, it will destroy the law laid down by *smritis* and *Dharma*. My answer to all these objections is that it is just because many of the principles of the Hindu Law are now well settled, that an attempt to set down all these principles into a systematised and easily understood code should be made.

12 NOON

Hindu Law as it exists today is rigid without being certain. Many judicial decisions and precendents have outlived their usefulness. As an English writer puts it, the case law on the subject has become a luxuriant jungle where it is not possible to see the wood for the

* C.A. (Leg.) D., Vol. II, Part II, 1st March 1949, pp.591-1030.

†*Ibid*. pp. 991-95.

trees. There are frequently conflicting decisions of various High Courts given from time to time. Even the decisions of the Privy Council on some of the intricate questions of law are widely felt to be out of accord both with ancient authority and also modern spirit. A uniform and unified law will prove a boon to Hindu Society, because it would save considerable time of law students and also practitioners, who have otherwise to take a considerable number of years to get to acquire a full grasp of the law. Even the ordinary citizen will also be able to read the code and say to himself, "Within this cover is the whole basis of my rights, privileges and obligations." A code will also minimise the time and labour of Judges and it would also induce the speedy administration of justice. To be without a code is, in my opinion, to be without justice.

The objection that it has introduced changes of a revolutionary character is mainly voiced by vested interests. The subordination of some of the present interests to secure the future interests of the country is always a thing to be welcomed. As a matter of fact, this Code does not really go far enough in that direction and that is my opinion.

The bulk of the agricultural property is excluded from the operation of this code. Therefore, it is urged that your object to have a uniform law is frustrated. Why attempt a Code at all if this object is defeated? My answer to that objection is this. What is aimed by this code is to have a uniform law for all Hindus, but not a uniform law necessarily for all kinds of property. In the interest of agriculture itself, if not for anything else, separate laws and special laws will be enacted by appropriate legislatures which may include a special law of succession which is quite different from the law of succession applying to other forms of property. .

Now, I come to what I consider as the main objection, that is, the giving of a share to the daughter. This was opposed on many grounds that it would lead to disintegration and fragmentation of property, besides introducing a foreign element in the shape of the son-in-law. And also it is objected to on the ground that the simultaneous heirship of a daughter with a son would simply shatter the Hindu society. Also it is said that if the daughter takes away a share the love of her brothers is lost. It is also said that sons in many families would simply be ruined under the double burden of marriage expenses and also a share to the daughter. May I ask what sort of affection it is of the brothers if only it would involve putting a little more strain on their own self-interest? May I also ask if no share is given to the daughter the sons' love will be greater?

With regard to fragmentation I fail to understand how this question be raised, as it has already been said that agricultural property is excluded from the purview of this Bill. This point was raised by one of the honurable members of this House and we are all aware that the bulk of agricultural property is excluded from the operation of this code. It would only apply to urban and movable property. What they mean, I feel, by fragmentation is dimunition of the share which they will gel if the daughter is also given a share, the daughter being of the same flesh and blood should there be so much uproar, I ask, if a share is sought to be given to her?

With regard to the introduction of a stranger into the family my answer is that the property which the daughter takes from her father, if necessary by legislation may be made to form as part of her separate properly. The evil or the good resulting from the legal provision depends also on the particular individual i.e., son -in-law concerned. I do not want to say much about this.

It should be noted that the daughter, as do the sons, demands a share, if need, be only after the death of the father and there is absolutely no question of her demanding a partition when the father is alive. Therefore I do not see why some honourable members should object to this. As the Law Minister has already dealt with the matter, the *smritis* themselves have recognised the share of the daughter to her father's property and therefore there is nothing revolutionary about this and the attempt to exclude the daughter on the ground that she does not contribute to the spiritual benefits of the father or her ancestors is, I say, unjust and unfair.

In this connection the argument is put forward, why not the daughter take a share in her husband's property and not come to ask for a share in her father's property? This appears to be a compromising formula. I may say straightaway that this compromise formula is not or will not be acceptable to women. We say that we should be recognised on a basis of equality. This code proposes to abolish the distinction that exists on the basis of sex and that should be removed. The daughter should be recognised as an heir and should enjoy her property in her full right as a daughter and as an heir to the father. As regards the question of disintegration I have already dealt with the matter. The evil could be met by different ways. Fragmentation can be stopped and consolidation could be secured by special laws. If the properly goes down to a certain extent that could be sold and

the shares could be adjusted. There are different ways how this problem could be tackled and the argument on that score could not be advanced that the daughter should not get a share. Hence the Select Committee has recommended, based on this principle of equality that she should be given an equal share with the son. I appeal to the honourable members of the House to support the recommendation made practically unanimously by the Select Committee in this regard .....

Shri H. V. Kamath (C. P. and Berar: General): Dr. Ambedkar was not in sympathy with that.

Shrimati G. Durgabai: Therefore when it is said that the daughter takes a share both from the father and from the husband and the husband takes nothing, how about this? The Select Committee has recommended that the man also can inherit the wife's property in the same way as the wife inherits the husband's property and also the son will be given a share equal to that of the daughter's in the mother's property just as the daughter claims a share in her father's property. Therefore, there should be no difficulty even in this regard for those who oppose this Bill on these grounds there is one answer given. I do not want to quote because the time is limited and other members are anxious to speak (*Honourable Members* : Go on. Take your time) Mr. V. V. Srinivasa Iyengar pointed out in this connection that those who oppose this legislation on religious grounds labour under a misunderstanding that Hindu law has remained static from the time of Manu. That is not the position.

This takes me on to another subject and that is about the status of women with reference to the holding of an estate absolutely and not in life, the Bill seeks to remove this disqualification attached to woman's estate and it gives her the right to hold property absolutely and not for life only. The main argument in favour of limiting the estate in the case of women is that they are incapable of managing it and also that they are likely to be duped or exploited. Also it is said that they arc illiterate and they do not understand the principles of management and hence there will be a strong inducement to designing male relatives to lake away her right. My answer to all this is this. The House is aware that the daughter has an absolute estate in Bombay today. Therefore, on that ground I do not think they are exposed to any risk. The other argument is that we have score of instances where women have proved better managers than men. Also there is one more argument. No doubt I agree that women are

illiterate but may I ask you how many men are literate? Three out of four men continue to be illiterate today (*An honourable Member:* 'Nine out of ten'.) Therefore, the relative advantage enjoyed by men is confined only to one in four of the male population (*An honourable Members*: 'they are the sons of their mothers.') and is should also be remembered that the percentage of literacy among women is rising very much faster today than it is among men (*Shri H. V. Kamath* : 'Question.'). With regard to the quantum of her share I have already stated the position of the Select Committee. We have recommended an equal share to the daughter. I appeal to you that you should be generous enough to endorse the recommendation made by the Select Committee without any hesitation on your part. I will now come to another subject, namely monogamy. However much I wish to speak on this subject, I do not do it because of the limited time at my disposal. Not only that, but this has been dealt with amply by the honourable the Law Minister and also by several other speakers. Many arguments have been put forward on economic and social and other grounds; even religion and spiritualism have been sought in aid to support their arguments. But feelings were expressed in a very light hearted manner: if only a man is healthy and wealthy, why not he marry and marry again! Also, that if the rule of monogamy is enforced many Hindus will become Muslims in order to secure the benefits of polygamy! I need not answer this question because I have found one lady witness very ably and effectively answering tills point. She said that if the rule of monogamy is not enforced, it may be that women will become Ciiristians in order to secure the benefits of monogamy, but neither of them I think is serious.

Shri B. Das (Orissa : General): Do you think a Christian woman is happier than a Hindu woman?

Shrimati G. Durgabai: As the honourable the Law Minister has already stated, the force of world opinion and the practices prevailing in the whole world are there and they are in favour of monogamy. Therefore, I need not deal with this matter any more.

Neither have I time nor is it desirable for me to take the other aspects of the Bill because there are other Members who will deal with the questions like marriage and divorce; but I only wish to say something on co-parcenary. The distinction between *Mitakshara* and *Dayabhaga* came as a result of the different interpretations put by the commentators and other interpreters. Fundamentally, the basis of

joint family is there common to both. The right by birth and the principle of survivorship is a distinctive feature of *Mitakshara*. The *Dayabhaga* system has in actual experience proved very satisfactory and the Bill therefore, seeks to replace the *Mitakshara* system of inheritance by *Dayabhaga* It is said the greater prosperity of the people in Bengal and their increasing commercial enterprise is due to a large extent to the *Dayabhaga* system. I am told that the commercial enterprise of Nattukottai Cheitiyars in Madras is largely due to their ideas of legal relations of the members of their families which approximate more to those of partnership than is the case in Brahmin joint families.

Much has been said on this subject, therefore, I do not want to labour this point. I feel that the opposition is more due to their love for this ancient institution, but those who oppose it I think oppose it because they forget the fact that Hindu Law and *Dharma* on these matters remain static and no changes have been made. Various judicial decisions have made changes from time to time into this system and the institution has been simply shorn of its characteristics. This point has been very ably answered by a very great lawyer like S. Srinivasa Ayyangar, who said that under the Hindu Law, as authoritatively interpreted by the Privy council, the unity is broken by any member at any time by a unilateral declaration of his intention to separate from the family. This is quite sufficient to answer that charge against the breaking of the co-parcenary or the replacement of the *Mitakshara* by *Dayabhaga*.

I do not want to take more time of the House. Many things have happened since the achievement of freedom and India has been participating in international conferences and pleading for human rights and also for equal treatment of Indians in foreign countries. It will be a great misfortune if at this juncture we fail to enact a Hindu Code within our own borders, in which there will be no discrimination and where there will be equality for men and women to move, to develop and to contribute to the re-building of our India. Our constitution is in the making, we have already passed the Chapter on fundamental rights, and recognised the principle of equality of everyone before law. We have also passed the provision enabling ourselves to have a uniform civil code. Therefore, I make this appeal to you. Let us not be wanting or halting in having a Code of Hindu Law for ourselves which will prove a great boon to our own society in the way in which I have already stated.

* **Pandit Lakshmi Kanta Maitra** (West Bengal: General): Sir, I am thankful to you for giving me this opportunity to put in a few words what I feel regarding the motion before the House, namely the consideration of the Hindu code. I know I am in a position of great disadvantage inasmuch as I could not be present when the Motion was debated during the first two days, as I had to be away from this place. I had, in the few moments I could snatch in the midst of my preoccupations, noticed Press reports that my honourable friend the Law Minister, Dr. Ambedkar had made a magnificent speech in support of his motion. Also, that an equally powerful speech—I am not making any comparison. I rely on reports, though there is a divergence of opinion even among the reporters that an equally powerful speech was made on the other side by Pandit Thakur Das Bhargava.

I listened with considerable attention to the four speeches that have been made in favour of the motion and the one against it. As the debate was going on yesterday, I could see the mood of the House— sometimes hilarious, but when a Member sought to differ from the main provisions of the bill, all manner of gibes and ironical cheers greeted him all through. (*Honourable Members:* 'No, no') I am glad it is not so. Well, I think it will give me some encouragement because most members know—I think every single member knows—which way I will speak. I do not know how I came to attain this sort of notoriety—I could not say, fame—that I do not support the provisions of this Bill. I will make no secret of it, (*An Honourable Member*: Why should you?) because I will speak out my convictions. I know what a delicate task it is for me to be addressing this House, constituted as it is and in the mood in which I find it. I know that I may have to rue the temerity which I have shown by taking courage in both hands to say what I feel. It is rather helpful that immediately before I address this House. I have had the opportunity of listening to my honourable sister, Shrimati Durgabai, who has made a closely reasoned speech in support of this Bill.

I must apologise to my sister for not being able to agree with her in the theories which she has so confidently assumed as being almost accepted by all. She finished her speech with a peroration, appealing to the House to give effect to the principle in the Draft constitution

* C.A. (Leg.) D., Vol. II, Part II 1st March 1949, pp. 995-1015.

providing for equality for all in the eye of the law. Yes, we have done that. She also reminded us that we have already passed, as one of the Directive Principles of the Constitution that there should be a uniform Civil Code for the whole of this country. I am glad she gave me the starting point of my speech today. When this subject was debated a couple of months ago in another place and when it was thrashed out elsewhere informally, I registered a vehement protest against this provision, as I felt, that it was nothing but an outcome of shibboleths and slogans—a uniform Civil Code for a country inhabited by 32 to 34 crores of people professing all manner of faiths : Hinduism, Sikhism, Jainism, Buddhism, Christianity ; and last but not the least, Islam! I tabled amendments that the personal law should be secure and that this was an encroachment by the Slate on the personal law of a person which the Slate had no right to make.

Maulana Hasrat Mohani (U. P. : Muslim): Hear, hear.

Shrimati Renuka Ray (West Bengal: General): That is the reason why you should support this Hindu Code.

Pandit Lakshmi Kanta Maitra : The honourable sister in front of me says that it is the reason why I should support the Hindu Code. May I say that that is the very reason why I am going to oppose the Hindu Code—one of the main reasons. You must be logical. I can understand the feelings of my sisters. Do not think that I am a hater of women, that I am a misogynist, or that I have no feeling for women. (*An Honourable Member:'* He is a married man ') Yes I am a married man. I have a humble wife—married according to Hindu shastric rites,—a simple, unsophisticated lady, bred up and nurtured in the ideals of our Hindu homes. (*The Honourable Dr. B. R. Ambedkar:* 'What a pity') It is a pity ! May be, but I have not much of love or liken for the lavender, lipstick and vanity bag—variety of that sex. I am happy, and I am sure out of every hundred Hindu homes, 98 have got these types of wives and are quite happy. (*An Honourable Member:* 'Why 98 ? 99.9 per cent, are so') I am glad, a friend says it is 99.9 per cent, recurring. That enforces my argument. So I can tell my honourable friend Dr. Ambedkar that I have not felt the necessity for the drastic changes that he has sought to introduce in this Bill. (*The Honourable Dr. B. R. Ambedkar:* 'Neither did I feel any'.) My honourable friend says he also did not feel the necessity. If he did not really feel any necessity for these sweeping changes, then do I take it that it was due to his megalomania that we have got this Hindu Code

Bill ? I have very great admiration for my honourable friend Dr. Ambedkar, with whom I had the privilege to work for a number of years before this Assembly. I respect him. I know the performance he has been daily putting in connection with the Constitution Act, (*Honourable Members:* 'Hear, hear') I appreciate him. I admire him. But I will never appreciate what he has been doing in connection with this Social Legislation which is sure to disrupt the Hindu society by the revolutionary changes which very few of us can now realise. (*Honourable Members:* 'No revolution. No, no') Yes, I am glad it is "No no.' If this Bill is passed into law.....

Babu Ramnarayan Singh (Bihar: General): No.

Pandit Lakshmi Kanta Maitra: What no ?

Babu Ramnarayan Singh : It would not be passed into law.

Pandit Lakshmi Kanta Maitra: I see. If this Bill is passed into law as it is I will then see who is a better prophet—myself or those who say "No, no."

Shri L. Krishnasvvami Bharathi (Madras : General): You wait and see.

Pandit Lakshmi Kanta Maitra : Well, wait and see. Posterity will judge, and I do not think you will have to wait till posterity. You will have to wait only till the next General Election to see what the country has to say about you and your work.

Maulana Hasrat Mohani: Hear, hear. Well done.

Pandit Lakshmi Kanta Maitra: Sir, the first point raised by my sister Shrimati Durgabai was that having passed that Directive principle, you should not now object to the Hindu Code. When that Directive Principle was accepted by the House. I thought that the snake had been killed—the Hindu Code Bill,—but I now see that the snake was only scotched ; it has reared its head again and will in time spread out its fangs of venom. If you are true to your Directive Principles, if you mean to act on them, then why bring the Hindu Code Bill. Bring a Universal Civil Code applicable to Hindus, to Christians, (*Shri L Krishnaswami Bharati: 'Will you support it ?"*) to Parsis, to Sikhs, to Jains, to Buddliists, to Muslims. You dare not touch the Muslims but you know that Hindu society today is in such a bad way that you can venture to do anything with it. Only a few ultra-modern persons, who are vocal, but have no real support in the country, are interested in this Bill. (*Interruption*).

Mr. Deputy Speaker: Let him proceed.

Pandit Lakshmi Kanta Maitra : Millions of dumb people, ignorant but not the less intelligent or sensible simply because they do not have the collegiate education, or are not members of the legislatures think that such a radical change in their personal law is not called for. They are not to be ignored.

Shrimati Renuka Ray : Then do not draw up the Constitution.

Pandit Lakshmi Kanta Maitra : I therefore feel that there is no sincerity in the acceptance of the principles of one uniform Civil Code for the whole country; or else, how could you, within two months of it, come out with this Hindu Code Bill which seeks to govern only the Hindus, Sikhs, Jains and Buddhists?

Shrimati Renuka Ray : Hindu Code came much before.

Pandit Lakshmi Kanta Maitra: You have omitted Christians, Muslims, Parsis.

Maulana Hasarat Mohani: Muslims will never accept any interference in their personal law.

Pandit Lakshmi Kanta Maitra : You need not have reminded me. I know that. I perfectly appreciate the proposition of my honourable friend Maulana Hasrat Mohani. But all the same. I think this is a fundamental departure from the accepted principles in the Constitution.

When my honourable friend Shrimati Durgabai said that codification is justified. She tried to prove that an irresistible case had been made out for codification. With all respect to my sister Shrimati Durgabai I submit I stand unconvinced. I can understand the necessity for codification when the law is in a state of flux or that there is much diversity of opinion, or a good deal of vagueness or uncertainty about it. Codification should in such a case be undertaken by the best legal brains in the country silting together to give shape to the various principles of law which are more or less in a confusing or uncertain state. Is that the case with regard to Hindu law in this country ?

Shri Krishna Chandra Sharma (U. P.: General); It is.

Pandit Lakshmi Kanta Maitra : I accept your statement but I feel deep regret for the colossal ignorance you have exhibited. Hindu law, if my honourable friend is a lawyer and holds that view, he has not practised. He will please excuse this friendly retort. I can stand interruptions. If you interrupt me you will be only adding ginger to my speech. After the advent of the British to this country, the Hindu

law got gradually crystallised. They did not dare to touch the personal law of the people of the country.

Babu Ramnarayan Singh: They brought in limited estate for women.

Pandit Lakshmi Kanta Maitra : I am coming to that straightaway. If I forget to reply to that point, kindly remind me. Hindu Law is such a vast subject that I can talk for hours on it, if the Chair permits me to do so. I assure you, Sir, I am not going to do that.

I protest in the first place against the manner in which this Bill has been sought to be smuggled into this House and through this House. It is an extraordinary procedure, Mr. Deputy Speaker.

Shrimati Renuka Ray : I object, Mr. Deputy-Speaker, to this insult to the House.

Pandit Lakshmi Kanta Maitra : It is not a point of order,

Shrimati Renuka Ray : This is a point of order, Sir. I object to the remarks made against the house.

Pandit Lakshmi Kanta Maitra: 'Smuggling" I have never understood to be an unparliamentary word. If the honourable member thinks that there is any stigma attaching to it. I would use another word in substitution thereof. I would say that the haste with this Bill sought to be passed in the House is extraordinary. Is that also an unparliamentary word ? If so, give a parliamentary expression for that. You cannot find a substitute for it. (*An Honourable Member:* 'Commendable speed'). It is a most extraordinary procedure that has been adopted in this House. I have some little experience of parliamentary activity in this House. I have never known an occasion when a Bill of this importance and magnitude has been sought to be passed in the way it is done now.

Shri Brajeshwar Prasad (Bihar : General): It will never be passed. (*Interruption*).

Pandit Lakshmi Kanta Maitra: I like interruptions but I could not catch what he said. If the honourable-members think that by constantly interrupting me in this way the effectiveness of my speech will be marred they are mistaken.

The Bill was introduced on the last day of the last Budget session.

Babu Ramnarayan Singh : Last hour.

Pandit Lakshmi Kanta Maitra : You know very well how a Bill of this importance and magnitude, a Bill which seeks to regulate the life and conduct of Hindu society was introduced on the last day of

the last session ; how at the end of the day's work we sat beyond 5 o'clock for two hours and the honourable the Minister for Law was allowed to make a speech committing it to a Select Committee, only three or four speakers, under a rigid time limit were allowed to speak and at 7 O'clock after a short session the motion was carried. Thereafter what happened ? It went to the Select Committee. The Select Committee reported on it and on the motion for consideration of that report points of order were raised in this House. I am not going to enter into the merits of those vital points of order. They were disposed of. So great was the impatience that in the last session the honourable the Law Minister wanted to simply say that the Bill be taken into consideration and there was no speech. It was somehow got into the agenda. Very well it was done. Points of order were ruled out and it was found that it was within the competence of the House to go on with the measure as reported by the Select Committee. Now look at the way in which it is being dealt with now. In the short indulge between the Railway Budget and the General Budget this is sought to be pushed through. There is no seriousness about it. Nobody feels its importance. The country at large is bewildered by the way in which we are dealing with a piece of legislation of this far reaching importance. If you attach real importance to it, if you really mean business, if you want that something should be done by way of revising the Hindu law as it is today, this is certainly not the way to do it. Keep the Bill for a special session. For small Banking Bills and the like you are devoting days and days. That being the case, do you mean to say that a Bill which seeks to regulate the life and conduct of the Hindu community should be dealt with in the haphazard way in which it is sought to be done ? I enter my emphatic protest against the way in which this important legislation is being considered. You know how at 3 o'clock yesterday there was the Supplementary Demand for Railways and later in the day the General Budget came in. I wish to submit, Mr. Deputy Speaker that I have not been accustomed to this kind of procedure with regard to Bills of this nature. I ask the old Members of the Legislature to recall a single precedent for this.

Babu Ramnarayan Singh : There is none.

Pandit Lakshmi Kanta Maitra : Sir, the question is, is there any real necessity for codification. I see absolutely none, because, as my learned friend Shrimati Dorgabai said, the Hindu law is well settled and it has held the field for about hundred years. The ancient Hindu

law, when the britishers came here, was interpreted with the help of Indian Pandits. They used to call them Judge Pandits who ransacked all the *Smrities* and *Dharma Shastras* and interpreted the law. This process continued till they succeeded in evolving from the rest mass of *Smrities* and *Nibhandhanas* and usages, a system of judicial principles constituting the Hindu Law which now hold the field.

Sir, it is well known that the Hindu Law has the oldest pedigree of all the known systems of jurisprudence in the world.

Dr. Mono Mohan Das (West Bengal: General): It is unjust.

Pandit Lakshmi Kanta Maitra : Yes, the Hindu law is unjust ! Hindu society is unjust! Hindus are unjust! It is not possible for anybody to reply to an interruption that the Hindu law is unjust. It took only three words to compose that interruption. I do not know if I have the capacity to reply to a sweeping charge like that made in three words 'It is unjust', Whether a system is good or bad, it is for the society to judge ; it is not for disappointed or disgrauntled persons to judge. But I may say that the one surest proof of its soundness is that it has been able to stand the test of centuries. No system which is intrinsically bad, unsound or unjust can endure for a long time. Hindu law and the Hindu social system governed by it have been able to withstand the shocks and revolutions which have swept over the country during the ages past. Historic cataclysms have swept off the feet of ancient civilisation of countries like Greece, Rome, Assyria, Babylonia—which have all crumbled down—whereas Hindu culture or community, which cannot date its origin, still continues to function with all the vigor and vitality, and I am sure, Providence will allow it to function, till we set about to undermine its very foundations, by legislating in these reckless and light-hearted ways. If there was anything essentially weak in the foundations of Hinduism it would not have been able to survive the upheavals that overwhelmed it throughout its long and chequered history. This country has been subjected to foreign rule for over a thousand years. History will tell you how she has shown her wonderful adaptability, reflection will reveal to you that the Hindu law has had in it the germs of flexibility and adaptability which have enabled it to adjust itself at all times to the changing needs and to meet the challenges of the times.

Shrimati G. Durgabai: Hear, hear.

Shrimati Renuka Ray: There is a change now. *(Interruption).*

Pandit Lakshmi Kanta Maitra: I am glad that I get a spate of interruption, which gives me breathing time. Please do that singly. Mr. Deputy

Speaker, I am not so big a fool as to hope that many will be convinced by what I say, but I do hope that someone of us at least, may give some little thought to what 1 say. I earnestly plead that Hinduism, the Hindu Law; the Hindu culture have got immemorial traditions, agelong-moorings, which it would not perhaps be wise for us to sweep away by one stroke of the pen. I make this appeal to my friends to the right and to the left. Sir, I am apprehensive tills is just what the present Hindu Code Bill is going to do for us. I do not find anything Hindu about it. It can be more properly called an 'un-Hindu' or 'Anti-Hindu' Code.

Mr. Nazruddin Ahmad (West Bengal: Muslim): Muslim Code.

Pandit Lakshmi Kanta Maitra: Whatever else it may be, it is not a Hindu Code. It does not breathe the spirit of Hinduism : it reeks of un-Hindu ideas : a spirit of supreme contempt for anything Hindu permutes the whole Bill from the beginning to end.

Shri H. V. Kamath : What is the Hindu spirit ?

Pandit Lakshmi Kanta Maitra : Sir, do you call that Hinduism ? You please think over your system of marriage and inheritance which form the cornerstones of Hindu system or Hindu society ; are you going to undermine it in the way in which you are going to do ? That is the question that you will have to answer not only to us here but to our countrymen outside and to the posterity.

Sir, I do feel that if we codify the law in the way it is sought to be done, as a simple intellectual pastime, codification for the sake of codification, I will plead with my honourable friends that it is unwise to do that. It is not necessary. No need for it has been felt by anybody. Look at the opinions of the judges of the different High Courts and the District Courts. They are the people who have to administer the Hindu law. Has the Government got a vast volume of opinion embodying the demands from the judiciary that Hindu law require codification and that also in the way in which it is sought to be done ? No. Has there been such a general demand from the people who have to guide themselves, guide their lives and conduct by the provisions of this law ? Have they demanded it ? Has there been that kind of demand ? My honourable friend to the right says : No. It is perfectly correct.

Shri L. Krishnaswami Bharathi: He supports you.

Pandit Lakshmi Kanta Maitra: My honourable friend says : he supports me. He supports truth. The country will be taken by surprise

at what we are doing. Let us not lay the flattering unction to our souls that we are doing a wise thing. I know I cannot deceive myself in the way in which you are doing. Even if it were wise, I would not have thought it necessary to attempt that codification, because of the reasons I have given. You cannot give any uniformity to it whatsoever; and if Hinduism is anything, it is because of its fundamental unity in the midst of diversity. That constitutes the essence of Hinduism. Hindu law and Hindu culture. In a vast country like this you cannot expect a uniformity standardized sort of life ignoring the natural variety. If you did it, it is no wonder that you would come to grief. You may not realize it just now, but realization would come when the time comes. After all even after this codification, is it going to serve your end ? I say : no. The honourable member from Mysore yesterday made a speech. He said, now the work has been made so simple that by buying a publication worth four annas or six annas you could know exactly what the Hindu law stood for. So many friends shout 'quite right' 'quite right', but do these enthusiasts realize that even the sponsor of the Bill does not pretend that he is going to codify the whole law of the Hindus ? In the preamble he makes a modest claim, not that kind of preposterous claim ; He says :

"Whereas it is expedient to amend and codify *certain branches of the* Hindu law now in force in the Province of India." Therefore what is proposed to be done is to codify certain branches, such as the law of marriage, law of inheritance and law of adoption. Broadly speaking these are the main things.

Shri L. Krishnaswami Bharathi: What is left.

Pandit Lakshmi Kanta Maitra : My honourable friend asks what is left in the Hindu Law. Does my honourable friend think that this is all that the Hindu Law stands for ? These three branches cover the entire field of Hindu life and activity in this country? I can only sympathise with his ignorance. What about joint family property, partition, joint family business, religious and charitable trusts, gifts, transfer *inter vivos,* and other things ? They constitute a much vaster field which is left uncovered.

Shri L. Krishnaswami Bharathi: Wills is also referred to.

Pandit Lakshmi Kanta Maitra : A mere reference to Wills does not mean that it has received a full and comprehensive treatment. In any case, I am grateful to Dr. Ambedkar. He is modest; he never claims to have brought forward an exhaustive Code. If my honourable friends

on my right think this is all the Hindu Code, they are out Ambedkaring Ambedkar. Sir, even if this Hindu Code is adopted in the form in which it has been brought before us, it will rail of its purpose for another reason also. My honourable sister Durgabai and my honourable friend from Mysore said yesterday, well, why do you worry about this : this will not lead to fragmentation of agricultural property. I do not know whether they realised that they were furnishing one of the strongest arguments for rejecting this Bill. Unconsciously, my sister and brother have furnished one of the strangest arguments for the rejection of the Bill outright. You are going to regulate the disposition of property. It is now generally accepted that 90 per cent.of the immoveable property in this country is in the villages, in the provinces, leaving aside the Centrally administrated areas. Therefore, they would be out of the purview of this Code. To house or other immovable property inside the Centrally administered areas, directly under the Government of India, this Code will apply. Then, how is this claim satisfied that this Code applies to all the Hindus in all provinces ? Thus is a very strong argument for throwing out the Bill; throwing out on the ground that it fails in its objective. Besides the three categories I have mentioned, there are so many things which have yet to be covered. The argument would be that provincial agricultural land is purely a provincial subject according to the Constitution Act; so also are religious and charitable trust properties, so also joint family property, and partition, self acquisitions, etc. When this vast field would lie uncovered. I ask the House seriously whether they are really satisfied with the claim of those who think that this is going to be an exhaustive Code or an all embracing Code and that it provides the panacea for all the social and economic ills to which Hindu flesh is heir to. Do they really believe that the 139 sections will be the vitamin tablets which will go to vitalise the whole Hindu society ? You may hold that view ; the House may hold that view; I do not hold that view. On the other hand, I think this is premature, absolutely premature. Even if the Hindu Code be passed into law, it could not come into force all until the provincial Governments pass similar legislation in their own provinces for devolution of agricultural land. Every single province will have to do it before this Act could come into force in all the provinces. I am not now talking of the states ; I am talking of the provinces. Besides, it is not inconceivable that the provinces may be taking different decisions. It is not for the Central Government to force the Provincial Governments to legislate on a particular line of succession, a particular line of devolution of agricultural property according to its dictates. Then

provincial autonomy will fail to the ground and I am certain that the provincial Ministries will not touch such a proposal from the Centre even with a pair of tongs if such direction went counter to their own views.

Mr. Deputy Speaker: May I state for the information of the House that there are as many as 37 members—I have received chits, letters and so on from them—who are all anxious—most of them, if not all—to put forward their view points on this Bill. I would therefore suggest, however interesting the speech of the honourable member might be, that the points that have been raised on one side in support of the Bill may kindly be answered by others. Thus, all the points would be threshed out and this will contribute to the richness of the debate as well. Dr. Ambedkar has given a clear analysis of the Code with arguments. Of course, the House would like to know how those points are wrong and how they are met on the other side. Therefore, greater attention may be paid to that and also regard may be had to the number of speakers that are in the waiting list.

Shri H. V. Kamath : May I request you, Sir, to consider, in view of the vital importance of this Bill, that two or three days time is hardly adequate and that at least a week or two should be allotted for general discussion ?

Pandit Lakshmi Kanta Maitra : With great respect to the views which were expressed by you, Sir, if I have given the impression that I was filibustering, I am sorry. I may tell you, Sir, that this Bill is of such great importance that it would be utterly unfair to the House if you ask us to conclude this general discussion thus. Because, in the first stage, we had not the slightest opportunity to make a speech ; this is the stage after gating us committed to the principle of the Bill, in which we have to see how best we can serve our country, even within the limited sphere. If there are 36 speakers, there is the clearest possible indication that the Bill has now attracted serious attention and they want to give their viewpoints. Therefore, there is no particular sanctity to the period that is laid down for debates of this kind.

If we do not conclude the discussion today, certainly more days must be found for further discussion of this. This honourable the Law Minister is very zealous about it; he can give another additional session for this ; if not, even in this session four or five additional days could be found. The matter must be thoroughly debated. I hope the House will not accept closure; nor do I think that a closure will be moved

by the Chief Whip and a motion of this kind cannot be closed by whipping without ascertaining that there has been a full and sufficient debate.

Shri H. V. Kamath : Another point. May I request you, Sir, that the provincial MLAs who are not present here also be invited to come and participate in the discussion ?

Mr. Deputy Speaker: We will now adjourn

Pandit Lakshmi Kanta Maitra : I have not yet finished, Sir, I take it I may resume after Lunch.

Mr. Deputy Speaker : Yes. We will now adjourn for Lunch.

The Assembly then adjourned for Lunch till Half Past Two of the Clock,

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The Assembly re-assembled after Lunch at Half Past Two of the Clock, Shri S.V. Krishnamoorthy Rao (one of the Panel of Chairmen) in the Chair.

Pandit Lakshmi Kanta Maitra : Before the House adjourned for the recess, I was trying to explain to it how this Code was bound to fail of its purpose in some of the material particulars. I explained that there was no necessity for codification as the Hindu law in all its aspects was not only well established but well understood by the people who were governed by it. I also explained that those who are to administer this Act—I mean the Judges, the judiciary of the land, including the highest—have never demanded that the law should be codified, and I also explained that the scope of the Bill was very very limited, and that besides providing for marriage, adoption and inheritance there was a water field which was left uncovered. While referring to the agricultural land, I may also point out to the House that according to the series of judicial decisions in this country, the question of land involves and embraces, a vast variety of interests and subjects, from the landlord of the topmost grade down to the tiller of the soil, the man behind the plough: and if the Provincial Governments of the different countries were to regulate the distribution of their property in different ways other than that indicated by the Central Act there was bound to be confusion worse confounded.

Then, Sir, I would like to mention that the Code has not only tried digesting the existing Hindu law within its limited sphere, but in that process of collating and digesting, a number of things have been

introduced ; a number of subjects, particularly in the matter of marriage and inheritance, which go diametrically against the established notions of the Hindus. Therefore, it is not merely a case of digesting, collating: not also merely a question of amending—because amending is a very mild expression: it does a good deal more than that. It introduces innovations, far-reaching changes, not only in the law of marriage but also in the law of inheritance. Sir, I wish I could explain to the House the full implications of the changes involved. But I am physically unequal to the task. I will try rapidly to explain how I look at these changes.

The two categories of changes which in my opinion and also in the opinion of the vast majority of my countrymen are very radical and sweeping, are those that relate to marriage and inheritance. Sir, my, honourable friend has no doubt provided for sacramental marriage in his Code. I do not know if in this country, up to the moment the Bill was drafted and given the shape it has now had, people really demanded of the Government of the land to prescribe a procedure by which marriages in this country are to be contracted. I think it is nobody's case that prior to the introduction of this Bill, people had not been marrying or there was a good deal of difficulty in getting ourselves married. But how the question of marriage would be improved I do not know. My fundamental objection to these marriages is, that while on the one hand it characterises one form of marriage as sacramental marriage, inside this sacramental cover there has been introduced a number of things which cannot conceivably be called sacramental or sacred ceremonial marriage. Look at the prohibited degrees. Look at the character of the parties. It can easily be an inter-caste marriage, a marriage outside caste, marriage of *sagotras,* and at the same time it would be sacramental marriage. It is rather curious, Sir, that while a sacramental form of marriage is being prescribed, along side with it there is a civil marriage. I do not know how it finds a place in the Hindu code itself. However, they provided an entirely different thing but a most objectionable thing is that while in the sacramental form of marriage one particular class of prohibited degress is put in, in the civil marriage an entirely different category is put; the ambit of the prohibited degree is narrowed down, so much so that the marriage in many cases becomes purely incestuous marriage. I do not understand, Sir, what necessity was there for this unless we by this measure, want to give direct encouragement to all manner of moral looseness and

lawlessness, which unfortunately is invading the youth of this country. Are we here going to give this the *imprimatur* of our sanction ? That is the question I would ask my honourable friend very seriously to consider and answer, not in a spirit of banter or levity but with all the seriousness that a difficult social problem demands.

I feel that the basic conception of Hindu marriage has suffered the rudest possible shock by introduction into it of the matter of divorce which is so repugnant to Hindu notions of marriage. Hindu marriage as ought to be known to every one who professes himself to be a Hindu, who honestly takes pride in calling himself a Hindu, as I myself do, is a sacrament and not a civil contract and as such it will not be difficult for him to admit that divorce is absolutely foreign to its concept. Union by marriage, according to the Hindu Shastras is sacred and absolutely indissoluble (*Interruption*). If you want me to cut short my speech you will kindly interrupt me only on important matters. I am not afraid of interruptions—I know how to answer them, I can answer them in my own way. But if you keep on interrupting me, my speech will be unduly long and you also may not feel happy over the replies I will give.

Babu Ramnarayan Singh : It ought to be so.

Pandit Lakshmi Kanta Maitra : The institution of divorce in this country, or in any country for the matter of that, has not been found to promote the well-being of the community for whose benefit it exists. As an humble student of sociology, I have had occasions to read reports of matrimonial courts. An honourable Member referred to Judge Lindsay and I believe he also had in view the "Revolt of the Youth". I do not know whether my honourable friend realised that he unconsciously provided one of the stronger arguments for opposing this form of marriage when he referred to that great Judge. I want honourable members carefully to consider, if within the family circle we should permit matrimonial alliances to spring up between a person and his mother's brother's daughter or his father's sister's daughter, as has, been provided in this Hindu Code.

Shri H. V. Kamath : It is common.

Pandit Lakshmi Kanta Maitra : It may be common in South India, but South India is not the whole of India. My whole point is that if there is a particular form of practice in a particular part of the country, you should not go out of your way to see that it is provided for the whole country.

I come from a province which is not in the South. It is a backward province, educationally, culturally—call whatever you like that benighted backward province of Bengal. I know of the domestic conditions of the families inhabiting there. Go to any Hindu household in Bengal you will find that besides the sons, daughters, and other natural heirs, all manner of relations, sisters' sons, nephews, nieces, maternal uncles' sons, uncles' daughters, all knit together and maintained in the joint family system. They are all regulated and restrained by moral and religious influences. You will find it in almost every household.

The Honourable Dr. B. R. Ambedkar (Minister of Law) : What is the difficulty ?

Pandit Lakshmi Kanta Maitra: I shall tell you where the difficulty is. There is no difficulty for those who have no family of their own. The difficulty happens in this way. For dividing trouble here I shall illustrate with reference to myself. If in my family my sons, daughters, father's sisters' daughters and sons, mother's daughter's sons and daughters etc. sister's daughters were to live together and if one of my sons contracts intimacy with his first cousin even when he is a minor or an adolescent, knowing human nature being what it is, do you eliminate the possibility of this attachment growing up and culminating in marriage ? If you do, you are poor students of history, poor students of sociology and poor students of psychology. After all, the call of human flesh is there and no legislation, however omnipotent can root out this natural and powerful impulse in mankind. If you sanction matrimonial unions between blood relations—between closest relations in the household, I shudder to think what would happen to society ? The Honourable Dr. B. R. Ambedkar: Nothing.

Pandit Lakshmi Kanta Maitra : Nothing of course, if you do not care for society ; nothing, of course, if you believe in a kind of society only where there are only social butterflies sucking honey here and there and making merry ; but I am for a society which has attained or will attain for India the position which is her own, the position for which she is respected all the world over. If you throw away all these things, if you put up a sort of Vademecum, a Hindu Code, where you find all sorts of marriages, between first cousins and blood-relations sanctioned, if you legalise all these incestuous marriages the society will be a sink of moral degradation.

Shri L. Krishnaswami Bharathi: We protest the use of the word 'incestuous'. It is very wrong to condemn outright a system which is prevailing in large parts of the country. It is a reflection on a whole province.

Mr. Chairman : Order, order.

Pandit Lakshmi Kanta Maitra : Therefore, I cannot but raise my voice of protest against such a system, because I believe that marriage between first cousins is not conducive to the well being of society from the biological and engenic points of view and is opposed to the notions of Hindu Law.

L. Krishnaswami Bharathi: No, no.

Pandit Lakshmi Kanta Maitra: Thus, not only from the point of view of society, but also for the peace and purity of family life, I want that this should be condemned. It is immoral and outrageous. . Sir, my honourable sister, Durgabai, said quite rightly, that monogamy should not be opposed. I do not know of any honourable Member in this House who really does not want monogamy. Monogamy everyone of us want, not for our mere likes ; circumstances have forced us to accept this monogamous marriage. It is a fact. Polygamy has passed away completely from the upper classes of this country not by legislation. That is my main contention. If you want to eradicate a social evil you should work up from within, not from above. If my honourable friends look to the history of this country, they will find my position amply proved. We all know the miseries and sufferings of Hindu widows. There are so many cases of child and young widows which break our hearts or at any rate it ought to break our hearts. In fact, in the past generation, the late Pandit Vidyasagar of hallowed memory was so much moved by it that he got passed the Hindu Widow Remarriage Act. But the country was not prepared for it and what was the result ? The Act virtually became a dead letter and has remained so till now. That is bound to be the fate of all social legislation which have not originated from a demand from within the society.

I was telling the house that polygamy has virtually disappeared from the country for a variety of reasons such as a growing sense of responsibility in conjugal life, Growing consciousness among woman-hood and above all the interplay of all manner of forces, most important of which is economic, which makes it impossible to indulge in the luxury of having many wives at the same time. Therefore, I

say, there is no necessity for any legislation for it. It has automatically died out: the custom has fallen into disuse. It may be argued that there are some strata of society where it prevails. There also I want to sound a note of warning. You cannot stop it by force or compulsion. You have got to create public opinion and when these unfortunate breathren of ours come to realise the evils of this system they will discard it. If, on the other hand, without bringing up their standard, without creating a consciousness in them by education and public opinion you try to thrust your legislation down their throats, I would request you to realise the effect that it will have on them. Just as my honourable sister was telling us they will say : This is our society ; it is such a cast-iron mould and they would not allow us to have another wife. We will go to another form of society, embrace another religion where this is permissible. Any sociologist, any man interested in social reform will have to pay heed to that as well. The fear is not altogether an unfounded one. Anyway I feel that if you codified the Hindu law, all that should have been done was to prescribe the essentials of marriage, the requirements on the part of the contracting parties, their ages, their mental and physical capacity, prohibited degrees of relationship and things like that. Those who believe in social ceremonies and functions, may go through the form of ceremonial marriage but the essentials of marriage should not be allowed to vary between civil marriage and sacramental marriage. If there is a demand in the country for inter-caste marriages I will not stand in its way. If people want to marry outside their castes, let them by all means invoke the provisions of the Civil Marriage Act of 1874. There is nothing at present to stand in the way of people who are anxious to marry outside their castes. If there are *bona fide* attachments among intercaste boys and girls, it is not that we want to stop or prevent them. They have got the facilities open to them even under the existing law, the law to which I referred earlier. You can change that law. You can repeal or modify certain provisions so that people marrying under that Act will have their children governed not by the Indian Succession Act as at present but by the Hindu Law. I have no objection to that but I fail to understand why in a Hindu Code side by side with the sacramental marriage you are allowing civil marriage. This must be completely taken out of the Code which should have nothing to do with it. There may be a separate civil marriage law for all.

Sir, I personally feel that if you insist on having the question of divorce in it, then you will have to face the music of it everywhere

in the country and unless as public men you have your ears stuffed with cotton, as most public men among us have, you will have to pay very very dearly for it. In any case, as a Hindu, I emphatically protest against the introduction of this heterodox concept of divorce into the scheme of Hindu marriage.

Now let us come to the question of inheritance. There has also been an innovation in this regard though I do not want to go into very great details. But there also I would like to tell my honourable sister, Shrimati Durgabai, that we are firm believers in the judgement of the Hindu law-givers of old : we are firm believers in the equality of the sexes, though not in the sense in which she talks or her friends talk. Equality must be in the sense of equality of opportunity. You cannot make physically man and woman the same. Equality must therefore have some other meaning. There is no feeling of inferiority attached to women, there is no discrimination with regard to the education of daughters or their marriage. Our shastras have provided :

"*Kanyapyevam Palaniya, Shikshaniyatigatant Deya Boraya Vidusha, Dhana Ratna Samanvita.*"

It means that the daughter also should be educated in the same way as boys, and in the fullness of time, given over in marriage to a proper groom with dowry including rich jewellery. And in my society, in the Hindu society it is enjoined :

"*Yatra naryastu Pujyante, Ramante Tatra Devata.*"

It means that Gods bless the households where women are honoured. Women folk has been accorded such a high and exalted place in Hindu society. I do not deny that there may be hard cases: there are hard cases, where women are not treated in the way they ought to be. But if you have fallen off the ideal of your sages, your saints, your lawgivers or your leaders, they are not to blame for they have not let you down. The blame attaches to us. If you cannot approximate to the ideals of Mahatma Gandhi in your conduct but preach them in season and out of season or take his name in everything but not follow in his footsteps, the fault is not Mahatmaji's, the fault is ours. Similarly you cannot impugn your Hindu Shastras or law-givers. They have set the standards quite high and it is for you to act up to them. Notwithstanding our best efforts it is not possible to eliminate every case of injustice or hardship. Human institutions are imperfect. No human ingenuity can devise any procedure, any machinery or any agency by which all possibilities of social injustice can be completely eliminated. Let us be frank about that and let us try to realise that.

My honourable friend said in connection with the management of property that she knows of women who are better managers of property ... ,

The Honourable Shri N. V. Gadgil (Minister of Works, Mines and Power): Of men also !

Pandit Lakshmi Kanta Maitra : Exactly, of men also. I do not think there is any single married man in this House who will dispute that proposition. In the household she is the ruler: she is all in all. The tallest of us. The Law Minister or his honourable colleague will have to crouch before her however much he may thunder here. There you are ruled not by the rod, but by a strange sort of a whip, a soft, sweet silken cord made up of filaments of love which takes off all harshness and roughness, and menfolk have cheerfully submitted to her rule. She is the queen of the household. Many married people, I think most married people, would frankly admit that.

Shri L. Krishnaswami Bharathi: That is how we have cheated them.

Pandit Lakshmi Kanta Maitra: We are now going to cheat them by this Code. Do you think the greatest justice will be done to them if you simply give them right to property. Mr. Chairman, according to the Hindu notions, a girl has a distinct position, a role entirely different from that of a son. Any honourable member who has read Sanskrit literature or has any knowledge of it—I cannot make any presumption either way, whether most people know it or no one knows it . . .

An Honourable Member: The Law Member knows it.

Pandit Lakshmi Kanta Maitra : He may know it, he is a scholar. Well, in *Sakuntala* of our immortal poet, after the marriage of Sakuntala and her departure to her husband's place, there occurs a *Sloka* which is classical and which gives you in a nutshell how the Hindu lawgivers and the Hindu society look upon their girlhood. Immediately after Sakuntala left the hermitage for her husband's place, sage Kanwa said, "Today I feel relieved" :

"Artho Hi Kanya Parakiya Eva Tarn Adya Sampreshya Pratigrahita.
Jati mamayang Bishadah Prakamam Pratyarpit Nyasa Ivantaratma."

"This my heart, my inner self today has been relieved of a heavy burden and I get that inner pleasure of relief." What was that burden? A daughter in the family is like a trust deposit of somebody else's

money and just as one feels relieved as soon as that trust or deposit is made over to his rightful owner. So do I feel today having made over Sakuntala to her husband. (*Interruption*) Not in these days of law of limitation but I am talking of those days. "Nyasa", means a deposit, trust. If my honourable friend Dr. Kamath wants further interpretation, I am perfectly willing to give that outside the Chamber.

Shri H. V. Kamath : But I am not a doctor ?

Pandit Lakshmi Kanta Maitra: More than a doctor: you are doctor, philosopher, lawyer, and legislator. I have great respect for you ; you are a nice chap and above all a great patriot.

Sir, that is the conception of girls. So, if the Hindu law-givers did not give them a right of ownership equal to that of the son in the family, it was not because of any aversion, not because of any dislike but because of the simple reason that the girl is made for her husband's family; she is not to become a part and parcel of the family where she is born. That is the whole thing. And therefore no question of injustice or inequality arises. I do not know of any school of Hindu law prevalent in any part of the country where a daughter has been given a distinct share equal to that of the son in the property of her father.

Shri A. Karunakaran Menon (Madras : General): It exists in Malabar.

Pandit Lakshmi Kanta Maitra : I am glad that in the South they have got so many things.

Sreematty Annie Mascarene (Travancore State): In Travancore too, sons and daughters share equally.

Pandit Lakshmi Kanta Maitra : I am grateful for this information but all such information emerges from the South ; and if my friends from the South . . .

Shrimati Hansa Mehta (Bombay : General): Are they not Hindus in the South ?

Pandit Lakshmi Kanta Maitra: Yes, but if they are proud of all that in the South, let them not deny us our legitimate right to feel proud of our manners and customs in the North and North-east. That is my humble submission to them. I do not like this type of argument. Because some order of succession, some order of inheritance prevalent in Bombay or some other part has been found suitable there, therefore it must be bodily transplanted into Bengal and elsewhere

regardless of all considerations whether it is a plant which can grow and thrive in that particular soil. If a particular institution has been found to work very satisfactorily in the South, it must be allowed to work there ; But if it is not found suitable for the soil of the North or the soil of the East or the soil of the West, I do not see any reason or justification for forcibly transplanting it there.

In fact my one very serious objection to the Hindu Code is this: for this craze for theoretical uniformity you ignore completely variety; you have got these things in this part and those things in that part: that itself shows that in this vast country of ours, peculiar social manners and customs have developed according to the needs of particular places or areas. They must be left undisturbed. In clause 7, however, the Bill provides an overriding power by which all usages, immemorial customs which have the sanction of law should be scrapped. I think it is clause 7.

An Honourable Member: It is clause 4.

Pandit Lakshmi Kanta Maitra : I will take it on my friend's authority. Sir, this in my opinion, is highly objectionable. Clear Proof of usage out-weighs the written text of Law. This is a well established dictum.

There are diversities of customs and manners because of the diverse needs of the people that compose this vast continent. And therefore:

Veda vibhinna Smritayah vibhinna,

Nasau munir Yasya matam Na Bhinnam.

Dharmasya Tattwam Nihitam Guhayam. ,

Mahajano yena Gatah Sa Pantha

An Honourable Member: Let us all be *mahajans.*

Pandit Lakshmi Kanta Maitra: *Mahajan* does not mean a money-lender.

That is the most unkindest cut of all. That indicates the depth to which society has fallen. We cannot think except in terms of rupee or dollar or shilling or pence. Mahajan has been variously interpreted : as great men; or majority of men. Take it in whatever sense you like. ,

Veda khila Sadachar Swashya cha Priyamatmana,

Yasmin Deshe Yadachara

I do not want to weary this House with a lot of other quotations but this is such a subject that I cannot altogether avoid it if I am to convince honourable Members of the justice of my contention

based on Hindu shastras. I have to make myself clear before the House. It may reject what I say ; it does not matter; but I represent a constituency—not a purely territorial one—but the constituency of a vast body of men and women who believe in Hinduism and Hindu Society governed by the injunctions of Hindu sages of old. Sir, I represent for the time being the views of that constituency. It is true that I have been returned to this Constituent Assembly by indirect election—with four or five votes only, but I may assure the House that I have fought some of the most contested elections in the country from some of the most important constituencies. Immediately before coming to this Constituent Assembly I was representing the city of Calcutta in the Central Legislature. Before that, I was representing the Presidency Division composed of several districts with lakhs and lakhs of people, and the Presidency Division is admitted to be one of the most cultured divisions in India. I know the people. I know their pulse. My native town is a famous seat of ancient classical learning. It is my district Nadia, in Bengal, that gave the new schools of *Smritis, Tantras, Nyaya, Baishnava* Philosophy etc. I am not digressing but I shall be failing in my duty to the inheritors of this great culture if I did not try to place before the House their views and ideas with regard to these matters of the Hindu Code. I owe it to myself and to my community to give my views so that judgement may not go against us by default. Any way, Let me hurry on.

I have shown you the place, the honour, which our *Shastras* have given to our women. The famous queen Indumali was dead and King Ajah was bemoaning her death thus :

Grihini Sachiva Mittah Sakhi Priya Shishya Lalita Kalavidhan,
Karmia Bimalkhena Mritywui Harata vade King Na Ma Hritam

"Oh ruthless God of Death ! What have you not taken away from me? What mischief have you not done to me ? By one blow, you have taken away one, who was my *Grihini*—you know what *Grihini* means, the queen of the house—who was my *Sachiva*—*Sachiva* means Minister. She was my minister. Not only was she the queen of my family but my minister, my bosom friend in privacy and my devoted playmate in love."

That, Sir, is the position which our womenfolk used to occupy in our society. Therefore, it cannot be said that out of sheer greed, grouse, animosity or jealousy or whatever you call it, the womenfolk has been relegated to a position of interiority. If she has not been given a distinct

status in respect of inheritance co-equal with the son, it is because she is meant for some other family than her father's and that the property is to be settled with the persons who will keep up the family, who will maintain the lineage and preserve the sanctity of the family traditions, manners and customs and who will continue the practices and the ceremonies of the family. As soon as a girl is married she becomes integrated into another family ; and according to the Hindu conception the status of a wife in the husband's family is a most respectable status—far more respectable than the status of the girl in her own father's house. I will again quote Kalidas' Shakuntala. When Queen Shakuntala could not be recognised by King Dushyanta, who said: " I do not remember to have married you." Thereupon Shakuntala was exhorted by the Rishi to remain in her husband's House even as a maid as that was a more honourable position than to be in her father's place.

The Honourable Shri N. V. Gadgil: That is how men behave !

Shri M. Tirumala Rao (Madras : General): He was suffering from loss of memory.

Pandit Lakshini Kanta Maitra : No, he was not suffering from loss of memory. It was because King Dushanata was under a curse by which he was to forget everything connected with his marriage; not that he was guilty of a deliberate moral lapse. Amazing ignorance !

Shri B. N. Munavalli (Bombay States): What an excuse !

Pandit Lakshini Kanta Maitra : I am not the author of Shakuntala. Call it an excuse or whatever you like, I do not mind. But I quoted Shakuntala because its author Kalidas is a world Poet commanding respect all over the world : and notwithstanding all your disparagement of Shakuntala, it will remain the ideal literary master-piece of the world for all time. There ought to be some limit to which disparagement of our national institutions, culture and traditions can be tolerated. Mr. Chairman, I am reminded of a very famous passage in Plato— I cannot recall his words exactly now—but he said, in effect: "Anybody who is false to his nation's traditions, to his glorious heritage and culture is a traitor and is a person who should be given capital punishment". I do not understand the patriotism of those, the nationalism of those, who have nothing but contempt and jeer for anything that is their ancient culture and heritage.

Shri H. V. Kamath : You have misunderstood. Nobody is against our ancient cultures.

Pandit Lakshmi Kanta Maitra : We might differ on many matters in connection with this Code, but nobody's purpose will be served—neither mine, nor yours—by trying to belittle our great ancient sages. They are not coming here for applause. They do not care for your radio propaganda and newspaper Hashes. They did what they considered to be in the best interests of the Community. If today you are going to make a daughter co-equal with the son in regard to inheritance, I am afraid a good deal of complications would arise. When the girl knows that she is getting a share in her father's property, when her brothers know that their sister is a co-sharer and as such the property will pass off to some other family with her marriage, whose interest would it be to marry off the girl'? I want to know.

Shri H. V. Kamath : Her own.

Pandit Lakshmi Kanta Maitra : My honourable friend says it will be the girl's own interest to marry as quickly as possible. I feel, Sir, that such a girl will find many a pitfall lying about her way.

Shrimati G. Durgabai: You distrust her ?

Pandit Lakshmi Kanta Maitra : Not a question of distrust. The Hindu sages have provided that marriages should be negotiated in the best interests of the pair by the guardians of the pair.

Shrimati Renuka Ray : What did Shakuntala do ?

Pandit Lakshmi Kanta Maitra: I know that Shakuntala did not marry that way, but my friend and sister's interruption reminds me of a story. A man had the Mahabharata and the Ramayana recited in his house for six months. Thereafter he asked his daughter. "You have heard the story. What is the lesson you derive ?" "Well," replied the daughter, "from the Mahabharata I learn that I can have five husbands as Draupadi had five husbands." From the whole of the Mahabharata this is all that she learnt. Enquired about the lesson she derived from the Ramayana the daughter in law replied, "It is very clear. As soon as my husband dies I can be married to my husband's brother." "You know what happened after Ravana died, his widow Mandodari married his brother Bibhisana." Sir, according to Hindu Law there have been several systems of marriage. There was the Gandharva form of marriage for which we have not provided here, though we have the provisions in the Code for Civil Marriage to cover all manner of such cases. So, I say that in an ordinary Hindu house-hold, under this codified Hindu Law, you are going to bring about a change in the relationship between the various members. Is this going to make for the sweetness of relationship or peace in home life?

Babu Ramnarayan Singh : By no means.

Pandit Lakshmi Kanta Maitra : There is not going to be that sweet relationship between brothers and sisters and sisters' husbands that now exists, because after a girl is married, she will have her husband or her son or somebody else in her father-in-law's house to control the property of her father's family and there is bound to be bitterness, bad blood and jealously litigation and all the rest of it. Ultimately the family will break up. Are we going to enact a Code which will facilitate the breaking up of our households ? Will the *summum bonum* of Social life be reached when every single family is broken up and domestic peace driven away? It is for you to consider whether this should be done. I feel that these things are bound to happen.

Sir, a girl may be educated. But after her marriage when she goes to her father-in-law's house, she is being guided and dictated in all matters either by her husband or by some relation of his and it will not be in her interest to endow her with a share in her father's property by legislation here. You will say you will pass another legislation to prevent her from being dictated in respect of the property she has got from her father. If you are going to endlessly legislate in that way, in order that you may have the intellectual satisfaction of having a Hindu Code, I would leave you alone. I therefore, think that this is a revolutionary change and this should not be introduced. This does not mean that I am against making provision for girls. By all means make provision for them. Make any provision for unmarried girls. Make her marriage and her education the first charge on her father's properly. Make it absolute charge on that property so that on her marriage when she will be absorbed in the family of her husband, she will be divested of her interest in her father's property. But that is not what you are doing. You talk of equality of sex, justice and fairness but are allowing the girl the right to inherit not only her father's property equally with the son, but also to share her husband's property or father-in-law's properly. This is equality with a vengeance. The girl should not get property from both sides. This will also lead to further fragmentation of property.

Shrimati G. Durgabai: The boy will get a share of his mother's property ?

Pandit Lakshmi Kanta Maitra : A daughter whether married, unmarried or widowed will get her mother's property. Let my

honourable friend read the Hindu Law. Even as it is under the Hindu Law, all categories of daughters are entitled to *Streedhana* property.

Shrimati G. Durgabai: No, no, no, no.

Pandit Lakshmi Kanta Maitra : I say, yes, yes, yes, yes. Thus the daughter is provided according to the present Hindu Law. I cannot go on correcting the misapprehensions of others. The Hindu law is there. The members of the legal profession know it. I need not labour the point I believe, that there is sure to be more fragmentation. This will inevitabily lead to increased testametary disposition and consequent litigation and ultimate ruination.

An Honourable Member: Already there is fragmentation.

Pandit Lakshmi Kanta Maitra : Yes, but two wrongs do not make one right. Because there is fragmentation already, is no argument for making provision for further fragmentation in the shape of more shares to property.

Sir, in this field of inheritance, another innovation has been introduced and I think that is the most devastating of all changes.

Shri B. Das : That is not the principle of the Bill. You can drop it.

Pandit Lakshmi Kanta Maitra : What is the principle of the Bill? Shri B. Das ; I am referring to partition and that is not the main principle.

Pandit Lakshmi Kanta Maitra : The system of inheritance is the backbone of the Bill. Under this Bill you are going to scrap the Mitakshara law. Make no mistake about it. The right to property by birth and survivorship, which is the basic foundation of Mitakshara law, is going to be swept away. This Mitakshara system of law has been governing the country for hundreds of years till there was evolved in Bengal the *Dayabhaga* law founded on the principle of natural justice and affection. Many of my friends who are supporters of the Bill have told me that I should be the last person to oppose it inasmuch as it introduces the principle of inheritance enunciated in the *Dayabhaga* law of my province. My reply to them was that that was no satisfaction to me. I do not want even if the well-meaning Social Reformers in India wants that that system should be adopted. Even if a superman or dictator comes and tells me: 'Look here, the law of inheritance in Bengal should be made applicable to all India', I would be the first man to raise my voice of protest against it. The

old system has stood the test of time. The change might suit my province, but not all India. I do not want that this *Mitakshara* law of inheritance should be scrapped in favour of one which is neither the *Mitakshara* law of inheritance nor the *Dayabhaga* law. It is a hybrid mixture of both which is conducive to the welfare of none, tending to bring about the disintergation and downfall of Hindu society as it will completely unsettle a well settled order of things.

I think I have exhausted the patience of the House and must bring my speech to a close. (*Honourable Members* : 'No, no') I have dealt with inheritance, I have dealt with marriage. I feel that those two branches of Hindu law which are sought to be drastically amended should get fuller consideration. But it will be a tragedy for India, for the Hindu society, if in the name of reform, you uproot the Hindus from their safe and ancient moorings which have protected them from the stress and storm of centuries. Let me again repeat that our Shastras, besides making elaborate provisions for all matters of social life, left a wide field to well-established local customs and usages. They have been very salutary in their effect, as stabilizing forces in society. If we ignore them and make a fetish of codification we will cast Hindu Law into a mould absolutely inflexible, rigid and cast iron; we will be importing into it unncessarily a character which never belong to it. We will be transforming it into something, which will never be able to adjust itself to the needs of times, as it has been in the past.

Sir, before I conclude, I will touch on the argument which has been advanced here also, but which has been very lightly brushed aside by those who do not like it. It has been argued—and I believe perfectly rightly—that this Legislature is not competent to deal with it.

Shri L. Krishnaswami Bharathi: Legally incompetent ?

Pandit Lakshmi Kanta Maitra: Yes. I feel that it is not competent. In any case, if you take shelter behind legal formation, I will tell you, morally you have absolutely no justification for passing this Code. I know this objection was raised not only from people like us, but by people very highly placed in the political life of this country, by people with high political stature ; for instance, by a man of the eminence and standing of the Honourable Dr. Rajendra Prasad, the President of the Indian Constituent Assembly, the sovereign body by which in season and out of season, we are all swearing. I want to know whether or not his views deserve our best consideration. Personally, I have very great respect for him. He is not only the uncrowned

monarch of Bihar, but he is one of the undisputed leaders of India. Dr. Rajendra Prasad has given the clearest possible indication. He knows not only the people of Bihar but Bengal as well and also other provinces. He sat up his practice in Calcutta and upto the middle of his life he lived in Calcutta. It is not for nothing that he gave the warning that the Constituent Assembly constituted as it is to-day, ought not to discuss a legislative measure of this nature. I can speak for myself. I cannot speak for others. I honestly feel that I have absolutely no right, legal or moral to be a party to any measure, any legislation, which is not absolutely necessary for the day to day administration. I was returned to the Constituent Assembly with four votes only. I can honestly declare here and now that when I sought all those four votes from the Members of the West Bengal Legislative Assembly, I never promised them that I would give them the right of divorce. Neither did they ask for it. I declare that I never promised them that I was going to scrap up the law of inheritance. I never told them that I was going to the Constituent Assembly to create a fresh Portfolio and a Ministry of Marriage, because I feel that such an institution will be necessary here in the Central Government, if this Bill goes through. Look at the formalities that have been provided here. So, personally speaking, I feel that I have no right to give my assent or dissent to this. I can only tell the House that I am not competent, because I had no specific mandate from my Constituency to do it. When I came in through the General Elections there were clear issues before the Country such as the attainment of the freedom of the country and all the rest of it; and the last time we came here, we were enjoined only to draw the Constitution of India. Therefore, it might gratify our vanity that we as members of the sovereign legislature of the land are competent to enact such a legislation but the claim is shorn of all moral content whatever. Nothing would have been lost if we had deferred the consideration of this Bill to some future dale after the next General Elections. I emphatically maintain, Mr. Chairman, that the time chosen for its passage through this House has been most importune. After the attainment of independence, problems after problems have been confronting the National Government. Have we been able to solve them ? We have not. Are we in the country very popular ? By 'we' I mean 'all' including that side. No. Frankly, because we raised expectations which we have not been able to fulfil. That may be due to a variety of causes over which we have had no control; that may be due to an interplay of forces, which took us unawares, absolutely unprepared. But throughout the country you find

simmering discontent. As a matter of fact, I do not feel inclined to disclose my identity as a member of the Legislature, of the Constituent Assembly, when I travel in a railway compartment, because the moment they come to know that, they start vigorously criticising us.

Shri B. L. Sondhi (East Punjab: General): Then go by air.

Pandit Lakshmi Kanta Maitra : I have started going by air. Quite true. There also I fare no better. I am not joking. I really feel that the country has become sick of us, disappointed of us because of our failure to do anything real for the common man. Hitherto there had been the Kashmir question. There is the question of commodity prices. Yesterday we had a brilliant performance with the unfortunate—enhancement of post-card rate and the price of cloth.

Mr. Chairman : The honourable Member may confine himself to the Bill.

Pandit Lakshmi Kanta Maitra : I am only saying that the rise in prices of commodities, labour strikes, the Communist menace, refugee problem etc. have been too much for the government. Is this the time for us to go on with this luxury of Social reform legislation, and a very highly controversial legislation at that ? It is sure to give rise to the bitterest acrimony; and as a matter of fact, it has already brought about a lot of acrimonious controversy. I believe honourable members have been already Hooded with literature (*Interruption*). Of course, from the Anti-Hindu Committee, and similar societies and associations from Calcutta and elsewhere. I have got protests from the Women's Association in Poona, I have got protests from Women's Association in Bengal, the members of which come from the highest aristocracy in the land. I have not known of any Bar Association in Bengal which has not protested against this. I have not known any Bar Associations which have supported this Bill. I have in my possession perhaps the whole literature that has been circulated so far in connection with this Bill. I have classified it and the dead weight of opinion is against it, qualitativley and quantitatively. I again say that the time is not opportune. At a time when, according to our Prime Minister's appeal we should close our ranks, put our heads together, devote all our time and energy and work in amity and concord so that we may solve the problems of the land, we should not give another cause for disruption, another cause for discord or grouse or discontent in the country. I do feel nothing is to be lost if we shelve this Bill for the time being. If that is not done, then, of course, I promise that I will have to oppose this Bill at every stage. I oppose this Bill, because I feel that it is a wholly unwarranted measure and that there has been

no demand in the country for a legislation of this kind. I oppose it because I feel that in all social legislations we must go slow and that we cannot bring about large scale social reform by legislation alone. The reforms will have to come from within by force of public opinion which has to be created inside the society. Thirdly, I oppose because of the most irregular manner in which this Bill is sought to be passed in this House. I oppose because I feel that I am not morally competent to discuss this Bill and pass it in the Legislature as it is constituted at present. I oppose this Bill because I feel that it has brought in radical changes in the concept of marriage, in the scheme of Hindu Law including the law of inheritance and succession. I oppose it because I feel that it will create endless and needless complications including such things as Civil Marriage Register, Sacramental Marriage Register, Marriage Notice Book, Director General of Marriages, Registrar Generals of Marriages, Ministry of Marriages, and so on and so forth. I oppose it on the further ground that it would give rise to bitterness, disunion and discord in our families leading to the disintegration of society. I oppose it on the further ground that it is undemocratic inasmuch as a vast body of opinion in the country is against it. In view of all these, I feel I am morally called upon to oppose this Bill with all the force at my command.

With these few words, yes, these are few words in view of the enormity of the legislation, In view of the gravity of the issues involved ; these are few words in view of the opposition it has roused and the repercussion it will have on the society. Anybody who really wants society to be protected against this menace coming from the legislature cannot but be articulate and discursive; he has to devote time to the full and dispassionate consideration of things ; he must give his humble bit of advice of caution to the legislators so that they may not drive us along the wrong path and that the society may not slip down the declivity into ruin.

* **The Honourable Shri N. V, Gadgil**: I have been somewhat provoked to participate in the discussion on a Bill which undoubtedly is revolutionary. I have heard with the greatest respect the speech of my honourable friend with whom I had the honour to work in this House for more than ten years. If there is anything which distinguishes him most, it is his earnestness which is only equalled by his great eloquence. I entirely agree with him that in matters of social reform one must go slow. On that point, I have not the slightest doubt. But this Bill has proceeded so slow that some of us have rightly

*C.A. (Leg.) D., Vol. II, Part II, 1st March 1949, pp. 1015-20.

complained that it has not been passed much earlier. As far as I know, this Bill or at least the main provisions of this Bill have been before the house or its predecessor and before the country including the members of the Bar for nearly eight years. It cannot be said by any stretch of imagination that this Bill has taken either this House or the country by surprise.

I well remember in 1945, at the time of the general elections, I was opposed by certain groups precisely because I stood for social reform, because I stood for the codification of the Hindu Law. The very fact that I was elected and I am still here is an indication that I carry the views of my constituency.

A point has been made by my honourable friend Pandit Maitra that this House is not competent to pass a legislation of this character. I think this objection I have heard so often in the course of the last fifteen years that every time when a social reform Bill was before the House, the same objection was raised. With what result, everybody knows. If this House is competent to pass the Constitution for free India, I fail to see how it is not competent to pass this legislation. As if to reinforce the agreement with a personal appeal, my honourable friend Pandit Maitra referred to the views expressed by Honourable Dr. Rajendra Prasad. I have, and, in fact, every person in this House has, every respect for Honourable Dr. Rajendra Prasad. Yet, there is a duty which every member of this House owes to his conscience and to his constituency and to this great country in which he lives above everything, not merely as a legislator, but as a person who visualises the reconstruction of Hindu society and he would be failing in his duty if he were to take into consideration only the personal views of one eminent person or another eminent person. When I say this, I say it in no spirit of disrespect, but because I feel duty is higher than any respect for any individual.

The main point is, has the time not come for the codification of the Hindu law ; has the time not come for the introduction of certain reforms in the system of marriage, adoption, inheritance and all other things which go to constitute what is generally known as the Hindu Law. The sources of Hindu Law are so many. I do not want to dilate on this and I do not want to take much time of the House. But there is a clear case established that there must be some uniformity, some definitions about the interpretation of the law. If the law is not clear, if the law is not uniform, the stability of society suffers. If we have different interpretations of a particular text by half a dozen High Courts, I think the time has come when all this must be put an end to.

Further, my honourable friend suggested that we are attempting to destroy Hindu Society. My own feeling is that, here are about 290 persons who are in close contact with Hindu Society ; here we can come together, ventilate our views and come to some agreement and adjustment and pass a legislation calculated to secure the further progress of Hindu Society. When Manu, Parashara and Yagnyavalkya wrote their *smritis*, they had not the benefit, I should say, of any legislature. They were undoubtedly great men ; but I do not think that the race of great men died with them. On my left, I find a person so great in scholarship and character that it would not be wrong on my part to compare him with some of the old Rishis and law givers. If today, in addition to his own wisdom and learning, he requisitions the help and co-operation of all the 290 persons, I think his hands are strengthened and his views ought to appeal to us.

The main point, as I said was, has the time come for certain reforms and has the time come for the codification of Hindu Law ? If the time has come, it makes no difference whether one man promulgates a Code and the country accepts it, or whether it is accepted by the process of discussion in a democratic manner and the country accepts it. The main point is to judge it without passion, without prejudice and without entering into any extremist considerations. We have in this House to judge it purely on merits and not on sentimental grounds.

After all, what is it that is in this Code ? Except for the question of inheritance, there is nothing to which we have not listened so often and to which we have not agreed substantially. My own view is that there are two important things on which the controversy is centered, One is marriage; the other is ending of the co-parcenary in Hindu Law. So far as marriage is concerned, there is nothing revolutionary in this. In these days, when everything is pointing towards State control more and more, and when we are talking of nationalization, I think the only sphere for private enterprise is marriage.

Mr. Naziruddin Ahmad : Let that also be nationalised !

The Honourable Shri N. V. Gadgil : Now in this Bill a golden mean is struck. The entry and exit in this sphere is so regulated that a modern man coming from the West would certainly laugh at our backwardness. He would say if marriage is a matter which is calculated to secure the highest happiness for both, then one of the grounds for divorce must be incompatibility of temperament. Have you gone up to that ? The grounds in the Bill are very narrow. In fact, I say that

this is a very moderate measure. You do not expect a wife to carry on with a lunatic, a leper etc. and there is nothing in this Bill which runs contrary to the provisions of Smritis or which is inconsistent with the genius of Hindu society and culture. Most of us know the *Smriti*.

नष्टे मृते प्रब्रजित, क्लीबेच पतिते पतो । पतिः अन्यत् तु नारीणाम् विधीयते ।

These are the grounds given in the ancient text and if something approximating to that is not available today in Hindu society, it is because we have become stagnant and all these dynamic urges for progress have ceased to operate. After all who, and to what extent of Hindu society will this effect? Speaking for my own province, 95 per cent. have already some sort of divorce, not as a matter of law, but as a matter of custom. It is only the two or three per cent. of people of the upper classes who are opposed to it. But taking a fair view, the educated section is completely for it.

On the one hand I agree that divorce must not be made very cheap and that incompatability of temperament should not be one of the grounds. But at the same time, marriage should not be considered a life sentence, if it virtually comes to that. After all, just as marriage has an individual aspect, it has also a social aspect. If the two spouses do not agree, then the bickering and the bitterness and the lack of harmony is not confined merely to the precincts of the family but it has wider application and effect, and society and the general atmosphere round-about also suffer. If it is the desire of any law giver that whatever piece of legislation he wants to get through it must have the capacity of securing the results contemplated then we have to judge whether what has been all along with us has really given us the result we have asked for. It is a matter for introspection. If today we are providing some way out from wedlock in order to make people, who are readily not happy to get out of it, we are only doing what I think is our social duty.

So far as marriage is concerned, I fail to see how we can object to marriages between persons belonging to different castes. In the year 1949, it would be a sad commentary on our progressive outlook if a single person should stand up here and say—well, marriages between persons belonging to different castes should not be legalised. In free India, I think there is only one caste, the caste of free men : and one religion and that religion of humanity. (*Shri H. V. Kamath*, 'And free women !'). This reform has been before this country so long that

those who feel that this means dissolution of Hindu society, are enemies of progress ; such a Hindu society in my opinion ought to be dissolved. What is this that a man should be called untouchable because he is born in a particular caste. I have never seen a boy born with a broom : I have never seen a boy born in a Brahmin family with a *Yagnopavita,* nor a boy born in a Marwari family with a *Taraju.*

जन्मना जायते शूद्रः । संस्कारात द्विजोच्चते विद्यया याति विप्रत्यं त्रोभिः श्रीतयोच्चतो चवे ।

All are born *Shudras* and after *Sanskara* a man attains higher status and when he has gone through the different stages of learning and accomplishment he becomes a *Shrotriya,* Here is the real spirit of Hinduism, not the spirit which is evinced by some of our old Sanantanic friends here and outside. If the object of this great country, as has been often given out to be is to make a classless society, then we must see to it that proper institution, both social and political are evolved and enlarged. I therefore consider that whatever recommendations are made in this Code as regards marriage are not only absolutely necessary, but they do not go far enough. But as I agree with my honourable friend, Pandit Maitra, that in social mailers we ought to be slow, I am willing to accept this position for the time being.

The most controversial part of the whole thing is the elimination of the coparcenary from Hindu society. Something was said of public opinion. Something was said of the press and the bar. In my own province there is an association called the 'Dharma Nirnaya Mandal', In this Mandal are to be found Mahmahopadyaya Tarkatirth Vidyavachaspati men of high learning and scholarship. Very recently they have passed a resolution and expressed views on the proposed Hindu Code :—

> "The Dharma Nirnaya Mandal takes this opportunity, when the Hindu Code is on the anvil for consideration in the present session of the Assembly, to express its appreciation of the general liberalizing influence which is brought to bear in the framework of the present code. The Mandal sees this influence clearly in the removal of—
>
> (a) distinction regarding joint ancestral and self-acquired properly:
>
> (b) different treatment of sons and daughters :
>
> (c) technical difficulties in the interpretation of Women's Estate; and
>
> (d) distinctions between *Mitakshara* and *Dayabhaya* rules of inheritance.

The Mandal believes that the above reforms will go a great deal to minimise court litigations and foster national spirit and engender a feeling of oneness by this one Hindu Code being made to apply to all Hindus in the whole of India. The Mandal notes this as the first attempt ever made in this direction within historical memory.

This is the reason, why in spite of several differences in minor details, the Mandal heartily supports the present measure as it is."

Babu Ramnarayan Singh : What people do they represent ?

The Honourable Dr. B. R. Ambedkar: They are most learned and orthodox men.

The Honourable Shri N. V. Gadgil: But enlightened orthodox.

Now, I come to the question of joint Hindu family. The house will no doubt agree with me that a progressive society ought to change with the change in times and that it should evolve appropriate institutions both of property and of laws. The time has now come to assess dispassionately the merits of the joint family system, both as an institution to secure family happiness and as an institution of property. Even today, if somebody gives me convincing arguments about the benefits of the joint Hindu family, I am prepared to hear him, for I am not dogmatic—I feel that truth is the real thing, not prestige for ones own views.

4 P.M.

Now, taking the first point, has the joint family system secured happiness for the individual members of the family ? I am not speaking what the daughters-in-law feel when they have to live in a big family. What I have seen and heard definitely goes to show that so far as happiness and harmony are concerned, this institution has ceased to be of any use or value. After all there is nothing new in this. If out of 32 crores of Hindus nearly 5 crores are already governed by *Dayabhaga* and if that system has worked well, at least one cannot say that it is absolutely bad and that we must even think of it. (*An honourable Member:* It is absolutely new.) That it is new there is no doubt. But what is the society that we are visualising for the future ? It is of a patriarchal type ? What is exactly the nature of the society you want to reconstruct ? As I understand, that society is going to be one in which there will be equality of status and equality of opportunity because those are the two phrases we have incorporated in the Preamble of the Draft Constitution. I think with that Preamble the joint family property system is not consistent.

The real trouble seems to me to be—after having listened to the speeches of various members—what is being given to daughters. But as an institution of property the joint family system must go, because it concentrates wealth. People will ask me, "Well, has it or has it not done something good?" I at once agree that it has done some good, but so far as property aspect is concerned, so far as social credit aspect is concerned, other alternatives have already come into existence, such as co-operative societies and the joint stock companies. Therefore, there is no need of this institution so far as the creation of social credit is concerned. As a mechanism for business other

alternatives have come into existence and by experience we have found that they give better results. Therefore, we are not destroying anything without putting something in its place; we are not leaving the whole society in a sort of vacuum as it were. What has outlived its usefulness is being liquidated so that new India will go ahead with greater speed and may attain greater progress.

Now, the real trouble as I said is about some share being given to the daughter: whether it should be half or whether it should be something less are details which can be discussed later on. But one point is certain and that is that the daughter must get some share. In free India if you are only going to say that—

यत्र नार्यस्तु पूज्यन्ते रमन्ते तत्र देवता

and then say that she should either go to a court of law or ask for maintenance, I say it is not fair.

My own feeling is that some difficulties may arise at the beginning; when new institutions come, when new thoughts generate; society does take some time to adjust itself. The question is not whether these difficulties are great or small: the relevant question is whether the new arrangement proposed is good or bad. If you are convinced that it is good, naturally there will be some difficulty in adjustment. We must not mind the difficulty at all.

It has been suggested that as soon as the marriage is over the bridegroom will start trouble, by suing or otherwise, for the share which his wife has got from her parents. It would be welcome to lawyers. Well, when we are trying to nationalise as much as possible, what little will be left will not be of great consequence, that people would go to the court for a small share of it. In times to come there will be little left both for the boy and the girl. Even if it leads to litigation, does it mean that we should not do justice? Because a good tiling may be abused by a few, does it mean that it should be denied to all? It is for the House to decide. It is high time that the general talk of equality of sex must be followed by equality of ownership of property. If we do not do that we will have to face the charge of hypocrisy.

My honourable friend Pandit Lakshmi Kanta Maitra has prophesied all sorts of trouble for the great Hindu society. Such prophets have always been there in the past and they have always proved false. I have not the slightest doubt that Hindu society has got such a flexible nature that it has absorbed various cultures and if it has lived through

the ages successfully it is because those who guide the affairs of the society had in time suggested changes suitable to the times. That is the reason why it has survived till now. Here is an attempt to bring the law in line with public opinion. What the law does is that it consolidates the public opinion but public opinion being dynamic by its very nature it goes ahead every now and then. It is like a horizon which recedes the nearer one goes to it. Modern society by its very nature progresses very quickly. Therefore, we have to adjust public opinion and the law of the land. There are other means by which it can be done, like legal fiction or equity but the best and the honest way is to do it by a piece of legislation. I think here is an attempt in that direction. Although I agree that it is revolutionary, it is a planned revolution and therefore it is going to be a success.

*__Mr. Naziruddin Ahmad :__ I have but a short time at my disposal. *(Dr. B. R. Ambedkar:* Why? You have your own time.) I mean comparatively short time for the enormous subject which I have to deal with and I hope the House will give the subject that amount of thought and attention which I have given to it (*An honourable Member:* What have you to do with it ?) At the very outset I am asked what I have to do with it. I say I have every thing to do with it. Two very enormous changes have taken place in the country. One is that we have decided to shed our communal character and the other is that we have decided to impose upon ourselves the benefits of joint electorates. Can any honourable gentleman in this House deny the right of a Muslim to' think in the same way as a large part of the Hindus think? After all we have to live with Hindus. In West Bengal they form 80 per cent and we have to live with them and think with them. Come with me to West Bengal. Pandit Maitra put the case of the opposition in Bengal very mildly when he said that there is serious opposition to this Bill ....

Shrimati Renuka Ray : There is equally and more serious support.

Mr. Naziruddin Ahmad : Come with me to West Bengal. I am not speaking on behalf of the orthodox section. With regard to that aspect of this legislation I have nothing to do. I have certain serious questions to raise before the House which have not been raised up till now. The objection in Bengal is so serious that if anybody undertakes a journey to ascertain public opinion—(*Interruption*) I mean intelligent and advanced public opinion—if anyone will go there, if anyone will make a journey from town to town in West Bengal, he

* C.A. (Leg.) IX. Vol. II. Part II, 1st March 1949, pp. 1020-30.

will be faced with opposition to the Bill from the most intelligent section, the most enlightned section (*An honourable Member:* Which the Honourable Member has not done). I believe the interruption is not based upon a thorough consideration of the subject. I submit that it will be agreed that the members of the bar are not very conservative people

Shri L. Krishnaswami Bharathi: Most of them are orthodox and conservative.

Mr. Naziruddin Ahmad : They are not perhaps the orthodox section. . . .

Shrimati Renuka Ray : What about the opinion of Mr. Atul Gupta recognised as one of the most eminent lawyers and chosen by Congress for the Partition Committee?

Shri Krishna Chandra Sharma : Does the lawyer line on precedents !

Mr. Naziruddin Ahmad : In spite of these interruptions I submit they are not the orthodox sections. You go to any bar library and you will find that this Bill is opposed tooth and nail. . . .

Shri L. Krishnaswami Bharathi : Because their occupation will be gone.

Mr. Naziruddin Ahmad : I do not agree that you eliminate the profession of the bar by this Bill. You are introducing complications which you can not think of. On the other hand, I submit that the lawyers in a different capacity, in a professional capacity, will thank this House for introducing this controversial measure. Four judges of the Calcutta High Court, four advanced Hindu judges of the Calcutta High Court—one of whom now adorns the Federal Court Mr. B. K. Mookerji have said—that the law is already well settled, the law is well known. The law may be different here and there but that is due to various reasons into which I need not now go. The law is well known.

Shri A. Karunakara Menon : If the law is so settled why Law reports every week?

Mr. Naziruddin Ahmad : It is because I feel that my honourable friend does not realise the subtleties which underlie the law. In fact precedents are necessary. You cannot cover any possible case in anticipation by legislation. So precedents are necessary. They illuminate difficulties and they are helpful in deciding cases in future. The moment mankind gives up precedents, specially in the domain of law,

they will cease to be intelligent animals. That is why I submit that lawyers who are not orthodox people are opposed to this piece of legislation, not because it will deprive them of their food . . . . . .

Shrimati Renuka Ray : What happens when limited estate for women goes out in regard to litigation in Bengal?

Mr. Naziruddin Ahmad : I only hope that my honourable sister Shrimati Renuka Ray did represent the ladies of Bengal. (*An Honourable Members:* She does.') She is only one star in the whole of West Bengal. I will cite at least a dozen stars in opposition who are equally well known as Shrimati Renuka Ray. She is only one guiding star leading the case of the Hindus. . . .

Shri R. K. Sidhva (C. P. and Berar: General): The only star.

Shrimati Renuka Ray : There are hundreds of women who have gone to Noakhali and other places. There are many guiding stars in Bengal: these women social workers are all leading stars, but they all support the Hindu Code.

Mr. Naziruddin Ahmad : I submit that my honourable sister has not the experience of litigation. He has not lived in the law. If he had lived it he would have seen the enormous possibilities. . . .

Honourable Members : Say 'she'.

Mr. Naziruddin Ahmad : . . . . . for a good thriving business. There is no difference between he and she. According to the latest standards 'he' includes 'she'.

I submit ladies should no longer be called "she", but they should be called "he".

The lawyers are against this measure. Their family system will be seriously disturbed. They are very much averse to the Bill. (*An honourable Member.* 'Are they afraid about their profession?') No, they will get more cases. I assure the house on behalf of the lawyers to which profession I have the honour to belong that for their personal interests they should all welcome it. (*Shri L. Krishnaswami Bharathi:* You are mistaken). I am not mistaken, I have lived in the law much longer than my honourable friend has done. I have taken part in litigation. The divorce provisions will introduce endless litigation and will lead to endless complications and endless difficulties for many families and more misery for women than men.

Coming straight to a very important point, I have to submit before the House a very serious state of, affairs in connection with this Bill.

The bill was lastly rushed through the Legislature on the 9th of April last. We were asked by our fair sisters not to oppose the Bill at that stage; it was considered to be so important that no detailed attention need be paid to it—it should be passed. So, at the last hour of the last day we agreed to allow it to be considered. I raised my feeble objection from the Hindu point of view. Am I raising any objection from the Muslim point of view? Certainly not. So, my declaration that the objection was from the Hindu point of view should not have elicited any surprise or any laughter. It is from the Hindu point of view that I am speaking. My learned sister the other day asked me, "Why is it that you are denying to your Hindu sisters rights which you are giving to your own sisters"? That is a very cardinal question. May I reply? My reply is this, that you cannot give the same kind of food to different kinds of persons. You have got to judge the position of a Hindu woman as the Hindu law conceives of it. You have got to consider the position of a Muslim woman as the Muslim law conceives it. We are not here to question the wisdom of one system or the other. I find there are two kinds of Members here: some vegetarians and some non-vegetarians. Would you give meat food to a vegetarian and if anybody gives vegetable food to a vegetarian would you accuse him of partiality? (*An honourable Member:* 'Is it logic? Very strange logic.'). The argument is as logical as the question put to me by my sister Shrimati Renuka Ray—it was not logical. You cannot give the same kind of food to two different kinds of persons ; they were indeed born and bred differently.

The Bill was rushed through the House on the 9th of April. The Honourable the Law Minister has given us a revealing passage in the Report of the Select Committee. He has made a plain admission that the Bill had not received any consideration on its merits before it was taken to the Select Committee. That was very wonderful statement to make. Originally the Bill was supposed to be well-drafted—a good Bill—it passed through the Legislature on the 9th of April and was taken to the Select committee and then comes the realisation that it had not received technical or departmental consideration. Why is it, may I ask, that although it had not received technical or serious departmental consideration at the hands of the Law Ministry, it was rushed through at that stage? (*An honourable Member:* 'We were very near 1st April'). That may be; it was very near the 1st of April and that probably has something to do with the rush. Probably no serious business was meant, some sentimental piece of literature had

to be passed through in order to satisfy our fair sisters. The Bill is driven more by "lady sentiment" than by a consideration of the necessities of the case. The Department then undertook a most unprecedented task. They came to the conclusion that the Bill was not properly drafted, that it had some defects, that it had to be recast. The Bill was composed of several individual chapters with separate numbering and separate definitions, entirely separate from each other. The Legislative Department thought that this was a blemish and that the Bill should be recast with continuous numbering and the whole blended into one complete whole.

I submit that the moment the Legislative Department came to that conclusion, then was the time to withdraw the Bill and to frame a new Bill which the Ministry was able to accept; and present that as a new Bill. Instead of that the department went through a process of legislative drafting with which I was never familiar. The whole constitutional history of India and abroad will never offer an example of a Departmental Bill being prepared after a Bill is presented and after sending it to the Select Committee. Shri Ramnarayan Singh yesterday asked as to what authority the Drafting Committee had to make a new Bill altogether. (*An honourable Member:* 'It is not a new Bill.') I shall be in the unfortunate position of being able to show that very substantial changes have been made. Although the Honourable the Law Minister yesterday tried to avoid answering the question, still he had to admit in the end that he did not make any changes, that it was the Select Committee that made the changes. I am in a position to demonstrate before the House that the changes were very serious, very radical, and not unsubstantial changes.

Shri L. Krishnaswami Bharathi : Sir, on a point of order. If the honourable member wants to base his argument for re-committing the bill to the Select committee on the fact that it was some other Bill that was considered and not the Bill sent to it, that point has been covered by Mr. Speaker's ruling ; he need not emphasise on that point. If he has other reasons, he is welcome to do so; he is speaking on his amendment for re-committing the Bill to the Select Committee. But if he stresses his argument, namely, that the Bill considered by the Select Committee was not the bill sent to it by this House, then that has been covered by the ruling of the Chair which declared that it is the same Bill.

Shri T. T. Krishnamachari (Madras: General) : That might be an argument for rejecting consideration.

Shri L. Krishnaswami Bharathi : If that is so, then that point has been thrashed out so much that if he were to argue it again it will merely be taking the time of the House. That aspect has been so thrashed out and arguments have been advanced. He is merely repeating them. I would submit to you, Sir, that we can hear any new arguments but we are not prepared to hear the same arguments being repeated by him.

Pandit Lakshmi Kanta Maitra : May I put in a few words in connection with the point of order raised by my friend Mr. Bharathi? He said that the honourable member Mr. Naziruddin Ahmad in his amendment for re-committal to the Select Committee had been raising the grounds which had been covered by Mr. Speaker's ruling. I do emphatically maintain and the House would also agree that every honourable member is entitled, without disrespecting the ruling of the Chair to give the reasons which lead him to recommend the Bill for recommittal to the Select Committee. There is no point of order as such involved in it. It is a member's legitimate right to place all arguments which he can for making a motion for recommittal to Select Committee.

Mr. Chairman : I think there is no point of order in this, because he is speaking for his amendment that the Bill be re-circulated for purposes of obtaining further opinion thereon and he is just advancing arguments how the Bill has changed ; how the original Bill has been altered in the Select Committee.

Mr. Naziruddin Ahmad : I submit, the real difficulty of my honourable friend is not there. I believe that an intelligent man as he is, Mr. Bharathi of all persons, is well aware of the real difficulties of the situation. That is why, I submit, he most intelligently wants to intercept me by Mr. Speaker's ruling. I must make a declaration at once here that of all persons in the House I have the greatest respect for the decision of the Chair.

Pandit Lakshmi Kanta Maitra : Why do you go into that ?

Mr. Naziruddin Ahmad : I am merely saying that I accept the decision of the chair. I am not going into that.

Pandit Thakur Das Bhargava (East Punjab : General): You must go into that. Why not ?

Mr. Naziruddin Ahmad : But what was the ruling ? The ruling was that the consideration of the Bill was not out of order; in fact, the ruling was that the members of the Select Committee had the

old Bill and the Departmental Bill and they must have taken the whole thing into consideration and on that basis the technical objection which I had raised that the Departmental Bill above was taken into consideration and not the original Bill was well founded. That is the effect of the ruling, and that is the ruling. My present purpose would be now to show that although the members of the Select Committee had the original Bill before them, although they had the Departmental Bill before them, although they had both, although they had the opportunity of comparing the two and seeing what glaring interpolations were made in the Departmental Bill, they did not do so. They discharged their duties, I should say with respect in consideration of the importance of the subject, in a somewhat hasty manner and imperfectly and rather perfunctorily. This was the point of view that I was emphasizing.

An Honourable Member : You are inciting the Law Minister to violence !

The Honourable Dr. B. R. Ambedkar : I would not do any such thing, because I have plenty of arguments to meet Mr. Ahmad.

Mr. Naziruddin Ahmad : I submit the Honourable the Law Member is fully conscious of the situation, I have a little suspicion, that he knows by this time without any doubt what serious changes have been made in the Departmental Bill.

The Honourable Dr. B. R. Ambedkar : I do not know. I am waiting to hear, though.

Mr. Naziruddin Ahmad : The Honourable the Law Member said, "There have been certain serious changes, but I did nothing. It is the Select Committee that did so. The Departmental Committee did not make any changes." In fact yesterday I put a pointed question which he kindly answered, namely, whether the Departmental Committee that was set up was instructed not to make any substantial changes. That was due to the fact that I find in the report of the Select Committee a definite declaralion by the majority of the Select Committee : "This revised draft does not make any substantial changes in the body of the original Bill." It was this declaration which I understand was also given to the Select Committee by him that no substantial changes have been made; it was on this basis that, although they had the original Bill with them, they did not look very carefully and compare them with a view to finding out whether any substantial changes have been made.

Shrimati Renuka Ray : On a point of order, Mr. Chairman. Are matters which happened in the Select Committee, are those details allowed to be brought up in this manner?

Mr. Naziruddin Ahmad : With regard to this point of order, I have already to submit that. . . .

Shrimati Renuka Ray : It is a point of order which I would like you, Sir, to decide.

Mr. Chairman : I think there is no point of order. It is only Mr. Naziruddin Ahmad's inference that the Select Committee did or did not do such and such a thing. I think the honurable member will not cast any aspersious on either the Select Committee or the members of the Select Committee. He may advance his arguments.

Pandit Thakur Das Bhargava : The manner in which the Select Committee behaved is certainly open to the criticism of the House.

Mr. Naziruddin Ahmad : I submit. ....

Pandit Lakshmi Kanta Maitra : You are right, Mr. Chairman. Without casting aspersions he may advance agruments.

Shrimati Renuka Ray : But he is casting aspersions.

Mr. Chairman : They are at best inferences.

Mr. Naziruddin Ahmad : Sir, my inference is that members of the Select Committee were definitely assured by the Honourable Minister

Shrimati Renuka Ray : I object to this Sir. This is casting - aspersions. These inferences are casting aspersions.

Mr. Chairman : Every honourable member is at liberty to draw his own inference.

Mr. Naziruddin Ahmad : I submit, Sir, it can be contradicted at once by any member of the Select Committee.

Shri L. Krishnaswami Bharathi: No; certainly we cannot con tradict. But since you are inviting a contradiction, I as a member of the Select Committee, do contradict. I say that we went through the whole thing and we were satisfied that

Mr. Naziruddin Ahmad : You are making a statement

Shri L. Krishnaswami Bharathi : You wanted a contradiction. And I contradict.

Shrimati Renuka Ray : Mr. Chairman, I would like to say that because inferences are made and aspersions are cast, the members

of the Select Committee are put in a very awkward position, because then we have lo bring forward all that happened in the Select Committee, which we are not supposed to do here ?

Mr. Chairman : Order, order. I would request the honourable member not to make any aspersions against the members of the Select Committee; he may address arguments as to how the Bill has been changed.

Mr. Naziruddin Ahmad : I would not willingly make or cast any aspersions on any honouruable member unless it is involved in the very exposition of the point. If anything was badly done which affects the fate of 30 crores of people and if any mistake or slip has been done by members of the Select Committee then I should respectfully but frankly criticise that. This amount of privilege should be given to a member of the House. I should stand corrected if I am wrong. I should not cast any aspersions merely for casting aspersions, but I will confine myself to pointing out certain serious changes and errors of procedure affecting the merits of the Bill and the discussion of the same may necessarily involve me in a criticism of the members of the Select Committee. Why should the members of the select Committee be afraid of a discussion ?

Shrimati Renuka Ray : We are not afraid of discussion. Then we must be given the right of speaking on what happened in the Select Committee.

Mr. Naziruddin Ahmad : The so-called sanctity of the Select Committee has been broken in this connection so many times.

Shri Mahavir Tyagi (U. P. : General) : There is no sanctity about it. We can discuss it.

Shri L. Krishnaswami Bharathi : We are prepared to discuss it.

Shri Mihir Lal Chattopadhyay : (West Bengal: General): Should members be allowed to carry on conversation like this, Sir?

Mr. Chairman : Order, order. I have been seeing it happening. I hope honourable members will kindly allow the speaker to proceed with his argument.

Mr. Naziruddin Ahmad : The Honourable Deputy Speaker the other day asked Dr. Ambedkar to explain why certain things took place. Dr. Ambedkar said that it was due to the influence of his enemies getting the better of his friends, they combined together and did it. Is it not giving out the so-called secrets of the Select Committee ?

The Honourable Dr. B. R. Ambedkar : I did not want to interrupt the honourable member at all. But now I think it is my duty to draw your attention and also the attention of the speaker that his motion is that because certain changes have been made in the Bill, it ought to be recirculated. I think what is most germane to that motion is that he should strightaway without any kind of preliminary discussion proceed to point out what changes have been made. I was waiting to know that from him.

Mr. Naziruddin Ahmad : That is what I was going to do when side-issues were raised.

Pandit Thakur Das Bhargava : On a point of order; I beg to submit that this question affects the previleges of the Members of the House. The question at issue is: are the members of the House not entitled to criticise the wrong behaviour or the wrong conduct of the members of the Select Committee in regard to procedure? Supposing a Bill is placed before a Select Committee and that the Bill considered by the Select Committee was not the one referred to, another Bill is substituted in its place. Are not the Members entitled' to say them by the House ? You may give a ruling on the point whether the members of the House cannot criticise this conduct of the Select Committee ? Whatever has happened in the Select Committee may not be allowed to be divulged. But the manner in which the proceedings were conducted is open to criticism, otherwise it will mean that the members of the House have no sort of control on a Bill. If a bill is introduced in the House it becomes the property of the House and every Member has a right to point out the irregularities in the Select Committee.

Mr. Chairman : This is not a point of order. The speaker will go on.

The Honourable Shri K. Santhanam : (Minister of State for Railways and Transport). May I submit that while the House is entitled to criticise the Select Committee and even censure it, it is not entitled to say that the Bill before it is not the Bill that was referred to it. It is not open to the House to say that this is not the Bill referred to the Select Committee. The House may condemn the Select Committee if it thinks that the Select Committee has not done its duty. Whenever a Bill is presented to us and is under consideration it is not open to us to say that this is not the Bill that was presented to it.

Mr. Naziruddin Ahmad : I submit that I was only going to condemn the Select Committee and nothing more.

Mr. Chairman : The honourable member will be perfectly right if he criticises the Bill as it has emerged from the Select Committee and points out the changes made. He will confine his remarks to the changes that have been made in the Bill.

Mr. Naziruddin Ahmad : I am going to submit to the House that some changes have been made, some serious changes have been made.

The Honourable Dr. B. R. Ambedkar : Point them out. I am awaiting to know the changes made. The honourable member may take his own time, but let him tell us what the changes are.

Mr. Naziruddin Ahmad : I will proceed in my own way.

The Honourable Dr. B. R. Ambedkar : He cannot go on in this manner.

Mr. Naziruddin Ahmad : I submit that the original Bill was introduced by Mr. Jogendra Nath Mandal. It bears the printing date 1st, August 1946. This was the Bill which was sent to the Select Committee. A Bill printed on 16th August 1948 is the Bill that came out of the Select Committee with the report.

The Honourable Dr. B. R. Ambedkar : What is the point on that ?

Mr. Naziruddin Ahmad : I am coming to that. There are serious discrepancies between these two Bills.

The Honourable Dr. B. R. Ambedkar : That is what we are waiting to know.

Mr. Naziruddin Ahmad : If this is accepted I will proceed to the vital points. There are serious discrepancies between the original Bill and the Bill that has been appended to the report of the Select Committee. (*Interruptions*) This is not the best way of quickening my pace. I submit that in between these two Bills, a very interesting document came in. It is a departmental draft which was printed on 17th July, 1948. It is this draft which came in between the two. All the points of order raised and argued were about this departmental draft Even in the present discussion, if I understood the Honourable the Minister of Law rightly, he mentioned nothing about this departmental Bill, but said that all the changes were made by the Select Committee and not by him. I am referring to the Bill dated 17th July, 1948.

Shri Mahavir Tyagi : That was before the date of the Select Committee meeting.

Mr. Naziruddin Ahmad : I am grateful to my friend Mr. Tyagi for pointing out that the date of printing, *viz.*, 17th July, 1948, was

before the Select Committee was first called to meet. I submit that this Bill

The Honourable Dr. B. R. Ambedkar : I would like to curtail this argument of my honourable friend by saying that it is bound to be so. The re-draft was sent one month before the meeting of the Select Committee.

Mr. Naziruddin Ahmad : That is the point I was mentioning. I am grateful for the admission. This draft was complete before the Select Committee met. I should like to state at this stage that the House was not informed about it. The authority of the House was not taken to completely change the original Bill.

Shri Mahavir Tyagi : Is the middle one exactly the same as is appended to the report?

Mr. Naziruddin Ahmad : There have been some changes. The changes made by the select Committee were slight, but serious changes were made by the Department which the Select Committee never knew.

Shrimati G. Durgabai : It is the Select Committee that has introduced the changes and not the Department.

Mr. Naziruddin Ahmad : I submit that the most important thing is that they never made a detailed examination of the Departmental draft. In fact my contention is that—I would sit down if my honourable friend Shri Santhanam can quote a single example in the whole legislative history of India or in other countries for this—a Bill that has been sent to a Select Committee has been substituted by another completely re-casting the whole thing and put along with it.

The Honourable Shri K. Santhanam : I have been on many Select Committees and in many cases the orginal Bill has been completely re-drafted by the Select Committee.

Mr. Naziruddin Ahmad : That is another matter.

Mr. Chairman : May I point out to the honourable member that Mr. Speaker has given a decision that it is the original Bill that was considered by the Select Committee along with the draft given to it by the Honourable the Law Minister? In view of that decision, the honourable member may confine his remarks to the point as to how the original Bill has undergone a change in the Select Committee. All the other remarks about what happened in the Select Committee are beyond the purview of the honourable member.

Mr. Naziruddin Ahmad : My point is that, although the Select Committee must be deemed to have considered the original Bill and

the departmental draft and to have come to this conclusion, that was done most perfunctorily and imperfectly. My point is this, that although the Select Committee considered or must be deemed to have considered the original Bill and the departmental draft and came to this conclusion and although that is so, my point is that it was necessarily done most perfunctorily and most imperfectly. They must have been, I submit, dominated by the serious changes introduced into the departmental Bill and they must have been completely under the hypnotic influence of a revised draft, a convenient readymade thing, which was placed in their hands. It must have made a tremendous psychological impression on the Members of the Select Committee, so that the Select Committee, although they had the right, largely depended upon the departmental draft and this affects the merits though not the legality of the final Bill.

My point is that any Select Committee has the right to make enormous changes, but it has never happened that a new Bill, completely changed, was placed at the hands of the Select Committee and then they would begin consideration of the new Bill. Although, technically, they had also the original Bill, still they proceeded clause by clause with the new Bill. That was a matter of merit. I submit, that the introduction of this departmental Bill has created considerable amount of prejudice to a fair and impartial consideration of the Bill. I submit that the clauses of the original Bill should have been begun one by one and changes should have been made gradually on the body of the original Bill. Instead of that it seems to have necessarily followed that the departmental Bill was taken up, although there was in them marginal references to the clauses of the original Bill. Still, I beg to submit without any disrespect to the members of the Select Committee, it was impossible for any member to really see readily what enormous changes had been effected in the departmental Bill and it is this, I submit, which has affected the merits of the final Bill. I never suggest that the Members of the Select Committee had no right to make any changes or to adopt the departmental Bill or to proceed with the original Bill. I submit that the work was, speaking again with respect, necessarily done perfunctorily and considerable responsibility in the work of the Select Committee must rest upon the departrmental draft. On a consideration of the departmental draft, therefore, the merits of the present Bill should be considered.

Shri L. Krishnaswami Bharathi : Let us see all the points of difference.

Mr. Naziruddin Ahmad : I submit that the entire legislation began with a blunder and it proceeds from blunder to blunder until we come to **a** capital blunder, namely the present Bill. I submit that the mistake first arose in the year 1937. The mistake arose there and I shall show at once that one mistake led to another mistake and that mistake led to other mistakes and all these mistakes led the Select Committee and then ultimately (*Interruption*) I ask Shri Krishnaswami Bharathi in all seriousness, should I be disturbed like this ?

Mr. Chairman : If the honourable member addresses the Chair, I think the disturbance will be much less.

Mr. Naziruddin Ahmad : Sir, I submit, you will be pleased to consider that in the year 1937, a Bill was passed into law and that is the Hindu Married Women's Right to Property Act, 1937. That, I submit, was a hasty legislation. It contained within itself ill-digested, little understood law that has led to all this trouble. In fact the author of the Bill was Dr. Deshmukh. So, Dr. Deshmukh—I am happy to find it is not our present Dr. Deshmukh—unconcentously with the *bona-fide* belief of doing good to Hindu society, introduced that Bill. The effect of the Bill was to introduce some change in the law of Succession in the compact series. According to Hindu Law, as I have understood it, when a man dies, his heirs are son, grandson and great, grandson, In the presence of the son the grandson by a pre-deceased son inherits—the grandson represents his deceased father and takes his father's share. So in this way the son. grandson and the great-grandson in three generations inherit the property. Dr. Deshmukh was enthused with the idea that the widow must be given a definite status and a definite right. So he made the widow of the propositus **a** share-holder, and not only the widow of the propositus, but the widow of a deceased son, the widow of the deceased grandson and the widow of a deceased great-grandson. They were also included within the ambit of the shareholders. That, I submit was most ill-considered, although the author was imbued with the highest sense of patriotism and welfare of the community I submit, that this was then .....

The Honourable Shri K. Santhanam : Would my honourable friend like me to inform him that this Bill was actually accepted by the late Sir N. N. Sircar, who was the greatest authority on Hindu Law ?

Mr. Naziruddin Ahmad : I am in a position to show, although not only he, but mere was a time when I also accepted it. (*Interruption*). I beg to submit that I am in possession of the House.

Mr. Chairman : The honourable member is going into the history of the amendments to Hindu Law.

Mr. Naziruddin Ahmad : I submit that the Hindu Married Women's Right to Property Act was the first mistake and I shall show that this contained within it seeds of other blunders culminating in the present Bill.

Shrimati G. Durgabai : That was a serious reflection of the legislature then existing.

Mr. Naziruddin Ahmad : I submit that the mistake was admitted by that legislature itself and I can quote passages that that legislature admitted that mat was a mistake. (*Interruptions*).

Mr. Chairman : Order, order.

Mr. Naziruddin Ahmad : I submit, I should show how the mistake came about. In fact in providing for the widow of the propositus of the deceased son, grandson and of the great-grandson, the position of the daughter became absolutely uncertain. Nobody knew what the position of the daughter was at that time under this Act.

The Honourable Dr. B. R. Ambedkar : An undertaking was taken from my friend Dr. Deshmukh by Sir N. N. Sircar that the Government will support the measure only if he agreed to drop the word daughter and he promised that he would drop the word 'daughter'

Mr. Naziruddin Ahmad : I am as much familiar with the history of that law as the Honourable Dr. Ambedkar.

Mr. Chairman : Is the honourable member going to take more time?

Mr. Naziruddin Ahmad : Yes, Sir.

Mr. Chairman : In that case, he may resume his speech later and we may now adjourn.

The Assembly then adjourned till a Quarter to Eleven of the Clock on Thursday, the 3rd March, 1949.

* HINDU CODE—*contd.*

Mr. Deputy Speaker : I have to inform honourable Members that the following dates have been fixed for receiving nominations and holding elections, if necessary, in connection with the following Committees, namely :—

	Date for nomination	Date for election
1. All India Council for Technical Education 2. Committee to review the working of the Railway Convention.	2-4-49	5-4-49

The nomination for these Committees will be received in the Notice Office upto 12 Noon on the date mentioned for the purpose. The elections, which will be conducted by means of the single transferable vote, will be held in the Assistant Secretary's room (No. 21) in the Council House between the hours 10-30 a.m. and 1-00 p.m.

HINDU CODE—*contd.*

Mr. Deputy Speaker : The House will now proceed with the further consideration of the following motion moved by the Honourable Dr. B. R. Ambedkar on the 31st August, 1948, namely:—

> "That the Bill to amend and codify certain branches of the Hindu Law, as reported by the Select Committee, be taken into consideration."

Pandit Lakshmi Kanta Maitra (West Bengal: General): Sir, before you call upon my honourable friend Mr. Naziruddin Ahmad to continue his speech, I feel constrained to bring to your notice once again the irregular manner in which this motion is being brought to this House from time to time. I think very few of us knew up till yesterday that this Bill was coming up again for consideration. As a matter of fact the House was under the impression that so heavy was the pressure of urgent government business that no day could be found for it; in fact several Members of this Parliament who came over here to participate in the deliberations on this subject went back under the impression that this matter was not going to be taken up again in this session. I can particularly mention an honourable Member, Pandit Govind Malaviya, who came over here and who wanted to speak for a very long period of time, and when he was assured that the matter was not coming up.....

* C.A. (Leg.) D., Vol. III, Part II, 1st April 1949, pp. 2211-43.

Several Honourable Members : Assured by whom ?

Pandit Lakshmi Kanta Maitra : Most people knew. It was not a case of ordinary business of this House. No single Member of Government stands, up and says. "I give you an assurance that this will be discussed". Nothing like that. Everybody got the impression from Party talks and elsewhere that the matter was not going to come up at any rate in this session. (*Interruption*). That being so, if it is taken up now it will be showing very scant courtesy to the House. I feel this Bill is of such a controversial nature that I do not think that you should allow this Bill to be proceeded with in the way in which it is being done repeatedly in its different stages. Sir, it is for you to consider the point of view which I am placing before the House. The House is attenuated, and because the whole Budget discussion was over most Members were under that impression—and quite reasonably. When they had no idea of the change suddenly to spring a surprise by bringing in a motion like this at this late stage, of the session, is, I think, hardly fair.

An Honourable Member : We want your decision, Sir.

Mr. Deputy Speaker : But there is no point of order here.

Shri Mahavir Tyagi (U.P. : General): But then I want information as to how long the discussions are proposed to be held. There are friends in my Province who had requested me to inform them when the Hindu Code Bill comes for consideration. I could not inform them because, I did not know whether the Bill will be considered only for today or for tomorrow or any other day or till the end of the session. So, Sir, will you now be in a position to tell the House how long we are going to discuss this Bill so that it there is time for them to come, I might inform them.

Mr. Deputy Speaker : I am in full sympathy with what Pandit Maitra has said, but I do not find any way out of it. As far as I am aware—I have been here for a number of years in this Assembly—when any matter of such importance where a number of people are interested, comes up, the agenda for the next week would be at least read out on the previous Friday. I have been accustomed to some procedure. Evidently it was not expected that there would be time for this Bill, but it was put in when one day was extended and time found for today and tomorrow. That is why previous notice could not have been given. I believe the honourable Members would try to take as good advantage of it as possible by sending telegrams, etc.

and get other Members. Therefore, so far as Mr. Tyagi is concerned, if he thinks that other Members outside are interested in the proceedings, I may say that the proceedings will be broadcast, this evening or tomorrow morning and then they will come to know of it.

An Honourable Member : How can they come tomorrow?

Mr. Deputy Speaker : They can come by aeroplane! It is not for the Chair to decide how they can come. All that I can say is that on an important matter of this nature, certainly Government must have given proper notice; it is not as if Government could lose sight of this important matter. The general public is interested, a large number of the Members from the Provinces and States are not here. Even it they were here, it cannot be expected that everybody should be expected to read all the books and carry all the information for use at a moment's notice. These are the disadvantages but I am sure the honourable Members will try to do as best as they can of the opportunity. Nobody can guarantee how long the discussion will go— it may conclude this evening or go on till tomorrow.

Shri T. A. Ramalingam Chettiar (Madras : General): What is the programme for this Bill ?

Mr. Deputy Speaker : It is entirely in the hands of the House. I do not think we can have a cut-and-dried programme. It is for the House to see whether it is necessary to continue discussion, and if there is sufficient debate to close it as early as possible.

Shri Mahavir Tyagi : Sir, I will put the question the other way round. May I know if there is any other Government Bill for the rest of the Session or this Bill is the only work before us, so that I can make out how long this Bill will go ?

Mr. Deputy Speaker : As the honourable Member will see from the Order Paper, there is so much other work. This no doubt happens to be the first Bill for the day but tomorrow other Bills will come which are on the list. We need not spend any more time on this question.

Mr. Naziruddin Ahmad.

Shri B. Das (Orissa: General) : Will you please fix **a** time-limit for speeches ?

Mr. Deputy Speaker : I cannot fix any time-limit on a controversial matter of this kind. I shall try, so long as I am in the Chair—certainly the Speaker will do it better—to see that repetition is avoided. That

is all that I can do, and I shall to the best of my ability, avoid all irrelevant matters being brought in Subject to this. I would like to give as much freedom as possible.

***Mr. Naziruddin Ahmad** (West Bengal: Muslim) : Mr. Deputy Speaker, it is a strange irony of fate that apart from the interrupted nature of the debates on this Bill, it has been decided by Government that the chequered career, of this Bill and the intermittent debate should, after an interval be seriously resumed on the All-Fools' Day. On the last occasion, when I pointed out that the Bill was sent to the Select Committee in a great hurry on the 9th of April last, some honourable member reminded us that 9th April was very near the 1st of April. Somehow or other this Bill is associated with the 1st of April. On this day, we are accustomed from time immemorial to deal with each other in a playful spirit. We issue bogus invitations, bogus marriages are announced and various other bogus things are done.

Shrimati Ammu Swaminadhan (Madras : General) : Sir, has this got anything to do with the Hindu Code ? Just now you said that no irrelevant matter will be allowed. Has all-fools' day anything to do with the Hindu Code

Mr. Deputy Speaker : I have not heard the honourable Member sufficiently to come to a conclusion as to whether it is irrelevant or not.

Mr. Naziruddin Ahmad : Sir, I was merely emphasizing the unsatisfactory manner in which the Bill is being brought up from time to time. A Bill of this importance and magnitude requires that it should be sat over continuously by honourable Members.

Pandit Lakshmi Kanta Maitra : Spat over ?

Mr. Naziruddin Ahmad : Sat over. Pandit Maitra thought "spat over". I did not mean that. I submit, Sir, a Bill of this magnitude requires that Members should sit over it continuously for a long time. The disadvantage of considering this matter at long intervals is that Members lose the thread of argument and it is very difficult for them to appreciate what has already been said so as to connect with what is said on each occasion. I submit, therefore, that this is not dealing seriously with the Bill or with the House.

On the last occasion when I was dealing with the history of this important legislation, I pointed out that the first mistake was committed in 1937 with the passage of the Hindu Married Women 's Rights to Property Act, 1937.

*C.A. (Leg.) D., Vol. IE, Part II, 1st April 1949. pp. 2213-43.

The mistake was to have rushed to the legislature and without sufficient consideration to have passed a Bill of that complicated nature. In fact, an honourable Member of that House at that time, Mr. Deshmukh, had a happy idea and without giving sufficient consideration to the subject, he came to the House and the House in a generous mood passed the Bill. By that Act, certain women were given the right of direct inheritance along with the sons, grandsons and great-grand sons. They were given independent right. They were not merely Hindu women's rights, but absolute, transferable and inheritable rights. Soon after that, a distinguished lawyer from Bengal—Mr. Rishindranath Sircar—drew attention to certain difficulties which would arise in connection with the Act. Mr. Rishindranath Sircar is a distinguished lawyer and author of a text book on the Hindu Married Women's Right to Property Act, and connected Acts. He pointed out certain inherent difficulties which would arise in connection with the Bill, and in 1938, the Act had to be amended by Act, XVI of 1938. The trouble, however, did not cease there and difficulties arose afresh. A further difficulty arose by the Act as it-was amended in 1938. By the Act even as amended, right was given to the widow of the deceased, the son's widow, grand-son's widow and the great-grandson's widow and considerable difficulties arose as to the position of the daughter. In fact, there was a great deal of controversy and Mr. Sircar again pointed out the difficulties of the situation created so far as the daughter was concerned. This question was agitated throughout the country, and we find about half a dozen Bills were submitted to the Legislative Assembly to clarify the position of the daughter, to give her also that right, along with the son, grandson, and the widows of the various persons. Those Bills were presented to the House and they were on the agenda. I believe experienced Members of this House, like Pandit Lakshmi Kanta Maitra will be able,to recall the situation with which the Government was faced, when it had a large number of Bills before it—about six Bills. Sir Reginald Maxwell, the Home Member, at that time pointed out in the House that it was always a bad thing to rush legislation on social matters, without adequate consideration. And the difficulty was more and more increased as there were more and more legislations. He was, therefore, in full sympathy with the position taken by those members, and he agreed to have the matter examined properly, from every point of view, before legislation was undertaken. This led to the birth of

the Rau Committee. That Committee prepared a Draft Bill and sent questionnaires to various people, and considered and analysed the answers and they prepared another Bill. But before proceeding any further with their work, they were met with an initial difficulty. They found that there was another blunder in connection with the Acts of 1937 and 1938. They were of opinion that the Act of 1937, as it was amended by the Act of 1938 did not apply to agricultural land. the difficulty arose in this way that the first Act of 1937 was passed by the Legislative Assembly when agricultural land was a subject no longer cognizable by the Centre.

Mr. Deputy Speaker : The House stands adjourned to 2-30 p.m. *The Assembly then adjourned for Lunch till Half-Past Two of the Clock.*

The Assembly re-assembled after Lunch at Half-Past Two of the Clock, Mr. Speaker (The Honourable Mr. G. V. Mavalankar) in the Chair.

Sreematty Annie Mascarene (Travancore State): I wish to raise a point of order. May I know whether it is the duty of a Member of this House to attend the session of the legislature throughout ?

Mr. Speaker : It is hardly a point of order. A member need not attend any discussion if he does not like to do so. But I will make one observation. If a member makes a speech in support of or in opposition to a Bill, it is his duty to remain present in the House to hear the reply.

Sreematty Annie Mascarene : If he is absent for a few days and then comes back and complains that he is not aware of the agenda of the House, can that be excused, Sir ?

Mr. Speaker : He will be judged by his statement before the House.

Mr. Naziruddin Ahmad : Before we parted for Lunch today I was dealing with the first part of the history of this legislation. The Act of 1937 and the amending Act of 1938 led to difficulties with regard to the daughter and a large number of Bills were brought forward to clarify her position. At that stage the government agreed to have the matter examined and appointed the Rau Committee. The Rau Committee soon found that the legislature had no jurisdiction to pass the Acts so far as agricultural land was concerned. The point arose

in this way : Agricultural land was in the Legislative List of the Centre under the previous constitution. The Bill was passed by the Lower House in March 1937 when it was functioning under the old Constitution. The Upper House passed it sometime in April when the new constitution of 1935 had come into force. So, when the Bill was passed by the Upper House, it had no jurisdiction to legislate for agricultural land. The amending Act of 1938 was passed when none of the Houses had this jurisdiction. These were capital blunders committed by the Legislature of the time. The Rau Committee referred the matter for opinion to the Federal court. The Federal court gave a ruling that the House had.....

The Honourable Dr. B. R. Ambedkar (Minister of Law): The history is wholly wrong.

Shri L. Krishnaswami Bharathi (Madras : General): How could the Rau Committee refer to the Federal Court ?

Mr. Naziruddin Ahmad : It is wholly wrong ?

The Honourable Dr. B. R. Ambedkar : Yes, wholly wrong.

Mr. Naziruddin Ahmad : In what respect ?

The Honourable Dr. B. R. Ambedkar : I will deal with it in my reply.

Pandit Lakshmi Kanta Maitra : He is substantially correct

Mr. Naziruddin Ahmad : The Rau Committee reported to Government and the Governor General referred the matter to the Federal Court. I was wrong only in a minute technical detail. I repeat: The Rau Committee referred the matter to the Federal Court through the appropriate channel—the Governor General. Is that wrong ? I was absolutely right and never wholly wrong. *(Interruption).*

Mr. Speaker : The honourable Member may proceed.

Mr. Naziruddin Ahmad : The point was thus referred by the Rau Committee to the Federal Court and they gave the ruling that the Legislature acted *ultra vires* so far as agricultural land was concerned. That was a capital blunder which was revealed at the time. As soon as the ruling of the Federal Court was known I come upon the scene My connection with the Hindu Code is not casual or recent. I am in a position to show to the House that I took legal steps in connection with this legislation as far back as 1941. I was then a Member of the Bengal Legislature and I submitted a Bill even before the first report of the Rau Committee was out. As soon as the judgment of

the Federal Court was known I introduced a Bill in the Bengal Legislature to apply the Act to Bengal so far as agricultural land was concerned. That was the first attempted legislation of the time in this connection in India.

Mr. Tajamul Husain (Bihar: Muslim): May I know from my honourable friend if at that time he was in favour of the Hindu Code Bill from what time did he change his mind?

Mr. Naziruddin Ahmad : The Hindu Code Bill was not even born at the time. At that time, like many others—many more famous men as far even as the topic was concerned, it turned out later that I had taken a wrong step. In fact I wanted to extend the Act to agricultural land in Bengal. That was the object of the Bill which I submitted to the Bengal Legislature. It was circulated for opinion throughout Bengal and a large body of public opinion was in favour of the Bill. Everybody at the time like me thought that that Bill was right.

Mr. Tajamul Husain : Sir, the honourable Member has not given his reasons why he changed his mind.

Mr. Speaker : That is not relevant at all. He may change his .mind any number of times.

Mr. Naziruddin Ahmad : The honourable Member should try to wait. The House will be pleased to note that the Bill was submitted by me in 1941, 14th July, and that a very large section of Hindu public opinion in Bengal was then in favour of it. Then the Bill was placed on the agenda for a Select Committee. I have got a copy of the agenda paper with me, dated 25th September 1942. I was then in a position to get it passed by the Bengal Legislature where the Hindu Muslim Coalition party had a large majority. The Party by a majority had decided in favour of the Bill and it was going to be sent to a Select Committee. By that time, however, Hindu opinion had been sufficiently crystallised against the Bill. I was told that serious difficulties would arise if the Bill was passed. Many people, including myself, then realised that if the Bill was passed, the position of daughters and others would lead to chaos. In the meantime the Rau Committee report had been published and the Bill drafted by them was before the country. A large number of meetings were held in connection with it in 1941 and 1942. There was a meeting held in my native place of Burdwan and many similar meetings were held throughout Bengal condemning the main Bill. Though I had the requisite majority in favour of my Bill, I did not proceed with it as

it was a Matter affecting the Hindu community alone and it was opposed by them. I felt that it was no good passing a measure by sheer majority of persons who were not affected by it. I was never in favour of the Hindu Code Bill, though I was for a time in favour of my own Bill. This will I hope satisfy my honourable friend Mr. Tajamul Husain. I asked the Hindu members to let me know what to do and they were against my Bill and so the Bill was dropped. I am not afraid in the least to make this admission that everybody thought and even the Rau Committee thought that a Bill foreshadowed by my Bill should be introduced to extend the Act of 1937 in every local legislature to Agricultural land. I also fell in line, but then I found this volume of Hindu opinion against my Bill. No province has ever applied the Act of 1937 to agricultural land. Thence forward, Sir, a large number of meetings have been held in Bengal and the Rau Committee Bill has been uniformly condemned.

Now with regard to this Rau Committee's report, they prepared a Bill, that is the "Hindu Code Bill—Part I intestate Succession" and that was introduced in the Central Legislative Assembly and that was sent to a very strong joint Select Committee of both. Chambers of the Central Legislature. I have got a report of the Select Committee with me. It was very strongly supported on one side, but equally strongly opposed on the other, and this Bill as reported by the Select Committee came to the Legislature once again. the Rau Committee had in 1941 reported that the Hindu Code Bill should be taken up by compartments. It is a very important joint and I wish to draw special attention to the fact that the Rau Committee actually reported that the Hindu law should be taken up by compartments, succession marriage, guardianship and others. They said at page 23 of their report of 1941.

> "The recommendation which we should like to stress most strongly is that relating to the preparation, in gradual stages of a complete code of Hindu beginning, as we have said, with the law of succession, to be followed by the law of marriage and in due course by the other topics of Hindu law. It is true that even these large groups are to some extent interconnected; but it will be easier for the draftsman to see what he is doing if he deals, for example, with the whole law of succession than with isolated rules relating to the property rights of widows. This plan would also offer a better chance of agreed solutions on disputed points, for the larger the field, the more room there is for compromise. The aim should be, as far as possible, to arrive at agreed solutions and to avoid anything likely to arouse acrimonious controversy. This need not mean any real slowing down of the pace of reform; for true reform proceeds by persuasion rather than coercion."

At page 11, they say :

> "We do not suggest that all parts of the law should be taken in hand at once. The.....law of succession.....may be taken up first, then the law of marriage; and so on. After the law relating to each part has thus been reduced to statutory form the various Acts may be consolidated into a single Code."

That was the report and in pursuance of their report they submitted their Bill relating to the Hindu Code Part I, intestate succession. Before the Bill relating to succession as settled by the Joint Select Committee came up before the Assembly, the Joint Select Committee had itself recommended that it is no good passing this part alone, but that they should have a true picture of the entire Hindu Code as it will stand, as the different parts are inter-dependent and in this way, they recommended that this Bill should not be passed and a truer and a more comprehensive view of the Hindu law should be taken. In their report the Select Committee say:

> "We think that steps should be taken to resuscitate the Hindu Law Committee and to encourage the formulation and enactment of the remaining parts of the proposed Code in the interval which is to lapse between the present Bill when passed comes into force. It may well be found that the present Bill will require before it is allowed to come into operation, readjustment and amendment in the light of the decisions taken in connection with the other branches of the Hindu Law."

So they recommended that the House and the country should have a fuller picture. The Hindu Law Committee which had been dissolved was thus revived and they were asked to give us a picture of the other branches of the Hindu Law. The first thing which they did was to produce another Bill, the "Hindu Code Part II—Marriage." The second Bill was produced by them and later on they produced the other parts. The point which I am trying to emphasise is that these were separate self-contained Bills. The law of Inheritence was absolutely self-contained and separate and was capable of being enacted separately. The law of Marriage also could be enacted separately. There are three other parts which were in separate parts though printed in one volume was circulated. Then after obtaining opinion, they introduced some changes also by way of supplement. The House will, therefore, be pleased to note the real meaning and purpose of completely separate Bills printed in the same book as separate self-contained subjects with separate numbering. The Law Ministry, however, it seems mistook the purpose of the separate parts with separate numbering. In fact in the report of the Select Committee on the present Bill, the members of the majority say that separate

numbering and separate parts was a thing unknown and purposeless, and therefore, they wanted to blend the different parts into one complete whole with consecutive numbering. That is clearly mentioned in the report. That is the reason why they produced a Hindu Code which they thought was self-contained and more logically arranged. The purpose of the Rau Committee of separate enactments and their subsequent consolidation was entirely missed.

The first point, which I should like to take in this connection is that the changes made by the Departmental Committee set up by the Ministry of Law went beyond the purpose of the original Bill, or rather the different Bills. In fact the blending of the different parts of the original Bill into one is the thing which has created a lot of difficulties and has made confusion worse confounded. As was suggested by the Rau Committee, the better thing would have been to pass separate parts separately, so that there will be the least objection and the attention of the House as well as of the country could be focussed upon individual subjects, though they may have a comprehensive view of the entire Hindu Law. Now the blending of the different parts or Bills into one whole with running numbers has placed us in this difficulty that we find in the House that there is hardly any Member who has spoken; who is completely in favour of the consoclidated Bill as it has emerged from the Select Committee. Some are in favour of the marriage provisions; others are in favour of the inheritance; with regard to guardianship and other things, there is the least objection. Separate Bills as in the original scheme would have simplified matters and reduced our troubles.

Pandit Lakshmi Kanta Maitra : Maintenance portion is the best; all the rest is rubbish.

Mr. Naziruddin Ahmad : Maintenance portion, as Pandit Maitra reminds us, is the least objected to. So if the parts were kept separate, then the House would have been in a position to deal more easily with individual subjects. The subject of maintenance is not controversial. It does not affect the religious structure of the society. It does not wound the religious feelings and age-long beliefs of the Hindus and it could have been passed at once. That was the reason for the separate treatment. But the Departmental Committee rather, missed the purpose of the separate treatment and blended the whole thing into one.

Sir, I would point out that in the second Rau Committee report also, the Bill was prepared in different compartments, they repeated

their advice that it should be taken up separately. The Bill was intended to be taken up in parts separately and should be dealt with individually.

Mr. Tajamul Husain : Why don't you bring amendments to this effect ?

Mr. Naziruddin Ahmad : My honourable friend by the interruption means to say "I shall mix up things in any way I like, and it is for you to bring suitable amendments to separate them.". It is impossible. If you cook meat, fish and vegetables together and ask a vegetarian to separate them by means of an amendment and then take the vegetables alone, that would be to putting the cart before the horse. The Bill has mixed up distinct and separate categories of law into one complete whole.

Shri L. Krishnaswami Bharathi : No, no. There are separate chapters.

Mr. Speaker : The honourable Member is expressing his own view and other honourable Members will have an opportunity of expressing their own views. What is the good of interrupting ? It will only prolong his speech.

Mr. Naziruddin Ahmad : The sections of one part have been lifted . from that and placed in another part.

Shri L. Krishnaswami Bharathi : On a point of order, Sir. Am I not entitled to correct, when his statement that it has mixed up different chapters is open to correction?

Mr. Speaker : That way he will be entiteld to correct again. There - should be no interruptions. I think, we are unnecessarily impatient. Whatever our views in respect of the Bill for or against, we must give a patient hearing to the opponent and try to meet his points I am going to give the fullest opportunity to every one. So let there be no interruptions.

Mr. Naziruddin Ahmad : I am very grateful for this direction. The point is that the definitions and other clauses in each part were absolutely separate. It is easy for any one who has the patience to compare the original Bill presented by Mr. Jogendranath Mandal to - the House with the revised Bill to see the difference.

An Honourable Member : Who was Jogendarnath Mandal ?

Mr. Naziruddin Ahmad : He was the previous Law Member. If any one compares the old Bill presented by him and the present Bill, it would be easy to see that portions from different parts have been

transplanted to other parts. The act seems to be absolutely *bona fide,* but it was not based upon a full appreciation of the purpose of the separate treatment of the subjects. In fact, the Select Committee was presented with a re-drafted Bill by the Ministry of Law. That I submit would be likely absolutely to mislead the Select Committee. It is this document which was printed on the 17th July 1948. It was prepared ready-made for the handy use of the Select Committee before it ever met and the Select Committee was presented with this Departmental Bill. I have already dealt with one point, that in this intermediate Departmental Bill is a serious departure has been made, namely, different parts have been mixed up into one whole so to make it impossible to put separate parts back to their original shape. It can be done by a research student, not by Members of the House without any such tendencies or inclinations. I submit therefore, that the first mistake was committed by the Departmental Committee in mixing up entirely separate subjects. This introduces a serious and unprecedented constitutional innovation.

Then, Sir, the Departmental Committee has introduced very serious changes in their Departmental Bill. It will be extremely important when we consider the bearing and the effect of this Departmental Bill on the proceedings of the Select Committee. The Departmental Bill, as I shall attempt to show introduced many very important changes, though I must point out that neither the Honourable Minister for Law nor the Members of the Select Committee nor the Members of the House seem to be aware of the seriousness of the changes effected. In fact, the Minister for Law on the last occasion when he spoke in the present session in support of the motion for consideration pointed out the substantial changes made in the Bill. But he was careful to insist that all the changes had been made by the Select Committee. I took careful notes of his speech and this can be verified from the official reports. He pointed out with commendable thoroughness the departures made in the final Bill from the original Jogendranath Mandals's Bill. That show that the Honourable Minister was totally unaware of the serious changes made by his Department in the so called Bill submitted to the Select Committee. In fact, I asked a Short Notice Question of the Honourable Minister as to whether the Departmental Committee had been authorised to make any substantial changes in the original Bill. The answer was that they had no such authority. On the other hand, the Minister for Law took the entire

responsibility for the changes, if any on himself. To a supplementary question of Mr. Ramnarain Singh the Minister for Law stated "I introduced no changes". In fact, the point was whether the Departmental Bill had made any substantial changes, and he made it absolutely clear that he had made no such changes and that the Select Committee alone had made the changes. The entire House seems to be of the opinion that the Select Committee made the changes and that no substantial changes were made by the Departmental Committee. On the last occasion when I was on my legs, I was repeatedly asked to point wherein the Departmental Committee had made substantial changes. It is important that I should refer to this, because it shows that the Members of the Select Committee or the House or even the Minister for Law was not aware of any substantial changes really made, and I submit therefore, that, if I can show that substantial changes were really made by the Departmental Committee and very rarely by the Select Committee, it would open up before the House important considerations. The Select Committee were given a readymade new Bill and the assurance in the report of the Select Committee is that it contained no substantial changes and that the changes were rearranging the clauses, their re-numbering and such formal changes as are purely of a drafting nature. This is the assurance we get in the report of the Select Committe. I would therefore, like to point that those substantial changes were made by the Departmental committee. It is not easy to trace the changes and I cannot blame any honourable Member for failing to notice them. I had to prepare a comparative chart, not of the numbers alone, but of the clauses and sub-clauses of the three bills side by side. I asked for a copy of the Departmental Bill, but it was not supplied. I submit, Sir, that the Departmental Bill is a very important document and should be supplied to the Members. We have been supplied with a report of the evidence of witnesses before the Select Committee, but the most important document which played such a large part in the framing of the final Bill, has not been supplied. It was with the greatest difficulty that I have procured a copy, not from the Department, but through the courtesy of an honourable Members. Then, Sir, I prepared a comparative statement in parallel columns of the appropriate provisions of the original Bill and the corresponding provisions of the Departmental Bill and the final Bill, and I find it extremely difficult to explain the real significance of the changes except by reference to the comparative chart.

3-00 P M.

I am trying to get the Bills in parallel columns printed. I am sorry it could not be completed and it could not be placed in the hands of the Members for their convenience. But, I shall refer to the substantial changes made one by one. In doing so, I shall refer to the very important changes made by the Departmental Committe. It is on a consideration of the changes by the Departmental Committee that this point will be decided. I shall refer to the changes made by the Departmental Committee which has been officially denied by the Department and also unknown to the Members in the House. The House will be pleased to consider certain clauses of the original Bill.

It is in part I, clause 2, sub-clause (3)(a). The clause corresponding to this is clause 2 of the departmental Bill, sub-clause (2). The original Bill says:

> "It shall be presumed until the contrary is proved that the whole of this Code applies to every person who is not a Muslim, Christian, Parsi or Jew by religion."

The original Bill was thus a mere rule of presumption. But in the departmental Bill, it is no longer a rule of presumption but a positive rule of law. In the original Bill, it was to be presumed that, if a man was not a Muslim, Christian, Parsi or Jew, he would be "presumed" to be a Hindu. That would not be a rule of law but a rule of presumption. In the Departmental Bill this is changed to stand like this:

> "This Code also applies to any other person who is not a Muslim, Christian, Parsi or Jew by religion."

The difference between the two is that under the original Bill any man who is not a Muslim, Christian, Parsi or Jew, would merely be presumed to be a Hindu and would be presumed to be governed by this Act. In the Departmental Bill, it is said that.—

> "the Code applies also to any one who is not a Muslim, Christian, Parsi or Jew."

I submit, Sir, this is introducing a substantial change. While it was a rule of presumption in the original Bill, it is now a positive rule and not one of presumption, that the Hindu law applies to any one not being Muslims, Christians, Parsis and Jews.

In the proviso it is said:

> If it is proved that the Hindu law does not apply to anyone, the Hindu law will not apply."

I think it is most unsatisfactory way of stating things. The final Bill applies it to them and this with the proviso, has changed the law.

Sir, I submit that this has introduced a serious change. I am not concerned with the policy of the law. But, I am concerned with the changes in the Departmental Bill of which the Select Committee seem to be unaware.

Then, Sir, coming to another part of the Bill. In the Departmental Bill.....

Mr. Tajamul Hussain : May **I** have your permission to raise a point of order ?

Mr. Speaker: Yes.

Mr. Tajamul Husain : My learned friend, Mr. Naziruddin Ahmad has been trying to show before the House that the Departmental Bill was considered by the Select Committee and not the original Bill and he does this after your finding of fact and ruling that the original Bill was considered by the Select Committee. I want to know your ruling now.

Mr. Speaker : I have been hearing his argument and I feel he is speaking in support of his amendment that the Bill be circulated for purposes of opinion and the other amendment is for recommitment to the same Select Committee. Therefore, though my ruling stands, I think, he is trying to make out a case that, there has been such a substantial departure from the original Bill as introduced by Sjt. Jogendra Nath Mandal, both in the scheme as well as in the content, that it is necessary now to recirculate or recommit it to the same Select Committee. His point, as I have understood till now, is that the original scheme of the Rau Committee in the first Bill was that the various parts of law should be taken in different compartments. It was possible to separate one from the other, but in the present scheme, the whole having been made as an organic whole, it is difficult now to take certain parts that the people agree to and drop out other parts, with which the people do not agree. How far he is right is another matter. therefore, he says that, it is necessary to recirculate the Bill for opinion. That is how I have understood the point till now. I do not think he is contradicting my ruling.

Mr. Naziruddin Ahmad : Not in the least. Sir, it will be too late in the day even to suspect that I have questioned your ruling. The ruling was on a point of law. It was very technical in nature. My point of order was based upon some assumptions which could not clearly be proved.

Mr. Speaker : The honourable Member may proceed with his argument.

Mr. Naziruddin Ahmad : I substantially agree that my point of view is that. But it is something more too. In fact, it is my purpose to show that if the honourable the Minister of Law, who is responsible for the Departmental Bill, and the Members of the Select Committee were not precisely aware of the substantial changes made in the Departmental Bill, can it be said that legally and also in fact they have substantially considered both ? They technically considered both, but did they as a matter of fact adequately consider them ? The question no longer arises as a matter of law on account of your ruling, the justice of which I respectfully accept. But the point I am stressing is that though they considered both, they were faced with the obvious difficulty that there was a Bill presented to them which was said to be a mere redraft of the original Bill and a re-arrangement of things of the clauses, with the express guarantee that no substantial changes had been made and yet in fact substantial changes had been made. My point is that though technically the Select Committee considered both the original Bill and the Departmental Bill, they did not and could not, as a matter of fact, give sufficient or adequate consideration to these undisclosed changes. My purpose is to make out a case for recommitment of the Bill to Select Committee or for circulation.

The next change made by the Departmental committee of a substantial nature is in clause 2, sub-clause (4). the change introduced here was made by the Departmental Committee. The change is absolutely new and it was not in the original Bill and is a substantial change. This was introduced by the Departmental committee in the Bill and not by the Select Committee. That is the most important point. The Departmental Bill provides:

> "2(4). Notwithstanding anything contained in the Special Marriage Act of 1872 (HI of 1872) this Code shall apply to all Hindus whose marriages have been solemnised, under the provisions of that Act prior to the commencement of this Code."

The original Bill did not contain anything like this and the original Bill left those who were married under Special Marriage Act of 1872 to be governed by that Act. That is divorce, maintenance and other provisions applying to those who were married under that Act would be governed by the provisions of the Special Marriage Act, 1872, which are entirely different. How different from the present Code is not very material. The present sub-clause however wants to make out

that those marriages under the Special Marriage Act of 1872, which took place before the Code comes into force, would be governed not by the Special Marriage Act but by this Code. I submit that this is a substantial departure or change introduced in the Departmental Bill and it was introduced by the Departmental Committee and was merely accepted by the Select Committee as a matter of course. This is a substantial change, whether it is good or bad, whether it is *bona fide* or not is not the point but a substantial change has been effected by the Departmental Committee and the Select Committee was not specifically informed of the change made. Though there are references to clauses of the original Bill, etc. given in the margin, still this subclause is absolutely new without any indication whatsoever that this was a change. Changes in sub-clauses have not been indicated. In fact in ordinary Bills coming out from a Select Committee all changes made by the Select Committee are either underlined or sidelined. The Select Committee has stated that this practice is unnecessary, because marginal references have been given. I submit that marginal reference is only to the clauses but this sub-clause (4) is absolutely new. The reference to this sub-clause is Part I, Section 6, page 2 and Schedule I, page 30. The change effected is neither indicated here either by reference or by suitable marking arrangement. At least it is a change of a substantial nature and the attention of the Select Committee was not in any manner specifically drawn to it, nor the nature of the change is indicated. That is change No. 2. I am dealing only with the more substantial and important changes. There are many. I hope at a future time to make available to Members as well as the public a publication which will clearly show the real changes introduced by the Department and the changes really introduced by the Select Committee. I again insist that the Select Committee made very few changes and most of the substantial changes introduced were made by the Drafting Committee.

I come to another part of the Bill. In the original Bill, Part I, clause 3, which deals with the operation of the code in relation to previous customs and usage, it is provided:

> "In regard to any matters dealt with in this Code its provisions shall supersede any custom or usage not hereby expressly saved"

The original Bill would supersede only "customs or usages" not thereby expressly saved—all customs not specifically recognised by the original Bill would be superseded. Let us look at the corresponding

provisions in the Departmental Bill which also was accepted without question by the Select Committee. I may point out that the change was effected by the Departmental Committee and not by the Select Committee. In the Departmental Bill, it is clause 4 which corresponds to clause 4 in the final Bill. The marginal note is "over-riding effect of the code" which is much different but I lay no emphasis on this note as it is not part of the Bill. The Departmental Bill says:

> "Save as otherwise expressly provided in this Code any text or rule or interpretation of the Hindu Law or custom or usage or any other law in force immediately prior to the commencement of this Act shall cease to have effect as respects any of the matters dealt with by this Code."

The verbal changes are not important but you will please consider that several important new matters have been introduced by the Departmental Committee. "Any text, rule or interpretation of Hindu law" and later on "any other law in force immediately prior to the commencement of this Code are absolutely new. Let the House pause for a minute and consider the seriousness of the change. All custom and usage not specifically recognised by the original Bill would be absolutely gone. But the Departmental Bill would include also within its mischief any text, rule or interpretation of Hindu law. This is something which is entirely different from usage and custom. In fact any text of the sacred books, the *Vedas* and *Smritis* any rule or interpretation of the Hindu law, that is to say, all ruling of the High Court, the Federal Court and the Privy Council, all authoritative expositions of the original Sanskrit texts or the interpretations by the highest judicial authorities must perish as also any other law in force immediately prior to the commencement of this Code. The sacred texts and the rich case law for over a century and a half would be abolished altogether by a stroke of the pen. "Any text, rule or intepretation of Hindu law" probably includes all things. "Any other law in force immediately prior to the commencement of this code" would probably be included within the passage, but I submit that the Departmental Bill would try to illegalize, if I may be permitted to use the expression, all texts, interpretation of Hindu law or rule not specifically recognised by the Bill, and they will all be gone. I submit this is a substantial change.

Shrimati G. Durgabai (Madras : General): On a point of order, is the honourable Member within his rights to question the competency of your ruling ? When he calls this Bill as the 'Departmental Bill' he is making very great insinuation against the members of the Select

Committee. The Members of the Select Committee have gone fully into the Bill and they have noted all the changes. He can no longer argue on the point by referring to it as the Departmental Bill. We want your ruling as to whether he is in order.

Mr. Speaker : I am afraid it is hardly a point for ruling. These are observations which, I appreciate, irritate some Members; but I do not think the honourable Member, when he uses the expression 'Departmental Bill' suggests thereby that the Members of the Select Committee did not consider the points. He is, as I have been noticing, using the expression 'Departmental Bill' for the sake of brevity instead of saying each time "the Bill which was drafted by the Department for the benefit of the Select Committee Members." I do not think it goes anything further than that and we should not read any meaning into it. Departmental Bill is only a short phrase for that. As I once pointed out—I do not know whether the honourable Member was present when another honourable member of the House raised this point, the point that the is making out is that the changes made by the Select Committee are substantial. And if the changes are substantial then he is certainly within his right to say that the Bill should be re-committed or recirculated. That seems to be the point though he is going his own way, doing so in a very elaborate way which he could do in a shorter time.

Shrimati G. Durgabai : My point is he is imputing ignorance to the Select Committee members.

Mr. Naziruddin Ahmad : Not in the least. I am imputing, not ignorance, but carelessness naturally following from the Departmental Bill which gave them no clues to the changes. (*Interruptions*).

Mr. Speaker : Order, order.

Mr. Naziruddin Ahmad : I withdraw the expression "ignorance". But they were effected by **a** mistaken faith in the Departmental Bill. (*Interruption*), *Even* if this is not yet apparent to him I am sorry for the honourable Member that he is still suffering from the obsession.

Mr. Speaker : Let the honourable Member proceed on a different line; let him say that they should have given more attention to this subject.

Mr. Naziruddin Ahmad : That is what I mean. In fact for my argument I do not require any hard expression—I rely more upon reason than upon an expression. If I have used any expression which is hard, even if not unparliamentary, I withdraw it. The point is we shall again begin with . . .

Mr. Speaker : He need not repeat it; he may proceed further.

Mr. Naziruddin Ahmad : The other point is that not merely have substantial changes been made without sufficient or any clear notice to the Select Committee . . .

Shri L. Krishnaswami Bharathi : That is what we want to object to. He cannot say so. We knew it fully well.

Mr. Naziruddin Ahmad : If the Honourable Minister for Law is unaware of the change and if honourable Members are repeatedly asking me to point out the substantial changes it shows that they are unaware of them and accepted the changes *bona fide* without knowing them. I think the changes were introduced by some over-zealous draftsman who thought of improving the Bill and he introduced some *bona fide* changes without realising that he was thereby making a new Bill altogether, and nobody saw through it.

The Honourable Dr. B. R. Ambedkar: I must really protest against this. It is a grave reflection on the Draftsman. My friend is almost suggesting that after the Select Committee had considered everything the Draftsman took it into his head to make changes in the Bill. I very strongly protest against it.

Shri L. Krishnaswami Bharathi : And we protest against the way in which he is insinuating against the Select Committee Members.

Mr. Speaker : Changes made after the Select Committee report ?

The Honourable Dr. B. R. Ambedkar : That is what he is suggesting.

Mr. Speaker : He means "before".

Mr. Naziruddin Ahmad : Yes, Sir, I am absolutely certain that I said that the changes had been made before the Select Committee met.

Mr. Speaker : There appears to be some misapprehension.

The Honourable Dr. B. R. Ambedkar: I have no idea. If I understand my friend's speech it simply means that the Select Committee blind-foldedly signed the report without going into anything or it means that after the Select Committee had done its work the Draftsman took it into his head to introduce some changes. It cannot have any other meaning.

Mr. Naziruddin Ahmad : As to whether the changes were made *bona fide* or in a careless or *mala fide manner* it is not material for us to go into.

Mr. Speaker : The honourable Member's point is that changes which he believes to be substantial are made.

The Honourable Dr. B. R. Ambedkar : I am quite prepared to hear any friend setting out *seriatim* the changes which he thinks the Select Committee has made. Assuming that certain changes were made by the Select Committee, I would like to know whether that in itself would be a sufficient ground for re-circulation.

Mr. Naziruddin Ahmad : Not at all : I never said they were made by the Select Committee.

Mr. Speaker : What I was suggesting to the honourable Member was that assuming that certain changes are of a substantial nature in his opinion have been made, his case is strong enough for pleading and he need not say whether the changes were made out of ignorance or *mala fides.* The Select committee with an open mind and considering the whole thing could have made the changes. Still he thinks that they are of a substantial nature and, therefore, the Bill should be re circulated. All people need not agree that these changes which he believes to be substantial are necessarily substantial. Opinions may differ.

Mr. Naziruddin Ahmad : The Honourable Minister for Law said that it is for me to show what changes were made by the Select Committee. I have been at pains to show that I am not drawing the attention of the House to changes made by the Select, Committee at all. That is I believe the mistake which is haunting the mind of the Honourable the Law Minister.

The Honourable Dr. B. R. Ambedkar : Nothing of the kind.

Mr. Naziruddin Ahmad : In fact he has been insisting that the ... changes were made by the Select Committee. The changes I have been mentioning so far are changes made not by the Select Committee but made by the Departmental Committee.

Mr. Speaker : Order, order, there the rub comes in. Whosoever made the changes so long as the Select Committee has accepted them they are changes by the Select Committee and not changes made by somebody else without the knowledge of the Select Committee. He need not make that kind of insinuation or assertion. By whomsoever they were made—even at the instance of a single Member or the Law Minister or the Drafting Committee or anybody else—he should proceed on the assumption that these changes are changes made by

the Select Committee and he should proceed to show that they are substantial.

Mr. Naziruddin Ahmad : My difficulty is I cannot stop at that. The Honourable the Law Minister insists that the changes were introduced by the Select Committee and not by the Drafting Committee, that would make it absolutely clear that the Select Committee faithfully and *bona fide* accepted the changes introduced by the Drafting Committee. If that is so the Select Committee did not apply its mind to it when accepting it, knowing it to be a change. If the Select Committee did not know, as the Honourable the Law Minister does not know, that these changes were introduced by the Departmental Committee, they accepted technically, but not with full appreciation, all the changes made. That is the point which makes my case stronger. It is not merely the changes made by the Select Committee willingly but the changes made by them of a substantial nature without realizing that they were accepting any changes which makes the case stronger. In fact, they obviously assumed that the Departmental Bill was **a** mere re-draft without any substantial change. This is corroborated by the fact that even the Law Minister supposes that I am pointing out changes made by the Select Committee. That is why I am constrained to argue that the Select Committee's attention was not specifically drawn to the changes. On the other hand they took the Departmental Bill as a substantial reproduction of the original Bill without any substantial change. I can say that without casting any reflection ; we can always argue mistakes or oversights or *bona fide* errors. I need not put the point better than that.

Sir, I submit that the Members of the Select Committee or the Minister for Law need not be very sensitive about this. It is a matter of record. In fact, even the honourable the Law Minister admitted that he introduced no change and he assumes that I am pointing out changes made by the *Select* Committee. They have been adopted: as your ruling must be accepted, they must have accepted these changes. But the question I am pointing out is that the consciousness or the legal mind was not directed towards these because they were not aware of it. The Honourable Minister insisted the other day on a question that the Departmental Committee introduced no substantial changes. The substantial changes are there and they were not indicated in the Departmental Bill. Therefore, there is no question of insinuation.

Mr. Speaker : Let us not go into that question again.

Mr. Naziruddin Ahmad : This is one substantial change. Sir, I thought I was treading on very solid ground. If any offence is meant to the Members of the Select Committee by pointing out obvious matters, I am very sorry.

Shri L. Krishnaswamy Bharathi : You cannot insinuate against Members.

Mr. Naziruddin Ahmad : What insinuation ? That they made mistakes ? To err is human. I was only suggesting that the Members of the Select Committee were human beings.

Shri B. Das : On a point of order. Sir, Can the honourable Member go on pointing out the defects of the Select Committee for three months continuously. The point was raised and settled. Whether I accept his words or not is a different question, but the honourable Member cannot go on talking in the filibustering attitude which my friend Mr. Baijnath Bajoria took some years ago on my Bill to amend the Child Marriage Act. He quoted *shastras* and read from the *Mahabharata* and other books. Here the poor Select Committee is being hammered by my friend Mr. Nazirudin Ahmed for the last three months. This is not a law court. Sir, you ought to ask him to produce his views that the Hindu Code Bill should not be passed. Why should we go on interminably talking against the Select Committee? As the oldest Member of this House, I cannot understand it.

Mr. Speaker : The honouable Member may indicate only the substantial changes.

Mr. Naziruddin Ahmad : Yes, Sir.

Sir, I object to my speech being called a filibustering speech. I think the honourable Member goes a bit too far. It seems that he has locked up his mind absolutely and he is not in a mood to hear.

Sir, may I ask you to consider this and see if I am in the least irrelevant or wrong ? Unless the change is substantial, palpably, obviously it rules out texts of the Hindu Law and rule of interpretation by the highest Courts. The original Bill did not contain anything of the sort and the change was introduced to the Departmental Committee. Is it not, in all fairness, a substantial change ? Mr. Das cannot listen to legal matters. He is good in financial matters but in legal matters he is rapidly approaching his second childhood.

Shri B. Das : We are here to legislate. We are not here to understand the interpretation of lawyers or High Court Judges. *(Interruption).*

Mr. Naziruddin Ahmad : Sir, much depends on the substantial changes. Have not these been introduced by the Departmental Committee ? On that issue the whole case depends. If it was introduced by the Departmental Committee and if it is a substantial change, then the Select Committee was not informed of it. It has been repeatedly made clear that the Select Committee considered the Departmental Bill and not the original Bill. If this is insinuation, I am sorry I shall have to discharge my duty faithfully but absolutely fearlessly though very respectfully. I submit the Select Committee was absolutely cajoled into believing that the Departmental Bill was a substantial reproduction of the original Bill, and even the Honourable the Law Minister is persuaded to believe that there was no change. It is not insinuation, it is a fact. Who has made the changes ? If it were the Law Minister, then he would have been aware of it. Is it somebody else ? Then is it improper for me to point out that somebody else has made the change ? I say he has done it by mistake or *bona fide.* Would it be proper for me to suggest that these changes were made fraudulently ? I do not suggest anything of the sort. The only thing I could do is to assume that these things were done *bona fide*—just a little flourish of the pen to improve upon it. "Why merely rule out customary law ? Let us abolish all the rulings of the Privy Council."

Sir, criticism is proper. If any language I have used is improper, I withdraw it. But what about the criticism ?

Shri L. Krishnaswami Bharathi : Let us hear the other points.

Mr. Naziruddin Ahmad : Why be anxious? Why not listen to this?

Mr. Speaker : Order, order. We cannot carry on the discussion of the Bill in this manner. There are Members who want to support the Bill and others who want to oppose it. Let everyone have his say in any manner he likes, without being offensive or speaking unparliamentary language. That is the only objection. Otherwise, at every stage there will be interruption and those who want to support the Bill will be the sufferers in the long run, because time will be spent in unnecessarily carrying on this kind of discussion. The Member honourable will have his say and if he says that the Select Committee did not give attention to this or that or that these points were not examined by the Select Committee, where is the ground

for taking insult in that ? He is perfectly entitled to say so. But he should not insinuate something else; that is what I have to guard against. But I believe he is entitled to express his views.

There is another point also to which I was going to invite the attention of the honourable Member. He says that because the Law Minister is unaware of a substantial change, therefore somebody else introduced the change. There is another aspect to it. If the point which he considers substantial is not considered by the Law Minister as substantial, then the Honourable Law Minister is perfectly entitled to say that he is not aware of any substantial change. Therefore, it does not necessarily mean that some other party in ignorance or behind the back of the minister, introduced it in the Select Committee. Let the points be substantial and let the controversy be limited to the question as to whether the points are substantial or not. That I believe is the chief point in dispute.

Mr. Naziruddin Ahmad : I stand subject to correction. It may have been done by the Law Minister without realising or without believing this to be a substantial change. But the matter is exactly where it was. These are substantial matters, whether introduced by the Law Minister consciously or by anyone else unconsciously, in any manner. It is not proper for us to argue on that. But by one stroke of the pen all texts, rules and interpretations of the Hindu Law have been abolished. The effect of this will be that all learned rulings of the Privy Council, the Federal Court and the High Courts are all gone, by one stroke of the pen. In fact, if this is not seriously interfering the original Bill, I do not know what is. There may be difference of opinions. But to one approaching the question absolutely impartially, and with a free mind, there would be no difficulty in agreeing with me that this is very serious interference with the Original Bill.

Shrimati G. Durgabai : Please speak of other substantial changes.

Mr. Naziruddin Ahmad : This is dealing very lightly with **a** very serious matter. But I say these are very serious changes which verge on interpolations, *bona fide or mala fide,* it does not matter.

Then Sir, the next cage made by the Departmental Committee is to remove the definition of 'caste' in Part I clause 5 sub-clause (b) which contained a definition of caste. This has been entirely omitted.

Mr. Speaker : What clause does the honourable Member refer to ?

Mr. Naziruddin Ahmad : I am referring to Part I, clause 5, subclause (b) which has the definition of 'caste'.

Mr. Speaker : Is he referring to the original Bill ?

Mr. Naziruddin Ahmad : Yes. And that definition has been entirely omitted in the Departmental Bill without any indication being given anywhere about this omission. There is a mere reference in the margin to the original clause. This sub-clause has been omitted, and there is no indication to be found of it. I submit, Sir, that the Select Committee's attention was not specifically drawn to this omission, and whether these are substantial matters or not, there cannot be much difference of opinion. At any rate the Select Committee was entitled to be told that these changes were made ; whether these are substantial changes or not may vary from individual to individual. But the Select Committee was entitled to know that these changes were made. But they were not told.

And then we come to sub-clause (f) of the same clause and here we find that the definitions of *Gotra* and Pravara have been omitted. And then in sub-clause (j) the definition of *Stridhan* has also been omitted. Therefore the definition of Caste, the definition of *Gotra*, the definition of *Pravara*, and the definition of *Stridhan* are entirely omitted. What effect this would produce on the Bill, cannot be explained shortly on the floor of the House.

Shri A. Thanu Pillai (Travancore State) : May I know from the honourable Member whether even if the definition is not of a term required in the law, it should be defined ?

Mr. Naziruddin Ahmad : I think the honourable Member is not proceeding as cautiously as he should. In fact, whether a definition is wanted or not wanted is not the question. A definition was in the Bill and that was removed by somebody, without any authority. The Departmental Committee removed it, and the attention of the Select Committee, who was alone competent to remove it, was not drawn to this fact.

Shrimati G. Durgabai : The Select Committee takes full respon sibility for it.

Mr. Naziruddin Ahmad : This was not considered by the Select Committee.

Shri M. Tirumala Rao (Madras : General): Are you sure that the compositor did not omit it ?

Mr. Speaker : Those who interrupt can also be called obstructionists. If interrupted he will take longer time over it.

Shri L. Krishnaswami Bharati : I may cut short further arguments by saying that the Select Committee's attention was actually drawn to all these things. The honourable Member is unnecessarily harping on this point, that the attention of the Select Committee was not drawn. But as a Member of the Select Committee I may say that all these points were fully considered, all aspects of the matter were considered by the Select Committee. Therefore the honourable Member need not go over this matter over and over again.

Mr. Speaker : I will say that even if the question has been fully considered, the honourable Member is perfectly within his right in giving his views. Honourable Members will see that he is making a case for re-committal of the Bill to the Select Committee, and for this he has been putting forth his arguments. The Select Committee might have given full, adequate, proper, reasonable attention, but in his opinion, it has been inadequate. Therefore, he is insisting that the attention given has been inadequate and the Bill should be re-committed to the Select Committee. That is the line of argument he is following ; and if he is following that particular line of argument, he must maintain that stand. As regards the fact of adequacy just as the Select Committee Members cannot be absolute judges of the fact, as to whether the Bill was given proper or adequate attention, similarly, his judgment also is not final. But he is placing his opinion. Let us proceed on that basis. Otherwise there will be no end to this discussion.

Shri L. Krishnaswami Bharathi : I was only referring to the question of fact.

Mr. Speaker : It is **a** question of opinion. What the honourable Member supposes to be a question of fact, is actually a question of opinion. Adequacy of attention of not is a question of opinion and to merely a question of fact.

Mr. Naziruddin Ahmad : The question is the adequacy of consideration.

[*At this stage Mr. Speaker vacated the Chair, which was then occupied by Mr. Deputy-Speaker (Shri M. Ananthasayanam Ayyyangar*]

Mr. Naziruddin Ahmad : Sir, I have been interrupted almost continuously the other day, and again a series of interruptions are made to-day.

Mr. Pandit Lakshmi Kanta Maitra : I am supporting you all along.

Mr. Naziruddin Ahmad : There is my friend Mr. Bharathi. Is he right in telling the House what took place in the Select Committee ? If so, I have equally strong authority, also from the Members of the Select Committee themselves to the contrary. It would be very wrong to compare one Member's statement with that of another and I would rather draw a veil on what happened in the Select Committee. The honourable Member need not assure us that the Select Committee has considered everything. If he is so sure, I am equally sure that for many reasons, adequate consideration could not be given.

Shri L. Krishnaswami Bharathi : I was talking only about myself.

Pandit Lakshmi KantaMaitra : You could not understand things.

Mr. Naziruddin Ahmad : In fact, it is not the case of one man. It is the whole Select Committee and not a one-man affair. If one man has followed, it does not mean that others also have followed it.

Pandit Lakshmi Kanta Maitra : Yes, one swallow does not make a summer.

Mr. Naziruddin Ahmad : Exactly, "One swallow does not make a summer". If there is one man of the Select Committee who believed that no change was made, that would be enough to make out a case for recommittal of the Bill to the Select Committee. And I again submit that these are very serious changes. And then how many of them ? My friends wonder how many changes there are. I can show them many, many such changes. Take the...

Shrimati G.Durgabai : In the meantime, on a point of information, may I ask whether the changes made by the Select Committee are absolutely binding on this House. Cannot the House accept the changes or reject them ?

Mr. Naziruddin Ahmad : I submit with all respect that it is irrelevant to ask if the Select Committee's changes should be accepted or rejected by the House. The Select Committee can make any change and the House can make further changes too. The House can make changes. There is no doubt about it. But the point is that the Select Committee for some reason did not or could not or failed or omitted to discharge its duties fully. If that is so, the right to go fully into the question rests with the House and it is for this reason that I appeal from the Select Committee to the larger House. There is of course the still larger house, the entire electorate of India. I now come to clause 7 of the original Bill. (*Interruption*). I think some Members have lost their heads.

Mr. Tajamul Husain : I must strongly protest against the statement that the Members have lost their heads. I raise this point of order seriously. He must withdraw it unconditionally.

Mr. Deputy Speaker : I think it was not necessary for the honourable Member to say all that.

Mr. Tajamul Husain : Let him withdraw it. Was he in order in making that statement ? He has all along been making violent gestures against honourable Members.

Mr. Deputy Speaker : I do not think it is proper for the honourable Member to say that the Members have lost their heads. It detracts from the dignity of the house. At the time I must say this: I have been noticing one member or other using language which may not be liked by the person addressed. There must be some amount of patience shown. There should not be interruptions either by the spoken word or by signs. Therefore when the honourable Member is turning over the pages of some of his papers, if they interrupt him he will miss it and their interruptions are likely to ginger him up.

Mr. Naziruddin Ahmad : Sir, I was told across the table that I had lost my head.

Mr. Deputy Speaker : The honourable Member has lost his thread—the thread of his argument.

Mr. Tajamul Husain : May I know whether he has lost his sacred thread?

Mr. Naziruddin Ahmad : I will proceed with my arguments, Sir. Clause 2 of the original Bill gives the definition of 'son' thus 'son' includes a *dattaka kritrima* or *godha son,* etc, but not a *dasiputra* and others. This has been entirely committed in the Departmental Bill.

Shri L. Krishnaswami Bharathi : When an honourable Member reads out something, should he not do so correctly ?

Mr. Naziruddin Ahmad : I find that this has been omitted. If it is anywhere the definition or in any other part of the Bill, my attention may kindly be drawn to it.

Mr. Deputy Speaker : The honourable Member who just now interrupted the speaker has been again and again giving advice. Mr. Naziruddin Ahmad may be a bit slow in making the references he desires to make. He need not be interrupted.

Mr. Naziruddin Ahmad : I submit that the definition of 'son' has been omitted. If I am wrong, the mistake may be pointed out to me.

Dr. P. S. Deshmukh (C. P. and Berar : General): I think the honourable Member is wrong.

Mr. Deputy Speaker : If honourable Members go on interrupting in this way it will be impossible to conduct the business of the House in an orderly manner. Mr. Naziruddin Ahmad may go on without putting questions to other honourable Members.

Mr. Naziruddin Ahmad : As I said the definition of son has been omitted as also the illustrations found in Part II, sub-clause (3) of clause 2 in regard to intestate succession. Four illustrations have been omitted. These are substantial changes. I am only trying to draw attention to the nature of the changes made. According to me these are omissions of a very serious nature. They are not omissions of a drafting nature. I am not questioning the right of the Select Committee to improve the Bill, or to make these omissions. These changes, however, were made not by the Select Committee but by the Drafting Committee and the attention of the Select Committee was not particularly drawn to these omissions.

Then I come to another important part of the Bill to show the very serious changes introduced by the Drafting Committee. In Part II, clause 4 of the original Bill, the list of heirs has been given. It says that the inheritable property of a male intestate shall devolve according to the rules laid down in this part: (a) upon the enumerated heirs referred to in section 5, if any; (b) if mere is no enumerated heir, upon his agnates, if any ;(c) if there is no agnate, upon his cognates, if any; and (d) if there is no cognate, upon the heirs referred to in section 10, if any.

Mr. Deputy Speaker : I do not know if the honourable Member has not a copy of the Hindu Code Comparative Tables, which was circulated to all honourable Members. The original Hindu Code as drafted by the Rau Committee has been revised in the Ministry of Law and the changes made have been indicated there. I would therefore suggest that the honourable Member need not labour this point. I think he has spent sufficient time over the first point. I personally think that the point is sufficiently clear and of course illustrations can always be multiplied. If it is a point here and there, the House will take it into consideration. There are certain points which when made are sufficient in number. I agree they can be made clearer, but the changes made in the tables, are sufficient.

4 P.M.

Mr. Naziruddin Ahmad : Sir, the list is neither complete nor accurate and does not indicate the changes made. In fact the remarks against the original clauses of the original Bill and as to the changes are extremely meagre. I have now come to a very important change, namely the inheritance. It has been so changed as to make it impossible to recognise with the new Bill or the departmental draft nor is it a substitute for the original Bill at all. I submit that with regard to the inheritance a larger number of changes had been made.

I shall show first of all that in clause 4 of the Bill in Part II (a) regarding the enumerated heirs ; I am in a position to show that serious changes have been made in the enumerated list. In the original Bill was one and in the revised draft by the Departmental Committee they are completely different. The original arrangement has been made entirely topsy-turvey and then it is said that if there are no enumerated heirs the property devolves upon agnates. The definition of agnates is well-known. That was in the original Bill, but in the Bill as revised by the Departmental Committee the word 'agnate' is now very much restricted. So in case of the numerated heirs failing the agnates, even the distant agnates would be entitled to be heirs according to the Hindu law, according to the Muslim law and every other law and that was according to the original Bill. But in the revised draft by the Departmental Committee the word 'agnate' has been seriously modified to be within certain degrees. So agnates which are beyond those degrees would have been entitled to inheritance under the old Bill, but under the Departmental Bill, they would be shut out. Similarly, cognates are also restricted in the Departmental Bill and this is a substantial change as it eliminates the distant Agnates and distant cognates. Then, Sir, in clause (d) of 4, the words preceptor and others are entirely eliminated. The scheme of inheritance in clause 4 of Part II of the original Bill is changed at every step and very serious changes have been made and the enumerated heirs have been changed. The agnates have been restricted; the cognates have been restricted and the other clauses have been entirely eliminated. I can quite understand that these changes may be legitimately made on a full consideration by the Select Committee, but these were changes not by the Select Committee, but by the Departmental Committee and Members asked me "Tell us what are the changes made ?"

Mr. Deputy Speaker : Am I to understand from the honourable Member that if the Select Committee Members all got up and they

address themselves to that, will the honourable Member be thoroughly satisfied with what has been done by the Select Committee.

Mr. Naziruddin Ahmad : The point is that the Select Committee Member were not made aware of the changes.

Mr. Deputy Speaker : It serves no useful purpose. It is not a question of law whether this House has got jurisdiction over the Select Committee's piece of handiwork. It has been decided and sufficiently discussed to show that the Select Committee has looked into every one of the clauses to come to a conclusion. But on matters of substance, the old law has been widely changed. There is some substanse in that. Those are the matters on which the honourable Member should address the House. I do not say that all that has been said is out of place, but sufficient has been said.

Mr. Naziruddin Ahmad : To many honourable Members sufficient has not been said. It is said that these are not substantial changes and I shall take care to point them out. The difficulty is that the changes are too numerous to ensure the attention of the House. In fact the changes are very serious and very various and very substantial and my point is that they were introduced not by the Select Committee and whether they accepted them or not is a different matter. My thesis is that they were presented with a ready-made Bill with the assurance that no substantial changes had been made and so the attention of the Select Committee was not sufficiently drawn to that matter. Now let us consider the actual changes in the list of inheritance. In fact in the original Bill the list of inheritance is to be found on pages 4, 5 and 6 in the body of the Bill. This has been bodily lifted from this place in the departmental Bill and transported to the Seventh Schedule. While the other parts remain in the body of the text, the list of inheritance, strangely and for unaccountable reasons, removed. It is not very easy to compare the original list with the new list as it appears in the Seventh Schedule; there have been serious and substantial changes. The Honourable Minister wanted to know what are the changes made.

The Honourable Dr. B. R. Ambedkar : I am quite aware of them. So far as I am concerned, you need not spend your labour in enlightening me at all.

Mr. Naziruddin Ahmad : If these are intentional changes, then what is the point in saying that no changes were made by the Drafting Committee, and that all the changes were made by the Select

Committee, and for the Select Committee say: "We confined our attention to the Departmental Bill". Therefore, it follows that their attention was not drawn to this. It is **a** very simple conclusion.

The Honourable Dr. B. R. Ambedkar : Give it in your own way.

Mr. Naziruddin Ahmad : It seems to me that the Honourable the Law Minister found himself in an inconvenient position and somehow or other, though the mistake is admitted, it is not done pointedly. In fact changes of a substantial nature were made. I was asked on the last day by the Honourable Law Minister himself: "Let us know what are the changes made by the Drafting Committee", and now he says : "I know everything". Of course he must have studied them later on, but these changes are of a serious nature. They were introduced not by the Select Committee, but by the Departmental Committee and the question is how far the Select Committee did actually notice them. At least in the note of dissent Dr. Bakshi Tek Chand says: "We confined our attention to the Departmental Committee Bill and not to the original Bill" because they were assured that in the Departmental Bill they did not introduce any substantial changes at all. So taking this into account, I do not know where to go. In fact, if that is not a serious irregularity and a matter requiring attention of the House. I do not know, what is. When the Department has committed an error of judgment, I think it is better and proper to admit it than to say: "I know all this but no changes were made; every change was made by the Select Committee" and when I say that the Select Committee did not make the changes and they were made by the Departments Committee then it is said: "I know it". Then we ought to know where does the Department stand ? If the Department makes a change.....

Shri B. Das : This is not a law court for us to hear point by point. The honourable Member should make a speech and sit down.

Mr. Deputy Speaker : The honourable Member, Mr. Das made this statement when the Speaker was in the Chair. It is a law court in some sense and not a law court when he wants to impress upon honourable Members as if he is arguing a case in a court of law. In any case we ought not to interrupt him. That kind of talk ought to be avoided as far as possible.

Shri B. Das : We are talking among ourselves.

Mr. Deputy Speaker : The honourable Member has no right to talk when another honourable Member is on his legs and he ought not to disturb.

Shri B. Das : He is talking at us.

Mr. Deputy Speaker : You ought not to talk. No honourable Member has the right to talk while another honourable Member is speaking. He ought to listen and not cause noise in the House.

Shri B. Das : You understand the exasperation. I am ready to get out, but the honourable Member's speech should not exasperate Members of this House.

Mr. Deputy Speaker : This is wrong. No honourable Member's speech ought to be called exasperating, unless he uses bad language or unparliamentary language. We may or may not agree, but the honourable Member is putting his case before the House. Nobody has a right to dub an honourable Member's speech as exasperating.

Shri B. Das : I accept your verdict. But he used terms such as "fraudulent" about the Law Minister.

Mr. Deputy Speaker : The Honourable Law Minister is sufficiently strong to take care of himself.

Mr. Naziruddin Ahmad : I beg to submit that the honourable Members should compare the original clause.

Mr. Deputy Speaker : Are there any matters of substance by which the honourable Member can induce the House to change its mind ?

Mr. Naziruddin Ahmad : There are substantial changes. I shall have to point out these things. In fact, I shall have to go on enumerating a large number. The best thing is to admit the mistakes or listen patiently. I must enumerate all the points and if I repeat my argument or be irrelevant, I can be called to order. In Part II, clause 5, there is Class I. Sons, widows, daughters and so forth. A change has been effected in this by the Departmental Committee. Son of a predeceased son of predeceased son has been newly introduced in the corresponding part of Class I in the 7th Schedule in the Department Bill. In fact, the Schedule has been so far removed from its place in the original Bill that it is not easy to notice it unless the two Classes are placed side by side, to find out the change. In act, the son of a predeceased son of a predeceased son did not find a place in the original, but it has been introduced in the Seventh Schedule of the revised Bill by the Departmental Committee.

Then we come in the other lists. The first in the list in the original Bill after the enumerated heirs in item No. 2 is daughter's son. In the Departmental Bill, the daughter's son has been brought further down. Then comes the father and the mother. According to the original

Bill, the mother would have been entitled to inherit in preference to the father. Here the father and the mother have been placed together in the Departmental Bill and their order has been changed and whereas under the Departmental Bill they inherit together under the original Bill the mother would have inherited first to the exclusion of the father, and in the absence of the mother the father would have inherited. The daughter's son as has already been pointed out, has been brought down further in the Departmental list. It should be obvious to any one who cares to consider this matter that these are substantial changes.

Then we come to Class III of the original Bill. The brother's son's son who was first in the list of Class III in the original Bill has been entirely lost sight of in the Departmental Bill. If this was deliberate an intentional, then we would have got some indication of it in the report of the Select Committee or in the speeches. I want to know if this is a substantial change. It may not be substantial to a man who is not the brother's son's son, but to the brother's son's son, it is a substantial change, because in the absence of, other heirs he would have been entitled to property.

Next in the list comes the sister. We have now the brother and the sister inheriting together in the Departmental Bill. The brother who was very high up in the list in the original Bill has now been transferred and brought down to of Class III and is inheriting with the sister (*Interruption*).

Am I to stop my argument ?

Mr. Tajamul Husain : The honourable Member has no right to speak to another honourable Member. I object to it very strongly, Sir.

Shri Lakshminararan Sahu (Orissa: General): There is no quorum it seems.

Mr. Deputy Speaker : There is quorum.

Mr. Naziruddin Ahmad : Supposing a man dies leaving a brother and a sister. Under the original Bill the brother would have inherited, the sister would have been postponed; but under the Departmental Bill the brother and the sister inherit equally. The brother is now brought down on a line with the sister having been superseded by 11 others in the list. I submit this is introducing very substantial changes.

Then we come to brother's son. He was very high up, in Class I. He is by the Department brought down to Class III along with sister's

son. If a man died leaving a brother's son and a sister's son, under the original Bill, the brother's son would have inherited, but under the Departmental Bill the brother's son and the sister's son inherit together. I submit these are very substantial changes.

Then I come to Class IV of the original Bill. In Class IV of the original Bill, a man dying leaving a father's mother and a father's father have been treated differently in the original Bill and the Departmental Bill. Between the father's mother and a father's father being the heirs under the original Bill, the father's mother would have been preferred; the father's father would have been postponed. But under the Departmental Bill both have been put together and they inherit together. I ask whether this is not a substantial change.

Then, Sir, we have a certain class of heirs in Class IV, items (1A), (1B), (1C) and (1D). These were introduced by an amendment of the original report by the Rau Committee. In the original Bill, if there was a father's widow and a brother's widow, the father's widow would have been preferred to the brother's widow. In the Departmental Bill the father's widow and the brother's widow inherit together. I submit this is a very substantial change—whether good or bad, it is not the point. Then coming to two other heirs in the supplementary list introduced by way of amendment of the Rau Committee brother's son's widow and brother's son's son's widow are entirely omitted in the Departmental Bill. In the original Bill they would have inherited one after the other. In the Departmental Bill they are omitted. There is nothing corresponding to this in the Departmental Bill.

Then coming to item 2, Class IV, the father's father is very low in the original Bill but he has been brought up very much higher in the list prepared by the Departmental Committee.

Then Sir, we come to the father's brother and also to father's sister. Father's brother is No. 3 in the list. Father's sister is sixth in the list. So in the original Bill, if there was the father's father and the others, the father's father would be preferred. Then comes the father's brother, father's brother's son, father's brother's son's son and then the father's sister. In the Departmental Bill the father's father and the father's sister have been brought together, the latter being brought higher up.

Then there is a large list of heirs which has been entirely omitted. Nos. (4), (5), (7), (8) and (9) are heirs in the original Bill. They are nowhere in the Departmental Bill. They are entirely eliminated.

I know, Sir, that it is a tedious business to refer to this but I am discharging a duty and I undertook to supply every Member with **a** copy of the comparative statement which is in course of preparation. I shall ask the Members to verify each change and I shall be most glad if I am proved to be wrong.

The Honourable Dr. B. R. Ambedkar : I hope it shall be supplied free of cost.

Mr. Naziruddin Ahmad : If the Government thinks I am **a** charitable institution then I shall be glad to deserve the hope.

Mr. Deputy Speaker : Had it been supplied earlier all this time would have been saved !

Mr. Naziruddin Ahmad : The pity is that my printing press is worse than the Government Printing Press.

Mr. Deputy Speaker : If the suggestion had been made to the Honourable the Law Minister, he would have had it printed.

The Honourable Dr. B. R. Ambedkar : Certainly, I would have had it printed.

The Naziruddin Ahmad : I have the manuscript ready. I shall be glad if the Honourable the Law Minister would publish it.

The Honourable Dr. B. R. Ambedkar : Now it would be of no use because you have said the same thing on the floor of the House.

Mr. Naziruddin Ahmad : Now we come to Class V of the original Bill. By strange accident—I should be afraid to insinuate anything— everything in it has been omitted in the Departmental Bill. It contains nine classes of heirs and four other supplementary heirs. Thirteen heirs in Class V of the original Bill have been entirely omitted, whether by mistake...

The Honourable Dr. B. R. Ambedkar : Very deliberately !

Mr. Naziruddin Ahmad : But then why did the report of the Select Committee say that no substantial changes were made ? If these were omitted deliberately, then the only point is whether these are substantial changes. The House has been assured by the Honourable the Law Minister that no substantial changes were made. That these changes were made deliberately is now admitted. The question now therefore is whether these are substantial changes. But we have been assured that no substantial changes have been made.

The Honourable Dr. B. R. Ambedkar : That is a matter of opinion.

Mr. Naziruddin Ahmad : Then the question turns upon this whether these are substantial changes. It may not be very important from the point of view of the law-giver but it may be important to the heir. If you disturb the order of heirship in the slightest degree, it is a substantial change. Up to this time we had been assured that the changes that were made were only of a drafting character. The report of the Select Committee is that the Department made no substantial changes. The report is so clear and emphatic and they emphasize the points so clearly, that they say no substantial changes have been made—only renumbering and some merely verbal changes were made and that for this reason that the usual method of indicating the changes by side-lining or under-lining the changes had not been adhered to in the Departmental or the Final Bill.

Now the question of questions at last boils down to this : Whether these are substantial changes ? What is the test for this ? Upsetting of heirs' lists is not a substantial change ? I submit it is. If it is that I am arguing too much, arguing as if in a Law Court—if any honourble Member thinks it is so—then it seems that the seriousness of the changes has not been fully appreciated.

Mr. Tajamul Husain : Except by you !

Mr. Naziruddin Ahmad : It is very unfortunate that this should be appreciated only by one man ! Of course there is a highly paid department and a highly qualified Law Minister, who is able to appreciate the slightest differences and I am sorry that I have had to undergo all the trouble and expenditure of time and money to find out and explain all this. It has not been a very easy matter and the difficulty was further enhanced by the fact that the Department which introduced all these changes could not make available to me a copy of their draft Bill. It was after a great deal of searching that I could procure a copy. So the search has been prolonged and the consideration has been prolonged and it has been for me a very difficult matter. I do not mean to say that any other Member is not capable of appreciating it, but few have the time or the inclination to go through them. And why should they ? Isn't it the duty and the obvious privilege of every Member—and I say this in defence of Members—to rely on the Ministry of Law, to rely upon the express guarantee in the Select Committee report that no substantial changes have been made ? I think they would be fully justified and when an honourable Member said that none expect me knew this, I cannot blame him. The blame

lies with the Department. Now, is that the end of these changes ? By no means.

Come to Class V-A. It was introduced by the Rau Committee by an amendment of their earlier Bill. They have noted that this Class V-A should be introduced after Class V. Class V-A has been entirely omitted. I humbly suggest that it is an inadvertent omission, but inadvertent or intentional, it is absolutely damaging to the integrity of the Bill.

Then, Sir, we come to Class VI.

(*Interruptions*)

Mr. Deputy Speaker : The honourable member will go on.

Mr. Naziruddin Ahmad : Then we come to Class VI, items (1) and (2)—mother's mother and mother's father. The mother's mother would be preferred to mother's father under the original Bill but they have been put together in the Departmental Bill. So they now inherit equally together. In item (3) of Class VI, the mother's brother and mother's sister inherit—the latter after the former under the original Bill, but under the Departmental Bill, they inherit together. Under items (4) and (5) mother's brother's son has been entirely left out in the Departmental Bill. Items (7), (8) and (9)—mother's sister's son, mother's brother's daughter, mother's sister's daughter are also entirely omitted.

Then item (3) in Class VI is also entirely omitted.

This concludes the list of inheritance in which there are no less than 20 transpositions, additions and omissions. Heirs have been entirely eliminated either intentionally or deliberately but this does not appear from the Select Committee's report. I have been repeatedly asked by honourable Members of the Select Committee in the House to point out where the differences lie. I do not want to blame any honourable Member for not noticing them. On account of the transposition or removal from their original places the changes would not be obvious. And there is the guarantee in the report of the Select Committee that there is no substantial change. These were changes through the Departmental Bill and may have escaped the attention of the Select Committee. At least their attention was not drawn to them in the Departmental Bill. There is a very respected and capable Member, Dr. Bakhshi Tek Chand who says in his minute of dissent that the Select Committee confined their attention to the Departmental

Bill, because they were assured that no substantial changes had been made. I would ask Dr. Bakhshi Tek Chand whether his attention was drawn by the Department or Dr. Ambedkar to these things. These large omissions and transpositions of places would not have been noticed by any Member unless he goes through the laborious process of comparing the two like a laborious lawyer.

Dr. Bakhshi Tek Chand (East Punjab : General): I would like to draw the attention of my honourable friend to page 9 of the report where my note of Dissent is printed. I have given there some of the substantial changes, at any rate changes which I considered to be substantial—and because of which I had suggested that the Bill should be recirculated for eliciting public opinion or in any case recommitted to the Select Committee. At page 9 the broad points on which changes had been introduced in the redrafted Bill, have been mentioned though not in such great detail as the honourable Member is doing today in his speech. It is not correct to say that no member of the Select Committee noticed them. Of course nobody had the industry or the patience which the honourable Member has, but the matter did not escape their attention. As he has mentioned my name I feel it my duty to bring this fact to the notice of the House. In the Note of Dissent I have referred to the changes to the order of inheritance which I considered to be substantial, and in regard to which I am in entire agreement with my honourable friend.

Mr. Naziruddin Ahmad : I am extremely grateful for this clarification, A respected Member with the highest judical experience thinks that these are substantial changes and he thought that they were so substantial that the Bill should be recirculated. That is the thing which I am asking for. There is at least one Member of the Select Committee who thought the changes to be substantial. He noticed them, but was his attention specifically drawn to them ?

Pandit Thakur Das Bhargava (East Punjab: General): Mr. Balkrishna Sharma has also signed it.

An Honourable Member : He has had no judical experience.

Pandit Lakshmi Kanta Maitra : He has had social experience.

Mr. Naziruddin Ahmad : Pandit Balkrishna Sharma is also of the same opinion. It is however enough to quote the name of Dr. Tek Chand. His authority and position will not be seriously enhanced by the addition of any other names. These respected Members felt

that these are substantial changes and therefore thought that the Bill required recirculation. There are changes in other parts of the Bill which would required herculean labour to find out.

In view of these changes made by the Departmental Committee and in view of the weighty remarks of Dr. Tek Chand that these were very substantial changes I think the matter should not admit of any doubt that the Bill should be sent to the Select Committee to reconsider these changes or to recirculate it.

An Honourable Member : The same Select Committee.

Mr. Naziruddin Ahmad : I have no objection to the same Select Committee. It consisted of men absolutely good and true, men with judicial and legal experience and who are practical authorities on those branches of the law. In fact, all kinds of talents were represented in the Select Committee. I have the fullest confidence in the Select Committee and I have not lost my faith in it. My point is that these matters should be carefully scrutinised and each change carefully weighed and deliberately accepted. Substantial changes have been quietly and deliberately introduced. We are assured by the Law Minister and again by the Select Committee that no substantial changes have been made. On the one hand we have the opinion of the highest legal talent in the House saying that these are substantial changes and on the other, another legal luminary says that he has deliberately introduced these changes and at the same time, that he has introduced no substantial changes. That is the guarantee under the signature of Dr. Ambedkar himself. So the Select Committee is hopelessly divided within itself. If two such eminent authorities differ on a broad matter like this I think the matter requires reconsideration by the Committee and that is what I ask for. Though the Law Minister thinks that these were not substantial changes only an unsophisticated House would agree with him. A man's right to inherit is a substantial right. To say that changes therein are not substantial changes would be to say something that is palpably and obviously wrong. I submit therefore that the changes being substantial and the guarantee being that no substantial changes have been made, on this ground alone the Bill should be sent back to Select Committee or for circulation with the positive direction that their attention should be directed towards these changes and they should consciously, intelligently, wilfully accept or reject them. There are other substantial changes.

Shri B. N. Munavalli (Bombay States): He is simply repeating the same arguments.

Mr. Deputy Speaker : I thought he had concluded that topic. If he has no other topic he may sit down.

Mr. Naziruddin Ahmad : I have other very serious changes. The point I would like to know is for how long the Honourable Law Minister would insist on saying that there are no substantial changes.

Shri Khurshed Lal (Deputy Minister of Communication): Till you have finished.

Mr. Deputy Speaker : Does the honourable Member with his experience as a lawyer ever expect the mover of a Bill to admit that what he has done is wrong ?

Mr. Naziruddin Ahmad : Sir, I bow down to this weighty observation of yours. But this is not a law court for us to take sides. It is a Legislative Assembly where we have no sides. We may express our opinions honestly but we do not take sides for the sake of fees: we are not committed to one side or another. I submit that in the Legislature, a Law Minister responsible to the Legislature should make it his duty to make an admission if he is wrong. I therefore have a faint hope that this accumulation of errors, of changes, would induce in a slight degree the Law Minister to admit that he had made substantial changes and thereby to make further progress of my argument absolutely unnecessary. But in view of the fact that the honourable the Law Minister stands to his gun like a good fighter—he has been a fighter all his life and he is famous for his grit and moral quality—as he stands to his gun, I have to submit to him more and more changes just with a faint hope to induce him ultimately to concede.

Shri Khurshed Lal : I do not wish to interrupt, but is it his intention to go on in this-manner till he has made the Law Minister admit that he has made a mistake ?

Mr. Deputy Speaker : Why the Law Minister alone ? Possibly other Members also agree with him for he has carried the House with him.

Shri B. Das : How do you say so, Sir ? We can howl him down.

Mr. Naziruddin Ahmad : It is not so very easy. Sir, I have been threatened with being howled down. I am yet to see a Member who can howl me down here—I have yet to see him. I respectfully invite anyone to howl me down. He will find that I do not even require the microphone to be heard in the House in the midst of howlings.

Mr. Deputy Speaker : I request that the challenge need not be accepted on the floor of the House !

Mr. Naziruddin Ahmad : He will not find it safe to challenge me outside the House.

Mr. Tajamul Husain : You did not like us to interrupt and therefore I want your permission first to seek a point of information. The point I want to know from my honourable friend is that today is the 1st of April. Is that the reason why he is taking up the whole day on this Bill ?

Mr. Naziruddin Ahmad : That question should be addressed to the Honourable Law Minister for bringing the motion on the All Fools Day !

Mr. Deputy Speaker : Whether it applies to anyone or not let the honourable Member proceed with his speech.

Mr. Naziruddin Ahmad : Then we come to the next clause of Part II of the original Bill.

Dr. Mono Mohan Das (West Bengal : General): Sir, it appears the honourable Member is not prepared.

Mr. Naziruddin Ahmad : I could not catch the honourable doctor.

Mr. Deputy Speaker : He may go on. I hope he will conclude his speech at least today.

Mr. Naziruddin Ahmad: I do not know.

Mr. Deputy Speaker : I would only say that enough has been said so far on this point about changes of substance. After all it is not the honourable Minister in charge of the Bill who alone need be satisfied. He holds his point of view.

The Honourable Dr. B. R. Ambedkar : The House will decide.

Mr. Deputy Speaker : Yes, the House will decide it ultimately. Therefore the honourable Member need not take further time in driving it home to one individual Member however important he may be. He may try to carry the House with him. As I have already said, enough has been said in regard to the matter of substantial changes. I thought he was going to refer to other matters of substance like marriage, divorce, adoption. I do not think the honourable Minister would be dogmatic and I am sure that though in respect of this he may have strong views he would like to wait and see how far there are arguments on the other side, and he may be convinced. I thought the honourable Member would come to matters of substance. A long time has been spent on this point already.

Mr. Naziruddin Ahmad : I must frankly express my gratefulness to the Law Minister for listening to me so patiently. I submit that I have other points indicating changes which I shall show briefly.

Mr. Deputy Speaker : Leave along the changes. There are changes I may put it this way. I am not letting down a secret and there is no secret from the House as I conceive. When a matter comes before the House after having been referred to Select Committee, the Select Committee might commit a mistake and it is open to the Members to say that it is wrong and the wrong has to be corrected. Except one or two matters as for example what each member said in the Select Committee which ought not to be placed before the House as things are in a fluid condition and it would result in a disturbance and antipathy. I may say this. So far as the Select Committee is concerned any draft may be considered. The draft was of the Ministry here. At the outset it is said in Para. 2 of the Select Committee's report here:

> "The draft Hindu Code, as introduced in the Legislature, did not receive any Departmental scrutiny prior to its introduction, and the Ministry of Law (*which certainly includes the Minister of Law at its head*), which had an opportunity to examine the Bill during the period between the end of the last session of the legislature and the beginning of the present session, have now produced a revised draft....."

The draft was placed before the Select Committee and the ruling of the Speaker is that the original Bill that was sent to the Select Committee, along with the draft—which we will assume is the complete list of all the amendments which the Law Minister wanted to introduce—was all considered by the Select Committee. It is open to the honourable member to say that the Bill and the clauses in it are wrong, that they upset society and that sufficient attention was not paid to the changes that were effected in the Select Committee to the original Bill. I think that would help the House to come to a conclusion regarding either the whole Bill or individual clauses in it on matters of substance. We have already spent a lot of time over this matter. It is necessary that on this matter there may be clarification and I do not think anyone here wants to dogmatise upon a particular matter.

The Honourable Dr. B. R. Ambedkar : I might say openly that I have not an empty mind but I have an open mind.

Mr. Deputy Speaker : That is what we expect.

Mr. Naziruddin Ahmad : I am very grateful to him. Sir I come to another branch of the Bill. I would like to draw the attention of

the House to clause 102 of the Departmental Bill which corresponds to clause 101 of the final Bill. This was introduced for the first time by the Departmental Bill. The Select Committee made some changes, but the Departmental Committee had introduced a serious change. It is provided in the Departmental Bill that if there was a male and a female in the same line, the male shall take double of the female. In the final Bill their shares are made equal. As regards the justice of the final Bill, it does not matter, but I submit this new introduction is a departure.

Mr. Deputy Speaker : Even if there are, say, 100 departures, is it necessary to exhaust all the 100 departures ? Only some ten or fifteen—even these are many—by way of illustration will be enough. He may take a few departures and say that for these reasons the matter should be sent back to the Select Committee or sent round for eliciting public opinion. I thought the honourable Member concluded that portion referring to various items where there is a departure. There are departures and the list which has been circulated contains a list of departures extending over thirteen pages, though it does not state how the departures have been made.

Mr. Naziruddin Ahmad : Departures have not been noted.

Mr. Deputy Speaker : True, they have not been noted in the manner of departures. It is admitted there are departures but only some important items may be taken for the purpose of showing that on account of these departures the Bill should be sent to the Select Committee or to another Select Committee or that it must go round the country for opinion. I think we are taking too much time on this.

Shri B. Das : Sir, I said that all along.

Mr. Naziruddin Ahmad : I can quite appreciate the exasperation of one or two Members.

Shri B. Das : Sir, he is using the same word !

Mr. Naziruddin Ahmad : Sir, I draw attention of the House to clause 103 of the Departmental Bill which corresponds to clause 102.....

Mr. Deputy Speaker : I have already pointed out with reference to this.

Mr. Naziruddin Ahmad : This is an important matter.

Mr. Deputy Speaker : I can only suggest to the honourable Member. I cannot argue for him. I can only say that instances need

not be multiplied. According to him there are a sufficient number of instances, but if he thinks he has forgotten one point which is more important than others then he may point it out.

Mr. Naziruddin Ahmad : Clause 103 of the Departmental Bill corresponding to clause 102 of the final Bill restricts the agnates to five degrees. The change restricts the heirship to five degrees only. In case there are no enumerated heirs, then according to the Hindu Law the property will go to the agnate, but the definition of agnate has been seriously curtailed and reduced to five degrees. In the next clause, clause 104 of the Departmental Bill corresponding to clause 103 of the final Bill, cognates are also similarly restricted to five degrees. This is a serious departure from the conception of the Hindu Law and from the original Bill. Any agnate, however distantly connected, would be an heir in the absence of preferential heirs. With regard to cognates also, in the absence of agnates any cognates, however distantly connected, would be heirs. So, with regard to cognates the change is entirely new. With regard to agnates it is a serious departure from the original clauses. They merely described that in the absence of enumerated heirs they go to agnates, and in the absence of agnates they go to cognates.

Mr. Honourable Dr. B. R. Ambedkar : Cognates or agnates ?

Mr. Naziruddin Ahmad : Cognates.

I submit these are serious changes. According to Dr. Ambedkar these are not serious because he has made the changes.

Shrimati G. Durgabai : Serious and substantial changes !

Mr. Naziruddin Ahmad : Substantial if you like. I think thay are not merely substantial but also serious. *Serious* goes a degree further. In fact, this restricts the right of heirship of certain people.

Mr. Deputy Speaker : Is the honourable Member not closing at five? Enough has been said on this topic.

Mr. Naziruddin Ahmad : No, Sir. Not enough to convince some of the Members. I want to absolutely convince them.

Shri Khurshed Lal : Then you will have to argue till doomsday.

Mr. Deputy Speaker : If he has not been able to convince for five hours now, he will not be able to convince him at the end of another five hours.

Mr. Naziruddin Ahmad : The Honourable the Law Minister has though not a vacant mind, an open mind and he will in the long run be convinced.

An Honourable Member : He will ponder over your speech tonight.

Mr. Naziruddin Ahmad : Clause 10 of the original has been entirely omitted in the Departmental Bill—absolutely forgotten. In fact in the Hindu law, as in the Muslim law, in the absence of enumerated heirs, in the absence of agnates, cognates other unrelated heirs succeed. They are the preceptors, acharyas, *shishyas* and *sahabrahmacharis* and pupils under the same tutor, are the heirs. According to the Departmental Bill, the respect for *acharya,* respect for *sahabrahmachari* and consideration for them is entirely thrown overboard. This again is a serious change. The cumulative weight of these serious changes as well as many numerous others will I hope succeed in ultimately winning over the Minister of Law to my side.

Then we come to clause 109 of the Departmental Bill and 108 of the final Bill. This provision is absolutely new. In that clause some new heirs have been introduced which were not in the original Bill.

With regard to succession to *stridhan,* some changes have been made. And then in Part II, clause 14, where heirs stay together

Mr. Deputy Speaker: If the honourable Member is likely to
5 P. M. conclude soon, we will stay on for a few minutes more.

Mr. Naziruddin Ahmad : No, Sir.

Shrimati G. Durgabai : We will stay on for five minutes more, if the honourable Member will conclude.

Mr. Deputy Speaker : I shall leave it to the speaker.

The House now stands adjourned to 10-45 a.m. tomorrow.

The Assembly then adjourned till a Quarter to Eleven of the Clock Saturday the 2nd April, 1949.

* HINDU CODE—*contd.*

Mr. Speaker : The House will proceed with the further consideration of the motion that the Bill to amend and codify certain branches of the Hindu Law, as reported by the Select Committee, be taken into consideration.

Shri Mahavir Tyagi (U. P. General) : May I know, Sir, till what time we will discuss this Bill, for there is some Government business and so we want to be sure as to how long the consideration of this Bill will take ? Now filibustering is going on at this stage and all the Members are anxious to speak and they may not get any chance to speak for two or three days. I would like to know, Sir, as to how long they are going to discuss this Bill, for the present.

Mr. Speaker : It is difficult for me to say as to how long a particular Bill is going to be discussed. It much more depends upon the Members themselves. All I can say is that excepting perhaps one day, *i.e.* the 4th, I think all the days in the next week are allotted to Government business; and it is a matter for Government to say as to what Bills they want to bring or not to bring before the House and it depends on the priority with which they look upon the different measures.

Shri Mahavir Tyagi : May I through you, Sir, request that the Government might be pleased to take over urgent business first and leave the consideration of this Bill to the end or let us know definitely as to which Bills are to be taken, so that we can come prepared for the next Bills. We are anxious to participate in the discussion of the other Bills.

Pandit Lakshmi Kanta Maitra (West Bengal : General): Sir, the question raised by my honourable friend, Mr. Mahavir Tyagi has really got some importance. I quite appreciate the observation made by you just now that in such a matter the House decides how long a Bill should go on and this necessarily means that when there are a sufficient number of speakers and they want to continue for a sufficiently long time, they may continue. This is what I understand to be meaning of that observation. Of course, I quite see that it is not in the hands of

*C.A. (Leg.) D., Vol. III, Part II, 2nd April 1949, pp. 2246-89.

the Chair to say how many days are going to be allotted. At the same time, I think, the Chair would realize how difficult it is for Members who want really to speak on this motion and debate it fully that they know at least if any more Bills are going to be taken up during this session. I was submitting yesterday at the very beginning when this motion was taken up that most of the members had the impression that this Bill was not going to be taken up again in this session. As a matter of fact when a Bill of this importance and magnitude, was to be brought again for consideration, we expected that sufficient notice would be given to the Members in time. It was not done. The whole importance of my contention arises in this way that if we are to know that this Bill will be discussed and that it will continue only up to day, we can understand, but on the other hand we are given to understand that additional days would be provided in this session, it becomes another matter. Members who want to speak for, or against it, would not be able to come and participate in the discussion. We started yesterday and many honourable Members had already left, for instance, Mr. K. M. Munshi came here to speak on this motion and he went away and there were many members who wanted to speak one way or the other on this important Bill and if the House could get to know through you—it is for you to say—it is possible for you to do so— that some additional days are going to be provided, that will be really helpful; otherwise, we do not know where we stand with regard to this important Bill.

Mr. Speakers : I should like to know if the honourable the Law Minister is in a position to enlighten us.

The Honourable Dr. B. R. Ambedkar (Minister of Law) : The only thing that I can say is that this Bill will be debated. What would be the next stage, I am quite unable to say, because the question of the arrangement of the business of the Government is entrusted to a Committee of the Government, which is called "the Priorities Committee". That Committee have assigned these days to this Bill. This Committee will be meeting in the afternoon and be taking its own decision. I am unable to say anything further than that.

Pandit Lakshmi Kanta Maitra : In view of this, I would submit respectfully to the Chair that the Chair has sufficient inherent powers to see that this procedure is not adopted with regard to this Bill unless sufficient notice is again given, to the honourable Members when this motion comes, it is certainly within your competence to say : "I am

not going to allow this motion to come, because that prejudices the right of honourable Members to participate in this important debate." That the honourable Minister cannot make up his mind, is exactly my grievance from the very beginning about the way in which the consideration of this Bill is taken up from time to time during this session. This itself has been a subject of great adverse comment on my part as well as other honourable members. Even today the honourable the Law Minister is not in a position to say if any other day is going to be or not going to be allotted for this important Bill. If that is so, I hope you will sternly turn down any proposal brought at the end of this week if a motion for consideration of the Bill is brought on a very short notice.

Mr. Speaker : Any way that question is at present hypothetical. Today we are going on with the Bill.

Pandit Mukut Bihari Lal Bhargava (Ajmer Merwara): It is obviously very unfair that the Government are not able to make up their mind even today. On 30th March you were pleased to ask the Leader of the House as to what the position was. A specific question was put by Mr. Maitra as to whether the Hindu Code was going to be taken up or not. No answer to that query was given by the Government Bench with the result that on the 31st, for the first time, we knew that the Bill was going to be taken up. Mr. Chaudhuri who wanted to participate in the debate left for Assam on the presumption that this Bill would not come before the House. It is therefore obviously unfair to the members that it should be brought up in this fashion. The Chair has ample power to protect the rights of Members.

Seth Govind Das (C. P. and Berar : General) : You will remember that on that date the Leader of the House announced that very probably we would be adjourning on the 7th April. I raised the question whether the Hindu Code Bill was going to be taken into consideration in this session or not and you, Sir, said that it was not your business to say anything in that matter and that it was for the Government to arrange their business for the House. Now, at this fag-end of the session, when many members are absent, it is not proper to proceed with a controversial Bill of this nature. I would join with the Members who have just spoken and submit that the protection of the rights and privileges of the Members of this House is your responsibility and you have that right vested in you. Therefore I would request you to say to the Government that at this fag-end of the session and without giving

sufficient notice to Members it is not proper to proceed with this Bill. I would request you at least to adjourn the debate on the consideration stage of the Bill this evening, so that this business may be taken up in the next Session of the Assembly, when we meet in the autumn.

Mr. Speaker : Just at present the question is a hypothetical one, because the Law Minister does not say that he proposes to continue the debate. The question as to when, if at all, the consideration motion is to be discussed further, (*Interruption*) depends, as he said, upon the decision of the priority Committee. I shall try my best to see that all 'equitable and reasonable demands of Members for debate are acceded to as far as it lies in my power in the House. On the question of the arrangement of Government business, I think, it is a bit too much to ask me to interfere. The Government are the best judges of priority of their business. As regards this particular Bill, I do not think anything further need come from them, in view of what is said in the House. I believe they are responsive to the feelings of Members. I do not think we need go any further into this matter. We may proceed with the motion under consideration.

Shri H. V. Kamath (C. P. and Berar : General): May I know from you, Sir, who has the last word on the arrangement of business here ?

Mr. Speaker : So far as Government business is concerned, it is -the Government. I have nothing to do with the arrangement of business so far as priority is concerned.

Seth Govind Das : The ultimate authority rests with you. They can bring any business they want to put before the House. But, after all, the ultimate authority is yourself.

Mr. Speaker : At present, it suits the honourable Members to vest it in me I think that responsibility is too great for me. I am not acquainted with all the details and the needs of the Government administration. I do not think I can interfere with their discretion to adjust their business in matters of this kind. The best way is for honourable Members to let the Government feel the pressure of their opinion. Then the things will be adjusted. All I can do is to see that a reasonable debate takes place. From that point of view I shall certainly do what I can.

Seth Govind Das : We are requesting the Government through you.

Mr. Speaker : There are many other channels for Members to do so.

Shri Arun Chandra Guha (West Bengal : General): We should be informed now as to when the House is going to be adjourned. If

this is not done we would find it difficult to make arrangements for our business.

Mr. Speaker : As regards that; the position was made clear by me the other day. I requested the honourable the Prime Minister to give the information and he said that this may go on for a day or two. It is not possible for him also to say definitely, because there may be some urgent measure which they might wish to put through, without stilling discussion. So, that matter also rests with the Members. But I may say that we are not going to sit beyond the 9th April.

11 A.M

Shri Arun Chandra Guha : In that case, urgent matters may be taken up first.

Mr. Speaker : That is a matter of opinion as to urgency.

Maulana Hasrat Mohani (U.P.: Muslim): To remove this difficulty of Dr. Ambedkar I would make a suggestion. I think that any legislative measure involving social reform should not be made part of official business, I could understand a Bill of this kind involving social reform being introduced by Shrimati durgabai or Shrimati Renuka Ray. To thrust an official Bill of this nature on an unwilling public is absolutely unreasonable. I would therefore invite my honourable friend to take courage in both hands and, realising that discretion is the better part of valour, postpone consideration of this Bill and withdraw the Official Bill leaving it to be sponsored at some future date by an ordinary Member who, in consultation with public opinion, may bring forward measures of this kind involving social reform.

Mr. Speaker : The honourable Member need not further argue the matter. It is enough he has made a suggestion.

Mr. Muhammad Ismail Khan (U. P.: Muslim): As the honourable Minister told the House, the priorty for this Bill has to be determined by the Cabinet Committee. Surely we arc entitled to know from him whether he is going to urge for priority for this Bill or not.

The Honourable Dr. B. R. Ambedkar : I do not wish to add anything, All that I want to say is that the Government has no intention of getting this Bill passed by a snap vote.

Mr. Speaker : Mr. Naziruddin will finish his speech now. I do not wish to impose a time limit on speeches. He has spoken the whole of yesterday and I believe had spoken for 48 minutes on the previous occasion. The time taken in all comes to 3 hours and 28 minutes, to

be more exact. I am not measuring his speech by the length of time taken. What I would like him to do is to take into consideration the fact that the present is a general motion for taking the Bill into consideration. It will not, therefore, be either in order or proper to go into the details of every clause. The honourable Member's argument, as I understood it yesterday, is that there are some substantial changes made in the Bill and that, therefore, the measure has to be considered a new or that public opinion has to be consulted in the matter. For developing that argument he need not go into each and every clause of the Bill and suggest that every change made is a substantial change. He need only point out, by way of illustration, a few instances of really substantial changes made. I think that should be enough for the purpose of his argument at the present stage. When the Bill comes up for discussion clause by clause, he will have every facility to move any amendment he likes.

*** Mr. Naziruddin Ahmad** (West Bengal: Muslim): Sir, I am grateful to you for that suggestion. I dealt with substantial changes yesterday but today I shall confine myself to a few more substantial changes. (*Interruption*).

Mr. Speaker : There is one difficulty that I feel about interruptions. They distract attention from the original point and my hands are weakened in pulling up the speaker and bringing him up to the proper scope of relevancy in debate. If there are no interruptions, therefore, the matter will be shortened.

An Honourable Member : But it becomes very dull.

Mr. Speaker : Of course it gives relief from dullness but too much of it is dangerous for the House. Therefore, let there be no interruptions or side remarks because they sidetrack the issue.

Mr. Naziruddin Ahmad : I shall confine myself, Sir, to a few more substantial changes introduced by the Departmental Draft. I shall turn to part III of the original Bill and draw attention to sub-clause (2) of clause 126 of the Departmental Bill which corresponds to sub-clause (2) of clause 124 of the Final Bill. It is a new sub-clause which introduces a new principle, namely, that any transfer of property would not defeat the right of maintenance paid therefrom. In fact, maintenance has been made a statutory charge on the property. Whether good or bad, it is a new matter which has been introduced not by the Select Committee but by the Departmental Committee.

*C.A.(Leg.)D.,Vol.III, Part II, 2nd April 1949, pp. 2249-76.

Then turning to part III-A of the original Bill which deals with succession, clauses 1 and 2 which are important substantive provisions have been entirely omitted in the Departmental Bill and of course also in the Final Bill. I will not deal with them in detail but leave them for consideration by the Honourable Minister.

Then coming to clause 131 of the Departmental Bill (clause 130 of the final Bill), sub-clause (1) which deals with maintenance is a new matter which introduces a very substantial change. Again clause 133 of the departmental Bill (clause 132 of the final Bill) lays down certain tests; they introduce an innovation of a very substantial nature. Part (b) of sub-clause (2) of this clause is an innovation which corresponds to clause 6(1) of the original Bill, part III-A.

Then parts (g) and (h) of sub-clause (1), part III-A in the original Bill are also important provisions which have been entirely omitted in the Departmental Bill and also in the final Bill. Again parts (g), (h) and (i) of clause 133 (2) of the departmental Bill are very important and are entirely new.

In part III-A the proviso to sub-clause (1) of the clause 6 in the original Bill has been omitted in the Departmental Bill rather unceremoniously. This is omission of a very important matter.

Sub-clause (2) of clause 134 of the Departmental Bill (clause 133 of the final Bill) deals with marriage expenses of an unmarried daughter. This is a new provision which was not in the original Bill.

Then I come to clause 7 of part III-A of the original Bill dealing with the maintenance of a widow residing outside the family house. This has been omitted in the departmental Bill and also in the final Bill.

Therefore in part III-A of the original Bill, there are sins of omission and commission of an important character. I refer to them because I wish to rely not only on the individual changes made but also on the cumulative effect of those changes.

Then I come to part IV of the original Bill dealing with marriage and divorce, corresponding to Part II of the departmental and final Bills. I shall deal only with the salient points. Provisions about marriage have been entirely and radically changed and require some detailed consideration. With regard to sacramental marriage the form of that marriage prevalent in Hindu society is well known. The original Bill left those forms to be applicable according to custom and social

practice. There was no provision in the original Bill for registration of a sacramental marriage as a condition of the validity of the marriage. I shall try to show that the Departmental Bill has introduced such changes. They may be unconscious but the change to me appears to be that no marriage will be valid unless it is registered. Registration has not been made optional as in the case of Muslims, but in this case by the Departmental Bill the optional character of the old formalities have been interfered with and the validity has been made subject to registration; otherwise, as I shall try to show, the marriage would be invalid.

The original Bill, Part IV dealt with this subject. In clause 2 it was laid down that there shall be two forms of Hindu marriage, namely, the sacramental marriage and the civil marriage. Leaving aside the civil marriage, with which I am not at present concerned, "there shall be two forms of Hindu marriage—sacramental marriage and civil marriage". That is what was provided in the original Bill. The forms were left to the well-known custom and well-known requirements of Hindu marriage and provide nothing for registration. The House will be pleased to consider the corresponding provisions in the Departmental Bill. The original Bill merely said that the sacramental form of marriage will be one of the forms of marriage. Details were left to the descretion of the parties.

In Clause 6 of the Departmental Bill which also corresponds to Clause 6 of the final Bill, the following provision is made.

> "Save as otherwise expressly provided herein, no marriage between Hindus shall be recognised as a valid marriage unless it is solemnized either as a sacramental marriage or as a civil marriage in accordance with the provisions of this Part."

The original provision was that marriage might be performed in the sacramental form in the usual religious form well known to Hindu society, but in the departmental Bill it is said that no marriage shall be valid unless it is performed in accordance with this Part.

Let us consider the provisions of this Part. We come at once to another part of the Bill, namely, clause 6 of part IV of the original Bill corresponding to clause 9 of the departmental Bill as well as the final Bill. (*An honourable Member:* 'Please note that Dr. Ambedkar is away.') Clause 9 deals with registration of sacramental marriage. In the original Bill it was stated : "For the purpose of facilitating proof of sacramental marriage, rules may be prescribed for the entering of

particulars relating to such marriages in such manner as may be prescribed in the Hindu Civil Marriage Certificate book kept under section 6 of this Chapter."

Babu Ramnarayan Singh (Bihar : General): On a point of information, may I know who is listening to the debate on behalf of the Government?

Mr. Speaker : There must be someone !

Shri L. Krishnaswami Bharathi (Madras : General): I am taking notes for him.

Mr. Naziruddin Ahmad : The Minister should, in courtsey, be here.

Shri B. L. Sondhi (East Punjab: Genral): The Law Minister is there—just coming.

Mr. Naziruddin Ahmad : The original clause provided for rules made by the Government for the entering of particulars in a register for the purpose of facilitating proof : that is, it left the validity of marriage absolutely intact. It gave additional facility in the matter of proof that particulars of marriages might be registered in the Hindu Civil Marriage Certificate book and this could be provided by rules. This was only to facilitate proof. This was not a compulsory condition, nor any condition affecting the validity of the marriage. All that was laid down was a very usual rule, a very salutary rule, that particulars might be entered in a register and that might be prescribed in the rules. It would be only for the purposes of facilitating proof. It would not affect the validity of the marriage at all. In fact a marriage of which the particulars are not entered in this register would be perfectly valid, but registration would offer, or supply a ready-made method of proof of marriage, and a certified copy of the entry would be taken judicial notice of by a Court of law and much evidence would be dispensed with. But in the corresponding clause in the Departmental Bill, it is like this :

> "For the purpose of facilitating the proof of any sacramental marriage, the Provincial Government may by rules provide *(and here the sting comes at the tail)*—
>
> (a) That particulars relating to such marriages shall be entered in the Hindu Marriage Certificate book....."

In fact the compulsion is not yet complete, but only begins here.

Then, Sir, we come to clause (b) of the Departmental Bill. Subclause (3) of clause 6 of the original Bill says :

> "The making of such an entry shall not be compulsory."

I shall ask you, Sir, to consider the corresponding language of the Departmental Bill. The original Bill—I shall repeat with your permission—is

"That the making of such an entry shall not be compulsory."

Shri Mahavir Tyagi : Does it mean that the married parties will go to the Registrar's House?

Mr. Naziruddin Ahmad : According to the original Bill, the making of such entries is not compulsory. That is absolutely clear. But let us consider the corresponding provision of the departmental Bill:

"The making of such entries shall be compulsory."

Shri Jaspat Roy Kapoor (U. P.: General): In which place ?

Mr. Naziruddin Ahmad : I shall come to that later on. "Which place" is also mentioned. It is at very inconvenient places !

So the original law was that by rule particulars of marriages might be entered in a book for the purpose of facilitating proof, "but the entry shall not be compulsory". But in the revised clause in the departmental Bill, the particulars shall be entered and the making of the entries shall be compulsory in such cases.

And then, what is more, there is sub-clause (2) and clause 9 of the departmental Bill which reads :

"In making the rules under sub-section 1, the Provincial Government may provide that a contravention thereof shall be punishable with fine which may extend to Rs. 100"

The position is a little vague as to whether the compulsory character attaches to the registering officer or is addressed to the party. But more of this later on.

Shri Mahavir Tyagi : Which clause are you referring to ?

Mr. Naziruddin Ahmad : Clause 9(2) of the Departmental Bill as well as to clause 9(2)of the final Bill. In fact it gives authority to the Provincial Government to impose a fine for not complying with it or even a vague suspicion that parties who fail to register or have them entered, will also come within the mischief of this provision. But the matter has not been left in doubt and it is clear later on.

Mr. Speaker : The validity of the marriage is not affected, in which case, where is the substantial change? It is only a matter of detail which, it would be as well for the honourable member to speak on, when we come to clause by clause consideration of the Bill.

Shri Mahavir Tyagi : It is a matter of importance, Sir. In that case it is a great change. The parties will have to be directed to the house of the Registrar instead of the House of the father-in-law.

Mr. Speaker : The scope of the present discussion is with reference to changes in the substantive law as proposed by the Rao Committee and as adopted by the Select Committee. A minor detail of registration is made compulsory. So far as validity of the marriage is concerned, it is not affected at all. I do not want any discussion on that. I do not say as to whether the change is desirable or not but for present purposes a discussion on that would be outside the scope.

Mr. Naziruddin Ahmad : I would like to refer to one or two sentences in that connection as well as on the final Bill. Clause 138—

Power to make rules—(2) sub-clause (ii) reads:

> "The cases and areas in which particulars of sacramental marriages shall be compulsorily entered, and the punishment for any contravention thereof,"

This provides for compulsory registration, I am coming to the question how it affects the marriage. (*An honourable Member :* 'It is in the discretion of the provincial government') It is in the discretion of the Provincial Government no doubt. But the Government is given a new power which it may enforce.

I come back again to clause 6 of the departmental Bill. It also corresponds to clause 6 of the final Bill.

> "No marriage between Hindus shall be recognised as valid unless it is solemnised either as a sacramental marriage or as a civil marriage in accordance with the provisions of this Part."

According to the clause in the original Bill these formalities were not required. The "provisions of this part" in the departmental Bill require compulsory rgistration of the marriage. In fact sacramental marriage and civil marriage are brought on a par with each other. In civil marriage of course registration is compulsory. The combined effect of the change of phraseology in clause 6 of the departmental Bill as well as the compulsory requirement of registration would make it appear that a marriage which is not registered—of which particulars are not entered which is made compulsory under this clause—would be an invalid marriage. No marriage shall be valid unless it is done in accordance with this Part.

Shri L. Krishnaswami Bharathi : Where is it ?

Mr. Naziruddin Ahmad : That is my interpretation which is submitted for the consideration of the House. In fact it may be farthest

from the mind of the honourable Law minister to effect this result. He made it quite clear in his speech that the provisions relating to marriage are not compulsory but rather optional. It may be that the effect was unintended. But whether intended or not, the effect is the same. No marriage shall be valid unless it is performed in accordance with this Part, which also carries the liability of a fine for an omission. However reluctant the house or even the author of the Bill may be to put this interpretation, it is yet a question of interpretation and it is not a question of sentiment. The point is whether this interpretation is valid. If that is so, it introduces a very important change. To provide, though indirectly that a marriage would be invalid unless it is registered would be a dangerous proposition and it would lead to wholesale breaches of the law. The registering officer may live miles away from parties living in inaccessible regions, and at this stage of the civilisation of our country, especially for the backward people, this provision would be absolutely tyrranical and meaningless.

Shri L. Krishnaswami Bharathi : If you would permit me,

Sir .....

Mr. Speaker : Let there be no discussion on the merits of the argument.

Shri L. Krishnaswami Bharathi : Only for the purpose of clarification that I rise.

Mr. Speaker : If we enter into clarification and further discussion, it would be an unending speech. The point is that the honourable Member is putting his interpretation. I have drawn his attention to the fact that, it does not affect the validity of the marriage. If he wants still to persist in that line of argument, let him do so. That will cut short the speech.

Shri L. Krishnaswami Bharathi : If you would permit me, Sir, there is only one point which he may clarify. The clause begins with the words "For the purpose of facilitating the proof of any sacramental marriage ....."

Mr. Speaker : That point is quite clear to my mind. I put it to him though not in that form. I pointed out to him that this does not affect the validity of the marriage at all. Still he thinks it does. How can we go on convincing him ? Let him proceed now. That would be the shortest way of having his say before us. Otherwise we shall have to discuss with him every provision in respect of which, he is giving his inferences. When honourable members are hearing his speech in

silence, it does not mean that they are accepting his interpretation. He may proceed to the next point now.

Mr. Naziruddin Ahmad : I come to clause 8 of the departmental Bill.

Mr. Speaker : It would be better if the honourable member gives references to the final Bill as it is before the House and then point out the change. Otherwise I cannot follow. He is referring to three or four Bills.

Mr. Naziruddin Ahmad : I have been starting from the original Bill. Of course it is clause 8 in the final Bill also. In clause 4 of Part IV of the original Bill it is said:

> "A sacramental marriage may be solemnised in accordance with the customary rites and ceremonies of either party thereto."

In the revised draft clause 8, sub-clause (1) says :

> "A sacramental marriage shall not be complete and binding on the parties unless it is solemnised in accordance with such customary rites and ceremonies of either party thereto as are essential for such marriage."

Sir, I do not think it is a point of argument—this is by mistake. But the point which I wish to submit is that I do not insist on this interpretation as a necessary logical consequence but I believe it is introduced unconsciously and there is a certain amount of doubt as to the validity of the marriages. I know that the feeling of every lawyer, judge and statesman would be against the invalidity of the marriage on this ground of registration. But that is political; the approach should be entirely legal and constitutional. What is the interpretation ? If you do not perform your marriage in accordance with these new provisions the marriage will be invalid. It follows therefore, whether we agree with the justice of the provision or not, it follows to my humble mind that unless the particulars of the marriage arc entered in the register the marriage itself would be invalid. I submit that for the consideration of the House.

I have already referred to the provisions in regard to the making of the entries, that the making of the entries shall be compulsory.

Mr. Speaker : That he has said; he need not repeat it.

Mr. Naziruddin Ahmad : Is it compulsory for the parties or for the registering officer ?

Mr. Speaker : That is a matter of detail into which we need not go at present.

Mr. Naziruddin Ahmad : All right, Sir. *(Interruption).*

Mr. Speaker : Let there be no asides.

Mr. Naziruddin Ahmad : But, Sir, I have a quick ear and this is not conducive to good debate. My learned friend who is an experienced parliamentarian should not try to discourage speeches. He should forget that he was addressing the old Council when the British were there. He should remember that he now belongs to a party which is ruling and I belong to no party at all but am an individual who is opposing.

Mr. Speaker : Let us not carry on this discussion.

Shri B. Das (Orissa : General): Do you want us to keep our mouths shut ?

Mr. Speaker : Mr. Das. The remedy is open. We can afford to be deaf on such occasions and proceed further. I also hear many whispers when the debate is going on, but I do not take any notice of them.

Mr. Naziruddin Ahmad : Sir, you are in a more fortunate position.

Mr. Speaker : Let us now proceed. What is the next substantial point ?

Mr. Naziruddin Ahmad : I now come to another part—Part V of the original Bill relating to Minority and Guardianship. Clause 3 thereof has been entirely omitted in the final and departmental Bill. I need not go into the details of the clause, but this is a substantial clause which has been omitted. That is introducing a serious change. There are other unimportant changes and I will not deal with them.

I now come to the Part relating to Adoption, that is Part VI of the original Bill. Clauses 1 and 2 thereof have been omitted. In departmental Bill clause 55—also clause 55(1) of the final Bill—there is a sub-clause (3) which is new. Then again in Part VI of the original Bill sub-clause (1) of clause 19 is omitted. A new clause has been introduced with entirely different conditions. In departmental Bill clause No. 68, which also corresponds to clause 68 of the final Bill, sub-clause (1) is a new clause. And the Proviso to this sub-clause of clause 68 of both the Bills is also new. Then again sub-clause (3) of clause 19 of the original Bill with two conditions is entirely ommitted in the final Bill. Sub-clause (5) of this clause again has been omitted. So also clause 21 of the original Bill—Part VI—has been omitted. Then again clause 25 of the original Bill in Part VI. with two sub-clauses and two other parts, is entirely omitted.

I submit that these are most important changes made by the Departmental Bill. Although it is clear that some honourable Members of the Select Committee realise that there were substantial changes introduced in the departmental Bill that may have been a later realisation in view of the guarantee that no substantial changes have been made. In fact their attention may not have been specifically drawn to it and there is a danger that all these details may not have been fully considered by them. That would not have happened if they had confined their attention to the original Bill and proceeded clause by clause or if they had sat first and given a direction to the Department to prepare.

Mr. Speaker : The honourable Member is again covering the same ground; he has covered it yesterday.

Mr. Naziruddin Ahmad : Sir, I do not wish to repeat the grounds. In these circumstances I submit that the simple point is that this is a very substantial matter which has prejudiced the fair and full consideration of the Bill by the Select Committee.

I do not wish to cast any aspersion on the Members of the Select Committee, but without a proper comparison of the clause it would be extremely difficult for the Members of the Select Committee to follow all the changes.

We then come to the other matters in connection with this Bill. The question of inheritence is agitating the mind of the country for a long time. The position of the daughter is the most contentious provision of the Bill that I can think of. In fact, I was asked why it was that I was refusing to my Hindu sisters what I have given to my Muslim sisters. The reply is very simple. Under the Muslim Law, the daughter has been given a share. We are not permitted to question the wisdom of that Law; that Law has got to be taken along with various other circumstances, historical, social and others which justify that. There is a kind of justice which has been tolerated and accepted by the Muslim society for 1350 years. But our Hindu sisters have tolerated their lot for about three to four thousand years under a different system. A comparison between the two systems so far as the daughter's position is concerned, would not be quite relevant. In fact, the two systems of law approach the matter from different points of view and they depend upon different historical accidents. Under the Muslim Law, the system of inheritance was taken from the old Arabian customs. It arose out of obvious and inevitable circumstances. In Arabia there were no

immovable properties, all was desert, and the properties consisted of movable. When a man died .....

Mr. Tajamul Husain (Bihar: Muslim): On a point of information, may I ask this. The honourable Member says that in Arabia there was no immoveable property. What about the houses ?

Mr. Naziruddin Ahmad : The question is needless. I will ask the honourable member to read a very learned book of Von. Kremer, a German authority, on "The Orient Under the Caliphs". That book will give the desired information. There is a translation of it by the Late Mr. Khuda Baksh. It is the only book on the subject. It has dealt the entire subject from a specialist's point of view. I will humbly ask my honourable friend to read that book for further elucidation, but I am not concerned with giving the entire details of it in the House because that is not quite relevant.

I was submitting that my learned friend's question as to there being absence of immovable properly does not really arise. Arabia consisted, certainly, of immovable property also but most people had no immovable property. (*Interruption*). No further interruption. I have been asked by the honourable the Speaker not to mind interruptions but it is difficult to close one's ears to what is happening.

An Honourable Member : Close your mouth.

Mr. Naziruddin Ahmad : I shall as soon as I feel satisfied that I have discharged my duty and as soon as I feel that the majority do not want to hear me. I shall certainly do it.

Sir, in that book the whole history has been given. When a man died. He left a bedstead or some clothing or a horse or camel and things of that sort, and according to old Arabian customs they were divided among the near relatives. No trouble arose. The Qoran does not give any specific share to each individual. The present system of inheritence is a growth of the old Arab custom and amended and changed by Muslim doctors, especially by that great authority on Muslim Law, Abu Hanifa and others. I need not go into that. All that I was concerned in saying was that the Muslim approach is a matter of history. Whether good or bad is not to the point, and the fact that I oppose the share of the Hindu daughter is not because I am unwilling to give my Hindu sisters what I would give to my Muslim sisters. If what is good to a Muslim depends upon ancient customs and sentiments what is good to a Hindu should also depend upon the ancient customs and sentiments of the Hindus. When the Arabs conquered the areas surrounding the

Mediterranean difficulties arose because they acquired immovable property. It is a matter of history that they felt the difficulty of a large number of shareholders inheriting the property leading thus to disruption. Then it was that the system of *wakf*, which we now find today, was thought of. Some passages in the Holi Book were developed by Muslim divines and they tried to develop the law of *wakf* That was now they wanted to counteract the evil effect of division. In India the law of *wakf* was further developed by Indian courts and especially by the Privy Council and this to a large extent thwarted the application of the *wakf* law in domestic purposes. It is well-known that Mr. Jinnah, in 1913, brought a Bill in the House and got an Act passed—the *wakf* Act—which recognised the validity of certain *wakfs* which were regular in practice among the Muslims. This was an attempt to counteract the evil effect of infinitesimal divisions. The Muslim approach to the division of property is entirely different. The outlook of a Muslim is individualistic. In fact, the infinitesimal division induces in them separatist tendencies. Brothers do not live in the joint family for long; they quickly divide. We have seen a separatist tendency on a large scale in recent Indian history. So, the approach of a Muslim is individualistic whereas the approach of a Hindu is from the family point of view. The Hindu lives in a family. There the unit is the family and they approach the women's rights from the point of view of a family. The Muslim approach is different. In fact women in a Hindu family are not unequal to men, the question of inequality as has been pointed out does not really arise; they are equal to men in every way but each has a recognised part in the economy of the Hindu family. That is the way of approach of the question. Although I do not question the authority of this House to legislate on any matter, I question only the propriety of this House entering into this legislation without discussing and going into details of the system under which the Hindu civilisation has lived. The position of a Hindu widow should be considered from that angle and if on adequate consideration it appears that the system is rotten, it is for the Hindu society to change it. It is not for me to change it. It is up to me only to point out certain things which come to my mind as a member of the Legislature; it is not my vote that will carry; the vote of the majority will carry. I have a duty to submit certain points as they appear to me. I submit therefore that the Hindu law is not unjust to the female. It has done full justice to the female considering her as a part of the family system where she has a part

to play. In fact, in this legislature we have different parts to play. There is no question of inequality or discrimination. We have all parts to play. In these circumstances I submit that the position of the Hindu women has to be considered from this point of view. The division amongst Muslims has gone too far. How the share of a daughter leads to disruption of the family is worthy of consideration. As soon as a man dies, leaving sons and daughters, the daughters at once inherit their shares. They are married and in a majority of cases they are transported to different families. In fact, inter-marriage in Muslim Law is a *device* to counteract infinitesimal division. There is again a provision that in case person having a share transfers the property to an outsider, the original co-sharers have been given the right to re-purchase the share on payment of the price. But as every lawyer knows, a suit for presumption is hedged in with so many legal difficulties that it hardly succeeds. The *Wakf* is another attempt to counteract this tendency. The share to a Muslim daughter has not conduced to the solidarity of the family property.

Mr. Tajamul Husain : I do not wish to interrupt, but as it is a case of Muslim Law, I am interested in it. I want to know from my honourable friend whether he does not approve of the inheritance as enunciated under Muslim law ?

Mr. Naziruddin Ahmad : I should submit that the question does not arise.

Mr. Tajamul Husain : It is for the Speaker to say whether it arises or not.

Mr. Naziruddin Ahmad : Even then, I shall not be drawn into a controversy over this. How the Muslim family deteriorates and desintegrates, is a matter of long experience to us, as also I believe to many lawyers like yourself. When a daughter is married, for some time family amity keeps them together, but a time comes when the daughter comes to her father's house and a misunderstanding arises between the daughter and the brother's wife. Women differ on more unsubstantial matters than men. They being more sensitive differ.

Shri Mahavir Tyagi : You are casting aspersions on women.

Mr. Naziruddin Ahmad : It is not casting aspersions. It is analysing their character. The sentimental nature of women makes them more attractive, more interesting and more loving. If women were as hard-hearted, as strong, as rugged, as we are, life would have been

impossible. In fact, it is the beauty of feminine nature that they are so different from men. It is the union of two distinct types that makes life bearable and happy. So it is not by way of disparagement that I was making this remark.

When the daughter gets offended with her sister-in-law, she goes back to her husband and says "I want my share." Then the trouble begins sooner or later. It has happened in every home. The sister's husband comes to his brother-in-law and demands a share and it is refused and then he wants to sell the share to the brother. The brother of course would not be willing or able to pay the full price demanded, so this man goes to another man in the village and sells the property for a small cash and a promise of more after the trouble is over. Then some physical demonstration of new right begins. A criminal or civil case follows. From ordinary injury to murder, from registration proceedings to partition proceedings and so on. Lawyers will be thankful if this Bill is passed, because it will give them a considerable amount of business. Litigation begins and does not end in five or ten or twenty years. Litigation after litigation follows in bewildering succession and the whole village is rent with party factions. If there are only several brothers, they can live together and manage the properties together, although their wives may quarrel with each other. Brothers hardly quarrel. In this way the Hindu joint family system goes on. There is nothing inherently different between a Muslim family and Hindu family except in this. Muslims have been habituated to think of partition and individualistic life. The Hindu is habituated to joint and corporate life. Probably, very few of my esteemed Hindu friends can visualise the real difficulty that would arise out of the daughter's share. In fact, it is never a gain to the daughter. There is a corresponding loss to counterbalance the gain. Suppose out of a litigation and a share a daughter is enriched to that extent. She goes to her husband's house and has her own sons and daughters. All that she takes from her brother, her daughter will take from her sons. Instead of considering the women individually and separately, if we consider her as part of family life, then the gain is not counterbalanced by the loss. I submit that the daughter's share will introduce endless complications and litigation, quarrel and misunderstanding and what not. In fact, it is my unhappy experience that no prosperous Muslim family has lasted for three generations. This and other things make them paupers. The point is not whether the system is good or bad.

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Muslims have accepted it as part of their religion and will accept it so long as the majority do not think it is bad. So far as Hindus are concerned they have accepted their system and unless the majority are convinced that that system under which they have been thriving and been made so prominent, a system which has outlived many ravages of foreign invasions, unless they are convinced that that system is bad, there should be no interference. My point is that comparison between the Hindu sister and Muslim sister would be extremely dangerous, because their positions are not analogous and actually there are differentiating elements which arise from different histories, considerations and environments. Therefore, there is no simple analogy between the position of the Hindu sister and the Muslim sister. I think the effect of a daughter's share must be considered dispassionately in all conceivable aspects. It is not a net gain to the daughter herself. It leads to fragmentation. I would not have referred to this in detail but for the fact that on 9th April when the Bill was sent to Select Committee, I referred to this mischievous tendency and Mrs. Hansa Mehta expressed surprise that the daughter's share would lead to litigation or fragmentation of property. It is due to the fact that perhaps the mischief which we have experienced has fortunately not been experienced in the Hindu society. It is for this reason that there was a possibility of misunderstanding, and that is why I have referred to this matter. I submit, Sir, that the position of the daughter must be considered in the context of Hindu ideas and of Hindu families. Every one is affectionately disposed towards her. She is well married, and at the time of marriage various gifts are made, there is the dowry and besides that large properties too are sometimes given. And she is a welcome guest in her father's house. But if you give her a share, then the relations between the brothers and sisters will no longer be one of affection, but it will turn into one of business, one of hostile and clashing interests. In fact, love will be extinct, if the daughters' shares are allowed to penetrate the folds of Hindu society. Sir, these are some considerations which I believe should be considered dispassionately.

Shri Mahavir Tyagi : What is your experience ?

Mr. Speaker : Order, order.

Mr. Naziruddin Ahmad : My experience is that we have become impoverished. If Hindu society thinks that impoverishment is a virtue they are welcome to accept the system. After all we hear talks of

introducing a classless society of absolute equality. It will be the equality of poverty and indigence. But I do not complain of my system. And after all, this is not the place to discuss it. I only submit here that the whole subject must be considered deliberately by Hindu society and not merely viewed in the light of equality of brother and sister. That is too much of a slogan. We as serious legislators in this House should not be taken in by slogans. Here I have only given a slight hint on some of the aspects. There are many other matters but it is impossible for me to deal with all aspects. It may be that I have over-emphasised certain minor aspects, and left out others. But these are only a few observations which may make people think and not rush on, so far as the daughters are concerned.

And now comes the question of equality. Is not the women sometimes superior to man in certain aspects ? I believe that she is in many spheres superior. She is the mistress of the house. She is the mistress of her husband's soul, his purse, his property, his inclinations, his whims, every thing is controlled by her. I submit, therefore, that the women should not consider herself as ignored, merely because she is not being given a share. In fact, her position is unassailable in the family. What woman is there who is not respected and loved in the family ? Does she require anything personal ? Does she require anything herself, apart from the welfare of her husband, of his brothers and of her children and the children of her brothers? That is the Hindu system. Whether it is good or bad, it is not for me to discuss.

An Honourable Member : Quite right.

Mr. Naziruddin Ahmad : It is for the Hindu community. It is for that community to say whether the system which has lasted for over four thousand years.....

Babu Ramnarayan Singh : More than that.

Mr. Naziruddin Ahmad : It is for them to say whether it is really so rotten and so rickety—to quote Dr. Ambedkar—that it requires overhauling, that it requires breaking up and resetting, in fact whether a problem akin to that Relief and Rehabilitation has arisen in Hindu society. I feel that it is nothing of that sort. The problem is merely an intellectual upheavel. It is an abstraction of legal theory. It is an unnecessarily fine question of equality that is at the root of this division, of all this discussion and so much hostility. The whole thing is a simple affairs. Are you satisfied with your family system ? Does it give you satisfaction ? Has that system saved you from the ravages of time?

Dr. Mono Mohan Das (West Bengal : General): And that has increased the number of Muslims in the country.

Mr. Speaker : Order, order.

The subject before us is not the structure of society. We are discussing only certain provisions in the Hindu Code. So let us not go into too many details or go on to other questions. Otherwise I will have to ask the honourable Member to discontinue.

Mr. Naziruddin Ahmad : If you allow shares, to the daughter, there will be wholesale evasions, and lots of cases relating to wills will come up. When the father dies, there will be wills. In fact, it will lead to lots of litigation. The sons will try to retain the property in their own hands and it may be that the dying father may be prevailed upon to execute a will under duress, or wills may be manufactured. Such things do happen. In fact, these are certain matters which have got to be considered.

Sir, then there is the general aspect of inheritance. In fact, this is a matter which should be carefully considered.

Then, I come to another part of the Bill, namely, marriage. In fact, with regard to monogamy. I submit that monogamy is good in theory, and good in practice also. And I also believe that numerous people would not have two wives. One is costly and troublesome enough. In fact, two wives would be a rarity. It is a rarity. I do not find two wives very common. It is extremely rare. It is only confined to very exceptional cases. Exigencies of political or economic conditions make it impossible for any one to marry two wives. But the point is whether we should try to introduce monogamy by legislation or by public opinion. There may be a tendency on the part of some men to marry two wives, not for the sake of caprice, but lor the sake of having a son. According to the Hindus, a son is needed to save the father from a certain Naraka, called *puth*. A person who saves you from *Puth* is called 'Puthra', the son. Otherwise the man goes to a certain hell called *puth*. It is a religious necessity according to the Hindus to have a son and to have a son means that if the wife is barren, he tries to marry another. It has happened within my experience, and it may be within the experience of many others that a second marriage of the husband has been brought about because the first wife is barren. I have seen very happy families, where the senior wife without a child actually induced or compelled the husband to marry a second wife, and the senior wife considered herself absolutely

happy with the family. A similar belief in at a son is desirable is also prevalent amongst the Indian Muslims in Bengal.

Mr. Tajamul Husain : I want to put a question for my information and for the information of other honourable Members. I understand that a Hindu father must have a son for his own salvation. Does a Hindu mother also require a son for her salvation ? If she does, she should have the right of polyandry.

Mr. Speaker : We may have a fund of information outside the House. In the House, let us continue ourselves to the Hindu Code.

Mr. Naziruddin Ahmad : I submit, therefore that polygamy is not as dangerous as it is supposed to be in point of view of abstract logic and abstract legislation. It has got to be considered in a particular context. If there is a desire on the part of a Hindu husband to have a child and for that purpose to marry again, and if he cannot do so for the existence of the first wife it may lead to divorce proceedings. The provision of monogamy and the prevention of a second wife during the lifetime of the first wife or during the existence of the marriage with the first wife may lead to divorces. We must not think it to be fanciful. In fact this has happened even in European countries in our history. Napoleon Bonaparte married a loving wife, Josephine. He had no children and Napoleon wanted a heir to the throne of the vast empire which he created by his own genius and what did he do ? He divorced the first wife, although his love for her was intense, but the desire for a son and the perpetuation of the family got the better of him and he married a Princess and he thought by that princely alliance with the Princess of Austria he would consolidate his power for ever and he would be happy with both. This is a historical example.

The Honourable Dr. B. R. Ambedkar : What happened to Napoleon ?

Mr. Naziruddin Ahmad : He died in St. Helena—an unhappy man.

The Honourable Dr. B. R. Ambedkar : If he had not desired the founding of an empire, he would have lived otherwise.

Mr. Naziruddin Ahmad : Sir, This is an example from history. If a Hindu is prevented from marrying for the purpose of a son, if he thinks that a son is necessary, and if he believes his wife would not give him the son, then he would think of some evasion. He will in many cases enter into a morganatic marriage. Can you prevent a man from entering into a morganatic marriage or to commit a technical

crime in the full religious belief that what he is doing is just and proper according to his own conscience ? This would be interfering with sentiments of a people deeply immersed in religious thoughts and religious beliefs. In these exceptional cases therefore the matter should not be dealt with by legislation, but rather on public opinion. Polygamy is dwindling from within and the process must not be artifically hastened in order to create evasions. Absolute prohibition of polygamy is a defect and a practical difficulty in the way of the Bill. If a man requires a second wife, what prevents him from crossing over to Pakistan ? (*Shri Mahavir Tyagi:* What about a second husband ?) The second husband is also prevalent in some places. Mr. Tyagi is well aware of this. Polygamy would be prohibited in India and you will refuse to recognise it, but the man must have a son and what prevents him from bringing the married wife—the second wife married in Pakistan—to his house and it may be that the first wife may be consenting. Would you then pass a law which is against deep-rooted sentiments and beliefs of the Hindus. There are serious matters to be considered. This is hardly a subject for drastic legislation going against the very principles, the fundamental ideas of the Hindus. The matter should be very carefully considered before we should indulge in a drastic law of this kind and then there is the provision of a penalty, legal punishment in case of a second marriage. I submit that we should not pass a law which would not be popular with our masses, which would inevitably lead to violations and evasions. We know the fate of the Sarda Act. The first effect of the Sarda Act was that many millions of infantile marriages were performed before the law would come into force. The first effect was to bring about the very mischief which it was the purpose of the law to prevent and then what is the story today. Supposing a man has a marriageable daughter, not up to the age standardized by the Sarda Act and suppose a suitable bridegroom is available, can you morally blame the father or the guardian if he contracts the marriage for the minor daughter ? Would it be merely indefensible simply because it may offend against the theoretic legal sense or the political sense of the man ? Current practices should not be made impossible all at once by law. Old practices are in consonance with the faiths and inclinations of the people. The sarda Act has largely failed and public opinion is so strong in this respect that there is hardly any prosecution against the alleged violation of the Sarda Act today. In fact legislation had been imposed by way of

amendment and there are some difficulties in the way of a complainant. The first difficulty is that he must deposit the costs, which will be forfeited in case he loses his case and other additional difficulties are put in the way. What has happened ? Infantile marriages are still prevalent. Nobody supports infantile marriages, but it could not be stopped by criminal prosecutions or by force, unless it is supported and backed by popular sentiment. Amongst the upper educated classes infantile marriage is practically out of the question, but just look at the poor people. If unmarried girls of the poorer classes, not coming up to the marriageable age are to be left unmarried without the care and protection of a husband, it would not be a very safe thing to allow and it may be that many abuses and difficulties will arise if such girls are left without the protection of a husband. The result would be that if she is forced to wait till she attains the statutory age, a husband would not be readily available and she cannot be married readily, and this will lead to all sorts of abuses. I submit, Sir, that remembering the fate of the Sarda Act, we should also consider the idea of compulsory monogamy under all circumstances in all its rigour and without any reasonable exceptions. I think, Sir, the matter is one of serious practical consideration and not a matter of theories and slogans. I now come to the question of divorce. Divorce is not a panacea for all family unhappiness. There is hardly a man who does not have misunderstandings with his wife and there is hardly a family which does not suffer on this score. Life would be unbearable if the relation between husband and wife was all happiness. Such happiness would be no happiness. Unless happiness is punctuated by moments of unhappiness and quarrel, it will be no happiness. In fact it is these misunderstandings which are followed by re-union—*virah* and *milan* in our society—that conduces to happiness. So, misunderstandings are some times necessary. I am addressing these remarks to all experienced men. Only lunatic would be happy all his life. If he is intelligent and has a personality there will be differences of opinion, but in the long run, the wife will prevail. Therefore if you leave the couple to live together for a time, misunderstandings will be blown away as the autumn clouds. I submit therefore that we should not hastily provide for divorce.

Now, the analogy of the Muslim custom is brought in. "A Muslim can divorce his wife, so, why should not the Hindu have the same right ? A Christian can divorce his wife; why should not the Hindu

do so to ?" I may point out that the three systems are entirely different and differ radically in these matters. A Muslim is not free to divorce his wife for practical reasons. He has unrestricted right to divorce, but he has to find the necessary dower money which is usually far beyond his means, because even if it is worth only Rs. 10,000 his dower would be something like Rs. 50,000 or a lakh. It is expressly provided in the Muslim Marriage Law that dower is a check on the Muslim husband's unrestricted right of divorce. So there is a very effective practical check on every Muslim husband, however, dissatisfied he may be with his wife, against divorcing his wife. In fact this is considered to be a sufficiently deterrent condition to prevent many bold husbands from attempting a divorce. If a Hindu husband is dissatisfied with his 'wife, we should allow some time for the dissatisfaction to blow away. If you widen the door and make divorce easy, the result will be the parties will rush to Court and benefit the very lawyers who are anathema to a section of the House. Those who have experience of divorce proceedings in Court know what sordid details are narrated there. They are such as should not be heard by any decent man. Adultery is to be proved to the letter otherwise divorce will not be allowed. The unhappiness is so complete in divorced families that divorce is not a panacea for family unhappiness. If the Hindu wife or husband is given the right to rush to court, the effect will be that temporary misunderstandings which may be healed by lapse of time will result in lifelong unhappiness. In attempting to remedy existing problems you will only create many new problems.

[*At this stage Mr. Speaker vacated the Chair, which was then occupied by Mr. Deputy Speaker (Shri M. Ananthasayanam Ayyangar).*]

If resort to Court is provided what will happen is that, the male will take advantage of this provision more than the female. It is sheer nonsense to suggest that an aggrieved woman would get relief in divorce proceedings, as it is very likely that she will be the victim herself. The husband will more often go to Court alleging this and that wrong mentioned in the Bill and get an *ex-parte* divorce. Those who know our society can imagine what possibility is there for a woman to go to Court and disprove the allegations made against her. Who will defend the case of a woman whom the husband wishes want only to discard? It is the man who will more often rush to Court. Then again, the tendency to rush to Court will be accentuated if the wife is barren and there is a desire to have a son by another marriage. Now,

supposing a man gets divorce against his wife, what will happen to the woman ? Where would she go ? After being divorced, she would be without a husband, and without moral and physical means of livelihood ? Who would befriend that woman ? The sponsors of the Bill ? I do not think they will come forward. Would she go to her brother ? No. Has she not antagonised the brother by taking a share of the family property for the benefit of the husband who has discarded her? The result will be that her father's relations will be entirely apathetic to her sorrows. Then how will she maintain herself?

The Honourable Dr. B. R. Ambedkar : She will marry Naziruddin Ahmad.

Mr. Naziruddin Ahmad : I do not think, Sir, that any divorced woman, with any sense of taste in her, would select me. I think the honourable Minister would be a better selection.

Mr. Deputy Speaker : God forbid that any such thing should happen. Let us not make personal references.

Mr. Naziruddin Ahmad : It was not meant to be heard seriously by the Chair.

Mr. Deputy Speaker : But I am serious. The honourable Member invited that remark by the Honourable Minister when he asked : 'Where is that woman to go' ?

The Honourable Dr. B. R. Ambedkar : As he was expressing so much commiseration, I suggested that for the benefit of his own mind.

Mr. Naziruddin Ahmad : I did not resent it. I fully enjoyed the joke. But jokes apart, I ask seriously and again, where she is to go ? Take the case of a divorced European woman. She has resources. She is educated. She can get a job. She can be a shorthand-typist. She can get a job in one of our Embassies and can get a free lift in a plane and a pay as well as allowances. Such women are absolutely free. They can make friends with strangers. They are trained and accustomed to rely on themselves.

So a civilised European woman can stand on *her* own legs and her position is different from that of our women, not the advanced fashionable ones but poor unfriended woman discarded by the husband and fathers' relations. It is not easy, as the Law Minister jocosely said, for a divorced woman to get a husband; even if she is willing a suitable husband is not to be readily available. So her position would be extremely difficult and such women would be the worst victims of the

system of divorce. Then allegations in Court would be too serious to be thought of. Proceedings in Court in such cases are sordid in the extreme and it would be impossible for us, in the present state of our society, to allow the husband and wife to rush to Court.

Then there is another aspect. There are among tribal and other people a kind of customary divorce which involves very simple formalities. They get divorced very cheaply and expeditiously but if they are forced to go to Court it will mean that they could not do it for financial and other reasons and divorce, which they can get easily according to their own custom, will be forbidden to them. You want to complicate matters when you want to achieve uniformity. The law may be the theoretically uniform but it will work hard against the poorer people. In the name of easy divorce people will rush to Court when time would have effected a reconciliation; domestic happiness will be shattered and the parties and society will then repent for ever. To impose this artificial law upon the simple ways of living of these poor people would be very hard; it will make things costly; every decree would have to be supported by a decision of the High Court and it would be a costly affair. Instead of all this I submit the parties should be left to themselves. To introduce divorce in this way, making the same for all classes of people in different stages of civilisation and training would be highly mischievous. It is customary for people here to quote Sanskrit slokas to support or strengthen their arguments. I will also attempt one.

> "*Aja juddhe, krishin sradhhe, prabhate megharambarah,*
> Dampati kalahaschaiba, babharambhe laghukriah."

When two goats fight, they stand on their hind legs and a severe impact of the horns seems imminent, but the actual clash is very slight; when a million *rishis* meet for a *sradh* with great ceremony, only a minute quantity of food suffices the thunder clap of the morning cloud looks menacing, but it ends in no heavy rain; and marital quarrels, though seriously and menacingly begun, end in nothing serious.

In Domestic quarrels natural and social forces should be allowed to work to bring about reconciliation.

Instead of divorce you should give them time. The question of divorce is not all one way traffic. It has got to be considered from every point of view. The Honourable the Law Minister advanced a very novel argument that as 90 per cent of the people are *sudras* and these 90 per cent, of the people practise divorce, it is just meet and proper that the law of the majority should be made also applicable

to the remaining 10 per cent. This is not legal logic. It is not acceptable. The Muslims are microscopic minority in India. Should that be a reason for converting all the Muslims into Hindus or imposing upon them the laws of the Hindus and to cremate their dead bodies, for example, according to the Hindu custom ? Or take the other example. The Hindus are in a minority in Pakistan. Would the Hindus call it justice if the Muslim law is forced upon them—if according to the customs of the majority the Hindus are made to bury their dead ? Therefore, the argument of the majority is nothing.

With regard to the statement that 90 per cent of the people have their system of divorce, the *Hindu* of Madras, in an editorial, said that so far as Madras is concerned it is a "damn lie" or something of the sort and that it is entirely inapplicable to the Scheduled Classes or the *Sudras* in Madras.

May I now speak from my experience in Bengal. There are many distinguished Members from Bengal, particularly Pandit Maitra. He will correct me if I am wrong. Is it the custom amongst the 90 per cent *Sudras* in Bangal to.....

Pandit Lakshmi Kanta Maitra : That is sheer nonsense !

An Honourable Member : He is not a *Sudra ?*

The Honourable Dr. B. R. Ambedkar : Maitra, a *Sudra* ?

Mr. Naziruddin Ahmad : We live amongst them. Is it customary among the majority of the *Sudras* to resort to divorce ?

Babu Ramnarayan Singh : In some cases.

Mr. Naziruddin Ahmad : Certainly. But that does not make it the rule of the 90 per cent Sudras. Some Assam Members whisper from behind that it is, I hope Assam grows tea and also divorce ! But Bengal produces tea without divorce. I submit Sir, that the argument of the majority is based on a mistaken notion. The facts are not true. It may be that in Bombay it is very prevalent and for that reason the Honourable the Law Minister might have been impressed with the applicability of the theory in other parts of India. Therefore, the assertion that 90 per cent of the people accept divorce is not based on facts, and even if it was true, that should not be made applicable to those who do not observe that system. That argument would fail and should not be used *to* support the result. A system of straight divorce or an uniform divorce, though a uniform procedure and rule would produce hardship in those cases where a simple form of divorce is prevalent by custom, and would

produce unhappiness and disruption in families where divorce is not prevalent. In these days of easy approach to the law Courts, it would be the wealthy classes that would seek the so-called advantages of this procedure rather than the poorer classes. Therefore, divorce, if it is to be provided, must be provided with the consent of the people. At any rate the second marriage may be permitted with the consent of the first wife under special circumstances. Polygamy is fast dying out and should not be stepped by legislation. This may lead to divorce proceedings, or a man may cross over to Pakistan or to Burma, or to Malaya or to other places and take a second wife and come back. So if society is not sufficiently advanced and educated and sufficiently alive to the need of monogamy and divorce, a provision of this nature would not be accepted by them and would lead to evasions in many cases. Court proceedings should not therefore be encouraged. Again, if divorce proceedings are frequent, it will lead to considerable amount of unhappiness.

Shri Khurshed Lal (Deputy Minister of Communications): May I know if divorce is so bad, then would the honourable Member support the abolition of divorce in Muslim law ?

Mr. Naziruddin Ahmad : Although a Member of the Select Committee, the honourable Member was absent from the House when this matter was argued earlier. I think the honourable Member should concern himself more with further increase in the rate on postcards than intervening in the debate in a scrappy manner. This matter has already been very elaborately argued out in the absence of the honourable Member.

Shri Khurshed Lal : Is 'postcards' relevant in this ?

Mr. Deputy Speaker : It is better that we divorce ourselves from 'postcards'!

Shri Ramnath Goenka (Madras : General): I think you should move for changing the *Shariat* Law !

Mr. Deputy Speaker : Let there be no personal remarks. One remark of such a nature always leads to another.

Mr. Naziruddin Ahmad : Removal of the *Shariat* Law would interfere with the existing law. The introduction of monogamy and divorce among the Hindus would be an interference with the existing law. Therein lies the difference between the two. In fact you must not readily interfere with accepted law and therefore the analogy of the Muslim law should not be applied.

Shri H. V. Kamath : Does he accept everything that exists or does he want a change in anything at all ?

Mr. Deputy Speaker : The House is not concerned with changes other than in the Bill.

Mr. Naziruddin Ahmad : The question of change is an academic question. The question of changing the law has been as old as history. In fact there are temperaments who try to make changes simply because it is a change. They would effect a change on the mere ground that it is a change. There are others who will never agree to any change because any change is a innovation. This was discussed in a classical passage by Macaulay and he said that the best brains lie near the border line, between the two extremes. So a change in the law is not to be adopted merely for its own sake. Again, a strict adherence to the old law, irrespective of all considerations would be equally bad. The position is that you must march with the times and the overriding consideration would be that you must take the people with you. I am referring to moral right. Legal right we have. We have ample legal right to break any law we like and create any law we like. That legal right is assumed. I do not question it. But what moral right have you to effect a change.....

Babu Ramnarayan Singh : No.

Mr. Naziruddin Ahmad:.....affecting large classes of people—30 crores—without their consent ? I am not here to oppose all changes. I am here to oppose any change which is not sanctioned by public opinion. What moral right have you to introduce drastic changes without their sanction ?

Shri L. Krishnaswami Bharathi: We have got their consent; we represent them.

Mr. Naziruddin Ahmad: You then raise a very important constitutional question. This House was elected for the purpose of drafting the constitution

Mr. Deputy Speaker : I am afraid so far as the constitutional issue is concerned there is already a ruling by the Chair. This is a sovereign body which can legislate on anything. If the honourable Member has other grounds he can go on.

Mr. Naziruddin Ahmad: I do not dispute the authority of the House. We have the right to destroy the Hindu society or Muslim society and blend them into something new devoid of religion. That

right is never for a moment in dispute. But the question is are the people behind this law ?

Some Honourable Members : No, no.

Some other Honourable Members: Yes, yes.

Mr. Naziruddin Ahmad: I believe they are not behind the law, they are against it. (An Honourable Member: 'They are for it') How do you know they are for it ? A matter of this gigantic magnitude should be placed before the electorate. That is the constitutional procedure. In fact the day before yesterday Mr. Osborne told us that he could not agree to add certain things unless the matters were specifically brought to the notice of the electorate and permission is given by them. In fact they cannot do any such thing. They consider themselves incapable of proceeding in a constitutional manner without the consent of the electorate. But we are so far advanced that we can afford to disregard the opinion of the electorate. In fact at one time it was argued that the dilatory method is meant to defeat the purpose. If there is any election the Hindu Code would not be passed. This session the argument has been entirely the reverse. They say that they have shown that the electorate is with us. It is with their sanction that we have brought this Bill. It is neither with their sanction nor with their consent that you have brought forward this legislation.

How did this law start ? It was framed under the authority of a foreign government which was then desperately fighting for its own existence. English power was threatened with total extinction. It was a life and death struggle for the British. It was in these times that a Home member, Sir, Reginald Maxwell appointed the Rau Committee. So the thing was conceived under the pressure of a global war when the existance of England was at stake. When the Bill was prepared it was introduced by Mr. Jogendra Nath Mandal, the Minister of Law of the Interim Government. At that time the country was being ravaged by destructive struggles, enormous loss of life and disturbance to public peace on an unprecedented scale, when the then Minister knew the temporary character of the tenure of his office, when his thoughts were already focused on Pakistan and when he was no longer interested in the Bill, it was under those circumstances that the Bill was presented before the House. In fact Pakistan was more than a conception at that time it was already a reality. It was at that time the Bill was introduced in the Assembly.....

Mr. Deputy Speaker : I find that there are a number of people on the waiting list. The honourable Member has already taken one and a half days. When is he likely to conclude ? Has he any idea himself ?

An Honourable Member: In this House nobody has any idea.

Mr. Naziruddin Ahmad : Even the Law Minister has no idea. In fact this remark arose out of interruption. I may take some-time.

Shri L. Krishnaswami Bharathi : How long ? The House is anxious.

Mr. Naziruddin Ahmad : The House was entitled to know how long the Bill would be considered and there was no reply and therefore my position is more difficult.

The Assembly then adjourned for Lunch till Half Past Two of the Clock.

The Assembly re-assembled after Lunch at Half Past Two of the Clock, Mr. Speaker (The Honourable Mr. G. V. Mavalankar) in the Chair.

Shri H. V. Kamath : Sir, there does not appear to be a quorum in the House.

Mr. Speaker: I think there is a quorum.

Mr. Naziruddin Ahmad : Sir, when we rose before Lunch I was dealing with the question as to whether it will be proper for this House to pass this legislation. With regard to the constitutional power of this House I have no doubt that we are constitutionally competent to pass a law of this nature. The question really is whether we have the moral right, or whether it would be morally proper for us to pass this law. The whole question would be whether this House has been authorised directly or indirectly by our constituencies to agree to this law. Some honourable Members say that the people are behind the Bill. My impression is that the people are not behind the Bill. The number of objections which are already on record is great. I believe that objections are pouring into the Legislative Assembly Department and they are so numerous that they could not be classified or docketed or dealt with in any systematic manner. They are pouring in on a gigantic scale. That shows the intensity of public feeling. The question is whether we in a democratic society, in a Legislature constituted on a democratic basis, should pass the law without ascertaining the opinion of the public. As I was submitting the Bill owes its conception to an alien Government which was, at the lime of its inception fighting for its own existence and was busy and otherwise occupied. The Bill was submitted to the

House by a Minister of Law who was Minister of the Interim Government at a time when that Minister was contemplating a departure to Pakistan and had no interest in the Bill at all.

Shri H. V. Kamath : He is repeating what he said in the morning.

Mr. Naziruddin Ahmad : Now the present Bill was continued by the Honourable Minister, Dr. Ambedkar, when India was very much occupied with a large number of serious problems. It is evident, as it appears from the admission of the Minister of Law himself, that the present Bill was merely continued without any adequate thought. It was only when it was sent to a Select Committee that it occurred to the Minister of Law that the Bill had not been properly drafted, that it required amendments—whether substantial or not is a different matter, but it required amendments all through. So he himself set down to redraft the whole Bill. In fact the product of that Committee is a book called "The Hindu Code" which is almost exactly the same as the present revised Bill, and it purports to be "a Bill to amend and codify certain branches of the Hindu law" by "Dr. B. R. Ambedkar, Minister of Law". So what was a Bill submitted by Mr. Jogendra Nath Mandal was informally transformed into a Bill by Dr. Ambedkar. The point I was driving at is this that the Bill not at any time received any consideration or any adequate consideration before the Government first tried to sponsor it. In fact as soon as it was apparent that the Bill was not properly drafted, that it required to be re-written wholesale and that it required to be changed in a large number of particulars, that was the moment to withdraw the Bill. But without withdrawing it the Minister of Law made numerous changes and presented a new Bill. This shows that the Bill was never considered in detail. If it is a fact that even the Government had to change its mind to make serious alterations in the body of the Bill it shows that the Government with its enormous resources were unable to accept it—much less has the country accepted it.

Now, Sir, the present Constituent Assembly was elected for a specific purpose.

Mr. Tajamul Husain : I am afraid the honourable Member is repeating the same thing.

Mr. Speaker : I do not know whether he said this.

Shri L. Krishnaswamy Bharathi : He said it in the morning.

Mr. Naziruddin Ahmad : I had hardly begun it. This House was not elected for the purpose of passing this legislation.

Mr. Tajamul Husain : Sir, he said exactly this. It was in your absence.

Mr. Naziruddin Ahmad : Let me develop my point. The question is whether we had been authorised in this direction. In fact the authority of this House is based upon an indirect election; there was no direct election.

Shri H. V. Kamath : He said the same thing earlier and the Deputy Speaker gave a ruling also on the point.

Mr. Speaker : I leave it to the honourable Member, if he has said it because I do not know.

Mr. Naziruddin Ahmad : Sir. I want to elaborate it.

Mr. Speaker: Then, of course, no elaboration is necessary. He may go to the next point.

Mr. Naziruddin Ahmad : We rose at that time for Lunch.

Mr. Speaker : The point seems to be very clear and it does not require any elaboration that this House was not elected by direct election, that the election has been indirect, that it was elected for a specific purpose, namely of making a Constitution, and therefore it should not go into this kind of legislation at this stage—that is the point. It hardly requires any elaboration. If it is the idea of the honourable Member to carry on for a long time. I shall be unable to support him.

Mr. Naziruddin Ahmad : The point is that as soon as I began I was contradicted by Mr. Krishnaswamy Bharati.

Shri L. Krishnaswami Bharati : On a point of personal explanation, Sir, I never opened my mouth at that time.

Mr. Speaker : Whether a particular Member asserts or denies a particular thing, it has no effect so far as the real fact goes. If he has authority he has, if he has not. Mere assertion by one Member in one way or the other really does not make any difference. He may just state his point without going into detail.

Mr. Naziruddin Ahmad : The question is that it is not so obvious.

Mr. Speaker : It is obvious.

Mr. Naziruddin Ahmad : No, Sir, To Mr. Bharati it is not obvious.

Mr. Speaker : The honourable Member need not care to convince one Member who refuse to be convinced, He is addressing the whole House. He should know the House consists of Members, who have some level of understanding.

Mr. Naziruddin Ahmad : It is not the understanding that I deny, it is the mind being locked up—that is the difficulty. Some people are unwilling to be convinced.

Mr. Speaker : They cannot be convinced. Let us not take our time to convince them. The honourable Member may take his next point.

Mr. Naziruddin Ahmad : You would be pleased, therefore, to consider that we have no moral authority to pass the law. In fact, the Government framed a Bill and then sent it out for circulation. I refer to appendix II at page 41 of the second Hindu Law Committee Report. "The Bill as framed by the Rau Committee was sent for circulation and the Bill was sent to large number of public bodies and individuals of weight and authority and their opinion was sought". It is made absolutely clear in the notification dated 5th August 1944 that the Hindu Law Committee intend to revise the draft in the light of public opinion as elicited by them in writing and orally. This is very important and should supply a key to unravelling the present matter. The Bill was submitted for public opinion and it was clearly stated therein that the Bill would be revised in accordance with public opinion. What was the public opinion. The public opinion at one stage of the matter is contained in the "Written Statement submitted to the Hindu Law Committee, volumes I and II". I believed this opinion has never been adequately considered by the Members of the House or it was never considered by many Members of the House. When these opinions were received they were analysed and then oral evidence was also invited and a large number of witnesses were examined. That is to be found in the "oral evidence tendered to the Hindu Law Committee dated 1945". These volumes, if analysed and carefully read, would show that public opinion which was consulted was very preponderatingly against the Hindu Code. Therefore, it follows that the Hindu Law Committee proceeded to adhere to there own views and revised the Bill here and there not in accordance with public opinion, but in spite of it. The effect of this evidence has been carefully analysed in the dissentient note by D. N. Mitter, the ex-Judge of the Calcutta High Court who was also a Member. In fact, he had written an elaborate minute of dissent. I do not wish to go over this matter, but he has analysed this opinion under different headings, namely whether we should have codification or not, whether the marriage law should be changed, whether there should be divorce and so forth. He has analysed the opinions and the evidence, for and against under each head, and I submit

his report deserves careful consideration at the hands of the House. The opinions are again classified according to Provinces as according to subjects. With regard to the effect of the evidence, according to Dr. D. N. Mitter the opinion on each point is preponderatingly against the Bill for codification, for divorce proceedings and for other matters. The opinion of the public was directly against the codification. These opinions and evidence are preponderatingly against the principles of the Bill. The Hindu Law Committee Report is only a majority report. It was definitely opposed by Dr. D. N. Mitter but the other Members thought it fit to stick to their original Bill amended in slight respects here and there, not according to public opinion, but according to their own ideas. I therefore submit that the Bill has been framed in direct defiance of public opinion. That is the basis upon which my argument stands. Though Mr. Krishnaswami Bharathi said that the public opinion is behind the Bill, I venture to submit that public opinion is against it.

An Honourable Member : Question.

Mr. Tajamul Husain : No, not at all. It is for the Bill.

Mr. Naziruddin Ahmad: So far as the written opinion is concerned, it is definitely against the Bill.

I submit, therefore, that public opinion has not been properly consulted as a democratic Government ought to do. In fact, this Bill is a negation of democracy and it is conceived under circumstances which no longer prevail today. A full-fledged democracy is now in operation and public opinion should be taken into account and followed in giving effect to legislative proposals. I submit therefore, that so far as written opinion goes it is against the Bill, but what about the unwritten opinion? We have a large number of protests lodged in your own office and we hear of proceedings of large number of meetings. In fact, we had meetings in the very heart of this city. The meetings were largely attended and many honourable Members and also the Honourable Minister for Law were invited. Some Members attended but the Minister for Law did not.

Babu Ramnarayan Singh : He did not have the courage to attend.

Mr. Naziruddin Ahmad : He did not think it necessary to attend, because it seems to me that public opinion is not the criterion or his guide so far as this Bill is concerned. In fact, Dr. D. N. Mitter gave a clear analysis of the opinion. The Honourable Minister for Law said that he would quote an earlier of Dr. D. N. Mitter to contradict him.

The Honourable Dr. B. R. Ambedkar : What did the honourable Member say, I did not follow ?

Mr. Naziruddin Ahmad : That he would quote an earlier writing of Dr. D. N. Mitter to contradict his present report. We have his earlier writing as well as his later writing and I have considered both.

The Honourable Dr. B. R. Ambedkar : His later writing I have not seen. What is it ?

Mr. Naziruddin Ahmad : Later writing is in the report.

The Honourable Dr. B. R. Ambedkar: That you call later writing. I thought it was something after this.

Mr. Naziruddin Ahmad : The question is what was his earlier writing and what was his present writing and is there any change and if so what. He had long ago written a pamphlet.

The Honourable Dr. B. R. Ambedkar : A pamphlet ?

Mr. Naziruddin Ahmad : A book.

The Honourable Dr. B. R. Ambedkar: I thought you said pamphlet just now.

Mr. Naziruddin Ahmad: Give in any name you like. I do not quarrel with the name.

The Honourable Dr. B. R. Ambedkar : How big is that book ? Have you any idea ?

Mr. Naziruddin Ahmad : You will have it in the Library.

The Honourable Dr. B. R. Ambedkar : You call it a pamphlet. How big is that pamphlet ?

Mr. Naziruddin Ahmad : If I am to be cross-examined, I should be put in the witness box and I will then answer.

The Honourable Dr. B. R. Ambedkar : I should like to know that my friend has ascertained the facts before he refers to them. If it is a pamphlet I should be very much surprised. The book is a book of 700 pages, somewhere about that.

Mr. Naziruddin Ahmad : The most important thing is not the size, but the view expressed therein.

The Honourable Dr. B. R. Ambedkar : Yes, what was the view?

Mr. Naziruddin Ahmad : The view expressed therein was that the rights of Hindu women should be better safeguarded and given better rights. I cannot repeat everything to the honourable Minister because I do not like to trouble the House and I do not like to speak louder

than what, I am doing. In the present opinion he has opposed the Bill and the Honourable Minister evidently had his earlier writing in view and that is taken advantage of by the majority Members. I submit that the reason for the change of opinion has been given by Dr. D. N. Mitter himself. If change of opinion is a crime, blind adherence to an opinion, although it is proved to be wrong, is a worse crime than change of opinion based on reason. Dr. Mitter clearly expressed an opinion in favour of giving more rights to women. I have read the passage in Appendix II that the Government gave an undertaking to the people that the Bill will be re-shaped in accordance with public opinion. That was the thing that trouble Dr. Mitter. In fact, he found that his individual opinion was far ahead of public opinion in India which was definitely against it. So he has referred to this passage in the notification declaring the intention of Government to change the law in accordance with public opinion. Dr. Mitter was faced with a volume of opinion against the Bill and he changed his opinion. This is a legislation which affected the whole country and it was this reason which induced him to go against the Bill, because this is the public opinion. There is no illogicality in giving up one's personal opinion in deference to public opinion. I believe the Honourable Minister and other Ministers too have their personal opinions, but they have to subordinate them for the collective good. We have often heard Ministers speaking against their personal conviction. This is neither improper nor wrong. It is perfectly natural. Here Dr. D. N. Mitter had accepted a position of great public responsibility with the express object of ascertaining public opinion and changing and re-shaping the Bill in accordance therewith. I ask : is there anything improper if Dr. D. N. Mitter changed his opinion ? He accepted a job, and what was it ? To ascertain public opinion, and public opinion was against the Bill. He himself was present when the evidence was taken and there is one passage in the report on oral evidence which is very significant which has been specifically referred to. When the Committee was in Lahore and was sitting...

The Honourable Dr. B. R. Ambedkar : They were greeted with black flags ?

Mr. Naziruddin Ahmad : No black flags ; something more. A large number of ladies, thousands—I do not remember the exact number—I do not wish to trouble the House with the exact number.

Mr. Speaker : What year was it in ?

Mr. Naziruddin Ahmad : It was in 1945 in connection with this enquiry. They went to Lahore and a large number of ladies came and absolutely blocked the progress of evidence. They said, "We do not want it. It is not to our benefit. It is against our idea."

Babu Ramnarayan Singh : Hear, hear.

Mr. Naziruddin Ahmad : In fact, the situation was so grave, that this gentleman when he was faced with the sad spectacle of thousands of ladies opposing the Bill, he could not proceed and it was difficult to repress them and their sentiment and so further evidence was absolutely stopped. This is what he has referred to. If he is guilty of inconsistency, he is certainly to be credited with some amount of honesty.

Babu Ramnarayan Singh : Hear, hear.

Mr. Nazruddin Ahmad : Does consistency lie in sticking to one's opinion although it is proved wrong ? This is inconsistency. This is doggedness. This is neither good nor fair. This gentleman when found that not only male opinion but female opinion was absolutely against him, he said he was also against it. Would it be fair or proper on anybody's part to quote that stray personal opinion of his ? If so, one could quote writings and speeches of the honourable Minister himself against him. This would not be fair. Every writing and speech has to be taken in the context. It may often happen that we have to act in public capacity and therefore, for that purpose, we have to sink our personal opinion. So Dr. Mitter acted patriotically and courageously in giving up his personal opinion in deference to the opinion of the public. In this Dr. Mitter performed a patriotic and obvious duty, and no blame should be attached to it. On the other hand, the other respected Members, what did they do ? I do not wish to be hard upon them, but they all of them, though they promised that the Bill would be considered in the light of public opinion, they stuck to their own opinion, and actually taunted Dr. Mitter for having changed his opinion. Is it to be, Sir, that we should never change our opinions ? If that be so, then mankind would cease to be rational. We have got to change our opinions.

3 P.M.

Mr. Speaker: Order, order. May I tell the honourable Member that on each point he need not necessarily go into the general principles and all the details. He may just invite attention to the point and then go to the next point; because if he carries on like this—he has now gone on for nearly two days—there will be no end to this discussion.

And I do not propose to allow him to go on in this manner. He must bring his remarks to a close within a reasonable time, and I think another fifteen minutes would be quite reasonable.

Mr. Naziruddin Ahmad : I bow down to your decision. I hops, Sir, that these fifteen minutes will be entirely mine.

Mr. Speaker: Yes, he may finish by 3-15.

Mr. Naziruddin Ahmad : Next I want to emphasise the fact that we are a democratic body. We are working as a democratic body. We cannot say that democracy is unfit for our society. It is democracy that has brought us into being. That democracy was sufficient to wrest power from the British Government. That democracy is sufficient to empower us to frame our Constitution. And I say that democracy would be intelligent and competent enough to understand its own interests in the matter of the Hindu Law. Therefore there should be no shirking, no by-passing, no flouting of public opinion. Where is the harm in ascertaining public opinion ? In fact, the Bill, I submit, has been mutilated. It has been interpolated upon. I do not mean to say there has been dishonest interpolations, but honest interpolations, but they are not the less interpolations. There have been interpolations in the Bible—honest interpolations. There are great authorities pointing out that fact. So, I say, there are interpolations in the Bill. The Bill, however, was presented to the Select Committee with the guarantee that there was no serious change, and that some changes made had been noted by the Members. Yet, is it possible, or practicable, Sir, for any one unaided to note all the changes ? In fact, all these changes, it is impossible to take note of. And therefore, the Select Committee was told, and they were asked to take it, that the Departmental Bill was merely a reproduction of the original Bill, and that no substantial changes had been made, and therefore, they failed to note and consider the changes. That is not their fault. In these circumstances, the Select Committee, although they tried their best, unconsciously, I submit, they must have omitted to note many important changes, on account of the guarantee. And then, Sir, if that is so, if there are so many changes, and when these changes are substantial, then the guarantee given by the majority of the Select Committee that the Bill was not so changed as to require re-publication is only the usual guarantee. They said that the Bill had not been so altered as to require, under Standing Order 41(5), any re-publication and that the Bill be passed as amended by the Select Committee. This is only the usual stock

certificate. I ask in all seriousness, is it contented, in the light of the disclosures of changes made that the Bill has not been substantially altered ? On the original Bill we have not got public opinion, and what public opinion we procured, was against it. We have, therefore, got to ascertain public opinion. And then, the Bill was sent to the various Provincial Governments for opinion. The opinions of the various Governments have not even been referred to in the House. They are collected and circulated to the Members. I shall, however, confine myself to the opinion of the Government of Bengal. I assert without fear of contradiction that in Bengal the opposition is the greatest. You propose to abolish the *Mitakshra* system of inheritance and do honour to Bengal by accepting their theory of family life. In Bengal you have the greatest objection.

An Honourable Member: Objection is from everywhere.

Mr. Naziruddin Ahmad: Of course, from everywhere there is objection, but the greatest objection is from Bengal. It is the most persistent, and so very authoritative. The whole of Bengal, including some educated and cultured ladies think that the Bill is not wanted there. In fact, many ladies like the wife of the late Sir Asutosh Mookerjee, the mother of Dr. Mookerjee, here, lady Ranu Mookerjee, wife of Mr. B.N. Mookerjee, and a host of other ladies have opposed this move.

Dr. Mono Mohan Das : Who are the other ladies please ? Please name them also.

Mr. Naziruddin Ahmad : I have to respect the request of the Chair to finish soon. I cannot give my honourable friend preference over the request of the Chair. Sir, the names are there in the report. My honourable friend's request to name them shows that he has not read the report. It is a pity that this volume of opinion has not been read. It is a pity that the Department has not supplied the report to all. It is a pity that private Members have to undergo all the labour and expense to collect the information and to supply the House with the information. But the names are on record, and it is useless for any member to ask questions about facts which are on the record. It is pity that I have got to refer to this matter.

Well, Sir, I was submitting that there is lot of opposition in Bengal. There are five High Court judges of the Calcutta High Court—and one of them now adorns the Federal Court and they are against it. Their opinion is to be found in the Report also, and it is referred

to in Dr. Mitter's report. Then there are ex-Judges of the Calcutta High Court. One of them is Mr. N. C. Chatterjee, and he is now a Judge of the High Court, and he was against it. The Hindu Mahasabha was then under the Presidentship of Dr. Shyama Prasad Mookerjee and it opposed the Bill, evidently, with the consent of the President, Dr. Mookerjee on a major matter like this. And then there is Dr. R. B. Paul, a distinguished jurist of continental fame, and he has opposed it. Their opinions are before us. In fact, in the face of all this opinion in Bengal, I am surprised that a Member from Bengal should have asked for names.

I submit, therefore, Sir, that the Bill should go out to the public for eliciting public opinion. If Hindu opinion is against it, why should you thrust upon it a law which is not wanted by them ?

An Honourable Member: It is dictatorship.

Mr. Naziruddin Ahmad: Yes, it is sheer dictatorship. There is the fear that if it is sent to the public before the elections, possibly it will lead to complications. But do you know what complications will come up if you pass it before the elections ? The illiterate people will get furious. This Bill will dislocate their lives. It is not easy for them to change their lives all at once under the dictator's command. Even in Russia, Lenin did not go so quickly or remorselessly as we seem to be going here, in utter disregard of public opinion. There is in Russia a desire and a pretence to respect public opinion. But here there is no such things. It is sheer dictatorship born of fear that if the Bill goes to the public it will be rejected. I find it is asserted that the public are in favour of it. If so, why not be public arm you with the authority to pass the law ? Sir, it is injurious to the Hindus in general; it is injurious to the ladies in the larger interests and it is injurious to the public at large, and it is no use forcing your opinion upon an unwilling public. Had it not been a matter of personal interest any one is entitled to enforce his opinion, but having come here as the Minister of Law in a democratic Government and basing their authority on public opinion, is it fair and proper for them to flout that public opinion and to bypass it, to circumvent it or avoid it ? It is a devious method, a circuitous course which is not warranted by any system of democratic Government. Why should you not go to the people if the law is favoured by them ? Are the people so backward in their ideas that they will not be able to determine what is good or bad for them ? The question is not what is good in the

abstract, but what is good in the circumstances, and that depends on local conditions. There are certain practices which are considered to be good and there are others which are not and you make every body uniform; you are trying to make all the people uniform. The Honourable Minister for Law should try to make everybody as intelligent and as forceful as he is. Why should you stop at inequality; inequality is not bad. It is nature that there should be inequality in diversity. India is a big continental countries and it has developed according to its own genius and each province has a distinct culture of its own and why should you by one stroke of the pen remove all this and make the law the same? In fact, the great Hindu law-givers, they were extremely...

The Honourable Dr. B. R. Ambedkar : This is only a peroration and not an argument.

Mr. Naziruddin Ahmad: They had tolerance and they did not enforce their law by force. A study of *Manu Smriti* will show that he never enforced his law. He said that the law should be enforced subject to the custom of the locality. That will be found by any one who has read it and therefore, the Hindu law givers did not like the law should be uniform. Their method of propagation of their law and their civilization was not by force, but rather by persuasion and they allowed free scope—I speak with authority, having read the whole thing; they allowed their law to spread on their own merit, not by their force. Local custom plays not only an important part now, but played an important part in the time of Manu and that is the reason why law is different today. It is an organic method according to local circumstances that leads to this difference of opinion. In fact differences are not bad. It is not a small country; it is a big country with all the attributes of a continent and this diversity as a matter of fact should not be done away with without adequate and careful thought.

Sir, Mr. Kamath compared the present Bill to a new *Smriti*, Dr. Ambedkar's 138th *Smriti*. I think this is not a *Smriti* at all, the *Smriti* proceeds from the *srutis*. There is a pretence to agree with the principles of these *srutis*. This is a Bill which is not a *smriti* but a new *Veda*, (*Pandit Lakshmi Kanta Maitra* : 'It is *vismriti* !'). It is *Vismriti* i.e., forgetfulness of the past. All sacred laws and customs, rules, laws, decisions, principles of the Privy Council are brushed aside by one stroke of the pen by Dr. Ambedkar himself in defiance of the report of the Rau Committee. Everthing is gone. It is *Vismriti*

as Pandit Maitra with good humour suggests. It is *vismriti*—absolute forgetfulness. It is a new *Veda*. There are four *Vedas*, the *Sama Veda*, *Rig Veda*, the *Yajur Veda* and *Atharva Veda*. I think the new *Veda* should be called *Dr. Amba Veda* and this is the fifth *veda* in utter defiance and disregard of all the four *Vedas* which it supersedes. Sir, I thank you.

* **Pandit Mukut Bihari Lal Bhargava :** Mr. Speaker, Sir, we have been discussing the Hindu Code Bill from yesterday. We had discussed it in February also. Before I proceed to discuss the merits of this measure, which is admittedly of a highly controversial nature, which aims at the utter demolition of the structure of Hindu society. I would like to put on record my emphatic protest against the way in which the Government is pursuing this measure of vital importance, a matter of life and death to the Hindu Society. It is well known that this Bill was rushed through in the legislature almost on the last day, that is on the 9th of April 1948, when it was not discussed even to the extent that a very ordinary measure is usually discussed in this House. Further, in this session, we find that instead of giving consistent consideration to this matter the Government on the plea of want of time due to the Budget session, wishes to rush this Bill through this House. I would ask respectfully, though humbly, is it fair to the House that a measure of this vital importance, an equal of which, I submit, has never been on the anvil of this legislature since its inception should be rushed through in this manner? However, it is for the Government to decide and I feel it my duty to sound a note of warning to the Government that it should pause and consider as to what is the haste and hurry about this matter, and why in preference to a number of very important and emergent measures, this Bill is being rushed through. I would ask what will happen to the Hindu society if the Hindu society could survive the onslaught of centuries of foreign aggression and foreign rule ? Will it die out of existence if this measure is not brought on the statute book ? I submit, Sir, this unusual haste and hurry is due to the fact which was hinted by my learned friend Mr. Naziruddin Ahmad, that my honourable friend, the Law Minister is now sure that the public opinion of Hindus is behind the measure. I take courage even to submit, Sir, that the weight of public opinion is against the measure. What is the criterion to judge whether the public opinion is in favour of this measure or against it ? The only criterion that can possibly be applied to is: What is the weight of

* C.A. (Leg.) D., Vol. III, Part II, 2nd April 1949, pp. 2276-89.

opinion that has been on record ? I should submit in all himility that the weight of opinion that was sounded by the Rau Committee was predominently against every section of this measure. Consequently, Sir, without any fresh sounding of public opinion, it would be presumptuous on the part of any person, including the Law Minister, to claim that this measure has the support of public opinion in the country.

The question arises where is the necessity and what is the utility of the codification of Hindu law ? Who demands the codification of Hindu law ? We know, codification is essential only in two conditions. If on a particular point there is a serious conflict of judicial opinion, it becomes essential for the legislature to intervene and clarify the ambiguity. This is one condition. The other condition is that public opinion wants to have a change in the law. These are the only two conditions which could justify the attempt at codification of Hindu law. In this particular case, I would submit that neither of the conditions exist. So far as the main principles of the Hindu law are concerned., I venture to submit that they are well understood and well settled. In many text-books of Hindu law the principles of it as deducible from *Smritis* and *nibandhas* as orally interpreted and construed by the judicial courts in India, have been published. It will be quite obvious that on every intricate point of Hindu law there have been clear interpretations. It has been pointed out by the Law Minister, in his speech while moving for the consideration of this Bill, that Hindu society or the joint families as was originally conceived in Hindu law, have by judicial opinions been shorn of their characteristics. But does this afford any justification for this Code ? The judicial opinion of the Privy Council and of the High Courts have by now laid down the principles which are not open to any doubt at this stage. Whether it may be the powers of the *karta* or manager of a joint Hindu family when he happens to be a non-father, whether it may be the powers and functions of a manager of a joint Hindu family as father, his rights and powers stand well defined in Hindu law. The disputed doctrine of the pious obligation which for some time was the subject matter of serious conflict of opinion between the different High Courts and the Privy Council has also been settled. And we know what are the duties of the son and we know the extent of his liability for the debts of his father. Similarly in the spheres of marriage, etc. the Hindu law is quite definite. The question then arises, is there any opinion and overwhelming public opinion in the country which requires the

Government to codify the Hindu law ? My respectful submission is that there exists none and there is no justification for this attempt at codification of Hindu law.

So far as the history of codification goes, this is not the first time that an attempt has been made. I would respectfully invite the attention of the House to the various efforts that have been made during the British rule for the codification of Hindu law and submit that on each such occasion the matter was deferred and for very cogent and sound reason. As early as 1833, a Commission was appointed by Royal Charter. In the year 1853 a Law Commission was appointed. The reports of these Commissions published in the year 1856 turned down the proposal for the codification of Hindu law on the ground that it would be a vain attempt and that it would stunt the growth and development of Hindu law. Similarly, in the year 1861 and again in 1921 the Secretary of State for India in the former case and the Governor-General of India with the sanction of the Secretary of State in the latter case appointed Law Commissions. Their decision on the point of codification was identical with the findings of the Law Commissions. On 23rd March 1921, one distinguished Member of this House tabled a non-official resolution requiring the appointment of a Commission for the purposes of codifying Hindu Law. When that motion was debated in this House the Department of Law was in the hands of a very distinguished scholar on Hindu Law and a jurist of eminence, I mean Dr. Tej Bhadur Sapru. The motion whether codification was essential or not, was necessary or not, would be to the good of Hindu society or not, was hotly debated. I would respectfully invite the attention of the House and of the Honourable the Law Minister to the reply given on behalf of Government by Sir T. B. Sapru who was himself an authority on Hindu Law. He pointed out that the codification of laws of the personal laws of the community was not an easy matter, that it was a stupendous task and one which would entail the best energies of the best legal talents for centuries. He invited the attention of the House to the German Code which was drafted and codified after 50 years of labour, from 1834 to 1896 and to the fact no less than three Commissions drafted the Code. He pointed out that it was not until 1896 that the final form of the German Code was reduced to writing and after a continuous hard struggle for and against codification between the two sections of eminent German jurists represented on the one hand by Savogry and on the other by Thebaut

and that even then it took no less than 4 years. Thus, it was only in 1900 that the Code drafted after almost 50 years of continuous labour was sanctioned by the Imperial German Government. Similarly, Sir, the Swiss Code in the continent of Europe as well as the other Codes were the result of continuous efforts for a number of years by the best legal talents of the country. Compare those territories and their condition with the conditions of India and the ancient history of India and the continuous streams of law that have been flowing into the development of Hindu law from ancient times upto the present time. I would submit that it will be a vain effort to codify the Hindu law. It will be futile to attempt codification of the personal laws of the Hindus. What is the source of this law I would respectfully ask. It is obviously not human in the sense that no human power ever attempted to promulgate Hindu law. The sanction behind the law was not of a sovereign power but a moral sanction of learning and the result of meditation of the sages. It is difficult to trace its origin; the *smritikars*—138 as they are said to be—did not purport to create the laws. They based their *smritis* on the *Vedas* and we know the *Rig Veda* is the oldest book in the world. Even Vigneshwar and Jimuta Vahana, the learned authors of the two main treatises which have held sway in India, did not attempt to codify the Hindu law or create new law for society; they only based their commentaries upon the *smiritis*. And during the long years of British and Muslim rule what has been done is simply an interpretation of the well known principles of Hindu Law. Now why should there be any codification of Hindu Law ? If the German and Swiss nations—which are no insignificant compared to India—took 50 or 60 years to bring about a satisfactory code to control their relations, why should we in India, where the origin and source of Hindu law are shrouded in mystery, try to codify the law ? We are told that it is sought to itroduce uniformity in this land of diversities ; the other reason advanced is that women in Hindu society have been subjected to age-long oppression and tyranny at the hands of men from which they have to be relieved. With regard to uniformity I submit that it has not been achieved in this present measure and cannot be achieved at all.

[*At this stage Mr. Speaker vacated the Chair, which was then occupied by Mr. Deputy-Speaker (Shri M. Ananthasayanam Ayyangar.)*]

Even in regard to the law of succession, in cases where the rule of primogeniture exists by custom or in case of grants or *inams* they

have said that the rules of succession as laid down in this measure would not apply. Similarly in clause 7 although marriage between *sapindas* has been prohibited, it is said that it will be subject to local custom and so allowed where it prevails by custom. So the ghost of uniformity which haunts the draftsman of the measure is still there, and the so called freedom from slavery of women ends in nothing. I submit that those who want to deal with Hindu law and the place of women in Hindu society should look at the question not through Western glasses but through the glasses of our own civilisation. We must know how our own law-givers approached these very difficult and intricate questions. The views prevailing in eastern and western countries on these questions are diagonally opposite. Our life, we believe, has connection with our past life and will have connection with our future life; and therefore the rules of law will stand on a special footing. That is why our sages approached these questions from the point of view of the well-being of Hindu society as a whole. And in attempting to frame our law we have to keep in view the ideals that motivated our law givers in framing the law in a particular manner. Unless we can do that we cannot appreciate its value.

Sir, I would not mind if the Law Minister had honestly declared that this measure stands on its own merits, moulded on his ideas of Hindu society as it now exists. But what has pained me is that he asserts that its provisions are in consonance with the accepted principles of Hindu Law. It is well known that Satan can quote the Bible. I submit that every provision of this measure—whether in relation to marriage or divorce, adoption or inheritance—goes against the fundamental principles of Hindu law. Then the result that I envisage is not a very happy one. In fact every House in Hindu society will be converted into a hell in which there will be a quarrel between the brother and sister, between the husband and the wife and between the children and their father. The very fundamentals of Hindu society are sought to be demolished by this law. It is a question of vital concern and there must be a plebiscite on it or a referendum to find out whether public opinion in the country is in favour of this measure or against it.

I was submitting that there was no necessity for the codification of Hindu Law. The question then arises whether the uniformity that is sought to be achieved by the enactment of this law will be achieved if it is brought into force ? What is our experience of the statutory

law ? The Government of India in the year 1923 appointed a Civil Justice Committee and that Committee after going through the various statutes made a recommendation that the Transfer of Property Act, the Contract Act, and the Law of Evidence should be modified and their revision should be taken in hand by the Legislature at an early stage. Has the Legislature found time for it ? What is the result ? The result is that the law is being administered in accordance with the provisions, which according to the authority itself; has outlived the utility for which they brought it into existence. That will be the condition if the Hindu Code is brought on the Statute Book and is made a rigid code upon which the rights of the people will depend. The Hindu law will lose its vitality, its elasticity, its adaptability to the prevailing conditions and will be reduced to immobile rigidity. May I know whether the object of reducing conflicts and of fighting differences of opinion will be achieved by the codification of Hindu Law ? I dare to suggest it will not and our experience of the various pieces of legislation leads one to support my conclusion.

Take for instance, the Hindu Law Remarriage Act which was enacted in 1871. Now, Sir, it is a very simple piece of legislation but has there been an unanimity of opinion in respect of the construction of the various provisions of that Act ?

Shrimati G. Durgabai (Madras : General): Are you opposing the Widow Marriage Act also ?

Pandit Mukut Bihari Lal Bhargava : I hope my friend will have the patience to hear me. We must learn tolerance and patience for opposite opinions. My point was that mere bringing in of an enactment does not lead to uniformity or to the resolution of a conflict of opinion. Even in the interpretation and the construction of the provisions of this Hindu Widow Remarriage Act of 1872, we find that there is a serious conflict of opinion between different High Courts about the construction of section 2. The question arises whether a woman who remarries according to customary law loses her rights in the property of her husband. This is the point, and we have the opinion of the Allahabad High Court and Oudh Chief Courts to the effect that merely because she remarries according to custom she does not lose her right in her previous husband's property. The other High Court has taken the other view. Similarly, in this Act there has been a serious conflict of opinion upon the interpretation of the simple word “sister”. Some High Courts say that the word “sister” does not include a “half

sister" : while the Nagpur Chief Court, after an elaborate consideration of this word came to the conclusion that it is included. My submission is that in view of the above, the difficulty that exists today in the construction of the Hindu Law will not come to an end by the fact that the Hindu Code Bill is there.

Shri L. Krishnaswami Bharathi: Do you mean that the conflict should be permitted to continue ?

Pandit Mukut Bihari Lal Bhargava : I say that even if this Bill becomes an Act, the conflict will be there and it will be open to the High Court to interpret its different provisions in a different way. The divergent opinion and the divergent points with regard to the Hindu Law will not be resolved because it will be open to the High Courts and to the Supreme Court to give their construction on any particular provision and the conflict is bound to arise as our experience of the previous legislation shows. My respectful submission is that it is a vain and futile attempt to codify the Hindu Law and any attempt in that direction is bound to deprive Hindu Law of its mobility, its elasticity and its vitality, which by no stretch of imagination is advisable in the present circumstances.

My next point is a very important one. How did the present legislation originate and did the circumstances in which it originated justify its being pursued any further ? I would respectfully invite your attention that in the year 1941 the Hindu Law Committee was appointed and it considered the question of the codification of Hindu Law by compartments and two Bills were prepared by this Committee. One was the Bill concerning the Intestate Succession of Hindus and the second was the law relating to Marriage. When these two Bills came before the Legislature there was a joint meeting of the two legislatures (at that time our Legislature was of a bi-cameral character) and it was decided that it would be better if the Hindu Law was enacted as a whole rather than by compartments, and with this object in view the present Rau Committee came into existence.

Now, Sir, when a lady member addressed the House—of course a zealous enthusiast in favour of this piece of legislation—she said that this piece of legislation had been before the country for a number of years—say for 10 years, and the Rau Committee has examined thousands of witnesses and has had an extensive tour of the country. I respectfully submit that there was little truth in the declaration made by the lady because let us examine what was the quantum of evidence

that was before the Committee. And what was the weight of that little quantum of evidence ? The Rau Committee which came into existence on the 20th January 1944 drafted a Bill which was circulated to selected and distinguished lawyers for opinion. After their opinions had been received the Committee decided that the draft which they had originally prepared should be circulated throughout the country. The Bill was translated into Indian languages and about 6,000 copies were distributed. Opinions were invited on the 5th August 1944 and the opinions were to be submitted by the 31st December 1944. After the opinions had been received the Committee toured the country. I would like the House to note the extensiveness of the tour undertaken by this Committee. It visited the leading towns and cities of the provinces and as far as I remember it is not more than a dozen—Allahabad, Bombay, Calcutta, Poona, Patna, Lahore and others. This was the extensive tour of the Committee. What is the population of these few leading towns and cities as compared to the total mass of population of the country ? Can the tour undertaken by this Committee for the purpose of examination of witnesses in these cities by any means give an indication of the real feeling of the counrty on this Bill ?

What was the extent of the evidence recorded ? Let us see. In all 121 witnesses and 201 associations represented by about 257 persons gave evidence. This was the total evidence taken. May I venture to ask a very pertinent question: Is this by any stretch of imagination sufficient evidence, considering the vastness of the country and considering the fact that the real India, the real Hindu India resides not in the cities but in the villages. They are agriculturists who represent 90 per cent, of the population. Can it be pretended by any stretch of imagination that the examination of witnesses by this Committee was in any way sufficient and commensurate with the vastness of the country and with the great divergences of opinion prevailing in the different provinces ? I respectfully submit that it was not.

Let us further analyse the result of that evidence. My submission is that on every basic point which forms the basis of the present Code the opinion was predominently and overwhelmingly against any change. Look at for instance one basic doctrine that is propounded within the four corners of this piece of legislation—introduction of simultaneous heirship of sons, daughters, widows etc.

Mr. Deputy Speaker : A widow is a simultaneous heir today under the existing law.

Shri L. Krishnaswami Bharathi: Even that he is opposing now. Perhaps he wants it to be repealed.

Pandit Mukut Bihari Lal Bhargava: For the introduction of simultaneous heirship of daughter with son the witnesses number only 78 and the number of those against was 215. Regarding conversion of widow's limited estate as a female heir into an absolute estate the opinions for were 49 and against 107. In case of divorce options for were 112 and against 119. In case of adoption and the changes that are introduced opinions for were 36 and against 38. On other points the opinions against change were overwhelmingly larger than for it. Where is the justification, I ask, for pursuing this legislation ?

Some Honourable Members: No justification.

Pandit Mukut Bihari Lal Bhargava: It is claimed by a number of Members of this House that public opinion is over-whelmingly in favour of this piece of legislation.

Shrimati G. Durgabai: What about monogamy ?

Pandit Mukut Bihari Lal Bhargava: I will come to that also at the proper stage. My submission is that if this is a democratic legislature, if this legislature claims to legislate in consonance with the predominent volume of public opinion in the country, the only course for it is to throw out this piece of legislation, because whatever public opinion there was in the country distinctly points out that it is against it. I am sorry I have not got with me the particular newspaper in which the opinion given by the Law Minister was published. It was a few days before we commenced the consideration of this measure in February and he took his stand not upon the quantum of evidence in his favour, nor upon the public opinion in his favour but upon its quality. That was an open admission by no other than the Law Minister himself that the weight of public opinion so far as number was concerned was against him. If it is a fact that a few individuals, however distinguished they may be, because they wish this legislation to be thrust upon the country, it cannot be accepted. The only criterion of public opinion is the public opinion taken by the Rau Committee. There is absolutely no other criterion upon which it is open to any Member of the House to say that public opinion is in favour of this piece of legislation and not against it. Similarly, we are receiving a number of representations from different bodies .....

Babu Ramnarayan Singh : Daily.

Pandit Mukut Bihari Lal Bhargava: ..... from different distinguished High Courts and other Civil Judges also, from Bar associations in different parts of the country. As far as I have been able to go through the opinions very few persons. I find, favour the enactment of this piece of legislation and public opinion is overwhelmingly against it.)

The next point is this. Even assuming that public opinion is not so far of a decisive character where is the necessity of pursuing this legislation in the present legislature ? As has already been pointed out, and I will not repeat the argument, but I would respectfully submit that the present legislature is to frame the Constitution as also to legislate on emergent matters about which legislation is absolutely essential. It can by no stretch of imagination be asserted that the Hindu Code Bill is a piece of legislation that the Government should not pursue this piece of legislation in the teeth of public opposition in the country.

4 P.M.

I would now proceed with the examination and scrutiny of the various provisions incorporated in this piece of legislation. As I had remarked I feel—and I feel honestly—that the fundamentals of then provisions that stand incorporated in this piece of legislation are fatal to the existence of Hindu society as envisaged by our sages and therefore it is my painful duty to oppose this measure tooth and nail provision by provision. The question arises what are the basic changes that are sought to be brought about in Hindu society through the medium of this piece of legislation and how far those contemplated changes are in consonance with Hindu ideology and Hindu ideals. My respectful submission is this Hindu Code may well be styled as Islamic Code rather than a Hindu Code.

Shri A. Karunakara Menon (Madras: General): That is the reason why our friend Mr. Naziruddin Ahmad is opposing it.

Pandit Mukut Bihari Lal Bhargava : Of course this remark cannot apply to me. I feel as keenly as the learned member on it. Now Sir, the main question is about the Second Part of this piece of legislation under the head Marriage and Divorce. These are incorporated in clause 5 to 51. Let us see how far the type of marriage that is envisaged in these provisions of the Bill is akin to the Hindu conception of marriage. My respectful submission is that the show of a sacramental marriage provided in clause 7 of this Bill of an absolutely different character than what is the conception and ideal of Hindu marriage. It is only a camouflage to conceal the real type of marriage that is

envisaged. Otherwise the incorporation of the provision in clauses 10 and 21 would not have been there. To Hindus—and I think there cannot be any dispute on this point—there is no two opinion on the subject. Of course if we aim to dare Hindu ideals and ideologies, if we intend to say good-bye to them, then it is another matter. To a Hindu the marriage is sacramental and as such indissoluble. It is a religious bond of unity between the couple. It is not a union for such purposes which may be brought to an end at any time. It is not a contractual relationship. It is a relationship that has got some spirituality about it. By no stretch of imagination can it be brought to an end by the sweet whim and caprice of any of the parties. That is the conception of Hindu marriage. I would challenge any *smriti* or citation of any scripture, so far as Hindu scripture is concerned, which would negative this idea of sacramental marriage and will propound any other sort of marriage that is understood by *smritis*. Therefore my submission is that so far as the provision about civil marriage in this Chapter on Marriage and Divorce as incorporated in clause 10 is concerned it is absolutely foreign to Hindu law and should not find a place therein. Civil marriage has been in vogue in this country ever since 1872 when Act III of 1872 came into force. It was further amended in the year 1929. Civil marriage as envisaged by that piece of legislation must continue. But it should not find any place whatsoever in the Hindu Code. I want to ask why should civil marriage find a place in the Hindu Code. Is it in consonance with any *smriti* ? I ask this question because you claim that there is nothing revolutionary, nothing radical in this measure, and that in fact everything is just in accordance with Hindu conception, ideology and ideals. It is a preposterous claim which I must refute. My submission is that the incorporation of a provision like clause 10 in this Bill, which envisages marriage of a civil type, is absolutely unknown and foreign to Hindu ideals. Previously I have asserted that this form of sacramental marriage is only a comouflage for the other type of marriage and it is quite obvious if a reference is made to the provisions of clauses 7, 10 and 21.

So far as clause 7 is concerned it lays the conditions for sacramental marriage. Here I respectfully invite the attention of the House to clause 6. This says that it will not be open to the parties to contract any marriage if they happen to be *sapindas*. If we proceed to clause 10 which lays down the requisite conditions of a valid civil marriage it omits the provision contained in sub-clause 6 of clause 7 therefrom and restricts it to the other five sub-clauses of clause 7. Thereby a

marriage between *sapindas* is perfectly valid if it happens to be a civil marriage under clause 10. This is the difference or gap between the validity of the sacramental marriage and the validity of the civil marriage. What does clause 21 lay down ? It says that it is open to the parties who have entered into a sacramental marriage of the type envisaged in clause 7 later on go to the Registrar and ask him to register it as a civil marriage and the poor Registrar will have no option. What is the legal effect of these three provisions read together ? Whatever sanctity is attached to the sacramental marriage is eliminated. Mind you, one of the requisite conditions of a valid sacramental marriage is that there should be no marriage between *sapindas*. This condition does not exist in section 10 and the poor Registrar, inspite of the fact that the sacramental marriage was an invalid marriage because of this, has to register it as a civil marriage. Therefore, the camouflage, the curtain of a sacramental marriage is lifted here and the effect of invalidity, because it was a marriage between *sapindas* is circumvented by this device. I ask, is it in accordance with Hindu ideals of marriage ? Will not all persons be inclined, wherever they choose, to celebrate a marriage between *sapindas* ? They can do it as a sacramental marriage and subsequently go and cure the invalidity by undergoing civil marriage.

We come then to provisions of Section 9. It has been stated that even the sacramental marriage must be entered into a marriage certificate register and that if it is not so entered the defaulter may be punished under the law. As regards its validity, it is very doubtful whether it will be valid or not. Of course, the Rau Bill did not go so far. The Rau Bill left it at the option of the parties to either get an entry made in the register or not. The only object with which such a provision was incorporated in the Rau Bill was to facilitate the proof of marriage. But that object has been told good-bye in the present Bill. What is stated here is that it will be open to any Provincial Government to make the registration of sacramental marriages compulsory. The provision of section 6 says that a marriage in order to be valid, must be in accordance with the provisions of the Bill. If not, then it is not a valid marriage. Therefore, the conclusion is irresistible from the reading of Sections 6,7,10 and 21 that any marriage which has not been registered by the married couple in the certificate register will be invalid. I respectfully submit, what are the legal consequences flowing from this sort of a provision ? Are they not repulsive to the very ideal of Hindu society, to the very injunctions

of the *shastras* which lay down that a marriage solemnly entered into is an indissoluble tie and cannot be brought to an end ? Here if the married couple was foolish enough not to get an entry made to that effect in the register, their marriage will be invalid.

Coming to the next important provision in this Bill, that is, the provision regarding divorce. The question arises about past practice and we were quoted the *smritis* of Narad and Parasar by the Honourable the Law Minister to prove that divorce did exist in the Hindu society. I respectfully submit what has been pointed out by Mr. Dwarka Nath Mitter, the dissenting Member of the Rau Committee, before whom these very scriptures were put forward; he has interpreted them not merely on his own knoweldge of Sanskrit but upon the knowledge of learned pandits. He says that the only and the reasonable interpretation and construction of Narad and Parasar is that there can be a breaking of relationship only upto the betrothal stage, not after the actual marriage had taken place. Therefore, it is no use relying upon the *smritis* to establish the practice of divorce.

One of the arguments advanced by the Honourable the Law Minister, and repeated by Pandit Thakur Das Bhargava, was that divorce already exists in 90 per cent of the Hindu society. Accordingly to Pandit Thakur Das Bhargava, not only in 90 per cent of the Hindu society but even in 95 per cent it exists. I would respectfully ask, if what you say is a fact, where is the necessity of enacting any piece of legislation on divorce ? You are expected to legislate for the majority and not for a hopeless minority. The divorce of the form you have introduced in this piece of legislation will make the life miserable of the 90 or 95 per cent of the Hindu society amongst whom you say divorce already prevails, because according to the provisions of the present Bill it will be incumbent upon each party to the marriage, before it can resort to divorce, to go for the dissolution of marriage before a competent Court of Law. As has been pointed out by one of the gentlemen who wrote a dissenting note to this Select Committee Resort in most of the parts of the country among the agriculturists divorce is resorted to in a very simple manner by the execution of a deed of relinquishment or in any other manner, before the *panchayat* of the village. You must take into consideration the effect your legislation will have upon the agriculturists who form 90 per cent of your population. What will be the effect if clause 34 is brought on the Statute Book? Every couple, every Member, every party to the marriage will be compelled to knock

at the door of the Court of Law, to go to the district court and also in appeal and till that takes place no divorce can come into effect. I submit this will not be to the advantage but to the great disadvantage of the overwhelming majority of people amongst whom you say the custom of divorce prevails. Therefore, by enacting provisions of this type you are not helping the hopeless minority of 5 per cent but you are putting to disadvantage the majority of 90 per cent. Therefore, until and unless your provisions undergo a drastic change and amendment they should not and ought not to be brought on the Statute Book. I now come to the question of adoption. Here also the learned author and the draftsmen of this Bill have ignored the fundamental conception underlying adoption in Hindu law. As far as my meagre knowledge goes, adoption is not recognised by any other law. In Muslim law it was in vogue by custom, but even that has been brought to an end by legislation. According to Hindu conception, the life of a Hindu is so inter-mixed and inter-mingled with his religious conceptions and religion that it is impossible to separate the two.

Shri H. V. Kamath : Is the Honourable Minister for Law resting or meditating?

The Honourable Dr. B. R. Ambedkar: I am hearing the honourable Member.

Pandit Mukut Bihari Lal Bhargava: I was submitting that adoption in Hindu law rests upon religious belief which says that it is essential for the salvation of the soul of a departed man that he should have a son who may be able to give him oblations so as to make him attain *moksha*. So if you are going to legislate about adoption, you must keep in mind the underlying conception. Otherwise, you eliminate it. If you keep it, you keep the spirit underlying the doctrine of adoption. (*An Honourable Member:* What is the spirit?') What are the criteria you have fixed in this Bill for *validity* of adoption? While the Hindu law says that the eldest and the only son cannot be taken in adoption, instead of retaining that very salient principle, you want to reverse it and say that even the eldest and the only son can be adopted. (*An Honourable Member*: 'It is unfair.')

Babu Ramnarayan Singh : It is due to ignorance.

Pandit Mukut Bihari Lal Bhargava : It cuts at the very root of the conception of adoption, because according to Hindu law there must be the eldest or the only son to attend to the oblations for the departed natural father.

Similarly, what are the qualifications you have laid down in this Bill for a boy to be taken in adoption ? The three conditions laid down are that his age must be below 15, he must not be married and he must be a Hindus. I would respectfully submit that by putting a provision like this, you are putting the Hindus in great trouble, because according to the well known conception and custom of Hindu society relating to adoption marriage is not a disqualification, nor is age a disqualification. Why, I ask, are you imposing these limitations ? Has your experience of the administration of law in the past convinced you that these restrictions are necessary ? As far as my meagre knowledge of law goes, there has been no case where any difficulty has arisen. In fact, law by custom has recognised the validity of the adoption of a married boy. Similarly, whatever his age may be, the adoption is valid. What are the difficulties experienced that make the change in the existing law necessary ? It cannot be disputed that when you attempt any change you must have cogent reasons; otherwise, you must recognise the existing law.

Then, about the effect of adoption. You have given a good-bye to every well-established custom of Hindu law. The Rau Bill proposed that the effect of adoption would be to digest ownership of property vested within three years of the adoption. The present Bill goes further and it says that as soon as adoption takes place, there will be no, question of divesting of property. From that date half will go to the widow or the man and the other half to the boy. My respectful submission : why do you want to bring in a novel doctrine of adoption ? Where is the reason for it ? Has any difficulty arisen in the past ?

Then the question of disruption of the joint Hindu family. To me it appears that a most vital and fundamental change is sought to be brought about. Why should the time-honoured institution of Joint Hindu family be an eye-sore to you ? It has been said that the joint Hindu family as it was originally conceived has been shorn of its true characteristics by a galaxy of case law. I admit. But if the institution of joint Hindu family is an institution worthy of respect then your duty is not to bring it to an end because it has been dilapidated in the days of foreign rule, but to legislate for removing the difficulties and defects that have cropped up in the joint Hindu family institution and restore it to its previous position. We should have restored it to its previous vigour. That has not been done. I have not heard a word from the Honourable the Law Minister pointing out any fatal defects

that existed in the joint family system. His only point is that true characteristics have been shown off by case-law and therefore, the institution should be put an end to. I say it is a counsel of despair. That is a view which, at least I for myself cannot support. To me this joint family institution is an institution of which any nation in the world can well be proud of. It is an institution, Sir, which anticipated the socialistic and communistic form of society, centuries before our time. It is an institution, Sir, where even the invalid and the disabled members of the family have equal right to the corpus of the family. It is an institution which .....

Sirjut Kuladhar Chaliha (Assam : General): It is not prevalent in Bengal.

Pandit Mukut Bihari Lal Bhargava : Bengal, as far as my meagre knowledge goes is partly governed by *Mitakshara* and partly by the *Dayabhaga* system.

An Honourable Member: No, all by Dayabhaga system.

Pandit Mukut Bihari Lal Bhargava : Therefore, Sir, my point was that the axe of legislation should not have been applied by the learned Law Minister to cut at the very root of the joint family tree, if it does not rest on such firm and solid foundations as it did at the time of our ancients. Legislation should have been undertaken to protect it. In the time of the British, because we were subjected to foreign rule, and they were not at all interested in keeping in tact our time-honoured institutions. In fact, they had contempt for them. When our own national government has come into power, is it too much to expect that they should attempt to revive and restore this time-honoured institution to its previous glory rather than destroy it. I submit, Sir, by this Bill, the Hindu joint family is being shattered to pieces. What the Rau Committee proposed was not so fraught with danger as what is proposed in the provisions of this Bill. I invite attention to clauses 86 and 87 of the present Bill. The Rau Committee in clauses 1 and 2 of Part III-A only laid down that on the demise of a coparcenar in the family, the right in the property will not devolve by survivorship but will be by succession. That is intended to keep intact the coparcenary for at least one generation. Even that was not tolerated or liked by the present Select Committee and some of its members, including the Law Minister, with the result that what sections 86 and

87 lay down is that there will be automatic disruption of every joint family existing in India, simultaneous with the enforcement of this Act.

Shri L. Krishnaswami Bharathi; There is difference between joint family and joint property.

Pandit Mukut Bihari Lal Bhargava: I am coming to that.

Pandit Lakshmi Kanta Maitra : They are trying to put you off the rails. You go on, please.

Pandit Mukut Bihari Lal Bhargava : The Bill provides in clauses 86 and 87 that no court of law will take cognizance of any claim on the basis of birth. On the day this Bill comes into force, and further, that every joint family will be deemed to have disrupted so that joint tenancy would be converted into tenancy in common, simultaneous with this legislation. But I ask, why do you want this? Is there any uncertainty in the law to-day, in the existing Hindu Joint Family Law ? I respectfully submit there is none. Everybody knows what is meant by coparcenary and what are the incidents of coparcenary property. Why do you want it to be partitioned? My respectful submission is that this is against what was provided even by the Rau Committee. And public opinion, scanty as it was, was taken not upon the Bill as it exists today, but upon the Bill as was drafted by the Rau Committee. Therefore there is absolutely no information why a point of such vital change in the structure of the Bill has been brought about.

Now, what are the advantages of a joint Hindu family? What are the advantages of having coparcenary property ? I submit that.....

Shri B. N. Munavalli (Bombay State): Are there no disadvantages ?

Pandit Mukut Bihari Lal Bhargava: Of course, there are disadvantages, if everybody wants to go on living in a selfish way, entirely for oneself, without any regard to their relatives. But if you look at society in the way in which the *Smritis* wanted us to, we should renounce something for others also, for the other members also, to sacrifice something to make the family, a joint family then there is no disadvantage. There is every advantage and no disadvantage. My submission is that it cannot possibly be accepted by every Hindu family.

One of my friends here reminded me that Mitakshara is not governing Bengal and Assam. But Sir, you must keep the whole country before you and .....

Pandit Lakshmi Kanta Maitra: The joint family is also there.

Pandit Mukut Bihari Lal Bhargava: You are dealing with a population of 300 millions—of 30 crores—and a population that is extending from Kashmir to Cape Comorin, a population that extends from Gujarat to the farthest end of the country. And you want to disrupt the status of the joint family system, and that will affect overwhelmingly vast population. Therefore, you must think thrice before doing such a thing as will disrupt such a vast population. In this legislation you want to disrupt the family. If it is decrepit, if it is dilapidated, if it is, as one of the Members said, in such a condition that we need not even shed tears about it, let it die a natural death. Why should you apply the axe of destruction and bring about its end ?

Then Sir, I proceed to the question of inheritance. Now, here I have got the greatest grievance. As my friend Mr. Naziruddin Ahmad said, the Rau Committee Bill was substituted by a departmental committee Bill and in this departmental Bill innovations were introduced. Clause 94 lays down that property will be excluded from the rules of succession laid down in this Bill. It is in the original Rau Bill it was that every piece of Agricultural property will not be governed by the rules of Succession laid down there, because under the Government of India Act it is not within the purview and jurisdiction of the Central Government. The Rau Bill did not say that there will be any exception in the case of the Centrally Administrated Areas, which are under the direct control and supervision of the Government of India

Now, Sir, in the departmental Bill the words “in the Governors provinces” were introduced with the result that every agriculturist in my province of Ajmer-Merwara as also in the provinces of Delhi and Coorg, which are the Centrally Administrated areas and even the agricultural property situated in these provinces will be governed by the rules of succession laid down here. Look at the anomaly that is sought to be perpetrated by this piece of legislation. The law that will govern the bulk of property will be absolutely different in the Governors Provinces, while it will be just the contrary in the Centrally Administrated areas. Is it the uniformity which is aimed at by this unique piece of legilsation ? Whether this will be in consonance with the ideal of uniformity or it is the opposite of it. May I respectfully ask ? My submission is that all the rules of Succession that you have laid down in the provisions of the Bill if they are applied to the

agricultural property in my province—and I can speak with some knowledge of my own province and the people inhabiting my province- I submit the law will be obeyed more in infringement than otherwise, because the rules of succession that you have laid down are so contrary to the established usage and custom of the people, that they will not accept them as a rule governing them, even at the risk of their lives. What are the rules of succession that you have incorporated in this Part VII, Chapter 2 and Schedule VII? Are they in accordance with the accepted principles of Hindu law either as propounded by *Mitakshara* or by *Dayabhaga* and where is the indication of it ? What is the basis you have taken for inheritance? You say it is 'natural love and affection'. So far as propinguity and consanguinity is concerned in the case of inheritance, one of the fundamental principles of Hindu Law is violated. One of the fundamental principles of succession in the Hindu law is that it depends upon the capacity and the liability of the descendants to offer *shraddhas* to their parents. This is the fundamental capacity which has to be taken into any law of inheritance. Of course, the view was that we are not going to care for Hindu Law; that is a different matter; then delete the word 'Hindu' from there, I have no objection, but if you are to incorporate the fundamentals of Hindu Law, the first thing that you have to take into consideration in the principles of inheritance, is the capacity and the liability of the descendants to offer *shraddhas* to their ancestors, and this is the basis of the *Dayabhaga*.

The Honourable Dr. B. R. Ambedkar: All of them can offer *shraddha* for you and get the property.

Pandit Mukut Bihari Lal Bhargava : What is the reason for the promulgation of this novel Rule of succession ? Brother and brother's son has been relegated to a very, very inferior position. Brother and brother's son comes after daughter's daughter, daughter's son, son's daughter. Is it in accordance with the accepted principles of Hindu Law ? Is it likely to bring peace to the family ? (Many voices : 'No, no.'). Will it not disrupt the family ? Will it not create perpetual disturbance, discord in the members of the family ? This is inconceivable. According to the Hindu society even today, though it has been the subject of outrage for centuries, even today there is love and affection between brother and brother. When I make certain observations, I keep the agricultural population in view. You go to any village and you will find that 9 out of the 10 families live jointly.

The brother is living with brother. He is not separate and as soon as you give the right of inheritance to daughter's daughter, to daughter's son in preference to the brother or the brother's son my respectful submission is that the society will not tolerate or even if it tolerates, the peace and quiet that exists today will disappear in no time. Therefore, you have to be very wise before laying any novel rules of succession so contrary, so repugnant to the accepted principles of Hindu law.

Now, I come, Sir to the doctrine of bringing daughter in the category of simultaneous heir with son.

The Honourable Dr. B. R. Ambedkar : I thought he had said something about it. No elaboration is needed.

Pandit Mukut Bihari Lal Bhargava : Now, Sir, it has been argued that the daughter had a specific share in the inheritance of her father according to the scriptures and the reliance is placed upon Manu and Yajnavalkya, but my cursory knowledge of these Hindu law texts is that whatever share is allotted is in the case of an unmarried daughter and we have no objection at all, even today to allot any share to an unmarried daughter. The question arises even today, what is the position? Can anybody deny that ? Not one daughter among thousands remains unmarried. The daughter is given, according to the status of the family, the best education and is treated on the same footing as the sons. When her marriage takes place she is given a dowry according to the status of the family. On marriage her relationship to the brothers is not cut off. As far as my experience goes, she is invited for every function in the family and on occasions of marriage in her parent's family a quota is assigned to her according to custom. Can anyone say that resort to a court of law will bring peace and franquillity in the home? Such a step will only aggravate the situation and the provisions in the Bill for resort to court are there to our utter shame. We do not want that our daughters and sisters should go to a court of law. It was never contemplated by our sages that they should seek the help of the law. The position assigned to our daughters in the family is of such a unique character that it is difficult to find a parallel to it anywhere. Even after marriage, as I was saying, the daughter has a definite share in the family budget for festive occasions. The question was asked, whether she can go to a court of law to enforce her rights ? Sir, if in a family the father or the brother of a girl is unmindful of his duties to her, he is looked down upon by the

community. According to the well-established custom, every daughter of a family must be present at the time of her brother's marriage. I may tell honourable Members that there is particular ceremony which must be performed by the sister and her husband before the bride and the bridgroom can enter the house. These are time-honoured customs. We give the daughters a definite position. What will you gain by giving her a share in the family property ? One of the justifications for this reform is that there must be absolute equality between a son and a daughter. May I know is there any equality in fact ? Is it not a sham equality that you are going to assign to the daughter ? The conditions are absolutely different. The daughter has to go in due course to a different family. The son has not to go. These are the conditions inherent in the situation. Therefore, whatever law you make must be suited to the conditions and not in violation of them. If you make a law in violation of these conditions, the society will go to pieces.

Now, what is the percentage of property owners in Hindu society today ? It is a very relevant question because, according to the existing custom not only the father has the moral obligation to arrange for the marriage of his daughter, but even the brother, whether he inherits any property or not, thinks it his moral duty to arrange for the marriage of his sister in the absence of his father.

Shrimati G. Durgabai: Do you think he would not discharge his moral duty if he allows his sister a share ?

Pandit Mukut Bihari Lal Bhargava : The honourable Member is talking of a share while I am talking of a family without property. What will become of the sister in such a family ? You may go to any village or town. You will find cases where the father is dead and the unmarried sister is living with her brother. This brother thinks it his moral duty to arrange for the marriage of his sister and he even borrows money for this purpose. Unless and until he has discharged that sacred trust he never thinks of himself.

Mr. Deputy Speaker : Is the honourable Member likely to finish soon ?

Pandit Mukut Bihari Lal Bhargava: I require one hour more, Sir.

Mr. Deputy Speaker: Then the House stands adjourned.

The Assembly then adjourned till a Quarter to Eleven of the Clock on Monday, the 4th April, 1949.

* HINDU CODE—*contd.*

Mr. Deputy Speaker: We will now proceed to the further consideration of the Bill to amend and codify certain branches of Hindu Law, as reported by the Select Committee. Shri Mukut Bihari Lal Bhargava will resume his speech.

Shri R. K. Sidhva (C. P. and Berar : General): Before we proceed to the further consideration of this Bill, we would like to know what is going to be the programme in regard to it. Will it go on indefinitely? I would request that by common consent some time-limit may be fixed on the speeches of members so that as many members as may be possible to be accommodated may participate in the discussion.

Mr. Deputy Speaker : I may inform the House that this is an official Bill and they have provided for two days. The Speaker has not concern with it.

Pandit Mukut Bihari Lal Bhargava (Ajmer-Merwara): Sir, I have to resume my unfinished speech on the Hindu Code. But before I do that, Sir, I have respectfully to draw your attention to the declaration that was made by the Hon. Prime Minister on the opening day of this momentous session.

Sir, the Hon. Prime Minister was pleased to characterise this measure as a piece of simple and essential legislation. I respectfully protect that the measure that is for consideration before the House is not a simple one. I may also be permitted to point out that some of the opposers of this Bill have been accused by the Hon. Prime Minister of adopting delaying tactics. Those are well conversant with this Assembly and the proceedings that have taken place here will readily recognise that this measure has not at all been sufficiently discussed this vital measure which affects the life and death, as I would say, of the Hindu society has been on the anvil of this legislature for only a very short time. If you refer to previous occasions when social legislation like the Sharda Act and the Hindu Women's Rights to Property Act was brought before this legislature, you would find what an amount of controversy they raised. Compared to those Bills, this Bill is enormously of great importance. It affects the entire structure of Hindu society. This Bill, Sir, if placed on the Statute Book—people may differ with me, the Hon. Prime Minister may differ from me,

* C.A. (Leg.) D., Vol. VI, Part II, 12th December 1949, pp. 464-91.

but I do feel so—will result in the utter extinction of the Hindu society, not in the sense that thirty million Hindus will cease to exist, but that the distinctive features and characteristics of the Hindu society will cease to continue.

This is not a simple measure. But the fact is that this Bill aims at the utter demolition of the entire structure and fabric of Hindu society. It aims at changing the law of marriage, the law divorce, the law of adoption, law relating to minority and guardianship, the Law of the Hindu joint family, the law of succession and everything that constitute and what remains of the features of Hindu society. The very foundations not only of one pillar but of all the pillars on which the Hindu society rests, are shaken. Therefore, Sir, it is but neat and proper that we as legislators, we who are the guardians of the interests of the people should discharge our duty to the best of our ability and see how far the measure that we are considering is wanted by public opinion in the country. To characterise this measure as a simple piece of legislation is, I respectfully submit, not fair.

My further submission is that if it is not proper to characterise it as a simple piece of legislation, it is still more unbefitting to characterise it as an essential measure. What is the need, I respectfully ask, for this measure ? What will happen if this Bill is deferred and not brought on the Statute Book till the new legislature, the sovereign Parliament to be elected in free India on adult franchise is elected ? Is there any malady from which the Hindu society is so vitally suffering that if a few months pass without this Bill being placed on the Statute Book, the whole society will crumble ? I submit that in no sense of the term is it essential. We can very well afford to wait for one or two years more. The Hindu society which had successfully stood the test of centuries, the clash of many civilisations, the clash of foreign aggression and had been subjected for centuries to political subjugation can very well survive without this piece of legislation for a year or two more.

Sir, if we wait for . . .

Shri S. Nagappa (Madras: General) : Sir, on a point of order. The hon. Member is casting aspersions on the House when he said that this house is not competent to deal with this matter and that we should wait till a new house is elected.

Mr. Deputy Speaker: There is no point of order in what Mr. Nagappa has said.

Pandit Mukut Bihari Lal Bhargava: Sir, in spite of the interruption of my hon. Friend, I must assert that this house as at present constituted, is thoroughly incompetent to deal with a measure of this vital nature. The question is . . .

Mr. Tajamul Husain (Bihar: Muslim): On a point of order, Sir. It has been decided by the Chair that this house is competent to deal with this Bill. After that ruling, can any hon. Member question whether this House is competent or not ?

Mr. Deputy Speaker : There is no harm. It is a ruling of the Speaker that this House is competent to deal with this Bill, and according to this, Bill is being pursued. If the hon. Member wants to raise other questions, or raise other reasons, other than legal technicalities, it is open to him to do so. But I would advise the hon. Member that this point has been raised by almost every one of the previous speakers and it has almost become state.

Pandit Mukut Bihari Lal Bhargava : Sir, it is only the interruption of my friend here that provoked me to make that remark, I do not question the constitutional power of the Legislature to pass this vital measure. But the question is one of propriety. Can you usurp the functions of a full-fledged legislature, can this House which was specially brought into existence for the particular purpose of drafting the Constitution of India, do that? Therefore, I submit apart from the constitutional aspect of the question, apart from the point of legal power of this Legislature, it is a question of propriety, and propriety is of immense importance. And I feel that I have the right to assert, in spite of the interruption of my learned friend and those with him, that this House must think thrice before dealing with a measure of this vital importance. And my submission is that this measure is not essential and this Government need not have a declaration of a nature to make this question an issue of confidence before the House. The question has to be dealt with a calm mind, and we have to take into consideration the devastating effect that this measure will have upon the entire structure and fabric of Hindu society.

Now, coming to my speech from the stage I left it, I was dealing with the question of innovation that has been introduced in this piece of legislation, namely, the bringing in of a daughter in the rank and file of simultaneous heir with the son. My respectful submission was and is, that this innovation is wholly uncalled for, and that this innovation will demolish the entire structure of Hindu society. Let

me ask, how this is possible. What is the real state of Hindu society ? The difference between man and woman, the difference between the son and daughter, this is inherent in the very situation. The son has to remain all through his life, from his inception to his death, with the family in which he has taken birth. The daughter has to go a stranger's family. What are the consequences resulting from this inherent situation ? The Hindu law givers, the persons who gave us the scriptures, were they so degraded, were they so opposed to the fair sex that they did it only with a view to inflict an inequality or an injustice ? I respectfully submit that this is a wrong reading of the entire scriptures and the Hindu Law. In fact, if the right of inheritance to the patrimony is given to the daughter, I shudder to think of the consequences. The Hon. Dr. Ambedkar, the Law Minister, in his speech remarked, if a Hindu has twelve sons and one daughter, and if on his death his property could be divided into twelve shares, what heaven will fall if instead of twelve it is divided into thirteen shares ? I respectfully ask the Hon. Law Minister to take the opposite case, where a person has got one son and twelve daughters. What will happen in that case ?

The Honourable Shri Jagjivan Ram (Minister of Labour): Thirteen shares.

Pandit Mukut Bihari Lal Bhargava : Is a family house to be divided into thirteen shares ? Sir, think of rural India, do not think of urban India, with people living in palaces, but think of rural India where a family has got a very small house. If on the death of the father, his house is divided into thirteen portions, and the twelve sons-in-law are to be accommodated in that house, what will happen ? And Sir, under the law as it is proposed to be made, it is open to the daughter to marry any person she likes, even if she takes courage to enter into marital contract with a non-Hindu she has no bar, and that is not a disqualifaction for inheritance. What will be the result ? The result will be that every house, and every family will be reduced to a family of feuds in which there will be quarrels and worse still—murders too. Therefore, Sir, I respectfully submit that when you are making a law you are not to take into consideration only a concrete example of the character to which the attention of the House has been drawn by the Hon. Law Minister, but you have to take into consideration every imaginable case, and it is on that footing that you have to frame the law.

Why this inferiority complex about the status of the daughter in Hindu society ? I protest against its very implication. In fact, the daughter in Hindu society has got a very exalted and elevated position. Her marriage into a stranger's family does not cut of her connections with the natural family of the father. On every occasion, on occasions of births, deaths, marriages and other occasions she has to come and perform certain essential ceremonies, and on those occasions the Hindu family has to make presents to the daughter. The daughter's relations with her natural family continues all along. If she gives birth to a child, her brothers have to give her presents. Sir, I may further venture to assert that on the occasion of every marriage in the sister's family, the marriage of a male or female child, the brothers have to make presents. Presents are so essential on every occasion. That being so how can it be said, Sir, that the daughter does not get anything from the property ? My submission is that the whole mental outlook with which this question is approached is diagonally wrong, if you consider it from the criterion of Hindu civilisation and Hindu ideals and ideas. Of course, if your criterion is not indigenous, if it is not Hindu, not Indian, but anti-Indian and anti-Hindu then of course, you must take the opposite view.

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Now let us consider what is the result of giving a share to the daughter in the family patrimony. You can see the Muslim family. The inevitable result of giving this share in the patrimony would be that marriages between cousins will be absolutely common, and sooner or later marriages even within prohibited degrees will come into existence, whether you like it or not. This is what the inevitable consequence would be. If you trace the history of the daughter's share in patrimony, in so many countries, in Egypt, in Greece, in Rome or under Islamic law, you will come to the conclusion, and the only conclusion, that if a share is to be given, then, you must necessarily widen the scope of the right to contract a marriage with first cousins. So far as the Hindu point of view is concerned, that would be a calamity which no Hindu family can tolerate.

I now proceed to the other point. Do you think, that by providing in this piece of legislation that a daughter has an equal share with the son, you will be carrying out what you intend to do, that is to say, you will be conferring any rights to property on the daughter ? I respectfully submit, Sir, that it is not. On the other hand, you will be letting loose and creating scope for so many evils. Under the law

as it is incorporated in the Hindu Code, it will be open for any father to make a gift *inter vivos* in favour of any of his sons, or to dispose of the entire property by a testament. Is there any bar to this, I ask, If there is no bar, then, unless and until the society is prepared to give an equal share to the daughter, the only result of this legislation would be testamentary disposition or gift *inter vivos* of the entire property by the father to the sons. As a lawyer, I have some experience of courts; there are other friends here who have full experience of courts. Is it not a fact that in every ten cases of testament and codicil, nine cases go to the court and give rise to very prolonged litigation? Not only questions regarding the disposing capacity, but questions about the testator being a free agent in executing the will and codicil are raised; complicated questions about the construction and the interpretation of the different clauses of a complicated document like a testament are raised : not in one court, but right up to the highest court, the Privy Council. If that is the situation, may I ask how you will be able to safeguard the interests of the daughter. My respectful submission is that you will not be safeguarding the interests of the daughter by making this disastorus piece of law, but you will be doing her a positive harm which it will be difficult for you to undo. The very psychological approach of a Hindu family will change. As soon as it is provided in the law that a daughter has a share in the patrimony, the brother will think himself absolutely relieved of the duty of maintaining his sister and providing for the marriage expenses. What is the condition of the Hindu families today ? What is the percentage of the families that have got immovable properties ? My submission is, it cannot be more than forty per cent. What will become of the rest of the 60 per cent, of the families, I shudder to think. What will be the result in the case of these 60 per cent, of the families governed by the *Mitakshara* law., who have no property at all ? Because by law the sister is made equivalent to the brother, the brother who feels a burden and responsibility to bring up the sister up to the time of her marriage and conduct the marriage, to give her dowry, to give her everything, that sincere brother will feel relieved of his responsibility. That would be the result, and the only result, of this disastrous provision, without any corresponding benefit to the daughter. Therefore, my respectful submission is, not on the ground that the daughter is not equal to the son, nor because of any prejudice against the fair sex, but in the interests of the daughter herself, that this provision should not be enacted. Of course the daughter has got other means

to safeguard her interests. They can get valuable rights in the property of their husband, in the property of their father-in-law.

Shri L. Krishnaswami Bharathi (Madras: General) : We have already given that.

Pandit Mukut Bihari Lal Bhargava : If that is already given than, there is absolutely no necessity to give her a share in the patrimony. Even as I understand the law, a right of a limited character has been given; you can certainly widen that and give the daughter a right equal to that of her husband in her father-in-law's property. That is a very good suggestion which we can consider.

Now, Sir, I come to the other important change in this revolutionary piece of legislation : I mean the disruption of the joint family status. A very important feature is that under section 86 of this Bill, no court of law will hereafter be entitled to take cognisance of the right by birth. I shudder to think of the evil consequences flowing from this provision. It is said that Bengal, and Assam are already governed by the *Dayabhaga* system of law which does not recognise the joint family status, under which every family member occupies a position of equality. Does it mean that this system should be extended to the whole of India ? If five crores of people are governed by this system, and twenty crores by the other system, is there any justification of law for extending the law of the five crores to the other twenty crores ? I say this *is* absolutely wrong. My submission is that the right of acquisition by birth is a valuable right of a Hindu son. It is a right which provides against the prodigality and spendthrift character of the father. It is this valuable right that has saved the properties of so many thousands of Hindu families. It is this right that is being done away with by this disastrous piece of legislation, in section 86. Not only this; section 87 provides that every joint family will have a compulsory disruption on the coming into effect of this unique piece of legislation. Why should there be a compulsory partition ? My submission is that these provisions are not of a simple character; they are of a revolutionary and radical character and there is absolutely no reason why changes of this enormous character should come into existence.

Then I come to the very important provision, incorporated in the Bill about what is known as dissolution of marriage. The clause that deals with this is clause 30. It lays down the grounds upon which dissolution can take place. The other clause relevant is clause 33 which

lays down the grounds upon which judicial separation can be claimed by a party to a marriage. Then, there are provisions for the declaration of a marriage as void or viodable. These are absolutely novel provisions so far the Hindu Law and Hindu society is concerned. In fact these provisions of law and the other provisions of law incorporated in this Bill have created a paradise for lawyers. For declaring a marriage void the matter can be taken to a court of law. For getting a marriage dissolved the parties can go to a court of law. For seeking a judicial separation they can go to a court of law. What are the lessons learnt from the cases of dissolution of marriage in so many European countries. It is indeed surprising and astounding that the experience of western countries and the experience of America and England where in every six marriages there is a case of one marriage dissolution, has not given any lesson to us. We have not had this position in our society at any stage of our society and why should we introduce compulsorily the resort to a court of law. Clause 34 provides that every dissolution of marriage can only be through the medium of District Courts and it also provides that every case of dissolution must automatically go to High Court for confirmation under clause 44. I ask whether it is not opening a door for lawyers to prosper. Should any piece of legislation set the ball rolling for more litigation in the society ? My submission, therefore, is that the provisions for judicial separation and for dissolution of marriage as incorporated in clauses 30 and 33 are not only opposed to accepted ideals of Hindu Society, they are diagonally opposed to our civilization and culture. They are directly contradictory to the sacramental marriage because it is not a contractual relationship that can be brought to an end by the whim and caprice of any of the parties but it is sacred bond of union which has its root in the past and which will have its effect in the future. That is the conception of Hindu marriage. These provisions of judicial separation or dissolution of marriage are diagonally opposed to what is our conception of marriage and still when the western countries which have been habituated to this sort of marriage relations—divorce and everything—when they are feeling tired of it, when the sanest of their thinkers are thinking of this system as ruinous to society, it is indeed a wonder that we are trying to imitate it. My submission therefore is that you should be very careful., What are the grounds of judicial separation ? A case of adultery. The law says that the marital relations can be brought to an end by judicial separation or by dissolution of marriage. The germs are there before the couple and I would respectfully draw the attention of the House whether it is not

a fact that if there is a quarrel—naturally there is bound to be quarrel in families so many times—if these provisions exist in the bill, they will give an incentive to the couple at any time of quarrel or even family scuffle to seek the remedy of the court and Sir, it is very cheap because the charge of adultery can be brought by a woman against her husband or a husband against a woman very easily and there are interested persons everywhere to disrupt the families. Result would be for very flimsy reasons there will be cases of divorce. It therefore will be ruinous to Hindu society. Our society has survived the onslaught of so many centuries and has successfully stood in the world as the ideal form of institution notwithstanding the onslaughts because of the inherent system of *pativratabhakti*. These provisions do not even help those communities which are by custom taking resort to divorce. They create a great obstacle and compel them to go to court. It is opposed to our culture and civilization and our accepted ideals of ideal marriage life. One argument has been repeated often *viz.*, there is nothing radical or revolutionary about this measure, and the provisions regarding marriage and divorce are of a permissive and enabling character. If that is so, why not scrap all these provisions from clause 5 to 51 and make one clause in the Bill that every Hindu shall be competent to marry any person he likes because that will be only an enabling provision. He can very well, at his own risk, marry his own sister. Therefore it is no use providing such a comprehensive bill with so many sections. Why not scrap them and provide one general section and it will be a model of simplicity as also a model of the civilization and the stage through which we are passing. My submission therefore is these provisions from a Hindu oriental point of view are simply repulsive and could not be incorporated and cannot be tolerated in a bill of this nature.

I come to the next point. Under the provisions of this bill, clause 91 is the relevant clause—every property that comes to a female either by inheritance from father or from father-in-law or from any other source will be her absolute property and the rules of devolution of female property are provided in clauses 106 to 109. These provisions are also not conducive to the attainment of peace in family life, and are of a disastrous character. Here again every provision is opposed to the accepted conception of Hindu ideal and you will find that the property which a female inherits and which according to clause 91 will be the absolute property of the female will descend in the order also prescribed under clauses 106 to 109. That is, the first persons

to inherit will be the husband and children equally. If there is no husband or children, then who are the persons under the Bill who will be entitled to inherit the property. There are mother, father and husband's relations. May I ask humbly and respectfully every honourable Member of this house whether there is any father or mother in this land of Hindus who will relish property from his or her daughter?

Shri L. Krishnaswami Bharathi: Why not ? What is the harm ?

Pandit Mukut Bihari Lal Bhargava : Perhaps my honourable friend comes not from India but from an outside country.

Shri L. Krishnaswami Bharathi: I come from South of India.

Pandit Mukut Bihari Lal Bhargava : In India no father or mother will ever think of receiving anything from the daughter.

Shri L. Krishnaswami Bharathii: That may be so in the Punjab.

Pandit Mukut Bihari Lal Bhargava : It is so in the whole of Northern India. I cannot speak with authority about South India. But so far as Northern India is concerned the very idea is repulsive. Of course there is an exception to this rule among those who count money and property over every thing else. To them *dharma* is no matter of their concern. But I am not talking of those exceptions : I am talking of the ordinary father or mother in Northern India. Their souls will revolt at the thought of accepting anything from their daughter. In *kanya dan* when a father and mother sitting together give their daughter to the bridegroom as also dowry and ornaments, after that in our part of the country, the mother or father will not even take water in the house of the daughter.

Shri L. Krishnaswami Bharathi: It is not so bad in our part of the country.

Pandit Mukut Bihari Lal Bhargava: That might be a custom or usage prevalent in your part of the country but in my part of the country, an overwhelming majority will be opposed to the idea. They cannot even imagine receiving any inheritance from the daughter. Therefore the entire fabric of the rules of devolution is based on anti-Hindu ideals. If Mr. Bharathi takes the trouble to go into the rural parts in my part of the country he will be surprised to find, let alone the father or mother, even the inhabitants of a village will not drink water in another village into which the daughter of their village is married.

Shri L. Krishnaswami Bharathi: I am told that they do not even pass through such a village.

Pandit Mukut Bihari Lal Bhargava: Under the rules of devolution after the father and mother who are the persons entitled to inherit the property of the female ? If it provides that that will go to the husband's relations, it is repulsive and it will create family feuds. Why should property go to the husband's relations, if it has come to the daughter from the father ? That is why our law-givers have made several categories of *stridhana* which will accrue to different categories of people. You are not competent to understand the higher motives of our law-givers who made those salient provisions and you want to sacrifice their ideals at the alter of simplicity. According to our accepted notions of *stridhan,* if the property has come from the side of the father it is the father's relations that are entitled to it. Why should not a provision of this character be incorporated in sections 106 to 109. That would be more acceptable to Hindu ideology .

I now come to the other provisions of the Bill. On the day the Code comes into force, the joint tenancy will be deemed to have been converted into tenancy-in-common. The Bill makes a provision in clause 115 that it is open to every heir to go to a court of law and claim partition of the family property. Is this provision conducive to the preservation and maintenance of peace in the family ? After the death of the father, the daughter, the son, the widow of a pre-deceased son, etc., will rush to a court of law and claim partition as required by section 115. This will be like the Islamic law, entirely repugnant to Hindu ideology and cannot be tolerated in a Bill of this kind.

It is claimed that this Code will resolve conflicts of opinion, that it is an exhaustive piece of legislation providing remedy for every malady in Hindu *dharma.* Are there not any omissions in the Bill and until they are filled in, will it not shatter the Hindu society ?

Under clauses 88 and 89, you abrogate the doctrine of Pious Obligation. Under clause 89 you provide that the family members will be entitled to pay the duties existing on the joint family. What provision have you made when the father dies ? Who is to bear the funeral expenses or make provision for *shradhas,* or the other charitable objects connected with such occasions. Once this Code is brought on the Statute Book will there not be fight and feud between the different heirs ? On the death of a father every son and daughter will be so absorbed in assimilating the wealth of the father that they will forget their duty to

perform the *shradhas,* which are essential for any self-respecting family. There is absolutely no provision in this regard in this Bill.

Does the Code provide for the Hindu joint family ? In Hindu Law there is a distinction between co-parcenary property and joint family property. What is the number of families in India carrying on business? Is there any provision within the four corners of the Bill for that ? How will succession take place in joint family business ?

You claim exhaustiveness for this Code. Have you made any provision for an adopted son? Under clauses 52 to 54 every Hindu male on attaining the age of 18 is entitled to adopt a son with the consent of his wife. After adoption if the father gets his own son what will be the son's rights in the patrimony ? Does your Code present any solution of this problem ? Our Hindu law-givers or *smritikaras* make ample provision for different parts of the country. What is the position of a son born after adoption of a son by the father ?

In *Dayabhaga* he gets one-half: under *Mitakshara* he gets one-third; in the Bombay Presidency he gets one-fourth. Have you made any provision here ? If not, will it not create confusion and confusion of a worse character ? Have you made provision for partition of the joint family property and so many other things which are an essential, and complicated, branch of Hindu Law ? My respectful submission therefore is that this will create problems and questions which it will be very difficult to answer.

Then the question arises what will be the rights and duties of a son who has no share in the joint family property. Under the present circumstances, a son by birth has got rights in the property and that is a shield behind which he can stand for his maintenance, education and other things. You may point out to me the provisions of clauses 126 and 128 of your Bill which lay down that it will be the duty of every husband to maintain his wife, and the wife may claim separate maintenance from him on certain grounds as those of illness like leprosy etc. There again is the door for litigation and a paradise for lawyers. And in clause 128, you will say, you have provided for the maintenance of children and aged parents. But by providing for maintenance under clauses 126 and 128, are you effectively safeguarding their rights ? My submission is you are not. You are placing them in a worse position than what they occupy under the present Hindu Law. Under the present Hindu Law a son has an inherent right to maintenance out of the family property, and if the father or manager or *karta* of

the family is so undutiful as not to look to his interests he has his remedy in a court of law. He can even claim partition. Every student of Hindu Law knows that while a minor has very restricted rights to claim partition in Hindu Law, if the father or the manager or *karta* of the family abuses his power to the detriment and prejudice of the minor, he has the legal remedy open to him and he can proceed in a court of law to enforce his right to partition. That is a valuable right and you are taking away that valuable right.

Similarly you say that in clause 126 you have provided for the maintenance of the wife and in clause 128 you have provided for the maintenance of children and aged parents. If a husband happens to be penniless, if he cannot earn, if he has got nothing to support himself, how can he support his wife ? Therefore I submit that this pseudo right conceded to the wife is only a sham and a paper right. In the present Hindu Law every wife, every female has a valuable right of residence and of maintenance and she can enforce the right through a court of law if the manager or the *karta* abuses the right.

Shri L. Krishnaswami Bharathi: Even if her husband is penniless ?

Pandit Mukut Bihari Lal Bhargava : I am talking of joint family property. The matter will be different if you decide by a piece of legislation that every piece of property is to disappear and there should be socialisation and nationalisation of every property. But, keeping intact the institution of joint family you are depriving the minors, the widows and the females of their valuable rights which exist under the present Hindu law. In the name of equality which is sham and paper equality you are perpetrating a wrong which it will be very difficult to remedy. My submission therefore is that judging from every point of view this piece of legislation is not only opposed to the accepted principles of Hindu Law but is liable to create such confussion in Hindu Society which it will be very difficult to overcome or remedy.

Sir, before I conclude I have to sum up what I stated on the 2nd of April and now. I said that there is absolutely no necessity and no desirability of the codification of Hindu Law. It is neither necessary nor desirable. It is not wanted by judicial opinion in the country. There is no conflict of authority of such a series character as to warrant the interference of a Legislature. There is no public demand for a measure of this character. The *quntum* of evidence upon which the Rau Committee relied was analysed by me in my speech on the 2nd

of April and I pointed out that the overwhelming weight of opinion in the evidence recorded by the Rao Committee was opposed to every innovation and change that is incorporated in the Rao Committee Bill which has been further aggravated in the present Hindu Code Bill as it has emerged out of the Select Committee. On every point, on the question of divorce, on the question of sacramental *cum* civil marriage, making sacramental marriage liable to be converted into civil marriage at one's sweet will under clause 21, there was opposition, and opposition from every quarter. From every quarter the overwhelming weight of opinion was against the ending of the joint family status. Therefore, on every crucial point, the overhelming opinion was against the Rao Committee Bill. Even now in the opinions that are pouring in from the various quarters in the country, from judicial quarters, from bar associations, from other citizens, there is a unanimity of opinion that a measure of this subversive type is not at all required under the present circumstances. Therefore I had submitted, and I repeat it today, that codification of the Hindu Law is neither desirable nor necessary.

I have pointed out that the marriage provisions contained in the Bill are a misnomer for marriage. It is in fact introducing the principles of Islamic and Christian marriages into the Hindu Code under the garb of sacramental marriage. It will be a sham. It will be shameful for any Hindu to go into a marriage of this character which is liable to be changed at one's sweet will into a civil marriage. This cannot be tolerated.

Shri S. Nagappa : This Bill does not prevent sacramental marriages.

Pandit Mukut Bihari Lal Bhargava : I have already met your argument, an argument that is often repeated on the floor of this House and outside, that this is an enabling measure, a permissive measure. If that is so, scrap off everything and have one omnibus clause in the Bill that everybody is competent to marry anybody. That will meet the requirements. Why do you make a fetish of the sacramental marriage ? The sacramental marriage of the character you have provided in the Bill is nothing but a mockery, an insult to the time-honoured institution of sacramental marriage. It is only a misnomer to deceive the people, to convince them that there is no departure from the eastablished practice. It is a hoax that is sought to be perpetrated on the Hindu society. No self-respecting Hindu can possibly tolerate this state of affairs.

Better do away with these provisions commencing from clause 5 to 52. They are wholly opposed to Hindu ideology, to Hindu culture and to Hindu civilization. That is my submission in respect of the marriage provisions. As regards the divorce clauses I had already made my submission. About adoption, I had said and I repeat it today that the very conception of adoption is a creation of Hindu law, and if you cannot in this modern age, on account of what you call your advanced views, subscribe to that ideal of adoption, then do away with adoption altogether but don't provide for a hotch-potch adoption of the nature you have done. According to the provisions of the Bill, every person, every Hindu, can be adopted as a son. There is no restriction of *Gotra*, there is no restriction of caste, there is no restriction of the status, and it is left to the person concerned to adopt any person. Those, who are well conversant with the codes of Hindu law, very well know how the adoption of a stranger in the family has been the source of litigation. There are well-established, customs and usages having behind them the sanctity and authority of judicial pronouncements whereby only a member of a family of the same *Gotra* can be adopted. All those usages, all those well-established customs are very easily given the go-by; without even thinking of the disastrous consequences this step is being taken. I shudder to think of the very terrible consequences that are bound to follow from a provision of this character. Better do away with the institution of adoption altogether rather than provide for adoption of this kind. In fact, I may be permitted to remark—and I do so with full responsibility—that the sponsors of this Bill had an inherent abhorrence, an inherent hatred against everything related to Hindu culture, and that is why we find provisions of this character being included without appreciating or finding out what were the motives of the Hindu law-givers in providing for adoption. The sole purpose of adoption under the Hindu Law is that a person may have a son to administer to his spiritual needs, to offer oblations on his death. That is the sole purpose of the conception of adoption but by making a provision that any Tom, Dick and Harry can be adopted you are cutting at the very root of that conception. Do not therefore, make such a provision. Better do away with adoption. It doesn't exist in so many societies. Where is the necessity to perpetuate it if you are so averse to it ? But then do not make a mockery of the conception of adoption.

Sir, I shall submit that every provision in this Bill has got a stigma which is anti-Hindu and therefore cannot be acceptable to any Hindu. To me this Bill is an insidious effort on the part of its sponsors to

take the Hindus out of their Indian moorings and to launch them on foreign waters of Arabia and Jerusalem. Where is the necessity for this Hindu Code? Why don't you extend the provisions of the Indian Succession Act of 1925 by a stroke of the pen to the entire Hindu community? By this very convenient and simplified method—and we are very much enamoured of simple legislation—it will be very easy to provide for the entire Hindu society.

Before I conclude, I think it is my duty, and an honest duty, to sound a note of warning. You very well know that the Hindu law is a law not piloted from outside. It is not an imposition from above, it is not the creation of a sovereign power, it is not the result of a ukase of any king or of any legislature. That is the greatest merit about it. It is a spontaneous development from centuries past. The texts of the *Smritis* and The *Nibhandhaka* have not created the laws; they have only explained and elucidated the accepted principles of Hindu Law, but those principles as readable from the texts have never been the governing force of the Hindu society. The governing force of the Hindu society has been a consistently developing usage and custom governing the different sections of the society. That development was spontaneous. In fact, looking at it from a realistic point of view, the Hindu society is a working legislature in continuous session not of the few selected persons as this House is but a legislature of the entire community, that modifies and moulds its law according to its requirements. That is the supreme beauty of Hindu Law. And that you are distorting, that you are deforming by this piece of legisaltion by taking from it vitality, elasticity, mobility, spontaniety and adaptability to the everchanging circumstances of the society. Sir, I, as an humble Member of this House, have a duty to say that you must be very careful before you tamper with it. It is a law that has come into existence as a result of centuries of development and before you tamper with its time-honoured institutions, customs and usages, you should keep one thing in mind. The India of ours does not reside in urban towns like Allahabad and Delhi. The real India lives in the five lakhs of villages. The life of the villagers is so intimately interwoven with the texture of their society that whatever modifications you might make by this piece of legislation, they will resist to the limit of their might before you take away from them the time-honoured usage and customs to which they have been submitting as a matter of course for centuries. Without doing any benefit to the Hindu Society,

you will be opening the door for a few disgruntled persons who want to take advantage of this innovated piece of legislation.

Dr. Mono Mohan Das (West Bengal); Is he not casting aspersions on some of the members of this House ? He has repeated the same thing so many times.

Pandit Mukut Bihari Lal Bhargava : I have not referred to any Members of this House. My hon. friend should have the patience and the tolerance to hear the opposite views. My submission is that you cannot put a brake to this spontaneous growth and development of Hindu law by this piece of legislation and if you pass it, you will be spoiling the beauty of Hindu law rather than adding to it. This piece of legislation is so disastrous in its character and so destructive in its nature that it is difficult to imagine the bringing of a constructive approach to bear upon it. The Hon. Prime Minister and Leader of the House suggested the other day that we should meet in a formal or informal committee to devise a compromise upon which the orthodox and unorthodox sections can agree. I join issue with him. But I feel that the Bill has been conceived with a mental outlook and psychology which is wholly repugnant and unacceptable to Hindu ideology. Consequently, in spite of our sincere efforts to arrive at a constructive approach of this measure, it will be very difficult to do so. The safest course for the Government to adopt is to withhold this measure and wait for a more opportune time for a legislature elected on adult franchise with a mandate from the electorate to change the entire structure of the Hindu society. Until and unless there is such a mandate, I submit, and I question and question with vehemence the propriety of this legislature to deal with a measure of this vital importance to the Hindu society.

With these words, Sir, I resume my seat.

Shri Loknath Misra (Orissa : General) : On a point of order. Although I do not desire to oppose the consideration of this Bill, I think its consideration is totally barred and bolted by the very Constitution which we have recently passed. Of course, it may be argued that it has not yet come into force. But we are quite sure that we are not going to pass this Bill this time and by the time the Bill is passed the Constitution must have come into force. If you will permit me, I will detail my reasons for saying that this Bill is against the Constitution.

Mr. Deputy Speaker : I have heard the point of order sufficiently. The new Constitution has not yet been implemented. It has not come into force. I do not propose to give any ruling on the question as to whether it will stand in the way of this Bill being passed into law if it comes into force. Under the present Constitution, this House is thoroughly competent to get on with this Bill.

Shri T. T. Krishnamachari (Madras : General) : In view of the importance of this measure and the fact that the number of people who want to speak is large, would the Chair consider the desirability of using its discretion and imposing a time-limit ?

Some Honourable Members : No, no.

Some Honourable Members : Yes, yes.

Mr. Deputy Speaker : Order, order.

Shri M. Tirumala Rao (Madras : General): This point was raised by Mr. Sidhva and disposed of by you.

Mr. Deputy Speaker : Mr. Sidhva raised another point. He wanted to know if this House would continue the discussion tomorrow and what length of time has been allotted. It is an official Bill and it is, for Government to allot the number of days, I replied. The position is that the Speaker can only say whether debate on a particular Bill has been sufficient or not. So far as this Bill is concerned, hon. Members are fully aware that no time-limit can be imposed. (*Hear, hear*).

Hon. Member will kindly wait and see. The general discussion on this Bill was begun so early as 24th February 1949. It continued on the 25th, 26th, 28th, 1st March, 1st April and 2nd April. One hon. Member took six hours and eight minutes. We spent in all 6 days, 9 hours and 20 minutes. All the same, only 14 hon. Members have spoken so far. The last speaker who has just concluded, Pandit Mukut Bihari Lal Bhargava, started at 3-15 p.m. on 2-4-49 and went on till 5 that day—one and a three-quarter hours. Today he went on from 11-50 to 12-57. At this rate, we will have to sit nearly a year if all hon. Members are to have a chance to speak. Many of the points which have been made in the speeches are all very enlightening. I say nothing against the speeches. But, I have received a large number of requests from hon. Members for opportunities to speak.

Pandit Lakshmi Kanta Maitra (West Bengal: General): We are all in so much darkness. We want light from every side.

Mr. Deputy Speaker : Light from every side is coming, but if we proceed at this rate, light from many sides would not come.

Therefore, I would request hon. Members to limit their speeches, as far as possible, to half an hour. On all Resolutions fifteen minutes are placed at the disposal of hon. Members and they are able to put their cases perfectly well within that time. I have given twice as much time. But I do not insist upon it. It is simply my suggestion to the House. Otherwise, if a closure is applied tomorrow, possibly by that time a number of Members may have spoken and sometimes wittingly or unwittingly if the House is in favour of closure, it has to be accepted. I am giving a warning in advance.

The Honourable Shri K. Santhanam (Minister of State for Transport and Railways) : I only want to say that I hope to finish before the time-limit fixed by you. I hope you will permit me to proceed in the afternoon.

Mr. Deputy Speaker : It ought not to be said ahead. I am leaving it to hon. Members to decide, so that all Members may have equal opportunities. Normally, half an hour is the time-limit I suggest. If the House agrees.

Some Honourable Members : Agreed.

Some Honourable Members : No, no.

Mr. Deputy Speaker : Order, order, Mr. Sahu wants to say something.

Shri Lakshminarayan Sahu (Orissa : General) : Sir, I would like to know if priority for speaking will be given to those Members who are willing to restrict their speches to only five, seven or ten minutes.

Mr. Deputy Speaker : Therefore, if I have to accept that suggestion, I hope hon. Members will also indicate in their letters to me how many minutes they are likely to take and I will ring the bell as soon as that minute is over.

Pandit Lakshmi Kanta Maitra : Before you adjourn, I want to say just one thing. You said just now that it will be perfectly open to Members to move closure. But according to all parliamentary procedure, it is open to the Speaker to say whether there has been sufficient debate or not and whether the closure is justified or not. that is a well established practice and you also reiterated that you follow that. In view of that statement, do you say beforehand, even today, that you will have to accept closure tomorrow?

Mr. Deputy Speaker : The Chair has no right to make up its mind in advance. It is now 1 o'clock and the House stands adjourned till 2-30 p.m.

The Assembly then adjourned for Lunch till Half Past two of the Clock.

The Assembly re-assembled at Half Past Two of the Clock, Mr. Deputy Speaker (Shri M. Ananthasayanam Ayyangar) in the Chair.

HINDU CODE—*Contd.*

The Honourable Shri K. Santhanam : Sir, I rise to offer my whole-hearted support to the Hindu Code as it has emerged from the Select Committee. Sir, I have been watching the progress of this lawmaking from its earliest beginnings. I had the privilege of tendering evidence before the Rau Committee and since it has emerged from that Committee it has undergone many changes and, in my view, steady improvement.

Sir, I feel that this Hindu Code is merely a continuation, in the social sphere, of the great Constitution we have completed the other day in our capacity as a constitution-making body. Sir, what are the basic factors of that Constitution ? It is based on the unification, on the integration and on the strengthening of India as one political entity. Similarly this Bill is based on the principles of unification, integration and strengthening of the Hindu community. Sir, unless the Hindu community is unified, integrated and strengthened, I do not see how the great Constitution we have made can be successfully worked.

Pandit Lakshmi Kanta Maitra : Unified by divorce ?

The Honourable Shri K. Santhanam : The idea that politically you can be well-advanced, that in the field of economics you can preach socialism, but yet be a believer in social stagnation is wholly incompatible and unrealistic. India has to move on all fronts, or not at all and I think the change and reform in the social sphere is as indispensable as our progress in the political and economic spheres.

Pandit Lakshmi Kanta Maitra : Democracy in marriage also ?

The Honourable Shri K. Santhanam : My hon. friends may well ask why we should not compile a code for the whole country rather than a unified code for the Hindu community alone. Well, Sir, while

we were making the Constitution there were many who were asking . why we continued to have provinces, why we were building on the Government of India Act and why we were continuing to have Rajpramukhs ? Sir, our argument in reply was that while we wanted change and reform we wanted to build, as far as possible, on the existing foundations, that we wanted a judicious combination of conservation of the existing forces and the forces that make for change and reform. This Bill is based on the same principle. It seeks to conserve as much of the Hindu law as is consistent with modern needs and ideas and it seeks to change wherever such change is necessary. I think that is the only way the whole country as well as the Hindu society can progress without internal disruptions and violent revolutions. Sir, our policy is one of peaceful and voluntary change and this Bill is a notable attempt in that process of peaceful change in the social sphere.

Sir, I don's want to go into the clauses of the Bill. The time is not yet ripe for it and when we take up clause by clause it will be time to scrutinise particular provisions.

Pandit Lakshmi Kanta Maitra : That stage will not come.

The Honourable Shri K. Santhanam : Well, let us see.

Pandit Lakshmi Kanta Maitra : Not unless there are elaborate lathi charges outside.

The Honourable Shri K. Santhanam : There were people who were prophesying that the Constitution would never be passed ; but we have passed it. In the same way, we are going to put this Bill on the Statute Book.

Sir, I am not saying that certain clauses, or even parts are not susceptible of slight changes or adjustments.

Pandit Lakshmi Kanta Maitra : Slight!

The Honourable Shri K. Santhanam : But I shall confine myself to the broad principles contained in the Bill and, leave details to a future occasion.

Sir, this Bill has got four aspects, namely, codification, unification, rationalisation and reform.

Sjt. Rohini Kumar Chaudhuri (Assam: General) - And falsification too.

The Honourable Shri K. Santhanam : Well, I will leave that part to you. So far as the parts dealing with adoption, with minority, with guardianship and with maintenance are concerned, they are simply

codification of existing Hindu law. (*An Honourable Member:* Question). You may question it, but I think Sir B. N. Rau is a far greater legal authority than the hon. Member.

Pandit Lakshmi Kanta Maitra : That is absolutely no argument. He may be or not. I can understand an argument—but this sort of talk I cannot stand.

Mr. Deputy Speaker : Order, order.

Pandit Lakshmi Kanta Maitra : But what is the meaning in arguing that such and such a man is far above anybody else here ? Is that any argument ?

Mr. Deputy Speaker : There is no meaning in all hon. Members talking simultaneously. Each hon. Member will have his turn and I am prepared to sit here as long as the House wants me to.

So far as the hon. Member's reference to Sir B. N. Rau is concerned, he probably meant that he was a Judge of the Calcutta High Court and it is not unparliamentary to say that the opinion of a particular person is highly valuable. Even as an individual the hon. Member perhaps meant that he knows him much better than any other Member of the House.

The Honourable Shri K. Santhanam : Sir, I merely stated that Sir B. N. Rau is a better legal authority than the questioner.

Sjt. Rohini Kumar Chaudhuri : On a point of order, Sir, Hindu Law is absolutely and intimately connected with Hindu religion. Can anyone tolerate the idea of a non-Hindu being an authority on Hindu Law and principles ?

Mr. Deputy Speaker : I can well appreciate differences of opinion among hon. Members. But there is no room for excitement. Let there be patience first and all hon. Members will certainly contribute to the debate in a harmonious atmosphere.

Shri L. Krishnaswami Bharathi : The hon. Member who just now interrupted seems to say that Shri B. N. Rau is not a Hindu ; it is an insinuation which should not be allowed. Shri B. N. Rau is not here and it is your duty, Sir, to protect him.

Mr. Deputy Speaker : I am not in a position to say to what religion any particular person belongs. I do not know it personally. But I expect hon. Members to keep within limits, and because they have got certain privileges, they should not defame others. They should keep within limits, and if an hon. Member makes an aspersion, it will be wrong.

The Honourable Shri K. Santhanam : Sir, I do not mind interruptions; but if those who are opposed to this Bill think that they have the monopoly of such tactics, they are mistaken. Sir, I assert with all the emphasis I can that Shri B. N. Rau is as good a Hindu as any in this House. And so far as I am concerned, I may say that my ancestors have come from very orthodox Hindus, and up to this moment we have not eaten even a little bit of fish, and I may claim to be more orthodox than. . . .

Shri H. V. Kamath (C. P. and Berar : General) : Is eating or not eating fish a test of orthodoxy?

The Honourable Shri K. Santhanam : In my part of the country eating fish is considered to be the most heterodox fashion.

Pandit Lakshmi Kanta Maitra : And in my part of the country eating *iddlies* and *rasom* is considered most objectionable.

Mr. Deputy Speaker : Let hon. Members come to more lasting things like marriages and divorce, than *iddlies* and *fish*.

Shri R. K. Sidhva : Let us not reduce the House to a fish market.

The Honourable Shri K. Santhanam : I again say that so far as adoption, guardianship, minority etc. are concerned, they are merely codification of existing law, as can be found in the judgments of British courts. Sir, whatever Manu might have written, whatever Yagnavalkya might have written, the present Hindu law is the law as interpreted in the British Courts for the last one hundred and fifty years, and against this interpretation, even Manu and Yagnavalkiya are utterly helpless. So the Hindu law now is the law as interpreted and as laid down by the British judges in this country.

An Honourable Member : British judges ?

The Honourable Shri K. Santhanam : British or Britishized judges. Therefore, Sir, I think we are at least as competent to change that law as the British Judges who have changed the ancient law into the present Hindu law as it is.

Sir, I come now to the next aspect of the Hindu Code—the unification portion of it. I am surprised that any Hindu looking to the future should say that so far as the law is concerned, no unification is necessary, that each part can have a regional law, that in Bengal we can have the Dayabhaga law, that in Malabar they can have the Marumakkattayam law and other parts the Mitakshara law and so on, that everything should be as it was in the ancient days. I cannot

understand people when they say that in politics and in economics we shall be in the year 1950 A.D. but so far as the law is concerned we shall be in 1950 B.C. Sir, to say so is wholly a disintegrating and disastrous proposition. If Hindus have to be one community, if they have to have vitality they must all come under one law, whether it be Dayabhaga or Mitakshra. I can understand some people saying, "Let us have Mitakshara" or "Let Bengal come under Mitakshara". I can understand other people saying, let them all come under the Dayabhaga law. But to say that Hindus should be dissected into various regional groups, each having its own law, so that if a Bengali goes to Malabar, the courts would have to interpret three types of Hindu law, that I think, Sir, is pronouncing the doom of Hindu society. Sir, the enemies of Hindu society cannot ask for anything better than that Hindus should be administered by a dozen regional laws. Sir, by this Bill we are at last bringing Hindu society under one unified Hindu law, let it be any law, but it should be one unified Hindu law for the entire Hindu community, Sir, in this Bill ....

Sjt. Rohini Kumar Chaudhari : Sir, on a point of order, the hon. Member is speaking communalism in this House. He is talking of unifying all the Hindus, probably against the Muslims and others. He wants one law for the Hindus ; so he is preaching communalism.

Mr. Deputy Speaker : This point of order only enlivens the debate, but it is not really any point of order.

The Honourable Shri K. Santhanam : Sir, the day this Bill is put on the Statute Book, the whole process of assimilation will begin and it will not be long before the rest of the Indians in this country will begin to conform to that law, and if necessary, we shall give them minor changes so that the whole country will come under one civil code. Sir, this process is not a disintegrating process but a cementing process. The process will go on and before long.

Pandit Lakshmi Kanta Maitra : It is going on outside.

Shrimati G. Durgabai (Madras : General) : It is going on inside.

Pandit Lakshmi Kanta Maitra : Inspired by you.

The Honourable Shri K. Santhanam : I have been in this House too long to be worried by these interruptions.

Now, the question is whether we should prefer the Dayabhaga law or the Mitakshara law. My friend Pandit Mukut Bihari Lal said that Mitakshara law is followed by twenty crores of people and Dayabhaga is followed by five crores, and asked why should we choose the law of the five crores rather than the law of the twenty crores. I do feel

that comparatively Mitakshra law was intended to serve the needs of ancient rural communities whose main property was agricultural land. It was on the basis of that conception of society that the right of birth and the right of survivorship were evolved. But we are fast evolving out of that primitive community into a modern community in which property goes from the immovable to the movable property. You have immovable properties diminishing and movable properties increasing. Even immovable property is being converted into movable property, in the form of shares, cash savings deposits and government securities and other things. Therefore, we should adopt that system which is in tune with these changes from the tangible immovable property to intangible and notional property. Where property is largely intangible, this right of birth is really impracticable. You cannot enforce it. It will always be open to the father to dispose of securities or shares or movable property. It is not possible for a son to inherit a right in shares. It is possible for him to inherit a share in agricultural land, but it is not possible for him to inherit a right in cash securities or other movable property. That is why this Bill has given preference to the Dayabhaga system of law rather than the Mitakshra system of law : not because it had any disrespect to the twenty crores who are under the Mitakshara law, nor because it had any special preference to the Dayabhaga system of law. Today, the right of inheritance by birth and right of survivorship have become archaic and impractical institutions.

Pandit Lakshmi Kanta Maitra : Primitive.

The Honourable Shri K. Santhanam : Either we drop them deliberately through legislation or they will be discontinued in an irregular and disorderly fashion.

Pandit Lakshmi Kanta Maitra : Follow Bengal in other respects also.

Some Honourable Members : Order, order.

Sjt. Rohini Kumar Chaudhari : On a point of order, Sir, what right has a Member to call ' order, order '. I find Shrimati Durgabai calling 'order, order'.

Shrimati Renuka Ray (West Bengal : General): Is this a point of order ?

Mr. Deputy Speaker : I am extremely glad to find that hon. Members are sharing the right of the Speaker along with me.

Sjt. Rohini Kumar Chaudhari : *(rose).*

The Honourable Shri K. Santhanam : I am afraid I shall not be able to give way to my Hon. friend from Assam.

Sjt. Rohini Kumar Chaudhari : All right, I shall keep quiet. If you want to suffer from the tyranny of women, you suffer.

Mr. Deputy Speaker : Order, order.

The Honourable Shri K. Santhanam : Sir, much has been said about the so-called sacred institution of joint family. In the mediaeval and ancient times, this so-called joint family might have served a very useful purpose. It is not my business to deny that. But, today, joint family exists only in controversy. I know the peasants ; I have been in the rural areas probably much longer than many of you. I have worked for ten years continuously in the rural areas. I know, Sir, the first thing, when a peasant's son marries, the peasant does is, to set up a new house, give the son his share in the ancestral land, one acre or half an acre or one-quarter of an acre, and establishes the son as a separate family. Unless this is done, the peasant knows that his family will be disintegrated. In the case of certain very rich people, the so-called joint family may continue with a double system of account keeping for certain purposes, to cheat the Income-tax and for other purposes. Ordinarily, even today, in the middle class families, what happens? One son lives in the village; another son is in Delhi in service in the Government of India; another son is in Madras in some other service; another son does business. What is the meaning of maintaining a joint family and ancestral property ? It is better that they are allowed to partition. Then, if they want voluntarily to come back and live together, let them become a co-operative society, let them become any kind of legal personality suited to modern conditions. To continue the joint family owing to ancestral worship, without regard to the existing circumstances, I think it is sheer coservatism run mad.

Shri Brajeshwar Prasad (Bihar : General) : A Daniel come to judgement.

The Honourable Shri K. Santhanam : My hon. friend from Bihar is a supreme example of Daniel as he has proved in the constitution making, and I am sure he will prove himself so here.

Shri Brajeshwar Prasad : You are also.

The Honourable Shri K. Santhanam : I am not giving way.

Mr. Deputy Speaker : Let there be no talk across the table. I am exceedingly sorry ; I have been a little indulgent. I find an acrimonious controversy is carried on. So long as there is good humour there is

no harm. However, the hon. Member must be allowed to go on. He may lose the trend of his thought. Otherwise also it is inconvenient to go on being harassed.

Sjt. Rohini Kumar Chaudhari : Mr. Santhanam is in a very good mood.

The Honourable Shri K. Santhanam : Because my case is simple and straightforward and I need not get a bad temper or raise all kinds of fantastic bogeys.

Let me now come to the next aspect, that is, rationalisation. One point which has evoked the greatest amount of opposition is the daughter's right to the father's property. If the old property had remained intact and if property consisted only of agricultural lands, then I can sympathise with those who say that to bring in a foreigner, an outsider into the family may mean great deal of inconvenience. I have already stated that property is moving from immovable property to movable.

Dr. P. S. **Deshmukh** (C. P. and Berar : General): How can it ? All landed property cannot be dissolved. The Hindu Code Bill will not evaporate lands.

The Honourable Shri K. Santhanam : So far as the peasant community is concerned, they automatically divide on marriage. If a son-in-law is willing to come and live in the village, I do not see why he should not be allowed.

Dr. P. S. Deshmukh : Hereafter, the rule will be divide and rule.

The Honourable Shri K. Santhanam : If the sons can divide, the daughter also can divide. In the future property will consist of cash securities and other things. Therefore, there is no reason why the daughter should not have the same right as the son. As a matter of adjustment, I am prepared to throw out one or two ideas. In estimating the share of the married daughters in a family, I think it would not be unfair to set off any amounts which may have been spent for their marriage. In many of the middle class families, the amount spent for the marriages is often equal to if not greater than the share which the daughter may get. I think that would be a fair set off. Similarly, if there is only one dwelling house or if there is only a small extent of agricultural land, I think it will not be unfair to say that so far as the daughter's share is concerned, she must take her share in the form of cash or other movable property rather than insist on a partition of the house or the immovable property.

Ch. Ranbir Singh (East Punjab : General): Wherefrom to bring that cash ?

The Honourable Shri K. Santhanam : If you have a creditor, where will you find the cash ? Is it not possible ? It may be paid in easy annuities or in some such manner. In a harmonious family, adjustment will be easy; in an unharmonious family, courts can find ways and means of adjusting the burden without inequity to any party. Subject to these adjustments, I do not see any rational justification why the daughter should be treated exactly on the same basis as a son. I do not think there will be any kind of hardship. All kinds of bogeys have been raised. After all, the daughter becomes a daughter-in-law. If the daughter gets a share, similarly the daughter in the other house gets a share and therefore in the long run, except for an adjustment of legal rights through the establishment of self respect and social equality between man and woman, the property arrangements will remain much the same; because at present the daughter does not take away from the father's house; she gets more in her father-in-law's house. Hereafter, under the Bill, she will take a little from the father's house, much less from the father-in-law's house. In the long run, there will not be much difference in the distribution of property. Only the process will be more satisfactory, and more self-respecting to all the parties concerned. The daughter will feel that she is as good as a brother; that is all. I think that that is a feeling which we ought to encourage in this country. We have removed all social inequalities in policies; we have given the women the same equal franchise as men. Why in point of inheritance and succession alone should we have any kind of stigma based on sex ? I think the sooner we voluntarily give it up, the greater will be the strength of the country. Otherwise, some day or other, on account of the adult franchise, there will be such a vast volume of feeling among the women all over the country that would compel us to make the change. Then, it would be a disgrace to the men of India. It is better you do it now in advance of adult franchise so that we can go to the probably five or six crores of women who will be voters and say, "look here, we have done the right thing before you wanted it; we have given you the votes; we have given you property rights; you are equal to men; there be no more sex conflicts."

The last point I have to deal with is the question of reform. It
3 P.M. is in the field of marriage there is any real attempt at reform. It is partly permissive and partly compulsory. The one

compulsion is monogamy. I want all my friends and Members of this House to stand up and say whether they approve this reform or not. They have been very prudently silent on this subject and in spite of speaking for three hours, I don't see why people avoid this subject. Do they want to establish monogamy or not ?

Pandit Lakshmi Kanta Maitra : Monogamy is already established.

The Honourable Shri K. Santhanam : Some people actually enjoy the luxury of two or more wives, others enjoy mentally the possibility of more wives!

Shri H. V. Kamath : What about polyandry ?

The Honourable Shri K. Santhanam : Therefore I say this that this is one thing in which the old Aryan tradition had made a profound mistake. It is time that we who consider ourselves to be the glorious descendants of the great Aryans now confess that it was a mistake and correct it rather voluntarily and unanimously. This polygamy must go. But complete and absolute monogamy will also become a legal fiction unless you provide reasonable facilities for divorce in very hard cases. Unless we provide such an outlet, it will bring evil.

Smt. Rohini Kumar Chaudhari : Do you agree for the women being prosecuted for adultery ?

The Honourable Shri K. Santhanam : I agree to women being subjected to same penalties for the same crimes but probably my hon. friend from Assam has a soft corner for that subject. Monogamy and divorce provisions go together. They must be taken as one co-ordinated law and in this respect this Bill does propose a reform which is not sanctioned by the Shastras but this is a reform. . . .

Pandit Govind Malaviya (U. P. : General): Do I understand that the hon. member will oppose monogamy also if divorce is not sanctioned ?

The Honourable Shri K. Santhanam : I will support monogamy in any case but I will support it in a rational form rather than in an irrational form. If my friend wants monogamy and at the same time that wherever a husband is impotent or a criminal, there should be no divorce or *vice versa*, then I think he wants monogamy in an irrational form. I want it in a rational form. That is the difference between us.

I will just touch one other aspect. One other great merit of this Bill it takes away all legal sanction from the caste system. We

abolished untouchability in the Constitution. Now we take the social reform further and take away all legal sanction for caste. Here in this Bill whether it is for marriage or for any other purpose, all Hindus from the so called Untouchables upto the so called Acharya Brahmins—all of them are one.

Some Honourable Members : Without a caste, who is a Hindu ?

The Honourable Shri K. Santhanam : My friend asks "Without a caste, who is a Hindu ?" With the caste, I think, Hindu is a monster according to me. (Hear, hear). In this country we want to establish a Hindu Community without caste. Either we cease to be Hindus altogether or we establish Hinduism without caste. There is no alternative left for us.

Shri Lakshminarayan Sahu : Mohammadans also can be called Hindus.

The Honourable Shri K. Santhanam : On the day the Muslims accept the Gita and Vedanta, I am prepared to embrace them as Hindus.

Shri M. Tirumala Rao : Even Gita refers to caste.

Mr. Deputy Speaker : Let there be less of this cross talk. The hon. Member may go on. Each one is trying to persuade the other.

The Honourable Shri K. Santhanam : In spite of interruptions I am going to convince some of my friends. My friend Mr. Tirumala Rao says that I am swearing by the Gita. What I am saying is they form the minimum article of faith for all the Hindus. Therefore, if after this Bill, there are no distinctions between Hindus, Muslims and Christians, then it is better for the whole country. We are not proud of keeping alive distinctions which have no meaning or which are irrational. If Muslims also remove all such distinctions which are irrational; if Christians remove all distinctions which are irrational, we shall before long meet on a plane in which we are all one—whatever we may call ourselves. Meanwhile our object both in the Constitution and in this Bill is to see that the majority community in this country are strong, united and have shed all prejudices and practices which have divided it into sects and will become an invincible foundation on which the glory and strength of future India can be built. I am sure that without this Bill and without the changes the Bill advocates, the Hindu community will be a weak, torn and unprogressive community and if the majority of the people continue in that condition we cannot make much of the political and other economic opportunities which the Constitution and God have given us. Therefore I have said

this is really complementary to the Constitution which we have enacted and it is in the supreme fitness of things that the same body which enacted the Constitution will also be enacting this Hindu Code into Law. I hope it will be put on the Statute Book and our descendants will say that these people not only enacted the Constitution but also reformed the Hindu law.

Pandit Lakshmi Kanta Maitra : Destroyed the Constitution !

The Honourable Shri K. Santhanam : I believe our ancestors are watching and are blessing us for this.

Shri Loknath Misra : On a point of information. My friend has just now sworn by the Vedanta and the Bhagvad Gita. Is he prepared to reject any provision that will go against the tenets of these ?

The Honourable Shri K. Santhanam : If they are based on wrong premises, I am bound to reject them.

Mr. Deputy Speaker : It is unnecessary to carry on this argument.

The Honourable Shri K. Santhanam : Sir, I do not want to tire the House. I have dealt with the main points which came to my mind. I wish to appeal to those who by ancient prejudice have come to feel that it is their duty to oppose the Bill to reconsider their attitude, to have another vision—the vision of a Hindu community without caste, without distinctions, all pulling as one man. If we could convert the present disintegrated, weak and for a thousand years servile Hindu community into a very strong, healthy and great community, we would have done a work which our sons and grandsons will be proud of.

Shri H. V. Pataskar (Bombay : General): Sir, we are considering a Bill which is going to revolutionise the structure of the Hindu society. That society comprises more than about 25 crores of people at the present time. It is therefore not unnatural that even the common man has begun to take interest in what is happening and it is best in the interests-of all sides, to take into account the fact that when we are revolutionising by this Bill the whole structure of Hindu society, it is not desirable that we should ignore the feelings that have been roused in the common man with respect to the provisions contained in the Bill.

The common man is at the present moment ill-equipped with education. He is worried with the problem of feeding himself and his dependents. He is faced with scarcity of clothing, for want of funds if for nothing else, and he generally finds life so difficult. Even then he has begun to take interest in this legislation because he thinks that

this Bill is going to affect the structure of his Hindu society, which is the growth and product of several centuries past. Therefore it is that we must first educate him before we undertake the serious task of changing the whole structure of the society to which he belongs. I will make it first clear that I am not opposed to many of the provisions of the Bill but the time selected for the purpose, to my mind, is most inopportune. I propose to take only 20 minutes and if I am allowed to make my remarks without interruptions I will be able to finish it within that time, because I am aware that there are many members of this house who are interested either on one side or the other and who want to take part in the debate.,

The common man, so far as I have been able to understand his reactions to the Bill, thinks that at present the attention of the Government should be concentrated on the problems which affect him in the matter of his food, clothing, inflation and several other things. When he is worried about his day to day needs and what he requires for his sustenance he naturally asks why are the Government interested in what form his marriage should be, whether he should have one wife or more, when he cannot even sustain one. All these things may be necessary and I am not opposed to reform. It has been admitted and our leaders are also saying it that we are passing through very critical times. We know the difficulties of the people, There is scarcity of food, clothing and the other necessities of life. Compared to the common man we are living here a comfortable life. He naturally thinks that what the leaders should concentrate upon is more the solution of his day to day problems than the problems relating to marriage, inheritance, etc. These things have been there for centuries past and it would not matter if they go on in the same way for some more months or even years.

If our sisters who are enthusiastic about the Bill or our other friends who are clamouring for the immediate codification and amendment of the Hindu Law, if they approach the common man in the rural areas, they will find that he is so much worried about so many other things that he is surprised why at this moment you should rush a measure of this sort through in this house. He naturally thinks that this should be stayed for the time being. There is quite a lot of discontent in the country. On account of the partition there is the problem of the refugees who have to be settled and sheltered. At this moment is it necessary to interest ourselves so intently on this question, as

to what form our marriages should be ? The time chosen for rushing the Bill through is not very opportune and it is likely to add to the difficulties of the situation rather than do otherwise.

What are the subjects dealt with under this Code ? Marriage, Inheritance and Adoption. So far as marriage is concerned there is even now the Civil Marriage Act, under which those that do not want to marry in the orthodox way can marry. Many people are as a matter of fact doing it. Therefore this measure does not look so urgent as made out.

An Honourable Member : Under that Act you have to say that you do not belong to any religion.

Shri H. V. Pataskar : That is gone my dear friend : It is dead and gone, long past. Under the Civil Marriage Act, any two Hindus belonging to any caste or community, without making a declaration that they do not belong to any religion, can get married and there is nothing to prevent them from doing so.

There is much agitation with respect to the question of inheritance. We have laid down the equality of the sexes as a principle in our Constitution and in these days it is not possible for anyone to go back upon it. The objection raised is not with regard to the equality of the sexes. A father who has a son and a daughter loves them both equally and there cannot be any difference. But so far as inheritance is concerned it has to be looked at from a different point of view. For that you have to look at the development of the present structure of our society. This structure has been evolved through a process of evolution during the last many centuries. Hinduism is not a religion in the sense in which Christianity is a religion, Zorastrianism is a religion or Islam is a religion . . .

An Honourable Member : What is religion then ?

Shri H. V. Pataskar : Christianity is the religion of those who believe in Christ and follow his teachings in the Bible. The Zorastrians are the followers of Zoraster and Islam is the religion of those who believe in Mohammad the Prophet and the Koran as their sacred book. But what is Hinduism ? Hinduism includes not only the followers of the Vedas or the followers of Rama and Krishna or Shiva or of the innumerable gods in various shapes and forms but it also includes those who worship nature and those who do not believe in any God whatsoever and those who do not believe in the oneness of God also. Their places of worship, methods of worship and objects of worship

are all varied. Hinduism is a growth which has absorbed all the different currents and streams of social and religious beliefs and practices prevailing over several centuries. It is an all embracing faith consistent with the ideal of कृण्ववन्तोविश्वमार्यम. Hinduism at present is a growth which has contrived to combine in it all these various streams of life. At present Hinduism may be a cast-iron system, but it has not always been so. Our religion is based not on the tenets of one particular man or of one particular book, but it is based on what is *dharma,* and धर्म : means धारयते अनेन इति धर्म : or धारणात् धर्मम इत्यादुह : *Dharma* is that which sustains society. That is the ideal on which our Hindu society is built, namely that which is necessary for the sustenance and advancement of society. Of course I do admit that the present state of Hindu society is not a very happy one. But it has not been all along so. Therefore I take you to this point because it will give you an idea as to why there is objection to this Bill. That which sustains society is religion and sustenance of the society is our ideal. Our society may appear stagnant at present, but it is not, has not been really so. Hinduism has undergone vast changes in the course of its evolution. I am not afraid of changes. It has undergone several changes in the past. At one time Buddhism was flourishing in this land and engulfed not only Bharat Varsha but it spread to far off countries beyond Bharat Varsha. But today there are very few Buddhists to be found here. What has happened to them ? They have been absorbed in Hinduism, they have undergone a metamorphosis, and we of the present generation are their descendants. That shows that we are not a stagnant race and that we have adapted ourselves to the changing needs of society. I for one be changed. That is not the real nature of Hinduism. And I am not one of those who say that what we now call Hindu Law should not be changed. Our Law has in fact undergone changes even during the period of the British domination.

The previous speaker, the Hon. Mr. Santhanam, rightly referred to the fact that judicial interpretations by courts which were not conversant with the original tenets of various laws regarding inheritance, adoption and marriage have not only changed the course of our social and economic life but have created many anomalies also. It has certainly become desirable to remove those anomalies and bring our Law in conformity with the changing needs of society. The world is changing fast and we cannot but be affected by what is happening elsewhere. We do not wish to say that we will keep ourselves away from the

rest of the world. That is not the idea. But the codification of the Law is one thing and amendment of it is another. This Bill seeks to do two things. We want to codify the law and amend its provisions. So far as codification is concerned, I understand it means that we want to remove the anomalies. At the present moment we have got so many systems of law prevalent. There is Dayabhaga in certain parts, there is Mitakshara in certain other parts, and the Bombay school has its own distinctive features. And there is what is called Marumakkattayam in certain parts of South India. But the areas where they are prevalent have also become well-defined, and there is a certain amount of stability. Therefore, if we proceed first with the task of codifying the law as it stands at present in these well-defined areas, that itself will not only bring about uniformity but it will also lead to a process of amendment, at a later stage. Mere codification of the law as it stands will also not evoke much controversy, because that is the existing law. Irrespective of the question that it has been modified by the courts consisting of British judges, there is a certain stability about it. Therefore, if we only confine ourselves to codification I think, much of the opposition that we see at the present moment will not be there. Not only that. If we do the codification only, we will secure the good will of the people and I believe that it will facilitate the amendment of the Hindu Code for certain other matters and by gradual stages subsequently. But the amendment of the existing law in the way it is tried to be done is another matter. Codification and amendment of the law have been hanging fire for the last so many years. In my view if we had proceeded with the codification only as a first step, the law would have been codified long ago. Ever since the Rau Committee was appointed, evidence was taken and so many Reports and so many Bills were formulated. But they tried to do two things simultaneously, namely, codification as well as amendment. Naturally, both have remained unfulfilled. If they had confined themselves to codification only, it would have been done long back and the stage would now have been reached for amendment. That is my view of the matter.

The present Bill deals, as I said, with three distinct matters, namely, marriage, inheritance and succession. Let us see what the basic idea of our society is. With the impact of modem ideas, modern education and modern methods of life the question of equality of sexes has naturally been agitating the minds of people, particularly of the

educated women of the country. We have also accepted that equality in our Constitution. So, superficially looked at, it strikes one as to why there should be any difference between a son and a daughter in the matter of inheritance. But the question is not such a simple one. A father's desire for the well-being of a son or daughter cannot be different. Naturally his love and affection is bound to be equal. No sensible man can think that the son should get everything and the daughter nothing. In fact that has not happened. Reference was made that even in the middle-class families,—leave aside the rich, they are very few in number—the father spends much more on the marriage of the daughter than what his son could ever hope of getting, in many cases even at the cost of the education of his sons. I say 'in many cases'. That is my reading of the matter. Why then is there opposition in regard to inheritance ? Even the Sanatanist loves his daughter as much as his son. We cannot say that Sanatanists make a difference in this respect. The opposition is due to an important factor for considering which we must look to the whole structure of our Hindu society.

A reference was made by my hon. friend Pandit Mukut Bihari Lal Bhargava in this respect. I would like to elaborate that point a little in as short a time as I can. The whole structure of our Hindu society is evolved through centuries and centuries of time. In the structure of our society the basic unit is the family. And on the continuity of that family as a unit rested naturally the stability of our society. It is not based on an individual as unit, but more or less the basis of the whole structure is the family as a unit. And the continuity of the family was naturally the main object with which all our laws and customs have been evolved from time to time. The pivot therefore was the continuity of the family which was the unit of the structure. Daughters naturally by marriage pass into a different family while the sons remain in the family to continue it. To foster the continuity and to prevent its being broken up, the joint family system was evolved. Why was the joint family system a peculiar feature of Hindu society ? Because Hindu society is based on the continuity of the family. That is why the joint family system is a peculiar institution of Hindu Law not known to other systems of law which are more or less based on individuals. Till only a generation or two back the joint family system worked well. It has maintained the continuity and stability of our social structure for centuries past. That is why there is objection to the

throwing open of inheritance to the daughter. That objection is not for political or social reasons but because if you open the inheritance to a daughter the result is that the whole social structure based on the joint family system will be broken.

The trend in the modern world is towards individualism. The joint family system is cracking in many places. I would go to the length of saying that the joint family system would not continue for all time under modern conditions. But as it is there, the question is whether we shall gradually replace it by the individual as the basis of our society or whether we shall break it up by law as is proposed to be done by this measure. If we want to break up the Hindu society suddenly, then I am afraid we shall be rocking and shaking the foundations of that society which may result in consequences unforeseen and unpredictable. The danger involved is not the mere opening of inheritance to daughters but the fact that by that opening up of inheritance the whole basis of society is involved. Hence the opposition. If only we try by an evolutionary process to help in the process of disintegration of the family which has already started owing to various economic and social causes, the same results as are aimed at will be achieved but not suddenly and abruptly. There is a clause in the Bill which says clearly that from the date of the commencement of the Code the whole joint family system as such will disappear. You are trying to do it suddenly and to my mind that is sure to rock the very foundations of the society which has been based for centuries past on the joint family as a unit of society. I would appeal to my enthusiastic reformer friends that while I am one with them, that this system no doubt has to be changed, and that as the world stands today no one will be able to resist it for too long, while that is so the question is whether we shall do it gradually, whether we shall carry the people with us and go as far as they come with us, or as far as we can drag them with us, or on the other hand whether we shall suddenly, by a stroke of the pen and by legislation, say that all this joint family system is destroyed. Even in these days when owing to abnormal circumstances people are worried by so many problems, this question is attracting their attention and therefore any abrupt action is likely to result in a state of affairs which is desirable neither to the reformers nor to the others. I agree we can't remain stagnant. The Hindu society has undergone so many changes in the past but by a different process altogether. If we try to force the events which must happen gradually, I am sure the result is not going to be very happy.

Sir, I am surprised at one thing. Here we are trying to preserve adoption. I don't know for what purpose. Adoption is a thing which is peculiar to Hindu law. In other societies also children are adopted but not for the purpose of continuing the family, only to satisfy the natural craving in any human being to have children and to rear them. I am told that in America and England also people do adopt children but there the object of adoption is different. The adoption as envisaged in the present system of Hindu law is peculiar and it is so because the Hindu structure of the joint family is based on the continuity of that joint family. But after the break up of the joint family in the way you are trying to do by this legislation, what is the necessity for making a provision for adoption? Look at it from a different view. Why was adoption a peculiar feature of Hindu society ? Because the main feature of the Hindu society was the basis of the joint family and its continuity required adoption. With the breaking up of the joint family and the coming of individualism, I don't see why we should waste our time on trying to preserve adoption. I am certainly against adoption. Even in the case of adoptions that now take place, 99 cases out of 100 result in litigation in courts because the whole idea has undergone a change. The widow adopts a child thinking that the boy adopted might be useful to her in managing her property and affairs free of charge. The boy thinks that by adoption he will get something from the person who adopts him for nothing. So, at present adoption takes place purely from a motive of self-interest; adoption as conceived in the olden days is disappearing. As a lawyer of some standing and experience, I have found that in 99 out of 100 cases of adoption the result has been litigation because the original idea underlying adoption has undergone a change. But now with the coming into force of the provisions of this Bill the whole joint family system will disappear, the individualistic society as in other parts of the world will come and it is therefore not necessary to make any provision regarding adoption. It would be confusing to do so. If we are consistent and logical in what we are doing, we should do away with adoption altogether.

I have now to refer to marriage and divorce. A point was raised by the Hon. member Mr. Santhanam who asked everyone whether they were against or in favour of monogamy. I would say that monogamy is absolutely necessary in these days. I don't think there is any member in this house who is opposed to it. But is the Hindu

Code Bill necessary for that purpose ? We have got a measure in the Bombay Province by which, so far as that Province is concerned, there is monogamy and as a natural corollary to it divorce in certain cases is allowed. We have not gone further than that measure in these matters. If the only object is to ordain monogamy then I say there can be no objection to it, for, apart from ideological reasons there are practical reasons also in its favour. Nobody now wants to have more than one wife. There are very few excepting a few millionaires and multimillionaires who can afford to have that luxury; others can't have it. It is not even a mental luxury as suggested by the hon. Mr. Santhanam for the simple reason that one cannot manage without anxiety even with one wife and her children. What mental luxury can a man derive by the idea of being able to marry another wife under these circumstances ? As a matter of fact, it is quite simple proposition and I think both sides would agree that monogamy must be the rule. But let us not try to confuse the real issue regarding divorce. As soon as you have monogamy the result is that supposing one of the mates is a leper you have to make arrangements to see that the other is relieved from that liability or else you will be denying him the conjugal right. In some respects divorce is a corollary of monogamy. Even Manu, the great law giver, has provided for such cases.

नष्टे मृते प्रव्रजिते क्लीबे च पतिते पतौ पंचत्सु आपत्सु सुनारीणा पतिरन्यो विधीयते।

But the main point so far I am concerned is that whether you lay down monogamy by law or not it is going to be the rule with at least 9,999 out of 10,000 people. So that question need not agitate our minds at all. Sir, apart from all these considerations, there is one last point. A uniform Civil Code must be our endeavour according to article 44 of the Constitution which we have already passed. We have incorporated a Directive Principle in our Constitution that the State shall endeavour to secure a uniform Civil Code throughout the territory of India. I would like you seriously to consider whether by enacting a measure like this only for the Hindus we are advancing the cause of our progress towards that ideal. I should think that we are going backward rather than forward. My hon. friend Mr. Santhanam seemed to think that after the passing of that article 44, we are trying to progress towards that ideal by this measure intended to weld Hindus into one. It may or it may not be so. What is to be welded in the interests of the security of our nation is not the welding of Hindus alone but all the citizens of this country. All the inhabitants of India

should be welded into one. Marriage, inheritance etc. form part of civil codes of all the countries world over. They must do so in India also. That Code should apply to all citizens whether they be Hindus, Christians or Parsis or Muslims. From that point of view, we are going exactly in the opposite direction. I tell you why. The shibboleth of no interference in religious or semi-religious matters was the creation of a foreign government. It was imposed upon us in their interests and not in our interets. What is there today to prevent us from including all these things in a uniform Civil Code ? The present Hindu Code was conceived under different circumstances, and at a time when there was no ideal of having a uniform Civil Code. But since then, things have changed enormously and especially after Pakistan, it should be our endeavour to bring closer all the different elements in the country, be they Hindus, Christians, Muslims or Parsis. I do not want that anything should be done for Hindus alone in such matters. We have already decided upon joint elections for welding all the people of our country into one. One uniform Civil Code will further bring all the people together. That is the process which we must follow and which demands the attention and interest of all of us. We must give up this idea that we cannot interfere in the laws of inheritance and other social matters of persons belonging to other religions. That idea must go. At the present moment,instead of building one well-knit society, we want to stick to the old thing which was conceived at a time when the aim was to keep us apart. Now the idea is different. The security and well-being of our people demands the enactment of a uniform Civil Code. I do not care whether I offend the susceptibilities of some orthodox friends when I say this, but I am quite frank and open. If things are to be done, they must be done in the right way. We cannot partly stick to the old things and partly bring in new things. In this connection, I can mention that a, uniform Civil Code is in operation in Goa. The Law minister himself probably knows that. The laws of inheritance etc. are applicable to Christians, Hindus, Muslims and everybody alike in that part of India under the Portuguese. If that is so, why should we be afraid ? Our fear is the result of what we have inherited from the past—this shibboleth, I said, of noninterference in religious or semi-religious matters. But that was done by the British for their own purposes, because they wanted to keep us apart. Now our ideal is to unite all our people in the nation. What we ought to do is instead of proceeding with a Bill of this nature,

our Law Minister should, immediately after the 26th of January 1950, bring forward a uniform Civil Code applicable to all people throughout India. I know my enthusiastic sister Members thought when I rose to speak that I was an opponent of this Bill. Let me hasten to add that I am entirely for equality and all those things. But this is not the way in which we should do it, by destroying one thing and creating difficulties in another. For the sake of a uniform Civil Code, we can go and tell our Hindu friends that the joint Hindu family must go, that it is necessary in the interests of the nation. But what we are doing is in the opposite direction. I am afraid it will lead to very undesirable and unforeseen consequences. I will just cite an example. In Ahemadnagar City in Bombay province, a young Hindu widow wanted to marry a Muslim. I do not know whether it was a love affair or what it was. But she wanted to marry a Muslim. As you know, those days we were passing through critical times. There was a lot of trouble. There were riots and some lives were lost. So this Muslim gentleman got afraid not only for the sake of his own safety but the safety of his community. He said I do not want to marry or do anything of the kind. She could not marry without conversion to Islam as the Muslim gentleman had already wife and children. She could marry only if she converted herself into a Muslim. In the Province of Bombay we have also enacted a measure which prevents a Hindu from marrying more than one wife at a time but does not prevent Muslims from doing so. By the present Bill also you are giving the exclusive right to a Muslim to have as many wives as he likes or at any rate up to four. Now what happens is, if a man,—a very wealthy man—wants to marry another wife, he can get himself converted into a Muslim and he can have as many wives as he likes. Considered from all points of view, the interests of our country demand that hereafter at any rate we should strive to achieve a uniform Civil Code for all people. That is what is happening all over the world. As I pointed out before, such a code exists even in a Portuguese territory in India *viz.* Goa. The present Hindu Code is an artificially engineered device of the former rulers, when they tried to keep us apart. We must try to get out of that rut. We must endeavour to form a well-knit, uniform society. We want to form a single State, not based on religious tenets, whether they be Hindu or Muslim or any other, but a truly secular State. For this a uniform Civil Code is absolutely necessary. I therefore suggest that this Bill should not be proceeded with. It will serve no purpose. Therefore, I appeal to my hon. friend

the Law Minister to withdraw this Bill, bring forward a uniform Civil Code regarding the matters covered by this Bill applicable to all citizens alike whether they are Hindus, Christians, Muslims, Parsis, Jews or others.

* **Shri Ram Sahai** (Madhya Bharat): (*English translation of the Hindi speech*.) Sir, while welcoming this Bill at the time it was being referred to the Select Committee, I had submitted that the Members of the Select Committee should consider some of its features which are at variance with the modern culture and civilization which we profess these days. But I note they have paid no particular attention to that. Only yesterday we have come to know that once more, a Committee is going to be set up in this connection. For this reason alone, I stand here to take a little time of the House. I am not opposed to this Bill. I seek only to bring in certain amendments which may accommodate to some extent the views of those who are opposed to it and that is the only consideration which has guided me to stand here to take a few minutes of the House.

The hon. Mr. Santhanam, I have to submit, had observed that through this Bill we were going to discard all caste distinctions and thus marching towards integration. I agree that such an idea and a Bill of this type is worthy of our welcome and, as such, must be welcomed. In my opinion nobody need object if it becomes possible to have inter-caste marriges, adoption and develop other family relations with one another. But, in this regard, I feel a little difficulty which I intend to place before the House. This is over the succession issue. The custom of inheritance, no doubt, prevails and is practised at many places while in some a similar custom is being introduced in the Hindu Society. But considering its general set-up, it seems to me and I am of the opinion that ultimately this won't prove to be a good thing. My opinion is not based on any desire to withhold daughters' rights or deny equal rights to women and for the matter of that to treat them on a different footing. I emphatically disclaim any such motive. I doubt only if the idea can be made a workable one in a suitable way in he general set-up of our society in which we are living at present and which has been followed by us for so long. For instance, I want to say one word in connection with the right of inheritance. Herein share on equal basis has been conceded to daughters. I have no objection even if

* C.A. (Leg.) D., Vol. VI, Part II, 12th December 1949, pp. 496-98.

they are given a greater share. I want only to place before the house a few things in connection with some possible difficulties which may arise in future whenever such a problem comes up. At present girls enjoy a status in the Hindu Society which none else enjoys. Consciously or unconsciously we have tampered with the social regulations for the worse and now have to bring up this Bill as a repenting and a compensating measure. This is certainly our misfortune. Despite this I will assert that there is much scope left for reformation. To me no Hindu father can ever desire to mete out a prejudiced treatment to his daughter, rather he wishes to give away more and more to her.

Babu Ramnarayan Singh (Bihar : General): It is correct to a large extent.

Shri Ram Sahai: He wishes to marry her in the house of a man placed better than himself. Not to speak of the father only, I am in a position to assert that even no Hindu brother can desire not to marry his sister in a more fortunate family. There may be found an exception in thousands or lacs of cases. But I think that such an instance is almost non-existent. I fail to understand why then the issue of parity between sons and daughters in the matter of inheritance is made to confront us. I say so as we have before us the quarrels among the brothers over the division of property in the middle-class of our people. The daughter is given her share in the other family. But should she think of having a share in his father's property also; in my opinion it is certain to lead to disruption in our social structure. Out of this consideration I have come before the House to make these observations. In my opinion such a course is bound to impair the affection between a brother and sister to some extent. When disruption is possible among the brothers with a common family-link over the division of property, surely more serious quarrels will arise with daughter living in a different family. When such quarrels can arise among brothers who have a common bond of love in between themselves, there shall be none in the house where the daughter goes who can maintain that affectionate regard. There shall be, on the contrary, persons who will incite and thus pave way for litigation. I don't at all follow why we should take recourse to a thing having full consciousness of its being pregnant with possibilities of disruption of our social structure.

Likewise I would like to say something as regards the the Hindu joint family. We have recognised to set up co-operative societies and invite people's co-operation to spread this idea in the country. Why

then we are anxious to do away with the joint family system which is based on principle of co-operation. Keeping these two things in view there should be some such provision which can meet them both. In my opinion the reason for restlessness prevailing in some sections of the public and the provision that makes this measure controversial is mainly the issue of succession. If somehow we can meet the point of succession we can then proceed with its proper consideration and pass this Code unanimously. Taking no more time of the House, I will submit only that the Members who are likely to be appointed to the Committee should conduct their deliberations keeping this difficulty in view, not because a daughter should get no share in her father's property but to see that it does not disrupt our social system any way.

There is another point of controversy that strikes me. I may be wrong but so far as I have pondered, it seeems to me that taking an individual case of a son and a daughter, whereas a son is entitled to a share in the property of his parents only according to this Bill, a daughter enjoys a share in her father-in-law's property as well. I do not see any reason for this disparity. I fail to understand why such a provision has been made therein. The Hon. the Minister of Law may kindly throw some light on this aspect while replying to the Debate as to what consideration has led for the inclusion of such a thing.

Taking no more time of the House, I will submit only this much.

* **Shri Krishna Chandra Sharma** (U. P. : General): Sir, I have been very attentively listening to the debate. I have very great respect for the views expressed by my elders, particularly Pandit Thakur das Bhargava and Pandit Lakshmi Kanta Maitra. I have been looking for support for their contention that the Hindu Code Bill interferes with our culture and civilisation and if it is placed on the Statute Book the whole fabric of our society will go down and there would be undue and improper interference with our religious institutions and our cultural background. To my misfortune I have not been able to find anything of that sort. There is nothing with regard to this Code which interferes with our religion in any matter whatsoever. Whether the Code is good or bad is another question. But the proposed Bill has nothing whatever to do with Hindu religion and as such if it is passed the Hindu religion remains as good or as bad as it is without it.

*C.A. (Leg.) D., Vol. VI, Part II, 12th December 1949, pp. 498-502.

The second is the question of culture. The question is whether a house belongs to A or B, it may belong to Ramkumar and Krishnakumar, and if you just include Vimalkumari also, that is not going to affect Hindu culture. I want my friends before interrupting me, to understand the basis of culture. No culture is culture unless it has any function with a view to the development and evolution of society. If culture is merely static, then it cannot last, and if Hindu culture had been static, it would never have been stable, and it would not have lasted so long. Culture must have some function connected with evolution, it must have something to do with a society as it is evolving. Let us understand this before crying that culture is in danger. Culture and religion and the present Hindu society or Hindu law and even the Hindu religion are not the same as they were in the Vedic times. Do you want us to believe that the Greeks came here and the Romans came here, their penetrations were there and yet we remained blindly static ? Had we no heart, no mind and no receptivity whatsoever ? Because of the receptivity and ability to evolve, the greatness has been preserved; if we had not this receptivity, we would not have existed so long. That is my reply. So I say, let us take a rational course, take an intelligent view of the thing, a scientific view of the thing. Hindu law as it was in the *Smriti* was only a codification of the customs and usages prevailing before the *Smriti* writers came. There are lots of *Smritis* and they differ on various points and on the same point different writers have different views. And the Privy Council has said that even if they differ from each other, their commentary is to be accepted, not because it is based on the *Smriti*, not because it is based on truth, not because it has come down from the Vedas, but because if it is recorded in the *Smriti*, it must have been the usage or custom of the time before the *Smriti*. According to the view of Hindu law, a custom overrides the written law, the written text of law. Now, taking this view, I ask you seriously whether this is any question of religion, whether it is a question of culture, whether Hindu society will fall down by including Vimala along with Ramkumar and Krishnakumar ? Therefore, do not bring in religion in this question. Do not bring in culture, do not bring in other things and say that Hindu society will fall down. I say Hindu society has never been so weak, Hindu culture has never been so weak, nor Hindu religion, that it will fall down, if this Act or that Act is passed. It is too strong for that.

4 P.M.

And then again, it is not our claim alone that we have come from God. There have been six great civilisations and every great civilisation claims that it has come from God. The Muslims say it, the Christians

say it, the Japanese said "I am the son of God". The Chinese Emperor wrote in 1559 to George III a letter that the Chinese potentate comes from God and his territory shall have nothing to do with English commerce or be tainted by foreigners. But forty-nine years later there was a war by the Englishman upon China and the former accepted the opium dealer. Where had the land of the son of God gone then ? Where was that son of God when there was the cannon mouth of the Englishman ? Even the Englishman claims such things, that it is the whiteman's burden that he has been sent to Africa and India to civilize other human beings; that he has been destined to do so. But such claims are false, as false as it is for us to claim that ours is the only monopoly of truth. I am a Hindu and I am a Brahmin, and I am proud of being a Hindu and Brahmin, but I do not like to claim that the truth is my own monopoly, that the truth came to my ancestors and not to anybody else. If God gave the truth only to my ancestors and to nobody else, then it was unjust, and for the matter of that also foolish to have created other people on this earth. So my only request is—and I make it with all the humility and respect of a Hindu child for the elders—please do not bring in religion, do not count upon culture. Do not say Hindu society will come down. But please accept it on the basis of an intelligent view, a common-sense view, a scientific view, of law as prevailing in the modern world. The law of every country is the outcome and result of the economic and social conditions of the country as well as the expression of its intellectual capacity for dealing with those conditions.

Now I come to the next point. We have been for a long time separated from the world as such. As I said there were six civilisations and the Chinese Potentate, the Japanese Emperor, the English King, the Czar of Russia, Babar of India all of them claimed that they came from God, all because. . . .

Pandit Lakshmi Kanta Maitra : To what particular clause of the Hindu Code is my Hon. friend referring ?

Shri Krishna Chandra Sharma : I am referring to your remarks. Well, as I was saying, they all said they were supreme and they were the most mighty, and that was because they could not understand other people and they had no knowledge of them. Therefore they said, theirs was the best religion. But now with the aeroplanes, through the ships, through literature and the printing press and publication, you have come into contact with all the people of the world. You know other

people and you understand them. You are influenced by them. Look at the desk of your child and there you will find the works of Bernard Shaw and Shakespeare. You do not find *ganga lehri* there. But you don't think the child is not a Hindu because he has only Bernard Shaw and Shakespeare and Pearl Buck on his table. So every thought and action affect and influence all the countries of the world. You cannot have any law whatsoever which is divorced from the influence of others, it has to be dynamic and then it will help the people to a great future. Divorced from that, separated from that, they are weak. So let us have the law on the scientific basis. In times past there might have been prejudices and there might have been different customs, and there might have been any other thing. But today religion is a matter of scientific study. You cannot say that everything you believe is religion. Nobody is going to accept it. Religion is that which takes man from human stage, from the comprehensive human life to the region of Godhood and in raising humanity from humanity to Divinity, there are certain accepted principles from which you cannot escape. So in this twentieth century, neither is everything religion nor is everything culture nor everything the basis of society. There are certain well accepted principles, accepted by the world at large, by the jurists, by the religious teachers and all the great men of the world as the basis of society, as the basis of culture and as the basis religion. Everything that you speak and believe is neither religion, nor culture nor the basis of society.

My friend asked me to what I was referring. In Mulla's Hindu Law the first page deals with castes. It says there are four castes in Hindu Society. The second paragraph deals with whether *Kayasthas* are *Sudras*. The third paragraph deals with the question whether *Marathas* are *Sudras* or *Rajputs*. I put it to you in all humility : Is there anything of culture or religion in it ? Religion takes from the universal love to the Divine bliss and culture means light and sweetness. The division of a people into castes is no culture and much less has it anything to do with religion.

An Honourable Member : Only agriculture.

Shri Krishna Chandra Sharma : Agriculture will give you food; your view is a thing that will bring you down.

Now, I shall put to you the sources of Hindu Law. I think my hon. friend is a lawyer and he will appreciate it. The sources of Hindu Law are, the *Shrutis*, the *Smritis*, customs having the force of law,

commentaries, and then the judicial decisions of the Privy Council and the High Courts. So far as the *Shrutis* are concerned, nothing is known about them. I have quoted Jayaswal who is the greatest authority on ancient polity and he is of the view that what is stated in the *Smritis* is only a codification of the custom and usage prevailing when the *Smritis* came into existance. The *Smritis,* as I said, differ on the same point. The commentators are accepted; but they are accepted as authority not because they tell you what the law was, but because they tell you something that must have been in existence. According to the principles of Hindu Law, custom and usage override the written text of the law, and they are to be accepted. Then comes the case law of the Privy Council and of the High Courts. How was this case law made ? Up to 1868, the condition was this. The Hindu Law was administered by English judges with the assistance of Hindu Pundits. The institution of Pundits as official referees of the courts was abolished in the year 1868. Your case law is the result of the English man's decision with the help of the Pundits. Now, I tell you, when the country is ruled by an aggressor, when the country is ruled by an invader, no self-respecting man much less a learned man, will sit beside him. Therefore, whatever class of Pundits were called, they were demoralised creatures; they were not representative of Hindus. Do you mean to say that you do not want to change the Hindu Law because Hindu Law is something sacred ? What is that Hindu Law ? Decisions of Englishmen given with the help of or at the suggestion of demoralised creatures. That is your Hindu Law. What is the sacredness behind it ? That is my point. You judge this present law on its own merits; judge the present code according to principles of jurisprudence. In accordance with principles a law is judged as necessary and good.

Coming to this Code, the first thing that it deals with is marriage and divorce. If you go through the different small Acts passed during the last two or three years, you will find that this is a mere codification and nothing new. You can have the sacramental marriage; you can have the civil marriage. You find Hindus marrying in different castes, even beyond the Hindu fold and they remain Hindu all right; you do not say they are outcastes. Therefore, what is prevailing, what is a fact already, you take as the law. I do not think you are changing anything. With regard to judicial separation and dissolution of marriage, look at the grounds : either party to the marriage was impotent, the

husband is keeping a woman or a concubine, the other party has ceased to be a Hindu, either party is incurably of unsound mind, either party is suffering from a virulent and incurable form of leprosy. Now, I put you a simple question. Is there anything in any law, in any text of Hindu *Shrutis or Smritis* which bar these conditions ? I have been looking into the Manu Smriti and I have found nothing repugnant to this. If my hon. friends find anything, they may bring an amendment. I am not against the *Smritis* and I am only proud of them. I have gone through the texts; I have not been able to find anything in them repugnant to this. If these conditions are in accord with notions of social justice as it is prevalent, I see no reason why you should not accept them. Are you an enemy of women? Are you an enemy of your mother and daughter ? Our mother is a respected being and our daughter is part of our life and blood. Is that not so ? Why then do you raise the cry that this is something which will bring down Hindustan and that the Hindu society will be crushed to pieces. There is nothing in religion, there is nothing in culture, there is nothing on the basis of Hindu society that is against these conditions and repugnant to them.

Take the case of adoption. My own feeling is that at this stage of evolution of our society, it is unnecessary and it has no meaning. There is a text in Manu on which this adoption is based : that a son-less father has no region in Heaven. The basis of that text was this. At that time, the Aryans were facing the aboriginal tribes or some people who were non-Aryans. Therefore, they naturally wanted their number to grow. They put it this way. A Hindu has three *"Rinas"*: *Rina* to God, *Rina* to the *Rishis* and *Rina* to the *Pitras*, that is the race. That is, to carry on the thread of the race. To carry on the thread of the Race was necessary at the time Manu wrote the *Smritis*. It is not necessary today. Today the cry is not that we have not got children; on the other hand, the cry is that we have not got food and cloth. The fewer we are, the more of these things we will have. Therefore, at this stage, I do not see any reason for adoption. As to going to Heavens, the meaning behind the oblations and all these things was to keep up a spirit of charity in our society. Human society has grown so well and so organised that there is enough scope for charity and social service and generosity in this world rather than giving something to our ancestors who have gone beyond this world. It is better to work in this wide world. That is an institution which has no meaning. The meaning that it had has no application in the present

day society. So far as secular purposes are concerned, that if a son is adopted he will serve the old man or old woman, I think it is of no use. Today, there are so many sick homes, hospitals and other homes. If you have got no property, it is useless to adopt a child and nobody is going to serve you simply because you have adopted him. If you have got property, there are enough institutions to help you in old age. My contention is that this institution of adoption in the present state of our society has no meaning whatsoever.

Regarding minors and guardians, I don't think it has made any departure from the Hindu Law as it is. Regarding law of Succession, I am sorry I have not been able to see much about Succession and I cant't say with confidence whether the present system of Succession is right or wrong. One thing I will say *viz.*, there is nothing wrong in principle to make a daughter co-heir with the son because under section 3 of the Women's Property Act, 1937, the mother gets a share along with the son. What objection there is on earth to a daughter inheriting along with the brother ? If mother can inherit along with son, there is no reason why the daughter should not inherit with the brother. Pandit Bhargava raised the objection that the sons-in-law will come and create trouble in the house. If two brothers do not create trouble why should the son-in-law create troubles. Go to Cannaught place and you will find that the fate of the husband is to take the coat of the wife behind and pay the bill; and so how can a husband create trouble when the wife.does not want it.

An Honourable Member : That is in Northern India.

Shri Krishna Chandra Sharma : That is the evolution of man. The evolution of humanity is like that. Where are your moustaches ? It is an ordinary biological principle that the female cells were developed and separated later and woman was better evolved. She is fairer, more tender and more beautiful. It is the way of progress to go to finer and more beautiful life. If you are otherwise inclined, I think you are less than human.

Then I come to the joint Hindu Family. I have looked into authorities on this point and all great authorities agree that Hindu Custom came into existence when the state of Society was pastural. For that it was necessary to have Joint Hindu Family system. At present there are a number of laws by which we have done away with the Joint Hindu Family property conception. This was made at a time when there was not much trade and commerce. A farmer looks to the cow not as

something worth 100/- but as something—a living thing associated with him in life—something sacred. So he takes the cow as it is and would not like to get the money from the son if the son goes away from the family because the cow is something sacred—that is how we regard the cow as Mother cow.

Pandit Lakshmi Kanta Maitra : Is there any father cow ?

Shri Krishna Chandra Sharma : Times have now changed and therefore that question of Joint Hindu Family does not hold good and is not to be regarded as so essential and therefore sacred as it was when Aryan society was first established in India and these customs came into existence.

The second point is that this is not applicable to agricultural lands. So far as agricultural lands are concerned, new acts are coming into existence and succession in those would go on the same basis.

With these words, I commend this Bill for the acceptance of this House.

*__Shri B. M. Gupte__ (Bombay : General): Sir, I rise to accord qualified support to the measure before this house. This does not mean that I am opposed to many of the reforms that are proposed here. On the contrary I am prepared to say that they are in the right direction subject to certain modifications and adjustments. Adjustments are necessary. I will give only one example. The abolition of customary divorce is bound to entail much hardship to rural population of Bombay province because among the population there the practice of divorce is widely prevalent. In Bombay we have a Divorce Act but even that Act makes an exception of Customary divorce. I therefore say that certain adjustments are necessary. The provisions with regard to divorce, marriage and maintenance and minority—these may be proceeded with and made into law. I have no objection about them but I can't lend my support to the enactment of the provisions embodied in parts 5, 6 and 7. They make fundamental changes. In fact they unsettle the entire law of inheritance of the Hindu Community. therefore the question arises whether this is the time quite opportune for such general unsettlement. We are in the midst of a political and economic situation which is characterised by unrest, turmoil, misery and disruption and therefore the question is whether we should complicate the situation still further by introducing revolutionary changes which affect the entire social structure of the country. Our Prime Minister often insists, and rightly insists, that in this emergency first things should come first and this is not the time for things which

*C.A. (Leg.) D., Vol. VI, Part II, 12th December 1949, pp. 502-504.

bring disruption. If we apply this test to this measure, what would be the result ? I ask, are these so pressing, that we must face the risk of intensifying the complexity of the situation which is already difficult enough ? The answer is obvious. The Hindu Law has been in existence for years and if there is to be a revision of it or its codification there is no urgency at the present juncture. This is not the opportune time for such a general unsettlement of the existing law.

It is our well known experience that social legislation which is in advance of public opinion defeats itself. In this I include not only the vocal urban section of the population but also the teeming millions in the villages. We have to see whether this legislation is in advance of public opinion. We have the experience of the Sarda Act. In spite of its strict provisions the law became a dead letter in its enforcement. In this case it will not become a mere dead letter. The enactment of the provisions laid down in parts V, VI and VII will bring about far more mischievous results than being a mere dead letter.

In the villages there are the *goondas* who because of their detailed knowledge of the law try to exploit the ignorance of the villagers and dupe them into protracted litigation. This evil is already rampant. The law of succession or survivorship, owing to long usage and familiarity is already known to the villagers. The result will be that we shall be affording one more source for the village *goondas* to exploit the ignorance of the villagers. I therefore want to emphasise that though I am not opposed to reform, this is not the time to introduce a measure like this.

Whatever decision we may take here or in the provincial capitals in the present condition of illiteracy of the masses, it is difficult to carry such legislations to the villager. We have already the experience of the Grow More Food Campaign. In my province the Government is offering numberous concessions and facilities but the villager does not know them at all. What will be the result of this law ? The village *goonda* will be able to exploit the ignorance of the villager in this matter.

In one respect the situation in the villages will be worse than that in the urban area. According to the present constitutional position this law will not affect agricultural land. It will mean that there will be two sets of heirs for the property of the deceased argriculturist. His agricultural land will go to one set of heirs, while the rest of his property will go to another set of heirs. This is bound to make confusion worse confounded. We are enacting this legislation with a view to secure

uniformity but instead of uniformity and simplicity there will be complexity and confusion. To avoid such confusion it would be better that we wait till the new constitution is ushered in. Let us not be in a hurry. Personally I feel that this measure can be introduced and pursued after one or two general elections have taken place. Those general elections are bound to quicken the political consciousness of the villager and bring him into more effective contract with the working of the legislature. He will then be in a better position to influence legislation which vitally affects his interests. Therefore I submit that till such time comes, till there is some quickening of political consciousness among people, let us not thrust the legislation upon them.

I finally appeal to our enthusiastic friends who are the ardent champions of this legislation that by our over-enthusiasm let us not defeat our own object.

* **Shri A. Karunakara Menon** (Madras: General) : Sir, I rise to support this Bill, so far as it goes, with all my heart. It will no doubt go a great way to consolidate the Hindu society. The Hindu law as it exists today is only a conglomeration of several systems of law. We have declared in our Constitution that it shall be our aim to frame a uniform civil code applying to the whole territory of India. This Hindu Code will go a great way to assist in the evolution of this uniform code of law. I wish some Muslim friends introduce a law to codify the Mohammendan law also. The Christians have already a codified law. After these three codified laws are brought into existence it will be easy to pick out the uniform provisions of these three codes and try to accomplish the object that we have aimed at under the Constitution. This Bill is also welcome inasmuch as it will extend the rights of women.

But I have some complaints to make. This law is not as progressive as it ought to be as the people wish it to be. It is far behind in several respects the *Marumakhattayam* law that exists in my part of the country. We should not be dragged down from the position we are in at present. If amendments could be introduced in the Bill and if it could be made possible for us also to make use of the Bill, none would be more happy than us.

The provisions of the Bill as they stand at present have been conceived at from a patriarchal point of view. The provisions of the matriarchal system of law, wherever they are progressive, could be

* C.A. (Leg.) D., Vol. VI, Part II, 12th December 1949, pp. 504-506.

introduced into this Bill and that point of view has not been taken into consideration at all. It might be pointed out that the original Bill as drafted in 1947 excluded the *Marumakkattayam* and the *Alia Santhanam* law from the operation of all the important branches of law covered by it. I will point out why this Bill is not sufficiently progressive and why it should be made more progressive.

Marriage under *Marumakkattayam* law is a purely mundane affair. There is no religion in it. There is no sapindaship or sacrament in it. This Hindu Code Bill recognises only two kinds of marriage— sacramental marriage and civil marriage. Civil marriage is common and we have no objection to it. We are prepared to abide by provisions relating to it.

That the authors of the Code were under a misapprehension that even the Marumakkattayam marriages were sacramental marriages is clear from a reading of clause 51 of the Bill where they say that even the Malbar marriages are sacramental. That is the basis on which they have framed that clause. In Malbar marriage has nothing to do with religion. Clause 51 says:

> "Nothing contained in this Part shall be deemed to affect any right conferred by the Madras Marumakkattayam Act, 1932 (Madras Act XXII of 1932) to obtain the dissolution of a sacramental marriage, whether solemnized before or after the commencement of this Code."

There is another direction in which we would like to get an amendment of this Bill in so far as we are concerned. Our law allows us to marry our father's niece or our maternal uncle's daughter. In fact many of us consider it a privilege to marry our uncle's daughter or our father's niece. But this is interdicted by the provisions relating to sapindaship and prohibited relationship. This encroachment on our right is not likely to be viewed with favour by the people of my part of the country.

In regard to judicial separation or restitution of conjugal rights, there are no provisions at all in our law. Either a marriage exists or it is got rid of by means of a divorce. There is no middle course. The provision for divorce is very simple. Either of the aggrieved parties goes to the nearest court of civil jurisdiction and puts in a petition with twelve annas stamp on it praying that "for such and such reasons we are not able to pull on together and therefore a divorce may be granted". For a period of six months that petition is kept pending. Perhaps the authors of the law wished to see whether a reconciliation was possible within this period of six months. After this period of

six months, if nothing took place divorce is automatically granted. This provision is simple and from clause 51 of the Bill it is clear that it has attracted the attention of the framers of the Bill because this provision for divorce is found retained in the Bill. But I do not know why the benefit of this provision is not extended to all other Hindus.

The provision for dissolution of marriage has infuriated some of the members of this House. Even though the provision for divorce has been in existence in Malabar since 1932, I believe, not even a dozen divorces would have actually taken place. This proves the truth of the statement made by a learned author—I mean Bertrand Rusel—that "the easiest divorce laws by no means produce the greatest number of divorces ; wherever there is divorce, adultery is scarce and morality is higher".

Coming to adoption, the provisions contained in this Bill are very unsatisfactory when compared to what prevail in our part of the country.

According to this Bill, adoption is a religious matter, but among the *Marumakkattayam* people it is a purely secular matter. Under the Hindu Code only a male or his widow could adopt a person, but according to our law any person, whether male or female, could adopt a person. Whereas only a male could be adopted under Hindu Law, males or females could be adopted under our law. Whereas only one person could be adopted under Hindu Law, we can adopt one person, two persons or even one whole family, at the time of extinction of our family or as heirs to our property. So there is a lot of difference between the Hindu Law and the *Marumakkattayam* Law in this respect. The reason why these things have not been taken into consideration in framing the Bill is, according to me, that the whole perspective has been entirely patriarchal and not matriarchal also. If that point of view also had been taken into consideration then many of these differences could have been resolved or reduced.

In regard to joint family property, the substitution of tenancy-in-common for joint tenancy is one of the most important features in the Bill. I welcome this provision. But this part of the law again has been framed from the patriarchal point of view only. Read any clause under Part V—I am not going to trouble the House but I only wish to bring it to the notice of the Hon. the Law Minister—read any clause in part V and you will find that it is inapplicable to the *Marumakkattayam* people, though the Hindu Code Bill is intended to apply to them also.

Clauses 86, 87 and 88 will show that none of them could be made applicable for the tenancy-in-common being introduced into the joint families that exist in Malabar.

With respect to inheritance, I do not know why mother should not be made an heir along with son and daughter. Suppose a man dies—suppose I die. My natural love and affection induce me to see my mother who has brought me up and who has taken interest in me all through my life, an heir to my property. Here what I find is that the mother has been omitted in Clause I.

My second complaint is why the son of a predeceased son or the son of a predeceased son's son ought to be introduced in Class I. He ought to come in Class II. It is revolting to us to make them preferential heirs in Class I. If you ask anyone in Malabar as to whether he would like his property to go to his son's predeceased son's son, or his son's son even, or to his sister or sister's children, he will certainly say that even in preference to his brother it should go to his sister and sister's children. So I say that the rank given to sister and her children in Class II of the Seventh Schedule ought to be raised than what has been given there. Sister and sister's children come very low; in Schedule VII, they come only after son's daughter's son, son's son's daughter, son's daughter's daughter. It is after all these persons that we find even brother and sister appearing as heirs. I do not know why promotion ought not to be given to brother and sister who were born of the same womb. Natural love and affection should certainly induce us to give brother and sister a higher rank than what has been given to them under the provisions relating to inheriance.

[At this stage Mr. Deputy Speaker vacated the Chair, which was then occupied by Shrimati G. Durgabai (one of the Panel of Chairmen)].

Looking at the question from all these points of view, it will be seen that the whole Bill has been locked at only from the law that is prevailing in the other parts of the country than Malabar—which no doubt is certainly followed by the largest number of people—but the matriarchal system of law has not at all been taken into consideration in framing this Bill. Therefore I feel that this Bill is not sufficiently progressive either with respect to the rights of women, which we all desire so much to be given to them, or from the general point of view.

We are very anxious to be brought within the scope of this Bill. We do want uniformity. I am one of those who wish, and the people

of my part of the country also want to see, that there is one uniform law existing for all the Hindus in the country. But at the same time it should not be made so revolting or made impossible for my people to follow the law, or even if they do so to do it with a certain amount of reluctance. It ought to be made attractive. My submission is that in framing the law the matriarchal system of law has also to be taken into consideration. I submit that proper amendments might be introduced to attract us also to come within the scope of the Bill. If for any reason the two systems are so divergent that it is impossible to introduce amendments in the Bill so as to attract us also within the scope of the Bill, my appeal to the House is that we may be left alone, that we may be allowed to follow our own law which stands on a higher footing of love and affection than the Hindu Code Bill that has now been introduced in this House. According to me this Hindu Code Bill is not a secular measure, it is not a rational measure ; religion still pervades throughout the Bill. The Bill ought to be entirely a rational one. I would have had no objection if the whole Bill had been framed from a natural outlook, an outlook entirely divorced from religion. If a Bill like that is introduced, our people would be too glad to follow it. What we notice is that the Bill as it is framed now is religious still to a high degree; though it has been watered down, it is not yet sufficiently secular. I don't know why in marriage, adoption and inheritance, religion ought to interevene, why the provisions relating to them ought not to be made more secular as they prevail today in our part of the country. There is no reason why we who follow a system which has nothing to do in all these mundane matters with religion, should be roped into this Bill in which religion plays a prominent part.

*__Mr. Chairman :__ There are only ten minutes left. I want to know if any of the Members will finish his speech in ten minutes.

Some Honourable Members *rose*—

Shri Sita Ram S. Jajoo (Madhya Bharat): Madam, I will finish my speech within ten minutes.

At the outset I want to make it clear that I am wholeheartedly in support of the present Hindu Code Bill. It is with a hesitant heart that I am standing here because I feel that almost all the Members belonging to the older generation were speaking against the Hindu Code Bill. I don't challange their hearts, but so far as the Hindu Code Bill is concerned their hearts seem to be older or staler.

* C.A. (Leg.) D., Vol. VI, Part II, 12th December 1949, pp. 506-508.

Shri M. Tirumala Rao : May I say that ladies of the older generation also are supporting you ?

Shri Sita Ram S. Jajoo : Yes, because they are progressive, because they want to progress. In the words of my friend Mr. Krishna Chandra Sharma, they are more progressive and going forward whereas the men are going backward. Any way, I am concerned with the Hindu Code Bill as it stands today.

Madam, I would not have spoken but for the fact that I can represent the views of the younger generation here, and I can confidently say that the younger generation in the country stands by the Hindu Code. Much ado has been made about the fact that this Bill has not been circulated for public opinion in the Indian States. I want to say that there have been many Bills which we have passed in this House, but at that time nobody raised his little finger and said that those Bills were not circulated for eliciting public opinion in the Indian States.

Some Honourable Members : But this is such a controversial Bill.

Shri Sita Ram S. Jajoo : There have been so many controversial Bills. The question of Sirohi was most controversial but the States people were not consulted on it.

Shri Gokulbhai Daulatram Bhatt (Bombay States): Madam, there was no Bill connected with Sirohi.

Mr. Chairman : May I request hon. Members to allow the speaker to go on uniterrupted ?

Sardar Hukam Singh : Is it not for the elders to correct if the younger generation goes astray ?

Shri Sita Ram S. Jajoo : They are definitely in their rigits to control and guide the younger generation, but that must be towards progress, it should not be a retrogade step.

An Honourable Member : Our experience extends upto 80 years.

Shri Sita Ram S. Jajoo : The experience of 80 years may be there ; but the experience of the Father of the Nation, Mahatma Gandhi, is also there. There are volumes of books containing the articles by him from time to time in favour of the elevation of the Hindu women. And so far as the Hindu Code is concerned, I have heard from many of the staunch opponents that they won't mind if the whole Code is passed excepting the provision regarding inheritance and the sharing with daughters and sisters. It has been opposed mostly by the community, to which I also belong, the Marwari community. But I

say that the Marwari youths are for the Hindu Code Bill. If we say that the older people are there and their experience is there, Mahatma Gandhi in his autobiography has written that it is a most pitiable sight to see the Hindu wife ....

Pandit Mukut Bihari Lal Bhargava : You can't exploit Mahatma Gandhi's name.

Shri Sita Ram S. Jajoo : Perhaps you might have exploited his name much more than what I have done. I have just started my life and I had no opportunity of swearing by the Mahatma's name whereas among people who are old and who have got grey hair there might be some who might have exploited his name hundreds of times.

Madam, Mahatma Gandhi writes that so far as the position of Hindu wives is concerned, it is most pitiable. He says that if the master is annoyed with a servant, the servant may leave his master, if one is annoyed with one's father he can't demand partition, if a father is annoyed with his son he can ask him to get out, but so far as the Hindu wives are concerned they cannot go anywhere. If that was the case with Kasturba at the hands of the Mahatma, what would be the position of women at the hands of ordinary human beings like us ?

So far as the Constitution is concerned, we have agreed that there is equality of sex, but here we are afraid of granting that equality to our women folk, to our sisters and daughters. You can adopt a boy from a family simply because he also happens to have the same *Gotra* or the same surname, but you are not prepared to tolerate your own daughter or your blood sister simply because she happens to be a female. That is the position.

Much ado has been made about the Bill by saying that it is an insult on the Hindu religion. I want to ask this of my friends. The Hindu religion is very adjusting and accommodating. It has adopted itself to changing circumstances from times immemorial. The very fact that there are 137 or 138 *Smritis* is evident to this statement. If there was a fixed law and no change suggested or expected in the Hindu law, then why are there 138 *Smritis ?* And why we cannot have one more *Smriti,* codify and have a new Hindu law ? We can have in it all the good things of those *Smritis* together with all the good things which the modern times and the scientific developments and the social progress demand. What is the harm if we codify all these into one law ? The very word *Smriti* indicates whatever is written from memory, the word *Shruti* indicates whatever is heard and written.

It is nowhere stated that they were written by a particular *Rishi* or a particualr *Muni*. So, I don't think there should be any hesitation in having this Code nor should anybody feel that his conscience will be killed if this Hindu Code is enacted. We have always been speaking from the political platform about freedom. Political freedom has been achieved. We have achieved independence but we have also to see . that the social evolution of the country also takes place. If we want the social order to change, I say this is the time for it. We have to prove it by our actions, not by words. We must see that the whole social order is changed. As regards reform, I may say that even the late Raja Ram Mohan Roy had to face opposition, many other reformers had to meet with opposition, some of them died an unnatural death at the hands of their opponents whom they wanted to help, whom they wanted to elevate and to whom they wanted to bring salvation. Here we have got our leaders who are certainly with us. After the Prime minister's speech on the opening day of the session, I don't think there is anything for arguing here or for fighting over this issue when he said that he was for the greatest common measure of agreement if it could be arrived at. If we are prepared to have a compromise with others then I feel this will not become a progressive measure, it will lose its charm. But still I have more faith in the wisdom of our Prime Minister. I feel he is much more wise than I can be or my young friends can be. I have faith in him. If he wants compromise, or if the Government wants compromise, let there be compromise, but so far as young people are concerned, we do not like the compromise. But we certainly have faith in our leaders and we shall obey their commands.

Pandit Lakshmi Kanta Maitra : But none of them are here.

Shri Sita Ram S. Jajoo : If they are not here, the Hon. Dr. Ambedkar is here. He is the sponsor of the Bill and he is doing it on behalf of the Government. It is no use cursing this Government. After all, if we go into the history of this Bill, we will see that it was brought by our predecessor Government .... *(Interruption).*

Madam, I would like to speak for about ten minutes more, because there have been interruptions. If you so desire, I may continue tomorrow. I will not take more than ten minutes.

Mr. Chairman : The hon. Member is requested to close his speech, because he has assured me that he will take only ten minutes.

Shri Sita Ram S. Jajoo : But you will appreciate my difficulty, Madam. I have been interrupted so much. I would like to speak for ten minutes more tomorrow, if you do not mind.

Mr. Chairman : May I know whether the hon. Member can finish his speech within three minutes more. I will give him minutes three now.

Shri Sita Ram S. Jajoo : I know, Madam, I have given an assurance. If you wish, I may sit down just now. But I thank you for giving me three minutes more.

Now, I was saying that Dr. Ambedkar is here. He will certainly convey our views. He is in charge of the Bill. It is no use cursing and blaming the present Government. After all, if we see the history of this Bill, this Bill was brought by our predecessor Government—a foreign government. At that time, we did not have the guts to fight it. Whenever social measures were brought forward by the foreign government ....

An Honourable Member : Don't worry about history.

Shri Sita Ram S. Jajoo : I have to look into the history certainly, but let me proceed with my speech just now. When the British Government brought certain measures which affected the Hindu law, we accepted them at that time, because they did not touch the purses of the moneyed people—the capitalists. Here we feel the pinch, because it touches our pockets. We male members of this House are in a huge majority. I do not wish that the tyranny of the majority may be imposed on the minority, the female members of this House. The ladies in the country in general are illiterate; so we should not exploit them. A big tirade of propaganda is being carried on that this Bill aims only at one thing and that thing is divorce. All ladies are persuaded or dissuaded or influenced or canvassed by telling them that their husbands are going to divorce them after the Hindu Code is passed. This kind of misinterpretation of the provisions of the Hindu Code is going on. I want to tell all these people that there will hardly be a single man who would like to divorce unnecessarily ; similarly, there would hardly be a single Hindu wife who would like to divorce unnecessarily. There is enough good reason and sense in the courts, and the judiciary will definitely look into the whole case and see that justice is meted out. This is all I have to say.

The Assembly then adjourned till a Quarter to Eleven of the Clock on Tuesday, the 13th December, 1949.

HINDU CODE—*contd.*

*__Mr. Deputy Speaker :__ The House will now proceed with the further consideration of the Bill to amend and codify certain branches of Hindu law.

Shri Alladi Krishnaswami Ayyar (Madras : General): Sir, before dealing with the different aspects of the Bill as it emerged from the Select Committee, I should like with your leave to make a few general observations. I may at once say that I do not belong to the school which is against any legislative interference or change in matters of Hindu Law. Law by its very nature cannot be static; it must keep pace with the progresive tendencies of the age, if it is to be an instrument and measure of social progress. Our ancients were quite alive to this function of law in society. The *Smritis* as well as the great commentaries on the *Smritis,* bear eloquent testimony to this function of law in society and the need for changes from time to time. The commentaries which are treated as authoritative interpretations of law in different parts of the country merely give concrete expression to the social tendencies at work at a given time, but in the modern age with duly constituted Legislatures functioning, no jurist counsel can effect a change in the law by a mere process of interpretation. This function to some extent but within a limited sphere has been discharged by the Courts, the highest tribunals in India and the Judicial Committee of the Privy Council, during the last one hundred years or so. It is not, however, the normal function of Courts to effect a change in the law but only to interpret the law though in the process of interpretation it may effect imperceptible changes by distinguishing or extracting principles from previous decisions or from Hindu law texts.

But by its very nature, judicial function is restricted in its operation. It cannot be gainsaid that there is also a danger in the Judge consciously or unconsciously assuming the role of a legislator. A particular Judge or a Bench might approach the consideration of a question from a conservative or orthodox point of view, another Judge might utilise his judicial function for any pet theme of social reform. The judgments of the highest tribunals in this country as well as those of the Judicial Committee of the Privy Council during its long association with India, bear witness to the above statement. At the same time, there is no gainsaying the fact that the decisions of Courts to a large extent have prepared the ground for legislative intervention. While this need for

* C.A. (Leg.) D., Vol. VI, Part II, 13th December 1949, pp. 510-19.

legislative intervention is apparent, this Assembly in undertaking any legislation of this kind cannot altogether ignore certain rooted conceptions in regard to marriage, family law and rights of succession. Change is inevitable and is part of the organic law of society, but change does not mean striking at the roots or foundations of society.

Bearing all these aspects of law reform in mind, I should like this House to approach the consideration of this Bill. There is no subject in which every man and woman in this country is interested more than the Bill now under consideration by the House. That makes it all the more incumbent upon each one of us, however highly circumstanced or lowly circumstanced, to tolerate difference of views and to bring to bear a cool and dispassionate judgment in the larger interests of the wellbeing of the people of this country. In that sense and to that extent this cannot be treated purely as a Party measure or as a matter of confidence.

First, with your leave, Sir, I shall take the Chapter relating to marriage and divorce. While dealing with this Chapter, it is well to remember that already great inroads have been made into the marriage law by the various Acts of the Indian Legislature. The latest of such Acts was the Hindu Marriage (Disabilities Removal) Act of 1946 (Act XXVIII of 1946) by which it has been enacted that a marriage shall not be invalid by reason only of the fact that the parties thereto belong to the same *Gotra* or *Pravara* or belong to different castes or subdivisions of castes. The Madras Legislature has recently made monogamy compulsory and some of the Provincial Legislatures have already made provisions for divorce. A change has also been made in regard to the law relating to the age of consent to marriage. If we approach the consideration of the Bill from this point of view, the changes effected in the Bill are by no means so revolutionary as they may seem as first sight. The substantial changes in the provisions of the original Bill as pointed out by some Members of the Select Committee relate to the incorporation of certain provisions relating to restitution of conjugal rights, judicial separation, alimony, custody of children, jurisdiction and procedure of Courts.

While on the provisions of the Bill, I should like to mention one important point. The distinction sought to be made between sacramental marriage and civil marriage is more apparent than real. It is difficult to follow the provisions of the Bill in this respect, because I find that in regard to divorce, in regard to restitution of conjugal rights,

in regard to right of maintenance and obligations of the marriage the provisions are exactly the same both in regard to what is termed "Civil Marriage" under the provisions of the Bill and what is termed "Sacramental Marriage". The Bill introduces a distinction between what is called "prohibited degrees" and other kinds of disqualifications in regard to sacramental marriage. In regard to sacramental marriage, provision is made that *sapinda* relationship as defined in the Bill will be a ground for disqualification, whereas in the case of what is called a "Civil Marriage" it is only prohibited degrees that are made a ground for the marriage not being effective. At the same time, I am unable to follow the metamorphosis provided for in the Bill that even if the parties go through a sacramental marriage, it is open to either of the spouses to convert it into what is called a "civil marriage" under the provisions of the Bill. If really this distinction serves any purpose at all is a point which may be considered by the Hon. the Law Minister before the final passing of the Bill.

There is no distinction in regard to the rights of offspring, rights of inheritance, the obligations between the spouses and in every other matter. The position is exactly the same in regard to a civil marriage as in regard to a sacramental. Possibly, the idea is to satisfy the sentiments of some parties by making some provision for what is called "sacramental marriage" ". If that is the real object, then you ought not to make a provision for an easy change of sacramental marriage into a civil marriage at a later stage. Either have the one or the other. If, for example, you want to draw a distinction between sacramental marriage and civil marriage, have it; let it be quite clear and definite : Normally, certain ceremonies are indispensable for sacramental marriage. Certain formalities need not be gone through in the case of what is called " civil marriage ". From the point of view of a pure lawyer, I fail to see any real distinction between a civil marriage and a sacramental marriage under the provisions of this Bill. I do not go to any root ideas of the Bill, but I merely place it for the consideration of the Hon. the Law Minister.

Then again with regard to prohibited degress of relationship, modern eugenics is against the idea of people related to one another marrying. At any rate, there is a large body of opinion in favour of this doctrine. Under those circumstances, are we advancing or are we retarding progress so far as this provision is concerned ? At least so far as this part is concerned, I think our ancients anticipated modern ideas in

prohibiting certain people from marrying. I ask you : why take retrograde step in the name of progress and in the name of advanced ideas and civilisation ? I certainly realise that there need not be any prohibition in regard to distant *sapinda* or people who have the same *pravara* or the same *gotra*. But that stands on a different footing altogether. Where there is near relationship, why relax the rule ? I have been recently reading in newspapers and periodicals a good deal of discussion as to the advisability of near relations marrying one another. This is one aspect which I know the Hon. the Law Minister, as a student of science and of history, will certainly consider. This is opposed to the religious sentiments of the people. If scientific ideas, if religious considerations, if sentiments of the people have all to be taken into consideration, then there is no point in relaxing that rule. It is not, of course, consistent with the well being of the society. If in the interests of the future generation, if in the interests of the well being of our people, if in the interests of the progress of the race, you must promote marriages between near relations, by all means do so. Let us take a bold stand ; let us take a clear stand ; let us take a determined stand in regard that matter. I do not want any shilly-shallying in regard to what may be regarded as a question of fundamental principle. Either adopt the ancient principle or adopt a more rational or modern principle according to your ideas. But personally, I would very much prefer the old rule being retained. Let me be quite clear. In regard to particular communities where, for example, certain customs have been prevalent in some parts of India, you have already provided for it in another clause. But the general rule should be to prohibit marriage between *sapindas*. In this respect, the move is not in the right direction.

12 NOON

With regard to the law of divorce, in trying to bring about a uniformity of law there is no point, as Sir Tek Chand has pointed out in his memo, in imposing special restrictions upon communities and classes of people among whom restrictions do not obtain at present. I know that in parts of South India divorce by mutual consent in the presence of the village headman or the Panchayat is still prevalent as in other parts of North India. After all, it looks as if divorce is to be the essence of the law of marriage according to a certain school. But must you think of divorce before you think of the marriage ? If that is the running idea and if you want to give encouragement or at any rate provide an easy divorce, why provide for law courts,

divorce courts, an appeal court with three judges sitting, etc. when the communities affected have got hardly enough to eat ? I should think that is not a move in the right direction. In so far as any divorce is permitted according to the custom of the community in particular castes, it should continue ; but in the interests of uniformity you need not make the divorce more expensive. It would certainly benefit my profession and I am not at all against it. But I know my hon. friend Dr. Ambedkar very well and I have no doubt he will consider all the aspects of the question before coming to a conclusion on this particular question.

In regard to judicial separation, I recall to mind a very interesting debate in the House of Lords some years ago in which Lord Birkenhead took part. Very eminent lawyers and some of the greatest jurists of the day took part in the debate. There was a certain section of the people who took a strong view to the effect that judicial separation is another name for legalising concubinage. I would rather prefer a clean case of divorce to this judicial separation continuing. If it is a question of providing maintenance, if it is a question of seeing that the obligations are discharged that the wife is not starved or that you do not discharge your marital obligation, while continuing to be man and wife, provision is made in the Bill in regard to that.

Why all these complicated provisions of the English law in regard to alimony, in regard to judicial separation, in regard to divorce and restitution of conjugal rights ? Is it necessary to have so many detailed and complicated provisions is a point which is worth consideration.

Pandit Lakshmi Kanta Maitra (West Bengal : General): They are necessary in the interests of the progress of the country.

Shri Alladi Krishnaswami Ayyar : I am not giving one view or the other in regard to that. You may have your decided views on that matter. But I have no decided views on the subject.

Therefore, I think we have to take the modern trends of thought into consideration and not merely go upon antiquated ideas prevailing in England. Even in England within the recent years there has been a great change of opinion in regard to marriage law, although every aspect of it has not found a place in the Statute Book of England. Therefore, instead of merely copying the English precedent let us see if it is possible to make any changes.

So far as the general principle of it is concerned, I do not think that the Bill is drastic at all in regard to divorce or other matter.

Whatever difficulties and complexities have arisen are due to a genuine attempt to harmonise the two opposing views—on the one hand the ancient idea that marriage cannot be easily severed and on the other the modern ideas which demand separation under certain circumstances. The problem now is how to bring about a synthesis between the two opposing views. Let us approach the consideration of this problem with a certain amount of coolness and with an attempt to understand one another. We cannot stop the current, whatever might be our views. I belong to a very conservative and very orthodox family. I am one of those who believe still in *Shradhas*. I attach considerable importance to my family home and I believe, to some extent, in the ancient view of life. But I cannot at the same time ignore the present day tendency. My sons may not be just like myself and my grandsons much less like myself. Under those circumstances, though my life is rooted in the past, to a very great extent I am in a position to appreciate modern tendency. Therefore, taking all these factors into consideration let us approach the consideration of this measure. If really you believe in sacramental marriage, this method of converting sacramental marriage easily into a civil marriage, somehow does not appeal to me. That is my view. Either have sacramental marriage or do not have it at all. Have particular grounds of divorce for sacramental marriage and particular grounds of divorce for civil marriage. Somehow I cannot reconcile myself to the idea of mixing up the two.

Now, I shall take up the chapter on adoption. The chapter on adoption does not call for any detailed consideration. While the main principle in regard to the law of adoption laid down by the judicial decisions bearing upon the subject have been kept in view, necessary changes have been effected as a consequence of changes in the law as to marriage between persons belonging to different castes. There is no point in conceding the rights of inheritance to the offspring of such marriages and retaining ancient rules as to the eligibility of a boy for adoption based upon the law of marriage as a condition precedent for the validity of adoption in particular castes and particular circumstances. The simple rule as to giving and receiving has accordingly been adopted for a valid adoption in the Bill. The property rights have been regulated with a view to avoid litigation between adoptive mother and the boy to be adopted. A provision has been inserted for preventing the divesting of estates which will have the effect of putting an end to interminable litigation which has been the special feature of law relating to adoption beginning from Bhuban Moyee's case. The law has also been simplified in regard to the need

for any authority to adopt as a condition for the validity of adoption following the main principles of Mayukha Law. On the whole, it may be claimed that there is everything in the chapter on adoption to commend it for the favourable considration of this House. The need for an express authority from the husband for the validity of adoption, the restriction of the scope and the terms of the authority conferred by the husband, the free consent of the nearest *sapindas* who are most interested in disputing the adoption and being a substitute for the authority of the husband and the relative claims of the senior and junior widow, the limits that ought to be placed upon the exercise of the power to adopt have been fruitful source of litigation in British Indian Courts. The Bill, I have no doubt, has considerably simplified the law as to adoption and the rights of the adopted son. On the whole, I should think there can be marriage between different communities—it has become part of the chapter on adoption, because when once you agree to the principle that there can be marriage between different communities—it has become part of the law—all these restrictions which have been obtaining in regard to the eligibility of the boy to be adopted must necessarily go. When *gotra* has disappeared, how can *sagotra* be a qualification for adoption ? Therefore, in the interests of simplicity and of logic, we have necessarily to see that giving and taking are enough ; we have to reconcile ourselves to this situation. Having taken the first step, you cannot stop at the second step. The Legislature here has already taken the first step. Therefore, there is no use fighting shy of the next step. Under those circumstances, I would commend for the favourable consideration of the House the Chapter on Adoption.

I am just coming to the other parts of the Bill where I differ from the Members of the Select Committee. In dealing with the institution of joint family, the problems of Indian agriculture and its future and the position of many trading facilities belonging to communities which have trade or business as their principal avocation must necessarily form an important factor. Anyone who is in touch with conditions of village life in India knows that particular families have long been in possession of particular lands from generation to generation, that being the main reason assigned for conceding occupancy rights to tenancy families who have been cultivating the land for a long time. Here I must say that I radically differ from my respected friend, Mr. Santhanam, in regard to what he said about village life in India. It is not correct to say that the joint family is breaking up. I also

claim to be in touch with village life in India. I am a villager myself, though I have spent about forty years in the City of Madras. Hardly has there been any year in these forty years in which I did not spend at least a month in a village. I spend a good part of Christmas and the summer vacation in the villages and with the people of the villages. Therefore, I claim to know something of village life in India, at least village life in Madras, though I know very little of village life in other parts of India excepting through the medium of books and village manuals. Therefore, I wholly disagree with the statement that so far at any rate the villages of India are concerned, the joint family life is breaking up. At the same time, I certainly agree with my friend, Mr. Santhanam, in this, *viz.*, that so far as what may be called collateral branches are concerned, after the first generation, there is a tendency for the joint family to break up. In the first generation there is no breaking up, certainly not during the life-time of the father. If there is any breaking up, it generally is after the children of the father pass away and children's children come into their own. Therefore, you must take the existing state of things into consideration instead of proceeding merely on theory. I myself have been a member of a joint family till recently and I still believe in the ideals of a joint family life. I certainly think that in certain aspects of life in regard to education for example, the joint family system has done a good turn. Many a poor brother has starved himself in order to educate his brothers ; many an uncle has starved himself in order to educate his nephews. A sort of qualified Socialism has existed in the joint family life. At the same time, I agree that no institution can last for a long time. No institution must be allowed to come in the way of social progress. But the question is, has the time come for this question to be taken into consideration? I do not subscribe to the view that the joint family system is breaking down so far as the villages are concerned and in any scheme of reform we must remember that India is a land of villages. The rural people are still following the joint family system to a large extent. The recent inroads made into the joint family system by conceding rights to the widows and daughters-in-law have not materially effected the position. Even in regard to non-agricultural property, communities which have trade as their principal avocation are still carrying on trade or business as a family adventure or business. It is so in my part of the country. I have had a good deal to do with the Natukottai Chettiars for the last forty years, and it is only within the last five or ten years that they are starting companies not with

the idea of breaking up joint families but to see that they get out of income-tax regulations. Therefore, it is not correct to say that joint family life is breaking up either among the *Vaishyas* or among the Natukottai Chettiars or among the *Marwaris*. Now, sitting in this Legislative Assembly or Parliament, there is no use our thinking that we are in possession of all the facts regarding every nook and corner of India and legislating on that basis. The only thing we have to consider is, is it so out of tune with modern conditions and is it going to stand in the way of further progress ? You have also to note certain changes which have already been made in the joint family law. The rigours of joint family law have been considerably relaxed in recent years. It is now settled law that any member of a joint family may by a unilateral declaration sever himself from the rest of the family without reference to any court of law. The manifestation of will or intention on the part of any member of the joint family is enough for severance, even so many still continue as members of a joint family because still they like the institution of the joint family. Any member of a joint family may alienate his share of the family property. In the case of father and son, the entire property is liable for the debts of the father. The son is responsible for the debt of the father. He cannot escape his responsibility by saying that the debts were incurred by the father for immoral purposes. I am certain that that sort of litigation is fast dying down. There is no question of escape now by saying that the debt was incurred by the father for immoral purposes. Then again, the law as to self-acquisition has been considerably simplified. Decisions of the Privy Council have made it quite clear that if a person acquires property, he can keep it for himself. Therefore, the plea that I would make to my friend, the Hon. Law Minister is that this institution still obtains. It may break up in the course of the next fifteen, thirty or fifty years. With the change in the law of marriage and other things, it may break up. But my whole point is, without reference to the will of the people, without reference to their consent, without taking into account the general consciousness of the people, why undertake this legislation ? You may think that I am a kind of ancient fellow who does not understand these things. I do want that this country should move with the times, but my plea is you should first ascertain the will of the people. It may be argued. “All right, so far as agricultural property is concerned, we will not touch it, but we will make a change in regard to non-agricultural property”. It is not easy to make a distinction in matters of this kind between one kind of property and

another land or property. Once you change the law in regard to non-agricultural property, a change in the law in regard to agricultural property must necessarily follow. Though in the matter of distribution of legislative power between the Union and the States for taxation purposes, a distinction is maintained between agricultural and non-agricultural property, it is an accident only that certain power is given to the provinces and certain power is given to the Centre, and it cannot be denied that Hindu law of succession is single and entire. Succession is not a truncated affairs. Succession cannot be split up. Therefore, when you consider the question, you should consider it in all these aspects both in regard to agricultural property and in regard to non-agricultural property and you should address yourself to the question whether in the larger interests of society, the time has come for a revolutionary change in the family system. I request my hon. Friend, the Law Minister to consider the question why certain chapters of the Bill should not be postponed.

Sir, I just want to deal with another aspect of the question namely the rights of succession of sons and daughters in regard to succession proper. I have got a special claim to speak on that behalf as I am a father of both daughters and sons and I repeat that. In fact the majority is on the woman side, four daughters and three boys. Therefore, I have a special claim to speak on this subject (*Hear, hear*). Apart from what little I know as a lawyer, I have a special claim to speak as a father of daughters and of sons. Now, I want you to look at the general set up of the Hindu family in dealing with this problem. If three sons find it difficult, you say, to live together and to own property in common how can you expect the daughters married to different people, may be people belonging to different castes or communities to carry on joint cultivation in villages ? Under those circumstances, is it in the larger interests of the country, that this property of the father as well as of the son be divided up equally between sons and daughters without any question of difference ? If it is a question of justice, if it is a question of equality, if it is a question of theoretical equality, I have nothing to say against it, but law is not logical—it does not mean that it is always illogical—but it has to take into account the social strata of society, the consciousness of the community, its effect upon the family life and other factors. Therefore, you have not a clean slate to write on. Therefore, let us take what happens in a Hindu family, Mr. Santhanam looks with equanimity from Delhi. If any marriage takes place in a brother's house, the sister and the

daughter occupy the most important part. It is regarded as a father's house, the son looks upon the family house as his house. Every one of us know what an important place the sister and the daughter occupies in the household. (*Hear, hear*). If the mother and father sit together for the *Aarathi,* it is the daughter, it is the sister that brings it and you give the present to the daughters and the sisters on that occasion. After all we are all Hindus; you cannot forget that. The very first person who receives the present will be the sister or the daughter in the household. The second thing is that no marriage can go through in any Hindu household unless provision is made for presents being made to the daughters and to the sisters. Again even though, women who may not care to bear children may not appreciate it—daughters of the family are certainly cared for on every occasion such as *srimanta* or on occasions of first confinement and second confinement. A girl generally goes to the father's house or to the brother's house and it is only after getting two or three children that the girl does not go to the father's or brother's house, and this is Hindu life to-day. It is not the life in Delhi, it is not the life in Calcutta, it is not the life in Madras that is to be the guiding factor in these matters. It is the normal ordinary life in every village, in the whole of India, (*Hear, hear*). Therefore, I would ask you most respectfully the Members of this House, though I am addressing Mr. Deputy Speaker, to take these factors into consideration. The Bible said "I shall set father against father, son against son and brother against brother" or some such thing, but let not legislation result in a feud between the members of the family, an unnecessary feud between the members of the family. A certain amount of bickering, a certain feud is inevitable, so long as property is there.

Sankara said that property is the soul of strife in our country and that is inevitable, but let us not give an impetus to it by stating that I shall set brother against brother, a sister against the brother, the brother against the sister and in that way mould the family life of the India at present. The time may come when each daughter may arrange for her marriage after they attain their maturity. Many of the girls look to their brothers for their marriage. Hardly a week passes when a brother or a father does not come and ask for a little help in regard to a marriage. It may be that I am old-fashioned to consider such requests, but that is Hindu life. I am supposed to be educated in English ways of life but what would you think of other people

who are not so educated as myself? You may be more advanced, I may be less advanced, but I still claim that I am born of the Indian soil and my ideas are rooted in the Indian soil, and therefore, I plead for the retention of these great virtues which have characterized our Indian life (*Hear, hear*). I do not want to go against the modern trends of thought or the modern ideas of progress, but at the same time while it is our duty to keep in touch with the currents of national life, with the social currents at present working, there is no use our imagining that we represent the whole of India. I may tell you, even among educated women, all of them do not think alike and even women who are in the legislatures do not think alike with some other educated ladies who are members of respectable households; they differ in some respects.

Shrimati Renuka Ray (West Bengal : General): Are our households not respectable ?

Shri Alladi Krishnaswami Ayyar : They are very respectable. I am glad that you have interrupted. I am accustomed and I may tell you they are quite as respectable, though they might be a little conservative,—as some of those people who are very respectable and who have advanced ideas in these matters. I have given my views and I certainly refuse to believe I am not a respectable man; I am at least as respectable as others, but my ways of life, my way of thinking, my attitude to these questions is different from those equally respectable because I am cast in a different mould. For example, I have the greatest respect for our Prime Minister and on certain questions I yield to him, but at the same time, I do not look at questions with the same glasses as my hon. friend, my esteemed friend, if I may call the Prime Minister my very esteemed friend. It is merely a mode of approach.

The Honourable Shri K. Santhanam (Minister of State for Trnsport and Railways) : What is your actual proposal ?

Pandit Lakshmi Kanta Maitra : He is giving his proposals in an excellent way.

Shri Alladi Krishnaswami Ayyar : I do not fight shy of that. The question I have been put is in regard to un-married daughters whether any kind of special provision may be made either for marriage or a special portion may be set apart so far as the marriage of girls is concerned. The law may provide that the daughters will take the heritage of the mothers and the sons will take the heritage of the fathers.

So far as daughters are concerned, I am quite willing to and quite anxious that as liberal and as obligatory, a provision be made for the girls who are un-married. I have absolutely no difficulty in that matter. That is my proposal. It may be worth anything, it may not be worth anything, but that is my proposal.

An Honourable Member : What about the money from the mother?

Shri Alladi Krishnaswami Ayyar : There is no use speaking about that. You take a census of the people who pay income-tax in this country? They are not many. This is a poverty stricken country. So there is no use of saying that that the mother has no property. Many are poor. They may have no property, but they cannot get away from social obligations. Those who have property may divide their property, but that may have repercussions upon the people who have no property, or very little property, but at the same time who are quite sensitive to the social and family obligations. Therefore, in any step that you take, you have to see that the social obligations are not retarded. That is the plea I make so far as this is concerned. In regard to the institution of joint family property, I differ from my friend the hon. Dr. Ambedkar. It is seldom I differ from him. And I am often influenced by him, and have occasionally influenced him. Therefore, I have no doubt that he will pay heed to some of the criticisms which those of my persuasion have offered. He may look obstinate, but there is none who yields to reason more than my friend Dr. Ambedkar. I know him very well and it has been a great asset to me, I mean my close acquaintance with him these three years. Well, that is my view, so far the institution of joint family and the rights of equal succession of sons and daughters is concerned.

The next aspect is with regard to *Stridhana* property, and on that, in so far as you remove all restrictions on the power of alienation, I am at one with the House, that is with the other Members of the House. This has merely led to unnecessary litigation, the reversionary filing suits for the declaration that alienations by the widow are invalid, going to this court and that court, and all sorts of evidence being let in. If only in the interest of unnecessary litigation being avoided, I am for the widow being given absolute powers of disposition during her life-time. But from that it does not necessarily follow that the course of devolution must be the same with regard to every kind of *Stridhanam* property. You call it *Stridhanam* and then begin to attach

certain consequences in the matter of succession. Once you make it absolute property, why not it descend to the heirs? That is the question. I am willing to put the question to ninety nine Hindus I meet, "Here is a property devolving uopn the widow from her husband. It is absolute property, and after her death it is to go to her father and mother, in preference to the father and mother of the man whose property has devolved upon the widow." I put that question. You may take a referendum in any part of the country and I am quite clear what the result of that referendum will be. And I challenge any Member to say in this House that the referendum will be other than what I feel. Therefore, as a lawyer, if you put me the question, can you have two kinds of absolute properties, one kind descending in one way and another kind descending in another way, and ask me, why not in the interest of uniformity, give the same rule of succession for one kind of property and the other kind of property? Then I say that you need not sacrifice social sentiments at the alter of logicality. Law need not always be logical. Law need not necessarily be Logical. Logic is not the essence of law.

The Honourable Shri K. Santhanam : Should law be generally illogical?

Shri Alladi Krishnaswami Ayyar : My answer to my friend Mr. Santhanam is that law need not necessarily be logical. That is so because law is the product of social evolution and social adjustment, and therefore, how can it always be logical? Society does not move according to a particular standard or plan. Unfortunately, society, except in a communistic society, does not move in that way. Therefore, under these circumstances, you take the average sentiment of the Hindu into consideration. There is no use of saying that it is illogical to draw a distinction between one kind of *stridhana* and another. Why should the *Stridhana* be allowed again to go to the husband's kindred? Why not it go to her heirs? In the very Bill that is the provision that is made. Therefore, so far as woman's property is concerned, I think that is a point which may receive the consideration of the hon. Law Minister, before the Bill becomes law, consistent with the sentiments and the general feeling among the people. Until recently the widow did not have the power of disposition. The question is whether on the theory that each person when he inherits property, he or she must become the stock of descent, inherited property of every description must be treated alike. That is my plea with regard to woman's property. Throughout I have refrained from resting on logic.

And lastly, Sir, I may mention, if I may, a few words with regard to distant heirs. I feel that the present provisions are a great improvement upon the previous Bill. It has drawn upon certain principles of *Dayabhaga* and it has also brought in the other systems. And I think, so far as distant heirs are concerned, the Bill as it stands is a great improvement upon the original Bill, and if there is any defect here and there, they can be removed easily.

The chapter on guardianship, maintenance, and the other chapters are conceived in a very liberal and progressive spirit, and I think they deserve the whole-hearted support of the Assembly, though it may be that here and there, they may require some modification, but that can be easily done at a later stage of these procedings. Therefore, in the full confidence that the hon. Law Minister as well as the Prime Minister will be responsive to public criticism, while taking into account the progressive tendencies of the age, I move for the second reading of the Bill and I support the motion moved by the hon. Dr. Ambedkar.

***Dr. P. K. Sen** (Bihar : General) : Sir, I am quite conscious that I must be brief, as there is a great pressure upon the time of the House. At the same time there are certain aspects which have been raised, even by my predecessor, my esteemed friend, Shri Alladi Krishnaswami Ayyar, which do call for some comment. He has followed the order of the Bill, as a matter of fact, and taken the law of marriage first of all. I must confess that I could not exactly follow him as to whether he gave his opinion in favour or against it. As a matter of fact he said in one part of his speech, while dealing with that section, that he had no definite opinion on the subject. So far as the law of marriage and divorce is concerned I do feel that one must be definite. There is no part of law which calls for definiteness more than the law of marriage, because, it affects not only the parties who solemnise the marriage between themselves . . . . . .

Shri Alladi Krishnaswami Ayyar : Sir, I do not know if I had made myself clear. What I said was that if we had had a clean state to write on, we might do otherwise but having regard to the previous step taken by this House and the legislation undertaken, there cannot be any serious objection to the portion relating to marriage excepting in regard to one or two matters, which I mentioned in the course of my address.

Dr. P. K. Sen : Except in relation to sacramental marriage. I suppose.

* C. A. (Leg.) D., Vol. VI, Part II, 13th December 1949, pp. 519-27.

As I was observing we have to see that in every respect the law of marriage should be perfectly definite and explicit and there should be no ambiguity at all about it and it is for that reason I take it that the Bill contemplates that even when the marriage has taken place according to the sacramental form there may be objections raised with regard to it. It may be urged that there had been some irregularity, some omission, some particular form of ceremony not having been observed. Take, for instance, *saptapadi*. Everybody knows that *Saptapadi* is an essential factor. Not until the seven steps have been taken can the marriage be said to be valid. In fact, all manner of irregularities may be urged as objections with regard to the marriage. It is for that reason that it has been provided in the Bill that even when a marriage has been solemnised according to certain sacramental form, it is open to a party (it is only permissive) to go and have the marriage registered, so that there may be no objection raised later on with regard to its validity. This is, I submit, absolutely essential, because it is not only the two parties who solemnised the marriage between themselves who are affected but it is the next generation and the next generation, indeed, generations unborn, that are affected by it. The whole question of legitimacy depends upon it. Therefore, I submit that whatever may be the irregularity, there must be some method by means of which the legitimacy of children and their rights of inheritance may be protected and may not be left in uncertainty. There can be no difficulty whatsoever : there is some way of ascertaining what the necessary forms are which have to be observed in order to make a sacramental marriage valid. That too has been provided for in the Bill in the form, *viz.*, that in any particular area it may be found that a particular set of ceremonies is regarded as essential to the validity of the marriage : in that event those ceremonies will be regarded as validating the marriage. Nevertheless, it may so come to pass that some of these ceremonies have been performed or it may be that the performance of those ceremonies were not exactly in the manner prescribed. In that event what is to happen? Is the married couple then to remain in the position which would make their children illegitimate in the eye of law? It is for this reason only that it has been made optional for the parties to have their marriage registered in order to get it validated.

I come to the next question about public opinion and about their being a large body of the public not having been sufficiently apprised

of the contents of the Bill. The question has been raised often and often here, why hurry why not wait for a year or two or three years? We have already waited long enough. Why should we not wait for another period? It is not a question of eleven years which the Hindu code has taken, nor is it a question of two years which have elapsed since. This has been mooted from the last century.

The House will be pleased to recall Act III of 1872. The Special Marriage Act which was first placed before the legislature was in 1868 by Sir Henry Maine at the instance and on the initiative of Keshub Chunder Sen, Bengal's great social reformer. As a matter of fact, to go further back, in the fifties of the last century, the Widow Re-marriage Bill was on the legislative anvil. The great Ishwar Chunder Vidyasagar was exerting a great influence on the public mind to get their support for Hindu widow remarriage. It was at that time that a remarkable petition signed by four hundred men was put up before the legislature, in which they said that although they were orthodox Hindus, they did not believe in restricting themselves to a particular caste, they believed in inter-caste marriage, they believed in monogamy, they believed in certain ceremonies being essential for the purpose of observing pure Hinduism but that they wanted to eschew other ceremonies and that, therefore, they wanted the help of the legislature to pass a comprehensive Bill, not only the Hindu Widow Remarriage Bill but a Hindu Marriage Bill, in which provision would be made for inter-caste marriage, for adult marriage and for marriage solemnised with certain ceremonies only to which they did not take exception, and not every ceremony which at that time was considered to be obligatory. This was somewhere about 1856 and it was a most representative body that put forward this petition. Among those notable public men who signed the petition were people like Peary Chand Mitter, Radha Nath Sikdar, Abhoy Charan Mullik, and Rasik Krishna Mullik. They had nothing whatever to do with the Brahmo Samaj : they were orthodox Hindus. Side by side with this organisation there were all the activities of the Brahmo Samaj going on. The Brahmos had already solemnised inter-caste marriages, because they believed that "Right was right: to follow right were wisdom in scorn of consequence." They did not care what the law was. They said that they would break down caste notwithstanding the fact that there might be difficulties regarding legal validity. Later on they thought that this state of affairs should be removed for the sake of posterity, for the

sake of the children and it was therefore, that Sir Henry Maine introduced a Bill which ultimately emerged as the Special Marriage Act of 1872. That this Act has catered not only for the Brahmo community but for a much larger body is testified to by the fact that after the passing of the Act several amendments have been sought in order to make it applicable to other sections and in order also to obviate certain objections to particular sections of the Act. In doing so, these people at different times acted as the representatives of the conscience of the society—the minority conscience, let us say. But the minority has a conscience; and the social conscience of the minority also must be respected. In every country we find that it is the minority conscience which has always come to the help of law for the purpose of vindicating its own view. Well, Sir, today we do not know which section is in the minority and which section in the majority. But it goes without saying that in a democratic form of government all sections of people must necessarily have their consciences vindicated, and their ways of life and thought, at least so far as fundamental points are concerned, respected. In that view the question that really has to be solved by us is this : Is this Bill in any particular respect imposing itself upon the conscience of any particular section? *(Babu Ramnarayan Singh :* Yes) And by that will its excellence or otherwise be tested.

Now, if we come to the first part of the Bill, so far as the question relating to marriage, divorce, judicial separation, guardianship, alimony, custody of children and so on, is concerned, so far as I can understand, it cannot possibly be contended that it is being thrust upon anyone. After all, it is only in those cases where you find that divorce has become absolutely unavoidable that the provision will be utilised. And there are such cases, there can be no question whatsoever about that. There are cases where continuance of the marriage bond will really lead to misery from the point of view of both parties, will lead to disintegration of the family. It is only there that divorce can possibly come on.

Sjt. Rohini Kumar Chaudhuri (Assam : General) : May I ask if the subsequent marriages become happy? They become worse.

Shri L. Krishnaswami Bharathi (Madras : General) : It depends upon the lady you marry!

Dr. P. K. Sen : I am not going into that question because in that case it would be a matter of statistics as to how many cases have really become happy or how many cases have really become happy

or how many cases have turned out unhappy. That is not the test. The test is unavoidability. Is there anyone who can possibly say that in no circumstances should there be a separation at all? There may be circumstances imaginable where there should not be separation. It is for us to sit down with good will and mutual understanding, and discuss all these points and find out whether it is going to be compulsory upon any particular party or not. There is no compulsion at all here. It is perfectly optional. If you find that it has become impossible to carry on you can go to a court of law. The court of law will go into the matter, find out whether all the requisites of a divorce or a dissolution of marriage are present and then issue a *decree nisi*, or whatever it may be. But that does not necessarily mean that divorce will go on multiplying from day to day. That depends entirely on the temperament of the people. And I feel bound to say that because it has taken a particular course in America or England or in other foreign countries, in India also it should take the same course— that is an impossible conclusion. *(Pandit Lakshmi Kanta Maitra:* It is the same institution). I do not believe at all that in India the same result will follow.

Pandit Lakshmi Kanta Maitra : Worse.

An Honourable Member : Is it not time to rise for Lunch?

Mr. Deputy Speaker : I think the hon. Member is likely to conclude soon.

Dr. P. K. Sen : I am trying my best to conclude soon, but I have just begun.

The Assembly then adjourned for Lunch till
Half Past Two of the Clock.

The Assembly re-assembled after Lunch
at Half Past Two of the Clock, Mr. Deputy Speaker
(Shri M. Ananthasayanam Ayyangar) in the Chair.

Dr. P. K. Sen : Sir, when this House rose for mid-day recess, I was on the point of the permissive nature of the provisions regarding divorce and allied matters. The question that was put to me in the course of the debate was why there had been so many divorces in other countries.

Shri Mahavir Tyagi (U. P. : General) : On a point of order. I find only the hon. Minister of State for Transport and Railways sitting

on the Government Benches. The Bill under discussion neither deals with Railways nor with Transport. Will you be kind enough to call the Hon. Law Minister, Sir ?

Mr. Deputy Speaker : I am sure the Law Minister will be here soon. Till then, the other Minister who is here will take notes.

Shri Ajit Prasad Jain (U. P. : General) : This is almost a contempt of the House.

Mr. Deputy Speaker : I have got chits sent to me by no less than 36 members so far.

Shri M. Tirumala Rao (Madras : General) : Some have not sent our names. Our chits are lying here.

Shri Mahavir Tyagi : And many have been waiting to catch your eye. They have not sent chits.

Mr. Deputy Speaker : So the position is that, besides these 36 there are others also trying to catch my eye. As the position stands at present, Government had fixed only yesterday and today for this Bill. I do not know the state of government work. I do not want to stifle discussion, but at this rate I do not think we can go on. Therefore, I suggest to hon. Members to limit their speeches, as far as possible, to fifteen minutes.

An Honourable Member : Impossible. You suggest to Government to extend the time.

Shri R. K. Sidhva (C. P. and Berar: General) : Such members as are hopeful of finishing their speeches within five or ten minutes should be given preference. There are many such members, I know.

Shri L. Krishnaswami Bharathi : But will they keep to their assurance? That is the point.

Shri R. K. Sidhva : I give a definite assurance.

Shri Biswanath Das (Orissa : General) : May I just bring to your notice, Mr. Deputy Speaker, that the hon. Speaker had given an assurance to this House that he would give full scope for discussion of this motion and it will be unfortunate if you allow only ten or fifteen minutes for a speaker. It is something absolutely different from an ordinary Bill. It concerns the life and the economic and social existence of crores of people. Under these circumstances, I would beg of you to stick to the assurance given by the hon. Speaker.

Shri L. Krishnaswami Bharathi : He is the Speaker. He can now decide.

Mr. Deputy Speaker : It is unfortunate that the Speaker is not here in his seat. I do not want to stifle the discussion, but I am only suggesting a time-limit so that all Members who want to take part in the discussion may have an opportunity. I leave it to the good sense of the hon. Members themselves. Fifteen minutes is not an inviolable limit. One minute above or one minute below may not be very bad. But beyond that I am afraid even if the government were willing— I do not know whether they are willing or not—to extend the discussion by a day, it would be impossible, having regard to the number of speakers who want to speak, that everyone will have a chance.

Pandit Balkrishna Sharma (U. P. : General) : Then keep it to the next session.

Mr. Deputy Speaker : It is not in my hands.

Shri S. Nagappa (Madras : General): Why not sit for one or two hours longer?

Mr. Deputy Speaker : At present the Members who can finish their speeches within fifteen minutes can do so, but in cases where individual Members consider that they must have more time, they can have more time.

Shri M. Tirumala Rao : You can consider the merits of a speech, and if many arguments are repeated, you can ask the speaker not to repeat the arguments.

Mr. Deputy Speaker : Very well, then, Dr. Sen.

Shri H. J. Khandekar (C. P. and Berar : General): There are only 2½ hours more. Only ten speakers will be able to speak even if each speaks for fifteen minutes. What about the others who want to speak on the bill? I request you to request government to extend the debate by a day or two. This is such an important measure that the eyes of the whole nation are focussed upon it. We must have full discussion over it and then only pass it, in whatever form it is agreed to.

Mr. Deputy Speaker : I am sure the proceeding of this House and the suggestions made by hon. Members will be communicated to and taken notice of by Government. Dr. Sen may continue his speech.

Dr. P. K. Sen : Sir, I quite realize that brevity is the soul of wit, but there are occasions when brevity is the soul of unwisdom, because I shall not be able to make things clear at all and therefore, it will not benefit anybody at all if the House were to hear a discourse which is inconclusive and obscure. I shall therefore, try to touch only on the fundamental points and not enter into details at all.

The question that I was last addressing this House on was, whether or not by giving permission for divorce this country will not be plunging itself into a large number of divorce cases like other countries. My answer to that question was—and is—that the cases for divorce will depend entirely upon the quality of the moral values that a country has. A society may be so constructed that only in absolutely unavoidable and necessary cases would the parties seek a divorce and that there would be inherently a dislike, a distaste, a contempt for divorce where there is no occasion for it and where evidence is really fabricated for the purpose of establishing that there are reasons for divorce. In this country the experiment has been tried in Baroda and in some parts of South India, where there is and there has been divorce for a long time past, but I am told there have been only three cases so far in Baroda and these three cases during twenty years. I submit, again, that it is the social atmosphere and the moral values prevalent in the particular society that determine the number of divorce cases. Therefore, it is not the law that makes the society. The law only gives sanction to certain cases where it is necessary to give sanction for divorce. In this part of the Bill which deals with marriage law there are four characteristics. The first is : inter-marriage has been allowed. The second is that there is prescription for divorce. There is, thirdly, prescription for monogamy. Now all these are present in Act III of 1872 and, therefore, it is not the Hindu code which has raised these points for the first time. It was in the fifties of the last century, as I have said, that the agitation arose and ever since then the agitation has been going on. The crusade against caste was no doubt first led by the Brahmo Samaj under Keshub Chunder Sen. The Brahmos at that time suffered persecution, ex-communication and ignominy of every description. Today we recognise that caste shall go and therefore, all these provisions that are laid down here in this Bill relating to intercaste marriage need not raise any opposition at all. There is no doubt whatsoever that there is a very large body—if not an overwhelming body—of public opinion in favour of abolition of caste. Otherwise, what are all these provisions that we have laid down in the Constitution? Caste shall go. If we take that position then there is nothing objectionable so far as those provisions are concerned which relate to intercaste marriage.

The same consideration applies to monogamy. I do not know whether there is any public opinion now in favour of bigamy or

polygamy. There may be individual cases; but that is quite different. The whole body of public opinion now, I submit confidently, is in favour of monogamy. Therefore, there is nothing objectionable, so far as that is concerned in the present Bill, and, as I have said, permission for divorce cannot possibly raise any difficulty because, after all a permissive provision must necessarily be there for those unfortunate cases where divorce is called for.

Proceeding, Sir, to the next point as to why there should be any change at all (that was the point on which I was) it has been said that there must be a strict adherence to *Shastric* law and that there should be no departure whatsoever from it. For hours this discussion has been carried on the floor of this House. It has been contended that *shastric* law is absolutely final, inviolate and inviolable. You cannot change it. I should like to know what *Shastric* law means. As a matter of fact, in our *shastras* there is always provision for change and there has always been change. Otherwise what is the meaning of these numerous *Smritis*. We have it in Manu the well known injunction that there are four sources, four norms, of conduct laid down:

श्रतिः स्मृतिः सदाचारः स्वस्य च प्रियमात्मन ।
एतश्चतुर्विध प्राहः सक्षाद्धमस्य लक्षणं ॥

Which being translated means *Shruti, Smriti,* the usages established by righteous men and the satisfaction of one's own inner self—these furnish the four standards or norms of conduct. These four norms of conduct include within them the inner satisfaction of the soul, the conscience by which, I take it is meant not individual conscience only, but social conscience also. The social conscience of the age in which we live has got to be respected and that is one of the standards by which our conduct, our *Dharma* is to be ascertained. That is one of the standards by which law must be laid down and it is on this principle that all along, the law, the so-called *Shastric* law, has changed and changed and changed. My hon. friend, the Minister of Law said in his opening speech that if you go to *Parasara Smriti* or *Narada Smriti* you find there provision for widow re-marriage, and provision for very many other things which may be called revolutionary. How did they ever come to it? How did they get beyond the barriers, as it was, and break through them and start upon something which was revolutionary? It was because according to the highest injunctions laid down, there are not only *Shruti* and *Smriti* but other

sources also. You have to take the conduct of the righteous and the pious,—those who know the way of life that leads unto self-realization—and it is those people who laid down the norms of conduct. You have to follow those. They are not *Shastric*. They are not necessarily to be ascribed to any particular *Shruti* or *Smriti*, but those are the ways of right living that have been laid down definitely for the purpose of regulating our conduct—individual as well as social. If that be so, if that is the way in which the law must evolve itself, then necessarily where we find that there is a strong public opinion, where the conscience of society or a particular section of society, the minority section, let us say, dictates that a particular way of life should be sanctioned by law, law comes forward to the rescue and lays down that it shall be so. If that be our standard, then can we possibly at this moment say that there shall be no change at all ? Can we possibly assert that our law, our *Shastric* law, has been stationary ? If it is inviolable and inviolate, if it is unalterable and inexorable, then there will be no progress and it will be a poor compliment to pay to our Indian law-givers to say that law has been stationary. On the contrary, it is time today to muster up courage and to say that the views of no particular section, whether minority or majority should be trampled upon, that if there are strong opinion held in regard to a particular point then the law must come forward to give permission for that.

I pass next, Sir, to the other fundamental points. What is the other main objection raised with regard to this Bill. It is on the question of property—the Mitakashara and the Dayabhaga. Is it possible at this moment, let us ask ourselves seriously, to raise this question? The joint family system had its virtues; it had its glories in the past. Nobody can deny that. But I have been under the impression that of late it is the tyranny of the joint family system which has appeared most obnoxious to a very large number of people. They feel that the earning people in the family are sucked dry by the indolent ones. There are people who do not want to go forth and earn at all because there is a family behind them, and they think, "What is the use of our taking any trouble for earning when there is the family to support us?" And those members of the family who by the sweat of their brow earn something, it is their income that is sucked dry by others who are indolent and who are also in every way extravagant.

Dr. P. S. Deshmukh (C. P. and Berar : General): Have they ever complained, Sir?

Shri L. Krishnaswami Bharathi : Yes, they do. Complaints are inherent in the situation.

Dr. P. K. Sen : If their complaint could be heard, then of course it will be a different matter, but if they were people in the family, then there would be no opportunity whatsoever, to make a complaint. The only way in which they can possibly complain is now laid down namely, by expression of intention to separate. Now, what is the actual position? Howsoever strong the family integrity may be, any individual member can come forward and say, I intend to separate, and that expression of intention will instantaneously effect separation in the eye of the law. Where is the integrity of the family then ? What then has the *mitakshara* family to do ? According to judicial decisions now, it has come down to this that the slightest intention to effect separation and the expression of that intention will effect that separation. In that case I do submit that it is too late in the day to say that the joint family is a huge institution which remains intact. It is tumbling down and there can be no doubt whatsoever that with the effort of man it cannot possibly be protected any longer. People want individual liberty now. Everybody who earns wants to earn and also go his own way. He does not want to be fettered by other members of the family. It is individual freedom which is now their aim and object. This cry has been raised from the earliest times. "The individual withers and the State is more and more." That is a complaint which has been heard for some time past. Today also we feel that in our society the rule of the majority, the rule of society, is predominant, but nobody wants this predominance any longer. The individual now wants to go off at a tangent. He says, I do not want to be governed by the family. I want to earn my freedom and I want to go my own way. I appeal to every individual Member of this House to ask himself if that is not the spirit of the modern times, and if that is the spirit, then where are we ? Where is the advantage in trying to bolster up an edifice that could not possibly exist any more. Therefore, this great difference which is being drawn between *Mitakshara* and *Dayabhaga* is practically gone. It may be that when we sit round a table in perfect amity and goodwill, in perfect understanding of each other, we may be able to iron out all these differences and we may be able to arrive at a very satisfactory solution without hurting the instincts of any particular section, and I do hope that that will be so. I do not want to go into details, but I just want to point out that this is the line upon which our discussions may proceed in future.

Then, Sir, take the other details. Practically in the matter of inheritance or in the matter of succession, there is nothing upon which controversy rages except on the daughter's share. All the other things are more or less now things of the past. Legislation has taken place, numerous judicial decisions have been passed whereby rights have been given to all other members of the family, those that claimed them. The only thing upon which controversy centres now is about the daughter's share. It may be half the share that the son gets, it may be an equal share with the son, it may be any other share that may be decided upon by everybody sitting round a table. I am perfectly confident that with goodwill and mutual understanding, something satisfactory may be evolved in this line. It is not that every individual member of the Select Committee is bound down by its decisions. We are all free to exercise our own views. I frankly admit that there are certain things which I do not like. There may be other members who say that there are certain aspects of the Bill which do not commend themselves to them. Therefore, all these differences have to a certain extent to be ironed out by mutual discussion, but apart from that, the fundamental question is whether the daughter has to get any share at all. Now when it is said that the daughter cannot get a share at all, then I do think—and I have no hesitation whatsoever in expressing my views freely and frankly,—I do think that it is the the same old prejudice against the female members of the family that dictates this objection.

Shri L. Krishnaswami Bharathi : Quite right. That is the real point.

Dr. P. K. Sen : We may hold our women members in high esteem. No doubt it is often said that the ladies of every family are angels of grace, that they are ministering angels. That is perfectly true, but do we do all that is needed, all that is called for, towards them? Do we do all that is wanted from the men-folk to the women folk in our families ? Let us be perfectly sincere and frank about these things. There is a great deal that has to be done for our women-folk. Women today want their place in society. Continuing to do their duty by the family and continuing to be ministering angels of the family, they have also some other work to do. They have to take an interest in public affairs. They have to take an interest in social organisations. Their presence is indispensably necessary in many organisations which are being set up today. Therefore, we cannot possibly have a framework

of society in which such women could not possibly exist. They must always be the ministering angles of the men-folk, that is to say, looking after their physical comforts and welfare, and do nothing so far as their higher aims and aspirations are concerned. But they have a function to fulfill in society. In the society of independent India, women have a very large place to fill in every organisation, in every movement. That being so, we must set them free and there is nothing that is wanted more than economic freedom. *(Hear, hear).* There are many cases in which lives are blasted because they have got to be dependent upon some male member of the family for their very existence. Therefore, the question of their economic freedom has a place in the affairs of today.

Let us not be absolutely oblivious of that fact. If we want to give economic freedom, then there is no reason whatsoever why we should turn away and say : "Oh a daughter, she cannot have a share, she will remain a ministering angel of the family" by which it is meant that she will always be a dependent there ; and if she is a widow, she will be only looking after the comforts of other people and will not be able to do any other service to the family or to the society or to the nation at large. Well, Sir, I do not propose to go further, because it will take a very long time and I know that I shall then be trespassing upon the time of others. But a good deal has been said, a great deal of discussion has taken place upon the fundamentals. When I contemplate all these discussions that have taken place, I am firmly convinced that if after this debate, we can sit around a table and we can bring ourselves to consider all these details in a spirit of perfect goodwill and understanding, we shall be able to attain a solution. The minor points that trouble us are many, it may be, but their solution is not so difficult. It is the fundamentals upon which we have to concentrate our attention and when we do so, I think our path is clear.

3 P.M.

***Shrimati Kamala Chaudhari** (U. P. General): *(English translation of the Hindi speech)* Sir, before I say a few words in connection with the Hindu Code Bill, I should like to congratulate the hon. Dr. Ambedkar for bringing forth this Bill. My own feeling is that this Bill has been brought up before this House in conformity with the spirit of time. This is absolutely in accord with the march of the time

*C.A. (Leg.) D., Vol. VI, Part II, 13th December 1949, pp. 535-40.

and present-day demand. Although it is being opposed on religious, cultural and many other grounds and various kinds of things are heard against it in the course of hostile propaganda, yet my personal feeling is that this Bill will prove a sort of panacea for our women community and the progress of our Indian Society, and this will go a long way to benefit our women-folk who are even today being degraded to the lowest ebb. Moreover, our future women-folk shall also remain indebted to the hon. Minister and this House if this Bill is passed in this Assembly.

Those who oppose this Bill have expressed the opinion that this will prove harmful to our religion as well as culture. This thing does not appeal to me at all. This is another thing that the brain and heart of our countrymen have been framed in such a way that anything said in the name of religion highly appeals to the sentiments of the people. On the altar of this very religion—in what manner did we accentuate our communal feelings ? In the name of this very religion, we have seen the murder of Mahatma Gandhi—the father of the Nation.

So, in this way, I see that this Bill is also opposed by raising a hue and cry in the name of religion and Indian culture, and those of the persons and our sisters, who cannot even as yet understand what is law, how this Assembly has been constituted, who cannot even understand the right of franchise which has been granted to them in our Constitution, are being told like this, and it is acclaimed that a great majority of women in the country are opposed to this Bill. But so far as my humble intellect can conceive, this Bill does not appear to contain any such thing which might be against our religion and culture.

In one of the parts of this Bill, a provision has been made prohibiting the right of polygamy which is at present exercised by the religious minded Hindus. This is not permitted and a ban has thus been imposed upon it. With all the humility, I would submit that I apprehend that this Bill might be opposed by a majority of our brethren for the reason that some such ban is being imposed upon them that in the life time of their wives, they shall not be permitted to contract many marriages. But I do not find in it anything against the religion, because it so looks to me after going through our scriptures and ancient literature that never during any time, even in the olden days, the institution of polygamy was looked upon favourably. After scanning through the ancient literature, we do come across such instances where the ruling

prince was allowed to marry more than one wife. We find the rulers disregarding the customs, traditions, usages and the lofty ideals—ideals regarded as sublime—on which stood the structure of our society, but I would like to cite before you an example set forth by one who is considered as an incarnation of God and who has placed an ideal before us. After looking through the great epic written by Valmiki— the epic which has safeguarded our Indian culture and which has sustained our culture for the last so many centuries—it appears that when King Ramchandra sat for the performance of *Ashvamedha Yagna* and when the priests and elderly persons told him that the *Yagna* (oblation) cannot be perfected in the absence of a wife, even at that moment he performed the ceremony by installing a gold idol of Sita and did not have recourse to a second marriage. This ideal lies before us and if we scan through our classical epic, we shall have glimpes of this at every place. During the times when Lord Rama lived in the forests and when Shurpnakha implored him for marriage, Lakshman had told her that Ramchandra was a prince of Ayodhya and was likely to become the ruler of that kingdom and that be was even in a position to marry; but the latter was already a married man and could not thus re-marry. Even at that time the utterances which our Poet Laureate had attributed to Lord Rama establishes the same very ideal that the institution of polygamy was not looked upon favourably during those days. I do not understand how the restriction placed thereon in this Bill is opposed to religious doctrines. On the contrary I think that if such actions were to be encouraged then they would surely cause the destruction of the high ideals of our Indian culture and society. I believe this to be an ideal for every Hindu who professes himself to be a follower of Hindu religion and a supporter of Indian culture. It is a great injustice done to woman that the husband is allowed to enter into matrimony once, twice, thrice or even four times in the very life time of the legally wedded wife. For a woman this custom is horribly painful and demands utmost sympathy. It is another thing that since centuries restrictions have been imposed on our women folk and the women of this country have more or less been confined within the four walls of the house. Restrictions have been imposed on their social, mental and economic rights. Their tears dry up in their eyes only and are not even allowed to trickle down. But our poets, writers and authors have given a very vivid description of this colossal suffering and tribulations that the women have to endure. For a woman

no other suffering is more tormenting than the distress of having a co-wife.

Now when the age of renaissance began and the eminent persons of our country began to realize their abject misery then, as a result of their kind efforts, the condition of the women folk was carefully considered over and hence from time to time such revolutionary Bills were passed in this House. At that time our country was in turmoil and then Mahatma Gandhi forced an entry into the social structure of our society. He elevated the women folk to such an extent that they could stand on their own legs. Today a keen desire for securing her due rights has awakened in her heart. The woman of the future will not tolerate this sort of oppression and tyranny lying down as she has been doing till today. She will never tolerate this sort of neglect and disrespect. Therefore, I think this time to be most favourable. The Bill that is before us should be passed in this House with great applause.

This Bill is being opposed on many grounds. I have had opportunities to hear such thing here. Obscene and dirty things are said against the women community, they are being stigmatised. Thus a propaganda is made here by giving publicity to such scandalous slurs against the women folk. The people here have come to believe that the right to divorce provided in the Bill would result in the destruction of the structure of our society and our culture would go to dogs. I do not understand how people give rise to such apprehensions and how they resort to such talks. But as far as I have studied this Bill I have not come across anything concerning the dissolution of marriages that can be called an innovation, or anything that has not been allowed and permitted by our sacred texts and holy scriptures. All the conditions that have been laid down for the dissolution of marriages, or in what manner the marriages can be dissolved, or for what seasons divorce can be granted. I think all these conditions do exist in our *Shastras*. I myself believe in Hindu religion and culture. I am a Hindu woman. Wherein lies the glory and importance of the woman I know that also. For centuries our sages and preceptors, poets and writers have sung songs about the greatness of the Indian woman and have mentioned her in the most glorious terms. I know that all this greatness has not been attributed to female form only, they have sung songs about her noble spirit of renunciation instead. I think that this high ideal is very good for us. Not from today but from ages the Indian woman has been maintaining these ideals and the glorious history of

her renunciation and ideals will for ever go down in annals of Indian culture and the history of mankind.

But in every society it has been found impossible for each and every individual, may be male or female, to live up to the highest of the ideals. Mahatma Gandhi has been acclaimed a superman by the whole world. He placed before us his ideals and though being his followers we ourselves could not live upto them. Similar is the composition of the society as also of the world. If this whole world and our Indian society in particular were to maintain the high standard of ideals then, I think, this very world would become a paradise.

Whenever some high ideal is set before the people then in order to create a proper atmosphere for it a number of things have got to be done. Take the case of the Hindu marriage system for instance. At the time of marriage the priests interpret this alliance to be so indissoluble, so everlasting that it would hold good for future births and re-births also. I don't believe this. Because while on one side according to Hindu ideals we are led to believe that this marriage alliance between a Hindu male and female lasts till eternity, on the other hand in our holy scriptures it has been laid down that according to the philosophy of *Karma,* this alliance would have continued eternally even if in previous births, the husband may have been a human being or a demon or an animal, but I do not believe in such a thing. What I believe is that marriage is just a compromise for the life time. If our married couples were to hanker upon the legal possibilities regarding the dissolution of marriages then I think that our life would become quite useless. The result of such a state of affairs would be that the people will never be able to raise and maintain happy families. If such state of affairs do exist anywhere, then under such circumstances, there can neither be the evolution of our religion nor the cultural development of our country can take place. If under any circumstances the separation be deemed essential then I think the legal right must lie with the woman. Many defects have cropped up in our present day society. I think instances are not only known to me but all the gentlemen present here must be in the know of them. A husband can marry a second time even when the age of his wife may not be much. On the other hand a woman whose age may only be 16, 17 or 18 years cannot re-marry ; she has not been authorized to get her marriage dissolved. What such a state of affairs results in ? I do not want to go in details. I very humbly beg to submit only

so much that such things result in grave disasters. Legally that woman cannot re-marry. Her legal husband has no relations with her. May she lie in the abyss of the society and suffer extreme distress and tribulations, yet the society does not allow her to enter into an honourable remarriage whereby she may be able to support and sustain her children, set up a family and pass the rest of the life in comfort and ease. Under such circumstances I wish that the woman should have this right. I do not wish that this right should so commonly be used that it may create retalliation and every man or woman may begin to think that they can have separation if and when they like. As far as I think this Bill does not provide so much facilities as the people profess. The most outstanding speciality that I can see in this Bill is that in 80 per cent, of our community I have seen that a *panchayat* is called and separation is effected within a minute's time. At places and in certain communities even the *panchayat* does not assemble to give its decision. Males and females are quite free and leaving each other, they can re-marry whomsoever they like. The utmost punishment the community can impose upon them is that they are somewhat chastised or ex-communicated and after giving a community feast, they are again taken back in the folds of the community. The passing of this Bill will highly benefit those communities wherein separation and divorce are considered to be very insignificant things. This Bill will impose restrictions on them also and the greatest benefit that we would have of this Bill is that our backward communities which have no cultural background will become cultured and their moral standard will be raised. This is the most outstanding speciality that I have come across in this Bill.

The strongest opposition that is being made against this Bill is I think about the question of the property, for the reason that this Hindu Code Bill seeks to provide the daughter also a share in the father's property equal to that of the son. A number of different things are being said about this measure. Some hon. Members hold the view that by adopting such a measure the innate affection and natural love between the brother and sister will cease to exist, our heredity and our entire family system will be disrupted. I cannot understand this thing because as we see today, if a person has two or four sons then it is not at all essential that these brothers fight among themselves or kick up disputes. But at the same time we do sometimes hear of such incidents and many instances are before us that such disputes are kicked up and they become deadly enemies. So I think that if

it be taken for granted for brother and sister also, that after inheriting the property they will also kick up similar disputes then, as such disputes generally take place between brothers also so they do not matter much, Moreover at that time, do the persons who profess the culture to be in danger ever try to proclaim that this inheritance of property kicks up disputes and quarrels among the brothers so it should better go ? Are such disputes in accordance with our culture ? The glory of our religion lies in natural affection, mutual love and in being on good terms with others. This is our culture according to our religion. I see many such instances where the solitary sister has got a deep affection for her brother. Loves are of different kinds, but the love that a sister has for her brother, I think, is so unassuming innate and pure that no other kind of love can stand up to it. Such an affection she bears for her brother. Our existing law provided that the property that was owned by the mother, the *stridhana*, and the ornaments that the mother possessed were inherited by the daughter. But everywhere it has been seen that the sister has shared the ornaments with her brothers and nobody has ever seen them quarrelling over the division. If the high ideals of our women folk hold good then a sister will always be prepared to sacrifice her all for her brother. There will be very few cases where such disputes will take place. If for the time being it may be taken for granted that such state of affairs will come to pass, still then I will say that this is a grave injustice. I am able to recall the case of our big *talukadars* where the brothers live extravagantly on the property left by the father. For themselves, they spend such heavy sums on the occasion of *Tij* and other festivals as might have served the sister for a lifetime. If, however, a widowed sister happens to come and live in that very home, her place is in the kitchen and her lot is none better than that of a cook. In the home where, today brothers enjoy life on the strength of the father's property, the father's wealth, in that very home I have seen with my own eyes the sister pining for milk for her young children. She too has the desire that her children should have good things to eat and good clothes to wear and that they should receive good education in the same way as her brother's sons. But the law has sealed her mouth. She is tongue-tied and dare not give vent to her feelings. I would like, very respectfully, to ask those people, who are opposing it today, whether this is in accordance with the Hindu law and, if so, which school of our philosophy sanctions this injustice shown to woman. Hence, I think that the provision relating

to the daughter having a share in her father's property is very much in consonance with the times and compatible with our faith and culture and I hope it will be considered in a very generous spirit.

In opposing this provision, several people have also averred that the idea that a woman should also have a share in her father's property took birth in the minds of those persons who are imbued with a foreign culture and who have not read Indian literature. I shall not be taking much of your time and should like to tell you briefly that this sentiment finds ample expression in our folk-songs which have existed for the last hundreds of years. This sentiment did not get into our folk-songs at the time of our mothers and sisters but has been there since the times of our grand and great-grand-mothers when there was not even a trace of foreign culture anywhere and when it had not set any kind of seal on our culture. The songs that are sung at the time of marriage in our Province contain this sentiment and I think that such songs are sung at marriages in all Provinces. I do not here want to recite the actual lines of those songs but would briefly like to state that such songs are sung amongst us at the time of marriage, at any rate in our Province with which I am familiar. I have also studied the folk-lore of some other Provinces where too a similar line of thought exists. We find a very wholesome sentiment forming the burden of these songs. The girl gives expression to her desire to have one-half share in her father's 'dominion'. The brother offers her various kinds of temptations, saying he would give her a plate full of ornaments, that he would give her horses and elephants and also enumerates the various articles he would be giving her by way of dowry. The girl replies that if she is destined to acquire all that wealth, it could also become available to her when she goes over to the house of her father-in-law and her husband but that she would rather have her one-half share here, that she has been brought up in this home and that she would like to have a share in the orchard and the tank here. Thus there is absolutely no foundation for the allegation that this sentiment is the product of foreign literature, or foreign education, or foreign culture or that it is a creation of the minds of those persons who have received their education from foreign sources. Our ancient literature abounds in that sentiment and our folk-songs would offer various such examples as reflect that feeling.

Nature has made a boy and a girl equal in the eyes of their parents. Then why is it that a boy should have a share in his father's property

but a girl should have none ? I feel that is also a kind of injustice. This is another matter that in view of the present set-up of our society some people might, per chance, be entertaining doubts and anticipating difficulties with regard to the practical application of this Bill, because the position occupied by a "son-in-law" in our society is rather peculiar. All his life he is called *Jamai babu* or *pahuna* (the Guest) and never becomes a member of that family. I feel that if the daughter is conceded this right, the result would be that the son of another family who comes in as the son-in-law could also live as a member of the daughter's family as if he were a third son to the father who already has two, and this should encourage mutual love and affection. The argument that this would strain relations between brothers and sisters or break them for good cannot appeal to me. I do not think that if this law is passed it would mean the disintegration of all our social, cultural and religious traditions. I am unable to appreciate that argument. With these words I express the hope that those people who have passed our new Constitution, who are out to make a radical change in our social and political set-up and who have conceded in that Constitution the equal rights of the women, will reflect coolheadedly over the present position of our women. Let them hearken to the call of the times. We should concede this right straightaway, Scholars, men of letters and historians have held the view, that if a society which steps forth into the field of progress, does not promptly carry out all those changes, which are urgently called for, it is likely to be left centuries behind in that field. On the other hand, if properly appreciating the call and the needs of the times, it promptly gives effect to the urgently needed changes it marches forth to a speedy progress. I hope this Bill is going to be passed by the present Assembly because here we have present, in a preponderating strength, persons who are called the followers of Mahatma Gandhi. Mahatma Gandhi was the great man who had a sound grasp of the problems and the handicaps facing the Indian women. Along with the political, revolution he also stirred up a powerful revolution against our old social conventions and was soon able to root out and destroy them. I feel that the followers of Mahatma Gandhi will give their thorough consideration to this Bill and pass it after having considered it generously and sympathetically in the light of our faith and culture. In the end, once again, I wish to assure the hon. Minister, on behalf of the women, that all those women of this country, who have been

able to comprehend this measure, are going to welcome it heartily and that even the women of the generations to come will feel grateful to him for having got it passed.

* **Shri Kameshwar Singh of Darbhanga** (Bihar : General) : Sir, it has become very difficult for those of us who are opposed to the motion moved on behalf of Government to take part in this debate after what our Prime Minister has said in this House about the measure before us on the opening day of this session. I was not present in the House when he made the statement, but if the press report be true, he has made the passage of the Bill an issue of confidence in his Government. I am strongly opposed to the measure. *(Interruption).*

Mr. Deputy Speaker : Order, order. Nothing will go on if these interruptions are made. The interruptions will only increase the time taken by the Members.

Pandit Lakshmi Kanta Maitra : Apparently the hon. Member is making a very good speech.

Shri Kameshwar Singh of Darbhanga : But I am equally strong in my view that in the present state of our country the Government of our Prime Minister is the best Government that we can have. Howsoever imperfect it may be, a better alternative to the present Government is not available. That, I think, is the view of the most of the people who do not belong to any political party. Thus, the stand taken up by our Prime Minister assumes the shape of "Undue influence", if not "coercion", for men of my way of thinking. I would therefore earnestly request the Prime Minister to reconsider the matter and unload the question of confidence in his Government from the consideration of the measure.

I would like the House and Government to postpone further consideration of the bill till the wishes of the electorate are ascertained in the next general elections for reasons stated by the hon. Dr. Rajendra Prasad, in the note which he sent in the capacity of the President of the Indian National Congress to our Prime Minister last year.

Hon. Members of this House know that there is a great divergence of opinion with regard to this important measure of, if I may say so, revolutionary character. It affects the personal law of the vast multitude of people. It affects their social and economic life as well as the forms and customs that have grown with the various schools of the Hindu law during so many centuries. In the name of uniformity and codification it threatens to arbitrarily disrupt the fundamental social

*C.A. (Leg.) D., Vol. VI, Part II, 13th December 1949, pp. 541-43.

and economic structure of the Hindu community embracing all except the Muslims, Christians, Parsis and the Jews. I fully agree with the observations of you, Sir, and Sri Ram Narain Singh contained in your notes of dissent on the Report of the Select Committee on this Bill. The members of the present legislature have no mandate from the electorate even with respect to the major issues involved in the Bill. After all, the next elections are not far off and nothing will be lost if the matter is deferred till then.

I am definitely of opinion that such vital changes as are proposed in the measure should not be made in this manner. If one cares to look into the views expressed before the Hindu Law Committee, he will not fail to notice that the opposition to the Bill is very strong. I belong to that class of people which considers the *Smriti* and the school of interpretation, he follows, as sacrosanct; and the class to which I belong constitutes a large proportion of the total population of the country. We consider marriage, succession and the like as a part of our religious duty and obligation. To us these are much more than mere secular or social phenomena.

It is true that the social structure has gradually changed and is changing under the stress of circumstances. But such changes have taken place by the process of evolution and not by imposition from above. Further, these changes do not generally affect the principles on which the Laws governing the various Hindu societies are based. Now, the question is whether the changes proposed in the Bill are such as have been accepted by the people in general and require just legal sanction. My answer to this is emphatic 'NO'. No doubt, the authors of *Smritis* and their interpreters made changes from time to time but they did so when they could enforce them by the popular support they had. The bulk of the people had abundant faith in their learning, in their foresight, in their purity of purpose and above all in their conduct. The authors of this proposed Twentieth Century *Smriti* have no such background. They do not have in the hearts of the people the status of those ancient *Smritikars* whose injunctions govern the lives of so many people even today. The diversity perceptible in different parts of the country goes a great way in establishing the fact that popular acceptance and not imposition from any central political authority has been the sanction behind the personal law of the Hindu. Unity in diversity is the chief characteristic of the Hindu life and religion and we should not take the seeming diversity as an evil which must be instantaneously removed.

The fundamental difference between the outlook of the ancient law givers and the present day law-givers is that, whereas the basis of the formers' consideration was purely spiritual, the basis of the latters' consideration is grossly material and to accept it, is to give a goby to our philosophy of life, to the continuity of our tradition and to the foundation of our culture. I, for one, am not prepared to do so.

Besides this, I apprehend that there will be practical difficulties in implementing the provisions of the Bill. Just imagine how long it will take Government to educate the people that they should go to law court for getting their marriages registered. Just imagine what complications and confusion will the provisions for void and voidable marriages create. Just imagine what havoc will the provision for the dissolution of marriages and divorce play in the domestic life of the people whose conception of society has so far been quite different from the one on which these provisions are based. I do not agree with the view that only hard cases will come up for remedy. My own fear is that many interested persons will come into the picture to disrupt the domestic life of their neighbour relatives etc., for their selfish ends. Similarly, the provisions regarding succession will make the management of property difficult and become a prolific source of intrigue by designing persons in the society. Lawyers and law courts may prosper but families will be broken up and domestic peace will decay.

The report of Dr. Dwarkanath Mitter, one of the members of the Hindu Law Committee, embodies the opinions of the vast bulk of Hindus. The facts on which he has based his conclusions are irrefutable. The report of the other members of the Committee is merely an attempt to explain away the irrefutable facts mentioned by Dr. Mitter in support of his contention. It appears that the Majority of the members of the Committee had already made up their minds on major issues and took no note of the public opinion expressed before them in different ways. I wonder how the Government of India of today which is so sensitive to public opinion has considered it proper to bring a measure of this kind before this House. For the sake of satisfying the sentiments of a few so-called "progressive" element in the Hindu Community, it should not have proceeded with the measure which is opposed by an overwhelmingly large number of Hindus. If those who advocate the adoption of this measure go from village to village and collect the reaction of the Hindus on the provisions of this Bill, I am sure that they will hardly find satisfactory support. At least in my Province, the public opinion is decidedly against this Bill.

***Dr. B. Pattabhi Sitaramayya** (Madras : General) : Sir, the moment I rise before you I hear certain utterances from friends. Some say "Support; others say "Oppose."

Shri B. L. Sondhi (East Punjab : General) : You will do both.

Dr. B. Pattabhi Sitaramayya : Perhaps I am doing both, because on a matter like this it is our duty not to be dogmatic. Only great men and fools are dogmatic and I disclaim being either. It is much better to string our thoughts with the thoughts of others and try to evolve a G.C.M., a thing which we learnt in our early days of arithmetic,—the greatest common measure of agreement upon such vital questions as the structure and functioning of society, which is a living organism and not a dead joint stock company with its own memoranda, and articles of association which are liable to be changed any day by paying three rupees to the Registrar. This society which we have inherited and of which we are proud to call ourselves members has been in existence for perhaps thousands of years.

Babu Ramnarayan Singh (Bihar : General): Since the creation.

Dr. B. Pattabhi Sitaramayya : Nobody knows when it started. At least I can say from the evidence that we have before us in Kautilya's *Artha Shastra* that this had attained its prefection 2300 years ago. The same problems of marriage, of crime, of punishment, of psychological complications, of political puzzles, that were treated by Kautilya in his *Artha Shastra* are before me to day without one iota of change. I would ask friends who have not read that book to read it. Read the *Sukra Nithi Sara :* read the other political works of our ancient Hindu law.

Shri L. Krishnaswami Bharathi : Kautilya's *Artha Shastra* is not unfortunately available.

Dr. B. Pattabhi Sitaramayya : It is quite available for those who have a mind to get it.

Shri L. Krishnaswami Bharathi : But I have tried my level best.

Dr. B. Pattabhi Sitaramayya : I would therefore, urge the House to look into the antecedents and the conditions of progress and conditions of evolution which have characterised the changes in what we call the "Hindu society". I do not say that we should be proud of Hindu society and Hindu culture, but after all what is called Indian culture is largely Hindu culture and what is called Indian society is largely Hindu society, and if other people have come and mixed with

*C.A. (Leg.) D., Vol. VI, Part II, 13th December 1949, pp. 543-52.

us—the Jats, the Moghuls, the Turks, the English and others—they have perhaps assimilated many of the good points in us and they have enabled us to assimilate many of their own good points, so that the confluence of these cultures over a thousand years has enriched, both in volume and in content, the stream of our own national culture. Now, we are the inheritors of this proud heritage. How shall we deal with it ? Is there a philosophy behind it or is it merely a random growth ?—an accretion of conditions, an amorphous composition in which parallel forces are in juxtaposition without organically combining with one another or is it a solution and an assimilation of all the various factors, with the merits dissolved and the demerits left on the surface ? These are the points which we have to consider. Have we considered these points before embarking upon this mighty reform? Who has initiated this reform ? When was it initiated ? In whose time was it initiated? Has it been taken up after the National Government has come into being, or is it merely a legacy of the past Government which we have taken on hand through the Secretariat ? What is our initiative ? What is our part in dealing with it ? Society, I told you, is a living organism. It has certain philosophical truths behind it. It has economic propositions before it. Take Hindu society. Have you come across any society in the world which is more socialistic, inherently and internally, than Hindu society ?

I have got fifty acres of land. I have got two sons. My two sons are each heirs to only twenty-five acres. My first son has four sons. Each boy gets only six acres. Is property allowed to accumulate in our system of inheritance ? Not at all. It is a socialistic structure of the supremost kind. You want to destroy this socialistic structure and then you want to substitute an individualistic civilisation where each man owns his property, where property is inherited not by birth, but by survivorship. What happens ? Individualistic property comes into being. Perhaps the next step will be Dr. Ambedkar's Bill on a law of progeniture for the common man. Then you will create and maintain an aristocracy. You bring into existence a class society, not a classless society. A classless society where learning and property, learning and wealth are well balanced gives place to a society in which wealth reigns supreme. That is exactly what happens in the West. That is exactly what cannot happen in the East. Here, through a system of social organisation, we have balanced the wealth and the culture, and then having brought them into existence, we have attached greater

value to culture than to wealth. Wealth has taken a subordinate place. Now what are you going to do ? You allow a lawyer to amass ten lakhs of rupees. He is the supreme master. He has obtained all the wealth that his brothers could have given him in sending him to England and making him a Barrister-at-Law. But the gains of his learning are his own exclusive property under the law which has been brought into existence by the British—thanks to their ideals. Now, whereas the other people, the other brothers, the agriculturists as well as the traders who have gone through the same process of righteous labour, have to divide their property with the educated Barrister-at-Law, the Barrister-at-Law is exempt from sharing his properties with those two brothers. Is this justice ? It is outrageous nonsense compared to the noble standards which have been adopted in our society.

Now let us pause here for a moment and ask a question : Have you appointed a Commission to go into the social, political, economic and the moral implications of the structure and functions of this society ? Have you got a report based upon a study of the psychology that lies behind this structure which has endured the buffets of time and circumstance for a period easily and admittedly, of five thousand years and perhaps which has gone back to thirteen thousand years and may be, possibly to thirty thousand years, because there are all these three versions about the age of the Mahabharata and the Vedas, about the age of our society and ancient civilisation. How is it that you don't do that. If you want to give tariff assistance to a little quantity of iron that is being imported from Antwerp, you appoint three people drawing Rs. 3000 each, constitute them into a Tariff Board, obtain a report from them based upon the evidence that has been led by all the capitalists in the country, then you consider it in the Finance Department, you place it before the Assembly and then you grant that tariff weightage. What have you done with regard to our society ? You snap your fingers at it—this ancient society, this relic of ancient barbarism, this vestige of antiquated stuff! No; you say "let us go the whole hog".

We have cast our universities after the style of London ; we have adopted our legal system after the style of High Courts in London and we have carved out Legislative councils and legislatures after the manner of the Parliament in the West, and now it only remains for us to copy the Western society. Western manners, Western social institutions and Western civic laws. Please do not mistake me. I have

been in sympathy with divorce for a long time. I have been thinking of divorcing my wife and I have also heard that she wants to reciprocate the honour. That is not the point. I tell you I am in sympathy with many of the items of this measure. But I want to tell you what kind of approach and attitude you are adopting towards the institutions of India after you have attained Swaraj. This summary, this absolutely impromptu method of dealing with this question does not appeal to my fancy, much less to my conviction. But I know that you will tell me : "Oh, this Bill has been hanging fire ever since the Congress left the portals of the Legislature." Yes, it has been hanging fire ! You however, remember that in 1938 July, the Congress passed a resolution that it should walk out of the legislature because armies had been sent to Egypt and to Singapore, which were then considered the frontiers of India. So, as a protest against that act, and as a protest against the breach of the pledged word of the Government who said that they would not send any armies abroad without the specific permission of the Legislature, we walked out and ever since we never walked in until 1946. During this time, men who were not patriotically inclined, men who were the proteges of Western civilisation, men who had spent their whole time in England or abroad, were put into a Committee and they evolved this formula for us. I got in 1944 October the first report on the Hindu Law Reform Committee while we were in the Ahmadnagar Jail. Now the main inspirer and agent of this measure was Shri B. N. Rau to whom we owe all that we have achieved in the New Constitution. He is a lawyer noted for his knowledge of constitutional law, case law, codified law and customary law and one who has done yeoman service to us. He was a Judge to the Calcutta High Court in Bengal where Dayabhaga prevails. I suppose you know Mitakshara prevails in Madras and one or two other provinces while Mayukha is the Law in Bombay. This gentleman who never had any experience of Mitakshara and who was a Judge of the High Court of Calcutta and whose knowledge of law is absolutely unquestionable has initiated this. Later on the Congress Party or the popular party never had the opportunity of discussing this question in the Central Legislature. When Mr. Asoka Roy came as Law Member, he said that he would not touch this Bill even with a barge pole. *(Shri Mahavir Tyagi* : What is a barge pole). A barge pole is a pole which is used to drive a barge on the waters.

After all, this matter has come up ; and as if we have been waiting for it in eagerness and expectancy, we have taken this up without so much as mentioning a word about it in our election manifesto.

Have you ever come across a party which draws up a comprehensive election manifesto covering all questions from China to Peru and contemplating the nationalisation of the key industries, abolition of drink and zamindaries and various other things, but never saying a word about social reform which is the central factor relating to India ?

It is not merely a piece of social reform. In India society is closely mixed up and intertwined with religion. Religion is the sanction behind everything. Now I am a most irreligious man, but I have the greatest regard for the sentiments of my neighbour. Otherwise, I am an uncultured brute. If I want to practise my heresy upon the convictions of others then I am not worth the salt that I eat. Now then, not merely religion, but economic factors, social factors and other things are intertwined. The joint family system is the creation of ages. What is this joint family system ? It is an insurance trust; it is a co-operation union ; it is a labour society.

It is a labour society where all the poor brothers toil; it is a cooperative society in which all the brothers live together—each for all and all for each, and it is an insurance union in which the widow of the deceased brother is the care and charge of the surviving brothers. This is what the Mahatma said when he opposed insurance. But I know everybody is not Mahatmaji. The Joint Hindu Family is a noble combination of these three features based upon a religious background and held together by a social bond. Can you produce an equal to it by all your labours, by all your statutes and by all the Halisbury's Laws of England ? You cannot do any more than you can produce an equal to the economy of hand-spinning which the Father of the Nation rediscovered. Permit me, with my usual immodesty, to say that I wrote a Book in 1938 which is called "The Hindu Home Rediscovered". As I entered life as a heretic, brought up in Christian traditions and western heresies, I began to discover in every festival, in every ceremony and in every religious observance of Hindu society there was something deeply religious, uplifting, inspiring and ennobling. When I lived with my sisters and my brothers, I rediscovered the Home and after twenty-five years I ventured to write this little book in which I have tried to idealise these things. I would not say that these ideals do exist in life, but when you judge an institution, you must judge it in its pristine purity, and not in its degenerated imitation. If you want to idealise any concept, popularise any institution and resuscitate it, then put it before the nation as it was conceived

5 P.M.

and get the consent of the nation for it. I can assure you that wherever I go, I always state the *pros* and *cons* of every proposition on this Bill. This Bill may be good in parts as the Parson's egg and it may also be bad in parts. If you say that you must do this for women because women have come to their own, yes, do it by all means, but why be in such a huffy ? I want them to come to their own, they have come to their own, and in the next Assembly I feel sure my sisters can fill half of the seats; out of five hundred, there can be easily two hundred and fifty women if they only make up their minds.

Shri L. Krishnaswami Bharathi : Will you allow them ?

Dr. B. Pattabhai Sitaramayya : I admired Rajkumariji when she said before the Provincial Model Constitution Committee that women did not require any reservations. I thought it was rather an audacious statement for her to make and a great responsibility to shoulder but I know now that they are quite able to take care of themselves. If half a dozen lady members of this House can drag us by heels and make us take up this Bill, I wonder what our position will be when there are two hundred and fifty of them here. I am not joking. If I have a voice at all at the time of selection, I may assure you that I will do it, notwithstanding Mr. Rohini Kumar Chaudhuri.

[At this stage Mr. Deputy Speaker vacated the Chair which was then occupied by Shri S. V. Krishnamoorthy Rao (one of the Panel of Chairmen)]

In this connection, I tempted to read a little statement that I have here from *Picture Post* of March 12, 1949.

"From woman comes an incessant call for equality. What does she mean by equality? From the material point of view at least, she has the lion's share. Probably ninety per cent, of all advertisements cater solely for her. Film producers say eighty per cent, of films are made for her. Fiction publishers appear to think entirely in terms of woman. As for clothes, woman has a wide choice and range at reasonable prices, while shabby, thread-bars man can only gaze for long at a few miserable suitings in some sombre shop window and think of the fantastic prices charged. With our prophetic eye, let us gaze into the future. Woman has got more than equality and man has become a spinster's spaniel existing on woman's scraps and everything is beautifully lukewarm."

I may assure my sisters that nothing will be lost by their exercising patience. I was the other day questioned for having appeared on an orthodox platform with a Swamiji from Benaras and when I saw

Prabhavati Raje—she was a wonderful woman worker—leading the audience completely with her like the Joan of Arc of old, I saw the danger of letting orthodoxy do this. On invitation I went there and I spoke for an hour, and I was taken to task for appearing on the opponent's platform. I said, "What is the use of speaking to those who are converted? I must convert those who are not converted." I fully believe in educating the people about this new Hindu Code Bill. You must not precipitate matters and decide this issue by force of majority. But whenever this may happen, it is our duty to educate the people. Let us produce the result by popular educational propaganda. After all you have not nationalised the key industries. Where has this item gone ? The capitalists struck and we had no money and we had to eat our words,—I believe in patience. One of these days things will be all right. We are afraid to do any nationalisation now. We are hesitating to abolish the zamindaries. We are hesitating to proceed with River Projects. We are hesitating to proceed with the development of cottage industries,—all because inflation is staring us in the face, and we cannot make all these necessary improvements. We are face to face with conflicts, contradictions all round. Life is not a smooth path like a journey on a railway. It is like a motor car journey upon bad roads in the midst of congested traffic. I ask you whether it is not the duty of the members of this august house to undertake the very useful and very fruitful task of educating their masters. What happened in the year 1878 when Robert Low said after the extension of the franchise. "Let us go and educate our masters." Our masters are outside. We are not the masters. The Ministers are not our masters. We can deal with them as we like. We may dispense with them tomorrow if we do not want them. That is our right and that is our privilege and our safety also. Therefore I say that this is a matter in which we should go slow. I am second to none with regard to my love for social reform. I was a social reformer even in the year 1898 when I was in the B. A. class, which was 51 years ago, long before half of the audience was born, and ever since I have sustained that interest. I very early came under the influence of the Brahmo social reformers and I have fully imbibed the reformist spirit from the Christian missionaries under whom I studied from my fourth form to my B. A. classes.

Therefore it is not what should be done on the subject that matters, but how we are going to do it. We have got to remember the political bearings as well. Tomorrow you are appearing before the Polls. What

a sad plight we were in yesterday ! I was not here yesterday ; otherwise I should have witnessed the scenes with my own eyes. I went to Alwar and returned only last night at eleven o'clock and the first thing that my wife told me was that there was a lathi charge and some people were dangerously wounded and so on. Naturally the news is exaggerated from lip to lip and from ear to ear. It is a most pathetic spectacle again that I witness today opposite to me. Generally I speak under an impulse or inspiration, but today I speak under an irritation of the sight of three women Police sitting opposite to me in the gallery. Has it come to this that this house cannot get on and the women that are in attendance in the gallery and below cannot be trusted except under the care of the baton of the women Police ? Are you really proud that these police women should arraign our sisters hereafter ? We have had enough of policemen. You know this is the most tragic development of this Bill. The Doctor will kindly note and if you cannot come to this house without the protection of the Police, women police for the women and men police for the men, then woe betide our progress, our legislation and our Assembly. I am really very sorry. I now leave the general observations and come to one or two salient points with which we are concerned today here and before that I shall submit a word about the progenitors of this legislation. I am very sorry that it should have fallen to Dr. Ambedkar's lot to pilot this Bill

The Honourable Dr. B. R. Ambedkar (Minister of Law) : I am not sorry at all.

Dr. B. Pattabhi Sitaramayya : I know ; otherwise you would not be sitting so proudly in your seat. The doctor knows what I said about him. I referred to the indomitable, irresistible, unconquerable spirit of Dr. Ambedkar,—for good or for evil, whatever it be. We want always to say that the spirit is there and, therefore, we admire him, but at the same time, he is out of tune with society.

Shri L. Krishnaswami Bharathi : He is perfectly in tune, absolutely in tune.

Dr. B. Pattabhi Sitaramayya : I do not call him a misanthrope, but he is not a normal anthrope, that is all I can say ; the training, the surroundings, the environment, the culture, all these put him out of tune with the spirit of the nation. He is one of our best intellects, there is no doubt about it and I wish he would have health and prosperity for a long time, but all this does not mean that we accept his point

of view with which we came into conflict even in the Constitution when we passed that steam road roller law of a common civil law. Some of us resisted, though in vain, with the best of our might and main. Now I recall to your mind something that I said in the first day when this Bill was introduced in this house. I hope many people have forgotten so that they may not blame me for repeating what I am saying. In fact, I myself have forgotten the main point, but that point was that, I take it., that social reform in this country must be effected through the intercession, through the advice and through the inspiration of a Social Council we must bring into existence. I then gave the example of the Church Council of England in which the ecclesiastical dignitaries form the main element of strength and whatever they bring in by way of changes in life or law, the House of Commons accepts without changing a comma or a full-stop and that is, as it ought to be, in regard to religious or social matters and let us adopt such a course. In Germany there used to be an Economic Council which dealt with economic matters which require expert knowledge. The *Reichstagg* used to accept the recommendations of that body. Let us, therefore, go slow and deliberately so that we may know exactly where we stand.

Now I come to a few points in the Bill and I won't detain you long. The Bill contains some very good points. I like civil marriage on the top of sacramental marriage. Mere civil marriage is like executing a document in order to register a transaction between two people. It is a contract. The moment a document is written, it gives rise to strife, whether the intention is correct, whether the consideration is passed, whether it is valid in law etc. but when it is a sacramental marriage, there is no appeal against it. The old *purohit* is never called upon in life to stand up in a court of law and give evidence as to the genuineness and the *bona fides* of marriage. The marriage is there and nobody questions ; it is like the integrity of the spoken word. When the nation has preserved the integrity of its spoken word, which it has lost during the British time and under the influence of the law courts, then I say, we shall have recovered our character once again. But there are circumstances such as those under which a friend of mine suddenly discovered on the marriage platform that his daughter and his would be son-in-law were of the same *gotra*. They could not possibly give up the marriage even at least for economic reasons, let alone religious reasons. So immediately they passed through the sacrament and then went to the Registrar of marriages and registered

it. That it should be open to us to register our marriages is a great privilege and I also like that the question of the share of the property to the girls must be settled once and for all. For a long time I have felt that the daughter must be an equal inheritor of the father's property with the sons. Now I see that it is going to bring about endless complications in our social and economic structure. There is a friend of mine who has six daughters and one son and I asked the girls one after another separately and individually as to whether they would like to have a share in the property of their father. No : they said, "this will give rise to quarrels with our brother. We do not want this. We have our husband's property and that always remains with us." It is not however available to them as the *stridhana* would be available to them. *Stridhana* is a most wonderful thing, and I should like to know where in the world is there a parallel to this *stridhana* ? The *stridhana* is an institution by means of which the *stridhana* given to the girl at the time of the marriage becomes the absolute property of the girl which cannot be touched by the husband or by the father or by any human being at all. It is the reserve fund of the family which she is sure of and when her husband is very ill, she goes to the market to sell the jewels away for paying the doctor's fees and if the husband lives well and good, but if he dies, it is the last service to her Lord. Such a reserve fund is cast off and a share for the wife in the husband's property under T. V. Seshagiri Ayyar's Bill, which became law about 15 years ago, has now come to be recognized, but after the death of the husband, in equal measure with each of the sons and only as a life interest. Our law, in spite of the British people's unwillingness not to interfere with the religious institutions of this country for fear of their political stability being disturbed, has been slightly changed as has been already described by one of the earlier speakers and yet it is not sufficiently changed. The unfortunate feature is that the British people felt loathe to interfere with the social customs of this country for political reasons and therefore the law has become petrified. In every country custom goes on changing and when the King adopts a change in social customs, immediately that becomes the law and it sets the tone and the pace for all society. But unfortunately in our country for a thousand years we have not had indigenous kings and after the British came, they positively resisted all temptation to make any social changes in the social set-up. Therefore the custom has become petrified and it is that custom, that petrified custom which

we must make plastic, which we must make elastic, which we must make impressionable and therefore, mutable. Instead of doing that if we suddenly throw one stone of law against another of custom, both the stones break and that is not the way of achieving this change. Changes in this customary law must be set in motion in order to bring about social changes.

Now with regard to this custom for the girl's share I am quite willing that she should have a share, but I wish to make an alteration and that is that the moment she marries, she becomes a partner in the husband's property and that will not give any chance for the misbehaviour of the husband as it sometimes happens unfortunately. Then we go to the divorce question. I have spoken to many women. This morning four women came to me. They are good people, highly cultured, and there was also one among them who was introduced to me as one who had been abandoned by her husband, and they said, it is not only those who are happy that withheld their support from this measure, but also those who are unhappy, the unfortunate victims of man's fury and tyranny. That is not the point, I said to them. The point is this. Ninety per cent, of our marriages are exellent but what about the remaining ten per cent? They want relief. In India we marry and love, the English people love and marry and then give up their love, because what is called love at an impressionable age is a fanciful affair. One does not know what it is. In Hindu society there is a law or rule that in respect of marriage *Shree, Kulamu, Roopamu, Bandhu Shreni and Sampradayam,*—all such things should be considered. All these have to be considered before a marriage is settled. *Shree means Sampatti* or prosperity, then comes *Kulamu* or caste and position, and then *Roopamu,* that is appearance, *Sowndariya* or beauty; and then *Bandhu Shreni* or collection of relations and then there is *sampradayam* or the tradition of the family. All these five have to be carefully considered. Can a girl of eighteen—quite marriageable in age—select by judging, all these things ? Can she distinguish between one and another among these things ? No. The other day I asked my wife's sister's husband's sister. No, that is not a distant relationship, you know, my wife's sister's husband is my brother-in-law and his sister was married. But I learned that she had said something to her father before her marriage. I went to her husband's house, with her husband accompanying me into the inner apartments and there I said to him, " Do you know this girl never married you ?" He was

aghast, half angry and half surprised. "What do you mean ?" he asked. I said, "I mean what I say, she never married you." "Why ?" "She has married this, electricity, this motor-car that is in this house." The story is that the girl had said to her father "I don't care to whom you marry me, provided there is electricity and motor-car in their house." The poor girl of sixteen or eighteen, how could she judge of things and conditions? She simply thinks, "I have been brought up in this house by my father, he gets twenty thousand rupees a year and there is electricity here, there is a motor-car, and a palatial house. I should like to have the same conditions there also." That is all. But the English mother always complains that her daughter does not "make good", that is the expression,"My daughter does not make good" she says. That is, "My daughter is not able to keep a bevy of young men round about her, dancing attendance on her, standing her bills at the cinemas and restaurants and so on." That is what the mother wants. Don't nod our head that way please. What I say is true.

Pandit Lakshmi Kanta Maitra : I am supporting you.

Dr. B. Pattabhi Sitaramayya : Not you, but the friend behind you.

Shri R. K. Sidhva : Are you referring to me ?

Dr. B. Pattabhi Sitaramayya : No, to your neighbour.

What happens in England ? The mother is always anxious that her daughter should be able to attract the attention of half-a-dozen suitors, and it is then for the parents to select one out of them to make an eligible choice for a son-in-law. But the mother always feels jealous of the maid-servant, because the maid-servant is able to make good, while her daughter is not able to. That is the tragedy. What does the maid-servant do ? At eight o'clock in the evening she changes her apron and gets into her clean smart gown and goes away. "Where are you going ?" "My lover is waiting outside, and I must go" "No, no, my son-in-law is coming now." "Hang yourself and your son-in-law by the nearest tree. My lover is waiting and I am going."

Shrimati Renuka Ray : You have, a very poor opinion of women, whether Indian or foreign.

Dr. B. Pattabhi Sitaramayya : But I have a very high opinion of my wife.

Now then, the mother complains that "that woman is able to make good and attract a number of men, but this daughter of mine is not

able to attract them." And so the mother is sorry. That is the fashion. That is the custom of the country. That is the order of the day. And there is nothing wrong in it. That is the system which has come into being. Go to Malbar and see the *Marumakkattayam* system. That is an altogether different thing. For three years you may study it and still you will never understand its secret. But it is a beautiful system, and my friend Mr. Thanu Pillai was against changing it at all.

Sir, your predecessor gave my predecessor twenty minutes after the bell. But I will take only two minutes more.

Now it is not too late to mend. We have not gone too far. It is well that we have discussed this matter, and discussed it seriously, so thoroughly and so sombrely. We have given so much attention to this subject. Now what shall we do ? Shall we proceed with the measure ? I appeal to the hon. the Law Minister to withdraw it and then put it up—and a more stringent measure next time—, with due authority and sanction from the electroate. Then I say no man dares attack us. He will be summarily shot, because I will have the sanction of the country, I will have the election manifesto ; I will come armed with that power, that strength and I will have a right to do it. Now you come without authority. You simply depend upon four women police for your protection. That is a pathetic sight for one, for any progressive Congressman to witness.

Then again, there is another thing. I trust and hope that whatever may happen—and I hope that the Bill will not be proceeded with— but if it should be proceeded with, I feel that full freedom may be given to every Member of this Assembly to vote as he pleases. If that is given, half the sting is taken away. But we have already fallen into the trap of allowing this thing to go on. Now, friends, let me warn you. This will have a serious repercussion upon our coming election. After all ... .

Shri Mahavir Tyagi : Postpone elections for another five years.

Dr. B. Pattabhi Sitaramayya : After all, remember that we are here as the representatives of the people and after all, remember that ninety per cent, of the people belong to one community, bound by one social law and one civic institution, one patriarchal system, all this is there, and people are not so intelligent as to discriminate between one thing and the other. They only feel irritated. They are already irritated by more than one circumstance. Yesterday's demonstration was not so much a protest against the Hindu Code Bill as an expression

of a certain sullenness and anger of the people with the Congress and Congress institutions. It is no use our concealing it, Wherever I go I feel I am assailed and attacked. But through my garrulity, my long-windedness, through my talkativeness I manage to get over the thing. But at the same time, I know on what delicate ground I am travelling. I speak not merely as a critic of the Government, but as a responsible member of the Congress who has given cent. per cent. support on all occasions to this Government. I say however that he is not a well-wisher who simply flatters, or conceals the truth from the Government. Perhaps you remember that last spectacle—not a scene in Hamlet—a scene in the drama of Germany where the Kaiser on the 9th November 1918 summoned all his generals and asked them to speak. Nobody would speak, they were all silent. Then he said, the Kaiser orders you to speak, and then Gen. Ludendroff spoke for when the Kaiser orders, and if he did not speak, he would shot. Just as when Queen Victoria asked Prince Albert to open the door. She said, "Dear, open the door" but the door does not open. Then she says, "The Queen of England orders you to open the door" and then the poor fellow came and opened the door. So it was with the Kaiser, and Ludendroff said, "Your Majesty, there are only twenty-four hours for you to escape across to Holland." Then the Kaiser asked, "Why ?" "Why ? because the army would not fight". The Kaiser said, "I will lead the army myself." But the army would not fight and in twenty-four hours this man was transferred. When an unpleasant truth is said, please listen to it, because there is in it nothing but the best wishes for our conjoint prosperity and success. If not on principle, if not on sound morality, at least on expediency please reconsider the position and make it possible for the people to go along with you.

*__Acharya J. B. Kripalani__ (U. P. : General): Sir, in some quarters here is an apprehension that I may talk against the policy of the Government. Though I have spoken in this house only once, yet this apprehension exists in some quarters and I want to allay that apprehension. I stand here to support the broad principles of the Bill. I do so because I do not want this Government to resign upon a side issue, upon a social issue. I want it to resign on more substantial, political and economic issues. I would rather want it to resign, for example, as any other Government in a more democratic country would have resigned, on the issue of the sugar muddle, by which infants

*C.A. (Leg.) D., Vol. VI, Part II, 13th December 1949, pp. 552-58.

of the poor could not get sugar but tons could be had by those who were prepared to pay fancy prices. On such issues, if this Government goes, there will be no regret but I do not want it to resign upon a social side issue . . .

An Honourable Member : Sugar is not more important than this measure.

Acharya J. B. Kripalani : Yet it is not as sweet.

Even then I would not have come to support this Bill but for the pressure that I had from quarters from which I could not resist such pressure. I was told at home that I must support this Bill. I said that I was innocent of a knowledge of the Hindu law, that Hindu law ran into volumes and there were many volumes of commentary and how could I support or oppose a thing which I had not understood. Then I was quickly told " I can make you to understand it."

An Honourable Member : Who was your teacher ?

Acharya J. B. Kripalani : So I submitted myself to a few curtain-lectures. I was assured that my teacher had been instructed by the highest authority in this Assembly, the great Dr. Ambedkar himself. After the curtain-lectures were over I was just as wise or as foolish as I was after my teachers in school or college had instructed me. I came to the conclusion that my teachers were more foolish than myself.

When I was a professor I thought the students would pay me the same compliment. Knowing that, when I entered the class I always said "Gentlemen, your presence is assured and after I have marked the roll call you are free to go, because I know you will not give me more credit for my learning than I gave to my teachers."

Sir, I am pledged to support the Bill and I must support it, because I know that even though my wife may be absent, when she comes back she will not only take financial but moral and intellectual accounts from me.

For me, Sir, it is not a question of religion in danger : it is a question of my home in danger. Much has been said about Hindu religion being in danger. I am afraid I cannot see the point. Hindu religion is not in danger when Hindus are thieves, rogues, fornicators, black-marketers or takers of bribes! Hindu religion is not endangered by these people but Hindu religion is endangered by people who want to reform a particular law! May be they are over-zealous but it is better to be

over-zealous in things idealistic than be corrupt in material things. It is this mentality of ours that brought about the death of the Father of the Nation. It was supposed that the murderer was a better Hindu than the person who lived according to the highest ideals preached in the Gita and in the Upanishads and whose life was lived in the light of the teachings of our scriptures. I would wish the Hindu community to divest itself of such false notions about their religion. Our religion was not made by murderers and thieves; it was made by Sadhus, Sanyasis and Mahatmas.

Yet, there is the other side of the question. A great deal of confusion has been caused, for one party says that religion is in danger and another party says that the modern religion of progress is in danger. If you do not support the Bill you are a reactionary.

I will tell you how I was converted to support the Bill. One reason I have already told you. Another reason I will give you now.

There was a woman and she whispered to another woman "Kripalani won't support the Bill : he is a reactionary."

Shri B. L. Sondhi : Were they both members of this house ?

Acharya J. B. Kripalani : They were hon. Members, not members. She in confidence told me "I protested and I said Kripalani is progressive." So I was put on my honour. You see what subtle kind of propaganda goes on. One woman tells something to another woman in confidence and she brings the story to me. Now how am I going to act ? I cannot consider myself reactionary and not progressive : I may be called a non-Hindu but for a modern man not to be modern is a greater stigma than to be without religion. I may not believe in God, but how can I not believe in the God of progress as is in the West ?

I will also tell you why the first woman said that I was a reactionary—it is a very interesting story—but only if you promise not to interrupt me by your laughter. I happened to be the Chairman of the Fundamental Rights Committee. In the Fundamental Rights Committee the proposition brought forward was that it should be the fundamental right of women not to be in purdah. Of course I am in favour of all women going without purdah—and what male will not. I admire those people who would not, but I am not one of those admirable people. I said that I have no objection to this clause going in the Fundamental rights, provided that all purdah disappears—the ancient purdah and the modern purdah. Take a round in the City of

Delhi. It is very difficult to see the face of a woman. There is always a mask. (An hon. Member : The powder) If the ancient purdah is to be removed the modern mask may also be removed because the modern mask is even more complete than the purdhah. The purdah you can take off at will, but the mask can only be taken off at home and by certain chemical processes.

Lest you may misunderstand me I tell you that I am a great believer in human equality. And in humanity I also count womanity. I want that this Bill should be passed because it gives us equality with women. I think that this Bill is in the interests of our equality. I have always thought that in comparison with women we are at a very great disadvantage. First of all, nature has put us at a disadvantage, because if you think a little, you will admit that everything that a man can do a woman can also do. But there are certain things which a woman can do which men cannot do—not even in our imagination, not even in our dreams, not even in our nightmares. I cannot conceive.

Some Honourable Members : No, you cannot!

Acharya J. B. Kripalani : I was talking of conceiving in an intellectual sense. But since you have already found out my meaning I need not dilate upon it. *(An hon. Member :* Oh, no.) But I have often been curious and have even asked women "what is this excruciating pain and what is this superb joy that you have in conception ?" and they only smile at my ignorance and give no answer. I have again asked them what pleasure they have in nursing the baby at the breast. Then also they smile at my ignorance and give no answer. In these matters I think we are at a very great disadvantage. They are great creators. Artists create inanimate objects, women create images of God, which sometimes degenerate into images of Satan. In these things, of course, nature has put a kind of block in our way and we cannot achieve equality with women. But in many other things we can achieve equality with women.

So far as the question of women achieving equality with men is concerned, they have already achieved it in India. You know that as soon as we had Swaraj, we had a woman Governor. Two centuries of independence have passed in the United States of America, and there are fortyeight States, but I do not know if even once they have appointed a woman as Governor. Of course my knowledge of history may be old and I speak subject to correction, but I believe no woman was appointed as a federal Minister. I may also say that in a country

like England, where female education is widespread, I do not know whether up to this time there has been a woman Cabinet Minister. I am not talking of the many auxiliary Ministers that we have here too—they are also called 'Ministers'—but I am talking in terms of Cabinet Ministers. So far as I know, there has not been one in England. Then I do not know whether in England and America there have been woman diplomats—ambassadors. And yet you must remember that one of our star ambassadors is a woman.

Shri R. K. Sidhva : We are proud of our women, Sir.

Acharya J. B. Kripalani : Well, Mr. Sidhva thinks that I am not proud. I am very proud of this. But I am thinking in terms of equality, not of pride. I say, "we have granted women equality, and now shall we be given some equality with women ?" I am very much oppressed because I am after all an old man. I have learned that old age is to be respected. But when a chip of girl comes into my drawing room I have to act just like a jack-in the-box and pop up.

[At this stage Mr. Deputy Speaker (Shri M. Ananthasayanam - Ayyangar) resumed the Chair.]

I did not do that in former days. Not only that, may I tell you, Sir, that even when my wife comes in the drawing room I get up. Do you know why ? Because some boorish young man may be sitting there and he may not know the modern manners and he may not get up; just to give him an example, I rise. I want that there should be equality, because you just see, I as a male am obliged to get up when a female comes, while I know that when even our Prime Minister or the President or the Congress enters a room, I have seen young women sitting in their seats. This is a very great injustice to the mere male. My experience has been that if there is a quarrel between a man and a woman in the bazaar or in the market-place,—because I do not know about secret quarrels—or in the club, and supposing a man hit the woman, do you know what would happen ? There would be almost a riot and everybody would call the man a coward and rightly too. But supposing the man was beaten by a woman, do you know what would happen ? I think he would look very ridiculous and instead of anybody sympathising with him, he would be the object of ridicule and rightly too. Whether we beat or are beaten, both ways we are the losers. I want that this balance should be restored and there should be some equality to protect the mere man.

There is yet another thing. Not only in society are we at a disadvantage, but the law is also against us, as even our Law Minister will admit. Supposing a man runs away with a woman, the man is responsible in law. Supposing a woman runs away with a man, again the man is responsible. I have it on the highest authority, very modern authority, that it is the woman who is often the pursuer. Whether we are the aggressors or they are the aggressors, irrespective of aggression, the law comes down upon us. We are sufferers both ways. I would, therefore, request this house to bring about some equality, so that we men may be able to breathe more freely, so that if we are kicked, we may kick equally freely without ridicule, without the law coming to the help of the stronger party, namely, woman. You can now understand why I support this Bill.

Let us now go into details. There is first of all the question of property. I really do not see how, we of the Congress, who are pledged to the abolition of private property, yet think in terms of as to whom one share or the other should go. I see a curious phenomenon in this nation which I have not observed in other nations.

Shri Lakshminarayan Sahu (Orissa : General) : I want to know one thing. Is the Congress pledged to abolition of private property ?

Mr. Deputy Speaker : That is the hon. Member's opinion.

Acharya J. B. Kripalani: I think if the Resolutions of the Congress are carefully read, it will be plain that the Congress does stand for the abolition of private property, that is, accumulated private property, not private property that is in use. But as the Deputy Speaker rightly said, this a question of opinion. I find that all people here are more concerned with redistribution of existing wealth. There is no effort in this land to create new wealth. Even our Socialist friends are not thinking in terms of creating wealth, but of redistributing the very little existing wealth that we have. I am indifferent where the little bit of existing wealth goes, whether it goes to the woman or to the man provided it remains in the nation. The nation should not be the poorer for it. You will be surprised to know, but I do not mind people taking bribes even, or going in the black market. After all, wealth does not go outside India. It is somewhere with the Indian people. I only think of the morality of it which is destroying our public life and our private morals. So far as wealth is concerned, it does not matter so much. After all these bribe-takers and these black-marketers are not taking away wealth to any foreign country. If it is not my

brother-in-law, it is somebody else's brother-in-law. It is after all there. So I do not for a moment think in these narrow terms of where the existing wealth goes. I am thinking in terms of the nation. The whole attention in England and other free countries is directed to creating more wealth rather than dividing the already meagre wealth that exists there. Therefore, I whole heartedly support that a share in ancestral wealth be given to women. If they have their own share, they may be more careful about their money. It has been my experience that the expenditure of a woman is much more than that of a man. I have seen that when girls go to college and school, the mother is more careful about their clothes than about the boys' clothes. The young boys may toddle along to school walking all their way, but the young girls must go either in a tonga or in a bus even though the bus charges may come to Rs. 15 a month. So in clothes and in transport charges and in other things, woman's education costs more. This is when she is not married. When the women are married, you can look at their dress and at our dress. I have very often found at weddings that the boy looks like an idiot and the girl looks like a queen. I have seen it and anyone who has critically observed it will certify that it is so. On the road, I have also seen modern women and modern men going together. The modern man generally wears English dress and it is not on everybody that the English dress sits will. There are only a few exceptions. On most of us it looks very awkward. But the woman is in her native sari, full of colour, and even if she has not ornaments, she looks better and more respectably dressed than the man beside her—nowadays he walks a little behind

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her and looks awkard. Those who are not acquainted with Indian middle class society today, or are foreigners, would think that perhaps some *chaprassi* is going behind. Therefore, I say, Sir, they have their own property, we will not be bothered by these things. They will spend it as they like and I am sure they will spend it more economically than when they have to purchase things and the bills come to us. Therefore, I am a great advocate that the women should have their property share also.

Then there is another point about which I am very particular. I am told that you cannot adopt a girl child. I happen to be in the unfortunate position that I have no children.

Shri B. L. Sondhi : What a pity !

Acharya J. B. Kripalani: It is a very great pity. I thought that as a Hindu I could adopt a child. But I have always had a preference

for a female child, I adopted a couple of girls, but they ran away with their husbands. I yet want to adopt a girl. I do not know why this provision is there that you cannot adopt a girl. The girls, so far as the father is concerned are more lovable than boys and the more saucy and impudent the girl is the more the father loves her. Therefore, I request that if there be any defect in this Bill it may be corrected and female children may also be allowed to be adopted.

About divorce, Sir, I may tell you that I am not personally concerned, because my marriage was not criminal, but civil. It is open not to me, but certainly to my wife to divorce me any time she likes, if she feels that I am not behaving properly. But I find that so far as provisions for divorce are concerned this Bill is more retrograde than old custom. As we have been told by Shri Alladi Krishnaswami Ayyar and a woman speaker, there is a simple system of divorce among the masses in the villages. There are no costly proceedings, there is no scandal, there are no newspaper articles. All this is avoided. I would suggest, Sir, that a more reasonable, more scientific and more up-to-date attitude be adopted in the matter of divorce.

Sir, I have a suggestion to make, for what it is worth, for the consideration of the Law Minister and this suggestion would not involve expenditure, litigation, scandal or newspaper articles. All the marriages should be for five years and at the expiry of five years every marriage would be renewable. The renewal can take place by some declaration before any village officer or his parallel in a town or city. You can after five years go and say that you do not want to separate and the marriage continues. This will make divorce easy, scientific, without scandals, without litigation and I tell you it will be most up-to-date. I make this suggestion for whatever it is worth and I tell you it satisfies all the requirements of the new religion of progress and advancement.

Shri L. Krishnaswami Bharathi : Sir, may I make a request to you, Sir, to allot one more day for the discussion of this Bill, in view of the fact that there are many hon. Members who wish to speak on it. The hon. the Prime Minister is here and he will be able to tell us whether Government would be prepared to allot tomorrow also for the discussion.

The Honourable Shri Jawaharlal Nehru (Prime Minister) : Sir, the House knows that nothing is more precious than every day and every hour of this House. We have a great deal of very important

business to get through during this session and there are not many days left over. Nevertheless, as I made it clear in the early stages, we want to give the fullest opportunity for this debate to be carried on and for as many members as possible to speak upon it. Naturally, this or any other debate, cannot be carried on indefinitely to the detriment of other public business. So Government have stated that they want to give as much time as possible, subject to the debate terminating and ending. I am perfectly prepared, on behalf of Government, to allot another day, that is tomorrow, subject to two provisos : one that the debate terminates tomorrow ; second that we sit on Saturday to conduct other business of the House.

Shri Mahavir Tyagi : Sir, may I suggest that it is very difficult for us to sit on Saturday. The Hon. the Prime Minister might just find time, because he has not to devote much time in the House. But we have to sit from morning till evening and in the evenings we have to attend meetings of Select Committees, besides attending to our other engagements. We have also to go through the various papers received by us, draft amendments and send them. Saturday and Sunday are the only two days when we can do that work. I would request you , Sir, not to take Saturday.

Pandit Govind Malaviya (U. P. : General) : I have to submit, Sir, that this measure is one in which the whole country seems to be more interested than it has been in any other measure. Members of this House should be allowed full opportunity of expressing themselves about it. So long as there is a single member of this House, no matter whether he is in favour of the motion or against it, who as a representative of the people, wishes to have a say on this Bill, we should allow time for it. If we cannot find time for it tomorrow, Government should give more days for the discussion of the Bill. I submit that it will not be fair to the people of this country or to the Members here, that anybody who desires to express his opinion about this measure should not be allowed to do so.

Mr. Deputy Speaker : The hon. the Prime Minister has already said that he will allot one more official day for the discussion of this Bill. There are a number of other Bills which have been referred to Select Committees and others whose Select Committee reports have been presented to the House. Having regard to the business that is yet to be done, the hon. the Prime Minister evidently thinks that not more than one day can be allowed for the Hindu Code Bill. So far as that matter is concerned, it is an official day and I am completely

in the hands of the Government. It is for the House to agree or to reject. I have nothing more to say in this matter. So far about twenty-seven Members have spoken and we have taken over seven days and nineteen plus five, twenty-four hours.

Dr. P. S. Deshmukh : How many are waiting to speak ?

Maulana Hasrat Mohani (U. P. : Muslim) : What is the guarantee that we will be able to finish the discussion even tomorrow ?

Mr. Deputy Speaker : I have about thirty-four names still who want to speak. The matter stands there and only tomorrow is allotted as an official day for the conduct of this business. It is for the House to consider it tomorrow. Now, as regards Saturday, it will be fixed as an official day because tomorrow is being taken up by this. You can arrange for the Select Committees to meet on some other day.

The House will now adjourn till 10-45 A. M. tomorrow.

The Assembly then adjourned till a Quarter to Eleven of the Clock on Wednesday, the 14th December, 1949.

* HINDU CODE—*contd.*

Mr. Deputy Speaker : I have received a letter from Mr. Kripalani that it was under a mis-understanding yesterday that he sat down. I thought that he had concluded his speech, He says that as soon as I got up, in deference to the Chair, he sat down. If that is so, I would like to give him an opportunity to continue his speech, but I would request him to conclude his speech in a very short time.

†Acharya J. B. Kripalani (U. P. : General) : Sir, I thank you for the opportunity that you have given me to conclude my speech. I wanted to conclude it in a more serious manner. It appears to me that as a nation we lack a little humour and cannot penetrate to the serious purpose that lies behind the humour.

My support to the Bill is wholehearted and it rests upon very sound grounds. It rests on the foundation of the character and tradition of Indian womanhood. Throughout history they have played a very distinguished part in our life and in our culture. In ancient names we have famous names who contributed to the learning of the times. Many of them were great writers, philosophers and poets. In mediaeval times when we were down and out, when wave after wave of foreign invasion came, our women confined themselves to the home with their ancient virtues undiminished. And when wounded and disappointed we went home they soothed our wounds and kept the home fires burning. They were a consolation to us. Not only that they kept our religion alive. They kept our traditions alive; they kept our culture alive. It is in Hindu homes with Hindu women that we find our culture and our religion at its best. Even today when gentlemen change their dresses, our women do not change theirs. It is this trait of Indian womanhood that was recognized by the Father of the Nation and that was so ably utilized by him.

In our struggle for independence they stood shoulder to shoulder with us. Very often I know, they had to suffer more than we had to suffer. Even when some of them did not bear lathi charges and did not go to jails, I know the privations that they had to suffer and they suffered them cheerfully. They have always helped us in every way and I suppose it ill-behoves us to think that they are thinking of themselves alone. After all the wearer knows where the shoe pinches. They know what handicaps they are suffering from. I am

*C.A. (Leg.) D., Vol. VI, Part II, 14th December 1949, pp. 560-621.

†*Ibid,* pp. 560-62.

sorry that a Member from Bengal should be very enthusiastic against this Bill not knowing the conditions of the widows in Bengal. I have seen them with my own eyes.

Shri Suresh Chandra Majumdar (West Bengal : General) : Not all Bengal Members are.

Acharya J. B. Kripalani : I was talking only of one Member who is very enthusiastic against the Bill. As I was saying the wearer knows where the shoe pinches. I have no doubt that even when women get what they want, their traditional devotion to home, to their menfolk will not diminish and I have every reason to believe this. Sir, I am associated with women who may be considered as modern and you will excuse me if I give you a peep into my home life. You know and the House knows Mrs. Kripalani, but you know only her public activity.

Sjt. Rohini Kumar Chaudhari (Assam : General) : On a point of order. Sir. Can you discuss about Mrs. Kripalani who is not present in the House ?

Acharya J. B. Kripalani : Of course, I would seriously object if the Member discussed her, but I thought I had a little right to discuss her. As I was saying, she takes her full part in public life, but as soon as she is at home she is as good a housewife as any ancient woman.

Though I do not like anybody to do physical work for me, I can tell you that when I am not looking, she does everything for me, including the brushing of my chappals and the washing of my clothes. I have also had the privilege of seeing other women who are considered modern. I am acquainted rather intimately with those Members whom you see only in the House, and I have seen them in their home surroundings with their children, with their husbands, with their brother and I have no hesitation in saying that they lack none of the virtues of the old but they have added a new virtue to enrich their life, that of public activity and public work. Sir, I come from a community in Sind where most of the women are educated and according to modern ideas they may be considered even fashionable, but when I go to their homes I have marked the pathetic way they love their husbands, their children and their brothers.

An Honourable Member : Why pathetic ?

Acharya J. B. Kripalani : I advisedly use the word because you do not know that this love of theirs is a very inconvenient thing to us menfolk, However much we may try to dominate the home and

make our will prevail, they go round us in such a manner, with such devoted service, with such faithfulness, with such steadfastness, with such patience that I have yet to see husbands in the world who are more henpecked than the Indian husbands. They always stoop to conquer. I have seen these modern ladies highly educated, as educated as ourselves, and I have found that, under their skin they are as ancient as any of their ancient sisters. I think those people who are married to old orthodox ladies and who have seen their devotion, if they were to see the devotion of the new, they will be surprised to see that there has been no change at all; and these women want that certain disabilities of theirs be taken away. It is said that, if women are given inheritance, love between brother and sister will diminish. I do not think that the love of our sisters is made of such flimsy stuff. It has centuries of tradition behind. I have seen sisters slaving away so that their brothers may be educated and find themselves on their feet. I have seen them sacrificing for the family. I come from a community where there is no joint family, where as soon as the son is married, he separates and lives alone, but I know because there is no joint family, there is greater love between the members of the family [*Hear hear*] and it was manifested recently when the Sindhis had to migrate from Sind and come to India. I have seen three or four families living together in one house. If anybody had a house outside, if anybody had settled outside Sind and he was living in India, that house was shared equally with nephews and cousins and in-laws and they bear the trouble of this terrible congestion very cheerfully. Many of them have to spend large sums of money. So this family love which has persisted for centuries is not going to end because there is a little change in the Hindu Law.

As Sir Alladi Krishnaswami Ayyar has told us, this law has always been changing. It is the pride of the Hindu religion that it has adjusted itself to changing circumstances, It is true to the old, yet it takes as much of the new as it is necessary for the healthy life of the community. Times have changed. If foreign rule had not been here, our Shastras would have changed; our law would have changed. Foreign rule made these laws very rigid, and it is time that we bring in some new life and new light into them, and this Bill is trying to do that. I am sure the Bill would be put into some shape and form in Committee and that there will be no complaints. I am sure that our home life is not going to be disturbed and I am

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sure the love and the loyalty of our women is not going to diminish. That their devotion to their menfolk is not going to diminish in any way, and that the future women of India will be both true to their home and to the nation. Sir, I have done.

***Shri Gokulbhai Daulatram Bhatt** (Bombay States): *(English translation of the Hindi speech)* Sir, ever since the Hindu Code Bill has been before the House, it has agitated the minds of the people in India. Dr. Sen claims that the bill has already been before us for the last fifty or sixty years. But, in the books I have gone through in this connection, nowhere, I have been able to find a reference to any earlier existence of this Code. There was however, a Hindu Law, changes wherein have, no doubt, been engaging the attention of the Hindu society from time to time.

It was only after 1939 that we have come to know of this Hindu Code Bill in its present form. There may have been some talk on the occasion. Dr. Deshmukh had brought the Marriage Bill before this very House in 1938.

Dr. P. K. Sen (Bihar : General): May I just explain ? I said that it had been before the legislative anvil for longer than 60 years, i.e. from 1856 or 1855, but that was with reference to the Marriage Law, not at all in respect to other aspects.

Shri Gokulbhai Daulatram Bhatt : I also say that only some of its aspects were before us and before the Hindu society. In fact such issues were not facing the Hindus only, the Parsis and the Muslims were similarly confronted by them. I mean only to give you some glimpses of the history of the manner in which this Hindu Code Bill has been brought before the House and the circumstances under which the Committee called the 'Rau Committee' was set up. I want also to give you an idea as to the time-limit fixed for framing the rules and regulations concerning the social structure of the Hindu society populating over 30 crores as also the methods employed for publicity and elicitation of public opinion or for ascertaining any other reaction. Whether the Hindu Code Bill should be introduced or not, the Hindu society should be integrated or not, or whether or not there should be a synthesis of the various piecemeal legislation of the Hindu Law are not the real issues. I want to draw your attention to the fact that the Rau Committee was set up on January 20,1944; they

*C.A. (Leg.) D., Vol. VI, Part II, 14th December 1949, pp. 576-85.

undertook the work and got a Draft Bill ready. The public came to know of this Bill on August 5, 1944 when they were given two months thereafter to send in their opinions by October 5, 1944. Sir, I will like to point out also that only 1,000 copies of this Bill were printed by the Government of India for a population of 30 crores. Subsequently 3,000 more copies were printed under pressure of public demand.

Shri Mahavir Tyagi (U. P. : General): Were they printed in English or Hindi?

Shri Gokulbhai Daulatram Bhatt : All the 4,000 copies were printed in English. Thereafter Shri Rau had asked the Provincial Governments to get a translation of the Bill printed and distributed. Despite this translation, to my knowledge not more than 50 to 60 thousands of such copies were distributed in all in a population of 30 crores.

Now I would proceed to speak about the extent of publicity and circulation among people to ascertain their reaction to a Bill of this type which is of so much importance; which aims at integration of the Hindu society, which seeks to introduce a new way of life and which is considered to be a reformatory measure. A time-limit of two months was fixed for this purpose and thereafter the committee undertook a tour of the country. Their tour lasted for 38 days only. They did not visit all the cities and left out all towns and villages. Never did they care to go in the midst of people at any time during this tour nor approach any widow to enquire about the reason for her misery even though she may have continued to share property in accordance with the Dayabagh system of Bengal. They never went to Madras to know why our sisters and daughters were unhappy there in spite of the matriarchal system of sharing property. They did not find out whether widows were in distress in Bengal or Madras only or their fate was the same all over and, if so, what could be the possible reason for such distress. I can't agree to the plea that they are in a miserable state only because they possess no share in the property. This is not the case. Their miseries exist not solely because of having no property whatsoever. Formerly a hitch existed that the women widowed in a young age could not seek wordly enjoyments, there was hardly any justification in refusing an opportunity for second marriage to such widows. Ishwar Chandra Vidya Sagar and Malabari Saheb made efforts in this behalf and though I do not remember it clearly but I think it was in 1856 that a Widow Remarriage Act was

passed and is in force till-date. I would however like to know the number of people who availed its benefits or the nature of happiness and prosperity towards which this Act has contributed. I mean to submit that the mere legislation cannot bring a change in the society or nothing material can result by thrusting something down the people's throats from above. I wish to cite the Parsi Marriage and Divorce Act as an instance. The Act was first enacted in 1865 and Sir Cowasji Jehangir had placed a Bill to amend the original Act before this very House in 1936. I intend to go in history of that very amending Bill. Some friends of the Parsi society felt the necessity for amendment just as we are feeling at present. Kripalaniji is required to support the Bill so that his home may not be in danger. Likewise I have no desire to put mine in danger. Should I also support it for that matter?

Shri Krishna Chandra Sharma (U.P. : General): In this respect all aged men behave alike.

Shri Gokulbhai Daulatram Bhatt : Quite right. I don't wish to reply Sharmaji just now. He may continue to follow his wife everywhere carrying her coat.

Shri Krishna Chandra Sharma : But she never puts on a coat.

Shri Gokulbhai Daulatram Bhatt : My intention in this submission is to explain the course of action adopted by the Parsi friends once they had thought to reform and amend their Bill of 1865. What did they do? They set up a Law Committee from among their Panchayat. And what did this Committee do. It did no such thing as to hammer out an amending Bill, fix two months as time-limit to elicit public opinion and arrive at the decision thereafter. They had with them a questionnaire for four years which among other things wanted to know the number of Parsis who on basis of 1921 Census might be one lakh in all or at the most one and a half lakhs. The report was before them for another four years and it was only after that they had accepted the proposal. The Report was circulated in the Parsi Society again and opinions were invited on the same. These opinions did not come from Bombay. Ahmedabad or Madras people alone. Rather Parsis living in Persia and China, may be only a few of their families may have been there were consulted first on that Report and their desire ascertained. The educated persons and the lawyers always present an issue in a distorted way and people somehow accept their version

of a thing. Being gifted with a powerful faculty of argumentation, they are competent to impress other in the way of their liking. But the Report in question was circulated even among those who possessed no such faculty. Opinions were invited from groups irrespective of their being in a minority and a majority. Thus when everyone was consulted in 1936 the Bill was sent in an amended form. So the issue embodied in this Bill continued to engage their attention from 1923 to 1936 and the same was ultimately passed in an amended form.

I have much respect for Shri Rau. He has laboured very hard and has been of great help in the framing of the Constitution. But I will submit that he has mentioned this fact about consulting only a very few persons in the Report itself and thinks no harm in that. He however, did agree that the society was divided on the issue. Sister Renuka is not present here just now, but I have to say no different thing about her as well. She was speaking on the Marriage Bill in 1943-44. On that occasion she had laid a claim that if a referendum were to be held and all votes to be counted then all the young men of high spirits (Joshila jawans) will be found to have supported that Bill. She had not used the phrase 'joshila jawans'. I am merely elucidating the original phrase viz. 'the youth' used by her. I wish to submit it to my sister along with the other six or eight in this House that if they really think the Bill a very necessary one in the interests of women like our Acharya Kripalani who has come round to see in it the liberation of our women then, please, do not give it a title like the Hindu Code Bill. Name it the Post Independence Civil Rights of Hindu Women Bill or something like that. Thereafter you may proceed to give them as many rights as you please. After all we have always shown reverence and done honour to our women. Our ladies accept their husband's house as their own after marriage. Sister Sucheta has set up a house likewise. Once a woman goes to her husband's house, that house becomes her's also, she can claim her father's house as her own no more. It becomes merely her father's place from the time of her marriage. Her house is the one into which she is married. I need not go into further detail. But our sisters are wrong to think that it is a Bill of theirs only and for them only. Men have a right to it as much as the women do. I don't want to discriminate anyway between them on this score. So no man or woman should take it that the Bill concerns a particular section of the society exclusively. I shall be excused if I take rather a longer time.

So I was telling how sister Renuka had laid a claim for the support of all the enthusiastic young men in case of a referendum. In the Report submitted by Shri Rau in 1947, he said, ' Opinion is sharply divided some to the left, some to the right. Also that those in favour of the Bill were persons of brain and quality whereas the others opposing it were mere idiots, devoid of any brain, possessing no status in life and without any sense to understand the society and its complexities.' May I know who then are those who understand the society and its problems? Does Shri Rau understand it? And does the Dwarka Nath Mitter really not understand it? I have nothing to say about those people. But there is no one who could lay a claim to more work in this field than Malaviyaji, whose birth anniversary we have celebrated only yesterday and acknowledged him as an unequalled cultured man. He, though an orthodox, was always in the fore-front in the matters of reformation of the society and rights of the people. But that very venerable Malaviyaji had not thought it to be a proper way in which the Hindu Code Bill was being ushered in. We may not heed him. You all know Sir Tej Bahadur Sapru quite well. He too was second to none in wisdom or intellect. He had declared himself to be in favour of the Bill, but had agreed that it was not a suitable time to frame a Bill of this type. I go further. Sir Chiman Lall Setalwad enjoyed a status in life not less than any other man and had always taken a leading part towards reformation of the society. He never agreed to codification on principle but expressed himself in favour of giving a share to the widows and daughters without any codification. Surely it is not right to consider all persons to be wise who talk in the same vein as you do and denounced all others as mere fools who cannot share your opinions. I will request my brothers and sisters through this House and Sir, through you, not to consider the Bill in this manner. And, to my Hon. Leader, the Prime Minister, Pandit Jawahar Lal Nehru, who is not present in the House. I would like to say that I should certainly have joined with him—and I am in fact with him—in his efforts to evolve a uniform set of rules for the Hindu society and his desire to assemble the scattered provisions of Law and to form them into a system—a code—but I ask, have the public been, allowed an opportunity of expressing their views. Take the case of the small sized Parsi Community. They kept all their component parts with them, ascertained the opinion of each one of them separately and it was then only that the Bill was brought forward. Then only did they succeed for otherwise they could not have achieved

their purpose. A bill to amend the Civil Marriage Act was brought forward in 1921 with the same object as now. Why are you going to frame a Hindu code, why not frame an Indian code ? All the people live in the same country—India; they ought to have similar ways and customs. When we have decided on one common language there should also be one common code for all the people of India so that this might lead to unity and result in a united India. I want to tell you about that period. The Christians and the Muslims raised such an opposition that Dr. Gaur had to say : 'It aroused convulsive opposition from the Mohammedan and Parsi communities throughout India. I had no other go but to drop the Bill and bring a new bill in 1923.'

And he had taken that course. The Hindu society is not treated with any regard. No consideration is shown to a community which comprises such vast numbers. No consideration is shown to the counsel of Malaviyaji, leave alone Pattabhi sahib, Sir Alladi and Lakshmi Kanta Maitra. What they say is of no importance. Let alone others, here is the case of Rajendra Babu who is known as Ajatshatru. He is a living treasure-house of wisdom and intelligence and is the ornament of this country. Who has put the ideas of Gandhiji into practice and who could explain them not only to this country but also to the rest of the world. He says, 'This is not the opportune time'. There are many things in it which are controversial. Please sift them out and do not touch upon them. But, what to do? Our leaders say, 'No, this has to be expedited.' Then, let them expedite it but they should at least see to it that the views and assent of all the people are obtained. There is one advantage in particular seized by Dr. Ambedkar, I will tell you what that advantage was. When this Bill was introduced in 1948 we all sat together and decided that nobody should make a speech on it for the present. Neither Dr. Ambedkar nor anyone else said anything in particular. At that time it was thought that if the Bill was just introduced this was likely to cause satisfaction to our sisters and to others who are reformists, who want unification and codification and to those who are rational. So it was agreed to let them have that satisfaction. Taking advantage of this, however, Dr. Ambedkar thought that it had been conceded by the people generally that the Bill was all right. No sir, we did not study some of its clauses some of its provisions. But, since our leaders said, 'Let it move forward a bit', we said ' Very well, take it forward. Bring it in the Bazaar'. Thus

it has come into the Bazaar, it has been paraded in procession and here we are seeing it. I should like to say that if all the debate of ours had taken place before the Bill was sent to the Select Committee, it would have done a lot of good to Dr. Ambedkar and our friends of the Select Committee. They would have come to know what shape should he given to the various things. Now, we are faced with a sort of conundrum. Our confusion lies in this that if we say that it should again be sent to the Select Committee, it is not known to what a labyrinth of rules and procedure we might be landing ourselves. If, on the other hand, we say that we should hold it up for the present there is another sword hanging over our heads. Now, what are we to do? We are in a pretty fix and it is for our leaders and Providence to take us out of it.

I was saying that we were not called for to introduce this measure at this particular juncture because we have not yet obtained the views of the Hindu society. Whatever Hindu society has been consulted belongs to the towns. And how many people were consulted ? There are 121 individuals and 102 institutions who have filed written statements or given evidence. Now, shall we say this is the opinion of the Hindu society ? In case you want to know the opinion expressed by Mr. Mitter, and that too in regard to each part separately I am prepared to speak to you about it. Opposition has been offered to it every were barring Madras. Those belonging to the Dayabhaga School opposed it in Bengal. There is opposition from the Bombay side. Because of this antagonism and other causes it has come to face opposition. If, in spite of this opposition we were to say, 'No', what the minority say is along the truth and you will have to accept it. it is rather hard. The Hindu society should be unified. This should certainly be done on the basis of a system. How can I say the women, our sisters, should be given no share? But let our sisters themselves be asked to say if, after they have received their share, they would still have any love left for their parental home. How much love would be still left? Just ask one of the reformed women of to-day where her father lives, where her brother lives. They keep to their own cottage, homestead or mansion and do not so much as greet a relative. Such are the reformed people of to-day. Hence if it comes to shares what will become of us? However what I wanted to say was that in spite of all these objections we are faced with the minority issue. Even though the view of everyone have not been obtained we are being

treated to that kind of pressure. We are urged to accept it under duress. They fail to see, however, what complications are bound to arise later on.

Hence, I want to say. kindly find out a middle course. Only a middle course would give satisfaction to us and to society and cause the unrest to subside. Just as Pataskarji observed to day we are already up against a number of difficulties. Why create another big one at this juncture? Why plant another thorny bush and thereby spoil the path rendering extra labour necessary later on for its clearance? Why should you act in that manner? Kindly attend to some other task and let this one be postponed for a year or two. I should like to suggest to my sister—veritable goddesses as they are—to those of them who have welcomed this measure that in the interests of the country, they should take upon themselves to go to our Jawaharlalji and appeal to him that this means my be held up for one or two years. This would help in many ways. But as it is, their line of thought is that if this Bill is not passed now or at any rate in 1950, it may never be passed, because those who come hereafter would not allow it to be passed. But let me tell you that even if you pass it to day you should know what is going to happen later on. Such a type of people will come in to fill these seats who will say, ‘ As our very first duty let us set right this Hindu code that has been enacted’. Hence. I beg you kindly to prevent this if you can. If however, you cannot do that then, my advice is : ‘Not to the left, not to the right, come in the middle; find out the golden mean. This alone can satisfy the community.

Secondly, I wish to refer to what Dr. Ambedkar said in reply to a point of order raised by Mr. Sarwate to which, Mr. Deputy-Speaker, you also added your support, viz., that this Bill is going to be applicable to the provinces only and that if it is sought to be made applicable to the States it will be sent to them, it will be circulated, before it is decided what is to be done about it. Dr. Ambedkar made the following observation :

> “When the occasion comes for the extension of the bill to the Indian states, no doubt this Legislature, when a proper motion is placed before it, or the Government of the day will take note of their wishes and intentions and the States which have come into the Indian Union will be consulted.”

If this is the position then what is passed to-day will be sent to the States after six months and by the time the states enforce it you will have gone still further ahead. The States’ people who are already somewhat backward, will be left even further behind. You should

therefore, kindly keep that point in view and see what can be done about it.

I may be permitted to say that the mode of obtaining public opinion was not perfect. I have already said that. It took us two and a half to three years to frame our Constitution and even though we have proceeded with the utmost caution, there are so many people who say it is no good. We consulted the Provincial Governments, supplied them copies of the Draft constitution and it was discussed there in their legislative assemblies and cabinets before they sent us their views. As you know, the Rau Committee never sent their draft report to any provincial Government. This is how it has come up. Hence, I wish to point out that the opinion was not taken fully and properly. The basis of your claim is also not sound. I am in no doubt on that score. Renuka Bahan remarked, ' Half of the country will be with it, but the report of the Rau Committee says Says.' ' The society is very much divided.' In view of this whom should I rely upon? Should I rely upon those who gave their report in 1947 after investigation or upon Renuka Bahan's statement of 1944?

Mr. Deputy Speaker : Several other Members have yet to speak. Kindly conclude it.

Shri Gokulbhai Daulatram Bhatt : I shall be closing in five or seven minutes. I should say a few things more if you permit.

Mr. Deputy Speaker : Just as you please. You have taken thirty minutes already.

Shri Gokulbhai Daulatram Bhatt : I shall speak just a little more and then close very soon. I must say that it is the Hindu Community alone which would quietly take whatever blows you might give it. Look at the Muslim community. Did anyone have the courage to draw up a code for them? Why not unite the *Shia* and *Sunni* schools of thought? Could you just dare meddle with the law of the Christians ? Or could you dare tackle the Parsis? This poor community alone must stand every thing. Is it because you think it is dead? Dr. Ambedkar say he belongs to the *Shudra* caste. I hold him very high. Someone gives him the title of Muni (saint), another raises him to the rank of Rishi (sage) whereas he himself says he is a Shudra. Then let him be Vishwamitra. Whatever you are, but, of course, you are a wise man. Why nurse that inferiority complex? He says, '*Smritis*' continued to be prepared. The Brahmans went on writing. What else had they to do after all? What is the work being done by your department?

That was exactly what the writers of *Smritis* did. It was a department which amended laws and rules from time to time. Just as you prepare and put up amendments to laws they did likewise. I however do not wish to go into this question, Nor do I wish to go into other extraneous matters. Our sisters say this thing has come to be included in the fundamental right and that those who are opposing it have not been able to comprehend the fundamental rights. "You do not understand the fundamental rights," they say. Does it form the fundamental right or even state law? Does the Hindu Code constitute State law or is it personal and private law? If you were to bring forward a bill in regard to an Indian Code, I could say with authority nobody would oppose it, but to-day you are out to frame a Hindu Code and to make a change in the Hindu Law. But personal law is not State law and therefore it does not apply. Gaur had remarked, ' it will only be *Avtar* who might come someday and bring forth this Code.' Shri Gaur is perhaps sitting in Nagpur now and he must have been gratified to learn that the *Avtar* has manifested himself at last and that the Hindu Code Bill has arrived.

Shri Mahavir Tyagi : Disgraced persons.

Shri Gokulbhai Daulatram Bhatt : Saying a few words more I wish to conclude my speech in a short time. It is said that brothers and sisters should be equally treated. Shri Kripalani has left, why would he hear what the others say? So I wish to say why this double right should be given to the sisters. She will take her *stridhana* from her father's place, will take all the dowry given to her by her father, will take her personal share and apart from this all her share in the husband's property is still there. Then how the sisters have become so selfish? The women are themselves prosperity incarnate, why do they want more of this wordly wealth? Shrimati Kamala Chaudhuri has given out that without doubt wealth and prosperity will automatically flow back to the wealthy and prosperous. Women are themselves wealth and prosperity incarnate, why do they want to add to their prosperity ? With the slight illusion and fascination they still possess they have been able to capture and subdue the whole world, if the illusion and fascination would increase then nobody can foretell what would not come to happen. If the wealth *(maya)* will undoubtedly flow back to the wealthy then subsist Nature and Nature only in this world and exclude Man therefrom. If by this exclusion of Man the *maya* is able to subsist, then do accordingly.

Our friends from Travancore and Cochin are far advanced but they should also keep in mind that a solitary swallow will not make summer. They should make the villagers also pace with them and if they also are to be taken along then kindly give this Bill more publicity and explain it to them the various implications and then the purpose will surely be achieved. There is not the least doubt about this fact. At places it is being said that by passing this Bill a reversed state of affairs is being created, and to some extent this allegation is right also. Let the water trickle down its natural course and if by spurning the minority view point here you would reverse the state of affairs then today you may be able to do so; but in future a time will come when such drastic changes would be made therein that would stun you speechless. The inevitable must come to pass. I do not like to go in details.

I wish to say one thing more that our *Smritikar* (law giver) *Yagnyavalkya* has gone a step ahead of *Manusmriti.* Even I do not want to enter into the controversy as to which of the *Manus* has been the author of this *Manusmriti* because there have been a number of Manus. But Shri Vigyaneshwar, the famous annotator of Yagyavalkya *Smriti,* who has written the *Mitakshara* annotation and the annotators who have written *Dayabhag* and *Mayukh* annotations have propounded different and distinct opinions. I do not want to quote all the illustrations. But they have laid down that if a woman be not given her *stridhan* then she also should get a share in the property equal to that of the son. This has expressly been mentioned. I wish to say with all the emphasis at my command that in our Smritis a mention is made of *stridhan.* The people of England have not yet codified their law. I wish to inform you that according to the English Book of Prayers the prohibited degrees of relationship for marriage were determined in 1565 A. D. The same continued to be in force till 1915 A. D. and in 1915 A. D. only one alteration was made in the prohibited degrees of relationship viz., till now a marriage could not be consumated with the wife's sister. So I wish to say that we have stepped far ahead as compared to this. There they took so many years to change one degree of prohibited relationship but here according to the Civil Marriage Act the people have been permitted to enter into matrimonial alliance with the second cousins also. Those who like many take recourse of Civil Marriage, but why you want to impose the same restriction on all others. The Civil marriage Act provides for marriages

with second cousins. Those who wish to adopt the system may follow it. While framing this Bill we should keep in mind the Principle of Eugenics also. It is wrong to consider that our *Smritikars* (annotators) have mentioned nothing at random. Our *Smritikars* were past-masters of the Science of Eugenics. They were not common people. They were highly learned and well informed persons. Whatever doctrines they laid down were perfect in all respects and were propounded after mature consideration. Their decrees were so perfect that it was not at all deemed essential to effect any changes in them say after 6, 8, 10 or 12 months. Our *Smritikars* were very wise and intelligent. Deep meditation of hundreds of years is essential to suggest any changes in what they have written. Undoubtedly you may make suitable amendments there in, because from time to time suitable amendments have been made in these *Smrities*. But we must consider this fully well whether by introducing these changes the society will be benefitted or put to loss.

Shri H. V. Kamath (C. P. and Berar : General): Are the Hon. Members of this House not intelligent?

Mr. Deputy Speaker : Please go on.

Shri Gokulbhai Daulatram Bhatt : I am not so intelligent and learned as Shri Kamath is. I do not allege that the Hon. Members here do not possess intelligence. Everybody has got his own intelligence. Everybody can think. But I say that I will not accept lying down all that Dr. Ambedkar says in a manner that great men have great views. Similarly if any Pandit (scholar) were to come and say that whatever has been done for the untouchables is not at all justified, then also I will not take his word for granted because I do not believe in the maxim that great men have great views. But I was submitting that whatever our Smritikars have done, have done after fully taking into consideration the future of the society. It is quite true that these Smrities were codified according to the then needs of the society. Today our society consists of numerous castes and sub-castes, the people belong to different sects, they believe in various doctrines, there are Sikhs, Jains, Buddhists and followers of other schools of thought and so on. They are divided up into numerous religious sects. It is not an easy task to inter-blend them in a single system.

Sir, I will now take only a little more time. I had just stated that the honourable Dr. Ambedkar said, “Custom will eat into the code

and therefore custom should not prevail" On the other hand he says that the law governing the succession rights of Rulers and jagirdars, which should not be there, should continue; and when there is a question of usages and customary rights, he says that this should not be there.

There is the point of succession. Another point is that of adoption where he says that customs and usages should not be allowed to continue. Both these things are untenable. You had better put an end to it, make it uniform or abolish it outright. Sir, I would again bring it to your notice that petty conferences are being held at other places on account of which I am feeling some difficulty in speaking.

An Honourable Member : He is repeating the same arguments.

The Honourable Dr. B. R. Ambedkar (Minister of Law): It is now one hour since the gentleman has been speaking.

Mr. Deputy Speaker : Order, order. The best way of asking him not to speak longer is not to make noise but to leave him alone so that I may ask him to complete his speech early. The Hon. Member knows that many other Members are anxious to speak. He has already taken more than 45 minutes.

Shri Gokulbhai Daulatram Bhatt : Shri I am indebted to you. So I was telling you that on the one hand you say that the custom is no problem, these customs and usages should continue; on the other, if this is acted upon it would tantamount to kill the Hindu Code. I do not want both these things. You ask as to grow more food. If we have to grow foodgrains in all the land in our possession, be it a garden or beautiful lawns, we must cultivate all these lands. On the one land; you want that your lawns should also remain intact, and on the other, you desire that more foodgrains should be grown. Such a course does not appeal to me.

You know what is custom ? We should understand family customs. village customs and national customs—'*Shastrad ruri balysi*' (Custom overrides the sacred laws). What is the meaning of *Shastral*? By referring to shastras again and again you people would be thinking that I am raving like a maniac. The *Shastra* is a science, a treatise and a law. That is a Smriti. After this you will not like to appreciate any such thing. So he will not like to involve himself in any such controversy which the divorce problem has created. A man and a woman sit in a *Panchayat* and say that they want to get rid of one another. They say that they have enjoyed the pleasures of the world and want to go to some other place. They will not involve themselves

in such a botheration of having a recourse to the District Court or High Court for this purpose. If they behave in such a manner the reverse will be the case.

When I go to the village, I will tell the people that the Hindu Code Bill has been framed in such a manner and it contains a provision of such like matters. Those people will then say that they do not want this in such a form. The existing village Panchayats are quite good and these should be allowed to carry on as they are doing at present and they do not want to involve themselves in such complications of law which will enable the lawyers to thrive and the poor to become poorer. With your blessings, all these things abundantly exist in the Hindu law.

Sir I was just saying what is likely to be the net result of all such things. I cannot touch here every aspect because I have not got sufficient time at my disposal that I should refer to all such things, as many of my brethren are desirous of speaking on it.

So Sir, I was just going to say that this is a question of vital importance. I would advise my honourable friends sitting here who have expressed their opinion in favour of its being passed to consider it once again more carefully. This is not the time for hasty action. You are liable to be called to account by the people for your doing of it. With all due respects, I would also like to request our esteemed leader the honourable Pandit Jawaharlal Nehru that this question which has been brought up before us is so vital and of such a fundamental importance that we should necessarily consider over it most carefully. All the more necessary that the public opinion should be elicited in this matter. My honourable sister Shrimati Renuka Ray had referred to a referendum. In this connection I would like to say that as the elections are likely to be held in the near future, you can at that time elicit the opinion of the measses whether or not they want the Hindu Code. You can place it before the public that we are framing a Hindu Code Bill of this nature and whether or not they like it. If you are able to enlist the opinion of the people on this issue, then you are at full liberty to pass it in this House. This should be agreed upon as the basis of referendum. I am not a man to be swayed over by the newspaper reports. The newspapers are given to the publication of exaggerated versions of such matters simply to promote their circulation. I have got no personal grudge against the newspaper men. I cherish solicitude for them and have every sympathy with them. But so far as the question of holding a referrendum is concerned,

I would like to tell my honourable sister Shrimati Renuka Ray, who is not present here at the moment and other sisters that as elections are likely to be held after a few months, this question can then be placed by them before the public. You can tell the people that we have framed such a Hindu Code Bill and want to pass it. If the people vote in your favour on this issue, then we can surely pass it here.

Thus, I would like to request the Government to consider over this matter and not to pass it at this moment. To conclude, I would say this much, "Not to the left, not to the right, come in the middle to find out the golden mean."

Shri R. K. Sidhva (C. P. and Berar : General): Sir, My friend has mentioned the Parsi Matrimonial Act. Will you kindly give me five minutes to explain?

Mr. Deputy Speaker : I am not going to allow it because he did not criticise it in any manner. He said the Parsi Marriage Bill was sent round to all persons all over the world. He used that as an agrument in the case of this Bill which involves three hundred millions people. Therefore on that ground the Hon. Member cannot claim a right to speak.

Shri R. K. Sidhva : No. Sir, He has made incorrect statements.

Mr. Deputy Speaker : Then the Hon. Member must have brought it to my notice. We cannot start an argument over every matter.

Shri R. K. Sidhva : Have I no right to speak on this Bill ?

Mr. Deputy Speaker : Every Member has a right to speak, I have absolutely no doubt about it. Only time does not seem to permit.

* **Dr. Bakhshi Tek Chand** (East Punjab : General): Sir, the debate on the Bill has gone on for several days. Both sides of the question have been put before you. I do not want to repeat the arguments which have been given on the one side or the other. I have only two submissions to make, one to the supporters of the Bill and one to opponents of the Bill and after that I have to place one suggestion for consideration of the House for such changes as I think should be made in the Bill to make it acceptable to all or at any rate to a large part of the House and also of the country. I will ask the indulgence of the House therefore for a few minutes to permit me to place my views before it.

The first suggestion that I have to make to the opponents of the Bill is this. They say that this House is not competent to touch the

*C.A. (Leg.) D., Vol. VI, Part II, 14th December 1949, pp.585-99.

provisions of Hindu law, because it is a matter of a time honoured religion which has come to us through centuries and that it is only a *Pandit Parishad* which will be competent to effect any change. I submit with great humility that is a position which cannot be accepted for a single minute. Hindu law, as has been pointed out by Sir Alladi Krishanaswami Ayyar and others, has never been static. It has changed from time to time. Each time when the structure of society changed a *smritikar* appeared—a sage, a rishi, a muni—and he made such modifications as were suited to the times. This process went on for centuries until the country came under British rule. During this period, the only changes that could be made in the law were either by judges who were to interpret the law or by the legislature. No new sage could appear with the authority of a Manu or a Yagnavalkya or a Viswamitra. Either the judges who were duty bound to interpret the law as they found it in the *smritis* or *nibandas* could interpret it or the legislature had to intervene. It is idle therefore to contend in the year 1949 that the legislature is not competent because it consists of all types of people who are not learned in the smritis. That is a argument which I submit, should be rejected forthwith. If you see the course of events that the legislatures of this country have followed for more than a century, you will find that whenever it was found that the Hindu law or any branch of it was found to be defective, legislation was introduced. It began with the Removal of Sati Act in 1829 under the guidance of late Ram Mohan Roy The custom of *sati* which was considered to be a part of Hindu religion, but which was not really a part of it and which was an abuse, if I may say so, of the principles of religion, had to be done away with and for that purpose legislation was introduced as far back as 1829.

Mr. Deputy Speaker : There is too much of whispering going on. The reporters are unable to take notes. I am also not able to hear.

Sjt. Rohini Kumar Chaudhari : The Speaker's voice is indistinct. He has got two mikes close to each other. We do not hear him properly either.

Mr. Deputy Speaker : He is speaking before the phone. Each seat has been converted into a small phone. What am I to do?

The Honourable Member will kindly resume after Lunch. The House is adjourned till 2.30 p.m.

Shri A. Thanu Pillai (United State of Travancore and Cochin): May I make a suggestion ? (Interruption). My point is this.

Some Honourable Members : The House has already been adjourned.

Mr. Deputy Speaker : You are late. The House has already been adjourned

Shri A. Thanu Pillai : I am sorry. I did not know.

The Assembly then adjourned for Lunch till Half Past Two of the Clock

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The Assembly re-assembled after lunch at Half Past Two of the Clock, Mr. Deputy Speaker (Shri M. Ananthasayanam Ayyangar) in the Chair.

Dr. Bakhshi Tek Chand : Sir, when the House rose, I was referring to the Acts passed in 1829 under the inspiration of Shri Ram Mohan Roy for the abolition of *sati*. Now as we all know, it was argued at that time that *sati* was a part of Hindu religion. It was said that *sati* was one of the essential features of our *dharma* and any interference with it would be an attack on Hindu religion. But the sense of the community prevailed, the law was passed and *sati* ceased to exist. This custom, as I was saying, was not a part of Hindu law. It was an innovation which has been introduced during the, what are called dark ages, or the medieval ages. Luckily that was removed by legislative enactment.

After that we had the 1850 Act for the removal of class disabilities so far as inheritance was concerned. If a person or the heir changed his religion the right of succession was not affected. That was the second great change that was made in Hindu law. Then came another very great reform in 1856 when the Widow Re-marriage Act was passed. For centuries it was believed that the Hindu religion did not permit the re-marriage of widows.

Shri Mahavir Tyagi : May I know. Sir, if the Treasury Benches are represented.

The Honourable Shri K. C. Neogy (Minister of Commerce): Government is one and indivisible and so long as there is one Minister present I think he is competent to represent the whole Government.

Mr. Deputy Speaker : I think it is always a healthy ambition for Members on the other side to come and sit over this side.

Dr. Bakhshi Tek Chand : As I was saying, widow re-marriage was considered to be an essential feature of Hindu religion and any suggestion to repeal that law or to enact a permissible legislation which

would enable a widow to remarry was opposed tooth and nail. But under the leadership of Shri Ishwar Chandra Vidya Sagar and other leaders of that day public opinion asserted itself and this great disability under which Hindu women suffered was removed by another piece of legislation. Well, the Hindu religion did not come to an end by the enactment of that legislation.

After that there have been numerous other Acts by which Hindu law has been modified by the Parliament or the Legislative Assembly of the day. Most of you will remember the great agitation which took place in 1890 and 1891 when the age of Consent Bill was introduced. At that time the cry was raised that it would be a gross interference with the Hindu religion if a legislature consisting of Hindus, Muslims, Christians and dominated by bureaucrats were to legislate in regard to a custom which permitted intercourse with a child wife below the age of twelve. If you have a recollection of what appeared in the papers, even advance papers like the *Amrit Bazar Patrika*, you will see in what kind of convulsion the Hindu society was at that time. But again the legislators persisted and that Bill was passed a Bill which ultimately has culminated in the last session by almost unanimous vote of the House in the further amending Bill which our friend Pandit Thakur Das Bhargava introduced and which if I remember aright was unanimously passed by all sides of the House. At that time none of our friends thought that this Assembly was not competent to legislate with regard to a matter which was considered to be an essential part of the Hindu religion. Coming to more recent times, you will find that in 1916 the Indian Legislature passed what is called the Dispensation of Property Act, an Act which has had the effect of repealing the law which has been laid down by Privy Council in what is known as Tagore *versus* Tagor case. In that case, following certain texts of the *Smritis* the Privy Council had ruled that behests or gifts in favour of a class of persons who are unborn on the date of the gift were void according to Hindu Law. That had continued to be the law for about sixty or seventy years. It had been suggested that that was a wrong interpretation of the texts. The matter was examined and it was found that certain texts according to their literal meaning could only lead to the conclusion at which the Privy Council had arrived. This was found to be a great handicap and a great injustice. Therefore the legislature again intervened and by a unanimous vote of the House, it passed that Bill in 1916.

After that came what is called the Removal of Disabilities Bill. Under certain texts of Hindu Law as enunciated by some of the *Smritis* if a person was suffering from a physical disability, if he was blind, if he was deaf and dumb he was not entitled to inheritance. Many people thought that whatever the meaning of the texts might be, this was a great hardship. If out of five sons, one was deaf or was blind or suffered from some other disability, it was more necessary in his case that he should get a share in the father's patrimony rather than the persons who are physically fit and capable of earning. Well, that text might have been of some validity or of some utility at a time when in ancient times the structure of society was such that in order to increase the family wealth it was necessary that all should work. It had become obsolete and the Hindu community revolted against it and the agitation was such that the Indian Legislature passed this Act in 1928 after which persons suffering from physical defects were allowed to inherit in the same way as persons who were physically sound. This was another inroad into Hindu Law.

Then came another and very important Act, Act II of 1929 by which certain classes of people, who till that time had been ruled by the courts as not entitled to succeed to property, were allowed to succeed. According to the text of the *Mitakshara* school, it had been ruled by the courts in India and ultimately by the Privy Council that there were only five classes of females who were entitled to succeed, because these five were mentioned in *Mitakshara*. The Bombay school was of opinion that this list was not exhaustive but it was only illustrative and the great commentator Nil Kantha and his followers held this practice was due to a wrong interpretation of the *Mitakshara* in Northern India. Well, a Bill was introduced in this Assembly and after a great deal of deliberation that Bill was passed and the daughter, the sister and the sister's son and so on were all included in the list of heirs. That again was a great change in the structure of Hindu Law particularly in Northern India.

You are all aware of the Sarada Act. I will not repeat that. At that time also it was argued and argued seriously in this House also that fixing a minimum limit for marriage was an interference with Hindu religion. Well, the opposition did not succeed and the legislature persisted and the Bill was ultimately passed.

After that, we have had what is known as the Deshmukh Bill. That Bill of 1937 had a great effect : it effected a very great change in

Hindu Law of succession. In areas governed by *Mitakshara* school, when there was a joint Hindu family after the death of one co-sharer, if he left no son the widow was not entitled to any share. She was dependent upon the brothers-in-law or the husband's father and the other coparcener, dependent entirely upon their mercy for their maintenance. She was to receive only food and clothing and nothing else; mere maintenance only. Under that law it was enacted that childless widows would be entitled to the same share of the property as her husband would be entitled to and if she so liked, she could even ask for the property to be partitioned. It was held at the time that Hindu women in a joint family being entitled to sue for partition was considered to be repugnant to the fundamental principles of the Hindu Law, but the Legislature again made this change, a change which was warranted by the changing times, by the rising consciousness not only among women but among the men in this country, among Hindus who wanted that this should be done to their sisters and mothers. Now, at that time also there was a great deal of stir in the country but ultimately that stir also died down. Twelve years have passed and we cannot say that Hindu society in any way has crumbled to pieces or that Hindu religion has been attacked in a very vital matter so that it is now going to pieces.

I come now to more recent times. In 1946, shortly before the present Assembly came into existence, a Bill permitted marriages among sagotras was passed by this Legislature. That Bill did not interfere with the prohibited degrees. Even though persons were living in different parts of the country and did not belong to the same caste, yet because they belonged to the same Gotra according to some technical meaning of the texts, the marriages could be invalidated, Such marriages, even though performed in several parts of the country, their validity was in doubt. That was again an enabling measure which was passed in 1946 and to which no serious objection has been taken.

Now, I would ask Hon. Members to bear in mind what we did in the last April session of this Assembly. My esteemed friend, Pandit Thakur Das Bhargava brought a very simple Bill consisting of one section only, but a Bill which was of a most far-reaching and important character. By that Bill it was enacted that notwithstanding any text of Hindu law or any custom or usage having the force of law to the contrary, a marriage between various castes of Hindus would be deemed to have been validly made. That was a very great step, a

step which permitted inter-caste marriages and which removed such restrictions as one must marry either in his own sub-caste or, at any rate in his caste. That was the measure which was passed by this House unanimously, and so far as I remember at the consideration stage the only voice raised against it was that of Dr. Ambedkar. All other Members orthodox and un-orthodox, person governed by *Dayabhaga, Mitakshara,* by the *Mayukha,* person governed by tribal customs and everybody supported the Bill. Dr. Ambedkar : of course accepted it on a very narrrow ground. He was entirely in favour of the principle of the Bill but he thought that as this Hindu Code which was a very embracive measure was before the Assembly and therefore we should have a comprehensive measure that was a very technical type of objection. Otherwise we all unanimously supported that Bill and it came sometime late at the end of April. Now I will ask my orthodox friends who say that Hindu *Dharma* is in danger as to what has become of that. We were saying when the Constitution was under consideration that we want to have a classless and a casteless society. That is contrary to certain texts of Hindu law which have been in force in various parts of the country for centuries, but still the Bill was enacted and it is a part of the law of the land. At that time, if I may be permitted to say so, nobody took an objection that this House was not competent to deal with it because it had been elected only for the purpose of framing the Constitution or for the purpose of carrying on the day to day administration. Abolition of caste system in the matter of marriages was surely not part of the day to day administration of the country. It was a very vital and a very material and a very substantial change in Hindu law of marriage, the law which prevails in some form or another in all the Schools from Kashmir to Kanya Kumari and from Bengal to Gujarat but we all did it with open eyes when the Bill was passed and Mr. Munshi who was here at that time said that the Bill was a far-reaching one, though the Bill is a very short one; it is a very big change and a very important change. The whole House cheered him at that, I will ask my orthodox friends, the opponents of the Bill where was their regard and their enthusiasm for Hindu Law or Hindu *Dharma* at that time? I submit, therefore with great deference to my orthodox friends that this cry which is being raised, that this Bill which is now before the House is all attack upon the Hindu religion that the foundations of the Hindu religion will be undermined, that the whole fabric of Hindu society and Hindu culture will crumble to pieces or that this House is not

competent to enact a measure of this kind simply because it does not have many learned pandits or that the Members who are here were not elected for a specific purpose. I submit with the due deference that there is no force in this objection and I would most respectfully ask my orthodox friends to consider the history of the legislation which I had placed before them the various measures which we ourselves have passed in recent times and to consider that they might attack the Bill upon other grounds, but to say that this House is not competent either being merely a legislative assembly or that we have got no mandate of the country to look into this measure to enact or consider it and pass it, I submit with very great deference that that argument is not sound. I will ask them to examine the Bill upon its merits to accept it or to throw it out. It is one thing to say that the Bill has not been sufficiently considered; it is one thing to say that there are provisions in the Bill which require further discussion and examination; it is one thing to say that the bill requires to be re-cast in certain matters. Even today as I suggested and as Sir B. N. Rau in his original report of the Committee said perhaps it will be advisable to take this reform of Hindu law in parts. I can quite understand that, but when every morning—I hope I will be pardoned for saying so— every mail has been bringing in letters during these months, letters and reprints from speeches delivered by persons, resolutions passed by the *Dharma Sangh* and this society and that society, all giving the opinion of this great man and that great man and saying that this Assembly is not competent to deal with them : I with the greatest deference and in all humility submit that that is neither correct nor logical nor reasonable, and therefore, I would submit to my friends, the opponents of the Bill not to press those arguments but to look at the Bill very reasonably, rationally and with a proper point of view.

That was my submission to my orthodox friends and now I may be permitted to say a word to our friends, the supporters of the Bill.

Shri H. V. Kamath : Are they heterodox or orthodox?

Dr. Bakhshi Tek Chand : Well let everbody decide it for himself. Now the position is that this Bill was introduced. It had as we know a very brief discussion at the first stage. When we met in the Select Committee we were given only six days to consider this important Bill and when certain objections were raised by Members of the Committee to some parts of the Bill, we were told that the principle

of this proposal goes against the fundamental principles of the Bill which have been accepted by the House when it passed the first reading and therefore, we the Members of the Select Committee who wished to move amendments to those vital matters are out of court and we were out of order. We submitted to the ruling and we had only six days to discuss this Bill in the heat of July and we did the best that we could under the circumstances within the short time at our disposal and within the narrow limits which were laid down by the Hon. Law Minister at that time. That was not only the Law Minister, but there were certain enthusiastic Members of the Select Committee who thought : "Well now is the time we have got this Bill; let us push it through in this very session and before the month of October or November arrives, it will be a part of the Statute Book." Several objections and several arguments were given : 'Let us wait for a few months.' Ultimately the Select Committee decided to proceed with it on a majority of two.

Things have gone in such a way that within one month this Bill could not be put on the Statute Book. Things have dragged on due to circumstances much beyond the control of us, beyond the control of the majority of the select Committee. One point which I raised in the Select Committee and one which I also dwelt at some length in my note of dissent and which I ask the permission of the House to repeat was that this Bill is a very half hearted, and a very, if I may say so, a very truncated measure. I fully endorse the view and I have no hesitation in repeating it, that the time has come when we must give full rights to our sisters and our daughters; that is to say, the time has come when we cannot allow the old texts to continue, or their interpretations which have been given by the British Courts that a woman has not got a full estate, that a woman is not entitled to succeed to this type of property or to that type of property and so on and so forth that must go. In the first place I maintain, and I have always maintained it that all that is against our original Hindu law. I maintain and I hope to show; if the Hon. Deputy Speaker will permit me a few more minutes, that this theory that a woman's estate is limited is a creature, a creation of the British Indian Courts. It is not countenanced, not supported by the *Mitakshara* law not by the *Mayukha* nor by the *Smritis*. All that must be done away with But in order to do that, what shall we do? I suggested that some changes should be made in the Bill, that we must look at it from

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another angle which will give woman a higher status than we have got in the Bill; they said "No, we have got the Bill having the *imprimature* of Shri B. N. Rau and the authority of Dr. Ambedkar, and no change of a substantial nature can be made in it." That was the attitude of the supporters of the Bill. If I may be pardoned for saying that, in the Select Committee and later on also, they have not been less fanatical than the opponents of the Bill. They say, " Well there is the Bill, take it or leave it and reject it if you can. That is being repeated now after the declaration which the Prime Minister was pleased to make a few days ago, and which I know, must naturally, tie down most Members of the House in their vote."

Some Honourable Members : No, no.

Dr. Bakhshi Tek Chand : Well, it will have an unconscious effect, even if permission is given to everybody to vote as he likes. Well, I ask the friends who are supporters of the Bill, I ask my sisters ' Does this Bill do you full justice? Is this all that you want? Does it give you the rights you want?' I say, 'no'; I say most emphatically, 'no, it does not'. It is a most truncated and half-hearted measure, and if I may say so, it will do the maximum of mischief to Hindu society and the minimum of good to the members of the female sex.

An Honourable Member : Are they agreeable to your solution?

Dr. Bakhshi Tek Chand : I do not know. Now I will deal with a few of the provisions of the Bill. One of the provisions of the Bill is that the chapters relating to succession, etc. will not apply to inheritance of agricultural land. Why? Because at that time when the Bill was introduced, the position was that under Entry 7 of the Seventh Schedule of the Government of India Act of 1935, this Legislature, the Indian Legislature could not pass any law relating to agricultural land, that was a provincial subject. Well, that was the position at that time. In 1938, Dr. Deshmukh's Bill was extended to include agricultural land also. The matter went then before the Federal Court and the Federal Court agreed that this was *ultra vires* of the Indian Legislature. That was the decision of the Court and that was the provision of the Government of India Act, 1935. And therefore naturally, Sir B. N. Rau and the Committee, as well as Dr. Ambedkar and his Law department omitted it and they said this is a matter which will have to be left to each Provincial Legislature to deal with. But luckily, by that time, the Drafting Committee of the Constituent Assembly had published its Draft Constitution. In that Draft Constitution it has

been stated that Entry ? in the Seventh Schedule be amended so as to include or rather to make the subject a concurrent subject, namely, the subject of succession to immovable property or movable property, including agricultural land. That was the provision. I suggested at that time, in my minute of dissent, both in the Select Committee and in my minute of dissent, that we might wait for a few months so that whatever measure we adopt to give redress to females, giving them a share in their father's or husband's property that that might apply to all kinds of properties. What you want is unformity of law, and I venture to point out that instead of uniformity, you will have diversity, and instead of unity, you will have confusion. If this provision had been passed, the position would have been, when a man's immovable property is situated in a town, when he has urban property, to that movable property one law, namely the law of Dr. Ambedkar's court but with regard to agricultural land situated, some three miles off, the old law will continue. The sons will have all the rights from the moment of their birth and the rule of survivorship will remain, and nobody will know what is the position with regard to the property. See how many loopholes you are leaving? If you do not want to give the property to your daughter, you can sell her share in Poona and go and buy agricultural land five miles outside and then you can deprive your daughter of her share, and thus circumvent the provisions of the Bill. But now luckily, what has happened? To-day when we are at the end of this first of the second reading of this Bill, the situation is this. The suggestion of Dr. Ambedkar and the Drafting Committee has been unanimously accepted by the Constituent Assembly and it will, God willing, come into force on the 26th January which will be long before the third reading of this Bill. I asked the other day whether he is going to make a change now so that this particular clause in the Bill which excludes agricultural land be removed so that we might give one fourth or half or full share or no share, and he said, "No."

The Honourable Dr. B. R. Ambedkar : I do not think the Hon. Member is entitled to disclose a conversation. All I said was that that was my present view : later on we may reconsider the position, Now that we have power, one of the impediments in our way had been removed.

Dr. Bakhshi Tek Chand : I am very glad that my learned friend has corrected me. I am much thankful to him for the correction, that his present intention is not to repeal that clause, but to retain the distinction but later on...

The Honourable Dr. B. R. Ambedkar : I have not said anything like that at all. I do not think my friend is entitled to use a conversation.

Dr. Bakhshi Tek Chand : No conversation, but what you have said now on the floor of the House.

The Honourable Dr. B. R. Ambedkar : These are matters which I alone cannot decide. I have to take the consent of my colleagues.

Mr. Deputy speaker : The Hon. Member may go on with the Bill as it is, saying that the Bill as it is does not provide for agricultural land. He need not refer to private conversations.

Dr. Bakhshi Tek Chand : Take the Bill as it is. Whether the change will be made now or later with the consent of the Cabinet or other parties is a different matter. But what is the position now. Agricultural land is being excluded. Agricultural land forms more than 80 per cent of the property of Hindus in any part of the country. Therefore our sisters, daughters and other female relations are excluded under this Bill from succession to a very large portion of property. That is another reason for which it is necessary to reconsider the Bill and not to proceed with it in its present form. Whatever law you may have, you should apply it to all property—agricultural, urban, movable or immovable.

Pandit Balkrishna Sharma (U. P. : General): If my Hon. friend will give away for a minute I would like to know, whether, if this law is applied to agricultural property also, it will not lead to veritable fragmentation of land. *(Interruption.)*

Mr. Deputy Speaker : Let there be no interruptions. The closure may come in at any time and I am giving a warning to the House in advance. The less the interruptions the greater is the chance for a larger number of speakers to take part.

Dr. Bakhshi Tek Chand : With regard to fragmentation I am not afraid of it. It is bound to come about if you have a larger number of heirs. If a man has five sons, there is bound to be fragmentation and if he has two daughters also there will be more fragmentation. I am not afraid of fragmentation whether with regard to immovable or urban property also. If you have one or two houses, two sons and five daughters and they decide to divide the property, there is bound to be fragmentation. Therefore, with great deference to both parties this argument is wholly extraneous and should be left out of consideration.

Under this Bill more than 80 per cent of the property is being excluded. That is one serious drawback from the point of view of reform.

One of the objections raised is this. A man may have a house and a small bit of land. Some of the villagers have a *kutcha* shop also. There will be so many divisions and the son-in-law will be introduced into the family. Some supporters of the Bill say that it is a reasonable objection and therefore we must introduce a clause at the third reading by which the dwelling house of the family will be excluded from succession. That is to say, the daughter though she will be entitled to succession, will not get a share in the dwelling house. If that is so that will reduce the urban property still more. Out of the 30 crores of Hindus, except a few rich people, how many possess more than one dwelling house in which the whole family lives? Normally in the villages it is one house and a piece of land. If a trader he has a small *kutcha* shop also. If you exclude the dwelling house from the inheritance of the daughter, you take out another slice from the property.

Another objection is that the sons-in-law will be introduced, and what might happen in most cases is that they will create trouble and since they could not manage the property in another village, they will arrange to sell it to some local person. That will lead to the disruption of the family. To meet that, suggestions are being made that the daughter will no doubt get a share but only its money value. You must then give to the brothers a right of pre-emption within one or two years of the marriage; the brothers will be entitled to pay to the sister or her husband the money value of the share and keep the property. That again, I submit, will lead to great trouble. It will be difficult to ascertain the market value of the property and this will lead to endless litigation and confer little on the daughter. Agricultural land is excluded, dwelling houses are excluded and various other things will come in. It may be said that the whole share is too much, give her a half or a quarter share, I ask why not give her a full share?

If you analyse the Bill calmly and quietly and not take as smriti which has come down from the Heavens, it will be found that it does not give the minimum of benefit to the female heirs.

This Bill will destroy the Hindu joint family. Whether, it is good or bad, people still cling to it. Yesterday our revered brother Mr. Alladi Krishnaswami Ayyar pointed out that in the villages in Madras it is

still in force. My friend Mr. Santhanam may take another view. But it is there. Yet it is there and has a hold on some people, whatever might their proportion. All other principles of Hindu law such as survivorship, succession, the son having a share you are abolishing. What is the necessity? The necessity is to enable the daughter to get a share. I therefore submit that parts 5, 6 and 7 of the Bill introduce drastic changes in the Hindu family system and give the minimum benefit in its present from to the females.

I would therefore ask the supporters of the Bill whether it is necessary to push the Bill to a final vote at this stage either tomorrow or in the next session. Is it not desirable to give the matter more consideration and to see whether there is any other way of securing full benefit to the female members of a joint Hindu family, whether they are governed by *Mitakshara* or *Dayabhaga* and at the same time causing the least disturbance to the systems that prevail in various parts of the country.

I have made my submissions both to the orthodox and reformer friends. I have to make only one suggestion. I have not worked out the scheme in my mind, it will take a lot of time. But I shall place before the House the broad outlines of it. And I will ask Dr. Ambedkar, I will ask the other legal Members, I will ask the reforming Members, I will ask the orthodox Members to see whether that is not an alternative worth considering. In fact, up to this morning I was hesitating to speak on the subject and my view was to place it before the Committee which, it has been promised, will be meeting shortly and I had intended if I am a member of that Committee to place it there. But when I was called upon to speak to day I thought the best course was to place it before the House. My suggestion is this.

What is our objective? Our objective is to give to the female members of our family full right in the property. What we should do therefore is this. Do not disturb the joint family. Do not overrule the law of survivorship. Let them continue as they are as long as they can. But a woman, as soon as she is married, should in the Mitakshara family become a full co-parcener in that property. At present she is a member of a joint family but not a member of the co-parcenary. I will ask hon. Members to permit me for three minutes just to place my proposal before them and then to consider it. Any interruption on that point will not help. It is only a proposal for your consideration, for the consideration of the Committee and for the

consideration of the Law Minister and the Prime Minister and others who may be interested in this matter. At present every woman after her marriage passes into the *gotra* of the husband, and she becomes a member of the joint family but with very limited rights. Up till 1937, her rights as given by the British Indian courts were those of maintenance only. She had no legal right in the property, she could only stay and enjoy it.

That was the position. In 1937 came the Deshmukh Act that on the husband's death she will be entitled to a share of the property—the same share as the husband—and also entitled to have her share separated if she could not pull on with the brothers-in-law or other members of the family. What I am suggesting is this. Add to that, only one thing namely that she will become a full co-parcener. Just as in the *Mitakshara* family, the moment a son is born he acquires the right in the father's ancestral property and from the moment of this birth becomes a co-sharer or co-parcener, similarly let a woman from the moment of her marriage become a co-parcener, with full rights. There may be her own sons and others. They will all continue to live together without any necessity to separate, But if she thinks that it is not possible to live together with them she can separate her share and take it way—separate it in the same manner as she can do under the 1937 Act after the death of her husband. That is one change. If you do that you will not disturb the father's property and you will not disturb the joint family. Let the joint family continue as long as it can. Somebody said it was crumbling. Somebody said it was Cruimbling only for the purpose of Income-tax. Others asked as to how many people pay Income-tax and said that 99.5 per cent. of the Hindu population does not pay Income-tax still they have the joint family system. These arguments mean nothing. If these are the circumstances under which the joint family is crumbling, let it crumble. But let it continue for as long as it can.

What I am suggesting is not something new or something which is against the spirit of Hindu Law. If I may say so, it is in accordance with the spirit of the original law—the law of the Veda, the law as given in the early *Shastra* by Jaimini and others. I do not want to prolong my speech. But I would like to state what the position was in Vedic times and in times which shortly followed. You please read certain portions in Dwarkanath Mitter's book published in 1913 on "the position of women in Hindu Law". You also please read

in Volume XI of the Allahabad Law Journal a very learned article by the late Dr. Satish Chandra Banerjee of Allahabad, one of the most promising and most eminent lawyers that this country had produced but whose career was unfortunately cut short by his death at a very early age. It is a very elaborate article. Also the book of Dr. K. Biswas of Patna. All these contain quotations from the Vedas and other persons who came in before Manu as to what the position of women at that time was. The position of the women at that time was that, she was a full owner of the property of the husband. Maharishi Jaimni says, commenting on the Vedic texts, that "the wife is entitled to the wealth from the moment of her marriage and whatever is acquired by the husband also belongs to her." That is to say she becomes a full co-parcener. Then, dealing with another text, he says "Not only is the woman possessed of the same religious and civil rights as man but all wealth which he (that is the husband) acquires is at her disposal. She is entitled to control even the disposition of acquired property by the husband"—his own acquired property. That is the conception of a co-parcener which we had. Just as a son from the moment of his birth gets a share and can control the father's alienations, unless they are for family necessities or for just purposes, similarly should the woman have the right from the time of her marriage. My submission is, let us go back to these old Vedic texts and all our Hindu law and its glory before the period of degradation began and the rights of women came to be curtailed, and let us make her a co-parcener. That is one branch of my suggestion.

The other branch of my suggestion is the one which Sir Alladi Krishnaswami Ayyar made yesterday that a woman should have full right to alienate her property and this fiction of a Hindu widow's status must be done away with. With regard to that I would ask the indulgence of the House for two minutes. All my friends who are opposing the Bill say "we want to go to the *Shastra*". We don't want to go beyond the *Shastras*, particularly the *Mitakshara* which was followed by the country. With the exception of Bengal the whole country has followed it. What was the law of *Mitakshara* on this point ? I would ask you to look to Vijnaneshwar, Chapter II, Section 11 verses 2 and 4 of his commentary on Yagnavalkya as to what is a woman's *stridhan*. After quoting certain things, that is whatever is given by way of presents to the woman at the time of marriage—which is not important—he says: "And in addition to that, the *stridhan* consists

of all property obtained by inheritance by partition, by seizure (that is by adverse possession)" and so on. That is to say, the property inherited by the woman from her husband or from her father or anybody else ought to be her full absolute property and nobody can control it. This was the law laid down by Vijnaneshwar in the 11th Century. That had continued to be law until the British came. Another commentator of the Banaras school N. S. Viramatadhira repeats it. Nilakantha, the author of Mayukha which is the leading authority in the Bombay Province, particularly in Gujarat and the Island of Bombay again repeats it. Except in Bengal in every other Province, that was the law until the British came. When the British came they said. "Well, let us examine the original texts of *Mitakshara*". They said it was a commentary upon Yajnavalkya. Yajnavalkya used certain specific notes and used the word *adi* and *adi* is interpreted by Vijnaneshwar in this manner. That was the position. A great deal of struggle went on. Of course some Courts struggled, particularly Madras, for a number of years. But ultimately the Privy Council said, "Well we must do it", though it was quite contrary to the rule which the Privy Council itself had laid down that if there was a difference between the *Smritikar* and the commentary we must follow the commentator. That was the rule they laid down, but somehow or other they departed from it here.

So, I say, go back to the Vedic position with regard to the position of a daughter's and a husband's family, and go back to the position of *Mitakshara*. Tear off all this mass of judicial literature which has arisen in this country during all this period and go back to what was the law up to the eighteenth century. If you do these two things, I tell my friends, the supporters of the Bill and those who want to reform, that you will be getting much more. If the woman becomes a co-parcener in a husband's family. You don't disturb the joint family; the sons may continue. There may be good things in it, there may be bad things, but let it crumble away and die its natural death later on. But give the woman a right in her husband's property, the same right as the son or the husband has. There may be some further points to be considered as to how this property is to go after her death and so on, but these are details into which I won't enter. I will ask Hon. Members to give this matter the most serious consideration and then to see whether this is not a scheme which is not much better.

With regard to the unmarried daughter, I see no reason whatsoever why she should not get a full share along with the brothers in the father's property, because no dowry has been given to her and she

should not be made dependent. Some of my friends have been painting glowing pictures of the love which the brother has for the sister and how they take great efforts for the marriage of the sister. Quite true some people do it, many do it, but we know of cases also to the contrary where the brothers, particularly the brother's wife corners the whole thing and very little is left by way of dowry to the sister particularly if she is going into a family which is not very strong and has not got much influence in the village. So, we must make provision for that also. May I say that there is considerable authority in the *Shastras* also for that. Some say her share should be one -fourth, some say equal, some say it should be one-half. I am not for half. Following the Mohammedan law : she must be given full.

Shri B. L. Sondhi (East Punjab : General): For how long will the unmarried girl continue to enjoy the property?

Dr. Bakhshi Tek Chand : Once property is vested, it vests and there is no question of divesting it. After all it won't create much disturbance in the family. We must make some provision; we can see that adjustments are made later on.

A word regarding the Chapter relating to marriage and the Chapter on divorce. My objection to this portion of the Bill is a very simple one. The first part of the Chapter deals with monogamy and I am a whole-hearted supporter of the provision that every Hindu should marry once only and not more than that. The majority of our people do that.

Shri H. V. Kamath : Once or not at all.

Dr. Bakhshi Tek Chand : All the arguments that there is no son etc., are of no use. Where is the guarantee that if you marry three wives one after another, one of them will produce a son? It is all a matter of chance. Therefore that is an argument which does not appeal to me in the least. As a matter of fact and as a matter of practice the large majority of Hindus have only one wife and I see no reason why that provision should not be put in here.

Shri Lakshminaran Sahu : In Utkal there is an excess of three lakhs of women. If you start talking of one for one, I should like to know where would you provide for the three lakh extras ?

Dr. Bakhshi Tek Chand : Here again religion has been brought in. In Baroda, in 1931 the Monogamy and Divorce Bill was passed by a legislature 95 per cent of the members of which were Hindus, under the aegis of a Maharaja who was an orthodox Hindu. For nineteen

years that Bill has been in force. Can we say that Hinduism in Baroda has come to an end because of that Bill? In Bombay Mrs. Munshi's Bill was passed in 1946 and became a part of the law of the land. In Madras, last year, the Madras Legislature passed a similar Bill. Thus, we have got practically the whole of South India where monogamy is a law of the land. Hinduism there has not been destroyed. All our Madras friends are as strong and as kicking as they ever were. Therefore, I consider this provision is a very salutary one and must be maintained.

Shri Gokulbhai Daulatram Bhatt : If you, Sir, permit I should like to ask one or two questions for information sake.

Mr. Deputy Speaker : He does not give in.

Shri Gokulbhai Daulatram Bhatt : Whatever you have said about monogamy is quite true but what I want to ask is whether a man is permitted to remarry in the life time of his first wife if she consents to such marriage?

Dr. Bakhshi Tek Chand : I am very glad, our respectable brother Gokulbhaiji has put that question. I say that you can *get* a woman's consent in any way you like. I have seen notorious cases of that. In one case there was an old man and an old woman. A very learned pandit, an astrologer was brought in and after performing all the *pujahs* he said to the woman. "Your husband is going to die during the course of the next three months; the only remedy against that is that he should remarry and if he marries again he will have a son" and all that. And that old lady, thinking that this great calamity was coming upon her, gave her consent, Now of course, there is not only one woman but five women in that house. *(Interruption.)*

Mr. Deputy Speaker : Order, order. The Hon. Member has been anxious to sit down for the past half an hour but on account of the frequent questions he has to go on.

Dr. Bakhshi Tek Chand : I come to the last point, the question of divorce. One of the great mistakes which have been made in this Bill is to make the provisions for the dissolution of civil marriages similar to the provisions for the dissolution of sacramental marriages. In this respect, the Bill as now reported by the Select Committee differs from the Bill which was orginally framed by Sir B. N. Rau's Committee in 1944 and then revised by him in 1945. What I say is so far as civil marriage is concerned you maintain the present law which gives the same rights as the Bill gives. But do not try to introduce

provision for conversion of sacramental marriage into civil marriage. Sacrament is a sacrament. As has been originally suggested and as has been permitted by some of our old *Smritikars,* the rule of divorce should be limited within the narrowest possible bounds. With regard to this B. N. Rau's position was this.

Impotency at the time of the marriage which has continued up to the date of divorce. This is a condition to which no reasonable person can object.

Then the person may have been an idiot and the fact may have been concealed. This is a second physical thing, which cannot be quarrelled with.

In addition to these two conditions, you can allow divorce when a person changes religion. A Hindu may become a Muslim and marry. Under the fiction in the Hindu law, law that the marriage is indissoluble and the sacrament still continues, the wife is helpless. On what principle can you do that when the husband has changed his religion and gone to another and married wives according to his new religion?

Shri Mahavir Tyagi : Would it not result in this that whenever a divorce is needed instead of undergoing the routine legal proceedings, people will change their religion?

Dr. Bakhshi Tek Chand : No, they won't change their religion. In addition to the above conditions, you can add desertion of the woman for a certain period; call it five years, six years or seven years. These conditions are, I submit, nothing new. They were known to our ancient *Smritikars.* I feel that divorce should be limited to these three or four cases. Have we not seen cases in which the husband after marrying has abandoned his wife? Have these unfortunate women no remedy? They should have a remedy. But I would limit it to these three or four conditions. But do not introduce litigation. If it is a case of providing adultery, evidence can be faked. Some sort of collusive evidence can be produced and the charge proved. But I do want to introduce that in a sacramental marriage. My submission as in my minute of dissent is that the chapter relating to marriage and divorce should be recast. We have two kinds of Hindu marriages: the civil and the sacramental. In the one, you know the conditions under which it can be dissolved. In the other, you can have all your new modern ideas. I would ask the supporters of this Bill to give their serious consideration to it and see whether it improves the position of women. If my suggestions are accepted, it will make the present Bill much

better and women will rise to the full stature of their womanhood. They will have full right to property. It will give them emancipation on the economic side. Under the new Constitution there is adult franchise. We have women Ministers in charge of different branches of Administration. We cannot limit the right of woman, the mistress of the house and say that she would be entitled only to maintenance but not other rights. That would be a gross injustice. It would be contrary to our ancient Laws. What was introduced in between might have suited the particular circumstances and conditions of those days, but they are all outworm. They are not part of the Hindu religion and should be done away with. We should get rid of this jungle growth and go back to Vedic conceptions. These are briefly my submissions and I would ask everybody to give them their serious consideration.

The Honourable Shri K. Santhanam (Minister of State for Transport and Railways) : May I ask one question in clarification? Supposing a woman becomes a co-parcener in her husband's family ... will her share be part of the husband's share or will it be separate?

Dr. Bakhshi Tek Chand : So long as they are joint, it will be joint ownership of the whole family just as you and your sons are co-parceners in the property; but if there is a division, then she will become independent. It is a new addition just as a son. It is very simple.

An Honourable Member : Sir, the question may now be put.

Some Honourable Members : No. no.

Maulana Hasrat Mohani (U. P. : Muslim): I will take only five minutes.

Some Honourable Members : *rose*—

Mr. Deputy Speaker : Order, order. Will all Members kindly take their seats? I find a large number of Members interested in speaking, but as I said yesterday, if we go on at this rate, we may have no time even if we sit for a month or two months. There is no tendency on the part of Members to limit their speeches. This Hindu Code covers not only Hindus, Hindu law of marriage and customs but it applies to Jains and Sikhs also. It does not apply to Muslims, Christians and Parsis. *(interruption).*

An Honourable Member : There are clauses which affect other people also.

Mr. Deputy Speaker : Hon. Members know fully well that when the Speaker is on his legs, no Member should get up. I need not remind

hon. Members about that. I, therefore, propose to call a Member of Jain community and a member of Sikh community and then others. Prof. K. T. Shah.

Shri H. J. Khandekar : (C. P. and Berar : General) : Why not the Harijans?

Maulana Hasrat Mohani : *rose.*

Mr. Deputy Speaker : I am not going to allow this Hon. Member to come in now I will first start with the others.

The Honourable Shri Satyanarayan Sinha (Minister of State for Parliamentary Affairs) : I want to make one suggestion. If the House agrees, we can sit till 7 o' clock today and even after that, if members are not satisfied and there are still others who want to speak we can sit on Saturday also. Government is prepared to allot half of Saturday for this business. There will be no Question Hour on Saturday and before Lunch we will have more than 2½ hours. If that suits your purpose and if the House agrees, the House agrees, then that will obviate all the difficulties.

Mr. Deputy Speaker : I think it is a very reasonable proposal. I have already said the House will sit on Saturday. There is no going back upon that. If owing to exigencies of public business, it is necessary that we should sit on Saturday, heavens will not fall. We are sitting on Saturdays for committee meetings. I have requested the Government to cancel Select Committee meetings on that day. I shall also see that no Select Committee meetings are fixed for Saturday. Hon. Members will be relieved of all other parliamentary work so that they can take part in the discussion on the Hindu Code.

The Hon. Minister for Parliamentary Affairs has just suggested, on behalf of Government, that they are willing to allot Saturday, which they had orginally intended for other Government business, for the discussion on Hindu Code. Finding that more Hon. Members are anxious to speak, they are prepared to allot Saturday, the forenoon of which will be earmarked for non-official Member and the afternoon, allotted to the Hon. Minister of Law for his reply. In addition, he makes another suggestion for the acceptance of the House. It is open to them to accept it or to reject it. In view of that there are many Hon. Members who are anxious to speak. We may sit till seven o'clock today. I leave it at 5 o'clock today, when I shall find out whether the House is tired or is still active to continue the discussion. Personally

I and my friends of the panel of chairmen are prepared to sit till seven o'clock. I am entirely in the hands of the House in regard to this matter.

The Honourable Shri Satyanarayan Sinha : Sir, I said on behalf of Government, that they are prepared to allot half of Saturday for the discussion on the Hindu Code Bill. But as you have already said that the whole of the day would be allotted for this purpose, Government will agree to that.

Mr. Deputy Speaker : I hope Government will accept the suggestion which I have made.

Pandit Govind Malaviya (U. P. : General): Sir, I wish to submit to you in connection with your ruling, that on the assumption that Saturday will be a free day, some of us have made important and unavoidable engagements elsewhere. Speaking about myself, I have got some unavoidable and important engagement on that day. I hope, Sir, you will keep that fact also in mind. If we had known that Saturday would be a working day we would not have done that. Now this will be upsetting all our engagements, and I, therefore, request that instead of Saturday some other day might be fixed for the discussion of this important measure. It is open to the Government to do so easily. They can take up Government work on Saturday and allot some other day for the discussion of this measure. We will have no objection to that But I hope that the House will appreciate that if others who wish to take part in this debate, are not able to come on that day, they should be given some consideration.

The Honourable Shri Satyanarayan Sinha : I think, Government will have no objection if Hon. Members wish to sit on Monday. On Saturday we shall take up other Government business.

Shri Ajit Prasad Jain (U. P. : General): Why not continue tomorrow and finish the discussion on this Bill?

The Honourable Shri Satyanarayan Sinha : On Saturday we are meeting for Transacting Government business. Government is prepared to have the discussion of this Bill put for Monday, but all the same Saturday will be an Official day.

The Honourable Shri K. Santhanam : Members will have less time on Monday than on Saturday, But if the members are willing to conclude the debate on Monday we won't have any objection. But if the postponement is due to dilatory tactics. . . .

Mr. Deputy Speaker : I am really sorry, our friends are not cooperating. A suggestion came from Pandit Govind Malaviya and some

other Hon. Members—he is an important member and is taking keen interest in this Bill on one side or the other—that they would prefer this measure being taken up on any day other than Saturday and Government in consideration of their wishes was prepared to take it up on Monday. The Government spokesman has said so. Hon. Members are aware that on Monday there will be the question hour. Knowing this full well they have accepted that day.

Sjt. Rohini Kumar Chaudhari : Most respectfully I would like to point out to you, Sir, that Saturday is a holiday given to us for certain purposes. I am willing to forego that holiday if there is an important reason for it. Now I want to ask this House, is it convinced, is it willing to finish this Bill as early as possible? What is the urgency for this Bill? We have more important Bills. We have the Insurance Bill which, according to you, must be passed into law this session. If this Bill .....

Mr. Deputy Speaker : The hon. Member will resume his seat. We have been hearing this objection from some Hon. Members that there is no hurry to get on with this Bill. I am afraid there is no unanimity of opinion in this House so far as that matter is concerned. If there was that unanimity we would not be thirsting for time like this. It is a well known fact that opinion on that point is divided. On the mere suggestion of one Hon. Member I do not want to take the opinion of this House.

Now it is clear that Saturday will be an official day when official business other than the Hindu Code Bill will be transacted. On Monday I propose to allow the non-official members to speak till mid-day. In the afternoon I propose to call upon the Hon. Dr. Ambedkar.

Shri Mahavir Tyagi : Several of us have been waiting long to catch your eye. Shall I take it as your ruling that, on the Hindu Code Bill no more Hindus shall be allowed to speak?

Mr. Deputy Speaker : I did not say so; nor would I say so. The Hon. Member has, unfortunately, though he is very alert, misunderstood me. All that, I said was that, not one single Jain or Sikh member, to whom also this Bill equally applies, has spoken.

Shri H. J. Khandekar : What about Harijans?

Mr. Deputy Speaker : The sponsor of this Bill is the Leader of the Harijans. It is no good saying that the Harijans do not belong to the Hindu community. I think Harijans are as much Hindus as any others. This caste consciousness need not be pursued any further.

All that I said was that Jain and Sikh members will be given preference to other members. I have no intention of shutting out any others.

As it stands at present, I find that the suggestion of the Government is very reasonable. They have spent so many days on the discussion of this Bill and have given one more day. If still on Monday, it is the general wish of the House that they should go on, I am absolutely in the hands of the House. So far as the Chair is concerned, it is satisfied that there has been sufficient discussion.

4 P.M.

Shri Mahavir Tyagi : I protest against this. I feel that the Chair's benign eye should not make a distinction between any class, caste or creed. Your eye should go round the House without distinction of majority or minority.

Mr. Deputy Speaker : The Hon. Member has thoroughly misunderstood me. Whenever a Bill comes up for discussion which affects certain communities—unfortunately there are different communities in this country—a chance should be given to the representatives of all communities to express their views. If the Hon. Member reads this Bill, he will find that the scope of the Bill includes Jains and Sikhs also. A number of Hindus have already spoken and so I must allow some Jains and Sikhs to speak now. We must know their viewpoints before we go through the Bill clause by clause.

Shri Mahavir Tyagi : I protest .....

Mr. Deputy Speaker : I cannot tolerate this. The Hon. Member will kindly note that it is improper to use this language.

* **Prof. K. T. Shah** (Bihar : General): Sir, originally when the Bill was first introduced and this motion came before the House, I had no great intention to intervenue in the debate. But now that the debate has proceeded so far and a variety of view have been placed before this House, now that there is freedom of voting from Party mandate, I feel it necessary to make some observations arising out of the motion, and of the Bill, which I trust, will receive the consideration of the Hon. the Law Minister and his colleagues.

You Sir, have been pleased to say that I have been called upon as a Jain to speak on the matter. I stand here only as a member of the House, and can claim no special right or privilege to speak as a member of any community. I call myself only as Indian citizen and

*C.A. (Leg.) D., Vol. VI, Part II, 14th December 1949, pp. 602-607.

do not regard a belief in any particular faith a qualification or a disqualification for participating in discussions like this. I speak only as a member of this House.

Sjt. Rohini Kumar Chaudhari : On a point of order, Sir, you called upon Prof. Shah to speak on behalf of the Jains but he says that he does not claim to represent the Jains.

Mr. Deputy Speaker : It is no point of order. '

Prof. K. T. Shah : I may also add at the same time that I am going to support in general the provisions underlying this Bill even though I happen to have tried to form an opposition which is not yet recognized. Coming though, as it does, from a member professing to be in the opposition, and coming also from one who has consistently opposed almost every provision of the Constitution, every attempt at legislation of a structural or reforming kind that this Government has made. I hope and trust that the support that I am now extending, unconditionally and unreservedly to Bill will meet with the appreciation that it deserves. Unless Government feel the wisdom of the old saving that the Devil may also quote the Scripture and that, therefore any support coming from me should be looked at askance, it should be welcome. If that is their view, the opposition to this Bill would be served much more effectively by me than I at least would like to wish.

Holding this view, Sir, and offering my co-operation in this manner, I would like to say in all humility, with the utmost deference to this House, and even at the risk of incurring the charge that we as a people lack a sense of humor, I would not like to use any expression or illustrating which might in any way introduce a tone of levity or lightness in this discussion. I regard this matter, this subject, as so vital to the very existence of our country, I regard this Bill as of such far-reaching consequence that I will not allow any expression or illustration to creep into my remarks which might in any way give any observer, any outsider, any student of our affairs, an appearance as though we are not sufficiently serious in this matter.

Having made these observations, I would proceed to examine some of the objections that have been raised some of the pleas that have been urged in regard to the subject matter or even the basic principle of the Bill. The challenge has been made, Sir, whether this body is

competent to deal with a subject of this character, whether the House has been elected on a clear issue to determine the contents of this Bill, or whether there is sufficient urgency in this matter to allow this House to deal with this proposition. I for one do not think that there can or should be a question about the competence of this body to deal with subjects of this character. The Hon. Member, who spoke just before me, has given a number of illustrations in which structural changes including the Constitution had been proposed by legislative measures in this House and carried. Even more important reforms had been made by the legislature preceding this which was not of the same sovereign character that this Legislature is, and therefore the question as to the competence of this House to deal with matters of this character seems to me to be irrelevant, unbecoming and if I may say so, not quite respectful towards this Assembly, for while it is quite true that this single issue was not placed before the electors, those of us who recollect the manner and method by which we have been elected to this House will realize that not on any issue was this House elected except that of acquiring independence and shaping a constitution for the country. If you press that argument too far, I am afraid you will render many matters with which this House has dealt with as either illegal or *ultra vires*. I would not like therefore that any suggestion of this character can be or should be advanced so as to throw any doubt whatsoever, on the competence, the authority and correctness of this House in dealing with and disposing of such matters.

4 P.M.

Sir, in general elections also, it is not possible to have each issue separately examined. As all those, who have an experience of popular general elections, will realize general elections are always fought on a multiplicity of issues. There is therefore not any clear indication of a majority on any individual issue of such complexity as we are dealing with now. Unless the Constitution provides a method like referendum, unless we had a constitutional device like that suggested by Mr. Gokulbhai Bhatt, we would find it extremely difficult if not impossible, to get a clear verdict of the people on issues of this character. There would really be no means of ascertaining popular opinion. Even then there may be those who would say, given the state of public education in this country, given the state or the condition in which the press in the country is monopolized by a few individuals, given also the lack of experience of the voter in matters of this character,

the decision of the people, even if competent, may be open to question. I would therefore suggest that an argument of this character ought not to influence the judgment of this House and we should confine ourselves to the discussion of the proposition, as I am happy to see in many quarters it has been.

The opposition to the Bill is led and is made up of people for whose opinions, I have personally very warm regard. I am not, therefore, prepared to say that this is an opposition of vested interests, that this is an opposition inspired by ulterior motives or dictated by other considerations. I fully realize, Sir, that the opposition has in many cases very serious grounds for holding the views that they do, and though, I have the misfortune of differing from them, I cannot for that reason say that their views are not entitled to the widest consideration we can give them. On that standpoint, I feel that there is a great deal of force in the arguments of those who question the urgency of the matter and are prepared—if not differ discussion— at least take much more time on the discussion than seems likely to give to this matter, but by saying this, I should not be misunderstood I should not be understood to say, that I would like the matter to be indefinitely postponed. I should like this body whose sovereignty, I would not question, to give a decision on this matter once and for all, and though I am fully alive to the consideration advanced by one of the hon. speakers that there is no guarantee that the next House will accept the decision, even if we give it, I feel that once an indication is given, once a sign-post is erected, once a road is built, it would be difficult to reverse the engine and go back. However, that is a matter of faith rather than of reason, of general belief rather than of intellectual conviction, and I am therefore, open on this matter, altogether, but taking however into consideration the main points that have been urged against the merits of the provisions contained in the Bill, I feel it impossible to accord my support to the opponents of the several sections of the Bill, several chapters in the Bill, or the provisions in the Bill. The main difficulty centres round, so far as I can see on the position of women. I have already said Sir, that I have not the slightest desire to bring in the least bit of levity in this discussion, and therefore, some of the arguments, some of the points made earlier in this debate on this matter leave me somewhat cold. We are building up a country of equal citizens irrespective of religion, sex, class or creed. If that is the principle upon which we take our stand, if that is the preamble of our Constitution and the guiding

principle of the life that we are to build up for this country hereafter then I think that the provisions of this Bill are in full conformity with the ideals enunciated in the preamble to the Constitution and as such, anything which we now propose, that would be in any way different from or derogatory of this provision, ought not to be accepted by us. The attempt made in this bill to place women on a position of equality in regard to family relationships, in regard to inheritance, in regard to property, in regard to marriage or divorce, is an attempt not only in consonance with conditions now prevailing all over the world and coming into vogue in our society as well, but are conditions, which in my opinion are dictated by a full realization of the actual conditions and observed trend of events everywhere. It is true that for ages past, marriage has been regarded as a sacrament, but there is nothing, so for as I can see in this Bill, to prevent anybody from realizing and treating it even today as a sacrament. After all, I venture to submit, sacrament is a mere matter of your own heart and creation than an imposition from outside. How many sacraments are there, which though continuing to be sacraments are daily broken, broken in the worst possible manner and disgrace, both the breakers and those who are parties to that? Sacraments cannot change merely because the law gives a particular character to the relationship of man and wife as is attempted to be in this Bill. Whether or not, the law declares and recognizes a union to be a civil marriage or a civil contract, those who are parties to such a union, who have a very highly idealized opinion of the nature and function and objects of such a union will not cease to continue to do so. If however, circumstances develop which make it impossible for them any longer to continue in that position, if conditions develop which make it impossible to maintain that high ideal. I for one think that it would be much better to discontinue the relationship by any legal and reasonable manner that can be found than to continue it to the mutual prejudice, to the continued misery of the parties concerned or the offspring. It is not a very pleasant matter, Sir, to suggest that there should be freedom for divorce if unions could be all made in the form in the ideal, in the spirit in which they were supposed to have been made, but we live in a mundane world, with material considerations, with human weaknesses and therefore, it is too much to expect that merely by an ordinance, merely by a fireman, we would continue to keep and maintain unions in the idealist sense in which they have been believed conceived and maintained.

Permission, therefore to dissolve in a legal, reasonable public manner unions which have become oppressive, which have become a source of misery to the parties and their off-springs, is nothing more in my opinion that a recognition of the actual prevailing circumstances and the developments that may have in any given case taken place, and therefore, it is that even though one may not like the idea, one must recognize realities, one must face the actual position and admit that it is much better that we should discontinue or dissolve such unions than that we should continue a misery for such parties.

The idea that these unions should be monogamous in character while they last is also one which in my opinion is the basis, is the foundational condition of a continued happiness, continued success of such unions. There may be occasions, however, when such unions as I have just said prove unbearable or intolerable by circumstances that neither party could foresee, but in that case, without too much fuss, without going into an operation that might involve washing of the dirty linen and mere playing to the gallery, so to say, by sensationalism, we might in our law devise machinery by which this union could be easily dissolved without unnecessary prejudice to any party. I do not see therefore that we need insist upon reasons or conditions or excuses that any other legal systems have been made necessary for granting divorce and I think it would be much better if divorce is made easy, simple and unexpensive, more than is at any rate, the case in some of the western countries whose model we have been following. The question of inheritance, the question of enjoying a share of the patrimony is again one which does not seem to me to be a just cause for the degree of heat that it seems to have evoked in this House. After all, in this country how many people are in a position to have property and leave such property outside beyond their life? If you go by standards, if you go by measurements such as that of the income-tax statistics, you will find that perhaps less than a million people are in a position to have an income of about Rs. 250 a month and that would include all people, not only those who are regarded as income-tax payers, but those who try or manage to escape that.

In a population of over 300 millions, the income tax paying class number about one million, or with their dependent about three to four millions and that is less than one per cent of the total population who can possibly afford to have some property that can be divided or that can be the cause of disaffection or of inequality of rights as

between the descendants of common parents. I see really no reason why on this subject any heat should be generated, as regards the recognition of equal rights of daughters and sons in the matter of division of patrimony. Speaking for myself, I may say, I do not believe in any property at all, and the sooner the day comes when property as a whole is abolished, when provision is made for everybody by the community, provision to see that everybody gets work and gets his or her wants or requirements met, the sooner that day comes the better for the community. And this source of evil, a learned lawyer called it the source of strife, I call it this property which is the source of evil, I say that property should be abolished, and the sooner it is done the better it would be for the community and for legislations of this kind. If it were possible at this stage to suggest an amendment of the kind I like, I would even suggest that all clauses relating to property be abolished or deleted and a simple proposition be inserted, that while property continues, property of any kind, both land or personal, it shall be equally divided. That would be sufficient for the time being and we ought to endeavour that the day draws nigher and nigher when property as a whole will be abolished and everbody would have the same right to work, the same right to enjoy a given standard of life as those who are advantageously situated with patrimonies in their hands.

On these two crucial issues therefore, one of marriage and the other of inheritance, I say that the Bill goes no further than what conditions around us necessitate. If and while you maintain an individualistic society, if and while property remains to be the corner-stone of or the foundation of your social system, and the profit motive remains the governing impulse of the social machine, so long I see no reason why there should be inequality. The equality should not be merely nominal. Political equality, the right to vote would mean nothing so long as economic equality also is not assured to every human being, to every citizen of this country. One has heard a great deal and I was very glad to hear it all that in the essence of Indian civilisation, in the essence of our social system, the highest honour is paid to womanhood. If that is true—and I do not doubt it—then I do not see why mere sanction of equality in property should be excluded, if you are really so worshipful of womanhood, if you are so respectful and reverential to womanhood, why do you hesitate at all to give her equal right to what after all, is mundane property, that which must

be left behind by every one of us. However much we may be attached to it, however much one may hold and accumulate property, I do hold and I say it with the utmost reverence and the utmost humility, that I consider that in the process of evolution, woman seems to be more highly evolved, a finer organism than man, it is not, however, any disparagement of either sex. All I say is that, given the function that nature seems to have entrusted to women, given also the function and the objects with which womanhood has to deal in this social system, we cannot rever, we cannot regard or respect womanhood too much, and as such I would not like the least sign of inequality, the least semblance of differentiation or invidious distinction between man and woman, as between son and daughter of the same parents.

The question, however, of adoption or of guardianship and so on, does not interest me to the extent that some Hon. Members of this House seem to be interested in it. Adoption or for the matter of that, testamentary powers appear to be artificial extension of the human personality beyond death which is utterly unnatural, in my point of view. It is bad enough to have and hold and control property, it is bad enough to have and hold the property and the profit motive in our minds while we are alive. Why should we continue to prolong our personality? Why should we desire to insist upon our orders being obeyed even after death? Why should there be this artificial extension of personality by such an instrument as adoption? Knowing, however, that it is an ancient institution, knowing however, that it is an institution which many regard as a point or as a factor in their salvation, I am not prepared to suggest that here and now we should abolish it. I am prepared to say, if you regard it as a source of your salvation, if you regard it as something by which your personality is perpetuated, your civilisation or culture or work in life is continued, then it is necessary. But, in that case, you need hot have inequality between man and woman. No discrimination or legal restriction between man and woman. The same right should be extended to every one in the community. I base my support of this Bill on grounds of social justice, economic equality and of political propriety. I should think that the Constitution that we have adopted, that the ideals that we have held before us, that the hopes that we have entertained of a planned and

progressive society here after, in view of all that, I think we cannot do better than take this Bill as the beginning in the right direction.We cannot do better than recognise the provisions it has incorporated, regarding removing all inequalities as between man and woman. It is not merely a matter of recording every five years or every three years one's vote at the general election. It is also a matter relating to life and work, of equal opportunities to health and education of standard of life and the same fulfilment of the elementary wants of human beings, in the matter of food, shelter and clothing. These should be available, and should be made available if they are not available by the concerted and common action of our society as a whole. Society should realise this obligation that it is not merely a paper proposition that we have enunciated in our Constitution, but it is a sacred duty and obligation that ought to be discharged at the shortest measure of time that we can manage it, that all these things should be made available to every citizen of the country so that the hopes and aspirations that we have formed, so that the hopes that we have entertained ever since the freedom of this country was achieved, could be realised. It has been said by a very great American—President Lincoln, that a nation cannot be half slave and half free. While not exactly Slaves one half of this country, of our community still feel disabilities and weaknesses or invidious discrimination against them, which it does not wish, should be allowed to continue any longer. In this connection may I mention a statistical fact which perhaps is not realised by every person in this House. It is this. While woman is in a majority at birth, on the overall population she is in a very striking minority. Whatever may be the conditions in a province like Utkal, on the whole, in India woman has always been in a minority almost beginning from the age when marriage begins, from about fifteen onwards, their numbers go on thinning so that in the over all population woman was and is still in a minority. What is the significance of that?

[*At this stage Mr. Deputy-Speaker vacated the Chair which was then occupied by Shri S. V. Krishnamoorthy Rao (one of the Panel of Chairmen).*]

I for one think, that is because of the unequal treatment given to women as between boy and girl, as between son and daughter that

it has resulted in a majority at birth being reduced to a minority on the whole, so that that charges of unequal treatment must be faced. Here is a Bill which tries to remove that. There are many provisions in the Bill which may not satisfy everybody, even those who on principle accept the Bill, even those who realise that it goes a great way forward in rationalising our society, simplifying our legislation and organising our social system to a given end. But we are not discussing details just now. Specific provisions apart, the principle underlying the Bill, the motive spring of the entire structure should commend itself to the House and I trust the House will accept it.

Shri Lakshminarayan Sahu (Orissa : General): *(English translation of the above speech)* I would like to say, Sir, that I did not mention this thing as a joke that there are more women in Utkal. The number of women in Utkal exceeds by three to four lakhs and when it is not possible to find out a match for their marriage, then they are married to a *Sahada* tree.

Prof. K. T. Shah : I am speaking of the whole country and not of any particular province. Therefore it is not necessary for me to answer this particular question. Let it be left there.

***Sardar Hukam Singh** (East Punjab : Sikh): Sir, at this late stage of the debate, I feel it is not very easy to advance fresh arguments or make new points on the subject on which so many distinguished lawyers and eminent scholars have taken part for so many days. But as I have been called as a representative of a particular community to which this Bill applies, I must say something which should represent the feelings of my community so far as this particular code is concerned.

I do not agree with my learned friend Prof. Shah when he said that he wants to speak only as an Indian. I would have gladly repeated the same phrase, had this code applied to every citizen of India but as it stands it applies to certain communities only. Therefore I feel and believe that I have a right and a duty to speak on behalf of my community.

*C.A. (leg.) D., Vol. VI, Part II, 14th December 1949, pp. 607-10.

Though I have the advantage of having heard so man scholars at the same time I feel I have certain disadvantages as well because most of the things have been said and if I repeat them they would look stale. I have, therefore, decided to confine myself to certain points only which particularly concern my community and on which I feel that I have to express my views.

At the outset I might make it clear that I do not want society to stagnate. I am not one of those who would say that social laws should remain as they are, I would like to change them as times change. I am not so orthodox as to say that we have no right to march with the times. Nor am I of the opinion that this House is not competent to enact this legislation on account of its being elected indirectly or on account of lack of a special mandate as regards this Bill or on account of any other reason, I feel that this House is competent to enact any legislation and hence this Bill also is within its competence. In spite of all this, I feel that I cannot lend my wholehearted support to this measure as it stands.

If the original scheme had been adhered to as suggested by the Rau Committee, perhaps certain portions of this Code might have been passed without opposition. There must be unanimity on certain branches of this Code. But I will confine myself to certain points only and therefore I do not want to touch on all aspects of the general principles of the legislation.

The Preamble says that the Bill is intended to amend and codify certain branches of the Hindu law as now in force. But when I look into the Bill, I find that there is nothing of Hindu law that is being codified here. Divorce is being taken from the Christian countries and the law of inheritance from Muslim law. To me it is rather a misnomer to call it a codification of Hindu law.

Dr. Mono Mohon Das (West Bengal : General): There are so many castes and tribes in the country among whom the divorce custom is prevalent. Are they not Hindus? Does the hon. Member want to get rid of them?

Sardar Hukam Singh : If you will permit me, I will come to that question later. I hope you will have the patience to hear me.

As I said I will confine myself only to certain points so far as my community is concerned and will not go beyond them. In the Preamble, it is said, that the Bill is intended to amend and codify the Hindu law and I repeat that I do not find that in this Code. If

as we were told by the Mover at the outset that 90 per cent, of the people have divorce, I have no objection and let them remain as they are. You might call that Hindu law but not this system you are introducing in this Code.

In clause 2, it is said that this Bill applies to Sikhs as well. It would have been a matter of gratification or even of much pride to us, if Sikhs had been included among Hindus for the conferment of certain rights. But what I find here is that as soon as the embrace is extended in clause 2 a severe blow is dealt to all coustoms and usages by clause 4. All custom is gone and usages eliminated. I must submit here that "custom" in clause 3 has been defined as "having been continuously and uniformly observed" and that it must be "certain and not unreasonable nor opposed to public policy". Why should such a sacred rule of conduct be treated with such contempt that it should be ruled over once for all? I have grave objection to that. My objection is particularly based on this fact that my Province, namely the Punjab, is a Province where custom is the first rule of law. In all matters like divorce, marriage, succession, inheritance, wills etc. custom is the first rule as is laid down in the Punjab Laws Act. They have those customs which they observe from a long time and everybody in the village understands what that rule is which he is to observe. There have been judicial pronouncements on these customs and they are ordinarily understood by every villager, There is no dispute about that. Therefore, I feel that this change would bring about a fresh phraseology and would create complications for simple peasants who have all along understood their laws well.

My second objection is about marriage. I might make one observation here. It might be said that the Sikhs have all along been governed by Hindu law up to now. But what I object to is the change that is being brought about. I have no objection absolutely if the Hindu Law were to continue as it is. But as the changes are being brought from outside, I feel the Sikhs must have a grievance and feel that either customs should be allowed to remain as they are or they should not necessarily be bound to revolve round the wheel as it goes on. I was referring to the marriage question. Of course I feel that in Hindu law or in Hindu culture the wife has so long been advised to merge herself into the will of the husband. She has been an embodiment of sacrifice. That has been her nobility and greatness. If now our females feel that they have been subjugated for so long a time, that

they have suffered and that they are not prepared now to continue to suffer, I would certainly advise my brothers to take up the subordinate position. But I feel that this insistence on equality in every matter and in home life would not be conducive to happiness or peace in the family.

Then again my complaint is that only two kinds of marriages have been recognised in this Bill. One is the sacramental form and the other is the civil form. I must inform the House, though I believe, most of the Members would be knowing it already, that the Sikhs have another form of marriage which they have observed for the last one hundred years. That is called Anand marriage ceremony. That is a simple form. The couple are brought before the Guru Granth Saheb, they take a vow and go four times round the Granth Saheb, then offer prayer and then the marriage is complete. Now, it is not civil marriage because it has not to be registered anywhere. It is not scramental marriage because the *sapinda* relationship or the restrictions of prohibited relationship degrees are not adhered to strictly. Therefore what I am afraid of is that this form of marriage that we have been observing for so long would not be a valid marriage. Doubts arose in the beginning of this century and then a particular Act had to be passed in 1909—the Anand Marriage Validating Act—when it was enacted that all marriages solemnised according to this form were valid. But now, as I read it, I am doubtful whether this marriage will be recognised under the Hindu Code. Therefore, I feel that the Sikhs would feel much concerned over this and would have grave apprehensions over this matter particularly. I want to bring it to the particular notice of the Mover that, left to themselves, they are not prepared to forego this form of marriage and he should take particular note of this.

Mr. Naziruddin Ahmad (West Bengal Muslim): Such a marriage would be invalid under this Bill.

Sardar Hukam Singh : I also feel that it would be invalid under this Bill and that is why I am submitting the position before the House and before the Mover particularly.

Then I have to submit one observation about divorce. It has been said that divorce is already there among a large percentage of the population. It may be. My appeal is this. If it is there let it go on. Do not restrict it with certain conditions that would make it more expensive. An ordinary man would feel that this change is not for

the better but for the worse. If they have an easy mode of dissolution of marriage now and are hereafter being compelled to resort to some more complicated and more expensive method, certainly they would not welcome it. It is argued that there are evils creeping. The bill is a permissive one. That there is no compulsion for anybody, but we have to be on our guard whether the remedy proposed is not worse than the malady itself. There are evils no doubt to a certain extent. But if we loosen the bonds, a small percentage of the population would be happy to break all ties and secure relief from their self-created miseries. But what about the large minority? Would you not be opening a trap for them, and a temptation to make mistakes, and have a trial of their future as they will realise that there is a way out to end it?

Then I come to my second main point and that is about adoption. Adoption in my province, that is the Punjab, is a peculiar institution. It is called the customary appointment of an heir. It has nothing to do with religion. It is a simple declaration for practical purposes, where the owner of a land nominates a person who is to be his assistant for cultivation during his lifetime and an heir to his farm after his death. As I have said, it has nothing to do with religion. There is no restriction as to age or as to relationship. You are now proposing in this Code that a daughter's son or a sister's son may be adopted but I must convey to you that already in the customary appointment of an heir daughter's sons are most ordinarily appointed, sister's sons also are appointed. There are absolutely no restrictions. A young man can adopt a man of his farmer's age, a man with many sons might be appointed as an heir. That might look strange to some people here but I tell you that it is a fact. A married man, a man with children might be appointed an heir. That is a most secular institution; it has got nothing to do with religion. How are you going to provide for such an institution? Are you going to throw it out? Surely that has the sanctity and sensation of ages, it is so popular in our part of the country that it cannot be thrown away like that. People would not submit to it so easily and so far as this part of the law is concerned, it would be a dead letter if it is pressed and forced on our people there.

Then there is the question of succession. I agree with my friends that our females, sisters and daughters, should have a share in the property, but I cut it short by saying that I agree with my learned friend Dr. Bakshi Tek Chand when he enunciated some time ago that

they should have a share in the father-in law's property and not in the father's property after marriage. I have particular reasons for that because as I have stated the circumstances of my province are very peculiar. The Punjab is a province of small peasants; small farms of three or four acres are the ordinary holdings. Such a person cannot be expected to have more than two bullocks which he might have secured after raising some loan, one *hal* and one *panjali* and one *gadda* also to take manure to the field or to bring fodder from the fields to his house. The Code would not apply to agricultural land, but what about the movables? What about his bullocks? Take the simple case of a family with one son and one daughter. The father dies, these movables are to be divided among these two. *(An Honourable Member : Why not ?)* I don't say that , I say it must be divided. Ordinarily they would have a cow as well and I think the Mover would have to give us the mode of dividing that cow, *hal* and *panjali*. The son-in law who comes from a distance, of say fifty miles, is interested in that part of the country; here he cannot live with this brother-in-law because the four acres holding cannot provide him with anything. His interest is elsewhere and therefore he must divide the property and go away. The sister would demand her share; surely she will take away one bullock, one half of the cart, one half of the *panjali* and would go away never to come back, thanking the framers of this Code, and of course not to be welcomed again ! *(An Honourable Member*: The brother's own brother-in-law will thank him !). That is a very easy question that is put, but it is not realised that when there are more than one-two, three or four—brothers in the East Punjab, they join the army, they are adventurers, they have gone to the farthest corners of the world to Argentine, Brazil and South America. They bring money from there and buy more lands, they live together with a common kitchen.

Sir my submission is that this provision would create difficulties. I agree with my learned friend Dr. Bakshi Tek Chand that so long as the daughter is unmarried she must have a share in her father's property, but as soon as she is married she must be transferred to her father-in-law's, there to have an equal share with right of partition and everything else. I am not against giving a share to the females— I might not be misunderstood in that respect.

I am afraid that our educated girls have much leisure. An ordinary girl, when she gets educated, does not absorb herself in the household

duties, therefore she has not enough work to keep her busy in the house.

[At this stage, Mr. Deputy Speaker (Shri M. Ananthasayanam Ayyangar) resumed the Chair.]

The State should provide occupation for their leisure hours, give them useful and constructive work to do. Legislation like this and divorces would not root out the evils that you want to eradicate. Before destroying the joint family, the State must provide for old-age maintenance, illness allowance and several other things. If the pious duty is gone a mere charge on property would not do. The effects of this legislation, so far as I can think out, will be further fragmentation, love and sympathy, eliminated divorce and partition courts in larger numbers, female infanticide promoted, and care and attention of children neglected.

Shri V. I. Muniswamy Pillay : *rose*—

Shri B. Das (Orissa: General): Sir, are we continuing till 7 O'clock..

Mr. Deputy Speaker : I have no objection to sit till 7 o'clock. What is the general sense of the House?

Some Honourable Members : No. no.

Shri L. Krishnaswami Bharathi (Madras : General) : Sir, we can sit as long as there is a quorum.

Some Honourable Members : No, no.

Mr. Deputy Speaker : I have heard sufficiently. One voice cannot multiply itself into many. How long is the hon. Member likely to take?

Shri V. I. Muniswamy Pillay (Madras : General): About fifteen minutes.

Shri L. Krishnaswami Bharathi : Sir, the idea is to give opportunities to as many Members as would want to speak. It is rather surprising that people don't want to speak. I suggest that we sit as long as people are ready to speak and we are here to hear and when there is no quorum we will automatically stop.

Shrimati Purnima Banerji (U.P. General): The argument forwarded by hon. Members is that many members want to speak on such an important measure as the Hindu Code. When there are so many of us who are willing to say what we want to say and can be accomodated what is the objection to sitting till seven?

5 P. M.

Mr. Deputy Speaker : I entirely agree. If majority of the members are willing to sit and speak I have no objection.

Some Honourable Members : Yes, we are willing.

Mr. Deputy Speaker : Very Well. Let Mr. Muniswamy Pillay finish. We will see.

*** Shri V. I. Muniswamy Pillay :** Coming as I do from a community that was at the outside of the Hindu Society for centuries, I welcome this measure of religious and social reform. We, who form one-sixth of the population of India, welcomed the advent of Mahatma Gandhi who revolutionised the Hindu society so that not only Caste Hindus but all sections of the Hindus could have an equal place. Some of the friends who preceded me said that religion was in danger. I do not know wherefrom and in what from their objection springs. This country is proud of many *Avatars*—Lord Buddha, Sankara, Ramanuja—and great social reformers like Ram Mohan Roy and in the present century, the great Mahatma Gandhi who found that untouchability was eating into the very vitals of our nation and himself showed the way for inter-caste marriage. All these reforms show that we are in line with the present age. Whenever any social reform came up before the legislatures, obstructions were placed in the way, so that reforms may not come about. Coming from Madras, I may inform this House what kind of trouble we had when the Temple Entry scheme was before the Madras Legislature. Even in the matter of removal of social disabilities of untouchables, the Ministers had to find themselves in the midst of people who threw chilly powder in their face. Such is the state of affairs when we bring social reform in this country. The great Sankara who brought *Advaitism* to our land, when he was asked by his Guru "Who are you?" he said:

न मे मृत्युङ्का न मे जतिभेदः।

पिता नैव मे न माता न जन्मः॥

न बंधुर्न मित्रो न गुरुर्न शिष्यः।

चिदानंदरुपः शिवोडंह शिवोडहंः॥

These were the words uttered by the great Sankara. He never differentiated man from man, woman from woman. He thought every one was equal. I do not understand why there should be so much opposition to this Bill. In the South the great philosopher. Thiruvalluvar has given to the world tenets as to how a man and woman should

*C.A. (Leg.) D., Vol. VI, Part II, 14th December 1949, pp. 611-14.

move; what are the conditions under which they should live. They are pearls. I do not understand why there should be objection to the woman getting equal share in all amentities that are given by God to the human beings.

Some of the members who preceded me said that the time is not opportune. This measure has been before the country ever since the resolution of the Central Assembly was adopted on 20th January 1944. This Hindu Code has reached the nook and corner of India and not only educated men but the masses in general have understood the theme of this legislation. I do not know whether such members, as told the House that it is not competent to deal with this Bill, are talking with a sense of their responsibility to the country. I do not know whether members of this Assembly who have the proud privilege to produce a Constitution for thirty crores of people, which has been welcomed not only in India but in foreign countries, are not competent to deal with this Bill for the uplift of women in this country. We have clearly laid down in the Fundamental Right of the Constitution that the State shall not discriminate on grounds only of "religion, caste, sex....". We have got again Article 15 (3) which says that "Nothing in this Article shall prevent the State from making any special provision for women and children." Again in Article 46, it is stated : "The State shall promote with special care the educational and economic interests of the weaker sections of the people....." do not women come under this category , and ought they not to be protected? After all, this legislation is a permissible one and ought to be welcomed by everybody.

If you study the rules regarding marriage, inheritance, adoption and all these things of Hindus in the different provinces, you will find that they are not the same. They differ in many places. In the Constitution we have said that we must evolve a common Civil Code. This legislation is, in my opinion, the forerunner before we come to that stage. I come from a district where there are a lot of hill tribes. Their marriage ceremonies, laws of inheritance etc. differ substantially from those of Hindus, although they profess to be Hindus. Among the picturesque *Toda* aboriginal community, there is poligamy and due to this social evil the community is dwindling. The ceremonrials of the other tribal community of *Badagas* also differ from those of Hindus, although they profess to be Hindus. The custom among them is that when a man wants to marry a girl, he has to pay dowry— what they call *Thiraipanam*. After that, if the woman wants to go away from the husband and if another man were to pay the same dowry i. e., *Thiraipanam*, the woman is free to choose another man.

In a land which has produced great saints and sages are we to continue these things? Whether it is the tribals or hill tribes they all have to be protected according to the New Constitution.

Sir, in Madras province, as has already been observed by some of my hon. friends, poligamy has been statutorily abolished. Now, unless we codify the law for the whole country, it is open to a man to leave Madras, get married in some other province and return to Madras. Unless there is a uniformity in regard to the law obtaining in all the provinces, it is not possible for the Madras province alone to have this law enforced.

The other cardinal points of the Hindu Code Bill which is now before the House are the chapters relating to marriage and divorce. It has already been pointed out how essential it is to have both civil and sacramental marriage. According to this, the Scheduled Castes find that the *yogam* must be performed and the ordinary *thali* tied. Then only does the marriage become true, Even now after the Civil Marriage Acts have come into force, I find people taking to this. I can find no reason why the same method cannot be adopted throughout and for all Hindus, orthodox or otherwise.

Clause 33(f) makes reference to "adultery". I wish that the word "adultery" had not been used at all in the Code, for, as was pointed out by Swami Vivekananda, so long as there live three women in our land the chastity of India will be upheld. I do not think, Sir. that adultery is largely prevalent in any section of the Hindu society. There may, of course, be rare cases. But there is no reason why that should necessitate a statutory provision.

In sub-clause (2) of clause 9 and clause 16, I find penalties in regard to people breaking the law. The amount specified is too high, particularly for the poorer section of the people. I feel that it must be a very nominal amount. In the matter of judicial separation it is all right in the case of people who have got money and can afford to go to the courts to get a dissolution. But what about the villages in which India abounds. Communal panchayats consisting of members chosen by a few people will decide the matter, I do not think this procedure is correct. I think some formula must be evolved which will lead to the constitution of representative panchayats which will decide cases of dissolution.

Next I come to the question of *stridhana,* that is what is given to the women either by her father or by her brothers. What is to happen

if it is not properly used by the husband. I feel Sir, that some clause must be inserted so that the *stridhana* may always remain the property of the woman.

Clause 72 which deals with adoption says: "No adoption which has been validly made can be cancelled by the adoptive father or mother or any other person, nor can the adopted son renounce his status as such and return to the family of his birth." I think, Sir, if the son or anybody who is adopted were to misbehave and squander the money of the family, there must be a saving clause whereby such a thing could be prevented.

Section 93 deals with the dowry to be held in trust for wife and says that it shall come into force after the commencement of this Code. I feel, Sir, that section must apply to all cases existing before the commencement of the Code.

Sir, I would finally point out that bringing this Hindu Code into force will greatly relieve all those women who are under the harsh treatment of men. Many people have been saying that the women are enjoying equal privileges and facilities. But in reality it is not so. In a few cases it may be so. But about 90 per cent of the women are still suffering from many social hardships. Out of the four *yugas, Krita, Treta, Dvapara* and *Kali,* we are now in the fourth *yugam,* iron age and are strong to bring in reforms. We must see that the women enjoy as many facilities as men. It is said that the hand that rock the cradle shall win the world. Before they grasp forcibly these facilities let us give them peacefully. I, therefore, support the Hindu Code Bill that has been brought by this Government and when it has come into fruition I might say that my hon. friend Dr. Ambedkar who has taken so much of trouble would have added a further feather to his hat.

* **Shri O. V. Alagesan** (Madras : General) : Sir, yesterday Dr. Ambedkar said that he was very glad that it had fallen to his lot to pilot this Bill. Sir, his name is sure to go down in history as the able midwife that assisted at the birth of the Constitution of free India. Sir, he is ambitious. He wants to add a further feather to his cap and he is justified. His ambition is to supersede the ancient rishis, Manu, Yajnavalkya and a host of other ancient law givers.

*C.A. (Leg.) D., Vol. VI, Part II, 14th December 1949, pp. 614-21.

One of the previous speakers— I think it is Mr. Pataskar—made a reference to Section 44 of the New Constitution which relates to a uniform civil code for the whole country. He pleaded and asked: "Why not withdraw this Hindu Code and have a Civil Code? It may sound like pleading for postponing the day of mischief. But why does not Government come out with a statement of policy on this question? Is this a first step in that direction? Would they bring in more measures to put into effect Article 44 of the Constitution following this? I do not want to embarrass the Government, but all the same I would appreciate a clear statement of policy from the Government.

Sir, the other day it delighted everyone's heart to hear the hon. Mr. Santhanam pleading for monogamy. He challenged anybody to raise his little finger against this institution. Saint Tyagaraja admirably summed up Rama's character in his own inimitable manner in these words:

Oka mata, oka banam, oka pathni,

That is One word, one arrow and one wife.

We are all glad that that ideal has been placed before us. Sir, I ask, is it good only for the Hindus? Will the Government bring forward a Bill common to all and make monogamy applicable to all citizens of India ? I say this not to embarrass Government. I would like to repeat. When it is put in this manner, you will have to put the problem in its proper bearing. You will remember that there is a community in India which will object to it on grounds of religion and you will also remember the unhappy happenings that followed the partition in this country. You will be saying that it will be an interference with religion, that it will be against the secular nature of the State. Now the Prime Minister has declared that our State is going to be a secular one. We should educate the people on the secular nature of the State. There are many things that are happening on the other side of the border which are sure to have their reactions on this side. That State is based shamefacedly on a theocratic basis and they propose to carry the full implications of that policy and such a policy on the other side cannot fail to have its reactions on this side. So, people begin to entertain misgivings about the secular nature of our State. They understand it in this light and there is good reason for that, that secularism means meddling with everything Hindu, and fighting shy of any other group. That is the way in which the general mass of the people in this country react to measures like this.

So in the interests of the secular State that we want to establish in this country, we should try to carry the people also with us. It is no good Government alone saying that we are a secular State, and if that is not properly understood, properly appreciated by the general mass of the people in the country, then the State cannot long continue to be secular. We will be losing the ideal that we want to realise in this country and we will be postponing the day of such realisation. That is why, Sir, I say that people are at present not in a proper mood. They are sullen. They are in a pique; just as a child which is in a pique refuses to eat even the sweetest thing, people are not in a mood to appreciate this reform. Even though it may contain some good parts. So the best thing would be not to press down the throats of the people anything which they do not want. Dr. Ambedkar last time quoted Burke. He struck a gloomy note and gave us a warning just as he did at the conclusion of his speech during the third reading of the Constitution He said :

"Anybody who wants to conserve should be prepared to repair."

It is very good, Sir, we should be prepared to repair, but does this Bill represent mere repair? I should say it pulls down the house in which we have been living. It wants to plan a new structure. It wants to make structural alterations. It is not mere carrying out repairs here and there. It is a structural repair. I should say that it is a new structure that it wants to put in the place of the old one.

The Honourable Dr. B. R. Ambedkar : All repair is structural repair.

Shri O. V. Alagesan : I have no objection to carry out even structural repairs, but before carrying out such structural repairs, this House itself should undergo a structural repair. That is what I want to say. By saying this, I do not minimise even by an iota the representative and sovereign character of this House. Sir, when we put through other legislation— Prof. Shah was labouring this point— nobody is surprised. It is a routine matter, but this is treated on a different basis. This is viewed with suspicion, with anger. That is the reason why I say we should discriminate, and allow the House that will have been structurally repaired to carry out this reform with greater confidence and with a degree of success which can be attained by then.

Sir, another point is the atmosphere in which this Bill is sought to be pushed through. Sir, there was a great one in this country who led our thought and action. Even though we were slaves he taught

us to think and act like free men and we followed him. That was the tradition that he established. Long before this country was technically free, he ushered in an atmosphere of free thinking and action. But unfortunately, he is no more with us to guide us, but his example is there for us to follow. Even on a matter like the abolition of untouchability, temple entry and such allied matters, he advised that we should not accomplish those worthy objectives by means of legislation. He presuaded and preached to the people the necessity for such measures. He even imposed suffering on himself. That is how he brought about this mighty reform and it has become an established fact today. It is that way that we should follow and not force down reforms upon the throats of unwilling people.

Shri V. L Muniswamy Pillay : It is for you to educate them.

Shri O. V. Alagesan : We should go about the country and educate the people. The general elections are coming very shortly and that will be the best time for it.

Shrimati G. Durgabai (Madras : General) : That is the whole fear.

Shri O. V. Alagesan : That will be a wonderful opportunity to educate the people on the various provisions contained in this Bill. There is much force in what the Congress President said yesterday. The Labour Government in Britain, how does it function? It has postponed a very important measure, a Bill for which they took the permission of the electorate. It had the sanction of the electorate but after taking note of the situation in the country, they have postponed it till after the general election. They are going to take the verdict of the people afresh and then push through the measure. When such is the case in regard to a matter on which the permission, the sanction of the electorate had been obtained, then I should think it is much more necessary in this case where we did not give even an inkling of our ideas to the electorate. Sir, we have seen the spectacle of this Bill being debated for two days in every session. It is like the promise for renewing the gold bangles for the next deepavali. That is how we have been going on and it is good that we go on like this, because, who knows even the sisters who have given their enthusiastic support to this Bill may change their minds tomorrow and they may try to improve it on their own lines. After all one does not remain static and more so woman.

Shrimati G. Durgabai : There are also some men who change their opinions.

Shri O. V. Alagesan : The great poet Valmiki who is the Adikavi of our country said this. The reference is only to the general characteristics of women. This does not apply to anybody in particular. Valmiki said :

Sathahvadhanam lolathram

That is :

Women change as lighting.

That is what he said.

Similarly they can change their minds and try to improve. I should like to ask you and the House whether they have not gained by waiting so far. They have gained because in the Rau Committee recommendations, the daughters had only half a share and now according to Dr. Ambedkar's Bill, daughters will be getting equal shares with the sons.

Again Sir, if they wait, they may get more. Daughters may get two times. Also we have heard on the first day the hon. Mr. A.K. Menon. The other day in a different place we heard Mr. Thanu Pillai., They are very anxious about this and they feel that they are being pushed back instead of being pushed forward. While the rest of India is pushed forward, the Malabaries very strongly feel that they are being pushed backward under this Bill. Sir, they may convince others and the whole land may come under Marumakkattayam, though the matriarchal system is disappearing elsewhere. Our friends from Malabar may be able to convince the other hon. Members of this House and then the whole thing may be Marumakkattayam and that will be a brighter prospect. They will not lose anything by waiting because they have got persuasive powers; they can persuade, they can seduce, they can manage all these things.

Mr. Deputy Speaker : The hon. Member need not use that expression.

Shri O. V. Alagesan : I am sorry. I withdraw the word.

We witnessed the wonderful spectacle in this House, Sir, of a speech which began as a wonderful satire and ended in a sorrowful sermon. Overnight the satire was converted into a sermon. So when we see this, nothing is impossible. It can be improved even according to the protagonists of this Bill in a very radical way and they may have a better Bill if they wait and then they can have the satisfaction of having taken the permission of the country also for that.

Sir, I should like to put another point of view. What is the approach that this Bill makes towards the problem? The approach is that inequality exists in the Hindu society between man and woman. I should very respectfully submit that this conception of inequality between man and woman is a biblical conception. The Hindu conception is that of *Ardhanareeswara*, that is of man and woman being equal. That is our conception, Sir, that is the basic Hindu conception. I do not say that it has been entirely translated into practice and I do not make that claim, but that is the basic conception of Hinduism. The conception is not one of inequality, but it is one of dissimilarity. If man represents strength woman represents endurance; if man represents intellect woman represents enlightenment; if man represents grammar, woman represents poetry. The great poet Kalidasa has described Parvati and Parameshwara as word and meaning and that is the basic approach. You do a basic wrong when you approach this question from the point of inequality between man and woman.

Again Sir, I should like to point out that the present atmosphere is not a free atmosphere because we have never examined our institutions as an independent nation, especially on this subject. It is not Yagnavalkya or Manu that is so much current as the British courts and we have never had on opportunity to examine our Indian institutions with a dispassionate and an unbiased open mind. Always the bias of western ideas and western notions had been there. Though our political slavery have been removed, still the spell of western civilization and ideas continues. So, it is better if some time elapses and we may be able to view and examine both the good and bad points in our institutions in an independent way, in a fresh way and that will give us an opportunity to mend this Bill and even improve.

Sir, another reason behind this Bill is a sense of injustice done by man to woman. I do not want to repeat all the things that have been said before, both in humour and seriousness, but, Sir, I can claim that there has been no injustice done to woman by man. I should like to say that it is only a mental aberration of high strung natures due to unattached circumstances which enable one to do anything except lead a normal life. That is how I would put it. In this land nothing has been done by man to wrong woman. I should like to examine some of the arguments put forward by the other side. Sir, I find a growing practice among the occupants of the Treasury Benches.

When a bill is generally debated, they say some people have opposed and others have supported and hence this Bill represents the largest common measure of agreement. That is a very easy way of disposing—and I do not think the learned Minister in charge of this Bill will do it and I have no doubt about it. It is not the largest common measure, but the least common measure, I would say.

Then, Sir, it is said that opposition to this bill is based on prejudice and sentiment and not on reason. I should like to point out that support is also based on the same blindness, on the same prejudice and on the same unreason. It is not as if support is enlightened and only opposition is ignorant.

Again, Sir, it is said in support of this measure that this is only an enabling and permissive measure. It was said in another place that the orthodox can go on in the old way without interference and the reformers also may go their own way or it permits such of those who want to take advantage of the provisions of the Bill to tread their path and leave others entirely free to pursue their own path. I think Dr. Ambedkar said it. Sir, this is like enacting a general law of licence and saying that such of those who want to take advantage of it can do so. The plea that it is only a permissive and a enabling measure, in my opinion cannot hold water. Then it is said that there has been opposition in the past to Bills of similar nature like the Sarda Act. This stands on an entirely different footing. There is difference between that Act and this Bill.

Dr. Tek Chand was saying that this Bill has been before the country for a very long time and so we need not wait any more. It is true that the Bill has been before the country for a number of years. But then the Congress was not in office and so nobody took it seriously. As soon as the Congress came into office and Dr. Ambedkar piloted this Bill as a Minister of the Congress Party, then everybody took it seriously, and they now know that it will be put into force, and that is why, I say, the people should be given an opportunity to examine this Bill. There is difference between the position that it occupied so far and the position that it occupies now.

Sir, It is also said that many women who are opposed to this Bill, do so under the influence of their men-folk. This, I think, is an unfounded charge. May I ask whether the women who support this Bill are displeased with their husbands ? Or, may I ask whether the man who supports this Bill do so under the influence of their womenfolk ? It is no use putting forth such frivolous arguments.

Shri B. Das : There is nobody here to answer these questions.

Shrimati G. Durgabai : Can you say that they are pleased with their husbands when they marry again and again ?

Shri O. V. Alagesan : I am coming to that Madam, please have a little patience.

Shrimati G. Durgabai : Please answer that question first.

Shri O. V. Alagesan : Yes, I will, in my own time and in my own way.

Pandit Govind Malaviya : May I know till what time we intend sitting ?

Some Honourable Members : Six o'clock.

Some Honourable Members : Seven o'clock.

Mr. Deputy Speaker : I am finding the House getting thinner, and thinner, and when it is quite thin I will get up.

Sjt. Rohini Kumar Chaudhari : Let us rise for tea, now Sir.

Mr. Deputy Speaker : No, the hon. Member will finish soon.

Shri O. V. Alagesan : Sir, the justification for a measure of this kind can be two-fold. There should be a conscious demand from the public for such a measure; or a few people, who have set their hearts upon a measure of reform, may think that it is good for the entire community, while the community may not be conscious of the goodness of it. Then it is the duty of those, who think that such a measure of reform is beneficial to the whole community, to go and educate the people about the soundness of their stand. I only plead that the people who bring forward this measure and who believe that this is a measure beneficial to Hindu society, that they should go and educate the people. I do not want anything more from the protagonists of this Bill.

Shrimati G. Durgabai : They have done it.

Shri O. V. Alagesan : My sister here says that they have done it already, but I should like to point out that the claim made by these reformer friends, this microscopic minority, that may speak on behalf of the majority of the Hindus, is the tallest claim ever made. They should have patience, and as I have pointed out earlier, they should educate the people about the goodness of this Bill, and not rush it through to have some satisfaction.

Another important thing I wish to point out is this. If this Bill is rushed and passed into an Act, then portions of it will remain a dead letter just as the Widow Remarriage Act has remained a dead letter

though enacted a century ago. So if you do not want it to remain a dead letter, but that it should be taken advantage of by the members of the community then it is better to wait and educate the people.

Now I would like to pass on to a few of the important observations made by Dr. Ambedkar. This Bill seems to be a Law of Exceptions. Dr. Ambedkar said that the coparcenary system allows ten categories of property to remain outside the purview of the coparcenary. They form private property. So he says, because it has granted so many exceptions, let it, once and for all, go. That is one of the points that he has made. And then he says, woman has absolute right to *Stridhana* and so let it be so for all property. And also that this coparcenary system has the seeds of disruption in itself, and so let the joint family go. I would ask him ; he has just now passed the Constitution and the various provisions in the Constitution, as you know, are riddled with provisos and exceptions. For that reason, are we to make the exceptions into the main articles? When you look into the pleadings, it looks as if one has to make the exceptions into the main law.

Then again, Sir, this Bill about which my sisters are so enamoured.....

Shrimati G. Durgabai : Brothers also.

Shri O. V. Alagesan : This Bill does not in my opinion deserve it. Monogamy has been praised by one and all. It is not such a new institution. Women have been having monogamy in this land, but were there divorces provided? As soon as men are brought, within this law of monogamy there is demand for provision for divorce. As long as woman was under monogamy, there was no provision for divorce, but now they say divorce is the natural corollary of monogamy. Why are my sisters so very enthusiastic about it ? What is the meaning of it? If divorce is the natural corollary of monogamy, how is it that this natural corollary did not come into existence so far?

Mr. Deputy Speaker : How long further will the hon. Member go on?

Shri O. V. Alagesan : Only ten more minutes, but I shall try to cut short. So I say it is not a very pleasant thing to be given the right to divorce. I do not want to read out extracts, but many women have pointed out that this divorce would work greater havoc for women than for men.

Shri A. Thanu Pillai : Is the hon. Member advocating monogamy without divorce?

Shri O. V. Alagesan : I want monogamy without provision for divorce. Sir, what this bill gives with one hand it takes away by the other.

Dr. Ambedkar, in justifying the provision for divorce, has enumerated the difficulties that the women who are deserted by their husbands nowadays are made to undergo. All these difficulties the divorced women will have to undergo. The prospect for the divorced woman is as bleak as the prospect is today for the deserted woman. It is easier for the divorced man to marry again and it will not be as easy for the divorced woman.

Dr. P. Subbarayan (Madras : General): So you want a double standard.

Shri O. V. Alagesan : I want my sisters to make note of it and beware of the pit to which it leads them.

Even on other grounds I would very seriously object to the provision of divorce. What is the experience of other countries? This has been touched on by other speakers and I do not want to enlarge on it. Recently we were told that the number of divorced cases in Paris alone increased from 600 to 1200, which is only 100 per cent increase.

An Honourable Member : There is no Paris in India .

Shri O. V. Alagesan : I am glad there is no Paris in India just now but I am afraid the Bill tries to usher in Paris in India.

Shri L. Krishnaswami Bharathi : Baroda is there and Malabar is there.

Shri O. V. Alagesan : In one of the most advanced countries in the world, Soviet Russia, the family as an institution is breaking up. Soviet Russia is hard put to resuscitating the family as an institution, having allowed easy divorce. They now want to inculcate the sacredness of the family as an institution and infuse communist morality into their citizens. They are trying hard to save this institution which they have lost by lightly introducing divorce in their land. One had only to write a postcard to the Registrar saying that he is divorcing his wife and he had his divorce. I understand that they have now made their divorce laws more difficult. There is an example before us.

Shri L. Krishnaswami Bharathi : What about Malabar? Why go to Russia and Paris?

Shri O. V. Alagesan : There they have tried this method and found it dangerous. Why put ourselves in the same situation and again try to remove it ? Our Indian homes today are poor, steeped in ignorance

and ill-health, but it cannot be said that our homes are broken ones. In other countries they may be rich, healthy and very enlightened but one is sorry to note that many of the homes in other countries are broken ones and that is entirely due to the license given in their divorce provisions. That is my opinion.

Such an eminent person like Dr. Tek Chand said that the joint Hindu family should be kept and wife be made a coparcener in the family. I should like to say that the real economic independence of women would come not by giving a share to the daughter, to which I have no objection, but by giving her an equal share in the husband's property. That is how she will attain her economic independence. It is not by taking a share from the father's property. After all the daughter is a trust to be given away to the son-in-law. The father keeps the girl as a trust and it is therefore better and more proper that she is made a joint owner or equal sharer in the husband's property rather than made to claim a share in the father's property. She may claim a share in the father's property if she remains unmarried.

I do not want to dilate further but I should like to end on this note. The chief man who conceived the Code (though a gentleman found it difficult to conceive yesterday) was Mr. B. N. Rau and we may be sure that he is very anxious about this Bill. He would want to see all his proposals, though in a modified form to be put into effect as early as possible and I should like to read his opinion, which has also been the opinion of the Hindu Law Committee.....

Shrimati G. Durgabai : There was a select committee to consider those proposals; not he alone.

Shri O. V. Alagesan : The Hindu Law Committee has stated as follows :

> "The aim should be as far as possible to arrive at agreed solutions and to avoid anything likely to arouse acrimonious controversy. This need not mean any real slowing down of the pace of reform, for true reform proceeds by persuasion rather than coercion."

Sir, I have done.

The Assembly then adjourned till a Quarter to Eleven of the Clock on Thursday, the 15th December, 1949.

* HINDU CODE—*contd*

Mr. Speaker : The motion that the House was considering was:

"That the Bill to amend and codify certain branches of the Hindu Law, as reported by the Select Committee, be taken into consideration."

* **The Honourable Shri Jawaharlal Nehru** (Prime Minister) : Sir I crave your leave and the indulgence of the House to make a statement in regard to the Hindu code Bill and I trust that the Statement I make will meet the approval of the House.

When at the commencement of this Session, I referred in the course of my remarks to the Hindu Code Bill, I said that Government attached a great deal of importance to this measure and they hoped that this consideration stage would be passed during this session. At the same time Government were very well aware that there was a variety of opinion on this subject and a large number of people were interested in the provisions of this Bill. And, therefore, I had suggested then that we propose to follow a course which we hoped would lead to a broadbased agreement in regard to a number of controversial clauses in the Bill. I should like now to amplify that statement and to make clear the policy of Government in regard to this matter. We have had fairly prolonged debate on this Bill, not only in this session but in previous sessions. We had set aside two days on this occasion and as the House knows, those days have been prolonged on two occasions. Government had no desire and have no desire to restrict debate on an important measure of this kind and in spite of the fact that we have been very hard pressed for time—and we have very important legislative measures awaiting disposal during this session—we extended the debate on two occasions and indeed to day was also fixed for it.

While we have no such desire to restrict this debate, naturally Government is hard put to it to find more and more time, still we are prepared to find more time because of the importance of the measure and the desire of some Members of the House. But there was another aspect to this question and that was this; that if we are going to consider this matter in a spirit of trying to find an agreement as far as possible, in regard to controversial clauses, if, as I said we are going to proceed on the lines I indicated right at the commencement, then it is desirable for us at this stage to carry on this debate and

* C.A. (Leg.) D., Vol. VII, Part II, 19th December 1949, pp. 783-85.

perhaps produce an atmosphere, or help in producing an atmosphere, which does not lead easily to that kind of settlement? That was an important consideration which Government had in mind. Right at the commencement, as I have reminder the House, we had that in view. It was no intention of the government to proceed with this merely by virtue of a majority and complete acceptance of every clause of this Bill although there might be considerable variety of opinion in regard to it. The position of Government, so far as this bill is concerned is this. We stand committed to the broad approach of the Bill as a whole. We are prepared, however to consider every clause in a spirit of accommodation. Naturally, Government have put forward this measure as it is because they believe in it. But in such matters they desire to have as large a measure of support as possible. Now there is a distinction between that and this general consideration at this stage which is going on, and which they feel has been debated quite considerably, and a large number of Members of the House have participated in this debate. They attach importance to the conclusion of that stage of the debate so that they may take up the next stage of consideration, that informal consideration, as soon as possible. Now that informal consideration cannot effectively take place in that way until this first stage is ended. Otherwise we remain in mid-air, and we cannot get on to that next stage. So our proposal now is, and I venture to place it before the House, that we conclude this debate, on this consideration motion as early as possible. I would not mind government giving more time, even at the expense of other legislative measures; but I would submit to the House that if the general proposal to have this informal discussion is agreeable to the House, then it is desirable to go to that stage and not to vitiate the atmosphere by acrimonious debate any more at this stage.

When I talk about informal consultations, I should like to make clear what I mean. I say 'informal', not that I do not consider it important, but because I wish to give a measure of flexibility to that discussion so that my hon. colleague the law Minister, who has shouldered the burden of this Bill, and who I trust will gladly accept and give effect to the proposals that I have made, so that he can consult not only the Members of the Select Committee, but other Members of this House who are interested and may even consult others outside this House. Now, that would be difficult if a certain rigid procedure was adopted, and also when you adopt a formal and rigid procedure, it becomes a little more difficult for that attitude of free and easy

discussion, and give and take which might prevail more easily if the procedure were more flexible and informal. Therefore, I make this proposal to the House and I do submit that in this matter, having considered all the discussions and debate that we have gone through, this is a reasonable proposal which should meet with the approval of all sections of the House because it is an attempt, a real attempt on the part of the Government to carry some thing through this House and through the country with the largest measure of support. That does not mean that in any matter over which we may disagree violently we give up our opinions or surrender to anyone else's judgment. No one expects any Member of this House to do that if he believes in something. But it is the essence of democratic procedure for us to debate and consider and try to convince each other and try to meet each others points, but somethings giving up sometime so as to arrive at a decision which can be enforced with the largest measure of consent that is the procedure. I would submit to the House, that we should follow in this important measure also.

I do not wish the house to think in the slightest degree that we consider that this Hindu Code Bill is not of importance, because we do attach the greatest importance to it, as I said, not because of any particular clause or anything, but because of the basic approach to this vast problem in this country which is intimately allied to other problems, economic and social. We have achieved political freedom in this country, political independence. That is a stage in the journey and there are other stages, economic, social and others, and if society is to advance, there must be this integrated advance on all fronts. One advance on one front and being kept back on other fronts means functioning imperfectly, and also means that the first advance also is in danger. Therefore, we have to consider this matter in this spirit, how we should advance on all fronts, always keeping in view, of course, that the advance is co-ordinated and meets with the approval of the great majority of the population. I say this because, after all, we function as a democratic assembly answerable to the people of India, and we must carry them with us. Keeping that in view it is not good enough for us and for this House merely to be led. We have to lead and we have to give the lead, and in giving that lead we have to carry others with us, and we propose to give the lead in this and in other matters, but always carrying others with us.

This, therefore, is the procedure that I have detailed, that is to say, that we may put an end to the present stage of consideration of this motion by adopting it, and then the House may permit Government to take those informal steps which I have indicated in regard to consultation about the various parts and clauses. That might be undertaken so that when the matter comes up again, as I hope, at the next session, it may have the support of a very great majority in this House and outside.

***The Honourable Shri Satyanarayan Sinha** (Minister of State for Parliamentary Affairs) : Sir, I move:

"That the question be now put."

Mr. Naziruddin Ahmad (West Bengal : Muslim): May I ask for a clarification ?

Mr. Speaker : I do not think we need take any more time now, specially in view of the very frank statement made by the hon. the Leader of the House just now. I may remind hon. Members that this stage of the motion has been debated for full nine days and to-day is the tenth day. Thirty three speakers have taken part in it and we have devoted thirty hours and twenty eight minutes. I think the time devoted is sufficient and.....

An Honourable Member : May I know**.....**

Mr. Speaker : I am not bound to give any reasons when I accept a closure, but I think I should also explain what I feel about it. I am convinced from the statement just now made by the hon. the Prime Minister that everybody inside the House and outside the House is going to have a full chance of having a say with respect to the various provisions of the Bill. The present stage is the stage of general consideration and we are not discussing any particular clause of any particular item. It is possible that people may differ about details and yet so far as the generality of the Bill is concerned, there might be a great measure of agreement. If we were to continue our discussion at this stage, I am afraid our discussion is bound to be very vague, general and rambling; perhaps it will consist of repetitions also. The more important stage, therefore, is the clause by clause consideration of the Bill and before that stage comes, hon. Members will have every opportunity of considering all questions and discussing them with the Government and also other people outside the House.

* C.A. (Leg.) D., Vol. VII, Part II, 19th December 1949, pp. 785-87.

Therefore, I think that proceeding with the further consideration of the Bill will mean practically a waste of time. I am therefore inclined to accept this closure and I would then call the Hon. Minister of Law to speak.

Sjt. Rohini Kumar Chaudhari (Assam : General): I would like to make a statement.

Mr. Speaker : What statement is the hon. Member going to make? If I permit the hon. Member to make a statement, everybody will feel entitled to make a statement. The hon. Member will please resume his seat.

Shri Mahavir Tyagi (U. P. : General): I want to have an interpretation from you, Sir whether, after this motion is adopted at this stage, would it mean that the House would be committed to the principles of all the clauses of the Bill?

Mr. Speaker : I will clarify the position. In fact, when the House accepted the motion for reference to Select Committee, it accepted the principle of the Bill. Now, in a Bill of this type, it is very difficult to decide what the principle is, because every clause may be made into a principle. I may make the position clear. Looking to the extent of the provisions of this Bill—its wide extent—it is clear that the only principle accepted by the House is that it is desirable to codify the Hindu Law and every provision of the Bill is open for discussion, alteration, change and all that sort of thing.

Shri Mahavir Tyagi : Then we have no objection Sir.

Sjt. Rohini Kumar Chaudhari : I want to make a suggestion to the House on this motion. Closure may be moved and accepted. I have no objection to that. I do not want any further discussion on that subject. As a matter of fact, in order to create an atmosphere of compromise, I have myself not spoken in opposition to it. What I want to suggest is that this motion may not be put to the vote now. We want to convince the opposition outside that a practical gain has been made by the announcement of the hon. the Prime Minister.

Mr. Speaker : I think that after the statement of the hon. the Leader of the House as regards the procedure and what I have said as regards what is going to be binding and what is not going to be binding, there remains no doubt as to the effect of carrying this consideration motion. In fact, it is not desirable to keep that point open so that when the consideration is again taken up, there may be further discussions and further inducements to speeches. I will therefore put the motion to the House.

Dr. P. S. Deshmukh (C. P. and Berar : General) : On a point of order, Sir. We have all heard the excellent suggestion made by the hon. the Prime Minister and there is no doubt that the House is likely to accept it. My point of order is that the question before the House is a motion for consideration. The suggestion now made really means referring the Bill back to the Select Committee.

Some Honourable Members : No, no.

Dr. P. S. Deshmukh : I put it to you, Sir, that this is circumventing the parliamentary procedure. The only procedure rightful and just, would be to commit the Bill to the Select Committee, either the same or an expanded committee. The suggestion made is against parliamentary procedure and should not be accepted. If the suggestion is acceptable to the House, I have not the slightest objection, but the regular procedure is to commit the Bill to the same Select Committee or a Select Committee, which may be enlarged.

Mr. Speaker : I see the force of the Hon. Member's objection from the procedural point of view, but what the hon. the Leader of the House has done is not to place any motion for further consideration before the House. He has merely explained his position. He has stated how the Government is going to act and how it will proceed with the consideration of the clauses of the Bill? There is no reference there for further reference to any formal Committee of this House. If such a motion were to be made, then of course I would have been glad to accept that point of order. At present there is no such motion before the House, and I think it is not against parliamentary procedure. On the contrary, even if it is a little different from the ordinary procedue, as, in my opinion democracy means a spirit of accommodation and give and take, we must evolve a new procedure. I will now put the motion to the House.

The question is

"That the question be now put."

The motion was negatived.

*** The Honourable Dr. B. R. Ambedkar** (Minister of Law) : Sir, there are before the House in all three motions. Two of them are sponsored by Mr. Naziruddin Ahmad. One of them proposes a reference of the Bill to the Select Committee for further consideration. The second motion proposes that the Bill be circulated for eliciting further public opinion. In addition to them there is my motion before the House

* C.A. (Leg.) D., Vol. VII, Part II, 19th December 1949, pp. 787-92.

which proposes consideration of the report of the Select Committee. I propose to say a few words with regard to the motions moved by Mr. Naziruddin Ahmad. The one thing that I have noticed in the course of the debate which has ranged over nine days, is that it has had no support even from the opponents of the Bill. At the most, only two members out of the thirty three, who have taken part in this debate, have favoured his proposition. The rest of them have not supported him at all. Secondly it is quite clear to those who have followed his speech which was for more than six hours, that notwithstanding the fact that he was questioned from time to time while he was speaking to give us the reasons why this Bill should again be referred to the Select Committee or circulated to the public, he has in my judgment not succeeded in giving us any good ground for supporting his motions. I therefore, think that it is unnecessary for me to waste my time as well as the time of the House in dealing with his two motions.

Now Sir, I come to my own motion. As you have said, there have been altogether thirty three speakers who have taken part in this debate. I would like to give to the House some idea of the measure of support and the measure of opposition exhibited by the members of the House to this measure. Out of the thirty three members who have taken part in this debate, something like twenty three have spoken in favour. Out of these twenty three, there were only two who have said that they were prepared to give only qualified support to this Bill. Three remained neutral; three were for circulation and four for the postponement of the consideration of the Bill. It is therefore, quite clear that a very large majority of the Members of this House are in favour of the Bill—as I said, as many as twenty-three.

Sjt. Rohini Kumar Chaudhari : But does he know that thirty-four persons who wanted to oppose the Bill, whose names were given had no opportunity to speak?

The Honourable Dr. B. R. Ambedkar : I am only making an analysis of the speeches of those who have spoken. *(Interruption).*

Mr. Speaker : Order, order.

The Honourable Dr. B. R. Ambedkar : Taking the matter a little further and analysing the stand taken by those who have opposed the measure in order to see which part of the Bill has been attacked, I find that in this Bill which seeks to codify the Hindu Law relating to eight matters, there are five to which there has been no opposition whatsoever.

Sjt. Rohini Kumar Chaudhari : Because you didn't allow us to speak.

Mr. Speaker : Order, order.

The Honourable Dr. B. R. Ambedkar : I hope, Sir my friend will not interrupt.

Mr. Speaker : The Hon. Member just now promised that he would not like to spoil the atmosphere of a compromise.

Sjt. Rohini Kumar Chaudhari : He is not to speak now that was the term of the compromise.

Mr. Speaker : Order order, No running commentary now.

The Honourable Dr. B. R. Ambedkar : As I said, Sir, the Bill seeks to modify and codify the Hindu Law with regard to Marriage, Adoption, Guardianship, Joint Family Property, Women's Property, Intestate Succession, Testamentary Succession and Maintenance. So far as Adoption is concerned, I have seen no opposition to this part of the Bill, nor to the part relating to Guardianship.....

Pandit Thakur Das Bhargava (East Punjab : General): I opposed some of the provisions relating to adoption and absence of provision for appointment of heirs.

The Honourable Dr. B. R. Ambedkar : Nor to Women's Property, Testamentary Succession and Maintenance. The only parts of the Bill to which there has been some opposition are those which relate to Marriage, Joint Family Property and Intestate Succession. Even with regard to these parts of the Bill, the opposition is concentrated on one or two points.

Sjt. Rohini Kumar Chaudhari : On a point of order, Sir, You yourself ruled that all these matters can be discussed when we come to amendments.

Mr. Speaker : Will the hon. Member resume his seat ? I think Members have to be patient and must not interfere when other Members are putting forth their points of view. The hon. Minister must be allowed to go on uninterrupted, and if hon. Members have to say anything, they will have a chance later on when the bill comes in for discussion here.

Sjt. Rohini Kumar Chaudhari : But, Sir if you don't allow us.....

Mr. Speaker : I do not propose to allow any interference at all.

Sjt. Rohini Kumar Chaudhari : To explain the position . . .

Mr. Speaker : Allowing to explain the position is again to go on replying at every sentence. I do not propose to allow anything of the kind. *(Interruption).* The hon. Member will not now interfere at all so that I may not be compelled to take a very serious notice of these interruptions or points of order or suggestions. But when I put the motion.....

Shri H. V. Kamath (C. P. and Berar : General): Did you say, Sir, that the Bill would again come up for discussion?

Mr. Speaker : The clauses will come up for discussion.

Dr. B. Pattabhi Sitaramayya (Madras : General): May I respectfully make a small suggestion? This is going to be discussed or not— the question of the consideration motion being accepted. Therefore, whatever statements are made by the hon. Minister in charge of the Bill, they will go unchallenged. And so long as they go unchallenged a vote cannot be correctly obtained. The hon. Mover has been absent for a number of hours and he is not posted with information as to what has been said or what has not been said. For instance he says that on the question of 'Adoption' there was no opposition and here is a gentleman who rises and says that he did oppose those provisions. I would therefore request that the hon. Minister will not make his reply controversial.

Mr. Speaker : The point is as I have understood the hon. Minister that he is trying merely to summarise his point of view.

Dr. B. Pattabhi Sitaramayya : No.

Mr. Speaker : Order, Order. Let hon. Members not interfere. I believe he is perfectly entitled to lay before the House his point of view. It may be correct, it may not be correct. Therefore, when he is replying, his reply has to be heard for what it is worth. Hon. Members should not immediately get up and say "this statement is wrong" or "that statement is wrong" because we will then be drifting into a controversy. Let us hear him. And the best method of democracy is to be patient with the opponent.

Sjt. Rohini Kumar Chaudhari : Can we not reply to the wrong statements made?

Mr. Speaker : No reply now because the opposition will get their chance when the clause by clause reading comes in.

Sjt. Rohini Kumar Chaudhari : He will also get a chance then.

Mr. Speaker : If the hon. Member now interferes I am afraid I will have to take a very serious notice. There should be no interruption at all, no interference and no remarks. The hon. the Law Minister is entitled to proceed and give his own interpretation and his own reading of the facts as he thinks, are correct. We may not all agree with it *(Interruption).* Order order. No replies, no arguments now. I propose to allow no interruption. The hon. the Law Minister will go on.

The Honourable Dr. B. R. Ambedkar : Sir, as I was saying, to five parts of the Bill there is practically no opposition. With regard to the three parts relating to Marriage, Joint Family Property and Intestate Succession, so far as I have been able to follow the attitude taken by those who have opposed this measure, I find that their opposition is concentrated on certain points and not to the whole of those parts. With regard to Marriage I find the Opposition is concentrated on the subject matter of Divorce. With regard to Joint Family again, the opposition seems to be concentrated on the rule of survivorship. And with regard to Intestate Succession the opposition seems to be concentrated on the daughter's share. If I was therefore required to give a full reply to the debate and to the arguments advanced by those who have opposed the measure I would have concentrated myself upon these three matters, namely Divorce, the rule of survivorship and the brighter's share. I might say that I had thoroughly prepared myself to defend the provisions contained in these three parts of the Bill. But in view of the statement made by hon. the Prime Minister, I think it is unnecessary to enter into any controversy now. I welcome the suggestion made by hon. the Prime Minister and I undertake to give the fullest trial to the suggestion that he has made. Consequently I do not propose to give a detailed reply on these matters at this stage. As you, Sir, have suggested I too would like to reserve my reply to a later stage.

There is only one point which I think it is necessary for me to dwell upon in order that the House may realise the position in which the country finds itself. It will be noticed that the integration of India into one State and one Republic has brought within its territory a variety of Codes dealing with Hindu Law. There is the State of Baroda which has a Hindu Code which is different from the Hindu law as it is in operation in the provinces of India. That State has now become part and parcel of the Bombay Province. Similarly, Travancore and

Cochin which were outside the territorial limits and the sovereignty of India as we knew under the Government of India Act, 1935, have become part and parcel of one India. Mysore which has also a Hindu Code of its own in the matter of women's right to property, considerably different from the law prevalent in the Provinces of British India, has also become part and parcel of one India. Therefore, on the 26th of January, 1950, when the Republic will be inaugurated, we will be faced with a variety of systems of Hindu Law which we must do our best to co-ordinate. How would it be possible, for instance, for the Bombay Province to administer two systems of Hindu Law, one operative within that territory which is called Baroda and the other in the rest of the Province, when both territories have become integrated and part of one Province and one State? The same will be the case with the other territories. Supposing for instance, some of the parts of India which are under the sovereignty of the Portuguese or the French and which we hope to be able to recover under our dominion, also have different systems of Hindu Law, when they come in the same question will arise before us. What is to happen to the Law which the Hindus in Goa will be bringing with them? Are we going to allow them to retain the law which they will bring? Are we going to impose a Law which is in existence at present on them? Or are we going to evolve a system of Law which would be acceptable to both? The integration of India, therefore, has in a very pointed manner brought before us the problem of the codification and the modification of Hindu Law and what I want to suggest to the House is that this is a problem which could not be postponed nor could it be avoided if we want to bring about harmony among the variety of people who would be coming and becoming the citizens of the Indian Dominion.

Dr. B. Pattabhi Sitaramayya : Codification has been accepted.

The Honourable Dr. B. R. Ambedkar : Then, Sir, I would like to draw the attention of the House to one other point which appears to me a very important one. The House, at any rate those who indulge in opposing the Bill, seem to have completely forgotten the provisions contained in the Indian Constitution. Article 15 of the Indian Constitution which we have passed says in definite and clear terms under Fundamental Rights :

> "The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them."

Any one who has studied Hindu Law carefully will have to admit that apart from the many defects which the Hindu Law has, there are principles in the Hindu Law which discriminate between the *Savarna* castes and the *Shudras*. They also discriminate between a male Hindu and a female Hindu.

Shri Mahavir Tyagi : And a Hindu and a Muslim also !

The Honourable Dr. B. R. Ambedkar : It is therefore quite clear that parts of Hindu Law will be in conflict with the provisions of the Constitution. But that is only an understatement. There is a further point to be considered; it is not that this limitation imposed by article 15 is going to apply to future laws that the Parliament or the State Legislatures may make. The Constitution has gone stage beyond and in article 13, which I should like to read to the House, it is provided that:

> "All laws in force immediately before the commencement of this Constitution in the territory of India in so far as they are inconsistent with the provisions of this Part, shall to the extent of such inconsistency, be void."

Therefore, looking at the matter as a lawyer, I have not the least doubt about it that unless Hindu Law is not only codified but also modified so as to bring it in consonance with the provisions of article 15, parts of the Hindu Law will be declared to be void by the judiciary in view of article 13. Does the House desire that the Hindu Law should be exposed to judicial scrutiny in terms of article 13 of the Constitution and to have parts of Hindu Law declared, bit by bit, as and when matters are taken before the Court, as void, or would the House like to take the matter in its own hands and reform the Hindu Law so as to make it consistent with article 15 and not to expose it to the danger of having been declared void under article 13? If the House does not wish that the Hindu Law be broken bit by bit by the judiciary but that it becomes an integrated system consistent with our Constitution, then my submission is that it will be very wrong for this House to postpone the consideration of this matter.

Sir, these, in my judgment are very important considerations, and in view of that the House could not afford to postpone or delay the consideration of this matter. I hope the House will therefore accept my motion and carry through the consideration stage of this Bill.

Dr. B. Pattabhi Sitaramayya : Sir, may I ask for a clarification? Dr. Ambedkar has stated that all those provisions which are inconsistent with the particular article of the Constitution which he has quoted

will become void. Is it his contention that on the 26th January when the new Constitution comes into force, and the article which he has quoted certainly come into force, on that day all this portion of the Hindu Law become void and there will be a vacuum left? Can a more unreasonable presumption be made ?

Mr. Speaker : Order, order. That is expressing hon. Member's own opinion.

The Honourable Dr. B. R. Ambedkar : Sir, I have exercised, if I may say so, a great deal of self-control with regard to my friend Dr. Pattabhi Sitaramayya. He would have heard me say, if I had said all that I wanted to say about it.

Mr. Speaker : There are two amendments to the original proposition : That the Bill to amend and codify certain branches of the Hindu Law as reported by the Select Committee, be taken into consideration. I shall first put to the House the amendments. The first amendment is by Mr. Naziruddin Ahmad asking for circulation for obtaining further opinion thereon by the end of 1949. It is too late to extend the date.

Mr. Naziruddin Ahmad : May I explain the position, Sir ?

Mr. Speaker : No. The question is:

> "That the Bill be circulated for the purpose of obtaining further opinion thereon by the end of 1949."

The motion was negatived.

Mr. Speaker : Then the next amendment. The question is :

> "That the Bill be re-committed to the same Select Committee, to which it was sent, for a further report thereon with reference to the original Bill which was referred to it on the 9th April 1948."

The motion was negatived.

Mr. Naziruddin Ahmad : I claim a division, Sir.

Mr. Speaker : Very well. I find the 'Ayes' are five and the rest are 'Noes'. The motion is lost by a large majority. Now I will put the original motion.

The question is :

> "That the Bill to amend and codify certain branches of the Hindu Law, as reported by the Select Committee, be taken into consideration."

The motion was adopted.

Prof. Shibban Lal Saksena (U. P. : General): Sir, the 'Noes' have it.

Mr. Speaker : I find their number is only six or seven. The majority of Members are for the motion.

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* HINDU MARRIAGES VALIDITY (AMENDMENT) BILL

(AMENDMENT OF SECTION 2)

Shri Himatsingka (West Bengal) : I beg to move for leave to introduce a Bill further to amend the Hindu Marriages Validity Act, 1949 *(amendment of section 2).*

Mr. Speaker : The question is :

"The leave be granted to introduce a Bill further to amend the Hindu Marriages Validity Act, 1949 *(Amendment of section* 2)."

The motion was adopted.

Shri Himatsingka : I introduce the Bill.

**HINDU CODE

Mr. Speaker : That brings us to the next item on the agenda, the motion of Dr. Ambedkar: Further consideration of the Bill to amend and codify certain branches of the Hindu Law, as reported by the Select Committee.

Now, with reference to this there are a number of amendments. I will just call upon Members one by one.

Shri Tyagi (Uttar Pradesh): The House has been taken quite unaware on this matter. I feel that some time should be given to the Members.

Mr. Speaker : Order, order. One at a time. Has the Hon. Law Minister anything to say ?

The Minister of Law (Dr. Ambedkar) : It might be taken.

Mr. Speaker : There was some suggestion that Members are being taken by surprise.

Dr. Ambedkar : It cannot be said because the Bill has been on the agenda for the last fortnight.

Shri J. R. Kapoor (Uttar Pradesh): But those who are most interested in taking up the Bill may have a grievance. Mrs. Renuka Ray is not here and many others who are particularly anxious to take it up.

Mr. Speaker : What I was thinking about was, whatever the fate of the various amendments or adjournment motions, the Members who have tabled them are not in their seats. I was just considering as to

*C.A. (Leg) D., Vol. VII, Part II, 12th December 1950, p. 1551.

**C.A. (Leg) D., (IV) Vol. VII, Part II, 14th December 1950, pp. 1780-93.

whether it will be proper or fair on our part just to call them out when this business is being taken up in an unexpected manner. That is the only point which really worries me. I find that Mr. Rohini Kumar Chaudhari is present. I also notice that Mr. Naziruddin Ahmad is here.

Shri R. K. Chaudhari (Assam): I would ask you to give us half an hour so that other Members may also be present.

Mr. Speaker : Let us proceed. I will call upon Mr. Naziruddin Ahmad.

Pandit Kunzru (Uttar Pradesh): May I suggest that the discussion should begin with a statement from the Hon. the Law Minister who held a conference with various interests. He has circulated a short report of the discussions that took place in the conference, but I think all sides of the House will be glad to hear a fuller account of the conference from him and the resume of the amendments that he has proposed. I think that would be a more proper course and this in a sense will give Members some time.

Dr. Ambedkar : I do not know that I have anything more to add. I took particular care to submit a statement to you with a view to its being circulated to Members at the very commencement of this session, so that Members may have a full account of what happened. I am rather sorry that we were not able to take a verbatim record of the proceedings of the Conference on account of the fact that several Members spoke in several different languages. Some spoke in Hindi, some spoke in English, some spoke in Marathi, some spoke in Gujarati and some spoke even in Sanskrit. It was quite impossible to take down a verbatim record, and I think, some also spoke in Tamil language. It was, therefore, quite impossible to have any person as a stenographer to take down the verbatim record. Otherwise, I should have been very glad to do so. Consequently, I myself, according to my memory summarised the points that were put before the Conference for discussion, the points which I found had emerged in the course of the discussion that had taken place in this House, from different stands of the House. They were placed before them and they were invited to address the Conference and I subsequently found out what was the largest measure of agreement among the speakers who took part and in accordance with that, I have suggested certain amendments to the original Bill.

You will also recall, Sir that in order to help the House. I have prepared two different texts of the Hindu Code, one in a serial order

giving the original section and also the new amendments that I propose to incorporate, so that they may have a complete view. I have also prepared a second text book, so to say, which contains the original text of the Select Committee's sections on the right-hand side and the new Code with the amendments on the left-hand side, so that whenever any amendment is moved not only the members will be able to find how the old clause reads but what the new clause also says. I think, I have done my level best to help the House to a proper understanding of the provisions of the Hindu Code as modified by the results of the informal committee. If any Hon. Member has any question to ask, I shall certainly be very glad to add or supplement whatever information I have given in that statement.

Shri Jnani Ram (Bihar): The Hon. Law Minister has stated that this Bill will be discussed for a day or two and that it will be postponed.

Mr. Speaker : We are not concerned with what happened at the party meeting.

Shri R. K. Chaudhari : The Hon. Minister may be pleased to make a statement in connection with what was stated in the party meeting itself.

Mr. Speaker : Order, order. The Party proceedings are not open here.

Shri Sivan Pillay (Travancore-Cochin): May I know if the clause by clause discussion is to take place now and that the general discussion on the principles of the Bill over?

Mr. Speaker : The Hon. Member has perhaps lost sight of the progress of the Bill. The consideration motion was adopted and now what remains to be done is to take the Bill clause by clause. I would put clause 2 to the House, but before that, there are certain amendments or certain motions urging the adjournment of the debate. These being adjournment motions must have precedence and, therefore, I am calling upon Mr. Naziruddin Ahmad, if he wishes, of course, to move his motion.

The Prime Minister and Minister of External Affairs (Shri Jawaharlal Nehru) : One of the hon. Members put a certain question to me and I think it is fair to the house that I shall answer it, although you, Sir, were good enough to consider it as being not necessary. This Bill is obviously one which will normally take a long time of this House, if we go through it clause by clause. It is a contentious matter in which opinions differ. Nevertheless Government attach great importance to it and we do wish it to be taken up now, but we realize

that it is in the nature of things, not possible to go through it during this session even if we take it from day to day. Therefore, Government propose, subject to your approval, Sir, that we might deal with the initial stage there are certain objections and if all those objections can be disposed of this way or that—so that the way may be clear and not otherwise take up the time of the House during the session.

Mr. Speaker : Do I understand the position correctly that the amendments or motions by way of postponement should be disposed of first and that clause by clause consideration may be taken up later ?

The Minister of State for Parliamentary Affairs (Shri Satya Narayan Sinha) : Yes. That is so.

Mr. Speaker : In light of this, is it necessary to move any adjournment ?

Shri Naziruddin Ahmad (West Bengal): No.

Mr. Speaker : He may formally move without any speech, so that we may proceed with the other business.

Shri Naziruddin Ahmad : I beg to move:

> "That the debate on the Hindu Code Bill be adjourned to a special session of Parliament to be called for the purpose to enable Members to fully consider the Bill and the numerous Government amendments to the same."

I do not wish to move the other alternatives.

Mr. Speaker : Is he particular for a special session ?

Shri Naziruddin Ahmad : I want to place certain views and leave the matter entirely to Government. It is not by way of opposition or obstruction.

Mr. Speaker : The point is what should be the form of the motion. He wants postponement to the next session. That is the long and short of it.

Shri Naziruddin Ahmad : In that case, I shall, with your permission, move the alternatives also. I beg to move :

> "That the debate on the Hindu Code Bill be adjourned till a date during the next Budget session."

and

> "That the debate on the Hindu Code Bill be adjourned to a date after the Budget session is over."

I am entirely in the hands of Government as to what form the motion should take. The Hon. Prime Minister has clarified the situation that

we consider certain objections and later on at a suitable time we take up the clause by clause consideration. That entirely satisfies my point of view. It would be for the Government to consider and fix a suitable date or time.

We no doubt technically accepted the principles of the Bill, but subject to a certain understanding. Though not incorporated in the proceedings, the Hon. Law Minister gave an undertaking that he will seek representative public opinion conversant with the Hindu Law, and suggest amendments to the Bill. As I have already submitted, though the first reading was passed, it was substantially subject to Government being able to find suitable amending formulae to be placed before the House, and which would be acceptable to both sides. I find, however, that a large number of amendments of a very important character have been tabled by the Hon. the Law Minister. I also find that a very large number of amendments have been tabled by the members. There are 17 lists already before us and from the newspaper reports, I find that Government have decided to hold another final session for clause by clause consideration. There is every reason to suppose that if it were not so, many more amendments would have come and that is a matter for serious consideration.

My point is this. These are very important matters. In clause by clause consideration, we must not lose sight of the fact that the House is very seriously divided in matters of detail. In these circumstances, it would be better, I submit, for Government to give the House sufficient time to consider, the amendments, and find out the points of agreement. The Hon. Law Minister said that he consulted a number of people ; but he did not, so far as I am aware, consult the different sections of the House which were opposed to the principles of the Bill. A number of Members opposed the first Reading who have not been consulted.

Shri Tyagi : All of them were not Hindus.

Shri Naziruddin Ahmad : At least there was one who was not a Hindu, that is myself. The point is this. All these matters could not properly be discussed and decided upon on the floor of the House. They go to the fundamentals of the Bill. Each clause is practically a new and important subject. Each clause calls for a detailed consideration. Therefore, my submission is that the Government should give us time and should be willing to sit at a Round Table Conference to straighten out all these differences so that a Bill more acceptable

to the House in general may be evolved. These things should not be allowed to be decided on the spur of the moment and on the floor of the House.

Great things have happened meanwhile. The Indian States have been integrated. Their opinions were never taken. I believe agricultural land is now within the purview of the Bill. This creates another new situation. Therefore, in the light of important amendments coming from Government, and in view of the extension of the area geographically as well as to subjects. I think enough time should be given so that full consideration may be given to the Bill by members. There should be good machinery to settle these differences so that some agreed or some largely agreed formulae may be evolved. On a controversial legislation like this, we should be given sufficient time. I submit that the point of view I submitted during the first reading stage was fully justifed in view of the fact that at that time, the Hindu community's attention was not sufficiently drawn to it. My objection has again been justified by the fact that Government, itself has come forward with a large number of substantial amendments. My task is done. I supposed at that time that I was doing a public duty in drawing attention to certain defects which would have otherwise escaped attention. What kind of law would suit this House and the Hindu community is really primarily a matter for the Hindus. I am not primarily interested in the exact form and shape in which the Hindu Code is to be passed. My position is merely to indicate certain practical considerations and suggest amendments. From these points of view, I think Government should consider the matter and let us know what they want to do, and I am ready to offer constructive help to the passage of the Bill. The exact shape which the disputed clauses will take is not a matter of much personal interest to me, though not a matter in which I have no concern at all. I submit that these are matters which would induce Government to give us sufficient time and devise a machinery to solve the differences of opinion and adopt a code which would be more or less acceptable generally to the House. That is all I have to submit.

Shri Sidhva (Madhya Pradesh) : On a point of information, Sir. The hon. Member had two amendments, one for adjournment *sine die* and ....

Mr. Speaker : I am not permitting that.

I was just considering as to what would be the best form of the motion. One is for a special session, and the other is still a date during

the Budget Session ; the third is, sometime after the Budget Session is over. Shall we postpone till the next session ?

Shri Naziruddin Ahmad : I am entirely in the hands of Government.

Mr. Speaker : "The usual amendment is of course till the next Session. Shall I say : "That the debate on the Hindu Code Bill be adjourned to a date during or after the next Budget Session ?"

3 P.M.

Dr. Ambedkar : So far as the objective is concerned, there is, of course, no dispute between Members of Government and others who are in perfect harmony with Government's view on this subject, namely, that more time may be given to Members to study the Bill and to give their considered opinions. As the Prime Minister just now said, it is not the intention of Government to proceed *seriatim* with the consideration of the Bill, clause by clause. Therefore, my submission is this, that it should be left to Government to take up the Hindu Code Bill next session whenever they want to take it. They may have a special session, they may have a larger Budget session, so that part of it may be devoted to the Hindu Code Bill and part to the usual Budget discussion or it may call for some other session after the Budget Session. I do not want Government's hands to be tied down by any particular motion. As I said, I do not propose to carry through this Bill during this session. It is quite impossible. And it might probably be quite unfair. All the same, I want to oppose the motion, because I do not want to postpone the consideration of the Bill as a result of the motion moved by Mr. Naziruddin Ahmad. Government have given an assurance and Government will abide by it.

Shri Naziruddin Ahmad : I do not know why I should become the target of these oblique remarks.

Mr. Speaker : Therefore, I need not seriously consider the form of the motion.

Dr. Ambedkar : He may move all the motions and we shall negative them.

Shri Tyagi : Or we may move the previous question and this question may be postponed.

Mr. Speaker : I do not think that is necessary. Well, supposing I say that the matter is adjourned and we take the next business ?

Dr. Ambedkar : May I suggest that it would be very good, in my judgment, if you, after disposing of the motion by Mr. Naziruddin Ahmad ....

Shri Naziruddin Ahmad : Dispose of me!

Dr. Ambedkar : If after disposing of it, you merely say that clause 2 stand part of the Bill. And then I myself will move that the further consideration of the Bill be now postponed. I am prepared to put the Hindu Code Bill at the bottom of Government's agenda.

Shri R. K. Chaudhari : I had tabled an amendment, though I cannot say exactly what it is, because I have not got the papers with me now. I was not prepared for this subject. But if I remember a right, my motion was that we may have a special session for the purpose of dealing with the Hindu Code Bill. My grievance against bringing this sort of discussion in the midst of a very busy session is that we cannot get proper opportunity to study the subject. Therefore, I want to have this question considered in a special session.

Shri M. A. Ayyangar (Madras) : After all, Mr. Naziruddin Ahmad's motion only asks that sufficient time should be allowed to Members. And the Prime Minister has also agreed to this. Therefore, I would request Mr. Naziruddin Ahmad not to press his motion, and now, in view of the Prime Minister's statement, this may be adjourned to some day next session. And it is for Government to fix the date during the next session, or call for a special session immediately thereafter. Now that we agree that we should not take up the clause by clause consideration of the Bill, I think both sides are satisfied. Therefore, let the Prime Minister's statement be accepted and Mr. Naziruddin Ahmad need not press his amendment. Therefore, this may be adjourned to some day next session and it will mean that the Prime Minister or Government will fix the date that is suitable and convenient.

Dr. Ambedkar : May I again intervene ? I do not want a repetition of what has been taking place in this House. Every time this Bill comes in, some hon. Member takes it into his head to move a dilatory motion. Now this thing must stop. We have reached a stage when it is proper that the Bill should be taken up clause by clause, and therefore, in token of the fact that the House has consented to the consideration of the Bill, clause by clause, I would request you, that you should put clause 2 to the House ; and thereafter we may adjourn the discussion.

Shri Naziruddin Ahmad : I think the object of these oblique remarks is my humble self. I can give even a fuller undertaking that I will not bring in any dilatory motion.

Mr. Speaker : But there are not only the positions stated by the Law Minister and Mr. Naziruddin Ahmad, but there is also the difficulty of Mr. Chaudhari. Therefore, I think what I should do is this. I shall place the motions before the House and it can vote upon them.

Shri R. K. Chaudhari : But I have to explain my motion, Sir.

Mr. Speaker : The hon. Member has already explained it. I don't think any further time need be taken over this.

Shri M. A. Ayyangar : May I tell Mr. Chaudhari that as the object of his motion is that this question should be adjourned to a special session, we will assume that it is defeated. It is impossible to have a special session. Anyway, let us leave the entire matter in the hands of Government. They may tag it on to the Budget session to fix some convenient time. Why should he commit to have a special session ? If government finds it necessary to have one, they may have one. It does not serve any purpose committing them to have a special session.

Dr. Pattabhi (Madras) : The attitude of Government has more or less taken a change favourable to a more leisurely consideration of this subject. I do not want to dilate upon the subject at any great length. But I shall certainly object to the Hon. the Law Minister saying in a pedagogic manner that this kind of asking for adjournment will not be allowed. It must be allowed. It is the right of every member of this house to use all legitimate methods of opposition where there is an honest and sincere conviction on the side of opposition. I do not go the length of Balfour who said that it is the duty of the opposition to oppose the Government by all fair means if possible, and by all foul means, if necessary. But I will only say this much that if the Prime Minister in the abundance of his wisdom admitted that there are two schools of thought, and he has conceded the adjournment of the proposition very generously and very fairly, in view of that for the Hon. Law Minister to assume this professorial, pedagogic and pontifical attitude, is not desirable. It will only alienate attitudes that have almost been reconciled.

Shri Naziruddin Ahmad : And persons call up an opposition where there is none now!

Shri Jawaharlal Nehru : I want to make it perfectly clear that I stand by every word that the Hon. Law Minister has said. The position is this. Everyone feels that there should be fuller time for the consideration of this question, and therefore we decided to suggest to the House that the clause by clause consideration might take place

later. We should decide clearly the nature of the motion. If it is a dilatory motion and if the hon. Member wants the motion to be considered, let us consider it here and now. We are not going to postpone that motion. I do not want to prevent any motion. If we have a dilatory motion, it must be decided here and now.

Pandit Malaviya (Uttar Pradesh) : We know that there are very emphatic differences of opinion on this point; that acute differences of opinion exist between different sections of this House. Our Prime Minister has taken the practical view, and as we have the right to expect always, he has given us a lead in this matter and has said that this is a controversial issue on which a great deal of time has, in the very nature of things, to be given. May I appeal that since the matter is to be postponed, since no practical purpose is going to be served by our continuing this debate today on any motion or on any section; since there is a very keen and definite difference of opinion on this issue; and since the question of the enactment of the Hindu Code itself will not in any way be advanced by its being taken up now, may I respectfully submit that no section, no viewpoint, will lose anything if we leave the matter where it stands, as the item is going to be postponed. If the intention were to take the Bill into consideration and make any real progress, I would have nothing to say because, then, every Member would have the opportunity of expressing his views, and then whatever the house decided in its collective wisdom, would come on the Statute Book. But, since, according to the course suggested, no real progress is going to be made, I suggest that the very great opposition, the very great anxiety which prevails in the country should not be worsened, should not be deepened. I know that one view unfortunately is that it does not matter what the country thinks on this matter. But there is the other view that every side of the question should be carefully considered and respected. I do not wish to go into that matter in detail now. But I most earnestly appeal to Government not to do an unnecessary thing which will serve no useful purpose, but which will, on the other hand, create still greater resentment and dissatisfaction in the country. I submit that if we are going to postpone this matter and I fully approve the proposal—we should do so wholeheartedly instead of saying that we are postponing and yet we are not postponing, we are not taking it up now and yet we are taking it up, we are not going on with it and yet we are going on with it. Therefore, if the matter is to be

postponed it should be postponed immediately as it is till such future date as Government may fix for it.

Pandit M. B. Bhargava (Ajmer): I have not been able to follow the Hon. Law Minister's proposal. Does he want the Chair to rule for all time to come that in this House no adjournment motion shall be brought forward ? It is a constitutional issue that is sought to be raised and it is for the Chair to rule. As I understand it, it is an absolute right of every Member of the House to bring forward an adjournment motion at any time. Of course it will be for the Chair to admit it or not. If the Chair thinks that it is a dilatory motion it will not grant permission. Even if the Chair rules that such a motion is admissible, then it will be for the House to discuss it and then accept it or reject it. But so far as the right of a Member is concerned, it is an absolute right and he can move an adjournment motion at any stage. If you put clause 2 to the House and say that any time during the progress of the Bill there can be no postponement whatsoever, it is a constitutional issue.

Shri Naziruddin Ahmad : That is subject to the speaker's consent.

Mr. Speaker : I do not think I will express any opinion just at present as to whether in future any motion for adjournment can or would be allowed. That will depend upon the circumstances existing at the time such a motion is brought before the House. The Hon. Law Minister's point seems to be that the House is—not constitutionally or legally but—morally committed to the position that no dilatory motions just with a view to obtain the postponement of the Bill should be brought forward . . . . . .

Dr. Ambedkar : That is all.

Mr. Speaker : That seems to be his only point. I do not think that he meant to fetter the constitutional rights of Members. I would, therefore suggest that instead of putting clause 2 to the House and then postponing the matter, let us adjourn straightaway without putting the motion on clause 2 of the Bill, with a declaration about our moral commitment that such a motion will not be brought forward just for the purpose of securing postponement and no other object.

Some Hon. Members : No, no.

Mr. Speaker : The point is very important one. While the Law Minister was making a statement to that effect, though I could see his point and the force of it, I myself am not expressing a final opinion. I am open to conviction. No one need think that it will be possible

to bar each and every Member of this House from bringing an adjournment motion, if one is inclined to do so. The Chair may refuse to put it on the ground that it is a dilatory motion but that will depend upon the circumstances then existing when such a motion is brought forward. From my point of view it really makes no difference whether clause 2 is put and then the matter is adjourned. Therefore, as I said ; I would make a declaration about this moral binding on the part of the members of this House not to have any dilatory motion so far as this Bill is concerned and then adjourn the matter. I would therefore not like to have that constitutional issue raised again nor keep it alive for a second time as to whether such a motion could or could not be brought forward. I will proceed to adjourn the business and Government. . . .

Dr. Ambedkar : Do these motions then stand out ?

Mr. Speaker : These motions will fall through.

Dr. Ambedkar : What is the fate of these motions ?

Mr. Speaker : The members do not press the motions. If they had pressed their motions, then I was bound to put them to the House.

Some Hon. Members : They have not said so.

Mr. Speaker : I have asked them.

Mr. R. K. Chaudhari : Because a moral question has been raised I would rather like to have my motion put to the House and the House will decide whether it is dilatory or not.

Mr. Speaker : Then the position is quite clear. I will straightaway put it to the House and then we may proceed further. I am putting Mr. R. K. Chaudhari's motion to the House now.

Shri R. K. Chaudhari : Sir, on a maturer and second consideration I, do not propose to press my motion.

Mr. Speaker : So, since the consideration of the matter is now mature, let us proceed to postpone this and Government may fix a date ....

Some Hon. Members : He should withdraw by leave of the House.

Mr. Speaker : Our rule is when no motion is moved no leave is necessary.

Shrimati Durgabai (Madras) : I want to know whether this adjournment motion is under consideration.

Mr. Speaker : The whole thing falls through. The adjournment motions that they have tabled fall through. Nothing remains now. They

have been asked and they do not press them. As regards the others that have tabled similar motions they were not present when they were called upon to move. That is the position. Now the debate is being adjourned. It is not possible to bind all people for all time. If the circumstances arise we shall then meet them.

Shri Tyagi : Only such persons who have moved . . . .

Mr. Speaker : Unfortunately the hon. Member does not seem to have followed the discussion. No motion has been placed before the House by me. Unless I place a motion before the House there is no occasion for putting it to the vote of the House or even to withdraw it.

Shri Tyagi : There is no moral obligation then ?

Mr. Speaker : The moral obligation is there.

Shri Tyagi : I would rather prefer to be immoral.

Shrimati Durgabai : These motions were moved but not pressed.

Mr. Speaker : These motions are not moved at all. I have not placed them before the House.

Shrimati Durgabai : The hon. Member moved and then did not press his motion.

Mr. Speaker : What difference does it make ? If he moves the motion and it is voted against, does it mean that no such motion can ever be brought again ?

Shri Tyagi : Today only we are morally bound.

Mr. Speaker : It is a moral binding for all time. Let there be no further discussion. We shall proceed to the next item of business.

Shrimati Renuka Ray (West Bengal) : *rose*—

Mr. Speaker : The matter is closed and there can be no further discussion.

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Dr. BABASAHEB AMBEDKAR
WRITINGS AND SPEECHES

Vol. 14

PART TWO

(SECTION IV)

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Kumari Selja

सत्यमेव जयते

Minister for Social Justice and Empowerment
& Chairperson, Dr. Ambedkar Foundation

MESSAGE

Babasaheb Dr. B.R. Ambedkar, the Chief Architect of Indian Constitution was a scholar par excellence, a philosopher, a visionary, an emancipator and a true nationalist. He led a number of social movements to secure human rights to the oppressed and depressed sections of the society. He stands as a symbol of struggle for social justice.

The Government of Maharashtra has done a highly commendable work of publication of volumes of unpublished works of Dr. Ambedkar, which have brought out his ideology and philosophy before the Nation and the world.

In pursuance of the recommendations of the Centenary Celebrations Committee of Dr. Ambedkar, constituted under the chairmanship of the then Prime Minister of India, the Dr. Ambedkar Foundation (DAF) was set up for implementation of different schemes, projects and activities for furthering the ideology and message of Dr. Ambedkar among the masses in India as well as abroad.

The DAF took up the work of translation and publication of the Collected Works of Babasaheb Dr. B.R. Ambedkar published by the Government of Maharashtra in English and Marathi into Hindi and other regional languages. I am extremely thankful to the Government of Maharashtra's consent for bringing out the works of Dr. Ambedkar in English also by the Dr. Ambedkar Foundation.

Dr. Ambedkar's writings are as relevant today as were at the time when these were penned. He firmly believed that our political democracy must stand on the base of social democracy which means a way of life which recognizes liberty, equality and fraternity as the principles of life. He emphasized on measuring the progress of a community by the degree of progress which women have achieved. According to him if we want to maintain democracy not merely in form, but also in fact, we must hold fast to constitutional methods of achieving our social and economic objectives. He advocated that in our political, social and economic life, we must have the principle of one man, one vote, one value.

There is a great deal that we can learn from Dr. Ambedkar's ideology and philosophy which would be beneficial to our Nation building endeavor. I am glad that the DAF is taking steps to spread Dr. Ambedkar's ideology and philosophy to an even wider readership.

I would be grateful for any suggestions on publication of works of Babasaheb Dr. Ambedkar.

(Kumari Selja)

Collected Works of Babasaheb Dr. Ambedkar (CWBA)

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HINDU CODE BILL

SECTION IV

(*Clause by Clause Discussion*)

The discussion on the Hindu Code clause by clause was resumed from 14th December 1950. After prolonged debates, some clauses were cleared. Frustrated by the dilatory tactics of some of the members, Dr. Ambedkar submitted his resignation on 27th October 1951.

This Book contains the discussion in Parliament till the date of resignation by Dr. Ambedkar. The text of Dr. Ambedkar's resignation and discussion thereon in Parliament is included in the next Volume i.e. Vol. No. 15 in this series.

—EDITOR

Dr. Babasaheb Ambedkar Source Material Publication Committee Maharashtra State

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HINDU CODE—*contd.*

Clause by Clause Discussion

***Mr. Speaker:** The House will now proceed with the further consideration of the Bill to amend and codify certain branches of the Hindu Law, as reported by the Select Committee.

Shri R. K. Chaudhari (Assam): Sir, before the Hon. Law Minister proceeds with his Bill, may I make a most humble suggestion and it is this : either we finish the more important and shorter Bills in the agenda, and then take up the Hindu Code Bill and finish it, or let it be understood that the Hindu Code Bill will be considered from now and until the Hindu Code Bill is finished no other Bill will be taken up. Either of the two courses must be adopted. It seems that some people who are very much in favour of the Hindu Code Bill think that they are merely playing with time by taking up this Bill, considering it for a short period up to one stage, and then putting it off further for a longer spell of time. That is rather unfair to everybody concerned. Therefore, my first respectful request is this. Let us finish these shorter and more important Bills, as for instance, the Preventive Detention Bill. Under that Act, a number of persons who were arrested, were released under the orders of the High Courts. They have again been re-arrested and the whole thing has been held up in expectation of a more comprehensive Bill which was promised by Government. I submit, Sir, that, in the interests of law and order and also in view of the fact that justice should be allowed to run undeterred, we must finish the most important legislation, namely, the Preventive Detention Bill first, then the Employers' Liability Bill, and then sit down on the Hindu Code and finish it altogether. I hope my suggestion would be acceptable to the Hon. Law Minister.

Mr. Speaker : Is this suggestion acceptable to the Hon. Minister ?

The Minister of Law (Dr. Ambedkar): No. Sir.

Mr. Speaker : So, we will proceed with the further consideration of the Hindu Code Bill.

Shri Naziruddin Ahmad (West Bengal): Sir, I have a point of order. The Hindu Code Bill is before the House for a very long time.

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* Parliamentary Debates (Hereinafter called as P.D.), Vol. VIII, Part II, 5th February 1951, pp. 2356-77.

Meanwhile, some important things have taken place, namely, that the Constitution has been passed and a large number of Acts and sections have been declared to be *ultra vires* of the Constitution. The present Bill would seem to offend against certain definite provisions of the Constitution. We have enacted so many things in the Constitution that I was amazed to find that many relevant Acts are declared *ultra vires* There are two provisions in the Constitution : One is that legislation should not be discriminatory. This is enacted in article 15 ; clause (1) of that article says :

> "The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex . . . ."

I submit that the Bill is confined to Hindus. Within that expression 'Hindus', large number of classes who would not be ordinarily Hindus are attempted to be brought. Even apart from that, there are large classes who will be outside this Bill. I submit that there is discrimination between different castes and persons following different religions. The words 'only of religion' do not seem to make any difference. There is discrimination between different sections of our citizens on the ground of religion. The phrase 'only of religion' does not mean much, for I find there is no other reason why there is difference between the different religious sects, except on grounds of religion. That is one thing.

The second article which I would like to submit for the consideration of the house is . . . .

Shri Tyagi (Uttar Pradesh): May I point out, Sir, that last time when we adjourned, it was decided and all agreed,—he was also a party—that no dilatory motions will be made.

Mr. Speaker : Order, order. He is not making any motion. He is only raising a point of order, according to him.

Shri Naziruddin Ahmad : I shall be very brief, Sir.

Shri B. Das (Orissa) **:** But, he is making a long speech.

Shri Naziruddin Ahmad : The other article to which I would like to refer is 25(1). It says :

> "Subject to public order, morality and health....." which do not mean . . . .

Shrimati Durgabai (Madras) **:** In the name of raising a point of order, is the hon. Member allowed to argue the question on the merits of the case ?

Mr. Speaker : He is arguing and he is entitled to argue ; let us not be impatient with the people who differ.

Shri Sonavane (Bombay) **:** What is his point of order ?

Mr. Speaker : The hon. Member should hear what he is saying.

Shri Sonavane : Is he allowed to argue it ?

Mr. Speaker : I cannot stop a Member, unless I know what he is going to speak, and I cannot know that unless he speaks out. So in order to know what the hon. Member is going to say. I must hear him, and that is the only democratic way in which we can go on.

Shrimati Durgabai : But, will he be allowed to refer to certain clauses of the Bill?

Mr. Speaker : The hon. Member knows that every person who wishes to argue his case is at liberty to speak ; of course, if I find an hon. Member is abusing the liberty or is repeating himself I shall certainly stop him.

Shri Raj Bahadur (Rajasthan) **:** Sir, I would like to know by way of a ruling from you whether the hon. Member can use such derogatory terms as he did, when referring to certain provisions of the Constitution. He said that "subject to public morality, health, etc." are meaningless terms. Can he make such observations ?

Shri R. K. Chaudhari : Sir, I submit that when a point of order is raised and when the Speaker is listening to that point of order, there should be no interruptions from any hon. Member.

Mr. Speaker : Order, order.

Shri Naziruddin Ahmed : I submitted that the words in clause (1) of article 25—"Subject to public order, morality and health" do not really mean anything serious. I think they are the usual dreamy kind of safeguards which have no legal significance. The article further says :

> "... all persons are equally entitled to freedom of conscience and the right freely to profess, practise and propagate religion."

With regard to the subject of marriage, it is considered by all devout Hindus that marriage is part of their religious profession and practice. So far as I know, a Hindu thinks of marriage as part of his religion, and if a man has no son, he, it is believed, goes to a particular region in hell.

Shri Tyagi : Order, order, I have no son.

Mr. Speaker : Will the hon. member resume his seat ? Order, order. I want the hon. Member not to interrupt.

Shri Naziruddin Ahmad : In order to ensure against a particular kind of hell, the man should have a son, and in order to have that, he must marry. That is one of the ten *samskaras* of a Hindu. It is a religious practice, and in order, to have son, a man can have one wife or more than one. Therefore. I submit that this provision curtails the Fundamental Right given in article 25(1). I am not raising a point which is only of academic interest, for this clause has been utilized by the Bombay High Court recently in declaring a certain Act—Prevention of Bigamous Marriages Act—to be *ultra vires*.

Dr. Ambedkar : By the Bombay High Court ? I am sure that is not correct. It was probably some magistrate.

Shri Naziruddin Ahmad : The question before us is whether some of the provisions relating to marriage may not be *ultra vires* of the Constitution. There is also the ground of discrimination, in view of article 15(1) of the Constitution. There are numerous other articles detailing with minor aspects of the question, but I think, these two would suffice for the time being. I am well aware of the principle that the Speaker cannot rule out a point because the legality of it is doubtful. But these are real stumbling blocks and I would request you, Sir, to consider the legality of the Bills. As we all know, a large number of Acts and sections have been declared *ultra vires*. Even at the time the Constitution was passed, objections were raised that these might be declared *ultra vires*. We have enacted these Fundamental Rights and anything inconsistent with them; to the extent of that inconsistency, would be null and void. There is no way out of it. If there is any law, any Act, which is in any way inconsistent with these articles, those laws or Acts, to the extent of that inconsistency, shall be void. That is the serious question before us now. Should we pass an enactment which would be declared *null and void* ? Should we not reconsider the Bill in view of the structure of the Constitution which we have chosen to give to ourselves ?

Sir, these are some of the matters which I venture to submit for your consideration.

Mr. Speaker: I do not think I need go in detail over the serious points raised by the hon. Member, Mr. Naziruddin Ahmad. The short answer which I can give to whatever he has stated is this. What he urges now may be true in respect of some of the provisions at the most, not all the provisions. And the proper procedure and time to

deal with them would be when the particular provision which he thinks contravenes the Constitution, comes up for consideration, not till then, because to say all the provisions are of that type, and therefore there should be no consideration of the Bill, would be going too far.

That is the short way in which I can dispose of all the objections which the hon. Member has urged. This does not mean that I agree with his view. But assuming that his view is correct, still the proper time would be when the relevant clause comes up for consideration. This House is perfectly competent to add to, or substract from the Bill as presented to the House, if the House comes to the conclusion that a particular provision is not proper or offends against the Constitution. But it cannot be decided by the Chair just at the very beginning.

I do not think I need go into the merits of the arguments as to how far there is really any discrimination or how far marriage is really a question of religion and so on and so forth.

I think we shall now proceed with the bill, clause by clause.

Clause 2—*(Application of Code)*

Pandit M. B. Bhargava (Ajmer) **:** I have got an amendment standing in my name, proposing the insertion of a new clause 2, after clause 1.

Mr. Speaker : Yes, that is right. The hon. Member may move it now.

Shri Tyagi : Sir, before that, may I refer to a ruling you gave once, and to the ruling which you gave just now ? Once when I raised a point about a Bill being declared *ultra vires,* the ruling was that it was for the Courts to decide whether it was *ultra vires* and that it was not within the purview of the Chair. Sir, do you hold to that view now or will you use discretion in declaring certain clauses *ultra vires* or otherwise of the Constitution ?

Mr. Speaker : I do not think I have yet any grounds for changing my view. If however, grounds are shown. I may reconsider the matter.

Pandit Thakur Das Bhargava (Punjab)**:** Sir, ordinarily clause 1 is taken after all the clauses are finished. In regard to the Hindu Code I find from the amendments to clause 1 that some of them involve questions of a very substantive nature. They relate to applicability of the Code in certain States. Many amendments to clause 1 have been put on the order paper and may I request you kindly to consider whether it would be possible to take up clause 1 first ?

Mr. Speaker : The reason for taking up clause 1 at the end is to see that it may be properly worded, after seeing the final form of the various provisions in the legislation. The hon. Member will see that sub-clause (1) of clause 1 says as to what the name of the Bill shall be : sub-clause (2) deals with the territorial extent of this legislation and sub-clause (3) speaks about the date from which the Bill will come into force.

Pandit Thakur Das Bhargava : Territorial extent is a substantive question.

Mr. Speaker: Even in regard to that, after going through the provisions of the Bill it may be possible for us to see more clearly. As to whether the provisions of the Bill should apply to all parts of India or exceptions should be made in respect of certain provisions in respect to certain States or areas. To my mind, it appears more advantageous to take clause 1 at the end, for then the House will have a more clear picture as to what the provisions of the Bill are. That is a better procedure and we shall proceed with clause 2.

As regards Pandit M. B. Bhargava's amendment, it more or less seeks to amend clause 1 and he wants to put in a new condition for the application of the provisions of the Bill.

Dr. Ambedkar : It is really an amendment to clause 1.

Pandit M. B. Bhargava: I may be allowed to explain.

Mr. Speaker : The amendment says :

> "That this Code or only such part of it shall come into force if and when it is ratified on a referendum by majority of the Hindu electorate of Parliament."

That is, really speaking, an amendment to sub-clause (3) of clause 1, though he places it as a separate new clause. No further arguments are necessary and I shall proceed with clause 2.

Shri Sarwate (Madhya Bharat)**:** Will the official amendments be moved first or will mine be taken up first ?

Mr. Speaker : I am going by the order so far as the provisions of the Bill go. The official amendments will come later on.

Shrimati Durgabai : If the official amendments are moved first they may cover the points to be raised later by non-official amendments.

Mr. Speaker : We will go by the order.

Dr. Ambedkar : May I make a suggestion in the interest of economy of time ....

Shri Tyagi: Withdraw the Bill : that is the best economy of time.

Dr. Ambedkar : That would be too much of an economy. If you look at the various amendments which stand on the order paper you will see that most of the amendments are mere variants of one another. There is no amendment which is very substantially different from the other amendments. I was therefore suggesting whether it would not be a proper procedure to permit Members to move their amendments and then to have a general discussion rather than to permit each amendment to be moved, have a debate on it and then to dispose of it, thereafter have another amendment moved, have a debate on it and then to dispose of it. I was thinking that in the interests of economy of time the procedure I was suggesting might appeal to you.

Mr. Speaker: In fact, we have been following that procedure. Where amendments involve a common point, all the amendments are moved and there is a common discussion. That is the practice which we have been following in the past and therefore, I shall follow that practice here too.

Shri Sarwate : I beg to move :

For clause 2, substitute :

"2. *Application of Code.*—(1) This Code applies to all Hindus.

(2) The expression 'Hindu' in this Code, shall, unless otherwise provided, mean a citizen of India.

(3) Notwithstanding anything contained in the Special marriage Act, 1872 (III of 1872), this Code shall apply to Hindus, as defined in that Act, and whose marriages have not been solemnized under the provisions of that Act prior to the commencement of this Code."

Mr. Speaker : May I suggest one thing more. Those amendments that are printed, as well as others too, have been circularised. So hon. Members may only mention the number of the amendment they propose to move and I shall take it that it has been moved. All the amendments relating to one clause and one subject will be moved and discussed.

Shri Tyagi : The point which the amendments seek to amend will be discussed separately.

Mr. Speaker : Yes.

The Minister of State for Transport and Railways (Shri Santhanam): Sir, is it in order to go against the fundamentals of the Hindu Code itself. The amendment seeks to apply the Code to all Christians, Muslims and others. Does it not go beyond the Code itself? I would like a ruling from you, Sir, on that subject.

Mr. Speaker : Let the amendments be moved first.

Shri Tyagi : The amendment seeks to Hinduise the Muslims, which is against the law or Constitution. Everybody has been guaranteed the liberty of practising his religion and to bring the Muslims and Christians also under the Hindu Code will mean interfering with their religion.

Mr. Speaker : Let the amendments be moved.

Shri Tyagi : This amendment has been moved and therefore it is out of order.

Shri Indra Vidyavachaspati (Uttar Pradesh) **:** I beg to move:

For clause 2, substitute:

"2. This Code applies to all Indians irrespective of their religion, caste or creed".

Pandit Thakur Das Bhargava : I beg to move:

For clause 2, substitute:

"2. Subject to the provisions of section 1 this Code applies—

(a) to all persons who are Hindus, Buddhists, Jains or Sikhs by religion ;

(b) to any other person who is not a Muslim, Christian, Parsee, or a Jew by religion ;

(c) to every woman who married any person who was not a Muslim, Christian, Parsee or a Jew by religion ;

(d) to any child legitimate or illegitimate one of whose parents was a person who was not a Muslim, Christian, Parsee or a Jew by religion ;

(e) to a convert to any religion except the Muslim, Christian, Parsee or Jew by religion."

Shri Jhunjhunwala (Bihar) **:** I beg to move :

For clause 2, substitute:

" 2. *Application of Code*—This Code applies to all the citizens of India that is Bharat, irrespective of their caste, creed and irrespective of their belonging to or professing any religion."

Dr. Ambedkar: I beg to move:

In clause 2,—

(1) in sub-clause (1),—

(i) in part (a), for " Hindus, that is to say, all persons professing the Hindu religion" substitute "persons who are Hindus by religion" ;

(ii) in part (d), for " Hindu religion" substitute " Hindu, Buddhist, Jaina or Sikh religion" ;

(2) omit sub-clause (4).

Shri Naziruddin Ahmad : I beg to move:

(i) In part (a) of sub-clause (1) of clause 2, for " Hindus, that is to say, all persons professing the Hindu religion" substitute " persons who are Hindus by religion".

(ii) Omit part (b) of sub-clause (1) of clause 2.

(iii) For part (b) of sub-clause (1) of clause 2, substitute:

"(b) to all persons who are Buddhists, Jains or Sikhs by religion".

(iv) For part (b) of sub-clause (1) of clause 2, substitute:

"(b) to any person who is a Jaina by religion ;".

(v) In part (b) of sub-clause (1) of clause 2, for "Jaina or Sikh", substitute "or Jaina".

Sardar Hukam Singh (Punjab) **:** I beg to move:

In part (b) of sub-clause (1) of clause 2, omit "or Sikh".

Shri Naziruddin Ahmad : I beg to move:

(i) In part (c)(i) of sub-clause (1) of clause 2, after " illegitimate" insert:

"who, if he has attained the age of eighteen years, is himself a Hindu and".

(ii) In part (c)(i) of sub-clause (1) of clause 2, for "whose parents are Hindus" substitute "whose parents are or have been Hindus".

(iii) In part (c) (ii) of sub-clause (1) of clause 2, after "belongs or belonged" insert "and who, if he has attained the age of eighteen years, is himself a Hindu".

Shri S. P. Misra (Uttar pradesh)**:** I beg to move:

After part (c) (ii) of sub-clause (1) of clause 2, add:

"(iii) to any abandoned child brought up as a member of the community, group or family to which such parent belongs ;".

Shri Naziruddin Ahmad : I beg to move:

For part (d) of sub-clause (1) of clause 2, substitute:

"(d) to a convert to the Hindu religion, subject to his rights and liabilities before his conversion."

Babu Gopinath Singh (Uttar Pradesh)**:** I beg to move:

After part (d) of sub-clause (1) of clause 2, add :

"(e) to a Muslim or Christian converted from Buddhism, Jainism, Sikhism or Hinduism in his life time".

Shri Naziruddin Ahmad : I beg to move:

Omit sub-clause (2) of clause 2.

Sardar Hukam Singh : I beg to move:

In sub-clause (2) of clause 2, after " Parsi" insert " Sikh".

Shri Brajeshwar Prasad (Bihar)**:** I beg to move:

After sub-clause (2) of clause 2, insert:

"(2A) This Code also applies to any woman professing any religion who has married a Hindu, Buddhist, Jain or Sikh."

Shri Naziruddin Ahmad : I beg to move :

(i) Omit sub-clause (3) of clause 2.

(ii) Omit sub-clause (4) of clause 2.

(iii) After sub-clause (4) of clause 2, add :

" (5) Notwithstanding anything in this section this Code shall apply only to such areas or to such persons or classes of persons in any State from such time or by such stages as the State Legislature may from time to time by Act provide."

Shri Jhunjhunwala : I beg to move :

To clause 2, add the proviso:

"Provided, however, that notwithstanding anything contained in the above clauses, this Code shall not apply to any person, unless such person got his name registered with such authority, and in such manner, as may be hereafter prescribed by Parliament, within one year after this Code comes into force and in case of a minor within one year after such a minor attains majority."

Mr. Speaker: I called out each Member who has tabled his amendment or amendments and I find that Shri Shiv Charan Lal and Prof. K. K. Bhattacharya were absent when called. But, as we are following a procedure of calling out the number of the amendment it is possible that these two Members may not have expected that they would have been called so soon as that to move their amendments. Though I am very clear that they should have been in their seats when the Bill is taken up for discussion, as we are starting this procedure in the beginning. I am thinking of permitting them to move their amendments later on if they turn up in the House and wish to move them during the course of discussion on this particular clause.

Shri J. R. Kapoor (Uttar Pradesh) **:** Sir, there are two amendments of which I have given notice. One of them is an amendment to Shri Jhunjhunwala's amendment No. 18 in Supplementary List No. 1.

Mr. Speaker: Is the hon. Member moving further substantial amendments ?

Shri J. R. Kapoor: No. I may be so called but not No. 2.

Mr. Speaker : No 2 of course is an amendment to the amendment of Shri Jhunjhunwala. That I am accepting for moving.

Shri J. R. Kapoor : So far as No. 1 is concerned, it does so happen that it has been given the shape of an absolutely original amendment though I had given it to the Notice Office in the form of an amendment to Mr. Jhunjunwala's amendment No. 13. To put it in a better form the office has given it as a separate amendment. Therefore, I hope you will admit it. The whole thing will be open to discussion and the admission of this will not in any way interfere with the proper disposal of the subject.

Mr. Speaker : It is not a question of disposal. If I were to permit amendments at the last minute, they will be coming in even till the last stage of voting. Therefore, I am unwilling to waive. . . .

Shri J. R. Kapoor : Sir, I was making this submission only in view of the special circumstances of the case. Originally I had put in the first amendment as an amendment to Shri Jhunjhunwala's amendment No. 13 in Supplementary List No. 1. But then to give it a better form the office thought it might be put as a separate substantial amendment. If the Chair is so pleased it can be taken in the original form.

Mr. Speaker: Very well. As it is a change in form only I will permit him to move it.

Shri J. R. Kapoor : I beg to move :

(i) For clause 2, substitute :

"2. *Application of Code.*—This Code or any part or parts thereof applies to all the citizens of India that is Bharat, who after attaining the age of majority, declare in writing that they shall be governed by this Code or any part or parts thereof, as the case may be, and get such declaration registered in accordance with rules prescribed for the purpose by the Central Government."

I also beg to move:

(ii) In the amendment proposed by Shri Banarsi Prasad Jhunjhunwala, in the proposed proviso to clause 2, for the words beginning with the words "unless such person" to the end, substitute:

"unless such person, after attaining the age of majority, declares in writing that he or she, as the case may be, shall be

governed by this Code, and gets such declaration registered in accordance with rules prescribed for the purpose by the Central Government."

Mr. Speaker : Amendments moved :

1. For clause 2, substitute:

"2. *Application of Code.*—(1) This Code applies to all Hindus.

(2) The expression ' Hindu' in this Code shall, unless otherwise provided, mean a citizen of India.

(3) Notwithstanding anything contained in the Special Marriage Act, 1872 (III of 1872), this Code shall apply to Hindus, as defined in that Act, and whose marriages have not been solemnized under the provisions of that Act prior to the commencement of this Code."

2. For clause 2, substitute:

"2. This Code applies to all Indians irrespective of their religion, caste or creed."

3. For clause 2, substitute:

"2. Subject to the provisions of section 1 this Code applies—

(a) to all persons who are Hindus, Buddhists, Jains or Sikhs by religion ;

(b) to any other person who is not a Muslim, Christian, Parsee, or a Jew by religion ;

(c) to every woman who married any person who was not a Muslim, Christian, Parsee or a Jew by religion ;

(d) to any child legitimate or illegitimate one of whose parents was a person who was not a Muslim, Christian, Parsee or a Jew by religion ;

(e) to a convert to any religion except the Muslim, Christian, Parsee or Jew by religion."

4. For clause 2, substitute:

"2. *Application of Code.*—This Code applies to all the citizens of India that is Bharat, irrespective of their caste, creed and irrespective of their belonging to or professing any religion."

5. In clause 2,—

(1) in sub-clause (1),—

(i) in part (a), for "Hindus, that is to say, all persons professing the Hindu religion" substitute "persons who are Hindus by religion" ;

(ii) in part (d), for " Hindu religion" substitute " Hindu, Buddhist, Jaina or Sikh religion";

(2) Omit sub-clause (4).

6. In part (a) of sub-clause (1) of clause 2, for, "Hindus, that is to say, all persons professing the Hindu religion" substitute "persons who are Hindus by religion".

7. Omit part (b) of sub-clause (1) of clause 2.

8. For part (b) of sub-clause (1) of clause 2, substitute :

"(b) to all persons who are Buddhists, Jainas or Sikhs by religion ;".

9. For part (b) of sub-clause (1) of clause 2, substitute :

"(b) to any person who is a Jaina by religion".

10. In part (b) of sub-clause (1) of clause 2, for "Jaina or Sikh", substitute "or, Jaina".

11. In part (b) of sub-clause (1) of clause 2, omit "or Sikh".

12. In part (c) (i) of sub-clause (1) of clause 2, after "illegitimate" insert :—

" who, if he has attained the age of eighteen years, is himself a Hindu and".

13. In part (c) (i) of sub-clause (1) of clause 2, for " whose parents are Hindus" substitute " whose parents are or have been Hindus".

14. In part (c) (ii) of sub-clause (1) of clause 2, after " belongs or belonged" insert "and who, if he has attained the age of eighteen years, is himself a Hindu".

15. After part (c) (ii) of sub-clause (1) of clause 2, add:

"(iii) to any abandoned child brought up as a member of the community, group or family to which such parent belongs;".

16. For part (d) of sub-clause (1) of clause 2, substitute :

"(d) to a convert to the Hindu religion, subject to his rights and liabilities before his conversion."

17. After part (d) of sub-clause (1) of clause 2, add:

"(e) to a Muslim or Christian converted from Buddhism, Jainism, Sikhism or Hinduism in his life time."

18. Omit sub-clause (2) of clause 2.

19. In sub-clause (2) of clause 2, after "Parsi" insert "Sikh".

20. After sub-clause (2) of clause 2, insert:

"(2A) This Code also applies to any woman professing any religion who has married a Hindu, Buddhist, Jain or Sikh."

21. Omit sub-clause (3) of clause 2.

22. Omit sub-clause (4) of clause 3.

23. After sub-clause (4) of clause 2, add:

"(5) Notwithstanding anything in this section this Code shall apply only to such areas or to such persons or classes of persons in any State from such time or by such stages as the State Legislature may from time to time by Act provide."

24. To clause 2, add the proviso:

"Provided, however, that notwithstanding anything contained in the above clauses, 'this Code shall not apply to any person, unless such person got his name registered with such authority, and in such manner, as may be hereafter prescribed by Parliament, within one year after this Code comes into force, and in case of a minor within one year after such a minor attains majority."

25. For clause 2, substitute :

"2. *Application of Code.*—This Code or any part or parts thereof applies to all the citizens of India that is Bharat, who after attaining the age of majority, declare in writing that they shall be governed by this Code or any part or parts thereof, as the case may be, and get such declaration registered in accordance with rules prescribed for the purpose by the Central Government."

26. In the amendment proposed by Shri Banarsi Prasad Jhunjhunwala, in the proposed proviso to clause 2, for the words beginning with the words " unless such person" to the end, substitute :

"unless such person, after attaining the age of majority, declares in writing that he or she, as the case may be, shall be governed by this Code, and gets such declaration registered in accordance with rules prescribed for the purpose by the Central Government."

Shri Naziruddin Ahmad : Sir, I would like to suggest a shortcut. There are a large number of amendments, though governing almost the same matter. I think if all these matters are discussed together there would be confusion and I think, from experience, that we will not get replies to our points. If we consider separately, we can curtail our speeches to prevent repetition. I suggest this only as a matter of opinion.

Mr. Speaker : If we are all determined not to repeat the same thing over again, we need not be very much afraid of repetitions. Of course, the Chair may be put to a much greater strain in watching that there are no repetitions, but the Chair will try its best to do so.

Dr. Ambedkar : And apply sanctions to Mr. Naziruddin Ahmad !

Shri Sarwate : Sir, at the outset an objection has been raised that my amendment would enlarge the scope of the Bill. In the course of my speech, I shall try to show that if it does so at all, it is not being inconsistent either with the object of this Bill or with the provisions of the Constitution.

[PANDIT THAKUR DAS BHARGAVA *in the Chair*.]

As far as I know, there has been no one definition of "Hindu". The connotation and denotation of the term "Hindu" has varied from time to time and from place to place. Possibly, there would be a time when it would come to mean what I have suggested in my amendment. I may quote certain instances where the term "Hindu" is interpreted variously. *Satyarthaprakash,* I am told, does say that "Hindu" means : "whosoever resides in India". *Savarkar,* reformer of Bombay has suggested that whosoever is born in India and who holds her as his sacred land is a Hindu. He has suggested:

आ सिंधु सिंधु पर्यता, यस्य भारत भूमिका ।
पितृभूः पुण्यभूश्चैव, सर्वे हिन्दुरिति स्मृतः ॥

That is to say, one who considers India to be his homeland and also as his sacred land should be considered as Hindu. I need not point out that in America and also probably in South Africa everybody who comes from India is known as "Hindu". Therefore, my amendment does not seek to do anything novel but is in conformity with the interpretation which has been tried to put on this term "Hindu". Again, I may point out that in this Bill itself, the term "Hindu" is not restricted to Hindu law, whatever that may mean. In sub-clause (a) of the definitions, it is said to apply:

> "to all Hindus, that is to say, to all persons professing the Hindu religion",

and in (b):

> "to any person who is Buddhist, Jain or Sikh by religion".

So, this Bill seeks to extend the provisions to Hindus plus Sikhs plus Buddhists plus Jains. I need not go into the history of the Hindu religion. Jainism was certainly at one time opposed to and contradictory to the Hindu religion, if that means *Sanatana Vedic Dharma, Whereas Sanatana Vedic Dharma* relied on the *Vedas* Jainism did not rely on

the Vedas. Therefore, Jain and Hindu *Sanatana Vedic Dharmas* were entirely different religions.

The House then adjourned for Lunch till Half Past Two of the Clock.

The House re-assembled after Lunch at Half Past Two of the Clock.

[PANDIT THAKUR DAS BHARGAVA *in the Chair*.]

Shri Sarwate: When the House rose for lunch I was trying to show that in the Bill along with Hindus, persons of other religions are also sought to be included—religions which were contradictory to and opposed to Hindu religion, *i.e., Sanatana Vedic Dharma*. For instance, Buddhism was against Hinduism ; so also was Jainism. But these two religions have been included in the Hindu Code Bill. So, if the mover of the Bill is entitled to include certain religions other than Hinduism, then I am entitled to move that certain other religions may also be included and in doing so I think I shall not be outside the scope of the Bill.

I was going further to show that the Bill under discussion also seeks to codify and *reform* Hindu law, if I remember aright, it has been stated in the Statement of Objects and Reasons. Possibly that has been done to obviate or remove any possible difficulty that the Constitution may bring in at this stage or later on. What I mean is this. Article 25 of the Constitution lays down that all citizens of India are equally entitled to freedom of conscience and the right freely to profess, practise and propagate religion. If as man were free to practise his own religion, then he would certainly be at liberty to marry according to the tenets of his religion. But what is sought to be done by this Bill is that he will be forced to marry in a particular way. The principles laid down in this Bill may be entirely opposed to the tenets of his religion. I have a feeling that objection to this may probably be sought to be covered by the subsequent clause of article 25 which reads :

> "(2) Nothing in this article shall affect the operation of any existing law or prevent the State from making any law—
>
> (a) regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice ;
>
> (b) providing for social welfare and reform or the throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus."

By my amendment I want to reform what is Hindu religion. I want to reform Hinduism by widening its scope to all those persons who are citizens of India, including Christians, Parsis, Jews, etc.

Now, Sir, what is Hindu law ? Hindu law is said to be based on *Shruti* and *Smriti,* that is *Vedas*. Further it is said that that is not the only source. The other source is the enactment by proper legislature or proper authority. So, let us say that enactment plus *Vedas* is equal to Hindu law. If X represents *Shruti* and *Smriti* and Y represents enactment, Hindu law is equal to X plus Y. The value of X in the beginning was 100 and that of Y zero. But as time went on encroachments were made by enactments one by one with the result that the position was completely changed.

The very basis of the Hindu religion is the caste system and secondly the particular way in which marriage is held. It is held to be sacred ; it is held to be sacramental and therefore it is said to be indissoluble. It cannot be dissolved. There cannot be a divorce according to the strict *Sanatana Vedic Dharma* as practised by orthodox Hindus. But one by one these fundamentals are being removed. For instance, divorce is allowed . In certain cases castes have been totally ignored and in this Bill it has been said that there will be no caste. So this Bill takes away the whole basis of 'Hinduism' according to the *Sanatana Vedic Dharma*. What this Bill seeks to do is that whereas previously X was hundred and Y was zero and the total was hundred, X is sought to be reduced to zero and Y raised to hundred. They are exactly reversing the position. While once the *Shruti* and *Smriti* was the whole source and enactment nil, now the enactment would be the whole source and *Shruti* and *Smriti* nil. Therefore, what I am now saying is that instead of giving this benefit only to those who are *Sanatana Vedic Dharmas* it should be extended to all. That would be doing on the professed lines of the Bill. My object is to give equality to all persons who are inside the limits of India. I am neither partial to the Hindus, nor to Sikhs, nor to anybody else.

It may perhaps be pointed out that I am trying to extend the scope of the Bill to persons who were not examined; for instance, Christians and Parsis were not examined, and that it would be unfair. My answer is that it would be unfair to include the Sikhs either because they were not examined. So, in point of fairness there is not much to choose between the provisions of the original Bill and the amendment which I am seeking to move. The logical course would be to examine those

persons who were not examined previously and to get their opinion. If necessary the Bill may be held over or returned to do this.

The chief claim of this Bill is said to be this that it is based on a very good sense of fairplay, justice and equity. Suppose it is said, for instance, a person has three sons and three daughters. If he has affection for his sons, he has equal affection for his daughters. If the sons are to inherit because they are born of the parents, it follows that the daughters also having been born of the parents they should also take the inheritance. That is the only reason that can be advanced for giving the inheritance to the daughter, namely, that she is born of her parents, and therefore she necessarily ought to get a share in the property of the father. In a way it is right. Then it should be right not only in me case of Hindus but of Muslims and Sikhs also; it should be so in the case of Christians and others. Therefore, if the law has to be amended it should be made applicable not only to Hindus but to all citizens who happen to be within our jurisdiction and for whom we can legislate.

And here I have a very good support. I shall just quote what Dr. Ambedkar himself has said at a previous stage of the Bill—I am quoting from page 3651 of the report of the proceedings of the House :

> " If my hon. friend's alternative was that there ought not to be communal laws of inheritance and communal laws of marriage but there are to be a common Civil Code applying to all sections, all communities, in fact applying to citizens without discrimination as to religion, cast or creed, I am certainly one with him."

He said this in the course of the discussion on the Hindu Code Bill at some previous stage.

An. Hon. Member : He has changed his opinion.

Shri Sarwate : He should keep his word.

There is also a provision in the Constitution in my favour, and that is article 44 which says:

> " The State shall endeavour to secure for the citizens a uniform Civil Code throughout the territory of India."

A Civil Code necessarily means a Code which deals with marriage, inheritance, adoption and so on. The scope of the Civil Code is co-terminous with and almost the same as that of the Hindu Code Bill. The article in the Constitution says that "the State shall endeavour.....", which is being made by this amendment. So it is but proper that the earliest opportunity should be taken to put this provision of the Constitution into effect and Dr. Ambedkar should be the first person to accept my amendment.

While the discussion on this Code was going on in the previous session, some of my Muslim friends, and also some of my Parsi friends, expressed their entire satisfaction and were very loud in praising the provisions of this Code. I would welcome them and appeal to them to support me. When they consider that the provisions are so good and reasonable, they should follow up their convictions by similar speeches as the one which I am at present making, namely, that the Code should be made applicable to all.

I say that the expression "Hindu" in this Code shall, unless otherwise provided, mean a citizen of India. I have put in the expression "unless otherwise provided" for this reason, namely, that if certain provisions of this law are not applicable to people of certain religions, if for instance they think that adoption is not necessary for them, they can move that for the purposes of adoption "Hindu" should not include, for instance, a Muslim or a Christian. The phrase "unless otherwise provided" would show that it is sufficiently elastic. My definition would be sufficiently elastic to enable every religion to adapt the Code to its own tenets or whatever hon. Members think that their religion requires them to do. So there should be no difficulty in this way either. For instance the Roman Catholics think that divorce is not allowable in their case. If they are convinced they can say that for purposes of divorce "Hindu" should not include a Roman Catholic.

According to this Code there can be two ways of marriage, sacramental and civil. Sacramental marriage would mean a marriage done according to religion. It may be any religion—It may be Hindu, Jain, Christian. That does not come in the way either. For instance there are necessary ceremonies in the *Sanatana Vedic Dharma*. What I am suggesting is that people of those religions need not be afraid that their whole religion would be nullified.

Shri Tyagi: What about those who are already married according to another Code ?

Shri Sarwate : My hon. friend Mr. Tyagi may suggest the necessary amendments at the proper stage for that.

I, therefore, suggest that my amendment meets the provisions of the Constitution ; it is in conformity with what has been said by the Mover of the Bill, the Hon. Dr. Ambedkar ; it meets also all the claims which have been made for this Bill, those of logic, justice and fairplay. I therefore commend my amendment to the House and to the Mover of the Bill for acceptance.

Mr. Chairman: There are some amendments from the hon. Member Shri Gopinath Singh. They have come today. The rule in this House has been that unless the hon. Member in charge of the Bill consents, the Chair does not allow them. The notice has been received only today; I would ask the Hon. Dr. Ambedkar if he is willing to accept them.

Dr. Ambedkar: I have not got copies of those amendments at all and I cannot say anything.

***Shri Indra Vidyavachaspati:** (*English translation of the Hindi Speech*) Sir, my amendment is that the Hindu Code Bill when passed, should be made applicable to every Indian. There should be no distinction of caste, creed or religion therein. This is my amendment. In the beginning, I would like to submit as to why I am speaking today, I have been a member of this Parliament for one year. But I have not taken a single minute of the House. It was because our Hon. Speaker had said that every minute of parliament costs fifty rupees. Thus I have saved thousands of rupees of this Parliament, but I am not inclined to make a saving today. The reason is that I have a fear lurking in my mind. The fear is that I feel there would be difficulties both if this bill is passed and if it is not. I am a staunch social reformer and I want that there should be such legislations for social reforms. The State has a right to frame laws for making reforms in the society. Therefore, what I want to point out is that it cannot be said that it is an interference with any religion. On the other hand I am of the opinion that the State and the legislature must take steps to provide for such legislations relating to social reforms. I do not say that this Bill should not be passed but I am afraid, this bill will not be passed in the form in which it has been presented although Dr. Ambedkar and our Prime Minister have repeatedly expressed the view that it would be passed. I think even in a long session as the Budget Session, we will not be able to pass it unless the guillotine is used. But it is not proper to use guillotine in the case of such bills which affect the whole country. So, this is the first difficulty. The other difficulty is that by passing the Bill in its present form, we will give encouragement to an evil which must not be there and against which we have always stood up. And that evil is communalism. If we pass the Hindu Code Bill, this evil of communalism will raise its head for ever. As this Bill is not applicable to all sections of the

* P.D., Vol. VIII, Part II, 5th February 1951, pp. 2387-92.

population. It will definitely give rise to communalism. If the Bill is not passed. I fear the avenue of making social reforms through legislation may be closed for ever. I have very little hope of its being passed but if it is passed the feeling of communalism will arise and what should have been a boon will turn into a curse. Therefore, when I saw these obstacles and difficulties in the way of social reforms. I decided to say something. I would clearly submit that I am in favour of making laws relating to social reforms. I do not want to go into the details of the proposed reforms, but I would like to say a few words on subjects like polygamy. I want that monogamy should be enforced by law in our country not only for Hindus but for all sections of the population. In the same way, I also say that there should be justice for women and their economic rights should be safe-guarded. I do not believe that only Hindu women are oppressed. There are women of other communities as well who are also oppressed. These atrocities must go. It is better if the society itself removes these atrocities, otherwise law must intervene. If a Constitution can be enacted on principles of equality and equity for the whole of the country, why not laws be made for the entire society ? In the same way I think, there is the question of divorce. We hear many quotations from the *Shastras* against it. I do not want to discuss that subject but I can say on the basis of *Dharma Shastras* as that it is wrong to say that this has not been mentioned in the *shastras*. Everything for and against a certain subject is given there. There are 137 *Smritis*. In the principal one i.e. *Manusmrit* it is written :

Vidvadbhi Sevitah Sadbhirnityamadwesharagibhih

Hridayenabhyanugyatoyo dharmastannibodhata Sannibodh.

(meaning thereby the Dharma is that which is constantly practised by the good, the learned and those who are devoid of prejudice and attachment and which is in full accord with the heart).

Manu has himself said that there were *Smritis* before him. So these *Smrities* are in existence for a very long time. It is wrong to say that there should be no reforms in our society. It will put an end to all the progress in our country. All necessary reforms in the society must be made. I will not go into details because the Bill will be discussed clause by clause later on and amendments can be made at that stage. Therefore I am not in favour of postponing it. But one thing seems certain, that many difficulties will arise if it is passed in this very form. In my opinion, the government may enact an Indian Code, but it should be applicable to the whole country. The reforms should be made for the whole of India.

I will now point out the disadvantages of its being applicable to Hindus alone. Firstly according to the Constitution of free India, we do not want communalism to grow. Ours is a secular state. Under these circumstances, the Government cannot make any law for a particular community. The lawyers can discuss a lot on this subject, but as a layman, I would only submit that in a State where religion has not been given any place or consideration, it is against all justice to frame laws for the followers of a particular religion alone, and such a step will always encourage sectarianism.

This Bill originated in the days of British rule. During that time, Hindus and Muslims were used to be kept apart from each other and everything was done to encourage communalism. Thus, the Bill started in that form. I want to submit as to why this remnant of the British period be allowed to stick on while we have thrown out all others so that there may be no discrimination against a particular section of the society.

Shrimati Durgabai : On a point of order, Sir I understand the hon. Member is raising the question of competency of this Parliament...

Some Hon. Members : No. no.

Shrimati Durgabai: At least that is what I understood him to say. If that is so, I wish to tell him that that issue had already been decided.

Mr. Chairman : I am sorry the hon. Member has not understood the point the Hon. Member was making. He never said that this House is not competent but, on the contrary, he holds that this House is fully competent.

Shri Indra Vidyavachaspati : Let me finish all that I have to say and then perhaps there will be no doubt in this regard.

By this Bill the Government want to achieve a big thing, that is they want to remove all injustice that is done to the women. I do not think there is any Indian social reformer who will not co-operate with the Government in this matter or who will not support this move. But I would like to ask one thing from those who want to remove this injustice done to the Hindu women. This is also an injustice that a man can marry four women at a time but a woman is not allowed to do so. This is an injustice. It Must go. Is this injustice done to Hindu women alone and not to Muslim women also ? I ask my sisters whether they will tolerate that justice should be done only to Hindu women and not to Muslim women ? This injustice done to them must also be removed.

How it can be tolerated that injustice may continue to be perpetrated on them. Why do not the Government include them in this Law ? It is said that if any such Laws for Muslims and others are enacted, it would mean interference in their religion. If the enactment of social laws is interference in their religion, how this law is not an interferene in religion of Hindus also. We therefore should make such a law which may be applicable to all. If it is interference in religion, it is for all. I am of opinion that it is not an interference. The law should be applicable to all alike, Muslims, Sikhs and Christians. There should be no discrimination. There should be no discrimination about it. It is as much our duty to do justice to Muslim women and women of other religions as we do justice to Hindu women. Therefore the present form of this Bill should not be there.

There is another aspect. We may have to face some difficulties regarding this enactment. As we know in Bombay the Bigamy Act was challenged in the High Court and the High Court declared it *ultra vires*. The news has appeared in the newspapers also.

Several Hon. Members : Not High Court, Lower Court.

Shri Indra Vidyavachaspati : Well, let it be Lower Court. Such difficulties may arise. This Act will be challenged in the court. In his recent statement in Bombay, Dr. Deshmukh had invited our attention towards this aspect. We will come across such a difficulty if we pass this bill and if it is challenged and the issue is referred to High Court or Supreme Court then we may have to face new difficulties. Such difficulties may arise if we make it applicable only to Hindus. The Government may well realise that more than sufficient time has passed since this Bill has been introduced and why it has not been possible to make any progress in it. Even the Reformist Hindu Organisations do not support it fully. Even the Reformers are moving amendments to it. To my mind the reason for all this is that we have adopted a wrong measure for social reforms. If a few lines are put in wrongly, there are two ways to correct them. In the first instance we may draw a line in between them or secondly rub them out and draw a fresh straight line instead. But what is being done is that one line is joined with the other line, thus forced insertions are being made. In my opinion the best course would be to withdraw it for reconsideration and introduce such a revised Bill that may have full support. As we have set up uniform political order and economic order in the same way we should introduce such a social order that may be applicable to the whole of the country. Such a Bill should be brought forward.

If Hindu women face some difficulties, the Muslim women also face them. When we have framed such a comprehensive Constitution and set up a uniform economic order for the whole of the country then it is not very difficult to draft such a Bill. Remember, truth is eternal; place, time and person cannot prove obstacle in it. If this principle holds good, then it should be true for all, and if it is not true then it cannot be true for anybody. I think the intention of Government is good. It would be better if that is utilised for the benefit of the whole country. This Bill should be redrafted and introduced here.

I want to submit one thing more, that here we faced the greatest of legal difficulties and complications, all those have been solved and many laws have been passed because of the fact that today the country wants to make progress on the basis of equality and freedom, and is willing to accept all those laws as are based on equality. If a Bill is drafted on this principle and made applicable to the whole of the country surely it would be accepted. This is my view point. But this Bill is not so. Although the Government are very hopeful, it is very good that they are optimist, but they will find many difficulties in getting this bill passed, it will require a three months' session, even then with great difficulty they will be able to get it passed and then even after that there are many obstacles to be faced. Even if this Bill is got passed we will have to face several difficulties before it is enforced, and we will be involved in legal difficulties. I, therefore, will ask those who have framed this Bill, and especially Dr. Ambedkar, who has laboured hard for it and has worked with firm determination, to broaden their outlook, and with their abilities of legal profession, should make such laws as may be applicable to all Indians instead of Hindus alone. The present minor drawbacks in the Bill would be removed automatically as the path of truthfulness is straight.

[Mr. Speaker *in the Chair*]

I also wish to say this to my hon. sisters that as they want that full justice should be meted out to Hindu women, similarly full justice should also be done to Muslim women and women of other religions. They may argue as to who would accept them. But in Turkey reforms have taken place; it is a Muslim country, and there all have accepted those reforms. As these reforms have been accepted in that Muslim country, similarly here also these reforms will be accepted. Therefore our sisters should adopt the right course and accept these reforms without making any discrimination among themselves. Only then we will be able to get it passed and if it is passed under such circumstances,

then such difficulties will not crop up. Otherwise we have great difficulties before us and if we get it passed even then we will have to face many difficulties.

I may tell them that I am not saying all this to put hindrance in the progress of the Hindu Code Bill. I am a staunch reformer and want that it should be passed, and with this very intention. I am submitting that it should be so modified as to be made applicable to the whole of the country. It can be made applicable only after such a change, otherwise not.

Shri Shiv Charan Lal (Uttar Pradesh) **:** I beg to move an amendment standing in my name. I was not present when I was called.

Mr. Speaker : He can move it now.

Shri Shiv Charan Lal : I beg to move :

Omit the proviso to sub-clause (2) of clause 2.

Mr. Speaker : Amendment moved :

Omit the proviso to sub-clause (2) of clause 2.

***Shri J. R. Kapoor :** Sir, with your permission, I may read out the amendment on which I wish to speak, to refresh the memory of Hon. Members, The amendment runs thus :

For clause 2,.....

Shri Jhunjhunwala : Which amendment is the hon. Member referring to ?

Mr. Speaker : It is an amendment which he has given notice of today. It is not printed in the list.

Shri Jhunjhunwala : We have not got copies of that.

Mr. Speaker : It was once read to the House; he is reading it again.

Shri J. R. Kapoor : The amendment runs thus :

For clause 2, substitute :

"2. *Application of Code.*—This Code or any part or parts thereof applies to all the citizens of India that is Bharat, who after attaining the age of majority, declare in writing that they shall be governed by this Code or any part or parts thereof, at the case may be, and get such declaration registered in accordance with rules prescribed for the purpose by the Central Government."

* P.D., Vol. VIII, Part II, 5th February 1951, pp. 2392-98.

Secondly, there is an alternative amendment. If this is not acceptable, I would commend the other alternative amendment to the acceptance of the House. The alternative amendment runs thus:

In the amendment proposed by Shri Banarsi Prasad Jhunjhunwala, printed as No. 18 in Supplementary List No. 1 in the proposed proviso to clause 2, for the words beginning with the words "unless such person" to the end, substitute:

> "unless such person, after attaining the age of majority, declares in writing that he or she, as the case may be, shall be governed by this Code, and gets such declaration registered in accordance with rules prescribed for the purpose by the Central Government."

Mr. Jhunjhunwala's amendment, as further amended by me, would run as follows:

> "2. *Application of Code.*—This Code or any part or parts thereof applies to all the citizens of India that is Bharat....."

and then follows that this will be applicable only to those persons who would make a declaration in writing and so on and so forth ; I need not repeat that.

Sir, I propose this amendment with a full sense of responsibility, and I hope I will not be misunderstood, as I hope the two previous speakers would not be misunderstood, for my amendment it is very much in line with the two amendments which have already been moved by my friend Mr. Sarwate and my friend Shri Indra Vidyavachaspati. Only mine is an improvement on theirs. I would like to submit first of all, that in proposing this amendment, I am actuated more particularly by the consideration that this Hindu Code should have an easy passage in this House. That is my first consideration. My second consideration is that it should be easily acceptable to the country as a whole, to the various sections of the community, to the various sections of the nation. And thirdly my consideration is that it should not be said of us that in this Parliament, in this country where we have a secular State, where we took very great pains to frame a constitution with the background of a secular State, we are now trying to legislate in a manner which smells of communalism, which clearly indicates that we are trying to legislate for one section of the community and not for the others, that we are trying to legislate for persons who profess one religion and are ignoring the interests of those who profess another religion, or *vice-versa,* that we are trying to do something to encroach upon the rights and religious customs of one section of the community

and are afraid to encroach upon the rights and privileges of another section of the community professing another religion. Therefore, I submit that if my amendment is accepted, it will have very many advantages and absolutely no disadvantage.

I was very happy to hear the point of order raised this morning by my friend Mr. Naziruddin Ahmad, not that I was particularly in agreement with the point of order raised by him, but because of the considerations and the reasons behind his point of order, and the considerations which weighed with him in raising that point of order. He raised the point of order, that the Constitution does not permit us to enact a discriminatory legislation. He referred to article 15 of the Constitution. He referred also to article 25. I feel that the idea working in his mind was, if the provisions of the Hindu Code are beneficent and useful, why should they not be applicable to other sections of the Nation also? And what is in his mind, I am sure, is in keeping with the signs of the times. He would, I am sure, be glad, according to the point of order raised by him, to make an attempt to enact a legislation which would be applicable to all sections of the nation, Hindus, Muslims, Parsis and Christians. There is, of course, another article of the Constitution—article 44 to which reference was made by my friend Mr. Sarwate, that the State shall attempt to have a uniform Civil Code. True, that article is not included in the chapter of Fundamental Rights, but it is under the chapter dealing with the Directive Principles. The Constitution directs us specifically that we should make an attempt to have a uniform Civil Code for the whole country. Well, this is the first occasion when we are attempting to have a Civil Code and in this very first attempt, will it be proper for us, will it be desirable for us to ignore this very important article of the Constitution ? Let us not make a beginning by doing something contrary to the specific directive that has been given to us by the Constitution. When we were sitting as the Constituent Assembly— we all were in it, most of us, and many other eminent persons who are not here were also there—many Muslim Members were also there, and there were Parsis also, and there were also Christians, and persons professing every faith were there. All of them, as far as I remember, unanimously agreed to these clauses in the Constitution, I mean articles 15, 25 and 44. When all those persons professing every faith, were seriously and coolly and calmly considering what sort of legislation we should have in this country, they all unanimously decided that we should have a uniform legislation, so as to be in conformity with

articles 15 and 25 of the Constitution, and also article 44. What has happened since then and now to compel us, to persuade us not to act according to those articles of our Constitution ? Nothing has really happened since then, which should persuade us to go contrary to those provisions. On the other hand, we find that even persons professing religions other than Hinduism, are also anxious that we should have a uniform Civil Code. Mr. Naziruddin Ahmad is a representative of the Muslims. He himself says that it is not open to have a legislation which will govern only one section of the nation, but that one legislation, must govern all the sections of the nation, all persons professing various religions. That being so, I submit there is no reason why we should hesitate to legislate for persons professing different religions. From the amendments that have been tabled and have already been moved. I find that the Sikhs would like to go away from the operation of this Code. That is the effect of one of the amendments moved by my hon. friend Sardar Hukam Singh. Then I find that there are other Hon. Members who are anxious that this clause 2 should be so amended that it should not be applicable necessarily to all the States and all the community. My Hon. Friend Pandit Thakurdas Bhargava, as we all know, is a very great social reformer, and he is always anxious to introduce legislations in this House directed towards social uplift. According to his amendment what he wants is that it should be left open to the various States to adopt the legislation or not. He also desires that it should be open to the various communities either to be governed by the Code or not.

Shri Tyagi : Surely it will not be territorially uniform in that case.

Shri J. R. Kapoor : Exactly. In order to make it applicable to all the territories and communities my amendment should be accepted. It does not restrict the operation of this Code to one territory or another, nor to one community or another. On the other hand it extends the scope of this legislation and seeks to embrace within its ambit Hindus, Muslims, Christians, Parsis or persons professing any other faith.

During the general discussion of this Bill some good points were made by my hon. Friends Dr. Tek Chand and Pandit Thakur Das Bhargava. They said that this Bill would operate in a great measure as a hardship on various sections of the Hindu community, among whom marriage and divorce laws are easy. In some parts of the Punjab and elsewhere, it was pointed, marriages can be easily performed. Why should they be deprived of this easy manner of their marriages ?

Dr. Deshmukh (Madhya Pradesh) **:** Easy marriage, easy divorce !

Shri J. R. Kapoor : In the matter of divorce they have easy laws in various parts of the country, among various sections of the people. Why should those laws be made more difficult ? On the one hand the contention of some was that marriage and divorce laws were made more and more strict by the Code and on the other, the contention of others was why should these marriage and divorce laws be enforced on persons who did not believe in them. My submission therefore is that this Code in whatever form it is passed, should not be forced on any particular section of the Hindu community, or the Sikhs or Jains. It should be left open to them to be governed by it or not. Secondly, some of the provisions of this Code—particularly those relating to monogamy and divorce, with which I am in entire agreement and would like them to be made a little more liberal—are so good that I see no reason why the Muslims should not be entitled to have the advantage thereof.

My hon. Friends Shri Sarwate and Shri Indra have moved their amendments. Particularly the amendment of Shri Indra wants that the whole Code should be compulsorily made applicable to the Muslims. I do not want that it should be so enforced on Muslims just as I do not want that it should be obligatory on every Hindu to be governed by this Code. I want that it should be open to a Hindu, Muslim, Parsi or for the matter of that any person professing any other religion hereto or hereafter, in fact it should be open to every citizen of India either to be governed by the Code or not.

Dr. Ambedkar : Great liberal !

Shri J. R. Kapoor : Not only that, I want that it should be open to anybody to pick and choose various parts of the Code. I am making this statement with all seriousness, because of this reason. There are various clauses in this Bill which should be readily acceptable to some but not to others, similarly there are other clauses which may be acceptable to others but not to all.

Pandit Thakur Das Bhargava : Does my hon. Friend contend that the choice of the person should be per clause ?

Shri J. R. Kapoor : Not per clause but various important parts of the Code. When I made that suggestion I knew that it may require the legal intelligence of Dr. Ambedkar as also Pandit Bhargava and other legal luminaries to amend the various sections of the Code so as to make them fall in line with my amendment. I am sure that this

task is not beyond the capacity of Dr. Ambedkar or Pandit Bhargava or other legal luminaries. Speaking for myself I am particularly in favour of the clause relating to monogamy and divorce. But there are other clauses which I would not like to adopt. I would therefore like to have the liberty of making a declaration to the fact that so far as I am concerned I would like to be governed by the clauses relating to monogamy and divorce and not others. I would beg of this house very seriously to consider the suggestion. Firstly, that this enactment should be applicable to the entire nation, secondly, it should be open to anyone to say by declaration that he wants to be governed by this Code and thirdly, it should be open to him to say also that he wants to be governed by this or that chapter.

Dr. Deshmukh: If the husband and wife differ on the issue of say divorce, who will decide ?

The Minister of Works, Production and Supply (Shri Gadgil) : The child will decide.

Mr. Speaker : Let the hon. Member proceed.

Shri J. R. Kapoor : If the husband and wife differ on the divorce issue I am prepared to give the choice to the wife, if thereby I can secure the support of the lady Members here. If my suggestion is accepted, of course the various provisions of the Bill will have to be recast. It is a matter of principle. Once the principle is accepted— namely that we should have one uniform law for the whole country, secondly that we should give the liberty to every citizen to say whether he wants to be governed by the Code or not and thirdly, the liberty to pick and choose various aspects of the Code—proper amendments could of course be drafted. I know how difficult it is but difficult as it is certainly it is much easier than the task of getting this Bill passed by this House and, certainly it is easier than to get the support of the entire nation for this Bill as it is, compulsorily enforceable among the Hindus, Sikhs, Jains and Buddhists.

Therefore, I submit that my suggestion should be very seriously considered. I hope and trust that if we consider it coolly, calmly, dispassionately and without any prejudice either for or against it, certainly we shall be able to come to an agreed solution and perhaps within five or seven days we may be able to pass this controversial measure. It will satisfy everybody. It will satisfy those who want to have a uniform Code. It will satisfy the orthodox Hindus because it

will not be necessary to enforce the Code on them; it will be open to them to be governed by it or not. It will satisfy those reformers also who want to have legislation on these lines because it will enable them to declare that they want to be governed by this legislation. It will therefore satisfy everybody and offend nobody. With these submissions I commend my amendment for the acceptance of the House.

My alternative amendment is also on the same lines but it restricts the operation of the Code to Hindus only. According to my first amendment, I want that the whole Code, in whatever form it may be passed, should be applicable to the entire nation, subject to the condition that it will be applicable only to those who declare that they want to be governed by it. If, however, that suggestion is not acceptable for any reason then I submit in my second amendment that the Code should be applicable to the Hindus, Sikhs and Jains as has been provided but that there also it should be applicable only to such Hindus, Jains, Sikhs and Buddhists who by declaration state they want to be governed by it.

***Dr. Deshmukh :** I have two points to make so far as these amendments are concerned. There are various amendments that have been moved but I should first wish to speak on the amendment of Mr. Sarwate and then on the amendment moved by the Hon. Dr. Ambedkar. I feel inclined to support the amendment of Mr. Sarwate on constitutional basis, and I feel that he has certainly brought forward an amendment which advances the cause of the Constitution, in case it is accepted that it requires advancement. I personally think it does since there is a section of Members of this House who do not regard very seriously what we have embodied in the Constitution. I would beg of you to give me a few minutes to refer to article 44 which reads:

> "The State shall endeavour to secure for the citizens a uniform civil Code throughout the territory of India".

Now, this is an article from the Directive Principles of State Policy. Although it is not contemplated that any decision of government could be set aside by the Supreme Court or could be regarded as illegal and against law on this score, I don't know whether it would be competent for the Supreme Court to give a ruling. But if we attach

*P.D., Vol. VIII, Part II, 5th February 1951, pp. 2392-2404.

any value or wish to give any serious consideration to the Directive Principles of State Policy in the Constitution, I am unable to see how by passing this Code we would be endeavouring to secure for the citizens a uniform Civil Code throughout the territory of India. What we would be doing by this Code would be entirely and directly contrary to what is laid down in Article 14. Because this is not only not endeavouring to secure for the citizens a uniform Civil Code but trying to enact a different Code for a section of the people. So, before we go ahead, before we waste any more time, we should consider this point. And I am sure we are doing nothing else but wasting time because for the next three days I am certain it would not be easy to go much further than Clause 2 and we don't know how long after that we would be touching the Hindu Code. A suggestion has already been made that it would have been far better, if we really wanted to pass this Code, that one whole session should have been devoted to it. To allot three days during which it would not be possible to advance very far I consider, a pure waste of time, energy and money of this House. It can serve only one purpose and that of merely satisfying the whims and fancies or dogged determination or inclination of certain people. It would be quite easy when we have got a couple of thousand people obstructing our way or shouting slogans to desist Members of this House from passing this Code, to find one or two persons who would like to go to the law courts to get a ruling that what we are trying to do is not only not in keeping with the constitutional provisions but is directly opposed to what has been laid down.

Shrimati Durgabai : Others also will go to courts.

Dr. Deshmukh : Both sides will be there. You will get a notice at the cost of those people who go there first.

Shrimati Durgabai : Others will be there on the basis of provisions regarding discrimination.

Dr. Deshmukh : Yes, there is discrimination everywhere and that is exactly the objection that is raised. If we enact this Code as it is, there will be discrimination in favour of certain people and against certain others who are also handicapped similarly, if not worse. That is a point which goes in our favour.

My second point on these amendments is that I am opposed to the amendment moved by Dr. Ambedkar. By his amendment No. 15 in the printed list, he wants the substitution of the words "persons who are Hindus by religion" for the words "Hindus, that is to say,

to all persons professing the Hindu religion". It is very difficult to find out which version really holds the ground at the present moment when there have been so many revisions and such a huge lot of amendments have been moved. It is not easy to know where exactly we stand. I don't see what is wrong with the original provision contained in the Code as it emerged from the Select Committee. The wording there is :

> " 2 (a) This Code applies to all Hindus, that is to say, to all persons professing the Hindu religion in any of its forms or developments."

In his amendment Dr. Ambedkar proposes the substitution of these words by "persons who are Hindus by religion". I don't see any difference between the two wordings. By the words "all Hindus" you refer to all people who are "Hindus by religion". The original wording further explains the words "all Hindus" by saying it means "all persons professing the Hindu religion". Thereby the Code will apply to any person who claims to be a Hindu. These words are now sought to be substituted. No reasons have so far been given as to why they are going to be substituted by new words. If they are actually omitted, and if Dr. Ambedkar can persuade the House to omit those words, I think a very real difficulty may arise. If you eliminate "professing" how are you going to define who is a Hindu and who is not a Hindu. The words proposed are "all persons who are Hindus by religion". But how do we know who is a Hindu by religion and who is not ? Is it proposed that every person would be required to make a declaration ? I don't know what procedure is suggested and how it would be ascertained if a particular person is a Hindu or not. I would say that the words as they stood in the original Code as it emerged out of the Select Committee have stood the test of time. So far as my recollection goes, these words are there in Mulla's *Hindu Code* and these words have been used from very old times. They have a sanction of long usage.

In view of that there is, in my opinion, no need for this amendment and I would suggest that it should not be accepted. I support the amendment moved by my hon. friend Shri Sarwate on the ground that if we accept it, we would be acting in the spirit of the Constitution. Otherwise all our efforts are liable to be fruitless in view of the constitutional difficulty I have pointed out.

Shri Syamnandan Sabaya (Bihar)**:** May I make a submission in this connection ? There are several amendments moved formally by the authors, but the movers have not made any speech explaining their viewpoint. One of such amendment is from the Hon. the Law Minister himself. Such of us who have not moved any amendment to this clause and have an open mind would like to hear the Government point of view as also the point of view of the movers of the other amendments in order to enable us either to take part in the deliberations or to decide how to act in the circumstances. May I therefore suggest that movers of the amendments should first make their speeches and then the clause should be thrown open for general discussion. This would help the discussion and the decision. In any case, we would like to hear the Hon. the Law Minister's view point on his amendment, so that we may either support him or oppose him.

Mr. Speaker : I was thinking of calling upon the movers of the amendments one by one, but I found that instead of the movers who did not appear anxious to catch my eye others caught my eyes. That is why I called upon others.

Dr. Ambedkar : The movers have sat back. In fact, I am myself waiting to hear them.

Mr. Speaker : The Hon. the Law Minister is at liberty to choose his own time but I did call upon him now because I thought that if he participated a little later it would be possible for him to clear the ground.

Dr. Ambedkar : I can speak at any time.

Mr. Speaker : He will be entitled to two speeches; that is to say, even if he participates in the debate now, he will be entitled to reply.

Shri Syamnandan Sahay : He may reply to the general debate on the clause, but as regards his own amendment he must satisfy the House that there is some reason for moving that amendment on behalf of Government.

Mr. Speaker : I think his position stands a little differently. He has to take into consideration what others say and then he will be able to explain his viewpoint better. That is why I was thinking of calling upon him at a later stage, though not at the end.

Sardar Hukam Singh : I do not know how the impression has got into your mind that the movers of the amendment do not want to speak on their amendments.

Mr. Speaker : I never said 'they never wanted to speak'. I said they did not try to catch my eye. In between, Dr. Deshmukh got up and I called on him to speak.

Several Hon. Members : *rose*—

Mr. Speaker : I am not sure whether I should call Pandit Bhargava at this stage—for personal reasons. Mr. Jhunjunwala.

Shri Jhunjhunwala : Sir, I have given notice of two alternative amendments. One of my amendments reads thus:

> "This Code applies to all citizens of India, that is Bharat, irrespective of their caste, creed, and irrespective of their belonging to or professing any religion".

Alternatively, I have moved another amendment which reads thus :

> "Provided, however, that notwithstanding anything contained in the above clauses, this Code shall not apply to any person unless such person got his name registered with such authority and in such manner as may be hereafter prescribed by Parliament, within one year after this Code comes into force, and in case of a minor within one year after such a minor attains majority."

I want to assure the House that these amendments of mine are not dilatory ; nor am I opposed to all the provisions of this Code. The main object in moving my first amendment is that, as has been pointed out by my hon. Friend Mr. Naziruddin Ahmad, we have been passing many laws which are being declared *ultra vires* either by the High Courts or by the Supreme Court. It is therefore very necessary that before we take any such Bill, Act or legislation into consideration we should make sure that we are acting according to the Constitution. If we pass any law and ultimately that law is declared *ultra vires,* it will be a mere waste of the time of this House and also waste of so much money. It will serve no useful purpose. Under article 15 of the Constitution it is laid down that the State shall not discriminate against any citizen only on ground of religion, race, caste, sex, place of birth or any of them. The amendment that I have moved makes this Code applicable to all citizens of India, that is, Bharat, whereas the clause as it stands is restricted only to a particular class of persons. If the law that we are passing is for the good it is good for all people. It is not right that we should discriminate one particular community against another. We should not discriminate one set of persons who are professing one religion from another set of persons who are professing another religion if our law is for their good. If it is not

for their good, then it is not right that we should thrust any law or enactment upon a particular community or caste which is professing a particular religion.

One of the points which I wanted to make out was this : the House should see whether this Bill is one which Parliament can make, especially as it is restricted to a particular kind of persons professing a particular kind of religion. We can have such a law under Article 25 of the Constitution. Now let us see what are the provisions in article 25 which entitle us to take up such legislation. Article 25(1) reads :

> "Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practise and propagate religion."

Clause 2 of the Bill relating to the Application of the Code reads :

> "(1) This Code applies—
>
> (a) to all Hindus, that is to say, to all persons professing the Hindu religion in any of its forms or developments, including Virashaivas or Lingayats and members of the Brahmo, the Prarthana, or the Arya Samaj;
>
> (b) to any person who is a Buddhist, Jaina or Sikh by religion ;
>
> (c) (i) to any child, legitimate or illegitimate, both of whose parents are Hindus within the meaning of this section;
>
> (ii) to any child, legitimate or illegitimate one of whose parents is a Hindu within the meaning of this section; provided that such child is brought up as a member of the community, group or family to which such parent belongs or belonged; and
>
> (d) to a convert to the Hindu religion.
>
> (2) This Code also applies to any person, who is not a Muslim, Christian, Parsi or Jew by religion :
>
> Provided that if it is proved that such person would not have been governed by the Hindu law or by any custom or usage as part of that law in respect of any of the matters dealt with herein if this Code has not been passed, then, this Code shall not apply to that person in respect of those matters;
>
> (3) The expression "Hindu" in any portion of this Code shall be construed as if it included a person who, though not a Hindu by religion is, nevertheless, governed by the provisions of this Code ;
>
> (4) Notwithstanding anything contained in the Special Marriage Act, 1872 (III of 1872), this Code shall apply to all Hindus whose

marriages have been solemnized under the provisions of that Act prior to the commencement of this Code."

I have not been able to understand why this Code is being enacted only for the Hindus, if the right has been given—as has been done under article 25—that " subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practise and propagate religion." If this right has been given to the Hindus and persons professing other religions, I do not see any reason why it is sought to be taken away from Hindus by enactment of such laws, such as the one now before us. I would ask the Law Minister whether he is not encroaching on the rights of Hindus of their religious liberty sanctioned by the Constitution.

Clause (2) of article 25, however says that:

" Nothing in this article shall effect the operation of any existing law or prevent the State from making any law—

(a) regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice;

(b) providing for social welfare and reform or the throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus."

But if this piece of legislation which is now under discussion is being enacted as a measure of social reform and for the welfare of the people, in that case I cannot understand why it should be confined to persons professing particular religions and not extended to all.

Shri Raj Bahadur : May I raise a point of order, Sir.

Three or four hon. Members of this House have raised the point that the scope or application of this piece of legislation should be extended to all the citizens of India. In the course of the first reading of the Bill the house has already committed itself to the principle that the Bill shall apply only to the Hindus. Having accepted this principle, is it now open to Members to take up this point anew and afresh ?

Mr. Speaker : The point of order practically comes to this—I am stating it in my own way. Briefly stated it would be as to whether some of the amendments which seek to extend the application of this Code to communities other than those included in the Bill is not tantamount to an extension of the scope of the Bill—is that the point of order ?

Shri Raj Bahadur : The House had agreed that this Code shall apply to one section of the Indian people alogb ne. Can we now take a new decision that it shall apply to all ?

Mr. Speaker : It comes to the same thing. The objection is that the scope of the Bill is being extended now—that is the point of objection. Personally, I myself was feeling doubtful about the admissibility of certain amendments which are now proposed and which apparently seek to extend the scope of the Bill but I have not come to any conclusion. I should first hear Members and then decide at the end as to whether I should put the amendments to vote or not.

Dr. P. S. Deshmukh : It is quite open to the House to extend or limit the scope of any legislation. So long as any particular clause is not passed by the House, it is completely at liberty to do that. Supposing the original Bill says that the Code will apply to the whole of India and the House proposes an amendment by which it excludes certain States or *vice versa* ? I feel certain the House is quite competent to do so.

Mr. Speaker : The extension of the Act to the whole of India and then limiting it to a part of India would not be an extension of the principle of the Act. The principle of the Act is something of substantive law, which extends not territorially but in other respects. It is perfectly competent, *prima facie,* to say that it shall not apply to Sikhs, Jains or Buddhists; but the point is whether it is competent now to say that it shall apply to Christians, Muslims, Parsis and Jews.

Shri Syamnandan Sahaya : There are two submissions I wish to make.

Before you give a ruling I would request you to give us a little chance.

Mr. Speaker : I shall give members every chance.

Khwaja Inait Ullah (Bihar) **:** Are these amendments which are being moved directed to bring in Muslims also within the scope of the Hindu Code and directed against our Fundamental Rights under article 25 of the Constitution ?

4. p.m.

Mr. Speaker : That does not arise. It is a part of the wider question again as to whether the Code itself goes against the spirit of the Constitution.

Khwaja Inait Ullah : It is clear .....

Mr. Speaker : It may be clear to the hon. Member, but it is not so clear to me. Therefore, let us hear what the hon. Members have

to say and then coolly consider. There is no use going on presuppositions. After all it is a matter which affects vitally large sections of people. The question is whether it offends against the provisions of the Constitution.

Shri J. R. Kapoor : Before you are pleased to give a ruling on this question as to whether these amendments are or not in order, may I request you to give us an opportunity to speak on that particular point, because so far none of us have expressed ourselves about the admissibility of these amendments ?

Mr. Speaker : I think I shall give them an opportunity. But first of all I want to hear what they really mean and whether they are trying to extend the scope of the Bill. I shall give them a hearing.

Shri Jhunjhunwala : I was pointing out to the House that if a particular kind of legislation is one of reform or is in the interests of public good, then this Parliament will not be partial in enacting such a kind of legislation.

[PANDIT THAKUR DAS BHARGAVA *in the Chair*.]

When a particular kind of legislation is being enacted for the welfare of the people why should it be restricted wholly to a certain class of persons and why should it not be extended to all ? If it is good, it is good; if it is bad, it is bad. And if it is bad why should we apply it to the Hindus ? Why should we thrust it upon the Hindus ? Why should they not be left free to practise their own religion and act according to their own ancient ideas ? It is said that this Bill is being enacted because the present system of marriage and other things are not in the interest of society, that they are spoiling society and that this particular kind of legislation is good for the society. If a particular kind of legislation may be regarding marriage, may be regarding inheritance, may be regarding anything, I do not want to go into those details which I shall do when the particular clauses come—but if, as I have said, particular things are good for certain persons. I would like to have the reasons from my hon. friend Dr. Ambedkar who is described as Manu of modern age as to why the particular piece of legislation is bad for Muslims, because he is excluding them, he is purposely excluding them by saying that this Code shall not apply to Muslims. I would like to know why it should not apply to everybody and why it should apply only to Hindus. If it is good it should apply to you, me and everybody. And secondly, as I said, if it is a bad law, why should it be thrust upon a particular

class of persons ? Lastly, when the question comes up whether these amendments are admissible or not, just as my friend Mr. Jaspat Roy Kapoor has said, I would request that we should be given an opportunity to explain our position.

***Shri Naziruddin Ahmad :** Sir, as regards the amendment moved by the Hon. Dr. Ambedkar, I raised at that time a point of order. I should first of all try to explain my point of order, because the other amendments depend upon that point of order. You will be pleased to notice that this amendment is drafted in a language which is highly insulting to the House. It says "In clause 2, in sub-clause (1), in item (a), for "Hindus, that is to say, to all persons professing the Hindu religion" *substitute* 'persons who are Hindus' and so on and so forth. In the next item the wording is "substitute" something. In part (2) it is again "omit" something. This is expressed in the imperative form. As Dr. Pattabhi on one occasion said, Dr. Ambedkar speaks in a professorial and dictatorial tone. This amendment is couched in that language. Not merely this, but all the amendments. I have examined one and all of them. They are in the form of correction slips, or orders by a superior officer of Government to his subordinates. So this is really a direction to the House to do this and that, imperatively. The usual form is that "for such and such thing the following shall be substituted" or that "the following shall be omitted". That is the form. I submit that the drafting has been done so carelessly and so much in the official style that they cannot be accepted as setting a new standard of courtesy to the House. All the amendments are couched in that language. I seriously ask the House to consider whether this method of wording the amendments will be acceptable at all. I, therefore, like in some of the amendments to cure this imperious form. I have suggested the usual form. And it is not merely the usual form in this House but in the previous House and in all other legislative bodies. The question is whether we should permit the setting up of a new standard entirely its own. You will be pleased to examine all the amendments and they are all couched like this. The point of order which I submit is whether it is in good form. If it is not, then the next amendment which I have submitted to cure this should be accepted in preference to this. Nothing will be lost but everything will be gained in decorum and official form. Sir, I ask you to give a ruling on this point.

* P.D., Vol. VIII, Part II, 5th February 1951. pp. 2404-23.

Mr. Chairman : I am not impressed by the speech of the hon. Member in regard to the facts to conclude that any point of order regarding my ruling has been made out. He was making certain observations to which the Hon. Dr. Ambedkar will in time reply. Threrefore there is no point for ruling.

Shri Naziruddin Ahmad : The two other amendments which I suggested depended upon the rejection of the form or otherwise of the amendments. That is why I want a ruling from you. If it is in good form, of course, we shall also indulge in such forms and the House can also be allowed to degenerate to that sort of form.

Then with regard to clause 2, one important point has been raised by the several amendments and supported by several hon. Members. It is that the Code should be made applicable to all persons in India. I was asked to sponsor this idea and when I raised the point of order, I did nothing of the sort at all, but my point is that the Bill is bad for the Hindus and when it is bad, this bad law should not be made applicable to all. A bad law can not be made good by making it applicable to all. If it is bad for the Hindus, it should be rejected. The point I was driving at was.....

Shri J. R. Kapoor : The fate should be shared equally by all the Hindus and non-Hindus alike.

Shri Naziruddin Ahmad : That is a form of logic which amounts to a joke and is certainly acceptable but seriously in a legislature this cannot be accepted. If a law is bad, it should not be extended to put pressure on those on whom it is going to be applied. Constitutionally this law will bring degradation. This point has been seriously raised outside the House; it has been freely talked about and it is more than certain that this law could not be taken before a court of law. We have passed several principles in the Constitution. We have worded the clauses in the Constitution in a general way with the result that they have landed us already into difficulties. The Constitution stands in the way of this Bill being passed.

Shri Tyagi : We will change the Constitution.

Shri Naziruddin Ahmad : My learned friend says if the Constitution is badly drafted and has landed us into difficulties, why not change the Constitution. I ask why should it be that you are at liberty to pass a law for the Hindus ? Why should there be a policy of distinction followed between Hindus and Muslims in their own

domestic sphere ? I think it is not logic. It is not good. The Hindus should remain Hindus at home and they should be Hindus in their religious practices. Similarly the Christians and Muslims should have their freedom of thought, worship and religion which has been granted in another part of the Constitution. I ask the House to consider whether in view of the number of defects noticed in the Constitution, it requires revision. I think it is easier within two years of the passing of the Constitution to amend it than it would be after two years. So it is time for us to amend the Constitution to make it possible to pass a good law affecting the Hindus. So far as religious and semi-religious matters are concerned the law could not interfere and at least it should not be dictated from the top. This is a kind of dictatorship which does persist in democratic society.

Shri Tyagi : Marriage and divorce do not come under religion.

Shri Naziruddin Ahmad : I believe the Hindu marriage is one of the *Samskaras ;* it is the tenth *Samskara;* it is part of their religion and it is idle to argue that it is not part of their religion. I say you may abolish religion and the law gives you freedom and this House is a sovereign House within the Constitution. You can abolish religion, if you like but will you go so far as that ? So far as this is concerned. I do not want to pursue it further but then look at the condition in which we exist today. We have no food. We had to spend Rs. 200 crores for importing food from foreign countries and to make us live for this year. *(Interruption).* We have no clothes. There are no shelters for many of our countrymen; we cannot give primary education at all but what we give is a free gift to the Hindus in the shape of the Hindu Code. If you want to make them happy, you must give them food, give them education.

The Deputy Minister of Communications (Shri Khurshed Lal) : This might have been a very good argument on the motion for taking the Bill into consideration. We are now considering a specific clause.

Mr. Chairman : I was waiting to hear the last words of his concluding remarks to know the inference he proposed to draw from his preceding observations.

Shri Tyagi : I want to know how is it that a Muslim is quoting our scriptures.

Shri Naziruddin Ahmad : We should not think of this Code but we should think of more and more constructive things which would

make the people happy, give them elementary education etc. In these dangerous times there is the other danger of the world situation deteriorating. War is approaching India step by step.

Mr. Chairman : I am very sorry. I do not want to interfere but I think the hon. Member is at sea on his arguments. He ought to proceed with his amendments.

Shri Naziruddin Ahmad : I was only submitting that this is not the proper time to go on with this Bill.

Shri Khurshed Lal : We are not discussing the consideration motion.

Mr. Chairman : I will ask the hon. Member to speak on his amendments. If he wants to say that so far as the particular amendments of Dr. Ambedkar are concerned, they are not right, I would certainely allow that but if he goes on to say that this Bill should not be proceeded with, I think it is beyond the province of any hon. Member at this stage to say so.

Shri Naziruddin Ahmad : I was encourged to make this suggestion only for one reason that it is understood that Government has decided to proceed with this Bill only for two or three days.....

Mr. Chairman : I would ask the hon. Member to proceed with his amendments.

Shri Naziruddin Ahmad : (*Interruption*) I rather think that many hon. Members have nothing to think of except interrupting . Sir, there are a number of amendments standing to my credit and I shall deal with them one by one. The first two amendments Nos. 16 and 17, were suggested to improve the form in which Dr. Ambedkar's motion has been tabled. They do not deal with any other principle except improving the form. Then, I come to amendment No. 19.

In part (c)(i) of sub-clause (1) of clause 2, after "Illegitimate", insert:

> "who, if he has attained the age of eighteen years, is himself a Hindu and"

I am sorry that a very large number of widely divergent subjects have had to be moved separately, and have to be argued upon in a lot. That is why some hon. Members seem to lose thread of the argument. Sub-clause (1) which I seek to amend, reads thus:

> "This Code applies—
>
> (c)(i) to any child legitimate or illegitimate, both of whose parents are Hindus within the meaning of this section."

Shri Satish Chandra (Uttar Pradesh)**:** This has been read several times.

Mr. Chairman: Let the hon. Member proceed. To keep up the thread of the argument, he must be allowed to read.

Shri Tyagi: This thing about illegitimate child was not read.

Shri Naziruddin Ahmad: The child of a Hindu, particularly, if he be illegitimate, may not himself remain a Hindu. This sub-clause proceeds on the supposition that a child of a Hindu remains a Hindu. But, it is quite possible for him to change his religion. He may discard all religions ; he may be an atheist. He may become a Jew, a Christian or a Muslim, and then again be re-converted to Hinduism. The supposition that an illegitimate child of a Hindu is a Hindu presupposes that he does not change. As a matter of fact, he can change. If he changes his religion, certainly, he cannot be a Hindu, and cannot inherit his father's property and so forth. An illegitimate child of a Hindu father will inherit his fathers properties ; but if he changes his religion, he ceases to be a Hindu and therefore, he ceases to be the heir.

Shri Tyagi: A father can never have an illegitimate child; a mother only can have.

Shri Naziruddin Ahmad : That is a legal question. If a father cannot have an illegitimate child, this clause should have been deleted.

Shri Tyagi: The child is..... (*Interruption*).

Mr. Chairman : Order, order; let him proceed.

Shri Naziruddin Ahmad : My amendment says, "if he has attained the age of eighteen years, is himself a Hindu....." That is to say, after attaining the age of eighteen years, when he attains the age of discretion and is permitted by law to act in a legal manner, if he remains a Hindu, then, of course, he is a Hindu. He is a child of his father entitled to inherit and enjoy all the benefits of the Hindu Law. This amendment tries to remove a lacuna which exists in the drafting. An illegitimate child, if he attains the age of eighteen years and if he does not change his religion, then, of course, he could come in. That is what I have sought to clarify here.

Let us come to another amendment; it is of a drafting nature. It reads as follows:

In part (c)(i) of sub-clause (1) of clause 2, for "whose parents are Hindus" substitute "whose parents are or have been Hindus".

It may be that the parents of a child are Hindus; but they may change their religion. So, I want that in order to have this relationship.....

Shri K. C. Sharma (Uttar Pradesh)**:** May I draw the attention of the chairman to the convention of the House that all drafting amendments be left to the draftmen and the time of the House be not wasted ?

Mr. Chairman : There is no such absolute convention; it all depends on the particular amendment.

Shri Naziruddin Ahmad : This only shows that the hon. Member is not listening to the arguments, but is only trying to find and create objections. Although this is more of drafting nature, I think it involves a substantial thing. The question is this. You say that a child, legitimate or illegitimate of a Hindu, is a Hindu. Supposing the father changes his religion in that case, he is not a Hindu at the relevant time when the question arises. I therefore want to make it clear that he is a Hindu or has been a Hindu. It may be that a father was not a Hindu, but has accepted the Hindu religion at the relevant time. If you say, a man who is a Hindu, it means, who is a Hindu for the time being; he might not have been a Hindu before. That is why I am saying : "a person who is or has been a Hindu"; who has been a Hindu all along. The child of such a parent would be a Hindu. Suppose there is a Muslim who adopts the Hindu religion today. The question of the status of his child comes into question. Could his child, who was born at a time when the parents were Muslims, be a Hindu today because today the father is a Hindu ? That is why I have tried to change the clause. Though it is of a drafting nature, it has substantial effects. I submit that these small points require careful consideration. The question, in effect, is, if a man is converted to Hinduism today, whether his child, who may be a Christian, or a Muslim or a Jew according to the religion of his father before his conversion, would be a Hindu. This is a serious constitutional question, and I hope the House will seriously consider that. But, the difficulty would be for the Hon. Law Minister to carefully listen to these points and to reply to them, and for the House to follow all these arguments and replies. As a matter of fact, Dr. Ambedkar will say, "I oppose all the amendments" and the House will say, "We respectfully agree".

Several Hon. Members: Never, never.

Shri Naziruddin Ahmad : My next amendment, No. 21, I would repeat my argument, enforces a condition that a man, whose religion is in question, is a Hindu if he is a Hindu after attaining the age of eighteen years; because at the age of eighteen, he is entitled to act in a legal manner, and if he has attained the age of eighteen years, he may change his religion. Therefore, the option of a boy, on attaining the age of eighteen years, to change his religion, is provided for. That contingency has not been thought of by the draftsmen. Therefore, I am submitting this amendment for the consideration of the House.

I now come to my next amendment No. 23. It runs thus:

For part (d) of sub-clause (1) of clause 2, substitute:

"(d) to a convert to the Hindu religion, subject to his rights and liabilities before his conversion."

You say that a convert to a Hindu religion would be a Hindu. It is plain commonsense that a man has freedom of conscience and religion and he would be fully entitled to convert himself to Hinduism. But, what happens to his rights and liabilities before he is converted ? I will explain the position. A Christian, a married man, is converted today to the Hindu religion. What happens to his wife ? Would the wife be automatically divorced because she is not a Hindu ? A marriage between a Hindu and a Christian would be illegal. I agree that a convert to the Hindu religion should be treated as a Hindu. But, what about his rights and liabilites before conversion ? There are numerous rights and liabilities. I do not wish to detain the House by detailing the various considerations which may arise on account of this. I simply put it generally that a convert should be a Hindu, subject to all the rights and liabilities he had before the conversion. Suppose there was a non-Hindu possessing rich property, and suppose he is converted to Hinduism. Should you ask him to lose all his property ? If he is to inherit from some one, before conversion, should he lose this inheritance after his conversion. There are laws relevant to this which occur to me, but I only submit that we should preserve all the rights and liabilities acquired by the man who is converted, before his conversion. The *status quo* of the rights previously acquired should not be disturbed. All those rights should not be lost simply by the conversion. Rights once acquired should not be allowed to be lost.

Liabilities incurred should not be allowed to vanish, all because of a later conversion. The conversion should not affect past transactions, past rights and past liabilities.

Then, my next amendment is that sub-clause (2) of clause 2 should be omitted. This sub-clause is to this effect :

> "This Code also applies to any other person, who is not a Muslim, Christian, Parsi or Jew by religion."

This sub-clause, I submit, is based on erroneous considerations, and on erroneous analogies. In part (a) we have said that this Code applies :

> "to all Hindus, that is to say, to all persons professing the Hindu religion in any of its forms or developments, ..."

And we also say that it applies:

> " to any person who is a Buddhist, Jaina or Sikh by religion."

But the Sikhs, I feel, do not very much appreciate the conferring of the so-called benefits of this Code on them. My friend Sardar Hukam Singh is ready to give up the so-called benefits of the Hindu Code now being conferred upon the Sikhs. So long as he remains a Sikh, I do not think he would very much appreciate the Hindu Code being applied to him and.....

Shri Tyagi : He can become a Hindu.

Shri Naziruddin Ahmad : But let Sardar Hukam Singh speak for his own community. I am only.....

Shri Khurshed Lal : Yes, you are speaking for yours.

Shri Naziruddin Ahmad : Then we come to part (c)(1) which says that the Code applies to any child, legitimate or illegitimate etc. A Hindu is a Hindu and the child of a Hindu should also be a Hindu. But what I say is this. Sub-clause (2) seems to be somewhat misplaced, because it states that the Code applies also to any other person who is not a Muslim, Christian, Parsi or Jew by religion. Looking at it from the drafting point of view, this is a circuitous way of drafting the thing, and it shows the piece-meal introduction of an idea. If this is the idea, why not say straight away that all persons who are not Muslims, Christians, Parsis or Jews are Hindus ? Instead of doing that, you first of all say that Hindus are first of all Hindus. Then you say that Buddhists, Jains and Sikhs are Hindus and then you say that the

Code will apply to other persons who are not Muslims, Christians, Parsis or Jews. I think the most straightforward and logical way of putting this definition would have been to say that all persons who are not Muslims, Christians, Parsis or Jews are Hindus. It comes to that. Therefore, I submit, at that time, there might have been some hesitation in the mind of the draftsmen and this idea was introduced at a later stage. Otherwise there was nothing to prevent them from saying what they actually meant.

But there is a snag in this clause 2, sub-clause (2). Does it necessarily follow that a man who is not a Muslim, Christian, Parsi or Jew is a Hindu ? He may be a communist, as is suggested by a friend here. Or he may belong to the religion of *Shintoism* as professed in Japan. Or he may have no religion at all. How can it be accepted as an inexorable principle that a man must be a Christian, Parsi, Muslim, Jew or a Hindu ? There may be a person who belongs to no religion, or there may be a person whose religion is apart from any of these great religions.

Shri Tyagi : Hinduism is a cocktail of all religions.

Shri Naziruddin Ahmad : Of course, to say that all the rest belong to the Hindu religion may sound very sweet to Hindu ears. But the question is whether we should force the so-called benefits of this Code on anybody ? Should we call anyone a Hindu and force the Code on him ? That is the point. Suppose there are some foreigners here, or their servants or subordinates or friends. We are encouraging tourist traffic and we can expect many such persons in India. And suppose one such foreigner dies while in India. Who will inherit his wealth ?

Dr. Ambedkar : You will inherit his wealth if he dies in India.

Shri Naziruddin Ahmad : The question is, are those persons who do not belong to any of those religions to be the victims upon whom the so called benefits of this Hindu Code should be forced ? The Hindu community is docile and in an absolute minority in the House, but outside there is a great deal of objection raised and that being the case, should these so-called benefits be forced on all ? Should you force the Code upon all the persons who are neither Muslims, Christians, Parsis or Jews, and because they do not belong to any

of these religions, does it necessarily follow that they belong to the Hindu religion ? Should the Code be applied to them ? That is the question which the House will have to answer. I submit that this sub clause (2) must be omitted because it seeks to enact a proposition which should not be accepted. Let us proceed gradually. You must not force the Code upon such persons. There may be some who follow some other religion or who have no religion at all, or a new religion may come into the world and to them the law should not be made applicable. The application of the law should be gradual. The impact of this tremendous measure should be gradual. In fact I was very much enamoured with part of the amendment moved by my hon. friend Mr. Kapoor. There was a great deal of sense in that part of the amendment which said that the Code should apply only to those persons who want it. That was also the purport of the amendment of Shri Jhunjhunwala. Of course there were some differences with regard to detail. But the important principle is that the Code should apply only to those who want it to be applied to them. Therefore this definition of a Hindu is not warranted. If the Hindu Code was not a controversial one and had been an acceptable one to all there would have been no difficulty. So by accepting that part of the amendment.....

Pandit Krishna Chandra Sharma (Uttar Pradesh) **:** It means that everybody should be allowed to make a law for himself.

Shri Naziruddin Ahmad : You are trying to force down the throat of a person a medicine which he does not like. However good the Code may be you cannot force it down the throat of the Hindu community.

An Hon. Member : Who says that ? We all want it.

Shri Naziruddin Ahmad : First of all you must take public opinion on your side. You must approach them gradually. Make it first optional and then if the law is good for everybody they will gravitate towards it. They will themselves push each other and compete with each other in getting themselves registered earliest. The law should attract people voluntarily and not by force. That is the great principle which underlies these amendments and suggestions. It is not a case of everybody making a law for himself but a case of a few persons forcing a law upon 33 crores of people.....

An Hon. Member : Who are you to say that ?

Shri Syamnandan Sahaya : That is also lately the correct position. Go ahead. Let them shout at the top of their voice.

Mr. Chairman : Hon. members should not go on speaking to each other while sitting. It will create confusion. Let the hon. Member proceed.

Shri Naziruddin Ahmad : That is why I heartily support the suggestion to make the application of the Code voluntary thereby robbing it of its sting. Then I dare say that if the law is good gradually every one will come to it. I therefore submit that the law should be made applicable to those who are fit for it.

India is a vast sub-continent where there are highly advanced people as also extremely backward people. The law is a good law to hon. Members because it is good to the community from which most of the Members come. It is an advanced law suited to the advanced community from which hon. Members come. But why should it be made applicable to hill tribes, aboriginals and backward people who have no education and who do not even have two meals a day. Why should it be made applicable to them by a stroke of the pen against their wishes ? That is the point which arises out of the suggestions contained in these two amendments. It is experience and not logic that should guide law. I therefore submit that the law should be made applicable to those who accept it and those who are fit for it. Gradually those who are semi-fit for it will qualify for it.....

Shri Khurshed Lal : That is why it is not being applied to you.

Shri Naziruddin Ahmad : I agree that I am too backward to appreciate the benefits of this law. This law is a jumble. It does not contain much of the Hindu law. It is borrowed from the Muslim law, from the Christian law and borrowed all the worst elements of those laws. Therefore I would prefer to be called a backwardman so as to please my hon. friend Mr. Kurshed Lal rather than be looked upon as civilised and be made to accept a law which is not applicable to me and which does not appeal to me either. The great difficulty is that the Government is committed to a principle rather prematurely and the people outside are against it.....

Shri Bharati : Who are you to say that ? Who said that ?

Shri Naziruddin Ahmad : Just go out and see. If you had gone to the Gandhi Grounds yesterday you would have seen something of that.

An hon. Member : Why did my hon. friend go there ?

Shri Naziruddin Ahmad : It is my business to be informed : not to suggest anything to them, not to control, guide nor mislead them. It is for me as a Member to ascertain public opinion. If I know that Hindu opinion moves in a particular way, even at the risk of being called backward I would bring it to the notice of the House. There is no point in trying to be fashionable and clever at the cost of commonsense and equity.

Some hon. Members asked me in an oblique manner, "Who says so ?". They think that the Hindu community has accepted the Code and are agreeable to it. I come from Bengal. At the request of the Government of their opinion they said that they were opposed to it.....

Shrimati Renuka Ray (West Bengal) **:** What have they said now ?

Shri Naziruddin Ahmad : If they are changing, I do not know about that.

Shrimati Durgabai : You too must change along with them.

Shri Naziruddin Ahmad : I do not think they have expressed any recent opinion. Apart from rumours their legal opinion duly approved by the Government has been sent by their Judicial Secretary and it has been circulated to us. Any other opinion has not been circulated to us. If they have been circulated to the private ears of any Members I cannot take any notice of it here. The Government of Bengal is against the Bill. The big people are against it.

Shri Sondhi (Punjab) **:** They have compromised, I am told.

Shri Naziruddin Ahmad : I do not think they have put themselves in a compromising position at all. Go to any Bar Association and listen to what they talk. They are getting tired of it. The very eagerness with which the Bill is sought to be pushed through the House.....

An Hon. Member : Is it all relevant to the amendment ?

Mr. Chairman : I would draw attention to amendment No. 31. It is quite relevant.

Shrimati Durgabai : He is only repeating himself.

Shri Tyagi : Since the Hon. Member has alleged that the Bengal Government was against this Hindu Code I want to know from him if the Chief Secretary of the Bengal Government is opposed to it ?

Shri Khurshed Lal : He is not the Government of Bengal.

Shri Naziruddin Ahmad : The Government of India circulated the Bill and asked for opinion. The various State Governments gave their opinion and those opinions have been circulated to us. I have no private communication with the Bengal Government. The public

opinions which have been circulated to us are there, any hon. Member can see them. There you will find that the Bengal Government opposes the Bill.

Pandit Malaviya (Uttar Pradesh) **:** Why should they see if it is not convenient to them ?

Shri Naziruddin Ahmad : They find that the law is not convenient to Bengal soil. What is more, all the judges of the Calcutta High Court— I suppose they should be regarded as educated people, not orthodox, not the rabble, they are fine, cultured, intelligent men. They are not mere orthodox men—gave their opinion jointly that they are opposed to the Bill.

Shri Raj Bahadur : May I know, Sir, whether it is permissible for the member to attack the very foundation and principle of the Bill now ? Is he speaking on clause 2 or on the whole Bill ?

Sardar Hukam Singh : It was an answer to the interruption on his statement that Hindus did not want it.

Mr. Chairman : Order, order. So far the observations of the hon. Member were relevant under amendment No. 31. But at the same time I would request him not to be very general in his remarks. He ought to confine his observations to the particular points made out by him in his amendment.

Shri Naziruddin Ahmad : The point before us is whether the law should be made applicable to persons who do not agree to be bound by it. If you do not give the option you will be forcing the law upon people who do not want it. That is why I thought that in order to strengthen that point the objection of eminent authorities like High Court Judges and the Government of Bengal was relevant. It shows that the people are against it—not the backward people but intelligent, civilised people who have some status in society. That was my purpose in referring to it.

I, therefore, submit that in view of all these objections, the law should be made applicable to those who are particularly enamoured of it, who think they will be benefited by it, but it should not be made applicable to one and all to those who do not want it. I submit that those who are opposed to the Hindu Code Bill are a minority in the House, but those who are in favour of the Bill are a microscopic minority in the country. The whole question is : is it enough for you to be fired with the idea that the Hindu Code is a good thing if the people do not want it ? In a democratic society you must not force

a benefit upon those who do not want it. The people do not want it. Therefore, you must not force this upon them. I therefore heartily support the two suggestions made by the two hon. Members that the law should be made applicable first to those who want it. Then if we find that there is ready acceptance, that it is palatable to the Hindus, that they want it, that they readily accept it, then this Parliament may later on extend it do other people or to other classes of people. That should be the proper way. As has been suggested, if once we accept this principle, make its application voluntary, the whole controversy will vanish. The bitterness of the majority outside and the minority in this House will disappear at once. Then there will be no question of a difference of opinion. If it is good it is good for the highest class of society. It is not good to the condition of people who belong to the middle classes and to the lower classes. It is for this reason that I think that the suggestion in that amendment should be accepted.

Then, one of my amendments is that sub-clause (3) should be omitted. That sub-clause runs to the effect that :

> "The expression 'Hindu' in any portion of this Code shall be construed as if it included a person who, though not a Hindu by religion is, nevertheless, governed by the provisions of this Code."

It says in effect that though a man is not a Hindu, if the Code applies to him he is a Hindu. It begs the very question. It could have been said a Hindu is a Hindu ! The draftsman was not satisfied and he tried to make confusing words confounded by the addition of sub-clause (3). To whom would you make the Code applicable ? If you say a man is a man who is a human being it does not help anyone. It simply shows some confusion of mind. You cannot say that a Hindu is not a Hindu but that although he is not a Hindu provided the Code applies to him he is a Hindu. I think a simpler way of approach should have been far more satisfctory and better. If you say all persons having two legs and two hands are Hindus I have no objection. If you say all Hindus are Hindus even that would have made some sense. You say, all Hindus are Hindus, all Jains, Buddhists, and Sikhs are Hindus, the illegitimate children of those are Hindus and then all those are Hindus who are not Muslims, Christians, Parsis or Jews. You are not satisfied with this round-about and circumlocutory way of expression. You say that even though a man is not a Hindu he is a Hindu if this Code applies to him. You should be more straightforward, more logical, more clear in your expression. The draftsmanship of this clause

shows the hand of many a person but it has not been properly drafted. That is why there has been so much of confusion, so much of roundabout expression. I therefore submit that sub-clause (3) should be omitted. A Hindu should be a Hindu, one who follows the Hindu religion. With regard to Buddhists, Jainas and Sikhs, I should quite agree to them being included provided the Buddhists, Jainas and Sikhs agree to be bound by the Hindu Code. Those persons also are Hindus who are not Muslims, Christian, Parsi or Jew by religion. But you say that a person is a Hindu, though he is not a Hindu, if he is bound by this Code. Somehow or other that is a most unsatisfactory way of approach.

Shri Tyagi: He is a *de jure* if not a *de facto* Hindu.

Shri Naziruddin Ahmad : If you want to call a person a "Hindu", I have no objection. That is a simple way. You simply enumerate him as "Hindu". Why this circumlocutory, round-about and circuitous way of expressing it ? It shows, I say with respect, some confusion of thought.

5 P.M.

Dr. Amhedkar : You are more confounded than anybody else in this House, I am afraid.

Shri Naziruddin Ahmad : I have other amendments which I shall try to deal with tomorrow, if I am not interrupted like this.

The House then adjourned till a Quarter to Eleven of the clock on Tuesday, the 6th February, 1951.

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HINDU CODE—*contd.*

***Mr. Speaker :** The house will now proceed with the further consideration of the Bill to amend and codify certain branches of the Hindu Law, as reported by the Select Committee. Clause 2 was under discussion. Mr. Naziruddin Ahmad will continue his speech.

Shri Naziruddin Ahmad (West Bengal) **:** Sir, at the very outset the House is in a very hilarious mood. I believe the subject is extremely important and it requires very grave consideration. Yesterday I dealt with some of my amendments. I shall now come to amendment No. 31 which reads:

After sub-clause (4) of clause 2 add the following new sub-clause :

"(5) Notwithstanding anything in this section this Code shall apply only to such areas or to such persons or classes of persons in any state from such time or by such stages as the State Legislature may from time to time by Act provide."

The Bill is highly controversial and it is improper even for those who believe it to be highly beneficial to the country to force this Bill upon the entire Hindu population. I submit that this House should not take this hasty step. I do not contend that this House has no jurisdiction, but I do submit that this House should not take upon itself the serious responsibility of forcing a law upon an unwilling people. This House was specially constituted to obtain independence from the British Government, and in due course through its constituent side it passed the Constitution.

The Minister of Law (Dr. Ambedkar) : Sir, is this relevant at this stage ? I do not like to interfere in the debate but certainly we have spent more than four hours in discussing a single clause.

Mr. Speaker : I was just watching for a minute or two whether the hon. Member's reference was leading to some sound argument that he was coming to.

Shri Naziruddin Ahmad : I was submitting that this House has not the mandate of the country to pass this Bill. This is a fundamental matter affecting the religious and social structure of India. Therefore, it is proper and relevant to consider our exact position. I am not going elaborately into all the history because that has been done at

*P.D. Vol. VIII, Part II, 6th February 1951, pp. 2425-83.

the proper stage, but I cannot forget the fact that a large number of hon. Members of this House are new Members and were not present at that stage. So, a very brief resume of those points may, I submit, be not irrelevant.

Mr. Speaker : I may inform the hon. Member that, so far as the representative character of this House is concerned as also its competency to consider such a Bill, that has been sufficiently thrashed out before and the present stage is not the proper stage of again raising that kind of an argument. We are now discussing the Bill clause by clause and clause 2 is before the House, so, he will restrict his remarks only to the provisions in clause 2 and the amendments before the House. Of course, the scope for that is wide enough, but not for questioning or even doubting the representative character of the House or its capacity to pass this Bill. That will be unnecessarily repeating what was said at the previous stages.

Shri Naziruddin Ahmad : Sir, I bow down to your ruling. I am not at all questioning the representative character of the House or its competency. But the question is that we have not consulted the people. Not that we have no jurisdiction, not that we do not represent the people, but on a social legislation of an all-embracing character like this we should have obtained some mandate. That was the point which I was going to submit. I do not wish to elaborate it. I wished to refer to this matter in order to develop my argument with regard to amendment No. 31. I want by this amendment to restrict the application of the Bill to the different States, upon the State, by Act, prescribing its application, and also limiting the conditions on which the Bill should apply, the persons or classes of persons to whom the Bill should apply and the stage or stages through which this application should come. Therefore, my point, so far as this amendment is concerned, is that the Bill should not be made applicable to all persons outright.

The State Government are in a better position to know the conditions of the people, their wishes and desires and their needs. It is therefore proper to allow each State to apply the Law and to such extent and through such stages as the Legislature, by Act, may provide. I know that so far as reports are concerned the Government of Bengal has opposed this bill. Though it was given out yesterday that in private conversation some hon. Member was told, some individual Minister in Bengal was in favour of the Bill, that is not the official position

taken by the Government of Bengal. I dare say that each State has its different problems to solve with regard to this Bill: its stage of civilisation, its state of economic condition and various other factors must, I believe, obtain in different degrees and in different circumstances in the different States. My point is that for those hon. Members who feel that this Bill is good there are a much larger number of hon. Members who feel the Bill is not good for them. Therefore, my submission would be to strike a *via media* . Let the Bill be accepted by those who think that it is good for them, but let them not force the Bill upon others.

Now, so far as the States are concened, the State Legislatures would be the proper authority to apply law, adapting the application to suit the differing circumstances of the case. Though the Hon. Minister in charge of the Bill is enamoured of uniformity in the laws, I think that it is a principle which should yield to practical considerations. I submit that the State Legislatures are the proper authority to ascertain the Actual opinion on the Bill and the application of the Bill should also be controlled by them. To this principle, there should be no objection. If, as is claimed, the Bill is a very beneficial one, acceptable to the people, acceptable to the Hindus of India, nothing could be lost by letting the State Legislatures express their opinion. The State Governments have their Departments through which they are in a position to know the wishes of the people and the members of the State Legislatures are also in a position to know the minds of the people. I therefore, submit that the application of the Bill in different circumstances and to different people should be left to the local Legislatures. If this is done, then much of the sting about the Bill and much of the objectionable features of the Bill would at once disappear and the controversy would immediately stop. The more the supporters of the Bill are convinced that the Bill is highly acceptable, the more they should be ready to subject themselves to this test of acceptance of the Bill by the local legislatures. I submit that this amendment raises an important principle and if the claims are as high as they are alleged then this principle should be accepted. It is conceivable that there are corners in the States where this law would Act adversely. There are various provisions bearing on divorce and there are various customs in different parts of the country for marriage and divorce. If we apply this Bill to them straightaway, that would take away the simplified marriage and simplified divorce and substitute complicated forms of divorce and marriage. To that extent,

their existing rights would be affected. There are, again, people who do not like to enjoy the rights of marriage and divorce as prescribed in this Bill. To them also, it would be a hardship. From any point of view, therefore, the application of this law to the peculiar circumstances of each State must be left to the local Legislature.

Then Sir, I have been jeered and jibed at many times.

12 NOON

Babu Ramnarayan Singh (Bihar) **:** No.

Shri Naziruddin Ahmad : That has been my privilege. I believe that the delay that has occurred was due to two reasons, the author of both the reasons being Dr. Ambedkar himself. First of all the Bill was sent to the Select Committee. For reasons best known to him, it came back from the Select committee in the form of an altogether new Bill. That led to some controversy, which took about six months' time. I submit that this portion of the delay was not due to me. If I had any fault, it was to point out the error and thereafter it was for the House to give a ruling.

Shri B. Das (Orissa) **:** Why apologise ?

Shri Naziruddin Ahmad : That delay was due to Dr. Ambedkar himself. I do not blame him for this. I do not attribute any motive to him.

Dr. Ambedkar : He forgives me!

Shri Naziruddin Ahmad : Probably, he wanted to improve matters and make matters worse.

The next reason for the delay was.....

Dr. Ambedkar : I do not think any hon. Member of this House has charged my hon. friend with dilatory tactics and I do not see why he should indulge in an explanation which is certainly not wanted, so far as I am concerned. He is wasting time.

Shri Naziruddin Ahmad : No, Sir. At least one word by way of explanation is necessary. Although I might not have referred to it, the charge has definitely been made and it goes in the proceedings to be read even after 100 years. I submit that the next reason for the delay was that in the Bill which was referred to the Select Committee, there were enormous numbers of substantial changes and those matters had to be put before the House just to argue that the members of the Select Committee had not a proper opportunity to consider them in detail. Those controversies are gone, but public memory is short and Ministerial memory is shorter. By a strange

coincidence, by a strange freak of fate, the delay is attributed to me. I think it is quite unnecessary to take it up and discuss it. So far as this matter is concerned, as Dr. Pattabhi Sitaramayya said on one occasion, dilatory tactics are permissible. If any Member is satisfied that a Bill must be opposed, dilatory tactics are permissible. He may oppose—so long as he may—fairly, and even unfairly, if he must. I submit that I do not take recourse to this extreme step. I believe that the Bill is a controversial one and therefore some amount of controversy is inevitable. The controversy is embedded in the Bill itself.

Dr. Deshmukh (Madhya Pradesh) **:** In Dr. Ambedkar ?

Shri Naziruddin Ahmad : Yes, of course. When the draft Bill was circulated, the Hindu Law Commission went round the country and collected a large number of opinions. The opinions were preponderantly against the Bill. These very women who are supposed to be anxious to liberate themselves through this Bill opposed the sittings of that Commission in different places in large numbers.

Shri Tyagi (Uttar Pradesh) **:** Clause 2 is now under discussion; what has all this to do with it ?

Mr. Speaker : The Chair is taking care of it. But if hon. Members want to do so, they may ; but in that case his speech will be prolonged and may go on till tomorrow evening. Therefore, let him go on in his own way. If he is irrelevant, the Chair will stop him.

Shri Naziruddin Ahmad : Sir, it is these interruptions which certainly create a certain amount of difficulty. When a question is asked, it certainly requires an answer. After all I am accustomed to these interruptions and nothing is more acceptable to me than these interruptions.

Sir, clause 2 is a very important one because it deals with the application of the Code. Many amendments have been suggested to this clause, the underlying idea of all of them being to prevent its universal application straightaway, considering the magnitude of the legislation, I for one feel that the house should take serious consideration of the suggestion to proceed slowly and to adapt the Bill to suit local conditions. If that is done, the impact of the Bill would be more tolerable and the objections would largely vanish.

Sir, I have done.

***Pandit Thakur Das Bhargava** (Punjab): Sir, in regard to the application of the Hindu Code to the various subjects and peoples who come within the purview of clause 2, I have to submit for your consideration a few words.

I agree with the previous speaker that the scope of clause 2 is very wide and therefore, all these matters which have been submitted for the consideration of the course are quite appropriate and should be considered by the House in regard to application of clause 2. But at the same time, I am of opinion that by practical considerations we are compelled to limit the scope of clause 2 to such persons to whom the Hindu law applied previously. I am not here to minimise the efforts of those who think that in pursuance of the directive principles we ought to have a Civil Code for this country. I am for it, the whole country is for it. We should, therefore endeavour to have a Civil Code for the whole country and I would very much like that Hon. Dr. Ambedkar who has done so much for this country in the matter of giving us a Constitution and bringing forward the Hindu Code which affects about thirty crores of people will in time bring forth a new Civil Code for the whole country.

But at the same time I do not think it is practicable to say that this Hindu Code should be turned into a Civil Code, (*an Hon. Member;* Why not ?) The question is being asked " Why not ?". I would certainly submit the reason. Now, as I have just pointed out. I admire the spirit of the previous speakers Mr. Sarwate, Shri Vidyavachaspati and Shri Jaspat Roy Kapoor, when they want one Civil Code for the whole country. As a matter of Act this attempt of Dr. Ambedkar in incorporating certain principles which ought to have been the real basis of the Hindu Code is simply laudable. This Hindu Code, according to some, is a Code which ought not to apply to Hindus alone, because this Hindu Code embodies principles which are not taken from the Hindu law alone. In regard to certain principles, they are so broad based that I should think they may eventually furnish a basis for having a Civil Code.

As remarked by the previous speaker, marriage is certainly one of the ten *samskars*. It is a religious affair. But in this Code we have 'got the provisions of the Civil Marriage Act also. My humble submission is that so far as the question of Civil Marriage is concerned it ought to have been contained in the Civil Code which we have all in view and which will be equally good for all the citizens of

*P.D., Vol. VIII, Part II, 6th February 1951, pp. 2430-52.

this country. Therefore, the complaint that this Hindu Code is neither based on Hindu Law nor on any universal law is correct to a certain extent and my view is that the principles of the Civil Marriage Act which are embodied in the Act of 1872 should not have been incorporated in the Hindu Code. I would, therefore, very much like that these provisions are taken away and the Hindu Code remained only a Hindu Code. This inter-mixing of the principles of the Civil Marriage Act into the Hindu Code should not have been allowed.

Now, Sir, I maintain that today we cannot have a Hindu law like the one which was propounded by our ancestors. In those days Hindus lived in an exclusive way. The impact of civilization and other religions had not begun so far as Hindus were concerned. Now in every Code, in the Muslim Law, in the Christian Law, and in the Hindu law we have got principles which are not germane to those laws alone but which as a matter of Act have been made universal by the impact of other forces. For instance in this Hindu Code we have got monogamy which is a special feature of the Christian Law. The authors of the Hindu Code want that daughters should be given a share of the property. Now this was not known to Hindu law, so far as married daughters were concerned for a very long time. Of course, there is no practice or principle which has not been experimented upon at one time or other by the Hindus.

[SHRIMATI DURGABAI *in the chair*]

This is a different matter. But today I think he will be a bold man who would like to say that the principles of yore be introduced in the Hindu Code. As the society progresses there is also a progress of the principles. Now if anybody wants to say that the laws of Manu should be introduced in Republican India, I think he will be a mad man. Does any one in this House want that no *Shudra* should be allowed to read the *Shrutis* ? On the contrary, I for one welcome the Code for the very reason that Dr. Ambedkar is supporting it. Now all things have changed and all values have changed. The Hindus have burnt their boats so far. Now he will be a bold man who will come and say, " I want that the Caste system of the Hindus based, as it is, on birth should be introduced in the Hindu Code". I will have noting to do with this Hindu Code if it is based on the caste theory. I know that so far as the original Hindu law is concerned the caste system was not based on birth. I challenge anybody in this house, or outside, if he could convince me that the Hindu Law or the system of the Hindus was based on birth. But what do we find today ? Birth

is the real basis of caste, whereas according to the strict notions of Hindu law and the *Shastras,* birth has no place in it whatsoever, we find that Hindu society is not what it used to be. Are we now going to introduce all those laws of Manu, for instance, that a *Shudra* cannot read the *Shrutis* etc.? Now we have finished with them.

So far as the criticism goes that the Code is very bad, so bad that it should apply only to Hindus, Muslims, etc., I am very sorry I have to challenge that statement and fight it. Some of the principles which are put in the bill are exceptionally good, so good that I would like to have this Hindu Code. As I stated. I am not an opponent of every clause and word in it. I want that all the good principles, which are consistent with the principles that we have accepted in our society today, should be passed in this House. I am opposed to certain provisions and I shall have occasion to speak about them at the proper time. But as regards the statement that it is so bad that it should not apply to Hindus or Muslims, etc. I for one do not agree with that statement.

I was considering the question whether it should apply to any but Hindus. Three or four motions have been made, by Mr. Sarwate, Mr. Indra Vidyavachaspati and Mr. Jaspat Roy Kapoor had something to say about it. In regard to them my submission is that, if it were possible to do so I would have myself supported those motions. But may I humbly ask the non-Hindus in the House if they like this proposal ? They do not like it.

Shri J. R. Kapoor (Uttar Pradesh) **:** The non-Hindus have already been brought within its scope.

Pandit Thakur Das Bhargava : It is entirely wrong to suggest that. So far as Muslims, Christians, Parsis and Jews are concerned, it specifically say that the law shall not apply to them. Where is my friend's suggestion that it has already been applied to Muslims Christians, Parsis and Jews ?

Shri J. R. Kapoor : I said non-Hindus excepting Muslims, Christians etc.

Mr. Chairman : Let there be no interruptions.

Shri R. K. Chaudhuri (Assam) **:** On a point of information, Madam, may I know whether the Hindu Law is not applicable even now to the Muslims, Bohras and Cutch-Memons ?

Pandit Thakur Das Bhargava : My friend has anticipated me. The present Hindu Law as we understand it does apply to many classes

of persons. It does apply to persons who do not call themselves Hindus. And so long they have never objected to it. So far as Sikhs, Jains, Buddhists are concerned, it is the Hindu Law which is applied to them. And it has been applied to them from times immemorial, from the time that the British Government was established. They have always been using it. Even Muslims have been using it. (*An hon. Member*: You are excluding them). We are not going to exclude them. This Hindu Code, according to clause 2, shall apply to all persons who are not Muslims, Christians, Parsi or Jews. So far as Muslims are concerned and so far as their law is concerned we have not changed anything and we have not made any law for them. We do not want to say that their customs as altered by the Hindu Law do not exist.

For instance take the Punjab. We were not bound by the Hindu Law as such, I am speaking of the villages of the Punjab. So far as the cities are concerned, many Hindus and Muslims are governed by the Hindu and Muslim Law. But so far as the rest of the Punjab is concerned we were guided or dominated, or we were governed, by custom. Custom was the first rule of decision in the Punjab so far as Hindus, Muslims and Sikhs were concerned. Even today it is custom which governs us. May I with your permission, Madam, just read out the Preliminary Section of the Punjab Customary Law by Rattigan ? it says :

> "Custom in this Province is the first rule of decision in all questions regarding succession, special property of females, betrothal, marriage, divorce, dower, adoption, guardianship, minority, bastardy, family relations, wills, legacies, gifts, partitions, any religious usage or institution, or alluvion and diluvion ."

In regard to the Customary Law of the Punjab, all the Hindus, Muslims and Sikhs in the village areas were bound by the Customary Law which practically was the same for all. And it has furnished a very good basis for the Civil Code because the customs were the same, the result was that we were wedded to the agnatic theory of succession and all the customs flowed from that. It is difficult for the Punjabis to accept the principle of inheritance of married daughters because the agnatic theory is there. In fact it prevailed in Assam also before Assam came into the domain of the Bengal High Court. If we find out what was the source of custom, all the principles and notions of Hindu Law which prevailed throughout the country were

the source from which this custom grew in the Punjab and in other parts. Not that custom is an exclusive feature of the Punjab only : in various parts of India custom has to a very great extent altered the original Hindu Law.

Shri R. K. Chaudhuri : I am sorry to interrupt. But may I ask whether the Customary Law in the Punjab will over ride the clear provisions of the Hindu Law, or what will be the position of the Punjab later, that is, after this Bill is passed ?

Pandit Thakur Das Bhargava : So far as the Punjab Law is concerned, I have given the source of law, i.e., section 5 of the Punjab Laws Act. I have just read from section 1 from the preliminary observations of Rattigan which is based on the Regulation of 1825 and section 5 of the Act of 1872, so far as Punjab is concerned. This is the present Law of the Punjab unless it is altered by this Hindu Code. This was my difficulty when I gave an amendment to that effect: leave the Punjabees if they want to be governed by their own custom. I have given an amendment in regard to clause 1 to the effect that Punjab should be excluded from the operation. The reason is that from days immemorial we have been governed by custom and we want to stick to that custom because that custom is the mixture of the Hindu Law as well as other notions of Civil Law.

I may be excused if I just divert for a minute to the present mentality of the Hindus, as a whole. I want to see a Hindu in this country who can say that he is a Hindu according to the old notions of Hinduism. The present mentality of the educated Hindus of this country is a sort of electicism. They are followers of Arya Samaj, Brahmo Samaj, some people have in the background of their minds or in the inner sub-conscience, certain conceptions which we have imbibed from Muslims, Christians and from other religions and we educated Hindus—I can speak for myself and some of my friends— want to have a sort of electicism. We take the best out of every religion and begin to think that this is the right thing and that this is Hinduism. Perhaps this may be true of the rest of the world also. Where is a true Christian to day who believes in the teachings of the Bible ? I can quote from the Muhammadan Law also. Where is the true Muhammadan to be found ? We know that the Prophet of Muhammadans married a girl who was below the age of 14. When the Sarda Act was passed, if hon. Members of this House remember very well, Mr. Mohemad Ali performed a marriage in the Queen's Garden just

to contravene the provisions of the Sarda Act because people wrote that the Sarda Act had made an inroad on the Muslim religion by taking away the liberty of marrying a minor. Those persons who have prejudices about religions may say whatever they like but to-day at the present moment, there is no orthodox Hinduism, no orthodox Muhammadanism and no orthodox Christianity. This is the bare truth and therefore, I am not surprised if Dr. Ambedkar has brought in a Bill which is consistent with the present times. Many of these provisions look new to those who are absolutely orthodox but at the same time, we must recognize that we have progressed too much on the lines of modern civilization and we cannot go back. If they want to bring back all those ideas of the past which have been practically given up by society in general, they are mistaken. As a matter of fact, Dr. Ambedkar has made an unconscious attempt.....

Shri R. K. Chaudhuri : We are getting more and more confused by what the hon. Member is saying. I want to make it clear whether the hon. Member wants that the present Hindu Code should go to amend the Punjab Customary Law and whether in the Punjab Customary law bigamy is banned or not. If bigamy is not banned and if as the hon. Member wants to have the Punjab to be excluded from the operation of the Hindu Code, may I know his views about bigamous marriage ?

Mr. Chairman : The hon. Member should know that he has already made his point clear and the hon. Member who is now speaking may be allowed to have his say and he need not be interrupted from time to time.

Pandit Thakur Das Bhargava : I am very glad that my hon. Friend has put a question to me. So far as bigamy is concerned. I have made my position absolutely clear when some time back I introduced a Bill in this House. That bill is designed to enforce monogamy in the whole of India even as regards Muslims, Hindus, Christians and everybody and including the Punjab. I want that so far as this Customary law is concerned, if there are any such customs which agree with the accepted ideals of society and humanity as a whole or a major part of that society, then those ideals we should adopt. I want that there should be no bigamy in the Punjab or elsewhere. This is my humble reply. So far as the general question that he has put is concerned whether this Hindu Code should modify a custom or not, I am of the opinion that so far as our custom is concerned, I want to stick to it in the Punjab, and we want to go on with that custom.

So far as custom and other things are concerned, if my hon. Friend has just studied the amendments which I have already given, he would see that I want good customs in all places should remain as they are, because I am not in favour of violently changing the law of the people of this land in this manner in which this Hindu Code seeks to do (*Hear, hear*). At the same time, I do not want some portions of this Hindu Code to be enacted for the whole of India. Since I got an applause with a view to pin me to something which I do not myself like, I want to make it absolutely clear that I am not against this Hindu Code. I want that certain portions of it should be enacted, but there are certain portions which I do not like, (*Interruption*). So far as certain principles in this Hindu Code are concerned, which are of a universal nature which will improve the society, I want that those provisions should apply to the Punjab and it is for this reason I am supporting this amendment. Hon. Members have not read the amendments which I have already given. The amendment runs thus:—

That for clause 2, the following be substituted, namely :

" 2. Subject to the provisions of section 1 this Code applies—

(a) to all persons who are Hindus, Buddhists, Jains or Sikhs by religion ;

(b) to any other person who is not a Muslim, Christian, Parsee or a Jew by religion ;

(c) to every woman who married any person was not a Muslim, Christian, Parsee or a Jew by religion ;

(d) to any child, legitimate or illegitimate, one of whose parents was a person who was not a Muslim, Christian, Parsee or Jew by religion ;

(e) to a convert to any religion except the Muslim, Christian, Parsee or Jew by religion."

I want that this Hindu Code Bill as it is amended by this House and according to my wishes should apply to the Punjab. I do not want that so far as the Punjab is concerned the customs that we have got there should be violently changed by this Hindu Code but consistently with this I want to adopt such of the provisions of the Hindu Code as are acceptable. As for bigamy it should no longer exist in the Punjab. We want to have a monogamous Punjab.

Shri R. K. Chaudhuri : Then I withdraw my applause.

Shri J. R. Kapoor : Do I understand the hon. Member to suggest that different portions of the country and different sections of the

community should be permitted to pick and choose particular portions of the Code wich are acceptable to them ?

Mr. Chairman : The hon. Member must address the Chair and he should put the question through the Chair.

Pandit Thakur Das Bhargava : I am very glad that Mr. Kapoor should have put this question to me. Since I also put a question to Mr. Kapoor when he was speaking yesterday, this is tit for tat. I then asked Mr. Kapoor when he was speaking whether he wanted that every person should have liberty of choosing a particular clause and whether he shall be bound or not. His proposition was that out of the Hindu Code consisting of so many sections every individual be he a Hindu, Muslim, Christian or Parsee or whoever he may be able to choose a particular section to bind him and not others.

Shri J. R. Kapoor : On a point of personal explanation, I never said that. What I said that of all portions in the Code one should be at liberty to pick and choose any particular portion. There are different parts relating to marriage, adoption and inheritance etc. It should be open to one to pick and choose the part relating to marriage and say : "I want to be governed by this chapter." I never said that one particular section should be accepted by one and another section by another.

Pandit Thakur Das Bhargava : I am very sorry that my hon. Friend controverted the statement that I made. I put this question in those very words and he replied to that question and his reply was that he would rather like that even a particular section could be chosen. Unfortunately, he does not remember that.

Shri J. R. Kapoor : I will refer him to the speech which I delivered yesterday.

Pandit Thakur Das Bhargava : After reading the section I found the very thing that I am submitting.

Shri J. R. Kapoor : I suppose it is not so.

Pandit Thakur Das Bhargava : I take it that what my friend says is the true version.

May I humbly ask my Friend whether he wants that a person can choose out of the Hindu Code and say that so far as marriage is concerned he shall be found by the Hindu Law and so far as succession is concerned, he shall be bound by some other law ? That would be an impossible proposition for a person to say that he would be bound only by one Chapter of the Hindu Code and not by others. The whole

law is so interwoven and interconnected that a person cannot say that he would be bound by one provision and not by the other provisions in another Chapter. That is entirely a wrong proposition. Succession, maintenance, guardianship, all these provisions are, as a matter of fact, so inter-connected that it would be impossible to have a proposition like that. Yesterday also when I put my question, it was with a view to bring into relief the wrong proposition that my hon. friend was wanting to lay down for the whole of India. According to him, a Muslim may be able to say that he likes a certain Chapter and would be governed by that and in respect of the rest, he would be governed by the Muslim Law. I ask, is it possible, is it practicable, is it a proposition which can be laid before the House ? I submit, not, I submit that that would be a wrong approach to the question at issue. In fact, that is not the question at issue.

The question of even a Civil Code, as I have submitted, is not germane to the subject. While I admire those who want to have one Civil Code for the whole of India, I cannot agree, and I do not think that it would be a practical proposition to have one Civil Code for Muslims, Christians, Jews, etc. What was the reaction of our friend Mr. Naziruddin Ahmad ? He never agreed to that. He raised the question of fundamental rights under the Constitution, and said that you cannot have this Hindu Code. When it came to asking a question of him whether he would like to be governed by the Hindu Code, he said, " It is bad enough for the Hindus ; you want to give it to the Muslims, Christians, etc.". That was his attitude. I very humbly submit that as a matter of fact, the provisions of the Constitution Act have not been fully understood by my hon. friends who propose that this Hindu Code should apply to Muslims, Christians, etc. I can understand that in a light-hearted spirit. If they want to throw away the Hindu Code Bill they may say anything in order to show the absurdity of the provisions. But, I do not think that it is a feasible proposition to suggest that the Hindu Code should apply to Muslims, Christians, Parsis, Jews, etc.

Shri R. K. Chaudhuri: The principles.

Pandit Thakur Das Bhargava : My hon. Friend Mr. Chaudhuri says, and I think he will again applaud me when I say that the principles do apply. I quite agree that some of the principles even of the old Hindu Law are of such a universal nature that they apply to people of all religions, in all circumstances. So far as that is concerned, that would be the basis of the common Civil Code. Even

now, we have certain principles in our present law which are the basis of the common Civil Code, like the Sarda Act, Majority Act, etc.

Reference was made to articles 25 and 15 of the Constitution Act and some of the provisions in article 25 were even ridiculed. My hon. friend Mr. Nazuriddin Ahmad said that he cannot make anything out of the words "Subject to public order, morality and health" and that they were meaningless. They are not meaningless. They have not full meaning; not only full meaning, but are of very great significance. He seems to have failed to realise the significance of articles 25 and 15. It was said that under article 15, there shall be no discrimination, and that therefore, we cannot have a Hindu Code, a Muslim Code and other Codes. My humble submission is this. Although I would very much like to have one Civil Code for the whole country. I submit that it is not inconsistent with the provisions of the Constitution Act to have a Hindu Code, a Muslim Code and other Codes. I am very sorry to say that I have heard my hon. friends who are in favour of the Hindu Code Bill say that so far as the provisions of Articles 15 and 25 of the Constitution Act are concerned the provisions of the Hindu Code Bill are not consistent. For instance. I am very sorry to submit that I have heard even from the author of the Hindu Code Bill to say that so far as the Constitution is concerned, there can be no discrimination between brothers and sisters, between a male and a female so far as the Hindu Code is concerned.

Dr. Ambedkar : Only on grounds of sex.

Pandit Thakur Das Bhargava : I am coming to that. That is one proposition that has been put forward that on grounds of sex there cannot be any discrimination and article 15 of the Constitution will stand in our way. The other gentlemen, who are opposed to the Hindu Code, also rely on articles 15 and 25 and say that there can be no discrimination. May I humbly ask the Hon. Dr. Ambedkar, if there could be no discrimination on the ground of sex, why he has got so many provosions in the Hindu Code itself which discriminate between the sexes.....

Dr. Ambedkar : There is no provision which discriminates only on the ground of sex.

Pandit Thakur Das Bhargava : This provision of one-fourth for a married daughter and one-half for the unmarried daughter ; why is there a different succession if a man dies and a different one if a woman dies ?

Dr. Ambedkar : That is not anything based on sex only.

Shri Tyagi : On death also.

Mr. Chairman : I think the Select Committee report has made no such discrimination.

Mr. K. C. Sharma (Uttar Pradesh) **:** That article is not under discussion now. He may come to his amendments.

Pandit Thakur Das Bhargava : As a matter of fact, even this discrimination that the married daughter may not have a share in the father's property is not based on ground of sex alone, as my hon. friend says. My submission is that it is consistent to provide in this Hindu Code that a married daughter shall not succeed to her father's property. I was just now on the argument propounded by the Hon. Dr. Ambedkar. On the question of maintenance, a wife is entitled to be maintained by the husband. Is the husband also entitled to be maintained by the wife ?

Shrimati Renuka Ray (West Bengal) **:** Why not ?

An Hon. Member : There are many such instances.

Pandit Thakur Das Bhargava : My hon. Friend asks ; ' why not', I am very glad that she has adopted this gallant attitude. Has she consulted her sisters ? Our Chairman does not say so. I submit that it is a very wrong principle to suggest that on the basis of sex, equality should be enforced in such a manner which is not consistent with certain conditions of life. I maintain that the Hindu Code would not violate any provision if we maintain that a married daughter does not succeed to the father's estate. She succeeds her husband or father-in-law. I am dead certain that unless and until we recognise the rights of women, unless we give them full rights, we shall be losing very much in certain strength of character which arises only if women are economically independent. I submitted when I was speaking at the consideration stage, and I maintain it now that we are all committed to that and we cannot but give rights to our sisters; we must see that we give them full rights. The only thing that I am opposing is the manner in which those rights are given.

So far as the Punjab is concerned, as I submitted, we are wedded to this theory that a married daughter when she goes to her husband's family, she becomes a part of that family, and is the pivot of that family. Therefore, the trouble with the Punjab is that they cannot possibly accept that a married daughter should succeed to her father's estate. So far as

the other principles are concerned, we are still being governed by them and as I submitted they are principles which would be a better basis for a Civil Code rather than for a Hindu Code. This is not discrimination on grounds of sex at all but due to certain conditions of life. Suppose you pass a law to-day that all males should cook food and that females should not; will that be right ? That will be entirely wrong.

Pandit Krishna Chandra Sharma (Uttar Prades) **:** What is the clause on which the hon. Member is speaking ? Is all this relevant to the clause under discussion ?

Pandit Thakur Das Bhargava : You have maternity legislations referred to in the Factories Act. Should all that legislation apply to males also ?

Shrimati Renuka Ray : How is all this relevant to clause 2 ?

Mr. Chairman : Too many Members speaking at the same time leads to nothing but confusion. I think the hon. Member now speaking may be allowed to go on.

Pandit Thakur Das Bhargava : Those who raise the question of relevancy, I submit, do not seem to know what is relevant and what is not. They have all heard my friend Mr. Naziruddin Ahmad and he covered a very wide ground and in the reply also one has to deal with all those points touched upon. You cannot say that, that was relevant and this is not. If what he said then was relevant, what I say now is also relevant. Moreover, so far as clause 2 is concerned, it is a very wide one and so the question of relevancy cannot arise in connection with this clause. The question whether the Hindu Code applies to Muslims or not was dealt with by Mr. Naziruddin Ahmad, and in views of that, I find it impossible to understand how my friend Shri Krishna Chandra Sharma—the able lawyer that he is,—can say that what I now say is not relevant.

Shri Raj Bahadur (Rajasthan) **:** Sir, on a point of order, can an hon. Member of the House take the seat of the Leader of the House ?

Mr. Chairman : The hon. Member may proceed to his own seat.

Shri Tyagi : What is the matter ? I would like to know why I am made the target of this laughter. These seats are, after all for being occupied by someone. I found that one was vacant and I occupied it.

Mr. Chairman : The hon. Member might have exercised his right of freedom of movement in this ; but there is no more to be said on this matter.

Pandit Thakur Das Bhargava: The question of equality before the law has been raised. And various other matters have also been raised. Articles 25 and 15 were referred to and it was stated that the provisions of those articles are being violated, that in view of those articles, we cannot enact a measure of the nature of the Hindu Code. But as a matter of fact, that is not the case. I would submit that even with the amendments now suggested by Dr. Ambedkar, this section will not read quite well. That is why I have suggested my amendments.

Some complaint was made by my Friend Mr. Naziruddin Ahmad that there is an attempt to apply the Hindu Code to persons who are not Hindus. But my humble submission is that my friend is not correct in saying that because if my friend takes the trouble to see to whom it applies now, he will find that it applies even now to many persons who are not Hindus in the sense in which the word is popularly understood even to-day. If you look into Gour's Commentary—I think it is page 165—you will find that a good many persons who do not call themselves Hindus are still governed by the Hindu law. It governs many who are geographically Hindus, if I may say so. The Hindu system is not a creed. The term " Hindu" has a geographical significance also. Therefore, all those who are not bound by any other special law like those of Muslims, Christians, Parsis or Jews, they are all bound by the Hindu Law. This is no innovation brought in by Dr. Ambedkar. He does not want that those who are not Hindus should come under the Hindu Law. This argument raised by my friend Mr. Naziruddin Ahmad is a wrong one. It is not a question of conversion at all. If the Hindu law applies to a person, he does not thereby become a Hindu. If he adopts some of the rules of succession, of divorce or marriage of the Hindu Law, he does not become a Hindu. And I may also say that this kind of thing does not help us either. What is the use of increasing the number of Hindus or Muslims ? The days of proportionate representation or special representation are all gone. I don't care if a man is a Hindu or a Muslim or Parsi or Jew, as long as he is a good citizen. I do not want anyone to give up his religion. The argument of my Friend Mr. Naziruddin Ahmad is based on the old psychology that the proportion of Hindu must be more, or that of Muslims must be less or that Parsis should be more and so on and so forth. As a matter of fact the subject matter of clause 2 is taken from the old Hindu Law. The first part of it says that this Code shall apply to all Hindus, that is to say, to all persons professing the Hindu religion in any of its forms or

developments, including Virashaivas etc, But my humble submission is that this part of the clause is redundant. If it applies to Hindus, that is quite sufficient, and there is no point in saying that it applies to all forms of the Hindu religion or developments of the Hindu religion. Therefore, in my amendment. I have suggested that this Code applies "(a) to all persons who are Hindus, Buddhists, Jains or Sikhs by religion."

And the next amendment is in the nature of a negative proposition. It defines those persons who are not bound by this Code. There is the customary law and the special law. For instance the Muslim of the Punjab can say, that he is governed by the customary law and not by the *Shariat*. Those laws which apply to Muslims are not at all touched by this Code. Those customs are all quite safe. My amendment says that it applies :

> (b) "to any other person who is not a Muslim, Christian, Parsi or a Jew by religion ;"
>
> (c) to every woman who married any person who was not a Muslim, Christian, Parsi or a Jew by religion;
>
> (d) "to any child, legitimate or illegitimate, both of whose parents are Hindus within the meaning of this section ;"

Part (d) I submit is redundant, When there is a child, legitimate or illegitimate to parents who are Hindus, then there is no question. The child is a Hindu. Not that it is wrong to say that the child is a Hindu, but that is quite superfluous. The child of Hindus is *ipso facto* a Hindu. I have, on the contrary, omitted this part and proposed that it should apply even to any child legitimate or illegitimate, one of whose parents was a person who was not a Muslim, Christian, Parsee or a Jew by religion.

There is a proviso to the clause, May I humbly submit in regard to this proviso that it was probably introduced for some other purpose. If taken literally it would exclude those persons whom you do not want to exclude. It would exclude all the Punjabees. The wording of the proviso is very wide. If it is allowed to remain as it is, section 5 of the Punjab Succession Act will come into conflict. The proviso reads:

> "Provided that if it is proved that such person would not have been governed by the Hindu law or by any custom or usage as part of that law in respect of any of the matters dealt with herein if this Code had not been passed, then, this Code shall not apply to that person in respect of those matters."

It means that the Hindus of the Punjab will not be governed by this Code.

An Hon. Member : What is the harm ?

Pandit Thakur Das Bhargava : The harm is this. I want the whole of the Punjab and India to come under the Code. There should be some uniformity in regard to our laws. I have given an amendment that so far as our customs are concerned they should be preserved. I have even suggested that the sections of the Code should be relaxed in such a manner that if our Provincial Assembly wants certain portions of the Code to be applied they should be applied. I have gone further and said that in regard to our customs, such as relating to succession, we should be allowed to own our law. At the same time I do not want to be cut off from the rest of India. In fact that is the basis of the Hindu Code. If I had heard the speech of Dr. Ambedkar, which he made moving for the consideration of the Bill, he said clearly that he wanted the whole of India to be governed by this Code and that such things as had crept into Hindu practices in their pristine glory should be repaired. If I remember his words he said that those damages should be repaired. I am one with him and I do not want that the whole of the Punjab should be taken away from the operation of the Hindu Code. I would rather like to be governed by the Code which applies to the whole of India rather than plough my own lonely furrow. Therefore I am anxious that this provision should either be taken away or amended in such a manner so that these persons may not be excluded.

If my amendment is accepted sub-clauses (3) and (4) need not be there at all. According to me all those persons to whom the present law applies do come under these five categories which I have mentioned in my amendment. My amendment really seeks to attain the very same object which the Mover of the Bill has in his view. Only the wording is different. But I agree with him that so far as the scope of the Bill is concerned it should be extended to all those persons to whom the Hindu Law at present applies and only Muslims, Christians and Jews should be excluded. It is not that I want their exclusion for any purpose but for the purpose that those people themselves would not like to be governed by the Code. If they think that they would like to be bound by the Code let them pass a resolution or make a proposal to that effect. I want that the Hindu Code should

be the real basis of the Civil Code. I do not want that such principles should be introduced in the Code which will not accord with the principles of the future Civil Code.

In regard to adoption I submitted then and I submit now too that the customary adoption in the Punjab is based on the Civil Code. It does not have any real significance.

Mr. Chairman : Would the hon. member like to continue his speech after lunch or finish now in another five minutes ?

Pandit Thakur Das Bhargava : I would like to continue after lunch.

The House then adjourned for Lunch till half-Past Two of the Clock.

The house re-assembled after Lunch at half-Past Two of the Clock

[MR. DEPUTY-SPEAKER *in the Chair*]

Pandit Thakur Das Bhargava : Sir, when we adjourned I was speaking on the provisions of adoption contained in this Code. I was submitting that in view of the fact that many Members of the House desired it there should be a Civil Code instead of a Hindu Code, I was submitting that certain provisions relating to adoption under the Hindu Law have been modified by custom. The present position is that this old system of adoption has to a very great extent been modified and now many notions of a character, not strictly religious, have crept into the very idea of adoption. The old idea that by adoption an adopted person becomes the son of a person adopting, has to an extent faded away. In the Punjab, so far as adoption is concerned, according to custom any person can be adopted without any ceremonies. It is in the nature of the old Roman nominees system that an heir is appointed in the Punjab for carrying on the name of the family so that a person older than oneself can be appointed an heir and so such ceremonies are required as are required under the Hindu system of adoption. Moreover, even the incidents of that relationship are a bit different from the incidents which we find in regard to the system of adoption under the Hindu Law.

Shri Tyagi : In the Punjab your son can be elder to you in age ?

Pandit Thakur Das Bhargava : In fact, the question which my friend is asking is really not germane. As a matter of fact, when I gave the conditions under which a person could be appointed an heir,

an heir is appointed—a son is not created by the Act of appointment of an heir. That is the difference. Under adoption the adopted son carries on the name of the family, perpetuates the name of the father and that is the way in which the family continues. In Punjab the family continues in another way. An heir is appointed and he carries on the name of the family, so that it is not true to say that in the Punjab the customary appointment or adoption of an heir is tantament to creation of a son. Whether that is not there, under the Hindu Law the underlying idea was that a son was created by adoption, so much so there was a rule in the Hindu Law that the son of a lady who could not be married to the father could not be adopted and therefore there was some sort of ban against a daughter's son so far as adoption was concerned.

Now, under the provision of the Hindu Code it is necessary that for adpotion a man should not be married, that he must be less than fifteen years of age. These incident will not find favour in the Punjab, this provision will be too much to tamper with the custom of the Punjab which does not contemplate any restriction as regards age or ceremonies or other restrictions which are irksome.

Shri Tyagi : Because the son is a man to the father in the Punjab.

Pandit Thakur Das Bhargava : The child is the father of man in the whole world. So even now in the Punjab there is the custom of appointment of an heir which is akin to adoption. My subcription is that Dr. Ambedkar has been kind enough to those systems of law which have been prevalent in the South, for instance, the *marumakkathayam*. Arrange the Code in such a way that there is no violent conflict for those who follow different customary laws in the matter of marriage, adoption etc. and see that their systems are allowed to continue. This Code goes to the root of the Hindu Law in certain matters. So far as they are wholesome we are prepared to accept them but in so far as there are violent changes which conflict with the notions of the people, I would very humbly submit to Dr. Ambedkar that where he considers the provisions of the Code at a later date he will be indulgent enough to see that there will be to violent conduct. I know when he introduced this Bill he was pleased to say that he would try to see his way to accommodate and would be prepared to accept certain amendments which partake of the character I have narrated above.

In regard to two matters—the question of adoption and the question of inheritance of married women—I must submit there will be such a violent conflict with the notions of the Punjabis in these two matters

that they will not be prepared to accept the provisions of the Hindu Code. Even if it is forced down their throats, I submit there will be such a revolution in the society—I said on the last occasion that there will be revolt; there will not be revolt because we are too strong. There will be revolt in our minds and we will certainly not accept a custom to be forced down our throats that we cannot digest. One effect of such a step will be that when the father dies, since you are giving the father the power to make his will in any manner be pleases, the result will be that there will be forced wills by virtue of which the daughter will be disinherited. I am not against the inheritance of the daughter as such. Where you can have it, where it is in consonance with the ideas of the people, have it by all means. There is nothing objectionable in it. But the only point is that it is not expedient to have it in some places where it is not wanted. In the Punjab the daughters do not enjoy such a position that you can say that they do not get anything. I know that in Madras and other places the daughters are not treated so favourably, perhaps, as in the Punjab. In the Punjab at the time of marriage so much is given to the daughter in dowry. If you go to any wedding function in the Punjab—to the rich man's place—you will find the dowry consists of thousands of rupees. So far as self-acquired property of the father is concerned, since the last 50 years our High Courts have made a change. Before 1909 the daughter did not even get a share in the self-acquired property of her parents. Now if there is no son, the daughter succeeds to the self-acquired property among all the people. But I do regard that this is not sufficient justice with the women of our country. I want that so far as the unmarried girls are concerned they may get as good a share as the son does—I do not want to give her just a half. So far as the married daughter is concerned I want that she should be entitled to inheritance, along with her husband, to her father-in-law's property. That is to say, as soon as a marriage is performed, the husband and wife must unite their properties also and you can frame rules by virtue of which a married lady gets full rights of property.

I do not want that the ladies of this country should not get full rights, but I do not understand why a lady should get a right in her father-in-law's property as well as in her father's property. To that I object. I want that our notions of society and family should not be rudely shaken. At present, the son is the pivot of the family. He continues the family. The woman goes to another family and becomes

the nucleus of that family. Let this contiune. Unless and until our whole notion of society changes, my humble submission is that we should not change it abruptly, because this change will be great that ultimately the ladies will lose on both sides. At the time of marriage, the sons will say, "Why give her so much dowry ? She is going to get inheritance". At the time of the inheritance, the father will fall on the lap of the sons and they will get some deed or will by which the daughter will be deprived. Both ways, the woman will get nothing. This will not be a fair way of treating women.

When you ask us, the people to whom this Bill will apply, I would certainly submit that if you want to have this Code in such a manner that you do not respect our wishes and our customs which have been in existence for the last several centuries, if you want to create such a conflict, then ultimately we shall have to say, " You kindly leave us to our own fate". This is my humble submission. Though I am in favour of the good provisions of this Bill, I would very humbly request Dr. Ambedkar and those others who are very much in favour of it to kindly see that our wishes in this matter are respected and we are allowed to have such customs or such provisions of the law as the majority of the people in our particular province want. This is, in essence, what we have given an amendment about in regard to Part I of the Bill.

Shri Tyagi : How will the majority view be obtained ?

Pandit Thakur Das Bhargava : In the Punjab, the majority view is clear. You go to any village or town and ask any person who will be affected by the Bill; he will tell you exactly what I am submitting today. There is absolutely no difference of opinion, so far as Punjab is concerned. Therefore, my humble submission is that while you apply this law to Punjab—and I wish this law to be applied to Punjab— you apply it with these reservations. This law is not bad, it is entirely wrong to suggest that there is anything inherently wrong about it. There is nothing wrong about it. We have lived for so many centuries and we must repair the damage done to our nation. Therefore. I am entirely in support of this Bill, but if the notions and customs which are widely prevalent among the people and which are very delicate are upset, there will be such a great amount of litigation in the Hindu society. Every family in Punjab will be affected. There will be nothing but litigation. You are, in deference to public opinion bringing in a provision of the Partition Act. What will be the result ? On every

death, the question will be : " Let us see how we evaluate the property of the father". The property will be evaluated and the sons will not have sufficient funds to buy off the daughter's share and trouble will ensue. I am speaking from my experience as a lawyer for more than forty years.

Pandit Krishna Chandra Sharma : You have been working in the criminal courts.

Mr. Deputy Speaker : Hon. Members will address the Chair.

Pandit Thakur Das Bhargava : I for one have very great regard for my friend, who is also a criminal lawyer. All the same, my notions of a criminal lawyer are quite different from his. I have been practising on the criminal side as well as the civil side, but I take pride in the fact that I am a criminal lawyer. At the same time, I do not go about with my eyes shut. If a criminal lawyer is true to the description which my friend has in mind, he should know what is passing on in society. As a criminal lawyer, my friend should know what is passing on in and around Meerut, and when I am speaking about Meerut—I do not know what my friend's personal notions are—I know the conditions in Meerut and I know also that they are not very different from the conditions in Hissar and Rohtak. Therefore, when I speak for Punjab, I also speak for my Friend and Meerut side, because in olden times Meerut was a part of this side of the Punjab.

Pandit Krishna Chandra Sharma : For my friend's information, I may say that Hissar is famous for bulls while Meerut is famous for cows.

Shri Tyagi : May I know what have bulls and cows to do with the Hindu Code ?

Mr. Deputy Speaker : Hindu Code relates to marriage, you see.

Shri Raj Bahadur : May I know whether cock and bull story is permitted in the House ?

Mr. Deputy Speaker : Order please.

Pandit Thakur Das Bhargava : When you refer to the question of marriage, I must submit that the introduction of the principles of civil marriage in this Hindu Code is another point which must be considered specially by this House. If this is a Hindu Code, why bring in the civil marriage ? I want that the provisions in regard to marriage may remain as they are. There is no use repeating them here. If you want to make a Hindu Code which will not apply to other people

like Musalmans etc. then do not bring in civil marriage here. If any Hindu wants to marry in that manner, he will marry according to the civil contract to which the Muslims, Christians and everybody has recourse. That is our joint Civil Code. Therefore, my humble opinion is that this affair of the civil marriage should not be included here.

I do not want to refer to all the provisions of this Bill. I have spoken because I thought that we should at this stage define our attitude and tell Dr. Ambedkar what we feel about this Bill and what is perhaps the general feeling in the country. This Bill is not bad, and since we have decided that we should proceed with it, we may pass such provisions of the Bill as are good. In regard to those provisions. I do not want to stand in the way or adopt an attitude which smacks of dilatory tactics or which shows that we do not want the Bill to be passed. I want to make this point clear because it may be in the minds of many people that those persons who make long speeches do not, as a matter of fact, want this Bill to be passed. That is entirely wrong. So far as I am concerned. I want the Bill to be passed but I want those who are very much in favour of it to kindly see that such provisions are not passed as are in very great conflict with the notions and customs of the people.

***Sardar Hukam Singh** (Punjab) **:** Sir, I sympathise with the attitude of my hon. Friend Pandit Thakur Das Bhargava. What I understood him to say was that he wishes the Code to be passed but he does not wish that it should apply to him and the other people in his part of the country, Really, I have the same thing to say. I also wish that the Bill be passed, but that it should not be applied to me. I wish I could have made a similar motion and it should not have smacked of a particular community but what I found was that the application of the Code was not to certain territories but to certain communities. Therefore, I thought it fit to move this amendment that it should not apply to the Sikhs.

Sir, I am not one of those who wish the society to stagnate. I believe in progress and I want to move with the times. I can claim that the Sikhs are a progressive section of the society. But why I do submit to the House that the Sikhs should be excluded from the application of this Code is because it contains certain provisions which are offensive to the customs and usages that we have been following for so many centuries.

*P.D. Vol. VIII, Part II, 6th February 1951, pp. 2452-62.

Panditji made a reference to the proviso to sub-clause (2) of Clause 2 which reads :

> "Provided that if it is proved that such person would not have been governed by the Hindu law or by any custom or usage as part of that law in respect of any of the matters dealt with herein if this Code had not been passed, then, this Code shall not apply to that person in respect of those matters.".

What I understood him to say was that perhaps this might save the custom and usage prevalent in the Punjab. But I differ from him, because sub-clause (2) reads:

> "This Code also applies to any other person, who is not a Muslim, Christian, Parsi or Jew by religion;"

and read with this sub-clause, the proviso does not refer to the custom or usage of the Hindus or Sikhs. Therefore, in my humble opinion this would not save the custom or usage and I, therefore, do not entertain his hope.

Pandit Thakur Das Bhargava: I never said that this proviso would save our customs or usage. What I meant was that if it is proved that we are not governed by the Hindu Law—the words are, " provided that if it is proved that such person would not have been governed by the Hindu Law"—Punjabis would not be covered by this proviso. But our customs and usage will not be saved. It applies to all the Hindus. What I meant was that, as a matter of fact, our customs and usage should be saved by another provision which should say that we are allowed to be governed by our own customs, etc. But this proviso will introduce a certain amount of uncertainty.

Sardar Hukam Singh : Sub-clause (1) of Clause 2 definitely lays down that the Code will apply to Hindus, Buddhists, Jains, Sikhs and also converts to Hinduism.

Therefore, so far as I am concerned, there is no ambiguity at all. Be that as it may Panditji no doubt agrees with me to this extent that our custom and usage would not be saved at any rate.

Sir, if a uniform Code had been attempted for all the citizens of India, then perhaps I would not have stood up and raised this objection, even if I had been called upon as a Punjabee to make some sacrifices. I would have made sacrifices in the hope that if we can grow up as a united nation, as one people, certainly some sections will have to make some sacrifices. But that is not the object here. No attempt is being made to weld all people into one nation by this Code. There

is discrimination between one community and another. Therefore, I think I am perfectly justified in opposing it.

I should however make it clear here that so far as some Chapters of this Bill are concerned, I am in complete agreement with them. I am only opposed to three portions of it. If different parts had been put before the House separately, certainly I believe that most of it would have been passed without any controversy. But as it stands we have to take them as a whole and, therefore, I stand up to oppose them, because I cannot permit them to be passed without my voice being heard.

The provisions to which I am opposed are (1) those relating to marriage and its dissolution by divorce, (2) adoption and (3) inheritance. (*An hon. Member:* What is left then ?) Much remains even then. It has been said by Panditji that it applies to those persons who were already governed by Hindu Law. This is correct. But if we have consented to be governed by Hindu Law, that does not necessarily mean that we should be compelled to revolve round the wheel even though it goes into foreign spheres and borrows certain things from other religions and other laws simply because I have once been dragged into it. I should not be compelled to revolve round it, though it does not remain within its own sphere.

Then again, Sir, there is a misconception. The Hindu Code Bill says that the Sikhs are governed by Hindu Law. Now section 5 of the Punjab Customary Law—which has already been quoted by my hon. friend Pandit Thakur Das Bhargava says:

> " Custom in this province is the first rule of decision in all questions regarding succession, special property of females, betrothal, marriage, divorce, dowery, adoption, guardianship, minority, bastardy, family relations, wills, legacies, gifts, partitions, any religious usage or institution, or alluvion and diluvion."

Now I ask : When I am governed on all these subjects by customary law, where is the Hindu Law that governs me ? I find that there is one subject that is not put down as such, namely, maintenance with which this Hindu Code deals. It is not put down in the Customary law that I am governed by the usage on that subject also.

I was submitting that I have three subjects on which I have certain objections and the Sikhs do not wish that they should be forced to be governed by the Hindu Code that is being proposed here in respect of them. First I referred to marriage and the dissolution and divorce connected with it.

3 p.m.

[MR. SPEAKER *in the Chair*]

Sir, so far as the Sikhs are concerned they have a very simple form of marriage. We might call it sacramental or *dharmic* marriage. It is known as *Anand marriage*. It is a simple and secular form of marriage. The couple sit down in the presence of the *Guru Granth Saheb,* they take a vow that they will remain united for ever—so long as they are alive, of course—and prayers are offered. Of course I might be confronted with this that this would be covered, and that it is not touched by the Hindu Code. But there are some implications which I am afraid would really affect me. There are certain degrees of relationship which are prohibited from marrying each other and these are strictly observed in all civilised societies. But so far as our society is concerned the list is not very large. Marriage between cousins has often been allowed. There have been many instances of marrying father's sister's daughter or mother's sister's daughter and they have not been considered as within the prohibited degree. And I tell you that you are driving your society towards that direction. We are far ahead of you. You are coming to that way. Do not be surprised at that. Now that you are proposing to give a share to the girl you are sure to come that way. You will have to march towards that direction.

An Hon. Member : What about Sikh Jats ?

Sardar Hukam Singh : What I am submitting relates mostly to Sikh Jats. The custom that I am talking of prevails mostly in Jats and Jats observe that. Ninety per cent of the Sikhs are agriculturists and live in villages.

I was asking now that you propose to pass this legislation, by which the daughter shall have a share. Here I might make my position clear and nobody need feel perturbed. I am for a share for the girl. I am not opposed to it. But when you proposed that, you will have to take the risk that this long list of prohibited degrees shall continue diminishing and shall contract as time passes. I suppose the present list is not as long as it used to be under the strict Hindu Law. And it is sure to contract as time passes.

Shri Tyagi : It will come nearer home.

Sardar Hukam Singh : Surely. You cannot keep the two things apart. When you take this from the Muslim law you will have to permit cousins and other near relations to be outside the prohibited degrees. There is no doubt about it. Be prepared for it. You will have to march near it. You cannot keep away from it.

Now that you are asking me to come in, that I should have this *dharmic* marriage, the implication would be that these prohibited degrees would be there. While there is freedom for me to marry such relations as I have described, this would create a ban on me. And it would not be only for the future. There have been so many such marriages and all of them would be invalid. Though you have provided in clause 21 that I can get my marriage, my *dharmic* marriage, registered as civil marriage, but think of the instances and their number. We shall have to run to the courts or to the Registrar to get them validated. Do you want me, an old man, to get my marriage registered now ?

Dr. Ambedkar : Do you want to marry again ?

Mr. Speaker : Order, order.

Sardar Hukam Singh : This Code would create a doubt because the girl that I might have married might, according to you, be within the prohibited degrees. What would happen then ? I enquire from the Hon. Minister what would happen to that marriage.

Shri Tyagi : And to your children also.

Sardar Hukam Singh : Yes, certainly. They will be "illegitimate" unless I get my marriage registered as a civil marriage now, at this age ! And the Hon. Minister wants all those persons now, at this advanced age, to run to the Registrar and get their marriages registered as civil marriages.

Shri Tyagi : As he has done himself !

Sardar Hukam Singh : Then again there is a marriage that is usually known amongst the agriculturists of my part as *karewa* marriage or widow's marriage. No distinction is made in the present Code as regards that. What will happen to that marriage, because we will have either the sacramental or *dharmic* marriage or the civil marriage— nothing beside it. The simple manner in which the *karewa* marriage is performed might look peculiar to some hon. Members here. There is no ceremony : it is a secular institution altogether.

The man and the would be wife sit together, a *chaddar* is spread over them and sweets are distributed and they become husband and wife. I do not think, Sir, the Hon. Minister can point out to me any provision by which such marriages would be recognized. He is making this Code more cumbersome. . . .

Pandit Thakurdas Bhargava : If it is a bigamous marriage then difficulty will arise.

Sardar Hukam Singh : May I enquire with your permission from my hon. Friend what form of marriage would that be. Would that be a *Dharmic* marriage without any ceremony. (*Interruption*) I do not agree with him and that would not be a *dharmic* marriage. Anyhow, I do not want to enter into a controversy here.

I come to my next point, that is, adoption. What I am going to say might look somewhat surprising to some of my hon. Friends and in this respect also I claim that we are much in advance of the rest of the country, so far as this adoption is concerned.

Dr. Ambedkar : You are always in advance of everybody.

Sardar Hukam Singh : I will tell you just now and then you would agree with me that we are much in advance on that subject too. As has been just pointed by my hon. Friend, Pandit Thakurdas Bhargava, it is the customary appointment of a heir. It has nothing to do with religion. There is no horror of incest. We are not eager to create sons to offer us *pindas*.

Shri Hussain Iman (Bihar) **:** Are there *Pindas* ?

Mr. Speaker : Let him proceed further.

Sardar Hukam Singh : We do want that we might have a heir to succeed to the property.

Dr. Ambedkar : Why do not you allow the property to go to the State ?

Sardar Hukam Singh : Then it might go to the Hon. Minister and that we do not want to do. Therefore, this is a most secular institution. There are no restrictions as to the age, caste or any ceremonies. A simple declaration is there and perhaps it was observed, last time too I made a remark that a man can adopt another older than himself. The adopter might adopt a man of his father's age. There is no harm in that ; he might be married and he might have several children. This institution you would not find anywhere. I fail to understand, Sir, if all these usages and customs are effaced, what is going to happen to these institutions, to these customs that we love very much, these traditions to which we have been accustomed for so many centuries.

Then, Sir, I would cite another peculiar instance, which might interest some of my hon. Friends and I invite the attention of the Hon. Minister particularly to this point.

Mr. Speaker : The hon. Member may proceed with his speech.

Sardar Hukam Singh : I wanted the Hon. Minister to pay attention to a subject which is very interesting.

Mr. Speaker : Order, order.

Dr. Ambedkar : I have been asked to introduce the Gandharva marriage. It was that which I was discussing.

Sardar Hukam Singh : I have no objection if our Chief Whip wants it. Then, Sir, I was submitting another interesting thing about adoption which the other parts of the country perhaps do not know altogether. I know of instances where girls have been adopted. They have been made heir to the property and they have succeeded. Custom has allowed them and recognized them. I humbly request you Sir, to say whether with the introduction of this Code, all these traditions, all these customs and usages are going to be thrown away to the winds. Is the society that has been built going to chaos now ? I believe that the laws should reflect the stage of advancement of society, the progress that it has made, not that a target be fixed and then the society be pulled up to reach that target. It was tried in Turkey but it failed there also. I request this Government to go slow. There must be cases on the extremes on both sides and I believe there are hardships now in certain cases, but you cannot avoid this. There would be such cases even if this Code is passed. I again stress that 'adoption' is a very old institution which is so dear to us and we cannot afford to lose it even though this Code may be passed.

Then the third thing to which we have serious objection is about inheritance. As I observed a few minutes ago I am not opposed to give a share to the girls. I rather believe that this discrimination is only on account of the sex, that she should not get an equal share. It was remarked that it is not only on sex, but I think it is only on sex that she is not being given an equal share with her brother. Otherwise, there is no reason if they are off-springs of the same parents. I ask, why she should not have an equal share. I say on that ground alone, she must have an equal share. My objection is not on that account. What I submitted last time as well—perhaps it was on the 14th December 1949—that I would prefer that she should have an equal share in her parent's property so long as she is unmarried and she should have an equal share with her husband as soon as she is married, in her father-in-law's property. She must have a share. This should not disturb the present society and structure. We have pecular circumstances. I believe this Code would not apply to lands but certain. . . . . .

Pandit M. B. Bhargava (Ajmer) **:** It will now. The official amendment is there.

Sardar Hukam Sing : Sir, Punjab is a State of small holdings. Already they are uneconomic. Another thing is that we have smaller number of females than males in the Punjab.

Dr. Ambedkar : Therefore, their value is great.

Sardar Hukam Singh : Yes, Sir; you are going to increase their value but not to look to other things. That value can be, I should say, adjusted. As I said the number is already fewer. It is well-known that some time back people did not like that they should have sons-in-law and there were female infanticides. I tell you honestly and not as an argument that you would encourage that again, if you give a share, because that land-holder feels that he has already got an uneconomic holding, a pair of bullocks and a cow. It is not possible for him to part with those animals which are so essential for his cultivation. It is no answer to say that if a father had another son, how could he have dealt with him, he must have got a share. We are insisting that there should be a definite list of prohibited degrees, and we want to give the daughter in marriage outside that list. That is to say, a stranger would be brought in. He would not live there; he cannot associate himself with the environments. What he would do is to part with his share as soon as he marries the daughter. There are dissensions in every village; there are parties in every village. The friends would not buy the property; but the share would be sold to the enemy. This would create quarrels, murders and affrays.

Shri Tyagi : He is right.

Sardar Hukam Singh : I pray, kindly, do not bring this into the Punjab. Otherwise, you would create confusion and disorder there.

Shri Syamnandan Sahaya (Bihar) **:** What fault have the other provinces done ? Why not plead for them also ?

Mr. Speaker : Order, order; let us proceed.

Sardar Hukam Singh : I thought that if I advocated their cause, somebody might question my authority and representative character. Therefore, I confine myself to my own province, and particularly my own community. Otherwise, just as I said at the beginning, I wanted that I should represent the whole of my province; I feared that I might be questioned.

I was submitting that that would create confusion and disorder and the whole society would be upset. That is not what is intended by this Code. That would not be progress; that would not be advancement, but would be rather a retrograde step. Therefore, so far as we are concerned, do not pull us back. Let us go on. You should consider us to be in the vanguard and follow us as we go further. That would be better perhaps for us, for the whole country and for all concerned.

There is another thing that I wanted to submit.

Shrimati Durgabai (Madras) **:** Sir, may I ask a question ?

Mr. Speaker : It would be better that the hon. Member is allowed to go on without these arguments and counter arguments, if we really want to progress with the matter. All that I would earnestly appeal to all the Members is to be very attentive to the arguments advanced instead of putting questions at each stage. It is better that hon. Members hear all what a gentleman has to say and then advance their arguments. I am going to give full chance to all people who want to speak.

Shrimati Durgabai : I am just asking a question, Sir,....

Mr. Speaker : Whatever that may be, let us allow the members to have their say. Otherwise, there are these interferences, these attempts to draw replies—I am noticing it, there are constant interferences notwithstanding my appeals not to interrupt—with the result that not only is the link of the speaker's argument broken, but more time is taken, and I do feel that even the seriousness of the debate is being lost. We are here legislating on very vital matters. Let us, therefore, seriously and anxiously hear whatever every member has to say, instead of passing remarks or putting questions, just by way of explanation or drawing explanation on particular words. Let us be patient with the speaker.

Sardar Hukam Singh : Then, Sir, I come to my last point, and that is rather painful. I want to bring it to the notice of the House that the Sikhs have already certain apprehensions; some might say that they are unfounded. Whatever it may be, we have this apprehension that there is an attempt to absorb the Sikhs and efface their traditions and culture. . . .

Several, Hon. Members : No. no

Sardar Hukam Singh : . . .usage and custom. They have certain grounds. They have always complained that they have not been fairly treated. One instance that they have cited is that while it was being

announced that they are an integral part of the Hindus, when the President had to make an order about Scheduled Castes they were kept at a respectable distance. Under a recent Order of the President 34 castes have been declared as Scheduled castes provided they profess the Hindu religion. Only four castes, and that at the expense of all the safeguards that we wanted were allowed to be classed as Scheduled castes if they profess the Hindu or the Sikh religion. We have that complaint that whenever there is a chance to confer some benefit, then, we are not included or brought near and we are kept at a distance. But when there is nothing to be given, but only these usages and customs and traditions are to be effaced, we are offered an embrace, an empty embrace that might, rather, I should say, not be pleasant to us, because we love these customs and these traditions. We have adhered to them for a very long time. Therefore, I pray in all earnestness that we might be excluded from the sphere of this Bill.

Pandit Thakur Das Bhargava : With your permission, Sir, I want to put a question, in respect of the last point of my hon. Friend. Is it not a fact that the Sikhs themselves came to Sardar Patel and agreed that only these four castes should be included among the Scheduled Castes and no others ? If that is true, if that is according to agreement, my hon. Friend is not entitled to raise this grievance here.

Sardar Hukam Singh : It is a long subject. The Revered Sardar himself put in these words that these four castes could only be acknowledged, if the Sikhs gave up all the safeguards that they wanted. It was at the sacrifice of those things that these four castes were acknowledged, and they too only in two provinces, the Punjab and the PEPSU. They are not Scheduled Castes in other provinces.

Pandit Thakur Das Bhargava : That is according to the agreement.

Sardar Hukam Singh : No.

Mr. Speaker : Dr. Ambedkar.

Shri T. N. Singh (Uttar Pradesh) **:** Is Hon. Minister's speech going to be in reply ?

Several Hon. Members : No, no.

***Dr. Ambedkar :** Sir, I propose first to deal with my own amendment before I deal with the other amendments that have been tabled to this clause.

* P.D., Vol. VIII, Part II, 6th February 1951, pp. 2462-73.

It will be seen that in the amendment which I have moved there are three specific points. The first point is that I propose to omit the word professing which occurs in sub-clause (1). The reason for omitting this word is that it has been felt that probably today as the Hindu society is composed, there are people who are Hindus, but who do not profess the Hindu religion in the theological sense in which the word 'profess' is used. In former times one could give the illustration of the Brahmo Samajists in Calcutta or the Prarthana Samajists in Bombay, two sects which were formed from out of the Hindu community, which openly declared that they did not profess the Hindu religion. As my friend Pandit Thakur Das Bhargava observed in the course of his speech there are many Hindus to-day who, so far as religion is concerned, prefer to adopt an eclectic attitude. They like to have something from some religion which appeals to them, and to that extent they are prepared to abandon the religion of their ancestors. If, therefore, the word "profess". remained in this context, it would be open for anybody to argue that unless it was proved that a particular individual was a professing Hindu this Code would not apply to him. That certainly is not the intention of the Code. The intention of the Code is that it should apply to every person who belongs to the Hindu faith. I prefer the use of that terminology and it is therefore, to do away with any such ground for an objection founded upon the word "profession" that I propose to delete it.

My second amendment relates to clause (d). Clause (d) as it stands, says that this Code shall apply to a convert to the Hindu religion. Now, as the house knows, we are using the words "Hindu religion" in a very broad sense; not in the limited sense in which it would apply to a person who believed in the *Vedas,* who believed in the infallibility of the *Vedas,* who believed probably in the *Chaturavarnas,* and who also believed in the performance and the sanctity of the *yagnas* as a means of salvation. We are using the word in a large sense, to include also Buddhists, Jains, Sikhs etc. who do not believe in these dogmas. Consequently, if clause (d) remained that the convert who is referred to in sub-clause (d) is the convert only to the Hindu religion in the limited sense of the word. In order to do away with that contention. I propose to use the new phraseelogy—"convert to the Hindu religion, Buddhist……." and so on and so forth.

My third amendment deals with the deletion of sub-clause (4). As the House will realise, this sub-clause (4) did not exist in the original

Bill as it was placed before the House at the time of the first reading. This clause was introduced in the course of the proceedings of the Select Committee. The idea of those who sponsored sub-clause (4) was this. It was their view that since the intention of the Code was to bring all Hindus under all denominations under the purview of this Code, there was no purpose in setting apart those Hindus who had already performed their marriages under the Special Marriage Act of 1872. It was for that reason to make the Bill all inclusive, that this sub-clause (4) was brought in. I have however found that there is one point which was, I am sure, not present to the mind of the Select Committee when they introduced this clause. It is quite obvious that if sub-clause (4) remained and it applied to persons who were married under the Special Marriage Act of 1872, they would, in the matter of succession and inheritance be governed by the present provisions contained in this particular Code. Now, anyone who is aware of the provisions contained in the Succession Act with regard to inheritance and the provisions contained in this Bill will have no doubt that so far as women are concerned, the provisions of the Succession Act are far more liberal than the provisions contained in the present Code. It does not, therefore, seem right that people who have already married under a particular law and have on that account, become entitled to the more liberal provisions contained in the Succession Act should be dragged down and brought under the present Code which as I said, contains provisions relating to inheritance which are somewhat illiberal as compared with the other provisions. It is for that reason that I propose that sub-clause (4) should be omitted.

Now, Sir, I will turn to the points made by the critics of clause (2). Examining the amendments that have been tabled, I do not find any difference between myself and my friend Pandit Thakur Das Bhargava. His amendments is, more or less, the same as those contained in clause 2. I will presently explain why I have in my draft, named certain communities which he thinks is unnecessary. With regard to the other amendments, one can see that there are really three points which the amendments seek to make. One is this that there is no necessity for a Hindu Code at all. What is necessary is a Civil Code applicable to all citizens. That is one point, of view which is adumbrated in the amendments. The second is that this very Code which is placed before the House and which, according to its terms, is intended to be confined to the Hindu community should be made applicable to non-Hindus, such

as Muslims, Parsis, Jews, Christians and so on. That is to say, it should itself be regarded as a Civil Code, and the third suggestion is that the application of the Code should be voluntary. It should be a matter of choice either for any particular citizen or any particular member of the Hindu society to go before a magistrate and to register his will that he would like to be governed by this particular Code. In no other circumstances should this Code be made applicable in this country. And I believe there is one suggestion—I forget now the author of that suggestion—that this Bill should not come into operation except on a referendum to be taken after the elections or something like that.

Pandit M. B. Bhargava : That comes up later.

Dr. Ambedkar : Somebody said that, I cannot recall who.

Shri J. R. Kapoor : He intends to say so later on.

Dr. Ambedkar : Yes.

Now, I must say that I am very very much surprised to see some of those who until yesterday were the greatest opponents of this Code and the greatest champions of the archaic Hindu Law as it exists to day should come forward and say that they are now prepared for an All-India Civil Code. There is a proverb that a leopard does not change its spots and I cannot believe that those leopards which have been pouncing upon this Bill every time I came before this House have now suddenly so reformed their mentality as to become revolutionary enough to accept a new Code altogether. If they want a Civil Code, do they think that it will take very long to have a Civil Code ? Probably the underlying motive why they have made this suggestion is this. As it has taken four or five years to draft the Hindu Code they will probably take ten years to draft a Civil Code. I would like to tell them that the Civil Code is there. If they want it it can be placed before the House within two days. If they are ready and willing to swallow it, we can pass it in this House in half an hour.

What is the Civil Code ?—let me ask. The Indian Succession Act is a Civil Code. Unfortunately it does not apply to Hindus. I do not know if there is any person with the greatest amount of legal ingenuity who can devise a better Civil Code than the Indian Succession Act. All that would be necessary to make the Indian Succession Act universal and civil, that is to say, applicable to all citizens, would be to add a clause that the words contained in clause 2 of the Act, namely that it shall not apply to Hindus, be deleted and then you

can have a Civil Code tomorrow. If you want the marriage law as part of your Civil Code there again the text is ready. The Special Marriage Act is there. All that you have to do is to remove the words that it shall not apply to this or that it shall only apply to that. All that you have to say in clause 2 is that it shall apply to all citizens and there is an end of the matter. I want to know whether those who have made this suggestion have done it with a serious intention and pious purpose of really having a good law on these matters. . .

Shri Sondhi (Punjab) **:** Take them at their word.

Dr. Ambedkar : I am not prepared to do it, because I know them very well. That is the reason why yesterday I did not accept the suggestion of my friend Mr. Rohini Kumar Chaudhary. He said, "Adopt whatever measures and either take the Code through or if you cannot take it through, keep it to the end." I could have accepted the word and the suggestion of my friend Mr. Rohini Kumar Chaudhary if I could believe and trust him or that he will not have any opposition if I adopted the course that he suggested. I now find that he has been completely isolated. Some of his friends who were walking with him and forming a solid front, I find have now fallen away. They have seen light and they are prepared to support the measure in some parts, if not on the whole. Therefore, this idea of having a Civil Code just does not appeal to me, because I do not think there is either much firmness behind it or, I was almost going to say, seriousness behind it.

With regard to the plea that this Code should be applied to all citizens, I think my friend Pandit Thakur Dass Bhargava has replied to the critics who have made this suggestion and I do not think I can improve upon what he has said. I do not know that those who made this suggestion could be regarded as so ignorant—I was almost going to say so foolish—as not to realise the sentiments of different communities in this country ? It is all very good to say that we have proposed in our Constitution a Secular State. I have no idea whether any Members, when they use these words "Secular State" really mean what the Constitution is intended to mean. It does not mean that we can abolish religion : it does not mean that we shall not take into consideration the religious sentiments of the people. All that a secular State means is that this Parliament shall not be competent to impose any particular religion upon the rest of the people. That is the only limitation that the Constitution recognises. We are not here to fluot the sentiments of the people.

Babu Ramnarayan Singh : You are doing it.

Dr. Ambedkar : I am not doing it at all, as I will show you. Therefore, it seems to me that it is a suggestion which really lacks even commonsense and I do not therefore propose to deal with it.

Now in regard to the other question that the Code should be made voluntarily applicable. I think this is a very dangerous suggestion. What does this suggestion mean ? It means that this Parliament is only a body to recommend a certain thing. All that the Parliament can do, if we accept the suggestion is to say to the people outside. " This is a law we have passed. We think it is good. Gentlemen, it is for you to say whether you will accept it or not." If that is the position that we are going to adopt and if we accept this principle now, we shall be setting a precedent and there will be no end to such recommendations that may be made by Parliament, namely that much of its legislation should be left to be passed by people outside on a referendum. I do want to say that this Parliment is a Sovereign Parliament. Beyond seeking the mandate of the people it has no obligation to the people to obtain their consent. It can decide what it likes. It is supreme : It has authority to make a law, to unmake a law. If every time this Parliament is to be subjected to the vote of the ignorant people outside who do not know the A.B.C. of the technicalities of the law, this Parliament will have to be suspended : it would be much better not to have a Parliament at all.

Secondly, I have not seen any single example in the history of the Legislative Assembly of this country of such a course being recommended to Parliament. This is not the first time that Parliament is passing a law dealing with Hindu Law. I have made a modest computation of the laws passed by the Indian Legislature ever since legislative power began to be exercised, practically from 1833. Altogether 29 laws have been passed, some of them of a very drastic character making fundamental changes, but there never was any plea in this House that any of those laws should be left to be passed and sanctioned by public opinion or public referendum. (*An hon.* Member : They were not elected legislatures). It is worse still. Even when the legislatures were not elected legislatures, they exercised the lawmaking power and imposed it upon the people. Now when the legislature is far more representative than it ever was a plea is made that this Parliament cannot make a law for the people.

An Hon. Member : Nobody has said that.

Dr. Ambedkar : That is what some hon. Members suggested when they said there should be a referendum.

Now, I will go back to some of the comments which were made on the draft of clause 2. These comments were made particularly by my friend, Mr. Naziruddin Ahmad, and my friend Pandit Thakur Das Bhargava. Yesterday you were not in the Chair, Sir, but . . .

Prof. Ranga (Madras)**:** But the Chair was there.

Dr. Ambedkar : The Chair was there. What I wanted to say was that Mr. Naziruddin Ahmad started in a very accusing mood. He tried to prejudice the House against me by saying that the language of my amendments was mandatory : "*substitute* this." He thought that the more polite way of putting down amendments was to say, such-and-such words shall be substituted for such-and-such words". Really speaking, I need not have taken this point seriously because drafting is not my business—drafting is the business of another body of people who have their set rules of drafting and I could have very easily said that I am not responsible for it. But I did make enquiry into the matter whether the draftsman in using the language which he has used bad really fallen from grace or from the usual standard. The facts are these. For instance, the formula suggested by Mr. Naziruddin Ahmad that is, "such-and-such a word shall be substituted", I found is generally used when you draft an Act. There seems to be a distinction between the language adopted in drafting an Act and the language to be adopted in drafting an amendment. Therefore, as the draftsman was drafting the amendments he did not use the usual formula which I said is used in drafting an Act. The second thing is this. As the House will remember, the President has issued certain orders under the Constitution which he is entitled to issue. In that series of orders—I think it is a very fat book which some of my hon. Friends must have seen—the language that is used is the language which the draftsman has used in these amendments. He says, "I have followed the precedent which has been adopted by the President, in making these amendments". I went further and enquired, "Why did the President depart from the usual practice"? And the answer given was that the orders were so bulky that it was necessary to economise in printing paper and ink. Therefore, the draftsman who helped the President in framing his orders followed this particular way of putting these amendments. My draftsman, therefore, has really committed no error, no fault, in following the percedent adopted in the Constitutional orders. I, therefore, submit

that my learned friend's attempt to depict me in rather unsavoury colours has fallen to the ground. I will not deal with that further.

Now, my friend's objection was to sub-clause (d). He said that I am hoping in the convert to Hinduism. His point, if I understood it correctly, was that I have made no provision either here in clause 2 or in any other part of this Bill to have the rights of the convert in the family in which he was born. I must say that my friend, Mr. Naziruddin Ahmad who legitimately claims a very extensive knowledge of law should have forgotten that there is a very old Act called the Disabilities Removal Act of 1850 which was passed just for this very purpose namely, to remove any disability from a person who wants to change his religon in order to safeguard what is called liberty of conscience. It was an Act which was passed on the agitation of the missionaries in this country who found that the Hindu were not prepared to change their religion because under the ancient Hindu Law a man who went out of the Hindu fold was a *pant—a patit* could not inherit property. In order to do away with that rule of Hindu Law this particular Act was passed and I have done nothing to abrogate the provisions of the Act. If my friend had refered to the Schedule which deals with the Acts which are repealed by this Code he would have found that the Caste Disabilities Removal Act is not included in that Schedule. Therefore, the convert will retain all the rights of inheritance in his father's family if he wants to change his religion. And therefore Mr. Naziruddin Ahmad's complaint is absolutely groundless.

My friend said he had an objection to sub-clause (2). Sub-clause (2) says—

> " This Code also applies to any other person who is not a Muslim. Christian, Parsi or Jew by religion".

Obviously this sub-clause (2) is what I call a residuary clause, a clause which refers to the balance of people who are not included either among Hindus who are specifically mentioned or the Parsis, the Jews, the Christians, or the Muslims. There can be no doubt about it that there are in this country a vast number of people who do not follow any of these recognised religions, so to say. What are we going to do about it ? Certainly this Bill either should say that it does not apply to them or it should say that it does apply to them. And if it said that it does spply to them, it should say to what extent it applies to them. Everybody knows that there are in this country a vast number of people such as, for instance, the Adi Dravidas, the tribal people,

the jungle tribes, the backward classes, the animists, and so on and so on—one can go on enumerating *ad infinitum*. What about them ? Surely some provision must be made for them. Sub-clause (2) therefore applies to this class of people whom I called a residuary class. Now, it might be said that in making this Bill the Government has a political motive, namely, to absorb these non-descript people into the Hindu community so to say, by a side door. That is not our purpose at all, because you will see from the proviso what we are doing. The Hindu Code will apply to them only if it is proved that Hindu customs and Hindu usages are prevalent in that class; otherwise, they are free to do whatever they like. There, again, the criticism of my friend was quite misplaced.

4 P.M.

Prof. Ranga : Can they opt themselves out ?

Dr. Ambedkar : Once they have adopted the customs and so on, they are in; otherwise they are out.

Now, Sir, I will deal with certain points that were raised by my friend Pandit Thakur Das Bhargava and by Sardar Hukam Singh. Sardar Hukam singh's amendment is that it should not apply to the Sikhs. Later on, I suppose, he moderated his attitude and said that he had only objection to some parts. With regard to the question whether this Bill should apply to persons or communities other than Hindus in the strict sense of the word, I think it is desirable to have some general idea about the matter. The first thing that I would like to emphasize and which I would like Members of Parliament to bear in mind is this, that from a sociological point of view the variety of religions that we have in India or elsewhere seems to me to fall into two categories. There are religions which have as their part a legal system, which you cannot sever from those religions. There are religions which have no legal system at all, which are just pure matters of creed. The peculiarity about the Hindu religion, as I understand it, is this, that it is the one religion which has got a legal framework integrally associated with it. Now, it is very necessary to bear this thing in mind, because if one has a proper understanding of this, it would not be difficult to understand why Sikhs are brought under the Hindu religion, why Buddhists are brought under the Hindu religion and why Jains are brought under the Hindu religion. When the Buddha differed from the *Vedic Brahmins,* his difference was limited to matters of creed. The Buddha did not propound a separate legal system for his own followers; he left the legal system as it was. It may be that the legal system that then prevailed was a good system; that it had

no blemishes and no faults. So, he did not direct his attention to making any changes in the legal system in consequence of the changes that he introduced in certain religious notions.

[MR. DEPUTY-SPEAKER *in the Chair*.]

In the same way, when Mahavir founded his own religion he did not create a new legal system for the Jains. He allowed the legal system to continue and I think Sardar Hukam Singh will correct me if I am wrong when I say that none of the ten Gurus ever created a law book as such for the Sikhs. The trouble is—you may call it trouble; you may call it good fortune; you may call it misfortune; I am not particular about words—the fact is this. In this country, although religions have changed, the law has remained one. That is why the Sikh follows the law.

Sardar Hukam Singh : But now you are making a new law.

Dr. Ambedkar : It is a new thing now. The Jains come and ask, "What are you going to do to us ? Are you going to make us Hindus ?" The Sikhs say the same thing. The Buddhists say the same thing. My answer to that is this : I cannot help it. You have been following a single law system and it is too late now for anyone to say that he shall reject this legal system wholesale and will have nothing to do with it. That cannot be done. Therefore, the application of the Hindu Law and the Hindu Code to Buddhists, Jains and Sikhs is a historical development to which you and I cannot now give any answer. All that we can do is to say that the thing has gone wrong and change it, reform it or make it more equitable and this is what we are doing. So far as the Sikhs are concerned, I find from the judgments of the Privy Council that this question was debated much earlier than even 1830, when the decision was taken that the Sikhs were Hindus so far as law is concerned. Just count from 1830 to 1950—for how many years you have been regarded as Hindus for legal purposes !

Sardar Hukam Singh: It has not been doubted.

Dr. Ambedkar : In law, we have a principle which is called *stare decisis*—a decision taken a long time ago and on which people have gone had better be stayed although it is wrong.

Sardar Hukam Singh : You are going to change it now. What should I do ?

Dr. Ambedkar : Now, Sir, with regard to the points made by my friend Pandit Thakur Das Bhargava. I was really very happy to hear his speech.

Shri J. R. Kapoor : No praise will bring him into your parlour.

Dr. Ambedkar : I have used no temptations. I now find that really he has been digging various trenches one after the other. He knows very well and I see from the last trench that he knows very well that he would not be able to defend the first trench or the second trench or the third trench. He has got a very small last trench which, of course, is concerned with ousting the married daughter and I think that if that point could be conceded his opposition would be extinguished completely.

He has raised other questions also with regard to customary law. I agree and I have examined this position with great care. The Punjab Law does show that certain matters relating to personal law shall be decided by customary law, but I also know and I think my friend Thakur Das Bhargava also knows that the customary law is Hindu Law really. I do not think that that proposition can be denied, namely, that what is called customary law in Punjab is Hindu Law. The reason why it was not called Hindu Law was because the same customary law prevailed among the Muslims, and the East India Company was frightened about using the words "Hindu Law" when the law was also applicable to the Musalmans. But these are merely differences of words. It cannot be said that Punjab is not governed by Hindu Law : Punjab is governed by Hindu Law.

Now his great point was that I was laying an axe on their customary laws in the province. Well, as I listened to some of the instances which both my friends Pandit Thakur Das Bhargava and Sardar Hukam Singh gave, I found that these customary laws were really not appealable in any sense. I would merely call their marriage laws marriage made easy, their divorce laws divorce made easy and their inheritance law inheritance made easy. There is nothing fundamentally different about it. Therefore, I am not going to discuss the question on this occasion,—what extent the customary law should be saved ; to what extent the Punjab should be excluded. But I want to make this statement that I should never agree to exempt any province from the operation of this law. Let there be no doubt about it at all that the Hindu Code shall be a uniform code throughout India. Either I will have that Bill in that form, or not have it at all.

With regard to the second point as to saving customary law, I think that is a point that he could raise on the various clauses of the Bill where he wants to introduce the customary law, and if he proves that the deletion of the customary law is going to introduce any kind

of hardship I shall certainly consider the matter with great sympathy. I want to make this Hindu Code as easy as I can possibly make it.

Shri Tyagi : As marriage in Punjab !

Dr. Ambedkar : Easy in the sense that I do not want any kind of hostility, or hostile camp against the Hindu Code standing out.

If my hon. friend sees clause 4 he will find that it does not altogether oust custom. Therefore, when any particular clause comes up for consideration, if my hon. friend considers that the existing custom in the Punjab should be saved from the operation of that particular clause and if he can make out a case for exemption, I have no doubt that the matter will be sympathetically considered. I do not intend to give a more detailed reply to that because I think it is quite outside the scope of this particular clause.

***Shri R. K. Chaudhuri :** *rose*—

Shri Raj Bahadur : May I know how many more members are there to speak on amendments.

Dr. Ambedkar : I suggest that this clause be disposed of today. We have spent two days on it and there has been more than enough debate on it.

Shri R. K. Chaudhuri : Sir, I claim the credit of being isolated in the matter of this legislation.

Shri Syamnandan Sahaya : The hon. Member can come to the front bench and speak.

Shri R. K. Chaudhuri : Will you let me sit there tomorrow during the question hour ?

I confess that in this House I am isolated. But I hope the Hon. the Law Minister will have the courtesy to admit—which is a fact—that he is completely isolated outside this House. I do not regret the position in which I am placed, because I find that hon. Members of this House are afraid of speaking out the truth of telling the hon. lady Members of this House what they ought to be told that they are proving themselves far too aggressive. This, I respectfully submit, is not a matter to be laughed over. Hon. Members of this House would have noticed the way in which my revered friend Babu Ramnarayan Singh was squeezed out of his seat yesterday. It is only on account of the relenting heart of a certain lady Member that my hon. Friend has found his way to his seat.

* P.D., Vol. VIII, Part II. 6th February 1951, pp. 2473-83.

Sir, I warn this House against this aggressive character of our women. I think it is time that we speak out. I want to ask the Hon. Minister for whom he is legislating this Hindu Code and who wanted him to push on and proceed with it against the wishes of a large section of Hindu Society. Is it not because the hon. Lady Members of this House have egged him on to do it ?

I should, however, like to tell the Hon. Minister that he is not alone in that predicament. This House will recollect what our respected friend Acharya Kripalani said at the time we were considering the Report of the Select Committee, about the attitude adopted by one of his colleagues in this House and his companion in this world. He said that he was making bold to speak because his 'colleague' had gone abroad and when she returned she might ask for an account of the finances of the household, but also his conduct during her absence.

That shows, Sir, where we stand today. It is on account of this that you are prepared to brush aside the sentiments of the less forward Hindu women, who do not know how to dress themselves properly. It is the women who do not have recourse to gaudy and gorgeous *sarees,* women who do not know how to paint themselves—it is that section of the Hindu women whom you are trying to suppress in the way you are doing today.

An Hon. Member : Is all this in clause 2 ?

Shri R. K. Chaudhuri : I want to make it perfectly clear that I oppose all the amendments, including that of my hon. Friend Dr. Ambedkar, except the one which has been put forward by my hon. Friend Mr. Jaspat Roy Kapoor. I support that amendment because it practically tantamounts to an opposition to the Hindu Code. I will explain how it is an opposition to the Hindu Code. It gives us the fullest discretion to make this Hindu Code a dead letter, because according to this amendment the Hindu Code will only govern those people who would come forward in the open and make a declaration and say that they want this Hindu Code to be applied to them.

Shri J. R. Kapoor : I am tempted to exclaim ' Save me from my supporters'!

Shri R. K. Chaudhuri : I may tell my hon. Friend Mr. Kapoor that he may leave aside the *kambli* but the *kambli* would not leave him. To the end of this debate on the Hindu Code I shall follow him wherever he goes. If my hon. Friend Mr. Kapoor's amendment is carried, it practically means that we shall be in the position that we

are today, This Hindu Code will be more or less a Special Hindu Marriage Code. It will be something like that. Even now a Hindu can marry within a prohibited degree if he makes a declaration as is required under the Civil Marriages Act. Similarly, if this Hindu Code would only govern those who would make a declaration that they want to be governed by it, I believe that two-thirds—not two-thirds but nearly cent per cent—of the Hindus would refuse to come forward and make declaration in the manner which has been suggested by my Friend Mr. Kapoor. That will mean practically that this Code will be shelved and the Hindu Law which governs us today will continue to govern us.

I was very much interested to bear about this Punjab Customary Laws Act. This Punjab Customary Laws Act, as was admitted by my hon. friend Pandit Thakur Das Bhargava who referred to it in this House, did not prohibit bigamy at all. What my hon. Friend Pandit Thakur Das Bhargava wants is that the Punjab should be absolutely left out of this Hindu Code, that this Hindu Code may be in force in the rest of India but not in the Punjab—which means that although bigamy may be an offence in India, it will not be an offence in the Punjab and my hon. friend may go on merrily as he likes. I do not understand this, and I hope my Hon. Friend Dr. Ambedkar will be able to explain the position to us. It is this. When custom has got the force of law and that custom becomes invariable, no legislation can really over-ride it. Ordinarily if you are going to prove a custom, the burden is on you to prove that the custom is invariable, that the custom is not immoral, and that the custom has been followed. But when that custom is embodied in a piece of legislation which has been in force for some time and when that custom has not been abrogated, has been recognized. I do not understand how the application of the provisions of this Code can in any way interfere with that customary law unless it is stated clearly that all that law has been repealed by this Code. I may not have thoroughly studied the Hindu Code, but my impression is that no such provision has been made in this Code to repeal the Customary Law Act of the Punjab. And if that stands unrepealed you shall have inconsistent legislation in this country. Hindus in the whole of India will be governed by the Hindu Code, but those in the province of Punjab, where customary laws have been codified and are in force, will remain unaffected by this Code. I will ask the hon. lady Members of this House whether they are prepared

to allow Hindus of the Punjab to 'commit' bigamous marriages whether they are agreed at any rate that there shall be no divorce in the Punjab and that they would allow their sisters in the Punjab to be "persecuted"—it is their language, not mine. I say no woman can be persecuted. The days of persecution of the woman have gone. Nowadays it is the men who are being persecuted by the tyranny of women. If any hon. Member of this House had the temerity to express himself clearly, he would say something about the tyranny of modern women.

Therefore, I would ask this House to consider and pause carefully before it gives its assessment to this piece of legislation. Hon. Members of this House will remember that the Members of this House had no mandate to support such a sweeping legislation, a legislation having such far-reaching effects. Our election had taken place in an indirect way. I repeat what my hon. friend Mr. Naziruddin Ahmed said. It is not that we are not competent to pass this legislation. We are competent to pass any legislation today. We are competent to pass a legislation that the rule which is now obtaining—the salutary rule which has been accepted by the Government of India—that no married women should be taken in the Indian Foreign Service should be abrogated, and we can pass a legislation to say that none but women shall be taken therein. We are perfectly competent to do that. There is no question of incompetency here. Women can become constables and carry sticks ; they can put on pyjamas and turbans ; they can even wear beards ! also as Members of the Constabulary. Why can we not pass a legislation like this ? Nothing stands in the way of our doing this.

Mr. Deputy Speaker : How do all these arise under this ?

Shri R. K. Chaudhuri : I was only giving an analogy. Then I come to the most important thing. As we had no opportunity of getting a mandate from our electorate and as we have been ignoring the majority opinion given or received as a result of circulation of this Bill, we must take very great care to consider how far this legislation will be accepted by us. I therefore agree with my hon. friend, Mr. Naziruddin Ahmad that the consent of the people is necessary for passing this legislation. Now, speaking about discrimination, a great deal was said yesterday about the discriminatory character of this piece of legislation and about the way in which the Constitution has been ridden rough-shod. Dr. Ambedkar, if I remember a right, himself

referred to the question of breach of certain fundamental rights of the Constitution. He said if the present Hindu law is not amended, in the manner in which he seeks to amend this code, then a question may arise in the Supreme Court or in the High Court where it will be asked by the other parties that the Hindu law makes a discrimination between Sudras and non-Sudras. A Sudra of any age can be adopted. A sudra can be adopted even though he may be related very closely and then a Brahmin of a similar position cannot be adopted. Therefore there is discrimination in the present Hindu law and therefore he said that unless the present Hindu Code is adopted the present Hindu law will always be subjected to criticism by a court of law on the ground that it is discriminatory.

Now, Sir I come to a more serious point. I suggest that the arguments which have been put forth by me hon. friends. Messrs. Jhunjhunwala and Naziruddin Ahmad should also be taken into serious consideration. I also want to draw the attention of the House to one particular point, namely the discriminatory character of this legislation which hurts the Constitution itself. My hon. friend Mr. Naziruddin Ahmad and I are behaving as if we are sailing in the same boat. He is isolated in one bench here and I am isolated in another. My hon. friend, Mr. Naziruddin Ahmad—God forbid—if he were to take another wife, if he wants to marry again during the life-time of his present spouse, then he will not be liable to conviction either under the Indian Penal Code or under the Hindu Code, whereas I being a Member of the same House, being a close neighbour of his, if I dared to follow his example and if I have in undergo another ceremony of marriage, what will be my fate ? I shall be simply prosecuted, convicted, sentenced to imprisonment and probably man-handled when I am taken to prison by my own friends. There will be a great public feeling against you that I was spared in any way. Is this not discrimination ? If that is not discrimination, I fall to understand the meaning of the word 'discrimination'. We are subjects of the same sovereign power; we are bound by the same Constitution ; we are living in the same realm and while the one enjoys the privilege of marrying as many as four times. I cannot dare to marry more than once. What is then the meaning of discrimination ?

Shri Tyagi : Bad luck.

Shri Raj Bahadur : On a point of information, may I know how many times has the hon. Member married already.

Shri R. K. Chaudhuri : That is a personal question. Examples are very contagious. My hon. friend Mr. Tyagi says that it was my

bad luck that I have been put in such a discriminating position. Let us take it arithmetically ; if after having married once, I am called 'unlucky' then what are you to call a gentleman who has not been able to marry so long. Yesterday my hon. friend Mr. Naziruddin Ahmad mentioned about a certain kind of help which some of my esteemed friends would give in the way of vote by quoting Hindu Shastras. He being a non-Hindu probably was feeling delicate and refrained from saying what he wanted to say. Let me make myself clear. I submit that the first premises on which those who want to support this Hindu Code is this : Hindu religion is intimately connected with Hindu law, that is to say the Hindu law is intimately connected with Hindu religion. Divorce of Hindu law from Hindu religion means nothing. Here this is a religious question. If the Hon. Minister in charge of the Home Ministry were to take out a census of those people who believe that not to have a son is to go to Hell, you will find that two thirds of the Hindus believe in that. They believe that if you do not have a son, you will go to hell.

Shri Tyagi : I want to know how can one help it if he has not got a son. What is he to do ? It is not in his hands.

Shri R. K. Chaudhuri : You need not go into irrelevant questions. I would just like to tell my hon. friend that there is no limit of age so far as marriage is concerned. Dr. Ambedkar has been merciful in this respect. He has said do not marry more than once. You may divorce a dozen of your wives and there is no bar to your marrying again.

Shri Tyagi : One by one.

Shri R. K. Chaudhuri : Only one at a time ; not more than one. That is what is stated here. He does not lay down any restrictions of age. A woman of 85 years under this new picture of the Hindu Code can marry a young man of 25. There is no civic sense in this Hindu Code.

Shri Deshbandhu Gupta (Delhi) **:** What about *vice versa ?*

Shri R. K. Chaudhuri : *Vice versa* also. I submit that it is most inhuman for the author of this Hindu Code to suggest that you can, whatever your age, marry again if you are inclined to marry.

Shri Bharati L. Krishnaswami (Madras) **:** What is the relevance of this to clause 2 ?

Shri Deputy Speaker : He says that the Hindu Code Bill ought not to be applied to all persons except to those who voluntarily submit themselves to the Code. Therefore, he is developing that argument.

Shri R. K. Chaudhuri : Coming to the clause under discussion personally, I would prefer that the provision should remain unchanged, so far as professing the religion is concerned. My hon. friend Dr. Ambedkar and a few others have sought to amend the provision by saying that this Code shall apply to Hindus by religion. It is very difficult for anybody to prove that he is by religion a Hindu. What does the word 'religion' indicate. The word 'religion' is derived from *religio,* to bind. Can I say that I am a Hindu by religion ? I may say that I am born of Hindu parents, that I am a son of a Hindu and therefore I am a Hindu. It would be difficult to say that I am a Hindu by religion. The Hindu religion lays down a very high standard. Judged by those standards, it will be found that most of the people who call themselves Hindus are not really Hindus. I may profess myself to be a Hindu : I may like to be governed by the Hindu law or Hindu Code ; but I cannot call myself to be a Hindu by religion. I do not follow the principles of that religion at all. How can I say that I am a Hindu by religion ? A Hindu is not expected to take meat. According to the Hindu religion, it is a forbidden thing. There may be many in this house, who may be calling themselves Hindus, but who would not be a Hindu according to those standards. Many who may call themselves Hindus may be doing un-Hindu acts. But, still, they would like to be governed by the Hindu Code. To say that this Code shall only apply to those who follow the principles of the Hindu religion would be a misnomer and is certainly opposed to all principles of honesty. I say that although I may not be a Hindu, although I may not be a follower of the Hindu religion, I profess Hinduism ; I say that I am a Hindu. So long as I say that I am a Hindu, the Hindu Law or the Hindu Code may be applicable to me. So long as I do not renounce my religion, so long as I say that I am a Hindu, because I call myself a Hindu, I shall be governed by the Hindu Law. Or as my hon. friend Mr. Jaspat Roy Kapoor contemplates, so long as a man says that he will be governed by the Hindu Code, he shall be governed by the Hindu Code ; not otherwise. Therefore, I say, how can you lay down this condition that one must be a Hindu by religion ?

In our part of the country, that is in Assam, the tribal people have been held to be governed by the Hindu Law. They are not Hindus. They are not Hindus by religion. They do not follow the principles laid down in Hinduism for marriage. They do not observe the same kind of the prohibitive degree of Hindu marriage. They do not follow

the same rules of adoption. All the same they are governed by Hindu Law, because in some cases they have no other law, and in other cases they profess to be Hindus. Therefore, if it comes to a question between the phrases "professing the Hindu religion" and "Hindu by religion" I will prefer the former.

And now, let me come to another aspect of the matter. There is this question of converts, and Dr. Ambedkar has himself brought forward an amendment in this respect. But I maintain that so far as Hinduism is concerned, this word "convert" is not applicable. I can understand reconversion to Hinduism, though I do not know much about it, there is no conversion to Hinduism because Hinduism is not a proselytising religion. To speak of a convert to Hinduism is absolutely meaningless. There cannot be any conversion to Hinduism. Anyone living in Hinduism is a Hindu, unless he clearly says that he is not a Hindu, that he is a Muslim, or a Parsi, or a Christian or Jew. That has been the position from time immemorial. There cannot be a convert to Hinduism. Will Dr. Ambedkar kindly tell me what are the ceremonies to be performed for a conversion to Hinduism ?

Dr. Ambedkar : *Prayaschitham.*

Shri R. K. Chaudhuri : Can anyone be converted into a Hindu ? Did Dr. Annie Besant convert herself to Hinduism ? Can Dr. Ambedkar give any example of a conversion to Hinduism ?

Dr. Ambedkar : There are so many decided cases on the subject and if my friend will only refer to the first few pages of Mulla's Hindu Law he would get all the information that he wants.

Shri R. K. Chaudhuri : If Dr. Ambedkar is referring to "Sudhi" that is a different thing. It relates to a Hindu who has left Hinduism and is again brought into the Hindu fold. But what is the procedure or the ceremony for converting any one into a Hindu ? If it is a case of conversion, I know the process. The person concerned must fast for a certain period.

Mr. Deputy Speaker : Is the hon. Member trying to fix the procedure for reconversions of Hindus, in this Code ?

Shri R. K. Chaudhuri : I am only saying that there can be re-conversions into Hinduism, but there cannot be a conversion. Do not use the word "convert" here. Use some other word.

Mr. Deputy Speaker : Courts have decided that there can be a convert to Hinduism even though he did not belong to the Hindu fold originally.

Shri R. K. Chaudhuri : There can be re-conversion, but what about conversion ? The difference is only with respect to that.

Shri Venkataraman (Madras) **:** The Madras High Court in the case of Ratansi Morarji-*vs*-the Administrator General, has decided that any person can be converted to Hinduism.

Dr. Ambedkar : It related to an English woman and the question was whether a Christian could be converted into a Hindu and the answer was, yes.

Shri R. K. Chaudhuri : Will the Hon. Minister tell me the procedure or the ceremony for such a conversion ? It is never too late to learn, after all.

Mr. Deputy Speaker : The hon. Member himself is very particular that Hindu traditions etc. should be preserved. Where is the harm in getting as many Hindus as possible and as many people as possible under the Hindu Law ?

Shri R. K. Chaudhuri : I only want that the author of this Bill, Dr. Ambedkar and the founder of our Constitution should not indulge in words which have no meaning. The word "convert" has no meaning when applied to a Hindu.

Dr. Ambedkar : That is an old anti-quated view of Mr. Chaudhuri.

Shri R. K. Chaudhuri : Can Dr. Ambedkar please refer me to one single original text of Hindu law where it is said that conversion to Hinduism is possible ?

Dr. Ambedkar : I can refer the hon. Member to the case of Morarji-*vs* the Administrator General.

The Minister of State for Transport and Railways (Shri Santhanam) : And there is a monument in Bhilsa which speaks of a Greek having been converted into a Hindu.

Dr. Tek Chand (Punjab) **:** And many born Christians and Moslems have become Hindus. If my hon. friend wants he can bring any such persons now and they will be converted by Aryas to Hinduism and absorbed in Hindu Society. I have several books giving cases of conversions even during Moslem rule and he can have them and read them at his leisure.

Dr. Ambedkar : Oh do not do that, Mr. Chaudhuri never reads.

Shri R. K. Chaudhuri : I am afraid the hon. Members confusing between conversion and re-conversion and also between conversion and initiation. Anyone can be initiated into Hinduism. I am not speaking about that.

Mr. Deputy Speaker : But he says there can be conversion also.

Shri R. K. Chaudhuri : Let us abandon that point now Sir.

Mr. Deputy Speaker : I thought the hon. Member has concluded ?

Shri R. K. Chaudhuri : Practically it is a conclusion for me, for I am going away to-morrow.

Mr. Deputy Speaker : Will a few more minutes do ?

Shri R. K. Chaudhuri : No. Sir, a few more minutes will not suffice.

Mr. Deputy Speaker : Then we may adjourn.

The House then adjourned till a Quarter to Eleven of the Clock on Wednesday the 7th February 1951

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*HINDU CODE—*Contd.*

Mr. Speaker : The House will now proceed with the further consideration of the Bill to amend and codify certain branches of the Hindu Law, as reported by the Select Committee. Clause 2 is under discussion.

Shri Gautam (Uttar Pradesh) **:** Before proceeding further, I would request you , Sir, to clarify one point. I understand—I was not present yesterday in the afternoon ; therefore I am raising this question—that one of the speakers used some language while discussing this clause which is objected to by some Members. Has the attention of the hon. Speaker been drawn to it ? I would request you, Sir, to issue certain instructions so far as these things are concerned so that Members may be within their bounds and may not hurt the feelings of other Members.

Shri M. A. Ayyangar (Madras) **:** May I say, Sir, what happened ?

Mr. Speaker : He need not repeat those things.

Shri M. A. Ayyangar (Madras) **:** No; I am not going to repeat those statements at all, because that would defeat the very purpose. Yesterday, unfortunately, some remarks, I think, quite unwittingly, escaped the mouth of one of the hon. Members who was speaking. No doubt, he always speaks in good humour and nothing is taken exception to. Unfortunately, it descended to something which was not desirable. As soon as it was pointed out to me, as I was in the Chair, I directed that that portion of the statement ought to be expunged from the records. I thought the matter was over. I think all are agreed, and the hon. Member also expressed regret for having made that statement quite unwittingly, that that chapter is closed. It does not form part of the record. I do not think there is any need to bring up the matter again to you for any particular action.

Mr. Speaker : I would only say that I trust that members will take sufficient note of this and so deliver their speeches and pass remarks that there many be no occasion again to repeat this kind of thing.

Shri Frank Anthony (Madhya pradesh) **:** A bad example is set by the Treasury Benches.

Mr. Speaker : Let us now proceed further with the Bill.

Shri B. Das (Orissa) **:** Sir, I see the debate on clause 2 has descended to the level of a general debate on the whole Bill. I think today is the last date fixed by you for passing this Hindu Code.....

Several Hon. Members : No, no.

Mr. Speaker : Order, order. Does the hon. Member want to put any time-limit ?

* P.D. Vol. VIII, Part II, 7th February 1951, pp. 2486-2537.

Several Hon. Members: No no.

Shri B. Das: I want that on clause 2 there should be a closure.....

Several Hon. Members: No no.

Mr. Speaker: Order, order, hon. Members need not say yes or no. Let there be a motion for closure and if it is the general feeling that there has been sufficient discussion, I will accept closure. But, even if I accept it, the matter rests with the House; they may acceptor reject the closure motion. As regards the character of the debate, though I do feel that we are going into very general remarks, yet, I myself do not know how the discussion could be restricted, particularly in view of the nature of clause 2. Some communities are sought to be included; some are sought to be excluded. There are amendments on both sides. Therefore, a general survey to justify the inclusion or exclusion of the provisions becomes to some extent at least necessary. That is why I was feeling difficulty in restricting debate on that point. However, I believe there are no points or explanations to be asked. Let us proceed immediately with the consideration of the Bill.

***Shri Syamnandan Sahaya** (Bihar): The debate has now gone on for full two days. If the speeches made in this House are any indication of the reception that the Code is going to have in the country, even an optimist and ardent supporter of the Code like the Hon. Dr. Ambedkar should have no difficulty in arriving at the correct conclusion.

Shri B. K. P. Sinha (Bihar): May I point out, Sir, that the supporters of the Bill have not spoken so far.

Shri Syamnandan Sahaya: It is no fault of the House, or even of those who do not agree with this Code if the supporters of the Bill do not like to rise and support their cause. How are we to know how many of them in their own hearts support and outwardly do not propose to do so?

Shrimati Renuka Ray (West Bengal): Take the vote and see.

Shri Raj Bahadur (Rajasthan): If I understood correctly, Sir, you are at present calling those hon. Members who have moved amendments.

Mr. Speaker: Anybody, who wishes to support or oppose the Bill is welcome to do so.

Shri Syamanandan Sahaya: Sir, this bill has been, in various stages, before the country for, if I may say so, quite a long time,

* P.D., Vol. VIII, Part II, 7th February 1951, pp. 2488-99.

and opinions either in favour or against the Bill have been expressed both in the Press and on public platforms and even in this House on many occasions. I have no doubt in my mind that if the opinions are scrutinised very well, they will disclose not merely an opposition to the provisions of the Code

Shri Sonavane (Bombay) **:** On A point of order, Sir. We are now dealing with clause 2 relating to "Application of the Code". The discussion should be on scope of clause 2 and not a general discussion. Is the hon. Member allowed to have a general discussion on the Code as such ?

Shri Syamnandan Sahaya : May I, Sir, with your permission, say.....

Mr. Speaker : There is no point of order. I just explained a few minutes ago that when you are discussing the "Application of the Code", when you want to include certain communities or exclude certain communities, it becomes perfectly competent and relevant to show how the various provisions adversely affect or benefit the communities. That is why I said it is very difficult to restrict the whole discussion at this stage to specifically certain portions of the Bill. For example, I believe, yesterday, Sardar Hukam Singh, went into the question of marriages and went into the question of succession. It could not be excluded as irrelevant discussion because it is sought to enact that this Bill should apply to Sikhs also. He is perfectly entitled to show how this Bill adversely affected the Sikhs in the matter of marriages or customs or succession. That is how the points are interconnected. Therefore, it will be better if such points are not raised over and over again.

Shri Sonavane: But, Sir.....

Mr. Speaker : Order, order.

Shri Syamnandan Sahaya : As I was saying, if the opinions so far expressed—they are quite voluminous—and are in the possession of the Hon. Law Member himself—are carefully scrutinised, they would not merely disclose the opposition to the various provisions of this Code, but would also disclose an anguish, a feeling of anxiety, and a feeling of great concern, among the Hindu community over this Code. I know and I fully realise the sincerity of purpose of those who want to lead the community on a different channel. This is nothing new in history. Every reformer, perhaps, would not have been a reformer, if he had not thought that what he himself thought of religion was the right thing and that every other thing, as was said here by

the Mover, was archaic. Therefore, although I may congratulate the Hon. Law Minister for evolving a new religion which it is left to posterity to adopt or not to adopt, so far as present conditions are concerned, I must certainly warn him and Government that it would be a suicidal policy to make it an obligatory legislation.

The Minister of Law (Dr. Ambedkar) : We are prepared to commit suicide.

Shri Syamnandan Sahaya : This reform can only be considered either as a social reform or a religious reform. If it is a social reform, I don't see why the Hon. The Law Minister entered a caveat yesterday when some hon. Member suggested that it should be made all pervading. In that connection he urged that we ought to have consideration and regard for the sentiments and feelings of non-Hindus in this country. I am really surprised that while he advocated that for the non-Hindus, he does not seem at present to have any regard for the feelings of Hindus in this matter. Speaker after speaker in this House, coming from different parts of the country, belonging to certain different sects or certain sections of the Hindu community, have explained how they feel about the application of the provisions of this Code to them. Therefore, while this reform may, in the opinion of some, be called for, and urgently called for, yet, I do submit that it will not be fair to make it an obligatory legislation. I have, therefore, great pleasure in according my support to the amendment of Shri Jaspat Roy Kapoor who suggests that it should be left open to members of the Hindu community, or for the matter of that of any other community, to accept this Code and register their will to be governed by it. If on the other hand it is held that it is some type of a religious legislation, then I think Dr. Ambedkar will concede that this is neither the appropriate time nor even proper for a secular State to attempt some kind of a religious legislation. I consider that this reform is of a social nature. And from time of which we have any record, we have known that these social reforms have to be of a permissive nature so that people may be able to adopt them with pleasure. In civilised life, even conversion by force is not permissible, and I am sure Dr. Ambedkar will not make any attempt at forcible conversion to the religion which he propagates now through this Hindu Code.

When the Minister of Law started his speech yesterday—he will Pardon my saying so—I think he was a little nervous about his case, because normally he is not opt to go about hitting right and left. He has given this House the very good example of

12 Noon

very sound arguments at all time, some of them most difficult, both here and in the Constituent Assembly. But yesterday, he started his speech hitting right and left and calling those who had moved amendments and made speeches in support of them as being absurd and if I remember right, as being foolish and.....

Pandit M. B. Bhargava (Ajmer) **:** And devoid of commonsense.

Shri Syamnandan Sahaya : Yes, and devoid of commonsense. Well, though I did not like it, and though it hurt me, still as one who does not agree with him in getting this Hindu Code passed as it is, I felt a little happy that the author of the Bill was so nervous that he was not stable at all.

Shri J. R. Kapoor (Uttar Pradesh) **:** When the case is poor, abuse the adversary.

Mr. Speaker : Order, order.

Shri Syamnandan Sahaya : Now, it we scrutinise the provisions of the law carefully, we will find that there are really some tremendous difficulties which the mere passing of this Code is not likely to solve.

[Mr. Deputy-Speaker in the Chair.]

After all, a social reform has to keep not merely, the individual but the whole society in view. And if certain provisions of this Code are given effect to, without any consideration to the particular manner in which society has been running for a long time, it will end in breaking up society as it is today. Therefore, I submit that it is necessary that this Code, if passed at all, should be permissive so that people who would like to be governed by it may do so with their eyes wide open.

Let us also see, what was the original intention of those who decided to have a Hindu Code. I will refer you, Sir, and the House to an important recommendation of the Hindu Law Committee popularly called as the Rau Committee. At page 13 of their report in paragraph 50, they say :

> "Most of the provisions in the Code are of a permissive or enabling nature, and impose no sort of compulsion or obligation whatever on the orthodox. Their only effect is to give a growing body of Hindus, men and women, the liberty to live the lives which they wish to lead without in anyway affecting or infringing the similar liberty of those who prefer to adhere to the old ways".

This recommendation, I submit, is very clear and it was made after the Committee had toured round the whole country and ascertained the views of the Hindu community. This recommendation must have

been made in all seriousness and I submit there is no reason for us now to depart from this very important decision of the Committee, whose recommendations are the basis of the Code which we are considering today. I do not know whether the mass of evidence collected by this Committee has been carefully gone into and if it is so done. I have no doubt in my mind that the Government of India will come to a similar decision with regard to the applicability of this measure.

Some friends yesterday made a suggestion about taking a referendum on this very important issue. Here again we find the Hon. Law Minister wholly opposed to it and not only that but the climax was reached when he said that the electorate are ignorant and they are people who do not know anything about this matter

Shri Bharati (Madras)**:** About the technicalities of the matter.

Shri Syamnandan Sahaya: You heard his speech and so did I. The records are here. It is not a question of technicality at all. Every member of the Hindu community in this country knows fully what he wants so far as his religious and social laws are concerned and there will be no difficulty, in my opinion, in taking a referendum on a question like this. When I recalled that he who was the main architect of the Constitution of India and he who was an ardent advocate of adult franchise should now speak so disparagingly about democratic methods, it was not only a surprise but a shock to me and I thought within myself whether what the Hon. Law Minister himself said yesterday about the leopard not changing spots was as true today as when it was said. We cannot forget that wherever or whenever democracy is inaugurated they do not start it with the entire electorate being as educated as one would like them to be. Let us not forget that deomcracy is its own teacher and the more you consult your electorate the more you give them the chance to express their opinion, the more conscious and the more educated you make them. I therefore submit for the consideration of the Law Minister that there cannot be a more approriate method of consulting the electorate today than a referendum on the Hindu Code. After all whether the electorate today is politically conscious to that extent or not, it certainly will have to be admitted that so far as religious sentiments and feelings and religious laws are concerned they are fully conscious and if you ask any man in the streets of a town or village, he will be able to tell you what is good for him. I therefore submit that even now there is a chance and opportunity and the Law Minister will do well to consult the electorate on a matter like this.

An Hon. Member : He is his own electorate !

Shri Syamnandan Sahaya : But if he chooses not to do so as it appears, then I will submit to him to make the law a permissive legislation. If he makes the law an obligatory legislation—I do not know for what he will take my warning worth—but let me tell him that he will fail in his attempt as did the Slave Kings of yore—the Lodis, the Tughlaks, the Khiljis, the Sayyids and the Moguls—who attempted in vain to eradicate the old religion and the old religious laws, which he called archaic yesterday. I have no doubt that his attempt at ending what he called archaic laws will fail in the same manner as did the attempts of others similarly placed in authority for thousands of years. There is something more than mere laws in the Hindu system of Social Codes. Its foundations have been much more deeply laid and could not be shaken by legislations passed in such haste without consulting the people affected.

When listening to the speech of the Hon. Law Minister I was reminded of a story which for a long time was published by the *Amrita Bazar Patrika* year after year on a particular day. The story was about an old Pandit and Pandits are proverbially poor. His wife pestered him from time to time about finance for running the household. The Pandit was able to fork out a rupee or two now and then to enable the household to be carried on. One fine morning he struck upon something very novel and told his wife, "You need not worry about funds any more. I have found out a device by which I can get a lakh of rupees." The wife asked him what was the device. He said "I have composed a few couplets last night and I shall go to the Raja tomorrow morning and place before him the couplets. I will tell him that if he could find any Pandit in his *Durbar* who will be able to interpret the couplets then I would pay him a lakh of rupees. If, on the other hand, no one can interpret my couplets the Raja would have to pay me a lakh of rupees." The wife laughed and said "You must be a fool. Supposing some one interpreted the couplets, where are you going to get the one lakh from to pay to the Raja ?" The Pandit in his turn laughed and said "You ladies have no imagination. You people never had any since creation....."

An Hon. Member : Is it your opinion ?

Shri Syamnandan Sahaya : Not mine, it is the Pandit's opinion. I cannot speak so disparagingly of women. Continuing, the Pandit said" It is very simple." She asked what was it and the Pandit said

"I shall accept no interpretation. The Pandits will come and go and I shall accept nobody's interpretation. I will say that is not the interpretation and ultimately the Raja will have to fork out the one lakh of rupees." Even so whatever advice or suggestion or opinion we may express here., if the Hon. Law Minister is in the mood of the Pandit what can we do ? We have to appeal to him and tell him what is the opinion outside. I have no doubt that he will depend upon us for giving him such information as we are capable of gathering by going round our constituencies...

Dr. Ambedkar : I have more information than you have.

Shri Syamnandan Sahaya : You may have more than what I personally have but I am talking of the Members of the House and I am not talking of myself only. I dare not say that I have more information than you have.....

An Hon. Member : What about the lakh of rupees ?

Shri Syamnandan Sahaya : The Pandit got the lakh of rupees all right.

Pandit Thakur Das Bhargava (Punjab) **:** Has the Hon. Minister not admitted before in this House that public opinion does not favour this Bill ?

Shri Syamnandan Sahaya : Has he ? I am very glad. That very strongly supports my case. If that is so, then there is no ground for the Hon. Minister to come to this House at all with this Code. In any case the difficulty arises when you come into power : then, naturally apart from power, one has also the feeling that one has the knowledge, the information, which no one else possesses. Mr. Gladstone was once rebuked by Queen Victoria by remarking, "You must know, Mr. Prime Minister, that I am the Queen, the Sovereign of England" And Gladstone hit back by saying. "Yes, Your Majesty, but I am the people of England". So, you Mr. Law Minister may be today the Sovereign of India., we are the People of India, and if you don't listen to us you will go the way the sovereigns have gone. Whether you like it or you don't, this is what will happen.

This matter of the Hindu Code, in my opinion, should not be taken—pardon my saying so—as it is being taken. Religious reforms and social reforms are certainly necessary. No one could possibly get up in this House and say, "No, we shall stay where we are". What are we then asking you to do ? We are only asking that the legislation be made permissive. Let the people know all about it. Let them think

over the matter and having considered the whole matter if they think it is for the betterment of the country, for the betterment of the society, they will accept it. But do not for God's sake make it obligatory.

Shri R. Velayudhan (Travancore-Cochin) **:** Then what is the meaning of a legislation ? Why have it ?

Shri Syamnandan Sahaya : I will explain to you presently what is the meaning of legislation. You are perhaps fresh to a legislature. Otherwise you would not have asked that question. Anyway I will reply to you in a few minutes.

Shri R. Velayudhan : I have read the Hindu Code.

Shri Syamnandan Sahaya : You have read the Hindu Code. That is good enough. Then you will go to heaven straight.

If you look at the legislation and the different parts of it, you will find that on various details certain exceptions have been made in the Code itself. Now, the Code excludes in certain respects the two communities following *Marumakkattayam and Aliyasantana* laws. And yesterday the Hon. Law Minister said that he was omitting sub-clause (4) to allow some type of married men to be governed by the Succession Act, that is those who were married under the Special Marriages Act.

Mr. Deputy Speaker : He said it was more liberal.

Shri Syamnandan Sahaya : Well, if it is more liberal for them I do not see why the more liberal law should not be good for everybody. He is codifying the Hindu Law—not laying down any new but bringing up-to-date in certain respects the existing laws and bringing in some reforms. If you want you can be more liberal—who prevents you ? But after all, if you claim that one of the main purposes of this Act in the first place is to codify the Hindu Law, keeping in view the different rulings and different interpretations and making the best use of them and also introducing progressive reforms—if that is so then I don't see why you should have one set of succession laws for one class of married Hindus and another set for another class. If you want to do it, do it. There is no use saying that such of our friends here who advocate the passing of a Civil Code do not really want it. Pardon me for saying so, but let me assure the Hon. Law Minister that it is not so. The feeling is that if you want to put the whole country on a certain basis even if it meant some sacrifice, do so and we will gladly accept it. But you pick and choose and single out one community who perhaps would not be prepared to fight with you on that issue.

If you pick out that community and do what you like with it, and the rest say, "Don't touch our religious susceptibilities", then that is where the real difficulty arises.

Then the Code already excludes customary laws which will operate in spite of the Hindu Code. Exclusion has also been permitted for those who were governed by separate customs although they may be belonging to the Hindu community : so that it will be found that these differences and these exclusions, these permissions to be able to be governed by another law are already found to the Code. I therefore submit that it is not really asking too much of the Hon. Law Minister and of this House to make this Code a permissive legislation.

There are other difficulties also which I would like to mention for the kind and sympathetic consideration of the Hon. Law Minister.

For instance, it is laid down mat all divorces henceforth will have to be registered. When I read this—not only this but other paragraphs and other sections of the Code—I felt like exclaiming that the Code was really a heaven for lawyers, and that if anyone was going to profit or benefit by this it would be the past colleagues in law courts of the Hon. Minister. You may pass this Code tomorrow. Supposing we all agree that we shall not discuss this legislation any more and we pass it tomorrow, even if we do so do we really and seriously think that the people living in the villages, whom the Hon. Law Minister refuses to consult by a referendum because they are ignorant, will from day after tomorrow start registering all their divorces and all their marriages?

Dr. Ambedkar : There is no provision for registering divorces.

Shri Syamnandan Sahaya : I am sorry if I take time but before the House rises I shall read out to the Hon. Minister this provision. I have already tabled an amendment on that clause.

Shri Bharati : Registration for marriages only. There is no registration for divorces. You make a mistake.

Mr. Deputy-Speaker : The hon. Member evidently means that there can be under the Code no divorce except by a decree of court.

Shri Syamnandan Sahaya : Yes. The hon. Member has again drawn a distinction between tweedledum and tweedledee though it was not expected that he of all persons would take recourse to these. Well, if it is not registration and if it is only through law courts, then it strengthens my argument all the more. Is it possible to imagine, when we have a vast majority of people—thirty-three crores—many

of them living in rural areas, not knowing anything about procedural laws and rules, is it possible to imagine each of them going to court for marriage and divorce ? I had thought it was only registration where the lawyers would get very little fee. But if it is the law courts then I have no doubt, and the house and the Hon. Law Minister will agree with me, that it is a heaven for the lawyers. In this vast country at least for some time to come—I should say for a long time to come, but certainly for some time to come—there is no justification for such an obligatory legislation to be passed. Give them the chance—if they think it is necessary then let them adopt it.

We have said a lot and the Code also claims for itself a very great and progressive position when you say we are giving this and we are giving that to the women of our country. I suppose that up to a certain point there is something to be said about it. But if we study the social conditions today among the Hindus, shall we not agree that these ladies in their households are almost each of them an Alexander unto herself ? You want to reduce that position of being the monarch of all they survey to that of a mere partner and you know what respect partners evoke, particularly when you are doing away with the joint family system. In a joint family system, the partners had a certain respect and position. There was inter-dependence and therefore one partner cared for the other partner. But having done away with the joint family system, you want to reduce the women to the position of a partner. If you are a partner, you have your set rights and your set quota. Today, the women are the masters of the whole household.

Dr. Ambedkar : Yes, very much.

Shri Syamnandan Sahaya : Tomorrow, you will make them partners.

An Hon. Member : Partners in what ?

Shri Syamnandan Sahaya : Partners in property.

An Hon. Member : Not in life ?

Shri Syamnandan Sahaya : I meant partners in property. After all, she gets something from her father's house. She is the owner of that. She feels she has got something by herself. Why should you not make her depend upon the newly acquired house of her husband ? You know, after all, properties create difficulties. I know of families, not one but many, where the power of attorney by the wife is not held by the husband but by some other person.

Dr. Ambedkar : There may be very good reason for it.

Shri Syamnandan Sahaya : That is what your Code will reduce the Hindu community to. If some people like it, then of course I have no objection to their adopting it.

Shri Raj Bahadur : Hence the necessity for divorce.

Shri Syamnandan Sahaya : I know young people like you are very anxious to have divorce laws, but there are other people who have to think of your welfare.

So, these are the difficulties about this legislation and before I resume my seat I would strongly urge upon this House and the Hon. the Law Minister to accept the amendment of making this legislation permissive. Otherwise, I am afraid it will not be taken so lightly by Hindus as Government think. It is going to create a great furor in the country.

Dr. Ambedkar : No.

Shri Himatsingka (West Bengal) **:** Dr. Ambedkar is not afraid.

Dr. Ambedkar : I don't think so at all.

Shri Syamnandan Sahaya : I have no doubt in my mind that the Hon. the Law Minister is not afraid. He need not be afraid either. I had attempted not to say this, but I am doing so now. When I was last in my constituency, some people came to me and said, "You have not been a Congressman before" I said, "Yes, I have not been a Congressman before." They said, "You also dine with Muslims and are not orthodox and you are not a very devout Hindu." I said, "Yes. I am not a very orthodox Hindu in that sense." And then they said, "Is it therefore that this Hindu Code has been invented which has the effect of a bullet that kills two birds at the same time, namely, the Hindu community and the Congress ? If the Congress Government is not circumspect and responsive to public opinion even after this, let them go the way they like. The country and the people will decide what to do with them."

***Shri Alagesan** (Madras) **:** Unfortunately yesterday the House was plunged into a mood which detracted very much from the seriousness of the measure that is before us. I am glad that we have now regained the proper mood to consider it more seriously than before. Yesterday, the Hon. the Law Minister put up a very vigorous plea for the acceptance of the Code and his amendments. He is always a superb advocate. Apart from the content of Iris speech, the tone and the manner of it brought even those who oppose him very near getting convinced.

* P.D., Vol. VIII, Part II, 7th February 1951, pp. 2499-2504.

Shri Venkataraman (Madras) **:** But you were not.

Shri C. Subramaniam (Madras) **:** That is why he said "very near".

Shri Alagesan : I would like to be completely convinced, but I am sorry to say that I am not convinced. I would still urge the Hon. the Law Minister to bring forward a common civil code, though he derided the idea and even went to the length of attributing motives to those who wanted such a thing. For instance, he asked : "How is it possible that those who oppose the Hindu Code tooth and nail would accept a common civil code ?" He questioned their motives. But I would respectfully ask him. "Why is it that they object to this Hindu Code ?" Is it not due to the fact—partly at least—that it does not apply to the entire nation ? It applies only to one community, however large a section it may be. Thus, this Code is only a sectional measure and it is not a common measure for all. Is not the opposition to it, at least partly, due to this fact it does not embrace the entire nation and the entire community ?

Again, he said that he would produce legislation tomorrow, as if anybody doubted his capacity to produce legislative texts. He threatened to bring the text of a common and universal code tomorrow and confront the House with considering it. But that is not the main thing about it. If he proposes to confront this House with a common civil code, then it has to be considered in all its aspects and bearings by one and all and he will be the first person to come forward with amendments to that code. He said yesterday that no legal ingenuity can improve upon the Indian Succession Act, but I am sure, the artist that he is, he will go on amending even the best piece of legislation. Even for this Hindu Code, we find that his amendments are larger in number than the amendments proposed by any other Member. He can amend, and amend because others want it and desire it.

Again, he went on to expatiate on the sovereign and supreme nature of this Parliament. Nobody ever questioned it, but the sovereignty and the supreme nature of this House need not have been affirmed at the cost of an insult to the master of this House. That was the unfortunate part of it. Though we are a sovereign body, we are subject to the people's will and our sanction is the people's will.

Babu Ramnarayan Singh (Bihar) **:** Hear, hear.

Dr. Ambedkar : Why don't you live in the village rather than live here ? You will be a better master there than you are here.

Shri Alagesan : I wish to put a counter question to the Hon. the Law Minister. He said that those who oppose the Hindu Code cannot agree to a common civil code. It is impossible, he said, because he knew those persons very well. Everybody knows that the new elections will be held all over the country for this Parliament as well as for the legislatures of the various States within a year's time. It is not necessary that because this House is sovereign and supreme it should take upon itself the task of legislating on each and every subject. It may postpone some legislation : it may leave, with profit, some legislation to the House that will be elected within a very short time, and I do not doubt that the Hon. the Law Minister will concede that the new House that is going to be elected will have more time and will certainly be better placed and will certainly reflect the latest opinion and mood and temper of the people than this House can ever do. Will he not concede that such a House will be better placed to enact this piece of legislation than this house is ? And if he does not choose to do it, if he does not choose to leave the matter in the hands of the House that is to come, is it due to the fact that he is afraid that this measure will not be passed by that House ? Shall I attribute such a motive to him, though I would not like to do it ? (*An Hon. Member :* You have done it.) Why then does he fight shy of placing this all-comprehensive codification of Hindu law, before the new Parliament of this country ? I think he should satisfactorily answer this question.

But the chief complaint against the present Government, if one can say so, is this. After we have succeeded in our revolution, we have failed more in the psychological sphere than in other spheres. We have failed to enthuse the people : we have failed to strike that emotional chord in the people which alone binds them to us. Everybody is worried on this account. Why ? It is good that we consider this question and examine it a little more carefully. In my opinion, we have decided largely on a policy of carry-over. We simply carry on the old traditions and we have not done anything to show a striking change which appeals to the people. This Hindu Code is an instance in point. It has been conceived under quite different circumstances, when we were under the impression that everything that is Hindu is wrong and cannot be correct. We wanted to reform, we wanted to change, but not with a proper appreciation, in my opinion. We are simply carrying that over. We are trying to model the Hindu Code as a code that will apply to the Hindu community, though it is a very great community

in this country, and not to all. It is because we have failed to introduce any innovation that we are in this mess. We have got everything that goes to make an emotional appeal to the people and yet we have strikingly failed in that field. That is something like a play with all the ace actors and yet the play fails to impress the audience. Our performance I shall liken to that.

What is the reaction that we have produced in the country by bringing forward this measure ? Supposing we had brought forward a common measure that would have applied to one and all. Then there would have been an electrical change in the atmosphere in the country ; there would have been an atmosphere of realism with regard to this measure. We would have been able to consider this measure more realistically than we are at present doing. And that we have failed to do. If we had done that we would have convinced the entire country that we are taking cudgels against and demolishing all differences based on caste and religion in the true spirit of our secular democracy. We would have incidentally translated our ideal of secular democracy into action and would have convinced everybody. Now there is not even a ripple on the surface except the placid placard holders outside this House and the imposing police cordon ; and perhaps occasional crowds in the galleries in multi-hued *saris*. We have not succeeded in producing any greater effect than this. But, I am sure that if the Hon. the Law Minister were to come forward with a common code that will embrace all communities, then the whole country will take interest in it and try to be more realistic about it. I may also venture to say that the reaction outside our country would also be much better, because at present we are held up to ridicule in the outside world by interested parties that we are a nation wedded to caste with the result that our prestige suffers. A common code would have done everything to dispel such a misunderstanding.

Again, there have already been instance where the Hindu law embraced other communities. I am told the Moplahs of Malabar, the Kutch Momins and the Khoja community, the followers of the Aga Khan, were all following the Hindu law and were governed by the Hindu law up till the year 1937 when the Shariat Act was passed. I am told that even the author of Pakistan was governed by the Hindu law. When such is the case why should you fight shy of bringing forward a common code which will embrace all Hindus, Muslims, Christians and so on ?

Yesterday, the Hon. the Law Minister was very pleased with the speech of my friend Pandit Thakur Das Bhargava. He was all praise for the Code. He showered encomium on the Hon. the Law Minister for having thought fit to bring forward this measure. But, he made one very important reservation. He said all this only on the condition that it should not apply to the Punjab. He made an observation that those who have moved amendments are trying to rope in the other communities, the non-Hindus in this Act, and he asked whether the non-Hindus in this House are prepared to come under this measure. He went on to answer the question himself in the negative. But, I have consulted some of the non-Hindu Members of this House and they are quite willing to have a common code.

Dr. Ambedkar : Non- Hindus ?

Shri Alagesan : Yes, non-Hindus.

Shri Bharati : May I have the names of those Members ?

Shri Alagesan : The hon. Member may have it later from me ?

As it is, we are doing a great injustice to the non-Hindu Members of this House. They are unable to take any interest in this discussion.

Dr. Ambedkar : Why, Mr. Nazruddin Ahmad has.

Shri Alagesan : He only reflects the opinion of his clients. The other non-Hindu Members of this House simply sit back and relax. They are not able to take any lively interest in the discussion, if they support it they are afraid of wounding the susceptibilities of the orthodox section of the Hindus: if they oppose it they are afraid of still more terrible elements. So thay are playing a passive role.

Prof. Ranga (Madras) **:** They support the Bill.

Shri Alagesan : That is doubtful. It is, therefore, necessary that we should make this measure more representative. Because, there will be nothing objectionable in it. If monogamy is good for a Hindu it ought to be equally good for a Muslim.

Shri Syamnandan Sahaya : Better for him.

Shri Alagesan : The present day Indian Muslim would not, I think, oppose it on religious grounds, because when Muslims were permitted to marry up to four wives perhaps it might have been on account of the expanding phase of the Arab Empire. They wanted to expand and conserve, and so they were permitted to marry up to four wives, perhaps. But now we are faced with an entirely different situation in this country. Though our Prime Minister likes and loves to play

with children and forget many of his worries, he is not prepared to greet their first arrival in this country. He has said so openly, and the prospect of more and more children certainly frightens him as well as it frightens everyone. It is a patent fact. I have no doubt our Muslim friends will realize it and try to fall in line, whatever their present religious law or practice may be. So it is not as if there are insurmountable barriers in the way of evolving a common civil code for this country.

I would like to quote the example of China. It is as ancient as our country. Apart from the ancient texts, they have recently evolved a civil law which embraces and tries to enact the three principles of the people enunciated by Dr. Sun Yat Sen. These principles, as the House knows, are nationalism, democracy and popular economic progress. We can very well follow the example of China, as we are placed in a similar situation, and try to put in our principles, the principles that the Father of the Nation placed before the country, and make them a reality. Nothing would have pleased him better than the bringing within the ambit of one civil code all the great religions that inhabit this country,

My hon. friend Pandit Thakur Das Bhargava waxed eloquent and welcomed most of the things that are found in the Code because he was sure that they would not apply to him. He welcomed all the salient features of the Code because he was sure that they would form the basis for the future civil code of this country, and he felt that this was a right step in that direction. But I am afraid I am unable to accept his plea. I am afraid it only side-tracks and postpones the question of evolving a civil code. Now that we have done our best by the Hindu community we would not bother about a common civil code, because the impression generally is—and I think there is good ground for it—that we are prepared to meddle with everything that is Hindu but we are fighting shy when it concerns others.]

Prof. Ranga : One by one.

Shri Alagesan : I only wish that the prophesy of the professor will come true, that you will approach others also and try to reform them also. But as it is, the impression is gaining ground—and that is the ruling impression—that we are prepared here to go only to the Hindu community and none else. And that in my opinion is the chief psychological barrier to the passing of this measure. I hope the Hon. Law Minister with all his ingenuity will devise something which will dispel this

misapprehension and try to convince not only the members of this House but also the people outside and then launch upon his offensive.

***Shri Biswanath Das** (Orissa)**:** Sir, I thank you very much for having given me a chance to have my say in the course of discussions over the Hindu Code Bill. I was really trying to play the role of a backbencher in regard to the discussions on this Bill. But certain views expressed by the Hon. Minister of Law have goaded me to speak and record my protest.

In the course of his speech—need I say very lucid and analytical, speech—he used certain choice expressions which are not only unwarranted but uncalled for. He has declined the demand for a referendum. I am not very much in favour of a referendum. I am not very much in favour of a referendum after all that has taken place. But to call it 'absurd' is as absurd as the absurdity itself. You are going to legislate on very important matters, namely, questions relating to marriage, divorce, adoption, joint family, women's property, succession, maintenance and the rest. The Hon. the Law Minister himself has recognized and admitted that the system of Hindu Law involves not only the legal frames of the society but also of our religious precepts would it be fair for him to take up the legislation of such important questions which concern the society, the life and living of crores of people of this country, without consulting the people themselves ? In the course of his speech he stated that he does not know of any country where a plebiscite is taken for legislation. Even in ordinary matters, such as nationalisation and the rest, important political parties have refused to undertake such responsibility in a democracy. They dissolve Parliament and go and take the mandate of the country on such important issues. I would ask the Hon. Minister whether the principles involved in the Bill are less important than those in England and elsewhere where Parliaments have been dissolved and a mandate of the people has been demanded and taken. Does it come well from him to say that these are not matters on which a popular mandate is necessary. Let me not think of a plebiscite or even a dissolution of Parliament or anything of the nature demanded by some of my friends though those are relevant, logical and constitutional. We are an indirectly elected Legislature. Parliament has to carry on business till the House is duly constituted. It is more or less in the nature of a caretaker Parliament I do not dispute the technical

*P.D., Vol. VIII, Part II, 7th February 1951, pp. 2504-17.

right of this House to pass any legislation. But constitutionally, it looks to me odd to say that on such an important legislation as this, we are to be refused to take the mandate of the people. Is it because he is well impressed of the fact that the people on consultation would not allow him to go on with the legislation ? Otherwise, where is the need on his insistence not to put off legislation which is hanging fire so long and also to insist upon one question, namely, that it shall be passed only in this House. I ask why in this House ? What sin has this Parliament committed ? Is it because it is an indirectly elected legislature ? I would tell him that he is as good a representative as myself. I am elected by the Provincial legislature of the State of Orissa and he is elected by the State Legislature of Bombay. I have a right to ask the Hon. Minister whether he has consulted his electorate and whether he has got the mandate of his electorate in this regard.

Dr. Ambedkar : I do not want a mandate.

Shri Biswanath Das : You do not want a mandate. That is the sort of responsibility you owe to your constituency and that is the sort of constitutional notion that you want to inculcate into the people of our country. I will only refer my hon. friend to the Preamble of the Constitution which this House has enacted and to which my hon. friend, the Minister of Law has made a very notable contribution.

The Preamble of the Constitution says : "……to constitute India into a Sovereign Democratic Republic and to secure to all its citizens : Justice, social, economic and political ;……." I want to ask him whether this is his sense of democracy to say "I refuse to consult the illiterate masses who have sent me here, who have given me the chance of representing the Province and which has given me the chance of assuming the reins of office as a Minister." Sir, all this is under the Constitution. We assure all its citizens social, economic and above all political justice. I would join issue with my hon. friend if he says that he has not assured political justice to the people of the country, because he refuses to consult them, the very electorate that have sent him here.

Dr. Ambedkar : Next time they won't elect me.

Shri Biswanath Das : It does not matter. You can stand by yourself. You do not need their vote and that is the reason why you find it an easy safety-valve.

Dr. Ambedkar : I care more for the Code than for my election.

Shri Biswanath Das : I am not thinking of my election. I am thinking of my responsibility as an elected Member of this Parliament.

Dr. Ambedkar : It is one o'clock. Have you concluded ?

Shri Biswanath Das : I will continue in the afternoon.

The House then adjourned for Lunch till Half Past Two of the Clock.

The House re-assembled after Launch at Half Past Two of the Clock.

[MR. DEPUTY-SPEAKER *in the Chair*]

Shri Biswanath Das : Sir, in the course of my speech this morning, I was speaking how, in democratic countries, when important, legislations and questions have to be taken up and are being placed on the statute book, the party foresees the legislation, ...

Shri Ramraj Jajware (Bihar) **:** On a point of order, Sir. There is no Member on the Treasury Benches.

Mr. Deputy-Speaker : It is regrettable that there is nobody to represent Government. The Minister of Law has just come in.

Shri Biswanath Das : ... places its programme before the country in the form of a manifesto, then on the basis of that manifesto, elections take place, and the party gets a vote in favour of the principles for which it stands. I claim that nothing of that kind is possible in an indirectly elected legislature as the present Parliament is. None-the-less, we have an electorate. That electorate is an enlightened electorate. Neither the Hon. the Law Minister nor his friends in this House or outside this House could say that the electorate to which we have the honour to belong is not enlightened. They are no other than the Members of the State legislatures. I claim that Government and the Law Minister should have taken necessary steps in this regard to consult the State Legislative Assemblies on this important legislation by requesting them to have their say in the matter, which would have given an opportunity to the country to speak itself. At the same time, it would have made the passage of this legislation easy and convenient: easy because with the command given by our electorate, it would not have been possible for the hon. Members of this House to oppose this legislation without resigning their seats ; convenient because no one would have had the audacity to say, "I differ from this legislation and yet I continue to be a Member of the House". No one could have it both ways. No one could afford to be a Member of the House and refuse to carry out the mandate of the electorate. Therefore I claim -that the Hon. the Law Minister as also Government have failed in

this important respect, which was and is still open to them. I agree with the Hon. Law Minister, though differing from him that this legislation is urgent, and immediate to be passed in this Parliament.

By all means do not take recourse to a plebiscite ; but the time is still there to make a reference to the State legislatures. After all, we are not going to pass this Bill in this Budget session. I may, in this connection, state that I for myself doubt the sincerity of Government regarding the need for passage of this Bill.

Several Hon. Members : No, no.

Shri Biswanath Das : My hon. friends who are anxious may say, no, no. I have a right to put forward my point of view in presenting my case before the Members of Parliament. If they were really anxious, it would not have come before this House for discussion for three days. What is the meaning behind it ? I must frankly confess that I am unable to understand how in a legislation of this nature, in respect of which there are wide differences among us and protests all over the country, the Law Minister or the Cabinet expects that these could be solved and the Bill could be placed on the statute book within three days as my hon. friend Mr. B. Das was claiming. I refuse to live in a fool's paradise. A legislation of this nature, unless it is to be pursued through a party mandate, has to continue from day to day and each person being allowed to have his say in the matter and try to place his points, if possible, for the acceptance of the House. Under these circumstances, I very much doubt the wisdom of the Hon. Law Minister in allotting three days, and that in this Budget session when you have not only to pass the Railway Budget, and the General Budget, but have also forty or fifty important Bills that are pending. Government say that they are hard-pressed for money. The newspapers announce that fresh taxation is awaited. I do not know how far that is correct. If there is any speck of truth in that, I have a right to ask the hon. Members on the Treasury Benches as to what they have done regarding the passage of the Estate Duty Bill which is hanging fire for the last. one and a half years. I claim that first things should come first. What is the problem that you have solved up till now ? You have solved no problem ; but you have succeeded in creating problems. I believe, therefore, that Government, or at least the Law Minister is not anxious, nor is he very alert to see that this legislation is passed into law. If they were so, a special sitting, that was promised by the Leader of the House should have been conveyed, or a special session could be convened to discuss the Bill thoroughly and pass it into law.

Sir, you will pardon me if I say that the Hon. Law Minister would not have dealt with the House in the way he is proposing to do, hurling insults upon individual Members of the House if it were not for the declaration of the hon. the Leader of the House that he stands or falls with this Code.

Shri Syamnandan Sahaya : Forget that. That is not the position now.

Shri Biswanath Das : I am not speaking to the Members : I am speaking to you, Sir. I will be happy if the Members will leave me alone, though I very much like and appreciate their help.

Therefore, I claim that the Hon. Law Minister has not been fair to the hon. Members of this House.

Then, I come to the second assertion that he made and that is the declaration that there is lack of commonsense in those who demand a common code for India. Why ? I should have been glad to be favoured with reasons for an insult which I claim is not merited. He said not only that but he proceeded further and said that he could present a Civil Code in two days.

Dr. Ambedkar : Yes.

Shri Biswanath Das : Then by all means, let him do so. We have been waiting for it for the last so many months. If it is possible to let us have a common Civil Code in two days, by all means let us have it. Let him then favour us with it.

Dr. Ambedkar : That will do, Mr. Das. You will exhaust yourselves. Conserve your energy. You are not in best of health, I find.

Shri Biswanath Das : I take note of the advice tendered by my, hon. friend.

I do confess that the caste system will do no good to India, that the sooner it goes the better. I cannot think of a society living on the *Bhat Handi* system, on a system which says that if anyone touches my pot of *Bhat* or cooked rice, or my roti, caste is violated, because he does not belong to my caste. That is harmful. Let us do away with that system. The sooner we do that the better. At the same time, do I not realise that my ancestors, my forefathers have founded a system much nobler and much higher than the *Bhat Handi* system ?

चातुवर्ण्य मया सृष्ट गुणकर्म स्वभावशः

I created the four Varnas (i.e., fourfold castes) according to the *Gunas* (i.e., qualities), *Karmas* (i.e., action) and the *svabhavas* (i.e., natures)

Have the frame-work on the lines laid down in the Gita—that will be acceptable to all. Instead, what does my hon. friend do ? Instead of taking me upwards he takes me downwards. I could agree to go with him upwards, but.....

Shri J. R. Kapoor : To heaven and not to hell.

Shri Biswanath Das : To heaven or mid-heaven, but I refuse to go with him downwards.

Dr. Ambedkar : You do not know how to choose your friends.

Shri Biswanath Das : I am glad I have committed that blunder.

Well, a common Code is not unknown. In Portuguese India you have it to-day. There are Hindus living in Portuguese India. Why not have it in India which is far more advanced than Portuguese India ? And if it is so easy to have a common Civil Code as my hon. friend says it is, let him come forward with it, and he will find at least some of those who are now against him will be with him. But, in respect of this Hindu Code, we cannot and we will never agree to go along with him. You cannot touch Muslim society, because then it will be the cry of religion being in danger. You cannot touch Christian society, then also it will be a question of religion being in danger. But you can kick Hindu society and have your new experiments propagated in that society with ruthless uniformity. We cannot agree. Being a man of sixty, I cannot agree with my hon. friend in his constitution of a society based on rationalism. In our country there had been eternal strife between spiritualism and rationality, and in that fight it is spiritualism that has come out and rationalism has gone down, and the rationalists were branded *Nastikas* and the spiritualists as *Astikas*. I refuse to be *Nastik*. The form of society that the Hon. Minister proposes through his Hindu Code is nothing short of a society for which agitation was carried on in India in days of yore, and the country as a whole rejected it and the country today I make bold to say, will reject and is bound to reject it. If my hon. friend refuses to leave it for option, it is because of his apprehension that society will not go with him. If he is afraid of a plebiscite it is because of his apprehension that he cannot carry the country with him. If he is afraid of any other legislature but a packed Parliament in an indirectly elected legislature, it is because of his apprehension that so bitter a pill as this cannot be swallowed by any other. It is these apprehensions that make the hon. Minister and those of his way of thinking to rush the measure through this Legislature. Because my leader the Hon.

the Prime Minister stated that he stands or falls by this Code, and though that statement was made without the concurrence of the party, we have to stand by him. And we do stand by him, and I appeal to him and I do so through the Hon. Minister of Law.....

Dr. Ambedkar : A bad medium.

Shri Syamnandan Sahaya : But that is the only medium left.

Shri Biswanath Das : If it is a bad medium, I leave it and I would appeal to you, Sir, for that is the only medium left to me now.

Mr. Deputy-Speaker : This medium is colourless.

Shri Biswanath Das : I appeal to him to eleminate the most controversial items in the Code so that there may be an easy passage. I have already stated, and I repeat it, that we cannot agree to this Code, and so far as I am concerned, even on my death-bed I will record my protest and say "no" to any attempt to constitute Hindu society on a rationalistic basis, as is being proposed in this Bill.

My hon. friend said that he was only making the legislation easy. As a student I knew, and most of my friends here also know that we were accustomed to read not text-books but "made easies". Some of the professors of the Calcutta university used to make a lot of money by bringing out such "made easies" editions. And I know the terrible trouble that the students had to take because of this. Hon. Members will find reference in the Calcutta University Commission's Report— I think it is the Sadler Commission's Report—to the system of cramming. It is called the "crammig system" and I refuse to follow that cramming system in Hindu Code ; and I implore my hon. friend not to think of constituting any society—leave alone Hindu society—on the basis of—I have no other expression by which to call it—of cramming.

To give an illustration from ordinary life there are among *Vaidyas* both learned and quacks. The learned *vaidya* never takes to *rasa* or *pashan:* they dread them. But a quack throws open his *batua* and immediately treats you with *rasa* and *pashan,* such as mercury and arsenic. I refuse to have this arsenic treatment from my hon. friend and I would beg of him not to apply the treatment to a society which has lived thousands of years with harmony. Looking at the history of the world you will see that the Hindu family or the Hindu home is the only happy home you find. There may be difficulties in some cases, they are bound to arise in a society of 30 crores of people. But the fact remains that you do not have here the horrible and tragic

incidents that mar the social life of the West. I do not say that our society does not want changes, it does. Have changes by revolution or evolution as you like but let proper consideration be given to them before you launch on a legislation of this character.

While talking of marriage under this Code, my hon. friend from Bihar, who is a jurist of eminence, stated that in marriage, the husband and wife are partners. I join issue with him on that. The Bill does not make them partners. If they were partners I would have little difficulty in accepting it. But the Law Minister is bringing contractual relations, thereby doing away with the sanctity of marriages enjoined by *samskara*. He is introducing contractual relationship of the Western type into our society and enforcing it in all its rigidity by means of registration. Are you going to have legislation for 'haves' or 'have nots'? If you want to have legislation for 'haves' by all means have it with all your pleaders, vakils *advocates,* etc.....

Shri Syamnandan Sahaya : 'haves' do you mean those who have wives ?

Shri Biswanath Das : I am not concerned with them. You go to the mofussil. India lives in its villages and Indian life is village life. Barring the few upper class people, the rest of the people celebrate their marriages for ten, 15 or even less in some cases. You are now going to have registration departments with all their formalities, making it more expensive.

I want to know from my hon. friend whether he has calculated what the expense under this head is going to be to the State. I record my strongest caveat in this regard against the Bills that have been thrust upon this House without any calculation of the expenditure that a Bill entails on State Treasury in its operation. I was a member of the old legislative council and I know that under the Devolution Rules it was a part of the business of the then irresponsible Government to calculate the financial implications of each Bill. I have a claim to ask my hon. friend to give us the financial implications of a Bill of this important nature and the expenditure it will involve on the State treasury.

[MR. SPEAKER *in the Chair*]

You are going to have your cases mostly decided by the district court, which means a higher court than the Munsiff's court. As a member I am being called upon to give my assent to this Bill. I have a right to know what is the money that I have to spend under each

of the items. You are going to open registration department. You are going to have special marriage courts. I have a right to know what? you are spending now and what you propose to spend hereafter. It seems to me that the expense that the State would have to incur under this head would be unimaginable. Think of a population of 33 crores. You can laugh.....

Mr. Speaker : The hon. Member may address the Chair.

Shri Biswanath Das : I am sorry, Sir. The Hon. Law Minister may laugh or others may laugh. I do not worry. But I claim that Government have the responsibility to place a working sheet before the House to show what they would have to spend to give effect to the various provisions of the Bill as used to be done by former Governments. Taking one per cent of the total population as people resorting to courts your country will be flooded with courts and registration departments.

Mr. Speaker : May I point out that we are at present discussing clause 2 of the Bill which refers to the application of the Code. The point that the hon. Member seems to make relates to the cost to be incurred in the administration of the provisions of the Code. Could that not more appropriately be taken up when we consider the question of marriages ? In the clause where it is provided that marriages shall be registered this question will arise. This is not the stage of a general discussion of the entire Bill. We are at present at the clause by clause stage. Therefore, instead of interfering with the hon. Member's speech now and then, I would request him to reserve his remarks till we come to the clause which provides for compulsory registration of marriages.

Shri Biswanath Das : Sir, I thank you for the guidance you have given me, which I bear in mind. But I have also to make my submission in this regard. There are amendments to clause 2 to the effect that State legislatures may be given the option to give effect to the provisions of the Bill after it is passed into law. Therefore I submit the question of finance comes in prominently in various States. You have been good enough to refer to marriage. But it is not about marriage that you have to spend money.....

Mr. Speaker : I referred to marriage because the hon. Member was referring to it. It was only by way of illustration that I referred to it. The State Governments would be required to give effect only in case the amendment is carried. But assuming

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that that amendment is accepted, still effect will be given only to such provisions as are ultimately accepted by the House. So when we come to any provision which involves expenditure then it will be competent for the hon. member to advance that argument—not at this stage. That is what I was pointing out.

Shri Biswanath Das : Thank you very much, Sir. I would not go further into it.

Shri Syamnandan Sahaya : May I make a submission, Sir, in this connection ? Under our new rules every legislation which involves any expenditure has to be presented to this House accompanied by an estimate of such expenditure. Therefore, perhaps my hon. friend was referring to those rules.....

Mr. Speaker : There is nothing to be further discussed about it. It does not affect the point of relevancy. But I believe this Bill was introduced long before rule came into force.

Dr. Ambedkar : Yes, Sir. And I can tell my friend that this Bill is going to be a revenue-paying measure.

Mr. Speaker : That is another matter. We are not concerned with it.

Shri Biswanath Das : My hon. friend says that this will be a revenue-paying measure.....

Mr. Speaker : We need not go into that now.

Shri Biswanath Das : Well my hon. friend claims the passage of this Bill and especially of this clause on the score that this is progressive. If it is so, I have no objection. If he convinces me that the legislation that he has adumbrated is progressive, I will certainly go with him. But I feel that it is as reactionary in certain respects as anyone could think of. I would in this connection invite my hon. friend's attention to the Child Marriage Restrained Act, an Act which has been in existence for the last twenty years or more and is a dead letter.

Several Hon. Members : No, no.

Mr. Speaker : Let him proceed. That is his opinion.

Dr. Ambedkar : His wrong opinion.

Shri Biswanath Das : I will be glad if it is really "no" but my experience is otherwise. But what has my hon. friend the Law Minister done ? Whether the Child Marriage Restraint Act is dead or is alive, what has my hon. friend done with his show of progressiveness ? He has kept up and carried on the same age of marriage of 18. Why

should you have the age of 18? I cannot see why he is so much enamoured of this 18. A boy to be put to married life and conjugal bliss in his eighteenth year is a thing unimaginable. I cannot think of it. I would appeal to him to consult his advisers of public health and ask whether such a course is desirable. Extend it to twenty or twenty-one years. If you really claim to be progressive, extend it. If you want to restrict, let the restriction be on justifiable grounds which will be for the well-being of the greatest number. That is why I claim that in certain respects the Bill is not at all progressive. In fact in ordinary instance you will not find people taking to married life at eighteen. Very few people do it. Therefore, the age limits of 18 and 16 that you have fixed in the Bill to me look retrograde from the national point of view. *(Interruption).*

Mr. Speaker : I must be very clear on this point that interruptions not only prolong the speeches but they add to the irrelevancies of the debate. I was again going to remind the hon. Member who is on his legs that he is going into questions which do not form the subject-matter of clause 2 or any of the amendments. He is now going into the age of marriage as if this is a general discussion on the Bill. I do not propose to allow any irrelevant discussion. We are taking the Bill clause by clause now; let us be strictly within the relevant scope of the clause. Otherwise we will never see the end of this legislation. I am not keen that it should be passed—it may be passed, it may not be passed—but at any rate I am keen to see that the debate on the clauses proceeds within the limits of relevancy and we go clause by clause to the end of the consideration. That is my point. I am not concerned one way or another. Therefore, the hon. Member will confine his remarks strictly to the provisions of clause 2 and the amendments thereto.

Shri Biswanath Das : Sir, I am very thankful to you but my reference was necessitated by the fact that my Hon. Friend the Law Minister claimed in the course of his speech that his legislation is a progressive one. Therefore, I was forced to say that it is not,

I have stated that the Code is intended for the "have-nots" and I have explained it. My objection to the clause is that the provisio to clause 2 is unnecessary and redundant. Unnecessary because it creates new complications and redundant because if anything is added without real necessity to the structure of the clause it creates further complications. Therefore, in any legislation such a redundancy is always given up.

I fail to see why sub-clause (4) is being retained. I don't mind the daughter having more than the son or the son getting more than the daughter. Let it be a matter between the daughter and the son. I for myself would not hesitate to accept Marumakkattayam law instead of accepting division of the family property into bits. That being so, if my hon. friend would propose to give all the property to the daughter I would not object. Let the women have it. In fact, in Malabar, the women are by inheritance having almost all the property. Therefore, you may do that or you can give the daughters and the sons equal rights : this is not a matter with which I am very much concerned. Speaking for myself. I have no daughter to claim any share from me, but I feel for the daughters in general. Now, if you add to the share that the daughter gets from her father's house by sub-clause (4), it means that you add to the financial possibilities of the women. She gets her *stridhan,* her share of the property and also special facilities as provided in the Special Marriages Act of 1872. Therefore, the continuance of sub-clause (4) is, I think, unnecessary also, I believe, unwarranted.

I feel that the time has come when something has to be done to change the social structures of India. That some has to be done with the concurrence of the people and the thinking sections of the society. Therefore, I appeal to the Treasury Benches and to you to see that Government remove the objectionable features of clause 2 as also of the Bill, so that the Bill will have a smooth passage.

***Shri M. A. Ayyangar :** At no stage of the Bill hitherto have I had the good fortune to take part in the debate. You, Sir, were absent in the earlier stages and I had to take the chair. I have always tried to keep my opinions to myself, but the time has come when I should express my opinion regarding this matter. Let me first of all declare to the House and to the hon. the sponsor of this Bill that I am not wedded to whatever is ancient merely because it is ancient nor opposed to whatever is new simply because it is new. Merely because something is old, let us not cling to it; nor decry something that is new because it is new. It is up to us, as wise men, to consider both the pros and cons and accept what is good and reject what is bad. I shall try therefore quite dispassionately to go through some of the points that have been urged. I shall not go over the ground and make this a speech on the second reading of the Bill, but whatever is relevant in general I shall address myself to.

* P.D., Vol. VIII, Part II, 7th February 1951, pp. 2517-31.

I shall, first of all, try to dispose of some of the amendments that have been placed before the House and the objections that have been raised in regard to them by the sponsor of this Bill. It is said in one of the amendments that because this bill has far reaching consequences it must be only an enabling measure, it is said that option should be given to any individual to declare that he will be governed by the provisions of this Bill from the date of registration or declaration to this effect. The Hon. the Law Minister said that down from the earliest times when legislation was embarked upon in this country by the Britishers, there has been no precedent whatever for a measure being passed and option being given to any individual or class to accept or reject that measure by declaration. I am afraid his memory is too short. Now, let us take the Cutchi Memons Act of 1920. Indians who got converted to Islam were very often governed by the Hindu law, the law in which they were born. So the Cutchi memons had the joint family law and they also made adoptions among themselves. But later on it was urged by some reformers that the Shariat, i.e. the law of Islam, should apply to all persons embracing Islam. Islam has its own code of laws regulating inheritance, marriage, succession, divorce etc. The Hindu faith has attached to it its own law made by the *smrithikaras* relating to the same items which are also regulated by the Islamic law. For those persons who got converted to Islam, an enabling provision was made in this Act whereby any Cutchi Memon who wanted to adopt the Hindu law could by declaration before a prescribed authority do so; he could either ask to be governed by the Hindu law or by the customary law which prevailed before his conversion.

Shri Raj Bahadur : That was a very special case.

Shri M. A. Ayyangar : I would refer to a general case also. My friend should be a little patient. Under the Cutchi Memons Act, as amended in 1923, there are the following provisions :—

"Any person who satisfies the prescribed authority—

(a) that he is a Cutchi Memon and is the person whom he represents himself to be;

(b) that he is competent to contract within the meaning of section 11 of the Indian Contract Act, 1872; and

(c) that he is resident in British India

may be declaration in the prescribed form and filed before the prescribed authority declare that he desires to obtain the benefit of this Act, and

thereafter the declarant and all his minor children and their descendants shall in matters of succession and inheritance be governed by the Muhammadan law,"

Now, the argument of my hon. friend Shri Raj Bahadur cuts his own case, because this was not a law intended for the whole of India but was a law specially to safeguard the interests of a particular community. This section is an enabling provision. Cutchi Memons are not the only Musalmans in this country. The majority of Musalmans far outweigh the Cutchi Memons. When 99.9 recurring per cent, of Muslims follow the Shariat, why should a special provision be made for the Cutchi Memons? Therefore, this interjection from my hon. friend, far from helping him, helps the other side. Even if there is one instance, it is enough. Now, is it possible for you to enforce Buddhism on me or for me to impose Hinduism on another man? This Jaw of inheritance, marriage, succession etc. is based upon the same tenets. But if a person who got himself converted wanted to be governed by the ancient law which prevailed before his conversion, he was given an option to change over to the other law. Though he got himself converted, he had to convert himself voluntarily to the new legal institutions, changing one from the other. There was no coercion whatever. But without the suggested amendment, this Bill will be a piece of legislation which is of a coercive nature, bringing various other persons into its fold. So far as Hindus are concerned, if you want to marry out of the ancient law, there is the Civil Marriage Act. It was originally intended to apply to persons who had to declare that they were neither Hindus nor Christians nor Jains nor Parsis. Later on, it was changed. No two Christians could marry unless they disavow their religion. No two Muslims could marry unless they disavow their religion under the Civil Marriage Act. But we are always progressive. We are selfdenying. We are all-embracing even to the point of self-destruction. We have amended this Act by saying that Hindus need not disavow their religion. Hindus, however they are married, may adopt the Civil Marriage Act.That is what we have done. What more is necessary ? Now you want to convert those people who follow the ancient law at the point of the byonet to your way of thinking. Why do you want me to change my religion? I have already quoted an instance where a special piece of legislation was made for the Cutchi Memons, a microscopic minority. It is because Dr. Ambedkar feels that a majority of us are archaic—to use the mildest word—that he

has brought forward this piece of legislation. It won't be wrong for me to say that he is still finding it difficult at the age of sixty to know to what faith he has to belong. But he is asking me to decide overnight that I should change. If I may raise my voice-let me not be misunderstood—I am as fit to be in the society as other members can claim to be. I am not ashamed of my religion. I am speaking not only to the men and women in this country but also to the outside world, that we have everything to be proud of the tenets by which we are governed and proud of the law that our ancients gave us. If only the other nations of the world followed our religion and the principles we have adumbrated there, there won't be these constant wars and all would be peace and peaceful. We are always accustomed to adopt things which are found wanting in the western countries. A motor car which has been discarded in Europe becomes a model of a car here; an institution which has been discarded in the west becomes a model in our country.

In 1937 we passed a law in this House that in the case of converts to Islam, their customary law according to Hindu system would prevail in regard to adoption etc. Similarly, in the South the Moplahs of Malabar had adopted certain of the Hindu customs, though they were Muslims. It is not even a question of adoption : they were born with such customs. Therefore, they followed one rule so far as their inheritance and succession was concerned and another rule so far as their faith was concerned. We passed in 1937 what was known as the Shariat Law. This is for all India and all Muslims. Section 3 of the Shariat Act says :

> (1) any person who satisfies the prescribed authority-(a) that he is a Muslim, (b) that he is competent to contract within the meaning of section 11 of the Indian Contract Act (IX of 1872), (c) that he is a resident of British India—may by declaration in prescribed form and filed before prescribed authority declare that he desires to obtain benefit of this Act and thereafter provisions of section 2 shall apply to the declarant and all his minor children and their descendants as if in addition to matters enumerated therein, adoption, wills and legacies were also specified.

Therefore, there is absolutely nothing novel in my hon. friend Shri Jaspat Roy's amendment. This is a measure which ought to be accepted cautiously. A majority of the community do not want this, and not only do they not want it, but also they are able to take care of themselves. Is this House particularly under the leadership of my hon. friend, entitled

to tell and advise people outside that what they are following is wrong and that they should change their method ? I am not basing my argument on the ground that this Parliament is not entitled to do that, though my personal view is that this Parliament cannot enact legislation in the way it was doing during the British days. We are now guided by a written Constitution. My own personal impression is that the personal matters of an individual, and the practice by which he is governed so far as his marital relationship is concerned are governed by his fundamental rights and should not be touched by anybody. So long as the practice which I follow and the procedure I adopt in regard to marriage is not opposed to public morality and is not obnoxious, or indecent, it is my own business and nobody has any right to interfere with it. Therefore, we have to go slow in this matter.

So far as the progressive elements are concerned, we have made a number of enactments now. The Hindu Widow Remarriage Acts are there. My hon. friend referred to the Child Marriage Restraint Act. True, it has put down child marriages. But it has put down marriages also. Everywhere a new problem has arisen : there are armies of unmarried girls today, there will be no dearth of girls if only you want to enlist them in the army as nurses or doctors. This is a new problem that you have created—have you heard of it before ? Our friends, including Pandit Thakur Das Bhargava, cried hoarse, that by early marriage girls became widows. But is there any guarantee that a man will continue to live, the moment he marries a girl of fifteen. I do not think God in his wisdom has arranged that a man marrying a girl of fifteen will live long, and that a man marrying a girl less than fifteen would die early. Therefore nobody can stand guarantee on this matter. It is a question of balancing the convenience.

We have not heard of any marriage except in the human kingdom. Animals don't marry ; there is no law of divorce among them ; they don't have family life. It is only with respect to human beings that the institution of marriage is prescribed as one of the *purusharthas* with a view to avoid inconvenience. As the Maharshi said, of the four *purusharthas,* the three, that is *Moksha,* the other word dharma, maintenance of society, and artha, politics or economics, depend upon a happy family life. This is one thing on which all our ancients laid emphasis, whereas in the Western society individualism has been all along in *excelsis.* Here family is the unit of our society. I do not mean to say that any human institution is so perfect as to obviate

any inconvenience. So far as our marriage laws are concerned, no woman remains unmarried unless she chooses to remain a *sanyasin*. A Sanskrit *sloka* says that no woman is entitled to freedom. But it has been mis-understood. A woman is not born twenty five years old. She is born out of a mother's womb, has to become an adult, marry and become old also. Both of them, whether a man or a woman, when they are in their teens are minors, have to be under the guiding hand of some other person. So long as the girl remains a minor the father has to maintain her. When she becomes old, is there any better person to look after her than her son ? Therefore at the dawn of life as well as at the close of life both man and woman depend upon the father or the son respectively. The only question is during converture. If God has created both man and woman, either the woman should go and live with the man or the man has to go and live with the woman. In a happy marriage the woman must live with the husband or the man must live with the wife. Is there a middle course ? I ask Dr. Ambedkar (*An hon. Member:* they live together). Yes, both of them live together. That is what I am saying. Therefore either the man's voice dominates in the House, or the woman's. Let us assume there is a difference. If the man's voice prevails there is no trouble. Or the man must get himself submerged in which case also there is no trouble. But if there is a difference between the man and the wife as to whom the girl should be given, when is the marriage to be celebrated ? I am only thinking aloud of the inconveniences. It is not as if man produces sons and woman produces daughters. In all seriousness I am addresing this House. What I am submitting to the House is this. Some people have misunderstood, merely because some of our sisters are going about with regard to their share and their sufferings—on account of the experiences that they possibly have had—and the corresponding chillness on the part of our friends here, that it is a woman's Code. It is something like a husband and wife quarreling "to whom does this child belong ? "It is not either to the one or to the other. Therefore, If this Code emerges, it will belong both to the men and women of this country. Let us therefore look at it dispassionately.

We have been brought up for three thousand years in a particular institution. I will presently quote a number of jurists who came from the West and who were attracted by the institutions that prevailed here. Some, of them even become converts and Max Muller created an *ashram* also. You have their opinions. They have compared their

own institution with that which was prevailing in this country. They wanted to be converted but for their social habits and customs which weighed strongly with them. As they got enamoured of our institutions we are also now getting enamoured of their ways.

Let us examine whether it is useful or not. Let us see what the authors, the Members of the Hindu Law Committee said. Mr. Rau himself said that this is a concurrent subject and as regards such of the chapters the Provinces may be left some voice as to whether this portion should be applied to this community or not. The territory to which it should be applied, whether it should be enacted at the present time or should be postponed all these are matters which any reformer, the sponsor of the Bill including, ought to take into consideration, so that there may be no impression let in the mind of any person that his conscience or religious faith or scruples have been trodden over. We have to gradually take people along. It is not as if we are declaring a war on Hindu religion. It is not an immediate question like deciding whether we should join America or not in declaring China as an aggressor. Here and there an inconvenience might have been felt by some people. I am asking this House, though you, Sir, to see the balance of convenience. It is not as if any human institution is perfect.

Without going into details, taking the question of marriage, it is a proved fact that till the Sarda Act came into being, the majority of our women—99 per cent of them—were married. Do you want to say, let women remain unmarried, let men remain unmarried, let there be children who have no parents—like forty thousand war babies to be taken care of by others ? Is it right for you to do so in our country ? You will be creating a new problem. Is it right ? So far either the man had to obey the voice of the woman or the woman had to subordinate her voice. Otherwise where is the house and the household ? That is exactly why the woman is not under the law. The modern woman who is educated in a foreign system, who has lost moorings in her own faith, wants that she should inherit the property of her father and not her husband. She is indifferent. She wants to have the money in her pocket and feel "Why should I be subordinate to a man ?" I know the difficulty in every household but if I am saying these things I am saying so with experience. Girls refuse to marry now because they feel "Why should I subordinate myself to a man ? Give me a portion of the property". Does my daughter expect me to live perpetually ? It is not money alone that makes for happiness.

Suppose there is a rich man and his daughter inherits his property. When she is married does it prevent the other man to belabour her and to beat her ? What prevents him from doing that ? Many people speak supporting this Code. I am not referring to Members of Parliament—they know everything. I am only suggesting what many people outside are saying. Today under the Hindu Law the girl is not absolutely taboo. If a man dies leaving no children behind, the widow inherits the entire property. Apart from Deshmukh's Act, under the ancient Hindu Law she is the heir of all the property of the husband in cases where there are no children. Secondly, if there is a daughter and the mother predeceases the father and there are no other children, she becomes the heir to the entire property. There is absolutely no difficulty. What is sought to be done here is that simultaneouly with the son the girl also must have a share. The responsibility of maintaining the household is that of the boy. We are not rich millionares. The *zamindars* have also been liquidated. *Rajahs* have gone. Only the middle class people are there. I am addressing myself only to them. There are the poorest people where both the husband and wife eke out their living by working as coolies. And what happens to the majority of middle class people ? The husband may be working as a clerk getting Rs. 100 or Rs. 200 a month. He educates his boy and expects that when he comes of the age of 21 or 25 he would take charge of the family at a time when he is himself fifty of fifty-five. When he retires there are a number of children to be taken care of. The property that he has accumulated is so small. I know in my part of the country persons who have any holdings over five crores are only ten or five per cent, of the entire persons holding land. Land is the wealth in our country. There may be a few industrialists in Bombay and a few in Ahmedabad. But generally people have neither industry nor land. The only industry for a middle class man is to become a clerk and earn some money, and by the sweat of his labour he earns it. The responsibility of looking after the family is thrown upon that boy. He may get a small land or a thatched house as patrimony. The society expects him to take charge of his younger brothers and sisters and also to maintain the old parents. When the Britishers were ruling us the officials in the Railway Department, station-masters and others, used to get passes sometimes in the year to go round. The pass is for the family. I am sorry to note that the same practice is still continuing as regards the description of the family, namely that the family means himself, his wife and children. What about the old parents ? This may

be in consonance with the western system where as soon as the boy comes of age he marries and goes away. The girl also marries and goes away. The old people have to be looking at each other's face ! Do we want that kind of animal life in our country ? I have no quarrel with the rest. It is a misfortune that the individualism is in *excelsis*. The husband and the wife are one unit and they ought to protect the old people. Our joint family system was brought about by our ancients many years ago and that is a natural unit and there the father, mother, the son and grandson all of them go together. I say that this is a happy unit where unemployment never existed. People who talk of socialism and communism pay lip sympathy and I say that this tendency is the germ of Socialism. The husband in a particular family works for the maintenance of his own children on the one side and for the maintenance of the older people on the other side.

In Madras after this marriage-divorce law was passed 38 applications were filed, *(interruption)* Boys alone can marry and no girl can marry a boy. Out of these 38 applications for divorce, 30 applications were filed only by the husbands.

The Deputy Minister of Food and Agriculture (Shri Tirumala Rao) : Are they from the middle-class ?

Shri M. A. Ayyangar : Most of them were from middle-classes, most of them were educated men, unfortunately in western style. As I said, the majority of the petitions were from husbands. I think there was only one case where a woman was said to be sterile. I would bring that under this Code. One other case was the husband, an educated lawyer and he is employed in Bombay. He gets Rs. 100 as salary. The girl is employed somewhere as a Doctor getting Rs. 400. The girl wants the husband and the husband wants the wife. The only pull was that the wife wants the husband to come and live with her and the husband wants the wife to come and live with him. After marriage this trouble has been going on between the husaband and wife for three years. The husband said : "How long am I to be without her company" and the Court found that it was a case of desertion by the girl and they dissolved this marriage. I ask all my sisters here present and others outside, in a widow re-marriage after the husband's death nobody knows whether the man has not touched the woman before her re-marriage. Even after this the widow-re-marriage has not progressed considerably. *(Interruption).* My friend says that what I say is a lecture. What my friend says is all truth. The Widow re-marriage Act was passed long ago but still it requires a lot of persuasion.

There was an hon. Member of the Assembly—he was a Member from Bengal—and he brought a single clause Bill which stated that no widower shall marry a spinster. His idea was that a widower may marry at least some widows and when some of our friends pooh-poohed the idea, he withdrew the Bill and said that he committed a mistake. When once a man has learnt that a woman has been divorced, would that woman be touched as a wife and married again as a wife ? I do not want the society to be disrupted in that manner to suit the few conveniences here and there of some individuals. There are difficulties but the other difficulty is far more appalling than this difficulty.

I was told this morning that some delegation is coming from Pakistan for the purpose of recovering abducted women. Have you ever heard of an 'abducted man' ? Nature has so made us that without the husband and the wife, there is no unity in this world. Even among the Patagonians the wife is as tall as the husband. In any other community the male is taller than the woman. Is it good if I talk like a woman with a squealish voice and a woman goes on talking like a man. Therefore I must be a man and a woman must be a woman. I see I am evoking laughter of my friends but I feel that God has made the best arrangement by creating a happy family in which the parents will be protected, the minor children will be protected. The affection is not as a result of wealth. Love and affection must flow of its own and it does not depend upon money at all. Most of us are poor and we marry and get a son and in our old age he takes charge of the management of the household and we feel that since we have discharged the responsibility to the aged parents, similarly he will maintain us in our old age. Sanction has the mighty force. That old law has much greater sanction than any other law which has prevailed so far for the last 3,000 years.

When I become a member of parliament you do not allow me to sit here unless I take the oath of allegiance, but so far as this marriage is concerned, I ask you all, are you to displace these old customs such as taking hold of a woman, taking her hand and placing her feet upon straw and saying that "our hearts are placed together like the Ganges and Jamuna" ? This is not such a drab affair. Is it for the purpose of conjugal facility that a man is marrying and a woman is marrying ? Our ancient scriptures enjoined it for the purpose of a happy married life and for the purpose of a good progeny. It is

not open to me to leave a legacy of blind, lame and dumb children to the rest of the community and ask them to take charge of them. Even among race-horses we talk of pedigree and for humanity alone any man can marry any woman and still expect the children to be perfect angles. The new marriage that is proposed will be like tying a race-horse to a lame donkey.

Jayaswal an able commentator of Hindu Law said that our ancients had big herds of cattle and they were also anxious to have first-class progeny so that they may take charge of the rest of the community. That is an honoured practice of our country. Hitler also wanted a good progeny for his country. Even Mussolini got a number of marriages celebrated in his country.

We say in or *Sastras : "Aputrasya gathirnashthi"; "Punnamno Narakadyasmath thrayathe pithatram suthah"*. That is, the son saves the father from the *Naraka* called *puth*. It is that sanction that has produced a lot of children in our country. Otherwise, we would have had to give a hundred pounds to every mother to get children. Are we to pooh-pooh this culture ? What makes me say all this is that it is unfortunate that the Chairman of the Rau Committee is a gentleman who did not marry according to the Hindu law, Many of the Members of the Select Committee were not married according to the Hindu Law ; some were bachelors who did not marry at all.

Shri Kesava Rao (Madras) **:** Who says that they were not married ?

Mr. Speaker : Order, order. I think we are having this discussion a little beyond scope.

Shri M. A. Ayyangar : I will come within the scope of the Bill.

Mr. Speaker : He has already taken more than 35 minutes ; I am afraid it is rather too long. He may be short and to the point.

Shri M. A. Ayyangar : I am only referring.....

Shri Thirumala Rao : The reference is too personal with regard to the personnel of the Committee.

Shri M. A. Ayyangar : After all, let it not be said outside that that is quality opinion ; it is only a question of personal opinion. I am as much aggrieved about this. Am I to bow down when it is said of the *Smritikartas that they had absolutely no business to go on changing the smritis ?* What else are we doing ? We are passing a law in the morning ; we are amending it in the afternoon. The *smritikartas* wanted to change the *smritis* according to the changed

circumstances. They are tabooed as archaic persons. If they have changed, they are equally condemned for having changed. Why are there so many *smritis* ? Each is addressed to particular branch of law. My point is this. The reverence that is due in a change of law of this magnitude is not there. We are looking at the question from a different point of view. I submit that by means of this legislation Hindu society is cut vertically, horizontally, diagonally, into bits and bits. You say, let a man say, "I do not belong to Hinduism". Even the wording "professing the Hindu religion" is obnoxious. Why do you call yourself a Hindu ? What is there in Hinduism ? There are certain things ; there is the doctrine of *Karma* which even the Buddha and the Jaina believed. The *Vedas* are not peculiar to me. I believe in the hoary antiquity of the *Vedas* as an inspired document. Do not the Muslims believe that there is *a Veda.* Even the Sikhs who belong to a reformist religion, worship a Book. Why should I be ashamed of my *Vedas* and of calling myself a Hindu ? Whether I am a *Brahmo samajin,* or arya Samajam or a *Vaishnav,* if I do not believe in the *Vedas,* I am not a Hindu.

Unfortunately, in this country, religion has entered into politics also. It is said that on account of these vicissitudes of castes and creeds, so many Muslims became converts. I ask, was there not one religion in China, Buddhism; was there not one religion in Indonesia, Buddhism ? Where is Buddhism in Indonesia today : Where is Buddhism in Malaya? Were not a number of people converted to Islam in China ? Again and again, wherever there is any difficulty you attack Hinduism and say that it is this ancient system that is responsible for all this. I say, the remedy is elsewhere. Apart from its disadvantages, it is the Hindu system of marriage and not allowing a divorce, of property not being dissipated by division amongst daughters also, who have no responsibility to maintain the family, etc., that has been the source of strength to the people. I would ask a simple question. If the daughter gets married, do you ask me to live with my son or my son-in-law ? It is said : "*Jamatha dasamo grahah" ,* the son-in-law is the tenth planet. I must be supported by somebody in my old age. Why not live with the son instead of the son-in-law ? What happens if you give a share to the daughter ? Of course, she will say, "Come and live with me". But, my fate will be that of King Lear. I am appealing to all mothers and sisters to anxiously and seriously consider the situation. Let them not be under the impression that I have not consulted my partner at home. We have deliberated for a long time.

In these circumstances, I say, let us go slowly. Whoever wants to have liberal views, let him have his own way of life. Incidentally, I may say that *sati* is opposed to morality ; that was rightly put down. You say this is an enabling provision. Why don't you say that a brother may marry a sister ? That would also be an enabling provision. Up to certain limits we can go ; beyond limits, we ought not to go. We should not allow incest. The question is whether the marriage should be beyond three degress or seven degrees. I have also read some books on genetics. New things are being discovered. They say there are three kinds of blood and that one does not agree with another. I have also read astrology in the old school. They say that before marriage you must consult the *Rajju, Sarpa,* and *Gana* agreement. This *Gana* seems to have been discovered by the westerners. The late Dr. Rabindranath Tagore was a great poet; but we recognised him as a great poet only after the westerners recognised him. Similarly we want somebody from the west to come and say that marriages should be only of a particular order and that the points in the old *smritis* are very good. I am a conservative in the sense that I do not want to leap before, I know that the other ground is steady and strong I would only urge upon this House to stick on to whatever has endured you for such a long time.

Before I finish, I would like to refer to one other aspect of the question, that is the *Marumakkattayam law*. They are all intellectuals ; practically in the Secretariat, every Secretary is a Menon, coming from Malabar. I am proud of them. They have got a different way of life. Ask them if they are more happy. Why don't you impose this law on them also ? Take the *Aliyasanthana* Law. You may think that it is opposed to all nature, where a man visits his wife and the wife remains in her .house, where the children are maintained by the mother and her brother, not by himself. To you it may appear strange. Natural affection is different. Would I embrace my sister's sons with more affection, then my own ? Well that is their law and we are allowing them to continue under this law. But, when my hon. friend Pandit Thakur Das Bhargava says that there are certain customs in the Punjab, you say that they should be thrown overboard because my hon. friend is not so vociferous. After all, it is a wrong principle of jurisprudence. Law does not go in advance of custom. It is a human institution. It is something like saying that grammer does not go in advance of language. A child learns to speak first and then comes in grammer. It is a wrong principle of jurisprudence to say that custom is a wrong

thing. It is said that a custom, to have the validity of a custom, must be ancient, must be moral, must be definite, etc. These are principles under which customs will be recognised in courts of law. I say it is wrong to say that, notwithstanding the validity of any established practice, we abrogate that because we have come to a different conclusion. What right have you to say so ? It is not that I am questioning the competence of this Parliament to go into this matter. I am only saying to my Hon. Friend, let him not force this law on the community. It may become a dead letter. Let the people come forward and ask for these reforms. I would like to have statistics as to how many persons have married under the Civil Marriages Act. We may call the people ignorant; after all, time will judge whether they are ignorant. Therefore, I would appeal to hon. Members not to jump before you are sure of the ground Let us have piece-meal legislations. We had the Widow Re-marriage Act. We had the Act to give women the power to inherit property. We had the Act to restrain child marriages and so on. Therefore, I say, let us wait and see. Let us go slow. Noting will be lost thereby. Nothing will be lost because we do not allow divorce. Allow it to those who want a divorce. Let those who have solemised their marriages under the civil authority, to jointly make a declaration that they will be governed by the Civil Marriage Act. If there is a volume of opinion against a measure, let us try to change that volume of opinion. Let hon. Members consider the question coolly and deliberately. Let us not displace the existing system merely because something is novel or strange so that you may go with the rest of the universe. We understand what is meant by Christianity. Germany is a Christian country, but were there no fightings in Germany ? Do not Christians fight with each other ? How can we say that because of castes and creeds in our country the nation went down to the Greeks ? Why give a platform and a point to every other man to abuse us ? We have progressed, and progressed considerably. In Switzerland, they say no woman has a vote. Then why not our women go there and ask them to demand votes ? There is no use giving a lurid picture of our society and of our women. Our women have produced Sitas and Savitris. They followed their husbands. Perhaps we have now to follow our wives. Let them write our *Puranas* and say that men should follow their wives, if that would bring domestic peace. To-day we are husband and wife. To-morrow I go to a cinema and see a woman well made

4 P.M.

up with powered face and all that. Am I to come home and beat my wife, just because she is not as pretty as the one I saw in the picture ? And the next day, am I to apply for a divorce ? No. Woman is the weaker sex. Perhaps they may quarrel with me for saying so. But you cannot get rid of these institutions unless you pray to God to have only women in the world or only men. These institutions are very necessary. They are necessary for the proper balancing of domestic life. They are necessary in the interest of economy in the interest of solidarity and in the interest of avoiding unemployment and in so many other interests. If the husband dies, there is the brother-in-law to take care of the widow. We have also the maintenance laws to give at least a temporary strength to the widow, to stand by herself. I am only opposing those ladies who want to take away a chunk of their father's property and leave the husband alone. May God save us from them and from having an army of unmarried women.

Shri T. N. Singh (Uttar Pradesh) **:** Sir, I have an amendment in my name.

Mr. Speaker : All those who have tabled amendments and others also will get a chance.

***Shri Raj Bahadur :** I have listened very patiently to the speeches of the hon. Members who have spoken before me, although I raised certain pertinent questions for them to throw light upon. [I find myself in complete agreement with the provisions of this Bill.] And my support is based not on any misplaced ethusiasm or the rashness of youth, but because I feel that this measure is necessary because of the exigencies of the moment and the situation created by the attainment of independence by our country. I feel that unless we have a measure of this kind and keep peace with the times, we are bound to fail.

It is well known that perhaps during the last three years no other Bill or legislative measure has provoked so much controversy as the Hindu Code Bill, and passion, prejudice, sentiment and superstition have all come in to cloud our judgments. It is a little difficult in an atmosphere so surcharged with superstiton and suspicion for the country and also for this House to come to a balanced conclusion, a balanced judgment on the merits and demerits of the Bill.

The critics of the measure can be divided into three categories. First of all there are the people who like the Hon. Deputy-Speaker genuinely and sincerely feel that we are definitely marching ahead

* P.D., Vol. VIII. Part II, 7th February 1951, pp. 2532-36.

of the time and the adoption of a measure of this kind would do us harm, that it would harm Hindu society which would be irreparable. Then there are others who day in and day out criticise those who are responsible for this measure, and to them what matters is not what is being said, but who says it. These people have clouded the judgments of the masses also. It is well known that our masses are ignorant and they are tossed violently between these two extremes. It is also well known that when a country attains Independence, there is a natural desire felt by the people to have uniform laws and to codify their existing laws. This has synchronised with national awakening. This is not the first time that such a desire has been expressed by the Indian people, through their representatives in the Legislature. As early as 1921 there was a resolution to that effect by a Member from the Central Provinces. Shri K. J. Bagde and Sir Tej Bahadur Sapru was the then Law Member. The resolution was to the effect that all the various branches of the Hindu Law as then existing should be properly codified. From time to time this question was also raised in the Central Legislature and I find that as eminent a person as Shri Ganganath Jha has put a question on the floor of the House asking when the codification of Hindu Law would take place. We may note that that was also a period of national awakening and this desire to codify the law was being voiced at that time.

The option has been expressed that this Code should be made applicable to non-Hindus also, to Christians and Muslims and others also that there should be a common Civil Code. Articles in the Constitution have been referred to and it has been said that this Code violates some of those articles. But I am sure when the Civil Code comes up for consideration, these very same persons would come forward to say that this Civil Code violates article 44 which guarantees the liberty of thought or religion. That will be the objection raised, of that I have no doubt in my mind. The demand for a Civil Code, seems to be bogus and without any meaning.

If we apply our minds to the present condition of Hindu society we will find that there are various differences and divisions in various matters, in the matter of marriage, of adoption, of succession and soon. It is impossible for the country to make any progress unless there is some codification of these various laws. So far as other sections of society are concerned they have this in some measure. For instance, Christian and Muslim women have some rights and privileges which.

are sought to be given to Hindu women by this Code. Christian and Muslim women are now entitled in some measure to the right of inheritance. In the case of Muslim women, divorce is also obtainable to them.

An Hon. Member : No.

Shri Tyagi : It is not a right but a liability.

Shri Raj Bahadur : You may call it a liability but I would request you to apply your mind to the provisions of the Bill. There are many instances where a Hindu has deserted his wife for more than five years. Hindus have changed their religion and there are instances where Hindus keep other women while their first spouse is living. In such cases of immorality will you not come out with your galantry or chivalry and allow divorce to such miserable Hindu sisters ? The right has been given to a Hindu male to marry four or five times. If the sanctity of marriage is there it should be for both man and woman. If a woman is expected to be pure, chaste and faithful to the husband, is it not for the man also to bind himself by the same obligation ? Why should it be one-sided. If we say that man is God's favourite creature, it will not help our society or country in any way.

Let us look at it from another angle. In the present state of the world whenever there is a threat to the frontiers of a country and there is a war, it is not fought on the old lines. It is a total war. In the last great war while British men went to the trenches and the firing line, British women folk applied themselves to the various tasks of national responsibility. For example, they ran railways, worked on the buses and in ammunition factories. Unfortunately it is a fact that we regard woman as a liability, as something which is below ourselves. The common man's conception of a woman is that she is like the shoes on our feet. If they are torn we can throw them away and take a new pair.

An Hon. Member : Is that the conception in Rajasthan ?

Shri Raj Bahadur : That is so not only in Rajasthan but in most of our rural areas. It is so in high families also. It is time that we realise the bitter truth. It is time that we recognise it if we want to shoulder the responsibilities that have devolved upon us as a result of our independence. If we want to make our home and this country Bharat Varsh secure we should have to see that our women folk are brought on a par with man. It is not Westernism or Modernism but the exigencies of the moment that require it. You cannot face all the threats to your security as a nation unless you radically change our

attitude towards the women of our country. It is impossible to go ahead with the task of reorganisation of our country unless and until our women get the same status as man in our society and it is a patent fact that today that status is not granted to them. Unless and until the law that is there is codified and brought within the reach of the common man it will be impossible for our people to be unified.

May I in this connection refer in passing to the difficulties that we are experiencing today ? Our law has been what the British Judges in the Privy Council have interpreted till now. It is a well known fact that conflicting judgments exist on the same points. For example you can cite many contradictory rulings on either side. Apart from that the law as it exists today is only within the reach of experts, lawyers or judges and the common man does not know what the law is. Is it not good that by codifying the law and making it more rational by modifying it to the extent desirable, we may make the law within easy reach of the people ? Otherwise our progress towards unification and solidarity will be impossible.

The question before us is not whether we should codify. Even the bitterest opponents of codification have veered round to the opinion that codification is necessary. How far should we codify it, is the question. There are only three or four points which have aroused bitter controversy.....

An Hon. Member : This is not a general discussion.

Shri Raj Bahadur : It is a discussion on the points hon. Members have made that the whole Code should be made applicable to the entire nation.

Bitter controversy has raged firstly about divorce and marriage laws and secondly about inheritance. I will confine myself to these two important points. I would say that the provisions of the Bill and the latest amendments proposed by the Hon. Law Minister may be modified to a certain extent, if we find that we cannot go whole hog. But so far as the basic principle of divorce is concerned we shall have to recognise it.

I might give you an example. If a man happens to convert himself to Islam or any other religion, at the present time his wife and children are also compelled to do so. Is it not necessary that at least in such cases our women folk should be allowed to remain within the Hindu fold ? Can anybody object in principle to divorce being allowed in such cases ?

So far as inheritance is concerned I am not in favour of allowing the daughter any share after her marriage in the father's property. But if she is unmarried she must be allowed the same as her brother. That is an amendment which would meet the viewpoint of my learned friend Pandit Thakur Das Bhargava.

In conclusion, I would say that so far as the opposition to the Bill is concerned it has made out of certain political considerations also. The elections are looming large on the horizon and people consider any stick good enough to beat the Congress with. People outside the Congress are trying to whip up passion against the measure just because the elections are coming. They want to use it as a weapon in the election fight. It is therefore meet and proper that we should consider each provision of the Bill as coolly as possible, thrash out every issue threadbare, so that people may be able to see the Code in the proper light without the mist that now surrounds it. It is obvious that when we come to the clause by clause discussion, most of the superstitions and suspicions will be removed and controversial matters may be settled by mutual agreement and nothing will be there which will offend public conscience and public morality.

With these words, Sir, I oppose the amendments moved and support the clause

[MR. DEPUTY-SPEAKER *in the Chair.]*

Seth Govind Das (Madhya Pradesh) **:** First of all I want to say that it would have been very good if.....

Shri Hussain Imam (Bihar) **:** On a point of information, Sir; Will the Hon. Minister of Works, Production and Supply, who is now here, tell the House about the tragedy of the Delhi clock tower ? The Delhi clock tower has fallen.

Some Hon. Members : This is not the time.

Seth Govind Das : You can ask that after the speech, not in the middle of it.

Mr. Deputy Speaker : It is possible some hon. Members are anxious to know what has happened. If the Hon. Minister has any statement to make he may do so after Seth Govind Das concludes his speech and we shall have an opportunity of having more information about the tragedy.

The Minister of Works, Production and Supply (Shri Gadgil) : I have learnt about it only an hour ago. Secondly, I am not

administratively responsible for what has happened in Delhi. The property known as the clock tower is managed by the Delhi Administration and probably by the Delhi Municipal Committee. But if it is the desire of the House that it should know some facts I shall try to contact the proper authority and at about five I may be able to give some information.

Mr. Deputy Speaker : Yes. The hon. Member may continue his speech.

***Seth Govind Das :** **(English translation of the Hindi speech)* Sir, I was submitting that it would have been very good if the Hon. Minister has not introduced this Bill at the present time. When I say this, it should not be inferred that I want to stick to the old customs or want to follow all that is given in our *Smrities* and *Vedas*. I have some knowledge of Sanskrit and I love my Indian culture, therefore, as far as *Smrities* and *Vedas* are concerned, they are not of the same opinion on every subject. If one *Veda* or *Smriti* says one thing regarding a particular subject another *veda* or *Smriti* says another thing regarding the same. We have always been lover of knowledge. Knowledge has always been given first place in our history and culture. We have admitted the fact that *Kalabheden dharma bhedah* i.e. Religion changes according to times. I admit that we need reforms and reforms should also be brought about through legislations. I remember the days when Raja Ram Mohan Ray pleaded the case for the abolition of *sati*. Even in those days there were people in the country who were in favour of *Sati* custom. I also remember those days when Iswarchandra Vidyasagar advocated the cause of widow remarriage and it was strongly opposed. Enough has been said regarding Sharda Act. I admit that child marriages have been prevented to a large extent due to the Sharda Act and to a greater extent this Sharda Act has tried to put an end to this bad custom of ours. Therefore, I admit that we have always been rational in our outlook. We should not follow the *Vedas* and *Smrities* blindly and we need laws to reform our society. But I could not understand one thing which our Minister said yesterday. He laughed at those persons who suggested that this Bill should be made applicable to the entire society as a whole. If we want to get our different societies knit in such a way, if we want to create such a society where there should be no class or caste distinction or so much difference as at present, then I submit that we need such a law

* P. D., Vol. VII, Part II, 7th February 1951, pp. 2545-49.

which may be applicable to the entire society without any distinction. Yesterday, the Hon. Minister made certain observations which in my opinion do not befit him, it is just possible that I may be wrong. I thought that he became somewhat irritated and lost his temper or he felt that we were putting obstruction in the passage of the Bill. But this is not the thing. This is the opinion of the most of the people, and I am one of them, that it would have been far better had this law been made applicable to the entire society without distinction. According to the Hon. Minister, it will be a matter of great pleasure if such a Bill could be introduced within two days. It will be very good if this Bill could be got passed within half an hour. It was not a good thing for our Hon. Minister, holding such a responsible post, to laugh at those people who hold different opinions than what he holds. It has been clearly stated in our Constitution, it may not be in the chapter relating to fundamental rights but it is in the preamble chapter:

> "That State shall endeavour to secure for the citizens a uniform Civil Code throughout the territory of India."

It has been clearly stated in our Constitution. The Bill which has been presented before us today is opposed to this clause. We have suffered a lot as a result of this class and caste distinctions. After attaining independence, we framed our Constitution and this is the first social Bill which has been presented before us after the passing of the Constitution. We should have incorporated some of the ideals in this social Bill and that could have been easily done., if only this was to be applied to the entire society. If some clauses of this Bill are deleted and the good ones selected then a Bill could be prepared which could be applied to the entire society as a whole. Then, the people who are opposing this Bill today would not have done so.

There is one thing more and which is quite apparent. There are many good things in this Bill as well. I would rather say that it abounds in good things and the points of disagreement are very few. There is one important point in the fundamental things, which have been laid down in this Bill. One of the disputed points is that women should also be given the right of succession to property. It is easy to say a thing as my friend Shri Syamanandan Sahaya has done, I hold him in great esteem, by declaring that we already treat women as masters of our household. I would like to tell him that that is akin to the maxim "the safe is yours but let the keys remain with me." We have seen and are aware of the consequence's resulting from non-existence

of the rights of women to property. We know of the lives that many women had to lead. Will Shri Syamanandan Sahaya or those who are of his opinion deny the fact that many a chaste and respectable women belonging to wealthy families had to lose their prestige and status on account of having been left without property ? As far as I am concerned, I have, therefore, no difference of opinion about women's right of succession to property. The question is whether they should obtain share in the father's property or in the father-in-law's.

Giani G. S. Musafir (Punjab) **:** There is no objection to father-in-law's.

Seth Govind Das : So this is a big question. Today our system of marriage is such that the woman goes to her husband's place. There was also a time when there existed no system of marriage in the society. The story of Uddalak and Shwetketu in the Mahabharata clearly shows that there was a time when no marriage were held. Then came a period of matriarchy, where the husband used to go to the wife's place and the female child among their children inherited the property. That system still prevails in some places, in Malabar for example. Then the period of patriarchy came. Most of our social structure today comprises of patriarchy, not matriarchy, and how far would it be proper to make a woman inheritor of father's 'property in such society is a controversial matter. I would like to impress that so far as the women's right of succession to property is concerned that must be there, but that should exist in such a manner that an unmarried woman should be entitled to it at her father's place and a married one at her husband's.

There are also some other clauses of this Bill about which there may be a difference of opinion. So far as this Bill is concerned. It incorporates two things. First, various existing laws have been emalgamated. Secondly, some clauses for the purpose of social reform have been added. As I had just said, it would have been in the fitness of things had this Bill not come up. When our President Dr. Rajendra Prasad was the President of the Congress, he had pleaded for not presenting such a Bill and so according to him it had better not come up. But now it has been carried so far that if it is withdrawn at this juncture, various interpretations shall be forthcoming for that. The next election is before the people. I do not give very much importance to the elections and believe that the Congress is not so ineffectual that if the present Bill is passed and people are told that the Congress has done it, the Congress Party would be defeated. But if the Congress

is such a trifle that it can thus be defeated. I would say that the earlier it is defeated the better. So I differ from those who keep the elections before them and proceed with that point in view. I have recollections of 1923 and 1926 when the Swarajya Party went to polls for the first time. I was a candidate for the Central Assembly from the Zamindar party and it was being said that the Congress and zamindars were far apart, that zamindars would not vote with the Congress; but still nobody contested my seat. After that I stood again for the Council of State in 1925 and then too it was doubted whether the voters of the Council of State would vote for the Congress. Sir Manekji Dadabhai and Sir Hari Singh Gour opposed me, but I got three-fourth of the votes. Therefore, I do not consider the Congress to be a touch-me-not institution which may wane into a defeat if we pass such a Bill, which thought may continue to give us a constant fear of elections. I am of the opinion that if we are in favour of this Bill and if our leader, our Prime Minister, considers that it should be passed, it would be a mistake for us not to pass it for fear of elections. It is a different thing if we do not want to pass it. But if we do not pass it for fear of elections, there would be nothing worse than that. And I would say a word to those also who would not like to see it go through for fear of elections. If the Bill is not passed now, they shall find people saying that if the Congressmen were returned they would do such things as were not there even in the Bill. Such horrid pictures would be drawn before the people the like of which we cannot even imagine today. So we have not to deal with this Bill for consideration or fear of election. We have to deal with it on its merits. In this connection, I would reiterate before the Hon Minister what I have just said, namely, that the Bill has two parts—one of amalgamation and the other of social reforms. We are utterly opposed to many provisions of social reforms. I want that under the prevailing circumstances in the country all such provisions should be left out because their incorporation is inopportune. Things over which there is divergence of opinion should be excluded and those of amalgamation may be taken up. I make considerable distinction between these two things and wish the Hon. Minister to give sufficient heed to this suggestion of mine. I want that so far as amalgamation is concerned we should take that up as also the provisions with which we are not at variance and these provisions may be passed. Those provisions that are controversial and with regard to which there is going on a campaign

in the country should be left out. We must let the next election take place when representatives would be elected on adult franchise. If at that time we think it necessary to bring up the provisions concerning social reforms, we may move them as amendments to this present Bill and pass them. Such an approach will cover both the things. It would bring about an amalgamation of the laws and with that we would also avoid the controversial points.

One thing more should be done. As my friend Shri Jaspat Roy Kapoor said, its application should not be made obligatory on all people. Of course, such social reforms should be brought about through legislation ; but it is imperative to mould public opinion in their favour. It would not be ill-advised to make it applicable only over those who accept it and not try to make it binding on the entire population. Therefore, I would again submit that it were better for this Bill not to have come up before us at all. I am also of the opinion that in keeping with the ideals of our Constitution if we could make this Bill in the times to come applicable to the entire society, according to the amendments moved by Shri Jaspat Roy Kapoor or others we must endeavour to make it such. Along with this we should also endeavour not to make it applicable compulsorily over the people. It may be applied to those people only who accept it, or else in the existing conditions we may leave out its controversial portions and so far as the matter of amalgamation goes, we may do it in as much as we are unanimous about it.

***Shri Hussain Imam :** Sir, today I also want to speak in my own language as our Seth Govind Das has delivered a good speech."

Prof. Ranga : Why not speak in English, so that we may follow ?

Shri Hussain Imam : In considering the Hindu Code Bill, ordinarily, I would not have taken part in the debate, because it is a measure applicable to my sister community and as such they should have the right to have whatever they wish for themselves.

Shri Tyagi (Uttar Pradesh)**:** But the amendment covers you.

Shri Hussain Imam : That is the reason for my rising to speak. Some of my hon. friends are anxious to bring us under the purview of this measure. Well, there would have been no objection on our

*P.D., Vol. VIII, Part II, 7th February 1951, pp. 2550-55.

part to come under a common code had it been in advance of our own system. But my complaint is that it is very much backward ; and you want to draw up and bring us down to the level to which you have brought yourself down. I, therefore, wish to be excused from coming down to your level.

I may mention that the Hindu Code Bill has a very long history behind it. At one stage of it I had occasion to participate in the Committee on Hindu Law that was appointed in 1944-45. As such I have my sympathies with those who wish to advance the cause of the weaker sex. I believe that no country or society can advance if it has got submerged and suppressed people in its fold. It is very necessary that everyone should have equality before the law and in the matter of inheritance and other things. But it would be idle on our part to ignore the feelings of others. Feel as I may for myself. I must also realise what others are feeling, and as you, Sir, very poignantly pointed out, it is very necessary that there should be no dictatorship.

The Hon. the Law Minister in his speech in the Constituent Assembly, on the memorable day we completed the drawing up of the Constitution, said as follows :

> "It is quite possible in a country like India—where democracy from its long disuse must be regarded as something quite new— there is danger of democracy giving place to dictatorship. It is quite possible for this new born democracy to retain its form but give place to dictatorship in fact. If there is a landslide, the danger of the second possibility becoming actuality is much greater."

I commend to him his own speech and ask whether it would not be dictatorship on the part of this house to dictate to the thirty-six crores of people of India to come under a law compulsorily, just as the old orthodoxy was denying the right of going forward to the more-advanced members of society. It is a dictatorship which a minority is going to exercise on a vast majority. I wish to tell my sisters and the reformist brothers that they must take heart. In everything there is a fair way of fructification. They have the whole field before them. I find that orthodoxy is not only not aggressive, but is on the defensive— is putting on the garb of reformists to fight its retreating battles. It is fast losing its momentum. We have the eternal dilemma of an irresistible force meeting an irremovable mass. But that mass is becoming every day lighter and lighter and its roots are getting uprooted

every day. Therefore, this orthodoxy will not remain adamant, as it has been in the past. But is it necessary that the reformist should become aggressive ? Should they play the game of the old orthodox people and try to dictate what they feel to be the best to people who do not regard them as the best but as the worst ? Why should you do that ? That is the question and in that question my community also joins.

We feel that our system of law, and our system of distribution of wealth is more democratic and more socialistic and more, if I may say so, akin to the communistic, than the system which is proposed in this piece of legislation before us.

I think the major amendments to clause 2 can be divided into three categories. Firstly, some of the amendments, notably amendment Nos. 13 and 14 of the Consolidated List want to increase its applicability. Amendment No. 13 of the supplementary list also. Then there are certain amendments, like No. 18 which wants to decrease its applicability. Then there is the third category, which wants to restrict its applicability to only those who wish to come under this. I think it is a very good media which has been suggested by Shri Jaspat Roy Kapoor and deserves the most serious consideration of this House— whether it would not serve our purpose by having a better code than the reformed Code which Dr. Ambedkar has brought before the House. He had to give some concession much against his wish.

I wish to state a few facts for the consideration of the House. These facts are that the Bill sought to be amended by Dr. Ambedkar is so materially different from the Report of the Select Committee that we should in common justice recirculate these amendments and get the opinion of the country whether they wish to have this in the form in which they have been brought or not, and there is no time for that. This House is under dissolution. It will last probably, if things do not move in an untoward direction—which may quite possibly happen on account of the war—for a few more months. Now, I ask my lady friends and reformists whether it would not be better for them to take up the challenge of the orthodoxy now. According to Shri Jaspat Roy Kapoor's amendment it is only a question of how far you are going to get the co-operation of the people to come and be under this Act. There is no occasion better than the election. In the election booth all the adult population of the country will be coming. If you have a system of registration running side by side with the

election booth and have a register in which every voter will put in. his thumb impression to indicate that he is willing to come under this Code, you can get the mandate of the people. Then you can confront orthodoxy and come and say that a vast majority of the country wants this reform, orthodoxy must go back and the day has been won for the reformists. But you do not do it. If you do not seriously convert the people to your idea, why do you ask that this body should get the odium of thrusting something on the people which it is professed they do not want and which you are unable to prove they want.

I therefore suggest that if the Hon. the Law Minister is not prepared to accept the amendment of my hon. friend Mr. Jaspat Roy Kapoor *in toto,* he may at least follow the example set in the *Shariat* Act of ours where parts of it were made compulsorily applicable to all but parts of it were reserved for only those who would come and get themselves registered. This is the second suggestion which I wish to make to the Hon. Minister.

Shri J. R. Kapoor : Will the hon. Member please say which are those parts ?

Shri Hussain Imam : I wish to state that there are certain parts to which very serious objection has been taken, notably by you, Sir, about the distribution of property to the daughter. If you want that this portion should not apply to all, you can make it a provision of this nature, namely, that this part—Chapter IV—may apply only to those who wish to come into it.

I would also mention the possibility of the grave dangers which this amendment of Dr. Ambedkar on the question of property has brought in. My valued friend Pandit Thakur Das Bhargava suggested that the girls should get a share while they are unmarried and when they get married they should be entitled to the husband's property in the father-in-laws's house. But you must not forget the divorced women. How has the modern Manu provided for them ? Dr. Ambedkar has not provided for the divorced women who are deprived of the share. He has provided for the share to remain permanently for the girl—half a share for the unmarried girl and quarter of a share for the married girl. But Pandit Thakur Dasji has suggested no share for the divorced woman. Under Dr. Ambedkar's rule she will continue to have a quarter of a share. But Pandit Thakur Dasji would deprive her even of that quarter share because as soon as she gets married she will have no share.

Pandit Thakur Das Bhargava : According to me she would be entitled to the rights of partnership in the property of the new husband.

Shri Hussain Imam : If she does not remarry ? I therefore think that another danger of the provision made by Dr. Ambedkar is that it might lead to immorality—the provision that on marriage a woman will lose half of her property and will be entitled only to a quarter of the father's property. A rich girl would never marry a poor husband.

Dr. Ambedkar : Why bother about the rich ?

Shri Hussain Imam : As long as you have not changed the system and do not go to the Moscow-Peking axis of my hon. friend Brajeshwar Prasad, you have to care for wealth and capital. When you come to that day you will no longer bother about this.

I was rather surprised that Dr. Ambedkar who is a born democrat should have made disparaging remarks about the electorate. The 'electorate with all its ignorance is the only touch-stone by means of which we can test democracy. If that is removed, democracy will become meaningless, lifeless and only an effigy of democracy. Because, what did Hitler do ? He had elections, but a system was evolved by means of which elections were made...(AN *hon. Member* : Easy)...not easy, but they were made only a cloak to cover the dictates of the dictator. The same thing will happen if we accept this dictum that the electorate has no right and the right is reserved to the Members of Parliament alone to decide whatever they like and in whatever manner they choose to do.

I would again mention one fact, not the competence of this House— I would be the last person, having been for twenty years in the Central Legislature, to question the competence of this Legislature—but would it not be better to leave a measure of this nature to the popularly elected representatives who would come to this House with the direct mandate of the electorate ? I am suggesting this as a method of finding out the will of the people. As long as we pay at least lip service to democracy our ultimate masters and the arbiters of our fate are the electors. This is going to affect all. I wish to warn the House that as against the Bill as reported by the Select Committee, as a result of the change of the Constitution, we are going to hit each and every individual property. Even a small farm of an acre of land is not free from the ambit of this new Bill, because land is now brought in under the purview of the Central Legislature, whereas what the Bill as reported by the Select Committee affected was only fifteen

to sixteen per cent of the population. Is it proper, is it democratic for you without going to a Select Committee even to so change the nature of the Bill that it will affect hundred per cent, of the citizens of India—because Land has now been brought into the purview of the Central Legislature ? I very respectfully beg to suggest that it is not proper for this Legislature, keeping self-respect in view, to go so much forward without even the formality of having a Select Committee to go over it. I know that now it is no good crying over spilt milk. But I am bringing all these arguments in favour of making this Bill elective. I do not say, having advanced so far and having made so many mistakes in the past, that you should now brush it away. But at least you should have the decency to say that you will allow the people to have their choice whether they wish to be under this Act or not. This choice may be either general as my hon. friend Mr. Jaspat Roy Kapoor has suggested, or it may be restricted as I am suggesting now for the consideration of Government. Government

[MR. SPEAKER *in the Chair*.]

have got ample time according to present estimates. The Bill is not going to be proceeded with immediately now. Therefore it is possible for Government to reconsider their position. In all humility I would appeal to Government to give if their best consideration and make it elective in full and if that is not possible for having it at least in part made elelctive and not compulsory. Otherwise it will be dictatorship and not democracy.

5 p.m.

Mr. Speaker : We will now take up the half an hour discussion.

Shri Gadgil : A request was made by hon. Members to let the House know about a certain accident that has happended in the morning in the Chandni Chowk.

Mr. Speaker : I think it had better be taken at 5-30 instead of now.

●●

*HINDU CODE—*contd.*

Clause 2.—*(Application of Code)—Contd.*

Shri Naziruddin Ahmad (West Bengal) **:** I have a point of order....

Shrimati Durgabai (Madras) **:** On what subject, may I know, is the hon. Member raising his point of order ? There is no subject before the House on which the point of order could be raised. First of all the motion should be moved.

Shri Sondhi (Punjab) **:** Who are you ? You are not sitting in the Chair (*Interruptions*).

Shrimati Durgabai : The motion must be made first.

Mr. Deputy Speaker : The business before the House is further consideration of the Bill to amend and codify certain branches if the Hindu Law, as reported by the Select Committee. Clause 2 of the Bill is under consideration.

Shri R. K. Chaudhari (Assam) **:** Before anything is said or done I would earnestly appeal to the House through you, Sir, that there need not be any unnecessary excitement. I am constrained to say that the conduct which has just now been shown by Shrimati Durgabai is far from such and is...(*Interruptions*).

Further more I wish to know whether the attention of the Government has been drawn to a Press news published yesterday, namely, that even if this Bill be passed the President may withhold his assent and so far..... (*Interruptions*).

Mr. Deputy Speaker : Order, order.....

Shrimati Durgabai : May I give an explanation since the hon. Member has referred to me ?

Mr. Deputy Speaker : Not while I am on my legs ...

Shrimati Durgabai : You must give me an opportunity to answer what the hon. Member has said (*Interruptions*).

Mr. Deputy Speaker : Order, order. The hon. Member who advised another hon. Member not to be excited is himself excited. One should sit on the right and the other on the left.

So far as the reference to the President is concerned his name ought not to be canvassed for the purpose of this Bill one way or the other. Rule 159 (vi) says that a Member while speaking shall not use the

*P.D., Vol. XV, Part II, 17th September 1951, pp. 2674-2738.

President's name for the purpose of influencing the debate. The President's name ought not to be referred to here at all.

Shri Kamath (Madhya Pradesh) **:** Not on a point of order, but on a point of propriety, when such a measure as the Hindu Code is before the House, is it quite proper for the Hon. Law Minister to have such a big basket before him ?

Shri R, K. Chaudhari : This does not fit in with the serious topic before the House. I want to know if it is a fact that the President will address this House on the Hindu Code.

Mr. Deputy Speaker : No reference to the President can be permitted irrespective of anything that might have appeared in the papers. Now, what is the point of order of Mr. Naziruddin Ahmad ?

Shri Naziruddin Ahmad : *rose*—

Sardar B. S. Man (Punjab) **:** Before the hon. Member makes his point of order, may I say, Sir, that you have made certain observations previously in the debate that in your kindness you show certain concessions to lady Members here. Now when we are going to discuss this Bill may I request that henceforward you will treat hon. lady Members and men Members on an equal footing and no concessions will be shown to lady Members ? It is high time for them to make up their mind either to have the concessions or to have the Hindu Code Bill (*Interruptions*).

Shrimati Durgabai : I would like the Chair to give a ruling. It was a fact that the Chair said sometime ago that special concessions were sought or asked for by the women Members and it is a fact that the women Members had emphatically protested that they did not want any special concession at all. Therefore, the hon. Member is quite wrong in saying what is not true.

Mr. Deputy Speaker : I am fully aware that lady Members do not want any special concessions for themselves : it could not have been their intention. If therefore, I had made any such remark I thought that it would be taken in good humour and it was not my intention to cast any reflections. I know very well that no lady Member has ever been in need of any concession or indulgence. So far as I am concerned I have got both sons and daughters, and therefore, I shall try to be absolutely just. Now what is the point of order ? With respect to points of order I may remind hon. Members that they may state their points cryptically without any arguments, unless I want some elucidation with regard to them. I hope hon. Members will bear this in mind.

Shri Naziruddin Ahmad : I shall state the point of order and elucidate it very briefly just to make it intelligible.

Mr. Deputy Speaker : If I fail to understand I will ask the hon-Member.

Shri Naziruddin Ahmad: My point of order concerns the applicability of the Bill to the former Indian States, some of which are now known as Part B States and some others have been incorporated in Part A States. The whole point is directed towards that question and I am directing my mind to that.

Hon. Members : What is the point of order ?

Pandit Maitra (West Bengal) **:** Is it the hon. Member's point that the Bill has not been published to them ?

Shri Naziruddin Ahmad : Yes, the Bill has not been published to them.

Mr. Deputy Speaker : I have understood the point of order.

10 A.M.

Shri Naziruddin Ahmad : I have to state a few facts.

Mr. Deputy Speaker : "Few facts" are not necessary so far as this point of order is concerned.

Shri Naziruddin Ahmad : There are rulings of the Chair on this point. I wish to draw your attention to this point which was raised by Mr. Sarwate on the 24th February, 1949 ...

Mr. Deputy Speaker : The House is on clause 2. Is this relevant so far as clause 2 is concerned ?

Shri Naziruddin Ahmad : Yes, clause 2 will also apply to the former Indian States.

Mr. Deputy Speaker : The hon. Member knows too well that the scope or the extent of the operation of this Bill is governed by clause 1. Clause 1 (2) says :

> "It extends to all the Provinces of India."

This point of order may be relevant as to whether in this unrestricted manner it ought to be allowed, or whether, as it was originally framed, it does not apply under the Constitution. There may be many reasons for and against, but the point of order may be raised at that stage, not at this stage. Now we are going into general considerations : if they do not apply to Part B or Part C States, we will restrict them when we come to clause 1.

Shri Naziruddin Ahmad : It will lead to inconvenience ; that will no doubt come formally, in due course : we should not be made to wait till that time.

Mr. Deputy Speaker : I have given my ruling. The hon. Member does not say that this clause 2 will not apply to any State whatsoever; if it applies even to a small village in a single State in the whole of India we shall proceed with clause 2. When we come to clause 1 we shall eliminate all the others where it ought not to apply under the Constitution.

Shri Naziruddin Ahmad : The difficulty is this. If the Members belonging to the States know before hand that the Bill will not apply to them, they will not trouble themselves about the matter and discussion will be shortened. But on the other hand, if they are in the dark as to whether it will apply to them or not, they will have to partake in the debate. So, in order to clarify the situation we ought to know where we are and where they are.

Mr. Deputy Speaker : The hon. Member knows too well that we come back, after exhausting all the other clauses, to clause 1. Any hon. Member who is a representative of the States may proceed on the footing that it will apply—he may do so in the first instance. Then he may make an effort along with Mr. Naziruddin Ahmad to get it out. There is time enough.

Shri Syamnandan Sahaya (Bihar) **:** Before we proceed with the Bill, I think the House is entitled to know the procedure which has been adopted from the papers we learn that only two parts of the Bill, concerning marriage and divorce, will be taken. It will be desirable for the Hon. Minister to explain the position so that the House may know in what direction we are proceeding and how this matter is ultimately going to be decided. That is one point to which I want to draw your attention, Sir, and the attention of the House. The other point to which I want to draw your attention and the attention of the Hon. Minister and of the House is this. Now the appearance of the Bill seems to be such that it is difficult to recognise it. As a matter of fact, the Hon. Law Minister himself, who is the Mover of the Bill, has sent in a very large number of amendments some of which reached us even yesterday. You will appreciate the importance of a Bill like the Hindu Code. You have also seen the seriousness that is attached to this Code by the Members of this House. We are really in a difficult position to find out suddenly what the amendments are, what the implications of those amendments

are, and whether amendments to the amendments should be sent because that is what will form the main basis of discussion, namely the amendments of Dr. Ambedkar. These are the difficulties that are facing us. In order that the Code may go through the House properly and ultimately the decision of the House may be such as to evoke respect in the country, it is desirable that some time is given so that the amendments may be read. You will remember, Sir, that when the Bill was introduced and sent to the Select Committee there was a Select Committee report. After that Dr. Ambedkar sent a large number of amendments. On the one side we have the amendments, on the other side the Select Committee's report; now, even those amendments are no more there-fresh amendments have been sent. All these are to be consolidated and placed in a manner in which they can be conveniently considered, and considered in a manner which the importance of the Code deserves. I think we should adopt some procedure by which these amendments can be considered carefully. I would also like the Law Minister to let the House know what is the latest decision of the Government with regard to the procedure to be adopted with regard to the Hindu Code.

Shri R. K. Chaudhari : I will put another question so that it may be answered along with this ...

Shri B. Das (Orissa) **:** May I submit, Sir. ...

Mr. Deputy Speaker : Nothing more.

So far as the amendments are concerned, a set of amendments were tabled by the Hon. Law Minister originally and subsequently to these amendments he has tabled another set of amendments.

The Minister of Law (Dr. Ambedkar) : A few—verbal.

Mr. Deputy Speaker : Even if they were substantial they have all been circulated as early as the 5th September. But if any hon. Member, during the course of the debate, move an amendment to any particular amendment, and if it is reasonable, we will consider it.

Dr. Ambedkar : Certainly, I have no objection.

Mr. Deputy Speaker : I am not going to be too technical with respect to those matters here. After all, the Hon. Minister has been saying that he would like to have as much as agreed solution to these problems as possible. Therefore, every efforts will be made on all sides of the House towards it. I shall never be wanting, if it is possible, in trying to smoothen and to get over the rules of procedure or to suspend standing orders for bringing about an amicable settlement so far as any clauses

are concerned. Hon. Members may have no difficulty. But so far as once again piecing the amendments together and circulating them again is concerned, hon. Members know too well how we were in an ocean of amendments so far as the Representation of the People Bill was concerned ; the Speaker could not know the amendments, a number of new amendments were given to the hon. Minister himself. This is not such a forest in which we cannot get in. After all, there are a few amendments to the original amendments and we can proceed.

Shri Syamnandan Sahaya : One other submission, Sir.

Mr. Deputy Speaker : Hon. members must make up their mind to go on with the Bill.

Shri Syamnandan Sahaya : That we have made up.

Shri B. Das : Is he permitted to speak again ?

Shri Syamnandan Sahaya : There is one other submission which I will make, Sir. We have been following a procedure, namely that all the amendments are first moved, then they are discussed together and then decisions are arrived at. I would submit that in the case of the Hindu Code that will not be possible because every amendment has a particular significance ; it is not a question of a cut motion being discussed or of a budget demand being discussed ; it is a question of every amendment having a particular significance, having a particular importance. Therefore, I would submit that in the case of the consideration of the Hindu Code these amendments should be taken up one by one ; each amendment should be taken up, discussed and then decided upon—either accepted or rejected—and only then the next amendment taken up. That, I submit, ought to be the procedure with regard to this Bill.

Shri R. K. Chaudhari : May I ask for only one piece of information ? There are certain amendments which have been tabled now after we had a discussion on this Bill in February last: these are new amendments which have been tabled since. I want to know whether those Members who had taken part in discussion in February will be entitled to speak on the new amendments now.

Mr. Deputy Speaker : I shall consider the suggestion when the time arises. So far as these amendments are concerned what I propose doing is this. Normally the procedure is that each amendment is taken up and disposed of and then we go to the next. But here, if there are amendments of like nature, except the form of expression if the

substance is the same then I will ask hon. Members to move all those amendments together so that a single discussion may proceed. Those amendments which are substantially different. I will place separately. It would be helpful if the Hon. Minister is able to tell me what all amendments are of like nature ; hon. Members may also consider the point when amendments are moved ; if they find other amendments which are substantially of a like nature they may also rise and ask that they be moved together, and the discussion will proceed on all of them together.

Shrimati Renuka Ray (West Bengal)**:** If people are willing, we might have a time-limit on speeches.

Hon. Members : No, no.

The Minister of Works, Production and Supply (Shri Gadgil): It will be better for the Chair to select a group of amendments which contain the same substance, and that group may be put down for discussion. That will avoid wastage of time.

Mr. Deputy Speaker : That is exactly what I said. I have no time to group them myself. I shall ask hon. Members, as soon as an amendment is moved by Dr. Ambedkar, whether they have amendments of a like nature relating to the same subject. If they have, then I shall piece them together and have a common discussion. That is for tomorrow.

As for today, let us proceed with the business. Clause 2 was under discussion.

Shrimati Renuka Ray : Would you put my suggestion to the House, Sir?

Shri Syamnandan Sahaya : Has the Hon. Minister got nothing to say on the points that I made ?

My Deputy Speaker : I do not think he wishes to say anything. Does he want to say anything ?

Dr. Ambedkar : No. Sir.

The Minister of Education (Maulana Azad) : The Prime Minister will explain it.

The Prime Minister (Shri Jawaharlal Nehru): I am sorry I was not here when the hon. Member spoke.

Mr. Deputy Speaker : He wanted to know if there are any portions of this Bill that are not to be considered. Clause 2 was under discussion previously and naturally I wanted the discussion to proceed and I was

about to allow amendments to be moved. Meanwhile, the hon. Member wanted to know whether the Hon. Minister is taking up any particular portions of this Bill first and giving them preference.

Shri Syamnandan Sahaya : In view of the reports in the Press, I wanted to know the correct position.

Shri Jawaharlal Nehru : I think the day before yesterday I did say something on this very subject, that is, we propose to take up Parts I and II of this Bill and if time permits we shall take up more. In any case, we do not want to leave the matter unfinished in regard to these two parts. We should like to finish them, even though in regard to the rest what we shall do depends on time.

Shri Kamath : Has any definite number of days been earmarked for the consideration of this Bill ?

Shri Jawaharlal Nehru : We expect that we shall finish it within this week.

Shri Syamnandan Sahaya : This month or this week ?

Shri Jawaharlal Nehru : This week, I said.

Dr. Ambedkar : With your permission, I should like to move amendment No. 4, in list No. 1. It seeks to substitute 'tribe or community' to bring it in conformity with the rest of the clause. I beg to move:

In the amendment proposed by me, printed as No. 3, after part (l) (i) insert:

"(ia) in part (c) (ii) for 'community' substitute 'tribe or community'; ".

Mr. Deputy Speaker : Amendment moved :

In the amendment proposed by the Hon. Dr. B. R. Ambedkar, printed as No. 3, after part (l)(i) insert:

"(ia) in part (c)(ii) for 'community' substitute 'tribe or community'; ".

Dr. Ambedkar has already moved amendment No. 3 during the last session. That amendment and this one are before the House. Has any other hon. Member got amendments relating to the same subject ?— to the same subject, and not to clause 2 as a whole ?

Shri J. R. Kapoor (Uttar Pradesh) **:** Is it your intention, Sir, that if we have amendments to the amendments No. 3 and 4 of Dr. Ambedkar, we may move them ?

Mr. Deputy Speaker : Yes.

Shri J. R. Kapoor : So, with your permission, I should like first to move No. 95 of list No. 2. As a matter of fact, I had in my original notice given it as an amendment to amendment No. 3 of Dr. Ambedkar, but here it has been given as an independent amendment. That has been done by the office for the sake of facility probably. I am mentioning this only to avoid any objection from any quarter that No. 95 is not an amendment to the amendment of Dr. Ambedkar. I beg to move :

(i) For clause 2, substitute :

"2. *Application of Code.*—This Code applies to all the citizens of India that is Bharat, who after attaining the age of majority declare in writing that they shall be governed by this Code, and get such declaration registered in accordance with rules prescribed for the purposes by the Central Government:

Provided that the provisions of Part II relating to marriage and divorce shall apply to such declarant only when both the bride and the bridegroom before the marriage, or both the husband and wife after the marriage, make such a declaration."

Then, in the same context, I would ask your permission to move amendment No. 97 in list No. 2, I beg to move:

(ii) In the amendment proposed by the Hon. Dr. B. R. Ambedkar, printed as No. 3, after part (2), insert:

"(3) After sub-clause (3), the following new sub-clause be inserted, namely:—

'(4) This code or any part or parts thereof also apply to any other person who after attaining the age of majority declares in writing that he shall be governed by this Code, or any part or parts thereof as the case may be, and get such declaration registered in accordance with rules prescribed for the purposes by the Central Government:

Provided that the provisions of Part II relating to marriage and. divorce shall apply to such declarant only when both the bride and the bridegroom before the marriage, or both the husband and wife after the marriage, have made such a declaration.' "

I also beg to move:

(iii) In the amendment proposed by the Hon. Dr. B. R. Ambedkar, printed as No. 3, in part (l)(ii) of the proposed amendment to sub-clause (1) of clause 2, after "Sikh religion" add :

"or to any other religion or faith except Muslim, Christian, Parsi, or Jew religion."

(iv) After part (c) (ii) of sub-clause (1) of clause 2, insert:

"(iii) to any orphan or abandoned child brought up by the State."

Shri B. K. P. Sinha (Bihar)**:** May I suggest that instead of hon. Members reading all the amendments, they may only refer to their numbers. Because the amendments sometimes tantamount to a speech.

Mr. Deputy Speaker : It is no good our closing our eyes. There is a limit to this kind of suggestion. The amendments must be read ; we cannot rush through like this. Certainly I will allow all reasonable debate on the matter. I myself am not able to understand at times. Except on formal matters, when I shall ask hon. Members not to read the amendments, the amendments must be read.

Shri J. R. Kapoor : Thank you for your direction, Sir.

Mr. Deputy Speaker : That does not mean that the hon. Member can be dilatory.

Shri J. R. Kapoor : If the suggestion of my hon. friend were to be pursued to its logical length, we can even say that all the amendments standing in the name of an hon. Member are moved.

Mr. Deputy Speaker : We need not dilate upon that.

Shri J. R. Kapoor : I beg to move :

(v) for sub-clause (3) of clause 2, substitute :

"(3) The expression 'Hindu 'wherever it occurs in this Code shall be construed as if it included a person who, though not a Hindu by religion is, nevertheless governed, or declares his consent in the manner prescribed by the Central government in this behalf to be governed, by the provisions of this Code."

Then I come to amendment No. 272 of List 5.

Mr. Deputy Speaker : I think we might take up sub-clause by sub-clause. There are a number of sub-clauses in clauses 2. Unless any amendment can be brought under anyone of these sub-clauses we shall carry on with sub-clause (1). Then we shall take up the other sub-clauses. What is the Hon. Minister's reaction to this suggestion ?

Dr. Ambedkar : I am quite agreeable to that.

Shri J. R. Kapoor : May I submit that all the amendments might be allowed to be moved. We shall follow the procedure we adopted in the Constituent Assembly from tomorrow onwards.

Mr. Deputy Speaker : Today, I leave it to hon. Members to move whatever amendments they like. Tomorrow I shall have them consolidated under each sub-clause.

Shri J. R. Kapoor : I beg to move :

(vi) In the amendment proposed by the Hon. Dr. B. R. Ambedkar, printed as No. 3, for part (2) substitute :

"(2) for sub-clause (4) the following be substituted, namely :—

'(4) This Code or any Part or Parts thereof also apply to any other person who declares his consent in the manner prescribed by the Central Government in this behalf to be governed by this Code or any part or parts thereof, as the case may be.' "

(vii) In the amendment proposed by the Hon. Dr. B. R. Ambedkar, printed as No. 3, in the proposed amendment to clause 2, after part (1), insert:

"(1A) in the proviso to sub-clause (2), insert at the end 'unless he has declared his consent in the manner prescribed by the Central Government in this behalf to be governed by this Code in respect of such matters also.' "

(viii) In the amendment proposed by the Hon. Dr. B. R. Ambedkar, . printed as No. 3, in the proposed amendment to clause 2, after part (1), insert:

"(1A) in sub-clause (3) for the words 'the provisions' the words 'any or more of the provisions' be substituted."

Or, in the alternative, if that be not acceptable to the House:

(ix) In the amendment proposed by the Hon. Dr. B. R. Ambedkar, printed as No. 3, in the proposed amendment to clause 2, after part (1), insert:

"(1A) in sub-clause (3) insert at the end 'in respect of any or more of the matters dealt with herein'."

Mr. Deputy Speaker : "Any one or more" is the usual expression. Is it not?

Shri J. R. Kapoor : I agree, Sir, to your suggestion. This exhausts my amendments to amendment No. 3 of Dr. Ambedkar.

There is one amendment which I seek to move to my own previous amendment moved during the last session.

I beg to move :

(x) In the amendment proposed by me, printed as No. 93, to the proposed clause 2, add the proviso :

"Provided that the provisions of Part II relating to marriage and divorce shall apply to such declarant only when both the bride and bridegroom before the marriage, or both the husband and wife after the marriage, make such a declaration."

Mr. Deputy Speaker : A similiar amendment has already been moved.

Shri J. R. Kapoor : This is an amendment to my own previous amendment. Then I wish to move my amendment No. 125.

I beg to move :

(xi) To clause 2, add the proviso :

"Provided that the provisions of parts II or/and VII relating to marriage and divorce, and succession shall not apply to any person unless such person, after attaining the age of majority declares in writing that he or she, as the case may be, shall be governed by the said provisions, and gets such declaration registered in accordance with rules prescribed for the purpose by the Central Government:

Provided further that the provisions of Part II relating to marriage and divorce shall apply to such declarant only when both the bride and bridegroom before the marriage, or both the husband and wife after the marriage, make such a declaration."

There is only one more amendment, notice of which I have given this morning. It is a small amendment and with your permission I shall move it.

I beg to Move :

(xii) In the amendment proposed by the Hon. Dr. B. R. Ambedkar, printed as No. 3, in the proposed amendments to sub-clause (1) of clause 2, after part (1) (ii), insert :

"(iii) insert a new part (e) as follows :

'(e) to a convert to any religion or faith after the commencement of this Code'."

Mr. Deputy Speaker : That is, if on the date of the commencement of this Code there is a Hindu, even if he changes his religion after the commencement of this Code it is this Code which will apply to him notwithstanding the change of religion. Is that the intention ?

Shri J. R. Kapoor : The intention is that if any person changes his faith after the commencement of this Code, then this Code shall apply to him. Suppose a Hindu changes his faith after the commencement of this Code and becomes a Muslim, even then it will not be open to him to have two, three or four wives at a time as he likes. That is, it should not be open to anyone to convert himself into a Muslim in order only to get over the provisions of this Code and to have more than one wife. There are other implications also of my amendment but I have explained this one important implication.

Shri Naziruddin Ahmad : One wife will be sufficiently difficult; two wives would be out of the question !

Mr. Deputy Speaker : Today I will allow all amendments to be moved to clause 2— both to the original clause and to the amendments of the Hon. Minister. I shall try to put them together tomorrow.

Pandit Thakur Das Bhargava (Punjab) **:** May I know if any of the amendments which my hon. friend has just now moved were moved in the February session also ? I think one of the amendments moved now was debated in the House—the amendment relating to a person declaring that he will be bound by the Code. I think he also made a speech on that. I do not know if that amendment has not already been moved and also debated upon.

Shri J. R. Kapoor : I may assure my hon. friend that I have taken jolly good care to see that I do not repeat any one of my previous amendments. Of course the subject matter of some of these amendments was incorporated in some form or another in a previous amendment that I have moved. But finding that, that particular amendment would not well suit the purpose, and in order to meet the objection raised then by my hon. friend Pandit Thakur Das Bhargava, I have further amended my previous amendment so as to bring it perfectly within the four corners of the Code and also to. make it otherwise acceptable.

Shri Syamnandan Sahaya : I beg to move :

To clause 2, add the proviso :

> "Provided however, that notwithstanding anything contained in this section this Code shall not apply to any person unless such person got his name registered, signifying his will to be governed by this Code, with such authority and in such manner as may be prescribed."

Sardar B. S. Man (Punjab) **:** I beg to move :

In clause 2, omit "Sikh", wherever it occurs.

Mr. Deputy Speaker : The hon. member's desire, I take it, is that it ought not be apply to Sikhs.

Sardar B. S. Man : Yes.

Mr. Deputy Speaker : At each stage let us know what the scope of the amendment is ?

Pandit Thakur Das Bhargava : Such an amendment has already been moved. The subject-matter of amendment No. 236 is the same as Sardar Hukam Singh's amendment.

Mr. Deputy Speaker : Let us forget what all has been done. Let us start. The intention of the House is to proceed clause by clause and

have a connected picture—and so there is no harm if there is a repetition or if it is moved once again so as to focus attention.

Pandit Thakur Das Bhargava : In that case in the February session I moved an amendment and also made a speech on it. Is it necessary for me to move it again ?

Mr. Deputy Speaker : It is not necessary.

Dr. Ambedkar : No, we know them.

Shri R. K. Chaudhari: May I draw your attention to amendment No, 123 ? This stands in the name of Shri Jhunjhunwala who was here just now. But he asked me to bring this to your notice because he has gone outside the House owing to an urgent call. So he will come and move it.

Mr. Deputy Speaker : Let him come. After he comes he can move it.

Shrimati Renuka Ray : You were kind enough to say this morning that amendments where the subject-matter is the same should be moved together. I want to ask whether you are allowing such amendments which were moved and on which speeches were made for three days, to be moved once again.

Mr. Deputy Speaker : They are pending.

Shrimati Renuka Ray: Certain amendments were moved and speeches made on them in the February session for three or four days. I want to know whether those are to be repeated now.

Mr. Deputy Speaker : What I propose to do is this. If any particular Member who has already moved his amendments wants to draw attention to them. He can indicate those amendments. I will make a note, the office also has a note. So that when the time comes I will put them. In so far as speeches have already been made I shall take care to see that there is no repetition of them. That is all that I can say.

Shri Kamath : But discussion on those amendments is not barred. Does it mean that all those amendments have been disposed of ?

Mr. Deputy Speaker : No. All the amendments are under discussion. No amendment has been disposed of.

Shri Naziruddin Ahmad : There is bound to be a certain amount of repetition because the House has meanwhile forgotten everything.

Mr. Deputy Speaker : The hon. Member knows how helpless I have become even if repititions are made. Therefore, I suggest to myself mat I should be a little more careful.

Dr. Tek Chand (Punjab)**:** I beg to move : -

In part (a) sub-clause (1) of clause *2,* for "members", substitute "followers".

it is only a formal amendment and Dr. Ambedkar has agreed to accept this. The clause will then read : "and followers of the Brahmo, the Prarthana or the Arya Samaj".

Shri Bhatt (Bombay) **:** I beg to move :

For sub-clause (2) of clause 2, substitute :

"(2) This Code also applies to any person, irrespective of his religion, who has been governed by the Hindu law or by any customor usage as part of that law in respect of any matters dealt with herein."

I have tabled no other amendment. But Dr. Ambedkar has used the word 'community' with 'tribe', will he not also put in the word 'clan' with them ?

Shri Barman (West Bengal) **:** I beg to move :

In the proviso to sub-clause (2) of clause 2, for "in respect of those matters" occuring at the end, substitute :

"in respect of matters which that person has not voluntarily chosen."

Mr. Deputy Speaker : The hon. member wants to give an option for him to come into the Hindu Code.

Dr. Ambedkar : Something like that.

Shri Barman : My intention is that a person who has voluntarily chosen to adopt the customs and usage of the Hindu law will not be allowed subsequently to say that he is not governed by them, but any third person may challenge or may prove that, that person was not governed by the Hindu Code and as such as regards the other matters the Code will not apply to him ; but as regards the matter which that person has himself voluntarily chosen, other persons would be precluded from challenging him.

Mr. Deputy Speaker : If he has already chosen, he will not be governed by the earlier portion of the Hindu Law. Perhaps the hon, Member wants to make it more clear.

Shri Naziruddin Ahmad : I beg to move :

(i) Omit part (b) of sub-clause (1) of clause 2.

(ii) In part (a) of sub-clause (1) of clause 2, for "Hindus, that is to say, all persons professing the Hindu religion" substitute "persons who are Hindus by religion".

Mr. Deputy Speaker : That is the same thing as the Hon. Minister's amendment.

Shri Naziruddin Ahmad : There is a verbal change.

Then, I beg to move :

(iii) For part "(b) of sub-clause (1) of clause 2, substitute:

"(b) to any person who is a Jaina by religion."

Mr. Deputy Speaker : It is an alternative amendment.

Shri Naziruddin Ahmad : Yes, Sir.

Then, I beg to move :

(iv) In part (b) of sub-clause (1) of clause 2, for "Jaina or Sikh" substitute "or Jaina".

Mr. Deputy Speaker : He wants to eliminate the Sikhs and Buddhists.

Shri Naziruddin Ahmad : Yes, Sir.

Dr. Ambedkar : There are varities of amendments.

Shri Naziruddin Ahmad : Some of them are alternatives.

Dr. Ambedkar : One amendment says that Buddhists and Sikhs should be omitted and another says Jains should be omitted.

Mr. Deputy Speaker : The hon. Member does not want the Jains to be omitted.

Shri Naziruddin Ahmad : 'Jains' should stand. These are different variations of amendments, because hon. Members do not know which will be acceptable to the House and particularly by the Hon. Minister.

Mr. Deputy Speaker : In all his amendments I find that the 'Jains 'is the common factor. He wants the others, that is, the Buddhists and Sikhs to be omited.

Shri Naziruddin Ahmad : 'Jains' I have not objected but the Sikhs have seriously objected.

Mr. Deputy Speaker : They are now governed by the Hindu Code.

Shri Naziruddin Ahmad : The whole question is whether this kind of Hindu law should be forced upon them ? They are Hindus no doubt, but should this kind of non-Hindu Law or rather un-Hindu Law be forced upon them ?

Then, I beg to move:

(v) In part (c)(i) of sub-clause (1) of clause 2, after "illegitimate" insert:

"who, if he has attained the age of eighteen years, is himself a Hindu and"

(vi) In part (c)(i) of sub-clause (1) of clause 2, after "parents are" insert "or have been".

(vii) In part (d) of sub-clause (1) of clause 2, at the end, add : "subject to his rights and liabilities before his conversion."

Mr. Deputy Speaker : Let me pause here. Let us understand the implications of this. Shri Jaspat Roy Kapoor wants that notwithstanding change of religion by a Hindu after the passing of this Code, his rights and liabilities must be regulated by the Hindu Code. This amendment wants that if a person wants to change and become a convert, his rights and liabilities under his original religion ought not to be affected.

Shri Naziruddin Ahmad : If he is wrong, I am also equally wrong. We are in a vicious circle. That goes against the very idea of conversion. If a man is converted, he loses his past and begins a new chapter. As Mr. Kapoor has submitted his amendment, I am submitting this amendment. Both should be accepted or both should be rejected.

Mr. Deputy Speaker : Both the hon. Members want to avoid any change in their legal or civic rights as a result of conversion. Conversion ought not to affect their rights and liabilities with respect to property, succession, etc.

Shri Naziruddin Ahmad : There is an old Act which saves the past rights of Hindus converted to Christianity. That also reserves past rights and liabilities.

(viii) Then, I beg to move :

After sub-clause (1) of clause 2, insert :

"(1A) This Code shall not apply to the Scheduled Castes and Scheduled Tribes."

Dr. M. M. Das (West Bengal) **:** May I know what right the hon. Member has got to speak on behalf of the Scheduled Castes ?

Shri Naziruddin Ahmad : At present, I am only moving my amendments. I am not trying to explain them ; I am not now trying to convince my hon. Friend.

Mr. Deputy Speaker : There are some people who are more loyal to others than others themselves.

Shri Naziruddin Ahmad : I shall state my reasons. There are certain parts of the Code which would be too much for them to

assimilate. For example, they have very simple forms of marriage and divorce. You are making their life more complicated.

Mr. Deputy Speaker : The hon. Member forgets that his objection is to the whole Code. If it is said that they have got simpler forms of marriage and divorce and these forms need not be introduced, that is a matter for consideration. (The whole Code goes out as if they do not belong to the Hindu community.)

Shri Naziruddin Ahmad : My objection is to the whole Code as well as every part—singly as well as taken as a whole.

Mr. Deputy Speaker : The hon. Member forgets that there is a consolidating portion also ; by his amendment even those portions for which no exception could be taken would not apply. We are only preliminarily discussing what exactly the hon. Member wants.

Shri Naziruddin Ahmad : Then, I beg to move:

(ix) Omit sub-clause (2) of clause 2.

Mr. Deputy Speaker : This is the residuary amendment. This seems to be absolutely meaningless. What is the Code which should govern ? The Indian Succession Act ?

Shri Naziruddin Ahmad : There may be a man who may have a new religion. There is in Japan a religion known as Shintoism. If a person professing that religion comes to India, would you apply the Hindu Code or the Muslim Code ? He should be governed by his own Code. The proviso says that if it is "proved" that another law applies to him, then the Hindu Code would not apply. Upon whom will the onus lie ? Suppose a man comes to India professing no religion. He has civil rights and liabilities. Would he be governed by the Hindu Code ? Why not the Muslim Code or the Christian Code or the Sikh Code ? Every man should be governed by his own Code. I shall explain this proviso at the proper time. This proviso also goes too far. It throws the onus upon a person coming into India who is not a Muslim, Christian, Parsi or Jew by religion, to prove his status. How can he prove that the Hindu Code does not apply ?

Mr. Deputy Speaker : He would be governed by private international law. Merely because he comes here, the Hindu Code would not apply.

Shri Naziruddin Ahmad : The point is that the onus is thrown upon a stranger who might find himself absolutely in hot waters.

Shri J. R. Kapoor : This Code applies to non-Hindus to whom some portions of the Hindu law or customs under the Hindu Law are

applicable. This proviso does not apply to anybody to whom no part of the Hindu law is applicable.

Shri Naziruddin Ahmad : The whole applicability of the Code goes by the wording of the Act and not on its so called internal meaning.

Shri J. R. Kapoor : The wording is clear. The proviso says: "Provided that if it is proved that such person..." "Such person" means the person referred to in sub-clause 2 and not a person coming from America or England.

Shri Naziruddin Ahmad : I beg to move :

(x) Omit sub-clause (3) of clause 2.

To me, this sub-clause is to beg the question. It says :

> "The expression 'Hindu' in any portion of this Code shall be construed as if it included a person who, though not a Hindu by, religion is, nevertheless, governed by the provisions of this Code."

This is the very question we have to clarify. To whom does this Code apply ? We say, if the Hindu Code is applicable to any one, he is bound by it. The question is to whom, apart from the Hindus, this Code should apply. It is begging the question to say that the expression 'Hindu' applies to whom this Hindu Code applies. We shall have to clarify the matters. I do not claim infallibility. But, I have felt some difficulty.

Then, I beg to move :

(xi) Omit sub-clause (4) of clause 2.

Dr. Ambedkar : That is also my amendment.

Shri Naziruddin Ahmad : I also beg to Move :(xii) After sub-clause (4) of clause 2, insert:-

> "(5) Notwithstanding anything in this section, this Code shall apply only to such areas or to such persons or classes of persons in any State and from such time or by such stages as the State legislature may from time to time by Act provide."

Mr. Deputy Speaker : So far as this amendment is concerned, we shall have to consider whether this is the proper place where this amendment should be considered, or it should be.....

Dr. Ambedkar : It should come under clause 1.

Shri Naziruddin Ahmad : If you think that it will be properly considered along with clause 1.....

Mr. Deputy Speaker : This amendment stands over and will be taken up when we come to clause 1.

Shri Jhunjhunwala (Bihar) **:** I beg to move :

To clause 2, add the proviso :

> "Provided however, that notwithstanding anything contained in the above clauses this Code shall not apply to such person as will get his or her name registered with such authority and in such manner, as may be hereafter prescribed by Parliament, within five years after this Code comes into force and in case of a minor within five years after such a minor attains majority, to the effect that he or she does not want to be governed by this Code."

I have moved an amendment where I had placed the burden on the persons to get themselves registered who want to be governed, and if that is not accepted, here I have placed it on those who do not want to be governed by this Code.

Shri Bhatt : I beg to move :

In sub-clause (3) of clause 2, after "nevertheless governed", insert "or desire to be governed".

Mr. Deputy Speaker : I shall formally place the amendments before the House. So far as the amendments to clause 2 that were moved last time are concerned, they are already before the House. Hereafter all amendments must be moved at the beginning of the discussion, because if they continue to be moved when the discussion is in progress, hon. Members who have already taken part in the discussion may not be able to take part and speak on those new amendments. It is not a technical objection. These may be amendments of substance and hon. Members who have already spoken with reference to other amendments earlier, may not be sole to take part in the discussion on these new amendments. But in the present case, if there are any such hon. Members I shall consider and give them also a chance, if necessary....

Dr. Ambedkar : A small chance.

Mr. Deputy Speaker : A small chance. But they may not repeat what they had already stated. Barring that, in future, my request to hon. Members is that all the amendments may be moved when a particular clause or sub-clause is begun. Otherwise we will have to go on repeating the process, allowing the Members to move amendments, and going over the whole matter once again.

I have already placed before the House the amendment moved by the Hon. Dr. Ambedkar today. I will now place before the House the other amendments moved today.

Amendments moved :

(1) In the amendment proposed by Shri J. R. Kapoor, printed as No. 93, to the proposed clause 2, add the proviso :

"Provided that the provisions of Part II relating to marriage and divorce shall apply to such declarant only when both the bride and bridegroom before the marriage, or both the husband and wife after the marriage, make such a declaration."

(2) for clause 2, substitute :

"2. *Application of Code.*—This Code applies to all the citizens of India that is Bharat, who after attaining the age of majority declare in writing that they shall be governed by this Code, and get such declaration registered in accordance with rules prescribed for the purposes by the Central Government:

Provided that the provisions of Part II relating to marriage and divorce shall apply to such declarant only when both the bride and the bridegroom before the marriage, or both the husband and wife after the marriage, make such a declaration."

(3) In the amendment proposed by the Hon. Dr. B. R. Ambedkar, printed as No. 3, in the proposed amendments to sub-clause (1) of clause 2, after part (l)(ii), insert:

"(iii) insert a new part (e) as follows :

'(e) to a convert to any religion or faith after the commencement of this Code'."

(4) In the amendment proposed by the Hon. Dr. B. R. Ambedkar, printed as No. 3, in part (l)(ii) of the proposed amendment to sub-clause (1) of clause 2, after "Sikh religion" add :

"or to any other religion or faith except Muslim, Christian, Parsi or Jew religion."

(5) In the amendment proposed by the Hon. Dr. B. R. Ambedkar, printed as No. 3, in the proposed amendment to clause 2, after part (1), insert:

"(1A) in the proviso to sub-clause (2), insert at the end 'unless he has declared his consent in the manner prescribed by the Central Government in this behalf to be governed by this Code in respect of such matters also'."

(6) In the amendment proposed by the Hon. Dr. B. R. Ambedkar, printed as No. 3, in the proposed amendment to clause 2, after part (1), insert:

"(1A) in sub-clause (3) for the words 'the provisions' the words 'any or more of the provisions' be substituted."

(7) in the amendment proposed by the Hon. Dr. B. R. Ambedkar, printed as No. 3, in the proposed amendment to clause 2, after part (1), insert:

"(1A) in sub-clause (3) insert at the end 'in respect of any or more of the matters dealt with herein'."

(8) In the amendment proposed by the Hon. Dr. B. R. Ambedkar, printed as No. 3, for part (2). substitute :

"(2) for sub-clause (4), the following be substituted, namely :—

'(4) This Code or any Part or Parts thereof also apply to any other person who declares his consent in the manner prescribed by the Central Government in this behalf to be governed by this Code or any part or parts thereof, as the case may be'. "

(9) In the amendment proposed by the Hon. Dr. B. R. Ambedkar, printed as No. 3, after part (2), insert:

"(3) After sub-clause (3), the following new sub-clause be inserted, namely:—

'(4) This code or any part or parts thereof also apply to any other person who after attaining the age of majority declares in writing that he shall be governed by this Code, or any part or parts thereof as the case may be, and get such declaration registered in accordance with rules prescribed for the purposes by the Central Government:

Provided that the provisions of Part II relating to marriage and divorce shall apply to such declarant only when both the bride and the bridegroom before the marriage, or both the husband and wife after the marriage, have made such a declaration'. "

(10) In part (a) of sub-clause (1) of clause 2, for "Hindus, that is to say, all persons professing the Hindu religion" substitute "persons who are Hindus by religion".

(11) In part (a) of sub-clause (1) of clause 2, for "members", substitute "followers".

(12) Omit part (b) of sub-clause (1) of clause 2.

(13) For part (b) of sub-clause (1) of clause 2, substitute :

"(b) to any person who is a Jaina by religion."

(14) In part (b) of sub-clause (1) of clause 2, for "Jaina or Sikh" substitute "or Jaina".

(15) In clause 2, omit "Sikh", wherever it occurs.

(16) In part (c)(i) of sub-clause (I) of clause 2, after "Illegitimate" insert:

> "who, if he has attained the age of eighteen years, is himself a Hindu and."

(17) In part (c)(i) of sub-clause (1) of clause 2, after "parents are" insert "or have been".

(18) After part (c)(ii) of sub-clause (1), of clause 2, insert:

> "(iii) to any orphan or abandoned child brought up by the State."

(19) In part (d) of sub-clause (1) of clause 2, at the end, add : "subject to his rights and liabilities before his conversion."

(20) After sub-clause (1) of clause 2, insert:

"(1A) This code shall not apply to the Scheduled Castes and Scheduled Tribes."

(21) Omit sub-clause (2) of clause 2.

(22) for sub-clause (2) of clause 2, substitute :

> "(2) This Code also applies to any person, irrespective of his religion, who has been governed by the Hindu Law or by any custom or usage as part of that law in respect of any matters dealt with herein."

(23) In the proviso to sub-clause (2) of clause 2, for "in respect of those matters" occuring at the end, substitute :

> "In respect of matters which that person has not voluntarily chosen."

(24) Omit sub-clause (3) of clause 2.

(25) for sub-clause (3) of clause 2, substitute :

> "(3) The expression 'Hindu' wherever it occurs in this Code shall be construed as it included a person who, though not a Hindu by religion, is nevertheless governed, or declares his consent in the manner prescribed by the Central Government in this behalf to be governed, by the provisions of this Code."

(26) In sub-clause (3) of clause 2, after "nevertheless governed", insert "or desires to be governed".

(27) Omit sub-clause (4) of clause 2.

(28) To clause 2, add the proviso :

"Provided that the provisions of Parts II or/and VII relating to marriage and divorce, and succession shall not apply to any person unless such person, after attaining the age of majority declares in writing that he or she, as the case may be, shall be governed by the said provisions, and gets such declaration registered in accordance with rules prescribed for the purpose by the Central Government.

Provided further that the provisions of Part II relating to marriage and divorce shall apply to such declarant only when both the bride and bridegroom before the marriage, or both the husband and wife after the marriage, make such a declaration."

(29) To clause 2, add the proviso :

"Provided however, that notwithstanding anything contained in the above clauses, this Code shall not apply to such person as will get his or her name registered with such authority and in such manner, as may be hereafter prescribed by Parliament, within five years after this Code comes into force and in case of a minor within five years after such a minor attains majority, to the effect that he or she does not want to be governed by this Code."

(30) To clause 2, add the proviso :

"Provided however, that notwithstanding anything contained in this section this Code shall not apply to any person unless such person got his name registered, signifying his will to be governed by this Code, with such authority and in such manner as may be prescribed."

The other amendments on the order paper against which an asterisk mark is placed and which were moved in the last session are also before the House. The clause as well as all the amendments will now be under discussion.

I will ordinarily only request hon. Members, who have not taken part in the debate so far on clause to rise in their seats. If hon. Members who have already spoken want to state any fresh points arising now, I will consider the matter and allow an opportunity, if necessary, later on.

Pandit Malaviya (Uttar Pradesh)**:** Sir, will you allow anybody to move any further amendments to this clause during the course of the discussion ?

Mr. Deputy Speaker : What I find is, normally that is a very difficult affair. It is inconvenient if amendments are allowed to be

moved at later stages, for once again hon. Members will have to apply their minds and ....

Pandit Malaviya : But in view of the special circumstances that exist now...

Mr. Deputy Speaker: Of course, during the course of the discussion, for the purpose of bringing about an agreement or some such thing, an amendment may be moved, and in that case the matter will always be considered. But with respect to new amendments I suppose the House will agree that for the reason that they will throw open the discussion once again, they should not be allowed.

Khawaja Inait Ullah (Bihar)**:** Would not an amendment that goes against the Constitution be out of order ?

Mr. Deputy Speaker : The hon. Member may refer me to the points that are considered as out of order or beyond the scope of the House at the time the matter arises.

Shri M. Naik (Orissa)**:** If an amendment moved stands in the names of two or more Members, will that amendment be taken as having been moved by only one Member or by all the Members who have given notice of it ?

Mr. Deputy Speaker : I shall take it that all of them have moved it.

Shri M. Naik : What happens if the hon. Member who moved it remains absent now ?

Mr. Deputy Speaker : I shall adopt the safer procedure. It is true that more than one Member has given notice of an amendment, and if he is not in his seat, it is open to any other of the hon. Members to move it. The question is, if all the Members are in their seats, whether all of them are to be taken to have moved it. By way of abundant caution we may say that all of them have moved it so that ultimately when there is any question of withdrawing that amendment and the Member who moved it is not in his seat, any of the other Members can withdraw it.

Shri R. K. Chaudhuri: If I want to oppose any of the new amendments now moved when can I do so?

Mr. Deputy Speaker : Whenever he rises and is called upon to speak. He is entitled to speak on all the amendments. (*An hon. Member:* Of one category ?) We have finished all categories. So far as clause 2 is concerned, I have allowed hon. Members to move all the amendments. Tomorrow I shall try to group them for purposes of

convenience according to their substance. The clause may be discussed as also all the amendments and amendments to amendments.

Shri J. R. Kapoor : You may direct the office to circulate to us a consolidated list of all the amendments moved today as also on the previous occasion, so that we may have in a simplified form all the amendments for ready reference.

Mr. Deputy Speaker : Though there are various lists of amendments, what is done is that they are put consecutively and, therefore, no further arrangement is necessary. As regards circulating the amendments moved today, I thought hon. Members would have noted them as I have done.

Dr. Ambedkar : I have also noted them.

Shri J. R. Kapoor : Amendments to the same part of the clause may be at different places and for the sake of convenience it is better they are put in one place.

Mr. Deputy Speaker : I shall ask the office to circulate a list containing the numbers of the amendments moved instead of once again repeating the amendments.

Shri J. R. Kapoor : It should be sub-clause by sub-clause.

Mr. Deputy Speaker : Hon. Members have left their homes far away and come over here for parliamentary work. I do not believe the office should do it. Hon. Members should do it. Hon. Members may take one view and the office may take another view and does the hon. Member also want the Secretary to speak on his behalf in this matter ? As regards Pandit Malaviya's amendment I shall allow it as an exception. With respect to other matters from tomorrow I would insist as a rule that I must have a copy of the amendment as also the Law Minister. Today perhaps hon. Members may not have had sufficient time to think about their amendments. Pandit Malviya may read out his amendment so that we may note it down.

Pandit Malviya : I beg to move : to clause 2, add the proviso :

> "Provided further that notwithstanding anything to the contrary in this Act, no provision of this Act shall apply to anyone unless a referendum thereupon has been taken in the State to which he belongs and the Legislature of the State thereafter has decided in accordance with the result of the referendum that the provisions of this Act shall apply to the residents of the State. Further, that, thereafter, it shall be open to anyone to declare that he shall not be governed by this Act and the same shall then not apply to him."

Shrimati Renuka Ray : Sir, there are two points which I want to raise. It is a dilatory motion. The hon. Speaker has given a ruling during the last session....

Mr. Deputy Speaker : Hon. Members ought not to start off straightway, unless I call them. It may be a valid point…

Shrimati Renuka Ray : It is a point of order.

Mr. Deputy Speaker : May be. The hon. Member should first stand up in her seat and I must call her.

Dr. Ambedkar : It might come under clause 1.

Pandit Malaviya : It is a matter of application and not a matter of extent.

Mr. Deputy Speaker : Let it remain here as it is.

Shrimati Renuka Ray : Sir, there are two points which I want to raise. First of all this amendment which has just been dictated to this Parliament—a procedure which we have never known before—is of a dilatory character...

Pandit Malaviya : Sir, I object to the word dilatory.

Shrimati Renuka Ray : This amendment is of a dilatory nature and the Speaker has given a ruling last time, if you will remember, on this. Secondly, I would like to know whether this procedure of dictating amendments to the House, while the Parliament waits is going to be a precedent which is going to be followed hereafter.

Mr. Deputy Speaker : The hon. Member too well knows that so far as dilatory motions are concerned, it is open to the House to discuss the amendments moved and throw them out, if the House is not inclined to accept them. I am prepared to adopt the advice of the hon. lady Member. I have not considered whether it is appropriate or relevant or irrelevant. I will take time to do so and if at any time before put it to the House. I find it is best to say that it is not relevant and therefore does not arise. I will do so. I will reserve my judgement so far as that is concerned.

As regards dictation, we have been accustomed to taking small sentences but I never expected it to be a long sentence and therefore I submitted myself to his dictation. Let us now go on. Let me place this before the House.

Amendment moved :

To clause 2, add the proviso :

> "Provided further that notwithstanding anything to the contrary in this Act, no provision of this Act shall apply to any one unless

a referendum thereupon has been taken in the State to which he belongs and the Legislature of the State thereafter has decided in accordance with the result of the referendum that the provisions of this Act shall apply to the residents of the State. Further, that, thereafter, it shall be open to anyone to declare that he shall not be governed by this Act and the same shall then not apply to him."

Pandit Malaviya : May I make a request ? It is a very serious matter which we are considering....

Mr. Deputy Speaker : The hon. member will have an opportunity...

Pandit Malaviya : I wanted to draw your attention to the fact that unless we are all careful enough to use language with a certain amount of restraint we are likely to waste the time of the House and waste our energy. I should like to take objection, with your permission, to the use of the word dilatoriness for this reason :one Member may have one view, another may have another view. But if we feel that a certain thing should be done and if we wish to say it, the task becomes rather difficult if it is said that we are dilatory. I think we should be careful in this matter.

Mr. Deputy Speaker : I have appealed to hon. members, the same appeal I will repeat: hon. Members ought not to be too sensitive. "Dilatory" is an absolutely parliamentary word. Hon. Members may be anxious to get through this measure. It is not merely throwing any slur on hon. Members—there are some dilatory motions and there are some motions of substance. Therefore, it is quite a parliamentary expression. But I will appeal to all sections of the House. (We are engaged in a very holy cause.) This is a question of Hindu Law and the questions before us relate to marriage and other things. Let us address ourselves with all seriousness to this problem. We can iron out the differences and not only create a meeting place here but also give a lead to the rest of the country which is the intention of Parliament to give so far as this matter is concerned. Therefore, I hope the best of cheer will prevail here and with good humour we will get into the clauses. Though apparently any particular amendment may be unpalatable at the beginning, let us hear and reserve our judgment. That is my humble appeal to all sections in the House. No heat ought to be allowed to enter into this controversy. Let us keep our heads cool.

Shri R. K. Chaudhuri : May I ask your advice, Sir. ....

Dr. Ambedkar : Why do you seek advice so often ?

Shri R. K. Chaudhuri : Just now you were pleased to address Shrimati Renuka Ray as madam. Has any Member got the right to be addressed by the Chair like that ?

Mr. Deputy Speaker : I am sorry. I would like to be corrected. I do not like any Member to be addressed by any other Member in the first person. Similarly I will not address any Member directly. I shall try to be careful, but these things need not be pointed out to me. Now let us proceed. We have had too much of advice.

The Minister of Home Affairs (Shri Rajagopalachari) : I take it, Sir, that in the last amendment the question of order is open ?

Mr. Deputy Speaker : On all amendments. I merely placed that amendment for purposes of discussion. At any time it is open to the House or to me to consider it.

Now, I shall give preference to those gentlemen who have moved the largest number of amendments, and so on in that order, and ultimately to those who have not moved any amendment at all and who want to speak. Those hon. Members who have already spoken on this will get a chance, if necessary, in the end.

Shri Rajagopalachari : May I suggest one thing ? Those who promise and who believe they will make short speeches should be given preference.

Hon. Members : No, no.

Shri Rajagopalachari : And they may give way to others afterwards. If a member who wants to make a long speech is cut out by another we need not sympathise, but it is unfair that those who wish to speak for five minutes should be cut out by long speeches.

Mr. Deputy Speaker : The suggestion that is given is certainly good, but I feel one difficulty. In the matter of resolutions of general discussion on a particular Bill, I can ordinarily give preference to those who want to speak for a short time so that there may be a number of members speaking on it. But with respect to amendments, hon. Members who have not tabled any amendment at all may occupy the time of the House.

Shri Rajagopalachari : Without prejudice to other considerations I am suggesting it. Because, a closure may come at any time and those who may have something very important and brief may be cut out.

Pandit Thakur Das Bhargava : How will we know beforehand whether a Member will make a long speech or a short speech ?

Shri Rajagopalachari : This is a battle of the long and the short.

Mr. Deputy Speaker : We should only have a general indication that all Members will make it, as short as possible.

Khwaja Inait Ullah : I wish to oppose some amendments, which were moved in the last session.

Mr. Deputy-Speaker : Nobody prevents him.

Shri Bharati (Madras) **:** His difficulty seems to be in regard to what you, Sir, have stated that those who have moved amendments will get preference.

Mr. Deputy Speaker : I have not said that I am going to cut it short. All will have an opportunity unless and until the House itself puts a ban upon them. I only indicated that hon. Members who have moved a number of amendments must be given preference. Others may also speak.

***Dr. S. P. Mookerjee** (West Bengal) **:** *rose*—

Mr. Deputy-Speaker : Dr. Mookerjee—though he has not tabled any amendments.

Dr. S. P. Mookerjee : I happen to be one of those Members. . .

Shri Rajagopalachari : It goes against all rules. .

Dr. S. P. Mookerjee : .....who have not tabled any amendment, nor have I, Sir, spoken on this momentous measure at any time since the Bill was introduced.

Shri Naziruddin Ahmad : He was a Minister at the time.

Dr. S. P. Mookerjee : Sir, we have met here after about seven months to take up consideration of the Hindu Code Bill. Many things have happened during this period. If I may say so, it is a matter of some satisfaction that Government has kept its mind open and has volunteered to make amendments in order to meet criticisms which may be made either in this House or outside.

Shri Gadgil : Reasonable.

Dr. S. P. Mookerjee : I believe never in the history of our country has a measure given rise to so much criticism in support or against it.

Shrimati Renuka Ray : What about the abolition of *sati ?*

Mr. Deputy Speaker : No, hon. Member need interrupt another hon. Member. I already said that it is likely to generate heat. Whatever •is not to the taste of any hon. Member ought not to be imposed upon any other hon. Member.

Dr. S. P. Mookerjee : The clause we are discussing now is of a general character. It raises the question of the applicability of the entire Code and from that point of view I should like to make some general observations which will be of a relevant character.

*P.D., Vol. XV, Part II, 17th September 1951, pp. 2705-23.

The question has arisen as to whether this Code should be made applicable to Hindus as such or to such other classes of persons including Sikhs, Jains and Buddhists as have been mentioned in the amendment moved by the Hon. Law Minister. The question has also been raised whether the Code should not apply to all citizens of India. I know that this matter was raised on the floor of this House in February last and 'I do not wish to dilate upon it very much but I would certainly say that as the Chapter in the Constitution dealing with the directive policy of the State indicates, Parliament under the new Constitution has really been called upon to pass a Code which is to be applied to all citizens—an all India Civil Code. When this bill was started to be discussed, we were working under a different set of circumstances altogether. It is therefore a matter of regret that the new Government even after the Constitution has been passed should proceed with a measure of this description applicable only to one section of the community. It is said that we are a secular State. In fact we suffer very often from a new disease which may be called 'secularities'. How far is it open to Parliament—I am not raising any technical point—but how far is it desirable for Parliament to pass a law which will be applicable to only one section of the community ? I know what the reply of the law Minister is, because he dealt with this question in one of his previous speeches. He said that there was no difficulty in formulating an all India Civil Code if the country really wanted it. If that is the answer, then why not let us have such a Code ? I doubt very much if some of the provisions which have been suggested in this Code can be proposed to be made applicable to other communities, in particular to Muslims. We are discussing the question of monogamy, I believe it is nobody's case that monogamy is good for Hindus alone or for Buddhists alone or for Sikhs alone. I believe those who are advocating monogamy honestly feel that this system is sound in principle and it should be made applicable to all—if not to all persons in this civilised world, at least to all citizens in India who are liable to be governed under laws passed by this Parliament. Now, why not have a separate Bill dealing only with monogamy and make it applicable to all citizens ? What is the objection thereto ? The objection thereto may come from quarters to which the Law Minister pointed his finger, I believe Mr. Naziruddin Ahmad.

Shri Naziruddin Ahmad : I am sufficiently troubled with one wife. I do not want two.

Dr. S. P. Mookerjee : The law Minister has got his answer. In any case, if a bill dealing with monogamy is introduced...

Pandit Thakur Das Bhargava : A Bill to that effect has been introduced in this House by me.

Dr. S. P. Mookerjee : If such a Bill is introduced, at least the Law Minister will get support from Mr. Naziruddin Ahmad, but the real reason is that Government dare not touch the Muslim community.

Shri Bharati : Why ?

Dr. S. P. Mookerjee : You make a test.

Shri Gadgil : Wait and see.

Dr. S. P. Mookerjee : I am making a suggestion. Let the Law Minister declare that the Bill will be amended and the portion dealing with monogamy will be applied to Muslims.

Shri Rajagopalachari : Are we to make laws in order to test courage ?

Dr. S. P. Mookerjee : Laws are sometimes made to test the sincerity of individuals and Government and therefore the sincerity and the partiality of the Government including the Home Minister are very much in question today.

Shri Bharati : Not at all.

Dr. Ambedkar : No, no.

Dr. S. P. Mookerjee : I am not going to tread on this question because I know the weaknesses of the promoters of the Bill. They dare not touch the Muslim community. There will be so much opposition coming not from men like Mr. Naziruddin Ahmad but from many others throughout India that Government will not dare to proceed with it. But of course you can proceed with the Hindu community in any way you like and whatever the consequences may be.

Shri Rajagopalachari : Because we are the community.

Dr. S. P. Mookerjee : My appeal to the House and to the Government would be on a somewhat different basis. I do not wish to make my speech very controversial.

Shri Kamath : Why not ? Make it as controversial as you can.

Dr. S. P. Mookerjee : Because I want to create that atmosphere where matters affecting social reform can be discussed in a method of give and take. It is not a Press Bill which the Law Minister is sponsoring on behalf of the Home Minister. We do not want the Police to stand outside this Parliament to help the smooth passage of a Bill dealing with social reform. That does not really help anybody. Any Bill whose object

is to introduce social reform must have the support of the vast majority of the people of the country. I see the Home Minister rising.

Shri Rajagopalachari : I am not interrupting, I am only helping him. My interruption has given a twist to the hon. Member's argument. I was only objecting to the particular argument. I may be entirely in agreement if he proceeds on the other basis.

An Hon. Member : So, you are a supporter !

Dr. S. P. Mookerjee : As the time of retirement from his office is drawing nearer and nearer sense also is dawning upon the Home Minister quicker and quicker. In any case, if we want to have social reforms in this country, we would like to carry as large sections of the people with us as possible.

I do not share this view that parliament has no right to deal with matters of social reform. I know the sacredness of our ancient texts—*Vedas, Smritis* and *Srutis*. But historically there were commentators to interpret the great theories which are propounded by the original lawmakers in days of yore. Gradually, the commentators also disappeared and what we have witnessed during the last 150 years is that in many matters affecting social reform Judges including European Judges sitting in distant London and legislators have from time to time come forward and made alterations in the social structure of the country. So it is rather too late in the day for any one of us to say that Parliament should not now have the right to pass legislation which may interfere with the rights and privileges which may be enjoyed by the people of this country under the existing law.

Pandit Maitra : Not this Parliament as constituted at present.

Dr. S. P. Mookerjee : So far as the right of this Parliament is concerned, naturally it is a very delicate matter. For me being a Member of this body it is rather difficult to challenge its jurisdiction, but of course so far as its right to present the will of the people goes, that is a matter which will be decided in the next few months and the people themselves will give their verdict. It is no use either for us sitting on this side or Members of Government sitting on the other side claiming for this Parliament things which may not be actually, honestly and legitimately claimed for this body. But my point is this that today there is a volume of opinion—a strong body of opinion, against some or many of the fundamental features of this Bill. I beg of hon. Members who are supporting this Bill to appreciate the depth of these criticisms. There may be some features in this Bill with which I am in agreement, but

I am trying to look at this measure from the point of view of those who are opposing it either in whole or in part. Just as we may appreciate the depth of the feelings of those who are supporting this measure, so also the depth of feelings of those who are opposing it must be appreciated. How to find a solution ? From the papers we find that for strategic reasons it has been decided to omit the consideration of some portions of this Bill.

Dr. Ambedkar : Strategic reasons ?

Dr. S. P. Mookerjee : A sort of toss is supposed to have been taken. On the one side are marriage and divorce and on the other side is property and somehow marriage and divorce have won the day, and property has been relegated to the background for the time being.

An Hon. Member : Property has won the day.

Dr. S. P. Mookerjee : Is it possible for us on the consideration of the amendments which are now before the House under clause 2 to devise some procedure whereby it may be left open to those who desire to come under the Code to take the fullest advantage of its provisions, and at the same time give freedom to those who do not believe in the sanctity or legality or justice of the provisions to continue to be governed by existing Hindu Law ?

Shri Bharati : That is uniformity.

Dr. S. P. Mookerjee : That is a proposal which I am making in a perfectly relevant manner on the basis of the various amendments which you have ordered to be placed before the House for consideration.

I have been told by some friends that we are liable to criticism for our backwardness in many foreign countries. During the last few days I have been told that some people have come and said that in China they are watching when the Hindu Code Bill will be passed !

Pandit Maitra : In Honolulu too !

Dr. S. P. Mookerjee : In America some people are supposed to be watching as regards the progressive nature of the Indian people in relation to their attitude towards the Hindu Code.

Shri Gadgil : Old *rishis* are watching from Heaven also.

Dr. S. P. Mookerjee : That I consider to be an entirely irrelevant consideration. Let us look at the American laws. I was trying to get some information with regard to the American laws. I find that in 26 different States in America they do not allow marriage between

Americans and Negroes and even they go to the length of indicating the fraction of African blood which will negative any marriage between an American and Negro. In some States marriage between an American and Chinese is prohibited, or a marriage between an American and a Mongolian. In practically all the States there are different marriage laws. Somebody interrupted me just now—what about uniformity ? I suppose people of the United States of America are getting on quite merrily and quite well without having complete uniformity of all marriage laws. So uniformity is not the last word on the subject. Uniformity suggests stagnation, deadness...

Shrimati Renuka Ray : *rose*—

Dr. S. P. Mookerjee : .....and I suppose even Mrs. Renuka Ray has not reached that stage.

Shrimati Renuka Ray : Should we follow America ?

Dr. S. P. Mookerjee : I am not saying that you should follow America. I would suggest that we should follow the lead given by our own country and that is the lead which Mrs. Ray should follow and which she has not followed as yet.

That is so with regard to America. Now take again the Roman Catholics. According to their strict law, according to their religion, divorce is not allowed. But in almost all countries they have passed civil laws which allow Roman Catholics to adopt divorce if necessary. But they have not touched their religion. They have allowed that to remain separate, but those among the Roman Catholics who desire to be governed in accordance with the civil laws, it is open to them to do so. Well, Dr. Ambedkar is nodding his head. It is difficult to know whether it is in approval or dissent. In any event, he can explain later on—I am open to correction. It is very difficult to get these Jaws. But whatever books are available in the Parliament Library I was trying to go through them and I find that a clear distinction is made between the two systems.

Now we are confining ourselves for the present to marriage and divorce. What is it that is worrying the so-called progressives in this country, including progressive ladies?

Shri Kamath : In the House or outside ?

Dr. S. P. Mookerjee : They are anxious that there should be a provision for divorce and there should be provision for monogamy. These are the two things on which great stress has been laid. Now let

us take divorce for the time being. You have got your laws passed by the Indian Legislature which permit divorce. At one stage a Hindu could not get married under the civil law, unless he declared that he was not a Hindu. Even that has been changed. A Hindu may remain a Hindu and at the same time contract a marriage which will be according to his taste or that of the couple. Similarly, with regard to inter-caste marriage, you have already passed laws and made such inter-caste marriages permissible, without taking away the Hindu character of the persons involved. Even *sagotra* marriage which is considered to be very revolting by large sections of the people has been recognised by laws passed by Parliament.

Dr. Tek Chand : By the previous Parliament.

Dr. S. P. Mookerjee : By the Legislative Assembly.

These are indications as to how the demand for a progressive development—if I may say so—of marriage laws has been mat by Legislatures of this country. This is a subject which is placed in our Constitution in the Concurrent List and I believe Bombay and Madras have passed laws on the subject. (*An Hon. Member* : Mysore as well). There are several States where provincial laws have been passed in some form or another. (*An Hon. Member* : Not in North India) making provisions which are consistent with the wishes of the people. Now the point is this. Why do you wish to make the new laws obligatory upon all Hindus ? You do not wish that the system of divorce should be taken advantage of or must be taken advantage of, by people against the will of the parties concerned. It is an enabling measure and that power is already in existence.

On the other hand, what is the blow that you are giving at the feelings of million of people ? Now you have kept this form of sacramental marriage on paper. You have changed its description from sacramental to "*dharmic*" in order to give it a little oriental and attractive colouring. Of course the substance has not changed. I would ask very seriously those Members of the House who are supporting this Bill : What is it that you are achieving by this proposal ?

So far as sacramental marriage goes, this is an ideology which lies deep-rooted in the minds of millions of people—educated, and uneducated, literate and illiterate—the indissoluble nature of Hindu marriage. That is a matter of religion : it is not a matter of mere body and flesh. Now that is a feeling which lies deep in the minds of millions of people and I have talked to many people not only in my own province

but in verious parts of India. People who have not the remotest chance of taking advantage of any divorce law for various reasons are simply shocked at this idea and many people who are well-intentioned, who are reformers suggest that if there are Hindus in the country today who want to take advantage of the modern system of divorce or want to do away with the religious nature of Hindu marriage, there is enough opportunity given to them under the existing law. If, however, the law has to be revised in order to make them ultra-modern and completely up-to-date, let the law be revised for their benefit. But why do away with the fundamental and sacred nature of Hindu marriage ? What is it that you gain thereby ? I have not been able to get any satisfactory answer to this question. Because it is nobody's case that the new methods which are being laid down will be compulsorily adopted by all Hindus. Obviously that is nobody's case. Therefore, if option is given and if people take advantage of that option, naturally your case is won.

I was told that even in India, as India is today, there are nearly about 90 per cent, among *Shudras* amongst whom some form or other of divorce or dissolution of marriage exists. Very well, then the answer is there. You have got your Hindu Law which provides for the dissolution of marriage in castes and communities where it is wanted. You may say, well, why should about 10 or 15 per cent, of the Indian population stand against these changes ? It is not a question of anybody's standing against the changes. If you want to go ahead or go backwards— whatever it may be—you are welcome to do so. But why drag others who do not believe in you and also who believe in something which is perfectly morally justifiable and in accordance with the highest standards of human conduct ? I have not been able to get any answer to this fundamental question.

We are told very often that our system is backward. I have got with me many extracts from the writings of great Indians and great Western scholars who have admired at the way in which Hindu society has carried on its existence in spite of tremendous odds and difficulties. I am not for a moment saying that all is well with Hindu society. I know where the defects lie. But it is something amazing, something unprecedented that our religion or the great truths on which Hindus for generations past, for thousands of years, have lived, somehow have shown a degree of adaptability and vitality which is hardly to be witnessed anywhere else. What is the reason ? The reason is that whatever truths were propounded by the ancient sages or *rishis,* or

commented upon by those who came after them, were not dogmatic in character. Just as the needs of the society changed, so also the laws were altered. In a huge country like India which is one politically today—and we would undoubtedly like to see that it grows politically, socially, culturally and economically as one solid nation—at the same time, we cannot forget that in this country dwell thousands and thousands of people in various parts, in towns and in villages, men educated, uneducated, men with vision and with no vision and they have built up a structure of their own consistent with individual and social progress and welfare. Somehow that society has developed. Do you find any other country in this world where in spite of tremendous onslaughts the social structure has remained one ?

India passed through seven hundred years of Muslim rule. Now, many theories were propounded during that period which in the context of today's circumstances may appear to be rather conservative. But they were dictated by considerations for the preservation and consolidation of the society as such, and that is how those particular principles were propounded by the masters who were in no circumstance less qualified to speak on matters with which they dealt than any of us sitting in this Parliament today.

From time to time movements came into this country. Reference has been made to Brahmo Samaj to Arya Samaj as soon as it appeared that the society was becoming stagnant, was becoming conservative, some outstanding personality raised his head in this land and drew upon the great sources, the fountain head of Indian knowledge, the *Vedas* or the *Upanishads,* gave their own interpretation and thereby tried to check the growth of the evils of conservatism or the moral decay of the society. But what has happened today ? The ideology for which the Brahmo Samaj stood in this country, say, about a hundred years ago has practically been absorbed by the Hindu society as you call the Hindu society today.

The other day we were discussing about Buddhism, a matter on which Dr. Ambedkar naturally would be the best authority to speak in view of his latest transformation to that religion. But in any case some friends from outside India came, I have something to do with the Maha Bodhi Society. I happen to be its President. *(An Hon. Member*: Are you a Buddhist ?) without being a Buddhist. I am a Hindu and yet I am its President, because I have liberality enough to admit the greatness of Buddhism and yet remain a Hindu. The point I was about to develop

was this. There were friends who came from outside India and they asked with a tone of complaint. "Well, India was the land of birth of Buddha, but India killed Buddhism". I do not wish to go into those controversial matters now. But one point comes out very prominently and that is that when Buddha started preaching his great doctrines India needed Buddha, not only to save the world but to save India. And Buddha succeeded in checking the growth of certain tendencies which were about to destroy the very life-blood of Hindu civilization Buddha has been absorbed by the same Hindus as an *avtar*. Although there were people in India who fought with Buddhism—whether they were right or wrong is a matter into which I need not enter now—but gradually it was realized that Buddhism was a factor of growth on Indian soil and had to be absorbed in Indian culture.

Shri Gadgil : The same thing will happen to the Code.

Dr. S. P. Mookerjee : Far from it. That is a paradise that my friend is creating where he may dwell for ever.

So far as Buddhism is concerned it went and spread in other countries but the tenets of Buddhism were gradually absorbed in Hindu ideology .The reason why I am saying all this is to show that we should never tolerate any criticism from any quarter, especially from a foreign quarter when they say that Hindu civilization or Hindu culture has been of a static nature or of a stagnant nature or of a decadent nature. There is something in our culture and civilization which is of a dynamic character and which has lived from generation to generation. Even when India was a subject nation people were bom in this country, men of our soil, who stood up for great ideals which gave a new lease of life under new and modern conditions to the eternal tenets of Hindu civilization. This code is destroying that fountain-source. I shudder to think of the effect of cause 4. You read clause 4 of the Hindu Code. You are closing the door there. You are saying that except such manners or customs which might have been recognized in the body of this Code, everything else will be taboo from today. And my friend Mr. Gadgil says that this will be another Code of a modern Buddha or Manu or something like that (*An Hon. Member:* What a fall !) It is these manners and customs based upon the ancient ideology, which allowed the Hindu society to grow and prosper from time to time.

12 Noon

Today, this great Assembly—and all of us are honourable and learned men—is solemnly deciding that we are the: fountain-head of Indian

religion and Indian culture and whatever we decide to embody in this Code is final for the time being and nothing else will be allowed to be looked into by Judges and Courts. Does not the House know that even in 1951 after the attainment of Independence, our own Supreme Court had to draw from the original texts or their interpretations and give their verdict on cases where questions of Hindu law were under consideration, because they could not get any analogy from judicial decisions or text-books ? You are killing today the very fountain source of your religion which had given such a wide scope to generations of people to make it a living reality and you say that it is a forward measure : it is a backward measure ; it is a measure which does not help anybody at all ; it only helps in dividing the country. I do not wish to ascribe any motive to anybody. Anyone who may be supporting it or proposing it may be acting with the highest motives. I am prepared to admit that but what I would like to say is this : Do not give compulsory effect to the provisions in respect of all people. (*An Hon. Member* : Where is the compulsory effect at all ?) Divorce is not compulsory but the breaking away of the sacramental ties of Hindu marriage will be compulsory and that is bad enough. Whether divorce comes or not is a different question altogether ; you are violently changing customs and convictions. Somebody said, when I was speaking earlier that south India was specially progressive and many of the laws which we are considering are already in existence there today. I say good luck to south India. Let south India proceed from progress to progress from divorce to divorce. I have absolutely no quarrel with south India, but why force it on others who do not want it. In fact I have got a letter with me. I received it only two days ago—it is a postcard and I do not know the gentleman who wrote it.

Shri Gadgil : From the Dead Letter Office ?

Dr. S. P. Mookerjee : It is not from the Dead Letter Office. I can make a present of it to Mr. Gadgil, if he likes. It is not a dead letter. This only shows how customs vary in this country. Here is this gentleman who writes from Nuzwid, Kistna district.

> "The Bill as published on the Hindu Law contains a provision rendering the marriages between a girl and her maternal uncle void as being within the prohibited degree. The aforesaid custom is widely prevalent in Andhra and Tamil Nad and even Brahmins consider maternal uncles of girls to be the most eligible and suitable bridegrooms for their girls. The prohibition is not known perhaps

to lawyers and to others. I am sure that the vast majority of our people are ignorant of it, in which case marriages celebrated in ignorance of this provision would operate as a severe hardship. I therefore request you to move an amendment....."

I do not know why they had selected me in particular and not written to Dr. Ambedkar—

"... saving the custom from the prohibition or fixing suficient time to elapse before the chapter on marriage, can be brought into force."

This is just by the way, for those who were talking about the progressive nature of the people living in those territories. Naturally they have gone very far ahead. (*An hon. Member*: Is it true ?) I do not know whether the letter came from the Dead Letter Office but my friends from south India can tell me whether it is genuine (*Interruption*). I shall refer the writer to Mr. Bharati in my reply. The point which I am developing is this.

Shri J. R. Kapoor : It is not a progressive State.

Dr. S. P. Mookerjee : Those who may follow him may consider it absolutely progressive. It is only a point of view. I am not challenging the wisdom or un wisdom of any State. It might have been followed by lakhs and millions of people in this vast country. Naturally customs might have developed in a particular manner. My proposal boils down to this. You do not make this Code applicable to all—I am talking of marriage and divorce for the time being—but leave it open to those who will be married in future to make a declaration that they would like to be governed by these provisions and not be governed by the consequences of *dharmic* marriage ; you leave it open to them to do so. (*An hon. Member* : What about past marriages ?) That covers the cases of those who come in future. We are not legislating. I suppose for the purpose of helping the dissolution of marriage of the existing Members of Parliament. We are looking to the future ; we are thinknig of handing over something to the future generation, whereby they can live in peace and with greater comfort. But supposing you want to apply it to those who are already married....

Dr. Ambedkar : It does not apply to those who are already married.

Dr. S. P. Mookerjee : There also you can make a provision. Supposing you want to apply it to all who are already married, there I will give a solution. You leave it open to anybody, say, within a period

of one or two years to register his decision whether he would like to be governed by this Code to opt for it, if you can use that language. (*An hon. Member* : Why not everywhere ?) Well, 'everywhere 'I do not approve for this reason that you are deciding something for others for which you have no right today. You are passing a law whereby you are saying that the *dharmic* form of marriage will continue as now without any modification or alteration and the other form of marriage also is open to people who would like to take advantage of it. Let the people in future make their choice. There is no compulsion and for existing people you may give a time-limit or you may not give a time-limit. You can say that if any particular party desires to be governed by the provisions of this Code, such persons may make a declaration before the Registrar or Registrar-General or Director General or whoever he may be and get the relief as is provided for in the Code. I ask in all seriousness what is it that you lose thereby ?

Pandit Kunzru (Uttar Pradesh)**:** What do we gain thereby ?

Dr. S. P. Mookerjee : What you gain thereby is that you do not break the unity of the country.

Pandit Kunzru : This Act when passed will be permissive. It does not compel any couple to take advantage of the provisions of divorce. It is perpetually open to a couple to say whether they are to be governed by that provision or not.

Dr. S. P. Mookerjee : That is a point of view which maybe urged with some emphasis. Here the difference is this : that you destroy the indissoluble nature of Hindu marriage which is regarded as solemn and sacred by millions of people. Pandit Kunzru may not agree and many people in this House may not. I am not quarrelling with those people who believe that marriage is bilateral arrangement, that it is nothing but a matter of contract; I have nothing to say against them if there are people who hold that view. Let them hold it, but there are those who hold the contrary view, who genuinely and sincerely believe that this system which has been in vouge for thousands of years is something sacred, something deep-rooted in their traditions and religion. What right have you to sit in this House and say that you want by one stroke of the pen to take this great right away ? That is my answer to Pandit Kunzru. (*Shri Bharati*: Monogamy.) I am coming to it. Shri Bharati need not be anxious I hope he is agreeing with me as regards divorce and that is why he wants me to go to monogamy. That is my line of approach. Believe me, rightly or wrongly, this country has been divided

tremendously on this Hindu Code Bill. I do not wish that that should be so. I want that we should go on progressing and making reforms in our social structure. But, we will do it in such a way that we can carry the bulk of the people with us, not carry them by force in this House or carry them by threads of sweeping agitation outside, but carry them by appealing to their logic and to their conviction. When I discussed this matter with representatives of the orthodox school of view.....

Dr. Ambedkar : That is Karapatriji.

Dr. S. P. Mookerjee : No ; I have not met him recently.

Pandit Maitra : What is the harm if he is consulted ?

Dr. Ambedkar : No harm. I invited him and he expressed a desire to come. Afterwards, he refused to come. I have not shunned him.

Dr. S. P. Mookerjee : I have not discussed this matter with Karapatriji rcently. I shall not be sorry to discuss it with him ; but, I have not discussed.

Dr. Ambedkar : In fact; I invited him to come and discuss ; but he has not come.

Dr. S. P. Mookerjee : I have discussed this matter with many people who represent his point of view and others who are not orthodox. Somehow, the country is divided today. How to proceed in the matter ? As I said, it is not a Press law, that something is in danger and so you must go and pass the Press law somehow and operate it. This is not an amendment of the Constitution. It is not a political matter. In fact, we may differ on matters of politics. But, there should be a fundamental agreement with regard to the need for introducing reforms into our great country, which will make our civilisation more progressive and more advanced. That should be our common ground of approach. Those who are following the existing practices, those who are abiding by the ; provisions of the existing laws are not retrograde. The tragedy is that many of the supporters of the Bill, who have been carried away by their notions of so-called progress and advance, in their exuberance think that what they think is the last word on the subject, that they represent progress and the others are retrograde. That is very unfortunate. (*An Hon. Member* : Lipstick). I am not talking about lipstick at all; I have talked about progress. We should see the other man's point of view, the point of view of man who believe in the existing ideology, unless it can be pointed out that something is happening in the society which

is absolutely rotten, immoral, backward. If that could be pointed out. I am at one with Dr. Ambedkar and those who want to introduce reforms. But, if it is a mere difference of opinion, a mere difference in outlook, and you get whatever you want for those who share your point of view, why then do your force your opinions on millions of others, who do not share your view ? That is a point of view which I would very strongly urge before the Law Minister and Governmet. If I had given you a formula which indicated an abandonment of the provisions of the Code for those who believe in it, you can blame me. But, I wish you godspeed ; go ahead ; do whatever you like for those people who believe in the ideology which you are preaching here. But in respect of others who and whose forefathers had proceeded in accordance with the old traditions and Who are no less patriotic Indians than any one who is sponsoring this bill, why do you force your options on them ?

Talking of divorce has the law of divorce solved all social problems in countries where the system of divorce is now in existence ?

Shri Himatsingka (West Bengal) **:** Created more.

Dr. S. P. Mookerjee : I have been going through some of the recent bookson sociology. People are perturbed, because this is a complex human problem. The word has not found a solution to these problems. Those who have taken to the system of divorce, their number is leaping up. Do they find peace ? Have they found happiness ?

An Hon. Members : No.

Dr. S. P. Mookerjee : On the other hand new problems have come up. Read some of the latest books on psycho-analysis. There it is clearly pointed out that many of the evils which face the western countries are due to the mal-adjustment of the sexes. These are complex problems. Why blindly copy something from the west because some people from some part of the world have come and told you that. You are backward unless you adopt this ? If there are forward people in this country, who believe in this ideology, give them a long rope, sufficiently long, so that they may hang themselves. But, do not interfere with others who have found a solution of their problems through different doors altogether.

So far as monogamy is concerned. I shall support it with one reservation. Make it applicable to all the citizens of India. It is not a question that monogamy is good for the Hindus and monogamy is not good for others. Stand for one social doctrine.

Pandit Thakur Das Bhargava : Why force it on those who do not believe in it ?

Dr. S. P. Mookerjee : If you believe that monogamy as a social system is the best that India should have, then, do not try to look at it through the Hindu door ; look at it through the human door and make it applicable to all. Behave like a secular State at least in this instance. Take courage in both hands and say that monogamy will be made applicable to all citizens of India. If you cannot do it, do not do it for one section alone. Here, we are living in days of statistics. We swear by stastics, either real or manufactured. I have been trying to get some information : I could not. I wanted to know how many people in India have been marrying a second time.

Shri Himatsingka : Or, keeping two wives at the same time.

Dr. S. P. Mookerjee : That is what I mean : marrying a second wife when the first is alive. The number is extremely small. It is really no problem. Already, on account of advanced views, society has adjusted itself and on account of economic conditions, general public censure etc., this system has gone out. Why make a parade of this that you are introducing a great reform and legislating for this ? If you accept it as a principle, apply it, as I said just now to the whole of India.

So far as the Hindu Code Bill is concerned. I do not know what the decision is going to be. The Prime Minister has indicated that most likely we will not proceed with the rest of the Bill and time may not permit us to do so I am prepared to make this offer. Pass the entire Hindu Code as it is ; only make it optional. Those who want it can adopt it. I have spoken to representatives belonging to the extreme orthodox school of view ; I have argued with them. Although there are some amongst them who are against the passing of any such Bill whatsoever they also realise that just as they claim to think for themselves, others also must have the liberty to do so for themselves and for their future. That would be a splendid beginning. I am prepared to admit, however much there may be opposition to the Code, that this represents a marvellous piece of work on the part of Dr. Ambedkar and those who have been associated with him. I am quite prepared to admit that this is a most throny subject - and he has gone through the matter with as much ability as any one could have. For that, if he is prepared to accept an honorary degree to be conferred by Parliament, we are prepared to confer a degree on Dr. Ambedkar. But if you look upon it as a measure which has to be pushed down the throat of millions of Hindus who are opposed to it. I say that

you will not be doing a service to the people of India. The only way in which you can proceed even at this late stage is this. Let us not quarrel amongst ourselves ; let us agree to differ on this fundamental issue. If you are prepared to point out that there are certain matters which are immediately anti-social, or corroding into the very life of Hindu society, let us agree to make such provisions compulsory if there are any. Othewise, this new great structure which you have prepared, keep it there for a few years and say that any one, whether a Hindu or not, any Indian citizen, who desires to accept it can make a declaration, and the provisions regarding marriage or divorce or property, whatever it is, will be applicable to such selectors. That would be the beginning of a great era. For after all, who is going to decide ultimately ? your elections are coming. You then go forward. As the Prime Minister has said, his sweeping wind will come and blow away all opponents and....

Shri Kamath: Whirlwind.

Dr. S. P. Mookerjee : Yes, the whirlwind will come. Let the whirlwind come with regard to the provisions of the Hindu Code Bill. Let them go and convince the people and tell them that they are not forcing it on them. Let them say, "we give you the option. Here is a heaven we have created. Come into this heaven and attain *moksha*". Go and explain to the people and if they feel that it is really such a heaven and not a *dilli-ka-laddu* they will come and take it, and take it with open hearts. There will be ample time. After all, Hindu civilisation has existed for thousands of years, in spite of on slaughts from various quarters, cultural, political and economic invasions and so on. We have survived all that and we are now a free country, and we propose to survive with a much more glorious future than we had attained in the past. But when you introduce social reforms in such a vast country as this, where opinions differ, where attitudes differ and where ideologies differ, then the only way in which you can do it is to go at a slow pace. I am not asking you to abandon principles which you believe to be true. I am not asking that for the time being. But please go and convince the people, the Hindu people who still claim to live under canons and codes which are in no way inferior to those existing in any other part of the world. Give them scope to choose for themselves. That is my appeal to the House and to Government and I hope that appeal will be heeded to.

***Shri B. K. P. Sinha :** A cruel destiny always pits me against Dr. Mookerjee, one of the greatest orators in the House and in the country. Dr. Mookerjee and other opponents of this Bill have brought forward the suggestion. "Why not have a Civil Code ? Why not extend the scope of this Bill to cover all the castes and communities and religious groups in India ?" And also they ask., "Why not leave it to the different states or different people to adopt the various provisions of this Bill ?" The mover of the Bill has effectively replied to these criticisms. The opponents of the Bill have also referred to the clause in the Constitution regarding discrimination between different persons. It was their contention that in view of that clause, or in view of that arricle of the Constitution. If you have provisions in the Bill applicable only to one community, that will not be constitutionally valid. In that connection they also referred to certain decisions of some Bombay courts and Madras courts. But they were decisions of the lower courts and since then the Bombay High Court has pronounced that in the cases referred to there was no violation of the discrimination article in the Constitution and that in spite of that article we can have laws for the Hindu community, to the exclusion of other communities. Therefore, that point is settled.

Then there is the question of leaving it to the different States or people to decide by referendum. What are the grounds on which they have advanced this argument ? They say that the provisions of the Bill conflict with the fundamental tenets of Hindu law, that they are revolutionary and that they bring about far-reaching changes in the law, and that these changes are not at all essential. These are the arguments advanced by them in support of their contention. Let me scan the provisions of the Bill and see what is the substance of their contention. I will for the present confine myself to the question of marriage and divorce, for that is the only chapter that is going to be discussed.

Pandit M. B. Bhargava (Ajmer)**:** Kindly confine yourself to clause 2.

Shri B. K. P. Sinha : Yes. I confine myself to clause 2 and I will illustrate my statements only from marriage and divorce chapter. I will not go beyond that. What are the features of this chapter ? It has four features. One that it widens the scope within which one can have marriages. You can go beyond the particular sub-caste or group and

*P.D., Vol. XV, Part II, 17th September 1951, pp 2723-32.

still the marriage will not be illegal and the children will not be illegitimate. Secondly, this Bill restricts or narrows down the field of prohibition. There were many prohibitions. One could not go beyond certain castes. One could not have marriage within the same *gotra* or *pravara* and with certain relations which fell within certain degrees from the father and mother. This bill narrows these prohibitions. And then it introduces the principle of monogamy, and lastly it introduces the principle of divorce.

First of all, there is this widening of the Field of marriage. Are the provisions of this measure really in conflict with the principles of Hindu Law and Hindu religion ? In my opinion they are not. Dr. Mookerjee said that this measure offends the orthodox people, that it offends their religious sentiments, their religious susceptibilities. I am not ashamed to admit that I consider myself as much an orthodox Hindu as anyone else. Have I not very often met Dr. Mookerjee on the banks of the Ganges when we went there for our bath. We have also often met in the temple of Lord Shiva at Banaras. Our orthodoxy is of the same character and of the same extent. Still I do not find anything in this Bill that wounds my religious feelings or susceptibilities. What was the pristine or original condition of Hindu society ? That we see in the texts of the *Mahabharata* and other scriptures. There were no caste distinctions then as they exist now. Then there were divisions according to the work.

Shri Syamnandan Sahaya : Every man is a *Shudra* by birth. It is by the sacraments that he becomes a Brahmin.

Shri B. K. P. Sinha : But due to certain adverse factors things changed. Well, I do not want to quote and prolong the discussion, otherwise I will be playing your game. Well, as I was saying, there were no distinctions as they exist now. Every *Arya* was free to marry any other *Arya*. You know that *Anuloma* and *Pratiloma* marriages were permitted by Hindu law. And in adopting the provisions of this measure. I am sure that we are reverting to the old order of things. But that old order was disturbed by certain unfortunate developments in the country.

Pandit Malaviya : Will the hon. Member please elaborate that point a bit ?

Shri B. K. P. Sinha : I have elaborated it sufficiently. We will have to talk for seven days if we are to give enough elaborations.

Pandit Malaviya : I want to learn. I want to understand things and what the hon. Member says. I want to know where *Pratiloma* marriages were allowed in India.

Shri B. K. P. Sinha : You will find in any book on Hindu Laws that *Anuloma* and *Pratiloma* marriges were common.

Mr. Deputy Speaker : *Anuloma* marriages were allowed and not *Pratiloma* marriages.

Shri B. K. P. Sinha : It was not allowed. The children were known as *chandalas* but they formed a branch of the Hindu society.

Mr. Deputy Speaker : All that has been settled by Acts of Parliament.

Shri B. K. P. Sinha : There are so many Acts of Parliament in this regard such as the Special Marriage Act of 1872, the Hindu Marriage Validation Act of 1949 allowing marriages between Hindus, Sikhs and Jains and also between different castes and sub-castes then there is the Hindu Marriage (Removal of Disabilities) Act which allows marriage between sub-divisions of the same caste. So these Acts are there and they are of an all-India character and it is open to any Hindu to marry any other Hindu, Sikh or Jain. What we are doing here is simply re-enacting the old laws. Dr. Mookerjee asked if the laws are there, why re-enact them here ? I would put it to him that if they are there what crime are we committing by re-enacting them in the Hindu Code ?

Then I come to the second feature; restricting or narrowing the field of prohibition. Under the Hindu Marriage (Removal of Disabilities) Act, is it not true that *Sagotra* and *Sapravara* marriages are permitted and that nothing new is introduced in this Code ? This provision is already a part of the Hindu law. In the Hindu society it was only amongst the Brahmins, strictly speaking, that *Sagotra* marriage was taboo. To the *Kshatrias* and *Vaishyas Gotra* had a spiritual or religious significance only. *Gotra* did not mean to them that they were descended from the same ancestor. Only in the case of the Brahmins the sameness of *Gotra* meant that they were descended from the same ancestor. In the case of the *Shudras Sagotra* marriage was always permitted. Whether under the law as it was or as it is, we find that *Sagotra* marriages were legal and valid and that is only being incorporated in this Code.

Another restriction introduced is that the field of prohibition is being narrowed, in the case of the father's side to five and in the case of the mother's side to three generations. So far as the Hindu law and the practice and customs prevalent in this country are concerned there is

not much of a uniformity. Many commentators advocated seven and five prohibitions : others have advocated five and three prohibitions. They thought it was not necessary to go beyond five and three prohibitions. In the *Yajur Veda* the restriction is three and two and in certain Vedic texts it does not go beyond two. In this Bill it is my contention that we are only reverting to the old order, the Hindu law as it was in the beginning before it became contaminated with contact with others.

(SHRI HIMATSINGKA in the *Chair)*

As regards the principle of monogamy, under the Hindu law as practised today the Hindu woman shall have only one spouse.

Shri Kamath : One living spouse.

Shri B. K. P. Sniha : Living, or dead also.

Shri Kamath : One can have one dead and one living.

Shri B. K. P. Sinha : In certain cases one only, living or dead.

So far as males are concerned, there is a misconception that the Hindu law allows polygamy. But I find that there are certain texts of *Yajnavalkya, Manu* and *Apasthambha* which ordain and lay down that a Hindu can have a second wife only in certain well-defined circumstances. When the relevant clauses come up before the House I will quote the *shlokas* and the texts.

Pandit Malaviya : Do you suggest that ?

Shri B. K. P. Sinha : I do not. Now Bombay and Madras have passed legislation laying down that there shall be monogamy. This principle of monogamy has been recognised for Hindus in the Special Marriages Act and in the Civil Marriages Act. I find that this principle, that it is salutary to strick to one spouse has been recognised indirectly by the Married Women's (Separate Residence and Maintenance) Act which recognises that a married woman can get separate residence and maintenance if the husband goes in for another wife or a concubine. It has been recognised that oneness of a spouse is slautary. Any deviation from it is bad and in that case the woman is allowed the right of separate residence and maintenance.

Shri Kamath : What about polyandry ?

Shri. B. K. P. Sinha : Then I come to the other principle, divorce. Dr. Mookerjee was furious; he said that Hindu marriage was sacramental, indissoluble, immutable. There is no escape for a man who once commits a mistake in marrying a certain woman ! But I find from some of the old texts that Hindu marriage was not as immutable, as

indissoluble as Dr. Mookerjee would claim. I would read out a text which tells us that even the woman has a right to go in for another husband. This is the text of *Narada* and *Parashar:*

नष्टे मृते प्रव्रजिते क्लीबे च पतिते पत्यौ ।
पञ्चस्वापत्सृ नारीगां पतिरन्यो विधीयते ।

"Another husband is ordained for women in five calamities, namely, if the husband be unheard of or be dead, or adopt a religious order, or be impotent or become outcaste."

Pandit Malaviya : Will you kindly read also the commentary on that?

Shri B. K. P. Sinha: I will leave it for you.

So it was not as indissoluble as Dr. Mookerjee would like us to believe. There were provisions for dissolution of Hindu marriages in certain exceptional circumstances. Thereby, the principle of contract was recognised indirectly. Moreover, the Civil Marriage Act also recognises the principle of divorce and these authorities apart, in the modern age, in the present conditions of India, If we do not have a law of divorce for the Hindu society we must be prepared for the disintegration and the ultimate dissolution of the Hindu society.

In this connection I am reminded of two or three cases which created such a furore in Bengal, the home province of Dr. Mookerjee. Hindu law as practised there does not leave any scope for divorce. I know at least of two cases in which the parties belonged to the Brahman caste. They were married. They led a happy life for some time. Thereafter, their life was unhappy. There was no escape for them. In both the cases, the wives went to a famous mosque at Calcutta and were converted to Islam and thereby they got the marriages dissolved. Society in India has reached such a stage that if you do not have a law of divorce you must be prepared for such incidents, I do not know whether Dr. Mookerjee by standing against this provision is doing any good to the cause of Hindus or like all fanatical champions he is doing positive harm to Hindu religion and Hindu society.

Shri Chattopadhyay (West Bengal)**:** Did they not later on become Hindus ?

Shri B. K. P. Sinha : At any rate, it is clear that if you want divorce you have to be converted to some other religion. I urge that only.

There are many such cases where parties have adopted some other religion just for obtaining divorce. We must take note of advance and

progress. We must see the stage that society has reached. We are not living in an age when India had no contact with the outer world. We are living in an age when ideas have a knack of crossing the borders of countries. We are living in an age when certain theories of liberty and certain theories of freedom have crept into the minds of men and women, especially young men and women and, if we do not allow scope for the working of those ideas it is my fear that Hindus society as we know it today shall not long be able to maintain its existence.

Then some of my friends urged that the provincial laws were there and why we should not leave the matter to the provincial governments. That is exactly the reason why I urge that we should have a Central law. Marriage, divorce, adoption, succession and inheritance form part of item 5 of the Concurrent List. It is open to any State Legislature to Legislate on any of these matters and some States have legislated. Supposing we do not legislate, what would be the consequence ? The consequence would be that custom, for which Dr. Mookerjee shed so many tears, would be abrogated in all the different provinces by the provincial legislations and then you would have statutory laws differing from each other in all the provinces. If custom is the only vehicle of progress and development, that vehicle will be destroyed and there would be rigid compartmentalised law-26 or 30 laws, in fact as many laws as there are provinces or States in India. I shudder to think what will be the effect of that on Hindu society and ultimately on the strength of the nation, for a stable and uniform society is an essential ingredient of a strong and stable nation.

Then there is the question of inter-marriage. In previous times, people of one territory were born in their territories ; they grew up in their territories ; and they died in their territories. They were governed by the customs and usage of that territory. What do we find today ? In this Parliament, in the galleries of this Parliament, there are Members from all parts of the country.

Shri Kamath : On a point of order—can the galleries be referred to?

Shri B. K. P. Sinha : I am not addressing the galleries. If I can talk of the country, I can as well talk of the galleries.

Residents of various parts of the country are assembled here. Not only in this City, but in every important city of this country you find persons from different provinces—in Calcutta you find people from Travancore ; in Travancore you find people from Bihar and Calcutta.

Very often, the residents of the different provinces, in spite of the restrictions imposed by customs and usage and sentiments of the orthodox, find ways of coming together, in nuptial contract. What shall be the effect on them and their progeny if we allow these various provincial laws to operate. Suppose a man from Bombay marries a girl from Bihar and in Bihar he marries another woman. In Bombay monogamy is the law. What will happen to his marriage in Bihar. While his children by that Bihar wife will be legitimate in Bihar, when they go to Bombay they shall be considered illegitimate and shall have no civil rights. What will happen to the hundreds of couples coming from different castes and different provinces ? What will be the rights of those children ? If you allow individuals to opt, many anomalies are likely to arise. A man may opt for the new Code ; his father may be governed by old Hindu law ; and the optee's son may not opt for the new Code. What laws would govern such a family ? If, therefore, the suggestion of my hon. Friends were to be adopted, there will be such confusion, that the confusion in the tower of Babel as compared to this was nothing. It will take the Judges centuries to clear the confusion. Therefore, I feel that we have reached a stage when in the interests of Hindu society we cannot but have such a law.

Previously in the provinces there was certain rigidity—people living in a certain province had one social tradition. People of the same caste had almost the same intellectual development, the same cultural code, etc. In those circumstances, when one married out of his caste one went to a different world altogether. But today these cultural, economic and intellectual disparities are disappearing. Society in India is becoming one. While previously there was some justification for marriage within one's caste or inside the province, there is no such justification today. because the cultural level, the intellectual level and the economic level of the various communities are coming on a par with each other. According to eugenic principles marriage outside one's caste under the previous state of affairs would have been bad. Today the laws of eugenics point in a different direction altogether. They point to a direction in which the hon. Mover of this bill is attempting to lead us.

Dr. Mookerjee talked about the intensity and the depth and breadth of feeling in the country against this Code. I am a villager. I do not come from one of those advanced cities where the most modern theories are the order of the day. I know the minds of the villagers on this matter. I know that there is a lot of misapprehension in their minds about this

Bill. That is because the opponents of this code have for the last five years or so been carrying on a tearing and raging propaganda against it while the supporters of the bill have been keeping mum and slient. In my area also people were by and large, opposed to the provisions of this Bill. But when I explained to them the provisions of this Bill in detail I can tell you that at least 70 per cent, of them became converts and they realized that nothing short of this was needed for the society. When Dr. Mookerjee says that there is intensity of feeling I concede that. But when he talks of the depth and breadth of that feeling I disagree. There is no depth in it because that feeling is based on ignorance. There is no breadth in it because the people, by and large, are not against this Code. It is only a handful of moneyed people who care more for their property, for their land, for their shares who are putting up such a row against this measure. I have had intimate talks with some of these orthodox people. They do not care a grain, an iota for the Hindu Law or the Hindu principles, or the *rishis* or the *smritis*. What rouses them into opposition is the property clause.

Shri R. K. Chaudhuri : That has been dropped now.

Dr. Deshmukh (Madhya Pradesh)**:** But wife also is property.

Shri B. K. P. Sinha : These are the three lines of my argument. There is nothing revolutionary in this. All that we are going to have is already there on the statute books. Secondly, this Bill does not go against the fundamental principles of Hindu religion. Rather, it tries to bring the circle full. The wheel has gone a full circle and Hindu law is being restored to its pristine purity. Thirdly, this law is essential for the existence of Hindu society in the circumstances of today.

Since one of my friends from Bihar, Mr. Syamnandan Sahaya, when he spoke last referred to Dr. Jayakar, I would like to quote a very small paragraph. While writing his foreword to *Hindu Law* in *Bharat* published in 1951—and the foreword was written in 1951—what has Dr. Jayakar to say about this aspect—not about Hindu Law in general but about the aspect to which I referred ? He says :

> "The author has not omitted *to* note some of the prominent deficiencies which exist in present-day provisions of the Hindu Law, requiring early redress."

An Hon. Member : Who is the author ?

Shri B. K. P. Sinha : The author is another person, but the foreward is written by Dr. M. R. Jayakar—a scholar of Hindu Law, not the politician.

Shri Syamnandan Sahaya : Also a politician.

Shri B. K. P. Sinha : Probably my friend Mr. Syamnandan Sahaya referred to Dr. Jayakar, the politician. I am referring to Dr. Jayakar, the scholar.

Shri Syamnandan Sahaya : Do you mean that politicians are not scholars ?

Shri B. K. P. Sinha : They are. And then Dr. Jayakar goes on to say in his foreword:

> "He observes that in modern times facilities of transit and interchange have enormously increased and various causes, appropriate to the times have compelled people of different races and religions to live together in territories governed by different systems of law. These new factors naturally tend to complicate problems of human life in the sphere of their legal relationships. Rules framed to regulate municipal and purely local set of circumstances prove inadequate or even out of place to deal with such problems arising out of the introduction and presence of foreign elements within the territory. The development of a Body of Rules to cover these new sets of circumstances is alreay overdue."

***Dr. Deshmukh :** I am afraid probably my hon. Friends who welcomed my getting up to speak by saying "hear, hear" may be disappointed at what I am going to say today.

Shri R. K. Chaudhari : Have you changed your mind ?

Dr. Deshmukh : To a certain extent, probably, yes.

An hon. Member : Wise men always do that.

Dr. Deshmukh : I have been member of the Select Committee and I have appended a note of dissent to the Committee's report. But that covers only four points. That note of dissent itself shows that appart from those four points, I am in general agreement with the many provisions proposed to the Bill. At the same time. I always felt that the time had not come when it was possible to revise, with some other and different ideals in front of us, the whole structure of the Hindu society and to change it radically. Ours is a vast country and the Hindu community is extremely large and numerous. We are also highly uneducated and absolutey, illiterate. From that point of view if you wish to change the basis of the Hindu society to any violent or great extent, the people who are not capable of understanding the changes are likely to suffer considerably. From that point of view I thought that

*P.D., Vol. XV, Part II, 17th September 1951, pp. 2732-38.

the reforms so far as the Hindu Law is concerned should be as and when required and whenever a certain situation demands them, and only when the public opinion was ready and well-informed and was capable of following all the modifications in the social structure which we desire to bring in then alone we should attempt a thing of that nature.

Therefore, I hold that the Hindu Law even when codified will not help us unless it is your desire to remodel the whole Hindu society for which the time, I submit, has not yet arrived. The Hindu law as laid down by the *Smritis* and as interpreted by the High Courts and the Privy Council is fairly well crystallised ; there may be certain differences of opinion ; there is a possibility of conflicts in interpretations but they are understandable and we have had this experience of these 150 years and this has not led to any great suffering or any great hardship....

Shri Lakshmanan (Travancore-Cochin) **:** On a point of order, are we at the general discussion or discussion on clause 2 ?

Mr. Chairman : He is in order.

Dr. Deshmukh : My remarks are really relevant so far as the discussion on this clause is concerned. What I was going to point out was that if we were going to remodel the society and change the whole law so as to suit modern times in an ideal manner that would be something far different from what we are attempting here. Even in what we are attempting at the present moment, I do not think that the Hindu Code represents a complete remodelling of the Hindu society. We are after all codifying what exists although with some changes. Because at the present moment and in this modern age, if we really want to follow modern ideas, I do not know whether the conception of any private property is going to survive very long. What is the use therefore of discussing the property law and debating whether it is according to the *Mitakshra* or the *Dayabhaga* or we are going to introduce the principle of primogeniture or something else. I personally feel that so long as we have the Hindu laws by which we are governed at the present time, and so long as it is a fairly well understood law, which the whole population and the whole Hindu community understands, the time has not come when we should attempt a radical and whole-sale alteration of the law which governs the society. Because, that is likely to create more trouble than we have at the present moment. At the same time, I have always advocated and I am in favour of removing those difficulties, those harrassments and those persecutions which exist and because of which, there is human sufferring. So far as these things are

concerned, I think it should be the endeavour of every Member of Parliament to support the Bill; wherever it is found that our social structure is likely to suffer, and where it has led to a good deal of inconvenience and trouble, those reforms ought to be taken up and there should be no compromise with any orthodoxy.

1.00 P.M.

Shri Kamath : While we would like to hear the hon. Member, there was a half-hour discussion to be taken up at one o'clock ....

Mr. Chairman : That has been postponed.

Shri Kamath : We have had no notice.

Mr. Chairman : It has been struck out here:

Dr. Deshmukh : So far as removal of difficulties and hardships is concerned, I am prepared to go even farther than the sponsors of the Bill. The prohibition of polygamy and introduction and enforcement of monogamy are extremely desirable reforms. I also agree that it is time that the Hindu society provided for divorce under the law. There maybe some restrictions imposed ; but I do not think it is possible to shut our eyes to the instances and facts which come to our notice. It maybe a thing which my orthodox and *sanatani* friends may dislike. Of course, many of them dislike any change whatever. Unfortunately that is the position. Here, I must clear a misunderstanding. I have been regarded by some *sanatani* friends as a staunch opponent of the Bill on all points and in every respect. It is therefore that I have prefaced my remaks with the remarks that my hon. friend Pandit Mukut Bihari Lal Bhargava will probably not welcome what I was going to say today. The provisions should, however, be confined to these two aspects.

Further, I would like some provision by which we can better the conditions of our widows. I have seen a great number of instances where they are undergoing inhuman suffering. So far as widows' rights to property are concerned, we have had amending Bills. We have passed certain laws. But, to my knowledge, they have not benefited those for whom they were intended. I would like to persuade the hon. Members of the House that we should make some provision so far as they are concerned.

Shri Bharati : We are not discussing that now.

Dr. Deshmukh : I do not know if any announcement has been made in the House whether we are going to leave out of consideration those other sections and confine ourselves to only these things *viz.,* marriage and divorce. Because I was not here, I do not know what decision has been taken.

Shri Bharati : We are not likely to take them up.

Mr. Chairman : Let the hon. Member go on.

Dr. Deshmukh : If it is intended that we should confine ourselves only to the passing of a law that one person can at one time have only one wife, I would not very much object. But, as has been pointed out by my hon. Friend Dr. Syama Prasad Mookerjee, much ado is being made about a thing which is dying out by itself. The present struggle for existence and the economic forces at play are themselves bringing about the desired change. Therefore, although it is a necessary reform, I do not think it is something that some people may be prepared to die for.

So far as divorce is concerned, I think there is much to be said in favour of divorce. At the earliest possible moment, this provision ought to be made. As has been pointed out by many Members, this is only a permissible reform, merely making provisions for divorces—the mere presence of the provision does not mean that every one will take advantage of it and get a divorce. What is the present position ? There are certain States— Baroda for instance, where divorce is allowed. And many who cannot agree between themselves or for other reasons who cannot get on, merely go and stay at Baroda for some time and obtain some sort of certificate that they are residents there and in this way get their purpose fulfilled. Wherever a married couple cannot get on together, may be for any reason, may be because one of them is suffering from a bad disease or there may be many other factors which cause a deterioration of their relationship they should be able to separate. It is human to expect under modern conditions that this freedom should be made available to them and it should be possible for an individual to get a divorce and separate. From that point of view, I submit that the provisions so far as divorce is concerned, are desirable. But on one point I vehemently disagree with Dr. Ambedkar and that is with regard to not recognising the customary divorce. He wants that all divorce cases must...

Shri R. K. Chaudhari : I want to get a point cleared. Does the hon. member advocate divorce of scramental marriages and also at the same time the continuance of sacramental marriages ?

Dr. Deshmukh : I do not think there will be any difficulty. Even now a good many sacramental marriages get dissolved. That happens in various communities and under the Hindu law. And who is going to say that marriage under the so-called backward communities, which really are more advanced than others are not sacramental marriages ?

They are and they are recognised by custom and their divorce systems are also recognised by customs and by the caste *panchayats*. But the Hon. Minister wants that all these cases must go through an involved method where lawyers will be necessary and all sorts of evidences will have to be taken and the whole thing will prove to be a hardship to these people.

Dr. Ambedkar : Let there be customary marriage also.

Dr. Deshmukh : If the provisions of the Bill are limited to the removal of the defects now present and we do not go further than that, then I would be prepared to support and I will not say that since you are not going to make it applicable to everybody in India therefore it should not be made applicable to Hindus also. I had raised that point as a major issue, because I felt that if it was intended that the whole of the Hindu society should be radically changed, then there was no reason why we should not make all the provisions of the measure applicable to all the people living in India. But since this is intended as a sort of a reform and the scope of it is confined specifically to certain sections. I have no quarrel so far as this point of view is concerned.

Dr. Mookerjee undoubtedly went too far in asking that it should be left to the option of people. If that be the course that we adopt, then even the simplest possible reform demanded by society would be impossible. I do not know why he took that view though he has been very reasonable on most other points. This smacked a bit of a no-changer. He was prepared to support the divorce provisions if monogamy is made applicable to all the communities living in India. Although it looks plausible, it smacks more of obstructionist tactics than helping the passage of the Code. I for one stand even for radical reform which will not create confusion in the Hindu society. These provisions are not such as are likely to create confusion, because everybody need not resort to divorce or take advantage of the provision. There are inumerable cases where both man and wife suffer and desire that separation would be ideal. For such cases we make provisions by which separation would be allowed and I do not think it should be anybody's business to come in their way merely on the ground that in the remote past we regarded marriage as a sacrament and not as a contract. As I have already said even sacramental marriages could be dissolved according to custom. After all recognition of sacramental marriage is recognition of customary marriage, because it is governed only by custom. There are many different forms of marriage. In some

cases there is *saptapadi*. I hope the modification which I have suggested will be acceptable regarding customary divorce. Originally it was the intention that all custom should be wiped out altogether. I am glad that Dr. Ambedkar has modified that stand but I am afraid he will have to modify it further. In one place where he had to explain his view point he said that custom must be such that it must be sensible, reasonable and satisfy certain other requirements. He expected custom to answer to standards of reasonableness. But what is reasonableness ? It can differ from man to man and from group to group. What may be regarded as reasonable by Dr. Ambedkar would be entirely unreasonable to Mr. Kamath or Pandit M. B. Bhargava....

Shri Kamath : Do you lump us together ?

Dr. Deshmukh : Oh, No ! Not jointly but severally. From the point of view of custom I must say that the learned doctor, must be willing to go a little further, because every custom has had a history and it is not arguable on the basis of reason. Originally the view of the sponsors of the Code was that custom, whatever it was, was bad. That was why they provided that all "custom" was bad and no custom will be recognised under any circumstances. The whole society was to be governed by the provisions in black and white of the Code and no variation of any kind was to be recognised. Fortunately you have come to a stage when you are prepared to recognise custom. But to what extent is the question ? On the one hand you say that it should be reasonable but in many instances this is a contradiction in terms...

Dr. Ambedkar : Why **?**

Pandit Thakur Das Bhargava : It has to be reasonable before it is recognised.

Dr. Deshmukh : In customary marriage one of the things essential and recognised as a necessary ingredient is that the bride and bridegroom must take seven steps round the fire. I do not see any reason or reasonableness behind it. What function does it perform ? How does it help so far as the wedlock is concerned ?

Shri Kamath : It is symbolic.

Dr. Deshmukh : Similarly.....

Mr. Chairman : Is the hon. Member likely to continue his speech ?

Dr. Deshmukh : Yes, Sir, I will take sometime longer.

The House then adjourned till Half Past Eight of the clock on Tuesday, the 18th September, 1951.

*HINDU CODE—*contd..*

Clause 2.—(*Application of Code*)—*Contd.*

Mr. Deputy Speaker : The house will now proceed with the further consideration of the Bill to amend and codify certain branches of the Hindu Law as reported by the Select Committee.

Dr. Deshmukh (Madhya Pradesh)**:** Sir, between the time I left my speech incomplete yesterday and now, two fine ladies who did not share...

Shri Sondhi (Punjab)**:** What is meant by "fine ladies" ?

Dr. Deshmukh : Two cultured and....

Shri Sondhi : You may say modern ladies.

Dr. Deshmukh : No, not so modern as we are accustomed to see. As I was saying, these ladies placed before me very strongly and sincerely their point of view. It was clear they viewed the Bill from a different angle. And while the Hon. Prime Minister is here I may also say that these ladies complained that their point of view has never received adequate consideration at the hands of the Prime Minister, and that there have been attempts made to come in the way of his being informed of the strength of their feelings and the view point that they wished to present before him. If this is a fact, and if it is not too late to do so, I would feel much obliged if these ladies could call upon the Prime Minister to place before him their point of view. They are entirely opposed to the Hindu Code Bill in any shape or form, including the provisions relating to divorce and monogamy. They say that it is an attack on Hinduism and on Hindu religion which will be not for the good of anyone. They also contend that essentially these are radical changes and these are sponsored by a few...

The Minister of Law (Dr. Ambedkar) : For my own enlightenment, I would like the hon. Member to say what he means by "they". I could not hear the opening part of his sentence.

An Hon. Member : Two fine ladies, he said.

Shrimati Durgabai (Madras) **:** Will the hon. Member give us the names of these ladies for the benefit of hon. Members, because this may reflect on many ladies who are not of that opinion.

Mr. Deputy Speaker : Two ladies do not cover the entire world.

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*P.D., Vol. XV, Part II, 18th September 1951, pp. 2742-50.

Dr. Deshmukh : They are as representative as my learned sister here claims to be in this House. And, Sir, it is also their contention that in their discussions they have been able to convert many persons who had agreed with my hon. sister here and who were of her inclination. They are opposed to divorce because they say....

The Prime Minister and Minister of External Affairs (Shri Jawaharlal Nehru) : Who are they ?

Dr. Deshmukh : Sir, by this interruption I think the Hon. Prime Minister has admitted the statement that he has not seen them.

Shri Jawaharlal Nehru : I do not know who they are.

Dr. Deshmukh : There is a Women's League in existence in India and....

Shrimati Durgabai : Yes, nobody denies that; but we want to know the names of these two ladies.

The Deputy Minister of Food and Agriculture (Shri Thirumala Rao) : He is referring to persons who are outside the House and are not in a position to defend themselves.

Mr. Deputy Speaker : There is no question of defence or offence.

Dr. Deshmukh : I am glad Shrimati Durgabai admits the existence of a Women's League

Mr. Deputy Speaker : There are opinions and opinions on the Code hon. Members are entitled to say that there is a certain opinion, that some ladies came to him and represented it to him. Further reference to the ladies is not necessary. It is for the House to accept or reject such an opinion of those people. In so far as a Member wants to mention the opinion which he is either going to support or controvert he can do so, instead of saying two ladies every now and then.

Shri Jawaharlal Nehru : The difficulty is that he particularly referred to me and wants me to see unknown people of unknown whereabouts. How can I do that ?

Dr. Deshmukh : They will not remain unknown and unseen as soon as they appear before the Prime Minister.

Shri Karunakara Menon (Madras) **:** Are they above sixty or below sixty ?

Mr. Deputy Speaker : Evidently the Prime Minister has not given an interview to those ladies. If the hon. Member is not willing to give the names, he will communicate them.

Shrimati Durgabai : Unless they want to remain anonymous.

Dr. Deshmukh : Not at all. The mere mention of there being ladies of a different viewpoint has excited our sisters here so much. (*Interruptions*). They are also aware that a good many ladies, not alone the few ladies who came to see me, have resigned from the All India Women's Conference.

Several Hon. Members : Who are they ? (*Interruption*).

Dr. Deshmukh : I can give not only their names but if I present them before you in all their strength you will probably be frightened. Their number is so large that it is impossible to give their names.

Shri Sidhva (Madhya Pradesh) **:** They are unknown women : they were canvassing in the Constitution House yesterday.

Dr. Deshmukh : You have seen two of them yesterday.

Shri Sidhva : They were unknown women.

Dr. Deshmukh : Those are the very ladies I am referring to. .

Mr. Deputy Speaker : The hon. Member will resume his seat. This is a very contentious matter. There is a large body of opinion in favour of it and there is also a body of opinion against it. It is no good talking of unknown women and unknown men. It does not add to the dignity of the proceedings of the House. The hon. Member need not refer again and again to these two women. There are not only two but two thousand against the code and there are also two million on the other side. So there is opinion both for and against. We are here discussing the bill dispassionately. Let nothing be said which, is derogatory to the high dignity of the House. Unknown women and unknown men are expressions which are not rather very parliamentary. The hon. Member need not pursue the matter by saying two ladies, again and again.

Dr. Deshmukh : I had no desire to do so but for the interruptions. Sir, I will now come to the various amendments moved in the house. My friend Dr. Mookerjee suggested many alternatives to the acceptance of the Code. One of them was to make the provisions of the Code optional. There is also an amendment to say that there should be a referendum and if the majority of the people supported the Code in the referendum, then it should be made applicable. I had given notice of an amendment last time which referred to the Hindu Code as a whole and suggested that it be made applicable in any State after the Legislature of the State after the next elections had ratified it. There is a good deal of force in the suggestion regarding ratification by the State Governments and State Legislatures. After all we are not trying

to go the way of Hitler and other dictators who forced social and other reforms on the people. We are a democratic nation and want to stick to democratic methods. If there is to be democracy and since this is only a personal law and not a law necessary for the maintenance of law and order or other purposes (it may be necessary in the view of some for the advancement of the community) there can be two opinions and one can be as honestly and steadfastly held as the other one.

In the case of some of the reforms suggested the experience elsewhere in the world has not been altogether happy. Take for instance the divorce law. There are various degrees of divorces and varying facilities for obtaining the same current in the world. Those who advocated divorce and wanted to organise society on individual freedom have come to grief and looking at these consequences in foreign countries, when some of our people merely try to imitate others, because they think it is more fashionable to advocate that view, some people feel apprehensive that this is sheer mad and sheepish imitation. That spirit of sheer imitation is there and the support for it is also there, because these people have never had the patience to study the actual results which have come about in foreign countries. So the orthodox opinion which does not share the view of the reformists is equally honestly held and is as well founded. When we know that the Hindu religion, the Hindu law and the Hindu custom have survived the onslaughts of history for thousands of years, naturally we feel that this is the one country or nation or community which has something of its own and instead of there being a flat uniformity, the consequences of which have been evil in many cases, why not try and evolve a system just as it has been evolved all these thousands of years. I do claim that the Hindu religion and the Hindu law are the one religion and the one law which have been evolved through the centuries. They have not remained stagnant and I am sure Dr. Ambedkar will admit that the Hindu law and custom have never been static: they have adjusted themselves to the circumstances from time to time and are capable of doing so hereafter also.

It is quoted that the Chinese and the Americans say that we are a backward people, because we have not got such and such a social system. Before we accept such comments bearing upon our society and before we incline ourselves to accepting their viewpoint, we must know what those people are. May I ask how far these Chinese and Americans have studied our religion and our law ? Have they imbibed the spirit

of the Hindu religion before they condemn it or suggest any reform in our society ? That is a very pertinent question. Merely saying that a group of persons from foreign countries do not like it and suggest some modifications in our law or custom cannot be accepted. If we merely try to please a certain group of individuals without judging the background of the views they hold we would be meeting the fate of the donkey, the old man and his son, who tried to please every group of spectators they met on their way. In the beginning they were carrying the donkey and the old man and his son were walking. People laughed at them saying "Here is a man leading a donkey without either he or his son riding" so the old man got up on the donkey leaving the son to walk beside him. Still people laughed at them saying "Here is the old man riding the donkey leaving the poor little boy to walk along." So the boy also.....

Mr. Deputy Speaker : Every body knows the donkey story.

Shri Bharati (Madras)**:** Who is the donkey here ?

Dr. Deshmukh : I want to impress upon the people that they are donkeying.....

Mr. Deputy Speaker : Details of the donkey story need not be retailed here.

Dr. Deshmukh : I would not have referred to this story but since this donkeying is going on time and again, very sensible people who ought to understand the value of the opinions of foreigners somehow or other try to persuade us and influence us by that mere fact. They say because certain foreigners say something there should be certain changes. I for one would not only not listen to such opinions but would not like anybody to give up his own viewpoint on this ground.

So far as the basis of the Code is concerned it should be introduced only where we find that the circumstances demand it and not force things against the will of the people. It is certainly true that there is a very large body of educated women who are behind this Code. They are said to be very firmly of the opinion that the passing of the Code is necessary. If we analyse the amount of education there is especially among the women of India, we will realise that these women are hardly a drop in the ocean; the number of these women who are asking for a radical reform and changes in our law is extremely small. On the other hand, they are so impatient that they are not prepared even to listen to the other point of view of the ladies who have as much sense as they have except their English or Foreign education. When I was referring to

"they", I was referring to those millions of women living in our villages who have as good commonsense, and who know what they are and what they wish to be; it is they who are apprehensive of the changes that you are suggesting because even the introduction of divorce is going to change the attitude of everybody, of the society as a whole. The question I would like to ask is : Are you going to enter a wedlock with the idea of divorce, or are you going to enter wedlock with the idea of staying in it permanently ? If you adopt measures of easy divorce there is going to be a big change of attitude. Of course we are prepared to have that change and suffer the consequences, but the educated ladies who are sponsoring and advocating the passing of this Bill have not thought of all the consequences that are going to be fall especially to the lot of the illiterate women. After divorce an educated girl may be able to stand on her own legs, get a sufficiently lucrative job anywhere, and probably get a better husband. But what is going to happen to an illiterate woman ? My lady friends here still complain of the dominance of the male sex, and to the extent that the woman is tyrannised by men, what is going to happen to the illiterate woman who will be the object of these vagaries and domination of the male sex ? Have these educated women ever considered the consequences which will result from divorce for example, the care of children and their protection ?

So, although I have expressed myself in favour of it, I would like to caution that in introducing any reform or changing any portions of our law we must coolly study the consequences that are going to result therefrom. Unless we do that we may be trying to do things which may not be necessary at all. I feel that there is much in the Hindu religion, there is much in the Hindu Law which deserves to remain, though probably in a slightly reformed condition. But the attitude behind some of the suggestions is somewhat anti-Hindu : they regard everything Hindu as suspect and look down upon it with contempt. They have somewhere or somehow imbibed the idea that whatever exists in India is absolutely rotten and that unless they go on the lines of foreign nations and imbibe their ideas and introduce them here, the Hindu society will not come up to the standards they expect of it. I am quite prepared to admit that they are actuated by honest motives, but at the same time there can be a different point of view which suggests that merely by blind imitation you are not going to survive. The way to survive is to modify according to the times and not go on in a whole-hogging fashion to change the very basis and fundamentals of our law and society. And

from that point of view I suggest considerable caution. When I spoke yesterday, I thought the intention was to pass this Bill with only the marriage and divorce sections in it and that the rest of the bill was not likely to come up. But now I find that is not the attitude of those who are in favour of the Bill; they do not wish to omit the other portions. They are prepared to confine the enactment to the two chapters only from the point of view of availability of time but they do not wish to give up the rest of the Bill. If that is the idea, then I am afraid many of the Members of this House will probably change their attitude because it does not mean it is a compromise which will last as after getting these two chapters passed they will probably insist upon the property clauses and the other sections of the Code. If we look to the history of the codification, we will find that there is a great and important body of public opinion against the Bill. Most of the bar associations have not only been against modification but they have been against codification also. The Committee that was appointed for the purpose found, when it went round the country, innumerable associations and innumerable individuals who expressed their strong condemnation of the proposals that were going to be made. Under these circumstances, I feel that it is not proper that we should say that after passing these two chapters we will take up the rest of the Bill also and that we will not give it up. It should be definitely understood that so far as this Parliament is concerned, we should confine to the marriage laws provided in this bill. The question of whether there is any possibility of the property clauses being taken up will, I think, determine the attitude of support or opposition of certain Members of the House. If it is the idea that the entire Code should be taken up, then it would be very wise to leave this to ratification by the State Legislatures. Then we will be giving them sufficient time to educate public opinion so that if the Code is really wanted, if there is any important body of public opinion in favour of the various detailed changes sought to be made in the Hindu Law, then the concerned State can accept it. And there is no harm in one State accepting it and another not accepting because this is a matter of personal law and it should be completely open to any individual or group of individuals to choose the sort of law that they want.

While I support the provisions with regard to monogamy and divorce and say that they may be passed, although I would like to suggest certain modifications, and one I have already moved yesterday, namely that the customary divorce should be allowed to continue—and I am glad

to find it is likely to be accepted, I suggest that the present proposals should be confined only to the marriage and divorce laws and nothing else should be enacted by this Parliament for the present.

***Shrimati Jayashri** (Bombay) **:** I beg to support the amendment moved by the Hon. Law Minister to clause 2.I am glad that sub-clause (4) of clause 2 is sought to be dropped. That sub-clause says :

> "Notwithstanding anything contained in the Special Marriage Act, 1872 (III of 1872), this Code shall apply to all the Hindus whose marriages have been solemnized under the provisions of that Act prior to the commencement of this Code."

10-00 A.M.

I am glad that this sub-clause has been dropped, because under the Special Marriage Act the rights that people enjoyed were much broader. This applies to the Indian Succession Act also. Although under the Hindu Code we are trying to bring about reform, yet this Code does not confer the same rights which are available under the Special Marriage Act..

Mr. Deputy Speaker : Under the Special Marriage Act, they cannot adopt. Under this Code, they can. Is that not an advance ?

Shrimati Jayashri : I am saying that the inheritance rights there are broader than under the Hindu Code. So, I am glad that he has dropped this sub-clause from the Bill.

With regard to the argument as to why we should not make this an ideal and universal Code which can be applied to Muslims, Parsis and Christians, I would like to say that we must first find out whether Members are prepared to go so far. It would be an ideal Code if we could reach to the stage of the Indian Succession Act and the Civil Marriage Act, but it is clear that our society is not at present prepared even to accept the reforms under the Hindu Code and go thus far. So, I wonder whether Members will accept the broader principles which underlie the Special Marriage Act.

Yesterday, Dr. Mookerjee said that the Muslims also should be asked to accept the monogamy principle. I would like to say that the Muslim Law gives much more rights to women. Under our existing Hindu Law, women are not given those rights.

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*P.D., Vol. XV, Part II, 18th September 1951, pp 2750-54.

Mr. Deputy Speaker : He was on the question of monogamy.

Shrimati Jayshri : Monogamy and sacramental marriage. In regard to our sacramental marriage, this is what the married couple pledge themselves to do :

> "Having taken these seven steps with me, we have become companions. May I retain that companionship and never part from thee nor thou from me. Let us be united. Let us always take counsel together, loving each other and ever ready in each other's company, let us be united in mind and grow together in strength and prosperty. Let us join in our aspirations, our vows and our sorrows."

May I ask whether this ideal of sacramental marriage is kept in our present society ? I would request Dr. Mookerjee to give his honest opinion whether he really thinks that no reform is necessary in our present Hindu Marriage Law. We all know that our Hindu society allows a man to marry as many times as he likes. This vow which we take during the marriage ceremony is only meant for women. Our laws are one-sided. They are only meant for women. We all know that when a man becomes a widower, even at the burning ground when he goes there to attend his wife's funeral his engagement takes place. So, a man considers marriage in such a light manner. And still, we talk of our Hindu marriages being sacramental.

Mr. Deputy Speaker : Widows also can marry.

Shrimati Jayashri : Women are more conservative in that way. They still consider that they would not like to marry even if they become widows. They do not seek to have second mrriages, but due to the one-sidedness of our Hindu Law *Nariprathishta* has gone down.

Hon. Members must have read K. Mushruwala's article in the *Harijan* where he shows how we are treating women in our society at present. We all know how in the Mahabharat the clothes of Draupadi were removed and she prayed to Krishna:

"कौरवार्णवमननामाभुद्धरस्व जनार्दन"

("I am sinking in the sea of *Kauravas*. Save me O Krishna.")

Similar cries we hear today from our poor women who are ill-treated by our society. We call our Hindu society *Sanatana,* that is to say, *Sada Nutan* (always new)—it is always changing. Change is the essence of life. If society does not change, it becomes stagnant. For thousands of years our society has survived because it has accepted changes.

The idea has been pressed that we should not have divorce ; that our marriages are sacramental, as Dr. Deshmukh said just now, from olden days we read in our *Smritis* (*Parasara* and *Narad*) that under certain conditions divorce was accepted. In the Hindu Code today we have tried to maintain the sanctity of marriage and the welfare of the parties. The framers have provided prior remedies for avoiding the extreme step of seeking divorce and those are restitution of conjugal rights and judicial separation. Therefore, divorce is not very easy. In Baroda the Divorce Act was passed in 1937, and in the analysis taken in the year 1939 the cases of divorce and judicial separation were 42 in number. Out of these, eleven were due to cruetly ; two due to desertion and cruelty, seven due to desertion by husband ; one due to desertion by wife ; six due to cruelty and habitual drunkenness of husband and marrying a second time. These cases show that divorces are not very easy. Only under special conditions divorces are granted.

Also we know that divorces are prevalent in the lower classes. Only in the upper classes this Code seeks to introduce this change. Yesterday, Dr. Mookerjee raised the cry of 'religion in danger'. I would ask him whether beating of one's wife is considered to be religious. A woman filed a suit in one of the courts in Madras for assault by her husband. And the learned judge gave a judgement that beating the wife is allowed in Hindu Law. So, may I ask him whether such cruel customs can be called religious ? Religion is always personal contact with God.

"ईश्वरः सर्वभूतानां हृद्देशेर्जुन तिष्टति"

[O Arjun ! God lives in the hearts of all living beings.]

It is not by passing particular laws that religion can be in danger. As I said Hindu religion is a vast ocean where changes take place now and again and we have accepted these changes. That is why our structure of Hindu religion has lasted for such a long time. May I also draw your attention to the necessity of changes in Hindu structure. I would say that at present our law is one-sided. We do not give any relief to our women. We have our National Planning commission which wants to plan on the present structure. I would say that unless the social structure is changed, it is no use planning on that body which is rotten. I would in this connection like to make some suggessions for improvement in our society. In a planned society woman's place shall be equal to that of man: equal status, equal opportunities and equal responsibilities shall be the guiding principle to regulate the status of woman, whatever the basis of society in the plan. Woman shall not be excluded from any

sphere of work, merely on the ground of her sex. Marriage shall not be a condition precedent to the enjoyment of full and equal civic status and social and economic rights by woman.

May I ask whether at present the status of woman is such, so that we can plan properly in the present society. Family life and organisation and woman's enjoyment of a share in the property are very necessary. Marriage and succession laws governing these are also necessary and that is why I feel that unless some change is made in our present Hindu Law, I do not think it would be possible to build on the structure that we find at present.

The Women's Conferences have always asked for a common Code. We are also in favour of a common Code. We are not asking that special privileges should be given to only Hindu women. We all know that at present our women are suffering and are backward. Parsi, Christian and Muslim women are far ahead of Hindu Women in this respect and that is why at present we are supporting this Hindu Code. As I said earlier, if we make this Hindu Code an ideal one, the other communities also will have no objection in accepting our Code.

Dr. Deshmukh said that many women have resigned from the All-India Women's Conference on this question. On the contrary I would say that in our Conference we have from the very beginning, asking for these changes and it was due to our request that so many pieces of legislation on marriage, right of women to property, etc., were introduced. In Bombay when Dr. Deshmukh of Bombay wanted to bring the bill on giving property rights to widows, we requested him not to hurry with this measure, but to wait so that it may include properties for daughters as well as adoption and other clauses. At that time he told us that he would like to hurry with the measure and that he would bring other reforms also. Therefore, these reforms are due for a long time and it cannot be said that we have not taken public opinion. Even this Hindu Code, as you know, is before the public for the last ten years and it is no use saying that public opinion has not been sounded. I think enough public opinion has been created and it is very wrong to say that very few women are supporting this measure. We have had many public meetings in various places and women from all over India are supporting this measure. On behalf of women I give my whole-hearted support to this Hindu Code.

*** The Minister of Works, Production and Supply (Shri Gadgil) :** I heard the speech of my hon. friend Dr. Syama Prasad Mookerjee with great attention. I should say that it was not entirely unhelpful. He said two things which appealed to me. One was that in the matter of social reform we should carry public opinion to the largest possible extent. Secondly he said that this was not a matter of politics, this was a matter in which every citizen of this country was interested irrespective of his or her political views. Because of these two things, I am somewhat optimistic and I am certain that if we are able to create in this House an atmosphere of give and take and of compromise we will be able to put on the statute book something about which individually and collectively we may be proud of.

Dr. Syama Prasad Mookerjee praised the Hindu culture and called it dynamic. I share that view. It is because Hindu culture has the genius of adaptation to circumstances, it is because that it is responsive to new trends that it has survived and it has been the pride and glory of us all. Today there is a greater need for the leaders of thought to consider how we shall attempt to progress further and how we shall bring the law in line with public morality. The old ways may not be effective in the modern times and therefore it behoves us that we must also have to resort to modern methods. There is no dispute about the fact that there are certain evils; although I am a good Hindu and I will yield to none in my admiration for Hindu culture, still I am not blind to the faults which have crept in our life as a community. By adopting a Constitution with the objective of equality of status and social justice, we have taken a great responsibility. We want to inaugurate a society in which there will be perfect equality. If that is the objective, then surely that cannot be achieed by following old methods of shouting old slogans. We have established political equality by adopting the system of adult franchise. We want to secure social justice and remove as far a possible economic inequalities by erecting certain economic institutions which will secure a better standard of life for those who are down-trodden, by securing opportunities for the expansion of the personality of every citizen. And that is only possible in my humble view, by nationalising at least the means of production and securing an adequate standard of wages, controlling profits, and if at all private effort is to be given any place in the economic system by laying down that it shall be under the

*P.D., Vol. XV, Part II, 18th September 1951, pp. 2754-68.

regulation and control of the State. In other words, by legislation we are trying to secure social justice and trying to remove economic inequality. If by legislation we have secured political equality, if by legislation we are attempting to secure economic equality or at least to remove economic inequalities, it is only logical that by the same process, namely by legislation, we must try to secure social equality.

My friend Dr. Syama Prasad Mookerjee stated that by codifying the Hindu Law you are shutting out altogether those sources of Hindu Law which have been functioning from ages and which has secured the means of progress so far. I agree that the sources of Hindu Law are *smritis, shrutis, sadachara,* and one's own conscience. All that is true. But all that was good and valid enough when the political constitution or the political set-up of the country was different from what it is now. Even in the West it was considered that a change in the law could be effected either by legislation or by legal fiction which meant that the law apparently remained the same but in practice it underwent a change and by custom. Even in the West the modern tendency is to depend mostly or substantially upon legislation in effecting the necessary changes which will make the law to be in conformity with public morality. Law always follows public morality. Public opinion goes ahead and progresses because that is the life in the community, not being static or stagnant, continually progresses, continually proceeds, because the law of life. Therefore the legislation comes behind. But there should not be such a big hiatus between the two so as to endanger the happiness of the community. It is therefore the duty of every thoughtful citizen, of every person who has the interest of the community at heart to see that the time-lag between the two is as short as possible.

Now, it is no good depending always upon the second method, namely of legal fiction, and allowing the judiciary to strain the meaning of plain words and asking them to try to bring the law in conformity with the prevailing opinion in the community.

The third method, namely that of custom, is, I should say, a misfit in modern circumstances. After all, custom was good when the legal power of the State was not adequate, was not sufficiently developed in order to enforce what was thought to be just and proper and what was thought to be in the best interests of the community. Now, in the modern world to talk of custom prevailing over law is a sort of anomaly. If the custom is prevalent on such an extensive scale I have not the

slightest doubt that legislators will initiate the legislation and the custom will be incorporated and dignified into a rule of law.

That being so I am unable to understand the argument of my hon. friend Dr. Syama Prasad Mookerjee that we are doing something revolurionary and in such a manner that the normal sources of law which were available will be completely closed. It is not so. Whatever we have inherited we have so to say, instead of putting our inheritance into a number of banks consolidated the inheritance and put it in some bank which has the prestige and strenth of a Reserve Bank, namely legislation. That is what we have done. In fact in the present Code as it is now before this House what is really done is that we are practically coordinating what is in existence—the present law—to the extent of eighty per cent. There is no doubt an element of progress to some extent. I will even concede that there is an element which to some extent goes in advance of public opinion. But I want to ask one question to the Members of this House. Is it or is it not our duty not merely to think in terms of the needs of the persent moment but to think in advance of our society, as we visualise or as we desire that it ought to be ? If planning is good in the economic sphere why should it be bad in the social sphere ? We are anxious that our society should be such. If that is the ideal on which we are agreed and on the assumption that we are . agreed—because we have adopted it as one of the objectives in our Constitution—then we have to consider how we shall manage to take our society to that destination. Can we follow a policy of *laissez-faire* in this sphere or shall we think ahead, think in advance just have our target and gradually, through the mechanism of law, which in due course, become part and parcel of the community's life and arrive at the destination according to the schedule ?

Shri R. K. Chaudhari (Assam) **:** That is questionable.

Shri Gadgil : If we leave it to non-official effort I have no doubt that in course of time, may be two generations hence, things will become as we desire now. But by that time public opinion would have advanced much more. In other words we will never be able to cut the time element between the growing public opinion and the legislation. I therefore say that if there is any element of advance thinking in this Code it is justifiable, and I would say that it is an act of wisdom.

Now the opposition to this Bill has been from several points of view. There are people who do not like any interference by the Legislature in these matters. There are people who think that the Parliament, or the

Legislature of the country, has a right to interfere but not the present Parliament. They rather prefer that the matter should be completely looked after and dealt with by those who will come after this Parliament is dissolved. So far as the first school is concerned I think, as was said rightly by Dr. Syama Prasad Mookerjee, it is too late in the day. Continually, in the course of the last 150 years, legislation after legislation has been passed by the Central Legislature—whatever the denomination of that legislature may have been—and all those things have become part and parcel of the Hindu community and its life. When I said that soon after the passing of this code, same thing would happen, my hon. friend Dr. Syama Prasad Mookerjee was not agreeable. He has accused us, namely the Members of the Treasury Bench of suffering from "Secularities". I should say, knowing as I do, his views of social reform, knowing as I do that he comes from Bengal, a province where social reform was first mooted, beginning with Raja Ram Mohan Roy and carried on by Kesav Chandra Sen, Tagore and other people of great importance and consequence, that I cannot believe that he is seriously opposed to what is being proposed in the Hindu Code, but probably he is suffering from 'electionitis' and if that is so, the cure and remedy will be provided for in the general election. He agreed that it is very difficult to say on which side is the public opinion. I think he is right. We might claim public opinion to be.....

Pandit Malaviya (Uttar Pradesh) **:** Will the Government be prepared to make this Hindu Code one of the issues in the election ?

Shri Gadgil : In spite of the Government, it has already become. The point is that it is difficult to say on which side the public opinion is. I want to ask in all humility one question to the hon. Members of this House, Has or has not the Government which still carried the confidence of this House some right to initiate social reform, not merely the right, but a duty enjoyed on this Government in terms of the clauses of the Constitution ? You have given us certain directives ; you have laid down the objectives. If we do not do anything on those lines, the electorate might turn round and say : Well you passed this constitution merely to fool us. Half the population in this country, namely, the women will say : You talk of social equality but where is that social equality. (*An hon. Member*: Question). I am sure the hon. Member will lose in his own house if he takes a referendum.

Pandit Maitra (West Bengal) **:** Does the hon. Member say half a dozen women of half the population ?

Shri Gadgil : I take a better view of my sisters than my hon. friend is prepared to concede. However, as my hon. friend said, the thing will be evident a few months hence. The point is that the legislature has pressed a number of statutes affecting Hindu life, Hindu marriage, divorce, in fact every aspect of the law. Therefore, we cannot say now that this Parliament has no right. The question whether this Parliament has a right or not. I have already answered. So far this Parliament has been considered to be competent enough to make a constitution for this country and it passes my comprehension to accept a proposition that this Parliament is incompetent to pass an ordinary law.

Pandit Maitra : The House was elected for giving a constitution.

Shri Gadgil : This very House passed the Constitution in which they passed the Chapter relating to transitory provisions. I do not think that my hon. friend Pandit Maitra objected then and said that this Parliament should have no right to govern from now till the new House comes into existence after the general elections.

Pandit Maitra : That is nobody's case.

Shri Gadgil : I am glad. What is after all that is attempted to be done ? As I said 80 per cent, is merely a collection of the existing statutes either passed by the Central Legislature or passed by the State Legislature. Dr. Syama Prasad was very eloquent over *Dharmic* marriage. I do not think that the Code prevents it. There is free scope from the Dhushyanta Shakuntala type of marriage to Prithviraj Samyugita type of marriage, namely from *Gandharva* to the *Rakshasa* type and all the eight forms can be practised by any Member of this House or by the public outside. This Code does not prevent love-making, it does not prevent eloping with bride's consent even against the consent of the parents. So far as eight forms of Hindu sacramental marriage are concerned, they are not affected in the least. What is the grievance ? Is it because the word 'sacramental' has been changed into *Dharmic* ? It was changed because all of us wished it; it conveys no meaning and therefore we said : let us take the word *Dharmic* which will fit in and convey some meaning, and that is why '*Dharmic*' was used.

An Hon. Member : It is a misnomer.

Shri Gadgil : My hon. friend Dr. Syama Prasad was very eloquent over the conception of Hindu 'marriage'. Those noble sentiments I personally share. Marriage is something more than mere union of bodies, it is a co-partnership ; it is joint endeavour for spiritual uplift;

it is so to say a custodian of confidences and feelings which cannot be expressed in any language of the world. It is a noble conception : I do share that but at the same time it does happen that sometime an ideal is perverted. We find that in a progressive society things happen which have got to be taken notice of by those who are leaders of society and who are leaders of thought. I today, particularly on account of our contact with the West, we have somehow or other to go down in certain respects, it does not mean that our culture is less ; it only means a challenge to us to reform. We have got the genius to adopt, we had to act, and therefore, those legislations to which reference was made by my hon. friend, Dr. Syama Prasad Mookerjee were quite justified.

What is this prevention of a marriage between a person belonging. to one community and a woman belonging to another ? Does it sound very well in our modern days, in the year 1951 ? Does it sound very well that a man because he is born in a particular community that he must remain outside the boundaries of the village perpetually ? Does it sound very well that because a man belonging to a downtrodden caste today by his merit has assumed a position of great inportance and is learned today, he must not be given the same social status, the same social welcome, the same social reception as we give to a person belonging to another caste ? Is the *Varna* to be determined irrespective of *guna* or it has to be determined in the context of *guna* or in other words "accomplishment" ? That is a challenge to your sense of equality. If today the old ban against *Pratiloma* marriage is completely broken, you should welcome it. That is exactly what is being attempted. Why should there be such differences ? If marriage is a matter of free choice, why should there be legal impediments in it ? Why should a person belonging to one section or one community not marry a woman belonging to another ? All these artificial man-made impediments must go. I do not remember any case in which the son of a *Brahmin* was born with a copy of *Vedas* or a *Kshatrya* born with a sword or a *Harijan* born with a broom. At birth they are all alike and at death they are all alike. In between the two, it is the duty of the society and the State to see that the same atmosphere of equality shall prevail. Anybody who argues against this, argues against humanity, argues against the very principle which goes to make a man, argues against self-respect. What is being done here ? Nothing contrary to our old traditions is being attempted. On the contrary, my accusation against my friend and colleague Dr. Ambedkar is that as he is growing old and old, he is growing less and less enthusiastic about social reform. Ten years ago,

I think his language would have been more vitriolic ; today he is the very soul of moderation. He said the other day, "Anyhow, with something changed here, something cut off there, and something added or substracted, let me see the Hindu Code through because it will be considered at least one honest attempt by the present generation to put matters right". He is so anxious. He is in a mood to be prepared to give and take. I would therefore urge on the Members who are keen on opposing to see whether that is not a situation which we should avail of. I warn you that the next Parliament which will be elected on adult franchise is bound to be more radical in the matter of marriage and divorce.....

Some Hon. Members : Leave it to the next Parliament.

Shri Gadgil : .....although it may not be so radical to begin with in the matter of property. As regards, marriage, as regards divorce, I have not the slightest doubt, at least to the extent I know the mind and general outlook of those who inhabit my part of the country, Maharashtra.

Shri Bhatt (Bombay) **:** Leave it to the next Parliament.

Shri Gadgil : We would have welcomed it. I would have agreed to that if there had been no duty cast upon us to see that whatever ideals and objectives are embodied in the Constitution should be given effect to as far as possible. It is because of this duty. I have agreed to support this code.

Shri Bhatt : The skies are not failing today.

Shri Gadgil : Will the heavens fall if it is passed ? The sky is above and we are below. See what things are happening down here.

Shri R. C. Upadhyaya (Rajasthan) **:** That is why it does not rain.

Shri Gadgil : Now Dr. Syama Prasad Mookerjee asked. "Why monogamy only for the Hindus ?". I ask one question. If monogamy is a good ideal, does it become bad because somebody else does not follow ? We talk of *Ram Rajya*. If there is anything in the life and career of the Great Rama, it is his *Eka Pathni Vrath*. I want to test your sincerity. Are you for *Ram Rajya* ? Then, give support for this part at least. It is no good talking about *Ram Rajya* when it suits you for election purposes and when it does not suit you....

Shri R. K. Chaudhuri : What about *Dasaratha Rajya* ? What did Dasaratha who was the father of Rama do ?

Shri Gadgil : That is only an improvement by a new generation over the old. Because he knew the troubles of having three mothers,

he decided that his sons should have only one. That only shows how things progress.

An hon. Member : Was there divorce ?

Shri Gadgil : There was that custom.

नष्टे मृते प्रव्रजिने क्लीबेच पतिते पतौ ।
पतिरन्यत् विधीयते ।

[When the husband is lost, dies, goes to another land, becomes impotent or morally degenerate, another one is allowed.]

This proves it.

Dr. Syama Prasad Mookerjee's argument was that if it is good, let it be made applicable also to the Muslim community. I have no doubt that the Government either this or the Government that will come in . power after the General Elections will not shirk to bring in a measure of that kind in which this particular law will be applicable to every one irrespective of religion.

Some hon. Members : Why not now ?

Shri Gadgil : As a matter of fact, I know that in Bombay, when the bill for Monogamy was under discussion, the same line of criticism which was adopted by Dr. Mookerjee yesterday, was taken by many a Member in the Bombay Legislative Assembly. I remember that the Government of Bombay stated through their Minister that a Bill of that character would be welcome. Dr. Syama Prasad Mookerjee somehow or other thinks that this Government is nervous and may not bring some thing which may offend the Muslim community. I ask him just to consider if 90 per cent, of the people in this country, who are Hindus, agree to this measure, will it or will it not strengthen the hands of the Government to pass a legislation for the remaining ten per cent ? By accepting this, you will strengthen the hands of Government. I might here mention one instance which I am sure you will recall: not you particularly. In 1930, when the first Child Marriage Restraint Bill was under consideration, to which subsequent amendments were moved by my hon. friend Mr. B. Das in 1936, when the original Bill was under discussion in this very Hall. Mr. Jinnah supported it, although the rest of the Mohammedan leaders who were Members here opposed it, on the ground that it was interference with the personal law of the Muslim community. His words are, if there is a conflict between religion and public morality, the latter shall prevail, Mullahas or no Mullahas. You can find this out from the reports of the Legislative Assembly proceedings that this was his stand. If we are convinced that to have

more than one wife is again public morality, I think, we must agree to monogamy. Monogamy in the first attempt at rationing in the social sphere so far. It is necessary in the highest interests of the community, in the highest interests of individual happiness that there must be monogamy and I have not the slightest doubt that the progressive elements in the Muslim community will accept it immediately. If the non-progressive does not accept it, it will equally be the duty of the Government to enforce it. I have no doubt about that, and if I ever am in that government, be assured that I will do my best to enforce it. That is so far as my personal attitude is concerned. My point is, if that is *Amrit,* because it is not taken by somebody else, does it become poison ? I think this is an insult to the intellectual greatness of this House to argue on these lines.

Coming to the question of divorce, nobody argues that every married couple should go for a divorce. At the same time, if it is the duty of the State to see that there is less of social tension, and efforts are made to create an atmosphere in which every individual will have the right to have maximum satisfaction and happiness, then, it is the duty of the State to create conditions for having judicial institutions or legal institutions of that character. Eighty percent, or more in this country have something like customary divorce. They are not worried. But, in the five per cent, or ten per cent, or whatever the percentage may be, on account of marriage conditions or on account of several other factors,—probably the modern woman is more intellectual—if she for one reason or another finds that it is not possible to live with a man whom she has married, then, marriage should not be a life sentence. It should not be that there will be no happiness unless one of them dies. No doubt, such cases may be few but the exceptions are there. Therefore, there must be some provision made for the same. You may make it strict; you may not make it as cheap as in the West, but speaking for myself, this is the most orthodox and reactionary law that you are laying down. Left to myself. I would have said that incompatibility of temper was enough ground to dissolve the marriage. After all, what is the assumption under the provisions for divorce ? It is that the parties cannot be happy. Should they go through this tortuous process of adultery or alleged adultery or cruelty or desertion ? What is the idea ? Should they always go to a hotel and have evidence of hotel bills, etc.? I think it must be a straight and honest and genuine affair that those who cannot agree, let them part. That will secure maximum happiness. People think

that this will end society. But if this custom is available in 90 per cent. of the population and in spite of that society has continued to progress all these generations, I do not think the extension of it merely to the remaining five or ten per cent, is going to change the integrity of society. On the other hand, the consequences that will follow will all be for the good. In fact restricting marriages and all the old injuctions that you must not marry in the same *gotra* have good reasons behind them. These restrictions were due to considerations of eugenics. If that is the case with those injunctions, then these will have greater application if the boy or girl marries outside the caste. Then there will be greater virility in the race, better type of persons will come into existence. This is a matter which must be considered in an atmosphere of scientific understanding. This is not the time nor the occasion to dilate on this aspect of the question. I will only add that behind these injunctions against marriage between *sapindas* or *sagotras* there were eugenic considerations. They must be reassessed.

Shri A. C. Shukla (Madhya Pradesh) **:** An old man marrying a young woman, is it according to eugenics or not ?

Shri Gadgil : You should certainly stop an old man marrying a young girl.

Shri A. C. Shukla : What will be the position of the child born to an old man and a young woman ?

Shri Gadgil : It will be as healthy as possible.

The point is, all those laws or customs which definitely have affected the progressive character of Hindu society ought to go. Dr. S. P. Mookerjee made a reference to *Brahmo Samaj, Sadhanan Samaj*. From Raja Ram Mohan Roy, to Ranade, Tilak, Agarker there is a galaxy of social reformers of whom we are all proud. But why should the process stop there ? If what was done in the past was good we ought to follow? the same principles of progress. And if we follow that same line of advancement, why should you be afraid now ? Why should you think that because Manu was great, therefore there cannot be any man as great as Manu in the centuries that may roll after his death ? I think Mr. Ahmad is as great or as good as Yagnavalkya, only without a *jenuva*. Otherwise he is as good an interpreter. And Dr. Ambedkar is as great as Manu or Gargya.

An hon. Member : He is Manu.

Shri Gadgil : And I am as good as any other old citizen. And why should we feel that the present generation cannot undertake the task of

social reconstructions ? India could not be an integrated unit under one flag during ten or eleven centuries. But if that task was achieved by this generation, is not this generation competent to do something in the social sphere to make society progressive ? I want an answer to that question. You praise us and praise yourselves for having done something great in the political sphere. Why are you afraid of achieving something in the social field ? Why do you have this inferiority complex ? Of course what was done by Manu was good. But—

"तातस्य कूपोयमिति ब्रुवाणा
क्षारं जल कापुरुषाः पिवन्ति"

Because this well was dug by my great-great grand-father, and although the water of it is saltish, I must drink it. Well, that is not my outlook.

Shri R. K. Chaudhuri : Then why not throw away your sacred thread ?

Shri Gadgil: I have thrown it away. Look here.

Pandit Malaviya : I believe the Hon. Minister puts it on now and then whenever he feels like it !

Shri Gadgil: No, nothing of the kind. And since it is a matter concerning me, you will kindly permit me to dilate on it for a moment.

Shri Brajeshwar Prasad (Bihar) **:** Sir, on a point of order. Is it parliamentary for the Hon. Minister to show the House his tummy ?

Shri Gadgil: Well, it was appreciated anyway.

Mr. Deputy Speaker : I am glad this point was raised. I can only say that it is not proper for questions to be put whether a person is wearing this or that, leading to unnecessary complications.

Shri Bhatt: I want to know one thing. Can he have *Yagnopavita* at the time of *Yagna* ?

Shri Gadgil: I am prepared to satisfy the curiosity of the hon. Member.

Mr. Deputy Speaker : The Hon. Minister need not discard his *Yagnopavita* to support the Bill. He can have it and still support it.

Shri Gadgil : Some years ago when I was in Thana Jail and when I started thinking about Hindu religion, I thought I was not a good *Brahmin* and could not be one merely because I had a *Jeneu* and I discarded it. And only when I am a good Brahmin, even for a moment, I will put it on, and this I did when I attended the Somnath installations ceremony. Then I felt a moment of inspiration. I felt my whole being ennobled when I was there and I put it on for sometime. Later on I threw

it away because I came from Heaven to the dust below. I shall only justify a *Brahmin* using the *Jeneu* if he is following all those great ideals which are enumerated in the Gita.

अभय, अहिंसा, अस्तेय, आर्जवम्

(fearlessness, non-violence, not to commit theft and straightforwardness) etc. Otherwise there is no good having a *Jeneu* and doing all sorts of things.

The point is whether we are competent to make any changes, the whole history of Hindu society shows that it is continually progressing from stage to stage. Otherwise how do you explain the numerious *Smritis,* one *Smriti* laying down one thing and another *Smriti* another ? How do you explain this ? Society is continuously progressing and something has got to be found which is appropriate to the *Sadachara* or *Vyavahara Dharma.* And the definition of *Sanatana* Dharma, as given by a great Shastri is :

सनातनः नित्य नूतनः

[The eternal is always new.]

Change is the watch-word of Nature. Change or perish. We have a progressive society and it is a dynamic society, as was pointed out by Dr. Mookerjee and so we must continuously adapt ourselves to the changing circumstances. Of course, that does not mean that there is nothing steady or nothing stable.

Pandit Maitra : Where in Sanskrit literature is the word *Sanatana* defined as the Hon. Minister has just now given out ? *Sanatana* means.....

सदाभव इति सनातन : It means eternal.

That is the etymological meaning of the word. That is the grammatical meaning of the word.

Shri Gadgil : I am not prepared to accept the grammatical interpretation of the word *Sanatana.*

Shri Bhatt : Kaka Sahib can have his own interpretation.

Shri Gadgil : That is not of lesser importance. Kaka Sahib also knows some Sankrit. The point is through out history, there is the Hindu community the tendency to progress. Why should we stop now ? Modern conditions require that changes should be effected by legislation and not by custom. If to-morrow something else is required, the leaders of the day, through the Legislature, will effect that change. I agree that this a matter which must be considered in an atmosphere of calmness and understanding. If we agree that there are certain evils, why should

we not remove them ? I remember while speaking on the amendment Bill of my hon. friend Shri B. Das regarding the Child Marriage Restraint Act. I gave figures from the 1931 census and said that there were 1,300 widows below the age of one year. Is not that an evil ? And girl widows below the age often there were millions. And if you prevent them from re-marriage, just consider what will be the effect of it on society ? And only good has come out of the legislation that was passed. Today the position is that the average marriage age has gone up considerably. The problem now is not of marrying earlier, but of marrying at all.

There was threat of opposition to this measure in 1930 and so great was me threat that all the communites were combined against the messure. I remember the description given at that time ; that before the Act was brought into operation thousands of children were taken from Calcutta to Chandernagore and married there, because it was not part of Birtish India, that thousands of children were taken in the midstream of the Indus and married, because there was no extraterritoriality so far as this Act was concerned at that time. This element of extra-territoriality was incorporated at the suggestion of Mr. B. Das. The point is that there are undoubtedly evils about which there is no dispute and it is not anybody's desire to nurse or keep those evils going on. As to whether the remedy should be stringent or less stringent is a matter on which the Members of the opposition can certainly have a discussion with my Hon. Friend Dr. Ambedkar and a *via media* found out. What I suggest is let this House take some steps towards progress and let us go down in history that in spite of real or created opposition this House had the courage to take at least one step towards the reform of Hindu society. That would be the greatest tribute to you individually and collectively and I do hope the whole House will rise to the occasion. That does not mean that you should accept whatever is suggested nor that you should reject everything Let us not have a closed mind : let us have an open mind. Let us agree that there is evil in society and let us agree that some remedy must be found. This is all that I have to say and I do hope that in that spirit the House will respond to the Hindu Code introduced by my Hon. Friend Dr. Ambedkar.

11 A.M.

Mr. Deputy Speaker : Before I call Pandit Kunzru to speak I might say that I have been hearing speeches as if on the first reading and not on clause 2 which is before the House. Clause 2 consists of four sub-clauses and the amendments refer to them. Not many Members have addressed themselves to the clause proper. Evidently they want the

House either to accept the option or reject the measure. In fact I thought at one stage of accepting closure today.....

Several Hon. Members : No, no.

Pandit Maitra : It is a most important clause, the very life-blood of the whole Bill.

Dr. Ambedkar : I am prepared to accept closure even on the tenth day.

Pandit Maitra : Do it on the 15th day. You make its application optional and we will pass it straightaway.

Mr. Deputy Speaker : On this clause at an earlier stage about 17 or 18 members have already spoken.

Shri Naziruddin Ahmad (West Bengal) **:** All that has been forgotten entirely.

Mr. Deputy Speaker : That is why I have allowed references to all clauses. The discussion has been on the details of the Bill as a whole and not absolutely confined to clause 2. We must see to the end of the discussion some time. I therefore, request hon. Members to confine themselves to those matters which arise out of clause 2 and the amendments to the clause. I do not want to curtail discussion but this kind of discussion will be endless. It so happens that whenever I call upon Pandit Kunzru to speak I have to make some suggestions to the House but they are not intended for him particularly.

Shri R. K. Chaudhuri : The Hon. Minister who spoke just now has to be answered and should we not follow him ?

Pandit Maitra : We have now been told that this Bill will be proceeded with in regard to its first two parts. You will realise easily that clauses 2 and 4 are the two fundamental clauses in the whole Code. After passing these two you can go ahead at the speed of the Frontier or Punjab Mail. The main point is the question of the applicability of the law to the communities mentioned. You should not be carried away by the mere fact that 16 or 17 Members have spoken. You are going to legislate for 30 crores of people and therefore a momentous measure like this has to be given serious consideration. If the Bill has been taken spasmodically now and then it is no fault of ours. They introduce it and at one stage when they meet with opposition they put it by. Then they gather strength and come back again. That is no fault of ours. If they had taken it up in a special session the House could have devoted its whole time and we would have been in a better position to know what we said on one day and what are our contentions now. It is not the old bill before us : It is a new thing that has come before us.

Sardar B. S. Man (Punjab) **:** Since you, Sir, mentioned the closure motion and there is the threat thereof may I request you that those Members who have moved amendments as regards certain communities should be given their chance so that they may explain their view point. I hope closure will not be accepted by you till we have had the chance to speak, that is those of us who have moved amendments.

Mr. Depty Speaker : My difficulty was that I looked up for those gentlemen who had tabled amendments. Others who had already spoken with respect to their amendments I did not call. I picked out four of the hon. Members who had tabled amendments and had not spoken so far. I was looking round for them to stand. The whole of yesterday none of them got up from their seats. Therefore they cannot say that no closure can be accepted until they are called to speak, if they are not inclined to stand up. Today the hon. Sardar B. S. Man sent me a chit saying that he was anxious to speak, because yesterday he did not catch my eyes.....

Sardar B. S. Man : Even yesterday I stood up.

Mr. Deputy Speaker : The general principles of the Bill have been already discussed fully in the consideration stage. With respect to this clause, whether it ought to apply immediately or it should be optional are matters with regard to which amendments have been moved. But going into the entire frame-work of the Bill and whether it ought to be accepted or not on the analogy of some other pieces of legislation, are not, I think, quite relevant.

Shri J. R. Kapoor (Uttar Pradesh) **:** So far as I am concerned I did not stand yesterday to catch your eye in deference to your direction or view that you would like to give an opportunity to those who have moved amendments after those who had not spoken on the previous occasion. That was my reason.....

Mr. Deputy Speaker : Even if he stands I do not propose to call him.

Shri J. R. Kapoor : Not even in respect of the new amendments I have moved ?

Mr. Deputy Speaker : I have tabulated all the amendments now and they have been circulated. No new amendment has been given by the hon. Member: they are only repetitions in another form of the amendments he had already moved. After I finish with the others I will consider those who have already spoken. But as a rule I would not like

to allow any hon. Member to speak, who had spoken already. Somehow Dr. Deshmukh was called yesterday when I was not in the Chair. If I had been here I would not have called him.

Shri J. R. Kapoor : My amendments fall into two categories : one old and the other entirely new.

Mr. Deputy-Speaker : I shall come to that later, after others have been given an opportunity.

Shri Bhatt : Sir, excuse me. I am sitting opposite to you but am not catching your eye. I have been getting up since yesterday. You said that those who have given notice of amendments did not stand up. May be, there is some forgetfulness on your part.

Mr. Deputy Speaker : Order, order, the hon. Member need not cast aspersions, that I had not seen him or I did not notice him. Hon. Members have no patience to sit and await their chance. When they come they expect to be immediately called and if they are not, they go away to the lobby. You cannot expect me to bear all this in mind. When I make up my mind which hon. Member to call next and if he is not in his seat I am entitled to ignore him. I cannot call them by the order in my mind one after the other. That is not the practice even in the House of Commons. I did not find the hon. Member standing up when I was in the Chair. I have a note here. I made a note of those Members who have not already spoken but have tabled their amendments. But they have no patience to sit here and the moment they are not called they go away to the lobby.

Pandit Maitra : There is absolutely no dissatisfaction at what you, Sir, have done. I want to assure you that we have the feeling that we are all getting an honest and fair deal—absolutely impartial deal—from you. We have no feeling against the Chair.

Pandit Krishna Chandra Sharma (Uttar Pradesh) **:** May I suggest that the words used by Shri Bhatt may be withdrawn ?

Pandit Maitra : He never meant any objection.

Shri Bhatt : With your permission, Sir, I want to clarify the position. All I wanted to bring to your notice was that I have been standing, but perhaps you did not notice it.

Mr. Deputy Speaker : I shall come to hon. Members who have not spoken and who have tabled amendments next.

***Pandit Kunzru** (Uttar Pradesh) **:** If I may say so, I agree with you. Sir, that we expected that the debate on the clause. But important questions of concerned with the merits of the clause. But important questions of principle were raised yesterday and I see that the minds of hon. Members are coloured by what was said in the course of yesterday's debate. It is therefore unfortunately necessary to say something on these points so that the prejudice created agains those parts of the bill that we are going to discuss may be removed.

My hon. friend, Shri N.V. Gadgil has dealt admirably with some of the points that were raised yesterday, and I venture to say something more on this subject because I feel that what was said yesterday ignores not merely the spirit of Hindu Law but the changes that are already taking place in Hindu society. In considering the Bill before us it is not enough that we should confine our attention to the provisions of the Bill. It is necessary that we should understand the character of the society for which we are legislating ; Its most important character is change; it is in a state of transition. To mention only one important factor that is vitally affecting our society, a great deal of awakening has taken place among our sisters during the last twenty-five years. They have happily become conscious of their just rights and they are making organised efforts in support of their just demands. It is partly to the credit of these educated and enlightened women that this Bill has been placed before us. But we have to add to this the fact that education is fast growing amongst women.....

Shri R. K. Chaudhuri : You mean Western education ?

Pandit Kunzru : The education that you have received and in spite of which you claim to be a good Hindu. Our sisters are receiving the same education and there is no reason to suppose that they will become denationalized or adopt an attitude of disrespect towards their religion or culture. Our women are receiving education in ever-increasing numbers. They will enjoy the franchise on a footing of equality, complete equality, with men. Is it conceivable that in a society that is being moulded by such forces inequalities between men and women will be tolerated for any length of time ? Those who use the name of religion in order to defend social ineuqalities and social injustice are doing the worst service they can to Hindu religion. There is nothing, I venture to say, in those provisions of the Bill that we are going to discuss

*P. D. Vol. XV, Part II, 18th September 1951, pp .2772-77.

in this session that is in any way in conflict with the best principles of Hindu Law or with the spirit that has always underlaid it.

What are the main features of the bill so far as we are going to discuss it now ? They are monogamy and divorce. As regards monogamy, my hon. friend, Dr. Syama Prasad Mookerjee said realistically yesterday that in view of what had taken place in the past it was too late today to contend that this Parliament was not competent to undertake legislation in respect of social reform. He also said that he would be prepared to support monogamy if the Muslims were brought within the purview of the Bill. I remember distinctly that when the general principles underlying the bill were discussed, some speakers expressed the fear that Hindu society was being compelled to imitate the Muslim society in respect to inheritance. We know that among Muslims daughters have a share in the father's property. Yet, we were not in favour of assimilation between Hindus and Muslims in this respect. What right have we now to ask that no legislation should be undertaken in respect of Hindu marriage unless it applies as much to the Muslims as it will do the Hindus ? People who are not prepared to allow women to have a share in the property of their fathers have no right to ask that the law relating to marriage that is applied to the Hindus should in all respects be applicable to the Muslims also.

The arguments that have been put forward now were carefully considered by the Hindu Law Committee. I should like to remined the House of what this Committee said with regard the objections that had been urged after considering them one by one, it came to the conclusion that they were either far-fetched or had no relation to existing facts and then said:

> "We have accordingly decided to retain the provision for monogamy in the draft Code. It will prevent the husband from deserting the wife at will and contracting a second marriage. There is a substantial body of evidence before us that cases of desertion and re-marriage are increasing and this problem is best solved by enacting monogamy as a rule of law."

I think that the observation of the Committee has great force and those who oppose monogamy on any ground must deal with the concrete reasons put forward by the Committee in favour of proposing monogamy. The Committee drew attention to the fact that monogamy had been enforced by law in the State of Bombay. Legislation was undetaken there four or five years ago to prevent polygamy amongst

Hindus. We can now say that there is a similar law in the State of Madras. Indeed the State of Baroda where there was a Hindu ruler and whether the large majority of the people were Hindus passed a law many years ago in favour of monogamy and divorce.

Shri D. D. Pant (Uttar Pradesh) **:** The Ruler violated it.

Pandit Kunzru : If the Hindus in all these places have violated Hindu Law, then where can you find real Hindus—only in this House ?

It was yesterday that the demand was put forward that the Bill should be made permissive, that is, the enforcement of the provisions should be left to the States. Now, here are two important States in which the principle of monogamy is already in force. There are other parts of the country also, for instance, the district of Malbar and the State of Travancore-Cochin, where legislation has been passed to prevent polygamy amongst Hindus. In view of this and in view of the fact that it was freely admitted in the debate yesterday that in a large majority of cases, in an overwhelming majority of cases, the marriages were monogamous, on what ground can anybody now ask that provision relating to monogamy should be made permissive ? This is the only provision of the bill that is not permissive but compulsory, and it is compulsory for a very good reason. It will be compulsory, but that principle appears to have been accepted by Hindu society at large. In those places where it prevails Hindu law has not been subverted. There are as good Hindus there as there are amongst the Hindu Members of this House. I think therefore that my hon. Friend Dr. Ambedkar is on strong ground when he asks that we should lay down as a rule of law that monogamy should prevail amongst the Hindus in this country.

The next point that I should like to deal with is divorce. Here too it is asked that the provisions should be made permissive. But they are already permissive. Unhappy couples will not be under a compulsion when this law is passed to rush to a court of law and ask for immediate divorce. It will depend upon them whether they will take advantage of the provisions of the law. What more can be done in order to remove fears and in order to enable only those people who find the existing conditions intolerable to seek either separation or complete divorce ? The Hindu Law Committee, dealing with this point, said :

> "From the evidence adduced before us we should think that there are thousands of women in British India who have been deserted by their husbands."

Then it goes on to say :

> "Many hard cases were also brought to our notice by other witnesses in which re-marriage was both desired and possible but could not be effected by reason of the existing law. The number of these cases may not be relatively large and reckoned in terms of percentage the problem may not appear to be a formidable one. But as we have already stated there are thousands of such cases in India and if even a small proportion of these women desire a divorce with a view to getting themselves remarried the question is whether the law should say upto them 'nay'. Evidence was brought before us that in many cases re-marriage is quietly celebrated and that society tolerates and recognises such remarriage."

Here, again, the facts are incontestably against the view that there is no need for having a provision for divorce in our marriage law. No one is compelled to take advantage of it. There is no reason why for the sake of the patient sufferers, those who seek relief should be denied. I have already referred to some of the States where monogamy is legally in force. I may add that the law allows divorce in all the States mentioned by me in respect of monogamy. Now what has happened to Hindu society there ? Has the sanctity of marriage become less than it was before ? Do not the Hindus there regard the tie of marriage as a sacramental tie ? Have they no respect for Hindu religion or Hindu culture ?

Pandit Maitra : The sample is here.

Pandit Kunzru : I should very much like to see a discourse between my hon. Friend Pandit Maitra and the people of the States mentioned by me on this point. He will not find it easy to convince them that they are inferior to him in their regard for Hindu culture and Hindu society.

Pandit Maitra : Then leave it to individual areas to legislate : why force it here ?

Pandit Kunzru : I have already pointed out that there are so many areas in which this law is in force. In the second place I have taken pains to point out that the provision will be permissive. What do you mean by asking that it should be permissive ?

Pandit Maitra : Make it optional for all.

Pandit Kunzru : It will be optional for unhappy partners to seek relief under this law or not. Nobody is going to compel them either to separate or to seek divorce. What more do you want ?

The law in Baroda has probably been in force for a much longer time than in the States of Bombay and Madras. But it appears from the evidence given before the Hindu Law Committee that both in 1940-41 and 1941-42 the number of suits by persons belonging to castes in which custom does not allow divorce was three only. My hon. friend Dr. Syama Prasad Mookerjee said yesterday that if 90 per cent, of the people could already get divorce, where was the need for bringing the remaining ten per cent, who were following a higher law and who regard marriage as indissoluble. Well, I am sorry that he is not in his place. But I should like to point this out to him.

Besides, we all know what is happening in Hindu society. If a husband drinks and beats his wife, or deserts her, is this a sacramental act ? Is this in accordance with the sacred character of Hindu marriage ? An hon. member behind me ask : "Why not check it ?"

Pandit Maitra : There are also wives who beat their husbands.

Pandit Kunzru : I do not say that the wives are impeccable. Wives have their own faults, but the law will apply not merely to wives but also to husbands. In view of this it is idle to claim that the upper strata of Hindu society, that is men belonging to the *Brahmin, Kshatriya* and *Vaishya* castes have a higher ideal than the members of the other castes.

Again, it has been said that this Bill has caused a great deal of perturbation in Hindu society. I find that this is due to the fact that people are misinformed with regard to the provisions of the Bill. When the provisions are explained to them a good many of their misapprehensions disappear, and I have no doubt that if those who assiduously voice the fears of the people in this House will take a little trouble to explain what its provisions really are.....

Pandit Maitra : Let the government do it.

Pandit Kunzru : .....much of the dissatisfaction that exists will disappear.

Government is doing what it can to spread a correct knowledge of the provisions of the Bill, but is it not the duty of those people who believe in truth and in the spirituality that underlies Hindu law to take a hand in this good work ? Why should they not seek to remove the prejudice that has been wrongly created against the Bill.

Pandit Maitra : Leave it to them to decide.

Pandit Kunzru : My hon. Friend disregards facts completely. I confess that I am powerless to convince him....

Pandit Maitra : It is my misfortune also.

Pandit Kunzru : .....if he continues to shut his eyes to facts.....

Pandit Maitra : I am looking straight at them.

Pandit Kunzru : .....and says that nobody in India has before the introduction of this Bill ever heard of the words monogamy and divorce.

Shri R. K. Chaudhari : Monogamy means monotony.

Pandit Kunzru : I think that those who are supporting the principle that underlies the provisions that we are considering, who are trying to bring about complete equality between men and women, who are trying to renovate Hindu society, who are asking it to go back to the great principles that once made it great and the envy of the world, are rendering the greatest service they can to Hindu religion and culture. I hope that they will persevere in the path they have chosen themselves and make Hindu religion as respected throughout the world now as it was some centuries ago.

***Shri Bhatt :** *(English translation of the speech)* Sir, I am being asked to speak in English, but as ill luck would have it, I cannot speak in English. I cannot express my ideas and feelings as suitably in that language as I can in Hindustani. I may be excused for that.

Shri R. K. Chaudhari : Sir, we do not understand high-flow Hindi and we cannot follow if the hon. Member speaks swiftly. We can understand if he speaks slowly.

Shri Bhatt : I have not taken the floor simply in order to reply to what the Hon. Minister has said, but I am here to express my own ideas. We are going to perform a big task and curs is a Herculean endeavour. We are descendants of Bharat and Bhagirath, Rama and Krishna, Manu and Yagnavalkya. The systematisation and codification of Hindu Law in such a way that we may be in a position to apply, it to our lives, is a Herculean effort. As Shri Gour has said about England:

> "Various attempts have been made to codify the laws of England but the attempts have so far failed."

England is a progressive country and yet its laws could not be codified. In our country where there are so many complications and anomalies and customs have a very heterogeneous character, the magnitude of our task is indeed great. As Hon. Minister Kaka Sahib Gadgil said, if we do not perform this task, how would we be able to

*P.D., Vol. XV, Part II, 18th September 1951, pp. 2815-35.

bring the divine Ganges and Yamuna to the plains as Bhagirath did ? I congratulate him on his courage. We also want to help him and not impede his efforts. I want to say that things should be done at an appropriate time and by suitable methods. I do not say that Hon. Pandit Kunzru wants to deprive the Hindu *Shastras* of their sanctity and importance but at the same time I do not like that we should drift towards materialism and see things only from the point of view of our convenience. We do not want to make his law only to prove its ineffectiveness in the long run. Our Hindu *Shastras* have also been amended. Today they call Dr. Ambedkar as Manu, Shri Gadgil is called Yagnavalkya and Shri Gadgil can give any such name to Shri Naziruddin Ahmad also.

Shri Syamnandan Sahaya (Bihar) **:** Call him Narad.

Shri Bhatt : It is difficult to say today whether we have made any progress or have gone back. I would say that from the point of view of food, clothing and living, we have the same standard which our ancestors had during the Mughal period. Is our standard of living the same as obtained 150 years back ? Do we have the same facilities which we had thirty years back ? Applying this standard, we can not say that we have progressed. Can we say that we have made progress simply because we have passed more laws ? Or shall we say we have progressed as we have become more healthy and courageous and have become true Aryans ? This is a difficult question ; I cannot answer it nor have I the time to do so. It is a new subject and I do not want to go into its different aspects. I shall try to confine my remarks only to my amendments and clause 2. Our *Smritis* and *Shastras* have kept changing according to times. I agree with the Hon. Minister in that we have our *Dharma Shastras*. Shri Maitra may interprete them in one way. Shri Gadgil in another ; Dr. Ambedkar may ex-pound them in his own way and my interpretation may be different from those of all these gentlemen, though I am not a scholar of *Shastras;* all I want to say is that our religion, our *Smritis* and our *Shastras* are eternal. Changes have taken place in them and new things have been incorporated in them at times changed. They change with time and place and never lag behind. Without showing disrespect to the scriptures of any other religion or community I want to say that the Hindu *Shastras* and tradition live to this day ; that is why Hinduism has kept place with time. It is in that sense that I consider them as eternal.

Pandit Malaviya : After the code has been passed it will not remain so.

Shri Bhatt : We don't want to frighten them. I remember that the Hindu Code Bill Committee prepared a draft of the Bill and it was presented to the House in April, 1947. In the statement of Objects and Reasons was this sentence : "There is a growing public opinion in favour of codification and a uniform code." Beides this our hon. Kaka Saheb Says, "It is difficult to say which side is stronger"

Mr. Deputy Speaker : In the Official Report it will be difficult to understand who "Kaka Saheb" is.

Shri Bhatt : I admit the truth of what you say. As Kaka Saheb *i.e,* the Hon. Minister Shri Gadgil said just now and others said yesterday, that the English knowing people and even those who do not know English but have progressive views, agree to this. But if this is true, why do so many demonstrations take place against this Bill ? Both sides demonstrate. Abound the Parliament House, those who are in favour of the Code Bill and those who are against it, both of them demonstrate. I know both sides have scholars and intelligent people among them and also men and women.

Dr. Ambedkar : They are all lunatics. They are out because our lunatic asylums are too small.

Shri Bhatt : Then Hon. Dr. Ambedkar says that those who are opposing the Bill are lunatics. I beg to submit with respect that I want to stand against this statement. If you call them lunatics, they would call you a hundred times bigger lunatic. I want to emphasise that if a person calls his opponents lunatics, he is living in an age with which we are fed up. During British Rule, such Government was here as neither listened to, nor tolerated what others thought. I don't agree to Dr. Ambedkar's statement, who has been compared to Manu, that his opponents are lunatics and are out because our lunatic asylums are too small. I agree.....

Shri R. K. Chaudhari : May I say that we are losing all the humour because the hon. Member is speaking in Hindi. Those who know Hindi understand but we are not following him at all.

Pandit Malaviya : It is not humour but grim humour.

Pandit Thakur Das Bhargava (Punjab) **:** My hon. Friend does not understand, otherwise he would be somewhere else according to Dr. Ambedkar.

Shri R. K. Chaudhari : I understood Dr. Ambedkar to say that those who were opposed to this Bill are mad. Is that in order ?

Mr. Deputy Speaker: He has not said so.

Shri Bhatt: I was saying that Dr. Ambedkar may hold certain views and ray views may be different. After 1947 this Bill was sent to a Select Committee, which presented its report in August 1948. After that this bill again came up for discussion. As you are aware sir, our Government does not want to hurt anybody, nor does it want to do anything which might create a sensation among the people. So our Government consulted *Pandits*. Dr. Ambedkar also listened to what certain *Pandits* had to say. He gave them an opportunity to put forward their views, though not to their heart's content, but they were given an opportunity all right. I do not know whether he accommodated their viewpoint or not, but after that he put forward something new and amended it. Now he is bringing forward new amendments every day and that is good ; there is nothing wrong in it. He wants that he should bring round his opponents, and taking their grievances into consideration, put forward an agreed legislation. With this idea in mind the Government have introduced this Bill and we are discussing clause 2 of the same. This Bill contains many different things, but if I have rightly understood, for the time being only two parts, *viz.,* those relating to marriage and divorce are to be taken up. If we are going to take up only one thing as suggested by Shri Gadgil, who has expressed the hope that it would demonstrate our might. I would request them to stop there if they have any idea of what is practicable. I repeat what I said in an earlier speech ; and that is the Government should wait till the next House is elected within four or five months. Those who will get elected to the next House, will put this question before their electorate, before the people. This has become a burning question and it will remain before them. Put it before the people and the members of the next Parliament will get a mandate from them on this question or will tell their electorates what they would do when they sit in the new House. While speaking on the Child Marriage Restraint Bill in 1929, Qaid-e-Azam Jinnah had said, "It is necessary that children under 14 should not be allowed to marry. If my electorate does not agree to this, I will resign from the House, and they may elect somebody else to represent them". We should be definite about what we want. The idea that we should not antagonise anybody, now that we have reached the last stage, should not enter our calculations. The best possible draft of the Bill should be put forward before us and we should clearly know as to how far we are to go. Why should you put only one thing before us ? We have to scrutinise every

clause. Dr. Ambedkar has become so impatient that he wants to bring forth a child, no matter if it is blind, devoid of limbs or unable to move. What he wants is a son so that he may have somebody to offer *Pindas* to him.

An hon. Member : So that he may get deliverance ?

Shri Bhatt: Pardon me. May he live for a thousand years ; I am speaking only figuratively. If Dr. Ambedkar and Pandit Jawaharlal feel so strongly about passing the Bill, we will bring round those who have been termed as lunatics. Use whatever methods you like to bring them round, to repress them, we are with you and may be we would also come under your influence but please refrain from passing a legislation that is incomplete, invalid and base. On the contrary it should be lofty. Why do you say that you do this and you do that just to accommodate us ? Don't do it if you think it is not right. If we are elected to the next House we will say with more courage that we are armed with the mandate of the people on this question and we are not going to bow to the directives of anybody else. We will bow only to the will of the people. I am a quiet man and do not wish to prolong my remarks on this point. A couple of days back I had occasion to go to a factory. People working there asked me what all this fuss about the Hindu Code Bill was. I countered that question With the remark as to why they were afraid of this measure. They said "This is going to put an end to our religion, there would be chaos in our society and we will deteriorate." So I had a talk with them. Many of them were intelligent people, who had read the draft Bill. We should not think that those who are opposing this Bill are doing so without understanding it. They referred to the provision about divorce and said that these days they can get divorce more easily according to the prevalent customs. "Why should you", they said, "drag us into the court and make us say that a woman is immoral and make the women accuse their men of adultery ? It is better to discuss these thing in our *Panchayats* and people who understand the truth about a particular couple will separate them." Now, this needs a lot of consideration. Will Dr. Ambedkar argue that divorce rules, wherever they operate are very lenient and should not be so because that will endanger Hindu religion ? Hindu religion is not endangered because of that. There are others who say that Hindu religion will be endangered if this Bill is passed. We have to tax our brains to see which side is right. Everybody has to think. Then I asked those people in the factory as to what else they had in their minds. Then they mentioned the problem

of the share of the daughter in her father's property. What I want to show is that those who are opposing the Bill are not lunatics and that they are not acting without intelligence. Some members of the *Adarsh Mahila Sangh* came to me and put the same question. Now they are also wise and reasonable. No doubt, the hon. Member Shri Renuka Ray, Shrimati Durgabai or other lady members are wiser and more well-read. But that does not mean that women outside this House do not understand the significance of things or, as somebody said, that they are mere blockheads. The ladies I referred to just now, started discussing and said that we should do nothing that may bring down the whole structure of society. We have opened a way by passing the Civil Marriages Act. Persons marrying under this Act can also give divorce. Why should we go further ? Let our customs remain as they are. We do not say that a certain person should not do a certain thing. Gradually people would begin to understand.

Shri Kunzru has spoken about monogamy. People don't have enough to live on. In many cases it is difficult to support one wife even, how can everybody support two ? Muslims are allowed to have as many as four wives, but has everybody four wives ? In very few cases, men have two wives and very rarely one has four. I could not obtain census figures in this respect. Our Statistics Department is still far behind. The question now is, how Muslims came to be allowed to have four wives at a time. Hazrat Mohammad fought the battle of Ohad in which a large number of men were killed. The result was a preponderance of women over men, for the protection and upkeep of whom those who could support upto four wives were ordered to take that number of women as wives. This thing has happened in Germany and France at different times. In our country there is more or less a parity between the numbers of men and women. The number of women is some thousands less than that of men.

(PANDIT THAKUR DAS BHARGAVA *in the Chair*)

But if, unfortunately, the number of women goes up by two crores, a new legislation will have to be passed to meet the new situation. I am going into detail to show that our laws were made according to the demands of time and place and even now they are being made according to the same standards. Dr. Ambedkar wants a legislation of that sort but that legislation should have the effect of healing. In our country marriage is not a matter of convenience only. He may be of the view that marriage is merely a contract, pure and simple. These words have

been used by leading lawyers. But the basis of our society is not only materialism. Our society is based on our ancient *Shastras*—the *Shastras* pertaining to agriculture, zoology and sociology. From the point of view of genesis the horse and the ass, belong to the same genus, as all of us are human beings. But human beings differ in different countries. A person likes the same sort of climate and environment in which he has been brought up. The same is the case with other living beings. Take somebody from Hissar to a new place and see the reaction. Take the case of trees for instance. Can a tree from Kashmir thrive in Rajasthan ? Many attempts were made to plant mango trees in Rajasthan but they all failed. After all there is some principle behind it. Land, seed, water and climate, every factor has something to do with it. You can't plant a tree anywhere. The same is the case with marriages. You can't marry somebody to anybody. Even for trees one has to consider which tree can be grafted upon another. I don't want to go into details. My point is that our society is based on certain political, educational, hygienic, eugenic and sexological principles. If you want any proof of this, I will quote a portion of Dr. Bhagwan Das's long speech which he delivered while presenting his Hindu Marriage Validity Bill. In this speech he quoted many things from the *Shastras*. Dr. Bhagwan Das said :

> "The hygienic and eugenic and sexological principle is that every possible care and caution should be exercised and all possible cleanliness and purity secured in respect of food and marriage and that persons with similarity of tastes and habits and purity of temperament should dine together and marry together so that the individual and racial-health and happiness may be promoted."

I do not see much in eating and dining. Even before Gandhiji I did not believe in this. But if you ask me to dine with a fish-eater I would ask to be excused. I do not consider him an untouchable, but I have formed a habit. If somebody asks me to marry a certain woman....

Dr. Ambedkar : There are not so many fish that could be supplied to everybody.

Shri Bhatt : I was going through census figures and my friend Shri Sidhva and others may pardon me, when I say that I found from the census that many men marry at the age of 60 even. I, for one, do not want to marry.

I was saying that compulsion cannot be used in regard to our way of life. One's way of life should be according to one's own temperament. It will come about after some time, if not today. I am sure that Panditji,

in whatever he does, will have the country's interest before him ; that is why we consider him as our leader. We would not consider him as our leader if we did not have any faith in him. In the same way we believe that whatever our parents will do, will be allright for us. If we do not have any faith in them we will ourselves seek our mates but then we shall take into account our nature, habits and convenience. Our faith is based on these things and we should not make any such law as my create difficulties for the society, or spread discontent. After all, the object of every legislation is to make society happy and prosperous. But if people think that a certain legislation brings them disaster, bring them round to your point of view. If Dr. Ambedkar is so particular about this Bill let him address a meeting of a lakh of people and explain to them the benefits that will accrue from it. At the same time a *pandit,* an opponent of the Bill, should also put forward his point of view. If those one lakh people were to express their views by means of a secret ballot, may be that would satisfy you.

Shri Naziruddin Ahmad: That will be the end.

Shri Syamnandan Sahaya : Take a secret ballot in this very House and it will be the end.

Shri Bhatt: You are afraid and that is why you do not put it before the people. There was only one person, and that was Gandhiji who believed in putting everything before the people. He thought that untouchability should be abolished. The capatalists threatened to boycott him. When Gandhiji went to the Mulji Jetha Market of Bombay to collect money for the Tilak Swarajya Fund and asked for a crore of rupees for that fund, the capatalists said that they would give not one but five crores, only if Mahatmaji expunged the abolition of untouchability from his programme. Mahatmaji replied that on that condition he did not want even a single pie from them, not to say of five crores of rupees. He said that he would stand by his principles and march forward towards *Swarajya.* It is the duty of the Government to go to the people. We are ordinary men, have not studied the *Shastras* to any great extent. You have wisdom, go to the *Pandits,* to the Shankaracharya, who is opposing it, go to those women who are against it and whom you want to make happy and try to persuade them. I don't think that this Bill is going to benefit only the women. I do not consider this to be a Magna Charta for women only. You are trying to benefit the whole of the society and I thank you for that. You should bear this in mind that the subject under discussion is not new. Not to talk of 1942, in 1937 Dr. Deshmukh had introduced a Bill which brought this matter

to the foreground. In 1856 Shri Ishwar Chandra Vidyasagar and Raja Ram Mohan Roy brought about reforms like widow remarriage. These things have been going on. Authorities and commentators of our religious scriptures have writen different things about the subject. I don't ask you not to pass this legislation. But why are you doing it today ? Why are you so impatient ?

Please be good enough to wait for some time. General Elections are imminent and the new House will meet in May next year. At that time you may bring forward the best of legislations and pass it. Some of the present Members may again be elected and if I again sit in this Houser I will take part in the deliberations. But before that put the final draft of the Bill before the people and do not have an incomplete legislation and say—"Gokul Bhai, please get it passed". I do not want this. Give me something wholesome to eat. If you give me something dirty to eat or say that I should eat controlled rice, because nothing better is available. I won't have it. I will have something good to eat. It is another thing that hunger may compel me but if there is an alternative food I will prefer that. I would rather eat leaves of trees than eat anything dirty. So I request you to postpone this Bill. You have accommodated us to some extent and I want to thank you for that. I congratulate you on your sagacity because you have met the demands of time. But be more liberal and go a step forward. I would also ask my sisters what good would accrue to them if it is passed just now and how they would come to harm if it is delayed by four months. The skies would not fall, nobody would come to harm nor is there any question of monetary advantage if it is passed. That is why I am making this request.

I again refer to the talk I had with some people in a factory. They want the question of divorce to be settled according to custom. But what are Customs ? Customs have a great influence, even Dr. Ambedkar won't deny this. What I am opposed to is that you want to do away with our customs. That will not work at least for some years to come. If you want to take the backward classes with you you will have to slow down your pace. Only in that case shall we follow you. Mahatmaji was very progressive. When Shri M. N. Roy came to the Faizpur Congress and began discussing Communism with Mahatmaji, he (Mahatamji) said, I was not there. I am telling you what I came to know about their conversation—"Mr. Roy, say whatever you want to say in the strongest possible words about present day society and capitalists". Mr. Roy made a strong and lengthy speech. Then Mahatmaji said, "Is that all ?"

And after that Mahatmaji replied in a few words which took only some minutes. Mr. Roy was surprised and asked if Mahatmaji felt that way. Mahatmaji said—"You don't know me well enough. I shall put forward my ideas, as our society makes progress. I know our society is backward and many ideas have not developed to the extent to which they should have. But I have to carry the people along with me." That is why I say, however high the ideas and whatever happiness they might bring, what are you Dr. Ambedkar going to achieve with 15, 20 or 25 members of the Cabinet, if we are not with you. I see that many people belonging to the majority accept certain thing because Shri Nehru or Dr. Ambedkar has asked them to do so, but if I do it, who will follow me ? I repeat that I will be deceiving you if I did not tell you that people do not want it in this way. I don't want to deceive you. As we are your followers so are our electorate with us. We have to see to their good and convenience. It has been said, as you know, "*Shastra rurhi baliyasi" i.e.,* custom overrides the *Shastras*. After all, laws are made by men, so were the *Shastras*. When our customs have claims of precedence over *Shastras.,* why can't our society override our laws ? I ask you to take this into consideration.

There is one more drawback which I would like to point out. Shri Kunzru is not in his seat, I would ask Dr. Ambedkar to excuse me. We have become so thoughtless that when the westerners say that our marriage laws and ceremonies are very good, we will agree with them. "When Max Muller says that our *sastras, upanishads* and *vedas* are the best in the world, we take that to be true and quote him. But our own commentators and authorities have said the same things in a better way, yet nobody cares to go through their writings.

I have been just now told the copies of '*Yagnavalkya Smriti*' could not be available in the whole of Delhi city even on payment.

Dr. Ambedkar : I have got so many copies with me.

Shri Bhatt: If you have got the copies please lend them to us ; they are not to be found in the Library. *Sanskar Kaustuba* and *Yagnavalkya Smriti* could not be found in the Library. You have got all these things, you might have personally purchased them; you are thirsty after knowledge and a lover of learning ; not only that, you are a learned scholar and a *Pandit* as well. But please place those copies in the library for some time so that we too may have change to benefit ourselves by those books, and may be able to have the necessary information. I have never been impressed with the translation of Gitanjali done by

Yeats, because it has always been my endeavour, and I had made up my mind in this connection when I was at College, not to read Rabindra Nath's Gitanjali until I had learnt Bengali. I have always held that it is useless to read such a work without having the knwoledge of the language in which it was originally written. I have not been able to learn Tamil so far, but I would try to learn it, such has been my tendency from my early days. When I saw Gitanjali in original and its translation by Keats. I found a lot of difference. The translation did not contain anything worthwhile. Compared to it the translations in vernacular languages are much better. I have seen a more beautiful translation in Marathi done in *Abhanga* metre by some person under a pseudonym. But unfortunately we Indians generally close our eyes to those things which are our own and when somebody from outside throw light on them we exclaim 'Yes now we have seen'. I would like to ask after all what flood lights are opened before our eyes by the foreigners which dazzle our eyes and we begin to appreciate those things ? After all what are the defects in our own lights ? What do you think is missing in the lights that we have ? We should try to understand our own things in the right prespective and after a full realization should gladly make the necessary changes in them so that everybody may be satisfied and it may be in the interests of all.

Now, I come to the point as to what a Hindu really means and wherefrom has this word Hindu come ? Sir, you would excuse me if I would take a few minutes more to throw light on this. My submission is that I do not like to go into the historical facts nor do I want to go into Greek and Iranian histories. Neither do I want to go into the details as to what relations we had with Iran and Greece in the past; but I would only make an attempt as to wherefrom has this word 'Hindu' come. My amendment wholly relates to this very thing. One opinion about the origin of the word 'Hindu' is that there were two cities in *Gandharva* Desh, one of them was known by 'Hindas' from which the word 'Hindu' has been derived. The second opinion is that the word 'Hindu' is derived from the word 'Sindhu' the great river that we had according to Philology letter 'S' has changed into letter 'H' and in this way the word 'Sindhu' changed in to the word 'Hindu'. The word *Hinduani occurs* at several places. It is difficult to ascertain the source of this word. I visited Central Secretariat Library but found it to be too poor. I have never seen a poorer library than this one. I asked for books related to this matter but I was told that they had no special

collections on this subject, further adding that only some articles might have appeared in annual numbers of certain magazines here and there on this subject. That was all and there was nothing more in that Library. As against this, had I gone to the Royal Asiatic Society I could have definitely got some better and useful material, but, unfortunately. I did not find time to go there. Sometimes the Press Bill and sometimes this Hindu Code Bill and other things detained me here. Anyhow, I do not go into the details as to wherefrom has this word 'Hindu' come and what its origin actually is. But one thing need be kept in view that the word 'Hindu' means the people who inhabit this land of Hindu *i.e.,* the whole of Bharat. All the people living in this land are Hindus, whether you call them by the name *Arya* or *Dasyu*. There were only two classes of people inhabiting India in the past; one was known as *Arya* and the other as *Dasyu,* but in spite of this distinctional of them were 'Hindus'. Hence, I would like to know what meaning should be attached to the word 'Hindu' in the Bill which is going to be passed into an Act now. After all how many persons have been consulted as has been mentioned in the report and as was stated by Shri Kunzru ? How many persons have given their opinions and how many of them have been included in it ? But I do not want to bring in all those things.

Dr. Bhagwan Das, while discussing the Marriage Validity Act, explained as to who was a Hindu. He said that Hindu was not merely a nationality. When '*Shariat*' Act was introduced in the House most probably in the year 1937, his *sufi* friend gave the definition of a Musalman which I read out here. While introducing the Bill in the course of his speech he said :

> "Islam has scores of sects but the belief in Mohammed seems necessary for all, though I am told that some sects do not consider the second *part of Kalema* of faith as essential and indispensable and regard Mohammed as one of the many prophets sent by God to help humanity on earth."

While replying that point and repudiating that view Sir Yamin Khan (Agra Division) said :

> "There is no Muslim who believes in this. It is essential for a Muslim to believe in both the parts of the *Kalema,* namely '*La ilaha illallah'* and *"Mohammed Rasulullah".*

To this Dr. Bhagwan Das remarked "I have heard it from a *Sufi* friend". In reply Mr. Yamin Khan said : "Those who do not believe in the second part cannot be called Muslims."

In this way what I beg to submit is that I have suggested in my amendment that those persons, who have left Hindu religion and embraced any other faith but whose social customs are still like those of the Hindu Society, should be given the privilege to have this Hindu Code applied to them if they so desire. When Hindus are going to benefit by this Code why don't you allow others too to have its benefits ? After all what objection have you got to that ? There are some Indian Christians whose social customs are like those of the Hindus notwithstanding that they have embraced Christainity. As such why do you exclude them from its application, and why don't you allow them to have the benefits of the Code in the same manner as the Hindus would have ?

I, therefore, request the Hon. Doctor to keep all these things in view. Should I state which of the non-Hindu communities can benefit by it ? I do not want to go into detail, but I certainly want to draw his attention to it. Take for instance, Dr. Gour and Mr. Gupta who are great authorities on Hindu Law. They have given the names of those non-Hindu communities to whom this Code can apply. About Kutchi Memons.....

Shri Syamnandan Sahaya : You know it, he too knows it, but we do not know it. Kindly read them out.

Dr. Ambedkar : Do not be brief. But please read them out.

Shri Bhatt: The Memon Act which has been framed.....

Dr. Ambedkar : Do not mind about the time, but please read them out.

Shri Bhatt: I am going to read it out. It is laid down in the Kutchi Memon Act:

> "Whereas it is expedient to enable those Kutchi Memons who so desire to be governed in matters of succession and inheritance by the Mohmmedan law, it is hereby enacted".

The operative section is :

> "Any Kutchi Memon who has attained the age of majority and is resident in British India may by declaration in the prescribed form and filed before the prescribed authority, declare that he desires to obtain the benefit of the Act, and thereafter the declarant and all his minor children and the descendants shall, in all matters of succession and inheritance, be governed by Mohammedan law."

Shri Syamnandan Sahaya : It is an optional clause. So there is a precedent.

Shri Bhatt: So I hope the Hon. Minister of Law would keep some sort of provision in it in the same manner in which some laxity has been allowed in the above clause, otherwise you are only limiting its scope. The then Home Member Mr. Henry Craik made a mention of it in his speech and said:

> "I think it deserves very careful consideration, whether it is not wise in those matters to give the individual the option and not to compel him to accept a rule or law of which he may be imperfectly informed."

Shri B. Das (Orissa)**:** I think Sir Henry Craik was a bachelor—he did not understand society.

Shri Bhatt: I have taken this from the Debates of 1937 where it is given on page No. 2544 of Volume No 3. Hence, my submission is that we too should keep a provision of this nature in it. Look into the Baroda Act which all of us appreciate. Baroda is several years ahead of us, ask them now where they are at present. Ask them what facilities they enjoy and from what difficulties they suffer, and how they enforce their various laws. They might perhaps admit that the old days were by far better. I do not say all that with any special motive. I hold that so far as social laws are concerned Mysore is ahead of all other parts of India. And if I am not wrong—Mysore friends would excuse me— Sir Sayaji Rao Gaikwad was the first to introduce Educational and Health reforms long before Mysore and other stepped in.

Dr. Ambedkar : He did a blunder :

Shri Bhatt: You want to take us, the people of Rajasthan, on to progress. We find that we are a tardy people and go slow. Our speed is that of a camel which cannot go along with the speed of your aeroplane. So it is good to slow down the speed of your aeroplane. The Baroda Hindu Code also lays down :

> "This Act shall apply to all persons domiciled in the Baroda State.
>
> (a) who are Hindus by birth or by conversion to Hinduism or to whom any part of this Act is made applicable by this Act, to the extent to which it is so applicable.
>
> *Explanation 1.* The people to whom the Hindu law or any part thereof is applicable by custom and usage shall be deemed to be Hindus....."

Shri Syamnandan Sahaya : Which Code is this ?

Shri Bhatt : The Baroda Hindu Code.

Shri Syamnandan Sahaya : Monogamy Act.

Shri Bhatt : Yes. It lays down :

> "The people to whom the Hindu law or any part thereof is applicable by custom and usage shall be deemed to be Hindus for the purposes of this Act in so far as the matters in respect of which the Hindu law or any part thereof is so applicable or concerned".

You have been saying that whomsoever would it apply to would be considered a Hindu whether he professes the Hindu religion or not. But I say all the people who live in India are Hindus. I do not say so from the cultural point of view alone. I am saying it from the English point of view as well. After all why are we called Indians or *Hindustanis* ? As a matter of fact the word 'Hindu' refers to the man who is born in a particular territory and certainly not to his religion. And because it refers to the man born in a particular area rather than to the Hindu faith, it means that it covers all the people who inhabit that land. See the following:

> "(b) who have not renounced following the Hindu Law shall, be deemed to be Hindus".

This is the thing and so I request the Hon. Minister to accept my amendment. Now I come to the portion which is not still covered.

Shri J. R. Kapoor: Which of the amendments do you support specially ?

Shri Bhatt: I support my amendment *i.e.* "Those who want to be governed". This covers everything that I want.

I would like to draw your attention to one thing more. Our Hon. Shri Gadgil and Pandit Kunzru too have dwelt upon this point. When Sarda Act, *i.e.* the Child Marriage Restraint Act was introduced in 1928, originally its title was the 'Hindu Child Marriage' Bill. But in 1929 when the report of the Committee was received, some alterations were made in it and its name was changed to "Child Marriage Restraint Bill". You know there were some Muslim members as well on that Committee. They opposed it. When it was discussed in the House in the year 1929 they again opposed it, but in spite of their opposition it was thought desirable to enforce it throughout the country as it was a good legislative measure. With the exception of Mr. Jinnah all the Muslim Members opposed its application to Muslims and said that their divines were opposed to it and as such it should not be applied to them.

If I remember well there was a Christian member, Mr. Chatterji, of the House in those days. He too pointed out that it went against their religion and as such it should not be applied to them. There were speeches of this nature. But in spite of all that opposition the Government applied it to all sections of the population because it was, in fact, good measure. My submission is that if monogamy is really a good thing why don't you impose this restraint on all sections of the population and why do you leave out some people from its purview. May be some Muslim friends are having two wives—there are very few such cases in Hindu society. Generally it has been seen that people from lower classes alone keep two wives but they keep them only to help them in their occupations. Broadly speaking, the majority of Hindus are monogamous either by nature or by circumstances. It is difficult to get even one wife, wherefrom can one get two ? At that time it was stated in the Select Committee Report that :

> "The object of the Bill, as introduced in the Legislature, was to impose restraint upon the solemnisation of child marriages and the method adopted was, broadly speaking, that of declaring all marriges of boys and girls below a certain age to be invalid."

I would like to draw your attention to the fact that the aim and object of the Sarda Act was 'to declare the marriage to be invalid'. But afterwards it was altered. And why was it altered ? It was done because it would have been very strict. You have to keep this thing in view. I would speak about monogamy when I would come to it. After making alterations it was laid down :

> "The Bill has been circulated under the orders of the Government and has elicited a strong expression of feeling that it is objectionable both on religious and on legal grounds of interfere with the validity of a marriage which has been performed.
>
> In our opinion, these objections are at present insuperable and we have accordingly acted upon a suggestion which has been widely made that the Bill should effect its purpose of restraining child marriages not by declaring such marriages to be invalid but by imposing punishments upon those who participate in them."

You would see what a difference it has made. The things that were formerly contemplated to be rejected, were not rejected. Those marriages were not made invalid. But some punishments were imposed on them. Further it was laid down that :

> "The Bill, as introduced applied to Hindus, Jains, Sikhs, Brahmos, Arya Samajists and Buddhists and was a measure relating

to the validity of marriage. As we propose to amend the Bill by making it a measure imposing criminal penalties on participants in a child marriage, it seems invidious that it should be restricted to those particular communities, since child marriages do occur, though not so frequently, in other communities. We propose, therefore, that the amended Bill should be general in its scope and apply to all classes and communities in British India."

This was a marked departure. They did it after fully appreciating the trend of the public mind and so the Hon. Minister of Law should also go ahead after taking into view the trend of the society. This is my only request.

See what is laid down about the Indian Christians in the Christian Marriage Act. See what is laid down in the Parsi Act regarding the *bona fides* of the Parsees. This is a very limited definition. A Parsi is he who professes Zoroastrianism. There are several cults here in this country and people follow someone or the other. That is why I submit that all the people should be considered as 'Hindus'.

The Sarda Act has not been applied to Part B States so far. According to the amendment of 1950, the subject is in the Concurrent List and can be applied to any State. You can apply anything you like to those States as well. But in spite of that provision being there this Act has not been enforced in Part B States so far.

Shri B. Das : I hope Dr. Ambedkar takes note of this.

Dr. Ambedkar : All that would be cancelled.

Shri Bhatt: So I was speaking to the Hon. Minister of Law about divorce. I respectfully want to submit that he should allow a law to continue so long as it does not go against the social customs. And for those persons who favour these reforms, provision for Civil Marriage is already there.

Dr. Ambedkar : For them too the door should be closed.

Shri Bhatt: Do not close the door for those for whom it is open, notwithstanding whether they come from the door or from the window. But allow the various customs to prevail in the various sections of the population, at least in those sections of the Hindu population who are backward in education and in other respects. Our Hon. Minister of Law has not made a tour to peep into the actual working of the Hindu society. Please have such a tour and contact the people, show them your books and convince them about what you have brought for them. A real thing

can never lose its reality, just as gold can never turn into a stone ; it can only become refined gold. So please allow gold to become more refined and let them have time to understand what divorce actually means. Do not give rise to a dispute here. Those who favour such reforms are at liberty to make use of the Civil Marriage Act, and have the facility of divorce under that Act. You ask how those people, who are not married under the Civil Marriage Act, can have the benefit of divorce. I give you a suggestion in order to find out a way for them. Allow them to get their marriages registered under the Civil Marriages Act so that they may also have the benefit of having divorce, if they so desire. In this way they can have a wider door open for the fulfilment of their wishes.

Shri R. C. Upadhyaya : What do you suggest if the husband favours it and the wife does not ?

Shri Bhatt: The wife listens to the words of her husband. She still considers her husband "God' at home, notwithstanding the fact that she may be an educated one. But that does not mean that Hindus consider their wives as their serfs. She is the mistress of the house and a *Devi*. These are the words which are used for her. I do not believe that Hindu society is so degenerated as to consider its womenfolk as serfs. If anybody has any such impression, he should wash it off. I say even in those sects which are called backward, women are mistresses of their homes and their men do only what they direct them to do. In Rajasthan and other places there are several social customs which are included in the *Shastra* and that *Shastra* is known as the *Doshi Shastra*. People do every thing in the manner in which the old ladies advise them to do. If a *pandit* makes a mistake while performing a sacramental marriage ceremony, it is at once pointed out with the help of songs as to where he has committed mistake. If there would be any mistake in the *Saptpadi* etc. we at once come to know with the help of the songs as to where the mistake has actually occurred. In this way, all those customs go on with the help of the songs not be presumed that women are not honoured in Hindu society.

A drunkard might be a good man, a great man or an educated man but in spite of all that he is a drunkard. It only intoxicates a man, what else can be the effect of the drink. Whether a drunkard is from a backward class or from a higher class he or she is nothing more than a silly person.

Shri R. C. Upadhyaya : What should be done for them ?

Shri Bhatt: Only the next day that intoxication would go by itself and everything would be all right. You do not know that that becomes their habit. All of us have a number of habits good and bad, and so far as in toxication is concerned I have come across a number of people who take two or three bottles of whisky at a time and still do not subject themselves to intoxication. The Hon. Doctor might be remembering that there used to be a number of persons in the Bombay Bar Council who could not argue their case in the courts unless they had taken one or two pegs.

Mr. Chairman : May I know on which provision of clause 2 the hon. Member is speaking ?

Dr. Ambedkar : We are discussing Evacuee Property Bill.

Shri Bhatt: Sir, I should be excused, there has been a little digression. But I would like to remind you that some of my friends talked about it. What I was submitting was that nobody stated that you were only bringing any deterioration or improvement in the Bill by keeping or not keeping any provision of monogamy in it. What is the necessity of imposing legal restraints on it ? If you are bent upon imposing them we would have no objection, but then please impose it on all sections of the population of the country, because the Muslims too then would not feel about it. They too would agree that it is a good thing and that as such it should be applied to them as well. As Sarda Act has been applied to one and all, similarly its application too should be extended to all sections of the population. So far as divorce is concerned it is already prevalent in the Muslim community. Hence my request is that whatever legislation you like to make, it should be applied to one and all. Nobody should be excluded from its application, it should apply to Indians generally.

I admit that you have come up to appreciate us and to accommodate our viewpoint. You have become so much accommodating now that you have realized the position. And now if you do not want to do anything, at least please do one thing. Take out the marriage and divorce clauses from the original Bill, pass them as a separate law and make it applicable to all the Indians. If you would do that everybody would be happy over it, would praise you and would say that you have really done a brave deed. All opposition would go automatically ; it would vanish and people would say that the Government have taken the right step which gives them the maximum satisfaction. Although that would not be complete satisfaction, yet that would be the maximum under the

present circumstances. So please adopt this course after taking into consideration the present day situation. When you would proceed to do it, you would come to know what more should it contain and what more improvements you ought to bring in it. (*Interruption*). Hence I request you to look towards them as well so that you may come to know where exactly the shoe pinches. The wearer knows where the shoe pinches. At that time you would come to know that the opposition is very strong. Several sister would come here, would entreat you and then you would come to know about the real position. Several other people too would come here and you would come to know the extent to which this measure would be opposed. But I say do not mind the opposition from whatever quarter it may come. Wait for sometime and then as the Sarda Act was passed by the Government without caring for any opposition, similarly pass a law which may apply to one and all. There is no question of time in it. Prepare a new draft Bill and when we meet in February next, put it before the House.

Shri Syamnandan Sahaya : It would be the month of *Phagun*. I think that would be the opportune time.

Shri Bhatt: Yes, it would be the month of *Phagun*. But whatever month it may be I most humbly put forth my suggestion. I do not say all this simply by way of a joke. It would certainly benefit the whole of India. Why do you benefit a few selected Hindus only, benefit the whole nation. Send your invitation to all and make this law a perfect one.

With these words, Sir, I request the Hon. Minister to think over my suggestions. Last of all I appeal to you that this is not the opportune time to go ahead with this legislation. Stop there, it would bring no harm to the country, it would only bring cheers to the Government. Sir, I have certainly taken much of your time, but I did not make an effort to prolong my speech in any way. I would request the Hon. Minister who is the representative of the Government here, to consider our humble but plain request so that it might bring glory to our Government.

***Sardar B. S. Man :** Sir, I thank you very much for calling me to explain my position.

I have moved an amendment that the Sikhs be absolved from the operation of this Bill and that the Sikh community be not brought into the (315 PSD) orbit of this Bill. I would have very much liked to have

*P.D., Vol. XV, Part II. 18th September 1951, pp. 2835-40.

moved an amendment not embracing simply our community in terms of Sikhs, or Hindus or Muslims ; but looking at the main clause as it has been framed, I was forced to use this word. I would have very much preferred to have used a territorial term saying that the *Punjabis* be absolved, or certain agricultural classes be absolved. But, since the framers of the Bill themselves have used the word Hindu, Jain, Buddhist and Sikh, I have moved an amendment in these terms. In fact, I have an amendment to clause 1 that the operation of the Bill be not extended to Punjab and P.E.P.S.U. I base my arguments not on narrow communal or religious grounds. I shall come to that later. I do not minimise the fact that this attempt to bring the Sikhs under the domain of Hindu Law will savour of bad political communial taste.

The other day, the learned Doctor cited a case to show that the Sikhs have all along been governed by the Hindu Law. With all apologies to him, I may point out that the law that he has cited was confined to the non-agriculturist properties. The Sikhs mainly comprise agriculturists. In fact the agriculturist Sikhs comprise 95 per cent. of the Sikh community. When you have to discern clearly and generalise in this way as to what law applies to them, you have not got to see that commercial classes of the Sikhs, the *khatri* Sikhs or other Sikhs who are resident in the cities, but you have got to look to the main community, the agriculturist Sikhs and see what their laws is. And I can cite not one, but innurable cases. I can cite case after case to prove that in the Punjab the agricultural Sikh, along with other agricultural classes were all along governed by a secular law—and here incidentally it was an advance far ahead of what is proposed in this Hindu Code. So, I say we are there absolutely governed by a secular law. There we have got a uniform law for the agriculthral population who form the bulk of the population. We should not look at the law governing the microscopic minority of the people. We have to look at the law that prevails among the main bulk of the population, the main bulk which in this case forms about 95 per cent. of the population there. There, as I have said, we have an advanced law, that whether he be a Muslim or a Hindu or a Sikh, we are governed so far as succession to property is concerned, by one common law, and that is the customary law. But here you are bringing forward this Hindu Code and so I confront you with the statement that we have got one common, uniform law which cuts across all communities and all narrow communalism in the Punjab. But by this measure you are trying to introduce for the first time communalism in the Punjab. (*Interruption*). Yes. The customs are

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there and they are due to the long usages which have been recognised. Various attempts have been made to over-ride customs ; but all this is is bad and it wiill be a bad policy and quite definitely an ill-advised policy, to promulgate laws from the top and then within these fifteen days change the entire structure of society there which has come through for a very long time and which has imbibed in itself the wisdom of the ages and the spirit of the time. I am mot saying that because a particular law has been laid down by a particular old *Brahmin* and so it cannot be touched or changed. I am not basing my argument upon that sort of sanctity. I only say that the custom has come down to us and it has developed, due to the lack of rigidity it has imbibed into itself certain practical usages, usages very useful to the genius of the people there. I will come to this part later on. Here I only refer to it to say that custom over-rides the written text. The custom in the Punjab has been there and is still the law there.

Apart from that, I shall prove also that my customs are far more advanced than this retrograde step that is now being proposed. They are much more advanced in many respects.

I ask that the Sikhs be absolved from this Bill, for this reason also. It will surprise hon. Members, as it has surprised me, that all along, since the introduction of the Hindu Code Bill in this House by Mr. Mandal—in fact though Dr. Ambedkar is trying to improve upon that Bill, nevertheless he is carrying Mandal's baby—since the introduction of the Bill up to now, there has not been a single Sikh Member on the Select Committee.

Dr. Ambedkar : Giani Gurmukh Singh ?

Sardar B. S. Man : No. No Sikh opinion has ever been consulted on this vital question. Nor has there been appreciable agitation among the Sikhs because we were told that the agricultural property will be an exception under this Hindu Code Bill and this led to a sort of indifference among the Sikh community towards this Bill, 95 per cent. of the population thought that this Hindu Code Bill was not going to touch them in a vital way.

Shri A. C. Shukla : Have the Sikhs passed any resolution against the Code in any of their conferences ?

Sardar B. S. Man : I can speak for the Sikhs much better than the hon. Member. There are a few ladies here and on such a vital matter as this they are consulted and listened to and their advice is accepted. But in this House we are seven Members of the Sikh community and

I challenge the hon. Member to produce a single Member of the Sikh community who is in favour of this Bill completely and totally ?

Shri A. C. Shukla : What about those outside the House ?

Sardar B. S. Man : Again and again on the floor of this House, speaker after speaker has pleaded, let us not proceed with the majority of the Members here. Let us conduct a referendum of the people outside. If that is what you want, let it be referred to a referendum of the Sikh community. Till then it should not be passed with the majority of the Hindu Mebers here. I am not a Hindu. I have never followed the Hindu Law. I am constrained to say that this law is a conversion law for the Sikhs. You are bringing in totally obnoxious principles, certain novel innovations which have never been followed and which in the villages have never been heard of and you are forcing down our throats something alien to us. Even the ladies here, though few, are consulted and listened to and we the seven Members are unanimous about Sikh opinion that certain provisions which are retrograde and obnoxious should not be forced on us. My friend asks whether they have passed any resolution to that effect. My grievance is that Sikh opinion has not been consulted. The very fact that Dr. Ambedkar has not received the memoranda of the Sikh societies and S.G.P.C, which is an authentic body to speak on behalf of the Sikh community so far as their personal law is concerned as also their religious precepts shows that the Sikh community has not been consulted.....

Sardar Hukam Singh (Punjab)**:** Resolutions have also been passed in certain Sikh conferences against this Code.

Sardar B. S. Man : My hon. friend Sardar Hukam Singh enlightens me that there have been resolutions. At the time of the original introduction of the Bill or at the time of the formation of the Select Committee no Sikh Member was either consulted or represented on the Committee. Dr. Ambedkar says that Gyani Gurmukh Singh Musafir was there. Would be then listen to his advice, if he was there ? If there had been a single Member of the Sikh community would he give due weight to his opinion ? He was not a member of the Select Committee then but when the House adjourned and later when Dr. Ambedkar agreed to consult more *pandits* and he had a sort of informal conference, incidentally then Sardar Gurmukh Singh Musafir was asked to give his opinion. If as he says that he consulted Sikh opinion in the person of Sardar Gurmukh Singh Musafir then please listen to his advice so far as the Sikh community is concerned. But the Government did not think

it proper to include Sikh Members in the Select Committee and we of the Sikh community were never really agitated because till this day we were led to believe that agricultural property would not be touched and will be made an exception. Suddenly when this Bill is introduced we find that in his wisdom he has brought even agricultural property within the purview of this Bill. We were indifferent in the original instance because of the exemption of agricultural property and we never really applied ourselves to the provisions of the Bill. Now this Bill has suddenly emerged : it is a hotchpotch, it is retrograde in many respects and an advance in some other respects, it is a heterogenous combination and it is thrown at our face asking us to accept it. I frankly admit that I for one fail to comprehend its provisions and much less will the illiterate person or peasant in the villages. Much less so an illiterate person, a peasant in the field, because the peasant was told. "do not be worried because it is not going to touch you". My grievance is that Sikh opinion was not consulted to any apreciable degree. And now when you pass this Bill with the help of the Hindu majority here, it will leave a very bad taste and memory in the minds of the Sikhs that in spite of their unanimous opposition to the Bill, in spite of the fact that they were led to believe that most of the provisions of the Bill will not apply to them suddenly, at the fag end of the session it was passed much against the will of the community.

An Hon. Member : Then let your Members show the opposition.

Sardar B. S. Man : Yes. My esteemed friend, Sardar Hukam singh who can speak on behalf of the Sikhs in a much better capacity than myself has shown his opposition. After all, it is not a political matter that you may not accept his advice. It is not such a matter in which because he sits in opposition his opinion may be declined. On matters of personal law, on matters of religious precepts, on matters of adoption of Hindu communal law, you must accept the opinion of the representatives here ; and we are unanimously opposed to it. And if in spite of our opposition you proceed and make the provisions applicable, then it will be a strange thing—it will go down as something autocratic, something savouring of the communal. It so happens that we are only seven Sikh Members here. But we want that so far as religious matters are concered, so far as personal law is concerned, due weight should be given irrespective of the fact that a section may be numerically very much weaker. You have already made exceptions. I am not arguing on these lines because you have made exceptions. Because a Muslim is

allowed to marry four wives, I do not say that I should be allowed to marry four times. The fact is that you have made exceptions. Why ? Because you found that the law of the Muslims, the law of the Christains, so far as their personal law was concerned, was absolutely different. And since it was completely different and in many respects diametrically opposed to the Hindu Code, therefore you made an exception so that it may not be forced down their throat. That way you gave a latitude and thus you accepted the principle that irrespective of the fact that the Hindus may be in majority here they will not force a law of theirs, so far as their personal usage, religious precepts, etc. are concerned, down the throat of any minority. If you have accepted this because the Muslim Law and the Christain Law and even the Parsi Law is fundamentally different, then I may be permitted to prove on the floor of this House—on any given subject that you are trying to legislate, for example, marriage succession or divorce—that the Sikh Law is entirely different. Then I claim the exception which you have extended to the Muslims. Because the Muslims proved that they were governed by an entirely different set of laws they were given an exception. And if I prove here that I am also governed, in every single item which you are trying to legislate here, by a different law, and that my law is fundamentally different from yours, then I claim the same concession which has been extended to Parsis, Muslims and Charistains should be extended to me also.

Mr. Chairman : The Hon. Member may continue tomorrow.

The House then adjourned till Half Past Eight of the Clock on Wednesday, the 19th September, 1951.

*HINDU CODE—*contd.*

[9-30 A.M.]

Clause 2.—*(Application of Code)—contd.*

Mr. Deputy Speaker : Before the discussion starts I might inform the House that this is the sixth day of the debate on clause 2. Practically all shades of opinion have been covered. (*Interruption*). It is not as if every hon. Member should be allowed to speak. The matter has been sufficiently placed before the House both for and against the Bill as a whole and also particular clauses. We must be able to see the end of the discussion so far as clause 2 is concerned. I would request hon. Members not to occupy the whole time but give opportunities to other hon. Members so that we might close the debate on the clause today. hon. Members will try to be brief and short, as all the points have been elaborately discussed already.

† **Sardar B. S. Man** (Punjab)**:** When the House adjourned yesterday I was advocating that the Sikhs be absolved from the operation of the Bill and I was basing my arguments on two counts. One was that we in the Punjab are predominantly agriculturists, who form 95 per cent. of the population and the Sikh community forms a predominent part among the agriculturists. We in company with other fellow agriculturists, both Hindus and Muslims, are governed not by a Brahmanical rule of law, but by an entirely secular set of laws. We are governed by customs, secular customs and they are different fundamentally from the proposed provisions of the Bill. Secondly, I said that Sikh opinion on this vital matter has not been consulted. I was dealing with the second point.

I have now looked into the matter and gone into the entire body of opinion circulated to us in the report of the Hindu Law Committee and I find to my dismay that not one authentic opinion on behalf of the Sikh community has agreed to this Bill. (*An hon. Member*. How authentic ?) There is an interruption asking how it is authentic. Perhaps many hon. Members in this House may not be aware that we have a statutory body for the Sikhs set up by law which votes according to the law made by the Government of India. There are 151 members who represent the entire community for the management of the *gurdwaras* and the administration of their religious laws. This body is known as the Shiromani Gurdwara Prabandhak Committee. Incidentally it may be taken in this House that this body is dominated by certain very very

* P.D., Vol. XV, Part II, 19th September 1951, pp. 2841-98.

†*Ibid.,* 19th September 1951, pp. 2841-48.

aggressive or communal Sikhs but it will be a surprise to the House to know that at present its president is no less than Sardar Nagoke, a staunch Congressman. The body is entirely dominated by Congressites. This body which is not aggressively communal and which has been set up by statutory law has expressed its emphatic opinion against the Bill. Nothing can be more representative than the opinion of the S.G.P.C., let alone the numerous conferences and gatherings of Sikhs which have expressed their opinion against it.

The Minister of Law (Dr. Ambedkar): Where ?

Sardar B. S. Man: Outside the House, I ask the Government to take one position. Either pass this Bill because you are sure that the majority of the Members here, who are representatives of their communities, want it or you think that the representatives of a particular community are so outmoded that they do not represent the real opinion outside the House, which wants the Bill. Stand on any of these two positions either inside or outside the House. We are six members here representing the Sikh community. (*An hon. Member*: You said seven yesterday.) The senvth is from U.P. Even if you are prepared to base your position upon his opinion I am prepared to risk it, though I have not consulted him because I know very well the opinion of the agriculturists and he is one of them. We six Members here represent P.E.P.S.U. and the Punjab. You cannot say that we all belong to the same party. Here are Ministerialists, there is an independent like Sardar Sochet Singh, people who are diametrically opposed to Congress party like Sardar Hukam Singh, who is an Akali leader and there is the Congressman Sardar Gurmukh Singh Musafir. I ask the Government on whose opinion you have derived the impression that the Sikhs want the Bill. I challenge that we are unanimously opposed to it. Do not force it on us just as you have not forced it down the throats of Christains. The Christians numerically are almost the same number as we in the Punjab. You have made an exception of the Christains but you are not prepared to make an exception of the Sikhs, As representatives in this House we do not want it. If you say that people outside want it, I ask the Law Minister and the Minister of State Mr. Tyagi, who is now a Government supporter, to produce a single opinion to show that we want it. (*Interruptions*)

The Minister of State for Finance (Shri Tyagi): *Indicated dissent.*

Sardar B. S. Man : I am sorry I reffered to Mr. Tyagi, as I thought that the interruption came from him, since I was opposing the Government and he was supporting it now.

Shri Tyagi: I am a widower and I have no interest either in marriage or divorce.

The Minister of States, Transport and Railways (Shri Gopalaswami) : Who knows ? You may yet improve !

Sardar B. S. Man : Many who are widowers here want the divorce system to be there because they hope to find their deliverance through it. However, Mr. Tyagi is an exception. In spite of the fact that he is a widower he is against divorce, rather an unusual phenomenon.

Sardar Sochet Singh (P.E.P.S.U.)**:** He may be interested in divorce in his neighbour's house.

Sardar B. S. Man : So, as I said, we were not consulted. Although, political opinions are very divergent on the Sikh community, the present Government is not listening either to the Congress Sikh, the Akali Sikh or the independent Sikh, nor even the Ministerialist Sikh. It is surprising how the Government has come to the wonderful conclusion that the Sikh opinion has been sufficiently agitated and consulted. After my speech yesterday, certain friends came to me and told me "Mr. Man, it is all right. We admit that your customs are different and that you were not consulted sufficiently. But why can we not legislate for you ? Because all along you have been a Hindu and you were governed by Hindu law," I shall come to that point of whether we have ever been governed by Hindu law, but as to the point whether we are Hindus, I should not like to repeat the argument here but I would like to mention something in that connection. I came across a pamphlet yesterday wherein it is said that if you go to a village and tell a Sikh, "You are a Hindu", the answer will be not in words but a slap on your face. I will not—I dare not— use that argument here.

Pandit Thakur Das Bhargava (Punjab)**:** How are the Sikh agriculturists differently placed from the Hindu agriculturists of Punjab ?

Sardar B. S. Man : I would have much liked to argue, and in fact I am actually basing all my arguments on that fact, that as an agriculturist I am in the company of Hindu agriculturists and the Musalman agriculturists. And my lawyer friend knows perfectly well that the Sikh agriculturist, along with the Hindu agriculturist and the Muslim agriculturist, is governed by a customary set of laws applicable uniformly to all. If I am using the word Sikh, it is due to the bane of this Bill. I would have liked to argue that the agriculturists of the Punjab

be absolved, but what shall I do when the Bill—in that respect a backward Bill, a communal Bill—legislates for Hindus, Sikhs, Jains etc. and talks in terms of communal groups and not in terms of secular groups ?

Pandit Thakur Das Bhargava : Is it not a fact that the Hindu non-agriculturists living in the villages follow the same customs as the Hindu agriculturists ?

Sardar B. S. Man : Yes. That is the beauty of our entire law in the Punjab. It is an advancement on other parts that we in the Punjab are governed by village communities and not by religious law. We are governed by land and we revolve round land laws, secular laws. Let me give a quotation to meet this interruption. I will quote from *Rattigan's Digest*. My whole point is that, so far as this law is concerned in its application to Punjab, it is not reformative : it is not progressive because it is too conservative, because it is too orthodox ; it is retrograde because it is communal—our law in the Punjab has gone much farther at least so far as secularism is concerned. In our village communities we have been governed by the same set and same pattern of laws ; Hindus, Muslims and Sikhs, agriculturists and non-agriculturists, were attached to the land all these ages ; they imbibed the wisdom of the ages and the spirit of the times and throughout they were governed by one set of laws. But Dr. Ambedkar comes out one fine morning with this Hindu Code Bill—perhaps he is jealous of us—and says, "I am going to cut across you and split you into two communal groups". Either you be a Hindu or you be a Mussalman ! That is the effect of it.

Shri Naziruddin Ahmad (West Bengal)**:** Rather, "give up all religions"!

Sardar B. S. Man : Now what does *Rattigan's Digest* say in this matter ? It says :

> "It had long been felt by those best acquired with the habits and customs of the rural population that neither the *Shara* nor the *Shastras* really exercised any direct influence among them."

Then:

> "The Hindu law extravagantly exalts the Brahman; it gives sacerdotal reasons for secular rules. In the Punjab, Hindus and Mussalmans converted from Hinduism may fear or feed the Brahman; but in civil affairs Punjab Customary Law ranks him with other men. It is essentially unsacerdotal, unsacramental, secular."

Mr. Deputy Speaker : Is not the *Shariat* now applicable to the Punjab ?

Sardar B. S. Man : I am splitting up the Punjab population into two distinct groups : one group comprises 95 per cent. of the population and the other remaining five per cent. The 95 per cent., and in fact even more, live in the villages and is attached to the land.....

Mr. Deputy Speaker : Was not *Shariat* passed in undivided India ?

Sardar B. S. Man : I shall come to the Punjab laws. There the custom is the primary rule of decision to the exclusion of *Shariat* as well as the Hindu Law,

Dr. Ambedkar : That has been overruled by the *Shariat* law.

Sardar B. S. Man : *Shariat* will fill in the gap when there is no customary law prevalent. It is quite distinct. I must refer to that later since I do not want my argument interrupted now. We have legislation—the Punjab Laws Act of 1872, clause 5—where it is distinctly laid down that in Punjab the first rule of decision will be the customary law and where there is no custom and a gap arises only then the Hindu law or the *Shariat* law will come in.

Shri R. C. Upadhyaya (Rajasthan) **:** Are the customs reduced to writing ?

Sardar B. S. Man : Not only, reduced to writing but compiled, listened to and decided—not for ten or fifteen years but for ages.

An Hon. Member : Is not your custom the same as Hindu custom ?

Sardar B. S. Man : What innocence ! If I were to prove to my friend here that my custom is entirely and fundamentally different from Hindu law, will he be prepared to make an exception ?

Pandit Thakur Das Bhargava : If a custom is reasonable. Dr. Ambedkar is bound to accept it (*Interruption*).

Sardar B. S. Man : The interruptions are many. Interruptor says that if I convince him he is bound to accept it. I do not know whether I can convince a person who is not willing to be convinced : Dr. Ambedkar says, even if he is convinced he will not accept it.

Now, let me give a quotation from *Mayne's Hindu Law* ; it has held the field for a fairly long time and is a fairly authoritative commentary. It says:

> "As regards the Village Communities, the Punjab and the adjoining districts are the region in which alone they flourish in their primitive rigour. This is the tract which the Aryans must have

first traversed on entering India. Yet it seems to have been there that Brahmanism most completely failed to take root ..... and the religious element has never entered into their secular law:"

If I have enjoyed emancipation from Manu for so long a time, will it not be a tyranny of the times if I have to submit now to a modern Manu ? If I have not been governed by Brahmanical rule and I have had secular law for a long time in Punjab, if I have not accepted Manu's religion, then let me assure the House that Punjab is not going to accept Ambedkarian religion henceforward, (*interruption*). Let me give credit to Manu that at least he was original in many respects, but my modern Manu—oh, what a fall has he had ! He is neither original nor progressive. (*Interruption*). You ask who is the modern Manu ? Well, I need not say.

Dr. Ambedkar : I am not a modern Manu.

Sardar B. S. Man : In Punjab we do not recognise communal groupst and the application of this law will, for the first time introduce the communal element there. I shall read to you from *Mayne's Hindu Law,* 9th Edition, Page 48, where it is said:

"The special interest of Punjab Customs arises from the fact that Brahmanism seems never to have succeeded in the Punjab. Accordingly, when we find a particular usage common to the Punjab and to Sanskrit law, we may infer that there is nothing necessarily Brahmanical in its origin. The Brahmans are not, in the Punjab, the depositaries of Customary law. To ascertain it, we must go to the Jirga, or Tribal Council, if there be one, or to the elders of the tribe.

Shri R. K. Chaudhari (Assam)**:** I am sorry to interrupt, but let us come straight to the point. Does the Hon. Member want monogamy or not ? That is the question.

Shri Tyagi: Why beat about the bush ?

Sardar B. S. Man : A false sense of security is being created in the House through the Press that Government want to proceed with only marriage and divorce. Has Dr. Ambedkar declared here difinitely that he is leaving out the other portions and he is only concerned with marriage and divorce ? I am discussing the applicability of this Code in its entirety. I proceed on the assumption that the other portions are not going to be dropped. I caution my friends. Once Government lull you into a sense of indifference and false feeling of security, they will proceed with the other portions.

Shri R. K. Chaudhari: Please answer my question. According to the customary law monogamy is allowed in Punjab. Are you in favour of continuing the monogamy law ?

Sardar B. S. Man : I shall discuss that threadbare, law by law.

Mr. Deputy Speaker : We are not going to take up other matters. I think, it was made suficiently clear by the Hon. the Prime Minister who stated that they would proceed only with marriage and divorce. If this is accepted, I hope the hon. Member will resume his seat.

Sardar Hukam Singh (Punjab)**:** If this clause is accepted at this stage, would it be again taken into consideration when the other Chapters come up ? Once it is made applicable, certainly the whole thing has to be thrashed out at this stage.

Mr. Deputy Speaker: If the Bill is confined to marriage and divorce and the other parts are brought in by a separate Bill, does the Hon. Member think that this clause will apply to everyone ?

Shrimati Durgabai (Madras)**:** What is the basis for the Hon. Member's statement that the most important Chapters relating to inheritance will be dropped ? What is the source of his information ?

Sardar B. S. Man : The hon. lady Member comes to my rescue for the first time. It is exactly because the other portions have not been dropped, I say that I am perfectly entitled to discuss the whole body of it.

Shri Bharati (Madras)**:** The Prime Minister and the Law Minister have already stated that due to factors of time etc. it is more than unlikely that the other Chapters would be taken up. Although it may not be a categorical assurance, for all practical purposes we may take it as the official decision. If we take the practical aspects of the matter, in all probability, I may even say 99 per cent. the other Chapters would not be taken up during the current session. It is just possible that we may take them up during February or March next, but during the current session it is absolutely impossible to take up other Chapters. It will be great fortune if we finish Chapter II. Therefore, I would request other members to co-operate. At least, let us pass this portion. I think it will be in the interests of the discussion if Dr. Ambedkar makes some kind of statement and gives, if not a categorical assurance at least some indication, that only the provisions relating to marriage and divorce would be passed during the current session.

Pandit M. B. Bhargava (Ajmer)**:** Has the hon. Member been briefed by the Government of India to take up this position ?

Mr. Deputy Speaker : Hon. Members are entitled to speak on both sides.

Dr. Deshmukh (Madhya Pradesh)**:** After all, clause 2 does not make any distinction between different portions of the Code as it has been placed before us. If my hon. friend does not say at the present stage all that he wants to say with respect to the other Chapters, he will be precluded from saying them later, because clause 2 is of general application to the whole Code and does not refer merely to marriage and divorce. Once clause 2 is accepted, it will apply to the whole Code and unless we have an amendment saying that it applies to marriage and divorce only—and no such amendment is before us from Government—I think the hon. Member cannot be stopped from bringing in other Chapters.

Shri J. R. Kapoor (Uttar Pradesh)**:** Even if clause 2 is passed in this form or an amended from, it will not preclude any one from saying at any subsequent stage that any particular portion or Chapter shall not be applicable to this section of the community or that. Take for instance the question of succession and inheritance. When that Chapter is taken up, it will certainly be open to us to add a clause to the effect that this part of the Code shall not be applicable to Sikhs or this or that community. The passing of clause 2 would leave the door open to discuss the matter later on and it may be advisable for all of us, if we are agreed on the marriage and divorce laws subject to such amendments as may be acceptable, to proceed with the Bill.

Mr. Deputy Speaker : I am in a fix. I thought I would be able to ask hon. Members to conclude the debate on this matter having regard to the statement by the Hon. the Prime Minister that the Chapter on marriage and divorce only will be taken up. He said so particularly. Now, if clause 2 is to apply to all the other Chapters I do not know how I can ask the hon. Members not to refer to them. That is my fear. I would like elucidation from the Hon. the Law Minister. Otherwise the scope will become wider and it would not be reasonable for me to say that the debate shall be concluded so early.

Dr. Ambedkar : The Hon. the Prime Minister stated the other day that the House will rise on the 6th.

Shri Naziruddin Ahmad : That is only provisional.

Dr. Ambedkar : Whatever it may be, it is there. I think I can say without giving away the position of the Government that it is quite clear that it would not be possible to proceed in this session beyond the

Chapter dealing with marriage and divorce. When we reach the end of that Chapter. I propose to move certain amendments to these two parts in order to make them self-contained and to attach to them certain Schedules which go with marriage and divorce. I think the House may well take it that that is the intention of Government so far as the present session is concerned. When, for instance, the other parts are taken up, no doubt any Law Minister who would be then piloting the Bill and the Draftsmen would see to it that those parts were also self contained and the same definition and rules as regards applicability will have to be repeated in the other parts when those parts are placed before the House. Obviously, the clauses dealing with applicability when they will be confined to this part would by no stretch of imagination be extended to the other parts unless they are repeated there. I think that any lawyer Member of this House should be able to understand that that would be the position, so that when the other parts come to be discussed it would be open to the House to see whether the same definition which is given now as to the territorial applicability of this part or the social applicability of this part should be the same as will be enacted so far as this part is concerned. It will be open to the House and also for the Government to see to it whether those parts should be made applicable universally in all parts of India, or whether they should be applicable to all communities, or whether any exception might be made. That is a matter which I think should be left to the future Government, the future Law Minister and the future Parliament.

Shrimati Renuka Ray (West Bengal)**:** On a point of order, Sir, Clause 2 has been under discussion for three days in the previous session and three days now six days in all. Almost all the speeches on clause 2 have gone into the merits of the provisions of the whole Bill. I want to ask whether once the consideration stage is over, is it open on a discussion of a clause, to go into every detail of the Bill as it has been done during the debate on clause 2 ?

10 A M

Shrimati Durgabai: May I seek a clarification. In the light of what the hon. the Law Minister has stated and also in the light of the fact that this House attaches considerable importance—the greatest importance—to the clauses relating to inheritence, because they are based on the principle of equality, is it the intention of Government to bring a separate Bill relating to those clauses in the next session of Parliament, if not during this session of Parliament ?

Dr. Ambedkar: I am afraid that is entirely outside my jurisdiction. It is a matter which I should leave to the Prime Minister to answer.

Shri Deshbandhu Gupta (Delhi)**:** In view of the statement that has been made by the Hon. the Law Minister, may I know whether it is also the intention of Government to change the title of the Bill, because it is no longer a Code ?

Dr. Ambedkar: When I reach clause 55, I shall move all the necessary amendments to make this an independent Bill and take it out of the Code.

The Prime Minister and Minister of External Affairs (Shri Jawaharlal Nehru): If I have gathered purport of the hon. Member's question, it was whether other parts of the Bill will be introduced in this session or in a subsequent session. So far as Government are concerned, we have often stated that we stand by the whole Bill. Our difficulty has been the difficulty of time, and we decided to proceed with Part II in this session and to pass it. That did not mean that we were giving up any other part and we would very much like to have the other parts passed too. But practically speaking, there is no chance of our doing that in the present session. Whenever we can avail of an opportunity we should like to take up the other parts.

Mr. Deputy Speaker : The Hon. the Prime Minister was not here when this point was raised. When Sardar Man was on his legs, he was referring to the other parts of the Bill inasmuch as they will be applicable to the Sikhs. At that stage, a point was raised as to whether the Hon. the Prime Minister has not already stated that this measure will now be confined to marriage and divorce and as such discussion should be confined to those two subjects. Having regard to the number of days that have been spent on this clause, I wanted to conclude the discussion on this today. The Hon. the Law Minister then said that it was intended to confine this Bill only to marriage and divorce and suitable amendments would be moved even with respect to the title. In regard to the other parts of the Bill it was said that a fresh Bill would be introduced which would also cover the applicability of this Bill to the territories or communities. A further question was asked as to when that Bill would be introduced, to which the Hon. the Law Minister replied that the Prime Minister alone must answer that question. That is why I was a little doubtful if the Prime Minister has been apprised of the discussion that took place here.

Dr. Ambedkar: I perhaps forgot to say that after clause 55 is reached, I shall not only introduce suitable amendments with the object of making that particular part self-contained, but I shall also move a motion that this Bill, so to say as amended, be passed independently of the other parts.

With regard to the other question, I have looked into the Rules of Procedure. There will be two courses open. One course that will be open to me would be to move that the other clauses be put and negatived, so that Government will be free to bring them together in a separate code or separate part or separate Bill and move them whenever they want. The other course permissible—subject to your ruling—under the Rules of Procedure would be to let those parts stand. I find from the rules that there is nothing to prevent this Parliament from taking out a particular part or a particular portion from a whole Bill that has been before it and to treat it as an independent Bill and pass it. That is a matter which I am prepared to leave to you and to the House. Our present intention is to stop with clause 55 and certain relevant Schedules. I think that makes the position clear.

Shri Jawaharlal Nehru : My hon. colleague has made the position quite clear. I entirely agree with him. We are for the present going to confine ourselves to Part II and complete it as a whole, apart from the rest. Then it depends on various possibilities, as to how best to deal with the rest of the Bill. But this ought to be kept separate.

May I also qualify, or amend, a statement which I made about the length of this session. I said that we would like it to end on the 6th October. As I see the debate proceeding, there is no chance of its ending on the 6th October. So, it will have to go on till we finish important work.

Shri Deshbandhu Gupta : May I seek a clarification ? The Hon. the Law Minister has made it quite clear that this will be a self-contained Bill dealing with monogamy, marriage and divorce. If that is so and the subsequent Bills will also be self-contained Bills, then the question of Hindu Code as such does not arise. Therefore, there will be different Bills and codification will have to follow later on, if necessary. Therefore we are not proceeding with the Bill as it is. We are only proceeding with the different heads of the Bill and at the moment we are only concerned with these three things.

Shri Ramalingam Chettiar (Madras) **:** There are several provinces which have already got laws on monogamy and divorce.

Probably they are better, though the provisions that we are going to agree here is a compromise. We are having this compromise simply because we are going to have a Code. In case the present law is going to be confined to marriage and divorce, why not leave those laws which are passed by the different provinces alone and leave it to the people of those provinces to choose. This is an important issue which you have to consider.

Pandit Malaviya (Uttar Pradesh)**:** May I suggest to the Hon. the Law Minister whether it will not help if he did that at this stage rather than wait till the end ?

Dr. Ambedkar : I do not see any reason for doubting the motives of Government. I have said, and we propose to stand by what we have said.

Pandit Malaviya : I am surprised that he should think that there is any doubt of his motives in what I said. I asked, will it not help if he did it at this stage, because if that is the thing which we are considering, it might become a slightly different situation for some of us.

Dr. Ambedkar : Take it that it will be so.

Pandit Malaviya: When we are in Parliament legislating, it is difficult to take things unless they are done. I simply asked, will it therefore not help if it is done now.

Mr. Deputy Speaker : The Hon. the Law Minister has made the intention of the Government clear. My only difficulty is this—I am not asking him to do it immediately—but when once we pass clause 2 and take up clause 55 I have got a doubt technically as to whether we can modify clause 2 then, at that stage.

Dr. Ambedkar: At the time when you put this clause 2, I want to make a reservation that I reserve to myself the necessary liberty of making certain consequential amendments to clause 2.

Some Hon. Members : No, no. How can it be ?

Dr. Ambedkar: That is perfectly possible.

Pandit Malaviya : That is authoritarian and not parliamentary !

Mr. Deputy Speaker: There is nothing unparliamentary. The Hon. the Law Minister has been extremely reasonable. There is no good losing one's reason or making recriminations. It does not contribute to the coolness of the atmosphere that must prevail here. I understand the Law Minister. He has no mental reservations. He wanted to bring it by way of amendment to clause 55. Then I thought

within myself that at that stage it may be a bit too late. He has suggested an alternative that on clause 2 he will make a reservation to move the necessary consequential amendments. Even there I have a difficulty. I shall no doubt conclude the debate on this clause with that background that this clause, that is clause 2, will apply only to marriage and divorce. But I shall withhold putting it to the House. I shall conclude the entire debate and take it over after the Chapter is concluded. Now, in view of what has been said, hon. Members must be prepared to conclude the debate today.

Sardar B. S. Man : He need not dilate upon the other matters.

Shrimati Durgabai: Now that one hon. Member has stated that certain State Legislatures have passed monogamy Acts, may I point out that only three States—Madras, Bombay and Baroda—have passed such Acts. In view of the fact that there is a lot of confusion being resulted on account of all the State Legislatures not passing the laws and on account of differring High Court judgments, it is highly necessary that there should be a Central law on monogamy and divorce so that it will be applicable to all States whether they wish it or not. Therefore, hon. Members may facilitate the discussion and passing of the Bill upto clause 55.

Mr. Deputy Speaker : Now that the scope of the discussion has been narrowed down let us pass it as expeditiously as possible and avoid, if possible, even sitting during Dusehra.

Shri Jawaharlal Nehru: May I suggest, Sir, that we sit on next Saturday ?

Mr. Deputy Speaker: I was not referring to that.

Shri Jawaharlal Nehru : I know, Sir, I was merely suggesting about next Saturday.

Mr. Deputy Speaker: That can always be done. But let us pass this as early as possible and not sit beyond 6th October, if it is possible to avoid it.

Pandit Malaviya: Even if it is necessary to sit beyond 6th October, I hope we do not sit during Dusehra but sit afterwards.

Mr. Deputy Speaker: That is accepted. We will not sit on any public holiday.

Sardar B. S. Man : Frankly speaking I am not able to understand completely.....

Mr. Deputy Speaker: May I suggest that in discussing clause 2 the relevant merits of all the clauses that follow need not be referred

to. References here and there are enough. I therefore wish to draw the attention of the hon. Member who is on his legs and also other Members that while the applications of those other clauses may be generally indicated here and there, matters as to how they ought to be or ought not to be and how they ought to be modified and so on may all be taken up when we come to the other clauses.

Shri Sarwate (Madhya Bharat)**:** In case we are to postpone the final passing of this clause, would it not be better that all discussion on this clause be withheld to a later stage ?

Mr. Deputy Speaker: We have already spent a sufficient time over this clause, hon. Members may now take it definitely that it is the view of the Government as stated by the Hon. the Law Minister that the effect of this clause will be confined only to marriage and divorce. On that footing it is open to hon. Members to say where it should or should not apply—to Sikhs or Buddhists or Hindus or to certain territories etc. The discussion will be confined to that extent only and not extend to other things.

Pandit Malaviya : May I suggest for the consideration of the Hon. the Law Minister one procedure ? We may finish this discussion on clause 2 today. But after the discussion has taken place, instead of putting it to the House, we may leave it over. There may be no more discussion on it. I am only making a constructive suggestion.

Mr. Deputy Speaker : I have said so already. I will conclude the discussion and call upon the Law Minister at one o'clock.

Shri Syamnandan Sahaya (Bihar)**:** If clause 2 will apply only to marriage and divorce, what will apply to the other clauses ? What about the other clauses of the Code ? What will be the application clause ?

Mr. Deputy Speaker : All the other clauses also will be suitably modified. When they are taken up submissions may be made.

Shri Syamnandan Sahaya : Are there to be two application clauses in the same Bill?

Mr. Deputy Speaker : Hon. Members were either not here or were not hearing properly……

Shri Sarwate : I request one point to be made clear. We have tabled certain amendments. The amendments depend upon the scope of clause 2. So we may be allowed to move those amendments or take up those amendments later on.

Mr. Speaker : All the amendments are being discussed now. I am not going to allow any other amendments. Those amendments together with the clause, including the amendments moved by the Hon. the Law Minister, have been discussed. We have reached a stage. If in pursuance of all the other clauses that are taken up and adopted, we go back to clause 2 and any incidental amendments have to be made to clause 2, the discussion will be confined only to incidental, auxiliary and consequential amendments. Today we may take it that this must be over.

Shri R. K. Chaudhari: I want to have my doubts cleared on this point. I understand that clause 2 will apply only in cases of marriage and divorce. I want to know that when the inheritance chapter comes up will there be a saving clause in that and should it not apply to the rest ? This is not to apply to all but only to those who want to be governed. Will there be such a saving clause in that part ?

Mr. Deputy Speaker : For the time being the Hon Minister and that this Code was confined to marriage and divorce and all the other general clauses also would be suitably changed. As to what will happen when another Law Minister or this Law Minister will introduce at that time, it is a matter of conjecture and it is too early to predict what will happen.

Shri R. K. Chaudhari: How can you allow this clause to be passed ; possibly it will be like the Damocle's sword hanging over us.

Mr, Deputy Speaker : Another clause will be introduced, a similar clause with suitable amendments and then the hon. Member can continue to speak as vigorously if not more vigorously. Let us not spend any more time on this.

Shri J. R. Kapoor : May I therefore, submit that as you are anxious to close the discussion at one o'clock today, the discussion may now start on the amendments rather than on the general aspects ; otherwise, we shall have hardly any time to deal with specific amendments which really matter so far as clause 2 is concerned.

Mr. Deputy Speaker : There will be discussion both on the clause and the specific amendments. I am not going to allow any hon. Member merely because he has tabled an amendment just to go on speaking here.

Shri Bhatt (Bombay)**:** Sir, what has been decided today and what you have conveyed to the House, is that Clause 2 will not be put to

the vote of the House today. I would, therefore, like to know whether any hope is left for us to move our other amendments in view of the stand taken by the Hon. Minister of Law today. Now he wants to enact the Marriage and Divorce Law separately. Will it be in order in this connection to table any amendment, as suggested by me previously, to the effect that the Law should be made applicable to the whole of India and would you permit it to be moved ?

Dr. Ambedkar: You have already tabled an amendment to that effect.

Shri Bhatt: The amendment tabled by me is not on the lines of a similar amendment that was moved in connection with the Sarda Act.

Mr. Deputy Speaker : There is no good asking the Hon. Minister whether he wants it to be applied to every individual in this country and every part of this country. Amendments have already been tabled. Those amendments will be put to the vote of the House and if the vote decides against the Law Minister, he will gladly accept it. Therefore, there is no question of any further amendment regarding territorial restriction or restriction regarding communities. They are all before the House and I am not going to put them to vote today. I will put them later on. It is for the House to accept or reject so far as that matter is concerned.

Pandit Maitra (West Bengal)**:** The Hon. Law Minister says he has not agreed. He says "I will not gladly accept".

Dr. Ambedkar : I said gladly I will not accept.

Shri Radhelal Vyas (Madhya Bharat) **:** On a point of order. May I know, as the debate on clause 2 will conclude today and also the Hon. Law Minister is replying, whether later on any amendment would be allowed to be moved to clause 2 at that stage ?

Mr. Deputy Speaker: Hon. Members are unnecessarily raising points of order. It is not for the hon. Minister to accept or reject an amendment. Consequential amendments, if found in order, will certainly be moved and allowed by the House. Secondly, the discussion on the amendments on clause 2 tabled today will conclude. If any new amendments come in as consequential to the clause that we are now going to pass, they will be placed before the House.

Such consequential amendments to clause 2 will necessarily be made either by the Law Minister or by any hon. Member and then

discussion on the consequential amendments will follow and the original clause with the consequential amendments will all then be put to vote and ultimately accepted or rejected.

Shri Ramlingam Chettiar : I do not know what a consequential amendment is.

Pandit Thakur Das Bhargava : I ask whether it is fair to discuss only divorce and marriage. Is this procedure adopted in any House in the world that we should discuss only divorce and marriage, without knowing the implications and the rights and duties of the husband and wife or how they will succeed each other ? I think this will be extremely disingenuous and the real context of cognate matters will be missed.

Pandit Maitra : Sir, you just now ruled that only consequential amendments will be allowed to be moved but how could you know what is the consequence unless the amendments are put to vote and are either carried or rejected. Then we will be in a position to know what may be the consequential amendments. Therefore, this requires clarification. One cannot move a consequential amendment at a certain stage unless he knows the consequence after the amendments that have been tabled have been rejected or accepted. Unless one knows which particular amendment has been accepted or rejected, the question of a consequential change cannot arise. It is only when one knows the implications of a particular motion or amendment being accepted or rejected that the question of putting any consequential amendment would arise.

Shrimati Renuka Ray : Cannot the discussion, as to what is consequential and what is not, be allowed to be taken up afterwards ? That may take another six days.

Mr. Deputy Speaker: As I stated, subject to what the Hon. Law Minister may say—and I would like to have information—hon Members are anxious to know beforehand, whether any particular communities are going to be excluded and whether any particular territories are to be excluded—whether they have to be applied in part or wholly at one stretch etc. These are the subject matter of various amendments. This will apply not only to marriage and divorce but all the other things also. But there is nothing peculiar in this which cannot be applied as it is into marriage and divorce. As has been suggested by the Hon. Law Minister, he does not pursue the other matters. Only for the words "Hindu Code", he might say that this is an amendment to that extent.....

Dr. Ambedkar: I will say "an Act".

Mr. Deputy Speaker : "The marriage and divorce Act" instead of the word "Code". What I feel that this must be put to the vote of the House. As soon as the Hon. Law Minister finishes his speech, I shall put it straightway to the vote of the House.

Shri Ramalingam Chettiar : *Rose*—

Mr. Deputy Speaker : The hon. Member's issue has already been answered. Any hon. Member, who thinks that there are more progressive laws in the States, can table certain amendments to this clause when we come to the clause by clause stage and thus bring it into line with those State laws. The hon. Member has stated that there are such pieces of legislation in three States and for the sake of uniformity, there must be a central legislation, particularly in view of the fact that this is a Concurrent subject. It is not a difficulty which is insurmountable.

Shri Ramalingam Chettiar: It is insurmountable.

Mr. Deputy Speaker : The Hon. Law Minister does not yield on that point.

Shri Ramalingam Chettiar: I ought to be allowed to move an amendment.

Mr. Deputy Speaker: He has had an opportunity to move it. I am not going to allow any further amendments to be moved. What prevented him from moving this particular amendment before ? When the time comes, let me decide upon this amendment. We will assume that the clauses, inheritance etc. were before the House and we went on from day to day. This House may not wait until he chooses to bring this Bill in line with the State Legislatures. It is an unreasonable demand on the part of the hon. Member. Now so far as clause 2 is concerned this clause will apply to any part. With regard to the other parts, we will confine them only to those parts and not proceed with the other parts. For the purpose of clarification. I will not allow discussion to go on at length and on certain imaginary things which may not be placed before this House. We want to cut short the discussion and the Hon. Minister made that statement and has explained that the consequential amendment will only relate to the nomenclature of this Code. I will put it when we come to clause 55 and even if that is passed in the third reading, we can have it. At one stretch I will allow the discussion and then the Hon. Law Minister

will reply. Then I will put all the amendments to the vote of the House so that there may be no difficulty as to whom it applies or whether they should take any further proceedings etc.

Dr. Ambedkar : I just heard that you would call upon me at one o'clock. But I thought that there is some other business at one o'clock. Perhaps you might give me a minute to start.

Shri R. K. Chaudhari : We must know the consequences of marriage and divorce; that is one thing. Then, Sir, you are willing to allow us discuss, about marriage and divorce and all that without knowing what the effect of the marriage would be, whether the issues of the marriage will get inheritance in this way or that way. That will put at a great disadvantage. I am going to contract a marriage and yet I do not know what the consequences are.....

Shri Syamnandan Sahaya : We are opposed to it.

Shri Deshbandhu Gupta : Are we to take it that the hon. Member is unaware of the consequences of marriage and divorce at this age ?

Shri R. K. Chaudhari : I take exception to this. Sir, I was pointing out.....

Mr. Deputy Speaker : In all serious matters, the hon. Member has got a knack of introducing a good feeling of humour. To that extent he has relieved the tension. The hon. Member knows too well that he is directly responsible for all the acts that he commits whether on account of conjugal felicity or otherwise. Now, Sardar Man.

***Sardar B. S. Man :** You will sympathise with me, Sir, being a junior Member, for this interruption for so long a time.

Mr. Deputy Speaker : The hon. Member may confine himself to the amendment whether this Bill ought to apply or not. He has already said enough.

Sardar B. S. Man : A little allowance due to a junior Member may be allowed to me, Sir. I am exactly in doubt as to what the intention of the Government is. There have been threats of certain reservations, mental reservations regarding moving certain amendments; then there was the explanation by the Prime Minister that they are not proceeding with the Bill except for these two parts because of lack of time. If, incidentally, the House is in a mood to finish it tomorrow, the same position will be there because there will be time to proceed with the

* P.D., Vol. XV, Part II, 19th September 1951, pp. 2861-72.

rest of the Bill. It was a categorical question whether the Government proposed to drop the rest of the Bill, not in this session ; but whether the present Government is dropping the other portions, now or hereafter. These assurances are of little comfort to me that up to the 6th of October this will not be taken, or that it may not be taken in the present session or it may not be taken for lack of time. This sort of argument is no good.

Mr. Deputy Speaker : I may clear the ground. I take the statement of the Hon. Law Minister, the sponsor of the Bill, as the authoritative opinion of the Government. On the footing that they will confine this Bill to marriage and divorce, the hon. Members may go on. That is how I have understood. If there is anything wrong. I may be corrected.

Sardar B. S. Man : I was attaching equal importance to the Prime Minister's statement also. I shall confine myself to my amendment that the Sikhs should be absolved from the operation of this Bill.

The fact is that a certain erroneous impression has gained ground that the Sikhs are firstly, Hindus, and secondly, that they have been governed for a very long time by the Hindu Law. My case is that if I proved that the Sikhs were not Hindus and they were not governed to any appreciable extent by the Hindu Law, then, the Sikhs may be permitted to be out of the orbit of this Bill. In that point, I was interrupted again and again and asked how their law differed from the main body of the law. That was my difficulty. I had to prove that the entire mental structure of a Sikh agriculturist in the Punjab, in company with the Hindus and Muslims, was entirely different and the pattern of the present law is entirely different.

Shri Bharati: So far as marriage is concerned ?

Sardar B. S. Man : Even so far as marriage is concerned. Just wait.

Shri Bharati: That is more important.

Sardar B. S. Man : Let me quote Sir Charles Roe from his *Tribal Laws in the Punjab*. This has been cited with approbation by Sir William Clarke, Chief Justice in 55 *Punjab Record* 1903 Full Bench.

He says :

> "The Hindu agriculturist of the Punjab..."

The Hindu agriculturist follows the same law as the Sikh agriculturists.

> "...knows nothing of caste except as represented..."

Now, Sir, certain prohibited degrees are being introduced in the marriage laws. I have to point out that my law as regards marriage's

is different and more liberal than the present Hindu Code Bill. In fact, I do not know, after all the present assurances that only 55 clauses will be finished whether it will be a Hindu Code or not, or what Code it will be. You are asking me to speak upon a Bill even whose name I do not know or whose operation I do not know. Anyway, I shall be guessing that it will be a Civil Code or it will be a Marriage Act or some such thing and the word "Hindu" shall drop out. He says :

> "The Hindu agriculturist of the Punjab knows nothing of caste except as represented by his tribe. No doubt, he respects the Brahman and calls him and feeds him on occasions of rejoicing or sorrow, but he would never dream of referring to him or to the Hindu Law for guidance in his daily life. If he has ever heared of the Dharmashastra at all, which is very improbable, he has only done so as a Spanish peasant may have heard of the Bible, he knows nothing whatever of its contents or principles, nor could the Brahman himself enlighten him...The Hindu law cannot be applied to the Hindu tribes, because they have never in fact followed or even heard of it and it is framed for a different state of society."

Mr. Deputy Speaker: Extracts from books should be small ; it ought not to be reading whole books, chapter and verse.

Sardar B. S. Man : The quotation was very long ; I have cut it short.

I have read it only from the beginning and from the end. My difficulty is this. While I am forced to cite the law...

Mr. Deputy Speaker: What is the book ?

Sardar B. S. Man : The book I am quoting from is Rustomji's *Customary law of the Punjab*. This quotation relates to a decided case law in 55 *Punjab Record* 1903 Full Bench.

I have to cite this law because in his previous speech the Hon. Dr. Ambedkar himself quoted a Privy Council decision showing that for a long time Sikhs have been governed by the Hindu Law. I am perfectly entitled today to remove that erroneous impression and show that we are not governed by the Hindu Law. As the position stands today, we are governed by a different set of laws. He relies upon his decisions. I rely upon my decisions. Hence the necessity to take some time of the House. I do realise your anxiety to finish this earlier. But Sir, this is the first time that an amendment has been moved that the Sikhs be absolved from the operation of this Bill and in view of the vital importance of this matter to the Sikh community, I may be permitted to digress a little.

Mr. Deputy Speaker : Now that this Bill is confined to marriage and divorce, the hon. Member may show how far this is retrograde or inconsistent with his law and what is the harm in adopting this.

Sardar B. S. Man : I am quoting exactly those laws which relate to marriage and divorce here. By the present law, certain prohibited degrees are sought to be introduced. I am proving that the prohibited degrees now sought to be introduced have never applied during the history of the Sikhs.

Mr. Deputy Speaker : Cannot that be an exception ? As in the case of customs in the south allowing the marriage of maternal uncle's daughter, which have been validated, any deviation from the generally prohibited degrees will also be put in as an exception.

Sardar B. S. Man: Exactly, Sir, you are coming to my rescue. If the Hon. Law Minister says that so far as marriage customs are concerned, they will respect the customs of the Punjab or the customs of the Sikhs, I will have no quarrel ; I shall sit down.

Shri Bharati: May I draw his attention to part (5) of cause 7 where it is provided, "unless the custom or usage governing each of them permits of a sacramental marriage between the two". Custom is a local thing and that has overriding effect. We have already provided for all that, not only for south India. Where the custom provides for such a thing, it is straightway concerned.

Pandit Thakur Das Bhargava : But what he wants is that all the things incidental to marriage should also be governed by custom. That is what he is pointing out.

Shri Bharati : But he was speaking about prohibitive degrees and I pointed out that the necessary provisions are already there for these exceptions.

Mr. Deputy Speaker: No law says that a sister can marry a brother. There are prohibitive degrees accepted by courts and if there are other cases or other degrees, whether they come under clause 5 or clause 7 or any other clause, suitable amendments can be suggested and the matter discussed.

Sardar B. S. Man : My point is, since exceptions are made in the case of Muslims and Christians because their personal law is entirely different, why should we, though we are numerically small, not have the same...

Mr. Deputy Speaker : The hon. Member need not repeat his arguments over and over again. He has already stated that just like the Muslims, the Sikhs too should be excluded.

Sardar B. S. Man : Sir, may I seek the help of and invoke the good convention that is here in the House that whenever a law concerning the religious institutions of personal law of persons is concerned, the members of that community should be consulted and that their opinion should weigh ? I am invoking that convention. Will not that convention be made applicable to us here ? If that is made applicable, then the whole trouble will cease and I shall sit down. My argument is, if today you pass this law with the help of the majority in the House—may I be permitted to add—the Hindu majority of the House, because for the first time such terms as communities—Hindus and Sikhs—are being used in this debate and that is the primary bane of this law...

Dr. M. M. Das (West Bengal)**:** On a point of information, Sir.....

Sardar B. S. Man : Is it a point of order, Sir ? Otherwise I am not yielding.

Dr. M. M. Das: Is the hon. Member speaking on behalf of the Sikhs of the Punjab or on behalf of everyone in the Punjab ?

Mr. Deputy Speaker : The Member is not yielding. I will not permit any more interruptions.

Sardar B. S. Man : The difficulty is, hon. Members who are not .well acquainted with the law go on interrupting without understanding my point. As I was saying, that was a good convention and.....

Mr. Deputy Speaker : That point has already been stressed by the hon. Member, that against the will of the community no personal law should be touched. That point will be considered by the House. The hon. Member may go to his next point.

Sardar B. S. Man: Then coming to the marriage laws, here the present set of laws are very rigid. I may be permitted to quote here from no less an authority than my colleague here, Dr. Tek Chand, who has been a distinguished Judge. He has dealt with this point in his own lucid and clear fashion. And let me also add, that this quotation is from one who is not a Sikh himself, nor an agriculturist—a non-agriculturist—but one who is well acquainted with laws and with the Sikh laws and the customs and practices in the Punjab. Well, this is what he says :

> "It is well-known that *Jats,* specially Sikh *Jats* hold very liberal views on questions relating to marriage, and even at the height of the Brahmanical supremacy, they did not show much inclination to

be bound by the cast-iron rules laid down in the later Hindu *Smritis* interdicting marriage outside the caste, and prescribing elaborate ritual for the performance of the marriage ceremony. Among them *(Jats),* the re-marriage of widows has all along existed commonly, and *chadar-andazi* in which the ceremonial has been reduced to the very minimum is one of the recognised forms of marriage."

And this is the view held by a learned Judge who was also a member of the Select Committee, and he has attached a minute of dissent on exactly this same point and on these same lines, that if you were to agree to only prescribed forms of marriages which are not sought to be introduced in this Hindu Code Bill, then you will be taking away from its orbit many forms of marriages which are customary and prevalent among the Sikhs in the Punjab. There is the *Kareva* marriage which is not a sacramental marriage. That is common in the Punjab.

Dr. Ambedkar : What marriage ?

Sardar B. S. Man : *Kareva* marriage, where the man and the woman, without calling anyone, with no priest, learned or otherwise, without going through any ritual, without going round the *Granth Saheb* or the fire, simply sit together and have a *chadar* thrown over them and that constitutes the marriage. *Chadar-andazi* also means the same thing.

Shri Amolakh Chand (Uttar Pradesh)**:** Is it a *dharmic* marriage ?

Sardar B. S. Man : No, for the definition of *dharma* changes from time to time. Manu had his definition of *dharma* and there is another definition of *dharma* by Dr. Ambedkar. In this rapidly changing definition of *dharma,* I would rather not seek protection under such a *dharma,* but stick to my secular law which is quite clear to me and which I have been practising for long.

Shri Amolakh Chand : Are the children legitimate ?

Sardar B. S. Man : Quite.

I am conscious of the retort of Dr. Ambedkar that he made in his speech last time. He says that when the people of the Punjab talk of marriage, they talk of many other things which……

Mr. Deputy Speaker : I may point out that clause 8 and other clauses or forms of marriage are not necessarily applicable to the hon. Member. The Sikh community may have customs that bring about the relationship of marriage and these alone will be necessary. Why should we labour that point any further ?

Sardar B. S. Man : My difficulty is, reading his last speech. I find that Dr. Ambedkar has said that *Kareva* marriages will not be permitted.

Then there is clause 8 about other rituals. I may give yet another case where there is neither this *Kareva* marriage nor a sacramental one, but which is still in practice.

Mr. Deputy Speaker : Whatever may be the form of the marriage—may be the covering by a cloth and all that, that is not prevented here.

Sardar B. S. Man : If you will kindly permit me. Sir, I will make my point clear. In this form of marriage, they do not go through any ritual, nor even the flimsy ceremony of putting a *chadar*. If the man and woman have lived long enough in the village as to lead the village community to believe that they are husband and wife, irrespective of the fact that there was no ceremony, they should be taken as married husband and wife. There have been judicial decisions to this effect.

Mr. Deputy Speaker : Even for that there is a presumption under the Evidence Act.

Sardar B. S. Man : No, Sir. I beg to differ from you. Sir, on that legal point. They will not recognise it, if such a marriage does not come either under the definition of sacramental marriage or any other rites and rituals. The emphasis there is upon customary rites. One must have certain rites.

Mr. Deputy Speaker : How long should they live together?

Sardar B. S. Man : There is a decided case. Again, Dr. Tek Chand says :

> "Indeed, the *Rivaj-e-ams* of the districts and the records of the cases decided judicially are full of instances in which mere cohabitation as man and wife for a long period without any strict matrimonial ceremony, has been considered sufficient to validate the marriage."

That is the state of the law in the Punjab. As regards these marriages where the man and woman have lived together for a long time.....

Mr. Deputy Speaker: What is the length of the time ?

Sardar B. S. Man : In cases it was decided as seven years, in certain others as 20 and there are cases where it was decided as four or five years also. The validity of the marriage is judged by their day-to-day conduct in village community and not by certain ceremonies. But this form of marriage is not recognised by Dr. Ambedkar. He says "I will not permit this sort of immorality". He calls it "marriages

made easy". It may be easy for me but I am not going to respect certain empty rituals. The sanctity of a marriage must be the attachment of the parties to it and their mutual conduct. It is immaterial whether certain rituals have been performed or not.

Rev. D'Souza (Madras)**:** On a point of information, may I know whether in those cases the conditions requisite to validate the marriage were there or whether the mere fact of cohabitation was recognised, even if there was a previous marriage of one of the parties ?

Sardar B. S. Man : I shall come to that later. I am only talking about forms of marriage.

Mr. Deputy Speaker : The hon. Member has not appreciated the position. The point is when a marriage is presumed, there must be conditions regarding propinquity or that it does not contravene prohibited degrees or that the woman is not already a married woman. Is it an instance of a married woman living with another man who becomes her husband ? All the pre-requisities of marriage must be there : mere cohabitation is not enough.

Sardar B. S. Man : Under the general law, if the other conditions are not there the courts will interfere. That is not within the scope of this Bill.

Mr. Deputy Speaker : This refers to forms of marriage. Even the simple marriage where the bride and bridegroom sit together and a cloth is thrown over them is covered by this Bill and it is allowed. Even if that cloth is thrown away in the ceremony it is allowed. I do not know whether the hon. Member wants to press the proposition that a marriage should be valid whatever might be the degree of prohibition.

Sardar B. S. Man : If a certain custom is barbaric or against public conscience or public morality, I will not for one moment accept that custom. You are giving two forms of marriage, *dharmic* and civil. I am giving you instances of other forms of marriage. You have been kind enough in your interpretation to say that *Kareva* marriages will be included. But undoubtedly certain rituals or rites are involved. I consulted others about marriages where there is no ceremony at all and where the man and woman merely live together long as husband and wife. The question was whether she was already a married woman and her husband was alive. Even if the husband was alive, the fact of seperation was there and if she was still the wife of another man, then it would be an offence punishable under the ordinary law. The

question is about marriages which are presumed to be valid even when there are no ceremonies nor rituals but a prohibition is sought to be introduced in that regard here. In the Punjab people do marry cousins.

Mr. Deputy Speaker: This does not abrogate the provisions of the Evidence Act and this is not inconsistent with that clause of the Act, namely that a man and woman living together was sufficient proof of marriage.

Sardar B. S. Man : After the promulgation of this law, doubts will be expressed by the courts about the validity of such marriges and the only relief given is that the marriage shall be registered. If the Law Minister says that even such marriages, which were not performed strictly but by virtue of the parties living together for a long period and their mutual conduct, they will be considered as husband and wife and will not be forced to go to a registrar to register their marriage, then my apprehensions will be removed.

Shri Tyagi: Both the parties must be willing.

Sardar B. S. Man : Of course, you must have a willing wife and husband. *(Interruption*) My friend Prof. Yashwant Rai asks whether such cases are very common among the *Jat* sikhs. They are common among them along with the Scheduled Castes and specially his own particular caste in the Punjab.

The idea of the present Bill is codification. Codification presupposes the existence of certain laws. If we are honest and want to proceed with the codification, the existing laws should be included there. But this codification under the present Bill is not only a codification of existing laws but so far as the Sikhs and the agriculturists of the Punjab are concerned it is an exclusion of their laws (*An Hon. Member:* Modification) or modification to such an extent that the original is completely lost that it is altogether alien and in many respects obnoxious to us and is thrust down our throats.

Voltaire said :

> "That the more vast a State is in size and composed of different peoples, the more difficult it becomes to unite all together by one and the same jurisprudence."

Only two days ago, the Prime Minister replying to a question why there was no national dress in India said that in a vast country which stretches from the borders of Central Asia to Kanya Kumari in the south, different people are used to different customs

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and it is very difficult to have one national dress. What applies to physical clothes applies equally to legal clothes—legal clothes which are sought to be tailored by Dr. Ambedkar. When a similar attempt was made before, considering the inadvisability of such a thing, it was given up. The Punjab Laws Act has almost been a Bible for us, incorporating the principle of customary laws : the present form of the law which rules and holds the field is section 5 of the Act. Mind you, for so long a time as from 1872 we had had this law in operation and now suddenly at the fag end of the session, when we have not even comprehended the exact consequences of this not very revolutionary, but a completely novel and retrograde law, we are called upon to accept it. I for one have failed to comprehend it because my structure of society has been built upon pretty good customs which have held the field for so long, in regard to succession, property of females, marriage, divorce, dowry and so on. It contains every conceivable item of legislation. It says:

> "Any custom applicable to the parties concerned, which is not contrary to justice, equity or good conscience and has not been by this or any other enactment altered or abolished, and has not been declared to be void by any competent authority shall be the customary law."

When on that occasion such an attempt was being made, another person as intelligent as Dr. Ambedkar, Sir George Campbell, who was then in charge of Law, made these observations which are applicable even today. The bill sought to lay down that Hindu Law and Muslim Law should be applicable to the parties concerned. The amendment was successfully introduced and hence the present law, that is section 5 of the 1872, Act based on that amendment, namely that the Hindu Law or the Muslim Law will be applied only in the absence of customs. Sir George Campbell said:

> "If the Council would accept the amendment of which he had given notice, it was his impression that a great part of the objections to the Bill would be removed..... If enacted ..... that the Muhammadan Law in cases, where the parties were Muhammadans and the Hindu Law in cases where the parties were Hindus, should form the rule of decision, except where the law had been altered, or abolished by legislative enactment, or was opposed to the provisions of the Act. He was quite willing to admit that certain simple rules, excepted from the Hindu and Muhammadan Law had

to a certain extent had force in the Punjab ; but it appeared to him that a section of this kind would import into the Punjab, not the simple law of the Province but the whole of the complications of the written Hindu and Muhammadan Laws and the whole of the voluminous case law comprehended in the decisions of the Courts all over the country. That he regarded with the gravest apprehension. He should so regard it, not only because it would open a wide door for lawyers, but because it was not the law of the Punjab. Not one out of ten—perhaps not one out of a hundred persons in the Punjab was governed by the strict provisions of the Hindu and Muhammadan Law."

An attempt was made then also to codify but may I say that codification makes the law rigid whereas custom is not rigid ? Codification and legal enactments come from the top whereas customs represent the living conditions and the wisdom of the community. Customary law owes its development and its strength to the fact that it comes from the community down below and grows upwards ; it is not reactionary as enacted law is, which restricts growth. Whereas the enacted law restricts growth, the customary law imbibes the best points and the practicability of the situation.

I will finish by saying that those who believe in the present sort of codification should be alive to the dangers of such a thing, the effect of which is always to hinder the development, independence of judgment and independence of will of the communities, which vary according to the varying needs and the spirit of the people. I say, with all due respect to Dr. Ambedkar's ability to fashion out clothes, legal clothes—a sort of *Amritdhara* which will suit every disease from the south to the north—with all due respect to him, I beg to say that the clothes that he is trying to fashion out and tailor will be either too loose for southerners or be too tight for the northerners. It is much better that he should look to my size—look at the size of the society and its needs—and fashion and tailor the clothes accordingly and not give me ready-made clothes, ready-made medicines, a sort of *Amritdhara* for every disease. I request that no attempt should be made upon me as a Sikh to foist any law which is alien and repugnant to my spirit. I for one will not accept it, will not at any rate respect it because I have not respected the ancient Brahmans and much less shall I respect any modern Brahmans.

***Pandit Malaviya :** I have not so far taken any time of this House at any stage with regard to the Hindu Code Bill. I had been hoping all this time that the evil day would never come when we would be faced with the need of seriously applying ourselves to a proposal of the nature that is before us. I had known, and many of us had known, the intense desire and keenness of some people in this House and outside, it to have the Code enacted, but we had somehow felt that the obvious could be seen, that the preponderating public opinion throughout the length and breadth of this land would not be ignored, and even while the idea was being toyed with, no serious attempt would be made to put on the statute book a Bill which should affect the very foundations and the entire fabric of the society of the people of this land, in the haphazard manner in which it has been proposed to be done. People have been agitating in this country either for one view or the other and many who have felt distressed over the prospect of such a law being enacted have been doing what they could to draw the Attention of the Government to the widespread resentment and dissatisfaction against it. But personally, I have not once stood up anywhere on a public platform, not once have I tried to take part in any such agitation, in the hope and faith that a thing so wrong in principle, so atrocious in details and so uncalled for in expediency would never come up seriously before the House. But one lives and learns and I am now faced with the spectacle that in Parliament which is now on the last lap of its journey, a controversial measure which is going to affect the lives of more than 300 million people is going to be taken up and an attempt is going to be made to enact, it and to put it on the statute book to the teeth of fierce opposition to it. I do not say that there is nobody in this country who supports the principle of this Bill (*Pandit Maitra* : Very few). I do not wish to say that there are not people who are honestly of the opinion that it is in the interests of society that such a law should be enacted. I have no quarrel with them. I am a Hindu and intolerance in any shape or form—intellectual or ideological—does not come to me. If, therefore, there are people in this country who feel that a measure of this nature or that a measure of even a more revolutionary nature should be applied to society, I may not agree with them—I may regret their opinion—but I can have no quarrel with them. I will, therefore, not take the position that there is no one in this country who wants this Bill. But it is obvious and it is something which only those can fail to see who would not see, that by far the largest majority of the people are not only not in favour of this Bill.....

*P.D., Vol. XV, Part II, 19th September 1951, pp. 2872-96.

Some Hon. Members : Question.

Pandit Malaviya: .....but are feeling seriously disturbed over it. They are today nonplussed and do not know what they should do in the face of the danger of such an enactment being made. (*Interruption*). Some friends of mine, tamely and in a parrot-like manner, probably by the force of habit, go on saying 'question'. I challenge them in all humanity to come and question my statement anywhere in this country. I have expressed the opinion in a meeting of the congress Party Members of this Parliament at another place that in a matter of such universal importance, even if it be not legally wrong to make any enactment in this way, it is the height of moral injustice that we should take up such a matter without giving the amplest possible opportunity to those who are affected by it to express themselves upon the issue. I have said that in a matter of this nature, the very minimum that we can expect should be that the issue should be put before the electorate at a General Election or that indeed a referendum should be allowed to be taken upon it.

Shri Bharati: On monogamy ?

Pandit Malaviya : My esteemed friend Shri Bharati has obviously one and only one stale card to play on all occassions, right or wrong, relevant or irrelevant. I shall come to that card in due course and shall show what value that hand of his has. But the interruption by the word 'monogamy' is not going to take away from my argument that in this matter the only right course for us to follow is that we should have a referendum in this land to allow people to express themselves on this issue and then if we find that there is even a fair minority— I go to that length ; my challenge is not couched in any spirit of doubt or fear—I say that if as a result of a referendum even a substantial minority of the people are in favour of such a measure, by all means let us sit down seriously to the task of framing it. If that be not possible. I would ask my hon. friends who question my statement to persuade the Government of the day and the law Minister of the day to allow half a dozen people to resign their seats—I am prepared to be one of them—and let us have bye-elections in four weeks' time distinctly on the issue of this Code.....

Shri Bharati: On monogamy ?

Pandit Malaviya: .....and if out of those six even in a few constituencies in those bye-elections the protagonists of the Hindu Code Bill get returned...

An Hon. Member: In north India ?

Pandit Malaviya: Anywhere in the whole country—if they get returned, then I shall be prepared to withdraw my opposition.

Shri Munavalli (Bombay)**:** Challenge accepted.

Mr. Deputy Speaker : There are two sides to the picture. Let him proceed.

Pandit Malaviya: I do not mind the interruption. Words are of two types. One is words which are mere sound; the other is words which have a meaning and when any Member says 'Challenge accepted' I would wish he meant that and not merely created the sound.

Shri Munavalli: I mean it.

Pandit Malaviya : My request is this. Let the government, let the Law Minister, put the Bill to that test and if they are willing to do that, then I am willing to propose—and I hope other Members also who feel like me will be willing to agree—that we should have a session even before the elections for a week, after the results of those bye-elections are known, to work in accordance with the results. But the Members who say that they accept this challenge say it, if I may say so without meaning any disrespect, knowing that they will have no occasion to be put to the test. The only way in which we could decide about this matter is by one of these courses. If we are not going to do that, then I do not know how to accept the questioning of my statement that by far the largest majority of the people in this land are entirely opposed to the provisions of this Bill. (*An Hon. Member:* Question.) And when I say this, I am not referring merely to those people who are called "orthodox", but I am referring even to the most advanced of the advanced people of this country, people who find themselves weak and wanting in the strength to stick to the restrictions which time and experience of the elders of this nation have imposed upon us, who wish to have the easy way of life, who wish to have the good of both the worlds for themselves, who wish to remove restrictions and restraints which have descended through the ages, through the millennia that have gone before us reaching back into the dim unknown past of human history; the traditions, the culture, the life, the ideology, the principles of the one race which can claim with pride that it has had a continuity of that tradition from time immemorial. Those gentlemen today are impatient and I wish to submit that even from their point of view, from the point of view of

even those who are impatient of even the existing restrictions, who would rather liken our society to an aping of some other society somewhere else, irrespective of the suitability or otherwise of such application to our particular genius ; even to them this Bill cannot be acceptable. It is on that basis that I make the claim that by far the large majority of people in this country are opposed to it. The orthodox people, those who have their roots in the traditions of old, are upset over it. But those who have a certain amount of social liberty.....

Dr. M. M. Das: On a point of order. The hon. Member is only repeating what has been said *ad nauseam* in this House. He has no new argument; he is only repeating what other Members have said.

Pandit Malaviya : I had heard that in the case of a certain type of mankind, which is often under the influence of a certain intoxicating habit, even some of the best victuals placed before him bring him nausea ! I am not surprised at my hon. friend !

Shri Bharati: Will it not facilitate clarity of understanding if the hon. Member confines his remarks only to the subject under discussion, namely, marriage and divorce ?

Pandit Malaviya : I have probably not the clarity and the ability of my hon. friend Mr. Bharati.

Mr. Deputy Speaker : I myself wanted to suggest to the hon. Member that now that the scope is limited to marriage and divorce, his observations may be confined to those. The hon. Member may feel that the points made by him may not have been put as forcibly as he is doing at present. Anyhow some of them have been covered : he need not go into them at great length and may confine his observations to points which have not been touched.

Shri R. K. Chaudhari: I would respectfully like to point out that even if there are repetitions, we should like to know the opinion of a distinguished person like Pandit Malaviya.

Dr. M. M. Das : On a point of privilege—the hon. Member is making a distinction between one Member and another.

Pandit Malaviya : I lay no claim to that distinction : I do not think any hon. Member need be frightened by it.

Mr. Deputy Speaker : I expect this debate to conclude today ; let there not be any more interruptions.

Pandit Malaviya : I am greatful to you for your guidance. What I submit is that the Bill may have one clause in it relating to the social

structure of the Hindus or may have a hundred clauses in it relating to the social structure. But if it is going to affect the social structure of the Hindus, nobody can proceed with the matter unless he discusses that social structure and the way that clause is going to affect it. Social structure cannot be taken piecemeal in watertight compartments. It is not practicable.

After the discussion that has gone on before, I have a feeling that it will not be quite possible and correct to take a lop-sided attitude about one particular matter alone and leave the general aspect out. But I might assure you, Sir, that I shall throughout be guided by yourself and if at any stage you should think that I should not carry on with any particular argument that I may be making, I shall at once obey you.

It has been said that this Bill will now be confined to the two items of marriage and divorce. As the Hindu society stands, its entire structure rests upon the foundation of marriage. There is nothing in Hindu society which can be separated as unconnected with the marriage system of the Hindus. It is, therefore, not possible to discuss the marriage section of the Hindu society-without referring to the general aspect of the society as a whole. Whatever I was saying applies directly to the item of marriage and divorce also. What I was saying was that it is therefore as much the orthodox section of the people who will be opposed to this measure as the others—about whom so much has been said by some hon. Members in this House yesterday and the day before, as forming nearly eighty per cent of the population, among whom it was said the very provisions which have been proposed in this Bill exist today. I have my own doubts if that is so. For the large majority of those people who have today facilities of divorce and easy marriage, the provisions of this Bill are going to make a world of difference. I am not expressing any opinion of my own on the merits of these proposals. I am merely mentioning that to the simple men living in the villages today, who have not had the opportunity and benefit of the same growth, intellectually, morally, emotionally and spiritually, as some other members of society, like my esteemed friend the Hon. the Law Minister, have had—to them the habit of restraint, the habit of a discrimination between the finer shades of the good and the better, the bad and the worse, does not come so normally and spontaneously in some matters at least as it does to the others. Hindu society has been divided into groups not with any inhuman or malicious object of injuring any section or doing any

injustice to any section. I do not wish it to be misunderstood that I do not believe that injustice has been done to some sections of it. Injustice has been done, hardships have been inflicted, atrocious hardships have been inflicted, and there will be no reasonable man who will hold any brief for the same. But I am talking of the principles and the broad concept on which those divisions were based. They were not meant to injure, they were not meant to inflict any hardship.

Shri Munavalli: But what has been the effect ?

Pandit Malaviya : The effect will take me long to describe, because the effect has been varying from age to age and if my hon. friend will take the trouble of reading through the pages of history he will know them well enough for himself.

Mr. Deputy Speaker : But is a discussion on that point necessary for marriage and divorce ?

Pandit Malaviya : What I was wishing to point out was that in the very nature of things we can only expect one thing from one individual and another thing from another. If any abstruse point of law arises today, we can reasonably and legitimately request our learned Law Minister to put us wise on all aspects of it. You may not be able to get the same information and the same light from an ignoramus like myself. (*An Hon. Member:* No, no.) (*Another Hon. Member*: That is only humility.) There may be equally another thing about which another individual may be able to tell us many things but about which my esteemed and dear and learned friend Mr. Bharati might prove a complete ignoramus. In society there is a class of people to whom the real zest of life, the real zest of existence, the incidence of life from moment to moment, from hour to hour, from morning to evening and from evening to morning, is, if not the in-all and out-all, a very large portion of the totality of their existence. For them today's marriage and divorce laws have been framed with a view to simplicity and easy availability. A man can today, or a woman can today discard a marriage relation and take up another almost in the twinkling of an eye. Such people will have to wait for months, they will have to go through law courts, they will have to go through the entire gamut of procedure before they can do the same under the provisions in this bill. I am not expressing any opinion on the merits of the matter. I should personally feel happy at, and I should like to congratulate the Law Minister for having conceived that improvement, but I am talking of the practical effects. In the practical effect there will be murders in the villages.

Dr. Ambedkar: We have enough police.

Pandit Malaviya : For a man who is still in a large measure in the animal stage.....

Shrimati Renuka Ray : Question.

Pandit Malaviya : I do not say this in any sense of disrespect. I am only talking as a sociologist. If those men find new impediments put in their way, impediments to which they have not been used, to which they are not accustomed, and they find themselves thwarted in a tiresome manner, they may not have in themselves that much of restraint, they may not have in themselves that much of development and control that they should wait for the law, and society may be faced—among the eighty per cent of whom so much has been talked about—with an upheaval which is probably not even imagined today. Therefore, I said that this Bill is not only not welcome to those who, like me, would rather that the traditions which have come down from ages past should be respected and upheld, but even to those who are going to be affected by it in a much larger and more immediate measure. I may submit respectfully that some of the Members of this House who have been so loud and enthusiastic with regard to the provisions of the Bill have little in common with those people.

Dr. Ambedkar : Not even me.

Pandit Malaviya : Certainly not the Hon. Law Minister ! The Hon. Law Minister has been likened, even profanely, to no less a sage than Manu himself and I am reminded of a *shloka*. (*Interruption*) Somebody asks me why I am jealous. Unfortunately or fortunately I am not so built that I should have the privilege of being jealous towards the Hon. Law Minister.

Dr. Ambedkar: How can a Brahman be jealous of an untouchable ?

Pandit Malaviya: Better tell them ! I am reminded of a *shloka* where Kumbhakarna asks Ravana (*Interruption*). If hon. Members will just bear what that *shloka* says, probably they will feel slightly better human beings than before. Kumbhakarna asks Ravana why in his attempt to win over Sita's mind, with all his demoniac powers of changing his appearance, he does not take the shape of Rama when going to her, and Ravana says : "The trouble is, the moment I take the shape of Rama or think of him, the mere association with the thought of Rama makes it impossible for any evil thought to come

into my mind ! (*Hear, hear).* (*Hon. Members :* Repeat the *shloka.*) I will repeat many *shlokas* if my hon. friends will get me the time for it. Similarly, about Manu. I was saying that if we can expect a certain thing from members of this House—of course, there can be no possibility of their needing to go through divorce in matter of minutes—we may not hope that the same thing will be done by those 80 per cent of people also. Therefore, we should be cautious in our approach to this matter. If anybody can controvert that aspect of things. I would like to hear him do so.

I, therefore, repeat that this Bill is not only disapproved by the orthodox sections of the people but also by far the largest majority of the inhabitants of this land. (*Some hon. Members* : No. No.) Somebody says, "For other reasons than what you have stated". May be, but the fact remains, that whatever the reasons it is not approved by the large majority of the people.

I shall come to the Bill itself. It has been said that as only Part II of the Bill is now to be proceeded with, it is not necessary now that this Bill should be called the Hindu Code Bill. Indeed, irrespective of the fact whether the other Parts were excluded from it or not, personally, I should have had a little less objection to the Bill if it had not been called the Hindu Code Bill. In our Constitution we have given the name "India, that is Bharat" to our country. Why was this Bill not called the Indian Code" ? I am not going into that question that it should apply to everybody. I am not concerning myself with that. I am not saying this on that basis. But this country being named "India", if this code, had been called the "Indian Code", it would have had a different meaning and import. Once we say the "Hindu Code" the entire picture of what that word denotes comes to the mind. We must, therefore, know and keep into view what the word "Hindu" means. It is a difficult word to explain in a sentence. But if there is one feature in Hinduism which one might mention as of outstanding pre-eminence, it is the practically limitless tolerence and catholicity of that system. Our Prime Minister, Pandit Jawaharlal Nehru, has himself talked of Hinduism and has said that it is probably best described by saying that it rests on the principle of live and let live. We have among the Hindus the most diametrically opposed viewpoints. We have in the highest caterie of sacred literature and philosophical schools the six *Darshanas,* one of which sparkles with the brilliance of the razor-sharp incision and acumen of the intellect

of supermen and giants like Jaimini. Shankar and Kumarila—I do not wish to use any adjectives of praise for them because it will be difficult to find suitable words—and on the other hand, it contains another system which is so obtuse, which is so crude, to say nothing worse, that it would refuse to see or understand anything which is not strictly before its physical eyes. The poor Charvaka, with the palm of his hand up before him, would refuse to understand that the back side of his hand also exists because it would not be *pratyaksha*. . . .

Dr. M. M. Das : On a point of order, we have not come here to hear lectures on Hindu philosophy and ancient *rishis*.. . .

Mr. Deputy Speaker : Order, order. I find the hon. Member is very impatient. He must have consideration for the other side of the view. I never expected that the hon. Member would go on interrupting. I repeatedly say that this is a contentious matter and we are allowing sufficient time. I am also alive to the fact that a number of hon. Members have spoken. I am not concluding the debate now. The less the number of interruptions the greater the chance that he will finish it early. Otherwise, he will demand another day.

Pandit Malaviya : I was only pointing out the wide diversity and catholicity of philosophical and methaphysical thought prevalent among the Hindus. I wish there were no need at all for anybody to talk of the philosophical side of things. I wish one could feel that it was unnecessary. But, from such remarks it seems it is unfortunately necessary. What I was mentioning was that even in the *Darshanas,* while we have the pure *Vedant* on the one hand, we have the drunken reveller of a Charvaka philosopher, indulging in the five *makaras* ! I shall not go into those five *makaras*.....

Some Hon. Members : Go on. go on.

Pandit Malaviya : .....because apart from my own reasons of decency, probably I may take it that some of even those Members who may not be deeply interested in philosophical thought might be familiar with them !

Mr. Deputy Speaker : How are they useful for the discussion on this subject ?

Pandit Malaviya: What I was trying to point out was.....

Dr. Ambedkar: I submit the *makaras* are very useful.

Mr. Deputy Speaker : Will this in any way corrupt the *makaras* ?

Pandit Malaviya : We have that diversity even in the principal *Darshanas*. Among them, again, we have the *Astik Darshanas* and the *Nastik Darshanas*. We have *Darshanas* which have talked of the monotheistic principle of *Parabrahma* and *Brahma* and *Jiva* and also which have talked of the atheistic philosophy of *No-Brahma* and *No-Veda* and No-God. We have in other spheres also equally diverse opinions and diverse state of things existing. There are some people today who find it fashionable to remind us that there were certain *rishis* and other among the Hindus who were beef-eaters. Side by side with that, Hinduism is replete with a universal reverential regard for the cow. We have in the Hindu society youthful marriages; we have also in the Hindu society youthful *sanyasis*. We have in the Hindu society the most austere and difficult to imagine *tapas;* we have also in the Hindu society the most luxurious and lavish enjoyment of the senses. We have in the Hindu society the Brahman ; we have the *chandala ;* not the Chandala for whom we have only restrictions and impositions, but the *chandala* for whom rights and privileges have been prescribed, just as for the Brahmans (*Interruption*).

Mr. Deputy Speaker: It is an offence hereafter under the Constitution to call any person a *chandala* or an untouchable.

Pandit Malaviya : There are so many speakers around all at once, that I am unable to hear you, Sir.

Mr. Deputy Speaker: Apart from any constitutional aspect, reference to *chandala* is no longer advisable. It has been made an offence under the Constitution.

Dr. Deshmukh: He is only referring to history.

Mr. Deputy Speaker : There may be some history, but all history is not very good to mention. Let us forget some history.

Pandit Malaviya : I was referring to it not as to an individual, but as to a system in the past. However, I will abide by what you have said.

Dr. Ambedkar : Why should you ?

Pandit Malaviya : The hon. Law-Minister asks, why I should. Only because I am a law-abiding Member and not the other name that I had been mentioning.

I was saying that in Hindu society we have had that variety of things existing side by side in honour and in peace. That has been the great feature of Hinduism. But that catholicity and that tolerance was possible

only because there were some basic principles, fundamentals which went to form the root of all things which were first settled and ordained, and which have been maintained through the ages without question or dispute ; not narrow sectarian dogmas or rituals, nor any controversial things or rules, but certain basic fundamental principles which were considered as *sine qua non* of the continued, stable and smooth existence of society. These principles may be called by any name ; but they remain the eternal bedrock upon which any healthy society must rest. In this country, the name given to these principles was *sanatana : sanatoria* not meaning, unfortunately, as a learned speaker said yesterday, that which is always changing and *nitya nootana,* but as something which has always existed. Therefore, if we undertake the task of making any changes in the structure of Hindu society, we must be careful that, tamper as much as we might with the outward forms and paraphernalia, with the leaves and branches, we do not apply the axe to the root of the tree itself; that we do not disturb and that we do not uproot the fundamentals, the basic principles upon which society has been based, and which have carried it through the ravages of time as nothing else has carried any other society known to man in the world. Therefore, we must first understand what those basic principles are.

I was slightly taken aback when I heard it said by no less than three august personages who go to form the Government of this country today, that the provisions contained in the proposed Hindu Code Bill are in accordance with what is found in the Hindu *Shastras*. I have also heard it said that a profound study has been made of those *Shastras* in order that this Bill might be put up in this form. One would naturally hesitate to cross swords with men of so learned a disposition. But the Hindu *Shastras* have been the property of the world for the ages. Many people have read them or can read them. With the very limited knowledge that I am privileged to have of them, it has not been possible for me to find justification for that statement so far. I would, therefore, suggest that if it is the claim of the Government that they are basing the Hindu Code Bill upon the sanctions contained in the Hindu Shastras, then we should proceed on that premise. It will be different, however, if a wider stand is taken and it is said that it is not the Hindu *Shastras,* it is not the sanctions contained in them, but it is the wisdom and the whim and fancy of the farmers of this Bill, it is the inclinations and the desires of those who are at

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its back, which have been the determining factors in the preparation of its clauses and details. To the best of my knowledge, no such statement has been made so far. I will, therefore, proceed on the assumption that the claim remains that the Bill and its provisions are based on the Hindu *Shastras*. If that is so, I would like very much to get a clarification from the Law Minister as to how that point is to be determined, as to what is said on a particular point in the Hindu *Shastras* and what the meaning of that statement in the *Shastras* is. I know what I am saying must mean mere waste of time for a man like the learned Law Minister, because, I have no doubt, that he is familiar with the meaning of what I am saying. But we the Members of this Parliament are here to legislate on a vital issue, and if we are going to legislate on a matter of such universal importance, and if we are going to do it on the basis of a certain thesis, namely, that it is being done in accordance with the tenets of Hindu *Shastras*. I feel that it is our duty that we the Members of this House should then keep in mind the rules, the methods, and the recognised procedure by which the meanings of the *Shastras* and their words are interpreted. The *Mimansa* applies itself to that high purpose, because in a society like that of the Hindus, where the law came not from a Government or from a Minister, howsoever high and mighty.....

Shri Sidhva (Madhya Pradesh)**:** Please address the Chair.

Pandit Malaviya : My hon. friend Shri Sidhva asks me to address the Chair. I have been doing nothing else. I wish Mr. Sidhva would not forget so easily.

The Members of this House should know that in a society like that of the Hindus where everything has been based—for, God only know how many millions and millions of years, or thousands and thousands of years—upon certain texts coming down through the ages; where we had not the printing presses or the printing paper, where everything had to be committed to memory and had to be passed down from the teacher to the pupil and from the sire to the son, where everything depend upon the correct pronunciation and intonation and upon the correct text and upon the correct interpretation of old and ancient words and *mantras,* where new codes and new treatises, not printed on paper, but in the minds and memories of men came up from time to time and had to be assigned their right importance and place; in such a society, disaster would have followed if the most minute, if the most exhaustive and positive rules had not been laid down for the

interpretation of those texts. And in the *Mimansa* we have it laid down how any text of the *Srutis* or the *Smritis* should be interpreted. It is also laid down that the meaning of the law cannot be known merely by looking at a sentence at one place. So many tests—proving tests—have to be applied to it.

[PANDIT THAKUR DAS BHARGAVA *in the Chair*]

If, therefore, it is the claim of the government that the Hindu Code Bill is based on principles and tenets contained in the Hindu *Shastras,* my earnest request is that we should carefully and according to the rules, examine the various provisions and then find out if they violate what is contained or laid down in the *Shastras* or not. My humble submission is that they are not only not in conformity with Hindu *Shastras,* but go diametrically against them. (*Interruption*) Somebody is saying at my back that I am now expanding. I wish my friend would understand that if I wished to expand these ideas it would take days to finish.

Shri Munavalli: That is your intention also.

Pandit Malaviya : We have known of the concept of omniscience. I find that there is a new phenomenon of it here, who knows the minds of others.

Shri Munavalli: Certainly.

Pandit Malaviya : I congratulate the hon. Member. I wish to submit that I am trying to confine myself as rigidly as possible to the shortest possible limit. I am saying this with a sense of responsibility. Let any Member of this House who would like to have an exhaustive and expanded exposition of the points I have made, let him do me the honour of coming to me after this sitting and I will then make him see how much there is to say, how much there is to study, and ponder over each one of the points that I am only briefly mentioning here.

I was submitting that if we have to go by the *Shastras* the whole matter simplifies itself, because there will then be no room for any difference or controversy. If the two parties to a case have agreed upon a measuring rod and there is no dispute about it, it should be easy then for any set of normal people to take up that yardstick and measure the cloth to the mutual satisfaction of both. If it is agreed that it is on the basis of the *Shastras* that we are going to enact this law, according to the rules of interpretation so clearly laid down, it should be easy for anybody and the hon. Law Minister to sit down, go through clause

by clause and determine. (*Interruption*) I see that the Hon. Law Minister has a very clear vision. The Law Minister or any other member or even myself may have any view of a matter. But when the hon. Law Minister and others agree that there is a yardstick by which a piece of cloth has to be measured, there can be no room for any difference or controversy. (*Interruption*). I have already mentioned but obviously it has not yet been sufficiently mentioned for my friend Mr. Bharati that there is a yardstick, which has come down to us from the ages, (*Shri Bharati*: The measurement differs so widely) according to which the interpretation of the sacred texts has to be made.

Shri Bharati: The difference in the yardstick is one inch to a mile.

Pandit Malaviya : My friend Mr. Bharati says that the difference between the yardsticks is one inch to a mile. I do not know if I can say anything about that remark, because it carries in itself the visible and the obvious, that my esteemed friend is altogether unaware of the nature of the yardstick I have mentioned. There would be no question of any difference, not even one in one millionth of a millimeter. Therefore, if that can be agreed upon, I think, all controversy on this matter would end and there would be no need for us to say anything more at this stage. We can then easily leave it to the hon. Minister. I can place the entire matter in his hands not only as the umpire or the judge for those who are in favour of the Code but also for those who, like me, want him to go through the clauses, item, by item according to the text of the *Shastras,* interpret them through the *Mimansa* and apply them to the provisions of this Code and say if they do not militate against them. If he says that I shall be satisfied and I will offer no further opposition. I do not think anything more fair or reasonable could be said. If however, that cannot be done, the least we could ask for is that the claim that the Hindu Code Bill contains provisions which are all based upon what is contained in the *Shastras,* should be completely given up and withdrawn, so that the millions of our people who may not have the opportunity of being critical enough to examine the basis of such statements may not be misled by such entirely wrong and misleading statements and they may not fall into that dangerous pit. Probably the Bill may have been prepared innocently, but it has within it the potentialities for untold and immeasurable mischief. If that also cannot be done there can be no other way for Members of this House or those of them who feel like me, but to examine all these proposals in extensive detail in the

light of what is said in the *Shastras* with regard to them. It will be a long process, because, if the claim is made that what is stated is according to what is laid down elsewhere, it can only be given up either by mutual agreement or by the weight of facts as distinct from opinions ; and establishing those facts can only mean that on every clause and every sub-clause, on every subject and almost on every word, this House should have the opportunity and the benefit of having its attention drawn to the relevant texts in the wide range of *Shastras* and law books of the Hindus. I do not know if that will be considered possible : I have no doubt it must be permissible ; but I do not know whether that will be considered possible and practicable. I would therefore beg the Government not merely in the interest of fairness and justice towards the subject which is before us and towards the people who are affected by it, but indeed in the interest of the progress of this Bill in this House, that they should re-examine their position on that point and either make up their minds to proclaim to the world that the Hindu Code is not based on the Hindu *Shastras* and does not care for what is laid down therein, and is the product of the wisdom and fancy of those who have prepared it; or, they should adopt the procedure which I have suggested, *viz.,* have a thorough and nonpartisan examination made of each of the clauses and then bring up before this Parliament only those which, it is incontrovertibly agreed, are in accordance with the *Shastras* that have prevailed since so long.

There are certain other difficulties also in this matter. This bill, it is now said, will confine itself only to the subjects of marriage and divorce. But my difficulty is that, that fact by itself does not make the slightest difference in the nature of this question. If there were any part of this Bill which was altogether uncontroversial and if that were taken up, I would understand that the same might have been allowed to go through this House without much difficulty or controversy. But can there be anything more fundamental, more controversial than the question of changing the laws of marriage among the Hindus? I submit it is not possible to think of anything more contentious. Somebody may say that the other parts of the Bill are more contentious—I am quite sure somebody else will equally emphatically say that the part relating to marriage and divorce is the most controversial. Therefore, the fact that it has been decided that the progress of this Bill will remain confined to these parts, does not make any change in the fundamental aspect of this question. We have therefore to be very cautious in

proceeding with it. I mentioned that the vast bulk of the people are against it, but there is something even more fundamentally wrong in the situation. The Hon. Law Minister himself at one stage, when on a previous occasion this matter was before this House, said in reply to an inquiry by an hon. Member that it was not intended at that time that his Bill should apply to the people of what was then called the Indian States. And in his usual, careful and accurate manner he said that if at any time the States came into the picture, the matter would have to be gone into entirety before it was taken up—or something to that effect; I am not quoting his words. Everyone knows that this Bill was not published in any Gazette of those States. It was published in the Gazette of the Government of India, it was published in the Gazettes of some of the Provinces, but because there was not thought to be any occasion for it, it was not published in the Gazettes of any of the States. And the people of the States did not therefore find themselves called upon to consider the matter; in fact, they had no concern with it whatsoever. What has been the result ? Today, by the fact of our new Constitution, all that territory forms part of the land and whatever is passed today is going to apply to the people of all those areas. Does anybody pause to consider the preposterous nature of the situation ? One-third of this country—not a little portion here or a little portion there—but whole one-third of this vast country.....

Shri Munavalli: It is not so, because many States have already been merged in the provinces.

Pandit Malaviya : My friend says "It is not so, because many States have been merged in the provinces". I dare not controvert so wise a statement, but I thought that even before they were merged and surely since after their merger no publication of the Bill has been effected anywhere.

Shri Munavalli: Question.

Pandit Malaviya : My friend questions that statement. I think he is beyond me. One-third. I said and I repeat of this great sub-continent is going to be subjected to a law which is going to affect fundamentally the very foundations of their life and existence without their having had an opportunity to see what it is.

Shri Lakshmanan : (Travancore-Cochin.): May I point out that in some part of States the Bill was published—in Travancore-Cochin, for instance ?

Shri Bharati : I wonder if the hon. Member knows about any of the other States also.

Pandit Malaviya : I do not belong to that school which refuses to see anything except the palm of its hand. I do not mind the interruptions because I know what I mean and I know what I am saying. I am not saying it merely because I wish to say something or because I should say things which would please anybody, but because I believe in what I say. No amount of interruption, no amount of cries of 'Question' can dislodge the truth. If a thing is true and correct, then whatever anybody may say and these 'Questions' only help to clarify matters.

Shri J. R. Kapoor : Interruptions are helpful.

Pandit Malaviya : Whether they are meant in a spirit of helpfulness or otherwise, I do not in the least degree mind them. If on a matter of such importance and gravity there are indeed any doubts in anyone's mind and if any questions suggest themselves to any Member, I feel, on the contrary, that the object, the very ideal, of a parliamentary system of legislation would be defeated if that Member did not have the opportunity to raise his doubt and to ask his question, and if anybody who is on his legs, does not attempt to reply to his best ability to the question that is asked. I therefore do not object to interruptions.

Shri Radhelal Vyas : May I ask the hon. Member to enlighten us as to how the law of mongamy and divorce which is in force in Madras and Bombay has affected the Hindu society ?

Mr. Chairman : May I ask the hon. Member not to lose the thread of his argument and not to be misled by the interruptions ?

Pandit Malaviya : I am very grateful to you, Sir, and I assure you that I stand to no fear of being misled. I was saying that in all these States people have had no opportunity at all of knowing what this Bill is. It is possible for me to go into this point at great length, to go into the well known and universally accepted principles and methods of legislation and to point out the monstrous impropriety of such a state of things. But I believe that instead of doing that I should merely draw attention to that fact and hope that Government will still see how grave an injustice is being proposed to be done in that manner and would find out if they can yet undo it to some extent atleast, if not wholly. It cannot be possible now, if the Bill is to be proceeded with immediately—as the Government have declared—for it to be circulated or published for the information of those people. I will, therefore, not waste time in suggesting that procedure.

I happen to have the privilege of having by my side a sister who is all the time helping me by murmuring something or the other into my ears.

Shrimati Renuka Ray : I was pointing out that this was the best speech in favour of bringing in the reforms contemplated in this Bill.

Shri Munavalli: I want to enlighten my friend over this matter because...

Sardar B. S. Man : It is now the time of the hon. Member who is already on his legs to elighten the House.

Pandit Maitra: The hon. Member has raised a very important point that the Bill was not published in the States...

Mr. Chairman: I do not know why the hon. Member should advocate his cause.

Pandit Malaviya : In view of the fact that the Bill has not been published in the States and is now going to be applicable to them also in all probability, something should be done to redress that glaring injustice. How it can be done would probably be best devised by the hon. the Law Minister. As I said, it is no use making an impracticable, theoretical suggestion at a stage when it is not feasible. I, therefore, do not say that this Bill should now be published or circulated for their information. But, probably, we can devise some other way by which that difficulty might yet be overcome, at least to a degree. And I would suggest for the consideration of the Law Minister—not as one who is opposed to the Bill necessarily, but as one with whom, I think, he may find himself at one on this issue—that the people of such a vast portion of the country should not have a clear and legitimate grievance of that nature. I would suggest to him to consider this proposition at least with respect to those States, if not for the rest. The amendment of which I have given notice and which I have moved says that this Bill should apply to anyone only after a referendum has been taken in the State to which he belongs and, in accordance with the result of that referendum, the Legislature of that State has decided that the Bill should apply thereto. I shall come to that in due course. But may I suggest now—whether that amendment of mine is accepted in its entirety or not—that the hon. the Law Minister might consider the propriety of providing in the Bill that at least with regard to the parts of the country which were then called the Indian States, where this Bill had not been published, this Bill should not come into force unless,

after due publication and circulation, it has been considered in the Legislatures of those parts and the Legislatures have decided that it should apply to them. That will at least remove this glaring fault, the glaring omission which stares us in the face today.

Shrimati Renuka Ray : And let us have the tyranny of the Brahamanical society for the next thousand years !

Pandit Malaviya : My esteemed sister says "Let us have the tyranny of the Brahmanical society for the next thousand years". I can only wish and pray that not for a thousand years but for eternity, not only my good sister but the whole world might rise to the level and concept of the Brahmanic ideal—the ideal which has always stood for fairness and justice to all, which has stood for the performance of duties and actions due to others rather than insistence upon the rights and privileges of its own, which has enjoined not a life of aggrandizement, not a life of self-interest, not a life of low thinking and low living, but a life of noble and lofty idealism and practical selflessness where the Brahman more than anyone else in society but indeed not only the Brahman but every member of society abnegates himself, ignores himself, allows himself to suffer that others may grow, may prosper and may live. I know that the beauty and the sublimity of that concept is lost upon some of my hon. friends. (*Hear, hear*). I hope and pray that society and mankind will yet be able to rise morally, socially, ethically, spiritually and ideologically where the Brahmana will be the true Brahmana and all members of society will rise to the level of that age ! I am not ignoring the fact that the Brahmana has deteriorated as all others have.....

Shrimati Durgabai: In preaching and practice, both.

Shri R. K. Chaudhari : Why should the lady Member interrupt ?

Pandit Malaviya : My sister there, except that we are born of different parents is like a real sister to me because we have both been born of the same institution. That sister of mine tells me that the Brahmana should rise high and lofty both in precept and practice. I wholeheartedly and with every fibre in me pray with her that it may be so, and indeed that it may be so with all others as well.

Dr. Ambedkar: In the meantime, let us have the Hindu Code.

Pandit Malaviya : If we can rise again to that pure and noble Brahmanic ideal, then the Hindu society will have no more of all its troubles and ills but will once again become the leader of mankind

as it was at one time; not at the time when there was any injustice or tyranny by any section of society over any other but at a time when every member.....

Shrimati Renuka Ray : Remember it.

Pandit Malaviya : Of course I remember it, otherwise how should I say it. But it is Mrs. Renuka Ray who needs to know it and to remember it.

Shrimati Renuka Ray : You are talking about the Hindu society during the days of its decadence. Please remember the *Vedas* and the *Upanishadas*.

Mr. Chairman : May I request the hon. Member to proceed with his argument as he was proceeding before and not to answer these interruptions ? Otherwise the main thread of his theme will be lost. I would request hon. Members not to interrupt the speaker.

Shrimati Durgabai: May I interrupt, Sir ? Is not this Bill intended to bring the example of Rama to all men ? Is not that a subject matter now ?

Mr. Chairman: This is a very clear interrruption.

Sardar B. S. Man : It is very dangerous nowadays to ignore interruptions from hon. lady Members.

Shrimati Durgabai: In the matter of interruption, there is no distinction between lady Members and others.

Pandit Malaviya: In the Brahman society the woman has been given the highest place. There is nothing higher than the mother.

Dr. M. M. Das : One man marrying 250 wives : Is that the dignity conferred on a woman ?

Mr. Chairman: Order, order. Let the hon. Member proceed.

Pandit Maitra: Which man has married 250 wives ?

Dr. M. M. Das : I am referring.....

Mr. Chairman : Order, order. No mutual wrangling ; we must keep the decorum of the House.

Pandit Malaviya: To go back to where I was, I was therefore submitting that if nothing else could be done, we might at least have this measure made applicable to the areas which were previously called the Indian States. Only after that process has been gone through *viz.,* that it has been published and circularised there and the Legislatures concerned have decided that it should apply to them.

There is yet another difficulty which I have. And that is, that when the Hindu Code was first framed, according to the Constitution which

was in force in this country at that time, agricultural property was not a subject on which the Central legislature legislated. As a result, 90 per cent, or probably even more of the landed property in this country did not come under its jurisdiction.

[Mr. Deputy Speaker *in the Chair*]

Now, agricultural property has also been put in the Concurrent List and this legislation, if passed, will apply to landed property also all over the country, The scope of this Bill, therefore, has been expanded almost 900 times over. As it stood before, it would have concerned only a very small fraction of the property in the nation.

Mr. Deputy Speaker : That is no longer the subject matter of this Bill, unless the hon. Member thinks that as a consequence of the marriage, the children will be entitled to that also.

Pandit Malaviya : I am at present talking of the application of the Bill and its import. I was pointing out.....

Mr. Deputy Speaker : The hon. Member evidently was not here. We have said that this Bill is confined to marriage and Divorce. Property, inheritance, succession are not gone into now, unless indirectly the hon. Member says that the consequence of marriage will be some offspring and they may be entitled to some landed property.

Pandit Malaviya : Sir, I have the same difficulty which I had once before. So many speakers are about that I could not hear you !

Mr. Deputy Speaker: The property chapter and other parts are now excluded from the scope of the Bill. We confine ourselves to marriage and divorce alone. Therefore, the hon. Member need not dilate upon that matter now.

Pandit Malaviya: What I was submitting was not with regard to the nature of the provisions in respect of property. What I was submitting and another point which I had tried to make out before you came back was with regard to some of the vary objectionable features and circumstances relating to the situation in which this Bill, is now being put before this House. And I was, therefore, pointing out that a very grave and fundamental change in the circumstances has occurred, namely, that when the Bill was first framed. It did not have any applicability to 90 per cent, of the extent of this land. But it will now have, on account of the adoption in the Constitution of a Concurrent List on which agricultural lands and property have been placed.....

Mr. Deputy Speaker: The Bill is not pressed so far. It is now confined only to the part relating to marriage and divorce. There is enough time for hon. Members to consider when another Bill comes as to how it will affect agricultural land. Today we need not dilate upon that matter. Whatever might have been the change due to the agricultural lands being put in the Concurrent List, we are not concerned with that now.

Pandit Malaviya : Sir, I will obey your ruling or decision. But I wish to submit for your consideration what I have to say and I will do as you will direct me. If at any time any Bill including the clauses relating to agricultural property comes up, then of course, it will be time for us to discuss the details of the clauses of that Bill and to express our opinions upon them. But at this stage, as you have stated, Sir, I am not trying to express any opinion whatever upon the question of the landed property in this country, or the methods of its disposition. I am not speaking on that subject. But what I wish to bring out is about the scope of the bill itself. Whatever may be its provisions, whether it is marriage, whether it is death, or whether it is anything else, it will somehow apply itself to all. I am trying to show with whom the provisions will come into compact. For instance, just before you returned to the Chair, I was arguing that the States in which the Bill had not been published should not be put under this Bill straightway, and there should at least be a provision that only after it has been published in the respective States should the respective legislatures be asked to decide upon it. Similarly, I beg to submit that what I was arguing was not the question of any landed property or any other property as such, but the nature of the applicability, the nature of the thing, what this Bill or any Bill of this nature, can now comprehend as against what it could comprehend before. Therefore, I shall confine myself to that aspect of the matter and not go into the question of property at all.

Mr. Deputy Speaker : The hon. Member has taken two hours and we have some other work also to do. I thought the hon. Member was concluding and I was anxious to call upon the hon. Law Minister to speak. Now, may I know how long the hon. Member is likely to take ? I may adjourn the half-an-hour discussion to some other day, if the hon. Member is likely to finish soon. We have another fifteen minutes left now.

Pandit Malaviya : Some of my hon. friends may laugh, Sir, but it is difficult for me to say how long I will take. I hope you will believe me,. Sir, that I have been trying not to dilate or to be expansive in my arguments. Some hon. friends have said that I was dilating. I can only say that if any one of them would do me the honour of meeting me outside the Chamber and letting me explain to him my view point about any one of the points which I am touching upon here, then he would know how much there is to be said on each one of these points, and how I am trying to confine myself only to the most essential things. Therefore.....

Mr. Deputy Speaker: May I know whether it is possible for the hon. Member to finish in another fifteen minutes ?

Pandit Malaviya : I do not think that will be possible. I may tell you, Sir, that I have got here a heap of notes and books which I have not yet even once touched. I am saying this in all sincerity and I am trying to confine myself to the most essential things. If I wanted to take up each one of the points in great detail, it would be different. I am trying to confine myself to the essentials. Yet I feel so deeply and so strongly on this matter and the subject is so important and vast that I am afraid it will not be possible for me to finish today. But I am in your hands, Sir.

Mr. Deputy Speaker : How long does the hon. Member propose to take ?

Dr. Ambedkar : Five days.

Pandit Malaviya : The Law Minister says five days : I would not mind five days.

Shri Sondhi (Punjab) **:** The challenge is accepted.

Shrimati Durgabai: May I suggest to my brother Member that his thesis may be printed and circulated and taken as read ?

Hon. Members : No. no.

Pandit Malaviya : When my hon. sister makes the Constitution of this country and also the rules of Parliament, then probably we shall have that procedure.

Sardar B. S. Man : That day is not far off.

Pandit Malaviya : I would not unnecessarily take too much time but I would not be able to finish today.

Mr. Deputy Speaker : Let me know how long he will take from now.

Dr. Ambedkar: If not five days five hours.

Pandit Malaviya : I have lots to say, I shall be entirely guided by you. If you will permit me I will leave the matter open to you. I am prepared to come to you and show you my material and leave it to you as the custodian of the privileges of all Members of the House to tell me how much time I should take.

Mr. Deputy Speaker : It is not my intention to curb or curtail the discussion on any point. Two hours have already been taken by the hon. Member and already we have discussed for six days. So far as the books and other references that the hon. Member has mentioned, they are for detailed consideration and he will not lose his opportunity. There are the other clauses on which he may bring to bear his knowledge of those tracts which he has. So far as the present occasion is concerned half an hour more should be sufficient to the hon. Member.

Pandit Malaviya : I fear that may not suffice. If you will permit me I will put it in another way; I shall try to be as brief as possible. If you would rather that I cut short as much as possible I will devote myself to two points, namely marriage and divorce tomorrow and finish as quickly as I can. It may be that I will need. . . .

Dr. Ambedkar : Five hours.

Pandit Malaviya : He has come down to five hours from five days. Do you think, Sir, that is unreasonable? I shall try to make it as much less as possible. I am not saying this lightly. I will earnestly endeavour to make it as short as possible, perhaps two to two and a half hours.

Shrimati Renuka Ray : I want to ask a question, Sir. This clause 2 deals with applicability. I want to ask you again whether we can bring up the whole subject of marriage and divorce when the consideration stage is over.

Mr. Deputy Speaker: The hon. Member wants my ruling again and again. I wish only to say, is it necessary at the end of the discussion to give a ruling? Anyhow this much is clear. The hon. Member will try to conclude as early as possible tomorrow. So far as this matter is concerned and after he concludes I will immediately take up the half-hour discussion now and we shall go on till 1-30. I thought the hon. Member, Pandit Malaviya might conclude if we sat for another half an hour today, but there does not appear to be any chance of that. Therefore, if he will take some more time tomorrow, immediately after him I propose calling the Hon. Law Minister.

Shri B. Das (Orissa)**:** Sir, the reformists are keeping very quiet on the floor of this House. Two violent though very outstanding speeches have been made by my friends, Sardar Man and Pandit Malaviya. Therefore, you will permit us who are the majority in this House to have a say, apart from what Dr. Ambedkar will have to say in his final reply on behalf of Government.

Hon. Members : Yes, Sir.

Shri Syamnandan Sahaya : Yes, Sir, the father of the House should be given a chance.

Shri Shiv Charan Lal (Uttar Pradesh)**:** Sir, we have amendments on which we want to speak.

Khwaja Inait Ullah (Bihar)**:** Sir, so many amendments have been moved regarding this clause so as to bring within the scope all Indians, and so much has been said on that point. Therefore, I wish to throw some light on the Muslim point of view, as to whether they can accept it or not. So I must have some time.

Shri R. K. Chaudhuri: May I respectfully point out that yesterday when I raised this question of opposition to an amendment, you were pleased to say that such opposition would be allowed. And I particularly laid stress on the amendment by which the Hon. Dr. Ambedkar wants to introduce "tribe", which is a very important matter. I want to speak on that—I am not going to speak on other subjects.

Mr. Deputy Speaker : Merely because an hon. Member tables an amendment he is not entitled to speak. I am allowing all elucidation on points to those who have tabled amendments, but when similar amendments have been tabled and one or two hon. Members have spoken, on account of the time which is already taken, if some hon. Members who have tabled amendments are not able to speak, I do not think I need wait so far as this matter is concerned. We are having a second reading on this clause 2. As regards the request of my hon. friend, Khwaja Inait Ullah, I am seriously considering whether that amendment which wants to apply this Bill to Muslims and Christians is not enlarging the scope of the Bill. I do not think any further discussion on this matter is necessary. Anyhow, I am going to call the hon. Minister immediately after Pandit Malaviya.

Shri R. K. Chaudhuri: I wanted to oppose Dr. Ambedkar's amendment relating to the introduction of the word "tribe".

Shri J. R. Kapoor : With regard to what has fallen from you, Sir, about the admissibility of the amendment seeking to enlarge the applicability, may I submit that even at an earlier stage this point was taken up and then we were assured by the hon. Speaker that before any ruling was given on that point we would be given an opportunity to have our say on the matter. It might be the Chair's first impression that it may not perhaps be within the scope, but you will please permit us to have a say to convince you how easily it comes within the scope. If that be your ruling I may submit many of the amendments of my hon. friend, Dr. Ambedkar would also have to be declared out of scope.

Mr. Deputy Speaker : Dr. Ambedkar himself to be ruled out of this House?

Shri J. R. Kapoor : Not he, some of his amendments; because they are very much on the same lines as this amendment.

Mr. Deputy Speaker : One wrong amendment does not make another amendment good. If any of the hon. Law Minister's amendments also enlarges the scope it is out of order—we will consider that matter.

Pandit Malaviya : I have another amendment of which I have given notice—a short amendment which I shall move tomorrow at the end of my speech.

Mr. Deputy Speaker: Provided, it is an absolutely formal amendment.

Pandit Malaviya : I gave notice of it day before yesterday.

Khwaja Inait Ullah: I will not take more than a few minutes.

Mr. Deputy Speaker: No, Sir.

Shri R. K. Chaudhuri: What about my point, Sir?

Mr. Deputy Speaker : The hon. Member has got the 'Ayes' lobby and the 'Noes' lobby. He can vote against the clause if he likes.

It is now too late for us to embark upon the half-an-hour discussion. It will be taken up on some other day.

The House then adjourned till Half Past Eight of the Clock on Thursday, the 20th September, 1951.

* HINDU CODE—*contd.*

Shri Amolakh Chand (Uttar Pradesh)**:** May I draw your attention Sir, before Pandit Malaviya resumes his speech, about a cartoon which appeared in today's *Indian News Chronicle,* about which I have sent a note to you ? May I know whether that will be taken up just now or on some other date ?

Hon. Members : What is the subject matter of the cartoon ?

Shri Amolakh Chand : May I, with the permission of the Chair, just satisfy the curiosity of hon. Members about this cartoon ?

Mr. Deputy Speaker: I have received this cartoon published in the *Indian News Chronicle.* I think it shows my likeness. It is a cartoon of a clock where both the hands are being held up by some of the hon. Members who have spoken against this Bill, but underneath the very pendulum is said to be held intact, not moving forward or backward, by a representation of myself. So long as the speaker is here that is another matter. But casting aspersions on the Chair is not only unjustified and undignified but here it is also opposed to the facts. I do not know if any hon. Member will ever raise any point that whatever might be my differences I have done anything unjust in this House.

Hon. Members: No, no.

Mr. Deputy Speaker: Therefore, I will look into this matter. It is a very serious matter—it does not matter whosoever may be in the Chair—to cast aspersions on the Chair. The moment the House feels that the person who occupies the Chair for the time being is not doing justice, it knows what to do, so far as that person is concerned. But it is not for outsiders to caricature, and it is an aspersion on the whole House. I shall look into this matter leisurely and then find out what action should be taken. However, I do not want this to interrupt the progress of this Bill.

Shri T. N. Singh (Uttar Pradesh)**:** At the same time, whatever the action about that particular cartoon be, we do feel that the Press should not come out with anything which casts aspersions on the Chair of this august House, and it should be prevented. I feel that the matter, since it has been raised, is rather important and it should not be postponed in this fashion, I would urge that once the matter has been raised, we should certainly take it up right now and the House should express its disapproval.

* P.D., Vol. XV, Part II, 20th September 1951, pp. 2901-19

Mr. Deputy Speaker: I shall take time to consider it.

***Pandit Malaviya** (Uttar Pradesh)**:** When I left off yesterday, you were good enough to ask me how much more time I would need. I respectfully expressed my inability to indicate any exact amount of time and requested you to let me proceed on the basis that I should try to take as little time as may be possible. You were good enough to more or less indicate a limit, that I should not take more than about $2^1/_2$ hours more.

Shri Sidhva (Madhya Pradesh)**:** You said half an hour, Sir.

Pandit Malaviya: I have since heard.....

Mr. Deputy Speaker : I can only make one observation. The hon. Member yesterday was encouraged to ask for five days on the suggestion humorously made by the Hon. Law Minister.

The Minister of Law (Dr. Ambedkar): He wanted five days— I suggested five hours.

Mr. Deputy Speaker: When I was asking how long the hon. Member was likely to take, the Hon. Law Minister humorously said, five days. I was suggesting half an hour, the hon. Member was wanting more. Now what I propose doing is this.....

Pandit Malaviya: May I say.....

Mr. Deputy Speaker: I will do sufficient justice to the hon. Member. Now how long, may I know, is the Hon. Law Minister likely to take to reply ?

Dr. Ambedkar : It is my intention to be brief, but I would like to cover some of the points raised, and I feel an hour or an hour and a quarter might be more than enough for me.

Mr. Deputy Speaker: I propose calling the Hon. Law Minister as soon as the hon. Member who is on his legs finishes. Even if he takes $2^1/_2$ hours, there will be sufficient time if I call the Hon. Law Minister at 12 o'clock.

Shrimati Durgabai (Madras)**:** The hon. Member who is on his legs after having mentioned five hours or five minutes or whatever it may be, said that he would submit himself to the ruling of the Chair and you very kindly said that he should not require more than half an hour. After having once submitted to the ruling of the Chair, would the hon. Member be now permitted to retract ?

*P.D., Vol. XV, Part II, 20th September 1951, pp. 2902-18.

Mr. Deputy Speaker: I leave it to hon. Members themselves.

Pandit Malaviya : I said about another matter yesterday that when my sister makes the rules, we will have to submit to many things from which fortunately we are free at the moment.

Shrimati Durgabai: This is already in the rules.

Pandit Malaviya: What I was intending to say was.....

Mr. Deputy Speaker: Under the rules, so far as Finance Bills are concerned, I can set a limit. With respect to other Bills there is no provision for setting a time-limit on speeches.

Shrimati Durgabai: My point is that once the Chair has given its ruling.....

Mr. Deputy Speaker : Not ruling.

Shrimati Durgabai: .....would the hon. Member be permitted to go against that ruling ?

Mr. Deputy Speaker: It is not to be interpreted to be a ruling. It is only a suggestion.

Incidentally, I forgot that I will have to put the amendments to the vote of the House. Therefore, if the hon. Member would restrict himself to two hours, thus making half an hour available for the Chair, I shall call upon the Hon. Law Minister at 11-30 so that we may finish this clause and all the amendments on it before we rise for the day. The hon. Member may take two hours.

Pandit Malaviya : I am very grateful to you, Sir, for what you have said, but what I was going to say in the beginning was that whatever might have been the arrangement that we had more or less thought we had arrived at.....

Mr. Deputy Speaker: He need not labour that point.

Pandit Malaviya: .....since then some esteemed friends, for whose views and opinions most of us in this House have respect and regard, have taken the view that Members of the House should take as little time as possible. As I came into the House just now, it was conveyed to me that I should finish within a matter of minutes. I know that according to the rules one should have the time which he wishes to have and it is very good of you to say that you will stick to that. It is also true that I feel very earnestly that in a matter of such vital importance where things which have come down from millennia are going to be demolished, minutes and hours should not be counted and if somebody has something to say on this issue which

is obviously not utter nonsense and irrelevance, then the question of time should not arise, whether he takes one day or two days or twenty days. But I respect the wishes of elders and of our leader and what I wished to say to you was that even though you have been good enough according to the rules to give me the longer opportunity. I shall try to leave out almost all that I had to say and shall try to confine myself to a few minutes only. I say this with a deep sense of pain and injustice to me and to this cause, but I am a man, as I said, who believes in the Hindu methods of tolerance and even if an unreasonable thing is thrust on me.....

Mr. Deputy Speaker: The hon. Member will kindly resume his seat. I have been trying to avoid any impression being created that we are either hustling the Bill or unnecessarily dragging it on. I am bound to see to it that neither the one impression nor the other impression is created. We have spent sufficient time over this matter and just when we are concluding the debate and when, if a closure motion is moved. I am prepared to accept it because I am satisfied that there has been sufficient discussion on this matter and although individual Members might not have spoken, collectively all of them have spoken on all the points arising—just at this time, if the hon. Member feels aggrieved and then makes a point that for want of time and on account of some kind of limitation and pressure he is not putting forth all his points, he would not be doing justice to any of the persons here. I would like to avoid an impression being created that we are hustling this measure. It may be that there may not be sufficient support for the one or the other opinion. After all, we have to go by the rule of the majority in this House and it is open to all persons to express and press their point of view, but let it not be said that we are hustling the measure. The hon. Member has taken two hours. If he wants, he may have two more hours and if for any reason he is not prepared to proceed further, he need not make a point out of it, lest it should create an impression that we are hustling through this matter, though really we have been going on leisurely with it. Therefore, that kind of impression ought not to be created. It is open to him to speak or not to speak for various other reasons, which are extraneous. I am only concerned with the procedure in this House and the right impression both in this House and outside that we are not hustling such an important matter as this nor are we unnecessarily trying to stretch the discussion by any kind of filibustering. Therefore,

in between these two impressions, I am trying to carry through this bill. The hon. Member need not refer to all those matters. It is his sweet will and pleasure to say what he wants to say or to refer to the further clauses or not to refer to any of them at all, or to make any comments for various reasons which he may consider fit and proper.

Pandit Malaviya : I entirely agree with the remarks that have fallen from your lips and I was not making a complaint. I was only mentioning the fact that for reasons other than those that you have stated I shall not allow myself to take all the time that I need and that I should have liked to take. That is all that I wished to submit. Incidentally, it will also probably enable several other Members of this House, who, I saw yesterday, were very keen to have an opportunity to say something, to have an opportunity to do so. I am not saying this by way of any complaint, but I was submitting to you as a matter of fact that I have to leave out practically all that I wished to say and must now come straight to one or two points.

I will leave the point I was making when we dispersed yesterday, regarding the scope of the Bill having been extended, so to say, overnight by the new Constitution having included agricultural lands in the Current List. I shall leave that also there.

I will only touch in passing on another very important aspect, namely, that the bill which is before us now is so largely changed that it is almost unrecognisable compared to what it was when it was first introduced. There is a rule that Select Committees at the end of their reports should state that they have amended the Bill only in such measure, as they think, has not changed it materially and that the amended Bill does not need re-circulation or re-publication. That proves the principle that if a Bill is substantially changed in a Select Committee it should be republished and re-circulated. I submit that in matters of legislation we should observe the sanctity of the rules, because rules are framed in moments of calm and dispassionate consideration ; not *vis-a-vis* any particular item or any particular point of view, but with regard to the basic fundamental needs of ensuring that legislation is passed only with due care, thought and circumspection. Such rules, therefore, have very great value and it must be an ill day for the growth of healthy parliamentary traditions and institutions in any country if we begin to make light of them to suit the conveniences of our opinions on particular issues and particular

occasions. I, therefore, feel, now that the Bill is so entirely changed to as it is, that constitutionally there can be no justification at all for proceeding with it, or any part of it now as it stands without that procedure being brought into force. I will leave that point also there.

I will touch only upon one or two things more and will resume my seat. Several friends who are supporters of this Bill said that this Bill has been drawn up in accordance with the tenets of the *Smritis* and *Dharma Shastras*. If I had the time I would have quoted extracts from the various *Smritis* and *Dharma Shastras* to prove the hollowness of that claim. I cannot do that now. I will, therefore, come straight to the two vital principles which are involved in the measure that is to be taken up—one the question of the degree of *sapinda* prohibition and second the question as to whether among the Hindus a remarriage of and married woman can take place.

Texts have been quoted form some of the *Smritis* on both these points. With regard to the *sapinda* question it has been argued that the *Smritis* have from time to time laid down different principles, that while one *Smriti* has said one thing another *Smriti* has said another thing and an attempt has been made to draw the inference therefrom that it was a matter not of such vital importance that it could not change, but that from time to time, reflecting the opinion and the practice of the age, the different *Smritis* have laid down different texts. 1 was mentioning yesterday that in the matter of these *Dharma Shastras* there are rules of interpretation which have laid down cut and clear principles and methods of approach. It is laid down that the *Dharma Shastra* can be interpreted only by the utilisation of the rules of *Mimamsa*. Fourteen sources for determining them have to be utilized. They are all mentioned and therefore if anybody wants honestly to understand these things he must go into the depth of that matter.

Almost every one of the *Smritis* and the *Dharma Shastras* have laid down that in the *sapinda* degree of prohibition we should have seven degrees on the paternal side and five degrees on the maternal side or more. Nobody has disputed that. It has been said that it is stated only in some of the *Smritis* as five and three instead of seven and five. I believe the *Paithinasi Smriti* text is relied upon for this purpose. In the belief that Members of this House wish seriously to take the matter into consideration as to whether it is laid down in the *Smriti* that it should be five and three, I shall try to clear up that point. The *Paithinasi Smriti*.....

Mr. Deputy Speaker: I do not think the Hon. Law Minister is dogmatic about this matter.

Dr. Ambedkar: When the time comes we shall consider it. ...

Pandit Malaviya : I am taking this only as an instance to show how the entire provisions of the Bill are based upon a complete misconception. The text in the *Paithinasi Smriti* is :

पंचमीं मातृतः परिहरेत् सप्तमीं पितृतः

So far it is clear—five degrees from the mother and seven degrees from the father. So, the *Paithinasi Smriti also says the same so far. Then, it goes on to say:*

त्रीन् मातृतः पंचपितृतो वा ।

It gives another view and says three from the mother's side and five from the father's side. If I had the time I would have gone into all the other *Smritis* to disprove the statement of some friends that the *Smritis* lay down different rules—in one case seven and five and in another case five and three and it is for us to select.

The *Mimamsa* lays down the method of interpretation of these texts. The whole basis of Hindu law rests upon the fact that the law comes for the *Shruti. Shrutis* are *Swatah Pramana* (स्वतः प्रमाणः). Whatever is in the *Shruti* stands proved by itself and does not need any further argument. The *Smritis* are *Partah Parmana* परतः प्रमाणः They do not by themselves carry that authority because they are *Shrutimula.* श्रुति मूल. They belong to the class where authority is derived from *Shrutis.* Now, it is obvious then that if the same source is to be drawn upon by all the *Smritis* the obvious objection would be—and I suppose it would be a natural objection also— that if you claim that they all emanate from one and the same source, then how can there be conflicting versions in them. We can anticipate that objection.

Mimamsa goes on to say that there may be cases where in the *Shruti* itself there is *auvikalp,* that is, where the *Shruti* itself lays down two alternatives that a thing may be of one or another.

There are instances of that nature in the *Shrutis* themselves !

[10 A.M.]

उदिते जुहोति। अनुदिते जुहोति।

That is from the *Smritis.* It says a certain *Yajnya* may be performed before sunrise, and it also says it may be performed after sunrise. But there is no conflict, because both are mentioned in the *Shruti.* And then according to the tenets of the *Mimamsa Shastra* other

considerations come into play. Technically it is called *Atma tushti,* and according to the principle of *Atma tushti* each one has to decide— not for the pleasure of it; *Atma tushti* does not mean pleasure, it does not mean one's whim of taking one thing today and taking another thing tomorrow, taking rice today and taking *chapati* tomorrow. But *atma tushti* has a fundamental religious place. According to *Atma tushti* the *Dharma* has to be selected, and once it is selected it remains permanently there, for all time. But that is so only when both the things are mentioned in the *Shruti.* The *vikalp* comes only when both the things are thus mentioned in the *Shruti.* For instance you find :

अतिरात्रे षोड़शिनं गृह्णाति। नातिरात्रे षोड़शिनं गृह्णति।

(Late at night takes one of sixteen, takes not late at night.)

Two directly conflicting things in the *Shruti.* But both being there, the *vikalp* is possible. If the *Smritis* say two different things, then if we found that there is mention of the two things in the *Shrutis,* the *vikalp* would be possible, and the claim which has been made by my Hon. Friend the Law Minister and others that these provisions are based upon what the *Shrutis* say, would become correct. But the available *Shrutis* are silent on the point. There is no direction about the matter. The question then arises, how then do the *Smritis* contain different rules if they have derived them from the *Shruti* sources ?

Mr. Deputy Speaker : I understand the Bill to go according to the *Shrutis* if possible and without the *Smritis* if necessary. That is what, I think, the Law Minister has in view. Therefore, notwithstanding the doubt as to whether it is three and five according to strict rules of interpretation—and they have to be made consistent; I do not think he disputes the proposition that everywhere they are trying to make it consistent so as to avoid any inconsistency—he chooses the latter view. Even if it is not borne out by the strict rules of interpretation he says that it is the correct one and should be adopted, subject of course to the approval of the House. I think that is the view of the Law Minister.

Dr. Ambedkar : Yes.

Mr. Deputy Speaker : Therefore, there is no good labouring the point as to what the interpretation is.

Pandit Malaviya : As I said, I am not doing this necessarily to go into the interpretation of this thing. I am taking this as an example to show the approach to the matter. What I wish to say is that according to the *Mimamsa Shastra* the two texts, one saying that it should be

five and seven and the second saying that it may be three and five, must be reconciled and an interpretation—an infallible, unquestionable interpretation must be there. An interpretation has to be found which is unquestionable and incontroverible. Otherwise the *Smriti* does not remain a *Smriti. Paithinisi* is among the *Smritis.* If we will only look for it we will find that we have in the *Smriti Sangrah,* we have in the *Nibandhakaras* a clear interpretation of this difference which lays down, and not only lays down but proves—it will take me time if I went into it, therefore I will not—but it is proved that this provision in the *Paithinisi* is not applicable to all people, it is not applicable to the *aurasa* and the others. In their case the seven and the five apply, and this variant of five and three can only apply to *Dattaka putras* or to *Sapatni matas.* That is how the *Mimamsa Shastra* reconciles these two.

I took this instance to show that there is a clear way of interpreting the *Shastras.* If we want to go according to the *Shastras* we must go accordingly and we will find no sanction for deviating from the seven and the five degrees of *Sapinda* prohibition for marriage.

Similarly, I will take another question. A member read out with a certain amount of righteous satisfaction and vehemence that in the *Smritis* themselves we have provisions for the marriage of once-married women. The well-known *Narada Smriti* and *Parashara* text was read out by an hon. friend of mine—here he is—and he said that the *Smritis* themselves have said that a woman may be married a second time. I can see some friends feeling satisfied about it. This is a tragic matter, for this reason that the meaning of that *sloka* becomes perverted if it is interpreted to mean that it relates to a married couple. I hope Members will not think that I am talking in the air. (*An Hon. Member : No, no*). The line is very simple:

नष्टे मृते प्रव्रजिने, क्लीबे च पतिते पतौ।

पञ्चस्वापत्सु नारीणां, पतिरन्यो विधीयते।

It is allowed at disappearance, demise, reclusion, impotency and sinfulness of the husband.

As it looks it is very simple. In the case of these and these and these 'husbands', these friends think, another husband is provided. But I wish Members of the House kindly to devote their mind to this. The simple rules of *Vyakarana* come into this question.

An hon. friend says *Vyakarna Padhao* and one may feel tempted to play the pedagogue to so distinguished a class, but I shall resist

the temptation and I will only briefly explain the matter because it is a point upon which the whole edifice of the Hindu Code rests. It is that one sentence upon which everyone seems to be taking his stand. It is a very simple matter. According to the rules of grammar *Eka Vachana* in *Saptami* of *Pati is Patyau*. That is formed according to definite *Sutras*. I do not know if you will let me go into details to show how the words *Patyau* and *Patau* are each formed. I am quite sure it will be interesting, but it will take time. But every thing will become clear if we understand that.

Mr. Deputy Speaker: What will happen to *Hari* ? It is a masculine ?

Pandit Malaviya: I see, Sir, you are interested and if you will permit me...

Mr. Deputy Speaker : Then *Hari is Ikaranta Pullingam* and *Saptami* is *Harau* and *Pati* should be *patau*. That is my difficulty. I do not know if it is different.

Pandit Malaviya : Sir, your question is quite valid. That is it. From *Hari* it is *Harau*. So from *Pati,* it should be *Patau*. But we all know it is *Patyau*. Why ? The difference is in this way. When it is *Saptami Ek Vachan Gni* comes in. Then the *Sutra Patih Samasa Eva* comes into play and the *Ghi Sangya* gets ruled out and another *Sutra aut,* comes into play and it becomes *pati* plus *au*. Then by the *Sutra Ikoyanachi* the '*i*' gets transformed into *ya* and *Patyau* is formed. That is in the case of the ordinary meaning of the word *Pati,* that is husband. The rule is quite clearly laid down *Patih Samasa Eva*. Now, Sir, the question arises why instead of *Patyau* the word *Patau* has been used. It is such an obvious thing that even a blind man can see, that there is some difference, there is some purpose. The Hon. Law Minister will bear me out that the normal form (*rup*) of *Pati* in *Saptami* is *Patyau*. But in this text *Patau* is used. (*Interruption*) An hon. Member says that he is extremely doubtful. I do not claim for myself his wisdom in this. But, *Panini's Ashta Dhyayi* is there and if any hon. Member can point out anything to the contrary. I will do whatever he will say.

Shri Amolakh Chand : Will the hon. Member quote the *shloka* also?

Pandit Malaviya : I am coming to that. Therefore, the word used is different from the normal word *Patyau*. Here the word is *Patau*. Now according to the rules of Sanskrit grammer...

Mr. Deputy Speaker : It is not necessary. The hon. Member means that it is incorrect.

Pandit Malaviya : No, no. It is not incorrect. What I was going to point out was that in this case the word *Pati* is used not in the sense of *Pati* meaning husband but according to the rules of grammar— I am not saying it on my own but according to the rules of grammar पतौ can only be used where the *Achararthe* sense comes in. Then, not being in the sense of पति *i.e.* husband, the *sutra* 'पतिः समास एव' which applies normally and results in पत्यौ does not apply and 'Ghi' *Sangya* ('घि संज्ञा) takes place etc. and when 'Ghi' *Sangya* (घि संज्ञा) comes in then the *sutra Accha Gheh* (अच्च घेः।) applies and the word *Pati* plus *'i'* becomes *Pata* plus *'Au';* and by the rule *Vriddhi* it becomes *Patau* (पतौ). It is a recognized word in the Sanskrit Grammar of *Panini*; it is not mistake that it has been used here in that form ; it is not by thoughtlessness that it has come in. But the word *Patau* (पतौ) instead of *Patyau* पत्यौ has a meaning and the meaning of that word पतौ is one who is going to be a *Pati* and not one who is a *Pati.* That is the meaning of that word. Let anybody challenge what I am stating. For thousands of years that grammar has been there and nobody has questioned it; the word *Patau* means not a husband but who is on the point of becoming a husband. This correct meaning of this *shloka* completely changes...

Prof. K. T. Shah (Bihar)**:** *Anayu* comes in there.

Mr. Deputy Speaker : *Patranyo Vidheeyate* comes in. It must have been a husband.

Pandit Malaviya : I am coming to that. I am very glad you raised that question. In the *Prathama* there are only one set of *sutras* but in *Saptami* there are these two sets of *sutras* mentioned by me, one forming *patyau* and another forming *Patau* and secondly the difference had to be shown at the first place only, to clearly indicate that only where there had been a talk of marriage but no marriage in fact, that this question arose, while in the second place, it is a husband who is to be indicated. It is not merely a candidate for husbandship which has to be provided. Therefore, the second *Patiranyo Vidheeyate* is perfectly correct.

Mr. Deputy Speaker: *Anyo* must mean what preceded also.

Pandit Malaviya : *Anyo is* again *Prathama.*

Mr. Deputy Speaker : *Prathamanyah* also must be the husband.

Pandit Malaviya: If it had been both the same then in the first place it would have *Patyau.*

Mr. Deputy Speaker : Whatever is intended by the provisions one must correspond with the other one.

Pandit Malaviya : How can it, Sir, when the very purpose is different. The beauty of Sanskrit language is that it expresses in a word what it takes a sentence to say in another language. That is the beauty of Sanskrit language. If a sentence says "If mango is not available, then guavas may be taken" we cannot say that mango and guava must be one and the same.

Mr. Deputy Speaker : There cannot be a comparison between two absolutely uncorrelated matters. If *Anyo* is used that word or the other must relate to the same category. If in the one case it is not marriage, in the other case also it is not marriage. If it is marriage in one case, it is marriage in another case. Both of them are understood to be the marriage of the husband.

Pandit Malaviya : We cannot change the meaning of words .....

Shri B. K. P. Sinha (Bihar)**:** On a point of order, Sir, I find that all these discussions are academic. The words *Pati* and *Patyau* are used in this *shloka* and not *Patau.*

Pandit Malaviya: That must be a wrong print. I am not saying it lightheartedly. The original test is *Patau.* The very chauda .....

Mr. Deputy Speaker : *Patite Patyau* must be wrong because it should be *guru.* The prosody will come in the way of this *Pati and Patau* are different. Apparently it is wrong.

Pandit Malaviya: It is obvious that it cannot be *Patyau.* What I wished to submit was that this rock upon which that edifice stands does not exist at all and the meaning of the word used is not husband ; it is not *Patyau* but it is only one who is on the point of becoming a husband, *Patau.* There is thus nothing in the *Shastras* to suggest that a married Hindu woman could marry again.

I do not want to take much time of the House. I had many things to say. But, in view of what I referred to, I do not wish to go against the wishes of those whose wishes and words are law for us. I, therefore, do not wish to take much more time, much though I would have liked to say many things. By these two examples I have tried to show how completely fallacious are the grounds on which the Hindu Code is proceeding.

I will conclude by mentioning one thing more. In Hindu society from time immemorial, laws have prevailed without the authority of

the State, without the authority of the police, without the authority of any legislature as such. There has been no governmental sanction behind the laws which have been in force. The laws were promulgated by men who had attained to perfection as nearly as man could, who were held in universal respect, who worked for the good of the people. And there was the sanction of what has been called in the *Shastras, Apoorva,* the unseen, that which will happen under certain circumstances ; the thought that what one was doing today would have effect later on ; that the human soul, the *jeeva* does not lead one life alone, but goes through a chain of births; that the actions of one life are inter-related to the actions and results of previous and future lives ; that deeds of virtue and piety and righteousness bring a reward which is greater in reality than any reward of comfort or convenience which one may have in this life. A clear conception of the real value of things as distinguished from the ephemeral aspect, was always kept in mind, it is under the force of that sanction and that belief that the laws which were promulgated have always been followed. In the whole of this country, throughout its length and breadth, the law of the Hindus has been observed not because any one—for instance my esteemed friend Kaka Saheb Gadgil who is coming into the House and who talked on this Code, not like the elderly responsible man that we know him to be, but like a gay youngster who just utters what comes at that moment in the mouth, or any one else—found them to be comfortable or otherwise, found them to be pleasant or irksome, but because both Kaka Saheb and Govind Malaviya and the other 300 millions like them have been steeped in the conviction and belief that what they are doing today will have repercussions hereafter, that what they go through now will bring its own reward. They have been all bred up to believe that it is not *Preya* alone which matters in life, but that it is the *Shreya* of things which must be assiduously inculcated. That has been the shape of things in this country and in this society. Let not the Government make a thoughtless and hasty mistake in demolishing that fabric upon which the respect for and the adherence to the law has prevailed. If one set of legislators, one set of wise men or wiseacres today legislate in one particular manner as they think fit, people will have ceased to worry about *Apoorva*. People will know that it is possible for them the next day to get a law made to suit their pleasure and their convenience. The moral fabric will disappear and man might go back to the old age where there

was no method or system of marriages, where a state of things prevailed which probably, in decent society, would not be considered worth mentioning. That is the stake which is involved.

I should have liked to have dealt with the question of divorce ; I should have, liked to have dealt with the question of widow remarriage; I should have liked to have dealt with the question of inter-caste marriage; I should have liked to have dealt with the question of monogamy. I hope I will have opportunities as these clauses come up to deal with each one of these at the appropriate time. It is not for reasons of orthodoxy alone that this question must be considered. It is from the point of view of the over all interest and well-being of society that we should tackle these problems. I said society. Society means the whole group of people, all the inhabitants taken together. It is formed of the units, of the individuals. But, the unit and the whole, even though they are inseparably interdependent, have their own separate entity also. The body is made up of all the limbs. But, the hand has its own existence by itself; the head has its own. The body as a whole cannot be by itself without the hands, feet, legs and the head.

[SHRIMATI DURGABAI *in the Chair*]

But, the body is not merely the hand or the feet or the head. It is the sum total of the whole. When, therefore, we have to think of society, we have to think of the good and interest of society as a whole and if any thing is in the interest and well-being of all, then, whether it is pleasant or whether it is a little less pleasant for one individual here or one individual there, that must be adopted. When these topics come up, I hope I shall have opportunities to deal with them. I wished to say a great deal to bring out in clear perspective the issues involved, the fallacy or correctness of the approach made, and the conclusion to which we must irresistibly be driven. And right now, Madam, I should have had another advantage, that one esteemed Member of this House, in the very nature of things, being in the Chair, is now bound to be as fair to me as anybody else. But I said that I shall not take more time, and shall respect the wishes and the decisions of the esteemed Leader of this House. I will therefore close my speech, and close it with the earnest appeal that a matter of this seriousness, affecting the life of 300 million human beings should be considered as carefully and in as great a detail as may be humanly possible. There is only one formal thing which I must do now and that is to move

the amendments of which I had given notice three days ago. I beg to move :

(i) In part (a) of sub-clause (1) of clause 2, after "including" insert "Buddhists, Jains, Sikhs".

(ii) Omit part (b) of sub-clause (1) of clause 2.

After the first amendment, the clause will read as follows :

> "to all Hindus, that is to say, to all persons professing the Hindu religion in any of its forms or developments, including Buddhists, Jains, Sikhs, Virashaivas or Lingayats and member of the Brahmo, the Prarthana etc. etc."

I have moved this amendment for a simple reason. I hope and pray that I am a devout Hindu—I do not know if I can make that claim— and

Dr. Ambedkar: After such a speech who else can make that claim ?

Pandit Malaviya : And in the *Sankalpa* which we perform on all occasions, we say *Bauddhavatare*. If only I had the time, I would have tried to show that Buddhism, Jainism, Sikhism etc., while they have their own independent place and position, cannot, by any stretch of imagination, be treated as outside the pale of Hinduism. That does not mean that Hinduism lays any claim upon them or wishes in any way to restrict their complete independence and separate existence. It is not that. I am talking of the historical relation. They have all sprung out of it and have always formed part of it. Even in their religious books and procedure, even in their daily practices and daily life, there are any number of points of identical similarity which still persist. In this land there should be no need, therefore, to show them separately. My amendment does not make any difference in the result. The clause instead of coming as a separate clause comes within the previous one.

I have now only to make an appeal to the Members of this House to view this matter dispassionately. As I said, I do not deny that there are some people who feel that it will be good for society if such a law is enacted. My appeal to them is to proceed in the right manner about it. Sometime ago there was the Inter-caste Marriage Act which was passed, making inter-caste marriages among Arya Samajists valid. At that very time Dr. Bhagwan Dasji, that great learned scholar and devotee of Manu, brought before the then Central Assembly, a Bill

for the application of that clause to the whole body of Hindus. That Bill was not proceeded with, and after long and careful discussion it was dropped. Inter-caste marriages among Arya Samajists had gone on for some decades and they had carried on their movement for a long time and when the same had become common and the time came the measure was adopted. Let us take a leaf out of that book. If social reforms have to be made, nobody can object to them, if all those who are concerned should desire to have them. Let us, therefore, adopt that course, if for nothing else, so that what you do may not remain a mere dead letter on paper without any effect whatsoever.

It has also been pointed out that because now we are only taking up the parts of the Code relating to marriage and divorce, we should consider the feasibility of making an All-India All-Community Code towards that end. I am not one of those whose argument is that if monogamy is good and is to be enforced for the Hindus, it should necessarily apply to everybody. I do not say that at all. If monogamy is good, then I want it for the Hindus whether it is applied to anybody else or not. I do not want to argue that if the rule of monogamy is good for the Hindus it should not come to them unless it comes for everybody else. That is for the others to decide and if they do not want it, let them not have it but if it is good for the Hindus let it come to them. (*An hon. Member:* Is it good ?) It is good and I think it is the only good thing ; but that, however, does not mean that we should become blind to the requirements of a good thing in itself or that we should not take other relevant facts and aspects into consideration. So far as the principle of monogamy goes I have no objection to it, Nobody can have any objection to it, and I should be unhappy if anything except monogamy is found in practice anywhere...

Giani G. S. Musafir (Punjab) **:** There is no harm in asking for all a thing which is good in itself.

Pandit Malaviya : I do not say that it should not apply to every body ; it is for the Government and for the others to think about the others. They have now brought forward a restricted measure dealing with only marriage and divorce and if they think that it is right to apply it to the whole country, let them do it. That is another consideration which the Government should certainly take into account.

Shri Bhatt (Bombay) **:** But can we Members not ask the Government that we wish it should be made applicable to all ?

Pandit Malaviya: Certainly. Many people have said it.

Giani G. S. Musaflr: I think it is our duty to ask for it.

Pandit Malaviya: It is an important point which, I hope, the Government will consider.

Mr. Chairman : May I ask the hon. Member if he does not consider it desirable that we should practise it before we preach to the others and would we not then have a better or stronger case ?

Pandit Malaviya: Madam, I do not want to be so impertinent as to argue with the Chair. I will only close now by repeating my appeal that Members of this House will rise to the requirements of the position of responsibility which they occupy and will deal with this measure with that sense of gravity which it deserves, so that the immemorial and hoary traditions and foundations of the life of the Hindu community may not be tampered with or destroyed in a lighthearted or profane manner.

Shri Jajoo (Madhya Bharat)**:** Madam, the question be now put. (*Interruptions*).

Babu Ramnarayan Singh (Bihar)**:** I want to speak, Madam.

Mr. Chairman : I am not deciding the issue myself. I will leave it to the House. May I know what time the hon. Law Minister will take for his reply ?

Dr. Ambedkar: In view of the long speeches and the varied arguments advanced I would take about one and a quarter hours : possibly I might take even more, I do not know.

Chairman : If half an hour is taken for the amendments and the Law Minister is going to take one and a quarter hours for his reply we will have to conclude the debate by 11-30. Meanwhile if hon. Members are contented to confine their speeches to ten minutes, so that more hon. Members will be able to take part in the debate, I would like to conclude the debate precisely at 11-30.

Shri Naziruddin Ahmad (West Bengal)**:** It was decided that the amendments will not be put to the House at all.

Pandit Malaviya : The Deputy Speaker said that he would call upon the Law Minster at 11-30. But since we have the time, other Members may be given an opportunity to speak and if you do not think it necessary, the rule about ten minutes may not be laid down.

Mr. Chairman : The hon. Member need not jump to any conclusion, that because a lady is in the Chair, therefore, she may not be fair to the House. I would like to respect the religious susceptibilities of the House as much as anybody else. The Deputy Speaker has told the House that half an hour would be taken for the amendments. It is true that the Hon. Minister will be called upon to reply at 11-30. There is also another traditional procedure, namely the closure motion. In view of these two facts I would like the debate to be concluded by 11-30 and not later.

Shri V. J. Gupta (Madras) **:** What about the closure motion ?

Mr. Chairman : Now that the House has agreed that the Hon. Law Minister is to be called upon to reply to the debate at 11-30, there is no necessity for the motion. Agreement is always better than closure and its acceptance.

***Khwaja Inait Ullah** (Bihar) **:** (*English translation of the Urdu speech*) After deliberating long, I had decided not to say anything about this Bill. I stick to this very decision of not speaking on the matter even today, whether or not Hindu Code Bill be passed. Well, it is a different thing altogether...

An Hon. Member : Do speak.

Khwaja Inait Ullah : I should say, but I do not want to. It is a different thing that our brethren also should treat their sisters and daughters in the same way as I personally do. But, as the name 'Hindu Code Bill' is attached to this Bill and it is said that this legislation is being formulated particularly for those following the Hindu religion, I feel that from the viewpoint of Religion, it is not proper for me as a Muslim to interfere in the social law of Hindus wherein they want to make, or are making changes.

An Hon. Member : It should be done as a human being.

Khwaja Inait Ullah : Yes, I am doing it as a human being, but while being a human being, I am an Indian and a Muslim also. It is, therefore, that I want to give out my impressions just in accordance with my own religion. All the amendments at hand now have compelled me to express my views, There is an amendment that all those, *viz.,* Muslims, Christians and others, who have been exempted from the operation of this law, be also included.

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* P.D., Vol. XV, Part II, 20th September 1951, pp. 2926-29.

Shri J.R. Kapoor (Uttar Pradesh) **:** Only if they so desire.

Khwaja Inait Ullah : If they so desire, and also those who do not. Amendment No. 90 runs **:** "This Code applies to all Indians irrespective of their religion, caste or creed." Likewise, it is also in 91, 92 and 93. Some members—my hon. friend Dr. Syama Prasad Mookerjee, especially while moving this amendment said at the very outset that "secularism" was spreading like a disease in India. I regret to say that my friend, who is so very capable, thinks secularism, which is not a disease but a cure, to be a disease and wants that all the laws under it be made uniform, *i.e.,* the laws that are made for Hindus be also made applicable to the Muslims. This is quite correct if it (the law) is a law of economy, a political law, influencing somebody's character or the social life of India ; it should then definitely be one ; but secularism never means that such laws and personal laws be formulated as may be same for a Hindu and a Muslim. It means that the same will be said about Hindus as about Muslims, though it is not necessary so for a personal law as we have several laws which 'differ from those of Hindus. Just yesterday a Sikh colleague of mine, said that their laws also differed from those of Hindus. I do not intend discussing that aspect of the matter, but I only submit about its application to Muslims.

Our Hon. Minister Gadgil said in his speech yesterday that he wanted to change the social law of the Hindus, and for changing this he advanced the argument, which I think he did successfully, that since this law has been seeing changes', we are also entitled to change it. But he said furthermore that they would try in this way so that in the days to come the Muslims may be included. To him I would 'like to submit humbly that they can change that law only because of the fact that the Hindu Law, as he proved, has been seeing changes. But here I want to tell him that Muslim law has neither been changed for the last 1350 years, nor shall it be changed in the days to come, since Muslims believe that their laws for marriage and division of property are not made by them but made by God and as they appear in the Holy Quran so nobody on the surface of this earth has the right to change them.

Sardar B. S. Man (Punjab) **:** Do the Muslims of the Punjab abide by the law of *Shariat* or the law of Custom, which is entirely different from *Shariat* ?

Khwaja Inait Ullah : If somebody says that the Muslims of the Punjab drink, does it mean that all Muslims will be allowed to take

wine ? If any Musalman does something bad, does it mean that all others will be allowed to do the same ? If any Muslim does not abide by the law of Islam, I am not prepared to make him do so, forcibly. He is at liberty ; he may go against his conscience, against his religion and against his society. But so long as his actions are not harmful to society, neither myself nor any Government can interfere in it.

Sardar B. S. Man : According to Islamic law a thief should be buried alive, or his hands should be cut off. Is this law observed in any Islamic country ?

Khwaja Inait Ullah : My friend Mr. Man has raised a reasonable question. If he sees me outside, I shall explain to him in a convincing way. Here I do not want to take any more time of the House. In Islam there is a permission for some laws, as to what extent they can be brought in line with the laws of the country. I can say to what extent Islam has allowed its laws to be brought in line with the laws of the country, and also the limit which should not be transgressed. I would like to submit to him that, if a thief in an Islamic country is not punished according to the Islamic law, there is a permission that we can change it; but some laws are such that we cannot change. I would, therefore, like to submit to these friends...

Most of my time was taken by my friends in their interruptions. I should also get that amount of time.

Mr. Chairman : That will not be made good.

Khwaja Inait Ullah : I was submitting that it is not a right course for this House to make for Muslims as well the law which to any extent goes against their religious commandments. This Bill can be passed with majority, but I do want to submit humbly that nobody perforce can be asked to follow a certain law. Majority should not compel us. I want that Muslims should not be compelled to agree to this law. Nobody will refuse to agree to the other laws of the majority.

Some of my friends said that all those who reside in India are Hindus. I take pride in calling myself a Hindu. I, too, say that all the inhabitants of India are Hindus. I am positively a political Hindu. Not from today but for the last twenty to twenty-five years I have been calling myself a political Hindu. Here I also want to say that apart from being a Hindu politically, I am and shall continue to be a Muslim by religion.

An Hon. Member : What are you racially ?

Khwaja Inait Ullah : I am Hindu. My forefathers were Brahmins and Brahmin blood is flowing in my veins—that pure blood which has not been mixed up so far.

Well, the sum and substance of my speech is that no such law as is against the Commandments of our religion and of God, be thrust on us, but as an Indian I shall have no objections to agree to any social or economic legislations.

***Kumari Padmaja Naidu** (Hyderabad) **:** I welcome this opportunity of expressing my unqualified support for the Bill. I would like at the very outset to congratulate the Government on its courage in bringing forward this measure in spite of the widespread and fierce hostility towards it that has been so sedulously instigated by the forces of reaction that still, alas ! today dominate certain sections of this country. The author of this Bill does not stand in need of any words of praise from me. For, with this measure, whether this House chooses to accept or reject it, Dr. Ambedkar takes his place in the long line of social legislators who throughout the ages have laboured diligently, always in the face of opposition, often in the face of persecution, to eradicate social injustice and to enhance the sum total of human happiness.

For many years men and women throughout the length and breadth of this vast country have eagerly awaited the enactment of this Bill. They have watched with increasing alarm its decline from its original forcefulness because it was considered expedient for compromise after compromise to be made in order to win the maximum support for it. But even in its present and mutilated form this Bill is only comprehensive measure that has ever been shaped for the liberation of Hindu women from the age-old bondage of the unequal laws to which they are still subject. I do not ignore, neither do I make the mistake of over-estimating, the volume of protest from the poor deluded women whose ignorance and superstition has been exploited with subtle insidiousness by the vested interests of bigotry determined to defend their last bastions to the bitter end. What a tragic spectacle it is that we witness in India today of Hindu women allowing themselves to be hypnotised into denouncing the very measure that has been so carefully devised to secure for them the equality of laws to which they are entitled under the Constitution. But today it is neither as a woman nor as a Hindu that I plead for support to this Bill. I speak as an Indian, passionately jealous of the honour of India which is pledged not only to this measure but to every other form of social legislation necessary to redress grievous wrongs and to alleviate human

*P.D. Vol. XV, Part II, 20th September 1951, pp. 2929-33.

suffering arising out of unjust laws. So long as any section of the people of this country continue to be debarred, on the grounds of sex or caste or creed, from the full enjoyment of equal rights, so long will our Constitution continue to be a hollow mockery. And what of the freedom for which a long and gallant fight was waged, a fight that was shared by thousands of sensitive Hindu women who, for the first time in their lives, left the precious sanctuary of their sheltering homes. They came to the battlefield and stood besides their brothers and faced jail and lathi charges and often enough, humiliation, worse than death. If today those thousands of Hindu women who fought for the independence of India are to be denied their just rights, then our hard-earned freedom is no more than a handful of dust.

I have studied with some care the numerous speeches and statements that have been made by various Hon. Members of this House, far better qualified than I can ever aspire to be, to judge the technical legal implications of this Bill. I must confess that I have been a little surprised to find that with all their forensic skill and expert dialectic they have not been able to forge many weapons with which to bludgeon this Bill and none of them with sufficient validity of sanction to be lethal. We have all grown a little tired of having it proclaimed in every language, in every conceivable permutation and combination of phraseology of bearing it shouted day after day from the house stops and the market place and highways and by-lanes that this Bill threatens to destroy the very stuff and texture of the fabric of Hindu society. In a statement that unfortunately received nationwide publicity in America, a very distinguished hon. Member of this House has declared that this Bill is an attack on an ancient and gentle religion that has survived for five thousnad years. He announced that because now the very structure of Hindu society was threatened, he intended "to fight and fight and fight against it". It passes my comprehension that anybody who is proud of calling himself a Hindu can talk or even think in such terms without realsing that he is dishonouring the very religion that he claims to defend, as though any of the great religions of the world that have survived through centuries of human history could be endangered by social legislation or by any speeches or writings or other form of human endeavour. If there is any religion in the world that can be imperilled by these trivial things, then it deserves to be allowed to perish.

Speaking three days ago on the floor of this House, Dr. Syama Prasad Mookerjee described in very moving terms the immemorial beauty and wisdom of the teachings of Hinduism. He spoke of its comparable flexibility—I think he used the word adaptability—that had enabled Hindu philosophy to survive through centuries of foreign invasion and alien domination resisting wave after wave of the fiercest political and religious and economic onslaught. Surely, for all time to come Dr. Mookerjee has given the final answer to the futile and foolish argument that any social legislation intended to render justice to the under-privileged can imperil an ancient religion based on the loftiest conceptions of the sanctity and indivisible unity of all life.

Another serious charge which is sought to be levelled against this Bill is that by making legal provisions for divorce it will open wide the flood gates of immorality. It has been proved conclusively by speaker after speaker that there was provision for divorce even in ancient times. We are all aware that more than 75 per cent, of the Hindus in this country have always had the benefit of an easy and simple and effective system of divorce. So, this argument seems to lack any real validity and I think it has been employed merely to indulge in what is fast becoming a national pastime in this country that of disparaging the West and western ways. May I be permitted to express my regret at the growing 325 PSD. tendency in this country to make sweeping generalisations about the morals and manners of other races in other countries ? This tendency is all the more deplorable because only too often hasty judgement is founded on insufficient knowledge, usually gleaned from the sensational publicity given to the doings of a handful of neurotics and decadents such as are to be found in every country of the world. Certainly, they are to be found in every big city of India. Dr. Mookerjee rightly drew our attention to a grave problem that is today troubling the psychologists of the West and that is the growing prevalence of psychoses corresponding to rise in the rate of divorce. But may I respectfully suggest to Dr. Mookerjee that if he would pause and ponder over this problem and analyse it carefully he will find that the psychoses are not the result but the root cause of much of the divorce in the West. In many western countries, particularly those that have been ravaged by the last two great World Wars, the entire equilibrium of life has been seriously disturbed. Acute economic distress, and a morbid obsession with the atom bomb and the imminence of another World War—all these cause

tensions that lead to both physical and mental insecurity. These inevitably result in a certain emotional instability which must of necessity have its repercussions on family life. But the fact remains that whatever may be the abnormal conditions in some countries, whatever may be the outward variations of morals and manners in different races, fundamentally the human race is the same everywhere and even today in every Country of the world the family unit continues to be the very core of human society. Normally balanced men and women value a certain grace and dignity in human relationships and they do not resort to divorce light-heartedly. It is only when they are driven to it as the only ultimate solution of a situation that has become intolerable that they resort to divorce. And if this be true of men, it is I think, a hundralfold more true of women. Because in this changing and unstable world, devastated by wars and revolutions and famines, where all standards of ethical values are wavering, where all national and international codes of morality are vacillating, there still remains one thing changeless and unchanging—one thing that is still today what it was at the dawn of creation and what it will be at the end of time. And that is woman's inherent consciousness of the grave responsibility that rests on her through her high destiny as the creator and guardian of the sacred flame of life. And perhaps in no other country of the world has that consciousness flowered in such perfection of beauty as in this ancient land of ours whose annals are rich with literature and legend inspired by the high ideals of our women. So, it is a little unworthy of us that we should talk lightly and flippantly about the capacity of the Indian woman to wear her freedom with dignity. To do so is to confess to a sad lack of understanding of the very genius of our race.

Some resentment has been expressed by hon. Members who have objected to the theory that this Bill should be passed merely bcause the eyes of foreign countries are upon us. I am in entire agreement with them. However much we may value the goodwill of other countries we cannot and will not shape our lives and legislation to suit anybody else's standards. But there is a far more valid and urgent reason for the passing of this Bill, and that is that our national integrity, our self-respect as people are at stake. Many of the Hon. Members of this House had the high privilege of drafting the Constitution of Free India. Upon them there rests the heavy responsibility of redeeming the pledges that are embodied in it and so the question of accepting or rejecting this Bill is the simple one of whether we affirm or deny the very fundamental principles on which our Constitution is based.

***Shri Brajeshwar Prasad** (Bihar) **:** I rise to offer my unqualified support to clause 2 of the Hindu Code Bill. While doing so, I would like to point out that if this clause is passed it will mean the perpetuation of a great wrong in Hindu society—the *immoral* distinction between legitimate and illegitimate children. The clause says that it applies to any child, legitimate or illegitimate. I know that it is not possible for the State to go to the extent to which I want the Government of India to go. I want the State to abolish the distinction between legitimate and illegitimate children. The stigma of illegitimacy dwarfs the personality of the child. It is inhuman and barbarous that millions of people in this country should suffer from psychological and social handicaps thorughout their lives for no fault of their own. It may be urged that the institution of marriage will be weakened if the distinction between legitimate and illegitimate children is obliterated. I submit that the Heavens will not fall if the institutuon of marriage is weakened in any way whatsoever.

Pandit Maitra (West Bengal) **:** Does the hon. Member want abolition of marriage ?

An hon. Member : No week-end marriage.

Shri Brajeshwar Prasad : The good that is done to society by marriage is great, but the harm that is done to society by illegitimacy is also very great and serious. I think that it is neither possible nor desirable for the State to strengthen the foundations of a discredited social order. I can very well conceive of a society where there is no marriage. The Platonic ideal of a community of wives and children is as valid a concept today as it was during the days of Plato. If we are sincere about our professions of secularism if we have any faith in secularism—let us be frank with ourselves—we must try to emancipate the institutions of property and marriage from the bondage of religion. It is true that the secular ideal has not been realised in any part of the world.

It is not secularism but Christianity that guides the institutions of marriage and property both in America and Europe. I am of opinion that the institution of marriage will not be weakened in any way if the distinction between legitimate and illegitimate children is obliterated ...

Mr. Chairman : I think the hon. Member may reserve these views to the marriage Chapter.

* P.D., Vol. XV, Part II, 20th September 1951, pp. 2933-35.

Shri Brajeshwar Prasad : I am not expressing my views on the marriage Chapter. I am only visualising certain objections that may be raised with regard to my suggeston that the distinction between legitimate and illegitimate children should be obliterated.

Shri T. Hussain (Bihar) **:** For the sake of information, may I know if my hon. friend is against legal marriage or not ?

Shri Brajeshwar Prasad : If I get an opportunity to speak on the marriage clauses, I am prepared to make the distinction clear. I do not think that the institution of marriage will be weakened if the distinction between legitimate and illegitimate children is obliterated. For, what is the basis of marriage ? Why is the institution of marriage surviving ? It is old age—psychlogical enfeeblement of the mind and heart—which is responsible for the survival of the institution of marriage. It is not for the pleasures of sex ; it is not for the procreation of children that the institution of marriage exists in society. For, both these objectives can be achieved outside the bonds of matrimony. I am opposed to illegitimacy because it is an important cause of abortion, destitution, prostitution, delinquency, further illegitimacy, premature birth, still-birth, crimes, infanticide, veneral disease and cruelty to women and children.

I am not prepared to give my moral support to an article which tends to perpetuate the gravest crime that is done in our society.

***Shri B. Das** (Orissa) **:** At the outset I wish to congratulate Dr. Ambedkar on behalf of myself and all those reformists who are Members of this House and reformists outside for the bold step he has taken to codify the Hindu Law. He has shown great forbearance. He has been characterised as the Manu of our age. But he has been following the precepts of Buddha and showing greater forbearance in agreeing that only the Chapters relating to marriage and divorce be taken for the time being. I support the marriage and divorce clauses of this Code.

Great speeches have been made on the floor of the House. On the side of the Bill my hon. Friend Shri Gadgil made an excellent speech ; so also Pandit Kunzru. On the opposite side the speeches that have to be taken notice of are the ones of Dr. Syama Prasad Mookerjee, Sardar Man and my young friend Pandit Govind Malaviya.

Dr. Mookerjee perhaps forgot the fact that the intermediate stage in the line of reformists from Buddha to Gandhiji was held by great

P.D., Vol. XV, Part II, 20th September 1951, pp. 2935-37.

Bengalis like Raja Ram Mohan Roy, Keshab Chander Sen and Ramakrishna Paramahamsa. It is no good for the Bengali leader to cry a halt to these reforms. That is not the rigth way. Hinduism has been a progressive religion. The various *Smritis* and *Mimamsa,* are but a codification of Hindu law. As pointed out by my friend Shrimati Padmaja Naidu, who in her ineivitable poetic way paid happy compliments to Dr. Ambedkar, our Constitution has given certain rights to women of India and Dr. Ambedkar is doing nothing more than giving effect to the intentions of the Constitution.

My hon. friend Sardar Man belongs to a great nation, the fighting nation that has saved and maintained the freedom of India. He however struck a discordant note by saying that the Sikhs are not Hindus. I had the privilege of working with many Sikh leaders. Let us, therefore, not harp on our differences on the Hindu Code Bill. But I may say that if the Sikh opinion is sounded, now or hereafter, they would never like to remain stagnant. If and when such opinions are taken, we will find that Sikh women are for progress and advance.

As regards Pandit Govind Malaviya, I have great affection for him, because I was a lieutenant of his revered and august father, the late Pandit Madan Mohan Malaviya. My memory goes back to the thirties when we were passing the Child Marriage Restraint Act on the floor of the House. The great seer that Pandit Madan Mohan Malaviya was, he saw the signs of the times and although he was sad that this House enacted the Child Marriage Restraint Act known as the Sarda Act, he never opposed it in such violent language and in such words of thunder as my young friend Pandit Govind Malaviya did.

Pandit Malaviya : Because these things were not proposed then.

Shri B. Das : True. But I was only quoting my own leader and his august father that he was for advancement and progress. That is all that I wanted to submit.

Shir A. C. Shukla (Madhya Pradesh) **:** For those who are weak, you cannot follow the highest ideal?

Shri B. Das : Those who belong to the orthodox and conservative school in India have helped us in passing the Constitution. They have helped us, though at times a little weakly, in the battle for freedom that we fought for so many years. Since 1947 we are all going forward. If "go forward" is our motto now, then nothing will stop the .advancement and progress of India or any section of our community, be it Hindu, Muslim or any other. Therefore, instead of showing that

strong difference with us they should settle down to the view that India must progress as a nation, and if we are the first nation in Asia and are going to be the first nation of the world, they will help us to advance and progress and not deter us in any way.

I will conclude my speech by reminding the conservative friends in this House that this advancement of the Hindu Code and marriage laws is not a new thing. We have forgotten recent reformers like Sir Hari Singh Gour or Dr. M. R. Jayakar who have made specific indents into the old traditions and customs of Hindu laws, particularly marriage laws. So it is no use our saying that Dr. Ambedkar threw bombshell and a surprise at our consevative friends. We are progressing and Dr. Ambedkar has done one thing. He has faced the whole problem and not attempted piece-meal legislation. Yet to concede to our conservative friends the House is almost agreed to pass only one part of the Hindu Code Bill.

I support the measure.

***Dr. Ambedkar :** I think it is an extra-ordinary event in the history of this Parliament and, I believe, in the history of die past Legislative Assemblies that we should have been engaged in the discussion of a single clause for not less than seven days. I do not think there is any parallel to this. But in view of the fact that many Members have raised the point that this Bill touches part of their conscience, our Prime Minister in a righteous spirit has allowed them and also the Chair, the longest time that any Member might want to consume in order to express his mind on the subject, (*An Hon. Member* : Wrong). I have no complaint against that because it is much better that we should give to every individual, whether he speaks for or against, the fullest opportunity rather than create a feeling in the Members who do not see eye to eye with Government—to go home with a feeling—that they have been choked. I hope that, notwithstanding the fact that seven precious days have been spent in the discussion of this clause, when this clause is put to vote no Member will have a complaint on any such ground at all.

Babu Ramnarayan Singh : I have.

Dr. Ambedkar : The debate on this clause has as a matter of fact taken place in two parts. A part of the debate took place in the last session of Parliament, and this is a sort of a supplementary debate to the original debate. I am sorry to say that notwithstanding the fact

*P.D., Vol. XV, Part II, 20th September 1951, pp. 2937-59.

that I have paid the closest possible attention to the speeches which have been delivered in what I call the supplementary debate it has not been possible for me to find out what new point has been raised in the course of this supplementary debate which was not raised in the original debate. The only new factor which I have discovered in the course of this supplementary debate is the speech made by my friend Dr. Syama Prasad Mookerjee and another by our friend Mr. Man. Beyond that there has been nothing more than an expansive debate on points which were probably touched upon in the original debate.

With regard to Dr. Syama Prasad Mookerjee I have a feeling that it is not necessary to take him seriously at all. He has, it seems to me, no mind of his own.

Babu Ramnarayan Singh : have you ?

Dr. Ambedkar : I have, most certainly.

He was, as hon. Members of the House will know, a member of this Government practically for four years, during which this Bill has been placed before this House by the Government in office. I have not any recollection whatsoever, during the course of these four years when Dr. Syama Prasad Mookerjee was a member of the Government and when the Government had already sponsored this bill and put it before the House and it was in bits being discussed by Members of the House, that there was any single occasion inside the Cabinet when Dr. Mookerjee to my knowledge expressed the slightest difference of opinion on this Bill as against the Government.

Shri Syamnandan Sahaya (Bihar) **:** Is it open for the Hon. Minister to disclose what happened there or what did not happen there ?

Dr. Ambedkar : I am saying so. I remember also that in the earlier part, there were many party meetings held to discuss what should be done with regard to this particular Bill. I have a very clear recollection that in most of the meetings that were held, Dr. Syama Prasad Mookerjee was present and even then I do not recollect a single occasion when Dr. Syama Prasad Mookerjee—in the party which is an informal thing and where members of the Government are free to express their personal opinions, which they may not express outside on account of the joint responsibility—ever said anything against this Bill. It is, therefore, as I said, a matter of moods. (An *hon. Member* : Conviction.) Not at all. Either a man has a conviction or he has no conviction. That is my point. (*An Hon. Member* : He has resigned from the Cabinet.) I am sorry to say that he is to my mind

a very tragic case, a tragic case of a sober, good well-behaved man, who having joined the company of the drunkards rolls from side to side and has become an inebriate himself.

An Hon. Member : A good comparison.

Dr. Ambedkar : Secondly, I have been noticing the performances of Dr. Syama Prasad Mookerjee ever since he has left the Government and has become a member of the Opposition, in fact almost a leading member of the Opposition and I have noticed that he has developed the unfortunate mentality which sometimes Leaders of Opposition develop, namely to oppose everything that comes from Government. In view of that, when a person is not prepared to discuss matters on merits but wants to oppose for the sake of opposition, it is, I think, hardly worth one's while to waste one's time and breath in order to meet his argument. As I said, that is the reason why I do not propose to take what Dr. Syama Prasad Mookerjee has said in a very serious manner.

I, therefore, propose to deal only with the general points that have been raised by various speakers against clause 2 and generally against the Bill. The first point which perhaps is a new point is this, that there is really no necessity for the sort of Bill that we had brought forward. It is contended that the Hindu Society is a very ancient society, much more ancient than the Roman or the Greek Society and perhaps as old as the Egyptian Society. It has been contended that today all that we know about the Roman Society or the Greek Society or the Egyptian Society is their history ; they no longer exist; they have disappeared. The only ancient society which has survived is the Hindu Society and if the Hindu Society has survived while all other ancient societies have disappeared, then its laws, its social structure, its principles must be good. Otherwise, it could not have survived.

This is not the first time that I have heard this argument. I have heard this argument a long time ago and not only heard it from men in the streets, but men who have been occupying most eminent positions such as those who are called the historians of India. This is an argument which had been presented all the time by those who believe in the sanctity of the ancient structure of this society. I must very frankly say that I too have been a student of India's history, although I cannot claim that I am as good a student as many others who adorn the chairs of history in many of our universities. I believe, I have a sufficient understanding of the Indian history and the point that I would like

to raise is this. Is survival enough or whether it is necessary for us to consider whether the plane on which we survived is more important than the mere survival itself ? A man who mixes with his opponent in battle vanquishes him, obtains victory on him also survives. A man who meets his opponent, runs away from him like a coward and he also survives. Is the survival of the victor of the same value, of the same character as the survival of a coward ? I think we ought to consider this question on what plane has the Hindu society survived. (*An Hon. member* : Survival of the fittest). Yes, but on circumstanes. Here my friends will forgive me saying so, when I examine the history of India, we have survived, yes, but we have survived as people who have been from time to time subjugated, vanquished and enslaved. (*An Hon. Member* : Who has not been ?) Yes. My. Hon. friend asks me the question "who has not been ?" There are many countries and many communities who have lost in battle, who have been enslaved but I would like to remind my Hon. friend that if he studies the history of all vanquished people, he will realise that some day, at some time, the vanquished people on other parts of the world have tried to achieve their liberty. I have not seen any such thing in this country. Therefore, the argument that merely because we have survived when other countries have lost and gone into history is one which does not convince me of the goodness or the soundness of the social structure under which we have been living. It has been said that the Hindu society has been a very progressive society. It was an argument which my Hon. friend, Dr. Syama Prasad Mookerjee expatiated at great length and he pointed out that so great a radical reformer like the Buddha was accepted by the Hindu society as a great figure and not only they accepted him as a great figure but they adopted and accepted some of the principles which he advocated in his life.

It is no doubt one of the great qualities of Hindu society to absorb some things from those who oppose it. But, my point is this. Has the Hindu society changed its structure as a result of the absorption of the doctrine of their opponents ? Let me develop the position with regard to the Buddha. What did he preach ? He preached equality. He was the greatest opponent of *chatur varna* ; he was the greatest opponent of belief in the *Vedas* because he believed in reason and . did not believe in the infallibility of any book. He believed in *ahimsa,* the Brahmanic society accepted some things. What did they accept ? They accepted the most innocuous dogma of *ahimsa.* Nobody was

prepared to accept and they did not accept—they opposed—his belief in equality. Notwithstanding the fact that it has abosrbed bits and bits of something which is of an innocuous character it did not touch the main thing on which they were all united namely to maintain *chatur varna*. That is the reason why notwithstanding this assimilative and adaptive quality, they have remained what they have always been. We have for long number of years waited to see whether Hindu society would, as a result of the absorption of the doctrines preached by great men who have been born in this country or great men born outside the country, change its social structure. Most of us, speaking for myself, have been completely disappointed. Whatever else Hindu society may adopt, it will never give up its social structure for the enslavement of the *Sudra* and the enslavement of women. It is for this reason that law must now come to their rescue in order that society may move on.

Pandit Malaviya: Move on to what even Buddha could not do.

Dr. Ambedkar : People have been saying that Hindu society has been changing. The question that I want to ask is this. Is this change in the direction of progress or it is a change in the other direction ? Any one who has studied the history of Arya society from the very beginning to the present day will have to admit, if he is a fair student of history, that whatever change has taken place, it has been a deterioration. There was, as everybody knows, no caste system among the Aryans. There may have been some kind of *varna* system; but the *varna* system never came in the way of inter-marriages. You can find many number of cases of Brahmans marrying untouchable women. *Kashatriyas* marrying *sudras* and *sudras* marrying upper class women.

Pandit Malaviya: Which were the instances ?

Dr. Ambedkar: I can give many instances if you will come to my room. I have got them.

Pandit Malaviya : Why not now ?

Dr. Ambedkar : But, the Aryans never had a hide-bound social system of class division that was later introduced. Nobody can deny that has been a subsequent change.

You examine the position of Hindu women. Our Hon. friend Dr. Maitra. I think, who was a member of the Rau Committee, for the purpose of a thesis for a Doctorate degree of the Calcutta University wrote a book called *The Position of Women in the Hindu Shastras*.

Any one who reads this book will find that women had an equal share in property with men. She was entitled to hold property. Even in Manu you find this statement. Today, what do we find as a result of the changes that have taken place in the Hindu society? Women are completely deprived of property. Do you call this change progress or do you call it deterioration ? Therefore, it is time, I think that we consider this question in a different light, the point on which I wish to proceed is the fact that unless law makes society move, this 1society will not move.

Another argument which was presented to the House was this : that we have no policy ; we have no principle ; we have nothing on which we are proceeding; the only thing on which we are proceeding is a kind of imitation of the western nations. It is said that because the western nations have monogamy, because the western nations have divorce or because the Chinese are trying to do something along that direction, we, in order to put ourselves in the good books of the world at large, are trying to do something along the lines which they have been doing. They have said that our ideal should be, what ? Somebody said Ram ; somebody said Dasaratha; somebody said Krishna ;somebody said this, that and the other. I do not wish to comment upon any of the ideals which have been presented to the House, and I do not ...

Shri Syamnandan Sahaya : You will be well advised not to do so.

Mr. Chairman : Order, order.

Dr. Ambedkar : My ideals are derived from the Constitution that we have laid down. The preamble of the Constitution speaks of liberty, equality and fraternity. We are therefore bound to examine every social institution that exists in the country and see whether it satisfies the principles laid down in the Constitution. Now, so far as your sacramental marriage is concerned, forgive me, I am quite convinced in my own mind that no man who examines mat institution in a fair, honest and liberal spirit can come to the conclusion that our sacramental marriage satisfies either the ideal of liberty or of equality. What is the sacramental ideal of marriage ? Sacramental ideal of marriage described in as few words as possible, is polygamy for the man and perpetual slavery for the woman.

An Hon. Member : Wonderful description.

Dr. Ambedkar : That is so because under no circumstances can a woman get her liberty from her husband, however bad he may be,

however undesirable a person he may be. I want to put one question to the House. Are we for slavery or are we for free labour ? What are we for ? Now, in all economic matters, we have all along been insisting that there must be free labour. Slavery we shall not tolerate.

An hon. Member : Is this slavery ?

Dr. Ambedkar : Now, what is the difference between slavery and free labour ? I think if you examine it carefully, you will come to the conclusion that free labour means the ability and the capacity to break the contract when the necessity for breaking the contract arises.

Shri R. K. Chaudhari (Assam) **:** And is this a contract ?

Dr. Ambedkar : Yes, I shall come to that.

Therefore, if the woman under the sacramental marriage is to get her freedom, then circumscribe as you may, the conditions for her getting her freedom, and as I said, I shall be quite prepared to consider any proposal that may be made by any Member from any side of the House to narrow down the conditions of divorce that have been prescribed in the Bill as it stands. But if you mean to give liberty— and you cannot deny that liberty in view of the fact that you have placed it in your Constitution and praised the Constitution which guarantees liberty and equality to every citizen—then you cannot allow this institution to stand as it is. That is the reason why we are proceeding with this Bill and not because we want to imitate any other people or we want to go in for our ancient ideals which are to my judgement, most archaic and impossible for anybody to practice.

Dr. C. D. Pande (Uttar Pradesh) **:** We are ready to support the Bill, but we do not want these invectives. How far the Hon. Minister is justified in dealing with this subject and resorting to such invectives. I do not know ?

An hon. Member : Why vilify the Hindu religion ?

Dr. Ambedkar : Now, I come to the specific amendments that have been tabled by various Members to clause 2.

Shri Krishnanand Rai (Uttar Pradesh) **:** The House is for divorce and monogamy, but not for this kind of abuse.

Dr. C. D. Pande : We are for these provisions, but we do not want these abuses and invectives.

Dr. Ambedkar : If you had said that before, I would not have made this speech at all and not spent seven days over this Bill.

The Prime Minister (Shri Jawaharlal Nehru) : I am rather surprised at the tender skin of some of the hon. Members. We have had to put up with a series of speeches and things have been said

which have hurt us very much. If that has not been objected to, then I think it is expected that those who disagree with Dr. Ambedkar should[1] not object now.

Pandit Maitra : We have been listening with rapt attention to Dr. Ambedkar, but what we do not want is these invectives and reflections on some of the best ideals which we cherish. The provisions can be defended without injuring the religious susceptibilities of Members.

Mr. Chairman : I do not think there is any need for excitement. As the Prime Minister has said, many Hon. Members who had spoken had said so many things, and naturally when the Hon. Law Minister is replying, he has to make certain statements, and he deserves to be heard.

Dr. Ambedkar : Now, I come to the specific amendments that have been tabled to this clause. As you will observe (*Interruptions*).

Mr. Chairman : I do not want side conversations to go on across the benches.

Dr. Ambedkar : There is one general amdendment, that this Bill should be made optional. This amendment has taken various shapes and forms. In one shape it means that the Hindus to which this Bill is made applicable, should be allowed option either to have it applied to them or not be applied to them. Another shape in which the same amendment has come is that if any other people, such as for instance the Muslims, to whom this Bill does not apply, desire that the Bill should be applied to them, there should be provision in it to that effect. The other shape which this amendment takes is that it should be left to the States to apply or not to apply this Bill. Now, I will deal with the general amendment in all the three shapes in which it has been presented to us.

With regard to the first aspect of the matter, that its application even to the Hindus should be optional. Last time, the Deputy Speaker came to the rescue of many Members by pointing out that there was a precedent for a thing like this. I think hon. Members will remember that he referred to the *Shariat* Act and the Khoja Momin or Khoja Act, and therefore, he said there was no danger or anything strange in making a similar provision so far as the application of the Bill to the Hindus is concerned. Since that time, I have spent much time in examining whether the statment made by the Hon. Deputy Speaker—I am sorry he is not here—is true in fact. And I find that this has been a sort of lapse of memory on his part.

Shri Syamnandan Sahaya : Are you criticising the Deputy Speaker's ruling or are you criticising the remarks of Shri Ananthasayanam Ayyangar ?

Dr. Ambedkar : I am dealing with the statement of Shri Ananthasayanam Ayyangar. I am glad the hon. Member is so technical today.

Shri Syamanandan Sahaya : I am, so all the time. But the Hon. Minister is taking advantage of his position as a member of the Cabinet.

Dr. Ambedkar : I find that in the course of the debate on the Bill which took place in the year 1937, my Hon. friend Shri Ananthasayanam Ayyangar himself raised this question about the applicability of the Bill and I find that his speech is spread over practically to two pages here. As I said, he raised this very question whether that Bill was going to take away the option that was given to the Khojas. He put this question direct to Mr. Jinnah, because as the House will remember, the *Shariat* Bill was not a Government Bill. It was a private Member's Bill which was brought in and practically Mr. Jinnah was in charge of that Bill. And Mr. Jinnah had given an absolutely categorical answer to Shri Aanthasayanam Ayyangar that not only was that Bill complusory, but even the option given to the Khojas would be taken away by that Bill.

Pandit Maitra : Why not inform the House of the background of that Bill also ? I was there when the Bill was being discussed and I know that Mr. Jinnah wanted the Muslims not to be governed by any Hindu law at all.

Dr. Ambedkar : I can give the book, it is here, and anyone who wants to read the whole debate can do so. I cannot spend any more time on this because I have to deal with the amendments.

Shri J. R. Kapoor : That debate is of which year ?

Dr. Ambedkar : 1937. The only difficulty that ...

Shri Bhatt : Was that *Shariat* Bill passed, or referred to a Select Committee or dropped ?

Dr. Ambedkar : The Bill was passed and it was decided that no option was to be given.

The only difficulty that arose was that when they introduced clause 3, it was introduced in the House without the assistance of the draftsman and what happened was that they introduced the word "Act" instead of referring to it as "clause". That defect was cured by my friend Mr. Kazmi, who brought in a Bill in 1943 and substituted the word

"clause" for the word "Act". Therefore, the ground that there is a precedent, I submit, falls through.

[12 Noon]

Shri J. R. Kapoor : May I bring to the notice of the Law Minister that this Act of 1937, I suppose, repeals the previous Kutchi Memon Act, according to which option was given and what the Deputy Speaker as a Member of this House brought to notice was that there was, in fact, in force for a number of years a legislation which gave option.

Dr. Ambedkar : That was before, that was taken away.

Shri J. R. Kapoor : All the same for a number of years that sort of legislation did hold good. That was the point made by him.

Dr. Ambedkar : We are discussing the question whether the 1937 Act gave an option. That is the point.

Shri J. R. Kapoor : Mr. Ayyangar's point was that the 1923 Act gave the option.

Dr. Ambedkar : I am sorry I cannot give way.

Mr. Chairman : If there is any inconsistency in the speech hon. Members may bring it up at a later stage, when there will be a good deal of opportunity.

Shri Amolakh Chand : What is the latest position now ?

Dr. Ambedkar : No option.

Shri Naziruddin Ahmad : There was option for a long time.

Dr. Ambedkar : For Cutchies.

I will take the proposal to grant option. Apart from precedents what would be the consequences ? Suppose we adopt this proposal of giving option. Hon. Members will remember that there are certain States like Bombay and Madras, where the legislature has enacted laws regulating marriage and divorce. In those two Acts there is no option whatsoever given. They are compulsory on every body who resides or is domiciled there. If we adopt this law, it being a central law, it will supersede the laws of the provincial legislature in so far as it is inconsistent with those laws, by reason of the fact that this is legislation in the concurrent field. The one consequence will be that whatever progress the States of Bombay and Madras have achieved in the matter of monogamy and divorce will be completely destroyed.

Shri Gautam (Uttar Pradesh) **:** What will be the position of the Muslims in Bombay ?

Dr. Ambedkar : It applies to the Hindus only. I will shortly come to the Muslims, do not worry. I will not run away from the point. Therefore, the one consequence will be that the two States which have achieved a certain degree of social advancement will be set back.

Shir R. J. Kapoor : Keep it alive.

Dr. Ambedkar : How can you ?

Shri J. R. Kapoor : By saying "Save and notwithstanding anything contained herein this Act will ..."

Dr. Ambedkar : That will be fantastic legislation just to satisfy my hon. Friend. So this consequence has also to be taken into consideration.

What is the position today ? Certain States have laws relating to monogamy and divorce. Certain other States have no such legislation. The one thing that has to be remembered is that under our Constitution no State has got extra-territorial jursidiction. The law applies either to the resident when he is resident there or to a person who is domiciled. If a person marries in Bombay he shall have to marry under that State's Act. If he wants to divorce his wife on grounds which are not permitted by the Bombay law, he can easily go to U.P., where no such law exists, divorce his wife and marry again, thereby altogether destroying the validity of the Bombay legislation. It is something like prohibition. An isolated State cannot have prohibition. If it is to be there it must be all through, so that no man can go to another State and break the law of the State in which he resides normally. Therefore, in this case either there should be no legislation and leave things as they are or if you want legislation, it must be an all India legislation, so that no man or woman would be able to break the law.

The third difficulty is that although they have tabled amendments to the effect that option should be given, they have not indicated the nature of that option. Are women to have the right to make an option or not ? If the father makes an option that this law applies to him, does his option apply to his son and progeny ? If the husband makes an option under this law, will it apply to his wife by reason of the fact that she is his wife ? If the husband does not apply it to himself, will the wife be free to do so ?

Shri Bharati (Madras) **:** All confussion.

Dr. Ambedkar : It would be utter confussion, if such an amendment was adopted.

Shri J. R. Kapoor : What does the proviso to clause 2 say ?

Dr. Ambedkar : I am afraid I cannot add any such proviso. Our law may be deformed in some way but it should not altogether be unaesthetic ; It must be good to look at.

I now come to the other aspect of the argument, namely of allowing other people to have the law apply to them. I should not have dealt with it but for that fact that Dr. Mookerjee referred to the fact that this law was not made applicable to Muslims. He charged the Government with either want of sincerity or want of courage that they can never bring such a legislation so far as the Muslim community is concerned. With regard to this matter, Members have said that we are enacting a piece of legislation which is discriminatory for the simple reason that the Hindus today have the right to marry more than one woman and the Muslims have a right to marry four but that we are taking away the right of the Hindu leaving the right of the Muslim unaffected. That they say, is discrimanatory. With all respect I would invite the attention of Members to article 25 of the Constitution, which says:

> "Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess practise and propagate religion."

I want to draw the attention of Members to the words "the right freely to profess and practise their religion". I am not concerned for the moment with propagation of religion.

Last time when I spoke on this Bill, I made it quite clear that in our country, fortunately or unfortunately, the profession of a particular religion carries with it the personal law of the person. You cannot get away from that position. Similarly, when you say to a Muslim that under the Constitution he is free to profess and practise his religion, we are practically giving him the right to practise his personal law. In view of the fact that the Constitution allows different communities to practise their religion and incidentally also to have their personal law, there is nothing discriminatory in allowing one community to have their own law or to modify it in the way they like and to treat the law of the other community in a different way or to modify it.

Pandit Thakur Das Bhargava (Punjab) **:** According to Hindu law a person can marry more than one wife, according to Mahommedan law also a person is entitled to have more than one wife, but there

is no obligation on any Muslim to have more than one wife nor is there any obligation on any Hindu to have more than one wife. The personal religion of both is the same on this point. Similarly, it is not enjoined upon a Mussalman to practise child marriage, nor is it enjoined upon a Hindu to practise child marriage, for the *Smriti* and the *Hadis* of both say the same thing on this point. Therefore, the Child Marriage Act was applied to the Muslims also. It is not going against the Muslim law or the *Shariat* law if we make this law applicable to them today. So far as article 25 is concerned you will not be following this .....

Dr. Ambedkar : I am answering the other argument that we are making a discrimination. To that I am giving the answer that the Constitution permits us to treat different communities differently and if we treat them differently nobody can charge the Government with practising discrimination. That is the point. That being so, another thing I would like to tell the House is that article 25 is an article of great importance, for this reason. As the House will remember, all throughout the history of Europe there has been a great contest between the Church and the State. The State has said that the Church shall not interfere in religion and that the State is supreme over Church. The Church, on the other hand has said that the State is subordinate to the Church, it is only when the Church permits that the State can enact. That has been the general position. In our Constitution we adopted a middle course ; the course that we adopted was this, that while we will permit people to practise and to profess their religion and, incidentally, to have their personal law because the personal law is so imbedded in their religion, yet the State has retained all along in article 25 the right to interfere in the personal law of any community in this country. There can be no argument against that. That is my point. The only question is the time, the occasion and the circumstances.

I want to assert in this House while I am here that I shall hear no argument from any community to say that this Parliament has no right to interefere in their personal law or any other laws. This Parliament is absolutely supreme and we deal with any community so far as their personal law is concerned apart from their religion. Let no community be in a state of mind that they are immune from the sovereign authority of this Parliament.

Shri A. C. Shukla : You pass a law but cannot administer it.

Dr.. Ambedkar : The point really is a very narrow one and that point is this ; whether right now we should make our Bill applicable

to the Muslims—the Hindu Code Bill which has been professedly, deliberately, calculatedly intended to apply to what is called the Hindu community.

Shri J. R. Kapoor : Non-Hindus also.

Dr. Ambedkar : We have been, in making this kind of a legislation, observing a certain necessary procedure as a condition precedent. In all social legislation the Government usually—as a matter of convention and, if I may say so, binding convention—observes the rules of consulting the people affected before any particular piece of legislation is undertaken. Hon. Members well know that with regard to this very Bill there was a Committee which went round from Province to Province, from State to State, took evidence from every section, every community, individuals, organised people, to find out what their opinion was. Nobody can say that so far as this particular Bill is concerned, any Committee or Government at any time consulted the Muslim community—that we are going to enact monogamy and reform the law of divorce so far as the Hindus are concerned, that these are the provisions that we propose to apply to them, what have you to say about it ? No such step has ever been taken and I think it would be not only unwise but a most tyrannical piece of political action to subject the Muslim community to any such provision without their being consulted beforehand.

Pandit Maitra : Why did you not do it beforehand ?

Dr. Ambedkar : The reason why we did not is because some communities like the Hindu community needed the reform so badly—it was a slum clearance.

Pandit Maitra : You had not the courage to do it.

Dr. Ambedkar : This is a slum clearance.

Shri Syamnandan Sahaya : Did you consult the Sikh community ?

Dr. Ambedkar : Oh, yes. I am dealing with it. Do not be impatient. I have consulted them. Do not you make a mistake.

Shri Bhatt : Can the Hon. Minister state whether or not, if Parliament so desire, the opinions of Muslims and Christians may still be ascertained ? What is the obstacle to it ?

Dr. Ambedkar : The obstacle is that the meal has now been served on the table. Let us take it now. It will take time in inviting others. At the same time we do not have so much food as may be offered to others.

Mr. Chairman : I do not want Hon. Members to go on interrupting throughout the length of the debate.

Shri Bhatt : These are sweets which can stay for days together.

Dr. Ambedkar : Regarding the other part of the option, namely that it should be left to the States, in one aspect I have already dealt with it. Suppose some States enact such laws and some States do not, the chaos to which I have already referred would be there and I do not think we could allow any such option to States which would result in chaos in such fundamental matters as marriage and divorce. In this connection I should like to say this that although it is true that the Rau Committee did not visit the Part B States, still when the informal conference took place, I did take care to invite certain representatives of the Part B States. One of them was the Chief Justice of Saurashtra, the Advocate-General of Mysore, I think, was there ...

Shri Bhatt : How is it that the Chief Justice of Saurashtra is taken to represent Part 'B' States ? He was in the service of the State.

Dr, Ambedkar : He knows the conditions prevailing there).

We have done that. Now I come to the question of the Sikhs. My friend, Syamnandan Sahaya has gone away somewhere ...

Shri Syamnandan Sahaya : I am here, very much so, Dr. Ambedkar.

Dr. Ambedkar : Now I come to the question raised by my friend, Mr. Bhopinder Singh Man. His amendment is that this Bill should not be applied to the Sikhs. Well. I have nothing personality to say about this amendment because his amendment is not in any sense solitary as compared with the other amendments which have been tabled by our friend, Mr. Naziruddin Ahmad omitting the Buddhists, Jains, Sikhs, and so on. It is perfectly legitimate for anybody to put. forth his view point, but I think the Hon. Member will allow me to say that the tone of his speech was to me very repugnant and I think hurt me a great deal.

Sardar B. S. Man : *rose*—

Mr. Chairman : I do not want Hon. Members to go on interrupting him.

Shri Syamnandan Sahaya : If the Hon. Minister indulges in such remarks against those who oppose the Bill, we are entitled to interrupt him.

Mr. Chairman : Order, order.

Shri Syamnanda Sahaya : If he goes on like that, the situation may become worse.

Dr. Ambedkar : I am entitled to express my opinion.

Mr. Chairman : Order, order.

Shri R. K. Chaudhari : Why don't you ask the Minister to sit down?

Mr. Chairman : What is the meaning of this ? There is a regular uproar. Hon. Members must maintain order.

Shri R. K. Chaudhari : If the Hon. Minister does not sit down, does that mean order ? You only want to control us; not others.

Dr. Ambedkar : My point is this *(Interruptions*).

Sardar B. S. Man : I take his retort in a sporting spirit. His speech is equally repugnant to us today.

Dr. Ambedkar : I am prepared to accept that.

Mr. Chairman : All that I can say is that Hon. Members should have left it to the Hon. Members concerned to whom the Minister's remark refers.

Dr. Ambedkar : My point is very simple. There can be no dispute that Indians as such are excluding the Muslims ...

Shri Sondhi (Punjab) **:** They are not Indinas. Is that so ?

Dr. Ambedkar : Let me go on in that way, because I do not find exact qualifying words. We non-Muslims, so to say, are not a very united family. I do not think it is desirable to take an unrealistic view and say that we are all one. We are not. But I do say that we ought to make an attempt to come together as far as we possibly can, and we ought not to sow the seeds of discord all the time. When anything of a unifying nature comes before the House, if somebody gets up and says. "Well, we do not belong to this group and we do not want to be governed by this law" ...

Sardar Hukam Singh (Punjab) **:** Why did you not appeal to the President when he was making a declaration as to who would be the Scheduled Castes ? He has made that distinction.

Dr. Ambedkar : It may have been done because of his generous spirit, if you will remember what happened.

Now, that is what I do no like. In my judgement, we ought all of us to make a very sincere attempt to come together, at any rate. Each one of us may have our religious beliefs. One may believe in a God and one may believe in a soul. Those are spiritual matters. But is it not desirable that notwithstanding the differences that we

may have so far as our beliefs are concerned, we should try to evolve one single system of law by which we may be bound in our interrelations ?

Sardar Hukam Singh : Should this not start from you ?

Dr. Ambedkar : Why should you all the time keep on saying. "I am different. I am not governed by this and I am not governed by that. Therefore, do not make your law binding upon me". That is the point of my protest.

Shri A. C. Shukla : Natures differ.

Dr. Ambedkar : The gravamen of my hon. Friend Sardar Man's charge was this that the Sikhs have not been consulted in this matter. My answer to his point is two-fold. If the Sikhs, have not been consulted as Sikhs my contention is that there was no necessity to consult them ...

Sardar B. S. Man : Oh !

Dr. Ambedkar : Please let me continue.

.....because all along the law has assumed that the Sikhs for the purposes of law are Hindus. I have examined Mulla's *Hindu Law* which is a very handy volume and if my hon. Friend were to refer to the index to that volume he will find certain Acts passed by the Legislative Assemblies of this country to amend the Hindu Law, he will find any number of them. But I would like my hon. Friend to point out to me whether in respect of any of those laws which have been enacted by this Parliament effecting a change in the Hindu Law—and made applicable to the Sikhs—they ever consulted the Sikhs or they ever omitted the Sikhs.

Sardar Hukam Singh : Because custom prevails there.

Dr. Ambedkar : I do not find any such instance of consultation at all. Whenever a law has been passed to amend the Hindu Law, it has been made applicable to all persons who have been by frequent judicial interpretation included in the term 'Hindu'.

Pandit Maitra : Then what is the necessity of putting it here ?

Dr. Ambedkar : Because men like you might doubt.

Now I come to the other part and wish to prove that the charge that the Sikhs were not consulted is not founded on facts. I have taken the trouble of going through the evidence taken by the Rau Committee when it toured and went to Lahore. I find that the following persons appeared or made statements before that Commitee. The first person to whom I wish to refer is Justice Teja Singh of the Lahore High

Court. He, as a member of the punjab High Court, wrote a statement for the Rau Committee. I have gone through the main part of it but I have not found any single statement by Justice Teja Singh that this law should not be applied to the Sikhs. I do not know whether my hon. friend accepts that Justice Teja Singh has some right to speak in the name of the Sikh community.

The other gentleman whose name I find from the records is Sardar Varyam Singh. He came as a representative of the Akali Darbar and no doubt he said that this Bill should not be applied to the Sikhs, because the Sikhs, he contended, were a more liberal people.

Sardar Hukam Singh : Who was this gentleman ? Is there any description given about him?

Dr. Ambedkar : Secretary of the Akali Darbar—that is the description that has been given in the records.

The other person who had given evidence before the Rau Committee was Sardar Iqbal Singh. He was a lawyer and he came in his individual capacity.

(Mr. Deputy Speaker *in the Chair*)

Sardar B. S. Man : What did he say ?

Dr. Ambedkar : He said nothing.

Sardar Hukam Singh : Then he can be safely quoted !

An hon. Member : Let him read his statement.

Dr. Ambedkar : Here is the record. You can have the whole information you want. He said nothing against this Act being applied to Sikhs.

Then Sardar Harnam Singh, at present Judge of the Punjab High Court, came and gave evidence, not in his capacity as a Sikh but in his capacity as a represntative of the Bar Council. There again, he raised no such question at all that it should not be applied to the Sikhs.

Sardar Hukam Singh : But what was his opinion about the Hindu Code Bill ?

Dr. Ambedkar : He has not opposed it.

Now, I come to an important circumstance to which I would like to make definite reference. The House will remember that after the Bill was introduced in the House by Mr. Mandal—and it was introduced after the Rau Committee's investigation was complete—even then Government promised that they would issue an executive circular to the various provincial Governments and invite their opinion on the Bill as introduced. That circular was also sent to Punjab.

Shri Sondhi : In what year was that ?

Dr. Ambedkar : 1947.

Shri Sondhi : Before the partiton ?

Dr. Ambedkar : No. After the partition, because the letter has been issued to the East Punjab Government. I will give the substance of the letter from the Home Secretary to the Government of East Punjab to the Secretary to the Government of India, Legislative Department, New Delhi, No. 211, dated the 3rd October 1947. In that the following statement is made:

> "I am directed to forward a copy of the letter so and so from the Registerar of the High Court of Judicature, Lahore, reporting the views of the Hon. Judges, etc. The Punjab Government also invited the views of the Commissioners and Deputy Commissioners, the High Court Bar Association, and five divisional headquarters, as well as of the nine selected non-official organisations believed to be representative of the Hindu and Sikh opinion. Only one of the latter Shri Sanathan Dharma Prathinidhi, Lahore, replied."

I do not think in the face of this my hon. friend can say that no attempt was made to canvass the opinion of the Sikh community. My Hon. friend also said that of the seven members consulted six opposed it. He may be knowing something more about it. I am however entitled to say that before my Hon. friend made his speech, I had one or two conversations with him. He told me that he was particular about the Anand marriage, or the customary ceremony and I told him that although we were passing this Bill, we are not abrogating the Anand Marriage Act which has been passed by the Assembly in order to regularise certain ceremonies which the Sikhs perform for the soleminisation of their marriage and I thought that he was perfectly satisfied with that. But it may be that some other reason has come to the surface which has made him to give rise to these hidden feelings which oherwise might have remained locked up in his breast.

My. hon. Friend read out a judgement of Dr. Bakshi Tek Chand— it is reported in 10 Lahore. Kabul Singh's case. I have examined the facts of this case and the rationale of the case. The only point of dispute was whether a marriage between a *Jat* Sikh and a *Mazhabi* woman was a legal marriage or not. It was contended on the other side that it was not a legal marriage because the *Jat* belonged to a superior class and the woman belonged to an inferior class and inter-caste marriages were not allowed. Mr. Justice Tek Chand held that the *Jats* were *sudras* and the rule that applied to *thraivarani* did not apply to *sudras* and the untouchables are treated by *Shastras* as *sudras*. It is a marriage between *sudras*. Therefore, it is valid.

Sardar B. S. Man : There is difference between an untouchable and a *sudra.*

Dr. Ambedkar : But that is the decision of the court, my hon. friend. The courts have treated both as *sudras* and you know very well there is distinction on that point.

The only point on which my hon. friend could rely was that the Sikhs are liberal and that they do not observe caste. Well, on that ground he ought to welcome this, because we are abrogating caste throughout. Therefore, it is in no sense in conflict with what is happening in the Sikh community.

Sardar Hukam Singh : Our complaint is that we are far in advancer of the stage to which you say you are bringing us up. Please do not pull us down.

Dr. Ambedkar : Different people have different notions about advancement and I have my notions about it. Advance may also mean no law—anarchy—that also may happen. I think I have dealt with all the points that have been raised by the various speakers on their amedments.

Pandit Thakur Das Bhargava : Are you not perpetuating the caste system by accepting the proposal that caste *panchayats* should decide divorce cases?

Dr. Ambedkar : Why talk about it when we have not reached it ? We have not reached that. We shall see it then. For the moment I have dealt with all the points and given reasons why it is not possible to accept any of the amendments proposed by hon. Members. The only amendment that I am prepared to accept is the amendment moved by Dr. Bakshi Tek Chand by which he proposes to substitute the word "followers" for "members".

Shri Naziruddin Ahmad : May I have your permission to correct; a 'mistake which has crept into the debate in the speech of Dr. Ambedkar ? *(Interruption*).

Mr, Deputy Speaker : If he makes any particular mistake it is for him to correct it. The hon. Member will point it out to me. It is not necessary to speak on that. Exception of that kind can be taken to whatever he has said in his speech but it is not our business to go on correcting the speeches.

There are a number of amendments that have been tabled. Hon. Members might have forgotten what the amendments are that have

been moved. I have, therefore, put these amendments into groups according to the subject matter and also according to the clauses.

The Minister of Works, Production and Supply (Shri Gadgil): There are two amendments moved to this clause by the Hon. Minister himself.

Dr. Ambedkar : There are only two amendments.

Mr. Deputy Speaker : I am referring to all the amendments. Certainly, those amendments which the Hon. Minister has himself moved and the one standing in the name of Dr. Tek Chand which the Hon. Minister is willing to accept, will be borne in mind. It is my duty to place before the House what exactly the amendments are on which they are called upon to vote for or against. Instead of going into the details, and for purpose of convenience, I shall put the amendments in each group one by one. I shall take the group : "application to all Indians compulsorily", that is not only to Hindus but Buddhists, Jains, non-Hindus, Muslims, Christians etc. who come under the operation of this Bill.

The question is:

For clause 2, substitute :

"2. *Application of Code.* —(1) This Code applies to all Hindus.

(2) The expression 'Hindu 'in this Code shall, unless otherwise provided, mean a citizen of India.

(3) Notwithstanding anything contained in the Special Marriage Act, 1872 (III of 1872), this Code shall apply to Hindus, as defined in that Act, and whose marriages have not been solemnized under the provisions of that Act prior to the commencement of this Code."

The motion was negatived.

Mr. Deputy Speaker : The question is :

For clause 2, substitute :

"2. This Code applies to all Indians irrespective of their religion, caste, or creed."

The motion was negatived.

Mr. Deputy Speaker : Shri Jhunjhunwala's amendment for substitution of clause 2 is barred as the House has already decided upon this.

Then, I come to the other set: that this Code should apply only to those who make a declaration, and even then, the parts that are declared should apply.

The question is :

For clause 2, substitute:

"2. *Application of Code.*—This Code or any part or parts thereof applies to all the citizens of India that is Bharat, who after attaining the age of majority, declare in writing that they shall be governed by this Code or any part or parts thereof, as the case may be, and get such declaration registered in accordance with rules prescribed for the purpose by the Central Government."

The motion was negatived.

Mr. Deputy Speaker: The next two amendments of Shri J. R. Kapoor also go with his amendment negatived just now. They are also therefore deemed to be negatived. Then, the question is:

In the amendment proposed by Shri Banarsi Prasad Jhunjhunwala, in the proposed proviso to clause 2, for the words beginning with "unless such persons" to the end, substitute:

"unless such person, after attaining the age of majority, declares in writing that he or she, as the case may be, shall be governed by this Code, and gets such declaration registered in accordance with rules prescribed for the purpose by the Central Government."

The motion was negatived.

Mr. Deputy Speaker: The question is:

To clause 2, add the proviso :

"Provided however, that notwithstanding anything contained in the above clauses, this Code shall not apply to any person, unless such person got his name registered with such authority, and in such manner, as may be hereafter prescribed by Parliament, within one year after this Code comes into force, and in case of a minor within one year after such minor attains majority."

The motion was negatived.

Mr. Deputy Speaker: The question is:

To clause 2, add the proviso:

"Provided that the provisions of Parts II or/and VII relating to marriage and divorce, and succession shall not apply to any person unless such person, after attaining the age of majority declares in writing that he or she, as the case may be, shall be governed by the said provisons, and gets such declaration registered in accordance with rules prescribed for the purpose by the Central Government.

Provided further that the provisions of Part II relating to marriage and divorce shall apply to such declarant only when both the bride and bridegroom before the marriage, or both the husband and wife after the marriage, make such a declaration."

The motion was negatived.

Shri J. R. Kapoor : Sir, in view of the changed circumstances of the case, I would request leave of the House to withdraw my amendments Nos. 97 and 272. But all the same I would like to move at a later stage, an amendment, when we know how exactly this Part stands when we have gone over the whole of this chapter relating to marriage and divorce.

The amendments were, by leave, withdrawn.

Mr. Deputy Speaker : Then there is amendment No. 336 standing in the name of Shri J. R. Kapoor. Does he want me to put it ?

Shri J. R. Kapoor : Yes, Sir. and I hope the Hon. Law Minister will please go over it and see what it means, otherwise there will be difficulty in enforcing what he wants to enforce.

Mr. Deput-Speaker : Why at this stage. All persuation has already been done.

The question is :

In the amendment proposed by the Hon. Dr. B. R. Ambedkar, printed as No. 3 in the proposed amendment to clause 2, after part (1), insert:

> "(1A) in sub-clause (3) for the words 'the provisions' the words 'any or more of the provisions' be substituted."

The motion was negatived.

Mr. Deputy Speaker : The question is :

In the amendment proposed by the Hon. Dr. B. R. Ambedkar, printed as No. 3, in the proposed amendment to clause 2, after part (1) insert:

> "(1A) in sub-clause (3) insert at the end 'in respect of any or more of the matters dealt with herein'."

The motion was negatived.

Mr. Deputy Speaker : Now I take another topic—inclusion or exclusion of categories of people.

The question is:

In the amendment proposed by the Hon. Dr. B. R. Ambedkar, printed as No. 3, in part (1) (ii) of the proposed amendment to sub-clause (1) of clause 2, after "Sikh religion" add :

> "or to any other religion or faith except Muslim Christian, Parsi or Jew religion."

The motion was negatived.

Mr. Deputy Speaker : The question is:

In part (d) of sub-clause (1) of clause 2, at the end, add:

> "subject to his rights and liabilities before his conversion."

The motion was negatived.

Mr. Deputy Speaker : The question is:

After part (d) of sub-clause (1) of clause 2, add:

"(e) to a Muslim or Christian converted from Budhism, Jainism, Sikhism or Hinduism in his life time."

The motion was negatived.

Mr. Deputy Speaker : The question is:

Omit part (b) of sub-clause (1) of clause 2.

The motion was negatived.

Mr. Deputy Speaker : Amendment No. 274, which also stands in the name of Mr. Naziruddin Ahmad is the same as the one just now negatived by the House. That need not be put.

Then, the question is:

For part (b) of sub-clause (1) of clause 2, substitute :

"(b) to any person who is a Jaina by religion."

The motion was negatived.

Mr. Deputy Speaker : The question is :

In part (b) of sub-clause (1) of clause 2, for "Jaina or Sikh" substitute ; "or Jaina".

The motion was negatived.

Mr. Deputy Speaker : Amendments Nos. 101 and 102 are only earlier amendments which are the same as the amendments which have been just now negatived by the House. I need not put them.

The question is :

In part (b) of sub-clause (1) of clause 2, omit "or Sikh".

Mr. Deputy Speaker : The queston is:

In Clause 2, omit "Sikh", wherever it occurs.

The motion was negatived.

Mr. Deputy Speaker : The question is:

In part (c) (i) of sub-clause (1) after "illegitimate" insert: "who, if he has attained the age of eighteen years, is himself a Hindu and"

The motion was negatived.

Mr. Deputy Speaker : The question is:

In part (c) (ii) of sub-clause (1) of clause 2, after "belongs or belonged" insert "and who, if he has attained the age of eighteen years, is himself Hindu".

The motion was negatived.

[1-00 P. M.]

Mr. Deputy Speaker : Amendment No. 277 is barred by a previous amendment and therefore need not be put.

Shri J. R. Kapoor : My next amendment deserves acceptance. It is an improvement in the language.

Dr. Ambedkar : I will improve my own language.

Pandit Thakur Das Bhargave : It is only a grammatical change. Instead of the present alone it seeks to include the past also.

Mr. Deputy Speaker : The wording in the clause relates to the present. There is a difference. It is not a formal amendment.

The question is :

In Part (c) (i) of sub-Clause (1) of clause 2, after "parents are" insert "or have been".

The motion was negatived.

Mr. Deputy Speaker : Amendment No. 105 is covered by this and need not be put.

Then, the question is :

After part (c) (ii) of sub-clause (1) of clause 2, add:

"(iii) to any abandoned child brought up as a member of the community, group or family to which such parent belongs ;"

The motion was negatived.

Mr. Deputy Speaker : The question : The question is :

After part (c) (ii) of sub-Clause (1) of clause 2, insert:

"(iii) to any orphan or abandoned child brought up by the state."

The motion was nagatived.

Mr. Deputy Speaker : The question is:

After sub-clause (2) of clause 2 insert:

"(2A) This Code also applies to any woman professing any religion who has married a Hindu, buddhist, jain or Sikh."

The motion was negatived.

Mr. Deputy Speaker : The question is:

Omit sub-clause (2) of clause 2. The motion was negatived.

Mr. Deputy Speaker : The question is :

For sub-clause (2) of clause 2, substitute :

"(2) This Code also applies to any person, irrespective of his religion, who has been governed by the Hindu Law or by any custom or usage as part of that law in respect of any matters dealt with herein."

The motion was negatived.

Mr. Deputy Speaker : The question is:

In sub-clause (2) of clause 2, after "Parsi" insert "Sikh".

The motion was negatived.

Mr. Deputy Speaker : The question is :

Omit proviso to sub-clause (2) of clause 2.

The motion was negatived.

Mr. Deputy Speaker : The question is :

In the proviso to sub-clause (2) of clause 2, for "in respect of those matters" occurring at the end, substitute :

"In respect of matters which that person has not voluntarily chosen."

The motion was negatived.

Mr. Deputy Speaker : The question is :

After sub-clause (1) of clause 2, insert:

"(1A) This code shall not apply to the Scheduled Castes and Scheduled Tribes."

The motion was negatived.

Mr. Deputy Speaker : Amendment No. 281 is barred. I now come to amendments of a formal and verbal nature. First I shall put amendment No. 3 by Dr. Ambedkar. The question is:

In clause 2—

(1) in sub-clause (1),—

(i) in part (a) for "Hindus, that is to say, to all persons professing the Hindu religion" substitute "persons who are Hindus by religion" ;

(ii) in part (d), for "Hindu religion" substitute "Hindu, Buddhist, Jaina or Sikh religion";

(2) Omit sub-clause (4).

The motion was adopted.

Shri R. K. Chaudhari : Sir, I want to oppose the next amendment of Dr. Ambedkar. I think he is making one of the most colossal mistakes of his life.

Shri J. R. Kapoor : What is the subject matter ?

Mr. Deputy Speaker : Mr. Chaudhari is opposed because Dr. Ambedkar wants to substitute "tribe or community" for "community" Perhaps Dr. Ambedkar's fear is that "community" may not include a tribe; therefore, he wants to make it more specific.

The question is :

In the amendment proposed by the Hon. Dr. B. R. Ambedkar, printed as No. 3, after part (1) (i) insert:

"(ia) in part (c) (ii) for "community" substitute 'tribe or community',"

The motion was adopted,

Mr. Deputy Speaker : The question is :

In part (a) of sub-clause (1) of clause 2, for "Hindus, that is to say, all persons professing the Hindu religion" substitute "persons who are Hinuds by religion".

The motion was negatived.

Mr. Deputy Speaker : The question is :

For part (b) of sub-clause (1) of clause 2, substiute:

"(b) to all persons who are Buddhists, Jains or Sikhs by religion ;"

The motion was negatived.

Dr. Deshmukh (Madhya Pradesh) **:** May I point out that the hon. Doctor had suggested that he wants to hold over the final passing of the clause ?

Mr. Deputy Speaker : The hon. Member was perhaps not present when I later on modified that it is only a formal changes in the name—whether it should be called Hindu Code or Hindu Marriage and Divorce (Amendment) Code. That is only a formal matter.

Then, the question is :

In the amendment proposed by the Hon. Dr. B. R. Ambedkar, printed as No. 3, in the proposed amendments to sub-clause (1) of clause 2, after part (1) (ii), insert:

"(iii) insert a new part (e) as follows:

'(e) to a convert to any religion or faith after the commencement of this code.' "

The motion was negatived.

Mr. Deputy Speaker : What about amendment No. 91 moved by Pandit Thakur Das Bhargava ?

Pandit Thakur Das Bhargava : I beg leave to withdraw it.

The amendment was by leave, withdrawn.

Mr. Deputy Speaker : The question is ;

In the amendment proposed by the Hon. Dr. B. R. Ambedkar, printed as No. 3, in the proposed amendment to clause 2, after part (1), insert:

"(1A) in the proviso to sub-clause (2), insert at the end 'unless he has declared his consent in the manner prescribed by the Central Government in this behalf to be governed by this Code in respect of such matters also.' "

The motion was negatived.

Mr. Deputy Speaker : Amendment No. 93 is barred as it is similar to one already negatived.

Then, the question is:

Omit sub-clause (3) of clause 2.

The motion was negatived.

Mr. Deputy Speaker : Amendment No. 283, being the same, is barred. What about amendment No. 238 moved by Mr. Jaspat Roy Kapoor ? Hon. Members must be attentive.

An Hon. Member : Your amendments are being negatived.

Shri J. R, Kapoor : I am sorry, Sir but there is this talk going on here.

Mr. Deputy Speaker : The Hon. Member himself speaks and quarreles with other Members.

Shri J. R, Kapoor : Sir, I beg leave to withdraw it.

The amendment was, by leave, withdrawn.

Mr. Deputy Speaker : What about amendment No. 116 moved by Shri Gokulbhai Bhatt ?

Shri Bhatt : I beg leave to withdraw my amendment. It is not necessary.

The amendment was, by leave, withdrawn.

Mr. Deputy Speaker :

Then, the question is:

Omit sub-clause (4) of clause 2.

The motion was negatived.

Mr. Deputy Speaker : Amendment No. 284, being the same, is barred. The next amendment is No. 118 of Mr. Naziruddin Ahmad that after sub-clause (4) of clause 2, a new sub-clause be added, namely : "(5) Notwithstanding anything in this section this Code shall

apply only to such areas or to such persons or classes of persons in any State ... etc.". This has been held over to clause 1. Amendment Nos. 118 and 285 go together and they are held over. I would suggest to the hon. Member that if he wants to have these taken up in connection with clause 1 he may table a separate amendment.

Shri Naziruddin Ahmad : I shall table a separate amendment to suit the context of clause 1.

Mr. Deputy Speaker : The question is :

For part (d) of sub-clause (1) of clause 2, substitute :

"(d) to a convert to the Hindu religion, subject to his rights and liabilities before his conversion."

The motion was negatived.

Mr. Deputy Speaker : The question is:

To clause 2, add the proviso :

"Provided however, that notwithstanding anything contained in the above clauses, this Code shall not apply to such person as will get his or her name registered with such authority and in such manner, as may be hereafter prescribed by Parliament, within five years after this Code comes into force and in case of a minor within five years after such a minor attains majority, to the effect that he or she does not want to be governed by this Code."

The motion was negatived.

Mr. Deputy Speaker : The question is:

To clause 2, add the proviso :

"Provided however, that notwithstanding anything contained in this section this Code shall not apply to any person unless such person got his name registered, signifying his will to be governed by this Code, with such authority and in such manner as may be prescribed."

The motion was negatived.

Mr. Deputy Speaker : The question is ;

To clause 2, add the proviso :

"Provided further that notwithstanding anything to the contrary in this Act, no provision of this Act shall apply to any one unless a referendum thereupon has been taken in the State to which he belongs and the Legislature of the State thereafter has decided in accordance with the result of the referendum that the provisions of this Act shall apply to the residents of the State. Further, that, thereafter, it shall be open to anyone to declare that he shall not

be governed by this Act and the same shall then not apply to him."

The motion was negatived.

Mr. Deputy Speaker : The question is;

In part (a) of sub-clause (1) of clause 2, after "including' insert "Buddhists, Jains, Sikhs".

The motion was negatived.

Pandit Malaviya : I do not press my next amendment.

Mr. Deputy Speaker : Now, we have disposed of all the amendments. Is there any Hon. Member whose amendment I have not put to the House ? I take it that there is none.

The question is :

That clause 2, as amended, stand part of the Bill."

The motion was adopted.

Clause 2, as amended, was added to the Bill.

*HINDU *CODE—contd.*

Mr. Deputy Speaker : The House will now proceed with the further consideration of the Bill to amend and codify certain branches of the Hindu Law, as reported by the Select Committee. Yesterday we disposed of Clause 2 ; the major contentious clause is over. I hope the other clauses will be passed quickly.

Clause 3.—(*Definitions*)

The Minister of Law (Dr. Ambedkar) : I beg to move:

In clause 3,—

(i) for the words "unless there is anything repugnant in the subject or context" substitute "unless the context otherwise requires";

(ii) renumber the existing items (i), (ii), (iii) and (iv) as items (ii), (iii), (iv), (v) and insert the following as item (i), namely:

'(i) "Aliyasantana law' means the system of law applicable to persons who, if this Code had not been passed, would have been governed by the Madras Aliyasantana Act, 1949 (Madras Act IX of 1949);';

(iii) in term (iii), as to renumbered, omit "except in sections 41 and 49";

(iv) in the *Explanation* to item (v), as so renumbered, for "this clause" substitute "clause (iv) and (v)" ;

(v) renumber the existing items (v), (vi), (vii) and (viii) as items (viii), (ix), (x) and (xi) and insert, the following as items (vi) and (vii) namely :

'(vi) "Marumakkattayam law" means the system of law applicable to persons—

(a) who, if this Code had not been passed, would have been governed by the Madras Marumakkattayam Act, 1932 (Madras Act XXII of 1933), the Travancore Nair Act, H of 1100, the Travancore Ezhava Act, III of 1100, the Nanjindad Vellala Act, 1101, the Travancore Kshatriya Act, 1108, the Travancore Krishnavaka-Marumakkathayee Act, 1115, the Cochin Thiyya Act, VIII of 1107 ; the Cochin Nayar Act, XXIX of 1113, or the Cochin Marumakkathayam Act, XXXIII of 1113 or

(b) who belong to any community, the members of which are largely domiciled in the State of Trvancore Cochin or Madras, and who, if this Code had not been passed, would have been governed

* P.D., Vol. XV, Part II, 21st September 1951, pp. 2974-3008,

by any system of inheritance in which descent is traced through the female line; but does not include the Aliyasantana law ;

(vii) "Nambudri law" means the law applicable to persons who, if this Code had not been passed, would have been governed by the Madras Nambudri Act, 1932 (Madras Act XXI of 1933), the Cochin Nambudri Act (XVII of 1114), or the Travancore Malayala Brahmin Act of 1106 (Regulation III of 1106);

(vi) in item (viii) as so renumbered, for "any" substitute "a".

Shri Naziruddin Ahmad (West Bengal) **:** I think that it would be better to proceed seriatim, sub-clause by sub-clause, and subject by subject. Otherwise, the difficulty would be that the debate would be of too general a nature. In clause 2 the debate was much of a general nature because we did not consider individual items or groups.

Mr. Deputy Speaker : I agree, I shall proceed in the order in which they have been noted in the order Paper.

Dr. Ambedkar : My amendment is so to say in two parts. Item 1 of my amendment is merely a verbal change. It has been pointed out to me that the words that are used in the existing clause "unless mere is anything repugnant in the subject or context" are not in consonance with the language which we have been using since the passing of the Constitution, the Constitution uses the phraseology "unless the context otherwise requires" and in order to bring the language of this Bill in consonance with the language of the Constitution, I am making that particular amendment, it is merely a change of words.

With regard to the other amendments, they are necessary because it has now been proposed that the marriage and divorce law should also apply to persons who are governed by the Marmuakkattayam and Aliyasantana law. As the subsequent sections deal with that aspect; of the matter, it is necessary to enlarge the definition clause so that necessary definitions which relate to that matter may be brought in and the definition clause be made complete.

Mr. Deputy Speaker : amendment moved :

In clause 3,—

(i) for the words "unless there is anything repugnant in the subject or context" substitute "unless the context otherwise requires";

(ii) renumber the existing items (i), (ii), (iii) and (iv) as items (ii), (iii), (iv) and (v),and insert the following as item (i), namely :

(i) "Aliyasantana law", means the system of law applicable to persons who, if this Code had not been passed, would have been

governed by the Madras Aliyasantana Act, 1949 (Madras Act IX of 1949);

(iii) in item (iii), as so renumbered, omit "except in sections 44 and 49";

(iv) in the *Explanation* to item (v), as so renumbered, for "this clause" substitute "clauses (iv) and (v)";

(v) renumber the existing items (v), (vi), (vii) and (viii) as items (viii), (ix), (x) and (xi), and insert the following as items (vi) and (vii), namely :

(vi) "Marumakkattayam law" means the system of law applicable to persons—

(a) who, if this Code had not been passed, would have been governed by the Madras Marumakkattayam Act, 1932 (Madras Act, XXII of 1933), the Travancore Nair Act, II of 1100, the Nanjindad Vellala Act, 1101, the Travancore Kshatriya Act, 1108, the Travancore Krishnavaka-Marumakkathayee Act, 1115, the Cochin Thiyya Act, VIII of 1107, the Cochin Nayar Act, XXIX of 1113, or the Cochin Marurnakkathayam Act, XXXIII of 1113, or

(b) who belong to any community, the members of which are largely domiciled in the State of Travancore-Cochin or Madras, and who, if this code had not been passed, would have been governed by any system of inheritance in which descent is traced through the female line ;

but does not include the Aliyasantana law ;

(vii) 'Nambudri law' means the law applicable to persons who, if this Code had not been passed, would have been governed by the Madras Nambudri Act, 1932 (Madras Act XXI of 1933), the Cochin Nambudri Act (XVII of 1114), or the Travancore Malayala Brahmin Act of 1106 (Regulation III of 1106) ;' ;

(vi) in item (viii) as so renumbered, for "any" substitue "a".

Shri Naziruddin Ahmad : My amendment No. 410 comes in by way of priority according to the subject because this amendment is the real clause. My amendment seeks to delete 'Aliasantana law'.

Mr. Deputy Speaker : The Hon. Member may move it.

Shri Naziruddin Ahmad : I beg to move: In the amendment proposed by Dr. Ambedkar, in part (ii), omit the proposed part (i) of clause 3.

Before that I have certain verbal and formal amendments which I think, need not be pressed before the House, that is in the amendment proposed by the Hon. Minister of Law in item (ii) there is the renumbering amendment that runs all through the amendments. If we take up the renumberings at this stage it will create confussion, and we do not know where we would be. They should be done by the Secretary or the Draftsman and therefore I suggest that for the time being we should eliminate these renumbering amendments. I have a lot of amendments to cure these verbal irregularities, but I do not wish to move them because I want to leave them entirely to the Secretary.

Coming to my amendments, they are for the deletion of the definition of Aliyasanatana law and I have other amendments to delete the definitions of Marumakkattayam and Nambudri law. The reason for moving this amendment is this ; that this is as well as other amendments relate to these special laws, which I want to delete because this is the policy of the Bill, namely to make no reservation, no exceptions in any case. In the case of Sikhs we have decided to make no exception. In the case of others we have made no provision to exclude them from the operation of the Code. That being the accepted principle ...

Mr. Deputy Speaker : I understand the Hon. Minister to say that he now proposes to extend all the provisions of this Act to both these classes also.

Shri Naziruddin Ahmad : That means the marriage and divorce law laid down in the Bill will also apply to those Hindus who are now governed by Aliyasantana, Marumakkattayam and Nambudri law separately.

Mr. Deputy Speaker : Therefore, the objection is over.

Shri Naziruddin Ahmad : The objection is that if general provisions are to apply to all Hindus so far as marriage and divorce is concerned, the definition is absolutely unnecessary ! It is rather misleading.

Mr. Deputy Speaker : We have accepted this. We had included others as in the case of Sikhs. There is no need for separate definition. The Bill includes it and therefore it is not necessary. Exception is made for Aliyasantana and Marumakkattayam law. They are excluded from the operation of marriage and divorce laws as envisaged in the Bill.

Shri Naziruddin Ahmad : I do not think they should be excluded at all.

Mr. Deputy Speaker : That is exactly what the Hon. Law Minister is trying to do.

Dr. Ambedkar : That is what I am trying to do.

Shri Naziruddin Ahmad : By the inclusion of this definition ? If that is the specific purpose, then, my amendment is needless.

Mr. Deputy Speaker : Originally, those who were governed by the Aliyasantana Act and Marumakkattayam law were excluded and they were allowed to be regulated by those two laws. The Hon. Law Minister now feels that they must also be brought into the frame work of the Act so as to bring about uniformity. That is why he is adding this.

Shri Naziruddin Ahmad : My perplexity arises from the fact that even apart from this definition, they will ordinarily be included.

Mr. Deputy Speaker : The Bill specifically excludes them.

Shri Naziruddin Ahmad : That portion should be deleted. There is repetition.

Mr. Deputy Speaker : The hon. Member began under the wrong impression that originally they were included and the Law Minister wants to exclude them.

Shri Naziruddin Ahmad : The exclusion should be by amending the general clause; not in the definition.

Mr. Deputy Speaker : That is another matter. As a matter of substance, hon. Member's amendment has absolutely no force.

Shri Naziruddin Ahmad : I quite agree.

Mr. Deputy Speaker : Then, why should he look at formal affairs and verbal amendments. If it is necessary, let us have this definition for the purpose of clarification instead of relegating it to some General Clauses Act.

Shri Naziruddin Ahmad : Not the General Clauses Act, but the general definition of Hindus under this Act. It should apply to all Hindus. This Aliyasantana law governs the Hindus. This is special mention and then inclusion. The inclusion is already there.

Mr. Deputy Speaker : The backbone of his objection is broken. The hon. Member is trying to get at some formal affair. Is it necessary ?

The Minister of Home Affairs (Shri Rajagopalachari) : I think the hon. Member has not realised the actual position. There are two ways of excluding certain classes or groups; one by actually ignoring them in the whole Code and another by referring to them and providing for them as exception. If the Hon. Law Minister has chosen now to

provide for them by making exceptions in the body of the Code, it is necessary to deadline them.

Mr. Deputy Speaker : It is the other way about. He has already made exceptions in favour of these and he has povided for exclusion from the Bill.

Shri Rajagopalachari: That is what I have said.

Mr. Deputy Speaker : What he wants to do is to include them.

Shri Rajagopalchari: I think the hon. Member who has moved the amendment is thinking that we have applied the whole Code bodily to these people and therefore, since you have defined the Hindus, why should you define these people. The answer is, we do not propose to apply the provisions in the Code bodily to them but to provide exceptions and therefore it is necessary to define who they are.

Shri Naziruddin Ahmad : I fail to appreciate all this fineness. If the Code is to apply, it should straight forward be applied to them, instead of leaving any exceptions.

Shri Rajagopalachari: Suppose we applied it to them ; "they" should be defined here. That is what is being done.

Shri Naziruddin Ahmad : It should apply to all; they are already included in the definition of Hindus.

Shri Rajagopalachari: There are exceptional provisions for these people.

Mr. Deputy Speaker: Let me understand first; without understanding, I cannot put it to me House. As the Bill stands at present, clause 51 says :

"(1) Nothing contained in this Part shall be deemed to affect any right conferred by the Madras Marumakkattayam Act, 1932 to obtain the dissolution of a sacramental marriage, whether solemnised before or after the commencement of this Code."

Therefore, under the Bill as it has emerged from the Select Committee, Marumakkattayam Law is allowed to apply so far as those persons who are governed by this law are concerned. What the Hon. Law Minister wants to do is not to create exceptions in favour of any particular class, but to bring them all under this Act.

Dr. Ambedkar: Yes.

Mr. Deputy Speaker : That is what Mr. Naziruddin Ahmad wants. Originally he was under the impression that an exception is sought to be made. He was under the impression that originally those governed by the Marumakkattayam law and Aliyasantana law were governed

by this Code and the Hon. Law Minister wanted to make exceptions and that is what he objects to. Now that he knows that the original Act made an exception and they are being brought under it, he withdraws his objection, but he clutches,—let me withdraw that word— he wants to raise a formal thing, regarding the definition of Marumakkattayam and Aliyasantana. The substance has gone. Why should he worry himself over these formal things ?

Shri Naziruddin Ahmad: Clause 51 should be deleted. That would be enough.

Mr. Deputy Speaker: That is a matter of procedure.

Dr. Ambedkar: We will come to that later on.

Mr. Deputy Speaker: We will come to that later on.

Shri Naziruddin Ahmad : There are special provisions in this Bill for all these people. That should be dropped. The definition should also be dropped.

Mr. Deputy Speaker: There is no harm in making it clear.

Shri Naziruddin Ahmad: It would only be showing one's nose in a round about way.

Mr. Deputy Speaker : Aliyasantana law is not a general law going into the customs and other things. This is a Code.

The Minister of State for Transport and Railways (Shri Santhanam): After we have finished the whole thing, if any substantial provision of Aliyasantana Act does not come in, then we can revert to this, if it is superfluous. It is better to start with a definition because some provisions as they stand has reference to it.

Mr. Deputy Speaker : I suppose the hon. Member Mr. Naziruddin does not see any necessity for this. As a matter of fact, his point has been put forward in the Hon. Law Ninister's amendment. Therefore, all the amendments standing in the name of Mr. Naziruddin Ahmad are not moved.

Shri Naziruddin Ahmad : No, no.

Deputy Speaker : Amendment No. 372 is a formal one, I shall take the responsibility for re-numbering.

Shri Naziruddin Ahmad : Amendment 410 is not pressed.

Mr. Deputy Speaker : Then, there are amendments 374 and 375.

Shri Naziruddin Ahmad : I press amendment No. 374. But, my amendment No. 377 comes earlier.

Mr. Deputy Speaker : The hon. Member may move it. So far as formal amendments are concerned with regard to brackets, etc., I shall instruct the office about them.

Shri Naziruddin Ahmad : I shall not move then any more at all. That is quite enough. I Move Amendment No. 377.

Pandit Thakur Das Bhargava (Punjab)**:** Am I to take it that you have exhausted sub-clause (i) ? I have got an amendment.

Mr. Deputy Speaker: Let me first finish the first clause.

Pandit Thakur Das Bhargaya: I have no objection if Mr. Naziruddin Ahmad claims to move all his amendments first.

Shri Naziruddin Ahmad: It is not a claim; it would be more convenient.

Mr. Deputy Speaker: Let me first dispose of sub-clause (i) of clause 3.

Pandit Thakur Das Bhargava : I beg to move; In part (i) of clause 3, for the words "among Hindus" substitute the words "among persons to whom this Code applies."

I do not want to make any speech as the thing is very apparent.

Mr. Deputy Speaker : Amendment moved :

In part (i) of clause 3, for the words "among Hindus" substitute the words "among persons to whom this Code applies."

Shri Santhanam : Clause 2, sub-clause (3) covers this point fully.; 'Hindus' means all people to whom this Code applies.

Mr. Deputy Speaker: This House has already adopted the definition.

Pandit Thakur Das Bhargava : I know that. But, nothing is lost if we use these words which are very expressive. Suppose a person reads any other section ; then, he has to know what me definition is. Unless he keeps the definition in mind, he would not be able to know to whom this Code applies. These words express the meaning fully.

Mr. Deputy Speaker : Even then, he has to revert back to the meaning of persons to whom this Code applies. We are only using and expanded definition.

Pandit Thakur Das Bhargava : 'Persons to whom this Code applies': he has to take this definition everywhere. This is more particular. I leave it to the House.

Mr. Deputy Speaker : I am only trying to know whether it is a matter of substance on which greater emphasis should be laid or a formal thing. Anyhow, I take it as moved.

Pandit Thakur Das Bhargava: I beg to move:

In part (i) omit the words "and uniformity".

Shri Santhanam : I want to get one point clear. Does the hon. Member suggest that if there was a custom one thousand years ago in a particular.....

Pandit Thakur Das Bhargava: I have not yet spoken on my amendment, and my hon. Friend there is already opposing it.

Mr. Deputy Speaker : No, the mover only means that uniformity is a difficult matter for the whole of India. Amendment moved:

In part (i) omit the words "and uniformity".

Pandit Thakur Das Bhargava : With your permission I shall move my other amdendment also :

In part (i) of clause 3,—

(a) after the words "group or family" occurring in line 4, add the following;

"or any rule which is certain not unreasonable and has been judicially recognised as valid and binding in any local area, tribe, community, group or family" ; and

(b) Omit the first proviso.

If you will allow me, I shall argue out my point in moving these amendments.

Mr. Deputy Speaker: Not now, I shall come back to the hon. Member. Amendment moved :

In part (i) of clause 3,—

(a) after the words "group or family "occurring in line 4, add the following :

"or any rule, which is certain not unreasonable and has been judicially recognised as valid and binding in any local area, tribe, community, group or family"; and

(b) Omit the first proviso.

Shri Jhunjhunwala (Bihar)**:** I want to move my amendment No. 413 in a slightly modified form, using the word "*varna*" for the word "caste" occurring there.

Dr. Ambedkar : It rather confuses me if the word "sub-clause" is used when referring to these parts or items of the clauses. In matters of this sort, we speak of items. They are referred to as item 1 and item 2 and so on. There are no sub-clause to these clauses. They may please be referred to as entries or items.

Mr. Deputy Speaker : There are these clauses and then these sub-clauses and so I.....

Shri Santhanam : No, Sir, Sub-clauses are numbered as usual.

Dr. Ambedkar: Whatever word may be adopted, it is better to avoid the word "sub-clause".

Mr. Deputy Speaker: All right. I shall use the word "entry" or "part". Here Mr. Jhunjhunwala wants to modify his amendment by changing the word "caste" into "*varna*"—as was suggested by the Law Minister yesterday.

Shri Jhunjhunwala: I beg to move :

In part (i) after the word "tribe" insert the word "*varna*".

I would, also like to move my amendment No. 414 with a slight modification, omitting the words coming after the words "principle castes", I beg to move :

After part (i) insert the following new part:

"(ia) the word "vama" means according to the context in each case four principle "*vamas*".

Mr. Deputy Speaker: Amendment moved:

After part (i) insert the following new part:

"(ia) the word" "*Varna*" means according to the context in each case four principle "*varnas*".

Shri R. K. Chaudhari (Assam)**:** I beg to move:

Omit the Provisions to part (i) of clause 3.

Mr. Deputy Speaker : Amendment moved :

Omit the provisions to part (i) of clause 3.

Shri Syamnandan Sahaya (Bihar)**:** I also want to move the amendment. We both of us have given notice of the amendment jointly.

Mr. Deputy Speaker: I do not attach much importance to the moving of the amendment by all the Members. But if the hon. Member wants to withdraw any amendment, then I will see that the other hon. Member has his say or if the hon. Member is absent, then the other hon. Member will be able to withdraw it.

Captain A. P. Singh (Vindhya Pradesh)**:** I want to move my amendment No. 378, dealing with part (viii).

Mr. Deputy Speaker: We have not come up to that part.

Shri Syamnandan Sahaya: You were pleased to say that you would first deal with all amendments belonging to one category or group. I suggest that only the amendments dealing with the definition of one thing be taken up now, discussed and disposed of and then we go to another set of amendments dealing with another point. Otherwise it will lead to difficulties.

Mr. Deputy Speaker: That is exactly what I am doing. We are now dealing with amendments to only part (i)—"Custom" and "usage."

Shri Bhatt (Bombay)**:** I have tabled an amendment which must have reached you. It is about custom and usage.

Mr. Deputy Speaker: Well, what is it ?

Shri Bhatt: It is about part (i).

Mr. Deputy Speaker: But I have not got a copy. I would not like the House to be taken by surprise. At least the mover of the Bill should be given a copy of the amendment sufficiently in advance and also a copy sent to me. That is the minimum I expect. We should not be taken by surprise.

Shri Bhatt: I thought you would probably have got a copy of it from the office as I got one just half an hour ago.

Mr. Deputy Speaker: When was it delivered ?

Shri Bhatt: This morning.

Mr. Deputy Speaker: I do realise that some amendments may have to be allowed either from the Government side or the other side at the last moment. But I would suggest to hon. Members that at least the Law Minister must be given previous intimation of such amendments and a copy also sent to me. I will rigorously adopt this rule so far as new amendments are concerned. They should be agreed to by all sections of the House.

10 A.M.

Shri Bhatt: For part (i) of it I have proposed I beg to move: For part (i) of Clause 3, substitute the following :

> "(i) the expressions 'custom' and 'usage' signify any rule which having been in vogue for a long time, has obtained the force of law among Hindus in any local area, caste, sub-caste, tribe, community, group or family :
>
> Provided that the rule is certain and not unreasonable; and Provided further that in the case of a rule applicable only to a family it has not been discontinued by the family,".

Mr. Deputy Speaker: What is the difference between this and that?

Shri Bhatt: That I have taken out of it. A portion of it has been retained. That is why I have drafted this amendment in this way.

Mr. Deputy Speaker : Amendment moved :

For part (i) of Clause 3, substitute the following :

> "(i) the expressions "custom' and 'usage' signify any rule which having been in vogue for a long time, has obtained the force of law among Hindus in any local area, caste, sub-caste, tribe, community, group or family :

Provided that the rule is certain and not unreasonable; and

Provided further that in the case of a rule applicable only to a family it has not been discontinued by the family.”.

Shri Syamnandan Sahaya: The amendment moved by Shri R. K. Chaudhari relates to part 2 and not one.

Dr. Ambedkar: It refers to the clause as it stand now.

Pandit Thakur Das Bhargava : In connection with my amendment Nos. 444 and 446 I would like to make some general observations regarding custom. The sole basis for the present Code is that such customs and laws as are opposed to the principle to be enacted in the Code will be abrogated for all time. I take it that the central principle of this codification is that all various customs in all parts of the country will, as a matter of fact, be so unified by the provisions of the Act that one law shall be applicable to the whole of India for the communities concerned. I have accepted that basis as good and I am in favour of the codification, because our laws will then become certain and they will become applicable to all Hindus all over India.

Apart from the unification of the customs sought to be done by the Code, there are many customs and laws which .we want to see changed. It is not only an attempt at codification. It is certainly a code in which we want all our bad customs and laws to be modified and hence in that respect it is a reform Bill also. I am in favour of the provisions of the Bill because I think they are a great advance upon the present practices and they imply reforms of a very great degree among the laws and customs now obtaining among the Hindus.

But when I find Dr. Ambedkar agreeing to this or that custom coming into the Bill I feel that the essential principle on which the Code is based is being sacrificed to opportunism. I know that he is. in a great fix and I have nothing but sympathy for him. Left to himself I am sure he will not accept these customs. Left to myself I would behave in the same way and there is no difference so far as this attitude is concerned between him and myself.....

Mr. Deputy Speaker : We are now on the definitions only. Such matters as *sapinda, sagotra* or degrees, in regard to which whether custom ought to be allowed to prevail, we will deal with them, we come to individual cases. Is it the hon. Member’s intention that the definition of Customs should go ?

Pandit Thakur Das Bhargava: The definition of the word “custom” will govern the word wherever it appears in the subsequent clauses. That word will have the meaning which we assign here.

Therefore it is very necessary to understand the significance of the word "custom" and see how it affects our principles. For us to know the full meaning of the word it is neccessary that we realise how we are altering the entire provisions of the Code, when we define "customs" in the manner proposed.

Mr. Deputy Speaker : The hon. Member is sufficiently an elderly Parliamentarian to know things but I want to understand things for myself. When individual items such as marriage or divorce come up we shall see what further changes have to be made in respect of that particular portion. We might say "Notwithstanding this, this shall not be allowed, etc." We are now on the definition and let us not enlarge the scope and discuss every one of the entries and see how such and such custom will work hardship. That would mean another general discussion.

Pandit Thakur Das Bhargava : I understood you Sir, even without the exposition which you have been kind enough to make. I quite see the force of the point you have made. You are here only defining customs but whatever definition is given here will apply to all those customs which are allowed in respect to certain matters.

Mr. Deputy Speaker : Not necessarily. With regard to the Sikhs or some others we might say "Notwithstading, this custom shall not prevail".

Pandit Thakur Das Bhargava : What is the meaning of our saying that customs in regard to the incidents of marriage will prevail ? It means that a certain kind of rule shall prevail and that rule or principle we are defining here, whether it should be such as is opposed to public policy but all the same one which has got the force of law.

Mr. Deputy Speaker : As to how custom ought to be recognised, if hon. Members want to impose restrictions it is certainly within the scope without going into the details of the various customs prevailing.

Pandit Thakur Das Bhargava : I am not on details at the moment. When the occasion arises we shall see whether the custom should be allowed to prevail in respect to those matters. Here I am making only general observations and submitting to Dr. Ambedkar.....

Mr. Deputy Speaker : The general observation that there shall be no customs and so forth could come at the first and second stage.

Pandit Thakur Das Bhargava: I am not saying that no custom should be allowed. I am only saying that he should not be very liberal

and allow many kinds of customs which will take away from the effect of the Bill. Then it would mean that there would be no use having this Code if in respect of every matter you allow a custom to prevail.

Mr. Deputy Speaker : We are once again going into the details. It is one thing to say that hereafter no custom at all will prevail, only the law will prevail. But it is another thing to say that we have to allow certain customs. In that case when we go into the details we will find out what ought to be allowed and what customs ought not to be allowed.

Pandit Thakur Das Bhargava: I am restricting the scope of customs by this definition. Supposing only those customs as have been judicially recognised are to be allowed, that would certianly restrict the scope of custom. Otherwise if we leave custom undefined when a man is faced with difficulty and produce any amount of evidence ; custom can be proved not only by instances but by opinions, by reference to texts. Therefore, I want that so far as custom is concerned its scope may be restricted. It is not that I have only taken one case and put it for the consideration of Dr. Ambedkar. I have gone further and just to show the absurdity of how he is allowing so much liberalisation of customs, I have given certain amendments to show to him and to impress upon him that he should proceed cautiously. Therefore, my amendment No. 446 says:

> "or any rule which is certain not unreasonable and has been judicially recognised as valid and binding in any local area, tribe, community, group or family".

I can understand that there are some customs which are growing, some which have been crystallised. As regards those which are growing, we want that they may not grow because that is the only way of having a statutory rule effective. In regard to customs which have not been judicially recognised, my own view is that we should not bring them within the scope. Either we accept that the society should accept custom as the sole rule of conduct and there should be no other rule among the Hindu community as was the case before—in that case also we will reach a stage when custom will become so stereotyped that we will attain what we want to—or, in the other case when we want to impose the rule of thumb, when we want to lay down by statute that such-and-such shall be the rule. Anyhow we will be well advised if we recognise customs which have been judicially recognised. In the definition given, it would appear there is no mention of any judicial recognition of any customs. On the contrary, the words in the first proviso are :

"that the rule is certain and not unreasonable or opposed to public policy".

I am opposed to the wording, "opposed to public policy". I do not know what the "public policy" is. So far as monogamy is concerned, I understand the public policy to be that the Government seems to be of the view the monogamy is a good thing for Hindus but then for rest of the community it does not apply ; as regards my Mussalman friends, many of whom I know do not like polygamy still the government is undecided and has taken shelter under the specious plea that they have not been consulted. If a thing is opposed to public policy, it is so for all. I know of a custom in the Punjab where *kharva* marriages are allowed. They cannot be called absolutely bigamous, but at the same time they are a different edition of bigamy because after the man dies the *devar* of the woman, that is the younger brother of the deceased husband, though his spouse may be living, is allowed to marry that widow ; the property remains with the family, and the lady also remains with the family. So, opposed to public policy might mean anything. It is so flexible a term that it shall vary with the length of the foot of the Law Minister, I am therefore opposed to these words. I would rather like mat any custom which has been judicially recognised, which has stood the test of time should be recognised.

Mr. Deputy Speaker: Hereafter there will not be any custom.

Pandit Thakur Das Bhargava : My submission is that in regard to this matter in which the Hindu Code seeks to provide, there should be no custom ; otherwise the whole purpose of the Code will disappear. You are perfectly right, Sir, when you say that in future there will be no custom on matters on which the Hindu Code provides, but in regard to other matters, so far as the Hindu Code does not relate to those matters at all .....

Mr. Deputy Speaker: What will happen if there is a particular custom which is undisputed ? It need not come to court. Only a disputed custom comes to court and is recognised or not. Any custom which is not obnoxious to public policy is recognised by the community. Merely on account of not having been recognised by a court does it lose its stand ?

Pandit Thakur Das Bhargava: My submission is that if there is provision for it in the Code then it does not grow. If there is no provision then it will remain and grow, and even if you took away these words "opposed to public policy" still it will remain because it is a rule of law. If you put the words "opposed to public policy"

then, in spite of the fact that a custom is a good one and observed by great numbers in the community, it will not grow if somebody is able to say that it is opposed to public policy.

Mr. Deputy Speaker : The Hon. Member is a good lawyer. My own interpretation is different. Wherever this Code specifically provides for a particular thing, unless an exception is made, to that extent a custom is abrogated whether it be opposed to public policy or not. What is the difficulty under which the hon. Member is labouring ? There are certain customs which have to be recognised, certain customs which are obnoxious and so opposed to public policy. Public policy is only a matter which can be judged by the foot of the judge. In regard to those matters we can say, why leave them to the court to decide; those customs are absolutely obnoxious. But with regard to other customs why say that they ought to be recognised by a court ? I think it is impossible to legislate for all the things.

Dr. Ambedkar : Perhaps you will allow me to intervene for a minute or two to clarify the point.

Pandit Thakur Das Bhargava : I am, Sir, of the same view as was expressed by you, but I am expressing it in a different way. I do not want to tamper with the customs which are growing which are good customs, but my fear is that any court may take upon itself to say that it is opposed to public policy. All the customs are not treated here because we have not the time and energy to go into all the customs throughout the country. Because we cannot say what customs will be saved, we should say that a custom to be recognised shall have to be judicially recognised as not opposed to public policy.

Dr. Ambedkar : The question which has been raised by my friend Pandit Bhargava is no doubt very important and so far as I know there is not the slightest difference between the view that I take and the view that he takes. The only thing is that he has applied his mind, if I may say so, to a wrong clause and that is why he has been rather confused as to what exactly is the position. Those Members of the House who are interested in the subject of custom *versus* the Code had better begin to apply their mind not to clause 3 but to clause 4 which is the main clause which deals with this matter of authority of custom as against the authority of the code and the law. And you will find, Sir, a very clear statement therein that unless a custom has been expressly saved that custom will not have any operation as against this law. Therefore, the question whether any particular custom has been expressly saved or not has to be gone into when we come

to discuss each of the clauses of this particular Bill whereon Members may raise the question whether the particular clause should stand in the absolute way in which it has been drafted or whether it should be made subject to any particular custom. If any particular clause in this Bill does not say "Save as otherwise provided by custom" or "unless there is a custom to the contrary" there is no custom which this Bill proposes to recognise. Therefore, on that point there ought to be no doubt. There is not the slightest intention to allow custom to override in a general way the provisions of this Code.

My. hon. Firend has, I know, a particular question or an occasion in mind when he feels that I have been going rather soft on this particular subject, but I can tell him that it is only in very very rare cases that I propose to yield on this subject, subject to the fact that anyone who presses upon me that the custom should override this particular Code in any particular way will carry upon him the burden of showing that that custom is more progressive than the provisons of this particular Bill.

Now, supposing that we do introduce a qualifying statement when we come to deal with different subjects, i.e. we say that that clause shall be subject to any existing custom or something like that, even then the question remains : What is the standard to which that particular custom must conform before it can have that over-riding effect ? It is that question which is dealt with in the definition clause, so that whenever any custom is saved it will nonetheless be open to find out whether the custom which is allowed by the particular clause to prevail upon a provision of this Bill conforms to the definition which is really a definition laying down the standard to which a custom must reach before it can be accepted by the court. That is the position.

So far as (ii) of clause 3 is concerned, there is nothing in this clause which is not bodily taken from the judicial pronouncements of the different High Courts in our country which have had to consider what is the custom to which they will give their sanction, and I think the ingredients of custom which the courts have laid down have been bodily and literally embodied in (ii) of clause 3. So, I do not think there is any ground for quarelling with the definition, because the definition is necessary. Even where we allow custom to prevail, we do not allow any kind of custom to prevail but only custom which conforms to the standards which have been laid down by the High Courts and hon. Members will see that the standards laid down in (ii) are the standards which have been sanctified and laid down by the various courts in our country.

Shri Naziruddin Ahmad : Even in foreign courts this is so.

Dr. Ambedkar : Everywhere this is the same. I have looked up even Stephen's Digest of English law and I find that the wording is almost the same as we have got here.

Pandit Thakur Das Bhargava : I am very much oblidged to my Hon. Friend the Law Minister for his having kindly explained.

Shri J. R. Kapoor : (Uttar Pradesh) **:** Has the hon. Member not finished ?

Mr. Deputy Speaker : No. He will continue. He is on his legs. Incidentally not only Members of Parliament but also outsiders are watching the progress of this Bill and there is some misunderstanding about my position. Once I sit here I have absolutely no colour, no caste, no creed. That is my honest position. To the best of my conscience I have tried to discharge my duties impartially. If any hon. Member feels rightly or wrongly that I am not doing it properly, I always welcome his coming and telling me privately that I must do this and that.

I find that even hon. Members of this House are under the impression that when an hon. Member is on his legs I can ask him to sit down. I have been appealing to hon. Members that with respect to important matters, certainly sufficient lattitude and time is necessary and must be allowed but if they repeat matters which have been discussed at various stages that is not right. Barring that, I am not in a position to impose any time restriction. If the Hon. Minister of Law can tell me that I can impose any time restriction on speeches under the law, it will be only too glad to avail of it.

Dr. Ambedkar : It cannot be done. But we have agreed amongst ourselves to impose a self-abnegation ordinance.

Mr. Deputy Speaker : I am very glad of that, but the burden should not be cast on the Chair. In a Finance Bill, I can apply the guillotine. This has been newly introduced. Hitherto the guillotine was applied to only Budget Grants, but recently it has been introuced so far as Finance Bills are concerned. I can fix a time limit and all amendments will be lost unless they are moved and accepted or rejected before that time-limit. But with respect to other Bills, I have no right to fix a time-limit even with respect to the Bill as a whole. With this restriction, I feel very much embarrassed if any hon. Member thinks that I am allowing too much time. That is my position and the position of anybody who may be in the Chair.

Lastly, if any hon. Member feels that there has been sufficient discussion on a particular clause, he can kindly tell me. There of course, I have my discretion. If I too feel that the matter has been elaborately discussed or at any rate sufficiently discussed, I will agree to the closure motion. To that extent, there is discretion in me. hon. Members who make suggestions will kindly bear all these things in mind. I am making this statement because an impression is created out-side that notwithstanding the suggestions of hon. Members I am standing in the way and holding the pendulum back.

In this connection, may I also inform the House that I have received a letter from the Managing Editor of the *Indian News Chronicle* ? Yesterday, as the House will recall Shri Amolak Chand drew my attention to a cartoon appearing in this paper which described some Members as holding the minute hand and hour hand and withholding the progress of the clock, and the Deputy Speaker as catching hold of the pendulum firmly so that the clock cannot move this side or that side. The hon. Members are shown as looking up and not looking down and seeing as to who is the man that is really holding the clock back. That is the impression that was created by that cartoon. Since I made reference to this matter yesterday and it is practically a privilege of the House and I am only its spokesman, I would like to read this letter. It is written by Shri Deshbandhu Gupta, Managing Editor and runs thus :

"My dear Shri Ananthasayanam Ayyangar.

I am informed that you took exception to the cartoon which appeared in the Indian News Chronicle yesterday morning under the caption "putting the Clock Back". You are reported to have expressed the view that the cartoon was calculated to cast aspertions on the Chair. I am very sorry that the cartoon has given cause for offence to you personally or in the capacity of the Deputy Speaker. The cartoonist assures me that it was remotest from his intention to show any disrespect to the Chair or to the House and joins me in assuring you of the desire of the Indian News Chronicle to uphold the dignity of both.

The theme of the cartoon as you will kindly see is to illustrate the current situation in Parliament in which in spite of the Chairman's desire to regulate the debate so as to conform as nearly as possible to time schedule, some members participating in the debates have endeavoured to prolong the debate and thereby hold the progress of the Bill. I am assured by the cartoonist that in introducing the Deputy

Speaker in the cartoon in this role he had no other intention. While regretting that anything in the cartoon should have given cause to you for offence. I hope you will be good enough to accept this explanation and our sincere assurance that there was no intention whatsoever of showing disrespect to the Chair and the House."

I think this is sufficient.

Dr. Deshmukh : From the Chair, he has shifted to Members. He is accusing Members now. It is worse.

Shri Radhelal Vyas : (Madhya Bharat) : I think the matter should be referred to a Committee of Privileges.

Shri Bhatt : It should be made clear that it was not intended to cast aspersion on any Member either.

Dr. Deshmukh : Shri Deshbandhu Gupta should be made to appologise to the House.

Mr. Deputy Speaker : Evidently he feels that the speed which he expects of the progress of the Bill has not been made in this case. I shall later look into the matter as to whether any aspersion or insinuation has been cast on any hon. Members of this House.

Pandit Thakur Das Bhargava : So far as your observations are concerned, with your permission I would like to say a word. The Members of this House realise that the Chair is sacred. Here sat Vithalbhai Patel—whose portrait we see before us—who sanctified the Chair. After him was it adorned by men of great eminence and prominence. We all know that the Chair has been holding the scales even. It is idle for the outside world or any members here to think or feel that the Chair is not impartial or dealing fairly with any question.

But at the same time when passions are frayed, when persons take sides, they are apt to see from an unbalanced standpoint the conduct of the Chair or of the Members of this House. Now great exception was taken by some Members, and they even asked you to stop a Member during the course of his speech. I can fully understand the view-point of every Member who wants to make a long speech. Even Dr. Ambedkar made certain statements to which certain Members took exception, though I was not one of them. Every Member has a right to criticise. So far as we are concerned our skins are too thick now to get offended by such criticism. So far as the conduct of the Chair in this House is concerned, no member has for a moment even thought that it is conducting the business in a partial manner.

The newpapers have a right to criticise anybody and everybody. I personally would not mind if any pressman criticises me. Let them criticise—they have their own point of view. Let us not be so thin-skinned,

So far as aspersions on the Chair are concerned, by any person either inside or outside the House, I would take strong exception and if you feel that the apology offered is not satisfactory, you should take action against the person concerned.

Mr. Deputy Speaker : So far as I am concerned, I am satisfied with what he has written. It is, therefore, unnecessary to pursue the matter. If, however, any hon. Member feels that this letter casts any aspersion on him, we shall look into it. At present I do not think any aspersion is cast on any hon. Member or on the House.

Shri Santhanam : Is it suggested that only Government is liable to criticism and not the Members ?

Dr. Deshmukh : While Mr. Gupta wrote the letter with the intention of clarifying his position so far as the cartoon was concerned, he has unnecessarily gone out of his way to criticise a section of the Members by alleging that they were obstructing this measure.

Mr. Deputy Speaker : This letter consists of two parts. So far as the Chair is concerned and the privilege of the House is concerned, the matter may be left to me. I am satisfied with what he has written. If, however, any hon. Member feels that it casts any aspersion on him, he may meet me in my chamber and we shall discuss the matter.

Pandit Thakur Das Bhargava : What objection could be taken to that ? Mr. Deshbandhu himself took four hours on the Press Bill; our friend Mr. Naziruddin Ahmad took seven hours on this Bill.

Dr. Deshmukh : It is a case of the pot calling the kettle black.

In regard to what you said about yourself and the conduct of business in the House. I want to say a word with your permission and that is this. Whereas I sincerely welcome all your interruptions and the help you give for the conduct of the business of the House, I would like to point out with all due respect, that if the debate is allowed to go on, probably we might spend lesser time. I have the utmost respect for the Chair and it intervenes only with the idea of helping the proceedings. But if it could be minimised and help given only when it is necessary, we will probably be able to advance better.

Shri Bharati (Madras) **:** It is a direction to the Chair which is uncalled for.

Dr. Deshmukh : The Chair has invited our opinion.

Shri Bharati : Not for giving directions to the Chair.

Pandit Thakur Das Bhargava : As a Member of this House I wish that this rule of free speech is stuck to. I do not want to put any obstacles in the progress of this Bill. All the same I feel very much offended if I feel an inner urge to speak more and more and yet the Chair pulls me up and does not allow me to speak fully. All Members are expected to put a self-restraint on themselves. Now, I come to the subject.

I am very much indebted to Dr. Ambedkar for having very kindly explained this point of law. I quite see that custom has been defined in many judicial pronouncements. But that was not my point. I wanted to suggest that one of the accepted canons for the validity of custom should be that it should be judicially recognised. I suggest this fact that customs have been judicially recognised may not be given a goby when custom is opposed to public policy. If a custom has been judicially recognised, it means that it has passed through the seam of courts and has received recognition at the hands of the judiciary.

Dr. Ambedkar : If I may intervene for a moment, that question will again arise, or may arise, or may be raised, when we are dealing with each particular clause. My hon. Friend suggested "any custom which is judicially recognised" ! It is perfectly open to him to say so. But as you very rightly observed, if we are to confine our recognition to a judicially recognised custom, it will create many dafficulties, because there are good customs which satisfy all the ingredients of the definition, yet have not come to the court for judicial recognition. I am only anticipating the difficulties.

Shri Santhanam : The word 'judicially recognised' may mean, recognition by a district court, or a High Court. We cannot say judicially recognised means recognised by the Supreme Court.

Pandit Thakur Das Bhargava : It must be judicially recognised and further it must be certain. It must be not unreasonable, it must be continuous and it must have the force of law. I only want custom which has been judicially recognised should not be given a go-by in the name of public policy. Therefore all these ingredients of a valid custom which are defined by the judicial courts may be accepted.

Mr. Deputy Speaker: The proviso requires that "the rule is certain".

Pandit Thakur Das Bhargava : It must be certain, not unreasonable and have the force of law, But the words "and uniformity" and "or opposed to public policy" may not be there. This is the difference I want to see carried out.

Mr. Deputy Speaker : Where a single custom applies to all classes of human beings, then it is only by nature.....

Pandit Thakur Das Bhargava : I beg to be excused. When it is said that a custom should apply to all human beings it must be almost a universal rule or law. It applies to a tribe, community, group or family, as has been defined here. If you say "uniformity" this would mean that the custom that applies to any family or caste or community or tribe will all go away. When the word "continuously" is there and when the word "law" is there I do not understand the necessity for the word "uniformity".

Mr. Deputy Speaker : I understand "uniformity" to mean without variation.

Dr. Ambedkar : That is the point. I was almost going to say that.

Pandit Thakur Das Bhargava : There are different customs between different families. How can they be uniform ?

Mr. Deputy Speaker : The hon. Member has not appreciated the point. We shall assume that there is a custom and it has been continuous, but it has been followed with variations. Suppose somebody is collecting Rs. 10 in a certain period and it was Rs. 15 in the next period and Rs. 20 in a third period, is it suggested that the application should be not only with respect to custom but to laws and grants also ? Suppose it is held by judicial decisions that this was not uniform. Therefore, you cannot presume. Similarly, uniformity means not uniformity with respect to the caste or family etc. but in the family itself it must have been not only continuous but uniform also, that is without variation.

Dr. Ambedkar : That is what it means—without variation.

Pandit Thakur Das Bhargava : As if the changed custom will not be recognized by law, If there is a custom which has gone out of use.....

Mr. Deputy Speaker : Wherever there is a change, that change must have been so continuous, so long and so certain ,..

Pandit Thakur Das Bhargava : The word "continuous" is there and I do not object to it. I object to the word "uniformity".

Mr. Deputy Speaker : Has Mr. Naziruddin Ahmad got any substantial amendment ? I do not think so.

Shri Naziruddin Ahmad : I want to speak on 'custom'.

Mr. Deputy Speaker : First I will deal with those who have got amendments. Does Mr. Jhunjhunwala want to speak on his amendment ? I am not inviting him to do so !

Shri Jhunjhunwala : Yes, Sir, I want to speak on it.

In my amendment I want to add the word "*varna*" after "tribe".

Mr. Deputy Speaker : He wants caste custom also to be recognised there. He wants to introduce among the various categories "caste" also, after the word "tribe". He has already tabled an amendment to that effect. Now he wants to change the nomenclature of the word from "caste" to "*varna*".

Shri Jhunjhunwala : I want that the word "*varna*" should occur after the word "tribe" in clause 3(i). The object of my putting in this amendment is that while customs and usages will be recognised according to the area, tribe, community, group or family, the reasons for recognising such usages and customs have not been explained by the Honourable Doctor. But if the principle is accepted that certain customs and usages will be recognised, if as he has said these are proved to be progressive, in that case the customs which are prevalent in different *varnas* according to *Varnashrama Dharma* should be recognised if the conditions laid down by the Hon. Doctor are satisfied.

This *Varnashrama Dharma* is of no recent origin. People say that it is only in the puranic time that these *varnas,* castes and all these things have come into existence. But that is not a fact. These things were in existence long before, say 3,000 years back. They have got a great deal to do with our life and social structure as well as our economic structure. All the four *varnas* have got different usages and different customs, and they have meaning behind them. Every usage and custom has got meaning behind it, and duties are allotted to different *varnas* according to their ability. The other day when a question was put to him whether he has got the sacred thread, the Hon. Mr. Gadgil said, "Yes, I had a sacred thread", then he took off his coat and said, "See, I have taken it away".

Mr. Deputy Speaker : He did not take off his coat.

Shri Jhunjhunwala : I stand corrected. He did not take off his whole coat and the reason which he gave, to which I attach importance, was that he is not capable of following the *Dharma* of a Brahmin for which the sacred thread is worn, and he said, "Therefore, as an honest man I thought it my duty to throw it away". Sir, this shows that even the hon. Mr. Gadgil recognizes that there is something very great and sanctifying in the usage and of putting on the sacred thread before a Brahmin is married. In the same way there are similar customs in other *varnas* also. Therefore, it is very necessary that all the customs

which are prevalent in different *varnas* should be recognised if they satisfy the conditions laid down by the Hon. the Law Minister. I have therefore put in this amendment only with this object that if any such clauses come subsequently regarding marriage, divorce or any other thing, we may be in a position to show that these customs, though they may not be prevalent in any tribe or community or group of family, are prevalent in differently *varnas* and these are very essential. These are the reasons for which I want to add the word "*varnas*" there.

Shri B. K. P. Sinha (Bihar) **:** May I know one thing from the hon. Member ? Is it his contention that while abrogating the *smritis* and *shrutis* we should not abrogate custom and usage ?

Mr. Deputy Speaker : *Shrutis* and *smritis* have not been abrogated; they have been incorporated.

Shri Jhunjhunwala : He will find that the Law Minister recognizes them.

Shri Syamnandan Sahaya : My amendment, as you will see suggests the omission of the two provisions in the sub-clause or item dealing with the expression 'custom and usage'. The purpose of suggesting this amendment is exactly what has been mentioned by the Hon. Law Minister. The Hon. Law minister has said that the definition given here is more or less based on judicial findings on the point and judicial decisions have all been that the words 'customs and usage' should signify what he has laid down in the definition. The words 'custom and usage' must have been and have been the subject of various judicial findings and I therefore thought that if that is the legal or judicial meaning which has been given to the words 'custom and usage', it would not be desirable to encumber or burden this definition by making the provisions here, because that is exactly what they will mean. The reason for my making the submission is .....

Mr. Deputy Speaker : I can understand. When there is no definition at all he can rely upon judicial decisions.

Dr. Ambedkar : The court will also be open .....

Mr. Deputy Speaker : Custom is continuous and uniform.

Shri Syamnandan Sahaya : When a certain word is used in a legislation which has been the subject of judicial interpretation, then that word whenever submitted to judicial interpretation will be liable

to the interpretation that judicial decisions have given on it. On the other hand my feeling is that this law makes such revolutionary changes that the normal course of the manner in which the Hindu law has been interpreted will also undergo unthought of changes and my submission is that with the existence of the provisos, the judiciary may feel that the interpretations and rulings have to be considered afresh and the words 'custom and usage' may now have to be dealt with not only, for instance, on the ground that it has been continuous, that the rule is certain and not unreasonable or been opposed to public policy. You will see the difficulty, Sir, in this as you know that 'public policy' is a matter which is an ever-changing process.

Mr. Deputy Speaker : Nobody denies that. What is the public policy under particular circumstances is the matter that will be decided. . . .

Shri Syamnandan Sahaya : Not only under particular circumstances but in the changing conditions of Government. One Government may have one public policy and another Government tomorrow may have another public policy.

Dr. Ambedkar : The word 'public policy' also occurs in the Law of Contracts.

Mr. Deputy Speaker : Under the Transfer of Property Act, no transfer is valid which is opposed to 'public policy'.

Shri Syamnandan Sahaya : I also support the amendment of Pandit Thakur Das Bhargava with regard to the word 'uniform'. The words 'custom and usage' in my opinion are liable to lead to difficulties and also further litigation. It is not necessary that a certain rule or usage or custom should have been uniformly followed in a particular family and I shall refer to a Privy Council Case, if the Hon. Law Minister will have no objection. I refer to a very important case which was taken to the Privy Council by the successors of the Moghul Emperors. Now the case was as to who was to be the recipient of the pension paid by the Government of India to the successors of the Moghul Emperors and several people were disputing rights. One said, "I am the successor of the Moghul Emperor" and another said, "I am the successor". The matter went up to the Privy Council and the point arose as to which of them was circumcized, because one of them was not .....

Dr. Ambedkar : I know that case.

Shri Syamnandan Sahaya : And the Privy Council held in this particular case that although normally the rule and custom of circumcision obtained in the Muslim families, in the case of the Moghul

Emperors, when there was a child from the Hindu wife, circumcision was not necessary and they were entitled to the pension or something like that. Therefore the Hon. Law Minister will appreciate that this uniformity with regard to customs even in a particular family has not been a necessary factor and I think that he will do well to adopt this amendment of Pandit Thakur Das Bhargava, suggesting that the word 'uniformity' be dropped.

Dr. Ambedkar : This has no judicial value. The distinction there was made between custom and practice. Practice has no judicial value.

Shri Naziruddin Ahmad : I want to speak with regard to the definition of the word 'custom' to begin with and I must say that I am in entire agreement with the official draftsman.

Shri Syamnandan Sahaya : For once.

Shri Naziruddin Ahmad : I am in general agreement with the Hon. Minister except on occasions when he cannot be made reasonable. With regard to this definition of the word 'custom' it is not merely the Indian law but it is also the law throughout the world. I have a copy of Holland's Jurisprudence which also lays down that a custom in order to be followed must be reasonable, must be continuous, must not be broken and it must be of ancient standing. This is all that is laid down there. The question of uniformity is regarded in Jurisprudence as absolutely essential. If once a custom is broken, it ceases to bear the character of custom at all. This has always been regarded so. So the mere fact that a custom is broken is enough to break the custom. Therefore, I think the definition as it stands should be supported. So far as judicial decision is concerned, the judicial decisions in all cases must have been or are supposed to have been given in view of these considerations but these are considerations which are essential, which are to be found in books of Jurisprudence and therefore, it is far better to rely upon these essential elements rather than rely upon judicial definitions because judicial definitions might be coloured with regard to the difficulties of a particular case and it is far better to rely upon well-known expressions rather than rely upon judicial decisions. Therefore, I think that the definition in the Bill should remain.

Shri J. R. Kapoor : I have not been able to appreciate the necessity of the two amendments that have been moved by my hon. Friend, Pandit Thakur Das Bhargava, particularly in view of his own view. His view I understand, is that the definition of 'custom' should be

a restricted one and that various sorts of customs in various parts of the country in different forms, in different methods should not be allowed to prevail. That being his view, with which I am in entire agreement, I think that if the amendments suggested by Pandit Thakur Das Bhargava are accepted, the scope, the denotation of the word 'custom' would be considerably extended and expanded which should not be. The one useful thing about this Bill is that it is going to unify and consolidate the Hindu society in some measure and therefore the less the variations in manners and customs and in the rules applicable to Hindu society, the better it is. The essential basis of this Code is uniformity which it will bring about and we should not get away from that mooring and in the consideration of every clause in this Bill, we should never lose sight of this thing. Once we lose sight of this thing. Once we lose sight of that we shall be virtually giving away the basis of this new enactment. What does Pandit Thakur Das Bhargava suggest? Firstly, he suggests that the word 'uniformly' should be done away with. That would mean that a custom even if it has not been uniformly observed should be a custom under this definition, Obviously, that extends the scope of the definition of custom. Secondly, he suggests that the words 'opposed to public policy' should be deleted. That, again, means that a custom even though it may be opposed to public policy, according to the prevalent notions of public policy at any particular time, should have the sanctity of a custom as defined here. That, again, would be extending the scope of custom and not restricting it. I submit these suggestions should not be accepted. To me, it appears that the words 'opposed to public policy' are very necessary and essential. Because, our society, or any society is an ever-growing society and notions about morality, propriety and advisability of a thing change from time to time. We should not put a stop to that desirable change. A custom which has even been judicially recognised at any particular time, may, 10 or 20 years thereafter appear to the society to be not a proper or desirable custom. At that time, it should be open to society and even to the law courts to declare that this custom, though it has had recognition in judicial pronouncements, according to the changed conditions of society and the changed economic and social theories which have been adopted by society, should not be recognised as a valid custom. I therefore submit that this part, as it stands, should be accepted.

11-00 A M

I submit the amendment suggested by my hon. Friend Mr. Jhunjhunwala may be accepted because that appears to be a harmless thing. I beg to suggest, Sir, at this stage, if it may not be considered

a late stage, to the Hon. Law Minister that the words 'or family' in the, substantive clause may be deleted. Because, to me, it appears .....

Mr. Deputy Speaker : Where is the amendment ?

Shri J. R. Kapoor : ..... that a custom which has been in force only in a particular family should not be given the sanctity of a valid and recognised custom.

Dr. Deshmukh : It has already been given by the Hindu Law.

Shri J. R. Kapoor : We have in the sub-clause the words :

> "signifies a rule which, having been continuously and uniformly observed for a long time, has obtained the force of law among Hindus in any local area, tribe, community, group or family."

Mr. Deputy Speaker : The House is aware of that expression. The hon. Member has tabled a number of amendments, he never thought at any particular stage that these words should be dropped. I do not want ot allow any time to be spent on this matter.

Shri J. R. Kapoor : I am not moving any amendment. I am opposing this particular part of the clause. I do not think I will have any further opportunity to suggest this. As for my not moving an amendment. I may be permitted to confess that having been very much disappointed in finding that none of my amendments are acceptable to the Hon. Law Minister, I thought, rather than moving an amendment formally, I may informally suggest the thing to him so that he may himself move an amendment to that effect. In that case, it would be more easily acceptable to the House. Anyway, I have nothing further to submit on this point.

Shri Shiv Charan Lal (Uttar Pradesh) **:** I think all the amendments should be negatived and the clause as it is should be accepted. Pandit Thakur Das Bhargava, being a lawyer—I am surprised to see—says that the words 'opposed to public policy' should be deleted. That is a very necessary thing . As society advances, the opinion of society carries more weight. Anything that is against that opinion should not be acceptable even though it may be an old custom. Pandit Thakur Das Bhargava also wants that the word 'uniformly' should be deleted. By the word 'uniformly' he seems to understand uniformly for all the people. It is not so. It may be the custom of one family. By 'uniformly', it is meant that it is followed continuously or uniformly and not changed. Therefore, the word 'uniformly' is also necessary.

He says that only those customs for which there are judicial pronouncements should be accepted. This is also wrong. There are

certain judicial pronouncements which are now not good law because public opinion has changed. The people do not want that custom to continue. There are certain customs which are very well-recognised, but which have never gone to the courts and on which there are no judicial pronouncements. Therefore, I submit, all the amendments of Pandit Thakur Das Bhargava do not stand anywhere.

In the amendment of Mr. Jhunjhunwala, he wants to add the word *varna*. There are no customs connected with any *varna*. All customs are connected with caste, families, certain areas. I do not know of any custom or any decision of any court where a custom has been recognised as a custom of a *varna*. That has never come before any court. As to the amendment of Mr. Syamnandan Sahaya, he wants to delete the two provisos. These provisos are the life and soul of the whole definition. Therefore, they cannot be deleted. Therefore, Sir, I am in support of clause (i) as it is.

Shri B. K. P. Sinha : I think there is no force in the amendments moved to this clause. This clause, as put in by the Hon. Law Minister is simple and embodies the law as it is. The critics have objected to the words "uniformity" and "public policy". But, it has been laid down by so many decisions and judgements of the various High Courts that a custom to be valid must be uniformly practised. Mr. Syamnandan Sahaya referred to some Privy Council Case in support. This contention that uniformity was not an essential of valid custom. I could not catch him; therefore, I speak subject to correction. There is a distinction between social and religious customs and customs that prevail in the agriculture and trade field. So far as society and religion are concerned, custom and usage are rather inter-changeable terms and there is very little distinction between the two. But, in the case of trade and agriculture, a distinction has been made between custom and usage. Custom is noted for its antiquity; it must come down from time immemorial. Usage is something which is in the process of growth ; it is something new. The Privy Council case of which I know, makes a distinction only so far as trade and agriculture are concerned. But, that is not germane or very relevant to this question, which is a social and semi-religious question. I have found in so many decisions uniformity is prescribed as a test of the validity of a custom. As regards public policy, I do not know why people have fears on this ground because I find that it has been laid down by the Privy Council, by the Patna, Calcutta and several other High Courts that a custom which

is opposed to public policy shall not be valid. In this respect also, I find that the Hon. Law Minister has, in his clause, embodied the law as it is. Moreover, it we go on making an exception in favour of all sorts of customs, what would be the basis and justification for this codification. Codification is mainly done to introduce uniformity and certainty. If we make exceptions in favour of customs prevailing in families, in different territories, etc., there would be no uniform law for the whole country, and the whole object of codification would be defeated. The second object of codification is that there will be something handy to which everybody can refer, with certainty. If we make exceptions in favour of customs, etc., this certainity would have gone. Therefore from any point of view, I see no reason why this clause should not be passed as it is, and why any amendment should be accepted.

Mr. Deputy Speaker : I will now call upon the Hon. Law Minister.

Babu Ramnarayan Singh (Bihar) **:** Sir, I have also to say something.

Mr. Deputy Speaker : But has not enough been said already ?

***Shri Bhatt :** (English translation of the Hindi Speech). I have got an amendment.

Mr. Deputy Speaker : Which is your amendment ? I have disallowed it.

Shri Bhatt : You have allowed it.

Mr. Deputy Speaker : But there is no particular charm about it. It is only a matter of recasting the word slightly.

Shri Bhatt : That I am to explain as to why I was putting it. I am not moving it simply for recasting of the words.

Babu Ramnarayan Singh : I kept standing for long.

Mr. Deputy Speaker : What should I do ?

Shri V. J. Gupta (Madras) **:** Sir, I do not want to make a speech, but I want to get a doubt cleared.

Babu Ramnarayan Singh : Your eye should have caught me.

Mr. Deputy Speaker : It does not mean that just because an hon. Member stands a number of times he catches my eye. I must have some discretion in regulating the debate, and I might call upon certain Members and not certain others. But if there is yet time, we shall see.

* P.D., Vol. XV, Part II, 21st September 1951, pp. 3014-54.

Dr. Ambedkar : There is only one point to be explained and .....

Shri Bhatt : You have given me time.

Mr. Deputy Speaker : All right. I will call the Law Minister later. But after all it is a very formal and verbal matter that is dealt with in this amendment.

Babu Ramnarayan Singh : No, Sir, it is important too.

Shri Bhatt : The amendment moved by me is not verbal. The thing which I want to stress in it may possibly not be acceptable to the Hon. Minister and he may not be inclined to change his attitude. As a matter of fact, as a Lawyer I am not so competent as to convince him. But I want to tell him and draw his attention to certain things lacking in the measure that is being sponsored by him.

The first point is about the definition of 'custom and usage' which he has put here in an insufficient form. On reconsideration he will himself feel inclined to reduce or add a few words to convey the complete sense.

By 'custom and usage' we mean traditions, conventions and routine practices, The definition being propounded by him for it limits the sense to four essential attributes, *viz*., continuity, uniformity, certainity and its not being opposed to public policy. In its place I am thinking of a simplier definition which may precisely convey the same sense. But he has talked of uniformity. What does this uniformity mean? Different castes have their different customs. Even a single caste, spread roughly over a thousand villages, allows various concessions and different usages to the separate circles, and therefore even in a single caste there is a separate sort of uniformity for separate places. There are variations. Therefore the word uniformity would give rise to a lot of litigation and benefit the lawyers It may therefore be dropped as variation is inevitable.

If a community made certain variations, it being its usage, it was likely to pay a fine of Rs. 50. But now-a-days Rs. 50 mean nothing and cannot have affect to the desired extent and therefore if one suggests to increase the fine to Rs. 100 you would say that uniformity is not there. Today you change a thing which was good till yesterday, then where is uniformity ? Therefore, as regards uniformity we should agree that variations are bound to be.

I shall quote here from Article 13 of the Constitution to explain how the word 'law' has been defined there :

> "law includes any ordinance, order, bye-law, rule, regulation, notification, custom or usage having in the territory of India the force of law."

Here 'territory of India' does not mean that there is going to be only one custom throughout India. There is not going to be any one order or notification applicable throughout India. The Government of India decides its policy for each State according to circumstances prevailing there.

I also want to tell you what is meant by 'law in force', and this will explain what I understand from the words 'variations' and 'uniformity' :

> "laws in force' include laws passed or made by a Legislature or other competent authority in the territory of India before the commencement of this Constitution and not previously repealed, notwithstanding that any such law or any part thereof may not be then in operation either at all or in particular areas."

So, I want to suggest that the word 'uniformity' used here will make complications and nothing will be lost if it is dropped. After all what does this 'custom' mean ? We are educated enough to understand that 'custom' is an usage prevalent from the time of our forefathers. You might quote certain thing prevalent upto yesterday, in which you have made a change today, but, for that reason, shall we not take it as custom and will it not affect us ? It may not affect economists, but it is not proper. Therefore, if you want to bring the word 'custom' and allow some concession according to it, it may be put in a way that people may get something through it.

'Custom' has been defined in the Law Dictionary as follows :

> "It must have been continued, peaceable, reasonably certain man runs not to the contrary.
>
> "It must have been continued, peaceable, reasonably certain, compulsory and not left to the option of every person whether he will use it or not, and consistent with other customs, for one custom cannot be said to be in opposition to another."

These things should be taken into consideration. I have suggested that the word "continuous" was equivalent to 'having been in vogue' This is not a wrong word, 'in vogue' being a comprehensive word of the English language meaning a thing prevalent and in practice. That is why I have proposed ; 'having been in vogue for a long time', 'it has been in practice for a long time'.

The second thing which I have put is : 'which has obtained the force of law'. This is a simple thing and if accepted will become a recognised convention.

The third point I have taken is about 'public policy' or 'public morality'. I fail to understand that if conventions find place in the proposed measure, where was the necessity for the word 'public policy' ? You might say that only accepted customs will be allowed at a place and not others, then which customs will be against public policy ? What does 'public policy' mean ? The word might have dropped from some lawyer or judge and we are now using it, but we should be clear about the meaning of 'public policy'. I think there is no necessity for any such expression as 'public policy' or 'public morality'. After all where there will be a place in law for conventions, only there the conventions will be followed. So I do not find any necessity for these words.

Now I want to say something about caste and sub-caste. The words are not my own ; they have been used in Articles 15 and 16 of our Constitution. We used the word 'community' in Clause 2 yesterday. We have not used the word 'community' but the word 'caste' in the Constitution. In my opinion the words 'castes and sub-castes' will be more proper here in place of the word 'community'. I do not mean that the word 'community' may be dropped as we have included it only yesterday, but there is no harm if these two words are also added.

With these words I move my amendment. There is very little likelihood of its being carried, but the Hon. Minister will please think over it.

Babu Ramnarayan Singh : (English translation of the Hindi speech). Sir, I submit that the decision arrived at by you is very nice and acceptable to all. But sometimes you make decisions in such a haste that it pinches us. Therefore, I entreat you not to decide in haste on the ground that there has been sufficient debate upon the measure. I submit that I also stood up so many times, your eye should have caught me and I should also have been allowed to speak.

Shri V. J. Gupta : I have a doubt to be clarified. In the definition it is said :

> "The expressions 'custom' and 'usage' signify a rule which, having been continuously and uniformly observed for a long time, has obtained the force of law among Hindus in any local area, tribe, community, group or family."

As you know in our parts marriage between a young man and his maternal uncle's daughter is allowed in many communities. It is a common custom though it is not uniformly or continuously observed.

Mr. Deputy Speaker : You must read the entire chapter. There is a special exception made.

Shri V. J. Gupta : Further, it is said "opposed to public policy". A practice is called a custom when observed by all the people of a locality. When it is observed by all people uniformly how can it be opposed to public policy ?

Dr. Deshmukh : I want to oppose this.

Mr. Deputy Speaker : You can vote against it.

Babu Ramnarayan Singh : We would like to speak also on it.

Mr. Deputy Speaker : I know Hon. Members have a right to speak but I have looked round and I am satisfied that there has been a sufficient debate. If the Hon. Member wants that the formality of a question being put should be observed, let someone move it and I shall put it to the House.

Shri Santhanam : Sir, the question be now put.

Mr. Deputy Speaker : The question is :

"That the question be now put."

The motion was adopted.

Babu Ramnarayan Singh : My voice was louder than their voice !

Dr. Ambedkar : In my previous intervention I had explained already both the position of this sub-clause in relation to clause 4 and how the question of custom has been dealt with generally *vis-a-vis* the Code.

With regard to the exact terms which have been used to define the expression 'custom' I am sorry to say that it is not possible for me to accept any of the amendments suggested. This definition, as I have said, has been copied verbatim from judicial decisions of the highest tribunal in our country as well as in all other countries, where custom has been judicially defined. I do not think therefore that any ground has been made out for me to depart from the definition proposed in the sub-clause.

Mr. Deputy Speaker : The question is :

In clause 3, for the words "unless there is anything repugnant in the subject or context" substitute "unless the context otherwise requires".

The motion was adopted.

Mr. Deputy Speaker : The question is :

In clause 3, renumber the existing items (i), (ii), (iii) and (iv) as items (ii), (iii), (iv) and (v) and insert the following as item (i), namely :

"(i) 'Aliyasantana law' means the system of law applicable to persons who, if this Code had not been psssed, would have been governed by the Madras Aliyasantana Act, 1949 (Madras Act IX of 1949)."

The motion was adopted.

Mr. Deputy Speaker : With the re-numbering of the parts as adopted by the previous amendment all the amendments relating to part (i) now relate to the present (ii). I shall put them to the House one by one.

The question is :

In part (i) renumbered as part (ii) of clause 3, for the words "among Hindus" substitute the words "among persons to whom this Code applies".

The motion was negatived.

Mr. Deputy Speaker : The question is :

In part (i) renumbered as part (ii) omit the words "and uniformity".

The motion was negatived.

Mr. Deputy Speaker : The question is :

In part (i) renumbered as part (ii) of clause 3— (a) after the words "group or family" occurring in line 4, add the following :

"or any rule which is certain not unreasonable and has been judicially recognised as valid and binding in any local area, tribe, community, group or family"; and

(b) Omit the first proviso.

The motion was negatived.

Mr. Deputy Speaker : The question is :

In part (i) renumbered as part (ii) after the word "tribe" insert the word *"Varna"*.

The motion was negatived.

Mr. Deputy Speaker : in view of this amendment No. 413 having been negatived amendment No. 414 does not arise.

The question is :

Omit the provisions to part (i) re-numbered as part (ii) of clause 3.

The motion was negatived.

Mr. Deputy Speaker : The question is :

For part (i) renumbered as part (ii) of clause, substitute the following :

"(ii) the expressions 'custom' and 'usage' signify any rule which having been in vogue for a long time, has obtained the force of law among Hindus in any local area, caste, sub-caste, tribe, community, group or family :

Provided that the rule is certain and not unreasonable ; and

Provided further that in the case of a rule applicable only to a family it has not been discontinued by the family."

The motion was negatived.

Mr. Deputy Speaker : The question is :

"That part (i) renumbered as part (ii) of clause 3, stand part of the Bill."

The motion was adopted.

Shri Naziruddin Ahmad : I have amendment No 377 to part (ii).

Dr. Ambedkar : I would very much like to make suggestion here because that will shorten the labour. As you will see, some of the definitions given in part (ii) not only apply to marriage and divorce but they also were intended to apply to the other parts of the Code. In view of what has transpired, it would be necessary for me at a subsequent stage to amend this definition and to narrow it down to the provisions relating to marriage and divorce. Therefore, what I was going to suggest to the House is to pass this in a formal manner without attaching any great importance to it, because I shall come back to it when I deal with consequential amendments and then the matter may be dealt with at great length if they want. For the moment I am not very particular about this definition because I see that I will have to amend it.

Mr. Deputy Speaker : Is there any objection to allowing this to stand over this part alone ?

Dr. Ambedkar : I have no objection.

Mr. Deputy Speaker : In view of what has transpired, some consequential amendments have to be made later. So, I will allow this part to stand over.

Shri Santhanam : It will mean the whole clause standing over. But after passing parts (viii) and (ix) the whole clause has to be put.

Mr. Deputy Speaker : It is in the discretion of the Chair to put the whole clause or put it part by part. As a matter of fact, I have placed it part by part and we have already adopted two parts.

Shri Bharati : Definitions may be added at any time.

Mr. Deputy Speaker : If the Bill is going to be restricted in scope then what is the harm in doing so ?

Shri Naziruddin Ahmad : My amendment is for this very purpose, Sir.

Mr. Deputy Speaker : The Hon. Member has thought much in advance and the Hon. Minister is only accepting what he is saying. So, this matter will stand over.

Shri Naziruddin Ahmad : I have no objection.

Shri Bharati : The words "full blood" and "half blood" do not occur in the part of the Code which we intend to pass. Originally we had intended to pass the whole Code and these words were necesary. Now that these words do not occur in this part we may as well drop them.

Dr. Ambedkar : They may arise in connection with prohibited degrees, *sapindaship* and so on. Therefore, my suggestion is that it might be desirable at this stage to pass the part and if at a later stage I find it is necessary to make some amendments I will do so.

Shri Bharati : After all, these are definitions of words which must have a reference to the words occurring in the subsequent chapters. If we do not see these words at all in the chapters on marriage and divorce I do not see any virtue in having the definition.

Shri Naziruddin Ahmad : This part is amended by amendment No. 360 which is the latest version of this part. But even there terms like "uterine blood" appear.

Dr. Ambedkar : My suggestion is that the better thing would be to allow these definitions going through ; if subsequently we find it necessary to change we shall change it, because, as I have already stated, I reserve the right of bringing appropriate amendments in view of what has happened with regard to this Code.

Mr. Deputy Speaker : In any way, without any doubt this is required for the chapters on marriage and divorce. And these terms are there both in the original part and in the amended one.

Now I will put part (iii) to vote.

The question is :

"That part (iii) renumbered as part (iv) of clause 3 stand part of the Bill."

The motion was adopted.

Mr. Deputy Speaker : The question is :

In the explanation to item (iv) re-numbered as (*v*), *for* "this clause" *substitute* "clauses (iv) and (v)".

The motion was adopted.

Mr. Deputy Speaker : The question is :

"That part (iv) renumbered as part (v), as amended, stand part of the Bill."

The motion was adopted.

Mr. Deputy Speaker : The question is :

In clause 3 after part (iv) renumbered as part (v), add the following new part :

"(vi) 'Marumakkattayam law' means the system of law applicable to persons—

(a) who, if this code had not been passed, would have been governed by the Madras Marumakkattayam Act, 1932 (Madras Act XXII of 1933), the Travancore Nair Act, II of 1100, the Travancore Ezhava Act, III of 1100, the Nanjindad Vellala Act, 1101, the Travancore Kshatriya Act, 1108, the Travancore Krishnavaka-Marumakkathayee Act, l115, the Cochin Thiyya Act, VIII of 1107, the Cochin Nayar Act of 1113, or the Cochin Marumakkathayam Act, XXXIII of 1113; or

(b) who belong to any community, the members of which are largely domiciled in the State of Travancore-Cochin or Madras, and who, if this Code had not been passed, would have been ogverned by any system of inheritance in which descent is traced through the female line; but does not include the Aliyasantana law ;"

The motion was adopted.

Shri Naziruddin Ahmad : This is subject to reconsideration.

Mr. Deputy Speaker : No. We have passed the Aliyasantana law.

Dr. Ambedkar : The substance may be reconsidered.

Mr. Deputy Speaker : So far as the language is concerned, the Hon. Member is always at liberty to suggest any modifications.

The question is :

In cluase 3, after the definition of "Marumakkattayam law" add the following new part :

"(vii) 'Nambudri law' means the law applicable to persons who, if this code had not been governed by the Madras Nambudri Act, 1932 (Madras Act XXI of 1933), the Cochin Nambudri Act

(XVII of 1114), or the Travancore Malayala Brahmin Act of 1106 (Regulation III of 1106);"

The motion was adopted.

Mr. Deputy Speaker : Now, we come to part (viii)—that is the original part (v). It says ' "Part" means any Part of this Code'— Does he want it to go in ?

Dr. Ambedkar : For the moment, it is very difficult for me to say what I want to amend or excise. I want time to consider. Later on I may change it to 'Bill' or 'Chapter'

Mr. Deputy Speaker : Then I will leave the origin (v) [the present (viii)] to stand over.

Now, I come to definition of "prescribed".

Capt. A. P. Singh (Vindya Pradesh) **:** I want to add the definition of "Kul" in the definition clause.

Mr. Deputy Speaker : Let us finish these first. The question is :

"That part (vi) renumbered as part (ix) of clause 3 stand part of the Bill."

The motion was adpoted.

Shri Bharati : Is it understood that the word 'Code' may be changed ?

Dr. Ambedkar : It will be appropriately changed.

Mr. Deputy Speaker : Part (vi) relating to definition of 'prescribed' as renumbered is accepted. Now, we come to part (vii) relating to definition of 'related'. It is renumbered as (x). The question is :

"That part (vii), renumbered as part (x) of clause 3 stand part of the Bill."

The motion was adopted.

Mr. Deputy Speaker : Now we come to part (vi) of amendment No. 5 by Dr. Ambedkar. It says—in item (viii) as renumbered, for 'any' substitute 'a'.

Dr. Ambedkar : Originally it was 'any part'. I now say 'a part'. But you will remember that you have held over renumbered Part (viii). So, this will also stand over.

Mr. Deputy Speaker : Then we come to the definiton of 'son'— part (viii) of the original clause.

Pandit Thakur Das Bhargava : I have got an amendment here. It is No. 127.

Dr. Ambedkar : It is a kind of power of attorney.

Shri Rajagopalachari : It is a kind of adoption in Punjab.

Sardar Hukam Singh : It is not power of attorney. It is made-easy.

Pandit Thakur Das Bhargava : I beg to move :

For part (viii) renumbered as part (xi) of clause 3, substitute the following :

> "(xi) 'son' includes an appointed heir and an adopted son whether appointed or adopted before or after the commencement of this Code but does not include an illegitimate son."

As the House probably knows, the appointment of an heir is a special custom in Punjab.

Mr. Deputy Speaker : We were considering the definition of 'son'. So far as an heir or a person who is appointed as an heir is concerned, it may be that he may be appointed as an heir for the purpose of the property. In fact, it may be a person who may be fit enough to marry the daughter of the person appointing him as the heir.

Pandit Thakur Das Bhargava : By custom, he is equivalent to a son. Therefore, he cannot marry his own sister. The person who is appointed as heir carries an intimate relationship. He is just like a son for all practical purposes.

Mr. Deputy Speaker : Even to the extent of coming into the prohibited degree ?

Pandit Thakur Das Bhargava : Yes. He comes into that family. There are several customs with regard to appointed heirs in the territory which is now under the Commissionership of Ambala. It is just like adoption. There is absolutely no difference between adoption and the appointment of an heir. The ceremonies even are sometimes the same. The person who is appointed as heir is treated more or less as the son. He cannot marry the daughter of the appointer, because the daughter of the appointer is his sister. No person in Punjab will ever believe that the daughter of the appointing father can possibly be married to that boy. He could not marry even a cousin. He is treated just like a son. The only difference is that, so far as the eligibility of an heir is concerned, he may be a married man with sons and daughters.

Dr. Ambedkar : He can also be a man with *dhadi*.

Shri Rajagopalachari : The hon. Member will perhaps educate us in the matter—is it open, according to that custom to appoint ones own son-in-law as his son ?

Pandit Thakur Das Bhargava : In that case he is called '*ghar-javai*'.

Mr. Deputy Speaker : Corresponding to this there is a custom in the south—it is called 'illatom adoption'.

Pandit Thakur Das Bhargava : This custom is not only judicially recognised ; it is so widely prevalent that it is as good as law. It is a fully establishied custom, it has got more force, perhaps, than the ordinary law of the land. It is universally acknowledged among the Hindus, Sikhs as well as the Muslims. The relationship created thereby is not merely of gift, or mere apointment of an heir. The relationship is personal; the appointed heir is treated as a son and he lives with the father.

Dr. Ambedkar : For property purposes.

Pandit Thakur Das Bhargava : For property purposes as well as for relationship. He cannot marry the daughter, as an outsider does. Therefore it is not a question of merely property ; it is a question of personal relationship.

Mr. Deputy Speaker : Can the son be older than the father ?

Pandit Thakur Das Bhargava : He can be older, just as a nephew can be older than the person adopting. Supposing a brother adopts the son of a brother. The son of a brother may be older to him in age than the person appointing.

Mr. Deputy Speaker : Is there any ceremony attached to it ?

Pandit Thakur Das Bhargava : It is done in several ways. It must be made public ; so there is a registered deal in some cases. The entire family is collected and the boy is accepted as heir. In some places even the ceremony is gone through. Practically it is tantamount to adoption.

Mr. Deputy Speaker : In those parts where this custom is prevalent, is there regular adoption as well ? Or is it the contention that wherever this custom of having 'appointed heir' prevails, regular adoption does not take place ?

Pandit Thakur Das Bhargava : This is, as a matter of fact, in addition to that.

Mr. Deputy Speaker : Can a man have both, an adopted son as well as an appointed heir.

Pandit Thakur Das Bhargava : Even in a family, one brother may have an adopted son, while another brother may have an appointed heir. But there is no difference so far as relationsip is concerned. This custom obtains among Muslims as well.

Khwaja Inait Ullah (Bihar) **:** In Muslim law there is no adoption.

Pandit Thakur Das Bhargava : I am not dealing with Muslim law ; I am speaking of Muslim customs. Almost every Punjabi Muslim follows custom.

Mr. Deputy Speaker : But it is so prevalent that it can be brought under this definition.

Pandit Thakur Das Bhargava : Nobody can doubt the validity of this custom. You can take any treatise on customary law and you will find that the appointment of a heir is a customary practice.

Shri Radhelal Vyas : Is a female appointed as an heir ?

Pandit Thakur Das Bhargava : But she cannot become a son.

Dr. Ambedkar : In view of the fact that it has been decided to confine this Bill to marriage and divorce, the point raised by my Hon. Friend may very well come when we are dealing with the matter of adoption. There we can discuss this question as to whether we can include what he calls an appointed son in the definition of adopted son. There, if he is able to satisfy that custom is a custom which this House should permit, in view of the definition which we have just now passed, we will consider that question. Here we are for the moment dealing with marriage and divorce.

Pandit Thakur Das Bhargava : But you have used the word "son" here ; otherwise there will be no need for any definition.

Dr. Ambedkar : As you know in the Chapter on Adoption, we have tried to introduce a uniform system, we are not recognising any of the variants of adoption. We say that adoption should be one common system throughout. We have also said there that so far as the ceremonies of adoption are concerned, they may be different. We do not bother about it. If the appointment of a son is satisfactory from the point of view of the deifnition of adoption, namely, the giving and the taking, the putting of the sugar in the mouth of the boy and the performance of some sacrifice, well the particular ceremonies by which they do it will not make the appointed son an adopted son.

Pandit Thakur Das Bhargava : Unfortunately, I have not been able to express myself in a way as to carry conviction to Dr. Ambedkar.

Mr. Deputy Speaker : The point raised by Pandit Bhargava has relevance to marriage as well.

Dr. Ambedkar : I am afraid, without a perfect understanding of the custom, I am not able to come to any decision—the circumstances,

the custom, the reasonableness or otherwise. Nor has my friend been able to give us any clear picture. I want to apply my mind to that subject and come to a conclusion as to whether it would be possible for Government to accept his proposal. All of a sudden it is not possible.

[12 NOON]

Pandit Thakur Das Bhargava : Let it be held over.

Dr. Ambedkar : We can add it afterwards.

Mr. Deputy Speaker : May I suggest one course ? As it is, there is no objection to passing this. The only attempt is to include some other category. Therefore this may be passed now, because we are not passing the entire clause 3. We can add one more category later. With that understanding I will put this part to the vote of the House, the question is :

"That part (viii) renumbered as part (xi) of clause 3 stand part of the Bill."

The motion was adopted.

Mr. Deputy Speaker : Now we will proceed to clause 4.

Capt. A. P. Singh : I have already requested you that one definition should be added after part (viii). The amendment is No. 378, and is about the definition of *Kula* . It may surprise some hon. Members as to why I want that this word should be defined. But if you see amendment No. 387, there I have said that "the parties do not belong to the same *Kula* where by custom such marriages are prohibited." I want this word to be defined here so that marriages may not take place within the same Kula.

Dr. Ambedkar : May I just explain the position. I am afraid that this amendment, although it is a definition, really relates to clause 7—Essentials for a valid Dharmik marriage—where certain conditions for a valid Dharmic marriage have been set out. My friend wants substantively to add one more condition that the parties to a marriage should not belong to the same Kula. If that amendment is accepted, then and then alone would a definition of 'Kula' be necessary, although it may be argued that 'Kula' is such a well known term that no definition is necessary. But suppose when we are dealing with clause 7 this matter is taken up and the House accepts the amendment, then and there we can intorduce the definition of 'Kula'. Therefore no definition of 'Kula' is necessary now.

Capt. A. P. Singh : My difficulty is this. Whenever any such thing comes it is generally said "The word has not been defined". Therefore, I wanted that "Kula" should be defined now and let us be clear on this point. But if it can be done later I have no objection.

Mr. Deputy Speaker : If in clause 7 this is not going to be accepted, the definition here will become useless. But if on the other hand it is accepted and a definition is found necessary a consequential amendment will be made here. I am not closing the door.

Dr. Ambedkar : Or it can be done by an Explanation as to what is meant by 'Kula'.

Mr. Deputy Speaker : Clause 3 is not completed, or, as the Hon. the Law Minister said, we can give it as an Explanation.

Capt. A. P. Singh : Then it may be held over.

Mr. Deputy Speaker : Now we shall take up clause 4.

Clause *4*—*(Overriding effect of Code*).

Dr. Ambedkar : I beg to move :

For clause 4, substitute :

"4. *Overriding effect of Code*—Save as otherwise expressly provided in this Code : —

(a) any text, rule or interpretation of Hindu law or any custom or usage in force immediately before the commencement of this Code shall cease to have effect with respect to any of the matters dealt with in this Code ; and

(b) any other law in force immediately before the commencement of this Code shall cease to have effect, in so far as it is inconsistent with any of the provisions contained in this Code."

The purpose of the amendment is this. As the House will see, we had originally one single clause with no sub-clauses and the provisions of the Code relating to custom and interpretation of law and those relating to other laws passed and in force were put together. It was felt that it was not the desire of this Bill to abrogate all law but only in so far as it is inconsistent with the provisions of the Bill. I therefore, felt that the best course was to split clause 4 into (a) and (b) leaving rule, interpretation and custom to be covered by (a) and any law in force to be dealt with by (b) with the limitation that no law shall be abrogated unless it was inconsistent with this Code. It is not our intention that all laws should be abrogated by this. That is the purpose of this amendment.

Mr. Deputy Speaker : Amendment moved :

For clause 4, substitute :

"4. *Overriding effect of Code.*—Save as otherwise expressly provided in this Code : —

(a) any text, rule or interpretation of Hindu Law or any custom or usage in force immediately before the commencement of this Code shall cease to have effect with respect to any of the matters dealt with in this Code ; and

(b) any other law in force immediately before the commencement of this Code shall cease to have effect, in so far as it is inconsistent with any of the provisions contained in this Code."

Dr. Deshmukh : I beg to move :

In the amendment proposed by Dr. Ambedkar, in part (a) of the proposed clause 4, omit the words "or any custom or usage".

Shall I speak on it now or afterwards ?

Mr. Deputy Speaker : I shall first have all the amendments that hon. Members intend moving and then allow the discussion. Amendment moved :

In the amendment proposed by Dr. Ambedkar, in part (a) of the proposed clause 4, omit the words "or any custom or usage".

Dr. Ambedkar : I do not understand it.

Mr. Deputy Speaker : It is that if there is a custom it shall continue. I take it that the object of the amendment is that notwithstanding any of the provisions of this Code, any custom in force before the commencement of the Code will override what is now sought to be abrogated. Is that so ?

Dr. Deshmukh : Yes.

Mr. Deputy Speaker : We will assume two things. Wherever it is not provided for, the custom will prevail, there is no doubt about it. But wherever there is some provision here, the custom will be abrogated. Custom, where it is inconsistent, will be abrogated by the amendment. The hon. Member wants that custom, not only where it is provided for here but also where it is not provided for, must override the text of law. That is the position. I will ask to reply to this later on.

Sardar Hukam Singh : I beg to move :

In clause 4, omit the words "or any custom or usage"

Mr. Deputy Speaker : It is the same thing.

Sardar Hukam Singh : My suggestion is that custom would continue in spite of this Act.

Mr. Deputy Speaker : Amendment moved :

In clause 4, omit the words "or any custom or usage".

Pandit Thakur Das Bhargava : I beg to move :

For clause 4, substitute the following :

"4. any text, rule or interpretation of Hindu Law or any customary usage in force immediately before the commencement of this Code shall have effect with respect to any of the matters not dealt with the Code."

This is the positive side of the matter.

Mr. Deputy Speaker : Whatever is not provided in this Code shall have effect.

Dr. Ambedkar : That would be so, when we close with clause 55.

Pandit Thakur Das Bhargava : What I say is that these things will persist as a positive fact and there is not much difference between the two.

Mr. Deputy Speaker : Amendment moved :

"4. Any text, rule or interpretation of Hindu Law or any customary usage in force immediately before the commencement of this Code shall have effect with respect to any of the matters not dealt with in this Code."

Pandit Thakur Das Bhargava : There is another amendment in my name No. 449. I beg to move :

For clause 4, substitute the following :

"4. any custom or usage in force immediately before the commmencement of this Code shall be binding and shall override all texts, rule or interpretation of the Hindu Law or any provision of any other law and shall have precedence in all matters relating to marriage and divorce."

This is an antithesis of section 4 and this is only to bring out into ironical relief the place what my Hon. friend Dr. Ambedkar wants to give to 'custom' which I personally do not approve.

Mr. Deputy Speaker : I am trying to put down categories so that I may insert all the amendments under a particular group. Amendment No. 128 relates to custom wherever there is no provision of law in this Bill. Then amendment No. 449 says that notwithstanding any provisions in this Bill all the previous custom shall stand.

Shri Santhanam : It is a direct negation of clause 4.

Mr. Deputy Speaker : Amendment moved : For clause 4, substitute the following :

"4. any custom or usage in force immediately before the commencement of this Code shall be binding and shall override all texts, rule or interpretation of the Hindu Law or any provision of any other law and shall have precedence in all matters relating to marriage and divorce."

Shri Naziruddin Ahmad : I beg to move :

For clause 4, substitute the following :

"4. All the texts, rules or interpretations of Hindu Law or all customs and usages and all other laws in force immediatley before the commencement of this Act, in so far as they may be inconsistent with this Act, shall, to the extent of the inconsistency, cease to have effect."

I have another amendment, Sir.

Mr. Deputy Speaker : Is it necessary ?

Shri Naziruddin Ahmad : That is more elaborate. I beg to move :

For clause 4, substitutes the following :

"4. All texts relating to and all rules of interpretation of Hindu Law in the sacred books or in judicial pronouncement or superior courts in India or of the Judicial committee of the Privy Council or in the text books and commentaries of learned writers and authors or otherwise, and all customs and usages in force immediatley before the commencement of this Code, in so far as they are inconsistent with this Code, shall, to the extent of the inconsistency, cease to have effect."

Mr. Deputy Speaker : This is in another form.

Shri Naziruddin Ahmad : It is in a more elaborate form, containing more elements.

Mr. Deputy Speaker : It is different in substance.

Shri Naziruddin Ahmad : Though in minor details.

Mr. Deputy Speaker : Amendments moved :

For clause 4, substitute the following :

"4. All texts, rules or interpretations of Hindu Law or all customs and usages and all other laws in force immediately before the commencement of this Act, in so far as they may be inconsistent

with this Act, shall, to the extent of the inconsistency, cease to have effect."

For clause 4, substitute the following :

"4. all texts, rules or interpretations of Hindu Law in the sacred books or in judicial pronouncement of superior courts in India or of the Judicial Committee of the Privy Council or in the text books and commentaries of learned writers and authors or otherwise, and all customs and usages in force immediatley before the commencement of this code, in so far as they are inconsistent with this Code, shall, to the extent of the inconsistency, cease to have effect."

Shri Jhunjhunwala : I beg to move :

To clause 4, add the following proviso :

"Provided, however, that this Code shall not override any text, rule or interpretation of Hindu Law, or any custom or usage or any other law in force, immediately prior to the commencement of this Code which has the sanction of Hindu religion or any other religion to the followers of which religion or religions this Code will apply :

Provided further that this Code shall not override such existing text, rule or interpretation of Hindu Law, or any custom or usage or any other law in force which has sanction of morality behind it."

Sir, then I have another amendment, No. 418.

Mr. Deputy Speaker : Is it a repetition of No. 130?

Shri Jhunjhunwala : This is not a repetition but slightly different. I beg to move :

In the amendment proposed by Dr. Ambedkar, to the proposed clause 4, add the following Proviso :

"Provided that this Code shall not override such existing usage, custom and law as form part of the distinct culture of any section of the people to whom this Code applies."

Mr. Deputy Speaker : Who is to decide what the distinct culture is ? Whatever may be the substance so far as any Code is concerned, before I put it to the House, there must be some definite thing which is enforceable in a Court of Law.

Shri Jhunjhunwala : That is found in Article 29 of the Constitution that different sections of society have got different culture and that should be conserved.

Mr. Deputy Speaker : The hon. Member wants distinct culture to be established in a court of law.

Shri Jhunjhunwala : It is in the Constitution itself.

Mr. Deputy Speaker : There is no definition of culture as there is a definition of custom as it is provided for here. I am not aware if there is any judicial interpretation of what distinct culture is up till now.

Shri Jhunjhunwala : That is already in the Constitution.

Shri Santhanam : It must be in the directive principles.

Dr. Ambedkar : It must be somewhere in the directive principles or it might be in the provisions relating to religion and so on.

Mr. Deputy Speaker : amendments moved :

To clause 4, add the following Proviso :

"Provided, however, that this Code shall not override any text, rule or interpretation of Hindu Law, or any custom or usage or any other law in force, immediately prior to the commencement of this Code which has the sanction of Hindu religion or any other religion or any other religion to the followers of which religion or religions this Code will apply ;

Provided further that this Code shall not override such existing text, rule or interpretation of Hindu Law, or any custom or usage or any other law in force which has sanction of morality behind it.

In the amendment proposed by Dr. Ambedkar, to the proposed clause 4, add the following Proviso :

Provided that this Code shall not override such existing usage, custom and law as form part of the distinct culture of any section of the people to whom this Code applies."

Shri Sarwate (Madhya Bharat) **:** I beg to move :

To clause 4, add the following Proviso :

"Provided that the Legislature of a State may, by legislation passed by a majority of the total number of its or their members, provide that any of the provisions of this Act shall not apply to that State, or shall apply to that State with such modifications, as may be included in the legislation."

Mr. Deputy Speaker : How does it arise in this clause ? Any amendment must be relevant to the clause that is on hand.

Shri Sarwate : Because this would supersede all laws which are inconsistent. As the clause stands at present, it has the effect of superseding all the laws which the State might have passed before.

By this amendment I wish to give them the power, if they so wish, in future to restore them. There may be certain provisions which may not be applicable to the State. That State, if otherwise it has the power under the Constitution to legislate, should have the power and it should not be precluded from further legislating on this matter owing to the effect of this clause.

Mr. Deputy Speaker : I do not understand what this amendment means. This amendment at any rate, must have relation to clause 1. Then, I think we have disposed of a similar amendment with reference to clause 2.

Dr. Ambedkar : Pandit Malaviya's amendment was more or less to the same effect.

Mr. Deputy Speaker : Apart from this, this is a concurrent subject. If the local conditions and circumstances require a State Legislature to make any law, that law has to recieve the assent of the President. If it receives the assent of the President, to that extent, the provincial law will override or modify this law. That provision is there in the Constitution. I do not know how far we can make a law here which will override or remove the need for the President's assent in a concurrent subject. A provincial legislation cannot have overriding effect unless the President's consent is there. Indirectly, we are now trying to say that notwithstanding the need for the President's consent under the Constitution, a provincial legislature can pass a law even in a concurrent subject. How can you do away, with the right of the President. I think it seems to be unconstitutional.

Shri Sarwate : The provisions of the Constitution are not superseded ; they also go along with this. If for a provincial legislation that pre-condition is necessary, that pre-condition is attached. It does not mean that that is taken away.

Mr. Deputy Speaker : It does away with the wholesome provision that there ought not to be any inconsistency between the laws passed by the Central legislature and by the State legislature. The state legislature could not be clothed with power, except in exceptional circumstances, to make such laws. The President must give his consent. I do not know how we can pass provision overriding all this. On these grounds it has already been voted upon by the House under clause 2 ; it also militates against the provisions in the Constitution. Is it necessary that we should take up this amendment ? Any other amendment ?

Dr. C. D. Pande (Uttar Pradesh) **:** I have an amendment, sir.

Mr. Deputy Speaker : Already tabled ?

Dr. C. D. Pande : Already tabled, but not listed so far. I have got a copy.

Dr. Ambedkar : I have not got a copy.

Dr. C. D. Pande : At least I have been supplied with one copy.

Mr. Deputy Speaker : When was notice given ?

Dr. C. D. Pande : I gave notice in the Notice office this morning and they have given me this copy. This has got to be moved. In any case, the office has given this copy to me ; it may have been given to the Hon. Law Minister as well.

Mr. Deputy Speaker : Amendments will be pouring in everyday in the morning. This is only the first of its kind. We had similar amendments also. I do not propose to waive the notice for such amendments unless the Hon. Minister sponsoring the Bill is willing to accept them.

Pandit Thakur Das Bhargava : With your permission. Sir, I beg to move amendment No. 420 in my name.

Mr. Deputy Speaker : The same amendment in another form.

Pandit Thakur Das Bhargava : There is difference. Tthere is a small error here ; it is wrongly typed. It should be "in so far as it is inconsistent".

Mr. Deputy Speaker : That has been provided for.

Pandit Thakur Das Bhargava : That has not been provided for. The original clause 4 says :

> "Save as otherwise expressly provided in this Code, etc....."

These words are not there.

Dr. Ambedkar : The words are there :

> "Save as otherwise expressly provided in this Code."

Pandit Thakur Das Bhargava : I say that so far as this Code goes, any custom shall cease to have effect.

Mr. Deputy Speaker : The matters must have been dealt with in this Bill.

Pandit Thakur Das Bhargava : That is not necessary. We make a provision that custom is saved and by the force of that section, custom is saved.

Mr. Deputy Speaker : Let us see what the objection is in principle. What this clause wants to do is whatever may be the custom, in so far as it is provided for by this Bill, the provisons of this Code will

have to prevail except in so far as a specific reservation is made. What is his objection ?

Pandit Thakur Das Bhargava : This is an amendment to the old clause 4. There is no question of inconsistency etc. there.

Mr. Deputy Speaker : Only in cases where it is inconsistent, the Law must override. If it is not, it may continue.

Pandit Thakur Das Bhargava : This is an amendment to the original clause 4. It is quite different from the new clause 4. If you adopt the amendment moved by Dr. Ambedkar, then, it may be unnecessary.

Dr. Ambedkar : That is my amendment.

Pandit Thakur Das Bhargava : I am in agreement with your amendment; but I have given a different amendment.

Dr. Ambedkar : What is before the House is my amendment.

Pandit Thakur Das Bhargava : The original clause 4 does not consider the question of inconsistency at all.

Mr. Deputy Speaker : I am not able to follow the need for this amendment.

Shri Santhanam : He wants to restore the original wording that the custom should be invalid to the extent of inconsistency.

Dr. Ambedkar : We have never used the word 'inconsistent' even in the original clause. The original clause was :

> "Save as otherwise expressly provided in this Code, any text, rule, or interpretation of Hindu Law, or any custom or usage or any other law in force immediately prior to the commencement of this Code shall cease to have effect as respects any of the matters dealt with in this Code."

It was an absolute thing with regard to law and custom.

Pandit Thakur Das Bhargava : In clause 4 as it stood in the original Bill, there is no reference to inconsistency. It is absolute. My amendment seeks to amend the clause in two ways : in the first place these words are not there : 'save as expressly provided etc.'. Secondly, the question of inconsistency is absent in the original clause. Then all customs and texts of Hindu Law shall prevail but to the extent of inconsistency only they would not have effect. Otherwise whatever is provided in this Act will have effect. With your permission. Sir, I move amendment No. 420, with this correction. I beg to move :

For clause 4, substitute the following :

"4. Any text, rule or interpretation of Hindu Law and any law, custom or usage in force immediatley before the commencement of this Code shall in so far as it is inconsistent cease to have effect with respect to the matters dealt with in the Code."

Mr. Deputy Speaker : Amendment moved :

"4. Any text, rule or interpretation of Hindu Law and any law, custom or usage in force immediately before the commencement of this Code shall in so far as it is inconsistent cease to have effect with respect to the matters dealt with in the Code."

Shri Syamnandan Sahaya : I beg to move :

In the amendment proposed by Dr. Ambedkar, in part (a) of the proposed clause 4, after the words "this Code", where it occurs for the second time, insert the words "in so far as it is inconsistent with any of the provisions contained in this Code".

Mr. Deputy Speaker : In part (a) ?

Shri Syamnandan Sahaya : Yes.

Mr. Deputy Speaker : The object of the Law Minister seems to be that once a particular matter is dealt with here, you need not go to any other Code. But the suggestion of the amendment seems to be that it is only in cases where the provisions are inconsistent with the provisons of the Code that the code provisions will prevail.

Shri Syamnandan Sahaya : That is exactly my point.

Mr. Deputy Speaker : Amendment moved :

In the amendment proposed by Dr. Ambedkar, in part (a) of the proposed clause 4, after the words "this Code", where it occurs for the second time insert the words "in so far as it is inconsistent with any of the provisions contained in this Code".

And so the following amendments have been moved :

No. 6 of Dr. Ambedkar, No. 450 of Dr. Deshmukh, No. 129 of Sardar Hukam Singh, Nos. 128, 420 and 449 of Pandit Thakur Das Bhargava, Nos. 380 and 419 of Shri Naziruddin Ahmad, Nos. 130 and 418 of Shri Jhunjhunwala and No. 417 of Shri Symnandan Sahaya.

These amendments and the clause are now thrown open for discussion.

Dr. Deshmukh : This is a very important clause and it has assumed greater importance because the provisions of the present law are going

to be limited only to those related to marriage and divorce. It was for that reason that I was going to say, so far as clause 3 was concerned, that there was not any very great need for a definition of the words "custom and usage". Also I thought that so far as marriage and divorce were concerned, there was the prevailing opinion that custom should not be taboo and should not be prevented from operation to the same extent as might have been the case if we were to include inheritance and succession in the provisions of the Code. So I thought that since we were going to limit this now only to marriage and divorce, insisting on defining custom and usage and also making provisions in clause 4 were not of such great impotrtance. Therefore, I was suggesting that the definition also should be omitted from clause 3. so far as the wording of the definition is concerned. I am in complete agreement with the learned Doctor, because it is aboslutely identical with the rulings on the subject and there is not a single word there which can be objected to. In fact, if anything, it liberalises (Shrimati Durgabai in the Chair) and widens the scope, for it extends to anything uniformly observed for a long time and it gives recognition even to family customs. From that point of view there is nothing objectionable about the definition. But so far as most of the provisions in the present Bill are concerned. I would like the Hon. Minister to view the whole thing as early as possible from this point, namely that the provisions are now going to be limited only to marriage and divorce. Now as he had himself admitted, there are many things here in this Bill, many provisions which were intended specifically to govern other provisions in a particular manner, I would like him to view even some of the provisions to which we are going to confine ourselves from this point of view. If he does that I think some modifications would be necessary even in this clause which gives the overriding effect to this law as against custom and usage as well as interpretation of Hindu law prevalent at the moment.

If we pass the clause as suggested by Dr. Ambedkar's amendment we would certaiinly be going further than what was, I believe, intended. Sub-clause (a) of clause 4 reads :

> "Any text, rule or interpretation of Hindu Law or any custom or usage in force immediately before the commencement of this Code shall cease to have effect with respect to any of the matters dealt with in this Code."

If it is correctly interpreted, it would mean that all custom and usage so far as marriage and divorce are concerned will be barred, because they are matters dealt with in this Code.

Shri J. R. Kapoor : Unless specially saved.

Dr. Deshmukh : I fully agree with the amendment notice of which has been given by my friend Mr. Sahaya. Since you put these words here, so long as you legislate on the subject of marriage and divorce, as far as I can understand, it would not be possible to recognise any custom or usage.

Dr. Ambedkar : We are saving some things.

Dr. Dsehmukh : Not unless the saving is put down.

Dr. Ambedkar : The clause begins with the words "Save as otherwise expressly provided".

Dr. Deshmukh : So far as my view of the matter is concerned, as regards marriage and divorce, custom should have the play. We have the instance of the Punjab, which is being governed more by custom than by specific legal provisions.

Dr. Ambedkar : We want to raise the people of the Punjab to our standard.

Dr. Deshmukh : From that point of view I have tabled an amendment to omit the words "any custom or usage" so that any custom or usage which does not contravene or which answers the requirements of clause 3 should prevail and continue. If this is not done, I am afraid, any other provisions in the subsequent clauses will not help us. According to my understanding, if part (a) of clause 4 is adopted as it is, even where it is the wish of the House that custom and usage should be recognised side by side with the provisions of the law, it will not be possible to clothe them with that recognition. Therefore it would be best to omit the words "any custom or usage". Some of my friends have gone to the extent of saying that it should override the provisions of the law everywhere, as has been suggested by Pandit Bhargava. That would probably be something which is absolutely contrary to clause 4. It would be tantamount not only to the omission of the clause but would be putting it in the opposite direction.

Shri J. R. Kapoor : It would be a negation of the Code itself.

Dr. Deshmukh : I agree that it would be a nagation of the Code. My submission is that there would be ample room for the continuance of any recognised customs and usages so long as we do not bar them by this enactment. I do not think it would be correct to leave the sub-clause (a) as it is. The original clause was to the effect that any custom or usage or any other law in force immediately before the

commencement of the Code shall cease to have effect as respects any of the matters dealt with in this Code. From that we have modified the position slightly, so long as we limit the law only to marriage and divorce. I would like that usage and custom should be allowed to prevail because it has stood the test of time, it is more convenient and less expensive, and it is likely to be less oppressive to the people. I submit there is everything to be said in favour of the amendment I have moved.

Sardar Hukam Singh : I have moved my amendment whose purport is identical with the amendment Dr. Deshmukh has moved. I entirely associate myself with what my learned friend has just now said, but in addition to that I have to submit certain other points. In clause 3 we have just defined custom and usage; how we have exalted it and dignified it is apparent form the words used :

> "the expressions 'custom' and 'usage' singly any rule which, having been contibuously and uniformly observed for a long time, has obtained the force of law among Hindus in any local area, tribe, community, group or family :
>
> Provided that the rule is cerain and not unreasonable or opposed to public policy".

I beg to submit that when we have laid down a definition and have restricted what actually a usage or custom is for it to be recognisd, immediately after that we deal a fatal blow to it in clasue 4.

An hon. Member : There is saving.

Sardar Hukam Singh : There is saving—everywhere, in every clause you say, save something which is deemed proper. But I look at it the other way. It should not mean that for every clause wherever an exception is deemed necessary a saving clause should be added saying that such-and-such a custom should be saved. Why not save it aboslutlely when it has the status of law ? It cannot be imagined that it is so vague, so uncertain or so indefinite that you cannot reach at it or find it out. It is not only on the lips or in the hearts of the people in general, but I lay claim to this fact also that it is already laid down in public documents and it cannot be changed arbitrarily. If somebody were to say that it might lead to litigation, then I can lay the counter-charges that even in codified laws there are always disputes, even in registered documents and registered facts there are disputes. I might read form Mayne :

"The *Rivaj-i-Am* is a public record, prepared by a public officer in the discharge of his duties under Governmet rules. The statements therein may be accepted even if unsupported by instances. Manuals of customary law in accordance with the *Rivaj-i-Am* have been issued by authority for each district."

So, those customs are not carried orally that there can be dispute about them ; they are contained in public documents. At each settlement they are revised and scrutinised to see that everything is correct according to the custom that prevails. There is no danger about it. My fear is that we have been governed so long by a very simple law. We are told that it is now too late in the day that Punjabis should rise up and say that they are not governed by Hindu law. Of course, that is our claim. The Punjab Laws Act, clause 5, does define that we have been governed by customary law in preference to the Hindu law. Everybody knows the customary law and understands it well.

Dr. Ambedkar : This is much simpler than customary law.

Sardar Hukam Singh : We are told in one breath that we have so long been governed by Hindu law—well and good—but in another breath we are told that that was not the proper Hindu law. Hindu law is now rediscovered and a Code is being brought and thrust upon us. The law-giver says that this is the Hindu law. Where is the guarantee that this discovery might not lead to another after a few years and we may not be confronted with the statement that the law then being propounded was the correct one and everybody else who went before it had made a mistake. If it is progressiveness, we claim that our customs are more progressive than the law which is being proposed now. If progress is to be the criterion, then I say : don't touch us. If you wish to move forward, we are already in advance of you. Come after us. Even in regard to marriage and divorce, we are far in advance of you. Do not pull us back. Laws should refect the stage to which the society has advanced and if the law-giver now thinks that we have advanced to this stage only now, then he is mistaken. If it is only for the sake of bringing about uniformity, then too I am afraid he would not succeed. The variations in the customs and usages, in the cultures and languages, cannot be blended together in so short a time.

An appeal was made to the Sikhs yesterday that they should forget the old days and try to become part of the nation. That is a thing that we would cherish. We are not opposed to it. but if Dr. Ambedkar cares to listen to me ...

Sardar B. S. Man (Punjab) **:** He is talking to somebody, he does not bother to consult us. He does not bother about our opinion.

Sardar Hukam Singh : I find he has turned to me now.

We were reminded yesterday and an appeal was addressed to us yesterday that we should try to become part of the nation ; that we should have no tendencies to remain separate. That was very good of him and I thank him wholeheartedly. We are prepared to come forward and meet him more than half way but I would just remind him, as I did yesterday, that he should begin at the Government and at the Cabinet itself, he ought to advise the President that he should not make discriminations when he issues orders, and I particularly referred to the Scheduled Castes Order of 1950,

Dr. Ambedkar : I think my hon. Friend may legitimately criticise the Government, but I think he ought not to bring in the President, because whatever the President does he does on the advice of the Ministry and I would be quite prepared to bear all the criticism that he wishes to direct against me.

Mr. Chairman : I think this point has been made clear on a former occason when the Deputy Speaker told the House that the President's views are not to be canvassed or criticised on the floor of the House.

Sardar Hukam Singh : Perhaps I have not been heard. I said that Dr. Ambedkar should 'advise' the President. I think I am within my rights in saying that. I am not criticising the actions of the President. I am only requesting Dr. Ambedkar to advise the President. He has been advised by Dr. Ambedkar and other Ministers, and I am requesting Dr. Ambedkar to advise him. My appeal to Dr. Ambedkar is that he should beg at home.

Sardar B. S. Man : On a point of order, Madam. Some doubt has arisen in my mind. Since the actions of the President are under the advice of the Government, supposing that an action of the President is such that it gives rise to a complaint in the House, particularly at this moment when the Punjab is being governed directly by the President, is it not open to me to question the advisability or validity of certain orders of the President which to my mind are unjust ? In that case it will not be possible for me to question the actions of the President as such.

Dr. Ambedkar : I am quite certain about it. Even if my hon. friend has an occasion to criticise any of the orders that have been issued by the President, it would not be open to him to criticise the President. he can censure the government if he likes.

Sardar B. S. Man : Even when the orders are issued directly by the President ? Of course, the constitutional presumption is there that these orders are issued on the advice of the Cabinet. The situation in the Punjab is that it is governed directly by the President. Of course the responsibility for any orders issued by him would fall on the Cabinet, but when the orders of the President are to be discussed, how can I refer to them except as orders of the President ?

Mr. Chairman : The Constitution very definitely says that everything that the President does shall be on the advice of his Council of Ministers and that explains every act of the President.

Sardar B. S. Man : Suppose I want to refer to the orders made by the President in relation to Punjab, I can only refer to them as the orders of the President, though the presumption remains that they are made by the President on the advice of his Cabinet. I would like to have a clear ruling from you on that point.

Mr. Chairman : I think the point has been made claear already by Dr. Ambedkar and whatever explanation he has given applies to this category of orders as well, to which the Hon. Member has just referred.

There are two positions; one is that the President are not to be criticised, the other is that the President, whatever he does, does it on the advice of his Cabinet. If these two are taken into consideration, the conclusion will be that even though his actions are based on the advice of the Cabinet, yet thery are not to be criticised.

Sardar B. S. Man : Even if they are unconstitiutional—even if they are bad ? I can always say that this advice which has been tendered to the President is bad advice.

Mr. Chairman : We have accepted the provison in the Constitution that the President's actions are not to be criticised.

Sardar B. S. Man : We can even move a no-confidence motion.....

Dr. Ambedkar : You can move a no-confidence motion in the Government, not the President.

Shri Damodar Menon (Travancore-Cochin) **:** Has not this House a right to impeach the President ?

Dr. Ambedkar : That is a separate matter altogether.

Mr. Chairman : I would, in this connection, refer the House to clause (VI) of Rule 159 of our Rules of Procedure which says :

"A member while speaking shall not—,

* * (vi) use the President's name for the purpose of influencing the debate;"

Sardar B. S. Man : In fact, it is the Government that is using the name of the President. When I criticise certain actions of the President, the odium attached to them may be of the government or the advisers of the President. It is up to the people to pass it on to wherever it belong. But when the orders issued are of the President, criticism ought to be in the name of the President. Because, at present in the Punjab we are being governed by the President, am I to forego the right of criticism ? It may close the door for all future time to come. That is my point.

Mr. Chairman : My own personal feeling is that if Hon. Members are not prevented from criticising, as they are doing it in the House, they may direct their criticism to the government who are giving bad advice—if it is bad advice in their opinion. If the Government is at the bottom of the President's action, if in their opinion it is not the President who is acting but it is the government which is tendering bad advice, it is aboslutely open to the Members to criticise the Government on their actions without bringing the name of the President.

Dr. Deshmukh : Can we also say that we are not criticising the President and that we are criticising the Government ?

Mr. Chairman : Therefore, where is the difficulty? When the Members are free to criticise the actions of the Government and there is absolutley no bar to their expressing their views frankly and openly, they need not feel or suffer from the trouble that they are not able to bring in the name of the President directly.

Sardar B. S. Man : We are not bringing the name of the President but the actions of the President, as they are the actions of the Government. It is for you to presume just as it is for me to criticise.

Mr. Chairman : I think I have made the point quite clear. If it is in their mind that it is the Government that is at the bottom of the President's action and that is not advising properly, if the Government is the subject matter of the attack, they are absolutely free to attack the Government. Nothing bars them.

Sardar Hukam Singh : I am sorry that my appeal has been lost in this discussion that took place over the question whether we can

criticise the President or not. But my purpose is not to criticise the President at all. He is not to blame so far as my point is concerned. I bring the charge directly against Dr. Ambedkar, because he made an appeal to me and other Sikhs that we should not think in such separatist terms. But the blame lies on the other side. He has started this game and kept us at a distance when he was advising the President to make that order about scheduled castes. That is my complaint. Before he makes an appeal to me that I should change my mind, he should begin from his own sphere and remove that injustice. That was my first point.

The second point is when we submit that custom in Punjab is much simpler and much more easily understood by the average citizen, we are confronted with this question whether we want monogamy or not. That is not the question. Monogamy we do want. We support and welcome it. Everybody wants monogamy. Nobody is against it. Already public opinion is so strong that now normally all people are for monogamy. Moreover the economic condition of the country is such that nobody can now bear the burden of more than one wife. There is no denying the fact that it is not possible for an ordinary man now, except those that are placed in a privleged position like our Doctor himself, to have a second wife. Therefore no question arises about monogamy. Even if it comes we are not against monogamy, we welcome it. But the question is that there are other things that will follow. There are prohibited degrees. There are other ceremonies. So far as Punjab is concerned, our prohibited degrees are much fewer. You are contracting it by this Bill and you will have to contract it further. Though we are not passing the protion relating to inheritance at this moment, it is contemplated to pass it in the near future. If

1 P.M.

you want that the girl should have a share along with her brother, then this long list of prohibited degrees cannot remain. Obviously we would be compelled to contract it more and more unless you give inheritance to our cousins and sisters and others (*Interruption*) like Muslims certainly. Both the things have to go together and already in the Punjab custom, there is a list of prohibited degrees which is recognized and permitted by custom and if you are doing anything against that progress which you claim you are helping to proceed, surely you are bringing us back when we have gone so far forward. (*An Hon. Member* : Leading). Yes. We are leading the whole of India.

(MR. DEPUTY SPEAKER *in the Chair*).

So far as the other things are concerned, a short while ago the question arose when my esteemed friend, Pandit Thakur Das Bhargava moved his amendment that along with the adopted son, the appointed heir should be added, and this was opposed on the ground of certain objections and interruptions. The adopted heir is as good as an adopted son as in any other part of India. The only advancement or progress that is there is that no particular ceremonies are observed. The age is not restricted and so far as relationship is concerned, that is not restricted also.

Dr. Ambedkar : Did not we decide that we will take the case of the adopted heir at a later stage ? I thought that the House agreed to that. When we were discussing clause 3 on the definition of son, Pandit Thakur Das Bhargava raised that qustion and I submitted to the house that this was a matter which may be considered later on at the appropriate stage either when we come to the conclusion

Mr. Deputy Speaker : When we were in the definition.

Dr. Ambedkar : My hon. Friend is referring to the adopted son. We have not come to that yet. I am only saying that we can save the time and get through clause 4.

Mr. Deputy Speaker : We agreed to put it off till Part VII. We can discuss this at a later stage when this matter comes up.

Sardar Hukam Singh : This interruption of the Hon. Minister has created an apprehension in my mind that he is not following or I am not able to make mysef clear.

Dr. Ambedkar : I am following and I have caught this point that the whole of Punjab is very progressive as against all others.

Sardar Hukam Singh : That he has caught all right but if I am giving the reasons and instances, he would not care to follow. I am giving an instance where the usage or custom is so necessary and I am saying.....

Dr. Ambedkar : This part of my education will be better left out now. I will receive it at a later stage.

Babu Ramnarayan Singh : That you will have to learn.

Sardar Hukam Singh : It is not only the doctor himself who is to be educated, but there are others also. If I have to request Hon. Members to give their vote for me, I have to convince them

Dr. Ambedkar : Later on.

Mr. Deputy Speaker : What is now suggested is that this discussion should be blocked. But in another place when the same

matter was raised in clause 3 it was suggested with regard to the definition of a son that an adopted heir must also be a son. When we come to clause 7 where the prohibited degrees are narrated, it may be considered whether it should be included, or an explanation added. Let us take up this when we come to clause 7.

Sardar Hukam Singh : I am extremely sorry that I have not been understood. What I wanted to say was this. I am only advocating that usage and custom should continue to override the law. In advocating that I am explaining the utility of usage and custom, the progress that it has made over law and why it should be retained and what differences there are between custom and other laws. In that connection I am referring to the son ; I am not trying to define 'son' or other people. That was my object. But, if the Doctor Saheb says that I should not continue, I will stop.

Dr. Ambedkar : I was only saying that we may discuss this later on.

Mr. Deputy Speaker : We may discuss that later on.

Sardar Hukam Singh : Then, I was submitting, Sir, that so far as custom and usage in the Punjab is concerned, it is recognised and well understood. It has continued to override the Hindu Law as was understood by the common man or even by lawyers and law-givers. There is no reason why, when it has been overriding Hindu Law for such a long time, has stood the test of time, has stood the test of scrutiny of judicial pronouncements and other tests, it should now be abrogated because a new law has been discovered and that is being given by another law-giver it should continue. It has been definite. It is reasonable. It has stood the test of time and has been uniform. As I have already submitted it is contained in public documents and can easily be ascertained. There can be no ambiguity about it. Therefore I submit that these word 'usage or custom' should be omitted from this clause.

Mr. Deputy Speaker : Pandit Thakur Das Bhargava.

Dr. Ambedkar : If I may plead. Sir, I would like this clause to be put to the House before we disperse, if the House permits.

Some hon. Members : No, no ; this is a very contentious clause.

Mr. Deputy Speaker : I am giving opportunity to the Members who have moved amendments. First Dr. Deshmukh, then Sardar Hukam Singh, and then Pandit Thakur Das Bhargava; there are then Mr. Naziruddin Ahmad and Mr. Jhunjhunwala. I am afraid it will not be possible with the best of intentions.

Some hon. Members : This is a very controversial clause.

Mr. Deputy Speaker : I think we must sit tomorrow. We shall be sitting tomorrow also.

Some hon. Members : Yes, yes.

Some hon. Members : No, no.

Capt. A. P. Singh : Tomorrow we must have a holiday.

Mr. Deputy Speaker : There is so much of work in the Order Paper. We have not even finished clause 4. There are 55 clauses in all, in this chapter. In these circumstances, I am afraid we will have to sit tomorrow.

Capt. A. P. Singh : We have got to study so much about this Bill and about so many other things. We should have some time.

Mr. Deput Speaker : There are no questions tomorrow. I have no objection to sitting from 9-30. We will sit at 9-30 a.m. This will be the only work tomorrow.

Some hon. Members : Yes.

An hon. Member : Up to ?

Mr. Deputy Speaker : 1-15 as usual.

An hon. Member : 9-30 to 2 O'clock.

Pandit Maitra (West Bengal) **:** Up to 12 O'clock, Sir. We have got other work.

Pandit Thakur Das Bhargava : This is the most contentious clause in the whole Bill *(interruptions).* Sir, I was submitting that clause 4 is the most contentious clause in the whole Bill. As a matter of fact while we were considering clause 2 which took so much time of the House, the contentions were really such as appertained to clauses 4. Human nature as we know it, loves its own customs. In societies where the law-making power is not fully evolved the conduct of the people is governed by customs, and custom gets fixed in the affections of the people and its seat is deep in the hearts of people to such an extent that people love it in preference to imposed law. Therefore, the question which is put to us when we go out into the country is "Are our customs to be safe or not ?" a few days ago I was in the house of one of my friends who happens to be a Minister of the Govrnment of India and his orderly asked me. "What are you doing, Sir, with regard to the Hindu Code ?" I told him that the Hindu Code Bill was being discussed and some portions of it will be passed. The very next question that he puts me is, "Will it do away with

our divorce custom ? "that was the question that he asked me. I told him, "Well, it is likely that the divorce provision will be passed and so far as the customs were concerned, those, customs would be recognised only if they stand a special test and all customs would not be continued. He was not happy. He wanted that his own custom whether it be reasoanable or not, may be recognised and fully given effect to. Sir, that is really what is in the minds of the people now. All the same, so far as this House is concerned and so far as the representatives of the people are concerned, we are anxious that custom should come into this law only to a certain extent. We want that such customs as have gone very deep in the affections of the people should be continued. So far as South India is concerned we know that there are certain connections and manages there which are regarded as very objectionable in North India, but they are considered right and proper in South India. They should not be interfered with. Similarly, Sir, there are some customs or well-established practices in other parts of India and no person would say that they should be interferred with. In this connection I would illustrate my point by reference to a custom that is very widely prevalent among the agricultural classes in the Punjab and which is going to be disturbed by some of the provisions that we are making here. There a certain kind of marrage is performed called the *Kareva* marriage. If a man dies his wodow is married to his younger brother or to any person who is of the same status as a brother even though this brother may be of the same age or younger than the woman. In some sections she is married to the elder brother also, but that is not the practice in other sections. Now, in that form of marriage you do not have the usual marriage procedure, the *"Sapta pada"* and all that. They just go through a customary rite and the marriage is considered as having been performed. The final result of this practice is that neither the property nor the woman goes out of the family and also the children from the previous husband are properly looked after. And this custom has been prevailing among these people from very ancient times. The upper-class Hindus are now adopting gradually this custom of widow-marriage. This sort of widow remarriage which is practised by the agriculturists in the Punjab is being adopted by the upper-class Hindus also. So the custom now is that even if the younger brother of the deceased has a wife living, he will have to marry the widow of his elder brother and they live as husband and wife. This is practically a case of bigamy according to the Hindu Code.

Mr. Deputy Speaker : How ?

Pandit Thakur Das Bhargava: The younger brother may have his wife living and according to custom the widow of the elder brother is married to the younger brother even though he may have a previous wife by marriage. (*Interruptions*).

Mr. Deputy Speaker: There are certain customs prevalent in particular parts which accroding to them are valid and not unusual. Let us not show any kind of derision or disagreement by any visible representation such as laughter lest we should wound their feelings. I only put the question for the purpose of knowing the details of it so that the House may understand the position.

The hon. Member may continue his speech tomorrow.

The House then adjourned till Half Past Nine of the Clock on Saturday, the 22nd September, 1951.

* HINDU CODE—*contd.*

***Pandit Thakur Das Bhargava** : (*English translation of the Hindi speech*). Sir, an hon. Member has expressed the desire that I should speak in Hindi. In deference to that I wish to express myself through the medium of that language.

As I was submitting yesterday before the House, our customs are of very heterogeneous character. They are so different from one another that a custom considered to be good in one part of the country may be thought of as a very reprehensible one in another. So we should proceed about this Bill very cautiously. Yesterday I mentioned the *Kareva* form of marriage at which some hon. Members had laughed. This custom is prevalent to a great extent in Punjab and Oudh and it is not a matter of laughing. If you judge it from the point of view of high ideals of Hindu society, it is possible that some of the hon. Members may not like the *Kareva* form of marriage because according to the ancient standards the wife of the elder brother is to be treated as mother. According to Ramayana when Lakshmana's mother gave her consent to his going with Rama in his exile, she said :

> "*Ramam Dasharatham viddhi, mam viddhi Janakatmajam; Ayodhyamatvim viddhi, gachhtat yathasukham.*"

She asked Lakshmana to look upon Rama as his father and Sita as herself i.e., like his mother, and think that the jungle was Ayodhya. Such was the high ideal of our society. How many young men are prepared to go in exile at the orders of their fathers ? How many men respect an elder brother like a father ? Such behaviour is ideal. As far as the customs prevalent in society are concerned, even our Shashtras have ordained that the younger brother of the husband is *Dwivar* the second, prospective husband. In many cases the Shastras have permitted men to marry the wives of their elder brothers, after their (brothers) death. There is nothing surprising in that. I am conversant with the customs prevalent in Madras and other States. I toured the whole of India in the capacity of a member of the Age of Consent Committee and enquired into the various customs. That is why I say that we have a number of customs of different character and I need not dwell over their intricacies. One should not inquire the feelings of a sect, the feelings which form the basis of a particular custom. I want to submit that there is no good reason to laugh at this *Kareva* system of marriage. In fact, many advantages accrue from

*P.D., Vol. XV, Part II, 22nd September 1951, pp. 3072-82.

this system and those communities that have followed this custom for many centuries have benefited from it to a great extent. For example, in old days and even now in India, when a girl is married in a certain family, she becomes a member of that family, though she is married to one individual. Whatever share of property she gets becomes a part and parcel of that family's property. An effort is made to retain the property and her share in the family, and after her husband's death the responsibility of bringing up her children devolves on the family as a whole. This is the basis of the *Kareva* system. By following this, she by getting married to her husband's younger brother or his cousin continues to be a member of the family even after her husband's death. In this way her children by her first husband are brought up with the same love as before and are not inconvenienced in any way. The hon. Members are aware that such popular customs have been recognised in India. According to Section 2 of the Widow Remarriage Act, 1856, if a widow marries again she loses all her rights in her husband's property. I would invite the attention, specially of Hon. Dr. Ambedkar, to the fact that after remarriage a widow loses all her rights pertaining to maintenance or to her share in her former husband's property. The obvious reason for this is that after remarriage, a widow becomes a member of another family. But by following *Kareva* system i.e. marrying her husband's brother after his death, she retains her share in her former husband's property. This custom is prevalent to a great extent in Jat Sikh communities in the Punjab. When the widow continues to be a member of her husband's family by marrying his younger brother after his death, she does not lose her right over land.

The Minister of Law (Dr. Ambedkar): Would this not be more relevant when we deal with the clause on marriage ? Now we are dealing in a general way. I have said that whenever each clause comes, to whatever extent it may be necessary that clause may be made subject to custom. I would only suggest to my friend that probably his remarks would be more relevant when we come to that part.

Mr. Deputy Speaker : I have also been thinking of it. The amendments he has tabled seek that only those portions of the Bill must prevail where they are not inconsistent with custom, Then he wants certain customs to be saved. So far as these customs—which will be saved—are concerned, they may be more specifically referred to when we come to the relevant portion on marriage and divorce. With reference to the general question as to whether this should operate

where there is inconsistency or whether it should generally operate where it deals with the matter, this is a matter which may be dealt with when we come to details.

Dr. Ambedkar: Would the difference be very great ? supposing we say that any custom which is not inconsistent will be safe or we say "subject", I think the effect would be the same.

Mr. Deputy Speaker : The hon. Member need not go into the customs *in extenso*. A general indication of the custom is enough. We may dwell on the details when the relevant clause comes up.

Pandit Thakur Das Bhargava: I realize the force of Hon. Dr. Ambedkar's objection.

Dr. Ambedkar : I do not object. All I say is that it will be more relevant in the other context.

Pandit Thakur Das Bhargava : I will not dwell upon the details of any custom. As the Hon. Deputy Speaker said all the four amendments moved by me contradict one another. One of them is that custom should over-ride all laws and even prevail upon the Hindu Code Bill. I gave an example of our customs in order to impress upon this House that if we agree to the principle underlying this amendment, we lose our stand. I do not want that my amendment, saying that custom should override laws, be passed. It should be eliminated. I mentioned *Kareva* system in order to bring out the nature of our customs. Sir, I submit that I do not want that the House should try to keep this custom intact, I shall not press the House for the saving of those customs which I do not consider to be proper.

Mr. Deputy Speaker : Would it not go against the very spirit of the Code ? (The object of this Code is to gather the varied customs and put them into a single Code). Hitherto, customs have not been codified. Some customs have been upheld by the courts and if we go on making exceptions, the whole law will become nebulous. The purpose of the Code itself will be frustrated. I think the Code seeks to incorporate the customs which have been upheld by courts and a presentable document is placed before the country which can be the basis for further additions, if necessary. But it will go against the very grain of this Bill if all the customs are exempted. Only in exceptional cases, special provisions should be made in regard to customs. I am not ruling the hon. Member out of order. Now that we have accepted the principle that we must codify certain matters, it follows that any custom which is inconsistent with this law must go.

Pandit Thakur Das Bhargava : With all respect I beg to submit that I support each and every word of what the Hon. Deputy Speaker has said, because it is right and it tallies with what I mean by my remarks. For many a year, decisions have been made on the customary laws and customs of the Punjab, decisions which are in conformity with justice, equity and good conscience. Thousands of suits have been fought on the issue of our customs. So we should take them as a basis and follow such customs.

Sir, you remarked that if we were to go on making exceptions in the case of every custom we would enter a nebulous state of things and the Code would become useless. I go a step further and submit that we should make exceptions in the case of those prevalent customs only which are considered to be right, such as the *Kareva* system which should be allowed to remain in operation for some time. In Madras and Bombay Acts there is a provision that customary dissolution of marriage would remain operative wherever it is prevalent. Where such customs are provided for, all customs should be either allowed to remain operative or be done away with. I take codification to be an attempt at improving bad customs. The hon. Dr. Ambedkar dose not agree with me. He wants to codify all customs. I appeal with all sincerity that while codifying we should retain only good things and leave out the bad ones. I am opposed to that kind of codification which would include even bad customs. It is not our intention to perpetuate bad customs through codification. (I want to make it clear from my amendment, that customs should prevail. I have also proposed that universal laws and principles should be given due importance, a scrutiny should be made with the purpose of judging as to what is needed and all advantages and just universal laws, usages and customs should be retained.

If we want to codify our usages and customs, (I would like to point out that the most important of our customs is that we should not allow divorce). But we are going to give our women the liberty of divorce, because the Constitution and the sense of justice do not allow that women should lack this liberty. Go ahead and give them this right but bigamy is an established custom. It has been in vogue for many centuries and it is prevalent in some sections of our society. After the passage of this Bill and the enforcement of monogamy a person would not be able to marry another woman by the *Kareva* system as long as his first wife is alive.

Mr. Deputy Speaker : The only point is this. In so far as the *Kareva* custom is concerned, it allows bigamy in particular circumstances. I think when we come to monogamy we can deal with that. But on general principles, the hon. Member can only say that this Code should be applied to all cases except that he may refer to some cases here and there by way of illustration to show that they may be exempted.

Pandit Thakur Das Bhargava : I have not touched upon any particular custom. I want only to show what is the place of custom in this code. Only to illustrate this, I mentioned the example.

Mr. Deputy Speaker: I think the sponsor of the Bill feels that he has looked into all the customs and he has included all customs that, according to him, must have the sanction of law. Other hon. Members may feel that certain other customs prevail and exception must be made for them in the body of the Bill. If that is so, it should be done at the appropriate stage. At present we are on the general provision which says that any custom that is unwholesome and therefore inconsistent with this Code will go. Should we not make a provision like that saying that in so far as matters regulated by this code are concerned, such a custom shall not prevail and shall not have force ? What is relevant therefore on this clause is the general nature of the custom and a few illustrations here and there. Even if there be a single custom which has to be abrogated by this Bill, such a clause is necessary. We are now going into the root of the matter. As to whether a custom has been enjoying uniformity, continuity or is of ancient nature—those are matters which certainly can be looked into and if some additions are suggested by hon. Members those can be considered.

Pandit Thakur Das Bhargava : Had we been discussing the whole of the Code this clause would have been absolutely necessary. But we are going to pass only a chapter in which at every step it is provided that custom will prevail in such and such case. That is why I mentioned an example to show that such a custom has been prevailing for many centuries.

Mr. Deputy Speaker: Even if there is a single unwholesome custom relating to marriage and divorce, this clause is necessary. For instance, the sponsor of the Bill feels that whatever might be the exceptions, a maternal uncle marrying his niece, that is a brother marrying his sister's daughter should not be exempted.

Dr. Ambedkar : We shall deal with that matter at the relevant stage.

Mr. Deputy Speaker : Let us assume that the Law Minister feels that such a custom ought not to have the force of law, then we should have a general clause like this here. There are customs even with respect to marriage and divorce which have to be provided against, if they are unwholesome or opposed to public morality, or public interest or public policy. I do not see how you can get out of a general clause like this in some shape or form.

Pandit Thakur Das Bhargava : Sir, if you look into the list you will find that I have not given notice of any amendment with regard to the omission of Clause 4. But I have mentioned it and have given an example in order to know as to what place would we assign to custom in this general clause. I agree with Mr. Mayne when he says that custom is the first rule of decision.

Mr. Deputy Speaker: The arguments are not confined to the restrictions that have to be made so far as clause 4 is concerned.

Pandit Thakur Das Bhargava : I beg to submit with due deference that clauses 3 and 4, where custom is defined, overlap each other. Yesterday, while I was discussing clause 3, Dr. Ambedkar quoted clause 4 in reply. Clauses 3 and 4 are overlapping and the mention of one leads to the mention of the other on account of similarity of context.

As *Sutras* and *Smritis* say

> "*Vedah vibhinnah smrityo vibhinnah naiko muniryasya vacha pramanam, Dharmasya tatvan nihitam guhayam mahajano yena gatah sa pantha.*"

[*Sruti* says something and *Smriti* another. There is no sage whose word can be taken as final. The secret of Dharma (Duty) is very deep. Follow the path traversed by the great.]

I submit that custom has a special place and personal law has no meaning without custom, as is evident from clause 5 of the Punjab Laws Act, 1872. There are many rulings to the effect that custom has a place in personal law. I think while making personal laws we should assume custom to be there. Sir, in the Punjab, in the last one hundred years, all suits pertaining to agricultural communities have been assumed to be governed by agricultural customs. In a suit between urban parties, it is assumed that it would be governed by personal law. In fact, according to decisions of the Punjab Chief Court (107 of 1887, 100 of 1906 and several others), it has become a sort of

law that there is no general custom except where the parties to a suit belong to the agriculturists communities and even in that case the onus of proof of a certain custom falls on the person who alleges it. Viewing the Hindu Code from this point I am of opinion that there should be no undue interference in any custom. Sir, yesterday I submitted that Hon. Dr. Ambedkar was preparing to adopt the customary basis of divorce as provided in Madras and Bombay Acts. I want to oppose this move. You should not spoil our divorce law by adopting that basis as it is the first time that we are making a divorce law. You are interfering in the social economy of upper class Indians. I am in favour of the divorce law. I have no hesitation in saying that we should have a single divorce law for the whole of the country. (I am with you in your efforts for the unification of the country). I know that in Punjab, to which I belong, and other parts of the country, about which I know something, divorce is so easy that there is a saying— "When the parties agree, they need no decree." I do not want that divorce may be had just for the asking ; that will be highly unjust, there is a custom according to which the woman pays up the amount spent by her husband and gets a divorce. I am entirely against this custom, because this seeks to destroy our morality. I am taking up your time to voice my opinion, Hon. Dr. Ambedkar is not listening to me and is busy with his work. You should make a provision for some common and uniform grounds of divorce. Do not allow any custom to interfere in the matter of grounds of divorce or we would be in for a calamity.

I would not countenance the provisions of the Bombay and Madras Acts. I am raising my voice against them not because I am an opponent of the Bombay and Madras Acts for so far as bigamy is concerned, I am as much against it as they are. The amendments of which I have given notice have only one purpose in view, that is, I am not ready to give go-by to the good principles that are contained in our laws relating to marriages, Dr. Ambedkar asked for acceptance of customary basis but every prevailing custom should not be accepted because if that were done, as has been done in this Bill, the whole purpose of the Hindu Code Bill would go to pieces. I want that there should only be one basis for divorce. If the responsibility lies with the husband, he should be required to provide for her expenses till the time of her remarriages. You will find from the Bill that although there is no customary basis for them yet it has been found pertinent

to make many rules that are in accordance with the rules prevailing in foreign countries. We have no quarrel with the rules of other countries. But I am against inclusion of every custom for there are unreasonable customs also. While customary basis has been so much command, I find three words —justice, equity and good conscience— absent. The customs that were immoral have been declared void by our High Courts for they were not just. If there are customs under the refuge of which a divorce is effected under pressure and if it is so proved, the High Courts would declare it as immoral although these customs exist together with others. But these very things that are not in fact based on justice and morality want to come through the backdoor under clause 4. Effort is being made for admittance of customs that would take out the very life of the Hindu Code. We are in no case going to accept them. We must put an end to these things of course. I have no objection for good and useful customs and those that may be very deep-rooted as, for example, the South Indian custom which you just referred, I have thus no objection to Aliyasanthanam Act which has been incorporated in 24(a). But the customs that have harmful effects should be given no place. The Hindu Law says that customs should be followed. In fact, customs are for Archaic society ; but for the advanced society, that keeps pace with the progress of the world, there are some universal principles which the Legislature embodies in the form of Acts and they should be our basis. This is why I emphasize that customs should not be brought in unnecessarily. That is what my amendment seeks to do. The purpose of my amendment No. 446 is to show at what dangerous spot would we reach if that clause were adopted. Otherwise, I have given notice of that amendment merely for discussion and not for acceptance. The rest of my amendments I have already placed.

Under these circumstances I would emphatically request Dr. Ambedkar and the House that justice should be done and nobody should be put to unnecessary trouble. The Hon. Minister may do whatever he likes on the basis of justice, equity and good conscience— he may leave open as much field as he chooses on that basis. But whatever new legislation is enacted, it should be just. Of course, customs should have their proper place there ; but bad customs going against the fundamental prinicples should not be countenanced. We want to give customs their due place. We want to respect them so far as they are against those customs that lead us to immorality because

such a custom is antagonistic to the Hindu *Shastras* and to our principles. There are, of course, differences on the application of divorce provision but I for one support it for I want justice for women who are meted out gross injustice these days. Poet Tulsidas had said through the mouth of Sitaji:

Mitam dadati hi pita mitam bhrata mitam sutah,

Amitasya to dataram Bharatram ka no pujyet.

It means that the poor woman is economically dependent upon the husband and for that reason she worships him. This is, however, not in the interest of the society and is not in accordance with the principles of justice. Tulsidasji should better not have said that Whatever respect we may show towards Shri Ram Chandraji, or Shri Tulsidasji, I am not prepared to keep the women in bondage any longer. This principle of divorce is based upon one's desire and upon the sense of equality and justice. I cannot close my eyes to the injustice that is being done to women. It is a daily occurrence now that young men leave their wives. I would ask them where are these sisters to go ? So I believe that divorce is a right provision. People refer to *Satis*. But has a man ever been a *Sata ?* Indeed, the prinicple of depriving the women of their rights prevailed in a gone-by age all over the world. The Married Women's Property Act was passed in England in 1883.

Shri T. N. Singh (Uttar Pradesh)**:** What is meant by *Sata ?*

Pandit Thakur Das Bhargava : Do you not understand even the meaning of *Sata* ? All women know what is *Sati* but no man knows what *Sati* is.

So my submission is that we should not make provisions on the basis of customs—bad customs surely. We should, on the other hand, take courage to abrogate customs—those old customs that have now beocme out-of-date. The Government should make legislation that should be based upon justice and equality.

Shri Bhatt: Sir, an amendment of mine was left out due to my mistake. If you permit, I may move it now.

Mr. Deputy Speaker: Is it already in the list ? What is the number ?

Shri Bhatt: No. 288 in List No. 5.

Mr. Deputy Speaker: Why was this not moved yesterday ?

Shri Bhatt: I was not present at the right time. When I entered the House, the speech had begun.

Mr. Deputy Speaker: He may move it.

Shri Bhatt: I beg to move.

In the amendment proposed by the hon. Dr. Ambedkar, in the proposed new clause 4,—

(i) in part (a), after "dealt with in this Code" insert "after ten years from the commencement of this Code" ; and

(ii) after part (b) add the *Explanation:*

"Explanation.—Notwithstanding anything contained in sub-section (a), for a period of ten years from the commencement of this Code, any text, rule or any custom to usage in force, shall have effect.

***Babu Ramnarayan Singh** (Bihar)**:** *(English translation of the Hindi speech).* Sir, today you have given me quite early the opportunity to speak on this dangerous subject and for this I thank you. Yesterday and the day before I tried to catch your eye several times and important as the subject was, I failed to get an opportunity to speak. May I make an observation in this connection that there is no doubt that you do full justice in your position about which nobody should have any misgiving……..

Shri Syamnandan Sahaya (Bihar)**:** Nor anybody has.

Babu Ramnarayan Singh : And, indeed, nobody has, But you have to give your rulings with an even hand. Yesterday you were pleased to say that there was some feeling prevalent against you and you wanted that no such feelings be created so that there may be general satisfaction about the working. It is but meet Sir, that thing should be done judiciously. But if somebody worries with the thought that people should regard him infallible on all occasions, he is likely to commit some mistakes. Therefore, I beg of you to do your part justly as you have been doing so far. You should not labour under the apprehension that people might think that you are not doing things rightly.

Shri Jangde (Madhya Pradesh) **:** Please come to the subject.

Babu Ramnarayan Singh: I should also like to say one thing more. When I stood to speak, you in spite of the fact that no Member had expressed that desire declared that sufficient discussion had taken place on the subject and that the question be now put to decide upon the matter. However, I should draw your attention to the fact that the matter is very important.

*P.D., Vol. XV, Part II, 22nd September 1951, pp. 3095-3112.

Shri Jangde: The hon. Member must now come to the subject.

Mr. Deputy Speaker: What I would say is it must be left to somebody to deicde whether the debate has been sufficient or not, and the Chair takes the responsibility. I called upon the Hon. the Law Minister to reply. It is no good referring to all those rulings when it is left to the Speaker to decide. I have now given an opportunity to the hon. Member. That was on the definition clause. This is clause 4. If he wants to say anything let him say now. What is the good of saying: "You did not give me any opportunity then" ? All that is not relevant.

Babu Ramnarayan Singh: Sir, whatever your ruling it is acceptable. But I am not saying anything unreasonable.

Mr. Deputy Speaker : What is the good of wasting time over that matter ?

Babu Ramnarayan Singh : That is not the thing. All the Members here have the right to speak, and the subject in discussion here is such that it should not have been brought up at all. To me indeed any punishment given to the Government, who have brought this measure here, and their supporters in this regard would be reasonable. Sir, you Probably do not know that hundreds of persons are daily arrested here outside and released ten or twenty miles away. It is said to be a secular State. Does a secular State give liberty to do all sorts of unreasonable things under the cover of secularism ? This Parliament is meant to protect the rights of the people and you are its presiding officer. These things must come to your knowledge and you should give due consideration to them. What is it after all that police has been posted all round and none can pass that way ? This is very bad and absolutely unjustifiable.

This Bill abrogates all the previous texts of the Hindu Law and all rules and interpretations given in respect of them. I am not talking of customs. (I am simply speaking of text). Sir, you are a scholar and are very well aware that the *Vedas* of our country came to be revealed at the beginning of the world and the establishment of the social organisation. The rules of conduct and duties of men in our country are determined by the *Vedas*. Today we have Pandit Nehru's administration whose representative. Dr. Ambedkar wants to abrogate with a single stroke all those rules which have existed since the beginning of the world. I would say that all the Hon. Members should oppose such a measure. Firstly, the Hindu Code Bill should not pass

at all. But if it has to pass, at least this portion of it, clause 4, must not pass in any case. You know, Sir, and Dr. Ambedkar also knows very well, that Buddhism was preached by Lord Buddha to undo the hold of the *Vedas*. But the *Vedic* religion did not perish. Hardly a few years have passed since the advent of Pandit Nehru's rule and Dr. Ambedkar's coming into office and the *Vedic* principles are sought to be repudiated. Do they not think that such laws should not be passed ? Nobody in the country would accept this law.

Shri Syamnandan Sahaya : Babu Ramnarayan Singh is perfectly right.

Babu Ramnarayan Singh : How could they dare to say that things that have been in existence since times immemorial, since the beginning of the earth and the creation of the Sun and the Moon should now no more be followed ? Wherefrom did they get this right ? Buddhism was preached to overthrow the *Vedic* religion. Other religions including Islam also came. All came and fell, but *Vedic* religion is still there and would remain as such. No one can destroy it and it is an improper and absolutely misguided effort that is being made to efface it. It gives me pain that such things are brought in our Parliament. As our friend Thakur Das Bhargava just said religion and the rules of good conduct were determined by the *Veda* and the *Smriti:*

Veda, Smriti, sadacharah

Atmanstushtireva cha,

Etachchaturvidhah prahus-

Sakshaddharmasya Lakshanam.

The definition of Religion is four-fold ; Veda, Smriti, Sadacharah (good conduct) and Atmatushti (self-satisfaction).

Rules of good conduct were thus fixed in accordance with the *Vedas*. But simply that was not enough. It was also to be seen that what the *Vedas* prescribe, what they command, should also be there in the *shastras, Vedas* set down the path of religion and the *Shastras* supplemented them. But that was not the end all. The rules incorporated in the *Vedas* and supported by *Shastras* should be observed in the conduct, manners and actions of the good people. That is what was meant by the rules of good conduct. But nobody was bound as to their observance simply for the reason that they were laid down by the *Vedas* and *Dharma Shastras* and also followed by good people. In the last, he was to see how far his conscience, his knowledge of good and bad, agreed with them. After consideration of all these factors, his duty was to be finally determined.

Not to speak of the *Vedas* , the *Shastras* and good conduct; not even was the conscience spared ; the Hon. Minister and this Government mean that our conscience be left out and this Bill be passed : and work be done according to it. Just think, what an injustice it means. Need I submit more, you just look up the meaning of the word 'Law' in the dictionary. What does it mean, after all ? You can look up the word in the dictionary, and some of you must have seen it already. Dr. Ambedkar is a scholar no doubt; he must have looked it up in the dictionary.

10-15 A.M.

Dr. Ambedkar: No; I don't look it up.

Babu Ramnarayan Singh : But he puts his scholarships aside and is behaving in a strange way. What is Law after all ? Law today means a supremacy, or a predominant society making a regulation with the help of a military or police and thrusting it on the society as a whole. Sir, Law does not mean this. Law, according to the lexicon, means :— "Law is nothing but the will of the people expressed in terms of Law"—which, in other words, means—whatsoever is the will of the society, is placed in the form of a law and is called a law. These people have now gained supremacy : Police and military are at their command, and with the help of police and military and in the name and with the help of party discipline, they may get anything passed.

Shrimati Dixit (Madhya Pradesh)**:** There is no party discipline.

Babu Ramnarayan Singh : There is party discipline and you will pass it.

Shrimati Dixit: No ; it is not so.

Babu Ramnarayan Singh: Well, what will come out of 'yes' and 'no' ? I know the position.

Sir, I mean to say that a lot of injustice is caused by such a law. It is not in the interests of this country, nor do the people of this country want it, and, therefore, this should not be passed as law. As I told you a number of revolutions took place, great religious revolutions, but the fundamental of the *Vedas* were not changed. With one stroke of pen Dr. Ambedkar now wants the *vedas* an offence, and this Bill should, in no case, be passed. As there are different texts and rules, the interpretations follow them. A number of sages (Rishis) were born in our land. Shri Thakur Das made a mention of them. It has been said :

Vedah vibhinnah Smritiyo vibhinnah,
Naiko muniryasaya vachah Pramanam,
Dharmasya tatvam nihitam guhyam,
Mahajano, Yena gatah Sa Pantha."

Vedas differ and *smritis* also differ. There is no sage whose word can be taken as final. The secret of Dharma is very deep, follow the path traversed by the great.

Which means—One *Veda* gives one dictum, while the other shows a difference of opinion. In *Vedas* there are certain things where people can have doubts. Likewise, there are *smritis* and *Dharmashastras*. All of them are of the same opinion, it cannot be said so. Some *Dharmashastra* gives one thing, while the other gives something else. There also is difference of opinion—"*Naiko Muniyarasya Vachah Pramanam"* —"There is not a single sage whose word can be taken as final" ; No such sage has born, whose dictum could be authoritative and, hence, to be taken as complete truth, and the rest to be discarded. Not even so. But after this those of us who make of a mention of Manu Maharaj—some amongst them say likewise, that Dr. Ambedkar is Manu of the day.....

Dr. Ambedkar : I have not accepted that title.

Babu Ramnarayan Singh : do not accept, please. They say it wrongly, as you, in fact, do not deserve it: this is not a thing to be accepted. Those who confer this title upon you do it by way of flattery. It you are called 'Manu', all of us, too, would like to be called so ; why you alone.

And whatever were the dictates of Manu, whatever were his orders, were automatically followed by everybody. They were not propagated at the point of sword. Whenever he were to sit to make a law no police and military were kept on guard. I go to the extent and say that we should feel ashamed that when such a subject is being discussed we are encircled and guraded by police and military lest somebody should come and interrupt us. Furthermore, it has been said :"*Dharamsya Tatvam nihitam guhayam"*—The secret of *Dharma* is very deep it is hidden in the caves. Sir, everybody does know that these people must have thought at times that the subject of *Dharma* was so difficult that it could not be understood. Its secret, which is said to be lying in some cave, is very difficult to find out. How beautifully has, therefore, been said : "*Mahajano yena gatah sa panthah*"—"That, indeed, is the path which was followed by great men." In such circumstances, when *Vedas* say something, *Shastras* uphold something else, conduct rules ordain something else and it may become difficult to make a right choice then what should be done ? It is, therefore, said : "*Mahajano yena gatah Sa panthah*"

—i.e., whatever is done by the great should be followed. Those, who are called great in our country today, are doing and out to do such things as are not acceptable to anybody even today. Who will accept them in the days to come ? I beg to submit that this subject should be considered in a definite light, and in such a way that everybody may get an opportunity to think and have his say.

Sir, about usages and customs they say that custom should not exist. These people are prepared to do away with customs and will surely do away with them. They should know that the Scriptures, *Vedas, Puranas* were not introduced at the point of the sword or by any kind of coercion. Those were such regulations as were be acceptable to any body when formulated. Some give the name 'customs' 'family-customs' some name it as 'family conduct' while others call them 'customs and traditions.

At a certain place in Ramayana it is said:

"Raghukul riti sada chali ayi,

Pran jahin par vachan na jayi."

(Raghu Dynasty has its ever-present custom. Life it will give, but not discard the word.)

It was a trait of the Raghu Family, yes—a tradition, a custom : Life should not be cared for, it should even be sacrificed, but the words given by them should in no case, go futile. What need I say today ? Cheers to the talent of Dr. Ambedkar or the talent of this Government which tells us not to talk of customs and to do away with truth and customs. They say, all the customs and traditions should be done away with. This is just a thing to be understood as to how important the customs were *"Raghukul riti sada chali Ayi, Pran Jahin par Vachan Na Jayi"* Just look to it that the man who seeks to become our Manu today, says that there should not be any custom nor traditions whatsoever; we should do away with all of them.

Shrimati Dixit: But what is happening today ?

Babu Ramnarayan Singh : If your will were to carry the day, the words could happen. Now comes to question of divorce. In our country, there are some five or six such communities which we know are not more than two to four crores in number. For them they are making this laws so that the right of divorce for them may be secured. In the rest 90 per cent of the society, we know that divorce is a thing of daily routine. And, sir, how is this divorce given ? Two, four or

five of them sit together, both the contending parties come and they break some stalk of grass ; and their mutual realtions are broken—this completed the "divorce". Not a panny as to be incurred on this, nor any botheration. Our Hon. Dr. Ambedkar is a well-wisher of the Untouchables and they too should know that such well-wishers should be shunned. Now all of them will have to go to the district judge for divorce, what a lot of expenditure arid botheration will this procedure mean ? Then alone will divorce be granted.

Shri Naziruddin Ahmad (West Bengal)**:**..... A decent work for lawyer !

Babu Ramnarayan Singh: Lawyers giving maintenance to lawyers !

Pandit Thakur Das Bhargava : The *Panchayat* is being empowered to register the divorce.

Babu Ramnarayan Singh : Well, even if it is in the hands of the *Panch,* it is right to some extent, but that too will be a Government Post. I assert that the Bill be scheduled. Let this law go to hell and then you will see how easily the entire system work. We have *panchayats* and *panchas;* and in our country customs and usages are pliable they will continue to hold good and people would accept them automatically. If any law is formulated or any decision taken, it should be so clear and precise as may be amiably accepted by people, and they may not think of going against it. But the law that is being passed here, is such that people in our country will take pride in breaking it, and will not act upon it. This is nothing but a whim of those who today have gained power. They are obstinacy-ridden and say that the Bill must be passed somehow. What the country thinks, and what she needs, the Government never worry about it. What is being spent for it here, and what, after all, is its necessity, nobody cares for it: the Government go on spending money lavishly and thus ruin the country ; go on passing baseless and futile laws against the will of the public. I insist upon our Rajaji and Dr. Ambedkar that the Bill be withdrawn : the country does not want it, and the good of the country, good of us all, lies in its being withdrawn. This simply astonishes me that such an injustice is being here where personages like Rajaji are present. There can be nothing more shameful and sorrowful than this.

Sir, I do not want to take more time but I want to request you that the subject is so serious that it needs a proper debate ; and if

any hon. Member wants to speak on it, he should be permitted to do so. This Bill has created a stir in the entire country as also in the City, and hold that the Bill should not be proceeded with. The Government should withdraw it, and if it is not withdrawn, but proceeded with instead discussion in a proper way be conducted and the hon. Members be not stopped from speaking on it. I would request all the hon. Members to understand all the pros and cons and pass it, then. They may also bear in mind that the good of the country and the society be not impaired in any way by this self-willed piece of legislation, and I again submit with respect to all the hon. Members, that this clause at least be omitted.

Shri Sarwate (Madhya Bharat)**:** I rise to oppose the amendment of Dr. Ambedkar because I consider part (b) of the amendment as unnecessary and superfluous while part (a) is quite undesirable.

Dr. Ambedkar : You may abuse me as much as possible, provided you do not take much time. I am concerned more with the time than with the abuse.

* **Shri Sarwate:** Sir, I am not abusing him. I am only opposing his amendment. If not interrupted, I shall take very little time.

I submit that by virtue of article 254 of the Constitution, all laws made by the State which are repugnant to or are inconsistent with the laws made by Parliament stand *ipso facto,* to that extent, inoperative. The other laws which may possibly be referred to in this connection are laws made before this code by the Centre. In their case the later law will precede the previous law. Therefore, in both the cases, that is, in the case of laws made by the Centre, they would, to that extent, to which they are inconsistent to the code be *ipso facto* inoperative. Therefore, I say part (b) is unnecessary and superfluous. As regards part (a), the effect of this amendment would be that all customs and all texts or rules or interpretation of Hindu law and customs would be made inoperative, subject to the saving clause at the beginning, namely, all such customs as would be saved by being included in any of the later provisions. My submission is that this is entirely undesirable. The Hindu religion has been living and progresssing. It has been said that it is dying and decadent. It has been compared to the shameful life of a coward who flies away from the field of battle. I would only submit that it is often ignored that one who fled

*P.D., Vol. XV, Part II, 22nd September 1951, pp. 3103-7.

from the battle field may return only to vanquish those who erstwhile were the victors. It must be remembered that the Hinuds have reppelled those who were for a time, and only for a temporary time, able to overcome them. In the last century the Marathas in Maharashtra from where Dr. Ambedkar himself comes, and then the Sikhs in the north were successful in achieving their independence and establishing their kingdoms. But I need not go into past history either ancient or modern. In our own day and before our own eyes, we have seen this accomplished. Have we forgotten that the present Parliament of which Dr. Ambedkar is an illustrious Member is the result of .....

Dr. Ambedkar: I have no right to be here. I have sneaked in.

Shri Sarwate : I wish he makes no confession of that nature.

This very Parliament is an illustration that the Hindus repelled the foreigners who had dominated over them temporarily. And what was the element or factor which gave this like or this rejuvenating characteristic to the Hindu religion ? In my opinion, it is custom and by custom I mean such custom as is defined and accepted by this House in clause 3—custom, which is a rule that is certain and not unreasonable or opposed to public policy. It is said that custom might be of a bad nature and therefore it requires to be mentioned here. But to say so is contradiction in terms : just as contradictory as today वंध्यासुत For custom is defined here as that which is not opposed to public policy. Therefore, such customs as are opposed to public policy or morality, they will stand, *ipso facto* repealed. Those customs alone will be saved as would be good customs.

The House will realise that the sources of Hindu law have been described as:

श्रुति स्मृतिः सदाचार स्वस्य च प्रियमात्मनः ।

First of all the *Srutis* and *Smritis* lay down the fundamental common background. And then सदाचार and स्वस्य प्रियम् provide for variety, that is to say the element which would suit the various regions of the country. It has to be borne in mind that India is a continent in extent and its population is equal almost to the population of the U.S.S.R. in the East and to the U.S.A. in the West put together. So unless there is variety of the law, the law would be absolutely oppressive and it would be difficult to make it suit the various requirements of the different regions.

Now I would refer to another text of Hindu Law—I mean that law as it prevails at present. Yajnavalkya says :

यस्मिन् देशे य आचारो व्यवहारः कुलस्थितिः । तथैव परिपात्यो सौ ॥

That is to say, whatever customs, practices or family usages prevail in the country shall be preserved intact. And the *Vyavastha* or rule in this connection is stated thus :

येषां परम्परा प्राप्ता पूर्वजैप्यनुष्ठिता । त एव तैर्न पुष्येदुः आचारैर्नरे पुनः ॥

They are not liable to censure, whose predecessors used to practise these usages. In modern language, it means that the customs are ancient and from time immemorial. And others which are not so would not be observed.

So with this *Vyavastha,* the Hindu religion was vitalising itself and adopting itself to different regions.

Now, I shall take a small illustration and show that if we entirely do away with customs by accepting this amendment what would be its effect. There are many reasons why the amendment should not be so accepted. First of all, I trust even the learned Law Minister is not conversant with all the good usages that are prevalent in this country from Cape Comorin in the south to the Himalayas in the north. Neither are the Members conversant with all of them. And even if they are, they would not be in a position either to convince the learned Doctor or to convince the other Members of the House of the utility or significance of those usages and of the importance in which those usages are held in particular parts of the country. Therefore, I tried in an amendment of mine, which was for a technical reason not accepted or not put forward, to provide a simpler device by which the local Legislature may be able to supplement this law. That, however, has gone. Therefore, I submit that because of ignorance of all the good usages in the country we should not say "save as otherwise provided in the provisions .....". The effect of this saving clause will be nil and part (a) of the amendment will do away with all good customs, whether they are repugnant or not to the law.

According to part (b) only those laws which are inconsistent with the present law are only repealed, whereas in the case of customs, whether repugnant or otherwise, they have all been abrogated. This is a very wide provision which should be lost if it is omitted altogether. A custom is governed by all the requisite qualifications mentioned in clause 3, which the house has already passed and laws would be governed by article 254 of the Constitution.

I shall now take one more instance. Marriage is after all a social institution, meant to satisfy a social need. If social circumstances vary to a great extent in various regions of the country, several provisions would have to be made in the law which is to be enacted. In the present Hindu Law this is achieved in two ways. There are firstly various schools of Hindu Law. There was the law of *Dayabhaga* and *Mitakshara*. The common background is the Yajanavalkya's and Manu's *smritis*. The variety was given by *Dayabhaga* and *Mitakshara*. Further there were in मिताक्षरा various schools which governed different parts. There was the Mithila school, the Banaras school, the Madras school and the Maharashtra school. This was one of the ways in which variety was provided in Hindu society, which I maintain will for that reason never die. Secondly, there was the achar and on account of this the Hindu Law and religion have been progressive and satisfying the needs of all, which were this vitalising factor. It is the variety which, added to the common background, has kept the religion alive throughout the century. Invaders have come and gone, but Hinduism is still progressing.

I shall now take up the question of monogamy. Irrespective of what the law givers lay down, society would adopt monogamy or other systems of marriage according to its needs. Good law givers therefore ought to provide for this varying need. One of the factors which govern the form of institution of marriage is the ratio between the males and females. If there is an equal ratio between the sexes there will be monogamy and society is bound to be happy. But if there is very great disparity between the sexes then society will have to adjust form of marriage accordingly. If females exceed the number of males then bigamy or polygamy would have to be allowed. Otherwise the result would be either adultery or increase in illegitimate children.

Shri Naziurddin Ahmad: Adultery is permitted by this Bill.

Shri Sarwate : I will not take notice of it. There was a common phenomenon which had been observed during the war. When in U.K. the adult male population went to the war fronts there remained behind in the country an excessive number of women and the result was a great increase in the number of illegitimate children, which has now become a very difficult qustion for solution. This phenomenon has occured in other countries also. So also if the number of men is much more than the number of women then poliandry would come

in, in one form or another. Even in that case the same result would follow, I am in favour of monogamy, both because it is a law of nature and society has enjoined it and it is in accordance with modern trends. In that respect fortunately in India the ratio between the sexes is equal but even here there are certain other factors which have to be taken into consideration. I have some figures about the ratio in the different provinces. These figures show that the ratio in Madras and Bombay is equal.

Dr. Ambedkar: You are pleading for polygamy ?

Shri Sarwate : Let me proceed. In Bengal and some other provinces the males are preponderating and the females are less. So if you provide only one form of marriage for all these provinces it may not do.

Shri Brajeshwar Prasad (Bihar)**:** Has my hon. friend studied the ratio between the different age groups—the males between the ages of 16 and 35 and the proportion of females between the ages of 16 and 35 ? That will throw light on the question whether there should be monogamy or polygamy.

Dr. Ambedkar: He wants you to study the proportion of the different age groups among the sexes. But why do you not leave the argument to younger people ?

Shri Sarwate : Every body has to do his work. Dr. Ambedkar has to do his work and I am doing mine.

To proceed with my argument, it is irrelevent or unnecessary for developing my argument to show what the proportion of the males to the females in the different age groups is. I want here to show that in different tracts different conditions prevail and would have to be provided for as has been done in the prevailing Hindu Law through the different schools and through the *achar*. This is a case where it is absolutely necessary that variety must be provided for and it can be done only by allowing customs, customs which are ancient and are governed by public morality.

I conclude with this observation, that this amendment is entirely unnecessary. Sub-clause (a) is undesirable and sub-clause (b) is unnecessary. Therefore, this clause should be entirely dropped and the amendment disallowed.

***Dr. C. D. Pande** (Uttar Pradesh)**:** I rise to speak in favour of omitting the clause which seeks to abrogate the validity of customary

*P.D., Vol. XV, Part II, 22nd September 1951, pp. 3107-12.

law. I think this clause enlarges the scope of the Hindu Code. Let me go briefly into the genesis of the Hindu Code Bill. What was the necessity of this Bil ? If you know the background you will know how absurd it is to maintain this clause in this Code. The genesis of the Hindu Code Bill is that there was a constant demand, and there was a feeling in the minds of the leaders of the Hindu society, that there must be a law to be in conformity with the civilised concept of human society. There are only two things for which a case has been made out conclusively and we stand for them : one is acceptance of monogamy, imperatively and without exception: the other thing is that those who seek divorce in certain cases of hardship should be able to get it, that there should be no difficulty in that process of separation, annulment or divorce. These are the only two things for which a case has been made out and I do not see if any similar case has been made out for the abrogation of the validity of customary law. Have you ever heard of a single representaton or of a single meeting of the people who are governed by customary law, that this law should be changed, that it should be brought in conformity with the strict law of Manu ? Or, have you heard that they are tired of their customary law and they want to come within the orbit of Manu's law ? No : I have not heard of one single reprsentation or of one single meeting, either in the Press or on the platform, demanding that. There has been a constant demand for improvement in the law as far as monogamy goes, and also as far as divorce goes. People say there is a slur on our name in foreign countries. Well, that may be so; for that we have now accepted the prinicple of monogamy and of divorce. But I do not like that in the garb of making changes in the Hindu law you should introduce things which are absolutely detrimental to the interest of more than 80 per cent of the people of this land. If you analyse the population of this country, how many people, will you find, governed by Manu's law ? Only a handful of Brahmans, Kshatriyas and Vaishyas. But even they are governed by local laws as well and local laws have got an overriding position over Hindu law. Hindu law was originally not a textual law but a customary law and it was codified by Manu, Yajnavalkya and others in course of time.

Difficulty was experienced by the Legislature of India in the course of the last 100 years in these matters, and they made certain laws about specific drawbacks which were thus removed. Now the demand has arisen for change with respect to monogamy and divorce. We

concede it, but how do you presume that there is a desire for change so far as customary law is concerned ? What is customary law ? It is a natural law, it is a dynamic law, it is a growing law, it has got the force of the needs of the time ; if you do not allow that growth, that dynamic character in the society you will become rigid, you will be doing harm to the Hindu society just as Manu's law has done harm, according to you in the course of the last 3,000 years. Do you want that this should be perpetrated in the vast sections of the society which is not governed by that law ? This House stands for the principles of monogamy and divorce. Now in the progressive age you want to create hardships in the matter of those very things in respect of which you want to give facilities ? it is absolutely inconceivable to me that you desire to do so. It will be a retrograde step.

There is another reason for customary law being maintained. It will be impossible for the State to maintain adequates number of judicial officers and magistrate to deal with cases of divorce or judicial separation. (*An hon. Member:* Government have enough money.) They do not have enough money even to maintain magistrates to try ordinary cases, which are pending for several months together. You have no idea as to how many more magistrates will be needed. Even if you have money and you are bent upon doing it, do you know the hardship involved ? The cost may be ignored, but the hardship cannot be ignored, because in this country unfortunately whenever a citizen comes into contact with Government machinery he is subjected to vexations at every step. I myself have been a functionary of the Government and I have a clear idea of these things. I had some influence, but if I were an ordinary non-official and I went to a court of law, I know how much attention I would receive. An ordinary citizen finds it difficult even to get a ration card. Do you think it will be easy to get a divorce certificate in a court of law for a person who is ignorant and poor ?

11 A.M.

Pandit M. B. Bhargava (Ajmer)**:** Courts will be more efficient hereafter.

Dr. C. D. Pande : Things should be accepted as they are. You cannot expect to improve things all of a sudden. There is no justification for creating hardships. Why do you want to abrogate the customary law ? Have you received any representation for the abrogation of customary law ? Why do you insist on it ? Why do you insist on creating difficulties ?

Shri A. C. Shukla (Madhya Pradesh) **:** Because it is against public morality.

Dr. C. D. Pande: Let not morality be governed by law ? If you have any illusion that you can govern people's morality by law, you are mistaken.

Shri Lakshmanan (Tranvancore-Cochin)**:** He is not addressing the Chair. He is addressing individual Members as 'you'.

Dr. C. D. Pande : I am sorry. It is a manner of address to say 'you'. 'You' does not mean an individual Member. It means the Legislators here.

Mr. Deputy Speaker: No interruptions please.

Dr. C. D. Pande: I do not mind the interruptions, because the case that I am putting before you is sustained by the will of the people outside. I know the people. I know their difficulties. I know the prevalence of the customs. The difficulties that will be created will be enormous. You have not got the machinery to deal with the cases. The cases may be in far off places where there will be no Government machinery. People manage their affairs in an automatic manner. There is an automatic adjustment in social affairs. That automatic adjustment of the society will be disturbed. You wish to take upon yourself a responsibility for which you are not prepared. Moreover it is uncalled for. There is no justification for it. No case has been made out for the abrogation of customary law. A case has been made out for making divorce easier, not for restricting the scope of divorce. Why do you want to enact legislation which is not in consonance with the likings of the people and which goes against the very spirit of this Code ? This Code seeks to confer divorce and you want to restrict divorce. If this contention has any validity, then I submit the Law Minister will consider the matter carefully and sympathetically.

***Shri Oraon :** (*English translation of the Hindi speech*) Sir, I had not to speak much about this Hindu Code Bill; but we are now confronted with a situation which compels me to speak something. I mean to say that Scheduled Tribes and Abroiginals are neither Hindu nor Muslim nor Christian. They are without any religion. First they were not included in this Bill nor did they want themselves to be dragged into it. But now I find that we too are being dragged into this Bill. I want to say that the divorces which take place amidst our Community, perhaps do not take place in any part of the world. We know that not less than 80 or 85 per cent divorces take place before

*P.D., Vol. XV, Part II, 22nd September 1951, pp. 3112-13.

any child is born as a result of the marriage. If some action is to be taken there or a divorce is to take place, we shall be handicapped in getting the case recorded with a *Panch*. It is said that the case will have to be recorded in our own *Panchayats*. The *Mukhia* of that place will go to the court and apply. If either of the two—man or woman, who come for divorce do not agree to his decision, the case will proceed further and move to the court. We know how many divorces take place. Not even in 18 months will the cases registered in only twelve months be decided. Dragging us into the Hindu Code Bill, therefore, is not only injustice but our virtual death. I would request the learned doctor, therefore, to exclude us from it.

Next, whatever we see in the Hindu Code Bill, is both good and bad. May be, people living in the cities may not know this, but we are villagers and come across people of all types. All of them are against it. In this state of affairs we see that on the part of the members of the Parliament, the representatives of people as they are, this will not be a right course of action nor will it be right on the part of the Government to pass this Bill. It is, therefore, I must say that this Bill should not be passed unless new elections are held.

***Shri Jangde :** (*English translation of the Hindi speech*). Sir, I have been listening to the speeches of the Hon. Members for the last four or five days. From their speeches it appears to me that clauses are not being considered, but that general discussion has started.

I wish to recount the objections raised by the hon. Members against this Marriage and Divorce Bill and I consider it my duty to reply to them.

Just now Shri C. D. Pande said that a loose custom of marriage and divorce prevalent amog 90 per cent of the people should be left intact. He also asked why should the *Dwij* communities, among which this divorce custom does not obtain, be compelled to adopt it.

Pandit M. B. Bhargava: He did not say this.

Shri Syamnandan Sahaya : This was not said. Why are you unjust to him?

Shri Jangde : He said that this matrimonial code, which is going to be passed, would greatly lengthen the procedure of marriage etc. and would create many difficulties for the village people.

*P.D., Vol. XV, Part II, 22nd September 1951, pp. 3117-20.

Babu Ramnarayan Singh: He came only to give a sermon to us. He did not speak on any clause in particular.

Babu Ramnarayan Singh: You deserve it.

Shri Jangde: I have been doing work of social reform among these 90 per cent of the people and I know them thoroughly. I know their marriage and divorce customs very well. The people who are speaking on their behalf do not know them. They speak only to place obstructions in the progress of this Bill. It has been said that easy divorce is a very good thing. I want to tell you sir, that the custom of divorce among the *Shudras* has become so old and useless that it is being highly misused. Today the honour of our mothers and sisters is at stake on account of this. They are sold in Calcutta and Bombay and they embrace other faiths. Today among the *Shudras* a woman does not enjoy even as much respect as a cow does. A cow is sold only once, but women are sold many times. The custom now prevailing among them has become the custom of the high-handed and is no longer the custom of the poor. You say that if this custom is abolished, people will have to incur much expenditure in the Law Court, but I cannot help praising the wisdom of Dr. Ambedkar who has suggested the remedy that the decisions of the *Panch* of the caste shall not be binding until the sanction of the Government is obtained. Today what we do is to marry, perform the custom of *Saptapadi,* and to sell her (the wife) after two or three days. People become ready to sell and divorce her. In this case, what is the meaning of sacramental marriage and *Saptapadi* ? The old customs have become rotten. You want to maintain them. You want to keep them in the name of Hindu religion. But I want to tell you that 90 per cent, people of Hindu society are becoming opposed to them. Women are not shown any respect. They are labouring under difficulties. You say that we regard them as *Devis* and *Saubhagya Lakshmi,* but this is all wrongly put by you.

Just now some hon. Members said that they did not want divorce for the *Dwijas* and why should they be compelled to adopt it. This is the opinion of many of the hon. Members. You want to place the lion and the cow in the same category. Should the hunter and his prey be placed together ? Do you want to unite the East and the West ? They can never meet. On the one hand you say that there should be no divorce among the *Dwijas,* on the other, you say that loose divorce should be maintained among the *Shudras*. This anomoly is

leading to a fall in our moral and human standards. The Hindu Code has been drafted to reomve this extreme kind of discrimination and to bring the *Dwijas* and *Shudras* from Cape Comorin right upto Kashmir together. You want to spread the awakening among the Hindus. I say that the Hindu Code Bill would be a great help in this direction. You do not want to show the same sense of moral values which has been shown by Dr. Ambedkar in drafting this Bill. In this connection I wish to say that if there can be any means of bringing the *Dwijas* and the *Shudras* together, it can only be the Hindu Code Bill. You say that it should be applied only to those who want it, and those who do not want it should not be compelled to adopt it and none should be forced to adopt monogamy and divorce. In my opinion propaganda has been done in the wrong manner is this connection. Government have no money and they do not want to do propaganda in this respect. Not the supporters, but the opponents of the Hindu Code are doing forceful propaganda. Once I heard that Karpatriji said in a speech that it could even make marriage between father and daughter possible. Similarly other false propaganda is being done. It is said that it would lead to marriages between brothers and sisters and the Hindu religion is going to pieces. I say that the diseases which have crept into Hindu religion are being sought to be removed by treatment. This is the aim of the Hindu Code. Such a propaganda is being done in this connection. You say that you do not want divorce, but on the other hand, you want that it should be introduced for us. Among the *Dwijas* a married woman who becomes a widow, cannot be re-married in any case but men can marry a hundred times if they like. This is no justice. Just as Rama married once .....

Mr. Deputy Speaker: You leave Rama aside.

Shri Bhatt: He should be allowed.

Shri Jangde : I was speaking of the evil custom prevailing among the *Shudras*. We want to change it. Every person can marry five or six women. In no home are women married according to *Saptapadi* are found. They go away with the high-handed persons. By changing their women repeatedly they incur much expenditure. More than half of their property is spent in marrying these women. Is it justice that a woman married to a man should go to another ? This Bill in which you see the end of the Hindu religion has been introduced to remove these evils. Therefore, without taking more time I would like to submit that if you want to see the renaissance of the Hindu religion, if you

want to maintain it and bring the *Dwijas* and the *Shudras* together, the amendment in respect of Marriage and Divorce clauses of the Hindu Code Bill should be accepted.

***Shri T. N. Singh :** (*English translation of the Hindi speech*). Sir, I am delibratley speaking in Hindi, because some of the hon. Members and particularly shri Oraon, by speaking on the Hindu Code Bill in Hindi, have in a way asked us to do the same. We have one thing specially in mind while discussing this particular clause 4. Dr. Ambedkar has certainly tried to take a place in the galaxy of Manu. Parasher and Yajnavalkya by following in their footsteps, but I believe that it is an unjustified effort on his part because our traditions have gradually evolved according to the dictates of time and circumstances. They are formed on the basis of collective wisdom and experience. Therefore, the wisdom of any particular individual cannot affect them. What I mean to say is that we cannot violate our traditions so simply and so easily. We perhaps do not even know all of these traditions. I would challenge Dr. Ambedkar, our Minister of Law, to state how many traditions of ours, which he wants to destroy completely through this Hindu Code, are there in this vast country of ours, in the Bharatvarsh. How far is it proper for him to say that these traditions which he perhaps does not know of should be completely destroyed ? Therefore, you can make efforts to follow Parashar or Yajnavalkya or any other lawgiver (*Smritikar*) but, for god's sake, do not make this wanton assault on these traditions.

Sir, I would like to tell you that a good many traditions are being followed by innumerable people in every corner of our country. They are perhaps being followed on a higher level of morality that what was obtained by Manu, Parashar or any other *Smritikar*. Can anybody today say that in that section of our country to which our Shri Theble Oraon has the Honour of belonging, many things, many traditions, many laws are not such as are highly superior to our laws ? In my view this divorce (perhaps there is no one word of it in Hindi). (*An hon. Member: Vivah-Vichheda.*) You may say *Vivah vichheda,* but it is not one word anyway, the rules in force there in this regard are far superior to the rules in our Code or rules found anywhere, in England, in America or elsewhere. In our opinion it is not proper to curtail them or to boast that this Code or this measure is better and should replace them. Therefore I would appeal to our Government,

*P.D., Vol. XV, Part II, 22nd September 1951, pp. 3126-28.

to our Hon. Minister of Law that it is improper for us, being ignorant of the traditions, to deal with all these traditions in this manner. Secondly, it is not wise to destroy completely these traditions and specially when they do not go against any rule or Bill. I have heard that in some cases in some parts, these customs and traditions are being given their due place. But no amendments have come before us in regard to them.

An Hon. Member : Amendments regarding marriage have come.

Shri T. N. Singh : But amendments regarding other things have not come, perhaps they are about to come. I welcome them. But at the same time I would submit that it is not correct to make laws for them in a sweepig manner with a view to eradicate them. That is why I oppose this measure particularly. If you were to read this clause, it will be found that the words 'any other laws in force' have been added to the clause now framed i.e. any other law or Act which is inconsistent with it would also be repealed and would not be applicable. In that case, would it not be proper if you also said in regard to these traditions that the inconsistent things would not be applied and any coustom or tradition going against any of its principles or basic aims would not be applicable. If so, it would have been understandable. But to say that no tradition would apply is not fair and I believe that it is essential to change or amend it carefully. I do agree that many of our traditions are inconsistent and are perhaps not accroding to the times. According to some of the current traditions, an aged man of 60 or 70 can also marry. But it is regretted that this is not incongruous with the Hindu Code. What I mean to say is that if you have to axe any tradition, axe such traditions.

Shri A. C. Shukla: Those regarding dowry.

Shri T. N. Singh: Yes, there are many others, like widow remarriage etc. You made scores of laws regarding them and did many things, but did we succeed through them ? That is why I say that every tradition should be thoroughly studied. I am opposed to removing all of them. I do not mean that none of our traditions is wrong.

Shri A. C. Shukla : May I ask a question ? How will you determine that a particular tradition is good or bad ? If 75 per cent, people of a community want a custom to be retained, should their view be accepted, and should the customary law, as stated by Shri Jangde, be reformed ? Everybody wants reform of the bad customs. Therefore, let us know how it should be determined.

Shri T. N. Singh : The question put by Shri Shukla is very simple. It is not you or I who reform the traditions. It is done by the whole society, the whole community, according to the dictates of the time and it can never be said that all traditions have remained unchanged. All of them have undergone changes. But I say that when we apply our individual judgment as against our collective wisdom, it becomes our duty to study them fully. That is all I have to say. I do not say that no customs should be changed, but we should change them with our collective wisdom. We have the right to do so in this manner, but we should not do it through legislation. This is what I want to say.

Shri A. C. Shukla: How ?

Shri T. N. Singh : Many of the traditions which you regard as bad get changed by the pressure of public opinion. Many others change according to the dictates of time. It is said that at one time when a child was bom in sparta, it was thrown away. If it could survive one day and one night, it was brought back and given a lease of life. This is correct. There was a special necessity for that tradition at that time. These traditions change with the times as the needs of society change.

Dr. Ambedkar: You are arguing a bad case.

Shri T. N. Singh: I do not understand this. When I believe that you are making a vain effort, you might think that I am supporting a bad case. The thing is that you do not have full knowledge of our traditions. Only after studying them completely you might change them and those traditions which are very good, whether they are sustained by this Code or not should .....

Shri A. C. Shukla: Are they recorded ?

Shri T. N. Singh : We live in this country and know them. It is, therefore, improper to axe these good traditions and I would like that either this clause should be removed altogether or it should be adjusted in the next clause. It should be considered after that, that would be proper. To pass it just now in this form is not proper.

***Ch. Ranbir Singh** (Punjab)**:** (*English translation of the Hindi speech*) I have risen to support amendments No. 420 proposed by Pandit Thakur Das Bhargava and No. 288 of Shri Bhatt. Shri Bhatt by his amendement means that if some customs or usages clash with

*P.D., Vol. XV, Part II, 22nd September 1951, pp. 3142-50.

the Hindu code Bill, then that clash should not be regarded in the light that the custom is abolished, but it should be allowed to continue for ten years and after that period it should be regarded as finished. Amendment No. 420 by Pandit Thakur Das Bhargava means that those customs which are in accordance with the Hindu Code Bill should be regarded as abolished ; and those customs which are left, their power or their legality should be retained. Whatever has been said by my learned friend Shri Pande, I agee to that and this thing is right and very much heartening. The real purpose of the Hindu Code Bill was considered to be that this Bill was being brought forward to introduce some reforms in the country to remove the prevailing social evils from the society and to bring about some changes in it. How many people would be affected by it has to be taken into consideration and as he said I regard the imposition of this Hindu Code Bill from the backdoor upon those people of this country who were free from it uptil now, as an act of abuse of power.

Shri A. C. Shukla : Even if they do not want it they must have it.

Ch. Ranbir Singh : Shri Shukla has not understood the meaning of the word imposition used by me, or he has not heard it properly. If he says that the imposition which I have said is wrong then perhaps I would like to know from him whether he can quote any example in which any person from the Punjab, may he be a Hindu or a Sikh or a Muslim, has ever raised his voice that their customary law should be abolished and in place of that they should have the law of Manu, or of Yajnavalkya or of anybody else.

Shri A. C. Shukla : When they will become educated they would demand that.

Ch. Ranbir Singh: Perhaps Shri Shukla does not know how dynamic personalities have born in our Punjab who have challenged the authorities of our country, although, I do not support them but this is an historical fact that during the recent years nobody had been able to defeat a Congress candidate in the Hindu majority areas, but in the Punjab there was a constituecy in Haryana, which is a Hindu majority area, in which Ch. Chottu Ram had defeated a Congress candidate.

Dr. Ambedkar: Ch. Chottu Ram was a great friend of Hindus.

Ch. Ranbir Singh : In case the Hon. Dr. Ambedkar has got any document or any other proof about it, I am ready to accept that. But

as far as his objective is concerned I am not opposed to that. I am a supporter of monogamy and I want that in some special circumstances arrangement for divorce should also be made so that when some difficulty is felt on both sides, by the man as well as by the woman in living together, a way must be found out to save them from that difficulty. But along with it I cannot help saying that this attempt is nothing but an act of abuse of power, because we should have applied this Hindu Code Bill to those only who wanted to be governed by it.

Since this question of Hindu Code Bill has come before this House, it has taken several months and many a day has been spent upon it, I tried hard to snatch some minutes so that I might express my views about it, but unfortunately I could not get a chance. Unfortunately, when Sardar Man spoke about it, instead of coming to the right thing he got himself entangled in the labyrinth of the Sikh religion, perhaps he might have thought that in this way his point would be more forceful or there might have been some other reason. However, I think that this question is not related so Sikhism alone, this is a question pertaining to the customary laws of the whole of the Punjab. I want to bring to the notice of the Hon. Dr. Ambedkar that even in such a time when such Brahmanic rules and regulations with regard to the living customs of the country and the society were being enforced rigidly, *viz.,* one could not go in a particular direction on Mondays or on Tuesdays or on Saturdays, the martial race of the Jats in the Punjab, to which I and the Hon. Sardar Baldev Singh belong, did not yield to the Brahmanic rules and it has not done so even now. I want to submit that really in our society there is no likelihood of any appreciable opposition to the two provisions relating to monogamy and divorce, and I am not personally against them, but I am opposed to the method and manner which you are resorting to. And the manner or the backdoor method through which it has developed is not a proper one. This is not because I regard myself a Non-Hindu but I do feel that we have never been governed by the Hindu code and it has never been enforced with ragard to us. I doubt your intentions that you can govern by the backdoor policy those whom you could not enslave mentally. I disagree with you to a great extent with regard to the rules and regulations which you are enacting in respect of marriage and divorce without caring for the prevailing customs. I want to state with respect to this that many reformers of society have done a great many reforms in the Hindu Society with regard to the widow's

plight but I want to point out that a young widow has remained an unknown thing to our society from times immemorial. Our society does not know the name of a young widow, because it is a custom in our community that when the husband of a woman dies, then after a year of his death the brothers and parents of the widow and the relations of her late husband meet together and in spite of the shyness, as is common everywhere in our Hindu society, and against her formal wish, that she would herself bear the distress that has befallen her, and in spite of her refusal, she is told that this is not possible. It may be said that her ideal is good, but how many people are there who can follow such a high ideal ? The people of our society doubt whether such a lofty ideal which you are going to establish in our society would not create any evil in our society. Therefore, you should recognise our simple custom of remarriage and not invalidate it. So I wanted to support the proposition laid down by Shri Bhatt. Now I mention the reasons for that.

On the one hand where your rules and regulations wanted to reduce the troubles of our womenfolk, and they have reduced them to a great extent, on the other hand their troubles have been increased manifold. And that is because you have given them a sort of right to marry wherever they want. In the ordinary way, if no extraordinary trouble arises it would easily become a custom that they could remarry, but why do you lay dow this restriction ? Generally people are not bigamous of their own will but they are forced by circumstances. If a brother dies, his brother has to concede to the custom of bigamy against his wishes.

Shrimati Dixit: I want to ask you a question. There is a woman, who has got four or six children, there is her husband's brother's wife, she also has got four or six children. If they are made to live together would not the co-wifely feeling create trouble between them ? Is it not unjustifiable on principle to force a woman to marry another man against her wishes ?

Sardar Hukam Singh (Punjab)**:** By the will of god.

Ch. Ranbir Singh : If you mean remarriage by that, I would say no : remarriage is possible only when it is regularly sanctioned by society, but there are many women who cannot express their desire. After thirteen or fourteen days of his wife's death a man may express it, but the women cannot do so due to the peculiar set-up of our society such a thing is impossible, and ample time is required to change that.

But if she meant this that if there is a brother, who has got two or three children and a wife and he has a brother who is about to die, and he also has got two or three children and his wife, that they are made to live together it would create dificulties and trouble would arise. If she wants to know about that, I am coming to that point also. I confess it and everybody in our society would confess it that nobody resorts to bigamy willingly and that the woman is also helpless, because she loves her children and she cannot leave the two or three orphans, for where could they find shelter. She cannot say that she wants to remarry and the other members of the household also cannot leave the children, then the question arises whether she should take her children with her. But this is a custom in our society and I think, you may enact any law but you cannot change it. This is not a matter of joke. They themselves could change it but you cannot change it today.

There is another custom in our society. It is their belief that even the most foolish man belonging to a particular family would not allow his children to go to another family, and if a man tries to do so very severe punishment has been prescribed for him in our community. Even if you say that our community is backward and it is very difficult to improve it, the result of such an action among us is still murder. If you want that the number of murders and assassinations should increase in our society, the Punjab is already notorious for murders and assassinations, for many people are hanged there for such murders etc.—if you want to increase their number you are at liberty to impose any rules and regulations on them immediately. But if you want to decrease the number of murders and assassinations and the sentences of death, I would request you to accept the amendment of Shri Bhatt or of Shri Bhargava.

So I was saying that either a woman, if she loves her children, will be forced to live as a widow for the rest of her life, as has never been done in her community before, or, if she does not love her children, she might take them stealthily to some other place at night and if she meets some daring person who says that he would see how others could harm him the result would be that either she would become a widow again or her husband would be hanged. But, in any case, she would not remain a fortunate wife, though this is a big and a terrifying thing, but it is a fact.

Then there is the question of *sagotra* marriage. How many men and women live in the cities ? I want to state my own reactions

about this Hindu Code Bill. In this house the majority of members come from the urban areas. Those who were born and brought up in the cities confine their thoughts to the rules and regulations and manners and customs of the cities. They think there is a vast difference between town life and village life, they have got no experience about it. I give a simple example. For instance, take the case of a city. If a woman there does not want to marry nobody would object. But if in a village a girl attains about the sixteen of age, not ony does distress befall her parent but that girl is persecuted too. Everybody comes to the father and says. "why do you not arrange for the mrriage of your girl ?" The girl might be bitterly opposed to marriage but she cannot avoid marrage. She is forced to do so; this theory might be good or bad but this is a fact. From this very example you can differentiate between the mode of life in a town and that of a village and see how much difference is there between them; and still you want to enact a common law for both. My friend Shir Jangde spoke so forcefully. He spoke for others but I suspect Shri Jangde has become a townsman or has gone to their side. He is coming to appreciate the urban way of life. He wants to tell his own tale and not that of the people of his own place. So I was submitting that when there is so much difference between the two modes of life, there is such a vast difference between their social conditions, and you want to enact a law which will be applicable to all irrespective of their customs and usages, it would be a great injustice to them.

There is another point I would like to touch upon in this connection and that is with regard to *sagotra* marriage. Unlike the customs obtaining among us in Punjab, here we find that most of the girls are usually married locally. Taking the case of Delhi itself, it will be seen that girls from one part of the city are married in the other part of the city. Even in the small towns having a population of say ten thousand they are married likewise. Under the circumstances, they are not conversant with the customs regarding marriage prevailing among us. In keeping with the custom obtaining among us, I cannot get my son married among my own subcaste which is spread over as many as 24 villages situated within a radius of no less than ten miles. It is not that he cannot be married in only those 24 villages, even the villages numbering about 30 to 40 where the families of his mother's subcaste are settled are ruled out for the purpose of such matrimony. Things do not end here. I cannot get my son married to

a girl from any of the thirty to forty villages, where people of my mother's subcaste live. That is to say, I cannot find a bride for my son from amongst a hundred neighbouring villages or so.

Shri A. C. Shukla : Is it a healthy practice or otherwise ?

Ch. Ranbir Singh : I never laid any claim to this effect. It is none of my intention to annoy him in the way the Hon. Doctor did. Unlike him I cannot dare utter anything unpleasant things. In contrast with the big personality of the Hon. Dr. Ambedkar I am but an humble Member.

Shri Radhelal Vyas (Madhya Bharat)**:** But you are also Jat.

Ch. Ranbir Singh : Of course, I am but not a Sikh Jat like Sardar Bhopinder Singh Man. I do not want to enter into any controversy— and thereby cause offence to anyone—as to whether our custom is better or other's or whether or not this measure is of any use. What I want is simply to apprise you of our customs which; for instance, prevent me from getting my son married in about as many as one hundred to one hundred twenty villages. How under such a state of affairs, can those women residing in small towns or even in big cities, be supposed to have any real estimate of the extent of hardships and difficulties which we are subjected to while facing such issues, because for them marriage is no more than a mere routine affair that could be performed from one *mohalla* to the other ?

Pandit Thakur Das Bhargava : There is no difference between Hindu Law and your law in so far as this matter is concerned.

Ch. Ranbir Singh : There may not be any difference in the laws but the developments do vary. According to our customs we cannot establish matrimonial connections among some certain *gotras*. None can dare go against such a custom. Even the most backward person— under the present social structure such a man is bound to be treated as such, although in future he may be called progressive—cannot possibly take such a step. In fact none has got so much courage, so to say. But what you are doing today is, if I may say so, simply enabling such a man, by law, to take such a step.

Shri A. C. Shukla : What is it that the hon. Member wants ?

Ch. Ranbir Singh : I am not going to say what I want. I would, on the other hand, only want to apprise the House of the various customs prevailing. That is why I am pleading for Shri Bhatt's amendment to be accepted. Let developments be closely watched during the next ten years, the truth will express itself in the right manner. If our course of action would be correct you would, I am sure, change over to our side or, otherwise, we would do the same thing.

So I was referring to the fact that even in the present days *sagotra* marriages are not being performed. But there is no denying the fact that rules and regulations have great force on their back. Supposing a man with the help of this law seeks to get married in the same village or among the same *gotra,* what would be the possible consequences ? He is likely to meet the same fate as I have described earlier. It is not that I want to exaggerate things in any way, but, all the same, let me point out what I consider to be a serious drawback in our present day society. Supposing any member of my family gets married in such a manner, nobody would care to ascertain my view in the matter. If my brother commits any wrong of this type, it may be that I may also be murdered simply because I happen to be his brother, regardless of the fact whether my views are in his favour or otherwise. None is going to ask me to explain my view point. Such is the sorry state of affairs in our community. Indeed how strange it looks that they judge the doings of one brother from those of the others ! Here, in your society, three brothers can hold three different views— one can be a Communist, the second a Socialist and the third Congressite. To be more precise, if a man here is a member of the Bharatiya Jan Sangh, it is open to his brother to join any other party. But things at our end are quite the reverse. If any one member of a certain family there joins Congress, the entire family would be automatically deemed to be Congress site regardless of the fact whether it be so or not. Such is the condition of our community. Now, it is for you to call it whatever you like— progress or otherwise. I, for one, under such circumstances, stand for monogamy in our society. In a country like ours; especially in a community which I belong to namely Jats, monogamy is particularly essential, for among us the number of boys is more than girls. A man have two wives only by encroaching upon the share of any one of his fellow beings. Under the practice of monogamy, comparatively larger number of men would be provided with wives which is otherwise not possible. It is just possible there may be such regions in this country where the number of women is more than men. (*English translation concluded*).

Sardar B. S. Man (Punjab)**:** In Madras they have.

Ch. Ranbir Singh: But the difficulty is that a Hindu Jat of our side is not so broad-minded as to go as far as Madras ; a Sikh Jat may go. I for one consider monogamy to be a step in the right direction ; but the difficulty is that our society has not yet so advanced, or shall

I say, degenerated, so as to agree to the practice of *sagotra* marriage. Let it be postponed for ten years, after that this issue may be taken afresh for consideration, if by that time the society succeeds in reaching that height of advancement, which would clear the field for such steps, we would accept it; otherwise it would keep on pending. We do not, of course, approve of the practice of what we call forced bigamy, but, all the same, the practice continues in our society, though it is not so common. Give us ten years' time during which we may make efforts to do away with such a practice.

In the end once again I take this opportunity to submit to the Hon. Dr. Ambedkar that although, I am a whole-hearted supporter of this measure. I would like him to accept either Shri Bhatt's amendment or amendment No. 420 moved by Shri Bhargava.

Shri Sivan Pillay (Travancore-Cochin)**:** Sir, let the question be now put.

Captain A. P. Singh (Vindhya Pradesh)**:** No, Sir. At least those who have moved amendment may be given an opportunity to speak.

Sardar B. S. Man : Yes, Sir. This is a very important point.

Mr. Deputy Speaker : I shall call Mr. Jhunjhunwala and after him Shri Bhatt. They have tabled amendments.

Shri Syamnandan Sahaya: Sir, I have also tabled amendments.

Mr. Deputy Speaker: I shall call them in this order, and then I shall consider any other name.

***Shri Jhunjhunwala** (Bihar)**:** (*English translation of the Hindi speech*). All my three amendments are in consonance with the Constitution.

12 Noon

My first amendment provides that if this Code contains anything against any religion, no clause of this Bill shall override the provisions of the existing law; the second amendment provides that if this Code contains anything against morality, the Bill shall not override the provisions of any existing law, or any custom or usage in force ; and the third provides that if this Code contains anything against the culture of any section of the people, the Bill shall not override the existing law.

Sir, when I had moved the third amendment, you had asked as to what would be the form and definition of the word 'culture'. Yesterday, in this connection, I had wrongly quoted Article 129 of

*P.D., Vol. 15, Part II, 22nd September 1951, pp. 3168-88.

the Constitution empowering every section of people to have a culture of its own and to conserve the same. In fact it is Article 29 and not Article 129—which reads :—

> "29. (1) Any section of the citizens residing in the territory of India or any part thereof having a distinct language, script or culture of its own shall have the right to conserve the same."

That is why I have put in the word 'culture' here. The Hindu code, in keeping with the Constitution, cannot contain anything whatsoever that would deprive any section of people, or any community of its right to preserve its own religion or culture. I shall deal with my amendments later on. It will be recalled here that you had given a ruling to the effect that one should take the opportunity to deal with any other amendment or clause while speaking on his own amendment, or otherwise he would not be allowed to do so afterwards. It is because of this that I purpose to take this clause first and the amendments later on. Moreover, that would be more convenient to me.

Sir, when the Hindu Code Bill, which is now sought to be passed under another title, namely 'Marriage and Divorce Bill', was placed before the House, it was said to have contained two main things. It is argued in this behalf that this Hindu Code Bill, or say, Marriage and Divorce Amendment Bill, is sought to be passed in view of the two main objectives which it aims at. In the first place, the measure is stated to be progressive ; and secondly, it is described as a legislation that would go a long way to provide women with their due rights hitherto denied to them. Men have so far been very unjust to women and it is with a view to eradicating this evil that this legislation is sought to be enacted. Now, let us see whether or not this measure is progressive. The Hon. Minister of Law did not give any definition of the word 'progressive' that might distinguish between things which are progressive and those which are not. It was stated from this side that the Hindu religion was one of a very long standing and was based on true scientific principles which alone are responsible for its survival so far despite so may atrocities commiteed on it. Replying to this suggestion the Hon. Law Minister was please to state that it was Lord Buddha who had disclosed the true path of the religion. The Buddha, Dr. Ambedkar said, could not tolerate to see women being subjected to men's continuous oppression and having no rights whatsoever. It made Buddha's heart bleed to see men having more rights than women and committing all sorts of atrocities on them.

It was this treatment of discrimination against one sex, the Hon. Law Minister went on to say, that led Lord Buddha to preach equality among men and women. By quoting the Hon. Doctor here I simply want to impress that the Bill in question is stated to have been brought forward in accordance with the Buddha's teachings. Lord Buddha, a great figure as he was, was undoubtedly religious-minded. Let us, therefore, closely study as to what was the real object which he aimed at. Here I am reminded Sir, of a couplet of Sant Jnaneshwar, a renowned Maharashtriyan poet, the actual words of which I do not quite recollect at the moment but it means something like this : A frog accompanied by a bee entered a tank where there were lotus flowers blooming on the water. The bee sat on the lotus and sucked its honey; it carried away with it honey and fine smell. But the frog which had accompanied the bee to the tank could only bring some mud and durt.

SARDAR HUKAM SINGH *in the Chair*

Sir, the Buddha preached that the more we are able to subdue our evil desires, the better it is, for it would only help us to serve the society and then humanity as a whole in a better way. This was the highlight of his teachings. But, Sir, it is something extremely astonishing and painful too, that our Law Minister could not find any such suggestion in his teachings. What he could make out was that since men had had right of polygamy, women too must have the right to divorce in order that the effects of the former could be neutralised. I would request you sir, as also the hon. Members here, just to see what type of equality is sought to be given by this Bill.

Dr. Ambedkar : Is this all relevant on clause 4 ? Let us have some regard for relevancy. We could not altogether abandon the rule of relevancy.

Pandit M. B. Bhargava : Relevancy is not the sole monopoly of the Law Minister.

Mr. Chairman : I would request hon. Members to leave this question to me. The Hon. Minister has asked me to decide it.

Pandit M. B. Bhargava : But he himself pronounced the judgement— he did not refer it to you.

Dr. Ambedkar: Relevancy ought to be also your monopoly— not only mine.

Pandit M. B. Bhargava: It is yours .....

Mr. Chairman: There should not be any cross-questions and answers. I would again request Hon. Members to have greater restraint on themselves. I would ask the Hon. member who is speaking that he should be more relevant in his speech.

Shri Jhunjhunwala: I was quite relevant in pointing out on to where the equality exists and where it is that we should give equal right to the women.

My friend Shri Thakur Das Bhargava observed .....

Mr. Chairman : I must tell him that that is not the real issue at the moment, that is whether equality should exist or not. He may refer to customs and other things, but equality is not the direct issue at this moment. We should have regard to that.

Shri Jhunjhunwala: May I explain to you sir, as to how these things relate to the real issue. I had in the beginning submitted that the Hon. Minister of Law had advocated two main points in support of this measure. Firstly, he described this Bill as a progressive measure, and secondly, he stated that this Bill sought to put women, who had not got equal rights, on equal footing with men. And now this clause 4 provides that the provisions of the Bill shall override all other things. As I said before, I shall first deal with this clause. In my opinion the measure itself is of no use when it does not go to fulfil either of the two things that are advocated in its support. Hence I am just trying to convince the Law Minister that the measure he has put before the House is absurd altogether and does not conform with the two main points which he has advocated. As a matter of fact, the measure ought not to have come at all. That is the point which I wanted the House to take note of. I may, with your permission Sir, make a few more observations in this connection and they would clear the whole thing, for otherwise the argument itself would become meaningless. I would, therefore, like you to appreciate the fact that this measure is neither progressive nor does it seek to provide women with their due rights as was advocated when the Bill was brought forward. If the clause relating to property had been taken. I could understand it because so far as property is concerned, our women have not got equal rights, they are suffering great hardships on this account and are subjected to innumerable atrocities. I am sorry Shrimati Durgabai is not here at the moment; she was kind enough to narrate some heart-rending tales with regard to women in Madras thereby causing much pain to all of us here. The question will be dealt with at length

while taking up the property clause. If in reality the Law Minister was very serious about our women's betterment, he should have taken up property clause first, because we cannot possibly help women take their proper place in society unless their economic condition is well improved and they are made absoultely free in that sphere. Hence, I cannot understand why that clause is not taken first. It is none of my intention to criticise his motives, but, all the same, I cannot but say that his real object is apparently different from what he is advocating. By bringing forward this measure he seems to be intending to exterminate the Hindu religion, Hindu society and the Hindu customs and usage, thereby bringing moral degradation of the Hindu society. His aim seems to be no other than this. By taking the property clause first and thereby seeing that women's economic conditions are improved, we could have given them some solid relief. Many an Hon. Members pleaded for this but there was our Law Minister constantly nodding his head in disapproval. He perhaps does not like us to take the credit of doing something for our women which would help them and redress their grievances.

I was just referring to my friend Shri Bhargava's view that divorce was a thing which he did not like and as a matter of fact very few persons have supported it. The reason is that it is not a good thing. I may just give you an idea as to what would happen if divorce is enforced. Daily the youths of our country would read in the papers that so many cases of divorce took place that day and that such and such person divorced his or her partner. The newspaper published in my friend Shri Brij Kishore's village in Bihar and also that which Shri Syamnandan Sahaya is going to bring out, would report such cases and they would read them. Out of all persons, Shri Brij Kishore seems to have seen greatest advantages in divorce. He would read these reports very enthusiastically. I am rather sorry that he is not here at this time otherwise he could know what madness he was indulging in while talking like that.

Sir, I was submitting what my friend Pandit Thakur Das Bhargava said that divorce was not a good thing. But he stated the reasons why he favoured the idea. He said that in the clause relating to divorce a provision was being made to make it optional. According to him it was a very important provison. He said that it was only an enabling clause. But I would submit that a number of enabling clauses have been passed here. The Hon. Minister of Industry and the Hon. Minister

of Commerce have often taken refuge under this 'enabling clause'. They have said the same thing about Coca-Cola. They say if it is being manufactured, let it be ; it is only an enabling clause. Similarly there is this enabling clause related to divorce. I would like to ask one thing from Pandit Thakur Das Bhargava. Suppose there are two sons of a father and one of them has married three wives. Now the other fellow goes and tell his father that if his brother could marry three and spend so much, then what should he do.

Dr. Ambedkar: He may marry four.

Shri Jhunjhunwala : The father replied that he could marry five. So, according to Pandit Thakur Das's theory, if a son marries three wives, the other should marry five. Why after all he should lag behind ? This is the right he wants to give. But our friend Shri Syamnandan Sahaya is a staunch *baniya*. What would he say ? He would say that if he has married three wives, he should immediately be turned out.

Mr. Chairman : I would request the hon. Member to discuss the subject of marriages when the question of monogamy is taken up. We are now discussing customs and rules and it would be better if he confines himself on matters relating to this subject only.

Pandit Thakur Das Bhargava : He means to suggest that one son would divorce three wives and the other five.

Shri Jhunjhunwala : Sir, I would abide by your ruling and strictly follow it, but as I submitted in the beginning .....

Mr. Chairman: He can certainly speak on this clause.

Shri Jhunjhunwala: I was speaking on the marriage clause.

Mr. Chairman : Not on the marriage clause. Clause 4 is under discussion.

Sardar B. S. Man : On a point of information. While discussing the present clause and while moving certain amendments to the effect that from its effect certain customs may be excluded, we have to place our case by showing that those customs should be excluded for valid reasons. In that case, I suppose we are entitled to refer to the customs that are at variance with the Hindu Code and thus base our case that customs which have a long history, which have been recognised as such and which are not repugnant to public policy and thus which have the force of law should be permitted. In that respect, I beg to say that it is perfectly within the rights of Members to refer to the customs even in detail.

Mr. Chairman: It has already been laid down that as far as particular customs are concerned, they might be taken up when the particular clauses are under discussion. So far as the relevancy about this general clause is concerned, you can discuss in a general way and say that such and such a custom is very old and it has been uniformly observed. You can say that much about the status of a custom, but if we were to take up all the customs and discuss them there will be no end to. There are the relevant clauses and when they are taken up each particular custom can be discussed. That would be the better place. I do not bar this discussion. I am only requesting the Hon. Member and suggesting to him that that would be the more proper place. Here, he can discuss in a general way.

Shri Jhunjhunwala : Sir, I will speak according to your ruling. But I would like to submit that I could not get an opportunity to speak on clause 2, although the Hon. Speaker ruled that, as in the case of clause 2. Members could speak practically on all matters while discussing clause 4. Only the clause relating to property, could not be discussed. I am pointing out to the House the advantages and disadvantages of the provisions relating to divorce and marriage. I think I was never irrelevant. Anyway, I would now abide by your ruling, and briefly submit my view point. I now come to my amendments.

Babu Ramnarayan Singh : Very good.

Dr. Ambedkar: Take your seat now.

Shri Jhunjhunwala: I will take my seat, you kindly withdraw this Code and relieve the Hindu Community of it.

Dr. Ambedkar: Please sit down.

Shri Jhunjhunwala: You leave and I will sit down.

Dr. Ambedkar: Take your seat, or I will go.

Shri Jhunjhunwala: You go, and I will also sit.

Mr. Chairman: I would ask the Hon. Member to continue his speech.

Shri Jhunjhunwala : I am coming to my speech but the Law Minister, who is a responsible person, is indulging in unnecessary interruptions. He wants that this thing should be talked over and Government's money be spent somehow. He is not so anxious to grant equal rights to women but he is more keen to see that Government's money is spent somehow so that people outside might know that the Law Minister is not idle.

Mr. Chairman : May I request the Hon. Member that he should proceed with his speech instead of answering these questions.

Shri Jhunjhunwala : Sir, I am prepared to abide by your orders. But when any Hon. Member interrupts, it becomes difficult to proceed further and it also takes more time to come to the speech proper.

Dr. Ambedkar: Do not get nervous, they are your comrades.

Shri Jhunjhunwala : Comrades also desert sometimes. I have had a number of comrades like you. You have been professing yourself to be a champion of women's cause, but ultimately deserted them.

Sir, I am continuing with my speech but the Hon. Minister interrupts.

Sardar B. S. Man : Will it not be discourteous to the Hon. Law Minister to ignore the interruptions and not to reply to it ?

Shri Jhunjhunwala : Then there is another point which I would like to submit. Pandit Thakur Das Bhargava said that if anything is suggested that might lead to some harm and if anybody is doing a wrong thing, then how far is it proper to ask others also to do the same thing ? How far is it wise to ask women to do wrong to men if the latter are behaving in that manner ? That is what I am going to point out.

Then we have to see whether this thing is progressive or not. Our Hon. Minister of Home Affairs, Shri Rajaji is not here at present. He made some remark while referring the Press Bill to Select Committee. He said that an article or a caricature about him (I do not exactly remember what it was) appeared in some paper. When he saw it, he found it most revolting and at the same time very obscene. He did not know why it was published and felt it very much. But he said when he saw the news papers of the present day, he felt there was nothing special in that paper which should have offended him (*Interruptions*). My hon. Friends are trying to interrupt me.

Mr. Chairman : If you address the Chair perhaps you will not feel that inconvenience.

Shri Jhunjhunwala : I am accustomed to look all round while speaking.

So, he said that it was quite insignificant. As compared to the articles and caricatures that appear in the present day press, that thing did not seem to be obscene at all. He said he felt it unnecessarily. The newspapers force us to see and read those things that we do not like to see, and young men and women of the country read them. God knows what influence those things might be leaving on our youths.

Now, I wanted to ask at that time whether these articles etc. that appear in our press are progressive. These are far more obscene than that which you thought to be quite vulgar. Then, are they progressive and if they are progressive do they prove beneficial for us ? So, I wanted to point out that our Law Minister who is the Manu of *Kaliyug* .....

Shri Syamnandan Sahaya : Not the Manu of *Kaliyug* but *Kaliyugi* Manu.

Shri Jhunjhunwala : We are living in *Kaliyug* hence I called him the Manu of *Kaliyug*. Our Hon. Minister Shri Gadgil who considers himself to be an outcast Brahmin and thinks he is a *Pandit* has given him this title. All that I mean to say is that he is the Manu of this age. I wanted to know whether the purpose of this progressive measure is to uplift our society or to degrade and demoralize it. I could have understood the whole thing if he had convinced me beofre I had moved my amendments that the measure was progressive in such and such manner. He only said that it was progressive and that women should be given equal rights. He has denied those rights to them that they needed most and which could have benefited them very much. The right which he is giving to them is that of divorce. So, I was trying to point out whether this is really progressive. I say this can never be progressive. If a person does something wrong, it is not wise that I should also repeat the same thing for that reason. On the other hand, such legislation should be made whereby the person doing a wrong thing might be forbidden to do it in future. It should not be that the other person may also be asked to follow him.

That was about this clause. Now, I would move my amendments and fully express my views on them. I have already read them out and so I would not read them again. This will take more time.

Shri Syamnandan Sahaya : How would we understand and vote upon them.

Mr. Chairman : Has he already read them ?

Shri Jhunjhunwala: Yes Sir, I have read them.

Mr. Chairman : Then there is no necessity of reading them again.

Shri Syamnandan Sahaya : We have to vote upon them. You must read them.

Shri Jhunjhunwala : My first amendment is that if anything in the Code is against the Hindu, Sikh, Jain or Buddhist religions or

against Marumakkattayam and Aliyasanthanam laws, then it shall not apply to them.

Dr. Ambedkar: It shall apply only to the *marwaris*.

Shri Jhunjhunwala : Had it not applied to the *marwaris,* even then I would not have sat. This code is dangerously harmful to the society and the country.

Mr. Chairman: The Hon. Member should continue.

Shri Jhunjhunwala : The Hon. Minister is interrupting and casting aspersions. Our Constitution provides for equal rights. Why do you not allow me to reply to his remarks ?

Mr. Chairman : I am also asking him not to interrupt, the Hon. Member may go on.

Shri Jhunjhunwala : You turn towards him and then say, so that he may hear.

Mr. Chairman : I have acquired this habit from the Hon. Member. I would ask the Hon. Minister not to interrupt.

Shri Jhunjhunwala : Now in this connection, I would like to read before the House Article 25 of the Constitution. I would request the Hon. Members to listen patiently:

> "25. (1) Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess practice and propagate religion."
>
> (2) Nothing in this article shall affect the operation of any existing law or prevent the State from making any law—
>
> (a) regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice;"

Babu Ramnarayan Singh : Kindly translate it into Hindi.

Shri Jhunjhunwala : You engage a teacher for that. Then there is :

> "(b) providing for social welfare and reform or the throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus."

After that there is explanation which I need not read. So I submit to the Chair and the Hon. Members of this House that the purpose of my amendments is that when you make an effort to introduce reforms, you have no right to touch our *Dharmshastras*. But you can

bring in any measure if it does not conflict with our *shastras* and our religion. My amendment relates to the following :

> "any text, rule, or interpretation of Hindu law, or any custom or usage or any other law in force immediately prior to the commencement of this Code shall cease to have effect as respects any of the matters dealt with in this Code."

> "Any other law in force immediately before the commencement of this Code shall cease to have effect in so far as it is inconsistent with the provisions of this Code."

I want to submit that I have no objection to this legislation. It is alright but if there is anything which is against any religion, Hindu, Sikh or Jain then it would not apply to it.

Shir Naziruddin Ahmad : And Muslims ?

Shri Jhunjhunwala : Muslims do not come in the purview of this Bill. Then, in the next amendment, there is morality in place of religion. You cannot provide for anything in the law which has its effect on the morality of the people and which leads to their moral degeneration. This is what I have to say. This amendment should be added. We have been given this right under the Constitution. If this amendment is not accepted, I would think that our Government is slandering and vilifying our religion. They should not do it.

My third amendment is based on Article 29, wherein the following has been said about culture:

> "29. (1) Any section of the citizens residing in the territory of India or any part thereof having a distinct language, script or culture of its own shall have the right to conserve the same."

My submission is that if this code affects or comes in conflict with our culture or the culture of Hindus, Sikhs, Jains or the culture of any section of the Hindus, then again it shall not be applicable under those circumstances.

[Mr. Deputy Speaker *in the Chair*]

Therefore, while moving these threee amendments before the House,. I would urge the Hon. Members to accept my amendments first and then pass the clause. In the first instance I would ask them, not to pass the clause at all but if they pass it my amendments should also be accepted along with it. I would not take any more time now and finish.

(English translation concluded).

An Hon. Member: Closure, Sir.

Shri Bharati : I move that the question be now put.

Several Hon. Members : No ; no.

Mr. Deputy Speaker: The hon. Members will kindly take their seats. I will put the question to the House.

Shri Naziruddin Ahmad : Before that, Sir, I beg to state that we have submitted amendments. We have a right to speak on them. We have something to say upon them. The merits of our amendments should be discussed.

Mr. Deputy Speaker: I agree.

Shri Syamnandan Sahaya : One more submission Sir. You had just now announced that after Mr. Jhunjhunwala, Mr. Bhatt would speak and that after that, you would decide as to what should happen.

Mr. Deputy Speaker: I least expected that the Hon. Member Mr. Jhunjhunwala would take up so much time. His amendment is a very small one. He has taken too much time. I thought that within that time two Hon. Members might speak. We have had a discussion on this particular clause since yesterday. So far as this clause is concerned, if it had stood alone, I would not have come to any conclusion. We have discussed this to a large extent on the definition clause, what custom is, what its ingredients are, and so on. Taking both of them together, I feel that there has been sufficient discussion on this. Therefore, I shall put the motion to the House. Let the House accept it or reject it.

Shri Bhatt: There is an amendment in my name also.

Shri Syamnandan Sahaya : As Mr. Naziruddin Ahmad stated, we have tabled amendments. We wanted to speak on clause 2 also. After all, even if you pass this clause today, this matter is not finished. There are 50 or 55 clauses to be gone through. Therefore, I wish to make this submission. This is a very important clause because it is here that we lay down that the texts will not be taken into consideration. It is a matter of very primary importance. It will be another matter if we are dealing with clauses about procedural matter, clauses laying down the procedure for marriage and divorce. You may accept a closure or proceed comparatively quickly. But the question whether the texts should be abrogated, whether custom should be abrogated, that is a very vital matter. Therefore, I will again submit most respectfully this. If you are going to finish the Bill today and

the Act is going to be passed, then, it is a different matter and we will submit to the closure. That is not the case and therefore we should allow time to the movers of the amendments.

Mr. Deputy Speaker : How can you say that ?

Shri Syamnandan Sahaya : We have to go through 55 clauses. So far as this clause is concerned, you should allow some more discussion. I think in this matter I have the opinion of a good number of Members on my side.

Pandit Thakur Das Bhargava : May I submit in all humility, Sir, that sometimes when amendments are moved in this House by a large number of members and the real intention of the mover is to get a chance to speak, the situation is quite different. When, on a Bill particular amendments are given, I beg of you kindly to see if the amendment is one of substance. Then, the person moving the amendments should be allowed to speak ordinarily.

Shri Bharati: It is left to the discretion of the Chair.

Pandit Malaviya (Uttar Pradesh)**:** There are still many people who wish to speak on this point, and even though the House may pass the thing, I feel that in a matter of this nature, the least that we can do is to listen to them and then come to any decision. I feel therefore, that we should allow people an opportunity to speak. And indeed, if there is an opportunity, I myself would like to say something about this clause. I hope, sir, we will have the opportunity at least to have our say. The House may not agree with our view; but I feel it will be tyranny if we are not allowed an opportunity even to have our say. There might have been a good deal of discussion on any point, but that does not mean that we should not give an opportunity to those who have not been able to have their say. Therefore, I humbly request that you may kindly allow the discussion on this to go on.

Shri Bharati : Sir, it is absolutely within your discretion to decide, after taking into consideration the totality of the circumstances. We cannot .....

Shri Syamnandan Sahaya : I can only appeal to the Chair that since there are many who have yet to .....

Dr. Ambedkar : There has been sufficient debate already and (*Interruptions*) Sir, I would like to submit that in deciding whether closure should be applied or not, the issue is not whether every Member who wants to speak has spoken. The issue is whether there has been sufficient discussion or not.

Shri Syamnadan Sahaya : But every Member who ought to speak should have been allowed to speak. And, sir, you yourself said that you would allow me to move my amendment to make this provision consistent with the clause.

Pandit Malaviya : While a Member is actually in the midst of his speech, I think, the question is even a little different from what it is when normally the question for closure is put. There is some difference.

Mr. Deputy Speaker: But no Member is now speaking.

Pandit Malaviya : This is a matter of sufficient importance. You will find that those who want to speak have not spoken on this point at all. For instance, I have not spoken a word on this point.

Mr. Deputy Speaker : Hon. members must remember this point—and it has also been referred to by the Hon. Law Minister—that it is not as if every Member who wants to speak on an amendment or a motion, should be given an opportunity.

Shri Naziruddin Ahmad : But those who have given amendments ?

Mr. Deputy Speaker: Then every Hon. Member will submit an amendment so that he may be allowed to speak. That cannot be the criterion. The Chair can be expected to weigh the pros and cons and come to the conclusion whether there has been sufficient debate or not on a particular view-point. It may be that the particular Hon. Member who has tabled the amendment has not pressed it; but some other Hon. Member may have done it, perhaps much more eloquently and forcibly.

Shri Naziruddin Ahmad: No, sir.

Mr. Deputy Speaker : It is a question to be judged by a third person, and I feel that there has been sufficient discussion over this matter.

Shri Syamnandan Sahaya : The points raised in these amendments are different. It is a quite different matter if the same type of amendments are discussed together. But there are particular aspects of these amendments which have not been pressed and those aspects must be considered. That is one submission as this. We are to decide here and now and once and for all, that texts, customs and usages will be given the go-by. Therefore, the importance of this clause

is far more than that of any other that you might discuss in the whole of this Bill.

Mr. Deputy Speaker : Now that this point has been raised. I would like to ask the Hon. Law Minister whether in view of what has been said, it is possible to use the word " inconsistent" in both the parts.

Dr. Ambedkar : That is another matter. I do not propose to make the change and if you will give me a chance. I will explain why.

Pandit Malaviya : Sir, now that the Leader of the House is here, can we make an appeal to him ?

Mr. Deputy Speaker: No. I feel that there has been sufficient discussion.

The question is :

"That the question be now put."

The House divided : Ayes, 63 : Noes, 34.

Division No. 3. 12-54 p.m.

Ayes

Alagesan, Shri
Ambedkar, Dr.
Ansari, Shri
Baldev Singh, Sardar
Barman, Shri
Bharati, Shri
Borooah, Shri
Brajeshwar Prasad, Shri
Chaudhuri, Shrimati Kaimala.
Jangde, Shri
Jayashri, Shrimati
Kanaka Sabai, Shri
Kesar, Dr.
Krishnamachari, Shri T. T.
Kunzru, Pandit
Lakshmanan, Shri
Mirza, Shri
Das, Shri B. K.
Das, Shri Ram Dhani
Devi Singh,
Durgabai, Shrimati
Gadgil, Shri
Ghalib, Shri
Gandhi, Shri Feroz
Ghose, Shri S. M.
Ghule, Shri
Gopalaswami, Shri
Moidu Moulavi
Nehru, Shri Jawaharlal
Obaidullah, Shri
Pant, Shri D. D.
Pillay, Shri Shivan
Poonacha, Shri
Pustake, Shri
Raj Bahadur, Shri
Guha, Shri G. S.
Hasan, Shri M. A.
Dr. Hazarika, Shri J. N.
Hazarika, Shri M.
Himatsinghji, Major-General.
Iyyunni, Shri
Jagjivan Ram, Shri
Jain, Shri A. P.
Jajoo, Shri
Satish Chandra, Shri
Sharma, Pandit Chandra.
Shi Charan Lal, Shri
Shukla, Shri S, N.
Sidhva Shri
Subbiah, Shri
Subramaniam, Dr. V.
Venkataraman, Shri

NOES

Achint Rm, Lala	Indra Vidyavachas-	Sahaya, Shri Shyam
Bhargava, Pandit M. B.	pathi Shri	nandan
Bhargava, Pandit	Jhunjhunwala, Shri	Shah, Prof. K. T.
Thakur Das.	Maitra, Pandit	Sharma Pandit
Bhatt, Shri	Malaviya, Pandit	Balkrishna.
Chandrika Ram, Shri	Man, Sardar B. S.	Shukla, Shri A. C.
Das, Shri Nandkishore	Naziruddin Ahmad, Shri	Singh, Capt. A. P.
Das, Shri Sarangdhar	Oraon, Shri	Snatak, Shri N.
Das, Shri S. N.	Pannalal Bansilal, Shri	Sondhi, Shri
Dholakia, Shri	Ramnarayan Singh, Babu	Tek Chand, Dr.
Gupta, Shri V. J.	Ranbir Singh Ch.	Vaidya, Shri V. B.
Hukam Singh, Sardar	Raut, Shri	Yashwant Rai, Prof.

***Dr. Ambedkar:** I have already explained, when I intervened earlier, as to what exactly is the position of custom under clause 4 which is the subject matter of discussion. At that time I explained that so far as clause 4 is concerned, it does not say that no custom shall be recognised. My amendment to clause 4 is "Save as otherwise expressely provided in this Code", which means that if Parliament agrees to save any particular custom from the operation of any particular clause it is still open to Parliament to do so. Therefore, it is quite wrong on the part of Members of Parliament who have dilated on the question of custom to suggest that this clause is so worded as not to leave any room or place for custom. All that has been said that this Code is trying to abrogate custom altogether is to my mind based upon a complete misunderstanding. As I have already said, it is still open to members of Parliament who are interested in a particular custom to raise that question under the appropriate clause of this Bill when it will be open to discussion and I shall be able to express my opinion whether I am in a position to accept that custom or I am not in a position to accept that custom. Therefore, that position is perfectly safeguarded even if clause 4 is passed in the form in which I have suggested it should be passed.

The only other point to which I wish to make reference is the point made by my friend coming from one of the tribes, Mr. Theble Oragon. It seems to me that he has not read the provisions of clause 2 which this House has already passed. Sub-clause (2) of clause 2 says to what

*P.D., Vol. XV, Part II, 22nd September 1951, pp. 3183-88.

persons it shall not apply. To that there is a proviso. My submission is that in the case of persons who belong to certain tribes which are not altogether Hinduised completely—so that with regard to them we could say that the Hindu Law as such applies to them in the same way as it applies to those who are in fact and in law, *de jure and de facto,* Hindus—it is only those parts of the Hindu Law which they have adopted that will be regarded as applicable to them and not the whole of the Code. Consequently there need be no fear in the minds of members of those communities which are still in a tribal condition and which follow different ways and different modes and different laws with regard to their marriage and divorce. They are still safeguarded except that if it is proved that they have adopted any particular part of the Hindu Law, it is only to that extent that they will be governed by this Code and not otherwise. My submission is that we have taken every precaution by adding the proviso to sub-clause (2) not to impose the whole of the Hindu Law which will be enacted in Part II upon them. They have still the freedom to go their way except to the extent which has been proivded in this proviso.

One other point to which I would like to make a passing reference is the point made by my friend Dr. Pande and my friend Mr. T. N. Singh. They have said, I believe in almost uneqivocal terms, that customs which exist today must be safeguarded and nothing should be done to abrogate them. My friend, Dr. Pande, I believe, is a young graduate; I do not wish to say a raw but a young graduate from the University who probably has yet to study what the institution of Parliament means .....

An hon. Member : He is a professor and a secretary.

Dr. Ambedkar : I am very sorry, but he is still ignorant on certain aspects. People talk about customs in the country. Well, why have customs grown ? Why do the *Smritikaras* allow custom to continue ? I think the answer to that question is to be found in the fact that so far as this country is concerned, there never was such a tiling as a Parliament representing the people, coming here and legislating about their social relationship; there never has been such a thing at all. (*Interruption*). I do not know whether we are better or not. The reason, and the principal reason, why custom has been allowed to govern the life of the people in this country and in a manner much more rigorous than is to be found in any other part of the world.....

Shri Syamnandan Sahaya: If I am not mistaken the common law in England still prevails although there has been a Parliament for ages.

Dr. Ambedkar : I know that he is much more informed on certain subjects than I am.

Shri Syamnandan Sahaya : Dr. Ambedkar, I have never accepted that you are omniscient and that you have all the knowledge. It may be that in certain matters I may have better information.....

Dr. Ambedkar: I agree that you are. My point is that in view of the fact .....

Shri Bhatt: I would like to remind the Hon. Dr. as to wherefrom we got the word *parishad* and how the word *Rajya-parishad* has come into being.

Dr. Ambedkar: That *parishad* is another thing.

Shri Bhatt: That *Parishad* is another thing.

Shri Bhatt: That was nothing but a form of *Parishad*.

Dr. Ambedkar : *Parishad* is only a Council; it is not a Parliament. it has never been. What other way was left open to the people to regulate their life except to make their own custom, because there' was no Parliament, there was no Legislature and nothing of the kind ? But when we have got a Parliament, the function of which is to make law, the question that we have to consider and very seriously consider is whether we are going to allow the people as such who are outside the Parliament to have a parallel authority to make their customary laws and the Parliament should have no right to interfere in them. I think, that is a very serious question that we have to consider. It is quite one thing to say that where custom have grown and they are valid customs, in the way in which a valid custom has been defined in clause 2 of this Bill, they should be retained. That is a very different question. But to say that nowhere custom should be altered, amended, changed is really to abrogate the authority of Parliament and I am very doubtful that any such proposition would be accepted by Parliament and that is a matter about which I have considerable doubt and I also go further and say whether Parliament could continue to be that necessary and useful instrument for changing the ways of life for which it has been designed, if the proposition which had been supported by Messrs. Pande and T. N. Singh was accepted, that Parliament should have no jurisdisction with regard to customary laws.....

Mr. Deputy Speaker: Will the Hon. Law Minister take a long time ?

Dr. Ambedkar: I am just closing.

Shri Naziruddin Ahmad : All our points have not been dealt by the Hon. Minister. What becomes of those amendments which we have moved? Would they be expunged .....

Shri T. N. Singh : On a point of personal explanation, The Hon. Law Minister says that I urged that each and every one of the customs should be scrupulously observed. I think that he did not probably understand my Hindi .....

Dr. Ambedkar: It is quite possible.

Shri T. N. Singh : What I said was that all customs should not be lightly abrogated by a law. What I want .....

Dr. Ambedkar: On that point, I am in agreement.

Shri T. N. Singh: I want to ask if the Hon. Law Minister has got any detailed list of the customs prevalent in the country. In the ignorance of all the customs of the country to say that all customs shall not be applicable, is not proper. That is exactly what I said.

Dr. C. D. Pande : One thing has been said, Sir .....

Dr. Ambedkar: You can come to my room and say that.

Dr. C. D. Pande : Dr. Ambedkar has said this in Parliament and I wish it should be clarified in Parliament. I did not say that Parliament had no authority to make laws for the customary things. I appealed to Parliament not to touch their laws. That is a quite different position than what the Law Minister makes out.

Mr. Deputy Speaker : I shall put the clause and the amendments in this order.

Shri Syamnandan Sahaya: Before you put them, Sir I submit it is 1-15 already. As I said, this is a very vital clause where the texts, customs and usages are being abrogated. Therefore, we desire to divide on the amendments that have been moved. It will take a long time. Therefore, I submit that the actual motion may be put on another day whatever it.

Some hon. Members : Yes, yes.

Some hon. Members : No, no.

Dr. Ambedkar: It will not take more than five minutes.

Some hon. Members : No, no.

Capt. A. P. Singh : There are so many amendments ; it will take four hours (*Interruption*).

Mr. Deputy Speaker: Order, order. What is going to be gained .....

Shri Sondhi (Punjab) **:** There may be division, Sir.

Shri Naziruddin Ahmad : We will ask for division at every stage. We want to go by justice and not by arbitrary rules.

Mr. Deputy Speaker : The Hon. Member may be certain that justice will be rendered. But, the question is, the House had accepted the closure; the debate is over; the Hon. Law Minister has replied.

Pandit Malaviya: The House would have accepted the closure if you had put it five minutes after the debate began. It is the tyranny of the majority that is being forced on us (*Interruption*).

Shrimati Durgabai (Madras)**:** It is the tyranny of the minority over the majority : not the tyranny of the majority.

Shri Naziruddin Ahmad: Tyranny of women.

The Minister of State for Transport and Railways (Shri Santhanam): The hon. Member should withdraw his word ; I think it is contempt of Parliament.

Some Hon. Members : No, no, no contempt.

Mr. Deputy Speaker: Let us not be too sentimental over these matters. After all, Parliament has to go by language and no doubt, it must be moderate. There are in all about eleven amendments.

Shri Syamnandan Sahaya: It will take an hour at least.

Mr. Deputy Speaker : In view of what has happened, I thought we could get through these amendments quickly.

Some hon. Members: No, no.

The House then adjourned till half Past Eight of the Clock on Monday, the 24th September, 1951.

HINDU CODE—*contd.*

Clause 4.—(*Overriding effect of Code*).

***The Minister of Law (Dr. Ambedkar):** May I submit, Sir, that my motion with respect to clause 4 of the Hindu Code, which was held over, may be put and then the other business may be taken up ?

Mr. Deputy Speaker : The Hon. Minister wants preference to be given to that Bill with respect to that part of it. The other day the discussion and reply on the clause was over, but just as I was about to put it to the House Hon. Members said it might take a long time and as it was 1-15 p.m. we had to adjourn. We will now finish it.

I will now put the amendment of Pandit Thakur Das Bhargava.

The question is :

That for clause 4, the following be substituted:

> "4. Any text rule or interpretation of Hindu Law or any customary usage in force immediately before the commencement of this Code shall have effect with respect to any of the matters not dealt with in this Code."

The motion was negatived.

Mr. Deputy Speaker: Now we come to amendment No. 449.

Pandit Thakur Das Bhargava (Punjab)**:** I beg to withdraw it. The amendment was, by leave, withdrawn.

Mr. Deputy Speaker: The question is :

That in the amendment proposed by the Hon. Dr. Ambedkar, in part (a) of the proposed clause 4, the words "or any custom or usage" be omitted.

The motion was negatived

Mr. Deputy Speaker : The question is :

That in the amendment proposed by the Hon. Dr. Ambedkar, in the proposed new clause 4,—

(i) in part (a), after the words "dealt with in this Code" the words "after ten years from the commencement of this code" be inserted ; and

(ii) after part (b) the following *Explanation* be added :

> "*Explanation*.—Notwithstanding anything contained in subsection (*a*), for a period of ten years from the commencement of this Code, any text, rule or any custom or usage in force, shall have effect."

*P.D., Vol. XV, Part II 25th September 1951, pp. 3278-3301

The motion was negatived.

Mr. Deputy Speaker : The question is:

That in the amendment proposed by the Hon. Dr. Ambedkar, in part (a) of the proposed clause 4, after the words 'this Code", where they occur for the second time, the words "in so far as it is inconsistent with any of the provisions contained in this code" be inserted. The motion was negatived.

Mr. Deputy Speaker : We pass on to the next amendment now. The question is :

That in the amendment proposed by the Hon. Dr. Ambedkar, to the proposed clause 4, the following proviso be added :

"Provided that this Code shall not override such existing usage, custom and law as form part of the distinct culture of any section of the people to whom this Code applies."

The motion was negatived.

Mr. Deputy Speaker : The next amendment is 380. The question is :

That for clause 4, the following be substituted :

"4. All texts, rules or interpretations of Hindu Law or all customs and usages and all other law in force immediately before the commencement of this Act, in so far as they may be inconsistent with this Act, shall, to the extent of the inconsistency, cease to have effect."

The motion was negatived.

Mr. Deputy Speaker : The question is:

That for clause 4, the following be substituted :

"4. All texts relating to, and all rules of interpretation of Hindu Law in the sacred books or in judicial pronouncement of superior courts in India or of the Judicial Committee of the Privy Council or in the text books and commentaries of learned writers and authors or otherwise, and all customs and usages in force immediately before the commencement of this Code, in so far as they are inconsistent with this code, shall, to the extent of the inconsistency, cease to have effect."

The motion was negatived.

Mr. Deputy Speaker: The next one is 420.

Pandit Thakur Das Bhargava : I beg to, withdraw it.

The amendment was, be leave, withdrawn.

Mr. Deputy Speaker : The amendment No. 129 by Sardar hukam Singh is barred. Now 130.

The question is :

That to clause 4, the following proviso be added :

"Provided, however, that this Code shall not override any text, rule or interpretation of Hindu Law, or any custom or usage or any other law in force immediately prior to the commencement of this Code which has the sanction of Hindu religion or any other religion to the followers of which religion or religions this Code will apply :

Provided further that this Code shall not override such existing text, rule or interpretation of Hindu Law, or any custom or usage or any other law in force which has sanction fo morality behind it."

The motion was negative.

Mr. Deputy Speaker : I shall now put Dr. ambedkar's amendment No. 6.

The question is :

for clause 4, substitute :

"4. *Overriding effect of Code,* —Save as otherwise expressly provided in this Code :—

(a) any text, rule or interpretation of Hindu Law or any custom or usage in force immediately before the commencement of this Code shall cease to have effect with respect to any of the matters dealt with in this Code ; and

(b) any other law in force immediately before the commencement of this Code shall cease to have effect, in so far as it is inconsistent with any of the provisions contained in this Code."

The motion was adopted.

Mr. Deputy Speaker : The question is :

"That clause 4, as amended, stand part of the bill."

The motion was adopted.

Clause 4, as amended, was added to the Bill.

Mr. Deputy Speaker: The House will now proceed with other legislative business.

Pandit Maitra (West Bengal)**:** What about the further clauses ?

Mr. Deputy Speaker : The other business is on the order paper. After that is disposed of, this will be taken up.

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Annexures and Index

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Annexure I

Statement
BY
Dr. B. R. Ambedkar
in Parliament in explanation of his resignation
from the Cabinet

New Delhi,
10th October 1951

(Reprinted from a copy issued to the Press by Dr. Ambedkar found in Ambedkar papers received from the Bombay High Court by the Government of Maharashtra. Dr. Ambedkar was not allowed to present his statement in the Lok Sabha by the Speaker. He, therefore, quit the House and distributed the copies of statement to the members of Parliament and the Press—*Ed.*)

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Statement
by
Dr. B. R. Ambedkar in explanation of his
RESIGNATION

The House I am sure knows, unofficially if not officially, that I have ceased to be a Member of the Cabinet. I tendered my resignation on Thursday the 27th September to the Prime Minister and asked him to relieve me immediately. The Prime Minister was good enough to accept the same on the very next day. If I have continued to be a Minister after Friday the 28th, it is because the Prime Minister had requested me to continue till the end of the Session—a request to which I was, in obedience to constitutional convention, bound to assent.

Our Rules of Procedure permit a Minister who has resigned his office, to make a personal statement in explanation of his resignation. Many members of Cabinet have resigned during my tenure of office. There has been however no uniform practice in the matter of Ministers who have resigned making a statement. Some have gone without making a statement and others have gone after making a statement. For a few days I was hesitant what course to follow. After taking all circumstances into consideration I came to the conclusion that the making of a statement was not merely necessary, but it was a duty which a member who has resigned owes to the House.

The House has no opportunity to know how the Cabinet works from within, whether there is harmony or whether there is a conflict, for the simple reason that there is a joint responsibility under which a member who is in a minority is not entitled to disclose his differences. Consequently the House continues to think that there is no conflict among members of Cabinet even when as a matter of fact a conflict exists. It is, therefore, a duty of a retiring Minister to make a statement informing the House why he wants to go and why he is not able to continue to take further joint responsibility.

Secondly, if a Minister goes without making a statement, people may suspect that there is something wrong with the conduct of the Minister, either in his public capacity or in his private capacity. No Minister should, I think, leave room for such suspicion and the only safe way out is a statement.

Thirdly we have our newspapers. They have their age-old bias in favour of some and against others. Their judgements are seldom based on merits. Wherever they find an empty space, they are prone to fill the vacuum by supplying grounds for resignation which are not the real grounds but which put those whom they favour in a better light and those not in their favour in a bad light. Some such thing I see has happened even in my case.

It is for these reasons that I decided to make a statement before going out.

It is now 4 years, 1 month and 26 days since I was called by the Prime Minister to accept the office of Law Minister in his Cabinet. The offer came as a great surprise to me. I was in the opposite camp and had already been condemned as unworthy of association when the interim Government was formed in August 1946. I was left to speculate as to what could have happened to bring about this change in the attitude of the Prime Minister. I had my doubts. I did not know how I could carry on with those who had never been my friends. I had doubts as to whether I could, as a Law Member, maintain the standard of legal knowledge and acumen which had been maintained by those who had preceded me as Law Ministers of the Government of India. But I kept my doubts at rest and accepted the offer of the Prime Minister on the ground that I should not deny my cooperation when it was asked for in the building up of our nation. The quality of my performance as a Member of the Cabinet and as Law Minister, I must leave it to others to judge.

I will now refer to matters which have led me to sever my connection with my colleagues. The urge to go has been growing from long past due to variety of reasons.

I will first refer to matters purely of a personal character and which are the least of the grounds which have led me to tender my resignation. As a result of my being a member of the Viceroy's Executive Council, I knew the Law Ministry to be administratively of no importance. It gave no opportunity for shaping the policy of the Government of India. We used to call it an empty soap box only good for old lawyers to play with. When the Prime Minister made me the offer, I told him that besides being a lawyer by my education and experience, I was competent to run any administrative Department and that in the old Viceroy's Executive Council I held two administrative portfolios, that of Labour and C.P.W.D., where a great deal of planning projects were dealt with by me and would

like to have some administrative portfolio. The Prime Minister agreed and said he would give me in addition to Law the Planning Department which, he said, he was intending to create. Unfortunately the Planning Department came very late in the day and when it did come I was left out. During my time, there have been many transfers of portfolios from one Minister to another. I thought I might be considered for any one of them. But I have always been left out of consideration. Many Ministers have been given two or three portfolios so that they have been overburdened. Others like me have been wanting more work. I have not even been considered for holding a portfolio temporarily when a Minister in charge has gone abroad for a few days. It is difficult to understand what is the principle underlying the distribution of Government work among Ministers which the Prime Minister follows. Is it capacity ? Is it trust ? Is it friendship ? Is it pliability ? I was not even appointed to be a member of main Committees of the Cabinet such as the Foreign Affairs Committee or the Defence Committee. When the Economic Affairs Committee was formed, I expected, in view of the fact that I was primarily a student of Economics and Finance, to be appointed to this Committee. But I was left out. I was appointed to it by the Cabinet, when the Prime Minister had gone to England. But when he returned, in one of his many essays in the reconstruction of the Cabinet, he left me out. In a subsequent reconstruction my name was added to the Committee, but that was as a result of my protest.

The Prime Minister, I am sure, will agree that I have never complained to him in this connection. I have never been a party to the game of power politics inside the Cabinet or the game of snatching portfolios which goes on when there is a vacancy. I believe in service, service in the post which the Prime Minister, who as the head of the Cabinet, thought fit to assign to me. It would have, however, been quite unhuman for me not to have felt that a wrong was being done to me.

I will now refer to another matter that had made me dissatisfied with the Government. It relates to the treatment accorded to the Backward Classes and the Scheduled Castes. I was very sorry that the Constitution did not embody any safeguards for the Backward Classes. It was left to be done by the Executive Government on the basis of the recommendations of a Commission to be appointed by the President. More than a year has elapsed since we passed the Constitution. But the Government has not even thought of appointing the Commission. The year 1946 during which I was out

of office, was a year of great anxiety to me and to the leading members of the Scheduled Castes. The British had resiled from the commitments they had made in the matter of constitutional safeguards for the Scheduled Castes and the Scheduled Castes had no knowing as to what the Constituent Assembly would do in that behalf. In this period of anxiety I had prepared a report* on the condition of the Scheduled Castes for submission to the United Nations. But I did not submit it. I felt that it would be better to wait until the Constituent Assembly and the future Parliament was given a chance to deal with the matter. The provisions made in the Constitution for safeguarding the position of the Scheduled Castes were not to my satisfaction. However, I accepted them for what they were worth, hoping that the Government will show some determination to make them effective. What is the position of the Scheduled Castes to-day ? So far as I see, it is the same as before. The same old tyranny, the same old oppression, the same old discrimination which existed before, exists now, and perhaps in a worst form. I can refer to hundreds of cases where people from the Scheduled Castes round about Delhi and adjoining places have come to me with their tales of woes against the Caste Hindus and against the Police who have refused to register their complaints and render them any help. I have been wondering whether there is any other parallel in the world to the condition of the Scheduled Castes in India. I cannot find any. And yet why is no relief granted to the Scheduled Castes ? Compare the concern the Government shows over safeguarding the Muslims. The Prime Minister's whole time and attention is devoted for the protection of the Muslims. I yield to none, not even to the Prime Minister, in my desire to give the Muslims of India the utmost protection wherever and whenever they stand in need of it. But what I want to know is, are the Muslims the only people who need protection? Are the Scheduled Castes, the Scheduled Tribes and the Indian Christians not in need of protection ? What concern has he shown for these communities ? So far as I know, none and yet these are the communities which need far more care and attention than the Muslims.

I could not contain within myself the indignation I have felt over the neglect of the Scheduled Castes by the Government and on one occasion I gave vent to my feelings at a public meeting of the Scheduled Castes. A question was asked, from the Hon'ble the Home Minister, whether my charge that the Scheduled Castes had not

*Editor regrets his inability to trace out this report and will welcome any assistance in this regard—*Ed.*

benefitted by the rule which guaranteed to them 12½ per cent representation was true. In answer to the question the Hon'ble the Home Minister was pleased to say that my charge was baseless. Subsequently for some reason—it may be for satisfying the qualms of his conscience—he, I am informed, sent round a circular to the various Departments of the Government of India asking them to report how many Scheduled Caste candidates had been recently recruited in Government service. I am informed that most Departments said in reply 'NIL' or nearly nil. If my information is correct, I need make no commentary on the answer given by the Hon'ble the Home Minister.

From my early childhood I have dedicated myself to the upliftment of the Scheduled Castes among whom I was born. It is not that there were no temptations in my way. If I had considered my own interests, I could have been anything I wanted to be and if I had joined the Congress I would have reached to the highest place in that organization. But as I said, I had dedicated myself to the upliftment of the Scheduled Castes and I have followed the adage which says that it is better to be narrow-minded if you wish to be enthusiastic about a cause which you wish to accomplish. You can therefore, well imagine what pain it has caused me to see that the cause of the Scheduled Castes has been relegated to the limbo of nothing.

The third matter which has given me cause, not merely for dissatisfaction but for actual anxiety and even worry, is the foreign policy of the country. Any one, who has followed the course of our foreign policy and along with it the attitude of other countries towards India, could not fail to realize the sudden change that has taken place in their attitude towards us. On 15th of August 1947 when we began our life as an independent country, there was no country which wished us ill. Every country in the world was our friend. Today, after four years, all our friends have deserted us. We have no friends left. We have alienated ourselves. We are pursuing a lonely furrow with no one even to second our resolutions in the U.N.O. When I think of our foreign policy, I am reminded of what Bismark and Bernard Shaw have said. Bismark has said that "politics is not a game of realizing the ideal. Politics is the game of the possible." Bernard Shaw not very long ago said that good ideals are good but one must not forget that it is often dangerous to be too good. Our foreign policy is in complete opposition to these words of wisdom uttered by two of the world's greatest men.

How dangerous it has been to us this policy of doing the impossible and of being too good is illustrated by the great drain on our resources made by our military expenditure, by the difficulty of getting food for our starving millions and by difficulty of getting aid for the industrialization of our country.

Out of 350 crores of rupees of revenue we raise annually, we spend about Rs. 180 crores of rupees on the Army. It is a colossal expenditure which has hardly any parallel. This colossal expenditure is the direct result of our foreign policy. We have to foot the whole of our Bill for our defence ourselves because we have no friends on which we can depend for help in any emergency that may arise. I have been wondering whether this is the right sort of foreign policy.

Our quarrel with Pakistan is a part of our foreign policy about which I feel deeply dissatisfied. There are two grounds which have disturbed our relations with Pakistan—one is Kashmir and the other is the condition of our people in East Bengal. I felt that we should be more deeply concerned with East Bengal where the condition of our people seems from all the newspapers intolerable than with Kashmir. Notwithstanding this we have been staking our all on the Kashmir issue. Even then I feel that we have been fighting on an unreal issue. The issue on which we are fighting most of the time is, who is in the right and who is in the worng. The real issue to my mind is not who is in the right but what is right. Taking that to be the main question, my view has always been that the right solution is to partition Kashmir. Give the Hindu and Buddhist part to India and the Muslim part to Pakistan as we did in the case of India. We are really not concerned with the Muslim part of Kashmir. It is a matter between the Muslims of Kashmir and Pakistan. They may decide the issue as they like. Or if you like, divide it into three parts; the Cease-fire zone, the Valley and the Jammu-Ladhak Region and have a plebiscite only in the Valley. What I am afraid of is that in the proposed plebiscite, which is to be an overall plebiscite, the Hindus and Buddhists of Kashmir are likely to be dragged into Pakistan against their wishes and we may have to face the same problems as we are facing today in East Bengal.

I will now refer to the Fourth matter which has a good deal to do with my resignation. The Cabinet has become a merely recording and registration office of decisions already arrived at by Committees. As I have said, the Cabinet now works by Committees.

There is a Defence Committee. There is a Foreign Committee. All important matters relating to Foreign affairs are dealt with by it. All matters relating to Defence are disposed of by the Defence Committee. The same members of the Cabinet are appointed by them. I am not a member of either of these Committees. They work behind an iron curtain. Others who are not members have only to take joint responsibility without any opportunity of taking part in the shaping of policy. This is an impossible position.

I will now deal with a matter which has led me finally to come to the decision that I should resign. It is the treatment which was accorded to the Hindu Code. The Bill was introduced in this House on the 11th April 1947. After a life of four years, it was killed and died unwept and unsung, after 4 clauses of it were passed. While it was before the House, it lived by fits and starts. For full one year the Government did not feel it necessary to refer it to a Select Committee. It was referred to the Select Committee on 9th April 1948. The Report was presented to the House on 12th August 1948. The motion for the consideration of the Report was made by me on 31st August 1948. It was merely for making the motion that the Bill was kept on the Agenda. The discussion of the motion was not allowed to take place until the February Session of the year 1949. Even then it was not allowed to have a continuous discussion. It was distributed over 10 months, 4 days in February, 1 day in March and 2 days in April 1949. After this, one day was given to the Bill in December 1949, namely the 19th December on which day the House adopted my motion that the Bill as reported by the Select Committee be taken into consideration. No time was given to the Bill in the year 1950. Next time the Bill came before the House was on 5th February 1951 when the clause by clause consideration of the Bill was taken. Only three days 5th, 6th and 7th of February were given to the Bill and left there to rot.

This being the last Session of the present Parliament, Cabinet had to consider whether the Hindu Code Bill should be got through before this Parliament ended or whether it should be left over to the new Parliament. The Cabinet unanimously decided that it should be put through in this Parliament. So the Bill was put on the Agenda and was taken up on the 17th September 1951 for further clause by clause consideration. As the discussion was going on the Prime Minister put forth a new proposal, namely, that the Bill as a whole may not be got through within the time available and that it was desirable to get a part of it enacted into law rather

than allow the whole of it to go to waste. It was a great wrentch to me. But I agreed, for, as the proverb says "it is better to save a part when the whole is likely to be lost". The Prime Minister suggested that we should select the Marriage and Divorce part. The Bill in its truncated 'form went on. After two or three days of discussion of the Bill the Prime Minister came up with another proposal. This time his proposal was to drop the whole Bill even the Marriage and Divorce portion. This came to me as a great shock—a bolt from the blue. I was stunned and could not say anything. I am not prepared to accept that the dropping of this truncated Bill was due to want of time. I am sure that the truncated Bill was dropped because other and more powerful members of the Cabinet wanted precedence for their Bills. I am unable to understand how the Benaras and Aligarh University Bills, how the Press Bill could have been given precedence over the Hindu Code even in its attenuated form ? It is not that there was no law on the Statute Book to govern the Aligarh University or the Benaras University. It is not that these Universities would have gone to wreck and ruins if the Bills had not been passed in this session. It is not that the Press Bill was urgent. There is already a law on the Statute Book and the Bill could have waited. I got the impression that the Prime Minister, although sincere, had not the earnestness and determination required to get the Hindu Code Bill through.

In regard to this Bill I have been made to go through the greatest mental torture. The aid of Party Machinery was denied to me. The Prime Minister gave freedom of Vote, an unusual thing in the history of the Party. I did not mind it. But I expected two things. I expected a party whip as to time limit on speeches and instruction to the Chief Whip to move closure when sufficient debate had taken place. A whip on time limit on speeches would have got the Bill through. When freedom of voting was given there could have been no objection to have given a whip for time limit on speeches. But such a whip was never issued. The conduct of the Minister for Parliamentary Affairs, who is also the Chief Whip of the Party in connection with the Hindu Code, to say the least, has been most extraordinary. He has been the deadliest opponent of the Code and has never been present to aid me by moving a closure motion. For days and hours filibustering has gone on a single clause. But the Chief Whip, whose duty it is to economise Government time and push on Government Business, has been systematically absent when the Hindu Code has been under consideration in the House. I have never seen a case of a Chief Whip so disloyal to the Prime Minister and a Prime Minister so loyal to a disloyal Whip.

Notwithstanding this unconstitutional behaviour, the Chief Whip is really a darling of the Prime Minister. For notwithstanding his disloyalty he got a promotion in the Party organization. It is impossible to carry on in such circumstances.

It has been said that the Bill had to be dropped because the opposition was strong. How strong was the opposition ? This Bill has been discussed several times in the Party and was carried to division by the opponents. Every time the opponents were routed. The last time when the Bill was taken up in the Party Meeting, out of 120 only 20 were found to be against it. When the Bill was taken in the Party for discussion, 44 clauses were passed in about 3½ hours time. This shows how much opposition there was to the Bill within the Party. In the House itself there have been divisions on three clauses of the Bill—2, 3 and 4. Every time there has been a overwhelming majority in favour even on clause 4 which is the soul of the Hindu Code.

I was therefore, quite unable to accept the Prime Minister's decision to abandon the Bill on the ground of time. I have been obliged to give this elaborate explanation for my resignation because some people have suggested that I am going because of my illness. I wish to repudiate any such suggestion. I am the last man to abandon my duty because of illness.

It may be said that my resignation is out of time and that if I was dissatisfied with the Foreign Policy of the Government and the treatment accorded to Backward Classes and the Scheduled Castes I should have gone earlier. The charge may sound as true. But I had reasons which held me back. In the first place, most of the time I have been a member of the Cabinet, I have been busy with the framing of the Constitution. It absorbed all my attention till 26th January 1950 and thereafter I was concerned with the Peoples' Representation Bill and the Delimitation Orders. I had hardly any time to attend to our Foreign Affairs. I did not think it right to go away leaving this work unfinished.

In the second place, I thought it necessary to stay on, for the sake of the Hindu Code. In the opinion of some it may be wrong for me to have held on for the sake of the Hindu Code. I took a different view. The Hindu Code was the greatest social reform measure ever undertaken by the Legislature in this country. No law passed by the Indian Legislature in the past or likely to be passed in the future can be compared to it in point of its significance.

To leave inequality between class and class, between sex and sex which is the soul of Hindu Society untouched and to go on passing legislation relating to economic problems is to make a farce of our Constitution and to build a palace on a dung heap. This is the significance I attached to the Hindu Code. It is for its sake that I stayed on notwithstanding my differences. So if I have committed a wrong it is in the hope of doing some good. Had I no ground for such a hope, for overcoming the obstructionist tactics of the opponents ? I would like in this connection to refer only to three of the statements made by the Prime Minister on the floor of the House.

On 28th November, 1949 the Prime Minister gave the following assurance. He said :

> "What is more, the Government is committed to this thing (Hindu Code). It is going through with it."
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> * * * *
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> "Government would proceed with that. It is for this House to accept a measure, but if a Government takes an important measure and the House rejects it, the House rejects that Government and the Government goes and another Government comes in its place. It should be clearly understood that this is one of the important measures to which the Government attaches importance and on which it will stand or fall."

Again on 19th December 1949, the Prime Minister said :

> "I do not wish the House to think in the slightest degree that we consider that this Hindu Code Bill is not of importance, because we do attach the greatest importance to it, as I said, not because of any particular clause or anything, but because of the basic approach to this vast problem in problems, economic and social. We have achieved political freedom in this country, political independence. That is a stage in the journey, and there are other stages, economic, social and other and if society is to advance, there must be this integrated advance on all fronts."

On the 26th September 1951 the Prime Minister said :

> "It is not necessary for me to assure the House of the desire of Government to proceed with this measure in so far as we can proceed with it within possibilities, and so far as we are concerned we consider this matter as adjourned till such time as the next opportunity—I hope it will be in this Parliament—offers itself.

This was after the Prime Minister had announced the dropping of the Bill. Who could not have believed in these pronouncements of the Prime Minster ? If I did not think that there could be a difference between the promises and performances of the Prime Minister the fault is certainly not mine. My exit from the Cabinet may not be a matter of much concern to anybody in this country. But I must be true to myself and that I can be only by going out. Before I do so I wish to thank my colleagues for the kindness and courtesy they have shown to me during my membership of the Cabinet. While I am not resigning my membership of Parliament I also wish to express my gratitude to Members of Parliament for having shown great tolerance towards me.

New Delhi,
10th October 1951 **B. R. AMBEDKAR**

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Annexure II

Government of India, through its Publication Division had published a book by name 'Hindu Code Bill and its purpose' in Hindi language during the 50s. This book contained two speeches of Dr. Ambedkar delivered in the Constituent Assembly, Press reports of the speeches against the Code by Shankaracharya of Jyotirmath and Swami Karpatriji; and the articles supporting the Code by an eminent Vedic Scholar Pandit Dharmadeo Vidyavachaspati. The book also included text of the Hindu Code along with the press-reports supporting it.

It has been felt by the Committee Members that the inclusion of articles by Dharmadeo Vidyavachaspati from the Hindi book in the present volume would be of utmost help to the reader to understand how the reform introduced by Dr. Ambedkar had the support of the Hindu scriptures also. I hope students and scholars alike would benefit by these articles.

—*Editor*

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Annexure II

(हिन्दू कोड बिल पर कुछ विचार-1)

हिन्दू कोड बिल हिन्दुत्व का रक्षक है

पं. धर्मदेव विद्यावाचस्पति

[वेदों क सुप्रसिद्ध विद्वान् पं. धर्मदेव विद्यावाचस्पति उन थोड़े से व्यक्तियों में हैं जिनके जीवन का अधिकांश समय वेदों एवं आर्यों के प्राचीन धार्मिक ग्रन्थों के अनुशीलन और अनुसन्धान में बीता है। पिछले दिनों उनकी एक लेखमाला दिल्ली के सुप्रसिद्ध हिन्दी दैनिक "वीर अर्जुन" में प्रकाशित हुई थी जिसमें उन्होंने प्राचीन स्मृतियों, वेदों तथा शास्त्रों के प्रमाण एवं उद्धरण देकर हिन्दू बिल के विविध विधानों का सारर्भित विवेचन किया है । विचारशील पाठकों के लिए "वीर अर्जुन" की स्वीकृति से यह लेख माला यहां पुनः प्रकाशित की जा रही है]

भारत सरकार के विधान-सचिव माननीय डा. भीमराव अम्बेडकर द्वारा भारतीय राष्ट्र संसद् व पार्लियामेण्ट में प्रस्तुत 'हिन्दू कोड बिल' के विरुद्ध घोर आन्दोलन किया जा रहा है । देहली में भी एक हिन्दू कोड विरोधी सम्मेलन हो चुका है जिसमे मुख्य नारा यह लगाया गया कि इससे धर्म तथा संस्कृति का सर्वनाश हो जायेगा। मैं प्रारम्भ में ही इस बात को स्पष्ट कर देना चाहता हूँ कि मैं हिन्दू कोड बिल का सर्वांश में समर्थक नहीं हूँ। इसमें अनेक संशोधनों की आवश्यकता है, ऐसा भी मेरा विचार हैं किन्तु मुझे यह देख कर दुख होता है कि इस बिल के सम्बन्ध में असत्य प्रचार बहुत अधिक किया जा रहा है । प्रायः इसके विरोधी ऐसे हैं जिन्होंने ध्यानपूर्वक बिल की धाराओं को पढ़ने का कभी कष्ट नहीं उठाया और वे 'हिन्दूधर्म और संस्कृति संकट में' इस नारे को लगा कर सर्वसाधारण जनता को उत्तेजित करने का अनुचित प्रयत्न कर रहे हैं । मैं स्वयं वेदादि सत्यशास्त्रों में दृढ़ विश्वास रखने वाला हूँ और इसलिए शास्त्रीय दृष्टि से भी इस बिल में प्रस्तुत प्रस्तावों का मैंने अनुशीलन किया है जिसका परिणाम मैं जनता के सन्मुख रखने का प्रयत्न करूंगा। किंतु मैं इस प्रथम लेख में यह दिखाना चाहता हूँ कि इस 'हिन्दू कोड बिल' के निर्माता या समर्थक 'हिन्दू धर्म' और संस्कृति का नाश करना चाहते हैं, उन्हें 'हिन्दू धर्म' से कोई प्रेम नहीं इत्यादि जो अप्रचार किया जा रहा है वह कितना असत्य है ?

इस बिल की धारा 78 में लिखा है कि कोई भी ऐसा व्यक्ति इस धारा के विधानों के अधीन किसी नाबालिग का वली (संरक्षक) होने का अधिकार नहीं रखेगा :

(अ) 'यदि वह हिन्दू धर्म को त्याग चुका है' इत्यादि ।

धारा 81 में 'स्वाभाविक बली का अधिकार सत्ता का खण्डन' शीर्षक के नीचे लिखा है-जहां पर कि किसी नाबालिग हिंदू का स्वाभाविक वली ऐसे नाबालिग की संरक्षकता किसी दूसरे व्यक्ति को दे देता है, वह निम्न अंकितों को छोड़ कर खण्डन योग्य होगा:

(क) जहां पर कि उसको खण्डित करने की स्वीकृति देना नाबालिग के हित लाभ के लिए नहीं है अथवा (ख) जहां पर कि स्वाभाविक वली हिंदू धर्म को त्याग चुका है।

धारा 83 में लिखा है- "किसी नाबालिग हिंदू के वली का कर्त्तव्य होगा कि वह ऐसे नाबालिग का हिंदू के रूप में पालन-पोषण करे"।

गोद लेने के विषय में विधवा के अधिकार की समाप्ति विषयक धारा 61 में लिखा है कि एक विधवा का गोद लेने का अधिकार समाप्त हो जाता है:

(क) जब कि वह पुनर्विवाह कर लेती है।

(ख) जब हिंदू धर्म को त्याग देती है। गोद देने की योग्यता रखने वाले व्यक्ति इस शीर्षक की धारा 62, उपधारा (3) में लिखा है कि माता बच्चे को गोद दे सकेगी:

(क) यदि बच्चे का पिता मर चुका है।

(ख) यदि वह पिता हिन्दू धर्म को त्याग चुका है इत्यादि। प्रवर समिति (सेलेक्ट कमेटी) की रिपोर्ट में ऊपर उद्धत धारा 78 के विषय में सदस्यों ने लिखा है कि 'हम समझते हैं कि जो व्यक्ति हिन्दू धर्म को या इस संसार को त्याग चुका है उसे किसी नाबालिग हिन्दू का स्वाभाविक वली (संरक्षक) बनने का अधिकार न होना चाहिए।'

पत्नी का भरण-पोषण, इस शीर्षक की धारा 126 में लिखा है कि निम्नलिखित दशाओं में जीविका प्राप्त करने के अपने अधिकार से वंचित हुए बगैर भी उससे अलग रहने का एक हिंदू पत्नी अधिकार रख सकती है यदि (ए) वह धर्म परिवर्तन द्वारा अन्य धर्मावलम्बी बन कर अहिंदू बन चुका है इत्यादि। उपधारा (3) में लिखा है कि यदि कोई हिंदू पत्नी अपतिव्रता है अथवा धर्म परिवर्तन द्वारा अन्य धर्मावलम्बी बन कर अहिंदू बन चुकी है, तो उस हालत में उसे अलग रहने तथा भरण-पोषण हासिल करने का अधिकार नहीं होगा।

धारा 120 का धर्मपरिवर्तन करने वाला दाय ग्रहण की योग्यता नहीं रखता, इस शीर्षक के नीचे लिखा है कि जहां इस कोड के प्रारम्भ होने से पहिले या बाद कोई हिंदू धर्म परिवर्तन करके अन्य धर्मावलम्बी बन जाने के कारण हिंदू न रह गया हो या अहिन्दू बन चुका हो तो इस प्रकार के धर्म परिवर्तन के पश्चात् उस पुरुष या उस स्त्री से जो बच्चे उत्पन्न होंगे, तथा उनकी सन्तान अपने किसी हिन्दू सम्बन्धी की सम्पत्ति को

प्राप्त करने का अधिकार न रखेगी जब तक कि ऐसे बच्चे या सन्तान उत्तराधिकार शुरू होने के समय हिन्दू नहीं है।

ऐसे अन्य उद्धरण भी अनेक दिये जा सकते हैं जिनसे स्पष्ट है कि हिन्दू कोड बिल के निर्माताओं ने हिन्दुत्व की रक्षा का विशेष ध्यान रखा है तथा उन्हें हिन्दू धर्म से प्रेम है, यद्यपि उसमें सुधार की आवश्यकता को वे अवश्य अनुभव करते है जिसका उद्देश्य भी वस्तुतः हिन्दू धर्म और जाति का उद्धार ही है।

इस विषय में माननीय डा. अम्बेडकर आदि से हुई बातचीत के आधार पर मैं निश्चय के साथ कह सकता हूँ कि वे हिंदू जाति को एकसूत्र में लाने और उसके संगठन को दृढ़ करने के लिए ही इस हिन्दू कोड बिल को प्रस्तुत कर रहे हैं जिसमें हिन्दुओं के अन्दर, धारा 2 में दी परिभाषा के अनुसार न केवल वे व्यक्ति आते हैं जो हिन्दू ध र्म के किसी भी स्वरूप या संप्रदाय को मानते हैं, किन्तु बौद्ध, जैन या सिक्ख धर्म के अनुयायी अथवा हिन्दू धर्म ग्रहण करने वाले व्यक्ति भी आते हैं । आदिवासी तथा अन्य भी इस परिभाषा में हिन्दुओं के अन्दर ही माने गये है।

विशाल दृष्टि से देखने पर निष्पक्षपात विचारकों को ऐसे एक सर्वसामान्य कोड का महत्व ज्ञात हो सकता है। भिन्न-भिन्न स्थानों और जातियों के रीति-रिवाजों ने विशाल हिन्दू को कैसे छिन्न-भिन्न कर रखा है यह बताने की अवश्यकता नहीं। इसलिये मैं चाहता हूँ कि झूठे नारे लगाने और इस बिल का पूर्ण विरोध करने की भावना को छोड़ कर लोग इस बिल की धाराओं का निष्पन्न होकर अध्ययन करें और तब ऐसे निर्देश अथवा संशोधन प्रस्तुत करें जिससे यह अधिक उपयोगी और लाभकारक बन सके। डा. अम्बेडकर तथा अन्य सदस्य ऐसे क्रियात्मक निर्देशों का स्वागत करने को उद्यत हैं।

●●

(हिन्दू कोड बिल पर कुछ विचार-2)

विवाहसंबंधी धाराएं

पं. धर्मदेव विद्यावाचस्पति

प्रथम लेख में मैंने पाठकों से निवेदन किया था कि 'हिन्दू कोड बिल का उद्देश्य हिन्दू धर्म, समाज और संस्कृति का सर्वनाश करना है' इत्यादि कल्पित, असत्य नारों पर विश्वास न करके उन्हें निष्पक्षता होकर गम्भीर भाव से हिन्दू कोड बिल की भिन्न 2 धाराओं पर विचार करना चाहिये। इस लेख में मैं विवाह विषयक धाराओं पर कुछ प्रकाश डालना चाहता हूं।

विवाह को शास्त्रीय और सिविल इन दोनों भागों में विभक्त करते हुए शास्त्रीय विवाह की शर्तें धारा 7 में निम्नलिखित मानी गई हैं:-

धारा 7-यदि निम्नलिखित शर्तें पूरी हो जाती हैं तो किन्हीं भी दो हिन्दुओं में शास्त्रीय रीति के अनुसार विवाह सम्पन्न हो सकेगा:-

(1) यदि दोनों पक्षों में विवाह के समय पर कोई पक्ष भी पति अथवा पत्नी नहीं रखता।

(2) यदि दोनों पक्षों में विवाह के समय कोई जड़ बुद्धि या पागल नहीं है।

(3) यदि विवाह के समय वर अठारह वर्ष की आयु पूरी कर चुका है और वधू 14 वर्ष आयु पूरी कर चुकी है।

(4) यदि दोनों पक्ष परस्पर निषेधात्मक सम्भन्ध की कोटियों के अन्तर्गत नहीं आते।

(5) यदि दोनों पक्ष आपस में परस्पर सपिण्ड नहीं हैं और यदि पारस्परिक आचार और परम्परा के अन्तर्गत दोनों पक्षों में ऐसा संस्कार जायज (वैध) मानने की प्रथा न हो।

(6) जहां वर या वधू 16 वर्ष की आयु पूरी नहीं कर चुकी हैं उसके संरक्षक को स्वीकृति प्राप्त की जा चुकी है।

सपिण्ड सम्बन्ध की परिभाषा और व्याख्या करते हुए धारा 5 में कहा गया है कि,-

(1)(क) सपिण्ड सम्बन्ध का अर्थ अपने मातृकुल की तीन पीढ़ी तक और पितृकुल की 5 पीढ़ी तक होगा।

(ख) दो व्यक्ति उसी अवस्था में परस्पर सपिण्ड कहे जाते हैं यदि वे, एक दूसरे के वंश-परम्परा से सपिण्ड सम्बन्ध की सीमा के भीतर समर्वशज हैं अथवा यदि वे दोनों सपिण्ड सम्बन्ध की सीमा के भीतर सम्मिलित वंश परम्परागत आपस में एक दूसरे के साथ समान वंशज के रूप में हैं।

(ग) निषिद्ध सम्बन्ध का क्रम ... दो व्यक्तियों का उस अवस्था में निषिद्ध सम्बन्ध कहा जाता है यदि दोनों में से एक वंशानुक्रम से दूसरे का पुरखा हो, अथवा वंशानुक्रम से पुरखे या संतति की पत्नी या पति रहा हो, अथवा वे दोनों भाई-बहन, चाचा-भतीजी और चाची-भतिजा अथवा भाईयों व बहनों की सन्तति हों।

स्पष्टीकरण:- वाक्य खण्ड 1 और 2 में ये समबन्ध भी शामिल हैं। (अ) ऐसा सम्बन्ध जो कि अर्धरक्तयुक्त सहोदर रक्तयुक्त है।

(2) धर्मज तथा अधर्मज सन्तति सम्बन्ध।

(3) दत्तक अथवा रक्त सम्बन्ध।

उक्त वाक्य-खण्डों में कथित सभी सम्बन्धद्योतक शब्दों का इसी प्रकार अर्थ समझा जायेगा। पाठक देखेंगे कि शास्त्रीय विवाह के लिए जो शर्तें उपर वर्णित की गई हैं वे अधिकतर वही हैं जिन्हें धार्मिक दृष्टि से अब भी प्राय: मान्य समझा जाता है। अन्तर थोड़ा सा हैं। "पंचमात् सप्तमादूर्ध्वमातृत: पितृतस्तथा"। इत्यादि स्मृति वचनों में मातृकुल और पितृकुल की क्रमश: 5 और 7 पीढ़ियों को सपिण्ड मानकर उन्हें छोड़ने का विधान है यद्यपि स्मृति चन्द्रिका, चतुर्विशति मत संग्रहादि में 3 और 5 तक ही सपिंडता मानी गई हैं कई पौराणिक ग्रन्थों में तो सपिंडता का और भी अधिक संकोच करते हुए मामा की लड़की इत्यादि से भी विवाह को उचित माना गया है और दाक्षिणात्यों में कई स्थानों पर वैसी ही प्रथा है। इसलिए कोड बिल में मध्यमार्ग को ग्रहण किया गया है। यदि 3 और 5 पीढ़ियों के स्थान पर मातृकुल और पितृकुल की क्रमश: 5 और 7 पीढ़ियों को छोड़ा जाय तो अधिक शास्त्रीय होगा इसमें सन्देह नहीं। किंतु यह कहना कि इस कोड बिल के अनुसार भाई बहिन का विवाह भी वैध समझा जायेगा, जैसे कि कोड विरोधी लोगों ने कुछ पत्रों और पोस्टर आदि में प्रकाशित किया था सर्वथा असत्य है, यह तो स्पष्ट ही है। मेरे विचारानुसार शास्त्रीय विवाह के नियमों में यदि दोनों पक्ष परस्पर सपिण्ड नहीं हैं। इसके बाद धारा 7 उपधारा 5 में यह जो अपवाद रखा गया है कि यदि पारस्परिक आचार-परम्परा के अन्तर्गत दोनों पक्षों में ऐसा संस्कार वैध या जायज मानने की प्रथा न हो ये शब्द भी उड़ा देने चाहिए जिससे एकरूपता की रक्षा के अतिरिक्त सपिण्डों अथवा निकट सम्बन्धियों में विवाह के निषेध विषयक शास्त्रोक्त वैज्ञानिक आज्ञा का पालन हो सके।

अनेक हिंदू कोड बिल विरोधी कितने असत्य और छल का आश्रय ले रहे हैं इसका एक और अति स्पष्ट उदाहरण दिए बिना मैं नहीं रह सकता। ऊपर शास्त्रीय विवाह की शर्तों के विषय में मैंने जिस धारा संख्या 7 को उद्धत किया है उसमें चौथी शर्त मूल अंग्रेजी में इन शब्दों में है (4) The parties are not within the degrees of prohibited relationship हिन्दू कोड विरोधी समिति कलकत्ता ने हिन्दू कोड बिल का जो कुछ अनुवाद हिंदी में छपाया उसमें पृ. 5 पर इसका अनुवाद इस प्रकार दिया:-

दोनों ही पक्ष (वर-वधू) निषिद्ध सम्बन्ध के क्रम मे आते हों। मूल का अर्थ 'निषिद्ध सम्बन्ध के क्रम में न आते हों' यह है। किन्तु अनुवादक महाशय जनता में उसके विरुद्ध भावना भरने के लिए उसके "न" को खाकर अनुवाद कर बैठे हैं कि शास्त्रीय विवाह वह होगा जहां दोनों पक्ष निषिद्ध सम्बन्ध के क्रम में आते हैं। यह मानना बड़ा कठिन है कि यह छापे की भूल है। मुझे तो इसमें स्पष्ट ही शरारत प्रतीत होती है। इस अनुवाद के अन्तिम पृष्ठ पर लिखा है 'प्रत्येक हिंदू चेत जाए। हिंदू कोड बिल हिंदू समाज और

संस्कृति का तख्ता ही उलट देने का भयानक कुचक्र है।' मैं इस बात का निर्णय पाठकों पर छोड़ना चाहता हूं कि क्या ऐसे असत्य से हिंदू समाज और संस्कृति की रक्षा हो सकती है?

बहुविवाह का पति-पत्नी दोनों के लिए निषेध करके वस्तुतः **"जाया पत्ये मधुमतीं वाचं वदतु शान्तिवाम्" "इहेमाविन्द्र संनुद चक्रवाकेव दम्पती"** इत्यादि वेद मंत्रों में स्पष्टतया निर्दिष्ट एक विवाह के आदर्श की ही समर्थन किया गया है। **"संमतपन्त्यभितः सपत्नीरिव पर्शवः"** इत्यादि वेद-मंत्रों में सपत्नीत्व को अत्यन्त दुःखदायक बताया गया है। दुर्भाग्यवश कुछ शिक्षित युवक-युवतियों में भी यह बहुविवाह की प्रवृत्ति बढ़ रही थी और उसके भयंकर परिणाम दृष्टिगोचर हो रहे थे अतः इस प्रकार का प्रतिबन्ध आवश्यक ही था। वर्तमान हिंदू कानून के अनुसार पुरुष जितने चाहे विवाह कर सकता था जिसके कई उदाहरण देहली के सम्पन्न तथा प्रतिष्ठित समझे जाने वाले व्यक्तियों में भी विद्यमान है। एक पत्नी के होते हुए दूसरा विवाह करना प्रथम पत्नी को विष देने के समान है यह लिखने की आवश्यकता नहीं।

न्यूनतम आयु के विषय में यहां वर-वधू के लिए 18 और 14 को नियत किया गया है जिसे हम सर्वथा अपर्याप्त समझते हैं। हमारे विचार में तो 24 और 16 से कम विवाहार्थी वर-वधू की आयु न होनी चाहिए। **'अष्टवर्षा भवेद् गोरी'** जैसे वेद विरुद्ध श्लोकों को मानने वाले इस अंश का भी विरोध करें तो कोई आश्चर्य की बात नहीं।

विवाह विषयक इन धाराओं में जातिमूलक भेदभाव को जो स्वीकार नहीं किया गया इस से कई कट्टरपन्थी भले ही अप्रसन्न हों किन्तु जो विचारशील लोग हैं जानते हैं कि इस कृत्रिम, जन्ममूलक जातिभेद ने किस प्रकार हिन्दू समाज को 8 हजार के लगभग जातियों-उपजातियों में विभक्त कर के उस की एकता, संगठन और परस्पर प्रेम को नष्ट कर रक्खा है तथा किस प्रकार यह जाति-भेद **'अज्येष्ठासो अकनिष्ठास एते संभ्रातरो वावृधुःसौभगाय।'** (ऋ. 5/56/5) **'शूद्रो ब्राह्मणतामेति, ब्राह्मणश्चैति शूद्रताम्** (मनु 10/46), **न जात्या ब्राह्मणश्चात्र, क्षत्रियो वैश्य एव न । न शूद्रो न च वै म्लेंच्छो भेदिता गुणकर्मभिः॥'** शुक्रनीति, **'न कुलेन न जात्या वा, क्रियाभिर्ब्राह्मणो भवेत्।'** (महाभारत वनपर्व) इत्यादि शास्त्रीय वचनों के सर्वथा विरुद्ध है जहां वर्णव्यवस्था को केवल गुण कर्मानुसार बताया गया है तथा जन्म की दृष्टि से सब मनुष्यों की समानता का प्रतिपादन है उन्हें इससे जरा भी दुःख न होगा । वर्ण-व्यवस्था को गुणकर्मानुसार मान लेने पर (जिस सिद्धांत की सनातनता की घोषणा गत वर्ष काशी आदि स्थानों की, विद्वन्मंडली भी कर चुकी है) विवाह में जाति का प्रश्न ही नहीं उठ सकता। वस्तुतः अन्तरजातीय विवाहों के समर्थन में अनेक शास्त्रीय वचनों और ऐतिहासिक उदाहरणों को प्रस्तुत किया जा सकता है किंतु विस्तारभय से मैं यहां ऐसा करना अनावश्यक समझता हूं। जो भाई जन्म-मूलक जातिभेद को मानते हैं, इस कोड में उन के लिए कोई प्रतिषेध नहीं है। उनकी अपने विश्वासानुसार विवाहादि करने की पूर्ण स्वतन्त्रता है।

इस प्रस्तुत कोड में सगोत्र विवाह का प्रतिपादन किया गया है यह कह कर हिन्दू जनता को इसके विरुद्ध प्रायः भड़काया जाता है, किंतु इस में कोई ऐसी धारा नहीं है जहां सगोत्र विवाह का प्रतिपादन या समर्थन हो। केवल एक धारा स. 27 है जिसका शीर्षक "पहले विवाहों के विषय में छूट" यह है, जिस में कहा गया है कि "ऐसा विवाह जो कि इस कोड के आरम्भ होने से पहले दो हिन्दू में सम्पूर्ण हो चुका है और जो कि किसी दूसरे तौर पर जायज वा वैध है वह नाजायज नहीं होगा और कभी भी केवल इस हेतु तथा हकीकत पर नाजायज या अवैध न हों विचारा जायेगा कि दोनों पक्ष समान गोत्र अथवा समान प्रवर रखते थे अथवा भिन्न जाति अथवा समान जाति में से विभक्त उपजाति से सम्बन्ध रखते थे।

यह धारा इस कोड के प्रारम्भ से पूर्व सम्पन्न विवाहों के विषय में है। कहां तो एक ओर हिन्दू कोड बिल के विरोधी सनातन धर्म के नाम पर विवाह सम्बन्ध की अच्छेद्यता की दुहाई देते हैं और कहां वे ऐसी धारा का विरोध व खण्डन करते हैं जिस में केवल सगोत्रता वा जाति-भिन्नता के आधार पर पूर्व सम्पन्न विवाहों को अवैध मानने से इन्कार किया गया है यह परस्पर-विरुद्धता आश्चर्यजनक है।

हम स्वभावतः यह चाहते हैं कि सब लोग शास्त्रीय विवाह ही करें और इसी के लिए हम सब को उसका महत्त्व बुद्धिपूर्वक समझा कर प्रेरित करना चाहिए किंतु जो ऐसा किसी कारणवश नही करना चाहते उनके लिए सिविल विवाह की पूर्वोद्धृत शर्तों के अनुसार ही व्यवस्था की गई है केवल इतनी शर्त उसमें और जोड़ी गई है कि 'विवाह के दोनों पक्षों में यदि वर अथवा वधू आयु के 21 वर्ष पूरे नहीं कर चुके तो ऐसी स्थिति में इस विवाह की स्वीकृति प्राप्त कर ली गई हो' सिविल विवाह का भी यह अर्थ इस कोड के अनुसार नहीं है कि उसमें कोई धार्मिक विधि व क्रिया न हो। धारा 18 खंड 2 में स्पष्ट लिखा है कि विवाह किसी भी रीति अनुसार सम्पूर्ण हो सकेगा किंतु शर्त यह है कि यह विवाह तब तक पूर्ण और पक्षों को कानूनी बन्धन में जकड़ने वाला नहीं होगा जब तक कि प्रत्येक पक्ष रजिस्ट्रार और 3 साक्षियों के सम्मुख ऐसा नहीं कहता कि मैं मुझको अपनी कानूनसंगत पत्नी (अथवा पति) बनने के लिए ग्रहण करता (या करती) हूँ।

वस्तुतः विवाह मन्त्रों में यह भाव स्पष्टतया समाविष्ट है। एक मुख्य बात यह है कि अब सिविल विवाह के लिए पूर्ववत् यह कहने की आवश्यकता न होगी कि मैं हिन्दू धर्म या अन्य किसी स्वीकृत धर्म को मानने वाला नहीं।

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(हिन्दू कोड बिल पर कुछ विचार-3)

विवाह-विच्छेद की परिस्थितियां

पं. धर्मदेव विद्यावाचस्पति

इस तृतीय लेख में मैं विवाह संबन्ध विच्छेदादि विषयक धाराओं पर कुछ विचार करना चाहता हूँ जो मुख्यतया निम्न हैं–

धारा 30––कोई ऐसा विवाह, चाहे वह इस कोड में आरम्भ होने से पहले अथवा बाद में सम्पूर्ण हो चुका है, निम्नांकित आधारों में से किसी एक के कारण खत्म हो जायेगा।

(1) यदि ऐसे विवाह के समय पर और तब से लेकर लगातार इस सम्बन्धी अदालती कार्यवाही के आरम्भ तक विवाह के दोनों पक्षों में से कोई एक नपुंसक था।

(2) यदि पति किसी स्त्री को रखेली के रूप में रख रहा है अथवा पत्नी किसी पर पुरुष की रखेली बन कर रह रही है या वेश्या का जीवन व्यतीत कर रही है।

(3) यदि विवाह के दोनों पक्षों में से कोई पक्ष दूसरा धर्म ग्रहण कर लेता है और हिन्दू धर्म को त्याग देता है।

(4) यदि विवाह के दोनों पक्षों में एक पक्ष असाध्यरूप में उन्मत्त या पागल है और ऐसे प्रार्थनापत्र के देने के पहले निरन्तर पांच वर्ष के लिए उसका इलाज किया जा चुका है।

(5) यदि दोनों पक्षों में कोई एक बड़े भयानक और असाध्य प्रकार के कुष्ठ से पीड़ा उठा रहा है।

पूर्व इसके कि मैं इस अत्यन्त विवादास्पद और गंभीर विषय पर वैयक्तिक रूप से अपने विचार जनता के सामने रखूं, मैं यह स्पष्ट कर देना आवश्यक समझता हूं कि वैदिक आदर्श के अनुसार पति पत्नी सम्बन्ध-विच्छेद नहीं होना चाहिए। पाणिग्रहण से समय जो मन्त्र **'गृभ्णामि ते सौभगत्वाय हस्तं मया पत्या जरदष्टिर्यथासः । भगो अर्यमा सविता पुरन्धिमह्य त्वादुर्गार्हपत्याय देवाः।** (ऋ. 10, 85, 36) **'मभेयमस्तु पोष्या मह्य त्वादाद् वहस्पतिः । मया पत्या प्रजावती संजीव शरदः शतम् ॥** (अथर्व 14, 1, 52)

इत्यादि मन्त्र पढ़े जाते हैं उनमें वर वधू को संबोधित करते हुये स्पष्ट कहता है कि मैं तुम्हारे हाथ को सौभाग्य की वृद्धि के लिए ग्रहण कर रहा हूँ, तुम मेरे साथ वृद्धावस्था पर्यन्त सुखपूर्वक निवास करो। तुम मेरी पोष्या या भार्या हो। परमात्मा ने तुम्हें मुझे दिया है। मुझ पति के साथ तुम 100 वर्ष पर्यन्त सुख शान्ति पूर्वक रहो।

(1) **''आ नः प्रजां जनयतु प्रजा पतिराजसाय समनक्त्वर्यमां। अदुर्भमंलीः पतिलोकमाविश शं नो भव द्विपदे शं चतुष्पदे॥"** (ऋ. 10/85/43)

(2) **"इहैवस्तं माविवौष्ट विश्वमायुर्व्यश्नुतम्।**

क्रीड़न्तो पुत्रैर्नप्तृभिर्मोदमानौ स्वे गृहे॥" (ऋ. 10/85/42)

इत्यादि विवाह सूक्त के अन्य मन्त्रों में भी यह स्पष्टतया कहा गया है कि परमात्मा हमें वृद्धावस्था पर्यन्त सदा मिलाये रक्खे। हे पति-पत्नि! तुम दोनों यहां रहो। (माविवौष्टम्)

तुम्हारा एक दूसरे से कभी वियोग व विरोध न हो अथवा तुम एक दूसरे का परित्याग न करो। घर में प्रसन्न होकर सम्पूर्ण आयु को आनन्दपूर्वक बिताओ, इत्यादि।

वैदिक आदर्श के अनुसार निम्न नियम आवश्यक हैं—

(1) कम से कम 24 वर्ष तक पुरुष और 16 वर्ष तक कन्या पूर्ण ब्रह्मचर्य का पालन करें तभी एक दूसरे की प्रसन्नता से गृहस्थाश्रम में प्रवेश करें।

(2) विवाह युवावस्था में स्वयंवर रूप में होना चाहिये, जब परस्पर दृढ़ कामना हो तभी विवाह होना चाहिए अन्यथा नहीं। यह भाव **'एयमगन् पति कामा जनिकामोऽहमागमम् ।'** (अथर्व वेद) **'वधूरियं पति मिच्छन्त्येति॥** (ऋ. 5/37/3) **'भद्रा वधूर्भवति यत्सुपेशा स्वयं सा मित्र वनुते जने चित् ॥** (ऋ. 10/27/12)

इत्यादि वेद मन्त्रों में स्पष्टतया प्रतिपादित है। दोनों अपने कर्तव्य और उत्तरदायित्व को जानते हुए परस्पर प्रसन्नतापूर्वक विवाह करते हैं।

(3) पुरुष को पत्नीव्रत धर्म का और स्त्री को पतिव्रत धर्म का भली भांति सदा पालन करना चाहिए। परस्पर पूर्ण विश्वास रखते हुए उन्हें धर्म, अर्थ, काम में पूर्ण सहयोग देना चाहिये।

यह लिखने की आवश्यकता नहीं कि इन वैदिक आदर्शों का पालन करते हुए विवाह सम्बन्ध विच्छेदादि का प्रश्न ही नहीं उठ सकता। किन्तु दुर्भाग्यवश इन आदर्शों और नियमों से जनता बहुत दूर जा चुकी है। न ब्रह्मचर्य का क्रम रहा, न वेदाध्ययनादि का और न अन्य वैदिक नियमों का पालन किया जाता है जिस से शारीरिक, मानसिक और आत्मिक शक्तियों का विकास हो सके। ऐसी दशा में प्रश्न उपस्थित होता है कि जो अवस्थाए धारा 30 में वर्णित हैं उन में क्या किया जाए।

मध्यकाल में जो भी स्मृतियां लिखी गईं तथा अन्य ग्रन्थ बनाऐ गऐ उन में वैदिक आदेशों के विरुद्ध बहुत सी बातें पाई जाती हैं जिन को प्रामाणिक मान कर बाल्य विवाह प्रचलित हो गया, स्त्रियों से वेदाध्ययन और यज्ञ का अधिकार छीन लिया गया, विवाह केवल माता पिता या अधिकतर अशिक्षित पुरोहित या नाई आदि की इच्छा से होने लगे जिनमें गुणकर्म स्वभाव के मेल का विचार न करके केवल जाति उपजाति की समानता का ध्यान रक्खा गया। ऐसी अवस्था में जो शोचनीय परिस्थिति उत्पन्न हो गई उसको सुधारने की आवश्यकता से कोई विचारशील व्यक्ति इन्कार नहीं कर सकता। बाल्य विवाह का ही कुपरिणाम बाल्य मरण, निर्वीर्यता व नपुंसकता आदि के रूप में दृष्टिगोचर होता है। पति-पत्नी के कलह तथा पतियों द्वारा विवाहित पत्नियों के त्याग, उन से क्रूरतापूर्ण व्यवहार अथवा पुनर्विवाह आदि के सैकड़ों नहीं हजारों उदाहरण किसी भी नगर में सुगमता से पाये जा सकते हैं। ऐसी अवस्था में क्या वैदिक आदर्शों अथवा सनातन धर्म की दुहाई देने से काम नहीं चल सकता है? इस प्रश्न पर समाज-हितैषियों को गम्भीरता से विचार करना चाहिए। इस बात का भी ध्यान रखना चाहिए कि जिस प्रतिकार का अवलम्बन किया जाए वह कहीं वर्तमान अवस्था को और भी बिगाड़ने वाला न हो।

●●

(हिन्दू कोड बिल पर कुछ विचार-4)

विवाह-विच्छेद और स्मृति आदि ग्रंथ

पं. धर्मदेव विद्यावाचस्पति

प्रायः कहा जाता है कि विवाह सम्बन्ध विच्छेद (जिसे साधारणतया तलाक के नाम से कहते हैं) हिन्दू धर्म तथा हिन्दू समाज की भावना के सर्वथा विरुद्ध तथा उसके लिए सर्वथा नवीन प्रथा है जिसको इस बिल द्वारा हिन्दू समाज पर लादा जा रहा है। यही बात भारतीय राष्ट्र भारतीय राष्ट्र संसद (पार्लियामेंट) में पं. लक्ष्मीकान्त मैत्रादि अनेक सज्जनों ने बार बार कही थी किन्तु स्मृतिग्रन्थों तथा मध्यकालीन अन्य साहित्य का निष्पक्षपात अनुशीलन करने पर इसकी असत्यता स्पष्ट ज्ञात है। जैसे कि इस लेख के प्रारम्भिक भाग में मैं दिखा चुका हूँ वैदिक आदर्शों का अनुकरण करते और विवाह विषयक वैदिक नियमों का पालन करते हुए तो विवाह सम्बन्ध विच्छेद का प्रश्न ही नहीं उठ सकता किन्तु उन आदर्शों से दूर होने और वेद विरुद्ध प्रथाओं के अनुसरण के कारण जो शोचनीय अवस्था उत्पन्न हो चुकी है हमें तो इस समय उसपर विचार करना है। निम्नलिखित स्मृत्यादि वचनों को इस सम्बन्ध में ध्यान में रखना चाहिए। सब से पूर्व मैं उस स्मृति वचन को उद्धृत करता हूं जो सुप्रसिद्ध है :

(1) **''नष्टे मृते प्रव्रजिते, क्लीबे च पतिते पतौ । पंचस्वापत्सु नारीणां, पतिरन्यो विधीयते॥''**

यह श्लोक पराशरस्मृति के अ. 4 का श्लोक 30 है। पराशरस्मृति के **'कलौ पाराशरः स्मृतः'** अथवा **'कलौ पराशरी स्मृतिः ॥'** इत्यादि के अनुसार इस कलियुग में हमारे पौराणिक भाई जो हिन्दू कोड बिल का विरोध कर रहे हैं सब से अधिक प्रामाणिक मानते हैं। इस श्लोक का अर्थ स्पष्ट है कि—

पति के नष्ट हो जाने (उनके गुम हो जाने अथवा उसके विषय में कोई समाचार ज्ञात न होने), मर जाने, संन्यासी हो जाने, नपुंसक होने अथवा पतित हो जाने पर—इन पांच आपत्तियों में स्त्रियों के लिए दूसरे पति का विधान किया जाता है।

हिन्दू धर्म का परित्याग करके मुसलमान व ईसाई हो जाना श्रद्धालु हिन्दुओं की दृष्टि में पतित हो जाना है! अतः धारा 30 में वर्णित अनेक बातों का इसे आधार कहा जा सकता है इसमें कोई सन्देह नहीं।

मुझे मालूम है कि पौराणिक भाष्यकार तथा भाई इस श्लोक के 'पतौ' का अर्थ विवाहित पति नहीं किन्तु उत्पत्स्यमानपति' या भावी पति करके इस श्लोक का सम्बन्ध विवाह संस्कार से पूर्व केवल वाग्दान की अवस्था में मानते हैं और व्याकरण की दृष्टि से तोड़ मरोड़ कर ऐसा अर्थ करने का दुःसाहस करते हैं। किन्तु **'पतिः अन्यो विधीयते'** इन शब्दों से जिनका अर्थ सिवाय इसके कोई हो ही नहीं सकता कि दूसरे पति का विधान किया जाता है उनके इस प्रयत्न की निस्सारता सिद्ध होती है। यहां 'पतौ' इसको आर्षप्रयोग मानना ही उचित है। इस पर भी यदि किसी को सन्देह हो तो नारदीय मनुसंहिता अध्याय 12 के श्लोक 99 को देखना चाहिए जो निम्न शब्दों में है :

''पत्यौ प्रव्रजिते नष्टे, क्लीबेऽथ पतिते मृते। पंचस्वापत्सु नारीणां, पतिरन्यो विधीयते॥''

(देखो नारदीय मनुसंहिता भवस्वामिभाष्यसंहिता साम्बशिवशास्त्रिणा सम्पादिता त्रिवेन्द्रम् सन् 1929 पृ. 144) यहां उसी ऊपर उद्धृत श्लोक को ही थोड़े से शब्दभेद से दिया गया है। मुख्य बात यह कि 'पत्यौ' शब्द का प्रयोग है जो लौकिक व्याकरण की दृष्टि से भी सर्वथा ठीक है। इसका अर्थ वही है जो ऊपर दिया जा चुका है। वृद्ध मनुस्मृति अ. 9 पृ. 111 में भी यह श्लोक पाया जाता है। अग्निपुराण अ. 154 में भी यही श्लोक पराशर स्मृति के पाठ के अनुसार विद्यमान है।

गौतम धर्म के सूत्र के मस्करिभाष्य में **अपतिरपत्यलिप्सुदेवरात्** 18/4 की व्याख्या में लिखा है।

अपतिः—अविद्यमान भर्तृका अयोग्यपतिर्वा तथा च बृहस्पतिः 'नष्टे मृते प्रव्रजिते, क्लीबे च पतितेपतौ। पंचस्वापत्सु नारीणां पतिरन्यो विधीयते' इति।

(देखो पं. लक्ष्मण शास्त्री जोशी तर्कतीर्थ पूना द्वारा सम्पादित "धर्मकोष" व्यवहार कांड पृ. 1012) इससे ज्ञात होता है कि बृहस्पति स्मृति में भी यह श्लोक पाया जाता था जो स्मृति इस समय सम्पूर्णतया उपलब्ध नहीं होती।

इनके अतिरिक्त चौखम्बा संस्कृत ग्रन्थमाला कार्यालय बनारस से मनुस्मृति कुल्लूक भाष्य सहित संवत् 1992 में प्रकाशित हुई थी उसके अन्त में वर्तमान मनुस्मृति में अविद्यमान किन्तु अन्य ग्रन्थों में मनु के नाम से वर्णित श्लोकों को 'स्मृति चन्द्रिका' नामक सुप्रसिद्ध निबन्ध ग्रन्थ के आधार पर उद्धृत किया गया है जिससे प्रतीत होता है कि पहले मनुस्मृति में भी यह श्लोक पाया जाता था। जो श्लोक इतनी स्मृति-पुराणादि में पाया जाता हो उसको ऐसे ही टाला नहीं जा सकता।

(2) मनुस्मृति अ. 9 श्लोक 72 भी इस सम्बन्ध में विचारणीय है जो निम्न लिखित है :

"विधिवत् प्रतिगृह्यापि, त्यजेत्कन्यां विगर्हिताम्, व्याधिताम् विप्रदुष्टां वा, छद्मना चोपपादिताम्।" इसका अनुवाद साधुचरणप्रसाद जी ने वेंकटेश्वर प्रेस, बम्बई में मुद्रित धर्मशास्त्र संग्रह के पृष्ट 193 में इस प्रकार दिया है—

"वर को उचित है कि अलक्षण दोष वाली रोगिणी, मैथुन संसर्ग वाली अथवा ठगहारी करके दी हुई कन्या को विधिपूर्वक ग्रहण करके भी त्याग देवे।"

(3) नारदीय मनुसंहिता 12/32 में लिखा है :

"यस्तु दोषवती कन्याम्, अनाख्याय प्रयच्छति। दोषे तु सति नागः स्यात्, अन्योन्यं त्यजतोस्तयोः॥" साधुचरणप्रसाद जी ने धर्मशास्त्र संग्रह पृ. 194 में इसका अनुवाद यों दिया है:—

"यदि कन्या के दोष को छिपाकर वर को कन्या दी जाए तो वर कन्या को त्याग देवे और वर के दोष को छिपाकर कन्या से विवाह किया जाए तो कन्या वर को त्याग देवे इस में कोई अपराधी न होगा।" (धर्मशास्त्रसंग्रह पृष्ठ 194)।

प्रस्तुत हिन्दू कोड बिल में भी इस प्रकार धोखे से कराये गये विवाह को अवैध माना गया है जिस का आधार उपर्युक्त वचन प्रतीत होते हैं।

(4) मनुस्मृति अ. का निम्नलिखित श्लोक भी इस सम्बन्ध में विशेष विचारणीय है:

"प्रोषितो धर्मकार्यार्थं, प्रतिक्ष्योष्टौ नरः समाः । विद्यार्थं षड्शोऽर्थं वा, कामार्थं त्रींस्तु वत्सरान्॥

वन्धाष्टमेऽधिवेद्याब्देदशमे तु मृतप्रजा । एकादशे स्त्रीजननीं सद्यस्त्वप्रियवादिनी॥"

(मनु अ. 9/76/81)

इस का अर्थ महर्षि दयानन्द जी ने सत्यार्थप्रकाश के चतुर्थ समुल्लास में इस प्रकार दिया है:

"पुरुष के लिए भी नियम है कि वन्धया हो तो आठवें (विवाह से 8 वर्ष तक स्त्री को गर्भ न रहे) सन्तान होकर मर जावे तो दशवें जब जब हो तब तब कन्या ही हो पुत्र न हो तो ग्यारहवें वर्ष तक और अप्रिय बोलने वाली हो तो सद्यः उस स्त्री को छोड़ के दूसरी स्त्री से नियोग कर के सन्तानोत्पत्ति कर लेवे। वैसे ही जो पुरुष अत्यन्त दुखदायक हो तो स्त्री को उचित है कि उस को छोड़ के दूसरे पुरुष से नियोग कर के सन्तानोत्पत्ति कर के उसी विवाहित पति के दायभागो सन्तान कर लेवे . . . इत्यादि सत्यार्थप्रकाश 27वीं वार पृ. 73

(5) मनुस्मृति 9/79 में लिखा है कि **उन्मत्तं पतितं क्लीवम् अबीजं पाप रोगिणम्। न त्यागोऽस्ति द्विषन्त्याश्च न च दायापवर्तनम्।**

भावार्थ यह है कि यदि स्त्री ऐसे पति से द्वेष करती है जो उन्मत्त (पागल) है, धर्म का त्याग करके पतित हो गया है, नपुंसक तथा कोढ़ आदि भयंकर रोग से ग्रस्त है तो उसको विशेष दोष या दण्ड नहीं दिया जा सकता।

प्रस्तुत हिंदू कोड बिल की धारा 30 में इसी प्रकार की शर्तें रखी गई हैं जैसे पाठक लेख के प्रारम्भ में उद्धृत वाक्यों में देख सकते हैं।

(6) कौटिल्य अर्थशास्त्र धर्मस्थीय अधिकरण 3 अध्याय 2 में चाणक्य ने लिखा है:–

"नीचत्वं परदेशं वा प्रस्थितो राजकिल्विषी । प्राणाभिहन्ता पतितः, त्याज्यः क्लीवोऽथवापतिः॥"

"परस्परं द्वेषान्मोक्षः" धर्मस्थीय अ. 3/4/19

अर्थात् पति यदि नीच और पतित हो गया हो, परदेश चला गया हो (और उसके विषय में कुछ ज्ञात न हो तो नियत अवधि तक मनु के अनुसार जो अधिक से अधिक 8 वर्ष है प्रतीक्षा कर के) धार्मिक राजा से द्रोहादि भयंकर अपराधी, हत्यारा अथवा नपुंसक हो तो वह त्याज्य है।

परस्पर द्वेष से पति पत्नी का त्याग या सम्बन्ध विच्छेद हो सकता है।

(2) यम स्मृति, कात्यायनादि से इसी प्रकार अन्य भी अनेक वचन उद्घृत किये जा सकते हैं किंतु इस विषय पर विचार पहले ही लम्बा हो गया है अतः उन्हें उद्घृत करते

हुए मैं यह निवेदन करना चाहता हूं कि हमें अपनी सामाजिक व्यवस्था को ऐसा सुधारना चाहिये कि सम्बन्ध विच्छेदादि का विचार भी कभी विवाहित पति-पत्नी के मन में उत्पन्न न हों पत्नीव्रत और पातिव्रत धर्म का पालन जो हमारी प्राचीन संस्कृति के मुख्य तत्त्व हैं—यदि पति-पत्नी करें तो इस प्रकार के विधान सर्वथा अनावश्यक हो जाएं। सब समाज-हितषियों को मिल कर ऐसा ही प्रयत्न करना चाहिये। अत्यन्त विशेष आपत्ति, आकस्मिक मरण, असमर्थतादि में प्राचीन नियोग पद्धति का आश्रय लिया जा सकता है, किन्तु वर्तमान परिस्थिति में यदि इसे व्यावहार्य न माना जाय तो अत्यन्त विकट और जटिल अवस्थाओं में जहां अन्य कोई चारा ही न हो, सम्बन्ध विच्छेद की अनुमति अन्तिम साधन के रूप में दी जा सकती है पर उसकी शर्तों को अत्यधिक कठोर बनाना चाहिए ताकि उसका दुरुपयोग न हो सके। पाश्चात्य देशों में तलाक को जो अत्यन्त सुलभ बना दिया गया है उसके कारण नैतिकता व सदाचार का अत्यन्त ह्रास हो रहा है जो अवस्था अत्यन्त निन्दनीय है अत: हमें उसका अनुकरण न करना चाहिए। अत: जो धारा 30 मैंने इस लेख के प्रारम्भ में उद्धृत की थी उसमें निम्न संशोधन मुझे अत्यावश्यक प्रतीत होते हैं:

(1) ऐसा नियम बना दिया जाय कि विवाह के 8 वर्ष बाद तक कोई सम्बन्ध विच्छेद के लिए प्रार्थनापत्र नहीं दे सकता और न किसी को ऐसी अनुमति उस अवधि तक दी जायेगी। विश्वस्त-सूत्र से ज्ञात हुआ है कि 5 वर्ष की अवधि को इस बिल के प्रस्तोता संशोधन के रूप में स्वयं स्वीकार करने को उद्यत हैं यदि उसे 8 वर्ष तक बढ़ा दिया जाय तो अधिक अच्छा हो। इस बीच में बहुत अधिक सम्भावना यही है कि पति-पत्नी एक दूसरे के स्वभावादि से परिचित होकर सम्बन्ध-विच्देदादि का विचार भी न करेंगे।

(2) नपुंसकता, पागलपन, कुष्ठ इत्यादि की चिकित्सा के लिए भी 8 वर्ष की अवधि देना उचित है। यदि भली-भांति चिकित्सा और सेवा-शुश्रूषा करने पर भी लाभ न हो और पति-पत्नी सम्बन्ध-विच्छेद पर ही उतारू हों तो इस 8 वर्ष की अवधि के पश्चात् उसकी अनुमति दी जा सकती है।

विवाह-विच्छेद विषयक धारा 30 के अतिरिक्त धारा 33 में 'अदालत अलहदगी' के विषय में कहा गया है कि:

"विवाह के दोनों पक्षों में से कोई भी व्यक्ति चाहे ऐसा विवाह इस कोड के आरम्भ काल से पहले अथवा पीछे सम्पूर्ण हो चुका है जिला अदालत को इस आधार पर अदालती अलहदगी की डिग्री प्राप्ति के लिये प्रार्थना कर सकता है कि दूसरा पक्ष—

(अ) प्रार्थी को एक ऐसे समय से छोड़ चुका है कि जिसकी अवधि 2 वर्ष से कम नहीं है।

(इ) ऐसे जुल्म या अत्याचार का दोषी हो चुका है कि जिस के फलस्वरूप प्रार्थी उक्त पक्ष के साथ रहने में भयभीत हो चुका है अथवा

(उ) असाध्य, सोजाक, आत्यंतिक व्याधि से पीड़ित हो रहा है जो कि प्रकट अवस्था में है तथा जो कि उसे प्रार्थी की ओर से नहीं लगी है तथा इतने समय से वह इस व्याधि से पीड़ित है जिसकी अवधि उस प्रार्थना-पत्र देने के सन्निहित काल से आरम्भ करके एक वर्ष से कम नहीं है।

(ऋ) एक भयानक प्रकार से कुष्ठ (कोढ़) से पीड़ित हो रहा है अथवा

(ए) विवाह की तारीख से लेकर उसे लगातार स्वाभाविक पागलपन हो चुका है अथवा

(ओ) दाम्पत्य काल के दौरान में व्यभिचार कर चुका है।"

इन नियमों में भी 1 और 2 वर्ष की अवधि के स्थान पर कम से कम 5 वर्ष की अवधि रखनी चाहिए। यह अदालती अलहदगी, संपूर्ण तथा विवाह विच्छेद से भिन्न है अतः न्यायाधीशों तथा अन्यों को ऐसा प्रयत्न करना चाहिये जिससे दम्पती प्रेमपूर्वक साथ रहने को पुनः उद्यत हो जाएं।

पातिव्रत धर्म के महत्त्व के विषय में जो कहा जाता है वह ठीक ही है और इसमें सन्देह नहीं कि वह हमारी संस्कृति और सभ्यता के लिए विशेष गौरव की वस्तु है जिसकी जितनी भी प्रशंसा की जाए थोड़ी है। दुःख की बात यही है पत्नीव्रत धर्म के महत्त्व पर हिन्दू समाज में उतना बल नहीं दिया जाता अन्यथा इतनी शोचनीय दशा न होती, और न इस प्रकार के नियमों की कोई आवश्यकता होती। बड़ौदा में सन 1931 से हिन्दू डाइबोर्स लॉ अथवा सम्बन्ध विच्छेद की अनुमति का कानून विद्यमान है, किन्तु तब से अब तक उन जातियों की ओर से जहां पहले तलाक की प्रथा न थी केवल 43 की केस हुए हैं जिन में मुख्य आधार पति की ओर से क्रूरता और परित्याग ही था।

अतः इन उपर्युक्त धाराओं की भी न जानते हुए अज्ञ जनता में उत्तेजना उत्पन्न करने के लिए जो यह फैलाया जा रहा है कि इस बिल के अनुसार जब इच्छा होगी पति-पत्नी एक दूसरे का परित्याग कर देंगे और इस प्रकार हिन्दू जाति और उसकी संस्कृति का नाश हो जायेगा, यह बात सर्वथा असत्य है।

धारा 34 में स्पष्ट कहा गया है कि "कोई भी विवाह तब तक कानूनी तौर पर परित्यक्त हुआ नहीं विचारा जायेगा जब तक कि उस पर किसी समुचित आदालत द्वारा यह घोषित करते हुए डिग्री नहीं दी जाती कि ऐसा विवाह या तो विवाह-विच्छेद के लिये दिये प्रार्थना-पत्र पर खतम किया गया है अथवा किसी अन्य ऐसी कानूनी कार्यवाही में समाप्त किया गया है जिसमें विवाह का जायजपन (वैधता) विचारणीय विषय था।"

धारा 44—विवाह समाप्ति सम्बन्धी प्रत्येक डिग्री जो जिला जज द्वारा दी गई है वह हाईकोर्ट द्वारा पक्का होने का विषय होगी। इत्यादि इन नियमों का दुरुपयोग किसी भी अवस्था में न होने पाए और इन्हें नर्म न बना दिया जाय (जैसे कि पाश्चात्य देशों में है) यह चेतावनी देना आवश्यक है। "भारत में लगभग 90 प्रतिशत जातिभेद की दृष्टि से शूद्रों में आते हैं। जिनमें सम्बन्ध-विच्छेद की प्रथा किसी न किसी रूप में प्रचलित है", यह माननीय डा. अम्बेडकर का कथन कहां तक ठीक है यह मुझे ज्ञात नहीं। सम्भवतः इसमें कुछ अत्युक्ति हो। जातिभेद की अनिश्चितता के कारण भी ऐसा संभव है तथापि इसे मैं तलाक की प्रथा को उत्तम समझने अथवा उसे अपनाने की युक्ति के रूप में मानने को उद्यत नहीं। हां सर्वथा अन्तिम साधन के रूप में उपायान्तर न होने पर ही उसकी अनुमति अति विशेष अवस्थाओं में दी जा सकती है। मैंने ये बातें समस्त हितैषियों के विचारार्थ लिखी हैं। आशा है समाजहित और शास्त्रीय वचनों को ध्यान में रखते हुए इन पर विद्वान् लोग निष्पक्ष होकर विचार करेंगे। यदि वर्तमान शोचनीय परिस्थिति का अन्य कोई प्रतिकार हो सकता है तो उसका भी निर्देश करेंगे।

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(हिन्दू कोड बिल पर विचार-5)

दत्तक विधान और संरक्षकता

पं. धर्मदेव विद्यावाचस्पति

हिन्दू कोड बिल के तृतीय भाग में दत्तक विधान अथवा गोद लेने विषयक नियम हैं और चतुर्थ भाग में अल्पवयस्कता (नाबालिगपन) और संरक्षकतादि विषयक। इन दोनों भागों में वर्णित मुख्य-मुख्य धाराओं पर मैं इस लेख में संक्षिप्त विचार करूंगा।

अभी तक हिन्दुओं में गोद लेने विषयक भिन्न-भिन्न प्रकार रहे हैं। भाग 3 में उन्हें एकरूपता देने का यत्न किया गया है जो प्रशंसनीय है।

'गोद लेने के विषय में योग्यता' शीर्षक की धारा 54 में कहा गया है कि कोई भी ऐसा कि हिन्दू पुरुष जिसके होश व हवास (स्वस्थ मानसिक अवस्था) कायम है। और अपनी आयु के 18 वर्ष पूरे कर चुका है, वह पुत्र गोद (दत्तक) लेने की योग्यता रखता है।

किन्तु शर्त यह है कि कोई भी हिन्दू पुरुष अपनी पत्नी की अनुमति ग्रहण किये बिना गोद नहीं लेगा। मेरी सम्मति में दत्तक पुत्र लेने के लिए 18 वर्ष की आयु सर्वथा अपर्याप्त है। कम से कम 25 वर्ष की आयु का नियम रखना चाहिये। जैसा कि मैं इस लेखमाला के प्रथम लेख में बता चुका हूं इस कोड बिल के बनाने वालों ने हिन्दुत्व की रक्षा का ध्यान रखते हुए धारा 62 के अंश (3) में माता को दत्तक लेने का अधिकार दिया है, यदि बच्चे के पिता ने हिन्दू-धर्म को त्याग दिया हो।

यदि विधवा ने हिन्दू धर्म त्याग दिया हो तो धारा 61 के अंश (3) में उसके गोद लेने के अधिकार को समाप्त माना गया है। कोई भी हिन्दू धर्म प्रेमी इस भावना का अभिनन्दन किये बिना नहीं रह सकता।

'गोद लिये जाने की योग्यता' विषयक धारा 63 में बताया गया है कि कोई भी व्यक्ति तब तक गोद लिये जाने योग्य क्षमता नहीं रखेगा जब तक कि निम्नलिखित शर्तों के सम्बन्ध में तसल्ली नहीं हो जाती :

(१) वह हिंदू है।

(२) वह विवाहित नहीं है।

(३) वह पहले से ही गोद नहीं लिया जा चुका है।

(४) वह अपनी आयु के 15 वर्ष पूरे नहीं कर चुका है।

इनमें कोई ऐसी बात नहीं है जिस पर आक्षेप किया जा सके। एक महत्त्वपूर्ण बात यह है कि गोद लेने के विषय में वर्तमान हिंदू विधान (कानून) में विद्यमान जाति विषयक प्रतिबन्ध को हटा दिया गया है। वर्तमान कानून के अनुसार केवल उसी बालक को दत्तक के रूप में लिया जा सकता है जो गोद लेने वाले की अपनी जाति का हो । अब जाति-उपजातियों के प्रतिबंध को हटा दिया गया है। किंतु इतना ही प्रतिबंध रखा गया

है कि वह हिन्दू हो। इन शर्तों को न जानते हुए अथवा जान बूझकर भी कोड बिल विरोधियों की और से पत्रों में यह जो आन्दोलन किया गया, कि इसके अनुसार किसी भी व्यक्ति को चाहे वह मुसलमान व ईसाई भी क्यों न हो अब गोद लिया जा सकेगा, उसकी असत्यता स्पष्टतया ज्ञात होती है जाति विषयक प्रतिबन्ध की वस्तुतः इस विषय में कोई आवश्यकता व उपयोगिता नहीं, अतः आशा है उदार मनोवृत्ति वाले सभी समाजहितैषी इस धारा का वर्तमान रूप में स्वागत करेंगे। संकीर्ण मनोवृत्ति वाले कूपमंडूकों का तो इससे अप्रसन्न होना स्वाभाविक है किन्तु इस संकीर्णता से समाज और राष्ट्र की उन्नति असम्भव है। हां, जो अपनी कल्पित जाति-उपजाति तक दत्तक लेने के अधिकार को सीमित रखना चाहें उनको ये नियम ऐसा करने से रोकते नहीं, उन्हें पूर्ण स्वतन्त्रता है।

दत्तक विधान में एक मुख्य परिवर्तन जो प्रवर समिति ने किया है वह इस प्रकरण में उल्लेखनीय है। वर्तमान विधान के अनुसार दत्तक पुत्र विधवा की, जिस ने उसे गोद में लिया है, सारी सम्पत्ति पर अधिकार रख सकता था और इस के कारण बड़ी मुकदमेवाजी होती रहती थी और गोद लेने वाली विधवा की अवस्था बड़ी दयनीय हो जाती थी। अब धारा 68 में इस सम्बन्ध में कहा गया है कि : (1) जहां पर कि इस कोड के आरम्भ होने के बाद कभी विधवा गोद लेती है उस द्वारा गोद लिया हुआ पुत्रः–

(अ) उस विधवा या उस की सौत विधवाओं (यदि कोई है) द्वारा उसके गोद लेने वाले पिता के वारिस होने के रूप में ऐसी जायजाद में से, जो कि उस गोद लेने के कार्य के पहले सन्निहित काल में विद्यमान थी, उत्तराधिकार में प्राप्त की गई थी, उस का आधा लेगा।

आशा है विचारशील जनता द्वारा इस नवीन नियम का जो अनुभव से लाभ उठा कर विधवा के प्रति सहानुभूति की भावना से बनाया गया है, स्वागत व अभिनन्दन किया जायेगा।

नाबालिग और उसके संरक्षक के सम्बन्ध में जो धाराएं भाग 4 में दी गई हैं, उनके सम्बन्ध में अधिक लिखने की आवश्यकता नहीं। धारा 78 में हिन्दू नाबालिग (अल्पवयस्क) के स्वाभाविक संरक्षक के विषय में कहा गया हैः–

किसी नाबालिग हिन्दू की निजता (फयतहण) तथा उसके साथ साथ उसकी सम्पत्ति के मामले में उसके स्वाभाविक संरक्षक हैं–

(आ) किसी बालक या अविवाहित कन्या के मामले में पिता और उस के बाद माता, किन्तु शर्त, यह है कि ऐसे नाबालिग का संरक्षण (धगतवहनख) जो कि अपनी आयु के तीन वर्ष समाप्त नहीं कर पाया है साधारणतया उसकी माता का होगा।

(इ) किसी नाजायज बालक अथवा अविवाहित कन्या के मामले में माता और उसके बाद पिता।

(उ) किसी विवाहित लड़की के मामले में उसका पति किन्तु शर्त यह है कि कोई भी ऐसा व्यक्ति इस धारा के विधानों के अधीन किसी नाबालिग का संरक्षक होने का अधिकार नहीं रखेगा।

(अ) यदि वह हिन्दू धर्म को त्याग चुका है।

(इ) यदि वह पूर्णतया और अन्तिम रूप में धारा 110 की उपधारा (1) में वर्णित रीतियों में से किसी रीति अनुसार संसार को त्याग चुका है।

धारा 81 में बताया गया है कि जहां स्वाभाविक संरक्षक हिन्दू धर्म को त्याग चुका है वहां उसकी अधिकार सत्ता का खंडन हो जायेगा। धारा 83 में बताया गया है कि किसी नाबालिग हिन्दू के संरक्षक का कर्तव्य होगा कि वह ऐसे नाबालिग का हिन्दू के रूप में पालन पोषण करे कोई भी हिन्दू धर्म से प्रेम रखने वाला व्यक्ति हिन्दुत्व पोषक इन धाराओं का अभिनन्दन किये बिना नहीं रह सकता। एक और बात जिसका इस प्रसंग में उल्लेख और समर्थन मुझे आवश्यक प्रतीत होता है वह नाबालिग बच्चों पर माता के अधिकार की स्वीकृति विषयक है। अब तक के विधान में यह ज्ञात हुआ है कि इसकी उपेक्षा की जाती थी, यद्यपि शास्त्रों के अनुसार माता का स्थान सबसे ऊंचा है। यहां तक कि मनुस्मृति अ. 2 श्लोक 145 में लिखा है कि **'उपाध्यायान् दशाचार्यः आचार्याणां शतं पिता सहस्रतु पितृन्माता, गौरवेणातिरिच्यते।'** अर्थात आचार्य का स्थान 10 उपाध्यायों से भी बढ़ कर है, पिता का गौरव 100 आचार्यों और माता का 1000 पिताओं से भी बढ़ कर है।

इस दृष्टि से इन उपर उद्धृत धाराओं और धारा 82 के इस अंश का कि 'किन्तु शर्त यह है कि इस धारा में किसी भी ऐसी बात का होना नहीं विचारा जायेगा जो किसी भी व्यक्ति के संरक्षक का कार्य पूरा करने के लिए साधिकार कर सके यदि ऐसे नाबालिग की माता जीवित है और अपने ऐसे नाबालिग बच्चे की स्वाभाविक संरक्षिका होने की क्षमता या योग्यता रखती है।' हम अभिनन्दन करते हैं।

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(हिन्दू कोड बिल पर विचार-6)

सम्पत्ति में स्त्रियों के अधिकार

(पूर्वार्ध)

पं. धर्मदेव विद्यावाचस्पति

इस लेख में मैं उन धाराओं पर कुछ विचार करना चाहता हूं जिनका सम्बन्ध 'स्त्रियों के सम्पत्ति में अधिकार' के साथ है। पुत्रियों के उस सम्पत्ति में अधिकार पर मैं अगले लेख में विचार करूंगा। ये दोनों विषय ही बड़े विवादास्पद और कठिन है। मैने स्वयं अनेक दिनों तक इन विषयों पर शास्त्रीय तथा व्यावहारिक दृष्टि से विचार किया है और मुझे यह लिखने में संकोच नहीं कि अभी तक मैं सर्वथा निश्चित परिणाम पर पहुचने में पूर्णतया समर्थ नहीं हो सका तथापि अनेक विचारों को लेखबद्ध करना मुझे उचित प्रतीत होता है ताकि विचारशील जनता तथा विद्वन्मंडली उन पर गम्भीरता से विचार कर सके।

स्त्रियों तथा विधवाओं का सम्पत्ति में अधिकार होना चाहिए या नहीं और यदि होना चाहिये तो वह सीमित हो अथवा पूर्ण जैसा कि इस बिल की धारा 91 एवं 93 में उल्लिखित है। इन धाराओं में कहा गया है :

स्त्री की सम्पत्ति के प्रकार-(1) इस कोड के अस्तित्व में सम्पूर्णतया आने के बाद किसी स्त्री द्वारा जो भी सम्पत्ति प्राप्त की जायेगी वह निश्चयात्मक वा निजी (Absolute) उसकी सम्पत्ति होगी।

अपवाद-(2) उपधारा (1) में उल्लिखित कोई बात किसी ऐसी सम्पत्ति पर लागू नहीं होगी जो कि स्त्री द्वारा बतौर दान के या किसी वसीयतनामे के अधीन प्राप्त की गई है और जहां दान एवं वसीयतनामे की शर्तें स्पष्टरूप या आनुषंगिक रूप में ऐसी सम्पत्ति के बारे में सीमित अधिकार प्रदान करती है बशर्ते कि उक्त आनुषंगिक आदेश का उद्भव उस स्त्री जाति के कारण ही नहीं होता।

व्याख्या-इस धारा में 'सम्पत्ति में स्त्री द्वारा उपलब्ध चल और अचल उभय सम्पत्तियों का समावेश होगा, फिर चाहे यह प्राप्ति उसके विवाह से पहले या बाद हुई हो अथवा वैधव्यकाल के मध्य में हुई हो और चाहे वह उत्तराधिकारी के रूप में या किसी कार्य के फलस्वरूप अस्तित्व में आई हो या बंटवारे पर अथवा किसी सम्बन्धी या अन्य व्यक्ति द्वारा किसी दान से या अपनी चातुरी या प्रयत्न से या खरीद से या बहुकालबोधक अधिकार से किसी तरीके से प्राप्त हुई हो।

धारा 93-स्त्रीधन-पत्नी की अमानत इस कोड के आरम्भ होने के बाद किसी विवाह के संस्कार सम्पूर्ण होने की अवस्था में कोई भी ऐसा स्त्रीधन (डावरी या दहेज) जो कि उस विवाह प्रसंग पर अथवा उसकी किसी शर्त के रूप में या उसके सम्बन्ध में एक उपहार के रूप में दिया गया है वह उस स्त्री की सम्पत्ति समझा जायेगा जिसका कि इस प्रकार विवाहसंस्कार सम्पन्न किया गया है।

(2) जहां ऐसी स्त्री के अतिरिक्त कि जिसका इस प्रकार विवाह संस्कार सम्पन्न किया गया है किसी अन्य व्यक्ति द्वारा कोई स्त्रीधन प्राप्त किया जाता है, तो उस अवस्था में ऐसे व्यक्ति को वह अपने पास उस स्त्री के लाभ तथा व्यक्तिगत उपयोग के लिए एक अमानत के रूप में रखना होगा तथा जब वह स्त्री अपनी आयु का 18वां वर्ष पूरा करे तब दे देना होगा और यदि वह अपनी आयु की उक्त अवधि पूरी करने से पहले ही मर जाए तो भाग 7 में निश्चित किये गये उस के उत्तराधिकारियों के नाम परिवर्तित कर देना होगा। इन धाराओं में निर्दिष्ट वस्तु गंभ्भीरता से विचार योग्य है।

सम्राज्ञी श्वशुरे भव साम्रज्ञीश्वश्र वां भव । ननान्दरि सम्राज्ञी भव सम्राज्ञी अधि देवृषु ॥

10/85/45

यथा सिन्धुनदीनां साम्राज्यं सुपुवे वृषा । एवं त्वं सम्राज्ञेधि पत्युरस्तं परेत्य।

(अथर्व. 14/1/43)

वेदों में पत्नी का स्थान बहुत उच्च माना गया है तथा उस के लिए अनेक वेद मन्त्रों में सम्राज्ञी शब्द का प्रयोग किया गया है जिस का अर्थ सम्+राज्ञी अपने गुणों से भली भांति चमकने वाली और रानी होता है।

यह मन्त्र इस विषय में विशेष रूप से द्रष्टव्य है। सम+राज्ञी का अर्थ सम्=मिलकर (पति से मिलकर) अथवा उसके साथ राज्य करने वाली यह भी होता है। इन मन्त्रों में नव वधू को सम्बोधित करते हुए घर की सम्राज्ञी बनने का आदेश व आशीर्वाद दिया गया है और अपने श्वसुर, देवर, ननद, सास आदि सब सम्बन्धियों को सद्व्यवहार से प्रसन्न करने अथवा अपने गुणों से चमकने का उपदेश दिया गया है। **'गृहान् गच्छ गृहपत्नी यथासः।'** (ऋ. 10/85/16) तथा **'अस्मिन् गृहे गार्दपत्याय जागृहि'** (ऋ. 10/85/27) इत्यादि मन्त्रों में भी स्त्री को गृह पत्नी अथवा घर की स्वामिनी बनने का उपदेश व आदेश है। **'आशसाना सौमनसं प्रजां सौभाग्यं रयिम् । पत्युरनव्रता भूत्वा संनह्यस्वामृताय कम् ॥'** अथर्व (14/1/42) **'रथा सहस्प वर्चसा, इमौ स्तामनुपक्षितौ'** (अ. 3/78/2) इत्यादि मन्त्रों में भी वधु को कहा गया है कि तुम पति से प्रेम, प्रसन्नता, सन्तान, सौभाग्य, ऐश्वर्य की कामना करती हुई उसकी अनुव्रता हो कर सुख प्राप्त करो। ये दोनों (पति-पत्नी) सब प्रकार से धन से भरपूर हों। इस प्रकार हम देखते हैं कि वेद स्त्रियों के प्रति उच्च भाव दर्शाते हुए उनका पति की सम्पत्ति तथा समस्त सुख साधनों में समान अधिकार का निर्देश करते हैं।

मध्यकालीन साहित्य में स्त्रियों की स्थिति को हम अनेक अंशों में गिरा हुआ पाते हैं। **'अनृतं स्त्री', 'निरिन्द्रिया ह्यमंत्राश्च स्त्रियोऽनृतमिति स्थितिः॥'** तथा **'विश्वासपात्रं न किमस्ति नारी'** (श्री शंकराचार्य कृत प्रश्नोत्तरी) इत्यादि वाक्य हमें उस काल की अनेक स्मृतियों तथा अन्य ग्रन्थों में दिखाई देते हैं जिनमें स्त्रियों को अविश्वसनीय, असत्यस्वरूपिणी तथा अशुभा मानकर उनको सर्वथा अस्वतन्त्र तथा शूद्र व दासी समान माना गया है, किंतु ऐसे वेद विरुद्ध वचनों को चाहे वे किसी भी मुनि के नाम पर निर्मित

ग्रंथ में पाये जाएँ, मानने से हमें सर्वथा इन्कार कर देना चाहिए क्योंकि वेद विरुद्ध होने के अतिरिक्त वे न्याय बुद्धि के भी विपरीत हैं। दु:ख की बात यह है कि ऐसे स्त्रियों के प्रति हीनता और अविश्वास सूचक भाव लोगों के हृदयों में घर किए हुए हैं और इन विषयों पर जब कभी विचार किया जाता है तो प्राय: पुरुषों के मुख से इस प्रकार के अविश्वाससूचक वाक्य ही निकलते हैं। जैसे कि मैंने इन दिनों अनेक सुशिक्षित महानुभावों से भी बातचीत करके देखा है।

स्त्रियों के सम्पत्ति में अधिकार के सम्बन्ध में शास्त्रीय दृष्टि से विचार करते हुए हमें स्त्रीधन के स्वरूप को समझ लेने की आवश्यकता है। जिस पर प्राय: सभी स्मृतिकारों ने पूर्ण अधिकार स्वीकार किया है। मनुस्मृति 9/194 में स्त्रीधन का स्वरूप इस प्रकार बताया गया है–

अध्यग्न्यध्यावाहनिकं, दत्तंच प्रीतिकर्मणि । भ्रातृमातृ पितृ प्राप्तं 'षड्विधं स्त्रिधनं स्मृतम् ॥

अर्थात विवाह के समय में अग्नि के समक्ष जो धन स्त्री को दिया जाता है, पति के गृह से जब पिता के घर स्त्री जाती है उस समय श्वशुरादि से जो प्राप्त होता है, पति द्वारा जो प्रेमोपहार रूप में दिया जाता है तथा भाई, माता और पिता द्वारा समय पर जो कुछ प्राप्त होता है, यह 6 प्रकार का स्त्रीधन माना जाता है। याज्ञवल्क्यस्मृति 2/143 में **'पितृ मातृ पति भ्रातृदत्त मध्यग्न्युपागतम् अधिवेदनिकाद्य च, स्त्रीधनं परिकीर्तितम्॥'** इस श्लोक में स्त्रीधन का स्वरूप प्राय: मनुस्मृति के समान ही बताते हुए आदि शब्द का प्रयोग किया गया है। जिसकी व्याख्या में विज्ञानेश्वर ने मिताक्षरा टीका में लिखा है कि **'आद्य शब्देन रिक्थक्रयसंविभागपरिग्रहाधिगमप्राप्तमेतन् स्त्री धनं मन्वादिभिरुक्तम्।'** (याज्ञवल्क्य स्मृति मिताक्षरा, सुबोधिनी बाल भट्टयादी टीका सहित मद्रास पृ. 842) अर्थात् आदि शब्द से दाय भाग, खरीद बंटवारा, लाभ तथा अन्य प्रकार से प्राप्त धन, ग्रहण है।

नारदस्मृति में भी **'अध्यग्न्यध्यावाहनिकं, भर्तृदायस्तथैव च ! भ्रातृदत्तं पितृभ्यांच, षडविधं स्त्रीधनं स्मृतम ॥।'** (ना. स्मृ. 13/8) इन शब्दों में मनुस्मृति के समान स्त्रीधन का स्वरूप बताया गया है। भर्तृदाय शब्द का स्पष्ट रूप से वहां प्रयोग किया गया है जिसका अर्थ पति द्वारा प्रदत्त है।

इस स्त्रीधन पर स्त्रियों का पूर्ण अधिकार प्राय: स्मृतिकारों तथा महाभारतकार ने स्वीकार किया है, महाभारत 18/1 में कहा है :

स्त्री धनस्पेशिनी स्त्री स्पाद, भर्ताच तदनुज्ञया । भोक्तु 'रक्षयितु' 'योम्यो भर्तु' नाशयितु न च ॥

अर्थात स्त्रीधन की स्वामिनी स्त्री है। उसकी अनुमति से ही पति विशेष अवस्थाओं में उसका उपयोग कर सकता है अन्यथा नहीं। यहां तक कि इस विषय में लिखा है:

'न भर्ता नैवं च सुतो न पिता भ्रातरों न च । आदाने वा विसर्गे वा, स्त्रीधने प्रभविष्णव: ॥'

(दायभाग 78 स्मृति चन्द्रिका 282 पराशर माधवीय 556)

अर्थात् स्त्रीधन को लेने और उसको बेचने आदि का अधिकार पति, पुत्र, पिता, भ्राता आदि किसी को भी नहीं है।

सौदायिक धन का लक्षण शुक्रनीति 4/793 में इस प्रकार किया गया है :

ऊढया कन्यया वापि, पत्युः पितृगृहेऽपिवा। भ्रातुः सकाशात्पित्रोर्बा, लब्धं सौदायिकं स्मृतम् । (स्मृतिसार 60, स्मृति चन्द्रिका 282, पराशर माधवीय 549)

अर्थात् विवाहिता अथवा अविवाहिता कन्या पति व पिता के घर से अथवा भाई और माता-पिता के पास से जो कुछ प्राप्त करती है उसे सौदायिक कहते हैं। उस सौदायिक धन के विषय में शास्त्रकारों ने कहा है :

सौदायिकं धनं प्राप्य, स्त्रीणां स्वातंत्र्यमिष्यते। यस्मात्तदातृशंस्पार्थ, तैर्दत्तमुपजीवनम् ॥

सौदायिके सदा स्त्रीणां, स्वातंत्र्यं प्ररिकीर्तितम्! विक्रये चैव दाने च, यथेष्ट स्थावरेप्वपि॥

(शुक्रनीति 4/792-93 कात्यायनस्मृति, दायभाग 76, स्मृति चन्द्रिका 282, पराशर माधवीय 549)

अर्थात्, सौदायिक धन में स्त्रियों को सदा पूर्ण स्वतन्त्रता है। उसको बेचने और दान करने का और स्थावर सम्पत्ति-भूमि आदि के विषय में भी यथेष्ट व इच्छानुसार कार्य करने का उन्हें पूर्ण अधिकार है।

●●

(हिन्दू कोड बिल पर कुछ विचार-7)

सम्पत्ति में स्त्रियों के अधिकार

(उत्तरार्ध)

पं. धर्मदेव विद्यावाचस्पति

प्रस्तुत हिन्दू कोड बिल में स्त्रियों के सम्पत्ति विषयक अधिकार के विषय में इस लेख के पूर्वार्ध में उद्धृत धाराओं में जो कुछ कहा गया है वह इन श्लोकों में दिए भाव के सर्वथा अनुकूल है अतः इन प्रस्तावों को शास्त्रविरुद्ध बताना सर्वथा असत्य प्रमाणित होता है। किन्तु इस विषय में स्मृतिकारों का भी परस्पर मतभेद अवश्य है, विशेषतः इस विषय में कि विधवाओं का पति की चल और अचल सम्पत्ति में अधिकार सीमित होना चाहिए अथवा पूर्ण। उदाहरणार्थ नारद स्मृति में लिखा है:

भर्त्रा प्रीतेन यद्दत्तं, स्त्रियै तस्मिन् मृतेऽपितत्।

सा यथा काममश्नीयाद् दद्याद्वा स्थावराद्दते ॥

(नारद स्मृति-व्यवहार मयूख पृ. 97 में उद्धृत वचन)

अर्थात पति ने पत्नी को प्रेमपूर्वक जो कुछ दिया हो उसके मरने पर वह उस धन का इच्छानुसार उपयोग करे अथवा उसे दान दे किन्तु स्थावर या अचल सम्पत्ति के विषय में उसे यह अधिकार प्राप्त नहीं है।

एक दूसरे स्थान पर भी 2/144 में नारद ने यही बात कही है:

अपुत्रा शयनं भर्तुः पालयन्ती गुरौ स्थिता।

भुंजीतामरणात्क्षान्ता दायादा ऊर्ध्वमाप्नुयुः ॥

अर्थात पुत्र रहिता पवित्रचरण वाली विधवा क्षमाशीला होकर मरणपर्यंत पति की सम्पत्ति का उपभोग करे। उसके पश्चात वह सम्पत्ति उसके उत्तराधिकारियों को मिले।

महाभारत अनुशासन पर्व 47/23-24 में लिखा है :-

त्रिसहस्रपरोदायः, स्त्रियै देयो धनस्य वै।

भर्त्रा तच्च धनं दत्तं यथार्हं भोक्तुमर्हति ।

स्त्रीणां च पतिदायाद्यम्, उपभोगफलं स्मृतम् ॥

अर्थात् पति को चाहिये कि वह पत्नी को 3000 से अधिक कार्षापण (एक सिक्का जिसका ठीक परिणाम हमें अभी तक ज्ञात नहीं हो सका) दायरूप में दे दे और वह पति के दिये उस धन का यथोचित रूप से उपभोग कर सकती है। पति का दिया धन व सम्पत्ति उपभोग फल अर्थात जीवितकाल तक उपयोग के लिये ही है।

यही बात कौटलीय अर्थशास्त्रकार ने-

'अपुत्रा पतिशयनं पालयन्ती गुरूसमीपे स्त्रीधनम् आ आयुः क्षयाद् भुञ्जीत । अपदर्थं हि स्त्रीधनम् । उर्ध्वं दायादं गच्छेत् ॥ कौ. 3/2 में कही है।

इसमें भी विधवा को आयुपर्यन्त पति की सम्पत्ति के भोग का अधिकार दिया गया है। इसके पश्चात् वह उसके उत्तराधिकारियों को मिले । याज्ञवल्क्य स्मृति 2/16 की मिताक्षरा टीका में विज्ञानेश्वर का पुत्र रहित पति की सम्पत्ति पर पूर्णाधिकार–

'तस्मादपुत्रस्य स्वर्यातस्यासंसृष्टिनी धनं परिणीता स्त्री संयता सकलमेव गृहाति।'

इन शब्दों द्वारा प्रकट किया है। अर्थात पुत्ररहित, सम्मिलित कुटुम्ब से विभक्त पति की संयमशीला साध्वी पत्नी सारा धन संग्रह करती है।

इस प्रकार स्मृतिकारों तथा निबन्धकारों का परस्पर मतभेद इस विषय में स्पष्ट है। अतः व्यावहारिक दृष्टि से भी इस पर विचार आवश्यक है।

जो लोग हिन्दू कोड बिल में वर्णित धाराओं के विरोधी हैं उनमें से अधिकतर लोगों का यह कहना है कि स्त्रियां सम्पत्ति का प्रबन्ध करने में असमर्थ होती हैं अतः उनको पूर्णाधिकार देना ठीक न होगा। इस से न केवल उनको, प्रत्युत उन के कुल को भी हानि होगी। वस्तुतः यह बात अनुभव के आधार पर सत्य नहीं प्रमाणित होती। बम्बई में जहां कन्याओं को पिता की सम्पत्ति में पूर्णाधिकार प्राप्त है, कहा जाता है कि, उन्होंने सम्पत्ति के प्रबन्ध में पुरुषों से भी अधिक योग्यता का प्रायः परिचय दिया है। एक बात प्रस्ताव के विरुद्ध यह कही जाती है कि स्त्रियों में केवल 3 प्रतिशत शिक्षिता हैं, शेष 97 प्रतिशत अशिक्षित हैं। अतः इस प्रकार का अधिकार देना उनके लिए अत्यन्त हानिकारक सिद्ध होगा। यह युक्ति कुछ अंश तक ठीक प्रतीत होती है, किंतु इसके अनुसार पुरुषों में से भी केवल 10 प्रतिशत के लगभग शिक्षित और शेष अशिक्षित हैं अतः उन 90 प्रतिशत लोगों को भी वह अधिकार न देना चाहिए । हिन्दू विश्व विद्यालय काशी के एक सुयोग्य उपाध्याय डॉ. अनंत सदाशिव अलतेकर ने अपनी पुस्तक (The position of women in Hindu civilisation) में यह सुझाव रक्खा है कि स्त्रियों को सम्पत्ति पर पूर्णाधिकार देने के लिए शिक्षा का मानदण्ड नियत कर देना चाहिए। उस शिक्षा योग्यता से सम्पन्न महिलाएं ही उस अधिकार का उपयोग कर सकें, अन्य नहीं। यह प्रस्ताव मुझे भी उपादय प्रतीत होता है इससे यह अवश्य होगा कि जो युक्ति अशिक्षिता होने के कारण स्त्रियों के ठगे जाने की दी जाती है वह निर्बल हो जाएगी। किन्तु उस अवस्था में क्या पुरुषों के अधिकार पर भी ऐसा प्रतिबन्ध लगाना न्यायसंगत न होगा?

एक भय यह प्रकट किया जाता है कि यदि विधवाओं को पति की चल, अचल दोनों प्रकार की सम्पत्ति में पूर्णाधिकार दिया जाएगा तो इसका दुरुपयोग होने की संभावना बहुत अधिक है। अतः एक प्रस्ताव यह किया जाता है। जैसे कि श्री चांदकरण शारदा जी ने हिंदू ला कमेटी के सामने साक्षी देते हुए किया था, कि चल सम्पत्ति में स्त्रियों को पूर्णाधिकार दिया जाय किन्तु अचल सम्पत्ति में अधिकार जिससे वह उस परिवार में ही रहे। यह प्रस्ताव भी मुझे उत्तम और स्वीकरणीय प्रतीत होता है यद्यपि उपर्युक्त संभावना इससे सर्वथा दूर हो जाएगी ऐसा नहीं कहा जा सकता। एक प्रस्ताव यह भी है कि जहां सन्तान तथा अन्य उत्तराधिकारी न हों वहीं विधवाओं को पति की सम्पत्ति पर पूर्णाधिकार दिया जाए अन्यथा नहीं। मुझे तो इसकी अपेक्षा भी पूर्वोद्धृत प्रस्ताव ही

कि पति की चल सम्पत्ति में शिक्षित विधवाओं का पूर्णाधिकार हो वर्तमान परिस्थिति को दृष्टि में रखते हुए अधिक उपयुक्त प्रतीत होता है। आजकल जब कि नैतिक मर्यादा शिथिल हो रही है और धूर्त वंचकों का जाल सर्वत्र फैला हुआ प्रतीत होता है, क्या यह अच्छा न होगा कि इस विषय में अधिक सावधानी से काम लिया जाए? कुछ घरों तक उपर्युक्त प्रस्ताव के अनुसार बने कानून का परिणाम देखने के पश्चात् इस में आवश्यक परिवर्तन किया जा सकता है। इस विषय में अत्यधिक शीघ्रता की अवश्यकता नहीं। आशा है विचारशील समाजहितैषी इस विषय पर गम्भीरता से विचार करेंगे।

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(हिन्दू कोड बिल पर कुछ विचार-8)

स्त्रियों के दायभागाधिकार

पं. धर्मदेव विद्यावाचस्पति

स्त्रियों के सम्पत्ति में अधिकार विषयक धाराओं पर शास्त्रीय तथा व्यावहारिक दृष्टि से कुछ विचार करने के पश्चात अब मैं हिन्दू कोड बिल की धारा 100 में उस अंश पर कुछ विचार करना चाहता हूं जिसमें किसी वसीयतहीन मृत व्यक्ति की सम्पत्ति के बंटवारे के सम्बन्ध में नियम बतलाते हुए यह कहा गया कि 'प्रत्येक पुत्री का हिस्सा पुत्र के हिस्से के बराबर होगा' ।

निस्सन्देह यह अत्यधिक विवादास्पद धारा है जिसके विरुद्ध आंदोलन भी सबसे अधिक किया जा रहा है । यहां तक कहा जा रहा है कि यह सब मुसलमानी प्रथा है जिसे हिंदुओं पर लादने का यत्न हो रहा है । इस गम्भीर विषय पर पहले मैं शास्त्रीय दृष्टी से कुछ विचार विद्धानों के समक्ष रखना चाहता हूं । इसके पश्चात् व्यावहारिक दृष्टी से भी इस पर विचार किया जायेगा । जिस रूप में यह धारा प्रस्तुत कोड बिल में रखी गई है कि 'प्रत्येक पुत्री का हिस्सा पुत्र के बराबर होगा' मैं उस रूप के पक्ष में नहीं हूं । तथापि यह आवश्यक है कि इन कन्याओं के पैतृक सम्पत्ति में अधिकार की प्रथा का मुसलमानी, सर्वथा अशास्त्रीय तथा धर्मविरुद्ध प्रथा कहने से पूर्व, हम इस पर निष्पक्ष होकर विचार करें और इसमें परिवर्तनार्थ उचित संशोधन प्रस्तुत करें ।

पुत्रियों का पैतृक सम्पत्ति में अधिकार होना चाहिए या नहीं, यदि हां तो किनका और कितना इस पर हमें शास्त्रीय दृष्टि से पृथक् विचार करना उचित होगा । सबसे पूर्व मैं अविवाहित तथा विवाह न कराने वाली पुत्रियों के सम्बन्ध में विचार प्रस्तुत करूंगा । उसके पश्चात् पिता की एकमात्र पुत्री के सम्बन्ध में और अन्त में विवाहिता पुत्रियों के सम्बन्ध में ।

ऋग्वेद 2/17/7 में निम्न मंत्र आया है :

''अमाजूरिव पित्रोः सचा सती समानादा सदसस्त्वामिये भगम् । कृधि प्रकेतमुपमास्याभर तद् मे भागं तन्वो येन मामहः ॥ इस मन्त्र का श्री सायनाचार्य आदि सब भाष्यकारों ने इस प्रकार भाष्य किया है–

हे इन्द्र अमाजू :–**यावज्जीवं गृह एव जीर्यन्ती पित्रोः सचा-माता-पितृभ्यां सह भवन्ती तयोः शुश्रूषणपरा पतिमलभमानः सती दुहिता (समानात्) आत्मनः पित्रोश्च साधारणात् (सदसः) गृहात्।**

गृह उपस्यामव यथा भागं याचति तथा स्तोताहं भगं भजनीयं धनं स्वामिये, त्वां याचे ॥"

इस का तात्पर्य यह है जिस प्रकार जीवनपर्यन्त माता-पिता के घर में भी रह कर अपने भाग को माता-पिता से मांगती है वैसे ही मैं स्तोता तुझ इन्द्र (परमेश्वर) से सेवनीय ऐश्वर्य की प्रार्थना करता हूं । 'धर्मकोष' के सम्पादक पं. लक्ष्मण शास्त्री जोशी तर्कतीर्थ ने इस वेद मन्त्र को व्यवहार काण्ड उत्तरार्द्ध पृ. 1415 में उद्धृत करते हुए उसका शीर्षक यह दिया है, 'अनूढ दुहिता पैत्र्यभागहारिणी पुत्री पैतृक संपत्ति में भाग ग्रहण करने की अधिकारिणी होती है ।'

इस विषय में सम्भवतः किसी भी विचारशील व्यक्ति का मतभेद न होगा कि जो किसी भी विशेष उद्देश्य से सुलभा, गार्गी आदि, की तरह नैतिक ब्रह्मचर्य का व्रत धारण करें अथवा अन्य किसी कारण से विवाह न करें उनको पैतृक संपत्ति में से भाग मिलना चाहिए।

सुप्रसिद्ध निरुक्त के प्रणेता श्री यास्काचार्य ने निम्नलिखित वेद मन्त्र पुत्रियों के दाय भाग के सम्बन्ध में उद्धृत किया है–

"शासद्वन्हिर्दुहितुर्नर्त्यगाद् विद्वां ऋतस्य दीधितिं सपर्यन् ।

पिता यत्र दुहितुः सेकमृंजन्, संशग्म्येन मनसादधन्वे ॥"

(ऋ. 3/31/1)

इस मन्त्र को उद्धृत करने से पूर्व श्री यास्काचार्य ने लिखा है :

"अथैता दुहितृ दायाद उदाहरन्ति पुत्रदायाद इत्येके।"

इसके भाष्य में दुर्गाचार्य ने लिखा है :

"एनां ऋचं शासद् वह्निः इत्यादी या वक्ष्यमाणा ता दुहितुर्दायादे अर्थ उदाहरन्ति धर्मविंदः। अस्याम् ऋचि वक्षयमाणायां दुहितुरपि दायाद्यत्वमस्तीति दृश्यते ।"

अर्थात् शासद् वह्निः इस ऋचा को जानने वाले पुत्री को दाय भाग का अधिकार है, एस अर्थ में उद्धृत करते हैं । इस ऋचा से ज्ञात होता है कि पुत्री को भी दाय भाग का अधिकार है।

इस मन्त्र का भाष्य करते हुए श्री यास्काचार्य ने लिखा है :

विद्वान ऋतस्य दिमितिं सपर्यन् विधानं पूजयन् अर्थात् वेद के विधान का आदर करता हुआ । वह वेद का विधान क्या है इसका यास्काचार्य जी ने आगे इस प्रकार प्रतिपादन किया है जो प्रस्तुत विषय की दृष्टि से अत्यन्त महत्त्वपूर्ण है :

अविशेषेण मिथुनाः पुत्रा दायादा इति । तंदेतट्टक् श्लोकाभ्यामभिहितम् अङ्वङ्गात् संभवसि हृदयादधि जायसे । आत्मा वै पुत्रनामासि स जीव शरदः शतम् ॥ इति ॥ अविशेषेण पुत्राण ां दायो भवति धर्मतः 1 मिथुनानां विसर्गादौ मनुःस्वायम्भुवोऽब्रवीत ॥

अर्थात पुत्र और पुत्री दोनों को दायभाग का अधिकार है जैसे कि निम्नलिखित ऋचा में और श्लोक में बताया गया है, जिनका अर्थ यह है कि पुत्र को सम्बोधित करते हुए जो यह कहा जाता है कि तू अङ्ग-अङ्ग और हृदय से उत्पन्न होता है अतः मेरी आत्मा के तुल्य है तू सौ वर्षों तक जी, यह पुत्र पुत्री दोनों पर समान रूप से लगता है, यह वचन शत पथ ब्राह्मण 14/9/4/6, साम ब्राह्मण 1/5/17 वृहदारण्यकोषनिषद् 6/4/26, कौषीतकी ब्राह्मणोपनिषद् 2/11, पारस्कर गृह्यसूत्र 1/16/18, हिरण्यकेशी गृह्यसूत्र 2/3/2 इत्यादि में पाया जाता है । इसी के समान निम्न वचन मनुस्मृति 9/130 में है–

यथैवात्मा तथा पुत्रः, पुत्रेण दुहिता समा । तस्यामात्मनि तिष्ठन्त्यां कथमन्यों धनं हरेत् ॥

अर्थात् पुत्र अपनी आत्मा के समान होता है पुत्री पुत्र के समान होती है । उस आत्मातुल्य पुत्री के होते हुए अन्य कैसे धन ले सकता है ?

महाभारत अनुशासन पर्व 45/11 में मनुस्मृति का उपर्युक्त श्लोक ही उद्धृत किया गया है । दूसरा श्लोक जो निरुक्तकार यास्कमुनि ने स्वायम्भुव मनु के विषय में उद्धृत किया है उसका अर्थ यह है कि स्वायम्भुव मनु ने अविशेष या सामान्य रूप से पुत्र और पुत्री दोनों का धर्मानुसार दाय भाग में अधिकार होता है ऐसा सृष्टि के प्रारम्भ में बताया । स्वायम्भुव मनु का ऐसा मत वेद के आधार पर ही होना चाहिए इसलिए निरुक्तकार ने **'शासद वह्निर्दुहितुः'** इस मन्त्र को उद्धृत किया है ।

निरुक्तकार का मत स्पष्टतया लड़कियों के दाय भाग के अधिकार के पक्ष में ज्ञात होता है यद्यपि 'न दुहितर इत्येके' यह लिख कर उन्होंने दूसरा पक्ष उन लोगों का रखा है जो यह कहते हैं कि लड़कियों का दाय भाग में अधिकार नहीं है । यह लिखने की आवश्यकता कि **"स्त्रियाः दानविक्रयातिसर्गा विद्यन्ते न पुंसः"** अर्थात स्त्रियों का दान किया जाता है, उन्हें बेचा जाता है और उनका इच्छानुसार त्याग कर दिया जाता है अथवा **"तस्मात् स्त्रियं जातां परास्यन्ति न पुमांसम्"** अर्थात् स्त्री (कन्या) के उत्पन्न होने पर उसे फेंक दिया जाता है पुरुष (बालक) को नहीं, ऐसी लचर युक्तियां देकर जो यह सिद्धांत बनाते हैं कि **"तस्मात् पुमान् दायादः अदा यादा स्त्रीति विज्ञायते ।"** अर्थात पुरुष को ही दाय भाग का अधिकार है स्त्री को नहीं, उसकी अपेक्षा हमें निरुक्तकार यास्काचार्य का अपना मत अधिक उपादेय प्रतीत होता है । **'शासद् वह्निर्दुर्हित कम करें:'** यह ऋ. 3/31 का प्रथम मन्त्र जब पुत्री के दाय भाग के अधिकार का समर्थन है तो उसी सूक्त के दूसरे मन्त्र **'न तान्वो जामये'** का ठीक विरुद्ध अर्थ खींचातानी से लगाना हमें संगत प्रतीत नहीं होता । उसमें बहुत अधिक खैंचातानी दाय भाग विरोधियों को करना पड़ता है । 'मातर:' का अर्थ माता-पिता 'वह्नि' का अर्थ पुरुष करके उसके साथ जबरदस्ती अवन्हि जोड कर स्त्री, एक शुभ कर्म का कर्त्ता अर्थात् पिण्ड देने वाला पुरुष और दूसरी केवल अलंकृत होने वाली स्त्री इत्यादि अर्थ कल्पित करने पड़ते हैं । निरुक्तकार ने अपना पक्ष पहले दिखा कर इस पक्ष का निर्देश मात्र कर दिया है । महर्षि दयानन्द जी ने इसकी व्याख्या अग्नि, विद्या तथा सन्तान रक्षादि के सम्बन्ध में की है, जिसका भगिनी को भाग न देने से कोई सम्बन्ध नहीं । वेद में इस प्रकार एक ही सूक्त में परस्पर विरुद्ध दो आदेश हैं, यह कौन वेद प्रेमी स्वीकार कर सकता है ? सायणाचार्य आदि भाष्यकार क्योंकि पौराणिक विचारों के थे अत: उन्होंने स्पष्ट लिख दिया कि **पिण्डदानादिकर्तृत्वात् पुत्रोदायार्हः दुहिता तथा नेति न दायार्हा' [3/31/2 सायण भाष्य]** अर्थात् पुत्र क्योंकि मृत पितरों को पिण्ड देता है इसलिए वह दाय भाग का अधिकारी है परन्तु पुत्री पिण्ड नहीं देती इसलिए उसको दाय भाग का अधिकार नहीं । ऐसी ही बात प्राय: सभी पौराणिक भाष्यकारों ने लिखी है । कइयों ने स्त्रियों के प्रति अत्यन्त तुच्छ भाव प्रकट करते हुए उनका दाय भाग में अनधिकार माना है । जैसे कि सरस्वती विलासकार ने 363 पृ. में लिखा है, **"स्त्रीयां दाय विभागो नास्ति निरिन्द्रियत्वात्"** अर्थात स्त्रियों का दाय विभाग में अधिकार इसलिए नहीं क्योंकि वे इन्द्रियशून्या होती हैं ।

पण्डित सदायतन पाण्डेय प्रधान संयुक्त प्रांतीय धर्मसंघ ने राव कमेटी के सम्मुख साक्षी देते हुए पुत्रियों के दाय भाग मे विरुद्ध यही युक्ति दी । लड़की को जो पिता के श्राद्ध तथा पिण्ड-दान आदि में कोई भाग नहीं लेती लड़के के साथ जिसको इन कर्तव्यों का पालन करना होता है दाय भाग में अधिकार देना सर्वथा अनुचित होगा (देखो हिन्दू ला

कमेटी रिपोर्ट पृ. 130) महामहोपाध्याय चिन्नस्वामी शास्त्री आदि ने इलाहाबाद में अखिल भारतीय सनातन धर्म महासभा की ओर से साक्षी देते हुए यही कहा कि लड़कियों को, जो अपने पिता का श्राद्ध नहीं करती पैतृक सम्पत्ति में कोई भाग न मिलना चाहिए । (रावकमेटी रिपोर्ट पृ. 129) इस प्रकार की निस्सार युक्तियां जो पौराणिक विचारों पर आश्रित हैं कहां तक ठीक हैं यह विचार-शील सज्जन स्वयं निर्णय करें ।

पं. लक्ष्मण शास्त्री जोशी तर्कतीर्थ ने बहिन के भाई के साथ दायादि में भाग लेने के विषय में निम्न वेदमन्त्र को धर्मकोष, व्यवहार काण्ड, उत्तरार्द्ध के पृ. 1415 में उद्धत किया है :

"एष ते रुद्र भागः सह स्वस्त्राम्बिकया तं जुपस्व ।" (शुक्ल यजुर्वेद 3/57 कण्ब संहिता 7/6, मैत्रायणी संहिता 1/10/4, तैत्तिरीय संहिता 18/6/1, शतपथ ब्राह्मण 2/6/2/9)

यहां भी बहिन के भाई के साथ दायादि में भाग का स्पष्ट निर्देश है।

"अभ्रातेव पुंस एति प्रतीची गर्तारुगिव सनये धनानाम् ।" इस मंत्र में जिसकी निरुक्त 3/4 में व्याख्या की गई है अभ्रातृका कन्या का पैतृक सम्पत्ति को प्राप्त करने का स्पष्ट निर्देश है जिसका प्रायः सब स्मृतियों में भी समर्थन किया गया है जैसे कि अगले लेख में उद्धृत स्मृत्यादि वचनों से पाठकों को ज्ञात हो जायेगा ।

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(हिन्दू कोड बिल पर कुछ विचार–9)

स्त्रियों का दायभाग और स्मृतियां

पं. धर्मदेव विद्यावाचस्पति

अब मैं इस सम्बन्ध में प्राप्त होने वाले स्मृत्यादि ग्रन्थों के वचनों को विद्वानों के सम्मुख रखना चाहता हूं ।

मनुस्मृति 9/118 में निम्न श्लोक पाया जाता है :

स्वेभ्योंशेभ्यस्तु कन्याभ्यः प्रदद्युर्भ्रातरः पृथक् । स्वात्स्वादंशाच्चतुर्भागं, पतितः स्युरदित्सवः ॥

(मनु. 9/118)

अर्थात भाइयों को चाहिए कि अपने अपने हिस्से में से चतुर्थ भाग वे पृथक् भाग वे पृथक् 2 कन्याओं अर्थात् अपनी अविवाहित भगिनियों को दें । जो न देना चाहें वे पतित समझे जाएं ।

इस वचन में कन्याओं का लड़कों से चतुर्थ भाग लेने को अधिकार स्पष्ट तथा प्रतिपादित है।

याज्ञवल्क्य स्मृति 2/12 में भी यही बात

असंस्कृतास्तु संस्कार्या भ्रातृभिः पूर्णसंस्कृतैः । भगिन्यश्व निजावंशाददृत्वांशं तु तुरीयकम् ॥

इस श्लोक द्वारा कही गई है । इस श्लोक की मिताक्षरा टीका में विज्ञानेश ने लिखा है कि **'अनेक दूहितरोपि पितुरुर्ध्वमंशभागिन्य इति गम्यते ।** अर्थात् इससे ज्ञात होता है कि पिता की मृत्यु के पश्चात् पुत्रियों का भी दाय भाग में अधिकार है । इसी टीका में आगे लिखा है कि **"नच निजादंशाद् तुरीयकम् इति तुरीयांशविवक्षया संस्कार मात्रोपयोगि द्रव्यं दत्वेति व्याख्यान युक्तम् । मनुवचन विरोधात् । तस्नात् पितुरुर्ध्वं कन्याप्यंशभागिनी पूर्व चेद्यत् किंचित् पिता ददाति तदेव लभते विशेषवचनाभावादितिसर्वमनवद्यम् ।"**

(मिताक्षरा टीका).

अर्थात् यहां भगिनी को चौथा हिस्सा देने का जो विधान है उसका यह अर्थ न समझा जाए कि संस्कार के उपयोगी द्रव्य से ही यहां प्रयोजन है, चतुर्थ भाग देने से नहीं क्योंकि ऐसा मानने से मनुस्मृति (9/118) के वचन से विरोध हो जाएगा । इस लिए यह स्पष्ट है कि पिता की मृत्यु के बाद कन्या का भी उसकी सम्पत्ति में अधिकार है । जीवित काल में तो पिता कन्या को जो कुछ देता है वह उसे प्राप्त करती है । विश्वेश्वर भट्टप्रणीत मदन पारिजात नामक सुप्रसिद्ध निबन्ध ग्रन्थ में याज्ञवल्क्य स्मृति के इस श्लोक की व्याख्या करते हुए स्पष्ट लिखा है कि **"भगिन्यश्च इत्यादेस्यं तात्पर्यार्थः। भगिनीनामसंस्कृतानां विवाहं कृत्वा ताभ्यश्चतुर्थमंशं दद्यात् ।"** (मदन पारिजात 648) अर्थात् 'भगिन्यश्च' इत्यादि याज्ञवल्क्य वचन का तात्पर्य यह है कि अविवाहिता भगिनियों का विवाह संस्कार करा कर फिर उनको अपने भाग का चौथा हिस्सा दे ।

जो लोग यह मानते हैं कि भगिनी को चतुर्थ अंश केवल विवाह–संस्कारार्थ दिया जाता है, इस मत का खण्डन करते हुए मदनपारिजात में आगे लिखा है कि **"केचन एवं मन्यन्ते, पूर्वोक्तरीत्या चतुर्थमंश कन्यकायै दत्वा तेनैव विवाहः कर्तव्यो न तु समुदित द्रव्येण विवाहं कृत्वा पुनरपि चतुर्थांशदानमिति तन्मेधातिथिमिताक्षराकारादीनामनभिमतत्वादुपेक्षणीयम् ।"** (मदन पारिजात 650) अर्थात् कई ऐसा मानते हैं कि पूर्वोक्त प्रकार कन्यों को अपना चौथा

हिस्सा देकर उसी से उनका विवाह करना चाहिए न कि एकत्रित व संयुक्त द्रव्य से विवाह करके फिर उनको चौथा हिस्सा देना चाहिए । यह मत मेधातिथि, मिताक्षराकार विज्ञानेश्वर इत्यादि के विरुद्ध होने के कारण उपेक्षा करने योग्य है । व्यवहार काण्ड (देखो धर्मकोष पृ. 1420).

बालम्भट्टी नामक याज्ञवल्क्य स्मृति की टीका में भी यही बात कही गई है कि **"केचिदुक्तरी-त्यैव तुरीयमंशं कन्यायै दत्वा तेनैव विवाहः कार्यो न तु समुदितद्रव्येण विवाहोंऽशदानं च पृथगित्याहुः। तन्मतं खण्डयति । न चेति एतेन देशाचाराद् व्यवस्थेतिमद नपारिजातायुक्तमपास्तम् ।" (बालम्भट्टी--धर्मकोष पृ. 1421)** अर्थात् जो यह कहते हैं कि कन्या को उक्तरीति से चौथा भाग देकर उसी से विवाह करना चाहिए न कि संयुक्त द्रव्य से विवाह संस्कार करा कर चौथा भाग पृथक् देना चाहिए उनके मत का 'नच' इत्यादि के द्वारा मिताक्षराकार ने खण्डन किया है । मदन पारिजात ने अन्त में जो यह लिख दिया था कि 'अथवा देशाचार से इसकी व्यवस्था हो जायेगी उसका भी इससे खण्डन हो जाता है ।

इस विषय को कुछ विस्तार में लिखने की आवश्यकता इसलिए हुई कि प्रायः पौराणिक पण्डित मनुस्मृति और याज्ञवल्क्य स्मृति में स्पष्ट प्रतिपादित चतुर्थ भाग देने का तात्पर्य केवल विवाह संस्कारार्थ बताकर टालमटोल का यत्न करते हैं उसकी निस्सारता और अयथार्थता विद्वानों को ज्ञात हो जाये । अब इस सम्बन्ध में अन्य स्मृत्यादि वचनों को देखिए ।

(7) नारद संहिता 14/13 में लिखा है :–

ज्येष्ठायांशोऽधिको ज्ञेयः, कनिष्ठायावरः स्मृतः । समांशभागः शेषाः स्युः, अप्रत्ता भगिनी तथा ॥ अर्थात् ज्येष्ठ भ्राता को कुछ अंश अधिक देना चाहिए, सबसे छोटे को कम। शेष भाईयों और अविवाहिता बहिन को बराबर बांटना चाहिए।

यहां अविवाहिता बहिन को पैतृक सम्पत्ति में से मध्य वाले भाइयों के बराबर भाग देने का विधान है ।

(8) कात्यायन स्मृति में निम्न श्लोक है : **"कन्यकानां स्वदत्तानां; चतुर्थो भाग इष्यते । पुत्राणा च त्रयोभागाः, साम्यं स्वल्पधने स्मृतम् ॥"** (देखो दाय भाग 69, स्मृति चन्द्रिका 268) अर्थात् अविवाहिता कन्याओं का पैतृक सम्पत्ति में चौथा भाग रहता है शेष पुत्रों का 3/4 । जब वह धन थोड़ा हो तो कन्याओं का भी पुत्रों के समान धन पर अधिकार रहता है ।

(9) बृहस्पति स्मृति में इस विषय में लिखा है कि **'तदभावे तु जननी, तनयांशसमांशिनी । समांशा मातरस्तेषां, तुरीयांशा च कन्यका ॥'** (दाय भाग 69 स्मृतिसार 57 वीर मित्रोदय 2/117 धर्मकोष पृ. 1413) अर्थात पिता के मरने पर उसकी पत्नी का भाग अपने लड़कों के बराबर और कन्या का चौथा होना चाहिए ।

(10) विष्णुस्मृति 18/34, 35 में लिखा है : **'मातःपुत्र भागानुसारेण भागहारिण्यः अन्दाश्च दुहितरः॥"** (दाय भाग 68, सरस्वती विलास 357) अर्थात् माता का भाग पुत्रों के अनुसार होता है और अविवाहिता पुत्रियों का भी एक अन्य स्थान पर जिसे सरस्वती विलास पृ. 361 और धर्मकोष, व्यवहार कांड, उत्तरार्द्ध पृ. 1416 में उद्धत किया गया है। विष्णु ने कहा है कि **'अनूढानामप्रतिष्ठितानामेवांशो दातव्यः।'** अर्थात जो पुत्रियां अविवाहिता हों अथवा निर्धना व विधवा हों उन्हें पैतृक सम्पत्ति में से हिस्सा देना चाहिए।

(11) वृद्धहारीत स्मृति 7/256 में लिखा है : **भगिन्यश्च तुरीयांशं, पैतृकादाहदेद् धनम् । न स्त्रीधनं तु दायाद्वा विभजेरयुनापदि ॥** अर्थात् पैतृक धन से बहिनों को अपना चौथा भाग दे । सम्बन्धी बिना विशेष आपत्ति के स्त्री धन का बंटवार न करें ।

(12) देवल स्मृति में निम्न वचन पाया जाता था जिसे दाय भाग 175, स्मृति चन्द्रिका, 268, स्मृतिसार 59 आदि में उद्धत किया गया है :

कन्याभ्यश्च पितृद्रव्यश्च देयं वैवाहिकं वसु ॥ इसका अर्थ स्मृतिचन्द्रिकाकार ने यह किया है कि विवाहप्रयोजकं धनं कन्याभ्यः पितृद्रव्याद् देयम् ॥ अर्थात् कन्याओं को विवाह के लिए धन पैतृक सम्पत्ति में से देना चाहिए । किंतु व्यवहार प्रकाशकार ने इस अर्थ का खण्डन करते हुए लिखा है कि 'स्मृतिचन्द्रिकाकारस्तु कन्याभ्यश्चेति देववचनपनुसारेण संस्कार मात्रोपयोगि द्रव्यदानमेव मन्यते अत्र वदामः कन्याभ्यः पितृ द्रव्यदेयमिति पृथग् विधिः। तच्च मन्वाद्यनुरोधाच्चतुर्थांशरुपमेव । वैवाहिकवसुः च देयं इत्यपि पृथग् विधिः 'विभज्यमाने दायाद्ये कन्यालङ्कार वैवाहिकं च स्त्रीधनं लभेत्' इति शङ्खवचनसमानार्थतयां । व्याख्यातं चेदं शङ्खवचनं विद्यारण्यश्री चरणैः पराशर स्मृति टीकायाम्–पैतृकद्रव्यविभाग काले स्वघृतमलङ्का रादिकमपि कन्याप्राप्नोतीत्याह शङ्ख इति । यदि तु वैवाहिकं विवाहोपयोगि पितृव्यं कन्याभ्यों देयमित्यर्थः स्याद् वसुपदं पुनरुक्तं स्यादिति पृथग् विधिद्वयमेवात्र युक्तम् । तस्मादस्मदुक्तमेव व्याख्यानमादर्तुमहं नतु विवाहोपयुक्त द्रव्य परतेत्यवसेयम् ॥

(व्यवहार प्रकाश 456/457, धर्मकोष पृ. 1422) अर्थात् स्मृति चन्द्रिकाकार ने इस वचन का यह जो अर्थ किया है कि कन्याओं को केवल विवाहोपयोगी द्रव्य पिता की सम्पत्ति में से देना चाहिए यह ठीक नहीं है । यहां दो विधान हैं। एक तो यह कि कन्याओं को पैतृक धन देना चाहिए जो मनुस्मृति आदि के अनुसार चौथा हिस्सा है । दूसरी विधि यह है कि कन्याओं को विवाहोपयोगी द्रव्य देने चाहिए जैसे कि शङ्ख स्मृति में भी बताया गया है अन्यथा वसुपद व्यर्थ और पुनरुक्त होता। इसलिए हमारा अर्थ ही मानने योग्य है कि कन्याओं को पिता की सम्पत्ति में से हिस्सा (जो पुत्र का चौथा भाग हो) देना चाहिए और विवाहोपयोगी द्रव्य देने चाहिए।

(13) पैठानसि स्मृति में कहा कि **'कन्या वैवाहिकं स्त्रीधनं च लभते ।'** (व्यवहारनिण र्य तथा व्यवहारार्थ समुच्चय 129 से धर्मकोष पृ. 1422 में उद्धृत)

अर्थात् कन्या विवाहोपयोगी द्रव्य और धन के अतिरिक्त माता के स्त्रीधन को प्राप्त करे ।

(14) स्मृत्यन्तर से निम्न वचन स्मृतिचन्द्रिका 268 और व्यवहारार्थ समुच्चय 129 में उद्धृत किया गया है :–

भ्रातृभ्योंऽशं, चतुर्थांशं तत्र कन्या हरेद्धनम् ॥ अर्थात् कन्या प्रत्येक भाई के हिस्से के चौथे भाग को पैतृक सम्पत्ति में से प्राप्त करे ।

(15) कौटलीय अर्थशास्त्र 3/5 में कहा है कि,

रिक्थं पुत्रवतः पुत्रा दुहितरो वा धर्मिष्ठेषु विवाहेतु जाताः ॥

अर्थात् सन्तान वाले पिता के धन को उत्तम विवाहविधि से उत्पन्न पुत्र और पुत्रियां प्राप्त करें।

(16) शुक्राचार्य ने अपनी स्मृति में जिसे शुक्रनीति के नाम से कहा जाता है बताया है कि **समानभागा वै कार्याः, पुत्राः स्वस्य च वै स्त्रियः । स्वाभागार्धहरा कन्या, दौहित्रस्तु तदर्थभाक् ॥**

(शुक्रनीति 4, 5, 299)

अर्थात् पिता की सम्पत्ति में से पुत्रों और स्त्रियों को समान 2 भाग मिलना चाहिए । कन्याओं को पुत्रों के भाग का आधा और घेषते को उसका भी आधा । इसी प्रकार अन्य भी बहुत से वचन स्मृतियों तथा अन्य ग्रन्थों में कन्याओं के दाय भाग में अधिकार के पाए जाते हैं किन्तु उनमें कन्या का भाग प्रायः पुत्र को चौथा हिस्सा माना गया है । इन वचनों से यह तो स्पष्ट है कि वह कन्याओं को पैतृक सम्पत्ति में से भाग देने की प्रथा धर्मविरुद्ध या मुसलमानी नहीं है । इस विषय पर अन्य दृष्टियों से विचार मैं अगले लेख में करूंगा ।

●●

(हिन्दू कोड बिल पर कुछ विचार-10)

पुत्रियों के दायभागाधिकार पर विमर्श

(पूर्वार्ध)

पं. धर्मदेव विद्यावाचस्पति

पुत्रियों के पैतृक धन में दायभागाधिकार के सम्बन्ध में 16 प्रमाणों द्वारा विवेचन पूर्व लेखों में किया जा चुका है । अन्य भी अनेक प्रमाण इस विषय में उपलब्ध होते हैं किन्तु विस्तार भय से उन सबका उल्लेख करना यहां सम्भव नहीं है । शङ्ख लिखित स्मृति का निम्न वचन इस विषय में अवश्य उल्लेखनीय है जिसका कुछ निर्देश एक उद्धरण में किया जा चुका है:–

(17) **"विभज्यमाने दायाद्ये कन्पालङ्कारं वैवाहिकं, स्त्रीधनं च कन्या लभेत ।"**

इस का अर्थ यह है कि जब दायभागादि का विभाग किया जाय तो कन्या भूषण, विवाहोपयोगी द्रव्य तथा स्त्रीधन को प्राप्त करे । स्मृतिचन्द्रिका 269/270 में इस वाक्य की व्याख्या में लिखा है, **"मातृनिर्विभाज्यमाने कन्या स्वघृतमलङ्कुरं, वैवाहिकं तुरीयांशादिधनं स्त्रीधनं च, पित्रादिर्दत्तं लभेतेति ।"** यहां पुत्र के चतुर्थ भाग लेने का भी स्मृतिचन्द्रिकाकार ने उल्लेख कर दिया है ।

पिता की सम्पत्ति में चतुर्थ भाग लेने के अतिरिक्त मातृधन पर भी पुत्रियों के अधिकार का बहुत सी स्मृतियों तथा महाभारतादि में प्रतिपादन है । उदाहरणार्थ विष्णुस्मृति से निम्न वचन श्री प्रतापरुद्रदेव रचित सरस्वती विलास में उद्धत किया गया है **यौतुकं मातुः कुमारी दाय एव ।** (सरस्वती विलास पृ. 382)।

अर्थात् माता के द्रव्य पर (**यौतुकं अन्योन्यान्वितमोवधूर्वरयोर्देयं यत् तद्ध नम्**) कुमारियों का अधिकार होता है ।

(18) मनुस्मृति 9/192 में मातृधन विभाग के विषय में कहा है:

"जनन्यां संस्थितायां तु समं सर्वे सहोदराः । भजेरन् मातृकम् रिक्थम् भगिन्यश्च सनाभयः ॥"

अर्थात् माता के मरने पर उसके धन को भाई और बहिनें बांट लें।

(19) बृहस्पति स्मृति में इस विषय में लिखा है–

"स्त्रीधनं तदपत्त्यानां, दुहिता च तदंशिनी ।
अप्रत्ता चेत्समूढा, तु, लभते मानमात्रकम् ॥"
"या तस्य भगिनी सातु, ततोंऽशं लब्धुमर्हति ।
अनपत्यस्य धर्माऽयम् अभार्यपितृकस्य च ॥" 26/108
"सा च दत्ता स्वदत्ता वा, सोदरे तु मृते सति ।
तस्यांशं तु, हरेत्सैव, द्वयोर्व्यक्तं हि कारणम् ॥" 26/109
"सोदर्या विभजेरस्ते, समेत्य सहिताः समम् ।
भ्रातरो ये च संसृष्टाः, भगिन्यश्च सनाभयः ॥" 26/114

इन श्लोकों में कहा गया है कि स्त्रीधन उस मृत स्त्री के पुत्रों का होता है और पुत्री का भी उसमें भाग होता है यदि वह अविवाहित हो । विवाहिता उस में से मान व प्रतिष्ठार्थ द्रव्य प्राप्त कर सकती है । यदि किसी का भाई मर जाए तो उसकी बहिन को भी उसके धन में से भाग मिलना चाहिए । चाहे वह पुत्रिकारूप में दी हुई हो या न हो, भाई के मरने पर उस का भाग उस बहिन को मिलना चाहिए क्योंकि दोनों के जन्म का मूल एक ही है । संसृष्ट व मिली हुई पैतृक सम्पत्ति को भाई-बहिन मिल कर बांट लें।

याज्ञवल्क्य स्मृति 2/117 व्यवहाराध्याय में लिखा है:– **"मातृर्दुहितरः शेषम्, ऋण ताभ्य ऋतेऽन्वयः"। इस की मिताक्षरा व्याख्या में विज्ञानेश्वर ने लिखा है—मातृकृत्तम् ऋणं पुत्रैरेवापकरणीयं न दुद्वितृभिः ऋणावरिष्टं तु दुहितरो गृहणीयुरिति । युक्तं चैतत् पुमान् पु सोधिके वीर्ये, स्त्रीभवत्यधिके स्त्रियाः इति स्त्रयवयवानां दुहितृषु वाहुल्यात स्त्रीधनं दुहितृगामि पितृधनं पुत्रगामि पित्रवयवानां पुत्रेषु बाहुल्यादिति । तत्रच गौतमेन विशेषो दर्शितः ।**

"स्त्रीधन दुहितृणाम् अप्रतिष्ठितानां अप्रतिष्ठानां च" गौतम धर्मसूत्र 28/25 ।।

अर्थात् माता पर कोई ऋण हो तो उसको चुकाना पुत्रों का कर्त्तव्य है पुत्रियों का नहीं । ऋण को चुका कर जो धन बचे उसको पुत्रियां ले ले । मनु के वचनानुसार लड़कियों मे माता के अवयव का अधिक भाग होने के कारण स्त्रीधन पर लड़कियों का और पिता के धन पर पुत्रों का अधिक अधिकार होता है । इस विषय में गौतम ने इस प्रकार विशेष दर्शाया है कि 'स्त्रीधन अविवाहिता और अप्रतिष्ठिता अथवा निर्धना लड़कियों का होता है ।'

(21) जहां तक अभ्रातृका का संबंध है, महाभारत अनुशासन पर्व 88/22 में कहा है **'अभ्रातृका समग्रार्हा, चार्धार्हेत्वपरे विदुः॥**

अर्थात् जिसके भाई न हो ऐसी पुत्री का पिता की सारी सम्पत्ति पर अधिकार होता है ऐसा अनेक आचार्यों का मत है । किसी किसी का मत यह है कि उसका आधी सम्पत्ति पर अधिकार है ।

(22) नारद स्मृति 16/50 में ऐसी अभ्रातृका के विषय में कहा है ।

'पुत्राभावे तु दुहिता, तुल्यसन्तानकारणात् ।

पुत्रश्च हुहिता चोभौ, पितुः सन्तानकारकौ ॥

(नारदीय मनुसंहिता 14/47)

अर्थात् पुत्र के अभाव में पुत्री को पैतृक सम्पत्ति मे पूरा अधिकार होता है कि वह भी पिता की पुत्र के समान ही सन्तान है ।

(23) महाभारत अनुशासनपर्व 45/12 में लिखा है, **'मातुश्च यौतुके यत्स्यात् कुमारीभाग एव सः ॥'**

अर्थात् माता के धन पर कुमारी का अधिकार होता है ।।

(24) बृहस्पति स्मृति 26/132 में कहा है– **'सद्दशी सद्दशेनोढा, शूश्रषणे रता । कृताऽकृता वा पुत्रस्य, पितुर्धनहरी तु सा ॥'**

अर्थात् जो पुत्री पिता के समान गुणकर्म स्वभाव वाली अपने समान योग्य पति से ब्याही गई हो, साध्वी पतिव्रता हो वह पिता के दाय भाग में अधिकारिणी होती है चाहे उसे पुत्र के रूप में माना गया हो या नहीं । इन वचनों पर निष्पक्ष दृष्टि से विचार करने पर हम इन परिणामों पर पहुंचते है–(1) जो कन्याएं आजीवन ब्रह्मचर्य का गार्गी सुलभा आदि की तरह अनुष्ठान करके सामाजिक व राष्ट्रीय सेवा मे अपने को समर्पित कर दे उनका पिता की सम्पत्ति में पुत्रों के समान अधिकार होता है और उन्हें अपने निर्वाहार्थ पुत्र के समान भाग मिलना चाहिए । यदि यह अविवाहित रहना किसी शारीरिक दोषादि के कारण हो तो भी पिता की सम्पत्ति से ऐसी पुत्रियों को भाग मिलना चाहिए ।

(2) पिता की एकमात्र सन्तान पुत्री का पिता की सम्पत्ति पर अपनी माता के होते हुए उसके बराबर अन्यथा पूरा अधिकार है ।

(3) अविवाहिता कन्याओं को पिता की सम्पत्ति में भाइयों के भाग का चौथाई अंश मिलना चाहिए ऐसा मनु, याज्ञवल्क्य, नारद, देवल, बृहस्पति, कात्यायन, विष्णु वृद्धहारीत आदि प्रायः सभी स्मृतिकारों ने माना है । शुक्राचार्य कन्याओं को पुत्रों का आधा भाग पैतृक सम्पत्ति मे देने के पक्षपाती हैं।

(4) विवाहिता पुत्रियों की भी पिता की सम्पत्ति में अधिकार हो इसका समर्थन करने वाले केवल तीन वचन मेरी दृष्टि में आये हैं । इनमें भी सब विवाहिता पुत्रियों को नहीं केवल अप्रतिष्ठिता अर्थात् निर्धना विवाहिता पुत्रियों को पिता की सम्पत्ति में से पुत्रों का चौथा भाग देने के विधान है । ये वचन विष्णुस्मृति, गौतमधर्मसूत्र और बृहस्पति स्मृति के हैं जिनको मैंने इससे पूर्व लेख में उद्धृत किया है । विष्णु का वचन जो पिछले लेख में छपा है इस प्रकार है:– **'अनूढानां अप्रतिष्ठितां एवांशो दातव्यः'** अर्थात अविवाहित और निर्धना पुत्रियों को ही पैतृक सम्पत्ति में से भाग मिलना चाहिए । सुप्रसिद्ध सनातनधर्माभिनामी दाक्षिणात्य विद्वान महामहोपाध्याय पं. अनन्तकृष्ण शास्त्री ने हिंदू ला कमेटी के सामने साक्षी देते हुए कहा था कि याज्ञवल्क्यस्मृति की मेरी व्याख्या के अनुसार एक पुत्री, चाहे वह विवाहिता हो अथवा अविवाहिता, पैतृक सम्पत्ति में से चौथे भाग की, जो विवाह विषयक खर्च के अतिरिक्त हो, अधिकारिणी है । (देखो हिंदू ला कमेटी रिपोर्ट 1947 पृ. 32).

इन सब बातों को ध्यान में रखते हुए मेरा विचार यह है कि अविवाहित कन्याओं को पुत्र के भाग का एक चौथाई पैतृक सम्पत्ति में से देना सर्वथा शास्त्रसम्मत और उचित है । उनके अतिरिक्त निर्धना विवाहिता पुत्रियों को भी पैतृक सम्पत्ति में से भाग लेने का शास्त्रानुसार अधिकार है, यद्यपि इसके निश्चय करने में व्यावहारिक कठिनाइयां अवश्य हैं ।

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(हिन्दू कोड बिल पर कुछ विचार–11)

पुत्रियों के दायभागाधिकार पर विमर्श

(उत्तरार्ध)

पं. धर्मदेव विद्यावाचस्पति

प्रस्तुत हिन्दू कोड बिल में वसीयतहीन मृत पिता की लड़कियों को लड़कों के बराबर देने का जो प्रस्ताव है उससे मैं सहमत नहीं हूं क्योंकि यदि लड़कियों को पिता की सम्पत्ति में से पुत्रों के समान भाग मिले, पति की सम्पत्ति में भी विवाहिता पत्नी का अधिकार हो, माता के स्त्रीधन में से अधिक भाग उसका हो तो वह न्याय संगत बात प्रतीत नहीं होती । सब कमेटी ने लड़कियों को बिना वसीयत मृत पिता की सम्पत्ति में पुत्रों से आधा भाग देने का प्रस्ताव किया था किन्तु प्रवर समिति (सेलेक्ट कमेटी) के अनेक सदस्यों से प्रतीत होता है कि विरोध की प्रतिक्रिया के रूप में उसे लड़कों के बराबर देने का विचार प्रकट कर दिया जिसे हम बुद्धिमत्तापूर्ण व न्यायसम्मत नहीं कह सकते। वस्तुत: ऐसा करके उन्होंने हिन्दू कोड बिल के विरुद्ध आंदोलन को अनजाने प्रबल बनाने में सहायता दी। यदि वे इस लेखमाला में उद्धृत शास्त्रीय वचनों को दृष्टि में रखते हुए और मद्रास हाईकोर्ट मे भू. पू. सुयोग्य जज सर वेपा रामेशम् जैसे सुधार प्रेमी महानुभावों के वचनानुसार लड़कियों के पिता की सम्पत्ति में से लड़कों का चौथा भाग देने का प्रस्ताव भी रखते तो इस बिल का इतना विरोध न होता यह मुझे निश्चय है। अत: मेरा अब भी इस बिल के प्रस्तावक महोदय से सानुरोध निवेदन है कि वे लड़कियों को वसीयत हीन मृत पिता की सम्पत्ति में लड़कों के चौथे भाग देने का संशोधन स्वीकार कर लें। कोई निष्पक्ष व्यक्ति शास्त्रीय दृष्टि से भी इसका विरोध करने का साहस न करेगा और व्यावहारिका दृष्टि से भी विचार करने वालों को वह अधिक न्याय संगत प्रतीत होगा।

इस प्रस्ताव के विरोध में यह कहा जाता है कि लड़कियों का पैतृक सम्पत्ति में भाग होने से भाई बहिनों के झगड़े बढ़ जायेंगे और उनमें परस्पर प्रेम नही रहेगा । यह युक्ति कुछ भी प्रबल नहीं । इस युक्ति के अनुसार तो भाइयों में भी परस्पर विभाजन नहीं होना चाहिए। संसार की प्राय: सभी जातियों में लड़कियों को पिता की सम्पत्ति में भाग मिलता है उससे उनके अन्दर प्रेम नहीं रहता अथवा झगड़े बढ़ जाते हैं ऐसा नहीं कहा जा सकता। गोआ में भी एक ही सिविल कोड हिन्दुओं, इसाइयों, मुसलमानों सब पर लागू है जिसके अनुसार लड़कियों को लड़कों की तरह पैतृक सम्पत्ति में भाग मिलता है किन्तु जांच करने पर पता लगा है कि भाई बहिनों के झगड़ों के उदाहरण वहां नहीं के बराबर हैं । भाई बहिनों का प्रेम इसलिए न रहे कि बहिन को भी मृत पिता की सम्पत्ति में कुछ भाग (जो हमारे शास्त्रसम्मत और न्याय संगत प्रस्तावानुसार भाई के भाग का चौथाई) मिलता है तो ऐसे प्रेम को तो केवल स्वार्थमूलक ही कहना चाहिए। कलकत्ता हाईकोर्ट के एडवोकेट श्री. ए. सी. गुप्त और मद्रास के सर पी. एस. शिवस्वामी ऐय्यर ने हिन्दू ला कमेटी की सामने साक्षी देते हुए इस युक्ति के खण्डन में ठीक ही कहा था कि भाई

का वह कैसा प्रेम होगा जो अपने स्वार्थ या भाग की थोड़ी सी हानि से टूट जायेगा। हम इस बात को स्वीकार नहीं कर सकते कि जब बहिन को कोई भाग न दिया जाय तब प्रेम अधिक होगा अन्यथा नहीं।

इस पर भी यदि किन्हीं महानुभावों को यह आशंका हो तो उन्हें अपनी वसीयत में यह लिखा देने का अधिकार है कि हमारी पुत्रियों को सम्पत्ति में कोई भाग न दिया जाए। वह प्रस्ताव केवल वसीयत किए बिना मृत व्यक्ति की सम्पत्ति के विषय में है कि उसकी लड़की को भी भाग मिले, अन्यों के विषय में नहीं। इस बात को प्राय: लोग नहीं जानते अथवा भूल जाते हैं। अपनी वसीयत में कुछ भी निर्देश लिखने का प्रत्येक को अधिकार है, जिसका लड़कियों को पैतृक सम्पत्ति में भाग देने के विरोधी अच्छी प्रकार उपयोग कर सकते हैं ।

यह आक्षेप किया जाता है और उसमें कुछ तथ्य है कि यदि लड़कियों को पैतृक सम्पत्ति विशेषत: चल सम्पत्ति में अधिकार दिया जायेगा तो उससे बड़ी गड़बड़ हो जाएगी। विवाह के पश्चात् लड़कियां सम्पत्ति को कहां और कैसे ले जाएंगी। इसका उत्तर यह दिया जा सकता है कि भाई बहिनों की सम्पत्ति को खरीद लें। सबसे प्रथम अधिकार उन्हें ही दिया जाए। यही विचार श्रीयुत कन्हैया लाल जी मुंशी आदि कई सुप्रसिद्ध महानुभावों ने प्रकट किया था। एक दूसरा संशोधन इस विषय में यह प्रस्तुत किया जाता है जो हमें उचित ही प्रतीत होता है कि लड़कियों को संयुक्त परिवार की सम्पत्ति में रहने और उसके उपयोग का अधिकार हो किन्तु उसे अन्यों को बेचने अथवा उसके किसी भाग को किराये पर देने का अधिकार न होना चाहिए।

इस संशोधन को यदि स्वीकार कर लिया जाय तो उपर्युक्त आक्षेप का बहुत कुछ समाधान हो जाता है ।

क्योंकि लड़कियां मृत पितरों के लिए पिण्ड नहीं देतीं अत: उनका पिता की सम्पत्ति में कोई भाग न होना चाहिए यह युक्ति जो मदुरा के राव साहब नरेश ऐय्यर, महामहोपाध्याय चिन्न स्वामी शास्त्री तथा अन्य बहुत से पौराणिक पंडितों ने प्रस्तुत की इतनी निस्कार है कि इस विषय में कुछ भी लिखना अनावश्यक है । विवाह पर जो आडम्बरपूर्ण व्यर्थ व्यय आज कल किए जाते हैं, जिनसे सिवाय अपनी प्रतिष्ठा दिखाने के कोई लाभ नहीं होता प्रत्युत हजारों परिवार सदा के लिए ऋण से दब जाते हैं, उनको कम करके लड़कियों की शिक्षा तथा आपत्ति के समय सहायतार्थ पैतृक सम्पत्ति में से भाग दिलाया जाये तो वह सर्वथा उचित ही होगा । दहेज इत्यादि की हानिकारक और आडम्बरपूर्ण प्रथाएं भी इससे बहुत न्यून हो जायेंगी और लड़कियों को आपत्ति के समय वास्तविक लाभ हो सकेगा। आशा है इन पंक्तियों पर विचारशील लोग गम्भीरता से विचार करेंगे।

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(हिन्दू कोड बिल पर कुछ विचार–12)

संयुक्त परिवार प्रथा

पं. धर्मदेव विद्यावाचस्पति

प्रस्तुत हिन्दू कोड बिल में जिन धाराओं के विरुद्ध घोर असन्तोष प्रकट किया जा रहा है उन में से निम्न धाराएं भी विशेष रूप से उल्लेखनीय हैं।

धारा 86 परिवार में जन्म सम्पत्ति पर अधिकार स्थापित नहीं करता । इस कोड के आरम्भ होने पर तथा उसके बाद, पूर्वज के जीवन काल के दरम्यान उसकी सम्पत्ति में हित रखने का दावा करने का अधिकार जो कि केवल इस तथ्य पर निर्धारित है कि दावेदार का जन्म उक्त पूर्वज के परिवार में हुआ था किसी भी अदालत में स्वीकृत नहीं होगा।

(87) संयुक्त आसामी का स्थान सम्मिलित आसामी के रूप में बदल जाएगा:–

प्रस्तुत कोड के आरम्भ पर तथा उसके बाद कोई भी अदालत, संयुक्त परिवार की सम्पत्ति में हित रखने के किसी ऐसे अधिकार को मान्य नहीं करेगी जो कि उत्तराधिकार के नियम पर अवलम्बित हैं और समस्त व्यक्ति जिनके जिस दिन यह कोड कार्यान्वित हो जाएगा उस दिन कोई संयुक्त परिवार की सम्पत्ति है वह उक्त सम्पत्ति बतौर सम्मिलित आसामियों के (टेनेन्ट्स इन कामन) Tenants in common अपने पास रखते हैं ऐसा विचारा जायेगा। मानो कि कोड के आरम्भ की तिथि पर ऐसी सम्पत्ति के विषय में संयुक्त परिवार के समस्त सदस्यों के बीच बंटवारा हो गया था और उनमें से प्रत्येक व्यक्ति अपना भाग एकपरिपूर्ण स्वामी के रूप में अपने पास अलग रखते हैं । इत्यादि :–

(88) हिन्दू पत्र के धार्मिक कर्तव्य का (पायस आब्लिगेशन) pious obligation का नियम खंडित किया जाता है (1) इस कोड के आरम्भ मे पश्चात् कोई भी अदालत सिवाय उसके जैसा कि उपधारा 2 में विनिहित किया गया है, किसी पुत्र, पौत्र, पौत्र के विरुद्ध, उसके पिता, पितामह, और प्रपितामह द्वारा लिये गये ऋण की वसूली के लिये और ऐसे किसी ऋण की अदायगी के सम्बन्ध में किसी सम्पत्ति को अधिकार में लेने के लिए इस आधार पर कि ऐसे किसी ऋण को चुका देगा उक्त पुत्र, पौत्र अथवा प्रपौत्र का धार्मिक कर्त्तव्य है, कानूनी कार्यवाही करने के अधिकार को स्वीकृत नहीं करेगी।

(2) इस कोड के प्रयोग में आने से पहिले यदि कोई ऋण लिया गया है तो उस हालत में उपधारा 1 में उल्लिखित कोई भी बात निम्नांकितों पर प्रभाव नहीं डालेगी।

(अ) किसी भी लेनदार का पुत्र, पौत्र, और प्रपौत्र जैसे कि सूरत हो, के विरुद्ध कानूनी कार्यवाही दायर करने का अधिकार या ऐसे किसी देन की वसूली के सम्बन्ध में किया गया किसी सम्पत्ति का स्वत्वार्पण या इन्तकाल (Alienation) और ऐसा कोई अधिकार या स्वत्वार्पण धार्मिक कर्त्तव्य के नियम के अधीन उसी प्रकार और उसी सीमा तक प्रयोग में लाया जायेगा जैसा कि यह कोड पास न होने की अवस्था में किया जाता।

89–संयुक्त परिवार के सदस्यों की कोड के पहिले की ऋण विषयक जिम्मेदारयों में परिवर्तन नहीं होगा–जहां इस कोड के आरम्भ से पहिले संयुक्त परिवार के नियामक एवं कर्ता द्वारा परिवार के प्रयोजनार्थ कोई कर्जा लिया गया हो तो उस अवस्था में इस कोड में उल्लिखित कोई भी बात संयुक्त परिवार की किसी भी सदस्य की उक्त ऋण चुका देने की जिम्मेदारी पर लागू नहीं होती और ऐसी कोई जिम्मेदारी ऐसे समस्त या किन्हीं भी व्यक्तियों पर जो उसके लिए उत्तरदायी हैं इसी प्रकार और इसी सीमा तक आएद की जायेगी जैसी वह कोड पास न होने की सूरत में की जाती । इत्यादि।

सबसे बड़ी आपत्ति जो इस धाराओं के सम्बन्ध में उठाई जाती है इनके द्वारा संयुक्त परिवार प्रथा का, जो कि अनादि काल से चली आ रही एक धार्मिक प्रथा है, अंत हो जाएगा। हिन्दू कोड बिल पर जो वाद-विवाद पिछले दिनों भारतीय राष्ट्रसंसद में होता रहा है उसको 4 दिन सुनने का अवसर मुझको भी प्राप्त हुआ। मुझे यह देखकर सचमुच आश्चर्य हुआ कि इसके सबसे कट्टर विरोधी एक और प्रकार से कोड विरोधी दल के प्रमुख नेता मौलाना नसीरुद्दीन अहमद हैं । जिन्होंने पग-पग पर इसकी प्रगति में रोड़े अटकाने का सिर तोड़ यत्न किया और श्रोताओं के नितान्त अरुचि प्रकट करने पर भी 7 घण्टों का भाषण कोड के विरुद्ध दिया। एक कट्टर मुस्लिमलीगी सज्जन के साथ पं. लक्ष्मीकांत मैत्रेय जैसे कट्टर पंथी सनातन धर्माभिमानी का यह गठबंधन सदस्यों और दर्शकों को अवश्य आश्चर्यचकित करने वाला प्रतीत होता है। यदि सचमुच मौलाना नसीरुद्दीन अहमद का हिंदूधर्म, हिंदू सभ्यता तथा प्रथाओं पर इतना विश्वास हो गया है कि वे इनके गुण गाते नहीं थकते तो क्यों नहीं वे इसको ग्रहण कर लेते? 2 अप्रैल के भाषण में मौ. नसीरुद्दीन अहमद ने तलाक के विरुद्ध और संयुक्त परिवार प्रथा के समर्थन में बहुत कुछ कहा। ऐसा ही पं. लक्ष्मीकांत और अजमेर के पं. मुकुट बिहारीलाल भार्गव ने भी कहा। संयुक्त परिवार प्रथा का प्रायः लोप ही होता जा रहा है। वर्तमान नियमों के अनुसार परिवार का कोई भी सदस्य साधारण पत्रादि द्वारा प्रार्थना करके भी उसके पृथक् हो सकता है । भारतीय न्यायालयों और प्रिवीकौंसिल के निर्णय संयुक्त परिवार के सदस्यों के इस अधिकार का स्वीकृत करने के पक्ष में हैं। पुराने और नये विचार वाले लोगों के रहन-सहन आचार-विचारादि में भेद इतना बढ़ गया है तथा अन्य भी अनेक ऐसी परिस्थितियां उत्पन्न हो गई हैं जिनमें संयुक्त परिवार प्रथा स्वयमेव नष्टप्राय हो चुकी है और प्रतिदिन होती जा रही है किन्तु मैं उनके नियम में लिखने की कोई आवश्यकता नहीं समझता। मैं तो इस बात पर शास्त्रों की दृष्टि से कुछ प्रकाश डालना चाहता हूं जिनके नाम की दुहाई हमारे पौराणिक भाई और मौ. नसीरुद्दीन अहमद जैसे उनके वकील देते हैं। पाठक महानुभाव स्मृतियों के निम्न वचनों पर गम्भीरता से निष्पक्ष होकर विचार करें।

(1) मनुस्मृति 9/111 में लिखा है:–

एवं सह वसेयुर्वा, पृथग् वा धर्म काम्यया।

पृथग् विवर्धते धर्मः तस्माद धर्म्मा पृथक क्रिया ॥

अर्थात् इस प्रकार भाई साथ रहें अथवा अलग अलग रहें यह उनकी इच्छा पर निर्भर है। पर अलग-अलग रहने से धर्म की वृद्धि होती है इसलिए अलग-अलग रहकर कर्म करना धर्म-सम्मत है। इसकी व्याख्या में कुल्लूक भट्ट ने लिखा है कि **"एवम् अविभक्ता भ्रातरः सह वसेयुः यदि वा धर्मकामनया कृतविभागाः पृथग् वसेयुः यस्मात् पृथगवस्थाने सति पृथग-पृथग महायज्ञाद्यनुष्ठानधर्मस्तेषां विवर्धते तस्माद विभागक्रिया धर्मार्था।"** अर्थात् इस प्रकार भाई अविभक्त रह कर साथ रहें अथवा

धर्म की कामना से विभाग (बंटवारा) करके अलग-अलग रहें, क्योंकि अलग-अलग रहने पर पंचमहायज्ञों का अनुष्ठान अलग-अलग होने से धर्म बढ़ता है। इसलिए विभाग किया अर्थात् बंटवारा करके अलग-अलग क्रिया करना धर्म के अनुकूल है ।

मेधातिथि ने भी इस श्लोक की ऐसी ही व्याख्या करके यहां तक लिखा है कि **"यस्तु जीवत्पेध पितरि कृतविवाहस्तदैव परिगृहीताग्निस्तस्यांधिकृततत्वान्नैवा—विभागः नहि विभागाधि भागयोर्धर्माधमंत्वं स्वरुपेणास्तीतयुक्तम्॥"**

(मनुस्मृति, मेधातिथिभाष्य, 2य भाग, कलकत्ता संस्करण पृ. 273)

अर्थात् जो पिता के जीवित होते हुए विवाह कर लेता है और तब गृह्याग्नि का ग्रहण करता है उसका संयुक्त परिवार से विभाग (पृथक् हो जाना) अनिवार्य या अत्यावश्यक है। परिवार के सदस्यों के विभाग होने या न होने में कोई धर्म या अधर्म नहीं है, यह हम बता चुके हैं।

(2) बृहस्पति स्मृति में इस विषय में कहा गया है :–

एकपाकेन वसतां, पितृदेवार्चनादियम् । एकं भवोद्विभक्तानां, तदेवस्याद् गृहे गृहे॥

(बृहस्पति स्मृति 26/5 पृ. 96 बड़ौदा संस्करण)

अर्थात भाई इत्यादि यदि इकट्ठे रहें और एक स्थान पर भोजन खाएं तो पितृयज्ञ, देवयज्ञादि एक ही हो सकता है किन्तु यदि वे विभक्त हो अलग-अलग रहें तो ये यज्ञ प्रत्येक घर में होते हैं इसलिए विभक्त होकर रहना ही अधिक अच्छा है।

(3) गौतम धर्म सूत्र 284 में भी इसी बात को लेके छोटे से सूत्र द्वारा प्रकट किया गया है जो निम्नलिखित है:–

'विभागे तु धर्मवृद्धिः–

अर्थात् संयुक्त परिवार की अपेक्षा उससे विभक्त हो जाने पर धर्म की वृद्धि होती है।

इसी प्रकार के वचन अन्य भी ग्रन्थों में उपलब्ध होते हैं कितु इतने ही उन लोगों के वचन को आयथार्थ सिद्ध करने के लिए पर्याप्त हैं। जो संयुक्त परिवार की प्रथा को प्राचीन आर्य हिन्दू धर्म और संस्कृति का अनिवार्य या अत्यावश्यक अंग मान कर उसके भंग को अधर्म्य समझते हैं। वास्तव में धर्म की दृष्टि से बात इससे ठीक विपरीत है । हां, यह तो आवश्यक धर्म है कि सबका परस्पर प्रेम और पूर्ण सहानुभूति हो, किसी प्रकार का विरोध भाव न हो। अथर्ववेद 3/30 में ऐसा ही आदेश है।

सहृदयं सांमनस्यमविद्वेषं कृणोमिवः। अन्यो अन्यमभिहर्यत वत्सजातामिवाध्या ॥

अर्थात् मैं तुम्हारे अंदर हृदय और मन की एकता और अद्वेष भाव को स्थापित करता हूं।

तुम आपस में ऐसा प्रेम रखो जैसा गाय नवजात बछड़े के प्रति रखती है।

व्यावहारिक दृष्टि से संयुक्त परिवार प्रथा के पक्ष-विपक्ष में बहुत कुछ लिखा जा सकता है, किंतु मैं उस विषय में लिखना यहां आवश्यक नहीं समझता। वैयक्तिक शक्तियों का विकास, स्वावलम्बनादि गुणों की वृद्धि रहने में अधिक हो सकती है ऐसा लोगों का प्रायः अनुभव है। सम्बन्धियों तथा अन्यों के प्रति दया और सहानुभूति प्रदर्शित करना तो प्रत्येक गृहस्थ का कर्तव्य है ही। धार्मिक दृष्टि से इतना निर्देश ही पर्याप्त है।

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(हिन्दू कोड बिल पर कुछ विचार-13)

हिन्दू कोड बिल की आवश्यकता

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गत लेख में मैंने संयुक्त परिवार प्रथा के सम्बन्ध में धार्मिक दृष्टि से कुछ प्रकाश डाला था। जन्मजात अधिकार की सम्पत्ति के विषय में विशेष लिखने की आवश्यकता मैंने नहीं समझी । हम वैदिकधर्मी तो जन्मसिद्ध अधिकार किसी विषय में भी नहीं मानते, **"अज्येष्ठासो अकनिष्ठास एते स भ्रातरो वावृधुः सौभगाय । युवा पिता स्वपा रुद्र एषां सुदुधा वृश्निः सुदिना मरुद्भ्यः ॥"** (ऋग्वेद 5/625)

इत्यादि मन्त्रों में मनुष्यमात्र की भ्रातृता तथा समानता का तात्त्विक दृष्टि से प्रतिपादन करते हुए जन्मसिद्ध अधिकार का निराकरण किया गया है । बोद्ध, जैन, सिक्ख आदि मतानुयायी भी समानता के सिद्धान्त को स्वीकार करते हैं जिससे जन्मसिद्धधिकार का समर्थन नहीं होता। महर्षि दयानन्द तो यहां तक बढ़ गए हैं कि उन्होंने केवल गुण-कर्म-स्वभाव पर आश्रित वर्णव्यवस्था के सिद्धान्त का प्रतिपादन करते हुए सत्यार्थप्रकाश में स्पष्ट लिखा है कि :-

> "न किसी की सेवा का भंग और न वंशच्छेदन होगा क्योंकि उनको अपने लड़के लड़कियों के बदले स्ववर्ण के योग्य दूसरे सन्तान विद्यासभा और राजसभा की व्यवस्था से मिलेंगे इसलिए कुछ भी अव्यवस्था न होगी ।" मिताक्षरा और दायभाग के अन्तर के विस्तार में जाना इस लेख में संभव नहीं किन्तु इस विषय में पटना के एक विद्वान रिटायर्ड सबजज ने हिन्दू ला कमेटी के सम्मुख साक्षी देते हुए एक अत्यन्त महत्त्वपूर्ण और युक्तिसंगत बात अपने अनुभव के आधार पर कही जिसका उल्लेख मुझे यहां उचित प्रतीत होता है । उन्होंने कहा कि "मिताक्षरा की अपेक्षा दायभाग अधिक उपयुक्त है । मैं संयुक्त परिवार प्रथा, पुत्र के जन्मजन्य अधिकारादि को समाप्त करने के पक्ष में हूं । मैं देखता हूँ कि बिहार में धनी परिवारों के बालक आलसी होते हैं क्योंकि सम्पत्ति में जन्मसिद्ध अधिकार प्राप्त है जब कि बंगाल मे जहां दायभाग के अनुसार नियम प्रचलित है, बालक कर्मशील और साहसी होते हैं क्योंकि उन्हें धनी परिवार में जन्म लेने के ही कारण कोई अधिकार प्राप्त नहीं होता ।"
>
> (देखो हिन्दू ला कमेटी पृ. 154)

पिता, पितामह के ऋण की नैतिक उत्तरदायिता से पुत्र, पौत्रादि को मुक्त करने की बात जो पूर्वोद्धृत धारा 88 में कही गई है युक्तियुक्त तथा न्यायसंगत प्रतीत होती है।

जहां तक सर्वसामान्य हिन्दू कोड बिल की आवश्यकता व उपयोगिता का प्रश्न है, मेरा विश्वास है कि किसी भी संगठन प्रेमी समाजहितैषि का इस विषय में मतभेद होना असम्भवप्राय है। अब अधिकतर स्थानीय व प्रांतीय रूढ़ियों व रीतिरिवाजों के विधान (कानून) का स्थान

ले रक्खा है । **'रूढिः शास्त्राद् बलीयसी:'** इस हानिकारिका और संगठन तथा एकता में बाधिका उक्ति ने कि रूढ़ि शास्त्र से भी अधिक प्रवल होती है, हिन्दु समाज को जीर्णशीर्ण बना दिया है । कानून का निश्चय करने में भी इसके कारण बड़ी कठिनाई होती है, और न्यायालयों के परस्पर विरुद्ध निर्णय के कारण धन और शक्ति का बड़ा अपव्यय होता है अत: एक सर्वसामान्य हिन्दू कोड का होना प्रत्येक दृष्टि से वांछनीय है । महर्षि दयानन्द ने स्वराज्य के महत्व को "कोई कितना ही करे परन्तु जो स्वदेशी राज्य होता है वह सर्वोपरि उत्तम होता है, अथवा मतमतान्तर के आग्रह रहित, अपने पराये का पक्षपात शून्य, प्रजा पर माता-पिता के समान कृपा, न्याय और अन्याय के साथ विदेशियों का राज्य भी पूर्ण सुखदायक नहीं है।" इन शब्दों में दिखाते हुए लिखा "परन्तु भिन्न-भिन्न भाषा, शिक्षा, अलग-अलग व्यवहार का विरोध छूटना अति दुष्कर है । बिना इसके छूटे परस्पर का पूरा उपकार और अभिप्राय सिद्ध होना कठिन है ।"

(सत्यार्थप्रकरण 8 में सूत्र)

मुझे इसमें सन्देह प्रतीत नहीं होता है कि हिन्दू कोड अलग अलग व्यवहारादि जन्म विषमता को दूर करने में सहायक होगा अत: यह उपयोगी है । केवल हिन्दुओं के लिए ही नहीं, सभी भारतीयों के लिए एक सर्वसामान्य व्यवहार संहिता (कोड) बनाई जाय इस मांग में मुझे कोई बुराई प्रतीत नहीं होती पर उसमें अधिक समय लगेगा । उससे पूर्व हिंदुओं के संगठन को दृढ़ करने तथा सामाजिक बुराइयों को दूर करने के लिए हिन्दू कोड की भी उपयोगिता से इन्कार नहीं किया जा सकता । मौलाना नसीरुद्दीन अहमद जैसे व्यक्ति जो कट्टर मुस्लिम लीगी रहे हैं और जिनकी मनोवृत्ति मे अब विशेष परिवर्तन हो गया है, ऐसा मानने का हमें कोई प्रमाण नहीं मिलता, यदि इस दृष्टि से भी हिन्दू कोड का विरोध कर रहे हैं तो कोई आश्चर्य की बात न होगी अन्यथा उनका इससे कोई सम्बन्ध तो नहीं जिससे सात-सात घण्टे भाषण की उन्हें आवश्यकता प्रतीत हो ।

यह कहना कि वर्तमान संविधान सभा के सदस्यों को ऐसे बिल को बनने व स्वीकृत करने का अधिकार नहीं हमें युक्तिसंगत प्रतीत होती । यदि सभा विधान बनाने जैसे महत्त्वपूर्ण कार्य को करने का अधिकार रखती है तो उसे हिन्दू कोड बिल जैसे उपयोगी बिल को बनाने व उसे पास करने के अधिकार से कैसे वंचित किया जा सकता है विशेषत: जब कि संविधान सभा एक सर्वाधिकार सम्पन्न स्वतन्त्र संस्था मानी जा चुकी है । हां, इतनी बात अवश्य न्यायसंगत और युक्तियुक्त है कि हिन्दू कोड बिल जैसे बिल पर सम्मति देने का अधिकार केवल हिन्दू सदस्यों को ही हो अन्यों को नही क्योंकी अहिंदुओं का इससे कोई सम्बन्ध नहीं । जैसा कि मैने एस लेखमाला में शास्त्रीय और व्यावहारिक दृष्टि से प्रस्तुत हिन्दू कोड बिल की भिन्न-भिन्न मुख्य धाराओं पर प्रकाश डालते हुए बताया है एक विवाह, अन्तर्जातीय विवाह समर्थन, स्त्रियों की दशा को उन्नत इत्यादि विषयक इसके प्राधान प्रशंसनीय है । विवाह की आयु, पुत्रियों के दायभाग में अधिकार तथा अन्य विषयों में संशोधनों की आवश्यकता है । वर-वधू के लिए न्यूनतम आयु 24 वर्ष और 16

होनी सर्वथा उचित है 22 और 15 तुरन्त कर ही देनी चाहिए यदि तत्काल 24 और 16 नियत करने में कोई विशेष कठिनाई हो । अति विशेष अवस्थाओं में सम्बन्ध-विच्छेद की अनुमति देना आवश्यक हो तो उसकी शर्तों को और अधिक कठोर बनाया जाए तथा 8, 10 वर्ष की ऐसी अवधि निश्चित की जाए जिसके भीतर नपुंसकता, पागलपन तथा कुष्ठ (कोढ़) इत्यादि के कारण भी सम्बन्ध विच्छेद की अनुमति न दी जाए । विषम विवाहों को दूर करने के लिए भी नियम बनाने आवश्यक हैं । गोद लेने के लिए पुरुष की आयु 25 वर्ष और स्त्री की आयु 21 वर्ष की अवश्य होनी चाहिये । पुत्रियों को दायभाग में वसीयतहीन मृत पिता की सम्पत्ति में पुत्रों के बराबर नहीं किन्तु चौथाई भाग मिलना चाहिये । हां पति की सम्पत्ति और माता के स्त्रीधन में से स्त्रियों को विशेष अधिकार मिलना चाहिए । पुत्रियों को पैतृक अचल सम्पत्ति के उपभोग का अधिकार होना चाहिए, भाई के अतिरिक्त अन्यों को बेचने तथा किराये पर देने का नहीं, इत्यादि संशोधन के लिए प्रयत्न करते हुए यदि हिन्दू कोड बिल का समान्यरुपेण समर्थन किया जाए तो यह समाज और देशहित की दृष्टि से मेरे विचार में सर्वथा उचित ही होगा । हिन्दू समाज की वर्तमान अवस्था शोचनीय है, उसका उद्धार अनेक आवश्यक सुधारों के बिना जिनमें जातिभेद को दूर करने का प्रमुख स्थान है संभव प्रतीत नहीं होता । आशा है विचारशील महानुभाव निष्पक्ष होकर इन विषयों पर गम्भीरता से विचार करेंगे ।

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Babasaheb Dr. B.R. Ambedkar

(14th April 1891 - 6th December 1956)

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Our Constitution must not be a dictatorship but must be a Constitution in which there is a parliamentary democracy, where Government is all the time on the anvil so to say, on its trial responsible to the people, responsible to the judiciary, then I have no hesitation in saying, that the principles emboded in the Constitution are as good as, if not better than the principles emboded in any other Constitution.

Constituent Assembly Debates,
Vol. 9, 17th September 1949, p. 1663

BHIMRAO R. AMBEDKAR,
M.A. Ph.D. D.Sc. Bar-at-Law.
Member Legislative Council, Bombay.

DAMODAR HALL
PAREL
BOMBAY-12.

28th Feb. 1930

To,

The Secretary, All India Depressed Classes Congress
Nagpur.

Sir,

I am in receipt of your letter dated the 27th Feb. Conveying the resolution adopted by your Reception Committee offering me the Presidentship of the Session of the All India Depressed Classes Congress proposed to be held in Nagpur and asking me to let them know whether or not I accept their offer. In reply I beg to say that I am very thankful to the Reception Committee for their offer and that I have great pleasure in accepting the same.

Hoping that your efforts to organizing the Depressed Classes will be crowned with success I remain

yours faithfully

B.R. Ambedkar

(Facsimile of Dr. Ambedkar's letter to The Secretary, All India Depressed Classes Conference, Nagpur, dated 28 February 1930.)

DR. BABASAHEB AMBEDKAR
WRITINGS AND SPEECHES
VOL. 15

(Sections I to VIII)

Edited

by

Vasant Moon

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Kumari Selja

Minister for Social Justice and Empowerment
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MESSAGE

Babasaheb Dr. B.R. Ambedkar, the Chief Architect of Indian Constitution was a scholar par excellence, a philosopher, a visionary, an emancipator and a true nationalist. He led a number of social movements to secure human rights to the oppressed and depressed sections of the society. He stands as a symbol of struggle for social justice.

The Government of Maharashtra has done a highly commendable work of publication of volumes of unpublished works of Dr. Ambedkar, which have brought out his ideology and philosophy before the Nation and the world.

In pursuance of the recommendations of the Centenary Celebrations Committee of Dr. Ambedkar, constituted under the chairmanship of the then Prime Minister of India, the Dr. Ambedkar Foundation (DAF) was set up for implementation of different schemes, projects and activities for furthering the ideology and message of Dr. Ambedkar among the masses in India as well as abroad.

The DAF took up the work of translation and publication of the Collected Works of Babasaheb Dr. B.R. Ambedkar published by the Government of Maharashtra in English and Marathi into Hindi and other regional languages. I am extremely thankful to the Government of Maharashtra's consent for bringing out the works of Dr. Ambedkar in English also by the Dr. Ambedkar Foundation.

Dr. Ambedkar's writings are as relevant today as were at the time when these were penned. He firmly believed that our political democracy must stand on the base of social democracy which means a way of life which recognizes liberty, equality and fraternity as the principles of life. He emphasized on measuring the progress of a community by the degree of progress which women have achieved. According to him if we want to maintain democracy not merely in form, but also in fact, we must hold fast to constitutional methods of achieving our social and economic objectives. He advocated that in our political, social and economic life, we must have the principle of one man, one vote, one value.

There is a great deal that we can learn from Dr. Ambedkar's ideology and philosophy which would be beneficial to our Nation building endeavor. I am glad that the DAF is taking steps to spread Dr. Ambedkar's ideology and philosophy to an even wider readership.

I would be grateful for any suggestions on publication of works of Babasaheb Dr. Ambedkar.

(Kumari Selja)

Collected Works of Babasaheb Dr. Ambedkar (CWBA)

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सत्यमेव जयते

MAHARASHTRA

FOREWORD

The present volume of the speeches and writings of Dr. Babasaheb Ambedkar covers the period from his entry into the Constituent Assembly from the pre-partition Bengal till his death on 6 December 1956. The first portion contains his speeches and writings as the Law Minister of Government of India and the last or the concluding portion contains speeches and writings when he was Opposition Member in the Parliament. Whether in the Government or in the opposition, his speeches and writings show continuity of his thought-processes and his deep dedication to the ideals of justice and fairplay. The subjects covered in the present volume are different and disparate. They appear relevant even to the present context and reflect Dr. Ambedkar's insight into the nature of political and social processes. In the course of discussion on the Representation of the People's Act, a member argued that he would allow a criminal to stand as a candidate since every adult has a right to vote and contest election. Dr. Ambedkar's answer in general was that the electoral process depended upon the general improvement in the minds of our people as a whole and that there are certain moral principles which we must assert. He foresaw that such an elevation of moral sentiments could come some day. I may quote here comments of Dr. Ambedkar on qualifications of a candidate for political office.

He said, "Now it seems to me that education can hardly be the sole qualification for membership of this House. If I may use the words of Buddha, he said that man requires two things. One is Gyan and the other is Sheel. Gyan without sheel is very dangerous : It must be accompanied by Sheel, by which we mean character, moral courage, ability to be independent of any kind of temptation, truthful to one's ideals. I did not find any reference to the second qualification in the speeches. I have heard from Members who have supported Professor

Shah. But even though I myself am very keen to see that no member enters this August Assembly, who does not possess Sheel in adequate degree, I find it extremely difficult to find any means or methods to ensure that valuable qualification."

Dr. Ambedkar pleads that while it is difficult to prescribe educational qualification for membership of Parliament, people should send good men of character. He says, "I have no doubt about it that if the political parties, for their own particular purposes do not attend to it, people are not going to allow persons who cannot discharge their functions properly in this House to be continued and returned forever. They want results, they want their welfare to be attended to, and I am sure about it that they will realise that the only instrumentality through which they can achieve this purpose is to send good men to this House. Therefore, I think the proper course is to leave the matter to the people".

The social reforms movement gained strength and undoubtedly brought about changes in the social structure, promoting in the process, equality and fraternity. The era of equality and fraternity was ushered in with the rise of the Maratha power under Shivaji, the Great who was accessible even to the lowest of the low from all sections of the society.

Dr. Ambedkar was the product of the movement for social reforms in Maharashtra initiated by Mahatma Jyotiba Phule, Justice Ranade, Agarkar, Chhatrapati Shahu Maharaj and Prabodhankar Thakre.

Dr. Ambedkar's speeches and writings in the present volume are indeed instructive and enlightening and trace the evolution of modern political institutions in the country. They truly represent a significant phase in the evolution of the Indian polity.

(MANOHAR JOSHI)

January 26, 1997 *Chief Minister of Maharashtra*

सत्यमेव जयते

MINISTER FOR HIGHER AND
TECHNICAL EDUCATION
GOVERNMENT OF MAHARASHTRA
MANTRALAYA, MUMBAI 400 032

PREFACE

I am indeed happy to see that the Government of Maharashtra has brought out the present volume consisting of speeches and writings of Dr. Ambedkar, both as Minister in the then Government of India and Member of Opposition later. These two roles show Dr. Ambedkar at different levels of our National life. He played both the roles with ease, grace and elegance of a consummate statesman who would see far into the future and suggest ways and means to shape the national character and political Institutions. His interest in the welfare of the common man was undiminished. In fact Dr. Ambedkar was a crusader with uncommon zeal for the interest of the common man. He was generous to Government of the day while in opposition when occasion demanded, while at the same time he did not hesitate to condemn what was obviously wrong.

The history of a nation is written by the deeds of great men. An Institution is a long shadow of an individual who is a great visionary. Dr. Ambedkar was a visionary of this category, a champion of the common man with uncommon zeal for the interest of millions of men who keep the Indian democracy alive.

January 26, 1997 (DATTA RANE)

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EDITORIAL

The present volume contains speeches and writings of Dr. Ambedkar for the period from 1947 to 1956. These speeches and writings show Dr. Ambedkar in different roles and his working at different levels, first in the Government and later as member of the opposition. However, there is continuity of thought and unity of approach in all that Dr. Ambedkar said, either in the Government or as member of opposition. One significant feature of the writings and speeches in this volume is that there is a thread of moral fervour and strident advocacy of public interest and suggestions for improving the social morality as part of the political process. The reader will notice how far-sighted Dr. Ambedkar was, when he spoke on the electoral reforms, election of candidates and question of qualifications and disqualifications. These issues are now in the forefront and the stuff of the banner lines of daily newspapers. Character was of supreme importance to Dr. Ambedkar. The character of political leadership is the sine-qua-non of the sane administration. The Government is the Trust created for the benefit of people. It is the contrivance devised by man to promote his happiness as a social being. Dr. Ambedkar has observed, "Gyan without Sheel is very dangerous; it must be accompanied by Sheel by which we mean character, moral courage, ability to be independent of any kind of temptation, truthful to one's ideals. I did not find any reference to the second qualification in the speeches I have heard from members who have supported Professor Shah, even though I myself am very keen to see that no member enters this August Assembly, who does not possess Sheel in adequate degree".

The early 50's immediately after the inauguration of the Constitution and the post-war reconstruction programmes taken up by the Government of India saw the emergence of the welfare State. Dr. Ambedkar deplores inadequate funds for welfare programmes. In fact, welfare of poorer sections

of our society had not received adequate attention and priorities were not drawn up keeping in mind the social reality, according to Dr. Ambedkar. He had said, "No hungry man is going to be sympathetic to a critic who is going to tell, him, "My dear fellow, although I am in power, although I am in authority, although I possess all legal power to set matters right, you must not expect me to do a miracle because I have inherited a past which is very inglorious " ..... "If this Government will not produce results within a certain time, long before the people become so frustrated, so disgusted with Government as not to have any Government at all, a time will come when, I suppose, unless we in Parliament realise our responsibilities and shoulder the task of looking after the welfare and good of the people within a reasonable time, I have not the slightest doubt in my own mind that this Parliament will be treated by the public outside with utter contempt. It would be a thing not wanted at all".

It is indeed a refreshing thought how India would have emerged after 50 years, had a comprehensive programme of training in different skills been attempted and the pattern of education, particularly at the High School level redrawn keeping in view, the compulsions of technology and science.

Dr. Ambedkar as member of opposition did not oppose Government he did not criticise the Treasury benches without reason. On the other hand when praise was due or when fairness or justice compelled appreciation, he did not withhold recognition. His praise and commendation of Shri C. D. Deshmukh shows his fairness as member of opposition. There is a lesson for present opposition members to be learnt from the speeches and writings printed in this volume.

The writings and speeches in this volume show Dr. Ambedkar at different levels of life reacting to the social environment and trying to shape and influence thinking of those around him. Those were the days of the Indian politics dominated by idealists and visionaries. The names of the Members of Parliament who were contemporaries of Dr. Ambedkar are names of Great men striving to raise the moral and social level of the country and trying to justify their

new-found freedom. It was an age of opportunity for great experiments in social engineering via law and though Dr. Ambedkar felt constraints within the limits of law, expressed himself frankly and fairly on a variety of topics.

Pragmatist in spirit and nationalist in outlook, interested in preserving the mosaic of unity in diversity i.e. India, Dr. Ambedkar's thoughts on reorganisation of States are worthy of serious attention even today.

The political unity of India was attained by a slow process of education, grafting of the common law in the Indian soil and the traditions of independent judiciary to correct abuses and excesses of the executive and the structure so laboriously built was required to be preserved and extended.

The princely States which merged with the Indian Union were at different levels of social and political development. Promoting the process of social growth and integration of different areas was the prime task of the executive and the legislature. The speeches and writings in this volume thus provide material of historical interest and comments on the issues of the day by highly perceptive and cultivated mind soaked in the best intellectual tradition of the West and the ethos of the East like Dr. Ambedkar. It is hoped that the present volume will be useful to scholars and laymen alike.

Dr. Ambedkar was fond of saying that "Consistency is the virtue of an ass" and apparently Dr. Ambedkar invites the charge of being inconsistent. This is more apparent than real. Dr. Ambedkar tried through his long years of struggle to improve the lot of the common man. He was the crusader of the common man. He was not reluctant to acknowledge the beneficient side of the British Parliamentary and Judicial Institutions and he believed in the rule of justice, equity and good conscience. In today's India this has critical relevance.

The work of editing of this volume has been made possible by the ready help, support and co-operation I have received:

(1) from Professor Manohar Joshi, the Hon'ble the Chief Minister of Maharashtra whose encouragement has made this work possible;

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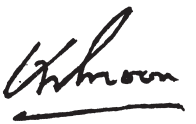

Mumbai:
January 26, 1997.

(VASANT MOON)
Editor.

DR. BABASAHEB AMBEDKAR WRITINGS AND SPEECHES

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(1)

* FOREIGN EXCHANGE REGULATION (AMENDMENT) BILL

Mr. Speaker: Motion moved.

> "That the Bill to amend the Foreign Exchange Regulation Act, 1947, be taken into consideration."

What has the Law Member to say about the position regarding the expression 'British India'?

The Honourable Dr. B. R. Ambedkar (Minister for Law): I thought I would speak when the amendment was being moved, in reply to it. If you so desire, I shall explain the position.

Mr. Speaker: Yes, because it would save time.

The Honourable Dr. B. R. Ambedkar: Sir, we have got what is called an Existing Laws Adaptation Order in which certain terms are defined. In that order the term 'British India' is defined and is defined to mean 'all the Provinces of British India'. It is therefore open to the House to include in this particular Bill either of the two phrases which under the Adaptation Order mean the same thing. We could either use 'British India' or we could use 'all the provinces of India' which would mean one and the same thing. The question of these two alternatives and as to which of them we should adopt really has to be determined by the phraseology which has been used in the main Bill to which this Bill is merely an amendment. In the original Bill dealing with foreign exchange regulation, the term used is 'British India' and my submission is that if this amendment is to be intelligible it must use common phraseology which is 'British India'.

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* Constituted Assembly (Legislative) Debates, hereinafter called C. A. (Leg.) D. Vol. I, 20th November 1947, p. 357.

There is nothing to be lost, everything to be gained, by using the same phraseology. The amendment which is tabled is purely sentimental in my judgment and wishes to avoid the word 'British' from the text of the law.

Shri K. Santhanam (Madras : General): Not at all,

The Honourable Dr. B. R. Ambedkar: My submission is that in view of the necessity for uniformity between the main Act and the amending Act we should adopt the same pharaseology which has been used in the main Act.

Mr. R. K. Sidhwa (C. P. and Berar : General): May I know whether there is any legal difficulty if the word 'British' is omitted?

Mr. Speaker: That is exactly what the Law Member has pointed out. Without going into the merits of the case, and looking *prima facie* into what the Law Member has said, I shall curtail the discussion by saying that I refuse to give my leave to this amendment.

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(2)

* APPOINTMENT OF STATUTORY LAW REVISION COMMITTEE

* **The Honourable Dr. B. R. Ambedkar** (Minister for Law): Mr. Chairman, I may at once say that the object of the Mover is quite laudable and that he has my full sympathy in the Motion that he has made. Sir, there is no doubt that periodical revisions of law in a modern society is an absolute necessity. When a popular Legislature engages itself in the task of legislation, touching every aspect of the society which it governs, there are bound to be created certain problems, which it is necessary for some expert legal body to examine and to rectify. First of all, it happens that a draftsman in order to put an idea in the form of a law suggests certain phraseology, which he thinks is appropriate and complete enough to embody the intention of the Legislature. In a certain stage the Judiciary and the Members of the profession find that the phraseology used by the draftsman is mistaken and does not carry the intent which the Legislature had. That problem therefore becomes a problem which somebody has got to look into and rectify to bring it in consonance with the original intention. It often happens that when a Legislature is engaged in of course of legislation over an extensive period certain inconsistencies unconciously creep in. It is not always possible either for the draftsman or for the legislature to examine every piece of legislation that is brought before it with a view to find out whether that piece of legislation is consistent with other legislation which has preceeded it. Therefore in course of time these inconsistencies accumulate. They trouble lawyers, they trouble judges and they also trouble the litigating public. It also often happens that in modern time when a legislature is so busy that it is unable

* C.A. (Leg.) D., Vol. II, 2nd December 1947, p. 1103-05.

to give the whole of its time to codifying the whole of the law on a particular subject it tries to discharge its responsibilities by undertaking what we call fragmentary and piecemeal legislation. This accumulation of piecemeal and fragmentary legislation again in course of time creates a problem. People cannot understand what the law is and consequently a problem of codifications arises. Therefore, it needs no special pleading to suggest that a Statute Law Revision Committee is necessary. I think the Government of India long ago accepted the necessity of having a Statute Law Revision Committee. In fact as soon as the Montagu-Chelmsford reforms came into operation and when it was found that there was a popular legislature and that popular legislature was more likely to undertake legislation of social reform than the previous legislatur had been likely to do, the Government *of India pari passau* and simultaneously with the introduction of the Montagu-Chelmsford reforms introduced and established what was called a Statutory Law Revision Committee in 1921. Therefore there is no difficulty in my accepting the underlying purpose which my honourable Friend Sir Hari Singh Gour has in mind, namely, that there should be a Statute Law Revision Committee. The only point of difference between him and me is whether we should forthwith proceed to establish a Statute Law Revision Committee that he has in mind or whether we should leave the matter to Government to think about the most appropriate time and the most appropriate machinery which could carry out the purpose which both he and myself have in mind.

4-00 p.m.

In regard to the Statutory Law Revision Committee of the type that was set up in 1921, I should like to inform the House of the work that it did and whether it could not have done something better. The Statute Law Revision Committee was appointed in 1921 and lasted up to 1932, After 1932 it died ; whether it died a natural death or an unnatural death is not a matter which I propose to disquisition about. But I should like to tell the House that during these eleven years that the Committee was in session from time to time, the work that it did was the codification of the Merchant Shipping Act, the Criminal Tribes Act, the Indian Succession Act, the

Forests Act and the Tolls Act. Now, Sir, without any intention of casting any reflection upon the work of the Committee, I think it will be agreed that the production of five laws in a period of eleven years is certainly not an enormous piece of work which could be expected from a Committee of this kind. On the other hand when the Committee was dissolved and when the responsibility fell upon the Government of India to do the work which the Committee was appointed to do—if I may say so again without reflection on the work of the Committee or without trying to take any credit for the Legislative Department of the Government of India—the Acts produced after the Committee were the Sale of Goods Act, 1930, the Partnership Act, 1932, Factories Act, 1934, Tariff Act, 1934, Petroleum Act, 1934, Insurance Act, 1938, Motor Vehicles Act, 1938 and Arbitration Act, 1940. Any one who knows these Acts will admit that each one of them is an enormous piece of legislation, The reason why the Statute Law Revision Committee failed to fulfil the promise which it was expected to fulfil was that there was a great defect in composition and constitution of the Committee. First of all, the Committee consisted of six members ; it was elected mostly from members of the legislatre. No doubt the members who were elected were elected purely on the basis of their legal knowledge and legal acumen, but in my judgment that was a pure accident. The Chairman of the Committee was the President of the Council of State. I fail to understand what virtue there was in appointing the President of the Council of State as Chairman of this Committee which, as all of us know, requires specialised legal knowledge.

The second difficulty about the Committee was that its members were not paid members. I do not wish to suggest that if members are not paid they do not discharge the duty which all people are conscientiously required to do. But it did happen, and it is a fact, that the Committee met very seldom. The members of the Committee having been drawn from the legislature met only during the sessions, and when they were asked that now that they were present in Delhi they might devote some portion of their time to the discharge of their functions as members of the Statute Law Revision

Committee, all of them pleaded that their legislative work was more important than the work of the committee. At the end of the sessions all of them naturally repaired to their homes in order to perform either their personal or their professional duties. The result was that the Committee was not able to devote all the time that it was expected to devote. Now obviously my Honourable friend Sir Hari Singh Gour will agree that if his purpose is to be carried out we must have an altogether different sort of Committee. It is no use having, a Committee of the sort that we had and which, for the reasons I have mentioned, did not fulfil the functions with which it was charged.

Now, Sir, there are two ways, in my judgment of doing the thing. First of all we might have a permanent Commission sitting for no other purpose except that of revising and codifying the statute. Secondly, if it is to be a permanent body it undoubtedly must be a body of experts who know their job. And I think every one will agree that if experts are to be called away from their professions we must make it worth their while to come and serve on the Committee. Obviously it is a matter of cost. That being so, it is not possible for me to say off-hand that without examining the question of cost it will be possible for Government to say here and now that we shall agree to appoint a Statute Law Revision Committee of any sort that might be suggested either by Sir Hari Singh Gour or by any other member of the legislature.

There is also another way of carrying the purpose into practice. That might be by the appointment of a small standing committee consisting of the Law Minister of the Government of India, a Judge of the Federal Court, the Advocate-General of India, one or two Judges of the High Courts in India and two or three eminent lawyers. The Committee might be asked to sit at stated periods of the year and a person from the Law Department of the Government of India may be deputed to act as a Secretary, to collect the information and to place it before the Committee for the Committee to take notice of what might be done.

As I say these are various ways of carrying the purpose into effect. That as I said requires time and examination and it is not possible for the Government, besieged as it is with an infinity of problems of all kinds to find time for the work which it will have to do if I were to accept the resolution of Sir Hari Singh Gour with the immediacy with which I believe he has charged it. Therefore, what I would like to suggest is this : that Sir Hari Singh Gour would realise that so far as the ultimate purpose is concerned, there is no difference of opinion between me and him. Both of us are agreed that this is a matter which the Government of India ought to take into consideration. The only difference is when and how, and that is a matter on which he need not press the Government for the immediate issue. Therefore my suggestion is this that as I have given a reply which meets more than half the ground on which he stands, I think he will agree that it will be gracious on his part to withdraw it.

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* **Mr. Chairman** : Amendment (by Mr. Naziruddin Ahmad) moved:

> "That in clause 2 of the Bill, in the proposed new section 289B—
>
> (i) the word, figures, letters and brackets '57 & 58 Vict., c. 60) be omitted; and
>
> (ii) the word, figures, letters, and brackets '(57 & 58 Vict., c. 60)' be inserted in the margin."

The Honourable Dr. B. R. Ambedkar (Minister for Law): I should like to explain the position. I would say that the amendment has no substance in it. The identifying clause may either be in margin or may be in the context of the section itself. All that is necessary is that there should be some identification. Originally it is true that in all the Bills that we have presented to the Assembly, such identification references were in the margin. But recently the printers have adopted the method of giving the references in the very body of the section itself and the purpose is to economise paper. For instance, when you have to give the references in the

* C.A. (Leg.) D., Vol. II, 2nd December 1947, pp. 1199-1200.

margin obviously you want to use a larger piece of paper. Since the war started this device was adopted just for the purpose of economising paper. I do not think there is any violation of the principles relating to drafting nor any violation of any law with regard to marginal notes. As a matter of fact marginal notes are unnecessary and need not be printed.

Shri Suresh Chandra Majumdar (West Bengal: General): There is such a thing as "inner margin" note which does not waste paper.

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* **Mr. Speaker**: Amendment (by Shri M. Ananthasayanam Ayyangar) moved:

> "That in part (c) of clause 2 of the Bill, after the word 'Province' wherever it occurs the words 'or a State' be inserted."

The Honourable Dr. B. R. Ambedkar (Minister for Law): As the amendment moved by my friend Mr. Ananthasayanam Ayyangar raises a question of law, it is only right and proper that I should take the responsibility upon myself to meet the point that arises out of his amendment. No one can deny that the object underlying the amendment of Mr. Ananthasayanam Ayyangar is a very laudable one. A Bill like this which deals with the nursing profession and tries to regularize and establish that profession on a footing which would gain the confidence of all those who take service from the nurses and that it should be extended to the whole of India. I say, is a very laudable thing. But unfortunately, situated as we are, and governed as we are by the Government of India Act, 1935, as adapted, I am afraid it will not be possible to accept his amendment because I have no doubt that his amendment would make the Bill *ultra vires* of the Legislature. Sir, to explain my point I should like to state to the House that for the moment the States are linked with the Union of India in two different ways. The one way by which they are linked is what is called the standstill agreement which has been made between the Union of India and the various Indian States. The second link by

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* C.A. (Leg.) D., Vol. II, 9th December 1947, pp. 1480-82.

which the States are bound to the Indian Union are the Instruments of Accession. Now there is a fundamental difference between the two links. The standstill agreements are purely contractual. They preserve such agreements as existed between the old Government of India and the Indian States under paramountcy before the 15th of August 1947. As I said they are purely contractual. They do not confer any jurisdiction upon the Government of India to legislate either by way of altering those arrangements or making them the foundation of any law which would bind the Indian States. Therefore, so far as we are concerned, in the matter of making any law by this legislature which is intended to be applicable to the Indian States, it is quite clear to my mind that we cannot take our stand on the standstill agreement. We must therefore, rely upon the Instruments of Accession which is the only foundation which gives us legal jurisdiction to pass any law. My submission is this, that if you take the Instruments of Accession, the Instruments of Accession, as they stand now—and I shall presently explain to the House why I emphasize 'as they stand now'—this House has no jurisdiction. In the first place this legislation relates to entry No. 16 in the Concurrent field. It does not relate, so far as the matter under legislation is concerned, to the Federal List or to the Provincial List. It relates only to the Concurrent List. Now, as everybody is aware, the Instruments of Accession, whatever power they give to the Central Legislature to legislate, definitely exclude all items which are included in the Concurrent List. I should have thought that by that very proposition, that the Concurrent Lists are not covered by the Instruments of Accession, the jurisdiction of this House is completely ousted. The only thing therefore that we have to find out is whether the Instruments of Accession which have been passed by the different States in favour of the Union of India cover anything which relates or which is equivalent to entry No. 16 in the Concurrent List. Now, Sir, these Instruments of Accession were placed on the Table of the house, and anybody who has had the time to scrutinize them would have found that the States have acceded only in respect of three subjects, and none of the subjects can be so interpreted

as to include an item like item No. 16 in the Concurrent List. Therefore, my submission is this, that even if we were to rely upon the Instruments of Accession, this House cannot derive any jurisdiction from those Instruments of Accession, My Honourable friend Mr. Ananthasayanam Ayyangar evidently realised this difficulty and put forth the proposition which he said was capable of being adopted by this House in order to extend the legislation to the Indian States. His proposition was this. There have been many pieces of legislation passed by this House which were limited in the first instance to certain areas, such as for instance a province or a district or any smaller area, and the Bill included a clause which enabled the executive, by a notification, to extend that particular legislation to other areas not originally included in the Bill. Now that proposition, so far as it applies to the provinces of British India, is perfectly sound. But if it were to be applied to the Indian States, it would be wholly unsound, and the reason is this. The analogy is absolutely false and not true. Now Sir, when we apply the legislation, which is originally in the Bill itself confined to a particular area, to another area not made subject to that at the time when the Bill was passed, the position is this, that the area over which the legislation is subsequently extended to is not subject to the jurisdiction of that legislation. If the legislature wanted in the very first instance to apply that law to that area, nothing in the constitution of this Government or in the powers of the legislature could prevent the legislature from doing so. So far as the States are concerned, we have jurisdiction over their territory with regard to three subjects only; we have not got full jurisdiction. We are not limiting our jurisdiction when we are legislating with respect to a State in respect of the three subjects ; we are in fact spending our legislative authority to the fullest extent that we have. The analogy, therefore, is not a correct analogy. So far as the Provinces are concerned, we have at the moment, when we are enacting the law, jurisdiction which we would exercise if we wanted to do so. That is not the case with regard to the Indian States. True enough, if a supplementary Instrument of Accession was passed we could get the jurisdiction necessary for the purpose of enacting the law; but what I

would like to submit to my friend Mr. Ananthasayanam Ayyangar is that the law can never be hypothetical and a law can never be passed in anticipation of some jurisdiction being acquired. That is contrary to the principle of legislation. Law must be definite, law must be absolutely clear as to what it applies, to what it cannot apply. And therefore, unless and until we have with us a supplementary Instrument of Accession giving the Central Legislature the power to extend this legislation to the States, I am sure we could not anticipate that there might be an Instrument of Accession which the Governor-General might accept and then we might get a chance to extend this legislation. I am sure that is contrary to the principles of legislation. All that, therefore, we must hope for, for the moment, is to confine the Bill to the Provinces of British India, to hope that we will get similar Instruments of Accession—supplementary ones—from the Indian States, when we can by law either extend our legislation to the States or the States can *pari passu* along with this legislation have similar legislation in their own States and make the provisions of this law applicable to their territory. Sir, I therefore think that this amendment would make the Bill *ultra vires* and therefore could not be accepted.

Mr. Speaker : The point has been cleared. Does the Honourable Member press his amendment now ?

Shri M. Ananthasayanam Ayyangar : I do not, Sir.

Mr. Speaker : Has the Honourable Member leave of the House to withdraw his amendment?

The amendment was, by leave of the Assembly, withdrawn.

Mr. Speaker : The question is:

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

(3)

INDIAN NURSING COUNCIL BILL

* **The Honourable Dr. B. R. Ambedkar :** The position is, as I said on the last occasion this legislation refers to entry No. 16 in the Concurrent Legislative List. The executive authority with regard to the legislation framed under the Concurrent Legislative List does not vest in the Central Government. Rule making has been interpreted to be in exercise of the executive authority and the Central Government does not possess that executive authority and therefore, they cannot make the rules. The rules may be made by somebody else. If my Honourable friend objects to the President making the rule, he may suggest some other method to making them, though he certainly cannot make any amendment whereby the responsibility or the authority for making the rules shall be vested in the Central Legislature. Section 8(1) of the Government of India Act and section 49(2) of the Government of India Act of 1939 are quite clear on this point.

Shri K. Santhanam : Here again, I find that it is rather a curious law that has been expounded the Central Government cannot make rules. A nominee of the Central Government can make rules but not the Central Government. The present proposal is that the President should be nominated by the Central Government and he may make rules. After all it is a Council of All India and I cannot see any authority in the Government of India to make rules. It is only so far as Provincial Councils are concerned that directions cannot be issued. I therefore think that the law as expounded is altogether wrong. The Central Government should have the power. I, therefore, suggest that the amendment should be accepted.

* C.A. (Leg.) D., Vol. II, 8th December 1947, p. 1486.

(4)

*EXTRA PROVINCIAL JURISDICTION BILL

The Honourable Dr. B. R. Ambedkar (Minister for Law)**:** Mr. Speaker, I stand to make just a few observations in order to clear some of the doubts and suspicious which have been expressed by Members of the Assembly who have so far taken part in the debate.

Sir, the one point which was made by the Honourable Mover of the amendment was that this Bill was reviving the jurisdiction of paramountcy which was abolished by the Indian Independence Act. Now, it is quite true that the Indian Independence Act releases the Indian States from all the obligatious that were imposed upon them by virtue of paramountcy. But, I think, what that means is this, that the Dominion Government cannot as a succession State inherit the jurisdiction which arose out of paramountcy. It means nothing more than that ; it does not mean that any Indian State could not confer by an agreement upon the Dominion Government the rights and jurisdictions which were exercised by the British Government as against that Indian State. I think that point has been clearly lost sight of and I should like to repeat it again that what the Independence Act means is this; that the Dominion Government cannot be regarded as a succession State to the British Government in so far as Paramountcy is concerned. It certainly does not mean that if an Indian State chooses, for reasons which it thinks are imperative, to confer jurisdiction of the analogous type that arose out of Paramountcy upon the Dominion Government, there is anything either in the Government of India Act or in the Indian Independence Act to prevent that Indian State from doing so. I think that point has to be clearly borne in mind. When the question is raised as to which are the Indian States to which this particular Bill and its provisions would

* C. A. (Leg.) D., Vol. II, 9th December 1947, pp. 1559-61.

apply, the answer to the question must be related to the Instruments of Accession which have been passed by the various Indian States in favour of the Dominion Government of India. Therefore, in order to understand what are the States to which this Bill applies, what we have to do is go to the Instruments of Accession and find out what is contained therein. As the House knows, so far as the accession of Indian States is concerned, they are divided into three categories: (1) fully jurisdictional States, (2) semi-jurisdictional States and (3) non-jurisdictional States. All the three classes of States have passed, barring a few exceptions here and there, Instruments of Accession in favour of the Indian Dominion. Now if Honourable members were to refer to the Instrument of Accession passed in Labour of the Dominion of India by States which fall in class (2) they will realise that their Instrument of Accession contains this very important clause which in order to remove all doubts and suspicious, I propose to read with your permission, Sir. This is the paragraph 1:

> "And I further declare that the Dominion of India may through such agency or agencies and in such manner as it thinks fit exercise in relation to the administration of the civil and criminal justice in this State all such powers, authority and jurisdiction as were at any time exercisable by His Majesty's representative for the exercise of the functions of the Crown in its relation with the Indian States."

That, I submit is a very important clause in the Instrument of Accession passed by the semi-jurisdictional States. Now if my honourable friends will turn to the third category of States and read the Instrument of Accession passed by them, it reads as follows :

> "Whereas ... of the said State or Taluka, am desirous that the Dominion of India should exercise in relation to the said *taluka* or state all the powers and jurisdictions which were exerciseable before such attachment by His Majesty's representative for the exercise of the functions of the Crown in its relation with the Indian States," etc.

This is a clause which finds a place in the Instruments of Accession of the States falling in the second category or the third *category*; it has not found a place in the Instruments of Accession passed by the States which fall in the first category, namely, fully jurisdictional States. Obviously two

things follow from this. The first is that this Bill does not apply to those States whose Instrument of Accession does not contain this clause; secondly, that this applies only to those States whose Instrument of Accession contains such a clause and which have voluntarily granted to the Dominion Government the rights, whether they arose out of treaty or sufferance or usage, which were exercised by the British Government; they have transferred them voluntarly to the Indian Dominion, and they may do so in future. Now the point is that all that the Bill does is this that wherever any State has granted to the Dominion jurisdiction by virtue of its Instrument of Accession the Central Government will have the legal authority to exercise that jurisdiction. There is no case of usurpation at all; it is merely giving legal authority to rights and jurisdictions which have been voluntarily transferred by the Indian States to the Dominion of India. Therefore the first thing that I should like to emphasise is that there is no clandestine effort in the Bill to usurp any authority as against any Indian State which has not voluntarily surrendered its authority in this respect to the Dominion Government. I think that ought to put at rest all the doubts and suspicions which have been expressed in this House with regard to this Bill. And I do not think that if honourable Members bear in mind what I have stated there will be any necessity for very many of the amendments which I find on the order paper.

I do not want to say anything more because that is all that I wanted to say but my honourable friend Mr. Santhanam while making his observations on the Bill said that there was an inconsistency in the position which I took yesterday and the position as it arises from this Bill. I think my honourable friend Mr. Santhanam must have completely misunderstood what I said yesterday. What I said then was that having regard to the fact that the Nursing Bill had reference to entry No. 16 in the concurrent legislative list there was never any possibility of the Dominion Government acquiring any jurisdiction because the Instruments of Accession and the Indian States have made it absolutely clear that if they at all join the Indian Union they will join it only with respect

to list No. 1 which is a Federal List and that too with respect to some subjects only. Therefore my contention was that there was not even the remotest possibility, having regard to these circumstances, that the Indian Dominion should acquire any jurisdiction. And so any sort of legislation which he wanted to be introduced by his amendment to clause 1 would be purely speculative. Here so far as this Bill is concerned, there is nothing inherently impossible in the Indian Dominion acquiring further jurisdiction of an extra-provincial character, and therefore a legislation which looks in the application of this by anticipation would not be speculative because the possibility is always there. I therefore submit that there is no inconsistency in the two positions I have taken.

---

* **Mr. Speaker :** I suppose the Honourable Member wishes to move the amendment at present.

Shri Himmat Singh K. Maheshwari : Yes and I would be grateful for a reply to the point that I have raised. Sir, I move:

> "That in part (a) of clause 2 of the Bill for the words 'treaty, grant, usage, sufferance or other lawful means', the words 'treaty or agreement' be substituted."

Mr. Speaker : Amendment moved :

> "That in part (a) of clause 2 of the Bill, for the words 'treaty, grant, usage, sufferance or other lawful means', the words treaty or agreement be substituted."

The Honourable Dr. B. R. Ambedkar : Mr. Speaker, Sir the two amendments although they are set out under different headings are in substance one. The amendment No. 10 may be put as the result of amendment No. 9 and from that point of view, there is no difference between the two. The aim of both the Honourable Members who have tabled this amendment is to delete the word "grant, usage and sufferance". I think that is what they want to do and in so far as that is their object, I have no doubt that the two amendments are one and the same.

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* C. A. (Leg.) D., Vol. II, 9th December 1947, pp. 1571-72.

Sir, I am sorry to say that I cannot accept this amendment and I am also sorry to say that the amendment has been based upon a misunderstanding. First of all, I should like to say with regard to the amendment moved by Mr. Naziruddin Ahmad that item (iii) in his amendment is entirely out of place. Tribal areas are part of British India or the Indian Dominion. Secondly there is no question of the Indian Dominion acquiring any extra territorial jurisdiction so far as the tribal areas are concerned. What does the honourable Member want to do ? The Honourable member, if I understood correctly, wants to say that whatever extra territorial jurisdiction which the Dominion of India can exercise must be relatable to the Instruments of Accession. I think that is the sum and substance of his position and he wants to make it clear that the jurisdiction which the Central Government may exercise under the provisions of this Act must be in turn sanctioned by the Instruments of Accession.

Mr. Naziruddin Ahmad : That is also conceded to by the Government.

The Honourable Dr. B. R. Ambedkar : Now, sir, does the Act do anything different from what my honourable Friend wants us to do in this Bill ? As I have stated, what the Instruments of Accession passed by the Indian States enable the Central Government to do is to exercise all such powers, authority and jurisdiction as were at any time exercisable by His Majesty's representative for the exercise of the functions of the Crown in relation to the Indian States. That is what the Instruments of Accession passed by the Indian States empower the Central Government to do, to exercise all such powers, authority and jurisdiction as were at any time exercisable by His Majesty's representative. Let us go back to the question and ask what are the powers which His Majestys representative was exercising in relation to the functions of the Crown in relation to the Indian States. Any one who reads the Foreign Jurisdiction Act passed by the Indian Legislature where the powers, authority and jurisdiction which were exercised by the representatives of His Majesty exercising the functions of the Crown in relation to the States, are described in the very precise terms which are used in

part (a) of clause 2, namely "treaty, grant, usage, sufferance or other lawful means". These are exactly the words that occur in the Indian Foreign Jurisdiction Act and they are the words which we have adopted in our Act because the Instruments of Accession passed by the Indian States give all the power which His Majesty's representative exercises in relation to the States and Paramountcy. Therefore, it seems to me purely tautological whether you say that you derive your powers from the Instruments of Accession or whether you say that you use the powers given to you by "treaty, usage, sufferance and so on" which were the modes by which power was acquired by the Paramount authority, I see no difference at all. It is one and the same and therefore, I submit that apart from the difficulty that I have pointed out that you cannot accept an amendment relating to the Tribal area, this amendment seems to be utterly based upon some confusion of understanding of the real position and seems to me to be tautologous and it is nothing more than what has already been done in the Bill.

Shri M. Ananthasayanam Ayyangar (Madras : General): My Honourable friend the Minister for Law referred to the Foreign Jurisdiction Act. I come much nearer to the Indian Independence Act itself. Under clause 7 of the Indian Independence Act to which reference is made in this amendment of my Honourable friend, the Mover of the amendment, paramountcy lapses. How is it that Paramountcy conferred under the second part of the Accession which the Honourable the Law Minister read, exercised ? I will read the relevant clause in the Indian Independence Act:

> ".....and all powers, rights, authority or jurisdiction exercisable by His Majesty on that date in or in relation to Indian States by treaty, grant, usage, sufference or otherwise."

These are the very words that have been copied.

Mr. Naziruddin Ahmad: This has now lapsed.

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* EXTRA PROVINCIAL JURISDICTION BILL—*contd.*

The Honourable Dr. B. R. Ambedkar (Minister for Law): If this clause 6 had been described by a Member of the Legislature who is not a lawyer as an unusual thing, I would not have any complaint: But I think for a lawyer to get up and say that this clause is not only unusual and strange, but cuts at the very foundation in the judiciary, I cannot help expressing my surprise. Sir, as every lawyer knows, the law makes a distinction so far as right are concerned between two sets—political rights and rights which are justiciable. Justiciable rights must always be determined by a judicial decree founded upon evidence produced by the parties before the court. But the political right, and I shall presently explain what is meant by political right, is never submitted to a court in the ordinary sense of the word. Now rights, whether they are contractual or otherwise, between two states are never regarded as justiciable rights. They are always regarded as political rights : and that is the one reason why this clause has been introduced into this Bill. The extraterritorial jurisdiction which is being conferred by the Indian States upon the Indian Dominion is a matter between, two states, and not between two individuals; and being a matter between two states, obviously all the matters connected with that jurisdiction are political rights, and as such they cannot be left to the judiciary to determine. This clause, as I said, is in no sense an unusual one, for if my honourable Friend refers to the British Act, on which this one is modelled, and refers to clause 4, he will find, the language of clause 6, is absolutely the same as the language of clause 4. Now, my honourable Friend also said that he was aware of certain provisions in the Evidence Act where a certificate given by a Secretary of a Department of the Government of India was said to be conclusive evidence of his authenticity, but it was never accepted as deciding the status of any particular individual. I am sure that he must have forgotten Section 86 of the Civil Procedure Code. If he refers to the Civil Procedure Code, Section 86, he will find therein a provision

* C.A. (Leg.) D., Vol. II, 9th December 1947, pp. 1580-82.

which is very much analogous to the provisions contained in clause 6 of this Bill. Section 86 of the Civil Procedure Code relates to a suit against an Indian Prince or a foreign Envoy or any such person occupying the capacity or status of a non-Indian citizen. It is provided by Section 86 of the Civil Procedure Code that no suit against an Indian Prince can proceed unless and until the party suing the Indian Prince secures the consent of the Secretary of State that he may be sued. The object underlying Section 86 is to give the Government of India an opportunity to express an opinion whether they regard the particular Prince who is sued, as entitled to the status of a sovereign Prince. If they think that he is entitled to the status of a sovereign Prince, we issue a certificate that he is a sovereign Prince, and the moment that certificate is issued the matter becomes a political matter and ceases to be justiciable in the ordinary sense and the suit falls through. There is nothing unusual in it.

My honourable Friend wants me to state the reason for this somewhat anomalous position which the law recognises not only in this country but in every other country. I could state for his information the reason why this distinction is made. Sir, supposing the Department of a State upon the assumption that a particular Prince is a sovereign Prince deals with him on that basis, and suppose that if the question of his status was left to be decided by an ordinary court of law, where evidence was brought in, and the court came to the conclusion that he was not a Ruling Prince in the sense of a Sovereign Prince, what happens ? We have in a situation like this two conflicting decisions—one decision given by the judiciary and another decision given by the State and both are irreconcilable. In such a situation the execution of a decree becomes absolutely impossible. In England, as my honourable Friend knows, there is no such thing as an Evidence Act, but there is a very well-established rule which the British Judiciary has adopted that in matters of this sort where they are likely to come into conflict with the Political Department

of the State, they shall not entertain a plea and give a judgment because after all the judgment on a decree of the Judiciary has to be executed by the Department of the State and they do not want themselves to be entangled with the State Department. That, I think, is a very salutary reason why the courts themselves have abnegated the right of exercising any jurisdiction in a matter which is likely to be political.

I submit, therefore, that this clause, clause 6, is a very right clause, appropriate, and should remain in the Bill as it is.

Mr. Chairman : The question is :

"That clause 6 stand part of the Bill."

The motion was adopted.

(Clause 6 was added to the Bill.)

(5)

FEDERAL COURT (ENLARGEMENT OF JURISDICTION) BILL

* **The Honourable Dr. B. R. Ambedkar** (Minister for Law)**:** Sir, I beg to move for leave to introduce a Bill to provide for the enlargement of the appellate jurisdiction of the Federal Court in Civil cases.

Mr. Speaker : The question is :

> "That leave be granted to introduce a Bill to provide for the enlargement of the appellate jurisdiction of the Federal Court in Civil cases."

The motion was adopted.

The Honourable Dr. B. R. Ambedkar : Sir, I introduce the Bill.

** FEDERAL COURT (ENLARGEMENT OF JURISDICTION) BILL

The Honourable Dr. B. R. Ambedkar (Minister for Law)**:** Sir, I move:

> "That the Bill to provide for the enlargement of the appellate jurisdiction of the Federal court in civil cases be taken into consideration."

The Federal Court as constituted under the Government of India Act as adapted, exercises three kinds of jurisdiction :

(a) Original jurisdiction under section 204;

(b) Appellate jurisdiction over High Courts under section 205 ; and

(c) Advisory jurisdiction under section 213.

The present Bill is concerned only with the appellate jurisdiction of the Federal Court. As I said, the appellate

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* C.A. (Leg.) D., Vol. II, 9th December 1947, p. 1546.

** C.A. (Leg.) D., Vol. II, 11th December 1947, pp. 1708-11.

jurisdiction of the Federal Court under Section 205 is a very limited jurisdiction. It is confined in the first place only to those cases in which the issue involved is the interpretation of the Constitution, that is to say, the interpretation of the Government of India Act, 1935.

Secondly, this limited jurisdiction accrues to the Federal Court, only if the High Court, after deciding a case before it gives a certificate to the effect that a question regarding the interpretation of the Constitution is involved,

It is only when these two conditions are satisfied, namely, that there exists an issue relating to the interpretation of the Constitution : and secondly, when the High Court has given a certificate that an appeal can go to the Federal Court under section 205.

The result of this limitation is this. All other appeals from the High Court in which questions relating to the interpretation of laws, other than the Constitution or those in which the interpretation of the Constitution is involved but where the High Court has not given a certificate, go directly to the Privy Council without the intervention of the Federal Court.

The object of this Bill is to prevent direct passage of appeals from the High Court to the Privy Council. In other words, the aim of the Bill is to make it compulsory that all civil appeals which arise from the judgment or decree of the High Court shall in the first instance go to the Federal Court.

The method adopted by the Bill to achieve this object is as follows :

> What the Bill first does is to fix a day, which is the first of February, and which in the Bill is called "the appointed day". The next thing that the Bill does is after the appointed day no appeals shall go to the Privy Council directly from the High court unless and until the appeal falls in a category of what is called "a pending appeal". If an appeal on the first day of February can be described within the terms of this Bill as "a pending appeal" then the appeal shall

be continued to be heard and decided by the Privy Council. But if on that day the appeal is not "a pending appeal" within the definition of this Bill, then the jurisdiction of the Federal Court extends to such an appeal as the Federal Court gets a right to hear and decide such an appeal.

Section 7 of the Bill describes what is "a pending appeal". Now for this purpose a rough and ready made rule has been adopted in the Bill. The rule is this : that if the records of an appeal are transmitted by the High Court to the Privy Council on the appointed day or before the appointed day, then the appeal is a pending appeal and the Privy Council continues to exercise its jurisdiction to hear such an appeal, although it is a direct appeal.

If on the other hand the appeal is in such a state that the records have not been transmitted, then the appeal becomes automatically transferred so to say to the Federal Court and the Federal Court gets the right to hear the appeal.

Appeals to the Privy Council go in two different ways. They go under what are called the provisions of the Civil Procedure Code, Sections 109 and 110, which are called appeals by grants or they are appeals where the party have a right to appeal. In addition to that the Privy Council also has got the right to give special leave to appeal and when a party obtains special leave to appeal, such appeals also go to the Privy Council. Appeals which go to the Privy Council directly from the High Court on special leave being granted by the Privy Council, are also dealt with in Section 5 of the Bill. The provision there is this:

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> "Every application to His Majesty in Council for special leave to appeal from a judgment to which this Act applies remaining undisposed of immediately before the appointed day shall on that day stand transferred to the Federal Court by virtue of this Act."

If it is disposed of, that is to say, if it rejected no further question arises. If it is admitted then the Privy Council will be competent to deal with it. But if the Privy Council has not passed any order, then such an appeal shall be deemed to be transferred to the Federal Court and the Federal Court will have the right to dispose of the matter.

I should like to tell the House in very concrete terms what this Bill does and what it does not do. I have told the House what this Bill does. I will tell the House now what this Bill does not do.

In the first place, it does not abolish appeals to the Privy Council in criminal matters. Criminal matters can still be entertained by the Privy Council from the Judgments of the High Courts. Secondly, it does not abolish appeals to the Privy Council from courts which are not high courts, that is to say, the courts of the Judicial Commissioner of Ajmer-Merwara or of Coorg. Thirdly, it does not abolish appeals to the Privy Council from the judgment of the Federal Court.

The House would probably like to know why these deficiencies have been retained in the Bill and why we have not been in a position to provide in this Bill for the complete transfer in all cases, criminal or civil, from the High Court to the Federal Court and From the Federal Court to the Privy Council. The reasons are to be found in certain limitations from which the Dominion Legislature, *i.e.,* the Constituent Assembly (Legislative) suffers. As members of the Assembly would realise we are exercising the powers for enlarging the jurisdiction of the Federal Court, which are given to us by Section 206 of the Government of India Act. If Honourable Members would refer to Section 206 they will see that it is a sort of section which gives constituent powers to this Assembly enabling it to alter the provisions of section 205 of the Government of India Act, 1935. Section 206 says :

> "(1) The Dominion Legislature may by Act provide that in such civil cases as may be specified in the Act an appeal shall lie to the Federal Court from a judgment, decree or final order of a High Court without any such certificate as aforesaid.
>
> (2) If the Dominion Legislature makes such provision as is mentioned in the last preceding sub-section consequential provision may also be made by Act of the Dominion Legislature for the abolition in whole or in part of direct appeals in civil cases from High Courts to His Majesty in Council, either with or without special leave."

Sub-section (3) requires the sanction of the Governor-General.

Anybody who reads section 206 will find that although the power to amend and enlarge the jurisdiction of the Federal Court is given to this Assembly, it is limited in certain particulars. It is limited to civil cases. Therefore no provision can be made for the abolition of direct appeals in criminal matters. Secondly, it refers to direct appeals, that is to say appeals from the High Court to the Privy Council. The reason why we are not able to abolish appeals from the Federal Court to the Privy Council is because of the existence of Section 208 in the Government of India Act. Section 208 says: (a) that an appeal will lie to His Majesty in council from a decision of the Federal Court, from any judgment of the Federal Court given in the exercise of its original jurisdiction in any dispute which concerns the interpretation of this Act and (b) in any other case, by leave of the Federal Court or of His Majesty in Council. What I wanted to tell the House was that if it was desirable to abolish all appeals to the Privy Council and to enlarge the jurisdiction of the Federal Court in as complete a manner as we want to do for that purpose we would have been required to hold a session of the Constituent Assembly and ask the Constituent Assembly to pass a Bill, which it can do, notwithstanding any limitation in the Government of India Act 1935, for the simple reason that the Constituent Assembly is a sovereign body and is not bound by the provisions of the Government of India Act, 1935. The position of this Legislature which is spoken of as the Dominion Legislature is very different. It is Governed by the Government of India Act of 1935 and therefore it must conform in anything that it wants to do to such provisions of the Act which permit it to do what it wants to do. As I said, the only permissive section which we have in the Government of India Act is Section 206 and we have taken the fullest liberty of this section to enlarge the jurisdiction of the Federal Court to the fullest extent possible. The deficiencies in the Bill I do not think need worry any Members of the Legislature for the simple reason that this Act will be in operation only for a very short time. As soon as our constitution is framed and a passed by the Constituent Assembly, we shall then be in a position to make the amplest provision for the jurisdiction of the Federal Court and to abolish appeals to the Privy Council. For the moment I think the house must be satisfied with what is done under Section 206. Sir, I move.

Mr. Speaker : Motion moved :

"That the Bill to provide for the enlargement of the appellate jurisdiction of the Federal Court in civil cases be taken into consideration."

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* **The Honourable Dr. B. R. Ambedkar :** Sir, I am grateful to the House for having expressed its general satisfaction with this Bill. I will, therefore, deal only with certain points of criticism which have been raised by certain Honourable Members who have taken part in this debate. The first point of criticism relates to what I might call a timidity for my not going the whole hog and abolishing appeals to the Privy Council and conferring the fullest jurisdiction on the Federal Court. I am told that I am making a sort of artificial distinction between this Legislature and the Constituent Assembly and that I am for no reason limiting the powers of this House. I am sure that that is criticism which, to put it mildly, is certainly far from valid. I cannot accept the proposition that this legislature as distinguished from the Constituent Assembly is a completely sovereign body, as complete as the Constituent Assembly itself. It is true that the same members who sit in this House sit in the Constituent Assembly, so that in regard to the personnel there is no distinction. But I have not the slightest doubt in my mind that so far as functions are concerned the two Assemblies are quite different. The function of the Constituent Assembly is to make the constitution and in making that constitution it is bound by nothing except by its own vote. So far as this Assembly is concerned, it is bound by the Government of India Act, 1935 ; that is the constitution which is binding upon this legislature. Except the British Parliament which has both sorts of powers, namely, ordinary legislative powers as well as constituent powers, I do not know of any Assembly anywhere which has got a written constitution which possesses powers to override a constitution which has created that particular legislature. I therefore submit that I am on perfectly strong and stable footing when I say that in carrying

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* C. A. (Leg.) D., Vol. III, 11th December 1947, pp. 1719-22.

out the provisions of this Bill we must be bound by the limitations that have been imposed upon this legislature by the Government of India Act, 1935 as adapted.

I will now turn to the other criticism expression to which was given by my Honourable Friend Shri Alladi Krishnaswami Ayyar. With regard to his amendment I do not want to say that I regret that the amendment is something which I could not accept. All that I want to say is that according to my reading of the situation that amendment is probably unnecessary, and I will explain to him why I take that point of view. The ground that he urged for the amendment was that the Privy Council in a certain case decided in 1940 (as reported in the Punjab Co-operative Bank *versus* Commissioner of Income-Tax) stated, according to him, that they would not entertain any point relating to the consideration of the constitution of the High Court had not given a certificate ; therefore the Privy Council said that they would have to send that case back to the High Court for a certificate. His argument was that the decision of the Privy council in this case may also be accepted by the Federal court as binding upon itself; and therefore, wherever there was no certificate given and the matter came up before the Privy Council—and as a matter of fact it was found that a question relating to the constitution did arise—the Privy. Council would find itself unable to deal with that appeal. I think that was the sum and substance of his argument. Now what I would like to point out is that I think he has read a little more into the judgment of the Privy Council than it really says. I will read a few lines from the judgment. They have laid down three propositions which they say would arise in the consideration of section 205. the second proposition is the only one which is relevant to our purpose.

> "Secondly, if in the absence of a certificate it appears to the Board on an appeal that there is ground for thinking that that is a matter for the consideration of the High Court and that they ought to have given or ought to have withheld the certificate, the Board ought to decline to hear an appeal until the High Court had an opportunity of doing one or the other."

That is what the Privy Council have laid down, Now my submission is that this matter was as matter of fact considered by the department when this Bill was drafted, and it was felt that after all in the observations made by the Privy Council they have not said that they do not possess jurisdiction in a case of this kind. All that they have done is to lay down a sort of rule of prudence that if a case came in for which there was no certificate they would not deal with it directly—not they had no power to deal with it—but would send the case back to the High Court. Therefore, it does not mean that the Federal Court which under our Bill would be inhearing the jurisdiction of the Privy Council would have no jurisdiction because the Privy Council has laid down no such rule at all.

My second submission is that assuming that the Privy Council's dictum does go to the question of jurisdiction, is it necessary for us to presume that the Federal Court in exercising a new jurisdiction which we are giving to it would accept what has been laid down by the Privy Council ? The Federal Court would be free to give its own interpretation. It may say that notwithstanding that that certificate was not given, we shall entertain the question and decide it.

Thirdly, the Privy Council has also got the power to give special leave and they may give special leave and get over the difficulty. What I am trying to do is to explain to the House that we did not incorporate the sort of provision which my Honourable friend Mr. Alladi Krishnaswami has tabled in his amendment. But if eminent lawyers in this House think that we ought not to leave this question in doubt, and I find that he is supported by my friend, Bakshi Tek Chand, I myself would raise no objection to the amendment if they insist that the amendment should be introduced in the Bill.

Then the question was raised with regard to the Courts of the judicial Commissioners of Ajmer-Merwara and Coorg. It is quite true that it would be very anomalous that we should stop direct appeals from the High Court to the Privy Council and allow appeals from Judicial Commissioners to go to the Privy Council without the intervention of the Federal Court. The anomaly is patent and nobody can deny it. But the question is this : that unless and until we declare the Courts of the Judicial Commissioners as High Courts, we could not make this Bill binding upon them. Now I am told that the

question of the declaration of the Judicial Commissioners Courts as High Courts would involve certain administrative problems. For instance, all the provisions in the Government of India Act relating to High Courts would have to be applied to the Judicial Commissioners before they become High Courts. It seemed to me that might create complications and that is the principal reason why we did not think it advisable at this stage to extend the provisions of this Act to the Judicial Commissioners. After all, as I said, this Bill will be of a temporary duration. It may not be in operation for more than two or three months, and I do not think that within these two or three months any very large number of appeals from the Courts of the Judicial Commissioners are likely to come to the Privy Council.

Therefore, I submit, rather than face the difficulties that may arise out of administrative considerations, it might be better for this House to suffer the anomaly and let the position stand as it is.

With regard to the question of criminal appeals that matter has been fairly disposed of by my friend who spoke before me, and therefore I do not think it necessary for me to touch upon that matter at all.

Mr. Speaker : I might just state what I was feeling about the amendment. In case the Honourable Law Minister is inclined to accept it, isn't it likely that an objection might be raised about the competence of this Legislature inasmuch as the amendment uses the words "notwithstanding anything contained in section 205 of the Government of India Act"?

The Honourable Dr. B. R. Ambedkar : That also is a point.

Mr. Speaker : So that will also have to be considered. The House will be rising and in the recess the Law Minister may consider this point.

The Honourable Dr. B. R. Ambedkar : Yes, I will consider it.

The Assembly then adjourned for Lunch till Half Past Two of the Clock.

The Assembly re-assembled after Lunch at half Past a of the Clock, Mr. Speaker (The Honourable Mr. G. V. Mavalankar) in the Chair.

Mr. Speaker : The question is :

"That the Bill to provide for the enlargement of the appellate jurisdiction of the Federal Court in civil cases be taken into consideration."

The motion was adopted.

Clause 2 was added to the Bill.

The Honourable Dr. B. R. Ambedkar : Sir, with regard to clause 3 I would like to move an amendment. I move:

"That in clause 3—

(1) The word 'and' at the end of sub-clause (a)(ii) be omitted;

(2) The following be inserted as sub-clause (b):

*(b) in any such appeal as aforesaid, it shall be competent for the Federal Court is consider any question of the nature mentioned in sub-section (1) of section 205 of the Government of India Act, 1935; and

(3) The existing sub-clause (b) be re-lettered as s sub-clause (c)."

Mr. Speaker : I suppose this is an agreed amendment. **The Honourable Dr. B. R. Ambedkar :** Yes, Sir.

Mr. Speaker : Amendment moved.

"That in clause 3—

(1) The word 'and' at the end of sub-clause (a) (ii) be omitted;

(2) The following be inserted as sub-clause (b):

'(*b*) in any such appeal as aforesaid, it shall be competent for the Federal Court to consider any question of the nature mentioned in sub-section (*1*) of section 205 of the Government of India Act, 1935'; and

(3) The existing sub-clause (b) be re-lettered as sub-clause.(c)."

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* **Mr. Speaker :** Amendment moved :

"That after clause 5 of the Bill, the following new clause be inserted, namely:

'5A. After the appointed day, any party to an appeal pending before His Majesty in Council, before that day, may apply to the Federal Court to withdraw the appeal to its own file, if the appeal

* C.A. (Leg.) D., Vol. II, 11th December 1947, p. 1725.

is one which it filed after the appointed day before the Federal Court it could have jurisdiction under this Act to entertain it; and the Federal Court may after notice to the other party to the appeal withdraw the appeal to its own file on such terms and conditions as it may deem fit' ".

The Honourable Dr. B. R. Ambedkar: Sir, I cannot accept this amendment. My honourable Friend has not defined what is a pending appeal. The Bill defines a pending appeal. An appeal where papers have been despatched is deemed to be a pending appeal under the Bill. After the papers have been despatched there is no provision in this Bill for withdrawal for the simple reason that it is presumed that when papers and documents have been despatched, the parties have incurred all liabilities for payment of such costs as may be involved in that appeal, and there is therefore no reason why the appeal should be transferred to the Federal Court with the obligation of a double expenditure once at the Privy Council end and once here: and I, therefore, think that we have to look at it purely from the point of view of the costs to the litigant. If sufficient costs have been incurred, then, I think it is not right that the appeal should be transferred to the Federal Court. No doubt here there is provision that the terms of such transfer and withdrawal may be prescribed by the Federal Court. But I think it would be putting an unnecessary obligation upon the parties which they may not voluntarily accept and I therefore think that the provisions contained in the Bill ought to be regarded as satisfactory at the present stage.

Shri M. Ananthasayanam Ayyangar: I do not like to press my amendment. I do not want to divide the House on the matter. I consulted the Law Minister and I thought he consented.

Mr. Speaker: Apart from this, I was feeling another difficulty, and that was as to whether the Federal Court could be treated as a court superior to the Privy Council for the purpose of withdrawal of an appeal that has been filed. It would have been another matter if the amendment had sought to compel the litigant himself, but that is a question of phraseology of the section.

Has the honourable Member leave of the House to withdraw his amendment?

The amendment was, by leave of the Assembly, withdrawn.

Clauses 6 to 8 were added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Dr. B. R. Ambedkar: Sir, I move:

"That the Bill, as amended, be passed."

Mr. Speaker: Motion moved:

"That the Bill, as amended, be passed."

(6)

* PROVINCIAL INSOLVENCY (AMENDMENT) BILL

The Honourable Dr. B.R. Ambedkar (Minister for Law): Sir, I move :

> "That the Bill further to amend the Provincial Insolvency Act, 1920, be continued."

Mr. Speaker : Motion moved :

> "That the Bill further to amend the Provincial Insolvency Act, 1920, be continued "

Shri Raj Krishna Bose (Orissa: General): I would like to know if this Bill also was referred to a Select Committee ?

Mr. Speaker: It was only introduced.

Shri K. Santhanam (Madras : General): It can be newly introduced. What is meant by 'continuation' ? Only if it has gone through the other stages of discussion or Select Committee there is a purpose in having a motion for its continuation. It can as well be newly introduced.

Mr. Speaker: I would invite the Honourable Member's attention to the provisions of sub-clause (2) of section 30 of the Government of India Act, 1935, as adapted :

> "A Bill which, immediately before the establishment of the Dominion, was pending at the Legislative Assembly of the Indian Legislature may, subject to any provision to the contrary which may be included in rules made by the Dominion Legislature under section 38 of this Act, be continued in the Dominion Legislature as if the proceedings take with reference to the Bill in the said Legislative Assembly had been taken in the Dominion Legislature."

So the time and expenditure incurred in the previous stages—publication etc.—are now dispensed with. That is the point in continuing the Bill.

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* C.A. (Leg.) D. Vol. I, 17th November 1947, pp. 40-41.

Shri M. S. Aney (Deccan and Madras States Group)**:** May I know, whether, in view of the wording of the particular clause, just read out it if necessary that a motion for continuation should be made ? The rule permits the Government to continue the Bill and take it through further stages if it wants to do so. Is a separate motion for its continuation therefore necessary at all ?

The Honourable Dr. B. R. Ambedkar: If the motion for continuation is not made the Bill lapses. That means all the stages will have to be begun again.

Mr. Naziruddin Ahmad (West Bengal: Muslim)**:** Sir, on this point of order the section which you were pleased to read says that a Bill which was pending in the Legislative Assembly 'may be continued'. It is thus discretionary on the part of this House to continue or not to continue it. Therefore, a decision of the House is necessary.

Mr. Speaker : That is exactly why the motion is brought. The question is :

> "That the Bill further to amend the Provincial Insolvency Act, 1920, be continued."

The motion was adopted.

***The Honourable Dr. B. R. Ambedkar** (Minister for Law): Mr. Speaker, Sir I move:

> "That the Bill further to amend the Provincial Insolvency Act, 1920, be referred to a Select Committee consisting of Shri Alladi Krishnaswami Ayyar; Dr. Bakshi Tek Chand, Shrimati G. Durgabai, Dr. P. S. Deshmukh, Shri M. Ananthasayanam Ayyangar, Pandit Thakur Das Bhargava, Mr. Naziruddin Ahmad, Shri Ram Sahai and the Mover, with instructions to report on or before the 16th March, 1948, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

Sir, in order to put the House in possession of the facts which have made it necessary for Government to introduce this measure I should like to make some preliminary

* C.A. (Leg.) D., Vol. II, 25th February 1948, pp. 1220-21

observations with regard to certain decisions which have necessitated the making of this provision. I think it would be enough if I began from 1924 when a case went up to the Privy Council which is known as Sat Narain *versus* Behari Lal. The facts of the case briefly were that a Hindu father had been adjudged insolvent. Now under section 17 of the Presidency Towns Insolvency Act the property of the insolvent becomes vested in the official Assignee from the date of the adjudication. The property of the Hindu father consists of two things : (i) his share in the joint family property, and (ii) his power to dispose of his sons property in the joint family for his personal debts provided that the debts were not incurred for an immoral purpose. The question that arose in that case before the Privy Council was whether the power of the father to dispose of property of the son is property within the meaning of section 2(e) of the Presidency Towns Insolvency Act. On that issue the Privy Council gave its decision to the effect that the power of the Hindu father to dispose of the property of his son in the joint family was not 'property' within the meaning of section 2(e) on the ground that section 2(e) contemplated that power which was absolute over property and power which was not absolute was not property. According to the Privy Council the power of the father to dispose of the sons' property was not absolute because it was subject to the condition that the debts for which the property could be disposed of must not be immoral. On that ground they did not agree that the Official Assignee could become automatically vested under section 17 with the property belonging to the son. In that particular care that decision of the Privy Council did not matter very much to the creditors, for the simple reason that the Presidency Towns Insolvency Act contains a separate section—section 52—which permits the Official Assignee and the creditors to pursue such property or such capacity to obtain the property of another person. Therefore although in that particular case the property did not automatically vest in the Official Assignee, yet the Official Assignee was free to pursue the property of the son which was liable under the rule of pious obligation to pay the debts of the father by separate proceedings; and I believe he did that.

Now what happened was this. After that decision of the Privy Council the courts in India had occasions to interpret another Act which is called the Provincial Insolvency Act. As lawyer members of this House will remember, we have two separate statues dealing with insolvency,—one which deals with insolvency taking place within the towns, and the other with those in the mofussil. The Provincial Insolvency Act does not unfortunately contain a provision such as section 52 which finds a place in the Presidency Towns Insolvency Act. Consequently when a similar question arose before the courts, namely, whether the property which a Hindu father could claim under his right or power to sell his son's interest for the payment of his own debts could be interpreted as property and become vested in the Official Assignee, only that was property within the meaning of section 2(*e*). Unfortunately what has happened is that different courts have interpreted this section 2(*e*) of the Provincial Insolvency Act in different ways. It would be interesting to note that the Bombay High Court has held that though the property does not vest power is not property and therefore, it does vest; the Patna High Court also follows the Bombay High Court and so does the Allahabad and Nagpur High Courts. On the other hand when you come to Madras, one Bench of the Madras High Court has held that the property vests, while another Bench has held that it does not vest. And the same is the case in Calcutta where one Bench has held that the property does vest and another Bench has held that it does not vest.

Now I think this matter should be put right. The Madras High Court in one of its decisions clearly gave an indication to the Government of India that it was high time that legislation was brought in to set aside this discrepancy in the decisions of the different High Courts. Unfortunately during the war such a piece of legislation could not be brought in because there was not enough time. Therefore, it is to set right this discrepancy and division of opinion in the different High Courts that this measure has been brought in. All that this measure does is to reproduce bodily section 52 from the Presidency Towns Insolvency Act and makes it a part of the Provinvcial Towns Insolvency Act as section 50-A. There is nothing more that the Bill seeks to do.

As the House is aware, there is also a measure for a similar purpose standing in the name of Shrimati Durgabai. Her measure differs from the Government measure in two particular respects. She wants to give retrospective effect to the measure; the Government Bill does not propose to do so. The other provision contained in the Bill of Shrimati Durgabai is that the law not only should declare that the power which the Hindu father has over the son's interest in joint family property should be made clear as being available for distribution among the creditors, but that the power of disposal of the Manager also should be clearly stated. On that point all that I should like to say is this that I have not an empty mind but I have an open mind; and I am prepared to leave this matter to be decided by the Select Committee. Indeed one of the purposes or motives which have led me to move for reference to Select Committee was to enable the Select Committee to discuss these matters.

I do not think there is anything more I need say in elucidation of the provisions of this Bill. Sir, I move.

Mr. Speaker : Motion moved.

***Prof. N. G. Ranga :** There is the question of the manager. My Honourable friend wants this power to be extended to the Manager also. Evidently she has in mind some of the big zamindars who get their properties managed by managers.

The Honourable Dr. B. R. Ambedkar: They are called 'Karta'.

Prof. N. G. Ranga: It is bad enough to vest the power in the father but it is worse to vest it in the agent also.

The Honouraable Dr. B. R. Ambedkar: No, no. It is wrong.

Prof. N. G. Ranga: That is the answer given by lawyers. I am looking at it from the point of view of the debtors. They have as much right to be protected as the creditors. Creditors

* C.A. (Leg.) D., Vol. II, 25th February 1948, p. 1224.

are rich enough to engage these lawyers and get things done in their own way. I wish to suggest that the benefit of this Act should not be extended at all to these managers and it should not be given retrospective effect. This amendment may be passed but we should take care to see that the Law Minister comes forward at an early date with a suitable amendment in order to protect the interests of the sons also as against the vagaries of their own fathers.

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* **Shri Biswanath Das :** I have nothing to say about this particular Bill. In fact I have clearly stated that if the House comes to the conclusion that the Insolvency Act as it should stand then this Bill is a natural corollary to it. There is no denying that fact. Therefore, I have nothing more to say in the matter.

The Honourable Dr. B. R. Amebkar: Mr. Speaker, Sir, I will begin with my answer to the point made by my friend who spoke last. If I understood him correctly his points were two. One was that this was purely a provincial matter and ought therefore, to be left to the Provincial Legislatures.

Shri Biswanath Das : May I interrupt 'my honourable Friend, Sir ? I stated clearly that it is in the Concurrent List and that as such the Central Government should have left it to the Provincial Government and the Provincial Legislatures. I know it is in the Concurrent List."

The Honourable Dr. B. R. Ambedkar: I was just going to say that. The reason why it was put in the Concurrent list is undoubtedly—and I do not think there can be any other reason—that in a matter of this sort there ought to be uniformity if the Centre decided there should be uniformity. Therefore it is the right of the Central Legislature to legislate on the subject.

With regard to the question whether there should be an Insolvency Act or not I do not think that that can be point at issue on a matter of this sort. If my honourable Friend wants that there should be no insolvency legislation at all

* C.A. (Leg.) D., Vol. II, 25th February 1948, p. 1227-28.

the proper thing for him would be to bring in a resolution before the House and say that all laws relating to insolvency may be abolished.

Shri Biswanath Das: May I state that I never said that the Insolvency Law is not necessary. All that I said is this law is unnecessary, undesirable and breeds immorality into society.

The Honourable Dr. B. R. Ambedkar: Yes, therefore not necessary. However with regard to the point made by Dr. Punjabrao Deshmukh he is not here—I was somewhat surprised when he said that the Bill ought to be circulated. He has accepted a place on the Select Committee and I am sure about it that the two positions are quite inconsistent. I do not wish to say anything more about what he has said.

With regard to the point Shrimati Durgabai, namely that the Bill should have retrospective effect, I was bound to make a reference to it because I had induced her to withdraw her own Bill on a promise that when I bring my Bill I will say something about her Bill also. But as to the substance of it, as I say I feel a certain amount of doubt and difficulty, and I cannot very readily say in this House that I shall accept the proposition that the Bill should have retrospective effect. In fact one of the friends on the bench there who spoke said something which has a great deal of force and we must be very careful in giving retrospective effect to a measure of this sort.

Now coming to the point made by my friend Professor Ranga—he of course has the habit of entering into subjects which undoubtedly he himself will acknowledge are not his own—I am prepared to modify his argument and to give it some sort of a shape so that it might appear respectable. Now if I understand correctly, what he said was that there was a difference between the Presidency Towns Insolvency Act and the Provincial Insolvency Act, inasmuch as one contained a clause or a section like 6 and 52 while the other did not.

One could infer from what he said that the legislature in passing the law had different intensions from the very beginning that while they intended that since interest must pass to the Official Assignee under section 52 when the father

became insolvent, the legislature has no such intention when they passed the Provincial Insolvency Act. I think my friend Professor Ranga, not being a lawyer, has not understood the position correctly. If he refers to the definition of the term 'property' to which I made reference, he will see that in both the laws, provincial as well as Presidency Towns, the definition of 'property' is just the same. There is no difference at all. In both cases the phraseology as property or power. The difference is that under section 52, the official assignee can pursue property, but somehow there being an omission in the Provincial Insolvency Act, he has no right to pursue that property. Therefore, there is no doubt about it that this must have been a very inadvertent omission. If the legislature did not intend that the father's righ to dispose of the property of his son under the Provincial Insolvency Act should not accrue to the official assignee, the definition of the term 'property' in the Provincial Insolvency Act would be very different to what it is now, and therefore, I submit with all respect to my friend that his point really has no substance. Sir, I move.

Mr. Speaker: The question is :

> That the Bill further to amend the Provincial Insolvency Act, 1920, be referred to a Select Committee consisting of Shri Alladi Krishnaswami Ayyar, Dr. Bakshi Tek Chand, Shrimati G. Durgabai, Dr. P. S. Deshmukh, Shri M. Ananthasayanam Ayyangar, Pandit Thakur Das Bhargava, Mr. Naziruddin Ahmed, Shri Ram Sahai and the Mover, with instructions to report on or before the 16th March 1948, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

The motion was adopted.

(7)

*RESOLUTION *RE*. EXTENSION OF PERIOD MENTIONED IN SECTIONS 2 AND 3 OF INDIA (CENTRAL GOVERNMENT AND LEGISLATURE) ACT, 1946 AS ADAPTED.

The Honourable Dr. B. R. Ambedkar (Minister for Law): Sir I move :

> "In persuance of the proviso to section 4 of the India (Central Government and Legislature) Act, 1946, as adapted by the India (Provisional Constitution) Order, 1947, this Assembly hereby approves the extension of the period mentioned in sections 2 and 3 of the said Act for a further period of twelve months commencing on the first day of April, 1948."

Now, Sir, it is not necessary for me to enter upon a very lengthy discussion in support of this resolution. It will suffice if I tell the House that the Central Legislature has passed various legislations imposing controls on commodities, requisitioning land, and so on, matters which are purely in the Provincial List. This power the Centre was able to exercise because of the proclamation of emergency which was issued by the Governor-General when the war broke out: and as the House knows, since the proclamation is issued by the Governor-General the Central Legislature gets the necessary power to make any order or to pass any law notwithstanding the fact that the subject falls in the Provincial Legislative List. It is also provided in the Government of India Act that this power of legislating upon provincial subjects would disappear six months after the Proclamation of emergency has been withdrawn. Now this power was exhausted in the year 1946. The Government of the day felt that although technically the emergency had disappeared, yet factually there did exist a certain urgency for the controls imposed by the Central Legislature to be continued. There was no

* C.A. (Leg.) D., Vol. II, 25th February 1948, pp. 1228-29.

method by which the Central after the emergency had ended, could get the power to keep the controls alive and therefore, the Central Legislature approached the British Parliament which was then the only authority which could confer such power on the Central Legislature to make due provision in this matter, and Parliament, as the House will remember in 1946 passed an Act called the India (Central Government and Legislature) Act, 1946. Section 2 of that Parliamentary statute permitted the Dominion Legislature make laws with regard to the matters which it had done during that emergency. But what the parliamentary Statute did was that it gave the power to the Central Legislature one year only in the first instance.

Under the provisions of that Act, the Central Legislature passed Acts called the Essential Supplies (Temporary Powers) Act, 1946 and the Requisitioned Land (Continuance of Powers) Act, 1947. That law was passed in 1946. Under the Parliamentary Statute it continued in existence for one year ; that is up to 1947.

Now, Section 4 of the Parliamentary Statute as I said provided that the Centre could exercise these powers for one year. It also provided that the power could be extended by another year if the Governor-General so certified. Consequently those two Acts to which I made reference were continued in existence by another year by the fiat of the Governor-General and we are now exercising those powers under that extension effected by the Governor-General. Now, under the extension effected by the Governor-General, these would continue up to 31st March 1948. The various Departments of the Government of India have been consulted in this matter in order to ascertain whether they could do without these controls after the 31st March 1948. I believe that almost all the Departments who are charged with the administrative control feel that they need at least one year more to continue these controls.

As I said, section 4 of the Parliamentary Statute gave the power for one year in the first instance, in the second instance one year on the fiat of the Governor-General, and thereafter

by a Resolution of this House. The position, therefore, is this, that unless this House passes a Resolution extending that power, these powers will come to an end on the 31st March 1948. As the House will remember, I am only a Law Minister, I have no administrative responsibilities for the affairs of the Government of India, and I am therefore not in a position to answer any questions if they are asked as to whether in fact this extension is necessary, but I can tell the House that all the Departments are agreed that this extension is necessary, and I hope that the House will accept the view of the Departments of the Government of India and pass this Resolution. I have taken the precaution of calling my friend Dr. Syama Prasad Mookerjee to be by my side in order to reply any questions requiring detailed particulars with regard to the necessity of a provision of this sort. Sir I move.

Mr. Speaker: Resolution moved:

> "In pursuance of the proviso to section 4 of the India (Central Government and Legislature) Act, 1946, as adapted by the India (Provisional Constitution) Order, 1947, this Assembly hereby approves the extension of the period mentioned in sections 2 and 3 of the said Act for a further period of twelve months commencing on the first day of April, 1948."

SECTION II

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to
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SECTION II

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(8)

*INSOLVENCY LAW (AMENDMENT) BILL

The Minister of Law (Dr. Ambedkar): Sir, I move:

"That the Bill further to amend the law relating to insolvency, be taken into consideration."

Sir, I should like to make a brief statement in order to enable the House to understand what exactly the Bill proposes to do. The law of Insolvency in India is contained in two different Acts: One is called the Provincial Insolvency Act and the other is called the Presidency-towns Insolvency Act. The present Bill contains, apart from the short title, six clauses which make amendments in the existing insolvency law. The amending clauses in this Bill fall into two categories: some make changes in the Presidency-towns Insolvency Act and the other propose changes in the Provincial Insolvency Act. Those that make changes in the Provincial Insolvency Act are four ; they range from clauses 3 to 6 and there are two which relate to the Presidency-towns Insolvency Act.

4-00 P.M.

Taking into consideration clause 2, all that clause 2 does is to remove a difficulty which has been felt for a long time. In the existing law as embodied in section 12 of the Presidency-towns Insolvency Act, it is said that an insolvency petition must be filed within three months from the occurrence of the event which is recognised as the justifiable ground for the presentation of the petition. It often happens that the period of three months comes to an end when the courts are closed. Under the law as it sands, the creditor loses the opportunity of presenting a petition merely because when the court re-opens, it is more than three months since the occurrence of the event. Courts, of course, have taken different

*Parliamentary Debates (Hereinafter called P.D.), Vol. 1, Part II, 3rd Feb. 1950, pp. 185-93.

views in this matter. The Madras and Calcutta High Courts have held that the period cannot be extended. The Allahabad High Court has held that the period can be extended. It is therefore felt that both for the purpose of removing what might be called and injustice, because, if the creditor is not able to present a petition within three months by reason of the fact that the court is closed, it is certainly not his fault, and secondly also in order to remove the conflict of decisions, it is proposed by this amendment that in any case where the period expires on a day when the court is closed, it shall be lawful to present a petition on the day on which the court reopens.

Coming to clause 3, it amends section 21 of the Presidency-towns Insolvency Act. Section 21 deals with annulment of adjudication. Under section 21, although the power of annulment is given to the court, the matter is left within the discretion of the court. The words are, "the court may". Then, this section 21 is contrary to section 35 of the Provincial Insolvency Act: because, under section 35 of the Provincial Insolvency Act, the power is obligatory and the wording is, "the court shall". Similarly, it is found that the existing section 21 is also to some extent inconsistent with its own section 13 sub-clause 4. Because, there it is stated that if the grounds exist for dismissing a petition, the court shall dismiss it. There is no reason why in the case of annulment the power should be discretionary and in the case of dismissal, the power should be compulsary. It is therefore felt that it would be desirable to bring the Presidency-towns Insolvency Act in conformity with the Provincial Insolvency law and use the word "shall" in the place of the word "may".

Then, I come to clause 4. Clause 4 makes an amendment to section 53 of the Presidency-towns Insolvency Act. Section 53 deals with the rights of an execution creditor against the property of an insolvent, who has obtained a decree against the debator before he was adjudged insolvent. The question has arisen as to what should be the terminus, so to say, of the rights of the executing creditor : should the terminus be the presentation and admission of the petition of insolvency or should the terminus be the adjudication. It is felt that the

proper terminus, the equitable terminus would be the admission of the petition ; because, admission of the petition means that there are other creditors who are also recognised as having a right to a share in the property of the debtor. It is therefore unreasonable to permit the prior executing debator to continue to appropriate the property until the date of adjudication. There may be a considerable time between the admission of the petition of insolvency and the actual adjudication by the court. Therefore, this section substitites the word "admission" for the word "adjudication".

Then, I come to clause 5. Clause 5 introduces a new section, section 101A in the Presidency-towns Insolvency Act. The necessity for the introduction of this new section is this. As I just now stated, there is a provision for the annulment of adjudication. Now, the effect of the annulment of adjudication is that proceedings which by reason of adjudication are terminated or cannot be initiated, become open. What the section permits is that on annulment other persons who have a right to sue or proceed against the debtor will be free to so. The law of limitation comes in their way. As lawyer Members of the House would know, one of the principles of the law of limitation is that once limitation begins, it does not stop. Nothing can prevent limitation being suspended. Therefore what happens is this .....

Shri Tyagi (Uttar Pradesh)**:** I could not follow.

Dr. Ambedkar: I cannot open a class now.

The point is that as the right to sue begins long before the annulment by the time the annulment order is passed, the suit or the proceeding is time-barred. The question is raised whether this is a right thing to do, because if the proceedings or the right to sue is suspended, it is suspended not because of any fault on the part of the person who has this right to sue, but because the law says that when an adjudication is made all proceedings shall be suspended. Consequently, in order to remove this iniquity, what is proposed is this : That by this new section 101A, it will be open for the Court and for the party to have the time taken between adjudication and annulment excluded from the computation of the period

of the limitation laid down by the law, so that the right to sue may practically be deemed to have occurred when the annulment has taken place. Anyhow the period will not serve as an additional bar to any delay or lapses that might have occurred on the part of the person who has the right to sue.

Now, clauses 6 is merely clause 2 of the Bill. All that it does is this, that it introduces the same proviso in the Provincial Insolvency Act, so that even under the Provincial Insolvency Act, if the period of three months for filling the petition falls on the day on which the Court is closed, it would be open for a party to file the petition on the day when the Court re-opens.

Then, the last clause also amends the Provincial Insolvency Act. Under the present law, it is provided that along with the order of the adjudication, the Court also fixes the date for the discharge of the petitioner and he is required to appear on the day on which the date is fixed for his discharge. Now, the words are "He shall appear and the court, if he does not appear, shall" take a certain action, as stated therein. The section so far as the wording is concerned, is mandatory, but curiously enough the Courts have interpreted 'shall' as 'may' making it discretionary. It is felt that probably the Courts have really carried out the intention of the Legislature in treating 'shall' as 'may'. Similarly, the Presidency Towns Insolvency Act has also the word 'may' and not 'shall'. Therefore, this amendments proposes to accept the decision or the interpretation of the Court and substitute 'may' of 'shall'. These are all the clauses in the Bill.

I might say that these amendments are very much overdue. These amendments were suggested a long time ago, in fact before the War, but it was not possible to undertake any legislation while the war was there. Consequently, there has been this delay. I might tell the House that these amendments have been approved by the Provincial Governments and the Provincial Governments, have also stated that although the subject of insolvency falls in the Concurrent list, it is desirable these amendments should be made by a law made by Parliament, so that they may be uniform throughout the

country. That is the reason why this Bill has been brought forward.

Mr. Chairman : Motion moved :

"That the Bill further to amend the law relating to insolvency, be taken into consideration."

***Dr. Ambedkar:** I am glad that my friend Shri Biswanath Das raised the points to which he made reference in the course of his speech. I should like to say that before bringing forth this Bill I myself was of the opinion that the time had come when these two enactments should be amalgamated into a single Act. The distinction which has been existing in our insolvency law between the Presidency towns and the other areas seems to me no longer justifiable. But I found that the amalgamation of the two Acts into one single enactment would take time and would also require special agency to be employed in the Law Department for the purpose of collating the sections. However, owing the financial stringency it was not possible for me to obtain the staff that was necessary to undertake this task in the expediency with which we intended to proceed. That was the reason why I kept back my original project of bringing forth a single enactment. I have, however, not abandoned that project and as soon a circumstances propitious to that purpose are available. I will certainly place a single, enactment before Parliament.

With regard to the other question that he has raised, whether the jurisdiction in insolvency should be the District Court or Courts of small jurisdiction, as well as the other sections to which he made reference which according to him, are sections which are abused by the insolvent, I don't think they are matters which can be debated on this particular occasion. The law of insolvency, as everyone knows, is a sort of legal relief against misfortune or mishap. It is quite possible that persons who ought not to get the benefit of the legal relief do get it, but that is a complaint which may not be made merely against the insolvency law—it can be made against

* P. D., Vol. 1, Part II, 3rd February 1950, pp. 191-93.

almost every law. It is never possible for the Legislature to enact a measure which will be so tight as to be completely fool-proof and knave-proof. There will always be available many crooks who will be able to find out ways and means of getting round the act and abusing it. However, there is not the slightest doubt about it that the intention of my friend Mr. Das, that we ought not to allow any loophole in a law of this kind which would enable undeserving persons to get the relief which the law intends to give only to the really unfortunate, is a praise worthy object and no doubt in future legislation it will be borne in mind.

With regard to the points made by my friend Mr. Karunakara Menon, I think he has not followed what I stated in my opening remarks. He has forgotten that what we really are trying to do is to bring either the Provincial Law in conformity with the Presidency Law or to bring the Presidency law in conformity with the Provincial Law. We are not making any particular innovation which is not to be found in either of the two Acts. If he does not like the word "shall" which is introduced in some sections of the Provincial Act and wants "may", then he shall also have to give his justification as to why the word "shall" should continue in the Provincial legislation. All that I have done is to bring the two in conformity so that there may be no obvious inconsistency in legislation in matters of this sort. If, as I have said, he has still any points of contention he can raise them when a new Bill consolidating the whole is brought before Legislature. For the moment these are only pressing amendments which both the Provincial Governments as well as, if I may say so, all the High Courts have accepted.

Mr. Chairman: The question is:

> "That the Bill further to amend the law relating to insolvency, be taken into consideration."

The motion was adopted.

Mr. Chairman: The question is :

> "That clauses 2 to 7 stand part of the Bill."

The motion was adopted.

Clauses 2 to 7 were added to the Bill.

Dr. Ambedkar: I beg to move:

"That in clause 1, for the figures '1949' the figures '1950' be substituted."

The motion was adopted.

Clause 1, as amended, was added to the Bill.

Mr. Chairman: The question is :

"That the Preamable stand part of the Bill"

The motion was negatived.

Dr. Ambedkar: I beg to move:

"That for the existing Enacting Formula, the following be substituted :—

'Be it enacted by Parliament as follows:—'."

Mr. Chairman: The question is:

"That the Enacting Formula as amended stand part of the Bill."

The motion was adopted.

The Enacting Formula, as amended, was added to the Bill.

The Title was added to the Bill.

Dr. Ambedkar: I beg to move :

"That the Bill, as amended, he passed."

The motion was adopted.

(9)

*CRIMINAL LAW AMENDMENT BILL

The Minister of Law (Dr. Ambedkar): I beg to move for leave to introduce a Bill further to amend the Criminal Law Amendment Ordinance, 1944.

Mr. Deputy Speaker: The question is :

> "That leave be granted to introduce a Bill further to amend the Criminal Law Amendment Ordinance, 1944."

The motion was adopted.

Dr. Ambedkar: I introduce the Bill.

**CRIMINAL LAW AMENDMENT BILL

The Minister of Law (Dr. Ambedkar): I beg to move :

> "That the Bill further to amend the Criminal Law Amendment Ordinance, 1944, be taken into consideration."

[SHRIMATI DURGABAI *in the Chair*.]

The object of this measure is to replace Ordinance No. III of 1950, which is called the Criminal Law Amendment Ordinance, 1950. This Ordinance No. III of 1950 was passed in order to add a new section 9A to the Original Ordinance XXXVIII of 1944. The history of this Ordinance No. XXXVIII of 1944 may be helpful to hon. Members in order to understand why exactly the Ordinance III of 1950 was enacted.

During the war the Government of India as well as the Government of the various Provinces had entrusted public property and public funds into the hands of certain persons such as contractors and officers of Government. It was found that some of these persons who were entrusted with Government property and funds had committed certain defalcations and consequently in order to try the delinquents

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* P. D. Vol. 2, Part II, 14th February 1950, p. 538.

***Ibid,* 28th February 1950, pp. 983-84.

Ordinance XXXVIII of 1944 was passed, which constituted special tribunals for trying these offenders. These tribunals were spread all over India in the different Provinces of United India before the Partition. These tribunals were given power to freeze the property of the delinquent by passing attachment orders and the courts so empowered were courts within whose jurisdiction the delinquents stayed or carried on business.

After the Partition a peculiar situation arose, namely that the tribunals which passed the orders of attachment against the properties of the delinquents became part of Pakistan, whereas the property of the delinquents remained in India proper. This difficulty has to a large extent held up the work of carrying on these trials. It is therefore now proposed that the power of passing further orders with respect to property which has already been attached by courts (which unfortunately happen to be now in Pakistan) should be transferred to courts operating within the Indian Republic. Consequently it is thought desirable to add this section 9A which permits the courts within whose jurisdiction the offences are now being tried to exercise the power of passing orders regarding the property which is held by these deliquents.

The Ordinance was promulgated because the matter was regarded as very urgent. As the power of continuing the Ordinance is of a limited duration it is necessary to revise the Ordinance before the expiry of time by this measure.

Mr. Chairman: Motion moved :

> "That the Bill further to amend the Criminal Law Amendment Ordinance, 1944, be taken into consideration."

Shri Himatsingka (West Bengal)**:** On a point of information, may I know if the property that has been attached by an order of the court is now in Paksitan. If the property continues there.....

Dr. Ambedkar: The property is here.

Mr. Chairman: The question is:

> "That the Bill further to amend the Criminal Law Amendment Ordinance, 1944, be taken into consideration."

Mr. Chairman: The question is:

Mr. Chairman: There are no amendments. I will put the clauses.

The question is:

"That clauses 2 and 3 stand part of the Bill."

The motion was adopted.

Clauses 2 and 3 were added to the Bill.

Clause 1 *was added to the Bill.*

The Title and the Enacting Formula were added to the Bill.

Dr. Ambedkar: I beg to move:

"That the Bill be passed."

Mr. Chairman: The question is:

"That the Bill be passed.".

The motion was adopted.

(10)

MOTION FOR ADJOURNMENT

ESCAPE OF MIR LAIK ALI OF HYDERABAD FROM CUSTODY.

* **Mr. Speaker :** May I ask who is the controlling authority or the directing authority, so far as the prosecution of Mir Laik Ali and others is concerned ?

Sardar Patel: The final prosecution sanction is from the Nizam.

The Minister of Law (Dr. Ambedkar): I do not know but the first impression which I have of this matter is this that Hyderabad is like any other State. There is no distinction between Hyderabad State under the Constitution in its relation to the Centre and, say, for instance Bombay in its relation to the Centre, which means that for subject matters set out in List II the responsibility is entirely of the State, while the responsibility, so far as subjects in List I are concerned, belong to the Centre. The same rule would apply to Hyderabad. That is to say that so far as the matter relating to the custody of Laik Ali is concerned, it is a matter of law and order which is undoubtedly under the Constitution a matter for local administration. On that footing, I submit that this is not a matter which constitutionally could be held to be under the control of the Central Government, but I should like to add one more remark, *viz.* that in view of the fact that there is no local legislature to which the local Ministry could be held to be responsible, it is possible—I speak subject to correction—that whatever action is being taken by the local administration is perhaps done under the power which the Constitution vests in the Central Government of direction and control over certain States. I am not yet aware as to what

* P.D., Vol. 2, Part II, 7th March 1950, pp. 1179-80.

the position under that part of the Constitution is. But so far as the Constitution is concerned and the relation of Hyderabad State to the Centre is concerned, this, I submit, would be a matter falling within law and order which is absolutely a States subject.

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* **The Minister of Law (Dr. Ambedkar):** Sir, I am grateful to you for the second opportunity which you have given to me to clarify and to explain further the points that were made by me as well as by other Members of this House in the course of the debate that took place yesterday on the adjournment motion. Since you have been good enough to point out to me, before I commenced my remarks, the difficulties which you feel, I will follow the line of points which you have to set out: I will first of all try and explain the Constitutional position of the States on the one hand and the Centre on the other and to what extent the States are free and independent of the Centre, to what extent they are under the subservience or surveillance or superintendence or control of the Centre.

The first thing I would like to draw the attention of the House to is this that there is a certain amount of parallelism in the constitutional frame-up of the Central Government and of the States. For instance, with regard to the Central Government you have article 53 which says that the executive power of the Union shall be vested in the President. Corresponding to that article, you have article 154 which states that the executive power in the States shall be vested in the Governor or the *Rajpramukh,* as the case may be. Coming to the question of actual administration, article 74 of the Constitution provides that there shall be a Council of Minister to aid and advise the President in the matter of the exercise of the executive authority which is vested in him by the Constitution. Analogous to that article, we have also

* P.D., Vol. 2, Part II, 8th March 1950, pp. 1236-44.

article 163 which relates to the States. It also is worded in the same language as article 74. It says that there shall also be a Council of Ministers to aid and advise the Governor in the carrying out of the administration which is vested in the Governor, or the *Rajpramukh*. Then we have another article, 79 which vests the legislative power of the Centre in Parliament consisting of two Houses. Analogous to that, we have article 168 constituting a legislature for the States in almost the same terms except for the fact that in some cases there are two Houses and in other cases there is one House. There is a further provision, namely, that where at the commencement of the Constitution there does not exist any popularly constituted legislature in any States, then the *Rajpramukh* of that State shall be deemd to be legally the legislature for that State. It will therefore be seen that the paraphernalia, so to say, of administration in accordance with the Constitution is parallel in both cases. Supplementing this by what I stated yesterday that the legislative authority of Parliament is primarily confined to subjects enumerated in List I, and the legislative authority of the States is confined to subjects mentioned in List II, with the further proposition—to which there can be no objection raised because it is a well-established judicial proposition—that the legislative authority is co-extensive with executive authority, it follows that so far as the States are concerned, primarily and fundamentally they occupy an independent position in the Constitution. That being so, it is quite clear that by the rule of comity and also by the rule governing responsibility, it would not be open to this House to discuss any matter, either in the form of legislation or in the form of administrative action, which has been taken by the State which lies within the ambit of subjects mentioned in List II. As I stated yesterday, so far as I can understand the subject-matter of the Adjournment Motion relates primarily to law and order. Law and order is a subject which is included in List II and therefore, it would not be open to this House to discuss such a question when the Legislature of the State is competent by the rule of the Constittuion to deal with it. That I think is a general proposition which must be accepted.

I should like, if hon. Members want to see the thing in a clear light to ask them to compare the provisions of article 239 with the provisions of the article to which I have referred in regard to the States. Article 239 refers to States in Part C ; they are what are called "Centrally Administered Areas". The language of article 239 is absolutely different from the language of article 154. The language of article 154 is that the executive power, which also includes administration, vests in the Governor, while article 239 begins by saying that the States in Part C shall be administered by the President, which means "President on the advice of his Council of Ministers", which in turn means that the responsibility for any matter of administration so far as States in Part C are concerned, directly falls upon Parliament and upon the Central Government. It is therefore open for any Member to discuss any matter relating to States in Part C on the floor of the House, which would not be the case so far as the other States are concerned.

With regard to the States, I should also like to point out that although our Constitution divides the States in Part A and Part B for certain purposes, that is for the purposes to which I have referred, namely the frame of their constitution, the vesting of the executive authority, the authority to make law, and all that, they are on a parallel footing and there is complete parity. True enough that the Consitution contains an article, article 238, which applies with certain modifications, the articles which apply to States in Part A to States in Part B. But anyone who has the curiosity to examine the provisions of article 238 will find that the changes made in the articles which are applicable to States in Part A in their application to States in Part B are of a very minor character—substituting "Governor" for "Rajpramukh" etc. a sort of terminological difference. Beyond that there is no difference at all. Therefore, from that point of view, just as it would not be competent for this House to discuss any matter falling within the jurisdiction of States in Part A, it would also not fall within the jurisdiction of the House to discuss any matter relating to Part B States because both of them, as I said, are placed by the Constitution on the same footing.

At this stage I would like to endorse what the Hon. the Home Minister has said just now. The mere fact that the Nizam is a *Rajpramukh,* the mere fact that there is no legislature, the mere fact that certain officers have been lent by the Home Ministry to the Nizam for carrying on the administration of the State, would not alter the character of the Hyderabad State being exactly on the same footing as other States in Part B, which is the same thing as being equivalent to States in Part A. I shall have to say something at a later stage by way of a small qualification, but I should like to say that the mere fact that the officers have been lent would not alter the status and the character or position of the Hyderabad State within the field of the Constitution.

Now, this is the general proposition, namely that the States in Part A as well as the States in Part B are free and independent of the Centre in the matter of executive authority, in the matter of legislative authority and in the mode and manner of administering the legislative and executive authority that they possess. This is the general proposition. The question that we have now to consider is the provision contained in article 371, and the question is: does the provision of this article make any change in the position of States in Part B ? Because, as everyone knows, article 371 applies only to States in Part B and does not apply to States in Part A. In the course of the debate yesterday, I found that one hon. Member said that the Central Government possess no authority to issue any directions to the States except under emergency provisions, which gave me the impression that in his view article 371 could not be the foundation for the Ministry of States or the Government of India to issue directions to States in Part B. With all respect, I submit that I cannot accept that position. To explain the matter fully, the Centre has the power to issue 352 directions under the Constitution to the various States, under *four* different articles. The first is article which is what is called an emergency article arising out of war or internal aggression and things of that sort. The second article which permits the Centre to issue directions to the States is article 360 which deals with financial emergency; when the President is

satisfied that the credit of the State is in jeopardy he can declare a state of financial emergency and under that article he can issue certain directions to the States. The third article is article 356 which is called a breakdown article. When the President finds that the Constitution in any particular State is not being carried on in accordance with the provisions contained therein, then also, the President issues certain directions to see that the Constitution is carried on in accordance with its provisions.

Then comes the last Article, Article 371, which is the supervisory Article. It has to be understood that Articles 352, 360 and 356 are, in a general sense, emergency articles, that is to say, they can be invoked for the purpose of giving directions to the States only when certain circumstances arise and the President is satisfied that those circumstances have arisen.

Pandit Kunzru (Uttar Pradesh)**:** May I ask the Hon. Minister of Law whether he has made this observations with reference to Article 371 also?

Dr. Ambedkar: No, I am taking it separately. I am trying to point out the distinction between the provisions contained in Article 371 on the one hand and Articles 352, 360 and 356 on the other. As I said, these latter Articles are emergency Articles. They are not Articles which deal with normal administration in normal times. Circumstances must justify their invocation. The second thing with regard to them is that they apply to States in Part B to the same extent, in the same degree and in the same manner as they apply States in Part A, provided of course, that the emergency has arisen.

Article 371 stands on a different footing. It does not require an emergency. It can be used in normal times. That is one feature of distinction. The other feature of distinction is that it applies only to States in Part B. It does not apply to States in Part A. Therfore, in my judgment it is not correct to say that the Central Government must use either Article 352 which is an emergency Article, or Article 360, or Article 356, to issue directions to States in Part B. (*Pandit Kunzru :* Hear, hear). Independently of these three Articles, the Centre has the power to issue directions to States in Part B under Article 371.

Pandit Balkrishna Sharma (Uttar Pradesh)**:** And it is only transitional.

Dr. Ambedkar: That is a different matter. The transition has not ended. The Article is in operation and we must therefore take it as it is. Therefore, in my judgment, Article 371 does give the power to the Centre of issuing directions to States in Part B even though there is no emergency. It is an Article which is to be used in normal times.

Now, Sir, the question you have been good enough to raise is one which if you will permit me, I would like to take up towards the close. In so far as Article 371 is concerned and in so far as a direction has been issued—I am using my language very deliberately—in so far as Article 371 is concerned and in so far as it has been used for the purpose of issuing a direction to the State Government, it seems to me that there is a possible basis for discussion of that matter by this House. That is my view of the matter.

Now, I would like to take up .....

Mr. Speaker: May I have clarification on one point at this stage? Will the failure to give direction .....

Dr. Ambedkar: I am just coming to that. That is the very point I want to deal with, because that is a very important one, and we must be very clear about it.

Pandit Balkrishna Sharma: May I know what direction has been issued under Article 371 ?

Dr. Ambedkar: I am coming to that. I am stating the position generally. My. Hon. colleague, the Home Minister will say what direction he has issued. I am not in charge of administration, and I have merely been asked to explain the legal position.

Now, Sir, I was trying to find out whether there was any precedent in the past procedure of our Legislature which could help us to come to some definite conclusion on the issue before the House. I have examined the provisions of the Government of India Act, 1919, in order to find out whether there was any ruling which could furnish to us some kind of a precedent.

As the House will remember, the scheme of the Government of India Act, 1919, was to divide, so far as the Provinces were concerned, the field of administration into two parts: the transferred part and the reserved part. The House will also remember that under the old Government of India Act the superintendence and control of the civil and military Government of India was vested in the Secretary of State in Council. It was also provided that the Governor-General in Council as well as the Governors would carry out their respective duties of administering this country, subject to the power of superintendence and control of the Secretary of State. When the field of administration was demarcated into the reserve and transferred sides in 1919, a rule was made that those subjects which were classified as 'transferred subjects' were not to be under the supervisory control either of the Secretary of State or of the Governor-General or of the Governor, because they were administered by Ministers who were responsible to the Legislature. Now, the question that arose under the provisions of the 1919 Act was this : whether it was possible for the Central Legislature to ask a question with regard to the administration in the Provinces. The researches that I have made—and I am grateful to the Secretariat of the Speaker for the help they have rendered me in this connection—show that the then President of the Assembly took the view that in so far as the question related to transferred subjects, he would not allow them, but if they referred to 'reserved subjects', he would allow them subjects to the sanction of the Governor-General. You will recollect that such sanction was necessary, because the Assembly worked under both Rules and Standing Orders. The Rules were made by the Governor-General, which sometimes restricted the scope of Standing Orders. Therefore, his permission was necessary. But the principle was conceded that in so far as the administration continued to be under the superintendence, direction and control of the Governors, of the Governor-General and ultimately of the Secretary of State, it was possible for a Member of the Central Legislature to ask a question relating to those subjects and the President, subject to other conditions being fulfilled, would admit that

question. That is one precedent. Of course, it must not be extended to a field which it did not cover. As I said, it extended only to questions and not to other matters.

Now, I come to the Government of India Act, 1935. Probably, some Members of the House will remember that as soon as the Government of India Act, 1935, was passed, certain members of the House of Commons were considerably agitated as to their rights to ask questions to the Secretary of State in Parliament with regard to the administration of India and a question was put to the then Prime Minister, Mr. Chamberlain, in the year 1937. Mr. Chamberlain gave the reply to the effect that since the administration of the country was transferred to agencies in India and to that extent the Secretary of State ceased to possess to have any kind of responsibility for the actual administration, it would not be possible or permissible for Members of Parliament to put any questions to the Secretary of State on those matters. That matter was taken up in the Assembly here immediately after the interpellations had taken place in the House of Commons and a question was put by our old friend Mr. Pande, who was a well-known Member of this Assembly, to the then Law Member, Sir Nripendra Sarcar. I propose to read the answer which Sir Nripendra Sarcar gave, because it is a very illuminating reply and, in my judgment, supports the conclusion to which I have come and to which I have given expression just now

The answer of Sir Nripendra Sarcar was this :

> "(a) The general position is that where the executive and legislative authority are vested under the Act in the provinces, it would not be appropriate for the Central Legislature to discuss those matters. There are likely, however, to be matters in which the Central Legislature may be properly interested, (e.g., a direction under sub-section *(1)* and *(2)* of section 126 of the Government of India Act) and thus the prevention of any encroachment on the provincial sphere may well be left to be regulated by the powers vested in the Hon. the President under Rule 7 of the Indian Legislative Rules in regard to questions and in the Governor-General under Rule 22 in regard to the Resolutions."

My submission is this : that the provisions contained in Article 371 are more or less analogous. I do not say they

are exactly alike to the provisions contained in Section 126 of the Government of India Act. The Act of 1935 vested power in the Governor-General. It says :

> "The executive authority of the Federation shall extend to the giving of such directions to a province as may appear to the Federal Government to be necessary for that purpose".

Further it says ;

> "The executive authority of the Federation shall also extend to the giving of directions to a province as to the carrying into execution thereunder any act of the Federal Legislature, etc."

As I said, Section 126 deals with power to give directions to the provinces. Similarly, Article 371 also gives power to Central Government to give directions. As interpreted by my predecessor Sir Nripendra Sarcar, on the basis of the discussions and clarifications that took place previously in the House of Commons, he came to the conclusion that a matter such as the one lying within the purview of section 126 could be discussed in this House. My submission, therefore, is that that opinion of his is a sound one.

Shri T. T. Krishnamachari (Madras)**:** May I Sir, suggest to the Hon. the Law Minister to give us his opinion on Section 126 of the Government of India Act *vis-a-vis* Articles 257(1) and 73(1) proviso of the Constitution.

Dr. Ambedkar: I have not considered those sections. If at any other time the point is raised I would be prepared to clarify it. For the time being, it does not seem relevant to the subject we are discussing.

Pandit Kunzru: Will the Hon. Law Minister read out Article 371 and tell us whether under it orders can be issued by the Government of India to Governments of the States only in regard to Central (Federal) subjects, or also in regard to subjects included in the State list?

Dr. Ambedkar: It is quite clear that Article 371 contemplates issue of directions relating to matters lying within the purview of the State Legislature and the State Executive. It is really in relation to the administration of the States that Article 371 has been drafted. In my mind there is no doubt on the point at all. Now, Sir .....

Pandit Kunzru: May I ask the Hon. the Law Minister how he then regards Article 371 as analogous to Section 126 of the Government of India Act which restricted the executive authority of the Government of India to matters included in the Federal list ?

Dr. Ambedkar: I do not think my hon. Friend has understood me. The point is this. Let me put it in a somewhat pointed manner. When one Government has the right to give directions to another, could such directions be the subject matter of discussion in an Assembly to which that particular Government is responsible ? That is the question. I am not using Section 126 for the larger issue. I am using it for the limited issue, namely, that wherever there is power to give direction, that power implies responsibility and wherever there is responsibility there must be discussion. That is my point.

Now, Sir, you were good enough to ask me to explain what "general control" meant. Now, it seems to me that the words "general control" are used in order to include every matter of administration arising within that particular State. The direction need not be confined to any particular matter. Today the direction may be given with regard to the Police administration; tommorrow it may be given with regard to revenue administration; at a later stage it might be found necessary to issue a similar direction with regard to finance. "General control" means control extending over the whole field of administration. That is how I use the word general control.

It would not be permissible for me, I suppose, to give the history as to how this Article came to be drafted. I would not ask your permission, nor if you give it would I use it. But I have a very clear picture in my mind as to what this Article was intended to cover. This Article does not take away the powers given to the State under the various Articles to which I have referred, namely, 154, 162, 163 and 168, the power of executive authority, of administration and of legislation. But in the interest of good Government it superimposed the authority of a direction given by the Centre in order that the levels of administration may not fall down. That. Sir, is the implication of Article 371.

Dr. R. U. Singh (Uttar Pradesh)**:** May I ask a question, Sir? Is it contended that when control has been exercised, or is being exercised, and directions have been given, Parliament is not competent to discuss the matter ?

Mr. Speaker: He is advocating just the reverse.

Dr. Ambedkar : Sir, you referred to the question whether there is a Legislature or whether there is no Legislature is a matter which can be taken into consideration in coming to a conclusion. Theoretically, of course, no such consideration can be paid to the existence or non-existence of a Legislature, because the Constitution itself expressly says in Article 385 that where there is no Legislature, the Rajpramukh shall be deemed to be the Legislature. But it may say so, this matter whether there is a local Legislature where the particular point could be agitated or not, was taken into consideration by your predecessor in dealing with questions during the last war. As you remember, Sir, in 1939 when the war was declared, the Congress party which was the governing party in the various provinces resigned on account of certain differences between the party and the Government, and consequently, section 93 was applied. Here certain Members asked certain questions with regard to the administration in the Provinces as conducted by the Governor and his Advisers. It was then held that it was right and permissible for Members of the Central Assembly to ask questions for information with regard to the administration in the Provinces where there was no Legislature functioning. I remember having read the proceedings, and much emphasis was laid on the fact—not on the legal fact, but as a *de facto* position—that since the people have no opportunity to ventilate there grivances before a properly constituted Legislative, that in itself was an additional ground for permitting questions being asked in the Central Legislature about provincial administrations. So technically it would not be right to take this into consideration because the Rajpramukh is the Legislature. But I say, technicalities in a matter of this sort, should not be allowed to come in, much as some hon. Members might like to.

Mr. Speaker: At this point, may I ask whether he would place question for information on the same footing as a discussion ?

Dr. Ambedkar: As I said, the precedents which I have collected refer only to questions. According to Sir N. N. Sarcar which is the authority I have relied on, the matter, can be discussed, the propriety or otherwise of a direction can be discussed. It seems to me that as he has used the word "discussion" it would be large enough to include even an adjournment motion.

Now, Sir, I come to the other question which you have been good enough to put to me, "What is the scope of article 371 ?" Now, Sir, reading article 371, I should like to point out one important matter and it is this, that article does not cast upon the Government of India the duty of having general control. It is not an article which imposes a duty. It is an article which permits the Government of India to give directions. Now, Sir, this distinction which I am making is a very important distinction and it must be very clearly borne in mind.

Shri Kamath (Madhya Pradesh)**:** May I point out that the language used in Article 371 is—

> "..... the Government of every State.....shall be under the general control ..... etc, etc."

Dr. Ambedkar: 'Shall be' means what ? It is the duty of the State to be under. There is no duty on the Central Government.

Shri Kamath: There is mutuality.

Dr. Ambedkar: No, no mutuality at all.

Now, the position is this. That distinction is important from this point of view. When there is the duty cast to do a certain thing, then a motion of censure could be passed either upon the mis-performance of the duty or upon the failure to perform the duty. But if it is agreed that this article merely permits the Government of India, in the interest of better administration, to issue on certain occasions or in certain situations, certain directions telling the Provincial Government that they may do this or they may not do that, then I am

sure about it that the only question that can arise for consideration is, what direction was given, whether the direction was proper, and whether any steps were taken to see that the directions were carried out. If the Central Government in its wisdom, in its discretion, felt that notwithstanding the fact that there were elements in the situation which called for the issue of an order, did not think it necessary, proper or wise to give a direction, then the Central Government could not be called to account for failure to do so. That, I submit, is a distinction which must be borne in mind.

Pandit Kunzru: How does my friend come to that conclusion ?

Dr. Ambedkar: That is how I read it. My friend, as I said, may read it differently ; I know, and people who are, if I may say so, more enthusiastic than cautious may probably like to give a more stretched meaning to this article. But looking at it from this point of view, from the fact that the Constitution has vested the States with the right to administer their affairs, and has only given what may be called in the case of States in Part B certain residuary powers to give directions on certain matters and on certain occasions, this power which may be exercised, as I said, under article 371 must be of a very limited character. My submission, therefore, is that although as I read article 371, I cannot help accepting the conclusion that it does admit the possibility of discussing a matter relating to the administration of States in Part B, it must be of a very narrow character. That is all I have to say.

The Minister of Transport and Railways (Shri Gopalaswami): I only want to refer to one particular point. If you are going to give a general ruling on the applicability of article 371, its interpretation and the admissibility of an adjournment motion, based upon that article, I should like you, Sir, to defer your ruling till other Members like me have put certain points before you. But if you are going to reject this motion on the short ground on which the Hon. Law Minister ended his speech, I need not waste the time of the House by puting these points before you.

Mr. Speaker: I will tell him what is passing in my mind. I do not propose to hurry up any decision. I have heard the Hon. Law Minister, I have heard his point of view, and if other Members are anxious to address on the purely constitutional aspect of it, without going into the merits, I am prepared to hear them; but that discussion should be of a very short duration. I have not yet made up my mind as to .....

Dr. Tek Chand (Punjab)**:** Shall we do it today or on some other day? This question raises very important .....

Mr. Speaker: I have not finished. The hon. Member will please let me finish first, and then he will see that I entirely agree with him, and that I am going to do what he wishes to be done. The point I was coming to is this. I am restricting myself only to the facts of the present case, and I want to know whether I have understood the Hon. Law Minister correctly. He has given his views on the wider issues about the scope and there might be, as he says, occasions when the Centre may exercise this power; but am I clear in understanding him this way that, supposing no directions are given by the Centre or no control is exercised, then the present motion would not be in order. Is that his conclusion?

Dr. Ambedkar: That is my view.

Mr. Speaker: The other position I want to get clarified was about the words 'general control'. He stated that the word 'general' means the control extending to the whole administration.

Dr. Ambedkar: And not detailed control, not over day to day administration.

Mr. Speaker: That is what I wanted to be clear about. Subject to the general policy laid down by the Centre, the States will have perfect autonomy.

Dr. Ambedkar: But with the further fact that if the Government of India is satisfied that the directions are not carried out, then the other provisions will come into operation.

Mr. Speaker: That is a different matter. But no question for a discussion can arise in this House unless the power in Article 371 is exercised by the Centre.

(11)

PARLIAMENT (PREVENTION OF DISQUALIFICATION) BILL

***The Minister of Law (Dr. Ambedkar):** I beg to move :

"That the Bill to make provision in regard to certain offices of profit under article 102 of the Constitution, be taken into consideration".

I do not think that it is necessary for me to make any long statement to enable the hon. Members to understand the provisions of this Bill. It is a very short one. It has only one clause but just to put hon. Members in a position to know exactly what is being done, I would like to say that article 102 of the Constitution provides that certain persons shall be disqualified from being Members of Parliament. One of the disqualifications relates to holding of an office of profit under Government. So far as Ministers are concerned, they are exempted from the operation of article 102 by clause (2) of that article. We have however in the Government of India not only Ministers but also other categories of Ministers *viz.* Deputy Ministers and Ministers of State. These offices were created before the Constitution came into operation. Their occupants were entitled to hold office at the same time as Members of Parliament because during the period which intervened between the 15th August 1947 and the 26th January 1950 the Government of India Act 1935, as adapted, did not contain the provision to which I have made reference *viz.,* holding of an office of profit as a disqualification. The situation has, of course, now altered by reason of the provision contained in Article 102 so that from the 26th January 1950 Ministers of States and Deputy Ministers would have become disqualified from sitting in Parliament. In order to get over the difficulty the Government issued an Ordinance permitting them to sit in Parliament and to remove the disqualification they would have otherwise incurred. As hon. Members know, under the new Constitution, the life of an Ordinance is a very

* P. D., Vol. 2, Part II, 9th March 1950, p. 1330.

short one *viz.,* six weeks from the re-assembly of Parliament. In this particular case Parliament assembled on the 28th January so that the Ordinance would expire on the 12th of this month. It is necessary that this Bill should be got through before the Ordinance ceases to have legal operation. The Bill seeks to include what I may say, clause (a) of Section 2 of the Ordinance, which referred to Deputy Ministers and Ministers of State. The present Bill does not propose to give effect to clause (b) of section 2 of the original Ordinance which made provision for part-time offices. Instead of that, the Bill seeks to include two more offices *viz.,* Parliamentary Secretaries and Parliamentary Under-Secretaries. It is felt that although these offices are not in existence now and have not been created, it is quite possible that the Government of India may find it necessary to create them. It was therefore felt that it would be better to enlarge the scope of the Bill in order to include these offices as well. I do not think that any more argument is necessary to support the Bill and I hope the House will accept it.

Mr. Deputy Speaker: Motion moved.

***Dr. Ambedkar:** I would like to understand, whether my hon. Friend agrees to the proposal in the Bill that these two offices should be created and being created, they should be exempted from the provision enacted in article 102 of the Constitution ? Let us understand it very clearly and if my hon. friend is going to take the whole of the half hour, there is no use going any further.

Shri Tyagi: If he is tired, he might go home.

Mr. Deputy Speaker: I agree any length of time can be taken but so far as this Bill is concerned, it is a very small point.

****Dr. Ambedkar:** I only wanted to understand what exactly was the point my hon. friend was driving at and if he was going to take the whole of the half hour, it is much better to begin tomorrow and finish the Bill.

*P. D., Vol. 2, Part II, 9th March 1950, p. 1334.

***Ibid.,* p. 1334.

Shri Tyagi: When people are not quick to understand, I take time to make them understand.

Pandit Kunzru (Uttar Pradesh)**:** Do Government insist that the Bill should be passed today?

Dr. Ambedkar: I am not saying so. It is only the Hon. Deputy Speaker who says, "let us sit for half an hour."

Pandit Kunzru: I think it will be a fruitless discussion and I venture to think that the discussion will end quicker if we adjourn till tomorrow.

***Dr. Ambedkar:** On the first point raised by my friend, Mr. Tyagi, as to whether there is at all any necessity for bringing in this measure, I think what has fallen from the Prime Minister should suffice, and I would only like to add this by way of clarification : Our real difficulty has arisen by reason of the fact that the definition Article, Article 366, does not define the word "Minister". Therefore the word "Minister" is left to be interpreted in two ways, either in the larger sense which would include not only Members who are Ministers but also Members who are Deputy Ministers or Ministers of State. It would also include in the popular sense Parliamentary Secretaries and also Parliamentary Under-Secretaries. That is one interpretation which is perfectly possible, but it is also possible to put a narrow construction whereby Ministers would mean not Ministers including Deputy Ministers, Ministers of State, Parliamentary Secretaries or Parliamentary Under Secretaries, but only Members of the Cabinet. As the House knows that there is customarily—I am deliberately using the word 'customarily'—quite a distinction between Ministers who are Members of the Cabinet and Ministers who are not Members of the Cabinet, and it is quite possible for anybody, even for a Court, to put the narrower construction and confine the *de jure* interpretation of the word "Ministers" to Members of the Cabinet only, in which case undoubtedly.....

*P. D., Vol. 2, Part II, 10th March 1950, pp. 1344-48.

Pandit Kunzru : Which Court is my hon. Friend referring to ?

Dr. Ambedkar : Any Court. I am coming to that also. I was only speaking generally. Any person may question that interpretation. If that interpretation is questioned, obviously, there would be difficulties. Therefore, it is by way of caution, by way of removing any kind of doubt or difficulty that this Bill has been brought in, and as I said, if the interpretation given by my friend, Mr. Tyagi, was upheld in a place where such question was likely to be raised, no one would be unhappy if it was then found that the Bill was unnecessary, but if unfortunately notwithstanding the great argument, the extensive argument, the original argument addressed by my friend, Mr. Tyagi, it was found that that construction was not the correct construction, then it would be obvious that the Parliament did wise in passing this Bill. Therefore so far as the exact provisions of the Bill are concerned, I think a cautious House ought to support them. I would not say anything more on that point.

In regard to the other question, *viz.,* disqualification incurred by Members of the House by reason of the fact that they are holding some kind of office which is outside the Ministerial offices.....

Shri Sidhva: I mentioned Committees.

Dr. Ambedkar: That is why I said non-Ministerial offices. I am using the exact legal term. That question, I think, requires to be considered. That question was raised yesterday after Parliament rose, but unfortunately when I went to my room, I found that all the libraries were closed and I could not get the necessary books of reference which I wanted to consult, because I knew that this matter would be raised in the House and I thought that I should be prepared to give some kind of reply as far as I could under the circumstances. I have applied my mind to this matter and all I can say is that I have come to some tentative conclusion which I should like to present before the House.

In the first place, I should, like to remove the sort of scare which has been raised by my friend, Mr. Sidhva, that any enemy of his might create trouble. I hope he has none. I think he is one who may be correctly described as *Ajatashatru*. Any how, our Constitution has made ample provision that matters of this sort relating to disqualification should not go to a Court. By Article 103 we have left the power to decide whether any particular Member of Parliament has incurred a disqualification by reason of accepting an office of profit or not, with the President. The President is the final authority. Under Article 103 the President has been released—very deliberately and very wisely—from acting on the advice of the Ministry, because it was felt that the Ministry might give an interested advice to the President. Therefore, in this particular case relating to disqualification arising out of holding an office of profit, the President is required to act on the advice of the Election Commissioner.

Shri Kamath: What about clause (2) of Article 103 ?

Dr. Ambedkar: I am coming to that. Article 103 is, so to say, an exception to article 74. Under Article 74 the President is required to accept the advice of the Ministers in all matters relating to legislation and administration. With regard to this, an exception has been made, and as I said, a deliberate exception has been made so that no political influence could be brought to bear on the decision of the question by the President.

Shri Kamath: Which is the body which acts for the Election Commissioner now ?

Dr. Ambedkar: We are immediately constituting the office of the Election Commissioner, and I have no doubt about it that before any such question is presented to the President, the Election Commissioner will be there to deal with the matter.

Shri Kamath: In this particular case, clause (2) of Article 103 which is mandatory has not been observed.

Clause (2) says :

> "Before giving any decision on any such question, the President shall obtain the opinion of the Election Commission and shall act according to such opinion."

Mr. Deputy Speaker: No such question has been referred to the President.

Shri Tyagi : *rose*—

Dr. Ambedkar: Sir, I cannot answer to all these petty questions which have no bearing on the question. My friend, Mr. Sidhva, had suggested to the House that any number of people could go to the High Court or the Supreme Court and obtain a decision. That procedure is barred under the Constitution. That matter is left entirely to the President.

Now, I come to the other question which Mr. Sidhva very pointedly raised as to what would happen to Members of Parliament who have been appointed to various Committees. Would they incur disqualification or would they not incur disqualification ? Now, I have here before me an analysis of the various types of Committees on which Members might be invited to serve and where they might get some sort of remuneration or fee or something. The first is this : Membership of Committees or Commissions constituted by a resolution of Parliament or under rules made by Parliament, for instance, the Public Accounts Committee, the Estimates Committee, the Standing Committees attached to various Ministries etc. There might be various others, but the substantial point is that Committees are appointed by a resolution of Parliament or under the rules made by Parliament. I speak of course without any kind of dogmatism but I do not feel any doubt that the membership of any such committee would involve any disqualification, for the simple reason that the appointment is made by Parliament either by rules relating to any particular committee or generally by rules framed for the constitution of committees.

The second class of membership relates to all corporate bodies constituted by an Act of Parliament, such as, for instance, where an Act provides for the election of Members by Parliament either from among its Members or from

outsiders, for example the Indian Oilseeds Committee, the Indian Nursing Council, the Employees State Insurance Corporation or the Central Silk Board. Under the same category are also cases where such Members are appointed by the Central Government, such as, for instance, the Coal Mines Stowing Board, the Delhi Transport Authority and so on. I am only expressing here my tentative conclusions and it seems to me that under the first category where Parliament provides for the election to certain statutory bodies that could not be regarded as an appointment by Government and therefore membership of a committee like that, in my judgment, would not involve any disqualification. But with regard to the second category where such Members are appointed by the Central Government I feel a certain amount of doubt. I think that that probably might involve a certain disqualification, for the simple reason that although the bodies to which appointments are made are statutory bodies created by a law enacted by Parliament, yet the appointment is by Government. Therefore, that is one element to be taken into consideration in deciding whether the possible consequence may not be disqualification. It is possible to make a further distinction, namely, that a Member of Parliament appointed by Government to a statutory body such as under the Coal Mines Safety (Stowing) Act or the Delhi Transport Authority may be paid out of the funds belonging to that particular authority and not from funds belonging to Government; whether that would be a possible basis for distinction I have my doubts. I personally think that that would involve disqualification, because it may be regarded and interpreted as a fraud upon the Statute, by getting a Member of Parliament to be appointed but to be paid by somebody else. I think that is a case which must be excluded .....

Shri T. T. Krishnamachari (Madras)**:** It is not considered as falling into that Category.

Dr. Ambedkar: I do not know. My friend Mr. T.T. Krishnamachari will allow me to say that I have not slept the whole of last night. I have been reading Halsbury and a number of other books, as the subject is so complicated. Anson's is the only book I have which could give some guidance

and I shall pass it on to him. It was published in 1922 and probably it gives the best assistance in this matter. My hon. Friend will have his right to speak and here I am only expressing my tentative conclusion.

Shri Kamath : The Hon. Minister will have good sleep to night.

Shrimati Durgabai (Madras)**:** What is the position in regard to the All-India Nursing Council constituted under an Act of Parliament ?

Dr. Ambedkar : Probably that would not involve any disqualification. Now I come to membership of Advisory Councils or committees constituted under an Act of Parliament or appointed by a statutory corporation. Take for instance the Damodar Valley Corporation. As I said, I am not certain about it also. (*Interruption*) I am not advising any particular client. I am very sorry to say that, I am making a general statement. If the hon. lady is interested in the Nursing Council she had better go to a lawyer and obtain his advice.

Shri Sidhva : That is not fair.

Shrimati Durgabai : You said that Coal Mines Safety (Stowing) Act does not come under the disqualification .....

Dr. Ambedkar : I looked it up overnight and found out what the provisions were.

Then I come to membership of committees, Commissions or Councils or other similar bodies constituted by Government for specific purposes by resolution or order, for instance, membership of the Governing Body of the Indian Council of Agricultural Research, membership of the Fiscal Commission, membership of the Government Trading Enquiry Committee (*Interruption*) I do not want to hide anything—membership of the Special Recruitment Board, representatives or delegates to United Nations Organisation or any international conference or association. I feel rather doubtful about membership of committees, commissions or councils or other similar bodies constituted by Government for a specified purpose by resolution or by order.

As I have stated my view is that in certain cases Members of Parliament would not be affected. In certain cases they might be affected. As my friend Prof. Ranga said—and I whole heartedly agree with him—this question of disqualification by reason of holding an office of profit is one of the most important matters. It has been and could be a tremendous influence for corruption and therefore we have to proceed very carefully in this matter. In England I do not know what they do but I have found that they have no general law as such. Whenever they make a law under which they create a particular office, in that very Act they provide whether the holder of that office shall be deemed to be disqualified for being a Member of Parliament, so that no general theory is there. Each case is dealt with particularly and Anson's Vol. I gives quite a long list. There every Act is mentioned and the office it has created and whether the holder of that office under the particular Act shall continue . to be a Member of Parliament or not. I am afraid we have therefore to be very cautious.

One thing I am prepared to admit, namely, that those Members who are already holding office, which, as I said, might lead to disqualification, if they have to give up their offices immediately, administrative difficulties might be created. The work might be held up and it might be possible and even desirable to have a short measure removing the disqualification from the holders of those offices for the present, so that we would get sufficient time later on to consider what general principles we should adopt. If there is a certain amount of delay in carrying out the suggestion which I have made, we can rectify it by passing an Indemnity Act, giving it retrospective effect, so that all those who are holding offices today need not be in danger of incurring any such disqualification. I do not think that we can really rush into this matter and have a general clause exempting anybody and everybody without either proper consideration or examination. I admit that if the disqualification applied without any qualification to Members who are working on various committees, some difficulties might be created. If the House so desires I would be quite prepared to consider a small measure of one clause and bring it before the House to give it retrospective effect and also to add to it an indemnity clause,

so that if there is any lacuna in the legal position a Member will not be deemed to have vacated his seat. More than that I am afraid I cannot do at this stage.

With regard to the omission of part-time offices from the Bill I think the reply that I have given, namely, that you have to be very cautious in extending the principle of exemption to holders of office, applies to them also. I may say that the original clause in the Ordinance was taken from the war-time Ordinance which was Ordinance LII of 1942. My friend Mr. Kamath will realize that it is perfectly legitimate to widen the principle in an emergency when there are so many offices to be filled and the number of men available is so few that we have necessarily to go to Parliament to pick up Members to officiate on those occasions. But what is necessary in wartime and in an emergency should not be applied in normal times. That was the consideration which prevailed upon me in deleting the clause which originally found its place in the Ordinance.

Shri Kamath : Was it not the Law Ministry itself which drafted the Ordinance ?

Dr. Ambedkar : The Law Ministry can forget and also be forgiven. The Law Minister is not omniscient. I live to learn, and if I can learn from my friend Mr. Kamath I shall be only too grateful. This is all that I have to say.

Shri Kamath : *rose* —

Mr. Deputy Speaker : We have only three minutes to adjourn for Lunch. I hope the hon. Member would not take more than three minutes.

Shri Kamath : There are some legal and constitutional points which I have to make and I will take more than three minutes.

At the outset may I make it clear that in my judgment— I have learnt a lot from Dr. Ambedkar during Constitution making and I have much more to learn from him ; I wish to reciprocate the compliment—there is no need to rush or hustle this Bill through, because even if this Bill were passed by this House before this midnight, that is, of the 10th, it will

not, constitutionally speaking validate the membership of the Deputy Ministers and the Ministers of State; it will not remove the disqualification which they have incurred already.

Dr. Ambedkar : With your permission, Sir, I would just like to mention that there is nothing original in this point. It is borrowed from the view of the Patna High Court. But I find both my friend Mr. Tyagi and Mr. Kamath are making this point. The President is not the court; the President may take a very different view from what the court may take.

***Shri Kamath :** The Constitution does not make that clear at all. It refers only to Cabinet Ministers, as Dr. Ambedkar said, and that was why the Ordinance was promulgated by the President.

Sir, the next point is this.

Some Hon. Members : It is time for the House to rise.

Mr. Deputy Speaker : hon. Members are giving him a little more time ?

Shri Kamath : Because of the legal points in which my hon. Friend Dr. Ambedkar is interested .....

Dr. Ambedkar : I am interested only in getting the Bill through.

Mr. Deputy Speaker : The House wants to rise evidently. The House stands adjourned till 2-30.

The House then adjourned for Lunch till Half-Past Two of the Clock.

The House re-assembled after Lunch at Half-Past Two of the Clock.

[Mr. Deputy Speaker *in the Chair*]

Shri Kamath : Sir, the Law Minister is not here.

Shri Sidhva: The Minister of State for Parliamentary Affairs is there.

Mr. Deputy Speaker : Yes,

*P.D., Vol. 2, Part II, 10th March 1950, pp. 1349-50.

Shri Kamath : Oh, the Law Minister has come.

I am glad that my hon. friend has arrived in the nick of time. I am glad also that in the forenoon he admitted—casually, of course—that a mistake, constitutional though technical, had been committed in respect of this matter.

Dr, Ambedkar : I have not admitted any such thing at all.

Shri Kamath : He referred to the Patna High Court ruling and said that Mr. Tyagi and myself are taking a stand upon that ruling and that we need not go very deep into that aspect of the matter. He further went on to say that he is not interested in legal issues or legal points—he is interested in merely getting the Bill passed or rushed through, I do not remember what was the word he used. May I ask you, Sir, and the House, that if the Minister of Law is not interested in legal points who would be interested in legal points ?

Mr. Deputy Speaker : Leave that alone.

Shri Kamath : Sir, that concerns the right of the Members of this House. The Minister of Law is there and he says that he is not interested in legal points.

Dr. Ambedkar : I am interested in the merits of the case.

Shri Kamath: Sir, legal points to a Law Minister at least—if he means to be a Law Minister in truth, in fact and in earnest—must be as much a case of merit as of law.

Mr. Deputy Speaker : What is the good of misunderstanding the Hon. the Law Minister ? He says, "So far as the law is concerned, leave it to me. Please tell me facts if there are any."

Shri Kamath : May I ask on a point of right as a Member of the House whether if a Minister takes a particular stand, a Member cannot raise a point of privilege of the House ? I do not know what the future has in store for him ; he perhaps is thinking of some other portfolio. I do not know anything about reshuffling of portfolios but there are lots of reports in the papers. But I feel that it should not have been stated in the House that a Minister of Law is not interested in legal points.

Dr. Ambedkar : Parliament is not a Court.

Parliament (Prevention of disqualification) Bill

***Mr. Deputy Speaker :** Dr. Ambedkar.

Dr. Ambedkar : I find that Members have really travelled ground which is far away from the main proposition embodied in this Bill. I have been asked to explain how this doubt arose. In whose mind did it arise first ? I have been asked to explain how is it that in no other country such as Australia or Canada is any such legislation found necessary ?

Well, with regard to the first point, I have no hesitation in saying that I myself felt doubts. I admit that, because notwithstanding many allegations that have been made, I was to some extent responsible for the framing of the Constitution. I have no hesitation in saying that I do not know of any Constitution in the world which can be said to be proof against doubt or against any kind of wrong understanding. Otherwise, if every Constitution was proof against doubt that would not have been these voluminous decisions of the various Supreme Courts in the different countries. Therefore, if I felt even as Chairman of the Drafting Committee that there was doubt in this matter, I am not ashamed to acknowledge it and there is nothing cavalierly in my behaviour when I say there is some doubt in this matter.

I shall explain why I felt there was doubt. My friend, Mr. Krishnamachari said that the phrase 'Council of Ministers' was taken really from the Government of India Act, 1935 where the language used was 'Council of Ministers' and that language was evidently borrowed by the draftsmen of the 1935 Act from the older Act where the words were 'Executive Council'. Now, I felt that if anybody was to interpret the phrase 'Council of Ministers' he would, no doubt, be justified in taking into consideration the circumstances in which that phrase 'Executive Council' was used, and would be justified, in interpreting the intention of the phrase 'Council of

*P.D., Vol. 2, Part II, 10th March 1950, pp. 1360-64.

Ministers' by reference to the 'Executive Council'. Now, it is quite obvious that the 'Executive Council' meant only members of the Executive Council of the rank of Ministers, because at that time there did not exist any such category of people as we call now by the names Deputy Minister or Minister of State or Parliamentary Secretary or Parliamentary Under Secretary. These are offices which have been created long after the Government of India Act, 1935 in its original form ceased to be in existence. I, therefore, felt that probably as we had especially not defined the word 'Minister' or 'Council of Ministers' in the article dealing with definitions, it would be open to anybody to suggest that the 'Council of Ministers' was a phrase used on the same analogy as the 'Executive Council' and therefore it would be open for anybody to say that these officers were not intended to be included.

That is the basis of the doubt which I felt, and I do not see any reason why Parliament should not be called upon to pass a law to place the matter beyond doubt. I do not think, therefore, that there is any unwarranted attempt on the part of the Government to force upon the Parliament a Bill the object of which is to remove doubt. I can point out many cases where Parliaments have passed Acts for the purpose of removing a doubt, and I do not think I am asking Parliament to enter upon any very extraordinary activity in doing the same with regard to this Bill.

With regard to the point raised by my friend, Pandit Kunzru, as to how the Governments in Canada or Australia or other Dominions are carrying on their affairs without any such legislation as is proposed now, I really want to know from him whether he thinks that the Constitution of Australia or Canada does not contain any such provisions as is embodied in Article 102, laying down disqualifications on the ground of holding an office of profit. I have had time only to refer to the Australian Constitution and there is a definite section there that a person holding an office of profit under the Crown shall not be qualified for being a Member of Parliament.

Pandit Kunzru : That is right.

Dr. Ambedkar : I do not know whether he had had the time to examine any law made by the Australian Parliament to overcome any difficulties which undoubtedly must arise by reason of that particular section in the Australian Constitution. I have not had the time to examine it, but I just cannot understand how, if the Australian Parliament does permit its Members to hold offices of profit and at the same time sit in Parliament and be Members, they could have done so without some kind of legislation. As I said, I have not had the time to study this, but *prima facie* it seems to me one of the most impossible propositions that the Australian Parliament should be permitting its Members to sit in the Parliament, vote and take part in the proceedings and at the same time hold offices of profit, without a law such as the one proposed here, but I cannot say.

Now, I come to another point and it is this. My friend, Mr. Kamath, among the various points that he was seeking to make which on account of my limited intelligence I could not unfortunately follow, made one point which, I think, I could follow and which, I think, requires some kind of explanation. He has said that the draft of the Bill brings in also a member of the Government of any State, and his contention was that the draft was clumsy. I think that if he had read the clause carefully and also referred to clause 1 of Article 102, would have seen that the language is not only necessary but perfectly justified. My friend will realise that clause 2 of the Bill deals with two cases, one for being chosen as a Member, and one for being a Member, that is to say, continuing to be a Member. Now, it is proposed that not only a person holding an office of profit under the Government of India should not be disqualified from standing as a Member of Parliament, but similarly a Minister of State or Deputy Minister or Parliamentary Secretary or Parliamentary Under-Secretary who is holding that office in a State, he also, if he wishes to stand in the general election for membership of Parliament, should not be disqualified by reason of the fact that he holds that office in the State. That is the reason why holding an office of profit in a State has also to be brought in because

the object of the Bill is to free both categories of people,—Ministers of State or Deputy Ministers or Parliamentary Secretaries or Parliamentary Under Secretaries, whether they are in the Centre or whether they are in a State—from this embargo. That is the reason why the words "under the Government of India or the Government of any State" have been brought in.

Shri Kamath : What about the point I raised ?

Dr. Ambedkar : I am coming to that.

The question may arise that if you permit the holder of an office mentioned in clause 2, in a State, to stand for election for Parliament, then he would also be entitled to continue to be a Member of Parliament after he is elected, because the words are "for being chosen, and for being". My friend will see that that difficulty will absolutely disappear automatically by a constitutional provision contained in Article 101, because as soon as a Minister of State or a Deputy Minister or a Parliamentary Secretary or a Parliamentary Under-Secretary from a State is elected to Parliament, he will have to make his choice whether he would continue to be a Member of Parliament or whether he would continue to be a Member of the State Legislature. Consequently, although the provision is worded in this manner, it certainly would not create any kind of difficulty which he perhaps has in mind.

Shri Kamath : Under the Constitution, is it possible for the States or even for the Centre to have Ministers of State or Deputy Ministers who are not members of the Legislature concerned ? A Minister could be a Minister without being a Member of the Legislature, but so far as I can interpret the Constitution, a Minister of State or a Deputy Minister cannot hold that office without at the same time being a Member of the Legislature.

Dr. Ambedkar: For six months he can. So far as that drafting aspect is concerned, I think I have made the matter quite clear.

My friend, Mr. Krishnamachari, has been writing me on the point which I made that I have spent a great deal of time in studying this matter last night. I am sure about it that my labours would have been considerably shortened if the paper to which he referred just now *viz.,* the Parliamentary paper, had been available to me. As I said, when I went, the Library was closed. I think that either the Library was closed or my friend ran away with the paper and did not allow me an opportunity of studying the paper.

With regard to the comment made by my friend, Mr. Kamath, that I slipped when I said that some portion of the Bill *viz.,* relating to Parliamentary Secretary and so on was a new thing and not contained in the original Ordinance, I do not think there is any ground for him to complain or any necessity for me to apologise. I quite *agree* that if a Member makes a slip, states wrong facts and these facts have the result of either misdirecting the House or misguiding it, there would undoubtedly be ground for doing so, but it was just a slip. Everybody knows that and I do not think therefore, that that was something which required complaint or comment. I can say that I have a less perfect memory than my friend, Mr. Kamath, has. I do not think that there is any point that has been left out by me without being answered.

Pandit Kunzru : Will the Hon. Minister tell us whether the Ministers of State belong to the Council of Ministers or not and whether they are appointed by the President.

Dr. Ambedkar : My hon. Friend asked me that question before. He knows very well, I think, that the position inside the Ministry is never regulated by law. It is always regulated by convention. It is the privilege of the Prime Minister to select any person to be a member of the Cabinet, although he may not be specifically designated as a Minister. It would be perfectly open to him to say "In my cabinet, I will include only certain Ministers. I will not include other Ministers but I would also include a Secretary of State or a Minister of State". The internal arrangement of the Cabinet has always been, as the hon. Member knows, a matter of convention. If he wants I can state the position as it exists now but he must

understand that that is only for the time being. The present Prime Minister may after the method of working of the Cabinet or if a successor comes he may also adopt a different arrangement. There is therefore, no use.....

Pandit Kunzru : May I interrupt my hon. friend ? Does he take the phrase "Council of Ministers" to be synonymous with the Cabinet ?

Dr. Ambedkar : I do not. As I said in my opening speech this morning this is a phrase which is capable of double interpretation. I have seen observations by writers on Constitutional Law, where they have stated that even Parliamentary Secretaries or Parliamentary Under-Secretaries are included in the term Minister. There are also other writers who maintain that 'Minister' is a narrower term. Therefore, as I said, it is very difficult to satisfy anybody or give a correct answer. This is a fluid situation and must remain fluid : that is the important part. There is no use pinning me down to give my hon. Friend a clear picture of how the Ministers and the Parliamentary Secretaries, all of them stand together *vis-a-vis* each other.

Pandit Kunzru : I am sorry I have failed to make myself understood. I am not criticising my hon. Friend. All that I am seeking to know is this. If the Council of Ministers does not mean the same thing as a Cabinet, then obviously it can be a wider body than the Cabinet.....

Dr. Ambedkar : Yes.

Pandit Kunzru : ..... and the Ministers of State and the Deputy Ministers can belong to it. No question therefore, arises with regard to their position.

Dr. Ambedkar : I need not dilate upon this. The hon. Prime Minister in a most authoritative statement said that in his opinion the Council of Ministers included everybody.

Shri T. Husain (Bihar)**:** I want to ask one question. It is clear under the Constitution that a Minister can be a Minister for six months without being a Member of Parliament. That is mentioned in the Constitution itself. There is no such mention about the Minister of State or the Deputy Minister,

or the Parliamentary Secretary or the Parliamentary Under secretary. The Hon. the Law Minister told us just now that according to his reading of the Bill a Minister of State, a Deputy Minister, Parliamentary Secretary or Parliamentary under-Secretary can hold office for six months without being a Member of Parliament. I have read the Bill again and I do not understand how the Hon. Minister came to this conclusion. Would he explain ?

Mr. Deputy Speaker : It is not absolutely germane to this Bill. The hon. Member may look into the matter at leisure.

Dr. Deshmukh: Sir, one point may be made clear, which is on a matter of fact, *viz.,* whether Deputy Ministers are appointed by the President. This is a matter of concrete fact and probably the Hon. Minister may be able to reply.

Mr. Deputy Speaker : How is it necessary in this connection ?

Dr. Ambedkar : Surely, they are appointed by the President : who else call appoint ?

Mr. Deputy Speaker : The question is :

> "That the Bill to make provision in regard to certain offices of profit under Article 102 of the Constitution, be taken into consideration."

The motion was adopted.

***Shri Tyagi :** I beg to move:

> "That in the heading of clause 1, after the words 'Short title', the words '*and commencement*' be inserted."

It is a very simple amendment and I hope the Doctor will accept it.

Dr. Ambedkar : Perhaps what my friend Mr. Tyagi has noted is that there is no clause stating the commencement. Generally a Bill has a clause saying that the Bill comes into operation from such and such a date. This clause does not exist here, and he thinks there is a lacuna which ought to be filled. But may I submit that under the General Clauses

*P.D., Vol. 2, part II, 10th March 1950, p. 1365.

Act, where a Bill does not contain such a clause it is presumed that it comes into operation immediately after the signature of the President.

Mr. Deputy Speaker : He wants to push the date to 26th January, 1950.

Dr. Ambedkar : It is unnecessary so long as the Ordinance is there.

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(12)

MOTION FOR ADJOURNMENT

***Shri Gopalaswami :** May I just point out that Mr. Chamberlain was not on a question of motion for adjournment of debate ?

Pandit Kunzru : Well, I think Dr. Ambedkar relying on the reply given by Sir N. N. Sircar on the basis of Mr. Chamberlain's reply came to the conclusion that in a matter like this there was no essential difference between a demand for information and a demand for discussion. The word used by Sir N. N. Sircar in his reply was "discussion" and that is the word that my Hon. friend Dr. Ambedkar relied on.

The Minister of Law (Dr. Ambedkar) : I should like to say just one word with regard to the comment of my hon. friend on the reply given by Mr. Chamberlain and his attempt to establish a sort of analogy between the position which existed when that question was put and the position that will arise under article 371 of our Constitution. I should request him to bear in mind the essential distinction that exists between our Constitution now and the Government of India Act, 1935. That distinction is this, that while Parliament did enact the Act of 1935 and transferred certain responsibilities to the people of India, they never failed to emphasise time and over again, that the ultimate responsibility for the good Government in India rested with Parliament, and therefore, to the extent that the power was reserved of giving directions it was really responsible for maintaining good Government; while under our Constitution we have given over the power of maintaining good Government to our States and only in some cases we have reserved to the Centre certain powers of direction. That distinction has to be borne in mind.

* P.D., Vol. 2, Part II, 14th March 1950, pp. 1512-13. .

Pandit Kunzru : I entirely disagree with my hon. Friend Dr. Ambedkar, not with regard to the general point that he has raised, but with the construction that he has put on article 371. As my hon. friend pointed out the other day, this article 371 does not apply to States in Class A. It applies only to States in Class B, and why ? Why was this article 371 inserted in the Constitution with reference to States in Class B only ? It was inserted in order to ensure good Government there.

(13)

SOCIETIES REGISTRATION (AMENDMENT) BILL

***Shri Sidhva** (Madhya Pradesh)**:** This is a Bill which I had moved during the last session. The Hon. the Law Minister (Dr. Ambedkar) told me that he would like to take the opnion of the States. I would, therefore, like to know, before I formally move this Bill, as to whether the Opinions of the provinces have been received. If not, I would like to have this Bill confined to the Centrally Administered Areas.

The Minister of Law (Dr. Ambedkar): Sir, in accordance with the promise that I gave when my friend Mr. Sidhva moved his Bill, that in view of the fact that this matter fell under the Concurrent List and according to the Standing Orders of the Government of India, it was necessary to consult the States before undertaking legislation, my Ministry had addressed a letter to the various provinces to ascertain their views with regard to the proposed enactment of a law as proposed by my friend Mr. Sidhva. I am sorry to say that on account of the pre-occupation of the various States, the replies of all of them have not been received as yet. I have received, however, replies from two States in Part A and some of the States in Part C.

With regard to the States in Part A, I have received replies only from Madras and Punjab and I am sorry to say that both of them are opposed to the Centre meeting such a piece of legislation. The Madras Government have said that they themselves have under consideration an exhaustive and comprehensive piece of legislation to deal with the points raised in this particular Bill. The Punjab Government have said that they realised the necessity of having a penalty clause such as the one proposed by Mr. Sidhva, but they say that

*P. D., Vol. 3, Part II, 25th March 1950, pp. 2115-16.

they themselves have recently enacted a law imposing such a penalty and so far as that particular province is concerned, no such legislation is necessary.

With regard to the States in Part C, the position that they have taken is this : that they have no such problem for the moment on hand. Some of them say that there are no such societies existing within their jurisdiction. Others have said that the law which my friend Mr. Sidhva seeks to amend has been very recently introduced within their area in the year 1949. There are no societies and there is as yet no experience to suggest whether any societies have violated the provisions of the Bill. That is the position as revealed by the replies given by the various States to which this communication was addressed. Some of the other important States such as, for instance, Bombay, U.P. and Madhya Pradesh have not replied. This is a matter placed in the Concurrent List and it is desirable that we should have the reaction of most, or the majority of the States in Part A before the Centre can undertake this legislation.

As I said last time, personally I do not think that any one could really dispute the position taken by my friend Mr. Sidhva that if the provisions of this Bill have to be effective, it is necessary to have some such penalty clause. I agree with him. But my point is this that it is desirable to carry the majority of the States in making this legislation and as they have not as yet replied, personally I would have very much preferred that this Bill was either withdrawn or held back on the assurance that the Centre will grapple with the situation as and when time and circumstances permit.

Shri Sidhva: Sir, in view of the statement made by my friend Dr. Ambedkar that he is personally in favour of this Bill and that as this subject is in the *Concurrent* List he would like to have the opinion of all the important States, I would like to hold over this Bill. I cannot withdraw the Bill in any case. It is an important Bill. I know what is happening in the various societies. Therefore, I would request you to allow me to keep this Bill alive. I shall not move it now.

Mr. Speaker: If no motion is made this time, it will automatically be kept alive under the rules.

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(14)

ARMY BILL

The Minister of Defence (Sardar Baldev Singh)**:** I beg to move.

> "That the Bill to consolidate and amend the law relating to the Government of the regular Army, as reported by the Select Committee, be taken into consideration."

***Mr. Speaker :** Hon. Dr. Ambedkar.

The Minister of Law (Dr. Ambedkar) : If other hon. Friends do not want to speak, I thought I would like to reply to the two points raised by my hon. friend Pandit Kunzru because they have a constitutional aspect.

Mr. Speaker : I would give him precedence.

Dr. Ambedkar : My. hon. Friend Pandit Kunzru, in the course of his speech on the motion, raised two points. As they refer to the constitutional aspect of the matter, I thought that it may be appropriate that I should deal with them rather than leave them to be dealt with by my hon. colleague.)

The first point was that clauses 4 and 5 of the Bill were inappropriate in view of the fact that they made separate mention of the Forces in Part B States. I will take these two sections separately.

With regard to section 4, I think my hon. friend will agree that under the scheme of this Act, there is a distinction to be made between what is known as the regular Army and Forces which do not form part of the regular Army. My friend will see that the regular Army is defined under item 21 of section 3 which deals with definitions. For instance, there are what are called Assam Rifles, Bhil Corps and several other units which may be mentioned as illustrations which do not

*P.D., Vol. 4, Part II, 6th April 1950, pp. 2601-5.

form part of the regular Army. As the Act principally applies to the regular Army, it is necessary to provide for an eventuality where the provisions of this Act would have to be extended and applied to units which are not part of the regular Army. That is the purpose of section 4. Section 4 says.....

Pandit Kunzru : Are these Forces Part B States Forces ?

Dr. Ambedkar : I am coming separately to Part B States. So far as section 4 seeks to apply the provisions of this Act to units for the moment other than those referring to Part B States, I do not see that there can be any valid objection to the provisions contained in that particular section.

With regard to section 5 which deals with Part B States, my hon. Friend's contention was that this was inappropriate, and also the latter part of section 4 which made mention of Part B States. The answer to that question is this. My hon. Friend will remember that in the earlier part of the Constituent Assembly, the position was that the States in Part B which were then called Acceding States, had been given power to raise and to maintain independent Forces of their own. If he has got a copy of the original draft of the Constitution, he will see item 4 on page 189 and he will also find that I took objection to that provision. I did not want that any particular unit under the Union should have a right to raise and to maintain troops. I was glad that my contention prevailed, and that part of the entry was deleted. So that, the right to raise and maintain troops under the Constitution exclusively belongs to the Union. Although this position was accepted, it did not remove altogether the difficulty.

As my hon. Friend well knows, there were certain covenants that were entered into between the Government of India and the various Indian States mentioned in Part B. One of the terms of the covenant was that the States which had certain Forces maintained and raised by them should be continued to be maintained by them and that what should be prevented was the raising of new troops. The existing units were to be continued. Then arose the question what is to happen to the existing units : were they to be independent

or were they to be subordinate to the military authorities of the Government of India ? A compromise was entered into which is mentioned in article 259 to which he referred. Therein it is provided that although the troops already raised were to continue, they were to be subject to any law that Parliament might make. Now, it was possible for Parliament to make a law declaring that for all purposes the troops raised already by the States in Part B would be regarded as part of the regular Army of India. That is, of course, the intention. But, as I said, these matters were governed by the covenant. Although the Rajpramukhs who represent the States in Part B were prepared to accept the provisions contained in article 259, that is to say, confer the power on Parliament to make such a law, they still desired that they should continue to be the Commanders-in-Chief of those Forces and that their position ought to be safe-guarded. These things arising out of the convenants which, as I said, had already been entered into and on the basis of which accession was made, had to be respected. I hope and trust that a time will come when the States would voluntarily agree to Parliament exercising complete jurisdiction, effecting complete assimilation between the Indian regular Army and the Forces raised by them. Therefore, what we have to do today is to effect a sort of a compromise. These sections 4 and 5 really represent the best compromise that we can make.

Pandit Kunzru : If I may interrupt my hon. friend, he has dealt with a very wide question. My criticism was limited to one point only. Why has not the power conferred on Parliament by article 259 of the Constitution been used to extend the Army Act to Part B States Forces ?

Dr. Ambedkar : That is what I am dealing with.

Pandit Kunzru : I did not deal with the wider aspect of the problem on which my hon. friend has dwelt so far.

Dr. Ambedkar : But, the wider aspect is the real aspect. The whole question is governed by the covenants which were entered into before the Constitution was made, unless, of course, my hon. Friend's position is that covenant or no

covenant, agreement or no agreement, understanding or no uderstanding, wherever Parliament has got power, Parliament should exercise it. That would be a different position.

Pandit Kunzru : Surely my hon. friend knows that on the 24th January the Unions of States and the State of Mysore issued a proclamation accepting the Constitution and saying that the agreements that were inconsistent with the provisions of the Constitution were invlaid.

3-00 P M

Dr. Ambedkar : Yes. That may be so. As I said we are following really an understanding. Before I go to that, I would like to draw his attention to the fact that he has not adverted to an important point of cluase 2, *viz.,* part (*b*) of clause 2 which says:

> "persons belonging to the land forces of a Part B State, when such persons are attached to any body of the regular Army for service, or when the whole or a part of the said forces is acting with any body of the regular Army or is placed at the disposal of the Central Government in pursuance of a notification under section 5;"

Therefore, it is not altogether as though this law places the Forces in States in Part B in a separate water-tight compartment. When the Central Government issues a notification under clause 5, then as soon as the notification is issued, this Act would apply to that part of the Army in Part B States automatically. He will also see that under clause 5 there is power given to the Central Government to see that any particular Part of the Forces in Part B shall for the purposes of this Act be treated as attached to the Indian Army. That also is a direct power of intervention so far as attachment of certain Forces is concerned.

My friend asked why we have not taken direct action. The answer is, to my mind, obvious. He will realize that the Forces in States in Part B were raised under their own individual laws and were not raised under any Act of the Central Government. The condition on which enrolment was made in Part B States materially differed from the rules and conditions regarding enrolment of personnel to the Indian Regular Army. One important difference was this that the person enrolled in the Indian Regular Army was bound to save anywhere but

with regard to a person enrolled in Forces belonging to the Part B States, such a conditon was not there. I think it is in everybody's knowledge that their conditions of service were confined to their States and the widest circuit of their service was India. It was during the war that special provision was made when these troops were placed under the control of the Government of India with the condition that they may be used anywhere. It was the Government of India who bore the expenditure and sent them to battle-fields outside India. That being so, it does appear to be somewhat difficult, harsh and illegal even to compel a man who has been enrolled under different set of circumstances to come and be a part of the Regular Army. Consequently, the fact that we have had convenants with the States forces as to adopt what might be regarded as a *via media* and I do not think that from either point of view any objection could be raised to the provisions contained in clauses 4 and 5.

Now, I come to the other point raised by him, *viz.,* clause 70 which deals with the authority of the Court Martial to try what are called civil offences. It is quite true that offences against civilians should be tried by civilian courts and not by military courts but there are considerations which weigh on the other side and which support the provisions contained in this Bill. Let me give first some of the difficulties which one has to face in deciding upon an issue of this sort. Suppose an offence is committed by a solider within the barracks where the army is stationed, which should be the forum, the Court Martial or the Ordinary Magistrate's Court ? Let me point out another difficulty and it is this. An offence is committed against a civilian but that offence is such that while it involves the breach of an ordinary criminal law at the same time, it involves what is called a breach of the rules of discipline which every soldier must follow. What would be the appropriate forum in a case like this where the act committed by a soldier is equally an offence under the ordinary criminal law and is also a breach of discipline under the Army rules ? Take another illustration. Supposing an army is about to move from one place to another : every soldier belonging to that army must move. Then suppose we made

a provision that every offence committed by a soldier must be tried by a civilan court. It might be that a recalcitrant solider who does not want to move with the troops to another station deliberately gets himself involved in some kind of a crime in order to stay back so that the civilian judge may try him. Should that be allowed ? If my friend himself were to exercise his mind on the subject he would find many other difficulties with which he would be confronted if he came to the dogmatic conclusion that all offences committed by a soldier against a civilian must be as a rule tried by a civilian court:

Pandit Kunzru : That was not my contention.

Dr. Ambedkar : Therefore, I say there can be no question of having any dogmatic opinion about this question. None can say that all such offences must be tried by the Military Court nor can anyone say that no such offence shall be tried by a civilian court. Consequently the Bill makes certain compromises which are in keeping with the necessities of the case. The trial of offences committed by a soldier which are to be tried by a military court are limited in number. They are murder, culpable homicide, etc.

Pandit Kunzru : By a military court or a criminal court ?

Dr. Ambedkar : By a criminal court. All others may be tried by court martial.

In connection with this there are other provisions in the Bill which must also be taken into consideration. They are clauses 125, 126 and 127. The discretion or the jurisdiction of the courts martial to try offences which are left to them is not absolute but it is governed by the provisions to which I have referred, namely, the military court under clause 125 may decide whether they want to try the offence. If the civil courts think that the offences should be tried by them they should under clause 126 obtain the permission of the Government of India and if the permission is granted they can proceed to try the offence. There is a further provision which in a sense is rather an extraordinary thing, namely, "Successive trial". If it was found that the offence was a grave or serious one but the court martial which was permitted to try the offence let off the man with a light punishment, then

subject to the permission granted by the Government of India, the man could be tried twice. Having regard to the difficulties mentioned, namely, of allowing civil courts to try all offences and having regard to the fact that there are the provisions contained in clauses 125 and 127, I do not envisage that there is likely to be far more cases which can be described as containing miscarriage of justice. I think we have taken enough precaution to prevent that sort of thing happening and therefore I submit, that having regard to these provisions and having regard to section 70 there can be no objection to this part of the Bill.

I might also mention—I think reference was made to it by somebody—that clause 70 of this Bill is virtually a repetition of section 41 of the British Army Act. There also they have a similar provision. In the U.S.A. the provisions are more extensive. After all we have to look at this matter from the point of view of the offender, not so much from the point of view of the complainant. In all these cases the offender would be a solider and the question is whether the soldier who is accused of any particular offence and would have been tried by a civil court, if he had not been a soldier, would not get justice at the court martial.

My friend said that the men who sit in the court martial are not trained lawyers. I do not know but I can say from my experience that I have met some Judge Advocates-General who were as good as the lawyers whom we meet in courts, if not better. However, after all a soldier cannot expect to get better justice for having committed civilian offences than he is ordinarily expected to get when he commits a military offence. If he gets the same justice as he gets in the civil courts I do not think there need be any cause for complaint. My friend need not have much confusion about it. I do not think that his criticism is well placed.

Shri S. N. Sinha : What are those cases in which the criminal courts and court-martial have got concurrent jurisdiction ? Under clause 125 the choice has to be exercised.

Dr. Ambedkar : I cannot say. That requires some kind of exhaustive compilation. There are undoubtedly some offences

which come under the jurisdiction of both military and civil courts.

Shri S. N. Sinha : My contention was that clause 70 of this Bill alone gives jurisdiction to the ordinary criminal courts in respect of specified cases.

Pandit Kunzru : There is this doubt in the minds of many hon. Members. If my hon. Friend Dr. Ambedkar will turn to clause 125 he will find that the opening words are: "When a criminal court having jursidiction is of opinion .....". The question is what do the words "having jurisdiction" mean. Do they mean having jurisdiction under the ordinary criminal law of the land or jurisdiction under this Bill ? This is the question that troubles many hon. Members. If it is said that these words mean having jurisdiction under this Bill .....

Dr. Ambedkar : Under the ordinary law.

Pandit Kunzru : Then obviously clauses 69 debars the ordinary criminal courts from dealing with any criminal cases except those which fall under section 70. That is the real question.

Dr. Ambedkar : "Civil offence" has been defined on page 2 of the Bill as meaning "an offence which is triable by a criminal court" as distinct from a court martial.

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(15)

PART C STATES (LAWS) BILL

***The Minister of Law (Dr. Ambedkar):** I beg to move for leave to introduce a Bill to provide for the extension of laws to certain Part C States.

Mr. Speaker : The question is:

> "That leave be granted to introduce a Bill to provide for the extension of laws to certain Part C States."

The motion was adopted.

Dr. Ambedkar : I introduce the Bill.

***The Minister of Law (Dr. Ambedkar) :** I beg to move :

> "That the Bill to provide for the extension of laws to certain" Part C States, be taken into consideration."

It is perhaps necessary that I should offer to the House some explanation as to why this Bill is restricted to certain Part C States. The position is this, that we have altogether about ten Part C States mentioned in Schedule I of the Constitution. Those ten States fall into three groups. There are Coorg, Ajmer and Delhi which were Chief Commissioners' Provinces now designated as Part C States, and which had come into existence long before the Constitution. Consequently, so far as these three States were concerned, the question of the extension of Central laws does not arise because they applied at the time when they were enacted.

Then there is the *second* group of Part C States which are Bilaspur, Himachal Pradesh, Bhopal and Cutch. With regard to them, it was only last year that this Legislature passed a law extending the Central Acts to them. This Bill is confined to three Part C States, namely, Vindhya Pradesh, Tripura

*P. D., Vol. 4, Part II, 5th April 1950, p. 2551.

***Ibid.,* 11th April 1950, pp. 2777-84.

and Manipur. They have to be separately dealt with because they came into existence as Part C States after the 1949 Act was passed. Consequently, this measure is restircted to these three Part C States. I might mention that although all the laws that were extended to Part C States by the Act of 1949 are extended to Vindhya Pradesh and Tripura, some exceptions have been made with regard to the State of Manipur. All the laws that have been applied previously or are applied by the present measure to Vindhya Pradesh or Tripura are not applied *proprio vigore* to Manipur. It is said that Manipur is largely settled by what are called the tribal people whose civilisation and whose manners and modes of life are considerably different from those who are living in what is called the 'settled area'. Consequently it would create a great deal of disturbance if all the enactments were extended to Manipur and therefore a Schedule has been added as to what enactments will not apply to Manipur. Similarly, while the Indian Penal Code is applied to Manipur, there are two sections of it which are sought to be applied, with a certain modification.

I hope the House will see that there is nothing very complicated about this measure and accept it.

Mr. Deputy Speaker : Motion moved:

> "That the Bill to provide for the extension of laws to certain Part C States, be taken into consideration."

Pandit M. B. Bhargava (Ajmer) **:** I have to make a few observations in respect of this Bill. So far as the extension of any Central laws to the States referred to by the Hon. the Law Minister is concerned, I have got nothing to say. But there is one clause, namely, clause 2 in this Bill which lays down that it will be open to the Central Government by notification in the *Official Gazette,* to extend any Provincial enactment to any of these States in Part C, subject to such modifications and restrictions as may be laid down in the notification ..... I have not the least doubt that if all these extended laws are ever questioned before a competent legal authority, this legislation will not stand the scrutiny of the judicial court and will be declared *null* and *void*. I would, therefore, respectfully request the Hon. the Law Minister to

consider the legal position before proceeding further with this piece of legislation.

Dr. Ambedkar : I am glad my hon. Friend raised this question. I did not bother to it because I thought that the section was so simple that it should not require any explanation. However, now that the question is raised, I think it is desirable that I should explain the position. In going through the merits of this particular clause, there are certain aspects of the case which have to be taken into consideration. The first is this, that in most of the Part C States, except Coorg, there are no local legislatures which could be entrusted with the duty of passing such local laws as may be necessary for their local administration. It is, I think, equally clear and my hon. friend, himself admitted the matter that the only other alternative is for Parliament to sit here and to make detailed laws for the local administration of these Part C States, and the question that has to be considered is this, whether in view of the time which is available to Parliament—and every one knows how difficult it is for this Parliament to get through some of the most essential measures necessary for carrying on the Central Administration—to find time which could be devoted in a meticulous consideration of the details of a local legislation. We are, therefore, so to say between two difficulties ; one is that there is no local legislature and the other is that Parliament is not in a position to engage itself in passing local laws for Part C States. What is, therefore to be done in a situation of this sort ? The only thing that could be done seems to be to give the Government of India the power to extend certain laws made by Part A States or other Part C States to be applied to Part C States with such modifications as may be necessary by reason of local circumstances and local difficulty. I do not see that there is any other way open to provide for local legislation for Part C States. Of course, it would be possible for Parliament at some stage to create local legislative councils for Part C States and to endow these local legislative councils with the power to make laws for their local administration but so long as Parliament has not done it, I do **not** see that there is any *via media* except what is suggested in this particular Bill, and, therefore, apart from

the question whether this is the proper mode of doing the legislative business which Part C States would be entitled to do, from a practical point of view, I do not see that there is any other method open.

My friend put forth a point of criticism that this power has been exercised by the Centre without even consulting such local advisory bodies as exist in Part C States. I do not know much about that aspect of the matter, because as my hon. friend knows the administration of this particular matter rests with the Home Ministry and I have no doubt about it that the Home Ministry does consult these bodies. If they do not, I have no doubt that they will adopt the suggestion made by my hon. friend.

Then, I come to the constitutional question which my hon. friend, has raised, namely, that this will be delegated legislation. Any application of any law made by Part A or Part B or Part C States extended to Pan C States would be a performance of what might be called a delegated legislation, the Parliament delegating the executive to apply that legislation. My hon. Friend referred to the decision of the Federal Court. No doubt there is the decision of the Federal Court. All I want to say is this, that we have not had as yet the decision of the Supreme Court; we are waiting for it, because, with all respect to the Federal Court, the view that the Government of India takes in this matter is that decision was not a correct decision, and with all respect to the Federal Authority, that is still the view that we hold. I might point out to my hon. friend that this activity of the Government of India to employ what is called delegated authority to legislate is not a new thing. It has been in existence practically from 1912 and he will know that we have a law for the purpose of permitting the Central Government to extend the laws made in any part of India to the Province of Delhi with such modifications as the Central Government may make. From 1912 up to the date of the decision of the Federal Court, there has not been in existence a single decision of any Court in India which has questioned the legality of that action taken by the Government of India. I might also tell my friend that

many cases have gone to the Privy Council from this country and the Privy Council itself has never questioned the validity of this. I, therefore, hope that when on a proper occasion the matter comes before the Supreme Court, the Supreme Court will *de novo* examine the position and, as I hold the view, the Supreme Court will not feel itself bound by the decision of the Federal Court, although a good many of the personnel of the Federal Court is the same as the personnel of the Supreme Court, but the court certainly is a different court. Therefore if my friend likes it, I do not mind saying that we are making a venture. We are hoping that the stand that we take and we have taken so far and which has not been questioned by any court during the last 25 years is the correct stand. If the Supreme Court when it comes to deal with the question comes to a decision different to what our point of view is we shall then consider the matter. For the moment it is our view that there is no objection to delegated legislation at all. Parliament is quite supreme either to legislate itself or to ask any other agent on its behalf to exercise that legislative power. I do not think that that matter can be questioned. I do not think that there is any other point raised by my friend which I have not dealt with.

Mr. Deputy Speaker : Is it open to the Parliament to say that the Government may pass such laws as are necessary ?

Dr. Ambedkar : They can say so, that Government is left with the power to frame rules.

Mr. Deputy Speaker : Can they give a blank cheque in regard to all the matters referred to in the list ?

Dr. Ambedkar : It may do so under proper safeguards. No Parliament will give a blank cheque to the executive : it can certainly ask the executive to fill in the blanks and I do not think there can be any difficulty about that.

Shri T. T. Krishnamachari (Madras)**:** So far as the Constitution is concerned the only operative articles are 240 and 242. We have made a special provisions in regard to Coorg. As you will see, Sir, Coorg has been taken out of the operation of the particular Bill before the House. So far as the Constitution is concerned there is no specific direction in this

regard. So it is left practically to the free will and pleasure of the Parliament. The *modus operandi* to be followed is the only thing that can be under dispute, whether the *modus operandi* should be that all these enactments should form part of the schedule attached to this Bill, with such powers as we normally give to the executive by means of what is called delegated legislation, to make rules, etc. or the procedure that is now followed. As the Law Minister has mentioned, this procedure has been followed over a period of years and I am not sure, in the absence of any express instruction to the contrary in the Constitution, how this can be held to be void by any court. So far as delegated legislation is concerned the exact quantum, nature and extent of delegation is not defined by any legislature in the world. It varies from time to time. In the absence of any provision so far as Part C States are concerned which expressly prohibits enacting any type of law that Parliament likes and to delegate such powers as it wants to the Central Government, there could be no objection at the present stage to the Bill being passed by this House.

Mr. Deputy Speaker : The general laws are enacted in a Bill—and power is given to the Government to fill in the details and make the rules.

Dr. Ambedkar : The provision in the Bill is that there are laws already existing on any subject. The laws are already existing in certain Provinces.

Mr. Deputy Speaker : Is it not for the Parliament to choose which law is to be applied ?

Dr. Ambedkar : If Parliament wants it can do it but Parliament entrusts the power to the executive, which has to choose from the existing laws.

Shri T. T. Krishnamachari : The Committee on Ministers' Powers which was constituted by the House of commons to go into this particularly vexed question, what was called Star Chamber Legislation, in the thirties, indicated that it would be preferable for the Government of the day to give an outline as to how far they are going to use the delegated power and that is why we are following so far as ordinary legislation

is concerned the practice of saying that without prejudice to the generality of the foregoing powers such and such shall be rule-making power of the Government. Therefore, there has been no express limitation to the extent and scope of delegated legislation in any legislature in the world so far as is known.

Mr. Deputy Speaker : They have not even indicated the subjects here.

Pandit M. B. Bhargava : The Law Minister was pleased to remark that before the judgment of the Federal Court there was no decision laying down anything contrary to the practice prevalent. I would like to point out that the judgment of their Lordships of the Federal Court is itself based upon the Privy Council decision reported in 1945 Federal Law Journal, page 1. It is on the basis of that authority that the Federal Court has laid down the proposition.

I would also like to know whether the matter is before the Supreme Court and whether a decision of the Federal Court does not bind this Government until and unless it has been superseded or set aside by the Supreme Court.

Mr. Deputy Speaker : Is there an appeal from the Federal Court to the Supreme Court ?

Dr. Ambedkar : No. The Federal Court has ceased to exist.

Babu Ramnarayan Singh (Bihar)**:** Could the Hon. Minister cite the article of the Constitution in this regard ?

Dr. Ambedkar : The Parliament has plenary powers. It can do anything with the legislative power that it possesses. It can use it itself or ask someone else to use it on its behalf in certain circumstances. There is no prohibition imposed on it.

Shri Hossain Imam (Bihar)**:** I should like to have some light thrown on the fact that this is not a peculiar situation that has arisen just now. The Chief Commissioners' Provinces are administered by the Centre. We can extend the power of the Chief Commissioner by notification as was the practice in the past or it can be done by means of legislation as may be done now. But the question is who is to be empowered ?

Are we going to empower the executive, judiciary or the Central Government ? The power should not be distributed between all the three. Sub-clause (3) of clause 3 says:

> "For the purpose of facilitating the application in the said States of any such Act or Ordinance as aforesaid, any court or other authority may construe the Act or Ordinance with such alteration not affecting the substance as may be necessary or proper to adapt it to the matter before the court or other authority."

It shows that we have not made up our mind as to who is to have these powers. I can understand the Central Government being empowered during the interim period. Who is the authority .....

Dr. Ambedkar : Any authority. It is an adaptation: it is not adoption. We have passed so many adaptation laws in this House.

Shri Hossain Imam : This adaptation is done by the Central authority or the Legislature. Here the adaptation is left free to an unspecified number of people. The authority is nowhere defined in this legislation—whether it means the Chief Commissioner or the Chief Secretary .....

Dr. Ambedkar : Whoever will have to administer the law will have to adapt it.

Shri Hossain Imam : We are doing something to which we have not given proper consideration. The Bill has been introduced late in the session. It would be far better if the Government withdew the Bill now and have some kind of Ordinance after the session has ended, if they want to have something of this kind. Otherwise a well considered law should be brought forward in which every kind of power should be given. It would be better to have an Ordinance rather than a Bill of this nature, where there are loose ends. I would, therefore, request the Hon. Minister to reconsider the matter.

Dr. Ambedkar : In view of the fact that my hon. Friend is prepared to permit Government to enact this measure in the form of an Ordinance, obviously, it means that he cannot have much objection to the merits of the thing. Otherwise, I do not see what objection he has for enacting this measure.

5-00 p.m.

Shri Hossain Imam : I was only suggesting. This Ordinance can last until six weeks .....

Dr. Ambedkar : From the commencement of Parliament.

Shri Kamath (Madhya Pradesh)**:** Six weeks after the commencement of the next session of Parliament.

Dr. Ambedkar : We do not know what will happen. I cannot say when Parliament will be called. We do not want to be left in the lurch after having made an Ordinance.

Shri Kamath : How can that be ?

Dr. Ambedkar : This suggestion is a very impracticable suggestion.

Besides, so far as this aspect is concerned, as I have said, we have got a precedent. We have got a similar law with regard to Delhi. We have got a similar law with regard to Ajmer-Merwara, the Ajmer-Merwara Extension Act of 1947. If these two Acts are not so bad as my friend tries to depict them, I cannot understand why there should be any objection to this measure. It may be, if there was time, I could suggest to the House that at a later stage the House may consider the procedure which has been recently adopted in the House of Commons which consists of having a Standing Committee of the House to examine such delegated legislation and to bring to the notice of Parliament whether the delegated legislation has either exceeded the original intention of Parliament or has departed from it or has affected any fundamental prinicple. This is a matter which we may take up independently. I cannot understand how now after long practice, anybody can object to what is called delegated legislation.

Mr. Deputy Speaker : The question is :

> "That the Bill to provide for the extension of laws to certain Part C States, be taken into consideration."

The motion was adopted.

Shri Hossain Imam : May I ask the Hon. Minister to explain why—he has not explained in the Statement of Objects and Reasons—the age of consent has been reduced ?

Mr. Deputy Speaker : He has already stated.

Dr. Ambedkar : The changes with regard to Manipur have been made as a result of a conference which was held between the representatives of the Home Department and the Chief Commissioner in Manipur. It was he who suggested that these changes must be made if the Central legislation is to be extended.

Mr. Deputy Speaker : It is a little premature to apply this section to these areas.

Shri Hossain Imam : The age of consent has been reduced.

Mr. Deputy Speaker : Possibly it goes back to the age of consent under the old law, and all these reforms are not sought to be extended to that area.

Clauses 1 to 4 were added to the Bill.

The Schedule was added to the Bill.

The Title and the Enacting Fromula were added to the Bill.

Dr. Ambedkar : I beg to move:

"That the Bill, be passed."

Mr. Deputy Speaker : Motion moved.

"That the Bill be passed."

Prof. Ranga (Madras)**:** I am glad that the Hon. Minister has given us this information that in Parliament they have thought of the device of establishing a Standing Committee to study these things as and when they come up before them and advise Parliament, as a sort of a watchdog on behalf of Parliament. Unfortunately, the Hon. Minister has not given us any assurance that similar efforts would be made in this House. I do request him to take steps at the earliest possible opportunity to see that this Standing Committee does come to be established by our Government.

Dr Ambedkar : I will bear that in mind.

Mr. Deputy Speaker : The question is:

"That the Bill be passed"

The motion was adopted.

The House then adjourned till a Quarter to Eleven of the Clock on Wednesday, the 12th April, 1950.

REPEALING AND AMENDING BILL

***The Minister of Law (Dr. Ambedkar):** Sir, may I have your permission to take my Bill out of turn ? They are very small ones.

Mr. Deputy Speaker : Yes.

Dr. Ambedkar : I beg to move :

> "That the Bill to repeal certain amendments and to amend certain other enactments, be taken into consideration."

The purpose of the Bill which is brought in annually for the purpose of pruning the Statute-book of what is called the "dead wood" and of amending and making good certain errors discovered in certain enactments. I do not think it necessary for me to say anything more in support of the motion I make.

Mr. Deputy Speaker : Motion moved:

> "That the Bill to repeal certain enactments and to amendments and to amend certain other enactments, be taken into consideration."

Shri Himatsingka (West Bengal) **:** What I would suggest to the Hon. Minister of Law is this. Would he please take steps to have all the laws that are in force printed in a book form so that one may follow what laws are in existence and what not? At present it is so very difficult. We are passing so many laws in a day that it is very difficult for anyone to know or find out what the law is. Therefore, will he take my suggestion into consideration and have the laws in force up to 1949 printed ?

Dr. Ambedkar : That is being done.

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*P. D., Vol. 4, Part II, 11th April 1950, p. 2776.

Mr. Deputy Speaker : The question is:

"That the Bill to repeal certain enactments and to amend certain other enactments, be taken into consideration."

The motion was adopted.

Clauses 1 to 4 were aded to the Bill.

The First and Second Schedules were added to the Bill.

The Title and the Enacting Formula were added to the Bill

Dr. Ambedkar : I beg to move:

"That the Bill be passed"

Mr. Deputy Speaker : The question is:

"That the Bill be passed."

The motion was adopted.

(16)

REPRESENTATION OF THE PEOPLE BILL

[MR. SPEAKER *in the Chair*]

***The Minister of Law (Dr. Ambedkar):** May I, Sir, with your permission make the motion that stands in my name in the Order Paper for today ? I could not do it this morning because printed copies of the Bill were not available in the morning. As the House takes objection to giving leave for introduction without copies of the Bill being there, I thought I should wait.

Mr. Speaker : Yes ; he may make that motion. I was told that the matter was not to be taken up. That is why I passed over that.

Dr. Ambedkar : Because, I said that printed copies were not available.

I beg to move for leave to introduce a Bill to provide for the allocation of seats in, and the delimitation of constituencies for the purpose of election to, the House of the People and the Legislatures of States, the qualification of voters at such elections, the preparation of electoral rolls and matters connected therewith.

Mr. Speaker : The question is :

> "That leave be granted to introduce a Bill to provide for the allocation of seats in, and the delimination of constituencies for the purpose of elections to, the House of the People and the Legislatures of States, the qualification of voters at such elections, the preparation of electoral rolls, and matters connected therewith."

The motion was adopted.

Dr. Ambedkar : I introduce the Bill.

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*P. D., Vol. 4, Part II, 12th April 1950, pp. 2797-98.

REPRESENTATION OF THE PEOPLE BILL—*contd.*

***The Minister of State for Transport and Railways (Shri Santhanam):** I beg to move:

> "That the Bill to provide for the allocation of seats in, and the delimitation of constituencies for the purpose of elections to, the House of the People and the Legislatures of States, the qualifications of voters at such elections, the preparation of electoral rolls, and matters connected therewith, be taken into consideration."

I do not propose to speak at this stage. By the end of the discussion I expect the Minister in charge will be present and he will then reply. If he is not present then I shall reply to the debate.

Mr. Deputy Speaker : Motion moved.

Shri Bharati (Madras)**:** This is a very important Bill and may I suggest that it would help the discussion to a very great extent if the Hon. Minister in charge of the Bill elucidated certain points which are very necessary, so that we may not traverse unnecessary ground. The Hon. Minister, Dr. Ambedkar, has just come to the House. It was only because he was not here that Hon. Mr. Santhanam made the formal motion. If Dr. Ambedkar had been here he would certainly have made a very useful speech. I am prepared to speak after the Hon. Dr. Ambedkar has sopken. However, I leave it to the House.

The Minister of Law (Dr. Ambedkar): Sir, at the outset I must apologise to the House for my delay in reaching the House. I was told that the Insurance Bill would not be finished before 4-30 p.m. and that a message would be sent to me in my room .....

Shri Kamath (Madhya Pradesh)**:** There are always surprises in life.

Dr. Ambedkar : With regard to this Bill it is obvious that the Bill deals with four questions. Firstly, it deals with the allocation of seats for the House of the People among the different States. Secondly, it deals with the fixing of the total seats for the State Legislative Assembly. Thirdly, it deals with

*P.D., Vol. 4, Part II, 18th April 1950, pp. 3000-6.

the questions relating to the registration of voters for election to Parliament and election to State Assemblies. And fourthly, the Bill proposes to fix the composition of the State Legislative Councils and the registration of voters for the Councils. I propose to take each of these points and explain to the House what exactly the Bill does.

First I propose to explain to the House the question of the allocation of Parliamentary seats among the States. The allocation proposed by the Bill is shown in the First Schedule. The House will recall that the Constitution lays down in article 81 the rules which have to be observed in the matter of distributing seats in Parliament among the different States. The rules to which I made reference are laid down in article 81(1)(b) and 81(1)(c). The first rule which this article lays down is that the constituency shall be so determined that there shall be not less than one member for every 750,000 and not more than one for every 500,000 of the population. The second rule which this article lays down is that whatever standard figure is chosen between these two figures—the maximum and minimum—that standard figure, so far as the States in Parts A and B are concerned, shall be uniform throughout the territory of India. That is the general direction given by the Constitution which this Bill is bound to conform to.

The standard figure adopted in this Bill for the purpose of allocating seats is one Member for every 720,000. It will be seen that this figure is in between 750,000 and 500,000. The seats for the different States are arrived at by dividing the total population of each State by this standard figure of 720,000 and you get the total number of seats for each State set out in the First Schedule to this Bill. The total population is as estimated on the 1st March 1950 according to the order issued by the President under the appropriate article of the Constitution. I believe it is article 347 .....

Shri Bharati : Article 387.

Dr. Ambedkar : I believe hon. Members have got the notification issued by the President in which the population of the various States as estimated has been shown .....

Shri Bharati : We have not a copy of it. When was it issued ?

Dr. Ambedkar : It was issued on the 17th April 1950.

Shri Bharati : That was yesterday. We have not been supplied with a copy.

Dr. Ambedkar : I am very sorry. It is in the Gazette. We are in such a great hurry that long intervals are not permissible.

Dr. Deshmukh (Madhya Pradesh)**:** Sir, the figures of population are essential for the Debate.

Dr. Ambedkar : I think they will be circulated. However, I shall read them out.

Part A States

Assam	...	...	8.51	million
Bihar	...	...	39.42	”
Bombay	...	...	32.68	”
Madhya Pradesh	...	...	20.92	”
Madras	...	...	54.29	”
Orissa	...	...	14.41	”
Punjab	...	...	12.61	”
U.P.	...	...	61.62	”
West Bengal	...	...	24.32	”

I do not think I need trouble the House with the population figures for States in Part B and Part C.

Shri Raj Bahadur (Rajasthan)**:** We want them.

Dr. Ambedkar : Then I will read them out.

Part B States

Hyderabad	...	...	17.69	million
Jammu and Kashmir	...	...	4.37	”
Madhya Bharat	...	...	7.87	”
Mysore	...	...	8.06	”
Patiala and East Punjab States Union			3.32	”
Rajasthan	...	...	14.69	”
Saurashtra	...	...	3.96	”
Travancore-Cochin		...	8.58	”

Part C States

Ajmer	...	...	0.73	million
Bhopal	...	...	0.85	”
Bilaspur	...	...	0.13	”
Coorg	...	...	0.17	”
Delhi	...	...	1.51	”
Himachal Pradesh		...	1.08	”
Cutch	...	...	0.55	”
Manipur	...	...	0.54	”
Tripura	...	...	0.58	”
Vindhya Pradesh		...	3.88	”

That is the population as calculated on the 1st March 1950.

Shri Kamath : What about the Andaman and Nicobar Islands ?

Dr. Ambedkar : I have not got the figures here, and they do not form part of this scheme.

Shri Bharati : Is any Member given to Aandamans in the Schedule ?

Dr. Ambedkar : Yes, but that is a separate thing altogether. I am coming to that.

I have given to the House the total population of the States in Part A, Part B and also in Part C.

Dr. Tek Chand (Punjab)**:** Are these based on the census of 1941?

Dr. Ambedkar : They have been calculated for the purpose of this Schedule by the Census Commissioner who must be taken to be the final authority in this matter ; he has advised the Election Commissioner that these should be the standard figures that may be taken as the basis.

Dr. Tek Chand : How have they been calculated ?

Dr. Ambedkar : It is a very difficult thing to say now. They have been calculated in the manner prescribed in the Constitution (Determination of Population) Order, 1950, and the President has accepted them.

As I said, the First Schedule refers to the House of the People. The seats for the States in Part A and Part B have been calculated on the basis of one Member for every 720,000 of the population. With regard to Part C, hon. Members will remember that the determination of the seats for States in Part C is set out in article 82. That article 82 practically leaves it to Parliament to decide it in the best manner it can without being bound by the two rules which have been laid down in article 81. Consequently, really speaking, this standard figure of 720,000 could not be made the basis for the allocation of seats to States in Part C because on that basis most of those States will not even get a single seat in Parliament. Consequently, what has been done is that they have been just given one seat for the purpose of securing their representation in Parliament without being bound down by any of the rules that have been laid down for States in Part A and Part B.

Shri Syamnandan Sahaya (Bihar)**:** But in cases where there is more than one seat ?

Dr. Ambedkar: I am coming to that. With regard to Delhi an exception has been made, namely, that Delhi has been given three seats.

Shri Raj Bahadur: Why was this exception made ?

Shri Bharati: Because it is the Capital.

Dr. Ambedkar : One of the reasons is that Delhi has quite a big population as compared to the other States listed in Part C. The basis we have taken with regard Delhi is one seat for every 500,000 of the population, and therefore Delhi will have three seats.

Capt. A. P. Singh (Vindhya Pradesh)**:** Why has this standard of 500,000 not been taken as a basis in the case of Vindhya Pradesh ? Vindhya Pradesh has been given only five seats.

Dr. Ambedkar: Vindhya Pradesh has a big population. What I say is this, that we are trying to upgrade where upgradation is necessary ; we are not trying to upgrade where

on the population basis a State is getting representation ; and we are upgrading a great deal where a State is not getting any representation at all. It has really got to be done by equitable consideration and not by logic and not necessarily by population.

Then I come to Kashmir. As the House will see, there is a special provision with regard to Kashmir and that provision differs in one important respect and that is that the Kashmir representatives will not be elected by the people. Now, the reason for making an exception in regard to Kashmir is this, namely, that Kashmir is a part of India in a very attenuated manner, so to say. The Article relating to Kashmir says that only Article 1 applies, that is to say, Kashmir is part of the territories of India. The application of the other provisions of the Constitution, that Article says, will depend upon the President, who may in consultation with the Government of Kashmir apply the rest of the Articles with such modifications and alterations as he may determine. As the honourable House may probably know, there has been already issued an order in regard to Kashmir in which the President has modified the Article providing for the representation of States in Parliament by stating that he shall nominate the represntatives of Kashmir in consultation with the Government of Kashmir. I think it was issued on the 26th January. That being so, there is really no room for this Parliament to make any provision with regard to the representation of Kashmir in Parliament in a manner different from what has been provided in the Bill. I think that nothing more is necessary for the purpose of elucidating how the First Schedule has been brought into being.

I now come to the fixation of the total seats in the State Legislative Assemblies as has been shown in the Second Schedule. With regard to this matter also, we have had to conform to the provisions of Article 170. That Article lays down two rules. One rule is that there should be not more than one seat for every 75,000 of the population. The second rule is that the maximum number of seats of a State Legislative Assembly shall be 500 and the minimum shall be 60. In framing the Second Schedule, the following considerations

have been taken into account. The first consideration is that the total number of seats in any Legislative Assembly is not unduly large. The second consideration is that the total number of seats fixed for each State Legislative Assembly is an integral multiple of the State quota in Parliament. The reason for adopting this second rule that the one should form a sort of integral multiple of the other is because by doing so it would be easy to work out the provisions of Article 55. Hon. Members will appreciate that Article 55 provides that notwithstanding the fact that the total membership of the different Legislative Assemblies in the States may be different there shall be equal valuation of the votes cast in the Presidential election. Now, it is quite obvious that this equal valuation would become easier of calculation if we had the total seats in the Legislative Assembly of any State forming an integral multiple of the number of seats for that State in Parliament. That is why the seats have been allotted accordingly. It is, of course, to be remembered that the multiple is not the same in all the cases but the multiple is there. That is how the seats in the Second Schedule have been calculated.

Shri Syamnandan Sahaya : Therefore, the State Assemblies have different numbers in different States. It is unlike the Parliament where you have a fixed number.

Dr. Ambedkar : Yes. The maximum is 500 and the minimum is 60, but different numbers may be fixed for different States. There is no uniformity prescribed in the Constitution. We have a wide limit within which we can fix different totals for different States.

Shri Syamnandan Sahaya : Could we know what is the basis in the different States ? Say 100,000 voters per seat in Assam; 110,000 in Bihar; 120,000 in U.P. and so on?

Dr. Ambedkar : After I finish my speech, if you put that point clearly to me, I shall be able to explain. So much for the fixation of seats in Parliament and in the Legislative Assemblies of the different States.

Now, I come to registration of voters. The principles adopted for registration of voters for Parliamentary constituencies as

well as for State Legislative Assembly constituencies are the same. There is no difference. Consequently, I think that it would be enough if I explain the provisions relating to registration of voters for Parliamentary constituencies. The first principle is what is laid down in Clause 15 of the Bill which says that every constituency is to have an electoral roll on the basis of which election will be conducted. The preparation of an electoral roll is therefore an obligatory thing and a condition precedent for election. The second principle is that for being registered on an electoral roll a person should not suffer from the disqualifications mentioned in Clause 16. He should not be a person who is not a citizen of India; or a person who is of unsound mind or a person who is guilty of offences relating to corrupt practices and election offences, then, he becomes eligible for being enrolled or registered in that constituency. The next principle is that a voter can be registered and that, in one and not more than one constituency. Even in one constituency he is to be registered only once. Then we have what are called "conditions of registration", which are laid down in Clause 19. One is that he must be ordinarily resident for not less than 180 days during what is called a "qualifying period". Secondly, he must not be less than twenty-one years of age on the qualifying date.

Now, with regard to qualifying date and qualifying period, I think it is necessary that I should make the position a little clearer. On reading the Bill, the House will realise that there are really two different provisions for qualifying period and qualifying date. There is one qualifying period and one qualifying date for the first electoral roll, and there is another provision for qualifying period and qualifying date for subsequent electoral rolls.

Now, for the first electoral roll the qualifying period is from 1st April 1947 to 31st March 1948. The qualifying date for the first electoral roll is the first day of January 1949. Now, these provisions which I have referred to with regard to the qualifying period and the qualifying date for the first electoral roll are really, so to say, beyond our control now, because they were fixed by the Constituent Assembly when it passed a resolution that the election should take place at a certain

period in the year 1950 and so on, and that accordingly preparation should be made for the registration of voters, and preparation of electoral roll. Now so much work has been done under the authority of the Resolution passed by the Constituent Assembly that it is not possible for us to make any change in the basis which was laid down by the Constitutent Assembly. But with regard to the subsequent electoral roll we have said that the qualifying period shall be the calendar year immediately preceding the first of March in each year and the qualifying date shall be 1st March in each year.

Now with regard to the residential qualification, about which I know there has been a great deal of perturbance in the minds of Members, I should like to draw the attention of the House to clause 20 of the Bill which defines what is called "ordinarily resident". I would not at this stage enter into any further discussion of the matter, but if a point is raised I shall be glad to give further explanation. In this very clause provision has been made to define or to specify what would be the constituency of any particular person employed in the armed forces.

My attention is drawn to the fact that there is no provision made with regard to persons who have to change their residence by reason of the fact that they are serving in the State and the State either transfers them permanently from one area to another or sends them out of the country. It is perhaps necessary to make a provision to cover cases of this sort and I propose to move an amendment to add a sub-clause to clause 20 to deal with cases of this sort.

Now there is one other provision with regard to the preparation of the electoral roll to which I would like to draw the attention of hon. Members. The first is this : that the existing roll which will now be prepared will be operative till the 30th of September 1952, that is to say, if any election takes place up to the 30th of September 1952 the electoral roll that would now be prepared will be regarded as operative, although it is probably a stale one — but there is no help to that. Subsequent electoral rolls however would be prepared every year and that will be seen from clauses 23 and 24. This

point is important because it is generally agreed that an electoral roll should not be older than, say, for instance, six months, or three months from the date on which election takes place. Under the old English law there was a provision that electoral rolls should be prepared every six months. But they themselves found that this provision was so costly that they have now extended this period to twelve months. It is felt by the Government of India that in a vast electorate which we are likely to have under adult suffrage system, the cost of two revisions in one year would be enormous and consequently we have adopted the modest procedure of having only annual revisions of the electoral rolls. As I stated, these rules which apply to the electoral roll in Parliamentary constituencies are also made applicable to the preparation of electoral rolls, to the State Legislative Assemblies and to the State Councils and, therefore, I need not refer to them here at all.

Then I come to the last part of the Bill which deals with the composition of the Upper Chambers in the provinces, hon. Members will remember that there was a considerable division of opinion as to whether there should be second chambers in the provinces or not. The Constituent Assembly left this matter to the choice of the representatives of the various provincial assemblies in the Constituent Assembly to decide for themselves as to whether they should have or should not have second chambers. Some Members decided that there should be upper chambers for their provinces and others decided to the contrary. Consequently, the Constitution makes provision for the upper chamber for those provinces or those States where their representatives agreed to have such upper chambers. Now the Constitution also lays down how the upper chamber is to be constituted—that will be found in article 171. There again, much of the composition of the upper chambers has really been laid down by the Constitution itself. It says that the maximum of total membership shall not exceed one-fourth of the total of the Lower House and the minimum shall not be less than forty.

That is one priniciple that is laid down in article 171. The other principle that is laid down is that about the distribution

of the seats among the various constituent elements from which the Upper House is to be drawn. For instance, one-third are to be elected by municipalities, district boards and such other local bodies in the State as Parliament may by law specify. Further, one-twelfth are to be elected by persons residing in the State who have been at least three years graduates : then one-twelfth to be elected by teachers in educational institutions recognised by the State ; one-third by the Legislative Assembly itself; and the remainder to be nominated by the Governor amongst certain classes of persons who have been specified in clause (5) of article 171. Consequently very little really remains for Parliament to do. As a matter of fact, what remains for Parliament to do is to define what are the other local bodies which are to be selected for the purpose or being constituencies to send Members to this upper chamber. The second thing that is left to be defined is the equivalent of a graduate. When one is graduate of a University no question arises ; but there may be others who have not gone to the Universities and may have equivalent qualifications. What is that equivalent also remains to be determined. Thirdly, we have to define what is an educational institution which would qualify a teacher for being elector and also prescribe the registration of voters.

The local bodies other than municipalties and district boards which are to participate in the elections are set down in the Fourth Schedule which hon. Members will find on page 10. This Schedule has been prepared in consultation with the various State Governments. Hon. Members will see that in all cases municipalties and district boards have been specified. In fact, we cannot go against that provision which is in the Constitution. It is only with regard to other bodies mentioned therein under each State that any question or argument can arise whether that particular body should or should not be included under the head "local authority"

With regard to the question of finding the equivalent of a graduate and defining an educational institution which would qualify a teacher to vote, it is felt that the best thing

is that this matter should be left to be determined by the State Government in concurrence with the Election Commission. I do not think it would be possible for us right now or for the Centre to define for each particular State which person should be treated as a graduate although as a matter of fact in technical terms he is not a graduate.

Shri A. P. Jain (Uttar Pradesh) **:** May I ask a question ? Will you recognize a person as a graduate under this law who is recognized by a State Public Service Commission or the Union Public Service Commission as a graduate ?

Dr. Ambedkar : The point is this that under the Constitution all electoral matters are really the concern of the Election Commission and if the Election Commission seeks the advice of the Public Service Commission or any other body in order that it may come to the right conclusion there will be nothing to prevent it from doing that. But the final authority will be that of the State Government in concurrence with the Election Commission.

I do not think that there is any other point that requires to be elucidated. These are the general provisions of the Bill and I hope that the House will find that they are the most suitable under the circumstances.

Shri R. K. Chaudhuri (Assam) **:** What about the displaced persons who have come to India now ?

Dr. Ambedkar : If you are raising the point I will explain it now. We have provided, as you will see in clause 20(6), that anybody who has come to India before the 25th July, 1949 will be entitled to be registered as a voter in the constituency in which he resided on that date or in any other constituency which he may specify to be his constituency.

Shri Tyagi (Uttar Pradesh) **:** What about those who are coming now, in 1950 ?

Dr. Ambedkar : That we cannot do, because under our Constitution a voter is required to be a citizen, and our citizenship clause defines citizenship as on the commencement. Unless we have a new citizenship law to regulate the position

those who have come after that date I am afraid they will have to go without the franchise. There is no help.

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* **Shri M. A. Ayyangar :** ..... What I suggest, therefore, is that though formally a motion for reference to Select Committee has not been moved, we may sit around a table and consider whatever amendments have been suggested on their merits and incorporate them if necessary. We may adjourn and continue the proceedings tomorrow.

The Minister of Law (Dr. Ambedkar) : May I explain a few things, Sir ? May I intervene in the debate to deal with this point about the Select Committee ?

Mr. Speaker : Yes. I am not in touch with what happened during my absence from the Chair, but I have got a sufficiently fair idea of it from what the Hon. Deputy Speaker has said and from the reception of what he said just now.

So, one could appreciate the demand for a Select Committee which means only an earnest and a pressing request for a quiet consideration of all the various provisions. That is what it really comes to.

Dr. Ambedkar : There is no motion for a Select Committee.

** **Shri Santhanam :** The Select Committee may consist of a fairly large number thirty or forty, of those people who are very keenly interested and who want to press certain amendments. Tomorrow we can discuss the Select Committee proposals.

Mr. Speaker : Whether it is a formal, technical, Select Committee or an informal meeting of thirty, forty or fifty Members who want to have their full say in the matter, all that I am keen about is that, everybody should as far as possible be given an opportunity to express his own views and the difficulties he might be feeling. If that is done I think

* P.D. Vol. 4, Part II, 19th April 1950, p. 3051.

** *Ibid,* pp. 3052-54.

our object wil be served. I think we may adjourn just now and meet tomorrow at about 2-30.

Dr. Ambedkar : Sir, I think it is desirable that I should state to the House exactly what a Select Committee will be able to do and what it will not be able to do. I think it will be wrong on my part to agree to any such motion leaving the House in darkness as to what is possible to be done by a Select Committee and what is not possible. I think my remarks might also enable the House to decide whether in view of the points that may remain open for discussion it is desirable to have a Select Committee.

The first thing I am quite certain about is that the Select Committee will not be able to alter the provisions regarding qualifying period and qualifying date. I am quite certain in my mind that however desirable it may be, it would not be possible to do so, for the simple reason that we had taken a decision in the Constituent Assembly, as every Member of this House will remember, that the elections will take place at a certain time, and under that Resolution directions were issued to various States to prepare their electoral rolls. Most Members of the House must have noticed a statement which was recently published in the *Statesman* or the *Hindustan Times* stating the progress which the various States have made in the matter of the preparation of the electoral rolls. Now, those electoral rolls prepared by the various States were made on the basis of the qualifying period and the qualifying date.

Obviously, unless the House comes to the conclusion that the labours which have been devoted by the various States to the preparation of the electoral roll ought to be thrown overboard (*Shri Sondhi* : Who says that?) and that we should in this Bill fix a qualifying date and a qualifying period which would be much nearer the preparation of the electoral roll than the existing ones have been, it seems to me absolutley clear that it would not be possible for the Select Committee or for me to accept a new qualifying date and a new qualifying period.

Shri Sondhi : Can we not have supplementary lists ?

Dr. Ambedkar : This question was put to me in the morning. I was asked as to what would happen to those who come of age, that is to say, who become twenty one, after the present qualifying date.

Shri Sondhi : What about those who have been left out ?

Dr. Ambedkar : I am conscious of all that I have been saying. Please let me go on.

I had the matter examined by the Election Commissioner and my Ministry. The question is as to how much labour would be involved in the preparation of the supplementary electoral roll which would contain the names of persons who have come of age after the qualifying date that we have fixed. I am told that the number would be quite enormous. It would involve new work. We would have to have new machinery in addition to the one that would be necessary to revise the rolls that have already been prepared. This additional burden would certainly have the effect of postponing the target dates for certain stages that we have fixed. Therefore, unless this House is prepared to accept the proposition that there need be no cancellation on the date mentioned by the Prime Minister, it would not be possible to undertake this piece of work. I want to make that point quite clear. Unless the Select Committee is prepared to take the responsibility of recommending to Government that the work that has already been done be thrown overboard and be deemed to be of no value and that additional work be taken up notwithstanding the cost and the impossibility of providing additional material, my submission to the House is that the Select Committee cannot alter these provisions.

What are the other provisions in this Bill? The other provisions are only two. They are urgent matters and I have not seen any hon. Member making any kind of reference to them. One clause which is important and about which I myself feel that the Bill might do something more is with regard to delimitation of constituencies. Except one hon. Member, nobody had realized .....

Some Hon. Members : We have not spoken as yet.

Dr. Ambedkar : Notwithstanding the fact that so much heat and so much vehemence have been introduced in this debate .....

Shri Sondhi : You will have more of it.

Shri Kamath : You are adding to it.

Mr. Speaker : Order, order. Let him go on.

Dr. Ambedkar : In the Constitution, there is a provision that delimitation shall be undertaken by Parliament. That is there. In this Bill, what we have proposed is that this power which belongs to Parliament may be delegated to the President, and the President may, by order, prescribe what the constituencies are. It may be contended—and very rightly too—that this matter ought not to be left to the President but that this Parliament should engage itself in looking into every constituency that may be framed for the purpose of both the elections to the Parliament and to the State Legislatures. I do not deny the right, but the question is whether Parliament can and will be able to find the enormous time that will be necessary for scrutinising every constituency both for the Parliament and for the State Legislatures.

Dr. Deshmukh : That is not the only course.

Dr. Ambedkar : Please let me go on.

Therefore, in this particular clause 13, the provision is made that although the President may, by order, prescribe and delimit constituencies he shall be bound to place the order of delimitation before the House. I may frankly state that even I am not satisfied with this provision, because I want Parliament to have a look into it. But nobody has suggested this. (*Interruption*). This is one point which the Select Committee may look into, I agree. But why go to the Select Committee for this kind of thing ? I have a solution. I have two alternatives. One is that clause 12 may be so amended that we can add that the order of delimitation made by the President should be placed before Parliament and if Parliament

does not make any alteration in it, then within a prescribed period it should become final. That is one alternative. The other alternative which I am prepared to propose is that when delimitation is undertaken, whoever delimits, there shall be associated with him a Committee composed of Members of this House or of the local State Legislature who are concerned with that particular constituency, so that they may be in a position to give their advice and their judgment to the officer who is engaged in delimitation. (*Shri Tyagi* : That is a good idea.) If the House is agreeable to that, there is no need to refer this Bill to a Select Committee at all.

Then, Sir, the other point that remains in the Bill is this. I do not think that I am accusing anybody in saying what I do, namely, that a large part of the heat and vehemence and the general plausible argument that have been engendered have been intended merely to cover a very small point, namely, that most hon. Members are interested in having the number of seats in the State Legislatures increased, but they have not had the courage to say so, except one or two. If hon. Members are only interested in this little point that the number for the U.P. should be increased by 15 or that the one for Mysore should be increased by 1 or that the one for Delhi should be increased by 2, I want to ask whether it is not a matter which we can deal with in this House ? Why bother with a Select Committee ?

Shri Bhatt : You cannot deal with all the details.

Dr. Ambedkar : There are no details. I am myself moving certain amendment changing the figures in the total representation of the various States. If my hon. friends think that I am very miser and meagre and that I am not meeting their demands, well, they can move their amendments right here and the House may decide whether the figure that I suggest is the right figure or whether the figure that they suggest is the right figure. Why send it to the Select Committee ? Where is any other thing in this Bill, I want to know, which the Select Committee can deal with? This is a routine Bill.

My hon. Friend Mr. Hossain Imam said that there were certain matters which were not included in this Bill. I think that he forgot what I had stated when I made my observation on the introduction of this Bill. I had stated then that this Bill deals with only one aspect of the election. The conduct of election as such is quite a different matter and will be dealt with by another Bill. Consequently, all those matters which appear to be absent here are not going to remain absent, because the elections cannot be completed and carried on unless the complementary part of the legislation is also put through. Therefore, my submission is that although there is no motion—and you said that a motion can very well be manufactured if one is wanted ;—quite true that it can be—but is there any necessity ? That is the point which I want the House to consider. These are the three points and I have the amendments ready with me.

REPRESENTATION OF THE PEOPLE BILL—*concld.*

*** Mr. Speaker :** The House was proceeding yesterday with the consideration of the following motion :

> "That the Bill to provide for the allocation of seats in, and the delimitation of constituencies for the purpose of elections to, the House of the People and the Legislatures of States, the qualifications of voters at such elections, the preparation of electoral rolls, and matters connected therewith, be taken into consideration."

Shri Syamnandan Sahaya : .....Now that the Law Minister is here I hope he will place before you the facts as transpired this morning and then we may proceed to consider the Bill clause by clause.

The Minister of Law (Dr. Ambedkar) : I am sorry, Sir, that I was late. At your suggestion there was a meeting held this morning under the chairmanship of the Deputy Speaker of such Members of the House as were interested in this Bill and I am glad to say that we have unanimously accepted certain amendments to this Bill which I propose to move with your permission. I hope that there will be no further controversy or debate on the subject.

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* P.D. Vol. 4, Part II, 20th April 1950, pp. 3057-58.

Shri Tyagi (Uttar Pradesh) **:** I have not been accommodated. I agree with the amendments, but my points have not been accommodated and my amendment has not been accepted. Therefore, it was not 'unanimous'.

Mr. Speaker : Whatever the reasons, the conclusion seems to be unanimous. I shall put the conisderation motion to the House and then we can take the Bill clause by clause. I must congratulate the Members on the very happy end that has been brought about. The question is :

> "That the Bill to provide for the allocation of seats in, and the delimitation of constituencies for the purpose of elections to, the House of the People and the Legislatures of States, the qualifications of voters at such elections, the preparation of electoral rolls, and matters connected therewith, be taken into consideration."

The motion was adopted.

Mr. Speaker : We may now proceed with the Bill clause by clause.

Dr. Ambedkar : There is an amendment to clause 13 and I would therefore like that clause to be held over because the amendment is being typed.

Mr. Speaker : All right, I take it generally that the previous amendments tabled by hon. Members are all scrapped.

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* **Dr. Tek Chand** (Punjab) **:** Unfortunately we have not seen the wording of the amendments in respect of what we decided in the morning. There was only a general talk. And with regard to some of the clauses, for instance with regard to clause 6, there is still a great deal of controversy and there is no unanimity.

Dr. Ambedkar : There is no controversy.

Mr. Speaker : I do not at all want to exclude any amendment tabled. I was trying to clarify the position so that if there are no amendments I shall take those clauses together.

Dr. Tek Chand : What are the new amendments ? Let us see them. Nobody has seen them. Without seeing them how can we pass them?

*P. D., Vol. 4, Part II, 20th April 1950, p. 3058.

Dr. Ambedkar : I will read them.

Mr, Speaker : Has the hon. Member, Dr. Tek Chand, any amendments to move?

Dr. Tek Chand : We have sent an amendment to clause 6.

Clauses 2 to 5

Mr. Speaker : Is any hon. Member desirous of moving any amendment to any of the clauses 2 to 5 ?

Some hon. Members : None.

Clauses 2 to 5 were added to the Bill.

***Shri Buragohain** (Assam) **:** May I submit before the Hon. Minister replies .....

Dr. Ambedkar : I do not want any suggestions.

Mr. Speaker : The better course will be to know the reactions of the Law Minister.

Shri Buragohain : Sir, the case of the Tribals of Assam stands on a different footing. I have to .....

Mr. Speaker : The better course will be to hear the Hon. Minister first. Do the hon. Members want me to place this amendment at this stage, or shall I place it later ? All right, I shall place it later.

Dr. Ambedkar : I regret very much that I cannot accept either of the amendments moved by Mr. Jain or by Mr. J. R. Kapoor. But, I do want to remove any kind of suspicion that there might be in the mind of Mr. Jain or Mr. Kapoor or of any other Member of Parliament. It seems to me that they are under a misapprehension that by clause 6 Parliament is going to be completely deprived of the right to determine what should be the nature of the constituency : whether it should be single-member constituency or plural member constituency; what should be the method of voting,

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* P. D., Vol. 4, Part II, 20th April 1950, p. 3062.

whether it should be distributive voting or one man one vote or cumulative voting or any other system. I have not the slightest intention to deprive Parliament of its right to have its determination upon that subject. In fact, as I said in my opening speech yesterday and according to the statement made yesterday by the Prime Minister, this Bill is not a complete Bill itself. This Bill is to be followed by another Bill which may be either called Conduct of Elections Bill or the Electoral Bill. In that Bill, matters relating to the constituencies, qualifications and disqualifications of candidates and matters relating to the voting system will be dealt with and it will be undoubtedly within the competence of Parliament to come to a decision when that Bill is placed before the House, as to what sort of system of constituency and voting they approve of. Therefore, there is no desire at all to oust the jurisdiction of Parliament at all. On the other hand, as my hon. friends will remember, I myself am anxious that at every stage in the delimitation of constituencies, Parliament should be associated. As they know, I am making a provision in clause 13 that not only will the order of delimitation be placed before Parliament as an information, but also I am going to move an amendment that Parliament should have the right to make suggestions and modifications as it likes provided it wishes to do so within a stated priod of ten days or so. In addition to that, there is also going to be an amendment empowering the Speaker to appoint Committees of this House to be associated with the work of delimiting constituencies, the members to be drawn from that particular area. Having regard to the statement which I have made, I think it is clear that I have not the slightest desire to oust the jurisdiction of Parliament. I am providing for placing the Order of delimitation on the Table of the House with the right of the House to make any changes they may like and in addition there is a further provision that the Speaker will have the right to appoint Committees to be associated with the work of delimitation. I do not think that any Member have any doubt that we have the fullest desire to have Parliament's decision on this matter. The only thing is that this Bill

happens to come first when, as a matter of fact, that Bill might have come first. The point is that clause 6 of this Bill which provides for delimitation will certainly not come into operation until that other Bill has been passed. It is obviously so, because, we are now, as you know, amending section 21 providing for a supplementary electoral roll which itself will take a pretty long time and give us sufficient opportunity to place that Bill before Parliament.

Shri Sondhi : Why not delete the clause when it is not to come into operation.

Dr. Ambedkar : It should not be deleted.

***Shri Kesava Rao** (Madras) **:** I have a little doubt regarding sub-clause (*b*) of clause 6. I am afraid the seats reserved for scheduled castes and scheduled tribes will be determined by the President after consultation with the Election Commission. I am doubtful that the total number reserved is not stated anywhere. Even in the Parliament and in the Constituent Assembly it was many times stated that the number should be fixed.

Dr. Ambedkar : It is there in the Constitution according to the population. All that is necessary is to know the population. As regards delimitation I have my own doubts .....

Mr. Speaker : Let not the hon. Member go into administrative details. All that the House can do is to decide the principles, leaving it to the authorities concerned to work them out in practice. But, I myself was feeling one doubt about Mr. A. P. Jain's amendment and what was said by Pandit Thakur Das Bhargava. I am not conversant with the discussions in the Constituent Assembly nor with the discussions at the informal meeting this morning. As I understand it, all that the Members are anxious about is that, before any constituencies are fixed or delimitation is effected, this House must have an opportunity of examining it and expressing its views on that; because, it is not possible to have all these

* P. D, Vol. 4, Part II, 20th April 1950, pp. 3064-65.

constituencies mentioned as an appendix or a schedule to an Act that the House might pass. As has been rightly pointed by Mr. Krishnamachari, all that the law is expected to do is to make a "provision" for such and such a thing. That does not necessarily mean that all the details must be settled here, in the House. The House may prescribe the legal machinery by which a certain thing can be done. My difficulty is that, I am not able fully to understand the point of view of those who object. The object of the House seems to be to have an opportunity to express its views. After all, any Bill that comes before the House even in the manner in which the hon. Member has suggested would be prepared by the executive and will come in a ready and cut and dried form. I see that Dr. Ambedkar proposes to move an amendment to clause 13, and hon. Members will note that according to that amendment, whatever is done by the President is subject to such modifications as the Parliament may make. It is, therefore, clear that whatever orders are passed are coming again before the House for its scrutiny and the Parliament will have a statutory right of suggesting modifications. It will not be a matter for which Governement may or may not find time, according to their sweet will. If any modification is suggested by any Member, that modification must come before the House and Government must find time for it.

Dr. Ambedkar : If you will permit me, Sit, I am going a step further. The Parliament cannot merely do this postmortem, so to say, at the fag end but what I am saying is that I shall bring in a Bill in which all these matters will be dealt with by law and Parliament will have an opportunity to express its opinion upon it. It is a much greater opportunity that I am proposing. Not having considered this matter properly and thorougly I am not in a position to commit myself one way or the other. But whatever the system of the electorate, whatever the basis of voting, whatever the qualifications or disqualifications of the candidates, all those matters will be dealt with by a Bill which Government will bring forward here long before the operation of clauses 5 and 6 will come about.....

Mr. Speaker : Apart from that I was also pointing out that the House having got the right .....

Dr. Ambedkar : That is in addition to what the House will do. I am doing something further than that. I am now introducing an amendment to clause 13 to enable you to appoint committees to work with the Election Commissioner in the matter of the determination of the constituencies. The further provision that I am making is this: that the constituencies as will be set out in the order will be as recommended by that Committee and not by the Election Commission. I am cutting out by an amendment the Election Commission. I am giving the Committee the direct authority to do it.

Shri Kamath (Madhya Pradesh) **:** Will the Committee be appointed or elected ?

Dr. Ambedkar : In such manner as the Speaker may determine.

Pandit Thakur Das Bhargava : It may be that the Committee and the Election Commission may decide in regard to each State differently and may not arrive at a common basis.

Dr. Ambedkar : As I said just now, I will bring in a Bill to determine these matters and when the Bill is passed, whatever law or whatever provision is made will be applied uniformly throughout India or differently in different States as Parliament chooses.

***Dr. Ambedkar :** I stand by the assurance that I have given that there will be a Bill. It will deal with both the aspects : (1) the nature of the constituencies—whether they are to be single-member or plural-member; and (2) what should be the system of voting. As I said, we shall also deal with the candidate, his qualifications and disqualifications. I have no desire in any way to take away the power of

* P. D., Vol. 4, Part II, 20th April 1950, pp. 3068-71.

Parliament and if I may say so with all respect, I disagree with my hon. friend Mr. Santhanam who said that this was a matter entirely to be relegated to the Election Commission. The Election Commission is there merely to control and supervise the elections, but the delimitation of constituencies is a matter for Parliament.

Mr. Speaker : Does Mr. Jain want me to put his amendment to the House ?

Shri A. P. Jain : I just want ot say a few words.

Mr. Speaker : I think we have had enough discussion. It will be a wrong procedure if I allow a person to speak over and over again on the same amendment. If he wishes me to put his amendment before the House, I shall do so.

Shri A. P. Jain : No, Sir, I do not want it to be put to the vote of the House.

Shri J. R. Kapoor : In view of the assurance given by the Law Minister, I do not wish mine also to be placed before the House.

Dr. Ambedkar : Sir, I have an amendment to clause 6. I beg to move :

"In sub-clasue (2), omit 'after consulting the Election Commission'."

So that the House will understand its significance, I shall read Clause 13. I have proposed an amendment to clause 13, which reads thus :

For existing clause, substitute :

"13, *Procedure for making orders under sections 6, 9 and 11.*—

(1) As soon as may be after the commencement of this Act, there shall be set up by the Speaker—

(*a*) in respect of each Part A State and Part B State other than Jammu and Kashmir an Advisory Committee consisting of not less than three, and not more than seven Members of Parliament representing that State; and

(*b*) in respect of each Part C State other than Bilaspur, Coorg and the Andaman and Nicobar Islands, an Advisory Committee consisting of the Member or Members of Parliament representing that State.

(2) The Election Commissions shall, in consultation with the Advisory Committee so set up in respect of each State, formulate

proposals as to the delimitation of constituencies in that State under sections 6, 9 and 11 or such of these sections as may be applicable and submit proposals to the President for making the orders under the said sections.

(3) Every order made under section 6, section 9, section 11 or section 12 shall be laid before Parliament as soon as may be after it is made, and shall be subject to such modifications as Parliament may make within twenty days from the date on which the order is so laid."

Now, the responsibility of finally determining the constituencies is cast upon these Committees and consequently it is the recommendation of the Committees that will become operative. That being so, the old provision which required consultation with the Election Commission is unnecessary. That is why I am omitting those clauses.

Mr. Speaker : Amendment moved :

"In sub-clause (2), omit 'after consulting the Election Commission',"

Pandit Balkrishna Sharma (Uttar Pradesh) **:** On a point of clarification, Sir, the doubts raised by my hon. friend Pandit Thakur Das Bhargava that different Committees which the Hon. the Speaker may appoint consisting of three to seven Members may make different recomendations in regard to different States and therefore there may not be uniformity have not been answered. How is that contingency provided for?

Dr. Ambedkar : The reply is very simple. The work of the Committees both in respect of Parliamentary constituencies and State Legislature constituencies will be governed by the law which, as I said, Parliament would be making hereafter. So, they would not be acting independently.

Dr. Deshmukh (Madhya Pradesh) **:** Sir, when the Hon. the Law Minister moved to delete the words "Election Commission", I felt very happy. But unfortunately they are coming in again by way of amendment to clause 13. I am in a very co-operative mood today and am prepared to take the most sympathetic view of the whole situation, but I would urge that the Election Commission should be absolutely kept apart from the work of the delimitation of constituencies. This is a body which has come into existence as a result of the Constitution and its functions have been determined by article

324 of the Constitution. So, there should be some amendment to say that the President shall bring into being such bodies as may be necessary for the delimitation of constituencies. The main idea is that the Election Commission should be the last body which should have anything directly to do with the delimitation of constituencies.

Shri Kamath : In view of the fact that the work envisaged in this Bill has to be undertaken almost immediately, am I to understand that the purport of this amendment is to see that these Committees—Advisory or otherwise—will be constituted immediately ?

Dr. Ambedkar : No. As soon as the other work is ready, they will be constituted.

Mr. Speaker : Hon. Members will see that there must be set up some administrative machinery for making proposals, and that administrative machinery, so far as I see, is the Election Commission.

Dr. Ambedkar : Otherwise, how can Members of the House delimit a constituency ?

Mr, Speaker : I will invite the attention of the House to one thing more and that is this—that though the committees are advisory the amendment says "the Election Commission shall, in consultation with the advisory committees", not after consultation. That is a big change. But whatever that may be, I put the amendment to the House. It has been sufficiently discussed.

Shri Syamnandan Sahaya : Sir, I just want to bring to your notice that after the President has determined the Parliament is supposed to alter it.

Dr. Ambedkar : I have said so many times that the President will not do anything except in accordance with the law which will be made. How many times am I to repeat it ?

Mr. Speaker : The question is :

> "In sub-clause (2) omit 'after consulting the Election Commission',"

The motion was adopted,

(Clause 6, as amended, was added to the Bill.—*Ed.*).

*Clauses 7 and 8

Clauses 7 and 8 were added to the Bill.

Clause 9

(Delimitation of Assembly Constituencies.)

Amendment made :

"Omit 'after consulting the Election Commission'."

—[*Dr. Ambedkar*]

Shri Tyagi : I beg to move :

Add the proviso :

"Provided that areas comprising a municipal board or a municipal corporation shall not be included in a constituency which comprises of rural areas.

Sir, since the time this Bill has come before this House I have been striving my best to see that the rights and privileges which have so far been enjoyed by the rural areas may not be taken away from them. For the last thirty years and more rural areas have been having their separate constituencies in the Legislative Assemblies of the various States.

Dr. Ambedkar : Sir, may I point out, in order to curtail discussion, that this is a matter which could more appropriately be dealt with in the Bill which will be coming up before the House. I do not think that this is a matter which is germane to this particular Bill.

Shri Tyagi : But then there would be no point in my bringing it up after the electoral rolls are prepared where rural areas are mixed up with urban areas.

In the case of other hon. Members' amendments the Hon. Dr. Ambedkar has given some assurance that they will be considered—but mine he has been opposing all along. For the last two days I have been trying my best to convince him of my view-point; but he has not given me a sympathetic hearing.

Mr. Speaker : But this time he has shown sufficient sympathy by saying that the matter may be brought up at the time when the next Bill is taken up.

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*P.D.. Vol. 2, Part II, 20th April 1950, p. 3071.

* Clause 10

Clause 10 was added to the Bill

Clause 11

(Delimitation of Council Constituencies)

Amendment made :

"Omit 'after consulting the Election Commission'."

—[*Dr. Ambedkar*]

Clause, as amended, was added to the Bill.

Clause 12

(Power to alter or amend orders)

Shri Syamnandan Sahaya : I cannot understand what is the necessity for this clause, because over and above all these Advisory Committees this gives the President power to alter the whole thing after consulting the Election Commission. I want to understand the position. It runs counter to what we agreed to.

Mr. Speaker : Perhaps, the idea is to vest the President with power to revise his own orders from time to time.

Dr. Ambedkar : Once the orders have been finalised by Parliament there will be no power to amend them.

Mr. Speaker : But are the words "after consulting the Election Commission" necessary ?

Dr. Ambedkar : That is before they have been finalised by Parliament.

Shri Syamnandan Sahaya : There will be this Advisory Committee. The Advisory Committee and the Election Commission will jointly send a prticular proposal to the President. The President accepts it and passes orders under clauses 6, 9 or 11. After that the election goes on.

Dr. Ambedkar : After that the order is placed before Parliament. The recommendation is made by the Advisory Committee to the President. The President may make an

* P. D., Vol. 4, Part II, 20th April 1950, p. 3072-74.

order. After that the order is placed before Parliament. There is an interregnum. During the period if the President thinks that probably he has made an error he should have the power to alter or amend the order.

Mr. Speaker : So, this power will not extend to alteration after the House approves. Then it is final.

Clause was added to the Bill.

Clause 13

(*Orders to be laid before Parliament*)

Dr. Ambedkar : I beg to move :

For existing clause, substitute :

"13. *Procedure for making orders under sections 6, 9 and 11.*—

(1) As soon as may be after the commencement of this Act, there shall be set up by the Speaker—

(a) in respect of each Part A State and Part B State other than Jammu and Kashmir, an Advisory Committee consisting of not less than three, and not more than seven, Members of Parliament representing that State ; and

(b) in respect of each Part C State other than Bilaspur, Coorg and the Andaman and Nicobar Islands, an Advisory Committee consisting of the Member or Members of Parliament representing that State.

(2) The Election Commission shall, in consultation with the Advisory Committee so set up in respect of each State, formulate proposals as to the delimitation of constituencies in that State under sections 6, 9 and 11 or such of these sections as may be applicable and submit proposals to the President for making the Orders under the said sections.

(3) Every Order made under section 6, section 9, section 11 or section 12 shall be laid before Parliament as soon as may be after it is made, and shall be subject to such modifications as Parliament may make within twenty days from the date on which the Order is so laid."

Mr. Speaker : I have just one doubt in sub-clause (3). The wording is "and shall be subject to such modifictions as Parliament may make within twenty days from the date on which the Order is so laid." What is really intended, I think is that the motion for making amendments may be initiated within twenty days.

Dr. Ambedkar : It will be initiated long before so that the final order of Parliament shall be passed not after twenty days ; twenty days is the period that has been given. Government will no doubt initiate whatever changes are necessary.

Mr. Speaker : I do not know. I thought that it would be a rather difficult matter. It is just possible that the House may be engaged with important business and it may not pass the necessary order before twenty days.

Dr. Ambedkar : The House will then have to give precedence to this.

Mr. Speaker : What I was considering about this was that we might say "and shall be subject to such modifications as Parliament may make on a motion made within twenty days from the date on which the Order is so laid."

Dr. Ambedkar : I am prepared to accept it.

An. hon. Member : Parliament may not be in session.

Mr. Speaker : Therefore, what I was suggesting to the Law Minister was that twenty days will be counted from the time of laying it when the House is in session and the only condition should be that a motion is made within twenty days.

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* **Shri Ramalingam Chettiar** (Madras) **:** I have a little doubt as between clauses 12 and 13. Clause 12 says that the President may alter the order he has passed already. Clause 13 says that it may be modified by the Parliament. In the interval what is going to happen ? Is the order passed by the President to be effective or is it to be only provisional.

Dr. Ambedkar : It is provisional because the final authoirty is with Parliament.

Shri Ramalingam Chettiar : You do not say so. The section as it stands says that it is a final order subject to modification and not that it is a provisional order. The order becomes effective immediately it is passed. It may be modified by the Parliament afterwards.

* P. D., Vol. 4, Part II, 20th April 1950, pp. 3074-75.

Dr. Ambedkar : It is a provisional order in the sense that if Parliament does not afterwards modify, it takes effect. But the ultimate power of enactment so to say is left to Parliament.

Pandit Thakur Das Bhargava : The point raised by my hon. friend Mr. Kamath was that as a matter of fact according to the Constitution the Election Commissioner is invested with certain powers and these powers do not deal with the delimiting of constituencies. It is the privilege of the Parliament alone to delimit constituencies. Now the Election Commissioner is put in a much better situation than even the Committee. He will only consult it and he has the right to formulate the proposals.

Mr. Speaker : This is the same thing which was raised previously. When we discussed clause 6 the same point was raised and the position has been clarified already by the Hon. the Law Minister. Ultimately it is Parliament which is going to exercise this power.

Dr. Ambedkar : All these are preliminary stages. Even the President's order is a preliminary stage.

Mr. Speaker : The hon. Member will see in the amendment the words "formulate proposals as to the delimitation of constituencies". He is not given the power of determining. Another thing to remember is that, it is this Parliament that will deliberate and examine the proposals in respect of the delimitation.

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* **Dr. Deshmukh :** .....You might lay down any procedure by which the committees will be elected. But there should be some element of election in so far as these persons are concerned. The Chair should not be saddled with the responsibility of creating a body which is going to determine the constituencies.

*P.D.. Vol. 4, Part II, 20th April 1950, pp. 3076-77.

Mr. Speaker : May I know the reactions of the Hon. the Law Minister?

Dr. Ambedkar : I cannot accept any of these amendments.

Sardar B. S. Mann : What about my amendment Sir ?

What is the Hon'ble Minister's reaction ?

Dr. Ambedkar : I cannot accept it.

Sardar B. S. Mann : Then I do not move it.

Clause 20

(Meaning of 'Ordinary resident')

* **Dr. Ambedkar :** I beg to move:

After sub-clause (3), insert :

"(4) Any person holding any office in India declared by the President in consultation with the Election Commission to be an office to which the provisions of this sub-section apply, or any person who is employed under the Government of India in a post outside India, shall be deemed to be ordinarily resident during any period or on any date in the constituency in which, but for the holding of any such office or employment, he would have been ordinarily resident during that period or on that date."

and renumber the subsequent sub-clauses.

In sub-clause (4), renumbered as sub-clause (5),—

(i)after "sub-section (3)", insert "or sub-section (4)" ; and

(ii)after "Armed Forces" insert "or but for his holding any such office or being employed in any such post as is referred to in sub-section (4)."

In sub-clause (5), renumbered as sub-clause (6),—

(i) after "sub-section (3)", insert "or sub-section (4)"; and

(ii) for "sub-section (4)", substitute "sub-section (5)";

This amendment is made for the purpose of removing some doubts that were expressed with regard to the application of the term "ordinarily resident" which occurs in clause 20, in

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* P. D., Vol. 4, Part II, 20th April 1950, pp. 3081-82.

its application to certain persons who may have temporarily left their places of ordinary residence and gone to stay somewhere else. It is felt necessary that such a provision ought to be inserted in this clause. This refers to persons who are sent outside India temporarily on official duty and in whose case it may be presumed that they have ceased to reside in the place of their ordinary residence. It is to prevent that kind of presumption being drawn in their case and to retain their right to be registered in the constituency in which they have been ordinarily residing that this provision is made.

Similarly, this provision is also intended to apply to the case of Ministers, for instance, at the Centre who, having regard to the fact that they have accepted certain offices under the State, presumably intend to stay here during the term of their office which might be co-terminus with the term of Parliament itself, namely five years. There again, it might be presumed that they have ceased to reside in the place where they have been ordinarily residing. It is to cover that case also that it is felt that some such provision is necessary.

It was also suggested to me that Members of Parliament as distinguished from office-holders, such as Ministers and so on, may be affected by the other presumption, namely that as they come here often they may also be deemed not to reside in the place where they are ordinarily resident. But on advice I feel that that presumption cannot be applied to them, for the reason that when a man temporarily for some specific reason leaves his ordinary place of residence and goes somewhere else, it cannot be presumed in law that he has abandoned his intention to revert to his original place of residence. Consequently, I don't think that that provision is necessary in the case of Members of Parliament. In the other two cases it seems that it may be necessary and as a measure of precaution I propose to introduce this amendment.

The motion was adopted:

Clause, as amended, was added to the Bill.

Clause 21

(Meaning of 'qualifying date' and 'qualifying period')

* **Dr. Ambedkar :** I beg to move :

For sub-clause (a), substitute :

> "(*a*) in the case of electoral rolls first prepared under this Act, shall be the first day of March 1950, and the period beginning on the first day of April 1947 and ending on the thirty-first day of December 1949, respectively; and"

This is the result of the agreement that was reached this morning as regards the preparation of the electoral rolls and the qualifying period.

Clause 27

** **Dr. Ambedkar :** Sir, I thought that I had this morning explained to the hon. Member who initiated this debate why clause 17 was not applied, but evidently he was very keen that his objections should be heard by the whole House. I do not deny him that privilege.

Shri Ethirajulu Naidu : On a point of order, Sir, is it in order to refer to what transpired at the meeting in the morning ?

Dr. Ambedkar : Certainly ; there is nothing secret about it. The committee was constituted by the Speaker himself.

Mr. Deputy Speaker : There is nothing secret about it. It is in order.

Dr. Ambedkar : Now, Sir, the point is this. No doubt we have initiated in clause 17 of the Bill a very important principle, namely, that one man shall be registered in one constituency and that he shall have one vote, but it must always be understood that the prinicple can be made applicable only in the case of constituencies of the same class, that is to say, territorial constituencies. Now, the constituencies which we propose to form under clause 27 of this Bill are different classes of constituencies. They are not constituencies of the same class. A graduate constituency is a

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*P. D., Vol. 4, Part II, 20th April 1950, pp. 3082.

***Ibid.,* pp. 3084-87.

constituency of a different class. A teachers' constituency is a constituency of a different class. Similarly, the local authorities' constituency is a different class of constituency. Consequently, there does not seem to be any very great anomaly if the name of a person is included in the electoral rolls of different classes of constituencies. Besides, I am really bound to say this : I cannot understand why Members of Parliament are so much exercised over the constitution of the Upper Chamber.

It is an utterly effected body—not even an ornamental one. It has no power—not even power of revision. It is not a body with co-equal authority with the Lower Chamber. Some provinces desired that they should have them. They were probably under the impression that their Second Chamber would be a Second Chamber more or less on the same pattern of the Chamber here, which would have the authority to hold up, if not financial legislation, at least ordinary legislation. But even that power is not there and I do not understand why Members of Parliament, even for the sake of merely maintaining some theoretical principle bother their head about a constitutional body which I say is of no value and no consequence.

5-00 P.M.

Clause 27 was added to the Bill.

Clauses 28 and 29

Dr. Ambedkar : I had assured my friend Pandit Thakur Das Bhargava that I would make a statement on the point in which he is interested and I do now say that we shall take every care to see that the existing electoral rolls are revised and any omissions or additions that are necessary will be made.

Clauses 28 and 29 were added to the Bill.

New Clause 30

Dr. Ambedkar : I beg to move :

After clause 29, add :

"30. *Jurisdiction of civil courts barred.*—No civil court shall have jurisdiction—

(a) to entertain or adjudicate upon any question whether any person is or is not entitled to be registered in a electoral roll for a constituency; or

(b) to question the legality of any action taken by or under the authority of an Electoral Registration Officer, or of any decision given by any authority appointed under the Act for the revision of any such roll."

This is a usual clause and was omitted inadvertently.

The motion was adopted.

New clause 30 was added to the Bill.

Schedules

Dr. Ambedkar : I beg to move :

(*i*) In the First schedule,—-

(*a*) for the entries under the heading "Part C States" substitute :

"1.	Ajmer	...	2
2.	Bhopal	...	2
3.	Bilaspur	...	1
4.	Coorg	...	1
5.	Delhi	...	4
6.	Himachal Pradesh	...	3
7.	Kutch	...	2
8.	Manipur	...	2
9.	Tripura	...	2
10.	Vindhya Pradesh	...	6
11.	Andaman and Nicobar Islands .	...	1"

(b) against "Total", for "488" substitute "496".

(ii) In the Second Schedule, in column 2, for existing entries, substitute :

"108
339
315
232
375
140
126
430
238
175
99
99
60
160
60
108"

(iii) In the Third Schedule, in column 2 to 7, against "Bihar", " Bombay", " Madras" and " Uttar Pradesh", for existing entries, substitute :

"72
24
6
6
24
12"

(iv) For the Fourth Schedule, substitue:

"THE FOURTH SCHEDULE

[*See* section 27(2)]

Local Authorities for purposes of elections to Legislative Councils

BIHAR

1. Municipalities.
2. District Boards.
3. Cantonment Boards.
4. Notified Area Committees.
5. The Patna Administration Committee.

BOMBAY

1. Municipalities.
2. District Local Boards.
3. Cantonment Boards.

MADRAS

1. Municipalities.
2. District Boards.
3. Cantonment Boards.
4. Major Panchayats, that is to say, Panchayats notified by the State Government in the *Official Gazette* Panchayats which exercise jurisdiction over an area containing a population of not less than five thousand and whose income for the financial year immediately preceding the date of the notification was not less than ten thousand rupees.

PUNJAB

1. Municipalities.
2. District Boards.
3. Cantonment Boards.
4. Small Town Committees.
5. Notified Area Committees.

UTTAR PRADESH

1. Municipalities.
2. District Boards.
3 Cantonment Boards.
4. Town Area Committees.
5 Notified Area Committees.

WEST BENGAL

1. Municipalities.
2 District Boards.
3. Cantonment Boards.
4 Local Boards.

MYSORE

1. Municipalities.
2 District Boards."

Mr. Deputy Speaker: Amendments moved.

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* **Mr. Deputy Speaker:** May I suggest one course ? Those who are satisfied with the number of seats allotted need not speak. We have got another Bill. Other hon. Members who have got any representation to make may make their points.

Shri Deshbandhu Gupta: I want to say a few words.

Dr. Ambedkar: You have got four seats all right.

Shri Gautam (Uttar Pradesh): I do not want to take much time of the House. I rise to oppose the amendment moved by Shri Jaspat Roy Kapoor. I want to say that we the people of U.P. and the Government of U.P. are satisfied with the number 72 so far as the Upper House is concerned. We do not want any more and—

Shri J. B. Kapoor: Does the hon. Member claim to be the sole representative of the U.P. both of Government and the people ?

Shri Gautam : I know the mind of the Government and I am in a position to say that I know the mind of the people. I can claim that I represent the Congress organisation as a General Secretary and I can say that I do represent some people, at least, him.

* D. Vol. 4, Part 11, 20th April 1950, pp. 3092-93.

Shri Syamnandan Sahaya: That is Jaspat Roy Kapoor ?

Shri Gautam: If he is a Congress-man.

Shri Tyagi: I am an Ex-General Secretary.

Shri Gautam: Dr. Ambedkar has no personal axe of his own to grind. He is not interested in the U.P. At the request of some of us, he has reduced the number. He is neither in favour of 72 nor of 86. It is we who requested him and he has accepted our request. We are obliged to him for that. Therefore I oppose the amendment moved by Mr. Jaspat Roy Kapoor.

***Dr. Ambedkar :** Sir, I do not think I can at this late stage enter into any elaborate arguments with regard to the various matters, constitutional or otherwise, which have been raised. I do not think we have violated the Constitution as my friend Mr. T. T. Krishnamachari supposes in giving the allotted seats mentioned in the First Schedule to Part C States. We are perfectly within our constitutional rights in allotting the seats in this schedule. With regard to the amendment of the Third Schedule my friend Pandit Kunzru would have seen that it is only in one case as a matter of fact that the total number is reduced and that is with regard to Uttar Pradesh.

Mr. Deputy Speaker: Madras also.

Dr. Ambedkar: I was coming to it. I am taking Uttar Pradesh for my observation. There I am confronted with the fact that the State Government is very chary of increasing the size of the Upper Chamber and sitting as we are at Delhi, I do not like to sit in judgment over the decision of the State Government as to what is the suitable number for their Upper Chamber. They have thought that 72 is the proper and sufficient number for their Upper Chamber and it is on that basis that I have reduced 86 to 72. With regard to the changes made in the total number of Bihar, Bombay and Madras, I might say that the proposition enunciated by Mr. Tyagi today in the informal meeting that the total number should be divisible by 12 did appeal to me and it is for that reason that

* P. D., Vol. 4, Part II, 20th April 1950, p. 3095-96.

I have fixed 72 in the case of Bihar, Bombay and Madras. It will be noticed that my amendment as a matter of fact while it decreases the total number for Madras by only 3, increase the quota for Bihar and Bombay. There could therefore be no complaint on that account. I was sorry to see that I could not apply the same principle to Punjab because it has only got a minimum.

With regard to Bengal, it was felt that if the principle was applied *viz.,* divisible by 12, the number would go down from 51 to 48 and it was felt that Bengal was a big enough State to have at least 51 and I have therefore not touched the figure of these two States. In other cases my friend Mr. Tyagi will see that I have really yielded to his principle.

With regard to the question of extending the Fourth Schedule to Village *Panchayats* or the Headmen of the *Panchayats,* I am sorry to say that I am not able to accept that suggestion for the simple reason that it is felt, I am sure, in large sections of this House that to include Village *Panchayats* as bodies who would have the right to send their representatives would merely be the duplication of the same electorate because in view of the fact that we are going to have adult suffrage, practically every member of the Village *Panchayat* would also have a vote in the election of the Lower House of that State and therefore it would be a needless duplication and I am not therefore prepared to accept his suggestion.

Shri Barman (West Bengal)**:** What about the Members of the Municipalties and District Boards ?

Dr. Ambedkar: They might be, I cannot help it but to extend it to *Panchayats* would be a complete duplication of the votes—a sort of double voting—and I am not prepared to accept it. I do not know whether there is any other point. For Madras it is only a reduction of 3.

With regard to Delhi, whatever my friend may say, I have no doubt about it that the House has been more than generous.

Shri Syamnandan Sahaya: He himself is more than happy.

Dr. Ambedkar: It is not only being correct but very considerate.

Syed Nausherali: What about the Union Boards ?

Dr. Ambedkar: I quite see that the opinion of the Bengal Government and the view expressed by my two hon. friends today seem to differ. Some say the local board entry which has been suggested by the West Bengal Government should be retained and my two friends stated that it ought to be deleted and the entry of Union Boards should be there.

Syed Nausherali: Both may be there.

Dr. Ambedkar: I shall have to make some enquiries on this point. If I find that it is necessary to make a change it would not be difficult to bring in a small amendment to make the change. For the moment I must act upon advice which I think is reliable.

Shri J. R. Kapoor: What are the special reasons for increasing the number of seats of Bombay State from 66 to 72, when the next divisible number by 12 is 60.

Dr. Ambedkar: It is not a very wide difference. There is nothing sacred about one number or the other. All I want is divisibility by 12.

Mr. Deputy Speaker: Bombay is a composite Province consisting of Gujaratis, Marathis and Karnataks.

(*The First, Second, Third and Fourth Schedules as amended were added to the Bill.*)

Clause 1 was added to the Bill.

(*The motion moved by Dr. Ambedkar was adopted).*

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SECTION III

1st August 1950

TO

22nd December 1950

SECTION III

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(17)

* DENTISTS (AMENDMENT) BILL.

The Minister of Law (Dr. Ambedkar): If the Hon. the Health Minister is ill, I am asked to take charge of this Bill and I, therefore, beg to move:

> "That the Bill to amend the Dentists Act, 1948, be taken into consideration."

The Bill is a very short one and it does not involve any controversial matters. The Dentists Act of 1948 came into force on the 29th of March 1948. It was made applicable to Part A, Part C and Part D States. Under Section 49 of that Act, it is provided that no person shall be entitled to practise dentistry after the 28th March 1950 unless his name appears on a register of dentists which the Act required should be prepared in accordance with the rules contained therein. It was hoped that that register would be ready by the 28th of March 1950. Consequently, the operative portions of this Act were so framed to come into operation on the 28th March 1950. Unfortunately, this expectation has not been fulfilled. It was roported from various States that the register would not be ready by the 28th March 1950 and consequently it became necessary to extend the period by one year in order to enable the States concerned to prepare the register. As the Parliament was not then sitting, Government issued an Ordinance giving effect to the necessary provision extending the period up to the 28th March 1951. This Bill is intended to convert the Ordinance into law. The main provision therefore, is to extend the period for the purpose of preparing the register.

Advantage has been taken of the present occasion to amend the law in order to remove some of the difficulties which have been felt in giving effect to the original Act. Firstly, the

* P. D. Vol. 4, Part II, 11th August 1950, pp. 841-43

original Act contained two provisions. One provision was not to allow any person who was not placed on the register to be employed in Government hospitals. Obviously, it was expected that this provision would become operative after the registers were ready. As the registers are not ready, persons who have not been placed on the register by reason—not of their not being qualified, but of the register not being ready—would become disabled from holding any office in Government hospitals. Therefore, it has become necessary to extend the period and permit such persons to hold office notwithstanding the fact that they are not placed on the register.

Secondly, there is a Dental School in Bengal which used to grant Diplomas in Dentistry. At the time when the Act was passed there was a controversy as to whether the diplomas granted by this Dental School of Bengal should be recognised to enable persons holding the diploma to be placed on the register. It was felt that the diplomas granted by the Dental School of Bengal were not sufficiently qualified to place them on the register. There has been considerable agitation by persons holding the diploma granted by the Dental School of Bengal that this disability should be removed. A compromise has been suggested by the Government of West Bengal according to which persons who have received their diploma before the year 1940, subject to certain conditions, may be treated as persons qualified to be entered upon the register. That compromise is also given a place in this Bill.

The Bill, therefore, contains three provisions : (1) to extend the period (2) to permit names of persons holding diplomas of the Dental School of Bengal in certain circumstances to be place on the Register and (3) to continue the employment of unregistered dentists in the Government hospitals till 1951 until the register is prepared.

This is all that the Bill contains and I hope that the House will not find any difficulty in giving its assent to the Bill

Mr. Speaker : Motion moved :

> "That the Bill to amend the Dentists Act, 1948, be taken into consideration."

Shri Sidhva (Madhya Pradesh)**:** First of all I take strong exception to the issue of an ordinance when the House was sitting in the month of March.

Dr. Ambedkar: The ordinance was issued some time in May.

Clause 2

* **Dr. Ambedkar:** I wish that the points that were raised by my hon. Friend Mr. Sidhva and Pandit Thakur Das Bhargava had been reserved by them to the time when their amendments were taken up. It becomes somewhat embarrassing to reply on matters which would, I have no doubt, be raised again when their amendments are moved. But, I cannot help now having to reply to the points raised by them; I shall do so rather briefly, because I know I shall have to say ....

Mr. Speaker: I do not propose to allow any arguments on the amendments.

Pandit Thakur Das Bhargava : I am not going to move my amendment if my hon. friend does not accept it.

Dr. Ambedkar : Mr Sidhva has raised one or two points. The last point raised was why an Ordinance was made when the House was in session. The answer to that is two fold. The first is this. The first request that was made to the Government of India in the matter of extension of time for the preparation of the register came from the Government of Madras, and that too on or above the 15th of March 1950. That means that only 13 days had been left for the period for the preparation of the roll to expire. That is one reason. The second reason is that after the receipt of this letter from the Government of Madras, informing the Government of India that it was not possible for them to complete the Register, naturally it was necessary for the Government of India to find out from other States as to whether they were in a position to prepare their list by the date fixed, or whether they too wanted some extension. Naturally, there ensued

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* P. D. Vol. 4, Part II, 11th August 1950, pp. 856-62.

correspondence between the Government of India and the various other States.

They undoubtedly took time, and must make time, with the result that by the time the Government of India had received the replies and was able to assess whether an amendment in terms proposed by the Government of Madras was necessary, Parliament had been prorogued. That is the reason why the measure could not be brought up before the recess.

The second point raised by my friend Mr. Sidhva was this that he did not see any reason why we should make a statutory provision for the recognition of certain qualifications granted by the Bengal Dental School. According to him that was a matter which by the Act is left to the Dental Council. Now, I think my friend Mr. Sidhva has missed one important point and it is this. The power to grant recognition vested in the Council relates to qualifications or degrees granted by schools in existence; but we are dealing with a matter in which degrees and diplomas have been granted by a body which has become defunct. Consequently, it is for the Government of the day to decide whether the degrees granted by a school giving tuition in dentistry were worthwhile recognition or not. It is not a matter which should be left to the Bengal Council under Section 10, sub-clause (2). The word is "grants" which means "is granting at present" and not diploma which have been granted before. That being so it cannot be a matter which could be left easily to be dealt with by the Dental Council under its power, and if we have to amend the Schedule, then that must be done by the law itself. That is why a legal provision is made in the Bill to cover that particular matter.

Now, what I have said with regard to the Bengal Dental School also applies to what my friend Pandit Thakurdas Bhargava said on the very same question.

I come now to the points raised by Mr. Kamath. The first point raised by him was more or less of a technical character. If I understood him correctly, he said that the law required that the Register should be ready on the 28th March, 1950, and that if a person was not on the Register, then under the

provisions of Sections 46 and 49, he incurs certain penalties, while the Ordinance which exempted the person concerned from these penalties came into operation on the 29th May 1950. There is, therefore, a two months' period in which a person not being on the Register and continuing to practise or holding office was liable to certain penalties. What is the position with regard to these persons ? I think my friend Mr. Kamath, if he had read clearly the terms of the amendment proposed in the bill itself, he would have seen that the provisions say that:

> "In sub-section (3) of section 46 and sub-section (1) of section 49 of the said Act, for the words 'two years' the words 'three years' shall be substituted and shall be deemed always to have been substituted."

Therefore, it is clear that that point has been adequately covered by the present clause.

Shri Kamath : My point was that if during these two months, from March 29th to May 29, if a dentist had not been registered, then under the Act, and because the Ordinance had not come into force, how could mere executive instruction from the Government prevent a prosecution, or some other penalty being imposed on that dentist ?

Dr. Ambedkar : I quite agree that that could not have prevented prosecution. But fortunately no such case happened and it cannot happen now because the period is carried back to the original Act.

Shri Kamath : But then, Sir,.....

Mr. Speaker : Order, order. The point is very clear.

Dr. Ambedkar : My friend Mr. Kamath in dealing with the reasons as to why this Bill was brought in, has made, if I may say so, certain very serious allegations. The contention on behalf of the Government is that this Bill has become necessary by reason of the fact that the States which were required to carry out the provisions of preparing the list have not been able to do so. My friend suggests that there is another reason, and that reason is that there are certain British dentists working in this country who do not propose to become domiciled and get themselves registered, and that this Bill

is intended to benefit them. Now, I first of all do not understand how an extension of one year is going to benefit a British dentist working here who has no intention of becoming a domicile of this country. I cannot understand it. But if my friend persists in making that suggestion, which I think is a very setious allegation against an hon. Member of Government, then it should be his duty when that Member returns, to specifically put the question and ask her reply, whether this was the real motive in bringing forward this particular Bill. I am unable to give any categorical answer; but I may say that I find it extremely difficult to believe that an hon. Member of Government should venture to bring forth such a Bill for no other purpose except the paltry purpose of benefiting one or two European dentists now in this country. It seems to me a most extravagant allegation.

Shri Kamath : I did not say it is the only purpose, it may be one of the purposes.

Mr. Speaker: But still, the suggestion is very uncharitable.

Dr. Ambedkar : On that point also I would like to point out to him, in answer to a question that he asked, namely, to state the present position, that all the States, who were written to in order to find out how much time they would find it necessary to prepare the Register, have replied that they would require not less than one year. And the Bombay Government which may be given the credit of having a more efficient administrative machinery than others, insisted that they should have two years. I think that in itself would suffice to dismiss the suggestion made by my friend Mr. Kamath that this Bill was intended to protect some Britishers in this country.

I do not think that there is any point which has been raised to which I have not adverted in the course of my reply. The Bill, as it is, is a very simple, non-controversial one. It has arisen not because of the fault of the Central Government but because of the other burdens carried on by the Provincial Governments, they could not find the time to bring a particular provision of the Act into operation. I do not know whether we can do nothing else except to help the Provincial Governments to give effect to this piece of legislation and bring the Dentists Act into operation as early as possible.

Mr. Speaker : The question is :

"That the Bill to amend the Dentists Act, 1948, be taken into consideration."

The motion was adopted.

Clause 2 was added to the Bill.

Clause 3 *(Amendment of section 46 and section 49, Act XVI of 1948)*

Shri Kamath : I beg to move :

"In clause 3, in the proposed amendment to sub-section (3) of section 46 and sub-section (1) of section 49 of the Dentists Act, 1948, for 'three years', substitute 'two years and six months'."

The present clause has been inserted so as to enable State Governments to complete their registers of dentists under sections 46 and 49 of the Act. This is a retroactive piece of legislation in as much as the words used in the clause are "and shall be deemed always to have been substituted." I for one cannot see why for registering a few hundred dentists such a long period is necessary. I do not know how many dentists there are in all the States .....

Dr. Ambedkar : This is a matter of opinion. My friend Mr. Kamath with his abundant energy and administrative experience no doubt thinks that six months would be more than enough for completing the register. That as I just now told the House, even a Government as efficient as the Government of Bombay asked for two years. I personally myself think that in view of the fact that the obligation of preparing the register rests upon the Provincial Governments, it is desirable that this House should follow what the Provincial Governments think is feasible in this matter. As a matter of fact we have curtailed the period to one year instead of the two years asked for by the Bombay Government. We have stuck to one year, which was the original proposal by the Government of Madras. I do not think it is possible for us with safety to curtail the period provided in this Bill.

Shri Kamath : I take it that the Hon. Minister has no figures with him.

Dr. Ambedkar : No figures.

Mr. Speaker : If the registers are incomplete, how can he give the correct figures ?

Dr. Ambedkar : There is no register and who knows who is a dentist and who not.

Mr. Speaker : The question is :

> "In clause 3, in the proposed amendment to sub-section (3) of section 46 and sub-section (1) of section 49 of the Dentists Act, 1948, for 'three years', substitute 'two years and six months'."

The motion was negatived.

***Dr. Ambedkar :** As my friend Mr. Sidhva, has said this amendment affects an important principle which underlies the provisions of this clause, namely that the registers should be operative on the same date throughout India. This is not a mere matter of academic interest....

Shri Sidhva : Is it laid down in the Act ?

Dr. Ambedkar : That is why we have said three or two years throughout. Otherwise we would have prescribed different dates for different States. It is necessary and desirable to preserve the principle of uniformity. The House will see that it affects eligibility for holding posts. It cannot be said that a person is eligible for holding a post in a particular State and not eligible in another State, simply because the State has not been in a position to prepare the register. Therefore, I think as it is desirable to preserve the principle I cannot accept the amendment of Mr. Sidhva After all the difference is only a matter of six months.

Shri Sidhva : I beg leave to withdraw my amendment.

The amendment was, by leave, withdrawn.

Mr. Speaker : The question is :

> "That clause 3 stand part of the Bill."

The motion was adopted.

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* P. D. Vol. 4, Part II, 11th August 1950, pp. 863-64.

Clause 3 was added to the Bill.

* **Clause 4** (Amendment of the Schedule, Act XVI of 1948)

(Mr. DEPUTY SPEAKER *in the Chair*)

Shri Tyagi (Uttar Pradesh) **:** My amendment reads as follows :

> In clause 4, for the proposed item (2A) of Part I of the Schedule to the Dentists Act, 1948, substitute :
>
> "(2A) Any other institution imparting education or giving practical training in dentistry which the Central Government may in consulation with the Central Council of Dentists, recognise for this purpose and on such conditions as the Government may deem fit to prescribe therefor."

I wish to confess that Dr. Ambedkar is a hard nut to crack ..... I don't want to make any aspersions on the institution. I don't know what its standard is, I have no personal knowledge of it, and therefore I don't want to damage the reputation of the institution. But as an enquiry is going on, I think that instead of committing the whole Parliament to recognising that institution, it is better that the Government had reserved the right in their own hands to decide....

Dr. Ambedkar : We are not affecting the institution in any way. We are dealing with the degrees granted by that institution in 1940—eight years ago.

Shri Tyagi : Dr. Ambedkar expects me to believe that the degrees of an institution may be recognised without the institution itself being recognised. The degrees of the Calcutta University granted in such-and-such a year may be recognised for purposes of the I.C.S. or I.A.S., but that does not mean that the Calcutta University is recognised! What an argument ! Here I am giving him more powers. What I am suggesting is that he may even recognise that institution. I want Government to have powers to recognise any institution .....

Dr. Ambedkar : That powers exist in section 10(2).

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* P. D., Vol. 5, Part II, 11th August 1950, pp. 864-65.

*** Mr. Deputy Speaker :** May I know the reaction of the Hon. Minister to this amendment ?

Dr. Ambedkar : This clause is a clause which really gives effect to the suggestion made by the West Bengal Government. Personally I myself feel, however much sympathy I may have with my friend Mr. Bhargava, it involves the question of the assessment of the qualification of the dentist as distinguished from a person who makes a denture. I thought he was rather eloquent on the man who makes a denture. A person may make a denture without being a dentist. We are talking of a dentist, which is a very different profession.

Pandit Thakur Das Bhargava : But he has got a degree of L.D.Sc.

Dr. Ambedkar : The point is this. When the Act was passed, this institution was not deemed to be worthy of recognition. Subsequently there has been a considerable degree of agitation and the West Bengal Government decided to examine the position as to whether any of the persons qualified by tuition in this college were worthy of recognition. They came to the conclusion that before 1940 the standard observed by this institution was something which could be considered for the purpose of recognition. But there again they said that although there was a standard maintained it was also known that many boys merely attended and filled in certain terms without learning anything. Therefore, the two additional qualifications were introduced that he should not only have obtained his diploma before 1940 but in the course of being a student in that college he should have filled in certain terms. It is to make the qualification a real one, worth of recognition, that these limitation were put in. I am personally prepared to place myself in the hands of the West Bengal Government who know the matter better, rather than substitute my own judgment, however great sympathy I may feel with the dentist themselves.

* P. D., Vol. 5, Part II, 11th August 1950, pp. 867-68.

Mr. Deputy Speaker : Does the hon. Member want me to put his amendment to the House ?

Pandit Thakur Das Bhargava : Yes, Sir, it may be put to the House.

Mr. Deputy Speaker : Amendment moved :

***Dr. Ambedkar :** I explained the position to you some time ago. The provision in Section 10(2) says 'where the institution grants a qualification'—but we are dealing with qualifications that have already been granted. The word there is 'grant', but here it is different. Therefore, this has to be dealt with by statute.

Mr. Deputy Speaker : I shall now put the amendment to vote.

The question is :

> "In clause 4, in the proposed item (2A) of Part I of the Schedule to the Dentists Act, 1948 omit all the words occurring after 'March, 1940'."

The motion of Pandit Bhargava was negatived.

Mr. Deputy Speaker : The question is :

> "That clause 4 stand part of the Bill".

The motion was adopted.

Clause 4 was added to the Bill.

Clauses 5 to 7 were added to the Bill.

Clause 1 was added to the Bill.

The Title and the Enacting Formula were added to the Bill.

Dr. Ambedkar : I beg to move :

> "That the Bill be passed."

Mr. Deputy Speaker : The question is :

> "That the Bill be passed."

The motion was adopted.

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*P.D., Vol. 5, Part II, 11th August 1950, p. 871.

(18)

RESOLUTION RE : MAKING OF LAWS BY PARLIAMENT WITH RESPECT TO CERTAIN MATTERS IN STATE LIST FOR ONE YEAR.

***Mr. Speaker :** The point, as I have understood it, seems to be–apart from the words 'particularly'—that the President has got the power to make adaptations only with reference to the provisions of the Government of India Act, 1935. Perhaps the Law Minister may like to say something on this.

The Minister of Law (Dr. Ambedkar): The wording of the article is that "the President may, for the purpose of removing any difficulties, particularly etc." "Particularly" does not mean that he has not got the general power.

Mr. Speaker : As I have understood the point of order of the hon. Member, apart from the words "any difficulties" and "Particularly", he seems to construct article 392 as empowering the President to make adaptations only for purposes of transition from the provisions of the Government of India Act to the provisions of the Constitution. That is substantially the point.

Dr. Ambedkar : That cannot be because it is a wrong construction. The point raised by my hon. friend is that under article 392 the only power which the President possesses is confined to an adaptation of any section of the Government of India Act, 1935, so as to bring it in line with the provisions of the Constitution. My submission is that that is not correct, because the opening words in article 392 are quite general, namely. "The President may, for the purpose of removing any difficulties" and then "Particularly etc." comes in.

*P.D., Vol. 5, Part II, 12th August 1950, pp. 935-38.

Suppose you were to drop the words "particularly in relation to the transition from the provision of the Government of India Act, 1935, to the provisions of this Constitution" the wording would, "The President may, for the purpose of removing any difficulties, by order direct.... etc".

Shri Meeran (Madras) **:** May I say something with regard to this point ? If you remove the words "particularly in relation to the transition from the provisions of the Government of India Act, 1935" it would read "The President may, for the purpose of removing any difficulties *to the provisions of this Constitution,* by order direct....etc." "Particularly" is something like an instance and it is a smaller provision. The wider provision is the giving of powers to remove any difficulties to the provisions of this Constitution.

Mr. Speaker : I would just seek clarification on one or two points which may dispose of the matter, without entering into the niceties of interpretation. Am I right in my interpretation that the Constituent Assembly of India (Legislative) was functioning as a result of the Adaptation of the Government of India Act ?

Dr. Amedkar : Yes, the Independence Act was an amendment of the Government of India Act, 1935.

(19)

*ADMINISTRATION OF EVACUEE PROPERTY (AMENDMENT) BILL

The Minister of Law (Dr. Ambedkar) : At the outset I would like to say that the point which has been raised, namely, whether the Parliament can by law repeal a State law in the concurrent field, seems to me to have been raised at a very late stage. This Parliament has passed, I am sure, very many laws which contain a provision whereby Parliament has specifically repealed a State law in the concurrent field. My friend Mr. Jain referred to one of them, which is the last one which Parliament has passed, namely, the Merged States Act (Act LIX of 1949). If my friends interested in this subject were to refer to the provisions of this particular law, they will find that there are very many laws which fall into the concurrent field and which were enacted by the states which have been repealed by this particular Act. Therefore, so far as practice is concerned, I do not think there is anything novel in the proposal introduced in this Bill. Of course, it might be contended that this practice is not in keeping with the provisions of the Constitution and that it has no warrant in the Constitution. I think that this practice is perfectly in consonance with the Constitution.

My hon. Friend Mr. Ananthasayanam Ayyangar has very rightly referred to the proviso to sub-clause (2). The importance of this proviso, in my judgment, lies in this, namely, that it is possible and open to Parliament to make a law not only amending, varying, or adding to any law made by the State in the concurrent field, but it has also the power to *repeal* that law. I think this is quite clear from the proviso. So far as this proviso is concerned, the power is specific that Parliament can repeal a law made by the State in the concurrent field. But my hon. Friend Mr. Ananthasayanam

*P.D., Vol. 5, Part II, 21st November 1950, pp. 339-41.

Ayyangar's point was that this proviso is related only to sub-clause (2). Now I think that if he will apply his mind to the necessities mentioned in sub-clause (2) he will find why the Constitution thought it enough to attach the proviso to sub clause (2) and did not feel it necessary to extend it to sub-clause (1). As my friends will see, sub-clause (2) of article 254 refers to a law, which—if my friends will allow me-I would call as a 'protected law', that is to say, a law which is not only passed by the State Legislature but a law which was reserved for the consent of the President and to which the President has given his consent. That is the law which is referred to in sub-clause (2). Now, it was felt that it might be argued that in the case of a law which, though passed by a State Legislature relating to the concurrent field, nonetheless was reserved for the consent of the President and to which the President had given his consent—obviously on the advice of the Central Government which represents the wishes of Parliament—the Central Government may be deemed, I am putting the argument, to be 'estopped' from doing any further thing by way of injuring that particular Act either through amendment or otherwise. It was to eliminate this kind of argument that once the law having been protected the Central Government—to use the term in the Evidence Act—was estopped, so to say, from taking any further action that the proviso was introduced. It was felt not necessary to extend this proviso to sub-clause (1) because the expression 'to make a law' is itself so wide that it could cover even the repealing of a law.

What does 'making of a law' mean? The making of a law, in ordinary terms, means: to enact an enactment where none exists; or, where an enactment exists; to add to it, to vary it, to amend it, or to repeal it. All that is covered in the broad parase 'making a law' Therefore, as making a law included making a law repealing an earlier Act or creating another Act, it was felt that such a prevision as contained in the proviso was unnecessary in respect of sub-clause (1) of article 254. Therefore, article 254 carries the general implication involved, in the phrase 'making of the law' which includes repeal of the law. As sub-clause (2) of article 254 was felt not to carry that implication,—because

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of its protected character,—the proviso was added to it. Therefore, my submission is that there is nothing unconstitutional in Parliament making a law repealing a law made by the State Legislature in the concurrent field.

With regard to the other point whether you can make a general omnibus law repealing certain laws, it seems to me that there again there is nothing improper in that. What are we doing by having this omnibus law? What we could have done was to have hundreds of Acts, each one dealing with a specific law, saying that we repeal this Act; another Act saying that we repeal that; and a third Act saying that we repeal a third one. Instead of doing this kind of thing, we did it in a collective manner.

Shri M.A. Ayyangar : You could have added a schedule here.

Dr. Ambedkar : That also might have been done. There are various ways of doing it. I do not deny that some ways, in some cases, may be better than others, but so far as the general principle involved in the Bill is concerned, I do not think that there is anything unconstitutional or contrary to the practice of the Draftsman. My friends will see that I have, for instance, introduced a Bill called the 'Part B states Bill' in the present session, to which there is a schedule attached. Every one of the Acts is mentioned there. The reason is, as I will explain when the matter comes up, that certain laws could not be applied without certain adaptation. Therefore, a schedule had to be introduced that this law shall become operative subject to this adaptation. There are certain others such as Cooch-Behar where no such schedule exists, because adaptation requirements are not necessary. That might come up today or tomorrow. We, therefore, have a general clause and I do not think that there is anything unconstitutional or improper in the sub-section which is contained in my hon. Friend's Bill.

***Mr. Speaker :** As I said I was not present in the House yestarday, but I have read the proceedings..... Does the Hon. the Law Minister wish to say anything further? I do not think it is necessary now.

Dr. Ambedkar : I have already made the position clear, Sir.

Mr. Speaker : Then I will put the amendment to the House.

The question is :

> "In clause 2 in sub-section (2) of the proposed section 58 of the Administration of Evacuee Property Act, 1950, for the words "corresponding: to this Act", substitute the words, brackets and figures "which corresponds to this Act and which is not repealed by subsection (1)".

The motion was adopted.

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*P.D., Vol. 6, Part II, 21st November 1950, pp. 342.43.

(20)

*QUALIFICATIONS FOR ELECTIONS TO PARLIAMENT AND LEGISLATURE OF STATES

Shri Sarwate (Madhya Bharat)**:** Before you proceed further with the amendments would you not like, Sir, to call upon Dr. Ambedkar and enquire whether he would like to make any statement on the suggestion which Prof. K.T. Shah has made?

Mr. Speaker : I do not think it was necessary for me to call upon him. If he had tried to catch my eye, certainly I would have called him.

The Minister of Law (Dr. Ambedkar) : I do not want my friend Prof. K.T. Shah to feel that I have not sufficient respect for him by not speaking on his motion and if you will, Sir, permit me at this stage I would like to say a few words.

Mr. Speaker, I must confess that when I got the text of the Resolution moved by Prof. Shah I was considerably puzzled, because I felt that in a Resolution of this sort there should not merely be words indicating to Government that there exists in the Constitution a certain article which permitted them to legislate on it but should have also included in it specific suggestions as to what the Government should do in a legislation of this sort. As I said, I was considerably puzzled and therefore it was very difficult for me to come to any definite conclusion as to the attitude I should adopt with regard to this Resolution. I now see that the object of Prof. Shah in framing the Resolution in the terms in which he has framed it was really deliberate. He wanted the House to give him some idea as to what should be incorporated in a legislation under sub-clause (c) of the relevant article in the Constitution. Well, I have no objection to a procedure of

*P.D., Vol. 6, Part II, 23rd November 1950, pp. 537-41.

this sort but I should have thought that if Prof. Shah was so keen as he appeared to be for a legislation of this sort, he should not have had an empty mind without any kind of a suggestion of his own. However, I suppose those who have supported his resolution have correctly interpreted his mind and taking into account the various speeches that have been made in support of Prof. Shah's Resolution, it appears that many Members who are keen about adding some qualification other than those mentioned in the Constitution have in their mind some kind of an educational qualification. But none of them has been very precise : none of them has given me any idea as to what is the standard of education that they would like to prescribe in order that the candidate may become lawfully entitled to stand.

Now it seems to me that education can hardly be the sole qualification for membership of this House. If I may use the words of Buddha, he said that man requires two things. One is *Gyan* and the other is *Sheel*. *Gyan* without *Sheel* is very dangerous: it must be accompained by *Sheel,* by which we mean character, moral courage, ability to be independent of any kind of temptation, truthful to one's ideals. I did not find any reference to the second qualification in the speeches I have heard from Members who have supported Prof. Shah, But even though I myself am very keen to see that no Member enters this August Assembly, who does not possess *Sheel* in adequate degree, I find it extremely difficult to find any means or methods to ensure that valuable qualification.

Coming to the question of education, I do not wish to be understood that I regard ignorance to be a virtue: let that be quite clear. I regard education to be a very necessary qualification for possessing that degree of competence which is very necessary for the performance of one's duty. In this House there are people who, although they are not educated, are very competent to voice the grievances of the class whom they represent. I am sure about it. A more educated person would not be able to discharge that function, because he does not know and does not have that experience. But my friends who come from these classes and with whom I have naturally very great sympathy do not realise that what is more

necessary for bringing relief to the class of people whom they represent is not merely making speeches in this House but to suggest remedies for the removal of their grievances. To make speeches and to ventilate grievances is a very easy matter but to formulate remedies is a very difficult matter. It requires education and therefore education even from the standpoint of the backward classes, scheduled classes or tribal areas is a very necessary ingredient. How can we ensure it ? When I examined the suggestion that there ought to be some kind of educational qualification, I found that a proposition which is very good in theory or in its academic aspect cannot be given effect to without producing other evils. That is my difficulty. Where will you fix the standard? Will you say that only B.As. should be qualified to be Members of this House ? Supposing you do that, what is the result ? Members probably might know that there are many people who are educationally and intellectually far more competent than any graduate, although they have never been inside any college or university. There are any number of them. Are you going to shut out these people who have privately educated themselves, who are equally competent or better than B.As. or M.As., merely because they have not been able to obtain a certificate from a university ? I think that would be a very unfortunate result.

Take another consequence. In this country education is in the lowest grade. Not only that is so but for some reason which all of us know, education has not been universally spread among all the communities in this country. There are communities which are highly educated and there are communities where education is very, very low. Supposing you make B.A. or even matriculation as a standard, are you not making the membership of this House to be a monopoly of the few ? I fear that will be the consequence, Supposing you lower down your standard, say, for instance, to the fourth standard, to the study of the three Rs. or to literacy in order that no community may be excluded from the opportunity of sending its members to this House. Is That qualification any good? It is of no value at all.

Therefore, my submission is this, that it is a good thing. I am not going to outcry the feeling that there ought to be

some education in Members who come to represent their various constituencies in this House. But I just cannot see how you can give legal effect to it. Therefore, my suggestion is that this is a matter which had better be left to the people themselves, or to the political parties who will run the Government. I have no doubt about it that if the political parties, for their own particular purposes, do not attend to this matter, people themselves in course of time will attend to it. People are not going to allow persons who cannot discharge their functions properly in this House to be continued and returned for ever. They want results, They want their welfare to be attended to, and I am sure about it that they will realise that the only instrumentality through which they can achieve this purpose is to send good men to this House. Therefore, I think the proper course is to leave the matter to the people.

Now, Sir, my friend Prof. K. T. Shah in a somewhat desperate mood said that he knew the fate of this Resolution. That was because not that his Resolution was bad on merits but because he was the Mover of it. I like to assure my friend Prof. K. T. Shah that I have no such personal prejudice against him, and certainly I am not the man to reject a Resolution moved by a person because I happened to disagree with him or happened to dislike him. There are many people in this House who have personal prejudices—probably personal antagonisms—between themselves, but I am sure about it that no Member is going to allow these prejudices to stand in the way of doing the work which this House is always engaged in doing. Therefore, I hope that he will not carry such views in his heart when he finds me opposing his Resolution.

Sir, I do not think that any purpose would be served by forming a Committee because, as I find, nothing workable has emerged from the debate. If I had found that any concrete suggestion had emerged from the debate which it was possible to give effect to in terms of law, I certainly would not have hesitated to accept that recommendation. My friend Prof. K T. Shah said that he did not despair at this stage of finding a formula which he might give legal effect to. I was waiting to hear from him further some concrete suggestion and the method by which he would give

it a legal form, but he abruptly ended by saying that he did not despair of it, without throwing any light as to how the matter could be dealt with. Of course, this matter I know will be agitated on the Motion which I hope I shall be able to make during this session for the consideration of the People's Representation Bill, because it is there that this matter is being specifically put before the House, namely, the qualifications and disqualifications. And no matter what the desire of my friend Dr. Panjabrao Deshmukh may be, nothing can take away the liberty of the House to reagitate this question in the form of an amendment when the Bill comes. For the moment, I am afraid I cannot accept this Resolution.

Mr. Speaker : I was just placing before the House the amendments.

Shri Klamath (Madhya Pradesh)**:** Sir, as the question is coming up before the House later in the Session, I beg leave to withdraw my amendment.

The amendment was, by leave, withdrawn.

Mr. Speaker : Then there is an amendment moved by Shri S. N. Mishra. The question is:

That before the word "qualifications" the words "minimum educational" be inserted.

The motion was negatived.

Mr. Speaker: Then as regards the Resolution. The question is :

> "This House is do opinion that qualifications be laid down for membership of Parliament and Legislatures of States in the Union of India and that necessary steps be taken forthwith to give effect to them before the next election."

The motion was negatived.

(21)

*COOCH-BEHAR (ASSIMILATION OF LAWS) BILL

The Minister of Law (Dr. Ambedkar) : I beg to move for leave to introduce a Bill to assimilate certain laws in force in Cooch-Behar to the laws in force in the rest of West Bengal.

Mr. Speaker : The question is :

> "That leave be granted to introduce a Bill to assimilate certain laws in force in Cooch-Behar to the laws in force in the rest of West-Bengal."

The motion was adopted.

Dr. Ambedkar : I introduce the Bill.

** **The Minister of Law (Dr. Ambedkar) :** I beg to move :

> "That the Bill to assimilate certain laws in force in Cooch-Behar to the laws in force in the rest of West Bengal, be taken into consideration."

This is a very simple and short Bill, but having regard to the experience which we have had in the last whole week, I hope that I will be fortunate enough to get this Bill through before the House rises this evening.

Sir, the object of the Bill is to extend certain central laws relating to matters lying in List I and II to Cooch-Behar. The Bill proposes to give the Central Government power to appoint a day by notification in the Gazette as to when these laws will come into operation. There is only one exception to these laws, and that is with regard to the Muslim *shariat* law. With regard to that, power is given to the West Bengal Government to appoint the day so that on the day appointed by it the Muslim *shariat* law will come into operation. This Bill would have been unnecessary had Cooch-Behar become a merged State before 1949, because the House will remember that by

*P. D., Vol. 5, Part II, 4th August 1950, pp. 291-292.

**P. D., Vol. 6, Part II, 1st December 1950, p. 1147.

Act LIX of 1949 which was passed, I believe, in the December Session of the Assembly, the whole lot of Central laws were made applicable to all merged States, but unfortunately at that time Cooch-Behar had not become a merged State. The order merging Cooch-Behar in West Bengal was issued by the President some time in January 1950, with the result that this Supplementary Bill, so to say, became necessary. I do not think that there is any clause which requires any further explanation.

The motion of Dr. Ambedkar was adopted.

Clauses 1 to 4, were added to the Bill.

The Title and the Enacting Formula were added to the Bill.

Dr. Ambedkar : Sir, I move:

"That the Bill be passed."

Mr. Chairman : The question is :

"That the Bill be passed."

The motion was adopted.

(22)

* INDIAN TARIFF (FOURTH AMENDMENT) BILL

The Minister of Law (Dr. Ambedkar) : I am very much surprised that a point like this should have been raised by my hon. friend, Mr. Tyagi, who always in the House has said that he represents the most ignorant class in this country. It is a point which I think baffled many lawyers and I should have thought it was worthwhile for my friend to have left this matter in other hands. Now that the point is raised and you have expressed your own opinion that a point like this is important and must be decided, I propose to offer a few remarks on the subject. While I was listening to Mr. Tyagi's remarks, I thought he was confusing two different issues which must be kept quite separate. One is whether Parliament can delegate its authority. The second is whether Parliament should. The two are, in my judgment, quite different questions. We must apply very different considerations in coming to a conclusion on either one of them.

I will take the first question whether Parliament can delegate.

Shri J. R. Kapoor (Uttar Pradesh) **:** That is the only question.

Shri Tyagi : No.

Dr. Ambedkar : No. On that subject, so far as I am concerned, I have not the least doubt that Parliament can delegate its authority to other agencies subject to one condition and that condition is this that Parliament does not by such delegation completely divest itself of the authority to resume back the powers which it has delegated. A delegation for a purpose, a delegation for a time, and a delegation which permits Parliament to resume back their

* P. D., Vol. 6, Part II, 4th December 1950, pp. 1171-76.

authority is really no delegation at all, and therefore, Parliament is quite competent to enact a measure which conforms to this particular test. I think I cannot do better than read from a judgment of the High Court of Australia which deals with this matter. I will, of course, later on specifically cite an authority on this very point raised by the Bill. The case is Meakes *Vs.* Dignan, 46 Commonwealth Law Reports, page 117. This is what Mr. Justice Evat says :

> " The Statesmen and Lawyers concerned in the framing of the Australian Constitution, when they treated of 'legislative power' in relation to the self-governing colonies, had in view an authority which over a limited area or subject-matter, resembled that of the British Parliament. Such authority always extended beyond the issue by Parliament itself of binding commands. Parliament could also authorise the issue of such commands by any person or authority which it chose to select or create. "Legislative power" connoted the power to deposit or delegate legislative power because this was implied in the idea *of* parliamentary sovereignty itself. It was of course always understood that the power of the delegate or depository could be withdrawn by the Parliament that had created it, and in this sense Parliament had to preserve ' its own capacity intact'."

I can read many passages : but I do not wish to trouble the House. In deciding the question whether Parliament can lawfully delegate, the test to be applied is this : whether Parliament has kept its capacity intact to withdraw the authority which it has deposed in somebody else. Therefore, the question that has to be considered so far as the first question is concerned, whether Parliament can delegate, is to examine the causes in order to find out whether the test that has been laid down is fulfilled or not, whether there is anything in this Bill which prevents Parliament from resuming that authority. That is one point.

Now, on this very question I am glad to say that there is a ruling of the Privy Council reported in House of Lords, Appeal Cases, Volume 10, on page 282. The case is exactly on a par with the present one. There, the legislature of one of the Commonwealth countries passed a law permitting the Governor, which of course means the Executive, to levy a customs duty on certain articles which were not mentioned in the schedule attached to the Customs Act, some new article or similar article.

Shri Sondhi (Punjab) **:** Was it a fixed rate or a varying one? That is the only point.

Mr. Speaker : Let him proceed.

Dr. Ambedkar : No, that is not the point. Here, by this law, we are empowering the Executive to levy a customs duty on an article,—I am not concerned with the amount or its variability: an article which is not found in the schedule. That is the position. Here, the case is exactly on all fours. The Supreme Court of that country held that the law was *ultra vires* because it was a delegation. The Privy Council reversed the decision, and I shall read only one small passage from the judgment of the Privy Council on page 291. This is what the Privy Council said :

> " It is argued that the tax in question has been imposed by the Governor and not by the legislature, who alone had the power to impose it. But the duties levied under the Order in Council are really levied by the authority of the Act under which the Order is issued. The Legislature has not parted with its perfect control over the Governor and has power at any moment to withdraw or alternate the power which they have entrusted to him. Under these circumstances, their Lordships are of opinion that the judgment of the Supreme Court was wrong in declaring section 133 of the Customs Regulation Act of 1879 to be beyond the power of the legislature."

Pandit Balkrishna Sharma : May I submit, Sir.....

Mr. Speaker : Let us hear him patiently. If there is anything to say, I shall hear the hon. Member.

Dr. S. P. Mookerjee (West Bengal)**:** Which country is that?

Dr. Ambedkar : Some colony in Australia. If my hon. friend is anxious, I shall give it.

Shri Tyagi : It may be too small a country.

Dr. Ambedkar : The law is never small or big. Law is law. It is New South Wales.

Thus, so far as the first question is concerned, whether Parliament can delegate, my submission is this. So far as this condition is observed, namely that Parliament has kept within its hands the power to withdraw any such delegation, there can be no legal objection.

Before I proceed to the other point, I should like to say that I cannot see how this House is competent to decide that question. Surely, this is not a point of order' A point of order relates to rules of business. We are dealing here with the competency of the House. Supposing, Sir, this House or you decide that this was *ultra vires,* and notwithstanding that, Parliament proceeded to make the law, and the matter went to the Supreme Court, and the Supreme Court decided that the Act was *intra vires,* what a difficult situation would arise? Or supposing we proceed to deal with the point on the belief that it was *intra vires,* the matter went to the Supreme Court and the Supreme Court decided that it was *ultra vires,* we would be creating a great difficulty for ourselves. What I would like to say is this. All this attempt to raise questions regarding competency is really an attempt to convert this Parliament into a court. It is not a court. It is much better that justiciable matters had better be left to the Supreme Court to decide and we proceed on our understanding that whatever we are doing is within the competence of Parliament. Therefore, my submission is that this is not a point of order at all and should not be treated as such.

Then, I come to the other question whether Parliament should delegate. That is a matter which is entirely within the competence of this House : entirely, I make no reservation whatsoever. If in certain circumstances Parliament thinks that it should not delegate, well, Parliament should insist that it will not delegate, and that the matter shall be dealt with by Parliament itself. In certain circumstances, such as an emergency and so on, when Parliament cannot meet, and when executive action must be speedy, Parliament will, no doubt, consider it, and it may be that circumstances are such that a certain amount of delegation may be permitted. Therefore, this Bill has to be considered from this point of view. The second question is whether we should or we should not delegate. My friend Mr. Tyagi referred to Campion and referred to the opinion given by Mr. Campion on the question of taxation. I have no doubt in my mind that that is the correct attitude which Parliament should adopt in the matter of taxation. The power to tax is

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a very important power. It is really the one and only power which Parliament possesses to control the Government and to order the Government; and if Parliament were to give its permanent power of raising revenue to the Executive, the Executive would not care two hoots for Parliament. It is, therefore, very desirable that Parliament should keep within its own hands this power. The British Parliament keeps the Executive under control, if I have understood it correctly, in two ways. They have certain important Acts which are only Annual Acts, for which they never have permanent Acts. For instance the Army Act in England is an Annual Act. Every year, the Executive has to come before Parliament in order to get that Act renewed; and if they do not renew it, the whole army will have to be disbanded, because there will be no law governing it. The other measure by which the British Parliament controls the Executive is by reserving for annual levy, certain taxes, for instance, income-tax which forms a very large part of the resources of the British Government, and also of our Government. Therefore, there can be no quarrel on the question that Parliament should be very chary, very tardy, of handing over powers of taxation to the executive. It is perfectly open to Mr. Tyagi to say that in this matter delegation should not be made, or some other view may be taken. But so far as competency is concerned, I am afraid, he is out of court. After this matter was brought to our notice, I also came to the conclusion that, probably, from the point of view of financial propriety, from the point of view of maintaining the supremacy of Parliament, it was desirable to make some amendments in the clauses as they stood in the original Bill. I do not know whether I have got the thing with me now; but I am satisfied that there are two new provisions in the new amendments. One is this that the power to levy customs duty on articles not specified is only for a short period, up to the Budget Session, not indefinitely, for all times. Whenever the Budget Session comes, any customs duty levied by the Executive under this Bill will automatically lapse, and the matter will then be dealt with by Parliament, as Parliament deals with any other financial measure. I should have thought that that was a great improvement in

the Bill as it stands, and Parliament should not have any quarrel about proposing a legislation of this sort.

***Pandit Thakur Das Bhargava :** .....After all this we must revert to our own Constitution to decide the point. As far as our Constitution is concerned this House is not competent to delegate any such authority to the Ministers.

Dr. Ambedkar : There is no bar; we have plenary powers.

Shri Santhanam : Will the hon. Member read article 286?

Mr. Speaker : Matters would be shortened if the hon. Member is allowed to proceed with his argument in his own way. Let us hear him first.

Pandit Thakur Das Bhargava : At this moment we need not be wedded to any theory. I am not wedded to any theory. I only place these facts for your consideration, so that you may consider them before coming to a final decision.....

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* P.D., Vol. 6, Part II, 4th December 1950, p. 1178.

(23)

SOCIETIES REGISTRATION (AMENDMENT) BILL

***Shri Sidhva** (Madhya Pradesh) **:** My Bill refers to amendment of the Societies Registration Act, 1860. This is a very simple Bill.

The Minister of Law (Dr. Ambedkar) : May I, with your permission, make a statement on the Bill, so that my friend Mr. Sidhva may be in a position to determine the course that he should follow?

Last time when the Bill was before the House I promised that I would enquire from the various States as to what they thought about Mr. Sidhva's measure and that I would communicate to Mr. Sidhva as well as to the House the replies received from the various States. Now the position is this.

So far as Part A States are concerned, they are desirous that the improvement suggested by Mr. Sidhva should be made, but they have made this reservation that they would like to initiate legislation themselves. The Government of India, on a further consideration, do not think that, in view of the wishes expressed by the Governments of the Part A States, they should themselves undertake all-India legislation. They do not think that this is a matter of such character as to require common uniform legislation throughout India. They are prepared to, leave the matter to the different States. So far as Governments are concerned, Part A States must be excluded from this Bill.

In regard to Part B States, they have no such law and consequently the Government of India did not consult them. The standing rule which the Government of India observe in the matter of initiating legislation falling within the Concurrent List is of a very longstanding character, namely, that they shall not undertake legislation without the consent

* P. D., Vol. 7, Part II, 12th December 1950, pp. 1560-65.

of those States. Therefore, what remains for us to operate upon is States in Part C. Therefore, if Mr. Sidhva wishes to proceed with this Bill he must agree to confine this particular measure to Part C States. That is one limitation which I am afraid we shall have to insist upon.

Then, the other thing that I find is this, that Mr. Sidhva's Bill will require considerable amendment—almost every clause of the Bill requires amendment. As I said last time, I am myself in favour of the legislation and I do not wish to obstruct it in any way. In fact, I have here before me drafted such amendments as I think are necessary to make in this Bill. I am quite prepared to pass on those amendments to Mr. Sidhva so that he may himself move them and take the credit for initiating this legislation.

Therefore, my suggestion to Mr. Sidhva was this that he might move for the postponement of the consideration of the Bill to the next session, have these amendments from me, give notice of the amendments himself, and, next time when the Bill comes up, move them. And I promise that I shall accept the amendments that I myself am suggesting, if that course is agreeable to him.

Shri Tyagi (Uttar Pradesh) **:** It is not a very great promise.

Dr. Ambedkar : As I said, I am committing myself to the acceptance of these amendments, so that the Bill may not have the defects which we certainly find it is full of now. It is for Mr. Sidhva to decide what course he would follow. I thought I might help him by this statement.

Shri Sidhva : I was glad to hear the statement of my Hon. friend the Law Minister. What I was suggesting was that my Bill was a very simple Bill, namely, an addition to Section 4 of the Societies Registration Act. As the Law Minister has rightly stated, the Part A States have sent their opinions favouring the adoption of my Bill, but they said that they would themselves like to initiate in making the legislation. ..... I hope that Dr. Ambedkar would be good enough to accept my suggestion. We do not want to wait any longer to

see that the fraudulent procedure that is being practised by various societies is continued. Now that the Hon. Law Minister has accepted the provisions of the Bill, there is no difficulty. The question is only of time and I hope the Law Minister will accept my suggestion.

I therefore beg to move :

> "That the Bill further to amend the Societies Registration Act, 1860, be taken into consideration."

Dr. Ambedkar : I am sorry. I think my hon. friend Mr. Sidhva has misunderstood me. He is probably under the impression that while accepting his Bill as it stands, I am seeking to amend some other provisions of the original Act. That is not so. I am amending his amendments because I find it impossible to accept the Bill as drafted by him without the amendments that I am suggesting. Therefore, as I said, I have not the least objection for the Bill going through provided the amendments I am suggesting are made in the Bill of Mr. Sidhva. Here are the amendments I am prepared to hand over the papers to Mr. Sidhva, but of course, there has been no notice of these amendments and I do not know what view the House will take, but as I said, he can take the amendments, give notice of them and have the matter discussed.

Mr. Speaker : I was just thinking as to whether—I am not clear yet—whether we could get a priority in respect of this Bill on the assumption that the consideration motion is moved and then have the further consideration postponed.

Dr. Ambedkar : That may be done.

Mr. Speaker : Perhaps he will be coming in ballot. The only difficulty is that he loses the priority.

Dr. Ambedkar : If I may say so, the Bill is very small and I am speaking without the authority from Government, but I do not think it would be difficult for me to persuade Government to give, for instance, whole day to Mr. Sidhva from one of the Government days in the next Budget Session.

Mr. Speaker : There is another alternative to it also; supposing instead of taking it now, we postpone the consideration of this Bill say, at five minutes to five, and we

may then take up the Bill and leave it as part-heard, so that it may take care of itself.

An Hon. Member : Dr. Ambedkar will accommodate Mr. Sidhva on a Government day.

Dr. Ambedkar : I can arrange that.

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(24)

** REPRESENTATION OF THE PEOPLE (AMENDMENT) BILL

***The Minister of Law (Dr. Ambedkar) :** I beg to move for leave to introduce a Bill to amend the Representation of the People Act, 1950.

Mr. Speaker : The question is :

> "That leave be granted to introduce a Bill to amend the Representation of the People Act, 1950. "

The motion was adopted.

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* **The Minister of Law (Dr. Ambedkar) :** I beg to move :

> "That the Bill to amend the Representation of the People Act, 1950, be taken into consideration."

This bill has two objectives. One is to provide for the representation of Part C States in the Council of States. The second is to enact the provisions made by the Representation of the People (Amendment) Ordinance, 1950. I propose, first to deal with the first objective of the Bill, namely, to provide for the representation of Part C States, hon. Members will remember that under article 80, clause (5) this matter is left to be dealt with and determined by Parliament by law. There is no provision in the Constitution itself as to how Part C States should be represented in the Upper Chamber. As I said the matter is left to the discretion of Parliament to deal with it by such law as Parliament may deem fit. It is because of this obligation which has been cast upon Parliament that the present Bill has been brought forth. In dealing with this particular matter, it is obvious that three questions have to be dealt with. The first is the nature of the electorate. What

* P. D., Vol. 6, Part II, 20th November 1950, p. 267.

** P. D., Vol. 7, Part II, 12th December 1950, pp. 1678-83.

is to be the electorate which is to represent or elect the representatives of Part C States in the Upper Chamber at the Centre? The second is the distribution of the seats which have been assigned to Part C States by the Fourth Schedule of the Constitution. And thirdly we have to consider the method of representation, whether they should be elected, by election, by nomination or by some other method.

Now, the first question, namely the question of the electorate is dealt with in clause 9 of the Bill and it is to that clause that I propose first to draw the attention of the House. In considering this question, the question of the electorate, the House will remember that the Constitution has laid down the general principle for the composition of the Upper Chamber. That principle will be found in article 80, clause (4). That clause says though it is confined to the representation of Part A and Part B States, that the representation to the Upper Chamber shall be by indirect election by Members of the Legislatures in Part A and Part B States, That being so, in devising a method for securing representation to Part C States in the Upper Chamber, it is necessary and obligatory to follow that principle namely, that the representation shall be by the indirect method. Now, in following this method, there is one difficulty that stands up at the outset.

So far as Part A and Part B States are concerned, the electorate already exists, namely, the Assemblies in the various Part A and Part B States. With regard to Part C States, there are no such Assemblies in existence and one does not know when Parliament will undertake any kind of Legislation to provide a more popular method of administering Part C States. Consequently, we must proceed upon the hypothesis that no Legislative bodies exist in Part C States, nor are they likely to come into being by the time the elections take place. The question, therefore, is what should be the nature of the electorate. Obviously, the only other method that comes to one's mind is to resort to the existing local bodies in all Part C States, such as municipal committees, town committees, village *panchayats*

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and so on and so forth, and to permit members of these local bodies to be registered as voters. It was, however, found that probably this method of election may not provide a sufficiently large constituency. We have no idea as to how many municipal committees, town committees and village *panchayats* may be existing in various Part C States. It may be that in some Part C States there may be a plethora of them, and it may be that in some other Part C States there may be a great paucity of them. Consequently, in order to create a solid electorate, it is felt that in addition to the membership of these local bodies, it would be desirable if the franchise was extended to persons who have undergone some University examination. Therefore, in addition to membership to the local bodies, it is proposed, in this bill that matriculates or persons holding other equivalent qualifications may also be permitted to be registered as voters, provided they have the necessary qualification on the qualifying date, and have put in the necessary period of residence during the qualifying period. That is the general provision contained in clause 9 which seeks to introduce after section 25 of the original Act, new sections 25A, 25B, 25C and 25D. This is the nature of the electorate that this Bill proposes to bring into existence for the purpose of electing representatives to Part C States in the Upper Chamber.

I will take up the other two questions which I said, necessarily require consideration. The second question is nomination *versus* election. This mater is dealt with in clause 4 of the Bill. In this connection, it is felt that so far as the two States of Manipur and Tripura are concerned, election will not be possible, for the simple reason that so far as these two States are concerned, there are hardly any local authorities existing there. Therefore, the basis of the general proposal which is introduced by clause 9 does not exist at all so far as these two States are concerned. Tripura is really a tribal area. Manipur is a very backward area. There are hardly any of these local bodies and organisations. The educational status of these two States is also very backward. Consequently, it is not hoped that even if the educational qualification was introduced, it would be possible to obtain a sufficiently large

electorate to permit of elections being introduced in the representation of these two States. Consequently it is felt that the only course left is to secure the representation of these two States by nomination by the President and it is proposed that their nomination should alternate at the end of a two year period—once a representative of Manipur would be nominated by the President for the first two years and in the second two year period a representative of Tripura would be nominated. In the rest of Part C States the representation would be by election.

A further question, as I said, arises, namely the distribution of the seats. The House will remember or it can see by reference to Schedule IV that that Schedule in three cases has given one seat to two States. Those three cases are Manipur and Tripura, Himachal Pradesh and Bilaspur, which together have one seat and Ajmer and Coorg have together one seat.

There are two methods for regulating the representation of these states which have one seat jointly between them. One is to treat them as one constituency and the other is to treat them as two different constituencies and give them alternate representation. The case of Manipur and Tripura has already been disposed of, because the question of election does not arise there. That is a case which is governed by nomination. With regard to Ajmer and Coorg it is proposed that they should be represented by election separately in rotation—once the seat should be filled by election in Ajmer and the second time it should be filled by representation from Coorg. With regard to Himachal Pradesh and Bilaspur it is proposed that the two States should be treated as one constituency and they should in a joint election elect one representative.

The House will no doubt say that we have given one treatment to Ajmer and Coorg and a different treatment to Himachal Pradesh and Bilaspur. The argument is apparently correct. But I do not see how it is possible to treat these two series of States on a common footing. It will be realised that Ajmer and Coorg are not territorially contiguous. It will also

be realised that their cultural outlook, their mode and manner of life, their economic problems are altogether different and distinct. It can hardly be said that a representative of Ajmer could very well represent the problems and difficulties of the people of Coorg or *vice versa*. But with regad to Himachal Pradesh and Bilaspur the two are conguous : in fact it is only by some accident, which I am unable for the moment to understand or to explain, that the States Ministry decided to keep the two in two distinct watertight compartments. I should have thought that the two could have been amalgamated into one. I have no doubt that that will happen : perhaps it may happen long before the election takes place. Therefore I do not see any justification why the principle of divisive constituency, which has been adopted in the case of Ajmer and Coorg for the circumstances which I have mentioned, must necessarily logically and as a matter of categorical imperative apply to Himachal Pradesh and Bilaspur.

Therefore, what is proposed is that Manipur and Tripura would have separate electorates but their representation would be regulated by nomination by the President for a period of two years in rotation. With regard to Himachal Pradesh and Bilaspur they would form one constituency and in a joint election elect one representative. With regard to Ajmer and Coorg the provision is that for a period of two years Ajmer will enjoy the seat reserved for two and subsequently Coorg will enjoy the seat which is reserved for both.

Those are the provisions, which we have made in the Bill with regard to the representation of Part C States. As I said at the outset, this Bill had a double objective. One was to make provision for the representation of Part C States in the Upper Chamber. The second objective was to give the effect of law to the provisions contained in the Ordinance.

I will briefly explain to the House why it became necessary for Government to issue this Ordinance. As the House will remember, at one time Government felt that elections could be held in the months of April and May and they were very keen about it and wanted to do everything possible to give

effect to that intention. On the examination of the circumstances, as I then said, it was found that in certain areas electoral rolls were not ready and in certain areas constituencies had not been delimited. If we had allowed the original provisions contained in the People's Representation Act 1950 what would have been the position? The position would have been this. Under the Original Act the Election Commissioner is bound to publish preliminary electoral rolls—I am using the words " preliminary electoral rolls " constituency-wise. That was the first step in the process of election. After that was done two or three processes had to be undergone. One was the inviting of claims and objections, the second was to have the claims and representations dealt with by some authority judicial or otherwise and to have them disposed of: and thirdly, to enter all the corrections consequent upon the decision of the revising authority into the electoral rolls and then to publish them finally.

Speaking for the moment and taking into consideration the time that would have been necessary to go through these processes, the position would have been this. After the constituencies were delimited, certainly three weeks or one month ought to be given to the electors to make their claims and objections. You could not fairly give less than that time. Thereafter, at least two months would be necessary for the revising authority, I am giving a very conservative estimate, two months would be necessary for the revising authority to dispose of claims and objections. That means three months. Add one more month for revising the electoral rolls in the light of the decision of the revising authority. That means four months. Assuming that the preliminary electoral rolls were prepared by the end of this month, which I don't think is a very sanguine hope—but supposing that was so—it is quite obvious that following the principles embodied in the original People's Representation Act, the final electoral rolls could not have been published even by the end of April or May. That meant that if we had followed literally the provisions contained in the original Act, the elections could not have taken place in the month of April and May. As

Government were very keen in having the elections in April and May, Government felt that that would have been possible only if the process was reversed. If claims and objections were invited on the basis of electoral rolls prepared for units or for areas, and they were disposed of, and after they were disposed of electoral rolls on the basis of constituencies were made, perhaps the time that would be utilised after the constituency-wise electoral rolls were prepared could be used in the beginning so that the process of claims and objections and revisions could be got rid of and possibly the elections could have taken place in the month of April and May. It was from this point of view that Government felt that the process might be reversed, that is to say, claims and objections might be invited on the basis of preliminary electoral rolls not prepared on the basis of constituencies but on the basis of area.

That is what the Ordinance did. Now, it might be asked that since the date of the election has been postponed, is it desirable to give effect to the Ordinance? The answer to that is simple: a large part of the work which is required to be done by the Election Commissioner in the matter of the preparation of the rolls has already been done, and if the Ordinance does not become law, all that work will have to be thrown overboard and the Election Commissioner would have to begin his work *de novo*. *(An Hon. Member:* Reverse gear). Reverse gear, as my friend says. I don't think the House will desire that such a thing should happen. I am not merely considering the question of time but also the question of money which Government has spent over the work that has already been done. We have taken care in the Bill that the provisions of the Ordinance would apply only for the first elections so that in the subsequent elections the provisions of principal Act will govern the conduct of elections and the preparation of the electoral rolls. That is why we are seeking the permission of the House to give effect to this Ordinance.

The other provisions in the Bill are purely consequential—changing of qualifying date and qualifying period, and so on and so on. I don't think I need detain the House over them.

The House will be able to see for itself what those amendments are.

Mr. Speaker : Motion moved :

> "That the Bill to amend the Representation of the People Act, 1950, be taken into consideration. "

***Shri Sarwate** (Madhya Bharat) **:** I may in this connection refer to article 240 of the Constitution which says that " as soon as possible...."

Dr. Ambedkar : Where is " as soon as possible " ?

Shri Sarwate : It was meant when the article was framed.

** **Shri Kamath :** So far as the present Bill is concerned and so far as the Member for Manipur and Tripura in the Council of States is concerned, this Bill is silent on the point whether the President will nominate a Member who has got experience of these matters or has got a special knowledge of these matters. I would like Dr. Ambedkar to throw some light on this, but my impression is that the nominated Member will be in addition to the 12 which are referred to in clause (1) (a) of article 80 of the Constitution.

Dr. Ambedkar : He would be out of the 238.

Shri Kamath : I am glad that Dr. Ambedkar has given us the correct interpretation of this article. Therefore it is 13. Mr. Tyagi tells me that it is a bad number; I do not know whether it is really bad.

*** Mr. Speaker :** I was referring to all the Members, from Part A, Part B and Part C States, because all are interested in a proper democratic set-up. I mentioned particularly those from Part C States because it is only those that are most affected by this Bill. That is why I suggested that they should

* P. D., Vol. 7, Part II, 13th December 1950, p. 1711.

** *Ibid.,* p. 1716.

****Ibid.,* 14th December 1950, p. 1779-80.

be given a fuller chance. That was the point But all should meet. So, if that is acceptable I think I may put off this matter and go to the next item of business. Is that agreeable?

The Minister of Law (Dr. Ambedkar) : I am prepared to accept that suggestion.

Shri J.R. Kapoor : May I complete what I wanted to say?

Mr. Speaker : Order, order. He will now have ample opportunity of talking, and more fully, in the informal conference. The Hon. the Law Minister will hear him more fully than what he can do now. So we might adjourn this matter. But when shall we take it up? It is an important matter.

An hon. Member : Day after tomorrow.

Mr. Speaker : The Hon. the Law Minister might say when we shall take it up. Hon. Members will see that we intend to finish the session by the 20th.

An hon. Member : By the 21st.

Mr. Speaker : Well, the 21st. But unless you have the break from the 20th. it wont't be possible.

Shri Sondhi (Punjab) **:** 21st is a standby.

Mr. Speaker : Yes.

Dr. Ambedkar : I suggest Saturday either morning or evening—after the House rises or before it meets.

Mr. Speaker : I am not talking of the time for the conference. They can meet at any time. I was asking as to when we are to take up this business again.

Dr. Ambedkar : On Monday.

Mr. Speaker : I have no objection. Then let us put it off to Monday the 18th by which time we expect something agreed will come up. I am really sorry for interrupting Mr. Kapoor's speech, but then the House will be thankful to him for having agreed to stop his speech.

REPRESENTATION OF THE PEOPLE (NO. 2) BILL

*** The Minister of Law (Dr. Ambedkar) :** I beg to move for leave to introduce a Bill to provide or the conduct of eections to the Houses of Parliament and to the House or Houses of the Legislature of each State, the qualifications and disqualifications and disqualifications for membership of those Houses, the corrupt and ilegal practices and other offences at or in connection with such elections and the decision of doubts and disputes arising out of or in connection with such elections.

Mr. Speaker : The question is :

> " That leave be granted to introduce a Bill to provide for the conduct of elections to the Houses of Parliament and to the House or Houses of the Legislature of each State, the qualifications and disqualifications for membership of those Houses, the correct and illegal practices and other offences at or in connection with such elections and the decision of doubts and disputes arising out of or in connection with such election."

The motion was adopted.

Dr. Ambedkar : I introduce the Bill.

REPRESENTATION OF THE PEOPLE (AMENDMENT) *BILL—contd.*

****Mr. Deputy Speaker :** Shall I take the Employers' Liability Bill or People's Representation Bill.

The Prime Minister and Minister of External Affairs (Shri Jawaharlal Nehru) : People's Representation Bill is a part-heard Bill. We will take that now.

The Minister of Law (Dr. Ambedkar) : Sir, you will remember that while the debate on the motion for the consideration of the Bill was going on last time the hon. the Speaker was pleased to make a suggestion that the debate might be adjourned in order to give opportunity to me and

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* P. D., Vol. 7, Part II, 18th December 1950, pp. 1834-35.

** P. D., Vol. 7, Part II, 21st December 1950, pp. 2209-10

the Members interested in Part C States to meet together and to evolve some kind of a scheme over which there might be agreement between myself and the representatives of the Part C States.

[MR. SPEAKER *in the Chair*]

I accepted the suggestion and thereafter had one or two meetings with Members of the Part C States as well as other Members of the House who felt a certain amount of interest in this Bill. As you will recall, Sir, when the debate was going on, it was found that there were three points of difference between myself and the Members who spoke for Part C States. The three points were:

1. Indirect system of election;
2. Nomination of Manipur and Tripura; and
3. Representation by rotation.

I am happy to state that it has become possible by exchange of views to arrive at a formula whereby it has become possible for me to eliminate from the Bill the provisions relating to the indirect system of election from the municipalities, local boards, village panchayats etc. It has also been possible for me to eliminate the provision regarding the representation of Manipur and Tripura through nomination. It is only with regard to the third point *viz.,* representation by rotation that it has not been possible to find a way out and it will therefore be a part of the original Bill. Now in accordance with this agreement, I have given notice of certain amendments which are already in the hands of Members. It will be seen that in place of the indirect system of election. I now propose to ask the House to agree to assist in creating an electoral college by exercise of adult suffrage and allow these electoral colleges to help the representatives which have been allotted to them by schedule 4 of the Constitution. This system of creating an electoral college for the purpose of sending representatives to the Upper Chamber by election is also proposed to be extended to Manipur and Tripura.

With regard to the other part of the Bill *viz.,* that part which deals with the enactment of the Ordinance it will of course remain and so far as the debate that took place the

other day on the provisions of the Bill is concerned, I did not find that the House was in any way opposed to that part of the Bill. Therefore, having regard to this position, I do not think there is any necessity for Mr. Kamath to insist upon his amendment to send the Bill to a Select Committee. It is now clear that the time and the date that he had fixed in his amendment has already passed and consequently the ground under his amendment has already been covered but apart from that if I had been called upon to speak on that day on his amendment, I would no doubt have said that it was not possible for me to accept the amendment in view of the fact that the provisions of the Bill relating to the Ordinance were so peremptory that without delay they had to have their legal form which the Constitution requires us to give. I therefore plead that the Bill may be taken into consideration without referring it to a Select Committee and that the amendments which I have proposed in the Supplementary List No. 6 to the Revised Consolidated List may be taken into consideration.

Mr. Speaker : I put the motion to the House. I believe after a long discussion, it is not now necessary to go on with further discussion of this Bill. I shall put it clause by clause and instead of having a general discussion hon. Members will get an opportunity of having their say when the clauses come before the House. Let us now specifically go to the very clauses to which Members may have any objection.

***Mr. Speaker**: As there are proposed changes in the various clauses, hon. Members will be keeping a watch so that I may not pass over any amendment.

Clause 2.—(*Amendment of the long title*)

Amendment made:

For clause 2, substitute the following:

" 2. *Amendment of the long title, Act XLIII of 1950.*— In the long title of the Representation of the People Act, 1950 (hereinafter referred

* P. D., Vol. 7, Part II, 21st December 1950, p. 2212.

to as the said Act), after the words 'the preparation of electoral rolls' the words and letter 'the manner of filling seats in the Council of states to be filled by representatives of Part C States' shall be inserted."

—[*Dr. Ambedkar.*]

Dr. Ambedkar : It is merely to bring the Preamble in line with the purpose of the present Bill.

Mr. Speaker : The question is:

"That clause 2, as amended, stand part of the Bill."

The motion Was adopted. Clause 2, as amended, was added to the Bill.

Clause 3.—(*Amendment of Section 2*)

Amendment made:

In clause 3, for the proposed new clause (cc) of section 2 of the Representation of the People Act, 1950, substitute the following:

" (cc) ' Council of States constituency ' means a constituency provided by order made under section 27C for the purpose of election of members to the electoral college for any Part C State or group of such States referred to in section 27A."

—[*Dr. Ambedkar,*]

Dr. Ambedkar : Sir, this is merely to bring it in line with the new scheme of having elections through electoral colleges.

Mr. Speaker : The Bill is introduced as a whole and therefore every clause is before the House. If any hon. Member is keen to move any amendment to this clause, I think the Chair is bound to put the clause before the House.

Shri M. A. Ayyangar : Unless the mover withdraws.

Mr. Speaker : He cannot withdraw in that manner after once having placed the whole Bill before the House. The clause has to be negatived by the House. But then I was following this informal procedure, simply for shortening the discussion. That is all I take it that Mr. Kamath is not moving his amendment.

Shri Kamath : That is correct, Sir.

Mr. Speaker : That means that none of the amendments is going to be moved. The question is:

"That clause 4 stand part of the Bill."

The motion was negatived.

Mr. Speaker : The question is:

" That clauses 5 and 6 stand part of the Bill."

The motion was negatived.

Clauses 7 and 8 were added to the Bill.

Mr. Speaker : The question is :

" That clause 9 stand part of the Bill."

The motion was negatived.

Clause 10 was added to the Bill.

New clauses 10A and 10B.

*** Dr. Ambedkar :** Sir, I move:

After clause 10, insert the following new clauses:

"10A. *Amendment of section 27, Act XLIII of 1950.*—In sub-section (4) of section 27 of the said Act, after the figure ' 23' the brackets and words '(excluding the Proviso)' shall be inserted.

10B. *Insertion of new Part IV-A in Act XILII of 1950.—After* Part IV of the said Act, the following Part shall be inserted namely:

PART IV-A

Manner of filling seats in the Council of States to be filled by representatives of Part C States.

27A. Constitution of electoral colleges for the filling of Seats in the Council of States allotted to Part C States.—(1) For the purpose of filling any seat or seats in the Council of States allotted to any Part C State or group of such States in the Fourth Schedule to the Constitution there shall be an electoral college for each such State or group of States:

Provided that for the purpose of filling the seat allotted to the States of Ajmer and Coorg there shall be an electoral college only for the State of Ajmer:

Provided further that for the purpose of filling the seat allotted to the States of Tripura and Manipur there shall be an electoral college for each of the said States.

* P. D., Vol. 7, Part II, 21st December 1950, pp. 2215-20.

(2) The electoral college for each State or group of States specified in the first column of the Fifth Schedule shall consist of the number of members specified in the second column thereof opposite to that State or group of States to be chosen by direct election.

(3) The electoral college first constituted under this Act for any State or group of State; shall be reconstituted by a fresh election every time when there is a general election held in that State or group of States for the purpose of election of members to the House of the People, and on every such reconstitution the electoral college, for that State or group of States functioining immediately before such reconstitution shall be deemed to be dissolved and the electoral college so reconstituted shall be the electoral college for such State or group of States, as the case may be for the purposes of this Act.

(4) Any casual vacancy in the seat of a member of an electoral college shall be filled by election held in the constituency concerned in the manner in which the election of that member to such seat was held.

27B.—Council of States constituencies.—For the purpose of election of members to the electoral college for any State or group of States there shall be the constituencies provided by order under section 27C and no other constituencies.

27C. *Delimitation of Council of States Constituencies.*—As soon as may be after the commencement of this Act, the President shall by order determine—

(*a*) the constituencies into which each State or group of States specified in the first column of the Fifth Schedule shall be divided for the purpose of election of member to the electoral college for such State or group of States;

(*b*) the extent of each constituency; and

(*c*) the number of seats allotted to each constituency.

27D. *Power to alter or amend orders.*—The President may, from time to time, after consulting the Election Commission, by order, alter or amend any order made by him under section 27C.

27E. *Procedure as to orders delimiting constituencies.*—(1) The Election Commission shall,—

(*a*) in consultation with the Advisory Committee set up under subsection *(1)* of section 13 in respect of each Part C State specified in the first column of the Fifth Schedule, other than Bilaspur and Himachal Pradesh, formulate proposals as to the delimitation of constituencies in that state under section 27C, and

(*b*) in consulation with the Advisory Committee set up under the said sub-section in respect of Himachal Pradesh, formulate proposals as to the delimitation of constituencies in the states of Bilaspur and Himachal Pradesh under section 27C,

and submit the proposals to the President for making the order under the said section 27C.

(2) Every order made under section 27C shall be laid before Parliament as soon as may be after it is made and shall be subject to such modifications as Parliament may make on a motion made within twenty days from the date on which the order is so laid.

27F. *Electoral rolls for Council of States constituencies.*—(1) For the purpose of election of members to the electoral college for any State or group of States there shall be an electoral roll for every Council of States constituency in that State or group of States.

(2) So much of the roll or rolls for any Parliamentary constituency or constituencies for the time being in force under Part III as relate to the areas comprised within a Council of States constituency shall be deemed to be the electoral roll for that Council of States constituency.

27G. *Termination of membership of electoral college for certain disqualifications.*—If a person who is a member of an electoral college becomes subject to any disqualification for membership of Parliament under the provisions of any law relating to corrupt and illegal practices and other offences in connection with election to Parliament he shall thereupon cease to be such member of electoral college.

Manner of States allotted to Part C States.—Save as otherwise provided in section 27-I the seat or seats in the Council of States allotted to any Part C State or group of such States in the Fourth Schedule to the Constitution shall be filled by a person or persons elected by the members of the electoral college for such State or group of States in accordance with the system of proportional representation by means of the single transferable vote.

27-I. *Special provisions for the filling of the seats in the Council of States allotted to the States of Ajmer and Coorg and the States of Tripura and Manipur.*—(1) The seat in the Council of States allotted to the States of Ajmer and Coorg in the Fourth Schedule to the Constitution shall be filled by a person elected by the members of the electoral college for the State of Ajmer and by the elected members of the Coorg Legislative Council in rotation, that is to say, at the first general election and at every second subsequent biennial election the said seat shall be filled by a person elected by the members of the electoral college for the State of Ajmer and at the first biennial election and at every third subsequent biennial election the said seat shall be filled by a person elected by the elected members of the Coorg Legislative Council.

(2) The seat in the Council of States allotted to the States of Tripura and Manipur in the said Schedule shall be filled by a person elected by the members of the electoral college for the State of Tripura and by the members of the electoral college for the State of Manipur by rotation, that is to say, at the first general election and at every second

subsequent biennial election the said seat shall be filled by a person elected by the members of the electoral college for the State of Tripura and at the first biennial election and at every third subsequent biennial election the said seat shall be filled by a person elected by the members of the electoral college for the State of Manipur.

(3) The casual vacancy in the seat allotted to the States of Ajmer and Coorg or to the States of Tripura and Manipur shall be filled by election in the State in which the election to fill the seat was held at the last preceding general or biennial election, as the case may be.

(4) Every election held under sub-section *(1),* sub-section (2) or sub-section (3) shall be held in accordance with the system of proportional representation by means of the single transferable vote.

27J. *Replacement of electoral colleges by bodies created under article 240 to function as legislatures.*—Notwithstanding anything contained in the foregoing provisions of this Part—

(*a*) if a body is created by Parliament by law under article 240 for any of the States specified in the first column of the Fifth Schedule, other than Bilaspur and Himachal Pradesh, to function as a legislature for that State, then after such body has been constituted it shall not be necessary to constitute or reconstitute any electoral college for that State and on the constitution of such body any electoral college for the time being functioning, for such state shall be deemed to be dissolved, and section 27H or section 27I, as the case may be, shall in its application to that State, have effect as if for any reference to the electoral college for such State in that section there were substituted a reference to the body so created for such State.

(*b*) if any such body as aforesaid is so created for each of the States of Bilaspur and Himachal Pradesh, then after both such bodies have been constituted, it shall not be necessary to constitute or reconstitute any electoral college for those States and on the constitution of both such bodies any electoral college for the time being functioning for those States shall be deemed to be dissolved, and section 27H shall, in its application to that group of States, have effect as if for the reference to the electoral college for the said group of States in that section there were substituted a reference to the bodies so created for those States; and

(*c*) if any such body as aforesaid is so created for the State of Coorg, then on the constitution of such body section 27-I shall, in its application to that State, have effect as if for any reference to the Coorg Legislative Council in that section there were substituted a reference to the body so created for such State'."

*** Mr. Speaker :** Amendment of Shri Deshbandhu Gupta moved :

In the amendment by Dr. Ambedkar, in the proposed new clause 10B, Before the existing first Proviso to sub-section (1) of the proposed new section 27A of the Representation of the People Act, 1950, insert the following new Proviso :

" Provided that for the purpose of filling the seat allotted to the State of Delhi, the elected members of all local bodies such as Municipal Committees, District Board and notified area committees and members elected to the Chief Commissioner's Advisory Council and the House of People shall form the electoral college."

Dr. Ambedkar : With regard to the amendment moved by my hon. Friend, Shri Deshbandhu Gupta, there are one or two points to which I would like to make a reference. In a way this amendment read with the other provisions which the House has now passed for the purpose of making provision for elected representatives of Part C States to the Upper Chamber " appears to be somewhat incongruous. There we are creating an electoral college elected by adult suffrage. Here we are retaining the original scheme contained in the Bill, namely, that the representation should be by indirect means through local authorities, but I do not think that is a very grave objection to the acceptance of this proposal in view of the fact that my hon. Friend, Shri Deshbandhu Gupta, told us this morning that all these bodies are in a very short period going to be democratized and are likely to be elected by audit suffrage. In view of that, it is a mere matter of fancy, it seems to me, whether you would take the municipality or the local board as a basis for election or whether you would go down and dilute it further and make it as the basis for election. Therefore fundamentally I have no objection to his proposal.

There are two other points to which I would like to make a reference. In view of the fact that he is making local authorities as instruments for election, it does appear that there are certain local authorities in the Delhi province where the members are not elected but are nominated. Take, for instance, the New Delhi Municipality. I understand that there

* P. D., Vol. 7, Part II, 21st December 1950, pp. 2231-33.

is a very large element of nomination there and I do not suppose that my hon. Friend, Shri Deshbandhu Gupta, will insist that the persons who are nominated to the Delhi Municipality although they have not been elected by adult suffrage are from the point of view of intelligence, from the point of civic sense going to be in any way inferior to persons elected, by other municipalities. I would therefore suggest that I should be quite prepared to accept his amendment provided he agrees to delete the word 'elected' from his clause.

The second thing that I would suggest to him, which I think is a mere matter of drafting aesthetics, is that it would be better if his proposition was to be put in as sub-clause (5) of section 27A rather than as a proviso. I have gone through the whole thing. It seems to me that it would be much neater to put this as sub-clause (5). Subject to this, I have no objection to accept it.

Shri Deshbandhu Gupta : May I point out, Sir, that I want to have one clarification from the Hon. Minister, when he says that I should agree to delete the word ' elected ', does he realise that there is a big element of nomination in other local bodies also? If the idea is only to have representation for New Delhi, which is a wholly nominated body, then, the purpose would be better served by having non-official members of the New Delhi Municipal Committee. There are 7 or 8 members. In Old Delhi, there are 50 elected and 10 nominated members. In Shahdara there are 10 elected and 5 nominated members. Does he want that all these nominated Members also should be given the right to vote ?

Dr. Ambedkar : I do not see any reason to make any discrimination.

Shri Deshbandhu Gupta : I stick to the word 'elected'. But I am prepared to include non-official members of the New Delhi Municipality.

Dr. Ambedkar : All right.

***Mr. Speaker :** So then, I am afraid, looking at the trend of the discussion, I must put the amendment of Mr. Deshbandhu Gupta to the House.

Dr. R. U. Singh : But Sir, my questions have not been answered. I wanted to know two things, What is the basis on which the Legislative Councils will be elected as the populations electing the members will be very low. And secondly, whether the Hon. Minister will be pleased, in view of the points that I had stressed, to reconsider the position. As I said it is intrinsically wrong and this is a hotch-potch arrangement for which there is no justification, I would like to hear what Dr. Ambedkar has to say.

Mr. Speaker : Has the Hon. Law Minister followed the point which the hon. member is raising?

Dr. Ambedkar : Some hon. members have always felt that I am one of the hardest nuts in the cabinet. I now find the advantage of being a hard nut. To be yielding to all people, all and sundry, lands one in the difficulty in which I find myself now. If I had decided to stick to the original position, probably I might not have been in the difficulty in which I find myself now.

But having accepted the position on the assurance, of course, that the elections to these municipal bodies are going to be based upon adult suffrage, I do not think that there was any very great principle involved, in accepting the suggestion made by my friend Mr. Deshbandhu Gupta.

Secondly, as hon. Members will see, this scheme may not even come into operation, because in the amendment that I have moved, I have made provision that if Parliament provides by law for the creation of legislative bodies as it is done in other Part B and Part A States, elections then will take place on the basis of the newly created bodies. Having regard to these facts, I am not disposed to attach very great importance to the decision, whether it is taken one way or the other, because I feel that if there is enough pressure and

* P. D., Vol. 7, Part II, 21st December 1950, pp. 2236-44.

if there is enough time, Parliament may be persuaded before the elections come, to take upon itself the responsibility of having legislatures, giving effect to Article 240. Therefore, for the present, what I would insist is that the word "elected" be removed. And probably, I would like that with regard to New Delhi where I understand there is a very large element of nomination, I would restrict the representation of New Delhi to non-official persons. With that I think the House should be content, for the moment.

Shri Sondhi : What about the non-official members of other bodies? We should not discriminate between one body and another.

Dr. Ambedkar : With regard to other bodies in other Part C States, we need not go into it very much now because we are creating electoral colleges on the basis of.....

Shri Sondhi : I was referring to unofficial members who are nominated to other bodies. The hon. Member referred only to nominated members in New Delhi. We cannot discriminate between them.

Dr. Ambedkar : Under the new scheme probably the non-official elements will disappear.

Mr. Speaker : Let us not carry on the dicsussion any further.

Shri Deshbandhu Gupta : The Hon. Law Minister said that the word "elected" should go and be replace by "non-official body" for Delhi and New Delhi. Is that his desire?

Dr. Ambedkar : Yes, that would simplify the matters.

Shri Tyagi : But it has to be made clear that the Law Minister has accepted this on condition and in the hope that the new elections will be on the basis of adult suffrage and that they will be conducted in time for the general elections. We know that in these old boards a large part of the new populations are not represented or reflected at all. Not to give them representation will be very wrong.

Shri Kamath : Sir, I would like to bring to your notice that Dr. Ambedkar a little while ago referred to hon. Members

as "all and sundry". I do not know if it is quite proper. It may not be unparliamentary, but it is not dignified, I believe. So I request you to give your views, if not your ruling on this point.

Mr. Speaker : I do not give that expression any vulgar meaning. And he did not mean Members of Parliament. So many people come before the Ministers over this and that, and the words "all and sundry" do not apply solely to Members of Parliament. At any rate no hon. member need think that the cap fits him.

Shri B. Das : Sir, the Hon. Health Minister who controls the Delhi Municipal bodies has not been present here to assist us. Could we not decide this question later with her assistance also ?

Mr. Speaker : It was not expected that, after informal conferences and after postponing the question for the purpose of the conference, this point will be again discussed. I have been expecting a spirit of give and take, just a little giving in here and there. After all, humanly it is impossible to do absolute justice to everyone. Let us try to do as much justice as we can. And so I proceed further. Now how does the position stand ? Do I put the amendment to the House ?

Dr. Ambedkar : It is suggested that instead of the word "elected" we may have the words "Members other than officials".

Shri Deshbandhu Gupta : I accept this change.

Mr. Speaker : Let there be no more discussion, but let us get through with the Bill. Otherwise hon. Members will not get sufficient time tomorrow for the other Bills. My difficulty comes now. How am I to put the amendment ?

Order, order, let there be less noise in the House.

The Minister of Transport and Railways (Shri Gopalaswami) : I would like to suggest to the Law Minister the desirability of omitting the words "such as". I think we ought to say "Members of Municipal Committees District Board and notified area Committees". If we put in the words "such as" it would mean as if there were other categories of local bodies in which you want to refer.

Shri Deshbandhu Gupta : The reason for having those words is, there is the Delhi Improvement Trust.

Dr. Ambedkar : But in my copy I do not find the words.

Mr. Speaker : Mr. Deshbandhu Gupta may withdraw his amendment and the Hon. Minister may move his amendment.

Dr. Ambedkar : I am accepting it with certain modifications, and putting it as sub-clause (5) of article 27-I.

Mr. Speaker : Is the hon. Member Deshbandhu Gupta agreeable to this course ?

Shri Deshbandhu Gupta : Yes.

The amendment was, by leave, withdrawn.

Dr. R.U. Singh : Sir, I raised the question of Coorg and it has not been answered.

Mr. Speaker : Any Member may raise any question but the Minister need not answer every question. We must now proceed with the business in a reasonable manner as quickly as possible. The Minister is substantially accepting the amendment.

Dr. Ambedkar : I propose the amendment of which I have given notice just now. It is purely nominal and consequential and I propose to include Deshbandhu Gupta's amendment also in my amendment.

Mr. Speaker : In the case of these amendments, it is better that we read them. I find a little difficulty because these are not circulated to hon. Members. Therefore, the alternative courses open to us are either the amendments are read in the House or we postpone this clause and take up the next clause and keep this pending. There remains only one clause—clause 11. Then there is a further amendment by Dr. Ambedkar in respect of the schedule. That may be disposed of.

Shri Jawaharlal Nehru : Why not have the amendments read out?

Mr. Speaker : After disposal of clause 11 and the amendment of Dr. Ambedkar giving a new clause, the whole ground will be clear and there will remain nothing except the amendments. At this stage, we put this matter just aside for a few minutes— not till tomorrow necessarily. I go to clause 11.

Shri Dwivedi (Vindhya Pradesh)**:** There are some amendments to Clause 11A.

Mr. Speaker : That I am just putting off. It is rather unfortunate that hon. Members are engaged in talking and do not follow the proceedings.

The question is :

"That clause 11 stand part of the Bill".

The motion was adopted.

Clause 11 was added to the Bill.

New Clause 11A

Dr. Ambedkar : I beg to move :

After clause 11, insert the following new clause:

"11A. *Addition of new Fifth Schedule to Act XLIII of 1950.*— After the Fourth Schedule to the said Act, the following Schedule shall be added, namely:

"THE FIFTH SCHEDULE

[See sections 27A(2), 27(a), 27E(1) and 27J(a)]

Number of Members of Electoral Colleges

Name of State			Number of Members
1			2
1. Ajmer	...	...	20
2. Bhopal	...	...	20
3. Bilaspur and Himachal Pradesh	...	...	25
4. Kutch	...	...	20
5. Manipur	...	...	20
6. Tripura	...	...	20
7. Vindhya Pradesh	...	...	50"

Mr. Speaker : Amendment moved : Same as above.

Shri Dwivedi : I beg to move :

In the amendment by Dr. Ambedkar in the proposed new clause 11A, for the proposed Fifth Schedule of the Representation of the People Act, 1950, substitute the following:

"THE FIFTH SCHEDULE

[See sections 27A(2), 27C(a), 27E(1) and 27J(a)]

Number of Members of Electoral Colleges

Name of State	Number of Members
1	2
1. Ajmer	30
2. Bhopal	30
3. Bilaspur and Himachal Pradesh	42
4. Kutch	30.
5. Manipur	30
6. Tripura	30
7. Vindhya Pradesh	60"

In the morning I had a talk with Dr. Ambedkar along with certain other representatives of Part C States and we suggested to him that if a small Electoral College is created there will be difficulty and smaller the electoral college, it is likely to give some cause for corruption. It was therefore suggested that there should be bigger electoral College and this suggestion was accepted by Dr. Ambedkar. Therefore this amendment was proposed by me and others. Sir I move.

Mr. Speaker : Amendment, (of Shri Dwivedi) as mention abover moved:

Dr. Ambedkar : Sir, I accept the amendment.

Mr. Speaker : Are there any other amendments to this particular clause?

Dr. Ambedkar : Yes, they are just formal re-numbering the letters etc.

Mr. Speaker : That we shall take up later. If this amendment is accepted, I will put to the House the amended clause.

Shri Kamath : The first schedule to the Representation of People Act, 1950 has listed Andaman and Nicobar Islands among the part C States. I do not know what its position is now.

Mr. Speaker : It has already been cleared in the opening address that there is nothing there. It is a penal settlement only. So I will put the amendment to vote. The question is :

The motion of Shri Dwivedi was adopted.

Mr. Speaker : The question is :

After clause 11 insert the following new clause:

"11A. *Addition of new Fifth Schedule to Act XLIII of 1950.*— After the Fourth Schedule to the said Act, the following Schedule shall be added, namely:

(Schedule as above)

The motion was adopted.

New Clause 11A was added to the Bill.

Mr. Speaker : There is no other clause to be taken up excepting 10-B.

An hon. Member : There are formal amendments.

Mr. Speaker : Formal amendments like re-numbering and re-lettering will be taken up at the end.

Dr. Ambedkar : Clause 12 has not been put.

Mr. Speaker : Yes, clause 12 remains.

Clause 12 was added to the Bill.

Dr. Ambedkar : Sir, I do not know whether you have put to the House my amendment No. 2 in Supplementary List No. 7, regarding the addition of a new clause 27-J. It has been taken as moved but it has not been put and accepted.

Mr. Speaker : That has to be put. It will be a part of 10-B.

Dr. Ambedkar : Yes, but it is on a separate list—that was why I was wondering .....,

Mr. Speaker : Clause 10-B was held over. I shall put that in due course after disposing of the other amendments, but it is just possible that I may forget, in which case hon. Members will invite my attention to it.

Now do we proceed to clause 10-B ?

Some hon. Members : Let us finish it.

Mr. Speaker : If it is the desire of Members to finish it, I have no objection.

Some hon. Members : No, Sir, we shall adjourn now.

Mr. Speaker : I myself have been feeling a little diffident about it. Though the amendment may be formal, yet it is a long amendment and hon. Members should have an opportunity of seeing and studying it. Therefore, we might now adjourn and re-assemble tomorrow at 2 p.m. And I may say that the longer we discuss this tomorrow the shorter the time for the other Bill because the guillotine for the other Bill will be applied at 6 p.m. sharp. We are not sitting day after tomorrow.

The House then adjourned till Two of the Clock on Friday, the 22nd December 1950.

REPRESENTATION OF THE PEOPLE (AMENDMENT) BILL—*Contd.*

New Clauses 10A and 10B

***Mr. Speaker :** We will now proceed with the further consideration of the Bill to amend the Representation of the People Act. We were discussing yesterday clauses 10A and 10B and certain amendments moved by hon. Members.

The Minister of Law (Dr. Ambedkar) : Sir, I drew your attention to the fact that there was an amendment standing in my name. It is amendment No. 2 in Supplementary List No. 7. I should like to move it at this stage. The first amendment was moved by my friend Mr. Gupta. The second has remained undisposed of. May I move it ?

*P. D., Vol. 7, Part II, 18th December 1950, pp. 2252-55.

Mr. Speaker : Yes. Will he move the other amendment also ?

Dr. Ambedkar : This was an independent amendment—addition of a clause. My other amendment would include Mr. Gupta's amendment.

The Minister of State for Transport and Railways (Shri Santhanam) : I think all the amendments have been placed before the House. This has only to be adopted.

Mr. Speaker : Those that came subsequently have not been placed by me before the House.

Dr. Ambedkar : I shall formally move the amendment I beg to move :

> In the amendment proposed by me, in the proposed new clause 10B, after the proposed new section 27I of the Representation of the People Act, 1950, insert the following new section 27J and re-number the subsequent section as section 27K :
>
> "27J. *Power of electoral colleges or the Coorg Legislative Council to elect notwithstanding vacancies therein.*—No election by the members of an electoral college or the elected members of the Coorg Legislative Council under this Act shall be called in question on the ground merely of the existence of any vacancy in the membership of such college or Council, as the case may be."

It is just to remove any difficulty or doubt that might exist.

Mr. Speaker : Amendment moved : (as above).

There are other amendments also.

Dr. Ambedkar : Yes, in supplementary list No. 8 I thought if this was disposed of I could move the others.

Mr. Speaker : I take it that this is an agreed amendment, that hon. Members are agreeable to it. Shall I put it to the House ?

The Minister of Transport and Railways (Shri Gopalaswami) : May I draw your attention to one point? Would this amendment not need some modification if you are accepting the other kind of electorate that is proposed for Delhi ?

Dr. Ambedkar : That also is described as an electoral college.

Shri Gopalaswami : Is it ?

Dr. Ambedkar : Yes.

Mr. Speaker : The question is :

In the amendment proposed by Dr. Ambedkar, in the proposed new clause 10B, after the proposed new section 271 of the Representation of the People Act, 1950, insert the following new section 27J and re-number the subsequent section as section 27K :

> "27J. *Power of electoral colleges or the Coorg Legislative Council to elect notwithstanding vacancies therein.*—No election by the members of an electoral college or the elected members of the Coorg Legislative Council under this Act shall be called in question on the ground merely of the existence of any vacancy in the membership of such college or Council, as the case may be."

The motion was adopted.

Mr. Speaker : I believe the amendment to incorporate sections 27A to 27J have already been moved. I would now take the amendments in supplementary list No. 8.

Dr. Ambedkar : I think it would be better if I move them *seriatim*.

Mr. Speaker : The amendments in supplementary list No. 8 which are amendments to that amendment, have to be moved. My idea is to have all the amendments once before the House and then we will proceed, for purposes of discussion and voting, in parts rather than put the whole clause immediately.

Dr. Ambedkar : I beg to move :

(*i*) In the amendment proposed by me, in the proposed new clause 10B, in sub-section (3) of the proposed new section 27A of the Representation of the People Act, 1950, after the words "for any State or group of States" occurring in line two, insert the words "so specified".

(*ii*) In the amendment proposed by me, in the proposed new clause 10B, in sub-section (4) of the proposed new section 27A of the Representation of the People Act, 1950, after the words "electoral college" insert the words, brackets and figure "for any such State or group of States as is referred to in sub-section (*2*)".

(*iii*) In the amendment proposed by me, in the proposed new clause 10B, after sub-section (*4*) of the proposed new section 27A of the Representation of the People Act, 1950, add the following new sub-section :

"(5) the electoral college for the State of Delhi shall consist of—

(a) the members of the House of the People representing that State;

(b) the non-official members of the Advisory Council of the Chief Commissioner of Delhi; and

(c) the non-official members of every Cantonment Board, District Board, Municipal Committee and Notified Area Committee within that State."

(*iv*) In the amendment proposed by me, in the proposed new clause 10B, in the proposed new section 27B of the Representation of the People Act, 1950, after the words "any State or group of States "insert the words" specified in the first column of the Fifth Schedule".

(*v*) In the amendment proposed by me, in the proposed new clause 10B, in sub-section (*1*) of the proposed new section 27F of the Representation of the People Act, 1950, after the words "for any State or group of States" insert the words "specified in the First column of the fifth Schedule".

(*vi*) "That the necessary corrections for the numbering and lettering of the clauses in the Bill and of the sections inserted by the Bill be carried out together with consequential corrections of cross references."

*** Mr. Speaker :** Amendment moved : (as above)

In the amendment by Dr. Ambedkar, in the proposed new clause 10B, in clause (*b*) of the proposed new section 27J of the Representation of the People Act, 1950,—

(*i*) after the words "so created" occurring in line one, insert the words "jointly or",

(*ii*) after the words "then after" occurring in line three, insert the words "such body has or"; and

(*iii*) after the words "constitution of" occurring in line six, insert the words "such body or".

I should like the Hon. Law Minister to clarify the point.

Dr. Ambedkar : There are two objections to this amendment. The first is a Constitutional objection which arises out of the

* P. D., Vol. 7, Part II, 12th December 1950, pp. 2259-60.

provisions contained in article 240 of the Constitution. I think it is quite clear from the amendment of my hon. friend Dr. Parmar that he supposes that it would be possible for Parliament to create one single legislature for these two areas, namely Himachal Pradesh and Bilaspur. I submit that it would not be open to Parliament to do any such thing because article 240 says :

> "Parliament may by law create or continue for any State specified in Part C of the First Schedule..." which means that if Parliament wants to create legislative bodies for the States mentioned in Part C, it shall have to create for each Part C State a separate legislative body. There is no authority given by article 240 to create a joint legislature. On that ground, this amendment is not in order.

My second submission is this. I believe my hon. friend suggested that it might be possible for Bilaspur to be merged in Himachal Pradesh, and in that event, that would constitute a single State. That possibility, I do not deny; but the consequence of that would be that we shall have to amend this Bill and make Bilaspur a merged State, which stands on a quite different footing, and would not come within the four corners of the Bill as presented to Parliament.

Therefore, my submission is that it is not possible for me to accept the amendment in view of the objections that I have stated.

Shri J. N. Hazarika (Assam) **:** Sir, section 27J which has now been renumbered as 27K is absolutely unnecessary, because this clause is likely to create .....

Mr. Speaker : To which clause is the hon. Member referring?

Shri J. N. Hazarika : Section 27J. It is likely to create some delusion in the minds of the people in Part C States.

Mr. Speaker : Hon. Member may please see that section 27J has just been replaced by an amendment which has been carried by this House. Would he refer to the new section 27J as just adopted by the House?

Shri J. N. Hazarika : It has become 27K now.

Dr. Ambedkar : After my amendment, section 27J would become 27K.

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* **Mr. Speaker :** ..... Then we come to the first amendment of Dr. Ambedkar to his own amendment. After disposing of it, we shall come to the main amendment. The first amendment which Dr. Ambedkar has moved to his own amendment is in Supplementary List No. 8.

Dr. Ambedkar : The one about the addition of the words "so specified".

Mr. Speaker : The amendment is, more or less, a formal one. The question is :

> In the amendment by Dr. Ambedkar, in the proposed new clause 10B, in sub-section (*3*) of the proposed new section 27A of the Representation of the People Act, 1950, after the words "for any State or group of States" occurring in line two, insert the words "so specified".

The motion was adopted.

Mr. Speaker : Then we come to the second amendment. That is also, more or less, a formal amendment. The question is :

> In the amendment by Dr. Ambedkar, in the proposed new clause 10B, in sub-section (*4*) of the proposed new section 27A of the Representation of the People Act, 1950, after the words "electoral college" insert the words, brackets and figure "for any such State or group of States as is referred to in sub-section (2)".

The motion was adopted.

Mr. Speaker : Now we come to the amendment regarding the Electoral College for the State of Delhi, and which is proposed to be added as sub-section (5) of section 27A. What does Mr. Tyagi want to say? ,

Shri Tyagi : Sir, I only want to enquire what will be the meaning of the word "non-official".

Dr. Ambedkar : Other than official, that is all.

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* P.D., Vol. 7, Part II, 22nd December 1950, pp. 2263-64.

*** Shri Tyagi :** ..... Those who have no office, they are non-official, persons like me, Sir. But persons like Shri Jawaharlal Nehru and Dr. Ambedkar they hold offices, and they are not non-officials. I hold no office and therefore, I am a non-official. Therefore, I request that a clear definition of the word "non-official" may be given, unless it be that it is given in some other Act. Otherwise this will lead to difficulties.

Dr. Ambedkar : The word "non-official" is so elemental that I should have thought that it would be very, very difficult to find a simpler phraseology; and I suggest to my friend Mr. Tyagi that if he was involved in any legal dispute about this word, if he engages even a third-class lawyer, he will be able to get sufficient advice.

** **Shri Deshbandhu Gupta :** I only want to point out that there is no official Member of the Advisory Council. Here in (b) it is said that the non-official members of the Advisory Council of the Chief Commissioner etc. There is no official at all. Therefore, if it is not necessary, this word 'non-official' may be dropped. I am suggesting it to the Mover.

Dr. Ambedkar : It cannot do any harm.

Shri M. A. Ayyangar : ..... Then under section 134 rules were framed. When the Government of India Act was repealed an Ordinance was issued defining who were 'officials' and who were 'non-officials'. This Ordinance has lapsed. What is the present position ? If in 1919 they were defined and later on under the Ordinance also it was found necessary to define the words, why should we not define it here also ? That lacuna must be made up. It is not such a simple term that it can be found in a dictionary. It will depend upon the interpretation that is put on it. It is a very valid objection.

Dr. Ambedkar : I am sure the matter is covered. If it is not covered it is not difficult to cover it.

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* P. D., Vol. 7, Part II, 22nd December 1950, pp. 2264-65,.

***Ibid.,* pp. 2269.

* **Mr. Speaker :** Then comes addition of Part IV. 27A is proposed to be added.

Dr. Ambedkar : I would like to move an amendment to 10B. I beg to move :

> In the proposed new clause 10B of the Bill, in the proposed section 27A of the representation of the People Act, 1950, for the words "Tripura and Manipur" substitute the words "Manipur and Tripura."

The motion was adopted.

Mr. Speaker : The hon. Members will remember that out of the five amendments moved this morning by Dr. Ambedkar, three related to 27A which have been carried by this House.

I find that nobody wishes to move any of the amendments or make any speech further. So I shall come to all the clauses together, because I find that other amendments are only verbal.

Does any hon. Member wish to address himself to any particular clause now? No. Then I will put all the clauses— 27–D, E, F, G, H, I, ...

Dr. Ambedkar : With regard to 27-I, Sir, with your permission I would like to move a small amendment to sub-clause (2), like the one I had moved earlier, namely, instead of Tripura and Manipur, it should be Manipur and Tripura.

***Mr. Speaker :** Then there is a further amendment proposed by Dr. Ambedkar. The question is :

> "That the necessary corrections for the numbering and lettering of the clauses in the Bill and of the sections inserted by the Bill be carried out together with consequential corrections of cross references."

The motion was adopted.

Clause 1 was added to the Bill.

The Title and the Enacting Formula were added to the Bill.

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* P. D., Vol. 7, Part II, 22nd December 1950, pp. 2271.

Dr. Ambedkar : I beg to move :

"That the Bill, as amended, be passed."

Mr. Speaker : Motion moved :

"That the Bill, as amended, be passed."

The motion was adopted.

REPRESENTATION OF THE PEOPLE (No. 2) BILL

***The Minister of Law (Dr. Ambedkar) :** I beg to move for leave to introduce a Bill to provide for the conduct of elections to the Houses of Parliament and to the House or Houses of the Legislature of each State, the qualifications and disqualifications for membership of those Houses, the corrupt and illegal Practices and other offences at or in connection with such elections and the decision of doubts and disputes arising out of or in connection with such elections.

The motion was adopted.

Dr. Ambedkar : I introduce the Bill.

REPRESENTATION OF THE PEOPLE (No. 2) BILL

*** The Minister of Law (Dr. Ambedkar) :** I beg to move :

"That the Bill to provide for the conduct of elections to the Houses of Parliament and to the House or Houses of the Legislature of each State, the qualifications and disqualifications for membership of those Houses, the corrupt and illegal practices and other offences at or in connection with such elections and the decision of doubts and disputes arising out of or in connection with such elections, be referred to a Select Committee consisting of Shri M. Ananthasayanam Ayyangar, Pandit Thakur Das Bhargava, Shri Frank Anthony, Pandit Hriday Nath Kunzru, Shri M. A. Haque, Shri Mahavir Tyagi, Shri Biswanath Das, Shri Sarangadhar Das, Sardar Bhopinder Singh Man, Srijut Rohini Kumar Chaudhuri, Shri Girija Sankar Guha, Shri Khandubhai K. Desai, Shri S. Sivan Pillay, Shri Chandrika Ram, Shri T. R. Deogirikar, Shri P. Basi Reddi, Dr. Syama Prasad Mookerjee, Shri Hussain Imam, Shri M. V. Rama Rao, Shri Gokulbhai Daulatram Bhatt, Shri Raj Bahadur, Kumari Padmaja Naidu, Shri S. Nijalingappa, Shri Ramnath Goenka,

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* P. D., Vol. 7, Part II, 18th December 1950, p. 1834.

* P. D., Vol. 7, Part II, 22nd December 1950, pp. 2283-91.

Shri Hari Vishnu Kamath, Shri S. N. Mishra, Shri L. Krishnaswami Bharathi, Shri Surendra Mohan Ghose, Shri Krishna Kant Vyas, Shri M. L. Dwivedi and the Mover, with instructions to report by the end of the third week after the commencement of the next session of Parliament."

Pandit Maitra (West Bengal) **:** What will be the quorum?

Dr. Ambedkar : The quorum, I understand, is provided by rules, namely, one-third.

Sir, this Bill, as members must have noticed, is a very long Bill and contains 163 clauses. It would take me much beyond the time that is available now for the consideration of the motion, if I were to enter upon a full and complete description of the various provisions contained in these 163 clauses. This Bill has already been in the hands of Members of Parliament for at least three or four days and I am sure that they must have found time to go over the clauses of the Bill and to understand the main purport of the clauses incorporated therein. I do not think, therefore, I am called upon to give an exhaustive expose of the matters included in this Bill. I, therefore, propose to be very brief.

The House will recall that at an earlier Session of the Parliament a Bill for the Peoples Representation Act, 1950, was passed by this House. That Bill dealt with the following maters : (1) allocation of seats between the different States for their representation in the lower Chamber and the upper Chamber; (2) delimitation of constituencies for the purpose of the election to the House of the People and to the Legislative Assembly of the various States; (3) qualifications of voters at such elections and (4) preparation of the electoral roll and constituencies.

The following matters were left out, namely, (1) qualifications and dis-qualifications for candidates to and for the members of the legislature; (2) the actual conduct of elections; (3) corrupt and illegal practices; (4) the definition of election offences and (5) the constitution of the Election Tribunal for the purpose of deciding election disputes.

I should have been very happy myself if the provisions of the last Bill and the provisions contained in this Bill had

been incorporated in a single Statute, so that hon. Members would have had the facility of carrying one single Statute covering all matters affecting the representation of the people in the Central Legislature as well as in the State Legislatures. But, unfortunately, it was not possible to do so, because it would have taken a very long time, it was felt better to cut up the matter into two parts, that is to say, to provide for the constituencies, for the voters' qualifications and so on, in an earlier measure, so that the Election Commission would have been in a position to start work with a view to putting through the elections by April or May. That was the reason why a certain part of the matter which was, so to say, integral with matters contained in this Bill were severed and put into an earlier piece of legislation.

Now, Sir, as I have said, the present Bill deals with five matters. I am sure the House will not expect me to go over the whole gamut of the provisions relating to each of these five parts. I will take up certain important provisions which I am sure the House will be interested to know at this stage.

Now, first of all, I will take up the question of the qualifications and disqualifications for candidates. So far as the elections for candidates is concerned, we do not impose any additional qualification except that he must be a voter, that is to say, he must be a citizen, he must be of 21 years' age and must have resided in a particular constituency for the qualifying period. Every voter will, therefore be entitled to stand as a candidate without requiring to fulfil any additional qualification. One other matter to which I would like to draw attention in this connection is this, that in the present Bill we have removed all residential qualifications. At one time, hon. Members will remember, that a candidate was not only required to be a voter, but was also required to be a resident in that particular constituency. Otherwise, he could not stand. It was felt that in view of the fact that we are now a united people under one single Constitution, recognising no barriers of caste, creed, community or provincial

barriers, it was desirable to provide that any person who is entitled to be a candidate may stand anywhere in India, notwithstanding the fact that he does not belong to that province or to that constituency.

[MR. DEPUTY SPEAKER *in the Chair*]

So that under the provisions of the Bill a person may not only stand as a candidate in his own constituency but he may stand as a candidate in any other constituency in his State, nay, he may stand as a candidate in any other State where he has not resided, provided he is a qualified voter in some particular constituency. That is with regard to qualifications.

With regard to disqualifications what we have done is this. Hitherto the law relating to disqualification was scattered in different statutes. Part of it was laid down in the Government of India (Provincial Elections, Corrupt Practices and Election Petitions) Order of 1936 issued by the Secretary of State after the passing of the Government of India Act, 1935. Other provisions were to be found in the Indian Elections Offences Enquiry Act, 1920. It was felt that it would be much better to have a consolidated list of disqualifications in this very Act. And that is what has been done.

I may here mention that it was my proposal that the holding of a contract with the Government should also be a matter for disqualification. Such a provision exists in the U. K. Act. But I thought that it might be better to consult the Select Committee on this particular provision whether the disqualification should be for standing as a candidate or whether the disqualification should be limited to continuing to be a Member of Parliament. As I myself was not certain which course to adopt I have left the question open to be decided by the Select Committee.

Now I come to another matter, namely, the conduct of elections. In this connection I would like to draw the attention of the House to certain new features that are contained in the Bill with regard to nomination. As the House will remember, under the existing law the question of the validity

of the nomination of a candidate can be canvassed, discussed and decided upon on an election petition. I have always felt that that is a very harsh procedure. The question of nomination is so to say a preliminary issue and there is no reason why this preliminary issue should be kept hanging, allowing the whole election to take place, forcing people to spend their time and their energy in contesting the election, and subsequently somebody comes up and says that the elected candidate has not been validly nominated. So that, without getting into the merits of the election the practice is followed and the whole thing is disposed of on a preliminary issue. I think it is right that in the matter of election petitions it is desirable to separate this preliminary issue from the other issue as to whether the election is valid on other grounds or not. I have therefore proposed in this Bill that this issue shall be treated as a preliminary issue and the Election Commission shall make some provision for the purpose of constituting some tribunal to which any dispute as regards the validity of nomination will be referred and disposed of finally : so. that when the election takes place no such issue could be raised before the tribunal. I am sure this is a very salutary provision. I am sorry, on the advice of the Election Commissioner, it would not be possible to give effect to this provision at the time of the first election, because he thinks that he has not got sufficient time to think about forming an ad hoc tribunal which may be set up to come and give relief to the contestants. But, as I say, if the Select Committee thinks that this should also be applied then I would have no objection.

Under the conduct of elections I should also like to draw attention to another important matter, namely, method of voting. This Bill provides that some constituencies shall be two member constituencies. That is inevitable in view of the fact that the Constitution provides for the reservation of seats for the Scheduled Castes and the Scheduled Tribes. The fact that you have reserved constituencies presupposes at least two-member constituencies.

Pandit Thakur Das Bhargava (Punjab) **:** Why? It is not inevitable.

Dr. Ambedkar : That is a matter which you may discuss but that is how the Bill proceeds upon. There will therefore be some two-member constituencies. The other constituencies will be single-member constituencies. In the two-member constituencies the voting will be by distributive vote.

Now I come to the Election Tribunal.

Pandit Maitra : May I know whether in no case there will be three-member constituencies?

Dr. Ambedkar : I am going to say at the end that these are not matters which can be taken as concluded.

With regard to the Election Tribunal the position is this. There are of course a variety of ways in which an election tribunal could be constituted. Either you can constitute an election tribunal whose authority will be final, without any right of appeal, or you can have a tribunal whose decision will be subject to an appeal. As I said, on this there cannot be any dogma. One has to decide in the light of public opinion. But the Bill proceeds upon the assumption that there should be some sort of a right of appeal to the High Court. It is also assumed that the public has a greater confidence in the official machinery for the disposal of election disputes. Non-officials, it is said, may have a bias which may prejudice the ultimate judgment in the case of an election dispute. Consequently what the Bill proposes to do is to have a two-member tribunal. The Chairman will be the District Judge and the other member will be a judicial officer. He may not be a District Judge. He may be some other judicial officer, but an official. The point is this that it is difficult to imagine at this stage what would be the number of election petitions. In view of the fact that the people of this country are so enamoured of politics so far as I see—having almost a passion for politics—I surmise that there might be a very large number of election petitions. If that happens and if you wish that the machinery to decide appeals should be official, the number of District Judges that may be available today would be found to be considerably insufficient to cope with the task. It is therefore that the second Member is described as a Judicial Officer. He may not be of the rank of the District Judge. In addition to that, it has been provided that the High Courts in the different provinces may prepare a list of

advocates, who in the opinion of the High Court, may be deemed to be sufficiently qualified and reliable to be employed as Members of this Tribunal. That is again on the supposition that the petitions may be so large that even the Judicial Members may not suffice. (*Interruption.*) I think it is good that we should give some employment to advocates because notwithstanding the many remarks that I have been hearing I am firm enough to say civilization cannot exist without advocates. Law is the very foundation of civilization.

As I said, the Bill provides that in the case of difference of opinion in the Tribunal a reference may be made to the High Court. Another, I think, very important feature of the Bill is this. I am not very much versed in the law relating to election petitions; I have not dealt with them on a very large scale. With what little experience I have, I have come to the conclusion that the law is in the most indefinite state that one can find. You can never definitely say what are the manners in which an election petition may be disposed of. You can never be certain on what grounds the election as a whole may be declared to be void. You can never be certain what are the grounds on which the election of a particular candidate may be declared. You are never certain under the existing law what are the cases in which the Courts may entertain what is called a plea of recrimination. I have therefore devoted considerable time and attention to the clarification of this position and I would invite the attention of hon. Members to clauses 93, 95 and 96 in which they will find that the position is made as clear as one can possibly do, and I hope that this will be a great advantage both to-the Tribunal as well as to the contesting candidates themselves.

Then, I come to the law of corrupt and illegal practices. Here again, the law has been scattered in various places. I endeavoured to bring all the provisions relating to corrupt practices and illegal practices under this one Bill and you will find them codified from sections 122 onwards. Our law in a sense was defective so far as corrupt intention was concerned. The law has not made it clear that in the case of a corrupt practice what was essential was not a practice which is declared to be corrupt but the corrupt intention. With

regard to the illegal practice, there is no question of intention at all; the practice is declared to be bad, but with regard to the corrupt practice in order to give a finding of guilty, it is necessary to have a finding that the intention was corrupt. You might call your friend to a dinner or lunch during the period when your election is going on. Your opponent may say that you have corrupted him. I do not know whether such a plea could be sustained but under the existing law this proviso was not there and I have tried to square up the thing, because I find that is also the provision in the English law that in a corrupt practice there must be a corrupt intention.

I know that the House is more interested in finding out what provisions are made in this Bill for a free and fair election. That, I think, is the desire of everybody and I therefore will now give to the House the provisions which relate and which are intended to bring about a free and fair election.

(1) All election meetings on the election day and the day preceding such a day have been banned. We have thought that it would be desirable to have two peaceful nights to the voters as well as to the candidates before they go to the polling-booths.

(2) Penalty has been provided for disturbance at election meetings, which I think is very desirable.

(3) Officers performing any duty in connection with an election and police officers have been prohibited from acting for candidates or to influence voters. That you will find in clause 124.

(4) Canvassing in and near polling stations has been prohibited.

(5) Penalty has been provided for disorderly conduct in or near polling stations such as the use of a mega-phone or loud speaker or shouting in or near the polling station.

(6) This is an important thing. The hiring or procuring of conveyances for bringing voters to or from the polling station has been made punishable.

(7) Breaches of official duty in connection with the elections have been made punishable.

(8) Removal of ballot papers from the polling station has also been made an offence.

(9) Personation has been made a cognizable offence throughout India, and as you will see, there are other provisions of the Bill. There is a provision which says that every voter shall have to give his thumb impression in an indelible ink. I hope the ink will be indelible so that there will be no case of a second vote in the name of another person. We have got an enormous electorate and it would be quite difficult to find out that there is no impersonation. The only method of safeguarding it is to have some kind of mark by which when a voter comes to give a vote, it will be possible for a polling station to ascertain that he has already not voted.

These are the general provisions which are contained in this Bill. Sir, I quite see that the time at the disposal of the House is very short, having regard to the length of the Bill, but I think the House can take comfort in the fact that we have had a very large Select Committee. I do not think that any Bill has had such a big Select Committee.

An Hon. Member : Except the Hindu Code.

Dr. Ambedkar : It was also a very small Select Committee, if I remember aright but here there are about 31 Members.

An Hon. Member : Adult franchise?

Dr. Ambedkar : I have given almost adult franchise. Secondly, as I said, this does not involve any question of policy. These are mere questions of methods of bringing about a fair deal in the election and consequently, I do not propose when the Select Committee meets to raise any kind of objection to any suggestion that might be made. It will be an open forum. I should also like to say that if those Members who have not had the luck to be included in the Select Committee also care to send any suggestions either personally to me. or to the Select Committee, I shall place them before the Select Committee and see that they are given due consideration. Sir, I move.

***Prof. Ranga :** ..... I feel, Sir, that the Member should be given the opportunity to say which seat I wants to keep and even if he fails to declare, the result of that election which was declared first, that seat should be treated to be one for which he was elected.

Dr. Ambedkar : It is there, he has only to resign within the prescribed period.

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*P.D. ,Vol. 7, Part II, 22nd December 1950, p. 2295.

(25)

*DEMAND NO. 13—MINISTRY OF LAW

Mr. Deputy Speaker : Motion is :

"That a supplementry sum not exceeding Rs. 15,93,000 be granted to the President to defray the charges which will come in course of payment during the year ending the 31st day of March 1951, in respect of 'Ministry of Law'."

Shri Kamath : About this Supplementary Demand, in the last Session in the middle of the discussion of this, Parliament rose and Dr. Ambedkar had to reply to this particular demand placed before the House at that time. The footnote says that the excess is due to the post-budget creation of a Central Agency in the Ministry of Law for the conduct of cases in the Supreme Court on behalf of the Central and State Governments, The expenditure is to be shared between the Government of India and the Governments of the participating States. Dr. Ambedkar will recollect that he had to answer this particular point raised at that time, but Parliament rose for the day and the demand was not subsequently before the House. I would be grateful if Dr. Ambedkar can throw some light on this agency created after the Budget was passed, particularly with reference to the recoveries from other Governments. How many State Governments are contributing to this agency and in what proportion, and what exactly is the work to be transacted by this Central Agency that has been created?

The Minister of Law (Dr. Ambedkar) : Mr. Deputy Chairman, I believe—in fact I am certain—that there were two questions put to me during the course of this Session one by Mr. Raj Bahadur and another by Mr. Kazmi and I have given the fullest information on this point in reply

*P. D., Vol. 7, I, Part II, 21st December 1950, pp. 3178-79.

to those two questions. If my hon. friend will take the trouble of referring to my replies, he will have all the information that he requires.

Shri Hussain Imam : Were they written replies or oral ?

Dr. Ambedkar : They were oral replies but they will appear in the record of proceedings. If required, I will give him my copy.

Mr. Deputy Speaker : It is here in the proceedings.

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SECTION IV

9th February 1951
to
21st April 1951

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(26)

* DENTISTS (AMENDMENT) BILL

The Minister of Law (Dr. Ambedkar) : As the Hon. the Health Minister is ill, I am asked to take charge of this Bill and I therefore beg to move :

> "That the Bill to amed the Dentists Act, 1948, be taken into consideration."

The Bill is a very short one and it does not involve any controversial matters. The Dentists Act of 1948 came into force on the 29th of March 1948. It was made applicable to Part A, Part C and Part D States. Under Section 49 of that Act, it is provided that no person shall be entitled to practise dentistry after the 28th March 1950 unless his name appears on a register of dentists which the Act required should be prepared in accordance with the rules contained therein. It was hoped that that register would be ready by the 28th of March 1950. Consequently, the operative portions of this Act were so framed as to come into operation on the 28th March 1950. Unfortunately, this expectation has not been fulfilled. It was reported from various States that the register would not be ready by the 28th March 1950 and consequently it became necessary to extend the period by one year in order to enable the States concerned to prepare the register. As the Parliament was not then sitting, Government issued an Ordinance giving effect to the necessary provision expending the period up to the 28th March 1951. This Bill is intended to convert the Ordinance into law. The main provision therefore is to extend the period for the purpose of preparing the register.

Advantage has been taken of the present occasion to amend the law in order to remove some of the difficulties which have been felt in giving effect to the original Act. Firstly, the

* P .D. Vol. 4, Part II, 11th August 1950, p. 841.

original Act contained two provisions. One provision was not to allow any person who was not placed on the register to be employed in Government hospitals. Obviously, it was expected that this provision would become operative after the registers ready. As the registers are not ready, persons who have not been placed on the register by reason-not of their not being qualified, but of the register not being ready would become disabled from holding any office in Government hospitals. Therefore, it has become necessary to extend the period and permit such persons to hold office notwithstanding the fact that they are not placed on the register.

Secondly, there is a Dental School in Bengal which used to grant Diplomas in Dentistry. At the time when the Act was passed there was a controversy as to whether the diplomas granted by this Dental School of Bengal should be recognised to enable persons holding diploma to be placed on the register. It was felt that the diplomas granted by the Dental School of Bengal were not sufficiently qualified to place them on the register. There has been considerable agitation by persons holding the diploma granted by the Dental School of Bengal that this disability should be removed. A compromise has been suggested by the Government of West Bengal according to which persons who have received their diploma before the year 1940, subject to certain conditions, may be treated as persons qualified to be entered upon the register. That compromise is also given a place in this Bill.

The Bill, therefore, contains three provisions :

> (1) to extend the period, (2) to permit names of persons holding diplomas of the Dental School of Bengal in certain cirumstances to be placed on the register and (3) to continue the employment of unregistered dentists in the Government hospitals till 1951 until the register is prepared.

This is all that the Bill contains and I hope that the House will not find any difficulty in giving its assent to the Bill.

Mr. Speaker : motion moved :

> "That the Bill to amend the Dentists Act, 1948, be taken into consideration."

Shri Sidhva (Madhya Pradesh) : First of all I take strong exception to the issue of an ordinance when the House was sitting in the month of March.

Dr. Ambedkar : The ordinance was issued some time in May. I wish that the points that were raised by my hon. Friends Mr. Sidhva and Pandit Thakur Das Bhargava had been reserved by them to the time when their amendments were taken up. It becomes somewhat embrassing to reply on matters which would, I have no doubt, be raised again when their amendments are moved. But, I cannot help now having to reply to the points raised by them : I shall do so rather briefly, because I know I shall have to say .....

Mr. Speaker : I do not propose to allow any arguments on the amendments.

Pandit Thakur Das Bhargava : I am not going to move any amendment if my hon. friend dose not accept it.

Dr. Ambedkar : Mr. Sidhva has raised one or two points. The first point raised was why an Ordinance was made when the House was in session. The answer to that is two-fold. The first is this. The first question that was made to the Government of India in the matter of extension of time for the preparation of the Register came from the Government of Madras, and that too on or about the 15th of March 1950. That mean that only 13 days had been left for the period for the preparation of the roll to expire. That is one reason, the second reason is that after the receipt of this letter from the Government of Madras, informing the Government of India that it was not possible for them to complete the Register, naturally, it was necessary for the Government of India to find out from other States as to whether they were in a position to prepare their list by the date fixed, or whether they too wanted some extension. Naturally, there ensued correspondence between the Government of India and the various other States.

That undoubtedly took time, and must take time, with the result that by the time the Government of India had received the replies and was able to assess whether an amendment

in terms proposed by the Government of Madras was necessary, Parliament had been prorogued. That is the reason why the measure could not be brought up before the recess.

The second point raised by my friend Mr. Sidhva was this that he did not see any reason why we should make a statutory provision for the recognition of certain qualifications granted by the Bengal Dental School. According to him that was a matter which by the Act is left to the Dental Council. Now, I think my friend Mr. Sidhva has missed one important point and it is this. The power to grant recognition vested in the Council relates to qualifications or degree granted by schools to existence; but we are dealing with a matter in which degree and diplomas have been granted by a body which has become defunct. Consequently, it is for the Government of the day to decide whether the degree granted by a school giving tuition in dentistry were worthwhile recognition or not. It is not a matter which should be left to the Bengal Council under section 10, sub-clause (2). The word is "grants" which means "is granting at present" and not diplomas which have been granted before. That being so it cannot be a matter which could be left easily to be dealt with by the Dental Council under its power, and if we have to amend the Schedule, then that must be done by the law itself. That is why a legal provision is made in the Bill to cover that particular matter.

Now, what I have said with regard to the Bengal Dental School also applies to what my friend Pandit Thakurdas Bhargava said on the very same question.

I come now to the points raised by Mr. Kamath. The first point raised by him was more or less of a technical character. If I understood him correctly, he said that the law required that the Register should be ready on the 28th March, 1950, and that if a person was not on the Register, then under the provisions of Section 46 and 49, he incurs certain penalties, while the Ordinance which exempted the person concerned from these penalties came into operation on the 29th May, 1950. There is, therefore, a two months' period in which a person not being on the Register and continuing to practise or holding office was liable to certain penalties. What

is the position with regard to these persons ? I think my friend Mr. Kamath, if he had read clearly the terms of the amendment proposed in the Bill itself, he would have seen that the provisions say that :

> "In sub-section (3) of section 46 and sub-section (1) of section 49 of the said Act, for the words 'two years' the words 'three years' shall be subsituted and shall be deemed always to have been substituted."

Therefore, it is clear that that point has been adequately covered by the present clause.

Shri Kamath : My point was that if during these two months, from March 29th to May 29, if a dentist had not been registered, then under the Act, and because the Ordinance had not come into force, how could mere executive instruction from the Government prevent a prosecution, or some other penalty being imposed on that dentist ?

Dr. Ambedkar : I quite agree that that could not have prevented prosecution. But fortunately no such case happened and it cannot happen now because the period is carried back to the original Act.

Shri Kamath : But then, Sir .....

Mr. Speaker : Order, order. The point is very clear.

Dr. Ambedkar : My friend Mr. Kamath in dealing with the reasons as to why this Bill was brought in, has made, if I may say so, certain very serious allegations. The contention on behalf of the Government is that this Bill has become necessary by reason of the fact that the States which were required to carry out the provisions of preparing the list have not been able to do so. My friend suggests that there is another reason, and that reason is that there are certain British dentists working in this country who do not propose to become domiciled and get themselves registered, and that this Bill is intended to benefit them. Now, I first of all do not understand how an extension of one year is going to benefit a British dentist working here who has no intention of becoming a domicile of this country. I cannot understand it. But if my friend persists in making that suggestion, which I think is a very serious allegation against an hon. Member

of Government, then it should be his duty when that Member returns, to specifically put the question and ask her reply, whether this was the real motive in bringing forward this particular Bill. I am unable to give any categorical answer; but I may say that I find it extremely different to believe that an hon. member of Government should venture to bring forth such a Bill for no other except, the paltry purpose of benefiting one or two European dentists now in this country. It seems to me a most extravagant allegation.

Shri Kamath : I did not say it is the only purpose, it may be one of the purposes.

Mr. Speaker : But still, the suggestion is very uncharitable.

Dr. Ambedkar : On that point also I would like to point out to him, in answer to a question that he asked, namely, to state the present position, that all the States, who were written to in order to find out how much time they would find it necessary to prepare the register, have replied that they would require not less than one year. And the Bombay Government which may be given the credit of having a more efficient administrative machinery than others, insisted that they should have two years. I think that in itself would suffice to dismiss the suggestion made by my friend Mr. Kamath that this Bill was intended to protect some Britishers in this country.

I do not think that there is any point which has been raised to which I have not adverted in the course of my reply. The Bill, as it is, is a very simple, non-controversial one. It has arisen not because of the fault of the Central Government, but because of the other burdens carried on by the Provincial Government, they could not find the time to bring a particular provision of the Act into operation. I do not know whether we can do anything else except to help the Provincial Governments to give effect to this piece of legislation and being the Dentists Act into operation as early as possible.

Mr. Speaker : The queation is :

> "That the Bill to amend the Dentists Act, 1948, be taken into consideration."

The motion was adopted.

Clause 2 was added to the Bill.

Clause 3 (Amendment of section 46 and section 49, Act XVI of 1948)

Shri Kamath : I beg to move :

> "In clause 3, in the proposed amendment to sub-clause (3) of section 46 and sub-section (1) of section 49 of the Dentists Act, 1948, for 'three years', substitute 'two years and six months'."

The present clause has been inserted so as to enable State Governments to complete their registers of dentists under section 46 and 49 of the Act. This is a retroactive piece of legislation inasmuch as the words used in the clause are "and shall be deemed always to have been substituted." I for one cannot see why for registering a few hundred, dentists, such a long period is necessary. I therefore ask again the Minister to tell the House how many dentists were still to be registered on the 29th March 1950 and in what stage the process is. That would be useful for us to know how much time is necessary for the complete registration and why this extension of time by one year is necessary. If those figures are forthcoming, we will be able to judge what time would be needed to complete the work of registration. In the absence of that it would be very difficult to arrive at an idea of the time required for the registration.

Dr. Ambedkar : This is a matter of opinion. My friend Mr. Kamath with his abundant energy and administrative experience no doubt thinks that six months would be more than enough for completing the register. But, as I just now told the House, even a Government as efficient as the Government of Bombay asked for two years. I personally myself think that in view of the fact that the obligation of preparing the register rests upon the Provincial Governments, it is desirable that this House should follow what the Provincial Governments think is feasible in this matter. As a matter of fact we have curtailed the period to one year instead of the two years asked for by the Bombay Government. We have stuck to one year, which was the original proposal by the Government of Madras. I do not think it is possible

for us with safety to curtail the period for us with safety to curtail the period provided in this Bill.

Shri Kamath : I take it that the Hon. Minister has no figures with him.

Dr. Ambedkar : No figures.

Mr. Speaker : If the registers are incomplete, how can he give the correct figures ?

Mr. Ambedkar : There is no register and who knows who is a dentist and who not.

The motion of Shri Kamath was negatived,

Shri Sidhva : I beg to move :

Renumber clause 3 as sub-clause (1) of clause 3 and add the following new sub-clause (2) :

"(2) In sub-section (*1*) of section 49 of the said Act, after the words 'three years' the words ' from the commencement of this Act or on the completion of formalities under section 32, whichever is earlier,' shall be inserted."

Dr. Ambedkar : As my friend Mr. Sidhva has said, this amendment affects an important principle which underlies the provisions of this clause, namely that the registers should be operative on the same date throughout India. This is not a mere matter of academic interest .....

Shri Sidhva : Is it laid down in the Act ?

Dr. Ambedkar : That is why we have said three or two years throughout. Otherwise we would have prescribed different dates for different States. It is necessary and desirable to preserve the principle of uniformity. The House will see that it affects eligibility for holding posts. It cannot be said that a person is eligible for holding a post in a particular State and not eligible in another State, simply because the State has not been in a position to prepare the register. Therefore I think as it is desirable to preserve the principle I cannot accept the amendment of Mr. Sidhva. After all, the difference is only a matter of six months.

Shri Sidhva : I beg leave to withdraw my amendment.

The amendment was, by leave, withdrawn.

Mr. Speaker : The question is :

"That clause 3 stand part of the Bill."

The motion was adopted.

Clause 3 was added to the Bill.

(MR. DEPUTY SPEAKER IN THE CHAIR)

Clause 4 (Amendment of the Schedule, Act XVI of 1948)

Shri Tyagi (Uttar Pradesh) **:** My amendment reads as follows :

In clause 4, for the proposed item (2A) of Part I of the Schedule to the Dentists Act, 1948, substitute **:**

"(2A) Any other institution imparting education or giving practical training in dentistry which the Central Government may, in consultation with the Central Council of Dentists, recognise for this purpose and on such conditions as the Government may deem fit to prescribe therefore."

I wish to confess that Dr. Ambedkar is a hard nut to crack. He has already said in his speech that the organisation mentioned in this sub-clause was defunct, whereas I was informed by a member of the council of Dentists that a Committee had been appointed to inquire into the conditions of this institution and that the Committee was already working on it. I don't want to make any aspersions on the institution. I don't know what its standard is, I have no personal knowledge of it, and that therefore I don't want to damage the reputation of the institution. But as an enquiry-is going on. I think instead of committing the whole Parliament to recognising that institution, it is better that the Government had reserved the right in their own hands to decide . . .

Dr. Ambedkar : We are not affecting the institution in any way. We are dealing with the degrees granted by that institution in 1940—eight years ago.

Shri Tyagi : Dr. Ambedkar expects me to believe that the degrees of an institution may be recognised without the institution itself being recognised. What I am suggesting is that he may even recognise that institution. I want Government to have powers to recognise any institution ....

Dr. Ambedkar : That power exists in section 10(2).

Shri Tyagi : Sir, I do not move my amendment.

Pandit Thakur Das Bhargava : I beg to move :

> "In clause 4, in the proposed item (2A) of Part I of the Schedule to the Dentists Act, 1948, omit all the words occurring after 'March, 1940'.

Therefore, as you have recognised all others as dentists on the basis of practise the principle of practise should also apply to these eight or ten mens. Therefore, I would request that this amendment may be accepted.

Mr. Deputy Speaker : May I know the reason of the Hon. Minister to this amendment ?

Dr. Ambedkar : This clause is a clause which really gives effect to the suggestion made by the West Bengal Government. Personally I myself feel, however much sympathy I may have with my friend Mr. Bhargava, it involves the question of the assessment of the qualification of the dentist as distinguished from a person who makes a denture. I thought he was rather eloquent on the man who makes a denture. A person may make a denture without being a dentist. We are talking of a dentist, which is a very different profession.

Pandit Thakur Das Bhargava : But he has got a degree of L.D.Sc.

Dr. Ambedkar : The point is this. When the Act was passed, this institution was not deemed to be worthy of recognition. Subsequently there has been a considerable degree of agitation and the West Bengal Government decided to examine the position as to whether any of the persons qualified by tuition in this college were worthy of recognition. They came to the conclusion that before 1940 the standard observed by this institution was some thing which could be considered for the purpose of recognition. But there again they said that although there was a standard maintained it was also known that many boys merely attended and filled in certain terms without learning anything. Therefore, the two additional qualifications were introduced that he should not only have obtained his diploma before 1940 but in the course

of being a student in that college he should have filled in certain terms. It is to make the qualification a real one, worthy of recognition, that these limitations were put in. I am personally prepared to place myself in the hands of the West Bengal Government who know the matter better, rather than substitute my own judgment, however great sympathy I may feel with the dentists themselves.

The Minister of Law (Dr. Ambedkar) : The wording of the article is that "the President may, for the purpose of removing any difficulties, particularly ..... etc." "Particularly" does not mean that he has not got the general power.

Mr. Speaker : As I have understood the point of order of the hon. Member, apart from the words, "any difficulties" and "particularly", he seems to construe article 392 as empowering the President to make adaptations only for purpose of transition from the provisions of Government of India Act to the provisions of the Constitution. That is substantially the point.

Dr. Ambedkar : That cannot be because it is a wrong construction. The point raised by my hon. Friend is that under article 392 the only power which the President possesses is confined to an adaptation of any section of the Government of India Act, 1935, so as to bring it in line with the provisions of the Constitution. My submission is that that is not correct, because the opening words in article 392 are quite general, namely, "The President may, for the purpose of removing any difficulties" and then "particularly etc." comes in. Suppose you were to drop the words "particularly in relation to the transition from the provisions of the Government of India Act, 1935, to the provisions of this Constitution" the wording would be "The President may, for the purpose of removing any difficulties, by order direct ..... etc.".

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(27)

* CODE OF CIVIL PROCEDURE (AMENDMENT) BILL

The Minister of Law (Dr. Ambedkar) : I beg to move :

"That the Bill further to amend the Code of Civil Procedure, 1908, be taken into consideration."

The object of this Bill is three-fold. The first one is to make the Civil Procedure Code applicable throughout India, except in certain areas which are specified in clause 2 of the Bill. As the House will remember, while the Civil Procedure Code extends to what are called Part A states, it does not extend to Part B States. Part B States have, each of them, their own Civil Procedure Code which is although more or less the same as the Civil Procedure Code which operates in Part A States yet it constitutes a separate jurisdiction. The result is that there is a great deal of difficulty in the service of summonses and in the execution of decrees passed by courts in Part A States within the areas covered by the courts of Part B States. Since India has become one under the provisions of our Constitution, it is desirable from the point of view of establishing civil jurisdiction in the matter of suits and processes and execution of decrees that there should be one single Civil Procedure Code. That purpose is achieved by clause 2.

The second object of the Bill is that there were certain matters which were not covered by the existing Civil Procedure Code even as it operates in Part A States. For instance, there was no provision for the service of foreign summonses from foreign courts. Again, there was no provision for the execution of decrees passed by civil courts in places to which this Code did not apply. Similarly, the execution of decrees passed by revenue courts in places to which this Code did not apply was also a matter not covered. Similarly, the provision for the

* P. D., Vol. 8, Part II, 9th February 1951, pp. 2627-32.

operation of commissions issued by foreign courts is also not provided for by our present Civil Procedure Code. In order to provide for these matters, there are introduced in this amending Bill clauses 6, 8, 9 and 11 which deal with them. They are by themselves so self-explanatory that I do not think that any observations of mine are necessary to make hon. members understand what is the purport of these new clauses.

The most important clause, of course, is clause 12 and it is with regard to it that I propose to offer some remarks. As will be observed, clause 12 substitutes sections 83, 85, 86, 87 and 87B. These sections deal with suits by aliens, by or against foreign Rulers, Ambassadors and Envoys. Now, the only sections in which certain changes have been made are 86 and 87B. So far as section 86 is concerned, it is really the old section 86 with some minor changes. The one change that is proposed to be made in section 86 is in sub-clause (2) (d). It deals with the waiving of a privilege given to the foreign Rulers, namely, that they shall be sued only under certain conditions and subject to the satisfaction of certain procedural rules. The question that has been raised is whether any such person covered by the provisions of section 86 can waive this privilege or whether, notwithstanding the fact that he is prepared to waive such privilege, nonetheless the statutory provision should be gone through. Some courts in India have held that this being a statutory privilege of a procedural character, it is not open to the party to waive it and that a person who wants to sue should follow the particular procedure. Now, it does not seem very right or correct that a person who has been given a privilege should be debarred from taking the benefit of that privilege if he thinks that he does not need or does not want the benefit of that privilege. In order, therefore, to set this matter right, this provision has been introduced which expressly says that a person who has been granted this privilege may waive it if he so desires.

The second clause in section 86 which makes a change and to which I wish to draw the attention of the House is sub-clause (4)(b). We have added to the old categories of privileged persons one more category, namely, the category of a High Commissioner stationed in India. The position of a High

Commissioner was up to now somewhat of an anomalous character. Is he an Ambassador? What is he? Whom does he represent? Does he carry the privileges as the representative of a foreign ruler does? In order, therefore, again to remove this ambiguity, it has been felt that it would be desirable to include the Ambassador in the category of privileged persons. There are, for instance, within our territory representatives of the Commonwealth who have been called High Commissioners and who from a diplomatic point of view occupy the same position as Ambassadors. Consequently, whatever may be the reason for making this distinction in their designation, factually, they do represent the heads of their Governments and it is, therefore, proper that they also should receive the same kind of consideration which an Ambassador does.

The other clause which makes a change in the old section 86, is clause 86, sub-clause (4), sub-clause (c). It says that the privilege granted to the heads of the foreign government, or to their Ambassadors and High Commissioners may also be extended to such members of their retinue and their staff as may be notified by the Government of India by public notification. Here again, from the point of view of international law there does not seem to be any unanimity. One set of international lawyers have held that when you once grant immunity or a privilege to the Ambassador as the representative of a foreign State and you do it on the ground that his little colony is a little bit of his country established here, there is no ground, legally speaking, for making any distinction between the man himself and the agents through whom he operates in this country. There are other international lawyers who have said that such privileges need not be extended to everybody, but a state is free to pick and choose as to whom it shall grant these privileges. Now as this matter is not settled in terms of international law, it is felt that the best course would be for the law to give the power to the Central Government to notify whom it shall extend this privilege. It would be possible under this clause for the Foreign Department of the Government of India to make enquiries as to the practice prevalent in other countries and to make

suitable notifications in order to be in conformity with the largest political international opinion in this country. This is all that we propose to do by way of changes in the old section 86 of the Civil Procedure Code.

Now, I come to section 87B in which I know most Members are deeply interested. Section 87 deals with the Rulers of the Former Indian States. The question is whether they should also be given any privileges, such as the one they had under the existing. Civil Procedure Code. Obviously, since they have ceased to be rulers in the political and legal sense of the term, they of course cannot claim any immunity from the operation of the law which is applicable to the rest of the citizens of this country. But the House will know that certain commitments have been made both by the Government of India and, if I may say so, also by the Constituent Assembly when the Constitution was before them, and it is necessary that we must recognise what we have already done. What is, therefore, proposed to be done by the new Section is to make section 85 and sub-sections (*1*) and (*3*) of Section 86 applicable to the Rulers of the former Indian States. If hon. members will refer to section 85 as put down in this amending Bill, they will find that it only says that when a foreign Ruler proposes to sue or if he is being sued, he may be permitted to appoint any particular individual, and the Government of India may permit him to do so, to conduct the litigation on his behalf either as a plaintiff or as a defendant. There is nothing wrong in extending this. The only privilege, so to say under section 85 that a ruler of a former Indian State gets is that he may not be required to attend personally when the suit is proceeding against him. He can defend by proxy.

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With regard to 86(*1*), it says that the consent of the Government of India may be necessary before any proceedings of a civil character are launched against a Ruler of a former Indian State. This matter, again, I believe, was considerably debated yesterday when we were dealing with the Bill to amend the Criminal Procedure Code. The point was that in the present circumstances, there are grounds to believe that those persons residing in the Indian States may have many grounds or reasons for giving effect to their grudge, to their

enmity, or personal hostility to a prince, and they may, without any *bona fide* reason drag him to a court and harass him. The object of requiring the consent of the Government of India is not that there shall be vested in the Government of India an absolute power to protect the prince from any kind of litigation in which the opponent may have a substantial ground for proceeding against him, but to see that the claim that is made against him is of a *bona fide* character. Beyond that there is no purpose in requiring this consent.

With regard to sub-clause (*3*) it gives him freedom from arrest and execution of decree against his property except with the consent of the central Government. As I said, these are merely, what I might say, fulfilment of certain undertakings that we have given in order to maintain the dignity of the Indian Rulers. Beyond that there is nothing.

I might also draw the attention of the House to the definition of the word "Ruler" which is given in section 87B (2) (*b*), I think that definition is important. It is not that every Ruler of a former Indian State will get the benefit of the provisions contained in section 87B. The definition is of a restricted sort, namely, that the Ruler must be recognized by the President as one entitled to these privileges. If a prince were to behave in such a manner that the President thinks that he ought not to be recognized, it would be perfectly possible for the President to delete his name from any notification, so that he would be reduced to the status of an ordinary citizen and be liable to the ordinary process to which every citizen will be liable in this country under the Civil Procedure Code.

The other clauses are just to clear any ambiguity, difficulty and so on. The most important clause is clause 12 and think I have given the House sufficient explanation as to the fundamental basis of the amendments which have been introduced by this Bill.

Mr. Speaker : Motion moved.

"That the Bill further to amend the Code of Civil Procedure, 1908, be taken into consideration."

*** Dr. Ambedkar :** There is not much that calls for a reply.

But as certain points have been made I should like to make my position clear.

The first speaker who took part in this debate said that the provision contained in this Bill with regard to the immunity to be granted to the retinue of a diplomat was not in accord with international opinion. He felt that he was convinced that there was unanimity among the writers dealing with international law that not only the diplomat should get the privilege but also his retinues. I am sorry to differ from him. I have before me several extracts from treatises dealing with international law and I do not wish to weary the House by reading them. I can assure the House that I do not find any such unanimity from the extracts before me. It is on that account that the section has been worded in the way in which it has been worded. My friend will also realise that whatever may be the method of defining the positions, the result will not be in any way different if the clause is allowed to stand as it is. Because whether the immunity is granted by the section itself or whether it is granted by a notification issued under the section, the result cannot be very different.

His second point was that we were not justified in using the word "Ruler", because there are heads of States who are not called "Rulers". I should like to draw his attention to the fact that in drafting this clause we have been following practically the same language which has been followed in the existing Civil Procedure Code. I would like to draw his attention to the heading of section 83 of the Civil Procedure Code, also to section 85, sub-clauses (1) and (2) and section 86, where the wording which we have used is also the wording used there. There is therefore no departure from the language that has been adopted in the existing Civil Procedure Code. But in this connection I would like to draw his attention to the definition that we have given of a "Ruler" which is contained in proposed section 87A of the Bill which says :

> "Ruler" in relation to a foreign State, means the person who is for the time being recognised by the Central Government to be the head of that State."

* P.D., Vol. 8, Part II, 9th February 1951, pp 2646-62.

Therefore, whether any particular State has a monarchical form of Government and the Ruler is a monarch or whether any particular State has a republican form of Government with a President or some other dignitary at the head of it, it really cannot make any difficulty at all in view of the fact that our definition leaves the matter to the Central Government to State who is to be regarded as the head of the State.

Coming to the position of the Indian Rulers, I have been asked to clarify one or two things. One is how long these privileges are going to last, and then, secondly, whether the privileges are personal privileges of the present, existing Rulers or whether they have any hereditary character which will pass on from father to son. My lawyer friends will realise that a lawyer never undertakes to solve a problem unless the problem is present to him, before him. No such problem is present before me and therefore I am not in a position nor willing to commit myself to any particular interpretation.

Mr. Deputy Speaker : It is there : Rulers for the time being.

Dr. Ambedkar : Yes, for the time being. Therefore, what I am saying is that this is a matter which is open to consideration, to revision, at all times. It is not a matter which has been so to say taken out of the purview of Parliament or of Government. If Parliament so chooses, it can decide that these privileges and immunities shall end because enough time has intervened for us to suppose that these enemies of the Indian Princes have died out or disappeared without leaving any kind of progeny to harass them further, or they may take the view that these privileges may be permitted to last till the life time of the present holder. Therefore, the issue is quite open, not a closed one.

With regard to the assurances that have been demanded from me on behalf of Government as to how Government propose to utilise this power of granting or refusing consent, speaking for myself, I cannot have the slightest doubt in my mind that any Government or a Member of Government who may be dealing with this matter would ever think it advisable or proper to withhold consent in a matter where the claim

is absolutely *bona fide*. I have no doubt in my mind at all because any Member who might be dealing with such a matter would be answerable to the House.

Pandit Kunzru (Uttar Pradesh) **:** Sir, it is past one o'clock now.

Mr. Deputy Speaker : If possible let us complete the first reading now.

Pandit Kunzru : The Hon. Minister might take half an hour.

Mr. Deputy Speaker : How long will the Hon. Minister take to finish?

Dr. Ambedkar : I will not take long, Sir.

My friend, Mr. Sarwate, in his anxiety to criticise Government for giving certain privileges to the former Rulers of Indian States said that he did not quite understand why sub-section (2) of section 86 was not made applicable to the Indian Princes, I am sure my friend, Mr. Sarwate, will realise that we have done the wisest thing in not applying it because if we had applied it Government would have been debarred from giving any consent to a suit against a Prince unless the four conditions mentioned in sub-section (*2*) had been satisfied. Clauses (a), (b), (c) and (d) embodied in sub-section (*2*) of section 86 are really rules of International law. There can be no dispute about them and we don't want to treat the Indian Princes on the same footing as ambassadors or heads of States or Rulers of other foreign States. The immunity that we have granted therefore, is of a very small dimension. If sub-section (2) had been made applicable the thing would have been worse.

I do not think, therefore, that any serious objection can be levelled against this Bill.

Mr. Deputy Speaker : The question is :

> "That Bill further to amend the Code of Civil Procedure, 1908, be taken into consideration."

The motion was adopted.

Mr. Deputy Speaker : The House will stand adjourned till 2-35 p.m.

The House then adjourned for Lunch till Thirty Five Minutes Past Two of the Clock.

The House re-assembled after Lunch at Thirty Five Minutes Past Two of the Clock.

[MR. DEPUTY-SPEAKER *in the Chair*]

Clauses 2 and 3

Clauses 2 and 3 were added to the Bill.

Clauses 4 to 11

Shri Raj Bahadur (Rajasthan) **:** I have an amendment to clause 4 but I would not like to move it formally. I only want to say one thing. Nowhere in the Constitution has the Central Government as such been empowered to constitute a court. The authority that is there in this behalf is exercised in the case of the Supreme Court by the President and in the case of the courts in the States by the Governor of the State. My objection pertains only to this point. I think that if we simply substitute the words "under the authority of the Constitution" for the words "Central Government" it would be much better.

Dr. Ambedkar : I Cannot accept the suggestion. The Constitution has established certain courts—the Supreme Court and the High Courts. As far the establishment of special courts, Parliament has been given the power and the Central Government can act under the authority given by Parliament. Therefore, it is inappropriate to use the words "the Constitution of India". Besides, "Central Government" has been used throughout in all the adaptation orders and I think it would be very unfortunate if a departure is made in the matter of terminology in this particular Bill.

Mr. Deputy Speaker : So, the hon. Member's point is answered. I shall put clauses 4 to 11 together as there are no amendments to them.

The question is :

"That clauses 4 to 11 stand part of the Bill."

The motion was adopted.

Clauses 4 to 11 were added to the Bill.

Mr. Deputy Speaker : On a point of information, in regard to clause 9 may I know from the Hon. Minister what is the need for saying "execution of a decree of any revenue court in any State in any other State". Could it not be "a revenue court in that State"? Why should it be augmented?

Dr. Ambedkar : The object of putting it in larger terms is to facilitate.

Dr. R. U. Singh : When the general discussion on the motion for consideration was on, I raised the same point and the Hon. Law Minister was pleased to say that the word 'Ruler' is used in some of the sections of the Civil Procedure Code under discussion. I have looked through the various sections of the Civil Procedure Code which are under discussion under clause 12 of the amending Bill, and I dare say that the word 'Ruler' is not used anywhere else. As I said earlier, it is only the sub-title that uses the word "Foreign Rulers". In the sections themselves the word 'Ruler' is not used. 'Ruling chiefs' may have been used because this term was in vogue in this country or some such term may have been used, but I dare say, Sir, the term 'Ruler' has not been used.

As the provisions of the Civil Procedure Code stand, it was not necessary to define the term Ruler. The point that was made by me was that it has been done unnecessarily and I reinforce that argument by saying that when we are dealing with questions of International Law, we might use terminology which is familiar to International Law. I observe that the term "Ruler" is not used. The words used generally are, "Head of a State" or "Sovereign", "foreign State" or "Foreign Sovereign". I do think that Government have taken pains unnecessarily to introduce the term "Ruler". I do feel that if the word 'Head' only is substituted now, because they have re-arranged the section and framed the thing in such a manner, some of the clauses will become clumsy. In some places 'Head of the State' will have to be used, in some places 'Head' only will do. Therefore, while sticking to my original point of view, I observe that it is unhappy that the term "Ruler" has been used. I think the clumsy phraseology used

in the amending Bill may be allowed to stand. Or if that is not to stand, then, in some places, the word "Head" has to be used and in other, the ;erm "Head of a Foreign State" has to be used, because the draftsmen have some-how rearranged the clauses in such a manner that there is no escape from this position.

Dr. Ambedkar : I am really at a loss to understand why my hon. friends are unhappy over the phraseology that has been used in this Bill My hon. friend Mr. Raj Bahadur says that it is better to distinguish foreign Rulers from Indian Rulers by giving them a different name. Supposing that was true, would it not be necessary again to define "Head of a Sate".

Shri Raj Bahadur : No, no .....

Dr. Ambedkar : In the United States of America, there is the President; in Great Britain, there is the King; in Switzerland, there is some other machinery to represent the State. If the facts are various, you will have to have a definition of "Head of State".

Another hon. Member says that he has examined the provisions of the Civil Procedure Code to which I made reference in the morning. He thinks that the words that we have used in this amending Bill do not occur there. I hope he has got a copy of the Civil Procedure Code in front of him.

Dr. R. U. Singh : I have got it here.

Dr. Ambedkar : Please look up the heading of section 83.

Dr. R. U. Singh : That I stated earlier.

Dr. Ambedkar : The heading is, "Suits by Aliens and by or against Foreign Rulers and Rulers of Indian States." I would like to draw his attention also to the fact that this amendment was made in 1937 by the adaptation of Indian Laws Order. I cannot say that I am quite up-to-date in the matter of International Law and the phraseology that they use. But, I am quite content in saying that any one who made this Adaptation—and he will permit me to say that the adaptation was made by the India Office—must have been advised by some Parliamentary Lawyer, who could not have gone very much wrong in using the phraseology 'Foreign Rulers'

Then, he says that the term 'Ruler of an Indian Sate' has never been used in sections 83 onwards. I quite agree that a variety of designations have been used. The Indian Rulers have been called Princes, Rulers, Chiefs and so on. But, what I want to submit is this. When the Constitution by several articles has given them a particular description, namely. 'Rulers of Indian States', is it permissible for the draftsmen to use a language other than the one that is used in the Constitution? The Justification for using the words "Rulers of Former Indian States" is simply that that is the language that is used in the Constitution. We do not want to have any departure from the language used in the Constitution so as to leave it open to anybody like my hon. friend Mr. Naziruddin Ahmed to come up and say, "well, this provision does not apply to the people to whom it is intended to apply."

Mr. Speaker : The question is :

In clause 12 in the proviso to the proposed new section 84 of the Code of Civil Procedure, 1908, for "Ruler" substitute "Head",

The motion was negatived.

Similar 3 other motions were negatived

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* **Dr. R. U. Singh :** ..... So far as the immunity of the Rulers of the Indian States is concerned, we do not have any such assurance from the Law Minister, in regard to things done even in their personal capacity. We are concerned with that aspect of the question. It has not been said that a certain amount of notice would be sufficient or some such thing. The immunity now sought to be conferred on them is much greater than the immunity conferred on the Head of the Indian Republic, as also the Heads of the various States of the Union. And if Government would indicate their mind and their policy in this regard, as to the duration of the immunity and the extent of that immunity—I dare say it ought not to be very wide—it would be extremely nice indeed..

* P. D., Vol. 8, Part VIII, 9th February 1951, pp. 2664-65.

Dr. Ambedkar : Before recess, I was also called upon to answer some of the questions which have been raised by my friend. I think I gave replies to those which I thought one should very safely give, and I do not know that I have anything further to add to what I have said. All that I would like to say now is this. My hon. friend if he will forgive my saying so, seems to lack sufficient imagination.

Shri R. U. Singh : All lawyers do not have much of it.

Dr. Ambedkar : Lawyers sometimes have very long imagination. If he had sufficient imagination he should have realised the fact that the Constituent Assembly very definitely and very rightly said that whatever was included in the covenant made before a certain date, matters contained in it were not justiciable. Now, I think that was a very great protection and a very important fact. It means that Parliament or Government is free to make any change it likes, notwithstanding the fact that the matters were mentioned in the convenant. That being so, I think the House at any rate, should feel satisfied that the future is in no way closed or dark. I do not think that anybody would expect me to say anything more than that.

Mr. Speaker : The question is :

In clause 12, omit the proposed new section 87B.

The motion was negatived.

Mr. Speaker : The question is :

"That clause 12 stand part of the Bill,"

The motion was adopted.

Clause 12 was added to the Bill.

Clauses 13 to 18 were added to the Bill.

Clause 19.—*(Special Provisions etc.)*

Amendment made :

In Clause 19, *omit* "Code of" occurring in line 2.

—[Dr. Ambedkar]

Clause 19, as, amended, was added to the Bill.

Clause 20 was added to the Bill.

Clause 1.—(*Short title etc.*)

Amendment made :

In Sub-clause (1) of clause 1, for "1950", substitute "1951".

—*[Dr. Ambedkar]*

Clause 1, as amended, was added to the Bill.

The Title and the Enacting Formula were added to the Bill.

Dr. Ambedkar : I beg to move :

"That the Bill, as amended, be passed."

Mr. Speaker : The question is :

"That the Bill, as amended, be passed".

The motion was adopted.

(28)

*PART B STATES (LAWS) BILL

The Minister of Law (Dr. Ambedkar) : Sir, I move for leave to introduces Bill to provide for the extension of certain laws to Part B States.

Mr. Speaker : The question is :

> "That leave be granted to introduce a Bill to provide for the extension of certain laws to Part B States."

The motion was adopted.

Dr. Ambedkar : Sir, I introduce the Bill.

**PART B STATES (LAWS) BILL

The Minister of Law (Dr. Ambedkar) : I beg to move :

> "That the Bill to provide for the extension of certain laws to Part B States, be taken into consideration."

The Bill is a very simple one...

An Hon. Member : As all other Bills are.

Dr. Ambedkar : Much simpler than the others. The object of the Bill is this. There are certain Acts passed by the Central Legislature which on account of the jurisdiction formerly exercised by the Central Government were confined in their operation to Part A States only. Part B States (formerly called the Indian States) which were sovereign and independent, had their own laws which might be compared to the laws passed by the Central Legislature under Lists I and III. Now this Parliament has obtained jurisdiction over the territories covered by Part B States so far as Lists I and III are concerned. There are already in existence a large number of Acts passed by the Central Legislature covering the field of Lists I and III, which on account of their territorial limitation did not apply

* P. D., Vol 6, Part II, 20th November 1951, p. 183.

** P. D., Vol 8, Part II, 9th February 1951, pp. 9665-66.

to Part B States. It is for this purpose that this Bill has been brought forward.

Hon. Members will see that to this Bill is added a Schedule giving the list of Acts which it is proposed under the powers given by this Bill to be extended to Part B States. There are altogether 135 Acts, so far as I have computed them, which are sought to be extended to Part B States.

While seeking to extend the Central Acts to Part B States it is felt that these Acts themselves required some small amendment according to the views of the various administrative departments of the Government of India which are working these Acts. Consequently the occasion which now exists for the purpose of extending these 135 Acts is also utilised for the purpose of making certain amendments in these Central Acts, so that when this Bill is passed, not only these Acts will come into operation in Part B States but they will also come into operation in the form in which they are modified by the provisions contained in the various Acts in the Schedule as mentioned therein. I do not think any controversy is likely to arise over the principle of this Bill.

There are one or two omissions which we have discovered since and I propose to move amendments in order to bring them under this Schedule.

Mr. Speaker: Motion moved:

> " That the Bill to provide for the extension of certain laws to Part B States, be taken into consideration. "

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* **Dr. Ambedkar:** With regard to the point made by my friend from Travancore-Cochin, Shri Sivan Pillay the position is quite easy as I see it. There are some laws which are sought to be extended by this Bill which fall in the Concurrent List. Consequently, it would be open to any State in India to amend these laws in the manner that they wish to do. To take his illustration, namely, the Indian Penal Code, it is quite true that the Indian Penal Code sanctions death as one of the

* P. D., Vol 8, Part II, 9th February 1951, pp. 2669-77.

penalties. It is equally true, as he has said, that the Penal Code as it now operates in Travancore abolishes that penalty. Well, after the Indian Penal code has been made applicable under this Act, it would be perfectly possible for the Travancore-Cochin Legislature to pass an amending Bill and amend the Indian Penal Code in the way they wish to do. Consequently, so far as the laws which fall under the Concurrent List are concerned, all States in India which have the power to make laws will certainly make laws to suit their circumstances.

With regard to the point made by my other hon. friend, it seems to me that he has not read correctly the provisions of clause 3 of this Bill which says :

> "The Acts and Ordinances specified in the Schedule shall be amended in the manner and to the extent therein specified ".

Therefore, this Bill is both a Bill to amend and also to extend. Of course, he might stay that this is a very inelegant method of legislation, but let him consider his plan of doing the thing. We will have to stay here and pass 135 different laws, first to amend and then to extend. I think it is desirable, although it may not be quite so straight or elegant, to adopt the summary procedure that has been adopted in this Bill, namely, both to amend and to extend. I do not think my hon. friend will have any quarrel after this explanation.

Mr. Speaker: The question is :

> " That the Bill to provide for the extension of certain laws to Part B States, be taken into consideration. "

The motion was adopted.

Clauses 2 to 6.

Clauses 2 to 6 were added to the Bill.

Clause 7.—*(Power to remove difficulties)*

Amendment made:

In sub-clause (2) of clause 7, after part (b) insert:

> "(c) specify the areas or circumstances in which, or the extent to which or the conditions subject to which, anything done or any action taken (including any of the matters specified in the second proviso to

section 6) under any law repealed by that section shall be recognised or given effect to under the corresponding provision of the Act or Ordinance as now extended. ”

—[*Dr. Ambedkar*]

Clause 7, as amended, was added to the Bill.

The Schedule

Dr. Ambedkar: I was wondering whether all the amendments to the Schedule standing in my name may be taken as moved.

Mr. Speaker: Is the House agreeable to this course?

Hon. Members: Yes, Sir.

Shri Shiv Charan Lal: I would like to have clarification on one point before you put these amendments to vote. On page 4 of the schedule, under the Government Savings Banks Act, 1873, it is said that that Act would not apply to any deposits made in the Anchal Savings Bank of the State of Travancore-Cochin. It is not clear to us why it won't apply to this Bank.

Dr. Ambedkar: I am afraid it would be very difficult for me to reply to the various queries. I should therefore like to explain my position. This Bill is like a supplementary estimate which the Finance Minister puts before the House, although the actual responsibility of defending the different estimates falls upon the different Ministers who are responsible for them. I am merely sponsoring what the other Departments desire should be done. I am sorry that the Finance Minister is not here, otherwise, he might have explained to my friend exactly why he wants this particular amendment to be made. All the same, I hope that my friend will agree that this must have been done after very deliberate and mature consideration.

Mr. Speaker: I do not wish to raise any objection, if the House has none, but this is not a satisfactory procedure. An hon. Member is entitled to know before he votes what he is called upon to vote and why. Even if the position be like the supplementary estimate, it should be the practice to append some kind of notes for the benefit of hon. Members explaining

the reasons why they are called upon to vote for a certain proposition.

Dr. Ambedkar: It is a very valuable suggestion. We shall try and follow it up.

Mr. Speaker: What is the present position of Shri Shiv Charan Lal ? Is he agreeable to vote for it without knowing the reasons?

Dr. Ambedkar: We shall insure any risk, if he is undergoing one.

Mr. Speaker: It does not mean that he doubts the correctness or the soundness of the proposition, but still as a Member he is entitled to know the reason.

Shri S. V Naik (Hyderabad)**:** On page 5 of the list of amendments to the Schedule, under the heading "Currency Ordinance, 1940" after section 2, certain temporary provisions with respect to Hyderabad one-rupee notes are made. I would like to know what will be the position in regard to the other currencies that are prevalent in the Hyderabad State.

Dr. Ambedkar: I shall have to answer in the same way that I have done before. I can inform the Hon. the Finance Minister and he will probably communicate to the hon. Member what is the answer.

4 P.M.

I have one more amendment to the schedule. I request that that may also be taken as moved.

Amendments made:

1. In the schedule, under the heading "The Indian Oaths Act, 1873", for the item relating to section 1, substitute :

"Section 1.—"except Part B states" substitute "except the States of Manipur and Jammu and Kashmir".

2. In the Schedule, after entry relating to "The Partition Act, 1893", insert:

"The Livestock Importation Act 1898 (IX of 1898) ,

Section 1.—For sub-section (2) substitute :

(2) It extends to all Part A States, Part C States and the States of Saurashtra and Travancore-Cochin'."

3. In the Schedule, under the heading " The Indian Coinage Act, 1906 ", for the last item substitute :

"After section 23, insert the following, namely:

' 24. temporary provisions with respect to certain Part B States Coins.—Notwithstanding anything in section 6 of the Part B States (Laws) Act, 1951, coins of such description as at the commencement of the said Act were in circulation as legal tender in any Part B State shall continue to be legal tender in that State to the like extent and subject to the same conditions as immediately before the commencement of the said Act for such period, not exceeding two years from such commencement, as the Central Government may, by notification in the *Official Gazette,* determine.' "

4. In the Schedule, under the heading "The Indian Companies Act, 1913", after the item relating to the new section 2B, insert:

" Section 144.—After sub-section (*1*) insert:

(2) Notwithstanding anything contained in sub-section (*1)* but subject to the provisions of rules made under sub-section (*2A*), the holder of a certificate granted under a law in force in the whole or any portion of a Part B State immediately before the commencement of the Part B States (Laws) Act, 1951, entitling him to act as an auditor of companies in that State or any portion thereof shall be entitled to be appointed to act as an auditor of companies registered anywhere in that State.

(2A) The Central Government may, by notification in the *Official Gazette,* make rules providing for the grant, renewal, suspension or cancellation of auditors' certificates to persons in Part B States for the purposes of sub-section (*2*), and prescribing conditions and restrictions for such grant renewal, suspension or cancellation'."

5. In the Schedule, after the entry relating to the " Indian Copyright Act, 1914 ", insert:

"*The Cinematograph Act, 1918 (II of 1918)*

Section 1.—In sub-section (2), omit "Hyderabad and'."

6. In the Schedule, after the entry relating to "The Indian Bar Councils Act, 1926 ". insert:

" The Child Marriage Restraint Act, 1929 (XIX of 1929).

Section 1.—In sub-section (2), for 'except Part B States' substitute 'except the State of Jammu and Kashmir'."

7. In the Schedule, under the heading "The Petroleum Act, 1934", in the item relating to section 1. for "For" substitute "In sub-section (2), for".

8. In the Schedule, after the entry relating to "The employment of Children Act, 1938", insert:

" The Motor Vehicles Act, 1939 (IV of 1939)."

Throughout the Act, unless otherwise expressly provided, for the States' substitute 'India'.

Section 1.—(a) In sub-section (2), for 'except Part B States' substitute 'except the State of Jammu and Kashmir';

(b) for sub-section (*3*), substitute:—

'(3) Chapter VIII shall not have effect in any Part B State to which this Act extends until the Central Government, by notification in the *Official Gazette,* so directs, and notwithstanding the repeal by section 6 of the Part B States (Laws) Act, 1951, of any law in force in that State corresponding to the Motor Vehicles Act, 1939, the corresponding law, in so far as it requires or relates to the insurance of motor vehicles against third party risks shall, until Chapter VIII takes effect in that State, have effect as if enacted in this Act.'

Section 2.—(a) after clause 9 insert

'(9A) 'India' means the territories to which this Act extends':

(b) omit clause (29A).

Section 9.—(a) In sub-section (2), for 'In any Part B State', substitute 'in the State of Jammu and Kashmir';

(b) In sub-section (4),—

(i) for 'any Part B state or' substitute 'the State of Jammu and Kashmir or any'; and

(ii) for 'in any State' and 'in any such State' substitute 'in the State'.

Section 28.—(a) In sub-section (2), for 'any part B State' substitute 'the State of Jammu and Kashmir';

(b) in sub-section (5),—

(i) for 'any Part B State or' substitute 'the State of Jammu and Kashmir or any';

(ii) for 'registration in such State' and 'registration in any State' substitute 'registration in the State '; and

(iii) for ' issued in any such State' substitute 'issued in the State'.

Section 42.—In sub-section (*3*),—

(i) in clause (a), for 'the Government of a Part A State' substitute 'a State Government';

(ii) in clause (h), for 'any Part B State or' substitute ' the State of Jammu and Kashmir or any.'

Section 133.—For 'the Legislature of a Part A State' substitute 'the State Legislature'.

The Sixth Schedule.—For the table, substitute the following:—

Assam	...	...	AS
Bihar	...	...	BR
Bombay	...	...	BM, BY
Madhya Pradesh	...	...	CP, MP
Madras	...	...	MD, MS
Orissa	...	...	OR
Punjab	...	...	PN

Uttar Pradesh	...	...	UP, US
West Bengal	...	...	WB, WG
Hyderabad	...	...	HT, HY
Madhya Bharat	...	...	MB
Mysore	...	...	MY
Patiala and East Punjab States Union		...	PU
Rajasthan	...	...	RJ
Saurashtra	...	...	SS
Travancore-Cochin	...	...	TC
Ajmer	...	...	AJ
Bhopal	...	...	BS
Bilaspur	...	...	BL
Coorg	...	...	CG
Delhi	...	...	DL
Himachal Pradesh	...	...	HI -
Kutch	...	...	KH
Manipur	...	...	MN
Tripura	...	...	TR
Vindhya Pradesh	...	...	VP
Andaman and Nicobar Islands	...	...	AN' "

9. In the Schedule, under the heading " the Protective Duties Act, 1946 ", omit the last item relating to section 2.

10. In the Schedule, omit the entry relating to the Employees' State Insurance Act, 1948, (XXXIV of 1948).

11. In the Schedule, omit the entry relating to "The Transfer of Detained Persons Act, 1949 (XLV of 1949)".

12. In the Schedule, under the heading "The Currency Ordinance, 1940 ", after the item relating to section 2, insert;

" After section 2, insert the following, namely:—

"2A. *Temporary provisions with respect to Hyderabad one-rupee notes.*—Notwithstanding anything contained in section 6 of the Part B States (Laws) Act, 1951, notes of the denominational value of one rupee which at the commencement of the said Act were in circulation as legal tender in the state of Hyderabad shall continue to be legal tender in that state to the like extent and subject to the same conditions as, immediately before the commencement of the said Act and for such period, not exceeding two years, from such commencement, as the Central Government may, by notification in the *Official Gazette,* determine'."

13. In the Schedule, insert the following as the first entry:

"The caste Disabilities Removal Act, 1850 (XXI of 1850)

Long title and preamble.—For 'the territories subject to the Government of the East India Company' substitute 'India'

Section 1.—(1) For 'the territories subject to the Government of the East India Company' substitute 'India' and for 'in the courts of the East India Company and in the courts established by Royal Charter within the said territories' substitute 'in any court'.

After section 1, add the following section, namely:—

2. *Short title and extent.*—(1) This Act may be called the Caste Disabilities Removal Act, 1850.

(2) It extends to the whole of India, except 'the State of Jammu and Kashmir'. "

—*[Dr. Ambedkar]*

The Schedule, as amended, was added to the Bill.

Clause 1.—*(Short title etc.)*

Amendment made:

In sub-clause (1) of clause 1 and elsewhere in the Bill where there is a reference to the Part B States (Laws) Act, 1950, for " 1950 " substitute "1951".

—*[Dr. Ambedkar]*

Clause 1, as amended, was added to the Bill.

The Title and the Enacting Formula were added to the Bill.

Dr. Ambedkar: I beg to move :

"That the Bill, as amended, be passed."

Mr. Speaker: Motion moved :

"That the Bill, as amended, be passed."

Capt. A. P. Singh (Vindhya Pradesh)**:** Sir, I would like to draw your attention to one point. The statement of Objects and Reasons lays down that "for the purpose of improving the administration", and as such I oppose it; although this is not a part of it and so no amendment could be put forth in this connection.

Mr. Speaker : Order, order. The hon. Member is too late. I may inform him, however, that a protest on this same point was raised by another Member of this House previously.

Dr. Ambedkar: I would like to apologise, Sir.

Mr. Speaker : The question is :

" That the bill, as amended, be passed."

The motion was adopted.

PREVENTIVE DETENTION (AMENDMENT) BILL

* **The Minister of Home Affairs (Shri Rajgopalachari):** ..... I was coming here in a hurry for I heard that Dr. Ambedkar was able to get through two solid Bills in this House as I had not at all anticipated last evening. It seems to me that people treat me much worse than they treat Dr. Ambedkar.

The Minister of Law (Dr. Ambedkar): I am a Harijan; you are not.

LAYING OF ADAPTATION ORDER ON THE TABLE

** **Mr. Deputy Speaker :** Dr. Ambedkar.

The Minister of Law (Dr. Ambedkar): Mr. Deputy Speaker, Sir.....

Shri Syamnandan Sahaya (Bihar)**:** Sir, before the Law Minister begins, may I make a submission? Now we have got an idea of the work to be done by Parliament up to the 16th. But we do not yet know what Bills or other legislative measures or other work will be taken up on the 17th of this month and ...

Shri Sidhva (Madhya Pradesh)**:** There is the agenda up to the 19th.

Shri Syamnandan Sahaya : But it only says whether the business will be official or non-official.

Shri Sidhva : No, they are all official Bills. We got it today.

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* P. D., Vol 8, Part II, 9th February 1951, p. 2679.

** P. D., Vol 10, Part II, 12th April 1951, p. 6659.

Dr. Ambedkar: Mr. Deputy-Speaker, yesterday, my hon. friend Mr. Hussain Imam raised a question with regard to an answer which I gave to a question put by Pandit Bhargava with regard to the Adaptation Order issued by the President. Unfortunately I was not present in the House. I wish he had given me previous notice that he was going to raise this matter; I certainly would have been present in the House to give him the answer. From the proceedings, extracts from which were supplied to me yesterday evening. I find that he raised two questions. One question which he raised was that he was not able to obtain a copy of the Adaptation Order although he made an effort to get one. On that point, the facts which I have been able to ascertain are these. The Adaptation Order was published in the Gazette Extraordinary dated the 4th instant. I gave my reply on the 7th. Copies of the Adaptation Order, or rather, of the Gazette, were received in the Constitution Branch on the 10th, the date on which he sent a telephonic message to the Constitution Branch, enquiring as to what had happened to the copies of the Adaptation Order. My information is that the Superintendent whom he contacted on that matter told him that the copies of the Gazette Extraordinary had just reached him and that he was examining whether there were any clerical or printers' errors. I am told that my hon. friend did not specifically ask for a copy. I do not know, he is in a better position to confirm this or not.

Shri Hussain Imam (Bihar)**:** I asked for it in the Notice Office and in the Library.

Dr. Ambedkar: I am telling what happened in the Superintendent's branch. That being so, the hon. Member was not directly supplied any copies from the Constitution Branch. It is obvious that if the copies were received by the Superintendent on the 10th it was not possible for him to supply copies to the Notice Office for distribution among Members of Parliament. That is the position so far as the first complaint is concerned.

I find from the proceedings, extracts of which were sent to me, that the hon. Member also raised a question of privilege.

What I understood him to say was that as soon as an Adaptation Order is made by the President, it ought to be placed on the Table of the House. Now, Sir so far as that point is concerned, my submission is this. Whatever privileges this House has, they are regulated by article 105 of the Constitution which says that the Parliament shall have all the privileges which the House of Commons has. That takes us to an enquiry as to whether, when laying a paper on the Table of the Parliament is a matter of privilege and when it is not a matter of privilege. Referring to May* one thing is quite clear....

Mr. Deputy Speaker: I am sorry to interrupt the Hon. Minister. So far as the question of privilege is concerned first of all the Speaker looks into the matter, goes through the rules and regulations and then ascertains the opinion of the House. If he comes to the conclusion that a matter of privilege is involved, he then sends it to the Privileges Committee. I do not think the hon. Member seriously raised a question of privilege. The question was that a copy of the Adaptation Order ought to be made available. He went to the Notice Office and also to the Library. He said that the Adaptation Order was made as early as the 4th April and therefore normally expected it to be placed in the Library in a day or two. Now that the matter has been made clear by the Law Minister we need not go further into the question of privilege.

Dr. Ambedkar : If that is your ruling I would not pursue the matter. But I only wanted to submit one point which 1 think is of general interest and which the House should know. A matter of privilege can arise only when a statute makes it obligatory upon the government that a paper should be laid on the table of the House. Now so far as the Adaptation Order is concerned there is no such obligation at all. I would like hon. members to compare article 372, which deals with Adaptation, with article 392 which deals with an order made by the President for the removal of difficulties in the Constitution during the transition period. It will be found that so far as article 392 is concerned there is a specific sub-clause which says that any order made by the President for the removal of difficulties shall be placed on the table of the

* May's Parliamentary Practice—*ed.*

House. There is no such proviso with regard to article 372. Therefore my submission was that there is really no privilege involved and the question of breach of privilege therefore cannot arise.

Pandit Maitra (West Bengal)**:** Sir, are you going to allow a general discussion as to whether or not this is a question of privilege ....

Shri Bharati (Madras)**:** The Chair has already ruled that there was no question of privilege.

Mr. Deputy Speaker: I am not deciding the question of privilege at all. In as much as there was a reference by Mr. Husain Imam to the word privilege, the Hon. Law Minister thought that he must answer that other point also. He has now placed his view point. That question does not arise now and therefore I will not go into it.

[MR. DEPUTY-SPEAKER *in the Chair*.]

***Mr. Deputy Speaker:** The hon. Member may resume after we hear the Hon. the Law Minister.

Dr. Ambedkar: Sir, I have applied my mind to the points which you were good enough to put to me and I would like to submit my opinion about those points.

The real question that the House has to consider is whether this Bill offends against Article 117—either clause (1) of that article, or clause (3) of that article. Those are the main points that are to be considered and the clauses which require to be considered in the light of Article 117 are clauses (4), (5) and (6) of the Bill.

I should take clauses (5) and (6) together. Now it is contended that those clauses offend against clause (1) of Article 117. The validity of that contention must depend upon the meaning that is to be attached to the word "appropriation" occurring in sub-clause (d) of clause (1) of Article 110 which defines what is a "Money Bill". Now, I am quite certain in my mind that the word "appropriation" which is used in

* P. D., Vol. 10, Part II, 12th April 1951, pp. 6725-27.

sub-clause (d)—and I have verified myself by reference to May's " Parliamentary Practice " where this matter has been discussed at great length—is a term of art and it involves two things: first the naming of the service, the particular service, and secondly the exact allotment of money to be spent on that particular service. It is these two things that go to make what we know now as appropriation and it is in that sense that the word is used both in Article 114 and Article 266 of the Constitution.

Reading the two clauses 5 and 6 in the Bill I do not think it is possible to import into those two clauses any such thing as we now understand by the term " appropriation". They are, in my judgment, mere directions to the Government that this is a service on which money may be spent which Government may or may not spend. Therefore, so far as Article 117, clause (1) is concerned, the Bill, it may be said, sails clear and no difficulty can arise on that account.

Now, I turn to clause 4 of the Bill. There, we have to consider whether that clause offends against clause (3) of Article 117. My conclusion is that it does, because clause 4 of the Bill imposes a liability upon the Government to undertake a service which, if the Bill is passed by this House, would undoubtedly involve expenditure out of the Consolidated Fund. Therefore, it would require a recommendation from the President under the provisions of clause (3) of Article 117.

The question that remains for consideration is this. At what stage must the recommendation of the President be forthcoming? The word used there is " consideration ". It has been contended that " consideration " means the very initation of the Bill. I am afraid I cannot agree with that contention. A bill has two stages: the first stage is called in our parlance " Introduction ", which is different from ' consideration '. After a Bill is introduced, then the stage of consideration begins and the stage of consideration continues from that point when the Bill is taken up by the House after the stage of introduction, until it is passed. During that interval the proceedings are proceedings in respect of consideration of the Bill. Therefore, in my humble opinion, if before the motion for passing is put,

a recommendation is obtained, that would meet the requirements of clause (3) of Article 117. But while that is so, I think there is one practical point which must be considered. The House must not readily assume that the President will give his assent or recommendation whenever it is asked. If a financial liability is involved, the President will have to consider the matter in detail and find out whether the financial condition of the country is such as he could agree to take more financial liability. It is possible that the President may refuse his recommendation, in which case the labour spent by the House would be wasted. I think, therefore, there is no harm in adopting or suggesting the rule that whenever there is any bill projected before the house which involves or is likely to involve expenditure from the Consolidated Fund, the House should insist that immediately, before the consideration stage begins, the Member in-charge should produce a recommendation from the President so that the House may be engaged in labours which may ultimately not turn out to be fruitless.

Mr. Deputy Speaker: We have heard this point *in extenso*. I entirely agree with the Hon. the Law Minister in coming to the conclusion that 'appropriation' as used in Article 110, Sub-clause (1) (d) is only a term of art and it applies only to cases which are referred to in Article 114. Therefore the provisions do not militate against the provisions of Article 117 (1). Of course, it involves expenditure from the Consolidated Fund and therefore comes within the purview of sub-clause (3) of Article 117.

***Mr. Chairman :** So far as the word "mechanical" goes it appears the defect must be something relating to the machine. So far as the word "construction" used by Mr. Sidhva goes, it does not look quite opposite. The word "structural" better explains the meaning. At the same time, if both the words are taken away the wording will be merely "defective" which perhaps will be more vague than now. So

* P. D., Vol 10, Part II, 18th April 1951, pp. 7006-8.

far as the powers given in clause 19 are concerned, the wording is, "prescribe the power, duties and functions of the registering authority and the local limits of their jurisdiction." If a rule can be made that it will be the duty of the registering authority to look into the structure of the ship also, then I think this lacuna may be covered. But I leave that to the House to decide. If the hon. Minister wants to change the wording. I will certainly permit an amendment at this stage.

Shri S. C. Samanta (West Bengal)**:** May I suggest that we say, "mechanically or otherwise defective"?

Shri Santhanam: You are making it more vague.

Pandit Munishwar Datt Upadhyay (Uttar Pradesh)**:** If the word "mechanical" is dropped and only " defective" remains, then all sorts of defects can be covered by the rules.

The Minister of Law (Dr. Ambedkar): May I say a word as it strikes me? I have not seen the Bill and therefore I am speaking from such impression as I have formed. The main object of the Bill is to secure safety. Now, safety depends, so far as I understand it, upon the mechanical structure of the ship and not upon structure in the sense of its shape or size. Therefore a distinction, I think requires to be made between the two, the structural defect which has nothing to do with the ship, and the mechanical defect which has something, in fact greatly, to do with the safety of the ship. The object of the Bill is to secure safety and therefore emphasis must necessarily be laid upon the mechanical side of the ship and not so much upon the structural side. A man may have, for instance, an oblong ship; a ship may be something whose bottom may be very different from the others.

Shri Sidhva: That is a defect.

Dr. Ambedkar: What I want to know is, what is a structural defect? One man may say, " From my point of view it is a structural defect. It ought to have been in some other shape." Another man may say, " It ought to be of some other shape." The submission I am going to make is this, that the Bill aims at securing the safety of the passengers; the safety of the passengers essentially, mainly, fundamentally depends

upon the mechanism of the ship, and therefore what is necessary in the matter of giving a certificate by the surveyor is that he should see whether there is any mechanical defect. That is my submission.

Shri Venkataraman: May I ask the Law Minister.....

Dr. Ambedkar: This is no question of law. I am only speaking as one of the Members of the House.

Shri Hussain Imam: Sometimes structural defects may endanger the safety of passengers. For instance, the railings on the deck may be so low that passengers may fall into the water. Again, if the blades are not properly screened passengers may fall on them and get crushed. Similarly, if the engine room is not properly protected you may have accidents. The word "structural" does not imply any defect in size and shape but should be included for the same purpose on which the Law Minister insists, namely, that it is the safety of passengers that we look to. We must trust our authority to so interpret the statute as not to make it inoperative. I consider "structural" is very essential.

Shri Sidhva: My friend Mr. Santhanam said that though my wording did cover the intention still there is vagueness in it, and my Hon. friend Dr. Ambedkar has stated that what we aim at is the safety of passengers. I am also for safety, but he has mixed up shape with safety. My hon. friend. Mr. Hussain Imam has come out with the correct instances. I can tell Mr. Santhanam that some of these shipowners deliberately put the railings very low and as a result many accidents have occurred.

An hon. Member: Why put it "deliberately" low?

Shri Sidhva: Because it cuts down the costs. The deck Passengers Committee has made structures on this practice. There are many other structural points, for instance, use of bad wood in construction. Those who have experience in this field have spoken in favour of my suggestion. Unfortunately, my friend Dr. Ambedkar.....

Dr. Ambedkar: I have travelled very much.....

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(29)

SUPREME COURT ADVOCATES (PRACTICE IN HIGH COURTS) BILL

* **The Minister of Law (Dr. Ambedkar):** I beg to move :

> "That the Bill to authorise advocates of the Supreme Court to practise as of right in any High Court, be taken into consideration."

The Bill is a very simple Bill. The House will realise that we have now in India two different courts—the High Courts and the Supreme Court. The High Courts and the Supreme Court have independent jurisdictions in the matter of enrolling persons who as of right may practise before them. The High courts have their own rules for enrolment—of persons appearing in their courts. The Supreme Court has recently made its rules which are published in the Gazette according to which it is said that a person shall not be entitled to be enrolled as an advocate unless he possesses :

(1) (*a*) a degree in law of an Indian University, or

(*b*) is a member of the English Bar,

(2) has been for not less than ten years in the case of a senior advocate or seven years in the case of any other advocate, enrolled as an advocate in a High Court or a Judicial Commissioner's court in the territory of India.

We have, therefore, to-day two different sets of lawyers—one who are enrolled on the roll of the Supreme Court and another set who are enrolled on the roll of the High Courts. But the difficulty is this that those who are enrolled on the roll of the Supreme Court are not entitled to practise in the High Courts unless they are also enrolled on the various High Courts. It is felt that this causes a great deal of difficulty for clients. Let me illustrate the difficulty by a simple example. There is an appeal which comes, say for instance, from the

* P. D., Vol 10, Part II, 20th April 1951, pp. 7120-25.

Madras High Court to the Supreme Court. The client instead of employing a Madras advocate wishes to employ an advocate from U.P. which he is perfectly entitled to do provided of course that the U. P. counsel is enrolled in the Supreme Court. It may however, happen that the matter is not finally disposed of by the Supreme Court and the Supreme Court sends the case back to the original High Court from which it came up, for further evidence, or for the trial of some issues or for taking evidence or something like that. Now, the U. P. lawyer, who was originally engaged in the Supreme Court in the matter which came from Madras, while he can appear in the Supreme Court and conduct the case, argue the case and so on, he cannot be engaged when the case is remitted back to the High Court of Madras, as he is not an advocate of Madras, he is an advocate of U. P. Now this difficulty, it is felt, must be resolved, because it is in the interest of justice not merely in the interest of the client that a lawyer who has spent a large part of his time and energy in studying the case and understanding it should also be in a position to deal with it when it is remitted back to the original court.

Well, this difficulty could be solved in two different ways. One way to solve it would be to say that any particular lawyer who has been engaged in a particular case, when that case goes back, that particular lawyer would be entitled to appear in that case. The other is to have a general rule saying that all lawyers and advocates who have been enrolled by the Supreme court shall as of right be entitled to practise in any court. The original idea on which we were proceeding was the limited one. But subsequently on further consideration it was felt that it would be desirable to have a general rule permitting all advocates who are enrolled in the Supreme Court as of right to practise before any High Court, without any further procedure to be undergone. That is what this bill proposes to do. This as I said, is the general principle which the Bill embodies. To this principle, the Bill attaches two exceptions. One exception is this. A lawyer who is enrolled in the Supreme Court shall not automatically be entitled to practise in a High Court on the original side. He may practice on the appellate side without any further enrolment but not on the original

side. The second exception proposed to be made is with regard to a lawyer who was an ex-judge and has been enrolled, because before the Constitution came into existence there was no rule prohibiting judges, after retirement, from practice. They were free to practise and there are many cases where judges have been enrolled in the Supreme Court and are allowed to practise, but there are cases where persons, who, before the Constitution, were appointed to the High Courts and were required to give an undertaking that they would not practice in that particular High Court. Our exception says that if there is any advocate of the Supreme Court, who was an ex-judge of a High court and had given an undertaking not to practise in a particular High Court (which must be the High Court of his own province) then he shall not practise notwithstanding the provision contained in this Bill. These are the simple provisions of the Bill.

Shri C. Subramaniam (Madras)**:** What is the reason for the first exception?

Dr. Ambedkar: The reason is this. Under the Bar Councils Act a special provision exists. I believe there are only now three courts which have got original jurisdiction. All other High Courts are only appellate High Courts and they have no original jurisdiction but they have been invested with special powers to make rules for the enrolment of persons on the original side. As it is not proposed to amend the Bar Councils Act, it is felt desirable to keep that provision intact. That cannot cause much difficulty, because after all when the matter is remitted back by the Supreme Court to the High Court it will in all probability and in most cases be dealt with by the appellate side of the High Court.

Shri S. **N. Sinha** (Bihar)**:** Some of the High Courts have got original jurisdiction in cases like probate and company law. Even in these cases are you going to prohibit?

Dr. Ambedkar: Leave something for the local lawyers.

Mr. Chairman : Motion moved

> "That the Bill to authorise advocates of the Supreme Court to practise as of right in any High Court, be taken into consideration."

Shri Venkataraman (Madras)**:** This Bill in so far as it tries to unify the bar of this country is most welcome. Not only after the establishment of the Supreme Court but even earlier, immediately after the establishment of the Federal Court, the lawyers' conference held in Madras year after year suggested by passing resolutions that the Bar in India should be unified and there should be an All-India Bar Council and the enrolment of and disciplinary jurisdiction over all these Lawyers should be brought under one central control, namely, the All-India Bar Council. Though this bill does not go so far as that, it certainly makes a beginning in that it says that the advocates who are enrolled in the Supreme Court will be entitled to practice in the High Courts notwithstanding the fact that they have not been enrolled in such High Courts themselves. The Minister unfortunately stopped short of the very ideal which he set before himself. He said that it was his intention that the advocate who is enrolled as a member of the Supreme Court Bar should be enabled to go and appear in the province from which the case emanated even though he was not enrolled as an advocate of that court. If you merely substitute for the word "Madras" in the instance which the Hon. Minister gave by the word "Bombay" and then apply all the process step by step, which he took us through, you will find that the object, when he says is embodied in this Bill, is not carried out. I will repeat the instance myself.

Suppose a case emanates from Bombay and if chances that an advocate from Madras is engaged to appear before the Supreme Court on an appeal. It is possible for the Supreme Court to remit the case not only to the appellate side of the High Court but even send it back for a finding to the original side of that court. That advocate who studied and prepared the case and spent a lot of time over it—the client too must have spent a lot of money, as the Minister said, in briefing and instructing that particular advocate—would be prevented from appearing on the original side, just because the exception has been introduced in the Bill. Let me look at the rationale of the exception introduced...

Dr. Ambedkar: There is no iogic in it I confess.

Shri Venkataraman : He has aken the argument out of my mouth.

Dr. Ambedkar: I do not accept logic ; I accept expediency.

Shri Venkataraman : 'So I shall proceed on the basis that there is no logic.....

Mr. Chairman : May I ask the hon. Minister if a question of fundamental rights under article 22 is not involved in this?

Dr. Ambedkar: We have just now heard from several Judges that they are prepared to make classifications.

Shri Venkataraman : Article 22 of the Constitution gives the right to legal practitioners to appear in all courts. This Act will certainly be challenged by some enterprising lawyer some day and there is no doubt about it.

Apart from that I want to bring to the attention of the Hon. Minister that he will lose nothing by deleting part (a) of the proviso to clause 2. I understand that in Bombay also they have abolished the distinction between the advocates of the original side and the advocates of the appellate side.....

Dr. Ambedkar: They allow them to go from one side to the other after a certain period.

Shri Venkataraman: The practice which was hitherto prevailing of practitioners on the appellate side not being entitled to appear in cases on the original side has gone and today the preactitioners on the appellate side can still appear on the original side as in the Madras High Court. So far as the Madras high Court is concerned there is no distinction between a practitioner on the appellate side and a practitioner on the original side. An advocate of the Madras High Court can appear on both the appellate and original sides.....

Dr. Ambedkar: They go without shoes also.

Shri Venkataraman: There are customs and customs. I can see quite a few of people here which would be appalling to my countrymen.

We are not concerned with footwear here but with the legal rights of the practitioners. A practitioner of the Bombay High

Court is also placed on the same footing. The difference between the Bombay and Madras High Courts consists in this : whereas in the High Court of Madras there is no dual system, an advocate need not necessarily be instructed by an attorney or solicitor for appearing on the original side, in the appellate side they have got that system in which the practitioner on the original side must be instructed by a solicitor or an attorney. I can understand solicitors and attorneys insisting on their privileges being preserved for them. So far as their rights are concerned, let them be preserved. Let any practitioner appear but let him be instructed or briefed by an attorney or solicitor. If that is the object it can very well be preserved and achieved by deleting the words " to plead ". Any practitioner of the Supreme Court can be prevented from going before the High Court of Bombay or any other High Court on the original side. This Bill as stands with part (a) of the proviso will make it impossible for a practitioner of the Supreme Court to appear on the original side notwithstanding the fact that he had appeared in that particular case itself before the Supreme Court and the case had been remitted to the original side of that court.

An Hon. Member : Let him continue tomorrow. It is five o'clock.

The House then adjourned till a Quarter to Eleven of the Clock on Friday, the 20th April, 1951.

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* SUPREME COURT ADVOCATES (PRACTICE IN HIGH COURTS) BILL—*concld.*

Mr. Speaker: We will now proceed to legislative business, namely: The further consideration of the motion moved by Dr. Ambedkar yesterday:

> "That the Bill to authorise advocates of the Supreme Court to practise as of right in any High Court, be taken into consideration."

Shri Venkataraman (Madras)**:** Yesterday, I was submitting that this Bill is a welcome measure, but that the

* P. D., Vol. 10, Part II, 20th April 1951, pp. 7129-34.

proviso militates against the very object of the Bill. I was trying to show how.....

The Minister of Law (Dr. Ambedkar): To cut short the proceedings, I may say I am prepared to accept the amendment, subject of course, to other understandings.

Shri Venkataraman: I am very grateful to the hon. Law Minister for accepting the suggestion and so I whole-heartedly support the Bill without clause (a) in the proviso.

Pandit Thakur Das Bhargava (Punjab)**:** I rise to support the Bill.....

.....With regard to proviso (b) I have a point to submit. Proviso (b) is to the effect:

> "(b) to practise in a High Court of which he was at any time a Judge, if he had given an undertaking not to practise therein after ceasing to hold office as such Judge."

I submit that the prohibition to practise in the High Court by a man who is an ex-Judge of that High Court should not depend on any undertaking. Public policy requires that an ex-Judge of a high Court should not practise in that Court, but the proviso makes it conditional upon an undertaking having been given. There are many High Courts where no undertakings have been taken. Therefore, if ex-Judges are to be prohibited from practising in the particular Court, it should be independent of any undertaking given. There is an Article in the Constitution prohibiting all ex-Judges from practising in any Court—not merely in the Court where he was a Judge but in all other Courts. I submit proviso (b) militates against that. This proviso would allow an ex-Judge to practise in a High Court if he has not given an undertaking. The Constitution, however, says that all ex-Judges are prohibited from practising in any High Court.

Dr. Tek Chand (Punjab)**:** Judges appointed after the coming into force of the Constitution.

Dr. Ambedkar: Yes, that is the rule.

*** Mr. Chairman:** The question of amendments will come later. Perhaps it may be that after the Hon. the Law Minister has given his reply many of the doubts of the hon. members may be cleared up. Then we can think of the amendments.

Dr. Ambedkar: Most of the questions that have been raised in the course of speeches delivered by hon. Members have very little to do with the merits of the Bill. They deal with a subject which is more relevant to the unification of the Bar. As I said yesterday, this Bill primarily does not aim at the unification of the Bar. The aim of the Bill is a very limited one and is to remove the difficulties that are caused by enrolment of advocates by the High Court and by the Supreme Court in their independent jurisdiction. Clients have suffered on account of the fact that lawyers whom they engage in the Supreme Court are not permitted to appear in a High Court when the same matter is remitted by the Supreme Court to the High Court. That is the limited purpose of this Bill. But in view of the general desire that while achieving this limited purpose something might be done in the direction of unifying the Bar, I have accepted two proposals which really are outside the immediate object of the Bill.

One is to permit all lawyers who are enrolled in the Supreme Court to practise in all the high Courts which of course means right to practise in all courts subordinate to the -different High Courts.

The second point which I have accepted is to remove the restrictions originally placed in the Bill that the right to practise which is being given by this Bill to advocates enrolled on the Supreme Court shall be confined only to the appellate side. The clause is being deleted.

I have listened to the various speeches and all that I can say is that I realise the difficulties and I have a great deal of sympathy with the point of view that has been expressed by the various Members. When there is an opportunity and time the Government of India will no doubt consider this matter and bring forth a comprehensive measure which would

* P. D., Vol. 10, Part II, 20th April 1951, pp. 7140-42.

bring about the unification of the Bar in India which is a subject at the heart of many Members here. I will, therefore, not go into that aspect of the question.

Then there remains only one question which was raised by my friend Pandit Thakurdas Bhargava which also, I think, is quite outside the merits of the Bill. There is no doubt about it that anything that we do here in Parliament must always be subject to the provisions of the Constitution. If article 22 of the Constitution permits a legal practitioner to be engaged by an accused person to defend himself and if by the rules of enrolment enforced either by the High Court or by the Supreme Court a certain person does not become a legal practitioner within the meaning of the Constitution, in my mind there can be no doubt that the rules made by the High Court or by the Supreme Court would be at variance with the Article of the Constitution and the Constitution would prevail. At this moment all I would like to say is that I am not quite certain in my mind in what sense the term 'legal practitioner' is used in the Constitution. Whether it is used in the general popular sense that anybody who can go to a court of law and appear in any matter is a legal practitioner, or whether the Constitution uses the term in the technical sense that a legal practitioner means a person defined to be a legal practitioner either in the Legal Practitioners Act or in the rules made by the High Court or the Supreme Court, is a matter on which I do not propose to express any opinion. My friend Pandit Thakur Das will also realise that even the Legal Practitioners Act does not give the general right to practise to all those who are defined as legal practitioners. There are fields which are earmarked or rather which are limited to certain classes. For instance the pleaders and the *mukhtiars* are no doubt legal practitioners within the meaning of the Act, but as he knows they have no general right to practise, nor is their right to practise a permanent one. Their certificates are annual certificates and when these certificates are exhausted they cease to be legal practitioners. All these things to my mind are quite irrelevant for the purposes of the Bill and they will no doubt take care of themselves when the matter is raised before a court of law. I do not think there is any other thing that calls for any explanation.

Mr. Chairman : The question is:

> " That the bill to authorise advocates of the Supreme Court to practise as of right in any High Court be taken into consideration."

The motion was adopted.

Clause 2.—*(Right to practise in any High Court)*

Mr. Chairman: May I know whether the Hon Minister, is accepting any of the amendments?

Dr. Ambedkar: I am not accepting any amendment except No. 7 by Shri Ahmed Meeran to delete part (a) of the Proviso. But of course my friend will realise that some little redrafting will be necessary because if (a) goes (b) will have to be renumbered.

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* **Mr. Chairman :** I think the Hon. Minister wishes to reply so far as this part of the question is concerned.

Dr. Ambedkar: My hon. Friend has really explained the position and I do not think I have very much to add : but to make it simpler than he has done, the position is this. Article 220 of the Constitution applies to future Judges who have taken the position of High Court Judges after the commencement of the Constitution. Their going to practise either before the Supreme Court or before any Court, whether a High Court or subordinate court, cannot arise at all.

Dr. Tek Chand: In India.

Dr. Ambedkar: Yes, in India. Because, article 220 specifically says so. We are really dealing with the case of High Court Judges who were Judges before the Constitution came into existence. As my hon. friend pointed out, those Judges of the High Court before the commencement of the Constitution may be divided for the purpose of argument, into two classes: those who had given an undertaking that they will not practise in their Court and those who had not given an underaking. All that this proviso seeks to do is to bind down those High

* P. D., Vol. 10, Part II, 20th April 1951, pp. 7147-49.

Court Judges who had already given an undertaking. That is the simple position. Of course, it would be perfectly possible for this House to widen the scope of the proviso and to say that no High Court Judge even though he may not have given an undertaking should be permitted to practise; that is within the power of the legislature. But, the point is this. Those people accepted the positions on the definite understanding that they will be permitted to practise after their retirement and it would be wrong and unfair now for us to make a retrospective piece of legislation and say that even though they did not give an undertaking, they will still be bound down to this new rule, namely, that they shall not practise. That is why sub-clause (b) is so restricted and is made applicable only to those who have given an undertaking. Therefore, it creates no kind of injustice.

Shri Naziruddin Ahmed: May I point out that the proviso (b) is not confined to those Judges who were Judges before the Constitution ? The proviso says "to practise in a High Court of which he was at any time a Judge....., and not before the Constitution.

Dr. Ambedkar: The point is, the other question does not arise because it has been dealt with categorically by the constitution.

Shri Naziruddin Ahmed: That if what I say.

Dr. Ambedkar: Why do you want to do something that the Constitution has done ? There is no question of undertaking as such. That matter has been finally settled by the Constitution both in the case of the Judges of the Supreme Court and in the case of the Judges of the High Courts. We are dealing with a pass which was uncovered by law and was regulated only by promises, conventions and undertakings.

Mr. Chairman : Would the Hon. Minister clarify one point more? Were those Judges who wanted to get their right of practice after the Constitution was passed, given an option to resign and cease to be Judges ?

Dr. Ambedkar: They knew the position and some of them, when the Constitution was on the anvil.—I know two or three

gentlement—resigned, because they would not accept that position. Everybody knows that.

Shri J. R. Kapoor: May I say for the information of the House that Judges were given the option to resign and there have been some cases of resignation. There was one in Allahabad. One of the Judges of the Allahabad High Court resigned merely because of this new article.

Mr. Chairman: There was one in Calcutta High Court also.

Dr. Ambedkar: For the information of the House. I might mention that every Judge of a High Court now who has retired has given an undertaking not to practise. There are only two gentlemen, fortunately they are alive, who have not given that undertaking (*An hon. Member:* One is here) The scope of what was called a trouble is so limited.

Mr. Chairman: Mr. Meeran may move the amendment.

Dr. Ambedkar: That has already been moved.

Shri Venkataraman: I only spoke on it in the general discussion.

Mr. Chairman : May I know whether hon. Members agree that this bill could be put through in five minutes?

Several Hon. Members: Yes.

Shri J. R. Kapoor: I would like to have a couple of minutes while clause 1 is taken up, because I have strong feelings on the subject.

Mr. Chairman: The House will stand adjourned to 2-35 P.M.

The House then adjourned for Lunch till thirty-five Minutes Past two of the Clock.

The House reassembled after lunch at Thirty Five Minutes passed two of the Clock.

(PANDIT THAKUR DAS BHARGAVA IN THE CHAIR).

***Mr. Chairman:** And so only two amendments have been moved. I shall now put them to vote.

Shri Meeran : And No. 7 may be put before No. 6.

Shri Kapoor: With your permission, and if the Law Minister agrees, may I suggest that the "explanation" may be deleted ?

Dr. Ambedkar: No, the explanation is necessary. I will explain why it is necessary later, when Mr. kapoor moves his amendment to another Bill.

Clause 2 as amended was added to the Bill.

****Mr. Chairman:** Does the hon. Minister want to reply ?

Dr. Ambedkar: A reply is unnecessary.

Mr. Chairman : The question is:

" That clause 1 stand part of the Bill. "

The motion was adopted.

Clause 1 was added to the Bill.

The Title and the Enacting Formula were added to the Bill.

Dr. Ambedkar: I beg to move:

" That the Bill, as amended, be passed."

The motion was adopted.

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*P.D. Vol. 10, Part-II, 20th April 1951, p. 7150

(30)

*CODE OF CIVIL PROCEDURE (AMENDMENT) BILL

The Minister of Law (Dr. Ambedkar): I beg to move for leave to introduce a Bill further to amend the Code of Civil Procedure, 1908.

Mr. Speaker: The question is:

> " That leave be granted to introduce a Bill further to amend the Code of Civil Procedure, 1908."

The motion was adopted.

Dr. Ambedkar: I introduce the Bill.

**CODES OF CIVIL AND CRIMINAL PROCEDURE (AMENDMENT) BILL

***The Minister of Law (Dr. Ambedkar):** I beg to move:

> "That the Bill further to amend the Code of Civil Procedure, 1903, and the Code of Criminal Procedure, 1898, be taken into consideration."

This Bill seeks to make a change in the jurisdiction of the subordinate judiciary. As the House knows the Constitution gives courts in India the right to declare whether any particular law made by the legislature, Central or provincial, is *intra* or *ultra vires* of that legislature. This power is now being exercised by all the subordinate judges and members of Parliament must have been aware that some very curious decisions have been given by various subordinate courts holding certain laws to be *ultra vires*. It is felt that it would not be right to leave this power of declaring whether the laws made by the State are *intra* or *ultra vires* to the subordinate judiciary.

First of all, without meaning any offence to members who are holding it, the subordinate judiciary cannot be said to be

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* P. D., Vol. 7, Part II, 18th December 1950, pp. 1834-35.

** P. D., Vol. 10, Part II, 20th April 1951, pp. 7153-76.

****Ibid.,* pp. 7153-54.

qualified to deal with problems involving *intra vires* or *ultra vires* of a law. Secondly, the Bar which appears generally before the subordinate courts cannot also be said to be competent to help the courts to come to a correct decision on such points. It is therefore felt that in the interest of uniformity of decision on questions of constitutional importance it is right that the power to declare any law *ultra vires* should be withdrawn from the subordinate judiciary. The Bill follows the procedure which exists in some of the States in the U.S.A., where also by law the subordinate judiciary is prevented from giving judgments on questions of constitutional importance.

Besides this there is nothing very special in this Bill. We propose to amend by this Bill section 113 of the Civil Procedure Code by the addition of a proviso whereby the subordinate judge is required, in case he is of opinion that any particular law is *ultra vires,* to refer the matter to the High Court and to await the decision of the High Court. It is also proposed to amend section 432 of the Criminal Procedure Code requiring a magistrate also to refer the case to the High Court if the magistrate thinks that the Act is *ultra vires.*

This is all there in this Bill, which I commend to the House.

Mr. Chairman : Motion moved :

> "That the Bill further to amend the Code of Civil Procedure, 1908, and the Code of Criminal Procedure, 1898, be taken into consideration.."

***Dr. Tek Chand :** .....I submit that this Bill is based on very sound principles and that it should be passed without further discussion.

I have to say a word with regard to the observations made by my hon. friend Shri Shiv Charan Lal. He thinks that after the words "Act, Ordinance and regulation," which are already in the Bill, should be added the words "rules or orders", that is to say, when a question relating to the validity of a particular rule or particular order passed under an Act, Ordinance or regulation arises and this should also be referred to the High Court in the same manner as the Bill provides

* P. D., Vol. 10, Part II, 20th April 1951, pp. 7172-76.

for points relating to the validity of an Act, Ordinance or Regulation itself. With respect, I would say that it is not necessary nor desirable that every little case in which is involved the validity of an order passed by a Collector or some other officer to whom power has been delegated to frame a rule or pass an order, be sent to the High Court. This will unnecessarily swell the number of cases in which references are to be made to the High Court. What the bill proposes to take there are three cases of major importance : (i) Act of the Central Legislature or Act of one of the State Legislatures, and (ii) Ordinances which stand on the same footing as Acts of the legislature and (iii) Regulations. It is not every Regulation but only those passed in Bengal, Bombay and Madras, or Regulations as defined in the General Clauses Act of 1897. These are Regulations of old days, promulgated before legislatures had been established but which have been retained on the Statute Book and, therefore, they have the same force and are on the same footing as Acts and Ordinances; as for instance Regulation III of 1818. The Bill, therefore, applies to those cases only in which the validity of an Act of a Legislature is involved and not the validity of an order passed by a Collector or by a Secretary to Government or some other officer, acting under power delegated to him. These do not come within the purview of the Bill and rightly.

Sir, I think this is a salutary provision and the Bill should be passed as it is.

Dr. Ambedkar: May I be permitted to adopt the observations of my hon. friend Dr. Tek Chand in view of the fact that there is very little time and also because there is very little that I need say in addition to what he has already said here? We discussed these questions and he has now expressed what I would have expressed if I had the chance. I think that should suffice. If there is any point arising out of any amendment or things like that, then certainly I shall deal with them.

Mr. Speaker: The question is :

> "That the Bill further to amend the Code of Civil Procedure, 1908 and the code of Criminal Procedure, 1898, be taken into consideration."

The motion was adopted.

Clause 2.—*(Amendment of Act V of 1908.)*

Shri Shiv Charan Lal: I have an amendment to this clause which I shall move, in case the Hon. Law Minister is willing to accept it. Otherwise I will not move it.

Dr. Ambedkar: No, it is not the intention to accept it.

Shri K. Vaidya: Sir, Rule 2 of Order XLVI and Rule 5 of the same Order seem to be inconsistent and I would like to have some clarification of the position from the Hon. Law Minister. I am referring to my amendments Nos. 2 and 3 of List No. 3. Amendment No, 1 I am not moving. I had already raised this point before and I would like to hear what the Hon. Law Minister has to say.

Dr. Ambedkar: I am not prepared to accept the amendments proposed by my hon. friend because I do not think it is right and proper that all the proceedings in a case should be stayed.

Mr. Speaker: But Mr. Vaidya is not moving his amendment No. 1 asking for that.

Dr. Ambedkar: Yes, Sir, but the other amendments he refers to are consequential to his amendment No. 1. If that is not moved then there is no substance in the other amendments.

4-00 p M

Shri K. Vaidya : They are not consequential because.....

Mr. Speaker: Let him explain the position first.

Dr. Ambedkar: As I understand it, the position is this. It is suggested that when a reference is made by the subordinate court to the High Court, all further proceedings in the matter should stay. That is the fundamental point of the hon. Member. That Court should do nothing until the High Court returns the papers with its interpretation. With that position I entirely disagree for this reason that a case might involve one issue of a constitutional nature and many other issues which may have nothing to do with the Constitution. And I do not understand why a magistrate who is required under this Bill to make a reference to the High Court on one of the many points which are involved in the case should be

debarred from proceeding further with the other issues. Therefore I am not prepared to accept his first amendment whereby he wants :

That in part (i) of clause 2, in the proposed Proviso to section 113 of the Code of Civil Procedure, 1908, the words "and shall stay the further proceedings in the case" be added at the end.

The rest of them are purely consequential.

Shri K. Vaidya: They are not, I submit, consequential because Rule 2 of Order XLVI as well as Rule 5 of Order XLVI relate only to cases where judgments are given and in a case where an issue has been referred to the High Court there will be no judgment. Under Rule 4 of Order XX the issue should be decided and only then can there be a judgment, and Rule 2 of Order XLVI refers only to cases in which judgment is given. Rule 5 also refers to cases where judgment is given. Therefore these two rules are inconsistent or inapplicable to this Bill.

Dr. Ambedkar: I would point out that it is left to the discretion of the subordinate judge. He may make an order staying proceedings or he may not. My hon. friend wants that the discretion of the subordinate judge should be taken away and in all cases he should make an order staying the proceedings. Therefore I am not going to accept his amendment.

Mr. Speaker: Is the hon. Member keen on moving his amendment ?

Shri K. Vaidya: No, Sir.

Mr. Speaker: Then I shall put clause 2 to vote. The question is :

> " That clause 2 stand part of the bill."

The motion was adopted.

Clause 2 was added to the Bill.

Clause 3.—*Substitution of new section : Amendment made:*

In clause 3 for the words "said Code" substitute the words and figures "Code of Criminal Procedure, 1898".

—*[Dr. Ambedkar]*

Shri Shiv Charan Lal: So far as the Civil procedure code is concerned, an Order has not got much importance. But so far as the Criminal Procedure Code is concerned, Orders have the same force as an Act. I may point out that under the Defence of India Act, so many orders were passed by the different state Governments and these orders had the force of law. So if you are placing the words "Act, Ordinance and Regulation", then the word " Order" also must be there, because in the Criminal Courts, these Orders have the force of law. I do not mean the ordinary Orders, but Orders like the Cotton Yarn and Cloth control Order, the Sugar Control Orders and other such orders which have the force of law. They are sometimes challenged in the courts whether those orders are valid or not. Simply putting the word "Act" before will not do.

The other amendment of mine is that in sub-clause 2 of section 432 along with presidency magistrate if the words 'sessions judge are added that will give a great scope for the Sessions Judge' also to refer the matter to the high court. If the Minister accepts the amendments I will move them, otherwise not.

Dr. Ambedkar: With regard to the first amendment to clause 3 introducing the words "or order" the position is that an order is generally issued under a law made by the legislature. If the contention of a party is that the law under which the order is issued is *ultra vires,* then obviously the matter will have to be referred by the judge to the High Court, if he is satisfied with the contention. But if the contention of the party is that the law is valid but the order is not, then it is the deliberate intention of this Bill that such a matter should be decided by the subordinate judge or magistrate, because we do not propose to overburden the High Court with all kinds of litigation which can be easily determined by the subordinate judge and it does not affect the generality of the public but the particular individual affected by that legislation.

With regard to the last amendment seeking to extend the privilege or the opportunity given to the presidency magistrate, to sessions judges, if he will refer, for instance, to sections 436,

437 and 438 of the Criminal Procedure Code there is ample power given both to the magistrate and the sessions judge to deal with cases of this sort to correct the error or refer the matter to the high court to get the error corrected. There is ample provision already.

Mr. Speaker: The question is:

"That clause 3, as amended, stand part of the Bill."

The motion was adopted.

Clause 3, as amended, was added to the Bill.

Clause 1 was added to the Bill.

The title and the Enacting formula were added to the Bill.

Dr. Ambedkar: I beg to move :

" That the Bill as amended be passed. "

Mr. Speaker: The question is :

" That the bill, as amended, be passed. "

The motion was adopted.

(31)

* CODE OF CIVIL PROCEDURE (SECOND AMENDMENT) BILL

The Minister of Law (Dr. Amedkar): I beg to move :

" That the bill further to amend the code of Civil Procedure, 1908, be taken into consideration. "

It is a very simple measure. Hon. Members will recall that after the partition of India certain difficulty has arisen in the matter of serving summonses and processes by courts in India to persons resident in Pakistan and issued by courts in Pakistan to persons resident in India.

[PANDIT THAKUR DAS BHARGAVA *in the Chair*]

There are now two foreign territories and this matter has not been governed by any treaty so far. Consequently all processes had to be served through the post office which can never be depended upon as a sure method of communication. Recently an agreement has been made between India and Pakistan where both countries on a reciprocal basis have agreed that the processes issued by courts in one country may be sent to the courts in the other country and they will undertake to serve the summonses or the processes on the party resident there. The Bill seeks to give effect to this agreement. I might say that Pakistan has already given effect to this agreement and there is a law existing there. I hope the House will accept this Bill.

Mr. Chairman : Motion moved :

"That the bill further to amend the Code of Civil Procedure, 1908, be taken into consideration. "

Shri Sidhva (Madhya Pradesh) **:** This is a welcome measure. Many of the displaced persons who have come here and who have claims over persons in Pakistan are confronted

*P. D., Vol. 11, Part II, 20th April 1951, pp. 7176-78.

with the difficulty of not being able to recover the sums decreed on suits. I am glad that agreement has been arrived at between India and Pakistan and that Pakistan has also enacted a similar law. The question of serving a summons on the other side has been overcome. I want to enquire from the Minister in the event of a decree passed here against a person in Pakistan, is there any agreement arrived at by which they will see that it is executed and the amount is recovered and sent to the plaintiff in India. That is the main point involved in this question. Merely serving a summons will not do. The defendant may be indifferent and an ex-parte decree may be obtained. So long as there is no law regarding the execution of a decree why should the defendant spend money to engage a lawyer. Nothing is mentioned in that respect. I would like the Minister to enlighten us whether this question was considered in the discussion with Pakistan and if not, what will be the effect of the judgment of a court in India, which might pass a decree against a defendant in Pakistan? Without this provision the Bill will have no meaning.

Dr. Ambedkar: As a part of the comity of nations every country agrees to execute judgments given by courts in other countries. Of course different countries have different rules of procedure but there is no difficulty with regard to the enforcement of the judgments. Some evidence that the judgment is a true one may be required. Section 13 of the Civil Procedure Code regulates it.

Shri Naziruddin Ahmad (West Bengal)**:** A foreign judgment cannot be executed in any country at all. The Civil Procedure Code does not provide for it. A foreign judgment gives only a right of suit and a fresh suit has to be instituted and a fresh decree has to be obtained.

Dr. Ambedkar: That is only a matter of procedure.

Shri Naziruddin Ahmed: The whole thing has to be fought out again. The point I am raising is that a foreign decree cannot be executed.

Shri Sidhva: I want your guidance. I remember a case filed in India against a defendant in England. The decree was passed here but they could not execute it. A fresh suit had to be filed in London. I wonder whether without any such agreement a decree will have any value.

Dr. Ambedkar: Section 13 of the Civil Procedure Code does deal with the matter. There is no question about the enforcement of a foreign decree. The question is what procedure each country may adopt.

Shri Sidhva: That has no meaning.

Dr. Ambedkar: What has no meaning? It may say just as in the case of an award you will have to file an application when only it becomes enforceable. In the same way, section 13 of our Civil Procedure Code says :

> "A foreign judgment shall be conclusive as to any matter thereby directly adjudicated upon between the same parties or between parties under whom they or any of them claim litigating under the same title except—
>
> (a) where it has not been pronounced by a Court of competent jurisdiction; ".

The question of jurisdiction is always fundamental. It can never be stopped. It must be proved that the court which has given the decree had the jurisdiction to make the decree.

Shri Sidhva: That is all right.

Dr. Ambedkar: What is all right? If you go to a subordinate court and get a decree beyond its jurisdiction nobody can execute it because it is not valid.

Mr. Chairman : The question is :

> "That the bill further to amend the Code of Civil Procedure, 1908, be taken into consideration."

The motion was adopted.

Clause 2 was added to the Bill.

Clause 1 was added to the Bill.

The Title and the enacting formula were added to the Bill.

Dr. Ambedkar: I beg to move:

> "That the Bill be passed."

Mr. Chairman: The question is:

> "That the Bill be passed."

The motion was adopted.

(32)

* JALLIANWALA BAGH NATIONAL MEMORIAL BILL

The Minister of Law (Dr. Ambedkar): I beg to move :

> "That the Bill to provide for the erection and management of a National memorial to perpetuate the memory of those killed or wounded on the 13th day of April, 1919 in Jallianwala Bagh, be taken into consideration."

The event which is known as Jallianwala Bagh is well-known to every Indian and I do not think it is necessary to say anything more about it. What is relevant for purposes of this Bill is that soon after the incident certain well-known Indians decided to prepetuate the memory of those who were killed and wounded on that particular day.

Dr. Tek Chand (Punjab)**:** The session of the Indian National Congress held at Amritsar under the presidency of Pandit Motilal Nehru decided it.

Dr. Ambedkar: Yes, and they collected an amount of money—some ten lakhs, I understand.

Dr. Tek Chand: Yes, ten lakhs.

Dr. Ambedkar: Out of that they purchased two or three pieces of land as are mentioned in the Schedule, which are being held as part of this trust. There is already a trust and trustees, but they are of informal character. It is now proposed to give this trust a statutory basis and the proposal is this, that the trustees will fall into three different classes : certain trustees who are to be life trustees, another set of trustees who are to be *ex officio* trustees, and three other persons who will be nominated by the Central Government. They will hold the land and the properties mentioned in the first part of the Schedule and the cash and movable property which according to my calculation comes to about Rs. 3,13,757-1-0. The object of the trust is to maintain this Memorial and to see that it is kept up and looked after properly.

* P. D., Vol. 10, Part II, 20th April 1951, pp. 7179-81.

There is only one point that requires to be considered and that is that the original trustee mentioned in the Bill, the late Sardar Vallabhbhai Patel is now no more, and the House has to consider a substitute for him. The rest of the Bill is just as it was proposed by the original trustees who were acting as trustees for these purposes.

Mr. Chairman: Motion moved:

> "That the Bill to provide for the erection and management of a National memorial to perpetuate the memory of those killed or wounded on the 13th day of April, 1919, in Jallianwala Bagh, be taken into consideration."

Shri Kamath (Madhya Pradesh)**:** It is in the fitness of things that a Bill of this nature has been brought before this House. It is over thirty years ago that this massacre at Jallianwala Bagh took place and hundreds of our countrymen and women were either killed...

Dr. Tek Chand : Two thousand—not hundreds.

Shri Kamath: Killed?

Dr. Tek Chand: Yes, two thousand killed.

Shri Kamath: .....thousands were either killed or wounded. The Congress, as the statement of objects and reasons shows, passed a resolution in 1919 proposing to acquire a piece of land and to build a memorial thereon to the martyrs of Jallianwala Bagh. We have not been told by the Law Minister who moved the Bill what amount exactly was collected for this purpose. He said "about ten lakhs", but he has not got the exact figure with him.....

Dr. Ambedkar: I said about ten lakhs—I can give the exact figure later.

Shri Kamath :.....and how much of that amount has been utilised in acquiring the site whereon the proposed memorial is to be erected. It is wholesome that Government, the first Government of Free India, should take note of a resolution passed by the Congress many years ago and try to give effect to it. But, Sir, alongside of this certain other questions also arise. As I have already said, the Bill seeks to perpetuate the

memory of the martyrs of Jallianwala Bagh and to implement the resolution of the Indian National Congress of December, 1919. That marked the beginning of the Gandhian era in our politics, and during that period the Congress raised, or has raised, several funds of different kinds. An important point, therefore in connection with this Bill which has been moved by the Law Minister is, how far the Government will take note of or take cognizance of other funds also raised by the Congress for a specific purpose.

Shri Bharati (Madras)**:** On a point of order, Sir, How far is that relevant to the Bill before us ? The hon. Member is referring to funds raised by the Congress for other purposes. Are we concerned with that in this Bill?

Shri Kamath: Of course, it is a resolution passed by the Congress that is the genesis of this Bill.

Mr. Chairman: There is no point of order. Let the hon. Member develop his argument.

***The Minister of Law (Dr. Ambedkar):** After the speeches which have been delivered by my hon. Friend Dr. Bakhshi Tek Chand, the Prime Minister and Pandit Thakur Das Bhargava, I do not think that there is any point left which requires any answer. They have dealt with all the questions that have been raised by the various speakers in the course of this debate, particularly with regard to representation of certain interests on this trust. I think they have been effectively answered and I have nothing more to add.

Mr. Chairman: The question is:

> " That the Bill to provide for the erection and management of a National Memorial to perpetuate the memory of those killed or wounded on the 13th day of April, 1919, in Jallianwala Bagh, be taken into consideration."

The motion was adopted

* P. D., Vol. 10, Part II, 20th April 1951, pp. 7229-33.

Shri J. R. Kapoor (Uttar Pradesh)**:** (*English translation of the Hindi speech.*) I beg to move:

In caluse 2, for "National Memorial" substitute "Rashtriya Smarak".

My submission is that it is but in the fitness of things that the name of this National Memorial should be in the national language. We must give appropriate name to a thing and the name of the National Memorial which we are going to erect should be such as easily understandable to everybody in the country. By giving it a name in English, we shall be depriving a large number of people of easily understanding its importance. Therefore, I submit that it should be named Jallianwala Bagh Rashtriya Smarak. I hope and believe that the hon. Minister would agree to my humble request by accepting this amendment. I have nothing more to add in this connection.

Dr. Ambedkar: I am afraid I cannot accept this amendment.

Shri J. R. Kapoor: I do not want to press it. If the hon. Minister does not accept it, he may put this name within brackets as is also done with the name of our country Bharat which is also written within brackets.

Dr. Ambedkar: I am afraid, I cannot accept this.

Shri J. R. Kapoor: Then I do not press it.

Mr. Chairman: The question is.

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

Clause 3.—(*Objects of the Trust*)

Shri Kamath (Madhya Pradesh)**:** I beg to move:

In part (c) of clause 3 for "raise and receive" substitute "raise, receive and administer".

The sub-clause, as it stand, reads thus:

" The objects of the Trust shall be—

...(c) to raise and receive funds for the purposes of the Memorial."

It stands to reason that the Trust shall be formed not only for the purpose of raising and receiving funds but also for the purpose of administering them. Otherwise the enumeration

of its duties and functions would be incomplete. I therefore move this amendment and commend it for the acceptance of the House.

Mr. Chairman: I wish to know whether any other amendment is going to be moved.

Shri J. R. Kapoor: I beg to move :

After part (c) of clause 3, insert new part:

> " (d) to do any other thing in furtherance of the objects of the Trust ".

So that, there will be one more object added to it, not of any specific nature but merely of a general nature so that the trust may not feel handicapped at any time in regard to anything that it may like to do. I am sure this will be readily acceptable to the hon. Minister in charge of the Bill. Such a clause is almost invariably to be found in other similar enactments.

Mr. Chairman: The wording of the amendment is self-explanatory and I do not think any further speech on it is necessary.

Sardar B. S. Man: I beg to move:

> After part (a) of clause 3, insert new part and reletter subsequent parts accordingly:
>
> "(b) to start educational, social or such other public institutions, or to create funds or scholarships for the benefit of the public generally, or for those or their dependants, who were killed or wounded on the 13th day of April 1919 at the site, or for such other people who served, died or were permanently disabled in the national cause. "

The objects of the Trust as given in the Bill are merely, "to erect and maintain suitable buildings, structures and parks at or near the site of the Jallianwala Bagh in the city of Amritsar ..... etc." I feel that by the acceptance of this amendment it will be enlarging to scope and making it more a living memoral to the memory of those who have departed.

Mr. Chairman: May I know whether any of the amendments are acceptable to the Hon. Minister?

Dr. Ambedkar: I do not think I can accept any of them. Perhaps a word might be necessary as to why I do not accept them.

With regard to Mr. Kamath's amendment the addition of the word "administer" is unnecessary. Every trust carries with it the power of the trustees to administer whatever they receive and raise.

With regard to Mr. Kapoor's amendment " to do any other thing in furtherance of the objects of the Trust", that again is unnecessary. When the objects are stated it carries with it the implied power to do anything in furtherance of these objects.

With regard to Sardar Man's amendment, I think it is agreed that this body of trustees should not convert themselves into a social service league. Their purpose should merely be to maintain this national monument.

Shri Kamath: May I not ask whether the word "receive" also is unnecessary ? Whatever is raised must be received by the Trust. Therefore "received" may be deleted.

Dr. Ambedkar: That may be so, but I think "administer" is quite superfluous.

Mr. Chairman: I would like to know whether hon. Members are pressing their amendments.

Sardar B. S. Man: I am not pressing my amendment.

Shri J. R. Kapoor: No.

Shri Kamath: Well, it may go.

Mr. Chairman: Does he want it to be put or not put?

Shri Kamath: It need not be put.

Mr. Chairman: The question is:

"That clause 3 stand part of the Bill."

The motion was adopted.

Clause 3 was added to the Bill.

Clause 4.—(*Trustees etc.*)

Shri Sidhva (Madhya Pradesh)**:** I have an amendment.

Mr. Chairman: Is Dr. Ambedkar going to move any amendment ?

Dr. Ambedkar: Mr. Sidhva is moving.

Shri Sidhva: I beg to move:

In part (b) of sub-clause (1) of clause 4, for the name of Sardar Vallabhbhai Patel substitute the name of Dr. Saifuddin Kitchlew.

It is self-explanatory and I do not want to speak on it.

Mr. Chairman : Amendment moved:

In part (b) of sub-clause (1) of clause 4, for the name of Sardar Vallabhbhai Patel substitute the name of Dr. Saifuddin Kitchlew.

Is it acceptable to the Hon. Minister.

Dr. Ambedkar: I accept the amendment.

***Giani G. S. Musafir:** *(English translation of Urdu speech)* I wanted to move:

After part (e) of sub-clause (1) of clause (4) insert new part and reletter subsequent parts accordingly:

"(f) the president of the Punjab State Congress."

I have already said more than enough on that subject. Unfortunately for me the Prime Minister does not agree with me on this point. What is still more unfortunate is that he has already delivered his speech so that even those members who had promised to support me have become silent. Therefore, I feel it would be no use pressing it any more. Hence, I am not moving it. I do not agree, however, that the inclusion of the President of the Punjab Congress would turn this Trust into a party Trust.

Mr. Chairman: May I know whether the hon. Minister accepts any of those amendments?

Dr. Ambedkar : I cannot accept any of these amendments.

Shri Kamath: I want to press all the amendments.

Mr. Chairman: I will put all these amendments to the House.

Shri Kamath: One by one.

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* P. D., Vol. 11, Part II, 21st April 1951, p. 7237.

Mr. Chairman : The question is:

In part (b) of sub-clause (1) of clause 4, for the name of Sardar Vallabhbhai Patel substitute the name of Kumari Maniben Patel.

The motion was negatived.

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* **Dr. Ambedkar:** The only amendment that I can accept is No. 79 seeking to omit the word "for" in part (f) of sub-clause (2).

Mr. Chairman: Does Mr. Kamath press the other amendments?

Shri Kamath: I press amendment No. 82 relating to penalty.

Mr. Chairman: The question is:

(i) In part (f) of sub-clause (2) of clause 9, for " injury " substitute "damage".

The motion was negatived.

Shri Kamath: I do not press my second amendment.

Mr. Chairman : The question is:

(iii) In part (f) of sub-clause (2) of clause 9 omit " for ".

The motion was adopted.

Mr. Chairman : The question is:

(iv) In sub-clause (3) of clause 9, for " fine which may extend to one hundred rupees " substitute :

> " imprisonment for a period not exceeding six months or with fine which may extend to one hundred rupees or both. "

The motion was negatived.

Mr. Chairman: The question is:

" That clause 9. as amended, stand part of the Bill."

The motion was adopted.

Clause 9. as amended, was added to the Bill.

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* P. D., Vol. 11, Part II, 21st April 1951, pp. 7241-42.

Clause 10 was added to the Bill.

The Schedule was added to the Bill.

Clause 1. *(Short Title)*

Amendment moved:

In clause 1, for " 1950 " substitute " 1951". *[Dr. Ambedkar]*

Mr. Chairman : The question is:

"That clause 1. as amended, stand part of the Bill."

The motion was adopted.

Clause 1, as amended, was added to the Bill. .

The Title and the Enacting formula were added to the Bill.

Dr. Ambedkar : I beg to move:

That the Bill, as amended be passed. "

Mr. Chairman : The question is:

" That the Bill, as amended, be passed. "

The motion was adopted.

The House then adjourned for Lunch till Three of the Clock.

(33)

The House re-assembled after Lunch at Three of the Clock.
[PANDIT THAKUR DAS BHARGAVA *in the Chair*]

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*CONSTITUTION (FIRST AMENDMENT) BILL

The Prime Minister and Minister of External Affairs (Shri Jawaharlal Nehru): I beg to move.

> "That the Bill to amend the Constitution of India be referred to a Select Committee consisting of Prof. K. T. Shah, Sardar Hukam Singh, Pandit Hirday Nath Kunzru, Dr. Syama Prasad Mookerjee, Shri Naziruddin Ahmad, Shri C. Rajagopalachari, Shri L. Krishnaswami Bharati, Shri Awadheshwar Prasad Sinha, Shri T. R. Deogirikar, Dr. B. R. Ambedkar, Shri V. S. Sarwate, Shri Mohanlal Gautam, Shri R. K. Sidhva,- Shri Khandubhai K. Desai, Shri K. Hanumanthaiya, Shri Raj Bahadur, Shrimati G. Durgabai, Shri Manilal Chaturbhai Shah, Shri Dev Kanta Borooah, Shri Satya Narayan Sinha and the Mover with instructions to report on Monday the 21st May, 1951."

This Bill is not a very complicated one ; nor is it a big one. Nevertheless, I need hardly point out that it is of intrinsic and great importance. Anything dealing with the Constitution and change of it is of importance. Anything dealing with Fundamental Rights in corporated in the Constitution is of even greater importance. Therefore, in bringing this Bill forward, I do so and the government does so in no spirit of light-heartedness, in no haste, but after the most careful thought and scrutiny, given to this problem.

I might inform the House that we have been thinking about this matter for several months consulting people, State Governments, Ministers of Provincial Governments, consulting, when occassion offered itself, a number of Members of this House, referring it to various Committees and the like and taking such advice from competent legal quarters as we could obtain, so that we have proceed with as great care as we could

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* P. D., Vol. 12, Part II, 16th May 1951, pp. 8814-15.

possibly give to it. We have brought it forward now after that care, in the best form that we could give it, because we thought that the amendments mentioned in this Bill are not only necessary, but desirable, and because we thought that if these changes are not made, perhaps not only would great difficulties arise, as they have arisen in the past few months, but perhaps some of the main purposes of the very Constitution may be defeated or delayed. In a sense this matter of course, has been mentioned rather vaguely and has been before the public for some time. But in the precise form that it has been raised in this Bill, it came up only when I introduced this Bill in the House a few days ago.

* **Pandit Kunzru** (Uttar Pradesh)**:** The Bill before us seems to be very simple, but it is nonetheless of a very far reaching character. It affects not merely the Constitution but also the spirit in which the Constitution is to be dealt with. A measure of such importance requires careful consideration and I think that we ought, all, to welcome the scrutiny to which it has been subjected by previous speakers. In order to justify the important changes that are sought to be made in the Constitution, Government should have taken care to supply us with full information on every point to tell us exactly why each particular amendment was needed. The Prime Minister spoke at considerable length but dealt, generally speaking with principles. When he dealt with specific matters he was very tantalizing; he did not throw much light on the reasons for the specific measure that the Government have placed before us. In view of this some other Member of the Government should have given us fuller information than the Prime Minister gave. Perhaps my hon. friend. Dr. Ambedkar would have been the fittest person to explain to us in detail the provisions of the Bill, particularly those which relate to the amendment of article 19 and the insertion of two new articles 31A and 31B. I have no doubt that he will take part in the debate. He will probably get up in the end in order to have the last word on the subject.

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* P. D., Vol. 12, Part II, 17th May 1951, p. 8896.

The Minister of Law (Dr. Ambedkar): No, no.

Pandit Kunzru: That may suit him and the Government of which he is an important member, but it is most unfair to the House that it should be called upon .....

Shri Sidhva (Madhya Pradesh)**:** What is the unfairness ?

Pandit Kunzru: If Mr. Sidhva will have a little patience he will realise that every Member is not as enlightened as he is and that most of them require a little more instruction than he has ever done or ever will do .....

***The Minister of Law (Dr. Ambedkar):** In the course of the debate yesterday, my friend Pandit Hirday Nath Kunzru said that Government had done great injustice to the House by not explaining the necessity and the purposes of the various clauses in this Bill and that some one on the side of Government—and he referred particularly to me—should have got up to discharge that duty to the House. I do not know that any Member of the House will believe that a person of the intelligence of my hon. friend Pandit Hirday Nath Kunzru is one who requires an explanation of this Bill. My friend Dr. Syama Prasad Mookerjee evidently did not require any explanation of the Bill. As soon as the Prime Minister finished, he stood up and opened his fire. And I do not think that my friend Pandit Kunzru is less intelligent than my friend Dr. Mookerjee. However, as Pandit Kunzru expressed the wish of many Members of this House, I thought it incumbent on my part to intervene in this debate and to clarify the position so as to dispel the two arguments which had been used in the course of the debate, that there was no necessity for the amendment of the Constitution, and secondly, that Government could wait and give the country and the public larger and longer time and should not rush through this measure. In the observations that I propose to make, I will take the Bill clause by clause and try to explain the necessity for making the changes which the Bill proposes to make.

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* P. D., Vol. 12, Part II, 18th May 1951, pp. 9004-32.

I will begin with clause 2 of the Bill. Clause 2 of the Bill proposes to amend article 15. The necessity for the amendment of article 15 has arisen on account of the judgments recently-delivered by the Supreme Court in two cases which came up before them from the Madras State. One case was Madras *vs.* Shrimati Champakam Dorairajan and the other was Venkatraman *vs.* the State of Madras. In the case of Venkataraman the article involved was article 16, clause (4) and in the case of Shrimati Champakam the article involved was article 29, clause (2). In the one case the question involved was the reservation for backward classes in public services and in the other case, the question involved was the reservation for backward classes in educational institutions. The question turned upon what is known in the Madras Presidency and elsewhere as the Communal G.O. The argument on which the Communal G.O. of the Madras Government was declared to be void and invalid was this. It was said by the Supreme Court that article 29, clause (2), did not have a saving clause like clause (4) attached to article 16. As the House will remember under clause (4) of article 16, a special provision is made that article 16 shall not stand in the way of the Government making a suitable provision for the representation of backward classes in the services. Such a provision of course is not to be found in article 29. With regard to article 16, clause (4), the Supreme Court came to the conclusion that it involved discrimination on the ground of caste and therefore it was invalid. I have carefully studied both these judgments of the Supreme Court and with all respect to the judges of the Supreme court I cannot help saying that I find this judgment to be utterly unsatisfactory.

Shri Naziruddin Ahmad (West Bengal)**:** Sir, on a point of order. Is it in order for any Member to express disrespect to the highest judiciary in the land? It is the custom in Parliament not to speak disparagingly about the courts.

Dr. Ambedkar : There is no disparagement of the learned Judges at all.

Mr. Speaker: I myself felt that the word should not have been used but I think what the Hon. Law Minister meant

was that judgment was unsatisfactory from the point of view of what the Government proposed to do.

Dr. Ambedkar: The judgment does not appear to be in consonance with the articles of the Constitution. That is my point.

Mr. Speaker: I am afraid the Hon. Minister will not be in order to pass any such structures on any judgment expressed by the Supreme Court.

Dr. Ambedkar: I am very sorry.

Mr. Speaker: I was thinking whether what he expressed was not capable of a different interpretation *viz.* that the judgment was unsatisfactory from the point of view of what the Government proposed to do.

The Minister of Home Affairs (Shri Rajagopalachari):

Will the hon. Speaker forgive my intervention ? I think really what the Hon. Law Minister meant is that a doubt has arisen on account of the judgment.

Mr. Speaker: Let us now proceed.

Dr. Ambedkar: My view is that in article 29, clause (2), the most important word is 'only'. No distinction shall be made on the ground only of race, religion or sex. The word 'only' is very important. It does not exclude any distinction being made on grounds other than those mentioned in this article and I respectfully submit that the word 'only' did not receive the same consideration which it ought to have received.

Then with regard to article 16, clause (4), my submission is this that it is really impossible to make any reservation which would not result in excluding somebody who has a caste. I think it has to be borne in mind and it is one of the fundamental principles which I believe is stated in Mulla's last edition on the very first page that there is no Hindu who has not a caste. Every Hindu has a caste—he is either a Brahmin or a Mahratta or a Kunby or a Kumbhar or a carpenter. There is no Hindu—that is the fundamental proposition—who has not a caste. Consequently, if you make a reservation in favour of what are called backward classes

which are nothing else but a collection of certain castes, those who are excluded are persons who belong to certain castes. Therefore, in the circumstances of this country, it is impossible to avoid reservation without excluding some people who have got a caste. On these points I do not think personally that the judgment is a very satisfactory judgment. In this connection I would like to state, notwithstanding what the House and some Members are saying, that I have often in the course of my practice told the presiding judge in very emphatic terms that I am bound to obey his judgment but I am not bound to respect it. That is the liberty which every lawyer enjoys in telling the judge that his judgment is wrong and I am not prepared to give up that liberty. I have always told the judges before whom I practised that that is my view of the matter. Now the point has to be borne in mind that in article 46 of the Directive Principles an obligation has been laid upon the Government to do everything possible in order to promote the welfare and the interest of what are called the weaker sections of the public by which I understand to mean the backward classes or such other classes who are for the moment not able to stand on their legs—the scheduled castes and the scheduled tribes. It is therefore incumbent not merely on the Government but upon this Parliament to do everything in its hands to see that article 46 is fulfilled and if that fulfilment is to come, I cannot see how one can escape an amendment so as to prevent article 29, clause (2), and article 16, clause (4) being interpreted in the way in which it has been interpreted and being made to block the advancement of the people who are spoken of as the weaker class. That is the necessity for amending article 15.

I now come to the provisions of article 19, an article which gave rise to great excitement among the Members of the House. I first propose to take clause (3) (1) (a) of the Bill which amends the original clause (2) of article 19. As Members will see this sub-clause proposes to add three heads:

1. Relations with foreign States,
2. Public Order,
3. Incitement to offence.

A question was asked as to what was the necessity for introducing three new heads. The necessity has arisen out of certain judgments which have been delivered by the Supreme Court as well as by the Provincial High Courts. I would like to refer in this connection to the judgments of the Supreme Court in Ramesh Thapar's case and in Brij Bhushan's case. These are the two judgments of the Supreme Court. Then I come to the judgments of the State High Courts.

The following judgments of the Punjab High Court may be taken into consideration:

1. Master Tara Singh's case.
2. Amarnath Bali *versus* the State of Punjab.

There are two judgments of the Patna and Madras High Courts :

1. Shilabala Devi *versus* the Chief Secretary of Bihar.
2. Bynes *versus* the State of Madras.

In Ramesh Thapper's case what was involved was the validity of the Madras Maintenance of Public Order, 1949. Brij Bhushan's case involved the validity of the East Punjab Public Safety Act, 1949. Master Tara Singh's case involved the validity of sections 124A and 153 A of the Indian Penal Code. Amarnath Bali's case involved the validity of section 4 of the Indian Press (Emergency Powers) Act of 1931. Shilabala Devi's case also involved the validity of section 4 of the Press Act and the same was involved in the case of Bynes *versus* Madras State.

All these cases have resulted in the decision that they are void laws, that is to say, in view of the provisions contained in clause (2) of article 19, the courts have held that all these Acts, however valid they might have been before the Constitution came into existence, are bad laws now, because they are inconsistent with the Fundamental Rights.

What I want to ask the House to consider is, what is the effect of these decisions of the Supreme Court and the various High Courts in the States ? In order to give the House a very clear idea I can read many of the sections of the Acts which have been declared to be null and void but in view of the

shortness of time I would content myself by reference to the Press Act, section 4, which has been called in question. This is what section 4 of the Press Act says:

> "Whenever it appears to the Provincial Government that any Printing Press, in respect of which any security has been ordered to be deposited under section 3 is used for the purpose of printing or publishing any newspaper, book or other document containing any words, signs or visible representations which"—I want the House to mark these clauses carefully—
>
> "(*a*) incite to or encourage, or tend to incite to or to encourage, the commission of any offence of murder or any cognisable offence involving violence, or
>
> (*b*) directly or indirectly express approval or admiration of any such offence or of any person, real or fictitious, who has committed or is alleged or represented to have committed any such offence.
>
> or which tend directly or indirectly.
>
> (*c*) to seduce any officer, soldier, etc.....

The important point to which I wish to draw the attention of the House is (a) "incite to or encourage, or tend to incite to or encourage, the commission of any offence of murder or any cognisable offence involving violence." It means that under the decisions of the Provincial High Courts to which I had referred it is now open to anybody to incite, encourage, tend to incite or encourage the commission of any offence of murder or any cognisable offence involving violence.

The one question that I would like the House to consider. is this. Is it a satisfactory position that any person should now be free to incite or encourage the commission of offences of murder or any cognisable offence involving violence ? I want the House to consider the matter dispassionately. Is it a desirable state of affairs (*Several Hon. Members :* No. no.) that our Constitution should leave us in this desperate position that we could not control the right of free speech which has been granted by clause (1) of article 19 and it should be so unlimited that any person should be free to preach murder or the commission of any cognisable offence. I have tried to put the matter in a nutshell. That is the position.

The same thing has now occurred with regard to the public safety laws or the laws made by the various States for the

maintenance of public order, because they also have been held by the Supreme Court to be not open to any limitation by virtue of the Constitution. The Supreme Court has made a distinction between the security of the State and the maintenance of public order. They say that it may be open for Parliament to make a law for the security of the State but it is not open to parliament to make a law for the maintenance of public order. There again I wish the House to consider the matter seriously. Is the House prepared to allow the right of freedom of speech and expression to be so untrammelled, to be so unfettered, that any man can say anything and go scot-free, although such speech creates public disorder ? If the judgments of the Supreme Court and the High Courts stand as they are, then the only consequence that follows is that we shall never be able to make a law, which would restrict the freedom of speech in the interests of public order and that we shall never be able to make a law which would put a restraint upon incitement to violence. I want my friend Dr. Mookerjee who—as coming events cast their shadow—played the part of a leader of the Opposition, whose business undoubtedly, from a party point of view is to oppose every thing to consider whether the void created in our legislation by the decisions of the Supreme Court and the Provincial High Courts should be allowed to remain in the name of freedom of speech. That is the simple question. I am sure in my mind that if my friend Dr. Mookerjee were to study the different decisions of the Supreme court and the Provincial High courts in the light of the observations I have made he will beyond question come to the conclusion that this is a situation which must be remedied and cannot be allowed to go on.

Pandit Thakur Das Bhargava (Punjab)**:** He wants detention laws to be used for the purpose.

Dr. Ambedkar: Detention laws are something quite different. That is in a nutshell (*Shri Kamath:* What a poor nutt!) the case for amending article 19 of the Constitution.

It is next important to consider why the Supreme Court and the various State High Courts have come to this conclusion.

10-00 A.M.

Why is it that they say that Parliament has no right *to* make a law in the interests of public order or in the interests of preventing incitement to offences ? That is a very very important question and it is a question about which I am personally considerably disturbed. For this purpose I must refer briefly to the rules of construction which have been adopted by the Supreme Court as well as by the various State High Courts, but before I go to that I would like to refer very briefly to the rules of construction which have been adopted by the Supreme Court of the United States—and I think it is very relevant because the House will remember that if there is any Constitution in the world of a country of any importance which contains Fundamental Rights it is the Constitution of the United States, and those of us who were entrusted with the task of framing our own Constitution had incessantly to refer to the Constitution of the United States in framing our own Fundamental Rights. There are many Members I know, who are familiar with the Constitution of the United States. How does the Constitution of the United States read ? I think hon. Members will realise that apparently there is one difference between the Constitution of India and the Constitution of the United States so far as the Fundamental Rights are concerned. The Fundamental Rights in the Constitution of the United States are stated in an absolute form; the Constitution does not lay down any limitation on the Fundamental Rights set out in the Constitution. Our Constitution, on the other hand, not only lays down the Fundamental Rights but it also enumerates the limitations on the Fundamental Rights, and yet what is the result ? It is an important question to consider. The result is this, that the Fundamental Rights in the United States, although in the text of the Constitution they appear as absolute, so far as judicial interpretations are concerned they are riddled with limitations of one sort or another. Nobody can in the United States claim that his Fundamental Rights are absolute and that the Congress has no power to limit them or to regulate them. In our country I find that

we are in the midst of a paradox; we have Fundamental Rights, we have limitations imposed upon them, and yet the Supreme Court and the High Courts say. "You shall not have any further limitations upon the Fundamental Rights."

Now comes the question ; how does this result come to be ? And here I come to the canons of interpretation which have been adopted in the United States and by the Supreme Court and High Courts in our country. As hon. Members who are familiar with the growth of the Constitution of the United States will know, although the Constitution of the United States is a bundle of bare bones, the United States Supreme Court has clothed it with flesh and muscle so that it has got the firmness of body and agillity which a human being requires. How has this happened ? This has happened because the U.S. Supreme Court, although it was the first Court in the world which was called upon to reconcile the Fundamental Rights of the citizen with the interests of the State, after a great deal of pioneering work came upon two fixed principles of the Constitution. One is that every State possesses what is called in the United States "police power", a doctrine which means that the State has a right to protect itself whether the Constitution gives such a right expressly or not. The "police power" is an inherent thing just as our Courts have inherent powers, in certain circumstances, to do justice. It is as a result of this doctrine of "police power" that the United. States Supreme Court has been able to evolve certain limitations upon the Fundamental Rights of the United States citizens. The second doctrine which the United States Supreme Court developed and which it applied for purposes of interpreting the Constitution is known as the doctrine of "implied powers". According to the decisions of the Supreme Court if any particular authority has been given a certain power, then it must be presumed that it has got other powers to fulfil that power and if those powers are not given expressly then the Supreme Court of the United States is prepared to presume that they are implied in the Constitution.

Now, what is the attitude which the Supreme Court has taken in this country in interpreting our Constitution ? The

Supreme Court has said that they will not recognise the doctrine of the "police power" which is prevalent in the United States. I do not wish to take the time of the House in reading the judgments of the Supreme Court, but those who are interested in it may find this matter dealt with in the case known as Chiranjit Lal Chowdhuri *versus* the Union of India otherwise known as the Sholapur Mills case. You find the judgment of Mr. Justice Mukherjee expressly rejecting this doctrine which in the text of the judgment which I have, occurs on page 15. They say they will not apply this doctrine. The reason why the Judges of the Supreme Court do not propose to adopt the doctrine of "police power" is this, so far as I am able to understand, that the Constitution has enumerated specifically the heads in clause (2) under which Parliament can lay restrictions on the Fundamental Right as to the freedom of speech and expression and that as Parliament has expressly laid down the heads under which these limitations should exist, they themselves now will not add to any of the heads which are mentioned in clause (2). That is in sum and substance, the construction that you will find in the case of Thaper's judgment which was delivered by Mr. Justice Patanjali Sastri. He has said that they will not enlarge it and therefore as the Constitution itself does not authorise Parliament to make a law for purposes of public order "according to them Parliament has no capacity to do it and they will not invest Parliament with any such authority. In the case on the Press Emergency Laws also they have said the same thing—that *in* clause (2) there is no head permitting Parliament to make any limitations in the interests of preventing incitement to an offence. Since section 4 of the Press (Emergency Powers) Act provides for punishment for incitement to the commitment of any offence, Parliament has no authority to do it. That is the general line of argument which the Supreme Court Judges have adopted in interpreting the Constitution.

With regard to the doctrine of implied powers, they have also more or less taken the same view. Personally myself, I take the view that there is ample scope for recognising the

doctrine of implied powers, and I think our Directive Principles are nothing else than a series of provisions which contain implicitly in them the doctrine of implied powers. I find that these Directive Principles are made a matter of fun both by judges and by lawyers appearing before them. Article 37 of the Directive Principles has been made a butt of ridicule. Article 37 says that these Directives are not justiciable that no one would be entitled to file a suit against the Government for the purpose of what we call specific performance. I admit that is so. But I respectfully submit that that is not the way of disposing of the Directive Principles. What are the Directive Principles ? The Directive Principles are nothing but obligations imposed by the Constitution upon the various Governments in this country—that they shall do certain things, although it says that if they faill to do them, no one will have the right to call for specific performance. But the fact that there are obligations of the Government, I think, stands unimpeached. My submission is this; that if these are the obligations of the State, how can the State discharge these obligations unless it undertakes legislation to give effect to them ? And if the statement of obligations necessitates the imposition and enactment of laws, it is obvious that all these fundamental principles of Directive Policy imply that the State with regard to the matters mentioned in these Directive Principles has the implied power to make a law. Therefore, my contention is this, that so far as the doctrine of implied powers is concerned, there is ample authority in the Constitution itself to permit Parliament to make registration, although it will not be specifically covered by the provisions contained in the Part on Fundamental Rights.

Dr. S. P. Mookerjee (West Bengal)**:** Even though they may become inconsistent with the provisions of the Constitution ?

Dr. Ambedkar: That is a different matter.

Shri Kamath: That is a vital matter.

Dr. Ambedkar: What I am saying is this that the various provisos attached to the various fundamental articles need

not be interpreted as though they were matters of strait-jacket as if nothing else is permissible.

Shri Kamath: You yourself made it.

Dr. Ambedkar: The point that I was trying to make to the House is that on account of the declaration by the Supreme Court that this Parliament has no capacity to make a law in certain heads, the question before the House is this : can we allow the situation to remain as it is, as created by the judgments, or we must endow Parliament with the authority to make a law ?

At this stage I do want to make a distinction and I do so for the special reason that Dr. Mookerjee came and said that we were taking away the freedom which people enjoyed. I think it is necessary to make a distinction between the capacity to make a law and the enactment of a particular law. All these matters as to whether a particular law encroaches upon the freedom of the people is a matter which can be discussed when the law is being made. Today we are not dealing with a law ; we are only dealing with the capacity of Parliament to make a law.

[SHRIMATI DURGABAI *in the chair*]

Dr. S. P. Mookerjee : May I ask one question with regard to this point that you are only asking Parliament to endow you with power to make a law ? But according to the changes which have been proposed, all the laws which were invalidated will become valid retrospectively.

Dr. Ambedkar: I know that is a point on which my friend Pandit Bhargava laid great stress and it would be very wrong on my part to leave it unexplained.

Dr. S. P. Mookerjee : And the much-hated emergency laws will become good laws.

Dr. Ambedkar: It is not quite so.

Shri Kamath: Almost;

Dr. Ambedkar: So far I have dealt with two heads, namely, public order and the incitement to an offence. There

remains the third category, namely friendly relations. We have at present on our statute book a law enacted in 1932 dealing with friendly relations with the foreign States. It is true that that law has not come for any adjudication before High Courts or the Supreme Court and it has so far not been declared to be *ultra vires*. But the fact remains that in view of rules of interpretation adopted by the Supreme court that nothing is within the capacity of Parliament unless that particular head of legislation is mentioned in clause (2) and as "friendly relations with foreign States" is not mentioned in clause (2) I do not think it requires an astrologer to predict that when that question comes before the judiciary they will follow the same line of interpretation.

Shri Kamath: Dr. Ambedkar is quite enough for the purpose.

Dr. Ambedkar: And it is for that reason that we have thought it necessary to include in the new heads this head of friendly relations with foreign states.

My friend Dr. Mookerjee asked whether there was any country where such a law prevailed. Well, I have searched for a precedent and I can tell him that I find no country which has not such a law. In the case of England it is a rule of Common law. No statutory law is necessary. The Common Law is operative not only in England but in all the Dominions. Therefore that same rule prevails there. In fact, the common Law rule has been amended and made more stringent by a statutory provision in Canada.

Pandit Kunzru (Uttar Pradesh)**:** Will my hon. Friend explain a little more the position in England ?

Dr. Ambedkar: Yes, I will. I do not know—I must leave some time for the Prime Minister.

Hon. Members: Take your own time.

Dr. Ambedkar: There is some confusion. I think, in the minds of the people.....

Dr. S. P. Mookerjee: And the framers of the Bill.

Dr. Ambedkar: No, I do not think so. You will presently see that we have no such confusion. At any rate my mind is very clear about it.

Shri Kamath: Government as a whole, not you.

Dr. Ambedkar: What does maintenance of friendly relations imply ? Most Members are under the impression that if this category was added they would not be in a position to criticise the foreign policy of the Government. I like to say that that is a complete misunderstanding and a misconception.

Shri Kamath: That is your opinion.

Dr. Ambedkar: The underlying principle of this category, namely maintenance of friendly relations with a State, is nothing more than an extension of the principle of libel and defamation, that you shall do nothing, you shall say nothing, you shall circulate no rumour which will involve a foreign State in any kind of ignominy. Beyond that there is nothing in this category. Even the English Common Law is based upon this, namely that it is a part of the law of defamation—that you shall not defame a foreign State which has a friendly relation with this country. Now, I want to know from Dr. Syama Prasad Mookerjee whether he thinks that even asking him or others that they shall not defame a friendly nation is such a serious inroad upon the liberty of speech that it should be condemned.

Dr. S. P. Mookerjee: Why not specify it ?

Dr. Ambedkar: It is understood that this is so. I know my friend is a great reader, but if he were to read the debates that took place in this Assembly in 1932 when this law was enacted, if he will read the Statement of Objects and Reasons—which I have read—and also the Report of the Select Committee on that Bill he will find that in this particular law there is nothing more than what I have stated.

Shri Kamath: Is not the expression "running dog" used by the Peking Government libellous or slanderous ?

Dr. Ambedkar: There the Peking Government ought to make a law.

Shri Kamath: If someone retaliates here ?

Dr. Ambedkar: This policy of tit for tat is not good for the State.

Shri Kamath: What about reciprocity ?

Dr. Ambedkar: It may involve us in great deal of trouble. If we are responsible to our friendly neighbours that our citizens shall not defame them, in the same way the Chinese Government is responsible that the Chinese citizens shall not defame India and the remedy must be left for each Government to adopt in accordance with its own executive authority.

Prof. Ranga (Madras)**:** And sense of honour.

Dr. Ambedkar: Yes, and sense of honour.

Shri Naziruddin Ahmad: But the present law of defamation will protect foreign States also.

Dr. Ambedkar: My friend has provoked me to do something more which I did not want to do ! Now, let me read to him—this is very important—the law in the United States. Incidentally I would like to remind my friend Dr. Syama Parasad Mookerjee who so vehemently asked 'Is there any country which has such a law ?', well, I point to the United States of America. I have got this big volume with me *Foreign Relations and Intercourse*.

Shri Frank Anthony (Madhya Pradesh)**:** Is it part of the Bill of Rights.

Dr. Ambedkar: It says—this is an important point—"Notwithstanding the fact that the United States does not permit the Congress to make a law on this particular subject, the Supreme Court on the basis that every State has a police power to protect itself has permitted such a legislation to be on the statute book."

Shri R. K. Chaudhuri (Assam)**:** But not on the Constitution.

Dr. Ambedkar: "What is the law ?"—my hon. friend Mr. Naziruddin who asked the question may read it. It goes much beyond our Indian law. The first clause says that "anybody wilfully and knowingly making any untrue statement, either

orally or in writing, about any person shall be punished by imprisonment for not more than ten years and may, in the discretion of the court, be fined not more than five thousand dollars". I want him to compare the punishing clause of our law with the punishing clause of this law.

Shri Naziruddin Ahmad: I raised a different question.

Dr. Ambedkar: Let me read it again.

Mr. Chairman: Order, order ; I do not think that too many interruptions help the debate.

Dr. Ambedkar: I do not mind replying if I can understand what they ask.

Shri Naziruddin Ahmad: I raised a different question altogether. My question was whether our law of defamation does not protect foreign States also.

Dr. Ambedkar: It does not.

Shri Naziruddin Ahmad: I think it does.

Dr. Ambedkar: No, it applies only when one person defames another. That is the point. Then the second clause in that law is about "wrongful assumption of character of a diplomatic or consuler officer". That also is made punishable under the law relating to foreign relations. One more important clause is about "conspiracy to injure property of a foreign Government". There again the punishment is imprisonment of not more than three years or fine of not more than five thousand dollars or both. Therefore, our law is a very mild one.

Shri Kamath : If all untrue statements are tabooed it will put an end to all diplomacy.

Dr. Ambedkar : We are talking of citizens doing harm to the Government of the foreign State.

Shri Kamath: Not Government-to-Government.

Dr. Ambedkar: With the explanation that I have given so far, Members of the House, I think will agree that there is a necessity for amending article 19 in the way in which sub-clause (1) of clause 3 of the Bill makes provision for it.

Some Hon. Members: No.

Dr. S. P. Mookerjee: If it is only for protection against defamation, why are you having it separately ?

Dr. Ambedkar: Sometimes it is better to separate a certain category.

Shri Kamath: Expediency.

Dr. S. P. Mookerjee: Which is the Constitution in the rest of the world where such a separate provision is made ? You contradicted me.

Dr. Ambedkar: The whole point is that the British Constitution is an unwritten Constitution and therefore nothing is necessary; Parliament is supreme.

Dr. S. P. Mookerjee: What about the American Constitution ?

Dr. Ambedkar: There are no Fundamental Rights in the United Kingdom. That is the difficulty.

Dr. S. P. Mookerjee: In any written constitution does a similar provision exist ?

Dr. Ambedkar: It does not, but in the United States of America according to the canons of interpretation adopted by the Supreme Court such a law is possible.

Dr. S. P. Mookerjee: That is a different matter.

Dr. Ambedkar: It is not different at all.

Now I come to clause 3, sub-clause (1)(*b*). This clause seeks to amend clause (6) of article 19 which deals with trade, profession, etc.

Shri Deshbandhu Gupta (Delhi)**:** Before the Hon. Minister goes to clause 3(1)(*b*), may I ask him one question ? The words are "defamation or incitement to an offence" and all laws existing today will become.....

Dr. Ambedkar: I have not come to that.

Shri Deshbandhu Gupta: I want you to answer that.

Dr. Ambedkar : I will not answer it now. I will answer it at my own time. I have noted it and I think it is a question to which some answer should be given. There is no ground for running away from it. It may be that the House may not accept my explanation, but that I have no explanation to offer is not the presumption that should be made.

With regard to this clause it will be noticed that the latter part of clause (6) has been separated into two parts, one dealing with the qualifications for practising any profession, and the second part dealing with the actual carrying on of any trade etc. The important part of that second part lies in this that it permits the State to make a different classification between private members carrying on the trade and the State carrying on the same trade. This clause and the necessity for its introduction has arisen on account of the judgment of the Allahabad High Court reported in 1951 A.I.R. (Allahabad) 257, Full Bench, known as Motilal *versus* the Government of Uttar Pradesh. As hon. Members will remember, U.P. Government have introduced a scheme of nationalisation of motor transport. They were proceeding with their scheme piecemeal, territory by territory; certain territory they had said would be subject to their monopoly and that no private individual would be entitled to run their buses within that territory; certain territory which they thought in the beginning they could not cope with they left to private bus owners. In doing so, they said that it would not be necessary for the State to obtain a licence for the running of their buses within the territory that they had ear-marked for themselves, but required the private owners to obtain licences from the State. This question was raised before the Allahabad High Court on the ground that they involved discrimination. It seems to me that if nationalisation is a desirable thing and in the best interests of the country, then it must also be admitted that it may not be possible for the State to undertake nationalisation all throughout the country at one and the same time. It involves administrative problems ; it involves many other problems and consequently, in order to fully carry out the scheme and to consolidate it, it may be necessary for the State to define a territory and to leave others to carry

on for the time being. Such a process should not be hampered by the doctrine of non-discrimination. It is to get rid of this doctrine of non-discrimination in the matter of nationalisation that this particular amendment has been introduced and I do not think that the House will very seriously object to this kind of doing.

An Hon. Member: The same thing from the High Court.

Dr. Ambedkar: Now I come to clause 3, sub-clause (2) about which.....

Dr. S. P. Mookerjee: Why have you omitted the word 'reasonable' from the existing clause ?

Dr. Ambedkar: The word 'reasonable' was not there. That is a matter which may be discussed. (*An Hon. Member* ; In the Select Committee.) In the House, everywhere.

Now I come to clause 3, sub-clause (2). In order to understand what this amendment precisely does, I think it is necessary to go back to article 13. It is only in the light of article 13 that one can have a clear idea of this particular sub-clause 31. As hon. Members know, article 13 declares that if any law is inconsistent with the Fundamental Rights, that law shall be declared to be void and inoperative. As I have shown in the course of my observations, certain provisions of laws, such as sections 153A and 124A of the Indian Penal Code, certain provisions of the Press (Emergency Powers) Act and the Public Safety Acts have now been declared to be void by the Supreme Court and by the various High Courts. In view of this, what are we to do ? It seems to me that there are three alternatives which we could pursue. The first alternative is to refuse to amend the constitution and to let the void provision remain as it is. I do not think that any Member of this House would like this alternative. (*An Hon. Member* : It would be disastrous). The second alternative is to amend the Constitution, and then under this, there are two courses open. The first course open to us is *to* re-enact this law in consonance with the amended article. That is one way. Parliament and the various State Legislatures should call in their sessions and tackle with these laws once

again. The second course is to revive these laws and to say that the revival of these laws shall be subject to the provisions contained in the amended Constitution. I cannot see what else one can do. The Bill adopts the second course. The Bill says: let the laws which have been declared by the Supreme Court and the High Courts to be null and void be deemed to be alive, but subject to one proviso, and that proviso is that they shall not be alive in their original body and flesh but they shall be alive only in such degree and in such manner as may be consistent with the amended article 19. That is the position. Now, I would like to ask the House whether they will seriously contemplate the posibility of either this Parliament or the various Legislative Assemblies in the Provinces to again sit and re-enact these laws.

Dr. S. P. Mookerjee: Why not ?

Dr. Ambedkar: Is there time for it ?

Dr. S. P. Mookerjee: What is happening ?

Dr. Ambedkar: I do not know what time it might take. But I am sure about that if my hon. friend Dr. Mookerjee were to be a member of the Bengal Legislative Assembly, he will prevent such a law being passed there for at least six months. His argument, his eloquence, all that would stand as a formidable Chinese Wall against any re-enactment of these laws. Therefore, it seems to me not to be a very unnatural presumption that in the present circumstances in which this Parliament is situated or the local Legislative Assemblies are situated, you cannot presume that there would be immediately the time available for the re-enactment of these laws. I cannot think of it myself. We have so much legislation here.

Shri Sarangdhar Das: Why not the new Parliament ?

Dr. Ambedkar: If it is the new parliament, it means that for six, seven or eight months on a year, there will be no law for public order; there will be no law for incitement to an offence and no law for friendly relations with foreign States. If Members of Parliament can contemplate such a contingency, they are welcome to it.

Ch. Ranbir Singh (Punjab)**:** The new Parliament can repeal these laws if they so want.

Dr. Ambedkar: I have dealt with article 19.

Dr. S. P. Mookerjee: Why are you *giving* retrospective effect ?

Dr. Ambedkar : Unless you give retrospective effect, these laws cannot be revived.

Shri Shiv Charan Lal (Uttar Pradesh)**:** Is that legal ?

Dr. Ambedkar: Why not ? If these laws are to be in operation, they must be in operation *on* the date when this law comes into existence. You can give it a new beginning if you can re-enact; but I do not see how you can re-enact.

Shri Deshbandhu Gupta: Because the Hon. Law Minister is going to another article, may I ask a question with regard to this article ? The power sought to be conferred refers to incitement to an offence. Section 4 of the Press (Emergency Powers) Act, to which the Hon. Law Minister has referred, involves incitement to murder or to an offence involving violence. I want to know.

Dr. Ambedkar: Do you want to advocate it ?

Shri Deshbandhu Gupta: No. I want to know whether under the wide powers that are sought to be taken, it is not possible to advocate even non-violent disobedience to any order which may be against the liberties of the people, and which will constitute an offence under other enactments. I want an explanation. For instance, section 144 prevents the holding of a meeting for unlawful purposes. Some district magistrate issue an order. A newspaper, tomorrow, advises the people that this order is absolutely obnoxious and it may be disobeyed. Will it or will it not constitute an offence although it is neither an incitement to violence nor incitment to murder ?

Shri Rajagopalchari: May I submit that such extensively detailed discussion may be reserved for the Select Committee. The principles have been explained. Otherwise, we will have no time.

Shri Deshbandhu Gupta: If the Hon. Minister gives an assurance that it will be modified, it is enough.

Mr. Chairman: Whatever it may be, the hon. Members who are frequently interrupting, I think, have had their say already, and their points of view have been taken note of. Now, let the Hon. Law Minister, who is now speaking have his say.

Shri Kamath: Does it mean that those who have not had their say can interrupt?

Mr. Chairman: No ; that does not mean that. Most hon. -Members will do well to take note of this.

Shri Shiv Charan Lal: Only one question. Will it be legal to give retrospective effect ?

Dr. Ambedkar: Oh yes ; undoubtedly.

Pandit Thakur Das Bhargava: May I ask one direct question ? Is the Hon. Law Minister satisfied with the terms of article 19(2) as he seeks to amend it ?

Dr. Ambedkar: I have explained the principle. If as I said, the language requires to be modified to give effect to the principle, there can be no objection. But, the principle is that they shall be revived.

Shri Deshbandhu Gupta: The Hon. Minister has not thrown any light on the removal of the word 'reasonable'.

Dr. Ambedkar: It is not removed; it was not there.

Pandit Thakur Das Bhargava: But the other things were there. You have taken away all those safeguards.

Dr. Ambedkar: That is a different matter. That will be considered by the Select Committee.

Now, I come to clause 4 of the Bill. This clause introduces a new article 31A. Let us understand, first of all, what this article does. What this article does is to permit a State to acquire what are called estates. Secondly, it says that when any legislation is undertaken to acquire estates, nothing in the Fundamental Rights shall effect such a legislation. The merits

of this article, I think have to be judged in the light of one question, and it is this. Is there anything revolutionary in this article ?

Shri Frank Anthony: It is reactionary.

Dr. Ambedkar: Is there anything in this article which is not to be found in article 31 ? It is from this point of view that I want the House to consider this question. The House would remember that later clauses of article 31 provided that certain laws which were then on the anvil and had not been passed, shall not be questioned on the ground of compensation if a certificate was issued by the President. That is the gist of those clauses of article 31. The new amendment to article 31 not only removes the operation of the provision relating to compensation, but also removes the operation of the article relating to discrimination. In this amendment, I am emphasising the word 'estate'. The new article is a very limited one. It does not apply to the acquisition of land. It applies to the acquisition of estate in land which is a very different thing. What is an estate has been defined in this particular article namely, the right of a proprietor, sub-proprietor, tenure-holder, or other intermediary. Of course, the terminology is different in different provinces. It does not refer to the acquisition of land. That is a point to be borne in mind. Therefore, all that article 31 A does is this. When any law is undertaken with regard to the acquisition of property, two questions can properly arise. One is the amount of compensation ; the second is discrimination as between the various proprietors as regards the amount of compensation. These are the only two questions that can possibly arise and give rise to litigation. With regard to one part of it, dealing with compensation, we have already excluded the acquisition of proprietory and zamindari interests by the original article 31. By this article, we are excluding the operation of the discriminatory provision. That is all what we are doing by this article.

It seems to me that we really cannot adopt the said two articles of the Fundamental Rights relating to compensation and discrimination with regard to this land question. I have

paid considerable attention to this subject. I may say that I have studied with great care the situation in Ireland, a country which resembles very closely our own. In Ireland, the peasantry is hungering for land. Land in Ireland has been unevenly distributed. Some have very large estates ; some have very small. There are many who are landless. What has the Irish Constitution done ? I want the Members who are representing the landed interests to consider this case in a comparative manner. Now, so far as the Irish constitution is concerned, property in land particularly is not a Fundamental Right. Article 43 of the Irish Constitution clause (2), states that the exercise of the right mentioned, that is the right on land, should be regulated by the principles of social justice. It does not say that land shall not be taken except on the basis of full compensation or without any discrimination as between landlords. What the Irish law does is this. They have appointed what is called the "Congested Board", as they call it, or congested Areas board. It is a separate organisation created by law and this Board has been *given* the power to acquire land, to break up holdings, to equalise land, to make uneconomic holdings economic ones by taking land from a neighbouring owner and the right of assigning compensation has been given to this Board of congested areas. There is no judicial authority to interpret the action of this board.

An hon. Member: And no appeal?

Dr. Ambedkar: And no appeal at all. Some people have of course, taken appeals to the courts, but the courts have held that no appeals lie with any court.

Now, I can, speaking for myself, say without any hesitation that I am not at all an admirer of the new schemes that have been drafted by these States who have acquired land. It is, in my judgment, not a very good thing to create peasant proprietors in this country. Our difficulty in this country has arisen by reason of the fact that we have small landlords holding half an acre of land or an acre or two acres, with no money, no measure, no bulls, no bullocks, no implements, no seeds and no arrangement for water. And yet they are the landlords and the holders of the land. Looking at the future,

I feel very aghast as to what is going to happen to this country and its national production of food, if this kind of agricultural system continues. I would have very much liked if the State had acquired all these properties and kept the land as State land and given it on permanent tenancy to cultivators so that the State would have had the right to create collective farming and co-operative farming on the basis of supplying the materials and so on and so forth. But now we have a large 'number of landless labourers in this country, and I think their number will exceed even five crores. But when you make these laws, making the tiller of the soil the owner of it, what provision can you make for the welfare of these landless labourers ? They will remain where they are—high and dry—notwithstanding the abolition of the *zamindars*. I am, therefore, not very happy at what is being done. But that is a different question altogether. The question we are considering now is whether the intermediaries should be allowed to continue. That is the point, and on the point, I think there can be no dispute that the intermediaries should be liquidated, without any kind of interference from the Fundamental Rights either on the ground that there is no adequate compensation or that a discrimination has been made. I have got with me a very interesting paper which I secured from the Government of West Bengal. Hon Members will remember that there was a Commission called the Floud Commission, appointed for the purpose of liquidating the *zamindars* in Bengal. After that Commission had reported, the Government of Bengal appointed a special officer in order to find out how effect could be given to the recommendations of the Floud Commission and that officer has made a very interesting report. I have got a copy, but as I said, I have not got the time now to go through the whole of it. But that officer himself recommended that equality of compensation would be wrong. It would be neither just nor equitable, though it may be administratively smooth. He has worked out a scheme of compensation which is very interesting, and the scheme is one of graded compensation. In the case of profits up to Rs. 2,000 the compensation should be fifteen times the net profit. From Rs. 2,000 up to Rs. 5,000 it should be twelve times but not less than the maximum

amount given under the previous item. From Rs. 5,000 up to Rs. 10,000, the compensation should be ten times but not less than the maximum under the Rs. 2,000—Rs. 5,000 category and for profits above Rs. 10,000 it should be eight times but not less than the maximum under the last-mentioned category. It is all a graded thing. And I am afraid that we should not get mixed up with this question of compensation which is a very ticklish problem. If you want the betterment of agriculture, I am convinced that these intermediaries must be liquidated. The original article exempted compensation for the acquisition of *zamindari* rights. We are now dealing with exemption from discrimination. I do not see why article 31 should now continue to operate, when there is a law for the purpose of acquiring these estates.

Shri Shiv Charan Lal: What about article 14 about discrimination ?

Dr. Ambedkar: The whole chapter is excluded from operation.

Shrimati Renuka Ray (West Bengal)**:** When the Hon. Minister is prepared to go far, why does he not go further ?

Dr. Ambedkar: I am not revolutionary enough.

Shrimati Renuka Ray: But you yourself suggested that the State should acquire the land?

Dr. Ambedkar: Yes, but I am a progressive radical.

Now, I come to article 31 B. This article enumerates in the Ninth Schedule certain laws which have been passed. Great objection has been taken that this is a very unusual procedure. *Prima facie,* it is an unusual procedure. But let us look at it from another point of view. What are these laws ? What are the principles on which these laws are made which are being saved by the Ninth Schedule. All the laws that have been saved by this Schedule are laws which fall under article 31A. That is to say, they are laws which are intended to acquire estates. And when we say by article 31A that whenever a law is made for the acquisition of an estate, neither the principle of compensation nor the principle of

discrimination shall stand in the way of the validity of it. I admit that sentimentally there may be objection. But from the practical point of view. I do not understand why we should not declare them valid pieces of legislation.

Shri Naziruddin Ahmad : They are bad laws and so they have to be declared valid!

Shri Syamnandan Sahaya (Bihar)**:** May I enquire whether these laws that are now sought to be validated will cover, only land reforms or whether there will be interference with other laws like the Transfer of Property Act and other Act ? Has this aspect of the matter been investigated by the Government?

Dr. Ambedkar: I shall be quite frank about it. The only other method to adopt would be to give power to the President to revise these laws and to reconstruct them and to bring them strictly in conformity with the provisions of article 31.

11-00 AM

Pandit Thakur Das Bhargava: Under article 31 we decided that if President certifies certain laws, they will be valid. Now that safeguard has been taken away.

Dr. Ambedkar: The reason why that has not been done is this. Just imagine the amount of burden that would be cast upon myself, on the Law Ministry, the Food and Agriculture Ministry and other Ministeries involved if we were to sit here and examine every section of each one of these Acts to find out whether they deviate. I think that is impossible.

Shri Kamath: Appoint a Committee for the purpose

Dr. Ambedkar : That will mean postponement of this Bill.

Now I come to clause 6 which seeks to amend article 85. In article 85 the word used is 'summon'. This word has given rise to some difficulty. The word ' summon' has a technical meaning, *viz.* sitting of Parliament after a prorogation or dissolution. It does not cover the case of the sitting of Parliament after adjournment. The result is that although Parliament may sit for the whole year adjourning from time

to time, it is still capable of being said that Parliament has been summoned only once and not twice. There must be prorogation in order that there may be a new session. It is felt that this difficulty should be removed and consequently the first part of it has been deleted. The provision that whenever there is a prorogation of Parliament, the new session shall be called within six months is retained. That is the difference between the old article and the new, *viz.,* the summoning has been dispensed with. Parliament may be summoned once and it may continue to *go* on after short adjournments from time to time.

Another difficulty with regard to clause (2) is—it was contended by some that according to the letter of this article it is necessary that both Houses should be prorogued simultaneously and not at different times. That certainly was not the intention of the Constitution. The Constitution intended that one House may be summoned at one time, another may be summoned at another time, one may be prorogued at one time and another may be prorogued at another time. It is to make this possible that clause (2) has been amended.

With regard to article 87, which is sought to be amended by clause 7, the position is this. Under the old article the provision was that whenever Parliament was summoned, there was to be an address by President. Now as Parliament will be summoned only once and it will continue either by prorogation or by adjournment, it is not necessary to retain this provision. Similarly .....

Shri Kamath: How can it continue after prorogation ?

Dr. Ambedkar: If it is prorogued, then it will be summoned. If there are two summonings, the address by President will be only once. With regard to precedence for debate, that also has been deleted—not that there will be no time given but for the simple reason that there may be some urgent business which may require to be disposed of earlier .....

Shri Syamnandan Sahaya: Supposing the President wants to address the House, this will be a limitation imposed on him.

Dr. Ambedkar: Now I come to articles 341 and 342. As the House knows, to-day the power of issuing scheduled castes and the scheduled tribes order so far as part A and Part B States are concerned is given only to the President while the power to issue such orders with regard to Part C States is given to Parliament. That position is now being altered and the power is given to President even to make an order with regard to scheduled castes and scheduled tribes in respect of Part C States also.

Then article 372 invests the President with the power to make adaptation in existing laws in order to bring them in conformity with the provisions of the Constitution and that power is given only for two years. This House will remember on account of the pressure of other business it has not been possible for Government to examine all the existing laws in order to find out how many of them are inconsistent with the provisions of the Constitution. It is therefore felt that the President's power to make such adaptation in the existing laws in order to bring them in conformity with the Constitution be extended by one more year so that means may be adopted in order to find out which laws are inconsistent and a consolidated order may be issued thereafter.

Shri Kamath: The article also provides that once Parliament is elected under the new Constitution, the President shall not exercise this power.

Dr. Ambedkar: If this article gives the power, then that of course overrides.

Shri Kamath : How can that be ?

Dr. Ambedkar: Then I come to article 376, clause 13. A good deal of objection was taken to this particular clause. It deals with the appointment of persons who are not citizens of India to the posts of Chief Justice and Judge of any High Court. The position is this. Article 217, clause (2) says that a Judge of the High Court must be a citizen of India. Article 376 provides that existing Judges including Judges who were not citizens on the date when the Constitution came into operation shall continue as Judges if they so choose. Now it

so happens that we have in our country some four High Court Judges who were on the date of the Constitution, Judges of Certain High Courts but were not citizens of India. They chose to remain at their posts and did not retire. We were therefore bound to carry them over under the provisions of article 376. A question has arisen and it is this. Can such a person be appointed as a Chief Justice either in the Court in which he is serving or in some other Court ? Another question that has arisen is this. Can such a Judge be transferred to another High Court, the point being whether the appointment of a Chief Justice or the transfer of a Judge from one High Court to another High court is a new appointment ? If it is a new appointment, obviously the provisions of article 217(2) would apply. This was felt as a great difficulty, because it could not be presumed that parliament intended merely to continue them but their prospects should be blocked. Such evidently was not the intention. Consequently the President under the powers vested in him under article 392, clause (1) for the purpose of removing difficulties, issued an order regularising the position. That order in some quarters has been questioned as being outside the power of the President, there being no defficulty whatsoever. In order to remove these doubts it is thought better to make a provision in the Constitution itself and that is why clause 13 is included in this Bill.

Mr. Chairman: Will the Hon. Minister explain why was not originally the transfer contemplated ? Is it not a new situation created by this clause ?

Dr. Ambedkar: That is what I interpret to be the intention of article 376 *viz.,* that once they were carried over, they were carried over for all purposes, either transfer or promotion.

But some people have found this difficulty .....

Pandit Thakur Das Bhargava: The idea was that the Chief Justice shall not be a non-national. What is the reason now ?

Dr. Ambedkar: The reason is obvious. When you accept a man as a Judge you certainly accept him for your own convenience and you should be in a position to transfer him to some other court. For the benefit of and in fairness to that individual he should not be debarred from promotion.

Pandit Thakur Das Bhargava: Would you like the Prime Minister of India to be a non-national ?

Dr. Ambedkar ; We are dealing with these four exceptional cases. (*Interruption*). The provision is very clear and I do not think anybody can quarrel with it.

I believe I have exhausted all the points raised in the course of the debate. If anything remains I shall be prepared to deal with it when the Bill is taken up clause by clause.

CONSTITUTION (1ST AMENDMENT) BILL 1951

***Shri Jawaharlal Nehru:** ..... Now, it has become a convention—I cannot immediately say whether it is anything more and whether it is in the Constitution itself— that anything coming under the concurrent list of legislation, any law passed by a State Assembly, has to come up here for examination and for the President's approval. Is that so ?

An hon. Member : Not until this House has passed a law.

The Minister of Law (Dr. Ambedkar): If it is inconsistant.

An hon. Member: Not until this House passes a law.

Shri Jawaharlal Nehru: What I mean was, if there is obvious repugnance then, of course, it does not come into effect. That is obvious. But in order to examine that there is no repugnance, in order to see that it is what the legislative lists contemplate, it comes up here of the President's assent. Therefore, in effect .....

Shri Bharati (Madras)**:** Not necessarily,

Shri Jawaharlal Nehru: I do not say it is necessary, in the sense that the law does not take effect. But I am told that it is practically automatic and anyhow it has been in practice automatic. And such laws have to come up here, every one of them, for they come up daily, first of all to the Home Ministry to examine and to the Law Ministry also to examine and it comes before the President to see whether he expresses his approval or not. So it can be taken for granted that, especially in a matter of this kind it must inevitably come. I go beyond that and if the House wishes I am perfectly willing to add that clause about the President's assent to article 19. It is for the House to decide.

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* P. D., Vol 12, Part II, 31st May 1951, p. 9610.

***Dr. S. P. Mookherjee :** ..... Before I take my seat, I once again request the Prime Minister to consider the main purpose of my two amendments with regard to the substitution of the word 'Parliament' in the place of 'State' or if that is not possible, at least to provide that the laws passed by the States in this behalf will be subject to the President's assent. If that is done, it will, to a great extent, remove the difficulties which stand in our way.

The Minister of Law (Dr. Ambedkar): My only excuse for intervening in this debate is to clear certain points which relate to the constitutional provisions which are necessarily involved in the amendments which have been tabled. In the first place, I propose to deal with the two amendments together : the first amendment is that Parliament should have the exclusive power to make laws under the provisions which are now being introduced in the proposed clause (2) of article 19 and the second is that, if that is not possible, the President should have the power to give his assent to any law made under this new proposed clause and unless that assent was given, that law should not be deemed to be valid.

With regard to the question of bringing in Parliament, there are two aspects to the matter which, I think, it is desirable to consider carefully. One is this: Is it possible to give exclusive power to Parliament to make a law in a field which is covered by the new clause (2) ? On this matter, I should like to invite the attention of the House to article 368 which deals with the amendment of the Constitution. That article specifies certain classes of amendments to the articles "of the Constitution which would require the ratification of the States before the amendments could be deemed to have been validly passed. I do not propose to go over all the different categories that have been set out in article *368*. I content myself by reference to only one and I refer to Chapter I of Part XL Article 368 says that if any article which forms part of Chapter I of Part XI is amended, then such an amendment will require the ratification of the State. It will be noticed that article 246 clause (3) falls in Chapter I of Part XI. That article says that

* P. D., Vol 12, Part II, 1st June 1951, pp. 9861-69.

the States shall have the exclusive power to make laws in relation to any entry in List II, which means that Parliament shall not have the power to make laws with regard to any item in List II. If Members of this House would refer to List II, they will notice that Entry 1 in that List refers to public order. Public order is one of the categories of heads of legislation which we are introducing for the first time in clause (2) of article 19, by this amending Bill. It is therefore quite clear that if you were to give Parliament power to make law in respect of public order which is included in List II, and which according to article 246(3) confers exclusive legislative jurisdiction upon the States, then it is obvious that such an amendment would require the ratification of the States. Now the intention of the Government as well as of this House, I think on this point is quite clear, namely, that we do not propose to make any amendment to any clause which would require the assent or the ratification of the States. From that point of view, I think, all those who have tabled this amendment would agree that it is not possible to accept that amendment without involving this particular Bill in a great difficulty which it would not be possible for this House to overcome within the time within which we propose to carry through this measure.

As the Prime Minister said yesterday, all of us have sympathy with the proposal, namely, that if it were possible Parliament should be given the power to legislate. We have also sympathy with the suggestion that the President may have the right to give his assent before the Bill becomes law. But the question that has to be considered is, is such a thing necessary ? Is it not contained in the very provisions of the Constitution ? Now, let me refer hon. Members to the heads of legislation we are introducing in the present clause and the place, they have in the various entries in Schedule Seven.

Take the security of the State. There is no particular entry of this nature—security of State—for the simple reason that the security of the State can be affected by a variety of entries and the power is necessarily distributed under different heads. At the same time hon. Members will see that entry 1 of List

1 is a very relevant entry so far as the security of the State is concerned. Take the second head—friendly relations with foreign States. That is covered by entries 9, 10 and 14 in List 1. Take the third head—public order, decency and morality. That is in entry 1 in List II.

Dr. S. P. Mookerjee: What entry?

Dr. Ambedkar: It is entry 1 in List II to some extent. And so far as newspapers, books etc. are concerned it is also related to entry 39 in List III. Contempt of court comes in entry 95 in List I and also in entry 14 in List III. Defamation is in entry 1 in List III. Incitement to an offence is in entry 1 in List III.

Now having had this information before the House, I think the House will understand that in the large majority of the cases since the entry either falls in List I or in List III, Parliament has in some cases the exclusive authority to make law, in some cases concurrent authority to make them.

Dr. S. P. Mookerjee: Will the Hon. Minister be more specific ? Where is the concurrent power to pass laws regarding public order ?

Dr. Ambedkar: With regard to public order, there is another entry—39 in List III—which speaks of books and newspapers. Newspapers are very much concerned.

Dr. S. P. Mookerjee: The Hon. Minister is arguing that with regard to certain matters—in fact with regard to all the matters either Parliament has concurrent jurisdiction or has exclusive jurisdiction. I would like him to be more specific.

Dr. Ambedkar: I am giving the entries.

Dr. S. P. Mookrjee: Public order?

Dr. Ambedkar: The large head for public order is entry 1 in List II. Newspapers may also come under public order.

Dr. S. P. Mookerjee: It is not.

Dr. Ambedkar: The point is this. Some law has to be related to some entry. How is the authority of Parliament or the authority of a State to be determined to make a law ?

Dr. S. P. Mookrjee: Will the Hon. Minister admit that Parliament has no concurrent jurisdiction in respect of laws relating to public order except newspapers ? Let us have it clearly.

Dr. Ambedkar: Yes.

Mr. Deputy Speaker: The Hon. Minister does not say that every item is in the Concurrent List.

Dr. Ambedkar: A large majority of them is exclusively in the jurisdiction of Parliament and in some cases the jurisdiction is also concurrent. Therefore my submission to the House is this—that nothing is necessary for the purpose of investing Parliament to make a law in the fields which are mentioned here as exclusive right of legislation. Parliament has, in certain cases, got also concurrent power so that it can check any abuse that the Provincial Legislatures may make of the power that we are conferring.

Dr. S. P. Mookerjee: What is the power regarding incitement to offence under the Concurrent List ?

Dr. Ambedkar: It comes under the Penal Code. Incitement to offence is a specific offence in the Penal Code.

Dr. S. P. Mookerjee: The Hon. Minister should read to the House entry 1 of.....

Dr. Ambedkar : I cannot yield to him just like he did not yield to the Hon. Home Minister. This is not a lecture room and I am not lecturing to the students either. I am making my point. If my hon. friend wants an exposition we can meet somewhere in the Constitution Club—and I shall be prepared to lecture to him.

Mr. Deputy Speaker: All that I can say is the hon. Member contends that entry 1 in List II—State List—only relates to public order and this is not covered. Incitement to offence is in the Penal Code. If he is not satisfied, he can draw his own inferences.

Dr. Ambedkar: It is open to you to say that this does not cover public order.

Mr. Deputy Speaker: All that the Hon. Minister wants to show is that with respect to the majority of the offences, they are either in the Union List or in the Concurrent List. The minority may be more important than the majority.

Dr. S. P. Mookerjee: The Hon. Minister stated that incitement to offence comes under entry 1 in the Concurrent List but that item reads like this :

> "Criminal law, including all matters included in the Indian Penal Code at the commencement of the Constitution but excluding offences against laws with respect to any of the matters specified in List I or List II and excluding the use of naval, military or air forces or any other armed forces of the Union in aid of the civil power ".

Dr. Ambedkar: I will not give in. I would like to finish my speech before one o'clock .....

Dr. S. P. Mookerjee: It means that there will be no incitement to any offence which comes under public order in List II.....

Dr. Ambedkar: I am not running away from that point. I am very much interested in it.

Dr. S. P. Mookrjee: I know you are.

Dr. Ambedkar: Yes, I am.

I now come to the President's assent. Under article 200 of the Constitution the Governors or the Rajpramukhs of the different States are empowered to withhold their assent from any particular Bill and refer it to the President. That provision already exists. Naturally the Governor has to act on the advice of his Minister and if he felt that a measure should be reserved for the consideration of the President, the power is already there. No new power is required. But it may be argued that this power is in a sense nugatory, because it depends upon the advice given to him by the Ministry and the Ministry which has been a party to a measure cannot be expected to give their advice to the Governor to refer the matter to the President.

There is also another article 254 which deals with the laws in the concurrent field and that article says that if there is any inconsistency between any law made by Parliament and a similar law on the same subject made by a State Legislature,

then to the extent of the repugnancy and inconsistency the law of the State shall be void. There is in addition to that a further provision in clause (2) of that article that if such a law, which is inconsistant with the law made by Parliament on the subject, is reserved for the assent of the President and the President gives his assent, notwithstanding the repugnancy the law shall remain void so far as that State is concerned. So far as our experience in the Law Ministry goes almost every State has got the fear that their law may be declared to be inconsistent and hence void. In order to prevent this contingency the States have always taken the safest course to refer all these measures to the President for his consideration and assent and his assent has generally been given either in the form in which the Bill stands or with some modifications. Therefore my submission is that so far as the Constitution is concerned articles 200 and 254(2) contain enough safeguards to see that such measures do reach the President and receive his consideration and assent.

Shrimati Durgabai : Under what procedure ?

Dr. Ambedkar: I was just referring to it. Under article 254(2).....

Shrimati Durgabai : How **?**

Dr. Ambedkar: I know some people have got a bee in their bonnet. On all these three counts I submit that all these amendments are quite unnecessary.

I propose to deal with some of the points raised by my friend Pandit Kunzru. So far as his amendment dealing with change of words is concerned, his words I suppose are merely poetical alliterations and I do not think there is any substance in them, whether you call it friendly relations or by some other words : the substance and the head of legislation remaining what it is. I am therefore not prepared to spend my time in dealing with them.

But he has been making a great deal of capital with regard to the American case which he can never forget namely Near *versus* Minnesota. It is true that the U. S. Supreme Court

nullified a law which had made previous restraint as unconstitutional. But with regard to that case I think it is not desirable to fix our banner and standard by the decision that was given, because I would like to draw my learned friend's attention to some of the incidents with regard to that particular case. I have a book with me and I shall give the name. I know that Dr. Mookerje is very careful in pursuing these matters. The book is *Free Speech in the United States*. There are various other books also which he must have known. Now with regard to this particular case the first point which the American writers have themselves noted is that it is a decision which was arrived at by a bare majority of one single judge ; it was a decision which was given by five to four. The second thing is that at page 380 the writer himself has said that on account of this very narrow majority—

> "The Near case had ho immediate effect beyond voiding the Minnesota statute, which is said to have grown out of a nasty local situation."

I would also like to read to him a portion of the judgment delivered by the chief of the dissenting judges which I think is worth quoting. This is what Mr. Justice Butler who headed the minority said:

> "It is well known .....that existing libel laws are inadequate effectively to suppress evils resulting from the kind of business and publications that are shown in this case. The "doctrine that measures such as the zone before us are invalid as previous restraints exposes the peace and good order of every community and the business and private affairs of every individual to the constant and protracted false and malicious assaults of any insolvent publisher who may have purpose and sufficient capacity to contrive and put into effect a scheme or programme for oppression, blackmail, or extortion."

That also is a demand which must be taken into consideration in dealing with the liberty of the press. The other thing which my friend has been harping upon all along is the phrase used by Justice Holmes in dealing with cases relating to freedom of speech which is called "clear and present danger". I have been trying to find out whether that is a very new doctrine so far as we are concerned. I suppose our judges also adopt the same doctrine. Supposing, for instance, a professor delivered a lecture on Communism in the Delhi University

to the students. I do not suppose, although he may mention to them the violent methods that the communists adopt in order to achieve their object that anybody would hold that merely because he delivered a lecture to the students he was guilty of any offence. There was no "clear and present danger" and I have no doubt about it that our judges also would uphold the same line of reasoning. Therefore, as I said, I do not understand why our friends are abiding so much by certain catch phrases and certain decisions of the courts in the United States.

I will now deal with the question of confining "incitement" in violence and I want my friends, Dr. Shyama Prasad Mookerjee and also Pandit Kunzru to pay some attention to what I am saying—and I will take some very particular cases. First of all, I would like to know whether they are in a position to give a precise definition of the meaning of the word "violence". What is "violence" ? Is it to be confined merely to physical violence ?

Dr. S. P. Mookerjee: Violent words are excluded.

Dr. Ambedkar: I am not talking of violent words. Have they been able to give us any precise definition which would enable the legislature and the court to know that this is violence and this is not violence ? I cannot find any.

Shri Kamath: Put it as "as defined by law".

Dr. Ambedkar: It is only postponing the trouble. Some day when we make the law we shall have to give the definition of "violence".

I come now to specific instances. Supposing, for instance, there is trouble—I am giving some concrete cases which have happened—and there is trouble between the Scheduled Castes and caste Hindus in a particular village and the caste Hindus conspire together to proclaim a social boycott on the Scheduled Castes, preventing them from obtaining any kind of supplies, preventing them from going into the fields, preventing them from going into the jungles to collect fuel, then I want to know from Dr. Syama Prasad Mookerjee and Pandit Kunzru whether they want this, as an offence, to be regarded by the State as such or not.

Shri Naziruddin Ahmad : Doctors differ in this respect.

Dr. Ambedkar: I shall give another illustration which was recently reported in Bombay. In a place near Thana there was trouble going on between caste Hindus and the Scheduled Castes over the taking of water from a particular well. With the help of the police the Scheduled Castes there were able to secure their right to take water from that well along with the caste Hindus. The caste Hindus did not like the matter. They wanted the well to be exclusively used by them. Two days ago there was a report in the Bombay Press wherein it was stated that some caste Hindus incited some of their men to drop into it some kind of poisonous weeds. The result was that the whole water was poisoned and some of the Scheduled Caste people who drank the water suffered from the effect of the poison. I want to ask both of them whether they would limit their definition of incitement to violence, or whether they would extend it to cover where one community does something in order to harm and injure another community.

Dr. S. P. Mookerjee: In such a case you and I will go there to prevent it.

Dr. Ambedkar: You and I cannot go everywhere. You will be engaged in fighting the elections and I may be doing something else and we will have no time to go to the rescue of those people. It is no use taking the responsibility on our shoulders. It is much better that the law provides for it.

Then with regard to particular laws, I and my colleagues or the Treasury Benches have been shouting time and over again that in this Bill what we are doing is to merely confirm capacity on Parliament to make laws for certain purposes. We are not enacting particular laws. We are not even protecting the laws as they exist today. But somehow Members who are determined to oppose. Members who are determined to take the opposite view—if they will forgive me—out of pure obstinacy are not able to make this distinction between capacity to legislate and making a particular law.

Dr. S. P. Mookerjee: The obstinacy is yours not to understand.

The House then adjourned till Half Past Three of the Clock.

The House reassembled Half Past Three of the Clock.

[PANDIT THAKUR DAS BHARGAVA *in the Chair*]

* **Shri Hussain Imam:** I wish to draw the attention of the House that no zamindar in his senses objects to the dictum laid down by the Constitution or by the Hon. the Prime Minister. The whole quarrel arises whether the intention of the Constitution is carried out or something is being foisted on us in the name of the Constitution which is not covered by the terms of the Constitution as embodied in the Constitution Act. And secondly.....

An hon. Member: We are amending the Constitution.

Shri Hussain Imam: No. What we are doing is, according to the Prime Minister to carry out the intentions of the Constitution which our wording had failed to do. And there I am at one with him, that as a member of the Constituent Assembly, I am as much a party in this—though I was not present on that day—as anybody else is. There were two cardinal principles of the Constitution—firstly about the Acts which are passed after the Constitution came into effect and those Acts which were passed upto 18 months before the Constitution was brought into effect. Now I ask you, the House and the Law Minister to certify that the eleven Acts are covered by these two categories. Only four Acts come under the category that are passed after the Constitution and had received the assent of the President. Seven Acts are not covered by this.

Dr. Ambedkar: They were assented, I understand.

Shri Hussain Imam : None, except the four. They are the Bihar Act, U. P. Act, Madhya Pradesh Act and the other Act. All the rest have not been assented to.

Shri Bharati (Madras)**:** Madras Act has been assented to.

Shri Hussain Imam: Madras Act I of 1950 has been assented to, not the 1948 Act. I refer to this fact because in the beginning I spoke on the subject and suggested that ample time should be given to the House and to the Select Committee to examine these thoroughly .....

* P. D., Vol. 12., Part II, 1st June 1951, pp. 9906-07.

The other thing to which I would like to draw attention is to the dictum laid down by the Hon. Prime Minister that we must pay fair, adequate compensation and not too much and I agree with that dictum. But do consider the things as they are existing. I am one with the Government in abolishing zamindari but on fair terms.

Dr. Ambedkar: The words 'fair compensation' do not appear in article 31.

Shri Hussain Imam : It was the wording of the Hon. Prime Minister. As far as article 31 is concerned, my charge is that the seven Acts that you are thrusting down our throats are not covered by the original provisions of article 31.

Dr. Ambedkar: They are governed by new article 31A.

Shri Hussain Imam : I was referring to the fact that we must face the facts. The Socialist party says that they are not going to honour the instialments that are going to be fixed by the Congress Government. The Communists have declared from the housetops that they are not going to honour it. Why be in a fool's paradise and believe that it will be paid in 40 years ? Half a loaf is better than nothing and if you have to give you should give now. You should realise the plight of small landholder of zamindar who has an income of 500 or 600 or 1,000 rupees. He is not a bloated capitalist. I aver that at least the lower income group should be given compensation in lump sums so that they may start some business.

***Dr. Ambedkar:** As to my own amendment I do not think that any argument is necessary in, order to support the same. The amendment is merely an amplification as to the meaning of the word "estate". Some people felt that while we had taken note of the laws that prevail in Part A States with regard to the definition of the word "estate", we had not taken sufficient notice of the definition of the word "estate" operating in Part B States. In order to remove that doubt I felt that it was necessary to take note of it and to amplify the definition of the word "estate", which I propose to do by my amendment.

* P. D., Vol 12, Part II, 1st June 1951, pp. 9912-15.

My principal ground for rising to take part in the debate is to deal with the point that was raised by my hon. friend, Ch. Ranbir Singh. His argument, if I understood it correctly, was this that while in some States in India the word "estate" is used in a limited sense so as to include only what we call intermediaries but not to include what we call the *ryotwari* estates, that is, people holding it in their own right without there being any intermediaries between them and the State, it is quite true that there are some States where the definition of the word "estate" is a wide one and might possibly include holders under *ryotwari* or occupants under the Bombay Land Revenue Code, or *ryots* in other parts of India. At one time I thought that it might be possible to give a limiting effect to the word "estate" by the addition of an explanation, but on further consideration I find that it is more or less impossible to give an explanation which would cover the point. But I would like to say this, that there is no intention on the part of Government that the provisions contained in article 31A are to be employed for the purpose of dispossessing *ryotwari* tenents.

Shri Hussain Imam: However big they might be ?"

Dr. Ambedkar: Well, that is a different matter. We are making a distinction between intermediaries and *ryotwari* holders.

Now, that is certainly not the intention of the Government: I know that friends who are interested in this matter would hardly be satisfied with any expression of intention on the part of Government, but I think there is much more than mere intention in the Bill itself. If my friend Ch. Ranbir Singh, would refer to the proviso attached to article 31A which requires that every such Bill shall be reserved for the consideration of the President, I think he will see that there is a certain amount of safeguard in it, and, as I hope the Prime Minister in his speech in reply to this debate will also make it clear, there is no such intention on the part of Government and I believe that whenever any such measure before the President for consideration, the undertaking given in this House would be binding upon the President in giving his

sanction so far as any such measure is concerned. Therefore, I submit there is no ground for any fear of any such thing happening and I believe that there is also no justification for any kind of propaganda that may be carried on by interested parties that this Bill proposes to give power to Government to expropriate everybody including the *ryotwari* tenants. I hope that this will satisfy my friend, Ch. Ranbir Singh.

With regard to the question that has been put to me by Durgabai...'

Shri R. K. **Chaudhuri** (Assam) **:** Shrimati Durgabai.

Dr. Ambedkar: These encumbrances I do not think are very necessary. I feel terribly embarrassed when somebody calls me *Shri*. *Shri* means wealth—I have none of it.

Shri R. K. Chaudhuri: May I mention that sufficient mischief has been caused by my friend, Dr. Ambedkar, calling me by my short name the other day ?

Dr. Ambedkar: I thought you agreed, that that did not change your sex?

Shri R. K. Chaudhuri: That is how jealousy has been created in the minds of some sections of the House.

Shrimati Durgabai: At least not in my mind.

Dr. Ambedkar: Now with regard to that, the relevant provision in the Madras Act is section 45. That section 45 deals with impartible estates. It does not deal with ordinary estates and the provision, so far as I understand it, is that the matter of deciding whether and how the compensation is to be distributed is left to a tribunal. This Bill does not add to the powers of the tribunal; this Bill does not take away any of the powers that are given to the tribunal for that particular Act. I think within that ambit things will proceed in the way the Madras Act has determined.

Dr. Deshmukh: May I ask a clarification of the Hon. Law Minister? The Hon. Doctor has told us that there is no intention to dispossess or limit the *ryotwari* tenures. There are six Acts of Bombay in the Schedule. If any of these Acts

do limit the *ryotwari* tenure, how far would it be proper to add those to the Schedule and how far does it cover the intention of Government not to bring in the ambit of this amending Act the *ryotwari* tenure or to limit their extent ?

Dr. Ambedkar: I know something of these Acts, coming from Bombay as I do and having practised in the High Court. Having had to deal with many cases, I have no doubt about it that the Khoti Abolition and other Acts to which my hon. friend has referred deal only with what we call intermediaries.

Shri Jawaharlal Nehru : My colleague the Law Minister has dealt with many of the points that heve been raised, ...

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* **The Minister of Law (Dr. Ambedkar):** On listening to the debate I believe the House desires that the powers of adaptation vested in the President should continue and that it is a very useful instrument which has been forged by the Constitution for the purpose of bringing the laws already passed into conformity with the provisions of the Constitution. On that, I do not see any kind of difference of opinion. The only question that has been raised is this : why is it that the President has not been able to make modifications in the laws that appear to be inconsistent with the provisions of the Constitution during the period that has elapsed between now and the passing of the Constitution and why is it that further time is necessary. That seems to be the only point which requires clarification.

It has been stated that the Law Department has been very lax. Some friends have said that it has gone to sleep.

Babu Ramnarayan Singh (Bihar)**:** That is right.

Shri Hussain Imam (Bihar)**:** Dozing.

Dr. Ambedkar: I do not know whether such statements are mere matters of imagination or whether there is any

* P.D., Vol 12, Part II, 2nd June 1951, pp. 10007-13.

substance behind them—I think all hon. Members will agree that the Law Department is the smallest Department in the Government of India.

Babu Ramnarayan Singh: Why ?

Shri T. Husain (Bihar)**:** There is the Department of Parliamentary Affairs.

Dr. Ambedkar: The Department of Parliamentary Affairs has nothing to do with the Law Ministry ; it is quite separate from it.

I should like to say that in the Law Ministry there are only three draftsmen. I have pressed on the Finance Ministry the necessity of increasing the number of draftsmen ; but I have failed.

Shri Kamath: A Deputy Minister ?

Dr. Ambedkar: A Deputy Minister cannot do anything in this matter, because no Minister can do drafting.

The House also will remember the amount of legislation that is being put forth before it ever since the Constitution came into existence. I believe, I am speaking from memory, that in each session there are something like 30 or 40 Bills which are presented. Some of them are (carried) through and some of them are left over. Out of those that are left over, some are converted into Ordinances and the House again sits to convert the Ordinances into laws. Now, it might well be imagined whether it is possible for three draftsmen to draft 40 or 50 Bills for each session, and yet have spare time for doing something else. That is a point which I think the House should consider in judging the work.

Shri P. Y. Deshpande (Madhya Pradesh)**:** Who is responsible for there being only three ?

Shrimati Durgabai: May I ask a question ? Is it only a question of drafting or changing the substance of the laws ?

Dr. Ambedkar: I am coming to that; please do not be in a hurry.

Therefore, the normal work of the Law Ministry is so heavy and it is very difficult to cope with it. The adaptation work

is something abnormal and something that is new that has been thrown upon the Law Ministry. There has been no expansion of the staff to cope with this new work. That is one point which I think the House will remember when criticising the Law Ministry for not completing the work of adaptation.

The work of adaptation obviously fails into two categories. There are adaptations which are merely of a formal character. For instance, in the existing laws, the expression used is 'Provincial Government'. Today, the expression that is used for the corresponding, purpose is "State Government". These are formal amendments. These amendments have already been carried out and I do not think any part of that work remains. But, the other part of the adaptation work, namely, making substantial modifications in the existing laws in order to bring them into conformity with the provisions of the Constitution is a totally different business from the formal kind of adaptation to which I have referred.

Now, let us consider how it is possible to proceed methodically with regard to making modifications of a substantial character in the existing laws of the country, in order that they may be brought into conformity with the provisions of the Constitution. Obviously there must be some officer somewhere at the Centre whose duty it would be to, what we call, note on the Acts in the various States and Acts made by the Centre, in order to ascertain for himself whether there is anything in any of the existing laws—whether they are made by the Centre or by the Provinces—which he thinks at the initial stage requires consideration from the point of view of adaptation. After that work is done, the matter may come to the Law Ministry for further examination whether there is any substance in the note made by that particular officer. There again the matter cannot end. Obviously, there must be further correspondence between the Law Ministry and the Law officers in the States in order to find out whether they agree with the view that certain of their laws are inconsistent with the provisions of the Constitution. If they agree, well and good; action may be taken. But, if they do not agree, then, obviously, the matter has to be referred to the Advocate

General of the State and also the Attorney-General of the Government of India, because, in this matter, they are the final advisers of the Government and on whose advice alone the Government could act. The number of Acts in the Provinces are legion : the number of Acts made by the States are equally large. One can well imagine the amount of time which would be necessary in order to go through the process which I have detailed here before the Central Government could come to the conclusion that a particular law must be declared to be null and void or must be modified in certain parts in order that it may be brought into line with the Constitution and the President may accordingly issue an Order. It is therefore not quite so easy as some people in the House seem to think. It is a very elaborate and labourious process.

After all, what is the President in this matter? The President is a law making authority. His authority is practically *co-extensive* with the authority of Parliament. But, in order that it may be done in an expeditious manner, we have vested the President with this particular power. I am sure that so important and so crucial a power of law-making practically could not be exercised in a hurried manner and to make some kind of a change may be absolutely inappropriate and quite unjustified. These are the reasons why it has not been possible for the Law Ministry to complete the task and why the Law Ministry thinks that perhaps one more year may be necessary. It should also be remembered in this connection that the Law Ministry has been now for the last three months practically busy with the work of elections, preparing the two Representation of the People Bills, delimitation of constituencies, considering the amendments that are coming to the Order of the President delimiting the constituencies etc. They will also be busy with making rules and all sorts of other things relating to the elections and these are matters which are now outstanding before the Law Ministry. And especially in view of the limited staff of the Law Ministry, I cannot see how any spare staff can be found or how time can be found to be devoted exclusively for the purposes of carrying out the object laid down in article 372. Therefore,

further time is necessary. And that is the reason why this amendment has been moved.

With regard to the point made by my friend Ch. Ranbir Singh relating to the declaration that the Punjab Land Alienation Act is invalid and inconsistent with the provisions of the Constitution, I should like to say this. The point that he raised was that it was wrong on the part of the Government of India to have abrogated the whole of that legislation that has been operating there. Well, this matter also was considered in the Law Ministry, whether it was possible to modify some of the provisions of that Act and leave the rest intact. But I should like to tell the House that with all the goodwill in the world, so far as that Act was concerned, both the Attorney-General here and, if I remember correctly, the law officers of the Punjab Government agreed that every one of the provisions of that Act was inconsistent with the Constitution. Therefore we had no remedy left except to declare the whole Act invalid.

Now, I have given the justifications to the House why this amendment is necessary and I hope the House will be satisfied with the explanation that I have given.

Shri Kamath: What about the suggestion to have a Committee of this House to help the Law Ministry ?

Dr. Ambedkar: Yes. With regard to that, there again, as I said a Committee of the House might help at a much later stage. But unless I am in a position to place before any Committee of this House material which has already been examined by somebody, the Commiittee, in my judgment, could not come to any conclusion. Preliminaries will be necessary and I myself have got an idea in my mind that it may be desirable to appoint a small Committee of some retired High Court judges to examine the matter and report to us as to what are the laws which require consideration from the point of view of article 372.

Shri Kamath: Members of the House ?

Dr. Ambedkar: I thought my friend said lawyer Members. Yes, they may be co-opted. After the report is received, they may be taken into confidence and the matter may be decided.

Shrimati Durgabai: I would like to get one point cleared by the Hon. Law Minister. We have been told that whenever a law is made by a State Legislature on any item in the Concurrent List, it would come to the Centre automatically for consultation, advice and all that. I would like to know when such a proposed legislation is sent to the Centre, whether the matter is left to the draftsmen to decide whether the law is inconsistent or not ? What is the procedure ?

Dr. Ambedkar: The lady is thoroughly confused. I am sorry to say.

Shrimati Durgabai: That does not matter. The Law Minister may clear up the confusion.

Dr. Ambedkar: Adaptation applies to existing laws. It does not apply to future laws. All the laws that come to us for such consultation are future laws. The article deals with the existing laws which were made when there was no Chapter on Fundamental Rights anywhere in the Government of India Act and which have now become subject to the Fundamental Rights, and therefore inconsistent. So the inconsistency has to be removed.

Mr. Deputy Speaker: The point is, with respect to any law that is being now made. If it is in the Concurrent List, it is reserved for the President's consent. When such a law comes up, it is left to the draftsmen to find out whether it is inconsistent or not?

Dr. Ambedkar: The draftsman certainly plays his part; but the Law Ministry takes the responsibility and the Cabinet also takes the responsibility.

Shri Husain Imam : May I know what is the position with regard to those Acts that are in the Schedule ? Have they been adapted or are they proposed to be adapted ? For instance the Bombay Act LXVII has certain reservations on the lines of the Punjab Land Alienation Act which has been declared *ultra vires*. Do Government propose to modify this Act ? It is item 2 in the Ninth Schedule. The Bombay Tenancy and

Agricultural Lands Act, 1948 does not deal with abolition of zamindaries, but says that transfer shall not take place between certain classes.

Dr. Ambedkar: The answer of the House is that these Acts shall be validated by the Constitution without the necessity of adaptation. I am bound by the decision of the House. This point should have been raised yesterday.

Shri Naziruddin Ahmad: I raised that very point yesterday, but you rejected it.

Shri Rajagopalachari: Further questions may be postponed to the interpellation programme, and the present clause may be got through.

Mr. Deputy Speaker: We have had sufficient discussion.

The question is:

"That clause 12 stand part of the Bill."

The House divided: *Ayes, 232: Noes,* 9.

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* **Prof. S. L. Saksena:** It hurts me very much that this amendment should be made to our Constitution. After all, when we framed our Constitution we were very careful to see that our judiciary is above suspicion and that it is independent and able to interpret the Constitution in the best manner possible. Still we have found the Law Minister accusing the Supreme Court the other day of having wrongly interpreted the purpose of one of the provisions. The Prime Minister also has been saying that the intention of the makers of the Constitution has not been brought out by the interpretation of the judges of the Supreme Court and of the High Courts. I think this is a very unfair criticism : if the Supreme Court judges who have given these rulings were foreigners probably there might have been some suspicion, that they were not patriotic and therefore did not interpret our laws correctly. I personally feel that if you...

* P. D., Vol 12, Part II, 2nd June 1951, pp. 10020-21.

Dr. Ambedkar: I should like to repudiate any such suggestion as my hon. friend is making. We impute no bad motives to the Judges.

Prof. S. **L. Saksena:** I am glad that he has said it today. Apart from the reasons given by my friend, Prof. Shah, that we should not change the Constitution for the sake of four persons, still even on principle I think that a foreigner sitting in the place of the Chief Justice will not have the independence and courage to give a judgment which will be above suspicion. The Law Minister said that nobody has cast an aspersion on the Judges. I have carefully read the speech of the Prime Minister.....

Mr. Chairman : May I just remind the hon. Member that the point at issue is not what the Law Minister or the Prime Minister has said in some other connection ? We are considering this clause and their view is not relevant to its consideration. The only point relevant is whether this clause should be accepted. I would beg of the hon. Member to confine his remarks to this question alone.

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* **Shri Rajagopalachari:** The hon. Member wants to know what prohibition there was which we are trying to remove. Article 217 contains the prohibition against any Judge being a non-citizen. All the Judges would be covered by that provision. That is sought to be removed by a transitory provision.

Mr. Chairman: If a person cannot become a Judge of a High Court how can he become the Chief Justice ?

Shri Shiv Charan Lal: Transfer is covered by article 222. Therefore, for transfer it is not necessary that the Judge should be a citizen and it is not necessary to have this amendment.

Dr. Ambedkar : Sir, if it satisfies the House I would like to propose an amendment to clause 13 which would read thus :

In page 4, lines 8 and 9, "or of the Supreme Court".

Shri Kamath: That is one of my two amendments that I have moved.

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* P. D., Vol 12, Part II, 2nd June 1951, p. 10024.

Dr. Ambedkar: Well, I am prepared to accept yours, if you like. I do not think any further reply is necessary from me if the House is satisfied with the deletion of the words "or of the Supreme Court".

Mr. Chairman: I shall now put the amendments to the House. (Prof. Shah's amendment was negatived.)

***Mr. Chairman:** The next is seeking to omit the words "or of the Supreme Court". It is the same amendment that Dr. Ambedkar has proposed.

Shri Jawaharlal Nehru: It is exactly the same.

Shri Kamath: But I have moved it and Prof. Shah has also moved it.

Mr. Chairman: The amendment is there and I am bound to put it to the House.

An hon. Member: It may be withdrawn.

Prof. K. T. Shah: Why should I withdraw it ?

Mr. Chairman: The qustion is:

In page 4, lines 8 and 9, omit "or of the Supreme Court".

The motion was adopted.

Mr. Chairman: The question is :

In page 4, after line 9, add:

> "Provided that such Chief Justice or other Judge of a High Court shall acquire citizenship of India within three months of such appointment; and provided that no one who is not a natural born citizen of India shall be appointed Chief Justice or Judge of the Supreme Court of India."

The motion was adopted.

** **Dr. S. P. Mookerjee:** This, as the Prime Minister has said, is a consequential change. Apparently, it refers to the Hyderabad Regulations which the House incorporated on an

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* P. D., Vol 12, Part II, 2nd June 1951, p. 10024.

***Ibid.,* pp. 10035-36.

amendment moved on the floor of the House. What about the last part of the clause ? It says :

> ".....each of the said Acts (and Regulations, if this is accepted) shall, subject to the power of any competent legislature to repeal or amend it, continue in force."

So far as .these Regulations are concerned, they cannot be repealed or amended by any Legislature when there is no Legislature in Hyderabad. There also, it should be altered by saying 'legislature or other competent authority'.

Dr. Ambedkar: Whatever legislature there is, it will have the right to amend.

Mr. Speaker: There is confusion about the meaning of the word * legislature'. A legislature is conceived as consisting of a Chamber with elected representatives and so on. I believe the legislature here means, the Rajpramukh who is himself the legislature. That I think is the constitutional meaning.

Dr. Ambedkar: Yes.

Mr. Speaker: If that is so, there is no difficulty.

The question is :

In page 2,

(i) line *35, after* "Acts" *insert* "and Regulations".

(ii) line 36, *after* "Acts" *insert* "and Regulations".

(iii) line 39, after "Acts" *insert* "Regulations".

(iv) line 42, *after* "Acts" insert "Regulations".

The motion was adopted.

Shri Kamath: Is it not necessary to put this clause, as amended, to the House ?

Mr. Speaker: Is it really necessary ? The position will be like this. "That the Bill, as amended, be passed" will be the motion I am going to put to the House. There is no particular clause again to be put to the House. The hon. Member will note that clause 5 was voted upon and the House has assented to it. Votes were taken separately on that clause. This amendment comes in as a consequential amendment.

Mr. Speaker: Under rule 94.

Dr. S. P. Mookerjee: It is for you to consider this. With regard to clauses, you have ruled deliberately for the sake of safety that every clause should be put separately and the votes of two-thirds of the Members present and voting should be recorded. Now, clause 5 has been passed in accordance with that direction. Now, we are amending clause 5. Is it not desirable and safe that clause 5, as amended, should be put separately and votes recorded ?

Mr. Speaker: That would be an irregular procedure. That clause, in the clause by clause consideration at the second reading, has been already accepted by the House. The proposition before the House is that the entire Bill, as amended, be passed. The amendment is merely a consequential or verbal amendment, which is permissible at this stage. No substantial amendment is permissible at this stage.

Orissa Order

* **Dr. Ambedkar:** I beg to move :

[For text of the motions *see* Appendix XXXIII, annexure 1]

West Bengal Order

Dr. Ambedkar: I beg to move:

[For text of the motions *see* Appendix XXXIII, annexure 1]

Madhya Pradesh Order

****Dr. Ambedkar:** I beg to move:

[For text of the motions see Appendix XXXIII, annexure 1]

Rajasthan Order

Dr. Ambedkar: I beg to move :

[For text of the motions *see* Appendix XXXIII, annexure 1]

PART C STATES ORDER

*** **Dr. Ambedkar:** I beg to move:

[For text of the motions *see* Appendix XXXIII, annexure 1.

**** REPRESENTATION OF THE PEOPLE (NO. 2) BILL—*contd.*

The Minister of Law (Dr. Ambedkar): Sir, with your permission, I would like to move certain formula and consequential amendments to the Representation of the People (No. 2) Bill as it has emerged from the second reading. I beg to move :

"That the Bill, as amended, be passed."

Mr. Chairman : Motion moved :

"That the Bill as amended, be passed."

Shri Kamath (Madhya Pradesh)**:** Before the Law Minister proceeds to move these amednments may I remind you of what I requested the hon. Speaker yesterday that this House is

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*P. D., Vol 12, Part II, 4th June 1951, p. 10110.

***Ibid.,* p. 10111.

****Ibid.,* p. 10112.

*****Ibid.,* 5th June 1951, pp. 10202-03.

entitiled to have notice of amednments. I must record my protest against this in the most emphatic terms that these lists of amendments were received not even last night but only this morning at about seven O'Clock—just an hour before we left home for Parliament. I feel that in the circumstances the Law Minister may put of moving his amendments till tomorrow and that Members be given adequate time to scrutinize and examine the amendments and to give notice of any amendments to these amendments I must request you to hold that these amendments have come very late and House must be given at least a day for examining the amendments and for submitting amendments to them.

Shri J. R. Kapoor (Uttar Pradesh)**:** I associate myself with the suggestion made by Shri Kamath that as these amendments have been sent to us this morning, we might be given some reasonable time to see whether in our opinion they fit in with the scope and object of the Bill. I do not mean to raise any technical objection. I am never in that habit.....

Shri Kamath: Mine was not a technical objection either.

Shri J. R. Kapoor: Therefore, I am associating with Shri Kamath's suggestion. We are very particular about this Bill and are anxious to see that no amendemnt—even though it might have been carefully looked into by the hon. Law Minister—should be allowed to be incorporated in the Bill unless we have had a reasonable opportunity of analysing it.

Dr. Deshmukh (Madhya Pradesh)**:** I think the suggestion made is quite reasonable and I hope that you will be pleased to accept it..... Under those circumstances, it is but fair that hon. Members of this House should have an opportunity of seeing what consequential amendments are proposed and if there is any necessity for the same. They should have a fair opportunity of giving notice of any amendments they wish to move. There are many other measures that can be taken up today.

Mr. Chairman: I would like to know the reaction of the Hon. Law Minister.

Dr. Ambedkar: I contend that these amendments are purely formal and consequential. There is nothing which raises the question of substance. However, if Members think that they need some time, I have no objection to the matter being taken up tomorrow subject to the other business of Government.

The Minister of State for Parliamentary Affairs (Shri Satya Narayan Sinha) : The next item on the agenda may be taken up.

Mr. Chairman: I quite see the reasonableness of the request.

*[For text of the motions See Appendix XXXIII, Annexure 4.]

MADHYA PRADESH ORDER

Shri M. A. Hassan Madhya Pradesh)**:** I beg to move:

[For text of the motions see Appendix XXXIII, Annexure 4]

The Minister of Law (Dr. Ambedkar): I beg to move :

[For text of the motions see Appendix XXXIII, Annexure 4]

UTTAR PRADESH ORDER

Pandit Balkrishna Sharma (Uttar Pradesh)**:** I beg to move:

[For text of the motions *see* Appendix XXXIII, Annexure 4]

Mr. Speaker: I do not know what the Government proposes to do about the motions in respect of the U. P. Order. The motions have to be moved to-day.

Dr. Ambedkar: I am in a difficult situation, because the revised order is not yet ready.

Mr. Speaker: Will it be ready by one o'clock to-day ?

Dr. Ambedkar: We are trying our best and I shall let the House know and let you also know before one o'clock how the position stands.

* P. D., Vol. 12, Part II, 7th June 1951, pp. 10342-43.

Mr. Speaker: The point is that before one o'clock the motions must be made in the House. Otherwise, perhaps, the motions will not be admissible at all. Threfore, I would suggest the motions may be moved and examined and then it will be possible to suggest amendments in the motion. That would be one of the courses open. The Hon. Law Minister may consider that, I mean amendments so far as language and other such things are concerned and not amendments of substance.

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* MOTIONS Re. DELIMITATION OF CONSTITUENCIES ORDERS, 1951—*contd.*

The Minister of Law (Dr. Ambedkar): I should like that the Assam order be first taken into consideration.

Mr. Deputy Speaker: Yes. A number of amendments have been tabled to this. For the purpose of convenience is it not possible to ascertain what amendments the Hon. Law Minister is prepared to accept, in which case the other amendments may not be pressed ? Of course, if there are any Members who want to press their amendments we can deal with them.

Dr. Ambedkar: With regard to Assam I have many amendments.

Mr. Deputy Speaker: Therefore, if the Hon. Minister moves his amendments first, whatever is not covered we can address ourselves to it later.

Dr. Ambedkar: My amendments are in Suppl. List 4, Nos. 1 to 8. They are purely technical amendments and there is no point of substance involved. On further consideration I propose to withdraw Nos. 1 and 2 of my amendments.

The amendments, by leave withdrawn.

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* P. D., Vol. 12, Part II, 8th June 1951, p. 10500.

*** Shri Chaliha:** I also like to press my motion No. 2 in supplementary List No. 2. I do not press No. 1.

In the constitution it is provided that the Shillong constituency will be open as a general constituency. Article 332(6) says :

> "No person who is not a member of a Scheduled Tribe of any autonomous district of the State of Assam shall be eligible for election to the Legislative Assembly of the State from any constituency of that district except from the constituency comprising the cantonment and municipality of Shillong."

I think Dr. Ambedkar has accepted this and it is said that was a printing mistake and that it will not be reserved for the Scheduled Tribes but that it will be a general constituency. Through mistake or otherwise it has been reserved for the Scheduled Tribes. It should not be reserved for them. It should be open for the general population. This has been specifically provided in the Constitution as I have already pointed out.

Dr. Ambedkar: I had said that the office has treated it as a printing error and that we propose to issue a corrigendum. Probably it has already been issued.

Shri Chaliha: In that case I would like to withdraw that motion (No. 2 in Supplementary List No. 2 relating to Assam Orders).

The motion was, by leave, withdrawn.

** **Dr. Ambedkar:** I would like to accept the following amendments :

Consolidated List I—parts 1 and 2.

Consolidated List I—amendments 1 to 4.

Mr. Deputy Speaker: That means 50 per cent. of Mr. Das's amendments.

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* P. D., Vol. 12, Part II, 8th June 1951, p. 10503.

** P. D., Vol. 12, Part II, 4th June 1951, p. 10510.

Shri Biswanath Das : I gave notice of other amendments.

Mr. Deputy Speaker: None here.

Shri Biswanath Das : Even these amendments represent only the few that I had to give notice of after persistent requests from the members of different districts, I had another amendment. After they were accepted by the Hon. Minister I thought they would give notice of them.

Dr. Ambedkar: I have given the amendments that I have accepted.

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* **Mr. Deputy Speaker:** The question is :

[For text of the motions *see* Dr. Ambedkar's amendments Nos. 1 to 3 (Orissa Order) in Appendix XXXII, annexure 1].

The motion was adopted.

Mr. Deputy Speaker: To that extent the President's order is modified.

The question is :

> That the following modification be made in the Delimitation of Parliamentary and Assembly Constituencies (Orissa) Order, 1951 laid on the Table on the 16th ay 1951, namely:
>
> 1. That at page 1, in Table A—Parliamentary Constituencies, in column 1, for the entry "Dhenkanal" the entry "Ganjam-South" be substituted ".
>
> 1. That at page 1, in Table A—Parliamentary Constituencies, in column 1, for the entry "Ganjam-South" be substituted".

The motion was adopted.

Dr. Ambedkar: My own amendment is in Supplementary List 2, Nos. 1 to 5. I accept the one in the name of Mr. Biswanath Das 1 and 2, the second with the modification "North East Ganjam" as "Ganjam South". The other amendment which I have accepted is in Supplementary List No. 1, 1 to 4 as modified.

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* P. D., Vol. 12, Part II, 4th June 1951, pp. 10511-13.

Mr. Deputy Speaker: The question is:

That the following modifications be made in the Delimitation of Parliamentary and Assembly Constituencies (Orissa) Order, 1951, laid on the Table on the 16th May 1951, namely:—

1. That at page 1, in Table A—Parliamentary Constituencies, for the entry "Koraput in column 1, and all the entries against it in columns 2, 3, 4 and 5, the following be substituted, namely:—

1	2	3	4	5
Nowrangpur	Nowrangpur sub-division, and the Padua, Pottangi, Simliguda and Nandapur police stations of of Koraput sub-division.	1	...	...

2. That at page 1, in Table A—Parliamentary Constituencies, for the entry "Kayagada-Phulbani" in column 1, and all the entries against it in columns 2, 3, 4, and 5, the following be substituted, namely:—

1	2	3	4	5
Rayagada-Phulbani	The entire Rayagada sub-division and the police station of Kora-put, Dashmantpur, Laxmipur and Narayanapatna of Koraput sub-division as also the district of Phulbani except police stations of Manmunda and Bondh.	1	...	...

3. That at page 1, in Table B—Assembly Constituencies, for the entry "Nowrangpur" in column 1, and all the entries against it in columns 2, 3, 4, and 5, the following be substituted, namely:—

1	2	3	4	5
Nowrangpur	Police stations of Nowrangpur Kodinga, Moidalpur, Dabugaon, Omerkot and Jharigaon.	2	...	...1

4. That at page 1, in Table B—Assembly Constituencies, for the entry "Omerkot-Moidalpur" in column 1, and all the entries against it in columns 2, 3, 4, and 5, the following be substituted, namely:—

1	2	3	4	5
Jeypur	Police stations of Jeypur, Kotpad Borigumma, B. Singhpur and Tonulikhunti.	2	1	...

The motion was adopted.

Mr. Deputy Speaker: So the President's order stands modified by these amendments.

Several hon. Members: It is time to adjourn, Sir.

Shri Kamath : Before the House adjourns may I bring to your notice the understanding arrived at about the question list for the 2nd, which had been postponed to the 9th. I trust that arrangement stands and that list will be taken up tomorrow.

Mr. Deputy Speaker: That will stand.

Will the Law Minister indicate the order in which he is going to take these delimitation orders ?

Dr. Ambedkar: I do not think the House will complain that they were taken by surprise, if sometimes I take some orders out of turn. All of them have been before them.

Mr. Deputy Speaker: All the orders will be completed tomorrow.

The House then adjourned till Half Past Eight of the Clock on Saturday, the 9th June 1951.

***Shri P. G. Sen :** .....There is one inter-district constituency known by the name of Darbhanga-*cum*-Bhagalpur, *vide* Delimitation Order, page 3. In page 4 there is another constituency as Purnea-*cum*-Bhagaipur.

Mr. Speaker: Order, order, hon. Members may carry on their consultations elsewhere and not disturb the House.

Shri P. G. Sen: My point in moving the motion is that the common ground is Bhagalpur. It can be amalgamated either this way or that. The question of amalgamation and the formation of the constituency is the question which I want to raise.....

Dr. Ambedkar: I have understood the point and I can reply to it in one sentence.

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* P. D., Vol. 13, Part II, 9th June 1951, pp. 10518-19.

Shri P. G. Sen: Yes, Dr. Ambedkar can answer in a word or in a sentence.

Mr. Speaker: Order, order. The hon. Member will address the Chair.

Shri P. G. Sen: Certainly Dr. Ambedkar is a better orator than myself.

In bringing this motion before the House the question that arose in my mind was: am I doing injustice to Bhagalpur, or am I doing injustice to Darbhanga, or to Purnea ? Not at all. The river Kosi divides the two districts of Bhagalpur and Purnea, and sufficient public money has been spent in undertaking aerial flights over this area ..... Just imagine the state of those flood-devastated Kosi area for which this House has on more than on occasion been pressing to hurry up with the construction of the Kosi Project.

Dr. Ambedkar: This is becoming an irrigation department event.

Shri P. G. Sen: Another point I wish to submit is that I wish to amalgamate the entire area of Bhagalpur with Darbhanga and make it a plural constituency with reservation for a scheduled caste seat. The scheduled caste voters in Darbhanga are nearly 2,50,000 and Bhagalpur portion of Purnea-cum-Bhagalpur constituency has 71,000 voters (Scheduled Caste) so if that entire area of Bhagalpur in Purnea-cum-Bhagalpur Constituency is amalgamated with this Darbhananga-*cum*-Bhagalpur area a plural-member constituency can be formed. It would not be out of place to mention here that there is a topographical error in amendment No. 1 of Supplementary List No. 2 where in column 3 it is shown as "2" whereas in column 4 it is shown as nil; in column 4 "1" should be inserted.

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* **Shri P. G. Sen:** May I submit to you Sir, that this is the only House where one can demand some justice done ?

* P. D., Vol. 13, Part II, 9th June 1951, p. 10521.

Mr. Speaker: Order, order, I may tell the hon. Member that the House will certainly do justice, but to have what one wants is not necessarily justice—though it may be so from one's own point of view, he has to leave it to the good sense of other people also who have no interest in doing injustice to anyone.

Dr. Ambedkar: There is only one point that I would like to mention in connection with the motion made by my friend, and it is this that the constituency that he proposes will have a total number of electors of 4,43,524 as against the maximum limit of 3,87,929. That objection itself is fatal to his proposal.

Shri P. G. Sen: But it is a plural-member constituency.

Dr. Ambedkar: So that is fatal to his proposal.

Mr. Speaker: So I am going to put the motion of Shri P. G. Sen to vote. (No. 1 in Supplementary List No. 2— Bihar Order). The question is :

[For text of the motion *see* Amendment No. 1 S. L. 2 printed in Appendix XXXIII, Annexure 1.]

The motion was negatived.

Dr. Ambedkar: Amendment No. 3 part 3 in Supplementary List No. 6, that is the amendment of Shri Jajware as modified by the amendment of Shri S. N. Das.

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* **Mr. Speaker:** Now, I would like the House, at the end of the motions relating to each province, to pass a sort of a motion to the effect that consequential amendments in respect of the order relating to that particular State may be made under the authority of the Speaker, so that the draftsman and the Department will examine all these and set them right. The amendments will be strictly consequential and not substantial.

Dr. Ambedkar: For that purpose I shall be moving a separate amendment conferring upon you the power to permit

* P. D., Vol. 13, Part II, 9th June 1951, pp. 10528-32.

the draftsman, in consultation with you, to make certain consequental amendments.

Mr. Speaker: So we shall do it by one comprehensive motion at the end of the orders.

As regards the other motions I take it that hon. Members who have moved them will have the leave of the House to withdraw them.

The amendments were, by leave withdrawn.

Bombay Order

Dr. Ambedkar: Sir, I am prepared to accept the following amendments :

Supplementary List No. 1, Amendments No. 1 to 8 of Shri Shankar Rao Deo and others.

They are purely consequential amendments.

List No. 2, Amendment No. 2 of Shri Nijalingappa and Shri Munavalli; subject to the modification that in the entry against South Satara for "Item (15)" the words "Item (57)" be substituted.

Then I propose to accept:

In List No. 3, amendment No. 3, parts (1) and (2) by Shri Deogirikar and Shri Kumbhar.

In List No. 6, amendments Nos. 1 and 2, subject to the modification that against the entry Kolhapur-cum-Satara the words "The whole" at the beginning of the entry in column 2 are to be omitted.

In List No. 7, amendment No. 2, part 2, by Shri Hiray and Shri Deogirikar.

Then in List No. 8, I propose to withdraw amendments Nos. 1, 2 and 4 because they have already been covered by amendment No. 2 of List No. 6.

Then I propose to accept:

In List No. 8, amendments nos. 3 and 5 to 11.

In amendment No. 11, page 11, under item (64) for "Mahagond" substitute "Mamewadi"—which is a verbal change being a change of name—and "Gajargaon" at the end.

Then I accept:

In List No. 10, amendments 1, 2 and 3 by Shri Nijalingappa.

Mr. Speaker: In the list that he has given only 2 and 3 are mentioned.

Dr. Ambedkar: It was a mistake. I am accepting 1, 2 and 3.

Shri Kumbhar (Bombay)**:** The amendment in list No. 6 is in my name. But my name is droppd.

Mr. Speaker: The name is there and the motion has already been made. Nothing further has to be done in respect of it now except the voting. Let him not worry about his name. We will see that it is properly put in.

Shri Kumbhar: There is another one excluding Kagal Taluk.

Dr. Ambedkar: Sir, those are changes which could be done by the draftsman on your authority.

Mr. Speaker: If they are consequential amendments. If we accept the substance they will be made.

Shri Bhatt: *rose*—

Dr. Ambedkar : My friend, I know, Sir, is particular about the mentioning of Santa Cruz' and so on. I have told him that those amendments will be made on your authority by the draftsman under the resolution I am proposing at the end.

Mr. Speaker: As regards the details of mentioning Santa Cruz or this road or excluding Kagal or bringing it in, let all the proposals by the hon. Members be made to the draftsman and let them discuss with him. He will consider them and, if necessary, I will pass orders.

Dr. Ambedkar: That is what I propose to ask.

Shri Bhatt: That is what I wanted to ask, whether changes in names would be made by your orders.

Dr. Ambedkar: As I said, I am going to move a motion. The substance of the motion will be that you will be empowered to instruct the draftsman to make certain changes of a purely formal character. When the House passes the motion the Speaker will have the necessary power to do the needful.

Mr. Speaker: This difficulty arises because some of the Members are not present from time to time and therefore they

miss the whole thing. Is there any other member wishing to move any other amendment ?

Shri Hiray (Bombay)**:** Yes, Sir.

Mr. Speaker: In addition to what the Law Minister is accepting ?

Shri Hiray: Yes.

Dr. Ambedkar: What has happened on account of the decision relating to Dangs is that one more seat has been added to Maharashtra and that seat belongs to the Tribal people. Therefore a seat has to be provided in the constituencies that have been delimited so far as Maharashtra is concerned. This is the proposal which stands in the name of Mr. Hiray. Either he may move it or I may move it.

Mr. Speaker: It is better if the Hon. Minister moves it.

Dr. Ambedkar: I beg to move:

In Table B, page 8, Nasik District, in column I, *for* the words "Nasik urban" and "Nasik rural *cum* Igatpuri", *substitute* the words "Nashik Igatpuri "and against the same constituencies.—

(1) In column 2, *omit* all the words beginning with "Nasik Municipal" and ending with "Iatpuri Municipal area" and *substitute* "Nasik and Igatpuri Talukas including all Municipalities therein".

(2) In columns 3, 4, 5 *omit* the figurs given therein and *substitute* 3, 1, 1 instead respectively.

Shri Kanhayala Desai (Bombay)**:** There is a consequential amendment relating to Pardi. One scheduled tribe seat which is at present in Pardi Taluka should be removed and it should become a general seat.

Dr. Ambedkar: That becomes consequential. That you can do, Sir.

Mr. Speaker: Let it go on record that a specific point was raised.

* **Mr. Speaker :** The amendment of Dr. Ambedkar about Dangs. (as mentioned above).

The motion was adopted.

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* P. D., Vol. 13, Part II, 9th June 1951, pp. 10534-35.

Shri Hiray : There is my consequential amendment in List No. 11.

Mr. Speaker: That is with reference to having one seat from Maharashtra. That is purely consequential and we will accept it as such.

The Hon. Law Minister wishes to have the leave of the House to withdraw amendments Nos. 1, 2 and 4 in List No. 8 and all the other hon. Members wish to have the leave of the House to withdraw the various amendments and motions standing in their names.

The amendments were by leave withdrawn.

[MR. DEPUTY SPEAKER IN THE CHAIR]

MADHYA PRADESH ORDER

Dr. Ambedkar: The amendments I am prepared to accept are these:

List No. 1.—Amendments Nos. 6 and 8 in the name of Kishorimohan Tripathi and others.

List No. 2.—Amendment No. 1, parts 1 to 5 of Dr. P. S. Deshmukh and others together with two consequential amendments to be moved by Dr. Deshmukh.

List No. 3.—Amendment No. 2 in the name of Shri Kishormohan Tripathi and others together with a consequential amendment to be moved by Shri Tripathi. (Amendment No. 2 is to be slightly modified so as to read "Khamaria R.I.C. of Khamaria Tehsil)" for "Khamaria Tehsil".

List No. 6.—Amendment Nos. 1 to 5.

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* **Shri Jangde:** Sir, I want to withdraw my amendments.

Mr. Deputy Speaker: I will later ask leave of the House for the withdrawal. I will now put amendments No. 1 to 5 in list No. 6. Have they any consequential amendments ?

Dr. Ambedkar: There, are no amendments to these amendments Nos. 1 to 5.

Mr. Deputy Speaker: The question is:

[For text of the motions *see* Dr. Ambedkars amendments Nos. 1 to 5 in List No. 6 printed in Appendix XXXIII, annexure No. 3.]

The motion was adopted.

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* P. D. Vol. 13, Part II, 9th June 1950, p. 10541.

***Dr. Deshmukh:** I have to move my amendments.

Mr. Deputy Speaker: Yes, That is with reference to amendment No. 1 in List No. 2.

Dr. Ambedkar: There are amendments to his amendments Nos. 1 to 5 of List 2.

****Mr. Deputy Speaker:** To this extent the President's Order stands modified. Leave may be granted to all the Members to withdraw their amendments. All the other amendments moved by other hon. Members were, by leave withdrawn.

Mr. Deputy Speaker: The Madhya Pradesh Order is over.

Dr. Ambedkar: There are other friends who are pressing me that their matter may be taken up first, that is West Bengal and Hyderabad.

Mr. Deputy Speaker: I am taking up Madras.

MADRAS ORDER

Dr. Ambedkar: With regard to the Madras Order, I am prepared to accept the following amendments:—

List No. 4.— Amendmnt No. 1, part 3, second alternative, and part 4, of Shri Kala Venkatarao.

Amendment No. 2, parts 1 and 2, of Shri Keshava Rao.

List No. 6.— Amendment No. 1, Parts 1 and 2, of Shri Sanjivaya, subject to the recast of part 2 as follows :

"That for all the entries against "Erode" in columns 2, 3, 4 and 5 the following be substituted :

1	2	3	4	5
Erode ...	Erode taluk, Bhavani taluk, Dhara-puram taluk [excluding such of the villages of Kundadam Firka as are specified in item No. (19) of the Appendix] and Kugalur Firka and such of the villages of Gobichetti-palayam Firka of Gobichettipala-yam taluk of Coimbatore district as are specifed in item No. (18) of the Appendix ; and Karur taluk Kattalai, Kulithalai and Panjarpatti Firkas of Kulithalai taluk of Tiruchirapalli district.	2	1	...

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* P. D. Vol. 13, Part II, 9th June 1950, p. 10543.

** *Ibid.,* pp. 10545-47.

List No. 11.— Amendment No. 2, parts 1 to 3, by Shri Kodandarama Reddy and others.

List No. 12. —Amendments Nos. 1 to 13, subject to amendment No. 6 being modified by Hon. Minister of Law as follows;—

That for all the entries against "Tiruppur" in volumns 2, 3, 4 and 5the follwoing be substituted : —

1	2	3	4	5
Tiruppur	The Kollegal, Gobichettipalayam and Tiruppur taluks and Savur and Avanashi firkas of Avanashi taluk (excluding the Kugalur firka and such of the villages of Gobichettipalayam firka of the Gopichetti-palayam taluk as are specified in item No. (18) of the Appendix and the the Varapatti firka of Tiruppur taluk) of the Coimbatore District.	1	...	...

I beg to move:

(i) At page 4 in Table A.—Parliamentary Constituencies, against the entry 'Dharmapuri "for the words "and Edappadi firka of Tiruchengoda taluka of Salem District" substitute the words "and Edappadi firka and such of the villages of Sankagiri firka of Tiruchengode taluk of Salem District as are specified in item 18A of the Appendix".

(ii) At page 4, in Table A.—Parliamentary Constituencies, against the entry "Tiruchengoda" for the words "(excluding Edappadi firka of Tiruchengoda taluk)" substitute the words "(excluding Edappadi firka and such of the villages of Sankagiri firka of Tiruchengode taluk as are specified in item 18A of the Appendix)".

(iii) At page 11 in Table B.—Assembly Constituencies, against the entry "Tiruchengode", for the entry in column 2, substitute the following:

"Tiruchengode taluk (excluding Edappadi firka and such of the villages of Sankagiri firka and of the Tiruchengode firka as are specified in items (18A) and (16) respectively of the Appendix)".

(iv) At page 11 in Table B.—Assembly Constituencis, against the entry "Edappadi", for the entry in column 2, substitut the following:".

Edappadi firka and such of the villages of Sankagiri firka of Tiruchengode taluk as are specified in item (18A) of the Appendix and the Mettur and Nangavalli firkas of Amalur taluk".

11-00 A.M.

Sir, I want to move all the amendments in List No. 10. They are only a corrigenda.

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* **Shri A. Joseph:** .....In the interest of the organisation to which I belong and in the interest of the Government I appeal to the House to provide plural member constituencies with distributive voting without reservation. If the Law Ministr is not in a position to agree then I oppose his motion and I would ask you to record *my* disagreement with the proposal for single member constituencies without giving any facilities for th minorities.

Dr. Ambedkar: I cannot accept the amendments.

Mr. Deputy Speaker: Were similar plural member constituencies created in the U.P. ?

Dr. Ambedkar: No, Sir. Nowhere has an exception been made.

West Bengal Orders

****Dr. Ambedkar:** With regard to the West Bengal Order, I am prepared to accept the following amendments:

Consolidated List No. 2—Parts 1 to 6 of Shri Samanta and Shri B. K. Das.

Supplementary List No. 1: Amendment No. 1—Parts 1 and 2 and Amendment No. 2—Parts 1 to 8 of Shri Himatsingka and Mr. Haq, as modified by Supplementary List No. 5, Amendments 1 to 4 of Shri Jhunjhunwala and Shri Sinha.)

I withdraw amendments Nos. 4 and 12 to 15 from the Supplementary List No. 3. The rest of them I move.

Shri Chattopadhyay (West Bengal)**:** I would like to move the amendment appearing in Supplementary List No. 2, It covers 108 items, of which I do not want to press item No. 30.

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*P. D., Vol. 13, Part II, 9th June 1951, p.10548.

** *Ibid.,* p. 10554.

***Dr. Ambedkar:** If I may say a word, in view of the fact that there is such a keen difference of opinion, I am prepared to suggest that it may be left to the Speaker to treat this matter as a sort of a nomenclature matter, without touching the substance. This matter may be kept open. Those Members who care may approach the Speaker and convince him that this is a matter of nomenclature and formally they may be put in without in any way disturbing the areas that are included in the particular constituencies.

Pandit Maitra: I am afraid we cannot agree to this because if one single member is keen on having a change in the nomenclature, another Member may suggest another thing and

Shri Chattopadhayay: Why are you afraid ?

Dr, M M. Das: That would be inconvenient.

Shri J. R. Kapoor (Uttar Pradesh)**:** The point raised by Mr. Chattopadhyay is appealing to most of us. We do not want that at this late stage there should be any substantial change. The changes that he suggests could easily be made in the manner suggested by the Law Minister and an overwhelming majority of the House will, I should say, support that.

Shri S. M. Ghose (West Bengal)**:** How could this Order be finalised by the Speaker ? My hon. friend has suggested some nomenclature. Other Members may suggest some other names. There will be no end to that.

Mr. Deputy Speaker: The Hon. Speaker has to be here. He has to invite other Members together and ascertain from them what their wishes are. What about the Order ? Are we to say that the Order has to be modified to that extent or not ? Nomenclature is a part of the Order, it is not something like the marginal notes. I think there will be some difficulty in the matter. I leave it to the House.

Shri Chattopadhayay: With a heavy heart, Sir, I am forced to withdraw them.

The amendments were, by leave, withdrawn.

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*P. D., Vol. 13, Part II, 9th June 1951, pp.15568-77.

Mr. Deputy Speaker: Now, I shall put the amendments of Dr. Ambadkar in Supplementary List No. 3. the question is:

(For text of the motions *see* amendments Nos. 1 to 3, 5 to 11 and 16 to 19 in Supplementary List No. 3 as printed in Appendix XXXIII annexure 1).

The motion was adopted.

Mr. Deputy Speaker: The other hon. Members desire to withdraw their amendments.

All the other amendments were, by leave, withdrawn.

12-00 Noon.

Mr. Deputy Speaker: The President's Order regarding West Bengal stands modified to the extent of the amendments moved and accepted in the House.

HYDERABAD ORDER

Dr. Ambedkar: I am prepared to accept the following amendments.

Consolidated List. Amendment No. 1 parts 1 and 5 by Shri Ramachar others.

Amendment No. 2, parts 1 to 6, parts 10 to 12 and parts 15 and 16, by Shri Ramachar and others.

Amendment No. 3 parts 1 and 2 by Shri Ramachar and others.

The motion was adopted.

Mr. Deputy Speaker: The President's Order regarding Hyderabad stands modified to the extent of the amendments moved and accepted in the House. The other Members desire to withdraw their amendments.

All the other amendments were, by leave, withdrawn.

MADHYA BHARAT ORDER

Dr. Ambedkar: I accept amendments Nos. 1, 2, 3, 6, 7, 9 and 11 in List No. 3 by Shri Radhelal Vyas. Also in List No. 1, Appendix I.

Mr. Deputy Speaker: The question is:

[For text of the motions *see* Amendments Nos. 1, 2, 3, 6, 7, 9 and 11 in List No. 3 printed in Appendix XXXIIII, annexure 2.]

The motions were adopted.

Mr. Deputy Speaker: The question is :

[For text of the motion *see* List 1, Appendix I (as modified by the previous amendments in List No. 3 printed in Appendix XXXIII, annexures 1 and *2.)*

The motion was adopted.

MYSORE ORDER

Dr. Ambedkar : I accept amendments Nos. 1 and 2 in List No. 1 by Shri Rudrappa.

Mr. Deputy Spaker: The question is:

[For text of the motion *see* Amendments Nos. 1 and 2 in List No. 1 printed in Appendix XXXIII, annexure 3.].

The motion was adopted.

Mr. Deputy speaker: All the other amendments are desired to be withdrawn.

The amendments were, by leave, withdrawn.

Mr. Deputy Speaker: The President's Order regarding Mysore stands modified to the extent of these amendments now accepted.

Then the Punjab Order?

Dr. Ambedkar: No, Sir, The Punjab Order will have to be kept back for some time now. We may take up the P.E.P.S.U. Order.

P.E.P.S.U. ORDER

Dr. Ambedkar: I accept amendment I, parts 2 and 3 of Sardar Sochet Singh in the Consolidated List and also amendment No. 1 of Sardar Ranjit Singh as amended by amendments Nos. (i) and (ii) of Supplementary List No. 3 by Sardar Man.

Mr. Deputy Speaker: Let us take them in order and finish first the Consolidated List.

Dr. Ambedkar: All right. I accept parts 2 and 3 of amendment No. 1 of Sardar Sochet Singh and others.

Mr. Deputy Speaker: The question is:

[For text of the motion *see* Consolidated List, Amendment No 1, parts 2 and 3 printed in appendix XXXIII, Annexure I.].

The motion was adopted.

Dr. Ambedkar: I accept, in Supplementary List 2, amendment No. 1 of Sardar Ranjit Singh, as amended by amendment No. 1, parts (i) and (ii) in Supplementary List 3 by Sardar Man.

So the amendment in Supplementary List 3 may be put first.

The motion was adopted.

Mr. Deputy Speaker: The President's Order regarding P.E.P.S.U. stands modified to the extent of the amendments now adopted.

Rajasthan Order

Dr. Ambedkar: I accept amendment No. 1, parts 1 to 5 in the name of Shri R. C. Upadhyaya in Consolidated List as modified by amendment No. 1 of Shri Ghule in Supplementary List No. 4.

Mr. Deputy Speaker: The question is. (For text of the motion, see Amendment No. 1 by Shri Ghule in S. L. No. 4).

The motion was adopted.

***Dr. Ambedkar:** I accept the amendments in the name of Shri R. C. Upadhyaya and others, Parts 1 to 19 on pages 2 to 5 of C.L.

Mr. Deputy Speaker: The question is:

[For text of the motion *see* amendment 3, parts 1 to 19, C.L. printed in Appendix XXXIII, annexure 1.]

The motion was adopted.

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* P.D., Vol. 13, Part II, 9th June 1951, p. 10574.

Dr. Ambedkar: Amendment No. 1 of Supplementary List No. 2 and also No. 2 of S.L. No. 2, as modified by amendment No. 2 in Supplementary List No. 4, standing in my name may be accepted.

***Dr. Ambedkar:** I accept amendments Nos. 1 to 3 of Supplmentary List No. 5 by Shri R. C. Upadhyaya.

The motion was adopted.

The other amendments were, by leave of the House, withdrawn.

Saurashtra Order

Dr. Ambedkar: I accept amendments Nos. 1 and 2 of List No. 1 by Mr. C. C. Shah and Shri Hathi.

Mr. Deputy Speaker: To the extent of these amendments the Saurashtra Order of the President stands modified.

There is no other amendment.

Dr. Ambedkar: As regards the Travancore and Cochin Order there is no amendment. A corrigenda has been issued.

Shri R. Velayudhan (Travancore-Cochin)**:** There were some discrepancies in printing.

Shri Lakshmanan (Travancore-Cochin)**:** They have all been covered by the corrigenda.

Part C States Order: Delhi

Dr. Ambedkar: I accept amendment No. 2 in consolidated List (in the name of Shri Kesava Rao and others).

The motion was adopted.

Mr. Deputy Speaker: There are no other amendments, I suppose. The President's Order relating to Part C States stands modified to the extent of the amendment just new carried. Other amendments by Dr. Ambedkar and others, if any, are to be withdrawn by the leave of the House.

The other amendments were, by leave, withdrawn.

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*P.D., Vol. 13, Part II, 8th June 1951, pp. 10597-607.

Dr. Ambedkar: Only two other provinces remain, namely U.P. and Punjab. Several amendments have come just now and I have not had time to apply mind to them. If the parties concerned are prepared to go by the original arrangements then I am prepared to proceed further. But I find that some changes have been introduced and I must have a clear understanding of what is sought to be done. I personally think that half an hour in the afternoon would be more than enough for both the Provinces.

Shri Shiv Charan Lai: There might be difficulty then with regard to the quorum, because Members of other States may be absent from the House.

Mr. Deputy Speaker: Only two more orders relating to U.P. and the Punjab are outstanding. If there is unanimity in the House we can meet as late as possible, for I do not want to give the impression that I have muzzled them if anybody wants to speak.

Shri Amolakh Chand: Can we not adjourn for half an hour and then continue for the simple reason that at 4-30 p.m. Members may not come?

Mr. Deputy Speaker: The Minister must have sufficient time to consider the amendments.

Shri T. T. Krishnamachari (Madras)**:** Is there no other business ?

Mr. Deputy Speaker: No other business except passing these two orders.

The House then adjourned till Half Past Four of the Clock.

The House re-assembled at Half Past Four of the clock

[Mr. Speaker *in the Chair*]

Punjab Order

Mr. Speaker: We will now proceed with the Punjab Order. May I know the Nos. of the agreed amendments ? I think we will follow the same procedure as in the morning.

Dr. Ambedkar: The agreed amendments are as follows :

List 7.—Amendment No. 2, part 5, sub-part (i) and sub-part (ii) of Shri B. L. Sondhi, Chaudhari Ranbir Singh and others.

List 9.—Amendment No. 6, parts 2 and 3, of Prof. Yashwant Rai.

List 10.—Only the first amendment in the list I move.

I do not move the second and the third amendments as these are superseded by amendments Nos. 5(i) of List 7 and 3(6) of List 12.

List 12.—Amendment No. 1, parts 1 and 2, of Shri B. L. Sondhi, Ch. Ranbir Singh and others.

Amendment No. 2 of Sardar Bhopinder Singh Man and others, as modified by amendment in List No. 13, of Ch. Ranbir Singh and others.

Amendment No. 3, parts 4, 5 and 6 (second part) of Shri Sondhi, Ch. Ranbir Singh and others, with minor consequential changes in part 6 (second part) as follows:

6. That at page 6, in Table B.— Assembly Constituencies, for the entries 'Ludhiana Sadar', 'Jagraon' and 'Raikot' in column 1 and all the entries occurring against them in columns 2, 3 and 4, the following be substituted, namely:—

1	2	3	4
Jagraon ...	Jagraon Tehsil	2	1
Ludhiana Sadar	Nurpur Bet, Baddowal, Dhandra, Lalton, Kalan, Gill and Dhandari Kalan Zails of Ludhiana Sadar thana, and Shankar and Han Zails of Delhon thana and Dakha Zail of Dakha thana of Ludhiana Tehsil.	1	...
Delhon ...	Pakhowal and Andlu Zails of Raikot thana and Delhon thana (excluding Shankar and Hans Zails) of Ludhiana Tehsil.	1	...

Amendment No. 4, parts 1 and 2, of Pandit Thakur Das Bhargava and Chaudhari Ranbir Singh.

These are the amendments I am prepared to accept, Sir.

Mr. Speaker : I take it no other hon. Member wishes me to put any of his motion to the House.

Well, then I shall dispose of these amendments first. The question is :

[For text of the motion *see*)

List 7—Amendment Nos 2, part, 5, sub-part (i) and sub-part (ii), of Shri B. L. Sondhi, Chaudhari Ranbir Singh and others.

List 9—Amendment No. 6, parts 2 and 3, of Prof. Yashwant Rai.

List 10— Only the first amendment in the list.

List 12—Amendment No. 1, parts 1 and 2, of Shri B. L. Sondhi, Ch. . Ranbir Singh and others.

Amendment No. 2 of Sardar Bhopinder Singh Man and others, as modified by amendment in List No. 13, of Ch. Ranbir Singh and others.

Amendment No. 3, parts 4, 5 and 6 (second part) of Shri Sondhi and others, with minor consequential changes in part 6 (second part) as follows:

6. At page 6, in Table B.—Assembly Constituencies, for the entries 'Ludhiana Sadar', 'Jagraon' and 'Raikot' in column 1, and all the entries occurring against them in columns 2, 3 and 4, substitute the following :—

1	2	3	4
Jagraon ...	Jagraon Tehsil	2	1
Ludhiana Sadar	Nurpur Bet, Baddowal, Dhandra, Lalton, Kalan, Gill and Dhandari Kalan Zails of Ludhiana Sadar thana, and Shankar and Han Zails of Delhon thana and Dakha Zail of Dakha thana of Ludhiana Tehsil.	1	...
Delhon ...	Pakhowal and Andlu Zails of Raikot thana and Delhon thana (excluding Shankar and Hans Zails) of Ludhiana Tehsil.	1	...

printed in appendix XXXIII, annexures 3, 4].

The motions were adopted.

Mr. Speaker: To this extent the President's Order is modified.

Now leave is asked for to withdraw amendments Nos. 2 and 3 in List No. 10 and all the other motions that have been moved.

The amendments were, by leave, withdrawn.

Ch. Ranbir Singh: There is a clerical error here, Sir.

Mr. Speaker: As I have pointed out, all technical errors and apparent mistakes may be brought to the attention of the Hon. Minister of Law and they will be put through as consequential amendments.

Now, let us go to the U.P. Order.

UTTAR PRADESH ORDER.

Dr. Ambedkar: Sir, the agreed amendments are as follows:

List 1—Amendment No. 1 of Pandit Shiv Charan Lai.

List 7— Amendment No. 2, parts 1, *2,* 3, 4, 5 and 6, of Shri C. D. Pande.

Amendment No, 5 of Shri Sohan Lai and others subject to substitution of "Basti District (Central East)-cum - Gorakhpur District East" for "Basti District (Central East)-cum -Hasanpur Pargana", in col. 1.

Amendment No. 6, part 2, of Shri Satish Chandra.

Amendment No. 9 of Babu Gopinath Singh and Pandit Balkrishna Sharma, subject to the insertion of "I.A.F. Domestic Camp" after "Chakeri Aerodrome" in the entry in col. 2 against Kanpur (East).

List 8—Amendment No. 4, parts 1 and 2, of Shri K. C. Sharma.

Amendment No. 5 of Shri Beni Singh and others.

Amendment No. 7, parts 1 to 4, of Shri Amolakh Chand.

Amendments Nos. 8 and 10 of Shri Beni Singh and others.

Amendment No. 12, parts 1 and 2, of Shri K. C. Sharma.

Amendment No. 14 of Shri T. N. Singh.

List 9—Amendments Nos. 1, 4, 5 and 6.

Amendments Nos. 2, 7 and 8 subject to the following modifications proposed by me :

That in the motions in List No. 9 (Uttar Pradesh Order) standing in my name the following amendments be made :—

1. That in motion No. 2, at page 3 of the List, against the entry "Allahabad District (East)-*cum*-Jaunpur District (West)" for the words "(excluding the Municipality and Cantonment of Allahabad" in column III, the words "Chail tehsil (excluding the Municipality) and cantonment of Allahabad" be substituted.

2. That in motion No. 2, at page 3 of the List, after the entry "Allahabad District (West)" the following entry be inserted :—

I	II	III
Gorakhpur District (Central).	such of the Patwari circles of Haveli pargana of Pharenda tehsil of Gorakhpur District as are specified in item (94) of the Appendix.	such of the Patwari circle and forest areas of Haveli Pargana of Pharenda tahsil of Gorakhpur district as are specified in item (94) of the Appendix.

3. That in motion No. 8, at page 12 of the List, for items Nos. (38) and (39) of the proposed Appendix, the following items be substituted :—

"Patwari circles of Akbarpur Tehsil

(38)

Singhpur Saholi, Nevada Deorani, Jaitpur Sheoli, Hiraman Sheoli, Dhakan Sheoli, Saraiyan, Baridaryao, Baghpur, Sobhan, Baghwat, Nehuta, Rastpur, Kakar, Dahi, Bairisawai, Marag, Rampur, Sheoli, Kandri, Bhewan, Nunari Bahadurpur, Baragaon, Baranpur Kahinjari, Kashipur Deepchand, Kashipur Hiraman, Kashipur Jagamman Shah, Kashipur Bhurshah, Hatika, Manda, Kekarmau, Naubasta, Bhaupur, Pitrapur, Ant, Raipalpur, Baluwapur, Lalpur and Aliapur.

Patwari circles of Derapur Tehsil

(39)

Nandpur, Sargaon Khurd, Mungisapur, Derapur Khas, Salimpur, Sabdalpur, Kurhawal, Maujpur, Agwasi, Ursan, Padnai, Korawa, Amauli Kurmian, Hathuma, Mukbilpur, Daryapur, Netarah, Garhiya Sikandra, Mohammadpur : Sultanpur, Jagannathpur, Sandalpur, Haswan, Jamaura, Revan, Hawaspur, Ankna, Pendarathu, Sahnipur, Chamrawa, Kasolar, Achhrauli, Dharampur, Indrukh, Sargaon Buzurg, Jignis, Galuwapur and Baragaon Bhikhi."

4. That in motion No. 2, at page 1 of the List, the entries relating to "Almora District (West)-*cum*-Garhwal District (East)" be deleted.

5. That in motion No. 2, At page 2, the following be deleted.

(i) The entries relating to "Kanpur District (North)-cum-Farrukhabad District (South-East)-*cum*-Tehsil Etawah District (East)" to the two places where they occur.

(ii) The entries relating to "Etawah District (West)".

(iii) The entries relating to "Kanpur District (South)"

6. That in motion No. 7, at page 6 of the List, the entries relating to "Kanpur City (South)", "Kanpur (Central)", "Ghatampur (West)-*cum*-Bhognipur (East) "and "Bhognipur (South-East)-cum-Akbarpur (South) "be deleted.

7. That in motion No. 8, in the Appendix, item No. 17-A relating to Patwari circles of Meerut. Pargana be omitted.

I withdraw amendment No. 3 in List No. 9.

Amendment No. 3 in List No. 9 was, by leave, withdrawn.

Mr. Speaker: So I am taking all of them together. Do the hon. Members wish to take any one of them independently ? If that is so I have no objecrion.

Pandit Kunzru (Uttar Pradesh): I want to know what is the principle on which all these amendments have been accepted. I find that one of the amendments has been tabled by a member of the Committee, Shri T. N. Singh. I would, in particular like to know what that amendment is.

Dr. Ambedkar: Those amendments on which there was general agreement were accepted. In regard to the particular amendment referred to by the hon. Member it is No. 14 in list No. 8.

Pandit Kunzru : My Hon. friend Dr. Ambedkar says that those amendments have been accepted about which there was general agreement. I do not know what he means by "general agreement". If he meant among the members of the majority party, obviously there could have been agreement on many other points. If that was the only basis on which the modifications

were to be made, there was no need for the appointment of a Delimitation Advisory Committee. But I should like to know whether apart from the fact that there was agreement on those points, there was any other reason for their acceptance.

Dr. Ambedkar: Well, I think the Hon. House knows that we have been proceeding upon the basis of the decision of Members of the various Committees which were appointed by the Speaker to delimit the constituencies and whenever the Members have agreed to make a change, I have thought it fit to accept that change. No. 14 which I am accepting is one such amendment.

Pandit Kunzru: Does he mean Members of the majority party or does he mean the Members of the Committee appointed by the Speaker ?

Dr. Ambedkar : With regard to that, I should like to point out that so far as delimitation is concerned, no distinction has been observed between Members of the majority party and Members of any other party. All Members have been invited to place their views before this Cabinet Sub-Committee which was appointed to examine this matter. Any Member, irrespective of the party to which he belonged, had the freedom to come and plead his cause. Some Members did come.

Shri T. N. Singh (Uttar Pradesh)**:** Sir, as my name has been brought in I would ask your permission to say a few words. It is only this that the amendment to which my hon. friend referred is only a consequential amendment which should have been made and which by error was not made in the report of the Committee. I can explain the details personally to him, as it is not possible to explain it here.

Mr. Speaker: Does any other Member wish to take up his motion independently?

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* **Dr. Ambedkar:** Sir, I hope this matter was discussed in the committee and I told Mr. Kapoor that his amendment was incomplete and therefore could not be accepted without

* P.D., Vol. 12, Part II, 9th June 1951, p. 10607.

causing disturbance to other constituencies. He was not able to give a complete scheme where the thing would be fitted in with the rest. That is the reason why this amendment was not considered.

Shri J. R. Kapoor: *rose*—

Mr. Speaker: The hon. Member has no right of reply. Dies he wish me to put these to the House now ?

Shri J R. Kapoor: Of course, though it may be rejected.

Mr. Speaker: I shall place them before the House.

Shri J. R. Kapoor: No. Sir, I would like to withdraw them.

The amendments of Shri J. R. Kapoor were, by leave, withdrawn.

Mr. Speaker: I will now put all the agreed amendments which the Law Minister has placed.

All amendments were adopted.

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* **Mr. Speaker:** Has the Hon. Member, as also the other hon. Members who have moved amendments, the leave of the House to withdraw their amendments ?

The amendments were, by leave, withdrawn.

Mr. Speaker: That disposes of all the motions. Now I shall take up consequential amendments.

Dr. Ambedkar: I beg to move:

> "That with reference to the amendments to the Delimitation of Parliamentary and Assembly Constituencies Orders moved and accepted by the House necessary consequential, drafting and other formal changes be carried out in the said Orders under the authority of the Honourable the Speaker."

Dr. Deshmukh: I have given notice of a similar amendment. I beg to withdraw it.

Mr. Speaker: It has not been placed before the House. So there is no need to withdraw it.

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*P.D., Vol. 12, Part II, 9th June 1951, pp. 10610-12.

Shri Chattopadhyay: I have an amendment to this amendment. I beg to move:

> In the Consequential Amendment standing in the name of Dr. Ambedkar, after the words "formal changes", insert the words "including nomenclature of Constituencies".

Mr, Speaker: Does the Hon. Minister accept it ?

Dr. Ambedkar: I cannot accept it in this formal and binding character.

The Prime Minister (Shri Jawaharlal Nehru): I take it, Sir, that if a name is wrongly spelt it will be correctly spelt. That does not need a formal amendment. If there are minor errors I take it that they can always be corrected.

Shri Chattopadhyay: There was good deal of discussion this morning over this and there was some difference of opinion too in this matter and Dr. Ambedkar said "Let this matter of nomenclature be left to the Speaker".

Dr. Ambedkar: I admit. But I said if the Speaker thought that the change in nomenclature of a place is a formal change; then it will be covered by my amendment.

Shri Chattopadhyay: It is for this reason that I have tabled this amendment.

Mr. Speaker: What does he want me to do now ?

Shri Chattopadhyay: I would like that after the words "formal changes" the words "including nomenclature of Constituencies" should be inserted. It is not formal. It is in my opinion very substantial, because in some cases.....

Mr. Speaker: I understand his point. If he urges that it is a substantial thing, no amendment can now be made. If it is a formal or consequential amendment which will include also sometimes, as Dr. Ambedkar said, even a change in nomenclature, then matters will stand differently. Therefore it is no use having this amendment.

Shri J. R. Kapoor: Do we take it that the change of the name of a constituency, if it does not materially or even slightly change the extent of the constituency, is covered by Dr. Ambedkar's motion?

Dr. Ambedkar: It is in the discretion of the Speaker.

Mr. Speaker: The House has accepted certain modifications. The House is going to give powers to the Speaker to make amendments of a consequential or formal character because, as was said, I believe, in the morning, there may be a mis-description of a boundary. Instead of "east" it might have been stated as "west". Only such amendments will be put through. There can be no further amendments now. Even by the unanimous decision of the House the Chair cannot go beyond the decisions of the House. The Chair will do only what is absolutely necessary to give effect to the decisions already arrived at by the House. That is the spirit in which the consequential amendments will take place.

●●

*PAPERS LAID ON THE TABLE

Delimitation of Parliamentary and Assembly Constituencies Orders

The Minister of Law (Dr. Ambedkar): I beg to lay on the Table the following Orders made by the President on the 15th May, 1951, under sub-section(3) of section 13 of the Representation of the People Act, 1950:

(1) The Delimitation of parliamentary and Assembly Constituencies (Assam) Order, 1951.

(2) The Delimitation of Parliamentary and Assembly Constituencies (Bihar) Order, 1951.

(3) The Delimitation of Parliamentary and Assembly Constituencies (Orissa) Order, 1951.

(4) The Delimitation of Parliamentary and Assembly Constituencies (West Bengal) Order, 1951.

(5) The Delimitation of Parliamentary and Assembly Constituencies (Hyderabad) Order, 1951.

(6) The Delimitation of Parliamentary and Assembly Constituencies (Madhya Bharat) Order, 1951.

(7) The Delimitation of Parliamentary and Assembly Constituencies (Patiala and East Punjab States Union) Order, 1951.

(8) The Delimitation of Parliamentary and Assembly Constituencies (Rajasthan) Order, 1951.

(9) The Delimitation of Parliamentary and Assembly Constituencies (Saurashtra) Order, 1951.

(10) The Delimitation of Parliamentary and Assembly Constituencies (Travancore-Cochin) Order, 1951.

(11) The Delimitation of Parliamentary and Assembly Constituencies (Part C States) Order, 1951.

[*Placed in Library. See No. P-169/51*].

*P.D., Vol. 12, Part II, 16th May 1951, pp. 8810-11.

* PAPERS LAID ON THE TABLE

Delimitation of Parliamentary and

Assembly constituencies Orders

The Minister of Law (Dr. Ambedkar): Under sub-section (*3*) of section 13 of the Representation of the People Act, 1950. I beg to lay on the Table the following Orders made by the President on the 18th May, 1951;

(1) The Delimitation of Parliamentary and Assembly Constituencies (Bombay) Order, 1951.

(2) The Delimitation of Parliamentary and Assembly Constituencies (Madhya Pradesh) Order, 1951.

(3) The Delimitation of Parliamentary and Assembly Constituencies (Madras) Order, 1951.

(4) The Delimitation of Parliamentary and Assembly Constituencies (Madras) Order,1951.

(5) The Delimitation of Parliamentary and Assembly Constituencies (Uttar Pradesh) Order, 1951.

(6) Delimitation of Parliamentary and Assembly Constituencies (Mysore) Order, 1951.

[*Placed in Library, See* No. p. 169/51].

Mr. Speaker: That exhausts all the Orders. I believe?

Dr. Ambedkar: Yes.

Mr. Speaker: I have to inform hon. Members that copies of certain Orders made by the President regarding Delimitation of Constituencies, which have just now been laid on the Table, will be placed in the parliamentary Notice Office as soon as they are received from the Press, hon. Members may obtain a copy each of these Orders on request.

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* P.D., Vol. 12, Part II, 18th May 1951, pp. 9065-66.

BUSINESS OF THE HOUSE

***Mr. Speaker:** I will see what is possible in this direction. I do not promise anything.

The House may adjourn now.....

Pandit Thakur Das Bhargava (Punjab)**:** It will be very difficult to finish the Bill by 1 o'clock. If the work is not finished by 11 o'clock. I have never seen a Bill being guillotined.

Mr. Speaker: If there is no agreement. If there is agreement certainly, we can finish.

Pandit Thakur Das Bhargava: I would therefore beg of you to give more time to come to an agreement.

Mr. Speaker: If the hon. Members are so agreed that they will finish the whole Bill by 1 o'clock, they may assemble at five minutes to one and finish. I do not mind. The only point is there must be some time limit. We must sit with an effort to finish. Otherwise, the discussions will be unending.

The Minister of law (Dr. Ambedkar): I do not know what the arrangement is.

Mr. Speaker: We are now adjourning and meeting again at 11-30.

Dr. Ambedkar: My view is this. That may not prove to be an easier solution. Therefore, the suggestion that I was making was this. I should be prepared to get on with some of the clauses about which there is no dispute at all. There is one clause, only one I think about which there is not yet any agreement. I am afraid it will take a pretty long time to reach an agreement. I thought the better course would be to proceed with the clauses about which there was no dispute at all. There, we shall see whether after a short adjournment, we are able to reach an agreement or whether we would require postponement of the consideration of that particular clause to some other date.

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* P.D., Vol. 12, Part II, 28th May 1951, pp. 9476-77.

Mr. Speaker: Anyway, there is a strong desire in the House to adjourn now to have informal discussions. I have accepted that position. It has not yet been declared as a decision from the Chair, but it has been unnounced from the Chair.

Dr. Ambedkar: I would press on the House to reconsider the matter.

Mr. Speaker: Let us not now take it.

Dr. Ambedkar: There are some clauses which can just be gone through without any speech.

Mr. Speaker: In respect of them too. If the clauses can be gone through immediately, there is no special point in not adjourning now. When we meet at 11-30 those clauses may be put through.

The House will now adjourn and reassemble at 11-30.

The House then adjourned till Half Past

Eleven of the Clock.

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* REPRESENTATION OF THE PEOPLE (AMENDMENT) BILL

*** The Minister of Law (Dr. Ambedkar):** I beg to move:

"That the Bill further to amend the Representation of the People Act, 1950, be taken into consideration."

This is a very short Bill and it seeks to amend the Representation of the People Act, 1950 which was passed by this House some time ago. The object of the Bill is to provide for the representation in the House of the People for the Scheduled Castes and the Scheduled Tribes in Part C States. As the House will remember under Articles 313 and 332, there is provision made by the Constitution itself for the representation of the Scheduled Castes and the Scheduled Tribes in Part A and Part B states. So far as Part C States are concerned, the matter has been left to Parliament and to the President. Article 82 of the Constitution says that so far as the representation of the people in Part C States is concerned, it shall be dealt with by Parliament and so far as the administration of Part C States is concerned, that is a matter which is left to be dealt with by Article 239. When the People's Representation Bill was before the House, it should have, as a matter of propriety also contained the provisions which are now included in this present Bill. But unfortunately, Government at that time had not got sufficient information as to the number of seats that were going to be allotted to Part C States in the House of the People, nor were they in possession of the tribes and the castes which were to be included in the provisions relating to Part C States. Consequently, these provisions had to be held back and they are now brought forth before this House.

* P. D., Vol. 10., Part II, 18th April 1951, pp. 7021-39.

There are really two points which require, I believe, some explanation. As the House knows, there are altogether ten Part C States. It has not been possible for Government to provide representation for the Scheduled Castes and the Scheduled Tribes in all the ten Part C States and the reason is this. We have had to consider two different propositions. One was whether the Part C States in which a provision was to be made for the representation of the Scheduled Castes and the Scheduled Tribes had sufficient number of seats, so that if a seat was reserved for the Scheduled Caste or for the Scheduled Tribe, the result would not be the complete disenfranchisement of the general population. Obviously, there are some States which are included in Part C States where the total representation given to that particular State is only one seat in the House of the People. For instance, Bilaspur is one such State. Coorg is one such State where one that is given. Obviously, it is not possible to apply the principle of reservation in cases of that sort, where a seat could be allotted to the Scheduled Castes, the result of which would be total negation of the representation of the general population. Therefore, in providing representation for the Scheduled Castes and Scheduled Tribes in Part C States, we have had to select only those States where there is room for both to be represented in the Lower House.

The second principle that we have had to take into consideration was the totality of the population of the Scheduled Castes and Scheduled Tribes in any particular Part C State. Where the population was very small, we have not thought it proper to give any representation. But, where the population is considerable having regard to the total population, we have thought that a seat might be given in those areas. Consequently, what the Bill does is this. It reserves seats for the Scheduled Castes in Delhi, Himachal Pradesh and Vindhya Pradesh, one seat in each of these three Part C States. Here, the House will see that there is no great resulting injustice for the simple reason that Delhi has four seats, Himachal Pradesh has three seats and Vindhya Pradesh has six seats. We have felt that these States could well afford to allow one seat to be given to the Scheduled Castes.

4-00 P.M.

With regard to the Scheduled Tribes, we have selected Manipur and Vindhya Pradesh. There again, it does not seem that the reservation of seats to the Scheduled Tribes would cause any injustice to the general population. Manipur has got two seats. It is proposed in this Bill to reserve one to the Scheduled Tribes as you know the population of Scheduled Tribes in Manipur is very large. Secondly, we propose to give one seat to the Scheduled Tribes in Vindhya Pradesh which has got six seats. The rest of the States will have no representation either for the Scheduled Castes or Scheduled Tribes.

Now, I come to the question of the Schedule of Scheduled Castes and Scheduled Tribes. I might say that in this mater I have really no opinion of my own. These castes have been supplied to us by the Home Department and the Census Commissioner who has made a most recent investigation into the matter.

[SHRIMATI DURGABAI *in the Chair*]

I hope that the list that is given in the Bill is an exhaustive one and that no important community which can be included either in the Scheduled Castes or in the Scheduled Tribes has been omitted. If any hon. Member draws my attention *to* any omission or to any addition of a community which ought not to be there, I have an open mind and I shall certainly consider any suggestion made to me on that account. I do not think that there is anything more that requires explanation. With these words, Madam, I commend my motion to the House.

Mr. Chairman: Motion moved :

> "That the Bill further to amend the Representation of the People Act, 1950 be taken into consideration."

Shri J. R. Kapoor (Uttar Pradesh)**:** I have listened to the speech just made by the Hon. Law Minister with attention. I have also carefully read the Statement of Objects and Reasons of this Bill, and I have also carefully persued the various clauses of this Bill, But I must confess that I have not been able to appreciate the necessity of this Bill.

Shri Sonavane (Bombay)**:** You will never.

Shri J. R. Kapoor: To me, the Bill appears to be an absolutely unnecessary one. I am afraid, the valuable time that will be spent in the consideration of this Bill could have been more appropriately devoted to the consideration of the many other important Bills that are pending before us. I will just explain why I say so and I hope I will be able easily to bring conviction to my hon. friend who has somewhat impatiently interrupted me. We are hard-pressed for time and I consider it not only unfair but improper that we should be called upon to indulge in this sort of luxury legislation, if I may say so.

What is it, after all, that this Bill seeks to provide? It seeks to provide, firstly, reservation of seats for Scheduled Castes and Scheduled Tribes on the House of the People. Secondly, it seeks to provide for specification of Scheduled Castes and Scheduled Tribes. If I draw the attention of the House to Article 330 of the Constitution, it will be apparent that the Constitution itself specifically provides for reservation of seats for the Scheduled Castes and Scheduled Tribes. Article 330 states :

> "(1) Seats shall be reserved in the House of the People for—
>
> (*a*) the Scheduled Castes;
>
> (*b*) the Scheduled Tribes except the Scheduled Tribes in the tribal areas of Assam; and
>
> (*c*) the Scheduled Tribes in the autonomous districts of Assam."

Para. (2) of Article 330 runs as follows :—

> "(2) The number of seats reserved in any State"—

Not in a Part A State or Part B State, but in any State which obviously includes Part C States also—

> "for the Scheduled Castes or the Scheduled Tribes under clause (1) shall bear, as nearly as may be, the same proportion to the total number of seats allotted to that State..."

I need not read the rest. My contention is that this article 330 specifically provides that seats for Scheduled Castes and Scheduled Tribes shall be reserved in the House of the People in respect of any State. This word 'State' has been defined in Article 1 of the Constitution which reads thus :

> "1. (1) India, that is, Bharat, shall be a Union of States.

(2) The States and the territories thereof shall be the States and their territories specified in Parts A, B and C of the First Schedule."

Therefore, Madam, it should be obvious that Article 330 read with Article 1 does specifically provide for reservation of seats in the House of the People for Part C States also.

Mr. Chairman: For the hon. Member's guidance, Article 330 covers only Part A and Part B States. The Constitution does not provide specifically for the Part C States.

Shri J. R. Kapoor: My contention is that Article 330 is not confined to Parts A and B States, but it extends its provisions to any State and according to the definition of 'State' in article 1, a Part C State is also covered. Therefore, my contention is that Article 330 is obviously wide enough to cover all States, Parts A, B and C.

Therefore, Madam, there is absolutely no necessity for bringing forward a Bill specifically again providing for the reservation of seats for the Scheduled Castes and the Scheduled Tribes in respect of the Part C States.

And then, Madam, I find from the Bill that it seeks not only to make this unnecessary provision for the reservation of seats in respect of the Part C States, but it goes further and even fixes the number of members who should be elected to fill up the reserved seats. According to clause 2 of the Bill we are asked to agree to a new section, section 3A which runs thus :

"Of the seats in the House of the People allotted under section 3 to each of the States of Delhi, Himachal Pradesh and Vindhya Pradesh, one shall be reserved for the Scheduled Castes; and of the seats so allotted to each of the States of Manipur and Vindhya Pradesh, one shall be reserved for the Scheduled Tribes."

Now, that means that we are called upon to commit ourselves for all times, unless of course amending legislation is brought forward before the House to give one seat and no more and no less than one—of course there cannot be less, than one—to the Scheduled Castes and the Scheduled Tribes of Part C States. In respect of Part A and the Part B States we may remember we have not specified either in the Constitution or in any Bills we have passed so far in respect

of the representation or election of Members to the House of the People, as to how many seats shall be allotted to the Scheduled Tribes and how many to the Scheduled Castes. No doubt sub-clause (2) of Article 330 gives us the formula for the reservation of the seats, that it shall be in accordance with the population of the Scheduled Castes and Tribes in that State. That is reasonable, logical and understandable. But here it is sought to specifically fix the number. Obviously, in the case of Parts A and B States this calculation is presumably left to be done by the Election Commissioner. But here the Hon. Law Minister wants to arrogate to himself or to this House this function which normally, in the case of the Part A and Part B States has been vested in the Election Commissioner. I do not grudge the arrogating to this House of this right. But I feel that this is a wrong way of legislation. Suppose five years later, the number of the Scheduled Tribes and the Scheduled Castes increases in all these Part C States it becomes very much more than their present strength and they require according to Article 330 much more than the one or two seats that you are now providing here, what will happen? They will then be entitled to more seats but the present Bill will stand in the way. Therefore, I submit that this is an ill-conceived clause which is being incorporated here, which first of all unnecessarily asks us to reserve the seats and then makes us commit ourselves to a specific number of seats.

The second thing that this Bill seeks to provide for is to specify the Scheduled Castes and the Scheduled Tribes who should be taken into consideration for the purpose of determining how many reserved seats should be provided for. Here also, I must submit that ample provision is made in the Constitution itself whereby merely by a notification of the President this thing could well be done. Article 341 provides that:

> "The President may, after consulation with the Governor or *Rajpramukh* of a state, by public notification, specify the Castes, races or tribes or parts of or groups within castes, races or tribes which shall for the purposes of this Constitution be deemed to be Scheduled Castes in relation to that State."

Similarly article 342 relates to a notification in respect of Scheduled Tribes. Of course, it might be said that in Part C States you have neither a *Rajpramukh* nor a Governor to be

consulted by the President. But to that my reply is that, visualising some such difficulty in the working of the Constitution, a specific article—Article 392—has already been incorporated in the Constitution itself which says :

> "The President may, for the purpose of removing any difficulties, particularly in relation to the transition from the provisions of the Government of India Act, 1935, to the provisions of this Constitution, by order direct that this Constitution shall, during such period as may be specified in the order, have effect subject to such adaptations, whether by way of modification, addition or omission, as he may deem to be necessary or expedient:"

Therefore all the words, "addition", "omission" and "modification" are there. Therefore, I say that immediately any such difficulty is experienced, the President may be requested to issue a notification under article 341 adapted or modified by article 392, saying that for the purpose of reservation of seats for Scheduled Tribes and the Scheduled Castes, the following castes shall be considered as Scheduled Castes and the following tribes shall be considered as Scheduled Tribes. Therefore, I submit that this Bill is unnecessary. The provision relating to reservation of seats is already there and the specification of the Scheduled Tribes and the Scheduled Castes could be done by a notification by the President. I therefore, submit that this Bill may very well be withdrawn and no more time need be spent over its consideration.

The question, however, may arise as to why the Law Minister, an intelligent man that he is and an eminent jurist as he is should have taken to this unnecessary course of coming forward with an absolutely unnecessary piece of legislation.

An Hon. Member: *Teek hai* (It is true).

Shri J. R. Kapoor : I am obliged to my hon. Friend for giving me such encouragement and support. I have been at pains to find out what could be the reason for the Law Minister to come before us with such an unnecessary piece of legislation. I could find very easily the reason. About two days ago I read in the papers a speech which he delivered while laying the foundation stone of a building. He had the boldness, indeed very great boldness to...

Dr. Deshmukh: I wonder whether this is all relevant.

Dr. Ambedkar: This Bill was introduced long before the speech was made.

Shri J. R. Kapoor : I would not indulge in any irrelevant remarks. I am trying to bring home to hon. Members of this House that this Bill is absolutely unnecessary. The question obviously would arise in the minds of hon. Members as to why an eminent jurist and an eminent lawyer like Dr. Ambedkar should ask us to enact an unnecessary piece of legislation. I have to prove that it is not the necessity or the propriety of this legislation (Interruption) that has made him to come before us but it is some extranecus considerations which are actuating him to come before us...

Mr. Chairman : Is it the contention of the hon. Member that this Bill exclusively belongs to Dr. Ambedkar? it is a Government Bill.

Shri J. R. Kapoor: Technically speaking, it belongs to the Government but I wonder whether Government or his other colleagues have really applied their minds to this Bill. *(Several* hon. Members : Oh! Oh!) I am paying a tribute to Dr. Ambedkar that he can easily persuade his colleagues to believe that something like this is necessary and he may persuade them to think—as he must be enjoying their confidence—that they need not so meticulously enter into every little detail of the Bill and they may well depend upon his ability and his prudence.

Mr. Chairman : Is not the hon. Member one of those who consented to the introduction of this Bill in the Parliament?

Shri J. R. Kapoor: I suppose the convention in this House has always been that no Member should stand to oppose the introduction of a Bill. I for one would be happy if hereafter that convention is to be broken and it will be open to hon. Members of this House to oppose even the introduction of a Bill. Anyway, I hope, Madam, it is not your intention to stop me from proceeding further with my speech merely on the ground that since at that time I had not opposed the introduction of the Bill I cannot speak now to oppose it.

My submission is that this Bill is merely an election stunt of which the Hon. Dr. Ambedkar wants to take the fullest advantage. He would like us and the world outside to believe that he and he alone has the interest of the Scheduled Castes and Tribes at hearts, so much so that even the Constitution-makers were not wide awake at that time and other hon. Members of this House who represent the Scheduled Castes and Tribes had never thought of it and that he has now come forward before the House as the saviour of the Scheduled Castes and Tribes with this legislation: and he would wish the world to believe that for the first time the interests of the Scheduled Castes and Scheduled Tribes in Part C States are going to be protected. He has in that speech to which I referred earlier, accused the hon. Scheduled Caste Members of this House of not being vigilant enough to protect the interests of the Scheduled Castes and he would like to arrogate to himself all the credit. I submit, Madam, these are the considerations..... (*Interruptions.*)

Shri Sonavane : Madam, on a point of order, I would like to know how the reference to the Scheduled Caste members of this House has any relation to the Bill that is before the House. Will not references made outside be out of order?

Shri J. R. Kapoor: I am trying to prove what is the motive behind the Bill. Whether there is any propriety or necessity.....

Shri Ethirajulu Naidu (Mysore)**:** Can an hon. Member attribute motive to the hon. Minister that he has been moved by extraneous considerations other than the subject matter of the Bill—that is what he said and was dilating upon—Madam you may consider whether personal motives can be attributed to any Member.

Shri J. R. Kapoor : I would not dilate very much on it but I feel.....

Shri Ethirajulu Naidu: Would you give a ruling on the point of order raised by me?

Mr. Chairman: Order, order. The hon. Member wants a ruling on the subject. I would like to say that the hon. member's attention has been drawn to that position. If only

he is given a few more minutes to make his statement, then other hon. Members may also make their statements.

Shri J. R. Kapoor: Madam, I may not have used the word motive. I would ask what are the reasons behind the Bill ? The reasons are not the necessity or the propriety of it but the reason is that the Hon. Law Minister wants to make capital out of this Bill for election purposes...

Mr. Chairman: Without dilating upon the motives behind this Bill I would beg of the hon. Member to speak on the merits of the Bill as it is.

Shri J. R. Kapoor: I have already spoken on the merits or the absence of merits of this Bill. I could only speak of the demerits of this Bill.

Sardar B. S. Man (Punjab)**:** On a point of order, Madam, you have ruled that motives could not be discussed. May I ask whether motives, intentions or merits can be divested from each other?

Mr. Chairman: The ruling will be that only motives need not be always dilated upon.

Sardar B. S. Man : It depends upon the emphasis that one wishes to make.

Mr. Chairman: It is a matter of opinion.

Shri J. R. Kapoor: If you wish me not to rub the point too much I will not rub it any further.

Dr. Ambedkar: You can do it: I have borne all this for 25 years.

Shri J. R. Kapoor: I think the Hon. Law Minister is bold enough, audacious enough and he can go even to the length of condemning his colleagues in the Government: he has that boldness and audacity. I would very much like to know whether it is in the propriety of things that one Cabinet Minister should outside the House condemn other Cabinet Ministers. (*An Hon. Member:* All irrelevant) I should think it is not irrelevant. Sitting in the Parliament we are anxious to see that democracy is properly worked and on every

occasion hon. Members in this House must be on the watch to see that nothing which is contrary to democratic principles of Government is allowed to go on and I do submit, Madam, that at the earliest opportunity we should express ourselves that we are very apprehensive of this sort of thing going on between one Cabinet Minister and his other colleagues.

In conclusion I would only submit that every Member of this House is as much interested as and perhaps more interested than the Hon. Law Minister in protecting and safeguarding the rights and privileges of the Scheduled Castes and Scheduled Tribes. They are absolutely equal to us and I would even say they are flesh of our flesh and bone of our bone. We want to treat them absolutely on an equal footing and I would even be prepared to give them more privileges that they may be entitled to not on the basis of their population alone and I would not grudge to give them any amount of representation. But my submission is that there was no necessity for this Bill to be brought before us for reasons which I have already submitted. I have done.

Shri Raj Bahadur (Rajasthan)**:** Why should the hon. Member be so upset? it is only his first election speech.

Shri Chandrika Ram (Bihar)**:** I was very sorry to hear the speech of my hon. friend Mr. Kapoor regarding the Scheduled Castes. The Scheduled Castes have been neglected, no doubt, throughout the length and breadth of the country for the last so many centuries, but since the Government of India many years back took over the responsibility for the Centrally Administered Areas, the conditions which were very bad indeed there were made deplorable. Whereas in the other States—Part A and Part B States as they are called in the Constitution—they have got legislatures and other elected bodies, in the Centrally Administered Areas there are local advisory councils presided over by the Chief Commissioner who never cared for anybody. In the Constituent Assembly we moved an amendment for the inclusion of Chief Commissioners also in article 341 which says :

> "The President may, after consultation with the Governor or Rajpramukh of a State, by public notification specify the castes, races

or tribes or parts of or groups within castes, races or tribes which shall for the purposes of this Constitution be deemed to be Scheduled Castes in relation to that State."

At that time the learned Law Minister said that as these Part C States are governed by the President himself according to article 239 of the Legislative Constitution, there is no need for the inclusion of Chief Commissioners in article 341. The entire difficulty arose that way and the need for the introduction of this Bill today is that in that article Chief Commissioners are not included and the President could not consult anybody for purposes of issuing notifications for Part C States.

Shri J. R. Kapoor: What I said was that under article 392 the President could make the necessary adaptation and additions in article 341, under which the Scheduled Castes could be specified even in respect of Part C States.

Shri Chandrika Ram : But the difficulty is this. If you read clause (2) of article 341 you will find it reads :

"(2) Parliament may by law include in or exclude from the list of Scheduled Castes specified in a notification issued under clause (1) any caste, race or tribe or part of, or group within any caste, race or tribe, but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification."

Therefore, under this article the President is not in a position to issue another notification. Only Parliament is competent to do it.

Shri J. R. Kapoor: The question of another notification does not arise because the President has not so far issued any notification for any Part C States.

Shri Chandrika Ram: This matter was also raised with the Law Ministry, the Home Ministry and the States Ministry. We, who represent the Scheduled Castes in this House ran from one Ministry to another and consulted one Minister after another. Every one of them said that as there was no constitutional provision, notifications could not be issued regarding Part C States. When the original Bill was moved here, I moved an amendment in this House but it was not accepted on that very ground. The different organisations

belonging to the Scheduled Castes, especially the Bharatiya Depressed Classes League, of which I am the General Secretary, submitted a long memorandum to the President, to the Prime Minister, to the Law Minister and to the hon. Shri Jagjivan Ram in this matter. After great consideration this proposal has been brought before this House. Madam, let me inform the House that justice has not been done to these unfortunate people in these centrally Administered Areas of the country. We speak very much against the State Governments of the various States but what about the Part C States? In my own State of Bihar there are all kinds of facilities for *Harijans* for reading, writing and in the services. But what do we see in the Centrally Administered Areas? Even education for the *Harijans* is not free. There are no arrangements for scholarship and other facilities. The Government of India have appointed a Board to deal with these matters. Last year they received about 100 applications from the students reading in colleges, but only five to seven could get scholarships. And in many of the other States, in my State of Bihar for instance, all the students reading in colleges get a stipend of Rs. 35 a month. So, the condition of these people in the Centrally Administered Areas is very bad indeed. As regards the representation of these people, there is no representative of theirs in this House. They have always been neglected by the Central Government.

The responsibility for the administration of the Part C States is that of the Central Cabinet where the learned Law Minister is also a Member. May I ask what he has done for these people for the last three or four years he has been in the Cabinet ? I have seen that the Law Minister who calls himself the saviour of the Scheduled Castes was silent on this issue in the Constituent Assembly and even on the last occasion when a Bill was moved for Part C States representation. Therefore, if he comes with a Bill for the representation of these people now, it should not be opposed by any Member of the House. As we know, the number of Scheduled Castes in these Centrally Administered Areas is something like fifteen to twenty lakhs. I have moved an amendment that where they do not have representation, as

for instance in Coorg, Ajmer, Tripura, they should be given representation. The Scheduled Castes in those places have not even been listed as Scheduled Castes. I do not know whether the Law Minister will be able to accept my amendment and list these people as Scheduled Castes. I do not say that wherever these people are, they must be given representation in the Councils, Assemblies and Parliament. That is not my demand. If the population of these people does not warrant representation, do not give it to them. If on the other hand, their number warrants, please give them representation and if you want to give them a fair deal and justice, at least include them in the list of Scheduled Castes so that facilities in education, services, representation in local bodies, and facilities even for drinking water can be given to these people. That is my only argument. I must say that in my opinion the Central Government has not done justice to these people and the larger share of the responsibility for that falls upon the two *Harijan* Ministers in our Cabinet, especially upon Dr. Ambedkar who has been making public speeches that people in Parliament belonging to Scheduled Castes and Scheduled Tribes are doing nothing. I do not think this attitude of Dr. Ambedkar is fair, justified or warranted. Therefore, when we are working under a democracy and have laid down adult franchise in the Constitution for everybody, if these unfortunate people in the Centrally Administered Areas get adult franchise and get representation, there should be no grudge and nothing should be said against this. If any hon. Member gets up and opposes it, I shall say that he is acting against the principle laid down by the Father of the Nation—Mahatma Gandhi.

Regarding the representation of these people in this House—and this is the only House in which they can be represented because there is no other House going to be established in the Centrally Administered Areas,—I should say that their representation is not fair. Delhi with a population of 15 lakhs will have three representatives in this House, but the number of these people in the Centrally Administered Areas is about 20 lakhs and yet they will have only three representatives, that is to say, one representative

less calculating on the basis of one representative for every five lakhs. And yet people say that this Bill has been introduced to give representation to these people who are less in number in the Centrally Administered Areas.

In the end, I shall only say that there are other castes and communities which are Scheduled Castes and which have been recognised as Scheduled Castes by the Government of India in the Ministry of Education. As soon as the President declared a Scheduled Caste list a schedule was published and this list was published in respect of Scheduled Castes and Scheduled Tribes for purposes of scholarships only. I would request the Hon. Law Minister to accept this list, so that those who are included in it may get the facilities that Scheduled Castes in other states are getting. With these words, I would request the Hon. Minister to accept any amendment when I move it at the proper time.

Sardar Hukam Singh (Punjab)**:** There cannot be any objection to the Bill under discussion. I feel that it was essential and has come in good time. I cannot persuade myself to agree with my hon. friend Mr. Kapoor when he said that there was no necessity for this Bill or when he questioned its propriety. Article 341 gives power to the President to specify the classes which may be included in the list of Scheduled Castes, but obviously if we read that article the intention was that it might be confined to Parts A and B States. That article did not concern Part C States. Therefore it was that it was mentioned that it would be done with the consultation of the *Rajpramukhs* or the Governors of those States. The other provisions in that Chapter also relate to only Parts A and B States. Therefore, there cannot be any doubt that Part C States were not provided for so far as the specification of Scheduled Castes was concerned. Again, it has been mentioned that Article 392 could be availed of for the removal of difficulties by the President, but that article does not apply, if we look at that Article closely. It reads like this :

> "The President may, for the purpose of removing any difficulties, particularly in relation to the transition from the provisions of the Government of India Act, 1935, to the provisions of this Constitution, by order direct..... etc..... etc..... "

Therefore, these two articles could not be availed of and there was necessity for this Bill. Then, it has been said that 341 (2) gives powers to the Parliament when an order by the President has been made. The Parliament is authorised to add to or subtract from or omit any caste from that schedule, but this is the general power, I Suppose, that is vested in the Parliament that is being exercised in enacting the Bill now before us.

As I have said, the Bill was essential and it has been brought at the right moment before the elections which are so near at hand. There is a separate list for every State and I feel that some Members who spoke were right when they pointed out that some castes which are specified as Scheduled Castes in one State may not be specified as such in the adjoining States. There are certain entries in the lists before us which to my mind give rise to some doubts, and I want the Hon. Minister to kindly clear the position. So far as Delhi is concerned, there are two castes included in Nos. 5 and 6: Banjaras and Bawarias. But these people are not included in the list under Himachal Pradesh. These Banjaras and Bawarias are to be found in Himachal Pradesh as well in good numbers.

Dr. Ambedkar: If my hon. Friend will see entry No. 6 under Himachal Pradesh, he will see Bhanjra there.

Sardar Hukam Singh : I am referring to Banjara and not Bhanjra.

Dr. Ambedkar : So it is a question of pronunciation.

Sardar Hukam Singh: No. They are different castes altogether. A Banjara is a different tribesman from a Bhanjra. Then again, Mazhabi entered as item 16 under Himachal Pradesh has not been entered under Delhi. These people are included in the list of Punjab and PEPSU and after the partition a good number of them have migrated to the adjoining States and some have come to Delhi too,, apart from a good number who have gone to Himachal Pradesh. When the local authorities in those States collected the figures, they may have thought that their number was very small, but then

it would be a handicap for them if they are not included. As we know, these are either landless workers or labourers. The Banjaras move from one State to an adjoining State in search of employment and they eke out their livelihood. It would be a difficulty for them if they are deprived of their representation and the other concessions which they may otherwise be entitled to enjoy. Then there are one or two other entries. One such is No. 19 under Delhi—Julaha (Weaver). Then under No. 14 under Himachal Pradesh it is given as Kabirpanthi or Julaha or Keer. These Kabirpanthis and the Julahas are two different castes. They are not one and the same.

Dr. Ambedkar: Sometimes, it is one caste with two names.

Sardar Hukam Singh : That is not so here. These are two distinct and separate castes. Therefore difficulty would arise. Then again, there is entry No. 23 under Himachal Pradesh—Ramdasi or Ravidasi but under Delhi entry No. 32 reads Ram Dasia. I would like to know from the Hon. Minister whether Ramdasi and Ravidasi are two different castes and if they are—as in my opinion they certainly are—then why should that be omitted from Himachal Pradesh ? In entry No. 33 under Delhi it is given as Ravidasi or Raidasi but under Himachal Pradesh against entry No. 23 it is given only as Ramdasi or Ravidasi. So, there is a confusion. I am not aware of the actual denominations by which they may be called, but there is certainly some confusion and those castes have not been included in Himachal Pradesh under those two separate heads. My only point is that these provinces, Punjab, PEPSU, Himachal Pradesh and Delhi are contiguous areas and people keep on moving from one State to another in search of livelihood. Therefore if these poor classes are not included in the lists of all the States, they would be deprived of a concession which the Constitution wanted to give them and the whole object of ours would be frustrated. Therefore, I want to draw the special attention of the Hon. Minister to this matter. I had sent an amendment on this point this morning, copy of which he would by now have received. I would request him to give it his earnest attention.

With these few words, Sir, I support this motion.

Shri Sonavane: I rise to support this Bill and to congratulate the Government on bringing this measure before this August House. I was, therefore, surprised to see why the mind of Mr. Kapoor was so confused today. As is usual with Mr. Kapoor to speak on every Bill, he did today without any justification.

A cursory reading of article 332(1) and article 341(2) would have made it clear to Mr. Kapoor that this measure was necessary. My hon. friend simply relied too much on article 330 (2), caught hold of words "in the State" and went on arguing with that, oblivious of the fact that there are other articles. I would draw his attention to article 332(1) which conditions and qualifies article 330(2). Article 332(1) reads thus:

> "Seats shall be reserved for the Scheduled Castes and the Scheduled Tribes, except the Scheduled Tribes in the tribal areas of Assam in the Legislative Assembly of every State specified in Part A or Part B of the First Schedule."

Shri J. R. Kapoor: We are not dealing with the State Assemblies; we are dealing with the House of the People.

Shri Sonavane: I would also draw the attention of the hon. Member to Article 341 (2) which reads :

> "Parliament may, by law include in, or exclude from the list of Scheduled Castes specified in a notification issued under clause (1) any caste, face or tribe or part of or group within any caste, race or tribe, but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification."

In view of these provisions in Part XVI I think the measure that has been brought forward is absolutely essential and Mr. Kapoor should not have raised his voice against it.

I would now come to another aspect of this question to which the Hon. and learned Law Minister should pay attention. The measure specifies certain castes in the Sixth Schedule. But there are other Scheduled Castes in other States. These Scheduled Castes when they go over to other States, are not recognised as such and would not enjoy the rights given to

them by the Constitution and so would not get reservations. He would remain an untouchable, suffering all the disabilities and disadvantages, with none of the rights and other benefits that would have accrued to him if he had remained in his original State. Therefore my point is this. A Scheduled Caste man in one State even if he migrates to another State should be equally entitled to all the benefits under the Constitution. I would request the Hon. the Law Minister to embody a provision to this effect. By excluding the Scheduled Castes from the enjoyment of such privileges, when they move from one State to another there has been a restriction on their movement from one State to another. Therefore, I would earnestly request the Hon. Minister to consider the insertion of a proviso to section 3A by which all persons who are Scheduled Castes in their States should get automatically all the rights and benefits if they migrate to States other than their own.

The third point that I would like to bring to the notice of the Hon. Minister is that the Scheduled Caste lists are defective and many castes which are untouchables in the different States are omitted and no efforts are being made to see that these castes are included in the Union List as also in the list of those States. The Hon. Minister said that this list is exhaustive and no caste has been omitted. But I think he has failed in his duty to see that all the Scheduled Castes were brought on the Provincial Scheduled Caste List as also on the Union Caste List. Many representations have been sent to the Home Minister and to the Law Minister about those untouchable castes.

Mr. Chairman : Is the hon. Member likely to take a long time?

Shri Sonavane : Yes, Madam.

Mr. Chairman: Then he may continue his speech tomorrow.

The House then adjourned till a Quarter to Eleven of the Clock on Thursday, the 19th April, 1951.

*REPRESENTATION OF THE PEOPLE (AMENDMENT) BILL—*contd.*

Mr. Speaker: The House will now proceed with the further consideration of the following motion moved by the Hon. Dr. Ambedkar on the 18th instant:

> "That the Bill further to amend the Representation of the People Act, 1950, be taken into consideration."

Shri Sonavane (Bombay)**:** When the House adjourned yesterday I was speaking on how the movement of the Scheduled Castes and Scheduled Tribes from one State to another would be restricted by the failure of the Ministry of Law to safeguard the interests of these people by seeing that they are not omitted from the lists of the States and the Union. I would like to illustrate my point by giving a concrete instance. In Bombay, there is a caste known as Mahar. Persons belonging to this caste come over to Delhi, but this caste is not included in the Delhi Scheduled Castes list. Thus, these people would not get any of the benefits under the Constitution only because of the fact that their caste has not been included in the Scheduled Castes list of the Delhi State. In other words, had they remained in Bombay, they would have enjoyed all the privileges and benefits. Therefore, my point is that even if the Scheduled Castes migrate from one State to another, they should get the privileges and benefits under the Constitution. That is not the case today. This omission of the recognition of all Scheduled Castes in the different States has had a restrictive effect on their movement. Therefore, I would urge the Hon. the Law Minister to see to this and make an all-embracing list so that the restriction on their movement would be removed.

Another instance of this omission is that certain castes from Bombay State have gone over to Madhya Bharat and they have not been included in the list there. There are three or four castes of that type. Though they are untouchables, the benefits under the Constitution are denied to them. While replying to a supplementary question of mine, the Hon. the

* P. D., Vol. 10, Part II, 19th April 1951, pp. 7042-7125.

Law Minister had said that the criterion of the Scheduled Caste list was untouchability. Therefore, I would like to ask him what he has done to see that all the untouchables are brought on the State as well as the Union lists. He has failed to do his duty towards the untouchables being in authority here, and I would suggest that an earnest effort should be made by him to rectify the mistake before the coming elections.

Now, I would go to another point. The Scheduled Castes in certain States like Ajmer, Bhopal, Cutch and Tripura, who get not more than one seat, would not get any representation at all. I think it would have been wise and advisable for the Law Ministry to have evolved a formula by which the Scheduled Castes and Scheduled Tribes could have been given joint representation, going in rotation. As it is, these people, the Scheduled Castes and Scheduled Tribes would have no representation at all even though they are in substantial number in those States. I would, therefore, request the Hon. Law Minister to evolve a system of joint representation for these people by rotation.

The last point I want to make is that under the Constitution only such of the untouchables or Scheduled Tribes who are listed as such are recognised by the States and the Union and would get the benefits under the Constitution. Such lists have not been prepared by the States of Bilaspur, Coorg and the Andaman and Nicobar. In the absence of such lists of Scheduled Castes and Scheduled Tribes, those people residing in those States would not get the benefits for their education and upliftment in the services. Therefore, I would request that such a list may be prepared so that these persons may get all the benefits under the Constitution.

Once more I would thank the Government for bringing forward this measure and request the Hon. the Law Minister that the suggestions which I have made are embodied in the Bill.

Pandit Munishwar Datt Upadhyay (Uttar Pradesh)**:** It is needless to emphasise the fact that this House is very keen to safeguard the interests of the Scheduled Castes and Scheduled Tribes, because our Congress Government, and the

members of this House who are mostly Congressmen working under the guidance of Mahatma Gandhi, have all along been taking keen interest in the cause that was so dear to Gandhiji. I do not think that on that point it is at all necessary that an assurance need be given to this House or to the people outside that we are very praticular of safeguarding the interests of the Scheduled Castes and Scheduled Tribes, in so far as the question of representation of these castes is concerned in the House of the People as also in State Legislatures. But it appears that there have been certain facts in the knowledge of hon. Members on account of which they had to make certain remarks yesterday.

So far as the spirit of this Bill goes, it is a laudable and welcome measure, providing for the representation of the Scheduled Castes and Scheduled Tribes in the House of the People as well as State Legislatures. But this provision need have been made only if there is no provision for it in the law as it exists at present.

12-00 NOON

Reading the Constitution, I find that there is already a provision for the representation of Scheduled Castes and Scheduled Tribes in this House and also in other Legislatures. Article 330 is very clear on this point. Clause (2) of article 330 says :

> "The number of seats reserved in any State for the Scheduled Castes or the Scheduled Tribes under clause (1) shall bear, as nearly as may be, the same proportion to the total number of seats allotted to that State in the House of the People as the population of the Scheduled Castes in the State, or of the Scheduled Tribes in the State or part of the State, as the case may be in respect of which seats are so reserved, bears to the total population of the State."

So, my submission is that this provision applies to all the States. It does not apply only to Part a States, or Part B States, or any particular state. Probably the confusion arises on account of reference to article 332, where provision is made for representation in the State Assemblies. I think this Bill is only a repetition of the provision in the Constitution. If it is argued that there is no provision in article 330 of the Constitution for the representation of Scheduled Castes and Scheduled Tribes in the House of the People, I do not think

there is any other provision, and if there is no other provision, I do not think even this Bill could be brought before this House. So this Bill is either *ultra vires* or it is superfluous. In case it is accepted that a provision already exists, it is not necessary to bring this Bill. From that point of view this Bill is superfluous. In case there is no provision in the Constitution, this Bill is *ultra vires*.

Another point for which provision has been made in this Bill is declaration of certain castes as Scheduled Castes and Scheduled Tribes. For that also there is provision in articles 341 and 342. According to article 342 (2):

> "Parliament may by law include in or exclude from the list of Scheduled Tribes specified in a notification issued under clause (1) any tribe or tribal community or part of or group within any tribe or tribal community, but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification."

My submission is that if this House has any right to make any alteration it is under clause (2) of article 342. Under that provision the scope of that modification is limited. The scope is limited to the fact that if there be any list prepared by the President under clause (1) it is only to that list that any modification can be made by an Act of Parliament. Otherwise there is no independent provision for making such modification or change in the list or to provide for the fact that certain castes should or should not be included in the Scheduled Castes or the Scheduled Tribes. So, as regards that provision also, I do not think that this Bill can take us any further, because there is no such list prepared by the President to which this modification might be directed. Therefore, my submission is that in all cases either this Bill is superfluous or it is *ultra vires* in respect of both the points that have been attempted to be covered by this Bill. The provision already being present in article 330 of the Constitution for the representation of the Scheduled Tribes and the Scheduled Castes in this House, it is absolutely unnecessary to have this Bill or to make any law in this House.

Mr. Speaker: Mr. Muldas Vaishya.

The Minister of Law (Dr. Ambedkar): I would like to make one request. I do not know whether the argument that has been advanced by Pandit Munishwar Datt Upadhyay is likely to be repeated by other members, as it was done yesterday. If that is so, with your permission, I would like to explain what exactly is the constitutional position. But I leave it to you. Otherwise I will take up the matter in my own turn when it comes.

Mr. Speaker: I think that will be better. I myself have not been able to catch his objection.

Dr. Ambedkar : They have missed a particular point. That is why they are raising this sort of objection.

Shri Bharati (Madras)**:** That was also raised yesterday.

Mr. Speaker: Then that argument should not be repeated and the Law Minister will reply to that point at the end.

Shri Sidhva (Madhya Pradesh)**:** Let him reply now.

Mr. Speaker: I shall not allow that argument on the ground of repetition .

Shri Ethirajulu Naidu (Mysore)**:** I would request you not to rule out a discussion of the Constitutional position, because there may be other aspects of it which will have to be presented.

Mr. Speaker: Anything can be argued under different aspects. But the words of the Constitution are there and there is the Bill before the House, and I think that Members would trust the intelligence of the Members that they can grasp all the aspects if they are explained once or twice. What is the good of repeating them?

Shri Dwivedi (Vindhya Pradesh)**:** Although the Bill . relates to Part C States, no Member from these States has so far been allowed to speak. I would like to know if you will not allow the Members from Part C States to say something.

Mr. Speaker: I do not know why hon. Members should think that they have not been allowed. Every Member is allowed. But certainly every person cannot get an opportunity. And I believe the Bill is restricted in its operations only to

certain Part C States. I think I am right when I say that. (*Hon. Members:* Yes, yes). The utmost that could be claimed by any. Member is that Members coming from that State to which the Bill relates should also be given an opportunity.

Capt. A. P. Singh (Vindhya Pradesh) **:** We come from Vindhya Pradesh.

Mr. Speaker: It will not be a desirable practice to urge that because the words "Part C" are there, therefore every Member coming from Part C States should be entitled to speak on it. But I need not go into that aspect. I am just keeping a watch over the thing and I shall follow what I think to be the proper and the best method.

Shri Dwivedi: May I request you to allow those Members who come from Part C States and whose case is involved here?

Mr. Speaker: Let them plead. But at least the Hon. Member does not come from one such.

Shri Dwivedi: Sir, I come from Vindhya Pradesh.

Mr. Speaker : I am so sorry. Yes, Vindhya Pradesh is there. But I want to give preference first to people who themselves belong to the Scheduled Castes, and hon. Members who do not belong to the Scheduled Castes will kindly forbear for sometime and allow those who belong to that caste to have the fullest opportunity. And I am giving an opportunity to the hon. Member Mr. Muldas because he comes from that class. I have got a list and I have got in my mind as to who come from that community and who should be given preference. Let us not argue that point any further.

Shri M. B. Vaishya (Bombay)**:** (*English translation of the Hindi speech*) Sir, I deem myself to be fortunate for having been permitted by you to speak on this bill. After listening to the debate on the Bill introduced by Hon. Dr. Ambedkar, I also wish to express my ideas. He is a great scholar of law and must have introduced the present Bill as a result of the same. It was only after the coming of Mahatma Gandhi, who was our saviour, we began to realize that we also are human beings. At many places Hon. Dr. Ambedkar has stated that the Scheduled Class people were happier under the British

rule, and now under the Nehru Government they are unhappy. I received this statement as a great shock. Our country has been famous for truth. Prahlad, a boy of five, had courage enough to utter truth and nothing but truth before his father. For us *Harijans* Mahatma Gandhi did so much and even the present Congress Government also are doing much but this is certain that our condition has been deteriorating since so long that a greater amount of our difficulties is a result of that unhappy position. Our poverty cannot be removed so easily. A lot will have to be done for us. But when I see our leaders minimizing the efforts that are being made for us, I feel extremely pained. Obstacles should not be placed in the way of a smoothly running cart. It is not proper for us to do so. The path of service has always been acclaimed in India to be a path of *Yogis* and we have ever been following the same from times immemorial and we have served the society in every possible way. During the days of Swaraj Movement, I can say of at least my own province of Gujarat, if not of others, that our people had worked shoulder to shoulder with our other friends and that is why we do not like to beg anything from them like beggars. Today we demand our legitimate rights from them on the basis of equality and brotherhood. Today we have our own Government, and it is the duty of the Parliament and the Members thereof to do justice to us. In spite of all these things there are still many places in India where our bridegrooms cannot ride a horse, where Harjians cannot sit in motor buses, and there are some places even where our women folk cannot put on costly garments and ornaments. There are no doubt some such places in India even today but it does not mean that condition is the same everywhere. There is no doubt that though much is being done for us, a lot more still remains to be done. But I do not like to be ungrateful as to say that, in spite of so much being done for our uplift, nothing is being done for us and that we were happier under the British rule. There is no doubt that due to their policy of 'divide and rule', the Britishers had picked out some educated persons among us, treated them as their equals and tried to benefit them in every possible manner. These people can thus say that they were happier under the British

rule. But today the Harijan Community as a whole is being benefited and our representatives who occupy the seats on Treasury Benches, as Shri Sonavane has stated, by exercising their pressure upon the Government can get many things done for us. But putting the Government in disrepute and working against the Government would not, except bringing ruin to us, in any way prove beneficial to us. Dr. Ambedkar is a great scholar. I pray God to give him wisdom so that he may not utter such words as may prove our community to be ungrateful. He has played so many stunts in his life that I suppose this also to be one of them. Who knows this may also be an act of trickery as Bhagwan Shree Krishna used to show! God save us from these *lilas* of trickeries. We cannot turn ungrateful towards the country in which we have taken birth and whom we have served to the best of our ability. There was a time when we were asked to change our religion. But thousands and lacs of us showed to the world that even at the cost of our own heads we will not go against the land, where we have been born and give up the religion which we have adopted. We can sacrifice our lives but we cannot give up our *dharma*. In the end I have only to say.....

Mr. Speaker: Order, order. I can appreciate the hon. Member's keenness to speak out his heart, but then, I am afraid, we are trying to introduce, on the floor of the House, some other subject which will be discussed better outside. At present, we are concerned with this Bill. A few preliminary remarks is something different, just to impress upon the House, if at all any such thing is necessary, the fact that the Scheduled Castes should be given special consideration. But beyond that, let us not enter into any political or other controversies which may or may not have been started outside the House; let them be carried on outside the House. I earnestly request every Member in the House not to go beyond the strict scope of the Bill. I did not want to interfere with the hon. Member's speech, nor do I want to put his enthusiasm and his feelings at a lesser value. He will confine himself now to the merits of the case. I was just watching when he was really coming to the merits of the case.

Shri. M. B. Vaishya: The ruling that you have kindly given in this regard is certainly valuable and we have but to follow it. But I have to say a few words to Hon. Dr. Ambedkar. The Bill that he has introduced has been moved on behalf of the Government and as it must have been very a necessary one, therefore, we, Harijans will surely lend our support to the same. But what I had to say I have submitted in brief. I hope that he will excuse me for what I have said here, and you Sir, will also excuse me.

(*Translation concluded)*

[SRHIMATI DURGABAI *in the Chair*].

Dr. Deshmukh (Madhya Pradesh) **:** My friend the Hon. Minister is in a great hurry, but I have some very important points to urge. It is not with regard to one particular caste or another, but I must say, that the whole way in which this matter of representation of the people, election rules and regulations are being dealt with is extremely unsatisfactory. We have had one Bill in 1950, which is now Act No. XLIII of 1950. We know the way in which it was introduced, the struggle that this House had to put in for the sake of getting the provisions amended and the number of seats increased. Then very soon after we had an amending Bill which is Act No. XXIII of 1950 by which we provided for representation of Part C States in the Council of States. Then we have not had any Bill for some time although two are now pending before the House, but we had two notifications under the signature of the President. It is perfectly legal and constitutional to do so. Those are the notifications dated 10th of August 1950 and 6th of September 1950 specifying the Scheduled Castes and Scheduled Tribes under articles 341 and 342 of the Constitution. My first complaint refers to action of Government under these two articles 341 and 342. Under the second part of article 341 Parliament alone has the authority to modify, add to or substract from the list that has been notified under the signature of the President. It was quite proper and constitutional to notify these lists but I wish the Hon. Minister had given this House an opportunity of looking into and scrutinizing the lists that have been given in these notifications.

I do not know whether the Hon. Law Minister had seen the representations, but I have had many letters from many communities, who have a grievance that they have not been included in these lists. It would have been quite proper if, instead of bringing another small Bill confined to one particular class of States—I do not object to the Bill on the other hand, I am in favour of the Bill—some sort of procedure was available to the Members of this House in the case of these two lists, so that it would have been possible for us to scrutinize them and the people would also know how far their rights have been protected. The long discussion and the anxiety of the Members of this House are, I believe, really based on this fact. If everything else was in order, if there was proper investigation as was absolutely necessary in this case, so far as the Parts A and B States are concerned—this is a supplementary list of Scheduled Castes with reference to Part C States—the debate in the House would probably have been much shorter. The keenness of Members would have been less and we would not have had much occasion to complain. But the way in-which the whole thing is being done is really strange and I hope and pray that this sort of thing is not done.

We should have one consolidated enactment in which all these things should be provided for. There will then be no need to have amending Bills month after month to add or subtract and all the various things. My first and very earnest request to the Hon. Minister is that the lists given under these notifications are not exhaustive. The people belonging to many castes feel that they have been unjustly omitted and if we really compare these lists with the lists which formed the basis of the Order in Council under the 1935 Act we will find that many castes have certainly been omitted. If it is contended that these castes which have been omitted have really ceased to be untouchables or there has been a certain change in their social status, that is another matter. We do not know whether the House will accept it or not; whether the people will accept it or not. When we had these lists prepared as schedules to the 1935 Act, there was a great deal of investigation, then the people were informed and they came to know what their rights were and what they should fight

for. Nothing of this sort has been done on the present occasion. I do not know who prepared these lists which have been published under the signature of the President. I do not know what investigation has been made so far as these lists in the present Bill are concerned. These are matters which really create a lot of anxiety and feeling in the minds of the people and I would therefore like that the Government do really have some system, some method in approaching this question a method which will give satisfaction to the largest number of people.

Then so far as this particular Bill is concerned, I think it is necessary so long as it is proposed to give representation to some of the Part C States. I think the lists have got to be prepared and whether they were prepared at one time as part of one whole or another is a different question. But I do not think this is absolutely superfluous. It does not appear to me beyond doubt that there is any definite provision in the Constitution according to which we are enacting this measure. So far as I can see the only justification or the only authority for bringing in this Bill appears to be that wherever there are Scheduled Castes people, some seats are proposed to be reserved for them. But this is merely because there is a provision for reservation for Scheduled Castes—I do not know if there is any specific provision in the Constitution according to which we can make this provision, apart from articles 341 and 342 which do not apply to Part C States. This is merely a technical objection. I really want that seats in Part C States should be reserved and Scheduled Castes should be enumerated. There cannot be any difference of opinion so far as the desirability of enumerating the Scheduled Castes or making provision for them so far as Part C States are concerned. But, what I wish to find out from my hon. friend when he replies is, where exactly is the provision in the Constitution according to which this representation is being sought to be given, according to which this Bill is perfectly in order?

So far as the lists are concerned, I wish a little more time was available to all the people to know how far their rights

are going to be affected. I have received representations from various communities which desire that their names should be included. It is quite likely that many backward people have not yet come to know that anything is being done which would affect their rights. It may very well be that backward as these people are, their rights are probably jeopardised, simply because we are doing this in great hurry. From that point of view, I would not be surprised if there are many castes which happen to be omitted and which have a grievance against what we are doing. If we compare the lists that are in vogue, for instance, so far as the present situation is concerned, the Order in Council prepared in 1930 and 1931 and which formed part of the Act of 1935, with the present list, we find that there are great many omissions. I have another notification by the Public Service Commission. Here in Delhi, you will be pleased to find that the list of Scheduled Castes contains no less than 64 numbers. As against that, in this schedule, you find only 39. What steps have been taken to find out and what justification there is to omit the different castes, I do not know. I am prepared to wait till the Hon. Minister replies. But, I am sure, this is a somewhat drastic reduction. I do not know on what basis it has been made. Even if it is slightly late, I would request my hon. friend not to be in a hurry, for my hon. friend is in a great hurry to get this Bill through. That is the only anxiety of the Cabinet Ministers; they are in a hurry and want things to be done in five minutes or ten minutes, as if they are the only persons who understand things, and the other people merely waste their breath and spend the time of the House and do not contribute anything specially or directly although they represent the people. That sort of attitude I do not very much like. I hope that Dr. Ambedkar would give us a patient hearing and I would urge on him, on behalf of large number of people who have no voice and who do not understand their rights or what is going on in this House, that there should be no hurry in this matter. I should like the consideration of this Bill to be positioned and the whole subject taken up and settled once for all.

As Mr. Sonavane rightly remarked, nowadays, many people are leaving their homes and there is a large transfer of

population. A lot of people from Madhya Pradesh have come and settled more or less permanently in Delhi. If you do not include, for instance, the *Mahars,* and some other Scheduled Castes who have come here permanently they will lose their rights. All these questions will have to be investigated because it is not a temporary thing. This is something which is going to be embodied in the Constitution; this is more or less a permanent thing which we expect to last for a long number of years. In these circumstances, spending a few more days on consideration of this Bill is not waste of time; it would be time well utilised, Therefore, I submit there should be no hurry in passing this measure. By merely passing this Bill, we are not going to go ahead much.

There are many difficulties. I am really doubtful whether we would be in a position to hold the elections in November or December next, because the delimitation work is going to be a great headache. There are great differences between what the Election Commissioner is going to do and what the Delimitation Committees have decided. You cannot rush such things in this House over the shoulders and decisions of the Delimitation Committees and have elections anyhow. There are many more difficulties which are going to take time. If that is going to happen, there should be no undue haste in passing this Bill and shutting out representation to people who would like to be included in the schedules to this Bill. I have been able to table an amendment in the case of two castes; but I am sure there are many more who would like to be heard and represented. I urge that the whole thing should not be done in a piecemeal fashion in which it has been done. It would be much better to have a consolidated measure so that the kinds of objections that have been raised here will not come forward hereafter. I shall move my amendment, and I hope the Hon. Minister would accept the same.

Shri R. Velayudhan (Travancore-Cochin)**:** It was not my desire to speak on this Bill because I thought there was no scope for any controversy over it. I am very glad that the hon. Speaker who presided before gave the ruling that matters that have happened outside this House have no proper place in the discussion on the Bill now before the House. I wish, however,

to confine myself to one or two points to which some hon. Members have already referred, because I think this is the only proper occasion to ventilate some feelings regarding Scheduled Castes as the same was done by others.

Not only this House, but the whole country is abundantly interested in the problems of the Scheduled Castes. Many of us who represent these classes in this House would not have been here but for the great work done under the leadership of the Father of the Nation, Mahatma Gandhi. At the same time, I must not omit to mention the great services that have been rendered by our great leader Dr. Ambedkar. I think Mahatma Gandhi, Mr. Jinnah and Dr. Ambedkar are the three personalities who have commanded the greatest admiration...

Shri Sonavane : And have divided the country.

Shri R. Velayudhan : ...and respect of the people and who have been able to shape the destinies and thoughts of people in this century.

Shri Sonavane : On a point of order, is all this relevant to the Bill?

Shri R. Velayudhan: Yes.

Mr. Chairman: The hon. Member who raised the point was heard uninterrupted. I think he would extend the same privilege to other Members also.

Shri Sonavane : My point of order has not been decided.

Mr. Chairman: The hon. Member may go on.

Shri R. Velayudhan: I am not going to enter into any controversial point. But, I must say that the Hon. Dr. Ambedkar who has brought this Bill as well as the greatest of political saints Gandhiji, who have done the greatest service to the down-trodden millions, the Scheduled Caste people, have got their respective places in the hearts of many in the country. Therefore, I think it was not proper on the part of some hon. Members to take this opportunity to fling a little mud on a leader who has got the greatest following among the Scheduled Castes even at this time.

As regards the origin of this Bill I must say that the provision for the representation of Scheduled Castes in the Part C States was contemplated long, long ago. Even though the Constitution was framed by the greatest jurists and lawyers including the Hon. Law Minister, it is a matter of surprise that they completely forgot to include representation for the Scheduled Castes in the Part C States at the proper stage.

There was a lot of heart-searching and there were lot of constitutional difficulties to overcome with regard to the formulation of this Bill which seeks to give representation to the Scheduled Castes of the Part C States. There was controversy as to whether this Bill was a proper measure or not and an hon. Member even spoke yesterday in this House sounding a discordant note to the effect that there should not be any reservation of seats for the Scheduled Castes in Part C States. As for myself, I have believed and used to say even from my school days that the reservation of seats and other kinds of reservations are no panacea to the ills under which the Scheduled Castes are labouring. On that point I had my own differences with Dr. Ambedkar also. But at the same time, when you have given reservation in the Parts A and B States, it would be unjust to deny it to those in Part C States,—people who are not represented in Parliament or in the respective local bodies.

As Dr. Deshmukh has said, there is a lot of omission and there are many mistakes in the formulation of these lists of Scheduled Castes and Scheduled Tribes, not only in the Bill that is before us, but also in the order of the President for Parts A and B States. I looked into the proceedings of the Constituent Assembly touching on this point and I find that it was stated then that the list already fromulated in the 1935 Act would be accepted when it comes to the question of elections under the new Constitution. But when the President's order came out, so many castes included in that Act were excluded and we have now only a few of these Scheduled Castes and Tribes in almost all the Parts A and B States. I feel that this was not done without a purpose. This I think, was done deliberately. I mean this omission or reduction in the number of names in the list, because if they had included

all those Scheduled Castes and Scheduled Tribes that were in the Act of 1935, then the number of reserved seats would become very large. In some of the States, for instance in the Uttar Pradesh where there are 13 lakhs of *Khatiks,* they have been completely ignored in the President's list. If they are included, I think nearly 40 per cent of the seats in U. P. would go to the Scheduled Castes alone. And that is not a small thing that they should get this much in a Part A State and be able to influence the destinies and the politics of the State. Therefore, intentionally and specially and deliberately they have been excluded so as to minimise the representation of the Scheduled Castes in the State. That is the case not only in the U. P. but in some other States also. But in most of the South Indian States they have drawn up the list according to the 1935 Act. Therefore, the whole list has to be re-formulated and the promise given by the late Sardar Patel in the Constituent Assembly that the list of 1935 Act would be accepted in Parliament for the coming election, must be kept, injustice to the departed leader and also to the Father of the Nation and also to the millions of Scheduled Castes and Scheduled Tribes who have been enjoying certain privileges on the basis of caste or community.

According to the present arrangement alone can do that. For instance, I am from Madras, cannot go and contest a seat in any other State, say in Bombay. Therefore, there is this constitutional difficulty also which has to be removed by Parliament as Parliament alone can do that. For instance, I belong to the Travancore-Cochin State and so I cannot go to Bombay and contest a seat there, and that is a discrimination against my community, because non-Scheduled Castes can freely contest any seat anywhere in India according to party basis or on any other basis. Therefore it is my request not only to the Government but also to Parliament to rectify these constitutional anomalies as soon as possible. My submission is that most of the castes dropped from the former list will have to be included and a fair list drawn up so that the reservation given to the Scheduled Castes and Tribes may be on a just and fair basis. Otherwise let us drop the thing altogether and we will fight our battles on equal footing with

the rest. I have got great hope for the future and I believe in a bright future for my community. They are the down-trodden and the future is for the under-dog. Therefore, I am not hopeless. I am not without hope. Dr. Ambedkar might feel pessimistic, but as far as I am concerned, and as far as the youths of the Scheduled Castes are concerned, we have courage enough to fight on equal footing our battle of liberation.

Mr. Chairman: Order, order. Is the hon. Member opposing the Bill or supporting it?

Shri R. Velayudhan: I am not opposing this Bill at all, but only requesting that the list drawn up should be changed where necessary after verification with actual facts. With this request, I support the Bill.

Shri Deshbandhu Gupta (Delhi)**:** I rise to support this Bill. The Bill merely seeks to ensure representation of Harijans in the House of the People from the Part C States and there can be no objection to this from any part of the House. But I would like to point out that the reason given by Dr. Ambedkar the Mover of this Bill that this was not defined when the Representation of the People Bill was before this House does not seem to be quite correct. This reservation is after all a temporary reservation for a period of ten years and perhaps it was thought desirable to leave out some areas without this reservation so as to see whether Harijans could be returned to the House of the People without reservation. (*An Hon. member:* Very doubtful.) My friend says very doubtful. I am not prepared to have a bet with him on that. But I can say that so far as Delhi is concerned I would like the Mover of the Bill and other friends to realise that Delhi and Ajmer were the only two places, even under the old regime, which enjoyed joint electorates, whereas throughout the country there were separate electorates and reservations of seats on that basis. I need hardly remind the hon. Mover and other friends who feel like him that Delhi had returned to the Central Assembly through joint electorate, the candidate belonging to the minority community and that too in the teeth of opposition from reactionary elements. Although opposition

forces from all parts of India were concentrated in Delhi to oppose the Muslim candidate put up by the Congress, Delhi was able to uphold the principle of joint electorates and had returned the minority community candidate. I would have considered it a privilege if Delhi and other Part C states were allowed the opportunity to return Harijan candidates without reserving seats for them. That would have given us also an idea as to what will happen after ten years when all such reservations will go. But my friend the Mover of the Bill, who unfortunately has always held a different view, has thought it fit to bring this Bill. Now that the Bill has been brought forward I support the Bill, for there can be no opposition either in principle or in substance so far as this Bill is concerned.

I would however like to make one or two observations. Reference has already been made by more than one Member to the speech which was delivered by the Hon. Minister the other day. I do not wish to make any comments on that but for his information I would like to point out that delhi was the headquarters of the All-India Dalitodhar Sabha, even before the congress had included the removal of disabilities of the depressed classes in its programme in 1921. This Sabha was founded by the late Revered Swami Shraddhanand. It was he who had moved the resolution in 1920 in Calcutta Session of the Congress to include the removal of disabilities of Harijans in the Congress programme. Even earlier in his address as Chairman of the reception committee of the Indian National Congress session held at Amritsar after the Jallianwala Bagh tragedy, he had raised the question of the disabilities of the Harijans and had persuaded the Congress to recognise its importance. It would have been in the fitness of things if the Hon. Minister who undoubtedly has worked for the uplift of Harijans and holds a very high place as a Harijan leader, had recognised this fact. But unfortunately his policy and his angle of vision have been quite different. If I were to refer to the history of the struggle for the uplift of the Harijans in Delhi.....

Mr. Chairman : I would invite the attention of the hon. Member to the fact that, when the hon. Speaker was in the

Chair, he gave us a ruling that references regarding the speech of Dr. Ambedker need not be made here *in extenso* except by way of a few preliminary remarks. Therefore, I would request the hon. Member to speak on the merits of the Bill.

Shri Deshbandhu Gupta: I have practically made no reference to that. I was only trying to make out that even without the proposed reservation of a seat Delhi would have returned a Harijan candidate. My hon. friend has made an unfortunate speech at a time when this Bill was coming before Parliament but I have purposely avoided making reference to it. I only wish to tell him that coming as he does from Bombay very probably he does not know the conditions prevailing in Delhi. All that he has done is that he has tried to treat the entire population of Delhi as Harijans. That is the contribution that he has made to the Constitutional advancement of Delhi. On that my friend can certainly congratulate himself, as that is one way of equalising. Instead of raising the status of Harijans he has tried to lower the status of non-Harijans and brought them both on the same political level. I want him to realise that in 1921 and even earlier in Delhi, the foreign Government, of which he is so much enamoured today, was using and exploiting the Harijans against the best interests of the country. A big all-India depressed classes conference was held in September 1921 in the People's Park to mobilise support to welcome the Prince of Wales in those days, when the whole country was against it. In spite of this attitude of the depressed classes leaders the movement for the uplift of Harijans which was started by the late Swami Shraddhanand continued as they felt that the removal of disabilities of the Harijans was a matter of duty with them and not a question of doing any favour to the Harijans. Swami Shraddhanand in Delhi was attacked by the supporters of the old British Government—in which camp most of the people who were following the lead of my hon. friend were then—while he was leading a procession to have temples and use of wells thrown opened to Harijans. All that is part of history and should not be forgotten. Therefore, I would have thought a privilege, if at least Delhi had been left out of this Bill and given an opportunity to return Harijan without there being any

reservation. That would have also proved that after ten years there would be no difficulty in returning Harijan Candidates when there will be no reservations. With these words I support the Bill. I assure my hon. friend, whether this Bill is there or not, that Harijans in Delhi enjoy an equal status. Most of the disabilities about which he has been complaining may be in existence in his part of the country. So far as these areas are concerned there is no political motive behind the social work done by social reformers like Swami Shradhanand, and late Lala Lajpat Rai and other Aryasamaj leaders. They had dedicated their lives to it and this fact should be recognised while passing this Bill.

Shri Dwivedi: (*English translation of the Hindi speech*). So far as the principles of this Bill are concerned. I support it because for more than once I have made suggestions in this House to provide for the representation in Part C States of the Scheduled Castes and the Scheduled Tribes. What I wish to say is that so far as the administration and development of Part C states are concerned, that issue should have been brought in this House even before this Bill was moved. But not realising the significance of that Bill, the Government hurriedly brought forth the present Bill. That goes to show that the Government are not so much keen about the representation of the people and the introduction of necessary reforms for establishing a democratic type of Government, as about this Bill. Anyway, I would support the present measure; but, all the same. I would like to explain a couple of things to the House. In the first place, I would like to say, as the previous speaker Shri Deshbandhu Gupta said in regard to Delhi, that we would have elected Harijan representatives even without this Bill. Then alone could it have been said how generously we treated the Harijans. In Vindhya Pradesh the Congress and the public workers have been treating the Harijans and the caste Hindus alike, and, as Shri Deshbandhu Gupta said, in Delhi they had already got opportunities of representation. In view of the fact that in Vindhya Pradesh untouchability has long been removed from the schools as also in the day-to-day intercourse and that Harijans there are loved by all alike and get due representation, there is no

reason why a separate legislation should now be enacted for them. Now that such a Bill has come before us, I welcome it, but, all the same, I wish to mention a couple of things in this connection. Firstly, out of the six seats in the House of the People allotted to Vindhya Pradesh, one third have been reserved for the untouchables—Scheduled Tribes and Scheduled Castes. But unfortunately the people of Vindhya Pradesh are so illiterate and backward that only a limited number of such persons will be available as may be able to discharge their duties and represent their people properly in Parliament. Such is not the case with the Harijans alone; even Caste Hindus suffer from illiteracy. Shri Thakkar Bapa had once remarked that mass literacy should have preceded adult franchise. We did never raise any question in regard to education. While in Delhi new schools have been opened and arrangements made for their education and educational facilities extended to rural areas too, but no steps have been taken in this regard in Vindhya Pradesh. One of the speakers who spoke before me, Shri Sonavane, strongly supported this Bill. I also agree with him. May I ask whether in his speech he at all referred to the absence of any arrangements for the education of the people of the Scheduled Castes and Scheduled Tribes? Today they are devoid of even the prime necessities and comforts of the modern life. In places like Kherua, a poor labourer is paid at the rate of only four annas per day, while contractors get contracts at nearly double the rate. The better course, therefore would have been that the hon. Members, who are supporters of the cause of Harijans should have personally visited those places, taken some positive steps to improve their conditions and approached the Education Department of the Government for providing them with educational facilities. As a matter of fact they are only keen about their own interests—that they should be elected here as their representatives—and do not care for the interest of the Harijans. Unless they do some material work for the uplift of the Harijans, I would not approve of mere idle talk as it can do no good to the country. We should promote education among our brethren—the people of the Scheduled Castes—whom we consider to be our own, so that after being elected to Parliament they may be

able to discharge their duties properly; otherwise, there is no use in electing them.

Mr. Chairman: Does the hon. Member propose to take a long time?

Shri Dwivedi : Yes Sir.

The House then adjourned for Lunch till Half Past Two of the Clock.

The House re-assembled after Lunch at Half Past Two of the Clock.

[PANDIT THAKUR DAS BHARGAVA *in the Chair*]

Shri Dwivedi: Sir, you might have heard whatever few observations I made before the House. What I particularly mean to say is that the Government have classified the States into various Parts in the manner in which the entire society has been broken up into many categories, *viz., Savarna, Avarna,* Scheduled Caste, Scheduled Tribe and so on.

Shri Amolakh Chand (Uttar Pradesh)**:** The Hon. Minister is not here.

Mr. Chairman: He will come soon.

An Hon. Member: Let somebody deputise for him.

Mr. Chairman: He will be coming in a minute or so. Let the hon. member proceed.

Shri Dwivedi : What I was going to say is that States too have been classified into various parts in the manner in which people have been divided into Scheduled Castes or Scheduled Tribes etc. I want to ask the Hon. Minister why does he not contemplate to bring a legislation in respect of the various Parts referred to in the present Bill in the manner in which he has presented the Bill regarding the Scheduled Castes and the Scheduled Tribes.

Shri Sivan Pillay (Travancore-Cochin)**:** On a point of order, Sir. The treasury Benches are vacant.

Mr. Chairman... The Hon. Minister is likely to come very soon.

Shri Dwivedi: I think I can continue.

Mr. Chairman: Yes.

Shri Goenka (Madras)**:** Who will listen?

Shri Dwivedi: I suppose what I say will be noted in the proceedings. As for example cerain portions of Vindhya Pradesh have been merged into other States as enclaves. Rampur, Tehri Garhwal and certain other States have been given due protection in the Legislative Assemblies of the States concerned as also in Parliament, but no attention has so far been paid to those enclaves of Vindhya Pradesh which have been referred to in this Bill.

Shri Goenka: They have been complaining that there is no one on the Treasury Benches.

Dr. Ambedkar: The Treasury Bench is quite unnecessary for the House.

Shri Dwivedi: Since a legislation has already been brought forth for the Scheduled Castes, Scheduled Tribes etc., it should have been our first concern not to treat those merged enclaves like some packages that can be placed according to ones wishes. These enclaves should also get due representation in the States Legislative Assemblies.

Now, Sir, I wish to divert your attention to a very important legal issue. In clause 2 of Article 330 of the Constitution, it is stated:

> "(2) The number of seats reserved in any State for the Scheduled Castes or the Scheduled Tribes under clause (1) shall bear, as nearly as may be, the same proportion to the total number of seats allotted to that State in the House of the People as the population of the Scheduled Castes in the State or of the Scheduled Tribes in the State or Part of the State, as the Case may be, in respect of which seats are so reserved, bears to the total population of the State."

What I want to say in this connection is that since there has been a clear mention regarding the allotment of seats, including those of Part C States, in the Act XLIII of 1950 and since clause 2 of article 330 of the Constitution clearly states that the seats will be allotted in proportion to the population,

there seems to be little reason why this legislation should be brought forth. Article 341 of the Constitution specifically mentions that:

> "(1) The President may, after consultation with the Governor or Rajpramukh of a State, by public notification, specify the castes, races or tribes or parts of or groups within castes, races or tribes which shall for the purposes of this Constitution be deemed to be Scheduled Castes in relation to that State."

Similarly a provision has been made in article 342 with regard to the Scheduled Caste. I want to know what is the necessity of introducing such a measure when the President is empowered, *vide* article 341 and 342, to do so by a public Notification. If article 330 provides for any such legislation for the Scheduled Castes then that legislation has already been enacted and in case it does not provide for one, the Constitution does not indicate any necessity of enacting such a legislation. Therefore as the hon. Member speaking before me said, this Bill is superfluous. That is why I would like the Hon. Minister to pay his attention to this legal intricacy so that it may not give rise to any legal clash later on in the Supreme Court. The Hon. Minister is an eminent legal expert and as such is in a better position to study the situation, that this legislation does involve legal complexities. I hope he will throw light upon the subject and, if necessary, either amend the Bill accordingly or withdraw it after its consideration because, as Shri Deshbandhu Gupta said and the representative of Vindhya Pradesh also supported him there seems to be no such condition that the Scheduled Castes and the Scheduled Tribes will get representation only by enacting such a legislation. Representation will be provided to them even in the absence of any such measure. It is my duty to draw the attention of the House to the legal intricacies involved in the present Bill.

The second thing is that the Hon. Minister may take recourse to article 82 of the Constitution. It states :

> "Notwithstanding anything in clause (1) of article 81, Parliament may by law provide for the representation in the House of the People of any State specified in Part C of the First Scheduled or of any territories comprised within the territory of India but not included within any State on a basis or in a manner other than that provided in that clause."

Parliament have the power to enact such legislation under the above article and they have already enacted one Clause 2 of article 330 clearly states that the number of seats allotted by the President to the Scheduled Castes and Scheduled Tribes will be in proportion to the population, Under such circumstances, I think there was no necessity of any Bill like this one. What is needed now is that this intricacy should be removed. As far as I could understand, the Hon. Minister has not stated anything to that effect and, therefore, I have drawn the attention of the House to this issue.

Besides this, I would also invite the attention of the Hon. Minister to the fact that when the Peoples Representation. Bill was moved here, the population of Vindhya Pradesh was nearly 33 lacs. Then a population of about two and a half lacs to three lacs was included within the bordering territories in accordance with the Enclaves Merger Act. At that time six seats were agreed upon to be allotted to Vindhya Pradesh. Now that the census has taken place. I am told the population of Vindhya Pradesh has increased by five lacs. Under these circumstances, I believe Vindhya Pradesh has every right to claim for more seats to be allotted to it. I will therefore, make a couple of important suggestions. Firstly, it should be considered, if possible, as to how these two seats should be allotted. It would be better that decision in this respect may be taken after having consultation with the Delimitation Committee for Vindhya Pradesh. In view of the fact that the population of Vindhya Pradesh has increased by five lacs, the number of seats allotted to it should also be increased by one by bringing an amendment to the Peoples Representation Bill.

With these words I support this Bill.

(*Translation concluded*)

Dr. Parmar (Himachal Pradesh)**:** I rise not only to support this Bill but also to congratulate the Government for giving representation to the scheduled castes and tribes in Part C States. It has been said in this House that this Bill has been brought by the Law Minister unnecessarily and for certain other extraneous reasons. I must, however, contradict this and say that what the Law Minister and the Government of India

have done in bringing forward this Bill is only an implementation of the policy which has been laid down in the Constitution.

Whatever my friends from Delhi and Vindhya Pradesh feel about this matter—and their feeling is that even without this legislation the representation of the scheduled castes and tribes would have been assured in the House of the People— I welcome this measure for certain definite reasons. I can speak with some amount of knowledge as far as Himachal Pradesh is concerned and my feeling is that in spite of all that the Central Government and the other State Governments have done, our machinery is moving so slowly that the schedule castes do not feel that enthusiasm that should have come with the Constitution. And that is all the more reason why we on our part should give a feeling, should give ample proof of our idea, of our determination to see that the scheduled castes do receive a fair deal in the next elections. What is happening in Himachal Pradesh makes it all the more necessary.

I do not want to take very much time of the House, but I will just refer to an incident or two to show how very necessary it is to make this provision. It was about four months back— on the 4th January 1951—that the Himachal Pradesh Advisory Council recommended to the Government to introduce, at least extend, the Untoucability Removal Act as it is in force in Uttar Pradesh, to Himachal Pradesh for there are a number of disabilities which the scheduled castes suffer from in those areas. I was surprised to learn from certain quarters in the States Ministry that some of them at least consider that there is hardly any necessity for this measure, for there is no such problem there as in Madras, nor is there such a serious demand from the people that it should be extended. If that is the view which is prevailing in the Central Government too, I am afraid that much that has to be done will remain undone.

When I had been to my constituency recently, a section of the scheduled castes, known as *kolis,* met me there in the interior of Himachal Pradesh in district Sirmur. They narrated to me a recent incident in which some members of that

scheduled caste of *kolis* who tried to assemble to consider some problems relating to their betterment were pounced upon by the landlords, fled hand and foot and locked up for about three days. If that is what the scheduled castes are to expect under the new Constitution, I am afraid we have to give the matter a very serious consideration. We have to admit the fact that our machinery has not yet geared itself to this new idea : they are still going along the same old rut and since not one scheduled caste is represented in the whole of the services, this sort of thing is allowed to happen. I was told of this incident not only by those people but also by people who contacted the police and the local congress committee which has taken the matter in hand with a view to doing justice to these people. But the Police feel that they will not be able to prosecute the offenders as no evidence will be forthcoming because those scheduled caste people, who are tenants, have been told that if they give evidence against the landlords, they will be howhere and that their lands will be taken away from them. That is why I feel that they should have representation, so that one of them at least will have a chance of coming here and expressing what they feel about the state of affairs. That will have a reaction on people who have not changed and who do not see the writing on the wall. I personally feel that unless we solve this problem, solve it of course in a spirit of friendship, unless this discrimination is done away with, the social order will go to pieces. I personally feel very strongly on this measure has been brought none too early.

Shri P. Y. Deshpande: (Madhya Pradesh)**:** I wish to draw the attention of the Hon. the Law Minister and of this House to certain legal aspects which have so far escaped notice. This Bill proposes to amend the Representation of the People Act of 1950 and it is brought forward with the object of providing representation to scheduled castes and scheduled tribes. My submission is that this has already been provided for in the Representation of the People Act, 1950. Section 3 of the Act, which is sought to be amended, provides for the

allocation of seats in the House of the People, and states in sub-section (2) that "to each State specified in the first column of the First Schedule, there shall be allotted the number of seats specified in the second column thereof opposite to that State". In the First Schedule the seats have been allotted to Part C States also. The question arises, what about the scheduled tribes and the scheduled castes ? Now, that too has been provided for. In section 6 of the Act, in sub-section (2), it is stated, "As soon as may be after the commencement of this Act, the President shall, by order, determine—(a).....(b) ..... (c) ..... and (d) the number of seats, if any, reserved for the scheduled castes or for the scheduled tribes in each constituency." This section authorises the President to determine reservation even for scheduled castes and scheduled tribes. Therefore, it seems to me that this Bill is altogether unnecessary. There is the Constitutional mandatory provision in article 330. The Representation of the People Act, 1930 goes further—in fact it implements that Constitutional mandate and provides seats for Part C States and also provides for representation to scheduled castes and scheduled tribes. Therefore, it seems to me there is only one matter which is left rather in doubt. And that is the specification of the particular castes and the particular tribes which would be entitled to be recorded as such. That could be done, as it has been done in the case of Part A and B States, by order of the President, not only under articles 330 and 392 of the Constitution but also under section 6 of the Act which is sought to be amended by this Bill. Although, I wholeheartedly agree with the purpose of this Bill—I do want that the scheduled castes and tribes should be represented and all doubts about their representation should be removed. There is no question about that—it seems to me that when a mere order of the President specifying these tribes and castes will do. when such an order could have been placed before Parliament and as in the case of the Part A and B States, it could have been revised, altered or modified by Parliament later on, giving enough time to the people of these States to

suggest amendments, to omit or add to the castes and tribes enumerated in the President's order—that being so. I do not see any propriety for this Bill at all. All that it seeks to do could be done by an order of the President specifying the castes and tribes and by placing the order of the President before the House and then following the same procedure as in the case of the Part A and B States. I hope the hon. the Law Minister will look into this matter and convince us that the Bill is really necessary.

Capt. A. P. Singh: (*English translation of the Hindi speech*) Sir, I am not opposed to the object of the Bill, namely, making a provision for representation of the Scheduled Castes and Scheduled Tribes. As for the many points that have been raised here, I will only say that I agree with the views of hon. Dr. Ambedkar. He himself says that Articles 341 and 342 apply in relation to Part A and Part B States only and that Articles 330 and 332 are also for Part A and Part B States. Then again, he has said that there is no specific provision of affording representation to the Scheduled Castes and Scheduled Tribes of Part C States. He admits this thing in the Statement of Objects and Reasons. Now, he finds that because it is necessary to reserve seats for these people, they must therefore be given representation by enacting legislation in the Parliament, that is to say he wants special powers for the Parliament to do it. That is the object for which he has brought this Bill before the House.

In this connection, my submission is that he himself was a Member of the Constituent Assembly when the Constitution was being framed. If we wish to find out the reasons why no provision was made for the Part C States, we must examine the spirit of the Constitution as to why the Scheduled Castes and Scheduled Tribes of Part C States were not given any representation. There must be some definite reasons for that. As far as I could make out, the entire population of Part C States were treated as Harijans for the reason that they have all been regarded as backward people. This right or reservation of seats is given to the Scheduled Castes and Scheduled Tribes

only because they are a backward class and since the people of those States have been treated as backward class, no provision has therefore been made to give separate representation to them. So, when there is no such provision, should we agree that they should not be given any rights and that there should be no separate representation for the Scheduled Castes and Scheduled Tribes? My submission is that there is another section in the Constitution which makes such a provision and they should be given these rights under that article which, I believe, is meant for Part 'C' States. They are Articles 239 and 240. Sir, I would like to draw your attention to Article 240, according to which these people can be given this right. Article 239 deals with special powers and Article 240 says :

"(1) Parliament may by law create or continue for any State specified in Part C of the First Schedule and administered through a Chief Commissioner or Lieutenant-Governor—

(a) a body, whether nominated, elected or partly nominated and partly elected, to function as a Legislature for the State; or

(b) a Council of Advisers or Ministers, or both with such constitution, powers and functions, in each case, as may be specified in the law.

(2) Any such law as is referred to in clause (1) shall not be deemed to be an amendment of this Constitution for the purposes of article 368 notwithstanding that it contains any provision which amends or has the effect of amending the Constitution."

That is to say, according to the Constitution, we can make change, if necessary, under this article. But in that case one thing is certain and it is that we will have to give more rights to the people in Part C States. It would have been better had hon. Dr. Ambedkar brought forward a clear measure, just as he has declared in the case of Part B States that Part VI with the undermentioned amendment will apply to them, to the effect that the Part VI with the following modifications will apply in relation to Part C States as well. I wish to draw the attention of the Hon. Dr. Ambedkar to that. It is as follows :

"The provisions of Part VI shall apply in relation to the States specified in Part B of the First Schedule as they apply in relation to the States specified in Part A of that Schedule subject to the following modifications and omissions, namely:"

Similarly he could have provided the following:

> "The provisions of Part VI shall apply in relation to the States specified in Part C of the First Schedule as they apply in relation to the States specified in Part A of that Scheduled subject to the following modifications and omissions, namely:"

If a Bill having this object and purport and which could also provide that all provisions of Part VI would be applicable, had been brought, it could automatically have solved this problem of Scheduled Castes and Scheduled Tribes. But he has chosen a different path and wants to enter through the backdoor. He does not take the simpler and a more direct course, which every hon. Minister has the option to adopt and which he must do. Dr. Ambedkar might probably say that it is the concern of the Ministry of States and not his. The Hon. Minister on several occasions, during my talks with him, expressed this view. But I take the Government as a whole, may he be Dr. Ambedkar or Shri Ayyangar or the Minister of Home Affairs. All that I want to submit is that such a Bill would have been much better. But in failing to do so he has put the cart before the horse with the result that people are complaining all round. He should now postpone this Bill and bring forward a Bill which would give all powers enjoyed by Part A States to Part C States. Then this object would automatically be fulfilled. At present he is not working according to the Constitution because, by this Bill, he is giving rights only to the Scheduled Castes and Scheduled Tribes. But we all are Harijans and so before taking this step, all other people must be made distinct from Scheduled Castes and Scheduled Tribes, that is to say they should first be given more rights as is the case of Part A and Part B States. He should first do this and then only bring such a measure, otherwise, in my opinion, it is of no use.

It would take a long time to deal with its details and to describe its reasons. Shri Ayyangar has also stated in his speech that so far as Himachal Pradesh and Vindhya Pradesh are concerned, a Bill will be soon coming for them. It is being framed and we are on the Standing Committee. The Committee has considered it and although it is very unsatisfactory at this time but we hope it will be improved upon to the satisfaction

of the people. Now, it is said that Delhi should also be allotted one seat. As for Delhi, I submit that there should be no hitch to give this right to it. It is said that since it is the capital of the country, it cannot be given this right. Sir, I would submit that Calcutta too had a Lieutenant-Governor when it was the capital of India but the people of Calcutta enjoyed full rights. Then again, taking the case of Simla, it used to be the capital of India for some period of the year and being situated in Punjab, the Lieutenant-Governor also used to live there, but there had never been any difficulties about the two Governments functioning from the same place. Therefore, I am at a loss to comprehend the argument put forward that the people of Delhi should not be given this right on account of its being the capital of the country. I for one, feel that the people of Delhi should be given more rights because they are living in the capital itself. Shri Ramchandra had said : *Sab te priya mohi yahan ke basi, mum dhamda puri Sukhrasi.* (I love most the people of my own place which is the land of wealth and prosperity). He had said it for the people of Ayodhya. So when there is so much of hesitation in giving rights to the people of Delhi, I am afraid, other people will have to face even more difficulties. Therefore, in my opinion, it is most desirable to keep the people of Delhi contented as it is the capital of the country and it will not be wise to dissatisfy them in any way. It would have been more proper had we arranged to hold a plebiscite of the people of the area which we are administering.

Mr. Chairman: May I draw the attention of the hon. Member to the fact that we are not discussing the problem of Delhi but we are discussing the Representation of the People (Amendment) Bill ?

Capt. A. P. Singh : Since it is being enforced in Delhi also, I thought I might refer that Delhi should also be given these rights which we are going to have. I meant only that. Anyway, if it is so, I will not discuss that. My submission is only as to why smaller States like Manipur and Tripura should be refused these reforms of introducing responsible Governments. Aundh is one of the smallest states but it was the first state to have a responsible Government. Therefore I see no reason why other small States like Manipur and Tripura be deprived

of a responsible Government and why a responsible type of administration be not established there. There are so many other States where a responsible administration does not exist but I have no time to speak about them.

The next point which I would like to submit is with regard to the population of Harijans in Vindhya Pradesh. How much is that? No figures have been given about Scheduled Tribes. But it seems that the population of both comes to about, nine lakhs, that is, a little less than one-fourth of the total population. But they are being given one-third of the total seats allotted, that is to say, two out of six seats are being given to them while their population is less than even one-forth. If Hon. Dr. Ambedkar deems it proper, and it is my personal request to him, he should allot one more seat to Vindhya Pradesh so that the population ratio may be adjusted to a greater extent. Although I have not submitted any amendment to that effect, but it is my request to him and it would be better if he agrees to do it. I submit to hon. Dr. Ambedkar that if he thinks it proper he should withhold the present Bill and bring another Bill to that effect. If he is agreeable to do it, I can submit my own Bill to him which I have already drafted in a comprehensive manner. It will be a small Bill saying that more rights should be given to Part 'C' states and that responsible Government should be set up there. If it is done, I believe the problem will automatically be solved. That is all I have to say.

(*Translation concluded*)

Mr. Chairman : I think this has been sufficiently discussed. I therefore, propose to call hon. Dr. Ambedkar to speak.

Dr. Ambedkar: Yesterday when Mr. Kapoor raised a constitutional question that in view of certain articles in the Constitution, this Bill was unnecessary and that I had brought this Bill for some other motive, I myself did not believe that Mr. Kapoor believed in his argument.

Shri J. R. Kapoor (Uttar Pradesh)**:** You never believe in a fact.

Dr. Ambedkar: It seems to me that his argument has caught on and it has been repeated by several Members today on the floor of this House.

[MR. SPEAKER *in the Chair*]

It is therefore incumbent on me to repel the suggestion which has been made in the course of this debate that this Bill is uncalled for. hon. Members have referred to article 330 on which they have built their main argument. It is quite true that article 330 refers to the reservation for the scheduled castes in the House of the People. What we are considering in this Bill is the reservation of seats in the House of the People for the scheduled castes in certain Part C States. As I said, it is therefore relevant that this article should be referred to. It seems to me that hon. Members who have relied upon article 330 seem to have altogether forgotten that the basis of representation of the scheduled castes must be the enumeration or the definition of the scheduled castes. Unless and until we knew what the scheduled castes are and what their total population is, it is absolutely impossible for anybody to make any provisions for the practical and factual representation of the Scheduled Castes. The question, therefore, is this : Is there any provision whereby it is possible for any authority except Parliament to make a list of the scheduled castes so that we might know what they are, and also their population? For that purpose, it is necessary to refer to article 341. This is what article 341 says :

> "(1) The President may, after consultation with the Governor or Rajpramukh of a state, by public notification, specify the castes, races or tribes or parts of or groups within castes, races or tribes which shall for the purposes of this Constitution be deemed to be Scheduled Castes in relation to that State."

A similar provision is contained in article 342 which relates to scheduled tribes. There is a proviso contained in sub-clause (2) of article 341 and sub-clause (2) of article 342 which prevents the President, after having once made the order, from modifying it. The power to modify the order has been expressly reserved to Parliament. It is necessary to read very carefully the words of article 341 and article 342. No doubt, the President is empowered to issue a notification; but, there is a very important condition attached to his power to issue a notification. That condition is that he can issue it only after consultation with the Governor or Rajpramukh of a State. Any

one who reads the Constitution will know that by making reference to a Governor or Rajpramukh, it is quite clear that what is meant is states in Part A or States in Part B. Because, it is only in States in Part A or Part B that you find the institution of a Governor or Rajpramukh. If article 341 also stated in specific terms that the President can issue such a notification in consultation with the Chief Commissioner, undoubtedly, the President could have been presumed to have been empowered by the Constitution under articles 341 and 342 to issue a notification with regard to States in Part C also. Unfortunately, or fortunately, such a clause was not put in article 341.

My. hon. Friend who spoke last asked that I must explain as to why the Constitution did not make any provision giving the President the power to issue a notification with regard to the scheduled castes in Part C States. I think those Members, who took part in the discussion of the various articles when the matter was before the Constitutent Assembly, will recall that this question was a matter of great controversy. Everybody felt that politics might enter into this field, that the President might be advised for political reasons to omit a certain community, that the President might be advised to add a certain community because of its political affiliation. Consequently, we had to draft this article with the greatest care and attention. It was also insisted that once the President had made the order, he should not have the power to alter it, because, there again, politics might enter. This is evident from the fact that in both the articles clause (2) was introduced, because it was felt that once the order was made, if any change was demanded, that change ought to be made in the open House, by the House, with the knowledge of the scheduled caste Members of Parliament. That was the reason why these articles were drafted with such meticulous care.

My point, however, was this. The argument of my hon. friends who said that this Bill was unnecessary is based upon a complete misunderstanding and misreading of article 341. As I stated in my opening remarks, it is absolutely impossible to devise any kind of scheme of reservation for the scheduled castes unless two things are known : who the scheduled castes

are and what their population is. As I said, if this matter was covered by article 341, then it would have been quite unnecessary to come to this House for making provision for representation of scheduled castes in Part C States. Because, then the President would have the same power as he has with regard to the scheduled castes in Part A and Part B states to determine the Scheduled Castes in Part C States and their population so that the Election Commissioner could easily proceed to delimit the constituencies. Therefore, my submission is that there is no substance in this argument that this Bill from a constitutional point of view is unnecessary.

My hon. Friend Mr. Deshpande has challenged me on another ground that this matter is already covered in the former Act called the Representation of the People Act, 1950. He has referred to section 6 of that Act where it is stated that the President may determine among other things, "the number of seats, if any reserved for the scheduled castes or for the scheduled tribes in each constituency ". Here again, he seems to be suffering from one fallacy. This Act has reference to the order issued by the President with regard to the scheduled castes and scheduled tribes in Part A and Part B States. This section 6 could have no reference to or relevance to a case where the scheduled castes or the scheduled tribes have not been notified by the President. It is only when the President can notify that this section can be attracted. What we are doing now is to enact a list of the scheduled castes and the scheduled tribes in the various Part C States where we propose to reserve seats for them. Therefore, my submission is that his argument too is based on a complete misunderstanding of the provisions of that particular Act.

There is, I find, no disagreement on the question that provision should be made for representation of the scheduled castes and scheduled tribes in Part C States. So far, so good. Two Members from Vindhya Pradesh have said that by taking two seats, one for the scheduled castes and one for the scheduled tribes, the general representation has been cut into too much. *Prima facie,* I am not prepared to accept that argument. That argument seems to be founded on the supposition that all the six seats were to ensure to the benefit

of the caste Hindus. I am not prepared to accept that argument. Those seats have been given to Vindhya Pradesh not only for the caste Hindus but for all other people who are resident in those States. They have appealed to me to see if the quota of seats allotted to Vindhya Pradesh in the House of the People may not be increased by one. You know that in the Constitution a definite maximum limit has been placed for the House of the People and I believe it is about 500. It is quite obvious that I could not increase the quota of representation of Vindhya Pradesh if the thing is going to offend against that maximum which would be quite impossible and unconstitutional. It is quite possible that other Part C States may also claim an enlargement of their quota because they may also claim the same sort of treatment. It is therefore difficult for me to commit to any such proposal as has been put before me. All that I can say is that I will look into the matter and see if something can be done. Beyond that I do not propose to say anything.

Then, my friend from Vindhya Pradesh drew my attention to article 240. His argument was that instead of taking action under article 240 I was proceeding under some other articles of the Constitution. Well, I know he will agree that the articles under which I am proceeding are perfectly legitimate. The reason why he wants me to act under article 240 he knows very well and I do not wish to expose the thing more than is necessary. All that I need tell him is this, that it is unnecessary for me to refer to article 240 because my problem is very different. My problem is to provide for the representation of the scheduled castes and scheduled tribes in Part C States in the House of the People. My present problem is not to find representation for the scheduled castes and scheduled tribes in any local assembly or a Parliament that may be devised hereafter. When the Government of India will take action to satisfy my friend for the purpose of establishing some local legislature, then undoubtedly article 240 will be resorted to and provision will be made for the representation of the scheduled castes and scheduled tribes therein also. But for the moment, it is not necessary for me to resort to article 240.

Then, much criticism has been levelled against the list of the scheduled castes. Well, I do not know how one can satisfactorily deal with a matter of that sort, because anybody in the Government of India dealing with a matter of this sort as to what community is a scheduled caste community and what community is not a scheduled caste community, must necessarily depend upon the local information furnished to the Government of India by their officers and other agencies who are conversant with the matter. It is quite possible that the information supplied to the Government of India by their agency differs from the information which hon. Members have. Government, therefore, has to come to its choice necessarily relying on the information of its own officers. If any hon. Member can prove to my satisfaction that in the list that we have prepared, there has been any grave error or omission. I shall certainly consider the question. My friend Dr. Deshmukh of course, is very discontented, I think with the Government and thinks that the Government is always rushing through matters. I do not know how long he would like each Bill to take—probably a fortnight—and I do not know whether he would be satisfied even with that time. He expatiated a great deal upon the inadequacy and the errors of the list. My friend Dr. Deshmukh will permit me to say that as a member of the Round Table Conference, I had a great deal to do with the preparation of these tables. I had a great deal to do with it. We had before us a very grave problem. That problem was that in the census reports, right from 1910, if he will refer to them he will see, that certain classes were shown separately and they were called "depressed classes". When the question came at the Round Table Conference for giving representation to these classes, the question arose what was meant by the "depressed classes". There were a large number of people who were economically and educationally backward but who in the technical sense of the word were not untouchables. There were certain communities like the *mangarudis* for instance, who were criminal tribes put were not untouchables in the technical sense of the word; they were practically outside the pale of society and yet were not untouchables. The question was then considered at great length—Are we going to give

representation to the whole body of people who were in the census designated as "depressed classes", which would have meant a very large division in the share of representation of the general Hindu population, or whether we were going to cut that class into something more precise, more definite, something which represented what were known as classes with disabilities imposed upon them and not those which were merely backward? Therefore, a decision was taken that the representation should be given only to what, were really untouchables and to no others. Now, some people did not like the word "untouchables". They said, "We do not want that word 'untouchables'." So we had a term known as the "excluded classes". That the Hindus did not like. They said: "These are our blood brothers and you must not have a terminology which would indicate that they are outside us." And so we devised this phrase—scheduled castes—and I might say that to some extent I was responsible for it. I said, if you do not want the word untouchables, and if you do not want the term excluded classes, then have this term of scheduled castes. After all, they will have to be scheduled. Consequently the enumeration which is contained in the 1935 Act Order in Council for scheduled castes has been drafted with the greatest care and attention and I have no doubt in my mind that there is no community which is omitted from it which as a matter of fact ought to have been included, nor added any which ought not to have been added. It is as exact a classification as one could make. I may tell my friend Dr. Deshmukh that while sitting here I was myself making some mathematical calculations in order to find out what variations there were from the list contained in the Order in Council following the Government of India Act, 1935 and the list produced or rather notified by the President. Now I find that so far as these lists are concerned, this is the position. Unfortunately here it is done in the alphabetical order while there it was shown presidency-wise. Well, in Assam there are 15 communities listed in the order issued by the President. I do not find that any single community which was included in the Order in Council has been omitted. All of them are there.

You take Bihar. There again there are really 14 communities listed in the Order in Council under the Government of India Act, 1935 and here the number of communities that have been listed as scheduled is 21. What they have done is this. In Bihar certain communities were untouchables throughout the province but certain other communities were untouchables in parts of districts and not in others. Consequently they were listed separately. Probably the Home Department in making the notification thought that it was much better not to make this territorial distinction but to treat all of them as untouchables irrespective of the territorial distinction.

Take Bombay. There is no change at all. The old Order in Council mentions 34 communities. In this notification the communities listed are 36, which is two more.

I do not think it is necessary for me to go over the whole list. So far as Part A States are concerned I do not think there is any ground for complaint. With regard to Part B States it is not possible for me to give any such assurance, for the simple reason that no such lists were prepared under the Act of 1935 for Part B States. Consequently the lists are very new and it is possible that some errors might have crept in. I quite see that an important community like the *Ballia* whom I know, is not to be found in the list. So with regard to Part B States I have no basis for comparison. So far as Part A States are concerned the list is a fair list.

My friend referred to Delhi and produced some paper issued by the Union Public Service Commission. It is quite true that a larger number is mentioned in the list but I have checked it up, and I am prepared to say that compared to the list we have included in this Bill, I think you might as well say that, about 90 per cent, are included in our list. Some of them seem to me to be duplicate names, the same community called by two different names.

Dr. Deshmukh: Only 39 out of 64.

Dr. Ambedkar: Some people are called *Ramdasias* as also *Ravidasias*. Some others are called *Dhanuk* and *Dhanu*.

It is very difficult to know whether they are two communities or one community with two different names. I am prepared to rectify this by omitting the word "or" and numbering them as though they were separate communities.

Then an hon. Member wanted figures. But I may tell him that we have been very meticulous in seeing that the proportion is very accurate.

I do not think there is any point made in the course of the debate which I have not dealt with. With these words I commend the motion.

Shri Ethirajulu Naidu : I would like to have a clarification from the Hon. Minister. Scheduled castes and tribes are in a way defined by articles 341 and 342, but only in respect to Part A and Part B States and there is no corresponding provision in the Constitution of scheduled castes and tribes in Part C States. It is a matter of doubt whether Parliament can by law define a term used in the Constitution. (*Dr. Ambedkar:* of course.) Is it not necessary that action should be taken by the President under article 392?

Mr. Speaker: The hon. Member is agitating the same point. If he coolly considers the reply of the Hon. Law Minister I think he will find the answer.

The question is :

> "That the Bill further to amend the Representation of the People Act, 1950, be taken into consideration."

The motion was adopted.

Clause 2—*(Insertion of new section 3A etc.)*

Shri J, R. Kapoor: I beg to move :

In clause 2, for the proposed section 3A of the Representation of the People Act, 1950, substitute:

> "3A. for the purposes of reserving seats in the House of the People under the Constitution of India, the castes specified in the Sixth Schedule shall be the scheduled castes in relation to the Part C State under which they are so specified, and the tribes specified in the Seventh Schedule shall be the scheduled tribes in relation to the Part C State under which they are so specified."

The implication of my amendment is that sub-clause (1) of the proposed new section 3A goes off. So far as sub-clause (2) of the new section is concerned for the words "for the purposes of this Act" we shall have the words "for the purposes of reserving seats in the House of the People under the Constitution of India"……

Dr. Ambedkar : May I say that this amendment is entirely outside the scope of the Bill? What we are doing is we are reserving seats in some of the Part C States. Only so far as those States are concerned we are preparing the list. The amendment is that there shall be a list of scheduled castes for all Part C States. That is a separate question.

Shri J. R. Kapoor: I do not know how my hon. friend could put this interpretation on my amendment. I have nowhere stated in the amendment that there must necessarily be a schedule in relation to all Part C States. I am referring only to the Sixth and Seventh Schedules which are already given in the Bill itself. I nowhere seek to add a new Schedule or even to amend the two Schedules. They shall remain intact unless of course they are amended by any other amendment which may be moved and accepted by the House. All that I suggest in my amendment is that sub-clause (1) of the proposed section 3A shall be omitted and so far as sub-clause (2) is concerned for the words "for the purposes of this Act" we shall have the words "for the purposes of reserving seats in the House of the People under the Constitution of India." Why I am moving the amendment is that I am definitely of the view as I submitted yesterday and reaffirm today, that article 330 of the Constitution specifically provides that in the House of the People seats shall be reserved for every State. And the word "state" as defined in article 1 of the Constitution includes all States whether they are in Part A or Part B or Part C. The Hon. Law Minister in his reply to the debate on the Bill a few minutes ago said that while he did admit that article 330 specifically provided for reservation of seats his only difficulty was that article 330 could not be complied with until there was a specific list of scheduled castes for Part C States and since there was no such list and since none could be made according to the provisions of article 341, it was necessary to

have a separate list of scheduled castes and scheduled tribes. To that I would repeat my submission made yesterday that article 341 should have been so amended and adapted by the President as to remove this difficulty. This he could have done under article 392. But that argument did not appeal to my Hon. friend Dr. Ambedkar. I am not reiterating that argument today, but even assuming that it is necessary for Parliament to pass a list specifying the scheduled castes and scheduled tribes, my original contention does remain, that it is not necessary to provide again in this legislation for the reservation of seats in the House of the People for scheduled castes and scheduled tribes residing in Part C States. This provision is already specifically included in article 330 of the Constitution. Therefore, sub-clause (1) of the proposed section 3A is absolutely redundant.

There is another reason why we should not have this sub-clause (1) of section 3A. It not only specifically provides—unnecessarily—for the reservation of seats but it goes beyond that and fixes the number of scheduled castes representatives in the House of the People on behalf of the scheduled castes and scheduled tribes of Part C States. This, I submit, is against the Constitution itself because under clause (2) of article 330 a definite formula has been given as to in what proportion there shall be reserved seats in the House of the People in relation to scheduled castes and scheduled tribes in Part C States—they shall be in proportion to their numbers. Here the number is absolutely ignored and theoretically speaking an arbitrary number of seats is fixed, one here and one there. May be today we know definitely the specific number of scheduled castes and scheduled tribes living in a particular Part C State of Vindhya Pradesh, Delhi and so on, but we do not know what the situation may be five years hence. Only this morning my hon. friend, Shri Deshbandhu Gupta brought to our notice that quite a large number of persons from different parts of the country, belonging to scheduled castes and scheduled tribes, have come over to Delhi and, for aught we know, during the next five years there might be material change in the figures of scheduled castes and scheduled tribes in the various Part C States mentioned in

the Bill. The difficulty then will be that we shall have to amend this legislation. Therefore, since a specific formula is already provided in the Constitution itself, it is not open to this Parliament to change that formula. It is for the Election Commissioner to find out at any particular time as to how many reserved seats there shall be in the House of the People in relation to any particular State in Part A, B or C. Therefore, I submit that sub-clause (1) of the proposed section 3A is against the Constitution and is also unnecessary.

Mr. Speaker: Amendment moved :

In clause 2, for the proposed section 3A of the Representation of the People Act, 1950, substitute:

> " 3A. For the purposes of reserving seats in the House of the People under the Constitution of India, the castes specified in the Sixth schedule shall be the scheduled castes in relation to the Part C State under which they are so specified, and the tribes specified in the Seventh Schedule shall be the scheduled tribes in relation to the Part C State under which they are so specified. "

The Minister of State for Transport and Railways (Shri Santhanam): Does my hon. Friend suggest that without a Parliamentary enactment the Election Commissioner can give a specific number of seats to any specific State? It will have to be done by Parliament.

Mr. Speaker: The point, as I have been able to understand, is that the necessary directive having already been given by article 330 that representation shall be in proportion to the population, the Election Commissioner has already got the direction and it is for him to work it out, not for this House to lay down exactly what number of seats they will give to each State.....

Shri Santhanam: Sir, if I understand, it correctly, the directive is to Parliament and not to the Election Commissioner. Because the actual number of seats have to be laid down by Parliament—the Election Commissioner cannot fix the numbers.

Dr. Ambedkar: The specific article is 82 which deals with the representation in the House of the People. It says :

> "Notwithstanding anything in clause (1) of article 31, Parliament may by law provide for the representation in the House of the People of any

State specified in Part C of the First schedule or of any territories comprised within the territory of India but not included within any State on a basis or in a manner other than that provided in that clause."

We knew that the same principle could not be applied to Part C States and therefore a special article had been made.

Shri J. R. Kapoor : May I submit that article 82 has no relation to article 341? Article 82 says that so far as Part C States are concerned, the basis of representation in the House of the People, as specifically mentioned in article 81 in relation to Part A and Part B states, may be varied. Under article 81 the basis of representation is one representative for every five to 7 1/2 lakh persons. Article 81 does not refer to reservation of seats at all. Under the cover of article 82 this Parliament cannot take to itself the right of overriding the specific provision of article 330. As you rightly pointed out, Sir, under article 330 the direction has already been specifically given obviously to the Election Commissioner to do a little arithmetical calculation. It is merely a little arithmetical calculation and for that the Constitution-makers did not think that Parliament should be troubled. It is a little arithmetical calculation which can be done by the Election Commissioner and it is not open to the Parliament to make even a slight variation this way or that way.

Shri Santhanam : If you will kindly refer to article 81 (2) and (3) you will find, Sir, that all adjustments have to be made by Parliament by law. Upon the completion of each census, the representation of the several constituencies shall be decided by Parliament by law. The Election Commissioner cannot by notification allocate seats in Parliament.

Shri J. R. Kapoor: I readily agree with the proposition just now enunciated by my hon. friend Mr. Santhanam and even this time we have already passed one Representation of the People Bill. But the point we are now considering is not as to how many persons from a particular State shall be elected to the House of the People. We have already done that and we are not going to amend it, and even if we want to, we have to have a separate amending Bill for that. But all that we are considering now is this: Out of the total number

of seats which we have already fixed for representatives from Part C States, how many shall be reserved for the scheduled castes and scheduled tribes ? That is the proposition that we are considering at present and not the bigger and the general proposition of the number of seats to be given to a particular State. The limited question is how many seats are to be reserved for the scheduled tribes and scheduled castes, and for that my submission is that we have not got to pass any legislation. The directive is given under article 330 (2) and it is only the Election Commissioner's business to make a little mathematical calculation from time to time (a) to find out how many scheduled castes and tribes there are and (b) on the basis of their number, to determine how many out of the total seats shall be reserved for them. For this, it is not only unnecessary but it is against the specific provisions of the Constitution to have the proposed section 3A. Therefore, it must be deleted. Since this is obviously against the Constitution, I have raised this question. I request that the House may not be pleased to accept sub-clause (1) of the proposed Section 3A but it may be pleased to accept only sub-clause (2) and that too in the form in which my amendment stands.

One word more and I have done. If it be the contention of the Hon. Minister that it is not provided in the Constitution that seats shall be reserved in the House of the People for Part C states, then I am afraid we cannot make any such provision here, because the House of the People must be constituted strictly in accordance with the specific provisions of the Constitution. I take my stand on the plea that it is already provided for in the Constitution, but if the contention of the Hon. Minister is otherwise, then it is a very risky one and in that event we must hold that it is not open to Parliament to say anything with regard to the composition or constitution of the House of the People. It may be a lacuna in the Constitution, or it may have been left over by oversight or deliberately. But if the contention of the Hon. Minister be that there is no provision in the Constitution itself providing for the reservation of seats for scheduled castes and scheduled tribes, then we cannot help it. My own view is that provision already exists. Therefore, in order that he may not run such

a risk and in order that this question may not crop up before the Supreme Court and be contested there, I would submit that the House should accept my contention and be content with accepting my amendment.

Pandit Munishwar Datt Upadhyay: While making my submission in the morning, I had not gone into minute details, but after hearing so many speeches on the same point, I hope you might have seen that the position taken by the hon. Minister is not a sound one as far as the specification of the scheduled castes and scheduled tribes list is concerned, because this list could be prepared only by the President.

Dr. Ambedkar: No. I definitely deny that. He has no power to do that.

Pandit Munishwar Datt Upadhyay : Under article 341 it is the President who is authorised to prepare a list of these scheduled tribes and castes in consultation with the Governor or Rajpramukh concerned and that list has been prepared by the President and been published in the Gazette in respect of Part A and Part B States. But there is no list for Part C States. If there is no provision under which the President could prepare a list for Part C states, then I do not think that there is any other provision under which that list could be prepared by this House.

Mr. Speaker: Is the hon. Member prepared to go to the logical length that because no powers are specifically provided for Parliament preparing a list of scheduled castes, therefore in States other than Part A and part B there can be no recognition of scheduled castes? Is that his position?

Pandit Munishwar Datt Upadhyay: Yes. In article 330 general direction has been given and it is that according to the population of the scheduled castes and tribes the seats shall be allotted and after the allotment of seats and the delimitation of constituencies by the Election Commissioner...

Mr. Speaker: Let us leave aside the delimitation at this stage. Let us try to determine what the scheduled castes are. The other point will be the one raised by Mr. Kapoor. So, let us be clear on that point first.

Pandit Munishwar Datt Upadhyay: My submission is that there is no such provision except the one contained in article 341 where the specification of scheduled tribes and castes are mentioned in the Constitution. In the list prepared by the President in consultation with the Rajpramukh or the Governor concerned had been brought before Parliament for amendment saying that such and such castes should be added in the list for Part C States that would have been understandable ; otherwise, there is no authority vested in Parliament to have an independent Bill for providing lists of these castes for Part C States. This is my contention, unless of course my hon. friend can point out any provision in the Constitution under which he thinks that this House is authorised to have an independent list of castes and tribes on the basis of which these seats could be allotted to Part C States.

4-00 P .M.

Dr. Ambedkar: I will deal first with Mr. Kapoor's point—his amendment. He has all the time been relying on article 330 where provision for scheduled caste representation is made. His contention—if I have understood him correctly—is that that provision is sufficient not only for Part A and Part B, but also for Part C States. That is the only difference between us. My point is that a separate provision such as the one contained in the Bill is necessary : his contention is that it is unnecessary, because it is covered by article 330. I believe I have represented him correctly. That is the point .

The submission that I propose to make in favour of the course that I am following by bringing forth this Bill is just this. There is a definition of scheduled castes and scheduled tribes in article 366 of the Constitution. Clause (24) of article 366 reads thus:

> " 'Scheduled Castes' means such castes, races or tribes or parts of or groups within such castes, races or tribes as are deemed under article 341 to be Scheduled Castes for the purposes of this constitution."

Now. it may be open to contention that the "Scheduled Castes" referred to in article 330 are "Scheduled Castes" as defined in clause (24) of article 366. Scheduled Castes in Part C States cannot be said to be Scheduled Castes within the meaning of that clause.

Shri J. R. Kapoor : That is what my amendment seeks to provide for.

Dr. Ambedkar : I am coming to that. Therefore, it may be open to contention that article 330, which directs that representation shall be on the basis of population may not apply to Scheduled Castes which do not fall within the definition in clause (24) of article 366. That being so, it is necessary to make a separate provision for that. That is my reply to Mr. Kapoor's point.

With regard to the point raised by Pandit Munishwar Datt Upadhyay, article 82 is worded in the widest sense. It says:

> "Notwithstanding anything in clause (1) of article 81, Parliament may by law provide for the representation in the House of the People of any State specified in Part C of the First Schedule……".

My submission is this: That this power is so wide that in making provision for the representation in the House of the People of Part C States it is certainly open to Parliament to say that so many seats shall be allotted to the scheduled castes and so many seats shall be general seats. I cannot understand what more he wants by way of specific provision. If in making provision for the representation in the House of the People of any Part C State Parliament decides that there shall be a certain reservation for scheduled castes, then my submission is that it carries with it an implied power also to set out who are the scheduled castes.

Shri J. R. Kapoor: May I say one word?

Mr. Speaker : By way of reply?

Shri J. R. Kapoor: I do not know whether I have a right to reply.

Mr. Speaker: If the hon. Member thinks over the reply given by the Hon. the Law Minister just now, he will perhaps agree not to press his amendment.

Shri J. R. Kapoor : I will make one small submission and then seek your guidance on the subject.

Mr. Speaker : Let me repeat what I have understood, so that he may point out in the submission he makes whether I have committed any mistake in understanding the position.

The Hon. the Law Minister—he will correct me if I am wrong—has pointed out the difficulty, in the interpretation o the scheduled castes and scheduled tribes, which is possible and then it may land us into a very inconvenient, position The terms "Scheduled Castes and Scheduled Tribes" an defined in article 366 (24) and (25). Now, that definition specifically mentions the castes and tribes that are to be deemed as scheduled castes or tribes under specific articles 341 and 342 with the result that possibly, so far as Part C states are concerned, it may be contended that what you cal scheduled castes as defined by Parliament cannot be recognised as scheduled castes under the Constitution. In as much as article 330 gives a general direction so far as the scheduled castes under the Constitution are concerned, the cases of Part C States scheduled caste representation are not covered by article 330. Is that the intention?

Dr. Ambedkar: Yes**;** that is so.

Mr. Speaker: If that is so, then his further argument is that "let there be a superfluity, if you so call it, but why not make the position sure? " Therefore, even if it is assumed that the legislation is a superfluity, let us have it, so that no legal technicality might come in the way of the representation o the scheduled castes. He wants to make that position quite clear and leave nothing to the ingenuity of the lawyers or technicalities of law.

Shri J. R. Kapoor: Sir, the argument of the Hon Dr. Ambedkar is plausible enough indeed.

Mr. Speaker : If that is so, let there be no reply.

Shri J. R. Kapoor: The definition of scheduled castes and scheduled tribes in article 366 is not an absolute definition This definition has to be read along with the preamble or the introductory words of article 366 which run thus : "In this Constitution, unless the context otherwise requires, the following expressions have the meaning hereby respectively assigned to them..." Obviously, therefore, the context of article 330 does not fit in with this definition of scheduled castes and scheduled tribes.

The context of article 330 obviously means that there shall be reservation of seats for the scheduled castes and scheduled tribes in the House of the People. Therefore, these definitions should not be taken at their face value.

Mr. Speaker : I may point out to the hon. Member that the position may be said to be left in doubt and uncertain in the Constitution. That is why we are going to have special legislation.

Shri J. R. Kapoor: What about the second point? Can we fix a number, and not go by the formula of clause (2) of article 330?

Mr. Speaker: If the argument is conceded that it is desirable, as a matter of safety, to have a special definition of scheduled castes for the purpose of representation in Part C States, the other thing follows automatically. The two go together. You cannot rely upon that definition for one purpose and still reject it for another.

Shri. J. R. Kapoor: Is it your ruling or your view that it is open to Parliament to reserve seats for any particular section of the community unless it is specifically provided for in the Constitution? If it is not so provided, can we do it?

Mr. Speaker: In the first place that question does not arise. It is a problematical one and the Chair should not be called upon to go on interpreting it. The matter is very clear. We are not going into the wider question of interpretation of the Constitution.

Dr. Deshmukh : Have you considered the objection raised by Mr. Deshpande which relates to section 6 of the representation of the People Act by which the number is to be determined by the President and not by Parliament?

Mr. Speaker: We are again in the same vicious circle. The interpretation of that is practically based on the same view of the article. I think we need not go into that. The discussions are no doubt very interesting and involve very interesting and very good points of legislation. But let us legislate as common people, going by common sense.

About the hon. Member's amendment, I shall put it to the House.

Shri J. R. Kapoor : If that be your view, it need not be put.

Mr. Speaker : He need not depend on my view, it may be a mistaken one.

Shri J. R. Kapoor : No. Sir, I go by your superior wisdom, particularly in the matter of law. I beg leave of the House to withdraw the amendment.

The amendment was, by leave, withdrawn.

Mr. Speaker : The question is :

" That clause 2 stand part of the Bill. "

The motion was adopted.

Clause 2 was added to the Bill.

Clause 3.—(*Addition of Sixth and Seventh Schedules etc.*)

Mr. Speaker: I find a number of amendments here making small corrections, perhaps of spelling or putting the names in proper order. For instance there is one substituting "Adi-Dharmi". It is a pure mistake of spelling. That will be corrected. Is it necessary to have it as an amendment ?

Dr. Ambedkar: Sir, I am pressed to say that in clause 3, in the proposed Sixth schedule, under the heading 'Delhi' in entry No. 14, after the word "Dhanak" the words "or Dhanuk" be inserted—If that satisfies some Members.

Mr. Speaker: That is amendment No. 4 in the list, by Mr. Chandrika Ram.

Dr. Ambedkar: Mine is No. 5 in the list. Anybody's may be taken.

Mr. Speaker: I would take the amendment about "Adi Dharmi" also. Mr. Chandrika Ram's amendment No. 2 is what the Hon, the Law Minister is accepting as his No. 3.

Shri J. R. Kapoor: In a different form that is "Ad Dharmi". The correct expression is "Adi-Dharmi".

Shri Chandrika Ram (Bihar)**:** It should be "Adi-Dharmi".

Dr. Ambedkar : I am prepared to accept his amendment.

Mr. Speaker: Does the hon. Member Mr. Chandrika Ram accept the Law Minister's version in regard to his amendment No. 4?

Some Hon. Members: Both are the same.

Mr. Speaker: I think the hon. Minister's amendment (No. 5) is better than Mr. Chandrika Ram's amendment (No. 4). And I think amendment No. 7 by the Law Minister is also better in form than No. 6 of Mr. Chandrika Ram.

Dr. Deshmukh: I want amendment No. 8 of mine.

Dr. Ambedkar: I have examined the list and I have also consulted authority. Those contained in No. 8 have never been part of the Schedule. I do not accept amendment No. 8.

Amendments made :

In clause 3, in the proposed Sixth Schedule, under the heading 'Delhi', in entry No. 1, for " Adharmi " substitute "Adi-Dharmi".

—[*Shri Chandrika Ram*]

In clause 3, in the proposed Sixth schedule, under the heading 'Delhi' in entry No. 14, after "Dhanak" insert "or Dhanuk".

—[*Dr. Ambedkar*]

In clause 3, in the proposed Sixth schedule, under the heading 'Delhi' in entry No. 34. after "Rehgarh" insert "or Raighar".

—[*Dr. Ambedkar*]

Dr. Deshmukh: I beg to move:

In clause 3, in the proposed Sixth Schedule, under the heading 'Delhi', at the end, add new entries:

"40. Nai (Barber).

41. Dhiwar (fisherman)".

While replying to my speech the hon. the Law Minister referred to my being discontented with Government. From the recent speech that he made it appears that he is also not too pleased with the Government of which he himself is a part.

Shri Sidhva: Are barbers untouchables?

Dr. Deshmukh: I am bringing this amendment on the strength of a representation that has been made to me. Secondly, in the list which was referred to by the Hon. the Law Minister— which is a notification by the Federal Public Service Commiossion, India, dated the 12th March 1949— these two castes are included.

[PANDIT THAKUR DAS BHARGAVA *in the chair*.]

As I had pointed out in my speech the number of these castes in Delhi according to this list is sixtyfour. I have not suggested the inclusion of all that have been omitted. I have only suggested two, which are also present in the list here. I think it is very unfair that the Hon. the Law Minister should not accept it. But even if he is not prepared to accept it I want to press it and I hope all hon. members of this House will be pleased to vote with me, because this is discrimination pure and simple. For one purpose you have a notification in which certain castes are included. This notification holds good and neither the Law Minister nor the Government have taken any steps to disallow this list. Any boy who is born of any of these castes is entitled to apply, under this notification, styling himself as a scheduled caste. But here I do not know for what reasons the Hon. Dr. Ambedkar does not wish to include them. These two castes are here in this list—in this Gazette copy which any hon. Member may come and see. These petty fishermen who are called Dhinwars or Jhinwars—that name also is here—are here in this list, which is item 22 in this list. I hope therefore that irrespective of what the Hon. Dr. Ambedkar decides, the House will vote with me and see that these two castes who feel it keenly are not deprived of their privileges merely by a stroke of the pen. I hope therefore that the House will support me in this amendment of mine.

Shri Sidhva : May I know whether it is a Government of India publication?

Dr. Deshmukh: Yes. Dr. Ambedkar has got a copy of it.

Mr. Chairman : Amendment moved:

In clause 3, in the proposed Sixth Schedule, under the heading 'Delhi', at the end, add new entries:

"40. Nai (Barber).

41. Dhiwar (fisherman)".

Shri Sonavane : With reference to the amendment moved by my hon. Friend Dr. Deshmukh I think only such of the castes who are untouchables in the society……

An hon. Member: We have no untouchables now.

Shri Sonavane: That is the basis for the scheduled castes lists and therefore these two communities are mentioned in the amendment and if they are really untouchables then there should be no objection to their inclusion. But as far as my knowledge goes, in Bombay, barbers and fishermen are not untouchables and if they are not treated as untouchables here in Delhi, I do not see any point in their inclusion. Therefore, I would oppose this amendment.

Shri Shiv Charan Lal (Uttar Pradesh)**:** It is really very strange to see that Nais are being put in the scheduled caste list. In our province, U.P., formerly they used to write Nai Thakur and afterwards as Nai Brahmin. If you call them scheduled castes, I am sure they would never like it. The same is the case with Dhiwars. You cannot include these two castes in the scheduled castes in any way. As for any other list that might be prepared for the purpose of giving service or any other thing, they might be termed as 'backward'. That is a different thing, but they cannot be put in the scheduled castes' list in any case.

Shri Deshbandhu Gupta: I also agree with my hon. friend who has preceded me that Nais and Dhiwars should not be considered to be members of scheduled castes in Delhi. I do not know on what basis their names have been included in the list which Dr. Deshmukh has read out. The fact is that some time ago some representatives of Nais came to me and said that they had a grievance that they were termed as members of depressed classes. Therefore, I am sure that Dr. Deshmukh will not be obliging the Nais and the Dhiwars by their inclusion in this list.

Mr. Chairman: Has not the hon. Member heard : *Ghar* se *aaya hai motbir nai?*

The question is:

In clause 3, in the proposed Sixth Schedule, under the heading 'Delhi' at the end, add new entries :

"40. Nai (Barber).

41. dhiwar (fisherman)".

The motion was negatived.

Sardar Hukam Singh (Punjab)**:** I beg go move:

In cluase 3, in the proposed Sixth Schedule.....

Dr. Ambedkar: If my hon. Friend moves both his amendments together, I am prepared to accept them, subject to one reservation that these will be numbered alphabetically. Under the heading "Delhi", he has given the No. 40 and so on and under the heading " Himachal Pradesh " he has given the No. 28 and so on. These will have to be renumbered.

Sardar Hukam Singh: I beg to move:

(i) In clause 3, in the proposed Sixth Schedule, under the heading 'Delhi' at the end, add new entries:

"40. Kabirpanthi.

41. Mazhabi".

(ii) In cluase 3, in the proposed Sixth Schedule under the heading 'Himachal Pradesh', at the end, add new entries:

"28. Banjara.

29. Bawaria.

30. Ramdasia."

Mr. Chairman : Amendment moved:

(i) in clause 3, in the proposed Sixth Schedule, under the heading 'Delhi' at the end, add new entries:

" 40. Kabirpanthi.

41. Mazhabi".

(ii) In clause 3, in the proposed Sixth schedule, under the heading "Himachal Pradesh', at the end, add new entries:

" 28. Banjara.

29. Bawaria.

30. Ramdasia."

Shri Sonavane : With reference to the amendments moved by Sardar Hukam Singh, I would like to say that I am very much surprised that Sardar Hukam Singh, who is a Sikh to the core, has come forward to take out some of the Sikhs from the Sikhs proper and put them as scheduled castes. I was very much surprised in the beginning when I learnt that there were some scheduled castes among the Sikhs and then it became clear to me that Dr. Ambedkar was right when he did not embrace Sikhism. Besides that, when we hear a lot of

atrocities committed in P.E.P.S.U. and Punjab by Sikhs on the scheduled castes. I am afraid my hon. Friend Sardar Hukam Singh wants some communities to remain as scheduled castes in order that persecutions may continue to be committed on them. Therefore, I would request him to withdraw his amendments and get all these people into his fold and bring them up to his level and in that way end the scheduled castes among the Sikhs.

Shri Deshbandhu Gupta: Before you put the amendments to vote, I would like to know whether Dr. Ambedkar has satisfied himself that the Kabirpanthis in Delhi are members of the scheduled castes ? To my knowledge, there are no Mazhabis in Delhi and I do not object to their being included in the list as some Mazhabis might have migrated here. But about Kabirpathis, so far as I know, they are not termed as members of the scheduled castes. If Dr. Ambedkar has satisfied himself about this I have no objection, but if he has not satisfied himself, merely for the reason that they are so in the Punjab and P.E.P.S.U., they should not be treated as such in Delhi.

Sardar Hukam Singh: I have not put down anywhere whether these would be Sikhs or Hindus. I do not see why such an obsession should be there and certain hon. Members should bring up such an objection. I deliberately refrained from saying anything on the order that had already been passed and when I learned that the Hon. Minister was accepting I did not make a speech. But now a discussion is being initiated, may I be allowed to say certain things? I never said it has to be done here. It is also in the order of the President that these castes shall be included in the Scheduled castes so far as the Punjab and P.E.P.S.U. are concerned. I have stuck to that whether they are Hindus or Sikhs, they shall be scheduled castes. Whether they are Hindus or Sikhs, it has been admitted that they are backward classes. Now, to bring.....

Mr. Chairman: The Hon. Minister is accepting the amendment.

The question is :

(i) In clause 3 in the proposed Sixth Schedule, under the heading 'Delhi', at the end add new entries:

" 40. Kabirpanthi.

41. Mazhabi".

(ii) In clause 3, in the proposed Sixth Schedule, under the heading 'Himachal Pradesh', at the end, add new entries :

"28. Banjara.

29. Bawaria.

30. Ramdesia."

The motion was adopted.

Shri Chandrika Ram: I beg to move :

In clause 3, in the Sixth Schedule, at the end, add:

" Ajmer-Merwara.

1. Aheri

2. Begri

3. Balai.....

Dr. Ambedkar: These amendments are quite outside the scope of the Bill. The Bill reserves seats in certain Part C States. It is only in those States that we are trying to define what the scheduled castes are. In Ajmer-Merwara we have not reserved any seat. In Bhopal, we have not reserved any seat. In Tripura and Coorg we have not reserved any seat. Therefore, these amendments are quite outside the scope of the Bill.

Shri Chandrika Ram: You are going to make a representation for Part C States. All these people belong to Part C States. Even yesterday when I spoke I did not demand that these people must have representation. But, this matter has got a long history. When these people.....

Dr. Ambedkar: I might mention to cut short the discussion that Government has in contemplation the issue of a list of scheduled castes in Part A states, Part B States and also Part C States where there is no representation because it is felt that besides the privilege of representation in the legislature, there are also other privileges such as educational concessions, fees and services and so on. In order that there may be no misunderstanding on the part of anybody that those scheduled castes who are not included in the list are not entitled to those privileges. Government propose to do that. This is hardly the moment to deal with that.

Shri Chandrika Ram : It is not a new thing that I have brought forward here. In the Ministry of Education, the Government of india have already accepted this list and on the ground of this list, all these people are getting scholarships. What is the harm if the Government accepts.....

Dr. Ambedkar: It cannot be done in this Bill.

Mr. Chairman: We have already adopted clause 2; Clause 2 gives representation only to certain States. Those States are not included in this amendment. I do not see how this amendment could be moved. Therefore, I rule it out of order.

The question is:

"That clause 3, as amended stand part of the Bill".

The motion was adopted.

Clause 3, as amended, was added to the Bill.

Clause 1, was added to the Bill.

The title and the Enacting Formula were added to the Bill.

Dr. Ambedkar: I beg to move:

"That the Bill, as amended, he passed. "

Mr. Chairman : Motion moved :

"That the Bill, as amended, be passed."

Ch. Ranbir Singh (Punjab)**:** (*English translation of the Hindi Speech*) Sir, I must thank Hon. Dr. Ambedkar for providing representation for the backward classes of Delhi and other areas. But I wish to submit all the same that the problem presented by Delhi is a peculiar one. Delhi has four seats out of which hardly one falls to the lot of the rural areas. If the rural seat is also joined on to an urban seat and bracketed with it, the other seat being a reserved one, this would mean giving away the seat of one backward class to another. I think that as against the clever people of Delhi and the officers and big people living in New Delhi the rural people of Delhi should be included either among the scheduled castes or if the Hon. Minister would not have them as such on the ground that they are not Harijans, they might be included among the scheduled

tribes. The Hon. Minister should thus have tried to get them a seat. Since I know that this is extremely difficult I would make another suggestion. There is a general principle that as far as possible the seats for those areas which have a larger percentage of the scheduled castes, should be doubled. There are also some other considerations attached. I know that in the case of not one but several states, occasions have arisen when the Committees have not followed these rules. I do not mean to say that they have not followed them at all. Exceptions are always there and it would be right to a great extent, to treat this as an exceptional case. The reason for this is that there is a considerable difference between the people living in the rural and the urban areas of Delhi. Besides if people belonging to the scheduled castes are given representation from the rural areas they will have to experience a lot of difficulty. If any two seats out of the seats for Delhi city are doubled this would help those poor folks in whom we all are interested to secure true and proper representation. If, however, their seat is joined on to the rural seat this would not serve as a reward to them but rather as a punishment. Hence, I would appeal to the Hon. Minister to give a direction to the Election Commission that in the matter of the doubling of seats they might combine any two out of the three seats for Delhi city and turn them into double seats but that the seat for the rural areas should be left single so that it could be possible to do justice to a backward class of people who are as much entitled to sympathy as the scheduled castes.

(*Translation concluded*)

Shri J. R. Kapoor: Sir,....

Mr. Chairman : The Bill has been so much discussed and at such great length that I do not think any long speeches are necessary now.

Shri J. R. Kapoor: I do not want to enter into any detailed discussion. If you will permit me, Sir, I only want to utter a note of warning. I will not take more than two minutes. That note of warning is that by not accepting my contention the Hon. Law Minister has rendered the greatest possible disservice to the scheduled castes and scheduled tribes of Part C States.

Shri Sonavane : No, no.

Shri J. R. Kapoor: I am sure he will regret sooner rather than later having adopted this attitude and this contention that the scheduled castes and scheduled tribes should be considered as defined in article 366 for the purposes of the Constitution. If I only draw his attention to article 335 and some other cognate articles which also use the words 'scheduled castes' then, I am sure he will change his opinion because if he would still stick to that view, then the scheduled castes and scheduled tribes will be deprived of all the various privileges that are contemplated to be given under article 335 and other articles to the scheduled castes and scheduled tribes residing in Part C States. Article 335 runs thus :

> " The claims of the members of the Scheduled Castes and the Scheduled tribes shall be taken into consideration, consistently with the maintenance of efficiency of administration, in the making of appointments to services and posts in connection with the affaris of the Union or of a State. "

If scheduled castes and scheduled tribes as mentioned in article 335 are to refer only to those scheduled castes and scheduled tribes as are defined in article 366, meaning thereby the scheduled castes and scheduled tribes belonging to Part A and Part B States, then, the scheduled castes and scheduled tribes residing in Part C States do not get the advantage of article 335 of the Constitution. By this one error—I do not know whether it is error of judgment or what it is —by this one error to day-he has deprived the scheduled castes and the scheduled tribes of Part C States of all the benefits they were having or could have under article 335. And...

Mr. Chairman: Order, order. May I ask the hon. Member whether all the members of the scheduled castes and the scheduled tribes are bound by the interpretation given by the Law Minister ? there is no such thing as an estoppel on interpretation. We have only just enacted this Bill without coming to any legal conclusions whether this interpretation or that interpretation is the correct one. That is for the courts to decide. The courts have to interpret the meaning.

Shri J. R. Kapoor: With due respect to you, Sir, I would submit that it is for the Government and for the Cabinet to advise the President in this matter and as such these scheduled castes and tribes will be losing what they were entitled to get with reference to article 335. So far as the Government is concerned, they are bound by the interpretation of the Law Minister.

Mr. Chairman: And can he not change his opinion?

Shri J. R. Kapoor: I do not know whether he will change his opinion or not. But so far I have found that...

Mr. Chairman: Let me point out that at this stage this discussion is quite academical. After all we have accepted a particular provision in the Bill and we are not concerned any further with the definition of a scheduled tribe or scheduled class or other articles so far as this Bill is concerned.

Shri J. R. Kapoor : Therefore, it is that I say I am only sounding a note of warning here.

Shri Jnani Ram (Bihar) **:** The time for filing objections to the electoral rolls has expired on the 31st of March last. But in view of the amendments now made will the scheduled castes people be entitled to file objections even after this date?

Dr. Ambedkar : That question does not arise because a person is registered as a voter irrespective of the fact whether he is a member of the scheduled castes or not.

Shri Jnani Ram: Does it not arise when a candidate happens to be a member of a scheduled caste or scheduled tribe ?

Dr. Ambedkar : That question will arise on the date of nomination.

Mr. Chairman : The question is:

> "That the Bill, as amended be passed.

The motion was adopted.

REPRESENTATION OF THE PEOPLE (No. 2) BILL

Presentation of Report of Select Committee

***The Minister of Law (Dr. Ambedkar):** Sir, on behalf of the Chairman of the Select Committee I present the Report of the Select Committee on the Bill to provide for the conduct of elections to the Houses of Parliament and to the House or Houses of the Legislature of each State, the qualifications and disqualifications for membership of those Houses, the corrupt and illegal practices and other offences at or in connection with such elections and the decision of doubts and disputes arising out of or in connection with such elections.

Shri Kamath (Madhya Pradesh)**:** In regard to this matter may I know whether Government have taken any decision as to how many days will be allotted for the discussion of this very important Bill and when. That will be helpful to members in more ways than one.

The Prime Minister and the Leader of the House (Shri Jawaharlal Nehru): Government considers that this measure should have top priority, so that as soon as the Finance Bill is discussed this Bill should be taken up.

Shri Kamath: How many days will be allotted for its discussion?

Shri Jawaharlal Nehru: I cannot say.

Mr. Deputy Speaker: The hon. Member very often gets into the noose. It is no good saying that it is open to any Member or even the Government to restrict the time allotted for the discussion of a Bill. Let not the House give away its rights and privileges.

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*P.D., Vol. 10, Part II, 31st March 1951, p. 5566.

REPRESENTATION OF THE PEOPLE (NO. 2) BILL

The Minister of Law (Dr. Ambedkar): I beg to move:

> " That the Bill to provide for the conduct of elections to the Houses of Parliament and to the House or Houses of the Legislature of each State, the qualifications and disqualifications for membership of those Houses, the corrupt and illegal practices and other offences at or in connection with such elections and the decision of doubts and disputes arising out of or in connection with such elections, as reported by the Select Committee, be taken into consideration."

In the few observations that I propose to make in support of the motion, I wish to draw the attention of the House to the changes made by the Select Committee in the Bill and also to the changes proposed by some of the Members of the Select Committee in their minutes of dissent. The House will agree that the Bill is a very big one, extending to about 169 clauses. The Select Committee has made changes in various clauses of the original Bill and it is hardly possible for me to deal with every single change proposed by the Committee. I think it would be enough if I were to draw the attention of the House to the most important changes which have been made by the Select Committee.

So far as I see, I find that the Select Committee has made four important changes in the original Bill. The first clause in which important changes have been introduced is clause 7, which deals with the disqualifications for being chosen and for being a Member of Parliament or of a State Legislature. The House will recall that the clause as it stood originally had only three cases of disqualification in it. The first disqualification in the original Bill was founded on a conviction for an electoral offence, either connected with corrupt practice or an illegal practice. The second disqualification in the Bill was founded on a conviction for

*P. D., Vol. 2, Part II, 9th May 1951, pp. 8348-70.

an offence enacted by the penal law of the country as distinguished from an electoral offence, for instance, an offence under the Penal Code or some other local criminal law. The third one was the disqualification which was founded on what might be called the actual serving of a sentence during the course of the election. That will be found in the original clause 7, sub-clause (2). And the fourth was failure to lodge election expenses in accordance with the law and within the time.

So far as these original proposals are concerned, the only change to which the Select Committee has made is with regard to the disqualification contained in sub-clause (2) of clause 7.

[MR. DEPUTY SPEAKER *in the Chair*]

That provision the Select Committee has dropped. And the reason is this that the clause is unnecessary so far as a sentence is for two years or more. If the sentence is for less than two years the Committee felt that there was no necessity to enact a disqualification on that ground because, assuming that a man was elected to the House, it would still be necessary for him to obtain the permission of the House to absent himself beyond sixty days, which is the rule now, and if the House did not grant him the permission his seat might thereby be rendered vacant. On that ground the Committee felt that it was unnecessary to retain it.

To this clause 7 the Committee has added four new disqualifications which are very important. The first is that the holding of a contract with Government would, under the provisions now made by the Select Committee, be a disqualification. Secondly, the holding of a licence or permit from Government for dealing in commodities which are subject to control so far as their price or movement is concerned would also be a disqualification. Thirdly, the holding of a Directorship in a company in which the Government has a share or interest would be a disqualification ; and fourthly, dismissal of a Government servant for corruption. These are the four new disqualifications which the Select Committee has added to the original clause.

Now I come to the second change which the Select Committee has made. The House will remember that there was in the original Bill a clause which was numbered 35. The object of that clause was this. The clause intended to seperate proceedings with regard to nomination from proceedings with regard to actual election. As hon. Members will remember, an election proceeding falls into two divisions. The first is the stage of nomination and the second is the stage of election. Under the law as it existed the provision was this that there was no finality to the proceedings with regard to nomination. There may be objections to nominations and yet the election could continue to its final course and it is only when an election petition was filed for challenging the result of the election that it was open to any party who was a party to the election to raise the question before the Election Tribuanal that the nomination paper of a particular candidate was wrongly admitted or that the nomination paper of a particular candidate was wrongly rejected. Then if the Election Tribunal came to the conclusion that either of the two grounds was well-founded it was open to the Election Tribunal to set aside the whole of the election. It has been felt by many persons who are interested in politics that, that was not a very fair thing, to have the whole of the election gone through with the enormous amount of expenditure which various candidates would incur and then to be ultimately faced with this solitary single issue whether the nomination paper was properly admitted or rejected and then the whole election to be set aside. It has been felt that it was a very wrong thing and that it was desirable to sever the nomination proceedings from the election proceedings and that the election should proceed after the nomination proceedings have been finalised and made conclusive so that no such issue could be raised before the Election Tribunal when the election was challenged. I personally felt that that point of view was a very good and a very sound one and that if it was possible we should treat the nomination issue as a preliminary issue, as civil lawyers call it and have it disposed of completely and finally, so that we could then proceed to real election and the challenge to the real election could be limited only either to corrupt practice or to illegal practice or to intimidation and cases of that sort in which the election was neither fair nor free.

Unfortunately the Committee did not agree with that view, although, as Members will see from the Report of the Select Committee, they expressed a great deal of sympathy with the provisions contained in the original clause 35. The Committee was greatly influenced by the fact that before the nomination proceedings could be deemed to have been concluded and finally settled it would be necessary for somebody to investigate whether the questions as to qualifications and disqualifications of a candidate were properly decided. The Committee felt that if the issue of qualifications and disqualifications of candidates were to be decided before the actual election starts the interval between nomination and election might be very long and the election might not take place as expeditiously as we would all wish it to take place. That was the governing factor which led the Committee to reject the provisions contained in the original clause 35. Notwithstanding that, as hon. Members who have read the Report of the Select Committee would notice, the Committee has said that they like the provision, and, if during the passage of the Bill in the House it was possible to evolve some formula which would avoid that delay that Members feared would take place between the conclusion of the nomination proceedings and the start of the election, they would welcome such a provision. I myself have not been able to think of anything which I could at this stage put before the House. I am told that such a provision does exist in the Madras law which deals with the election of the District Local Boards. It was after a long time that I was able to get a copy of that and I have not had time to apply my mind to it. I therefore—speaking from my point of view—propose to keep this question rather open.

Then I come to the third change which the Select Committee has made and that relates to the Election Tribunal. First of all I may refer to the changes made in the personnel of the Tribunal. As the House will remember, the original provisions in the Bill said that District Judges, advocates of ten years' standing and subordinate judges might be regarded as eligible to act as Members of an Election Tribunal. The Select Committee has cut out subordinate judges. They think they

ought not be regarded as eligible for sitting on an Election Tribunal and they have added retired District Judges and retired and sitting High Court Judges as persons eligible for being appointed to an Election Tribunal. With regard to the two other matters relating to the Election Tribunal namely, the constitution of the Tribunal and the question of appeal, the Select Committee has made no change, so that the Tribunal as originally provided would continue to be a Tribunal of two members, one Chairman and one Member. Similarly the provisions with regard to appeal will also continue. As the House knows, we provide no regular appeal at all. What is proposed is that if the two members differ, there will be an automatic reference to the High Court.

Then I refer to the fourth change which the Select Committee has made and which from what has happened recently, I think, is a very salutary and a very important change. The House will remember, that in the original draft Bill the power to fill casual vacancies was left to the State Governments to decide. It was a matter left entirely within their power and within their discretion. The Select Committee felt that the State Governments might not be very diligent in the matter of exercising these powers and casual vacancies might remain unfilled for a long time, depriving constituencies of their opportunity to have their representatives sitting in Parliament or in the State Legislature. The Committee has therefore decided that this power, instead of being left with the State Governments, should be vested in the Election Commission which has nothing to do with Parliament or with the State Legislature. It is he now who will fix the date of election ; it is he now who will issue writs to the constituencies for holding the election and for sending their representatives. This I think is a very salutary change. These are the four important changes which the Select Committee has made in the Bill.

I will now proceed to deal with the changes proposed in the Minutes of Dissent. Analysing the Minutes of Dissent, I find that the Members who have subscribed to their Minutes of Dissent propose 10 different changes to be made in the Bill, as reported by the Select Committee. The first change is an

alteration in the disqualification clause introduced by the Select Committee in sub-clause (*d*) of clause 7. This change is proposed by two members of the Select Committee, Mr. Gokulbhai Bhatt and my friend, Mr. Goenka. Among themselves they do not seem to be *ad idem*. Mr. Bhatt has no objection to the disqualification relating to holding of a contract to continue as it is. His only objection is to the holding of licences or permits, but my hon. friend, Mr. Goenka objects to both. As I said, these provisions did not exist in the original Bill; they were introduced by the Select Committee. I do not mind giving to the House my own personal reactions to these additional provisions. The first thing I feel is that there is no doubt that the clauses, as worded in the Select Committee draft of the Bill, appear to be somewhat severe. I personally feel that we could make a distinction between disqualification for being chosen and disqualification for continuing to be Members of Parliament. We ourselves have been making that distinction. I do not quite understand what difficulty or political injustice can arise if we said that while persons holding a contract from Government or having a licence from Government are free to stand as candidates for election they would become disqualified for continuing to be Members of Parliament. I cannot see any difficulty in making a provision of this sort. In other words, we may permit a holder of a contract or a holder of a licence to stand as a candidate. After he has been elected, he may be presented with this alternative, either he gives up his contract and continues to be a Member of Parliament or he decides not to be a member of Parliament and continues his contract……

Pandit Maitra (West Bengal)**:** Whichever is more profitable ?

Dr. Ambedkar: Whatever it is, my point is this. I think it would be too much to say that none of these people shall be entitled to stand as a candidate. There may be something in the argument that they should not continue to be Members of Parliament. I think we could make that change.

Shri Sidhva (Madhya Pradesh)**:** Has Government any view on this ?

Dr. Ambedkar : In course of time Government's view will be known. With regard to the other question of licences and so on, no doubt a great agitation is going on in the country by the business community that if this clause stood as it now stands in the draft Bill of the Select Committee, the whole of the business community would be disfranchised from playing its part in Parliament, I mean in the political affairs of the country. I am sure that we do not want to bring about such a result. Every section of the community should have an opportunity of taking part in the politics of the country, of coming into Parliament, placing its points of view, modifying legislation in any way it thinks it ought to be. Parliament ought not to be a sectional body, representing any particular class or any particular group or any particular community so that the point of view of all others goes un-represented. I think that would be very unfair thing; it would be a disservice to Parliament in my judgment if such a thing happens. At the same time, I am quite clear in my mind that while the business community should have a fair opportunity to influence politics and to come into Parliament, we do not want Parliament to be converted into a Stock Exchange.

10 A.M.

Pandit Maitra: They are already dominating.

Dr. Ambedkar: Another thing that we must bear in mind, and which I think goes to the root of the matter is that our Parliament and our Electoral law should be so constituted that the independence of the Members of Parliament as against the Government must be scrupulously observed, There can be no use in a Parliament if we adopt a system which permits the Government to corrupt the whole of the Parliament either by offering political offices or by offering some other advantages. If a Parliament cannot act independently without fear or without favour from the Government, in my judgment such a Parliament is of no use at all. Therefore, while it is necessary to permit every class of people to come into Parliament and to play their part, you must at the same time place some safeguards whereby Parliament will not be converted into a sort of what I might call chorus girls who would be saying always ditto to what the Government say.

Shrimati Durgabai (Madras)**:** Why girls ?

Dr. C. D. Pande *rose*—

Mr. Deputy Speaker: What is it ?

Dr. Ambedkar: My point is as I said, we have to sail within two limits. One limit is this: that our electoral law should not be such as to deliberately shut out any particular section or any particular community. The second limit is this: the Electoral law must be such that it would maintain an amount of freedom in Parliament. Within these two limits, anybody who has any suggestion to make with regard to the improvement of the provision relating to this particular disqualification will have my sympathetic hearing.

Mr. Deputy Speaker: Is there any provision regarding political jobs ? The Hon. Minister was saying that political jobs or contract ought not to be allowed to corrupt Members of Parliament.

Dr. Ambedkar: To that point, my reply is this. I wish very much that we adopted the principle of the British law where there has been a definite limit laid down to the number of Ministers, Parliamentary Secretaries, Ministers of State, and so on. I hope some day we shall be able to pass legislation of that kind so that Government will not be in a position to increase its supporters by offering political jobs such as Ministers and Deputy Ministers and Parliamentary Secretaries to anybody in the House. This matter.....

Seth Govind Das (Madhya Pradesh)**:** Why not have those provisions now ?

Dr. Ambedkar: That cannot be done; that is a matter dealing with Ministerial affairs. I do not know ; perhaps, you may remember that this question was considered at the time when the Government of India Act, 1935, was made. One proposal was .....

The Deputy Minister of Food and Agriculture (Shri Thirumala Rao): That was by a foreign Government.

Dr. Ambedkar : Wisdom is wisdom whether it comes from inside or outside the country.

Pandit Munishwar Datt Upadhyay (Uttar Pradesh)**:** Are you in agreement with this ?

Dr. Ambedkar: Yes ; I said so. I remember when the Government of India Act, 1935 was framed, this very question was raised whether we should allow the Prime Minister.....

Pandit Thakur Das Bhargava (Punjab)**:** Article 102 is already there; everybody holding an office of profit is disqualified.

Dr. Ambedkar: We have limited that. If anybody becomes a Minister, he ceases to come under that disqualification. I do not want to go into that now. This question apart. I shall answer the query that you put.

Shri Sidhva : Why not incorporate all those things here ?

Dr. Ambedkar: I cannot do all sorts of things in this Bill.

Shri Kamath (Madhya Pradesh)**:** You were referring to the Government of India Act, 1935. What was it ?

Dr. Ambedkar: I said about the Government of India Act, 1935, because I had been at the Round Table Conference where this very question was raised namely, whether it was necessary to put a limit on the number of Ministers that could be apppointed. The point there was that it might be possible for the Ministry to so expand as to have a large number of people in the Ministry so that the House may be disabled. There were two proposals made. One proposal was that a maximum number should be fixed in the Act, that not more than a certain number of persons could be appointed as Ministers. The second proposal was—I do not know whether the Members would like it or not—to fix a maximum salary for the Ministry as a whole, so that, if they wanted to expand, they could do so by dividing the spoils and lowering the share of each one. Neither suggestion was adopted and it was left to the good sense.....

Seth Govind Das: We can have both.

Pandit Munishwar Datt Upadhyay : Could you limit the number of Ministers under the Constitution ?

Dr. Ambedkar: The House can.

The Minister of State for Transport and Railways (Shri Santhanam): If cannot; please read the Constitution.

Dr. Ambedkar: I am very sorry; I should think that we can. There is nothing in the Constitution to prevent that. All that the Constitution says is that there shall be a Council of Ministers to advise the President. It does not say how many Ministers there will be.

Shrimati Durgabai: On a point of order, Sir.....

Mr. Deputy Speaker: The hon. Member is on a point of order. Will the Hon. Minister give way?

Shrimati Durgabai : On a point of order, Sir, may I know whether the Hon. Minister is making any insinuation against the Government that whenever they appoint more Ministers or Deputy Ministers they are appointing them only to disable the House ?

Dr. Ambedkar: I am replying to the Chair. I wanted to drop the thing; it was Mr. Kamath who wanted me to say something.

Mr. Deputy Speaker: I do not think there is any insinuation.

Dr. Ambedkar: I hope my hon. lady friend is not intending to create bad blood between myself and the Ministry.

I come to the next question. The second proposal is that the Princes should be declared to be disqualified for being chosen as Members. The point is made by my hon. friend Mr. Raj Bahadur—I hope he is here—and his friends.

Shri Raj Bahadur (Rajasthan)**:** I am here.

Dr. Ambedkar: Mr. Rama Rao has appended a separate minute of his own. The ground which has been urged by Mr. Raj Bahadur and his friends is that the Princes are holders of Office of profit. It seems to me that if that contention

is correct, it is not necessary for us to introduce any kind of clause in this Bill at all, because the Constitution itself lays down in article 102 that holders of offices of profit shall not be eligible for being Members of Parliament. If his contention is that they are holders of office of profit, they automatically come under article 102 of the Constitution. It has laid down this disqualification which this Parliament can neither amend nor enlarge. The only thing he can do is to act under article 103 which says that if any person who is a holder of an office of profit is a Member of Parliament, the matter may be referred to the President and the President shall after obtaining the opinion of the Election Commission, give his decision according to such opinion. To take a concrete case, suppose any particular prince—I think they call them princes—is elected to this House or to any Chamber of the State Legislature, all that is necessary to do, if my friend is correct, is to apply to the President saying that he is a disqualified person and so cannot take a seat in Parliament. Therefore, on his own argument it is unnecessary to introduce any clause for the purpose in this Bill. It is for him to say whether his contention that they are holders of offices of profit is correct or incorrect. On that subject I do not propose to express any opinion now.

Shri Sidhva: They get a sort of pension.

Dr. Ambedkar: There is vast difference between pension-holders and these cases.

Shri Hussain Imam (Bihar)**:** What about Government pensioners? Are they holding offices of profit ?

Dr. Ambedkar: I do not wish to be dragged into this aspect of the matter. The point is very simple. The question is whether if they are holders of offices of profit, they are disqualified. If that be so, the disqualification is there under article 102. You have only to refer to the provisions of article 102 and get the person removed from Parliament.

Shri Raj Bahadur: It is a case for the lawyers again.

Dr. Ambedkar: Why not? The hon. Member is himself a lawyer. Why should he shut himself out?

Shri Shyamnandan Sahaya (Bihar)**:** Cannot the matter be raised before the Election Commission ?

Dr. Ambedkar : It is unnecessary to go to that length; The remedy is very simple, as I have already explained.

Well, then. If my friend's contention is that the holding of an office of profit is not a good ground for disqualifying them, then the House in enacting a provision for disqualifying them, must, of course, have some justification. Referring, for instance, to the composition of the House of Commons it may be pointed out that the clergy of England are disqualified for being members of the House of Commons. Similarly a person holding a peerage which entitles him to sit in the House of Lords is a disqualification for being a Member of the House of Commons. Now, in both these cases there is ample justification why they are disqualified. If my friend were to study the history of the case, he will know that the clergy were disqualified by the Act of 1801 because it was felt that under the Protestant Revolution when the State became the head of the Church or when the Church and the State became one—what are called allow-sons—that is to say, churches where service is offered and payments made, these became a sort of gift in the hands of the State and consequently it was felt that churchmen and priests were holders of offices of profit and therefore they must be disqualified. With regard to members of the House of Lords being disqualified from being members of the House of Commons, there again the justification is quite obvious, namely that a person cannot be a member of two Houses. This is the principle which we have also embodied. Therefore the disqualification of these two classes of people, although it exists in England is founded on the two justifications which I have given. If my friend could suggest some justification other than the ground of office of profit, it would be open to consider whether such a justification is valid here,

Dr. Parmar (Himachal Pardesh)**:** Can the Princes not be excluded on the ground that they are political pensioners ?

Dr. Ambedkar: I do not know why political pensions should be regarded a disqualification. Of course, as

hon. Members know, Dr. Johnson, the author of the first English Dictionary, defined a political pensioner as a slave of the Government. But he himself subsequently accepted a pension from Government. It is no use being too logical.

Dr. Parmar: Are political pensioners debarred from the House of Commons ?

Dr. Ambedkar : No, only Peers and lunatics, as they used to say in the days of the Reforms.

The third point raised in the Minutes of Dissent relates to the reservation of seats to the Scheduled Castes in double-member constituencies. This point is dealt with at considerable length by Mr. Sarangdhar Das and Mr. Rama Rao. It seems to me that this matter has already been concluded by the Representation of the People Act of 1950 which this House passed last year. A reference to section 6, sub-section (2), clause (*d*) of that Act would show that the House left this matter for the President to decide in an appropriate case. I therefore, do not think that we can do anything now, unless we go back and amend that Act.

Apart from that, I should like to draw the attention of the House to certain considerations which have prevailed upon the Government in making the sort of reservations which have been made. I think it necessary to draw a distinction between what may be called a reserved constituency and a constituency in which a seat is reserved. I think these are two very different things and the question that has to be considered is what was the intention, whether it was to adopt the system of a reserved constituency or a system of a constituency in which a seat is reserved. There again, it seems to me, if you refer to the intentions of the Constituent Assembly, the matter is more or less concluded. The first point is this. Our friends will remember—I shall refer to it presently that the Constituent Assembly passed a Resolution in favour of what is called distributive voting. Now, my submission is this. Would there have been any necessity to pass a Resolution regarding distributive voting unless it was the intention of the Constituent Assembly that the constituency should be one in which a seat is reserved ? If the intention was that it should

be a reserved constituency, no such question would have arisen, because the system of one man one vote would have applied. Secondly, although the Constitution does not expressly make any reference to this matter, the intention of the makers of the Constitution and of the Constituent Assembly appears to be clear by a reference to article 332, clause (5). My friend Mr. Chaliha must be very familiar with that article. The House will recall that a contention was raised whether a constituency should be reserved for the tribal area so that in that area only a tribal candidate would stand. On the other side the question was raised that if a constituency was so framed that only a tribal candidate could stand, the rest of the non-tribal people would be completely disfranchised. And that was not a desirable thing, the Assembly decided. Consequently in passing article 332(5) they made the special provision that if such a thing was to be done, then certain areas in which the non-tribal people were concentrated should be separated and given separate representation. I therefore concludes, from the fact that the Constituent Assembly supported distributive voting and from the fact that there is a provision in article 332, clause (5), that the intention of the Constituent Assembly was that the system to be ordinarily adopted is the system of a seat being reserved in a constituency. It was on this construction of these provisions that the Representation of the People Act, 1950, contained the provision which is embodied in section 6, sub-section (2), clause (*d*).

With regard to the question of distributive voting, there again both my friends Pandit Kunzru and Mr. Das have expatiated at considerable length in the vicious character of this system. As I said, it is quite open to argue that the cumulative system is better in that it enables minorities, social or political, to muster their strength and have their representative elected to the House. As I said just now, we have not got a clean slate to act upon. As my friend will remember this matter was discussed in the Constituent Assembly and a motion was moved by no less a person than the late Sardar Patel, in which he proposed that all special representation for all minorities, such as the Muslims,

Christians and so on, shall be abolished and that they shall be retained only for the scheduled castes and scheduled tribes, and wherever a seat is reserved in a constituency for these two classes the system of voting shall be distributive voting. That resolution was accepted by the Constituent Assembly. No doubt there was a certain amount of debate on that question but ultimately the decision of the Assembly was in favour of distributive voting. It seems to me that our Parliament must pay some special regard to the decisions of the Constituent Assembly, because, after all, it is from the Constituent Assembly that we have derived our power and authority. Certain decisions taken by the Constituent Assembly we have got in our Constitution, certain others which we could not embody in our Constitution remain outstanding. It does not mean that because we have not embodied those decisions in the Constitution we are not to pay any regard to them. Therefore it seems to me that whatever may be the view-point on the subject—I do not deny that there is some validity in the contention of the other side—I think personally that the matter must be regarded as concluded. It would of course be open to the House to take any step they like, if as a result of experience in the next or subsequent elections they find that the system is not a good one and ought to be substituted. But for the moment the decision of the Constituent Assembly must stand.

The fifth point raised is the declaration of the results. That is also raised by my Friend Mr. Sarangdhar Das. If I understand him correctly—he will correct me if I am wrong, for it is not quite clear to me—what he wants is that the results of the election should not be announced piecemeal, constituency by constituency, or province by province, but that all results should be announced on the same day. I take it that he has no objection to counting the votes piecemeal, constituency by constituency, and making the record of it complete. There is a difference between counting and announcing.....

Shri Gautam (Uttar Pradesh)**:** Counting is done in the presence of the candidate.

Dr. Ambedkar : Yes, of course. Those provisions are there. The only question is as you finish your counting for the

constituency, will you publish the results in the Gazette or will you wait until all the counting has been done in all the constituencies and the result is announced in a consolidated form in one issue of the Gazette.

Seth Govind Das: What would be the use ? will it not be published in the various newspapers ? (*Interruption*)

Dr. Ambedkar: I want to understand his minute of dessent. His argument seems to me, and it is not unsound, is that people after all are carried away by what is called the herd instinct. If people had voted in one way in one constituency other people like to do so in their own constituency. It is a psychological point. He felt that if the result of the election in one constituency was announced, which was unfavourable to any particular party, then the other constituency also might say "Our neighbours have voted in one particular way and why make an experiment of voting in some other way. Let us vote in the same way."

Seth Govind Das: When the counting will take place in the presence of the candidate it would be known to all newspapers and how will you be able to withhold the result ?

Dr. Ambedkar : You cannot. As I said no electoral law can be either foolproof or knave-proof. All sorts of loopholes will remain.

Shri Sarangdhar Das (Orissa)**:** I had put in the minute of dissent and I have also given an amendment, because there is a possibility of having the general election in some of the States, whereas other States are not ready with their electoral rolls and would like to have the elections sometime later. That is why I want that the results of the earlier elections should be held over until the later elections are over and all the results are announced simultaneously.

Dr. Ambedkar: I was only trying to understand him, because his minute deals with that in a few sentences. No doubt the matter will be considered, because there is something to be said for the point of view he has urged.

Mr. Deputy Speaker: It does not affect any individual election.

Dr. Ambedkar : It does not. I am only making a distinction between counting and announcing which is really the important thing.

Shri Naziruddin Ahmad (West Bengal)**:** The counting will be public and the result will be known and published in the papers.

Dr. Ambedkar : As regards counting it is there in the rules. Then there is this ticklish question of the use of conveyances. The Bill does not permit the candidate to employ cars or other means of transport for conveying his voters but it does permit the voter himself, if he has got a car, to use it for the purpose of going to the polling booth and registering his vote.

Seth Govind Das: Can a voter hire a cart ?

Dr. Ambedkar : He may if he wants to pay, but our friends are rather worried over this. They say that it is perfectly possible for a candidate to circumvent this provision by putting a few pieces of money into the hands of the voter and say "You hire the car and I pay for your conveyance. Come and vote for me." Therefore they say this provision would be nugatory. I do not deny the possibility of such circumvention but the question we have to consider is whether this provision will be circumvented on such a large scale as altogether to nullify the provisions of this particular section. My reply is that it would not be so possible. That is my view. On the other hand, we have to take into consideration two other factors—I shall be very frank about it. We are making provision for our polling booths to be within two or three miles of each village. In that event perhaps it is not necessary to use a car at all. On the other hand, there is also the fact that there are many people who have got a right to vote, who are willing to vote, but who on account of their old age are not able to walk to the polling stations. There are many people who are lame or who have some kind of a physical disability which prevents them from going to the polling booths on their feet.

An hon. Member: Such as ladies.

Dr. Ambedkar: Well. I do not know. If you say ladies, yes,—women in India walk and therefore I am not concerned with them.

Dr. Deshmukh (Madhya Pradesh)**:** What are our sisters in this House, ladies or women ?

Dr. Ambedkar: I shall leave it to them to answer.

Therefore, as I said, in determining this question we have to take into consideration these various factors. One is this that our polling booths will be much nearer than they used to be. Secondly, there may be a good many people who on account of their physical disability will not be able to go to the polls. Are you going to deny altogether any kind of physical aid by way of transport to such people to go and register their votes ?

Shri J. R. Kapoor (Uttar Pradesh)**:** Make an exception in their case.

Dr. Ambedkar : As I said, I am not concluding the matter by expressing any dogmatic opinion. I am putting both sides of the question before the House. It is for the House to determine. Personally, I do not mind if transport is completely stopped; anybody who wants to vote may go on foot and vote. But we have got to consider this question that there are a large number of people who may not be in a position to go and we must make some kind of a provision for them.

Then I come to another point which is very important: obtaining of assistance from Government servants in the elections. That point is raised by Mr. Gokulbhai Bhatt and also, I believe by my friend Mr. Khandubhai Desai. I cannot help saying that this is a very important provision and in considering this the following points, I think, require attention. We must make a distinction between the right to vote and the right to take active part either in forming a political party or in helping an existing political party. So far as the right to vote is concerned, nobody in this country is denied that right; neither the government officers employed in the civil services nor the military personnel have any impediments placed in their way in the matter of exercising their right to vote. The only question that arises for consideration is this, whether they should be permitted to form an association of themselves for the purpose of starting a political party or

helping any particular political party. It seems to me that to allow the civil or military servants of the Government to take past in party politics is nothing short of sowing the seeds of subverting the Government. That point can never be forgotten, it seems to me. If our Secretariat servants were allowed to form a political organisation as against the existing Government that they wish to bring about, what would happen to the administration ? Could they be expected to be loyal to a government which they intended to overthrow by their political activities ? It seems to me the whole administration will come down to pieces. Secondly, it must be remembered—and I emphasise it because I find that it is not generally remembered as it ought to be—that whether the political party of the government, the Ministers and so on, is partial or impartial or whether they side on one side or the other is a matter of small moment. What is of importance is the impartiality of the administration. The administration, in my judgment, is far more important than government as such. And supposing the administration was permitted to associate itself with political parties, would the administration be impartial ? Would they not favour those who work with them and disfavour those who do not work with them ? What would happen to the administration ? Therefore, I am very strongly opposed to the suggestion made by my friend. Mr. Khandubhai Desai or by Mr. Gokulbhai Bhatt that the administrtation should be permitted to take part in politics or to help any particular candidate by holding meetings for him, for canvassing, for collecting funds, and this, that or the other. I think it is absolutely subversive of civil and military government

Shri Bhatt (Bombay)**:** That is not the idea behind my suggestion.

Shri Khandubhai Desai (Bombay)**:** You were not replying to my minute regarding the activities of ordinary employees of Government in support of any candidate.

Dr. Ambedkar: I thought you were dealing with it generally, but if you were to move an amendment then the matter will be debated at a later date. I have plenty of material

on this subject and I think I shall be able to satisfy the House on this point.

Shri Bhatt: What I have suggested does not concern the officers and persons holding administrative posts but only the ordinary run of employees known as the officials.

Dr. Ambedkar: It is very difficult to make a distinction between मामूली कर्मचारी and बड़े कर्मचारी.

There is one other question and that is with regard to the use of symbols. The Select Committee has decided that religious and national symbols shall not be used. Our friend, Mr. Das, and then Mr. Man and Dr. Syama Prasad Mookerjee differ. Mr. Das is in favour of the provision but he wants to extend it. He said that there might be colourable imitations of the prohibited symbol and since they were only colourable and not actual it might be possible for members of the political party to get round this particular provision. Well, as I said. I do not know whether I can find any suitable words to prohibit colourable imitation. I have not as yet found any suitable expression to overcome that difficulty. Our friend, Mr. Man and Dr. Syama Prasad Mookerjee object to it. They say symbols should be permitted.—the Hindu Mahasabha should have its own flag to carry on the election compaign. I think that the provision in the Bill as reported by the Select Committee is a very sound one, because I think that elections ought to be conducted on issues which have nothing to do with, for instance, religion or culture. A political party should not be permitted to appeal to any emotion which is aroused by reason of something which has nothing to do with the daily affairs of the people.

Shri Kamath: What about political emotion ?

Dr. Ambedkar: Political emotion—enthusiasm—is all right, but I think that any emotion other than political emotion should not be permitted. Therefore, this is a good provision and the suggestions made are unacceptable to me,

Then I come to the last point in the Select Committee's Report which I know has caused a great deal of heart burning i.e. with regard to the return of election expenses—what

expenditure must be included in the return ? Mr. Goenka who has raised this matter in the course of his minute of dissent says that if the clause stands as at present, a political party will not be free or entitled to spend money on elections and he thinks that is a situation which ought not to be allowed. The political party should be permitted to spend money on elections, which a candidate—and this is the most important part—need not show in his return of election expenses. The last point that the candidate need not show is most important. It seems to me that his contention is founded on a misunderstanding of what is meant by election expenses. Since the Select Committee reported, I have myself gone a great deal into the cases which have been decided by the Election Tribunals in England over a long course of years and I would like to give to the House some of the results arrived at by the Election Tribunals in England. In considering this question, the first point that has to be borne in mind is that we are dealing with 'election expenses' and we have to understand very clearly what is meant by 'election expenses' of a candidate. Election expense means 'expense incurred during a period beginning from the commencement of the election and ending with the conclusion of the election.'

Shri Kamath: Does commencement mean nomination or polling ?

Dr. Ambedkar : I am coming to that. It may be before that.

Therefore, we must bear this in mind—that the phrase 'election expense' has reference to a definite period, namely, the period commencing from the beginning of the election and the period ending with the conclusion of the election. Any expense incurred by anybody before the commencement of the election is not election expense.

Shri Kamath: What is the commencement—nomination or polling?

Dr. Ambedkar: I am coming to that. If you will let me proceed, I shall explain. I have spent some considerable time and taken considerable trouble over this, because I myself wanted to understand it.

Mr. Deputy Speaker: Is there any such restriction in the body of the Bill ?

Dr. Ambedkar: No such thing, but I am talking about the judicial interpretation of the phrase 'election expense'

Mr. Deputy Speaker: Does that mean 'all expenses in anticipation of the election ?'

Dr. Ambedkar: The emphasis is on the word 'election' Election means an event which has a beginning and an end. Therefore, what I am saying is that we are only concerned with expenses incurred on an election which has a beginning and an end.

Shri Kamath: Everything has

Dr. Ambedkar: Some things probably have not. Some things are *sanatan*—they have no beginning and no end. But election is *not sanatan*. Having regard to this fact, any expenditure incurred before the commencement of the election, whether it is incurred by the candidate or whether it is incurred by the political party, does not come within the meaning of election expenses. A political party may be free to spend any amount of money before the election commences, because that would not be part of the election expenses. After the conclusion of the election, a political party or a candidate may do anything. A candidate, after he is elected, might invite people, subject of course to the food regulations, to a dinner in the Imperial Hotel. That is not part of the election expense. Therefore, barring these two things, a political party is free to incur any expenses. That is not barred by this clause.

Shri Sidhva: What about 'during elections ?'

Seth Govind Das : *rose*—

Dr. Ambedkar: Do not cross-examine me. Let me go on. If you have a complete idea of what I have to say, you will probably have no questions to ask at the end.

Now, I come to the point raised by my hon. friend Mr. Sidhva about the expenses during the event of elections. Let us examine the situation in a very concrete way, not theoretically. What happens when an election is on ? Two

things may happen. One is that there may be political meetings or political lectures.

Shri Sidhva: Also political pamphlets.

Dr. Ambedkar: I am coming to that separately. I am taking each case by itself. First let us consider political meetings and political lectures. I think everybody will agree that these political meetings and political lectures could be divided into two classes. Political meetings and political lectures may be intended for the advancement of the political principles of a particular party without reference to any particular candidate. The Conservative Party may come and say, "Well, we believe in property. We believe in freedom of industry and things of that sort," without any reference to any particular candidate. On the other hand, there may be political meetings and political lectures for the specific purpose of advancing the candidature of a particular individual. So far as judicial decisions are concerned, expenditure incurred on political meetings and political lectures which are not centred round the idea of promoting the candidature of any particular individual is not part of the election expenses. Therefore, a political party would be free to go to any constituency ; organise meetings or a series of lectures ; send lectures for the purpose of propagating its principles and faith, without mentioning names. On the other hand, as I said a meeting may be organised in which the intention is to win over the voters to the side of a particular candidate. Then obviously, it is part of the election expenses. I have now given you the line which should be drawn between expenses which are part of the election expenses and expenses which are not part of the election expenses.

Seth Govind Das: Very confusing.

Dr. Ambedkar: Yes, it is very confusing. You want a straight line, but you cannot have it.

Now take the other case—for instance the issue of books, pamphlets, posters and things of that sort. There again, you have got to make some sort of a distinction. Books, pamphlets, posters, etc. which are for the purpose of propagating the

principles of a party are not part of election expenses and need not be shown in the return by the candidate. On the other hand, if there is a book saying "20 points in favour of Mr. so and so—why he should be elected" or if a poster is put out giving the photograph of the candidate, giving below something in praise of him and recommending him to the electorate, obviously that is in furtherance and advancement of his election. Therefore, expenditure on that would be expenditure chargeable to the election and should be mentioned in the return of election expenses.

I am giving the results of the election petitions tried by the various tribunals in Great Britain. This is the distinction that they have drawn. Anything which does not promote or advance the election prospects of any particular candidate is not part of the election expenses and therefore free to be incurred by anybody, whether a political party, a philanthropist, friend or anyone who wishes to take interest in this matter. These are, as I said, the guiding principles which the various election tribunals in England have laid down for the purpose of determining what expenditure is chargeable as election returns and if our election tribunals follow the same rules, there is more than enough room for political parties to spend their money in furtherance of their political faith. If they do something for the special benefit of any particular candidate, then, of course, that becomes part of his election expenditure and must be shown in his return of election expenses. Sir, I think I have exhausted all the points which arise from the report of the Select Committee and the Minutes of Dissent that have been recorded by hon. Members.

Shri Satish Chandra (Uttar Pradesh)**:** What about the duration of election ? What will determine the commencement and the conclusion of the election ?

Dr. Ambedkar: The courts have held that no doubt polling is one fact which is the other end of the election—the election has concluded.

With regard to the commencement of the election, courts have said that it is a question to be determined by fact.

Ordinarily, if there is nothing to the contrary, then the date of nomination would be the date of the commencement of the election. But they say it is perfectly possible for a candidate long before the election takes place to publicly announce that he is going to be a candidate. He may not only announce, but may incur some expenditure in order to steal a march over some other candidate. If that is so, then the date on which he has announced himself publicly as a candidate shall be the date of commencement of election in his case.

Dr. C. D. Pande (Uttar Pradesh)**:** Then everybody will have his own date.

Dr. Ambedkar: I suppose so. Sir, that is all that I have to say.

Mr. Deputy Speaker: After the Minister's statement today nobody will announce his candidature openly.

Shri Sondhi (Punjab)**:** There are some people who have already announced it in Delhi—what about them ?

Dr. Ambedkar : I have nothing to add to what I have said and I commend the motion to the House.

Mr. Deputy Speaker: Motion moved:

> "That the Bill to provide for the conduct of elections to the Houses of Parliament and to the House or Houses of the Legislature of each State, the qualifications and disqualifications for membership of those Houses, the corrupt and legal practices and other offences at or in connection with such elections and the decision of doubts arid disputes arising out of or in connection with such elections, as reported by the Select Committee, be taken into consideration."

I was the Chairman of the Select Committee on the Bill, and as such may I make a suggestion for the consideration of the House. There is no one single principle running through the whole Bill. There are various points dealt with in different clauses to which the Hon. Minister for Law referred. Therefore, to cut short the discussion on this Bill—if the House is agreeable—I will put the consideration motion to the House and then the real discussion will begin on the clauses.

Some hon. Members: No, no.

Shri Sidhva: I think it is a healthy suggestion that you have made.

Shri Gautam: It will be very difficult for the House to decide whether there is some connection between one clause and the other. If you introduce this, then the tyranny of the majority will start not today, but tomorrow. Therefore, as protector of the privileges of this House, and especially of the minorities, I would request you not to introduce this novel procedure.

Mr. Deputy Speaker: Let me not be misunderstood. I have nothing to say against the majority or the minority. I have only made an appeal to the House irrespective of the question of majority or minority.

Shri Kamath: It is very gratifying to hear Mr. Mohanlal Gautam talk of the interests of the minority.

Mr. Deputy Speaker: At any rate, I hope Members will bear my observation in mind and try to conclude before the end of the day.

Shri Gautam: I congratulate the Government for introducing the Bill, although after a long time. There is a general impression in the country and also outside created by the opponents of the Congress and other interested parties that the Congress does not want to hold the elections. I think the Government has got its difficulties; the Provincial Governments have got their problems. But I can assure you of one thing and that is that the Congress as a political party has never been in favour of delaying the elections.

We do not want to delay the elections because we are afraid of them. We want them to be completed as soon as possible. There are certain difficulties which have prevented
11 A.M. Government from holding the elections earlier. There is in some quarters a lurking suspicion that the elections might be delayed a little further. I, Sir, would request Government that the elections must be held according to the schedule in November-December as announced by the President in his address to this House and no further delay should be brooked.

***Shri Gautam:** .....Then I come to the last point that I want to raise and that is about illegal practices. Dr. Ambedkar has laboured very much to explain one point to us which as the interruptions of the House showed was not clear to many of us and that was with regard to the return of election expenses.....

Dr. Ambedkar: Not clear.

Shri Gautam: The clause reads as follows:

> "The following shall be deemed to be illegal practices for the purposes of this Act:—
>
> (1) The incurring or authorisation by any person other than a candidate or his agent of expenses on account of holding any public meeting, or upon any advertisement, circular or publication."

Mark the words, it is not publication only. If a man distributes the handbills of a candidate, it is circulation "or in any other way whatsoever" and this opens the door. I do not know to what extent and to what limit. The clause further reads:

> "or in any other way whatsoever, for the purpose of promoting or procuring the election of the candidate, unless he is authorised in writing so to do by the candidate."

If I were a candidate, I think it will be impossible for me.....

An hon. Member: You are making an announcement.

** **Babu Ramnarayan Singh** (Bihar) (*English translation of the Hindi speech*) **:** I thank you, Sir.....

Dr. Ambedkar: Speak in English.

Babu Ramnarayan: No. Sir, we are now a free nation. Why should we remind ourselves of our slavery by speaking in English ? I will therefore express myself in Hindi.

I very much appreciated one of the observations made by Hon. Dr. Ambedkar. It was that the object of the laws that

*P. D., Vol. 11, Part II, 9th May 1951, p. 8375.

***Ibid.,* p. 8413.

are being made would be such as may ensure that no Government in the country may be able to corrupt the Members of Parliament. This is a welcome thing but some provision should also be there, and I think it is very essential to see that the Government should not be corrupt because if the Government are itself corrupt, they would corrupt the Members also. It will certainly happen. Therefore the aim should be that no opportunity be made available to corrupt them which, in other words, means that there should be no corrupt Government in the country at all.

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* **Pandit Krishna Chandra Sharma :** These allegations are irrelevant in view of the fact that the other party is not here to explain the matter.

Mr. Deputy Speaker: It relates to Congress elections.

Dr. Ambedkar: The matter is now placed in the hands of the Election Commissioner under the Constitution. It is not in the hands of Government.

Mr. Deputy Speaker: The Election Commission has been made supreme and the Select Committee proceedings show that they have given further powers in respect of the notification of the dates and other things both for the general elections as well as the bye-elections. The Election Commission has been made more and more important.

Shri Kamath: He wants to support this salutary change.

Mr. Deputy Speaker: But we are not enquiring into the past. Let him come to this Bill.

** **Pandit Krishna Chandra Sharma :** .....Then I come to the question of election expenses. As Prof. Shah said, most of the expenses will be incurred either in propaganda and

*P.D. Vol. 11, Part II, 9th May 1951, p. 8415.

***Ibid.,* pp. 8460-61.

publicity or in carrying the voters to the booths. So far as propaganda and publicity are concerned they would be done by the party to which the candidate belongs. Situated as we are it is very difficult for an individual to stand on his own account: a candidate, I suppose must belong to one party or another and that party will in course of time evolve its own method of working. We might make mistakes in the beginning but just as other people have evolved precise methods of working we too are not likely to fall in devising proper methods of propaganda and publicity. But I do not agree with the Hon. Law Minister that expenses incurred on propaganda on a party basis would be a part of the election expenses incurred by the candidate...

The Minister of Law (Dr. Ambedkar): I did not say that—I said just the opposite.

Pandit Krishna Chandra Sharma: Then it is all right. The election expenses of a candidate must be confined to expenses incurred with regard to that candidate, which would be incurred mostly by himself, his agent or on his behalf by his friends. So, the question of the expenses coming to large sums, as Prof. Shah fears, will not arise because among other things, the polling booths will be easy of access to all the voters which will eliminate heavy expenses.....

***Dr. C. D. Pande** (Uttar Pradesh)**:** Before I take up the provisions of this Bill. I should like to make a reference to the compliment that has been paid by Dr. Ambedkar to the Members of this House. He referred to them as chorus girls.

Dr. Ambedkar: I am sorry. I think it is quite wrong to say that I referred to the House. My observations were of a general character; they had nothing to do with the House at all.

Shri R. Velayudhan: It was not about the House.

Dr. C. D. Pande: If he did not mean that.....

Mr. Deputy Speaker: He did not want Members of the House to be mere chorus girls when they are elected.

*P.D., Vol. 11, Part II, 10th May 1951, pp. 8464-65.

Dr. C. D. Pande : It comes nearly to the same thing.

Dr. Ambedkar: Not at all. It refers to future Members.

Dr. C. D. Pande : Anyhow, when I heard that remark.....

Dr. Deshmukh: He has not discovered any of such characters here so far.

Dr. C. D. Pande: I felt with some Members of the House at least that that remark was not a happy one, and the remark if it was appropriate, let me extend the simile further. What he said was that the Members were chorus girls. If we are all chorus girls, then he is the matron of that establishment.

Shri Syamnandan Sahaya (Bihar)**:** You may be one ; we are not.

Dr. C. D. Pande : He is the matron of that establishment.

Shri R. Velayudhan: Is it not an insinuation Sir?

Shri Rajagopalachari: If we talk again and again about chorus girls perhaps they may object too!

Mr. Deputy Speaker: As a matter of fact, some of the lady Members of this House expressed to me that I ought to have intervened and said that a reference ought not to be made to chorus girls. They are very touchy about these matters now-a-days.

Dr. Ambedkar : I apologise if they have taken it in offence. This is what I said : if we did not do certain things, then what might follow will be like that. I had not the sightest idea to refer to the Members of this House. I was referring to the result that will follow if certain precautions are not taken.

Babu Ramnarayan Singh (Bihar)**:** You were right.

Dr. C. D. Pande: If he did not mean it, I leave it at that.

The main provisions of this Bill have been throughly discussed by previous speakers and I would touch only a few main points. To me, the most vital point is the use of the national flag in the election campaign in this country in which the Congress takes part wherein the use of the national flag could be avoided or should be avoided. The distinction between the national flag as accepted by Government and as used by the organisation is very slight and people are really confused.

It will be very difficult for the officers concerned to make a distinction whether a particular flag has got the Asoka Chakra or the Charkha on it.

Dr. Ambedkar: I think the two are perfectly distinguishable.

*** Dr. C. D. Pande :** .....Dr. Ambedkar said that he found no difficulty in filling the election expense returns because election expenses means expenses incurred for the election, that is, after the nomination. The question was put whether pre-nomination expenses were included there or not. He said it depends, because if you have announced your candidature from that date it will be incumbent upon you to fill it in the returns. I think it will be very very difficult and dangerous to give such wide ranges and to give new definitions for the election expenses and for the nomination expenses—to make that distinction between the two stages, that is, nomination expenses and election expenses.

Dr. Ambedkar: I did not make any such distinction.

Dr. C. D. Pande: You said that election expenses do not mean the expenses incurred before the nomination is valid, that is to say, the expenses up to the date of validation of the nomination should not be included. But so far as the terminology goes it includes all the expenses incurred on the election, whether before or after nomination.

Dr. Ram Subhag Singh (Bihar)**:** Not before nomination.

Dr. C. D. Pande: Why not ?

Mr. Deputy Speaker : That is the judicial interpretation according to the Hon. Minister.

Dr. C. D. Pande : I myself have experience of filing election returns. There are expenses for instance of getting the voters list has to be included.

Dr. Ambedkar: That is right. But you do not want all the registers. All that is necessary is a certified entry. It will not cost you more than two pence.

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*P. D., Vol. 11, Part II, 10th May 1951, pp. 8469-71.

Dr. C. D. Pande: What I want to make out is that the demarcation between nomination expenses and election expenses has not been observed so far, but it may be done in the future.

Mr. Deputy Speaker: Evidently the hon. Member is suggesting that there should be an explanation.

Dr. Ambedkar: All that he is suggesting is that there ought to be no such rule as presenting the election expense return and that a candidate should be able to spend any amount according to his capacity.

Dr. C. D. Pande: I do not wish to restrict the amount, it is a matter of practical difficulty when election returns are filed—whether pre-nomination expenses will be included or not, whether election expenses will be included or not, whether election expenses mean only the expenses incurred after nomination and up to the end of polling. If that is so this is a new meaning given to election expenses. That is what I want to say....

Then I want to suggest one thing and that is about withdrawal. You have said therein that nobody should be asked lawfully to withdraw from standing. So many dummy candidates are set up by parties and they are asked to withdraw. Either you say that this jargon has not got any meaning, or if it has a meaning it must be made clear and there should be no loopholes.

Mr. Deputy Speaker: The language seems to be quite clear.

Dr. Ambedkar: The Select Committee certainly did not find any difficulty in understanding it.

Dr. C. D. Pande : Clause 122 (1)(*a*) says "a person to stand or not to stand as, or to withdraw from being, a candidate at an election."

Mr. Deputy Speaker: The earlier portion ought to be read along with that, namely, "Bribery that is to say, any gift, offer or promise by a candidate with the object of inducing" etc.

Dr. C. D. Pande: Suppose I suggest to a candidate that he should not stand for the Assembly because he has a better chance to be taken up in the Upper House. Does it amount to corrupt practice ? It does as far as I read the provision.

Dr. Ambedkar: It does not come under sub-clause (1). You are offering him better and surer prospects.

Dr. C. D. Pande: Does it not come within this provision ?

Dr. Ambedkar : You can go on doing your manipulations.

Dr. C. D. Pande : They are necessary and we should not be ashamed of them because a party cannot be run without them.

Pandit Thakur Das Bhargava (Punjab)**:** I think it would come within the mischief of the clause.

Dr. C. D. Pande: I would very respectfully submit to Dr. Ambedkar that there are situations that have to be met in practical life and you cannot do away with the difficulties you find. We would have left this language as it is had we not the apprehension that in future all the elections will be questioned and in all the elections the basest material of human nature will come out to upset things and the courts and lawyers will conspire to do their best to undo what has been done by the franchise. To my mind, if a man secures the majority votes that is the highest tribunal for the final decision for his being elected.

Dr. Deshmukh: Lawyers will be available to conspire against that also.

Mr. Deputy Speaker: On the other hand, is there no danger of a proper candidate who is liked by the constituency being forced, by illegal gratifications offered, to withdraw his candidature after the nomination is filed ?

Dr. C. D. Pande: But it remains to be decided whether a promise to set up that person for the Upper. Chamber instead of the Assembly amounts to corrupt practice or not.

Hon. Members: No.

Dr. C. D. Pande: These words do not indicate that.

Mr. Deputy Speaker: I think these doubts may better be cleared when the clauses are discussed.

***Shri Raj Bahadur:** .....This brings me to my point and my minute of dissent that I have appended to the Report of the Select Committee. Yesterday, Dr. Ambedkar pointed out that a clause disqualifying the Rulers or all those persons who get some fixed allowances, salaries and pensions from the Consolidated Fund of India is not necessary at all. He invited our attention to the provisions of articles 102 and 103 and said that in case there is any Member against whom an objection is taken on this score, the remedy lies in appealing to the President. I would request the Hon. Minister to listen to me because he wanted me to give him the justification for asking him to include a clause to that effect.

Mr. Deputy Speaker: The hon. Member invites the attention of the Hon. Minister, particularly about the Princes, how far they hold offices of profit etc. The hon. Member wants to impress his arguments on the Hon. Minister.

Dr. Ambedkar: I am sorry, another hon. Member was asking some questions about this.

Shri J. R, Kapoor: Are all pensioners in India disqualified ?

Shri Raj Bahadur: There are amendments to that effect also.

Therefore, to sum up my objection is that these are a privileged class and they should be ineligible to contest the elections. My objection does not proceed on mere legal or constitutional grounds. It is much more fundamental. I am not at all for a moment afraid of their entering the election contest with any of us in Part B States. So far as we are concerned we should like the common man to rub shoulders with the highest. But the position is that when they come into the election contest we will have to say things.....

Mr. Deputy Speaker: If he holds an office of profit under article 102 he is disqualified for being chosen.

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*P. D., Vol. 11, Part II, 10th May 1951, p. 8477.

Dr. Ambedkar: So the remedy is there.

Shri Raj Bahadur : But Dr. Ambedkar is not at all clear.

Mr. Deputy Speaker: That has to be decided only by the President. That point may be disputed also in a court of law. If the Prince is not disqualified under the Constitution how can he be disqualified by this law ? Is it not a Fundamental Right, even if he does not come under article 102 ?

***Mr. Deputy Speaker:** The hon. Member evidently means that under clause (*e*), "if he is so disqualified by or under any law made by Parliament". It is open to Parliament to make a law.

Dr. Ambedkar: He must show some justification.

Shri Raj Bahadur: The justification is that he would overpower the common man. The justification is that in the U.K. the Lords were not allowed to contest seats in the House of Commons, because they would try to perpetuate vested interests and interfere with the rights of the common man. Similarly if you allow these people whose position is analogus to that of the Lords in U.K. they will interfere with the affairs of the common man and will side with reaction and prove impediments to the progress of the country.

** **Shri Alagesan :** .....But I should like to utter a warning here about the conception of independence by the Election Commission. This independence is meant to hold the scales even between various political parties that compete for power. The Commission has to see that one political party does not get any undue advantage over another. The independence of the Election Commission does not mean that it should cause inconvenience to all parties impartially. Here I should like to refer to the work of delimitation of constituencies for Parliament as well as the State Legislatures.

*P.D. Vol. 11, Part II, 10th May 1951, p. 8482.

***Ibid.,* p. 8485.

Dr. Ambedkar : I should have thought that that was quite outside the scope of this Bill. That matter will be debated when the President's Order will be placed before the House.

Mr. Deputy Speaker: I do not think it is the hon. Member's desire to go into the details of the delimitation question. The President's Order is yet to issue and will be placed before the House, when it can be discussed. But if in a general manner the hon. Member wants to show that because large powers are given to the Election Commission greater care must be taken by that Commission, then he would be quite in order.

Shri Alagesan: I think I can make a reference as to how the Election Commission has proceeded with its work so far.

Dr. Deshmukh : The hon. Member wants to show how the Election Commission has worked so far. He is quite in order.

Dr. Ambedkar: That may be debated when we take up the actual Order of the President delimiting constituencies.

***Shri P. Y. Deshpande :** ..... The fact is that everybody has the right to vote and stand as a candidate. What power is left in us now, without changing the Constitution, to limit that right of any person to offer himself as a candidate for election ? He may be a Raja or an ex-Raja. If the people want him, let them elect him. Having given this right to every one, why should we now fight shy of that ? The Rajas of even black-marketeers, whatever men there are in society, if the people choose them, that would be their verdict; right or wrong, evil or good. If you want to limit that verdict, then change the Constitution first and then you can limit it.

Pandit Thakur Das Bhargava : The Constitution empowers this House to prescribe qualifications.

Shri P. Y. Deshpande: You have not done that, so far.

Dr. Ambedkar: We are now doing that.

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*P. D., Vol. 11, Part II, 10th May 1951, p. 8491.

Mr. Deputy Speaker: Why should persons who have undergone imprisonment for more than two years be disqualified ?

Shri P. Y. Deshpande: That is true. I would even allow a criminal to stand as a candidate. I appreciate the case of the criminal. But, if you take a fundamental stand that every adult has the right to vote and stand as a candidate for the elections, if that is your concept of democracy, then, if the criminal has the courage to stand, the people will defeat him if they do not want a criminal. If a Raja wants to stand and if the people do not want him, the people will defeat him. The right to defeat these persons is vested in the people.

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* **Shri Ghule:** .....I think, elections, big and small have been held in this country but it is difficult to make any distinction between the meetings held for the propagation of political doctrines and those for the personal canvassing of the candidate.

Dr. Ambedkar: I might inform the hon. Member that there is absolutely nothing new in clause 124, which has been bodily copied from the existing rules, which he will find in the Corrupt Practices and Election Practices Order, First Schedule, Part III. It has been there since 1919.

Shri Ghule : Quite right, I was just thinking that as this clause connotes a wide conception, it should have been included in the previous Act, and as you say, it was included. In spite of this law, Congressmen and other Members fought the previous elections while propagating the political doctrines to which they subscribed and at the same time canvassed votes in the constituencies from which they stood, but I have not come across any such instance in which the tribunals in India have declared any of the elections invalid on this ground. Therefore, as I was saying that I was not disturbed in the least to read the note of dissent of Shri Goenka but after having listened to the speech of Hon. Dr. Ambedkar I feel

*P. D., Vol. 11, Part II, 11th May 1951, p. 8534.

perturbed. As Hon. Dr. Ambedkar has said that this law was in force previously as well and in spite of it Congressmen, Socialists and Communists etc. in our country propagated their political doctrines and at the same time canvassed votes for their respective candidates as well, then what emergency has arisen today ? It will be better if Hon. Dr. Ambedkar clarifies the position during his reply to the Debate.

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* **Shri Venkataraman :** ..... There is another thing which I do not understand. In clause 3 of the Bill it is laid down that a candidate to the Council of States should be a resident of the State concerned, but a candidate to the House of the People need be resident only in any Parliamentary Constituency in the country. I fail to see any reason for this distinction between the two. If there is any I hope the Hon. Minister of Law will clarify the position and tell us the reason why this distinction has been laid down, Clause 3 says**:**

> "A person shall not be qualified to be chosen as a representative ..... in the council of States unless he is an elector for a Parliamentary Constituency in that State..."

Shri Syamanandan Sahaya (Bihar)**:** Because it is the Council of the States.

Dr. Ambedkar: Yes, that is the reason. And the other is the House of the People.

Shri Venkataraman: But a person belonging to a particular State may be resident in another place and he should not be disqualified from standing as a candidate because he is not resident in that State. Take, Sir, your own case. You have become a resident in Delhi and so you will not be able to stand for election in your own State, since you are not enrolled in that constituency.

Mr. Deputy Speaker: If I am not in touch with my constituency, why should I stand as their candidate ?

Shri Venkataraman: Sir, as I said, this point has to be considered.

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*P.D., Vol. 11, Part II, 11th May 1951, pp. 8574-75.

***Shri Venkataraman:** .....A party cannot go and do propaganda saying, "Vote for Congress, vote for Liberal Party or vote for Labour Party", without stating who is standing as a candidate of the party concerned. But the moment that information is given it becomes an illegal practice. Even if there is a precedent the time has come when it should be changed.

Prof. Ranga (Madras)**:** What is the position in England ?

Dr. Ambedkar: It is the same as in the Bill—there is no departure.

Shri Venkataraman: Again in sub-clause (*3*) of clause 124 you have said that the issuing of any circular, placard or poster having a reference to the election which does not bear on its face the name and address of the printer and publisher thereof, will become an illegal practice. The easiest thing for an opponent to do is to issue a circular on behalf of his opponent, without the name of the printing press and this man would be disqualified.

Mr. Deputy Speaker: Unless the candidate is a party to it he will not be disqualified.

***Prof. Ranga:** ..... So far as the Chairmanship of the Tribunal is concerned I would like to suggest that to think of making a district judge the Chairman is really not reasonable. No one enjoying a lower status than that of a High Court Judge should ever be appointed as the Chairman of the Tribunal.

Dr. Ambedkar: You cannot get so many High Court Judges.

Prof. Ranga: You do not have so many Tribunals either.

Dr. Ambedkar: You do not know how many petitions there will be.

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*P. D., Vol. 11, Part II, 11th May 1951, p. 8578.

***Ibid.,* p. 8611.

Prof. Ranga: Then, there should be a maximum limit for election expenses. I do not think it is advisable to leave it to be prescribed later on by rules. And in making these rules I hope that it is only the Union Government which will be entrusted with this responsibility and not the State Governments. Even in this connection I do suggest for the consideration of the Law Minister that this power might be left with the President to be exercised on the advice of his Election Commissioner.

***R. K. Chaudhari :** ..... Take for instance, the provision regarding conveyance. If this rule had been applied severely before all the elections that had taken place hitherto in India would have been nullified. But today we turn our back and strive our utmost to fill gaps and impose severe penalties on wrong-dores at election time.

Mr. Deputy Speaker: Shri Rohini Kumar Chaudhari.

An hon. Member: This is *zabardasti*.

Dr. Ambedkar: You want women to be disqualified ?

Shri R. K. Chaudhari: The first point that I wish to speak about is about disqualifications as laid down in clause 7. More than one speaker before me have spoken on it and I would only add a few arguments for the complete deletion of sub-clause (*d*) of clause 7.

****Mr. Deputy Speaker:** I wish to give hon. Members ten minutes only, and I intend to call upon the Hon. Minister at five minutes to one.

Dr. Ambedkar: The arrangement as I understood in the morning was that I should reply on Monday morning.

Dr. Deshmukh : .....These are points which are accepted by most of the Members of this House and I hope on account

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*P. D., Vol. 11, Part II, 12th May 1951, p. 8632.

***Ibid.*, pp. 8639-40.

of the substantial degree of unanimity they will all be accepted by the Hon. Dr. Ambedkar.

Dr. Ambedkar: Sir, as you were pleased to remark when the discussion of my motion started, that as there was hardly any principle running throughout this Bill and that each clause stood on its own merits, the proper thing would be to devote more attention to each clause as and when it comes before the House, and I do not think that I need take much time in discussing the points which have been raised in the course of this debate. I know that many Members, if they at all feel very serious about the comments that they have made, will undoubtedly take care either to express their point of view when the clause is put before the House and if they have any difficulty I certainly would deal with that matter in order to remove the difficulty, or they will take the course of moving proper amendments to get their point of view discussed in the House and by carrying conviction to the House.

That being so, it is not necessary for me to deal at great length with the various points that have arisen. I therefore, propose to be somewhat brief and to touch upon only those points which may not arise again in the course of the debate.

Mr. Deputy Speaker : Is the Hon. Minister likely to take some time ?

Dr. Ambedkar: Yes, Sir.

Mr. Deputy Speaker: Then the House stands adjourned till 8-30 A.M. on Monday.

The House then adjourned till Half Past Eight of the clock on Monday, the 14th May 1951.

REPRESENTATION OF THE PEOPLE

(No. 2) BILL—*contd.*

*** Mr. Speaker:** The House will now proceed with the further consideration of the motion moved by Dr. B. R. Ambedkar on the 9th May regarding the Representation of the People (No. 2) Bill.

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* P. D. Vol. 11, Part II, 14th May 1951, pp. 8650-57.

The Minister of Law (Dr. Ambedkar): On Saturday last when I entered upon the reply to the general debate on my motion, I said that although a great many points were raised by those who spoke on my motion there were some which were actually covered by amendments and that it was, therefore, unnecessary in the course of the reply to deal with those points because I felt that a better reply could be given when the motions are moved, and I said that I would therefore, confine myself to such points as were made in the course of the debate which were not covered by any amendment. On going over the amendments I found that there are only three points which are of some substance which were made at which I do not find having been made the subject of any specific amendment. It is therefore to these points that I propose to confine myself.

The first such point was made by Babu Ramnarayan Singh and also by my friend, Prof. Ranga. Both of them complained that according to their experience and information the Ministers of the Governments in various Provinces and States were taking very active part in the election campaign and that they were exercising their authority and their influence in order to serve their own political interests or the interests of the party to which they belonged, and that this kind of a misuse of authority and influence was calculated to result in unfair practice against those who did not belong to their persuasion. The suggestion that they made was that there ought to be a provision in this law calling upon Ministers to resign their offices some time before the actual election commenced. It seems to me that this suggestion has not been examined properly either by my friend Babu Ramnarayan Singh, or by Prof. Ranga, because I have no doubt about it that if they do examine the feasibility of giving effect to such a proposal they will find that it would be more or less imposible to give effect to it. In this connection I would like to point out the provision contained in our Constitution. The Constitution makes the President the head of the State. At the same time the Constitution lays down that the President shall not act except on the advice of what is termed the council of Ministers. Therefore, if the President is to act, it is absolutely essential, according to the Constitution, that there

must be in existence at all times a council of Ministers to advise him. We have not got any such provision as contained in section 93 of the Government of India Act, 1935 where under certain circumstances and in certain contingencies the head of the province, namely the Governor, was permitted to act on his own authority without the advice of the Council of Ministers. We have not got any such provision at all. In fact, the whole of the Government will have to be suspended for the period of three months if this suggestion is to be given effect to. Therefore, from the point of view of the Constitution itself the suggestion made is quite impracticable.

Both the Members, Babu Ramnarayan Singh as well as Prof. Ranga, also referred to the conduct of the civil servants who, they thought, either under the positive directions of the Ministers under whom they are serving or because of their desire to flatter and help and to win the goodwill of the Ministers under whom they are serving, were engaged in political activities in which they ought not to engage. I am very sorry to hear of that. If the fact as alleged by either one of them is true, it undoubtedly indicates a great deal of demoralization in the civil servants. It is all the more regrettable because we have taken ample pains in the Constitution and the rules that have been framed thereunder, to give the civil servants the utmost security in the matter of the tenure of their posts in the promotion to which they are entitled to and all the other privileges as to salaries etc. All that was done with the definite intention of giving the civil servants the security which it is necessary for them to have in order to be independent in the matter of administration. if, notwithstanding the security that has been given to them, the civil servants are not standing up to the best of their traditions, all that I can say is this that there has been a great demoralization. But I do not know what remedy one could adopt. As the Bible says. "If the Salt has lost its Savour wherewithal shall it be salted ?" If the civil servants have lost their salt. I do not know how they could be salted. I think we must depend upon the general improvement in the mind of our people as a whole that there are certain moral principles to which we must adhere in the course of our public life.

I hope such an elevation of the moral sentiments will some day come. But if my friend insists that rather than wait for the improvement in the morals of the people we should apply some legal remedy, there again I find that it is not quite so easy. The only remedy that one can think of is to make a law whereby we could make the conduct of a civil servant which is partial to any particular party or which is not strictly in conformity with the rules of administration, penal and subject it to some kind of rigorous sentence. It seems to me that one point in this connection has to be borne in mind and that is a civil servant could not be made liable to prosecution at the will and whim of anybody who feels himselfs wronged by the conduct of such a civil servant. It would be necessary to provide some kind of a previous sanction in order that a prosecution may be lodged against the civil servant. Whose previous sanction shall be required ? Obviously the previous sanction must be the sanction of the Government or of the President.

Prof. Ranga (Madrass)**:** Why not of the Election Commissioner ?

Dr. Ambedkar: Of the Election Commissioner ? Well, I have no idea and I do not want to say anything about the Election Commissioner because the officer, technically is supposed to be under me and I do not wish to say anything which would in any way derogate or depreciate from the authority of that particular officer. But let us admit that some kind of a sanction will be required before a prosecution is launched. Now I wonder whether the Government of the day, whom a particular administrator has helped, would be ready and willing to give its sanction. Therefore, if any such law was made, it would only be a paper law and would not have any effect in practice. It seems to me, therefore, that this is a matter which must be left to public morality and the sanctions of public morality.

The second point to which I wish to refer is a point raised by Mr. Venkataraman. He suggested that in this Bill voting is regarded as a right. His contention was that it should be regarded as a duty, that a citizen of this country should not

merely have the right to vote, but he must have the duty to vote and that he ought to be visited with some kind of a publishment. The sentiment of course is very laudable and no doubt the principle has been accepted in some of the countries such as Australia, Belgium etc. But let us examine the position a little more carefully. If this obligation is to be a real obligation, where in a country like India, according to Mr. Venkataraman himself and according to many others who have experience of elections, there is a general apathy regarding voting, the punishment must be somewhat serious. It could not be five rupees ; it could not be ten rupees. It shall have to be something like one hundred rupees. Now, I wonder whether anybody in this House, however enthusiastic he may be with regard to the point that every citizen ought to exercise his duty, would be prepared to support a punishment so condign, as the one represented by a fine of rupees one hundred. I doubt very much if many Members will come forward to support it. If the punishment is not rigorous enough, then again the law will be of no value at all.

Secondly, in a matter of this sort we will have to grant many exemptions. A voter may be on that day ill. If he is not ill, but finds subsequently that it is brought up before the court, it would not be very difficult to go to a medical man and obtain a certificate by paying eight annas, as most of us in criminal courts do in obtaining postponement of the cases. If he is not his wife may be ill, or she may have been delivered on the same day. All these things would arise and we may have to give a lot of exemption so that the law ultimately may remain to be a bare skeleton.

Shri Bharati (Madras)**:** What about the Australian Constitution ?

Dr. Ambedkar: In Australia almost everybody votes. I think the people who bring themselves within the ambit of this law are very few.

Shri Sidhva (Madhya Pradesh)**:** What is the panalty there ?

Dr. Ambedkar: Five pounds.

My own view is this. I cannot say that I have much of experience of voting. But such experience as I have has given me this idea that the lowest class of people in this country and the highest are politically most conscious. In my experience in my province, the Scheduled Castes, who stand last in the scale of social order, vote to the extent of 80 per cent. I have never found any election in which they have voted less than that. I also feel—and I think I am sure in my statement—that the *Brahmins* in my province vote about 80 per cent. The reason is obvious.

One community is a depressed community. It is conscious of the fact that its moral and material elevation depends upon the place it occupies in the legislatures of this country. Consequently they never waste their time, their energy in anything else, however profitable they may be except to go to the poll and vote on the day when the poll is called. My experience with regard to the *Brahmins* is also the same and my analysis is also the same. They today stand almost on the precipice. Everybody wants to push them out from all the places that they have occupied. Consequently they also know that unless they have a certain amount of solidarity among themselves, that unless each one of them goes to the poll they shall not be able to exercise the influence which they must exercise in order to secure themselves from a harsh pushing out immediately and to secure at least a transition from one stage to another.

Shri Kamath (Madhya Pradesh)**:** Not all *Brahmins*.

Dr. Ambedkar: The class which is apathetic and which does not care to vote is the middle class. Their existence does not seem to depend so much upon the Governmental activity. They have their granaries, if not full, half full and they know that without resort to any kind of Government help they can carry from season to season and from year to year. They therefore do not care about it. That is my experience. Therefore, what we need do at the present moment is to tell those Members who represent the middle class that there is a duty cast upon them, to see that this class becomes politically conscious and to call them to the election so that

they may participate in the same way as those at the top and those at the bottom do. I do not think that any legal remedy is necessary.

Then I come to the last point raised by my hon. friend Mr. Sonavane. It is really no argument that he presented. He wanted to know certain facts. He wanted to know what was the system of voting that was going to be. He was under the impression that there was going to be some kind of marking on the ballot paper as used to be in former times. My friend will know that under the single-member constituency system, with one-man-one-vote, crossing is absolutely unnecessary. Voting now becomes very much like buying a post card, writing the address of the addressee on it and dropping it in the postal box on the road. All that the voter has got to do is to go to the ballot clerk and to obtain the ballot paper which is a blank thing. He will know beforehand that there is a particular kind of coloured ballot box assigned to a particular candidate with a symbol chosen by him, out of the many that are improvised by the Election Commissioner and if he is properly informed beforehand he can take the paper and drop it inside without any necessity for marking. That is going to be the system.

Shri Sonavane (Bombay)**:** What about the colour and symbol ?

Dr. Ambedkar: It is a matter of convenience.

Shri Sidhva: Separate box for each candidate ?

Dr. Ambedkar: Yes, certainly. Otherwise how would it happen ?

There are, Mr. Speaker, the points which I thought I ought to touch upon because they were not covered by any particular amendment. I do not think that there is any other point of a similar sort which requires any explanation at the outset.

With these words, Sir, I commend my motion to the House.

Shri Kamath: May I ask one question ? Though the Law Minister said that he is not in favour of imposing a penalty or fine upon electors who.....

Mr. Speaker: I am afraid he is asking for some explanation and going into the merits.

Shri Kamath: I am asking for information.

Mr. Speaker: It is coming of course, in the form of asking for information ; in substance it comes to an argument again.

The question is:

> "That the Bill to provide for the conduct of elections to the Houses of Parliament and to the House or Houses of the Legislature of each State, the qualifications and disqualifications for membership of those Houses, the corrupt and illegal practices and other offences at or in connection with such elections and the decision of doubts and disputes arising out of or in connection with such elections, as reported by the Select Committee, be taken into consideration."

The motion was adopted.

Mr. Speaker: We will now take the Bill clause by clause. We shall take up clause 2.

Dr. Ambedkar: May I suggest. Sir, that clause 2 is the definition clause and might be taken up last?

Mr. Speaker: All right. Then we shall begin with clause 3 and the consideration of clause 2 will be postponed. I shall call the amendments one by one and hon. Members wishing to move them will please indicate that they want to move them. In case I miss any, my attention may be invited.

***Mr. Speaker:** All right. Let him move his first amendment.

Shri Naziruddin Ahmad: I beg to move.

> In sub-clause (*1*) of clause 3, for the words "A person shall not be qualified" substitute the words "No person shall be qualified".

This is only a verbal amendment.

Dr. Ambedkar: Is each one to be disposed of, Sir ?

Mr. Speaker: Yes.

*P,D., Vol. 14, Part II, 14th May 1951, pp. 8657-58.

Dr. Ambedkar: As the author of the amendment himself has said it is a purely verbal amendment. But I would like to add one more point. That is that the form that has been adopted in the Bill is the form which has been adopted in the Constitution. We would like to follow the form used in the Constitution consistently in all the Bills which relate to this matter. I therefore cannmot accept the amendment.

Shri Naziruddin Ahmad: I do not wish to press it.

Mr. Speaker: Then I am not putting it to the House.

Shri Naziruddin Ahmad: I beg to move.

In sub-clause (*1*) of clause 3 for the words "Parliamentary Constituency" substitute the words "House of the People Constituency".

***Shri Naziruddin Ahmad:** ..... There are a number of amendments and if this is accepted or rejected, it would dispose of a large number of similar amendments. As the expression appears frequently in this Bill, I think it is better not to encourage any confusion of thought.

Dr. Ambedkar: I cannot accept this amendment. In the first place there is no difference in substance. The effect remains the same. All that we are trying to do is to keep up the uniform phraseology which is used in this Act as well as . in the Representation of the People Act already passed. If my hon. friend were to see the definition in sub-clause (*f*) of clause 2 he will see that 'Parliamentary constituency' is defined to mean "a constituency provided by section 6 or by order made thereunder for the purpose of election to the House of the People." Therefore, there is really no difference at all. Secondly, I would like to draw his attention to the interpretation clause, clause 2, sub-clause 1(*a*) where it is stated: "each of the expressions defined in section 2 of the expressions defined in section 2 or sub-section (2) of section 27 of the Representation of the People Act, 1950 (XLIII of 1950), but not defined in this Act, shall have the same meaning as in that Act." Therefore, this is quite unnecessary.

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*P.D., Vol. 14, Part II, 11th May 1951, pp. 8659-60.

Mr. Deputy Speaker: The question is:

In sub-clause (*1*) of clause 3, for the words "parliamentary constituency" substitute the words "House of the People constituency".

The motion was negatived.

***Shri Naziruddin Ahmad :** I believe that the Constitution has laid down that parliament may lay down the qualifications as well as the disqualifications. I suppose the Constitution likes that these articles should be taken advantage of. If Mr. Bhattacharya's argument is going to be carried to its logical conclusion it will set at nought two, or rather four, articles of the Constitution relating to the Central and State Legislatures. I therefore submit that Mr. Bhattacharya has displayed more enthusiasm than wisdom in this respect.

Dr. Ambedkar: When the Resolution was moved by Prof. K. T. Shah some time ago in this House I pointed out to him that his Resolution was very vague, that he had not set out any category of people whom he regarded as specially qualified for standing as candidates to Parliament or to the State Legislatures. We have now from Prof. K. T. Shah distinct categories of people whom he regards as suitable candidates for election to parliament. That is undoubtedly an improvement, because we have got now concrete proposals to consider on their own merits. One thing is quite clear and that is that these are disqualifications for candidature. It means that if the amendment is accepted only a certain category of people who fall in one of the seven categories mentioned here will alone be entitled to stand as a candidate. I hope my friend. Sardar Hukam Singh realizes that although it is not possible to say what will be the total number of people who will become eligible for standing as a candidate if this amendment was accepted, there can be no doubt about it that the number of people who will become eligible for standing as candidates as compared to the vast number of the voters would' be very small. In fact the effect of this amendment would be to create a sort of monopoly for certain people, who by adventitious

*P.D., Vol. 11, Part II, 14th May 1951, pp. 8687-90.

circumstances happen to belong to the categories mentioned in this amendment. I have no doubt in my mind that such a monopoly would be a vicious thing to introduce into the political life of this country. I should also like to state that I am not at all satisfied that merely because a person has intelligence or merely because he has experience, he is the only person necessarily fitted to fill a seat in Parliament. As I stated in the course of the debate, I attach far greater importance to character than to intelligence or experience and the amendment certainly does not ensure that the people who would be elected under the provisions of the Constitution would be of better character. The motive, if I understand correctly, of the Mover of that amendment is to improve the efficiency of parliament generally. I take it that is so. Now, let us examine each of the categories from that point of view. Take the first namely, one year membership of a legislative chamber. I am unable to understand what one year's experience of the membership of a legislature to a person who has no education who is not even literate, can mean in terms of efficiency ? Take the second category; elected member of any local self-governing body like the muncipality or the district local board. Here again the same question arises. I have not got much experience of a municipal corporation or a council. I happen not to have the experience but I have some knowledge of the district local boards and all that I remember is this, that the members of the district local board are generally most anxious to hold a meeting on the *bazar* day so that they can come there, take their travelling allowance, buy their weekly or monthly purchase in the *bazar* and go back. (*Interruption*) I do not know; there may be others and I know that case also, (*some hon. Members:* Not now.) That is my experience. Now in the village *panchayat* I again fail to understand what efficiency can there be in a member who is a villager, who happens to be a member of a village *panchayat*. What are their functions ? What resources have they ? What technical knowledge of administration do they possess ? Take a public servant who has been in service for five years undoubtedly must have certain experience, certain knowledge of all administrative processes, (*interruption*). A public servant, I take it is of a high character. I do not know

if it means a *chowkidar* also. With regard to this category. I am afraid the same observations must apply but if my hon. friend means by 'public servant' an I.C.S. officer or a higher Civil servant, I think there is a possibility of this danger arising. Most public servants are in possession of certain official secrets which they come to know during the course of their administration. I am not at all prepared to disbelieve the possibility that it may be open for a civil servant after he retires and becomes a member of the legislature to use the secret knowledge which he may possess. Take the next case; a teacher of any school, college or university for one year. Take a primary school in the village. What is his knowledge ? What is his information ?

Sardar Hukam Singh: Are these persons debarred from standing ?

Dr. Ambedkar: That is my main argument. I am coming to that. Therefore, I cannot see much in that. Take the next category, volunteer in a recognised association for social service. Will my hon. friend Sardar Hukam Singh permit for instance, the Mahabir Dal to be a body the membership of which would qualify one to stand ? May I mention the R.S.S. and the Akali Dal ? Some of them are very dangerous associations. It may be that one Government may recognize them and another Government may not recognize them, all these posibilities are there.

Shrimati Durgabai (Madras)**:** Can they be excluded ?

Dr. Ambedkar: I am coming to that. What I was trying to submit to the House was that none of the categories which have been set out in this amendment are of such a character as to give anybody the impression that the membership of the particular body to which they belong is such as to make them more efficient members of parliament. I am sorry I give a very positive answer to that question. Now the other thing that I wish to say is this : Is there anything in the Constitution or in the present Bill which can prevent an elector from electing any one of the people mentioned here ? Suppose, for instance, there are two candidates, one who is just a voter and is not disqualified under our disqualifications and as

against him there is a candidate who has been a member of a legislative chamber for one year. Is there anything under which we are required to suppose that the electorate will not give preference to the second man and no the first ? Take each one of these ; they are free to stand aid if the electorate thinks that there is something in them more valuable from the point of view of giving greater efficiency to Parliament, I do not quite understand why the electors will not give preference to these people as against a mere voter who is a citizen and no more. It seems to me, therefore that on these grounds, this amendment is unnecessary and I oppose it.

Sardar Sochet Singh (P.E.P.S.U)**:** You have not said anything about the category of those who are able to read and write Hindi.

Dr. Ambedkar: I replied to it last time. I should have thought that that would certainly create complications. This matter was considered at great length when we were framing the Constitution. Why did we make a provision 'after 15 years' and not make Hindi to come into operation as a national language immediately ? Because, we realised that there were various parts of the country where Hindi was not the language of the people and therefore some amount of time must be given to the people to study. After having recognised that principle, suddenly now to derogate from it seems to me to be going contrary to the sprit of the Constitution.

The motion of Prof. K. K. Bhattacharya was negatived.

***Clause 4.**—(*House of the People membership*).

Shri B. K. Das (West Bengal)**:** I beg to move.

In clause 4, after the words "Jammu and Kashmir" insert the words "or to the Andaman and Nicobar islands".

Mr. Deputy Speaker : Amendment moved **:**

In clause 4, after the words "Jammu and Kashmir" insert the words "or to the Andaman and Nicobar Islands".

Dr. Ambedkar: I accept the amendment.

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*P. D., Vol. 11, Part II, 14th May 1951, pp. 8699-700.

Sardar Hukam Singh: I would request the Hon. Law Minister to consider whether it would not be better to have this amendment in the definition of "election". Sub-clause (d) of clause 2 says :

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> " 'election' means an election to fill a seat or seats in either House of Parliament or in the House or either House of the Legislature of a State other than the State of Jammu and Kashmir....."

So far as Jammu and Kashmir are concerned they are there and the Islands of Andaman and Nicobar may also be put in there, so that there will be no necessity of repeating it anywhere else.

***Shri Hussain Imam :** The difficulty does not arise because the man has to be an elector in any State not necessarily in the State in which he is standing. Therefore the choice of the President is open and he can nominate a person who is an elector in any constituency in India.

Mr. Deputy Speaker: That would exclude the residents of the Andamans and Nicobars. They cannot be registered as electors in any other place because of the residential qualification.

The Minister of State for Transport and Railways (Shri Santhanam): Does "chosen" include nomination also?

Mr. Deputy Speaker: Yes, both election and nomination.

Shri Sidhva: Cannot we amend the language ? The Government will certainly know who is who in the Andamans and they would suggest the name for nomination.

Mr. Deputy Speaker: A person should be otherwise qualified to be an elector and should have residential qualification.

Dr. Ambedkar: The simplest method is to accept the amendment. As you have pointed out the obstacle arises from sub-clause (*d*). We have no parliamentary constituency in the Andamans and therefore this would create difficulty in the

*P. D., Vol. 11, Part II, 14th May 1951, pp. 8701-02.

matter of giving representation to the people of the Andamans and Nicobars. Therefore this amendment in my judgement is a necessary one.

Mr. Deputy Speaker: As to the future it can take care of itself. Any amendment can be moved. It is not as if this Act will stand as it is without any amendment before the next elections. We are all the time gaining experience. The question is:

> In clause 4, after the words "Jammu and Kashmir" insert the words "or to the Andaman and Nicobar Islands".

The motion was adopted.

Clause 5—(*Legislative Assembly membership*).

***Dr. Deshmukh:** May I be permitted to move Prof. Shibban Lal's amendment. Sir ?

Shri Santhanam : These amendments of Prof. Saksena are consequential amendments. They were not allowed earlier on clauses 3 and 4.

Dr. Deshmukh : Does not matter. We can give this facility to State Legislature elections although, it is barred so far as the Parliament is concerned.

Dr. Ambedkar: No. no. The electoral roll is the same.

Mr. Deputy Speaker: Yes.

Shri Sonavane : Sir, I also desire to move two amendments to clause 5 notice of which I have given this morning.

Mr. Deputy Speaker : But I have not got a copy of those amendments.

Dr. Ambedkar: Nor have I got a copy.

Mr. Deputy Speaker : Unless the amendment is given to the Hon. Minister and Government is prepared to accept it, I shall not allow it now.

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*P. D., Vol. 11, Part II, 14th May 1951, pp. 8763-64.

***Shri Naziruddin Ahmad:** But if we put Scheduled Castes and Scheduled Tribes together in part (a) there would be duplication in part (b). But part (b) deals only with Scheduled Tribes and therefore for the sake of greater clarity it is necessary to separate the two parts of part (a), namely the Scheduled Tribes and the Scheduled Castes. With regard to part (b) it should remain as it is. In fact, Scheduled Tribes are of two classes ; Scheduled Tribes in ordinary cases and Scheduled Tribes who have something do with the cantonment or the municipality of Shillong. So, in order to keep the Scheduled Tribes of the cantonment area and the Scheduled Tribes in other areas absolutely distinct, I suggest that the Scheduled Castes and Scheduled Tribes must be treated separately.

Mr. Deputy Speaker: There does not appear to be any ambiguity.

Dr. Ambedkar: There is no ambiguity. Because the Constitution contains two separate articles, it does not follow that we must everywhere give two separate clauses.

Mr. Deputy Speaker: Is it necessary to pursue this matter ?

Shri Naziruddin Ahmad: In view of the unfavourable reception it has received at the hands of the Hon. Minister. I do not think any useful purpose would be served by my pursuing it.

Mr. Deputy Speaker: The question is :

> "That clause 5 stand part of the Bill."

The motion was adopted

Clause 5 was added to the Bill.

Clause *6*.—(*Legislative Council Membership*) as amended, was added to the Bill

*** Clause 7.**—(*Disqualifications for membership*)

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*P.D., Vol. 11, Part II, 14th May 1951, pp. 8705-06.

** *Ibid.,* pp. 8706-12.

Dr. Ambedkar: Sir, I would request you to hold over clause 7.

Shri Naziruddin Ahmad: We should have a clear knowledge beforehand as to what clauses would be taken up. In that case we can concentrate our attention on them.

Mr. Deputy Speaker: I shall ask the Hon. Minister to state in the beginning of each day the particular clauses he proposes to hold over...

Dr. Ambedkar: I do not suppose I would be forced to take any clause out of order, except clauses 7 and probably 9. The rest of the clauses I am quite prepared to take in the order in which they are.

Shri Jhunjhunwala (Bihar)**:** When will these be taken up ?

Dr. Ambedkar: I propose to circulate the amendment this evening. If hon. Members would be prepared to take it up tomorrow I shall have no objection. But if they desire to have time, I shall take it up later. At any rate, I do not want to keep it back for a long time. I am prepared to give one day for Members to consider my amendment to clause 7.

Mr. Deputy Speaker: I think it may be taken up conveniently day after tomorrow for the reason that hon. members may have sufficient time to study it. If the amendments are tabled sufficiently in time, the office will circulate them and hon. Members may come prepared with them.

Clause 8 was added to the Bill.

Clause 9.—(*Disqualifications for membership of electoral colleges*)

Dr. Ambedkar: I would like to hold it over.

Mr. Deputy Speaker: Clause 9 is also held over.

Clause 10.—(*Election to the Council of States*)

Shri Naziruddin Ahmad: I beg to move:

In the heading over clause 10, for the word and Roman letter "Chapter I" substitute the word and Roman letter "Chapter V".

The point is that in this Bill, unlike many other Acts, separate Chapter No. has been given in each part. That would lead to inconvenience in the matter of reference, *e.g.,* whenever we refer to a Chapter, we shall have to say, Chapter so and so of Part so and so. In all other Acts, except of course in the Constitution, namely, the Civil Procedure Code, the Criminal Procedure Code, the Transfer of Property Act and in all other Acts, although there are parts, the Chapter Nos. are not separate with regard to each Part. The result is tremendous convenience. When we refer to a Chapter, we need not refer to the Part. That will lead to the avoidance of a lot of mental botheration. I suggest it as a matter of convenience only.

Dr. Ambedkar: I do not agree with that argument. If dividing the Bill into Parts and Chapters we had also given separate numbers to clauses, that would have created a certain amount of difficulty. But in view of the fact that the number of the clauses is continuous I do not think any difficulty such as the one anticipated by my friend can be really apprehended.

Shri Naziruddin Ahmad : But this is the uniform practice in all the Acts.

Dr. Ambedkar: Never mind uniformity. It depends upon how big the matter is. If the matter is so big that it requires to be divided and sub-divided under appropriate heads I do not see what other method one can follow than giving Parts for broader heads and Chapters for smaller heads which come under those Parts and many other smaller heads which come under those Chapters.

Shri Naziruddin Ahmad: The Hon. Minister says that there should be Parts, Chapters and sub-divisions and further sub-divisions. I do not object to that at all. All that I want is that the Chapter numbers from beginning to end should bear a continuous numbering and that is in accordance with the practice of all Acts.

Dr. Ambedkar: That means that the parts must be omitted, otherwise it would have no meaning.

Mr. Deputy Speaker: If the Chapters have a continuing number and if the Parts also are there it will lead to confusion. We will not know to which particular part it relates.

Shri Naziruddin Ahmad: But that is the practice in all Acts.

Mr. Deputy Speaker: But when the Constitution has set up a new practice, after the Constitution, that is our Bible.

Shri Naziruddin Ahmad: Not in all respects. We are going to change it very soon!

Mr. Deputy Speaker: Very good. Then this will also be changed ! Is it necessary for the hon. Member to press this ?

Shri Naziruddin Ahmad: No. Sir.

Mr. Deputy Speaker: The next amendment is No. 222 which says:

> In sub-clause (*1*) of clause 10 for the words "the Council of States", in line two substitute the words "the first Council of States".

The hon. Member will kindly explain what this amendment is. Or, is he not pressing it ?

Shri Naziruddin Ahmad : I do not know where I am. The House is proceeding so fast that even an acrobat will not be able to follow. I will have to look into the matter.

Mr. Deputy Speaker: The brake is always there at that end !

Shri Naziruddin Ahmad: Could we not adjourn till tomorrow ? We have made very quick progress.

Mr. Deputy Speaker: This must be easy. The hon. Member will take his own time. There is no hurry. In 222 he wants for the words "the Council of States" the words "the first Council of States". Is it because he thinks there is no provision here for rotation ?

Shri Naziruddin Ahmad: Yes, Sir.

Dr. Ambedkar: Rotation is there in sub-clause (2).

Shri Naziruddin Ahmad: I have now got my bearings ! The introduction of the word "first" was suggested to me from a sample which is to be found in clause 11 in the second line—"For the purpose of the first constitution".

Mr. Deputy Speaker: That is in respect of electoral colleges for Part C States. That relates only to a portion.

Dr. Ambedkar: They have no connection at all.

Shri Sidhva: He is puzzled.

Shri Naziruddin Ahmad: Not that they are connected. but as a sample of very good draftsmanship.

Mr. Deputy Speaker: The hon. Member must be satisfied with some bad drafting!

Shri Naziruddin Ahmad: We are already accustomed to it.

Mr. Deputy Speaker: But there does not seem to be any need for this change. So amendment No. 222 is not moved.

I take it that amendment No. 224 is going to be moved. What about 225 ?

Dr. Ambedkar: I have no objection. It can be moved.

Mr. Deputy Speaker: What about No. 228 ?

Shri Naziruddin Ahmad: I shall move that.

Mr. Deputy Speaker: No. 229 is going to be carried out. Then we come to No. 231.

Shri Naziruddin Ahmad : It is a substantive amendment and I will move it.

Mr. Deputy Speaker: Amendment No. 224. The hon. Member is absent. Shall I allow this to stand over ? What is the attitude of the Hon. Minister to this amendment which the hon. Member was discussing with him ?

Dr. Ambedkar: I do not think it is necessary to have that amendment.

Amendment made:

In part (a) of sub-clause (*1*) of clause 10, for the words "orders thereunder" substitute the words "orders made thereunder".

—[*Shri Naziruddin Ahmad*]

Mr. Deputy Speaker: Then we come to amendment No. 231 standing in the name of Mr. Naziruddin Ahmad.

Shri J. R. Kapoor: That amendment is out of order, it cannot be moved as it is.

Mr. Deputy Speaker: Let me see.

Shri J. R. Kapoor: May I refer you to Article 80 of the Constitution, sub-clause 4, according to which only the elected members of any Assembly can elect members to the Council of States ?

Dr. Ambedkar: There is provision for certain nominations for Anglo-Indians.

Shri J R. Kapoor: There may be nominated members but they have no right to participate in the election. There is article 30(4) according to which only the elected Members of any Legislative Assembly can participate in the election of the Members to the Council of States.

Mr. Deputy Speaker: I am afraid this is out of order.

Shri Naziruddin Ahmad : My amendment is out of order ; not I.

Mr. Deputy Speaker: All right, the amendment is out of order, not allowed to be moved

Shri J. R. Kapoor: But, we have come to identify the hon. Member with his amendment.

Mr. Deputy Speaker: The question is :

"That clause 10, as amended, stand part of the Bill."

The motion was adopted.

Clause 10, as amended, was added to the Bill.

Clause 11.—(*Notification for constitution of electoral colleges*).

Mr. Deputy Speaker: Amendment No. 238. I think this will be taken notice of by the draftsmen. Amendment No. 239. I think it is a printer's mistake. It will be corrected by the draftsmen.

Shri J. R. Kapoor: It has already been corrected by the corrigenda.

Mr. Deputy Speaker: There is nothing in the correction slip. Why should this be out to the House ? It is a Printer's mistake. I will ask the office to note it and the Hon. Minister may also note it down so that it may be useful for reference later.

Dr. Ambedkar: There is no corrigenda on the subject. It may therefore be better to accept the amendment.

Shri Santhanam: It is only a printer's mistake.

Mr. Deputy Speaker: Instead of 'this', it has been printed as 'his' That was not the intention of the framers of the Bill. It is only a printer's mistake. Tomorrow, a spelling mistake may occur in the Gazette. I shall in the end formally say that all such formal corrections may be carried out. I am not satisfied that I should bring it to the notice of the House. Once again, a spelling mistake may be committed in the final draft. However, to avoid any difficulty, I will put it to the House. The question is:

> In clause 11, for the words "in his behalf" substitute the words "in this behalf".

The motion was adopted.

Mr. Deputy Speaker: Amendment No. 240.

Shri Naziruddin Ahmad: That is necessary.

Dr. Ambedkar: Singular includes plural. This amendment is not necessary.

Mr. Deputy Speaker: Yes, singular includes plural. The question is:

> "That clause 11, as amended, stand part of the Bill."

The motion was adopted.

Clause 11, as amended, was added to the Bill.

Clause 12.—(*Elections to the House of the People*).

Mr. Deputy Speaker: No amendment is being moved to clause 12.

Shri Naziruddin Ahmad : I suggest amendment No. 246 may be considered.

Mr. Deputy Speaker: But the Member who has proposed it does not want to move it now. What is the particular importance of it ? It says :

> In sub-clause (2) of clause 12, omit the words "in order that a new House of the People may be constituted".

Shri Naziruddin Ahmad : We should supply the machinery only, we need not give the purpose behind it.

Dr. Ambedkar: These words do not do any harm.

Mr. Deputy Speaker : I do not give permission to the hon. Member to move this amendment. It is not necessary.

Dr. Deshmukh: Sir. I want to say some thing ?

Mr. Deputy Speaker: The hon. Member is always late. What does he want to say now ?

Dr. Deshmukh : Sir, I have given notice of an amendment to clause 15, but I find that at this stage it is relevant. There should be some provision, somewhere to say that the first general elections both for Parliament and for the State Legislatures should be held simultaneously, on one and the same day.

Mr. Deputy Speaker : That is going to be the case, to save expenditure. Subsequently there may be bye elections at different times, because some Houses may be dissolved before others and so on. I do not think such an amendment is necessary.

The question is:

> "That clause 12 stand part of the Bill".

The motion was adopted.

Clause 12 was added to the Bill.

Clause 13 was added to the Bill.

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* **Mr. Deputy Speaker:** Let us hear the Hon. Minister.

Ch. Ranbir Singh (Punjab)**:** Sir, so far nobody has spoken in support of the amendment and everybody, who has spoken so far, except Pandit Thakur Das Bhargava, has opposed the amendment. I would request you to give a chance to somebody who is likely to support the amendment.

Shri Syamnandan Sahaya (Bihar)**:** Are you supporting the amendment?

Ch. Ranbir Singh: Yes ; I stand to support the amendment.

Mr. Deputy Speaker: The Hon. Minister would like to intervene. Let us hear the Hon. Minister.

The Minister of Law (Dr. Ambedkar): Yes, I should like to make a few observations.

The object underlying this amendment is, no doubt, very laudable. I do not think that looking at the mere motive and the objective, there could be much objection to the amendment. But, added to the motive, there are certain other provisions contained in this amendment which are intended to give the motive and the object its proper effect. It is from that point of view that I find it difficult to accept the amendment.

The amendment empowers the President to carry out the objects mentioned in this new amendment. No doubt, the Mover of the amendment thinks that the amendment has no political complexion. I should have thought that the introduction of the President in this business is enough to give a political colour to it for the simple reason that although the President, as an individual, as the Head of the State, may be above all parties and party considerations, there is no doubt at all that in giving effect to this particular amendment, the President as usual will have to act upon the advice of the Ministry. No one can have any doubt that the Ministry is a political institution of the day. It is therefore very difficult.....

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*P.D., Vol. 12, Part II, 15th May 1951, pp. 8755-57.

Shri Kamath: This is an all-parties Ministry.

Dr. Ambedkar: That is a different thing. It is therefore very difficult to be sure in the interests of fair elections that nothing will be introduced in the text of the Message which may not be objected to by some political party. I submit, therefore, that it would be wrong to bring in the President in the political arena charged with emotion and bitter feelings as it is likely to be in the course of the elections.

Another thing I find is that the amendment speaks of the purposes being carried out by a prescribed authority. There is no mention in this amendment as to what is to be this prescribed authority, or who is to prescribe this particular authority. Again, if the prescribed authority is to be the State Governments in the various parts of India or the administrative agents who are working under the State Governments, there again, we are introducing a very dangerous political instrument in a proposition which, apart from all other things, is, no doubt, as I said, very laudable. Again, the requirement that it shall be read in every village, and every *mohalla* seems to me to demand too much from the administrative machinmery. What is to happen if the Message is not read in some villages and in some *mohallas ?* Is the election to be held over until that requirement is satisfied? There is no mention about it in the whole of this amendment. Therefore, from political and administrative points of view, I think the amendment is a very impracticable one.

However, there is I think, another aspect of the matter which might be taken into consideration in determining one's view as to whether this amendment is to be accepted or not accepted. Supposing there was no such amendment as suggested by my friend, is it not possible to suppose that the purpose of this amendment will be given effect to by the various political parties themselves ? I am sure about it that every party will cherish the underlying object and therefore, I cannot see what can prevent all the political parties and each one of them, trying to issue some kind of a message as is mentioned in the opening part of this amendment, that there is our Constitution which has got a Preamble and we

are supposed to give effect to the Preamble and to the Fundamental Rights and the Directive Principles. So let each one of us try our level best to select the proper candidates in order to give effect to the Fundamental Rights and the Directive Principles and the Preamble to the Constitution. I therefore submit that even if such an amendment were not to be carried—and I think it cannot be carried by reason of the administrative difficulties I have referred to—the purpose of it would undoubtedly be given effect to by the various political parties. I therefore suggest that rather than accept this amendment I would leave the matter to the various political parties to give effect to it in the best way they think it can be done.

Shri Kamath : Is the Hon. Minister not in favour of every political party making free use of the radio ?

Dr. Ambedkar: I think that is a matter which really requires to be considered. I have paid some attention to this question of the radio, both in England and in Australia. When the question is raised at the appropriate stage. I shall be glad to make such observations as I can profitably make for the House.

Mr. Deputy Speaker: Is it necessary to pursue this matter after what the Hon. Minister has just now stated ?

Clause 14 to 16 were added to the Bill

Clause 17.—(*Definition*)

***Shri Naziruddin Ahmad** (West Bengal)**:** The point is we have two Councils. In order to prevent confusion we should call the State Council as Legislative Council as we call the Upper House as Council of States.

Dr. Ambedkar: I do not accept it. All these terms are defined in the Representation of the People Act.

Shri Naziruddin Ahmad: Then I do not press the amendment.

*P.D., Vol. 12, Part II, 15th May 1951, pp. 8764-65.

Mr. Deputy Speaker: The question is :

"That clause 17 stand part of the Bill."

Clause 17 was added to the Bill.

Clause 18.—(*Returning Officer for each Constituency*)

Sardar Hukam Singh (Punjab)**:** I beg to move.

In clause 18, for "who shall be such officer of Government as" substitute "whom".

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* **Dr. Ambedkar:** It is difficult to accept this amendment. I agree with my friend Sardar Hukam Singh that we might to some extent depend upon non-official agency. Certainly our election would be much quicker if we can expand the staff under the Election Commissioner by drawing upon people who are not in the administrative service of the Government. But at the same time we have to recognise that all the Governments and bodies whom the Government of India had consulted in this matter have insisted that the machinery should be entirely official. That being so I am afraid it is not possible to accept the amendment.

****Shri J. R. Kapoor:** I beg to move:

In the proviso to sub-clause (2) of clause 20, at the end, add :

"In which case the seniormost Government servant among the Assistant Returning Officers shall perform the said functions."

Mr. Deputy Speaker: Who is to decide as to who is the seniormost ?

Shri J. R. Kapoor: The answer is very simple. There is a civil list which gives the seniority of officers.

Mr. Deputy Speaker: But if they are from different Departments ?

Shri J. R. Kapoor : If the point is that my suggestion does not solve difficulty, we can find out some method by which

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*P. D. Vol. 12, Part II, 15th May 1951, p. 8765.

***Ibid.,* pp. 8774-75.

it could be specifically laid down as to which one of the Assistant Returning Officers should perform the functions. If there is any difficulty in accepting my amendment in the present form, this might be kept in mind in forming rules. My object is that nothing should be left to uncertainty.

Dr. Ambedkar: I do not accept this amendment. It should be remembered that we are dealing with three functions; acceptance of nomination paper, scrutiny of nomination papers and the counting of votes in certain contingencies. It does not seem to me that any of these functions are of such a special character as to require an officer of such a type that in him only we can put confidence and in no other. Unless my friend is able to satisfy me that these functions are such that they require some kind of a special character or confidence in the officer, I do not see why one assistant Returning Officer should not perform these functions in the same manner as any other.

Shri J. R. Kapoor: That is the presumption in the proviso.

Dr. Ambedkar: The idea of my hon. friend is to grade officers ; the seniormost, the next seniormost, the juniormost, etc. I do not understand why this should be done unless the functions are of such a character that we must be sure that the man in whom we can lodge the highest confidence is the man who should perform it. And it might create administrative difficulties as well.

Mr. Deputy Speaker: I think there is one point in the amendment. The Election Commission may appoint one or more Assistant Returning Officers to assist the Returning Officer. Let us assume that two persons are appointed and suddenly the Returning Officer stays away without leaving any instructions. There are two persons on the spot. Which of them is to Act ?

Dr. Ambedkar: Any one of them may

Mr. Deputy Speaker: Suppose each one thinks it is the duty of the other man. What happens ?

Dr. Ambedkar: Suppose there are two Benches. Whichever Bench is there, the Registrar of the High Court puts the case before the Bench and the Bench hears it. One may go to one and another to the other.

Pandit Munishwar Datt Upadhyay: One may pass one order and another may pass another order.

Mr. Deputy Speaker: How can that be ?

***Shri Raj Bahadur** (Rajasthan)**:** That word 'unvoidably' is very important. In my humble opinion, the amendment that has been moved by Mr. Kapoor is not worthy of acceptance, in so far as it is specifically provided that no assistant Returning Officer shall, subject to the control of the Returning Officer, be competent to perform all or any of the functions. The Returning Officer has got to supervise and control in the discharge of that function. He can nominate one of his Assistants to perform a particular job. It is perfectly within his competence as a Returning Officer and in the exercise of his control to select one out of so many of his assistants to do a particular job. Where there is a difficulty, he can appoint one of them.

Shri P. Basi Reddi: How could he authorise ? Suppose by accident he is prevented on the way, what will happen ?

Dr. Ambedkar : I am afraid that a large number of bogeys are being raised in order to press a point to which some people seem to be quite attached. The position is this and I think lawyer Members would understand what I am saying.

Shri Sidhva: Quite the contrary.

Dr. Ambedkar: We know in law the distinction between what is called 'court' and what is called *persona designata*. In certain cases although a person may be a member of the court or forming a court for certain other purposes, he is specifically designated, so that he himself must perform the functions and he is not a 'court'. The same principle

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*P. D., Vol. 12, Part II, 15th May 1951, pp. 8780-83.

underlines this. The Returning Officer—whoever is appointed beccomes a *persona designata*—must perform personally those functions. Then the proviso says that although he is a *persona designata* and must perform some of the functions mentioned in the proviso, in certain circumstances, namely, those mentioned in the last sentence of the proviso, the other persons who are working under him, that is, the Assistant Returning Officers shall become *persona designata and* step into his shoes. That is what it means.

Pandit Manishwar Datt Upadhyay : Which of them ?

Dr. Ambedkar: Any of them may step into his shoes. I do not understand it but my hon. friend Mr. Santhanam said that at the most there might be one. Well we will take the other contingency that there are two. Supposing if two are sitting, both of them are *persona designata*. Any one can go to A or to B and both of them can discharge the functions of a Returning Officer.

Pandit Thakur Das Bhargava: The difficulty will arise about scrutiny of the nomination papers by each Assistant Returning Officer acting as Returning Officer.

Dr. Ambedkar: I am sorry and I want to draw attention to the fact that rather inadvertently I accepted Mr. Naziruddin Ahmad's amendment for substituting the word 'functions' for the word 'function' I think that is not correct. The original word is singular, that is, 'function' is the correct one and that is where the difficulty has arisen because he may be absent on the day of nomination. The Returning Officer may be present on the day of scrutiny and so the scrutiny will be done by him.

Mr. Deputy Speaker: This can be corrected only in the third reading by amendment.

Dr. Ambedkar: I want to draw attention to the fact that because an Assistant Returning Officer accepts the nomination papers he must also perform the function of scrutiny and he must also perform the function of counting. That is not so.

Shri Hanumanthaiya: The difficulty is about the words "unavoidably prevented" and that may be a subject for interpretation in a court of law.

Dr. Ambedkar: What is the other word that you will supply?

Shri Hanumanthaiya: I will suggest a solution. Instead of the words 'unavoidably prevented' let the word 'absent' be used. Then there will be no controversy.

Dr. Ambedkar: I do not want him to be absent. That is my point. Once he is appointed to perform the duty and especially when he is regarded as a *persona designata* it should be obligatory upon him that notwithstanding other functions, he must attend to this function first.

Shri Hanumanthaiya: Then it can easily be answered in a court of law. 'Unavoidably prevented' is a matter of proof.

Dr. Ambedkar: It may be a matter of proof.

Shri P. Basi Reddi: Why not give previous authorisation to one of the Returning Officers ?

Mr. Deputy Speaker: He has answered that point. This argument is getting endless. If he was not really unavoidably prevented and if it is only a question between the Returning Officer and the Assistant Returning Officer, it does not matter. The point is that the election may be called in question. Is there any posibility to rectify this?

Dr. Ambedkar: I think that is a matter between the Election Commissioner and the Returning Officer so far as I can interpret it.

Shri T. T. Krishnamachari (Madras)**:** In sub-clause (2) the words are: "Every Assistant Returning Officer shall, subject to the control of the Returning Officer, be competent to perform all the functions etc." So this is the only limitation.

Dr. Ambedkar: The last portion is not the enacting portion; the earlier portion is the enacting portion. The Election Commission may take the Returning Officer to task if it came to know that he absented himself without any unavoidable reason.

Shri Hanumanthaiya: As the Deputy Speaker pointed out, it may be between the Returning Officer and the Assistant Returning Officer but what about the candidates in the election ?

Dr. Ambedkar: It is quite enough for the candidate to prove that the Returning Officer was absent. Whether he was absent for any unavoidable reason or not is a matter to be regulated by the Election Commissioner.

Pandit Thakur Das Bhargava: It has to be proved whether he was unvoidably prevented or not.

Shri Raj Bahadur: May I put a question to Mr. Hanumanthaiya ? Who will decide whether the absence was unavoidable or not; Election commissioner or the officer concerned ? The Election Commissioner knows whether he was unavoidably absent or not.

Pandit Thakur Das Bhargava: The Tribunal shall have to decide if he was unavoidably prevented.

Shri Shiv Charan lal (Uttar Pradesh) **:** I think it will be all right if only one line is added, that if there are more than one Assistant Returning Officer, the Returning Officer shall nominate one of them as the seniormost one.

Mr. Deputy Speaker: That has already been said. That is Mr. Kapoor's amendment. Now, I shall put Mr. Kapoor's amendment to the House.

Shri Hanumanthaiya: I want to make a motion...

Mr. Deputy Speaker: That we will come to later.

Shri Hanumanthaiya : With respect to this clause I make a definite motion that this clause may be taken up later for consideration.

Mr. Deputy Speaker: The question is:

> "That further consideration of clause 20 be postponed."

The motion was negatived.

***Shri Barman :** Let me make the position clear, from my personal experience. In my constituency, two districts are tagged together and the Divisional Commissioner is the Returning Officer. We have all along been submitting our nomination papers to the personal assistant. This has gone so for a very long time.

Dr. Ambedkar : If I Understand the hon. Member correctly, what the amendment means is this. In the Proviso as it stands, three functions can be performed by the Returning Officer, or the Assistant Returning Officer in the absence of the Returning Officer. They are : acceptance of nomination paper, scrutiny of nominations and the counting of votes. What my hon. friend wants by his amendment is that only two functions may be performed, that is scrutiny of nominations and counting of votes.

Mr. Deputy Speaker : The wording is, shall not perform these two unless the other is unavoidably absent.

Dr. Ambedkar : There is no such thing in amendment No. 284.

Shri Barman : I want elimination of that clause only.

Dr. Ambedkar : That is the sub-clause relating to acceptance of nomination paper and the rest will remain ?

Shri Santhanam : Both the Returning Officer and the other Assistant Returning Officer will be *persona designata*. That will be the result.

Shri Barman : So far as scrutiny and counting of votes are concerned, they are important and they should remain with the Returning Officer. In case he is unavoidably absent, some other Assistant Returning Officer may do them.

Dr. Ambedkar : There is a vast difference between the two sides.

Shri Barman : But, so far as acceptance of nomination paper is concerned, my submission is this. This filing of nomination papers goes on for days together. If the Returning

*P.D., Vol. 12, Part II, 15th May 1951, pp. 8784-86.

Officer alone is authorised to accept them, then he will have to be present all the 24 hours in the station. That is not always possible.

An hon. Member : It is only from eleven to three.

Shri Barman : But, it goes on all the days. Even the assistant receives the nomination papers. He will only have to scrutinise whether the nomination paper tallies with the voters' list, and whether the deposit has been made. Scrutiny is done by the Returning Officer on a fixed date.

Dr. Ambedkar : I do not understand why my friend is objecting to the acceptance of the nomination paper by a highly important officer such as the Assistant Returning Officer and prefers to lodge the paper with an assistant.

Shri Santhanam : The point is that the Assistant Returning Officer should be able to accept the nomination paper at any time without reference to the Returning Officer.

Mr. Deputy Speaker : The proviso says that the Returning Officer alone shall perform these functions. Three categories of functions are taken away from the Assistant Returning Officers. Normally, all the functions which a Returning Officer can discharge, can also be discharged by the Assistant Returning Officers. The earlier portion of the proviso says that these following three functions shall not be discharged by the Assistant Returning Officers except under an extraordinary circumstance, namely, that the Returning Officer is unavoidably prevented from performing the said function. Out of these three categories, he wants to remove one category. That means, that it is only in the case of scrutiny and counting of votes that the Assistant Returning Officers shall be prevented from discharging them unless the Returning Officer is unavoidably prevented. With respect to the acceptance, even if the Returning Officer is there, the Assistant Returning Officer may receive. Or, if he is not there, his unavoidably being prevented from performing the said function does not arise. Let us assume that he is not unavoidably prevented. He may come in at any time. The Assistant Returning Officer may receive. There is no harm. With respect to scrutiny and

counting of votes, he must be satisfied that the Returning Officer is unavoidably prevented. Let not the Assistant Returning Officer but in and exercise the functions of the Returning Officer which are of a more onerous nature. For receiving nomination papers, simultaneously he can receive. Suppose the Collector is the Returning Officer. The Deputy Collector who may be the Assistant Returning Officer will say, the collector is there and he will receive. That would normally happen. This appears to be reasonable. I leave it to the Hon. Minister.

12-00 NOON

Dr. Ambedkar : No change in the proviso is necessary. As we know, a lot of *gol-mal* takes place.

Shri Bharati : We would like to know what acceptance means really. Does it mean merely receiving the nomination or the final acceptance of it, which implies final rejection also in some cases ?

Mr. Deputy Speaker : It merely means scrutiny immediately at the first stage and receiving it. It is not the final acceptance.

***Clause 22.**—(*General duty of the Returning Officer*)

Shri Naziruddin Ahmad : I beg to move :

In clause 22, for "It shall be the general duty" substitute "It shall be the duty".

Mr. Deputy Speaker : There is a presiding officer at a polling station and it is the special duty of the polling officer to receive papers. Likewise those are special duties. It is the general duty of the Returning Officer to arrange for these.

Shri Naziruddin Ahmad : If we say "It shall be the duty" of the officer, it will be general duty.

Dr. Ambedkar : I do not think that any harm can arise by the retention of the word 'general'. I have examined the matter and have seen that this clause is an exact verbatim reproduction of the English law. That also contains 'general'.

*P. D., Vol. 12, Part II, 15th May 1951, pp. 8790-91.

Mr. Deputy Speaker : The question is :

In clause 22, for "It shall be the general duty" substitute "It shall be the duty".

The motion was negatived.

Mr. Deputy Speaker : The question is :

"That clause 22 stand part of the Bill".

The motion was adopted.

Clause 22 was added to the Bill.

Clause 23.—(*Provision of polling Stations etc.*)

Shri Venkatraman : As regards amendment No. 294 in the Consolidated List, I thought the Hon. Minister might say that he would include it in the rules.

Dr. Ambedkar : Such a provision will be made in the rules.

Shri Venkataraman : Then 1 do not move it.

Dr. Ambedkar : As regards amendment No. 295 of the Consolidated list, this also will be considered in the framing of rules.

Shri J. R. Kapoor : With regard to the second part of my amendment No. 293 of the Consolidated List, I understand that Law Minister is prepared to incorporate such a thing in the rules in which case I will not move the amendment.

Dr. Ambedkar : Yes.

Mr. Deputy Speaker : I will now put the clause to the House.

***Shri Shiv Charan Lal :** What I submit is this. If the Government is going to be very strict about any sort or conveyance being prohibited, the distance should be shortened. The polling stations should be more in number.

Dr. Ambedkar : Five points have been raised and I have been asked to make a statement on each one of them. The

*P. D., Vol. 12, Part II, 15th May 1951, pp. 8806-9.

first point is, the number of polling stations. I have been asked to say whether the Government would so arrange the polling stations that not more than a certain number of voters would be clustered or fixed for a particular station. It is very difficult for me to commit to any particular figure. But, I can say this that the Government will undertake to fix the number of polling stations on such a scale that from the point of view of the capacity of a polling station to put through a certain number of voters and from the point of view of distance, the polling stations would be so arranged in their numbers that no voter who is willing to vote and present himself to the officer for voting will have to go disappointed either on account of distance or on account of over-crowding.

The second question that has been raised is the fixation of the polling stations. I have been asked to say whether the authority of the election Commissioner in this matter would be final or whether there would be an opportunity for the persons interested to make representations to the Election Commissioner. It is quite obvious that persons, either voters or candidates, might be interested in having a particular polling station fixed at a particular place from the point of view that that suits them or gives them an advantage over certain other candidates. Obviously, no candidate or no voter could be allowed to have the final say in this matter. The ultimate authority must remain with the Election Commissioner. But, I am prepared to say this that arrangements would be made whereby before the election Commissioner finally fixes the polling stations, he will either invite representation or consult the people concerned in the matter before he makes his final decision.

Then I come to three other points which relate to the conduct of elections. One is the despatch of a voting card by Government to each voter. The second is the despatch on account of Government of an election manifesto of a prescribed length to each voter and the third is the supply of electoral rolls on a concessional basis. The House will realise that it is very difficult for me to commit the Government on this matter, by giving a definite opinion or assurance, for it involves finance. But speaking not as a member of the

government, but as a Member of the House. I have great sympathy with the first two proposals, namely, the despatch of the voting card and the despatch of an election manifesto. With regard to the supply of the electoral roll, it seems to me that if Government were to undertake the despatching of a voting card to such individual voter, the necessity for the supply of electoral rolls on a concessional rate or more copies than one, does not appear to me to be urgent. After all what a candidate does after putting the electoral roll is to come into contact with the voter and tell him his number and also the polling booth at which the elections will take place.

Dr. Deshmukh : What about the canvassers ?

Dr. Ambedkar : Well, I do not know whether any particular candidate will be so lucky and fortunate as to have the means to employ such a large number of canvassers as to put the candidate actually in touch with each voter. It seems to me quite an impossible task. The candidate must rely upon his own individual personality and depend on how far he is known to the public, and if he is already not known, do something by which he becomes notorious in the district so that everybody may know him (*an Hon. Member :* Notorious ?) Famous or notorious, whatever it may be.

I can quite understand that each candidate must have at least one set. Without that he cannot manage and that must not be prohibitive in price. Although I said that it involves financial consideration and I could give no assurance without consulting Government on this matter, I feel that the task of undertaking this responsibility has considerably eased on account of the suggestion made by Mr. Kapoor that there should be no great objection for distributing the cost between the Government and the candidate. I think that is a very reasonable and feasible proposal and I can assure the House that I will put this matter before Government and ask them to come to their own conclusions.

Dr. Deshmukh : Will this decision be announced during the course of the passage of this Bill ?

Dr. Ambedkar : Well, before you stand for election I will announce it.

Mr. Deputy Speaker : Order, order. I take serious objection to the Members moving about like this. A certain degree of decorum has to be maintained here.

The question is

"That, clause 23 stand part of the Bill."

The motion was adopted.

Clause 23 was added to the Bill.

Mr. Deputy Speaker : And the new clause 23A is not moved. Is there time to take up clause 24 ?

Hon. Members : No, Sir.

The House then adjourned till Half Past Eight of the clock on Wednesday, the 16th May, 1951.

REPRESENTATION OF THE PEOPLE (No. 2)—*contd.*

***Clause 24.**—(*Presiding officer for polling stations*)

Mr. Speaker : Amendment moved :

In sub-clause (1) of clause 24, for the words "in or about the election" substitute the words "in the election in question".

The Minister of Law (Dr. Ambedkar) : I do not accept it.

Mr. Speaker : Shall I put to vote both the amendments Nos. 299 and 300 ?

Shri Naziruddin Ahmad : I should like amendment No 299 alone to be put to vote. If that is rejected, amendment No. 300 does not arise.

Shri T. T. Krishnamachari (Madras) **:** May I ask the Hon. Law Minister to explain what he means by the words 'about the election' in the amendment ?

Dr. Ambedkar : The answer is simple. The word 'election' may be used in a narrower sense, that is to say the act of election, when polling takes place. On the other hand an election may have a larger context, of other acts relating to an election, that is to say other than polling. This is the reason why the words are there. They are exactly the words from the English statutes.

Prof. Ranga (Madras) : May I ask for an elucidation ? There are a lot of people who are Presidents and Vice-Presidents of Local Boards and also Ministers and Deputy Ministers. They have a number of these subordinates in the constituencies in which they stand as candidates. Would it be open to a Returning Officer to appoint such of the employees who are directly under their control as Polling Officers according to this provision ?

Dr. Ambedkar : I do not think any difficulty arises so far as this particular clause is concerned. All that it says is that any person who is employed by the candidate in or about the

*P. D., Vol. 12, Part XII, 19th May 1951, pp. 9098-9105.

election shall not be appointed as polling officer. If there is a servant of the District Local Board or the Municipal Board who is not so employed, he is free to be appointed.

Dr. Ambedkar : I do not think this amendment is necessary because the Returning Officer shall be a Government officer and if he fails to discharge his duty, he would certainly be liable to action either under the rules of conduct for the Government servants or under any law for misconduct.

Prof. Ranga : Or under the Rules under this Act.

Mr. Speaker : Does the hon. Member want me to put the amendment to the House ?

Shri S. N. Das : No, Sir.

Clause 28.—(*Appointment of dates for nominations*)

Mr. Speaker : Let me take the printed list. Master Nand Lal is absent. Mr. B. K. Das.

Shri B. K. Das (West Bengal) **:** Not moving, Sir.

Shri M. V. Rama Rao (Mysore) **:** Not moving. Sir.

Mr. Speaker : There are a number of amendments to clause 28 in the Supplementary List No. 1. I think the better course for me would be to put all the amendments of hon. Members that are here and then if any Member is left out, it will be his business to rise up. Amendment No. 76 in Supplementary List No. 1. Mr. Naziruddin Ahmad.

Shri Naziruddin Ahmad : Not moving.

Dr. Ambedkar : This has been disposed of already. This is an amendment which he has been moving all along for the purpose of changing the Chapters.

Mr. Speaker : He is not going to move it.

Shri Hussain Imam : Sir, the Hon. Minister of Parliamentary Affairs himself is standing when the Speaker is on his legs.

Shri R. K. Chaudhuri : Only small fries are caught.

Mr. Speaker : No question of big or small fries.

Dr. Ambedkar : I think Mr. Chaudhuri may devote his attention to more serious matters.

Mr. Speaker : In view of the time taken and in view of the points of order raised here. I think I had better say that those hon. Members who want to move their amendments may please stand up. No other ?

Several Hon. Members : No, Sir.

Shri Naziruddin Ahmad : I beg to move :

In part (c) of clause 28, for the words "date for the scrutiny" substitute the words "date appointed for the scrutiny".

My reason for bringing in this amendment is that the words "date for scrutiny" are rather loose and the words that I have suggested, *i.e.* "date appointed for the scrutiny" are more precise.

Dr. Ambedkar : I do not accept it.

Mr. Speaker : The question is :

In part (c) of clause 28, for the words "date for the scrutiny" substitute the words "date appointed for the scrutiny".

The motion was negatived.

Shri Naziruddin Ahmad : I beg to move :

In part (d) of clause 28, for the words "if necessary" substitute the words "where necessary".

The existing words "if necessary" indicate a condition precedent; but the words suggested by me, *i.e.* "where necessary" refer to the occasion.

Dr. Ambedkar : I am not accepting it.

Mr. Speaker : The question is :

In part (d) of clause 28, for the words "if necessary" substitute the words "where necessary".

The motion was negatived.

Shri Meeran : I now move amendment No. 328 standing in my name, in a slightly amended form which is acceptable to the Hon. Law Minister. I beg to move :

*P. D., Vol. 12, Part II, 19th May 1951, pp. 9114.

After sub-clause (5) of clause 31, insert the following new sub-clause :

> "(5a) If at the time of the presentation of the nomination paper the Returning Officer finds that the name of the candidate is not registered in the electoral roll of the constituency for which, he is the Returning Officer, he shall for the purposes of sub-section (5) require the person presenting the nomination paper to produce either a copy of the electoral roll in which the name of the candidate is included or a certified copy of the relevant entries in such roll."

I don't think I need say much on this because the Hon. Minister has agreed to this amendment.

Mr. Chairman : Amendment moved.

Dr. Ambedkar : I have also given notice of an amendment to the same effect. So I agree to this amendment.

Shri Syamnandan Sahaya : I also had an amendment to clause 5 in this connection. My feeling is, why should the huge cost of supplying copies of the electoral rolls which is going to be heavy, be borne by the candidate ? Why should not a copy of the relevant entries of the electoral roll of the constituency only be produced ?

Dr. Ambedkar : The word there is "or".

Shri Syamnandan Sahaya : Yes, I am trying to explain. The option in this case lies with the Returning Officer.

Shri R. K. Chaudhuri : I strongly object to the amendment which has been moved by my hon. Friend. But in order to bring about a uniformity of decisions of all the Returning Officers in different places, it would I think be better to substitute the word "shall" for the word "may".

Shri Shiv Charan Lal (Uttar Pradesh) **:** I do not think that there is room for any fear, as expressed by my hon. friend Prof. Ranga and Shri Syamnandan Sahaya that the Returning Officer may not correct nomination papers, because it has been clearly laid down in section 34 that no nomination paper will be rejected on the ground of any technical mistake. Therefore,

whether he corrects it or not, it is not in his power to reject a nomination paper on the ground of technical mistake.

Shri Rudrappa (Mysore) **:** ..... There may be so many cases in these nomination papers where the date of birth has to be filled and if the candidate is living in the village he cannot get the date of birth.

Mr. Chairman : Date of birth ?

Shri Rudrappa : That will be one of the items. I am giving an instance. There will be the required age—above thirty or twenty years. How he may find out and put the correct date of birth, if necessary ..... There must be some scope for the Returning Officer to rectify these clerical errors and technical mistakes. If such a provision is not included, I think it will result in very great injustice to many and it will also result in great litigation even after the election. Therefore this provision is quite necessary in the interests of the candidates as well as in the interest of the elections and the electors themselves.

Dr. Ambedkar : I do not accept the amendment.

Shri Syamnandan Sahaya : Then I would like to withdraw it.

The amendment was, by leave, withdrawn.

Shri Syamnandan Sahaya : There is another amendment in my name (No. 14 in Supplementary List No. 3). This also is an attempt to clarify the position. The amendment reads :

In the first Proviso to sub-clause (3) of clause 31, after the word "candidate" occurring in line 2. Insert the words "for the reserved seats".

The proviso reads like this :

> "Provided that in a constituency where any seat is reserved for the Scheduled Castes or for the Scheduled Tribes, no candidate shall be deemed to be qualified to be chosen to fill that seat unless his nomination paper is accompanied by a declaration verified in the prescribed manner that the candidate is a member of the Scheduled Castes or of the Scheduled Tribes for which the seat has been so reserved....."

Now, we have in our experience found that sometimes the Returning Officers take queer views. Otherwise many difficulties in the matter of these nominations would not have arisen and there might not have been so many election petitions and cases. I therefore desire to clarify the position by adding the words " for the reserved seats" after the word "candidate".

Mr. Chairman : Has the hon. Member seen the words "to fill that seat" in the proviso ?

Shri Syamnandan Sahaya : Yes, Further on also it is said "for which the seat has been so reserved". I have seen all that. But I am suggesting the addition just to clarify the matter, because after all wherever there is a reservation there is one seat reserved and the other is a general seat. So if we add these words it appears to me to be a little clearer.

Dr. Ambedkar : There is no ambiguity and no such clarification is necessary.

Shri Syamnandan Sahaya : Then I will not press it.

Pandit Munishwar Datt Upadhyay (Uttar Pradesh) **:** I do not wish to move my amendment No. 317 in the Consolidated List but I want to make a suggestion to the Hon. Minister which he may accept.

My submission is that the phrase "and who is not subject to any disqualification mentioned in section 16 of the Representation of the People Act, 1950" is redundant and absolutely unnecessary ..... Why should we have so many words and so many lines unnecessarily although they do not add anything to the meaning ? That is what I would like to submit.

Dr. Ambedkar : It is an economy measure, I understand.

Pandit Munishwar Datt Upadhyay : As a matter of fact these words are absolutely unnecessary, because if he is an elector then he is not disqualified in that manner. Because that is the qualification of an elector given in the section to which it refers, that is section 16 of the Representation of the People Act, 1950. So I submit that it is absolutely redundant.

Dr. Ambedkar : It is better to be redundant than to be ambiguous.

Pandit Munishwar Datt Upadhyay : I do not think there would be any ambiguity.

Mr. Chairman : The Hon. Minister does not accept it.

***Pandit Munishwar Datt Upadhyay :** Before the existing proviso to sub-clause (2) of clause 31, insert the following new proviso :

> "Provided that any person whose name is registered in the electoral roll of the Constituency can subscribe as proposer or seconder on more than one nomination paper for the same candidate."

That point has not been provided for. It may be that he has signed one nomination paper. There may be some doubt about the entries. The same person as proposer can file more than one nomination paper in respect of the same candidate. I think that that should be allowed, and has been allowed in all the Election laws wherever they have been made. I think the Hon. Minister will have no objection to accept this.

Dr. Ambedkar : I cannot accept that.

Mr. Chairman : I am not going to put it to the House.

Shri A. C. Guha (West Bengal) **:** I want a clarification on this point.

Mr. Chairman : The point has been disposed of. The amendment has not been moved.

Shri A. C. Guha : I want a clarification whether it is the intention of the Government that a person cannot sign more than one nomination paper for the same candidate.

Mr. Chairman : The amendment has not been moved and it is not put to the House.

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*P. D., Vol. 12, Part II, 19th May 1951, pp. 2128-29

Shri Sonavane (Bombay) **:** I want some explanation as regards the first proviso to sub-clause (3) of clause 31, which says :

> "...unless his nomination paper is accompanied by a declaration verified in the prescribed manner that the candidate is a member of the Scheduled Castes or of the Scheduled Tribes for which..."

Dr. Ambedkar : That was discussed.

Shri Sonavane : I want some explanation. As regards the nomination of a Scheduled Caste candidate. I would like to know what would be the procedure of this verification in the case of a reserved seat. It is stated here, "declaration verified in the prescribed manner". The procedure may be laid down by the rules. As far as I know, the rules will not come before the House in spite of the wish expressed by me. Therefore, we would like to know what would be the procedure for the verification. Otherwise it would be very difficult for us. Suppose, we were asked to go before a magistrate, and sign an affidavit it will take a long time. If it is a simple procedure, say, obtaining a certificate from Dr. Ambedkar, who is a leading Member of the Scheduled Castes, that should be a sufficient and acceptable, that should be a sufficient verification. We should not be asked to go to a tout, wait there, and do all sorts of things. Suppose there is a local J.P. and if he gives a certificate to the effect that a person belongs to the Scheduled Castes, such a certificate may be accepted. At the eleventh hour, a person may choose to send his nomination and contest the elections. If he has to go through all this procedure, it would be very hard for him. Therefore in the interest of the simplification of the procedure. I would request the Hon. Law Minister to see that such an ordinary procedure is followed. If a respectable person of the locality or a Justice of the Peace gives a certificate that should be accepted.

Shri Ramaswamy Naidu (Madras) **:** In the second proviso to sub-clause (3) of clause 31, the last portion reads as follows :

> "..... unless the nomination paper is accompanied by a declaration verified in the prescribed manner that the candidate is a member of any of the Scheduled Tribes of that district....."

I wish to know whether the wording "of that district" does not imply that he must be a resident of that district.

Dr. Ambedkar : Yes. that is so.

Shri Ramaswamy Naidu : I want to know whether any resident of another district, even though he belongs to one of the Scheduled Tribes of that district would be excluded from seeking election in that constituency.

Dr. Ambedkar : Not at all; that is provided.

***Ch. Ranbir Singh :** (*English translation of the Hindi Speech*) Sir, I have a doubt regarding it and I want to get it clarified. There is a provision in it :

> "Provided also that where any person having held any office referred to in clause (f) of sub-section (1) of section 7 has been dismissed and the period of five years....."

I think the soldiers and officers of the Azad Hind Fauj are not affected by it, I want to know this thing. Whether this provision debars them as well ? And if this provision debars them then there should be some provision so that they may also acquire the right of participating in the elections.

Dr. Ambedkar : I did not quite follow what the last speaker said. I would like to make some observations with regard to the point raised in relation to the proviso to sub-clause (3) relating to the procedure that might be adopted for ascertaining whether a particular candidate was Scheduled Caste candidate. The hon. Member who referred to this point, has had, of course, no experience as to how many people have been trying to pass themselves on as members of the Scheduled Castes in order to obtain some of the advantages that have been prescribed for them under the law.

Shri Syamnandan Sahaya : Larger numbers are likely to come in.

Dr. Ambedkar : And larger numbers are likely to come in. I, as a Member of the Government have had some experience about this, as to how for instance. Hindus also

*P. D., Vol. 12, Part II, 19th May 1951, pp. 9130-31.

would grow a beard for six months, present themselves as Sikhs and obtain a job reserved for the Sikhs, and subsequently shave themselves clean up and return to the Hindu fold. Consequently, a rule has been made by the Government of India that any person for whom any reservation has been made, shall produce a certificate from certain recognised authorities that he belongs to that particular class. Such a provision, undoubtedly and beyond question, would be in the interests of the Scheduled Castes themselves. I think I cannot say what exactly is the procedure that the Commissioner would think of himself in order to ensure that nobody other than the Scheduled Castes stands for these reserved seats. I should have thought that there could be no harm if a provision was made that every person who wants to put in his nomination paper for a reserved seat should obtain a certificate from a magistrate on the basis of an affidavit signed in his presence that to their knowledge this man belongs to the Scheduled Castes.

It might be a laborious or troublesome process ; but I think it would be better to have it rather than leave loop-holes for any other person to come in a fight for the seat.

Mr. Chairman : The question is :

"That clause 31, as amended, stand part of the Bill".

The motion was adopted.

Clause 31, as amended, was added to the Bill.

Mr. Chairman : Does the hon. Member wish that I should put his amendment to the House ?

Ch. Ranbir Singh : I want to know the reaction of the Hon. Minister.

Dr. Ambedkar : I do not accept it.

Ch. Ranbir Singh : Then I would like to have the leave to withdraw it.

The amendment was by leave withdrawn.

Clause 32, as amended, was added to the Bill.

Clause 33 was added to the Bill.

Clause 34—(*Scrutiny of nominations*)

* **Shri Syamnandan Sahaya :** I have an amendment to this clause. It is No. 22 of Supplementary List No. 3. I beg to move :

> In sub-clause (2) of clause 34, for the word "refuse", substitute the word "reject".

Mr. Chairman : Amendment moved.

Dr. Ambedkar : I have no idea. It is a draftsman's point. My hon. friend will see that the draftsman seems to be using 'refusal' in respect of nomination and 'rejection' in respect of nomination paper.

He is making a distinction and I think that a distinction is consistent made by him throughout the clauses. I therefore think it is better to retain that now.

Mr. Chairman : Does the hon. Member want me to put his amendment to vote ?

Shri Syamnandan Sahaya : There may be others who may want to speak. I beg for leave to withdraw the amendment.

The amendment was, by leave withdrawn.

****Pandit Kunzru** (Uttar Pradesh) **:** I beg to move :

> To sub-clause (5) of clause 34, add the following Proviso :
>
> "Provided that in case an objection is made the candidate concerned may be allowed to rebut it not later than the next day but one following the date fixed for scrutiny and the Returning Officer must record his decision on the date to which the proceedings have been adjourned."

Shri Sonavane : On a point of order. The hon. Member has given no notice to the Members of this House and it was held by the Speaker previously and that no surprise should

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*P. D., Vol. 12, Part II, 19th May 1951, pp. 9156-57.

** *Ibid.,* pp. 9158-59.

be sprung upon the House. May I know whether this amendment moved at this juncture is admissible?

Pandit Kunzru : Sub-clause (5) requires that .....

Dr. Ambedkar : To shorten the proceedings, I would say that I am accepting the amendment.

Mr. Chairman : The Hon. Minister in charge is going to accept the amendment.

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* **Pandit Munishwar Datt Upadhyay :** I will not repeat the objections taken by some hon. Members. In view of the difficulties that arise on account of the acceptance of this amendment. I would suggest the acceptance of amendment No. 348 in the printed list, namely the insertion of the words "beyond second day" after the words "adjournment of the proceedings." That will solve all the difficulties.

> "The Returning Officer shall hold the scrutiny on the date appointed in this behalf under clause (b) of section 28 and shall not allow any adjournment of the proceedings beyond second day except....."

I do not think any such difficulty would arise in accepting that amendment.

Dr. Ambedkar : Apart from the question whether the existing rules in U.P. and other provinces contain such a rule as is stated in the amendment. I think it is possible for the House to consider this matter independently on its own merits. What is the Returning Officer's job ? His job is set out in sub-clause (2) of clause 24 that he shall decide upon the points stated there from (a) to (e). Those are the possible objections that a candidate may raise against another. It does seem to me that if one candidate is confronted with an objection falling, for instance under (b), namely "that the candidate is disqualified for being chosen to fill the seat under the Constitution or this Act" or if he is confronted with the objection falling under (e) that the signature of the candidate or any proposer or seconder is not genuine or has been obtained by fraud, it seems to me somewhat difficult that he should

* P. D. Vol. 12, Part II, 19th May 1951, pp. 9163-66.

be required to meet those charges immediately then and there. Therefore sheer equity would require that some time may be given to him in order that the candidate may either produce some documentary evidence or the oral evidence of some witnesses to disprove the allegation and it is on that ground that I felt inclined to accept that amendment, because otherwise it would be permitting one candidate to take another by complete surprise by not giving any time to disprove the allegation. I think that this is an amendment which certainly appeals to me and ought to appeal to everybody.....

Shri Santhanam : Will it be possible for the Returning Officer to accept those nominations for which no objections had been raised. He has to decide all the nominations at the same time.

Dr. Ambedkar : Where is the hurry for the man accepting some nominations. After all he has to accept the nominations on the final date after the adjournment. There is no harm. This will be done on the final day and that is what the amendment says. The amendment is very clear. The Returning Officer must record his decision on the date to which the proceedings have been adjourned. There is no discretion given to the returning officer to postpone decision.

Shri Santhanam : Cannot objection be taken on the postponed day also ? It must be made clear. Supposing on the other day some objection is raised.

Dr. Ambedkar : Objection must be raised on the day on which the scrutiny begins—there can be no objection on any other day except the date of scrutiny.

Mr. Chairman : The question raised by Mr. Syamnandan Sahaya and Mr. Hussain Imam is : is there any provision for such a contingency ?

Dr. Ambedkar : There is no provision. Can anybody make any provision ? Can anybody know how long the riot will last ? In Bombay the riot lasted sometimes for twenty-nine days. Therefore it must be left to the Returning Officer to be convinced that matters are peaceful and he can hold the scrutiny. How can anybody say in a law that if the Returning

Officer adjourns the scrutiny on the first day because there is a riot he should hold the scrutiny on the second day or the third day ? The riot may continue.

Mr. Chairman: That is so far as the time is concerned. But there should be some provision that the Returning Officer should make his scrutiny.

Dr. Ambedkar: It seems to me that it is quite implicit in the clause. Our dramatists have a habit. If I may say so. If somebody is dead they must carry the corpse on the stage, otherwise the audience does not understand it. As I said most of these things are implicit in the clause.

Mr. Chairman : I will now put Pandit Kunzru's amendment to vote.

The motion (as mentioned earlier) was adopted.

Shri Syamnandan Sahaya: I have an amendment to move, No. 24 in supplementary list No. 3. I beg to move:

> In sub-clause (4) of clause 34, for the word "refuse" substitute the word "reject".

The Hon. Minister pointed out that the word "refuse" has been used in reference to nominations and the word "reject" has been used in relation to nomination papers. I would like to draw his attention to sub-clause (4) of clause 34 where the word "refuse" has been used with reference to nomination papers. Perhaps "reject" may be accepted here.

Mr. Chairman : Amendment moved :

> In sub-clause (4) of clause 34, for the word "refuse" substitute the word "reject".

Dr. Ambedkar: If my friend's aesthetic sense is affected I am quite happy to give him satisfaction.

Shri Syamnandan Sahaya: As a matter of fact, in this House we have to care for the aesthetic sense of people sitting opposite—nobody cares for our aesthetic sense.

Dr. Ambedkar: In this case I will accept my hon. friend's amendment.

Shri. T. T. Krishnamachari: As regards scrutiny of nominations, may I point out, Sir, that direction may be given that clause 28(c) which has been passed by this House may be suitably amended in the third reading ?

Dr. Ambedkar: Yes, I have another amendment also to move at that, stage.

Mr. Chairman: I will now put Mr. Sahaya's amendment to vote. The question is:

> In sub-clause (4) of clause 34, for the word "refuse" substitute the word "reject".

The motion was adopted.

***Dr. Deshmukh :** I beg to move :

> In sub-clause (4) of clause 34, after the word "substantial" insert the words "and vital". .

Sir, the reason why I wish that the words "or vital" should be added is, the meaning of the word substantial is not very definite. I referred to the dictionary and found a variety of meanings attached to the word 'substantial'. It can mean having substance, material, stout, strong, bulky, real, solid, conforming to what is essential, involving essential etc.

Dr. Ambedkar: What is the meaning of vital ?

Dr. Deshmukh: That which will affect the candidature in a very direct and a vital manner.

I have also an alternative to suggest which I hope the Hon. Minister will accept. If we omit the words "which is not of a substantial character" that will serve the purpose—that is, if we merely say that the Returning Officer shall not refuse any nomination paper on the ground of any technical defect. By the addition of the words "which is not of a substantial character" we make it still more ambiguous and give scope for interpretation in different ways. Hence I suggest that

*P.D., Vol. 12, Part II, 19th May 1951, pp. 9166-67.

either the words "and vital" be added, or the words "which is not of a substantial character" be omitted. A technical defect is understandable.

I now come to my second amendment. I beg to move:

In sub-clause (5) of clause 34, omit the words "or obstructed by riot or open violence".

Why should we limit the obstruction of the proceedings to only riot and open violence ? I think it is very tantalising, Sir, to refer to only two causes. There might be a variety of causes by which the proceedings may be interrupted. Hence I suggest the deletion of these words. In fact this is in my view an invitation to riot and open violence, if some candidate chooses to do it.

Shri Sidhva: What about a cyclone ?

Dr. Ambedkar: That would be covered under "causes beyond his control".

Dr. Deshmukh: If you omit the words "or obstructed by riot or open violence or" I do not think any harm would be done. I therefore hope that both of my amendments will be accepted.

Mr. Chairman : Amedment moved :

In sub-clause (4) of clause 34, after the word "substantial" insert the words "and vital".

In sub-clause (5) of clause 34, omit the words "or obstructed by riot or open violence or".

Dr. Ambedkar: I do not accept them.

***Mr. Chairman:** I will now put the clause.

Shri Meeran: I have two amendments to this clause—Nos. 343 and 349 in the Consolidated List.

Mr. Chairman: May I know whether the Hon. Minister is prepared to accept any of them ?

Dr. Ambedkar: I am not accepting any amendment.

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*P. D., Vol. 12, Part II, 19th May 1951, pp. 9168-69,

Shri Shiv Charan Lal: I have an amendment—No. 99 of Supplementary List No. 1.

Dr. Ambedkar: I am not accepting it.

Shri Shiv Charan Lal: That is about the appeal—that the appeal should be finally decided about the nomination paper and it should not be a subject of an election petition later on.

Dr. Ambedkar: That matter is still under consideration. We will come back to it.

Mr. Chairman: The question is:

"That clause 34, as amended, stand part of the Bill".

The motion was adopted.

Clause 34, as amended, was added to Bill.

The House then adjourned till Half Past Eight of the Clock on Monday, the 21st May, 1951.

Clause 35

*** Mr. Speaker :** Amendment moved :

In sub-clause (1) of clause 35, for the words, brackets, letter and figures "and delivered to the Returning Officer either by such candidate in person or by his proposer or seconder before three o'clock in the afternoon on the day fixed under clause (c) of section 28"substitute the following:

"and delivered before three o'clock in the afternoon on the day fixed under clause (c) of section 28 to the Returning Officer either by such candidate in person or by his proposer, seconder or election agent who has been authorised in this behalf in writing by such candidate".

Shri Shiv Charan Lal (Uttar Pradesh)**:** I would suggest the addition of the word "duly" before the word "authorised" in the amendment so that the meaning may be more clear.

Dr. Ambedkar: I have no objection.

Mr. Speaker: The Chair will have no objection to add anything. But here it is expressly stated "authorised in this behalf in writing". By the addition of the word "duly" it might create doubts that something else is required.

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*P. D., Vol. 12, Part II, 21st May 1951, pp. 9174-78.

Dr. Ambedkar: I agree. Let us not be over-precise.

Mr. Speaker: So I put the amendment as it is.

The motion was adopted.

Pandit Thakur Das Bhargava: There is one amendment in the name of Mr. Jaspat Roy Kapoor—No. 102 in Supplementary List No. 1.

Mr. Speaker: But is he here ?

Pandit Thakur Das Bhargava: No. But if you permit me I would like to move it.

Mr. Speaker: Is it an agreed amendment?

Dr. Ambedkar: Yes. It is to drop those words "or to be renominated as a candidate for the same election in the same constituency".

Mr. Speaker: I will allow it.

Further Amendment made:

In sub-clause (2) of clause 35, omit all the words occurring after the words "to cancel the notice" to the end.

—[*Pandit Thakur Das Bhargava*]

Mr. Speaker: The question is :

"That clause 35, as amended stand part of the Bill."

The motion was adopted.

Clause 35, as amended, was added to the Bill.

Clause 36 was added to the Bill.

Clause 37.—(*Nomination at other elections*)

Dr. Ambedkar: I have four amendments—Nos. 26, 27, 30 and 31 in Supplementary List No. 3.

The Minister of State for Transport and Railways (Shri Santhanam): In the last portion of clause 37(1) the wording is "qualified to be chosen to fill that seat under the Constitution and this Act". I would like to suggest that the words "under the constitution" may be omitted, they seem to be wholly unnecessary because no parliamentary enactment can override the provisions of the Constitution.

Mr. Speaker: I think it should be left to the examination of the draftsman. The implications are not yet clear to me.

Dr. Ambedkar : This is a matter more or less for the draftsman and the Draftsman thinks that for the sake of clarity, certain words should be introduced. I think his wishes should be respected.

Shri Santhanam: I merely pointed it out.

Mr. Speaker: The Chair will have the authority of amending this, as advised by the Draftsman. We shall proceed to the other amendments.

Amendment made:

In sub-clause (1) of clause 37, for the words "the members" occurring in line 3, substitute the words "the elected members".

—[*Dr. Ambedkar*]

Further Amendment made:

In sub-clause (2) of clause 37, for the words "the members of the Legislative Assembly" occurring in lines 1 and 2, substitute the words "the elected members or the members of the Legislative Assembly".

—[*Dr. Ambedkar*]

Further amendment made:

For the first Proviso to sub-clause (4) of clause 37, substitute the following:

"Provided that any person who is entitled to vote at any such election as is referred to in sub-section *(1)* shall be qualified to subscribe as proposer or seconder as many nomination papers at the election as there are vacancies to be filled but no more."

—[*Dr. Ambedkar*]

Further amendment made:

In part (a) of the second Proviso to sub-clause (4) of clause 37, for the words "by the members of the Legislative Assembly of a State, as references to the list of members of that Assembly" substitute the following:

"by the elected members or by the members of the Legislative Assembly of a State as reference to the list of elected members or to the list of members, as the case may be, of that Assembly".

—[*Dr. Ambedkar*]

Shri Ghule (Madhya Bharat)**:** I have amendment No. 28 standing in my name. I do not want to move but I want to speak on it.

According to the present clause, a candidate should file his nomination within five days of the notification issued by the Provincial Government. I think that the period of 5 days is insufficient for a man who is living in the remotest corner of the Province to receive the gazette in which a notification is issued and send in his nomination to a place where the election would take place. As provided for the elections to the Lower House of parliament in clause 31, the same provision should be made in this clause also *i.e.,* that the nomination would not be required to be filed before the 8th day.

Mr. Speaker: The phraseology is "not earlier than the fifth day".

Shri Ghule : It may be issued on the 5th day and this period is insufficient and in the present state of communications in India, a man may require 3 days at least to get information about the notification and three days at least would be required to send the letter of nomination..... From this point of view I think that the period of 5 days, the minimum period referred to in this clause is insufficient and I suggest 8 days instead.

Dr. Ambedkar : No. I do not think there is such a necessity for this amendment.

Mr. Speaker: The question is:

"that clause 37, as amended, stand part of the Bill."

The motion was adopted.

Clause 37, as amended was added to the Bill.

Clause 38 to 43 were added to the Bill.

Clause 44.—(*Polling Agents*)

Amendment made:

In clause 44, before the word "may" occurring for the Second time in line 4 insert the words "or his election agent".

—[*Pandit Thakur Das Bhargava*]

Pandit Thakur Das Bhargava: With regard to the other amendment No. 380. I would request you kindly to suspend it for the time being. After you dispose of clause 45, this amendment will be relevant.

10-00 A M

Mr. Speaker: It means that we leave this clause alone and dispose it of after disposing of clause 45.

Dr. Ambedkar: This may be disposed of because that deals with the question of time.

Mr. Speaker: Then, I take up clause 45 at this stage.

Shri Iyyunni (Travancore-Cochin)**:** I have an amendment to clause 44.

Mr. Speaker: I will take up clause 45 first and then come to clause 44.

Clause 45.—(*Disqualification for being a polling agent*).

Pandit Manishwar Datt Upadhyay (Uttar Pradesh)**:** I have an amendment No. 381.

Mr Speaker: It is a negative amendment, he may appose the clause when the clause is put.

***Pandit Thakur Das Bhargava:** We have only lists 1 to 6.

Mr. Speaker: Lists 1 to 7 have been consolidated. Supplementary List No. 1 contains the remark "Incorporating List Nos. 7". this is No. 112 on page 18.

Shri Iyyunni: What I submit is that in the case of a polling agent, he has very little work to do ? He has to come there early in the morning and stay there till six or seven o'clock in the evening and watch the proceedings. If there is any case of false personation etc., he has to examine whether the persons actually coming are the persons entitled to vote. That is his work. There is no need to ask him to satisfy all the conditions that are required of a candidate, who, if he succeeds, would go either to the Assembly or the Parliament as the case may be. I submit that it is enough if he is a voter. That would meet the requirements of the case. I therefore submit that my amendment may be accepted by the Hon. Law Minister.

*P.D., Vol. 12, Part II, 21st May 1951, p. 9179.

Dr. Ambedkar: I do not know. I am not very much interested in these matters. But, in view of the difficulties raised that a large number of polling agents would be reduced and that if we were to subject them to certain disqualifications the number available may be very few and that it may create a lot of difficulty in conducting the elections. I am prepared to accept the amendment of my hon. friend Pandit Munishwar Datt Upadhyay.

Mr. Speaker : That is for dropping the clause altogether ?

Dr. Ambedkar: No. the point is this. I am told that our friends who propose to contest the elections wish to draw upon the college students who are younger than the prescribed age and may not be even voters. I have told them privately that they have already done a great mischief to young college boys by drawing them into the political arena and that they had better not repeat the same thing. They said that they must have this facility. I am prepared to allow that.

Mr. Speaker: It comes to as I was saying, if I mistake not, dropping and negativing clause 45 altogether. I shall put the clause first. The question is :

> "That clause 45 stand part of the Bill [w].

The motion was negatived.

* **Clause** 44.—(*Polling agents*)—contd.

Mr. Speaker : Now we come to clause 44.

Pandit Thakur Das Bhargava: I beg to move:

> In clause 44, for the words "three days" substitute the words "one day".

Sir, now that we have dropped clause 45, the work of scrutiny does not require 3 days. It is enough if the Returning Officer gets the names one day previous. Therefore I have suggested that instead of the words "three days", the words "one day" may be put in.

Mr. Speaker: Amendment moved :

> In clause 44, for the words "three days" substitutes the words "one day".

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* P. D., Vol. 12, Part II, 21st May 1951, pp. 9180-84.

Dr. Ambedkar: Mr. Speaker, *prima facie* it does appear that in view of the abolition of clause 45, one day ought to be sufficient. But frankly speaking. I have not had an opportunity of discussing this matter with the Election Commissioner and obtain his views whether this would or would not create any difficulty. Therefore, I suggest that so far as this point is concerned, the clause may be permitted to remain as it is. I can return to it afterwards by suggesting a suitable amendment if I am convinced that one day really is quite sufficient and nothing more is necessary. I do not want to rule it out for the moment.

Mr. Speaker: That means that this clause is kept over ?

Dr, Ambedkar: Yes.

Mr. Speaker: Then we can dispose of the other amendments.

Shri Ramalingam Chettiar (Madras)**:** Before you leave this amendment, let me suggest that a polling agent may have to be appointed at short notice..... From the point of view of practical working of the thing, it may be inconvenient to have three days put in here. This point may be considered by the Law Minister.

Dr. Ambedkar: I will, certainly.

Now, I will move my amendment I beg to move :

(i) In clause 44, for the words "one agent and two relief agents and not more to act as his polling agent" substitute the words "such number of agents and relief agents as may be prescribed to act as polling agents of such candidate".

(ii) In clause 44, omit the words "and to such other officer as may be prescribed".

Shri Shiv Charan Lal: I could not hear the second portion.

Sir.

Mr. Speaker: I am reading it again. (Amendment of Dr. Ambedkar as above moved.

So I request the Hon. Law Minister that the words in the clause may be left as they are and not omitted.

[PANDIT THAKUR DAS BHARGAVA *in the Chair*]

May I draw, the attention of the Law Minister that the words 'such other officer as may be prescribed' should be allowed to remain so that the Returning Officer may prescribe, as usual, the presiding officer to take the application for appointment of the polling agents.

Shri J. R. Kapoor (Uttar Pradesh)**:** May I know what is the second amendment ?

Dr. Ambedkar: My friend will see that the last words of clause 44 are as follows:

> "that notice of the appointment shall be given in the prescribed manner to the Returning Officer and to such other officer as may be prescribed."

The Rules may prescribe that either the notice of the appointment of polling agent may be given to the Returning Officer and to such other officer as may be prescribed. I am trying to delete by my amendment that sentence—"such other officer as may be prescribed" be omitted so that the result will be that the intimation shall be given to the Returning Officer only.

Mr. Chairman : Now it is the discretion of the Government to appoint another officer also. This amendment is taking away the discretion. In practice it is the Presiding Officer to whom this notice is usually given or the polling officer at the time. Therefore I would request the Law Minister to consider if these words are rather enabling.

Dr. Ambedkar : You know the internal history about these things. I am personally content with the words as they are in the Section; I am prepared to withdraw my amendment and leave the words as they are.

Shri J. R. Kapoor: I would suggest that it may be 'Returning Officer or such other Officer'

Dr. Ambedkar: The Returning Officer ought to know everything.

Mr. Chairman: Has the Hon. Minister anything to say to that suggestion?

Dr. Ambedkar: I am not prepared to accept that.

Shri J. R. Kapoor: If 'or' is not substituted, the whole object of retaining the words 'such other officer' goes away. Our intention is that there should be facility to the candidate to submit the name of his polling agents to the presiding officer. I would prefer that these words should be deleted rather than both should remain if my amendment is not to be accepted.

Mr. Chairman: It does not necessarily mean that notice is to be given to two officers.

Mr. Chairman: The question of period is yet in suspense. Till then this cannot be decided.

Shri J. R. Kapoor: The whole clause 44 may be held over.

Dr. Ambedkar : My suggestion is that my first amendment may be considered and the second be held over.

Pandit Munishwar Datt Upadhyay: Why not hold over both because we have not definded whether two agents, one agent and one relief agent, will be appointed for every polling booth.

Dr. Ambedkar: The first has no integral connection with the second amendment.

Mr. Chairman: The question is :

> In clause 44, for the words "one agent and two relief agents and no more to act as his polling agent" substitute the words "such number of agents and relief agents as may be prescribed to act as polling agents of such candidate".

The motion was adopted.

Mr. Chairman: The second amendment is held over.

***Clause 46.**—(*Counting agents*)

Shri Shiv Charan Lal: There is an amendment—No. 382 in Consolidated list No. 1 in the name of Pandit Bhargava. I may be permitted to move it.

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*P.D., Vol. 12, Part II, 21st May 1951, pp. 9184-88.

Mr. Chairman: I would like to know the reaction of the Hon. Minister.

Dr. Ambedkar: It may be permitted.

Mr. Chairman: Yes, the hon. Member may move it.

Amendment made:

In clause 46, before the word "may" occurring in line 2, insert the words "or his election agent".

—[*Shri Shiv Charan Lal*]

The motion was adopted.

Clause 46, as amended was added to the Bill.

Clause 47.— (*Revocation of appointment of polling agent etc.*)

Dr. Ambedkar: I beg to move.

For clause 47, substitute the following clause:

"47. *Revocation of the appointment or death of a polling agent or counting agent.*—(1) Any revocation of the appointment of a polling agent shall be signed by the candidate or his election agent and shall operate from the date on which it is lodged with the Returning Officer and in the event of such revocation or of the death of a polling agent before the close of the poll, the candidate or his election agent may appoint in the prescribed manner another polling agent at any time before the poll is closed and shall forthwith give notice of such appointment in the prescribed manner to the Returning Officer.

(2) Any revocation of the appointment of a counting agent shall be signed by the candidate and shall operate from the date on which it is lodged with the Returning Officer and in the event of such revocation or of the death of a counting agent before the commencement of the counting of votes, the candidate may appoint in the prescribed manner another counting agent at any time before the counting of vote is commenced and shall forthwith give notice of such appointment in the prescribed manner to the Returning Officer."

Shri J. R. Kapoor: It is very difficult to follow the amendment without a copy before us.

Shri Santhanam: As consequential to the previous amendment after the word "candidate" wherever it occurs the words "or election agent" should be inserted.

Dr. Ambedkar: I have no objection.

Mr. Chairman: I shall now read the amendment in the amended form and it will be clear to hon. Members. Amendment (of Dr. Ambedkar as above) moved.

Shri Shiv Charan Lal: As I have pointed out previously with regard to clause 44 if the words "or such other officer as may be prescribed" are put after the words "Returning Officer" in paragraph 1, it will make the position clearer and easier; because at the time when the polling is going on it is very difficult to search out the returning officer and get the name changed.

Shri Santhanam : The words "Returning Officer" are not there; the only words are "in the prescribed manner".

Mr. Chairman: The returning officer may not be found at every polling station. If this is inserted, that notice may be given to any other officer, it would be better.

Shri Santhanam: Does it refer to the counting agent or the polling agent ? So far as the counting agent is concerned it has to be only to the returning officer.

Mr. Chairman: The wording is "may appoint.....another polling agent at any time before the poll is closed and shall forthwith give notice of such appointment in the prescribed manner to the Returning Officer." This is not practicable. Either the mere giving on notice is sufficient or the notice may be given subsequently to the returning officer or such other officer or polling officer.

Shri Santhanam: The words "in the prescribed manner will do". The words "Returning Officer" may be dropped.

Dr. Ambedkar : All these things have come upon me rather suddenly. I have not had time to go through them. This amendment was handed to me in the morning. I must safeguard my own position. My amendment may be accepted as it is subject to my right of reopening the question again in the House, if I find that the amendment creates any difficulty; or let the thing stand over. In that event the whole Bill must stand over now.

Mr. Chairman: Let it be held over, so that hon. Members may have the time to study the amendments.

Clause 48 was added to the Bill.

Dr. Ambedkar: I would request you to take up those clauses to which there are no amendments.

Clause 49.—(*Attendance of candidate at Polling Stations*)

Mr. Chairman: The amendment to clause 49 (No. 383) is the same which the hon. Member has accepted.

Shri Shiv Charan Lal: If he has no objection I will move it Sir.

Dr. Ambedkar: I have no objection.

Amendment made:

In sub-clause (2) of clause 49, after the words "A candidate" insert the words "or his election agent".

—[*Shri Shiv Charan Lal*]

Mr. Chairman: The question is :

"That clause 49, as amended, stand part of the Bill."

The motion was adopted.

Clause 49, as amended, was added to the Bill.

Clause 50 was added to the Bill.

New Clause—50A

Shri S. N. Das (Bihar)**:** I have an amendment standing in my name suggesting a new clause 50a, regarding the candidate's right to send election address post-free.

Dr. Ambedkar: If I may intervene at this stage to save time. Sir, you will remember that last time this matter was discussed as to whether provision should not be made for permitting the candidate to send his election address post-free and I said that I would refer the matter to the Government and see whether such a thing could not be done. I thought the House at that time accepted my assurance without any specific amendment to that effect.

Shri Sidhva: This should be held over.

Dr. Ambedkar: No. it is not necessary.

Mr. Chairman: Am I to understand that the hon. Mover does not want to move his amendment in view of the assurance given that the Hon. Minister will refer the matter to the Government ?

Shri S. N. Das: In view of the assurance given by the Law Minister, I want to know whether I might be permitted to move my amendment.

Mr. Chairman: There is no question of being allowed. He is at perfect liberty to move it. I only suggested to him whether, when the Hon. Minister has given an assurance, it is desirable to move it.

Shri S. N. Das: It may be held over.

Mr. Chairman: There is no question of being held over. The reply will not come from the Government within such a short time. Either he should move it or not move it.

Shri S. N. Das: In view of the assurance given I do not want to move it.

***Mr. Chairman:** Then there is another amendment No. 385 in the printed list, standing in the name of Mr. Das suggesting new clause 50A.

Shri S. N. Das : (*Hindi translation of Hindi Speech*) I want to say something on it. I submitted the suggestions because of the fact that in the election campaign propaganda wields great influence.....My suggestion is that everybody should be given an equal opportunity so that he may go to the voters to explain to them the objectives for which he stands. Therefore, many candidates would be saved of expenses if railway facility was made available to them. That is the purpose of the suggestion I have put forth for the consideration of the House. If the House deems it proper, it may accept it, if not, it may reject it.

Mr. Chairman: This amendment has not been moved and it has not been placed before the House. I would rather like that the reaction of the Hon. Minister may be known to the House.

*P. D., Vol. 12, Part II, 21st May 1951, pp. 9189-90.

Dr. Ambedkar: I cannot agree to Government undertaking any such obligation at all.

Mr. Chairman : Does the hon. Member want the amendment to be put to the House ?

Shri S. N. Das: No Sir.

Clause 51 (Death of cordinate)

***Mr. Chairman:** Amendment (of Shri S. N. Das) moved:

For clause 51, substitute the following:—

"51. *Death of candidate before poll.*— Whenever any candidate dies after being duly nominated and before the closing of the polls, all the election proceedings shall stand cancelled and all proceedings with reference to the election shall be commenced a new in all respect as if for a new election:

Provided that the nomination of the deceased candidate was valid in the opinion of the Returning Officer:

Provided further that no further nomination shall be necessary in the case of a candidate whose nomination was valid at the time of the cancellation of the election."

Dr. Ambedkar: I do not accept the amendment, but I would like to say that in view of the fact that the House has carried an amendment to sub-clause (2) of clause 35 with regard to withdrawal, there will have to be some small amendment made later on and I reserve the liberty to bring the matter up at a later stage

Shri J. R. Kapoor: I take it that the proposal of the Hon. Minister is to hold over this clause.

Dr. Ambedkar: I do not want to hold it over. The only point is that it will be necessary to add one more proviso. The point is this : that by amending sub-clause (2) of clause 35, it is now open for a candidate who had withdrawn to seek nomination if the contingency contemplated in clause 51 arises. Consequently a positive provision will have to be made in clause 51. That can easily be done by adding a proviso.

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*P.D., Vol. 12, Part II, 21st May 1951, pp. 9194-97.

Mr. Chairman: As a matter of fact, in consequence of amendment No. 102 of Supplementary List No. 1 standing in the name of Shri Jaspat Roy Kapoor having been accepted, a consequential amendment is necessary and it is only for the purpose of having that consequential amendment that an opportunity is being sought to add that amendment afterwards.

Shri J. R. Kapoor: I entirely agree with the Hon. the Law Minister that another proviso will have to be added, in view of the amendment which has already been accepted (Amendment No. 102). but apart from that, Sir, I think that the suggestion contained in the amendment just moved by my hon. friend Shri S. N. Das deserves serious consideration..... There are two points contained in the amendment of Shri S. N. Das. His first contention is that if a particular candidate dies after scrutiny, but before the commencement of the poll, then the electorate should be given an opportunity for making another nomination in place of the candidate who is dead. This is an accepted principle.

The next question that arises is that why should this principle be confined to cases of candidates who die only after scrutiny ? A candidate may die between the date of nomination and the date of scrutiny.

Dr. Ambedkar: That is not the position.

***Mr. Chairman :** What is 'due nomination'? Is it after or before security ?

Dr. Ambedkar: In view of the fact that this clause will come back again to the House for the purpose of considering the proviso to which I have already referred, the whole thing might be held over.

Mr. Chairman: Very well. Clause 51 is held over.

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*P.D., Vol. 12, Part II, 21st May 1951, p. 9197.

Clause 52.—(*Procedure in elections*).

Amendment made;

In sub-clause (3) of clause 52, for the Words ... the members of the State Legislative Assembly or electoral college concerned" substitute the following:

"the elected members or the members of the State Legislative Assembly or the memembers of the electoral college concerned".

—[*Dr. Ambedkar*]

Further amendment made.

In the Proviso to sub-clause (3) of clause 52, for the words "the members of the State Legislative Assembly or of the electoral college" occuring in lines 1 and 2, substitute the following:

"the elected members or the members of the State Legislative Assembly or the memembers of the electoral college concerned".

—[Dr. Ambedkar]

Mr. Chairman: The question is :

"That clause 52, as amended stand part of the Bill." The Motion was adopted.

Clause 52, as amended was added to the Bill.

Clause 53 was added to the Bill.

Clause 54 was added to the Bill.

* **Clause 56.**—(*Adjournment of poll*)

Pandit Munishwar Datt Upadhyay: I have an amendment. No. 389 in the Consolidated List to include the words "on other polls" after the words "such election" in sub-clause (2). I think these three words would be necessary because otherwise you do not define to what election it refers.

Dr. Ambedkar: Election means election under the Act.

Pandit Munishwar Datt Upadhyay: You mean election in respect of the same constituency. Then you have got to say "on other polls". The sub-clause read :

"and fix the polling station or place at which, and the hours during which, the poll will be taken, and shall not count the votes cast at such election until such adjourned poll shall have been completed".

"..... That such election on other polls" makes the thing clear. Otherwise it is ambiguous.

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*P. D., Vol. 12, Part II, 21st May 1951, pp. 9198-99.

Shri Santhanam: "Such election" covers it.

Dr. Ambedkar: I do not think it is necessary.

Mr. Chairman: The question is :

"That clause 56 stand part of the Bill."

The motion was adopted.

Clause 56 was added to the Bill.

Clause 57.—(*Fresh poll*)

Shri Shiv Charan Lal: May I be permitted to move amendment No. 390 standing in your name, Sir?

Mr. Chairman: It would be better to know the reaction of the Hon. Minister.

Shri Shiv Charan Lal: It seeks to substitute the words "before the votes are counted" for the words "at any election" in sub-clause (1).

Shri Santhanam: It may be at any stage.

Dr. Ambedkar: I do not think it is necessary.

Pandit Munishwar Datt Upadhyay: I have an amendment (301) that in sub-clause (1) after the words "presiding officer" the words "or any other person on their behalf" be inserted. It may be that the boxes are in transit, they might be placed somewhere else, they might be in the custody of someone else. And these things may not be covered, by the present working. I consider that the introduction of these words appears to be necessary.

Shri T. T. Krishnamachari (Madras)**:** The other words which follow are : "or is or are in any tampered with..."That covers that condition. It is unnecessary.

Dr. Ambedkar: I do not think it is necessary.

Mr. Chairman: The question is :

"That clause 57 stand part of the Bill."

The motion was adopted.

Clause 57 was added to the Bill.

Clause 58 was added to the Bill.

***Shri Karunakara Menon:** I emphasize the words : "to enable a person to vote in a particular manner".

Dr. Ambedkar: The clause as it is quite all right.

Shri Shiv Charan Lal: If the Hon. Law Minister does not think that these words are necessary, then I do not press it.

As for amendment No. 117, I find that clause 59(d) reads as follows : "the wife of any such person as is referred to in clauses (a), (b) and (c) to whom the provisions of sub-section (6) of the said section 20 apply" I do not know why we are giving this right to the wife.

Dr. Ambedkar: Because she may be with him.

Mr. Chairman : Supposing she is not with him, she is not given any right to vote in any other manner ?

****Shri J. R. Kapoor:** I beg to move:

After part (e) of clause 59, add the following new part as part (f):

"(f) any person subjected to preventive detention under any law for the time being in force."

This is one amendment. Another amendment, which I would like to move with your permission. Sir, is No. 396 in the printed list, which has the privilege of standing in your name. I beg to move:

After part (e) of clause 59, add the following new parts:

"(f) the candidates, their election agents and polling agents ;

(g) the President, the Governors and the Rajpramukh of the States."

Dr. Ambedkar: Why does he want specifically reference to them ? They are voters.

Shri J. R. Kapoor: So far as amendment No. 396 is concerned, there are two parts which are intended to be inserted, parts (f) and (g). You may take them separately, because it is just possible that while the insertion of part (f) may be agreed to, perhaps part (g) may not be agreed to for reasons best known to the Hon. Law Minister.

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*P.D., Vol. 12, Part II, 21st May 1951, p. 9202.

***Ibid*, p. 9204.

***Mr. Chairman :** Amendments moved :

(i) After part (e) of clause 59, add the following new part as part (f):

"(f) any person subjected to preventive detention under any law for the time being in force."

(ii) After part (e) of clause 59, add the following new parts:

"(f) the candidates, their election agent and polling agents ;

(g) the President, the Governors and the Rajpramukh of the States."

Shri Sonavane (Bombay)**:** I rise to support part (f) of the amendment standing in the name of Pandit Thakur Das Bhargava. I also support the addition of the new part (f). It is necessary to allow a candidate to vote through the post because he may be in a place which is not a constituency in which he is registered as the candidate. It may not be possible for him to go to that particular constituency and so he should be allowed to vote through the post. Similar circumstances may arise in the case of the election agents and polling agents also and so they also must be allowed this facility. When they have to work as election or polling agents, they may have to go to different places and they may not be able to be present in the constituency in which their names occur in the electoral rolls. So it is but proper that this facility should be extended to them also.

Dr. Ambedkar : Sir, Mr. Kapoor has placed before us three propositions, namely, that the facilities for voting by post may be extending to persons under detention, and to candidates, their election agents and polling agents and thirdly, to the President, the Governors and the Rajpramukhs of the States.

I should like to say at the very outset that postal ballot is a very dangerous thing—one of the most dangerous thing that I have come across. I have noticed candidates appointing persons to go to various individuals who become entitled to voting by post, collect their ballot papers, get their signatures, and just post it themselves and thus a vast amount of illogical pressure—something like requisitioning—is brought about. I therefore think that this system ought to be confined to the shortest extent possible.

*P.D., Vol. 12, Part II, 21st May 1951, pp. 9207-09.

Shri J. R. Kapoor: Then do not extend it to the wives of voters who live far away.

Dr. Ambedkar: They are only (a), (b) or (c).

As regards the candidates, election agents and polling agents, I do not see why the rule of postal ballot should be applied to them. I can quite understand that the candidate may not be present in the constituency in which his name is enrolled, because we have given the facility that a candidate can stand anywhere he likes. It is also possible that the various persons whom he engages such as the election agents, polling agents and so on, may not be able to work in the constituencies in which their names are enrolled. In such cases it is perhaps desirable to make it possible for them to vote in a constituency where they are working although that is not their constituency by registration. But that is a matter which must be considered separately and not under the postal ballot section.

With regard to Rajpramukhs, Governors and the President, I do not see what valid ground there is for permitting them to cast their vote by postal ballot, except the fact that they are certain dignitaries of the State. But I do not think that the law in the matter of election should recognise any such distinction at all.

An Hon. Member : They may be living far away from their constituency.

Dr. Ambedkar: I do not think so. They can arrange their tours in such a way as to be in their headquarters at the proper time. That is not a very difficult thing.

Shri Sidhva: They have all the facilities for that.

Dr. Ambedkar: With regard to persons under detention, I think the general rule of law is this. First of all, whoever is under detention is not in a position to exercise the rights that are given to him. That is the rule under the English Law. The English Law makes no provision for what might be called "convicts" to vote, by reason of the fact that they have placed themselves, so to say, beyond the pale of the electoral law.

Shri T. T. Krishnamachari: But that disqualification would not operate in this case.

Dr. Ambedkar: I do not know. Our disqualification would arise if the period is 2 years or if the detention is an indefinite sort of thing. So I would not commit myself to the proposition suggested now. I feel that we are really breaking a very salutary principle that a man if he wants to exercise his legal rights of voting, he must be within the pale of the law and not outside it. Therefore, on that ground I am not prepared to accept the suggestion with regard to persons under preventive detention.

As I said I am prepared to consider the question as to whether a candidate, his polling agents and other agents who are working for him and who are not registered as the voters in that particular constituency in which they are present, should be permitted to vote in that very constituency notwithstanding the fact that they are not registered there. But that is a matter which cannot come under this clause.

Mr. Chairman: The present rule is then that they are allowed to vote wherever they happen to be ?

Dr. Ambedkar: If necessary, that will be provided for separately.

Shri T. T. Krishnamachari: Sir, I would like the House to be permitted to discuss this matter more fully, in regard to the persons under preventive detention. At the time the amendment was moved, we thought that as a matter of course, it would be accepted. Several Members hold that the persons detained under the Preventive Detention Act under the Constitution are detained for something for which they are not responsible and Government fight shy of taking these persons to a court and get them convicted. And so long as they are not convicted, they must be held to be innocent of all crimes.....It is a matter of principle with many of us and in view of the importance of this question we want a separate vote taken so that we can voice our opinion on this matter.

Mr. Chairman: There are two questions—not only the question whether these persons should be allowed to vote.

***Dr. Ambedkar:** I think I could set matters right ?—at any rate put them in a proper perspective so that the House may come to its own conclusion.

I first of all wish to dispose of the point with regard to sub-clause (d) of clause 59, relating to wives. I think in order to understand what exactly sub-clause (d) seeks to do, it is necessary to go back to section 20 of the Representation of People Act. Section 20 of that Act deals with the question of the meaning of the words "ordinarily resident". What is the meaning of the words "ordinarily resident"? Now, the words "ordinarily resident" are quite clear with regard to persons who are residing in India-. But with regard to persons, for instance, who are in the armed forces of the Union and who under the Army Act and Regulations can be transferred from one place to another, they cannot be presumed to have any particular fixed place of residence. They are in one place for a few months, they are then transferred to some other place. They are there for a few months and again they are transferred. They are so to say a mobile force with no particular attachment to any particular area. In that case, the question arises as to what is to be their constituency.

Similarly, there is another class of people who are employed in the service of the Government of India outside India. In regard to these persons the provision that is made in section20 of the Representation of People Act is this: that option would be given to them to make a statement as to which constituency they regard to be their constituency and whatever choice they make is accepted by the Registration Officer for the purpose of recording their names in the electoral roll. That is the position.

Obiviously along with that the question of wives of such persons also arises, because they are also sometimes living with their husbands who are either in are armed forces of the country or in the services outside India. Just as the question arises with regard to the males who are employed, the question also arises with regard to their wives. The answer given in section 20 is that the constituency of their husbands

* P. D., Vol. 12, Part II, 21st May 1951, pp. 9220-25.

shall also be deemed to be the constituency of the wives. Consequently it is necessary to make a provision for voting by postal ballot with regard to the wives also.

Shri R. K. Chaudhuri: If the wife is here in India ?

Dr. Ambedkar: If the wife is here, that will be the constituency, because she will be entered in the electoral roll independently of the provisions contained in section 20 of the Act.

Suppose she is outside and her husband selects a particular constituency. If the husband has a right to vote by ballot, obviously the wife must be given the same right and I do not see any reason why my hon. friend Mr. Chaudhuri got so excited over such a simple proposition.

Shri R. K. Chaudhari: Supposing the wife is employed ? Will the husband get the same privilege?

Dr. Ambedkar: That is a contingency that may arise.

Now, I am coming to the question of detenus. Personally, I do not mind saying that I have a great deal of sympathy with the proposition that no person in India who has got the right to vote should not be free to vote. But I would like the House to consider what actually we could do in order to ensure that the detenus will be able to vote. There are three possible ways of doing it. One is this that we have to set up a polling station in each jail so that all persons who are placed in that particular jail may have the right to vote and to constitute the Jailor either the Returning Officer or the Presiding Officer or the Polling Officer. That is one way of doing it. The second way is that we should allow the detenus to be taken to the general polling booth, undoubtedly accompanied by police and probably handcuffed and taken out of the jail walking two or three miles. And the third way would be by the postal ballot. Obviously it would be very difficult in my judgment to constitute a polling station in each jail, because there may be in some jail quite a large number of detenus, in some other jail there may be one or two, in some there may be none.

The Minister of State for Parliamentary Affairs (Shri Satya Narayan Sinha): It will be possible.

Dr. Ambedkar: I think the Home Minister might be in a better position to enlighten the House as to how it could be done.

Shri Satya Narayan Sinha: I have consulted the Home Minister.

Dr. Ambedkar: With regard to the second method I do. not think that any detenus would like the alternative of being taken under police escort, handcuffed and paraded for a distance of two or three miles.

Mr. Chairman: Why two or three miles ? It may be fifty miles or more because the constituency may be very far from the jail.

Dr. Ambedkar: That is another difficulty. The only other method that is therefore left for consideration is the postal ballot. I want to point out what is likely to happen under the postal voting system. It is quite obvious that the ballot paper will have to be distributed a long time before the date of polling takes place. For that purpose the Election Commissioner will have to write a circular to the various Jail Superintendents to find out how many detenus there are under their custody and in accordance with the information so obtained he will, on the estimate made on that day—this is important—distribute the ballot papers. The circular must certainly go to the Jail Superintendents at least some time before, may be a month or three weeks before the actual polling takes place, and then accordingly the ballot papers may be sent to the Jail Superintendents to be distributed to the various detenus under their custody. The question that the House has to consider is this : what is to happen to the detenus who are brought into jail custody between the date on which this enquiry is made and the date on which the polling takes place ? Obviously there could be no ballot papers in respect of them because the ballot papers would have been sent to the jailor on the basis of the estimate that he has submitted on that particular day. It may be that after that date is over fifty more detenus are sent to the jail. They are there. Therefore, by adopting this system of postal ballot you are not giving effect to a general desire that every person under

detention should get the right to vote. (*Interruption*). Most of them will get, but some will not. If you are keen that every person who is under detention shall get an opportunity to vote...

Shri J. R. Kapoor: So far as is physically possible.

Dr. Ambedkar: .....that purpose is not going to be carried out. There are some people who are bound to be omitted. And it is perfectly possible, so far as I can imagine, that the number of people who may be sent under preventive detention after or just nearer the time when the polling takes place may be much larger than before. I do not want to anticipate anything, but my fear is that this sort of thing may happen. Therefore you are really not making a provision which is, shall I say, either fool-proof or knave-proof. (*Interruption*). This matter really has ben raised without reference to the clause. This matter can arise only under clause 61 because there is a specific provision in sub-clause (5) of it. It cannot come under clause 59. Sub-clause (5) of clause 61 says that "No person shall vote at any election if he is confined in a prison, whether under a sentence of imprisonment or transportation or otherwise, or is in the lawful custody of the police, or is subjected to preventive detention...". Therefore, if any amendment is to be made, it must be made to sub-clause (5) of clause 61. I think this matter is quite outside the scope of clause 59.

Shri Sidhva: If we pass it, it will go under 61.

Dr. Ambedkar : How can we pass it now ? I have told you what difficulty is likely to arise, If notwithstanding it you want it to be done, it is a different matter. It is not a matter of conscience with anybody. I do not know what arrangements Government can make.

Shri Bharati (Madras)**:** One difficulty is that some of them may be illiterates.

An Hon. Member: They are too literate !

Dr. Ambedkar: I have only pointed out the administrative difficultives. If supposing for instance there is a very large

concentration of detenus in a particular jail and a candidate comes to know that a good many of them are illiterate and not able to sign, it is perfectly possible that he may approach the jailor and say "Get these things signed for me ?

Shri Sidhva: There are so many officials. There is a Superintendent, jailor and so many officials are there. Should we assume that all of them are going to be corrupt ?

Dr. Ambedkar: If the evil exists on a small scale, should we tolerate it on a large scale ? (*Interruption*).

Several Hon. Members: Put it to vote.

Mr. Chairman: Order, order.

Shri T. N. Singh (Uttar Pradesh)**:** I would like the Law Minister to explain as to what will be the position of a husband whose wife is employed outside, in government service and whether he will exercise the right of vote or not ?

Dr. Ambedkar: So far as the law is —my women friends in the House will forgive me—the husband does not carry the status of the wife; it is the wife that carries the status of the husband.

I cannot consent to this kind of irregularity. I said there is a regular clause for it, namely 61(5). When you want to move an amendment, move an amendment to that. But there is no text of amendment before us.

Mr. Chairman: There is an amendment which has been moved. This amendment has not been ruled out of order. At the same time the acceptance of this amendment involves two things, not only the right of voting but voting in a particular manner, that is by postal ballot. Therefore, even if this amendment is not accepted by the House it would not preclude its consideration under clause 61. So I would rather prefer. If the House agrees, that it may be taken under clause 61.

Shri J. R. Kapoor: May, I submit that I have tabled an amendment to the same effect under clause 61 also? But if I have tabled an amendment there also it is because I consider it necessary that the amendment here also should be made.

The other amendment is a consequential one. Because clause 59 relates to the manner of voting and clause 61 relates to the right to vote..... When we come to clause 61 the following words occurring in sub-clause (5) "or is subjected to preventive detention under any law for the time being in force" should be deleted there.

Mr. Chairman: Order, order. Unless and until we succeed in getting it established that the detenu has a right to vote we cannot do anything. The manner how he would vote would naturally come after that. In the present arrangement, clause 59 precedes clause 61. So it would be better first of all if the House establishes that a detenu has got a right to vote. Then the question will arise how he should vote. If the House is of the opinion that the detenu has the right to vote, then the Government shall have to make some arrangements as to how he should exercise the vote.

Shri J. R. Kapoor: But not without this law authorising the Government to make any such arrangement.

Mr. Chairman: Order, Order. Let us hear the Hon. Minister.

Dr. Ambedkar: If the House adopted it, what I would do would be to delete the last sentence, namely "or is subjected to preventive detention under any law for the time being in force" and then say "that for purposes of enabling persons under preventive detention to cast their votes, the Government may make provision either by establishing polling stations or by ballot paper" or put something like that.

Shri J. R. Kapoor: The other course will be to take clause 61 and then clause 59.

Shri T. T. Krishnamachari: It does not preclude this House from deciding on the amendment proposed by Mr. Kapoor because the acceptance of the amendment will naturally involve a deletion in clause 61..... The procedure is quite right. I think you can put Mr. Kapoor's amendment to vote...

An hon. Member: What about the illiterate voters ?

Dr. Ambedkar: I would prefer this matter to be considered under 61 (5) which is more direct rather than to do it in this indirect fashion.

Mr. Chairman: I think that so far as the right to vote is concerned, first of all it should be established by the House. As Mr. T. T. Krishnamachari pointed out there is no rule precluding us from considering clause 59 because the acceptance under clause 59 also establishes two things, namely, the right to vote as well as the right to vote in a particular manner. All the same it is an accepted principle that before we take to the latter course, it would be better to get the right to vote established. Then the Government shall have to prescribe the manner in which that right is to be exercised. Then when the amendment comes in, it will be right for us to say whether the particular mode which the Government proposes for obtaining the vote of the detenu is proper or not. We shall have occasion then to consider whether establishing polling stations or the voting by postal ballot would be a preferable method. Then, we shall have occasion to agree to that method. I think Mr. Jaspat Roy Kapoor has already agreed that this may be taken up when we consider clause 61.

Shri T. T. Krishnamachari: My suggestion is that the House should decide this matter. If you think that the House had better decide clause 61 first leaving clause 59 without being decided on now. I am quite agreeable to that. But we do not want this House to leave it to the tender mercies of the mover of the Bill either to move a similar amendment or not. We would like clause 61 to be disposed of first before clause 59.

Mr. Chairman: Order, order. It is not right to suggest like that, because the matter is in the hands of the Chair. The Chair has to find which thing has to be moved first and which thing next. The Mover has expressed his sympathy with the amendment. Why should it be said that the matter be left to his tender mercies ?

Shri J. R. Kapoor: I would submit that there does not seem to be any difference of opinion with regard to the acceptance of the principle of my amendment. So, I would say nothing on that. The only question is how the substance of

it should be incorporated and where..... The right to vote already exists under the existing statutes. Clause 61 is a disqualifying clause. It does not confer any right of voting. It takes away the right of voting from certain persons who are enumerated in clause 61. But, here, we must specifically provide for that because here we are laying down the procedure by which various classes of persons are enabled to vote and this is the proper place.

Mr. Chairman: Order, order. The point is absolutely clear. There is no dispute about that. The right of voting and the method in which the vote will be recorded, are the two matters before the House. There is provision in clause 61 which takes away the right of a detenu. We have first to see whether we succeed in seeing that that right is not taken away. Then the question will arise as to the method in which that vote is to be recorded. Then we can revert to clause 59, to see whether we can adopt this method of recording their vote or the other methods suggested by the Hon. Law Minister.

With the concurrence of the hon. mover of the amendment. I am not putting this amendment to the House now. We can come back to clause 59 again if necessary.

Several Hon. Members: All right.

Mr. Chairman: I shall put the other amendment to the House. No. 396.

Shri Shiv Charan Lal: About that. I want clarification on one point.

Mr. Chairman: All the points have been clarified.

Shri Shiv Charan Lal: The Hon. Minister while replying to amendment No. 396 said that this is not the place for bringing in the candidates, their election agents and polling agents. My submission is that the heading of this clause is "Special procedure for voting by certain classes of persons" and I think this is the proper place to bring them in.

Mr. Chairman : The hon. Member will realise that herein the special procedure is given for postal ballot. The Hon. Minister has already explained that this is not the proper

method. It is for the Hon. Minister to make provision somewhere to see that these persons get the right to vote.

Dr. Ambedkar : If my friend wants an explanation, I would like to give this explanation to him. This clause 59 makes special reference to provision for voting by postal ballot by certain persons. It does not take away the right of the Government or the Election Commissioner to make provisions by rules for the method of voting of some other classes of people. If he wants specifically any rule, he can do so when we come to clause 167 where power to make rules is given.

Mr Chairman: I shall put amendment No. 396 to the House.

Shri J. R. Kapoor: I would request you, Sir, to put it in parts seperately (f) and (g).

Mr. Chairman: The question is:

After part (e) of clause 59, add the following new part:

"(f) the candidates, their election agents and polling agents ;".

Shri J. R. Kapoor: The Ayes have it. Sir.

Mr. Chairman: I will again put it to vote.

Shri J. R. Kapoor: Sir, most of the Members have not understood what is being put to vote.

Dr. Ambedkar: This matter will be provided for separately, and I do not understand why my friend should insist on introducing this clause for the purpose of postal ballot.

Shri J. R. Kapoor: Then I take it that it will be provided for somewhere else ?

Mr. Chairman: Then I think the hon. Member wants to withdraw his amendment ?

Shri J. R. Kapoor: Yes, on that assurance. I beg for leave to withdraw my amendments.

The amendments were by leave withdrawn.

Mr. Chairman: The amendment is withdrawn subject to our right to revert to clause 59, if the right is established in clause 61. We shall consider this amendment subsequently. The amendment is held over.

Shri T. T. Krishnamachari: There is no point in proceeding with it now. It may be held over.

Clause 60.—(*Prevention of personation*).

Shri Shiv Charan Lal: I want to move my amendment No. 120 in the Supplementary List 1, asking for the deletion of the clause.

Mr. Chairman: That is a negative amendment.

Shri Shiv Charan Lal: Then I shall only speak on the clause.

This clause 60 requires the finger of the elector to be marked by some ink when the ballot paper is given to him……. There has been no such provision in our country till now and I do not think there is the slightest need for it even now. So we need not have this clause 60.

Shri T. T. Krishnamachari: The position seems to be that the hon. Member has not understood the implication of clause 60. We are now experimenting with adult suffrage and we are not having registration of voters followed by giving them identification cards. I believe certain State Governments contemplated taking photographs of voters and giving them identification cards, but the cost involved was tremendous and so we have to make some other arrangements. False personation is an inevitable factor associated with votings, especially when such huge numbers are involved and so we have the method suggested in clause 60. There is nothing wrong shout it, when the rich man and the poor man have all to get their thumbs marked. There is nothing *infra dig* about it. Because of our poverty as a country we cannot give registration or identity cards to everybody and you cannot expect every voter to sign in a particular place either for purposes of identification as many would be illiterate. So we have this device—a temporary expedient as I hope—during the first two or three elections. There is no use importing sentiment into this matter. It is just a wholesome provision against impersonation which is a common feature in all elections where such large numbers are involved. Dishonesty has to be provided against and if for that purpose we have

to put ourselves to some inconvenience, I do not think there is anything seriously wrong. The arguments that have been quoted in support of the amendment to delete this clause are made wholly without considering all aspects of the situation. Therefore I support the clause as it stands.

Mr Chairman: The question is:

"That clause 60 stand part of the Bill".

The motion was adopted.

Clause 60 was added to the Bill.

Clause 61—(*Right to vote*)

Amendment made:

In sub-clause (5) of clause 61, omit the words "or is subjected to preventive detention under any law for the time being in force".

—[*Shri J. R. Kapoor*]

Dr. Ambedkar: The House should also take into consideration what I stated that although postal ballot appears to be the easiest method to adopt, as I said, unless elections are to be indefinitely postponed, we will have to make some provision for administrative difficulties and not being able to give ballot paper to everyone. That has to be borne in mind. What I thought was,—as I am not in a position to at once suggest an amendment which would give the persons under preventive detention the right to vote and also to meet the administrative difficulties,—I wanted to put it to the House whether it would not be desirable to deal with this matter under clause 167 which gives power to make rule.

Mr. Chairman: Two courses are open—either it may be provided in the rules or since the amendment of Mr. Kapoor is before the House, any amendment to that may be moved.

Dr. Ambedkar: What I wanted to say was this that some such words 'as far as practicable' would be necessary. The words 'as far as practicable' do not occur in any of the clauses of 59.

Shri T. T. Krishnamachari: The clause itself reads like this:

"Provision may be made by rules made under this Act".

There is nothing mandatory about it.

Dr. Ambedkar: My point is, under this rule it would be obligatory to provide a ballot paper for every one of the voters who is covered by this while so far as detained persons are concerned, on account of the difficulties that I have mentioned it may not be possible to provide a ballot paper for everyone. Otherwise the detenu may file a suit.

Mr. Chairman: Supposing the words "so far as practicable" are put in here along with the amendment.

Dr. Ambedkar : I do not think the words "so far as practicable" should be made applicable to any of the other categories specified, because it is possible to provide a ballot paper for every one who comes under these categories. Only in regard to this will only cause bitterness among people. And if it is done it would only produce obstacles in the way of a popular Scheduled Caste candidate in contesting elections for the general seats. Not only this much but his right to contest elections for the general seats and win them would also be nullified. Keeping this in view I think, Shri Sonavane should realize that he should not move such an amendment which may result in accelerating communal differences and bitterness and which might prove dangerous for the Scheduled Tribes or Scheduled Castes themselves. My impression is that even if he does not get sufficient votes after contesting for the general seat, he would at least get the seat reserved for the Scheduled Tribes. And in case he gets sufficient number of votes while contesting for the general seat then he would be elected on both the seats, the general as well as the reserved one. We should therefore declare it a separate seat, because this procedure cannot be followed with respect to a joint seat. And if the number of seats would be more in a plural constituency the voters only will have a right to *give* vote in the manner they like; of course the Harijans and the non-Harijans should have an equal footing for contesting elections for the general seat. In case the voters think that the Harijan candidate is a proper one and is capable, he will get votes of non-Harijans too and will be elected from that constituency. But in case he does not poll more votes then also he would

be entitled to get the second seat that has been reserved for the Scheduled Castes and Scheduled Tribes.

1-00 P.M.

Dr. Ambedkar: I am not prepared to accept this amendment.

Shri Sonavane: I beg for leave to withdraw my amendment.

The amendment was, by leave, withdrawn.

Shri J. R. Kapoor: I beg to move:

For sub-clause (2) of clause 62, substitute the following:

"(2) If an elector gives more than one vote to any one candidate in contravention of the provisions of sub-section (i) both the votes will be rejected."

Dr. Ambedkar: This matter was considered at great length in the Select Committee.

Shri J. R. Kapoor: Many a thing was very seriously considered by the Select Committee. But you find what that careful consideration has come to when the report is scrutinised here.

I would therefore, like to argue it out.

Mr. Chairman: The hon. Member will do it tomorrow.

The House then adjourned till Half Past Eight of the Clock on Tuesday, the 22nd May, 1951.

Clause 62

***Mr. Speaker:** Amendments moved:

(i) In sub-clause (1) of clause 62, for the words "but no elector shall give more than one vote to any one candidate", substitute the following :

"and may give all those votes to one candidate or distribute between such candidates and in such a manner as he thinks fit".

(ii) Omit sub-clause (2) of clause 62.

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*P. D., Vol. 12, Part II, 23rd May 1951, pp. 9248-49.

Shri R. Velayudhan (Travancore-Cochin)**:** May I speak on a few points ?

Mr. Speaker: There was an informal conference yesterday and the hon. Member I believe was present. I agree that he has the right to speak, but I do not know what right morally he has to take up the time of the House after having taken up three hours of the House yesterday in an informal conference. I do not want to come in the way of his right to speak as long as he likes.....

Shri R. Velayudhan: But the other hon. Member spoke just now.

Mr. Speaker: He was not present at the meeting as he did not belong to the Congress Party, to which the hon. Member belongs and that makes a lot of difference.

Dr. Ambedkar: In view of what I stated in the remarks which I made on my motion I do not think I can accept this amendment.

The motion was negatived.

Clause 69

***Mr. Speaker:** Is he suggesting that the Election Commissioner should be given the power of making rules like that?

Pandit Thakur Das Bhargava: He can ask the candidate to choose one seat. Under the rules he can himself say that he wants to retain such and such a seat. In case of illness or other contingency he should be asked by the Election Commissioner which seat he wants to retain. In case of gross contingency the penalty may come in if at all.

Dr. Ambedkar: What the hon. Member is suggesting is really unnecessary, because this is entirely left to the

*P.D., Vol. 12, Part II, 23rd May 1951, pp. 9250-51.

candidate. All that is necessary is that he should exercise his choice within the prescribed time. He has been given power under this very clause to say whether he wants to retain constituency No. A. B. or C. Therefore there is no occasion or necessity for the Election Commissioner either to enquire from him or to make a decision on his behalf that he should be allowed to retain one seat. The choice is entirely in the hands of the candidate and I do not know whether such a provision is at all necessary.

Mr. Speaker: His point seems to me to be that, it is possible that this contingency may be out of sight of the candidate who is elected and therefore the Election Commissioner would do better, if he sent something by way of a reminder informing the candidate that he stands to lose all the seats.

Dr. Ambedkar: I do not think that such a contingency could be contemplated for, the simple reason that every candidate elected will certainly arm himself with a copy of the rules. And he may be presumed to have read the rules. Another difficulty which I see is this, that even if an obligation was imposed upon the Election Commissioner to make an enquiry then he must fulfil that obligation with regard to every such candidate

Pandit Thakur Das Bhargava: There will be very few who will be returned from more than one constituency—he must be a very popular man who is elected from more than one constituency.

10-00 A.M.

Mr. Speaker: The contingency is more academic.

***Shri S. N. Das:** I request the Hon. Minister again to agree to the suggestion that expenses should be minimized in the elections. The whole work should be done in accordance with it and the rule-making authority as well as the Ministry should frame rules keeping all these things in view so that the real representatives of the people, even if they are not rich, may be easily elected.

Dr. Ambedkar: I do not accept the amendment.

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* P. D., Vol. 12, Part II, 23rd May 1951, p. 9272.

Clause 80

***Shri Hathi** (Saurashtra)**:** Sub-clauses (a) and (b) deal with the category of persons who have to send the petition. Sub-clause (c) deals with the method. As it originally stood, the categories of persons and the methods were connected together. It is simply in order to separate the categories of persons and the method by which it is to be sent that this amendment seems to have been moved. The amendment does not in any way alter the substance. It is only a better way of expression.

Dr. Ambedkar: Yes, that is the same thing. I need not add anything more to what the hon. Member has said.

Shri Kamath : Shall we add 'with acknowledgment due' ?

Mr. Deputy Speaker: We need not add it. All that is necessary is that it must be delivered to the other side. The question is:

> For sub-clause (2) of clause 80, substitute the following sub-clause:
>
> "(2) An election petition shall be deemed to have been presented to the Election Commission—
>
> (a) when it is delivered to the Secretary to the Commission or to such other officer as may be appointed by the Election Commission in this behalf—
>
> (i) by the person making the petition, or
>
> (ii) by a person authorised in writing in this behalf by the person making the petition; or
>
> (b) when it is sent by registered post and is delivered to the Secretary to the Commission or the officer so appointed."

The motion was adopted.

***Mr. Deputy Speaker:** I do not think it is necessary to labour the point. What has the Law Minister to say on the amendment ?

Dr. Ambedkar: I accept the amendment.

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* P. D., Vol. 12, Part II, 23rd May 1951, pp. 9280-81.

** *Ibid.,* p, 9282.

Clause 85

*** Shri Satish Chandra:** The House adjourned yesterday to discuss the amendments informally. We adjourned from that informal meeting at 1 o'clock and I gave notice of my amendment at 1 P.M. But it has been admitted in today's date.

Mr. Deputy Speaker: Was this matter discussed and agreed upon in the informal committe?

Dr. Ambedkar: Yes, it was agreed upon.

Mr. Deputy Speaker: Was it agreed that no advocate ought to be there ?

Dr. Ambedkar: Nobody wants any advocate. The matter can arise only by deleting part (b) of sub-clause (2). It cannot arise on this.

Mr. Deputy Speaker: Even accepting the clause as it stands he cannot avoid any advocate.

Shri Satish Chandra: I would suggest that this clause may be held over. The Members had no opportunity of giving any notice of amendments after yesterday's informal discussion. Notice has been given by me after the discussion but it will come up only tomorrow. If you allow me to move my amendment of which I have given notice, I shall do so.

Mr. Deputy Speaker: Not that I am bound by any of those decisions, but anyhow the hon. Member also had sat in that informal meeting which came to an agreed arrangement with reference to this matter. A contrary decision was arrived at there. Is it worthwhile my allowing the clause to stand over ?

Shri Satish Chandra: I would respectfully submit that out of the 320 Members of the House which adjourned yesterday for the specific purpose of holding an informal discussion on tabled amendments, not as many Members as the strength of the Select Committee on this Bill were present.

Mr. Deputy Speaker: Who is to blame? The Hon. Minister ?

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*P. D., Vol. 12, Part II, 23rd May 1951, pp. 9284-85.

Shri Satish Chandra: I do not blame the Hon. Minister.

Dr. Ambedkar: You yourself were present. Never mind whether others were present or not, you yourself were present.

Shri Satish Chandra: I objected to the amendment, but I was not allowed to have my full say. So, what I wish is that.....

Mr. Deputy Speaker: I am exceedingly sorry that the hon. Member has not tabled an amendment.

Shri Satish Chandra: I have tabled an amendment and its copy is with me. It could not be on the order paper today. I gave it to the Notice Office yesterday after 1 P.M.

Mr. Deputy Speaker: It is a fundamental issue as to whether lawyers are to be trusted or not. Therefore, even before this amendment was tabled he had enough time to give notice of an amendment. I am prepared to waive notice if he is able to show either in the consolidated list or in any of the supplementary lists any amendment standing in his name saying that lawyers are taboo—I would not stand on formality. But if after yesterday's discussion he thinks of a new thing I would not agree to it being moved now.

Shri Satish Chandra: I would submit that this majority of lawyers in the Election Tribunal was created only yesterday. It was not there before.

Dr. Ambedkar: In the amendment moved by my friend, Mr. Munishwar Datt Upadhyay there is no provision that there shall be a majority of lawyers. Only the chairman shall be a judicial officer, but the others may be non-judicial.

Shri Satish Chandra: The two persons out of three may be advocates. I do not know what else is a majority.

Pandit Munishwar Datt Upadhyay: His amendment, if there is any, refers to another clause—it has nothing to do with this clause.

Mr. Deputy Speaker: He does not say he has any amendment.

Shri Satish Chandra : I submit, Sir, that it may be held over. After all there is a difference of opinion among the hon. Members, some of whom feel strongly over this point. Just as other clauses have been held over. I suggest, this also may be held over and may be allowed to come up later. If it is held over it is possible there might be some agreed formula to satisfy all.

Dr. Ambedkar: I do not think there is any ground for holding it over.

Shri J. R. Kapoor: I am not entirely in favour of what Mr. Satish Chandra has been arguing, but then all of a sudden it does strike me that there is some point of fundamental importance that he has been arguing, and it is that Mr. Munishwar Datt's amendment to part (b) of sub-clause (3) of clause 85 stipulates that instead of one there shall be two members selected by the Election Commission from either of the lists maintained by it under sub-clause (2). But these two could be selected not necessarily only from the list under part (a) but from both the lists under parts (a) and (b).

Dr. Ambedkar: In which case his objection vanishes.

Shri J. R. Kapoor: So that objection goes.

Shri Kamath : May I point out that the acceptance of the amendment of Mr. Upadhyay by the Law Minister and perhaps later on by the House lends some point to the question raised by my friend Mr. Satish Chandra ? Clause 85 sub-clause (3) as it stands reads as follows:

> "Every Tribunal appointed under sub-section (*1*) shall consist of—
>
> (*a*) a Chairman who shall be either a person who is or has been a judge of a High Court or a person selected by the Election Commission from the list maintained by it under clause (a) of sub-section (2); and
>
> (*b*) one other member selected by the Election Commission from either of the lists maintained by it under sub-section (2):"

The acceptance of the amendment of Mr. Upadhyay will lead to this, that the two members he proposes in place of one can be selected from either of these lists, that is to say the posibility is there that both of them can be from the list mentioned in part (b).

Dr. Ambedkar: There is also the possibility of all the three people being taken from the list mentioned under (a).

Shri Kamath: I agree, but the clause as it stands would have precluded the majority of persons mentioned in part (b) because there were only two members of which one would necessarily be a District Judge, that is from the list under (a) or a High Court Judge, and the other would have been an advocate. And therefore, both of them would not have been advocates ..... I do agree with my friend, Mr. Satish Chandra that either the clause be held over or you waive notice for the amendment which he has given notice of. If you waive notice his amendment will be discussed in the House, otherwise it will be unfair to him and the House if his amendment is not allowed to be moved and the clause is put to the House as amended by the amendment of Mr. Upadhyay.

Shri T. T. Krishnamachari: I think quite a lot is being made about a clause which does not merit so much time.

Shri Kamath: That is in your view.

Shri T. T. Krishnamachari: That is my view and I hope it will be the view of the House.

Shri Kamath: I hope not.

Shri T. T. Krishnamachari: The merit of accepting my hon. friend, Mr. Upadhyay's amendment is that the elaborate improvision contemplated in clause 103 is done away with and I feel to that extent it is something which is commendable. The other point, as you were good enough to suggest, is whether the operation of clause 104 should continue in view of the fact that the chance of the High Court considering it as a side issue if there is a difference of opinion, is now removed..... Notwithstanding the vehement objection of my hon friend, Mr. Kamath I would allow the whole thing to pass as it is if the House approves.

I commend the amendment for acceptance of the House.

Mr. Deputy Speaker: Is it not a fact that as the Bill originally stood in case of a difference of opinion between the chairman and the member and the case taken up to the High

Court there was a guarantee that two judicial officers will bring to bear their judgment on the case ? That provision is taken away now and now it is open to the appointing authority to appoint both the members from among advocates. Why should there be such a radical change between the provisions of the Bill and the amemdment contemplated, which may bring in persons who may take part in politics ?

Shri T. T. Krishnamachari : So long as the appointments vest in the Election Commissioner, we can leave it to him to see that the people who are appointed are above suspicion.

Dr. Ambedkar: May I say a word, Sir to clear the matter ? Really the substantial question that we have to consider is whether we should retain the provisions contained in clause 103,—that is the fundamental point,—whether we want this, matter to be so dragged as to require the intervention of the High Court. The Committee all along felt that we have no idea as to the number of election petitions and we have no idea as to whether the judicial staff that would be wanted for the purpose of disposing of the election petitions would be adequate for the purpose of constituting the necessary number of tribunals. That was the difficulty that we have all along felt. Consequently we decided in the Select Committee that sub-clause (b) be added—I think you will remember that,—on account of the difficulty that was felt that if the personnel was confined only to judicial officers in the service of the Government there may be great difficulty. Therefore sub-clause (b) was brought in.

Now, with regard to the question that a lawyer may be appointed who might have played some part in politics and may have developed some kind of a bias in favour of one party as against the other, or who may have been a candidate in an election that difficulty is sought to be met in two ways. The first is this: that it is not every advocate who would be eligible for the purpose of being appointed. The restrictions are very many. First of all he must be a lawyer who is approved by the High Court. You will see the words are: "a list of advocates of that High Court who have been in practice for a period of not less than ten years and who are in the opinion of the High Court, fit to be appointed as such members." I

have no doubt in my mind that when the High Court recommends any particular advocate to be appointed to the Tribunal, it will take into consideration the political affiliations of the particular advocates whom it is recommending. Secondly, the High Court again is only a recommendatory body. The final appointment is to be made by the Election Commission and I have no doubt in my mind again that the Election Commission in order to maintain fair practices in election will further examine the list given by the High Court to find out whether any man is there on their list as recommended by the High Court who should be excluded by reason of the fact that he is a political individual or has been a defeated candidate or belongs to any particular party.

I agree the question whether advocates should be admitted or not to these appointments is a seperate question. But the possibility of including political advocates as members of the Tribunal, I think has been for all practical purposes more or less eliminated by the two provisions, namely, that it has been made subject to the recommendations of the High Court and secondly it has been made subject to the right of the Election Commission to select any particular individual or not. I, therefore, think that the fear is more or less groundless.

Mr. Deputy Speaker: Advocates of ten years' standing are eligible to be appointed as High Court Judges—is it not ? Therefore, persons who are qualified to be High Court Judges will alone be selected.

Dr. Ambedkar: Even after that if it is found out that he is politically interested in anybody, the Election Commission has got the power to exclude him. These are very rigorous and stringent conditions.

Shri Kamath: A person when he goes from the Bar to the Bench behaves differently but here the posibility is not obviated of this Tribunal being weighted by two advocates, thereby detracting from its judicial character.

Dr. Ambedkar: At that rate, why do you suppose that a retired sub-judge may not be a politician ? After all he is a retired man and is free to take part in politics.

Shri Kamath: Then delete that even.

Dr. Ambedkar: That would be further reducing the available resources for appointing the Tribunal.

Shri Shiv Charan Lal (Uttar Pradesh)**:** I think, Sir, the contingency which Mr. Kamath thinks might arise was already there. Previously also, when two persons were to be appointed, one a Chairman and the other an advocate, both could be advocates. Sub-clause (a) says "a Chairman who shall be either a person who is or has been a judge of a High Court." You know, Sir, that at least half of the Judges of the High Court are appointed from the advocates of the High Court. Suppose a man who was an advocate last year has been appointed a Judge of the High Court and he was appointed Chairman ? In that case both would be advocates.

Mr. Deputy Speaker: Once he is appointed a judge he sheds his colour of an advocate.

Shri Shiv Charan Lal: He might have been appointed a High Court Judge only a month before.

Shri J. R. Kapoor: The only apprehension that is troubling the minds of some of my hon. friends is that there is a possibility that the two members of the Tribunal other than the Chairman, may be advocates. To remove that apprehension. I would suggest a slight amendment.

Dr. Ambedkar: I have asked my hon. friend Pandit Munishwar Datt Upadhyay to move an amendment.

Shri J. R. Kapoor: I suggest that part (b) of sub-clause (3) of clause 85 be amended in the following manner, that for the present words the following words be substituted:

> "(6) two other members selected by the Election Commission either from the list maintained by it under part (a) of sub-section (2), or one from each of the list maintained by it under sub-section (2)."

It means that both the non-Chairman members may be from the list maintained under part (a) of sub-section (*2*)……. This is my amendment and if I have your permission I might move it.

Pandit Munishwar Datt Upadhyay: This difficulty will be solved by the omission of the words "either of" occurring in part (b) of sub-clause (3). The amendment will read as:

> In part (b) of sub-clause (3) of clause 35 omit the words "either of".

Shri J, R. Kapoor: That would not meet the point.

Shri Satish Chandra: I would suggest the substitution of the word "each" for the word "either" in part (b).

Mr. Deputy Speaker: If it is understood that the hon. the Law Minister is also agreeable to this amendment, we can make it easy. Even in item (a) of sub-clause (3) we can say that the Chairman and one other member shall be persons who are either High Court Judges or who are in the list under sub-clause (2)(a) and one other member shall be a person from the list under sub-clause (2) (b).

Dr. Ambedkar: If the words "either of" remain it may be possible that both of them may be appointed exclusively from one list. We do not want that. If we drop the words "either of" then that possibility does not remain.

Shri J. R. Kapoor: Even then it remains.

Mr. Deputy Speaker: It does not prevent the Commission from appointing from either list.

Shri T. T. Krishnamachari: It should be one from each.

Shri Kamath: Instead of "from either" if you make it "one from each" it will be clear and free from doubt.

Mr. Deputy Speaker: "One from each of the lists"?

Shri J. R. Kapoor: So that the advocate must always necessarily be there !

Dr. Ambedkar: I have no objection. If people have so much prejudice against advocates what can I do ?

Mr. Deputy Speaker: I shall put the amendments in their order. I shall first put Pandit Munishwar Datt Upadhyay's amendment. The question is:

> In part (b) sub-clause (3) of clause 85, for the words "one other member" substitute the words "two other members".

The motion was adopted.

Mr. Deputy Speaker : Now, the other amendment is that for the words "from either" the words "one from each" be substituted.

Dr. Ambedkar: It is a very tightening situation.

Mr. Deputy Speaker: I leave it to the Hon. Minister. Is it his desire that I should put it ?

Dr. Ambedkar: Yes.

Shri Karunakara Menon: May I point out that it takes away the possibility of the Tribunal consisting of all the three members being government servants ? Whether it is proper or not is a matter to be considered.

Mr. Deputy Speaker: It is pointed out that it is advantageous to the lawyers also because there must be at least one lawyer and not all Government servants.

Further amendment made:

In part (b) of sub-clause (3) of clause 85, for the words "from either" substitute the words "one from each".

— [*Shri T. T. Krishnamachari*]

Mr. Deputy Speaker: Now I shall put amendment No. 18 (consolidated List No. 2). It is a consequential amendment.

The question is :

In the second Proviso to sub-clause (3) of clause 85, for the word "member" substitute the word "members".

The motion was adopted.

Mr. Deputy-Speaker: The question is :

"That clause 85, as amended, stand part of the Bill."

The motion was adopted.

Clause 85, as amended, was added to the Bill.

Clause 86 to 93 were added to the Bill.

Dr. Ambedkar: Sir, I was going to suggest that the House might adjourn now and allow me to sit with the Members who have tabled amendments, to consider the clauses from 94 and then we can meet tomorrow, so that we may not have

again the difficulty of moving amendments which subsequently may be withdrawn or amendments which I have not yet had time to consider and come to any definite conclusion. I make this humble suggestion for your consideration and for the consideration of the House whether they would agree to it, so that we could meet right now for that purpose and also, if necessary, in the afternoon.

Several Hon. Members: Yes, yes.

Mr. Deputy Speaker: Very well. I think the suggestion is acceptable to the House, but I would like to make one suggestion before I adjourn the House. I find that though the conferece was very fruitful still a number of hon. Members did not avail themselves of it. I would urge upon hon. Members, all of them, to gather in the conference so that whatever they want to say here they may thrash out there and try to reach an agreement. If in spite of it there is a difference of opinion, they can always come to the House and take a vote. But many matters or matters in respect of which their may be misunderstanding may be thrashed out at the conference in an informal way and the misunderstanding removed.

Dr. Ambedkar: Everyone is invited.

Mr. Deputy Speaker: Though it is not a formal reference to a Committee of the whole House, it is as good as that. It is for hon. Members to sit there, voice forth their views and support or oppose amendments and come to conclusions. I hope that much of the discussion will be cut off tomorrow and that many of the clauses will be carried.

Shri Kamath : Your suggestion will apply only in respect of matters where there is unanimity of opinion. If there is difference of opinion, they have to be a discussed here.

Dr. Ambedkar: The majority decision must be accepted.

Shri Kamath: Not at all.

Mr. Deputy Speaker: Unanimity is always a percentage. As far as possible, doubts will be ironed out at the conference.

The House now stands adjourned till 8-30 tomorrow.

The House then adjourned till Half Past Eight of the Clock on Thursday, the 24th May, 1951.

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*REPRESENTATION OF THE PEOPLE (No. 2) BILL—*contd.*

Mr. Speaker: The House will now proceed with the further discussion of the Representation of the People (No. 2) Bill.

9-00 P.M. Clauses up to 93 were disposed of yesterday when the House adjourned for an informal discussion of the amendments tabled on the remaining clauses with the Hon. Minister of Law. The House will now take up clause 94. I should like to know what has been the result of the informal conference among Members.

The Minister of Law (Dr. Ambedkar): Sir, we have gone quite a long way up to clause 135. But I would be still asking your permission and the permission of the House to adjourn at about 11, or half-past eleven, as it suits us, because I would like to have a meeting again to finish off the whole. The difficulty is that in the afternoon there is another meeting and it would not be possible for the Committee of the House to meet to discuss this matter. I hope you will grant me this indulgence.

Mr. Speaker: I am prepared even to rise earlier, provided we could finish this off.

Dr, Ambedkar: The trouble is this that every Member regards himself as a possible candidate when he is discussing this Bill and he sees all sorts of difficulties that may come in his way.

An hon. Member: Including the Minister.

Mr. Speaker: When he says every Member of course the Minister is included.

I shall follow the procedure which we followed yesterday. I shall first ask as to whether any amendments are going to be moved and if so to what clauses. There are no amendments to clauses 94 to 97.

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*P.D., Vol. 12, Part II, 23rd May 1951, pp. 9296-9305.

Clauses 94 to 97 were added to the Bill

Clause 98.—(*Other orders by the Tribunal.*)

Shri J. R. Kapoor (Uttar Pradesh)**:** There are two amendments standing in the name of Pandit Thakur Das Bhargava. He being absent, if you will permit me. I will move them with some changes in the phraseology.

Mr. Speaker: Are they accepted amendments ?

Shri J. R. Kapoor: Yes, Sir.

Mr. Speaker: The question is:

"That clause 119, as amended, was added to the Bill.

The motion was adopted.

Clause 119, as amended, was added to the Bill.

Clause 120.—(*Payment of costs.*)

Dr. Ambedkar: I have an amendment to clause 120. It merely divides the clause into two sub-clauses and the second sub-clause would begin from the words "If there is.....", omitting the word "and" before them. The clause has been divided into two sub-clauses because it is a very big clause running into fifteen lines.

Amendment made:

For clause 120, substitute the following clause:

"120. *payment of cost out of security deposits and return of such deposits.*—(1) If in any final order as to costs under the provisions of this Part there is a direction for payment of costs by any party to any person, such costs shall, if they have not been already paid, be paid in full, or so far as possible, out of the security deposit and the further security deposit, if any, made by such party under this Part, on an application made in writing in that behalf within a period of six months from the publication of such final order under section 105 to the Election Commission by the person in whose favour the costs have been awarded.

(2) If there is any balance left of any of the said security deposits after payment under sub-section (*1*) of the costs referred to in that subsection, such balance, or where no costs have been awarded or no application as aforesaid has been made within the said period of six months, the whole of the said security deposits, may on an application made in that behalf in writing to the Election Commission by the person by whom the deposits have been made, or if such person dies after making

such deposits, by the legal representatives of such person, be returned to the said person or to his legal representatives, as the case may be."

—[*Dr. Ambedkar*]

Mr. Speaker: The question is:

"That clause 120, as amended, stand part of the Bill."

The motion was adopted

Clause 120, as amended, was added to the Bill.

Clause 121.—(*Execution of orders as to costs.*)

Dr. Ambedkar: I have to move a consequential amendment on account of the division of the original clause 120 into two sub-clauses.

Amendment made:

In the proviso to clause 121—

(*a*) for the words and figures "under section 120" in the first place where they occur, substitute the words, brackets and figures "under sub-section (1) of section 120";

(*b*) for the words and figures "under section 120" in the second place where they occur, substitute the words "under that sub-section";

(*c*) for the words "in that section", substitute the words "in that subsection".

—[*Dr. Ambedkar*]

Mr. Speaker: The question is:

"That Clause 121, as amended, stand part of the Bill.

The motion was adopted.

Clause 121, as amended, was added to the Bill.

Mr. Speaker: Then we come to the other amendments.

Dr. Ambedkar: I suggest that clauses 122, 123 and 124 may be kindly held over.

Mr. Speaker: Clauses 122, 123 and 124 are held over for the time being.

Clause 125—(*Prohibition of election meeting on the election day.*)

Dr. Ambedkar: I beg to move:

(i) In sub-clause (1) of clause 125, for the words "political meeting" substitute the words "public meeting".

(ii) In sub-clause (1) of clause 125, omit the words "or on the day immediately preceding that date or the first of those dates".

Mr. Speaker: Then I shall put the clause to vote.

Shri Kamath (Madhya Pradesh)**:** May I ask the Hon. Minister for a clarification, whether the preceding day means the day up till midnight or the day up to sunset ?

The Minister of State for Transport and Railways (Shri Santhanam): Anyhow the word is being deleted and the question does not arise.

Shri Kamath: It does because meetings on the previous day will not be prohibited.

Dr. Ambedkar : It is an academic question but if my hon. Friend presists I think that 'midnight' would be the proper word.

The motion (of Dr. Ambedkar as mentioned above) was adopted.

Mr. Speaker: The question is:

"That clause 125, as amended, stand part of the Bill."

The motion was adopted.

Clause 125, as amended, was added to the Bill.

Clause 126.—(*Disturbances at election meetings.*)

Amendment made:

In sub-clause (2) of clause 126, for the words "political meetings", substitute the words "public meeting of a political character".

—[*Dr. Ambedkar*]

Mr. Speaker: The question is:

"That clause 126, as amended, stand part of the Bill."

The motion was adopted.

Clause 126, as amended, was adopted to the Bill.

Clause 127 was added to the Bill.

Clause 128—(*Officers not to influence voting*) Amendment made:

In sub-clause (1) of clause 128, for the words "shall act as an agent of a candidate in the conduct or the management of the election",

substitute the words "shall in the conduct or the management of the election do any act (other than the giving of vote) for the furtherance of the prospects of the election of a candidate".

[*Dr. Ambedkar*]

Further amendment made:

In sub-clause (3) of clause 128, for the words "three months", substitute the words "six months".

—[*Dr. Ambedkar*]

Mr. Speaker: The question is:

"That clause 128, as amended, stand part of the Bill."

The motion was adopted.

Clause 128, as amended, was added to the Bill.

Clause 129.—(*Prohibition of canvassing.*)

Mr. Speaker: I take it that there are no amendments to this clause.

Shri S. N. Das (Bihar): I have an amendment, No. 174 in consolidated List No. 2 and that amendment was accepted yesterday.

Mr. Speaker: The question is:

"That clause 129 as amended, stand part of the Bill."

The motion was adopted.

Clause 129, as amended, was added to the Bill.

Clause 130.—(*Penalty for disorderly conduct.*)

Amendment made:

In sub-clause (1) of clause 130, for the words "during the hours fixed for the poll", substitute the words "on the date or dates on which a poll is taken".

—[*Dr. Ambedkar*]

Mr. Speaker: The question is:

"That clause 130, as amended. stand part of Bill."

The motion was adopted.

Clause 130, as amended, was added to the Bill.

Dr. Ambedkar: I would at this stage request you to adjourn the House, because we have exhausted all the clauses which we had agreed upon.

Mr. Speaker: The House may adjourn now for the informal meeting which will take place, as I am told, in the council of State hall and immediately after we disperse from here.

Shri Kamath: Have you. Sir, any objection to our meeting in this Chamber which is cooler?

Mr. Speaker: The convention up to now has been that unless the Speaker, the Deputy Speaker or the Chairman is in the Chair, no meetings can take place in this House.

Dr. Ambedkar: It is a good ground for not meeting here.

The House then adjourned till half Past Eight of the Clock on Friday, the 25th May 1951.

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*REPRESENTATION OF THE PEOPLE (No. 2) BILL.—*contd.*

Mr. Speaker: The House will now resume discussion on the Representation of the People (No. 2) Bill. Clauses upto 130 were disposed of yesterday when the House adjourned for an informal discussion of the amendments tabled on the remaining clauses with the Hon. the Minister of Law. The House will now take up clause No. 131. I should like to know how the position stands today.

The Minister of Law (Dr. Ambedkar): We have finished the whole thing except one or two clauses, which I would request to be held over.

Mr. Speaker: Then I shall follow the same procedure. I shall call the particular clause and any hon. Member who wishes to move an amendment will kindly invite my attention to it.

Clause 131 was added to the Bill.

Clause 132.—(*Penalty of illegal hiring*)

Shri Bhatt (Bombay)**:** Further consideration of clause 132 may be postponed as it is related to clause 122. So long as clause 122 is not taken up this clause also may not be taken up.

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*P. D., Vol. 12, Part II, 25th May 1951, pp. 9308-20.

Mr. Speaker: Has the Hon. Law Minister heard what the hon. member has stated ? He wishes that further consideration of clause 132 be postponed and be taken along with clause 122.

Dr. Ambedkar: I agree that it may be held over.

Clause 133 was added to the Bill.

Clause 134 was also added to the Bill.

Clause 135.—(*Other offences*)

Amendment made:

After part (a) of sub-clause (1) of clause 135, insert the following:

"(aa) fraudulently defaces, destroys or removes any list, notice or other document affixed by or under the authority of a Returning Officer; or".

—[*Dr. Ambedkar*]

The motion was adopted.

Clause 135, as amended, was added to the Bill.

Clause 136.—(*Special provisions for complaint*)

Amendment made:

For clause 136, substitute the following clause:

"136. *Prosecution regarding certain offences.*—(1) If the Election Commission or a Regional Commissioner appoiinted under clause (4) of article 324 or the Chief Electoral Officer of the State has reason to believe that any offence punishable under section 128, or under section 133 or under clause (a) of sub-section (2) of section 135 has been committed in reference to any election within a State, it shall be the duty of the Election Commission, the Regional Commissioner or the Chief Electoral Officer, as the case may be, to cause such inquiries to be made and such prosecutions to be instituted as the circumstances of the case may appear to it or him to require.

(2) No court shall take cognizance of any offence punishable under section 128 or under section 133 or under clause (a) of sub-section (*2*) of section 135 unless there is a complaint made by order of or under authority from the Election Commission or a Regional Commissioner appointed under clause (4) of article 324 or the Chief Electoral Officer of the State concerned."

—[*Dr. Ambedkar*]

Mr. Speaker: The question is:

"That clause 136 as amended, stand part of the Bill."

The motion was adopted.

Clause 136 as amended was added to the Bill.

Dr. Ambedkar: There are no amendments to clauses Nos. 137 to 143.

Pandit Thakur Das Bhargava (Punjab)**:** With regard to clause 139, unless clauses 122 to 124 are disposed of, it will be difficult to dispose it of. You have been pleased to hold over clauses 122 to 124 and clause 139 has relation to those clauses.

Mr. Speaker: The hon. Member wants clause 139 to be held over?

Pandit Thakur Das Bhargava: Yes, Sir.

Mr. Speaker : I will put the motion in a different way then.

Shri J. R. Kapoor (Uttar Pradesh)**:** I suppose it will be open to move for an addition of a new clause i.e. clause 132A later on, because that will also depend upon some previous clauses. I would like to add a new clause.

Mr. Speaker: In case it does not contravene the previous decision of the House, the hon. Member is entitled to move it. I will put the motion in a different form now.

The motion was adopted.

Clauses 137 and 138 were added to the Bill.

Clauses 140 to 143 were added to the Bill.

Clause 144.—(*Disqualification for being an election agent*)

Dr. Ambedkar: I beg to move:

In clause 144, omit the words "or a polling agent".

Shri Iyyunni (Travancore-Cochin)**:** I have also an amendment.

Mr. Speaker: Has he anything to say on this amendment ? We will come to his amendment later.

Dr. Ambedkar: It is his amendment which I am moving.

Shri Iyyunni: My amendment is that in the marginal heading to clause 144, the words "or polling agent" be omitted and the clause 144 also the words "polling agent" be omitted.

Dr. Ambedkar: Marginal headings will be corrected afterwards.

Mr. Speaker: I am not putting the marginal headings at all to the House. hon. Members will have noticed that I am dropping out the marginal headings. That is the business of the draftsmen. It is not part of the statute. The question is:

In clause 144, omit the words "or a polling agent".

The motion was adopted.

Mr. Speaker: The question is:

"That clause 144, as amended, stand part of the Bill"

The motion was adopted.

Clause 144, as amended was added to the Bill.

Clause 145 was added to the Bill

Clause 146.—(*Casual vacancies in Council of States*)

Amendment made:

In clause 146, for the words "the members of the Legislative Assembly or electoral college concerned" occurring in line 5, substitute the following:

"the elected members of the Legislative Assembly or the members of the electoral college concerned."

— [*Dr. Ambedkar*]

Mr. Speaker: The question is :

"That clause 146, as amended stand part of the Bill."

The motion was adopted.

Clause 146, as amended, was added to the Bill.

Clauses 147, 148 and 149 were added to the Bill.

Clause 150.—(*Vacancies in State Legislative Councils*)

Pandit Thakur Das Bhargava: An amendment was agreed that the election shall be held within four months. But, that is not here on the paper. Therefore, I would beg of you to hold over this clause.

Dr. Ambedkar: It was not accepted, I believe. My record does not show that. Let the amendment be moved, whatever it is.

Sardar Sochet Singh (P.E.P.S.U.)**:** It was agreed.

Mr. Speaker: Let us hold it over.

Clause 151.—(*List of members to be maintained*).

Amendment made:

For sub- clause (1) of clause 151, substitute the following:

"(1) The Returning Officer for an election by the elected members of the Legislative Assembly of a State to fill a seat or for an election by the members of the Legislative Assembly of a State to fill a seat or seats in the Legislative Council of the State shall for the purposes of such election maintain in his office in the prescribed manner and form a list of elected members or a list of members, as the case may be of that Legislative Assembly."

—[*Dr. Ambedkar*]

Mr. Speaker: The question is:

"That clause 151 as amended, stand part of the Bill."

The motion was adopted.

Clause 151, as amended, was added to the Bill.

Clause 152 to 156 were added to the Bill.

10-00 A.M.

Clause 157.—(*Return or forfeiture of deposits*)

Amendment made:

In sub-clause (1) of clause 157, after the words "by whom" occurring in line 1, insert the words "or on whose behalf.

—[*Dr. Ambedkar*]

Further amendment made:

In sub-clause (1) of clause 157, for all the words beginning with he words "the deposit shall be returned" to the end, substitute the following:

"the deposit shall be returned to the person by whom it was made and, if any candidate dies before the commencement of the poll, any such deposit, if made by him, shall be returned to his legal representative or, if not made by the candidate, shall be returned to the person by whom it was made."

—[*Dr. Ambedkar*]

Further amendment made:

In sub-clause (2) of clause 157, after the words "by whom" occurring in line 1, insert the words "or on whose behalf."

—[*Dr. Ambedkar*]

Further amendment made:

In sub-clause (4) of clause 157, after the words "deposit made by" occurring in line 1, insert the words "or on behalf of ".

—[*Dr. Ambedkar*]

Further amendment made:

In sub-clause (4) of clause 157, for the words "be returned to him" occurring in line 3, substitute the following:

"be returned to such candidate or to the person who has made the deposit on his behalf, as the case may be."

—[*Dr. Ambedkar*]

Further amendment made:

In the first Proviso to sub-clause (4) of clause 157, after the words "deposits made by him" occuring in line 3, insert the words "or on his behalf ".

—[*Dr. Ambedkar*]

Further amendment made:

In the second Proviso to sub-clause (4) of clause 157, after the words "deposits made by him" occuring in line 4, insert the words "or on his behalf."

—[*Dr. Ambedkar*]

Shri Bhatt: There is an amendment No. 212.

Dr. Ambedkar: I will move that separately.

Further amendment made:

In sub-clause (2) of clause 157, for the word "one-eighth" in the two places where it occurs ; substitute the word "one-sixth".

—[*Dr. Ambedkar*]

Mr. Speaker: The question is :

"That clause 157, as amended, be added to the Bill."

The motion was adopted.

Clause 157, as amended was added to the Bill.

Clause 158 was added to the Bill.

New Clause 158A.

Dr. Deshmukh (Madhya Pradesh)**:** Sir, I have to move for the insertion of the following amendment. In England, they have not only a provision similar to the one. I am asking, but they have framed certain rules for regulating the granting of accommodation for this purpose and these have not led to any difficulty whatsoever. I therefore, urge that this amendment may be accepted.

Dr. Ambedkar: I am afraid this will create a lot of difficulties and I am not prepared to accept this amendment.

Mr. Deputy Speaker: Let me first of all ascertain from the hon. Member if it is necessary for me to place the amendment before the House.

Dr. Deshmukh: No, but some hon. Members may desire to speak.

Mr. Deputy Speaker: The hon. Member has moved his amendment and as I understand it, the procedure is if I place it before the House, the House gets seized of it. I asked for the reaction of the Law Minister and he said that he is not accepting the amendment. And the hon. Member has rightly said that it is not necessary for me to place it before the House. When I place it before the House, then every Member is entitled to talk on it; and at that stage the hon. Member who has moved it can withdraw it with the leave of the House.

Dr. Deshmukh: In view of the fact that there are a lot of hon. Members of this House who are keen and who are impressed by the reasonings I have given, they may be allowed to speak on this amendment and then .....

Pandit Thakur Das Bhargava: Sir, this will be a bad precedent. If it is not to be put to the House, it need not be discussed.

Shri Kamath (Madhya Pradesh)**:** The hon. Member moved the amendment and it should be discussed. When an amendment is moved, the House is seized of it.

Mr. Deputy Speaker: I take it as a point of order. My ruling is this that until the moment.....

Shri Syamnandan Sahaya (Bihar)**:** Parliamentary system of Government is by discussion and persuasion. The hon. Dr. Deshmukh is not able to persuade the Hon. Law Minister. It is possible my friend Mr. Kamath may be able to persuade the law Minister by his arguments. So, why not give some chance for discussion ?

Mr. Deputy Speaker : The point raised here is at what stage does the House get seized of a motion. It is not as if as soon as any hon. Member gives notice of an amendment, moves it, the House gets seized of it. The Speaker has to place it before the House and then only the House gets seized of it. But at that stage it is open to the hon. Member not to press it. I asked the Law Minister to give his reaction. He said briefly that he is not agreeable to it. If the hon. Member wanted me to put the Amendment to the House, I would have done so and then there could be some discussion, and the Hon. Law Minister would have convinced the House about his attitude, in reply. Then ultimatly it would be for the House to decide the matter. At that later time if the hon. Member who made the motion wanted to withdraw, the consent of the House would be necessary. It is quite possible that the House might have been convinced one way or the other and therefore it would be for the House to allow the hon. Member to withdraw or not. Here I asked the Hon. Law Minister and after hearing him the hon. Mover did not press the motion. Therefore, I did not put the motion to the House and it is not seized of it. I cannot therefore, put any motion to the House merely to satisfy a number of hon. Members for the purpose of talking on this matter. I am not going to allow any improper spending of the time of the House.

So far as Mr. Sahaya's point is concerned, it is open to any other Member if he was satisfied with the amendment, to have himself given notice of the amendment. I cannot allow any hon. Member to take advantage of any amendment in somebody else's name. The time of the House is so precious that I cannot allow any discussions which are not germane to any issue before it.

Shri Kamath: Do the Rules of Procedure of the House .....

Mr. Deputy Speaker: Is there no rule to regulate the hon. Member not to stand in his seat when the Deputy Speaker is standing ?

Shri Kamath : There is a convention that when a Member wishes to be heard, he should be allowed to have his say.

Mr. Deputy Speaker: I am afraid that accusation cannot be levelled against me. I am always erring on the other side. I allow him to speak often. Now the amendment is not before the House. This is my ruling. The hon. Member must have some sense of decency and decorum.

Shri Kamath : I must protest against the use of the word "Decency".

Mr. Deputy Speaker: Protesting is improper.

Shri Kamath: I must protest again.

Mr. Deputy Speaker: This kind of unruly conduct in the House cannot be tolerated. An hon. Member moves a motion and another says that he wants to speak on this. Who is to decide ? Shall I ask the hon. Member to take my place here ? There must be somebody to regulate the proceedings. I come to the conclusion that the House is not seized of this problem as the Hon. Mover does not press it. Till I put it to the House, the matter is not before the House at all. In spite of this the hon. Member Mr. Kamath wishes to speak and speak on what ? He wants to speak on a motion which is not before the House. When I say it is not right, he protests. Therefore it is for the House to regulate the conduct of Members. I am only the spokesman-. It is not right that any Member should take the time of the House and go on protesting against it. I have no objection to ignore what has happened.

Shri Kamath: I would like to protest strongly .....

Mr. Deputy Speaker : If he protests, then I will ask him to quit the House.

Shri Kamath: I protest .....

Mr. Deputy Speaker: For the day the hon. Member will not enter the House. I do not want to turn out any hon. Member but there must be some sense of decency and decorum in this House. He must submit to the ruling of the Chair, submit to the majority view. Ultimately it is the Chair that reflects the majority view. It also has the right to rule what is a point of order. In spite of that the hon. Member goes on stating that he must control the rest of the House. I do not know if the House will put up with that. It is not my intention to castigate any Member.

Shri Kamath: Dr. Deshmukh never withdrew the amendment.

Mr. Deputy Speaker: He did not press it. I come to the conclusion rightly or wrongly that this motion is not before the House. Is it not final ?

Shri Kamath: By that Dr. Deshmukh means that he does not wish to press it to the vote of the House.

Dr. Deshmukh: I do not want to go back on anything that has happened but in many cases there has been discussion although the motion has not been formally put and even after two or three speeches, the motion has not been put. There have been precedents like that.

Mr. Deputy Speaker: I have been suggesting to hon. Members that if any hon. Member is insistent upon his amendment being put to the House and heard by the House, let him have the courage of moving it and insisting on it being heard by the House. But if he does not want me to put it to the House, he cannot compel the Chair to allow discussion on that.

Pandit Thakurdas Bhargava: No amendment which is not asked to be put to the House has a claim to be discussed in the House.

Mr. Deputy Speaker: I will now proceed

Shri Kamath ***rose*** **—**

Shri Sidhva: Order, order.

Shri Kamath: You have no business to call me to order.

Mr. Deputy Speaker: The House will now proceed to its normal work.

Clause 159.—(*Requisitioning of premises*)

Amendment made:

To sub-clause (1) of clause 159, add the following Proviso:

"Provided that no vehicle, vessel or animal which is being lawfully used by a candidate or his agent for any purpose connected with the election of such candidate shall be requisitioned under this sub-section until the completion of the poll at such election."

—[*Dr. Ambedkar*]

Mr. Deputy Speaker: The question is:

"That clause 159, as amended, stand part of the Bill."

The motion was adopted.

Clause 159, as amended, was added to the Bill.

Clauses 160 to 166 were added to the Bill.

Dr. Ambedkar: I want clause 167 to be held over. Clauses 168 and 169 may be put to the House, as there are no amendments to them.

Clauses 168 and 169 were added to the Bill.

Dr. Ambedkar: Sir, I want the House to be adjourned and I do want to say also that it may not be possible for me to be ready tomorrow to take up the Bill again. I therefore suggest that the House might consider the possibility of taking some other Bill tomorrow and I shall be ready thereafter. There is I understand, the Boilers Bill which is a small Bill and can be taken up tomorrow. (*Some Hon. Members*: Why not today ?) The Member in charge is not ready as he has had no notice.

The Deputy Minister for Works, Production and Supply (Shri Buragohain): I have not got the papers here.

The Minister of State for Parliamentary Affairs (Shri Satya Narayan Sinha): The House may adjourn for half an hour and in the mean time he can go and get the papers.

The Minister of State for Transport and Railways (Shri Santhanam): Sir, I understand that the Hon. Minister of States, Mr. Gopalaswami Ayyangar, will be ready to take up his Bill relating to Part C States but he has had no notice. Perhaps if the House adjourns for half an hour he might be in a position to take up the Bill.

Mr. Deputy Speaker: The House may be adjourned till 11 o'clock and in the mean time hon. Members may go through the Bill and be ready with their amendments.

Dr. Ambedkar: I have also to look into the odds and ends with regard to the amendments which I have accepted on the spur of the moment. I have to see to what extent they require modification and that is why I may not be ready tomorrow.

Shri Bharati (Madras): May I suggest that the discussion on clause 7 may go on but the decision could be postponed for sometime later ? (*Several Hon. Members* : No, no.) In any case the discussion on it is bound to go on and only the decision may be held over.

Mr. Deputy Speaker: The hon. Member is aware that if they come to an agreement with respect to clause 7 and other clauses relating to disqualifications much of the discussion may be avoided. Otherwise they will be only beating the air. So I adjourn the House till 11 o'clock when the House will take up the next motion on the agenda, namely the Government of Part C States Bill.

The House then adjourned till Eleven of the Clock.

REPRESENTATION OF THE PEOPLE (NO. 2) BILL

***Shri Ghule :** I beg to move :

In the amendment proposed by Dr. Ambedkar, printed as No. 2 in Supplementary List No. 7 of amendments, in sub-clause (2) of the proposed new clause 47—

(*a*) for the word "commencement" occuring in line 5 substitute the word "end" and

(*b*) before the words "counting of votes" occurring in line 7, insert the words "end of the"

My amendment is very simple. The provision here should be that before the counting is finished or before the close of the counting he should be able to revoke his name.

The Minister of law (Dr. Ambedkar): I am not accepting the amendment.

Shri Kamath: May I suggest a minor alteration in the marginal heading ? The draftsman may bear in mind that the construction of the marginal heading "Revocation of the appointment or death of a polling agent" is not to my mind happy. It might mean that the word death also is qualified by the word 'revocation'. If 'death' comes first, it will be all right.

Dr. Ambedkar: That will be borne in mind.

Shri Ghule: I do not press my amendment.

Mr. Deputy Speaker: I hope the House is agreeable to the amendment of the marginal heading.

Motion was adopted.

***Clause 51.—**(*Death of candidate before poll*)

Amendment made:

To clause 51, add the following further proviso:

'Provided further that no person who has under sub-section (*1*) of section 35 given a notice of withdrawal of his candidature before the countermanding of the poll shall be ineligible for being nominated as a candidate for the election after such countermanding."

—[*Dr. Ambedkar*]

*P. D., Vol. 12, 28th May 1951, pp. 9480-81.

** P.D., Vol. 12, Part II, 23rd May 1951, pp. 9482-95.

Mr. Deputy Speaker: The question is :

"That Clause 51, as amended, stand part of the Bill".

The motion was adopted.

Clause 51, as amended was added to the Bill.

Clause 59.—(*Voting by certain classes of persons*)

Prof. S. L. Saksena (Uttar Pradesh)**:** Sir, I have given an amendment to this clause.

Mr. Deputy Speaker: What is the number and on which list?

Prof. S. L. Saksena: I am unable to find it; it is not in the printed list.

Shri Shiv Charan Lal (Uttar Pradesh)**:** It is amendment No. 233 in the Revised Consolidated No. I. p. 24.

Sir, Dr. Ambedkar promised to make provision for the candidate and his agents, if they are working in another constituency. That has not been included in his amendment.

Pandit Thakur Das Bhargava (Punjab)**:** He said that rules will be made by which candidates and their agents will be afforded an opportunity of voting by some other method.

Dr. Ambedkar: There is an amendment to clause 167 which deals with this matter. My friend might move his amendment when we discuss clause 167. We can consider then whether we could not add the words "a candidate".

Mr. Deputy Speaker: I shall permit this amendment as an amendment to clause 167.

Shri Hussain Imam: In the amendment of Dr. Ambedkar no provision has been made for transferred officers. An officer transferred from Delhi to Madras, for instance has a right to demand a postal ballot. A clause should be provided here whereby government servants can on transfer demand postal ballot.

Dr. Ambedkar: That matter may also be considered when we deal with clause 167.

Mr. Deputy Speaker: The returning officer may get the ballot papers transferred through post.

Dr. Ambedkar: That is a matter which can be regulated by rules when we come to clause 167.

Amendment made:

For clause 59 substitute the following clause:

"59. *Special procedure for voting by certain classes of persons.*—

Without prejudice to the generality of the provisions contained in section 58, provision may be made by rules made under this Act for enabling—

(a) any of the following persons to give his vote by postal ballot, and not in any other manner, at an election in a constituency where poll is taken, namely:—

(i) a member of the Armed Forces of the Union to whom the provisions of sub-section (*3*) of section 20 of the Representation of the People Act, 1950 (XLIII of 1950), apply;

(ii) a person holding any office in India declared by the President to be an office to which the provisions of sub-section (4) of that section apply;

(iii) a person who is employed under the Government of India in a post outside India and;

(iv) the wife of any such person as is referred to in sub-clauses (i), (ii) and {iii) to whom the provisions of sub-section (6) of the said section 20 apply;

(b) any person subjected to preventive detention under any law for the time being in force to give his vote by postal ballot and not in any other manner, at an election in a constituency where poll is taken subject to the fulfilment of such requirements as may be specified in those rules."

—[*Dr. Ambedkar*]

Mr. Deputy Speaker: The question is "That clause 59, as amended, stand part of the Bill."

The motion was adopted.

Clause 59, as amended was added to the Bill.

Pandit Thakur Das Bhargava: There is an amendment to clause 34A regarding the finality of nomination papers. What is happening to that?

Mr. Deputy Speaker: It has not been taken up. I will first dispose of the Government amendments and will come back to the other amendments of private members.

What about the amendment to clause 122 in list 7 to consolidated list No. II ?

Dr. Ambedkar : I am not ready with that for the moment.

Clause 7.—(*Disqualification for membership*)

Shri Syamnandan Sahaya (Bihar)**:** We have given amendments to the amendments of Dr. Ambedkar. It is better that we take up the clause tomorrow. We have not had any time.

Mr. Deputy Speaker: They can be taken up today. All notice will be waived.

Dr. Ambedkar: Sir, I move 7A, with this modification namely, that in sub-clause (f) for the words "as such member" the words "a Member of Parliament or the Legislature of a State as the case may be" have been substituted. I beg to move:

For clause 7, substitute the following clauses;

7. *Disqualifications for membership of Parliament or of a State Legislature.*—A person shall be disqualified for being chosen as and being a member of. either House of Parliament or of the Legislative Assembly or Legislative Council of a State—

(a) if, whether before or after the commencement of the Constitution, he has been convicted, or has in proceedings for questioning the validity or regularity of an election been found to have been guilty of any offence or corrupt or illegal practice which has been declared by section 138 or section 139 to be an offence or practice entailing disqulification for membership of Parliament and of the Legislature of every State, unless such period has elapsed as has been provided in that behalf in the said section 138 or section 139, as the case may be ;

(b) if, whether before or after the commencement of the Constitution, he has been convicted by a court in India of any offence and sentenced to transportation or to imprisonment for not less than two years unless a period of five years or such less period as the Election Commission may allow in any particular case has elapsed since his release;

(c) if having been nominated as a candidate for Parliament or the Legislature of any State or having acted as an election agent of any person so nominated he has failed to lodge return of election expenses within the time and in the manner required by or under this Act, unless five years have elapsed from the date by which the return ought to have been lodged or the Election Commission has removed the disqualification;

(d) if, whether by himself or by any other person in trust for him or for his benefit or on his account he has any share or interest in a contract for the supply of goods to or for the execution of any services undertaken by the appropriate Government.

(e) if, he is a director or managing agent of or holds any office of profit under any corporation in which the appropriate Government has any share or financial interest;

(f) if, having held any office under the Government of India or the Government of any State or under the Crown in India or under the Government of an Indian State he has whether before or after the commencement of the Constitution been dismissed for corruption or disloyalty to the State unless a period of five years has elapsed since his dismissal.

7A. *Savings*.—(1) Notwithstanding anything in section 7—

(a) a disqualification under clause (a) or clause (b) of that section shall not, in the case of a person who becomes so disqualified by virtue of a conviction or a conviction and a sentence and is at the date of the disqualification a member of Parliament or of the Legislature of a State, take effect until three months have elapsed from the date of such disqualification, or if within these three months an appeal or petition for revision is brought in respect of the conviction or the sentence until that appeal or petition is disposed of;

(b) a disqualification under clause (c) of that section shall not take effect until the expiration of two months from the date by which the return of election expenses ought to have been lodged or of such longer period as the Election Commission may in any particular case allow ;

(c) a disqualification under clause (d) of that section shall not where the share or interest in the contract devolves on a person by inheritance or succession or as a legatee executor or administrator take effect until the expiration of six months after it has so devolved on him or of such longer period as the Election Commission may in any particular case allow;

(d) a person shall not be disqualified under clause (d) of that section by reason of his having a share or interest in a contract entered into between a public company of which he is a shareholder but not a director holding an office of profit under the company or a managing agent and the appropriate Government.

(e) a person shall not be disqualified under clause (e) of that section by reason of his being a director is declared by Parliament by law to so disqualify its holder;

(f) a disqualification under clause (e) of that section shall not, in the case of a director, take effect where the law making any such declaration as is referred to in clause (e) of this section in respect of the office of such director has come into force after the director has been chosen a member of Parliament or of the Legislature of a State, as the case may be, until the expiration of six months after the date on which such law comes into force or of such longer period as the Election Commission may in any particular case allow;

(g) a disqualification under clause (f) of that section may, in the case of any of the candidates for the first elections under this Act, be removed by the Election Commission for reasons to be recorded by it in writing.

7b. *Interpretation,* etc.—(1) In this chapter—

(a) "appropriate Government" means in relation to any disqualification for being chosen as or for being a member of either House of Parliament, the Government of India, and in relation to any disqualification for being chosen as or for being a member of the Legislative Assembly or Legislative Council of a State, the Government of that State;

(b) "public company" means a public company as defined in section 2 of the Indian Companies Act, 1913 (VII of 1913).

(2) For the avoidance of doubt it is hereby declared that where any such contract as is referred to in clause (d) of section 7 has been entered into by or on behalf of a Hindu undivided family and the appropriate government, every member of that family shall become subject to the disqualification mentioned in the said clause (d); but where the contract has been entered into by a member of a Hindu undivided family carrying on a separate business in course of such business, any other member of the said family having no share or interest in that business shall not become subject to such disqualification."

(3) If any question is raised as to whether a person who, having held any office referred to in clause (f) of section 7, has been dismissed is disqualified under that clause for being chosen as a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State, the production of a certificate issued in the prescribed manner by the Election Commission to the effect that such person has not been dismissed for corruption or disloyalty to the State shall be conclusive proof that he is not disqualified under that clause."

Mr. Deputy Speaker: Amendments moved.

12-00 NOON.

Mr. Deputy Speaker: Are there any amendments ?

Prof. K. T. Shah: I have an amendment in consolidated list No.1 .....

Mr. Deputy Speaker: But it seems to be an amendment to old clause 7 ?

Prof. K. T. Shah: That is our difficulty. This new clause has been suddenly put forward. If you do not allow us to move our amendments and at least try to bring out the new ideas that are there .....

Mr. Deputy Speaker: I understand the difficulty of hon. Members. The notice of the new amendment proposing substitution of old clause 7 seems to have been circulated only last night or this morning. That has to be remembered. So. we shall take up clause 7 at 3-30 P.M. And whenever notices are given they will be cyclostyled and circulated to all hon. Members. Without any formality all amendments may be handed over to the Secretary. We will take them up at 3-30 today.

So clause 7 will stand over. What other clause shall we take up now ?

Dr. Ambedkar: Sir, I want to add a new clause 166A.

Mr. Deputy Speaker: Clause 7 has been held over. Let us proceed in order. The other ones that are standing over are clauses 122, 123 and 124. I do not know when they will be ready—it depends upon how soon the draftsmen will be ready. If they are ready this afternoon we will take them up.

Shri Kamath: There is a lot of last skipping. Sir.

Mr. Deputy Speaker: We will not skip over—of course whenever a clause is not ready we will skip it over.

New Clause 166A

Dr. Ambedkar: We shall take up clause 166A. My amendment is No. 8 in supplementary list No. 7 to consolidated list No. 2. But I have to make one or two verbal changes in that amendment. In line 9 of sub-section (1), instead of "nomination as a candidate". I want to put it as "nomination as such candidate", thereby substituting "such" for "a". Then in sub-section (*2*) I want to renumber (a) and (b) as (b) and (c) and I want to add a new part (a) which will read as follows:

> "(a) "Candidate" has the same meaning as in section 78."
>
> I want to move the amendment, as modified above. I beg to move:
>
> In Part X after clause 156, insert the following clause:

"166A. *Special provisions with respect to Rulers of former Indian States* —(1) If the Ruler of a former Indian State is nominated as a candidate for any election under this Act, the provisions of sub-section (i) of section 87B of the Code of Civil Procedure, 1908 (Act V of 1908) and of sub-section (*2*) and (*3*) of section 197A of the Code of Criminal Procedure, 1898 (Act V of 1898), shall not apply in relation to such Ruler during the period commencing on the date of his nomination as such candidate and ending on the date on which the result of the election is published under section 66, and shall not apply thereafter in relation to any proceedings for questioning the validity or regularity of such election under Part VI of this Act or in relation to any criminal proceedings against such Ruler for any offence under Chapter IX-A of the Indian Penal Code or Chapter III of Part VII of this Act alleged to have been committed by him at or in connection with such election.

(2) In this section—

(a) "Candidate" has the same meaning as in section 78;

(b) "former Indian State " means any such Indian State as the Central Government may, by notification in the *Official Gazette,* specify for the purposes of this section.

(c) "Ruler", in relation to a former Indian State, means the person who for the time being is recognised by the President as the Ruler of that State for the purposes of the Constitution."

Mr. Deputy Speaker: Amendment of Dr. Ambedkar moved.

Prof. K. T. Shah: Sir, we cannot follow the amendment. Will you please give us some explanation ? Are the Rulers also going to be candidates and will they be exempt from the Criminal Procedure Code ?

Dr. Ambedkar: The position is this. As the House will remember, when the report of the Select Committee was discussed, it was suggested that the ruling princes should be disqualified from being members of a legislature. Various grounds were urged. One of them was that they were holding a sort of office of profit under the Government of India by virtue of the engagements that they had with the Government of India and under which the Government of India had agreed to give them certain sums annually. I then said that it did not appear to me that this was an office of profit and therefore, it could not come under the provisions of the article in the Constitution which deals with the holders of offices of profit. I also said at the time when the matter was discussed that

I did not find any valid justification as to why a ruling *prince,* qua a ruling prince, should be disqualified from being a member of a legislature. Subsequently it was urged that these ruling princes had been given certain protection under 'the Criminal Procedure Code and the Civil Procedure Code, by virtue of which it was not possible for a person to file a criminal complaint against them or to file a civil suit without the previous sanction of the Government of India. On this ground it was said that if this protection extended to the period intervening between the nomination and the polling, a Prince may commit any offence or he may commit any corrupt practice or illegal practice and it would not be possible for any individual to bring him to book, because the permission of the Government of India was necessary. I felt that this was a legitimate complaint—that if a Prince wanted to stand for election he should not be permitted to claim the protection, that has been given to him by the provisions in the Criminal Procedure Code and the Civil Procedure Code.

Therefore, what is proposed in this amendment is this that if a Prince stands as a candidate for an election, whether it is an election from a Parliamentary constituency or an election to the State Legislative Assembly, he shall automatically cease to obtain the benefits conferred upon him by the provisions contained in the Criminal Procedure Code and the Civil Procedure Code so that he may be prosecuted for an offence without the sanction of the Government of India. An election petition may be lodged against him without the consent of the Government of India and any other proceedings may be taken against him as though he was a common citizen having no special privileges. This, I think, is a *via media* between the old provision in the Select Committee's Report that they should be qualified to stand for election and be Members of Parliament without abrogation of the privileges that were given to them under the Civil and Criminal Procedure Codes and the other position taken by other Members of the House that they should be straightway disqualified from standing for election.

I hope the House will accept this amendment, because it strikes a middle path.

Moulvi Wajed Ali (Assam)**:** May I put one question to the Hon. the Law Minister ? If the candidate fails to be elected or for some reason or other does not stand for election will the exemptions stand or will they be revived ?

Dr. Ambedkar: The suspension of the protection will operate only during the period of the nomination and the ending of the election.

Dr. Pattabhi (Madras)**:** Will he have to face all the natural consequences of the election ?

Dr. Ambedkar: He will be subject to all the consequences of the election.

Prof. K. T. Shah : May I enquire if the House is committed to the principle that the Princes may be allowed to stand for election ?

Mr. Deputy Speaker: There is no restriction in the Bill as it emerged from the Select Committee—there is no prohibition prohibiting a Prince from standing as a candidate either in the Constitution or in the Bill as it emerged from the Select Committee. Hon. Member ought to put the question the other way.

The motion was adopted New Clause 166A was added to the Bill.

Clause 167.—(*Power to make rules*)

***Dr. Ambedkar:** I beg to move :

After part (c) of sub-clause (2) of clause 167, insert the following:

"(cc) the manner in which votes are to be given by a presiding officer, polling officer, polling agent or any other person, who being an elector for a constituency is authorised or appointed for duty at a polling station at which he is not entitled to vote."

Mr. Deputy Speaker : Amendment moved.

Mr. Deputy Speaker : The effect of the amendment will be, the rules may provide for regulating the manner in which a candidate or the election agent or other agent of a candidate in which he is not a voter can vote.

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*P. D., Vol. 12, Part II, 28th May 1951, pp. 9498-9501.

Shri J. R. Kapoor (Uttar Pradesh)**:** That will not solve the difficulty, because the candidate may be a voter in a particular constituency, but the constituency is such a wide one that at the particular time that he has to record his vote, he may not be at the particular polling station within the area in which his vote has to be recorded.

Mr. Deputy Speaker: The constituency is there. There are a number of polling stations in a constituency. After all, there may be two or three divisions in a constituency. He will be in some polling station. Is it necessary to provide for all this ?

Pandit Thakur Das Bhargava: So that, he may be allowed to vote in any of the polling stations where he happens to be at that time. He may be in the constituency, but not in the particular polling station. The constituency may extend to a whole district. He will be in one polling station. He should be allowed to vote at the polling station where he happens to be at that time.

Dr. Ambedkar: There are two questions to be considered with regard to candidates. One question is that a candidate belongs to another province altogether. His constituency is not in the State in which he stands. That is one question. The other question is this. In a constituency, there are various polling stations. He is residing in the area of a particular polling station, he is supposed to go and vote. That is the logical consequence. Suppose in his daily peregrinations on the election day, he is not anywhere near the particular polling station or the polling booth, but somewhere else.

Mr. Deputy Speaker: The Law Minister may kindly consider whether the words candidate or his agent may not be included in the clause (ee) which he has proposed.

Dr. Ambedkar: I am coming to that. What I suggest is this. As I said, there are two cases which have to be provided for. Prof. Shibban Lal Saksena is providing only for the case of a candidate who is coming from another province. The other case still remains unprovided.

Mr. Deputy Speaker: That can be included here "the manner in which votes are to be given by a presiding officer, polling officer, polling agent or a candidate or his agents etc."

Dr. Ambedkar: The clause refers to presiding officer, polling officer, polling agent or any other person who being an elector for a constituency is authorised or appointed for duty at a polling station at which he is not entitled to vote. It does not include the two categories of candidates. Therefore, one has to make provision for both categories.

Mr. Deputy Speaker: You may include them.

Dr. Ambedkar: Probably, the better course would be to reconsider the amendment. We can take it up at 3 o'clock so that we can have a proper amendment.

Pandit Thakur Das Bhargava: Include candidate and his election agent.

Shri Hussain Imam: I suggested in the morning that Government servants who are transferred from one place to another should be given facilities for recording their vote. This may be included in the rule making power of Government. I may remind the Hon. Minister that proper facilities should be extended to government servants and those engaged in local self-government and public utility services who have been transferred from one place to another after enrolment.

Shri Kamath: Sir, I have two amendments.

Mr. Deputy Speaker: I am coming to them. Let me put Prof. Saksena's amendment to the House.

Dr. Ambedkar: I am thinking that perhaps if it is put in a proper form I may be in a position to accept it. So we may hold it over to 3 o'clock. In the meantime we may be able to find some suitable language.

Mr. Deputy Speaker: The remaining amendments also may be handed over to Dr. Ambedkar.

Shri Kamath: I beg to move:

After part (g) of sub-clause (2) of clause 167, insert the following new part and re-letter the subsequent part accordingly:

"(h) the maximum scales of expenses at elections- and the numbers and descriptions of persons who may be employed for payment in connection with elections."

Mr. Deputy Speaker: In the section relating to expenses, we have already provided for this. We have it stated that the maximum scales and election expenses shall be as may be prescribed, and any other matter required will be prescribed. Since that is already there, is it necessary to have this amendment now ? I think it is unnecessary.

Shri Kamath: All right Sir. But I have another. I beg to move:

> After sub-clause (2) of clause 167, insert the following new sub-clause :
>
> "(3) The rules so made shall be laid before Parliament as soon as may be after they are made and shall be notified in the *Official Gazette* with such modifications as may be made therein by Parliament within a period of ten days after they are so laid."

Shall I speak on it, or is to be held over till 3 o'clock ?

Dr. Ambedkar: He may speak now, but the voting may be held over.

Clause 7

***Shri R. K. Chaudhuri:** I have only one amendment unlike other Members who had several amendments to place before the House. My amendment is No. 201 in the Revised Consolidated list on page 20. I beg to move:

> To clause 7, add the following explanation :
>
> "*Explanation.*—A lawyer who renders professional services to Government or any department thereof and who is paid by retaining fees and other fees shall not be deemed to be holding an office of profit and shall not be disqualified to be chosen as a member of either House of Parliament or Legislative Assembly or Legislative Council of a State."

This is the only amendment that I have and I shall deal with it with all the firmness that it deserves and I hope the Hon. Law Minister will also be so pleased as to give some attention to what I say on this occasion.

Dr. Ambedkar: I always do. I think.

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*P. D., Vol. 12; Part II, 28th May 1951, p. 9549.

***Mr. Chairman :** Amendment moved :

In part (f) of sub-clause (1) of clause 7, for the words "five years" substitute the words "three years".

Dr. Ambedkar : I could have adopted the same procedure which I had adopted with regard to most of the amendments, namely, to stand up and say that I do not propose to accept these amendments. In this case it seems somewhat necessary to make an exception, because some questions have been raised which I think call for some explanation.

In the first place, I would like to give a reply to my hon. Friend there who said that the House has been taken by surprise at the fag end of the debate on this Bill by bringing in clause 7 at this time. It is quite true that clause 7 is brought before the House in a formal way only today. But I think my Friend will agree that there is no clause in this Bill to which the House as a whole, although informally, has devoted such a large part of its attention as clause 7.

Dr. S. P. Mookerjee (West Bengal)**:** Most important clause.

Dr. Ambedkar: I cannot remember the number of meetings that were held of the Select Committee, of the larger Committee that was appointed, and also of the Committee of the whole House. I do not therefore think that there is any ground for the complaint that sufficient attention has not been paid to the provisions of clause 7. I think the clause has undergone a great deal of examination both from the point of view of propriety and from the point of view of meeting practical difficulties.

Now, Sir, I will take some of the individual points that were made by various speakers. I will not devote any attention, to what my Friend Mr. Kamath said, and I do not think that he expects much attention being paid to his suggestion for provision being made for shutting out the deaf and the dumb.

Shri Kamath : It exists in England.

*P. D., Vol. 12, Part II, 28th May 1951, pp. 9564-70.

Dr. Ambedkar: It is true that it exists in England but I think we can very safely leave it to our electorate to see that this Parliament is not constituted of the deaf, the dumb and the maimed and that we have people here who are physically fit to hear, to speak and to move about.

Some Members have said that we have not included in our disqualification clause persons like blackmarketers and so on. I think that was a point made by Prof. K. T. Shah. With regard to that all that I would like to say is that in making a law it is not enough to pursue an ideal: It is very necessary to see that the ideal must be a practical one. And I do not think that my Friend Prof. K. T. Shah has applied his mind to the practical side of giving effect to some of the idealistic theories that he has propounded with regard to this clause.

Another point was with regard to disqualifications arising out of offences and sentences passed for certain crimes. With regard to that it is possible to take three different positions. One position is this that punishment for a crime is enough of a punishment and that it should not involve any further disqualification for standing as a Member for Parliament. I think that is one view which can be taken. The other view that can be taken is this that we should have a disqualification attached not to the punishment but to the nature of the offence, whether it involves moral turpitude or does not involve moral turpitude. That is the second view that one can take. The third view is the view that is taken in this Bill. This view has been adopted in this country ever since elections began. I do not know of any period when we had a provision in our law saying that although a man has committed an offence and has been sentenced to imprisonment for a certain period he shall not incur any disqualification.

Right or wrong, that is the law that we have adopted throughout. Consequently there has been no departure so far as this Bill is concerned. We are not introducing anything that is new. We are merely adopting what has already been in existence.

Sardar Sochet Singh: What about heavy fines such as Rs. 50,000?

Dr. Deshmukh: May I know, Sir, under what provision so many of the Congress people who went to jail and were convicted were able to stand and how their disqualification was removed ?

Dr. Ambedkar: The disqualification was removed by the Governor-General. In some cases the time expired and in some cases he was empowered to issue an order to remove the disqualification. That is the second point. With regard to the other points that have been raised about public company directors, etc. I think it is unnecessary for me to defend the clause as it stands. All those points were raised at the various meetings where these questions were considered and ultimately the Committee came to the conclusion that the clause should stand as it has emerged from the midst of that Committee, and I, therefore, do not propose to go at any length with regard to the question.

Shri Sondhi: Co-operative Society.

Dr. Ambedkar: I am coming to that.

Shri J. R. Kapoor: There was no definite decision in the informal meeting with regard to .....

Dr. Ambedkar: I do not propose to go into the details of what happened at the informal meeting, because we are not supposed to disclose what happened there.

Shri J. R. Kapoor: The quantum of financial interest in a limited company .....

Dr. Ambedkar: Ultimately, as I said, this is how the clause emerged. With regard to the question of co-operative societies, I do not wish to commit myself nor should I be understood to have enunciated a legal proposition to which I would be bound for all times; but it does seem to me that a co-operative society is incorporated under a separate law and, therefore, as we are referring to a public company incorporated under the Indian Companies Act, 'co-operative societies' in my present judgment would appear to be excluded.

Now, I come to the question about the lawyers. I do not know whether my Friend, Mr. Chaudhuri has gone (*An hon. Member:* He is here). There are two different questions that have been put. The question that has been put by Mr. Chaudhuri is this: There are many people, lawyers, I mean, who are engaged by the various Governments to be their Government pleaders ; either they are paid a salary or they are paid a retainer and for every case that they do, they are paid a certain amount of money according to rates prescribed. He wants that a Government Pleader who has been engaged by a Government as its lawyer should not be disqualified from being a Member of the Legislature. As one of our friends here has referred to the matter, a lawyer who is a Government Pleader has been held long long before to be a person holding an office of profit. That seems to me to conclude the matter and if we wish, notwithstanding the provisions contained in Article 102 of the Constitution, to remove the disqualification, then there must be some good ground for saying that a Government pleader may be excluded. I do not think that my hon. Friend, Mr. Rohini Kumar Chaudhuri has adduced any argument. He has only appealed, I believe, to my sympathy and to my professional interest in the lawyers (Interruption). Well I am not going to commit any kind of indiscretion or illegality for the purpose of helping my own profession.

The other question that was raised was by my hon. Friend, Mr. Khandubhai Desai. His complaint has taken me by surprise, I must say. His complaint was that there were many lawyer Members of Parliament who appear before the different members of Government for their clients and charge fees, and that that also happens in the local legislatures. I say I am completely surprised at it because a lawyer has the right to practice in a court of law and I do not know whether there is any law which says that a Minister in the administration of a department is a court. Therefore, a lawyer cannot insist upon exercising the constitutional right that has been given to him to practice his profession, to go before a Minister and obtain a hearing. If any Ministers in the Government of India—they will forgive me—are permitting

lawyers to appear before them, it seems to me that they are acting contrary to the provisions of law. If our Ministers were to observe the common rule that they are not courts and therefore they will not hear any lawyer, I think the practice which has been referred *to* by my hon. friend Mr. Khandubhai Desai will completely disappear.

Mr. Chairman: Is there any such practice ?

The Prime Minister (Shri Jawaharlal Nehru): I have never heard of this practice or of any instance. I would like it to be stated where this has taken place and when.

Dr. Ambedkar: I do not know. That is what Mr. Khandubhai Desai has said.

The Minister of Works, Production and Supply (Shri Gadgil): On the other hand, the complaint has been that some of us have refused audience to lawyers.

Dr. Ambedkar: That is the proper thing.

Shri Hussain Imam: Have any lawyer Member of Parliament been refused audience by the Hon. Ministers ?

Shri Jawaharlal Nehru : So far as I know, there has been no case of lawyers appearing before the Ministers as lawyers.

Dr. Ambedkar: I do not know what that is : but this is what he said. I think that matter can be regulated in the manner I have suggested. Therefore, no legal provision of that sort is necessary.

I now come to the amendment moved by my hon. Friend Pandit Kunzru. He wants to drop the words "disloyalty to the State". To some extent, I accept his argument that the wording "disloyalty to the State" is not a very precise phrase. What does it mean ? It has nowhere been defined. But the point is this. When the Select Committee discussed this matter, they were considering two different categories of servants of the State. One was the personnel of the civil services ; they were also considering the army personnel. In

their judgment it was possible for an army officer to do an act which may undermine the security of the State, or may prove to be an act of disloyalty to the State and he may have been dismissed on that account. They did not want to confine the restriction to corruption of civil servants. They also wanted to extend the same provisions to any act done by a military officer. I admit that it has not been possible to use a precise phrase. But I would like to say this that there is sufficient protection in one part of clause 7, where the question whether one has been in fact dismissed for corrupt practices or for disloyalty has been left to be decided by the Election Commission. I should submit that if the Election Commissioner is an independent officer and we have every hope and right to believe that he shall be an independent officer—I think in sub-clause (3) there is enough protection against any kind of misuse of the provisions contained in the earlier part of clause 7.

I do not think that there is any point which was made by any hon. Member which calls for explanation and with which I have not dealt in the course of my reply.

Shri Kamath: I must bring to your notice Sir, a slight lapse on the part of Dr. Ambedkar whereby he transformed Mr. Chaudhuri into a woman by calling him Rohini, the name of a woman. I hope the name will be correctly put in the official reports. Rohitkumar is a man's name.

Mr. Chairman: Order, order.

Mr. Kamath: This is a serious matter, Sir.

Dr. Ambedkar: What did I say ?

Mr. Kamath: You said, Rohini.

Dr. Ambedkar: That is the name by which I call him.

Mr. Kamath : He is Mr. Rohini Kumar Chaudhuri and not Rohini.

Dr. Ambedkar: I do not think he has misunderstood me.

Shri R. K. Chaudhuri: No.

Dr. Ambedkar: He would refuse to misunderstand. I am sure.

Ch. Ranbir Singh : In view of the fact that the Hon. Minister for Law has just expressed that co-operative societies may not be covered by the Public Companies Act, and as far as my information goes, I am definite that cooperative societies are registered under a different Act, may I know whether the shareholders of co-operative societies which hold contracts under any Government will be disqualified for contesting the elections or not ?

Several hon. Members: Not disqualified.

Mr. Chairman: I would like to know from the hon. Members who have moved amendments if any of them want to withdraw their amendments or they want me to put them to the House.

Shri Syamnandan Sahaya: Sir, the matter of co-operative societies requires a little clarification. Dr. Ambedkar says that co-operative societies were not excluded. What is the meaning of the word 'exclusion' ; we do not understand. Will the director of.....

Dr. Ambedkar: There is no disqualification. None of the ' disqualifications would apply to them.

Shri Syamnandan Sahaya: I beg for leave to withdraw the amendments.

Amendments were by leave withdrawn.

***Clause 9.** (*Disqualification for membership of electoral colleges.*)

Amendment made:

In clause 9, for the words "subject to any disqualification for membership of Parliament under any of the provisions of this Act" substitute the following:

"disqualified for being chosen as a member of either House of Parliament under any of the provisions of article 102."

—[*Dr. Ambedkar*]

*P. D., Vol. 12, Part II, 28th May 1951, pp. 9578-80.

Mr. Chairman: The question is:

"That clause 9, as amended, stand part of the Bill."

The motion was adopted.

Clause 9 as amended, was added to the Bill.

Clause 122. (*Major corrupt practices*)

Dr. Ambedkar: I beg to move:

(i) In part (a) (i) of the proviso to sub-clause (2) of clause 122, after the words "injury of any kind", insert the words "including social ostracism and ex-communication or expulsion from any caste or community".

(ii) For sub-clause (6) of clause 122, substitute the following sub-clause :

"(6) The hiring or procuring, whether on payment or otherwise, of any vehicle or vessel by a candidate or his agent or by any other person with the connivance of a candidate or his agent for the conveyance of any elector (other than the candidate himself, the members of his family or his agent) to or from any polling station provided under section 23 or a place fixed under sub-section (*1*) of section 27 for the poll:

Provided that the hiring of a vehicle or vessel by an elector or by several electors at their joint costs for the purposes of conveying him or them to or from any such polling station or place fixed for the poll shall not be deemed to be a corrupt practice under this clause if the vehicle or vessel so hired is not propelled by mechanical power: Provided further that the use of any public transport vehicle or vessel or any tramcar or railway carriage by any elector at his own cost for the purpose of going to or coming from any such polling station or place fixed for the poll shall not be deemed to be a corrupt practice under this clause.

Explanation.—In this clause the expression "vehicle" means any vehicle used or capable of being used for the purpose of road transport, whether propelled by mechanical power or otherwise, and whether used for drawing other vehicles or otherwise."

Mr. Chairman: Amendments moved.

Dr. Ambedkar: I also beg to move:

(iii) For the Explanation to part (8) of clause 122, substitute the following:

"*Explanation.*—For the purposes of this clause—

(a) a person serving under the Government of India shall not include any person who has been declared by the Central Government to be a person to whom the provisions of this clause shall not apply;

(b) a person serving under the Government of any State shall include a patwari, chaukidar, dafedar, lambardar, zaiidar, shanbagh, karnam, talati, talari, patil, village munsif, village headman or any-other village officer, by whatever name he is called, employed in that State whether the office he holds is a whole-time office or not, but shall not include any person (other than any such village officer as aforesaid) who has been declared by the State Government to be a person to whom the provisions of this clause shall not apply."

Mr. Chairman: Amendment moved :

These are all agreed amendments

*** Mr. Chairman :** Amendment moved :

In the amendment proposed by Dr. Ambedkar, in part (b) of the proposed Explanation to part 8 of clause 122, omit the words "Patil, village headman or any other village officer".

Shri Kamath : I have got amendments in supplementary list No. 3 to Consolidated List No. 2. I have got several amendments there but I will move only one of them. In Supplementary list No. 6 to Consolidated List No. 2 also I am moving only one of my amendments. And in supplementary list No. 6 to Consolidated List No. 2 also I have several amendments, but I am moving only one. I am not moving the rest. That is to say. I shall move amendment No. 5 in supplementary list No. 3 to Consolidated List No. 2, amendment No. 3 in supplementary list No. 4 to Consolidated List No. 2, and amendment No. 2 in supplementary list No. 6 to Consolidated List No. 2.

I will take No. 6 in supplementary list No. 3 first. I beg to move :

(i) In part (a) (ii) of the Proviso to part (2) of clause 122, for the words "an object of divine displeasure or spiritual censure", substitute the words "a victim of a divine curse'.

Dr. Ambedkar: I do not understand the difference between the two.

Shri Kamath: Now, Sir, I would like to point out that this apparently has been taken from the English law on the subject and also perhaps from the Indian Penal Code which

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*P. D., Vol. 12, Part II, 28th May 1951, pp. 9582-83.

also borrowed it originally from English law. But in the English law the words used are "spiritual undue influence", and there it is clear because in Christian religion the words "spiritual censure" or "spiritual injury" have got a definite connotation. With regard to this "spiritual undue influence" it was held in England—where certain Roman Catholic priests exercised their religious influence on voters in a manner inconsistent with their religious duties as minister of religion—it was held to be "undue influence". "A priest may counsel, advise, recommend and point out the true line of moral duty and give the opinion about the candidate, but he may not appeal to superstition of the people he approaches." Now, Sir, India. I am not quite sure in my own mind .....

Shri Jawaharlal Nehru: I do not wish to interrupt, but I am total unable to follow what is happening in this House. I do not understand the relevance.

8-00 P.M.

Shri Kamath: That is due to the time. I suppose. The Prime Minister is tired.

Shri Jawaharlal Nehru: May I just point out that I should like to understand, and I am not supposed to be unintelligent.

Shri Kamath: Nobody dare say so.

***Shri Sarangdhar Das:** The next amendment I have given notice of is to delete the proviso. I beg to move:

Omit the proviso to part (6) of clause 122.

I had given notice of this amendment to delete the proviso in the Bill saying:

> "Provided that the hiring of a vehicle or vessel by an elector or by several electors at their joint, costs for the purpose of conveying him or them to or from the polling station shall not be deemed to be a corrupt practice under this clause."

This proviso is right under sub-clause (6) of clause 122.

*P. D., Vol. 12, Part II, 28th May 1951, pp. 9590-91.

Shri Santhanam : His point is met by Dr. Ambedkar's new amendment because all mechanically-propelled vehicles have been excluded from this proviso. Therefore, a substantial part of his point has been met already.

Shri Sarangdhar Das: I do not agree. If my amendments are accepted then all the involvements in the Law Minister's amendment should go. Motor transport should be entirely banned. That is my amendment to the Bill as amended by the Select Committee. It is a very radical amendment.

Sir, I commend my amendment to the House.

Dr. Ambedkar: I do not accept it, Sir.

The motion was negatived.

***Ch. Ranbir Singh:** I beg to move:

In the Explanation to part (8) of clause 122, omit the words "chaukidar, dafedar, lambardar, zaildar".

Dr. Ambedkar: I do not accept the amendment.

Shri Satish Chandra (Uttar Pradesh)**:** I support the previous three speakers. I myself happen to be a lambardar. I have about ten villages in my zamindari and for each of them I am supposed to be the lambardar. Fortunately there is no co-sharer in most of them. I may be the owner of the entire village, but because I pay the land revenue to the Government I am called a lambardar according to Government revenue terminology. I have never imagined in my life that I am a Government servant or that I am in any official capacity connected with Government. Anybody who has to deposit land-revenue in the government treasury is known as lambardar in Uttar Pradesh. I do not know what is the system in other States. But in Uttar Pradesh any person who deposits land revenue in the government treasury either solely on his own

*P. D., Vol. 12, Part II, 28th May 1951, pp. 9592-95.

behalf or on behalf of his co-sharers in the village is known as lambardar. I do not know, in what sense exactly this word is inserted here. But if the word lambardar here means a zamindar who is responsible for the payment of land-revenue in Uttar Pradesh or elsewhere, it must be omitted.

Dr. Ambedkar: I would like to say a word about this. I do not quite understand why my friend Pandit Kunzru got into temper over this. He was a Member of the Select Committee. This clause was introduced by the Select Committee. It was a unanimous clause. All the Members of the Committee represented their different States. I can speak with authority, say, for instance, about Bombay or about Madhya Pradesh. I cannot speak with authority with regard to the other States. These names and categories of people were introduced by the Select Committee, by Members from the different States who knew what they were talking about. At any rate I take it that they knew what they were talking about. I did not include it on my own responsibility and I do not know how he charges me with the sort of thing about which he gave an utterance. (*Interruption.*) I have not done it. It was done by the Select Committee. The Punjab Members, the U.P. Members, they were all present and they said that lambardar should be included. I never included the lambardar on my own. But if the view of the House is that the lambardar is in no sense an official, I am quite prepared to omit it. But they must take the responsibility. I cannot take the responsibility. I have not examined the revenue laws of different States to find out if the lambardar is an official or not. If the view of gentlemen here who can speak with authority about their States is that lambardar is not an official. I have no objection to omit it. I have no interest in this.

Shri Jawaharlal Nehru: My hon. Colleague has more or less explained the position. We are not wedded to this long list of appellations half of which I have never heard of in my life. These were given by the Select Committee and they were adopted. We are perfectly prepared now or at the third reading

to go through the list very carefully in consultation with Members and to take' out such of them as ought not to be there.

Shri Bhatt: 'Patil' stands in a similar position.

Dr. Ambedkar: It will be possible to find out from the various States whether any of them are Government officials. But with regard to Patil I can say that I know it—and nobody knows more about Patils than I do.

Dr. Deshmukh : You do not know about Madhya Pradesh.

Dr. Ambedkar: I know about Madhya Pradesh also.

Some hon. Members : rose—

Mr. Speaker: We are now prolonging discussion of a point which deserves consideration but which can be disposed of by mutual goodwill and compromise in no time. What I would suggest therefore, to the Law Minister, if the House agrees and he agrees, is that we cannot settle just at the moment as to whether the lambardar should be taken out or the Patil should be taken out or other persons should be taken out. After all, as the hon. the Leader of the House has stated, these are various appellations by which these people are known. Members may informally discuss the matter. It is more or less a matter of form really and it may be taken up after two or three days when we take the Bill for third reading.

Dr. Ambedkar: It can be reserved till then.

Mr. Speaker : It need not even be reserved for that purpose. They can pass this clause. They are only formal matters and not matters of substance, the substantial thing being that, a government official holding an office of profit should not be there. I do not think we need take time over these things.

Dr. Ambedkar: What interest have I against the lambardar ? I am not a lambardar.

Mr. Speaker: Order, order.

Dr. Ambedkar: I am an inferior village officer, if you want to call me under the Watan Act in Bombay.

Dr. Deshmukh: On a point of order, may I know what will happen now because you hurriedly put my amendment to vote and it was rejected by the House. Now that better sense is dawning on the House and everybody. I am grateful for the speech of my hon. Friend .....

Mr. Speaker: The hon. Member is spoiling his own case by saying that better sense is prevailing in the House. That is not the way of compromise, of a peaceful settlement of affairs.

***Clause 123.**—(*Minor Corrupt Practices*)

Amendment made:

For sub-clause (5) of clause 123, substitute the following:

"(5) The systematic appeal to vote or refrain from voting on grounds of caste, race, community or religion or the use of, or appeal to, religious and national symbols, such as, the national flag and the national emblem, for furtherance of the prospects of a candidate's election."

Mr. Speaker: There is no other amendment, I think.

Shri Kamath: I have two amendments. Nos. 5 and 6 in Supplementary List No. 4 to Consolidated List No. 2. I am moving No. 5 only.

The motion was adopted.

I wish the draftsman would pay some attention to this to see whether it could not be modified so as to bring into within its purview, any person besides a candidate or his agent.

Dr. Ambedkar: I shall look that matter up.

Shri Kamath: If the draftsman will look into it, I would not press it.

Mr. Speaker: He may look into it. The motion was adopted.

Clause 123.—As amended was added to the Bill.

***Clause 124.**—(*Illegal practices*)

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*P. D., Vol. 12, Part II, 28th May 1951, p. 9598

*P. D., Vol. 12, Part II, 28th May 1951, pp. 9599-9606.

Dr. Ambedkar: I beg to move :

To sub-clause (1) of clause 124, add the following:

"*Explanation.*—Any such expenses as aforesaid incurred or authorised by any institution or organisation for the furtherance of the prospects of the election of a candidate supported by such institution or organisation shall not be deemed to be expenses incurred or authorised within the meaning of this clause."

Mr. Speaker: Amendment moved.

Shri Kamath: I beg to move:

In part (2) of clause 124, omit the words "of any building".

I raised this point to the Select Comittee, but it was not considered at any length and not much attention was paid to it. I would state my difficulty precisely and briefly. I know of some buildings in Madhya Pradesh where the lower floor is converted into a wine or liquor shop and the upper floor has been leased out to certain persons or to students or to other people for different purposes. Can a meeting be held on the top floor of the building ?

Dr. Ambedkar: There is no such fear at all.

Shri Kamath: But it is open to doubt and I would like the Hon. Minister to omit the words "of any building" and thus avoid difficulties which it may be difficult to solve. The wording may be reconsidered so that the matter may be placed beyond the shadow of a doubt.

Mr. Speaker: Amendment moved :

In part (2) of clause 124, omit the words "of any building".

Pandit Kunzru wanted to sav something ?

Pandit Kunzru: I was going to submit that the amendment proposed by Dr. Ambedkar is a very serious character and we ought to be given, in fairness time to consider it fully and to propose amendments to it. A mere perusal of the amendment shows that it will have a vital effect on many provisions of the Bill, and will seriously alter the balance between candidates of different parties. I suggest, therefore that we should be given time to consider this amendment. This is the only clause after all, that has not been passed and nothing will be lost and everything will be gained. I think,

if we are given more time to consider it and propose amendments to this provision.

Dr. Ambedkar: The position is quite clear. There is nothing which need give rise to any doubt. As a matter of fact, some people had doubts as to what kinds of expenditure may be included in the election expenses and it is this sort of provision that I was able to think of in order to remove their doubts. If my friend has any other suggestion to make, I would like to hear.

Mr. Speaker: What about Shri Kamath's amendment ?

Dr. Ambedkar: About the words "of any building" there need be no doubt. The words need not be omitted. There is no doubt about the matter at all.

Shri Kamath: This point was not discussed fully and it was added only at the last moment.

Shri R. K. Chaudhuri: Sir, I have to move my amendment No. 153 for dropping sub-clause (3) of clause 124.

Mr. Speaker: He may move it.

Shri Santhanam: It may be put separately. Part 3 may be put separately instead of moving it and making a speech.

Dr. Ambedkar: My amendment may be put.

Mr. Speaker: At the time of voting I shall see to it.

Shri R. K. Chaudhuri: I beg to move:

"Omit part 3 of clause 124."

My object in doing so is that issuing of any circular, placard or poster having a reference to election which does not bear on it the names and address of the publisher and printer is an illegal practice.

Mr. Speaker: If I mistake not, such provisions do occur in the election rules even to-day.

Dr. Ambedkar: Yes, there is nothing new.

Shri R. K. Chaudhuri: This entails a very serious consequences. If it will not do any harm to anybody, it should

not be an illegal practice. There is sufficient punishment awarded there but why should an innocent candidate be penalized, if some persons without his knowledge publish a circular saying 'vote for so and so' on the day of election and that would entail in the election being invalidated and his being punished with disqualification.

Pandit Thakur Das Bhargava: I wish to say that I do not think that we are in a position to delete this clause but all the same there is great force in the argument advanced by my friend Mr. R. K. Chaudhuri that if a person does this sort of thing, it should not affect the candidate unless the candidate has knowledge of it or he is conniving at it. It would be better to make it illegal under section 124.

In regard to section 99, this should not have any effect on the candidate. This was the general view in the meeting wherein this question was considered. I would therefore request that section 99 should be open for consideration later.

Dr. Ambedkar: That may be considered.

Mr. Speaker: That means this clause may be put as it is.

Pandit Kunzru: I strongly appose the amendment put forward by Dr. Ambedkar. You will see from the amendment that proposes is not that a party would carry on general propaganda in favour of its candidate. But that a party should be free to do what it can in support of particular candidates. That a party should in a general way, support its own candidates is recognised everywhere but that it should support particular candidates and that the expenditure incurred by it not on carrying on general election propaganda but in support of a particular candidate should not be shown in the return of the election expenses of that candidate raises a very important issue. In England too the rights of the various parties to incur expenses in connection with their propaganda is recognised. But the expenditure incurred in support of any particular candidate is according to the exposition of Dr. Ambedkar, to be shown in the return of the election expenses of that candidate. Is there any reason why we should follow a separate practice

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here ? It is obvious that it will give rise to graft and that it affects vitally many provisions of this Bill. That is why I ask, Sir, that the debate on this clause should be postponed so that we should be given more time to examine it and to put forward any amendments that we might think would secure the desired result without leading to a highly undesirable situation.

Mr. Speaker: Does the Hon. Minister want to say anything ?

Dr. Ambedkar: I have nothing to add to what I have said.

Mr. Speaker: Then I will put the amendments to vote. I will first put Mr. Kamath's amendment. The question is:

> In part (2) of clause 124, omit the words "of any building".

The motion was negatived.

Mr. Speaker: Then there is an amendment of Mr. R. K. Chaudhuri for deletion of paragraph 3.

Shri R. K. Chaudhuri: I think that is accepted ?

Dr. Ambedkar: No, no. I do not accept it.

Shri R. K. Chaudhuri: Then I want leave of the House to withdraw it.

Mr. Speaker: I have not placed it before the House, so it falls through. Then I have to put to vote Dr. Ambedkar's amendment. The question is : (as shown on page 618-19).

> To sub-clause (1) of clause 124, add the following:
>
> "*Explanation.*—Any such expenses as aforesaid incurred or authorised by any institution or organisation for the furtherance of the prospects of the election of a candidate supported by such institution or organisation shall not be deemed to be expenses incurrd or authorised within the meaning of this clause.

The motion was adopted.

Mr. Speaker: The question is:

> "That clause 124, as amended, stand part of the Bill."

The motion was adopted.

Clause 124, as amended, was added to the Bill.

Clauses 132, 139 and 150

Mr. Speaker: Then there are clauses 132, 139 and 150. There are no amendments to these, so I will put them together.

The question is:

"That clauses 132, 139 and 150 stand part of the Bill."

The motion was adopted.

Clauses 132, 139 and 150 were added to the Bill.

Clause 167.—(*Power to make rules*)

Mr. Speaker: Now there is the amendment of Dr. Ambedkar to clause 167.

Dr. Ambedkar: I have moved it already. There was no criticism about it and I should like briefly to explain my position with regard to that With regard to this clause two or three questions were raised. One was with regard to an officer who has been transferred from the constituency in which his name had appeared in the register to some other place. The question was: what provision was going to be made for his voting ? The second question was with regard to a candidate who goes from one State to another State for the purpose of seeking election. There also, the same question was raised. Finally, there was the question with regard to a candidate who is moving in his own constituency for the purpose of canvassing and who is not present or who is not likely to be present at the polling booth where he is entitled to vote.

I asked the draftsman; the draftsman thinks that it is unnecessary to make a provision in this particular clause in my amendment because there is ample room in the general provision contained in clause 167 for making rules to cover all these cases. Therefore, it will be possible for the Election Commissioner under the rules to deal with these cases by rules and it is unnecessary to make any amendment here.

Shri Ethirajulu Naidu: I would like to mention clause 59 which deals with this particular matter. Would the Law Minister consider the advisability of making an amendment to clause 59 ? That clause refers to, *"Special Procedure for voting by certain classes of persons."*

Dr. Ambedkar: No, that is a separate clause altogether pertaining to those who are outside the country.

Shri Kamath: A reply is due to the amendment moved by me regarding the rules to be laid before Parliament.

Dr. Ambedkar: With regard to that the position is this. As everybody in the House knows, we are trying to do our level best to have the elections in November-December. Now, if the procedure suggested by my hon. friend Mr. Kamath, that the rules shall be placed on the table of Parliament and that they shall not have operative force and until Parliament has approved them, is adopted, it is quite clear that we may not be able to achieve the purpose we have in view, namely that the elections should take place in November-December. On that ground alone it seems to me rather difficult to accept the amendment that he has moved. But if he would be content with the assurance that Government will place the rules before Parliament, I am prepared to give that undertaking.

Shri Kamath: After they are placed before Parliament, will Parliament be competent to modify them ?

Dr. Ambedkar: I cannot give a categorical answer to that also—I feel some difficulty. It is this. Supposing, for instance, Government does take action under any rules that are framed and subsequently Parliament alters it. Then, what would happen to action already taken under the rules as framed ? Therefore it would be very difficult to tie down the hands of Government by any such condition as Mr. Kamath proposes.

Shri J. R. Kapoor: May I move an amendment to clause 167. I beg to move:

> After part (g) of sub-clause (2) of clause 187, insert the following new part (gg):

Mr. Speaker: Order, order. What is the No. of the amendment.

Shri J. R. Kapoor: I gave notice of it some time back.

Mr. Speaker: I am not waiving any further notice.

Shri J. R. Kapoor: I am inclined to think that this may perhaps be accepted by the Hon. Minister.

Dr. Ambedkar: If it relates to contract, it has already been defined in the Contract Act.

Mr. Speaker: Is Government prepared to accept the amendment ?

Dr. Ambedkar: I cannot accept any amendment now.

Shri Kamath : If my amendment is negatived will it mean that Government will not place the rules before the House ?

Dr. Ambedkar: I have already said that Government will always be prepared to place it before the House.

Shri Kamath: If that assurance is given, I will not press my amendment.

Mr. Speaker: Mr. Kamath wishes to have leave of the House to withdraw his amendment.

The amendment was, by leave, withdrawn.

Mr. Speaker: Now I will put Dr. Ambedkar's amendment. The question is:

> After part (c) of sub-clause (2) of clause 167, insert the following:
>
> "(cc) the manner in which votes are to be given by a presiding officer, polling officer, polling agent or any other person, who being an elector for a constituency is authorised or appointed for duty at a polling station at which he is not entitled to vote ;".

The motion was adopted.

Mr. Speaker: The question is :

> "That clause 167, as amended, stand part of the Bill. The motion was adopted.

Clause 167, as amended, was added to the Bill.

New Clause 34A

***Pandit Thakur Das Bhargava:** I beg to move :

After clause 34, insert the following new clause:

> "34A. (1) Any candidate aggrieved by an order accepting or rejecting the nomination paper of the candidate shall be entitled to file an appeal to the District Judge of the District in whose jurisdiction

*P. D., Vol. 12, Part II, 19th May 1951, pp. 9607-10.

the scrutiny of the nomination papers took place within four days of the passing of the order. The copy of the order shall accompany the petition of appeal if obtained or may be filed before the appeal is heard.

(2) The District Judge shall follow the procedure prescribed for hearing the appeals in the Code of Civil Procedure Act of 1908 and pass his final orders within fifteen days of the date of order cither accepting or rejecting the nomination paper.

(3) The District Judge shall forthwith send a copy of his order to the Returning Officer who shall immediately publish the same as prescribed under section 36.

(4) The decision of the District Judge shall be final and shall not be questioned subsequently by any election petition or otherwise."

In the original Bill this was the proposal of Dr. Ambedkar himself that so far as nomination is concerned it ought to be finalised and no election to petition should be allowed on the basis that at the time of nomination no proper order of acceptance or rejection was made. This is in keeping with the general sense of the House also. All the Members perhaps without exception want this, so that after the polling takes place and a person goes through the election no question may arise when the nomination may again be questioned. Before so many expenses are incurred and everything is gone through we should see that the nomination is finalised. I have therefore given a set of rules under clause 34A whereby the nomination may be finalised and there may be no election petition in regard to the proper acceptance or rejection of a nomination.

Dr. Ambedkar : I am very sorry that I have to oppose this amendment. As my friend, Pandit Bhargava said, it was I who first set in motion the idea of dividing the election into two parts, one relating to nomination and the other relating to actual poll. The Select Committee, however, without considering the matter came to the conclusion that that procedure should not be adopted. They found that there may not be sufficient time for a candidate whose nomination has been challenged on the ground that he is disqualified to produce evidence within the stated time in order to get a decision in his favour. At this very meeting, I think, Members will remember that the Chief Election Commissioner was

present; he was specially called to discuss this matter and he expressed himself opposed to this idea of having the nomination finalized before the election started. Thereafter I have also consulted him and he is absolutely of the opinion that elections would be delayed considerably if this procedure was adopted. Now, we are all agreed that the elections should take place in November-December, no matter what happens, and as the responsibility is cast upon the Election Commission to carry through this programme, it is rather very difficult for me to override the view that the Chief Election Commissioner has taken on that ground. I am sorry to say that I cannot accept the amendment, but I should like to say one thing to the House, namely that this law which we are making is not a law to be for ever. If we are not able to adopt this particular amendment for the present election, there is nothing to prevent us from having it introduced in this Act at a later stage, so that the new procedure may be followed in the next election. This law can be amended, added and substracted from. For the moment in view of the fact that we are all determined to have the elections in November-December, it seems quite impossible to introduce any such measure which may produce a dilatory effect.

Mr. Speaker : Do I put the amendment to the House then ?

Pandit Thakur Das Bhargava: My amendment may be put to the House.

Mr. Speaker: Amendment moved.

The motion was negatived.

Clause 1.—(*Short Title*)

Prof. K. T. Shah: I beg to move:

Re-number clause 1 as sub-clause (1) of that clause and add the following sub-clause as sub-clause (2):

"(2) This Act shall be translated into the principal languages of India as prescribed by the Constitution, and shall be published in every State of the Union in its regional language or languages as well as in the national language of the Union and English, within six weeks of its enactment into law:

Provided that all technical terms as defined or used in this Act shall be in Hindi with English equivalents in brackets in each case and that they shall be the same in all regional languages with their equivalents wherever available in brackets in each regional language.

Dr. Ambedkar: I have great sympathy with this amendment and I have no doubt that the various State Governments will take into consideration the suggestion contained in this amendment. But, I cannot see how I can agree to put it in the statute itself. Therefore, I must oppose it.

Mr. Speaker: The question is "That clause 1 stand part of the Bill".

The motion was adopted

Clause 1 was added to the Bill. The title and enacting formula were added to the Bill.

Mr. Speaker: Now the House will have to adjourn. The House them adjourned till half past 9-00 of the clock on Tuesday, the 29th May 1951.

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704A without number

Dr. Ambedkar on the lawns of Parliament

COURTESY: Shant Swaroop Shant, Delhi

704B without number

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SECTION VI

7th August 1951
TO
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SECTION VI

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(35)

PARLIAMENT—PREVENTION OF DISQUALIFICATION BILL

* **The Minister of Law (Dr. Ambedkar):** I beg to move :

> "That the Bill to declare certain offices of profit not to dsqualify their holders for being members of Parliament, be taken into consideration."

Sir, this Bill is really an Act of indemnity for certain persons who, if the Bill was not brought into operation, would become disqualified for being Members of Parliament under the provisions of Article 102 of the Constitution, which says that if any person were to hold an office of profit, he would be disqualified for being a Member of Parliament. Unfortunately it so happened that there are Members of Parliament, who for reasons which I will very briefly refer to did come under the provisions of Article 102. For the reasons which I am going to submit to the House, Government feels that it is only right that the disqualification should be removed by a law made by Parliament.

With regard to the question of the office of profit it is necessary for the House to remember that this provision is a very ancient one and has been imcorporated in the various Acts of the Government of India that have laid down the Constitution of this country. To begin only with the Act of 1935, there existed section 26 which related to matters regarding holders of office of profit under the Government. Since the federal part of the Act of 1935 did not come into operation that section did not apply to the Central Legislature as was then existing, but section 69 which was the corresponding provision in the Provincial part did apply to the Provincial Legislatures.

As the House knows, in 1946 a Constituent Assembly was convened for the purpose of drafting the Constitution. In that

* P.D., Vol. 14, Part II, 7th August 1951, pp. 34-40.

Constituent Assembly it was necessary to bring together, for the purpose of seeking the best advice possible on the matter of making the Constitution, persons who were qualified to give their advice on such an important matter, and it was felt not desirable to have this limitation being imposed on the membership of the Constituent Assembly, and what happened was that consequently the Government of India Act had to be adapted to make it suitable to the new circumstances, and this provision was dropped from the adapted Government of India Act, 1935. Consequently it was open for any Member to become a Member of the Constituent Assembly and, as the House also knows, as the Constituent Assembly also operated and functioned as the Dominion Legislature it became open for persons, even though they were holding an office of profit, to continue as Members of Parliament.

That being the position what happened was this, that certain Members who were Members of the Constituent Assembly and who on account of the fact that they were Members of the Constituent Assembly were also Members of the Dominition Legislature continued to hold offices of profit without any kind of Constitutional ban being imposed upon them, and once they were holders of offices of profit under the adapted Government of India Act, 1935, they continued to hold those offices even after the Constitution has come into operation on the 26th January 1950. Of course it was possible for Government to inform those Members that now that the law is changed and an office of profit has become a disqualification, it was in their interest to relinquish those offices which put them under this ban. But, obviously, Members of Parliament would realise that that would have created a great deal of administrative difficulty. Members had already taken upon themselves certain responsibilities as members of commissions and members of committees, and to ‘ be told in the midst of their work that they must now quit and the committee or commissions must be so reconstituted that every member of those bodies was free from this ban, would have created a great deal of difficulty from the point of view of administration. Consequently they were permitted to continue to function in their offices notwithstanding the

fact that the ban contained in Article 102 had come into operation. That is one justification why this Bill has been brought in : that if many of those members of committees and commissions had been asked to quit it would have created great administrative difficulty. In view of the fact, therefore, that it was in the interest of the Government to permit these Members to continue in their offices and discharge their functions, it is undoubtedly the obligation of the Government to remove the disqualification which they were in effect induced to incur. That is one reason why this Bill has been brought in.

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A second reason why this Bill has been brought in is because many members who look offices after the 26th January 1950 (when the Constitution came into operation), according to the submissions that they have made were unaware, or rather unconscious that the Constitution did contain such a provision. According to the submissions that they have made it was a case of misunderstanding : they did not realise what exactly was happening. And it seems to me that although there is a general rule of law that ignorance of law is no excuse, in a matter of this kind we must accept the *bona fides* of Members who have submitted that they did not, in fact, know that they were incurring a disability of this sort. If hon. Members were to analyse the categories of persons and offices which have been mentioned in the Bill, they will realise that the Members who are given this indemnity fall in either of the two cateories : one category is of those who were holding the offices long before the Constitution came into existence ; the second category is of those people who believed in a *bona fide* manner that they were not incurring any disqualification under Article 102. That is the basis on which the Bill has been constructed.

I might also inform the House as to the principles on which the Government is acting so far as this Bill is concerned and so far as the general principle of disqualification arising out of an office of profit is concerned. The Government takes the view that it is not desirable to apply the teachnical rule of

English law, namely that if the law has declared that the office is an office of profit, then, irrespective of the question whether the Member draws the salary attached to that office, he should be disqualified. That is the rule under the English Constitution ; certain offices have been declared by law to be offices of profit. There may be a certain Member of Parliament who may accept that particular office and at the same time refuse the profits of that office, but the fact that he has refused the profits of the office does not save him from the rule of office of profit. Government thinks that that is quite an undesirable thing; being purely technical we need not adopt it. What the Government has done with regard to defining what is an office of profit is a very simple thing; they have decided the basis for determining whether any particular office is an office of profit or not. Recently the Finance Department has made rules for the payment to non-Members (that is, persons who are not Members of parliament) for work done on various committees. I do not know whether the hon. Members are aware of, or have seen the notification issued by the Finance Department.

Shri Sidhva (Madhya Pradesh)**:** We are not aware.

Shri Sondhi (Punjab)**:** It has not been circulated.

Dr. Ambedkar: Well, I think they could get that. Anyhow it is a very simple thing. The allowances which are payable under the Notification (or office Memorandum as they call it) of the Finance Department for members who are working on committees and in other offices and are not Members of Parliament, are these :

> Travelling allowance is paid at the rate of 1½ rail fare if he is travelling by rail and 1¼ fare if he is travelling by air.
>
> Then a daily allowance which is paid at the rate of Rs. 12-8-0 per day in Delhi, Rs. 15 in Calcutta and Bombay, the maximum rate being Rs. 20.

Now if there is any Member of Parliament who is appointed to a committee, and if he is not paid more than what is prescribed in the Office Memorandum a summary of which I have just now given to the House, then he will not be

regarded as a member holding an office of profit. There will be no disqualification because he is treated on the same footing as a person who is not a Member of Parliament. But if any person who is a Member of Parliament and who is appointed to any particular committee by the Government, receives something more than what is stated in the Finance Department Memorandum then the question will arise whether that person is holding an office of profit or not.

Shri Sondhi : Supposing he is entitled to more but he does not draw more ?

Dr. Ambedkar: That is a case I am not able to imagine. As I said, the position is this. If a Member of Parliament who is appointed to any committee is paid nothing in excess of what the Finance Ministry has ruled as the rates of payment to non-Members, then there is no case at all for disqualification. Every Member is free to be appointed to any committee that the Government thinks fit. But if anything more is paid, then the question will arise as to whether such a Member is holding an office of profit or not. With regard to such exceptional cases the position which the Government has taken is this, that they will not lay down any general rule but they will consider each case separately as and when it arises. Government may, at the time of making the nomination, state then and there that notwithstanding the fact that the allowances payable are in excess of the rates settled by the Finance Ministry, the Member shall not incur any disability. Or, after several cases have occurred they may generally examine the cases and bring in a Bill of the kind that I have brought in, namely, to exempt certain offices which may under the rules lead to disability.

I think, Sir, that I have given the House all the information that is necessary in order to enable it to appreciate the reasons why Government have thought it fit to bring in this Bill. I think I have also given the basic principles which Government have had in mind in dealing with matters arising out of Article 102.

Mr. Deputy Spaker: Motion moved:

> "That the Bill to declare certain offices of profit not to disqualify their holders for being Members of Parliament, be taken into consideration."

Shri Sidhva: Sir, from the speech of the Hon. Minister in moving this Bill the doubts in the minds of hon. Members have not been removed. Rather, they have increased after the latter portion of his speech. He said that if a Member has drawn more than what the Finance Ministry has settled, it is a case for disqualification. The question may not be serious for Dr. Ambedkar. He is a Minister and has not served on any committe. But nearly 50 per cent. of the Members of this House have been serving on several committees. They were not "induced" to serve on them as he stated. They were requested to serve on them. They were obliged to serve on . them. They never knew that this would subject them to any disqualification. Therefore, this matter requires serious consideration and I would say more sympathetic consideration at the hands of Government. I have given notice of an amendment which leaves no doubt about this matter. I want that all the committees on which the Members were asked to serve should be incorporated in this Bill. Dr. Ambedkar has expounded his own viewpoint that those who drew fees as settled by the Finance Ministry will not be disqualified. But we do not know what will be the interpretation of the High Courts and the Supreme Court. No doubt, Dr. Ambedkar is one of the legal luminaries. He was the Chairman of the Drafting Committee of the Constitution and yet the Supreme Court and the High Courts have interpreted the various Articles of the Constitution differently from what he had told us in the Constituent Assembly. Therefore, I am not going to accept his interpretation. His interpretation is of no value to us. He must not give us his conjectures. If he wants the Members to remain in this House, if he wants them to contest the elections, let him be honest about it and say that serving on these committees will not disqualify them. According to his own statement, those who receive more than the prescribed rates of payment should make some statement in the nomination paper and then Government will consider his case. Was that the idea when these Members were requested—I repeat, they were requested not induced—to serve on these committees ? Had they known that they would incur any disqualification by serving on these committees, they would not have served on them.

Mr. Deputy Speaker: The courts do not seem to have any jurisdiction in this matter. Under the Constitution, the matter has to be referred to the President, who will decide it in consultation with the Election Commissioner.

Dr. Ambedkar: May I enlighten my hon. friend and tell him how exactly the question arose ? Some Members of Parliament reported certain cases to the Speaker. They said that in their opinion certain Members were holding offices of profit. It is the Speaker who referred the matter to the President and it is the President who asked us to regularise this matter. We have not taken the initiative ourselves.

Shri Sidhva : I know that. But my argument was different. I was referring to the fact that only four categories have been mentioned by the Hon. Minister while there are a number of other Members who have been serving on various committes. According to the Hon. Minister, these persons may not be disqualified but according to the Supreme Court they may be disqualified.

Mr. Deputy Speaker : How does the Supreme Court come in here ?

Shri Sidhva: Well, it is the President. Even if it is a matter to be decided by the President, I do not want any ambiguity to prevail. Supposing the President interprets the case differently and says, "Yes, you are disqualified" ? What then ? The Hon. Minister was right enough when he said that it would have dislocated the administration if these Members have been asked to resign. He also stated that these Members never knew that they would be disqualified under the new Constitution. These were honest intentions, I believe. So, why not embody them in this legislation ? I have mentioned nearly twenty-five committes and I hope all the other hon. Members would press for their inclusion.

Dr. Ambedkar: I am sure you have omitted to mention some.

Shri Sidhva: You add them, I will be only too glad. You should come to our rescue rather than do otherwise. Why should 50 per cent. of the Members of this House run the

risk of disqualification ? I want that Government should reconsider this matter. They should include a clause whereby all members who have served on all or any of the committees appointed by the Ministeries will not be considered disqualified. Or, they should include all the names of the committees. I have given two alternatives. I see no reason why the Hon. Minister should not accept one of them. Why should he leave it to somebody else, even if it be the Prsident ? He considers the receipt of fees as equivalent to holding an office of profit. I may tell him that in the Industrial Finance Corporation there are Members of Parliament who under the rules prescribed by the Finance Ministry draw Rs. 50. In some cases they drew Rs. 75. Subsequently, they agreed to Rs. 40. This is a glaring instance. They are and have been drawing Rs. 40. Will they be disqualified ? Is it fair if they are disqualified ? They were asked in writing, they were requested by the Ministry concerned to serve on this Corporation and they accepted.

Pandit Thakur Das Bhargava (Punjab)**:** They refunded some of the fees and those fees have been returned to them again.

Shri Sidhva: Therefore, this matter should not be treated lightly. I am very glad that Government have brought forward this Bill. It was before this House during the last Session. In fact, we wanted it to be considered along with the Bill dealing with Deputy Ministers and Ministers of State. When the new Constitution came into force we were given an assurance that the Ministers' question would be taken up first and that the Members' case would be considered sympathetically separately. Now this Bill should have been passed during the last Session—nearly five months back. I am very glad that it has found the first place at least now. It is not so simple a measure as Dr. Ambedkar has represented it to be. I would submit to him that the intention of Government is very clear. They do not desire that anybody should court displeasure or disqualification for no fault of theirs. If that is so, let it be made quite clear in the Bill itself. From Dr. Ambedkar's own statement it is quite clear that some of the Members will automatically be considered for

disqualification if anybody were to take the matter to the President, who will, of course interpret the law at the instance of the Law Ministry. The President will naturally consult Dr. Ambedkar and I am sure he will not give a different interpretation to the one that he has given now.

In the course of his speech Dr. Ambedkar did not refer to my amendment—probably he has not seen it. You will see that I have given in my amendment the names of twenty-nine committee on which Members have served. I do not know whether some may have received fees higher than the ones announced by the Finance Ministry. At any rate, I am not prepared to accept Dr. Ambedkar's interpretation, when there are higher authorities to interpret the Constitution.

***Shri Karunakara Menon** (Madras)**:** There are certain committees not formed by the Ministers as such but by the Government: for instance, the Central Arecanut Committee which is a committee constituted by the Government. The members of that Committee, among whom are Members of Parliament also, are nominated. What is to be done with respect to that Committeee ?

Pandit Thakur Das Bhargava: I was myself on a similar Committe : the Indian Central Cotton Committee. But here the wording is "who holds any office of profit under the Government of India or in a State Government". All these fall under the interpretation of Dr. Ambedkar of what an office of profit is. Even if you don't agree, then as stated in the statement of objects and reasons it is a doubtful point. I cannot say definitely that such a membership is not an office of profit, and therefore it is certainly doubtful. Now what would happen to our new Parliamentary Secretaries ?

Dr. Ambedkar: Why do you want to raise problems which are not there ?

Pandit Thakur Das Bhargava: In clause 2 I find only Ministers can hold offices of profit. What about the Deputy Ministers ?

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* P.D., Vol. 14, Part II, 7th August 1951, pp. 57-71.

Dr. Ambedkar: They are included.

Pandit Thakur Das Bhargava: By a stretch of the language you may include Deputy Ministers but what will happen to Parliamentary Secretaries ?

An Hon. Member: They are honorary.

Pandit Thakur Das Bhargava: I was an honorary Adviser; just as in my case one rupee a year appeared, in their case also it will happen. What I say is that if you want to take full advantage of knowledge or experience you should include a list of those offices holding of which does not disqualify a Member of Parliament. Supposing a Member having a special knowledge of some subject is appointed on a committee but if that office is not declared under this Bill then he will not be justified in accepting it. As between him and his services on the one side and this disqualification on the other, the country will be deprived of his services. Therefore we will be well advised in holding up this Bill, or at least in accepting some amendments grounded on these reasons which I am submitting. Otherwise it will mean that these five categories are exempted and the rest of us will again have to go to Dr. Ambedkar .....

Dr. Ambedkar: I have no ill-will.

Shri Sidhva: He is generous.

Pandit Thakur Das Bhargava: I know it is not the Law Ministry which has initiated this measure, but I congratulate them for the manner in which they discharge their duties because they agree that so far as these persons are concerned they should be helped. But does Dr. Ambedkar mean to say that every time there is a case like this we should go to them and ask them for a favour ? So, while congratulating him for his Bill, I want him to include a further provision in the Bill that if such-and-such a principle is applied the disqualification will not apply. I would therefore respctfully request him, so far as Article 102 is concerned, to bring forward a good measure in which the various offices of profit are defined, at least to the extent that such-and-such offices will not disqualify the holder, and also saying that if the emoluments

do not exceed those of a Member of Parliament for attending the session it will not be taken as an office of profit. If we specify the names of the various committees and commissions I know a very large number of them will be covered but all the same the kind of a committee referred to by Mr. Kamath will not come in. I am a very great criminal in this respect. I was also a member of the Rehabilitation Finance Corporation. First of all they gave us fees. We told them that in the matter of rehabilitation work we did not want any fees, they said, 'No, you are entitled'. They gave us Rs. 50 per meeting whereas Members of Parliament are entitled to only Rs. 40 per day. (Now the fees has been made into Rs. 40.) So, they asked us to refund the amount paid to us for meetings for which we had drawn from Parliament. We said, 'All right'. After the refund was made, they came to the conclusion that we were entitled to the money which was refunded back to us. We never asked for it, but when it came we accepted it.

Dr. Ambedkar: That shows the generosity of Government.

The Minister of Education (Maulana Azad): I suppose they did not ask again for the money to be refunded ?

Pandit Thakur Das Bhargava: The difficulty now is this. Even if we did not accept this money and gave it back, we would have come within the mischief of this rule if the office is regarded as an office of profit, because it is not the getting of the mony that matters but it is the office carrying that emolument.

Mr. Deputy Speaker: Is it not an autonomous body created by a statute ? Therefore, is it an office of profit under the Government ?

Pandit Thakur Das Bhargava: It is an autonomous body.

Mr. Deputy Speaker: Therefore, the amount was refunded to you.

Dr. Ambedkar: If you will kindly allow me to explain, I think it will cut short the discussion.

Pandit Thakur Das Bhargava: But you must explain the following three points: (1) Rehabilitation Adviser;

(2) Rehabilitation Finance Corporation; (3) General Committees. Then there are other committees of which some members have told me just now. For instance, some Members have been serving as members of Committees appointed by the Manager of a railway system, or as Presidents of Chambers of Commerce. They are to that extent holding offices of profit under the Government. Will they all come in ? I want that this question should be beyond any doubt. If only five categories are mentioned, we shall have only two courses open : either to see that these persons are not exempted and they remain like us ; or that we are also exempted like them. I humbly submit that this House will not be justified in passing this Bill as it is. Either accept Mr. Sidhva's amendment that on a certain principle all those Members should be exempted and include the Rehabilitation Advisor also in this category. Or lay down a principle which may be of general application and the holders of those posts may be regarded as not coming within the mischief of this rule. What Dr. Ambedkar has done is according to the exigencies of the situation as he understood them then. But now, so many new things have been brought to his notice and he will not be justified in getting this measure passed without including the other committees.

So far as the question of disqualification is concerned, . I submit that none of these persons has really incurred the disqualification, because none of these persons understood nor they had the full knowledge that as a matter of fact they were incurring a disqualification by accepting that post. When this is the position, they ought not to be taken as having incurred the disqualification. In regard to past things, it should be stated that those offices were offices in regard to which no disqualification was attached. Unless this is done, this indemnity Bill will not be an indemnity Bill, because you are not indemnifying persons, you are indemnifying offices. If you make the individuals also immune, then you would have done the right thing. That is my submssion.

Dr. Ambedkar: From the point of view of members of Parliament this Bill is certainly a very delicate Bill and I would begin by reminding hon. Members that they should

be very careful about becoming over-enthusiastic in the matter of attending the provisions of this Bill. My hon. friend Pandit Thakur Das Bhargava was the only member who touched upon this aspect of the matter, though very briefly. That was a point that ought to have been greately emphasized. The reason why the Constitution incorporated this provision in Article 102 was a very substantial one. It was intended to protect the independence of Parliament and consequently Members of Parliament should be very jealous in extending the provisions of Article 192, so that the public outside may not criticise them for engaging in a certain kind of—I hope Members will forgive me—jobbery. We have got to look at it from that point of view. It is quite true that whenever a Member is appointed to a committee he is doing a certain service to the country.

An Hon. Member: Is it jobbery ?

Dr. Ambedkar: It has all aspects about it. From the point of view of the Member, it is no doubt a service that he renders. From the point of view of the opposition, if there is one, it might have another aspect. The opposition might very legitimately contend that the Government is extending the provisions of the office of profit rule in order to collect a lot of people to support it whenever support is wanted. Therefore, as I said, while there are difficulties in the provision contained in Article 102 and they should be solved in order that no serious handicap will be placed in the way of Government having the advice of members on committees whenever Members of Parliament are appointed to such committees and also in order that Members of Parliament may not be debarred from offering service to Government through committees,—while we have to do this, we have to be careful to see that the provisions are not made a temple, the doors of which are very wide and where anybody can enter. I must, I think, utter this caution in the interest of the House.

Subject to that, I think there is a certain amount of misunderstanding about what the Bill does and also the basis of the Bill. I am very sorry to say that I did not present my case clearly, because Members of Parliament have not

followed me or understood me. It must have been my fault that I was not as clear as I should have been. I shall therefore explain the position succinctly once again. With regard to office of profit, we have to determine what is an office of profit and what is not an office of profit. As I told the House earlier, Government does not propose to take a purely technical view of office of profit as they do in England where the law says that such and such is an office of profit, and whether that is any office of profit or not or whether any particular individual who is holding that office of profit draws any money or not, it is for the purpose of the law an office of profit the holder of which is disqualified. It is the intention of the Government not to import that rule in our Constitution and unnecessarily disqualify Members of Parliament under a technical view of what is called an office of profit. I think the House will remember that. We are going, as I said, to take a realistic view of what is an office of profit. In coming to the conclusion as to whether any particular office is an office of profit or not, we have to divide the payment made to the Member into two separate categories. One is payment to a Member which includes nothing more than what may be called actual out of pocket expenses : travelling, living and so on.

Pandit Kunzru (Uttar pradesh)**:** What else ?

Dr. Ambedkar: I am coming to it. I am giving an illustration. I do not know whether you are familiar with it, but I think it is an illustration which is well known to many who attended the Round Table Conference. The second category would include what I would call actual expenses incurred by the member in order to be present at the committee to discharge his functions and something in addition as a recompense for the loss that he incurs by giving up some other business in order to attend to this business. I do not know whether my hon. friend was a Member of the Round Table Conference, but it is a fact and I happen to know it because I was a Member ; the allowances paid to Members were divided into two categories. One category was called subistence allowance which meant 22s. or 21s. per day. The other category was called merely 'allowance' which was

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intended to cover the loss which professional or businessmen incurred by giving up their business in this country and going to London to attend the Conference.

Shri Sidhva: How much was that?

Dr. Ambedkar : I forget the amount now—I think it was £ 100 a month. It is a long story, but I remember the distinction very well. But this distinction to my mind, is a very clear distinction. It is a distinction which can be justified on facts and which has a lot of precedents behind it. Therefore, the conclusion that was reached by Government in assessing whether any particular office was an office of profit or not was this distinction—whether the allowance or payment made to the member was nothing more than the bare expense which he may be supposed in normal times to incur, or whether in addition to this he was paid something more. We have taken the basis for actual expenses what has been decided by the Finance Minstry—in fact. I should have said what has been accepted by Government—not merely decided by the Finance Ministry, but accepted by Government before this conclusion was reached.

As I said, the matter was brought before Government through the Speaker and through the President. There were only one or two cases that were referred to Government for consideration, but Government felt that it was desirable to find out whether there were any more cases of this sort to which the attention of the Speaker was not drawn and we, therefore, circularised the various Ministries. We circularised various offices to let us know whether there were any such cases which required to be considered, so that one comprehensive measure may be brought into cover all such cases that had happened since the inauguration of the Constitution. After the cases were received we applied this test to which I have just now referred—what was the amount of compensation that was paid : was it only the bare expenses, or was it something more than that. If it was something more than that, then we decided that it should be deemed to be an office of profit. If it was just what was decided upon by the Finance Ministry, we treated that it was not an office

of profit, irrespective of the question whether it was held by a Member of Parliament or not. We were very careful—I must again repeat—in finding a true basis for our decision, because if we treated each case *ad hoc,* on its own, it might have been argued that we applied one criterion to one particular case and another criterion for another case. We did not want that sort of accusation to be levelled against Government and therefore we were very keen in finding out a general fundamental principle which would be applied to all the cases. It was on that basis that we came to this conclusion that there were certain cases which exceeded the principle, namely, that the allowances were beyond what might be called merely compensation for actual expenses incurred.

Pandit Kunzru: But there were other committees.

Dr. Ambedkar: I am just coming to them. Now, with regard to the question that has been raised namely Rehabilitation Finance Corporation, it is obvious that the Article speaks of offce "of profit under the Government of India or the Government of any State". An office of profit under a Corporation may be an office of profit. It is certainly not an office of profit under Government, and, therefore, the person is not disqualified.

Shri Sidhva: It is under the Government of India.

Dr. Ambedkar: What I give is the judicial interpretation and I am sure my hon. friend Mr. Sidhva, who I do not think would claim that he is a great constitutional lawyer, would not contest that position.

Shri Sidhva: What about the Supreme Court decision ?

Dr. Ambedkar: The Supreme Court has nothing to do with it. I was going to say that many Members are under the impression that this a matter which can be taken to the Supreme Court. This matter cannot be taken to the Supreme Court. If the House will allow me to say so, it is out of deference to the House that we have brought this measure. The President has absolute power to say whether any particular office is an office of profit or not. But we thought that it was not right to let the President decide it. We thought

it would be better if the matter was brought before Parliament and sanction of Parliament was obtained and that is the reason why the Bill has been brought forward.

Now, with regard to the Rehabilitation Finance Corporation there can be no manner of doubt that this thing applies only to office of profit under the Government whether it is the Central Government or the State Government. It does not apply in office of profit under say, for instance the Sindri Corporation, or the Damodar Valley Corporation, or various other Corporations which have been created by Government.

Shri Sondhi: Sindri is not a Corporation.

Dr. Ambedkar : I was only quoting it by way of illustration. I am only making a general proposition that so far as office of profit under a corporation is concerned, a person is not affected by anything that is said or done under Article 102 of the Constitution. Consequently it was unnecessary to make any reference or provision in this Bill with regard to those Members of Parliament who may be holding office of profit under Rehabilitation Finance or various other corporations to which reference has been made.

My hon. friend Pandit Thakur Das Bhargava said that the Government of India has been acting in a somewhat erratic, if not ridiculous, manner—asking members to return the money and then again requesting them to receive it back. Well, I suppose whoever the officer was who was responsible for this kind of thing was undoubtedly under the impression that the office of profit was an office of profit, whether it was under the Government of India or under a Corporation. That mistake was discovered and I think rectification was made and I am sure about it that such a mistake would not be repeated hereafter. That is the reason why no reference has been made in the Bill with regard to the Rehabilitation Finance or other Corporations.

With regard to the long list which my hon. friend. Mr. Sidhva has given in his amendment, I should like to say that there again the same thing applies. The advice which the Law Ministry received was that the allowances paid to

these members were not such as to include profit or something more than actual expenses. On the view that we have taken that they are not office of profit, we do not think it desirable to enlarge the list by including in that category persons or officers to whom Mr. Sidhva refers in the amendment that he has given.

Pandit Kunzru: May I point out one thing—that is that the allowances which these members received exceeded the limit which I understand has now been fixed by the Finance Ministery.

Dr. Ambedkar: It might be so. But when the Bill says that according to it members of certain committees have incurred a disability and that disability shall be removed, the proper construction to put upon that clause would be that no other member of the Committee was disqualified and therefore, the Bill made no reference to it.

Then with regard to the general proposition which my friend Mr. Sidhva was enunciated in his second amendment.....

Pandit Kunzru : Will my hon. Friend kindly explain what are the special reasons that made the members of the committees referred to in the Bill liable to disqualification ?

Dr. Ambedkar: Because there is an element of profit in the payment that was made to them.

Pandit Kunzru: That is the allowance they received exceeded Rs. 20 ?

Dr. Ambedkar: We thought that there was a certain amount of doubt in their case and the Bill seeks to remove that doubt.

With regard to the general proposition which my friend Mr. Sidhva has enunciated, in amendment No. 2, that we should have a general rule and let the general rule apply so that there may be no more necessity for Bills of this kind. I think it is too tall an order for me to accept, for the simple reason that although for the monent and for the purposes of this Bill we have accepted a certain basis of remuneration—

and it is on that basis of remuneration we have come to the conclusion as to which particular committee requires exemption, which does not require exemption—it is perfectly possible for Parliament or for Government to change the basis of that remuneration. And if they change the basis of the remuneration the general proposition would create so many difficulties for us, because the general proposition would be at variance with the actualities of the case. It is therefore proper, as I have always stated, for Parliament to retain this power in its hands. After all, the Government cannot declare that so and so is disqualified. Nobody has a right to go to the Supreme Court to say that a certain Member is disqualified. The whole matter, ultimately, is in the hands of Parliament, and we want to leave the matter in the hands of Parliament, so that whenever a case arises Parliament may decide. whether this is a case which comes under disqualification or this is a case which, if it does come under disqualification, should be indemnified. I think it is much better that the matter should be left in the way in which I wish to leave it, rather than to tighten it up so that nobody at an opportune moment may loosen the knot.

Shri Kamath : Is it not ultimately a question of privilege of the House ?

Dr. Ambedkar: I do not want to come to that, whether it is a privilege or not. But it is certainly a Constitutional provision which Parliament is required to obey, and Parliament will be doing a great deal of wrong to the Constitution if it does not follow the provisions of Article 102 when ultimately, as I say, the Government, and the Bill, is prepared and wants as a matter of fact to leave the whole matter in the hands of Parliament to decide each particular case. Mr. Sidhva had some amendment. But can anybody in this House tell me right now what are the likely offices or committees which the Government might hereafter create ? I cannot imagine such a thing right now if somebody were to ask me a question "Tell me what are the committees". If you want to enter all these in the Bill, you must know and define them. Nobody can anticipate what committees are likely to be appointed.

Therefore, when Parliament appoints a committee, or when Government proposes that a certain Member of Parliament be appointed to a certain committee, it is then that the Member concerned may rise and ask the Prime Minister or the Minister in charge of the Ministry who is appointing the Committee to let him know right then what is going to be his position, whether he will be disqualified or not, and he can demand from the Minister an assurance or a contemporary resolution to be accepted by Parliament that "in this particular case any Member appointed to the committee shall not be deemed to be disqualified".

Shri Sondhi: If it is a Government committee ?

Dr. Ambedkar: Even then Members of Parliament must protect themselves and a Member of Parliament can protect himself by asking for an assurance from the Government that whatever be the other matters he shall not be deemed to be disqualified. When such an assurance is given, obviously Government cannot go behind such an assurance.

Pandit Thakur Das Bhargava: Only under Article 102 a law must be passed by Parliament declaring that office to be not one of profit.

Dr. Ambedkar: We are dealing with specific case. As regards Parliament passing a general law, I do not know what that general law can do. It can, so far as I can imagine, say that whenever a Member of Parliament is appointed to a committee the members whereof receive an allowance which may be described as profit—in that very case Parliament can state as they do in England—that the appointment of the Member shall not be deemed to be an office of profit.

Shri Kamath : Can we not lay down a uniform procedure ?

Dr. Ambedkar: I cannot, for the simple reason that the basic allowance may change.

Shri Kamath : Still we can lay down a uniform procedure.

Dr. Ambedkar: It is possible for Parliament to do so. I do not know what time we have. But the next Parliament can pass a small Act saying that whenever any Member of

Parliament is appointed to any committee where the allowances may be more than mere remuneration and the appointment may be regarded as an office of profit, then in the case of each appointment the Act of Parliament shall say that "this shall not be regarded as an office of profit". That may be done in a general way.

Shri Sidhva: What about the committees in which Members are now drawing more than Rs. 20 ? There are certain committees.

Dr. Ambedkar: I have no idea.

Shri Sidhva: That is the point to be clarified.

Dr. Ambedkar : If you bring such cases to our notices we will examine them. So far as our Department is concerned we had collected all the information from all the Ministers. We examined them and found that these are the cases where the allowance exceeded the standard that we had fixed and therefore an indemnity was necessary. In other cases we found that the allowances did not offend against the basic rule and consequently no such indemnity was necessary.

Shri Sidhva: What is your information ?

Dr. Ambedkar: You must accept our information. Let the Member who is affected make a representation that "I am drawing more but I am not exempted".

Shri Sidhva: Why not do it here ?

Dr. Ambedkar : I cannot off-hand accept your suggestion. You may accept that your facts are not correct as mine may be. Yours are the labours of a single individual. Here hundreds have examined and surely their information may be taken to be more reliable.

My friend Mr. Kamath asked me something about the Assam Government Pleader. Well, I do not know but I should like to say this. Whether a Government Pleader in a Province is the holder of an office of profit or not is a matter which has been decided long long ago. So far as I remember when the Government of India Act came into operation in the Province in 1937, a ruling was given, I believe in some of the

provinces by their Advocates-General that this was an office of profit. In fact I have a case in mind where a certain Government Pleader had to resign on this account I do not know whether any such case had arisen in Assam. May be it had arisen ; may be it had not arisen. An uncharitable interpretation might suggest that a lawyer who is a Government Pleader ought to have been aware of the position.

Mr. Deputy Speaker: I was informed that the hon. Mr. Wajed Ali himself was the Member and he wanted an opportunity to speak.

Dr. Ambedkar: If he speaks then I won't speak. But he one day came to me—I forget the day—and asked me whether he was disqualified. I think he will agree with me that I told him he was disqualified, that that was my view, and that any Member of Parliament who is a Government Advocate in a Province was disqualified. I told him that. He said that he was very sorry and that he did not know that. Thereupon I said that there may be provision for condonation and so on and so on and told him "You better make a representation to the proper quarters". I think he represented the matter to the Speaker, if I remember correctly, and the Speaker referred the matter to me that in view of the fact that the Member has stated definitely that he was not aware of this ruling and had continued to hold that office the Government might consider his case also for indemnity.

On that basis we did include his case. That is all I have to say.

Shri Kamath: The Coal Inquiry Committee was constituted after March, 1950, after the Constitution came into force. Why was this aspect of disqualification not considered at the time the Committee was constituted ?

Dr. Ambedkar: Mr. Kamath, these are all very good and very nice points but as I feel Government was not very particular or very meticulous in applying Article 102 because we were working on an *ad hoc* basis. The whole trouble was created by the fact that so far as the Constituent Assembly

was concerned, we had abrogated this rule and we had allowed the Constituent Assembly to function also as a Legislature. There was a certain amount of mix up and confusion and consequently the Government's attention was so to say not attracted towards this particular proposition but when the matter was brought to their notice they thought that this was the best thing that they could do in the circumstances and I hope the House will accord its support to this Bill.

Dr. Pattabhi (Madras)**:** May I invite the attention of the House to a somewhat interesting view taken by the Madras Government in regard to the question as to whether a Public Prosecutor or Government Pleader is or is not a Government servant for purpose of legislative elections. Mr. Yahia Ali, Public Prosecutor of Nellore was considered a public servant so far as election to the Legislature was concerned and the method adopted was this. He was to resign his office of Public Prosecutor so as to contest the legislative election, become a Member of the Assembly and then he was appointed by the Government to the public prosecutorship. He has done this three or four times and ultimately his troubles were put an end to by being transferred to the High Court Bench.

Shri Syamnandan Sahaya: Sir, may I have one information ? In part (d) you have included the office of Members of the Railway Local Advisory Committees up to 1951. Perhaps you will propose an amendment to make it 1952. My difficulty is will you bring such motions year after year in order to include annually 1952, 1953 and 1954 or you will lay down that membership of Railway Local Advisory Committees will not act as a disqualification.

The other point is having now had all these different committees definitely laid down in this Bill does it not really place the President in an embarrassing position. He will now feel difficulty as the Parliament has only made mention of certain committees which will not be construed as offices of profit. If any matter is referred to him he may have a difficulty and he may have to call the Parliament even if the case is justifiable and within his competence to decide.

Dr. Ambedkar: I do not think my hon. friend need worry about the President. We make use of him for a variety of things and we have Article 392 whereby he can issue an order and we do not propose to take advantage of that in spite of the transitory situation.

Mr. Deputy Speaker: We are starting another discussion after the discussion is over. I will put the motion to the House. There are other clauses and hon. Members have got ample opportunity.

The question is :

"That the Bill to declare certain offices of profit not to disqualify their holders for being Members of Parliament, be taken into consideration."

The motion was adopted.

Clause 2.—(*Prevention of disqualification etc.*)

Amendment made :

In page 1, (i) in line 23, *omit* "and"; and

(ii) *after* line 2, *add:*

"(*f*) the office of members of the Enquiry Commission appointed by the Government of Assam or by the Government of West Bengal in pursuance of the Agreement made between India and Pakistan on the 8th April 1950, for any period not extending beyond the 31st day of December, 1950 ; and

(*g*) the office of member of the Bombay Revenue Tribunal for any period not extending beyond the 1st day of April 1951."

— *Dr. Ambedkar*

Mr. Deputy Speaker: We shall go to the other amendments.

Shri Kamath: As the Minister has explained the position, I am not moving 2 and 3, but No. 1 will come later on.

Pandit Thakur Das Bhargava: In view of the statement made by Hon. Dr. Ambedkar, I do not think my amendment is necessary.

***Dr. Ambedkar:** I may explain, with your permission, the point raised by hon. friend. Actually, when the Resolution was issued by the particular department concerned when they formed the Foodgrains Investigation Committee, the allowance mentioned was Rs. 20, and possibly the information supplied to the Law Ministry for the purpose of clarifying this position was that Resolution. We have acted on that Resolution. But I do now hear that the Food Ministry have changed that rule and have allowed the members to draw something more. But, the basis of our action is the Resolution.

Shri Sidhva: What will happen to that member ?

Dr. Ambedkar: My friend Mr. Sidhva does not seem to understand the point. Unless the President issues an order that a member is disqualified, the Member can sit in the House and function.

Shri Sidhva: I know that.

Dr. Ambedkar: Therefore, as I said, we have been supplied with the various Resolutions passed by the Ministries constituting the committees and we have found on the basis of the Resolutions that those committees did not offend the basic rule. If further information is supplied showing that there were such cases where Members in fact drew more, it would be perfectly possible to regularise the position. Where is the difficulty ? I do not understand.

Shri Himatsingka: Why not do it in a general form ?

Dr. Ambedkar: I cannot do it. I must make further enquiries as to what exactly is the position. Nothing is going to be lost if this Bill is passed and another Bill brought into cover cases which actually are necessary to be covered.

Shri Sidhva: How can that be ?

Dr. Ambedkar: Why? I do not understand.

Mr. Deputy Speaker: This can be definitely looked into. It does not matter if this stands over till tomorrow.

Some Hon. Members: Yes, Sir.

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*E. D., Vol. 14, Part II, 7th August 1951, pp. 73-79.

Mr. Deputy Speaker: But, if before tomorrow these matters cannot be settled, then, we can proceed with the Bill immediately. The President must, first of all say that a Member is disqualified. That is clear. Clause (1) (a) of Article 102 says: "if he holds any office of profit under the Government of India other than an office declared by Parliament by law not to disqualify its holder." Independently of the procedure under Article 103, without a question arising and the matter being referred to the President, Parliament can say that an office shall not be deemed to be an office of profit where it is clear that the remuneration is what is thought to be a fair compensation. Without bringing another Bill, if it can be disposed of by a suitable amendment herein, the Hon. Law Minister may consider that matter. There is a list of all these committees, and Mr. Sidhva's amendment will stand over. I will put the other amendment to the House which seems to be not opposed. That stands in the name of Shri Sri Narayan Mahtha.

Dr. Ambedkar: That I am accepting.

Mr. Deputy Speaker: I shall put it to the House. Barring that, the other things given notice of by Mr. Sidhva may be looked into next day.

Dr. Ambedkar: He can give me the actual resolutions ; I can verify.

Mr. Deputy Speaker: This will be the first matter

tomorrow. He need not bring any amendment. This will stand over so far as Mr. Sidhva's amendments are concerned.

Shri Himatsingka: May I suggest this for the consideration of the Hon. Law Minister? If he puts the proposition in a general form that membership of any committee where the payment does not exceed a certain amount, in the past, will not be regarded as an office of profit, that would cover.

Mr. Deputy Speaker: The Hon. Law Minister has already said that such a general proposition...

Shri Himatsingka: That is only with respect to the past.

Mr. Deputy Speaker: With respect to the past, there have been varying amounts paid: Rs. 40, 50, etc.

Shri Sondhi: Forty rupees is the maximum.

Mr. Deputy Speaker: If the hon. Member brings these matters to the notice of the Law Minister, he will go into them instead of throwing open the floodgates and making it appear that we are trying to bring in the immunity to a vast number of members. Let us not lay ourselves open to that kind of accusation.

An Hon. Member: That is only for the past.

Mr. Deputy Speaker: If any particular categories are there, they may be brought to the notice of the Law Minister and he will look into them.

Dr. Ambedkar: In this case, the resolution mentioned Rs. 20.

Pandit Kunzru: Before the discussion is adjourned till tomorrow, I might make a suggestion. The whole trouble has arisen because the Finance Ministry has decided that if any member receives a daily allowance of more than Rs. 20 for serving on a committee, he shall be regarded as holding an office of profit. If the Ministry decides that the limit should be increased from Rs. 20 to Rs. 40 which is the daily allowance drawn by a Member of Parliament for attending the meetings of Parliament, these troubles will disappear. I suppose that if this view had been accepted by the Finance Ministry, the Bill now brought forward by Dr. Ambedkar would not have been necessary. This Bill has been made necessary by the low limit fixed by the Finance Ministry. The Finance Ministry can do away with all this trouble and set the minds of hon. Members at ease by simply announcing that if a member receives an allowance not exceeding the daily allowance to which a Member of Parliament is entitled for attending the meetings of Parliament, he will not be regarded as holding an office of profit. No doubts will arise and no Bill will be necessary.

Dr. Ambedkar: I would just like to say one word of correction to what my hon. friend has said. What the Finance

Ministry—I should not bring in the Finance Ministry—what the Government now says is this. For non-official members of a committee, certain allowances have been fixed, as I said, so much for travelling by air, so much for travelling by train, so much for living allowances, Rs. 15 for Calcutta and Bombay and Rs. 12-8-0 elsewhere. That is the standard which the Government accepts as the standard of payment in which no profit element is involved. I believe my hon. friend has omitted to take that into account. If we are to have a mixed committee consisting partly of Members of Parliament and partly of members who are not Members of Parliament, obviously, we cannot prescribe different standards of payment. The standard of payment that we must adopt for a mixed committee of this kind is the standard which has been laid down for payment for members who are not Members of Parliament and consequently that standard becomes the ruling standard.

Shri Sondhi: I would like to make one submission, Sir. There is a Committee from the Agriculture Department, the Central Arecanut committee. The daily allowance is Rs. 12-8-0 and not Rs. 12. Are we disqualified ? There are four members here.

Pandit Thakur Das Bhargava: I have heard Dr. Ambedkar with great attention and respect, but I must very humbly point out that he is an entirely wrong way of looking at the question. Article 102 of the Constitution makes it quite clear that the President is the final authority, that he has the final power of deciding about a particular case. And, in the alternative it is Parliament which can decide whether certain offices, if held would not amount to disqualification. The Finance Ministry or the Government as such has absolutely no power whatsoever in this connection. They cannot fix any standard whatsoever. Suppose there is a committee the membership of which carries an allowance of only Rs. 10 or even Rs. 5 but still the committee may be of such importance that its membership may be considered an honur and many would like to serve on the committee, in which case it will be perfectly open to Government to exercise its patronage in appointing the members to such a committee, exactly the thing which Dr. Ambedkar and we all

want to avoid. Therefore I say, it is no business of the Government to decide whether an office held is an office of profit or not. That is something for the President or for Parliament to decide.

Dr. Ambedkar: That is why the Bill has been brought before Parliament.

Pandit Thakur Das Bhargava: For Government to arrogate this power to themselves is certainly wrong. If they say that they have got the President in the hollow of their hand and they can fix a standard of profit I do say thay are wrong. In certain cases it is the President in consultation with Election Commission who has to decide whether an office is an office of profit or not and in other cases Parliament decides. I do not think that the Finance Ministry or the Government can decide this matter at all.

Shri Sidhva : Shall we not agree that whatever allowance is drawn up to the limit of the allowance of a Member of Parliament shall not be considered a disqualification ? House should decide this matter and not Dr. Ambedkar.

Mr. Deputy Speaker: Having heard the discussion, I can only say at this stage that there is nothing to prevent us from adding a clause here to the Bill itself to say that notwithstanding anything contained so far, if a Member of Parliament is on any committee and does not draw an allowance more than that drawn by him as a Member of Parliament, he shall not be deemed to be disqualified. That is just a suggestion. In that case it would not be open to the objection that Government is placing allurements before Members, because nothing more than Rs. 40 will be paid. But there is this difficulty that if an official is appointed on a committee he will continue to draw a different rate of allowance, probably according to the salary he draws. But this matter may be considered. I would therefore allow this to stand over till to-morrow and get through with Mr. Narayan Mahtha's amendment.

Shri Kamath: Sir, last year this House decided that the offices of the Minister of State and the Deputy Minister would

not amount to disqualification under this Article. Therefore the present Ministers of State and Deputy Ministers do not incur any disability. But what about the newly born Parliamentary Secretaries ?

Mr. Deputy Speaker : They are also included in the Act.

Dr. Ambedkar: Sir, with reference to the suggestion made by you that this may be taken up to-morrow may I point out that it may not be possible for me to undertake that this matter will be taken up to-morrow. This is a matter which I have to refer back to the Ministries and that may take time. " So if it is kept over, it may be taken up on any convenient date.

Mr. Deputy Speaker: Is it the wish of the Hon. Law Minister that we may get through the other amendments ?

Dr. Ambedkar: The amendments may be moved. I accept Shri Narayan Mahtha's amendment.

Shri S. N. Mahtha (Bihar)**:** Sir, I beg to move:

In page 1, line 23, *after* "March 1951" *insert:*

"or for the year ending on the 31st day of March 1952".

Shri Sidhva : But, Sir, we have not received notice of this amendment at all. It has not been circulated among us.

Dr. Ambedkar: It is just a small amendment.

Shri Sidhva: It may be small according to the Law Minister, but it may be a very important one.

Mr. Deputy Speaker: Then does the hon. Member want this also to stand over ? It is just a small amendment extending the period from March, 1951 to March, 1952.

Shri Sondhi: Let this also be considered along with the whole Bill later on.

Mr. Deputy Speaker: It is a simple amendment extending the period up to March, 1952. There need not be any speeches on it and I shall place it before the House.

Amendment moved:

In page 1, line 23, *after* "March, 1951" *insert*:

"or for the year ending on the 31st day of March 1952".

Shri Sidhva: Sir, these local advisory committees are permanent committees elected by the Railway Standing Committee. Therefore, I would like to know whether every year amendments like this will have to be brought into remove the disqualification ? Will it not be better to consider this matter in greater detail and devise some proposition under which this annual performance may not be necessary ?

Mr. Deputy Speaker : As the hon. Member will see, this relates to the sitting Members. The year 1951-1952 has already started and to remove the disqualification from the whole period, the date has to be extended to 31st March 1952.

Dr. Pattabhi: But we are sitting in April, 1952 also.

Mr. Deputy Speaker: If it is not extended, Members who have agreed to serve on committees would be obliged to resign straightaway. Therefore the period is being extended to 31st of March 1952. We are in the middle of the year 1951-52 and therefore, this amendment is necessary. As to whether this amendment should be effected now or hereafter, it is for the Law Minister and the House to consider and decide. We are not bringing in a legislation to remove disqualifications under various categories.

Shri Sidhva : Sir, what you state is perfectly correct. But these Advisory Committees are very important bodies. My point is—and I may add that I am not a member of an Advisory Committee—my point is, as Members of Parliament we are interested in the carriage of passengers and goods by the railways and just because as a member of the committee a person draws an allowance of Rs. 30 or so, he should not be debarred from being a Member of Parliament. In this matter the Railway Finance Committee and the Advisory Committee have to be consulted. So this question of changing the date from March, 1951 to March, 1952 may also be postponed and considered along with the other provisions of the Bill when the Bill comes next to us.

Dr. Pattabhi: Why not say "during the tenure of the present Parliament." ?

Dr. Ambedkar: I thought that the amendment was a very simple one. The reason why the Bill originally did not mention the words that are now sought to be introduced by the amendment was because the Bill was expected to be passed much earlier. That did not happen. Members have continued to sit. If you want to completely exonerate them from the application of this office of profit rule it is necessary to continue the period. With regard to the future I understand that the allowances have been reduced, so that no disqualification should be incurred.

An Hon. Member : By how much ?

Dr. Ambedkar : The same Rs. 20.

The Minister of State for Transport and Railways (Shri Santhanam): I shall give the information on the next day.

Mr. Deputy Speaker: It has been so reduced as not to impose this disqualification. This only applies to existing members.

The question is :

In page 1, line 23, *after* "March, 1951" *insert:*

"or for the year ending on the 31st day of March 1952".

The motion was adopted.

Mr. Deputy Speaker: The rest of the Bill will stand over to such other day as the Hon. Law Minister may find convenient to bring it before the House.

Pandit Kunzru: As the Hon. Law Minister has been given time to think over the matter I hope he will arrive at a correct decision.

Dr. Ambedkar : I should like to say that I would be very much dependent upon the advice of my hon. friend.

(36)

*ASSAM (ALTERATION OF BOUNDARIES) BILL

Mr. Deputy Speaker : The House will now proceed with the further consideration of the motion that the Bill to alter the boundaries of the State of Assam consequent on the cession of a strip of territory comprised in that State to the Government of Bhutan, be taken into consideration.

The Minister of Law (Dr. Ambedkar): I am sorry I was not present in the House when a certain point was raised by certain Members that Parliament had no power to pass this Bill, in view of the fact that the Bill proposed, although indirectly, to cede certain portions of territory which belonged to the Indian Union, to Bhutan. I heard that my hon. Friend Mr. Sri Prakasa also made certain submissions to the House on this point in justification of the stand taken by the Government. But, I was told that the House expects me to say something on the point.

The point seems to be very easy. I think, in order to under stand the matter fairly, it is better to begin by a reference to List I contained in the Seventh Schedule, which defines the legislative powers of this Parliament. I would refer to List-I, Entry No. 14 and Entry No. 15. Entry No. 14 relates to the making of treaties and entry No. 15 refers to war and peace. The question that has been raised very largely hinges upon the interpretation of the words 'treaty making' and 'war and peace' What do these items include ? This matter was debated at great length in the United States when the question arose for the first time for interpretation. In order to cut short the matter, I should like to state that in the United States it has been accepted that treaty making does include the power to cede territory.

*P. D., Vol. 14, Part II, 8th August 1951, pp. 103-118.

Pandit M. B. Bhargava (Ajmer)**:** Is there any prohibition there ?

Dr. Ambedkar : I shall quote the authorities if my friend wants. I have got plenty of them. I do not want to weary the House : I am only going to give the gist.

Treaty making does include cession of territory. In the same way, apart from that particular Entry, the Entry relating to war and peace must necessarily include cession of territory because it cannot be denied that it may sometimes become necessary for a State which is at war with another foreign State, in order to establish peace, to cede a part of its territory as one of the terms and conditions of a treaty of peace. Nobody, I am sure, can challenge or deny that interpretation of the Entry relating to war and peace. Now, if in certain circumstances the Entry relating to war and peace and the Entry relating to treaty making must necessarily include cession of territory, it is quite obvious that the content of these Entries must be deemed to include cession of territory. Therefore, as against the mere fact that in the rest of the body of the Constitution, there is no specific Article conferring specific powers on Parliament to cede territory my contention is that Entries 14 and 15 are quite sufficient....

Shri Kamath (Madhya Pradesh)**:** No, no.

Dr. Ambedkar: ..... to endow Parliament with the power to cede territory. My hon. friends, some of them, are shaking their heads saying that that is not correct. But, still, I hold to my view.....

Shri Kamath: We also will hold to ours.

Dr. Ambedkar: ..... that what I am submitting is a point which has been accepted by all great constitutional lawyers, and by the Supreme Court of the United States where also a similar power exists.

Shri Sidhva (Madhya Pradesh)**:** What about our Supreme Court?

Dr. Ambedkar: Therefore, the first point that I want to submit to the House is that so far as Entries 14 and 15 in List-I are concerned, there is the greatest amplitude of power conferred upon Parliament for the purpose of ceding territory.

In view of the fact that certain Members of Parliament seem to be rather unconvinced or not prepared to accept the submission that I am making. I would like to elaborate the point a little further. Hon. Members will remember that the Constitution of the United States is, in a sense a very difficult Constitution, for the simple reason that the States in the United States are much more independent and sovereign than the States which are constituent elements of the Indian Union, in the sense that the powers of the Congress are derived from such powers as have been delegated to it by the States composing the United States. It is a Government of what are called not merely delegated powers, but enumerated powers. There is no such thing as residuary power in the Central Government of the United States such as we have in our Constitution. Taking advantage of this position, namely, that the States in the United States are masters of their territory and the United States Central Government has no authority so far as the territory of the States is concerned, except with regard to certain limited matters handed over to the Central Government, there was a stage in the interpretation of this particular document under which it was contended that although the treaty-making power of the United States Government may include within it the power to cede territory, it could not include the power to cede territory which belonged *to* the State. In other words, the treaty-making power of the United States was subject to what was called the doctrine of the inherent rights of the States. It may transfer such other territory which it may have, which it may have conquered which are regarded in the United States as territories of the United States, but not as constituent parts of the United States. That doctrine, as I said, was urged for a long number of years in the United States. But ultimately the position taken by the Supreme Court of the United States was that

the treaty-making power was so unlimted that even a whole State may be transferred and ceded by the United States, if it felt necessary, under the war and peace entry or under the treaty-making power.

Shri Kamath: Which particular State was ceded like that ?

Dr. Ambedkar: I cannot give you that but I can give the whole volume and the reference too. It is in Willoughby on the Constitution of the United States from page 572 to the end of the volume, I think—it is not very much. It is in Chapter XXXV of the volume, and there you will find all these points discussed. And there is a valuable opinion of Mr. Justice Storey—I think most Members who are interested in constitutional law must be familiar with his name, being one of the greatest authorities on Constitutional law. The chapter begins on page 561, but the particular entries are in paragraphs 311, 312 and the other paragraphs up to paragraph 317.

Therefore, my first submission is this that so far as the point raised yesterday is concerned, that Parliament has no authority, I submit that that point has no foundation in law at all, and that this Parliament has ample power to cede territory and as a consequence of the cession of the territory make adjustments within the boundaries of the States of the Union.

Now, the question that arises for further consideration is whether it is necessary for the President to have brought this matter before Parliament or whether he could dispose it off purely in his executive capacity. Now, on that point, I might also mention incidently, that the same doctrine prevails in England, that the King can cede territory. In fact, it is the prerogative of the King to do so.

Shri Kamath: An un-written one perhaps.

Dr. Ambedkar: Whatever it is, the doctrine is there.

Shri Kamath: England's Constitution is un-written, that is the difficulty.

Dr. Ambedkar: That does not matter at all. I know my hon. friends are relying upon Article 3 of the Constitution.

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Shri Kamath: Articles 2 and 3.

Dr. Ambedkar: I am not touching them at all.

Shri Kamath : Evading them ?

Dr. Ambedkar: I go on a different plane because I am prepared to say that these Articles have no reference to the cession of territory. They do not prohibit, but they have nothing to do with cession. I am prepared to say that in view of the fact that I was concerned with the making of the Constitution, and most Members probably do not know what the intention...

Shri Kamath: All of us were so concerned.

Dr. Ambedkar: They do not probably know what the underlying intention of this Article was. I know it better and I am prepared to say that though it does not prohibit cession, as pointed out by my friend Shri Santhanam, its primary intention was for dealing with the linguistic distribution of the Provinces. That is why I do not refer to the Article of the Constitution, because the Government's case might be considered to be very weak if I relied on Article 3. So I am relying on something much more fundamental and which no Member can deny namely, the power to make under Article 3.....

Shri Kamath : The acquisition of new territories is under Article 2 which does not mention cession.

Dr. Ambedkar: But that does not matter now. The rule that if one thing is expressed and the others are not expressed, then they are excluded, does not apply universally.

I was trying to point that this position, namely, that the State is entitled to cede territory is also the law in England. It is a matter of prerogative for the king to do so and he can do so.

Now I would turn to the second part of the question, namely, whether Parliament need be consulted in a matter of this sort. As you know, in England, the position has varied from time to time. At one time the view that was taken was this, that was a matter which related to the prerogative of the king. And prerogative means what ? Let me define it briefly. Prerogative means the power of the king to do something for which Parliamentary sanction is not necessary. This is the gist of what is called the prerogative right of the king. Therefore the old view was that since cession of territory was the result of the prerogative of the king, it was not necessary to bring the matter before Parliament because the king was supreme, unless Parliament, by specific law took away the prerogative of the king to make treaty and to cede territory. And as Parliament has not done that, the king has got the power. All the same, treaties ceding territory have come before Parliament in England and I will briefly explain the reason why they have come before Parliament. In the first place, the Government in England has felt that it is much better to obtain the sacntion of Parliament to the cession of territory because it was deducting so much territory belonging to sovereignty and over which Parliament exercised supremacy. Therefore, nothing ought to be done without the consent of Parliament. The second reason why it became necessary for the British Government to bring treaties of cession before Parliament was this. It was felt that the transfer of territority was after all, a transfer of the nationality of the people residing in that particular territory. The reason is that when you transfer territory, by virtue of that transfer you also practically transfer the nationality of the people. They became citizens of another State. It was felt that this was too much and it was necessary to consult Parliament whether such a step should be taken, because it was possible that Parliament may insist that the cession should not be in absolute terms but subject to certain conditions. For instance, Parliament may say that although the territory may be transferred, the nationality of the people should not be transferred by virtue of the transfer and that the people may be permitted to maintain their old nationality

or some other provision might be introduced into the treaty, whereby voluntary transfer of nationality may be made a condition of cession. As it involved citizenship and nationality, the British Government always felt that it was desirable to place before Parliament any treaty though it was made by the prerogative of the king and by virtue of which did not require the sanction of Parliament. It was felt that Parliament should be given a voice in determining the nationality of the people in the territory which was being ceded.

The third thing is that under the English law, while it was the prerogative of the king to transfer territory, the treaty by itself could not affect the right of the people. If for the performance of the treaty certain existing laws were abrogated or affected, then the treaty itself was not competent to do it. It required a separate sanction of Parliament to alter those laws which regulated the rights, obligations and liabilities of the people in order to bring them in conformity with the provisions of the treaty.

These were the principal reasons why under the English law, although the right to transfer territory was a prerogative of the king, the British Government introduced the practice of placing all such treaties before Parliament for sanction. That is the reason why the Government in this case felt that it was desirable to bring this matter before Parliament and obtain its sanction, because in this very Bill I do not exclude the possibility of Parliament introducing certain changes with regard to the nationality of the people in the territory which is sought to be transferred to a foreign State like Bhutan.

These are my submissions with regard to the various points raised. My first submission is that it is not necessary to rely on Articles 2 and 3 of the Constitution, because they relate to a different matter. The purpose of this Bill and that of this treaty come under entries 14 and 15 in legislative List No. I of the Seventh Schedule. In my judgment, according to the interpretation put upon the content and the ambit of these two entries, it is sufficient to give authority to Parliament to sanction a measure of this sort.

Shri Kamath: Before you proceed further, Sir, may I request you to summon the Attorney General to be present here during the course of the debate, as important matters are being raised in the House ?

An hon. Member: He is in Australia.

Shri Kamath: Is not his Deputy here ?

Several Members : *rose*—

Mr. Deputy Speaker: Hon. Members who have already spoken need not rise. They have no right to speak just because the Law Minister has raised certain new points.

Dr. Pattabhi (Madras)**:** Several points which are neither in the Bill nor in the statement of Objects and Reasons have now been adduced by the Law Minister and the whole discussion assumes a *de movo* form, if you have followed it carefully. There was a reference in the Statement of Objects to part (c) under Article 3 of the Constitution. There is the statement of the Law Minister that the Bill has nothing to do with Article 3 of the Constitution. You must reconsider your decision, Sir, and allow a fresh discussion on the matter.

Dr. Ambedkar: Article 3 comes in only incidentlly, because the cession of territory cannot be carried out unless until the boundaries of Assam are adjusted. To that extent Article 3 is relevant. Otherwise Article 3 has no relevance.

Dr. Pattabhi: You were not present in the House yesterday when certain statements were made

Dr. Ambedkar: I am sorry I was not here. If somebody had told me I would have been here. (*Interruption*). Article 3 comes in only incidentally. The cession of the territory was the consequence of readjustment of the boundary of Assam. So far as there, there should be reference in Article 3.....

Dr. Pattabhi : For which there is no provision in the Act— I mean for cession of territory.

Dr. Ambedkar: That is a difference in opinion. Entries 14 and 15 contain, if you want, the basis of action for the union territory.

Dr. Pattabhi: Then do not quote Article 3.

Dr. Ambedkar: Article 3 has been reported in an incidental manner because it has reference to the readjustment of the boundaries of Assam.

Shri Kamath: Is it clear then, that the matter at issue is cession and not, as the Prime Minister said yesterday, the adjustment of a boundary dispute ?

Dr. Ambedkar: The cession of territory may have been the consequence of a boundary dispute. Where then is the difficulty ?

Shri Kamath: Which is the cause and which is the effect?.....

Dr. Ambedkar: That I do not know. The administrative department will tell you but I cannot see any difficulty there.

Shri R. K. Chaudhuri (Assam)**:** Would you request the Attorney General to be here, Sir ? We are entitled to hear his views.

Mr. Deputy Speaker: The Attorney General is in Australia. I do not think it is necessary to hear the Attorney General. The House has heard the Law Minister. (*Interruptions*). Order, order. Hon. Members have had ample opportunities to speak. Let others also have the opportunity to speak. Merely because an hon. Member who had the right to speak urged a particular point in favour of a particular proposition, another hon. Member who has already spoken cannot have additional time to speak again. That would be endless.

Shri Shiv Charan Lal (Uttar Pradesh)**:** May I ask one question by way of.....

Mr. Deputy Speaker: Not now. Dr. Mookerjee.

Dr. S. P. Mookerjee (West Bengal)**:** While rising to speak on this Bill I would like to state at the beginning that I do not wish to dwell at length on the merits of the Bill. Whether a small tract of territory should be given to Bhutan or not is a question which is not immediately before you. I know that what the Prime Minister said yesterday strengthens the

case of Government and perhaps there may be special reasons why the proposal which Government has made should be implemented. But I take the strongest objection to the extraordinary procedure which is being followed for implementing the wishes of the Government and it took my breath away when I heard the defence of the Law Minister. Of course he said that he was the author of the Constitution—not the sole author.....

Dr. Ambedkar: I did not say I was the author but I was one.....

Dr. S. P. Mookerjee: He had the largest part to play in the framing of the Constitution. That being so one would have expected that he should have been the first person to defend the sacredness or sanctity of the Constitution. I could have understood a speech like the Law Minister's from any other Member, even the Home Minister. But so far as the Law Minister is concerned he should have explained very clearly what the implications of the proposal were.

The Law Minister referred to certain judgments passed by the Supreme Court of America. After my experience last time while we were discussing the Constitution (Amendment) . Bill, I hesitate to accept the hasty recommendations of the Law Minister unless I can verify.....

Dr. Ambedkar: I must protect against this kind of a thing. If my friend is going to challenge a statement that I made then I shall reserve to myself the right to challenge whatever he has stated. I must make it very clear.

Dr. S. P. Mookerjee: The Law Minister is protesting too much.

Dr. Ambedkar : It is not protesting too much, but I heard you said something the other day when I was not present.

Dr. S. P. Mookerjee: You were here, but when I was speaking you had run away.

Dr. Ambedkar: You are not such a formidable man as to make me run away.

Dr. S. P. Mookerjee : So far as Shri Bhim Rao Ambedkar is concerned who can frighten him ?

Dr. Ambedkar: I dont't like these reflections. You have made the statement. I know, I am not here to challenge it but I would.....

Mr. Deputy Speaker: Should the hon. Members exchange words like this ?

Dr. Ambedkar: No, Sir, it is going too far. It is deliberately saying that I have misquoted and misrepresented.

Dr. S. P. Mookerjee: I have not said that.

Dr. Ambedkar: I have been eager enough to allow my friend, Mr. Kamath to have the reference to the book and the pages. I do not like these things. I am treating you with great respect—if you won't do it then I shall descend to your own level.

Dr. S. P. Mookerjee : You have descended to your own level.

Mr. Deputy Speaker: Both are highly respected Members of Parliament. It was not necessary for the hon. Member to say those things about the last version. The Law Minister may have given his opinion but the hon. member has always got the opportunity of reading the relevant judgment himself. All that I can say is that as far as possible, consistent with their own position in the House, and the position of the House itself, they should meet argument by argument. That is my appeal to hon. Members.

Dr. S. P. Mookerjee : I had no desire to wound anybody's feelings. I said I hesitate to accept the hasty recommendations of the Law Minister.

Dr. Ambedkar: There are no recommendations. I said these are the judgments—I quoted the pages.

Mr. Deputy Speaker: Hon. Members are aware that from the same book different persons can interpret differently, and therefore, it was open to the hon. Member, Dr. Mookerjee to read it differently.

Dr. Ambedkar: If he had the judgment before him and after reading it he refers to it, I would have respected it. But to say I have misquoted or misrepresented is going too far.

Dr. S. P. Mookerjee: I never said misquoted.

Dr. Ambedkar: I am not going to allow this kind of a thing.

Dr. S. P. Mookerjee : The point I was developing, Sir, was this. The hon. Minister referred to some case which was dealt with by the American Supreme Court—he did not read out the judgment. So far as the American judgment is concerned it is not relevant to the subject matter that we are discussing here now. The Law Minister referred to certain things which are done by the king in England; the King has prerogative powers by virtue of which he can cede certain territories. That also, I would submit, has no relevance to the topic that is under discussion today. All that we are discussing is this : can Parliament cede any portion of the territory of India without following some specific procedure which is laid down under the Constitution ? Is there any Article in the Constitution which makes a provision for the purpose of allowing Government to cede any portion of the territories within India ? That is the simple question that we have been called upon to consider. Here, Sir, If you look at Articles 2 and 3 you will see what the arrangement was when Part I of the Constitution was enacted.

Mr. Deputy Speaker: Are we to understand that the hon. Member feels that cession of territory is possible under the Constitution but only the procedure under Article 3 has not been followed ?

Dr. S. P. Mookerjee: There is no specific provision in respect of cession of territory under the Constitution, but even there I am prepard to concede that if by reason of a treaty the position arises that a portion of Indian territory is to be ceded, naturally somebody has got to give the final sanction to such a decision and the matter has to come before Parliament. Here you are not only ceding the territory but you are automatically adjusting the boundaries of one of your

existing States and in respect of this matter at any rate there is a specific procedure laid down under the Constitution which you are bound to follow.

Mr. Deputy Speaker: It is claimed it has been followed.

Dr. S. P. Mookerjee: No, Sir.

Dr. Ambedkar: With your permission, Sir, I would like to clear the point in a few sentences because I am very grateful he has put the point very clearly now. The question seems to be, what is the procedure.....

Dr. S. P. Mookerjee: Well, let me finish. I won't speak for long.

Dr. Ambedkar : I am not speaking, I am only explaining.

Dr. S. P. Mookerjee: I thought, Sir, when the Law Minister spoke earlier also, he was explaining.

Mr. Deputy Speaker: If the Hon. Minister feels he can explain a particular point he may do so. I think the procedure has been followed. The President has given his sanction, the resolution has been passed by the Assam Assembly. The recommendation of the President has been printed on the back page of the Bill.

Dr. S. P. Mookerjee: I have seen that. But so far as the provision for ceding out any portion of Indian territory is concerned, that is practically bound by the provisions of Articles 1 and 2 and in such circumstances is it open to Parliament to pass a Bill ceding a portion of Indian territory ?

Mr. Deputy Speaker: That is another matter. It is not one of procedure.

Dr. S. P. Mookerjee : I was referring to both the matters. It is a question of functioning within the Constitution here. If you want to deal with such a case and if you find that your Constitution does not provide for such a contingency—it might have been a mistake ; you might have overlooked it—in whatever way it might have been done, the only thing which you can do is to amend the Constitution and Parliament should then take the necessary power to give effect to it.

As I said at the beginning, I am not worried so much about this particular case. Here it is a small portion of the territory which is proposed to be given to Bhutan. There may be special reasons why you should do so. There are historical reasons why such a step if approved by the Government of India and the people of this country might lead to the creation of better relationship between those people and ourselves.

Mr. Deputy Speaker: It appeared from the earlier portion of the argument of the hon. Member that he was conceding the position that by virtue of entry 14 relating to treaties the power is there. It is only the question of procedure.

Dr. S. P. Mookerjee: What I am prepared to concede is this. If there is war or if a treaty is entered into between two. countries, or if it is decided that a portion of our territory should be ceded or some other portion of territory which is outside India should be included in the Indian territory, there is certainly no bar to the Government of India entering into such a treaty. The whole question is how to implement it, and that is what we are discussing today. Of course, I am not speaking on the merits of the proposal. So far as the implementation goes, there is nothing in the Constitution as it stands today which empowers this Parliament to cede out any portion of the territory which is included within India that is Bharat. It is specific, clear and unambiguous. If it is thought necessary that this particular step should be taken, then what I would suggest is that this Bill should be withdrawn and a necessary amendment of the Constitution . should be made so that the thing may be done properly and constitutionally. In this instance, the territory involved is very small. It really does not matter much. But the question of principle involved is a highly important one and we should not allow even Parliament much less the executive, to be given the power to cede out this territory which is included within the framework of the Constitution unless there is some specific provision made in the Constitution in that behalf and that is strictly followed. So far as the powers of Parliament go, there is no residuary power vesting in Parliament outside the four corners of the Constitution. It is our Holy Book, Bible, Gita or whatever you may call it and you must remain

confined within its four corners. If we find that there is a lacuna which has to be covered, we should not proceed in a manner which may give rise to any feeling of fear or distrust in the minds of any section of the people but we should first amend the Constitution, withdraw this Bill and bring it up again in proper form.

Dr. Ambedkar: May I clear the point ? It seems to me that Dr. Mookerjee's observations have reduced the point to very narrow limits. He concedes, if I understand him correctly, that there is the power of ceding territory under the entries to which I have referred. I believe it is difficult to imagine a case where the cession of territory will not involve the readjustment of the boundary of some province. At least I cannot imagine a case like that. Therefore, the question is one of procedure. If a law has to be made under any of the entries in List I or II of the Seventh Schedule, the ordinary procedure is the procedure of the Bill. Is that not so ? You bring in a Bill, put it through the House in its three stages : the Bill is passed and the thing is complete. With regard to the provisions coming under Article 3, you have got to follow the necessary procedure that has been laid down there. My submission is this. In deciding whether the ordinary procedure as to Bills is applicable to this case or whether the procedure laid down in Article 3 is applicable, we have to make reference to one single point and that is this : what is the main purpose of the Bill ? Is the main purpose of the Bill to readjust the boundaries of Assam or is the main purpose of the Bill to cede territory to Bhutan and make the necessary consequantial adjustments in the boundary of Assam from which this territory is taken ? In a matter of this kind where both aspects are present (and must be present in any cession because cession must necessarily have the consequence of readjustment), my submission is that the procedure to be followed must be the procedure for carrying out the main purpose of the Bill and not the subsidiary or the incidental purpose. Although this Bill has been drafted in a way as to make readjustment of boundaries appear to be the main purpose, the real purpose is to cede the territory. That being so my submission is that the procedure which is prescribed

by the Constitution to effect laws on any of the matters mentioned in the entries to the Seventh Schedule is the correct procedure, and Government has followed the most correct procedure laid down by the Constitution.

Mr. Deputy Speaker: Even if it be an adjustment of boundaries has not the prescribed procedure been followed ?

The Deputy Minister of External Affairs (Dr. Keskar): It has been done.

Dr. Ambedkar: If that is so, then that point also does not stand.

Mr. Deputy Speaker: The procedure has also been followed as laid down in Article 3. I therefore understand Dr. Syama Prasad Mookerjee to say that he does not concede the right of cession under entry 14 and that is why he says that a constitutional amendment is necessary.

Shri Naziruddin Ahmad (West Bangal) **:** *rose*—

Mr. Deputy Speaker: I do not propose allowing hon. Members who have already spoken when this matter was raised as a point of order yesterday to speak again.

***The Minister of Law (Dr. Ambedkar):** I have already made a motion that this Bill be taken into consideration. All that remains for me is to say a few words in order to explain the nature of this particular measure, and the necessity for bringing it forward. The Notary Public is an official who discharges certain functions relating to certain documents which arise out of what are called 'mercantile' transactions. The position with regard to the Notary Public in India is that under the Negotiable Instruments Act the Government of India has got the power to appoint Notaries public in order to deal with the documents which are negotiable instruments under that Act. But there are also other mercantile transactions which create certain other mercantile documents but which are outside the purview of the Notaries Public appointed under the Indian Negotiable Instruments Act. Those Notaries

*P. D. Vol. XIV, 17 August 1951, pp. 832-35.

Public which are outside the Indian. Negotiable Instruments Act are appointed by authorities in Great Britain.

The history of this institution is probably interesting. Originally, the appointment of the Notary Public all over England and perhaps even Europe was made by the Pope. It was an ecclesiastical office and the function of that officer was to deal with eccelesiastical matters, that is to say, if a dispute arose as to the seating arrangement in a particular Church, the dispute was decided by the Notary Public. If a question arose as to whether a person who had died was entitled to a public burial or whether he was to be doomed to what was called a private burial in some unrecognised part of the Church, that matter was also decided by the Notaries Public. Later on, certain commercial duties were also attached to the Notaries Public under which they performed the duties of noting, protesting, or preparing or noting honour or dishonour about these transactions. When the Protestant Revolution took place, the authority of the Pope so far as Great Britain was concerned ended, and it was assumed by the British King and the British King transferred the jurisdiction that he had acquired from the Pope in the matter of the appointment of the Notaries Public to the Archbishop of Canterbury who also became his officer, because under the Protestant Revolution, the State became supreme as against the Church and all the officers of the Church became the officers of the State. The Archbishop had attached to him what was called a Court of Faculty, an officer who dealt with the Church matters to which I have already made some reference and in England all the Notaries Public were appointed by what was called the Court of Faculty under the superintendence of the Archbishop of Centerbury. That body also continued to appoint Notaries Public in India. All that we did was that we cut out a little portion from the authority of the Court of Faculty in England which had acquird this legal jurisdiction to appoint Notaries so far as the Negotiable Instruments Act was concerned.

The position today in India therefore is that a group of Notaries who deal with documents under the Negotiable Instruments Act are appointed by the Government of India

while all other documents which do not come under the Negotiable Instruments Act are dealt with by Notaries who are appointed from England. Our constitution, namely, the India (Consequential Provisions) Act, 1949 and Article 372(1) of the Constitution permitted that any officer who was appointed before the Constitution may continue to exercise that authority, so that notwithstanding the fact that India became independent and notwithstanding the fact that the President got the authority to make appointments of Notaries, by virtue of these two provisions I have quoted, these people still continue to function as Notaries although they were appointed by an authority not subject to the Indian Constitution. It is felt very desirable that this anomaly should be ended and that the right of appointment which is now enjoyed by the Court of Faculty should be discontinued. That is the main purpose of this Bill and I do not think that any Member of Parliament can have any objection to it. On the other hand, I believe that many Members of Parliament might well ask as to why these officers were allowed to function even after the Constitution had come into existence. All I can say is that it is better to be late than never. That is the only justification.

The main clauses of the Bill are these : Clause 3 empowers the Central Government to appoint Notaries with authority to practice as such any where in India. Each State also is empowered to appoint Notaries within its own territory to function within its jurisdiction.

Clauses 4 and 5 say that the Notary will not be entitled to practice unless he gets his name registered and obtains a certificate of practice. He is required to pay a certain fee under the rules. These are prescribed under the authority of Clause 14(2).

Clause 6 deals with the annual publication of the lists of Notaries. The Central Government as well as the State Governments are required to maintain a register of Notaries who have got their names registered.

Clause 7 deals with the seal of the Notary.

Clause 8 deals with the functions of the Notary. They are the normal functions which a Notary is required to perform both under the English Law and practice. They have practically been taken from Halsbury's Laws of England.

Clause 9 prohibits any person from practising as a Notary without a certificate of practice. Persons who are already Notaries have been given one year's time to get themselves registered under this Bill.

Clause 10 is the usual clause dealing with the removal of names from the Register of Notaries, if the Notary has committed any act which is said to disqualify him from holding the post of Notary Public.

Clause 11 provides that any reference to a Notary Public in any other law is purely interpretational and shall be construed as a reference to a Notary entitled to practice under this Act.

Clauses 12 and 13 deal with penalty and congnizance of offences.

Clause 13A is a new clause which has been inserted to validate on a reciprocal basis the Notary's Act done in any foreign country.

This is all that the Bill does and I hope that the House will see its way to grant its accord to my motion.

Mr. Chairman : Motion moved.

> "That the Bill to regulate the profession of Notaries be taken into consideration."

Shri Sidhva (Madhya Pradesh)**:** This is a very simple Bill. I am very glad that the Hon. the Law Minister has given us a very interesting history. I did not know that the Notaries who were appointed in India were appointed by the Archbishop of Canterbury. I thought it was done by the Government of India. This was really a place of news. I think, to several of us—at least I did not know that.

I want to know the meaning of the word "duly qualified". Does it mean duly qualified in law ?

Dr. Ambedkar: Not at all.

Mr. Chairman: That will be governed by rules framed under clause 14, perhaps.

(37)

NOTARIES BILL

***The Minister of Law (Dr. Ambedkar) :** I beg to move for leave to introduce a Bill to regulate the profession of notaries.

Mr. Speaker: The question is :

> "That leave be granted to introduce a Bill to regulate the profession of notaries."

The motion was adopted.

Dr. Ambedkr: I introduce the Bill.

****Pandit Thakur Das Bhargava:** The amendment has not been supplied in today's Order Paper, but with your permission. I beg to move:

> "That the Bill be referred to a Select Comittee consisting of Dr. Bakhshi Tek Chand, Dr. Panjabrao Shamrao Deshmukh, Shri Deshbhandu Gupta, Shri Gokulbhai Daulatram Bhatt, Pandit Mukut Bihari Lal Bhargava, Shri Prabhu Dayal Himatsingka, Shri Arun Chandra Guha, Shri Rohini Kumar Chaudhuri, Shri Banarsi Prasad Jhunjhunwala, Shri R. K. Sidhva, Shri C. Subramaniam, and the Mover, with instructions to report before the 31st August, 1951."

Now, this is also a new institution. I do not know what obtains in the rest of the Provinces or in the States, but so far as I know there is not such an institution like Notaries Public in all other places except perhaps in big towns. I speak subject to correction. There also the work which is assigned to them is only under the Negotiable Instruments Act.

Dr. Ambedkar: No, all. Originally it was only under the Negotiable Instruments Act.

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* P. D., Vol. 10, Part II, 18th April 1951, p. 740.

** P. D., Vol. 14, Part II, 17th August 1951, pp. 836-838

Pandit Thakur Das Bhargava: Are there other powers given to them now ?

Dr. Ambedkar: They will be the Notaries Public who will be doing the work of the Notaries Public outside even the Negotiable Instruments Act.

Pandit Thakur Das Bhargava: Under this Bill. But at present they perform their duties only under the Negotiable Instruments Act.

From a perusal of this Bill, I find that as a matter of fact a totally new institution is sought to be brought about in India now. The history of this institution is very interesting; it arose out of an ancient English statue—I did not know all this history...

Dr. Ambedkar: It is I that gave that history.

Pandit Thakur Das Bhargava: There is a reference to the Archbishop and then the Master of Faculties in England but all this is Jargon to us and we do not understand it. What I understand is this. Today in the whole of India the lawyers execute instruments—a sale deed, a mortgage deed, a gift deed—and all this is done either by petition—writers or by lawyers. I can speak with authority so far as Punjab is concerned and there every lawyer is competent to write out a deed. Where petition-writers are there, they do this business and lawyers generally do not do it. By law they are authorized to do it. So far as the Oath Commissioners are concerned, they attest documents which are produced in courts. There are certain provisions in the Civil Procedure Code according to which affidavits have got to be attested and they are to be produced in courts. Besides this, there are many other things which have got to be attested by these Oath Commissioners and whenever a person wants to create an alibi in a criminal case, then also the certificates of these Oath Commissioners are utilized for the purpose of getting a document or two attested on a particular date.

Dr. Ambedkar: I did not know that sort of thing happened in the Punjab.

Pandit Thakur Das Bhargava : If my hon. friend made an inquiry about the rest of India, he will be disillusioned to find that Punjab is not an exception. I do not know what will be the fate of those legal practitioners who are appointed Notaries Public. Will they be allowed to practise also ?

Shri Sidhva: They are now practising.

Dr. Ambedkar: Yes, they do.

Pandit Thakur Das Bhargava: If the kind of work envisaged in the Bill is to be put on them I think the Notary Public should keep a regular office.

Dr. Ambedkar: They have; each Notary Public has an office.

***Mr. Chairman:** May I suggest, if you look at sub-clause (2) of clause 8, it is provided that no act specified in sub-section (*1*) shall be deemed to be a notarial act except when it is done by a Notary under his signature and official seal. I think that would go a long way to see that this has evidentiary value of the highest order.

Pandit Thakur Das Bhargava: It means that so far as his seal and signature are concerned, they give some evidentiary value to the documents prepared. But, if you look into this Bill, there is no prohibition in the matter of appointment of Notary Public by the Government. Twenty people may be appointed in one district. They can appoint any number. This is just like the honorary magistrates affair.

Shri Sidhva: No ; not like that.

Pandit Thakur Das Bhargava: You are speaking with experience ; I am speaking without experience. I really want to know.

Dr. Ambedkar: You are expressing the fear of the unknown.

Pandit Thakur Das Bhargava : That is perfectly right. I do not want that an institution like this which is sought to be established in the whole of India should be accepted

*P. D. Vol. 14, Part II, 17th August 1951, pp. 840-41

by us without knowing what it is. I therefore humbly request Dr. Ambedkar to explain these things in the Select Committee.

Dr. Ambedkar: I could explain these things in the House itself.

Pandit Thakur Das Bhargava: He wants to bring in a new institution which is foreign to this land, which we had not got for all these years.

Shri Sidhva: It is not a new thing; it is existing in the port towns.

Pandit Thakur Das Bhargava: That is for negotiable instruments. Dr. Ambedkar says so and I accept his versions as better than yours.

Shri Sidhva: Notary Public exists today.

Pandit Thakur Das Bhargava: I have myself submitted that in Madras, Bombay and Calcutta and in some other places they do exist.

Dr. Ambedkar : Wherever there is the Negotiable Instruments Act in force, the Notary Public is there. The Negotiable Instruments Act applies throughout the whole of India, except, I suppose in some Part B States. In the Part A and Part C States, the Negotiable Instruments Act is in force.

Pandit Thakur Das Bhargava: As regards the Negotiable Instruments Act, I have no quarrel. I know it applies to the whole of India. But, we do not know how this measure will affect the public. There was the system of honorary magistrates or some other persons who used to do some work all over the land. Here you want to do something covering the whole of the country, something which is quite new. So far as patronage is concerned, the appointing authority will be the State Governments and the Central Government, and so it is there. And then, some qualifications have been prescribed. But we do not know how these offices will work. They will execute documents. But will they keep copies of the documents ? Unless and until you make provisions for keeping copies, the fears which I have given expression to now will all arise. It is not as if I want to raise any bogey. The fear is quite real. And I am sure lawyers all over the land will not like this measure.

Dr. Ambedkar: Why not ? This will afford them a supplementary occupation.

Pandit Thakur Das Bhargava: Now every lawyer is competent to execute documents and people go to them for executing these documents. But, if you make these Notaries execute the documents, then you take away that much of jurisdiction from the lawyers. This is not a small matter which should be looked at from only the lawyers point of view, what happens to the general public ? A person requiring a document to be executed will have to come to a big city and suppose the Notary charges a high fee, he will have to pay it. This here is a new tiling you are introducing. At least let us know the full implication of it. To bring in such a measure now and get it rushed through is not fair to us. If I understand it and am convinced that it is for the good of the people, then I will certainly support it. But till then, unless I am convinced, I will not touch it with a pair of tongs even. Let us first of all know whether it will be useful to the public or not. From the speech of the hon. Member I could not gather much.

Mr. Chairman : Will the hon. Member kindly resume his seat ? It is now 6-45 p.m. and further discussion on this motion will follow tomorrow.

***Mr. Deputy Speaker :** Now we proceed with the further consideration of the following motion moved by Dr. Ambedkar, on the 9th August, 1951:

> "That the Bill to regulate the profession of notaries, be taken into consideration."

Pandit Thakur Das Bargava (Punjab)**:** I was submitting to the House yesterday various reasons why this Bill ought to be referred to a Select Committee. It is a well-known fact that in some courts and big cities .....

The Minister of Law (Dr. Ambedkar): May I make a statement with a view to economise the time of the House ?

*P. D., Vol. 14, Part II, 18th August 1951, pp. 853-55.

My Friend Pandit Thakur Das Bhargava and I believe Dr. Deshmukh want to refer this Bill to a Select Committee. So far as what my friend Pandit Thakur Das Bhargava said yesterday is concerned. I was not inclined to accept his suggestion, because I did not think that he had advanced any grounds of any substance. But in so far as he pleaded that this is rather a strange measure so far as he is concerned and he might like to have more time to address himself to the examination of the provisions here, to understand the motives behind it, and so on. Out of pure compassion, I am prepared to accept his suggestion.

Dr. Deshmukh (Madhya Pradesh)**:** Why not accept the motion for reference to the Select Committee ?

Dr. Ambedkar: I want to save the time of the House. I am quite prepared to explain the provisions of the Bill if that would satisfy him and he would withdraw his motion. But I think that would be waste of time, because he will persist. I am prepared to accept the motion for reference to the Select Committee.

Mr. Deputy Speaker: Whatever the reasons be, the Hon. Minister is willing to accept the motion to the Select Committee. So I think not much of debate need go on now.

Pandit Thakur Das Bhargava: So far as this qsuestion of compassion is concerned .....

Mr. Deputy Speaker: No question of compassion..

Pandit Thakur Das Bhargava: Then is it passion ? I would only submit that the reasons advanced were so cogent that they moved even Dr. Ambedkar to accept the motion for reference to the Select Committee. I have as much regard for the value of the time of the House as anyone else; but I may point out that in this want of knowledge about this matter, I am not alone. There are many who want to get more knowledge about this subject.

Dr. Ambedkar: There is no catch in it.

Pandit Thakur Das Bhargava: There may be no catch ; but at the same time, we must be satisfied that as a matter

of fact there is need for the measure. I am grateful to Dr. Ambekar for having accepted this motion of mine, though for reasons which according to him are based on various other considerations. But according to me, it was accepted because the arguments are very convincing.

Dr. Ambedkar: The only request I would make of the hon. Member is to change the date to some day after the 5th of September, because I will be out of station for two or three days.

Pandit Thakur Das Bhargava: Any date suitable to the Hon. Minister, I am willing to accept.

Dr. Deshmukh: Sir .....

Dr. Ambedkar: Why make any speech now ?

Mr. Deputy Speaker: It is a sort of technical subject and it is better it goes to the Select Committee straightaway.

Dr. Deshmukh: But I gave notice of the motion and I will take not more than two minutes.

Mr. Deputy Speaker: Shall we keep the date as .....

Dr. Ambedkar: I suggest the 7th of September.

Mr. Deputy Speaker: Amendment moved:

> "That the Bill be referred to a Select Committee consisting of Dr. Bakshi Tek Chand, Dr. Punjabrao Shamrao Deshmukh, Shri Deshbandhu Gupta, Shri Gokulbhai Daulatram Bhatt, Pandit Mukut Bihari Lal Bhargava, Shri Prabhu Dayal Himatsingka, Shri Arun Chandraguha, Shri Rohini Kumar Chaudhuri, Shri Banarsi Prasad Jhunjhunwala, Shri R. K. Sidhva, Shri C. Subramaniam, and the Mover, with instructions to report before the 7th September 1951."

Dr. Deshmukh is a member of the Select Committee and following the previous rule, he will try to throw light on the Bill in the Select Committee and not speak here. Therefore I put the question straight to the House now.

The motion was adopted.

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(38)

* RESOLUTION REGARDING NECESSITY FOR AN ALL INDIA BAR

Shri Syamnandan Sahaya (Bihar)**:** May I make a submission. Sir ? The next Resolution stands in the name of Pandit M. B. Bhargava, but there is another motion in my name—I do not propose to take more than five minutes .....

Some Hon. Members: No, no.

Shri Syamnandan Sahaya (Bihar)**:** .....and I think the Hon. Minister also is not likely to take more than five minutes. So we might take it first and dispose it of.

The Minister of Law (Dr. Ambedkar): I can dispose of this motion in one minute which you cannot do.

Mr. Deputy Speaker: It is for the House to consider. The Hon. Minister wants to say that effect has been given to the substantive portion of the Resolution. The Resolution is already there next in priority. There is nothing more to be done about it than merely making a statement on either side.

Dr. Ambedkar: With regard to the other Resolution my position is the same. I have practically taken steps to appoint a Committee and I was going to tell my hon. Friend that it would be a waste of time for the House and for him to discuss that matter, if I am allowed to make a statement. I think he need not make a statement at all; he may just say, "I move".

Mr. Deputy Speaker: Yes, Pandit M. B. Bhargava may formally move his Resolution.

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*P. D., Vol. 14, Part II, 18th August 1951, pp. 1205-09.

Pandit M. B. Bhargava (Ajmer)**:** I beg to move:

"This House is of opinion that an independent and autonomous Bar on an all India basis is necessary in the interest of the public and legal profession, and that Government should undertake legislation on the subject at an early date."

There is an amendment by Shri S. N. Das.

Shri S. N. Das (Bihar): I would like to hear the statement of the hon. Minister before I move my amendment, Sir.

Mr. Deputy Speaker: The Hon. Minister will make a statement with respect both to the Resolution and the amendment. Therefore the amendment may be moved.

Shri S. N. Das: I beg to move:

For the original Resolution, substitute the following:

"This House is of opinion that the time has now come when the Government of India should appoint a Committee to inquire into the working of laws pertaining to legal profession, in force in different States, with a view to ascertain the necessity, desirability and feasibility of an independent and autonomous Bar on an all India basis."

Mr. Deputy Speaker: Amendment moved :

"This House is of opinion that the time has now come when the Government of India should appoint a Committee to inquire into the working of laws pertaining to legal profession, in force in different States, with a view to ascertain the necessity, desirability and feasibility of an independent and automomous Bar on an all India basis."

Dr. Ambedkar: It has been the desire of Members of Parliament who represent the legal profession to this House to have, as they call it an independent, autonomous and all India Bar. Personally I have not had a complete and an adequate idea of what exactly Members mean when they say that they want an independent and an autonomous Bar. But I do not think it is necessary at this moment to enter into any discussion as to what an independent and an autonomous Bar may be, and I am therefore of opinion that it is desirable, in order that this matter may be considered once and for all, to appoint a Committee to investigate into this matter.

Having considered this matter, I have come to the conclusion that there are probably six questions that require to be considered so far as the Bar in India is concerned. One is the desirability and feasibility of a completely unified Bar for the whole of India, secondly, the continuance or abolition of the dual system of counsel and solicitor or agent which obtains in the Supreme Court and in the High Courts at Bombay and Calcutta; thirdly, the continuance or abolition of different classes of legal practitioners like advocates of the Supreme Court, advocates of the various High Courts, district court pleaders, *mukhtars* entitled to practice in criminal courts only, revenue agents, incom-tax practitioners etc.; fourthly, the desirability and feasibility of establishing a single Bar Council either for the whole of India or for each State separately; fifthly, the establishment of a separate Bar Council for the Supreme Court; and, last, the consolidation and revision of the various enactments, Central as well as State, relating to the legal practitioners.

I believe I have exhausted all the questions that have to be considered in order to give effect to the purport of the motion which my friend, Mr. Mukut Beharilal has moved just now. As I said, I had already decided to appoint a Committee and I have been in correspondence with the Supreme Court in order to ascertain whether the Supreme Court would be prepared to spare the services of one of their Judges to act as the Chairman of this Committee. Unfortunately, as hon. Members know, the Chief Justice of the Supreme Court is out of India for the moment and it has not been possible for me to get his final reply. He will be coming, I am told, some time early next month, and as soon as he comes and as soon as he lets me know as to which particular Judge he would be in a position to spare to act as the Chairman of this Committee, the Committee will be appointed and will begin to function. I also propose to appoint the Attorney-General, the Advocate-General of one major State, a retired High Court Judge, and one or two Members of Parliament who have been taking keen interest in the subject to constitute this Committee.

Shri Kamath (Madhya Pradesh)**:** Which major State ?

Dr. Ambedkar: Any of the major States—I have not decided which. By major State I mean a Part A State. I also propose, although I have not decided as yet, that we should have one member drawn from what we call Part B State, particularly Rajasthan and that area where the system that is operating is not quite familiar to us, at any rate it is not quite familiar to me, and I would therefore like to have one representative from that area to be on the Committee to give us information as to how exactly the bar functions in that area. I would request the Committee to make a report with about three or four months so that after the report is received and considered Parliament will have a point of legislation brought before it for a consideration. I hope this will satisfy my hon. friend and he will withdraw the Resolution.

Shri Sidhva (Madhya Pradesh) **:** I would suggest three Members of Parliament with judicial knowledge.

Dr. Ambedkar: I am prepared to include Mr. Sidhva if he likes. He should have a non-legal Member also because he would bring in common sense.

Pandit M.B. Bhargava : Will it be open to this Committee to specify the powers, functions and constitution of these Bar Councils and their relation *inter se* with the Supreme Court and the High Courts ?

Dr. Ambedkar: Yes.

Pandit M. B. Bhargava: May I know whether the disciplinary jurisdiction will vest in these Councils or only in the High Courts ?

Dr. Ambedkar : I have already laid before the House what I regard as special problems which create difficulties for the moment. Incidental questions will undoubtedly be considered.

An Hon. Member: The Committee will give its suggestions.

Mr. Deputy Speaker: I believe an informal Committee also sat on this question and made some recommendations to the hon. Minister.

Dr. Ambedkar: I have no recollection. May be that is so.

Mr. Deputy Speaker : In view of the statement made by the Hon. Minister I do not think the resolution is pressed. Has the mover the permission of the House to withdraw his resolution ?

The resolution was by leave, withdrawn.

Mr. Deputy Speaker: The amendments automatically go. Next resolution.

(39)

CONDUCT OF A MEMBER OF PARLIAMENT

***The Minister of Home Affairs (Shri Rajagopalachari):**

Of course, the Law Minister will speak with greater authority. The article that is referred to as well as any other rule is conceived and put down in a form of words for application in the ordinary course. There are, however, certain general principles which guide every procedure which has the quality of a judicial procedure. Any law or any rule must be interpreted and applied so that the law itself may not be circumvented. Here is a case where proceedings were started in order to enquire into the conduct of a Member. It appears to me a matter of fundamental general principle that the object and procedure of Parliament cannot be circumvented by a technical act like this. Therein comes what Mr. Santhanam points out that the words "as soon as" is not there automatically to bring about a vacancy. Apart from any technical defect in the matter, the general principle. I submit, is important that the law is intended for the ends of law and not to be circumvented.

Mr. Deputy Speaker: Let us hear the Hon. Law Minister.

The Minister of Law (Dr. Ambedkar): The point has come upon me quite suddenly and I am therefore only expressing, if I may say so, my first impressions, after reading article 101, clause (3). Vacation of a seat may take place for the reasons which have been specified in Articles 101 and 102. Article 101, clause (3) sub-clause (*b*) refers to resignation by a Member of Parliament; the clause under which the hon. Member whose conduct is the subject-matter of investigation has acted. There is also another article which deals with disqualifications of Members for being chosen and for being a Member. If a Member falls under any of the conditions

* P. D., Vol. 14, 27th August 1951, pp. 3247-48.

mentioned in Article 102, he also vacates his seat. The question that arises for consideration is whether Articles 101 and 102 are exhaustive or whether there is any other article in the Constitution which also may operate independently although the case does not fall under articles 101 and 102. My submission is this, that Article 105(3) is an additional power, given to Parliament to bring about a vacancy of a seat and is not concluded by anything contained in article 101 and article 102.

This is a case where a Member has committed a breach of privilege and when the House takes it upon itself to come to a finding that the breach of privilege has been committed and that the case is so serious that an expulsion may be ordered, the House can order the expulsion under article 105(3). The House is competent to do so, because of what is stated in Article 105(3), where it is stated that the powers etc. of Parliament shall be those of the House of Commons, and any reference to May's Parliamentary Practic. I think, will show that expulsion is one of the powers of the House of Commons and one of the powers that it possesses for punishing a breach of privilege. Therefore the powers to bring about a vacancy in a seat by ordering an expulsion is there under articl 105(3) and that is in no way abrogated by the provisions contained in articles 101 and 102. The only other question that arises for consideration is this, whether the proceedings that have already been started against the hon. Member under provisions of article 105 by a specific order of Parliament can, so to say, come to an end if the Member chooses to resign under the provisions of Article 101. My humble submission is that an hon. Member cannot bring about a stoppage of the proceedings under article 105 by resorting to Article 101. These proceedings must continue, notwithstanding the fact that the hon. Member has brought about his resignation under Article 101, and in fact it is not possible for Parliament to inflict a direct punishment upon him by virtue of their proceedings. Therefore, it may still be open for Parliament, notwithstanding the resignation of the hon. Member to proceed with the proceedings which have been already started under Article 105.

Shri Santhanam: I would just add one more word to what the Hon. Law Minister has said. The only construction of the word "resignation" is that the resignation should be formally notified by the authority concerned before it becomes operative. Otherwise all kinds of complications will arise. Suppose a letter is delivered at your house and you are not there. And you come after, say, four days. Can it be taken that the day it was delivered at your house it becomes operative ? In such cases the real construction is the one I have given.

Mr. Deputy Speaker : But we are not on that point.

***Pandit Maitra** (West Bengal)**:** Sir, I want you and also the hon. Members of the House to very carefully bear in mind that for the action we are taking now there is no precedent. A point of Constitutional law has been raised and it is of very great importance. We have no precedent whatsoever to go upon, either in May's Parliamentary Practice .....

Dr. Ambedkar: Oh, yes.

Pandit Maitra: I know May's Parliamentary Practice lays down certain forms of penalty, *e.g.,* censure, admonition, putting into jail etc.—all these things are nothing new. The point that has been raised by my hon. Friend, the Home Minister, if it is logically followed up, comes to this : that once a proceeding is started it can never be terminated. Is that the legal position ? It is coming to this, that if the hon. Member had died last night—I am taking a hypothetical case—would you proceed with it ? In giving its decision I am asking the Chair to bear these things in mind. It is a Constitutional point. The point is whether a Member *ipso facto* vacates the seat as soon as he delivers his letter of resignation to the Chair. I do not agree with my hon. Friend Mr. Santhanam that there should be a time-lag between the presentation of the resignation and its acceptance ; nowhere in the Constitution is it provided that it should be accepted or that you may or may not accept it. The law provides, the Constitution provides that the

* P. D., Vol. 14, Part II, 24th September 1951, pp. 3251-54.

moment one delivers in writing his resignation to you in his own hand it is effective. And in this case he has delivered his letter of resignation in person to you, Sir, presiding over this House. There is nowhere provided in the Constitution that there should be a time-lag. Therefore, the question that would arise is whether or not when an hon. Member delivers his resignation on the floor of parliament, into the hands of the Chair, he vacates his seat forthwith. If he does vacate his seat, wherein lies the scope for further action on this motion ? That is a matter to be considered. I am not going to criticise your ruling (*Interruption*). Of course, my friend might sit in the Chair, but at the moment I do not accept his interpretation. Sir, we have closely to apply our mind because we are laying down a precedent for future guidance. I am interested from that point of view, not from the point of view of the merit of the case. The Parliamentary Committee has gone into considerable detail, devoting much time and considerable energy to this matter. With what object? In order that this whole question may be investigated, thrashed out and decided. The hon. Member having made a statement straightaway tenders his resignation and leaves the House. The question is whether you take this stand that once a proceeding has been set in motion it can never be interrupted ; or whether if due to any voluntary act of the person concerned, or if by reason of accident or death that man is removed from the scene the proceedings are to be continued. This is a very important matter to be carefully considered before you give your ruling. You are laying down for the first time in the history of this Parliament a precedent which will be the guide for the future.

Dr. Ambedkar: May I add a word or two with your permission, to what I stated, because I feel that probably my statement has not been quite complete as it should have been. In view of the fact that my hon. Friend Pandit Maitra has raised this question. I think it is desirable to have our mind clear about this matter. If my hon. Friend will forgive me, I will put the matter in a somewhat technically legal fashion, and it is this. When a Member has been charged with a breach of privilege and before the proceedings have been concluded he resigns, is it a case that Parliament has lost its jurisdiction over him because he has resigned ? That I think is the

question which we have to consider and which is the question which my hon. Friend has raised, although not in those technical terms. The answer to that question is this, that the jurisdiction of Parliament for punishing people or taking proceedings against people for contempt—this is a case of contempt—is not confined to Members of Parliament, but it also extends to the members of the public who have committed contempts of the Parliament and I shall read a little passage which I have bodily taken from "May":

> "The penal jurisdiction of the Houses is not confined to their own Members nor to offences committed in their immediate presence, but extends to all contempts of the houses whether committed by Members or by persons who are not Members, irrespective of whether the offence is committed within the house or beyond its walls."

Therefore, the jurisdiction of parliament to protect itself against contempt which is one aspect of the breach of privilege, is not confined to Members of Parliament. It extends to all citizens. No citizen shall commit any act which would amount to contempt of the privilege of the House. Therefore, assuming for the purposes of argument that the resignation of Shri Mudgal which has been tendered to you now becomes effective immediately, nonetheless my submission is that the jurisdiction of this house to proceed against him continues. He cannot escape it. What form the punishment may take is a different matter which may be considered when we actually come to that. If the contention of my hon. Friend Pandit Maitra is that by submitting your resignation you escape the jurisdiction of Parliament, then I think that it is absolutely wrong.

Pandit Maitra: I put it in a different way.

Dr. Ambedkar: I have put it in a way which is more intelligible.

Pandit Maitra : Once an action is set in motion, it cannot be anybody's case that it can never be interrupted.

Dr. Ambedkar: So long as the jurisdiction exists, the action may continue.

Sardar B. S. Man : On a point of order. The motion which is being discussed was permissible when it was introduced but now, due to subsequent happenings, it has become inadmissible. I want your ruling on this. You will see that the motion specifically says:

> "That this House, having considered the Report of the Committee appointed on the 8th June 1951 to investigate into the conduct of Shri H. G. Mudgal, Member of Parliament..."

So, the question is not one of jurisdiction of parliament. We are discussing the conduct of a "Member of Parliament" and Shri Mudgal is no longer a "Member of Parliament". Therefore, my contention is that the motion was admissible to start with, but due to subsequent happenings it has become in the meantime inadmissible and we can now no longer proceed with the discussion on this motion.

Shri Rajagopalachari: The more we argue in this manner the more clear it becomes to my mind that circumvention cannot be permitted. The terms and manner in which points are taken show that this is nothing but circumvention. Continuing what Dr. Ambedkar said, it must be remembered that punishments are additional in "May". It says :

> "In the case of contempts committed against the house of Commons by Members two other penalties are available..."

Expulsion is not the only penalty.

> " ...normally suspension from the service of the house and expulsion..."

Expulsion is an additional penalty available against Members, apart from any kind of punishment which the House is competent to pass against anyone who is guilty of contempt. Now that expulsion may, in the opinion of some Members, become impossible, because he has ceased to be a member, the house will have to consider other forms of punishment. The guilt and proceedings cannot be terminated by an act of the person who is charged.

***Mr. Deputy Speaker:** Let us hear the Law Minister.

The Minister of Law (Dr. Ambedkar): The amendment moved by my friend. Mr. Naziruddin Ahmad has really nothing to do with the resignation by Mr. Mudgal. His amendment had been submitted long before the resignation.

Shri Naziruddin Ahmad: I would not have moved it. I had already decided not to move it and I gave expression to that view privately to the Government whip ; but I moved it simply because of this new contingency. When I tabled the amendment it was under a mistaken impression that the house had no jurisdiction, but later on I found that the house had full jurisdiction and I decided not to move it. Later on, in view of this contingency of resignation I thought this might be relevant, though at the time when I tabled the amendment there was no such purpose.

Dr. Ambedkar: I do not understand the motives and purposes of my hon. Friend.

Shri Naziruddin Ahmad : No, it is difficult some times.

Dr. Ambedkar: But the fact remains that the notice of the amendment was given long before the resignation of Mr. Mudgal and the purpose of the amendment undoubtedly was to soften the punishment that was proposed in the original motion that was moved by the Hon. Prime Minister. The question that has now arisen is this : whether in view of the resignation of Mr. Mudgal the motion as moved by the Hon. Prime Minister could be carried out in its original form or whether any subsequent amendment is necessary. The whole question seems to me to hang on the other issue, namely whether the resignation of Mr. Mudgal is in order so that it could be accepted as resignation and take effect immediately. My submission to you, Sir, is that the act of resignation must be a simple act of resignation without expressing either the grounds for resignation or casting any aspersions on the House as to why the hon. Member is resigning. When the question was last raised you were good enough to say that

*P. D., Vol. 14, Part II, 25th September 1951, pp. 3271-75.

it was open to you to accept the resignation subject to the fact that certain words and phrases used by Mr. Mudgal could be expunged and the resignation made proper as a result of this expunction. My submission to you, Sir, is this. No doubt it is open to the Speaker or the Deputy Speaker or for that matter anyone sitting in the Chair to expunge any part of the debate which he thinks is defamatory, indecent or unparliamentary or undignified. But the point that I wish to submit is this, that the authority of the Speaker to expunge any part of the record relates only to anything said in the course of the debate. I should like to read Rule 176 of the Rules of Procedure. Rule 176 deals with report of proceedings. Rule 176A deals with expungment of matter and says:

10-00 A.M.

> "If the Speaker is of opinion that a word or words has or have been used in debate which is or are defamatory, or indecent, or unparliamentary, or undignified, he may in his discretion order that such word or words be expunged from the proceedings of the house."

As you will see, this rule is confined to anything said in the course of the debate. I submit with all respect that the resignation tendered by Shri Mudgal can by no stretch of the meaning of the word be regarded as anything done in the course of the debate. It therefore stands quite outside the proceedings of the House and therefore there is no power in the Speaker to expunge the words which admittedly both (I believe) in the opinion of the house as well as in the opinion of the Government are such that they are not liable to be expunged on the grounds mentioned in Rule 176-A. Therefore, Rule 176-A would not permit the Chair to apply the provisions contained therein to the application for resignation by Shri Mudgal. Therefore, the application must be treated as it stands without any kind of expungment and my submission is that the application should not be treated as an application for resignation (*Interruption.*)

Pandit Kunzru (Uttar Pradesh)**:** On a point of order.

Dr. Ambedkar: I have not finished.

Mr. Deputy Speaker: He is rising to a point of order. Let us hear him first.

Pandit Kunzru : You ruled yesterday, Sir, that your final opinion was that the resignation had become effective. Is that point open to discussion now ?

Dr. Ambedkar: I do not know.

Pandit Kunzru : The Deputy Speaker said so yesterday.

Dr. Ambedkar: It was not final, so far as I remember.

Pandit Maitra (West Bengal)**:** Sir, you said yesterday that the operative portion of the motion should be kept in abeyance. That was your ruling and that was all that you said. The point raised by me was whether or not, as soon as Shri Mudgal's resignation was tendered and delivered to you, he vacated his seat in the House. That was the main point raised and as far as I could gather from Pandit Kunzru you were earlier of the same opinion that the resignation was effective.

Dr. Ambedkar: He said 'subject to consideration'.

Pandit Kunzru: I think the record will show it.

The Minister of Home Affairs (Shri Rajagopalachari): I think, Sir and the record will show it that you definitely said that you will take time to consider.

Pandit Kunzru: Anyway, the point that you were to consider was whether the motion moved by the Prime Minister could be taken up by the house without any amendment or whether any amendment should be moved and what further action could be taken. But so far as the resignation itself was concerned, you drew attention to article 101 and said that you had no doubt in your mind that the resignation was final and had become effective.

An Hon. Member: No, Sir.

Mr. Deputy Speaker: I shall read from the record. This is what happened:

Mr. Deputy Speaker: I have heard sufficient. I have already told the house that so far as the operative part of it is concerned, what action has to be taken is a matter which must be considered at leisure. I will consider that matter. As

I already referred to that portion of May's Parliamentary Practice, expulsion of a Member or suspending him is an *additional* remedy because he is a Member of Parliament. Anybody inside or outside may commit a contemt of the House. Merely because he is a member we have more jurisdiction over him than over the other person. So far as the other person, that is the outsider, is concerned, in the very nature of things we cannot expel or suspend him because he is not a Member. Therefore, all the same, whether one is a Member or an outsider one may commit a contempt of the house. It is only so far as the remedy is concerned that in the altered circumstances that remedy may have to be altered. But we do not come out of the seizin of this motion that has been moved already. When it was originally quite in order. I do not think by a unilateral resignation or withdrawal from the house all the further proceedings can be terminated.

Regarding the other matter I shall consider it at leisure. Whoever wanted to speak now, let him not be under the impression that I will not hear. It is not on the floor of the House that I need hear him. He may communicate his opinion to me.

Pandit Maitra: On what ? We are not interested in the merits.

Mr. Deputy Speaker: All the matters: when the resignation takes effect; merely because the Member resigns, when his conduct has been brought to the notice of the House, whether by his mere resignation this House loses its jurisdiction—when, particularly, it has jurisdiction even with respect to persons who are not Members of this House if they commit a contempt of the House. That is a point which hon. Members have to note. If a person committed contempt of the House outside, there is no question of resignation. The House will still not stultify itself but proceed against him. Whether the position is changed by mere resignation is a matter which we have to consider. At present I do not think it alters the position except in regard to the remedial portion, that is as to what remedy has to be applied.

***Khwaja Inait Ullah** (Bihar)**:** Is Mr. Mudgal now a Member of the house or not ?

Mr. Deputy Speaker: That is exactly what we are deciding. My view was that he is no longer a Member. I am prepared to hear any arguments to show that he continues to be a Member, and therefore the operative portion also holds good.

So far as the earlier portion is concerned, I have not seen any precedents to the contrary that once this House is seized of the matter of contempt, merely by a unilateral act of the other person, it will lose its jurisdiction. So far as the operative portion is concerned, if he has already resigned there is no question of expulsion. If he has not resigned the question of expulsion comes in. Therefore it is a narrow point as to how far the oprative portion can be passed by this house. I would like to hear the Hon. the Law Minister and also any other hon. Member who would like to speak on this matter.

Dr. Ambedkar: So far, Sir, I have submitted that it will not be open to make the resignation valid by expunging certain portions, because under rule 176A the power to expunge is confined only to the proceedings and to the debates. The letter of resignation does not form part of the debate and proceedings.

My second submission is of a totally different sort and it is this. When a question arises as to the propriety of a resignation, who is the authority to decide it ? My submission is that when any such question arises, the authority to decide it is the house itself. You will allow me, Sir, to refer to a speech which I delivered in the Constituent Assembly in this very question on an amendment moved by Mr. Kamath. I said that as a matter of fact the resignation is submitted to Parliament, because the purpose of resignation is to dissociate himself from the body, namely the Parliament to which he was elected. The Speaker or the Deputy Speaker is merely a channel of communication to the House. I said in the course of that debate that although theoretically the resignation is to the collective body of people called Parliament, it would

*P. D., Vol. 14, Part II, 25th September 1951, pp. 3277-79

be quite impossible for any Member who wanted to resign to send his resignation to the 292 or 295 Members of the House. Therefore, so far as the channel of communicating his wishes that he wants to dissociate himself from Parliament is concerned, to that extent the Speaker is the person to whom the resignation is to be submitted. But if a question were to arise as to whether the resignation was in valid form or not, the matter I think has to be decided by the House itself.

Pandit Maitra : Where is it provided in the Constitution ? Everything must be provided in the Constitution. Please do not forget that you have a written Constitution for this country.

Dr. Ambedkar: Therefore, my submission is this. If certain portions of the resignation cannot be expunged and they must stand part of the letter, and a question is raised whether the letter of resignation in its original form is valid or not, I think it is the House which will be called upon to decide whether Mr. Mudgal's resignation is valid or not. These are the two submissions that I wish to make with regard to the point, that Mr. Mudgal's resignation is valid and has become effective so that the last portion of the motion moved by the Prime Minister has become infructuous. That is the relevancy of the whole thing. All that we have to consider is this : whether the last portion of the motion moved by the Hon. the Prime Minister has been made infructuous by reason of the resignation of Mr. Mudgal, because it would not be proper for the House to proceed to do something to which it cannot give any legal effect. My submission is this that in view of the fact that Mr. Mudgal's resignation is not a valid resignation. Mr. Mudgal still continues to be a Member of the house and the last portion of the motion moved by the Hon. the prime Minister can be made effective so far as Mr. Mudgal is concerned.

Mr. Deputy Speaker : We will assume an hon. member tenders his resignation—it is not the case of Mr. Mudgal— and subsequently after a few moments he writes another letter to the Chair saying that he wishes to withdraw it. Is there provision for withdrawal ? Can I allow him to sit and vote?

Dr. Ambedkar: No: unless the first matter is disposed of.

Pandit Maitra: Disposed of in this case simply means submission of the resignation to the Chairman or Speaker. Nothing else is contemplated in the Constitution.

Mr. Deputy Speaker : Is there any form prescribed in the Constitution for the letter of resignation ?

Dr. Ambedkar: I do not think there is.

(40)

SELECT COMMITTEE MEETINGS

***The Minister of Law (Dr. Ambedkar):** I beg to report under sub-rule (3) of rule 65 that the Select Committee appointed by the House to consider the Notaries Bill has failed to meet successively on two days.

Mr. Deputy Speaker: The Hon. Minister has merely intimated the fact—it may be followed up by any concrete motion that he may make.

Dr. Ambedkar: For the moment I merely propose to report as required by sub-rule (3) of rule 65. It is for the House to decide whether the house will discharge the Select Committee which has been appointed and proceed.

Mr. Deputy Speaker : May I ask any hon. Member in the Select Committee to state what exactly is the position ?

Pandit Thakur Das Bhargava (Punjab)**:** I am one of the members of the Select Committee.....

Dr. Ambedkar: I should like to say that I do not cast any aspersion on the members of the Select Committee for their failure to meet because I am very well aware that they are engaged in many other Select Committes which are also meeting simultaneously, but since the rule casts upon the chairman of the Select Committee the responsibility to report to this house I am making this formal motion to bring the matter to the notice of the House.

Pandit Thakur Das Bhargava: I was submitting that so far as this Select Committee is concerned, its meetings were held at such time that Members could not possibly attend them. We are Members of several Select Committees and we have to make a choice as to which Comittee to attend. Even yesterday, I had some amendments to move to this Financial

*P. D., Vol. 14, Part II, 28th September 1951, pp. 2617-18.

Corporations Bill, but because I was engaged on another Committee I could not be present in the House and I took your permission for that. I have since understood that those amendments were not allowed to be moved which you were pleased to tell me would be allowed. So, it is happening like this—Members of the Select Committee are not to blame.

Dr. Ambedkar: I am not blaming.

Pandit Thakur Das Bhargava: I would rather, under these circumstances, beg of Dr. Ambedkar to kindly give up this Bill. This Bill is not important—it does not require.....

Dr. Ambedkar: I am prepared to give every Bill that is standing in my name.

Pandit Thakur Das Bhargava: I would suggest that this Bill be dropped.

***Mr. Deputy Speaker:** So far as the Select Committee on the Notaries Bill is concerned, due to causes beyond their control hon. Members could not be present. They had to attend various, other Select Committees and the meetings could not be held for want of quorum. I would request the Hon. Minister to make another effort in this direction.

Dr. Ambedkar: I am in the hands of the House.

Dr. Tek Chand (Punjab)**:** May I suggest that the time for submitting the report of this Select Committee may be extended up to the 6th ? The time expires today.

Mr. Deputy Speaker: I shall take notice of the oral motion. Is it the pleasure of the House to extend the time ?

Dr. Tek Chand : We shall meet on the 4th or 5th and by this time the other Select Committees will have finished their work. This is only half an hour's work. Therefore, I am making the suggestion for extension of time.

Mr. Deputy Speaker: Does the Hon. Minister agree with the proposal for extension of time ?

*P. D., Vol. 14, Part II, 28th September 1951, pp. 3619-21.

Dr. Ambedkar : I have no objection.

Mr. Deputy Speaker: I thought the Hon. Minister who is the sponsor of the Bill will make the motion.

Dr. Ambedkar : That is a difficult matter for me at this stage. If the House appoints a Select Committee, surely Government will take the necessary steps to put the measure through.

Mr. Deputy Speaker: Considering the peculiar circumstances of this House, the House does not seem to be in favour of discharging the Select Committee and an oral motion has been made for extension of time by one of the hon. Members. I would like this motion to be made by the Hon. Minister himself.

Dr. Ambedkar : I do not know whether I can do that. It is not for me to make any motion.

Mr. Deputy Speaker: He is the sponsor of the Bill. Therefore, he has to make the motion. Just a minute. The time does not expire today. The Select Committee can report up to the 1st. Therefore, in due course the Hon. Minister may make a motion for extending the time up to the 6th. He is now aware that the house is generally in favour of continuing the Select Committee. That disposes of this particular matter.

So far as other matters are concerned. I would ask hon. Members to refer to rule 7o. It is true that hon. Members are on various Select Committees, and with sessions in the morning and evening the Select Committees will have to sit while the House is in session. Rule 70 says that Select Committees may sit whilst the House is sitting, provided that on a division bell being rung the Chairman of the Committee shall suspend the proceedings of the Committee for such time as will in his opinion enable Members to vote on the division. I understand this is the practice in the House of Commons also. Hon. Members want many matters to be referred to Select Committees. On one hand there is this desire and on the other there is a desire to say ‘ We are called in the Select Committee’. My remarks yesterday did not apply to

hon. Members who were away in connection with Select Committees. Select Committee work is as good as work in this Parliament. As far as Shri Sidhva is concerned, he need not complain that Government have put him in several Select Committees. Why should he be anxious to serve on more than one Select Committee ?

Shri Sidhva : We did not approach for Select Committee membership.

Dr. Ambedkar: The work of the Select Committes and the house will be faciliated if care is taken, while nominating people to Select Committees, to see that the same people are not nominated to two Committees.

Shri Sidhva: Quite right.

Mr. Deputy Speaker: In future, care should be taken to see that Members are spread over various Select Committees instead of clogging or requesting one Member to be on more than one Select Committee. Even if a mistake is committed by the sponsor of a Bill in putting the same Member again, the Member concerned might consider whether it is proper for him to accept membership of more than one Select Committee and not complain to the House that he has no time to attend meetings.

(41)

*MOTIONS RE : DELIMITATION OF CONSTITUENCIES ORDERS

Mr. Deputy Speaker: We will take up motions re-delimitation of constituencies. I will call the names of hon. Members who have given notice of motions, they need merely say they move.

The Minister of Law (Dr. Ambedkar): I have got to make five motions which are the main motions. Thereafter, there are certain motions for amending my motions. Therefore, I submit, subject to your ruling, the proper course would be to call upon me first to move my motions and then ask the other Members who want to move amending motions to move theirs.

Mr. Deputy Speaker: The Hon. Minister may move his motions now.

Council Constituencies (Bombay) Order

Dr. Ambedkar: I beg to move:

> That the following modifications be made in the Delimitation of Council Constituencies (Bombay) Order, 1951, laid on the Table on the 20th September 1951, namely;—
>
> (1) That in the Table, under the heading "Graduates' Constituencies" against the entry "Bombay City (Graduates)" in column 1, for the entry "Bombay City" occurring in column 2, the following be substituted, namely:—
>
> "Greater Bombay."
>
> (2) That in the Table, under the heading "Graduates' Constituencies" against the entry "Northern Division (Graduates)" in column 1, for the entry "Northern Division" occurring in column 2, the following be substituted, namely:—
>
> "Northern Division excluding Bombay Suburban Districts and Ahmedabad City."

*P. D., Vol. 16, Part II, 6th October 1951, pp. 4399-4404.

(3) That in the Table, under the heading "Graduates' Constituencies" against the entry "Central Division (Graduates)" in column 1, for the entry "Central Division" occurring in column 2, the following be substituted, namely:—

"Central Division excluding Poona City."

(4) That in the Table, under the heading "Teachers' Constituencies" against the entry "Bombay City (Teachers)" in column 1, for the entry "Bombay City" occurring in column 2, the following be substituted, namely:—

"Greater Bombay."

(5) That in the Table, under the heading "Teachers' Constituencies" against the entry "Northern Division (Teachers)" in column 1, for the entry "Northern Division" occurring in column 2, the following be substituted, namely:—

"Northern Division excluding Bombay suburban Districts and Ahmedabad City."

(6) That in the Table, under the heading "Teachers' Constituencies" against the entry "Central Division (Teachers')" in column 1, for the entry "Central Division" occurring in column 2, the following be substituted, namely:—

"Central Division excluding Poona City".

(7) That in the Table, under the heading "Local Authorities' Constituencies", against the entry "Bombay City (Local Authorities)" in column 1, for the entry "Municipal Corporation of Bombay City" occurring in column 2, the following be substituted, namely:—

"Area under the jurisdiction of the Municipal Corporation of Greater Bombay."

(8) That in the Table, under the heading "Local Authorities' Constituencies", against the entry "Ahmedabad City (Local Authorities)" in column 1, for the entry "Municipal Corporation of Ahmedabad" occurring in column 2, the following be substituted, namely:—

"Area under the jursdiction of the Municipal Corporation of Ahmedabad."

(9) That in the Table, under the heading "Local authorities' Constituencies" against the entry "Ahmedabad District (Local Authorities)", in column 1, for the entry "Ahmedabad District (excluding Ahmedabad City Municipal Corporation) and Sabarkantha District" occurring in column 2, the following be substituted, namely:—

"Ahmedabad District (excluding the area under the jurisdiction of the Municipal Corporation of Ahmedabad) and Sabarkantha District."

(10) That in the Table, under the heading "Local Authorities' Constituencies", against the entry "Poona City (Local Authorities)" in column 1, for the entry "Municipal Corporation of Poona City" occurring in column 2, the following be substituted, namely:—

"Area under the jurisdiction of the Municipal Corpration of Poona."

(11) That in the Table, under the heading "Local Authorities' Constituencies", against the entry "Poona (Local Authorities)", in column 1, for the entry "Poona District excluding Poona City Municipal Corporation" occurring in column 2, the following be substituted, namely:—

"Poona District (excluding the area under the jurisdiction of the Municipal Corporation of Poona."

Council Constituencies (Madras) Order

Dr. Ambedkar: I beg to move :

That the following modifications be made in the Delimitation of Council Constituencies (Madras) Order, 1951, laid on the Table on the 20th September 1951, namely:—

(1) That at page 1, in the Table, under the heading "Graduates' Constituencies" against the entry "Madras South (Graduates)" in column 1, for the words "Madras City, and the Chingleput" occurring in column 2, the words "Madras, Chingleput" be substituted.

(2) That at page 2, in the Table, under the heading "Teachers' Constituencies" against the entry "Madras South (Teachers)" in column 1, for the words "Madras City" and the Chingleput" occurring in column 2, the words "Madras, Chingleput" be substituted.

Council Constituencies (Mysore) Order

Dr. Ambedkar: I beg to move:

That the following modification be made in the Delimitation of Council Constituencies (Mysore) Order, 1951, laid on the Table on the 20th September 1951, namely:—

That in the Table, the word "Revenue" wherever it occurs, be omitted.

Parliamentary and Assembly Constituencies (Madras) (Amendment) Order

Dr. Ambedkar: I beg to move :

(1) That the following modification be made in the Delimitation of Parliamentary and Assembly Constituencies (Madras) (Amendment) Order 1951 laid on the Table on the 20th September 1951, namely:—

'That at page 17, in Item (69)—"Villages comprising the firka of Vaniyambadi in Tirupattur Taluk"—for the words "and Chinnakallupalli" occurring at the end, the words "Chinnakallupalli and Devasthanam" be substituted.'

(2) That the following modifications be made in the Delimitation of Parliamentary and Assembly Constituencies (Madras) (Amendment) Order, 1951 laid on the Table on the 20th September 1951, namely :—

1. That at page 1, in para 2 (b), in the proposed Explanation, for the words "area comprising the villages" the word "areas" be substituted.

2. That at page 2, for para 5 of the said Order the following be substituted, namely :—

"5. in item (23) of the Appendix to the said Order, for the words "Sevalur part, Pothuravuthampatti, Manapparai" the words "Manapparai panchayat" shall be substituted.

3. That in para 6,—

(i) in item (2) of the Schedule, for the words "Pitali, Sirimamidi and Gollagandi" the words "Pitali and Sirimamidi" be substitued;

(ii) in item (14) of the Schedule, after the words "Venkampeta near Ramavaram" the word "Ramavaram." be inserted;

(iii) in item (21) of the Schedule, after the word "Derasan," the word "Pydibhimavaram" be inserted ;

(iv) in item (63) of the Schedule, after the words "Koppedu Kapula, Kandriga," the word "Agaram," be inserted;

(v) in item (80) of the Schedule, for the word "Kallupatti" where it occurs for the second time, the word "Sethupatti" be substituted ;

(vi) in item (87) of the Schedule, for the word "Aruppukkottai" the words "Aruppukkottai Municipality" be substituted ;

(vii) in item (93) of the Schedule, for the words and brackets "Devakottai Rural (Eravaseri)" the words and brackets "Devakottai Municipality, Eravaseri (Rural)" be substituted; and

(viii) in item (95) of the Schedule, for the words and brackets "Keppapatnam (Manamathurai Panchayat Board)" the words "Kepparpatnam, Manamadurai Panchayat" be substituted.

Parliamentary and Assembly Constituencies (Uttar Pradesxh) (Amendment) Order

Dr. Ambedkar: I beg to move:

That the following modifications be made in the Delimitation of Parliamentary and Assembly Constituencies (Uttar Pradesh) (Amendment) Order, 1951 laid on the Table on the 20th September 1951, namely:—

(1) That at page 1, in para. 2 (ii), after the words "but including Mohammadi," the words "Atwa Piparia," be inserted.

(2) That at page 1, in para. 2 (iii), after the bracket and words "excluding Mohammadi," the words "Atwa Piparia," be inserted.

(3) That at page 2, in para, 3 (i), in the Table for the entry "Pauri (North) *cum* Chamoli (East)" in column 1, the following entry be substituted, namely:—

"Pauri (South)-*cum*-Chamoli (East)"

(4) That at page 2, after para. 3 (iii), the following new sub-para. be inserted, namely :—

"(iiia) for the entries " Mohammadi (West) and Mohammadi (East)" in column 1, and for the entries against them in column *2,* the following entries be substituted, namely:—

1		2
Mohammadi (West)	...	Mohammadi, Atwa Piparia, Magadpur and Pasgawan Parganas of Mohammadi tahsil.
Mohammadi (East)	...	Mohammadi tahsil (excluding Mohammadi, Atwa Piparia, Magadpur and Pasgawan Parganas)."

***Mr. Deputy Speaker :** I shall take up Bihar first. Have they come to any arrangement ?

BIHAR ORDER

Dr. Ambedkar (Bombay)**:** I had a meeting with several Members who have tabled amendment motions to my main motion with regard to the Constituencies Orders issued by the President. The arrangement arrived at is this. Out of list 4, I accept amendment No. 6, parts 1 and 2 (amendment moved by Shaikh Mohiuddin and Mr. Kshudiram Mahata).

Mr. Deputy Speaker: I understand there are only two parts. The Hon. Minister is accepting both the parts ?

Dr. Ambedkar: Anyhow, I would like to particularise the parts ; I accept parts 1 and 2.

Mr. Deputy Speaker: That is all with respect to Bihar ?

Dr. Ambedkar: Yes.

* P. D., Vol. 16, Part II, 11th October 1951, pp. 4617-20.

Mr. Deputy Speaker: I shall put it to the House. Any other hon. Members wanting to speak ?

Shri Syamnandan Sahaya (Bihar)**:** Before we accept the Bihar order, will the Hon. Minister kindly state what are the actual changes that he is accepting?

Mr. Deputy Speaker: There are no changes made. The amendment as a whole is accepted. I shall read it.

Shri Syamnandan Sahaya: Because there stand in the name of Mr. Kshudiram Mahata several amendments. Therefore we would like to know exactly.

Dr. Ambedkar: After accepting certain amendments moved by the hon. Members, I thought that there might be some point of order that might be raised against them in view of the fact that in certain cases there were amendments to propositions which did not exist at all. Therefore, I thought it much better to take upon myself the responsibility of moving these amendments so that there may be no point of order arising.

Shri Syamnandan Sahaya: I am not raising any point of order. I only wished to understand the particular amendment of Mr. Mahata which was being accepted. If you will kindly read out or if the Hon. Minister will explain, we will know what exactly the position is.

Dr. Ambedkar: The position is this.

Mr. Deputy Speaker: May I suggest one thing ? I shall allow the Hon. Law Minister to move the amendment which he accepts. Thereafter, I shall consider the other amendments. If they are barred, they will be barred. If any other hon. Member wants to move any amendments which are not barred, the House will consider them. The amendments have already been moved. If they want to speak, they may speak.

Dr. Ambedkar: The amendments moved by Sheikh Mohiuddin and Shri Kshudiram Mahata deal with the spliting up of the Graduates Constituency for the Council of

States. Originally, in the Order issued by the President, the grouping was done in a different manner. The Members of the Committee which I had invited mentioned that the Order proposed by Sheikh Mohiuddin and Mr. Mahata should be adopted; in other words, there should be a separate division for Patna, a separate division for Tirhut, and separate division for Bhagalpur and a separate division for Chota Nagpur. On the whole I thought that there was some substance in the arguments presented by these two Members who had taken upon themselves the responsibility to move these amendments. The same has been done with regard to the Teachers Constituencies for the Council of States. In other words, Bihar has been divided into four divisions. Patna, Tirhut, Bhagalpur and Chota Nagpur. So far as I could understand the sense of the Bihar Members who were present at that meeting the sense was unanimous in favour of the arrangement proposed by this amendment.

Mr. Deputy Speaker: He has only done this. Instead of the entire state being a single constituency for Graduate in Bihar, it has now been divided into four constituencies, under this amendment.

Dr. Ambedkar: Both for Graduates and Teachers.

Deputy Speaker: In the Order of the President, Graduates alone is noted.

Dr. Ambedkar: If you will kindly refer to list 4, Bihar, you will see.....

Mr. Deputy Speaker: I am putting the Teachers Constituency later. Hon. Members will refer to the Delimitation of Council of States Constituencies Order. In the Table. Bihar, Graduates is the earliest entry. The following is the amendment. In the place of the 'Entire State' as the Graduates Constituency in the second column, the hon. Member has given notice of his amendment that the entire State may be divided into four subdivisions for the purpose of elections. I shall put that to the House and then I shall come to Teachers later.

Mr. Deputy Speaker: The question is:

That the following modifications be made in the Delimitation of Council Constituencies (Bihar) Order, 1951 laid on the Table on the 20th September 1951, namely:—

1. That in the Table, for the entry " Bihar (Graduates)" in column 1 and all the entries occurring against it in columns 2 and 3 the following be substituted, namely:—

1	2	3
Patna Division (Graduates)	Patna Division	2
Tirhut Division (Graduation)	Tirhut Division	2
Bhagalpur Division (Graduates)	Bhagalpur Division	1
Chota Nagpur Division (Graduates)	Chota Nagpur Division	1

2. That in the Table, under the heading "Teachers' Constituencies" for all the entries occurring in columns 1, 2 and 3, the following be substituted, namely:—

1	2	3
Patna Division (Teachers)	Patna Division	1
Tirhut Division (Teachers)	Tirhut Division	1
Bhagalpur Division (Teachers)	Bhagalpur Division	2
Chota Nagpur Division (Teachers)	Chota Nagpur Division	2

The motion was adopted.

Mr. Deputy Speaker: The President's Order relating to the Teacher's Constituency relating to Bihar stands modified to this extent.

Also, the President's Order relating to the Teachers' Constituency relating to Bihar stands modified to this extent.

Have all the other hon. Members who have moved amendments to this Order the leave of the House to withdraw them ?

The amendments were, by leave, withdrawn.

BOMBAY ORDER

Dr. Ambedkar: With regard to the Bombay Order (Council) I accept Amendment No. 1 in List No. 1 parts 1 and 2 by Shri Deogirikar and others, as modified by amendment No. 3 in List No. 3 by Shri Deogirikar.

I may explain the substance of these amendments which is the same as the substance of the amendments which we have accepted in respect of the Bihar Order.

The original Order issued by the President distributing the graduates seats between Bombay, Ahmedabad and Poona in certain proportion gave two seats to Bombay and one seat combined to Ahmedabad and Poona. It was the desire of Shri Deogirikar and others who has tabled the amendment to modify this distribution. They wanted first a rotation between Ahmedabad and Poona or one seat, going to each by turn. I do not think this rotation system is good, however, I accepted that it may be desirable to treat all the towns like Bombay, Poona and Ahmedabad on an equal footing although it was not possible to assess the total strength of all the graduates residing in those particular towns. Consequently I accepted the amendment so as to distribute the seats between Bombay, Poona and Ahmedabad equally, one each; and I have done the same thing with regard to the Teachers' Constituency also.

The motion was adopted.

***Mr. Deputy Speaker:** The President's order relating to the Bombay Teachers' Constituency stands modified to the extent of the amendment that has been accepted by the House.

So also the President's order relating to the Bombay Graduates' Constituency stands modified to the extent of the amendment that has been a accepted by the House.

Dr. Ambedkar: I request leave of the house to withdraw parts (1) to (6) of my amendment No. 2 in List No. 2 Bombay order (Council) in consequence of the acceptance of the amendment of Shri Deogirikar and others.

Parts (1) to (6) of the amendment were, by leave, withdrawn.

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* P. D., Vol. 16, Part II, 11th October 1951, pp. 4621-22.

***Mr. Deputy Speaker:** The President's order stands modified in the extent of this amendment, in addition to the modification effected by the amendment of Shri Deogirikar.

The question is :

That the following modifications ho made in Delimitation of Council Constituencies (Madras) Order, 1951, laid on the Table on the 20th September 1951, namely : —

(1) That at page 1, in the Table, under the heading "Graduates' Constituencies" against the entry "Madras South (Graduates)" in column 1, for the words "Madras City, and the Chingleput" occurring in column 2, the words "Madras, Chingleput" be substituted.

(2) That at page 2, in the Table, under the heading "Teachers' Constituencies" against the entry "Madras South (Teachers)" in column 1, for the words "Madras City., and the Chingleput" occurring in column 2, the words "Madras, Chingleput" be substituted.

The motion was adopted.

Dr. Ambedkar: Sir, I accept amendment No. 2 on List No. 2 (Madras Council Order) moved by Shri Kesava Rao.

Mr. Deputy Speaker: The question is :

That the following modifications be made in the Delimitation of Council Constituencies (Madras) Order, 1951 laid on the Table on the 20th September 1951, namely:—

That in the Table, in column 2, after the words "Malabar and South Kanara Districts" wherever they occur, the following be added, namely:—

"and the West Cost Islands of Minicoy, Laccadives and Amindivis".

The motion was adopted,

Mr. Deputy Speaker: The president's order relating to the Delimitation of Council Constituencies (Madras) stands modified to the extent of the two amendments accepted by the House.

Uttar Pradesh Order

****Dr. Ambedkar:** I am accepting amendment No. 1, Parts (1) and (2), second alternatives, by Babu Gopinath Singh. It provides for contiguity and hence I am accepting it.

*P. D., Vol. 16, Part II, 11th October 1951, p. 4624.

** *Ibid.,* pp. 4425-26.

Mr. Deputy Speaker: The question is:

That the following modifications be made in the Delimitation of Council Constituencies (Uttar Pradesh) Order, 1951, laid on the Table on the 20th September 1951, namely:—

(1) (i) That in the Table, under the heading "Graduates' Constituencies", against the entry "Uttar Pradesh West (Graduates)" in column 1, for all the words occurring in column 2, the words "Meerut, Agra, Jhansi, Allahabad and Faizabad Divisions" be substituted.

(ii) That in the Table under the heading "Graduates' Constituencies", against the entry "Uttar Pradesh East (Graduates)" in column 1, for all the words occurring in column 2, the words "Rohilkhand, Kumaun, Lucknow, Banaras and Gorakpur Division" be substituted.

(2) (i) That in the Table, under the heading "Teachers' Constituencies", against the entry "Uttar Pradesh West (Teachers')" in column 1, for all the words occurring in column 2, the words "Meerut, Agra, Jhansi, Allahabad and Faizabad Divisions" be substituted.

(ii) That in the Table under the heading "Teachers' Constituencies", against the entry "Uttar Pradesh East (Teachers)" in column 1, for all the words occurring in column 2, the words "Rohilkhand, Kumaun, Lucknow, Banaras and Gorakpur Divisions" be substituted.

The motion was adopted.

Dr. Ambedkar: I am prepared to accept amendment No. 2 in list No. 2 moved by Dr. C. D. Pande to the Delimitation of Council Constituencies (Uttar Pradesh) Order, 1951.

Mr. Deputy Speaker: The question is:

That the following modifications be made in the Delimitation of Council Constituencies (Uttar Pradesh) Order, 1951, laid on the Table on the 20th September, 1951, namely:—

(1) That in the Table, under the heading "Local Authorities' Constituencies" against the entry "Uttar Pradesh North-East (Local Authorities)" in column 1 for the word "Shahjahanpur" occurring in column 2, the word "Budaun" be substituted.

(2) That in the Table, under the heading "Local Authorities' Constituencies", against the entry "Uttar Pradesh Central (Local Authority)" in column 1, for the word "Budaun" occurring in column 2, the word "Shahjahanpur" be substituted,

The motion was adopted.

The other amendments to the order were, by leave, withdrawn.

Mr. Deputy Speaker: The President's Order relating to the Delimitation of Council Constituencies (Uttar Pradesh)

stands amended by the amendments adopted by the House, which stood in the names of Babu Gopinath Singh and Dr. C. D. Pande.

West Bengal Order

Dr. Ambedkar: I accept amendment No. 2 in List No. 2, standing in the names of Messrs. Samanta and Abdus Sattar, to the Delimitation of Council Constituencies (West Bengal) Order, 1951.

Shri Chattopadhyay (West Bangal)**:** In view of the agreement reached I beg leave of the House to withdraw my amendment. But before you put the motion to the House I have a doubt to be clarified which relates to the case of nominated members of local authorities. It has never been the desire of this Parliament or the Constituent Assembly that nominated members should have any right to vote in the matter of elections to Councils. We have provided in the Constitution that nominated members of the Upper Houses in the Centre as well as States should have no right to vote for the election of the President in this Constituency under discussion there are as many as two municipalities with a total strength of 24 members, who are all nominated and if they get the right of vote in the matter of election to the Council I think the Council in the State of Bengal will become something like a farce because the members of the Council elected by nominated members will stand on a par with the representatives sent by elected members. It was never the desire of Parliament nor the Constituent Assembly that nominated members of local bodies should have any right to vote in the matter of election of the President or in the matter of election to the Councils. It is due to oversight that a mistake of so grave character has crept in and I would like to know whether anything could be done to remedy the mistake.

Dr. Ambedkar: I see the significance of the point raised by my hon. friend but the difficulty is a constitutional difficulty. The Constitution does not make any distinction between nominated members and elected members. Although

I agree with my friend that it was not the intention of the Constituent Assembly to permit nominated members to take part in the election, as this matter was not brought to the attention of the Constituent Assembly, it is now impossible for us to do anything unless by amending the Constitution, which is of course an impossible proposition.

Shri Chattopadhyay: May I know whether the State Government could do something to debar such members from being voters in the election and whether the State Government even at this stage could do away with their membership by an executive order?

Dr. Ambedkar: It is of course quite open to the local Assembly to pass another Municipal Act making the whole of the Municipality wholly elected, before the election takes place so that the difficulty raised by my friend can be obviated. But there is nothing which this Parliament can do in this matter.

Shri Chattopadhayay: May I know whether the Law Ministry is going to instruct the State Government to this effect ?

Dr. Ambedkar: I suppose it would be for the Prime Minister to take this point into consideration and to inform the Ministry if he thinks that it is desirable that the nominated members should not take part in the election.

Shri Chattopadhayay: May I have the opinion of the Prime Minister in this matter ?

The Prime Minister (Shri Jawaharlal Nehru): I am sorry I have not quite followed the argument……

Dr. Ambedkar: The point, if I may tell the Prime Minister, is this, that there are certain Municipalities in West Bengal where a large number of the membership of the Municipality is by reason of nomination……..

Shri Sondhi (Punjab)**:** In Punjab also.

Dr. Ambedkar: In Punjab also. In our Constitution, when we considered the question of the constitution of the Upper

Chamber we merely used the general expression "members of the municipality" without making it a qualification "elected members". The question has arisen whether it is desirable that the nominated members of the municipality should also take part in the election of members to the Upper Chambers. The answer I gave was that although it is not possible for us to do a anything by reason of the fact that we have got this constitutional provision, still, as municipalities are a subject for the State it would be possible for the State Governments to modify their Municipal Acts so as to eliminate the nominated members from the Municipalities. The question put to me was whether the Central Government could do anything. I said the only answer that I could suggest was that perhaps the Prime Minister, if he so thought fit, might instruct the Chief Ministers of West Bengal or Punjab that this anomaly may be eliminated.

The Minister of Home Affairs (Shri Rajagopalachari): What the Law Minister means is that they may be eliminated from the Council—they cannot eliminate them from their functions under the Constitution.

Dr. Ambedkar: No, no.

Mr. Deputy Speaker: So long as they are members of municipalities, nominated members, under the Constitution, are entitled to vote. The suggestion is not, that the Constitution may be modified overnight—the suggestion is, that if they modify the existing law relating to municipalities, dissolving all the existing municipalities, and before the election takes place, allow all the seats to be filled by election, then it would meet the purpose. But are we making suggestions now on the floor of the House, as to what ought to be done? Let us proceed. We have very little time left. The matter in hand is the Delimitation of Constituencies' Orders. I do not think we should trouble the hon. Prime Minister unless he wants to do it himself. Let us proceed with the legitimate work before us.

Mysore Order

***Mr. Deputy Speaker:** We have the amendment in List No. 1.

Shri Shankaraiya (Mysore)**:** Before it is put to the vote of the House I would like to suggest to the hon. Minister to consider that instead of deleting the word "Revenue "as it stands in column 2, it may be allowed to remain by putting if within brackets ; the effect will be the same. Removing the word or putting it in brackets will practically mean the same thing. By putting it in brackets it will be more clear and authentic.

Dr. Ambedkar: This is a purely administrative matter and we are acting upon the advice received from the Mysore Government that if the word " Revenue "is retained there might be some complications or mistakes arising. In view of that I must support this amendment.

Mr. Deputy Speaker: The question is :

> That the following modification be made in the Delimitation of Council Constituencies (Mysore) Order, 1951, laid on the Table on the 20th September 1951, namely :—
>
> That in the Table, the word "Revenue" wherever it occurs, be omitted.

The motion was adopted.

Mr. Deputy Speaker: To this extent the President's Order stands modified.

The Council Constituencies Orders are over. The House will now proceed to the consideration of amendments relating to Parliamentary and Assembly Constituencies.

Dr. Ambedkar: We are now taking Amendment Orders. The President himself has issued certain Amending Orders and there are amendments to these Amending Orders.

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*P. D., Vol. 16, Part II, 11th October 1951, pp. 4629-41.

PARLIAMENTARY AND ASSEMBLY CONSTITUENCIES BOMBAY (AMENDMENT) ORDER

Dr. Ambedkar: I accept amendments Nos. 2 and 3 in List No. 2. All the others are going to be withdrawn.

Mr. Deputy Speaker: The question is:

(i) That in the Delimitation of Parliamentary and Assembly Constituencies (Bombay) (Amendment) Order, 1951, after item No. 2, the following new item No. 2A, be inserted, namely:—

"2A. In Table A.-Parliamentary Constituencies of the said Order.—

(i) against the entry "Ahmednagar North" in column 1 the words "Nandgaon Municipal Area" in column 2, shall be omitted ; and

(ii) against the entry "Nasik Central" in column 1, the words "Nandgaon Municipal Area and in column 2 shall be-omitted."

(ii) That in the Delimitation of Parliamentary and Assembly Constituencies (Bombay) (Amendment) Order, 1951 after item No. 3, the following new item No. 3A be inserted, namely:

"3A. In Table B.—Assembly Constituencies of the said order.— (i) against the entry "North Malegaon" in column 1, for the existing entry in column 2, the following entry shall be substituted, namely:—

'Malegaon Municipal Area and Maleaon Taluka excluding such of the villages as are specified in item (36) of the Appendix'.;

(ii) against the entry "South Malegaon-North Nandgaon" in column 1, for the existing entry in column 2, the fallowing entry shall be substituted, namely:—

'Such of the villages of Malegaon Taluka as are specified in item (36) of the Appendix; and Nandgaon taluka (excluding such of the villages as are specified in item (35) of the Appendix).'; and

(iii) against the entry "Yeola-Nandgaon" in column 1, the words ...Nandgaon Municipal Area "in column 2, shall be omitted."

The motion was adopted.

Mr. Deputy Speaker: To this extent the President's Order stands modified.

Have the other hon. Members who have tabled other amendments the leave of the House to withdraw them ?

The amendments were, by leave, withdrawn.

Mr. Deputy Speaker: The President's Amendment order relating to Bombay was modified to the extent of the amendments accepted by the House.

MADHYA PRADESH (AMENDMENT ORDER)

Dr. Ambedkar: Sir I move amendment No. 1 in list No. 1 and amendment No. 3 in list No. 3. Amendment made:

That the following modification be made in the Delimitation of Parliamentary and Assembly Constituencies (Madhya Pradesh) (Amendment) Order, 1951 laid on the Table on the 20th September 1951, namely:—

That in sub-para, (i) of para. 3 of the Order, for the words "Ordinance Factory; Khamaria, Gun Carriage Factory" the words "Ordinance Factory Khamaria, Gun Carriage Factory Estate," be substituted.

—[*Dr. Ambedkar*]

Further amendment made :

That the following modification be made in the Delimitation of Parliamentary and Assembly Constituencies (Madhya Pradesh) (Amendment) Order, 1951 laid on the Table on the 20th September 1951, namely:—

That at page 1, after para. 3(i) of the Order, the following new sub-paras, (ia) and (ib) be inserted, namely:—

'(ia) against the entry Nagpur 1" in column 1, for the existing entry in column 2 the following entry shall be substituted:—

"Ward No. 1 including villages Somalwada Chichabhuwan, Ajni, Wards Nos. 2 to 4, 7, 37 and 38 and Ward No. 39 including villages Borgaon, Hazaripahad and Dhaba, Wards Nos. 40, 41 including villages Kachimeth and Sonegaon Sim and Ward no. 42 including villages Jaitala, Bhamti, Sonegaon (Bazar), Khamla, Takali Sim, Parsodi and Shiwangaon of Nagpur City of Nagapur tehsil.";

(ib) against the entry "Nagpur IV" in column 1, for the existing entry in column 2 the following entry shall be substituted :—

"Ward No. 8 including villages Babulkheda Sakardara, Manewada, Chikhali Khurd, Ward No. 10 including villages Harpur, Dighori, Bidpeth and Wathoda, Ward No. 22 including villages Hiwari, Pardi, Bhandewadi, Chikhali (Deosthan). Punapur and Bharatwada, Wards Nos. 23 and 24 including villages Kalamna, Wanjara and Wanzari, Wards Nos. 29 to 32, Ward No. 33 including Nari, Ward No. 34 including Takali (Big) and Gorewada, Ward No. 35 including villages Nara, Indora and

Mankapur and Ward No. 36 of the Nagpur City, and Nagpur R.I.C. (excluding patwari circles Nos. 1 and 10 to 12) of the Nagpur tehsil.";'.

—[*Dr. Ambedkar*]

Mr. Deputy Speaker: Are the other amendments withdrawn by leave of the House ?

The amendments were, by leave, withdrawn.

Mr. Deputy Speaker: The President's Amendment Order relating to Madhya Pradesh stands modified to the extent of the amendments accepted by the House.

MADRAS (AMENDMENT) ORDER.

Amendment made :

That the following modification be made in the' Delimitation of Parliamentary and Assembly Constituencies (Madras) (Amendment) Order, 1951 laid on the Table on the 20th September 1951, namely:—

"That at page 17, in Item (69)—"Villages comprising the firka of Vaniyambadi in Tirupattur taluka"—for the words "and Chinnakallupalli" occurring at the end, the words "Chinnakallupalli and Devasthanam" be substituted."

—[*Dr. Ambedkar*]

Further amendment made:

That the following modifications be made in the Delimitation of Parliamentary and Assembly Constituencies (Madras) (Amendment) Order, 1.951 laid on the Table on the 20th September, 1951 namely :—

1. That at page 1, in para. 2(b), in the proposed *Explanation,* for the words "area comprising the villages" the word "areas" be substituted.

2. That at page 2, for para. 5 of the said Order the following be substituted, namely :-

"5. In item (23) of the Appendix to the said Order, for the words "Sevalur part, Pothuravuthampatti, Manapparai" the words "Manapparai panchayat" shall be substituted."

3. That in para. 6,—

(i) in item (2) of the Schedule, for the words "Pitali, Sirimamidi and Gollagandi" the words "Pitali and Shrimamidi" be substituted ;

(ii) in item (14) of the Schedule, after the words "Venkampeta near Ramavaram "the word "Ramavaram", be inserted;

(iii) in item (21) of the Schedule, after the word "Derasan," the word "Pydibhimavaram" be inserted ;

(iv) in item (63) of the Schedule, after the words "Koppedu Kapula Kandriga", the word "Agaram", be inserted.

(v) in item (80) of the Schedule, for the words "Kallupatu," where it occurs for the scond time, the word "Sethupatti" be substituted;

(vi) in item (87) of the Schedule, for the word "Aruppukkottai" the words "Aruppukkottai Municipality "be substituted ;

(vii) in item (93) of the Schedule, for the words and brackets "Devakottai Rural (Eravaseri)" the words and brackets "Devakottai Municipality, Eravaseri (Rural)" be substituted ; and

(viii) in item (95) of the Schedule, for the words and brackets "Kepparpatnam (Manamathurai Panchayat Board)" the words "Kepparpatnam, Manamadurai Panchayat" be substituted.

—[*Dr. Ambedkar*]

Mr. Deputy Speaker: The President's Amendment Order relating *to* Madras stands modified to the extent of the amendments accepted by the House.

UTTAR PRADESH (AMENDMENT) ORDER

Pandit Kunzru (Uttar Pradesh)**:** It is not enough that an order making changes by the President is laid before the House nor is it enough that my hon. friend Dr. Ambedkar should propose further changes in them. We should like to know why these changes have become necessary..... The constituencies as demarcated I think gave general satisfaction and we ought to be careful therefore in making changes in them. If my hon. friend the Law Minister tells me the precise reasons why the changes in the case of Parliamentary and Assembly constituencies of U.P. have become necessary. It will be possible for us to decide whether we should vote with him or against him, but at present we are just helpless. We do not know what to do.

Dr. Ambedkar: I have no reason to complain against my hon. friend Pandit Hirday Nath Kunzru for raising the point which he has raised, for undoubtedly every one of us should be very careful against permitting any kind of political gerry mandering in the making up of constituencies, and if there was any suspicion that any particular party was manoeuvring to change a constituency which has already been prescribed by the President and approved by the House it is a legitimate

matter to be raised on the floor of the House. But I would like to tell my hon. friend that so far as my information and knowledge go there is in this amendment not the slightest evidence of any kind of gerrymandering. The amendments which I have sought to make consist only of two things. One is to rectify errors which have crept in by some kind of inadvertence. Some *thana* which ought to have been mentioned has not been mentioned in the appropriate place and some other *thana* or some other place has been mentioned in its place. The second thing is that it has been discovered that in some of these cases where contiguity was possible, somehow by some mistake the principle of contiguity has been lost by the inadvertent mixture of some *thanas* from one constituency to another and an attempt is made in this amendment to remove these two errors, i.e. mistakes of a topographical kind and secondly mistakes which brought about a certain amount of discontiguity.

Pandit Kunzru: May I ask my hon. friend whether he is saying this with reference to his own amendment or with regard to the amendments in the President's Order ? If he is saying this with reference to the president's Order, then I should like him to turn to the changes proposed in the Garhwal constituency and tell me where the question of restoring contiguity exists. There is contiguity between the various parts of the constituency suggested. I know it is very difficult for him to deal with this local matter, but I mention it only in order to point out to him that the changes suggested are not due entirely to the reasons mentioned by him.

Dr. Ambedkar: May I continue, Sir ?

You will remember that last time when the President's Order with regard to delimitation was passed by this house, out of caution I moved a motion that the Speaker of the house should be given power to make such changes as it may be found necessary in order to remove certain errors.

Shri Kamath: Verbal errors, verbal amendments.

10-00 A. M.

Dr. Ambedkar: Verbal, minor, consequential or incidental—I think those were the words which were used. I was very careful to make the proposition as broad as I possibly could make for the simple reason that the House will remember that we carried the motion approving the orders of the President in great hurry and after great bustle and meetings, further meetings and further meetings.

Notwithstanding that it has been discovered that even we were not in a position to advise the Speaker with regard to the errors that had crept in. Some errors, therefore, had remained and we thought this was the proper occasion to make some provision in order to eliminate the errors that still remained, notwithstanding the scrutiny of the Local Governments, the scrutiny of the Law Ministry and the scrutiny of the Speaker. I do not think my hon. friend Pandit Kunzru will go to the length of saying that simply because we have at one time passed the Orders as issued by the President, we should not take any further occasion to remove any errors that may still be remaining in the Orders.

With regard to the particular constituency to which he referred, he was good enough to suggest that I myself by my own knowledge or information was not in a position to give a correct answer whether a particular constituency was contiguous with the amendment that we are making in this Delimitation Order. We have to depend upon the Local Government on this matter. As he will remember I took particular care to call a meeting of the members of the Uttar Pradesh Delimitation Committee to aid and advise me on the grounds which were alleged for making these changes in the Uttar Pradesh Delimitation Orders, namely correcting errors and making contiguity more possible than it was, but unfortunately he could not come to that meeting. He was the President of the Uttar Pradesh Delimitation Committee and if notwithstanding the advice that has been given to us he still contends that some things have been done which do not produce contiguity, all that I can say is that the fault must lay on his shoulders, for he did not come to the meeting to advise me as to whether what I was doing was correct or not.

Pandit Kunzru: I received no such notice, Sir.

Dr. Ambedkar: I think I did send a message to my hon. friend. My hon. friend sent it to me back with a note that with regard to certain amendments that I was accepting from Mr. Gopinath, he was perfectly prepared to support that amendment.

Pandit Kunzru: I was consulted only with regard to.....

Dr. Ambedkar: He was more interested in the Press Bill.....

Pandit Kunzru: .....suggestions made by the Committee appointed by the Speaker under the Representation of People Act, 1950 so far as the Legislative Council constituencies went and I gave my reply with regard to them.

As regard the other changes if the U.P. Government has informed the Central Government of the reason for proposing them why should my hon. friend Dr. Ambedkar not place those reasons before the House ?

Shri T. N. Singh (Uttar Pradesh)**:** If I may be permitted as a Member of the Delimitation Committee, to speak. I should like to say that the changes proposed in this notification and as moved by the hon. the Law Minister are not exactly consequential or incidental. I have tried to go carefully into the various changes that are being proposed. Take, for instance, the Benaras District with which I am fully acquainted. I do not know for what reason another pargana, has been added, which means an increase in the number of voters. In regard to Garhwal, I do not know why Chamoli is being shunted about like this.

The Minister of State for Finance (Shri Tyagi): Which one is it **?**

Shri T. N. Singh: It is not Dehra Dun: it is Garhwal.

Shri Tyagi: I am equally interested.

Shri T. N. Singh: Similarly with regard to Kanpur—Farukhabad General Constituencies, the changes proposed do require careful looking into.

After having gone into all these questions in detail. I think it will be unfair to the House if it is not allowed to go into all the various aspects of the question. I would in this connection like to tell the House that under the guidance of our Chairman we went into the question in every detail, we went into the demarcation of every village, every patwari's circle and devoted a lot of time to it..... But just at present, I find it really very difficult to support the amendment being in the dark and without knowing what it really means.

Dr. Ambedkar: The position is this in regard to the first amendment, namely: That at page 1, in para. 2 (ii), after the words "but including Mohammadi," the words "Atwa Piparia" be inserted. There is a place which is called Atwa Piparia which is not mentioned in the original order at all. That means the citizens of India who are residing in Atwa Piparia will not be entitled to take part in the election at all, because they do not form part of that particular constituency. In order to rectify this mistake, it has been proposed that this addition should be made. Now when this addition is made certain consequential amendments also have to be made in the other constituencies in order to bring them in line with the rules laid down in our Constitution that every constituency must have a certain number of voting strength and the representation distributed accordingly.

The main amendment there, as I am advised now, is only in regard to this Atwa Paparia. The rest of them are merely consequential. They have no substance except for the fact that they must be made if we accept the first amendment, namely to add "Atwa Piparia". I think hon. Members will realize that the first amendment is absolutely essential because we cannot omit any particular part from any particular constituency. If we add something to that constituency and that constituency becomes bigger than the constituency contemplated for giving one single member, then

obviously other changes must also be made. I am only explaining to my hon. friend that there is no catch in it at all.

Shri T. N. Singh: What about other places. There are also other constituencies in which radical changes appear, at least to me to have been made. For instance, against Banaras it is "Sheopur pargana and Dehat Amanat pargana excluding the Municipality and Cantonment of Banaras". Again take them (v): "Jalhupur, Sultanipur and Katehar parganas of Banaras tahsil". Formerly I think it was only Sultanpur and Katehar parganas. You have added one full pargana. I want to know what is the reason for this change.

Mr. Deputy Speaker: I will now put it to the House.

The question is :

That the following modifications b made in the Delimitation of Parliamentary and Assembly Constituencies (Uttar Pradesh) (Amendment) Order, 1951 laid on the Table on the 20th September 1951, namely:

(1) That at page 1, in para. 2 (ii), after the words "but including Mohammadi." the words "Atwa Piparia," be inserted.

(2) That at page 1, in para. 2 (iii), after the bracket and words "(excluding Mohammadi," the words "Atwa Piparia." be inserted.

(3) That at page 2, in para. 3 (i), in the Table for the entry (North) *cum* Chamoli (East)" in column 1, the following entry be substituted ; namely:—

"Pauri (South) *cum* Chamoli (East)"

"(iiia) for the entries "Mohammadi (West)" and "Mohammadi (East)" in column 1, and for the entries against them in column 2, the following entries be substituted, namely:—

1		2
Mohammadi (West)	...	Mohammadi, Atwa Piparia Magadpur and Pasgawan Parganas of Mohammadi tahsil.
Mohammadi (East)	...	Mohammadi, tahsil (excluding Mohammadi atwa Pipardia, Magadpur and Pasgawan Parganas.

The motion was adopted.

Mr. Deputy Speaker: The President's Order relating to the Delimitation of Parliamentary and Assembly Constituencies (Uttar Pradesh) stands moditied to the extent of the amendment accepted by the House.

Pandit Kunzru: May I know whether this is with regard to the U. P. Legislative assembly also or only with regard to the changes in the Parliamentary constituencies ?

Dr. Ambedkar: It covers both.

Mr. Deputy Speaker: We have done both in respect of the Council constituencies and in respect of the Parliamentary and Assembly constituencies. Now there are no more motions.

Pandit Kunzru: Could I put a question to the hon. the Law Minister about one of the Assembly constituencies ?

Mr. Deputy Speaker: The matter is over now.

Pandit Kunzru: After considering the matter we have said that one constituency should be a two-member constituency. But the U.P. Government have changed that now. Why has that become necessary? Have they found that the proportion of the scheduled caste voters in the constituency as proposed by them will be higher than in the constituency as proposed by the Speaker's Committee ?

Dr. Ambedkar: I have no information that they have made any such change.

(42)

BUSINESS OF THE HOUSE

Mr. Deputy Speaker: The hon. the Prime Minister will make a statement regarding the work before the House and the holidays.

The Prime Minister and the Leader of the House (Shri Jawaharlal Nehru): Tomorrow I believe, has been notified as a holiday in our list of holidays on account of the tenth day of Mohurrum. But I understand that the moon did not behave according to the prescribed date and the tenth day has been calculated to be the day after tomorrow and not tomorrow, and in fact that the Chief Commissioner of Delhi has declared day after tomorrow as a holiday on account of Mohurrum. I would suggest therefore that this house too may observe day after tomorrow, and not tomorrow, as a holiday on account of Mohurrum—that means, sitting tomorrow and not the day after.

Shri Kamath (Madhya Pradesh)**:** Will the session end tomorrow ?

Shri Jawaharlal Nehru: I cannot say that.

Mr. Deputy Speaker: There is so much of work on the order paper.

Shri Jawaharlal Nehru: Let us meet tomorrow. We do not meet day after tomorrow. But we may have to meet the day after that, possibly on Sunday.

Pandit Kunzru (Uttar Pradesh)**:** Why on Sunday ? Why not on Monday ?

Shri Jawaharlal Nehru: We can consider that. Why not Sunday and Monday?

Pandit Kunzru : Our privileges being those of the British House of Commons, and as the British House of Commons does not meet on Sundays, we have every right not to meet on a Sunday.

Shri Jawaharlal Nehru: The House of Commons, on the other hand, meets on the Mohurrum day.

Pandit Kunzru : If the hon. the Leader of the House has the courage to make that suggestion, let us meet on Mohurrum day.

Shri Jawaharlal Nehru : I am going to show the courage by asking the Ho use to meet on Sunday.

Pandit Kunzru: That is against our privileges.

Shri Kamath: May I suggest that instead of meeting on Sunday we might observe Mohurrum festival by meeting and working harder in the service of the nation, just as we did on the occasion of *Vinayaka Chaturthi* and *Anant Chaturdasi ?*

Mr. Deputy Speaker: We need not have a discussion on this matter. Tomorrow will be a working day. Though the 12th was originally notified as a holiday, Parliament will meet tomorrow. The holiday will be transferred to a day after tomorrow.

There is so much of work put down on the order paper, and if the Government wants to continue the work, certainly we can sit on Monday and Tuesday also.

So far as Sunday is concerned, normally I am against sitting on Sundays. But we will consider that matter according to the nature of the work, later on.

The House will now proceed with the Industries Bill. .

Dr. Ambedkar : *rose—*

Mr. Deputy Speaker: The hon. Minister might make his statement in the afternoon.

Dr. Ambedkar: After this Bill ?

Mr. Deputy Speaker: At about 6 O'clock.

Dr. Ambedkar: It was first arranged between you and me and the Prime Minister that I should make a statement on the 6th. As certain part of the business was not finished on the 6th it was definitely agreed that you would be pleased to suspend the rule about the transaction of business and allow me to make the statement on the 11th. So this is the time when I should make the statement would be read as an ex-Minister ? I think he was not told that at 6 O'clock the correspondence.

Mr. Deputy Speaker: It is true that I said to the hon. the Law Minister that I will suspend the rule. Normally under rule 128, immediately after the question hour is over any hon. Minister who has resigned can make, with the permission of the Speaker, a statement in explanation of his resignation. Today I have to suspend the rule for that purpose, and I am going to do it. I am only suggesting that it may be put off till 6 O'clock. That is all.

Dr. Ambedkar: Why not now **?**

Mr. Deputy Speaker: At 6 O'clock I will hear the hon. Minister.

Dr. Ambedkar: I do not quite understand why my statement should be postponed to 6 O'clock.

Mr. Deputy Speaker: Under the rules the Speaker must give his consent before any hon. Minister can make a statement. I would like to know what statement the hon. Minister is going to make. Of course it, involves my consent. I am not disclosing anything to the House which is not provided for, I would request the hon. Minister to give me a copy of the statement and I will allow him to read the statement this afternoon.

Dr. Ambedkar: If that was so, you could have already told me when I saw you that I should hand over my statement to you before you give the permission. You did not do so.

Mr. Deputy Speaker: There is no harm.

Dr. Ambedkar: I came and subsequently wrote a letter but so far as I am concerned you did not say that I should furnish you with a copy of my statement before you come to the conclusion that you would permit me to make a statement and so far as I read rule 128, I do not see. that there is any provision therein which requires that a statement should be submitted to the Speaker before he gives consent. The Prime Minister had asked me for a copy of my statement and I have given him a copy of my statement. If you had also given me an order that I should submit a copy of my statement to you before you come to the conclusion Whether I should make it or not, I should have been very glad to do so but you gave me no such indication when I came to you. I felt the difficulty was that under the rules the statement should be made immediately after the question hour and the Prime Minister was very keen that I should finish certain business which it may not be possible for other; Members to undertake because it involves certain difficult matters. I agreed to this and then I came to you and said, "Will you kindly suspend the rules so that I may help the Prime Minister in getting the business through" ? You never said that you wanted to see a copy of my statement before' you permitted me and I see that now you have raised this point for the first time.

Pandit Kunzru: May I know whether the Chair can claim some sort of censorship as stated by you ?

Mr. Deputy Speaker: Yes, The kind of censorship which the Chair can always exercise is to avoid the matter which ought not to be placed before the House, Which is libellous, slanderous, irrelevant and so on and so forth, (*Interruption*). Order, order, I am only answering the question which was put. I can certainly do so. I am not going to allow observations of an irrelevant nature and improper statements. I will confine myself strictly to rule 128 and if an Hon. Minister goes on making a statement on the floor of the House, I am entitled to call him to order, if I find that the statement

is lacking in decency or decorum or I otherwise regard it as irrelevant. I have always got the power. Otherwise, this rule would be meaningless.

So far as giving the permission to the Hon. Minister is concerned, I agree he came to me. Possibly his memory is short, but he did not suggest to me that under the rules I can suspend the standing orders. I wanted to accommodate him and said I would allow him to make a statement at any time that he liked and I brought to his notice that I can suspend the order. He agreed. Even now during the course of his statement if I do not agree and if I feet that a particular statement ought not to be made. I can certainly ask that portion to be erased from the proceedings of the house. In order to avoid all this. I would like to know what exactly the statement is. It is not going beyond the rules and the scope of my powers. I am prepared to allow him to make a statement suspending the rule, that immediately after the question hour the statement may be made. It still stands. I am not going behind that position and as it is open to me while the Hon. Minister is making a statement, to see that this kind of matter ought not to be stated on the floor of the House. I only asked him, now that there is time, to give me a copy of the statement. I learn that he has given a copy to the Prime minister, the Leader of the House. But to the hands of the Speaker the entire privilege of the house, the honour, the decorum and everything is entrusted. Therefore there ought to be no difference so far as the Speaker is concerned in this matter. I am not going out of the way. I am trying to exercise my powers without prejudice either to the dignity of the house or of the hon. Members with regard to the freedom of making a statement. I will allow the Hon. Minister to make the statement at 6 O'clock.

Shri Kamath: Is it not a fact that under the rules a Minister or a Member may be called to order on the ground of irrelevance or otherwise, but that the statement should not be pre-censored ?

Mr. Deputy Speaker: That is not so, I think under the rules I am entitled to see what is the statement that the Hon Minister is going to make now.

Dr. Ambedkar: I take it that you do not wish me to make a statement that is how I interpret your ruling. I am no longer a Minister. I am going out. I am not going to submit myself to this kind of dictation.

Pandit Kunzru : May I know when Shri Shyama Prasad Mookerjee resigned if he was asked by the Speaker to be supplied with a copy of the statement before he made it in the House ?

Mr. Deputy Speaker: He had a talk with the Hon. Speaker and he told him what he intended to state on the floor of the House.

All that was discussed in the House. The House will now proceed with the next business.

Pandit Kunzru: A copy of the speech was not supplied to him.

Mr. Deputy Speaker: That was not necessary.

Shri Kamath: We have been deprived of the statement anyway.

Mr. Deputy Speaker: It was left to him. Hon. Members are now told that he is not going to make a statement.

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(43)

*DR. AMBEDKAR'S LETTER OF RESIGNATION

Mr. Deputy Speaker: I said that at Six O'clock Dr. Ambedkar may make his statement if he likes. I do not find him in his seat. Under the rules, immediately after the question hour is over, any hon. Minister who has resigned can, with the consent of the Speaker, be allowed to make a statement. To-day the question hour was over this morning after the short-notice question and Dr. Ambedkar piloted the Delimitation of Constituencies Motions and that is why it could not be done immediately when he wanted to make a statement. Thereafter, I thought, in keeping with the practice, either he may do it immediately after the questions or at the close of the day at Six O'clock. Therefore I fixed 6 O'clock. I would be only too glad to give him an opportunity now, but he is not here.

6-00 P.M.

As regards the copy of his statement, it is true when he wanted to make an oral statement, at the time he approached me in the Chamber, I could not anticipate and ask him to put the thing in writing and give it me. It was not right. Therefore I allowed him to make a statement and even said that I would suspend the rules, if he could not make the statement immediately after the question hour. But this morning I found that what he wanted to make by way of a statement, he had put it in writing and had given a copy to the Prime Minister, who is also the Leader of the House. Naturally, I sent word through the Secretary, sufficiently in advance or long before he rose to make his statement, to send me a copy of the statement. I am sorry to say that he would not furnish me with a copy. I do not know why. I have to regulate the debate ; not that I wanted to interfere with the statement at all. When any statement is read before

*P. D., Vol. 16, Part II, 11th October 1951, pp. 4730-37.

the house usually the person gives me a copy. I do not know the reasons why he declined to do so.

When he wanted to make a statement I said that he may make a statement without any reserve at 6 O'clock but he did not choose to do so. I am, therefore, sorry that he did not avail himself of the opportunity. I wanted to clear a misunderstanding. I had also asked him before he stood on his legs to furnish me with a copy, which unfortunately he could not furnish. At 6 O'clock whether he furnished me with a copy of the statement or not I would have allowed him to make a statement orally in this House. He has not chosen to do so.

Shri Jnani Ram (Bihar)**:** The statement has already appeard in the press.

Mr. Deputy Speaker: I do not know. The House will not take any notice of it. .

The Prime Minister (Shri Jawaharlal Nehru): May I say a few words in this connection. It is a matter of regret to me, if for no other reason, for the fact that an old colleague should part company in the way that he has done today. I do not wish to go into the various matters that have arisen to which you have referred. I got a copy of that statement at 9-30 a.m. as I was sitting in my place here, about 45 minutes before he actually rose to make it. I read it with some surprise, because it was not the kind of statement that I had expected from a Minister resigning. However, there it was and it was my intention when he made that statement to say a few words, because it was not desirable nor permissible under the rules to have a debate on such a matter. I should just like, with your permission, to read out the letter of resignation sent to me and a few other letters exchanged before and after.

The first letter which I received from him.

Dr. Deshmukh (Madhya Pradesh)**:** On a point of order, if it was the desire of the Chair to give Dr. Ambedkar another opportunity then I think instead of the Prime Minister making any statement on this issue just now, it would be better to wait to see if Dr. Ambedkar is prepared to avail himself of the opportunity.

Khwaja Inait Ullah (Bihar)**:** We have already got a copy in our hands...

Dr. Deshmukh: If an opportunity is proposed to be given...

Mr. Deputy Speaker: I do not know whether any hon. Member can speak on behalf of another Member and I do not know whether Dr. Deshmukh has any authority from Dr. Ambedkar...

Dr. Deshmukh: Not at all.

Mr. Deputy Speaker: Though he might have resigned as a Minister he is still a Member of the House. We expect in fairness that when he asked the Deputy Speaker to waive notice and the Deputy Speaker had agreed to waive notice and fixed 6 O'clock for the statement, we expected him to be here and make his representation. It was open to him to make the statement or not, but he is not in his seat at all. The prime Minister wants to make a statement...

Shri Jawaharlal Nehru: I wish to read out to the House his letter of resignation because normally a statement by a Minister is related to his letter of resignation.

Dr. Deshmukh: How does it arise, since the statement is not there ?

Mr. Deputy Speaker: It arises this way. We have Ministers introduced to the House when a Minister is appointed under the direction or on the advice of the Prime Minister. It is open to the Prime Minister to read the letter of resignation to the House.

Dr. Deshmukh : It is the privilege of a Member to make a statement. If that is lacking I do not know under what rules you are proposing to act and how the necessity for any other statement arises.

Mr. Deputy Speaker: It is always open to the Chair to allow any statement to be made on behalf of the Government.

Dr. Deshmukh: I do not object to that. I want to point out how it arises out of the situation that arose this morning.

Mr. Deputy Speaker: The Government wants to make an explanation regarding a particular matter and where all persons are interested an opportunity should be given.

Shri Jawaharlal Nehru : As you know, Sir, so far as I am concerned I was expecting him to make his statement and if I may say so with all respect. I did not know that the statement would not be made then or that you would fix another time for it. I did not expect the developments as they occurred. But since this has happened and the statement has been published in the press or is going to be, I think the House would be interested greatly in the letters exchanged. I am not referring to the statement in the least, but I am referring to the letters exchanged between Dr. Ambedkar and myself.

The first letter he wrote to me does not refer to his resignation and is dated the 10th August 1951. It reads :

New Delhi.
10th August 1951.

My dear Prime Minister,

My health is causing a great deal of anxiety to me and to my doctors. They have been pressing that I must allow them a longer period of about a month for continuous treatment and that such treatment cannot now be postponed without giving rise to further complications. I am most anxious that the Hindu Code Bill should be disposed of before I put myself in the hands of my doctors. I would, therefore, like to give the Hindu Code Bill a higher priority by taking it up on the 16th of August and finish it by the 1st of September if opponents do not practice obstructive tactics. You know I attach the greatest importance to this measure and would be prepared to undergo any strain on my health to get the Bill through. But if the strain could be avoided by getting through the Bill earlier I am sure you will have no objection. In proposing 16th August, I am allowing priority to all urgent Bills such as those relating to the Punjab, the Ordinances and Shri Gopalaswami Ayyangar's Bill relating to Part C. States.

I write this because I heard that in the last Party meeting you are reported to have said that the Bill may be taken up in the first week of September. I am sure that that was merely your suggestion. It was not your decision.

With kind regards.

Yours sincerly,

Sd/- B. R Ambedkar.

I wrote to him the same day :

10th August 1951.

My dear Ambedkar,

I wrote to you yesterday about the Hindu Code Bill. Today I got your letter of the 10th.

I am sorry that your health is causing anxiety. I suggest that you take things a little easy.

About the Hindu Code Bill, you know that we have a good deal of opposition not only inside the House but outside. With the best will in the world, we cannot brush aside this opposition and get things done quickly. They have it in their power to delay a great deal. We must therefore proceed with some tact and with a view to achieve results. I am anxious that the Bill should be passed in this Session.

The Cabinet decision was, and I think it was recorded in the minutes, that the Bill should be taken up at the beginning of September. I mentioned that at the Party Meeting and they agreed. For us to try to hasten it and bring it earlier would needlessly give a handle to our opponents and create trouble. Also it would be far more advantageous to have it early in September, after we have finished with some of the important Bills—the ordinances, the Part C States Bill, the Industry Bill. If we try to have the Hindu Code Bill before any of these, again that will create a furore and give a handle to others. I think that, taking everything into consideration, it is far better to stick to the dates we have announced and then go ahead with it. We shall be able to do so then with greater vigour and somewhat less opposition. Parliament is going to sit till at least the 1st week of October. So there is plenty of time.

Yours sincerly,

Sd/-Jawaharlal Nehru.

On the 27th September I received the following letter of resignation :

"For a long time I have been thinking of resigning my seat from the Cabinet. The only thing that had held me back from giving effect to my intention was the hope that it would be possible to give effect to the Hindu Code Bill before the life of the present Parliament came to an end. I even agreed to break up the Bill and restrict it to marriage and divorce in the fond hope that at least this much of our labour may bear fruit. But even this part of the Bill has been killed. I see no purpose in my continuing to be a member of your Cabinet.

I would like my resignation to take effect immediately. The only possible consideration that may come in the way of your accepting my resignation is the fact that there are certain Bills and Motions standing in my name and which have not yet been finished. But I feel that my absence may not be felt because these Bills and Motions can be put through by any other Minister of your Cabinet. However, if you wish that I should put then through before my resignation takes effect, I shall be prepared to stay on till they are finished but only till then. For I do not wish to deny the civility I owe to you and the Cabinet. In that event I would request that the Bills and Motions standing in my name should be given priority over others."

My reply dated the same day, that is the 27th September:—

"I have your letter of the 27th September. Two days ago news of your resignation appeared in the press and I was rather mystified. At the beginning of the session you spoke to me about your ill-health and I know of course that you have not been keeping well.

In view of your ill-health and your desire to resign from the Cabinet. I cannot press you to stay on. I should like to express, however, my appreciation of our comradeship during these years since we have worked together in the Cabinet. We have differed sometimes, but that has not affected my appreciation of the good work that you had done. I am sorry indeed that you will be going away.

I can quite understand your great disappointment at the fact that the Hindu Code Bill could not be passed in this session and that even the Marriage and Divorce part of it had ultimately to be postponed. I know very well how hard you have laboured at it and how keenly you have felt about it. Although I have not been intimately connected with this Bill, I have been long convinced of its necessity and I was anxious that it should be passed. I tried my utmost, but the fates and the rules of Parliament were against us. It seemed clear to me that nothing that we could do could get it through during this session. Personally, I shall not give up this fight because I think it is intimately connected with any progress on any front that we desire to make.

You say that you would like your resignation to take effect immediately. But you are good enough to suggest that you might stay on till some of the Bills and Motions standing in your name are dealt with. I shall look into this matter. In any event this session is going to last only till the 6th of October, that is a little more than a week from today. There is not much room left for priorities during a few days. We shall try to push in your Bills and Motions as soon as possible. I hope therefore that you will stay on till the end of the session.

With all good wishes to you".

To that he sent an answer on the 1st October:—

"I am in receipt of your letter dated the 28th September 1951, in which you have informed me of the acceptance of my resignation. Since you desire me to continue in office till the end of this session, which I understand will terminate on the 6th instant. I am prepared to fall in line with your wishes in this behalf.

I also like to inform you that on the 6th October 1951 I propose to make a statement in Parliament which a retiring Minister usually does."

My reply dated 3rd October was,—

"You can certainly make a statement in the house on the last day of the session. I do not know yet when the last day will be. It seems most unlikely that it would be the 6th October.

It, is possible that I might also like to make some statement following yours. I should be grateful, therefore, if you could send me a copy of the statement you intend to make."

Dr. Ambedkar's letter of 4th October:

"I am in receipt of your letter No..... dated October 3, 1951.

You have said that I should make a statement in the House on the last day of the Session. Does this mean that I should not make my statement on the 6th. If the 6th does not happen to be the last day of the Session ? I should like to have a clear idea about the day on which I am to make my statement. For I have to inform the Deputy Speaker.

I observe that you wish to make a statement following mine. It is not customary to make a statement such as the one you propose to do. You are free to exercise any right which the Rules of Business give you. Personally I will raise no objection to your making a statement following mine. Regarding your request for an advance copy of my statement, as you know, I am not in the habit of writing out my speeches' or my statement. So far I have not written out the text of my statement. If I find time to write out my statement in time. I shall be glad to send you an advance copy thereof. How far in advance I am of course unable to say."

My letter to Dr. Ambedkar, dated 4th October:—

"Your letter of the 4th October. It is clear to me that the session will last at least till October 11th. I informed the House so. If it suits you, you can make a statement on that day.

As regards my making a statement, I have not definitely decided to do so. But I thought perhaps I might like to say a few words on that occasion."

Dr. Ambedkar's letter, also dated the 4th October:—

"As suggested in your letter No. 3373-PM dated 4th October. I am agreeable to your proposal and will make my statement in the Parliament on the 11th October. I have spoken to the Deputy Speaker and he has agreed to allow me to make my statement on that date after the business standing in my name, namely the Delimitation Order, is finished."

That was the last letter, Sir.

***Shri Kamath :** Before we proceed further, may I have your permission to ask whether yesterday, Dr. Ambedkar, who is now present in the House, was informed that the correspondence between him and the Prime Minister was going to be read in the House ? It was only fair,—and courtesy to the Minister demanded it—that he should have been informed that his correspondence was going to be read. If he was not informed, the House ought to know why he was not informed. I do not know whether he was informed or not. He might tell the House whether he was informed or not.

Mr. Deputy Speaker: I am not primarily concerned with all that. When the spokesman of Government wants to read out certain papers in connection with this, I naturally allow that. Apart from that, I fixed 6 O'clock for Dr. Ambedkar to make his statement. At that time, he was not present in his seat. Then, all relevant matters relating to that and these letters were read. It was expected ; therefore no special notice need be given.

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*P. D., Vol. 16, Part II, 12th October 1951, pp. 4751-53.

Shri Kamath : But, was the other party to the correspondence informed ?

Mr. Deputy Speaker: If he chooses to be absent, what can be done ?

Shri Kamath: He left the Chamber, saying that he had resigned. Would he have been permitted to make a statement as an ex-Minister ? I think he was not told that at 6 O'clock the correspondence would be read.

Mr. Deputy Speaker: Making a statement is not as a Minister, not while in office, but after resigning. Whatever may be the point of time, one minute after resignation, he ceases to be a Minister; he is an ex-Minister. According to the rules, a Member who has resigned his office of Minister may, with the consent of the Speaker make a personal statement in explanation of his resignation. The moment he resigns and it is accepted by the Prime Minister, whatever may be those rules, I am not concerned with that, when he resigns and wants to make a statement, he does not make a statement as a Minister. At that time, he is only an ex-Minister. I would not allow any surprises to be sprung upon me. If the hon. Member wanted to raise any question, if he had either talked to me in chamber or told me in advance. I would have referred to these matters. Let us not continue this further.

Shri Kamath: May I submit, again, that this surprise was sprung yesterday by the correspondence being read. As Dr. Ambedkar is present today, will you permit him, if he so desires, to make a statement on the correspondence read out yesterday ?

Mr. Deputy Speaker: I am aware that the hon. Member is quite able to take care of himself. All I wish to say is that I cannot answer hypothetical propositions here. Therefore, if the hon. Member wants to do any particular thing himself, if he himself is anxious or wants to make a statement or do something like that, I shall consider the matter.

Dr. Ambedkar (Bombay)**:** I only want to make just two observations, with your permission. When I left the chamber, I think I was quite sure that I left the impression upon the House and upon yourself that I would not be prepared to make the statement at six o'clock. I think I made that quite clear. I am not asking for an opportunity now, or saying that I feel injured by the prime Minister having read out the correspondence at six o'clock, knowing full well that I had stated clearly in the morning that I was not going to obey the observations that you had made, that I should make a statement at six o'clock. Whether it was justified on the part of the Prime Minister or not I leave it to you, without first informing me that he was reading out the correspondence. That I leave to you and the Prime Minister, because I know there are other channels open to me of correcting any wrong impression that the correspondence might have made.

Mr. Deputy Speaker: It is always open to the hon. Member to change his mind: but I had fixed six o'clock and six o'clock stands. Therefore I was observing that the hon. Member was not in his seat at six o'clock.

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(Dr. ambedkar's statement in explanation of his resignation from the Cabinet was distributed to the Press and also to the Members of Parliament which has been included as Annexure I in Part II of Vol. 14 in this Series— *Ed.*)

SECTION VII

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TO
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THANKS ON ADDRESS BY THE PRESIDENT

***Mr. Chairman :** All I can say is that there are certain amendments which by no stretch of imagination can be brought under discussion of matters referred to in the President's Address. There are certain questions like food production, land revenue, foreign policy and preventive detention which are referred to in the President's Address and the amendments which have a bearing on them may be moved.

Shri H. P. Saksena (Uttar Pradesh) **:** Have all the amendments that have been presented been admitted or not ?

Dr. B. R. Ambedkar (Bombay) **:** The procedure followed in the Provisional Parliament was this. Perhaps it is not a new thing. It is going on for the last two or three years since the Constitution has come into operation. As far as I remember—there are many Members of the Lower House; they will correct me—the procedure followed by the Speaker of the House of the People was that he would allow all the amendments to be moved in the beginning. Of course, those were amendments that could be admitted. Subsequently, he called upon the proposer of the different amendments to make speeches in support of their amendments. It was always understood that because a person has moved his amendment, he necessarily will not have any right to speak. But the Speaker, out of consideration for the fact that certain gentlemen had indicated their intention to move an amendment, did allow them a chance of making a speech. That was the procedure that he adopted. I think the same procedure might be adopted here also.

With regard to one other observation, I should like to say with the deepest respect that in making the reference to what

* Parliamentary Debates (Council of States) Vol. I,' 19th May 1952, pp. 81-83.

happens in the House of Commons, you indicated that only those amendments which refer to subjects which have been expressly mentioned in the Address of the President would be admitted. With all respect I think that the rule ought to be the other way round. The purport of a debate on the Address is this. Government is pleased to inform the House, through the Address of the President, the subjects to which they allot what may be called priority or urgency. Article 87 of the Constitution of India says that the purport of the debate on the Address of the President is to inform Parliament of the causes of its summons. The purport of the Debate on the Address is to let the Opposition tell the Government what are the purposes which they ought to have included. Therefore, any subject which is not included in the Address of the President, for that very reason becomes a matter of urgency, because, Members of the Opposition may feel that Government has given priority and urgency to matters which they think important but which, in the opinion of the Opposition, are less important than other matters. Secondly, I submit that merely because an amendment refers to a subject which has not been referred to in the Address of the President, it should not on that account be ruled out. But the Opposition should be given an opportunity to discuss and to place before Government any particular subject, which is the subject matter of the amendment, as a matter of urgency which must be given priority over subjects which have been spoken of by the President in his Address. I thought I should make these observations so that you might be in a position to regulate the procedure about the amendments.

The LEADER of the COUNCIL (Shri N. Gopalswami):

I greatly sympathise with the point of view which has been urged by my hon. friend Dr. Ambedkar .....

Dr. B. R. Ambedkar : Nobody is "Honourable" in this House any longer.

Shri N. Gopalswami : I referred to him as "my hon. friend". That is not taboo.

Sir, the real point for our consideration on this question is whether the Constitution and the rules that have been framed for the procedure of this House permit of giving effect to the suggestion that has been made by my hon. Friend.

***Dr. B. R. Ambedkar** (Bombay)**:** I had originally thought not to participate in this debate, because I felt that it was right and proper that the new Members of this House who are sitting on the front Opposite Bench ought to be given the fullest chance to express their views on these important matters dealt with in the speech of the President. But some of my friends said that it would be useful if I said what I felt about the two important matters which undoubtedly loom large before the minds of some Members of the House at any rate and a large majority of the public. The first matter which looms large is obviously the matter of food. There can be no doubt that this country has found itself in the grip of one of the biggest problems that it has ever been called upon to face. Sir, as a younger boy, I had witnessed famines myself because my father was engaged as some kind of a cashier to pay the wages of many people who were engaged in famine relief work. I was living with him as a young boy and I could see the condition of the famine-striken people. As a student of economics I had the opportunity of reading those magnificent. books by one of the greatest Indian civil servants namely, Romesh Chandra Dutt, who had given a complete picture of the periodical famines that had taken place in this country, right from the beginning when the British came to occupy. But, Sir, remembering all this past history, my imagination cannot recall anything that I have seen or anything that I have read in any way comparable to the condition that we see today. I think it would not be an exaggeration to say that there was a time when there were famines but they occurred sometime at an interval of 10, 15 or 20 years. Today we have reached a stage when there is a famine almost every month in this country. This month there is a famine in Bihar, another month there is a famine in Rayalaseema, a third month there

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* P. D. (Council of States) Vol. I, 21st May 1952, pp. 266-69.

is a famine in some other part of the country. I think it would be impossible for any person who reads newspapers to say that any month has passed when there has not been a famine in this country. I was quite interested to listen to the argument which has been urged by some Members of the *Congress* Party that the Opposition should not be too hard on the Government. The Opposition must remember that when the British left, they left this country as an empty shell, with the resources undeveloped, with the people of this country untrained for economic production. Those arguments, if I may say so with all respect, are without substance. It may probably pass muster in this House or may pass muster with those who are inclined towards the party in this House. But I should like to tell even my friends who are sitting on the Opposite side that this excuse will not go down for a long time with the people.....

An hon. Member : You were yourself in the Government once.

Dr. B. R. Ambedkar : Don't you recollect my past. I am now a divorcee. What I want to tell my friends on the other side is that this excuse will not serve them for a long time. No hungry man is going to be sympathetic to a critic who is going to tell him "My dear fellow, although I am in power, although I am in authority, although I possess all legal power to set matters right, you must not expect me to do a miracle because I have inherited a past which is very inglorious." If this Government will not produce results within a certain time, long before the people become so frustrated, so disgusted with Government as not to have any Government at all, a time will come when I suppose unless we in Parliament realise our responsibilities and shoulder the task of looking after the welfare and good of the people within a reasonable time, I have not the slightest doubt in my own mind that this Parliament will be treated by the public outside with utter contempt. It would be a thing not wanted at all.

Sir, the situation has been greatly aggravated by the sudden decision the Government has taken with regard to this subsidy. The subsidy is in another way an additional project

which the Government has undertaken to relieve the people against the high cost of living. The subsidy, so far as our information goes, has been in operation.....

Shri B. B. Sharma (Uttar Pradesh)**:** What percentage of the population does the hon. Member want to be subsidised for food ?

Dr. B. R. Ambedkar : Sir, my submission is this that he will not want me to go into the details of the rationing system. I do not want to go into details as to how the population should be classified so that we might be in a position to say that the following classes shall be subsidised and the following classes shall not be subsidised. That information Government has not placed before us. If the Government places that information before us, I certainly will be able to make such contribution as I can make to that proposal. For the moment I am saying this, that this reversal of the policy of giving subsidy seems to me an absolutely new thing. I find that from1946-47, when the subsidy made was 22 crores, it has increased in 1951-52 to 36 crores. In the last Budget which the Finance Minister presented to the Provisional Parliament for the purpose of obtaining a vote on account, he had estimated that the subsidy which he might be prepared to give in this year would come to about 25 crores. That was the estimate that he had made. I am sure about it that at the time when he presented the Budget he must have been ready in his mind to commit himself to that magnitude of expenditure. Suddenly thereafter we find this sudden change. Some reasons have been given. One reason is that the subsidy would come to about 55 crores. Some Members have said it would be about 90 crores. I do not know what the correct figure exactly is.. But I do want to say that even in the last Provisional Parliament, when the Budget was presented, Government was agreeable to take upon itself the responsibility of a subsidy to the extent of 25 crores. I do not quite understand why the Government has stepped aside from that promise, from that obligation. There are of course .....

Mr. Chairman: Your time is up. You can take one or two minutes **more.**

Dr. B. R. Ambedkar: I have something else to say. It will not be possible for me to finish within the one or two minutes that you are very gracious to give me. I will stop here.

(45)

BUDGET (GENERAL) 1952-53 GENERAL DISCUSSION

* **Dr. B. R. Ambedkar** (Bombay)**:** Mr. Chairman, I propose to begin from the point from which I had to leave off, before, my observations on the President's Address. The House will remember that when I had to break off, I was dealing with the question of food subsidy. Today I find myself in a much better position to deal with the matter, because in the interval we have had a statement from the Finance Minister justifying why he has taken what might be called a 'political roundabout'. The explanation that the Finance Minister has given is an explanation which I think is more intended to frighten people from demanding any subsidy with regard to food. His explanation is this, that if he at all must do anything in the matter of food subsidy, he must do it in a manner so that he might be able to maintain the price level at the level it stood in the last year. That is, I believe, his starting premise. And then he develops this premise by saying that if on the basis that the subsidy is given only if he maintains the last year's price level, if the subsidy is to be confined to industrial areas, he would be required to pay Rs. 60 crores; and if that subsidy is to be extended to the rural area, he will be required to pay Rs. 90 crores. Obviously if these figures are correct, they are quite calculated to moderate the spirit of the great enthusiasts who want some kind of food subsidy to be given, so that the misery of the cosuming classes may be alleviated to some extent. So far as I understand, nobody has pitched his flag so high as it has been represented to be by the Finance Minister. So far as I have been able to pursue the discussion that has been taking place in the various newspapers, nobody has said that you must give subsidy to such an extent and on such a magnitude that the price level of this year would be the same as the price level of last year. Nobody is

* P. D. Vol. I of 1952, 27th May 1952, pp. 469-80.

demanding that. Secondly, Sir, with regard to the question of the rural demand which has been put forth by the Hon. the Finance Minister as a ground for refusing subsidy, I am sorry to say that he has now agreed to accept that contention when the same has been urged upon him for the last several years and which he has repudiated all along. I am sure that it has been the demand of the provincial Ministers that if you are giving subsidy, you must not make a discrimination between the industrial population and the rural population. You must give subsidy to all or you must give subsidy to *none*. That has been an old old argument. But I do not remember a single Finance Minister or a single Food Minister—and we have had a series of them one after the other—having ever agreed to that proposition. It has always been the policy or the contention of the Government of India that in the matter of allocating subsidy, certain classification must be made. A classification must be made .....

The Minister for Finance (Shri C. D. Deshmukh): On a point of information, Sir. The system of subsidy whereby only industrial towns were subsidized was adopted only last year.

Dr. B. R. Ambedkar: Sir, the demand that the subsidy should be extended to the rural area is not a new thing at all. No Government of India, so far as I remember, has ever agreed to that demand.

Shri C. D. Deshmukh: What I meant was that before last year the subsidy was given to rural as well as urban areas; so, no such contention could have been made.

Dr. B. R. Ambedkar: If that is so, then it is all the worse for the Finance Minister, I should say if in the past you have accepted the demand that subsidy should be given to all, then I do not quite understand why you should resile from that position now.

Shri H. N. Kunzru (Uttar Pradesh)**:** Whatever may be the demand, he has said in this connection that subsidy was given not merely to industrial centres, but to all urban and rural areas. Is that a fact ? Was subsidy given to those rural

areas where there was a large heavy deficit in the country as a whole, in accordance with the recommendation of the first Food Policy Committee ?

Shri C. D. Deshmukh: My point was that the subsidy was not confined only to the industrial areas except during last year.

Dr. B. R. Ambedkar: My contention has been that because you cannot do the very best, let not the better be the enemy of the good. Do whatever good you can; if you cannot do it better, the country will be prepared to excuse you, because of your limited resources. But because you are not preparing to do even the good, when you agree to do it, by making a provision of Rs. 25 crores in the Budget, I think the public will have a legitimate right to complain.

Sir, I would like to draw the attention of the Finance Minister to what the Chancellor of the Exchenquer has done in England in the course of his Budget. He knows, I think, much better than I do. I have collected my facts from newspapers and other magazines where I have been able to find a certain analysis of the Budget presented by the Chancellor of the Exchequer to the House of Commons. Now, Sir, confining our attention to the matter of food subsidy, I find that in the year 1950 in England, the food subsidy was £480 million. In the last Budget the subsidy has been reduced—there has been a cut of £160 million. Well, so far as this part of the Budget of the Chancellor of the Exchequer is concerned, probably the Hon. Finance Minister may take comfort in the fact that after all he is not doing something different from what the Chancellor of the Exchequer has done in England. But if you look at the other side of the picture of the Budget presented by the Chancellor of the Exchequer in England—taking the other side, the counter-blancing proposals of the Chancellor in England,—I find that while the subsidy has been reduced, there has been an increase in income-tax relief to the extent of £2.228 million. Secondly, there has been an increase in family allowances to the extent of £37 million. There has been a considerable increase in pensions. There has been an enormous increase in the housing

subsistence. Now, all these reliefs which have been provided for by the Chancellor of the Exchequer in his Budget beyond question have the effect of increasing the purchasing power of the consumer. If there is so much increase in the purchasing power of the consuming community, it matters very little if the subsidy has been reduced by £167 million.

What are the reliefs that our Hon. Friend the Finance Minister has provided for in his Budget ? Nothing. The level of taxation, whether of direct or indirect character, is just the same. The purchasing power of the people remains where it was. In addition to that, he is now increasing the cost of food. This I find to be a fundamental difference in the approach of the Hon. Finance Minister to the problems of the people and that of the Chancellor of the Exchequer. I think my Hon. friend the Finance Minister may well consider whether he might not copy something from what the Chancellor of the Exchequer proposes to do in England for increasing the welfare of the people.

Now, Sir, I have not been able to exactly understand what position the Hon. Finance Minister proposes to take. 9-00 A.M. But I want to put it in the best light because I know he is an honest person with the greatest good of the people at his heart. What is he trying to do ? So far as I have been able to understand the policy of the Government of India with regard to food, I do not think that the Hon. Finance Minister is opposed to subsidy. If I put his position correctly as I understand it, he is in favour of subsidy, but his position seems to be that the subsidy instead of being granted to the consumer ought to be granted to the producer, either in the form of grow more food grants or in some other way. His object, logically speaking—I do not find any difficulty in accepting its validity—is that if you produce more food in the country, prices will fall, consumers will benefit and subsidy to the consumer may then not be necessary. I believe that I have stated his position somewhat correctly if I have understood it. He wants subsidy, but he wants it to be given to the producer and not to the consumer.

Well, Sir, that may be one kind of approach, different though it may be from the line of approach which some of us take. The question I think that we have to ask with regard to this attitude is this : Which is going to benefit the people quickly ? So far as this subsidy for the grow more food policy is concerned, I do not think that it could be contended by the Government that that subsidy has been of any consequence so far as the production of food is concerned. I think it is not necessary for Members of the Opposition to cite any authority when we know as a matter of fact that the Reserve Bank, in one of the investigations which it undertook, reported that the grow more food policy has been a complete failure. Obviously, therefore, the policy of not giving subsidy to the consumer, but giving it to the producer, has not produced the effect desired by the Hon. Finance Minister.

The second thing which I find why this emphasis on the grow more food has failed is because of the contradictory policy which the Food Department or the Government of India, has been following. On the one hand, they have been giving subsidy to farmers and others to provide more food. At the same time, they are giving encouragement for the production of what are called cash crops, which are every moment competing with the production of food. A farmer finds it much more to his advantage to produce cotton-seeds, black pepper and things of that sort. He does not care for the growing of more food. Surely, if the Government's objective—and firm objective—is to produce food, Government ought to have taken some steps in order to curb the tendency on the part of the farmers to produce something other than food. That, Government has not done. The result is that we have in this country two competing economic activities so far as agriculture is concerned, the cash crops *versus* food production.

The result is that notwithstanding the Grow More Food Campaign and the amount of money that has been spent, we have not been able to produce more food so as to make any impression upon the food prices. The question that I would like to ask the Hon. the Finance Minister is this. Would he or would he not realise that if his object is to reduce prices by the production of more food, and if that object has failed,

would he still continue to penalise the consumer and not give him any subsidy or offer him any kind of relief from the distress from which he is suffering ? That is the point. There is no dispute that some kind of subsidy is necessary in this country in the situation in which we find ourselves. The whole question is, at what point the blood may be supplied, at what point the subsidy may be given, to the producer or the consumer. I make this observation in the hope that the Hon. the Finance Minister will reconsider the line that he has been pursuing, namely, that our immediate problem could be solved more by giving subsidy to the producer and not to the consumer. He may succeed. As we know, originally, our Government, when I was a member of it, had announced that we must achieve self-sufficiency by the year 1952. Our Prime Minister, day in and day out, emphasised that after 1952 we shall not import a single grain of food from outside. Today, I think I am right in saying that the Government of India have realisd that reaching self-sufficiency in 1952 was an idle dream. They have now proclaimed that we will achieve it by 1956. God only knows. The target is always receding; it goes back and back. We do not know for how many years the consumers in this country will have to undergo this agony and allow the Finance Minister and the Minister of Food to delay the thing, by trying as if in a laboratory, the various ideas, the various proposals and the various schemes they have in their mind. I do not wish to dilate upon this subject any more.

Sir, I would now say a few words with regard to the General Budget as a whole. The Budget undoubtedly in every country is an expression of the function which a Government undertakes towards its people. There was once a time in this country when the function of the British Government was to collect taxes and to maintain law and order. The welfare of the public, the well-being of the people, their educational advancement, public health, unemployment, or any of those remedies and reliefs, which were now found functioning on such a large scale in the Budgets of the various European countries, had no place. Not only they had no place in the Government but the Government itself had not accepted any liability on that

account. We thought and we hoped that when this country became independent, that aspect of the matter would change, that the Government would not be merely a Government of an agency to collect taxes and a magistrate to punish people for wrongful action, that the Government would do something more, that the Government would assume the function which all civilised Governments have assumed in the 20th century. Sir, can anyone scanning the Budget which has been presented to this House say that they can find any trace of any other functions, which all modern civilised nations and States assume to themselves, reflected in the Budget of the Finance Minister ? I can find nothing. We are still repeating the old history of the British, namely, to collect taxes, to punish offenders. No provision is made for all the social benefits which are conferred upon the poorer and the lower classes in other countries in the world. I want to ask the Hon. the Finance Minister : "Can he promise us, as he had been promising in the case of the food subsidy, that we will be self-sufficient in food in 1952, if not in 1952 it shall come in 1956, if not in 1956 it shall come in the year 1960 ?" There is some hope, so long as there is a fixed day or a promised day of the arrival of the new regime. Can he tell us that we can tread upon the path foreign countries have been following so far as social services are concerned ? He has said none. The whole thing in the Budget, to put it in a nut-shell—it has been put, I know, by other speakers before me—the crux of the whole matter in this country is that the Army is eating up into the vitals of the funds that are necessary for the well-being of this country. We have, in a total Budget of Rs. 404 crores, a sum of nearly Rs. 200 crores spent on the Army. It is difficult to understand this position. Sir, when peace came, an order of demobolisation was passed. It was decided by the then British Government that the Army of India shall be reduced. What do we find ? We find that in the year 1947, the revenue of the Government of India was somewhere about Rs. 172 crores. I am speaking of the Budget for the 8 months that was then presented from August 1947 to April 1948. The Military Budget then was Rs. 90 crores. Our revenue today has grown to Rs. 404 crores, and our military expenditure has also grown

to nearly Rs. 200 crores. It is an extraordinary thing that as your revenue rises, your military expenditure also rises. My view was that the reverse should be the process, that your military expenditure ought to go down. If you can reduce the military expenditure by a modest sum of Rs. 50 crores, how much good we can do to our people ? We can apply this reduction of Rs. 50 crores in the Army Budget to river valley projects. The Damodar Valley Project could be completed within 3 years out of our revenue Budget instead of having to go to foreign countries for aid. If we could spend that amount of Rs. 50 crores out of the military Budget for the betterment of our own people, what amount of good we can achieve ? But I have not been able to understand why the Government of India has been consistently and regularly increasing the military Budget. Sir, it is an extraordinary thing from another point of view. We have been told that our foreign policy is a policy of peace and friendship. My hon. Friend, Diwan Chaman Lall, called it the Nehru doctrine. If that is the object of the Nehru doctrine, it is a welcome doctrine provided it was observed by all. Now, if the object of the foreign policy of this country is to maintain friendship and peace throughout the world, I want to know who are our enemies against whom we want to maintain this huge army at a huge cost of Rs. 197 crores.

Shri J. R. Kapoor (Uttar Pradesh)**:** Our next door neighbour.

Dr. B. R. Ambedkar: I do not know that. If we were informed that our relations with certain foreign countries were not happy, that there might be any time a danger to our safety and to our security, it would be possible for most of us to agree that rather than wait for the arrival of the danger, we should keep the Army ready so that in an emergency we may face the danger squarely. But we are told that we have no enemy at all in this world. Then, why this army is maintained, I do not quite know. Secondly, the only possible enemy, if one may use that world, is probably Pakistan. And that too, on account of Kashmir. Now, with regard to Kashmir, I hope that this House will have a full

opportunity of discussing that question. I did not have time to say anything, nor did I think it right to spend just a few moments on a problem so great as that of Kashmir. But surely the matter is within the charge of the U.N.O., and I do not think that Pakistan would be so foolish as to invade Kashmir or to invade this country in the teeth of the U.N.O. decision on the subject. Therefore, again, why are you maintaining this Army? I am quite unable to understand the point.

Then, Sir, on our part we never seem to be able to realise that the sooner we settle this Kashmir problem the better for us, because if the excuse for this enormous is increase in our Defence Budget is to be attributed to the Kashmir tangle, is it not our duty to do something, to contribute something, positively in order to bring that dispute to an end ? I cannot expatiate on the subject, but so far as I have been able to study the part played by the Government of India in connection with the negotiations that have been taking place on the settlement of the Kashmir issue, I am sorry to say that I have not read a single word which I can describe as a positive and not a negative suggestion on the part of the Government of India to settle this question. All that they are dealing with is the question of military allotment. The question of plebiscite is in no way new in the history of the world. One need not go back to the ancient past to find precedents for settling questions of this sort by plebiscite. After the First World War, I certainly remember there were two questions to be settled by plebiscite. One w as the question of Upper Silesia and the other was the question of Alsace-Lorraine. Both these questions were settled by plebiscite, and I am sure that my hon. Friend Shri Gopalaswami Ayyangar, with his mature wisdom and sagacity, must be knowing of this. It is not possible for us to borrow something from the line of action taken by the League of Nations with regard to the plebiscite in Upper Silesia and Alsace-Lorraine which we can usefully carry into the Kashmir dispute and have the matter settled quickly so that we can release Rs. 50 crores from the Defence Budget and utilise it for the benefit of our people ?

I do not want to say much more, but I do want to say that most of us are feeling very keenly that the Defence Budget is the greatest stumbling block in the path of the welfare of this country.

There is one other thing to which I would like to draw the attention of the Finance Minister. He has already indicated in the course of his Budget speech that the prospect for this country, so far as taxation is concerned in the future, is not a very happy one. He himself has admitted that our income-tax revenue would not remain at the same level at which it has remained for the last two years. He knows very well that the export duty, which forms a very large part of the present revenue of the country, is no longer to be regarded as a permanent part of the revenue structure of this country. Export duties, which in all countries are of an unusual sort, extraordinary in their character, never can be regarded as a natural part of the tax structure of a country and depend upon conditions in foreign countries. The moment those conditions vary, you have got to vary the tax. You may meet with a situation where you may have to abandon such duties completely. The fear which I feel on account of the prospect in the decline of revenue is this : How is the Finance Minister going to make good the losses that might occur by the reduction of certain items on the revenue side ? Will he cut into the Defence Department's Budget, or will he cut into the Budgets of the other Departments which are ministering to the social welfare of the people ? I have no idea. If the opinion in favour of the retention of the armed forces at the present level of expenditure prevails, our conditions, so far as the welfare of the people are concerned, will deteriorate considerably. I want the Finance Minister to take note of this fact and tell us something about what he would do when such a prospect presents itself to him in the concrete.

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*ANDHRA STATE BILL, 1953

Mr. Chairman: Motion moved.

"That the Bill to provide for the formation of the State of Andhra the increasing of the areas of the State of Mysore and the diminishing of the area of the State of Madras, and for matter connected therewith, as passed by the House of the People, be taken into consideration."

Dr. B. R. Ambedkar (Bombay)**:** Mr. Chairman, this is a Bill the object of which is to create a new State for the Andhras. As such it is the subject matter of the Andhras themselves. Others who are not Andhras can only take part in it in a general way, and solely because this new Province is a portent of probably some other linguistic provinces to come into existence. It is only because of the feeling of the latter kind that I have stood up today to say a few words.

Sir, when one goes into the Bill, one is very much puzzled as to whether one should congratulate the Government on the Bill such as has been brought forward before the house, or whether one should congratuate the Andhras who are clamouring for a separate Province. As anyone in this House knows, as soon as the Congress Party was organised and had a constitution in the year 1921, the first thing it did was to incorporate the principle of linguistic provinces. I have no idea that at any time from the year 1921 up to the year 1949 or these about, the Congress either ever withdrew that principle from its constitution or regretted having entered that principle in its constitution. In 1949 I believe—if I am wrong my friends will correct me—but I think that is about the year, when the Drafting Committee was sitting, and one Member of then Assembly tabled a Resolution for the formation of the linguistic provinces. I was in charge of the Law Department and as such the Resolution fell within my portfolio. I had to

* P. D. Vol. 4 (Council of States) of 1953, Part 1, 2nd September 1953, pp. 864-79.

consult my cabinet collegues in order to know what sort of reply I should give to this Resolution. They said that the better thing would be for me to transfer the Resolution either to the Prime Minister or to the late Sardar Vallabhbhai Patel which I very gladly did, because I did not want the responsibility to fall upon my shoulder for the answar that might be given to that. Resolution. It was then arranged between the mover of the Resolution and the members of the high command of the Congress, that although they were not prepared to accept the Resolution in all its generality so as 'to apply to all the multi-lingual provinces then existing, they were prepared to consider the question of creating an Andhra Province. The members of the Drafting Committee were waiting to know what exactly they should enter Andhra as a separate province in the Schedule of the States. Hon. Members who are particular to know about this will find in a foot-note to the first draft of the Drafting Committee's report that I referred to the Prime Minister in order to let me know whether Andhra should be entered in the Schedule to the Constitution, I got no reply, with the result that Andhra then did not become a separate province. It was a great surprise to me that when practically for twenty years, a party had stood by the principle of linguistic provinces, it should have developed cold feet after twenty years. Surely, 20 years was a long period for even the greatest dullared to think over the matter and come to a clear conclusion as to whether the principle that was adopted in 1921 was a mistaken principle and ought completely to be withdrawn, or whether it was a principle which should be pursued with certain modifications. The result has been that from 1949 up to this period, there has been a vacillating attitude on the part of the Government, once saying that there shall be no linguistic provinces, at another time saying, "Yes, we shall create an Andhra Province". And unless and until one honourable gentleman had sacrificed his life for the sake of creating an Andhra Province, the Government did not think it fit to move in the matter. I have no idea and I do not wish to be harsh on the Government; but I am dead certain in my mind that if in any other country a person had to die in order to invoke a

principle which had already been accepted, what would have happened to the Government. It is quite possible that the Government might have been lynched. But here nothing has happened. The Government is playing with the proposition.

The argument that has been brought forth by the Government is that if you create linguistic provinces, you will break up the unity of India. That has been the argument which one heard time and again from every member of the Government. Sir, I am surprised that such an argument should have been used. If anyone were to look up the Schedule of States attached to the Constitution, he would find that there are altogether 27 States filling up different parts—Part A, Part B and Part C. I am not taking into account Part D. Now, if you take up these 27 States, you will find that 23 States are linguistic States. Only 4 are multi-lingual. I should like to ask my hon. Friend, the Home Minister, whether he thinks that the 23 linguistic States which have existed from the very beginning of the Constitution have in any way done anything in order to disrupt the unity of this country. I would like him to answer that question. These 23 linguistic States have not been able to disrupt the unity of India. I am as keen as he is on maintaining the unity of India and I shall not support any step which will bring about the break-up of this country.

We have, by God's grace achieved not only independence but also unity, and it is our bounden duty, no matter to what party we belong, to see that this independence and this unity is retained. But, to say, in the face of this fact, with 23 linguistic States, that linguistic States would break up the unity of India is to say something which is puerile. They must produce some very weighty arguments in support of their contention that they cannot pursue a policy of creating linguistic States.

Now, Sir, coming to the Andhras on whom this blessing is showered by the Government after such a long delay, what do they get by it ? First of all, as I look at the Bill, I do not, find anywhere mention about the capital of this new State of Andhra. The capital is the very life source of a State. I cannot understand how one can imagine a State without its capital. In fact, it is the capital that give life to the States.

There is no mention of it at all. Who is to create this capital ? Is it the Legislature of the new Andhra State which is to meet and decide what is to be its capital ? Is it the Executive Government of the new State which is to sit at some place and decide that the capital of the new Andhra State will be this ? There is no indication at all in the Bill, as to which is the authority which is to create this capital. Reading from the newspapers it does appear that there is no unanimity *among* the Andhras on the question of the capital. There is a section which wants Vijaywada, there is a section which wants Kurnool and those in favour of Kurnool I think, won by one vote or so. In a situation of this kind, I think the Government would not have fallen—I am sure about it, they have an enormous majority to beat down any opposition—if they had taken courage in both hands and said that, "in our judgement this should be the capital," leaving liberty to the Andhras at a later stage to change it if they so liked. Sir, in connection with this question of the capital, there is one point which I would like to mention. I do not know what is the town that is going to be selected as the capital of the Andhra State, but, any how, everybody seems to be taking that whatever town is selected for the purpose of a capital, it shall be a temporary capital. That is what I hear. Now, Sir, it strikes me—whether they select a town which is Vijaywada or Kurnool or some other place—that they may be spending a certain amount of money for the construction of the necessary buildings for the housing of the capital. Surely, there must be the Secretariat: surely, there must be the houses for the Ministers .....

Shri C. G. K. Reddy (Mysore)**:** That is very important.

Dr. B. R. Ambedkar: ..... and various other things in order that the capital may come into existence. I have no idea of the amount of money the new Andhra Government proposes to spend on the creation of this temporary capital. After what is being said that this will only be a temporary capital and that the permanent capital will be selected at a later stage, what would happen ? In my judgement, what would happen is this : the five crores of rupees or so that might be spent initially on the construction of a temporary capital would all be a waste and another five or ten crores of rupees will have

to be spent on what the Andhras might regard as the permanent capital for their new State. I do not know whether the Hon. the Home Minister or the Hon. the Finance Minister who, I believe, in his most charitable way gives grants to anybody who wants to come and ask for a grant, is prepared to give five crores of rupees for a temporary capital and another five or ten crores for a permanent capital. That would certainly be a wonderful way of managing the finances of this country.

Then, Sir, looking at the financial position of the new State, it has been shown that the new State will begin with a deficit of Rs. 5 crores. Many optimistic Andhras who are more keen on having an Andhra State than on stability told the investigator—Mr. Justice Wanchoo—that, in their judgement there were a variety of means whereby they could bridge the gap and make the State self-sufficient.

Mr. Justice Wanchoo examined every one of the suggestions that were made to him by the various parties of the Andhra people; and he has, in unmistakable terms, said that all these are fertile imagination and that it is neither possible to increase the revenues of the new State, nor is it possible to reduce the expenditure; at the most, anything may happen either by the way of increasing the revenue or by the way of reducing the expenditure. Nonetheless, the new Andhra State will begin with a deficit of Rs. 2 crores. That is the least that the Andhras will have to face to begin with. Well, it is the concern of the Andhras whether they could make good deficit which may be Rs. 5 crores or which may be Rs. 2 crores; we have not much to say about it; it is for them.

Then there is a third point which I would like to put to my hon. Friend the Home Minister. It seems to me that my hon. Friend has not considered what I might call the demographic picture of the Andhra State. What is the social composition of this State ? When I am dealing with the social composition of Andhra, I beg of my Andhra friends not to mistake me. It is not that I am making the statement, which I am about to make, by way of accusation against the Andhras, but it is a general proposition which I am enunciating and which I shall develop at the conclusion of my speech.

Sir, as I said, I am not an Andhra. But I belong to what might be called a political group—I shall not give it the honorific name of a 'Party'—which is called the Scheduled Caste Federation. As the Leader of that group. I had the occasion to move round in the Andhra country in order to see what the condition of the Scheduled Castes there is. My picture is this that, in this Andhra country, there are, as everywhere else, as I am going to show, some big communities and some very small communities. Of the big communities, the biggest, I believe, is the Reddy community; below the Reddys come the Kamma; below the Kammas come the Kappu; and below them come the unfortunate Scheduled Castes people working as landless labourers. That is primarily the picture of this area. As I said, this is not a lonely case. There are many other areas of the same pattern.

The second thing I noticed is this that all the lands practically are in possession of the Reddys. The Reddys are the biggest landlords there. Next, probably, come, the Kammas, to which my friend Professor Ranga belongs. I was told very recently how great is this evil; I was told in a very vivid way by one of the Congressmen himself. I do not know whether he would feel offended if I mention his name. It would lend great authority to the statement that I am making, but I shall not mention his name as I have not asked him.

An hon. Member: Is he a Member of this House ?

Dr. B. R. Ambedkar: He is a Member of the Lower House.

Dr. K. N. Katju: I do not like it to be called the Lower House.

Dr. B. R. Ambedkar: When we were discussing this question, my friend told me that that was by no means peculiar. There was a certain village in the Andhra area. The entire land of the village measured 1,400 acres. Out of that, only 14 acres were owned by private individuals; the rest of it was owned by a single Reddy. One has just to imagine the picture .....

Shri P. Sundarayya (Madras) **:** Let us confiscate it.

Dr. B. R. Ambedkar : I have no idea what they have done. The third fact he told me was that all trade in the village was in the hands of the Reddys

An hon. Member: What is wrong ?

Dr. B. R. Ambedkar: The lowest village officer is also a Reddy; the 'mulki' is also a Reddy. Well, Sir, I want to know for myself, especially in view of the fact whether the reservation, which was so blissfully granted to us by the Congress Party for ten years, is going to disappear.

An hon. Member: You accepted it.

Dr. B. R. Ambedkar: Yes, what else can one do; if you can't get *puri* you must get *roti*. Sir, in view of the situation that is obtaining there, you can imagine what is likely to be the position of the Scheduled Castes. What provision has my hon. Friend made for the purpose of granting protection against tyranny, against oppression, against communalism, that is sure to be rampant not only in the Andhradesh but everywhere in the States similarly situated. One of the greatest regrets that I have is that the Home Member, whose duty it is to see that every citizen is well protected against the tyranny of the majority, has come here with a Bill with no idea, with no conception as to what the State is likely to be and what is likely to happen to millions of people. I know, Sir, he is a high born person.

Dr. K. N. Katju: Who ? I ? I started life in a normal manner .....

Dr. B. R. Ambedkar: But the fact is that he is a Kashmiri Pandit. Even if he takes to the profession of a Bhangi he will still remain a Kashmiri Pandit. He may never suffer. All people may respect him for his ancestry, for his noble birth, for his learning. What about us who have been tyrannised for the last 2,000 years ?

Shri H. P. Saksena (Uttar Pradesh)**:** But we all respect you.

Dr. B. R. Ambedkar: I may die in ten years time. Now, Sir, these are the three considerations which I thought I should urge before my hon. Friend, the Home Minister, for his consideration. There is still time even in this House, if he likes.

Shri K. S. Hegde : Is it the suggestion that Andhra should have a different tradition altogether ?

Dr. B. R. Ambedkar: I am going to suggest that. That is what I am going to tell him, that he has not applied his mind to this subject.

Shri K. S. Hegde : That will be applicable to all the States.

Dr. B. R. Ambedkar: I have said so.

Shri K. S. Hegde: It is a general proposition.

Dr. B. R. Ambedkar: Wait a minute now, please. Mr. Chairman we are not going to finish our troubles with the creation of the Andhra State. There are plenty of other States which are making a similar demand and I think it is therefore necessary for the Government to find out whether there are any other ways and means whereby we could keep the multi-lingual provinces as they are, and remove the feelings and the lots of blemishes that arise therefrom and only in excusable cases resort to the creation of a linguistic State, I have been devoting a certain amount of attention to this question because I know that this is going to be one of our most crucial questions. Sir, my suggestions are two-fold. Wherever I find a multi-lingual State I would vest the Governor there with certain special powers to protect the minorities in that State. That is one proposition that I would place before the Government for its consideration. I shall presently cite some authority in order that they may not think that this is my imagination. I am going to cite some constitutional precedents. And the second thing that I would like to be done would be that in all such States where there are multi-lingual people you should establish by law committees of members belonging to different linguistic sections which would have the right to hear and the right to ask the Ministry whether they are doing justice to their

problems. Also they should have the right to appeal to the Governor to set aside any act of injustice that might have been done to any one section. I think, if these three things are done, we should be able to keep the States as they are, at any rate in the first stage. If ultimately we find that we do not succeed even with these measures, then fate may take us to the logical extreme end, namely, to have a linguistic State.

Sir, in the case of creation of linguistic States, in my judgement there appear to me to be two considerations. One is that the linguistic State must be a viable State. It may be that this is a small State which has got a culture and which has got a language and which has got a separate feeling and an entity. Yet it is so small that it cannot find the means of carrying on its Administration. People do not live on culture. People do not live on language. People live on the resources that they possess. But if God has given them culture and God has given them language but God has not given them the resource, I am afraid they cannot have the luxury of having a separate linguistic State, The second thing is this. It is only in our country that we find that linguistic provinces create difficulty. I would like to ask the question as to why there are no difficulties in Switzerland although Switzerland itself is a multilingual unit. The Cantons have French, German and Italian. Yet they are a very happy nation and they are the most prosperous nation today. Why is it that Switzerland has no provinces although it is a multi-lingual unit ? The answer which I can *give* is this that linguism in Switzerland is not loaded with communalism. But in our country linguism is only another name for communalism. What happens when you create a linguistic province is that you hand over the strings of Administration to one single community which happens to be the majority community and I can cite many provinces where this is likely to happen. That community charged with a feeling of its own sacred existence begins to practise the worst kind of communalism which otherwise is called discrimination. Discrimination creates injustice and injustice creates ill-feeling. If our linguism was not charged with communalism our linguism would not be a danger to

us at all; but the fact is that it is. But it seems to me that in order to do away with the community practising communalism being in office these two remedies are worth while, namely, to give the power to the Governor to override and, secondly, to appoint small committees who can make representations either to the Ministry or to the Governor.

Now, Sir, we have inherited a tradition. People always keep on saying to me : "Oh, you are the maker of the Constitution". My answer is I was a hack. What I was asked to do, I did much against my will.

Shri P. Sundarayya: Why did you serve your masters then like that ?

Mr. Chairman: Order, order.

Dr. B. R. Ambedkar: But, Sir, we have inherited, on account of our hatred of the British, certain ideas about democracy which, it seems to me, are not universally accepted. We inherited the idea that the Governor must have no power at all, that he must only be a rubber stamp. If a Minister, however scoundrel he may be, however corrupt he may be, if he puts up a proposal before the Governor, he has to ditto it. That is the kind of conception about democracy which we have developed in this country.

Shri M. S. Ranawat (Rajasthan)**:** But, you defended it.

Dr. B. R. Ambedkar: We lawyers defend many things. (Interruptions.) You should listen seriously to what I am saying, because this is an important problem.

Sir, as I said, we happened to develop a theory of democracy, simply because of our opposition to the British. The British must go and the British must have no power. A Governor must have no power. Let me cite two cases.

One case which I propose to cite is about the Constitution of Canada and I refer to section 93 of that Constitution. As everyone in this House knows, Canada, like ourselves, is a billingual place. A part of it speaks English; a part of it speaks French. And what is worse still is that the English-speaking people are Protestants; the French are Roman Catholics. In

1864, when the Constitution of Canada was made, the Catholics were very much afraid as to what might happen to them under the English Protestant majority and they were not prepared to come into the Constitution of a united Canada. Therefore the Parliament enacted section 93 in the Canadian Constitution. That section does two things. It says that if any province—naturally the reference was to provinces in Protestant areas—where Roman Catholics lived passed any law with regard to certain matters which the Roman Catholics regarded as their special privilage based upon religion, they had the right to appeal to the Governor General that a wrong was done to them, and the Governor General by section 93 had the right to look into their complaint. It was a statutory right of complaint. Not only did section 93 give the catholics a statutory right of appeal against the decision of the majority to have a certain measure annulled, but it goes much further and says that the Governor General shall have the right to enact a positive measure in protection of the Catholic minority. I would like to ask my friend, the Home Member, whether, with the inclusion of section 93 in the Canadian Constitution, he regards the Canadian Constitution to be democratic or undemocratic. What is his answer ?

11-00 A.M.

Dr. K. N. Katju : My answer is that you had drafted this Constitution.

Dr. B. R. Ambedkar: You want to accuse me for your blemishes ?

Mr. Chairman : He has said that he defended the present constitution because it was the majority decision. Get along.

Dr. B. R. Ambedkar : Sir, therefore, my submission is this that no harm can be done *to* democracy and to democratic Constitution if our Constitution was amended and powers similar to those given to the Governor General under section 93 were given to the Governor. At any rate, that would be some kind of a safeguard to certain small linguistic areas or linguistic groups who find that the majority in the State are not doing justice to them.

The second suggestion that I would like to make is from the English Constitution. My hon. Friend must be aware of the position of Scotland in the British Constitution and therefore I would not go into greater details. But he will remember two things. One is this that although Scotland and England are one—nobody can say that they are two separate countries—still there is a special Secretary of State for Scotland under the British Constitution to look after the interests of the Scottish people. He must have gone to London, I think, various times. (*The Hon. Minister indicated by signs*— three) Three times. Surely, he must have passed by the Parliament Street and just by the side of 10, Downing Street, there is a big brass board 'Scottish Office' which is the place where the Secretary of State for Scotland sits. That is the one provision which the British have made. They have not argued, as my friends have argued, that this is a recognition of communalism. Have they ? Scotland came and joined England some hundreds of years ago and yet the British people, in order to recognise the sentiments of the Scots, in order to respect their feelings, have created statutorily an office called the Secretary of State for Scotland.

The second thing to which I would like to refer is this that in the British Parliament there are two Committees. One is a Committee for Wales and Monmouthshire and there is another Committee for Scotland consisting of Scottish members. All Bills referring to Scotland have to be sent to the Scottish Committee so that the Scottish members may have their full say in the matter. In the same way the members of Wales and Monmouthshire are also brought on committees connected with their affairs. It is by placating the sentiments of smaller communities and smaller people who are afraid that the majority may do wrong, that the British Parliament works. Sir, my friends tell me that I have made the Constitution. But I am quite prepared to say that I shall be the first person to burn it out. I do not want it. It does not suit anybody. But, whatever that may be, if our people want to carry on, they must not forget that there are majorities and there are minorities, and they simply cannot ignore the minorities by saying, "Oh, no. To recognise you is to harm democracy."

I should say that the greatest harm will come by injuring the minorities. I fear sometimes that if the minorities are treated in the way in which they are being treated in our Bombay State—I do not want to be parochial, but my friends have been telling me, as I am not there and I do not take any interest in my State, as you know, and I do not even like to call myself a Maharashtrian—I do not know what will ultimately happen. I am fond of Hindi, but the only trouble is that the Hindi-speaking people are the greatest enemies of Hindi.

Mr. Chairman: Dr. Ambedkar, it is an aside.

Dr. B. R. Ambedkar: It is an aside.

Now, Sir, I am told that the Ministers are drawn from the two provinces. The clever members of the Ministry draw all the funds for developing the resources in that particular area, and the other area gets nothing. The same is being said about the Rayalaseema area, that the coastal people are generally able to get larger funds for their area and the Rayalaseema people get nothing. If my friend could make a provision in the Constitution that there shall be constituted lawfully under this very Bill a committee consisting of the members belonging to Rayalaseema, who will have the right to represent to the Governor and to the members of the Ministry that their part is to be included, I think a large part of the grievance would disappear. Similarly, Sir, I find that our Bengali Members are considerably agitated over the fact that part of Bihar—they say—is Bengal. I do not know; it may be, because originally Bengal spread over everywhere. The Governor General had a very large area, and wherever the Governor General went, the Bengalis also went with him.

Mr. Chairman: Go on with the Andhra Bill.

Dr. B. R. Ambedkar: Yes. I am only giving an illustration. My illustration is this, that supposing such was the case that the Biharis were not treating the Bengalis well. Well, the only way open for solving this problem would be that there should be a committee of the Legislature consisting of the members who are Bengalis and who would have the right to represent

their grievances to the Ministry as well as to the Governor or to the President. When all these things fail, then I suppose we shall have to go to the naked proposition that we shall be linguists first and linguists last, and that we shall not recognise India. If that is to be our ultimate aim, well, God save us. But, Sir, my submission to my hon. Friend is this that he should examine carefully some of the points I have made, particularly in the last part of my speech, and see whether he can find any solution to the problem of linguistic provinces, based on the suggestions that I have made, in the new measure that he may have to bring—he may not be very willing to bring a new measure, but he may have to bring it.

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(47)

ESTATE DUTY BILL, 1953

***Dr. B. R. Ambedkar** (Bombay)**:** Mr. Chairman, I would just like to make a few observations on the measure that is placed by the Finance Minister before this House. I am supporting the measure; at the same time I think that there are certain points which require to be elucidated. I should have thought that the very first thing in the collection of an estate duty is to know what the amount of the estate is which a deceased person has left. So far as this measure is concerned, I have not as yet been able to find out how the authorities which have been created under this Act are going to find out what estate a deceased person has left. Referring to section 4 of the Bill, it merely lays down three authorities : the Board, the Controllers of Estate Duty, and the Valuers. Speaking for myself, I should think that it would be a matter of the greatest difficulty for the authorities who are created to administer this measure to know what a person has left.

In the first place, it would be very difficult for them to know who is dead and when he is dead. In this country, it has been a long, long complaint that we have not yet a measure which would compulsorily require a person to report that a child is born to him either male or female or that a certain person in his family is dead, to the Municipal authorities or to the village authorities. He may, if he liked. In the villages, it is the village officer of lowest grade on whom the duty is placed of going and reporting to the village patel that a child is born to a certain person in the village. He may do so, or he may not do so, he may do so after a long time. In the municipality—I am speaking of the Bombay Municipality which is, I think, one of the biggest municipalities—every one knows that there is hardly any compulsion on anybody to go and report to the

* P. D., Vol. 4B. (Council of States), 18th September 53, pp. 2805-15.

municipality that somebody is dead though an official permission is necessary for the purpose of either burying him or burning him. My own experience has been that we often carried the dead body to the graveyard, and there was some sort of insignificant clerk to whom we paid four annas and who gave us a counterfoil of a ticket saying: "All right, you have brought the dead body and you can either bury or burn it as may be the custom prevalent amongst you". I do not know the party to whom this particular certificate—what may be called the death certificate—may be of any use, except to take it to the mill manager and say: "So-and-so is dead: I am his relative, and I want the balance of wages that are lying in your hand". I have no idea whether the clerk who stays in the burial ground reports the matter to the municipality or not that so-and-so was dead, and his dead body was brought there, and was either cremated or buried. That is the condition of the register of births and deaths in this country.

I submit, Sir, that it would be very difficult for the authorities who are created under this Act to go about hunting every nook and corner to find out who is dead. In England, the operation of the estate duty law becomes simple for the simple reason that there everybody dies after making a will and so far as that is concerned, some one has to take what is called a 'probate' so that all the Inland Revenue Officers—as they are called in England—who operate the internal tax system have only to go to the Registrar of the High Court in order to find out whether any application has been made for a probate. If so, from that they can find out who is dead, what is the total estate that has been disclosed in that application. But, unfortunately, in our country, we have not got the habit of obtaining a probate. No doubt, there is a rule that, so far as the Indian Succession Act goes, a probate shall be taken, if there is a will, under the Probate Act. If a party is not governed by the Indian Succession Act, all the same, a party can obtain a probate on a will, if any will is left, under what is called the Probate Administration Act. We have got no such system at all here. I have been wondering at myself, if my hon. Friend appointed me as Controller of the Estate Duty under this Bill, what I would do, where would I go to

find out deaths ? It would be with very considerable difficulty. That, I find, is one lacuna in this Bill.

The second thing that I found in this Bill is this. The hon. member has provided in clause 17 of the Bill as to who should pay the estate duty. If the interest of the deceased is in a controlled company, then somebody representing the controlled company shall pay; if it is others, then, some other persons may pay. All the same, the question remains : how is a Controller to know that the deceased person had a share in the controlled company or that the deceased person had other property ? I should think that this Bill should have a clause like the one that I am suggesting, requiring every successor, whether the deceased left a will or not, to go to the Court and to make a declaration of the property left if there is no will, so that the Controller would know from the declaration that so much property has been left. He can then proceed to find out whether there had been any concealment of the property that the deceased had left. Otherwise it would be a sort of a roving enquiry that the Controller will have to make in order to find out what is the exact amount of property. In the present circumstances in which we exist and in which we find so much corruption, I am very greatly doubtful whether a law of this kind leaving the matter entirely in the hands of the Controller would not result in much more corruption than what exists today. These are the two things which, I find, require to be rectified so that the law which is bound to cause harshness—and every law causes harshness—does not cause unnecessary harassment to the people who are to pay this duty.

The second question to which I wish to draw the attention of the house is the question of the amount that is likely to be realised by this estate duty. I have been following the speeches of the hon. Member, which he has made on various occasions with regard to the Estate Duty Bill and I find that he has been very cautious not to commit himself to any particular figure. I think last time when he introduced the Bill in 1952 he said to the House that he was quite unable to even make a guess of what was likely to be the yield of this tax. Well, I think that with regard to a measure of this

sort which spreads so widely, the Hon. the Finance Minister ought to have at least made a guess with the figures that are available, or at least asked the Board of Revenue to make some investigation and to give him an idea as to whether the yield of this tax would be commensurate with the troubles that he was taking. I have been looking into the report of the Board of Revenue and I find that there are certain figures which the Finance Department could have used for the purpose of telling us, now that the rates of duty are fixed and attached to the Bill, as to what is likely to be the yield. The Board of Revenue does give figures about income tax. It also gives figures as to the total number of joint families that exist in India; it not only gives the total amout of the income tax that was collected from joint families but also the figures of the total number of joint families which were assessed and the total amount of income which was shown by them in their returns. Sir, I think this tax is going to affect to a very large extent the joint families in this country and with the information which is shown in the report of the Board of Revenue for the year 1950-51, it would have been possible for us to know what exactly the Hon. Minister expects from this source as revenue. We would have been then in a much better position to say with all alacrity that no matter what the trouble is, the tax may be levied. But if in the end we find that the amount realised is not commensurate with the measure, the Hon. the Finance Minister himself may regret the trouble that he has taken in bringing forward this Bill.

Shri B. C. Ghose (West Bengal)**:** Then he will raise the duty.

Dr. B. R. Ambedkar: Another thing to which I would like to make a reference is this. There is a feeling that there is a great deal of difference between the estate duty as such and income tax as such, and while there might be some feeling against the income tax there cannot be such a feeling against the estate duty, the difference being that the income tax is a tax on the income and the estate duty is a tax on capital. Superficially, this distinction no doubt is correct because when we levy the estate duty we do not take out of the income,

but we take out of the capital that the man has left. In the case of income tax we take something from the current income that he earns. Sir, I should like to say that this is a very superficial distinction, for ultimately there is no distinction between the income tax and the estate duty because the estate duty is merely nothing more than accumulated income which is taxed at one source, at one defined period, namely, when the man is dead. Now, it seems to me a matter of considerable importance as to whether the tax that you levy at the death of the man is likely to produce effects which would dry up the source of revenue, or whether it is so good, and the country is so resilient, that nothwithstanding the estate duty the country produces more and therefore it does not matter whether you levy the estate duty and it does not matter at what pitch you levy it. My hon. friend must be knowing the facts much more than I do, but I would like to tell the House some of the figures in Great Britain. I have taken them from the report of the Board of Revenue for 1951-52. They give relevant figures. In 1942-43 the total amount of income tax collected in Great Britain was 18 million pounds and in 1951-52 it was 20 million pounds. So far as the death duties are concerned, in 1942-43 the total collection was £93,340,343 and in 1951-52 the total collection was £182,600,643. I would like the house to consider similar figures so far as this country is concerned. Sir, my Hon. friend, the Finance Minister must be aware of the recent report that was made by one of the U.N.E.S.C.O. Committees. There are so many committees in the U.N.E.S.C.O. There was a Committee which investigated into the question of finding out why the South Asiatic Countries were so backward in the matter of their industrial and economic advancement. And the reason that they gave was that the saving in the country was so small that there was no capital formation at all. And in the absence of capital formation, there was the absence of industry and other things. Of course, if we were a Communist Country—and I have no doubt that we shall very soon become one—and our economic life or industrial life or agricultural life was taken charge of by the Government, for better or for worse, it would matter very little how much we save and how much we do not save.

If we save a little, probably the Government would make us save more. And there would be no difficulty on that account at all. But so long as we have not got a Communist Regime which takes complete responsibility for the welfare of the people and their education .....

Shri B, B. Sharma (Uttar Pradesh)**:** And for their "ill-fare" .....

Dr. B. R. Ambedkar: I do not know; there is always something wrong here and there; no system is perfect.

Mr. Chairman: Go on, go on.

Dr. B. R. Ambedkar: I am sorry, he broke my chain of argument. So, what I was saying was this, that so long as we haven't got a system of that sort which takes complete responsibility for the welfare of the people, and so long as we have got a system which makes people responsible for their welfare, well, that State, I suppose, only aids the people in their welfare, but it does not do welfare. It is very accessory that our taxing system should be such that it should leave sufficient for the purpose of creating capital. Every time the Government takes something from us and we are never allowed to carry on. Sir, this Bill which has been brought forward by my hon. friend, as I know it from experience, is not a new measure at all. I remember that the first time that such a Bill was adumbrated was in the year 1944-45. Sir Jeremy Raisman, who was then the Finance Member, said in the course of his Budget speech that he would introduce a Bill like the Estate Duty Bill as soon as Parliament had rectified omission which was contained in Schedule I. The Act of 1935 did not contain any such entry at all as an Estate Duty either to be levied by the Provinces or to be levied by the Centre. Then, in 1946. Sir Archibald Rowlands who succeeded Sir Jeremy Raisman brought forward a Bill. The curious thing about that Bill of 1946 was that it was opposed both by the Congress as well as by the Muslim League. The Congress members said, "You have no right to levy any tax like the estate duty". And the Muslim Leaguers said, "If you levy such a tax, you would be affecting our *Waqf,* which is a trust, and which is partly for God and partly for man." And

so, the Government, with no support from either the Congress or the Muslim League, could hardly do anything about the measure and the measure was dropped. Then again it was taken up in 1948 by Mr. Shanmukham Chetty, who introduced another Bill. The Bill was referred to a Select Committee and the Select Committee took the view that so long as the law of Mitakshara prevailed in this country—and it prevailed in a very large part of the territory of this country—it would be no use having an Estate Duty Bill. The result was that it was taken back—or rather put on the shelf. Mr. Shanmukham Chetty was succeded by Dr. John Matthai and Dr. John Matthai pressed for funds, recalled the session of the Select Committee and put the Bill again before them, and got a verdict from the Select Committee that notwithstanding the fact that the Hindu Code was hanging fire for four years—and nobody knows how long it is going to hang fire, probably permanently and perpetually—and no one is sorry for that except myself .....

Dr. Shrimati Seeta Parmanand (Madhya Pradesh)**:** The hon. Member is not the only Member who is sorry, but there are other Members also.

Dr. B. R. Ambedkar: I know that women Members are very helpful. I must say that last time when I was on tenter hooks. I called some of the ladies—I mean, the more bulky ones—and I suggested to them that if any one of them went on threatening a fast unto death, probably we might get the Hindu Code through. Sir, I tell you .....

Khwaja Inait Ullah (Bihar) **:** You are again giving a hint.

Mr. Chairman: You were encouraging *satyagraha,* Dr. Ambedkar !

Dr. B. R. Ambedkar: Yes, sometimes it is useful. If it could not bring this Bill through, it would have certainly reduced the weight of the ladies and would have improved their health also considerably. That was the position. Dr. Matthai had a verdict in 1949. There was a second report of the Select Committee and it said, "Never mind about the Hindu Code. Let us proceed with the Estate Duty Bill", but for three years noting happened. One does not know why. The

Bill was lying in the file of the Finance Department till in 1952 my hon. Friend, probably in doing the work of the office duster, found a copy somewhere. And what did he do ? It is an interesting thing. The Select Committee said that they could by some suitable amendment get over the difficulty of the Law of Mitakshara. My hon. Friend has made some effort to get over that difficulty and he has got over that difficulty by practically destroying the Mitakshara law. Clause 7 says that if a person below 18 dies, then there will be no estate duty but if a coparcener dies in a condition in which we describe him under the Hindu Law as the sole surviving coparcener, then estate duty may be levied. Well, Sir, if my hon. Friend can in this roundabout method defeat the Mitakshara Law, could he not have the courage to say, by bringing in another Bill or by inducing his colleague the Law Minister to bring in another Bill, that the Mitakshara Law is abolished ? So, Sir, these are some of the points which I wanted to make. Mitakshara Law is notionally destroyed, because under the Mitakshara Law there is no such thing as the passing of the property, because the property is already his by birth. There is no question of the passing of property. It is a wrong notion. I do not know who has told him about it. Under the Mitakshara Law property does not pass. As soon as a child is born, the property becomes his and the father's share is reduced. What passes therefore on the death of the father ? Nothing. As soon as a son is born, the father's share is affected. Supposing he has a second son, as he is likely to have, and the first child happens to be so unlucky as to have a brother, then the share is still further reduced.

Sir, I am told that there are some 44 countries in the world which have passed such a law, viz. Estate Duty Law. I have not got the list with me, but I am sure very few of the Southern Asiatic Countries have passed any such law. There is hardly anything remaining with them. As the report of the Committee shows, they have nothing to pass on. Our great problem is. "How shall we accumulate ?" We hate capitalists and I do too. I Have all my life lived in Parel in a *chawl* of the Improvement Trust, Room No. 50. If people go there, they ' might visit it. I paid originally Rs. 3-8-0 as rent for my room

and I have still kept it as an emergency measure in case I am asked to go back again there. So I am no great friend of the capitalists, but I think that in this country we ought to make a distinction between capital and capital. If you want the capital from them, take it from them. Adopt the Russian system and go on. My only point is that you must have some discrimination. In their enthusiasm—which is a very good thing—I am afraid they are running amuck, because some other countries have done something. Well, India is certainly not Europe. I have gone to Europe several times, and I could very easily see the difference between India and Europe, very easily. What is good for Europe certainly could not be good for India. We have certainly to reach the standard that the European people have reached *viz.* standard of comfort, standard of living equality of treatment, education, etc. All these things we need. For that purpose, we need money. Take the case of the English people. Take their educational progress. There compulsory elementary education came in 1860, while the Oxford University was established some time in the eleventh century or the twelfth century. So, we have to be very careful in doing what we are doing. Our enthusiasm no doubt is well merited. It is good that we should bring about the betterment of the people, but we should be careful about the means that we adopt. That is all that I want to say.

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(48)

INTERNATIONAL SITUATION

***Dr. B. R. Ambedkar** (Bombay) **:** Mr. Chairman in this debate on foreign policy what one can do, at the most, is to discuss the principles on which the foreign policy of the Government is based. There is hardly time for doing anything more. Principles are undoubtedly very valuable, but I take it politicians have a great dislike for principles, particularly politicians who are dealing with foreign policy. They like to deal with things *ad hoc,* each transaction by itself, without any underlying principle.

I remember, that when after the first World War, Mr. Lloyd George and Mr. Clemenceau met in a hotel in Paris before the Versailles Treaty in order to settle, among themselves, where to draw the line of partition between certain territories belonging to Germany in order to hand them over to France for satisfying the strategic fears of France, they had a long map spread in a room which covered the whole of the room and Lloyd George and Mr. Clemenceau had fallen on their tummy to examine exactly; where the line should be drawn. After a long search they drew the line which was of course, most suitable to France. Afterwards Mr. Lloyd George called Mr. Nicholson, who had accompanied him as the expert from his Foreign Office and asked him to express his opinion about the line which they had drawn. Mr. Nicholson explained in horror saying, "Oh! this is too bad, too bad. Morally quite indefensible". Both these statesmen immediately turned on their back and raised their legs in the air and said, "Well, Mr. Nicholson, can't you give us a better reason ?"

I remember also about 1924 or so. Mr. Low, the great cartoonist, having drawn a cartoon in the *Evening Standard* in London showing the various Foreign Ministers of

* P. D., Vol. 7A (Council of States), 26th August 1954, pp. 469-83.

the different countries of Europe then searching for the settlement of European problems with their top hats, tail coats and striped trousers holding each other's hands, dancing round and saying, "Oh ! give us peace without principles, give us peace without principles". Of course, the world laughed at that.

I am glad that that cannot be said of our Prime Minister, He has certain principles on which he is proceeding. It is for the house to decide whether the principles on which he is proceeding are principles which can furnish us a safe guide and whether they are valid principles on which the destiny of this country could be staked. That is the only question that we can discuss and it is to these principles that I am going to confine myself.

The principles on which the Prime Minister is proceeding—and he has said so himself—are mainly three. One is peace : the second is co-existence between communism and free democracy; and the third is opposition to SEATO. These are the three main props on which his Foreign policy is based. Now, Sir, in order that one may be able to assess the validity and the adequacy of these principles, I think, it is necessary to have some knowledge of the background of the present day problems with which we are concerned and for which these principles are enunciated.

Now, the background, to my mind is nothing else but the expansion of communism in the world. It is quite impossible to follow the principle or to understand the validity and the nature of the principle unless one bears in mind the problem that the world has to face today—that part of the world which believes in parliamentary and free democracy, *viz.,* the expansion of communism in the world. I propose to give some figures to the House which I have collected in this matter. I am not going back into the long past but I am going to start from May 1945 when the War came to an end. By May 1945, Russia had consumed ten European States.

Shri B. Gupta: It is an utter falsehood.

Mr. Chairman : Mr. Gupta, you will have your chance to reply.

Shri B. Gupta: He cannot say such things. An older man like him can not say such things.

Mr. Chairman: Mr. Sundarayya, tell him that he will have an opportunity of answering and he need not get excited.

Dr. B. R. Ambedkar: You will have time to answer. Don't be impatient. The person who is often uneasy is the Prime Minister but he is not today. He is quite calm. Why are you so excited ?

If you want to have a look at the authority, I will give it to you—I have got it here—provided I am assured that you will return it to me.

Shri B. Gupta: You have your document from McCarthy and Dulles.

Dr. B, R. Ambedkar: Now, Sir, I was saying that if we take stock of the situation from May 1945, and find out what has happened, this is the situation. Russia has consumed, as I said, ten European States: one is Finland; two, Estonia; three, Latvia; four, Lithuania; five, Poland; six, Czechoslovakia, seven; Hungary; eight, Rumania; nine, Bulgaria; and ten, Albania.

Shri B. Gupta: ..... and eleven is Dr. Ambedkar!

Dr. B. R. Ambedkar: I am glad you add to my list. You are more upto-date than the book.

In addition, Russia has taken possession of parts of Germany, Austria, Norway and the Danish Island of Bornholm. Of these ten European States, three have been straightway annexed by Russia and made part of her country. The rest seven are kept under Russian influence. This European conquest of Russia amounts to an absorption of a total of 85,000 square miles and 23 millions of people subjugated.

In the Far East, Russia has annexed the Chinese territory of China (Tannu Tuva). Manchuria, and Korea, north of the 38th parallel, and Southern Sakhalin. This territory in the Far East represents against a total area of 20,000 square miles and 500,000 inhabitants.

Shri P. Sundarayya: What about the People's Republic of China ? Why did you omit it ?

Shri Govinda Reddy: He said that.

Shri B, Gupta: A great demonstration of history is going on; a great historian has devolved!

Dr. B. R. Ambedkar: They have increased the number by further aggression in South Korea and Indo-China.

Well, Sir, this is the background, I say against which the adequacy of the principles on which the foreign policy of this Government is based must be considered. I will take first the principle of peace. We want peace; nobody wants war. The only question is, what the price of this peace is going to be. At what price are we purchasing this peace ? Now, it is quite obvious that peace is being purchased by what might be called partitioning and dis-membering of countries. I can quite understand the dismemberment of Austria-Hungary where different nationalities with different languages, different cultures, different races, were kept together under one sovereign autocracy of the Austrian Empire. The first World War brought about the end of the Austrian Empire on the well-known principle of self-determination. But here what you are doing is this. There are countries which are culturally one, which are socially homogeneous, which have one language, one race, one destiny, desiring to live together. You go there, cut them up and divide the carcase, and hand over a part of the carcase to what ? To countries who are interested in spreading communism. From the figures which I have given there can be no doubt about it that communist countries today are as big as a giant—nobody has seen a giant—I have not seen anyhow .....

Shri B. Gupta: Except yourself.

Dr. B. R. Ambedkar : ..... and he is supposed to be one of the biggest individuals or persons that can be imagined. Here you have a vast country endlessly occupied in destroying other people, absorbing them within its fold on the theory that it is liberating them. The Russian liberation, so far as I can understand, is liberation followed by servitude; it is not

liberation followed by freedom. But the point is this—and it worries me considerably. You are, by this kind of a peace, doing nothing more but feeding the giant every time the giant opens his jaw and wants something to eat. When you are feeding the giant regularly and constantly, the question that I should ask myself is this. Is it not conceivable that this giant may one day turn to us and say: "I have now consumed everything that there was to be consumed : you are the only person that remains, and I want to consume you".

Shri H. P. Saksena: Then we will consume the giant.

Dr. B. R, Ambedkar: Let us not boost ourselves too much. We have not been tried as yet in an international bout and when we are tried in an international bout I think it will be found out whether we can face the situation ourselves. But the point that I was making is this. This principle of feeding the giant seems to me a most obnoxious principle and how, for instance as I said can we expect to be relieved ? Will the Russians show any gratitude because the Indian Prime Minister and the Indian Parliament have supported the partition of Indo-China or supported the partition of Korea, and will they not turn to us ? I think this is a question which the Indians should bear in mind and not forget or overlook.

Now the other question, namely, co-existence. This coexistence to my mind is an astounding principle unless it is very strictly limited. The question is : Can communism and free democracy work together ? Can they live together ? Is it possible to hope that there will not be a conflict between them ? The theory, at any rate, seems to me utterly absurd, for communism is like a forest fire; it goes on burning and consuming anything and everything that comes in its way. It is quite possible that countries which are far distant from the centre of communism may feel safe that the forest fire may be extinguished before it reaches them or it may be that the fire may never reach them. But what about the countries which are living in the vicinity of this forest fire ? Can you expect that human habitation and this forest fire can long live together ? I have seen comments from Canadian statesmen and from European statesmen congratulating the policy of

co-existence. Their praises and their encomiums do not move me in the least. I attach no value to their view and to their opinion. The statesmen of Canada can very easily say that co-existence is possible because Canada is separated from China and Russia by thousands and thousands of miles. Similarly, England after having pulled itself out from the great conflagration, now thinks that she is too exhausted to do anything and therefore likes to enunciate and support the principle of co-existence. But there again it is a matter of distance. One must not forget that in the foreign policy of a country the geographical factor is one of the most important factors. Each country's foreign policy must vary with its geographical location in relation to the factor with which it is dealing. What is good for Canada may not be good for us. What is good for England may not be good for us. Therefore, this co-existence seems to me a principle which has been adopted without much thought on the part of the Prime Minister.

Then, Sir, I will say a few words with regard to the SEATO. I was very carefully listening to the Prime Minister's observations with regard to the SEATO, and I was glad to find that he had not made up his mind about the SEATO. If I heard him correctly, he said that in view of the fact that this country has accepted the chairmanship of some commission in accordance with the Geneva decisions it may not be compatible for him and for this country to join the SEATO at the same time. The two things would undoubtedly be incompatible. But apart from that I think the merits of the SEATO must be considered.

The repugnance to SEATO appears to me to arise from two sources. I think I am not letting out any secret nor am I accusing the Prime Minister of anything of which he does not know, that the Prime Minister had a certain amount of hostility, or if he does not like that word, estrangement between himself and the United States. Somehow he and the U.S.A. do not see eye to eye together. That is one reason why I think he always had a certain amount of repugnance to anything that comes from the United States.

Shri B. Gupta: Are you speaking for match-making ?

Mr. Chairman: The Prime Minister is quiet and you are talking.

Dr. B. R. Ambedkar : And secondly from the fear of what Russia will think if India joins the SEATO. Here again, I think, it is necessary to give the House some background against which the merits of the SEATO may be assessed. Now, Sir, what is the background of all this ? The background is this.

I have given a list of countries which have gone under the Russian regime. I think it is well known that this happened largely because, if I may say so, of the foolishness of the Americans during the last Great War. The Russians got possession of these territories with the consent of Mr. Roosevelt and with the reluctant willingness of Mr. Churchill. Mr. Churchill expressed, when the war ended that they had done a great mistake, and a great wrong, in sacrificing the liberty of so many nations for the sake of winning victory against Hitler. And the same feeling, I think, is expressed by him in his last volume which he called "Triumph and Tragedy". It is because of this that he named his last volume "Triumph and Tragedy". Now, Sir, what the Americans are doing. If I understand, their policy correctly, is this. Their point of view is that Russia should be satisfied with what she has got during the war, the ten countries. As a matter of fact. I should have thought that it should have been the duty of the Americans and the Britishers to extricate these countries, to liberate them, to make them free. But neither country has the will, nor the moral stamina, nor the desire to engage itself in such a stupendous task. They are therefore following, what may be called a second line of defence, and that second line of defence is that Russia should not be allowed, or China should not be allowed to occupy any further part of the free world. I think that is the principle to which all freedom-loving people would agree. There could be no objection to it. And it is to prevent Russia from making further aggression that they are planning the SEATO. The SEATO is not an organisation for committing

11-00 A.M.

aggression on any country. The SEATO is an organisation for the purpose of preventing agression on free countries. I wonder whether the Prime Minister will not be prepared to accept this principle, that at any rate, such part of the free world as has, by accident, remained free should be allowed to remain free and not to be subjugated . Is India not exposed to aggression ? I should have thought that it is very much exposed to aggression. I have no time. Otherwise, I was going to point the House how this country has been completely encircled on one side by Pakistan and the other Muslim countries. I do not know what is going to happen, but now that the barrier between Egypt and England has been removed by the handing over of the Suez Canal, I think, there may be very little difficulty in the Muslim countries joining with Pakistan and forming a block on that side. On this side by allowing the Chinese to take possession of Lhasa, the Prime Minister has practically helped the Chinese to bring their border down to the Indian border. Looking at all these things, it seems to me that it would be an act of levity not to believe that India, if it is not exposed to aggression right now, is exposed to aggression and that—aggression might well be committed by people who always are in the habit of committing aggression.

Now, I come to the other question. What will Russia say if we join SEATO ? And the question that I like to ask is this. What is the key-note of Russian foreign policy ? What is it ? The key note of our foreign policy is to solve the problems of the other countries, and not to solve the problems of our own. We have here the problem of Kashmir. We have never succeeded in solving it. Everybody seems to have forgotten that it is a problem. But I suppose, some day, we may wake up and find that the ghost is there. And I find that the Prime Minister has launched upon the project of digging a tunnel connecting Kashmir to India. Sir, I think, it is one of the most dangerous things that a Prime Minister could do. We have been hearing of a tunnel under the English Channel to connect France with England. We have been hearing it for 50 years, I think someone has been proposing, and yet the English have never done anything to carry out the project, because it is

a double-edged weapon. The enemy, if he conquers France, can use the tunnel and rush troops into England and conquer England. That might also happen. The Prime Minister, in digging the tunnel, thinks that he alone would be able to use it. He does not realise that it can always be a two-way traffic, and that a conqueror who comes on the other side and captures Kashmir, can come away straight to Pathankot, and probably come into the Prime Minister's house—I do not know.

Mr. Chairman: Getting time.

Dr. B. R. Ambedkar: Now, one or two small observations

Mr. Chairman : One or two small observations to wind up.

Dr. B. R. Ambedkar: Yes. The Prime Minister has been depending upon what may be called the *Panchsheel* taken by Mr. Mao and recorded in the Tibet Treaty of non-aggression. Well, I am somewhat surprised that the Prime Minister should take this *Panchsheel* seriously. The *Panchsheel,* as you, Sir, know it well, is the essential part of the Buddhist religion, and if Mr. Mao had any faith in the *Panchsheel,* he certainly would treat the Buddhists in his own country in a very different way. There is no room for *Panchsheel* in politics and secondly, not in the politics of a communist country. The communist countries have two well-known principles on which they always act. One is that morality is always in a flux. There is no morality. Today's morality is not tomorrow's morality.

You can keep your word in accordance with the morality of today and you can break your word with equal justification tommorrow because tomorrow's morality will be different. The second thing is that when the Russian Communist State is dealing with the other States, each transaction is a unit by itself. When we deal with somebody, we begin with goodwill and end with gratitude. When the Russians deal with somebody, they do not begin with goodwill, nor do they end with any gratitude. Each transaction begins and ends by itself, and this is what I am sure the Prime Minister will find at the end when the situation ripens. The Prime Minister has always been saying that there is such a thing as the principle,

"Asia for Asiatics". Yes, in so far as colonialism is concerned, that principle is perfectly true. Asia must be for Asiatics, but we are dealing with a situation like this ? Is Asia one today ? In what sense ? Asia is divided now, it is a divided house now. More than half of Asia is communist. It has adopted a different principle of life and a different principle of Government. The rest of Asia follows a different life and a different principle of Government. What unity can there be among Asiatics ? What is the use of talking about Asia for Asiatics ? There can be no such thing at all. Asia is already becoming the cockpit of war and strife among Asians themselves. Therefore, it is better to align ourselves with what we call free nations if we believe in freedom.

One word about Goa. There can be no doubt that the Prime Minister in pursuing the policy of getting Goa evacuated is quite right. It is a very sound policy and everybody must lend his support to him. I do. But there is one observation that I would like to make. This question about the evacuation of Goa by the Portuguese and handing it over to India was, if I remember aright, brought to his notice very early when we got our independence. I possess with me some notes which were submitted to him by a delegation—I have forgotten their names, but I have got them with me—but the Prime Minister took no active interest in it. I am very sorry to say that, because I feel that if the Prime Minister had in the very beginning taken an active interest in the matter. I am sure about it that a small police action on the part of the Government of India would have been quite sufficient to enable us to get possession of Goa, but he has always been only shouting against them, only shouting and doing nothing. The result has been that the Portuguese have been able, so far as we know, to garrison Goa. Of course, the Prime Minister's information must be correct and must be accepted by us that Goa is still defenseless, that there is no garrison there, no army there, brought by the Portuguese.

Shri Jawaharlal Nehru: I said no such thing.

Dr. B. R. Ambedkar: I thought he said so, but whatever it is, the point now is this : Personally I myself think that

this discussion over observers has no value and no consequence. Supposing the Portuguese give the best treatment to the Goanese, are we going to give up our claim over Goa ? May be that they give dominion status to them, so far as we know, and make them full-fledged citizens, but we are not going to give up our claim to Goa. No doubt about it. It is part of India. Therefore all this talk about observers seems to me to be beside the point. We must deal with the Portuguese people over this question. Are they prepared to surrender their sovereignty in the same way as the British did ? This is the only issue that I think need be discussed. Sir, it seems very unfortunate that some of the enlightened nations are siding with the Portuguese. I am sorry to see Mr. Churchill in a clandestine manner siding with the Portuguese saying to us. 'Do not use force', Why ? Are they going to go away with a kiss from the Prime Minister ? And without a shot being fired ? Similarly Brazil, and I do not know what the attitude of the U.S.A. is, which has not been publicly proclaimed. Possibly, they may also have a soft corner for Portugal. I have been wondering why all these things have happened, why England, which voluntarily surrendered sovereignty, to the people of this country, should ask another country similarly situated to act in a contrary way. It is impossible to understand it. It seems to me—the Prime minister may accept my suggestion or may not accept it but it seems to me that they are trying to teach our Prime Minister that neutrality has price.

Shri P. Sundarayya : The Prime Minister must take note of it.

Dr. B. R. Ambedkar: I am going to make one suggestion to the Prime Minister. I do not think that we should have an armed conflict with the Portuguese if the Portuguese are going to be supported by other United Nations members, but less than that, there are two proposals that I wanted to make. You remember perhaps that there was the case in America which concerned the State of Louisiana, which was a French possession in the midst of American possessions and the Americans were very anxious to get rid of the French and to have Louisiana transferred to the United States. The

measure that they adopted was to get it for a price. The price given was—I have got the figures with me.

Shri P. Sundarayya: A few pieces or silver.

Dr. B. R. Ambedkar: A very small price indeed for a huge territory. Goa is really nothing compared with it. Goa is just one of the towns of Louisiana. If the Prime Minister wishes to adopt it .....

Shri Jawaharlal Nehru: What is it ?

Mr. Chairman: Purchase it from Portugal .....

Dr. B. R. Ambedkar: Initiate discussion on that. I am suggesting alternative methods.

Mr. Chairman: That is one suggestion. What is the other ?

Dr. B. R. Ambedkar: The other suggestion that I would like to put before the Prime Minister is that we can take Goa on lease. We all remember in our own country of the lease of Berar. Berar was the property of the Nizam. He had sovereignty over it, but the British Government in the year 1853 or so got Berar on a permanent lease. I do not know what amount of money they gave the Nizam. It might have been very small.

Shri B. Gupta: If we do that, we will have to mortgage India's honour.

Dr. B. R. Ambedkar: I am sorry I Can't follow him. It is very difficult for me to follow him.

Mr. Chairman: It is difficult to follow him.

Dr. B. R. Ambedkar: What I say is this. We are hot interested very much as to who is the nominal sovereign in this matter. What we are interested in getting possession of Goa, and in establishing our own administration there. We have here a case where in our own country a territory belonging to another sovereign was leased over, made permanently part of India with certain embellishments to indicate that there was a sovereign. I think his son was made Prince of Berar. That is another method which the Prime

Minister may try. I don't see any reason why he should not succeed with the Portuguese in persuading them to adopt either of the two methods.

There is only one more observation I will make and I will sit down. I was reading the other day a volume published by the Institute of International Affairs at Chatham House, giving a survey of things that led to the Second World War, and the author, undoubtedly one of the best and most erudite, drew two conclusions as to why the war came and why it was not avoided. One was that Mr. Chamberlain, on account of the policy of disarmament which was then being agitated upon by the Labour Party could not preserve what is called the balance of power in Europe and allowed Hitler to grow and grow until, it was difficult to control him. The second thing, he said, was that Chamberlain made the greatest mistake in believing in the word of Hitler. There was no greater liar than Hitler. He was given all that he wanted when the Sudetan Germans were separated from Czechoslovakia and he said he had nothing more to ask. The whole House will remember that after that treaty was signed, the very next day he marched into Czechoslovakia. I hope our Prime Minister will not make these blunders. Sir, I have done.

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GOVERNMENT ORDER ON BANK DISPUTES

***Dr. B. R. Ambedkar** (Bombay) **:** Mr. Chairman, I see from the speech of the Hon. the Prime Minister that it was more anxious to dispel certain charges which people are likely to make against the Government on the ground that they have shown a bias in favour of capitalists and against labour. I certainly am not one of those who are seeking to make such a charge against the Government. I may make out a case towards the end of my speech that the Government has altogether misjudged the position expressed in my judgement, has not even understood the facts which were before them.

12-00 NOON

The Prime Minister's case—if I understood him correctly—resembled the case of a woman who had given birth to an illegitimate child and when she was questioned on this issue, she said : "Sir, it may be illegitimate, but it is a very small baby." Well, I suppose we could separate the two issues, the fact that the decision is illegitimate and the fact that the decision probably is a small one. We are concerned only whether the decision is a just one or not.

As the time is very short, it is not possible to indulge in any preliminary obersvations before entering into the subject matter. I, therefore, propose to begin with the subject matter itself.

A certain issue raised by the Leader of the Opposition is this : Are the modifications made by the Government in the Labour Appellate Tribunal's Award justified ? The Prime Minister legitimately said that the Government has the right to modify and I entirely agree with him that the Government should have the right to modify the Award, because, after all,

* P. D. Vol. 7A. (R. S.), 2nd September 1954, pp. 1207-16.

the Government which he is in charge of, has to consider the welfare of the people as a whole and not merely of one section of the people, and they carry the responsibility all together. Therefore, that is a very legitimate right. As I said, the question is whether they had exercised their right properly.

Now, Sir, in order to appreciate the point that I propose to make, I think it is necessary to itemise the modifications which the Government has made in the Labour Appellate Tribunal's Award. What are the modifications ? So far as I see, the modifications are four. In the first place, the Government has added a new area, called class IV area, which is to comprise populations of less than 30,000. The previous awards, commencing from the award of Mr. Justice Sen, the Sastry award and the Tribunal award, have all agreed that it was enough to classify the areas into three classes. A fourth class was not necessary, but the Government felt, for reasons I have no doubt the Hon. Finance Minister will explain in the course of his reply which led them to create this new class IV area. Sir, the second thing they have done is to have fixed the salary for the Class IV area. So far as A Class banks are concerned, the minimum salary—I am not dealing with the other matters such as house rent allowance and dearness allowance, because what we are concerned with is the basic minimum salary—is Rs. 66. For B class banks it is Rs. 60; for C class it is Rs. 51, and for D class also it is Rs. 51, I think my friend will correct me if I am wrong. I find the two bracketed together. The third change which the Government has made in the Award of the Tribunal is that they have exempted from the operation of the Award Part B and Part C States, except the three towns, I think, of Delhi, Ajmer and some other town. I forget now. And the fourth modification which the Government has made is to grant complete exemption to a bank which is called the United Bank of India.

The Minister for Finance (Shri C. D. Deshmukh): May I point out that protection of the present emoluments is also **a** modification of the Award ?

Dr. B. R. Ambedkar: Yes, I take it to be so.

Shri C. D. Deshmunkh: I assure the hon. Member that it is so.

Dr. B. R. Ambedkar: Now, Sir, what we have to do is to consider the grounds urged in support of these modification. It is said that banking is a very necessary industry or service for the development of India, its commerce and its industry. It is a thing, I think, which nobody would dispute, that banking is a very essential thing which ought to be sustained by all legitimate means. Secondly if the banks are necessary, then salaries and wage bills of employees must be so fixed that they will allow the banks to make a profit. That is the proposition, I think, which most people would question, but that is one of the foundations on which the modification rests.

The first thing to which I would like to draw the attention of the House is this. There is in existence today, in fact in operation, the Sen Award. It has been in operation since 1951. Its scales were certainly much higher than the scales of the Sastry Award. Now the point is this. This award given by Mr. Justice Sen in 1951 has been in operation and was put into operation by the Government by special ordinance, because the Sen Award was declared to be void, by the Supreme Court, on the application of certain bankers on the ground that there was some technical defect in its composition, and, therefore, the Sen Committee was not entitled to give an award. When the bankers had started reducing the salary of the employees, Government stepped in, and by an ordinance declared that the wages were frozen, that is to say, whatever was given to the employees under the Sen Award would continue notwithstanding the fact that the Supreme Court had declared the Award to be void. Now, Sir, that is one piece of evidence, I submit, which goes to show that the argument that this Award, if placed upon the shoulders of the banks, would not leave them with sufficient profits does not seem, to my mind, to carry any weight at all.

Then again, let us compare the figures which have been supplied by the Reserve Bank in a booklet, I understand, which is called, "The Trend of Events" or something like that. It contains figures from 1949 to 1953. I have taken out just the relevant figures. Now, in the case of A class banks, there is a fall in the working capital of 10 per cent gross

earnings have gone up by 20 per cent, and the dividends have increased by 8 per cent, during this period. In the case of B class banks, there is a fall in deposits of 13 per cent, also a fall in working capital of 13 percent., but gross earnings have gone up by 9 per cent. In the case of C class banks, deposits have gone up by 12 per cent., working capital has gone up by 12 percent, and there has been an increase in gross earnings, and also an increase in dividends. So far as the D class banks are concerned, they appear to me to be a most prosperous institution in this country, because there has been in their case an all-round increase, in deposits, in working capital, gross earnings and dividends. Now, Sir, there is no doubt that there is a certain amount of fall in the profits with regard to calss A banks and class B banks. What are the reasons for it ? Is it the reason that the Wage Bill has increased, or, does the reason lie somewher else ? It seems to me that there is a fall in the deposits, and a considerable rise in the rate of interest, to account for the fact that there has been a certain amount of fall in their profits. And surely, the Wage bill could not be used as a ground for urging that the banks have been sent into ruination by this Award. I therefore, submit that it is not possible to accept the argument that profits have gone down because of Wage bill. They have certainly not gone down on that account, although they may have gone down. Therefore, this argument certainly cannot be used for the modification of the Award in order to bring down the wage as fixed by the Tribunal.

Then again, Sir, with regard to the second change, namely, the creation of a class IV area I do not quite undrestand why the Government felt the necessity of creating this new area. The cases were argued before three tribunals. There were innumerable lawyers representing the workers and representing the bankers. Surely, none of them ever thought that it was necessary, in the case of any class of banks, that this new area should be created. What led the Government to create this area, I do not quite understand.

Then, Sir, the third change—the exemption of Part B and Part C States—seems to me to be one of the most difficult things to justify.

Mr. Chairman: It is getting time.

Dr. B. R. Ambedkar: I have just a few things to say .....

Mr. Chairman: Yes, as briefly as possible.

Dr. B. R. Ambedkar: Thank you, Sir. It is very difficult to understand on what ground these two areas of Part B and Part C States could be excluded from the operation of this Award. Now, Sir, what does this mean ? It means that the lowest scale which the Government has laid down for class IV area, namely, a minimum salary of Rs. 51, is not to be operative in Part B and Part C States, that is to say, the employees have been left at the mercy of the employer.

They may pay them any wages they like. May be that banking is necessary and that banks should make profits. That also be a reasonable thing, but should we allow this kind of exploitation, complete exploitation ? No minimum standards have been fixed at all. It seems to me completely inexplicable and un-understandable.

Now, again, the fourth modification made by the Government in respect of the exemption of the United Bank of India is also a very extraordinary thing. So far as I have been able to gather any information about this particular institution, originally there were four banks started by the refugees in Calcutta to help themselves, I believe, and to carry on the business of banking.

The Deputy Minister for Finance (Shri A. C. Guha) : I am afraid the lion. Member is not quite correct. The banks were there long before the partition. Only, they were amalgamated into one bank after the partition.

Dr. B. R. Ambedkar: I am very glad to hear that. That supports me much more. I was taking a broken reed for my stand. I take it that this is a long-standing institution, but they were amalgamated.

Shri A. C. Guha: May be long-standing but may not be sound-standing.

Dr. B. R. Ambedkar: This bank, according to the information I have, has a working capital of Rs. 33 crores.

Let my friend deny it or let him correct me. He knows something about this bank evidently. The capital of this bank is somewhere near Rs. 33 crores. Now, according to the classification that has been adopted by the Sen Award, the Sastry Award and of the Appellate Tribunal, this bank ought to be placed under A class banks, because A class banks are banks whose working capital is Rs. 25 crores or above. Certainly this bank as I said, ought to be in the A class and the scale prescribed by Government ought to be applied to this bank. Apparently there seems to be no ground. Evidently this bank for some reason which I am unable to understand, was in troubled waters. It applied to the Sastry Committee and asked for some exemption. The Sastry Committee gave it exemption up to 31st December 1954. They said "After that date the Award will apply to you." When the matter went to the Appellate Tribunal, this bank which was not satisfied with the concession given to it by the Sastry Committee, again applied for further exemption, and the Tribunal was pleased to extend the period of exemption up to December 1955, and the Government in its notification specifying the modifications which they wanted to make said : "This Award shall not apply to this bank at all." I hope that my friend does not say that it shall never apply to them. I hope it will apply to them some day. It requires some justification as to why the Government was so biased in favour of this particular bank as to set aside the limited concession that was given by the two previous tribunals and exempted it altogether. There is no justification whatsoever.

Now, there are other points to which I wish to draw the attention of the house. I find that in certain respects the Government ought to have modified the Award but has not modified, and the first point which, I think the Government ought to have taken into consideration as a point requiring modification is the system of classification that was adopted from the very beginning, from the Sen Committee down to the labour Appellate Tribunnal. Now, Sir, I should like to give just one illustration to show how absurd has been the classification. Take Class A banks. Class A banks are banks with a working capital of Rs. 25 crores or more. It does not

set any upper limit. It just says Rs. 25 crores. That is to say, all other banks who have—may be—Rs. 100 crores as working capital or Rs. 200 crores as working capital, are to be on a par with a bank who has got just Rs. 25 crores as its working capital. As a flagrant illustration of this wrong classifiaction, I find that the case of the Imperial Bank is the most apposite. My friend there has given figures, but I would like to give the figures that I have for what they are worth. Its capital, I understand is somewhere about Rs. 218 crores, and it has deposits totalling 41 per cent, of the total deposits of all the Indian scheduled banks. Now, Sir, I should like to ask whether it is right to place a bank with Rs. 25 crores as working capital on the same footing, on the same par with a bank which has got Rs. 218 crores as working capital and whether it was not desirable and necessary for the government to create a special class of the Imperial Bank.

Prof. G. Ranga (Andhara)**:** Let them nationalise it.

Dr. B.R. Ambedkar: I have not got all the figures but there are many groups between Rs. 25 crores and Rs. 218 crores, and I am sure that, if there had been many classifications, many employees would have got larger benefits by way of wages and other emoluments, because they will all be related to profits, but the Finance Minister has very quietly accepted the classification proposed by these three bodies without proper investigation.

Mr. Chairman : You must wind up. Dr. Ambedkar. There are other speakers.

Dr. B. R. Ambedkar: Yes, Sir, I would not take more than a minute or two. I do not know why my hon. friend, who made an exemption in the case of the United Bank, which was really an exemption which worked adversely to the working classes, did not make a different category of the Imperial Bank, so that it would have been a discrimination in favour of the working classes. Surely, one would have been on a par with the other.

Then, there is another thing arising out of this point of classification. None of these three bodies, the Sen Committee,

the Sastry Committee and the Appellate Tribunal, had felt it necessary to make a distinction between Indian banks and foreign banks in this country. By foreign banks I mean the exchange banks. I find from the Sastry Award that there were twelve of these exchange banks which were a party to the dispute before the. Sen Committee, the Sastry Committee and the Appellate Tribunal. Now, Sir, each of these banks according to the Sastry Award, has more than Rs. 50 crores by way of deposits which are mostly gathered from the depositors in this country. Now, everyone knows that these foreign or exchange banks mainly engage themselves in supporting foreign investors or foreign commerce.

They render, I suppose, very little help to the indigenous industry or to the indigenous trade. That is one point. Secondly, they import a large volume of their personnel from outside and Indians whom they employ are employed on the lowest rung of the ladder. The Europeans whom they employ are paid fabulous salaries. Surely, I ask whether it is not justifiable to make a distinction between the Indian banks and the foreign banks and to enable Indians at least to get some advantage from these foreign banks which is all going to the foreign employees. Sir, I have done.

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REPORT OF COMMISSIONER FOR SCHEDULED CASTES AND TRIBES FOR 1953

***Dr. B. R. Ambedkar** (Bombay)**:** Mr. Deputy Chairman, this is the third Report which the Commissioner for the Scheduled Castes and the Scheduled Tribes has submitted to the President. At the outset, going through the Report, one notices that the Commissioner makes a complaint against the Members of Parliament blaming him for not taking action on the various matters discussed by him in his Report. He says that the Members of Parliament have forgotten that he is not an executive authority, that his duty is merely to report. The executive departments are supposed to give effect to whatever recommendations of suggestions that he makes, I think his observations are very sound. He is not an executive authority and for the purpose of criticising what action has been taken, the criticism must be levelled either against the Home Minister or against the other departments of the Government of India. But, Sir, while one must admit the legitimacy of the criticism made by the Commissioner, I think there is one criticism that one can legitimately make against the Commissioner himself in the matter of drafting and presenting his Report. I was referring to his chapter dealing with complaints, because I thought that would be one of the most interesting and instructive chapters in that book. We are all aware of the fact that the Scheduled Castes in particular are subjected to all sorts of tyrannies, oppressions and maltreatment at the hands of the villagers in the midst of whom they live. And it would undoubtedly be a matter of great interest to know what are the tyrannies, maltreatments and oppressions to which they are being subjected almost every day, I have no doubt that the Commissioner's report would be the proper place where such complaints would be

* P. D., Vol. 7A, (R. S.), 6th September 1954, pp. 1447-75.

recorded, but I find the Commissioner absolutely silent over this matter of the gravest importance for the Scheduled Castes. I find, for instance, that from the complaints which have come to me—and I am sure that many more complaints must have gone to the Commissioner; they could not be less than a thousand, or certainly five hundred, but I mention one or two which have come to my notice and are of very recent occurrence—I am told on very reliable authority that in Rajasthan thirty Scheduled Caste people have been shot down by the so-called dacoits. The real fact is that the Rajputs and the high caste Hindus do not like the Scheduled Castes in Rajasthan to enjoy what are called the fundamental rights which give them equality of status with the other Hindus. In order to terrorise them and to make them nervous, in the matter of exercising these fundamental rights, the high caste Hindus have organised themselves into a band of dacoits and they go on shooting the Chamars, who are trying to exercise and derive the benefit of the fundamental rights. Police parties have been sent there in order to give protection to them, but my information is that the police are in league with the dacoits. Half a number of guns possessed by the police were handed over to the dacoits and the report is made that the guns have been snatched away from them by the dacoits. Half the number of bullets are again handed over to these dacoits by the police. Only half are fired, probably in the air without causing any effect. The result is that the dacoits are getting on merrily. The dacoits are really nothing else but what existed in the southern States of America known as the Ku-Klux-Klan, a band of Whites who were bent upon shooting down the Negroes if they tried to exercise the right of equality which was given to them after the Civil War. I do not find any mention of this incident in the Report of the Commissioner.

I mention another incident, and that has occurred in Bombay. One Bhangi who was living in a village was supposed by the Hindus to have brought about a certain disease in the village. They thought the malignant influence which he possessed was the cause of a certain disease which was prevalent in the village. They caught hold of him and asked him to take a burning fire on his head and walk around the

village, so that the evil forces which brought about the disease may pass away. Fortunately, they forgot that he had a turban on the head, and he too forgot to remove the turban. And the burning fire and the pot in which the fire was placed were so hot that practically half his cranium was burnt. I find no mention of this in the Report of the Commission. I know of a case in the Hyderabad State, in the Aurangabad district, where a certain Scheduled Caste woman was declared by the villagers as a witch who was responsible for some kind of an epidemic that was prevalent in that village. They questioned her. She could hardly prove her innocence; there was no method of proving. The result was that not only she was belaboured, but her house was burnt, and the members of her family were subjected to ignominies of the worst sort. I do not find any mention of that in the Report of the Commissioner.

My hon. friend, the Home Minister, I think, will admit that the Scheduled Caste people, for good reason or for bad reason, are in the habit of sending their complaints to me as well as to the Government officers, and I too posses a long list of these tyrannies and oppressions. I thought that it would be right to expect some reference to these complaints in this public document. But there is none whatever. And I have been wondering whether this Report of the Commissioner, so far as the record of complaints is concerned, is a doctored and tutored document. The Commissioner seems to have completely forgotten one of the most important objectives that underline the creation of his office. The object was that public conscience should be energised by the presentation of the ugly treatment which the caste Hindus meted out to the Scheduled Castes, so that those who are enlightened enough may go among the public and tell them whether this is a behaviour worthy of a civilised people. But when you do not present these facts, when you suppress them for one reason or another, this important motive and object in the creation of this office, I think, is completely nullified. I do hope that in the next report which the Commissioner will prepare, he will bear this thing in mind, and not be ashamed to present facts as they are

10-00 A.M.

presented to him by the suffering masses, the untouchables. That is the first comment that I have to make over the nature of the report submitted to us by the Commissioner.

It is quite clear that in such cases as have been referred to by the Commissioner, there have been many violations of the law, and there have been an endless series of tyrannies and oppressions practised upon the Scheduled Castes. This is a matter which, I suppose, is a matter which is within the portfolio of the Home minister. To what extent are the laws made especially for the Scheduled Castes or the general laws made for all people respected, and to what extent are the breaches committed punished ? Sir, on the first day, when the Hon. Home Minister presented the Report to the House, I happened unfortunately to come a little late. But I did catch him towards the end of his speech. And the impression that was left upon me, of the speech that he had made, was that what he had said was said in a spirit not merely of lightheartedness, but—he will forgive me if I say this—with a certain amount of levity. He asked: What is the use of prosecuting people ? People will begin to do *Satyagrah,* people will begin to do all sorts of things. Therefore, let us not rely upon what might be called the vindication of the law. Well, if that is the attitude of the Home Ministry, then of course nothing can be expected. The lawlessness, which is being practised continously for thousands of years against the Scheduled Castes, has been lawful, and will continue to be lawful, because it is impossible for the Scheduled Caste people themselves to come forward to prosecute the breaker of the law. As the Commissioner has said, the Scheduled Caste people are economically so subservient to, so dominated by the caste Hindus, that it is quite impossible for them to come forward to challenge the very people on whom they depend for their economic livelihood.

That is an admission which the Commissioner has been making from the very beginning. It occurs in his first report, it occurs in his second report and he repeats it in his third report that it is useless to depend upon the Scheduled Castes themselves to vindicate their rights. They have neither the

economic independence against their oppressors nor have they got the means to prosecute their oppressors.

The second thing which the Commissioner does not seem to emphasise very much and which I know very well myself from my experience of twenty years is that in a large number of cases the police force is in league with the caste Hindus. Ninety per cent, of the police force is drawn from the caste Hindus. Only a few per cent, and a very small one is now being recruited from the Scheduled Castes but this only to the posts of police sepoys. There are no officers amongst them. The result is that the upper grade policemen are in league with the caste Hindus. More often they refuse to record the complaints of the Scheduled Castes when they go to the Thana, in their station diary even though the offence may be cognisable. They throw them out, turn them out and tell them to go away. They do not record the complaint and secondly if they do, they probably would conduct the investigation in such a slipshod manner that ultimately the case fails. In this situation I ask the Hon. the Home Minister whether he thinks that there is any duty upon him or not. I ask him whether the breaches of the law which are being reported and witnessed by Scheduled Castes or other people are not breaches of the fundamental law and the fundamental rights ? Are not fundamental rights part of the Constitution ? If you are allowing a large mass of bullies and hooligans to trample upon the fundamental rights, are you not bringing the Constitution to contempt ? Is it not your duty to create a special department either within the Home Ministry itself or separately for this purpose ? The United States has got a Judicial Department, the duty and the function of which is to see that the Constitution and the Federal laws are respected. I think it is high time that the Home Minister realises that if the Constitution is to function, if it is to be the law of the land, if all people are to recognise it, his duty is to see that it is enforced, and the only way in which he can enforce it is to take upon himself the duty of enforcing it and not leave it even to the State Governments who can never do it, not even to the Police who has no desire to do it, and not even to the Scheduled Castes who have no means

to do it. Therefore I hope that he will take the matter more seriously and attend to it in the manner in which a statesman ought to.

Now, I come to the subject matter of education. It is quite satisfactory I must admit, that the Government has been spending annually more and more on the education of the Scheduled Castes. If my friend will forgive my mentioning myself., he will realise that it was for the first time in the year 1942 that the Government of India, at my instance when I was a Member of the Executive Council, accepted that they too had the responsibility for the education of the Scheduled Castes. Theretofore, education was purely a provincial subject. It was only so far as the Muslims and Hindus were concerned, that the Government of India had taken upon themselves the responsibility of supporting the Aligarh University and the Benares Hindu University by an annual grant of Rs. 3 lakhs. I raised the question whether the Government which had recognised its duty for the Muslim and the Hindus, had not also a duty for the Scheduled Castes, and the Government of India agreed that it was a legitimate question and that the answer to that question could not be except in the affirmative. They granted Rs. 3 lakhs as a grant for the education of the scheduled castes from the Central funds. While, I am satisfied with the progress that is being made year by year by the enlargement of the educational grants for the Scheduled Castes, there are two points with which I am greatly dissatisfied. One is this: At the time in 1942 when this question was raised by me for the first time in the Government of India, it was agreed that the responsibility for the education of the Scheduled Castes up to the university standard in India was to be borne by the Provincial Governments and that whatever contributions the Government of India made towards the education of Scheduled Castes would be devoted for their education in foreign countries. According to that understanding, the first batch of Scheduled Caste students was sent to England, although there was great, difficulty in the matter of getting admission to English and American universities, because they were overflooded. Yet we here in the Government of India pressed upon the foreign

universities that as it was for the first time that the lowest of the low people were being sent for higher education, the foreign universities should show them some consideration. The result was that we were able to get admission for about 30 Scheduled Caste students. Thereafter, in 1945 the old regime ended, and the Congress regime came in 1946. I had hoped that a system which had been inaugurated in 1943 or so and which had been given effect to and in which the Government's responsibility for the education of the Scheduled Castes in India and their education outside was accepted, would be continued, but to my great surprise, great chagrin almost I must say I found that Mr. Rajagopalchari who became the Education Minister in the Congress regime and who has a great knack for giving a pious look to an impious act abolished the system of sending Scheduled Caste students to foreign countries, and since that time there had hardly been any student belonging to the Scheduled Castes who has gone abroad for further studies. I think that this is—what shall I say ?—a most dangerous thing from one point of view. No doubt the Hindus do not like my criticism, but I am firmly convinced that my criticism is right, and I must repeat it notwithstanding the opposition with which it may be met.

Shri B. K. P. Sinha (Bihar) **:** But the Scheduled Castes are also Hindus.

Dr. B. R. Ambedkar : Yes, if you call them so. I am statutorily a Hindu.

Shri B. K. P. Sinha : Factually also.

Dr. B. R. Ambedkar : Sir, the point is this. In this country, for reasons into which I need not go now, the fact is quite clear that the higher classes receive the highest education. Their children go to Cambridge, their children go to Oxford, their children go to the Columbia University and to all the other foreign universities.

Dr. K. N. Katju : Perhaps my hon. friend is probably not aware that Harijans or members of the Scheduled Castes and the Scheduled Tribes are being sent to the foreign countries.

Dr. B. R. Ambedkar : You are repenting, I see.

Dr. K. N. Katju : They are benefited by it.

Dr. B. R. Ambedkar : I cannot hear.

Dr. K. N. Katju: May I just say a few words? I heard him complain just now that the system of awarding foreign scholarships to the members of the scheduled castes has been given up and was being given up in 1946 by Rajaji. I was only just saying that foreign scholarships are being given today and that scheme was tried last year for one year and that scheme has now been made permanent for five years.

Dr. B. R. Ambedkar : You are reviving it because you have seen the folly of it.

Dr. K. N. Katju : It has been renewed. The scholarships are now being given.

Dr. B. R. Ambedkar : After an abeyance of several years.

Dr. K. N. Katju : I am not concerned with that point.

Dr. B. R. Ambedkar : You should look into the history of your department. You cannot simply say, 'I don't know' What I was saying was this. Notwithstanding what my hon. friend said, I think the criticism that I am making is very valid and very fundamental. Here in this country you find really two nations—a ruling nation and a nation which is a subject nation.

An Hon. Member : Question.

Dr. B. R. Ambedkar : The backward classes are all subject peoples. They have no authority in any place. None whatever. They have no place in Administration—they have no place in the Executive and the Executive and the Administration is entirely monopolised by the higher classes. They are monopolising it by reason of the fact that they have been able to get the highest education. Why not examine all the Secretaries of your Departments in the Government of India ? The son and daughter of every Secretary in the Government is to be found in Cambridge or Oxford. Twice and thrice they have made journeys in order to lodge their children there because they have the amplest means. The backward class man's son cannot get even primary education. This sort of

revolution in the two different classes is going on for centuries—it is an intolerable business because we cannot allow one class to rule for ever. For some time they may but they must see that the other classes also become educationally qualified in order that they too may hold the reins of government. We are not going to be subject people all the time.

Shri H. P. Saksena (Uttar Pradesh) **:** There are no classes in India. This is a classless country.

Dr. B. R. Ambedkar : Therefore what I am saying is this, that if you really want to unify the people, to bring all the people on level, then it is not enough that you should get the highest education and others should get the lowest and not even the lowest. It is from that point of view that you must introduce the system of foreign education. It was with that aim that I struggled to get some quota from the Government of India and asked them to put the responsibility for university education upon the provinces. The States have been jolly glad to throw the responsibility upon you. What do they do ? They are having prohibition, making people sober. Personally for myself I think a sober man who is an ignoramus is not to be perferred to a man who is educated and who drink a bit. I prefer the latter. I am glad to hear that my hon. Friend is now reviving the system of sending scheduled caste boys to foreign countries. I congratulate him.

Now, Sir, the other thing which has recently come to my notice is this, that the Education Department has issued a circular—I think a month or two ago—to the effect that those scheduled caste boys only who have secured 50 per cent. marks in the examination shall get scholarships. Others will not get. I am wondering whether a generous Government with a sympathetic heart desiring to elevate the scheduled castes would ever think of prescribing so hard a test as securing 50 per cent. You must consider the condition in which the scheduled caste boy lives. Probably his father or mother has not got even a room set apart for his study. He probably has not got a lamp to sit by at night and study. He is living in the midst of a crowd. How do you expect him to secure 50 per cent. marks in the examination ? It is an absurdity—utter absurdity. You must, for some time allow the ordinary

standard *viz.,* of 33 per cent. which has been recognized by all the universities and which is being recognised by you also for the purposes of employment in the Government of India. If a boy who merely passes is fit to be employed by the Government of India, why is he not fit for the grant of scholarship for further education unless you want deliberely to put some kind of an impediment in the growth of their education ? The difficulty is this. The admissions take place some time in the last week of June. Various colleges admitted scheduled caste students without asking for fees because they knew that the Government of India would give them the scholarship. After three months of the joining of the College, the Ministry comes out with a circular saying that only those who have secured 50 per cent. will get scholarships. What are the colleges to do with the boys whom they have admitted on the assurance that the previous system will continue in operation ? What are the boys going to do who have got themselves admitted into the college ? I hope my hon. friend the Home Minister will look into this matter and take it up with the Education Minister and ask them to square up this difficulty, at any rate so far as this year is concerned. You may do what you like next year provided you give enough notice both to the students and to the colleges as to what you propose to do.

Then I come to the question of services. The Commissioner has divided his figures with regard to the services under three groups—the Army, the All india services and the Central Services of the Government of India. With regard to Army, I find that in certain categories the position has deteriorated. In 1952 there were two Second Lieutenants belonging to the scheduled castes. In 1953, the position is "nil". Of Junior Commissioned Officers, in 1952 there were 601. In 1953 the number is 435. Non-Commissioned Officers, in 1952 there were 3,273. In 1953, the figure has gone down to 2,533. Other ranks, in 1952, the number was 22,288. In 1953 it has gone down to 18,666. I am quite unable to understand this deterioration in the position of the scheduled castes in the Army. The Army, I thought, is the one place where not much intellectual calibre is necessary, I mean in the other ranks.

may be that in the higher staff it is required—much intellectual eminence. But we are not talking about them. But taking the other ranks, we find that the figure has gone down from 22,000 to some 18,000. Why? The Army, I understand, has been expanding, and with the expansion of the Army one would naturally expect an increase in the number of scheduled caste men in the Army. In all other places, you say they are unsuitable. And that is a very ambiguous phrase. All public service commissions and appointing authorities have learnt that phrase by heart. You simply say the man is unsuitable, and there is an end of the matter. But in the Army what is there to be unsuitable? What is the unsuitability about? There you have certain measurement of the chest. There are very few people among the scheduled caste's who would not fulfil that test. Then you have certain tests of height—some 5 ft. 4 inches or so. Well, I think all scheduled caste candidates would fill up that height (Interruption). Very few, there may be, I admit, who may fail. But given these physical standards of health, chest measurements and height, I should have thought that almost every scheduled caste man was fit to be in the military service. And when you are denying them service in other departments of the Government of India, surely you ought to make some concession to them in departments like the Army and the Police where education is not a matter of any considerable moment- But there again you have been behaving in a stepmotherly fashion. I do not know whether the Home Department evertakes interest in these figures, or knows them and pursues the matter. Surely, the Commander-in-Chief ought to be asked by them as to why this deterioration has taken place.

Then, Sir I come to the All-India Serviced There are what they call the Administrative Service and the Indian Police Service. Recruitment to these, I think, started through the Public Services Commission, in the year 1952. My hon. friend Shri Datar will correct me, if I am wrong. But I think that is the year.

The Deputy Minister For Home Affairs (Shri B. N. Datar) : About 1946.

Dr. B. R. Ambedkar : No, I am not counting those whom they recruited from the Provinces. No scheduled caste man was recruited except one or two; the rest they found to be utterly unfit, although the Provincial Governments thought them quite fit. The Central Public Service Commission found them utterly unfit. That is all past history and I am dealing with the present. Has there been any recruitment to the Indian Administrative Service since 1952—when the new Constitution came into force ? I have not seen single scheduled caste candidate being chosen by the Public Service Commission for the Indian Administrative Service—not one. I have not seen a single candidate being chosen by the Public Service Commission for the Indian Police Service either. It is only last year that I struggled with the Public Service Commission and induced them to accept one for the Indian Police Service. I wonder whether the Home Department which is in charge of services look upon this matter as of no moment or looks upon this matter as a matter of high moment. These are executive services. My hon. friend knows very well the difference between an executive service and an administrative service. An administrative service is more or less a clerical thing. The executive service possesses the power of direction. It has directive authority. Now, I want to say and I want to say it quite fearlessly that 2,000 clerks are of no value as compared to one officer holding an executive post. In Hindi we call it "Maarneki Jagah". What are these poor clerks ? You will see in fortresses—but you have none in U.P.—in my part of the country the place is full of Maratha fortresses.

Shri B. N. Datar : "Maar Quilla" We call it.

Dr. B. R. Ambedkar: आदमी वहाँ बैठकर फायर कर सकता है दुश्मन को,

Now, these executive posts are posts from where direction can be given. The clerks need all kinds of protection. Any officer may spoil their character-roll by writing a bad remark or saying that the man is no good. The only way he can be protected is by having somebody in the executive service who might look into this matter and see no injustice is being done. Similarly with regard to the policy laid down by the Government. Whether that policy will fructify and yield

results depends upon who are the people who are charged with the duties of executing that policy. If the executive authority is unsympathetic, is antagonistic, that policy, however good it may be, can never fructify. And let me add, that so far as my experience goes, the whole of the administration which is now composed of caste Hindus, is the most unsympathetic administration that the scheduled castes have to suffer under. This is because of the unsympathetic character of the administration. And when we have been shouting for representation in services, that claim is being maligned by calling it communalism. What we are trying to do is to reduce the communalism of the other people. We are not asking for communalism. I hope my hon. friend will remember this. Until and unless your administration and your executive becomes more sympathetic to the scheduled castes, none of your laws and none, of your administrative policies will bear any fruit.

Then let us come to, what are called, the Central Services. Here I am taking only the figures of permanent posts, not the temporary ones, as they stood on 1st December, 1952. The Commissioner says that the Ministry of Railways, the Ministry of Communications, the Ministry of Finance, the Ministry of Information and other organisations under its control have not supplied information on this point. Therefore, these figures relate to those departments which have supplied the information.

The figures are very telling. In class I the actual strength is 752 and the scheduled castes number 10; according to the proportion fixed by the Home Ministry that ought to have been 175. Class II (gazetted posts) total number is 642 while the scheduled castes number only seven; that ought to have been 107 according to the proportion; class I (non-gazetted) total number is 1123 and the scheduled castes number 44; that ought to have been 185. Class III total number is 10,372 and the scheduled castes number 536 and this ought to have been 728. In class IV, the total number is 8807.

Dr. P. C. Mitra (Bihar) **:** How many of them applied ?

Dr. B. R. Ambedkar : The scheduled castes number 1251 but ought to have been 1478. Class IV servants, I think, are

chaprasis and there you find the number of scheduled castes people fairly large. There are the figures which must be within the ken of the Home Ministry. They have laid down a proportion and surely, it is their duty to see that that proportion is carried out by the different Ministeries. Why has there been this defalcation on the part of the various Ministeries and why has the Home Minister not taken any action ? If he had taken any action, what is the action that he took in order that the scheduled castes receive their quota which is fixed by him ? Sir, it is a very black picture, if I may say so, very black. It reminds me of a cartoon which was drawn by the Germans during the last War. The cartoon depicted an old negro gentleman in Washington. When war was declared, the negro—as everybody knows, negroes are not well disposed towards the whites in America; they are always very angry, quarrelling with them for not giving them equality of opportunity—suddenly felt very patriotic and he said that he must transfer some of his patriotism to the young boy who was his son. He went to the market and purchased an American National Flag—small one which the boy could hold—and gave it to the boy. He said, "My son, I want to show you today our capital, our capital". The boy did not realise what it meant. Holding the boy by the right hand—and the boy holding the flag in his left hand—the old man took him round and round in Washington City, showed him the Supreme Court, the Congress House, the Senate and so on and so on and ultimately, after lunch, came down to the White House, stood there for a minute or two, and said to the young boy, "My dear boy, this is the House of our President". But the boy said, "Father, what are you talking ? He is a white man and how do you praise him ?" The old man said, "Oh, shut up, that is only outward". That is to say, inside he is quite black. I think that might well be applied to the Home Minister; notwithstanding the white dress, he is very black inside and the evidence is the neglect which has been shown in the matter of seeing that the Home Ministry's own orders are carried out. Nothing has been done.

I have dealt with services and I will deal now with the question of propaganda. I see that the Government of India

has sanctioned about Rs. 50 lakhs for the year 1953-54 for the purposes of carrying on propaganda against untouchability. The scheme, I understand, is that a part of the money is given to private agencies choosen by the State Governments and part of the money is given to all-India or Organisations directly by the Government of India. That is the scheme. I have no idea what my hon. friend means by the abolition of untouchability. What is untouchability ? Let us understand it very carefully. Untouchability, so far as I understand it, is a kind of a mental disease of the Hindus. It is not a disease from which I am suffering, not any tumour which I have got, not a rheumatic pain or any of the physical disabilities which can be removed but it is a mental twist; every Hindu believes that to observe untouchability is the right thing. I do not understand how my friend is going to untwist the twist which the Hindus have got for thousands of years; unless they are all sent to some kind of a mental hospital, it is very difficult to cure them and I do not want them to be sent there. Therefore, let us understand what we talk and what we are doing. Besides, all must realise that untouchability is founded on religion. There is no doubt about it and let us not be ashamed of realising it. Manu, in his law book, very difinitely prescribes untouchability. He said that the untouchables shall live outside the village, that they shall have only earthen pots, that they shall not have clean clothes, that they shall beg for their food and so on and I canot see how you blame the Hindus. For thousands of years, by the teaching of this dirty law. they have got inculcated in their mind the doctrine that untouchability is a most sacred thing. The Hindu has been taught that the most pious and best of life is that of a rat who lives in a hole, unconnected with anyone, he must not touch this, he must not touch that, he must not eat this, he must not eat that, etc. and this is a kind of life which a rat observes by living in a hole. A rat would not allow another rat to come into its own house. That is the position and all that we can do is to see that untouchability which, as I said, is a mental twist of the Hindus does not protrude so much into public life as to involve the civil liberties of the people.

Dr. P. C. Mitra: Untouchability is only a custom and usage.

Dr. B. R. Ambedkar : If you want to study that subject with me, I can spend a few hours with you.

Therefore, Sir, this propaganda business is quite impossible for me to understand. I agree with my hon. friend Mr. Kunzru that it may result in nothing else but a waste of public money.

Secondly, I do not undersand why this matter should be left to these what are called organisations of social workers. A social worker in this country is a professional, he has no such things as inner sympathy. He is a professional. If the Muslim league wants him, he will probably serve the Muslim League; if the Hindu Mahasabha wants him, he will serve the Hindu Mahasabha; if the Congress wants him, he will serve the Congress. He is a professional and there is no such thing as, for instance, an inner love. As Tolstoy has said— rightly said—before you serve, you must learn to love., No man can serve anybody unless he loves him. These professionals have no love; they are simply trying to make their livelihood and therefore, perhaps, I would not be suprised if they are getting remuneration from all the three. I do not wish to comment on it. The proper thing, if my hon. friend wants to do, seems to me to be to take hold of these unemployed graduates. There are plenty of them, intelligent educated boys, who can be said to have some kind of modern outlook in life or who might be said to have developed some public conscience in the matter. You employ them on some reasonable salary, give them a motor-bike or a cycle and give each man seven, ten or fifteen villages, an ask him to go round village by village, hold public meetings, address the people on the question of untouchability and tell them that this is something which is going to bring disgrace upon this country in the modern world. That way it would be far more fruitful and far more effective than the kind of thing that my hon. frined is doing. Why these social organisations have a fascination for the Congress Government, I do not know. In olden times, during the British regime, the Centre acted administratively through the Collector. Money was given to him and he was

asked to discharge certain functions in certain fields. He could be held accountable to the Government. Money was safe in his hands. If you do not like the Collector then employ the kind of agency that I have submitted, namely, a group of intelligent boys who would be longing to do this service. This kind of a thing, a motley crowd, calling itself by some kind of a name to attract people is of no consequence at all.

Then , Sir, ...

Shri K. B. Lall (Bihar) **:** Will they not be professional ?

Dr. B. R. Ambedkar : The Government servant is not a professional. Why ? You want to use them later for canvassing votes for you in the elections. That is the whole trouble about it.

Now, Sir, regarding the other point, namely, selection of certain agencies by the Government of India and giving them funds to do this propaganda work, the Commissioner has made some observations on some communication that passed betwen me and the Home Department. He has said that other agencies have accepted the offer of the Government to receive money and to do propaganda. I was one naughty boy who refused and he thought that it might be well in bringing this default on my part to public notice. I wish he had given him the full letter which I had written to the Home Department. I think Mr. Datar dealt with the matter if I mistake not, and he will recall that what I said was this that the bodies that were chosen by the Government of India, were political parties like the Harijan League and some other League, something like that, were all political bodies. The Federation was also a political body. So I thnk it was wrong for Government to hand over public funds to political bodies who may use the funds for political propaganda and not for the elevation of the Scheduled Castes, and I told him that there was the Chairman of another body which was being built up in Bombay, which was a purely social welfare body. It had large funds, somewhere between two and three lakhs of rupees. They were going to build a hall and carry on activity. Of course I forgot to mention therein that that body, although it was formed in Bombay, was not confined in the matter of its social

work either to the Bombay city or to the Bombay State. It was open to them to do any kind of social work in any other part of India. The only thing was that its centre and head office would be in Bombay. Mr. Datar rejected my suggestion and put this matter in the report. All that I want to say is this. If Mr. Datar had communicated to me that he did not accept my suggestion, I am sure within myself that I would have changed my mind and accepted the offer in the name of the Federation because beggars cannot be choosers if for no other reason, and I even now say that if he insists that the Federation is the only body which the Government of India would entrust the money with, well, I have no hesitation, but I still maintain my view that this work outhgt not to be entrusted to political bodies.

Now, Sir, I come to the question of the economic emancipation of the Scheduled Castes. This, I think along with education and services is the most important thing for the raising of the status of the Scheduled Castes. Now what are the means of raising the economic status of the Scheduled Castes ? Obviously the economic emancipation of the Scheduled castes will depend upon the opportunity that they get for what might be called entry into gainful occupation. Unless and until doors are open to them where they can find gainful occupation, their economic emancipation is not going to take place. They are going to remain slaves, if not slaves, serfs of the land-owning classes in the villages. There can be no doubt on that point at all. Now, Sir, out of these gainful occupations I personally feel no doubt that the most important thing on which Government ought to concentrate is the giving of land to the Scheduled Castes. They must be settled on land so that they might obtain independent means of livelihood, cease to be afraid of anybody, walk with their heads erect and live fearlessly and courageously. I think this is a thing which all the Ministers are agreed upon. I take it that the one thing that Government ought to do is to provide land for the Scheduled Castes. Let us take that question. Firstly, is there land available to be given to the Scheduled Castes ? Has Government any power to sequester land from those who are owning land now, take it away and give it to the Scheduled

Castes ? Is it possible for the Scheduled Castes to be financed by the Government in the matter of purchasing lands if land was to be sought ? These are the three ways by which land could be given to the Scheduled Castes. Government should by law limit the holding of those who hold land and take away the excess and hand it over to the Scheduled Castes. Secondly the Government may finance the purchase of land if any is to be sold.

Sir, it is clear to everybody that land-holding in India is not merely a matter of economic livelihood. It is a matter of social status. A person holding land has a higher status than a person not holding land. Now it is quite clear that in the villages this matter of economic status is of the utmost importance to everybody. And no Hindu wishes that an untouchable should possess a piece of land so that he may reach a higher status than his community is entitled to under the social system. Sir, the question of a scheduled caste man getting a bit of land in the village seems to me to be utterly impossible. I do not know to what extent the Government will be able to make a law limiting the holdings. There might easily be a revolution. If the Government had, in passing land legislation, instead of giving the title of the property to the peasant, kept the title to themselves as paramount owners of land, they might have been able to pass a law that as the land belonged to the Government nobody would be allowed to hold more than a certain number of acres. But the Government has committed one of the greatest acts of folly in creating these peasant proprietors. Sir, once Talleyrand told Napolean. "Why do you want all this bother with Europe ? Why do you want to create all this enmity ? Why should you not be content with becoming the King of France with me as your Prime Minister?" There were a certain number of soldiers standing outside the palace of Napolean holding their guns with bayonets shining in the light of the sun. Napolean was a very abusive person. He told Talleyrand : "You were so much done in a silk stocking. Do you see my battalions ?" He said, "Yes, I see them". Then Napolean asked, "Why should I not be an Emperor ?" To that Talleyrand replied and my friends will remember that reply : "You can do anything

with these bayonets except sit on them. "Now, you have created these peasant proprietors. You can't sit on them : they will sit on you. You have bungled and bungled most wrongly notwithstanding the advice of many people not to do it. But just to win political elections, you did it and you are bearing the fruits of it now. However, this limitation of holdings therefore is an impossible thing.

I happened to study the report of the United Provinces Tenancy Committee appointed by my friend Mr. Govind Vallabh Pant. I know every line of it and I wonder whether the people who raised the cry that holdings ought to be limited know anything about the facts of it. What is the average holding in Uttar Pradesh ? The lowest is about 1 acre and the highest is about four or five acres. That is all that there is and the further fact is that every inch of land in the U. P. has been under cultivation and in occupation. You can do nothing there and that I am sure, is the case in most of the other States. Therefore my submission to the Hon. the Home Minister is this that unless you want to go on fooling the Scheduled Castes by telling them, 'Oh, keep quiet, we are going to give you a peice of land. Either we will have a ceiling ot we will finance your purchase. We will do this or do that, unless you want to go on fooling them like this, you ought to think of some other method of doing that. This is a problem which you must solve and if you do not solve it, you know what consequences there might be—most evil consequences. The fire is burning outside; it may easily come in and the Scheduled Castes may carry the banner and you and your Constitution will go under. Nothing will remain.

Now, Sir, I am going to make one suggestion to my hon. friend and it is this. I find from the Planning Commission's Report that a very large amount of what might be called cultivable waste is to be found in this country. According to the Planning Commission it is 98 million acres. Now, my suggestion to my friends is this. The Government is going, I understand, to amend the Constitution. They are fond of amending the Constitution. Why have a Constitution at all, I do not understand, if you are amending it every Saturday ? However, as you are amending it, I suggest that you amend

it and put the cultivation of waste land in List No. 1 so that it will come within the purview of the Central Government. The State Governments have not got the means of developing that land. They are living like dog in the manger, neither developing it themselves nor allowing anybody else to do it. Therefore there can be nothing wrong in taking over the waste land by amending the Constitution in List No. 1.

The second thing which I am going to suggest is one which many people may not find pleasant but I think there is no harm in suggesting. It is this, you again levy the salt tax. The salt tax was the lightest tax that we had in our country. At the time it was abolished, the revenue was about Rs. 10 crores and it might easily go up to Rs. 20 crores now. No doubt, the abolition of salt tax was done in the memory of Mr. Gandhi. I respect him and I suggest to you that you levy the tax and create a Trust Fund in the name of Mr. Gandhi—Gandhi Trust Fund for the development or settlement of the untouchables. After all, the untouchables, according to all of us, were the nearest and dearest to him and there is no reason why Mr. Gandhi may not bless this project from Heaven, namely, levying the tax and using it for the development of waste land and settling the Scheduled Castes on this waste land. There is promise but a scope for performance. You know in the game of poker there is a difference between promise and performance. I give you a scheme where there is not only promise but there is also performance. I do not understand why the people of this country should not contribute through the means of the salt tax for the elevation of the Scheduled Castes. You may keep it quite outside the Budget just as a sort of a Gandhi Welfare Scheme which will perpetuate the name of Mr. Gandhi and which will give relief to the people whom he wanted to protect and whom he wanted to elevate. This is my suggestion to the Hon. the Home Minister and I hope he will give this matter his most serious consideration.

11-00 A.M.

Sir, I have done and I do not want to say anything more. The only thing that I would like to say is this that in all this effort which is being made by the Government, by the various social workers and the social agencies, there is one thing which

gives me a very sad thought and it is this that our Prime Minister has taken no interest in this matter at all. In fact, he seems to be not only apathetic but anti-untouchable. I happen to have read his biography and I find that he castigated Mr. Gandhi because Mr. Gandhi was prepared to die for the purpose of doing away with separate electorates which was given to the Scheduled Castes. He has said in his biography, 'Why on earth Mr. Gandhi is bothering with this trifling problem ? Sir, I was shocked and surprised to hear the Prime Minister—rather Mr. Nehru then in 1934—uttering these words. I thought that since the responsibility of Government had fallen on his shoulder he may have changed his view and thought that he must now take the responsibility which Mr. Gandhi was prepared to take on his shoulder, but I do not find any kind of a change in his mind. Sir, in the year 1952 a conference was held at Nagpur under the Presidentship of my hon. friend Babu Jagjivan Ram.

I understood that there was a very big *shamiana*. Two silver chairs were placed on the dais, one for Mr. Jagjivan Ram and one for Pandit Jawaharlal Nehru. There was an audience of two hundred to three hundred and one thousand police. Pandit Jawaharlal Nehru was supposed to inaugurate that conference. I have got his speech here, but I do not wish to trouble the House by reading it, but this is the gist of it. He was, I am told, in great anger against Babu Jagjivan Ram for having organised the conference. He said loudly "I do not recognize that there is such a problem as that of the untouchables. There is a general problem of the economically poor and the problem of the untouchables is a part of that problem. It will take its place and receive its attention along with the other problems. There is no occasion, no purpose in bestowing any special thought upon it." Sir, if the Prime Minister is prepared to throw such cold water—not cold, water from the refrigerator, so to say—what enthusiasm can we expect from the rest of the workers who have taken upon themselves the duty or the responsibility or the interest in carrying on with this particular problem : I do not think that untouchabality will vanish. They believe 'yes'. I think 'no', as I said, because it has a mental twist. It will take years

and years. At the same time, there is no reason why we should not strongly agitate for seeing, whether untouchability goes or not, that the social, economic, political and constitutional right of the Scheduled Castes are fully protected. To that extent efforts must necessarily be directed.

Sir, there is one other word I should like to say. People might say that I have taken most of the time with the Scheduled Castes. I have not said anything with regard to the tribes and I am not going to say anything, because there are many friends who are more qualified to speak about them than I am, I shall, therefore, not venture to enter that field, but there is one thing which, I think, one can say and should say, because I find there is a good deal of confusion in the minds of the people as regards the relative position of the Scheduled Castes, the tribal castes and the criminal tribes. Now, Sir, with regards to the Scheduled Castes, the position is this : they are prepared—in fact, not prepared—but they are already within the pale of civilization. They are not outside. Their struggle is to achieve equality of opportunity and equality of status. That is their problem. With regard to the tribal people, their problem is totally different. They are outside the Hindu civilization. And the question that has to be considered with regard to these tribal people is this ; do they want to come within the Hindu civilization and be assimilated and then acquire equality of status and equality of opportunity ? I was talking to many leaders of the tribal communities—many men and women of the tribal community—they seem to be most reluctant to come within the pale of Hindu civilization.

Dr. Shrimati Seeta Parmanand : Question.

Dr. B. R. Ambedkar : They prefer to live outside, they do not want to come in.

With regard to the criminal tribes, theirs is a purely economic problem : how well can you give them the opportunity to earn a decent living ? If they can get the opportunity to earn a decent living, they will cease to be criminals.

Now, Sir, one question asked is this. It seems to me a matter of great regret that the Hindu civilization which is so many

years old, some say six thousand years old—many people will not be satisfied with that period probably they want to take it back—never mind about it, let it be six thousand years old—has produced five crores of untouchables, some two crores of tribal people; and some fifty thousand criminal tribes people. What can one say of this civilization ? With a civilization which has produced these results, there must be something very fundamentally wrong, and I think it is time the Hindus looked at it from this point of view—whether they can be proud of the civilization which has produced these communities like the untouchables, the criminal tribes and the tribal people. I think they ought to think twice—not twice a hundred times—they are conventionally called civilized—whether they could be called civilized with this kind of results produced by their civilization.

Sir, I thank you very much for this opportunity.

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(51)

CONSTITUTION (THIRD AMENDMENT) BILL, 1954

* **Dr. B. R. Ambedkar (Bombay) :** Mr. Deputy Chairman, the Bill which is placed before this House raises two issues and it is desirable that the two issues should be considered separately. The first issue relates to the merits of the Bill, whether this Bill should be regarded as a good Bill on its own merits; and the second issue is, the manner in which this Bill is being carried through parliament. I shall say a few words on the merits of the Bill.

It is quite obvious that there is nothing new in this Bill. What the Bill seeks to do is to drop entry No. 33 in the Concurrent List and to substitute in place of that entry, the provisions contained in Article 369 as they stand now, with a small addition that is export of jute; otherwise, there is really no fundamental change at all and it is a mere substitution. Looking at it from this point of view, I cannot see how there can be any objection to the Bill as proposed by the Hon. Minister in charge of it. The only kind of dispute that could arise would be whether the provisions of Article 369 should be in the State List—List II—so that the States will have exclusive power or whether they should be placed in List I so that the Centre would have an exclusive power in dealing with these goods. The present position is this : According to Article 369 these matters or these goods are treated as though they are entered in the Concurrent List. That is the present position. In the Concurrent List, both the Centre as well as the States have the power to legislate. Therefore, looking at the present position as defined in Article 369 and entry 33, we find that both of them place these matters in the Concurrent List. It cannot be that the States can complain that any jurisdiction which was vested in them by the Constitution is being taken away by this amending Bill. The

* P. D., (R. S.), Vol. 7-B, 15th September 1954, pp. 2297-2303.

position, as I say, remains exactly the same : the only question is whether the legislative control vested in the Centre by Article 369—which was vested only for five years and no more—should now be continued for an indefinite period. Speaking for myself, I feel that that is a patter for the Administration to judge, whether the circumstances m which they are living now are so altered that the period of five years which was given to parliament to legislate over these items should be abrogated. On that point, speaking again for myself, I am quite prepared to submit to the decision of the Administration because they know far better than a Member of parliament can hope to do. "Therefore, Sir, so far as the merits of the Bill are concerned, I give my support to it.

The Hon. Minister in charge while speaking on the Bill, made some reference to consultations with the States. I heard him say that he consulted the opposite departments in the various States and that the consultation, so far as I was able to judge from the observation that he made, was, if I may say so, somewhat perfunctory. I think that this is a very grave matter for the simple reason that this Bill is not going to become law merely by the vote of the two Houses. The Bill will have to go through a further ceremony before it becomes law. In this connection, I would like to draw the attention of the Hon. Minister in charge to Article 368, particularly to clause (c) of the Proviso which says : "Provided that if such amendment seeks to make any change in—* * * (c) any of the Lists in the Seventh Schedule,* * * the amendment shall also require to be ratified by the Legislatures of not less than one half of the States specified in Parts A and B of the first schedule by resolutions to that effect passed by those Legislatures before the Bill making provision for such amendment is presented to the President for assent "Therefore, this is one of those amendments .....

Shri T. T. Krishnamachari : On a point of information. The first letter dated the 12th September 1953 was addressed to all the State Governments and the second letter dated the 20th August 1954 enclosing a copy of this letter was addressed

to the Chief Secretaries of all the States personally, not to the opposite departments of the Commerce Ministry.

Dr. B. R. Ambedkar : Well, I am sorry; I perhaps made a wrong statement and I stand corrected, but all the same I want to urge that my argument is very sound, for whatever may be the preliminaries that might have been negotiated between the Minister-in-charge and the State Governments, the fact remains that the consent of the States by resolutions will be necessary in order that his amendment may become law, and if my hon. friend had by courtesy and by discussion and by consultation already obtained the goodwill of the State Governments, the subsequent action by the State Governments, namely passing of resolutions, would have been a mere matter of form. But if they have not been satisfied with such consultations as the Minister has had, he may find that there is a hurdle which he may not be able to overcome. That is all I want to say.

Now I come to the manner in which the Government has been proceeding with the amendment of the Constitution. The Constitution is only about, I believe, four years old.

Shri B. K. P. Sinha (Bihar) **:** Four years and seven months.

Dr. B. R. Ambedkar : Well, not an adult yet—may not be a child, and in the four years and seven months of its life it has been amended three times; I believe this the third amendment of the Constitution. I do not know of any Constitution in the world which has been amended so rapidly and, if I may say so, so rashly, by the government in office.

Now, Sir, I would like, in order to illustrate my point, to place before the House the provisions in the Constitution of the United States of America and the provisions in the Constitution of Australia for the purpose of amending the Constituton. Later on I will show what difference there is between our Constitution and these two Constitutions in the matter of the amendment of the Constitution. In the Australian constitution, Article 128 lays down this provision that the amending law shall be passed by both houses by an absolute

majority in each House. That is the first condition Secondly it shall be submitted to the electors to obtain their decision upon the amending law passed by the two Houses by absolute majority. If the two Houses are not unanimous in the proposed amendment then the Governor-General is empowered to put the last proposed law for amendment to the electors for their decision. And then these are the conditions. If in a majority of the States a majority of the electors voting in favour of the proposed law and if a majority of all electors voting also approve of the proposed law, then and then only the proposed law shall become part of the Costitution on receiving the assent of the King. The conditions are that in the first place both Houses must pass the proposed law by absolute majority, and if they do not agree, or are not unanimous, then the power is given to the Governor-General to refer the matter to the electors. Even in the first case the matter must be referred to the electors and even then it is not merely by the majority of the electors voting in favour of the Bill but majority of the States, a majority of electors and a majority of all the electors voting must approve the Bill before the Constitution could be amended.

Now let us take the Constitution of the United States. In the Constitution of the united States, article 5 which deals with the amendment of the Constitution provides thus : "When two-thirds of both houses propose an amendment, then and then alone further action could be taken." The first condition is that two-thirds of both houses must pass the amending Bill or two-thirds of the States may call their conventions, that is to say, a meeting of the electors who may propose constitutional amendments as suggested by the State Government. Such amendments then will become law provided it is ratified by three-fourths of the States or by the Conventions in three-fourths of the States. I have taken these two Constitutions merely for the purpose of illustration. Many other provisions would be found in other constitutions.

Now what is the basic principle underlying this provision relating to the amendment of the Constitution ? It seems to me that a student who scrutinises these two articles relating to the amendment of the Constitution in Australia and

America will find that there are two principles which underlie any action relating to the amendment of the Constitution. The first is this that there must be notice to the people. The people must know that the Government is going to undertake the amendment of the Constitution. The second principles is that there must be consent of the voters either directly as in America or indirectly by the States by ratifying resolution.

Now, Sir, is our Government observing these fundamental rules ? It is quite true that our Constitution is a very fluid one. It is not as rigid, not half as rigid as the American Constitution or the Australian Constitution, and those who were in charge of framing the Constitution were fully conscious of the fact that the situation must be left fluid because it may be that circumstances would arise which would require amendment of the Constitution, and you cannot allow the Constitution to hold up the solution of social problems which are emergent. It was because of that that it was proposed that the provisions contained in Article 368 should suffice. We don't require except in certain cases reference back to the States or reference back to the voters, but I have not the least doubt in my mind that no one who had anything to do with the drafting of the Constitution ever thought that the government would rush in on the spur of the moment to amend the Constitution without giving notice to the voters. Notice to the voters, if I may submit, is a general principle of political life and party life. Even in England no party would undertake any piece of legislation which did not form part of its political programme for the election. Every party must have a mandate to do a certain thing. Without a mandate a party cannot do anything. You cannot take the voters by surprise and you cannot assume absolute authority to amend even the Constitution simply because you are elected. This is exactly what our Government has been doing. Simply because they have obtained a majority they assume that they have not only the power to make any law whatsoever relating to any of the entries which give them the power to make laws but they have also got the power, merely by being elected, even without notifying their intention to the people as such, to even amend the Constitution. Is the Constitution

3-00 P.M.

not different in any sense from an ordinary law ? Is it merely a scrap of paper to be amended at the whim of anybody ? There is a saying in Marathi—I do not know whether I can translate it into English properly—and that saying is a very good one and very appropriate. We say, if the old woman dies it really does not matter very much but what we are afraid of is that *Yama* gets habituated to coming often and often and what we want to prevent is the *Yama's* invasion. It does not matter if the old woman is dead or snatched away. This is exactly what has been happening and I have been noticing the great contempt or the low regard or respect which the Government has for the Constitution. You may amend the Constitution; nobody has any objection to amending it but certainly you ought to treat the Constitution on a somewhat different footing, a better footing, a special footing. Tell the people what you are intending to do and then you may do it. Otherwise it might become necessary even to amend Article 368 in a manner so as to prevent this facile invasion of the constitutional provisions. This is all that I wanted to say.

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(52)

UNTOUCHABILITY OFFENCES BILL 1954

***Dr. B. R. Ambedkar** (Bombay) **:** Mr. Deputy Chairman, I propose to speak on the Bill. I think it is impossible for me to remain silent during the discussion on this Bill, but I find that my hon. friend, the Minister-in-charge, has condescended to put me on the Select Committee on this Bill. There is a convention that a member who is on a Select Committee shall not speak or take part in the Debate on the motion for reference to a Select Committee. I do not know to what extent the rule has been observed in all its strictness.

Mr. Deputy Chairman : It has not been violated.

Dr. B. R. Ambedkar : I think in the other house it is not strictly observed and I understand that a member in such a position could speak. However, if the convention is a rigid one here I beg permission to withdraw my name, and I hope the Hon. Minister will concede.

Prof. G. Ranga (Andhra) **:** It is not a rigid one.

Mr. Deputy Chairman : Yes, it is a rigid one; we have been opbserving it.

Prof. G. Ranga: If either within the time

Mr. Deputy Chairman : It will be setting a bad precedent.

Prof. G. Ranga : There is no question of any bad precedent. What I understood always was that when other Members who are not Members of the Select Committee are anxious to speak, then the Members who are placed on the Select Committee are expected to give way, but it does not debar any Member of the Select Committee from exercising his privilege of speaking. Only if.....

* P. D., (R. S.) Vol. 7-B, 16th September 1954, pp. 2417-18.

Mr. Deputy Chairman : We have been observing the convention that the Members of the Select Committee .....

Prof. G. Ranga : We have not observed it that way. It is not rule; it is a convention.

Mr. Deputy Chairman : The convention should be interpreted in that manner because it has been observed that way.

Prof. G. Ranga: There is no definite rule on this point but the convention we have been following is that generally Members who are Members of the Select Committee do not speak.

Mr. Deputy Chairman : On two or three previous occasions I have refused the Members.

Shri Biswanath Das (Orissa) **:** Because they have got the chance to place their views before the Select Committee, it is felt not desirable to give them the necessary .....

Mr. Deputy Chairman : It will be setting a bad precedent.

Shri Biswanath Das : Therefore the non-Members in the Select Committee are given the chance to place their views so that the Select Committee may have the advantage of considering those views as well. There is, I submit, no rule and we should not have any rigid convention to make it binding on the Members of the Select Committee not to speak. I would therefore appeal to my hon. friend Dr. Ambedkar not to consider it in that light and think of withdrawing his name from the Select Committee which I consider will be most useful and helpful.

***Dr. B. R. Ambedkar :** Mr. Deputy Chairman, before I actually deal with the provisions of this Bill, I think it is desirable that I should draw the attention of the House to the responsibility created by certain articles in the Constitution and the responsibility placed upon the Government to give effect to those provisions.

* P. D. (R. S.), Vol. 7-B., 16th September 1954, pp. 2424-66.

I would first like to refer to article 13 of the Constitution. Article 13 says that all laws inconsistent with the Fundamental Rights are void from the date on which the Constitution comes into existence. That is a general provision which is laid down in article 13. It is, as a matter of fact, a general notice given to the public as well as to the Judges of the Court that if any question was raised before them which involved the adjudication of the Fundamental Rights, the court shall not give effect to any existing law that was in conflict with the Fundamental Rights. But the makers of the Constitution were not satisfied with the general declaration because they felt that it was too much to expect a common citizen to go to a court of law in order to get relief from the court for the invasion of his Fundamental Rights. That was too much of a *burden on the common citizen.* And, therefore, the Constitution enacted another article, which is article 372, sub-clause (2), which gives power to the Government to make modification and adaptation in existing laws in order that the laws may be brought in conformity with the Fundamental Rights.

If my hon. Friend will allow me to make a personal reference, I would say that when I was in charge of law, I immediately took up this queston about adaptation and modification of the existing law in order to bring it in conformity with the Fundamental Rights. And I did succeed in getting repealed one of the most important pieces of legislation in the Punjab, called the Punjab Land Alienation Act, under which certain communities, or as the law speaks of them, certain tribes, were declared to be the only tribes which could hold property or acquire property in the Punjab. The law, in my judgement, was so iniquitous that a man who was actually an agriculturist, but whose community or tribe was not declared by the Government to be an agricultural tribe, was not entitled to get any land. But a person who was a barrister all his life, and never hoped to grow even two blades in a field, became entitled to acquire property, because the Government had chosen to declare his tribe to be an agricultural tribe. I succeeded in having the whole Act cancelled under the provisions of article 372, clause (2). There

remained another law or a custom which went along with the Punjab Land Alienation Act, and which referred to what is called the *shamilat* land, that is to say, the land held in common by the villagers. Under the customary Punjab law, the *shamilat* land could be shared only by those communities which were called zamindars, hereditary land-owning communities. The others were non-zamindars. They were called *kaminas,* that is to say, they belonged to a low class, and they were not entitled to share in the land. Consequently, they could not build their houses in a *pucca* form on the land on which they stayed. They are always afraid lest the zamindars of Punjab may, at any time, turn them out. And the people did not venture to build permanently. I left a note in the Law Ministry, when I left, that this matter should be taken up and dealt with by the *Government under the* provisions of article 372, sub-clause (2). I have no idea what the Law Ministry has done or what the Home Ministry has done. I believe, no action has been taken on that account so far. I had, for my own guidance; made a list of certain laws, which I felt it was absolutely essential to modify in order to bring them in conformity with the Constitution. The first that I would like to mention is Madras Regulation XI of 1816. This is a criminal law enacted by the East India Company. In that, there is a provision, I think, section 10, which says that if the offender belongs to the lower classes, then the punishment to be inflicted on him is to put him in the stocks. This punishment is not to be inflicted if the offender belongs to the higher classes. There can be no question, Sir, that this Regulation is a discriminatory Regulation, and should be repealed. Then the next item that I would refer to is the Bombay Municipal Servants Act V of 1890. Under that Act, it is provided—I think it is section 3—that if a municipal servant, whose duties fall within the Schedule attached to the Act, absents himself from work without permission, or resigns his office without at least giving three months' notice in writing, he shall be sentenced to imprisonment. It is a well-established principle now that a contract of employment is only a civil contract for which, if there is to be any punishment that punishment must be only damages and not imprisonment.

But this Municipal Law still remains on the Statute Book. The result has been that under this Act—if my hon. friend will refer to the Schedule, he will find that the Schedule practically mentions, although in terms of duty, people who are doing scavenging work or street-cleaning work, and things *of* that sort, and who *are* mostly Scheduled Castes or the untouchables—it has become quite impossible for them even to go on strike, because the terms of resignation must be three months' notice. Nothing has been done so far as that Act is concerned. I will take now another item, the U. P. Municipalities Act, II of 1916. I think it is section 85. Yes. There again, the provisions of that section are more or less similar to the provisions of the Bombay Municipal Servants Act. There again it is said that a sweeper employed by a Board who, except in accordance with the terms of a written contract of service, or without a reasonable cause, of which notice has been given, resigns or abandons his employment, shall be liable upon conviction, to imprisonment which may extend to two months. I think these laws, if I may say so, are absolutely uncivilised laws. No country in the world today regards breach of contract of service as an offence punishable with imprisonment or with fine. It is just damaging, but nothing has been done here.

Then, I will refer to three other Acts, one is the Bombay Herediatary Village Officers Act of 1874. Those who work or officiate under this Act are divided into two classes. My friend, Mr. Dhage, must be quite familiar with it, although the Home Minister himself may not be. I do not know what the system is in his province, but there the servants are divided into two classes, one class are called officers and the other are called village servants, although both are paid in the ancient form of payment, *viz.,* land assigned for service out of which they have to eke out their income. The land that has been assigned to them was in ancient times, probably during the time of Shivaji or during the time of the Peshwas. No addition has been made to the land then assigned. They have been cutting up and sharing their land into bits and bits, and probably no one individual owns more than one-hunredth of an acre of land, yet these poor people are sticking to that land. Now,

when the British came in they started a scheme of what is called commutation that is to say, releasing a person from the obligation of hereditary service and allowing him to retain the land provided he was prepared to pay what is called 'Judi' or land revenue, as the Government thought fit. That process has been going on for ever and many, many hereditary officers have been liquidated so far. Recently the Bombay Government took up on itself the responsibility of further commuting these village hereditary officers, but notwithstanding the incessant demand of the scheduled castes in the Bombay State that their workers and their hereditary officers should also be commuted so that they may be free from the obligation of service and be allowed to retain the land on payment of land revenue—they were very liberal and wanted to pay the full land revenue and did not want any concessions—the Bombay Government refused their requests. They confine their law to the commutation of officers other than the scheduled castes. This—I speak from experience—is one of the most cruellest pieces of legislation, because it is quite possible for the village who is an officer under this Act to require the whole body of the scheduled caste people to go and serve under him not merely for Government purposes but also for his private purposes. Any village *patel,* for instance, if there is a death in the family, would not sent a postcard to his relatives informing them of the death in the family, because it is a derogatory method. He must insist upon one of his village servants, as they are called, to walk miles and miles to convey the message that a death has occurred in the house of the *patel*. If a married girl comes to the house of the *patel* and wishes to go back, he must insist upon one or two of the village servants to go along with her, accompany her, chaperon her, and to see that she has safely arrived at her father-in-law's house. If a marriage takes place, he must insist on the whole of people to go and break wood and do all services without paying them anything. If they refuse, he is competent to report to the Collector that his village servants are not doing their duty, and the Collector under the Act is able to fine them or to take away their land and dispossess them. I wonder whether this is not a piece of legislation which is fundamentally

opposed to the Fundamental Rights in the Constitution, and whether such a piece of legislation does not require modification at the hands of the Law Department or the Home Department.

There are two other Acts which are, so to say, correlative to this Bombay Hereditary Village Officers Act. One is the Bombay Revenue Jurisdiction Act, and the other is the Pensions Act. *(Seeing the Home Minister rising from his seat)* My hon. Friend finds it too hot perhaps.

Dr. K. N. Katju : I find it too cool on the other hand.

Dr. B. R. Ambedkar : It will be hotter as I go on.

Both these Acts prevent access to the judiciary for any wrong that may have been done by the officers, the Director, or the Commissioner or the Minister. No relief can be had from the courts, because the Revenue Jurisdiction Act says that the courts shall not have any jurisdiction either to alter or to modify or to revise the decision of the Collector, who is an executive officer. The Pension Act says that no one who has any kind of *inam* shall be entitled to go to court and the court shall not exercise any jurisdiction unless it obtains a certificate from the Collector that the case may be tried by the court. It is quite impossible, therefore, for these poor people to have any kind of remedy against the many injustices which are being practised under the name of this particular Act. If I had remained as Law Minister, it was my intention to carry out these reforms, but I think it is the duty of any Law Minister and particularly of the Home Minister to look into our laws and to find out to what extent the laws are in conflict with the Fundamental Rights. I am sorry to say, Sir, that both these departments are the most laziest departments that I have ever seen. They have neither the zeal nor the urge or the conscience to move in this matter. They have no idealism either. I hope that, after what I have said, they will be spurred to some kind of action in this matter and to see that relief is given where relief seems necessary. Well, Sir, this is what I wanted to say by way of preliminary observations. I will now turn to the Bill itself.

I would like to say a word about the title of the Bill. It is not a very important point, but I think the name does matter. Shakespeare has said that rose smells as sweet whether it is called rose or by some other name. I disagree with that statement of Shakespeare. I think that name is a very important matter, and I think that a good law ought to have a good and succinct name. What is the name of this Bill ? 'A bill to provide punishment for the practice of untouchability or the enforcement of any disability arising therefrom'. I personally think that it is a very clumsy name and very mouthful. What really should be the name of the Bill may be a matter of dispute but I personally think that it ought to have been called 'The Civil Rights (Untouchables) Protection Act' After all, what you are doing is nothing more than protecting their civil rights. The emphasis ought to have been therefore on civil rights. I venture to tell my friend incharge of the Bill if he had referred to the case of the Negroes in the United States or to the Civil War, he would have found that the Bill that he is now proposing to be passed by Parliament has had its predecessor in the United States and that Bill, if he will refer to it he will find, is simply styled Civil Rights Protection Bill. Even the word 'negro' is not mentioned in it. I don't know why he should keep on repeating untouchability and untouchables all the time. In the body of the Bill he is often speaking of scheduled castes. The Constitution speaks of the scheduled castes and I don't know why he should fight shy of using the word scheduled castes in the title of the Bill itself. Personally for myself, I would be quite happy with the name Untouchables Civil Rights Protection Bill or Scheduled Castes Civil Rights Protection Bill. I hope my friend will take this into consideration.

3-00 P.M.

Now, Sir, I find there are certain very grave omissions in the Bill and it is to these ommissions that I propose to draw the attention of the House. There is really, as a matter of fact, no provision for the removal of any bar against the exercise of civil and constitutional rights. No doubt the ultimate result of the Bill would be freedom to exercise civil and constitutional rights but I personally think that it would

have been much better if my friend had expressly stated that the Bill was intended to remove any kind of a bar against the exercise of any civil and constitutional rights. I would just like to read to him a provision from the Civil Rights Bill as they call it in the United States. This is how the provision reads. Don't read the title page of the book—it will hurt you. It is the United States Constitution Amendment XIV taken from Government of Ireland Act, 1920 and also Professor Keith's Command Paper. This is how that provision reads. I have of course converted it to make it applicable to the untouchables but the original is taken from the text of the Civil Rights Bill :

> "All subjects of the State are equal before the law and possess equal civil rights. Any existing enactment, regulation, order, customs or interpretation of law by which any penalty, disadvantage, disability is imposed upon or any discrimination is made against any subject of the State on account of untouchablity, shall, as from the day on which this Constitution comes into operation, cease to have any effect".

I think such a positive statement was necessary. It is no doubt contained in article 13 but there can be no harm in repeating the whole of that article 13 with such amendments as are necessary in this Bill. I don't know why the Bill is silent. The Bill seems to give the appearance that it is a Bill of a very minor character, just a *dhoby* not washing the cloth, just a barber not shaving or just a *mithaiwala* not selling *laddus* and things of that sort. People would think that these are trifles and piffles and why has Parliament hothered and wasted its time in dealing with *dhobies* and barbers and *ladduwalas*. It is not a Bill of that sort. It is a Bill which is intended to give protection with regard to civil and fundamental rights and therefore, a positive clause, I submit, ought to have been introduced in this Bill, which the Bill does not have now in its present form. That is one ommission which I think requires to be made good. The other omission, which, I find, is of a very grave character, is that there is no provision against social boycott. Now I feel from my experience that one of the greatest and the heinous means which the village community applies in order to prevent the scheduled castes from exercising these rights is social boycott. They boycott

them completely. It is a kind of non-co-operation. This is not merely my opinion but it is the opinion of a Committee that was appointed by the Bombay Government in order to investigate into the conditions of the scheduled castes and also of the depressed classes and aboriginal tribes. I might mention to the House that the late Thakkar Bapa was a member of this Committee and he had signed this report. I will just read only, one para from the report of that Committee which relates to the question of social boycott. It is paragraph 102. This is what the Committee said :

> "Although we have recommended various remedies to secure to the depressed classes their rights to all public utilities, we fear that there will be difficulties in the way of their exercising them for a long time to come. The first difficulty is the fear of open violence against them by the orthodox classes. It must be noted that the scheduled castes form a small minority in every village opposed to which is a great majority of the orthodox who are bent on protecting their interests and dignity from any supposed invasion of the depressed classes at any cost. The danger of prosecution by the police has put a limitation upon the use of violence by the orthodox classes and consequently such cases are rare. The second difficulty arises from the economic position in which the depressed classes are found today. The depressed classes have no economic independence in most parts of the presidency. Some cultivate the land of the orthodox classes as their tenants at will. Others live on their earnings as farm labourers employed by the orthodox classes, and the rest subsist on the food or grain given to them by the orthodox classes in lieu of service rendered to them as village servants. We have heard of numerous instances where the orthodox classes have used their economic power as a weapon against those depressed classes in the villages when the latter have dared to exercise these rights and have evicted them from their land and stopped their employment and discontinued their remuneration as village servants. This boycott is often planned on such an extensive scale as to include the prevention of the depressed classes from using the commonly used paths and the stoppage of the sale of the necessaries of life by the village *bania*. According to the evidence, sometimes small causes suffice for the proclamation of a social boycott against the depressed classes. Frequently it follows on the exercise by the depressed classes of their right to the use of the common well; but cases have been by no means rare where stringent boycot has been proclaimed simply because a depressed class man has put on the sacred thread, has bought a piece of land, has put on good clothes or ornaments, or has carried a marriage procession with the bridegroom on the horse through the public street. We do not know

of any weapon more effective than this social boycott which could have been invented for supression of the depressed classes. The method of open violence pales away before it, for it has the most far-reaching and deadening effect. It is more dangerous because it passes as a lawful method consistent with the theory of freedom of. contract. We agree that this tyranny of the majority must be put down with a firm hand if we are to guarantee the depressed classes the freedom of speech and action necessary for their uplift."

This is the conclusion of a committee which was specially appointed to consider the condition of the scheduled castes. I do not find any provision to deal with this point of social boycott.

I may draw the attention of the hon. Member to the Burma Anti-boycott Act of 1922, if he thinks that it is difficult to put the matter in express words which can be legally of use to the courts. I say he can copy the provisions contained in this Burma Anti-bycott Act of 1922. It gives us the most valuable definition of a difficult matter, namely, social boycott. That will be found in section 2 of that. Act. This Burma Act not only creates social boycott an offence, but it also creates the instigating of social boycott an offence. It also creates the threatening of social boycott an offence, in pharaseology as' precise as any meticulous lawyer would want to have. My hon. Friend has tried, I think, in sub-section (2) of section 8, to have some kind of a garbled version of it for defending a Hindu who does not wish to practise untouchability but whose caste-fellows compel him to do so. I believe they can only do that in two ways, either by committing violence against him or by organising social boycott. As the Committee has said, the village communities most often prefer the social boycott because it is an act behind the curtain and appears to be perfectly in consonance with the terms of the law of contracts, to violence which, as I have said, becomes an offence under the Indian Penal Code. Therefore, instead' of going round about and bringing about a haphazard result, why not proceed directly and recognise social boycott as an unlawful means of compelling the scheduled castes not to exercise their rights ? After all, what can be the objection to social boycott ? I say, in legal terms, social boycott is nothing else than a conspiracy, which is an offence recognised by the Indian Penal

Code. If two people engage themselves in doing a wrong to a third person, well, that is conspiracy, This social boycott is brought about by the concurrence of the majority of the people and is also a conspiracy and could be recognised as an offence. I do not know why my hon. friend forgot that very important fact in this matter.

The third omission—I do not know whether it is an omission or not, I speak subject to correction. I wish the Law Minister was here because it is purely a legal matter. But there is no doubt about it that our Home Minister was a Law Minister in the beginning and certainly has been a practising lawyer and he could not be unfamiliar with what I am saying. Now the question that I ask myself is, are these offences mentioned in this Bill compoundable or non-compoundable ? The Bill says nothing about it. It is completely silent. The other day when we were discussing the Report of the Commissioner for the Scheduled Castes and Scheduled Tribes, hon. Members will recall that the Commissioner drew pointed attention to the fact that the untouchables were not able to prosecute then persecutors because of want of economic and financial means and consequently they .were ever ready to compromise with the offenders whenever the offenders wanted that the offence should be compromised. The fact was that the law remained a dead letter and those in whose favour it was enacted are unable to put it in action and those against whom it is to be put in action are able to silence the victim. That has been the conclusion of the Commissioner for Scheduled Castes and Scheduled Tribes. Such a situation is not to be tolerated. The offences must not be made compoundable if the offence is to be brought home to the guilty party. If the guilty parties by compounding the offence either by payment of a small sum or something like that are able to get away they can continue their career of harassment of the untouchables until the moon and the sun are there and untouchability would never end.

Therefore, compounding of the offence is a grave matter and a grave issue and it must have been expressly dealt with. I do not know what the intention of my hon. friend is but in order that we may be able to judge by reference to other provisions in other laws, I shall refer to section 345 of the

Criminal Procedure Code which defines what offences are compoundable and what offences are non-compoundable. My hon. friend will remember that there are altogether 511 sections in the Indian panel code, of them, 108 are taken up with purely declaratory matters, punishments, where the law would apply, general exceptions to the law, costs and so on and so forth. So, we shall cancel or deduct 106 out of 511. The sections which actually define offences are grossly about 400. Four hundred offences, acts and omissions are made offences by the Indian Penal Code. Out of this 400, how many are compoundable ? That is a matter which we must consider because under that lies the principle which is of importance. As I said, the only provision which defines what offences are compoundable or not is section 345 of the Criminal Procedure Code. I have made a little calculation—I am rather weak in mathematics but I believe I cannot be very far wrong in saying—that only 44 offences are compoundable out of the 400. The rest are non-compoundable. From this position, I deduce the conclusion that the principle of the criminal law is that an offence shall ordinarily not be compoundable and that these 44 are merely exceptions to the general rule. Out of the 44, 24 are compoundable without the permission of the magistrate and 20 are compoundable with the permission of the magistrate. So, really speaking, only 24 are compoundable offences. Now, are these offences indicated in this Bill compundable or not ? The Bill itself does not say so. I think there ought to be an express provision to this effect that any offence under this Bill, shall be non-compoundable. If my hon. friend does not propose to accept this suggestion, what would be the result ? The result would be this, that most of these offences will be offences in which hurt or grievous hurt would be caused. They could not be mere offences of show of force or anything less than that; they would be offences involving hurt, grievous hurt, *violence* and things of that sort. Now, if a magistrate were to apply sub-sections (*1*) or (*2*) of section 345—I do not want to weary my hon. friend by reading the two sub-sections of section 345 which define offences of this sort—he will find that the offences involve hurt. He will also see that a large majority of them which are made compoundable

either with the permission of the magistrate or without the permission of the magistrate are offences which involve hurt, grievous hurt, confinement of a person or kidnapping his relation or something like that. All of them are compoundable, absolutly, every one of them. Therefore, it follows that unless you make a. specific and express provision in this Bill, all the offences, if they involve social boycott—this is not mentioned in the Penal Code at all and it is not an offence except conspiracy—and such other acts which involve hurt or violence, so far as section 345 is concerned, will become compoundable and the Bill will be reduced to a complete nullity. It would be a farce. Therefore, my hon. Friend will look into this matter and see—he would be entitled, of course, to take the advice of the Law Ministry—whether within the terms of section 345 of the Criminal Procedure Code these offences would be compoundable, and if so, whether it is not necessary to make an express provision in this Bill to say that offences involving untouchability shall not be regarded as compoundable.

Now, Sir, I come to the question of certain defective provisions. I have said about omissions and I want to say something about the defective provisions. The first such provision to which I shall refer is the clause relating to punishment, which is clause 8. The punishment prescribed in the Bill is six months' imprisonment or fine which may extend to Rs. 500 or both. My hon. Friend was very eloquent on the question of punishment. He said that the punishment ought to be very very light and I was wondering whether he was pleading for a lighter punishment because he himself wanted to commit these offences. He said, "Let the punishment be very light so that no grievance shall be left in the heart of the offender". I suppose his primary premise is that the offenders who offend the untouchables are really very kindly people, overwhelming with love and kindness and that this is merely an errant act which really ought to be forgiven. It is a matter of great solace to me that he has not prescribed the punishment of being warned and then discharged. That I think would be the best section 561 of the Criminal Procedure Code. Yes, that would be the best; if our object is

to make the offender a loving person; well, let him be warned and discharged. He will continue to love and no soreness will remain in his heart. Why should he have that ? Unfortunately, my hon. friend has thought that that could not be and therefore, he has suggested this punishment.

Now, Sir, having had a little practice in criminal law, I think the rules on which punishment is based are two mainly. One is to deter the offender from repeating his offence. That, I think, is the primary rule of criminal jurisprudence. Punishment is necessary; otherwise the offender may go on repeating his offence. It is to prevent him that there must be a punishment. The second object of punishment is to prevent a man from adopting a criminal career. If a man once begins a criminal career then he may continue to do so unless there is some deterrent punishment to prevent him from adopting that career.

Now, Sir, if you accept these two principles, is the punishment proposed by my hon. friend adequate for the purpose of the Bill ? In the first place the six months' imprisonment is really the maximum and a magistrate may only inflict one day's imprisonment and let the man be off. There is no minimum fixed that the imprisonment shall not be less than six months or three months or whatever it is. The whole matter is left in the hands of the magistrate. What sort of a magistrate he may be, it may be quite possible and I can quite imagine that he may be a Pandit from Kashi sitting in judgement in the magistrate's chair. What conscience would he have in the matter of administering this law?

Shri Basappa Shetty (Mysore) **:** Kashi or Kashmir ?

Dr. B. R. Ambedkar : Oh, Kashmir Brahmins are not true Brahmins, I understand. They are meat *khao, machli khao,* as they say. Therefore they are not Brahmins.

Now, as I said, in this case if you want to see that the law is observed, there ought to have been a minimum punishment below which the magistrate could not go. Secondly the punishment is alternative, imprisonment or fine. The magistrate may very well inflict the alternative punishment

of fine and there might be an offender who might be prepared even to pay the five hundred rupees in order to escape the clutches of the law. What good can such punishment do? The Indian Penal Code prescribes a variety of punishments, a variety of them in section 53: death, transportation, imprisonment, forfeiture of property, fine, whipping, detention in reformatory. There are seven offences for which the Penal Code fixes death penalty; for 50 offences the punishment is transportation; for 21 offences—simple imprisonment; for 12 offences—fine. In all other cases the imprisonment is rigorous. Why my friend has thought so little of this Bill as not to prescribe adequate punishment, it is very difficult for me to understand, I mean, the least that one can expect from him is to prescribe a minimum, may be three months, it does not matter, a minimum of three months' imprisonment and fine if he wants to fix fine—I am not for inflicting a fine because that only benefits the treasury, but if you say that the fine will go to the victim, I am for fine also. Otherwise I do not want fine.

Shri B. B. Sharma (Uttar Pradesh): Why not the maximum penalty of death?

Dr. B. R. Ambedkar: Well, if you like it, have it—I am not so cruel as that and I do not think you are sincere in suggesting it, and, as I said, there are not cases in the Indian Penal Code where minimum punishment has not been prescribed or rigorous imprisonment has not been prescribed. There are three sections here which prescribe rigorous imprisonment, sections 194,226 and 449. Then the Penal Code has prescribed the minimum period of imprisonment in sections 397 and 398. I do not see why, when there is the precedent, the precedent should not be .....

Dr. K. N. Katju: What is 397?

Dr. B. R. Ambedkar: Dacoity. That is worse than dacoity. I think, to starve a man and not to allow him to take water, I think, it is almost causing death. That is, I think, one drawback in the Bill. Then, Sir, the second drawback in the Bill is that there is no provision for taking security for good behaviour. The Criminal Procedure Code has got four sections,

sections 107, 108, 109 and 110, and they all enable the magistrate to demand security for good behaviour. I don't understand why this Bill should not contain a provision to that effect. When for instance we find in Rajputana and other States the caste Hindus are agitating to harass the untouchables because they exercise civil and constitutional rights, why should you not take security for good behaviopur ?

Shri J. S. Bisht (Uttar Pradesh) **:** These are all the provisions in the Criminal Procedure Code.

Dr. B. R. Ambedkar : That is what exactly I am saying, that there is a precedent in the Criminal Procedure Code for taking security from persons who do not keep peace, for good behaviour, from persons disseminating seditious matter, from vagrants and from habitual offenders, for good behaviour. I am not certain that these provisions could be invoked for the purpose of taking security from persons offending against this law. It may be that specific provision dealing with the cases dealt with in this Bill has to be made, and that can only be made by a specific provision in this Bill.

Then, Sir, there is another provision which finds a place in the Indian Police Act. Section 15 of the Act, under which when some people in the village or the villagers as a whole disturb the peace, the Government can quarter upon them additional police and recover the cost of the additional police from the inhabitants of that village. That is a general provision. I am not sure again whether that provision could be invoked by the Government for the purpose of enforcing this Act. That Act is a general Act, disturbance of peace and so on and so forth. This is quite a different case and I should have thought that a specific clause on the lines of section 15 of the Police Act should have found a place in this Bill if outlawing of untouchability is intended to be an effective thing. But that again is not there.

Now, Sir, I come to another question about which I certainly feel a certain amount of doubt. Who is to administer this law, the Centre or the States ? And if the Centre is to administer the law, is it not better that this Bill should contain a clause to that effect, that it shall be administered by the Central

Government ? I make this suggestion because I feel that the States might raise an objection that this is a concurrent piece of legislation and being a concurrent piece of legislation the States have the right ordinarily to administer these Acts. I do not think that this is a concurrent piece of legislation in which the States can claim to have a right to administer.

I claim that this is a Central law although it does not fall in List I of the Seventh Schedule. The provisions contained in article 35 are quite clear. It has been stated in article 35 that any law to be made for inflicting punishment for any infringement of a law made in pursuance of article 17 shall be by Parliament and not by the State. Those are the very express words. Therefore there can be no doubt in my mind that this law will have to be by virtue of the Constitution administered by the Centre and not by the States. I say this because my hon. friend might be saying that since we have made the offences under this Act cognisable, it does not matter if the law is administered by the States but that argument cannot stand at all in virtue of article 35 and I would suggest to him that he should introduce an express provision in the Bill that the Law shall be administered by the Centre. If my friend's contention or the contention of the States is that this is also a concurrent piece of legislation, I would like to draw his attention to the proviso to article 73 which is a very important one and which relates to the administration of laws in the concurrent field. My hon. friend will remember that in the scheme of things in the Government of India Act of 1935 we had the same kind of classification of subjects—List I—Central subject, List II—State subject, and List III—Concurrent subject, but the Government of India Act contained an express provision that the power of the Centre to make law in the concurrent field was confined merely to lawmaking. It could not encroach upon the field of administration. The reasons why such a provision was made in the Government of India Act, 1935, are quite irrelevant to the times in which we find ourselves now, but when we made the Constitution we refused to accept such a provision. We said that although generally the Centre may leave a law in this concurrent field

for administration to the States the choice must be given to the Centre to determine whether any particular law in the" concurrent field made by it shall be administered by it and not by the States. That intention has been carried out in the proviso to article 73. We said that if the Centre so determines that the law made in the concurrent field shall be administered by the Centre then the States cannot interfere in the matter at all. Therefore, I am strongly of the opinion that this contention is invalid.

(53)

CONSTITUTION (FOURTH AMENDMENT) BILL, 1954

***Dr. B. R. Ambedkar** (Bombay) **:** Mr. Chairman, those who are familiar with the British Parliamentary system will know that there is a dogma in the working of the British Constitution that all parties in England accept. That dogma is that the King can do no wrong. If any wrong is done in the working of the Constitution, the person responsible for the wrong is the Prime Minister and his colleagues. But the King can never be wrong and can never do wrong. We too in this country have adopted practically, with slight modifications, the British Constitution. But unfortunately the working of our Constitution is governed by a dogma, which is just the opposite of the dogma adopted by the British people. In our country the dogma on which we proceed is that the Prime Minister can do no wrong and that he will do no wrong. Therefore, anything that the Prime Minister proposes to do must be accepted as correct and without question. This devotion in politics to a personality may be excusable in some cases, but it does not seem to me excusable where the fundamental rights are being invaded. The fundamental rights are the very basis of the preamble to the Constitution. The Preamble says that this Constitution will have as its basis liberty, equality and fraternity. These objectives of the Constitution are carried out by the fundamental rights. And it is, therefore, the duty, I should have thought, of every Member of Parliament, apart from personal loyalty, to be critical when any invasion is made of the fundamental rights. Unfortunately, one does not find this kind of critical attitude. The history of fundamental rights in this country is very interesting. In olden times under the Hindu kings there were fundamental rights only for two—the Brahmin and the cow—

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and the Puranas described the king as "*Go Brahmana Pratipalaka*." That was the duty of a king; whether the other sections of his subjects received any consideration at his hands or not, or whether animals other than the 'Go' had any consideration was a matter of no moment at all. So long as the Brahmin and the cow were protected, the king was destined to go to heaven.

When the Muslims came, they took away these fundamental rights which the Hindu kings had granted to the Brahmin and the cow. The cow unfortunately not only lost its rights to live, but became the victim of everybody. So was the case of the Brahmin. What the Muslims did was to give privileges to the Mussalman and no rights to the non-Muslims. After the Muslim rule ended in this country, there came upon us the rule of the British. Anyone who examines the various Government of India Acts passed from 1772 to 1935 will find that there were no such thing as fundamental rights in any of the Government of India Acts that were passed by Parliament for the administration of this country. It is in 1947 or so when Swaraj became a fact in this country that this idea of fundamental rights emerged. It is our Constitution which for the first time contains the embodiment of what are called fundamental rights. It is a very strange thing that although the foreigners were ruling in this country, namely the British, no one ever agitated for the enactment of the fundamental rights. The Congress was in existence from 1886. Let anyone examine the annual resolutions passed by the Congress. They never asked for any fundamental rights.

Babu Gopinath Singh (Uttar pradesh) **:** Did you read the Karachi Congress Resolution of 1931.

Dr. B. R. Ambedkar : Well, I have no idea about that. They said that they would have fundamental rights when they enact a Constitution. I am coming to that now, it is as I say a very strange commentary that no Indian—and the Indians who ran the Congress in the earliest times were intellectual giants: they were not ordinary people, they were most learned, they were wide awake—not one of them to my knowledge asked for any fundamental rights. But as soon as

Swaraj came, there was a demand for fundamental rights. It is a matter worth consideration why this happened ? Various people would no doubt give various replies, but my reply is very simple. My reply is very simple. My reply is this—the reason why Indians did not demand fundamental rights when the British were here is this. Although the British had their imperialism as one aspect of their rule, there cannot be any doubt that the administration of this country was governed by what was called the rule of justice, equity and good conscience. Sir, I remember, at least speaking for my own province, how independent was the judiciary which wholly consisted of Europeans. How independent it was of the executive. I remember a case .....

Dewan Chaman Lall (Punjab) **:** Is it Tilak's case ?

Dr. B, R. Ambedkar : It is a very famous one, the case of a Mr. Justice Knight who was the Chief Justice of the Bombay High Court during the time of the East India Company. He had issued a writ against the Government of Bombay and the Government of Bombay refused to obey. They said that the Chief Justice of the Bombay High Court had no right to issue a writ against the Executive. When they informed him that they were not going to carry out that particular writ, what did Mr. Knight do ? He called the Chaprassi and said : "Bring the keys of the High Court", and he asked him to lock up every room of the High Court, including his own, and next day booked a passage for himself and went back to London, saying: "If you are not going to obey my orders as the Chief Justice of the Bombay High Court, you will have no High Court, at all." Subsequently, of course, his order was reversed by the Privy Council. But that is no matter at all. The point is that the British administered this country in a manner in which everybody felt that there was some sense of security. That is the reason why, in my judgement, nobody in this country clamoured for fundamental rights. But as soon as Swaraj presented itself, everybody thought—at least many of the minorities thought—that there was the prospect of political authority passing into the hands of a majority, which did not possess what might constitutionally

be called constitutional morality. Their official doctrine was inequality of classes. Though there is inequality in every community, or whatever be the word, that inequality is a matter of practice. It is not an official dogma. But with a majority in this country, inequality, as embodied in their *Chaturvarana* is an official doctrine. Secondly, their caste system is a sword of political and administrative discrimination. The result was that the fundamental rights became inevitable. What I found—and I know this thing more than probably many do, because I had something, to do with it—was that the Congress Party was so jubilant over the fundamental rights. They wanted fundamental rights, and they thought that fundamental rights were so necessary that if the Indian people had a constitution which did not embody fundamental rights, they would appear nude to the world. That was the reason why they clamoured for fundamental rights. In the proceedings of the Constituent Assembly, I do not find a single Member who stood up and said "We do not want fundamental rights." Fundamental rights were regarded as a kind of an ornament which the Indian people must have. Today, their attitude has undergone a complete change. Today, they look upon the fundamental rights as an iron chain which ought to be broken, whenever occasion arose for breaking it. This, I find, is a fundamental change. I am sorry to say that this attitude of treating the fundamental rights with contempt, as though they were of no consequence, that they could be trodden upon at any time with the convenience of the majority or the wishes of a Party chief, is an attitude that may easily lead to some dangerous consequences in the future. And I therefore feel very sorry that even a matter of this sort, namely, the infringement of, or the deviation from, fundamental rights, is being treated by the Party in power as though it was a matter of no moment at all.

It seems to be suggested that those who made the Constitution had no sense, that fundamental rights must be elastic, that they must leave enough room for progressive changes. I must, Sir, as the Chairman of the Drafting Committee, repudiate any such suggestion. Any one, who reads the fundamental rights as they are enacted in the

Constitution, will find that every fundamental right has got an exception. It says: Notwithstanding anything contained, the State may impose reasonable restrictions on them. We were quite aware of the fact that fundamental rights could not be rigid, that there must be elasticity. And we had provided enough elasticity.

Article 31, with which we are dealing now in this amending Bill, is an article for which I, and the Drafting Committee, can take no responsibility whatsoever. We do not take any responsibility for that. That is not our draft. The result was that the Congress Party, at the time when Article 31 was being framed, was so divided within itself that we did not know what to do, what to put and what not to put. There were three sections in the Congress party. One section was led by Sardar Vallabhbhai Patel, who stood for full compensation, full compensation in the sense in which full compensation is enacted in our Land Acquisition Act, namely, market price plus 15 per cent. solatium. That was his point of view. Our Prime Minister was against compensation. Our friend, Mr. Pant, who is here now—and I am glad to see him here—had conceived his Zamindari Abolition Bill before the Constitution was being actually framed. He wanted a very safe delivery for his baby. So he had his own proposition. There was thus this tripartite struggle, and we left the matter to them to decide in any way they liked. And they merely embodied what their decision was in article 31. This Article 31, in my judgement, is a very ugly thing, something which I do not like to look at. If I may say so, and I say it with a certain amount of pride the Constitution which has been given to this country is a wonderful document. It has been said so not by myself, but by many people, many other students of the Constitution. It is the simplest and the easiest. Many, many publishers have written to me asking me to write a commentary on the Constitution, promising a good sum. But I have always told them that to write a commentary on this Constitution is to admit that the Constitution is a bad one and an un-understandable one. It is not so. Anyone who can follow English can understand the Constitution. No commentary is necessary.

Dr. Anup Singh (Punjab) **:** Last time when you spoke, you said that you would burn the Constitution.

Dr. B. R. Ambedkar : Do you want a reply to that ? I would give it to you right here.

My friend says that the last time when I spoke, I said that I wanted to burn the Constitution. Well, in a hurry I did not explain the reason. Now that my friend has given me the opportunity, I think I shall give the reason. The reason is this : We built a temple for a god to come in and reside, but before the god could be installed, if the devil had taken possession of it, what else could we do except destroy the temple ? We did not intend that it should be occupied by the *Asuras*. We intended it to be occupied by the devas. That is the reason why I said I would rather like to burn it.

Shri B. K. P. Sinha (Bihar) : Destroy the devil rather than the temple.

Dr. B. R. Ambedkar : You cannot do it. We have not got the strength. If you will read the Brahmana, the Sathapatha Brahmana, you will see that the gods have always been defeated by the *Asuras,* and that the *Asuras* had the *Amrit* with them which the gods had to take away in order to survive in the battle. Now, Sir, I am being interrupted .....

Mr. Chairman: You are being drawn into .....

Dr. B. R. Ambedkar : ..... into all sorts of things into which I do not wish to enter.

I was saying that Article 31 was an article for which we were not responsible. Even then, we have made that article as elastic as we possibly could in the matter of compensation. If members of the House will refer to entry 42 of the Concurrent List, and compare it with Section 299 of the Government of India Act, 1935, they will find how elastic has been the provision made by the drafting Committee. Section 299 of the Government of India Act which governed the question of compensation described the following ingredients. One was that there must be full compensation by which they, *no* doubt, meant compensation *in* accordance with the terms of the Land Acquisition Act. Secondly, it said that compensation

must be paid and paid in cash before possession could be taken. That was the provision in the Government of India Act, 1935. Look at the provision that we have made in entry 42 of the Concurrent List, by which I hope members will understand that the authority to determine compensation is given to both the State Legislatures as well as to Parliament, and the reason why we did this was simple. It was this : we thought that, if compensation was distributed in List I and List II, so that the Centre might be free to fix compensation for such acquisition as it might make, and the provinces or the States might fix such compensation as they might think fit, it would result in utter choas in this country and that there must be some sort of uniformity in this. Therefore, while giving authority to the States to lay down rules of compensation, we also gave authority to Parliament so that Parliament might enact a general law which would be applicable to the whole of India and which might supersede any State law which might be inequitous. That was the reason why we put it in the Concurrent List. What is the provision we have made ? We have said that it is not necessary that Government should actually pay compensation to acquire possession of property. We have not said that. We have said "compensation to be given" and not "paid" so that it is open to the Government at the Centre as well as in the States to acquire property without actually paying compensation.

The second distinction that we have made between section 299 of the Government of India Act, 1935 and entry 42 is that compensation may be in any form, that either Parliament or the State Legislature might decide by law to give compensation in the form of paper bonds, cash certificates or whatever they liked to give, or that they might pay it in cash if they liked it. We have also said that, although Parliament may not actually fix compensation, it may merely lay down the rules for compensation, so that, if a law was passed which did not contain a clause specifically saying what should be the compensation but merely laid down the rules and principles, that was enough for Government to take possession of the property and acquire it. Now, Sir, I would like to ask the Members of this House if they can point out any

Constitution where the procedure for acquiring property is so easy as it is in our Constitution. Can anyone point out to me that there is some other Constitution which enables the Government with greater facility to acquire property for public purposes ? Now, with all this facility, is there any necessity for the Government to come out with a proposition that there are cases where they shall not give compensation ?They need not cast the whole burden, the entire burden, on the present generation. They are not asked to say that the bonds that they might issue must be redeemable. They may make them irredeemable. All that they need do is to give some interest on the bond as every borrower agrees to do and as every creditor gets. Why at all even the most hasty socialist should say, "well, we shall not pay compensation;", I do not understand. There are in my judgement three cases or three paths that one might follow. The first path would be full compensation; the second, no compensation; and the third, compensation as determined by law. I am quite in agreement with those who think that it is not possible to accept full compensation in terms of the Land Acquisition Act. I am quite in agreement with that; if by full compensation is meant compensation as determined by the rules now prescribed by the Land Acquisition Act, I am quite prepared to side with the Government and say that that is an impossible proposition which we need not accept. I might at this stage draw the attention of the House to the fact that we are not the only people who are bringing about socialism. What socialism means, nobody is able to say. That is the socialism of the Prime Minister, which he himself said that he cannot define. There is the socialism of the Praja Socialist Party; they don't know what it is. And even the Communists……

Shri S. N. Dwivedy (Orissa)**:** You don't know either.

Dr. B. R. Ambedkar: I am not a socialist.

Shri S. N. Dwivedy: You want to criticise without knowing what it is.

Mr. Chairman: Order, order, you may go on.

Dr. B. R. Ambedkar: Even the Communists say that theirs is socialism and I want to know why they call themselves Communists if they are only Socialists. It would lose all the terrors which the word 'Communism' has for many people and they might easily have won a victory in Andhra if they had made a change in name. What I wanted to tell my friend Mr. Pant is—I hope he is listening to me.....

Mr. Chairman: Of course he is listening with the greatest attention.

Dr. B. R. Ambedkar: What I wanted to tell him was this, that this is quite interesting. Anyone who has studied the legislative programme of the British Labour Party, after the close of the War, will see that the Labour Party, in accordance with the report of the Trade Union Congress, published in 1945, carried out nationalisation of various industries and various services including the Railways and even the Bank of England. I have not understood what changes have been made by the Labour Party in the working of the Bank of England by nationalisation. I am a student of currency and I know something about the Bank of England but there it is that they had it. But what I wanted to tell my friend Mr. Pant is this, that in everyone of those cases where the Labour Party has carried out nationalisation, they have paid full compensation—full. That is to say, they have paid the market value for the shares that they have acquired. Payment of compensation, therefore, cannot come in the way of nationalisation but as I said, I am quite prepared for that proposition because the values of the shares are not due merely to the share capital that is invested. It is due to a variety of social circumstances. It is social causes which have brought about the rise in the value of the shares and there is no reason why a private shareholder should be entitled to appropriate to himself the social values which have become part of the values of his shares. I don't also understand how the theory of no-compensation can be supported. In Russia they paid no compensation, it is true. But it must not be forgotten that the Russian Government undertakes to give employment to people, to feed them, to clothe them, to house them, to scrub them and to provide for all the human needs.

If the State can undertake to feed the population whom it has deprived of compensation, then of course, in those circumstances, the theory that no-compensation shall be paid is a valid one. Why do you want compensation ? Compensation is necessary simply because the State has deprived an individual of his instruments of earning a living. You cannot deprive a man of the instruments of his earnings and at the same time say, "Go and feed yourself". That theory, in my judgement, is a very barbarous one. It is therefore not possible to accept it. But why can we not accept the theory that just compensation means compensation determined by the law of Parliament ? Why not ? It does not mean that Parliament shall make a law exactly in terms of the Land Acquisition Act. You can scrap the Land Acquisition Act. You have a right to do so because it is within the purview of both Parliament and the State Legislatures. It can enact a new Land Acquisition Act with a new set of principles. There is no harm in doing that and no difficulty for doing that. If you do that, well, nobody can have a right to complain because when you bring forth such a measure for determining compensation by law, all sections of the House will have a right to say what they have to say. It would be the result of common agreement. If one Parliament finds certain principles to be good and another Parliament finds that those principles are bad, Parliament may change but it should all be done and it can be done by Parliament. Therefore my suggestion to the Government is this, that rather than bring in this kind of a Bill, a bald one and, as I am going to show later, really a very trifling thing, its corpse ought to be carried unwept, and unsung and nobody ought to cry over it. I am not going to cry over it because it is not going to do any good or going to do any harm, as I will show. Therefore, my suggestion to the Government was this that rather than keep on encroaching upon these fundamental rights from time to time, it is much better to give Parliament once for all the power to determine compensation. This tampering with the Constitution from time to time is a bad thing. I said so last time but I don't suppose the Government has cared to pay any heed. I would like to repeat the same caution again and I should like to

give some reasons why the Constitution should not be amended and tampered so easily. Anyone who is familiar with what is called the interpretation of law by courts—and there are well-set rules as to how Statutes are to be interpreted—will recall that there is a famous rule of interpretation which is called *stare decisis* which means this, that when the courts have given an interpretation for a long number of years in a very uniform sense, and if after a long number of years some lawyer gets up and convinces the court that the existing interpretation is wrong and ought to be changed, the courts say that they shall not do it, although they are convinced that the interpretation is wrong. The reason why the courts adopt this rule *stare decisis* is very important. The court says :

> "Whether the interpretation we have given is right or is wrong is now not a matter of moment, for the simple reason that a large number of people have acted upon our interpretation as being the correct law, have incurred obligations, have secured rights. Now to say that all these obligations and rights are founded upon a mistaken view of the law would be to unsettle the society altogether. Let, therefore, the wrong continue."

That is the attitude that the courts have taken. The same reason prevails, in my judgement, why the Constitution should not be constantly amended. People know that the Constitution contains certain rules, certain obligations, and in accordance with them, they make their contracts, they make their plans for the future. It is not right, therefore, to come in every year and to disturb these values. That is the reason why I say the Constitution should not be so lightly and so frequently amended. I do not know whether the Government would listen to it, perhaps not.

Shri Tajamul Husain (Bihar)**:** Why should they ?

Dr. B. R. Ambedkar: Well, Sir, it is a habit. Once a cow gets the habit of running into the fields of another, you cannot convert her by morality. It is a habit.

Mr. Chairman: Go on, go on.

Dr. B. R. Ambedkar: In other countries wherever a clause of the Constitution has been interpreted by the judiciary in a way which the Government does not like, Government concurs in, it does not like to upset the decision

of the court. Here, in our country, we have cultivated a different mentality. Our mentality is that if the Judges of the Supreme Court do not give a judgement which is to our liking, then we can throw it out. That is what it is. I am rather glad with regard to the behaviour of our Supreme Court. In the short time that it has been in existence, I see some different phases of the Supreme Court. Being a sick person I have not been attending the Supreme Court for the last two or three years, but I am in contact with what is happening. I remember that in the very first flush of its power, the Supreme Court declared or had the courage to declare that a certain section of the Indian Penal Code was *ultra vires*. Our Government at once reacted and brought in an amendment to declare that the interpretation of the Supreme Court was wrong.

(*Interruptions.*)

Mr. Chairman: Let us avoid comments upon the Supreme Court.

Dr. B. R. Ambedkar: I hope that notwithstanding the constant amendments which the Government seems to be prone to bringing forth, the Supreme Court will continue to have its independent judgement, notwithstanding what the Government may have to say. I do not find that the Supreme Court has given any judgement which, any independent man can say, is not in consonance with the terms of the Constitution.

Now Sir, I will proceed to deal with the different clauses in the Bill. The first clause is clause 2. This clause 2 of the Bill divides clause (2) of the original Article 31 into two parts, clause (2) and clause (2A). With regard to clause (2) one has nothing to say, because it is merely a reproduction, probably with a certain economy of words, of the terms, contained in the original colause (2). I have therefore nothing to say about it. But clause (2A) is a new thing and it must be examined carefully. In the first place, I cannot understand the meaning of this clause. It has not been explained by the Prime Minister, nor do I find any explanations from my hon. friend the Minister for Home Affairs. What exactly is it intended to convey ? It is a sort of mysterious clause; it has been shrouded in mystery. Now, let me analyse this clause (2A). What does

it say? To put it in plain language, quite different from the language that is used in the clause, as embodied in the amending Bill, it seems to say this. If Government buys up ownership of any property, it will amount to acquisition and Government will pay full compensation in accordance with article 31. If Government buys up ownership, that is the important point. If Government buys up ownership, then that is tantamount to acquisition and Government will be bound to pay compensation. Secondly, it means that if Government takes possession of the property, then the taking possession will also amount to acquisition and the Government will be bound to pay compensation in accordance with the terms of article 31.

That is what the clause in the Bill says : What is it that will not amount to acquisition ? What is it that is left which Government can do and wants to do and yet escape compensation ? If it acquires ownership, it is said, it will pay compensation; if it takes possession, it says, it will pay compensation because that would be tantamount to acquisition.

12-00 Noon

Shri Tajamul Husain: What about the Sholapur Case? It was only temporary possession for improving matters.

Dr. B. R. Ambedkar: I have got the case here; I shall come to it.

It seems that the only case which will be out of these two, acquisition of ownership and acquisition of possession, is the cancellation of a licence, because, when you cancel a licence you do not acquire ownership and you do not take possession and, therefore, by reason of the cancellation of the licence you do not become liable for paying compensation. That is what this clause means. I wish it had been stated in positive terms that in the following cases, Government shall not pay compensation but having been put the other way, the real meaning of this clause is very much concealed from the sight of the reader. If my interpretation is right, then, what the clause intends to do is to exempt Government from the liability for paying compensation whenever it cancels a licence. Is that a justifiable ground for not paying compensation ? I believe

that the case which my hon. friend Mr. Pant has very much in mind and which I also have in mind, is the case of the bus owners. The bus owners, under the Motor Vehicles Act, have to obtain a licence for running their buses on a certain route. My friend Mr. Pant is a very covetous person and he likes to get the monopoly of running the buses in his own hand and he, therefore, does not like the bus owners. How can he prevent them from running the buses ? He has got the power of cancelling their licences. He therefore, cancels their licences and sets on Government buses on the route on which they were plying and he does not want to pay them any compensation at the same time. The question that I would like to ask is this ; Is this a just and fair proposition ? I have no objection to the Government running their own buses. I do not know how cheap the fares in U. P. are whether they are cheaper than in the case of the private buses.

Shri H. P. Saksena (Uttar Pradesh)**:** Yes.

Shri Tajamul Husain: And better.

Dr. B. R. Ambedkar : I am not saying anything; I do not know whether they give good service; probably they do.

Shri Tajamul Husain: Yes, they do; the Government buses always do.

Dr. B. R. Ambedkar: But the point to be considered is this; here are a body of people engaged in this particular trade, who are earning their living by this trade. They have invested quite a lot of money in buying their stock-in-trade, namely the buses, the workshops and whatever other things are necessary. You suddenly come and say, "Stop your trade. We shall not allow you to carry on". Even that I do not mind but the point that I would like to ask my friend is this; the least thing that my hon. friend could do is at least to buy their stock-in-trade because that very stock-in-trade would be useful to us running by the Government. If it did that and then said that it is not going to give them any more compensation because the stock-in-trade has been bought with which money they could go and practise any other trade they liked, that would be quite an equitable proposition from

my point of view. But the Government does not want to do that. In running the Government buses they prefer to buy new buses. The Minister has yet to give an answer as to why he would not take the old buses from the people whose licences he has cancelled. No answer has been given for this thing.

Mr. Chairman : Dr. Ambedkar, you have taken nearly an hour.

Dr. B. R. Ambedkar: Yes, Sir, that is quite true.

Mr. Chairman: Please wind up as early as possible.

Dr. B. R. Ambedkar: Yes, Sir. What I was saying was this, that in such cases it would be wrong to deprive a man of his means of livelihood and not to compensate him for the loss of his stock-in-trade. I would like to hear some argument on this subject which would justify this kind of conduct. Therefore,, my submission is that clause (2A) is a most inequitous piece of legislation. It has no relation to justice, equity and good conduct. Unless my friend is going to give some satisfactory explanation I mean to oppose that clause.

Now I will proceed to clause 3 of the amending Bill. I would like to say at the outset that the provisions contained in clause 3 are in my judgement, most insignificant, trivial and jejune and I do not know what the Government is going to achieve by incorporating this clause in the Constitution. Now, with regard to sub-clauses (g), (h) and (i) of proposed clasue (1), in clause 3 of the amending Bill, I have not the least objection because I do not see that by taking action under these clauses, there is going to be any injury to anybody. The essence of acquisition is that it causes injury to the interests of anybody. I do not see that these sub-clauses will cause any injury to anybody and, therefore, I support the proposition that there need be no compensation in these cases.

But there is one thing that I would like to say with regard to these clauses and it is this that if any action is taken under these clauses (g), (h) and (i), it must only be on the ground that public purpose justifies it. It must not be merely an arbitary act on the part of the Government. It must not be a whim that Government wants to amalgamate one company

with another or transfer the management of one to another. These clauses must be subject to the rule of public purpose. If that, is so, then there is no objection to them.

Now going back to the other clauses, to (a) I have no objection; it may stand as it is.

With regard to (b) I do not know whether the first part of (b) is very different from (a). It seems to me that both are alike, but I would like to have some explanation as to what is meant by "modification of any rights in agricultural holdings". What does that mean ? There is no explanation. As far as I understand, an agriculturist requires four rights. First is security of tenure; he must not be liable to ejection by the landlord without proper cause. Secondly he would be liable to pay only what is called fair rent, as may be determined by a court if it is necessary. Thirdly he must have transferability of tenure. If he wants to sell his holding he should be free to sell it and the landlord should not stand in his way. And fourthly it must be hereditable, that is to say, if he dies, his descendants should have a right to claim the holding. Now these are the four things which I think a holder of an agricultural holding is interested in. Now Government would take power to modify these things. I do not know what is the nature of the modification and what are the rights which they propose to modify. I think some explanation is necessary.

Then comes (c), the fixation of the maximum extent of agricultural land, etc. Well, all that I can say is this that whether this particular clause will have positive results depends upon what is the maximum that you are going to fix. This is the pet idea of the Socialist Party. They want that land should be distributed after fixing the maximum holding of a tenant.

Mr. Chairman: Are not these matters to be taken up in the Joint Committee when it comes to discuss the thing?

Dr. B. R. Ambedkar: It may be but the point is this that it is necessary to know whether these things are really good to be incorporated in the Constitution. My Friend Mr. Pant

knows because he was the Chairman of the Committee on Land Tenures in U. P. which I have studied—that the maximum holding in U. P. is about two acres for a *ryot* and I do not know that there is any part of India where *tyotwari* prevails where the holding is larger than two acres. What maximum can you fix I do not understand. Therefore this seems to me quite a futile thing.

The other thing about which I wish to make some reference is this. It says that the surplus land shall be transferred to the State or otherwise. I do not know what is meant by "otherwise", whether it means that it may be given to other tenants; that might be the meaning. If so, I would like to utter a word of caution. I am of opinion that peasant proprietorship in this country is going to bring about complete ruination of the country. What we want is—although I am not a Communist—the Russain system of collective farming. That is the only way by which we can solve our agricultural problem. To create peasant proprietorship and to hand overland to peasants who have not got means of production is in my judgement……

Shri Tajamul Husain: Have they done it in Russia ?

Mr. Chairman: Don't bother, he takes it as an illustration.

Dr. B. R. Ambedkar: I am prepared to pick and choose from everyone, Socialist, Communist or other. I do not claim infallibility and as Buddha says there is *nothing* infallible; there is nothing final and everything is liable to examination.

Shri Tajamul Husain: That is why we are amending the Constitution framed by Dr. Ambedkar.

Shri S. Mahanty (Orissa)**:** And voted by you.

Dr. B. R. Ambedkar: Now with regard to vacant and waste land. That proposition is of course a welcome proposition and I support it. But I have yet to see if you take vacant land without compensation, whether the municipality which would have to exercise this right would do so because I fear a large majority of municipal councillors are friends of the slum-owners and therefore probably they will not exercise this right unless some ting more is done.

Now with regard to management, all that I want to say is this. Most people do not realise what is involved in this. If the Government wants to take up the management of a mill because it is badly managed, there is no harm in doing that. But the question is this. Suppose the Government management turns out to be worse than the previous management and losses are created, who is going to be responsible for those losses ? I think some provision must be made. Nationalised industries so far as India is concerned do not appear to be very profitable. Our Airways Corporation, as I see from papers, has brought to us a loss of one crore of rupees within one year.

Shri S. Mahanty: And about Rs. 50 lakhs.

Dr. B. R. Ambedkar: What other corporations would do I do not know.

But if you take the property of a man because it is mismanaged and because there is a social purpose in it, you must also make some provision that the losses that might be incurred are made good by somebody and are not put on the head of the old man who was the owner of the property.

Now, Sir, one word with regard to clause 5. It seems to me very obnoxious. What are we asked to do by clause 5 ? By clause 5 we are asked to give constitutional validity to laws passed by State Letislatures. We have not seen those laws; they have not been circulated; they have not been debated here. And yet we are asked here to exercise the constituent powers of Parliament not only to validate them but to give them constitutional immunity from the other clauses of the Act. Sir, I think it is very derogatory to the dignity of the House that it should be called upon to validate laws passed by some other State which laws it has not seen, it has not considered. The proper thing for the Government to do is to put these subjects in the concurrent field so that Parliament may at least give them validity by the powers vested in it. But it is a very wrong thing. Because we did it in the case of the first amendment where we added the Ninth Schedule to the Constitution, that is no reason why we should widen this anomaly and this ugliness in the Constitution.

That is all that I want to say.

(54)

STATES REORGANISATION BILL, 1956

***Dr. B. R. Ambedkar** (Bombay)**:** Mr. Deputy Chairman, the storm centre of the debate on this Bill as I see it from the papers is the position assigned to the City of Bombay. As is obvious from the Bill this City which was a premier city in the civic affairs of this country has been brought down to the level of Adaman and Nicobar Islands—what has been described in our Constitution as the territories of India. That means that these territories and now the City of Bombay will not have any Legislature or Executive. Nobody in his widest dreams could have conceived of such a madness. A city which has been in the forefront of India, which has taught politics of India, is now placed on the level of the Laccadive and Maldive Islands and the Nicobar Islands. I am sure that the Government which has fostered this proposal must have the strongest reasons, incontrovertible reasons, in order to justify the decision that they have taken. There have been contestants to the claim for the City of Bombay. There are the Maharashtrians who claim that the city belongs to them. There are our Gujarati friends; I do not know on what basis they lay their claim, but they claim a kind of an easement over the city. They say that they will not allow the city to go into the possession of the Maharashtrians and the quarrel is going on. It has been admitted by no less a person than Mr. Morarji Desai that Bombay belongs to Maharashtra. I have read his speech which he delivered to the Gujarat Maha Pradesh Congress, or something like that, in which he categorically made this statement that Bombay belongs to Maharashtra. If that is so, I am quite unable to understand what objection there can be for the city of Bombay to be given to Maharashtra. Under the British regime when citizenship was common, any man could go anywhere and reside and the

*P. D., (R. SO, Vol. 12-A of 1956, 1st May 1956, pp. 834-46.

local people could not object. Under those circumstances various people from various Provinces have gone to cities located in other Provinces. They built up their interests and have lived there for generations. But in the redistribution that we are now making, I have not seen anybody—Non-Madrasi living in Madras—raising objection to Madras being given to the Tamilian. Calcutta is equally a cosmopolitan city. When I was the Labour Member, I had often to visit Calcutta in order to see the labour conditions there and I found that the Bengal people did not call the people living in Calcutta as 'Bengali'. Their word was "*Calcuttiya"* These are *"Calcuttiyas"* That shows that they were not part of Bengali population, and it is a huge population. Notwithstanding this, our friends, the Congress Party people, have never raised any objection; nor the *Calcuttiyas"* have ever raised any objection to Calcutta being handed over to the Bengali. My first question to my Friend, Mr. Pant, is this. If Calcutta can go to Bengali and Madras can go to Tamilian, what objection is there for Bombay to go to Maharashtra ? That, I think, is a fundamental question which he must satisfy the Maharashtrians about. Yes, it is said that there is in Bombay a Gujarati population which amounts to not more than 15 per cent, and that the Maharashtrians do not form a majority of the population. It is said that that is the reason which vitiates the claim of the Maharashtrians over Bombay. I wonder whether there are any cities in this country where the foreign population in the city is not 15 per cent, and the position of Bombay, it is said, by reason of the fact that 15 per cent, are Gujaratis is in a sense peculiar. How is it peculiar ? One can *give* any number of illustrations to show that our cities are always a mixed quarter. No city can claim to have a uniform population of its own. And if notwithstanding this fact the other city can claim to belong to West Bengal, I am quite unable to understand why Bombay City should not make a similar claim. There are some people who have said that Bombay never belonged to Maharashtra. Well, I am surprised at the knowledge of those who made the statement, I am very much surprised. Who were the first inhabitants of Bombay ? They were the *kolis*—the fishermen—and do the

fishermen say that they are not Maharashtrians ? I would like any one to go and make enquiries and find out what is the opinion of the *kolis* who were the original inhabitants of Maharashtra. If those ladies and gentlemen who have indulged in these wild allegations want to know a little bit of its characteristics, I should like to tell them that even before the Portuguese acquired Bombay, Bombay belonged to a dowager queen called Lakshmi Bai and the Portuguese took it as a tenancy from her. It did not even belong to the Portuguese. The Portuguese never conquered it. They took it. The poor queen subsequently could do nothing. Ultimately, it was transferred to the British as a dowry to the wife of Charles II. It was so small that the dowry was not more than £10. That was because Bombay was what I shall call a place occupied by a few *kolis*. I have got with me the original print of the original Bombay when it transferred itself from the Portuguese to the British. Therefore, historically, geographically and logically—the logic which we have applied to other cities—I cannot see how anybody can dispute the claim of the Maharashtrians to have the city to themselves.

Of course, there *is* a wide difference of opinion between myself and the rest of the Maharashtrians. The rest of the Maharashtrians want Bombay as part of a United Maharashtra. Now, I am very much against this United Maharashtra. I do not understand why Maharashtrians should want a United Maharashtra and I am sure about it that in the course of future history, we are not going to war with U. P. nor are we going to war with any of the northern territories like -Rajasthan. Why do you want a United Maharashtra ? I am at one with Maharashtrians that Bombay belongs to Maharashtra. On that, I will fight tooth and nail. There can be no doubt on that point at all. And therefore I had suggested that the Government might give Bombay a separate status as a City State and call it the "Maharashtra City State" so that it will be part of Maharashtra and at the same time, it will enjoy the status of an 'A' class State. But since the Government, for some reason which it is very difficult for me to understand, is going to reduce the status of Bombay City to that of the Nicobar Islands, I tell them right now that I

reverse my position and fight with them along with the rest of the Maharashstrians. Now that is what I want to say about Maharashtra.

With regard to the question that the Maharashtrians in Bombay City do not form a majority, I like to clear that idea. I think that there is a lot of misunderstanding. Some census figure has been dug out which said that the population of Maharashtrians in Bombay is 46 per "cent, or something like that. Therefore they are not in a majority. Sir, it is a complete misunderstanding. Any man who knows the census operation, who knows statistics and who knows the peculiar statistics of Bombay City would pay no attention to that figure. The census figure records the state of affairs on a particular day on which the census is taken. It does not indicate the common state of affairs. What happened on a particular day is taken as the typical example, but it is not typical at all. Secondly, the important point to be noticed is that Bombay City is one of the cities which is most subjected to immigration and emigration. Unfortunately, in the year 1941 when the new census was taken, the Government of India, in order to shorten their labour, did not repeal the immigration and emigration report figures for the year 1931. But if one were to go into the figures given on immigration and emigration in the census of 1931, he will find what violent changes there are in the immigration and emigration position. I do not think that even the non-Maharashtrian population which appears to be in a majority is permanently there in a majority. Most of them come for seasonal labour. If they happen to be there on the day of census, their existence is recorded as 'residents of Bombay'. On the next day, they might as well leave for their native places, because they have made enough money for their living. In these circumstances, can anybody accept the census figures as true figures of the citizens of Bombay? I deny that conclusion altogether. I have been a student of the census statistics. I have studied them considerably. I know what they mean. Therefore, the claim that these figures show that the population of the Maharashtrians is less is absolutely ambiguous, if not bogus. It has no value. It only indicates what happened to be on a particular day on which the census was recorded.

Now, I have said that I did not agree with the majority of the Maharashtrians, if I may say so, that there should be a united Maharashtra. My contention is that there should not be. I am going to say the same thing about U. P., about Rajasthan and about these huge Hindi reptile provinces, which have been looming large before us. I shudder to see U. P. standing before me in that shape.

Shri H. P. Saksena (Uttar Pradesh)**:** God save your soul.

Dr. B. R. Ambedkar: Do not pray for my soul. I have no soul. I am a Buddhist. Nobody need take the trouble of praying for my soul. I do not believe in God. I have no soul. I have spared you that trouble.

Now, I am surprised, I must say, that the Commission should have retained U.P. as it is, should have retained Rajasthan as it is, and should have linked up the two provinces of Vindhya Pradesh and Madhya Pradesh into one.

Shri K. S. Hedge (Madras)**:** Madhya Bharat.

Dr. B. R. Ambedkar: What does this mean ? I have made a little calculation. The area of U.P. is 1,14,323 sq. miles. Its population is 6,32,54,118. Bihar : The area is 70,368 sq. miles; its population is 4,02,18,916. Madhya Pradesh: Area is 2,01,633 sq. miles; its population is 3,28,46,971.1 know I have to deduct something here for Vidarbha. Rajasthan : Area is 1,28,424 sq. miles; population is 1,52,97,979. The total area is 10 crore sq. miles and population is about 15 crores.

Shri T. Pande (Uttar Pradesh)**:** Ten lakh sq. miles.

Dr. B. R. Ambedkar: That does not matter very much to my argument.

The question that requires to be dealt with in my judgement is a very serious question. Are we to have one State for one language, or are we to have one language for one State ? If this question had no political consequences, nobody would bother about it, but the trouble is that this question has very serious political consequences. In the United States, the population of the various States differs. In some States it is small, and in some States it is big. But the Americans do not mind it on account of the fact that the States have

equal powers. The Lower House has the same power as the Upper House, and all the States have equal representation in the Upper House without reference to population. In the Senate they have equal representation. Here, what is the position ? Under our Constitution, there is no such equality at all. Every State has not the same power, and the Upper Chamber has no powers at all, so far as finance is concerned. It may happen—it is very likely—that the States in the northern area may combine together on an issue on which the southern States of India do not agree. What is likely to happen in that event ? In that event, the north, if I may say so, will over-ride every proposition in which the southern States are interested. If that happens, I fear that there maybe civil war. I may be using some exaggerated sentiment, but such a thing has happened. It has happened in the United States. In the United States the origin of the Civil War was this inequality of power. In the earlier stages it was agreed that up to a certain latitude the slave States might exist but that there would be no slavery above that latitude. It happened, I believe, that California was at one time a territory; it was not a State. It was later on decided to make it a State. The Southern States quarrelled, because they felt that if California became a State, it would acquire the power of voting and that it would change the balance of voting. Notwithstanding that, the Northern States decided to convert *California* into a State. Thereby they got a majority of voting, and then with this majority of voting, they decided not to have slavery in the United States at all, which affected the political and economic interests of the Southern States. At once, the Southern States resisted. They said, 'We would not remain part of the Union, if you are going to exercise that power for the abolition of slavery." Then, there was the Civil War. There are people here who fear the influence of the northern people. One important example *yon* could recently see was.....

Shri Kailasb. Bihari Lall (Bihar)**:** Because the Southern States wanted slavery.

Dr. B. R. Ambedkar: The hon. Member is right. Mr. Rajagopalachari had long been expressing this fear that this Union will break down.

Hon. Members: No.

Dr. B. R. Ambedkar : There are plenty of slaves who keep it up.

Shri R. U. Agnibhoj (Madhya Pradesh)**:** Independence is kept by the united people, not by slaves. Therefore this country will have its independence through unity and not through slavery.

Dr. B. R. Ambedkar: I am very glad to have your assurance.

Shri R. U. Agnibhoj : Thank you.

Dr. B. R. Ambedkar: Now there are plenty of things one can imagine on which the issue may be between the north and the south and if that happens and if the matter is taken to bloody conclusions, well, all the efforts that we have made in order to bring about unity will have been in vain. I therefore suggest that the United Provinces should be cut down into three provinces, Bihar should be cut down into two and Madhya Pradesh also should be cut down into two.

Shri R. U. Agnibhoj : You should have 600 States.

Dr. B. R. Ambedkar: Nothing is lost. It does not affect the linguistic principle at all. They all have the same language. What does it matter if U. P. is divided into three States, or if Madhya Pradesh is divided into two ? I see no difference at all. My friend Mr. Pant, I remember to have read once his statement, had stated that he would have no objection to dividing the U. P. but he has never said a word about it in the course of the debate nor has he voluntarily suggested this self-sacrifice on his part. But I give a warning, I know the house is not going to listen to me, but it is my duty to say what I feel. With regard to Marathwada, I have very strong feelings and I very vehemently resist the United Maharashtra. I can speak more authoritatively about the Maharashtra than I can speak about other areas. What has

been the state of affairs of ths United Maharashtra ? In Maharashtra I find that only that Marathas from the Satara district or that area are able to capture political offices. The rest of the people are just where they are. I do not understand how a Minister drawn from Satara can have any interest in for instance, the Ratnagiri district. I do not think any Minister has ever visited the Ratnagiri district.

An Hon. Member: So many have.

Dr. B. R. Ambedkar: For the sake of drawing allowances, I think. Not for doing service.

An Hon. Member: Still they have visited.

Dr. B. R. Ambedkar: Areas and areas are completely neglected, what interest has a Maratha from the Satara district in the Ratnagiri district? What interest can a Brahmin for instance from Mahavidarbha have in the Satara district ? I do not quite understand this mentality of huddling together. Is it like Bharat Milap ? When Ram came from Lanka, Bharat embraced him. What for—for brotherly love and affection. Nothing more than that. Why not allow such areas to develop their own interests, to pay attention to their own interests ? Besides, as my friend Mr. Pant knows—I may be wrong—I suppose he is the last of the veterans. Who will succeed him—can he tell me ? Who will succeed him as a Minister ? I don't see anybody. Certainly I don't see anybody in the rank and file of the Congress. If any Minister of the towering personality of my friend Mr. Pant has to be looked for, it would have to be someone outside the Congress ranks. I am sure of that.

Shri H. P. Saksena: You, for instance.

Dr. B. R. Ambedkar : I shall die pretty soon. Don't enrol me. This country, by this kind of thing, is going to dogs. Our primary concern is to raise and train politicians so that they. can learn to take responsibility upon their own shoulders. We ought not to sit tight oh one thing for ever. We ought to allow other people to take responsiblity while we are alive so that if they commit any mistake, we may rectify it in time. If you have U. P. divided into three provinces, you will have probably

30 ministers trained in the art of administration, while if you have one, you will have just 10 ministers—nothing more than that. The same thing will happen in Bihar and the same thing will happen in these big provinces. Therefore, in my judgement, there is a great disadvantage to this country in keeping these large provinces as they are. My Friend may perhaps listen to this argument if he does not listen to the other. His argument, if I have heard correctly, is' Oh ! in a country where Ram and Krishna were both born, do not divide it.' That is the argument. I think, he used sometimes. But that is not an argument of a statesman. Now Sir, I was saying about the Marathwada people, I mean the Maharashstrians, that the same thing is true of this Maharashtra. Maharashtra, except for a few Brahmins, is politically not upto the mark, I am sorry to say. I am not speaking with any personal venom of any kind. I know very well that I have had my full share of public life and I do not desire to compete with any one for more. But I like that my State should be well administered and in order that it may be well administered, it must have competent people. Now in a united Maharashtra you will not have more than five or six ministers. Some of them may be Brahmins and some of them may be non-Brahmins. Is that going to be enough for the future of Maharashstra ? Here you have a territory called Marathwada which has just been released from the reins of the Nizam. But you have only to just go and see the area in order to see its wretchedness, the condition of the people, with no clothes, hardly any food, no education. There is no primary school even there. I was told that there was one primary shcool in which there was only one chair and all the teachers ran early in the morning in order to capture that chair so as not to allow any other teacher to sit on it. I like to know whether this most backward area which has no irrigation, no food, no clothes, no school or anything of that kind, will fare better ? For some reason or other, the Nizam spent all his love and affection on other people, not on Marathwada. I like to know whether my friend Kaka Gadgil, if he become the Chief Minister of United Maharashtra would pay attention to the condition of the people of Marathwada or whether he would pay his attention

to Poona and its inhabitants. Let us not talk nonsense. Let us see plain things as they are. Why not allow Marathwada to have a separate province or State and let Marathwada rule itself? It knows its interests best. I have been connected with Marathwada for the simple reason that I established a college there. But it is not a flourishing college and I am every year bearing a huge loss. I know that the Marathwada people would look after themselves much better than any of the Bombay people who talk about them. Particularly there is no education there at all. There is the danger that Marathwada may be attached to the Poona University. God only knows what will happen.

Shri B. B. Sharma (Uttar Pradesh)**:** So you believe in God?

Dr. B. R. Ambedkar : I cannot hear what you say. If you want a reply from me, you must talk audibly.

Shri B. B. Sharma: Whose God is that ?

Shri Jaspat Roy Kapoor (Uttar Pradesh)**:** Don't hear inconvenient questions.

Shri B. B. Sharma: Who is your God ?

Dr. B. R. Ambedkar: To me the people are God.

Sir, in the case of Marathwada it is absolutely necessary that they should have a separate autonomous body to look after their education and they should not be tied down hand and foot to the Poona University. We won't have that at all.

There is one other point to which I would like to refer. As I have said, I may be wrong, but I have a feeling that there are many holes in this federation and it may crack. We are a cracking society. We have no union. We have no unity and any time this whole thing may crack. Therefore, we should, in time, take steps to see that it does not crack. I suggested one way and that was to reduce the northern provinces to smaller areas so that the southern people may not suffer any heavy pressure. I also suggest another remedy and that remedy is to have two capitals for this country. I suggest that

Hyderabad should be made the second capital of India. You can have your Delhi and for some seasons it may be good. But you must have a capital in Southern India, where people may feel that their Government is nearer to them. I suggested at one time that Hyderabad should be made the second capital of india. It is one of the most beautiful towns that I have ever seen in India. It has got all the necessities and amenities which a capital may require. All that may be necessary would be to have a sort of Legislative Assembly and Council of State. If that is done, then the people in the South with whom I have had many talks, would feel that their Government is nearer, that it is not so far away as Delhi. Delhi to the Southern people is a kind of a foreign territory. It is hot and they do not want to stay for long. I hope my hon. friend will take these points into consideration.

Sir, I am not in a condition to speak very long, nor have I got many other points to urge. But there is one thing that I would like to say. I had hoped that this Report of the S.R.C.† would have been placed before, not merely the party people, but generally before all, and they should have obtained the common advice of all the citizens of India and should have given effect to their decision. Sir, it was my hope that what we would settle now, we would settle for ever, because it is a very foolish thing for a gardener to plant a tree today and to uproot it tomorrow, to see whether it has taken root. That way the plant will never live. I cannot help reminding my hon. friend of the statement of Tom Paine that whatever is wrongly. settled is never permanently settled; it has to be resettled. If you are going to settle these things with the help of your party, remember that your party is not perpetual. You can seethe signs of waning even now before your eyes.

If whatever you do you do without the consent of the Opposition, I have not the least doubt about it that when the Opposition would come into power, they would uproot the thing and replant it. Such a thing would be most dangerous for us. Sir, I have done.

† State Reorganisation Committee.

Shri C. P. Parikh (Bombay)**:** The hon. Member made an incorrect statement when he said that Shri Morarji said at any time categorically that Bombay belongs to Maharashstra. I think the hon. Member should make such statement with a sense of responsibility.

Dr. B. R. Ambedkar: It is in the 'Times of India'.

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*LEAVE OF ABSENCE TO DR. B. R. AMBEDKAR

Mr. Deputy Chairman: I have to inform the hon. Members that the following letter has been received from Dr. B. R. Ambedkar.

"I came to Bombay for treatment and had hoped to be able to return to Delhi in time. Unfortunately, I have not recovered. I am therefores, unable to attend and apply to you for leave of absence. I hope the Rajya Sabha will grant my request."

Is it the pleasure of the House that permission be granted to Dr. B. R. Ambedkar for remaining absent from meetings of the House from 29th March 1955, till the end of the Ninth Session and from all meetings of the House during the current Session ?

(*No hon. Member dissented.*)

Permission to remain absent is granted.

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* P. D., Vol. 10-C, 1st October 1955, pp. 5529-30.

(55)

*OBITUARY REFERENCE—DEMISE OF DR. B. R. AMBEDKAR

The Prime Minister (Shri Jawaharlal Nehru):

Mr. Deputy Chairman, I deeply regret to inform the House that a Member of this House who had played a very leading part in many matters passed away a short while ago. I refer to Dr. Ambedkar. Dr. Ambedkar for many, many years had been a very controversial figure in Indian public affairs, but there can be no doubt about his outstanding quality, his scholarship, and the intensity with which he pursued his convictions, sometimes rather with greater intensity than perhaps required by the particular subject, which sometimes reacted in a contrary way. But he was the symbol of that intense feeling which we must always remember, the intense feeling of the supressed classes in India who have suffered for ages past under our previous social systems, and it is as well that we recognise this bidden that all of us should carry and should always remember, It may be that some of us thought, as I have just said, that he overdid the expression of that feeling, but I do not think that, apart from the manner of utterance or language, anybody should challenge the rightness of the inetnsity of his feeling in that matter which should be felt by all of us and perhaps even more so by those who have not in themselves or in their groups or classes had to suffer from that. He was that. Therefore he became this symbol. But we in Parliament remember him for many other things and more particularly for the very prominent part he played in the making of our Conbstitution, and perhaps that fact will be remembered even longer than his other activities. I am quite sure that every Member of this House will want

* P. D., Vol. 10-C, 6th December 1956, pp. 1769-70.

us to send our deep condolences and message of sympathy to his family and to express our deep sorrow at his demise.

It is the custom of this House. I believe, Sir, that when a Member dies in Delhi, the House adjourns for the rest of the day. I leave it to you, Sir, and to the House, but I would suggest that it is right and proper for us to follow that custom.

Mr. Deputy Chairman : I would like to associate myself with the sentiments expressed by the Prime Minister. I am sure every Member of this House shares the same sentiments. We have all heard with profound sorrow and a sense of shock of the sudden death of Dr. Ambedkar. He was present in the House only the day before yesterday and was in his usual mood, talking and joking with his friends. Many may not agree with him and his political philosophy but he was one of our prominent Members and he was always listened to with respect. His speeches were marked by scholarship, erudition and deep study. He will, however, be remembered as one of the great architects of our Constitution. He was also very anxious to see that the Hindu Law was enacted and most of it has been enacted. It is a great loss to this House Particularly, and, as a mark of respect, I request the House to stand up for two minutes.

(*The House stood in silence for two minutes.*)

Mr. Deputy Chairman: The House stands adjourned till 11-00 A.M. tomorrow.

The House then adjourned at fifty three minutes past eleven of the clock till eleven of the clock on Friday, the 7th December 1956.

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LOK SABHA

Thursday, 6th December, 1956

The Lok Sabha met at Eleven of the Clock

12-00 hrs.

DEATH OF DR. AMBEDKAR

***The Prime Minister and Leader of the House (Shri Jawaharlal Nehru):** Mr. Speaker, Sir, I have to convey to the House the sad news of the death of Dr. Ambedkar. Only two days ago, I believe, the day before yesterday, he was present in the other House of which he was a Member. The news, therefore, of his death today came as a shock to all of us who had no inkling of such a thing happening so soon.

Dr. Ambedkar, as every Member of this House knows, played a very important part in the making of the Constitution of India, subsequently in the Legislative Part of the Constituent Assembly and later in the Provisional Parliament. After that, he was not a Member of Parliament for some time. Then, he came back to the Rajya Sabha of which he was a sitting Member.

He is often spoken of as one of the architects of our Constitution. There is no doubt that no one took greater care and trouble over Constitution making than Dr. Ambedkar. He will be remembered also for the great interest he took and the trouble he took over the question of Hindu Law reform. I am happy that he saw that reform in a very large measure carried out, perhaps not in the form of that monumental tome that he had himself drafted, but in separate bits. But, I imagine that the way he will be remembered most

* P. D., Vol. 10, Part II, 6th December 1956, pp. 2059-68.

will be as a symbol of the revolt against all the oppressive features of Hindu society. He used language sometimes which hurt people. He sometimes said things which were perhaps not wholly justified. But, let us forget that. The main thing was that he rebelled against something against which all ought to rebel and we have, in fact, rebelled in various degrees. This Parliament itself represents in the legislation which it has framed, its repudiation of those customs or legacies from the past which kept down a large section of our people from enjoying their normal rights.

When I think of Dr. Ambedkar, many things come to my mind, because he was a highly controversial figure. He was not a person of soft speech. But, behind all that was this powerful reaction and an act of rebellion against something that repressed our society for so long. Fortunately, that rebellion had the support, not perhaps in the exact way he wanted it, but in a large measure, the principle underlaying that rebellion had the support of Parliament, and, I believe, every group and party represented here. Both in our public activities and in our legislative activities, we did out utmost to remove that stigma on Hindu society. One cannot remove it completely by law, because custom is more deep-rooted and, I am afraid, it still continue in many parts of the country even though it may be considered illegal. That is true. But, I have no doubt that it is something that is in its last stages and may take a little time to vanish away. When both law and public opinion become more and more determined to put an end to state of affairs, it cannot last long. Anyhow, Dr. Ambedkar, as I said, became prominent in his own way and a most prominent symbol of that rebellion. I have no doubt that, whether we agree with him or not in many matters, that perseverance, that persistence and that, if I may use the word, sometime virulence of his opposition to all this did keep the people's mind awake and did not allow them to become complacent about matters which could not be forgotten, and helped in rousing up those groups in our country which had suffered for so long in the past. It is, therefore, sad that such a prominent champion of the oppressed and depressed in India

and one who took such an important part in our activities, has passed away,

As the House knows, he was a Minister, a member of our Cabinet, for many years, and I had the privilege of co-operating with him in our Governmental work. I had heard of him and, of course, met him previously on various occasions. But, I had hot come into any intimate contact with him. It was at the time of the Constituent Assembly that I got to know him a little better. I invited him to join the Government. Some people were surprised that I should do so, because, it was thought that his normal activities were of the opposition type rather than of the governmental type. Nevertheless, I felt at that time that he had played an important and very constructive role in the making of the Constitution and that he could continue to play a constructive role in governmental activities. Indeed, he did. In spite of some minor differences here and there, chiefly, if I may say so, not due to any matters of principle, but rather linguistic matters and language used, we co-operated in the Government for several years to our mutual advantage, I think. Anyhow, a very leaning and prominent personality, who has left his mark in our public affairs and on the Indian scene, has passed away, a personality who was known to nearly all of us here, I suppose, and I feel sure that all of us feel very sad. We know him well. He had been unwell for a long time. Nevertheless, the passing of a person is painful. I am sure that you, Sir and the House will be pleased to convey our deep condolences and sympathy to his family.

There are various rules laid down in our Rules of Procedure in regard to such occurrences, in regard to adjournment of the House. Normally speaking, those rules apply to Members of the House. Dr. Ambedkar was not a Member of this House. He was a Member of the Rajya Sabha. He was an ex-Member of this House. The rule says that in such cases, a reference may be made in the House, but there may be no adjournment unless he comes in the category of outstanding personalities, in which case, total adjournment may be made. There can be no doubt that he comes under the category of outstanding

personalities. According to the strict rule, it says, token adjournment may be made. I submit that, without doing any violence to this rule or to the spirit underlying this rule, the present case deserves for some reasons which I have mentioned and others which I have not mentioned that the House do adjourn for the day. That is subject to your wishes and the wishes of the House.

Shrimati Renu Chakravartty: Sir, I join the Leader of the House in requesting you to convey to the members of the family of Dr. Ambedkar the condolences of our party and our colleagues.

We, younger Members, never had the privilege of working with him. We had also our difference. But, to-day, we all of us cannot forget how he brought to the forefront of our people's conscience the disabilities suffered by a section of our people owing to our oppressive social system. Personally I feel that, although we have passed the Hindu Code Bill in parts, the principles which Dr. Ambedkar had embodied in his original draft were wiser in many aspects. We also pay our tribute to his outstanding intellect which rose against social inequality and narrow prejudices, and he became one of those who were known as the architects of our Constitution, and I am sure the country will remember him embodied in that constitution. I also join with the leader of the House in requesting you to adjourn this House as a mark of respect to his memory.

Shri Asoka Mehta (Bhandara): I wish to associate myself with the tribute that has been paid to Dr. Ambedkar.

I was privileged to be associated with him on more than one occasion and in his remarkable and fascinating career, there were many facets. We who come from Bombay remember him as a teacher, we remember him as an economist, we remember him as a labour leader, we remember him as political leader. Apart from the great work that he did in this House and as a Member of the Government, as far as my part of the country is concerned, he brought a new awakening. It was because of him the large sections of people on our side were given a sense of social significance, they were given a

sense of confidence. I believe if he had not been there, perhaps my part of the country would not have been what it is today.

I am sure in paying our respect to his memory and in trying to do honour to him by adjourning to day, we only pay the great debt that many of us owe to him for the great services that he has rendered to our society.

श्री. वि. घ. देशपांडे (गुना) : अध्यक्ष महोदय, मैं समझता हुं कि डा. अम्बेडकर के निधन समाचार से केवल संसद् में ही नहीं बल्कि समुचे राष्ट्र भर में एक दुख की लहर फैल जायेगी । डा. अम्बेडकर ने भारत का बिधान बनाया था और उसको तैयार करने में उन्होंने अधिक परिश्रम और योग्यता का परिचय दिया । इसके अतिरिक्त डा. अम्बेडकर हिन्दू समाज के एक महान नेता थे हालांकि डा. अम्बेडकर ने हिन्दू समाज पर बड़े प्रहार किऐ, तीखे और कड़वे प्रहार किये, लेकिन मैं समझता हूं कि उसका भी एक कारण था कि, डा. अम्बेडकर का जन्म जिस जाति में हुआ था उसके प्रति सवर्ण हिन्दुओं ने बहुत पाप किये है और उन पापों को देखने के पश्चात डा. अम्बेडकर का कभी इतना तीक्ष्ण होना समझ में आ सकता है और यह भी हमारे पापों का फल है ऐसा मैं मानता हूं ।

डा. अम्बेडकर की योग्यता और पांडित्य इतना ऊंचा था और इतना महान था कि मैं समझता हूं कि दूसरे किस कारण से नहीं तो इसलिए कि उनका व्यक्तित्व इतना महान था कि जिस को ले कर उन्होंने अस्पृश्यता के विरुद्ध इतना घोर संग्राम किया, डा. अम्बेडकर को मान देना अत्यावश्यक था । डा. अम्बेडकर ने अस्पृश्यता निवारण के लिए जो जीवन पर्यन्त प्रयत्न किये वह कभी भुलाये नहीं जा सकते और हालांकि उनके पहले से अस्पृश्यता निवारण का आन्दोलन किसी न किसी रुप में इस देश में चलता आया है पर अस्पृश्य लोगों को एक मनुष्य के नाते खड़े हो कर लड़ने और झगड़ने का काम अगर किसी ने सिखाया तो यह डा. अम्बेडकर ने सिखाया और उन्होंने हिन्दू समाज के इस पददलित वर्ग को उठाया और उनको बनाया कि वे भी दूसरों की तरह इन्सान हैं और इस नाते अस्पृश्य लोगों के प्रति की गई उनकी सेवाओं को देश कभी नहीं भुला सकेगा । आज हमारे बीच से एक महान नेता उठ गया है और मैं समझता हूं कि उनकी मृत्यु से जो स्थान रिक्त हुआ है उसकी पूर्ति निकट भविष्य में होनी, मुश्किल नजर आती है । सदन के नेता ने जो उनकी मृत्यु पर दु:ख प्रदर्शित किया है उसमें मैं पूरी तरह उनका साथ देता हूं ।

Shri Frank Anthony (Nominated Ango-Indian): I would like to associate the Independent Group with the sentiments that have fallen from the Leader of the House.

It has been my privilege to know Dr. Ambedkar for many years, and I feel that no adequate tribute can be paid to him in the course of a few minutes. He was a versatile mind. He was not only a deep, but a profound scholar, and, as the Leader of the House said, he was a controversial figure. But what

I believe was the dominant characteristic of the complex personality was the characteristic of being an indomitable fighter, and it was that indomitable spirit which enable him to triumph over personal disabilities which perhaps would have crushed persons of less tenacious character.

We may not have agreed with his politics. Perhaps we did not agree sometimes with the way that things were said by him, but having heard from him the bitter personal disabilities with which he was confronted from his earliest life, I would not presume to judge the fact that perhaps in some respects the iron had entered his soul and his bitterness to that extent, if not justified, at least was understandable. There is no doubt that Dr. Ambedkar started from the humblest beginning, but his name will be writ large on the scroll of Indian history, and I believe not only his community, but that the country has reason to be proud of a very great son. I would ask you to convey our condolences to his family.

श्री. काजरोलकर (बम्बई नगर-उत्तर-रक्षित-अनुसूचित जातियां): अध्यक्ष महोदय, आज का दिन सम्पूर्ण भारत के लिये और विशेष करके हम हरिजनों के लिए बड़ा दुखद और अंधकार का दिन है । डा. बाबासाहेब अम्बेडकर भारत के बड़े महान नेता थे और उन्होने देश की कई रूपों में सेवा की है । देश के वे महान नेता थे ही लेकिन हम हरिजनों के तो वे प्राण ही थे और हरिजन सदा उनके ऋणी रहेंगे । उन्होंने जिन्दगी भर हरिजनों को उपर उठाने के लिए प्रयत्न किया और आज के दिन हरिजनों की जो अवस्था में सुधार हुआ है और हम कुछ ऊपर उठे है, उसका मुख्य श्रेय बाबासाहब को ही है । बाबासाहब का जन्म एक गरीब अछूत घराने में हुआ था और उनको अपने जीवन में अनेक कठिनाइयों का सामना करना पड़ा लेकिन उन्होंने हिम्मत नहीं हारी और उन्होंने सफलतापूर्वक सारी कठिनाइयों का सामना किया और उन पर विजय पाई । उन्होंने जीवन भर इस अस्पृश्यता के कलंक को हिन्दु जाति के माथे पर से हटाने का प्रयत्न किया और अस्पृश्यता निवारण के लिये घोर संग्राम किया । आखिर उन्होंने यह निश्चय किया कि मेरा जन्म तो उस हिन्दू धर्म में हुआ लेकिन मैं ऐसे हिन्दू धर्म को जो कि अस्पृश्यता को मानता है, अपना धर्म नहीं मानूगा और हमने देखा कि उन्होंने अपनी यह प्रतिज्ञा पूरी भी की । भगवान से मेरी प्रार्थना है कि उनकी आत्मा को शांति मिले और मैं समझता हूं कि उनकी आत्मा को सच्ची और वास्तविक शांति तभी मिलेगी जब कि यह अस्पृश्यता का कलंक हिन्दू जाति से मिट जायेगा ।

Shri Gadgil (Poona Central): Normally after the Leader of the house and my party has spoken, there is no justification for me to speak, but I plead this justification that I had the privilege of Dr. Ambedkar's friendship for over 35 years. He was

ten times dearer to us Maharashtrians than what he was to India as a whole. It was he who created a sense of self-respect and importance in the most down-trodden community in our area. Undoubtedly he was very bitter in his tongue, but his heart was sweet. His faults we all know, but his virtues out weighed them.

What he did in the matter of framing our Constitution is sufficiently well known. But, essentially, he was a rebel against the injustice in the *status quo,* whether the sphere was social or economic.

Lastly, he was thinking on much more progressive lines. Very recently, I had some discussion with him, and he said, 'No more privileges to the Scheduled Castes. Now, they must come into their own and fight against the injustice that is still there, along with the rest of the members of the whole Indian community.' Such a man has passed away; but, everything in this world must pass away.

Let us, therefore, remember what good he did, and deserve by what he did and progressively achieved—the objects for which he stood.

I associate myself with the sentiments expressed by other Members of this House.

Mr. Speaker: I fully associate myself with all the sentiments expressed on the floor of the house by the Leader of the House and the leaders of various groups, and I am sure the House will equally associate itself with those sentiments.

Dr. Ambedkar was a great and dynamic personality. He rose from humble beginnings and became a leader of the Scheduled Castes. He was a great scholar and writer, and, more than all, he was a powerful speaker.

He piloted our Constitution. In the field of social reform, he initiated many wholesome measures. In his death, India has lost one of her great sons. I shall convey the sentiments of this House and the condolences to the members of the bereaved family.

As a mark of respect, I am sure the House would like to adjourn today. In sorrow, we shall stand for a minute in silence.

The Members then stood in silence for a minute.

Mr. Speaker: The House will now stand adjourned as a mark of respect to him, and meet again at 11-00 a.m. tomorrow.

12-23 hrs.

The Lok Sabha then adjourned till Eleven of the Clock on Friday, the 7th December, 1956.

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SECTION VIII

ANSWERS BY DR. B. R. AMBEDKAR LAW MINISTER TO THE QUESTIONS ASKED BY THE MEMBERS OF PARLIAMENT

18th November 1947

TO

28th September 1951

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SECTION VII

QUESTIONS AND ANSWERS

18th November 1947 to 28th September 1951

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(QUESTIONS AND ANSWERS)

(1)

*APPEALS FROM THE HIGH COURTS IN INDIA.

4. Shri R. R. Diwakar : (a) Will the Honourable Minister of Law be pleased to state whether appeals from the High Court in India still lie to His Majesty in Council ?

(b) If the answer to part (a) above be in the affirmative, are they governed by the same laws and regulations and rules as before ?

(c) If the answer to part (a) above be in the negative, what is the form to which appeals are to be preferred from the decisions of the High Courts in different provinces ?

(d) Are the appeals now pending before the Judicial Committee of the Privy Council to be heard and disposed of by them ?

The Honourable Dr. B. R. Ambedkar : (a) Yes.

(b) Yes.

(c) Does not arise.

(d) Yes, unless a provision to the contrary is made in the new Constitution.

Shri M. Ananthasayanam Ayyangar : What sort of Court do the present Government propose to set up for appeals from the High Court ?

The Honourable Dr. B. R. Ambedkar: That is not a matter for the Government to decide but for the Constituent Assembly.

Shri M. Ananthasayanam Ayyangar : Is the Honourable the Law Member aware that in the new set up under the present Government of India Act and the Dominion Independence Act that with regard to appeals to the Privy Council the jurisdiction of the Privy Council may be abolished and vested in the Supreme Court ? .

The Honourable Dr. B. R. Ambedkar : I do not know if the Government can take a decision when the Constituent Assembly is sitting for the purpose of defining the Constitution.

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* C.A. (Leg.) D., Vol. 1, Part I, 18th November 1947 pp. 70-71.

Shri M. Ananthasayanam Ayyangar : Did not the previous Law Member want to bring about a resolution to take action under section 299 and other sections of the Government of India Act to avoid appeals going to the Privy Council in certain matters ?

The Honourable Dr. B. R. Ambedkar : I do not know if that position remains as it was I admit that the Law Member then was proposing action as referred to by my honourable friend but there was nothing in contemplation with reference to the making of the new Constitution.

Mr. Speaker : Order, order. Will the honourable Member, Mr. Ayyangar, ask for the information ? This seems to be going into an argument.

Shri M. Ananthasayanam Ayyangar : I did ask for the information. But the honourable Member does not appear to know what has gone on before !

The Honourable Dr. B. R. Ambedkar: I said I am aware of it !

Shri M. Ananthasayanam Ayyangar : Does the honourable Member propose to take action under the present Government of India Act ?

The Honourable Dr. B. R. Ambedkar : I do not think such an action can be taken when we know that within a few months the new Constitution will be framed.

Shri K. Santhanam : Is the honuorable Member aware that if the establishment of a Supreme Court is delayed till the new Constituent Assembly there will be great transitional difficulties when the Constitution comes into force ?

Mr. Speaker : Order, order. It is a question of opinion.

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(2)

*JURISDICTION OF THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL TO DECIDE PENDING APPEALS.

5. Shri R. R. Diwakar : (a) Will the Honuorable Minister of Law be pleased to state whether it is a fact that the Judicial Committeee of the Privy Council will have jurisdiction to entertain, hear and finally decide the appeals now pending before them and those that will be filed hereafter, so long as no changes are made in the existing enactments like the Civil Procedure Code ?

(b) What is going to be the future policy of the Dominion Government with regard to the Privy Council ?

(c) Do Government propose to consider the advisability of the early establishment of a Supreme Court with the jurisdiction of the Privy Council ?

(d) If so, what is the approximate time required for the establishment of such a Court ?

The Honourable Dr, B. R. Ambedkar : (a) Yes.

(b) The future policy of Government in regard to Privy Council appeals will generally be in accordance with the decision of the Constituent Assembly incorporated in the new Constitution.

(c) No, not until the new Constitution is brought into force.

(d) It is not possible to give an estimate at present.

Seth Govind Das : May I know if the Constituent Assembly decides that no appeals should be made to the Privy Council, what is going to happen to the appeal which have already been sent to the Privy Council before that decision is reached ?

The Honourable Dr. B. R. Ambedkar : I am sure the Constituent Assembly will make appropriate provision to cover such cases when coming to its decision.

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* C.A. (Leg.) D., Vol. 1, Part I, 18th November 1947 p. 71.

(3)

*NUMBER OF CASES TRIED BY THE FEDERAL COURT AND PRIVY COUNCIL.

8. Shri S. Nagappa : Will the Honourable Minister of Law be pleased to state :

(a) the total number of cases tried by the Federal court during the last three years—yearwise ; and

(b) the total number of the cases that have gone to the privy Council ?

The Honourable Dr. B.R. Ambedkar : (a) The total number of the cases heard by the Federal Court during the three years 1944, 1945 and 1946 was 34, 16 and respectively.

(b) The total number of Indian appeals filed in the Privy Council during the same three years was 58, 69 and 61 respectively.

Shri B. M. Gupte : May I know how many cases of appeals were reserved by the Privy Council ?

The Honourable Dr. B. R. Ambedkar: That does not arise.

Shri Biswanath Das : In view of the fact that none of the Commonwealth countries are allowing their litigant public to prefer appeals to the Privy Council, will the Honourable Minister please state whether this Government is thinking of making any interim arrangement between the decision of the Constituent Assembly on this question and the present day ?

The Honourable Dr. B. R. Ambedkar : I do not quite follow my Honourable friend's question but I can tell that the Government is examining the matter and if they find it feasible they may take interim action.

Shri Biswanath Das : May I know what is the specific question that is being examined ? My question is very clear and specific. What I said was that no Commonwealth country is allowing its litigant public to prefer appeals to the Privy Council. In view of the fact that India is one of the Common-wealth countries, will the Government please consider the question or have they considered this aspect of the question of making any interim arrangement between the decision of the Constituent Assembly and the present day ?

* C.A. (Leg.) D., Vol. 1, Part I, 18th November 1947 pp. 75-76.

The Honourable Dr. B. R. Ambedkar : I said that the Government is considering the matter and before any action could be taken Government have to see that the Federal Court becomes a Supreme Court and has got the full complement of judges to discharge the functions that will devolve on them if they were to discharge the functions of the Privy Council.

Mr. B. Poker Sahib Bahadur : Is the Honourable Minister aware that the previous Government was contemplating the question of providing appeals to the Federal Court, according to the option of the party, in addition to appeal lying to the Privy Council, in view of the fact that the Federal Court Judges had not sufficient work to do and this measure could afford to facilitate the litigant public to pursue their appeals from the High Courts ?

The Honourable Dr. B. R. Ambedkar : The whole question is being considered.

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(4)

*CONSTITUTION OF THE FEDERAL COURT.

25. Shri Phulan Prasad Varma : (a) Will the Honourable Minister of Law be pleased to state whether Government are aware that the Constituent Assembly of India has passed certain transitional provisions by which the Federal Court will be deemed to be the Supreme Court, and will be the ultimate appellate authority and new appeals will lie to the Supreme Court instead of to the Privy Council ?

(b) If the answer to part (a) above be in the affirmative, what steps have Government taken or are going to take to implement these provisions ?

(c) Are Government aware that in the traditional provision it has been laid down that the cases pending before the Privy Council will be disposed of by the Privy Council ?

(d) If the answer to part (c) above be in the affirmative, do Government propose to clarify as to what exactly is meant by the expression 'pending' ?

(e) Are Government aware that there is a great deal of uncertainty in the mind of the litigant public, Advocates and High Court Judges regarding the precise position in the matter ?

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* C.A. (Leg.) D., Vol. 1, Part I, 18th November 1947, p. 88.

(f) If the answer to part (e) be in the affirmative, do Government propose to issue a statement on the subject ?

The Honourable Dr. B. R. Ambedkar : (a) Government have seen the relevant portions of the memorandum embodying the recommendations of the Union Constitution Committee, which were subsequently adopted by the Constituent Assembly.

(b) Government cannot take any steps to implement these recommendations until a provision is included in the Constitution which is now being framed by the Constituent Assembly.

(c) No, Sir. The memorandum referred to above does not contain any such recommendation.

(d) Does not arise.

(e) Government are not aware of any uncertainty in the mind of the litigant public. They have received certain enquiries on the subject from members of the bar but these do not suggest that there is a great deal of uncertainty.

(f) The resolution adopted by the Constituent Assembly is clear enough and Government do not consider it necessary to issue any statement in regard to it at this stage.

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(5)

*REPORT OF HINDU LAW CODIFICATION COMMITTEE

236. Shri K. Santhanam : Will the Honourable Minister of Law please state—

(a) Whether the Committee on the Codification of Hindu Law has submitted its final report; and

(b) whether and, if so, when it is proposed to introduce the Bill as recommended by the Committee ?

The Honourable Dr. B. R. Ambedkar : (a) Yes.

(b) A Government Bill in exactly the same terms as the draft Hindu Code prepared by the Hindu Law Committee was introduced in the last Indian Legislative Assembly on the 11th April 1947. A motion for the continuance of the Bill has also been adopted by this House on the 17th November, 1947.

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* C.A. (Leg.) D., Vol. 1, Part I, 1st November 1947 p. 453.

(6)

*MISAPPROPRIATION OF INCOME BY HINDU CHARITABLE AND RELIGIOUS TRUSTS

397. Dr. P. S. Deshmukh : (a) Will the Honourable Minister of Law be pleased to state whether Government are aware of the extent of waste and misappropriation of the income from Hindu Charitable and Religious Trusts ?

(b) Do Government propose to consider the advisability of introducing legislation for abolishing all these Trusts so as to utilize the properties for nation-building purposes ?

The Honourble Dr. B. R. Ambedkar : (a) No, Sir.

(b) No, Sir. Quite apart from the question whether legislation abolishing all Hindu religious and charitable trusts is necessary or even desirable, such legislation falls within the provincial field under entry 34 of the Provincial Legislative List and the Central Government cannot, therefore, initiate the suggested legislation.

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(7)

**NUMBER AND NAMES OF TRIBUNALS APPOINTED BY MINISTRY OF HOME AFFAIRS

167. Shri Mohan Lal Saksena: (a) Will the Honourable Minister of Law be pleased to state how many tribunals appointed by the Ministry of Home Affairs are still functioning ?

(b) Is it a fact that many of the members of these tribunals now belong to Pakistan ?

(c) If so, what is the position of such members and have any substitutes been appointed in their place ?

(d) Do Government propose to lay on the table of the House a statement giving the following information :

(i) the names of the different tribunals ;

(ii) the number of cases tried as well as of those disposed of ; and

* C.A. (Leg.) D., Vol. 1, Part I, 27th November 1947, p. 781 .

** *Ibid.,* p. 391-92.

(iii) the period for which each of the tribunals has worked and the costs incurred by Government in each case ?

The Honourble Dr. B. R. Ambedkar : (a) It is presumed that the honourable Member is referring to the Special Tribunals constituted under the Criminal Law Amendment Ordinance, 1943. The number of such Tribunals still functioning is four.

(b) and (c) There were three Special Tribunals with headquarters at Lahore, some members of which now belong to Pakistan. Under the Indian Independence (Special Tribunals) Order, 1947, these Tribunls and the cases pending before them were reshuffled and one of the Tribunals was assigned to West Punjab with members belonging to Pakistan and the pending cases relating to Pakistan. The other two Tribunals with members belonging to India and pending cases relating to India were transferred to India and redesignated as the East Punjab and the Bombay Special Tribunals. One new member who is required to complete the composition of the East Punjab Tribunal has already been appointed by the East Punjab Government and the two new members required to complete the Composition of the Bombay Special Tribunal are being appointed by the Bombay Government.

(d) A statement giving the information asked for is laid on the table.

STATEMENT

Name of the different Tribunals	Date from which each Tribunal is working	No. of cases tried and disposed of	No. of cases pending disposal	Cost incurred in each case
(1)	(2)	(3)	(4)	(5)
First Tribunal, Calcutta	September, 1943	66	12	Information not available
Second Special Tribunal, Calcutta.	July, 1945	Nil	1	Ditto.
East Punjab Special Tribunal (late third Special Tribunal, Lahore).	May, 1945	54*	79	Ditto.
Bombay Secial Tribunal (late second Specal Tribunal, Lahore)	February, 1945	6	2	Ditto.

*Including cases disposed of by the First Lahore Special Tribunal set up in September, 1943 which is now designated as the West Punjab Special Tribunal.

Shri M. Ananthasayanam Ayyangar : Sir, how long will the Tribunals take to dispose of the pending cases ?

The Honourable Dr. B. R. Ambedkar: I am quite unable to give any definite reply.

Shri Mohan Lal Saksena : Is it a fact that a number of cases are pending before these tribunals ?

The Honourable Dr. B. R. Ambedkar: I believe it is true.

Shri Mohan Lal Saksena : Is the Honourable Minister for Law taking any steps to expedite their disposal ?

The Honourable Dr. B. R. Ambedkar : Well, it is very difficult for a Minister of Government to expedite disposal of cases before the Tribunals. The main reason for the delay in the disposal of cases is the adjournment obtained by parties on various grounds. It is very difficult to prescribe any hard and fast rules for the grant of adjournments.

Mr. R. K. Sidhva : Are there legitimate grounds for these grant of adjournments ?

The Honourable Dr. B. R. Ambedkar : I cannot say.

Shri Mohan Lal Saksena : Is there any definite periods for which these tribunals have been appointed ?

The Honourable Dr. B. R. Ambedkar : No, Sir.

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(8)

* PROPOSAL FOR RECONSTITUTION OR MODIFICATION OF INCOME-TAX APPELLATE TRIBUNAL

287. Shri M. Ananthasayanam Ayyangar : (a) Will the Honourable Minister of Law be pleased to state whether there are any proposals for the reconstitution or modification of the Income-Tax Appellate Tribunal and, if so, what are the proposals ?

(b) Do Government propose to consider introducing Legislation for abolishing references from the Income-Tax Appellate Tribunal to the Provincial High Courts, and subsituting instead references direct to the Federal Court in all cases under the Income-Tax Act, where a reference is provided ?

*C.A. (Leg.), Vol. 1, Part I, 14th February 1948, p. 719.

(c) Do Government propose to consider raising the status of the Income-Tax Appellate Tribunal, by appointing as its chairman a person who has held office as Judge of a High Court ?

The Honourable Dr. B. R. Ambedkar : (a) No.

(b) The suggestion for making the Federal Court an original Court for References under the Indian Income-Tax Act was fully considered in 1945-46 in connection with the proposal for enlargement of the jurisdiction of the Federal Court and in pursuance of Legislative Department Resolution dated 15th January, 1945 public opinion was consulted. The opinion was overwhelmingly against the suggestion, and the late Mr. Bhulabhai Desai characterised it as highly objection able in principle and unjust to the assessees. Now that the Federal Court is the Supreme Court for civil appeals, it would be inappropriate and anomalous to make it an original Court for Income-Tax References.

(c) References on points of law lie from the Income-Tax Appellate Tribunal to the High Court and it is not necessary to raise its status by appointing as its President a person who has been Judge of a High Court. The existing status of the Tribunal is sufficiently high and care is always taken to appoint as President or Judicial Member either a senior member of the Bar or a senior District Judge, who is due to be promoted to the Bench. In fact both the previous Presidents are now serving as High Court Judges.

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(9)

*GENERAL ELECTIONS

96. Shri Deshbandhu Gupta : (*a*) Will the Minister of Law be pleased to state whether any definite dates have been fixed for the first general elections to the House of the People ?

(*b*) What progress has been made in the preparation of the electoral rolls and what steps have been taken to set up the electoral machinery ?

* Parliamentary Debates (Hereinafter called P.D.), Vol 1, Part I, 6th February 1950, p. 79.

The Minister of Law (Dr. Ambedkar) : (*a*) No definite dates have been fixed for the first general elections to the House of the People. It is obviously too early to do so.

(*b*) As regards the preparation of electoral rolls, attention is invited to the reply given on the 9th December last to Starred Question No. 469 in the last section of the Constituent Assembly (Legislative). Some further progress has been made by the States during the last two months. The office of the Chief Election Commissioner has been set up, and that authority is expected to be appointed by the President in the near future. The preparation of a comprehensive Bill covering various matters relating to elections has also been taken in hand.

Shri Deshbandhu Gupta : Has the Minister's attention been drawn to the statement made by the Prime Minister recently that elections would be held by the end of 1950 ? May I know if that is the decision of the Government and, if so, whether the progress made in the preparation of electoral rolls, etc., is sufficient for holding the elections in 1950 ?

The Prime Minister (Shri Jawaharlal Nehru) : My statement was "during the next winter", not by the end of this year : but 1950-51 winter.

Shri Tyagi : What arrangements are being made to hold bye-elections in the various States for seats which have fallen vacant during the last six or seven months ?

Dr. Ambedkar : This is a matter which is left to the Governors of the Provinces and they are also under such orders as the President is authorised by the Constitution to give in this behalf.

Shri Vyas : Have Government given any special attention to get the electoral rolls prepared in the case of such States where there are no Legislatures at present ?

Dr. Ambedkar : Certainly.

Shri Bharati: May I know if it is a fact that the Government of India have asked the Provinces and States to give their opinion

regarding the desirability of holding the elections after the 1951 census so as to have a breathing time ? I understood from the papers that the Government of India have asked various States as to their opinion regarding the advisability of holding the general elections after the 1951 census.

Dr. Ambedkar : I am not aware of any such proposal.

Shri Tyagi: Have instances come to the notice of the Government of seats which had fallen vacant months ago in various States and which have not yet been filled up ?

Dr, Ambedkar : That is a matter for the Provinces.

Shri Deshbandhu Gupta : Is the Hon. Minister aware of the fact that assurances were given by the Deputy Prime Minister to the Constituent Assembly that in certain areas like East Punjab, Delhi and perhaps Bombay or West Bengal fresh elections will be based on a fresh census ? If so, what steps are being taken by the Government to have a census in these areas before the electoral rolls for the new elections are prepared.

Dr. Ambedkar : I do not think that is a correct statement of facts.

Shri Dashbandhu Gupta : May I draw the Prime Minister's attention to the question and the reply of the Hon. Law Minister and ask him whether it is a fact or not that the Deputy Prime Minister had given an assurance ?

Mr. Speaker : The Hon. Minister has already replied to the question.

Shri Deshbandhu Gupta : He says that it is not a fact. I want the Prime Minister to say whether it is a fact or not. The assurance is on record.

Shri Kamath : Has the Hon. Minister's attention been drawn to a United Press of India report from Madras that the Government of India in a communication addressed to the State Governments have asked them whether it would be convenient for them if the elections to the Legislatures of the States are held a few months after the 1951 census is over ?

Dr. Ambedkar : I am not aware of it.

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(10)

*LIST OF SCHEDULE CASTES

806. Prof. Yashwant Rai : Will the Minister of Law be pleased to refer to Article 341 of the Constitution and state :

(a) Whether it is a fact that many castes are anxious to know their inclusion in the list of the Scheduled Castes ; and

(b) if so, what steps have been taken by Government in this direction and when the list of the Castes included in the Scheduled Castes will be announced ?

The Minister of Law (Dr. Ambedkar) : (a) and (b) As required under article 341 of the Constitution, the Governors and *Rajpramukhs* of States have been consulted with regard to the castes, races or tribes etc., which are to be specified as Schedule Castes for the purposes of the Constitution and their views and suggestions are at present being examined. This examination is expected to be completed soon, and thereafter the Notification specifying the Scheduled Castes will be issued.

Prof. Yashwant Rai : May I know, Sir, how long will the Government take to announce the list ?

Dr. Ambedkar : I have said 'soon'. I am sure it will not take very long.

Shri Rathnaswamy : May I know the basis on which the Government comes to a decision in regard to the inclusion of castes ?

Dr. Ambedkar : The question is not clear. We have got the schedule under the Government of India Act, 1935; In addition to that, we have addressed queries to Provincial Governments as to their opinion regarding the inclusion of certain other castes. After their opinions are received, the lists will be finalised.

Dr. M. M. Das : May I know whether in the coming census the Scheduled Castes will be marked as Scheduled Castes ?

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*P. D., Vol. 1, Part I, 13th March 1950 p. 791.

Dr. Ambedkar : I suppose so.

Sardar B. S. Man : I want to know whether the lists proposed to be compiled will be uniformly applicable to all the States in the country or whether they will differ from State to State ?

Dr. Ambedkar : It cannot be. It is always a provincial list.

Shri Buragohain : May I know whether the list of Scheduled Tribes is also under examination ?

Dr. Ambedkar : Oh, Yes.

Shri Tyagi : Is it the intention of Government to exclude from the list castes that have progressed to the level of the so-called Caste Hindus ?

Dr. Ambedkar : The Scheduled Castes have been always untouchables. Nothing less.

Shri Tyagi : Is it the intention of Government to revise the lists so as to exclude those castes that do not have the disability of untouchability after the progress they have made ?

Dr. Ambedkar : The procedure for revising the Schedules is provided in the Constitution. It can be done by parliamentary legislation.

Shri Naik : May I know whether any steps have been taken by the Government to implement article 340 of the Constitution ?

Dr. Ambedkar : The appointment of a Commission is a separate matter. That is also under consideration.

Shrimati Durgabai : Since untouchability has been banned by the Constitution, can it still form the basis of exclusion or inclusion ?

Shri Barman : Is it contemplated to publish a provisional list before the final list is published ?

Dr. Ambedkar : It is not contemplated, because the power is given to the President to issue the list.

(11)

*CENTRAL WOOLLEN TECHNOLOGICAL INSTITUTE

The Minister of Law (Dr. Ambedkar) : (*a*) It is too early to estimate what will be the total cost of the general elections under the Constitution. On the basis of information available so far, the Central is to pay to Part A and Part B States a sum of Rs. 1.18 crores for expenditure during 1949-50 and Rs. 1.34 crores during 1950-51. These amounts mostly relate to expenditure on the printing and preparation of the electoral rolls.

(*b*) The extra cost incurred by the States Governments in connection with the preparation and printing of the electoral rolls, will be borne by the Central Government and the State Governments on a half and half basis. The extra costs incurred by the State Governments in connection with the actual conduct of elections to the House of the People will be met entirely by the Central Government if the elections to the House of the People are held independently of the elections to the Legislative Assemblies of the States, but such extra costs will be borne by the Central Government and the State Governments on a half and half basis if the elections to the House of the People and the State Assemblies are held simultaneously. The term "extra costs" means the expenditure incurred by the State Government in the preparation and printing of the electoral rolls or in the conduct of elections, but not including any share of the existing State establishments. In other words, in computing the extra costs, no share of the salaries of the existing officials of the State Governments will be taken into account.

Shri Nandkishore Das : May I know if the printing of the electoral rolls has been finished ?

Dr. Ambedkar : No. They are different stages in different States.

Shri Nandkishore Das : May I know if the expenditure in connection with the elections to the Central Parliament will include the expenditure in connection with the Election Commissioner and his office ?

* P. D., Vol. 4, Part I, 21st March 1950, p. 964.

Dr. Ambedkar : No. This is a separate charge.

Shrimati Durgabai : May I know whether the Election Commission that is contemplated under the Constitution has been set up ; if not, when is it likely to be set up ?

Dr. Ambedkar : I think the Election Commissioner has been appointed. He is probably either taking charge today or has already taken charge yesterday.

Shri Tyagi : May I know what is the position with regard to by-elections to State Legislature today—will they be held on the previous electoral rolls or on the fresh ones ?

Dr. Ambedkar : On the existing rolls which will be in operation on the date of the election.

Shri T. T. Krishnamachari : May I ask if the Election Commissioner who has been appointed and who is going to take charge in a few days' time is designated as the "Chief Election Commissioner" ? If that is so, are other Election Commissioners going to be appointed ; if so, how many ?

Dr. Ambedkar : Government have not come to any decision on the latter part of the question.

Shrimati Durgabai : May I know what is the precise scope of work of this Commissioner ?

Dr. Ambedkar : That has already been defined in the Constitution.

Shri Kamath: Is the Law Minister in a position to state whether the General Elections will be held before or after the completion of the decennial census ?

Dr. Ambedkar : I do not want to commit myself, but I suppose the position is that the decennial census may in some cases have a very crucial effect on the preparation of the electoral rolls and also in the matter of assigning seats. So it may precede.

Shri A. P. Jain : May I know when the last electoral roll in any State is expected to be printed ?

Dr. Ambedkar : What is the question ? I want to know what my friend means by "printed" —printed as the provisional list or revised, list or final list ?

Shri A. P. Jain : As the final list.

Dr. Ambedkar : It is very difficult really to give any precise date, but we hope that it will be ready sometime in January next or February.

Seth Govind Das : By what time is the election budget expected to be ready ? Will it be placed before the Parliament ?

Dr. Ambedkar : I could not follow.

Mr. Speaker : Whether it would be possible to have the estimate of the election expenditure prepared by the time the next Budget is presented and whether that estimate will be placed before Parliament.

Dr. Ambedkar : It will be part of the Appropriation Act.

Seth Govind Das : By what time is it expected to be ready ?

Mr. Speaker : Order, order.

Prof. Ranga: Are Government placing before themselves as well as the State Governments any target date by which these lists should be prepared, scrutinised and finalised ?

Dr. Ambedkar : Yes.

Prof. Ranga : What is that date ?

Dr. Ambedkar : I am not informed about it, but as I said we hope that the final electoral rolls will be ready somewhere about the early part of next year.

Shrimati Durgabai : May I know whether matters connected with the elections such as those of delimitation of constituencies and the question of bilingual areas also would fall within the scope of this Election Commissioner's work ?

Dr. Ambedkar : Bilingual areas ?

Shrimati Durgabai : Delimitation of constituencies ?

Dr. Ambedkar : Certainly, they will be dealt with. But I may say that I am proposing to introduce a Bill in this Session to be called the "Representation of the People Bill", which will make provision for the exercise of the powers which are vested in the Election Commissioner, so that he can proceed with the matter.

Shri A. P. Jain : May I know, according to the programme at the moment under contemplation of Government, how much time will it take for the final elections to be held after the electoral rolls have been completed ?

Dr. Ambedkar : I do not like to speculate.

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(12)

*INCOME-TAX APPELLATE TRIBUNALS

1106. Lala Raj Kanwar : Will the Minister of Law be pleased to lay on the Table a statement showing :

(*a*) The number of Income-Tax Appellate Tribunals functioning in the country and the personnel of each such Tribunal ?

(*b*) How many cases have been instituted and disposed of by these Tribunals during each of the last three years ?

(*c*) What is the number of cases now pending before each of these Tribunals ?

The Minister of Law (Dr. Ambedkar) : A statement is placed on the Table. (See Appendix V, Annexure No. 55). (not produced hered)

Lala Raj Kanwar : What steps do Government propose to take to expedite disposal of the pending cases ?

Dr. Ambedkar : I think the disposal is more or less satisfactory. If it is not satisfactory, Government will institute more Tribunals.

Shri T. T. Krishnamachari : May I ask if the salary to be paid for the Members of the Tribunal has been reduced or re-graded recently ?

Dr. Ambedkar : I require notice.

Shrimati Durgabai : May I know how appointments to these Tribunals are made ?

Dr. Ambedkar : They are made by the Public Service Commission.

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* P. D., Vol. 4, Part I, 24th March 1950, p. 1059.

(13)

* SCHEDULED CASTE EMPLOYEES IN MINISTRY OF LAW

123. Prof. Yashwant Rai: Will the Minister of Law be pleased to state :

(a) the number of persons belonging to the Scheduled Castes in each of the following categories in the Ministry of Law :

(i) Gazetted Officer (ii) Superintendents and Assistants and (iii) Senior Grade and Junior Grade clerks and Stenographers ;

(b) whether the number is not as reserved for scheduled castes ; and

(c) what special steps Government propose to take to fill in the reserved quota in the spirit of Articles 335 of the Constitution of India ?

The Minister of Law (Dr. Ambedkar) : (a) The number of persons belonging to the Scheduled Castes in the Ministry of Law is as follows :

Gazetted Officers	...	...	...	Nil
Superintendents	...	...	...	Nil
Assistants	...	...	...	2
Senior Grade Clerks	...	...	...	Nil
Junior Grade Clerks	...	...	...	3
Stenographers	...	...	...	1

(b) The number is not up to the percentage reserved for the Scheduled Castes in the categories to which the reservation, rules apply.

(c) Attention is invited to paragraph 5 and the second and third sub-paragraphs of paragraph 7 of section II of the Review of the Activities of the Home Ministry for the year 1949.

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* P. D., Vol. 4, Part I, 24th March 1950, p. 1067.

(14)

*ADVISORY COMMITTEE ON HINDU CODE BILL

1352. Shrimati Ammu Swaminadhan: Will the Minister of Law be pleased to state whether any representatives of women's Organisations have been taken or are proposed to be taken on the non-official Advisory Committee to advise on the Hindu Code Bill ?

The Minister of Law (Dr. Ambedkar) : I take it that the reference is to the informal Conference proposed to be held for the ascertainment of representative public opinion both in and outside Parliament, on the Hindu Code Bill, in accordance with the announcement made by the Hon. the Prime Minister on the floor of the House on 19th December 1949 during the discussion on the Bill. It is the intention of Government to make the Conference as representative in character, as possible and the Conference will certainly include representatives of women's organisations.

Shrimati Ammu Swaminadhan : In view of the fact that the Hindu Code affects the women of the country more than the men (Laughter), Sir, I would like to ask for your protection in this matter. Every time that any question of women's rights comes up in that House, there is general laughter, as if it is a joke. I do not mean it as a joke. I would like the Hon. the Law Minister to tell us whether in view of the fact that the Hindu Code really affects women very largely and there are several women's organisations in India, they have been asked to send representatives to this Advisory Committee that is going to be called very soon.

Dr. Ambedkar : That is what the answer says.

Shrimati Ammu Swaminadhan : May I ask him for the names of the women's organisations from which he has invited representatives to come to this Advisory Committee ?

Dr. Ambedkar : I am afraid I do not carry the names in my head but my intention was really to call women's organisations which were, so far as our information went, not very favourable to the Code.

* P. D., Vol. 1, Part I, 3rd April 1950, p. 1267.

Shrimati Ammu Swaminadhan : May I ask when this Conference is going to be held ?

Dr. Ambedkar : I believe on the 14th of this month.

Shri Deshbandhu Gupta : May I know whether, such Members of the House have also been invited, as are opposed to the Code ?

Dr. Ambedkar : The Conference is divided into three parts. There are members who represent the Select Committee and members who represent the House. There are others who neither represent the House for the Committee ; they are outsiders.

Shri B. Das : May I know whether the Hon. the Law Minister will advise the Government to hold a special Session of this House to pass the Hindu Code Bill ?

Dr. Ambedkar : It is not necessary to anticipate it....

Mr. Speaker : Order, order. I will not allow that question.

Shri Deshbandhu Gupta : May, I know whether the Hon. Minister has received representations from several quarters suggesting that the conference should be postponed for a few days in view of the Kumbha Mela to enable those who may be going there at the time to attend ?

Dr. Ambedkar : I have not received any representations but I have seen some statements in the newspapers.

Shri M. A. Ayyangar : May I ask the Hon. Minister as to what principle he adopted in choosing Members from the Select Committee ? Did he try to eschew those people who said anything against the Code ?

Dr. Ambedkar : I do not think I had any prediliection in my mind one way or the others.

Shri M. A. Ayyangar : May I know how many of those whom he selected from the Select Committee are in favour of the Bill, how many against it, and how many doubtful ?

Dr. Ambedkar : I think some were in favour, some were doubtful and some were opposed to it.

(15)

*SALARY AND ALLOWANCES OF THE MEMBERS OF PARLIAMENT

726. Maulvi Wajed Ali : Will the Minister of Law be pleased to state whether in view of Article 106 of the Constitution, Government propose to bring forward a Bill to provide for the salary and allowances of the Members of Parliament in the near future ?

The Minister of Law (Dr. Ambedkar): No, Sir. In view of the latter half of the Article referred to by the Hon. Member, Government do not see any need for bringing forward a Bill to provide for the salary and allowances of Members of Parliament. The existing position appears to be satisfactory.

Maulvi Wajed Ali: Is it not a fact that the article does not specify anything about the present Parliament ? My question is also about the future House of the people which the Hon. Minister contemplate in his proposed Bill.

Dr. Ambedkar : I have not seen any formal expression from this House that the present practice is unsatisfactory.

Shri Brajeshwar Prasad: Is there any proposal before the Government to substitute I class railway pass for the present railway travelling allowance ?

Dr. Ambedkar : It is a suggestion which may be considered.

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(16)

**GENERAL ELECTIONS

5. Shri Kamath : Will the Minister of Law be pleased to state:

(a) the progress so far made in respect of the preparation of electoral rolls and delimitation of constituencies in each of the Part A, Part B and Part C States ; and

(b) the firm date for the holding of general elections under the new Constitution ?

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* P. D., Vol. 1, Part II, 15th April 1950, p. 1557.

**P. D., Vol. 6, Part II, 15th November 1950, p. 12.

The Minister of Law (Dr. Ambedkar): (a) A statement is laid on the Table (See Appendix I, Annexure No. 4).

(b) This question has been dealt with yesterday in the Presidents opening address.

Shri Kamath : Is it a fact, Sir, that in the President's Order issued some time in October the total population of Scheduled tribes in Part A and Part B States of the Indian Union has been given as 179 lakhs or so while according to the Census of 1941 the total population of Scheduled tribes in those States is about 248 lakhs ?

Dr. Ambedkar : This question should be addressed to the hon. the Home Member.

Dr. Deshmukh : May I know if the Hon. Minister of Law is aware that according to the present arrangement, considerable hardship would be caused to a Scheduled Caste candidate and whether he is intending to take any steps by which this double constituency which is likely to fall to the share of the Scheduled Caste and the Scheduled Tribes candidates would be reduced to a single constituency.

Dr. Ambedkar : That is a matter which undoubtedly will be dealt with by the House when the Order dealing with constituencies will be placed before the House.

Prof. Ranga: Is it absolutely incumbent according to the Constitution to have the elections for the Parliament—the House of the People and also for the State Legislatures—simultaneously ?

Dr. Ambedkar : That would be a matter which would be dealt with on the basis of convenience by the Election Commissioner.

Sardar B. S. Man: May I know for the purposes of delimitation of constituencies whether the results of Census which is shortly to be taken in 51 will be taken into consideration or the present figures of 1941 will be considered ?

Dr. Ambedkar : I think under the Constitution, the provision is that the election is to take place within three years from the date of the provisional Parliament. The old Census may be taken, subject to the fact that in certain Provinces like the Punjab and West Bengal the population may be estimated by the President on the basis of the voting strength.

Shri Kesava Rao : May I know whether the Government has received any representations from the minority communities for having plural Member constituencies for them ?

Dr. Ambedkar : May I know what complaints have been received by the Election Commission, but I may say that I have received various representations relating to that matter.

Dr. Deshmukh : May I know if the complaints of castes which have been omitted from the President's Order for the first time are going to be considered by Government ?

Dr. Ambedkar : It cannot be considered now. The provision in the Constitution is that whereas the Order is made by the President enumerating the various castes and tribes, the Government is excluded from any further action. The matter is left for Parliament to be death with.

Shri Tyagi: When does the Hon. Minister propose to introduce the People's Representation Bill in its final shape and place the electoral rules before this House ?

Dr. Ambedkar : The Bill certainly I am placing before the House during the course of this session, but I do not know what my hon. Friend means by "rules".

Shri Tyagi: I mean rules of election.

Dr. Ambedkar : Well, I do not know whether the rules of election would be framed unless and until we pass this Act.

Shri R. K. Chaudhari: Is it a fact, Sir, that the population as determined by the hon. the President has been open to very serious objection on the ground that the determined population has been less in some instances than the census of 1941 and as it was determined on the number of voters as on the voting list which has been found to be defective, is there any likelihood of the revision of the determined population ?

Dr. Ambedkar : That question ought to be addressed to the Hon. the Home Minister.

Shri Chandrika Ram : May I know how many States have been able to delimit the constituencies for Scheduled Castes and Scheduled Tribes ?

Dr. Ambedkar : I do not think the delimitation of constituencies for the Scheduled Castes is a matter which is dealt with separately from the delimitation of the general constituency.

Shri Kamath : In view of the fact that the date of the General Elections has now been postponed from April-May to November-December, 1951, will there be any change in the qualifying date and qualifying period for the voters ?

Dr. Ambedkar : Unless the Act that has already been passed is amended, we could make no change.

Mr. Speaker: I think we will go to the next question.

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(17)

*GENERAL ELECTIONS

134. Shri Deshbandhu Gupta: (a) Will the Minister of Law be pleased to state whether Government have finally fixed the month for the next General elections and if so, what is the month ?

(b) Will the elections be held simultaneously for the Parliament and Legislature of States ?

(c) What opinions have been expressed by each State Government on the subject ?

(d) What is the total number of voters for the House of the People, the Council of States and States Legislatures respectively enrolled and when will the electoral rolls be finally published ?

(e) What is the estimated expenditure which will be incurred on the elections ?

(f) How many officers will be employed for the purpose and for what period ?

The Minister of Law (Dr. Ambedkar): (a) This part of the question has been dealt with in the President's opening address on the 14th November, 1950.

(b) Elections are proposed to be held simultaneously for the House of the People, Constituencies in a State and the

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* P. D., Vol. 6, Part I, 20th November 1950, p. 138.

Legislative Assembly constituencies, if any, of that State. Elections to the State Legislative Councils will also be held about the same time, but it may not be exactly at the same time.

(c) The States are all in favour of holding the elections to the House of the People and the State Legislative Assemblies simultaneously.

(d) The electorate for the House of the People and the Legislative Assemblies of the States are the same. A statement is laid on the Table giving the total number of voters for the House of the People so far enumerated. (*See* Appendix I, Annexure No. 29).

Figures in respect of supplementary voters are still awaited from Uttar Pradesh, West Bengal, Bhopal, Bilaspur, Coorg and Himachal Pradesh, the electorate for the seats allotted to Part A States and Part B States (except Jammu and Kashmir) in the Council of States is 3,055. The method of election to fill the seats in the Council of States allotted to Part C States is to be determined by Parliament and it is proposed to introduce during the current session a Bill to amend the Representation of the People Act, 1950 for this purpose. The electoral rolls for the Legislative Councils in Part A States and in Mysore are still under preparation and it is not possible to give any idea as to that electorate. Electoral rolls will be finally published as soon as constituencies have been delimited and claims and objections to the preliminary rolls have been disposed of. This is expected to be late in January, or early in February, next.

(e) On a rough estimate, the total expenditure that has so far been incurred, and may hereafter be incurred by the Government of India in connection with the elections may be about 520 lakhs; and the total expenditure for all the State Governments may be about 490 lakhs.

(f) If the hon. Member is referring to officers who will be employed for the actual conduct of elections, it is not possible at present to estimate their number or the period for which they will have to be employed for the purpose.

Shri Deshbandhu Gupta: May I know whether complaints have been received from various States as to omissions or incorrect entries—a large number of them—in the electoral rolls, and if so what steps have been taken by Government to remove these defects ?

Dr. Ambedkar : Well, really speaking, that is a matter which must be within the cognizance of the Election Commissioner, and I am sure if any irregularities have been reported to the Election Commissioner, he will exercise his powers to set them right.

Shri Deshbandhu Gupta: Has it come to the notice of the Election Commissioner or the Government that in the State of Delhi itself as many as 40,000 women are required to file objections to get themselves enrolled as voters for the simple reason that they have been enrolled as "Mrs. so-and-so" or "Miss so-and-so"?

Dr. Ambedkar : It is possible.

Shri Deshbandhu Gupta: Sir, in view of the fact that the elections have now been postponed, will Government consider the desirability of getting such incorrect entries corrected of its own accord, rather than require the objectors to file objections ?

Dr. Ambedkar : I shall convey the suggestion to the

Mr. Speaker : Order, order. It is a suggestion for action.

Shri Syamnandan Sahaya : In view of the fact that the Constitution lays down that there is to be adult franchise, will Government please state whether they shall take into consideration the results of the next census in the matter of drawing up the electoral rolls ?

Dr. Ambedkar : It is not necessary, as it is provided in the Constitution that if the elections take place within three years of the inauguration of the Constitution, the population of 1941 census may be taken into account, or in certain other cases the population may be determined by the President by order.

Mr. Deshmukh : Is the Hon. Minister aware that in some States the price proposed for the voters' list is exorbitant and may I know whether Government would issue any orders to the effect that these lists should not be so very costly ?

Dr. Ambedkar: I have heard that this matter has been agitated in some of the local Assemblies, and I hear some State Governments have already reduced the price of the electoral rolls.

Shri T. N. Singh: May I know whether the word "simultaneously" used by the Hon. Minister in his reply means that all the elections will be held on one day in all the different States or whether it will be spread over three or four days ?

Dr. Ambedkar: It should take place on the same day for expenditure to be economised.

Shri R. Velayudhan: May I know if, any final date has been fixed for the Delimitation Committees to submit their reports ?

Mr. Ambedkar: I think the date was at one time fixed, as it was the intention of the Election Commission to submit the Election Constituency Order to the President and place it before this House in this Session. But in view of the fact that the date of the election has been postponed, probably he desires to have more time in order to enable him to prepare the constituencies more in consonance with the facts of the case.

Shri K. Vaidya: Sir, should not the elections take place in April in the case of States where there is no legislature at all ?

Dr. Ambedkar: If my friend will resume his seat I will give the reply. So far as the House of the People is concerned, the Legislature of the State is not involved, because the election is by the people. Where there are Upper Chambers, there, by the Bill which I am presenting to the House to-day they are making provisions for election in such States where Legislatures do not exist.

Shri Dwivedi: Sir, may I know whether any minimum qualifications are to be fixed for persons standing for elections ?

Dr. Ambedkar: That matter is under debate by a Resolution moved by Prof. K. T. Shah.

Shri Radhelal Vyas: In view of the fact that the general elections have been postponed by one year, will the qualifying date

and the qualifying period also be changed by suitable amendments to the People's Representation Act ?

Mr. Speaker: It is to be the subject of discussion in this House.

Shri Deshbandhu Gupta: Sir, may I know whether, it is correct that some device has been found out to detect impersonation ?

Dr. Ambedkar: Yes, I hear our scientific laboratories are finding out some kind of device.

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(18)

*GOVERNMENT AGENTS FOR SUPREME COURT

442. Shri Raj Bahadur: (a) Will the Minister of Law be pleased to state whether any agency or machinery has been set up under the auspices of the Government to act as solicitors or agents for or on behalf of the Central and the State Governments for the Supreme Court of India ?

(b) If so, what were the reasons and necessity for creating such agency or machinery ?

(c) What is the amount of money to be spent by the Government of India and the State Governments respectively on the creation and maintenance of the said agency or machinery ?

(d) How has the creation of such an agency or machinery affected the efficiency or execution of work ?

The Minister of Law (Dr. Ambedkar): (a) Yes.

(b) With the abolition of the jurisdiction for the Privy Council over Indian cases and the establishment of the Supreme Court on the commencement of the new Constitution, the volume of work in connection with cases coming up before the Supreme Court concerning the Central and State. Governments increased enormously. Novel and intricate problems of law arose in such cases by reason of the great constitutional changes that had taken place. It was considered that, in order to achieve best results before the highest

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* P. D., Vol. 6, Part I, 28th November 1950, p. 410.

tribunal in the land, all matters before the Supreme Court, civil and criminal, in which the Government of India or any of the State Governments were interested, should be handled by a central agency, composed of personnel experience in Federal Court practice and procedure, conversant with Government administration, and familiar with the new Constitution. When the proposal was put to the Governments of Part A and part B States, it was accepted by 10 of them.

(c) The approximate expenditure on the Central Agency is estimated to be Rs. 47,600 for the current financial year and Rs. 87,400 for the next financial year. The expenditure is to be shared between the Government of India and the Governments of the participating States in proportion to the number and nature of the cases handled on behalf of each Government. The amounts payable by the participating Governments for the current year can only be estimated at the end of the year.

(d) Before the Central Agency section was created, the Agency work of the Central Government was done by one of the Government Solicitors in addition to his normal advisory work in the Solicitor's Branch, and each Provincial or State Government made its own arrangements. The setting up of a centralised agency will naturally lead to economy and efficiency, particularly from the point of view of the State Governments. It also secures greater co-ordination between the States *inter se* and the Central Government on various constitutional questions coming up before the Supreme Court.

Shri Raj Bahadur: May I know whether any of the States disapproved or rejected the proposals ?

Dr. Ambedkar : Well, I do not know which States expressly disapproved, but, as I said, ten have agreed; Assam, West Bengal, Madras, Punjab and Uttar Pradesh have not joined the scheme. They might join hereafter.

Shri Raj Bahadur: May I know the number of States which have not given specific acceptance of the proposal ?

Dr. Ambedkar : As I said, evidently those who have hot joined the scheme have either expressly said that they do not want to join or have merely postponed their decision—I am unable to say at this stage.

Shri Raj Bahadur: So far as the financial side is concerned, how does the expenditure which is to be incurred now compare with the expenditure which was being incurred up to now ?

Dr. Ambedkar : There is no basis for comparison because such an agency did not exit before.

Shri Raj Bahadur: Why I know whether the opinion of local solicitors and agents was taken or not?

Dr. Ambedkar : There is no necessity. We took the opinion of the Governments.

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(19)

*MUSLIM PERSONAL LAWS

561. Dr. M. M. Das : (a) Will the Minister of Law be pleased to state the States of the Indian Union where the Muslim Personal Laws (Shariat) Application Act of 1937 is not in force ?

(b) Is it a fact that Muslims of the Indian Union are governed by the same Personal Laws viz., the Shariat?

(c) Did Government receive any representation from the Muslims of Coach-Behar or ascertain their opinion before the Government of West Bengal replaced their existing Personal Laws by Shariat ?

The Minister of Law (Dr. Ambedkar): (a) and (b). The Muslims Personal Law (Shariat) Application Act of 1937 is not in force in Part B States and in the merged territory of Cooch-Behar in West Bengal. It is in force in the rest of India. So far as Cooch-Behar is concerned, provision has been made in clause 3 of the Cooch-Behar (Assimilation of Laws) Bill which is pending before this House, for bringing the Act of 1937 into force in that area. The position in Part B States appears to be that Muslims are in the main governed by

* P. D., Vol. 6, Part I, 1st December 1950, p. 536.

Shariat, but subject to variations introduced by established custom or usage or by local laws.

(c) So far as I am aware, the Government of West Bengal have done nothing to alter the personal law applicable to Muslims in Cooch-Behar. After the Cooch-Behar (Assimilation of Laws) Bill is passed by this House and is brought into force, that Government will, in due course and after due consideration, bring the Muslim Personal Law (Shariat) Application Act of 1937 into force in Cooch-Behar under clause 3(2) of the Bill.

Dr. N. M. Das : May I know whether the Hon. Minister of Law thinks it necessary and advisable to ascertain the opinion of the Cooch-Behar Muslims about the change that will be introduced by the West Bengal Government ?

Dr. Ambedkar : That matter is left to the West Bengal Government.

Shri Syamnandan Sahaya: Is there any proposal pending the consideration of the Government for bringing before this Parliament a Muslim Code also?

Dr, Ambedkar: No.

Shri Tyagi : Is it the intention of Government to bring a law to regulate the Muslim Law in India also and to effect reforms in respect of the system of polygamy that is prevalent amongst Muslims ?

Mr. Speaker: That question was put and answered.

Shri Tyagi: I want to know whether it is the intention of Government to effect reforms in the previous Muslim Law ?

Mr. Speaker: There is no intention of bringing a Muslim Code. That is what the Minister said and it covers all points.

Shri A. C. Guha: Have Government under contemplation any proposal to bring a uniform civil law for all Commuinities, according to our Constitution ?

Dr. Ambedkar : I have very much the matter at heart; but I have no time.

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(20)

* ENGAGEMENTS OF LAWYERS IN CASES AGAINST THE UNION

709. Shri Kazmi: Will the Minister of Law be pleased to state :

(a) the procedure for the engagement of legal practitioners in the procedings in Courts of the cases against the Union of India;

(b) whether the remuneration; and

(c) whether the Attorney General for India, the Advocate General of State or Government Pleader of locality is consulted on such appointments, and if not, what are the reasons therefor ?

The Minister of Law (Dr. Ambedkar): (a) In all Part A States, the legal business of the Central Government is generally undertaken by the State Governments, by mutual agreement, and is conducted by the Legal Remembrancer of the State and other law officers under his control such as the District Government Pleaders. In the Presidency towns of Bombay and Culcutta we have our own Solicitors to attend to this work. Certain departments like the Railway and Incom-tax Departments also make their own arrangements for conducting their cases in the courts. The Central Government have appointed all District Government Pleaders in Part A States as Government Pleaders in relation to any suit by or against the Central Government, excluding cases relating to railways. No standing arrangements have yet been made in Part B States, while in Part C States, the Chief Commissioners are authorised to make the necessary arrangements.

(b) Except where special rates are agreed upon, the Government Pleaders conducting the Central Government cases are paid fees at the same rates as are admissible to them for conducting cases on behalf of the State Governments which employ them.

(c) As stated in the reply to part (a) of the question, as a general rule, the District Government Pleaders also act as

* P. D., Vol. 6, Part I, 6th December 1950, p. 694.

Government Pleaders in cases against the Government of India in Part A States and hence the question of consultation in making the appointment of such Pleaders does not arise.

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(21)

*SCHEDULED CASTE REPRESENTATIVES

814. Shri Jangde : Will the Minister of Law be pleased to state whether the number of Scheduled Caste Members to the House of the People from Madhya Pradesh is being determined on the basis of the 1941 census ?

The Minister of Law (Dr. Ambedkar): The number of seats to be reserved for the Scheduled Castes from Madhya Pradesh, or for the matter of that, any Part A State or Part B State, in the House of the People will be determined on the basis of their population as estimated by the Census Commissioner under the provisions of the Constitution (Determination of Populations) Order, 1950, made by the President under article 387 of the Constitution. The population has been estimated by the Census Commissioner as on the 1st March 1950, and has already been notified *vide* Home Ministry's Notification in a *Gazette Extraordinary* dated the 14th September 1950.

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(22)

**DELIMITATION OF COMMITTEE REPORTS

817. Shri Deogirikar: (a) Will the Minister of Law be pleased to state how many States have submitted the Delimitation Committee reports so far ?

(b) Will those Constituencies be accepted as final or will they undergo changes and if so, when and who will make the changes ?

The Minister of Law (Dr. Ambedkar): (a) Proposals for the delimitation of constituencies for the House of the People and the Legislative Assemblies of States have been received

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*P. D., Vol. 6, Part I, 11th December 1950, p. 804.

***Ibid.,* p. 805.

by the Election Commission from all States except that West Bengal's proposals for the Legislative Assembly of the State have not yet been received. The Parliamentary Advisory Committee for the following States have sent their reports :

Assam, Bombay, Orissa, Hyderabad, Travancore-Cochin, Saurashtra, Delhi, Vindhya Pradesh, Bhopal, Tripura and Manipur.

(b) The procedure for making the Order delimiting the constituencies is contained in section 13 of the Representation of the People Act, 1950. the Election Commission shall, in consultation with the Delimitation Advisory Committee set up in respect of each State, formulate proposals as to the delimitation of constituencies in that State and submit such proposals to the President for making the Order as to such delimitation. It is open to the Election Commission to amend or vary the proposals of the Delimitation Advisory Committees. The President also can amend or vary the proposals submitted by the Election Commission, and every such Order made by the President shall be subject to such modification as Parliament may make when it is laid before it.

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(23)

*GENERAL ELECTIONS

1052. Prof. S. N. Mishra: (a) Will the Minister of Law be pleased to state the approximate expenditure to be incurred by the Government in the next elections ?

(b) How many representations have been made to the Government for holding elections in April-May and how many against it ?

The Minister of Law (Dr. Ambedkar): (a) Attention is invited to my reply given on the 20th November, 1950, to part (e) of starred question No. 134 asked by Shri Deshbandhu Gupta.

(b) According to information available, in all eleven representations have been received, out of which ten are against holding elections in April-May 1951, and one

* P. D., Vol. 6, Part I, 19th December 1950, p. 1034.

against the postponement of the elections to November-December 1951.

Prof. S. N. Mishra : May I know what were the main reasons for postponing the elections to November-December 1951?

Shri Dwivedi: May I know whether Government are going to ban party and religious flags during the elections ?

Dr. Ambedkar : I suppose that everything that is necessary to ensure fair elections will be done.

Shri Joachim Alva: Is Government devising any machinery of propaganda by which elections may be run on proper lines and malpractices may be avoided ?

Dr. Ambedkar : I think that it had better be left to the political parties themselves.

Shri Jainarain Vyas : Will Government impose any levy on the different States to meet the election expenditure ?

Dr. Ambedkar : Yes. There has already been an agreement between the Centre and the various States as to the proportion in which the election expenses would be borne.

Dr. M. M. Das: May I know whether any State Government has sent any deputation and if so, what is the result ?

Dr. Ambedkar : Deputation for what ?

Dr. M. M. Das: For postponing the elections.

Dr. Ambedkar : No. I do not remember to have received any deputation.

Shri R. Velayudhan: Which is the single State which has protested against the postponement of the elections ?

Dr. Ambedkar : I did not say that the representations were from the States. They may have been from individuals and not necessarily from the States. I have not got the name of the particular representative who sent the representation against the postponement of elections.

Shri B. K. P. Sinha : Is it a fact that certain parties which were nervous at the approach of the elections are now passing resolutions to the effect that Government have done a great harm by postponing the elections ?

Dr. Ambedkar : I feel that my hon. Friend knows more than I do.

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(24)

*SHORT NOTICE QUESTIONS AND ANSWERS
ELECTORAL ROLLS FOR RURAL AREAS IN DELHI

Shri J. R. Kamble: Will the Minister of Law be pleased to state :—

(a) Whether the attention of Government has been drawn to the news appearing in the Evening News of the Hindustan Times dated the 20th March 1951 and in the Indian News Chronicle dated the 21st March 1951 that the Chief Commissioner of Delhi has ordered that the electoral rolls for the rural areas of Delhi State for the next general elections will be published only in Urdu ;

(b) Whether the above news item is a correct statement of fact, and if so, what are the reasons for the aforesaid rolls not being published in Hindi which is the official language of the Union ; and

(c) What is the policy of the Government with regard to the language of the electoral rolls for the next general elections in Part 'C' States ?

The Minister of Law (Dr. Ambedkar): (a) and (b) The two news items referred to in the question relate to elections to the District Board of Delhi and have nothing to do with the general elections to Parliament. The electoral rolls for Delhi for the ensuing general elections to the House of the People have in fact been published in three languages, *viz.* English, Hindi and Urdu.

(c) Under Rule 6 of the Representation of the People (Preparation of Electoral Rolls) Rules, 1950, the language in. which the electoral rolls in respect of State are to be prepared is to be decided by the Election Commission. Generally, the rolls have been prepared throughout the country in the regional languages only, but in certain bi-lingual areas in some of the States the Commission has directed the preparation of the rolls in an additional language also.

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*P. D., Vol. 7, Part I, 2nd April 1950, p. 2788.

Shri J. R. Kapoor: Do I take it that the electoral rolls of rural areas of Delhi with regard to the next General Elections are being published also in English ?

Dr. Ambedkar : Which rural area and for what purpose ?

Shri J. R. Kapoor : For the General Elections in the rural areas of Delhi.

Dr. Ambedkar : For the General Elections to Parliament they are printed in the regional language, as I just now said. Where the area is a composite area it is published also in some additional language.

Shri J. R. Kapoor : May, I know whether with regard to the electoral rolls for the next General Election to Parliament the electoral rolls relating to the rural areas of Delhi State are going to be published in English also in addition to Hindi and Urdu ? If so, will the Hon. Minister be pleased to state how many people are there in the rural areas of Delhi State who know English only ?

Dr. Ambedkar : It is not published in English only. It is published in three languages. As I said, the electoral rolls in Delhi for the ensuing General Elections to the House of the People have in fact been published in three languages English, Hindi and Urdu. Any voter may pick up any particular roll with which he is familiar.

Shri J. R. Kapoor: What was the language of the electoral rolls of the Delhi State in the last General Elections ?

Dr. Ambedkar : It must be the regional language and so far as I remember the old rule was also the same as now.

Shri J. R. Kapoor: What was considered to be the regional language at the time of the last General Election in the Delhi Rural Area?

Dr. Ambedkar : I am not quite familiar; probably it might have been Urdu. There is now an improvement.

Shri Hussain Imam : Is it a fact that there are no rural and urban constituencies separately in the State of Delhi ?

Dr. Ambedkar : I am not sure. I have not seen the constituencies as framed by the various committees that were appointed by this House.

Seth Govind Das : What are the languages other than the local languages in which these lists would be published at different places ?

Dr. Ambedkar : I must have notice of it. So far as I remember when I was answering a question by Mr. Anthony similar to the one now put, I think, I said that so far as Bombay was concerned English was also used for the purpose of preparaing them. If in the case of some other areas also such as Bangalore in Mysore State, I am not sure at the moment, I am speaking from memory.

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(25)

*SCRUTINY OF CENTRAL AND STATE LAWS

Pandit H. B. Bhargava : Will the Minister of Law be pleased to state whether the Government of India have set up or intend to set up a Law Commission or any other suitable machinery for the scrutiny and examination of all the Central and State Laws in the light of the Constitution of India with a view to amend, modify or repeal such provisions of the existing Laws which are inconsistent with Part III and other provisions of the Constitution and if not, why not ?

The Minister of Law (Dr. Ambedkar) : No Sir. In connection with the adaptation of the Central and State Laws under article 372 of the Constitution, in order to bring them into accord with the provisions of the Constitution, Government have taken the view that so far as fundamental rights are concerned, it would not be advisable to omit or modify any provision of a law on account of article 13(1), unless there was a clear inconsistency between such law and any of the provisions of Part III, as, for instance in the case of the Punjab Land Alienation Act, 1900, which has been repealed by adaptation.

Pandit M. B. Bhargava : Has the Government considered the question how far the State Laws and the Central Laws are in conformity with the present Constitution, and does the Government have any intention to apply its mind to this proposition ?

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* P. D., Vol. 7, Part I, 7th April 1951, p. 2820.

Dr. Ambedkar : Sir I don't think this is a matter which could be dealt with in the course of questions and answers. This would probably requisite a debate on the various modes and methods that could be adopted to carry out the purpose of article 372, in conformity with article 13(1).

Pandit M. B. Bhargava: Sir, may I know why one particular Act has been selected out of the ocean of laws and on what particular criterion has this law been selected ?

Dr. Ambedkar : I am not in agreement with the hon. Member when he says there are an ocean of laws which are inconsistent with the Constitution, although I agree there may be some. My hon. Friend will remember that this is a very difficult matter and Government must come to a definite conclusion on the issue whether a law is really inconsistent and whether it should be retained. This one law was examined with great care both in the Law Ministry and by the Attorney General and also the Legal Remembrancer of the Punjab Government and then the conclusion was arrived that this could not be retained in view of the fundamental rights and the Government have no kind of doubt in the matter that the matter could be dealt with by adaptation.

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(26)

*ELECTORAL ROLLS

2824. Shri Sonavane : (a) Will the Minister of Law be pleased to state whether it is a fact that electoral rolls are printed in Hindi in Bombay State ?

(b) Is it a fact that the Centre has directed the Bombay State to print the electoral rolls in English in addition to the already printed Hindi rolls ?

(c) If so, why was such a direction given, what is the extra cost of printing and who is going to bear it ?

The Minister of Law (Dr. Ambedkar): (a) The electoral rolls in the State of Bombay have been printed in the regional languages of the districts concerned, *viz.,* in Gujarati, Marathi and Kannada. In the case of bilingual districts of Belgaum

* P. D., Vol. 7, Part I, 7th April 1951, p. 2957.

and Satara South, the rolls have been printed both in Marathi and Kannada. In Bombay City the electoral rolls have been printed in Devanagari script.

(b) and (c) The attention of the hon. Member is invited to my reply given to part (b) of Shri Kamath's starred question No. 1409 on the 13th February 1951.

The cost of printing the electoral rolls in English in respect of the Bombay City is estimated at rupees six lakhs and will be shared by the Government of Bombay and the Government of India in the same way as any other expenditure relating to the preparation of the electoral rolls will be shared.

Shri Sonavane : May I know after how many days or months of completion of the rolls printed in Devnagari in the Bombay City were these directions given to printing the rolls in English?

Dr. Ambedkar : I cannot give a precise answer to this question, but I think the direction was issued after complaints were received by the Election Commissioner that there were many people in Bombay City who would not be in a position to understand the Hindi rolls.

Shri Sonavane : Could this direction not have been given earlier which would have saved an extra expenditure of six lakhs over the printing of these rolls ?

Dr. Ambedkar : It is perfectly possible, I think. Nothing is impossible.

Shri Sonavane : Who is responsible for this waste of money ?

Dr. Ambedkar : There is no waste of money at all there. In any case it was necessary to have a roll in English whether it was printed simultaneously, earlier or later.

Shri Sonavane : But could not the simultaneous printing of rolls in Devnagari and English have reduced the expenditure ?

Dr. Ambedkar : No, how could it ?

Shri Kamath : Have reports been received from Bombay and other States as to how many claims and objections have been filed in respect of the electoral rolls published already, and how many of those claims and objections have been disposed of?

Dr. Ambedkar : Sir, this does not arise out of this question.

Mr. Deputy Speaker: Yes, that is so.

Shri Sarangdhar Das : Considering that Singbhum District in Bihar is a Bilingual area, will the Minister please state why the rolls are not published in Oriya Language also besides Hindi ?

Dr. Ambedkar : It is possible that that is not the regional language of the area.

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(27)

*LAWYERS IN SUPREME COURT

3233. Shrimati Durgabai : (a) Will the Minister of Law be pleased to state what is the practice followed in engaging lawyers to represent the Government of India and the State Governments in the Supreme Court?

(b) Which is the Agency under the Ministry that is entrusted with the work of engaging lawyers on behalf of Government ?

(c) Is there any panel out of which lawyers are chosen to represent Government in various cases ?

(d) What is the basis on which fees for such lawyers is fixed ?

The Minister of Law (Dr. Ambedkar): (a) The Government of India is almost always represented by the Attorney-General in the Supreme Court. He is assisted by a Junior Counsel who is selected in consultation with the Attorney-General and having regard to the nature and importance of the case. Similarly a State Government is usually represented by the Advocate-General of the State and he is assisted by a Junior Counsel. The instructions of the State Governments as to engagement of particular Counsel are carried out.

(b) The Government Agent who is in charge of the Central Agency Section, Ministry of Law, engages Counsel on behalf of the Government of India and those State Governments which have entrusted their work to that Section.

(c) No panel of lawyers is maintained in the Central Agency Section. The Government Agent keeps a list of Counsel

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*P. D., Vol. 7, Part I, 18th April 1951, p. 3315.

practising before the Supreme Court and engages Counsel as indicated in the reply to part (a).

(d) Fees for Counsel naturally vary with the seniority and standing of the Counsel engaged and also with the importance and difficulty of the case. I regret I am unable to give a more precise answer to this question.

Shrimati Durgabai : May I know whether the Hon. Minister could give us information as to who are all juniors for the purpose of engagement and what was the basis on which their fees were paid ?

Dr. Ambedkar : The seniors who were generally engaged for the Central or State Governments are Mr. Alladi Krishnaswami Ayyar and Mr. Indra Dev Dua.

The junior advocates who are generally engaged are—

Mr. G.N. Joshi

Mr. S.N. Sikri

Mr. Rajinder Lal

Mr. K. Singh

Mr. H. J. Umrigar

Mr. R. Ganapati Ayyar

Mr. B. Sen

Mr. C.R. Pattabhiraman

Mr. S.N. Mukerjee

Mrs. Durgabai

Mr. S.B. Jeth

Rai Bahadur Nanakchand

Mr. V.N. Sethi

Sardar Kartar Singh Chowla

Mr. G.C. Mathur

Mr. A.N. Kirpal

Mr. R.N. Tikku

Mr. M.K. Pillai

Mr. P.M. Nathwani.

The usual fees fixed for junior counsels are as follows :—

Ten gold mohurs for opposing a petition for special leave.

Ten to twenty gold mohurs per day for criminal appeals, or applications under article 32 of the Constitution, according to the nature of the case.

Fifteen to twenty gold mohurs per day for civil appeals according to the nature of the case, but in cases in which important questions are involved higher fees have been paid to counsel but in no case exceeding forty gold mohurs.

In cases where the Attorney-General is briefed on behalf of the State Governments, his fees are 100 gold mohurs per day, and where he appears on behalf of the Central Government no fees are charged except in cases where costs are recovered from the opposite party.

In cases where other counsels are engaged directly by a State Government they are paid fees by that Government direct.

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(28)

*COOCH BEHAR (POPULATION)

3235. Shri S.C. Samanta: (a) Will the Minister of Law be pleased to State the names and number of villages with population figures in Cooch Behar in West Bengal, where there are only one, two or three voters in each village for the coming General Election.

(b) What were the corresponding population figures in those villages according to the census of 1941 ?

The Minister of Law (Dr. Ambedkar): (a) and (b) I understand from the Election Commission that there are 25 villages in Cooch Behar which have not more than 3 voters each, entered in the electoral rolls. A Statement containing the names of these villages, together with the number of voters in each, entered in the rolls at the time of preliminary publication, is placed on the Table. (See Appendix XXII, Annexure No. 19). The population figures for these villages are not available here but I am trying to get them from the local authorities. I should also add that the period for presentatin of claims expired only on the 31st March last, and the Election Commission has no information so far, as to the number of persons enrolled as voters on the basis of such claims.

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*P. D., Vol. 7, Part I, 18th April 1951, p. 3318.

Shri S. C. Samanta : Is it a fact that the matter was referred to the Election Commission ; and if so, what steps have been taken by this time ?

Dr. Ambedkar: As I said, we have referred the matter to the Local Government to find out what exactly is the position. It is quite possible that on account of the disturbances that have recently taken place some of the villagers have shifted from one side to the other and some villages have become what we call in technical language *beckira*.

Shri S. C. Samanta: The Hon. Minister stated that the population figures of these villages are not available. Am I to understand that there is no census figures for Cooch-Behar ?

Dr. Ambedkar: I have not seen it.

Shri Kamath: When does the Election Commission expect to receive reports about the claims and objections filed from these villages ? Has any report been called for at all ?

Dr. Ambedkar: In the ordinary course, I do not think so because this is a matter entirely to be left to be disposed of by persons who are appointed to adjudicate claims in this matter.

Shri S. C. Samanta: Due to the sparseness of the population in Cooch-Behar, will Government consider relaxing the rules in respect of polling stations in the coming elections ?

Dr. Ambedkar: All these considerations will be borne in mind.

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(29)

*ELECTORAL ROLLS

3361. Shri Kamath : Will the Minister of Law be pleased to State :—

(a) whether reports have been received or called for from each of the Part 'A', Part 'B' and Part 'C' States as to the number of claims and objections filed in respect of electoral rolls in each State;

*P. D., Vol. 7, Part I, 21st April 1951, p. 3439.

(b) if so, the total number of claims and objections filed in each State;

(c) the number of such claims and objections disposed of so far ; and

(d) the number allowed, and the number disallowed ?

The Minister of Law (Dr. Ambedkar): (a) to (d) The information is being collected by the Election Commission and will be laid on the Table in due course.

Shri Kamath: Is the last date for the filling of objections the same in all the states or is it different ?

Dr. Ambedkar: I cannot say. I must have notice of that question.

Shri Kamath : When will the information about claims and objections be received in the Election Commissioner's Office ?

Dr. Ambedkar: I do not think there will be any undue delay in this matter.

(30)

*MANUFACTURE OF BALLOT BOXES

3355. Shri R. C. Upadhyaya (on behalf of **Shri Kishorimohan Tripathi):** (a) Will the Minister of Law be pleased to State what progress has so far been made by different States in the matter of manufacturing ballot boxes and the printing of ballot-papers for the purposes of General Elections ?

(b) Are these going to be of a uniform type throughout India ?

(c) Has sufficient care been taken in the making of the ballot boxes and the printing of the ballot-papers to see that ignorant and illiterate voters can vote freely according to their choice ?

The Minister of Law (Dr. Ambedkar): (a) Orders for the manufacture of ballot boxes have been placed, in consultation with the Election Commission, by all the States except West Bengal, Bihar and Rajasthan. Information about these three States is awaited. Ballot papers for the whole of India are being printed centrally at the Security Printing Press, Nasik.

*P. D., Vol. 7, Part I, 21st April 1951, p. 3444.

(b) The ballot boxes are all of designs approved by the Election Commission and are more or less of a *uniform* type, except for variations in locking arrangements. Ballot papers are of a uniform type.

(c) Yes, the ballot boxes will be printed in two colours, one colour to be used for elections to the House of the People and the other for elections to the State Legislative Assembly. The ballot papers also will be similarly distinguishable. Each candidate will have a ballot box allotted to him at each polling booth, and the boxes of different candidates will be identified by means of labels pasted thereon bearing familiar and easily distinguishable symbols, such as flower, hut, tree, human hand, plough, elephant, etc., Each candidate will have a symbol allotted to him. These arrangements will make it easy for illiterate voters to cast their votes freely.

Shri R. C. Upadhyaya: May I know if the Government have procured steel for the purpose of manufacture of ballot-boxes ?

Dr. Ambedkar: Yes. How can the boxes be manufactured without steel ?

Ch. Ranbir Singh : How many days ahead of the elections will be symbols be known to the electorates ?

Dr. Ambedkar: I suppose the symbol will be allotted on the day the scrutiny is complete and the nomination paper is finally accepted. It is for the candidate to advertise what his simbol is among his voters.

Shri J. N. Hazarika: May I know the basis on which the number of ballot boxes required for election purposes has been ascertained, and in so ascertaining whether geographical considerations have also been borne in mind ?

Dr. Ambedkar: It depends upon the number of voters, the capacity of the polling booth etc. I have got here figures as to the number of ballot boxes each State has requisitioned for the purpose of conducting the elections. It is a long list.

An. hon. Member: He wants for Assam.

Dr. Ambedkar: For Assam the total number of ballot boxes are 50,000.

Mr. Speaker : I do not think it need be read. The Question Hour is over.

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(31)

*DISSOLUTION OF PARLIAMENT

3476. Shri Sonawane : (a) Will the Minister of Law be pleased to State whether there is a proposal before Government for the dissolution of Parliament in view of the ensuing general elections in November-December 1951?

(b) If so, when will Parliament be dissolved, whether before or after the results of elections are known ?

The Minister of Law (Dr. Ambedkar) : (a) and (b) The attention of the hon. Member is drawn to article 379(1) of the Constitution. By virtue of this article, this provisional Parliament have been duly constituted and summoned to meet for the first session. Accordingly, there will be no dissolution of this Parliament before the general elections take place in November-December next, or even after the results of those elections are announced. It will automatically cease to function as soon as the new Houses of Parliament have been summoned to meet for first session.

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(32)

**ELECTORAL POLLS

3611. Shri Kishorimohan Tripathi : (a) Will the Minister of Law be pleased to State whether sufficient arrangement has been made to meet all possible demands of electoral rolls during the coming elections ;

(b) Is there any estimate of such demands and if so, what is its basis ;

(c) What will the electoral rolls cost approximately for candidates contesting for (i) House of People seat; (ii) Council of States seat; and (iii) a seat in either House of State Legislature ?

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*P. D., Vol. 7, Part I, 25th April 1951, p. 3556.

***bid.,* 28th April 1951, p. 3702.

The Minister of Law (Dr. Ambedkar) : (a) Yes.

(b) While it is not possible to make any precise estimate as to the probable demand for copies of the electoral rolls, arrangements have been made to ensure that every duly nominated candidate and every organised party in a constituency will be able to obtain a copy.

(c) The information is being collected by the Election Commission and will be laid on the Table of the House in due course.

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(33)

*WEST BENGAL LEGISLATURE (VACANCIES)

3845. Shri Chattopadhyaya: Will the Minister of Law be pleased to State—

(a) how many seats in West Bengal Legislature were lying vacant . for more than a year in 1950-51;

(b) for how many of them no elections have been held as yet;

(c) whether they will be filled up before the coming general election; and

(d) the reason for their lying vacant so long ?

The Minister of Law (Dr. Ambedkar) : (While the Government of India as such are not concerned with the filling of casual vacancies in the State Legislatures, the following information has been obtained from the Election Commission:—

(a) Seven,

(b) Two

(c) It is expected that bye-elections to fill the remaining two seats will be held very soon.

(d) The delay in filling these vacancies is stated to be due to the uncertainty which existed for some time in regard to the term of the present West Bengal Legislative Assembly owing firstly to the proposed re-constitution of that Assembly and secondly to the earlier decision to hold the general elections in April-May, 1951.

*P. D., Vol. 7, Part I, 5th May 1951, p. 3931.

Shri Chattopadhyay: Am I to understand, then, that the Central Government has got no responsibility to see that vacancies in the State Legislatures are filled up without any delay ?

Dr. Ambedkar: No. there is no responsibility. It is entirely a matter for the Provincial Government and the Rajpramukh or Governor.

Shri Chattopadhyay : Of these constituencies lying vacant for more than a year, may I know how many are general constituencies and how many trade union constituencies ?

Dr. Ambedkar: I am afraid I have no information.

Dr. M. M. Das: May I know whether it is a fact that during the last two months, four bye-elections have been held in West Bengal ?

Dr. Ambedkar: I can say nothing on the subject; I have no information, as I said.

Prof. S. L. Saksena: Is the Hon. Minister aware that in the U. P. also there are seats which are vacant for more than a year ?

Mr. Speaker : Order, order, the Hon. Minister has already said that he has no responsibility. Next question.

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(34)

*GENERAL ELECTIONS IN MADRAS

3866. Shri P. Basi Reddi: (a) Will the Minister of Law be pleased to State whether it is a fact that the Madras Legislative Council has by a resolution requested Government to hold the General elections in that State not earlier than February 1952 ? ‘

(b) If so, what action has Government taken in the matter ?

The Minister of Law (Dr. Ambedkar): (a) Yes.

(b) Government do not consider that the reasons urged in the Madras Legislative Council in passing the resolution are sufficiently weightly to warrant the postponement of the elections in that State to February, 1952.

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* P. D., Vol. 7, Part I, 5th May 1951, p. 3955.

Shri P. Basi Reddi: Have any other State Governments made similar requests; if so, what are those Governments ?

Dr. Ambedkar: None.

Shri Kesava Rao : May I know whether Government is aware that November and December are rainy months in Madras and it is not possible to hold elections at that time ?

Mr. Speaker: They are supposed to be aware of it.

Seth Govind Das: Will the Hon. Minisater be pleased to assure us that the general elections will be held all over the country before 31st December, 1951 ?

Dr. Ambedkar: That is the intention of the Government.

Shri J. N. Hazarika: In order to give opportunities to the cultivators to participate fully in the first National General Election, will Government not allow the elections to take place after the paddy harvesting season which is in January and February in certain States including Assam ?

Dr. Ambedkar: Government has fixed a period of two months. Within that period any State is free to choose any period it likes.

Shri Brajeshwar Prasad: Has the attention of Government been drawn to the news published in the morning papers that elections would be held in February next ?

Dr. Ambedkar: I have read it, but I am not responsible for that news.

Shri P. Basi Reddi : Have any other State Governments made similar request; if so, what are they ?

Dr. Ambedkar: I have already answered that. My answer was 'No'.

Shri Venkataraman: Has the Mysore Government made a similar recommendation like Madras that the elections may be held in February or March ?

Dr. Ambedkar: No such information has come to my notice.

Shri Dwivedi: In view of the fact that the delimitation of constituencies in certain States is still under the consideration of this House, may I know whether elections in those States will be held by the time they are held in other States ?

Dr. Ambedkar: They will be settled in sufficient time to enable the elections to take place in the period prescribed.

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(35)

*GENERAL ELECTIONS

4553. Shri Sidhva: *(a)* Will the Minister of Law be pleased to state whether besides the Government of Madras, it is a fact that the Orissa Government has suggested to the Union Government that the General Elections should be held in January-February, 1952 ?

(b) If so, what reply has been sent by the Union Government to the Orissa Government ?

The Minister of Law (Dr. Ambedkar): *(a)* and *(b)* A communication was received by the Election Commission from the Orissa Government pointing out certain difficulties in fixing a common period of polling for all the districts in that State within the months of November-December, 1951 and suggesting that from this point of view January-February might be more suitable. The State Government had however expressed their willingness to adhere to the November-December time-table, provided polling could be held in some parts of the State in the latter half of November and in the remaining parts from 10th to 22nd December, 1951. The Election Commission has replied to the State Government that the programme for polling can in no circumstances be allowed to go beyond December, 1951 and that the Commission has no objection to the polling being spread over November-December as proposed though efforts should be made to reduce the total period *of* polling to four weeks if possible.

Shri Sidhva: As definite months have been fixed by the Government, may I know whether there is any likelihood of a change in those months ?

Dr. Ambedkar: As at present situated there is no likelihood of change but I cannot say what may happen in the future.

Mr. Speaker: I may say the question to confined is Orissa.

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*P. D., Vol. 8, Part I, 26th May 1951, p. 4684.

Seth Govind Das: Is ft a fact that in view of the information being received from Orissa and other places as also in view of the preparations of elections that are going on at present, the Hon. Minister has expressed the opinion that it is impossible to hold elections before January-February, and further if it is not a fact, then will the Hon. Minister make a clear statement that there is not the least likelihood of the election being postponed beyond 31st December, 1951 ?

Mr. Speaker: That is what he just said.

Seth Govind Das: I just wanted to know whether it was a fact that the Hon. Minister himself had expressed this opinion before many responsible persons that

Mr. Speaker: Order, order. No argument on that point.

Shri Biswanath Das: May I know whether the Government are aware of the fact that the monsoons are active there in the months of November-December ? .

Dr. Ambedkar: I suppose the Election Commission has taken everything into account in fixing the time-table.

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(36)

*REGIONAL COMMISSIONERS

4565. Shri Kamath: Will the Minister of Law be pleased to state:

(a) Whether Regional Commissioners to assist the Election Commission are proposed to be appointed in accordance with Article 324 (4) of the Constitution; and

(b) If so, how many and by what date ?

The Minister of Law (Dr. Ambedkar): *(a)* Yes.

(b) Four. No decision has yet been taken as to the date from which they are to be appointed.

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* P. D., Vol. 8, Part I, 26th May 1951, p. 4702.

(37)

*FIXING OF ELECTION DATES

93. Shri Kamath : Will the Minister of Law be pleased to state :

(a) Whether Government have decided upon a date or dates for the holding of elections to the House of the People and the State Legislative Assemblies;

(b) If so, what that decision is, and between winch dates polling will be held in each of the States;

(c) By what date the final results are expected to be declared with regard to the House of the People as well as the various State Legislative Assemblies; and

(d) When it is proposed to constitute the Council of States at the Centre and Legislative Councils in the States, and to elect the President of the Indian Union ?

The Minister of Law (Dr. Ambedkar): *(a)* Yes.

(b) Polling is scheduled to begin on or about the 3rd January and end by the 24th January, 1952, subject to such minor adjustments of the dates as might be necessary to meet exceptional difficulties that might exist in certain areas. In Himachal Pradesh, in parts of Kangra district in Punjab and, possibly in the high attitude regions of Uttar Pradesh, the polling may have to be finished by the end of October this year, since later on these, areas will get snow-bound.

(c) The Election Commission has proposed the 15th February 1952 as the date by which the declaration of results is to be completed.

(d) While it is not possible to say precisely at this stage when the Council of States and the State Legislative Councils will be constituted, it is expected that on the basis of the programme outlined above, it should be possible to constitute these Houses by about the end of March 1952. The election of the President will take place immediately after the due constitution of the two Houses of Parliament and the State Legislative Assemblies.

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*P. D., Vol. 9, Part I, 9th August 1951, p. 116.

(38)

*DATES OF GENERAL ELECTION IN STATES

114. Shri J. N. Hazarika: Will the Minister of Law be pleased to state:

(a) Whether the States have fixed the dates, for the next General Elections, in their respective States, if so, which are such States and the dates fixed by them; and

(b) Whether the constituencies have been called to elect their representatives to Parliament and State Assemblies ?

The Minister of Law (Dr. Ambedkar): *(a)* No, Sir. The Election Commission has addressed the State Governments on the subject.

(b) No.

Shrimati Durgabai: Has the attention of the Hon. Minister been drawn to the recent broadcast talk by the Chief Election Commissioner to the effect that nearly 25 lakhs of women voters are disqualified; if so, may I know whether opportunities will be taken of the postponement to qualify the disqualified women voters ?

Dr. Ambedkar : It does not arise out of this question. This question relates to the dates of election and not to electoral rolls.

Shri Kamath : In view of the fact that polling in Himachal Pradesh will take place by the end of October, has Government already announced the exact date of polling so as to enable the voters as well as the candidates to get on with their work ?

Dr. Ambedkar: I have no doubt about it that Government will take all the necessary steps.

Shri Kamath: Has Government any idea as to when the First Session of the new Parliament is likely to be convened ?

Dr. Ambedkar: Well, it could not be convened unless all the preliminary stages have been gone through.

* P. D., Vol. 9, Part I, 9th August 1951, p. 117.

Shri Durgabai: May I know whether the women of Rajasthan have sent a memorandum in regard to the electoral rolls ?

Dr. Ambedkar: It does not arise out of this.

Shrimati Renuka Ray: It does arise because the question relates to the dates of the election.

Mr. Deputy Speaker: It is a very important matter, of course. But unfortunatly it does not relate to this question.

Seth Govind Das : The Hon. Minister was pleased to state the date of the polling, but are the Government preparing a complete scheme for the preliminary work that has to be done in connection with polling e.g., nomination and other things and, if so, when will the dates for nomination, scrutiny and polling be made known ?

Dr. Ambedkar : That is already set out in the People's Representation Act.

Shri Sondhi : In view of the fact that simultaneous voting will have to take place both for the State Legislature and the House of the People, will it be necessary to have at least seven constituencies of the State to complete one for the House of the People in Kangra district in Punjab ?

Dr. Ambedkar: Whatever is necessary will have to be done. Government certainly will not tolerate any irregularity with regard to elections.

Shri Sondhi: There are five plains seats and two hills seats. I want to know whether elections will be for seven or only two ?

Dr. Ambedkar: These are governed by rules; I think exceptions will be made when circumstances justify.

Shri Sondhi: I want to know because polling is going to take place shortly.

Mr. Deputy Speaker: The Hon. Minister may not carry with him details with respect to every single constituency. Hon. Members will therefore appreciate the difficulty.

Shri Sondhi: Because the time now left is only two months.

Shri Sonawane : Will elections in a particular State be over a day, or will they be spread out over several days ?

Dr. Ambedkar: It depends upon the available administrative machinery. If the State has got sufficient machinery to complete all the elections in a single day, certainly the State will do it. Otherwise Government is quite prepared to spread the elections over a certain period in order to enable them to cope with the difficulties.

Shri Kamath: Arising out of answers to parts *(a)* and *(b)* of the question, have Regional Commissioners been appointed in the other parts of India and have the State Government been asked to assist the Regional Commissioners in ' going ahead' with arrangements for polling and other cognate matters ?

Dr. Ambedkar : The question of appointment of Regional Commissioners is under consideration. It is expected there will be Regional Commissioners.

Shri Kamath: Have the final electoral rolls been published ?

Dr. Ambedkar: I cannot give an off-hand answer. Certainly they will be printed in due course.

Shri Dwivedi: In view of the fact that Ministers of States and Home Affairs have accepted the principle that certain Part C States will have legislatures. I want to know whether the elections for the legislatures in Part C States will be held simultaneously with the General Elections.

Dr. Ambedkar : I cannot say what the provisions of the Bill are.

Shrimati Ammu Swaminadhan : May I ask the Hon. Minister what are the dates which are fixed for polling in Rajasthan ?

Dr. Ambedkar: I cannot give an answer to that.

Shri Kamath: By what date will the rules under the Electoral Bill be finalised and notified ?

Mr. Deputy Speaker: Next question.

Dr. Ambedkar: It is expected that they would be finalised by the end of this month.

Mr. Deputy Speaker: I am afraid hon. Members go on putting questions and Hon. Ministers go on giving answers. I have called the next question; the Hon. Minister need not have answered.

Shri Kamath: I did not hear you, Sir.

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(39)

*SYMBOLS FOR POLITICAL PARTIES

115. Shri S. N. Das: Will the Minister of Law be pleased to state:

(a) The names of political parties which were invited by the Election Commission to consider allotment of symbols to different parties in the coming General Elections;

(b) On what basis these parties were invited;

(c) Before inviting these parties whether any effort was made to as certaina as to which of the political parties were going to contest the elections ; and

(d) Whether any decision has been taken regarding allotment of symbols ?

The Minister of Law (Dr. Ambedkar): *(a)* (1) Indian National Congress.

(2) All Indian Forward Block (Ruikar Group).

(3) All India Forward Block (Marxist Group Party of Workers and Peasants of India).

(4) Akhil Bharat Hindu Mahasabha.

(5) Kisan Mazdoor Praja Party.

(6) Akhil Bharatiya Ram Rajya Parishad.

(7) Socialist Party.

(8) All India Scheduled Castes' Federation.

(b) and *(c)* Such of the parties as, in the opinion of the Election Commission, actually function in all the States or

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* P. D., Vol. 9, Part I, 9th August 1951, p. 133.

most of the States and are expected to set up candidates therein, were invited to the conference.

(d) Symbols have been allotted by the Election Commission as follows :

(1) All-India Forward Block (Marxist Group)—Standing Lion.

(2) All-India Forward Block (Ruikar Group)—Human Hand.

(3) Akhil Bharat Hindu Mahasabha—Horse and Rider.

(4) Kisan Mazdoor Praja Party—Hut.

(5) Akhil Bharatiya Ram Rajya Parishad—Rising Sun.

(6) All-India Scheduled Castes' Federation—Elephant.

An early decision is expected to be taken regarding the symbols to be assigned to the Indian National Congress and the Socialist Party of India.

The Communist Party of India also has selected two symbols and informed the Election Commission of them. These are being considered by the Commission.

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(40)

*ELECTORAL ROLLS FOR GENERAL ELECTIONS

20. Dr. M. V. Gangadhara Siva : *(a)* Will the Minister of Law be pleased to state by which date the preliminary electoral rolls are likely to be finalised in various parts of the country ?

(b) What time is likely to be taken in the printing of the final electoral rolls and is it proposed to print them in India or outside ?

The Minister of Law (Dr. Ambedkar): *(a)* The electoral rolls are expected to be finally published by the end of this month.

(b) The rolls are not to be reprinted before final publication. Only addenda and corrigenda necessitated by claims and objections will be printed and added to the preliminary rolls. No printing has been or will be done outside India.

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*P. D., Vol. 9, Part I, 9th August 1951, p. 149.

(41)

*WOMEN VOTERS AND ELECTORAL ROLLS

24. Shri S. N. Das: *(a)* Will the Minister of Law be pleased to state the total number of entries made for women voters which were subsequently removed according to the instructions issued by the Government of India on the ground that they did not bear the proper name of women voters—giving state-wise figures ?

(b) Is it a fact that these entries were made by the enumerators without asking the names from those for whom these entries were made?

(c) Is it a fact that a large number of representations have been received by Government to revise the electoral rolls with a view to include the names of large number of such women voters ?

(d) If so, have Government considered those representations and come to any decision ?

The Minister of Law (Dr. Ambedkar): *(a)* to *(d)* The attention of the hon. Member is invited to the reply to starred question No. 120 given on 9th August 1951.

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(42)

**CENTRAL GRANTS FOR BACKWARD CLASSES

322. Shri Kshudiram Mahata : Will the Minister of Education be pleased to state the amount of Central grants in the year 1948, 1949, 1950 and 1951 sanctioned for the education of backward classes other than scheduled castes and scheduled tribes ?

The Minister of Law (Dr. Ambedkar): Under the Government of India scheme of scholarships to Scheduled Castes, Scheduled Tribes and other Backward Classes, scholarships are awarded to suitable Backward Classes candidates for their post-matriculation education in India. The expenditure incurred so far on award of scholarships to

*P. D., Vol. 9, Part I, 9th August 1951, p. 151.

***Ibid.,* p. 400.

Backward Classes other than Scheduled Castes and Scheduled Tribes is as under:—

1948-49	...	...	Rs. Nil.
1949-50	...	...	2,46,327
1950-51	...	...	3,57,504

In the year 1951-52, scholarships of the total value of Rs. 3,65,000 are likely to be awarded to Backward Classes candidates.

Shri Kshudiram Mahata: May I know whether any provincial allocations is made of the total sum before considering any particular application and, if so, on what basis ?

Dr. Ambedkar: I do not suppose that there is any provincial allocation.

Shri Rudrappa: May I know the number of applications in 1949-50 and 1950-51 ?

Dr. Ambedkar: The figures are as follows :—

1949-50.—Applications received 3006. Awards made 349.

1950-51.—Applications received 3830. Awards made 517

Shri Rathnaswamy: What is the method adopted by Government to see that the grants given for the benefit of these backward classes are properly spent by the States ?

Dr. Ambedkar: The money is not awarded to the States. The applications are disposed of by a Central Board. The States do not intervene at all.

Thakur Krishna Singh: May I know whether any lists of the backward classe in the merged States and Part B and Part C States have been prepared by the State Government concerned and is it not a fact that applications for scholarships presented by the students from these areas are not taken up because there is no such list ?

Dr. Ambedkar: There is the list all right. These lists are made on the recommendations made by the various States.

Shri R. K. Chaudhari: May I know when the lists of the backward classes were last revised ?

Dr. Ambedkar: I require notice.

Dr. Deshmukh: Has any attempt been made to find out the population of these backward classes State-wise ?

Dr. Ambedkar: At the moment, the question of population is quite unimportant.

Dr. Deshmukh : May I know if it is not a fact that the number of backward classes included in the Schedule of each State varies very considerably and that so far as Part C States are concerned the number of classes included are very fes ?

Dr. Ambedkar: That is quite possible, because a community which may be backward in one area may not be backward in another area.

Dr. Deshmukh: Is it not a fact that Part C States are more backward than the rest of India ?

Dr. Ambedkar: That is probably an aspersion which they would not like.

Thakur Krishna Sinh : Is it not a fact that the revised list was prepared before the Unions were formed and before the States were merged into the Provinces ?

Dr. Ambedkar: That may be so, but how does it affect the issue ? These lists are not hard and fast. They are revised every time.

Shri Deshbandhu Gupta: Is it not a fact that before these scholarships are awarded the amounts are allocated to different States on population basis and the distribution of the scholarships is also done through the States ?

Dr. Ambedkar: So far as I understand, that is not the case.

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(43)

*GRANTS FOR PROMOTING NATIONAL LANGUAGE

323. Shri Kesava Rao : *(a)* Will the Minister of Education be pleased to state the amount of money spent during 1949-50 and 1950-51 towards promoting the national language?

*P. D., Vol. 9, Part I, 18th August 1951, p. 323.

(b) What are the private institutions and organisations which were given grant for this purpose ?

(c) Have the Government of India set apart any amount towards grants to various non-Hindi speaking States ?

The Minister of Law (Dr. Ambedkar): *(a)* Rs. 2,80,000 during 1949-50 and Rs. 1,05,000 during 1950-51.

(b)(i) Hindi Sahitya Sammelan, Allahabad.

(ii) Hindustani Cultural Society, Allahabad.

(iii) Indara Talim-o-Tarraqi, Jamia Millia, Delhi, for post literacy Hindi literature.

(iv) Akhil Bhartiya Hindi Parishad, New Delhi.

(c) Government is opening a special Section in the Ministry for promoting the cause of Hindi in non-Hindi speaking States and also intends to establish a central organisation. In this connection the expenditure involved will be borne by Government.

Shri Kesava Rao: Arising out of the answer to part *(b)* of the question, may I know whether any non-official organisations in non-Hindi speaking areas are given assistance by the Central Government ?

Dr. Ambedkar : The facts are as I have stated in the answer to part *(b)*.

Shri Kesava Rao : In answer to part *(b),* the Hon. Minister stated the names of certain organisations which are situated either at Allahabad or at Delhi. I want to know whether any organisations other than those in Hindi knowing areas are given any contribution by the Central Government.

Dr. Ambedkar: I do not know if there are any such oranisations outside the places mentioned, and if there are probably they are too weak to carry on this sort of work.

Shri Kesava Rao: May I know whether the Government has got any idea of the extra expenditure incurred by the non-Hindi-speaking areas in connection with the promotion of Hindi in those areas ?

Dr. Ambedkar: They might be doing it. There are State Governments which are very enthusiastic about the subject

and they spend more money. There are others which are less enthusiastic and they spend less.

Mr. Deputy Speaker : The Hon. Minister has already said that the Government is considering the desirability of opening institutions and recognising them and having a central institution also for non-Hindi-speaking areas.

Shri R. K. Chaudhari: Has the amount set apart for distribution to non-Hindi States been distributed already and if so, what is the amount allotted to Assam ?

Dr. Ambedkar: I do not know that this has been done. I cannot give any information on the subject now.

Shri A. C. Guha: In view of the fact that the four institutions whose names the Hon. Minister has given as receiving subsidies are situated either in Allahabad or in Delhi, may we know what are their functions and what is the purpose behind the grant of subsidies to these institutions ?

Dr. Ambedkar: Because we want to spread Hindi and they have branches all over India.

Shri A. C. Guha: Have they branches all over India ?

Dr. Ambedkar : One can draw a legitimate inference that they have branches all over India. Otherwise they would not be given any subsidy.

Shri Shiv Charan Lal: What is the amount given to the Hindi Sahitya Sammelan during 1949-50 and 1950-51?

Dr. Ambedkar: I have not got the break-up figures.

Seth Govind Das: Why has the expenditure incurred on this account this year been less as compared to the year 1949-50 ?

Dr. Ambedkar: Because Hindi has spread very much.

Seth Govind Das : What is the difference between the amounts granted to the Hindi Sahitya Sammelan and the Jamia Milla rspectively ?

Dr. Ambedkar: As I said, on the basis of the figures which I have before me I am unable to make any such comparison. I have given totals.

Seth Govind Das: Has the Government any information regarding the activities of those institutions and organisations which are being given the grants for the propogation of Hindi: and do the Government receive any yearly, half yearly or quarterly reports in this connection ?

Dr. Ambedkar: I think my hon. friend may legitimately presume that Government must be informed on this subject before making this contribution.

Shri Kesava Rao: May I know if any non-Hindi States have asked for a grant to promote Hindi in their States ?

Dr. Ambedkar: I suppose every Government is in the habit of asking for grants.

Mr. Deputy Speaker: The Hon. Minister is giving answers which can be inferred by the Hon. Members themselves. He is obviously not in a position to give detailed answers. Members may reserve their questions for the Hon. Minister in charge when he comes here. It is no use putting hypothetical questions and getting hypothetical answers.

Seth Govind Das : I am not asking for details, but I am asking on a question of principle. Has the Government prepared any definite plan for the propagation of Hindi or is any such plan in the course of preparation, or is there no such plan at all ?

Dr. Ambedkar : I should like to leave this question to be answered by the Hon. Minister of Education.

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(44)

*MODE OF VOTING AT GENERAL ELECTIONS

455. Shri Alexander: Will the Minister of Law be pleased to state :

(a) whether Government have decided upon the mode of voting in the next General Elections; and

(*b*) if so, what it is and what steps are taken to educate the common people on the same ?

* P. D., Vol. 9, Part I, 22nd August 1951, p. 553.

The Minister of Law (Dr. Ambedkar): *(a) and (b)* . Under section 59 of the Representation of the People Act, 1951, at every election where a poll is taken votes are to be given by ballot in such manner as may be prescribed by rules. These rules are at present under preparation.

The Films Division of the Ministry of information and Broadcasting is bringing out an educational film shot depicting scenes illustrative of the actual casting of the ballot by voters into boxes with symbols of candidates. The symbols used in this film will not be included in the list of symbols ultimately approved by the Commission. Radio talks and election rehearsals have also been arranged for the education of the voters.

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(45)

*STATUTORY AND NON-STATUTORY BODIES

447. Shri S. N. Das : Will the Minister of Law be pleased to state :

(a) the number and names of statutory and non-statutory bodies of a permanent nature functioning under the administrative controls of his Ministry : giving the following information in each case : (i)the year of their constitution ;

(ii) the recurring annual expenditure incurred by them;

(iii) the provision for the audit of their accounts : and

(iv) the method of submission of the report of their activities.;

(b) the number and names of such *ad hoc* Committes as were appointed by the Ministry since the 15th August 1947 and which have finished their work; and

(c) the number and names of *ad hoc* Committees which are still functioning, giving the date of their appointments and the time by which they are expected to finish their work ?

The Minister of Law (Dr. Ambedkar): *(a)* There is no non-statutory body of a permanent nature functioning under the administrative control of my Ministry, and the Income-

*P. D., Vol. 9, Part I, 22nd August 1951, p. 554.

tax Appellate Tribunal is the only statutory body of a permanent nature so functioning.

(i) It was constituted in the year 1941.

(ii) The expenditure varies from year to year. The budget grant for the current year is Rs. 7,87,700.

(iii) The accounts are audited by the Accountant General concerned.

(iv) Monthly reports of disposal of appeals and applications by the different Benches of the Tribunal are received in the Ministry. In addition an annual administration report is also submitted by the Tribunal to the Ministry. Information relating to the Tribunal is incorporated in the Notes on the activities of the Ministry circulated annually to members of Parliament in connection with the demands for grants.

(b) None.

(c) None.

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(46)

*ELECTIONS IN SNOW-CLAD AREAS OF PUNJAB

83. Giani G. S. Mussafir: *(a)* Will the Minister of Law be pleased to state whether it is a fact that the areas of Lahaul and Spiti in the Punjab remain snow-clad during most of the year round ?

(b) If the answer to part (a) above be in the affirmative, what arrangement do Government propose to make for holding elections in that area simultaneously with the rest of the Union ?

(c) If not, when do Government propose to hold elections in that area ?

The Minister of Law (Dr. Ambedkar): *(a)* to *(c)*. From a recent report of the Punjab Government it appears that Spiti is usually snow-bound after August, and Lahaul, after October. The question whether elections in these two sparsely populated regions should be held earlier than January next, or if that is not practicable, what special arrangements should be made for holding the elections in January is being

*P. D., Vol. 9, Part I, 22nd August 1951, p. 551.

considered by the Election Commission in consultation with the Punjab Government. An announcement will be made as soon as a decision is reached.

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(47)

*MANUFACTURE OF BALLOT BOXES

84. Shri A. B. Gurung: Will the Minister of Law be pleased to refer to starred question No. 2084 for 10th March 1951 and state the names of firms, with whom the Government of India have placed orders for preparing ballot boxes for the ensuing general elections in Part C States ?

The Minister of Law (Dr. Ambedkar): The Chief Commissioners of all Part C States (except Manipur and Tripura) have placed orders for ballot boxes with Messrs Godrej and Boyce Mfg. Co. Ltd., Bombay, and the Chief Commissioners of Manipur and Tripura have placed orders with Messrs. Bungo Steel Furniture Ltd., Calcutta. The orders have been placed with the approval both of the Government of India and of the Election Commission.

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(48)

**HINDI TRANSLATION OF ACTS

530. Shri Raj Kanwar: Will the Minister of Law be pleased to state whether all the Acts passed since 15th August 1947 have been translated into Hindi ?

The Minister of Law (Dr. Ambedkar): No Sir. But out of 274 Central Acts passed between the 15th August 1947 and the end of the Third Session of Parliament last June, 113 have been translated into Hindi.

Shri Raj Kanwar: When are the remaining Acts going to be translated into Hindi ?

Dr. Ambedkar: I am quite unable to commit myself.

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*P. D., Vol. 9, Part I, 22nd August 1951, p. 562.

** *Ibid.,* 27th August 1951, p. 659.

Seth Govind Das: Have the Government established any special section for that purpose and have some persons been appointed in order that all these Acts may be translated into Hindi ?

Dr. Ambedkar: There is a section in the Law Ministry consisting of Hindi translators who translate the most important Bills passed by Parliament.

Seth Govind Das: Have all the Acts connected with the forthcoming elections been translated into Hindi, and if not, when is that work likely to be completed ?

Dr. Ambedkar: I cannot give a definite answer. So far as my information extends I think it is contemplated to translate those Acts into Hindi.

Shri Sondhi: Will they be done before the General Elections ?

Dr. Ambedkar: I believe so.

Shri Jnani Ram: May I know if the People's Represen-tation Acts have been translated into Hindi ?

Dr. Ambedkar: I think they are under translation.

Shri A. C. Guha : Have the Government any idea of translating these Acts into other Indian languages as well ?

Shri Raj Kanwar: Normally how long after the publication of an Act in English is the translation in Hindi available ?

Dr. Ambedkar: There is no such thing as normality in this.

Shri Amolakh Chand: May I know if the People's Representation Acts would be translated before the elections or after ?

Dr. Ambedkar: It depends upon the capacity of the different departments to undertake this task but I suppose my friend can assume that Government has sense to understand that no purpose would be served in translating them after the elections.

Seth Govind Das: So far as the Acts relating to the elections are concerned, how many of them have been translated into Hindi, how many have been published and how many remain to be published and in what time are they expected to be published ?

Dr. Ambedkar: My friend evidently is under the impression that there is an ocean of laws which deal with

representation or elections. We have got only two small Acts and one of them is the People's Representation Act. I have no doubt that.....

Seth Govind Das: When there are only three Acts pertaining to the elections, one big and two small ones, why is so much time being taken in their translation ?

Dr. Ambedkar: Because there are only about two translators.

Seth Govind Das : Why don't you increase their number then ?

Dr. Ambedkar: Because the Finance Minister would not give the sanction.

Shri Kamath: So far as the translation of these various Acts into Hindi is concerned may, I know if the Government in the Law Ministry or in its Secretariat has standardised Hindi with a standard vocabulary and a standard dictionary of Hindi ?

Dr. Ambedkar: I suppose standardisation of Hindi is something which has to come in the future, unless my friend wants that the Hindi which prevails in U.P. should be accepted as the standard.

Shri Kamath: No, Madhya Pradesh.

Giani G. S. Musafir: Will the Government keep it in mind that the translation should be in simple Hindi so that it may be comprehensible to all ?

Dr. Ambedkar: I think the Government will see to it.

Seth Govind Das : May I suggest to the Hon. Minister that so far as the transaction of Acts is concerned, if permanent hands cannot be added to the section, at least some temporary hands may be engaged for the time being so that their translation may be expedited ?

The Minister of State for Finance (Shri Tyagi): I should like to have notice for consideration of this suggestion.

(49)

*MOCK ELECTIONS

532. Shri Sidhva: Will the Minister of Law be pleased to state :

(a) whether the Election Commissioner has held mock elections at certain places;

(b) If so, the places at which these were held and the number of voters who participated ;

(c) how much time was taken in recording the votes; and

(d) whether the Election Commissioner has formulated his plans for real elections on the basis of the time occupied by such mock elections ?

The Minister of Law (Dr. Ambedkar): *(a)* to *(d)*. The Election Commission directed the various State Governments in May 1951, to hold mock elections under all the assumed conditions of polling in order to obtain actual data and experience in the conduct of the forthcoming elections as also to get an idea of the average time required in recording votes. The Commission has asked the State Governments for information as regards places where rehearsals have actually been held, and so far a report has been received only from Orissa. The experience gained at these mock elections is to be taken into account in planning the actual number and the location of the polling stations. The tentative proposals of the State Governments framed on the experience of these mock elections will be published for general information and thereafter finalised in consultation with the Election Commission in the light of the suggestions, if any, received from the public.

Shri Sidhva: In that mock election how many votes were recorded in any one of the States ?

Dr. Ambedkar: I have no information.

Shri Sidhva: What was the opinion of the Election Commissioner regarding the voting by illiterate persons ? Was it very successful ?

*P. D., Vol. 9, Part I, 27th August 1951, p. 664.

Dr. Ambedkar: There is no question of literacy or illiteracy. There was no question of marking in that.

Shri Sidhva: Even then what was the general impression of the Commissioner regarding the mock election ? Does he feel.....

Dr. Ambedkar: I am afraid he has not given me the impression he has formed,

Seth Govind Das : The Hon. Minister has just stated that so far a report from Orissa only has been received and that reports from other Provinces have not been received yet. Have the Government fixed any date by which these mock elections should be held in the States and reports submitted to the Government of India ?

Dr. Ambedkar: I don't think this is a matter in which the Government could assume or arrogate to itself the authority of issuing a directive.

Seth Govind Das: No, Sir, it is not a question of authority

Shri Bhatt: Will the Hon. Minister please tell whether the mock elections that were held were for the State Legislative Assemblies and the House of the People both together ?

Dr. Ambedkar: I believe so.

Shri Chattopadhyaya: Was any such mock election held in any of the Centrally Administered Areas and, if so, why has no report been received?

Dr. Ambedkar: I have really no information as to in what States and whether in Centrally Administered Areas they were held, but I am sure they must have been.

Shri Kamath : Did these mock elections include mock candidates and mock officers also ?

Dr. Ambedkar: I suppose they had scare-crows.

Shri R. Velayudhan: From the impression gained from this rehearsal of mock election, will the next general election also be a mock election ?

Dr. Ambedkar: Very likely.

Shri Sidhva: May I know the total number of voters who participated in this mock election?

Dr. Ambedkar: I have no information.

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(50)

*OBJECTIONS TO ELECTORAL ROLLS

534. Shri Kamath: Will the Minister of Law be pleased to state:

(a) The total number of claims and objections filed in respect of the preliminary electoral rolls in each of the Part "A", Part "B" and Part "C" States ;

(b) the number disposed of so far in each State; and

(c) the number of claims and objections allowed so far in each State ?

The Minister of Law (Dr. Abedkar): *(a)* to *(c)*. A statement showing the position with regard to the number of claims and objections received and disposed of in the various States as on 1st August 1951, is laid on the Table of the House. *(See* Appendix IV, Annexure No. 17.)

Shri Kamath : The statement laid on the Table shows, Sir, that in Hyderabad also 4,284 women voters were disenfranchised. Were they disenfranchised for the same reasons as women in Rajasthan were disenfranchised or for different reasons ?

Dr. Ambedkar: I am afraid I must have notice of the question.

Shri Kamath : Is it a fact that the disenfranchised women of Rajasthan or their organisations, or their representatives have recently made a representation to the Government for getting their disenfranchisement removed ?

Dr. Ambedkar: Yes, they have.

Shri Kamath: Is that representation of theirs under active consideration ?

Dr. Ambedkar : We are considering it but we are not quite certain whether we can give any relief.

*P. D., Vol. 9, Part I, 27th August 1951, p. 667.

Shri Kamath: When, Sir, are the final electoral rolls likely to be published ?

Dr. Ambedkar: I suppose pretty soon—I have not got the exact date.

Shri Kamath: No date has been fixed so far ?

Dr. Ambedkar: Well, it certainly will be pretty soon.

Shrimati Renuka Ray : Will Government take steps to see that relief is given to the disenfranchised women in Rajasthan?

Dr. Ambedkar: The question of the relief really depends upon whether we can finish the registration of these women on the electoral rolls, allow sufficient time for raising objections and for the disposal of objections so that the electoral rolls could be finalised before the date of election. All these things hang together.

Shrimati Renuka Ray: Considering that it is due to no fault on their part and that the enumerators were not instructed properly either, does not Government think it necessary to take steps to see that this defect is remedied and those women are enlisted as voters ?

Dr. Ambedkar: Well, I am afraid we are not discussing who is at fault—we are discussing what the fact is. ,

Shri R. C. Upadhyaya: Is it a fact that the Prime Minister has assured that delegation of women from Rajasthan that something will be done in that direction ?

Dr. Ambedkar: I am sure about it that the Prime Minister's assurance must be subject to the law of the land.

Shri Kamath: Did, Sir, the Election Commission receive complaints that in certain areas, in certain States even dead persons were brought on the preliminary rolls ?

Dr. Ambedkar: It does happen—I am sure about it.

Shri Kamath: It did happen ?

Shri Sondhi : Mr. Deputy Speaker, in view of the fact that the Prime Minister is here in the House would it not be better if he made a statement in this behalf?

The Prime Minister (Shri Jawaharlal Nehru): My colleague, the Law Minister has made it quite clear that neither I nor any other member of the Government can give an assurance against the law—it is obvious. In this matter I have taken very particular care not to interfere in any way with the discretion of the Election Commissioner. All I have done is if anybody has come to me I have sent him on, or sent her on, to the Election Commissioner. I have certainly, when this matter came before me, expressed my sympathy with the fact that a large number of women voters have been left out and I think the whole House will feel that way; the Electtion Commissioner himself wants to put them in subject to the law. How that is to be done is entirely a matter for the Election Commissioner. All sympathy was there but the only assurance I gave was of my sympathy but not of how it is to be done.

Shri Kamath: As regards the electoral rolls, has the Prime Minister received a deputation from only Rajasthan women or from anyone else also ?

Shri Jawaharlal Nehru: So far as I can remember they were only from Rajasthan—there may be one or two sympathisers with them from other States.

Seth Govind Das: So far as law is concerned, it is not unchangeable. Changes always occur in the law. Then, is it not possible to do something to include these women in the lists for there is still time for the elections to take place ? The measure relating to Part C States has come up and the present session of Parliament is also going to continue for some time. Is not then some arrangement possible to remove these difficulties ?

Dr. Ambedkar: I would like to tell my hon. friend that it would require exactly not less than two months if relief is to be given from now. That means the election will have to be postponed.

Shri R. C. Upadhyaya: Cannot the Government amend by proper legislation the mention of Mrs. so-and-so in the electoral rolls?

The Minister of State for Finance (Shri Tyagi): Husband's name cannot be amended.

Shri R. C. Upadhyaya: Not husband's name but.....

Dr. Ambedkar: The procedure for registration has been laid down by the law and that procedure must be followed.

Shri R. C. Upadhyaya: Cannot it be changed ?

Dr. Ambedkar: Well, the law can be changed—it is in the hands of Parliament. I don't know how long the law will take to be amended if it is placed before Parliament.

An hon. Member: Five minutes.

Shrimati Renuka Ray: If the law is changed then these could be included in the voter's list. Surely, that is the only possible way. Therefore, will Government consider placing a Bill before Parliament ?

Dr. Ambedkar: It seems to me difficult to entertain a proposition that there should be one law for males and one law for females.

Mr. Deputy Speaker: We are arguing this matter out. Next question.

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(51)

*ELECTION COMMISSIONERS IN STATES

535. Shri Kamath: Will the Minister of Law be pleased to state:

(*a*) whether Regional Election Commissioners have been appointed and the requisite electoral machinery set up in each of the States ; and

(*b*) if not, by what date, it is proposed to be constituted ?

The Minister of Law (Dr. Ambedkar): (*a*) and (*b*) So far, no Regional Election Commissioners have been appointed, but the question of appointing 3 or 4 such officers is under active consideration. I pressume that by the expression "requisite electoral machinery" the hon. Member means the various officers to be appointed in connection with the actual conduct of elections. The position is as follows. Steps

*P. D., Vol. 9, Part I, 27th August 1951, p. 670.

have been tken by the Election Commission for formally appointing Electoral Registration Officers', Returning Officers and Assistant Returning Officers for each constituency in all the States as soon as the modifications made by Parliament in the various Delimitation Orders are notified and the constituencies finally determined. The Returning Officers, after they are appointed, will appoint the Presiding and Polling Officers for each polling station. These latter appointments are expected to be completed by the end of November except that in areas, if any, where elections may have to be held in October they will be completed by the end of September, 1951.

Shri Kamath: Has, Sir, any representation been received from any of the Part A or Part B State Governments to the effect that their law and order machinery or the other requisite machinery for polling and other purposes will not be able to cope with the huge work involved in the election and have they asked for any assistance in this regard so far as officers and others are concerned from the Centre ?

Dr. Ambedkar: I have no knowlede on this point.

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(52)

*ELECTORAL ROLLS

547. Shri Jnani Ram: Will the Minister of Law be pleased to state :

(*a*) the States which have completed the work of publication of electoral rolls; and

(*b*) the cost incurred by such States and the amount contributed by the Central Government ?

The Minister of Law (Dr. Ambedkar): (*a*) The electoral rolls are expected to be finally published in all the States by the end of this month.

(*b*) Until the work of final publication of the electoral rolls is completed, it is not possible to ascertain the exact cost

*P. D., Vol. 9, Part I, 27th August 1951, p. 685.

incurred by the State Government on this account and the Centre's share thereof. I may however mention that during the last two financial years the amount contributed by the Government of India to Part A and Part B States as their half-share of the extra expenditure incurred by the latter on the preparation of electoral rolls was approximately 2 crores and 7 lakhs.

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(53)

*MOCK ELECTIONS

575. Shri Bhatt: Will the Minister of Law be pleased to state :

(*a*) at how many rural and urban places, Statewise, mock elections were held ;

(*b*) how many voters at each place participated in the mock elections ;

(*c*) whether there were separate booths for women;

(*d*) how much average time was taken by each voter to cast his vote in rural and urban polling booths respectively;

(*e*) the percentage of votes cast;

(*f*) whether there was personation and challenged votes ; and

(*g*) whether women took more time than men to cast their votes in rural and urban areas ?

The Minister of Law (Dr. Ambedkar): (*a*) to (*g*) The information is being collected by the Election Commission and will be laid on the Table of the House in due course.

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(54)

*ARTICLE 171 (b) OF THE CONSTITUTION

576. Shri Deogirikar: (*a*) Will the Minister of Law be pleased to state whether qualifications as equivalent to that of a graduate for electorates to elect members of the Legislative Council of a State as mentioned in Article 171(*b*) of the Constitution of India have been prescribed by or under any law made by Parliament ?

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* P. D., Vol. 9, Part I, 27th August 1951, p. 698.

(*b*) If so, what are those qualifications ?

(*c*) If not, when will such qualifications be prescribed ?

The Minister of Law (Dr. Ambedkar): (*a*) The hon. Member's attention is invited to section 27(*3*) of the Representation of the People Act, 1950, which authorises the State Governments to specify, with the concurrence of the Election Commission, the qualifications which shall be deemed to be equivalent to that of graduate of a University in India.

(*b*) and (*c*) Notifications laying down the qualifications referred to above have been issued by the Governments of all the States which are to have Legislative Councils, namely, Bihar, Bombay, Madras, Punjab, Uttar Pradesh, West Bengal and Mysore. A copy each of these notifications is available in the Library of the House.

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(55)

*MAPS OF CONSTITUENCIES

748. Shri Raj Kanwar: Will the Minister of Law be pleased to state whether Government intend to publish separately for each of the Part A, Part B and Part C States one or more maps showing the delimitation of constituencies as finally determined for purposes of General Elections ?

The Minister of Law (Dr. Ambedkar): The State Governments have been requested to prepare maps showing separately the Parliamentary and Assembly constituencies for each State as finally determined.

Shri Raj Kanwar: When will these maps be available to the public ?

Dr. Ambedkar: As soon as they are ready, I suppose.

Shri Raj Kanwar: When is that going to be, Sir ?

Dr. Ambedkar: Before the Elections take place.

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*P. D., Vol. 9, Part I, 4th September 1951, p. 941

Mr. Deputy Speaker: The Hon. Minister, if he has got any more definite information, he may give the House. The House expects him to give a resonable period.

Dr. Ambedkar : All I can say is to request my hon. friend to go and contact the Election Commissioner. His office will probably give all the information that he needs.

Mr. Deputy Speaker: The Hon. Minister is expected to be in touch with the Election Commissioner. It is his portfolio. There is no good generally giving such answers. The hon. Member can draw his own inferences. But, he expects that the Government will be able to say, within a month or two months and so on. All the three answers do not appear to be definite at all.

Dr. Ambedkar: I have no information with me on the point.

Prof. Ranga: Mr. Deputy Speaker, my objection is that any of the Hon. Ministers should get up and ask us to go to one of his subordinates and get the information is really derogatory to the dignity of the House.

Mr. Deputy Speaker: I think the Hon. Law Minister only meant that whether information could be had from official sources, they must exhaust all that before taking the time of the House with respect to such matters as are available.

Dr. Ambedkar: I am sure about it, that my hon. friend Prof. Ranga goes to officials on many other occasions without feeling any loss of dignity.

Prof. Ranga: This sort of answer raises another controversy. We may or we may not go. But, it is not for the Minister to ask us when we ask for information that we should go to one of his subordinates and get that information, instead of himself getting the information.

Pandit Thakur Das Bhargava: Will the Hon. Ministers themselves not resent if Members went for information to the officers subordinate to them apart from the question of the dignity of Members ?

Mr. Deputy Speaker: I will pass on to another question. It is usual to refer to books and officers before coming to the House.

Shri A. C. Guha : We have been issued a circular that we should not go and see the officers. How can the Hon. Minister ask us to go to an officer and get the information ? It is the function of the Minister to supply the information.

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(56)

*TRIBAL CHRISTIANS AND GENERAL ELECTIONS

770. Shri S. C. Samanta: Will the Minister of Law be pleased to state :

(*a*) whether tribal Christians (Adibasis) will be debarred from contesting the coming general elections from Scheduled tribes constituencies as Scheduled tribes candidates; and

(*b*) if there be no bar, whether their elections will be questioned in and taken up as election disputes by the Election Tribunals ?

The Minister of Law (Dr. Ambedkar): (*a*) The hon. Member is in effect asking me for an interpretation of the relevant legal provisions contained in the Representation of the People Act, 1951, and the Constitution (Scheduled Tribes) Order, 1950. A candidate for a seat reserved for the scheduled tribes in any State must be a member of a Scheduled tribes as listed in the Scheduled Tribes Order of the President. I cannot say whether the persons referred to in the question as "tribal Christians" are members of any scheduled tribe or not.

As regards part (*b*) of the question the attention of the hon. Member is invited to section 100 of the Representation of the People Act, 1951, which contains the grounds on which an election may be called in question. In particular, he may see sub-section (2), clause (*c*).

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*P. D., Vol. 9, Part I, 4th September 1951, p. 972.

(57)

*OFFICERS IN THE MINISTRY OF LAW

227. Prof. K. T. Shah: Will the Minister of Law be pleased to state:

(*a*) the number of (*i*) Gazetted, and of (*ii*) non-Gazetted officers, clerks and Class IV servants in his secretariat, on:

(*i*) 15th August 1947, (*ii*) 31st March 1948; (*iii*) 31st March 1949; (*iv*) 31st March 1950; (*v*) 31st March 1951; and

(*b*) the number of officers, clerks and Class IV servants, appointed temporarily in the first instance and subsequently (*i*) made permanent, (*ii*) retired or (*iii*) retrenched, during each of the years 1947-48 (post-partition), 1948-49, 1949-50 and 1950-51 ?

The Minister of Law (Dr. Ambedkar): The information asked for is not readily available. Its collection will involve a disproportionate expenditure of time and labour.

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(58)

**LIST OF POLLING STATIONS

1069. Pandit Kunzru: Will the Minister of Law be pleased to state :

(*a*) whether the Election Commission has asked the Bombay State Government or the District Magistrates to prepare a list of the polling stations and issued instructions that the lists should not he shown to any party before they are finally approved :

(*b*) whether the Bombay Government have in spite of the Election Commission's instructions, issued orders to the District Magistrate of any districts that the preliminary lists should be shown to the Vice-Chairman of Rural Development Boards :

(*c*) whether these Vice-Chairmen are members of District Congress Committees and in many cases their Chairmen ; and

(*d*) If the answer to parts (*a*) and (*b*) above be in the affirmative, what action Government propose to take in the matter ?

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*P. D., Vol. 9, Part I, 12th Septembert 1951, p. 1270.

***Ibid.,* 17th September 1951, p. 1273.

The Minister of Law (Dr. Ambedkar): (*a*) No. The Election Commission did not issue instructions that the lists of polling stations should not be shown to any political party before final approval. On the contrary, the Commission suggested to the State Governments that their tentative plans regarding polling stations might be circulated to the different political parties, and also given as much publicity as possible. A copy of the Commission's letter dated 26th May, 1951 to all State Governments is placed on the Table of the House for information. (*See* Appendix VII, Annexure No. 9).

(*b*) The Government of Bombay issued instructions to the Collectors that the tentative plans as approved by Government should be shown to the political parties and members of the public. These plans are being kept at the District Headquarters and Taluka Headquarters in that State for inspection, and the Collectors have been asked to consider carefully the suggestions or criticisms from the public. With a view to facilitating their work the Collectors, who are Chairmen of the Rural Development Boards, were also instructed by the Government of Bombay to show the plans to the Vice-. Chairmen of those Boards.

(*c*) Some of the Vice-Chairmen of the Rural Development Boards in Bombay are members of District Congress Committees, and in a few cases their Chairmen.

(*d*) Does not arise.

Pandit Kunzra: May I ask whether as a matter of fact the preliminary lists of polling stations have been shown to other persons than the Vice-Chairmen of the Rural Development Boards in the Bombay State ?

Dr. Ambedkar: I have no such information.

Pandit Kunzru: Why was it necessary then for the Bombay Government to ask the District Magistrates to show these preliminary lists of polling stations to the Vice-Chairmen of the Rural Development Boards if the instructions issued by the Election Commission were of a general character relating to all political parties ?

Dr. Ambedkar: That was probably because it was necessary to collect the organised opinion of the people in that area.

Pandit Thakur Das Bhargava: Is it a fact that the lists of the electors are arranged alphabetically for each constituency?

Dr. Ambedkar: I am afraid I have not seen the electoral roll myself. Therefore, I cannot say. Probably, the hon. Member has more information.

Pandit Thakur Das Bhagava: Is it a fact that since there are no separate lists for each polling station, persons living in the area of a particular polling station will have to travel several miles before they will be able to vote in that constituency ?

Dr. Ambedkar: I do not think so. I think all people would be informed as to the number of voters who have to go to a particular polling station.

Pandit Thakur Das Bhargava: All these lists are arranged alphabetically. This means that there will be no separate list for each polling station. Unless there is a separate list for each polling station, people will not know where they have to go and they will have to travel several miles.

Dr. Ambedkar: I am not aware that the voters' lists are arranged alphabetically.

Mr. Deputy Speaker: I think they are arranged alphabetically and a list is hung in each polling station.

Dr. Ambedkar: I will make enquiries about it.

Mr. Deputy Speaker: Anyway, it does not arise out of this question.

Pandit Kunzru: May I ask the Law Minister whether instructions of the kind issued by the Election Commission to the Bombay State have been issued in respect of other States also ?

Dr. Ambedkar: That letter was a general letter issued to all the States.

Pandit Kunzru: Can he tell me whether these preliminary lists of polling stations have been shown to members of the political parties in the other States ?

Dr. Ambedkar: My friend is assuming that there are political parties everywhere. If there are any political parties, I am sure the State Government will take steps to show the

lists to them in the same way as they are showing to the others.

Pandit Kunzru: My hon. Friend cannot be such a simpleton as to believe that there is only one political party in the country.

Dr. Ambedkar: The others are speculative perhaps.

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(59)

*LEPROSY

1074. Shri Sivan Pillay: Will the Minister of Health be pleased to state :

(*a*) whether Government have got accurate statistics regarding persons affected with the disease of leprosy, state-wise;

(*b*) if so, the State in India which has the highest percentage of the incidence of the disease in relation to population; and

(*c*) the steps taken by Government to combat this dreadful disease ?

The Minister of Law (Dr. Ambedkar) : (*a*) and (*b*) As often stated before, no accurate statistics are available.

(*c*) The matter is primarily the concern of State Governments. The Government of India have had for some time a plan to establish a Central Leprosy Teaching and Research Institute in the country whose objects it will be to undertake research into the problems relating to leprosy, to promote field studies for the application of the results of research, to train leprosy workers, to give technical advice and guidance for anti-leprosy work and to participate actively in the organisation and development of leprosy institutes in States. Financial stringency alone has kept the scheme from maturing. But voluntary bodies and some of the States are doing good work among sufferers from the disease. Research is also going on.

Shri Sivan Pillay: May I know, whether Government are aware that a Central Leprosy Relief Committee has been formed by Gandhi

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*P. D., Vol. 9, Part I, 17th September 1951, p. 1378.

Smarak Nidhi ? In what way do Government propose to co-operate with it in the eradication of this scourge ?

Dr. Ambedkar: Government is bound to co-operate in all possible ways it can.

Shri Sivan Pillay: May I know whether there are no leprosy clinics at all, and if so which is that unfortunate State ?

Dr. Ambedkar: I can believe that there may be many States where there are no such clinics.

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(60)

*LADY HARDINGE MEDICAL COLLEGE

1084. Shri Alexander : Will the Minister of Health be pleased to state ?

(*a*) the financial aid given to the Lady Hardinge Medical College by the Government of India;

(*b*) whether the Government of India are represented on its governing body and if so, by how many members;

(*b*) whether this institution is intended to serve the whole of India;

(*d*) whether any principle is observed in the matter of allocation of seats to the various States; and

(*e*) the number of students admitted this year State-wise ?

The Minister of Law (Dr. Ambedkar): (*a*) The grants paid to the Lady Hardinge Medical College vary from year to year. The grants paid during the last three years are as follows:

1948-49	...	Rs. 5,23,100
1949-50	...	Rs. 10,80,576
1950-51	...	Rs. 9,44,000

(*b*) The Government of India as such are not represented on the Governing Body. Seven officials are, however, members of that Body.

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*P. D., Vol. 9, Part I, 17th September 1951, p. 1388.

(*c*) Yes.

(*d*) While every effort is made by the College authorities to admit students from as many States as possible provided the applicants are otherwise suitable, preference is given to the Centrally Administered Areas and those States where facilities for Medical education are limited. The question of the adequacy of the rules of admission to the College from the point of view of the maintenance of the All India character of the Institution is, however, engaging the attention of Government.

(*e*) A statement containing the required information is laid on the Table of the House. (See Appendix VII, Annexure No. 12).

Shri Alexander: With reference to answer to part (*a*) may I know whether the Government have received any complaints against the administration of the College and if so, whether the Government propose to take over the administration of the College ?

Dr. Ambedkar: I have no information.

Shri Kamath: Do not those seven officials mentioned by the Minister, represented the Government which has nominated them in the Committee ?

Dr. Ambedkar: I must have notice of the question.

Shri Kamath: Has the Hon. Minister all the names of the officials, their designations or their ranks ?

Dr. Ambedkar: I must also have notice for this question.

Shri Brajeshwar Prasad: May I know whether the Secretary of the Finance Ministry is a Member of this Committee in an individual capacity or in his official capacity ?

Dr. Ambedkar : I would like my hon. colleague to answer that question.

The Minister of Finance (Shri C. D. Deshmukh): In his official capacity.

Shri Kamath: Is it a fact that at no point of administration or the Committee's work the Minister of Health comes into contact with this institution ?

Dr. Ambedkar: She must be, I am sure.

Shri Kamath: Government is not represented at all. He does not know.

Dr. Ambedkar: I cannot say what is the original constitution of this body.

Mr. Deputy Speaker: Next question, Mr. Guha.

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(61)

*TRAINING OF MIDWIVES AND NURSES

1081. Dr. M. V. Gangadhara Siva: (*a*) Will the Minister of Health be pleased to state the names of the institutions in Delhi maintained by Government and those which receive Government grant for training midwives, nurses and health visitors in Delhi ?

(*b*) What is the number of students of each of these categories fixed for admission to these institutions ?

(*c*) Is it a fact that more students than can be admitted in these institutions apply every year for admission ?

(*d*) If so, how many approximately are refused admission ?

The Minister of Law (Dr. Ambedkar): (*a*) and (*b*) A statement containing the required information is laid on the Table of the House (See Appendix VII, Annexure No. 13.)

(*c*) Yes.

(*d*) The information is being collected and will be laid on the Table of the House in due course.

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(62)

**EMETINE

1093. Shri Kamath: Will the Minister of Health be pleased to state :

(*a*) what steps have been taken in the past and are being taken at present to cultivate in India Ipecacuanha plants, the roots of which yield Emetine, a specific for amoebic dysentery;

*P. D., Vol. 9, Part I, 17th September 1951, p. 1403.

***Ibid.,* p. 1405.

(*b*) the incidence of amoebic dysentery in India;

(*c*) the quantity and value of Emetine and Ipecac root imported annually into India and from which countries;

(*d*) whether it is a fact that some work has been done in the direction of Ipecac cultivation in West Bengal by the Cinchona Directorate, if so, with what result; and

(*e*) whether it is proposed to extend the existing West Bengal Ipecac plantations, and if so, what steps are contemplated ?

The Minister of Law (Dr. Ambedkar): (*a*) It is understood that difficulties attending its cultivation in India have so far deterred its being taken up on a commercial scale. The Indian Council of Agricultural Research is carrying on experimental cultivation of ipecacuanha and has included it in the co-ordinated scheme formulated by the Council for the cultivation of medicinal plants in Coimbatore, Panchagani and Darjeeling;

(*b*) The incidence of emoebic dysentry is considered to be high particularly in the Eastern and Southern parts of India, namely, Madras and West Bengal. As the disease is not notifiable, no statistics are however maintained;

(*c*) Statistics regarding the imports of Emetine Hydrocholoride and Ipecac root are not available;

(*d*) and (*e*). The information has been called for from the Government of West Bengal and will be laid on the Table of the House in due course;

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(63)

*AYURVEDIC RESEARCH INSTITUTE

1094. Dr. V. Subramaniam : (*a*) Will the Minister of Health be pleased to state whether the scheme for the establishment of an Ayurvedic Research Institute as per the recommendations of the Committee on indigenous systems of medicine (Pandit Committee) has been placed before the Standing Committee of Parliament for the Ministry of Health and the Standing Finance Committee ?

(*b*) If so, what are their recommendations and has the scheme since been sanctioned ?

*P. D., Vol. 9, Part I, 17th September 1951, p. 1406.

The Minister of Law (Dr. Ambedkar): (a) and (*b*) The scheme is under active consideration. It will be shortly placed for approval before the Standing Committee of Parliament for the Ministry of Health and the Standing Finance Committee.

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(64)

*DIRECTORATE OP HOUSING

259. Shri Kamath : Will the Minister of Health be pleased to state:

(*a*) the date on which the Directorate of Housing was set up ;

(*b*) the date on which it came to an end;

(*c*) the nature and volume of work accomplished by the Directorate during this period; and

(*d*) what were the qualifications of the Director of Housing ?

The Minister of Law (Dr. Ambedkar): (*a*) and (*b*) No separate Directorate of Housing as such was set up. A Directorate of Housing with a skeletion personal staff was appointed with effect from the 4th October, 1948. The Director of Housing relinquished charge of his office on the 1st July 1951.

(*c*) The Director of Housing gave advice to the various Ministers of the Government of India, the State Governments and Local Bodies on questions relating to housing. Most of his time was however taken up with the construction and management of the Government Housing Factory.

(*d*) The attention of the hon. Members is invited to the reply given to part (*c*) of his Starred Question No. 390 on the 7th December, 1949.

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*P. D., Vol. 9, Part I, 17th September 1951, p. 1413.

(65)

*LEPERS

1176. Dr. Deshmukh: (*a*) Will the Minister of health be pleased to refer to the answer given to starred question No. 1326 asked on the 8th April 1948, regarding lepers and leper-asylums in India and state whether Dr. Dharmendra who was deputed to U.S.A., U.K., South America and the Philippines has since returned ;

(*b*) If so, what is the result of his tour;

(*c*) What work is he doing at present;

(*d*) Has the treatment of the lepers undergone any radical change since his return and if so, in what way;

(*e*) What steps have been taken for the establishment of a Central Teaching and Research Institute for Leprosy;

(*f*) Has a permanent cure as well as an effective preventive against leprosy now been discovered;

(*g*) If so, to what extent are the people of India benefiting from this?

The Minister of Law(Dr. Ambedkar): (*a*) Yes, on the 12th November, 1948.

(*b*) During his tour he studied anti-leprosy work carried on in the various countries he visited.

(*c*) He is at present the Head of the Leprosy Research Department at the Calcutta School of Tropical Medicine. His activities include research, teaching and clinical work. He is also the Editor of the Journal "Leprosy in India" published by the Hind Kusht Nivaran Sangh.

(*d*) With the introduction of sulphone treatment for leprosy the duration of treatment has been shortened.

(*e*) The Central Leprosy Institute Committee recommended the location of the institute in Madras State, by taking over and expanding the Lady Willingdon Leprosy Sanatorium at Tirumani, and the silver Jubilee Children's Clinic, Saidapet, both in Chingleput District, Madras State, on certain financial conditions being satisfied by the Government of Madras. The

*P. D., Vol. 9, Part I, 20th September 1951, p. 1527.

Madras Government did not, however, agree to the conditions. The question of locating the institute in Orissa is now under consideration.

(*f*) No. It is too early to assess the value of sub phone treatment.

(*g*) Does not arise.

Dr. Deshmukh: May I know what are the reasons why Orissa is being chosen and why Madhya Pradesh has not been chosen ? Is it not a fact, Sir, that the largest number of leprosy homes are situated in Madhya Pradesh ?

Dr. Ambedkar: I do not suppose that the Madhya Pradesh Government ever expressed any desire to the Central Government that that State might also be considered for the purpose of the location of the Institute.

Dr. Deshmukh: Is there any proposal before the Central Government to give any financial assistance to the asylumes for lepers ?

Dr. Ambedkar: I suppose wherever possible they would give assistance.

Mr. Deputy Speaker: I can say generally when one Hon. Minister answers for another Minister, with respect to supplementary questions that the hon. Member has to ask, he need not go far out of the exact question. He might try to limit and reserve these questions. I do not mean to say that they are irrelevent; they do arise but the Hon. Minister cannot be expected to answer them.

Dr. Deshmukh: When another Minister answering questions for some one else happens to be a habitual affair, what are we to do, Sir?

Mr. Deputy Speaker: Next Question.

Shri Jangde : One question, Sir. With the Hon. Minister kindly state what expenditure was incurred on the tour of Dr. Dharmendra who was deputed to U.S.A., U.K., South America and Philippines to study the work being carried on there in connection with leprosy ?

Dr. Ambedkar: From the information that is at my disposal here, I find that to meet the cost of the attendance of

Dr. Dharmendra at the International Leprosy Conference in Cuba and his study tour abroad, the Government of India sanctioned a sum of Rs. 17,350 to the British Empire Leprosy Relief Association. Dr. Dharmendra's pay for the period of his deputation was however met by the Indian Council of Medical Research.

Dr. Deshmukh : Has the cost of the treatment of a patient been calculated so far as this new treatment is concerned ? Is it very costly ?

Dr. Ambedkar: I am unable to answer this question now. I should like to have notice.

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(66)

*HARTAL OF REFUGEE STALL HOLDERS

1185. Shri Jnani Ram : Will the Minister of Health be pleased to state :

(*a*) whether the refugee stall holders of Irwin Road and Panchkuina Road, New Delhi are observing hartal since the 27th August, 1951;

(*b*) if so the reasons for the same; and

(c) whether any enquiry has been ordered in the matter ?

The Minister of Law (Dr. Ambedkar): (*a*) The stallholders observed hartal for 3 days from the 27th to 29th August, 1951.

(*b*) Although there had been disputes between the New Delhi Municipal Committee and the stallholders for some time, it is understood that the immediate cause of the hartal was the launching of prosecutions by the Committee against a number of stallholders for contravening municipal byelaws.

(*c*) The question of an enquiry does not arise.

Shri Jnani Ram: May I know whether the grievances of the stallholders have now been removed ?

D., Vol. 9, Part I, 20th September 1951, p. 1538

Dr. Ambedkar: There are hardly any greivances. From the papers that were handed over to me, it seems to me that the dispute is purely of a legal character. The municipality holds that they are licencees while the stallholders claim that they are lessees. The municipality says that since they are licencees, the municipality is entitled to remove them without any notice, while the stall-holders say that they are lessees and they must be governed by the terms of their leases. It is purely a legal dispute which can only be adjudicated by some court or judicial authority.

Shri Sidhva: Do these stall-holders pay rent under certain agreements to the effect that they will be known as licencees ?

Dr. Ambedkar: So far as I could understand and I speak subject to correction—they have been allowed to just sit and squat and do their business for the time being. But they say that they have been squatting so long that their licences have now matured into leases.

Several Hon. Members: No, they are not squatters.

Mr. Deputy Speaker : Hon. Members cannot be educated in law. They probably want to know the difference between a licence and a lease.

Shri Sidhva: My question was whether they pay rents ?

Mr. Deputy Speaker: I am not going to allow opinions on legal questions.

Shri Sarangdhar Das: Besides the legal aspect of this matter, have there been any complaints about the non-availability of water and lack of sanitary arrangements in the places where the stalls have been built ?

Mr. Deputy speaker: It does not arise out of this question. Was *it* for want of these amenities that the strike was started ?

Shri Sarangdhar Das: This was also a part of their grievances.

Dr. Ambedkar: So far as I know only because of the prosecutions launched by the Municipal Committee did the strike take place.

(67)

*PETITION OF MAHILA SAMITI, JAIPUR, REGARDING WOMEN VOTERS OF RAJASTHAN

1266. Shrimati Durgabai (on behalf of Shrimati Renuka Ray): (*a*) Will the Minister of Law be pleased to refer to the answers given to supplementary questions raised on Starred Question No. 534 asked on the 27th August, 1951 and state whether the omission of the names of women voters was due to the fact that their proper names were not initially put down by the officials who prepared the lists ;

(*b*) Is it a fact that these officials did not get instructions to take proper names of the women concerned which resulted in the omission of their names from the electoral rolls ?

The Minister of Law (Dr. Ambedkar): (*a*) No, Sir. The officials who prepared the lists initially were unable to get the real names of women voters in some States. I understand that this was due to the disinclination of the women, as well as their relatives, to disclose their names.

(*b*) The Election Commission had issued specific instructions to State Governments that women voters must be registered by their proper names and not as "wife of" or "daughter of" and so. The State Governments were also instructed to make every effort through governmental agencies to ascertain the real names of women voters who were not registered on the rolls by their actual names. The public were so invited to assist in this task. It was not due to lack of proper instructions that the names could not be entered in the rolls in the prescribed manner.

Shrimati Durgabai: Sir, will you be so good as to allow one or two supplementary questions ?

Mr. Deputy Speaker: No, this is not the Question-hour.

Shri Sondhi: And the hon. Member knows the rules herself.

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*P. D., Vol. 10, Part I, 25th September 1951, p. 1666.

(68)

*HINDU DIVORCE

1412. Shrimati Jayashri: Will the Minister of Law be pleased to state :

(*a*) the names of States where legislation permitting Divorce of Hindu marriages is in force;

(*b*) the number of applications for Divorce received by courts in these States during the year 1950;

(*c*) the number of applicants granted divorce in 1950;

(*d*) the number of applications rejected during the year 1950 ; and

(*e*) the total number of male and female applicants during the year 1950 ?

The Minister of Law (Dr. Ambedkar): (*a*) As far as I am aware, legislation permitting divorce among Hindus is in force in Bombay and Madras only.

(*b*) to (*e*) The exact figures for the year 1950 are not available. I understand from Bombay that the figures in regard to that State for the period from 12th May, 1947, when the Act came into force to the end of June, 1950 are as follows :

Total number of applications	...	5,356
Number of male applicants	...	2,452
Number of Female applicants	...	2,904
Number of applicants granted divorce	...	2,756
Number of applications rejected	...	1,164

I have not received any information from Madras so far.

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*P. D., Vol. 10, Part I, 28th September 1951, p. 1813.

(69)

*PREVENTION OF HINDU BIGAMOUS MARRIAGES ACT

1413. Shrimati Jayashri : Will the Minister of Law be pleased to state:

(*a*) the names of the States where legislation for the Prevention of Hindu Bigamous Marriages is in force;

(*b*) the number of cases of marriages performed in contravention of provisions of the Act, in the year 1950 ; and

(*c*) the cases which ended in convinction, during the year 1950?

The Minister of Law (Dr. Ambedkar): (*a*) As far as I am aware, legislation for the prevention of bigamous marriages among Hindus is in force in Bombay and Madras only.

(*b*) and (*c*). The exact figures for the year 1950 are not available. I understand, however, from Bombay, that the number of marriages performed in contravention of the Bombay Act between 6th November, 1946, when it came into force, and 31st August, 1950, is 1,934, and the number of cases which ended in conviction during the same period in that State is 756. I have not received any information from Madras so far.

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* P. D., Vol. 10, Part I, 28th September 1951, p. 1814.

ANNEXURE

(A)

*LEGAL PRACTITIONERS AND BAR COUNCILS (AMENDMENT) BILL

The Honourable Dr. B. R. Ambedkar (Minister for Law)**:** Sir, I move :

> "That the Bill further to amend the Legal Practioners Act, 1879, and the Indian Bar Councils Act, 1926, be continued."

Shri Biswanath Das : (Orissa : General): May I know the stage at which this Bill stands ?

The Honourable Dr. B. R, Ambedkar: It was merely introduced.

Mr. Speaker: The question is :

> "That the Bill further to amend the Legal Practioners Act, 1879, and the Indian Bar Councils Act, 1926, be continued."

The motion was adopted.

(B)

**PRESS (SPECIAL POWERS) BILL

The Honourable Sardar Vallabhbhai Patel: Sir, I move:

That for clause 17 of the Bill, the following clause be substituted, namely:

> "Repeal of Ordinance X of 1947
>
> '17. The Press (Special Powers) (No. 2) Ordinance, 1947, is hereby repealed'."

Mr. Speaker: The words on the left side appear to be a marginal note.

The Honourable Dr. B. R. Ambedkar (Minister for Law)**:** Those words need not be put.

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* C. A. (Leg.). D., Vol. 1, Part II, 17th November 1947, p. 40.

***Ibid.,* 20th November 1947, p. 353.

***Mr. Speaker:** I shall take up this amendment after the Honourable Minister has moved that the Bill as amended be passed.

The Honourable Dr. B. R. Ambedkar: Sir, may I with your permission go back to clause 2 and move that for the word "something" in the clause the word "anything" be substituted. That is the more appropriate word that should have been used. There was an amendment but unfortunately my honourable Friend did not move it.

Mr. Naziruddin Ahmad: I was too late and that was the reason.

(C)

**DISPLACED PERSONS (LEGAL PROCEEDINGS) BILL

The Honourable Dr. B. R. Ambedkar (Minister of Law)**:** Sir, I beg to move for leave to introduce a Bill to make special provision for the relief of displaced persons in respect of certain legal proceedings.

Mr. Speaker: The question is:

> "That leave be granted to introduce a Bill to make special provision for the relief of displaced persons in respect of certain legal proceedings."

The motion was adopted.

The Honourable Dr. B. R. Ambedkar: Sir, I introduce the Bill.

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*C. A. (Leg). D., Vol. 1, Part II, 20th November 1947, p. 355.

***Ibid.,* Vol. 3, Part II, 31st March 1949, p. 2141.

(D)

*DEMAND FOR SUPPLEMENTARY GRANTS FOR 1948-49 (ADMINISTRATION OF JUSTICE)

Mr. Speaker: I think then, I should first call upon the Honourable Law Minister to reply to Demand No. 34. I have to put it to vote. I thought the honourable Member wanted to speak on that.

Shri R. K. Sidhva: No, Sir.

The Honourable Dr. B. R. Ambedkar (Minister of Law)**:** Sir, this item 'Administration of Justice' really belongs to the Home Ministry, because they are in charge of the subject, but I am sure, we must today at least spare the Sardar of the trouble that would be involved in replying to this debate. I am, therefore, taking the responsibility on my shoulders. I must also say that I have had no previous consultation with him and so, I do not know, whether I would be exactly representing the views of the Home Ministry on the subject that I am speaking.

Sir, this question of the law's delay is a long cry that we have been hearing in this country and the Government of India, if I remember correctly, at one time appointed a Committee the Civil Justice Committee—and some of the recommendations made by that Committee were incorporated both in the Civil Procedure Code as well as in the Criminal Procedure Code with the object of avoiding delay in the matter of coming to conclusions so far as litigation was concerned. At the same time that unfortunately has not in any way softened the complaint which we are now hearing about the law's delay. In my judgment and I think both my honourable friends, Dr. P. S. Deshmukh and Shrimati Durgabai, who have had considerable experience of practice in the Courts will agree that much of the delay that takes place in litigation is really due to the clients themselves. So far as my experience goes, in law courts every client on an appointed day instead of coming prepared either with the witnesses or with the

*C. A. (Leg). D., Vol. 3, Part II, 31st March 1949, pp. 2151-53.

documents or some other *subpoena* that has been issued by the court, comes with nothing except a petition asking for a postponement. If the postponement is not granted, he either abandons his pleader thinking that he has no influence with the judge, because he has not been able to get the adjournment or postponement or he becomes thoroughly dissatisfied and the court has to consider whether in the interests of avoiding delay his application should be rejected. It may be that in view of the ignorance of our general mass of population they cannot be expected to be prepared with everything at the appointed time, and if they are not given time, even though their cause may be very just, it may be lost.

Secondly, so far as the procedural law is concerned, there is all the method and all the rules necessary for avoiding delay. If our people who want to litigate about matters of dispute were more expeditious, more efficient and more alert in collecting their evidence, they themselves would avoid a great deal of delay that takes place in the matter of litigation.

Dr. P. S. Deshmukh : What about the delays in the High Courts ?

The Honourable Dr. B. R. Ambedkar: Well, the delays in the High Courts also to a large extent are due to this fact. My honourable friend probably does not know, as I happen to know, that many of our people believe in astrology. When they are told that their case is fixed on a particular date, they first go to the astrologer to find out whether that is an auspicious day, and if they find that it is not an auspicious day, they run up to Bombay and get in touch with the office of the Registrar of the High Court, sometimes bribe the clerks heavily in order to take the case of the board on that particular day. I know many such cases. Therefore, we have done so far as procedural law is concerned to avoid delay.

Shrimati G. Durgabai: Is not delay due to the printing of the records which takes a very long time ?

The Honourable Dr. B. R. Ambedkar: Well, I suppose, in view of the fact that the Privy Council has laid down that

all cases which come to them must have the records printed, the High Court has to follow that rule. Probably the Supreme Court hereafter may follow a different rule, we cannot say.

With regard to the lower judiciary, there is certainly much room for improvement. I quite agree that our judicial stations so to say, the towns where the Sub-Judges sit are sometimes very far away from the villages, and the villagers have to incur large expenses for travelling from their villages to the places where they are situated. I have sometimes thought whether it would not be desirable for our Sub-Judges or some others subordinate to the Sub-Judges to go on what we may call circuit. You can have a circuit of six or seven in the villages which this man can visit from week to week, and hear the cases right in the villages. That, I think, is a feasible thing. I must say that that is a matter which is entirely within the power of the Provincial Governments. It is they who can reorganise the judiciary in terms of my suggestion if they think that that is a suggestion worth accepting.

With regard to the question of court fees, that again is a matter which is entirely within the purview of the Provincial Governments. If the Provincial Governments think that court fees are so fixed that they are beyond the capacity of the litigants, it is for them to lower the court fees and give relief to the litigant public in that manner. With regard to the question of legal aid, there is *no* doubt that there is a necessity for doing something in that behalf. As every one knows, the British Parliament has recently passed an Act making it a national responsibility to provide aid to a litigant who is unable to find money for his litigation. However valuable that step might be it seems to me that having regard to the economic capacity of the people of our country, it would be perhaps impossible to place such a burden upon the national revenues of the country. There is no doubt that some other method might, be found whereby some amount of partial relief may be given to people who are indigenous and who. have important questions of law to be settled.

Something was said with regard to the Law Revision committee. It seems to me that there is a certain amount of

misunderstanding about that matter. There is no doubt in England there is a Statute Law Revision Committee ; but its function is a very limited one. I have with me the Statute Law Revision Committee Act passed in 1927. It is an act which, is passed from time to time by the Parliament. The object of the Statute Law Revision Act is to delete from the Statute book of laws which have become spent, whose purposes have been served and which are not in force, and things of that sort. It is only to clear the dead wood, so to say, from the Statute book of laws which have become unnecessary. Here, I find that the Statute Law Revision Committee was appointed in 1921. Although the intention of the Government of India when they appointed that Committee was very much the same as embodied in the British Statute, it somehow took upon itself quite a different species of work namely to suggest to the Government certain laws which they themselves drafted. I do not know whether that sort of a thing is necessary. Because, the drafting of laws is entirely a matter for the Government and the drafting is entirely left to the draftsmen who are engaged in the Law Department. From that point of view, therefore, the Law Revision Committee does not appear to me very necessary unless it is found that the Law Department, by reason of the shortness of its personnel is not able to depute somebody whose duty would be to see what laws have been spent, what are unnecessary and what have gone out of force. However, I shall keep the suggestion in my mind when the Government has the time to deal with this question.

With regard to the Federal Court, the question has been raised that the number of Judges is small for the work that is now pending before the court. The question was also raised that the Federal Court is not equipped with a library such as a Federal Court should have. I have not the least doubt in my mind that the Government of India will never be callous to the requirements of the Federal Court and of its library equipment. I have no doubt that this matter will be discussed when the Federal Court will be converted into the Supreme Court. There is not a very long time between the transferance of the Federal Court into the Supreme Court. Consequently, these reforms which have been suggested with regard to the

personnel of the Federal Court and its library equipment can well be delayed until the formation of the Supreme Court. I have no doubt about it that the Government of India will bear in mind the requirements of the library, as well as the number of judges that may be necessary to dispose of this work.

Mr. Speaker: I am putting the demands to the House.

The question is :

> "That a supplementary sum not exceeding Rs. 2,46,000 be granted to the Governor General to dafray the chargse which will come in course of payment during the year ending the 31st day of March 1949, in respect of administration of justice."

The motion was adopted.

(E)

*PAPERS LAID ON THE TABLE

Constitution (Removal of Difficulties) Orders

The Minister of Law (Dr. Ambedkar): I beg to lay on the Table the following documents under clause (2) of Article 392 of the Constitution :

(i) The Constitution (Removal of Difficulties) Order No. I (Made by the Governor-General on 7th January 1950)

(ii) The Constitution (Removal of Difficulties) Order No. II (Made by the President on 26th January 1950)

(iii) The Constitution (Removal of Difficulties) Order No. III (Made by the President on 26th January 1950)

(*Placed in the Library. See* No. P. 61/50).

(F)

**AIR FORCE BILL

Presentation of Report of Select Committee

The Minister of Law (Dr. Ambedkar): I beg to present the Report of the Select Committee on the Bill to consolidate and amend the law relating to the Government of the Air Force.

(G)

***REPEALING AND AMENDING BILL

The Honourable Dr. B. R. Ambedkar (Minister for Law)**:** Sir, I move :

> "That the Bill to repeal or amend certain enactments be taken into consideration."

I do not think, Sir, any speeches are necessary because this is a very routine measure. There were certain enactments passed during the War; the powers given by them have exhausted ; some

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* P. D., Vol. 1, Part II, 14th February 1950, p. 497.

**P. D., Vol. 3, Part II, 21st March 1950, p. 1895.

***C.A. (Leg.) D., Vol. 3, Part II, 11th December 1947, p. 1727.

of them have come to an end. It is very desirable that the Statute Book which has been so heavily burdened by these, should be pruned and curtailed. Sir, I move.

Mr. Speaker: Motion moved:

> "That the Bill to repeal or amend certain enactments be taken into consideration."

Shri M. Ananthasayanam Ayyangar (Madras : General)**:** Sir, I do not want to take up your time, but I am only sorry that he has not added to the list of the hundred and fifty odd, the Government of India Act.

Mr. Speaker: The question is:

> "That the Bill to repeal or amend certain enactments be taken into consideration."

The Motion was adopted.

Clauses 2 to. 4 were added to the Bill.

The Schedule was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Dr. B. R. Ambedkar: Sir, I move:

> "That the Bill be passed."

The motion was adopted.

***The Honourable Dr. B. R. Ambedkar** (Minister of Law): Sir, I beg for leave to introduce a Bill to repeal certain enactments and to amend certain other enactments.

Mr. Deputy Speaker: The question is:

> "That leave be granted to introduce a Bill to repeal certain enactments and to amend on other enactments."

The motion was adopted.

The Honourable Dr. B. R. Ambedkar: Sir, I introduce the Bill.

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*C.A. (Leg.) D., Vol. 2, Part II, 1st March 1949, p. 989.

(H)

* STANDING COMMITTEE FOR THE MINISTRY OF LAW

The Minister of Law (Dr. Ambedkar): I beg to move :

"That this House do proceed to elect, in such manner as the Honourable the Speaker may direct, one member to serve on the Standing Committee to advice on subjects dealth with in the Ministry of Law for the unexpired portion of the current financial year *vice* Dr. P. K. Sen who died on the 17th November, 1950."

The Motion was adopted.

Mr. Speaker: I have to inform hon. Members that the following dates have been fixed for receiving nominations and holding elections, if necessary, in connection with the following Committees, namely:

	Date for Nomination	Date for election
(1) Standing Committee for the Ministry of Home Affairs.	1-12-50	4-12-50
(2) The General Silk Board.		
(3) The Central Committee of the Tuberculosis Association of India.		
(4) The Standing Finance Committee for Railways.		
(5) Standing Committee for the Ministry of Law.	1-12-50	5-12-50

The Nominations for these committees will be received in the Parliamentary Notice Office upto 12 Noon on the date mentioned for the purpose. The elections which will be conducted by means of the single transferable vote, will be held in the Assistant Secretary's room No. 21 in the Parliament House between the hours 10-30 a.m. and 1-00 p.m.

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*P.D., Vol. 6, Part II, 29th November 1950, pp. 845-48.

(I)

* TRADE UNIONS BILL

Presentation of Report of Select Committee

The Minister of law (Dr. Ambedkar): I beg to present to the Report of the Select Committee on the bill to provide for the registration and recognition of trade unions and in certain respects to define the law relating to registered and recognised trade unions and to certain unfair practices by employers and recognised trade unions.

12 Noon

(J)

Constitution (Removal of difficulties) Orders Nos. VI to VIII

** **The Minister of Law (Dr. Ambedkar)** : I beg to lay on the Table the following documents under clause (2) of article 392 of the Constitution:

(i) The Constitution (Removal of Difficulties) Order No. VI (Made by the President on 2nd September 1950),

(ii) The constitution (Removal of Difficulties) Order No. VII (Made by the President on 7th October 1950), and

(iii) The constitution (Removal of Difficulties) Order No. VIII (Made by the President on 25th October 1950).

(*Placed in Library, See* No. P. 116/50)

(K)

*** Constitution (Removal of Difficulties) Orders Nos. IV and V

The Minister of Law (Dr. Ambedkar): I beg to lay on the Table the following documents under clause (2) of Article 392 of the Constitution :

(i) The Constitution (Removal of Difficulties) Order No. IV (Made by President on 24th May 1950) [Placed in Library, *See* No. P-92/50],

(ii) The Constitution (Removal of Difficulties) Order No. V (Made by the President on 6th June 1950) [Placed in Library, *See* No. P-93/50].

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* P.D., Vol. 6, Part II, 1st December 1950, p. 1066.

** P.D., Vol. 6, Part II, 20th Novenber 1950, pp. 266-67.

*** P.D., Vol. 5, Part II, 1st August 1950, p. 21.

***The Minister of Law (Dr. Ambedkar):** I beg to move for leave to introduce a Bill further to amend the Code of Civil Procedure, 1908.

Mr. Speaker: The question is :

> "That leave be granted to introduce a Bill further to amend the Code of Civil Procedure, 1908."

The Motion was adopted.

Dr. Ambedkar: I introduce the Bill.

(L)

**PAPERS LAID ON THE TABLE

Constitution (Removal of Difficulties) Order No. II (Third Amendment) Order

The Minister of Law (Dr. Ambedkar): I beg to lay on the Table a copy of the Constitution (Removal of Difficulties) Order No. II (Third Amendment) Order, 1951, made by the President on the 16th August 1951, under clause (2) of article 392 of the Constitution. [*Placed in Library, See* No. P. 197/51.]

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* P. D., Vol. 7, Part II, 18th December 1950, p. 1835.

** P. D., Vol. 14, Part II, 27th August 1951, p. 1363.

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DR. BABASAHEB AMBEDKAR
WRITINGS AND SPEECHES
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by Dr. B. R. Ambedkar

Edited

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Kumari Selja

सत्यमेव जयते

Minister for Social Justice and Empowerment
& Chairperson, Dr. Ambedkar Foundation

MESSAGE

Babasaheb Dr. B.R. Ambedkar, the Chief Architect of Indian Constitution was a scholar par excellence, a philosopher, a visionary, an emancipator and a true nationalist. He led a number of social movements to secure human rights to the oppressed and depressed sections of the society. He stands as a symbol of struggle for social justice.

The Government of Maharashtra has done a highly commendable work of publication of volumes of unpublished works of Dr. Ambedkar, which have brought out his ideology and philosophy before the Nation and the world.

In pursuance of the recommendations of the Centenary Celebrations Committee of Dr. Ambedkar, constituted under the chairmanship of the then Prime Minister of India, the Dr. Ambedkar Foundation (DAF) was set up for implementation of different schemes, projects and activities for furthering the ideology and message of Dr. Ambedkar among the masses in India as well as abroad.

The DAF took up the work of translation and publication of the Collected Works of Babasaheb Dr. B.R. Ambedkar published by the Government of Maharashtra in English and Marathi into Hindi and other regional languages. I am extremely thankful to the Government of Maharashtra's consent for bringing out the works of Dr. Ambedkar in English also by the Dr. Ambedkar Foundation.

Dr. Ambedkar's writings are as relevant today as were at the time when these were penned. He firmly believed that our political democracy must stand on the base of social democracy which means a way of life which recognizes liberty, equality and fraternity as the principles of life. He emphasized on measuring the progress of a community by the degree of progress which women have achieved. According to him if we want to maintain democracy not merely in form, but also in fact, we must hold fast to constitutional methods of achieving our social and economic objectives. He advocated that in our political, social and economic life, we must have the principle of one man, one vote, one value.

There is a great deal that we can learn from Dr. Ambedkar's ideology and philosophy which would be beneficial to our Nation building endeavor. I am glad that the DAF is taking steps to spread Dr. Ambedkar's ideology and philosophy to an even wider readership.

I would be grateful for any suggestions on publication of works of Babasaheb Dr. Ambedkar.

(Kumari Selja)

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PREFACE

The present volume of the Speeches and Writings of Bharat Ratna Dr. B.R. Ambedkar contains his Dictionary of the Pali language and Pali Grammar. The Dictionary and Grammar are certainly valuable aids to the speeches. Pali was indeed the *lingua franca* of the Buddhist India. It has close affinity to Marathi. As such, the study of Pali has much relevance to the contemporary Marathi. In compiling the Dictionary of Pali language and its Grammar, Dr. Ambedkar had in mind the project of promoting the study of the Buddhist India which is part of the ancient Hindu culture. As is well-known, Buddha is the 10th incarnation of God. This dictionary is a testimony and a tribute to the mind of Dr. Ambedkar that was deeply rooted in the Indian soil.

I hope the students of the Buddhist literature will find the present volume useful to quench the thirst of knowledge.

MANOHAR JOSHI

BLANK

MINISTER FOR HIGHER AND
TECHNICAL EDUCATION

GOVERNMENT OF MAHARASHTRA
Mantralaya, Mumbai 400 032

Date : 28 / 1 / 1998

FOREWORD

The present volume of Dr. B. R. Ambedkar's writings contain the following important documents -

1) Grammar of the Pali Language was found printed by Dr. Ambedkar himself but was not released for sale.

2) (a) Dictionary of the Pali words in English and (b) in four languages.

3) Booklet printed and published by Dr. Ambedkar himself, for the followers of Buddhism.

It appears from the collection in part two (b) that Dr. Ambedkar could not complete the work of Pali Dictionary in 4 languages which he planned for the students of Buddhism.

The unpublished writings of Dr. Ambedkar as a whole, though incomplete are useful for the students of Philology. The curious student's may think of advancing this study further.

The Government is committed to finalise the remaining work of Dr. Ambedkar's writings and speeches and I hope this will be brought out at the earliest. The translation project is also in process.

The work of Dr. Ambedkar will prove to be a source of inspiration for younger generation and will help strengthening the roots of democracy in this country.

(DATTA RANE)

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EDITORIAL

The present volume of the writings and speeches of Dr. Ambedkar contains his compilation of the Pali grammar and Pali dictionary. Dr. Ambedkar had profound fascination for Buddha and his teachings. The origin and the growth of Buddhist thought is a memorable chapter in Indian history. Buddhist texts are in Sanskrit and Pali. It was therefore the effort of Dr. Ambedkar to make this literature accessible to Indians in general and to admirers of Buddhism in particular.

Compiliation of a dictionary of words and phrases of a language, no longer a spoken language, is an enterprise fraught with difficulties. Dr. Ambedkar was past 50 when he started the compilation of the Dictionary. It was an effort comparable to the effort of Dr. Samuel Johnson who attempted his dictionary of English language in 1755. Dr. Johnson had compiled the dictionary on the threshold of becoming the world language. Pali, though the *lingua franca* of the Buddhist world, is a dead language. In support of a living language, authority for correct sense and words, is always at our elbow, in the chat of our domestics or in the converse of the passengers at our street door, in colleges of learned and in stables of menials; in lanes of a city and in remote hamlets. Therefore phrases and idoms of people are easily available. That is not the case in respect of a dead language which has many pitfalls. Words and phrases of a dead language, are exercises in reconstruction of history, they are passages to times past and pathways to the sociology and culture of the ages gone by. The Dictionary of the Pali language taken up by Dr. Ambedkar for compilation when he was past 50, shows his indomitable spirit to look into the past, in order to know the present and to see the light for the future.

It is relevant to note that literature on Buddhism is a part of the heritage of Indian culture. It would be interesting to sum up the history of the Pali Language. According to Buddhist tradition, Pali was the dialect of Magadha and that it was the language in which Gautam Buddha preached. Originally, a mere provincial idiom, the Magadhi language was raised to the dignity of a classical language and is regarded by Buddhists of the whole world with the feeling of veneration, like the Roman language. R. C. Childers pointed out that the existing Pali literature is of great importance; it is valuable alike to the philologists, the historians, to the students of folkore and the students of comparitive religion.

The Buddhist scriptures are called "*Tripitaka*" and are divided into Sutta, Vinay and Abhidhamma. The three baskets form a canon of the holy writ. According to Childers, this canon of holy writ are invested with all the sanctity of a canon by Buddhists. They are revered as containing the word of Buddha and are the ultimate appeal on all questions of belief and conduct. These baskets are estimated to be about **eleven times that of the Bible, and three times of the size of the Mahabharat** and are able to treat in great detail of all the relations of human life. According to Childers, the author of the first Pail - English Dictionary, the doctrine they contain is consistent throughout and set forth with logical accuracy.

When the great missionary Mahindra went to Ceylon in B.C. 307, he carried with him, not only the *Tripitaka* but the *Arthakatka* which had grown up around the *Tripitaka* during two and a half centuries that had passed since Buddha's death. Mahindra tried to translate these commentaries from Pali into

Sinhalese, the latter of which continued to exist in Ceylon for many centuries while the Pali version disappeared. In the fifth century, Mahindra's Sinhales commentaries were retranslated by the famous Buddhaghosa, 'one of the most extraordinary men that Buddhism has produced,' as Childeres rates him. The Sinhalese translation in the meantime disappeared. It is recorded by Childers that the Sinhalese commentaries disappeared in the twelth century during the invasion of Ceylon by the Malabar princess. The princess who invaded Ceylon, one after another, temporarily obtained sovereignty over the island. They were the determind foes of Buddhism and are stated to have systematically effected the destruction of all the sacred books of Buddhism they could lay hands on. Among this Buddhist Literature, there were the *Tripitakas*, the Pali commentaries of Buddhaghosa and the Sinhalese commentaries of Mahendra. Tripitakas and Buddhaghosa's commentaries were first replaced from Burmah while Sinhalese commentaries existed only in Ceylon; and once destroyed could not be replaced. Buddhaghosa's commentaries contain much of the matter 'as old as *Tripitaka* itself' and are 'rich in history and folklore and abound in varied information which throws abundant light on the social and moral conditions of ancient India (Childers).

Besides the Pali literature mentioned above, few titles more noteworthy deserve mention. *Dipavamsa* and *Mahavamsa* are first in importance. Next in importance is *Milind Panha*, the *Questions of King Milind* who is identified with certainty with Bactrian King (Minander).

This work records familiarity with Greek names and places and records a religious discussion between venerable Nagasena and King Milind. Next in imporatnce is *Visuddhi*

Magga which is fairly called as an Encyclopadia of Buddhist doctrine.

The Pali grammatical work is very extensive and centres around the famous Grammarian Kachayana, which is admittedly the oldest Pali Grammar. It is said, there are 60 or 70 grammatical works in Pali. In *Abhidhammappadipika*, a vocabulary of nouns on the model of Sanskrit Amarkosha by a Sinhalese Buddhist of 12th Century, is found.

The discovery of Sanskrit literature in Nepal is due to the great poineering work of Brian H. Hodgson. His notices of the language, literature and religion of Nepal and Tibet, first appeared in 1828, and his essays began to appear in 1837. Besides, many western scholars including Bournouf, Fousball, Lassen, Spiegel, Clough, not to forget Weber, Senart, Kuhn and others have enormously contributed to the scholarship of Buddhist literature. It would not be out of place to mention the services of those great masters including Max Muller, Mr. and Mrs. Rhys Davids, Dr. Fleet and several others who dedicated their lives to the scholarship of Buddhist studies. It should not be forgotten that it is due to the lifelong endeavour of these geniuses that the present generation is indebted to the scholarship of the Pali Language.

It is in the light of the writings of those towering scholars that we have to search the gems of Pali scholarship; and Dr. Ambedkar's efforts for illuminating the light of Buddhist studies should be viewed accordingly. The justification for bringing out the dictionary of Pali language lies in the fact that Dr. Ambedkar had his roots in the Indian soil, and the Pali

language is an indispensable key to unlock the secrets of Buddhist India.

This volume includes Dr. Ambedkar's compilation of Pali grammar. In examining a dead language like Latin or Sanskrit, grammer of that language is to know syntax and style. Grammar throws light on words and phrases, it unfolds thought processes and shows the social mind in evolution.

To the lovers of Pali language and to those who are interested in the history of Buddhism, this volume will prove to be of interest and inspiration.

The work of editing of this volume has been made possible by the ready help, support and co-operation I have received :

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(Vasant Moon)
Editor
Dr. Babasaheb Ambedkar
Source Material Publication
Committee

(Facsimile of a page from the original manuscript of the Pali Dictionary by Dr. B. R. Ambedkar)

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Dr. BABASAHEB AMBEDKAR WRITINGS AND SPEECHES

Vol. 16

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BOOK I

PALI ENGLISH DICTIONARY

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THE PALI DICTIONARY

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PALI-ENGLISH DICTIONARY

A

अ :	Until, as far as, with, Prefix
अब्बमं :	One of the high numerals, *(अर्व)*
अबद्धमुखो :	Foul-mouthed, scurrilous *(अबद्ध + मुख)*
अबद्धो :	Not bound, unmeaning, senseless *(अ + बद्ध = बन्ध)*
आबद्धो :	Fastened: joined; united, attached *(आ + बद्ध + बन्ध)*
आबाधिको :	Affected with illness *(आ + बाधा + इको)*
आबाधो :	Illness, sickness, disease
आबज्झहति :	To be bound, fettered, held fast
अबलं :	Weakness *(अ + बल)*
अबलो :	Weak
अब्बहति :	To take away, to remove
अब्बणो :	Unwounded *(अ + ब्रण)*
अब्बति :	To go *(अर्ब्)*
अब्भाचिक्खति :	To accuse, to slander, to calumniate *(अभि + आ + ख्या)*
अब्भागमनं :	Approaching, going to, visiting *(अभ्यागमन)*
अब्भकं :	Talc *(अभ्रकं)*
अब्भक्खानं :	Accusation, slander, calumny
अब्भाकुटिको :	*(adj)* Unflowning, genial *(अ + भ्रकुटि + क)*
अब्भं अब्भो :	Cloud, sky, air *(अभ्र)*
अब्भानं :	Rehabilitation of a priest who has undergone *परिवास* or penance for an expicable offence *(अभि + आयन)*
अब्भञ्जन :	Anointing *(अभि + अञ्जन)*
अब्भन्तरं :	Interval, interior, certain measure *(आभ्यन्तर)*
अब्भन्तरो :	Internal, inner
अब्भनुमोदनं :	Rejoicing, thanksgiving, praise
अभासो :	Repetition, practice, repudiation *(अभ्यास)*
अब्भत्थ :	Setting, declining, perishing *(अभि + अस्त)*
अब्भेति :	To restore a priest who has been degraded for an offence
अब्भोकासिको :	Living in the open air, unsheltered place
अब्भोकिण्णं :	Covering, bedecking

अब्भुदिरितो : Uttered *(अभि + उद् + इरित = ईर)*

अब्भुग्गच्छति : To approach; to go to meet; to ascend; to go up *(अभि + उद् + गम)*

अब्भुग्गतो : Having approached; gone to meet, ascended *(अभि + उद् + गत + गम्)*

अब्भुज्जालनं : Spitting fire (a juggleri trick) *(अभि + उद् + ज्वलन)*

अब्भुतधम्मो : Mysterious or super-natural phenomenon or condition a name of one of the nine divisions of the Buddhist scriptures *(अद्भुत + धर्म)*;

अब्भुतो : Hidden, mysterious, wonderful, pretentious, astonished *(अद्भुत)*

अब्बुच्छिन्नो : Unbroken *(अ + वि + अव + च्छिन्न = च्छिद्)*

अब्बुदं : One of the high numerals; a canker, stain, sorn *(अर्बुद्)*

अब्बुतो : Undisciplined

आभा : Splendour, radiance, light *(आभा)*

अभब्बता : Non-liability; inability *(अभव्य + ता)*

अभब्बो : *(adj.)* Not liable; unable *(अ + भव्य = भू)*

आभाकरो : The Sun *(आभा + कर)*

आभरणं : Ornament, decoration *(आभरण)*

अभासन : Silence *(अ + भाषण)*

आभासरो : Shining, radiant *(आ + भास्वर)*

आभाति : To shine *(आ + भा)*

आभतो : Brought, carried, conveyed *(आ + भृत = भृ)*

अभवो : Decrease, decay or misfortune *(अ + भव)*

अभावो : Non-existance, absence

अभया : The plant *Terminalia Citrina (अ + भय)*

अभयं : Safety; protection from danger *(अ + भय)*

अभयो : Fearless *(अ + भय)*

अभिभासति : To speak to, address *(अभि + भाष्)*

अभिभासितो : Illumined *(अभि + भाष)*

अभिभवनं : Overcoming; vanquishing *(अभिभवन्)*

अभिभवति : To overcome; to attain, to master; to surpass *(अभि + भ्)*

अभिभवो : Being overcome, defeat *(अभिभव्)*

अभिभायतनं : Place or region of the vanquisher *(अभिभ् + आयतन)*

अभिभू : Overcoming, mastering, vanquishing, surpassing *(अभि + भू)*

अभिभूतो : Overcome, overpowered, subdued, vanquished *(अभि + भूत = भू)*

अभिच्छा : Desire, longing (अभि + इच्छा)

अभिधम्मिको : Connected with Abhidhamma; versed in or studying the Abhidhamma *(अभि + धर्म + इक)*

अभिधम्मो : Higher doctrine or metaphysics; name of the third great division of Buddhist scriptures *(अभिधर्म)*

अभिधानं : Name, appellation; noun *(अभि + धान)*

अभिधानप्पदीपिका : Lamp of names *(अभिधान + प्रदीपिका)*

अभिधातब्बो : To be declared or named *(अभि + धातव्य = धा)*

अभिधेयो : To be declared, pointed out, denoted, meant *(अभिधेय = धा)*

अभिधीयति : To be declared, to be pointed out, *(अभिधीयते = धा)*

अभिदोसो : Evening *(अभिदोष)*

अभिगच्छति : To go to, to approach *(अभि + गम्)*

अभिगमनं : Approaching *(अभिगमन)*

अभिघातो : Striking, concussion *(अभिघात)*

अभिगीतो : Sung or recited to *(अभि + गीत = गै)*

अभिहनति : To assail; to strike *(अभि + हन्)*

अभिहरति : To bring to; to acquire, to gain *(अभि + हृ)*

अभिहारो : Bringing, offering *(अभिहार)*

अभिहतो : Brought *(अभि + हृत = हृ)*

अभिहितो : Called, named; spoken, said *(अभि + हित = धा)*

अभिजानाति : To know, to learn, to ascertain; to perceive, to admit, to acknowledge *(अभि + ज्ञा)*

अभिजनो : Race, tribe, family *(अभिजन)*

अभिजप्पनं : Muttering, spells, incantation *(अभि + जप्पन)*

अभिजाति : Origin, race, birth *(अभि + जाति)*

अभिजातिको : Belonging to origin or race *(अभिजाति + क)*

अभिजातो : Well-born, noble, learned, wise *(अभिजात = जन्)*

अभिज्झा : Covetousness *(अभिध्या)*

अभिज्झालु : Covetous *(अभिध्या + लु)*

अभिकामी : Desirous *(अभि + कामिन्)*

अभिख्या : Name, beauty, splendour, glitter *(अभिख्या)*

अभिकिरति : To overwhelm, to cover *(अभि + कृ)*

अभिक्कमति : To go forward, to advance, to approach *(अभि + क्रम्)*

अभिक्कमो : Advancing, advance *(अभिक्रम)*

अभिक्कन्तो : Advanced; having approached *(अभि + क्रान्त = क्रम)*

अभिक्कन्तो : Handsome; beautiful, excellent, good *(अभि + कान्त = कम्)*

अभिक्कन्तो : Withered, exhausted *(अभि + क्लान्त = क्लम्)*

अभिक्खणं : Repeatedly *(अभिक्षणम्)*

अभिलभति : To obtain or receive *(अभि + लभ्)*

अभिलक्खितो : Marked, characterized, distinguish *(अभिलक्षित = लक्ष्)*

अभिलापो : Speaking to: talking *(अभिलाप)*

अभिलासी : Desirous *(अभिलाषिन)*

अभिलासा : Desire *(अभिलाषा)*

अभिलावो : Cutting, reaping *(अभिलाव)*

अभिलेपनं : Smearing; pollution *(अभि + लिप् + अन)*

अभिलित्तो : Smeared; stained, polluted *(अभि + लिप्त = लिप्)*

अभिमद्दितो : Crushed, trampled; overthrown *(अभि + मर्दित = मृद)*

अभिमङ्गल : High festival, solemnity *(अभि + मंगल)*

अभिमानो : Pride, wisdom *(अभिमान)*

अभिमथति : To grind, to crush *(अभि + मथ्)*

अभिमुदा : Joy *(अभि + मुदा)*

अभिमुखो : Facing towards, opposite *(अभिमुख)*

अभिमुख : Front, direction towards *(आभि + मुख)*

अभिनादेति : To fill with noise *(अभि + नादयति = नद्)*

अभिनन्दति : To be pleased with, to approve of, to welcome, to rejoice at, to delight in *(अभि + नन्द्)*

अभिनवो : Quite new, new *(अभिनव)*

अभिनयो : A dramatic representation *(अभिनय)*

अभिनेति : To bring to, to conduct *(अभि + नी)*

अभिण्ह : Repeatedly *(अभिक्षणम्)*

अभिनिब्बत्तेति : To be reborn in another existence *(अभि + निस् + वृत्)*

अभिनिब्बत्ति : Rebirth in another existence *(अभि + निवृत्ति)*

अभिनिब्बत्तो : Reborn in another existence *(अभि + निस् + वृत्त = वृत्)*

अभिनीहरति : To turn, to direct *(अभि + निस् + ह)*

अभिनीहारो : Earnest wish or aspiration *(अभि + निस् + हार)*

अभिनिक्खमन : Going out, departing, retiring from the world, giving up the world to devote oneself to an ascetic life *(अभि + निष्क्रमण)*

अभिनिक्खमति : To go out, to depart *(अभि + निस् + क्रम्)*

अभिनिक्खमो : Going out; retiring from the world to devote oneself to ascetic life *(अभि + निष्कम)*

अभिनिलीयति : To hide oneself, to lie, hide *(अभि + नि + ली)*

अभिनीलो : Very black *(अभि + नील)*

अभिनिमंतेति : To invite; to present with *(अभि + नि + मन्त्र्)*

अभिनिम्माण : Creating

अभिनिम्मिणाति, अभिनिम्मति : To create, to cause to appear by supernatural powers *(अभि + निस् + मा)*

अभिनिन्नामेति : To turn, to direct *(अभि + निस् + नम्)*

अभिनिपज्जति : To lie down *(अभि + नि + पद्)*

अभिनिप्फादेति : To effect, to accomplish, to succeed *(अभि + निस् + पद्)*

अभिनिसीदति : To sit down *(अभि + नि + सद्)*

अभिनिवेसो : Adhering to; inclination to *(अभि + निवेश)*

अभिनिविसति : To settle down; to devote oneself to *(अभि + नि + विश्)*

अभिञ्ञा : Higher knowledge, transcendent or supernatural knowledge or faculty *(अभिज्ञा)*

अभिञ्ञाय : Having known, become cognisant of *(अभिज्ञाय = ज्ञा)*

अभिञ्ञको : Not schismatic, orthodox *(अ + भिन्न = भिद + क)*

अभिञ्ञान : Sign, token *(अभिज्ञान)*

अभिञ्ञातो : Known, well-known, distinguished, remarkable *(अभि + ज्ञात = ज्ञा)*

अभिजानाति : To know by experience to, to know fully or throughly, to recognise, know of

अभिञ्ञेय्यो : That ought to be known or that can be known *(अभि + ज्ञेय = ज्ञा)*

अभिन्नो : Undivided; not different; identical *(अ + भिन्न = भिद्)*

अभिञ्ञो : Knowing or conversant with *(अभिज्ञ)*

अभिपत्थेति : To desire, to long for, to pray for *(अभि + प्र + अर्थ)*

अभिपीलितो : Oppressed, afflicted *(अभि + पीडित = पीड्)*

अभिपूजेति : To offer, to present with *(अभि + पूज)*

अभिराधेति : To content, to satisfy *(अभि + राधयति = राध्)*

अभिराजा : A supreme king *(अभि + राजन्)*

अभिरमति : To delight in *(अभि + रम्)*

अभिरम्मो : Delightful *(अभि + रम्य = रम्)*

अभिरामो : Delightful *(अभिराम)*

अभिरति : Delighting in, delight *(अभिरति)*

अभिरतो : Delighting in, devoted to *(अभिरत = रम्)*

अभिरूचितो : Pleasing, agreeable, liked *(अभिरुचित + रुच्)*

अभिरुहन : Ascending, mounting *(अभि + रुह + अन)*

अभिरूहति, अभिरुहति, अभिरोहति : To ascend, to mount *(अभि + रुह)*

अभिरूपो : Beautiful, handsome *(अभि + रुप)*

अभिरुत : Sound *(अभिरुत = रु)*

अभिसद्दहन : Firm faith or belief

अभिसद्दहति : To have firm faith, to believe fully *(अभि + श्रत्)*

अभिसज्जति : To be angry; to scold *(अभि + सज्ज्)*

अभिसमाचारिक : Least duties : minor duties *(अभि + समाचार इक्)*

अभिसमयो : Penetration, comprehension, clear understanding *(अभि + समय)*

अभिसम्भुनोति or **नाति :** To obtain (अभि + सम् + भृ)

अभिसम्बोधि : Perfect understanding, infallible knowledge *(अभि + सम् + बोधि)*

अभिसम्वुद्धो : Thoroughly understood, pefectly known, enlightened, knowing fully *(अभि + सम् + बुद्ध)*

अभिसबुज्झति : To gain perfect knowledge of (अभि + सम् + बुद्ध)

अभिसमेति : To penetrate, comprehend, gain a full knowledge of *(अभि + सम् + आ + इ)*

अभिसम्मतो : Fully approved, honoured, prized (अभि + सम् + म = म)

अभिसम्परायो : Future state, futurity (अभि + संपराय)

अभिसंयुतो : Fitted out, equipped (अभि + सम + युत = यु)

अभिसन्देति : To rain upon, to drench (अभि + स्यन्द)

अभिसन्धि : Intention (अभिसंधि)

अभिसङ्गो : Curse, imprecation (अभिषङ्ग)

अभिसंखरन : Preparing, forming, effecting, pertaining; accumulation *(अभि + सम् + कृ + अन)*

अभिसंखारो : Driving, effecting, perfecting; accumulation, collection; accumulation of karma, merit or demerit, idea, conception, fancy *(अभि + संस्कार)*

अभिसंखरोति : To prepare, to form, to effect, to perfect *(अभि + सम् + कृ)*

अभिसंखतो : Prepared, formed; well made, perfected *(अभि + सम + कृत = कृ)*

अभिसन्नो : Rained or drenched *(अभि + स्यन्न = स्यन्द्)*

अभिसारिका : A woman who carries on an intrigue *(अभिसारिका)*

अभिसवन : Dozing, tricking, flowing *(अभि + स्रवण)*

अभिसेचन : Sprinkling: inauguration of a king *(अभिषेचन)*

अभिसेचेति : To cause to be sprinkled, or inaugurated *(अभि + सेचयति)*

अभिसेको : Sprinkling *(अभिषेक)*

अभिसिञ्चति : To sprinkle inaugurate a king by sprinkling with sacred water *(अभि + सिच्)*

अभिसित्तो : Besprinkled; inaugurated a king *(अभि + सिक्त = सिच्)*

अभिसोभितो : Adorned, beautiful, resplendent *(अभि + शोभित = शुभ)*

अभिसङ्गो : Attachment *(अभिष्वङ्ग)*

अभिस्सवन : Flowing, dripping *(अभि + स्रवण)*

अभिसुनोति : To hear, to listen to *(अभि + श्रु)*

अभितप्पेति : To satisfy thoroughly *(अभि + तर्पयति = तृप)*

अभितत्तो : Scorched *(अभि + तप्त)*

अभिथान : Crime or deadly sin *(अभि + स्थान)*

अभितो : Near, in the presence of, on both sides *(अभितस्)*

अभितोसेति : To gratify, to reward *(अभि + तोषयति = तुष)*

अभिथ्थरति : To make haste *(अभि + त्वर)*

अभित्थवति : To praise *(अभि + स्तु)*

अभित्थुतो : Praised *(अभि + स्तुत = स्तु)*

अभिवादन : Respectful salutation *(अभिवादन)*

अभिवदति : To say; to declare *(अभि + वद्)*

अभिवड्ढति : To increase; to grow *(अभि + वृध्)*

अभिवादेति : To salute respectfully; to greet *(अभि + वादयति = वद्)*

अभिवन्दन : Respectful salutation *(अभि + वन्दन)*

अभिवन्दति : To salute respectfully *(अभि + वन्द)*

अभिविजयति : To overcome; to conquer *(अभि + वि + जि)*

अभिविजेति

अभिविनयो : Higher discipline; the subtle ties or refinements of Vinaya *(अभि + विनय)*

अभिवुद्धि : Increase, growth, prosperity *(अभि + वृद्धि)*

अभियाचति : To entreat, to ask, to request *(अभि + याच्)*

अभियाति : To approach; to attack *(अभि + या)*

अभियोग : Charge, accusation *(अभियोग)*

आभोगो : Fulness, plenty; thought or reflection *(आभोग)*

आभुजी : Name of a tree; the Bhurja or Bhojpatta *(आ + भुज + ई)*

आभुजति : To bend, to turn in *(आ + भुज)*

अभूतो : That has not been; or that is not; false *(आ + भूत)*

अभ्यासो : Near *(अभ्याश)*

अभ्यासो : Repetition or practice *(अभ्यास)*

अचलो : firm; steady; immovable *(अ + चल)*

आचमन : Rinsing the mouth; washing, cleansing *(आचमन)*

आचामो : Scum of boiling rice

आचरति : To live, to act, to perform, to treat, to practice *(आ + चर्)*

आचरियो : A teacher or master; a scholar, professor *(आचार्य)*

आचारो : Conduct, practice; right conduct, good manners *(आचार)*

अच्चादहति : To put upon or over *(अति + आ + धा)*

अच्चधान : Putting upon *(अति + आ + धा + न)*

अच्चगा : See *अच्चेति*

अच्चगमा : See *अतिगच्छति*

अच्चम्बिलो : Very sour *(अति + अम्ब)*

अच्चना : Offering, worship *(अर्चना)*

अच्चनीयो : That aught to be offered; worthy of being offered *(अर्चनीय)*
अच्चनिय्यो

अच्चन्त : Very, exceedingly *(अत्यन्तम्)*

अच्चन्तो : Exceeding, excessive, endless *(अत्यन्त)*

अच्चारद्धो : Very eager, very strenuous *(अति + आरब्ध = रभ्)*

अच्चासन्नत्त : Too great proximity *(अति + आसन्न = सद् + त्व)*

अच्चासन्न : Too near *(अति + 100 आसन्न = सद्)*

अच्चति : To offer; to make a religious offering; to honour, to revere *(अर्च)*

अच्चायिको, : Irregular, accidental, unexpected, out of the usual course or
अच्चेको time pressing urgent *(अत्यय + इक्)*

अच्चयो : Passing away, lapse (of time) death; transgression; offence or sin *(अत्यय)*

अच्चेति : To pass beyond, to traverse ; to surpass; to overcome, to conquer, to pass away *(अति + इ)*

अच्छादन : Covering, lid, curtain; clothes *(आच्छादन)*

अच्छादेति : To put on *(आ + च्छद्)*

अच्छम्भी : Undaunted, undismayed *(अ + स्तम्भ + इन्)*

अच्छन्नो : Covered, hidden *(आ + च्छन्न = च्छद्)*

अच्छरा : A celestial nymph *(अप्सरा)*

अच्छरा : A moment : the snapping of a finger; the twinkling of an eye *(अक्षर)*

अच्छरियो : Wonderful: marvellous; extra-ordinary : astonished *(आश्चर्य)*

अच्छति : To stay, to remain: to settle down *(आस्)*

अच्छेको : Unskilful, ignorant, clumsy *(अ + च्छेक)*

अच्छेरो : Contracted form of *(अच्छरिया)*

अच्छि : The eye *(अक्षि)*

अच्छिद्दो : Uninjured, intact, perfect, faultless *(अ + च्छिद्र)*

अच्छिन्दति : To take away, to remove: to remove forcible; to rob, plunder *(अ + छिद्र)*

अच्छिन्नो : Taken away, removed; robbed or stolen *(अ + च्छिन्न = च्छिद)*

अच्छो : Clear, transparent *(अच्छ)*

अच्छो : A bear *(अच्छ)*

अच्चि : A ray of light; a sunbeam: flame *(अर्चि + अर्चिस्)*

अच्चिमा : Fire *(अर्चिमन्त)*

अच्चितो : Revered, honoured *(अर्च)*

अच्चोदातो : Very white *(अति + अवदात = दै)*

अच्चोक्कट्ठ : Very low, too low *(अति + अवकृष्ट = कृष)*

अच्चुग्गतो : Raised, elevated, lofty (अति + उद्गत = गम्)

अच्चुक्कट्ट : Very high, too high *(अति + उत्कृष्ट = कृष्)*

अच्चुलारो : Magnificent *(अति + उदार)*

अच्चुण्ह : Very hot *(अति + उष्ण)*

अच्चुतो : Immovable; everlasting, eternal *(अ + च्युत = च्यु)*

अचेलको : Unclothed, naked *(अ + चेल + क)*

अचेतनो : Unconscious, insensible, senseless *(अ + चेतन)*

आचिक्ख : Telling, showing

आचिक्खति : To tell, to announce: to point out; to show *(आ + ख्या)*

आचिनति : To keep up, to accumulate *(आ + चि)*

आचिन्नो : Practiced, performed, sanctioned, enjoined *(आचीर्ण = चर्)*

अचिन्तेयो, : Beyond the reach of thought or reason, inconceivable;

अचिन्तियो incomprehensible, infinite (अ + चिन्त + एय = य)

अचिरप्पभा : Lightening *(अचिर् + प्रभा)*

अचिरवति : Name of a river in India *(अचिर् + वत्)*

अचिरो : Short or brief *(अ + चिर्)*

आचितो : Heaped up, collected *(आ + चित = चि)*

अदा : See *ददति*

अदन : Eating *(अदन)*

आदान : Taking, appropriating, seizing; attachment, elinging to the world, desire *(आदान)*

आदरनीयो : Estimable : deserving of respect *(आदरणीय)*

आदरो : Esteem, regard: respect: interest, care, devotion; affection *(आदर)*

अदासि : See *ददति*

अदासो : A mirror *(आदर्श)*

अदस्सन : Not seeing; not meeting with, disappearance, not showing, concealment *(अ + दर्शन)*

आदाता : One who likes *(आदातृ)*

आदातब्बो : That ought to be taken *(आदातव्य)*

आदाति, आददाति : To take, to receive, to seize, to take away *(आ + दा)*

आदायी : Taking *(आ + दायिन)*

अद्दा : Name of one of the Nakkhattas (Nakkshatras) *(आर्द्रा)*

अद्दब्बो : Immaterial, Abstract *(अ + द्रव्य)*

अद्दक : Green ginger *(आर्द्रक)*

अदक्खि, अद्दस : See *पस्सति*

अद्धा : Truely, certainly, surely, evidently *(अद्धा)*

अब्दा : Road: distance: time *(अध्वन्)*

अद्धगतो : One who has made a long journey, advanced in years, aged *(अध्वत् + गत = गम्)*

अद्धगू : A traveller *(अध्वग)*

अद्धमासो : Half a month; a fortnight *(अर्ध + मास)*

अद्धान : A road; a long distance: a long time

अद्धनियो : Lasting; going on: continuing *(अध्वन् + य)*

अद्धरत्ति : Midnight *(अर्ध + रात्र)*

अद्धतेय्यो, : Two and half *(अर्ध + तृतीय)*

अद्धतियो

अद्धयोगो : Name of a sort of a house *(अर्ध + योग)*

अद्धिको : Journeying, travelling *(अध्वन् + इक्)*

अद्धो : Half or halved *(अर्ध)*

अद्धो : Wealthy, rich *(आढ्य)*

अद्धद्धो : Three and half *(अर्ध + चतुर्थ)*

अद्दि : A mountain *(अद्रि)*

अद्दितो : Afflicted, oppressed *(अर्दित = अर्द्)*

अद्दो : Wet, moist *(आर्द्र)*

आदेसको : Telling: informing *(आदेशक)*

आदेसो : Information: direction: orders, injunction *(आदेश)*

आदेति : To take: to seize: to receive: to obtain *(आ + दयते = दय्)*

अधमन्नो : A debtor *(अधमर्ण)*

अधम्मिको : Irreligious: impious: wicked *(अ + धर्म + इक्)*

अधम्मो : Wrong: injustice: unlawfulness: false doctrine: irregular: impiety: unrightousness *(अ + धर्म)*

अधमो : Lowest: very low; nearest; vile, contemptible: incomplete: imperfect *(अधम)*

अधरो : Lower, inferior *(अधर्)*

आधारो : A prop. support, stand = a basin road, the foot of a tree to retain water: a receptable: *(आधार्)*

अधरोट्ठो : The lower lip

अधि : Above, over, superior to *(अधि)*

अधिभासति : To address: to speak to *(अधि + भाष्)*

अधिभवन : Subjection *(अधि + भवन)*

अधिभू : Lord: master; chief; king *(अधिभू)*

अधिभूतो : Overcome: mastered *(अधि + भूत = भू)*

अधिच्चक : Land or plateau on a mountain *(अधित्यका)*

अधिच्चसमुप्पन्नो : Uncaused: spring into existence without a cause

अधिचित्त : Lofty thought or contemplation *(अधि + चित्त)*

अधिगच्छति : To enter upon, to reach: to attain: to acquire *(अधि + गम्)*

अधिगमन : Obtaining: attainment: arriving at: attainment of Arahatta; final sanctification *(अधिगमन्)*

अधिगमो : Attainment: study: reading

अधिगतो : Having attained or arrived at: attained, acquired *(अधिगत = गम्)*

अधिग्गहितो : Taken: occupied by: in possession of *(अधि + गृहीत = ग्रह)*

अधिकरण : Relation: reference *(अधिकरण)*

अधिकरणसमथो : Settling questions *(अधिकरण + शमथ)*

अधिकरणी : A smith's anvil *(अधिकरण + ई)*

अधिकारिको : An official: an office-bearer *(अधिकार + ईक)*

अधिकारो : Office, authority: function, act: desire, resolve; chapter, section *(अधिकार)*

अधिकतरो : Greater, superior *(अधिक + तर)*

अधिकतो : A superintendent, overseer *(अधिकृत = कृ)*

अधिकिच्च : Referring to: relating to *(अधिकृत्य = कृ)*

अधिको : Exceeding, surpassing: more than, better than, superior to *(अधिक)*

अधिकोट्टन : A chepping block: executioner's block *(अधि + कुह्)*

अधिमानो : Undue confidence: underestimate of oneself *(अधि + मान)*

अधिमत्त : Exceedingly: excessively *(अधि + मात्र)*

अधिमत्तो : Excessive *(अधि + मात्र)*

अधिमोक्खो : Steadfastness, determination, certainty, confidence, faith *(अधि + मोक्ष)*

अधिमुच्चति : To be inclined to: intent upon; to be set upon: have confidence or faith in: to be resolved, determined *(अधि + मुच्यते = मुच्)*

अधिमुत्ति : Inclination, disposition: intention, resolution, resolve, will, confidence, faith *(अधि + मुक्ती)*

अधिमुत्तो : Inclined, disposed, intent upon, resolved for, bent upon *(अधि + मुक्त = मुच्)*

अधिनाथो : Lord, chief, governor *(अधि + नाथ)*

अधीनो : Subject, dependent, servile *(अधीन)*

अधिपच्च : Sovereignty, lordship, supreme-rule *(अधिपत्य)*

अधिपन्नो : Caught, seized: assailed *(अधि + पन्न = पद्)*

अधिपत्तेय्य : Influence, rule supremacy *(अधिपति + एयू)*

अधिपति : Lord, chief, sovereign, master *(अधिपति)*

अधिपो : Lord, king, rulers, master *(अधिप)*

अधिप्पायो : Intention, wish, thought, meaning *(अभिप्राय)*

अधिप्पेतो : Meant: intended: desired *(अधि + प्र + इत = इ)*

अधीरो : Confused, embarrassed, timid, irresolute *(अ + धीर्)*

अधिरोहिनी : A ladder *(अधिरोहिणी)*

अधिसक्कारो : Honour, hospitality: festivity *(अधि + सत्कार)*

अधिसेति : To lie down upon, to lie, to rest, to sleep: to inhabit *(अधि + शेति = शी)*

अधीते, अधीयते : To read; to study *(अधि + इ)*

अधीतो : Learned, read: having learned or read *(अधीत = इ)*

अधिट्ठहति, : To stand on: to stay, to remain firm in: to inhabit:

अधिट्ठाति, to appoint, to fix: to determine, to resolve, to will,

अधितिट्ठति : to command: to devote oneself to: to practice to perform: to undertake, to be set upon, to fix the mind upon, dwell upon *(अधि + स्था)*

अधिट्ठान : Resting place; staying, stopping: appointing, fixing, appointment, order: determination, resolution, resolve *(अधिष्ठान)*

अधिट्ठायक : Superintendent, director *(अधिष्ठायक)*

अधित्थि : Relating to a woman, with reference to a woman *(अधि + स्त्री)*

अधिट्ठितो : Appointed, fixed, determined, willed *(अधिष्ठित = स्था)*

अधिवचन : Denomination, designation, name, appellation *(अधि + वचन्)*

अधिवासन : Consent, assent, acceptance *(अधि + caus वस् + अन)*

अधिवसति : To dwell in, to inhabit *(अधि + वस्)*

अधिवासेति : To consent, to assent, to comply with: to bear with, to accept, to approve, to favour: to receive favourably, to accept with resignation, to bear, to endure *(अधि + वस्)*

अधिवासो : Dwelling, residence: consent: acceptance *(अधिवास)*

अधिवासो : Perfuming the person *(अधिवास)*

अधिवत्थो : Dwelling, residing *(अधि + वस्)*

अधो : Under, underneath: below: down: low-down *(अधस्)*

अधोभागो : The lower part *(अधम् + भाग)*

अधोभुवन : The lower region: *patala:* the Naga-world *(अधोभुवन)*

अधोगामी : Going downwards, descending *(अधस् + गामिन्)*

अधोगमो : Going downwards, descending *(अधस् + गम)*

अधोमुखो : Looking downwards with the head bent down *(अधस् + मुख)*

अधोसाखो : Having the branches downwards *(अधस् + शाखा)*

अधोठितो : Standing below; situated below; *(अधस् + स्थित = स्थ)*

अधुना : Now: just now *(अधुना)*

अधुनागतो : Just arrived: newly come: *(अधुना + आगत्)*

आधूतो : Shaken *(आधूत = धू)*

आड्ढो : Belonging to a wealthy family *(आढ्य)*

आदिब्रह्मचरिय : Primary or fundamental morality *(आदि + ब्रह्म + चर्य)*

आदिच्चबन्धु : Kinsman of the Sun: a name of Buddha a member of a family of the solar race *(आदित्य + बन्धु)*

आदिच्चपथो : The sky, the heavens (*आदित्य + पथ*)

आदिच्चो : The Sun *(आदित्य)*

आदिको : Beginning with : first, initial *(अदिक)*

आदिमो : First, initial *(आदिम)*

आदीनवो : Distress, suffering: evil result or consequence: evil guilt, sinfulness: disadvantage *(आदीनव)*

अदिन्नादान : Taking what is not given: appropriation: thieft *(अ + दिन्न + आदान)*

अदिन्नादायी : One who takes what is not given, a thief *(अ + दिन्न + आदायिन्)*

अदिन्नो : Not given

आदिप्पति : To blaze, to burn, to glow *(आ + दीप्)*

आदिसति : To show, to point, to tell *(आ + दिश्)*

अदिति : The mother of the Gods *(अदिति)*

आदितो : From the beginning: first *(आदितस्)*

अदिट्ठो : Not seen: unseen *(अ + दृष्ट = दृश्)*

आदित्तो : Blazing, burning *(आदीप्त = दीप्)*

आदियते : To take: to receive: to obtain: to take to heart, to attend to *(आ + दीयते = दा)*

अदो : Eating, feeding on *(अद)*

आदो : A locative of *(आदि)*

अदोसो : Not an offence, absence of guilt *(अ + दोष)*

अदोसो : Absence of hatred or anger *(अ + द्वेष)*

अदुक्खमसुख : Indifference, insensibility, indifference to pain or pleasure *(अ + दुःख + अ + सुख)*

आगच्छति : To come: to approach: to arrive: to return *(आ + गम्)*

अगाधो : Bottomless, unfathomable *(अ + गाध)*

अगदो : Medicine: drug: medicament *(अ + गद्)*

आगहितो : Seized: held: pulled *(आ + गृहीत = ग्रह)*

अगलु : Alse wood, or Aquilaria Agallochum *(अगुरु)*

अगामको : Without villages, uninhabited *(अ + ग्राम + क)*

आगमन : Coming, arriving: return: approach *(आगमन)*

आगमेति : To cause to come: to communicate to, to impart to wait *(आ + गमयति = गम्)*

आगामी : Coming: future *(आ + गामिन्)*

आगामिको : Coming: approaching *(आगामिक)*

आगम्म : Having come to: having gone to: having arrived: having returned: by means of: on account of: according to: for the sake of: on behalf of: *(आ + गम्य = गम्)*

आगमो : Coming, advent: arrival: income, influx, knowledge; sacred book: the Buddhist scriptures: doctrine, religion *(आगम)*

अगन्धको : Devoid of perfume *(अ + गन्ध + क)*

आगन्तुक : Coming, arriving: adventitious, incidental: foreigner *(आगन्तु + क)*

अगार : A house, a building: an apartment: a hall *(अगार, आगार)*

अगारवो : Want of respect: disrespect: disregard *(अ + गौरव)*

अगारवो : Disrespectful, disregarding *(अ + गौरव)*

अगारिको : One who lives in a house: a householder, layman *(अगार + इक)*

अगारियो : A house-holder: a layman *(अगार + य)*

अगरु : Light, not heavy: unimportant: not disagreeable *(अगुरु)*

अगति : Wrong course, evil course or state, misfortune *(अ + गति)*

अगतो : Not gone to, not attained *(अ + गत = गम्)*

आगतो : Having come: Having arrived: having returned: having attained: contained in: existing in, found in *(आगत = गम)*

अग्गबीजो : Propagated by slips or cuttings *(अग्र + बीज)*

अग्गहेति :	To seize: to take *(आ + ग्राह्यति)*
अग्गजो :	First born, eldest *(अग्रज)*
अग्गलो, :	A wooden bolt or pin for fastening a door *(अर्गल)*
अग्गल, अग्गला	
अग्ग :	House, hall, apartment
अग्गमहेसी :	Queen consort or the chief wife of a king *(अग्र + महिषी)*
अग्गञ्ञो :	Chief, heading, principal *(अग्र + ज्ञ)*
अग्गप्पत्तो :	Having attained perfection: Reached the height *(अग्र + प्राप्त = आप्)*
अग्गसावको :	Chief disciple *(अग्र + श्रावक)*
अग्गता :	Superiority, height, perfection *(अग्र + ता)*
अग्गतो :	Before, in front of, in the presence of *(अग्रतस्)*
अग्गे :	Before, infront of *(अग्रे)*
अग्घको :	Having the value of, worth *(अर्घ + क)*
अग्घनको :	Of the value of, costing, worth *(अर्घ + अन + क)*
अग्घापेति :	To get valued or appraised
अग्घति :	To be worth, to cost *(अघति)*
अग्घिय :	A respectful oblation *(अर्घ्य)*
अग्घो, अग्घ :	Price, cost, value: a mode of worship or reverence consisting in an oblation of rice *(अर्घ)*
अग्गि :	Fire: sacrificial fire: the deity of fire *(अग्नि)*
अग्गिक्खन्धो :	Mass of fire, blazing or flaming fire *(अग्नि + स्कन्ध)*
अग्गिमन्थो :	Name of a plant, the *Premna Spinosa (अग्नि + मन्थ)*
अग्गिनि :	Fire *(अग्नि)*
अग्गो :	First, foremost, chief, pre-eminent *(अग्र)*
अघ :	Evil, Sin: grief, suffering, The sky, the air *(अघ)*
आघातन :	Slaughter house: place of execution: shambles *(आघातन)*
आघातो :	anger, ill will, hatred or malice *(आघात)*
आघातक :	Injuring, hurting *(आ + घातक)*
आगिलायति :	To be tired: to ache *(आ + ग्लै)*
अगो :	A mountain : a tree *(अग)*
अगोचरो :	That which ought not to be gone to or frequented; wrong sphere: improper or sinful place or object *(अ + गोचर)*

आगु : Sin, guilt, offence, crime *(आगस्)*

अगुणो : Bad quality, badness *(अ + गुण)*

अग्यागार : See *अग्गि*

आह : To say: to speak: to call: to tell: to say to *(आह = अह)*

आहच्च : See *आहनति*

आहच्चपीठो, : Name of a particular sort of bed or chair *(आहत्य + पीठ,*
आहच्चपादको *आहत्य + पादक)*

आहच्चो : To be brought forward: to be adduced: removable

अहह : Alas: oh *(अहह)*

अहह : One of the high numerals or followed by seventy ciphers

अह : A day *(अहन्)*

अहं : I, myself *(अहम् = अस्मद्)*

अहमहमिका : Conceit of superiority, arrogance, egoism *(अहम् + अहम् + इक)*

आहमसु : See *आह*

आहनति : To strike: to throw: to beat, to pounce: to reach *(आ + हन्)*

अहंकारो : Selfishness: pride, arrogance *(अहंकार)*

आहरण : Bringing: accomplishing *(आहरण)*

आहरति : To bring: to fetch: to take: to phunder: to tell, to relate *(आ + हृ)*

आहरो : Bringing *(आहर)*

आहारो : Food: nourishment: cause *(आहार)*

अहासि : See *हरति*

अहत : A new cloth or garmant, before it is worsted *(अ + हत = हन)*

आहतो : Struck : Stamped *(आहत = हत)*

आहतो : Brought; carried: obtained *(आहृत = हृ)*

आहवनीयो : Sacrificial worthy of offerings, venerable, adorable *(आहवनीय)*

आहवो : War, battle *(आहाव)*

अहेसुं : See *होति*

अहि : A snake *(अहि)*

अहिगुण्ठिको : A snake charmer *(अहि + गुण्ठ + इक)*

अहिंसा : Not hurting *(अ + हिंसा)*

अहिंसको : Not injuring others, harmless *(अ + हिंसक)*

अहिंसन : Not injuring others *(अ + हिंसन)*

आहिण्डति : To roam, to wander *(आ + हिण्ड)*

अहिरिक : Shamelessness *(अ + हीका)*

अहिरिको : Shameless *(अ + हीका)*

आहितग्गि : One who offers sacred fire *(आ + हित = धा + अग्नि)*

अहितो : Bad, prejudicial *(अ + हित = धा)*

अहितुण्डिको : A snake charmer *(अहितुण्डिक)*

अहो : Oh! ah! alas *(अहो)*

अहोरत्त, अहोरत्ति : A day and night (*अहोरात्र*)

अहोसि, अहु, अहुवा : See *होति*

आहु : See *आह*

आहुनेय्यो : Sacrificial: worthy of offerings, worshipful

अजा : She goat *(अजा)*

अजगरो : A boa-constrictor *(अजगर्)*

अजळो : Not stupid: not an idiot *(अ + जड)*

आजानाति : To perceive: to understand: to learn: to know *(आ + ज्ञा)*

आजानन : Knowing, understanding

आजानेय्यो, आजानीयो : A good race or breed *(अजानेय + आज)*

अजञ्ञ : A potrait of nature; an omnious recurence *(अजन्य)*

आजञ्ञो : Same as Ajaniyo

अजपालक : The plant costs Specious *(अज + पाल + क)*

अजातसत्तु : Name of a Magadha king, a contemporary of, - convert of Buddha *(अ + जात + शत्रु)*

अजति : To go *(अज्)*

अजेळक + का : Goats and sheeps *(अज + एडक)*

अजेय्यो : Invincible, impregnable *(अ + जेय = जि)*

अजी : A she goat

आजि : Battle, shife *(आजि)*

अजिका : A she goat

अजिम्हो : Straight: straightforward: honest *(अ + जिह्म)*

अजिन : The hide of an animal, especially of the black-antelope *(अजिन)*

अजिनपत्ता : A bat *(अजिन + पत्र)*

अजिनप्पवेणि : A counterpanel or rug made of skins sewn together *(अजिन + प्रवेणी)*

अजिनसाटी : A garment of skins, worn by an ascetic *(अजिन + शाटी)*

अजिनयोनि : An antelope *(अजिन + योनि)*

अजिर : A court, a yard: *(अजिर्)*

आजीवको + अजीवको : Belonging to a Hindoo sect of naked asectics; a religious mendicant *(आजीवक + अज)*

आजीवन : Livelihood, subsistance *(आजीवन)*

आजीवी : Living *(आजीविन्)*

आजीव : Livelihood, having subsistance: profession, occupation: life, conduct *(आजीव)*

अज्ज : To-day: now *(अद्य)*

अज्जतग्गे : From this day: henceforth *(अद्य + अग्रे)*

अज्जतनो : Of to-day, of the present-time, contemporary: modern *(अद्यतन)*

अज्जव : Rectitude *(आर्जव)*

अज्झभासि : See *अधिभासति*

अज्झाचरति : To practice: to perform: to enjoin *(अधि + आ + चर्)*

अज्झाचारो : Transgression, excess, offence *(अधि + आचार)*

अज्झाचिण्णो : Enjoined *(अधि + आ + चीर्ण = चर्)*

अज्झगा : See *अधिति*

अज्झगमा : See *अधिगच्छति*

अज्झगतो : Having approached, come into the presence of *(अधि + आ + गत = गम्)*

अज्झापन : Instruction *(अध्यापन)*

अज्झापेति : To teach, to instruct *(अध्यापयति = इ)*

अज्झापन्नो : Fallen into; having incurred or become guilty of *(अधि + आ + पन्न = पद्)*

अज्झारामो : A garden *(अधि + आराम)*

अज्झारोहो : Name of a fabulous sea mountain *(अधि + आरोह)*

अज्झारोपेति : To cause to ascend, to raise: to transfer, to apply *(अधि + आ + रोपयति = रुह)*

अज्झासयो : Intention, meaning, thought, inclination, wish *(अधि + आशय)*

अज्झसेति : To lie or rest upon *(अधि + आ + शी)*

अज्झत्त : Relating to the individual within individual: internally, subjectively *(अधि + आत्मन्)*

अज्झत्त : Individual thought; an object of sense: an object for the mind to dwell upon: sphere or produce for intent thought *(अध्यात्मन्)*

अज्झत्तिको : Relating or belonging to the individual or self, personal, internal, subjective *(अध्यात्म + इक्)*

अज्झावसथो : A house, dwelling *(अधि + आवसथ्)*

अज्झावसति : To inhabit; to dwell in *(अधि + आ + बस्)*

अज्झायो : Reading: a chapter: section *(अध्याय)*

अज्झेसना : Request: invitation: solicitation *(अध्येषण)*

अज्झेसति : To request: to invite *(अधि + इष् हय एष्)*

अज्झोगाहो : Plunged: sunk: immersed *(अधि + अव + गाढ = ग)*

अज्झोहरण : Eating *(अधि + अव + हरण)*

अज्झोहरति : To eat, to swallow: *(अधि + अव + हृ)*

अज्झोहारो : Eating: swallowing *(अधि + अव + हार)*

अज्झोहरो : Eaten or swallowed *(अधि + अव + हृत + हृ)*

अज्झोकासो : The open air: an open: space *(अधि + अवकाश्)*

अज्झोसान : Being bent upon application: elevating to *(अधि + अ + सित = सो)*

अज्झोत्थरति : To overwhelm: to overspread *(अधि + अव + स्तृ)*

अज्जुको : Name of a plant: the white *parnasa*

अज्जुनो : The tree *tesminalia* Arjuna *(अर्जुन)*

अजो : A he-goat *(अज्)*

अका : See *करोति*

आकड्ढन : Drawing, attraction *(आकर्षण)*

आकड्ढति : To draw towards: to drag along *(आ + कृष्ण)*

अकालिको : Without delay : immediate *(अ + कालिक)*

अकल्ल : Disease: illness *(अ + कल्य)*

अकल्लो : Impossible *(अ + कल्य)*

अकालो : Unresonableness, wrong time *(अ + काल)*

अकम्मको : Intransitive *(अकर्मक)*

अकामो : Unwilling *(अ + काम)*

अकनिट्ठो : Greatest: highest *(अ + कनिष्ठ)*
अकनिट्ठको

आकङ्खा : Desire: longing *(आकांक्षा)*

आकङ्खति : To wish: to desire, to long for *(आ + कांक्षा)*

अकणो : Free from kana or *कण (अ + कण्)*

अकप्पियो : Unsuitable, improper, wrong

आकप्पो : Descent or elegant, active: ornament, embellishment, disguise *(आकल्प)*

अकरण : Not doing, omission, abstaining from *(अ + करण)*

अकारणेन : Without cause, unreasonably, unjustify *(अकारणेन)*

अकरणीयो : Not to be done, to be left undone, to be abstained from or avoided *(अ + करणीय)*

अकरी : See *करोति*

अकारियो : That aught not to be done: that may not or cannot be done *(अ + कार्य)*

आकरो : A multitude or a mine *(आकर)*

आकारो : The vowel a *(आ + कार)*

अकारो : The vowel a *(अ + कार)*

आकारो : Form; appearance: mien: countenance: sign: token: way, manners; means: cause, reason, object, purpose = a constituent part of the body *(आकार)*

आकासञ्ञायतन : Realm of infinity of space *(आकाश आनन्त्य + आयतन)*

आकासट्ठो : Standing or staying in the sky: resting in space *(आकाश + स्थ)*

अकासी : See *करोति*

आकासो : The sky, air, heavens: the open air: space *(आकाश्)*

अकथंकथी : Free from doubt

अकतञ्ञु : Ungrateful *(अ + कृतज्ञ)*

अकतञ्ञु : Knowing Nirvana: an epithet of an Arahata *(अकृत + ज्ञ)*

अकतञ्ञुता : Ingratitude *(अकृतज्ञ + ता)*

अकतो + अकटो : Not done, left undone: not made: not artificial, natural: not cultivated, waste *(अकृत)*

अकत्वा : See *करोति*

अखण्डो : Unbroken, intact, entire *(अ + खण्ड)*

अखात : A natural pond or tank *(अखात = खन्)*

अखिलो : All : entire *(अ + खिल)*

आखु : A rat or mouse *(आखु)*

आख्या : Name *(आख्या)*

आख्यातो : Said: told: announced *(आख्यात = ख्या)*

आख्यायिका : A tale, story, legend *(आख्यायिका)*

अकिच्चो : That ought not to be done: wrong *(अ + कृत्य)*

अकिलासु : Diligent

आकिच्चञ्ञ : Poverty, destitution; nothingness: void *(अकिंचन्य)*

आकिच्चञ्ञायतन : The realm of Nothingness *(आकिंचन्य + आयतन)*

अकिच्चनो : Having nothing: poor or destitute *(अकिंचन)*

अकञ्चि : Not a little: much; considerably *(अ + किंचिद्)*

आकिण्णो : Crowded: confused; troubled *(आकीर्ण = कृ)*

आकिरति : To scatter, to sprinkle *(आ + कृ)*

अकिरियो : Unpractical, useless, foolish *(आ + क)*

अक्कमण : Stepping upon, walking upon *(आक्रमण)*

अक्कमति : To step upon; mount upon: trend upon: walk upon *(आ + क्रम्)*

अक्कन्तो : Stepped upon; mounted upon *(आक्रान्त = क्रम्)*

अक्खदस्सो : A judge *(अक्ष + दर्श)*

अक्खदेवी : A dicer: gambler *(अक्ष + देविन्)*

अक्खधुत्तो : A dicer: gambler *(अक्ष + धूर्त)*

अक्खको : The collar-bone *(अक्ष + क)*

अक्ख : An organ of sense: the eye *(अक्ष)*

अक्खणा : Lightening *(अ + क्षण)*

अक्खान : Telling: recitation: telling tales or legends *(आख्यान)*

अक्खणो : Wrong moment: or occasion: unfavourable time *(अ + क्षण)*

अक्खर : The imperishable or Elviral viz. Nirvana

अक्खर + अक्खरो : A letter of the alphabet *(अक्षर)*

अक्खरप्पभेदो : Distinction of letter, Etymological science *(अक्षर + प्रभेद)*

अक्खरसमयो : Letters : reading and writing *(अक्षर + समय)*

अक्खरसो : Letter by letter *(अक्षर + शस्)*

अक्खाता : One who tells: repeats or relates: one who proclaims or preaches, a teacher *(आख्यातृ)*

अक्खत : Fried grains *(अक्षत = क्षण्)*

अक्खाति : To tell : to relate: to announce: to proclaim: to teach to preach *(आ + ख्या)*

अक्खातो : Told: related: announced; reported, proclaimed, preached: called, named denominated *(आख्यात = ख्या)*

अक्खयता : Imperishableness: endlessness *(अ + क्षय + ता)*

अक्खायति : To be proclaimed: to be reported *(आख्यायते = ख्या)*

अक्खायी : Telling: relating: announcing *(आख्यायिन्)*

आख्यायिका : A tale or story *(आख्यायिका)*

अक्खयो : Undecaying: unfairing: endless *(अ + क्षय)*

अक्खि : The eye *(अक्षि)*

अक्खिग : The eyelashes *(अक्षि + ग)*

अक्खिको : A dice-player *(अक्ष + इक)*

अक्खो : A dice : the plant *Terminal Bellerica* : a weight equal to two and half masakas : the axle of a wheel *(अक्ष)*

अक्खोहिणी : A complete army : one of the high numerals followed by forty-two ciphere *(अक्षौहिणी)*

अक्को : The sun : the plant *swallow-wort, or Asclepias Gigantea (अर्क)*

अक्कोच्छि : See *अक्कोसति*

अक्कोधनो : Not angry, not passionate *(अ + क्रोधन)*

अक्कोधो : Freedom from wrath, mildness, conciliation *(अ + क्रोध)*

अक्कोसन : Reviling, abusing: curse, imprecation *(आक्रोशन)*

अक्कोसति : To abuse, to revile *(आ + क्रुश्)*

अक्कोसो : Abuse: reviling *(आक्रोश्)*

आकोटापेति : To smooth a robe by beating *(आ + कुट)*

आकोटेति : To beat, to beat down *(आ + कोटयति = कुट्)*

आकुलो : Crowded, confused: troubled, perplexed, distressed *(आकुल)*

आकुञ्चितो : Bent, curved *(आकुन्चित = कुन्च)*

अकुप्पो : Fixed, immovable, sure, certain *(अ + कोप्य + कुप्)*

अकुसलधातु : Element of sin, certain *(अकुशल + धातु)*

अकुसलकम्म : Evil action, bad works, demerit, sin *(अकुशल + कर्मन)*

अकुसलकम्मपथो : Course or path of sinful action: sinful course *(अकुशल + कर्मन + पथ)*

अकुसलमूल : Root or principle of sin, evil principle *(अकुशल + मूल)*

अकुसलङ्कप्पो : Sinful resolve *(अकुशल + संकल्प)*

अकुसलसञ्ञा : Sinful idea *(अकुशल + संज्ञा)*

अकुसलवितक्को : Sinful thought *(अकुशल + वितर्क)*

अकुसलो : Unskilled, unable: bad, evil, sinful, unhealthful *(अ + कुशल)*

अकुतोभयो : Having nothing to fear from any quarter, quite safe *(अकुतोभय)*

अलाभो : Not getting: loss: detriment, injury *(अ + लाभ)*

अलाबु : A long gourd, a pumpkin *(अलाबु)*

अलद्ध : See *लभति*

अलगद्दो : A snake or serpent *(अलगर्द)*

अलग्गत्ता : Detachment, freedom from attachement to the world, freedom from human passion *(अलग्न + ता)*

आलाहन : A place where the dead are buried or burned: a cemetry *(आ + दाहन)*

अलहुको : Heavy *(अ + लघु + क)*

अलज्जी : Shameless: bold: rebellious *(अ + लज्ज + इन्)*

आलका : The city of Kuvera *(अलका)*

अलकमन्दा : The city of Kuvera *(अलक + मन्द)*

अलक्खी : Bad-luck, misfortune *(अ + लक्ष्मी)*

अलक्को : A mad-dog; name of a tree *(अलर्क)*

अलं : Fit, able, adequate, sufficient: hold enough *(अलम्)*

आलम्बनं : Support; an object of sense *(आलम्बन)*

आलम्बरो : A drum: arrogance *(आडम्बर)*

आलम्बति : To lean upon: to take hold of *(आ + लम्ब्)*

आलम्बो : Object of sense: support *(आलम्ब)*

अलम्बुसा : Name of a certain Apsaras *(अलम्बुषा)*

आलान : A stake or post to which an elephant is tied *(आलान)*

अलङ्करण : Decoration *(अलंकरण)*

अलङ्कारो : Ornament, decoration : trinkets, ornaments : rhetorical figures: rhetoric *(अलंकार)*

अलङ्करोति : To adorn: to embellish: to decorate *(अलम् + कृ)*

अलङ्कतो : Adorned : decorated: embellished *(अलंकृत = कृ)*

आलपन : Speaking to, addressing to: the vocative case *(आ + ला)*

आलपति : To speak to, to address *(आ + लप्)*

आलापो : Speaking to; addressing: speech *(आलाप)*

अलापु - लापु : A gourd or pumpkin *(अलाबु)*

आलारिको : A cook *(आरालिक)*

अलारो : Cooked *(अराल)*

अलसन्दा : Alexandria, a city in the Yona country

आलसिय : Idleness, sloth *(आलस्य)*

अलसता : Idleness, sloth

अलसो : Idle

अलात : A firebrand *(अलात)*

अलत्तको : Lac, a red animal dye *(अलक्तक)*

अलद्धा : See *लभति*

आलवालक : A basin or trench round a tree to retain water *(आलवाल + क)*

आळवी : Name of a city in India *(आटवी)*

आळविको : Dwelling in forests *(आटविक)*

आलयो : Dwelling house, abode: longing, desire, attachment, lust*(आलय)*

आलेखो : A drawing, painting, picture *(आ + लेख)*

आलको, कं : A certain measure of capacity: the stake or port to which an elephant is tied *(आढक)*

अलि : A bee *(अलि)*

आलि : A woman's female friend: a line: a like, an embankment *(अलि)*

आलि : A scorpion *(आलि)*

आलिखति : To draw, delineate *(आ + लिख)*

अलिको : Disagreeable, unpleasent: untrue, false *(अलिक)*

आलिम्पापेति : To cause to be anointed *(आ + लिप्)*

आलिन्दो : A terrace or verandah outside a house *(आलि)*

आलिङ्गन : To embrace *(आलिङ्गन)*

आलिङ्गति : To embrace: to enfold *(आ + लिङ्ग)*

आलिङ्गो : A small drum *(आलिङ्ग)*

अलीनो : Free from attachment or desire *(अ + लीन = ली)*

अल्लापो : Speaking to, talking to *(आलाप)*

अल्लीनो : Attached, adhering *(आ + लीन = ली)*

अल्लियति : To be attached, to adhere, to be bent upon *(आ + लीयते = ली)*

अल्लो : Wet, moist

अलोभो : Absence of covetousness or desire *(अ + लोभ)*

आलोकन : Seeing, looking *(आलोकन)*

आलोकसन्धि : A window *(आलोक + सन्धि)*

आलोकित : Looking at, regarding, seeing *(आलोकित = लोक्)*

आलोको : Sight, look: light *(आलोक)*

आलोळापेति : To cause to be mixed or jumbled up together *(आ + लुड्)*

आलोळेति : To mix, to shake or stir together: to jumble, to confuse *(आ + लोडयति = लुड्)*

आलोपो : A fragment, a bit, a morsel; a mouthful of rice, other food taken up with the hand, a lump or ball of food: plundering or harrying *(आ + लोप)*

आलुलति : To agitate, disturb, confuse *(आ + लुल्)*

अमा : With: present with: near *(अमा)*

आम : Indeed, truly, yes *(आम्)*

अमच्चो : A companion: a king's minister: a privy-councillor *(अमात्य)*

अमधुरो : Sour, bitter *(अ + मधुर)*

अमग्गो : Wrong path *(अ + मार्ग)*

अमज्जपो : Not drinking intoxicants; total abstinence *(अ + मद्य + प)*

आमको : Uncooked: raw *(आम + क)*

आमलको, की, कं : Emblic myrobalan *(आमंलक)*

अमलो : Pure, clear, spotless, white *(अ + मल)*

अमनसिकारो : See *मनसिकारो*

आमण्डो : Castor-oil plant *(आमण्डो)*

अमनापो : Unpleasant, disagreable *(अ + मनाअप)*

आमन्ता : Yes, certainly

आमन्तन : Calling, speaking or addressing *(आमन्त्रण्)*

आमन्तेति : To address; to speak or addressing *(आ + मन्त्र्)*

अमनुस्सो : Not a human being, a demon or evil spirit, a yakkha *(अ + मनुष्य)*

अमरावती : Name of Indra's city *(अमरावती)*

अमरो : A deva or god *(अमर)*

आमसन : Touching or handling *(आ + मृश् + अन)*

अमता : Emblic myrobalan *(अ + मृत = मृ)*

अमत : Drink of Gods: nectar or ambrosia *(अमृत)*

अमतपो : One who drinks nectar *(अमृत + प)*

अमति : To go *(अम्)*

अमति : Foolish, mad *(अ + मति)*

अमतो : Eternal, everlasting *(अमृत)*

अमत्त : A pitche, vessel *(अमत्र)*

अमत्तञ्ञु : Immoderate, intemperate *(अ + मात्रा + ज्ञ)*

अमट्ठो : Touched, handled *(आमृष्ट = मृश्)*

अमावासी, अमावसी : The day of the new moon *(अमावासी)*

आमयो : Sickness, ill-health *(आमय)*

अम्बा : A mother *(अम्बा)*

अम्बर : The sky: cloth *(अम्बर)*

अम्बाटको : The hog-plum *(आम्रातक)*

अम्बति : To go *(अम्ब)*

अम्बट्ठा : The plant *Clypea Hernandifolia (अम्बष्ठा)*

अम्भो : A store, a pebble

अम्भो : Oh! I say!

अम्भोज : A lotus flower *(अम्भोज)*

अम्बिलो : Sour or acid *(अम्ल)*

अम्बो : The mango-tree *(आम्र)*

अम्बु : Water *(अम्बु)*

अम्बुधरो : A cloud *(अम्बु + धर)*

अम्बुदो : A cloud *(अम्बुद)*

अम्बुजाकरो : A pond or tank *(अम्बुज + आकर)*

अम्बुजिनी : A lotus-lake *(अम्बुज + इन्)*

अम्बुज : A lotus *(अम्बुज)*

अम्बुजा : A fish *(अम्बुज)*

अम्बुनिधि : Sea, ocean *(अम्बुनिधि)*

आमेण्डित : Repetition *(आम्रेडित = म्रेड)*

अम्ह : See *अट्ठि*

अम्हादिसो : Like us *(अस्मद् + दृश् + अ)*

अम्ह, अम्हा, अम्हे : See *अहं*

अम्हमयो : Made of stone, stony *(अश्ममय)*

अम्हि : See *अट्ठि*

अमिलातो : The plant, Globe Amaranath or Gomphraena Globosa *(अ + म्लान = म्लै)*

आमिस + सो : Flesh, meat: food: object of enjoyment, bait, temptation, lust, desire *(आमिष)*

अमितो : Boundless, immense *(अ + मित = मा)*

अमित्तो : Enemy *(अ + मित्र)*

अम्म : Mother : daughter : lady

अम्मा : Mother *(अम्बा)*

अम्माण : A cause, a measure of capacity equal to eleven donas

आम्मो : Raw or uncooked *(आम)*

आमोदना : Rejoicing *(आ + मोदन)*

आमोदो : Pleasure, joy: a strong perfume: fragrance *(आमोद)*

अमोहो : Absence of ignorance or error : correct knowledge *(अ + मोह)*

अंसो : A part, portion, share: a period of time *(अंश)*

अंसो : The shoulder *(अंस)*

अंसु : A thread: a bit of thread: a filament: a ray: a sunbeam *(अंशु)*

अंसुक : Cloth: fine cloth : *(अंशुक)*

अंसुमाली : The sun *(अंशु + मालिन्)*

अमु : See *असु*

अमुख्यो : Not principal : secondary *(अ + मुख्य)*

अमुको : This and that *(अमुक)*

अमूलको : Unreal, unfounded, false: unpaid *(अ + मूल + क)*

अमूलविनयो : See *विनय*

अमूलो : Without payment, unpaid *(अ + मूल)*

अमुतो : See *मुतो*

अमुत्र : In that place there: in another world; in another state of existence: hereafter *(अमुत्र)*

अमुत्तो : Not shot or darted *(अ + मुक्त = मुच्)*

आमुत्तो : Dressed, accoutred for battle *(आमुक्त = मुच्)*

आणा : A order: a command: authority *(आज्ञा)*

अनभिज्झा : Absence of covetousness or desire *(अ + अभिध्या)*

अनभिरद्धि : Anger : wrath : rage *(अ + अभि + राध्)*

अनभिरति : Dissatisfaction : afflition: sorrow *(अ + अभिरति)*

अनाचरियको : Without a master or teacher: self taught *(अ + आचार्य + क)*

अनाचारो : Bad conduct: bad manners *(अ + आचार)*

अनच्छरियो : Not wonderful *(अ + आश्चर्य)*

अनच्छो : Not clear, turbid *(अ + अच्छ)*

अनादानो : Free from attachment or desire *(अ + आ + दान)*

अनादरिय : Disregard: disrespect: unkindness *(अ + आदर + य)*

अनादरो : Disregard: disrespect: contempt: carelessness: indifference *(अन + आदर)*

अनधिको : Without additions or superfluities : not redundant *(अ + अधिक)*

अनधिवरो : Without a superior: an epithet of a Buddha *(आन + अधि + वर)*

अनादियन्तो : Without minding: without attending

अनागमन : Not returning *(अ + आगमन्)*

अनागामी : One who does not return *(अ + आगमिन)*

अनागामिमग्गो : The path of one that does not return *(अनागामिन् + मार्ग)*

अनागामिफल : Fruition of the state of अनागामी *(अनागामिन् + फल)*

अनगारिको : One who does not live in a house: an ascetic; a Buddhist priest *(अ + अगार + इक)*

अनगारिया : The houseless life of an ascetic: asceticism, the life of a Buddhist priest

अनागारियो : Not living in a house: houseless: homeless recluse *(अ + अगार + य)*

अनागारो : Houseless: homeless *(अ + आगार)*

अनागतो : Not come : not arrived : future *(अनागत)*

अनग्धको : Priceless, invaluable *(अ + अर्घ + क)*

अनघो : Priceless: invaluable, inestimable: precious, costly *(अ + अर्घ)*

अनघो : Sinless, blameless, pure *(अ + अघ)*

अनाहारो : Without food, fasting *(अ + आहार)*

अनक्खातो : Not described: ineffable *(अ + आख्यात = ख्या)*

अनक्खिको : Without eyes: sightless *(अ + अक्षि + क)*

अनाकुलो : Untroubled, quiet, peacful *(अ + आकुल)*

अनलसो : Industrious, diligent *(अ + अलस)*

अनालयो : Free from desire or attachment *(अ + आलय)*

अनल : Fire *(अनल)*

अन : A cart *(अनस्)*

आन : Inhaled air, inhalation, inspired breath *(आन)*

अनमतग्गो : Revolving in a revolution of being

अनामयो : Free from illness, healthy *(अ + आमय)*

अनामिका : The ring finger *(अनामिका)*

आनन : The mouth *(आनन्)*

आनण्य : Immensity: infinity: boundlessness

आनन्दन : Friendly greetings, welcome *(आनन्दन)*

आनन्दो : Joy: delight: happiness: name of a famous disciple of Buddha: name of a fabulous sea, master *(आनन्द)*

अनङ्गणो : Free from lust or impurity, pure *(अ + अङ्गण)*

अनञ्ञो : Without another, alone *(अ + अन्य)*

अनणो : Free from debt *(अ + ऋण)*

अनन्तर : Immediately after, next *(अनन्तरम्)*

अनन्तरिको : Uninterrupted *(अनन्तर + इक)*

अनन्तरो : Immediately following, next: adjoining *(अनन्तर)*

अनन्तो : Endless, eternal: boundless, infinite *(अ + अन्त)*

अननुच्छविको : Unsuitably: unworthy: improper *(अ + अनृ + क्कवि + क)*

अननुस्सुतो : Unheard *(अ + अनु + श्रुत = श्रु)*

आनण्य : Freedom from debt *(आनृण्य)*

आणापन : Ordering, commanding

आनापान : Inhaled, extended breath, inspiration, respiration *(आन + अपान)*

अनापत्ति : Free from guilt: innocent *(अ + आपत्ति)*

अनापत्तिको : Free from guilt: *(अ + आपत्ति + क)*

अनपायी : Not departing, lasting *(अंतपायिज्)*

अनपेक्खी : Free from desire *(अ + अपेक्षित)*

अनापेति : To cause to be brought, to send for *(नी)*

आणापेति : To order, to command *(आ + ज्ञापयति = ज्ञा)*

अनप्पको : Much, great, considerable *(अ + अल्प + क)*

अनप्पो : Much, great, numerous, many *(अ + अल्प)*

अनापुच्छा : Without asking leave: or permission *(अ + आ + पृष्टा + अ + अ + आपृच्छन्)*

अनारतो : Continual *(अ + आरत = रम्)*

अनरियवोहारो : Unworthy practice *(अ + आर्य + व्यवहार)*

अनरियो : Not noble: not venerable: mean: dishonourable: low *(अ + आर्य)*

अनरो : Other than human: not a man *(अ + नर्)*

अनासका : Fasting *(अनाशक)*

अनसन : Fasting *(अ + अशन)*

अनासवो : Free from human passion

अनस्सवो : Disobedient *(अ + आश्रव)*

अनाथपिण्डिको : Foods of the poor: one of Buddha's eminent lay disciple by name Sudatta

अनाथो : Helpless: forlorn: destitute *(अ + नाथ)*

अनति : To breath: to live: *(अन्)*

अनत्ता : Not a self: not a soul *(अ + आत्मन्)*

अनताधीतो : Not master of one ownself *(अ + आत्मन् + अधीन)*

अनत्तमनो : Displeased, discontented

अनत्थको : Unmeaning, senseless, foolish *(अनर्थक)*

अनत्थो : Disadvantage, evil misfortune, injury *(अनर्थ)*

आणत्ति : Command, injunction, ordinance *(आज्ञाप्ति)*

अनत्तो : Without individuality, unreal *(अ + आत्मन्)*

आणत्तो : Commanded, enjoined *(आ + ज्ञप्त = ज्ञा)*

अनातुरो : Healthy *(अ + आतुर)*

अनवज्जता : Blamelessness *(अनवद्यता)*

अनवज्जो : Blameless, harmless, not sinful *(अ + अवद्य)*

अनवतरत : Incessantly *(अनवतरम् = रम्)*

अनवसेसो : Without any remaining, all: everyone: the whole *(अ + अवशेष)*

अनवस्सवो : Not flowing-in; non-influx *(अ + अव + स्त्रव)*

अनवस्सुतो : See *अवसुतो*

अनावटद्वारता : Not closing the door against another: accessibility open-handedness *(अ + आवृत + द्वार = ता)*

अनवतत्तो : See *अनोततो*

अनवत्थिती : Unsteadiness *(अ + अवस्थित)*

अनवयो : Perfectly acquinted with: versed-in *(अ + अवया)*

अनाविलो : Clear: pure: untroubled: serene *(अ + आविल)*

आनयन : Bringing near: escorting *(आनयत)*

अनयो : Sin: wrong: distress: misfortune *(अनय)*

आनायो : A fish-net; net *(आनाय)*

अच्चति : To honour *(अंच्)*

अण्डजो : *Diviparons (अण्डज)*

अण्डकं : A bird's egg *(अण्डक)*

अण्डं : A egg: a particle *(अण्ड)*

अन्धबालो : Silly: stupid: doting *(अन्ध + बाल)*

अन्धभूतो : Blind: in darkness: unenlightened *(अन्ध + भूत = भू)*

अन्धकारो : Darkness *(अन्धकार)*

अन्धकियो : Belonging to Andhra province

अन्धको : Andhraite *(आन्ध्र + क)*

अन्धत्तम : Thick darkness *(अन्ध + तमस्)*

अन्धो : Blind *(अन्ध)*

अन्दु : A chain *(अन्दु)*

अन्दुको : An elephant foot chain *(अन्दुक)*

अण्डुपक : A roll of cloth to serve as a stand for a vessel

आनेञ्ञ : Immovability: impossibility

अनेजो : Free from desire

अनेकधा : In many ways *(अनेकदा)*

अनेकसो : In many ways *(अनेक + शस्)*

अनेकविधो : Of many sorts: various *(अनेक + विधा)*

अनेको : Several: many: manifold: various *(अनेक)*

अनेळमूगो : Not deaf & dumb *(अ + एडमूक)*

अनेसना : Impropriety *(अ + एषणा)*

अनेसनो : That should not be sought or desired: improper *(अ + एषण)*

आनेति : To bring, to bring home: to fetch, to procure: to carry: to convey *(आ + नी)*

अङ्ग : Indeed! Oh! *(अङ्ग)*

अङ्गद : A bracelet *(अङ्गद)*

अङ्गहारो : Gesticulation *(अङ्गहार)*

अङ्गजात : A membrum virile *(अङ्ग + जात = जन्)*

अङ्ग : A limb: a member: the body: a portion, division: a means, a cause: a requisite: a quality, attribute *(अङ्ग)*

अङ्गना : A woman *(अङ्गना)*

अङ्गण : A county-yard, lust, impurity, sin *(अङ्गण)*

अङ्गानुसरी : Pervading the limbs *(अङ्ग + अनुसरित्)*

अङ्गारो : Charcoal; live coal; embers *(अङ्गार)*

अङ्गति : To go *(अङ्ग)*

अङ्गविज्जा : Prognostication of a person's future, from the appearance of his body *(अङ्ग + विद्या)*

अङ्गविक्खेपो : Gesticulation *(अङ्ग + विक्षेप)*

अङ्गी : Having limbs: having parts or divisions *(अङ्गिन्)*

अङ्गीरसो : A name of Buddha: name of a Rishi *(अङ्गिरस)*

अङ्ग : Name of a country: Bengal *(अङ्ग)*

अङ्गुल : A finger's breadth: an inch *(अङ्गुल)*

अङ्गुलि : A finger *(अङ्गुली)*

अङ्गुलिको : An inch in length: Belonging to a finger *(अङ्गुलिक)*

अङ्गुलिमुद्दा : A signet ring *(अङ्गुली + मुद्रा)*

अङ्गुलीयकं : A finger-ring *(अङ्गुलीयक)*

अङ्गुल्यभरणं : A finger ring *(अङ्गुली + आभरण)*

अङ्गुत्तरनिकायो : Fourth division of the suttapitaka *(अङ्ग + उत्तर + निकाय)*

अङ्गुट्ठो : The thumb *(अङ्गुष्ठ)*

अन्हो, अण्हो : Day *(अह)*

आणि : Pin-head; pin of a wheel-axle *(आणि)*

अनिव्विघो : Not a thoroughfare; not traversed *(अ + निर्विघ्न = व्यध्)*

अनिच्चता : Impermanence: instability: mortality: death *(अ + नित्य + ता)*

अनिच्छितो : Not desired: disliked: unpleasing

अनिच्चो : Not lasting; transitory: perishable *(अ + नित्य)*

अनिदस्सन : The unseen *(अ + निदर्शन)*

अनीघो : Free from suffering : uninjured

अनीकट्ठो : One of king's body guard: a life-guardsman *(अनीक + स्थ)*

अनीको, कं : An army: a last : *(अनीक)*

अनिलो : Wind *(अनिल)*

अनिमिसो : Not waking the eyes, waking, watchful in *(अ + निमिष्)*

अनिफ्फलो : Not fruitless: not without reward *(अ + निस् + फल)*

अनिसम्मकारी : Acting inconsiderately or recklessly *(अ + निशम्य + कारिन्)*

आनिसंसो : Advantage: profit: good result: blessing: reward: merit *(आ + नि + शंस्)*

अनिस्सामनको : Not envious *(अ + ईर्षा + तनस् + क)*

अनिस्सयो : Without supplies: barran, desolate, help, support, protection

अनीतिको : Free from distress or calamity *(अ + ईति + क)*

आनीतो : Brought, conveyed *(आनीत = नी)*

अनियमो : Uncertainty *(अ + नियम)*

अनियतो : Uncertain, doubtful *(अ + नियत = यम्)*

अञ्जलि : The hollow of the joined hands, a respectful salutation performed by raising the joined hands to the forehead

(अंजलि)

अञ्जन : A collyrium applied to the eye-lashes to darken them *(अंजन्)*

अञ्जस : A road, straight *(अंजसा)*

अञ्जति : To anoint, to smear *(अंज्)*

अङ्कितो : Marked: adorned, furnished, supplied with *(अंक्)*

अङ्को : A mark: the flank or side *(अंक)*

अङ्कोलो : The plant *Alanginm Hexapetalum (अंकोल)*

अङ्कुरो : A shoot or sprout *(अंकुर)*

अङ्कुसो : A hook to guide an elephant with *(अंकुश)*

अंक्यो : A sort of tambourine *(अंका)*

अञ्जा : A mother

अञ्जा : Knowledge: perfect knowledge *(आज्ञा)*

अञ्जदा : At another time *(अन्यदा)*

अञ्जदत्थु : Surely: certainly, truely *(अन्यद् + अस्तु)*

अञ्जादिसो : Different *(अन्यादृश्)*

अन्नं : Food: boiled rice *(अन्न)*

अञ्जमञ्ज : Mutually; towards each other

अञ्जमञ्जो : Each other; one another *(अन्य + अन्य = अन्योन्य)*

अञ्जाण : Ignorance *(अ + ज्ञान)*

अञ्जसत्थुद्देसो : Adopting another teacher *(अन्य + शास्तृ + उद्देश)*

अञ्जासि : See *आजानाति*

अञ्जातब्बो : That ought to be known or learnt *(आ + ज्ञातव्य = ज्ञा)*

अञ्जातको : Unknown; unrecognizable *(अ + ज्ञात = ज्ञा + क)*

अञ्जातको : Not related, not a decision *(अ + जन्)*

अञ्जतमो : One of several, a certain *(अन्यतम)*

अञ्जतरो : One, a certain some: some other: another *(अन्यतर)*

अञ्जातवेसवा : In disguise *(अज्ञात + वेश + वन्त्)*

अञ्जथा : In different way: otherwise *(अन्यथा)*

अञ्जथत्ता : Differently

अञ्जाति : Not a relative *(अज्ञाति)*

अञ्जातो : Unknown; unrecognized; in disguise *(अ + ज्ञात = ज्ञा)*

अञ्जातो : Not related; not a kinsman *(अ + जन्)*

अञ्जत्र : Without; except; besides *(अन्यत्र)*

अञ्जत्थ : Elsewhere *(अन्यत्र)*

अञ्जवादको : Talking indecent *(अन्य + वाद + क)*

अण्णवो : Sea or Ocean *(अर्णव)*

अञ्ञायमानो : Unrecognised *(अ + ज्ञायमानं = ज्ञा)*

अण्णो : Water *(अर्ण)*

अञ्ञो : Other than: different from : other *(अन्य)*

अञ्ञञ्ञो : Mutual *(अन्योन्य)*

अनोक : Being houseless: freedom from attachment to the world *(अ + ओक)*

अनोमो : High : Illustrious : lofty *(अ + अवम)*

अनोतत्तो, : Name of one of the seven great lakes *(अ + अनतप्त = तप्)*
अनवतत्तो

अनोत्तप्प : Absence of fear of sinning or recklessness

अनोत्तप्पी : Reckless or fearless

अन्तग्गतो : Gone into: being in: contained in *(अन्तर्गत = गम्)*

अन्तगुण : The mesentery *(अन्त्र + गुण)*

अन्तकिरिया : Bringing to an end: putting an end to *(अन्त + क्रिया)*

अन्तको : Death or Mara *(अन्तक)*

अन्तलिक्ख : The sky, the air *(अन्तरीक्ष)*

अन्त : An intestive: the bowels *(अन्त्र)*

अन्तमसो : Even *(अन्तम + शस्)*

अन्तर : Within, between: among: in *(अन्तर)*

अन्तरा : Between: on the way *(अन्तरा)*

अन्तरभोगिको : Village headman or higher chieftain

अन्तरधान : Disappearance, covering *(अन्तर्धान)*

अन्तरधायति : To cause to disappear: to render invisible *(अन्तर + धा)*

अन्तरहितो : Vanished, disappearing, hidden *(अन्तर्हित = धा)*

अन्तर : Interior, included space, midst: internal: opportunity: instant, difference, other: an inner garment; the heart or mind *(अन्तर)*

अन्तरन्तराः From time to time: at intervals *(अन्तर + अन्तर)*

अन्तरन्तरे : From time to time: at intervals *(अन्तर + अन्तर)*

अन्तरन्तरेन : In the intervals of : among : between *(अन्तर + अन्तर)*

अन्तरापरिनिब्बायी : One of five sorts of Anagami

अन्तरारति : To run into danger *(अन्तराय)*

अन्तरवासको : An undergarment *(अन्तर + वासस + क)*

अन्तरवस्स, + : See *अन्तो*
अन्तरवीथी

अन्तरायिको : Causing an obstacle; impediment: obstacle injurious *(अन्तराय + इक)*

अन्तराय : Obstacle, prevention, hindrance: danger: accidental end *(अन्तराय)*

अन्तरे : Between: among: during: while: within, in *(अन्तर loc)*

अन्तरेन : Between; except *(अन्तरेण)*

अन्तरीप : An island *(अन्तरीप)*

अन्तरितो : Hidden *(अन्तरित = इ)*

अन्तरीय : An undergarment *(अन्तरीय)*

अन्तवण्णो : A sudra *(अन्त + वर्ण)*

अन्तेपुर : Royal precincts, royal citadel or palace: part of the palace set apart for the ladies *(अन्तःपुर)*

अन्तेपुरिको : Belonging to the royal harem *(अन्तःपुर + इक्)*

अन्तेवासी : A pupil *(अन्तेवासिन्)*

अन्तेवासिको : A pupil *(अन्तेवासिन् + क)*

अन्तिक : Vicinity *(अन्तिक)*

अन्तिमको : Final : last

अन्तिमो : Final: last *(अन्तिम)*

अन्तियो : Final, last *(अन्त्य)*

अन्तो, अन्त : End: limit: Boundary: proximity, side: destination, death: lowest, inferior: interior *(अन्त)*

अन्तो, : Within, in, inside *(अन्तर)*

अन्तर (adj. & prep) Difference, distance, inside

अन्तोगधो (adj.) **:** Contained in; being among

अन्तोकप्पो : See *कप्पो*

अणु : Small: subtle *(अणु)*

अनुबन्धति : To follow: to pursue: to wait upon: minister to *(अनु + बन्ध)*

अनुबन्धो : Uninterupted succession: consequence *(अनुबन्ध)*

अनुभवन : Partaking of: enjoyment

अनुभवति, : To feed: to partake of: to enjoy: to obtain, receive *(अनु + भू)*
अनुभोति

आनुभावना : Possessing power: gifted with supernatural power *(अनुभाव + वन्त्)*

आनुभावो : Dignity, authority: power, might, supernatural power efficacy *(अनुभाव)*

अनुब्रुहेति : To cause to grow or increase: to make much of; devote oneself to

(अनु + बृह caus)

अनुबोधो : Knowledge, understanding *(अनु + बोध)*

अनुबुद्धो : Under-Buddha, lesser Buddha, apostle *(अनु + बुद्ध)*

अनुचरति : To wander about in, to haunt *(अनु + चर्)*

अनुचरो : An attendant, companion *(अनुचर)*

अनुच्छविको : Suitable, fit, proper, appropriate, worthy, comfortable, proportionate *(अनु + च्छवि + क)*

अनुद्दया : Compassion, mercy *(अनु + दया)*

अनुद्धंसेति (caus) **:** To vex: to harass *(अनुध्वसंयति = ध्वंस)*

अनुद्धतो (adj) **:** Not puffed up, calm, subdued *(अ + उङ्धत = हन्)*

अनुधम्मो : Conformity or accordance with Law Lawfulness, relation, essence consistancy, truth *(अनु + धर्म)*

अनुधावति : To run upto : to persue *(अनु + धाव्)*

अनुदिसा : An intermediate point of the compass *(अनु + दिश्)*

अनुदूतो : A travelling companion *(अनु + दूत)*

अनुगच्छति : To follow: to accompany *(अनु + गत्)*

अनुगतिको (adj) **:** Following, accompanying *(अनुगामिन् + क)*

अनुगण्हाति : To favour, to protect *(अनु + ग्रह)*

अनुगति : Following *(अनुगति)*

अनुगतो : Conformable to, following: relating to, concerning *(अनुगत = गम्)*

अनुग्गहितो : Favoured *(अनुगृहीत = ग्रह)*

अनुग्गहो : Favour, patronage: help, assistance *(अनु–ग्रह)*

अनुग्गतो : Not gone up, not gone out *(अ + उद्गत = गम्)*

अनुगिद्धो : Greedy *(अनुगृङ्ध = गृध्)*

अनुजिणाति : To permit *(अनु + गृ)*

अनुगीति : Parallel passage *(अनु + गीति)*

अनुगो : Following, conforming to *(अनुग)*

अनुजानापेति : To ask permission: to obtain consent of

अनुजानाति : To grant: to permit: to consent to *(अनु + ज्ञा)*

अनुजीवी : A servant *(अनुजीविन्)*

अनुजो : Younger *(अनुज)*

अनुजु : Crooked: wicked: depraved *(अ + ऋजु)*

अनुकड्ढन : Referring back *(अनु + कर्षण)*

अनुकम्पा : Compassion, kindness *(अनुकम्पा)*

अनुकम्पको : Compassionate: kind *(अनुकम्पक)*

अनुकम्पन : Compassion *(अनुकम्पन)*

अनुकम्पति : To pity *(अनु + कम्प्)*

अनुकम्पी : Compassionate *(अनुकम्पिन)*

अनुकन्तति : To cut *(अनु + कृत)*

अनुकारो : Imitating *(अनुकर)*

अनुकारो : Imitation: resemblance *(अनुकार)*

अनुकिरिय : Imitation *(अनु + कृ)*

अनुक्कमो : Regular order: succession *(अनुक्रम)*

अणुको : Small, minute *(अणु + क)*

अनुकूलो : Suitable, agreeable *(अनुकूल)*

अनुकूल्य : Suitability, agreeableness *(अनुकूल्य)*

अनुलापो : Tantalogy, repetition *(अनुलाप)*

अनुलित्तो : Quinted *(अनुलिप्त = लिप्)*

अनुलोम : Indirect order: with the grain: straight-forward *(अनु + लोमन्)*

अनुलोमतो : In accordance with *(अनु + लोम + तस्)*
(adv.) adj

अनुलोमेति : To be in accordance with *(अनुलोमय)*

अनुमान : Inference *(अनुमान)*

अनुमसति : To touch *(अनु + मृश्)*

अनुमति : Consent: assent: sanction *(अनुमति)*

अनुमतो : Agreeable to: approved of: beloved *(अनुमत = मन्)*

अणुमत्तो : Small : least *(अनु + मात्र)*

अनुमोदना, नं : Rejoicing, approval, satisfaction

अनुमोदति : To approve, to receive with satisfaction: to rejoice at: to express gratitute: to thank *(अनु + मुद्)*

अणुथूलो : Small and great *(अणु + स्थूल)*

अणुनको : Complete: not deficient *(अ + ऊन + क)*

अनुनासिको : Nasal *(अनुनासिक)*

अनुनायको : Sub-chief, Vice-president *(अनु + नायक)*

अनुनयो : Endeavour to be friendly, courtesy, compliance, fawning *(अनुनय)*

अनुञ्ञा : Permission, sanction *(अनुज्ञा)*

अनुञ्ञातो : Permitted, sanctioned: ordained *(अनु + ज्ञात = ज्ञा)*

अनूनो : Entire, complete, without defficiency *(अ + ऊन)*

अनुपब्बज्जति : Renounce the world, in imitation of another *(अनु + प्र + व्रज्)*

अनुपच्छिन्नो : Regular, unbroken: uninterrupted *(अ + उप + छिन्न = छिद्)*

अनुपद : Immediately after, after, behind *(अनुपदम्)*

अनुपादानो : See *अपदान*

अनुपादाय : See *अपदाय*

अनुपद्दवो : Uninjured: safe: intact *(अ + उपद्रव)*

अनुपदिको : Following in the footsteps of: immediately following *(आनुपदिक)*

अनुपादिसेसो : See *उपादिसेसो*

अनुपादियानो : See *उपादियति*

अनुपधातो : Not injuring: not hurting *(अ + उपघात)*

अनुपक्खज्ज : This word represents the sanskrit *अनुप्रस्कन्ध* and seems to mean having entied upon, pushing, oneself in intruding

अनुपलेति (caus) **:** To observe, to maintain *(अनुपालयति = पा)*

अनुपालित्तो : Untainted, unpolluted (अ + उपलिप्त + लिप् = लिपर)

अनुपमो : Incomparable *(अ + उपमा)*

अनुपापुणाति : To reach, to attain *(अनु + प्र + आप)*

अनुपरिगच्छति : To walk round and round *(अनु + परि + गम्)*

अनुपरिवत्तो : Directed, turned *(अनु + परि + वृत्त = वृत्)*

अनुपरियाति : To walk round and round, to watch over *(अनु + परि + वा)*

अनुपरोधो : Non-disturbance, not injuring *(अ + उपरोध)*

अनुपसम्पन्नो : Not ordained *(अ + उपसम्पन्न = पद्)*

अनुपस्सना : Looking at, contemplation

अनुपस्सति : To look at, to contemplate, to observe *(अनु + दृश्)*

अनुपस्सी : Looking at, contemplating, observing *(अनु + पश्य् + इन्)*

अनुपतति : To follow: to meet with: to fly up to *(अनु + पत्)*

अनुपवादको : Not speaking ill of

अनुपवादो : Not speaking evil, not reviling *(अ + उप + वाद्)*

अनुपविसति : To enter upon, to occupy, to keep *(अनु + प्र + विश्)*

अनुपायो : Wrong ideas *(अ + उपाय)*

अनुपीलितो : Trodden upon: oppressed *(अनु + पीडित = पीड)*

अनुपो : Watery *अनुप*

अनुप्पदज्जति : To give in return *(अनु + प्र + दा)*

अनुप्पदानं : Giving *(अनु + प्र + दान)*

अनुप्पादनीयो : That ought not to be produced *(अ + उद् + पद्)*

अनुप्पदाता : One who invites *(अनु + प्र + दातृ)*

अनुप्पदिन्नो : Given, restored *(अनु + प्र + दत्त = दा)*

अनुप्पादो : Not arising, non-appearance *(अ + उत्पाद)*

अनुप्पञ्ञत्ति : Secondary or additional enactment *(अनु + प्रज्ञप्ति)*

अनुप्पन्नो : Not arisen, not born, not appeared *(अ + उत्पन्न = पद्)*

अनुप्पत्तो : Having arrived: having attained *(अनुप्राप्त = आप्)*

अनुप्पियभाणी : Saying pleasant things: flattery *(अनु + प्रिय + भण् + इन्)*

अनुपुब्ब : Regular succession, series *(आनुपूर्व्य)*

अनुपुब्बेन : In regular order, successively, gradually, one by one in due course *(आनुपूर्वेण)*

अनुपुब्बी : Regular succession, order, series *(आनुपूर्वी)*

अनुपुब्बिकथा : Successive regular narration *(आनुपूर्वी + कथा)*

अनुपुब्बो : Regular, successive *(अनुपूर्व)*

अनुराधा : Name of one of the Nakkhattas *(अनुराधा)*

अनुराजा : Following king, successor *(अनु + राजन्)*

अनुरक्खणा-णं : Guarding, presentation *(अनु + रक्षण)*

अनुरक्खी : Guarding, watching over *(अनु + रक्ष + इन्)*

अनुरोधो : Compliance, satisfaction *(अनुरोध)*

अनुरुद्धो : Name of a cousin-eminent apostle of Buddha *(अनुरुद्ध = रुध)*

अनुरुज्झति : To approve, to be pleased *(अनु + रुध्यते + रुध्)*

अनुरूपको : Suitable *(अनुरूप + क)*

अनुच्छरं : Yearly *(अनु + संवत्सर)*

अनुसन्धि : Connection, application *(अनु + संधि)*

अनुसंगीतो : Released again or subsequently *(अनु + संगीत = गै)*

अनुसारी : Following *(अनुसारिन्)*

अनुसरितो : Going, running *(अनु + सृ)*

अनुसारो : Following, conformity *(अनुस्वर)*

अनुसासको : A teacher, preceptor, mentor *(अनु + शास् + अक)*

अनुसासन : Instruction, administration: government *(अनुशासन)*

अनुसासति : To teach, to instruct, to admonish: to command: to govern *(अनु + शास्)*

अनुसयो : Repentance; inclination: thought, desire *(अनुशय)*

अनुसिक्खि : Studying, learning *(अनुशिक्षित्)*

अनुसिक्खितब्बो : That ought to be studied *(अनु + शिक्षितव्य = शक्)*

अनुसिट्ठि : Admonition, command *(अनु + शिष्टि)*

अनुसिट्ठो : Instructed, admonished, ordered *(अनुशिष्ट = शास्)*

अनुसोचति : To bewail *(अनु + शुच्)*

अनुस्सरति : To remember, to call to mind *(अनु + स्मृ)*

अनुस्सति : Resolution *(अनु + स्मृति)*

अनुस्सावेति : (caus.) To cease to be heard: to proclaim, to announce *(अनु + श्रावयति = श्रु)*

अनुस्सविको : Traditional *(आनुश्रविक)*

अनुस्सवो : Report *(अनु + श्रव)*

अनुस्सुको : Free from desire *(अ + उत्सुक)*

अनुस्सुतो : Heard *(अनुश्रुत = श्रु)*

अनुसूयति : To be heard: to be reported *(अनु + श्रुयते = श्रु)*

अनुतक्केति : To consider; to bear in mind *(अनु + तर्क)*

अनुतापो : Repentance *(अनुताप)*

अनुतप्पति : To suffer: to feel remorse, to repent *(अनु + तप्यते = तप्)*

अनुथेर : Succession of elders: apostolic accession *(अनु + स्थविर)*

अनुथेरो : An inferior thera *(अनु + स्थविर)*

अनुत्तरिय : Pre-eminence: supremacy *(अनुत्तर + प)*

अनुत्तरो : Pre-eminent; incomparable, supreme *(अ + उत्तर)*

अनुट्ठाहानो : Not exerting oneself, sluggish

अनुट्ठा : Lack of energy: inactivity, *(अ + उत्थान)*

अनुट्ठुभ : The Anushtubh a metre *(अनुष्टुभ)*

अनुत्थुनाति : To bewail *(अनु + स्तन्)*

अनुत्तो : Not uttered, unexpressed *(अ + उक्त = वच्)*

अनुवदति : To blame, to censure *(अनु + वद्)*

अनुवादो : To blame, to censure, admonition *(अनुवाद)*

अनुवसति : To inhabit *(अनु + वस्)*

अनुवस्सको : Yearly, annual *(अनु + वर्ष + क)*

अनुवस्स : Yearly, annually *(अनु + वर्ष)*

अनुवात : In the direction of the wind: with the wind *(अनु + वात)*

अनुवत्तको : Follower, attendant, disciple *(अनु + वर्तक)*

अनुवत्तन : Compliance *(अनुवर्तन)*

अनुवत्तति : To follow; to confirm to: to attend upon: to associate with *(अनु + वृत्त)*

अनुवत्ति : Acting in conformity with *(अनु + वृत्ति)*

अनुवत्ती : Conforming to, obedient to, following *(अनुवर्तिन्)*

अनुविचरति : To walk through *(अनु + वि + चर्)*

अनुविचिन्तेति : To mediate upon *(अनु + वि + चिन्त्)*

अनुविज्जोतति : To build on in succession *(अनु + वि + धुत्)*

अनुविलोकेति : To take a view of *(अनु + वि + लोक्)*

अनुवितक्केति : To reflect upon *(अनु + वि + तर्क्)*

अनुव्यञ्जन : Minor characteristic *(अनु + व्यंजन्)*

अनुयोगी : Devoted to; applying oneself to *(अनुयोगिन्)*

अनुयोगो : A question: being addicted to or devoted to applying oneself to: practicing, zeal, exerting oneself *(अनुयोग)*

अनुयुञ्जति : To practice; to be addicted to: to devote oneself to, to be zealous : to exert oneself *(अनु + युज्)*

अनुयुतो : Addicted to: devoted to *(अनु + युक्त = युज्)*

अनवाचयो : Adding an object of secondary importance *(अन्वाचय)*

अन्वद्धमास, अन्वड्ढमास : Every fortnight or twice a month *(अनु + अर्ध + मास)*

अन्वाहतो : Struck agitated *(अनु + आ + हत = हन्)*

अन्वस्सवति : To flow from, to result from *(अनु + आ + स्त्रु)*

अन्ववसितो : Situated on or near *(अनु + अव + श्रित = श्रि)*

अन्वयो : Connection = race, lineage, family = succession *(अन्वय्)*

अन्वेसना : Search *(अन्वेषणा)*

अन्वेसति : To seek, to search *(अनु + एष)*

अन्वेति : To follow *(अनु + इ)*

अन्वितो : Posessed of *(अन्वित = इ)*

आण्य : Being in debt *(ऋण + य)*

अप : Away, from *(अप)*

आपब्बतो : Reaching to the mountain *(आ + पर्वत)*

अपासो : Brought away *(अप + आ + भृत = भृ)*

अपचायति : To honour *(अप् + चाय्)*

अपचायी : Honouring *(अपचायिन्)*

अपचायितो : Honoured *(अपचायित = चि)*

अपचयो : Loss, decay: honour, worship *(अपचय)*

अपच्चक्खो : Unseen, indefinite *(अ + प्रत्यक्ष)*

अपच्च : Offspring *(अपत्य)*

अपाची : The south *(अपाची)*

अपचिति : Offering, worship: loss, decay *(अपचिति)*

अपचितो : Honoured *(अपचिन = चि)*

आपदा : Misfortune, necessity *(आपद्)*

अपददाति : To take away *(अप + दा)*

अपादको : Having no feet *(अ + पाद + क)*

अपदान : Breaking off, removing: a dead, a heroic action: a tale, a legend *(अप + दान)*

अपादान : Taking away, removing *(अपादान)*

अपदेसो : Stating: pretext, deception, stratagem: cause *(अपदेश)*

आपादेति : (caus) To put into a certain state: to inflict *(आपादयति = पद्)*

अपधारणं : covering *(अप + धारण)*

आपादि : See *आपज्जति*

अपदिसति : To tell of, to show *(अप + दिश्)*

अपदो : See *पदं*

आपगा : A river *(आपगा)*

अपगच्छति : To go away, to depart from *(अप + गम्)*

अपगमो : Departure *(अपगम)*

अपगतो : Gone away from; departed *(अप + गत् = गम्)*

अपहारो : Taking away *(अपहार)*

अपजितो : Defeated *(अप + जित = जि)*

आपज्जनं : Entering, falling into, to undergo *(आ + पद्)*

आपज्जिता : One who falls into, is guilty of

अपकड्ढति : To remove, to put away *(अप + कृष्)*

अपक्कमति : To depart *(अप + क्रम)*

अपक्कमो : Departure: retreat: flight *(अपक्रम)*

अपक्को : Unripe *(अ + पक्व)*

अपलापो : Keeping silence about: secrecy *(अपलाप)*

अपलोकन : Giving notice of an intention: obtaining leave *(अप + लोक + अन)*

अपलोकेति : To give notice of, to obtain consent or permission *(अप + लोक्)*

अपामग्गो : The plant Achyranthes Aspera *(अपामार्ग)*

अपस्मारो : Epilepsy *(अपस्मार)*

अपानं : Breathing out; respiration *(अपान)*

आपानं : A tavern: a place where people drink together *(आपान)*

अपनामेति : (caus.) To remove, to carry off *(अप + नामयति = नम्)*

अपनयन : Removing *(अपनयन)*

अपनेति : To remove, to put away *(अप + नी)*

अपांगो-गं : The outer corner of the eye: a sectaria mark on the forehead *(अपाङ्ग)*

अपनेधेति : To hide away, to conceal *(अप + नि + धा)*

आपणिको : A tradesman *(आपण + इक)*

अपनितो : Removed, put away *(अपनीत = नी)*

अपण्णको : Certain, true, absolute

अपण्णत्तिको : Not appearing, not existing *(अ + प्रज्ञाप्त + इक)*

अपञ्ञो : Without wisdom; foolish *(अ + प्रज्ञा)*

आपन्नो : Entered upon; fallen into; unfortunate *(आपन्न = पद्)*

आपणो : A bazar; market: a shop *(आपण)*

अपानुदति : To remove, to dispel *(अप + आ + नुद्)*

अपरभागे : Afterwards: subsequently *(अपर + भाग loc)*

अपरद्धो : Having sinned, guilty *(अपराङ्ध = राध्)*

अपराधो : Offence, guilt, crime, sin *(अपराध)*

अपरगोयानं : Name of one of the four Mahadipas or great continents *(अपर + गोदान)*

अपराजितो : Unconquered *(अ + पराजित = जि)*

अपरज्झनं : Injury

अपरज्झति : To offend against: to injure: to sin *(अप + राध्)*

अपरज्जु : On the following day : next day *(अपरेघुस)*

अपरं : Moreover, further *(अपरम्)*

अपार : This side: not the further bank *(अ + पार)*

अपरण्हो : The afternoon or evening *(अपराण्ह)*

अपरन्नं : A name given to certain sorts of vegetables *(अपर + अन्न)*

अपरन्तो : The future, futuring *(अपर + अन्त)*

अपरापरं : On and on, successively: up and down: backwards and forwards *(अपरस्पर + म्)*

अपरापरो : Following: successively *(अपरस्प)*

अपरसेलो : The western mountain behind which the sun sets *(अपर + शैल)*

अपरिमाणो : Undefined, indefinite: boundless, immense *(अ + परिमाण)*

अपरिमितो : Boundless; immense: *(अ + परिमित = मा)*

अपरिसेसो : Without remainders *(अ + परिशेष)*

अपरितस्सी : Undaunted *(अ + परि + त्रस् + इन्)*

अपरियन्तो : Boundless, unlimited: indefinite *(अ + पर्यन्त)*

अपरो : Other: subsequent, following: western *(अपर्)*

अपसादेति : (caus) To deprecate, to decline, To disparage *(अप + सद्)*

अपसक्कति : To depart *(अप + सृप्)*

अपसव्यो : Right as opp. to left: contrary *(अप + राव्य)*

अपस्मारो : Epilepsy *(अपस्मार)*

अपस्सेनं : A rest, support, dependence

अपथं : No road: absence of a road *(अपथ)*

अपत्ताधिकरणं : Question of guilt

अपत्तको : Not having a bowl *(अ + पात्र + क)*

अपत्थो : Laid aside: thrown away *(अप + त्रस्त = श्रस्)*

आपत्ति : Offence, guilt, sin : crime *(आपत्ति)*

आपत्तिक्खन्धो : Group or class of offences *(आपत्ति + स्कन्ध)*

आपत्तिकुसलता : Skill in determining to which class an offence belongs *(आपत्ति + कुशल + ता)*

अपवादो : Blame, abuse *(अपवाद)*

अपवग्गो : Completion: renunciation: abandonment: final deliverance, Nirvana *(अपवर्ग)*

अपवहति : To carry away *(अप + वह)*

अपनज्जनं : Giving away, giving up, sacrificing *(अप + मृत् + अन)*

अपवारणं : Covering, concealing *(अपवारण)*

अपविद्धो : Thrown away, discarded *(अपविङ्घ = व्यध्)*

अपयानं : Going away *(अपयान)*

अपयातो : Fallen away, departed *(अपयात = त्या)*

अपायिको : One suffering in an Apaya *(अपाय + इक)*

अपायो : Going away, departure: disappearance, loss: misfortune *(अपाय)*

अपेक्खा : Desire: longing: affection: care: regard *(अपेक्षा)*

अपेक्खति : To regard, to mind : to work for: to expect: to look at *(अप + ईक्ष्)*

अपेति : To go away *(अपे + इ)*

अपेतो : Having departed: free from, deprived of *(अपेत = इ)*

अफलो : Without fruit; unproductive; barren: unprofitable *(अ + फल)*

अफासु, अफासुकं : Discomfort, uneasiness, ailment, sickness

अपि, पि : Also: even: though: merely *(अपि)*

अपिधानं : Covering; concealment: a cover: a lid *(अपिधान)*

आपो : Water *(आप = अप्)*

अप्पाबाधत्तं : Freedom from illness *(अल्प + आबाध + त्व)*

अप्पाबाधो : Slight illness: tolerable health *(अल्प + अबाध)*

अप्पाबाधो : In good health

अप्पभावो : Fewness, paucity *(अल्प + भाव)*

अप्पभिक्खुको : Containing few priests *(अल्प + भिक्षु + क)*

अप्पभोगत्त : Poverty *(अल्प + भोग + त्न)*

अप्पच्चया : Without a cause *(अ + प्रत्यय abl.)*

अप्पच्चयो : Mistrust, heart burning: distress *(अ + प्रत्यय)*

अप्पधानो : Secondary and sub-ordinate *(अ + प्रधान)*

अप्पदीपो : Without a lamp *(अ + प्रदीप)*

अप्पदुट्ठो : Undepraved, innocent *(अ + प्रदुष्ट = दुष्)*

अप्पगब्भो : Free from boldness or impudence: retiring, modest *(अ + प्रगल्भ)*

अप्पहरितो : Having little grass; free from grass *(अल्प + हरित्)*

अप्पकिच्चो : Having few duties, free from care *(अल्प + कृत्य)*

अप्पको : Few, little, trifling *(अल्प + क)*

अप्पलाभो : Receiving little *(अल्प + लाभ)*

अप्पमादो : Vigilence, carefulness, thoughtfulness, earnestness, zeal: difference, haste, despatch *(अ + प्रमाद)*

अप्पमाणाभो : Of infinite splendour *(अप्रमाण + आभा)*

अप्पमाणसुभो : Of infinite beauty *(अप्रमाण = शुभ)*

अप्पमञ्ञति : To underrate, to despise *(अल्प + मन्)*

अप्पमाणो : Unlimited: boundless: infinite: innumerable *(अ + प्रमाण)*

अप्पमारिसो : The plant *amaranthus polygamus (अल्प + मारिष)*

अप्पमत्तको : Little, slight, trifling *(अल्प + मात्र + क)*

अप्पमत्तो : Little, slight, moderate *(अल्प + मात्र)*

अप्पमत्तो : Vigilant, careful, thoughtful, heedful, earnest, zealous, strenuous, diligent, quick, active *(अ + प्रमत्त + मद्)*

अप्पमेय्यो : Unlimited, boundless, innumerable *(अप्रमेय = मा)*

अप्पना : Thought, reasoning, resolve *(अर्पण)*

अप्पाणी : Inanimate *(अ + प्राणिन्)*

अप्पणिहितो : Free from longing or desire *(अ + प्रणिहित = धा)*

अप्पसद्दो : Free from noise, quiet: making little noise *(अल्प + शब्द्)*

अप्पसादो : Dissatisfaction *(अ + प्रसाद)*

अप्पसन्नो : Dissatisfied, discontented *(अ + प्रसन्न = सद्)*

अप्पसत्थो : Bad, inferior *(अ + प्रशस्त = शंस्)*

अप्पसत्थो : With a small caravan, having few attendants *(अल्प + सार्थ)*

अप्पस्सादो : Insipid *(अल्प + स्वाद्)*

अप्पस्सुतो : Having learnt little, possessing small knowledge, unlearned, ignorant *(अल्प + श्रुत = श्रु)*

अप्पातङ्को : Light ailment, freedom from bodily suffering or fatigue *(अल्प + आतङ्क)*

अप्पतरो : Fewer, less *(अल्प + तर)*

अप्पठमो : Not first *(अ + प्रथम)*

अप्पटिबाहियो : Not to put away or averted *(अ + प्रतिभय्)*

अप्पटिहतो : Meeting with no obstacle or unopposed *(अ + प्रति + हत = हन्)*

अप्पतिरूपो : Unsuitable, improper *(अ + प्रतिरूप)*

अप्पटिसंवेदनो : Inaccession to sensation *(अ + प्रति + संवेदन)*

अप्पटिसन्धिको : That cannot be remitted *(अ + प्रति + सन्धि + स)*

अप्पतिस्स : Disobedient, rebellious *(अ + प्रति + श्रु)*

अप्पतितो : Dissatisfied: angry *(अ + प्रतीत + इ)*

अप्पत्तो : Not obtained: not having arrived *(अ + प्राप्त = आप्)*

अप्पवारिनो : Uninvited *(अ + प्र + वारित + वृ)*

अप्पायुको, : Short-lived *(अल्प + आयु + क)*

अप्पेकच्चे : Some

अप्पेसक्खो : Having little power or majesty *(अल्प + ईश + आख्या)*

अप्पेति : To fit, to fasten: to deliver: to hand over: to assign *(अपर्यति = ऋ)*

अप्पेव : Perhaps *(अपि + एव)*

अप्पेवनाम : Perhaps *(अपि + एव + नाम)*

अप्फोटा : Name of a variety of *jasmine*

अप्फोट : Not pervaded

अप्पिच्छता : Contentment, frugality *(अल्प + इच्छा + ता)*

अप्पिच्छो : Wanting little, contented, frugality *(अल्प + इच्छा)*

अप्पितो : Fastened *(अर्पित = ऋ)*

अप्पियो : Not dear: unpleasant: unfriendly: unkind: not disagreeable *(अ + प्रिय)*

अप्पीयो : Less *(अल्पीचंसो)*

अप्पो : Little, moderate or slight, few *(अल्प)*

अप्पोदको : Having little water *(अल्प + उदक)*

अप्पोस्सुक्कता : Reluctance, hesitation, inaction, rest

अप्पोस्सुक्को : Having little desire for exertion, Having little zeal, reluctant to act; living a life of ease or a enjoyment, inactive, resting from work *(अल्प + औत्सुक्य)*

अप्पोथेति : To snap the fingers in token of pleasure *(आ + स्फोट्यति = स्फुट)*

आपुच्छनं : Salutation, adieu

आपुच्छति : To take leave of, to bid action: to ask leave *(आ + प्रक्क)*

अपुञ्ञं : Demerit: sin *(अ + पुण्य)*

अपूप : A cake

आपूरति : To be filled, to increase *(आ + पृ)*

अपुथुज्जनो : See Puthujjana

अपुत्तकत्त : Not having a son: childlessness *(अ + पुत्रक + अम्)*

अपुत्तको, अपुत्त : Sonless *(अ + पुत्रक)*

अपुत्तो : Sonless *(अ + पुत्र)*

आरा : an owl *(आरा)*

आरा : Far off *(आरात्)*

आरब्भा : Beginning with from: concerning with reference to: with a view to, for *(आरभ्य = रभ्)*

अरभापेति : (caus) To cause to be concerned or undertaken

आरभति : To begin: to undertake *(आ + रभ्)*

आराचारी : Living far from evil, leading a virtuous life *(आरात् + चारिन्)*

आरद्धो : Having begun: striving existing oneself *(आरब्ध = रभ्)*

आरद्धो : Accomplished, won, provided for *(आ + राद्ध = राध्)*

आराधनं : Propitiating: winning, accomplishing *(आराधन)*

आराधेति : To propitiate, to conciliate; to win, to attain, to accomplish *(आराधयति = राध्)*

आराधो : Request *(आराधना)*

आरग्गं : The point of an awl *(आरा + अग्र)*

अरहा + अरहं : A renewable person: a holy man: a saint *(अर्हन्त)*

अरहद्धजो : The robes of a Buddist monk *(अर्हन्त् + ध्वज)*

अरहं : Worthy, venerable, sanctified, holy *(अर्हन्त)*

अरहता : Worthiness *(अर्ह + ता)*

अरहति : To deserve: be worthy of: to be fit *(अर्ह)*

अरहत्त : State of being an Arahata *(अर्हन्त् + त्व)*

अरहत्तमग्गट्ठो : One who is walking in the pair of Arahantship *(अर्हन्त् + त्व + मार्ग + स्थ)*

अरहत्तफलट्ठो : One who is in the full position of Arahatship *(अर्हन्त् + ख + फल + स्थ)*

अरहितो : Revered *(अर्हित = अर्ह)*

अरहो : Deserving, worthy, fit, worth *(अर्ह)*

अराजिको : Without a king *(अ + राजन् + इक)*

आरका : Far off: from afar *(आरकान्)*

आरकत्तं : Being far off *(आरकान् + त्व)*

आरक्खेय्यो : That ought to be guarded *(आ + रद्दा + एय्)*

आरक्खति : To guard: to protect *(आ + रक्ष)*

आरक्खिको : A guard: keeper: policeman *(आरक्षिक्)*

आरक्खो : Guard, protection *(आरक्ष)*

आरकूटो : Brass *(आरकूट)*

अरं : Specially; presently *(अरम्)*

आरम्भनं : Commencement: *(आरम्भण)*

आरम्भो : Commencement; exertion, effort, mischief, injuiry *(आरम्भ)*

आरामिको : A temple employee *(आराम + इक)*

आरम्मणं : A support, stay, basis, ground, cause: one object of sense; a thought: an idea *(आलम्बन)*

आरामो : A pleasure; Buddhist vihara *(आराम)*

आरनालं : Sour gruel *(आरनाल)*

अरणि : Wood for kindling fire by attribution *(अरणी)*

अरञ्जरो : A water jar *(अलिञ्जर)*

अरञ्ञको : Belonging to the forest, situated in the forest *(आरण्यक)*

अरञ्ञ : A forest, or wood *(अरण्य)*

अरञ्ञानी : A large forest *(अरण्यानी)*

अरति : Dislike, discontent; abstinence from *(अ + रति)*

अराति : An enemy *(अ + राति)*

आरति : Leaving off, ceassation, abstinence *(आरति)*

अरविन्द : A lotus *(अरविन्द)*

आरावो : Sound, noise *(आराव)*

अरे : Ho! I say! *(अरे)*

अरि : An enemy *(अरि)*

अरिंदमो : Victorious *(अरिंदम)*

अरिसं : Haemorrhaids *(अर्शस्)*

आरिरसं : Rishiship *(आर्ष)*

अरित्त : A rudder *(अरित्र)*

अरित्थं : Buttermilk or whey: bad symptoms, signs of approaching death: bad luck *(अरिष्ट)*

अरित्थो : The soap berry plant: a crow: a Nimba tree: a sort of spirituous liquor *(अरिष्ट)*

अरियधनं : Noble or sublime treasure *(आर्य + धन)*

अरियको : Anger *(आर्यक)*

अरियमग्गो : Sublime path-arahattamagga *(आर्य + मार्ग)*

अरियफलं : Sublime fruition *(आर्य + फल)*

अरियपुग्गलो : Holy personage *(आर्य + पुङ्गल)*

अरियसच्चं : Sublime truth *(आर्य + सत्य)*

अरियसावको : Holy disciple *(आर्य + श्रावक)*

अरियवंसो : Noble family *(आर्य + वंश)*

अरियवासो : Noble or holy state *(आर्य + वास)*

अरियवोहारो : Noble or honourable practice *(आर्य + व्यवहार)*

अरियो : Honourable; noble; venerable; respectable; excellent *(आर्य)*

अरियो : A venerable or holy men; a saint; an Arahata *(आर्य)*

आरोचापेति : To cause to be announced (आ + रूच् caus)
(Caus)

आरोचेति : To bill; to announce; to declare *(आ + रोचयति = रूच्)* (Caus)

अरोगा : Free from sickness, healthy *(अ + रोग)*

आरोग्यं : Health *(आरोग्य)*

आरोहा : An elegant woman *(आरोहा)*

आरोहको : A rider *(आरोहक)*

आरोहणं : Ascent, ascending; a ladder, stairs *(आरोहण)*

आरोहणीयो : Fit for mounting *(आरोहणीय)*

आरोहो : A rider, ascent, length *(आरोह)*

आरोपनं : Raising; establishing *(आरोपन)*

आरोपेति : To cause to ascent, to raise, to lift up to or upon; to put; to establish; to set on foot; to introduce: to transfer, to render, to turn into *(आरोपयति = रुह्)*

अरु : A wound *(अरुस्)*

आरुहति, आरोहति : To ascend, to mount, to go up into *(आ + रुह्)*

आरूळ्हो : Having ascended; having put; rendered, transferred *(आरूढ = रुह)*

अरुणो : Dark red: Light red *(अरुण)*

अरुणो : The sun: dawn *(अरुण)*

अरूपभवो : Formless existence, existence

अरूपब्रह्मलोको : Formless Brahma-heaven *(अरुप + ब्रह्म + लोक)*

अरूपधातु : See *धातु*

अरूपं : Absence of form *(अ + रूप)*

अरूपावचरो : Belonging to the Arupabrahmloka *(अरूप + अवचर)*

अरूपावचरो : Realm or world of the Arupabrahmloka *(अरूप + अवचर)*

अरूपी : Formless, incorporal, immaterial *(अ + रूप)*

अरूप्पो : Formless, incorporal, belonging to the Arupabrahmloka *(अरूप + य)*

आरूय्ह : See *अरुहति*

आसा : Desire, longing *(आशा)*

असब्भो : Improper, wrong, ungentlemanly *(अ + सम्य)*

आसभो : Belonging to a bull, Peculiar to a bull, bull-like, a man of strong and eminent qualities a hero or a great man, a leader *(आर्षभ)*

असच्चो : Untrue, false *(अ + सत्य)*

असद्धम्मो : Evil state: sin: sexual intercourse: fornication *(अ + सन्त + धर्म)*

असाधारणो : Uncommon; unusual: peculiar: unrivalled *(अ + साधारण)*

असाधु : Bald, wicked *(अ + साधु)*

असदिसो : Unexampled: incomparable *(अ + सदृश्)*

आसज्ज : Having approached, having attained *(आसाध = सद्)*

असज्झायो : Non-repetition *(अ + स्वाध्याय)*

आसज्जो : Attainable *(आसाध = सद्)*

असकिं : More than once; repeatedly *(अ + सकृत्)*

असक्यपुत्तियो : Not a son of Sakya or a true disciple of Buddha *(अ + शाक्य + पुत्र + य)*

आसाळ्ह : Name of a month and a Nakkhatta *(आषाढ)*

असमानो : Unequal, dissimilar *(अ + समान)*

असमयो : Wrong time

असमो : Unequal, unequalled, peerless *(अ + सम)*

असंवासो : Deprived of co-residence: expelled from the priesthood *(अ + संवास)*

असंवुतो : Unrestrained, intemperate *(अ + संपृत + नृ)*

असनं : Shooting; an arrow *(असन)*

असनं : Eating food *(अशन)*

आसनं : Sitting; a seat *(आसन)*

असञ्चिच्च : Inadvertently, unintentionally *(अ + संचिन्त्य = चिन्त्)*

आसन्दि : A long or easy chair *(आसन्दि)*

आसङ्गो : Attachment *(आसङ्ग)*

असनि, असनी : Indra's Thunderbold *(अशनि)*

आसङ्का : Fear, apprehension, anxiety, suspicion, doubt *(आशङ्का)*

आसङ्कति : To fear, to suspect, to doubt *(आ + शङ्क)*

असङ्कतधातु : Unconditional or immaterial elements or principle, Nirvana *(अ + संस्कृत = कृ + धातु)*

असङ्कतो : See *सङ्कतो*

असङ्केय्यो : Incalculable, innumerable *(असंख्येय + ख्या)*

असङ्खियो : Innumerable *(असंख्य + ख्या)*

आसङ्की : Apprehensive, anxious *(आशङ्किन्)*

असङ्कितो : Without hesitation or doubt, fearless *(अ + शङ्कित् = शङ्क)*

असञ्ञसतो : Unconscious *(अ + संज्ञा + सत्त्व)*

असञ्ञतो : Unrestrained, intemperate *(अ + संयत = यम्)*

असञ्ञी : Unconscious *(अ + संज्ञा + इन्)*

आसन्नो : Near *(आसन्न = सद्)*

असनो : The tree *Terminalia Alata Tomentosa (असन)*

असन्तासी : Free from fear *(अ + संत्रास् + इन्)*

असन्तो : Not being; not existing; absent; false: bad: wicked *(अ + सन्त् = त्रस्)*

असारो : Unreality, vanity, worthlessness *(अ + सार्)*

असारो : Vain, unsubstantial, unessential, unreal *(अ + सार्)*

असारो : A heavy shower *(आसार्)*

असस्सतिको : Not eternal *(अ + शाश्वत + इक्)*

असता, असतं : See *असन्तो*

असाटिका : A fly's egg: nit *(आसाडी)*

असतिया : Heedlesly, unintentionally *(अ + समृति Instru.)*

असत्तं : Non-existance *(अ + सत्य)*

असत्थेनं : Not by the sword, peacefully *(अ + शस्त्र)*

आसत्ति : Attachment, desire *(अ + सक्ति)*

असत्तो : Free from attachment or desire *(अ + सक्त = सञ्ज)*

आसत्तो : Attached, clinging: intent, attentive, diligent *(आसक्त = सञ्ज्)*

आसवक्खयो : Exclusion or ceasation of passion, arahatta *(आस्त्रव + क्षय)*

आसवति : To track, to flow (आ + स्त्रु)

आसवो : Distilled spirit (आसव)

आसवो : Dozing, scum; misfortune; human-passion, sin, corruption, depravity *(आस्तव)*

असय्हो : Invisible *(अ + सह्य = सह्)*

आसयो : Hearing, intimation, imclination: dependance; support; abode, retreat, haunt *(आश्रय)*

असेचनो : Charming, captivating, bewitching *(असेचन)*

असेखो : Belonging to an *asekha*

असेखो : One who is no longer a sekhi: one who has nothing to learn, who is perfect in knowledge— an Arahata *(अ + शैक्ष)*

असेसको : All, entire *(अ + शेष + क)*

असेसतो : Without omission, entirely *(अशेष + तस्)*

असेसितो : All *(अ + शेषित = शिष्)*

असेसो : All, every *(अ + शेष्)*

आसेवति : To practice *(आ + सेव्)*

आसेवी : Addicted to *(आसेविन्)*

असि : Thou art

असि : A sword *(असि)*

आसि : It was; he was, there was

आसि : Blessing *(आशिस्)*

आसी : Fang of a snake *(आशी)*

असीलको : Immoral, impious *(अ + शील + क)*

असीलेसा : Name of a Nakkhatta *(अश्लेषा)*

आसिं : See *अत्थि*

आसिंसा : hope: benediction *(आ + शास्)*

आसिंसना : Wish; hope: benediction

आसिंसु : See *अत्थि*

आसिञ्चति : To sprinkle: to moist: to anoint *(आ + सिच)*

आसीनो : Sitting *(आसीन् = आस्)*

असिपुत्ती : A knife *(असिपुत्री)*

असीतब्बो : To be eaten *(असितब्य = असू)*

असितं + असितो : A sickle

असीति : Eighty *(अशीति)*

असितो : Black *(असित)*

असितो : Eaten, enjoyed *(अशित = अश्)*

असित्थो : Wished, prayed for *(आ + शिष्ठ = शास्)*

असित्तो : Sprinkled: *(आ + सिक्त + सिच्)*

आसिवादी : Blessing *(आशिस् + वाद)*

आसीविसो : A snake *(आशीविष)*

अस्मा : We are

अस्मा : Ayam

अस्मा : A stone *(अश्मन)*

अस्मारी : Name of a plant *(अश्मरी)*

अस्मि : I am

अस्मि : See *अयं*

अस्मिमानो : That pride of self *(अस्मि = अख् + मान)*

आसो : Eating *(आशू)*

असोक : Free from sorrow *(अशोक)*

अस्सा : Of him, his: to him, to it

अस्सा : a mare *(अश्वा)*

अस्सा : See *अयं*

अस्सादन : Tasting *(आस्वादन्)*

अस्सद्धी : Without faith, unblessing; not eredulous *(अ + श्रधा)*

अस्सादो : Tasting, enjoyment, happiness *(आस्वाद्)*

अस्सकण्णो : One of the 7 circles of rock that surround Meru

अस्सं, अस्सामा : See *अत्थि*

अस्समणो : Not a samana, not a true priest of Buddha *(अ + श्रमण)*

अस्समारको : A kind of medicine *(अश्व + मारक)*

अस्समेधो : Name of a sacrifice *(अश्व + मेध)*

अस्सामिको : Without a master or owner *(अ + स्वामिन + क)*

अस्समो + मं : Hermitage *(आश्रम)*

अस्सरो : Not a vowel, a consonant *(अ + स्वर)*

अस्ससति : To intake air, to inspire *(आ + धस्)*

अस्सासेति : (eaus) To refresh, to comfort, to encourage *(आ + श्वासयति = श्वस्)*

अस्सासो : Inhaled air; comfort, consolation *(आश्वास)*

अस्सतरो : A mule: name of a Nagar *(अश्वतर)*

अस्सथ : See *अत्थि*

अस्सत्थ : The bo tree ..... *(अश्वत्थ)*

अस्सत्थो : Encouraged, comforted *(आश्वस्त – श्वस्)*

अस्सवनं : Not hearing *(अ + श्रवण)*

अस्सवो : Discharge, matter, pus *(आस्त्रव)*

अस्सवो : Obedient *(आश्रव)*

अस्सयुजो : Name of a Nakkhatta *(आश्वयुज)*

अस्सो : Corner, edge *(अश्र)*

अस्सो : A horse *(अश्व)*

अस्सोसि : See *सुगोति*

अस्सु : Tear

अस्सु : Let them be

अस्सुतवा : Not learned = ignorant = *(अ + श्रुतवन्त)*

अस्सुतो : Unheard *(अ + श्रुत = श्रु)*

असु : Breath of life *(असु)*

असु : This, that *(असौ + अदस्)*

आसु : Quickly *(आशु).*

असुभो : Bad, ugly, disagreeable: nasty, disgusting: offensive *(अ + शुभ)*

असुचि : Impure *(अ + शुचि)*

असुद्धो : Impure *(अ + शुद्ध = शुध्)*

असुको : Such a one *(अमुक)*

आसुं : They were

आसुणाति + णोति : To hear, to listen to *(आ + श्रु)*

असुरो : An asura *(असुर)*

असुत्तो : Without seam *(अ + सूत्र)*

अतक्कितो : Unexpected *(अतर्कित = तर्क)*

अतलम्फस्सो : Unfathomable *(अत्यलस्पर्श)*

अतन्दितो : Unwearied, unremitting *(अतन्द्रित)*

अटनी : Name of a part of bed-stead *(अटनी)*

आतङ्को : Sickness, affiliation, pain *(आतङ्क)*

आतापनं : Sunshine: burning *(अ + तापन्)*

आतपत्त : A parasol *(आतपत्र)*

आतापी : Ardent, zealous, streneous, active *(आ + ताप + इन्)*

आतपो : Sunshine; sunlight *(आतप)*

आतापी : Heat, burning; energy = ardous, zeal *(आ + ताप)*

आतप्प : Ardous, zeal, energy *(आ + ताप + य)*

अतासी : Flax *(अटासी)*

अटटं : One of the high numerals

आततं : Drums covered with leather on one side *(आतत + तन्)*

आततायी : A felon, murderer *(आततायिन्)*

अतति : To go *(अत्)*

अटति : To roam *(अट्)*

अटवी : A forest *(अटवी)*

अथ : And; but: then: how *(अथ)*

अथब्बनवेदो : The Atharvaveda *(अथर्वन् + वेद)*

अथवा : Or *(अथ + वा)*

अथेनो : Not a thief; honest *(अ + स्तेन)*

अथो : and: also: then *(अथो)*

अति : Over; beyond; exceedingly: too much *(अति)*

अतिबहु : Too much *(अति + बहु)*

अतिबलो : very strong *(अति + बल)*

अतिभायति : To be much afraid *(अति + भी)*

अतिभीतो : Much alarmed *(अति + भीत = भी)*

अतिचरति : To transgress = to commit: adultery *(अति + चर)*

अतिचारी : Transgressing *(अतिचारिन्)*

अतिचरिया : Adultery *(अति + चर्या)*

अतिचारो : Transgression, adultery *(अतिचारो)*

अतिच्छथा : Formula for civilly refusing alms to a Bhikkhu, to ask to go further

अतिचिरायति : To carry long *(अति + चिराय)*

अतिदस्सनो : Beyond ken, invisible *(अति + दर्शन)*

अतिधोनचारी : Indulging too much in the use of Dhonas *(अति + धोनचारी)*

अतिदूरे : Very far, too far *(अति + दूर)*

अतिगच्छति : To overcome *(अति + गम्)*

अतिगतो : Escaped from *(अति + गत = गम्)*

अतिगो : Escaping from = going beyond *(अतिग)*

अतिहत्थयति : To cross on an elephant *(अतिहस्तय)*

अतिखिणो : Not harsh, gentle *(अ + तीक्ष्ण्)*

अतिक्कमनं : Going beyond, passing *(अति + क्रमण्)*

अतिक्कमति : To escape from, go beyond, to pass, to cross; to transgress; to elapse; to excel: to surpass *(अति + क्रम्)*

अतिक्कामेति : To go beyond, to exceed *(अतिक्रामयति = क्रम्)*

अतिक्कमो : Passing away, transgression *(अतिक्रम्)*

अतिक्कन्तो : Past, surpassing *(अतिक्रान्त = क्रम्)*

अतिमानी : Vain-glorious, conceited *(अतिमानिन्)*

अतिमञ्ञति : To despise, to dislike, neglect *(अति + मन्)*

अतिमापेति : To injure, to destroy *(अति + मापयति = मी)*

अतिमत्तो : Exceeding, excessive *(अति + मात्र)*

अतिमुत्तको : Name of a tree *(अतिमुक्तक)*

अतिमुत्तो : The croper *Gastnera Racemosa* *(अतिमुक्त)*

अतिनामेति : To cause to pass : to let go by *(अति + नामयति = नम्)* (Caus)

अतिन्द्रियो : Beyond the reach of senses *(अतिन्द्रिय)*

अतिपातो : Very early *(अति + प्रातर्)*

अतिपातो : Injuring, destruction : transgression *(अतिपात)*

अतिप्पगे : Too early *(अति + प्रगे)*

अतिप्पसत्थो : Very excellent *(अति + प्रशस्त = शंस्)*

अतिरेकलाभो : Extra allowance *(अतिरेक + लाभ)*

अतिरेकतरो : More excessive : More abundant *(अतिरेक + तर)*

अतिरेको : Exceeding, excessive *(अतिरेक)*

अतिरित्तको : In excess, superfluous *(अतिरिक्त + क)*

अतिरित्तो : Exceeding, in excess, extra superfluous *(अतिरिक्त = रिच्)*

अतिरोचति : To outshine *(अति + रुच्)*

अतिसायं : Very late in the evening *(अति + सायम्)*

अतिसयो : Excess, excellance *(अतिशय)*

अतिसुनो : A mad-dog *(अति + शुन)*

अतिसूरता : Great heroism *(अति + शूर + ता)*

अतीतंसो : Past-time *(अतीत + अंश्)*

अतिथि : A guest; a stranger *(अतिथि)*

अतिथोको : Very little, too little *(अति + स्तोक)*

अतीतो : Passed : elapsed *(अतीत = इ)*

अतीत्तो : Unsatiated *(अ + तृप्त = तृप्)*

अतीव + अतिविय : Very exceedingly *(अतीव)*

अतिवाक्यं : Bad language, abuse, blame, reproach *(अति + वाक्य)*

अतिवसो : Subject to, in the power of *(अति + वश्)*

अतिवत्तति : To go beyond, to pass: to overcome: to transgress *(अति + वृत्त)*

अतिवेलो : Unseasonable *(अति + वेला)*

अतिविसा : Name of a plant *(अतिविषा)*

अतिवुद्धो : Very old *(अति + वृद्ध = वृध्)*

अतो : Hence, now, therefore *(अतस्)*

अतोज्ज : A musical instrument *(आतोद्य = तुद्)*

अत्र : Here *(अत्र)*

अत्रजो : Offspring, son *(आत्मज)*

अत्ता + आतुमा : Self, body, person, individuality = life, mind, soul *(आत्मन्)*

अत्तभावी : Having a body *(आत्मभाव + इन्)*

अत्तभावो : Person, self, individual, personality = body : form *(आत्मन + भाव)*

अत्तदंडो : Punishment *(आत्त = दा + दण्ड)*

अत्तदत्थो : One's own advantage or good

अत्ताधिनो : Independent *(आत्मन् + अधीन)*

अत्ताधिपतेय्यं : See *(अधिपतेय्य)*

अत्तदुतियो : With one companion *(आत्मन् + द्वितीय)*

अट्ट हसो : Horseslaughter *(अट्ट हस)*

अट्ट जो : Proceeding from oneself: self begotton *(आत्मज)*

अत्तको : Name of a Rishi

अट्टालको : A watch tower *(अट्टालक)*

अत्तमनता : Repture or delight

अत्तमनो : Rapti, deligted, joyful *(अत्त = दा + मनस्)*

अत्तना-अत्तनो : See *(अत्ता)*

अत्तनीयो : Belonging to oneself, own *(आत्मन् + य)*

अत्तञ्ञू : Knowing oneself *(आत्मज्ञ)*

अत्तनोपदं : Grammatical term meaning *(आत्मनेपद)*

अत्तनतपो : Self mortifying *(आत्मन् + तपस्)*

अत्ततो : Awarding to self *(आत्मन् + तस्)*

अत्तत्थो : Self-interest, one's own good *(आत्मन् + अर्थ)*

अत्तवादो : Assertion of self or individuality *(आत्मन + वाद्)*

अत्थ : Ye are

अत्थ : Here

अट्ठ : Eight *(अष्टम्)*

अत्थचरिया : Good or wise conduct *(अर्थ + चर्या)*

अट्ठादस : Eighteen *(अष्टादशन्)*

अट्ठदस्सी : A name of one of the twenty four Buddhas *(अर्थ + दर्शिन्)*

अट्ठधा : Eight fold *(अष्टधा)*

अट्ठागमनं : Setting of sun : destruction *(अस्तम् + गमन)*

अट्ठगमो + : Setting of sun : disappearance; perishing, destruction,

अट्ठङ्गमो : Annihilation *(अस्त + गम)*

अट्ठकं : Collection of eight things-Octad *(अष्टक)*

अत्थकरो : Beneficial, advantageous, useful *(अर्थ + कर्)*

अट्ठकथा : A commentary : exposition of meaning *(अर्थ + कथा)*

अट्ठक्खायी : Giving good advice *(अर्थ + आख्यायिन्)*

अट्ठं : Disappearance, destruction *(अस्त)*

अट्ठं : Meaning, for the sake of, purpose of: on account of, for *(अर्थम्)*

अट्ठमेति : To set *(अस्तम् + इ)*

अट्ठमितो : Set, gone down *(अस्तम् + इत = इ)*

अट्ठमो : Eighth *(अष्ठम)*

अट्ठम्मो : Octagonal *(अष्टन् + अंश्)*

अट्ठंसु : See *तिट्ठति*

अट्ठना : Request, begging *(अर्थना)*

अट्ठानं : Wrong place *(अं + स्थान)*

अट्ठंगच्छति : To set, to perish, to vanish *(अस्तम् + गम्)*

अट्ठङ्ग : Eight divisions or parts : Eight qualities *(अष्टन + अङ्ग)*

अट्ठङ्गमो : See *(अट्ठङ्गतो)*

अट्ठङ्गसीलं : The Eight fold moral practice : Eight precepts *(अष्टन् + अङ्ग + शील्)*

अट्ठङ्गतो : Disappeared *(अस्तम् + गत = गम्)*

अट्ठङ्गिको : Eight parts or divisions : Eightfold *(अष्टन् + अङ्ग + इक्र)*

अट्ठङ्गुलो : Eight inches long or thick *(अष्टन् + अङ्गुल)*

अट्ठङ्गुपोसथ : Observing the eight fold uposatha viz. Athangsila *(अष्टाङ्ग + उपवसथ + इन्)*

अट्ठपदं-पदो : A chequered board for draughts, dice *(अष्टापद्)*

अत्थरणं : Covering; a rug : a carpet *(आस्तरण)*

अत्थरापेति : To cause, to be spread

अट्ठारस : Eighteen *(अष्टादशन्)*

अट्ठारसमो : Eighteenth *(अष्टादशन + म)*

अत्थरति : To spread, to lay out, to cover *(आ + स्तृ)*

अत्थारो : Spreading *(आस्तार)*

अत्थसत्थं : Ethics *(अर्थ + शास्त्र)*

अत्थसो : According to the sense or the spirit as opposed to the letter *(अर्थ + शस्)*

अत्थतो : According to sense or meaning : intelligently, sensibly *(अर्थतस्)*

अत्थतो : Spread, laid out *(आ + स्तृत = स्तृ)*

अत्थत्थं : For the good or advantage of *(अर्थ + अर्थम्)*

अत्थवादी : Speaking truthfully *(अर्थ + वादिन्)*

अट्ठविधो : Eightfold *(अष्टन् + विधा)*

अत्थाय : For the sake of : in order to : on account of : for *(अर्थाय)*

अत्थेन : On account of : by reason of *(अर्थ instru)*

अत्थति : To request *(अर्थ)*

अत्थि : To be, to exist *(अस्)*

अट्ठी : A bone: a kernal or stone of a fruit or a seed *(अस्थि)*

अत्थि : Desirous, wishing for *(आर्थिन्)*

अत्थिभावो : Being, existence *(अस्ति = अस् + भाव)*

अत्थिकं : A bone, kernal, seed *(अस्थि + क)*

अत्थिको : Connected with existence *(आस्तिक)*

अट्ठिको : Desirous of *(अर्थिन् + क)*

अट्ठिमिज्जा : Marrow *(अस्थि + मज्जा)*

अत्थिता : Being, existence *(अस्ति = अस् + ता)*

अट्ठतो : Not standing : not staying *(अ + स्थित = स्था)*

अत्थितं : Existence *(अस्ति = अस् + त्व)*

अत्थो : Setting, disappearance, destruction : the western mountain behind which the sun sets *(अस्त)*

अत्थो : Desire, want, need, occasion; cause, reason, purpose : object, aim; substance, object, thing: property, wealth; advantage, good, welfare, meaning, sense, significance *(अर्थ)*

अत्थुद्धारो : Exegesis-explanation *(अर्थ + उद्धार)*

अत्तो : Thrown *(अस्त् = अस्)*

अट्टो : A watch tower *(अट्ट)*

अट्टो : Hurt, distressed, affiliated *(आर्त)*

अट्टो : A case, a cause, Law-suit *(अर्थ)*

अतुलो : Incomparable, admirable *(अ + तुला)*

आतुमा : A rare form of atta

आतुरो : Ill-: diseased : affected *(आतुर)*

अत्तप्पो : Very small *(अति + अल्प)*

अव : Away, off : down *(अव)*

अवबोधनं : Instruction *(अवबोधन)*

अवबोधो : Full knowledge or understanding *(अवबोध)*

अवच : See *वचति*

अवचरति : To go through, to traverse, to occupy, to make one's home *(अव + चर्)*

अवचरो : Sphere, realm, home *(अवचर)*

अवदारणं : A spade or hoe *(अवदारण)*

अवधानं : Attention *(अवधान)*

अवधारणं : Ascertainment : affirmation, emphasis : restruction *(अवधारण)*

अवधारेति : To ascertain *(अव + धारयति = धृ)*
(caus)

अवधि : Limit *(अवधि)*

अवगण्डो : A protuberance on the cheek *(अव + गण्ड)*

अवगणेति : To neglect, to disregard *(अव + गण्)*

अवगतो : Known, understood *(अवगत = गम्)*

अवग्गो : Unassesed *(अ = वर्ग)*

आवहनं : Bringing *(आ + वह + अन)*

आवाहनं : Getting a wife for a young man *(आवाहन)*

अवहरणं : Taking away, stealing *(अवहरण)*

अवहरति : To take away, to steal : to draw down *(अव + हृ)*

अवहारो : Taking away *(अवहार)*

आवहति : To bring *(आ + वह)*

आवाहो : Marriage *(आवाह)*

अवजहति : To leave, to abandon *(अव + हा)*

अवजानाति : To despise *(अ + ज्ञा)*

अवजातो : Low born *(अवजात जन्)*

अवजीयति, : To be conquered *(अव + जीयते = जि)*

अवज्जं : Blame *(अवद्य)*

अवज्जनं : Meditation *(अ + वर्जन)*

आवज्जति : To reflect, to consider *(आ + वृज)*

आवज्जेति : (caus) To bend, to incline, to upset *(आ + वृज)*

अवज्झायति : To waste away, to perish *(अव + ज्ञै)*

अवज्जो : Not to be shunned, not forbidden, not wrong, harmless *(अ + वर्ज्य = वृज्)*

आवज्जो : Low, bad, inferior

अवकड्ढति : To drag down, to remove *(अव + कृष्)*

अवकंसो : Inferiority, abasement *(अव + कर्ष)*

अवकासो : See *ओकासो*

अवक्कन्ति : Introduction, descending into *(अव + क्रम् + ति)*

अवलम्बनं : Hanging, depending from *(अवलम्बन)*

अवलेपो : Anjointing; pride *(अवलेप)*

आवलि : Row or range *(आवली)*

अवलित्तो : Smeared *(अवलिप्त = लिप्त्)*

अवलोकेति : See *ओलोकेति*

अवमान : Disrespect *(अवमानम)*

अवमानेति : (Caus) To despise *(अवमानयति = मन्)*

अवस्सिरो : Head downwords, head foremost *(अवाञ्च + शिरस्)*

अवनद्धो : See *ओनद्धो*

अवनि : The earth *(अवनि)*

अवञ्ञा : Disrespect, contempt *(अवज्ञा)*

अवञ्ञातो : Dispised *(अवज्ञात = ज्ञा)*

अवञ्ञितो : Dispised

अवण्णो : Blame, dispraise, reproach *(अ + वर्ण)*

अवन्ति : Name of a country and its people *(अवन्ति)*

अवन्तिको : Belonging to Avanti *(अवन्ति + क)*

अवापुरणं : A key *(अ + आ + वृ + अन)*

आवरणं : Covering : obstruction : restraint : introduction : prohibition *(आवरण)*

अवसानं : See *ओसान*

अवसन्नो : Depressed, languid *(अवसन्नस् = सद्)*

अवसरति : To go to *(अव + सृ)*

अवसरो : Opportunity : occasion : turn *(अवसर)*

आवसथो : Dwelling place, abode, house *(आवसथ)*

आवसति : To dwell or to inhabit *(आ + वस्)*

अवसेसेति : To leave, to spare *(अवशेषयति = शिष्)*

अवसेसो : Remainders *(अवशेष)*

अवसेसो : Remaining *(अवशेष)*

आवासिको : Resident; living at home *(आवास + इक्)*

अवसिस्सनं : Being left : remainder *(अव + शिष् + अन)*

अवसितो : Furnished, determined, known, ascertained *(अवसित = सो)*

अवसिट्ठो : Remaining, left *(अवशिष्ट = शिष्)*

अवसो : Unsubdued, independent, powerless *(अ + वश्)*

आवासो : Residing, dwelling : residence : monastery *(आवास)*

अवस्सं : Certainty, surely *(अवश्यम्)*

अवस्सयो : Support, help, protection, refuge *(अव + आश्रय)*

अवस्सुतो : Filled with desire, lustful *(अव + आ + स्रुत = स्रु)*

अवसुस्सति : To dry up *(अव + शुष्)*

आवटकं : A pit

आवतंसो : A crest: an earring *(अवतंस्)*

अवतारो + : See *ओतारो*

अवतरति

अवति : To protect *(अव्)*

अवतिण्णो : See *ओतिण्णो*

आवटो : Covered, enveloped, shrouded *(आवृत = वृ)*

आवाटो : A pit, a hole in the ground *(अवट)*

अवत्तब्बत : Ineffability *(अ + वक्तव्य = वच् + ता)*

आवत्तति : To turn : to return *(आ + वृत्त)*

आवहतो : In circumference *(आवर्त + तस्)*

अवत्था : State, condition: time: period *(अवस्था)*

अवत्थानं : Standing place: state: abiding *(अवस्थान)*

अवत्थापनं : Fixing, settling *(अवस्थापन)*

अवत्थरति : To strew, to cover over or up

अवट्ठिति : Abiding, steadiness *(अवस्थिति)*

अवट्ठितो : Abiding, steady, firm *(अवस्थित = स्था)*

अवत्थो : Naked *(अ + वस्त्र)*

आवत्ती : Returning *(आ + वृत्त)*

आवट्टो : Whirlpool; circuit; circumference *(आवर्त)*

अवयवो : Limb; member: a part *(अवयव)*

अवेक्खति : To look down upon, to look at: to consider: to perceive: to foresee: to contemplate *(अव + ईक्ष)*

आवेला : A garland worn on the crown of the head

आवेणिको : Free from contract, detached, independent *(अ + वेणि + क)*

अवेरं : Friendliness, mildness, kindness *(अ + वैर)*

अवेरी : Free from hatred, mild, peaceable *(अ + वैरीन्)*

अवेरो : Peaceable *(अ + वैर)*

अवेसनं : A workshop: a dwelling: fury: entrance *(आवेशन)*

आवेसिको : Entering, arriving, adventitious *(आदेश + इक)*

अव्हा : Name or appellation *(आव्हा)*

आव्हानं : Calling, addressing *(आव्हान)*

आव्हायनं : Invocation, summons *(आव्हयन)*

अव्हयो : Name, calling, invocatious *(आहूय)*

अव्हि : A ram or a sheep *(अवि)*

आव्हि : Full view: close before the eyes *(आविस्)*

आविभवति : To become visible or manifest, to appear : to be evident *(आविस् + भू)*

आविभावो : Appearance, manifestation *(आविस् + भाव)*

अवीचि : Name of one of the Eight Narakas or hells *(अ + वीचि)*

अविद्दसु : Ignorant

आविद्धो : Thrown *(आविद्ध = व्यध्)*

अविदूरो : Not very far, near *(अ + वि + दूर)*

अविग्गहो : The God of Love *(अ + विग्रह)*

अविहिंसा : Merry, humanity *(अ + वि + हिंसा)*

अविहो : The 12th of 16 Brahma-words *(अवृह)*

अविज्जा : Ignorance, error *(अ + विद्या)*

अविज्जमानो : Non-existtent *(अ + विद्यमान = विद्)*

अविकरोति : To make manifest, to show, to explain *(आविस् + कृ)*

आविकत्ता : One who manifests *(आविस् + कतृ)*

अविक्खेपो : Equanimity, calmness *(अ + विक्षेप)*

अविलम्बितो : Speedy *(अविलम्बित = लम्ब्)*

आविलो : Turbid; stained: agitated *(आविल)*

अविनयो : Wrong or false Vinaya : misconduct : sin *(अ + विनय)*

अविञ्ञाणको : Without intelligence or consciousness, inanimate *(अ + विज्ञान)*

अविञ्ञु : Ignorant, foolish, stupid *(अ + विज्ञ)*

अविरतो : Uninterrupted, continual *(अविरत = रम्)*

अविरूद्धो : Not contrary: unobstructed: certain: absolute *(अविरूद्ध = रुध्)*

अविरूळ्हो : Not grown *(अ + विरूढ = रुह्)*

आविसति : To approach, to enter *(आ + विश्)*

अविसेसेन : Not specially, generally *(अ + विशेषेण)*

अवितथो : True *(अ + वि + तथा)*

आवितो : Guarded, protected

अवोच : See *वत्ति*

आयुधं : A weapon *(आयुध)*

आवुणाति + णोति : To cover: to enclose, to string *(आ + वृ)*

आवुसो : Friend! Brother! Sir

आवुतौ : Covered; hedge; enclosed = surrounded: strung *(आवृत = वृ)*

अव्याकतो : Undefined, unexplained *(अव्याकृत = कृ)*

अव्यापादो : Absence of malice or desire to injury another person *(अ + व्यापाद्)*

अव्यापज्झो : Free from suffering

अव्यापन्नो : Free from malice or foul-desire *(अव्यापन्न = पद्)*

अव्यासेको : Charming, fascinating *(अ + वि + आ + सेक)*

अव्ययीभावो : A grammatical term *(अव्ययीभाव)*

अव्ययेन : Without loss, safely *(अ + व्यय)*

अव्ययो : Unchangeable *(अ + व्यय)*

आयाचनं : Request *(आ + याच् + अन)*

आयाचति : To speak, to ask to request *(आ + याच्)*

अयं : This *(अयम् = इदम्)*

अयं : Iron

आयमति : To draw; to strech; to extend *(आ + यम्)*

आयामतो : In length *(आयाम + तस्)*

आयामो : Length *(आयाम)*

अयनं : A road: going: motion *(अयन)*

आयस्मा : Old, venerable *(आयुष्मन्त्)*

अयसो : Ill reputation : disgrace *(अ + यशस्)*

आयसो : Made of iron *(आयस)*

आयतनं : Place: dwelling place: home: abode: seat: rendezvous, haunt, receptacle, mine = altar, shrine: place of origin, source *(आयतन)*

अयति : To go *(अयति)*

आयति : Futurity, the future : length = majesty *(आयति)*

आयाति : To go; to approach: to return *(आ + या)*

आयतिको : Future *(आयति + क)*

आयतो : Long *(आयत + यम्)*

आयत्तता : Dependence *(आयत्त + आ)*

आयत्तो : Dependent, belonging to *(आयत्त = यत्)*

अयो, अयं : Iron *(अयस्)*

आयो : Gain; revenue: coming in, entrance *(आय)*

आयोधनं : Battle *(आयोधन)*

अयोग्गो : An iron-lipped pestle for husking paddy *(अयस् + अग्र)*

अयोघनो : A sledge hammer *(अयस् + धन)*

अयोगो : Wrong practice *(अ + योग)*

आयोगो : Occupation *(आ + योग)*

अयोगुलो : An iron ball *(अयोगुड)*

अयोमयो : Made of iron *(अयस् + मय)*

अयोनिसो : See *योनिसो*

आयु : Life *आयुस*

आयुद्धं : See *अवुधं*

आयुको : Living *(आयुस् + क)*

आयुसं : Duration of life *(आयुष)*

आयुत्तो : Endowed, furnished with *(आयुत = यु)*

आयुत्तको : An agent, manager, superintendent *(आयुक्त + एक)*

अयुत्तो : Improper, wrong *(अ + युक्त = युज्)*

अय्यको : A grandfather, an ancestor *(आर्यक)*

अय्यो : A Lord: chief: master: a Buddhist priest *(आर्य)*

B

बब्बजो : A sort of coarse grass *(वल्वज)*

बब्बु : A mungoose *(बभ्रु)*

बदरा : Cotton *(बदरा)*

बदरी : The *jujube* tree *(बदरी)*

बदरो : The jujube fruit *(बदर)*

बद्धं : A leather thong or strap *(वर्ध)*

बद्धो : Bound; fixed: continuous: acquired: contracted *(बङ्ध = बन्ध्)*

बाधा : Annoyance, refutation; affliction *(बाधा)*

बाधति : To obstruct; to annoy; to afflict; to oppress *(बाध्)*

बधिरो : Deaf *(बधिर)*

बाहा : The arm *(बाहा)*

बहालतो : In thickness *(बहल + तस्)*

बहालो : Thick *(बहल)*

बाहति–बाहेति : To remove, to put away, to reject *(वाह)*

बहि + बहिं : Outward, outside *(बहिस्)*

बहिद्धां : Outside *(बहिस् + धा)*

बाहिरा : From outside *(बाह्यत्)*

बाहिरको : External, foreign, heretical *(बाह्यक)*

बाहिरतो : From outside *(बाह्यतस्)*

बाहिरे : Outside, externally *(बाह्य)*

बाहितो : See *बाहति*

बहु : Much; many : large : ample *(बहु)*

बाहु : Arm *(बाहु)*

बहुब्बीहि : Equivalent of *बहुब्रीहि*

बहुभाणी : Garrulous *(बहु + भाण + इन्)*

बहुभाणिता : Garrulousness

बहुभावो : Quality, multiplicity *(बहु + भाव)*

बहुभेदो : Multiform, various *(बहु + भेद)*

बहुदको : Holding much water *(बहु + उदक)*

बहुधा : In many ways *(बहुधा)*

बहुजागरो : Keeping many vigils, very watchful *(बहु + जागर)*

बहुजनो : Most people, the multitude, the world, mass of people, crowd *(बहु + जन)*

बाहुजो : A Khattiya *(बाहुज)*

बहुकिच्चो : Having many duties: very busy *(बहु + कृत्य)*

बहुको : Much; many *(बहु + क)*

बहुलीकरोति : To increase, to extend *(बहुली + कृ)*

बहुलीकतो : Enlarged, increased, multiplied *(बहुली + कृत)*

बाहुल्लं : Abundance *(बाहुल्य)*

बहुमतो : Esteemed: venerated *(बहु + मत = मन्)*

बाहुमूलं : The armpit *(बाहु + मूल)*

बहुनदिको : Receiving many rivers - an epithet of ocean *(बहु + नदी + क)*

बहुपकारो : Very helpful, very useful *(बहु + उपकार)*

बहुप्पदो : Liberal, munificient *(बहु + प्रद)*

बाहुसच्चं : Great learning *(बहु + श्रुत + य)*

बहुसो : Greatly, abundantly *(बहुशस्)*

बहुस्सुतत्तं : Learnedness, eruadition *(बहु + श्रुत + त्व)*

बहुस्सुतो : Learned, erudite *(बहु + श्रुत = श्रु)*

बहुतर : More *(बहुतर)*

बहुत्तं : Multitude *(बहुत्व)*

बहुत्थं : In many ways *बहु + थम्)*

बहुवचन : Plural number

बहुवारको : The tree eordiamyxa *(बहुवारक)*

बहुविधो : Various, multiform *(बहु + विधा)*

बाह्यो : External *(बाह्य)*

बज्झति : To be bound: to be imprisoned *(बध्श्ते = बन्धु)*

बको : A crane (the bird) *(बक)*

बाकुचि : The plant *Veronia anthelminthica* *(बाकुचि)*

बलग्गं : Front of an army, troops in array *(बल + अग्र)*

बलाका : A crane (bird) *(बलाका)*

बलकायो : An army *(बल + काय)*

बलकारो : Violence *(बलात्कार)*

बालको : A boy; a child: young one of an animal *(बालक)*

बलं : Strength, power, force: an army, troops, forces: Bulkiness *(बल)*

बलानीको : With strong array *(बल + अनीक)*

बालता : Childhood *(बाल + ता)*

बालातपो : The rays of the newly risen sun *(बाल + आतप)*

बलति : To live *(बल्)*

बालत्तं : Childhood *(बाल + त्व)*

बलत्थो : A royal messenger or peon: a palace servant

बलवा : Strong *(बलबन्त)*

बलक्तरो : Stonger *(बलवन्त् + तर्)*

बालावतारो : Name of a well known Pali Grammar *(बाल + अवतार)*

बालेय्यो : Fit for a child: soft *(बालेय)*

बाळ्हो : Hard, severe, excessive *(वाढ)*

बलि : Religious offering, oblation *(बलि)*

बलि : Strong *(बलिन्)*

बलिकम्मं : Religious offering, offering of food to Bhutas *(बलि + कर्मन्)*

बलिमा : Receiving offerings *(बलिमन्त्)*

बलिपुत्थो : A crow *(बलि + पुष्ट = पुष्)*

बालिसिको : A fisherman *(बलिश + इक)*

बलिसो : A fish hook *(बलिश्)*

बालिसो : Young, childish *(बालिश्)*

बलिवद्दो : An ox *(बलिवर्द)*

बालो : Young, ignorant, foolish *(बाल)*

बाल्यं : Youth, childhood *(बाल्य)*

बाणाधि : Quiver *(बाणाधि)*

बन्धागारं : A prison *(बन्ध + अगार)*

बन्धकी : An unchaste woman *(बन्धकी)*

बन्धनागारं : A prison *(बन्धन + अगार)*

बन्धनं : Binding: bonds: a fetter: a band: ligature: a snare, a trap: the state of a leaf or flower *(बन्धन)*

बन्धनीयो : To be bound, fit to be bound *(बन्धनीय)*

बन्धापेति : (caus) To cause to be bound: to cause to be embanked (of a river)

बन्धति : To bind: to fasten: to fix: to embank: to acquire, to get, to contract *(बन्ध्)*

बन्धवो : A kinsman *(बान्धव)*

बन्धेति : To cause to be bound: to bind: to tie: to fix; to fasten *(बन्धयति = बन्धु)*

बन्धो : Binding: bonds: union: bondage *(बन्ध)*

बन्धु : A relative, a kinsman *(बन्धु)*

बन्धुजीवो : The plant *Pentapetes Phoenicea (बन्धुजीव)*

बन्धुको : The plant Pentapetes Phoenicea *(बन्धूक)*

बन्धुरो : Uneven, undulating *(बन्धुर)*

बन्धुमा : Having relatives *(बन्धुमन्त्)*

बाणो : An arrow *(बाण)*

बप्पो : A tear *(बाष्प)*

बाराणसेय्यको : Belonging to Benaras *(बारणसेय + क्)*

बाराणसी : City of Benaras. *(वाराणसी)*

बारस : Twelve *(द्वादशन्)*

बरिहं : A peacock's tail *(बर्ह)*

बरिही : A peacock *(बर्हिन्)*

बरिहिसं : Sacrificial grass *(बर्हिस्)*

बत्तिंसा : Thirty two *(द्वात्रिंशत्)*

बव्हाबाधो : Much sickness *(बहु + आबाध)*

बावीसति : Twenty two *(द्वाविंशति)*

बेलुवो : Relating to the vilva tree; made of vilva wood *(वैल्व)*

भा : Light, ray, splendour *(भा)*

भाब्बो : Right, proper, good, well-conducted; future *(भव्य – भाव्य)*

भच्चो : A servant, an attendant *(भृव्य)*

भदन्त : A venerable man: a Buddhist priest *(भदन्त)*

भद्दास : The tree Pinus, Deodara *(भद्र + दास)*

भद्दकच्चाना : Name of Siddhartha's wife

भद्दको : Good, happy *(भद्रक)*

भद्दकुम्भो : A jar with holy water; an auspicious vase *(भद्र + कुम्भ)*

भद्दमुत्तं : The grass Eyperus Rotundas *(भद्र + मुर्त)*

भद्दपदा : Name of two Nakkhattas *(भद्रपदा)*

भद्दे : Madam *(भद्रे)*

भद्दो + भद्रो : Good, excellent, noble, worthy, pious; fortunate auspicious, happy *(भद्र)*

भागधेय्यं : Lot, destiny *(भाग + धेय = धा)*

भगं : Power, majesty; fortune, prosperity; fame, glory; virtue, merit: desire, love: *pudendum muliebre (भग)*

भगन्दल : Fistula *(भगंदर)*

भगवा :	Worshipful, venerable, blessed, holy *(भगवन्त्)*
भागवा :	Partaker of, having a share in *(भागवन्त्)*
भग्गा :	Name of a people of country *(भार्ग)*
भग्गवो :	A descendent of Bhrigu *(भार्गव)*
भग्गो :	Broken *(भग्न – भञ्ज्)*
भागी :	Partaking in, undergoing, suffering *(भागिन्)*
भागिनेय्यो :	A sister's son, nephew *(भागिनेय)*
भगिनी :	A sister *(भगिनी)*
भागीरथी :	The Ganges *(भागीरथी)*
भागीयो :	Connected with, conductive to *(भाग + य)*
भागो :	A portion, part, share; region, quarters; lot, destiny *(भाग)*
भगु :	Name of one of the ten Rishis *(भृगु)*
भाग्यं :	Fortune, lot, destiny; good and evil aquired in former existences, karma *(भाग्य)*
भाजनं :	A vessel, bowl, jar: dividing, distribution *(भाजत)*
भाजपेति : (Caus)	To cause to be distributed *(भाजपेति)*
भजति :	To serve, to honour; to be devoted to; to follow *(भज्)*
भाजेति :	To divide, to distribute *(भाज्)*
भाज्जापेति : (caus)	To cause to be fried or baked
भज्जति :	To fry, to roast, to bake *(भ्रज्ज्)*
भाकरो :	The sun *(भास्कर)*
भक्खको :	Voracious *(भक्षक)*
भक्खणं :	Eating, enjoying *(भक्षण)*
भक्खेति :	To eat: to devour: feed upon *(भक्ष)*
भक्खो :	Eating, feeding on *(भक्ष)*
भक्खो :	Eatable, to he eaten *(भष्य = भक्ष्)*
भल्लातको + की :	The marking nut plant, *semicarpus anacardium (भल्लातक)*
भल्ली :	The marking nut plant *(भल्ली)*
भं :	A star, a lunar asterium = a planet *(भ)*
भमकारो :	A turner *(भ्रम + कार)*
भमापेति : (caus)	To cause to revolve
भमरो :	A bee *(भ्रमर)*
भमति :	To whirl about: to revolve, to roam *(भ्रम)*

भमेति : To cause to revolve, to whirl *(भ्रमयति = भ्रम्)*

भमो : Whirling a lathe: a watercourse, drain *(भ्रम)*

भमु, भमुको : An eyebrow

भाणको : A jar *(भाण्डक)*

भाणको : Reciting, saying, preaching *(भाणक)*

भाण : Reciting, saying *(भाण्)*

भणं : Expounding: telling *(भणन्)*

भणति : To say, to speak, to recite, to preach *(भण्)*

भाणवारं : A recitation, a portion for recital *(भाण + वार)*

भण्डगब्भो : A store-room *(भण्ड + गर्भ)*

भण्डागारिको : A treasurer; royal - treasurer *(भाण्डागारिक)*

भण्डकं : A utensil, implement *(भण्डक)*

भण्डाकी : The plant *solanum Melongena (भण्डाकी)*

भण्डं : Utensil, wares; goods property: the stock in trade of a tradesman *(भाण्ड)*

भण्डनं : Quarrelling, strife *(भण्डन)*

भण्डति : To quarrel, to abuse *(भण्ड)*

भण्डिका : An article: utensil: a bundle *(भण्डिका)*

भण्डिको : The plant *Pentapetes Phoxenicea (भण्डिक)*

भण्डिलो : The tree *Mimosa Sirisha (भण्डिल)*

भण्डु : Shaven, bald, used as an interjection of emphasis, Like to be some look here, It is a familiar term of address

भणे : Aterm offen used for addressing inferiors

भाङ्गो : Hemp *(भाङ्ग)*

भाणी : Speaking, talking *(भाण + इन्)*

भणीतो : Speaking, talking *(भाणित् = भण्)*

भञ्जनं : Breaking, fracturing, injuring, destruction

भञ्ञति : To be spoken, told : preached

भन्ते : Short form of *भदन्त*

भन्तो : Whirling, rolling, confused *(भ्रान्त = भ्रम्)*

भानु : The Sun *(भानु)*

भानुमा : Luminous, brilliant *(भानुमन्त)*

भारद्वाजो : Name of one of the ten Rishis

भारको : A load *(भारक)*

भरणं : Bearing, supporting, maintenance

भरणी :	Name of the 2nd Nakkhatta *(भरणी)*
भारपादता :	Elephantiasis of the leg *(भार + पाद + ता)*
भारतं :	The Mahabharata *(भारत)*
भरति :	To bear, to support, to flourish *(भृ)*
भारती :	Speech *(भारती)*
भारी :	Carrying, bearing *(भारिन्)*
भारिको :	A porter *(भारिक)*
भारिको :	Serious, grievous *(भारिक)*
भारितो :	Filled with *(भरित)*
भरिया :	Wife *(भार्या)*
भारियो :	Serious, grievous
भरो :	Supporting *(भर)*
भरो :	A load: much, excessive *(भर)*
भरो :	a weight, burden: charge: duty, business *(भार)*
भासा :	Speech, language *(भाषा)*
भासा :	Light, radiance *(भासा)*
भासनं :	Lustre, radiance *(भासन)*
भासति :	To speak, to say, to address *(भाष्)*
भासति :	To shine *(भास्)*
भासेति : (Caus)	To illuminate
भासिता :	One who speaks or utters *(भाषितृ)*
भासितो :	Spoken; told; spoken to; addressed *(भाषित्)*
भस्मं :	Ashes *(भस्मन्)*
भस्मीभवति :	To be reduced to ashes *(भस्मी + भू)*
भस्मीकरणं :	Reducing to ashes *(भस्मी + करण)*
भासो :	A vulture *(भास)*
भस्सं :	Talk *(भाष्य)*
भस्सरो :	Shining, brilliant *(भास्वर)*
भस्सति :	To fall *(भ्रंश + भ्रश्)*
भस्त :	A bellows *(भस्ता)*
भासुरो :	Shining *(भासुर)*
भाता :	A brother; a cousin germane *(भ्रातृ)*
भतको :	A servant or hireling *(भृतक)*

भति : Support, maintenance: wages, hire *(भृति)*

भाति : To *shine*, to appear *(भा)*

भातिकत्तं : State of being a brother *(भ्रातृ + क + त्व)*

भतिको : One who works on wages: labourer *(भृति + क)*

भातिको : A brother *(भ्रातृ + क)*

भटो : A soldier *(भट)*

भत्ता : A husband *(भतृ)*

भत्तग्ग : A refrectory *(भक्ताग्र)*

भत्तकारो : A cook *(भक्त + कार)*

भत्तकिच्चं : Business of food i.e. meal *(भक्त + कृत्य)*

भत्तं : Boiled rice: meal *(भक्त)*

भत्थो : Fallen *(भ्रष्ट = भ्रंश्)*

भत्थो : Fried or roasted *(भ्रष्ट = भ्रज्ज्)*

भत्ति : Division; service: devotion *(भक्ति)*

भत्तुद्देसको : One whose duty is to regulate the distribution of food to the priests *(भक्त + उद्देश + क)*

भातुको : A brother *(भ्रातृ + क)*

भातुनो + भातुस्सा : See *भाता*

भवाभवो : Repeated births; existence under difterent forms successively *(भव + भव)*

भवदिट्ठि : The heresy of believing matter and being to be everlasting *(भव + दृष्टि)*

भवग्गं : Culmination of 'existence' *(भव + अग्र)*

भवक्खयो : Ceasation of birth or existence, Nirvana *(भव + क्षय्)*

भवं : Lord, Sir *(भवन्त)*

भावना : Producing, increasing, developing; being devoted to; realizing, attaining: earnest cosideration, meditation *(भावना)*

भवनं : Being, existence: a house: dwelling, palace *(भवन्)*

भावनं : Consideration, reputation *(भावन)*

भावनामयो : Consisting of or sprung from meditation *(भावना + मय)*

भवनेत्ति : Desire, lust *(भवनेत्री)*

भवनीयो : That ought to be; that must be

भवन्ता : See *(भवं)*

भवन्तरं : Another birth or existence, either, previous or subsequent *(भव + अन्तर)*

भवति + होति : To be: to exist: to become: to take place: to befall: to behave *(भू)*

भावेति : (caus) To cause to exist; to produce; to increase, to enlarge, to perfect: to be occupied with, to practice, to be versedin: to develop the idea of: to dwell upon; to contemplate *(भावयनि = भू)*

भावि : Future *(भाविन्)*

भविस्सन्ति : Future tense

भवितब्बो + होतब्बो : That is or aught to be *(भवितव्य = भू)*

भावितो : Increased, enlarged: perfected: trained: practiced: occupied with, intent; attained: performed *(भावित = भू)*

भवो : Being, existence: birth, origin: renewed existence: gain, increase, welfare *(भव)*

भावो : Property, nature: state, condition: meaning, intention: gesture, amorous, dalliance: substance, thing *(भव)*

भव्यो : Existing: being *(भव्य = भू)*

भयं : Fear, fright; danger, calamity *(भय)*

भयानको : Frightful, horrible *(भयानक)*

भयङ्करो : Fearful, dreadful *(भयंकर)*

भायति : To fear, to be afraid *(भी)*

भयट्ठो : In danger; terrified *(भय + स्थ)*

भेदको : One who breaks or causes disunion *(भेदक)*

भेदनको : Liable to be broken *(भेदन + क)*

भेदनं : Breaking, division *(भेदन)*

भेदेति : To break, to cleave, to divide *(भेदयति = भिद्)*

भेदी : Breaking, cleaving *(भेदिन्)*

भेदो : Breaking; division; disunion; = breach: schism, sort kind *(भेद)*

भेको : A frog *(भेक)*

भेरण्डो : A jackal *(भेरण्ड)*

भेरवो : Fearful, terrible *(भैरव)*

भेरि : A Kettle-drum, tomtom *(भेरि)*

भेसजं : A medicine, drug *(भेषज)*

भेसज्जं : A medicine, drug *(भैषज्य)*

भेसमो : Terrible *(भेष्)*

भेत्ता : One who breaks *(भेतृ)*

भेत्वा : See *भिन्दति*

भी : Fear *(भी)*

भिदा : Difference, kind *(भिद्)*

भिज्जनं : Breaking up dissolution

भिज्जति : See *भिन्दति*

भिज्जो : To be broken *(भिघ = भिद्)*

भिक्खा : Begging: alms: begged food *(भिक्षा)*

भिक्खाचरिया : Going about for alms, going the rounds *(भिक्षा + चर्या)*

भिक्खाचारो : Going the rounds for alms *(भिक्षा + चार)*

भिक्खति : To ask for food, to beg *(भिक्ष्)*

भिक्खुणी : A female mendicant: a Buddhist nun or priestess *(भिक्षुणी)*

भिक्खुसङ्घो : A company of priests *(भिक्षु + संघ)*

भिमो : Dreadful, horrible, cruel *(भीम)*

भिंसनो : Dreadful, horrible *(भीषण्)*

भिंसापेति : To frighten, to terrify *(भीषय = भी)*

भिंसिका : Terrifying, an alarum (comp *भीषा*)

भिन्दनं : Breaking; destroying *(भिन्दन)*

भिन्दति : To break, to destroy, to divide, to separate *(भिद्)*

भिन्दिवालो : A sort of spear *(भिन्दिपाल)*

भिङ्गराजो : Name of a shrub, *Eclipata Prostrata* *(भृङ्ग + राज)*

भिङ्गारो : A golden vase *(भृङ्गार)*

भिङ्गो : A young elephant

भिन्नको : Schismatic *(भिन्नक)*

भिन्नो : Broken; divided; disunited: separated: other: different: joined, connected

भीरु : Timid; afraid *(भीरु)*

भीरुको : Timid; afraid *(भीरुक)*

भीरुता : Timidity; dread *(भीरुता)*

भिसक्को : Physician *(भिषज्)*

भिसं : Film or fibres of the stalk of the water-lily *(भिस)*

भिसी : A mat or mattress *(वृषी)*

भिसीलो : Timid *(भी + शील)*

भीति : Fear *(भीति)*

भीति : Frighten, afraid *(भीत = भी)*

भित्ति : A wall of earth or masonary *(भित्ति)*

भीयो + भिय्यो : adj. More *(भूयंस्)*

भीयो + भिय्यो : Again, further, besides: repeatedly, frequently: much *(भूयस्)*

भिय्योसोसत्ताय : More and more, exceedingly and abundent *(भूयशस् + dat मात्र)*

भो : Sir! Friend! *(भो + ओस्)*

भोगवा : Wealthy *(भोगवन्त्)*

भोगी : A snake, a village headman *(भोगिन्)*

भोगिनी : A royal concubine *(भोगिनी)*

भोगो : A snake's body: snake's expanded hood: a fold: eating, enjoying food, wealth *(भोग)*

भोजको : A village headman *(भोजक)*

भोजन : Food *(भोजन)*

भोजनीयो : To be eaten *(भोजनीय)*

भोजापेति : To feed, to entertain

भोजयति : To cause to eat, to feed: to maintain: to entertain *(भोजयति = भुज्)*

भोजी : One who eats *(भोजिन्)*

भोज्जो : To be eaten, edible *(भोज्य = भुज्)*

भान्तो, भोन्ती : See *भवं*

भोत्ता : One who enjoys eating *(भोक्तृ)*

भोत्तब्बो : To be eaten *(भोक्तव्य)*

भोत्त : See *भुज्जति*

भोवादी : A Brahman, who utters Bho *(भो + वादिन्)*

भू : The earth *(भू)*

भू : An eyebrow *(भ्रू)*

भूभुजो : A king *(भूजुज्)*

भूधरो : A mountain *(भू + धर)*

भूजा + भूजो : The arm *(भुज्)*

भुजगो, भुजङ्गमो, भुजङ्गो : A snake *(भुजंग)*

भुजपत्तो : The Bhojpatra tree *(भूर्ज + पत्र)*

भुजसिरो : The shoulder *(भूज + शिरस्)*

भुजिस्सो : A feed slave, a freedman: a freeman *(भुजिष्य)*

भूमको : Having stages or stories *(भूम + क)*

भूमि : The earth, the stage, place, degree, state: the ground: storey of a house *(भूमि)*

भूमिका : Story or stage *(भूमिका)*

भूमिन्दो : A king *(भूमि + इंद्र)*

भूमिपालो : A king *(भूमि + पाल)*

भूमिपो : A king *(भूमि + प)*

भुम्मत्थरणं : A carpet *(भूमि + आस्तरण)*

भुम्मट्ठो : Standing on the ground

भुम्मो : Terrestrial *(भूम्य)*

भूनाथो : A king *(भूनाथ)*

भुञ्जनं : Enjoying, eating

भुञ्जति : To eat, to partake of, to enjoy: to possess, to govern *(भुज्)*

भुञ्जी : Eating *(भुज + इन्)*

भूपालो : A king *(भू + पाल)*

भूपति : A king *(भू + पति)*

भूपो : A king *(भूप)*

भूरि : Much, many, abundant, Wisdom *(भूरि)*

भूरी : The earth *(भूर्णि or भूरिज्)*

भूसा : Adornment *(भूषा)*

भुसं : Chaft or corn *(बुस)*

भुसं : Much, exceedingly *(भृशन्ट)*

भूसनं : Ornament *(भूषण)*

भूसेति, भूसापेति : To adorn *(भूष)*

भूसो : Much, excessive *(भृश)*

भूतधरा : The earth *(भूत + धर)*

भूतगामो : Vegetation, grass, plants, shrubs *(भूत + ग्राम)*

भूतपति : Indra *(भूत + पति)*

भूतपो : A yakkha chief or king *(भूत + प)*

भूतपुब्बो : Existing before *(भूत + पूर्व)*

भूतत्तं : State of being a *bhuta (भूत + त्व)*

भूतवादी : Speaking according to facts or truithful *(भूत + वादिन्)*

भूतवेज्जो : An exorcist *(भूतवैद्य)*

भूतविज्जा : Knowledge of spirits or demons, exorcism *(भूत + विद्या)*

भूति : Being, existence, birth: welfare *(भूति)*

भूतिणं + णकं : A fragrant grass *(भूतृण)*

भूतो : Been, become, being: past, former: true, real, right *(भूत = भू)*

भुत्तवा : Having eaten *(भुक्तवन्त्)*

भुत्तावी : Having eaten *(भूक्त + विन्)*

भुत्ति : Eating, enjoying *(भुक्ति)*

भुत्तो : Eaten, possessed, used *(भुक्त = भुज्)*

भुत्वा : See *भुञ्जति*

भुवनं : The world *(भुवन)*

भुवि : See *भू*

भुयति : See *भवति*

बीभच्चो : Loathsome: dreadful: altered: disguised *(बीभत्स)*

बीजगामो : Collection of seeds *(बीज + ग्राम)*

बीजं : A germ; a seed: cause: origin: prudendum *(वीज्)*

बिलालं : A sort of salt

बिलालो : A cat *(बिडाल)*

बिलं : A hole or charm *(बिल)*

बिलं : A part or a bit *(बिड)*

बिलङ्गो : Sour gruel

बिलारो : A cat *(बिडार)*

बिलस : Bit by bit *(बिड + शस्)*

बिल्लो : The tree eagle *Masmelos (बिल्व)*

बिम्बा : A name of Yasodhara *(बिम्बा)*

बिम्बिका : The plant *Momordica Monadelpha (बिम्ब + इका)*

बिम्बिसारो : Name of a king of Magadha; convert of Buddha *(बिम्बी + सार)*

बिम्बो + बिम्बं : Reflection or image: disc of Sun or Moon *(बिम्ब)*

बिम्बोहनं : A pillow

बिन्दु : A drop or spot: a little circle or dot used as a symbol for anusvara *(बिन्दु)*

बीरणं : A fragrant grass *(वीरण)*

बौधकारो : One whose duty is to awaken a prince with music and song *(बोध + कर)*

बोधनं बोधनेय्यो : Knowing, Understanding *(बोधन)*

बोधिपक्खियो इको बोधिपक्खियो : Accessory to Bodha or supreme knowledge *(बोधि + पाक्षिक)*

बोधति : See *बुज्झति*

बोधेति : (caus) To inform: to teach: to cause to blossom *(बोधयति = बुध)*

बोधि : The knowledge possessed by a Buddha; supreme or infinite knowledge; omniscience, the truth; a Bodhi-tree; a precept *(बोधि)*

बोधिमालको : The sacred enclosure in which a Bo-tree stands

बोधिमण्डलं : The region surrounding the Bo-tree

बोधिमण्डो : The miraculous throne under Bodhi which was occupied by Buddha when he attained Buddhahood *(बोधि + मण्ड)*

बोधिसत्तो : A being destined to attain Buddhahood *(बोधि + सत्त्व)*

बोधो : Knowledge, wisdom, intelligence: supreme knowledge, Buddhaship *(बोधि)*

बोज्झङ्गो + बोधि-अङ्गो : Member or constituent of Bodhi

बोन्दि : The body

ब्रहा : Large, great *(बृहत्)*

ब्रह्मा : The Hindu Brahma: a Brahmin parents : a Buddha: an arahata *(ब्रह्मन)*

ब्रह्माबन्धु : A Brahmin *(ब्रह्मन् + बन्धु)*

ब्रह्मचारी : A religious student: celible: chaste: holy *(ब्रह्मन + चारिन्)*

ब्रह्मचरियं : Duties or practice of a religious student : celibacy, chastity, purity: life of holiness led by the sanctified : living according to Buddha's precepts *(ब्रह्मन् + चर्य)*

ब्रह्मचरिया : Celibate, chaste, holy, virtuous *(ब्रह्मचर्य + वन्त्)*

ब्रह्मचरियवासो : Living as a religious student; living life according to Buddhist law *(ब्रह्मचर्य + वास्)*

ब्रह्मघोसो : Glorious voice, or voice like that of Mahabrahma *(ब्रह्मन् + घोष)*

ब्रह्मजालं : Name of first sermon of the Sutta Pitaka *(ब्रह्मन् + जाल)*

ब्रह्मजो : Sprang from Brahma or Brahmin *(ब्रह्मन् + ज)*

ब्रह्मकायिको : Belonging to the suit of Mahabrahma *(ब्रह्मन् + काय + इक्)*

ब्रह्मलोको : World of Brahma *(ब्रह्मन + लोक)*

ब्रह्मं : The practice of austere devotion; the vedas *(ब्रह्म)*

ब्राह्मणमहासालो : A wealthy Brahmin *(ब्राह्मण + महाशाल)*

ब्राह्मणी : A brahmin woman *(ब्राह्मणी)*

ब्रह्मञ्ञता : Brahminhood *(ब्राह्मण्य + ता)*

ब्राह्मणो : A Brahmin or an Arahata *(ब्राह्मण)*

ब्रह्मपक्खिको : Belonging to the Brahmanical party *(ब्रह्मन् + पक्ष + इक)*

ब्रह्मपारिसज्जो : Belonging to the retinue of Mahabrahma *(ब्रह्मन् + पार्षध)*

ब्रह्मपुरोहितो : Minister or priest to Mahabramha *(ब्रह्मन् + पुरोहित)*

ब्रह्मस्सरो : The voice of a Mahabrahma *(ब्रह्मन् + स्वर्)*

ब्रह्मविहारो : Excellent or perfect state; abode in Brahma world *(ब्रह्मन् + विहार)*

ब्रवि ब्रूति : To say; to tell; to call, to name *(भू)*

ब्रूहेति : (caus) To increase, to augment, to develope, to perfect, to devote oneself to *(बृहयति = वृह)*

बुब्बुळकं : A bubble *(बुब्बुद् + क)*

बुब्बुळं : A bubble: a blister : a pimple *(बुब्बुद)*

बुभुक्खति : To wish to eat, to be hungry *(बुभुक्षते = भुज्)*

बुभुक्खितो : Hungry *(बुभुक्षित्)*

बुद्धभावो : Buddhahood *(बुद्ध + भाव)*

बुद्धभूमि : Degree or condition of Buddhahood *(बुद्ध + भूमि)*

बुद्धचक्खु : Buddha's eye or omniscience *(बुद्ध + चक्षुस्)*

बुद्धधम्मो : Condition or attribute of a Buddha *(बुद्ध + धर्म)*

बुद्धघोसो : An eminent Buddhist who flourished in the 4th century A.D.

बुद्धकप्पो : A *Kalpa* in which one or two Buddhas appear *(बुद्ध + कल्प)*

बुद्धकिच्चं : That which is to be done by Buddha or his mission *(बुद्ध + कृत्य)*

बुद्धङ्कुरो : One destined to be a Buddha or his embryo-like *(बुद्ध + अङ्कुर)*

बुद्धन्तरं : Period between death of and appearance of the other Buddha *(बुद्ध + अन्तर)*

बुद्धसासनं : Religion or commandment of Buddha *(बुद्ध + शासन्)*

बुद्धता : Knowledge *(बुद्ध + ता)*

बुड्ढता : Seniority or old age *(वुद्ध + ता)*

बुड्ढतरो : Elder or senior *(वुद्ध + तर)*

बुद्धत्तं : Buddhahood *(बुद्ध + त्व)*

बुद्धविसयो : The extent of Buddha's power or wisdom *(बुद्ध + विषय)*

बुद्धि : Understanding, knowledge, intelligence *(बुद्धि)*

बुद्धिको : Having faith in Buddha *(बुद्ध + इक)*

बुद्धिमा : Intelligent, wise *(बुद्धिमन्त्)*

बुद्धो : Known, intelligent, understood, enlightened, wise *(बुद्ध = बुध)*

बुद्धो : A supreme Buddha : Gautam Buddha or Sakya muni *(बुद्ध)*

बुड्ढो : Old, aged *(वुद्ध = वृध)*

बुद्धप्पादो : Birth of a Buddha in the world *(बुद्ध + उत्पाद्)*

बुधो : Wise *(बुध्यन्)*

बुज्झनं : Knowing

बुज्झति : To know, to perceive, to understand *(बुध्यते + बुध)*

बुन्दिकाबद्धो : Name of a sort of a bed

व्यञ्जनं, व्यापनं, व्युहो : See Vyanjanani, Vyapanani and Vyuho etc.

C

च (conj) : And, but, even *(च)*

चच्चरं : A square, where four roads meet; a courtyard *(चत्वर)*

चागक : Generous, liberal *(त्याग + वन्त्)*

चागी : Giving away, liberal *(त्यागित्)*

चागो : Abondoning, forsaking, resigning, giving away, self sacrifice, liberality *(त्याग)*

चजति : To abandon, to resign, to give up, sacrifice *(त्यज्)*

चजनं : Being abandoned, or given away

चक्कलक्खणं : The figure of a wheel under the foot of a Buddha *(चक्र + लक्षण)*

चक्कं : A wheel: a potter's wheel: a circle: discuss: an army, a multitude: a body of religious doctrine: a region, tract circuit: happy state, good fortune *(चक्र)*

चक्कपादो : A cast, carriage *(चक्र + पाद)*

चक्कपाणि : Vishnu *(चक्र + पाणि)*

चक्करतनं : The magic wheel of a *cakkavatti* moarch, which rolls before him, when he makes his royal tour *(चक्ररत्न)*

चक्कवाको : The ruddy goose, *annas casarca (चक्रवाक)*

चक्कवाळं, लं : A world, a sphere *(चक्रवाट or चक्रवाल)*

चक्कवाळपब्बतो : The lofty wall of mountains, encircling the *cakkavala*, forming the world's limit *(चक्रवाट + पब्बत)*

चक्कवत्ती : A universal monarch *(चक्रवर्तिन्)*

चक्कव्हो : The ruddy goose, *annas casarca (चक्र + आह्वा)*

चक्खायतन + : The organ of the eye, the sense of the sight *(चक्षुस् + आयतन)*

चक्खवायतनं

चक्खु + **चक्खुं** : The eye: insight, perception, supernatural insight or knowledge *(चक्षुस्)*

चक्खुमा : Having eyes or sight, seeing, having supernatural insight or wisdom *(चक्षुष्मन्त्)*

चक्खुन्द्रियं : The organ of the eye, the faculty of sight, the vision *(चक्षुस् + इंद्रिय्)*

चक्खुपथो : Range or reach of vision *(चक्षुस् + पथ)*

चक्खुविञ्ञानं : The faculty of vision: eye-consciousness *(चक्षुस् + विज्ञान)*

चक्कीको : A bard or encomiast *(चाक्रिक)*

चकोरो : The greek partridge *(चकोर)*

चलाचलो : Unsteady *(चलाचल)*

चलनं + चालनं : Shaking, trembling *(चलन + चालन)*

चलनी : A swift, antelope *(चलनी)*

चलति : To move, to shake, to tremble *(चल्)*

चालेति : (caus) To move, to shake *(चालयति = चल्)*

चलितो Trembling; shaking *(चलिन् = चल्)*

चलो Trembling, unsteady, uncertain, transient *(चल्)*

चालो : A shaking *(चाल)*

चामरं : A yak's tail used as a whisk to drive away flies, it is one of the insignia of Royalty *(चामर)*

चमरो : The yark ox *(चमर)*

चामीकरं : Gold *(चामीकर)*

चम्मकारो : Cobbler *(चर्मकार)*

चम्मं : Skin, hide; a shield *(चर्मन)*

चम्पा : Name of a town in India, the present Bhagalpur *(चम्पा)*

चम्पको : The Champak tree, *Michelia Champaca (चम्पक)*

चम्पेय्यको : Belonging to, an inhabiting champa *(चम्पा + एय + कै)*

चम्पेय्यो : The *champak tree (चम्पा + एय)*

चमू : An army *(चमू)*

चमूपति : A general, a commander in chief *(चमू + पति)*

चमुरु : A sort of deer *(चमुरू)*

चणको : A chick pea *(चणक)*

चञ्चलति : To move, to proceed: to dance *(चञ्चल)*

चन्दभागा : Name of a river in India *(चंद्रभागा)*

चन्दको : An eye in the pea-cock's tail *(चंद्रक)*

चण्डालो : A chandala or a man of lowest caste *(चण्डाल)*

चन्दनं, नो : The sandal-wood, tree : unctuous, fragrant preparations made from sandal wood *(चन्दन)*

चन्दनिका : A dirty pool at the entrance of a village

चन्दिका : Moon-light *(चंद्रिका)*

चण्डीकतो : Provoked, angry *(चण्डी + कृत = कृ)*

चन्दिमा :	The moon *(चंद्रमस्)*
चन्दो :	The moon *(चन्द्र)*
चण्डो :	Wrathful; harsh; cruel; fierce: savage; violent *(चण्ड)*
चन्दोदय :	The rising of the moon *(चन्द्र + उदय)*
चङ्गोटको :	A casket
चङ्कमनं :	Walking up and down: a covered walk or eloister *(चङ्क्रमण)*
चङ्कमति :	To walk up and down *(चङ्क्रम् = क्रम)*
चङ्कमो :	A covered walk, arcade, portico, cloister *(चङ्क्रम् = अ)*
चपलो :	Tickle; unsteady; swift *(चपल)*
चापिको :	An archer *(चाप् + इक)*
चापो, चाप :	A bow *(चाप)*
चराचरो :	Movable *(चराचर)*
चारको :	Walking about, wandering *(चारक)*
चरणं :	The foot; a fixed observance or practice: good conduct *(चरण)*
चरापेति : (Caus)	To cause to walk; to drive
चरति :	To walk; to wander: to act, to behave: to live *(चर्)*
चारी :	Walking, living, acting *(चारिन्)*
चारिका :	Moving or walking about, wandering, roaming *(चर् + इका)*
चरिमो :	Last: subsequent *(चरम)*
चरितं :	Action: conduct, life *(चरित् = चर्)*
चरित्तं :	Practice; observance *(चरित्र)*
चरिया :	Walking, roaming: observance, practice, conduct *(चर्या)*
चरियापिटकं :	"Treasury of conduct"–15th book of Khuddaka Nikaya
चरो :	Going, walking, moving *(चर)*
चरो :	A spy *(चर्)*
चारो :	Walking, roaming; a spy *(चार)*
चरु :	An oblation to the Devas *(चरु)*
चारु :	Agreeable, charming, beautiful *(चारु)*
चसको + चसकं :	A drinking vessel *(चषक)*
चटको :	A sparrow *(चटक)*
चातको :	A sort of cuckoo, *Cuculus Melanoleneus (चातक)*
चतरसो :	See Cattaro
चाटि :	An earthenware vessel; a chatty: a jar: water pot *(चाटि)*

चत्ता : One who resigns or gives away *(त्यक्त्)*

चत्तारिसं, : चत्तालीसति, रिसा Forty *(चत्वरिंशत्)*

चत्तारो, चतुरो : Four *(चत्वार)*

चत्तो : Relinquished, sacrificed *(त्यक्त = त्यज्)*

चतु : See Cattaro

चतुब्बग्गो : Assemblance of four things *(चतुर + वर्ग)*

चतुब्बिधो : Four-fold *(चतुर + विधा)*

चतुभागो : Fourth part quarter *(चतुर् + भाग)*

चतुभूमिको : Having four stages *(चतुर + भूमिका)*

चतुद्दस : Fourteen *(चतुर्दर्शन्)*

चातुद्दसिको : Belonging to the 14th day *(चातुर्दशी + क)*

चातुद्दसी : Fourteenth *(चतुर्दश)*

चतुहिसं : The four cardinal points *(चतुर् + दिश्)*

चतुद्दिसो : Coming from the four quarters; ruling the four quarters *(चतुर + दिश्)*

चतुद्वारं : Four gates *(चतुर + द्वार)*

चतुधा : In four parts, fourfold *(चतुर्धा)*

चतुज्जातिगन्धी : Perfume of four sorts *(चतुर + जाति + गन्ध्)*

चतुक्कं : A square, where four-roads meet, a collection of four things *(चतुष्क)*

चतुक्कंसं : Four Kamas

चतुक्कण्णं : Four corners *(चतुर + कर्ण)*

चतुक्कणो : Heard only by two people, secret council *(चतुर् + कर्ण)*

चतुक्को : Consisting of four: four-fold *(चतुष्क)*

चतुमग्ग : Four paths *(चतुर् + मार्ग)*

चतुमासं : Four months *(चतुर् + मास)*

चातुम्महाभतिको : Consisting of, or relating to, the four elements *(चतुर + महा + भूत + इक्)*

चतुम्मुखो : Having four faces or fronts *(चतुर् + मुख)*

चतुनिकायको : Versed in the four Nikayas *(चतुर् + निकाय + क)*

चतुपच्चयं : The four requisites *(चतुर + प्रत्यय)*

चतुपरिसं : Four assemblies *(चतुर + परिषद)*

चतुपारिसुद्धिसीलं : Four precepts of purity *(चतुर + परिशुद्धि + शील)*

चतुप्पदो : A quadruped *(चतुर् + पद)*

चतुप्पादो : Having four Padas *(चतुर् + पाद)*

चतुरङ्गी : Consisting of four divisions *(चतुर + अङ्गीन्)*

चतुरङ्गुलं : Four fingers or inches *(चतुर् + अङ्गुल)*

चतुरन्ता : The earth *(चतुरन्ता)*

चातुरन्तो : Lord of the earth or of the four priests

चतुरापस्सेनो : Endowed with the four *aparsenas*

चतुरासीति : Eighty four *(चतुरशीतिः)*

चतुरस्सो : Quadrangular, regular *(चतुर + अश्र)*

चतुरो : See *चत्तारो*

चतुरो : Skillful, clever *(चतुर)*

चतुसच्चं : The four truiths

चतुसंवरसीलं : Four precepts of restraint *(चतुर + संवर + शील)*

चतुसट्ठि : Sixty four *(चतुर + षष्ठि)*

चतुत्थो : Fourth *(चतुर्थ)*

चतुत्तिंसतिमो : Thirty-fourth

चतुवग्गो : Consisting of four individuals *(चतुर् + वर्ग)*

चतुवीसति : Twenty-four *(चतुर + विशति)*

चतुवीसतिमो : Twenty-fourth

चवनको : Disappearing *(च्यवन्)*

चवति : To disappear; to vanish; to leave: to have one world and to be reborn in another *(च्यु)*

चावेति : (Caus) To cause to fall, or depart from; to cause to vanish from one world or reborn elsewhere *(च्यावयति = च्यु)*

चयो : A heap, quantity, a bundle *(चय्)*

चे : Even if *(चेद्)*

चेलं : A cloth: a garment *(चेल)*

चेलुक्खेपो : Throwing up or a waving a cloth *(चल + उत्क्षेप)*

चेटको : Servant, a slave *(चेटक)*

चेतना : Consciousness, thought, sense, intention *(चेतना)*

चेतापनं : Purchase money

चेतापेति : To collect, to get to-gether

चेतसा : See *चेतो*

चेतसिक : Mental *(चैतसिक)*

चेतेति : To think *(चेतयति = चित्)*

चेति : Name of a people who inhabitated Bundelkhanda *(चेदि)*

चेटी, चेटीका : A maid servant, a slave girl *(चेटी) (चेटिका)*

चेतियं : A religious building or shrine, or temple or Buddhist relic-shrine *(चैत्य)*

चेतो + चेतं : The mind, the heart, the thoughts *(चेतस्)*

चेटक : A servant or slave *(चेट)*

चेतोखिलो : Hardness of heart or stubbornnes *(चेतस् + खिल्)*

चेतोपरियञाणं : Encompassing the heart of others, the ways of the heart

चतोपरियायञाणं, *(चेतपरिविज्ञान)*

छळ : Six *(षष)*

छब्वग्गियो : Causing of six individuals *(षष् + वर्ग + य)*

छब्वण्णो : Six-coloured *(षष् + वर्ण)*

छब्बस्सं : Six years *(षष् + वर्ष)*

छब्बिधो : Six fold *(षष् + विधा)*

छब्बिसति, छब्बीसा : Twenty-six *(षड्विंशति)*

छब्बीसतिमो : Twenty-sixth *(षष् + विशंतिम्)*

छदनं : Covering, roof; a leaf *(छदन्)*

छादनं : Covering *(च्छादनं)*

छादापेति : To cover; to endorse

छड्डको : Throwing away, removing

छद्दं : A roof *(च्छद्मन्)*

छद्दनं : Rejecting; see *chaddeti*

छद्दन्तो : Name of a mythical elephant; name of one of the seven great lakhs *(षष् + दन्त)*

छड्डापेति : To cause to be removed

छड्डेति : To throw away, to remove, to abandon, to reject, to cast off; to set aside: to leave out, to omit; to put, to place: to throw up, to vomit *(च्छर्द, च्छृद्)*

छद्धा : In six ways *(षडधा)*

छद्दिका : Vomiting *(च्छर्दिका)*

छड्डीतो : Thrown away, rejected, abandoned, left

छादेति : To cover, to conceal: to render invisible *(च्छद्)*

छदि : A covering or roof *(छदिस्)*

छादितो : Covered, concealed *(छादित = छद्)*

छादो : A cover or a leaf; a wing *(छद्)*

छद्वारं : The six apertures or avenues of body *(षष् + द्वार)*

छद्वारिको : Connected with the six apertures

छज्जो : Name of one of the notes of the Hindu gamut *(षडज्)*

छकलको : A he-goat *(छगलक)*

छकलो : A he-goat *(छगल)*

छकं : A dung or excrement *(शकृत)*

छकनं : The dung of animal *(शकृत)*

छक्कणो : Heard only by three people: secret counsel *(षष् + कर्ण)*

छक्खत्तुं : Six times *(षष् + कृत्वस्)*

छल : See छ

छळभिञ्ञा : The six supernatural faculties *(षष् + अभिज्ञा)*

छळं : Fraud; stratagem; pretext; trembling *(च्छल् comp स्खलन्)*

छळङ्ग : Six qualities *(षष् + अङ्ग)*

छमा : The earth *(क्षमा)*

छम्भति : To tremble; to be alarmed: to be paralysed with fear *(स्तम्भ्)*

छम्भितत्तं : Trembling, consternation, stupefaction *(स्तंभित + त्व)*

छम्मासं : Six months *(षष् + मास)*

छन्दसो : Conversant with the बेदाऽ, a brahmin *(छान्दस्)*

छन्दो : Wish, desire, intention; will, resolve: power: consent: approval *(छन्द्)*

छन्दो, छन्दं : The vedas; metrics; prosody *(छन्दस्)*

छन्दोविचिति : One of the Vedangas-prosody *(छन्दस् + विचिति)*

छङ्गुलं : Six finger-breadth or inches *(षष् + अङ्गुल)*

छन्नं : See छ

छन्नवुति : Ninty six *(षणवति)*

छन्नो : An ordinance

छन्नो : Concealed; secluded; private; covered; clothed; suitable; appropriate *(छन्न = छद्)*

छण्णो : Festival *(क्षण्)*

छापो, छापको : The young of an animal *(शाव)*

छाप्पदो : A bee *(षट्पद)*

छप्पन्नास : Fifty-six *(षट्पंचाशत्)*

छरत्त : A period of six nights *(षष् + रात्र)*

छारिका : Ashes *(क्षारिका)*

छतकं : Famine

छातो : Hungry, famished *(प्साल = प्सा)*

छत्तधरो : Parasol bearer *(छत्र + धर्)*

छत्त : A parasol or umbrella: the royal parasol or canopy, one of the insignia of royalty: royal dominion, sovereigity *(छत्र)*

छतं : A body or corpse

छत्तपण्णो : Name of a tree *(छत्र + पर्ण)*

छट्ठो : Sixth *(षष्ठ)*

छत्तिंसा, छत्तिंसति : Thirty six *(षट्त्रिंशत्)*

छत्तिंसतिमो : Thirty-sixth

छत्तियति : To treat as a parasol

छवको, छवो : A corpse *(शव + क) (शव)*

छवि : The skin *(छवि)*

छवो : Vile *(शव)*

छाया : Shade; shadow; reflected image: splendour: pretext, fiction *(छाया)*

छेदको : That ought to be torn *(छेदन + क)*

छेदनं : Cutting, severing: destruction, loss, expenditure *(छेदन्)*

छेदापेति : To cause, to be cut off *(छेदयति + छिद्)*

छेदो : Cutting, loss, severing; destruction waste *(छेद)*

छेज्जो : That ought to be cut off *(छेघ)*

छेको : Skilful, expert, elever *(छेक्)*

छेत्वा, छिन्दति, छिद्दं : A hole: aperture: a rent: a gap = a defect *(छिद्र)*

छिद्दवा : Full of holes *(छिद्र + वन्त्)*

छिद्दितो : Perforated *(छिद्रित + छिद्)*

छिद्दो : Perforated *(छिद्र)*

छिग्गलं : A hole

छिन्दापेति : (caus) To cause to be cut off or cut down

छिन्दति : To cut: to cut off: to cut down: to interrupt, to stop: to remove: to destroy *(छिद्)*

छिन्देति : (Caus) To cause to be cut

छिन्नो : Cut off, cut down, interputed, stopped, destroyed, removed *(छिन्न = छिद)*

छुद्धो : Mean, contemptible *(क्षुद्र)*

छुपनं : Touching *(छुप + अन)*

छुपति : To touch *(छुप्)*

छुरिका : A knife *(छुरिका)*

चिच्चिटं : The splash to the seat; the bubbling or boiling water

चिच्चिटायति : To spalsh, to hiss, to bubble

चिण्ह, चिन्हं : A mask, a sign *(चिन्ह)*

चिकिच्छति : To cure *(चिकित्सति = कित्)*

चिक्खल्लं : Mud or swamp *(चिखल + य)*

चीनापिट्ठं : Red lead *(चीन + पिष्ट = पिष्)*

चीनरट्ठ : China *(चीन + राष्ट्र)*

चिनाति : To heap up: to collect: to gather *(चि)*

चिञ्चा : Tamarind tree *(चिञ्चा)*

चिङ्गुलकं : A mimic windmill made with palm leaves

चिण्णो : Performed or practised *(चीर्ण + चर्)*

चिन्ता : Thought, meditation *(चिन्ता)*

चिन्तेति : To think: to think of: to devise: to mind: to regard *(चिन्त्)*

चिन्तितो : Thought, thought of *(चिन्तित)*

चिपिटो : Flattered, stumpy *(चिपिट)*

चिरक्रियो : Dilatory *(चिर + क्रिया)*

चिरं : Bark, fire *(चीर)*

चिरन्तनो : Old, ancient *(चिरंतन)*

चिरप्पभुति : Since long

चिररत्तं : A long time *(चिर + रात्र्)*

चिरस्स : For a long time : long since

चिरस्सुतो : Not heared of for a long time *(चिर + श्रुत = श्रु)*

चिरतरो : Longer, slower *(चिर + तर्)*

चिरट्ठिति : Lasting long, perpetuation *(चिर + स्थिति + क)*

चिरायति : To tarry *(चिराय)*

चीरी, चीरिका : A cricket *(चीरी) (चीरी + का)*

चिरो : Long continued, lasting *(चिर)*

चिता : A funeral pyre or pyre *(चिता)*

चितका : A funeral pile *(चिर + का)*

चितको : A funeral pile *(चिर + क)*

चितो : Heaped up, heaped or pressed together *(चित = चि)*

चित्रकथि : Eloquent *(चित्र + कथा + इन्)*

चित्रो : See *चित्तो*

चित्ता : Name of a *Nakkhatta (चित्रा)*

चित्ताभोगो : Consciousness, sensitiveness *(चित्त + आभोग)*

चित्तागार : A theatre *(चित्र + आगर)*

चित्तजो : Sprung from the heart, mental *(चित्त + ज)*

चित्तका : A woolen woven counterpane of many colour *(चित्र + का)*

चित्तकं : A sectarial mark on the fore-head *(चित्रक)*

चित्तकतो : Variegated, painted *(चित्र + कृत = कृ)*

चित्तक्खेपो : Madness *(चित्त + क्षेप)*

चित्तको : The plant *plumbago Zeylanica (चित्रक)*

चित्तकूटो : Name of a mountain in Bundelkhand *(चित्र + कूट)*

चित्तलता : Name of one of Indra's gardens *(चित्र + लता)*

चित्तं : A painting (See Citto)

चित्तं : The heart; the mind; thought; an idea: will, intention *(चित्त)*

चित्तपीळा : Swooning *(चित्त + पीडा)*

चित्तविब्भमो : Madness *(चित्त + विभ्रम्)*

चित्तेति : To paint, to variegate *(चित्र्)*

चित्तीकारो : Consideration, respect *(चित्त + कार)*

चित्तो : Name of a month *(चैत्र or चित्र)*

चित्तो, चित्रो : Shining; varieated, painted: various: beautiful: wonderful *(चित्र)*

चीबरं : The tattered dress of a mendicant, the dress or robes of a Buddhist monk *(चीवर)*

चीयति : To be heaped up *(चीयते = चि)*

चोदको : One who rebukes or exhorts *(चोदक)*

चोदना : Rousing: inciling: rebuke: reproof, accusation: complaint *(चोदना)*

चोदनावत्थु : Ground or cause for accusation *(चोदना + वस्तु)*

चोदापेति : To cause to be rebuked, or urged

चोद्दस : Fourteen *(चतुर्दशन्)*

चोद्दसो : Fourteenth *(चतुर्दश्)*

चोदेति : (Caus) To rouse; to exhort; to urge; to rebuke, to reprove; to complain, to accuse; to draw a person's attention, to remind; to speak to, to warn *(चोदयति + चुद्)*

चोल : Name of a people *(चोल)*

चोलको : Belonging to the Cola country *(चोलक)*

चोलो : Cloth *(चोल)*

चोरेति : To steal *(चोरयति = चुर)*

चोरिका : Theft *(चौरिका)*

चोर : A thief: robber: bandit: outlaw; a felon *(चोर)*

चुबुकं : The chain *(चुबुक)*

चुच्चु : A radish *(चुच्चु)*

चुचुकं : A nipple *(चूचूक)*

चुद्दस : Fourteen *(चतुरदर्शन)*

चुद्दसो : Fourteenth *(चतुर्दश्)*

चूळा : A single lock of hair left on the crown of the shaven head: top knot; a crest: diadem *(चूडा)*

चूळामणि : A jewel worn in the crest or diadem *(चूडा + मणि)*

चूलिका : Root of an elephants ear *(चूलिका)*

चूल्लासीति : Eighty four

चुल्ली : A fire place *(चुल्ली)*

चुल्लो, चुलो, चुल्लो : Small *(क्षुल्ल)*

चुम्बको : A load stone, a magnet *(चुम्बक)*

चुम्बटं, चुम्बटकं : A circular roll of cloth used as a support for a vessel carried on the head *(चुम्बक)*

चुम्बति : To kiss *(चुम्ब्)*

चुन्दकारो : A turner *(कुन्द + कार)*

चुण्णकं : A romatic powder *(चूर्ण + क)*

चुण्णं : A romatic powder for the toilet *(चूर्ण)*

चुणेति : To grind, to crush, to pulverise *(चूर्ण)*

चुण्णं : Dust powder, Chuman or lime cement *(चूर्ण)*

चूति : Disappearance, vanishing, death: leaving one world to be born in another *(च्युति)*

चुतो : See *चावति*

चूतो : The mango tree, *Magnifera Indica (चूत)*

चुतुपपातो, : Vanishing and reappearance; leaving one world and being
चुतुप्पातो born in another *(च्युति + उपपात + उत्पात)*

D

दब्बं :	Object, thing; material, substance; a fit object; wealth, property; fuel *(द्रव्य)*
दब्भो :	Kusa grass *(दर्भ)*
दब्बी :	A spoon *(दर्वी)*
दाब्बी :	Name of a plant *(दार्वी)*
ददाति, देति, ददति :	To give, to grant, to give up; to allow *(दा)*
दद्दाल्लति :	To blaze, to shine brilliantly *(जाज्वल्यति = ज्वल्)*
दद्दरी, दद्दरीको :	A sort of drum (*comp* दर्दर) *(दर्दरिक)*
दद्दरो :	Name of a mountain *(दर्दर)*
दद्धो :	Burned, scorched, consumed *(दळध + दह)*
दद्दु :	A kind of entaneous erruption *(दद्रु)*
दद्दुरो :	A frog *(दर्दुर)*
दधाति, दहति :	To put, to hold, to bear *(धा)*
दधि :	Milk curds *(दधि)*
ददो :	Giving *(दद्)*
दाहको :	Setting on fire *(दाहक)*
दहनं :	Consuming by fire, burning *(दहन)*
दहनो :	Fire *(दहन)*
दहरो :	Young *(दहर)*
दाहति :	To burn; to consume by fire; to torment *(दह्)*
दहो :	A lakh *(द्रह)*
दाहो, डाहो :	Burning, conflagration; suffering, torment, grief *(दाह)*
ढज्जा :	See *ददाति*
दज्जति :	To give
दकं :	Water *(दक)*
दक्खता :	Skill *(दक्षता)*
दक्खति :	See Passati
दक्खिणा :	A gift or present to a Buddhist monk: an offering to a *peta* *(दक्षिणा)*
दक्खिणग्गि :	One sort of sacred fire, that which is taken from the domestic fire and placed to the south *(दक्षिण + अग्नि)*

दक्खिणम्बु : Same thing as Dakkhinodakam *(दक्षिण + अम्बु)*

दक्खिणापथो : The southern country *(दक्षिण + पथ)*

दक्खिणतो : On the south; on the right hand *(दक्षिणत्तस्)*

दक्खिणावत्तो : Turning to the right *(दक्षिण + आवर्त)*

दक्खिणाविसुद्धि : Purity of a gift *(दक्षिणा + विशुद्धि)*

दक्खिणायनं : The half of the year, when the sun moves to the south of the equator *(दक्षिणायन)*

दक्खिणेय्यो : Worthy of offerings (comp. *दक्षिणीय)*

दक्खिञ्ञं : Kindness, affability *(दाक्षिण्य)*

दक्खिणो : Right = southern = dextrous *(दक्षिण)*

दक्खिणोदकं : Water of donation *(दक्षिणा + उदक)*

दक्खन्ति : See *(पस्सति)*

दक्खो : Clever, skilful *(दक्ष)*

डाक, डाकं : A vegetable; a herb *(शाक)*

दलं : A leaf *(दल)*

दालेति : (Caus) To split, to break *(दालयति = दल्)*

दल्हयति : To make firm *(द्रढ्य किंवा दृढ्य)*

दळहीकं, दल्हीकरणं : Making firm, strengthening, confirmation *(दृढी + कर्मन + करण)*

दळहो : Hard, firm, strong, excessive *(दृढ = दृह्)*

दळिद्दो, दलिद्दो : Poor, neady *(द्ररिद्र)*

दालिमो : *Pompergranatetree (दालिम)*

दमको : Who practices self mortification by living on the remnants of offered food *(दम + क)*

दामं : A rope, a string or wreath *(दामन्)*

दमनं : Subduing *(दमन)*

दमथो : Self control, self command, subjugation *(दमथ)*

दम्भो : Deceit *(दम्भ)*

दमेति : (Caus) To tame, to subdue, to overcome: to convince *(दमयति = दम्)*

दमिळो : A Tamil, Dravidian, a Malabari

दामिळो : A Dravidian

दमितो : Tamed, subdued *(दमित = दम)*

दमेति : To be tamed or subdued *(दम)*

दम्मि : See *ददाति*

दम्मो : To be tamed *(दम्य = दम्)*

दमो : Self command, subjugation of the senses, self-restraint, abstinence: long suffering: punishment, discipline: temperance; sobriety *(दम्)*

दंसो : A gad-Fly *(दंश)*

दानं : Purification *(दान from दै)*

दानं : Cutting or breaking off *(दान from दा to cut)*

दानं : Giving a gift, a donation: almsgiving, charity, liberality *(दान)*

दानं : The fluit that flows from an elephants temples when in rut *(दान)*

दानमयो : Consisting of, or connected with alm-giving *(दान + मय)*

दानारहो : Worthy of grifs *(दान + अर्ह)*

दानसोण्डो : Profusely, liberal, munificent *(दान + शौण्ड)*

दानवत्थु : Cause for giving: object for a gift *(दान + वस्तु)*

दानवो : An Asura *(दानव)*

दण्डकम्मं : Atonement, penance, penal, discipline, ecclesistical punishment *(दण्ड + कर्मन्)*

दण्डको : A stick, a staff *(दण्डक)*

दण्डनीति : The science of criminal justice *(दण्ड + नीति)*

दण्डेति : To punish *(दण्ड्)*

दन्धो : Idle, slothful, slow, heavy, foolish *(तन्द्र)*

दण्डी : One who carries a staff *(दण्डिक)*

दण्डियो : Punishable *(दण्डय)*

दण्डो : A staff, a pole = a handle: a stalk or stem: punishment, penalty: violance, cruelty *(दण्ड)*

दानि : Now *(इदानिम्)*

दन्तच्छदो : The lip *(दन्त + छद्)*

दन्तधावनो : The tree acacia catechu *(दन्त + धावन)*

दन्तजो : Dental *(दन्त + ज)*

दन्तकट्ठं : A tooth brush, a piece of wood used for cleaning the teeth *(दन्त + काष्ठ)*

दन्तमयो : Made of ivory *(दन्त + मय)*

दन्तपोणो : A tooth cleaner *(दन्त + पवन)*

दन्तसट्ठो : The lime or lemon *(दन्त + शठ)*

दन्तावरणं : The lip *(दन्त + आवरण)*

दन्ति : Self control *(दान्ति)*

दन्ती : An elephant *(दन्तिन्)*

दन्तो : A tooth; an elephant's tusk: ivory *(दन्त)*

दन्तो : Tamed, subdued: trained: broken: self controlled: temperate *(दान्त = दम्)*

दन्तोट्ठजो : Dental labial

दनु : Name of the mother of the asuras *(दनु)*

दानुप्पत्ति : Rebirth of an arms giver according to his wish *(दान + उत्पत्ति)*

दापेति : (Caus) To cause to be given *(क्षपयति = दा)*

दप्पनो : A mirror *(दर्पण)*

दप्पवा : Proud *(दर्प + वन्तु)*

दप्पो : Pride *(दर्प)*

दारको : An infant, a child, a boy, a son *(दारक)*

दारणं : Clearing *(दारण)*

दरथो : Oppression, Suffering, pain *(दर + थ)*

दरी : A cave, a grotto *(दरी)*

दारिका : A girl or young woman *(दारिका)*

दारितो : Torn asunder, divided *(दारित + दृ)*

दरो : Tear, pain, suffering *(दर)*

दारा : A wife *(दार)*

दारु : Wood *(दारु)*

दारुहलिद्दा : Name of a plant *(दारु + हरिद्रा)*

दारुजो : Made of wood *(दारु + ज)*

दारुकं : A wood or log *(दारु + क)*

दारुमयो : Made of wood, wooden *(दारुजय)*

दारुणो : Harsh, evere, terrible, dreadful *(दारुण)*

दस : Ten *(दशन्)*

दस : The skirt or border of a garment: condition, state: period or age *(दशा)*

दसबलं : Ten forces

दसबलो : One who possesses the ten *Balas* *(दशन् + बल)*

दसधा : In ten ways *(दशधा)*

दसधम्मं : Ten objects *(दस + धर्म)*

दसदिस्सं : Ten directions

दसाहं : Ten days *(दशन् + अहं)*

दसमो : Tenth *(दशम्)*

दसनं : Biting

दसनो : A tooth *(दशन)*

दसन्तो : The border of the skirt *(दशा + अन्त)*

दससतनयो : Thousand eyed, a name of Indra *(दशन् + शत + नयन)*

दससीलं : The ten precepts *(दशन + शील्)*

डसति : To bite *(दंशु)*

दसवग्गो : Consisting of ten individuals *(दशन् + वर्ग)*

दासव्यं : Slavery, servitude

दासीदासं : Maid servants and man servants *(दासी + दास)*

दासो : A slave, a servant *(दास)*

दस्सं : See *ददाति*

दस्सनं : Seeing, sight; meeting or associating with: opinion, doctrine, belief: knowledge *(दर्शन)*

दस्सनीयो, दस्सनेय्यो : Beautiful *(दर्शनीय = दृश्)*

दस्सति : See *ददाति*

दस्सावी : Seeing

दस्सति : (Caus) To show; to point out; to show oneself *(दर्शयति = दृश्)*

दस्सी, दस्सिथ : See *पस्सति*

दस्सी : Seeing, showing *(दर्शन्)*

दस्सितो : Shown, exhibited *(दर्शित = दृश्)*

दस्सिवा : Having seen *(दर्शिवसु)*

दस्सीयती : To be shown

दाता : A giver *(दातृ)*

दातब्बो : To be given *(दातव्य = दा)*

दाठा : A tooth, a tusk, a fang *(दंष्ट्रा, दाढा)*

दाठाधातु : Tooth-relic *(दाढां + धातु)*

दाठी : Having tusks or fangs *(दांष्ट्रिन)*

दातो : Cuts *(दात = दो)*

दात्तं : A sickle *(दात्र)*

दट्ठब्बो : To be seen *(द्रष्टव्य = दृश्)*

दट्ठो : Held or siezed, in the mouth or teeth: bitten *(द्रष्ट = दंश्)*

दट्ठुं : See *Passati*

दत्ति : Offering *(दत्ति)*

दत्तिमो : Received by donation *(दत्तिम्)*

दत्तु : Stupid

दात्तुं, दत्त्वा : See *ददाति*

दात्युहो : A gallinule *(दात्यूह)*

दबनं : Burning, heat

दबथु : Burning, heat, inflamation *(दवथु)*

दवो : Quick, motion; sport, amusement *(द्रव्य)*

दवो : Burning, inflamation; a forest *(दव)*

दावो : A *forest (दाव)*

दया : Mercy, compassion *(दया)*

दायादो : A kinsman; an heir *(दायाद)*

दायज्जं : Inheritance; dowery *(दायाध)*

दायको : Giving, a giver, a benefactor *(दायक)*

दयालु : Compassionate, merciful *(दयाळु)*

दायनं : Reaping *(from दो)*

दयापन्नो : Compassionate *(दया + आपन्न = पद्)*

दयापरो : Compassionate *(दया + पर)*

दयति : To give, to allot, to protect *(दय्)*

दायति : To give *(दाय्)*

डह्यति : See *डहति*

दायी : Giving *(दायिन्)*

दयितो : Beloved *(दयित = दय्)*

दायो : A gift, separate property of a wife *(दाय्)*

दायो : A forest, a wood *(दाव)*

देहुभो : A kind of lizard without legs

देहनी : A threshold *(देहली)*

देही : An animal or creature *(देहिन्)*

देहो, देहं : The body *(देह)*

देण्डियो : A kind of drum *(डिण्डिम)*

देसको : A district *(देश + क)*

देसको : Showing, teaching, a teacher *(देशक)*

देसना : Instruction: preaching; a sermon; or discourse; showing *(देशना)*

देसापेति : To cause to be pointed out

देसेति : (Caus) To point out; to teach: to show: to preach: to expound: to confess *(देशयति = दिव्य)*

देसिको : One who shows or teaches *(देशिक)*

देसितवा : Having preached or taught *(देशित + वन्त्)*

देसितो : Shown, pointed out, taught, preached *(देशिन् = दिश्)*

देसियो : Belonging to a country *(देशीय)*

देसो : A place; a region; a district: a country: a part, a side *(देश)*

देति : To give

डेति : To fly *(डयति = डी)*

देव : See *(देवो)*

देवरारू : Deodar wood or pine *(देव + दारु)*

देवदत्त : Buddha's cousin and rival *(देवदत्तो)*

देवदेवो : Angel of angels, highest of celestial beings, an epithel of Buddha *(देव + देव)*

देवधम्मो : Of Celestial nature, godlike *(देव + धर्म)*

देवधिता : A female goddess or angel *(देवदुहितृ)*

देवदुन्दुभि : Thunder *(देव + दुन्दुभि)*

देवदूतो : A messenger from the Gods *(देव + दूत)*

देवखातकं : A natural pond *(देव + खात + खन् + क)*

देवकुलं : A non-Buddhist temple: a family of royal blood *(देव + कुल)*

देवकुसुमं : Cloves *(देव + कुसुम)*

देवालयो : A Hindoo temple *(देव + आलय)*

देवलोक : World of devas or angels, the god, world, heaven: a deva heaven, a god-world *(देवलोके)*

देवनं : Sport: custom: desire to win: praise *(देवन)*

देवपुत्तो : A deva *(देव + पुत्र)*

देवराजा : King of the devas Indra *(देव + राज)*

देवरज्जं : Sovereignty over the devas *(देव + राज्य)*

देवरो : A husband's brother: a brother-in-law *(देवर)*

देवसिकं : Daily *(दिवस + इक् + म्)*

देवता : A deva, a celestial being, an angel, a deity *(देवता)*

देवताडो : The grass lipeoceris *(देवताड)*

देवतं : A Deva *(दैवत)*

देवातिदेवो : The deva who is over all devas i.e. Buddha *(देवातिदेव)*

देवत्तं : Devaship *(देवत्त्व)*

देवट्टानं : A holy place : a cetiya: celestial abode *(देव + स्थान)*

देवयोनी : Of celestial origin *(देव + योनी)*

देवी : A female deva; a nymph: a goddess, a green *(देवी)*

देविन्दो : King of the Devas Indra *(देव + इन्द्र)*

देवित्तं : Queenship *(देवीत्व)*

देवित्थि : A female deva. a goddess or nymph *(देव + स्त्री)*

देवो : A god: celestial being, an angel; a cloud, a king, the sky: the air: the death *(देव)*

देय्यधम्मो : A gift, an offering *(देय + धर्म)*

देय्यो : To be given *(देय = दा)*

धजालु : Adorned with flags *(ध्वज् + आलु)*

धजवा : Adorned with flags *(ध्वजवन्त्)*

धजी : Having flags *(ध्वनिन्)*

धजो : A flag: a mark or symbol *(ध्वज)*

धामं : Light or splendour or dignity *(धामन्)*

धमनी : A Vein; a nerve *(धमनि)*

धमनो : A reed *(धमन)*

धमति : To blow *(ध्मा)*

धम्मभण्डागारिको : Treasurer of the law, a name of Ananda *(धर्म + भाण्डागारिक)*

धम्माभिसमयों : Comprehension of the truith *(धर्म + अभि + समय)*

धम्मचक्कं : Dominion of the laws *(धर्म + चक्र)*

धम्मचक्खु : The eye of the law *(धर्म + चक्षुस्)*

धम्मचारी : Living according to the law: virtuous *(धर्म + चारिन्)*

धम्मचरिया : Religious life, piety *(धर्म + चर्या)*

धम्मचारो : Pious *(धर्म + चार)*

धम्मदानं : Gift of the knowledge of the law of Dhamma *(धर्म + दान)*

धम्मदस्सी : Name of one of the twenty four Buddhas *(धर्म + दर्शन्)*

धम्मदेसना : Religious teaching, a sermon, a discourse *(धर्म + देशना)*

धम्माधम्मो : True and false doctrine *(धर्म + अधर्म)*

धम्मधरो : Versed in the Buddhist Scriptures *(धर्म + धर)*

धम्माधिपसेय्यसीलं : See *अधिपतेय्यं*

धम्मजीवी : Living rightously *(धर्म + जीविन्)*

धम्मकथा : A religious discourse, an exposition of the scriptures: conversation on religious subjects *(धर्म + कथा)*

धम्मकथिको : One who expounds the law; one who has the gift of preaching *(धर्म + कथा + इक)*

धम्मकेतु : Standard of the law *(धर्म + केतु)*

धम्मक्खण्डो : Branch of doctrine; division of the dhamma or scriptures *(धर्म+ स्कन्ध)*

धम्मं : See *धम्म*

धम्मामतं : The nectar of the law *(धर्म + अमृत)*

धम्मनी : A rat- snake

धम्मानुधम्मो : See *अनुधम्मो*

धम्मपदं : A religious sentence: name of one of the books of the *Tipitaka:* body or portion of Dhamma

धम्मपक्खो : The side, cause or party of true religion *(धर्म + पक्ष)*

धम्मराजा : King of Dhamma, Buddha *(धर्म + राजन्)*

धम्मारामो : One who dwells in the law *(धर्म + आराम)*

धम्मरसो : Table or sweetness of law *(धर्म + रस)*

धम्मरति : Delight in the law, pleasure caused by religion *(धर्म + रति)*

धम्मसभा : A religious meeting place *(धर्म + सभा)*

धम्मसाला : A hall where religious scriptures are expounded and read

धम्मासनं : A pulpit, a seat on which the priest sat while preaching *(धर्म + आसन्)*

धम्मसङ्गणिप्पकरण : Name of the first book of Abhidhammapitaka

धम्मसवणं : Attending the preaching of a sermon or exposition of a religious doctrine *(धर्म + श्रवण)*

धम्मसेनापति : Captain of the faith, a name of Sariputta *(धर्म + सेना + पति)*

धम्मसामी : Lord of Dhamma - Buddha *(धर्म + स्वामिन्)*

धम्मता : Custom, habit: nature *(धर्म + ता)*

धम्मट्ठो : Just, rightous *(धर्म + स्थ)*

धम्मवादी : Speaking according to the law, orthodox *(धर्म + वादिन्)*

धम्मविचयो : Investigation of Doctrine, religious research *(धर्म + विचय)*

धम्मविनयो : Doctrine and discipline *(धर्म + विनय)*

धम्मायतनं : Ideas, thoughts

धम्मि : Having the nature or quality of *(धर्मिन्)*

धम्मी, धम्मीकथा : See *धम्मो*

धम्मिको : Religious, pious; orthodox: *(धार्मिक)*

धम्मिलो : Braided hair *(धम्मिल्ल)*

धम्मिस्सरता : Supremacy in religion, lordship of Dhamma *(धम्म + ईश्वरता)*

धम्मो, धम्मं : Nature, condition, quality, property, characterstic, function, practice, duty: object, thing, idea, phenomenon: doctrine, law, virtue, piety: justice law or truth of Buddha: the Buddhist scriptures, religion *(धर्म + धर्मन्)*

धम्मो : Religious *(धार्म)*

धंसको : Destroying *(ध्वंस + अक्)*

धंसेति : (Caus) To destroy: to fall *(ध्वंसयति = ध्वंस्)*

धंसि : Destroying, mischievious, back biting *(ध्वंसिन्)*

धंसितो : Felled, fallen *(ध्वंसिन् = ध्वंस्)*

धाना : Fried Barly *(धाना)*

धनच्छेदो : Expense, waste *(धन + छेद्)*

धनागमो : Revenue *(धन + आगम्)*

धनकीतो : A slave bought with money *(धन + कीत = की)*

धनं : Property, wealth, treasure, money *(धन)*

धनञ्जानि : Loss of wealth *(धन + ज्यानि)*

धनवा : Wealthy *(धनवन्त्)*

धनि : Sound, noise *(ध्वनित = ध्वन्)*

धनिट्ठा : Name of one of the Nakkhattas *(घनिष्ठा)*

धणको : A crow; sort of crane *(धाङ्क्ष)*

धाञ्ञं : Grain, corn *(धान्य)*

धाञ्ञमासो : A certain measure *(धान्य + माष)*

धाञ्ञम्बिलं : Sour rice gruel *(धान्य + आम्ल)*

धञ्ञो : Fortunate, lucky *(धन्य)*

धनो : A bow, a measure of length *(धनुम्)*

धनुग्गहो : An archer *(धनुस् + ग्रह)*

धरा : The earth *(धरा)*

धारा : A torrent, a stream; a shower; the sharp edge of a cutting instrument *(धारा)*

धाराधरो : A cloud *(धारा + धर)*

धारको : Bearing *(धारक)*

धरमाणको : Living *(धरमाण = धृ + क)*

धरणं : Bearing; a weight of ten Palas *(धरण)*

धारणं : Presuming; bearing in mind; bearing, supporting *(धारण)*

धरणी : The earth *(धरणी)*

धरति : To like *(धृ)*

धारेति : To bear; to carry; to hold: to keep: to wear, to possess: to restrain: to bear in mind: to know by heart *(धारयति = धृ)*

धारी : Bearing in mind; wearing *(धारिन्)*

धारियति : To be carried, worn

धरो : Bearing; wearing; possessing, keeping in mind knowing by heart *(धर)*

धातकी : The shrub *Grislea Tomertoso (धातकी)*

धातरट्ठो : Name of one of the four Maharajas: a sort of goose *(धृतराष्ट्र)*

धाती : A nurse; a woman servant *(धात्री)*

धातु : Primary or elementary substance; principle, element, material; a property of a primary substance, as a colour, taste, sound: an organ of sense: a bodily principle or humour of which there are three phelgm, wind and bile; a Constituent of the body as flesh, blood, bones; the remains of a body after cremation: a sacred relic: a fossil: a metal *(धातु)*

धातुगब्भो : A relic- receptacle or shrine: the inner room of a stupa in which the sacred relic was deposited *(धातु + गर्भ)*

धातुकथाप्पकरणं : Name of the third book of the Abhidhamma *(धातु + कथा + प्रकरण)*

धातुको : Affected with *(धातुक)*

धातुलोको : World of Dhatus, the aggregate of different elements *(धातु + लोक)*

धातुं : See *Dadhati*

धवलो : White, glittering *(धवल)*

धावनं : Running, going: washing *(धावन)*

धावति : To run, to go *(धाव)*

धवो : A husband, a shrub *(धव)*

धेनु : A milch cow *(धेनु)*

धेनुका : A milch cow *(धुनका)*

धेवनी : Name of one of the notes of the Hindoo gamut *(धैवती)*

धेय्यं : Realm, region *(ध्येय = धा)*

धी, धि : Shame! fie! woe! *(धिक्)*

धी : Knowledge, intellect *(धी)*

धीमा : Wise *(धीमन्त्)*

धीरत्तं : Fortitude *(धीर + त्व)*

धीरो : Wise: resolute, firm, brave *(धीर)*

धीता : A Daughter *(दुहितृ)*

धिति : Wisdom; fortitude; energy; courage *(धृति)*

धीतिका : A daughter *(दुहितृ + का)*

धितिमा : A courageous, firm *(धृतिमन्त्)*

धीवरो : A fisherman *(धीवर)*

धीयति, धीय्यति : To be contained *(धीयते = धा)*

धोरय्हो : A beast of burden, an ox *(धुर + वाह + य)*

धोतो : Washed, cleaned, clear *(धोल = धाव्)*

धोवनं : Washing *(धावन)*

धोवति : To wash, to cleanse *(धाव्)*

धूलि : Dust *(धूलि)*

धूमकेतु : Fire, a comet *(धूम + केतु)*

धूमो : Smoke, cremation of a dead-body *(धूम)*

धूम्याटो : The fork-tailed strike *(धूम्याट)*

धूननं : Shaking off

धूनाति : To shake *(धु)*

धूपति, धूपायति : To fumigate; to spit smoke *(धूप)*

धूपितो : Suffering, pain *(धूपित)*

धूपो : Incense *(धूप)*

धुरंधरो : Bearing a burden: used metaphorically of a priest who supports, who is a supporter or pillar of religion

धुरो, धुरं : A yoke: a burden, an office, charge, trust: a chief, Leader: the front of the head *(धुर)*

धूसरो : Grey *(धुसरो)*

धूतङ्ग : The thirteen Dhutangas are certain ascetic practices, the observance of which is meritorious in a Buddhist priest

धुतो, धूतो : Shaken: removed *(धूत, धूत = धू)*

धुत्तो : Fraudulent and gamster *(धूर्त)*

धुवति : To go *(ध्रु)*

धुवो : Firm, stable: continual, permanent: fixed, certain *(ध्रुव)*

दिब्बचक्खु : Divine eye, supernatural vision *(दिव्य + चक्षुस्)*

दिब्बचक्खुको : Possessing the heavenly eye *(दिव्य + चक्षुस् + क)*

दिब्बमयो : Celestial *(दिव्य + मय)*

दिब्बसोतं : Divine ear, supernatural hearings *(दिव्य + श्रोत्र)*

दिब्बति : To play, to sport *(दिन्)*

दिब्बो : Celastial, heavenly, angetic, divine *(दिव्य)*

दिस्सति : To see *(दृश्)*

दिद्धो : Smeared *(दिग्ध = दिह)*

दीधिति : Ray, light *(दिथिति)*

दिगच्छा : Another form of *jigaccha*

दिगम्बरो : Naked *(दिगम्बर)*

दिग्धिका : An oblong pond or a moat *(दीर्धिका)*

दीघभाणको : See *(भाणको)*

दीघदसो : Having a large fringe or border *(दीर्घ + दसा)*

दीघदस्सी : Far seeing, prophetic *(दीर्घ + दर्शिन्)*

दीघजीवी : Long lived *(दीर्घ + जीवित्)*

दीघकालं : For a long time *(दीर्घ + काल)*

दीघको : Long *(दीर्घ + क)*

दीघनिकायो : Long collecton *(दीर्घ + निकाय)*

दीघपिट्ठिको : A snake *(दीर्घ + पृष्ठ + इक)*

दीघरतं : For a long time *(दीर्घ + रात्र)*

दीघसो : In length, lengthways *(दीर्घ + शस्)*

दीघसुत्तो : Slow, dilatory *(दीर्घ + सूत्र)*

दीघता : Length *(दीर्घता)*

दीघतो : In length *(दीर्घ + तस्)*

दीघत्त : Length *(दीर्घत्व)*

दीघवण्टो : The tree *calosanthes Indica* *(दीर्घ + वृन्त)*

दीघायुको : Long lived *(दीर्घ + आयु + क)*

दीघो : Long *(दीर्घ)*

दिगु : A grammatical term, one of the *samasas* *(द्विगु)*

दिगुच्छति : Another form of Jigucchati

दिगुणो : Two fold, double, twice as many *(द्वि + गुण)*

दिजो : See *(द्विजो)*

दिक्खा : Sacrifice; worship, devotion *(दीक्षा)*

दिनकरो : The sun *(दिन + कर)*

दिनं : Day *(दिन)*

दिनपति : The sun *(दिन + पति)*

दिन्दिभो : Name of a bird *(टिट्टिभ)*

दिन्नादायी : Taking what is given, honest *(दत्त + आदायिन्)*

दिन्नो : Given *(दत्त = दा)*

दीनो : Poor, wretched *(दीन = दी)*

दिपादको : Biped *(द्वि + पाद् + क)*

दीपदीपो : Lamp or light of the island *(द्वीप + दीप)*

दिपदो : Biped-a man *(द्विपद्)*

दिपदुत्तमो : Greatest of men- Buddha *(द्विपद् + उत्तम)*

दिपको : An island *(द्वीप + क)*

दीपको : Illuminating; expounding: illustrating: publishing *(दीपक)*

दीपनं : Expounding, illustrating: explaining *(दीपन)*

दीपङ्करो : Name of one of the 24 Buddhas *(दीपंकर)*

दीपनो : Explaining, proclaiming; illustrating *(दीपन)*

दीपट्ठो : Living of the island i.e. Ceylon *(द्वीप + स्थ)*

दीपवंसो : Royal dynasty of Ceylon *(द्वीप + वंश)*

दीपेति : (Cans) To kindle; to illuminate; to throw light on: to illustrate: to explain; to expound: to show, to point out, to announce, to declare, to publish *(दीपयति = दीप्)*

दीपी : A panther *(द्वीपिन्)*

दीपी : Teaching, proclaiming *(दीप + इन्)*

दीपिका : A lamp; a torch *(दीपिका)*

दीपितो : Manifested, declared *(दीपित = दीप्)*

दीपो : A car covered with a panther's skin *(द्वैप)*

दीपो : A lamp *(दीप)*

दीपो, दीपं : An island: one of the four continents; a resting place, shelter, refuge *(द्वीप)*

दिप्पति : To shine; to be illustrious; to prosper *(दीप्)*

दिरत्तं : Two nights *(द्वि + रात्र)*

दिसा : A quarter or point of the compass *(दिश् + दिशा)*

दिसाभागो : A region, quarter *(दिश् + भाग)*

दिसागजो : One of the elephants at the eight points *(दिश् + गज)*

दिसम्पति : A king *(दिश् + पति)*

दिसन्तरं : A foreign country *(दिश् + अन्तर)*

दिसन्तो : End of the earth, a great distance *(दिश् + अन्त)*

दिसापामोक्खो : Eminent, famed for a wide

दिसावासी : Living in a foreign country or at a distance foreign *(दिश् + वासिन्)*

दिसावासिको : Living in a foreign country *(दिश् + वासिन् + क)*

दिसो : An enemy *(द्विष्)*

दिसो : Appearnce, resemblance *(दृश्)*

दिस्सको : Visible *(दृश्य + क)*

दिस्सति, दिस्वा : See *पस्सति*

दिट्ठा : An exclamation expressive of joy, Thank heaven! *(दिष्टा)*

दिट्ठाधम्मिको : Belonging to this world, temporal *(दृष्ट + धर्म + इक)*

दिट्ठधम्मो : The visible conditon, the present state of things; this world, this life, this state of existence *(दृष्ट + धर्म)*

दिट्ठधम्मो : One who has seen the truth *(दृष्ट + धर्म)*

दिट्ठन्तो : Example; illustration *(दृष्ट + अन्त)*

दिट्ठपदो : One who has seen a Nirvana *Sotapanna*

दिट्ठपुब्बो : Seen before: having formerly seen *(दृष्ट + पूर्व)*

दिट्ठि : Sight, view, the eye: religious belief, the doctrine: false doctrine: heresy *(दृष्टी)*

दिट्ठो : Seen, met with found *(दृष्ट = दृश्)*

दिट्ठो : Hateful, hostile *(द्विष्ट = द्विष्)*

दित्ति : Splendour, light *(दीप्ति = दीप्)*

दित्तो : Blazing, radiant *(दीप्त = दीप्)*

दित्तो : Proud, arrogant *(दृप = दृप्)*

दिवा : A day *(दिवा)*

दिवड्ढो : See *दियड्ढो*

दिवाकरो : The sun *(दिवा + कर)*

दिवसभागो : Day time, time of day *(दिवस + भाग)*

दिवसो, दिवसं : A day *(दिवस)*

दिवो : The sky, the heavens: the devaloka *(दिव्)*

दिवोको : Deva *(दिवौकस्)*

दियड्ढो, दिवड्ढो : One and half *(द्वितीय + अर्ध)*

दीयति : See *ददाति*

दो : Giving *(द)*

दोहलिनी : A pregnant woman *(दौहदिनी)*

दोहलो : The longing of a pregnant woman; desire; longing *(दोहद)*

दोहति : To milk *(दुह)*

दोला : A swing, a palanquin *(दोला)*

दोमनस्सं : Melancholy, gloom, dejection, grief *(दौर्मनस्य)*

दोमनस्सो : Sorrowful, dejected *(दौर्मनस्थ)*

दोणी : A trough a coffin: a tub: a dhoney or trough shaped canoe with an outrigger to steady it *(द्रोणी)*

दोणो, दोणं : A dona or measure of capacity *(द्रोण)*

दोसञ्ञू : Skilled, expert, wise *(दोष + ज्ञ)*

दोसिनो : Clear spotless night

दोसो : By night *(दोषा)*

दोसो : Defect, blemish; offence, guilt, sin, crime = injury, damage *(दोष)*

दोसो : Anger *(द्वेष)*

दोवचस्सं : Abusiveness, unruliness *(दौर्वचस्य)*

दोवचस्सता : Abusiveness, unruliness *(दौर्वचस्य + ता)*

दोवारिको : Watchman, warder or gate-keeper *(दौवारिक)*

द्रवो : Liquid *(द्रव)*

दु : See *(द्वि)*

दुब्बा : The grass *Panicum Dactylon* *(दूर्वा)*

दुब्बचतं : Unruliness *(दुर्वचस् + त्व)*

दुब्बचो : Abusive, unruly, violent *(दुस् + बचस्)*

दुब्बलको : Weak *(दुर्बल + क)*

दुब्बलत्तं : Weakness *(दुर्बलत्व)*

दुब्बल्यां : Weakness *(दुर्बल + य)*

दुब्बण्णो : Ill-favoured, ugly *(दुस् + वर्ण)*

दुब्भगो : Unfortunate *(दुस् + भग)*

दुब्भासितो : Ill spoken *(दुस् + भाषित = भाष)*

दुब्भिक्खं : Famine, want *(दुस् + भिक्षा)*

दब्बिनीतो : Miscreant, a scoundrel *(दुस् + विनीत = नी)*

दुभ्भुट्ठि : Drought *(दुस् + वृष्टि)*

दुच्चरितो : Ill-conducted, bad *(दुस + चरित = चर)*

दुच्छन्नो : Ill covered, badly roofed *(दुस् + च्छन्न = च्छद्)*

दुद्दमो : Difficult to train, or tame *(दुस् + दम)*

दुद्दसो : Difficult to see, difficult to perceive or understand: ugly *(दुस् + दृश्)*

दुद्धो : Milked *(दुग्ध = दुह)*

दुद्दिनं : A cloudy day *(दुस् + दिन)*

दुद्दिट्ठो : Foolish, misguided *(दुस् + दृष्ट = दृश्)*

दुग्गहितो : Badly grasped: deluded *(दुस + गृहीत = ग्रह)*

दुग्गमो : Difficult to pass *(दुस् + गम)*

दुग्गन्धि : Bad smell *(दुस् + गन्धि)*

दुग्गन्धो : Ill-smelling, stinking *(दुस् + गन्ध)*

दुग्गति : Distress, suffering, state of punishment *(दुस् + गति)*

दुग्गतो : Distressed, wretched, poor *(दुस् + गत = गम्)*

दुग्गो : Difficult to pass *(दुर्ग)*

दूहरो : Difficult to take away *(दुस् + हर)*

दुहयति : To injure *(द्रुह्)*

दुहिता : Daughter *(दुहितृ)*

दुज्जनो : A bad man *(दुस् + जन)*

दुज्जरो : Not easy to wear out, imperishable *(दुस् + जरस्)*

दुज्जीवं : Hard to live, a hard life *(दुस् + जीव)*

दुज्जीविका : Hard life *(दुस् + जीव + इक)*

दुज्जीवितं : Hard life, wretched life *(दुस् + जीवित)*

दुकं : Pair, two *(द्विक)*

दुक्करो : Difficult *(दुस् + कर)*

दुक्कतं, दुक्कटं : An offence; a sinful act: a sin *(दुस + कृत = कृ)*

दुक्खक्खयो : Ceassation of suffering-Nirvana *(दुःख + क्षय)*

दुक्खापेति : To cause to suffer: to afflict

दुक्खप्पत्तो : Grieved, suffering *(दुःख + प्राप्त = आप्)*

दुक्खतां : Suffering *(दुःख + ता)*

दुक्खी : Sorrowful, suffering *(दुःख + इन्)*

दुक्खितो : Afflicted, suffering, grieved; sick, ill: in difficulty or distress *(दुःखित)*

दुक्खीयति : To be afflicted *(दुःख)*

दुक्खो : Painful, grievous, unpleasant, difficult *(दुःख)*

दुक्खुपसमो : Ceassation or destruction of suffering *(दुःख + उपशम)*

दुकूलं : Fine cloth *(दुकूल)*

दुल्लभो : Difficult to obtain, or to find, rare, few and far between *(दुर्लभ)*

दुमत्तो : Two, about two *(द्वि + मात्र)*

दुम्बरिका : The opposite leaved fig. tree

दुमिन्दो : Forest king; monarch of trees *(द्रुम + इन्द्र)*

दुम्मनो : Sad *(दुस् + मनस्)*

दुम्मति : Foolish; evil-minded, wicked *(दुस् + मति)*

दुम्मेधी : Foolish *(दुस् + मेध + इन्)*

दुम्मेधो : Foolish *(दुस् + मेध)*

दुम्मोचयो : Difficult to undo *(दुस् cous + मुख + य)*

दुम्मुखो : Foul-mouthed, scurrilous, sad *(दुस् + मुख)*

दुमो : A tree *(द्रुम)*

दुमुप्पलो : The plant *plerospermum, accriolium (द्रुम + उत्पन्न)*

दुन्दुभि : A kettle drum *(दुन्दुभि)*

दुन्नामकं : Hasmorrhoids *(दुर्नामक)*

दुन्नयता : Wrong, drawing rut, misunderstanding *(दुस् + नय + ता)*

दुन्निग्गहो : Difficult to restrain *(दुस् + निग्रह)*

दुनिवट्ठो : Wrongly or badly dressed

दुन्निवारयो : Difficult to hold back *(दुर्निवार्य = वृ)*

दुफस्सो : Rough *(दुस् + स्पर्श)*

दुप्पब्बज्जं : The hard life of a Mendicant friar *(दुस् + प्रव्रज्य)*

दुप्पमुञ्चो : Difficult to loose *(दुस् + प्र + मुच्)*

दुप्पञ्चो : Foolish *(दुस + प्रज्ञ)*

दुप्पसहो : Difficult to master or excel *(दुष्प्रसह)*

दुप्पतिमन्तियो : Difficult to argue with *(दुस् + प्रति = मंत्र + य)*

दुप्पटिपज्जो : Difficult to walk in or follow *(दुस् + प्रति + पद् + य)*

दुप्पटिविज्झो : Difficult to penetrate or comprehend *(दुस् + प्रति + व्याध्य = व्यध्)*

दुप्पवेसो : Difficult to enter *(दुस् + प्रवेश)*

दुप्पूरो : Difficult to fall or to fulfill *(दुष्पूर)*

दूरा : See *दूरो*

दुरभिरमो : Difficult to enjoy, irksome *(दुस् + अभिरम)*

दुरच्चयो : Difficult to overcome *(दुस् + अत्यय)*

दूरगामी :	Going far *(दूर + गामिन्)*
दुरक्खातो, दुराख्यातो :	Ill-preached or shown *(दुस् + आख्यान = ख्या)*
दूरक्खो :	Difficult to guard or watch *(दूरक्ष)*
दूरमं :	Absence of enjoyment, irksomeness *(दुस् + रम)*
दूरङ्गमो :	Going far *(दूरंगम)*
दुरन्नयो :	Difficult to follow *(दुस + अन्वय)*
दुरनुबोधो :	Difficult of comprehension *(दुस + अनु + बोध)*
दुरासदो :	Difficult to approach or to equal *(दुरासद)*
दूरतो :	From a far *(दूरतस्)*
दुरतं :	Two nights *(द्वि + रात्र)*
दुरावासो :	Disagreeable to live in *(दुस् + आवास)*
दुरितं :	Sin *(दुस् + इत = इ)*
दूरो :	Far, distant, remote *(दूर)*
दूरुत्तो :	Ill-spoken: abusive: badly pronounced *(दुस् + उक्त = वच्)*
दूसको :	Defiling: injuring: destroying *(दूषक)*
दूसनं :	Defilement *(दूषण)*
दूसेति : (cans)	To pollute, to spoil: to injure, to ruin *(दूषयति = दुष्)*
दुस्सहो :	Insupportable, voilent *(दुस् + सह)*
दस्सं :	Cloth
दुस्सति :	To offend, to wrong *(दुष्)*
दुस्सीलो :	Immoral, wicked; impious *(दुस् + शील)*
दुस्सील्यं :	Wickedness, impiety *(दुस् + शील + य)*
दुस्सुतो :	Imperfectly heard *(दुस् + श्रुत = श्रु)*
दूतको :	A messenger *(दूतक)*
दूतेय्यो :	Suited to a messenger *(दूत + एय)*
दूती :	Female messenger *(दूती)*
दुतियको :	Second *(द्वितीय + क)*
दुतियो :	Second *(द्वितीय)*
दूतो :	A messenger, an emissary *(दूत)*
दूत्तरो :	Hard to cross *(दुस् + तर)*
दुट्ठो :	Compt, wicked, depraved: Bearing ill-will, angry *(दुष्ट = दुष्)*

दुट्ठल्लो : Wicked, lowed *(दुष्टु + ल + य)*

दुट्ठु : Ill, badly *(दुस् + स्थ)*

दुवारं : A door *(द्वार)*

दुवे : See *(द्वे)*

दुविधो : Two fold, of two sorts *(द्वि + विधा)*

दुवुपसन्तो : Ill-calmed, imperfectly tranquelized *(दुस् + उपशान्त = शम्)*

दुह्यति : See *(दोहति)*

द्वाचताळीसा : Forty two *(द्वाचत्वारिंशत्)*

द्वादसा : Twelve *(द्वादशन्)*

द्वादसाकारो : Having twelve aspects, twelve fold *(द्वादशन् + आकार)*

द्वादसमो : Twelth

द्वन्दं : A couple *(द्वंद्व)*

द्वन्दो : Name of one of the samasas *(द्वन्द)*

द्वङ्गुलं : Two finger-breadths or two inches *(द्वि + अङ्गुल)*

द्वापरं : Name of one of the Yugas or great periods *(द्वापर)*

द्वारवाहा : Door post *(द्वार + वाहा)*

द्वारबन्धनं : The terrace before a house *(द्वार + बन्धन)*

द्वारकोट्ठको : The towers or battlements of a town-gate: a gate *(द्वार + कोष्ट + क)*

द्वारं : A door, a gate: an entrance, an operature *(द्वार)*

द्वारट्ठो : A door-keeper, a porter *(द्वार + स्थ)*

द्वासट्ठी : Sixty two *(द्वाषष्टि)*

द्वासीति : Eighty-two *(द्वशीति)*

द्वत्तिक्खत्तुं : Two or three times *(द्वा + त्रि + कृत्वस्)*

द्वत्तिंस, स, सती : Thirty two *(द्वात्रिंशत्)*

द्वत्तिंसतिमो : Thirty second

द्वावीसति, द्वावीसा : Twenty two *(द्वाविंशति)*

द्वयो : Of two sorts: two *(द्वय)*

द्वे, दुवे : Two *(द्वि)*

द्वेभागो : Broken in two. sundered *(द्वि + भाग + अ)*

द्वेभावो : Doubling *(द्वि + भाव)*

द्वेभूमको : Having two storeyed *(द्वि + भूम + क)*

द्वेभूतो : Doubled *(द्वि + भूत)*

द्वेचत्तालीसा : Forty two

द्वेधा : In two parts *(द्वेधा)*

द्वेज्झं :	Duplicity *(द्वैध्य)*
द्वेकोट्ठासो :	Divided into two parts
द्वेळक :	Doubt *(द्वैध + क)*
द्वेनवुति :	Ninety-two *(द्वानवति)*
द्वेपक्खो :	Divided into two parts *(द्वैपक्ष)*
द्वि, दि, दु :	Two
द्विभावो :	Doubling *(द्वि + भाव)*
द्विभूमको :	Two storeyed *(द्वि + भूम + क)*
द्विधा :	In two ways, of two kinds *(द्विधा)*
द्वीहं :	Two days *(द्वि + अहन्)*
द्विहत्थो :	Two cubits long *(द्वि + हस्त)*
द्विजिव्हो :	Double tongued: treacherous *(द्वि + जिह्व)*
द्विजो :	Twice-born: oviparous: proceeding from one cause *(द्विज्)*
द्विजो, दिजो :	A brahmin, a bird, tooth *(द्विज)*
द्विकं :	Two, a pair *(द्विक)*
द्विक्खत्तुं :	Twice *(द्वि + कृत्वस्)*
द्विपञ्च :	Ten *(द्वि + पञ्चन्)*
द्विपो :	An elephant *(द्विप)*
द्विरदो :	An elephant *(द्वि + रद)*
द्विसहस्सं :	Two thousand *(द्वि + सहस्त्र)*
द्विसतं :	Two hundred *(द्वि + शत)*
द्वित्ति :	Two or three *(द्वि + त्रि)*
द्वियासीति :	Eighty-two *(द्वि + अशीति)*

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एधति : To prosper, to increase *(एध)*

एधो : Fire-wood *(एध)*

एदी : Such *(इदम् + दृश्)*

एदिक्खो, एरिक्खो : Such *(इदम् + वृक्ष)*

एदिसो, एदिसको : Such *(इदम् + दृश्)*

एहिपस्सिको : Inviting

एहिसागतवादी : One who says to come and to be-welcomed *(ehi + स्वागत + गम् + वादिन्)*

एहिसी, एहिति : See *एति*

एजा : Desire, lust, craving, distraction, motion *(एज)*

एकाबद्धो : Contiguous; continuous *(एक + आबद्ध + बन्ध्)*

एकभत्तं : One meal a day *(एक + भक्त)*

एकभत्तिको : Having one meal a day *(एक + भक्त + इक)*

एकचरिया : Walking alone, solitary *(एक + चर्या)*

एकाचरियो : Having the same teacher *(एक + आचार्य)*

एकचरो : Walking alone, solitary *(एक + चर)*

एकच्छन्दो : Unanimous *(एक + च्छन्द्)*

एकच्छत्तं : A single, dominion *(एक + छत्र)*

एकच्चो : One or a certain *(एकतर)*

एकचित्तो : Having the same thought, of one mind *(एक + चित्त)*

एकचीवरो : Wearing a single garment *(एक + चीवर)*

एकदा : One day, once: on the same day *(एकदा)*

एकादस : Eleven *(एकादशन्)*

एकादसमो : Eleventh *(एकादशम्)*

एकदसी : Eleventh day of the half month *(एकादशी)*

एकदेसो : A part, a portion *(एक + देश्)*

एकधा : In one way *(एकधा)*

एकधीतिका : An only daughter *(एक + दुहितृ + का)*

एकदिवसं : One day, on a certain day *(एक + दिवस)*

एकागारिको : A thief, a robber *(एकागारिक)*

एकग्गता : Tranquillity of the mind, abstraction of the mind, contemplation *(एकाग्र + ता)*

एकग्गो : Calm, tranquil *(एक + अग्र)*

एकघनो : Solid *(एक + घन)*

एकाहं : One day *(एक + अहं + म्)*

एकाहेन : In one day

एकजालीभवति : To become one mass of fame *(एक + ज्वाल + ई + भू)*

एकज्झं : In the same place, in conjunction, together *(एकाध्यम्)*

एकज्झासयता : Unanimity *(एक + अधिआशय + ता)*

एकजो : Proceeding from one cause *(एकज)*

एकाकी : Alone, solitary *(एकाकित्)*

एकक्खणे : At the same moment *(एक + loc. क्षण)*

एकक्खत्तुं : Once *(एक + कृत्वस्)*

एकक्खी : One eyed *(एक + अक्ष + इन्)*

एकको : Alone, solitary *(एकक)*

एकमानसो : Unanimous *(एक + मानस्)*

एकमनो : Unanimous *(एक + मनस्)*

एकमन्तं : On one side, apart *(एक + अन्त + म्)*

एकमन्ते : On one side *(एक + अन्त loc)*

एकमन्तिकं : On one side *(एक + अन्त + इक)*

एकमेको : Each *(एक + एक)*

एकमिदाहं : See *(इदं)*

एकंसं : One one shoulder *(एक + अंस)*

एकंसिको : Certain *(एक + अंश + इक)*

एकंसो : This word is a compound of *(एक + अंश)*

एकनिन्नादो : Filled with noise *(एक + निस् + नाद)*

एकन्तो, एकन्तं : One end, one side *(एक + अन्त)*

एकपदी : A path *(एकपदी)*

एकप्पहारेन : Unanimously, in unison, simultaneously *(Inst. एक + प्रहार)*

एकपुत्तो, एकपुत्तको: An only son *(एक + पुत्र + पुत्रक)*

एकरज्जं : Solve sovereignty *(एकराज्य)*

एकारम्मणो : Having the same substratum, basis or object *(एक + आलम्बन)*

एकारस : Eleven *(एकादशन्)*

एकारो : The letter *(एकार)*

एकासनं : Sitting apart or alone *(एक + आसन)*

एकासनिकङ्गं : Precept enjoying eating at one sitting *(एक + आसन + इक + अङ्ग)*

एकसेय्या : Sleeping alone, or apart: single couch *(एक + शय्या)*

एकसो : One by one *(एकशस्)*

एकातपत्तं : One dominion, *lit*, one parasol *(एक + आतपत्र)*

एकतो : *Together:* on one side; apart, alone *(एकतस्)*

एकत्तं : Unity *(एकत्व)*

एकट्ठानं : One place, the same place *(एक + स्थान)*

एकवचनं : One word: the singular number in grammar *(एक + वचन)*

एकवत्थु : One subject *(एक + वस्तु)*

एकवत्थुको : Having the same ground or cause *(एक + वस्तु + क)*

एकविधो : Single *(एक + विधा)*

एकायनं : *The only way or means*

एकेको : One by one, each, severally *(एकेक)*

एकीभावो : Solitude *(एकीभाव)*

एको : One, single: alone: a certain: the same: chief: pre-eminent, unique: general *(एक)*

एकोदिभावो : *One pointedness, concentration*

एकुद्देसो : Having the same teaching or studies *(एक + उद्देश)*

एकूनको : Deficient by one *(एक + ऊन + क)*

एकूनो : Deficient by one, minus one *(एक + ऊन)*

एला : Cardamoms *(एला)*

एळा : Saliva

एळगलो : The plant *Cassia Tora (एडगल)*

एळको : A ram a wild goat *(एडक)*

एळको : A threshold

एळालुकं : A kind of Cucumber *(एर्वारू + क)*

एनं : Fault, sin *(एनस्)*

एळमूगो : Deaf and dumb *(एडमूक)*

एळिका : See *(एकको)*

एन : 'This' or 'it'–a pronominal base *(एन)*

एणेय्यो : A kind of antelope *(एण + एय)*

एणो : A kind of antelope *(एण)*

एरण्डो : The castor-oil plant *(एरण्ड)*

एरावणो : Indra's elephant *(ऐरावण)*

एरावत : The orange tree *(ऐरावत)*

एरिसो : See *(एदिसो)*

एसा : See *(एसो)*

एसको : Seeking *(एस + अक)*

एसं, एसानं, एसु : See *(अयं)*

एसना : Wish, desire *(एषणा)*

एसति : To seek, to search, to desire, to strive, to obtain *(एष्)*

एसी : Seeking, desiring *(एषिन्)*

एसिका : A pillar in front of a city gate

एसिकट्ठायी : Stable as a pillar (*Esika + स्थायिन्)*

एसो, एसा : This, this one; that *(एतद्)*

एतब्बो : That ought to go *(एतव्य = इ)*

एतद : See *एसो*

एतदग्गं : Chief place, pre-eminance, the chief, the best *(एतद् + अग्र)*

एतादिसो, एतारिसो : Such *(एतादृश)*

एतं : See *एसो*

एतरहि : Now *(एतर्हि)*

एत, एतेसं : See *एसो*

एति : To come, to go, to attain, to undergo *(इ)*

एतिह्यं : Oral tradition *(ऐतिह्य)*

एत्तको : So great, so much, so many

एत्तावता : So far, to that extent, thereabout, thus (*Instr एकवन्त्)*

एत्थ : Here, herein, now

एत्तो : So great, so much

एत्तो : Hence *(इदम् + तस्)*

एव, येव, हेव : Just, quite, even, only *(एव)*

एवं : Thus

एवमादि : Beginning thus, such and the like *(एवमादि + क)*

एवमाहारो : Living on such and such a food *(एवम् + आहार)*

एवंधम्मो : Of such a nature, such *(एवम् + धर्म)*

एवमेव : In this very way, even thus *(एवम् + एवम्)*

एवंमहानुभावो : Of such great power *(एवम् + महा + अनुभाव)*

एवं नामो : Having such and such a name *(एवम् + नामन्)*

एवंसञ्ञी : Having this thought *(एवम् + संज्ञा + इन्)*

एकमुच्चो : Of such a height *(एवम् + उच्च)*

एवंवादी : Saying thus, holding this doctrine *(एवम् + वादिन्)*

एवंवादिता : Saying thus, adherance to this doctrine *(एवम् + वादिन + ता)*

एवंविधो : Of such kind, such *(एवम् + विधा)*

एवंविपाको : Having such and such a result *(एवम् + विपाक)*

एवङ्गरुको : Of such importance or value *(एवम् + गुरू + क)*

एवङ्गतिको : Such, similar, analogous *(एवम् + गत + इक)*

एवङ्गोत्तो : Of such a family *(एवम् + गोत्र)*

एवंहि : See *एवं*

एवंनामको : So named *(एवम् + नामक)*

एवरूपो : Such, of this sort *(एवम् + रूप)*

G

गब्भरं : A cavern *(गहूर)*

गब्भासयो : The womb *(गर्भ + आशय)*

गब्भासेय्या : The womb *(गर्भ + शय्या)*

गब्भावक्कन्ति : Entrance of the embreyo into the womb, commencement of pregnancy *(गर्भ + अवक्रान्ति)*

गब्भिणी : A pregnant woman *(गर्भिणी)*

गब्भो : The womb: interior: an embreyo: a foetus: a sprout: an inner room, a closet, a private sitting room, a bed room, : the early stage of a flower *(गर्भ)*

गब्भुप्पत्ति : Conception *(गर्भ + दत्पत्ति)*

गब्बितो : Proud *(गर्वित)*

गब्बो : Pride *(गर्व)*

गभीरो, गम्भीरो : Deep *(गभीर)*

गच्छापेति : To cause to go; to send

गच्छति : To go; to go to; proceed: to depart *(गम्)*

गच्छो : A shurb, a plant *(गच्छ)*

गदा : A club *(गदा)*

गदति : To speak *(गद)*

गद्दभण्डो : The tree, the spesia, Populneoides *(गर्दभाण्ड)*

गद्धो : A vulture *(गृध्र)*

गाधति : To stand fast; to have a firm footing *(गाध्)*

गधितो : Clinging to, desiring *(गध्)*

गदितो : Spoken; said *(गदित = गद्)*

गदो : Disease *(गद)*

गद्दभो : An ass *(गद्रभ)*

गगनं : The sky *(गगन)*

गग्गरी : A churn: a blacksmith's bellows *(गर्गर comp.)*

गाहको : Taking, receiving, holding *(ग्राहक)*

गहं, गहो : A house *(गृह)*

गहनं : See *गहनो*

गहणं : Taking, receiving, holding, grasping, seizing; acquiring, learning, mastering, comprehension; clinging to the world, attachment, desire; an eclipse *(ग्रहण)*

गहणी : The belly, the internal fire promoting digestion *(ग्रहणी)*

गहनो : Impervious, tangled, impenetrable *(गहन)*

गाहपच्चो : The sacred fire kept up by the house-holder *(गार्हपत्य)*

गाहापको : Causing to take distributing

गाहपनं : Causing to take

गहपति : A householder; the head of a household, master of a house *(गृह + पति)*

गहपतिको : A householder *(गृहपति + क)*

गहपतिमहासालो : A wealthy house-holder *(गृहपति + महा + सार)*

गहापेति : To cause to be taken: to deliver to *(caus गण्हाति)*

गहट्ठो : One who lives in a house: a gentleman, as opposed to priest *(गृहस्थ)*

गाहति, गहेति : To wade, to dive, to enter *(गाह)*

गाहेति, : (Caus) **गण्हाति** To cause to take; to include, to embrace, to hold, to contain, to take, to seize; to obtain, to receive, to acquire, to buy; to inform, to teach; to undergo *(ग्राह्यति = ग्रह्)*

गहितको : Accepted *(गृहित + क)*

गहितो : Taken, received: held, kept: grasped, seized: caught, captured: occupied, taken possession of *(गृहीत = ग्रह्)*

गहो : Taking, holding *(ग्रह)*

गहो : Taking, receiving, seizing: a planet: a yakkha: a shark: a crocodile *(ग्रह)*

गाहो : Taking, holding, seizing *(ग्राह)*

गाहो : Taking, acceptance: capture, seizure: holding: a seizure or eclipse of a planet: one that seizes, a yakkha, a crocodile: idea, inclination attachment, desire *(ग्राह)*

गजता : A herd of elephants *(गज + ता)*

गज्जनं : Roaring or thundering *(गर्जन)*

गज्जति : To roar, to thunder *(गर्ज्)*

गजो : An elephant *(गज)*

गकारो : The letter G. *(ग + कार)*

गलति : To flow away; to fall; to vanish; to eat *(गल्)*

गालनो : The tree *symplokos Racemosa (गालन)*

गलो : The throat *(गल)*

गळोची : The shrub *loceulus cordifolins (गुडूची)*

गमा : *See (गच्छति)*

गामधम्मो : Sexual intercourse, fomication *(ग्राम + धर्म)*

गामको : A village *(ग्रामक)*

गमनं : Going, journey: march: departure, walk, *(गमन्)*

गामणी : Chief or head of a village *(ग्रामणी)*

गमनीयो : Transient; accessible: that ought to go *(गमनीय)*

गामणीयो : An elephant or horse trainer *(ग्रामणीय)*

गामन्तरं : Distance between two villages *(ग्राम + अन्तर)*

गामन्तो : Border or outskirts of a village *(ग्राम + अन्त)*

गमापेति : To cause to go, to send *(गम)* (caus ***गच्छति***)

गामता : A collection of villages *(ग्रामता)*

गम्भीरता : Depth *(गम्भीर + ता)*

गम्भीरतो : In depth *(गभ्भीर + तस्)*

गम्भीरो, गभीरो : Deep, unfathomable: profound, abstruse; full of meaning; important, weighty *(गम्भीर, गंभीर)*

गमेति, गामेति : To cause to go, to send *(गमयति = गम्)* (caus ***गच्छति***)

गमि : *See गच्छति*

गामी : Going, loading to, attaining *(गामिन्)*

गमिको : Going, travelling *(गम् + इक)*

गामिको : Travelling *(गमिक)*

गामिको : A villager, or perhaps a village headman *(ग्रामिक)*

गमिस्सति : *See गच्छति*

गमितब्बो : That ought to go

गमितो : Gone *(गम = गच्छति)*

गमीयति : *See गच्छति*

गम्मा : *See गच्छति*

गम्मो : Accessible, attainable *(गम्य = गम्)*

गम्मो : Belonging to villages, rustic, pagan *(ग्राम्य)*

गमो : Going *(गम)*

गमो : Going, journey, march *(गम)*

गामो : A village; a multitude, a collection *(ग्राम)*

गामुचारो : Outskirts or entrance of a village *(ग्राम + उपचार)*

गम्यते : See *गच्छति*

गणकम्मं, गणभोजनं : See *गणो*

गणको : An accountant, treasurer = an astrologer *(गणक)*

गानं : A song *(गान)*

गणना, गणनं : Counting, calculation; number *(गणना)*

गणनपथो : Range of calculation or counting *(गणन + पथ)*

गणापेति : To cause to be counted

गणसज्झायो : A repetition by a number of priest in unison, a chorus *(गण + स्वाध्याय)*

गञ्छि : *See गच्छति*

गण्डको : A rhinseeros: a sort of fish *(गण्डक)*

गण्डम्बो : Name of a tree

गन्धब्बो : A Gandharva or celestial musician *(गन्धर्व)*

गन्धकुटी : Perfumed chamber, name of a room or hut occupied by the Buddha *(गन्ध + कुटी)*

गन्धमादनो : Name of a mountain *(गन्ध + मादन)*

गन्धनं : Injuring, destroying *(गन्धन)*

गन्धारा : Name of a people *(गन्धार)*

गन्धारो : One of the notes of the Hindu Gamut *(गान्धार)*

गन्धि : A substitute for Gandhs at the end of some compounds

गन्धिको : A perfume seller *(गान्धिक)*

गन्धो : Smell, odour: perfume, fragrance; fragrant substances, a mere whiff or scent of a thing *(गन्ध)*

गण्डो : Elephant's temples: cheek: a boil *(गण्ड)*

गण्डुलो : Humpbacked *(गण्डुल)*

गण्डुप्पादो : A sort of worm *(गण्डूपद)*

गणेति : To count, to reckon: to value, to regard *(गण)*

गङ्गा : The river ganges, the milky way *(गङ्गा)*

गङ्गेय्यो : Belonging to the Ganges *(गङ्गेय)*

गण्हनं : Taking, receiving, catching

गण्हापेति : To cause to be taken

गण्हाति : To take, to receive, to accept; to catch, to capture; to arrest, to sieze: to buy: to acquire, to obtain, to get possession of; to adopt, to grasp with the mind, to perceive, to comprehend, to learn, to approve, to agree to, to mind, to regard *(ग्रह)*

गणी : Having many disciples *(गणिन्)*

गणिका : A courtesan *(गणिका)*

गणितो : Counted, reckoned *(गणित = गण)*

गणो : A multitude, number, assemblege, troop, herd: a chapter of priests: the priesthood *(गण)*

गन्तब्बो : That ought to go *(गन्तव्य = गम्)*

गन्थति, गन्थेति : To connect; to tie to connect, to compose *(ग्रंथ्)*

गन्थि : A joint; a knot; a tie, bond *(ग्रन्थि)*

गन्थो : A bond, a tie; a literacy composition, book *(ग्रन्थ)*

गन्तुं, गन्त्वा : See *गच्छति*

गरहा : Blame, reproof, contempt *(गर्हा)*

गरहनं : Blame, contempt *(गर्हण)*

गरहति : To blame, to disparage, to despise *(गर्ह)*

गरही : Censuring, despising *(गर्हिन्)*

गरलं : To venom of a snake *(गरल, गरद्)*

गारबता : Respect *(गौरवत्व)*

गारवो : Respect, reverence; weight, authority, importance (*Gara + अ, comp. गौरव)*

गारह्यो : Contemptible, blamable, low, base, absurd *(गार्ह्य)*

गरु : Heavy: large, weighty: important: venerable *(गुरू)*

गरु : A parent; a teacher; a religious preceptor *(गुरू)*

गरु : A bird's wing *(गरूत)*

गरूगब्भता : Pregnancy *(गुरू + गर्भ + ता)*

गरुको : Heavy; severe: serious: grievous: weighty, important *(गरुक)*

गरुळो : A Garuda, bird *(गरूड)*

गतद्धी : One whose journey is ended, who has reached his destination *(गत + अध्वन् + इन्)*

गतसत्तो : Lifeless *(गत + सत्त्व)*

गाथा : A verse or stanza *(गाथा)*

गति : Journey, going, march: course: refuge, resting place, abode: way of turning out, result, issue, consummation: mode of rebirth after death, state of existence, future state, destiny: rebirth, transmigration, existence: good state, safety, happiness: discretion, prudence, wisdom *(गति)*

गतिमा : Having the power for motion *(गतिमन्त्)*

गत्तो : Gone to, reached : walking, going: having come to, having attained: directed to, devoted to, occupied with; having entered, being in, being upon: departed, gone, disappeared *(गत = गम्)*

गत्तं : The body = a limb *(मात्र)*

गवजो : See *(गवयो)*

गवक्खो : A round window: air-hole: bull's eye *(गवाक्ष)*

गवं, गावं : See *गो*

गवम्पति : One who owns or herds cattle *(गो + पति)*

गवस्सकं : Cows, horses *(गो + अश्व + क)*

गवयो, गवजो : A species of ox *(गवय)*

गवेळक : Cows and sheeps *(गो + एडक)*

गवेसको : Seeking *(गवेष् + अक)*

गवेसना : Search *(गवेषणा)*

गवेसति, गवेसेति : To seek *(गवेष्)*

गवेसी : Seeking *(गवेषिन्)*

गावेय्यो : Belonging to cattle *(गो + एय)*

गावी : A cow

गावो : See *(गो)*

गावुत : A measure of length - the fourth part of a *योजन* league *(गव्यूति)*

गव्यो : Bovine *(गव्य)*

गायको : A singer, chorister *(गायक)*

गायनं : Singing *(गायन)*

गायति : To sing *(गै)*

गायत्ति : Name of a metre *(गायत्री)*

गह्य, गह्यति : *See (गण्हाति)*

गह्यो : That can be taken, seized, grasped *(ग्राह्य = ग्रह)*

गेधो : Greed, desire *(from गृध्)*

गेहं, गेहो : A house *(गेह)*

गेलञ्ञं : Sickness, illness *(ग्लानि)*

गेण्डुको : A ball to play with *(गेण्डुक)*

गेरुकं : Red chalk *(गैरिक)*

गेय्यं : Mixed prose and verse *(गे = गै)*

घच्चो : To be destroyed *(घात्य)*

घम्मति : To go

घम्मो : Heat, hot season; sweat *(घर्म)*

घंसति : To grind, to rub *(घृष्)*

घनच्छायो : Deep standed, thickly wooded *(घन् + छाया)*

घानं : The nose, the organ of smell *(घ्राणं)*

घनसारो : Comphor *(घन + सार)*

घञ्ञं : Destruction (*from हन्)*

घनो : Dense, solid, firm uninterupted *(घन)*

घनोपलं : Hail *(घन + उपल)*

घण्टा : A bell *(घण्टा)*

घण्टिको : A balled singer *(घाण्टिक)*

घरगोलिका : A lizard *(गृह + गोधिका)*

घरकं : A house *(गृह + क)*

घरं, घरो : A house *(गृह)*

घरणी : A wife *(गृहिणी)*

घरावासो : Living in a house or at home; the householder's or layman's life as oposed to the life of an ascetic *(गृह + आवास)*

घसति : To eat *(घस्)*

घस्मरो : Gluttonous *(घस्मर)*

घासो : Eating, pastering; food, fooder, medow's grass *(घास)*

घटा : Multitude, many: junction *(घटा)*

घातको : Killing, destroying, murdering, sacking *(घातक)*

घतं : Ghee or clearified butter *(घृत)*

घटनं : Junction *(घटन)*

घातनं : Slaughter *(घातन)*

घातनो : Destroying *(घातन्)*

घातापेति : To cause, to be slain *(घात)*

घाटापेति : To cause to be united

घाटति : To endeavour, to strive, to exert oneself; to join, to adapt *(घट्)*

घाटेति : To join, to unite: to endeavour, to strive *(घटयति, घाटयति = घट्)*

घातेति : To kill; to cause to kill *(घातयति = हन्)*

घटी : A jar *(घटी)*

घाति : Killing *(धातिन्)*

घटिका : The sixtieth part of a day and night, twenty four minutes *(घटिका)*

घातिको : Mixed with clearified butter *(घार्तिक)*

घातितो : Slain *(घातित + हन्)*

घटीयन्तं : The rope and bucket of a well *(घटी + यन्त्र)*

घटो : A jar: a bowl *(घट)*

घातो : Slughter, destruction *(घात)*

घट्टनं : Touching, knocking, rubbing, shaking *(घट्टन)*

घट्टेति : To touch: to shake: to speak spitefully to, to annoy: to join *(घट्ट)*

घातुको : Mischievious, destructive *(घातुक)*

घायनीयो : Odorous *(घ्राथनीय)*

घायति : To smell *(घ्रा)*

घेप्पति : To take *(ग्रभ्)*

घोरो : Dreadful, terrible *(घोर)*

घोसना : Sounding, proclaiming *(घोषणा)*

घोसनो : Sounding *(घोषण)*

घोसवा : Sounding, sonant *(घोषवत्)*

घोसेति, घोसापेति : To shout, to proclaim (*caus. घुष)*

घोसो : Sound, noise: rumour: voice: a village of herdsmen *(घोष)*

घोटको : A sort of horse *(घोटक)*

घुट्ठो : Shouted, proclaimed *(घुष्ट = घुष्)*

गिद्धी : Greedy *(गृध्र)*

गिही : A layman, as opposed to a priest *(गृहिन्)*

गिज्झति : To be greedy *(गृध्)*

गिज्झो : A vulture

गिलानको : Ill *(ग्लान + क)*

गिलानो : Sick or ill *(ग्लान = ग्लै)*

गिलति : To devour, to swallow *(गृ)*

गिम्हानं : The hot season *(ग्रीष्म)*

गिम्हो : The hot season; summer *(ग्रीष्म)*

गिङ्गामकं : A sort of ornament

गिनि : Fire *(अग्नि)*

गिञ्जका : A tile; a brick

गिरा : Voice, utterance, speech *(गिरि)*

गिरि : A mountain *(गिरि)*

गिरिकण्णी : The plant, *elitoria tematea (गिरिकर्ण्णी)*

गिरिमल्लिका : The plant *wright a auldysenterica (गिरि + मल्लिका)*

गिरिमेखलो : Name of Mara's elephant *(गिरि + मेखला)*

गीतं : Singing, a song or hymn *(गीत = गै)*

गीतिका : A song *(गीतिका)*

गीवा : The neck or throat: debt *(ग्रीवा)*

गीवट्ठि : The collar-bone *(ग्रीवा + अस्थि)*

गीवेय्यं : A neck ornament, necklace *(गैवेय)*

गो, गु : Going: being *(ग)* only at the end of a compound word

गो : A bullock, a bull, an ox : a cow, the earth: speech *गो*

गोचरियो : Brown, reddish

गोचरो : Pasture: food: prey: abode, resort: sphere, range, province: an object of sense, as form, sound *(गोचर)*

गोच्छको : A bunch; or a cluster of blossome *(गुच्छ्क)*

गोधा : An iguana a very large sort of lizard *(गोधा)*

गोधनं : Property in cattle *(गो + धन)*

गोधूमो : Wheat *(गोधूमो)*

गोधातको : A cow-killer *(गो + धातक)*

गोकण्णो : A large species of deer, called elk, in Ceylon: a span *(गो + कर्ण)*

गोकण्टको : The hoof of an ox: the plant *astracantha, longifolia (गोकण्टक)*

गोखीरं : A cow's milk *(गो + क्षीर)*

गोकुलं : A shed for cows: cow-stable *(गो + कुल)*

गोळिको : A ball or hump *(गोलक)*

गोळिको : Prepared with molasses *(गौडिक)*

गोलिसो : Name of a plant *(गोलिह or गोलिढ)*

गोळो : A ball *(गोल)*

गोलोमी : Name of several plants *(गोलामी)*

गोमा : A cattle owner *(गोमन्त्)*

गोमयो, गोमयं : Cow-dung *(गोमय)*

गोमिको : A cattle owner *(गोमिन् + क)*

गोनको : A woollen coverlet with a very long fleence

गोनङ्गुलो : The black faced monkey *(गो + लाङ्गुल)*

गोनसो : A kind of large snake, viper *(गो + नस)*

गोणो : A bullock, an ox *(गो + ण)*

गोपखुमो : Having eyelashes like a heifer *(गो + पक्ष्मन्)*

गोपको : A cow-herd *(गोपक)*

गोपको : One who guards or takes care of, guardian, watchman (*cans from गुप्*)

गोपानसी : The A shaped rafters of the roof of a hut *(गोपानसी)*

गोपति : A bull *(गो + पति)*

गोपति, गोपयति, : To guard, to keep, to protect *(गुप्)*

गोपेति, गोपायति :

गोपी : A cowherd, a herdsman *(गोप)*

गोप्फको : The ankle *(गुल्फ + क)*

गोप्फो : The ankle *(गुल्फ)*

गोपुरं : The towers or battlements over the gates of a fortified town; a watch tower *(गो + पुर)*

गोपुरट्ठो : Standing on the battlements *(गोपुर + स्थ)*

गोरक्खा : Cow-keeping *(गो + रक्षा)*

गोरक्खो : A cowherd *(गो + रक्ष)*

गोरसो : Produce of the cow *(गो + रस)*

गोरो : White *(गौर)*

गोसाला : Cow-stable *(गो + शाला)*

गोसामिको : A cattle-owner *(गो + स्वामिन् + क)*

गोसङ्ग्यो : A cowherd *(गो + संख्य)*

गोसीसं : A kind of sandlewood *(गो + शीर्ष)*

गोतमो : Descended from or belonging to Gotama, a Gautama or Gotamid *(गौतम)*

गोत्रभू : One who is in a fit state to receive sanctification, a priest *(गोत्र + भू)*

गोत्तं : Family, lineage, family name *(गोत्र)*

गोट्ठं : A cattle shade, a cow stable *(गोष्ठ)*

गोविन्दो : A cattle owner: a head herdsman *(गोविन्द or गोपेन्द्र)*

गोयूथं : A herd of cattle *(गो + यूथ)*

गू : See *(गो)*

गुदं : The anus *(गुद)*

गुग्गुलु : A fragrant gum *(गुग्गुलु)*

गुहा : A cave: the heart *(गुहा)*

गुहासयो : Whose seat is the heart *(गुह + शय)*

गुहेति : To conceal *(गूहयति cans. गुह)*

गुला : A pock, or a pimple *(गुला)*

गुळको : A ball *(गुडको)*

गुळाफलो : The tree *careya urborea (गुड + फल)*

गुव्हो : Secret, concealed *(गूढ = गुह)*

गुळिकीळा : Game of a ball *(गुली + क्रीडा)*

गुळो : Molasses, sugar: a ball, a globle: a ball or mouthful of food *(गुड)*

गुणवा : Excellent, virtuous *(गुणवन्त्)*

गुण्डा : The grass cyperus perteruis or its root *(गुन्दा)*

गुणितो : Multiplied *(गुणित = गुण)*

गुञ्जा : The shrub *abms precatorius:* the smallest weight of a jeweller *(गुञ्जा)*

गुणियो, गुणिट्ठो : Better and best

गुणो : A bow string: a lime: a quality: property characteristic, merit; efficiency; virtue: excellence: piety *(गुण)*

गुण्ठेति : To cover, to ensnare *(गुण्ठ)*

गुण्ठिको : *See (अहिगुण्ठिको)*

गुरु : Heavy

गुरुवारो : Thursday *(गुरु + वार)*

गूठं, गूठो : Excrement *(गूथ)*

गुत्ती : Preserved, protected; guarded, hidden *(गुप्त = गुप्)*

गुह्यको : A class of demigods, who are attendants of Kuvera *(गुह्यक)*

गुह्य : A secret; *pudendum (गुह्य = गुह)*

H

ह :	An emphatic particle, the sanskrit, ह, sometimes used after Iti
हा :	Ah! Oh! alas! *(हा)*
हृदयोग :	Going to the heart, vital *(हृदय + ग)*
हृदयालु :	Good hearted, kind, the beat *(हृदयालु)*
हृदयं :	The heart, the mind, the breast *(हृदय)*
हृदयङ्गमो :	Going to the heart, touching, affectionate, touching, kind *(हृदयंगम्)*
हृदयङ्गतो :	Learn by heart *(हृदयम् + गत = गम्)*
हदयि :	Benevolent, kind *(हृदयिन्)*
हज्जो :	Beloved, dear, pleasant *(हृध)*
हलाहलो :	A sort of poison *(हलाहल)*
हलं :	This is another form of alam *(अलं)*
हलं :	A plough *(हल)*
हलिद्दा :	Turmeric *(हरिद्रा)*
हलिद्दाभो :	Yellow *(हरिद्र + आभा)*
हम्भो :	Here! Sirrho! *(हंहो)*
हम्मियं :	A house *(हर्म्य)*
हंसियति :	To bristle *(from हृष्)*
हंसो :	A goose, a swan *(हंस)*
हानं :	Relinquishing, falling away from *(हान)*
हननं :	Killing, destroying: removing *(हनन)*
हनापेति :	To cause to be killed *(caus. हन)*
हनति :	To smile, to kill *(हन्ति)*
हन्त :	Come! alas! *(हन्त)*
हनेति :	To cause to be killed *(caus. हन)*
हानि :	Loss, deterioration, decay, abandonment
हञ्ञति :	See *हनति*
हन्ता :	One who strikes or kills *(हन्तृ)*
हन्ति :	To strike, to beat: to kill, to murder; to destroy, to put an end to: to remove *(हन्)*
हनु :	The jaw *(हनु)*

हनुति : To conceal oneself *(हु)*

हापेति : To dismiss: to forego: to forsake: to neglect: to loose: to omit *(हापयति = हा)*

हारको : One who takes *(हारक)*

हरणं : Taking: stealing: removal *(हरणं)*

हरापेति : To cause to be removed

हरति : To carry, to convey, to bring; to carry away, to remove; to take, to sieze; to steal, to plunder: to bring, to offer: to charm *(हृ)*

हरे : Here! Sirrah!

हारेति : To cause to be carried: to take away, remove *(हारयति = हृ)*
(caus **हरति**)

हरि : Green, yellow, towny *(हरि)*

हरि : Green or yellow colour: gold: Vishnu *(हरि)*

हारि : Handsome *(हारि)*

हारी : Taking, robbing: captivating *(हारिन्)*

हरिचंदनं, चंदनो : Yellow sandlwood *(हरि + चन्दन्)*

हारिणिको : A deer- hunter *(हारिणिक)*

हरिणो : A deer or antelope *(हरिण)*

हरीतकी, को : Yellow myrobalan *(हरीतकी)*

हरितालं : Yellow orpiment *(हरिताल)*

हरितत्तं : Yellowness *(हरित + त्व)*

हरितो : Green *(हरित, हरित्)*

हारियो : To be taken, removed *(हार्य = हृ)*

हरो : Taking, seizing *(हर)*

हरो : Siva *(हर)*

हारो : Taking: necklace *(हार)*

हसमानको : Laughing, merry

हसनं : Laughter *(हसन)*

हसति : To laugh, to be merry *(हस्)*

हसितो : Smiling, laughing, merry *(हसित = हस्)*

हासो : Laughter; mirth, joy *(हास)*

हस्सो : Ridiculous *(हास्य = हस्)*

हातब्बो : That ought to be abandoned *(हातव्य = हा)*

हाटकं : Gold *(हाटक)*

हातत्तं : Destruction *(हत = त्वं)*

हतावकासो : One who has removed all occasions for good or evil *(हत = हन् + अवकाश्)*

हठो : Voilence, force, rapine *(हठ)*

हतो : Killed, destroyed, injured, spoilt: removed, put an end to *(हत = हन्)*

हटो : Seized, carried away *(हृत = हृ)*

हट्ठचित्तो : Joyful *(हृष्ट + चित्त)*

हत्थगतो, हत्थङ्गतो : Passed into a person's hands, in his power or possession, secure, certain *(हस्त + गत = गम्)*

हत्थगो : In one's power, in one's possession, secure *(हस्त + ग)*

हत्थकम्मं : Manual labour *(हस्त + कर्मन्)*

हट्ठलोमो : Astonished, overjoyed *(हृष्ट + लोमन्)*

हत्थानीकं : The elephants of' an army, elephant-host *(हस्तिन् + अनीक)*

हत्थपासो : A measure of distance *(हस्त + पाश)*

हत्थप्पत्तो : Come to hand, received, obtained *(हस्त + प्राप्त = आप्)*

हत्थारोहो : One who rides on an elephant, an elephant driver, mahout *(हस्तिन् + आरोह)*

हत्थस्सं : Elephants and horses *(हस्तिन् + अश्व)*

हत्थतलं : The palm of the hand *(हस्त + तल)*

हत्थी : An elephant *(हस्तिन्)*

हत्थिको : Carried in the hand *(हस्त + इक)*

हत्थिलिङ्गो : A vulture with a bill like an elephant's trunk *(हस्तिन् + लिङ्ग)*

हत्थिनखो : A covered way, covering the access to the gate of a town *(हस्तिन् + नख)*

हत्थिनी : See *Hatthi*

हत्थिनिका : A she elephant for riding *(हस्तिनी + का)*

हत्थिपो : An elephant's keeper or driver *(हस्तिप)*

हत्थो : The hand: an elephant's trunk: a name of a Nakkhatta: a enbit: the measure from the elbow to the tip of the little finger, a quantity *(हस्त)*

हत्थो : Bristling: joyful, delighted *(हृष्ट + हृष्)*

हावको : One who sacrifies *(from caus हु)*

हवनं : Sacrifice *(हवन)*

हवे : Indeed, certainly

हवी : An oblation, sacrifice: clarified butter *(हविस्)*

हवो : A summons, challenge *(हव)*

हावो : Coquetry; dalliance *(हाव)*

हव्यं : An oblation *(हव्य = हु)*

हायनं : Diminution, decay *(from हायति)*

हयानीकं : Cavalary *(हय + अनीक)*

हायनो : A year *(हायन)*

हायति : See *जहति*

हयो : A horse *(हय)*

हे : Oh! *हे*

हेहिति : A fut, from Bhavati

हेला : Sport, dalliance *(हेला)*

हेमं : Gold *(हेमन्)*

हेमन्तो : The cold season, winter *(हेमन्त)*

हेमो : A sort of elephant *(हेम)*

हेरञ्ञिको : A royal treasurer *(हिरण्य + इक)*

हेसा : Neighing *(हेषा)*

हेसितं : Neighing *(हेषित)*

हेस्सति : See *भवति*

हेठेति : To injure, to harass *(हेल्)*

हेति : A weapon *(हेति)*

हेत्था : Under; below, low down (अधस्तात्)

हेत्थतो : Below, underneath *(अधस्तात् + तस्)*

हेत्थिमो : Lower, lowest: last

हेतु : Cause, reason, motive: origin: the reason or middle term of an inference *(हेतु)*

हेतु : On account of, by reason of, by means of, for the sake of *(हेतौ)*

हेतुजो : Produced by a cause *(हेतु + ज)*

हेतुको : Having a cause: causing, instrumental *(हैतुक + हेतुक)*

हेतुमा : Having a cause *(हेतुमन्त्)*

हेतुप्पभावो : Proceeding from a cause, having its origin in a pre-existing cause *(हेतु + प्रभव)*

हेतुसो : Casually, necessarily *(हेतु + शस्)*

हेवा : Quite, just, even

हेय्यो : To be abandoned *(हेय = हा)*

हि : For, because: certainly: indeed: alas!

हिलादति : To be glad *(ह्लाद्)*

हिलादो : Pleasure *(ह्लाद्)*

हिलितो : Ashamed *(हीत = ही)*

हिमाचलो : The Himalayan mountain *(हिम + अचल)*

हिमवा, हिमवन्तो : Cold, snowy *(हिमवन्त्)*

हिमो : Cold *(हिम)*

हिंसा : Hunting, killing *(हिंसा)*

हिंसनं : Injuring, killing *(हिंसन)*

हिंसापनं : Injury

हिंसति : To hurt, to injure: to kill *(हिंस्)*

हीनाजच्चो : Of low family, low-caste *(हीन + जात्य)*

हीनको : Deprived of *(हीन + क)*

हीनप्पणीतता : Inferiority and superiority; goodness and badness *(हीन + प्रणीत् + ता)*

हीनसीलं : Keeping the moral precepts imperfectly or from unworthy motives *(हीन + शील)*

हिङ्गुलको : Vermilion *(हिङ्गुल + क)*

हिङ्गुलि : Vermilion *(हिङ्गुलि)*

हीनो : Wasted, decayed, low, bad, inferior: poor, wretched: forsaken, deprived *(हीन = हा)*

हिन्तलो : A sort of palm *(हिन्ताल)*

हिरञ्ञं : Gold, bullion, treasure *(हिरण्य)*

हिरी : Shame, modesty: the shame which deters a man from sinning *(ही)*

हिरीमा : Modest *(हिमन्त्)*

हिरिवेरं : A perfume *(हीवेर)*

हिरोत्तप्पं, : Shame and fear of sinning

हिरिओत्तप्पं

हितकारो : A benefactor *(हितकर)*

हितो : Fit, suitable; beneficial *(हित = धा)*

हित्वा, हीयति : See *जहति*

हियत्तनो : Of yesterday *(ह्यस्तन)*

हीयो, हिय्यो : Yesterday *(ह्यस्)*

होमो : An oblation *(होम)*

होरापाठको : An astrologer *(होरा + पाठक)*

होतब्बो : That ought to be offered or sacrificed *(हेतिव्य = हु)*

होति : See *भवति*

हुङ्कारो : Making a noise, roaring *(हुंकार)*

हुराहुरं : In various existences; in successive: births

हुरं : In other birth or existence *(स्वर)*

हुसा : Daughter -in-law *(स्नुषा)*

हुतासो : Fire *(हुताशा)*

हुतवा : That has sacrificed *(हुत + वन्त्)*

हुतावहो : Fire *(हुत + आवह)*

हुतावी : That has sacrificed *(हुत + आविन्)*

हुति : Calling, challenge *(हूति)*

हुतो : Sacrificed *(हुत = हु)*

हुत्तं : Sacrifice *(होत्र)*

I

इब्भो : Wealthy *(इभ्य)*

इभो : An elephant *(इभ)*

इच्च : See *इति*

इच्छा : Wish, desire, covetousness, ambition *(इच्छा + चार)*

इच्छापेति : To cause, to desire

इच्छति : To wish, to desire; to approve, to like, to endeavour to obtain, to seek *(इच्छति = इष्)*

इच्छितो : Wished, desired *(ईप्सित)*

इद : See *इध*

इदं : This *(इदम्)*

इदं : Here, now, even *(इदम्)*

इदानि : Now *(इदानीम्)*

इदप्पच्चया : From an assignable cause, from an ascertained cause *(इदम् + abl. प्रत्यय)*

इदत्तं : These three *(इदम् + त्रय)*

इद्धि : Prosperity, power, majesty; supernatural power, magical power, miraculous faculty; a miracle *(ऋद्धि)*

इद्धिमा : Possessed of supernatural power *(ऋद्धिमन्त्)*

इद्धिमयो : Created or made to appear by supernatural powers *(ऋद्धि + मय)*

इद्धिपादो : Constituent or basis of magic power *(ऋद्धि + पाद)*

इद्धिप्पभेदो : The different sorts of magic power *(इद्धि + प्रभेद)*

इद्धिप्पत्तो : Possessed of miraculous power *(ऋद्धि + प्राप्त = आप्)*

इद्धिविधा : The various sorts of Iddhis

इद्धिविसयो : Range of power, extent of Iddhi *(ऋद्धि + विषय)*

इधा : Here, hither, in this world *(इह)*

इधागतत्तं : Fact of having come *(इह + आगत = गम् + त्व)*

इधलोको : This state of existence, this world *(इह + लोक)*

इधुमं : Firewood *(इध्म)*

ईदी : Like this, such *(इदृश्)*

ईदिक्खो : Such *(ईदृक्ष)*

ईदिसको : Like this, such *(ईदृश + क)*

इदिसो, ईदिसो : Like this, such, of such a sort, so great *(ईदृश्)*

इह : Here *(इह)*

ईहा : Exertion, endeavour *(ईहा)*

इहलोकिको : Belonging to this world *(इहलोक + इक)*

ईहति : To endeavour *(ईह)*

इज्जा : Sacrifice *(इज्या)*

इज्जति : See *(यजति)*

इज्जति : To prosper, to succeed, to be accomplished *(ऋध)*

इक्खनं : Sight, looking *(ईक्षण)*

इक्खणिको : Fortune teller *(ईक्षणिक)*

इक्खति : To look, to see *(इक्ष्)*

इक्को : A bear *(ऋक्ष)*

इल्ली : One edged weapon or short sword *(ईली)*

इमा, इमं, इमे : See *अयं*

इणं : Debt *(ऋण)*

इणायिको : A debter, a borrower *(ऋण + आय + इक)*

इन्दधनु : The rainbow *(इन्द्र + धनुस)*

इन्दगोपको : A sort of insect *(इन्द्र + गोपक)*

इन्दजालिको : A magician, juggler, conjurer *(इन्द्र + जालिक)*

इन्दखीलो : A threshold: a large slab of stone let into the ground at the entrance of the house: a pillar infront of a city gate *(इन्द्र + नील)*

इन्दनीलो, इन्दनीलं : A sapphire *(इन्द्र + नील)*

इन्दपत्तं : Name of a town *(इन्द्रप्रस्थ)*

इन्दसालो : Name of a tree *(इन्द्र + शाल)*

इन्दवारुणी : Coloquintida *(इन्द्र + वारुणी)*

इन्दयवो : The seeds of *wrightia qualidysentricas (इन्द्र + यव)*

इन्दयुधं : The rainbow *(इन्द्र + आयुध)*

इन्दधनं : Fire wood, fuel *(इन्धन)*

इन्दीवरं : The blue water lily; the cassia fistula *(इन्दीवर)*

इन्दो : Chief Lord; a king; Indra *(इन्द्र)*

इन्द्रियग्गह्यो : Perciptible to the senses *(इन्द्रिय + ग्राह्य = ग्रह)*

इन्द्रियं : An organ of sense; a power, faculty, function organ; a moral quality; sense, perception aquisition *(इन्द्रिय)*

इन्द्रियसंवरो : Restrain or subjugation of-the senses *(इन्द्रिय + संवर)*

इन्दु : The moon *(इन्दु)*

इङ्गति : To move *(इङ्ग)*

इङ्घा : Come! Pray!

इङ्गो : Gesture, sign *(इङ्ग)*

इङ्गुदी : The plant *terminalia calappa (इङ्गुदी)*

इञ्जति : To move, to be shaken *(इङ्ग)*

ईरेति : (caus) To cause to move, to shake; to cause to utter *(ईरयति = ईर)*

ईरिणं : Barren-soil: a desert *(ईरिण)*

ईरिसो : See Idiso

ईरितो : Thrown; uttered; spoken, said *(ईरित = ईर)*

इरित्विजो : An officiating (Brabmanical) priest *(ऋत्विज्)*

इरिया : Movement; posture; deportment *(ईर्या)*

इरियापथो : Way of deportment *(ईर्या + पथ)*

इरियतो : After the manner of; according to the custom of *(ईर्या + तस्)*

इरुं : The Rigveda *(ऋच्)*

इरुब्बेदो : The Rigveda *(ऋग्वेद)*

ईसा : The pole of a plough *(ईशा)*

ईसाधरो : Concentric circles of rock the surround Meru *(ईषा + धर्)*

ईसकं : A little *(इर्षत् + क)*

ईसक्करो : Easy to do *(इर्षत् + कर)*

ईसं : A little *(इर्षत्)*

इसि : A sage: a saint *(ऋषि)*

इसिगिली : Name of a mountain in Magadha *(ऋषि + गिरि)*

इसिका : A reed *(इषिका)*

इसिपब्बज्जा : The life of an anchorite *(ऋषि + प्रव्रज्या)*

इसिपतनं : Name of a place near Banaras *(ऋषि + पतन)*

इसो, इस्सो : A sort of bear *(इश)*

ईसो : Lord or Master *(ईश)*

इस्सा : Envy, jealousy, ill-will *(ईर्षा)*

इस्सरियं, इस्सेरं : Dominion, supremacy *(ऐश्वर्य)*

इस्सरो : Lord; Ruler: Siva *(ईश्वर)*

इस्सासं : A bow *(इष्वास)*

इस्सयति : To envy, to be jealous *(ईर्ष्य्)*

इस्सुकी : Envious, jealous *(ईर्षु + क = इन्)*

इतरथा : In another way *(इतरथा)*

इतरथत्ता : In another way *(इतरथा + त्व)*

इतरीतरो : One and another; of all sorts *(इतर + इतर)*

इतरो : Other; different *(इतर)*

इति, ति : Thus

ईति : Calamity, accident *(ईति)*

इतिह : *See इति*

ईतिहा : Oral tradition *(ईति + ह + आ)*

इतिहासो : Legendary lore, tradition, history *(इति + हास)*

इतिपि : See *इति*

इतिवुत्तकं : This is a name of the forth book of Khuddakanikaya *(इति + उक्त = वच् + क)*

इतिवुत्तं : A legend or tradition *(इति + उक्त = वच्)*

इतो : Gone *(इत् = इ)*

इतो : Hence, from this world: from this time: ago: here *(इतस्)*

इत्तरो : Low; poor: mean *(इत्वर)*

इट्ठगन्धो : Fragrant *(इष्ट + गन्ध)*

इत्थागारं : Women's apartment *(स्त्री + आगार)*

इट्ठका : A brick, a tile *(इष्टका)*

इट्टकामयो : Made of Bricks *(इष्टका + मय)*

इत्थं : Thus *(इत्थम्)*

इट्ठं : As one wishes *(इष्टम् = इष)*

इत्थम्भूतो : Such *(इत्थम + भूत = भू)*

इत्थन्नामो : Such and such a name; so and so *(इत्थम + नामन्)*

इत्थत्तं : Existence in this world *(इत्थम् + त्व)*

इत्थी : A woman: a female *(स्त्री)*

इत्थिका : A woman *(स्त्री + का)*

इट्ठिका : A brick or tile *(इष्टिका)*

इत्थिलिङ्गं : *Pudendum Mulibre:* feminine gender *(स्त्री + लिंग्)*

इत्थिन्द्रियं : The female sex *(स्त्री + इन्द्रिय)*

इत्थिरतनं : Beautiful or noble woman *(स्त्री + रत्न)*

इट्ठो : Desired, good *(इष्ट = इष्)*

इव, विय, व : Like, as (इव, व)

J

जच्चन्धकियो : Connected with being born blind

जच्चन्धो : Born blind *(जात्यन्ध)*

जच्चो : Belonging to a family *(जात्य)*

जागरति : To wake, to watch *(जागृ)*

जागरिया : Waking, watching, vigil *(जागर्या)*

जागरो : Waking, vigil *(जागर)*

जगति : The earth; the floor of a terrace *(जगती)*

जग्गति : To watch *(जागृ)*

जघनं : The buttocks *(जघन)*

जहापेति : To cause to leave

जहाति : To leave, to forsake, to renounce *(हा)*

जहो : Leaving, *(comp जहक)*

जज्जरितो : Weakened *(जर्जरित)*

जाला : A flame *(ज्वाला)*

जलाबु : The womb *(जरायु)*

जलाभुजो : Born from the wound, viviparous *(जरायुज)*

जलचरो : A fish *(जल + चर)*

जलदायको : A golden vase *(जल + दायक)*

जलाधारो : A tank, a reservoir *(जल + आधार)*

जलद : A rain-cloud *(जलद्)*

जलजो : Water-born *(जल + ज)*

जालकं : A bud: a net *(जालक)*

जलालयो : A reservior, a lake *(जल + आलय)*

जलं : Water *(जल)*

जालं : A net: a web: window or lattice: reticulation, a multitude, quantity, accumulation: intricacy: illusion *(जाल)*

जलनिधी : The ocean *(जल + निधि)*

जलापेति : To cause to be kindled

जलासयो : A tank, lake, reservoir *(जल + आशय)*

जलसुत्ति : A bi-valve, shell *(जल + शुक्ति)*

जलति : To burn, to blaze, to glow, to shine *(ज्वल्)*

जळत्तं : Dullness; stupidity *(जडत्व)*

जलट्ठो : Living in the water *(जल + स्थ)*

जालेति : To kindle *(ज्वालयति + ज्वल)*

जालिका : A coat of mail *(जालिका)*

जालिको : Living by nets, a fisherman, a fowler *(जालिक)*

जालिनी : Desire or lust *(जालिनी)*

जळो : Stupid, dull *(जड)*

जलोगी : Toddy or fresh juice of palm

जलूका : A leech *(जलूक)*

जामाता : A son-in-law *(जामातृ)*

जम्बाली : A dirty pool at the entrance to a village

जम्बालो : Mud *(जम्बाल)*

जाम्बवं : The fruit of the Jambu tree *(जाम्बव)*

जम्बीरो : The lemon or lime tree *(जम्बीर)*

जम्बोनदं : See *जम्बुनद*

जम्बु : A rose apple-tree *(जम्बु)*

जम्बुदीपो : Jambudvipa- one of the four Mahadipas, it is the southernmost and includes India *(जम्बु + द्वीप)*

जम्बुको : A jackal *(जम्बुक)*

जम्बुनदं, जम्बोनदं : Gold *(जाम्बुनद, जाम्बूनद)*

जम्मं : Birth, appearance *(जन्मन्)*

जम्मो : Reckless, worthless, low, contemptible *(जाल्म)*

जनाधिपो : A king *(जन + अधिप)*

जनको : Producing, causing *(जनक)*

जानको : Knowing

जनालयो : A mandapa or temporary hall *(जन + आलय)*

जानं : Knowing, or understanding, wise: consciously, intentionally *(जानन्त्) = ज्ञा)*

जाननको : Knowing

जननं : Production, bringing forth, causing *(जनन)*

जाननं : Knowing, ascertaining *(from ज्ञा)*

जननी : Mother *(जननी)*

जननो : Producing, bringing forth, causing *(जनन)*

जनपदो : A country, province, district: a people *(जन + पद)*

जानपदो : Living in a country *(जानपद्)*

जानापेति : To cause to know: to teach

जनता : People, mankind *(जनता)*

जानाति : To know: to perceive: to comprehend: to be intelligent. *(ज्ञा)*

जनवादो : Scandal, gossip *(जन + वाद)*

जनेति : To beget, to give rise, to produce, to cause, to bring forth *(जनयति = जन्)*

जनेत्ति : A mother *(जनयित्रि)*

जङ्गलो : A forest *(जङ्गल)*

जङ्गमति : To go about *(जंगम्यते = गम्)*

जङ्गमो : Movable *(जंगम)*

जङ्घा : The leg *(जङ्घा)*

जानि : Loss, decay *(ज्यानि)*

जनिका : A mother *(जनिका)*

जानिपति : Husband and wife *(जानि + पति)*

जनिता : A father *(जनित्)*

जानितब्बो : That ought to be produced *(जनितव्य् = जन्)*

जनितब्बो : That ought to be known

जनितो : Produced or caused

जञ्ञा : See *जानाति*

जञ्ञति : To be begotton or produced

जञ्ञो : To be produced *(जन्य्)*

जन्नु, जानु : The knee *(जानु)*

जन्नकं : The knee *(जानु + क)*

जनुमत्तो : Knee-deep *(जानु + मात्र)*

जन्नुतग्धो : Knee-deep

जनो : Human-beings: men: a person or a creature *(जन्)*

जन्ताघरं : A room in which fire is kept, a hot room for steam bath

जन्तु : An animal: a creature: a man *(जन्तु)*

जानु : See *जन्नुं, जानु*

जपा : The China rose *(जपा)*

जपनं : Whispering, muttering *(जपन)*

जपति : To whisper, or mutter *(जप्)*

जप्पा : Desire, or lust, greed

जप्पनं : Speaking *(जल्पन)*

जप्पति : To speak, to mutter, to whisper *(जल्प्)*

जप्पितो : Muttered, whispered, said, spoken *(जल्पित)*

जप्पो : Words or speech *(जल्प)*

जरा : Old-age *(जरस्)*

जरग्गवो : An old-ox *(जरद्गव)*

जरामरणं : Old-age and death *(जरस् + मरण)*

जरता : Old-age *(जरस् + ता)*

जारी : An adulteress *(जारी)*

जरो : Fever *(ज्वर)*

जारो : A lover, paramour *(जार)*

जटा : Matted hair worn by ascetics: desire: lust: the tangled branches of Bamboos and other trees

जातभूमि : Birth-place *(जात + भूमि)*

जटाधरो : An ascetic with matted hair *(जटा + धर)*

जातकं : Birth, nativity: birth or existence in Buddhist sense *(जातक)*

जातं : See Jito

जातापच्चा : A woman who has brought forth a child *(जात + अपत्य)*

जातरुपं : Gold *(जात + रूप)*

जातस्सरो : A natural pond, a lake *(जात + सर)*

जातवेदो : Fire *(जातवेदस्)*

जठरो : The belly *(जठर)*

जाति : Birth: re-birth in Buddhist sense: lineage, family, caste: sort, kind, variety *(जाति)*

जाती, जाति : The great flower jasmine *(जाती)*

जटौ : Matted-hair *(जटिन्)*

जाटिकियो : Congenital

जातिक्खयो : Ceassation of existance by the attainment of arahatta *(जाति + क्षय)*

जातिको, जातियो : Belonging to a family or spacies, having a particular nature or particular habits *(जाति + क + य)*

जातिकोसो : Nutmeg *(जाती + कोश)*

जाटिलो : An ascetic wearing long hair *(जटिल)*

जातिमा : High-born: of good quality *(जातिमन्त्)*

जातिमयो : Caused by birth or species, congenital *(जाति + मय)*

जातिफलं : A nutmeg *(जाति + फल)*

जातिस्सरो : One who remembers his former existences *(जाति + स्मर)*

जातिसुमना : The great flowered jasmine *(जाति + सु + मनस्)*

जातियो : See *जातिको*

जातो : Born: produced: caused: arisen, sprung-up, grown: become, being: taken place, happened *(जात = जन्)*

जन्तु : The collar-bone *(जत्रु)*

जतु : Lac *(जतु)*

जातु : Surely, certainly *(जातु)*

जतुका : A bat *(जतुका)*

जतुमयो : Made of lac, lacquered *(जतु + मय)*

जवाधिको : A fleet-horse, a racer *(जव + अधिक)*

जवनिका : A curtain *(जवनिक)*

जवनो : Quick, fleet *(जवन)*

जवति : To hasten, to hurry, to run *(जू)*

जवो : Spead *(जव)*

जाया : A wife *(जाया)*

जयग्गहो : Victorious *(जय + ग्रह)*

जयपति : Husband and wife

जयनं : Victory *(जयन)*

जयपानं : Drink of a victorious worrior *(जय + पान)*

जायापती : Husband and wife *(जाया + पति)*

जयसुमनं : The plant Pentapetesh Phoenica *(जय + सु + मनस्)*

जयति, जेति, जिनाति : To conquer, to defeat, to win, to surpass, to exceed *(जि)*

जायति : To be born, to be produced, to grow, to spring up, to arise *(जन्)*

जयी : Victorious *(जयिन्)*

जायिका : Wife *(जाया + इका)*

जयो : Victory, conquest *(जय)*

जे : Oh!

जेगुच्छो : Contemptible, loathsome

जेनादत्ति : Son of Jinadatta *(जिन + दत्त + इ)*

जेता : A conqueror *(जेतृ)*

जेतब्बो : To be conquered *(जेतव्य + नि)*

जेतवनं : Name of a famous monastery in Savatthi; Name of a monastery in Ceylon

जेति, जेत्वा : See *जयति*

जेट्ठा : Name of one of the lunar mausions *(ज्येष्ठा)*

जेट्ठको : Eldest: first: chief *(जेष्ठ + क)*

जेट्ठमूलो : Month of Jyaishtha *(ज्येष्ठा + मूल)*

जेट्ठो : Chief, first, best: eldest *(ज्येष्ठ)*

जेट्ठो : Name of a month *(ज्यैष्ठ)*

जेतुत्तरं : Name of a town

जेय्यो : Better, elder *(ज्यायंस्)*

जेय्यो : To be conquered *(जेय = जि)*

झा : Name of a plant

झाल्लिका : A cricket *(झिल्लिका)*

झामो : Consumed, burnt *(क्षाम = क्षै)*

झानं : Meditation, contemplation, religious meditation: mystic meditation or ecstasy or trance *(ध्यान)*

झापनं : Conflagration or consumption

झापेति : To cause to be burnt, to burn, to consume

झसा : *Shrub Urari, a Laqpodiades (झषा)*

झसति : To hurt *(झष्)*

झसो : A fish *(झष)*

झाटलो : The tree *Bignonia Sanveolens (झाटल)*

झावुको : The tree tamarix Indica *(झानुक)*

झायति : To burn, to consume, to waste away *(क्षै)*

झायति : To meditate, to contemplate, to practice mystic meditation *(ध्या)*

झायी : Thoughtful, meditating, practicing jhana *(ध्या + इन्)*

जी, दि, जितो : Victorious *(जित्)*

जिघच्छा : Hunger *(जिघत्सा)*

जिघच्छति : To wish to eat, to be hungry *(जिघत्सति = घस्)*

जिघञ्ञो : Last: lowest: inferior: vile *(जघण्य)*

जिगिंसति : To wish to take

जिगुच्छा : Disgust, dislike, loathing, contempt *(जुगुप्सा)*

जिगुच्छनं : Dislike, contempt *(जुगुप्सन)*

जिगुच्छति : To dislike, to loathe, to despise *(जुगुप्सति = गुप्)*

जिम्हो : Crooked, oblique *(जिम्ह)*

जीमूतो : A cloud *(जीमूत)*

जिनालय : A Buddhist temple *(जिन + आलय)*

जिनाति : See *जयति*

जिनेरितो : Uttered by Buddha *(जिन + ईरित)*

जिनितब्बो : To be conquered

जिंञ्जको : *Ganja* plant

जिण्णको : Old, aged: worn out: dilapidated *(जीर्ण + क)*

जिण्णो : Old aged; worn out: decayed *(जीर्ण + जृ)*

जिनो : Victorious *(जिन)*

जीरणं : Growing old; decay

जीरति, जिय्यति : जीयति To grow old: to decay: to wear out: to be digested *(जृ)*

जिति : Victory *(जिति)*

जितिन्द्रयो : One whose senses are subdued; a Rishi or arahata *(जित + इन्द्रिय)*

जितो : Conquered, defeated *(जित + जि)*

जीवगाहं : Taken alive *(जीवग्राहम्)*

जीवको : Name of a certain medicinal plant *(जीवक)*

जीवं : See *जीवो + जीवति*

जीवनं : Subsistance or livelihood, living *(जीवन)*

जीवञ्जीवो : A kind of pheasant *(जीवंजीप)*

जीवन्ति, जीवति : Medicinal plant *(जीवन्ति)*

जीवसुमनं : The china-rose *(जीव + सु + मनस्)*

जीवति : To live; to maintain oneself: to get one's living *(जीव्)*

जिव्हा : The tongue *(जिव्हा)*

जीवी : Living *(जीविन्)*

जीविका : Life, livelihood, means of subsistence *(जीविका)*

जीवितक्ख्यो : End of life or death *(जीवित + क्षय्)*

जीवितं : Life *(जीवित)*

जीवितिन्द्रियं : Principle of life; life: vitality *(जिवित + इन्द्रिय)*

जीवो : Living *(जीव)*

जिया, ज्या : Bow-string *(ज्या)*

जीयति, जिय्यति : See *जिरति*

जो : Born; produced: proceeding from: caused *(ज)*

जोतको : Illuminating, illustrating *(द्योतक)*

जोतयति : To illuminate *(द्योतयति = द्युत्)*

जोतनं : Illumination *(घोतन)*

जोतति : To shine *(घुत, ज्युत्)*

जोतयति, जोतेति : To cause to shine: to illumine: to glorify: to exalt *(द्योतयति, ज्योतयति, घुत, ज्युत्)*

जोति : Light, fire *(ज्योतिस्, द्योतिस्)*

जोतिका : See *जोतको*

जोतिपथो : The sky *(ज्योतिस् + पथ)*

जोतिरसो : A certain jewel having the power of conferring every wish *(ज्योतीरस)*

जोतिसत्थं : Astronomy *(ज्योतिस् + शास्त्र)*

जुहनं : Sacrifice: offering

जुहोति : To sacrifice *(हु)*

जुण्हा : Moonlight *(जोत्स्ना)*

जूतं, जूतो : Gambling: dicing *(द्यूत = दिव्)*

जुति : Splendour, ray *(द्युति)*

जुतिकारो : Brilliant *(द्युति + कर)*

जुतिमा : Brilliant *(द्युतिमन्त्)*

जुतिन्धरो : Light giver *(द्युति + धर)*

ज्या : See *जिया*

K

का :	See *को*
कबलिङ्कारो :	Made into balls or mouthfuls *(कवल + कार)*
कवलो, कवलं :	A mouthful, a morsel *(कवल)*
कवरो :	Mixed, confused, variegated *(कवर)*
कब्बकरणं :	Making poems or ballads *(काव्य + करण)*
कब्बकारो :	A poet *(काव्य + कार)*
कचवरो :	Sweepings, dust, rubbish
कच्चति :	To shine *(कच्)*
कच्चायनो, : **कच्चानो**	Name of a famous grammarian-name of the Pali grammarian *(कात्यायन + अ)*
कच्चायनो :	Belonging to kaccayana *(कात्यायन + अ)*
कच्छा :	A girdle: a girth: the end of the loin-cloth tucked into the waist-band: an enclosure: a room *(कक्षा, कक्ष्या)*
कच्छको :	The tree Cedrela Toona *(कच्छ् + क)*
कच्छन्तरं :	A king's private room or cabinet *(कक्षा + अन्तर)*
कच्छपो :	A tortoise *(कच्छप्)*
कच्छ :	The arm-pit; the end of a loin-cloth; a spreading creeper; grass-weeds *(कक्ष)*
कच्छो, कच्छं :	Marshy land *(कच्छ्)*
कच्छु :	The scab *(कच्छु)*
कच्चि :	Perhaps, surely *(कच्चिद्)*
काचो :	A siliceons earth or clay used in making glass: glass:ophthalmia *(काच)*
काचो, काजो :	The string of a balance or of a carrying pole *(काच, काज)*
कदा :	When? at what time? *(कदा)*
कदाचि :	At sometimes: sometimes: perhaps *(कदा + चिद्)*
कदलि :	The plantain or banana tree *(कदली)*
कदलिका :	The plantain or banana tree *(कदलिका)*
कदम्बकं :	Abundance, plenty *(कदम्बक)*
कदम्बको :	The tree Nauclea, Cadamba
कादम्बो :	A kind of goose
कदन्नं :	Bad food *(कदन्न)*
कदरियो :	Avaricious, slingy, miserly *(कदर्य)*

कदर : The white Mimosa *(कदर)*

कदसनं : Bad food *(कद् + अशन)*

कद्दमेय्यो : Muddy *(कर्दम + एय)*

कद्दमो : Mud *(कर्दम)*

कड्ढनं : Resigning, rejecting *(कर्षण)*

कड्ढति : To draw: to drag *(कृष्)*

कहं : Where?whither?

काहापणिको : Worth a *kahapana (कार्षापणिक)*

कहापणो + णं : A certain weight: a certain coin *(कार्षापण)*

काहति : See *करोति*

कज्जलं : A sort of collyrium *(कज्ज्जल)*

काजो : See *काचो*

ककचो : A saw *(क्रकच)*

काकली : A soft sound in music *(काकली)*

काकणिका : A very small coin, a farthing *(काकिणिका)*

काकण्टको : A chameleon

काकपक्खो : A tuff of hair on the shaved head of a child or boy *(काक + पक्ष)*

काकसूरो : An Impudent fellow *(काक + सूर)*

काकतालियो : Inconsiderate: accidental *(काकतालिय)*

काकतिन्दुको : A sort of ebony *(काकतिन्दुक)*

काकी : A hen-crow *(काकी)*

कक्कारेति : To express disgust *(कात् + caus कृ)*

कक्कारी : A kind of cucumber

कक्कसो : Rough, hard, cruel *(कर्कश)*

ककटाको : A crab *(कर्कटक)*

कक्खालो : Hard: solid: rough, harsh: cruel *(कक्खट)*

कक्को : Sediment: paste *(कल्क)*

काको : A crow *(काक)*

काकोदुम्बरिका : The opposite leaved fig-tree *(काक + उदुम्बर + इका)*

काकोलो : A raven *(काकोल)*

काकोलूकं : Crows and owls *(काक + उलूक)*

कक्कु : The hump of an Indian bull *(ककुद्)*

कक्कुधो : The hump of an Indian bull an ensign or symbol of royalty *(ककुद, ककुभ)*

ककुसन्धो : Name of one of the 24 Buddhas *(ककुद् + संधा)*

ककुटो : A pigeon or dove

कला : A part, a fraction; the 16th part of the moon's disk: a mechanical or elegant art: a division of time *(कला)*

काळा : The plant, Ipomoea Turpethum *(काला)*

कळभो : A young elephant *(कलभ, करभ)*

काळागरु : Black agallochum *(काल + अगरु)*

काळहंसो : The Kadamba goose *(काल + हंस)*

कलहो : Quarrel, strife, battle *(कलह)*

काळका : A squirrel *(कालका)*

कलकलो : A confused noise: hullabaloo *(कलकल)*

काळकञ्जको : A sort of Preta *(कालकञ्ज + क)*

कालकण्णी : Adversity: adversity personified: goddess of adversity *(कालकर्णी)*

काळकण्ठको : A gallinule *(कालकण्ठक)*

कालकतो : Dead *(काल + कृत = कृ)*

कालकिरिया : Death *(काल + क्रिया)*

काळक्खन्धो : A sort of ebony *(काल + स्कन्ध)*

काळको : A black grain in rice: a black speck *(कालक)*

काळकूटो : Name of one of the Himalayana peaks,, sort of poison *(काल + कूट)*

कललं, लो : The embreyo immediately after conception *(कलल)*

कललं : Mud

काळलोणं : Dark, coloured salt *(काल + लवण)*

कलम्बको : Name of a potherb *(कलम्बक)*

कलन्दको : A squirrel *(कलन्तक)*

कलन्दो : A squirrel *(कलन्तक)*

कलङ्को : Spot: blemish: mark: defamation *(कलङ्क)*

कालन्तरं : Lapse of time, interval of time: period *(काल + अन्तर)*

कालानुकालं : *From time to time (काल + अनु + काल)*

काळानुसारी : A dark fragrant sandalwood *(काल + अनुसारिन्)*

काळपक्खो : The dark half of a month during which the moon is waving *(काल + पक्ष)*

कलापको : a string or row of pearls *(कलापक)*

कालपरियन्तसीलं : Taking upon oneself the Sila precepts for a definite terminable period *(काल + पर्यन्त + शील)*

कलापी : A peacock *(कलापिन्)*

कलापो : A bundle: a tuft: a peacock's tail: a row, string, multitude: a quiver *(कलाप)*

कळारो : Tawny, tan-coloured *(कडार)*

कलसो, सी, सं : A water-pot, a cup *(कलश)*

काळसोको : Name of an Indian monarch who reigned from 453 to 425 B.C. and was a supporter of the Buddhist religion in his reign the Second General Council was held *(काल + अशोक)*

काळसुत्तो : Name of one of the eight Narakas or hells *(काल + सूत्र)*

काळातिपत्ति : The conditional tense *(काल + अतिपत्ति)*

काळतो : See *(काळो)*

कलत्तं : A wife *(कलत्र)*

कलवा : Long, tasting *(कालवन्त्)*

कालवादी : Speaking at the right time or appropriately *(काल + वादिन्)*

काळाबकी : Name of a sort of Elephant

कालवणं : A very little salt *(कद् + लवण)*

कलविङ्को : A sparrow *(कलविङ्क)*

काळायसं : Iron *(कालायस)*

कलायो : A chick: pea *(कलाय)*

कालयुत्तो : See Kalo

काले : Sea Kalo

कलेवरं : A corpse *(कलेवर)*

कालेन : See Kalo

कलि : Sin, demerit, depravity: name of one of the Yugas *(कलि)*

कलिका : A flower-bud *(कलिका)*

कालिको : Belonging to the time *(कालिक)*

कलिलो : Choked, in pervion, impenetrable *(कलिल)*

कलिमा : Sinful *(कलिमन्त्)*

कलिङ्ग : Name of a people and country on the coromandal coast *(कालिङ्ग, कलिङ्ग)*

कळिङ्गरो : A log, or faggot

कलिङ्गो : The fork, tailed shrike *(कलिङ्ग)*

कलीरो : The top sprout of a plant or tree

काळीयं : A dark sandalwood from which a perfume is made *(कालीय)*

कलियुगं : See *युग*

कल्लहारं : The white water lily *(कल्हार)*

कल्लणो : See *कल्याणो*

कल्लति : To sound indistinetly *(कल्लति)*

कल्लो, कल्यो : Healthy: ready: prepared: skilful: possible *(कल्प)*

कल्लोलो : A billow *(कल्लोल)*

कलो : Low, soft, indistinct *(कल)*

कालो : Time: meal time: right time: due-season

काळो : Black, dark-blue, dark *(काल)*

कालुसियं : pollution, obscuration *(कालुष्य)*

कलुसो : Polluted, turbid, impure *(कलुष)*

कल्याणो, कल्लाणो : Fortunate, blest, happy: beautiful, charming, pleasant: good, virtous *(कल्याण)*

कल्पता : State of being ready *(कल्य + ता)*

कं : *See* Ko

कं : Water, the head *(क)*

कामभवो : Sensual existence *(कामभवो)*

कामच्छन्दो : Wish for sensual enjoyment *(काम + च्छन्द्)*

कामदो, कामददो : Giving what is wished for giving pleasure *(कामद्)*

कामगुणो : Quality or constituent of sexual pleasure *(कामगुण)*

कामजो : Proceeding from or caused by desire *(कामज)*

कामकामो : Fond or desirous of sensual pleasure *(काम + काम)*

कामको : Desirous *(काम + क)*

कमलं : A lotus *(कमल)*

कामलोको : World of sense: sensual pleasure *(काम + लोक)*

काम : At pleasure, certainly indeed *(कामम्)*

कमण्डलु : Water-pot used by ascetics *(कमण्डलु)*

कामङ्गमो : Going as one lists *(काम + गम)*

कमनीयो : Beautiful *(कमनीय + कम)*

कामनो : Lustful *(कमन)*

कामता : Desirousness *(काम + ता)*

कमतो : Successively, respectively *(क्रमतस्)*

कामत्तं : Desirousness *(कामत्व)*

कामावचरो : Belonging to the Kamaloka, within the domain of sensual pleasure *(काम + अवचर)*

कामयति : To love, to desire *(कम्)*

कामयिता : Lustful *(कामयितृ)*

कम्बलो, लं : A blanket or woolen garment *(कम्बल)*

कम्बोजो : Name of a country and it's inhabitants *(कम्बोज)*

कम्बु : A shell, a couch: a bracelet: gold *(कम्बु)*

कम्बुगीवा : A neck marked with three lines or folds like a shell, considered indicative of exhalted fortune *(कम्बु + ग्रीवा)*

कम्बुगीवो : Prosperous: fortunate

कमेन : By degrees: successively: in due course *(क्रमेण)*

कामि : Lustful *(कामि)*

कामी : Desirious *(कामिज्)*

कमिता : A lustful, wanton *(कामितृ)*

कम्मधारयो : A grammatical term, one of the Samasas *(कर्मधारय)*

कम्पजो : Caused by Karma *(कर्मन् + ज)*

कम्मकारको : A workman, a labourer *(कर्मकार + क)*

कम्मकरो : Hired labourer, a servant *(कर्मकार)*

कम्मकारो : A hired labourer, a servant *(कर्मकार)*

कम्मं : Doing; action, work, labour, business: a dead, action operation: a religious or ecclesiastical act: moral merit, karma *(कर्मन्)*

कम्मनियो, कम्मञ्ञो : Workable, malleable: fit for work, pliant, ready, alert, active *(कर्मण्य)*

कम्मञ्ञता : Adaptability, pliancy, readiness

कम्पन्तो : Business, work, occupation, craft, profession *(कर्मान्त)*

कम्पपथो : Course or means of action *(कर्मन + पथ)*

कम्मारो : A blacksmith, a smith *(कर्मार)*

कम्मसो : Dirt, stain, guilt *(कल्मष)*

कम्मासो : Variegated, spotted *(कल्माष)*

कम्मास्सको : Having karma for his portion; having his own individual karma *(कर्मन् + स्वक)*

कम्पट्ठानं : Basis of action *(कर्मन् + स्थान)*

कम्पट्ठानिको : Connected with or practising karmasthana *(कर्मस्थान + इक)*

कम्मवाचा : An ecclesiastical vote or resolution *(कर्मन + वाचा)*

कम्मवाचं : Collection of kammavacas

कम्मी : Acting, working *(कर्मिन)*

कम्मिको : Working *(कर्मन + इक)*

कम्मुना : See *कम्प*

कमो : Order, step, succession, method *(क्रम)*

कामो : Wish, desire, desired object; the God of Love, Kama or cupid; sensual desires or pleasures, pleasure, passion, lust *(काम)*

कम्पनं : Shaking *(कम्पन)*

कम्पति : To shake, to tremble *(कम्प)*

कम्पो : Trembling agitation *(कम्प)*

कंसकूटं : Counterfeit metal *(कास्य + कूट)*

कंसनीलं : Blue vitriol *(कास्य + नील)*

कंसतालो : A gong *(कास्य + ताल)*

कंसथालं : A bronze dish or plate *(कास्य + स्थाल)*

कंसो : Metal; bronze; a gong: a bowl to eat from *(कास्य, कंस)*

कंसो : A coin worth four Kahapanas *(क्रर्ष)*

कमुको : The areca palm *(क्रमुक)*

कामुको : Desirious *(कामुक)*

कामुपपत्ति : Sensual existence *(काम + उपपत्ति)*

कम्यता : Desire *(काम्यता)*

कनकं : Gold *(कनक)*

काननं : A forest, a grove *(कनक)*

कणति : To sound *(कण)*

कणयो : A sort of spear *(कणय, कणप)*

कञ्चनं : Gold *(काञ्चन)*

कञ्चि : See *कोचि*

कञ्चुकि : An attendant on the women's apartment *(कञ्चुकिन)*

कञ्चुकितो : Having the hair bristling with joy *(कञ्चुकित)*

कञ्चुको : A jacket: the skin or slough of a snake: a coat of mail: a case, sheath, covering, envelope *(कञ्चुक)*

कण्डरा : A tendon *(कण्डरा)*

कन्दरि, कन्दरो : A cave: a grotto *(कन्दर)*

कन्दति : To cry, to wail, to weep *(क्रन्द)*

कन्धरा : The neck *(कन्धरा)*

कन्दितं : Wailing, crying, weeping *(क्रान्दित = क्रन्द)*

कन्दो : A bulb *(कन्द)*

कण्डो, कण्डं : The part of a plant from one joint to another: a stalk; an arrow a section or chapter of a book: a part, a portion, a piece: opportunity, season *(काण्ड)*

कण्डु : The itch *(कण्डु)*

कन्दुको : A ball to play with *(कन्दुक)*

कण्डुति : Itching *(कण्डूति)*

कण्डूयनं : Itching *(कण्डूयन)*

कण्डूवति : To scratch *(कण्डूय)*

कण्डूया : Itching *(कण्डुया)*

करेणु : An elephant *(करेणु)*

कणेरुका : A female elephant *(करेणुका)*

कंगु : A sort of millet- Panicum ltalicum

कण्हवण्टा : The plant Bignoria Sunaveolens *(कृष्ण + वृण्ट)*

कण्हवत्तनी : Fire *(कृष्णवर्त्मन्)*

कण्हायनो, कण्हानो : Offspring of Krishna *(कार्ष्णायन)*

कण्हि : Offspring of Krishna *(कार्ष्णि)*

कण्हो : Black, dark, sinful *(कृष्ण)*

कणिका : An ear-ornament: the plant Premma Spindso *(कर्णिका)*

कणिकारो : The tree pterospermum aceifolium *(कर्णिकार)*

कनीनिका : The pupil of the eye *(कनीनिका)*

कनिट्ठका, कनिट्ठिका : A younger sister *(कनिष्ठिका)*

कनिट्ठो : A smallest, very small: youngest *(कनिष्ठ)*

कनियो : Less, smallest; younger *(कनीयंस्)*

कञ्जिकं, कञ्जियं : Sour rice-gruel *(काञ्जिक)*

कङ्कणं : An ornament; a bracelet *(कङ्कणं)*

कङ्कटो : Mail *(कङ्कट)*

कङ्का : Doubt *(काङ्क्षा)*

कङ्कति : To doubt *(काङ्क्ष)*

कङ्को : A heron *(कङ्क)*

कञ्ञा : A young woman: a girl: a virgin *(कन्या)*

कण्णधारो : A steersman, pilot *(कर्णधार)*

कण्णजलूका : A centipede *(कर्ण + जलूका)*

कण्णजपो : A tale, bearer, informer *(कर्ण + जप)*

कण्णमुण्डो : Name of one of the Mahasaras *(कर्ण + मुण्ड)*

कण्णिका : Earring or ear-ornament: the Pericarp of the lotus: the peak or dome of a hut or pagoda *(कणिका)*

कण्णो : The ear; a rudder; a corner edge *(कर्ण)*

कणो : The fine red powder which adheres to the grain of rice beneath the husk a particle, bit, atom *(कण)*

काणो : One-eyed; blind of one eye *(काण)*

कण्टकितो : Having the hair-bristling with joy *(कण्टकित)*

कण्टको, कण्ठको : A thorn: an enemy; horripitation; an obstacle; pest, nuisance *(कण्टक)*

कण्टकुरण्डो : The plant *baneria cristata* *(कण्टकुरण्ड)*

कन्तनं : Cutting; spinning *(कृन्तन)*

कन्तरो : A forest, a wilderness; a difficult road *(कान्तार)*

कन्तति : To cut *(कृत्)*

कन्तति : To spin *(कृत्)*

कण्ठजो : Guttural *(कण्ठज्)*

कन्था : Patched cloth *(कन्था)*

कण्ठको : See *कन्तको*

कण्ठो : The neck or throat *(कण्ठ)*

कन्ति : Beauty, wish, pleasure *(कान्ति)*

कन्तितो : Cut

कन्तो : Loved; beautiful, charming, - delightful, agreeable *(कान्त = कम)*

कपालं, लो : The skull, forehead; a Potsherd *(कपाल)*

कपल्लं

कपणि : A miserable man, a pauper *(कृपणिन्)*

कपणो : Miserable, afflicted, poor: miserly *(कृपण)*

कपटं, कपतं : Fraud, hypocrisy *(कपट)*

कापेय्यो : Belonging to the apes *(कापेय)*

कपि : Monkey *(कपि)*

कपिकच्छु : The plant *Mucuna-Pruritus* *(कपिकच्छु)*

कपिलो : Reddish *(कपिल)*

कपिलवत्थिको : Belonging to Kapilavastu *(कपिलवस्तु)*

कपिसीसो : A Lintel of a door

कपीतनो : The tree *The spesia Populneoider (कपीतन)*

कपित्थो : The tree feronia Elephantum *(कपित्थ)*

कपोलो : The cheek *(कपोल)*

कपोणि : The elbow *(कफोणि)*

कापोतको : Grey, White *(कापोत + क)*

कपोतो : A pigeon, a dove *(कपोत)*

कापोतो : Belonging to pigeons *(कापोत)*

कप्पबिन्दु : A black spot which Buddhist Priests are instructed to attach to a new robe to disfigure it *(कल्प + बिन्दु)*

कप्पक्खयो : That period of the kalpa when the process of destruction is going on *(कल्प + क्षय)*

कप्पको : A Barber *(कल्पक)*

कप्पना : Thought Cutting *(कल्पना)*

कप्पनं : Cutting: making: caparisoning an elephant or horse *(कल्पन)*

कप्पनीयो : To be thought or believed *(कल्पनीय)*

कप्पनो : The trappings of an elephant *(कल्पन)*

कम्पापेति : To cause to be caparisoned or made ready (Caus *कम्पेति)*

कप्परो : The skull *(कर्पर)*

कप्परो : The elbow *(कूर्पर)*

कप्परुक्खो : A celestial tree, yielding all wishes: it grows in Indra's Heavens *(कल्प + वृक्ष)*

कप्पसिको : Made of cotton *(कार्पासिक)*

कप्पासि, कप्पसो : Cotton *(कर्पास)*

कप्पति : Befitting, allowable, right, proper *(क्लृप)*

कप्पटो : Soiled or tattered cloth, rags *(कर्पट)*

कप्पायुको : Whose age is a kalpa, living a kalpa *(कल्प + आयुष + क)*

कप्पेति : To arrange to make, to establish, to enter upon: to think: to imagine: to cut *(कल्पयति + क्लृप्)*

कप्पिको : Thinking, reasoning *(tr. क्लप्)*

कप्पिको : Belonging to a kalpa *(कल्प + इक)*

कप्पितो : Made ready; cut, cut off *(कल्पित)*

कप्पीयति : To be thought or imagined

कप्पियो : Right, proper, suitable, appropriate, acceptable, agreable *(कल्प्य)*

कप्पो : Fit, suitable, worthy: nearly equal to, rivalling resembling like *(कल्प + कल्प्य)*

कप्पो : Time, a moment: precept, rule, ordinance: the rules concerning rites, one of the Vedangas; practice, usage, mode; alternative, permission; a chapter or section of a book: thought: all the whole; a vast period; age; cycle *(कल्प)*

कप्पूरो, कप्पूरं : Camphor *(कर्पूर)*

कापुप्फं : Bad flowers *(का + पुष्प)*

कारा : A jail *(कारा)*

कारभो : The metacarpus: a camel *(करभ)*

करभूस : A bangle or bracelet *(कर + भूषा)*

करग्गं : The lip of an elephants trunk *(कर + अग्र)*

करहचि : Sometimes *(कर्हि + चिद्)*

करहाटं : A bulbous root *(करहाट)*

करजो : A finger— nail *(करज)*

करका + को : Hail *(करक)*

कारकं : Relation of a noun and verb in a sentence, construction, case-relation *(कारक)*

करको : A water-pot: the pomegranate tree *(करक)*

कारको : Making, doing, causing *(कारक)*

करमद्दो : The shrub carissa carandes *(करमर्द)*

करमरो : A prisoner *(comp. करमरिन्)*

कारणा : Agony, torture *(कारण)*

कारणा : (adj) On account of, for the sake of *(कारणात्)*

करणं : Making; doing: action;, instrument; the body; an organ of sense *(करण)*

कारणं : Motive, cause, reason, means, thing, matter, case event, substance; destruction *(कारण)*

करण्डको : A box *(करण्डक)*

कारण्डवो : A sort of duck *(कारण्डव)*

कारण्डो, ण्डं : A basket, a wicker-work box *(करण्ड)*

कारणिको : Investigating, judging *(करणिक)*

करणीयो : That ought to be done or made *(करणीय = कृ)*

करञ्जो : The plant Pongamia Globra *(करञ्ज)*

करणो : Making, causing *(करण)*

करानो : See *(करोति)*

करण्टकीफलो : The jack-tree or bread-fruit tree

करपालिका : A wooden sword a cudgel *(करपालिका)*

कारापनं : Causing to be made

कारापेति : To cause to be made or done
(cans, karoti)

करपुटो : The cavity formed by joining the bent palms of the hands *(कर + पुट)*

करसारवा : A finger *(कर + शाखा)*

कारवेल्लो : The plant *Momordica charantia (कारवेल्ल)*

करवीको : The Indian Cuckoo

करवीरो : Oleander *(करवीर)*

कारनो : See *कारु*

करेणु : An elephant *(करेणु)*

करेरि : The tree *lapparis trifoliata*

कारेति : To cause to be done or made, to make, to perform *(कारयति = कृ)*

करी : An elephant *(कारिन्)*

कारी : Doing, acting *(कारिन्)*

कारिका : Work, action, a memorial verse: a metrical explanation *(कारिका)*

करीरो : The plant *Capparis aphylla (करीर)*

करीसं : Excrement *(करीष)*

करीसं : A superficial measure = four ammanas

करिसापणो : A karshapana *(कार्षापण)*

करिस्सं : See *करोति*

कारितो : Caused to be made or done, made, constructed or performed *(कारित = कृ)*

कारिया : See *करोति*

करिया, करियति : See *करोति*

कारियो : That ought to be done *(कार्य)*

करो : The hand, an elephant's trunk: tax, toll, revenue; a ray of light *(कर)*

करो :(adj) Making, causing, doing *(कर)*

कारो : Making, action; a prison; a song of praise *(कार)*

कारो : Making *(कार)*
(adj)

करोति : To act: to do: to cause: to cause to become, to render, to make: to perform *(कृ)*

कारु : An artisan *(कारुक)*

कारुको : An artisan *(कारुक)*

करुणा : Compassion, mercy *(करुणा)*

करुणावा : Merciful *(करुणावन्त्)*

कारुणिको : Compassionate, merciful *(कारुणिक)*

कारुञ्ञं : Compassion *(कारुण्य)*

कारुञ्ञता : Compassionateness *(कारुण्य + ता)*

कारुणो : That which moves compassion, the pathetic pathos *(करुण)*

कसा : A whip *(कशा)*

कसको : A plough share *(कृषक)*

कासं : See *(कासो)*

कासमद्दो : The plant Carria Sophora *(कासमर्द)*

कसम्बु : Sweepings, rubbish

कसापेति : To cause to be ploughed

कसति : To plough, to till the ground *(कृष्)*

कासति : To shine *(काश)*

कसायितो : Stained *(कषाचित)*

कसायो, कसावो : Having astringent test; fragrant *(कषाय)*

कासायो, कासावो : Reddish yellow, yellow *(काषाय)*
(adj)

कसेरू : Name of a kind of grass *(कशेरु)*

कसि : Ploughing, agriculture *(कृषि)*

कासि : Name of a people and country *(काशि)*

कासिको : Belonging to Kashi country *(काशिक)*

कसिमा : A husband-man, cultivator *(कृषि + मन्त्)*

कसिणो : All entire *(कृत्स्न)*

कसिणो, कसिणं : This is a name for one of divisions of karmasthanas of a process by means of which mystic meditation may be induced

कसिरो : Painful, grievous, miserable *(कृच्छ्)*

कसितो : Ploughed

कस्मा, कस्मिं :	See *(को)*
कस्मीरजं :	Saffoon
कस्मीरो :	Kashmere *(काश्मीर)*
कासो, कासं :	The grass Sacchurum Spontaneum *(काश)*
कासो :	Cough *(कास)*
कस्सा, कस्सचि :	See *को, कोचि*
कस्सको :	A husbandman, farmer, cultivator *(कर्षक)*
कस्सपो :	Name of one of the 24 Buddhas, the last before Gotama; Name of a famous disciple of Buddha, president of the first Mahasangiti, name of a Rishi *(काश्यप)*
कासु :	Hole in the ground; a pit; a multitude *(कर्षू)*
कातब्बो :	See *कत्तब्बो*
काताभिनीहारो :	Having formed the resolution to become a Buddha *(कृत + अभिनीहार)*
काताभिसेको :	Whose inauguration ceremony has been performed *(कृत + अभिषेक)*
कटच्छु :	A spoon
कटाहं, कटाहकं :	A jar, vase, flower-pot *(कटाह, कटाहक)*
कतहत्थो :	Skilful *(कृत + हस्त)*
कटकं, कटको :	A bracelet, The side of a mountain
काताकतो :	Wrought and unwrought; done and not done *(कृत + अकृत)*
कतको : (adj)	Artificial, feigned *(कृतक)*
कतको :	The nut plant, strychnos Potatorum, the seed of which is used to clear water *(कतक)*
कतमाली :	The tree Carsia fistula *(कृतमाल)*
कतमो :	What? Which? *(कतम)*
कतञ्जलि :	Saluting respectfully *(कृत + अञ्जलि)*
कतञ्ञु :	Grateful *(कृतज्ञ)*
कतञ्ञुता :	Gratitude *(कृतज्ञता)*
कतपुञ्ञता :	Meritoriousness; state of having done good works *(कृतपुण्य + ता)*
कतरो :	What? which? *(कतर)*
कत :	Fact of having been done or made *(कृत + त्व)*
कतका :	Having done or made *(कृतवन्त्)*

कतावकासो : Having obtained an opportunity, having received permission *(कृत + अवकाश)*

कातवे : See *करोति*

कतवेदि : Grateful *(कृतवेदिन्)*

कतावी : Having done or made *(कृत + विन्)*

कथा : Speech, discourse: conversation; discussion; a story, tale, account *(कथा)*

कठलो : A pot-sherd or fragments of broken pottery; gravel *(कठर)*

कथं : How? *(कथम्)*

कथनं : Saying, talking; conversing, relating *(कथन्)*

कथानं : One of the high numerals or 1 followed by 126 ciphers

कथञ्चि : Scarcely, with difficulty *(कथम + चिट्)*

कथंकथा : Doubt

कथापेति : (Caus) To cause to be said; to cause to be told, to learn *(from कथ्)*

कथावत्थु : Subject to discourse *(कथा + वस्तु)*

कथावत्थुपकरणं : Book of subjects of discussions; book of contraverted points *(कथा + वस्तु + प्रकरण)*

कथेति : To say, to narrate, to recite, to repeat, to preach, to converse, to speak to, to mean *(कथ)*

कथी : (adj) Speaking *(कथा + इन्)*

कथिका : Talk, parley, a pact or agreement *(कथ + इका)*

कथिको : Speaking, preaching *(कथिक)*

कठिनो : (adj) Hard, solid: severe, difficult *(कठिन)*

कथितो : Spoken, said, related: told: spoken of, meant *(कथित = कथ्)*

कठितो : Boiled, boiling *(from कृथ्)*

कथीयति, कत्थति : See *कथेति*

कति : How many? *कति*

कटि : The waist, the hip *(कटि)*

कतिचि : Few, some *(कतिचिद्)*

कतिका : See *कथिक*

कतिपाहं : A few days *(कतिपय + अह)*

कतिपयो : A few, some, several *(कतिपय)*

कतो, कटो :	Made: done: composed: performed *(कृत = कृ)*
कटो :	Matting; temples of an elephant; mon-veneris *(कट)*
कटो :	Made, done *(कृत)*
कतोपकारो :	Having had a service done for one, assisted *(कृत + उपकार)*
कत्ता :	An agent, a doer, maker *(कर्तृ)*
कत्तब्बो, कातब्बो :	Duty; work to be done *(कर्तव्य = कृ)*
कत्तरेति :	To be loose, flaccid, weak
कत्तरो :	A weak, or deceipt man; an oldman (*(from, कर्त्र्)*
कत्थ :	Where? whether? wherein *(कुत्र)*
कत्थचि :	Anywhere, somewhere: in some places; in some cases, ever *(कुत्र + चिद्)*
कट्ठको :	Name of a sort of reed
कट्ठं :	A piece of wood, a stick: a jungle *(काष्ठ)*
कट्ठमयो :	Made of wood *(काष्ठ + मय)*
कत्थना :	Praise, or boasting *(कत्थन्न)*
कत्थति :	To praise, to boast *(कत्थ्)*
कट्ठिस्सं :	A silken coverlet embroidered with gems
कट्ठो : : (adj)	Miserable, bad *(कष्ट)*
कट्ठो :	Ploughed *(कृष्ट = कृष्)*
कत्थूरिका :	Musk *(कस्तूरिका)*
कत्तिका :	Name of a *Nakkhatta* *(कृत्तिका)*
कत्तिकेय्यो :	The God of war *(कार्तिकेय)*
कत्तिको :	Name of month *(कार्तिक)*
कत्तु :	See *कत्त, कम्मो*
कत्तुं :	See *करोति*
कतु :	Sacrifice, oblation *(क्रतु)*
कटु :	Harsh, severe, pungent or acrid taste
कटुको :	Harsh, severe, pungent or acrid taste *(कटुक)*
कटुकरोहिणी :	Black hellebore *(कटुकरोहिणी)*
कातुं, कातून :	See *करोति*
कत्वा :	
कवचो :	Mail *(कवच)*
कवन्धो, धं :	A headless trunk, especially one retaining the power of motion *(कवन्ध)*

कवाटको, कं, : A door: a trap-door: a window *(कपाट, कवाट)*
कवाटो + टं
कावेरी : River in India *(कावेरी)*
कावेय्यं : Poetry *(कवि + एय)*
कवि : A monkey *(कपि)*
कवि : Wise *(कवि)*
कविट्ठफलिको : Belonging to the fruit of *faronia Elephantum* *(कपित्थ + फल + इक)*
कविट्ठो : The tree, Belonging to the fruit of faronia Elephantum *(कपित्थ)*
कायबन्धनं : A waist-band, girdle *(कायबन्धन)*
कायगतो : (adj) Referring to the body *(काय + गत = गम्)*
कयक्कयं : Trading; commerce *(क्रय + क्रय)*
कायानुपस्सना : See *(सतिपट्ठान)*
कयविक्कयिको : A trader *(क्रय + विक्रय + इक)*
कयिको, कायिको : A buyer *(क्रयिक, क्रायिक)*
कायिको : (adj) Bodily, corporeal *(कायिक)*
कायिरमानको : (adj) Being made
कयिरति : See *करोति*
कयिरो : That ought to be done *(कार्य + कृ)*
कयो : Purchase *(क्रय)*
कायो : The body; a collection, multitude *(काय)*
कय्यति : See *करोति*
कय्यो : That ought to be done *(कार्य = कृ)*
के, केचि : See *को, कोचि*
केदारं, रो : Cultivated filed, especially one irrigated *(केदार)*
केंह : An anomalous sandhi for Kim-aham
केहि : See *को*
केका : The cry of pea-cock *(केका)*
केकरो : (adj) Squinting *(केकर)*
केकी : A peacock *(केकिन्)*
केलासो : Name of a mountain in India *(कैलास)*
केलि : Amusement: sport: amorous sport *(केलि)*

केन :	See *(को)*
केनिपातो :	A rudder *(केनिपात)*
केरवं :	The white esculent water lily *(कैरव)*
केसग्गं :	The tip of a hair *(केश + अग्र)*
केसं :	See *(को)*
केसपासो :	A tuft or mass of hair *(केश + पाश)*
केसरं :	The filament of a lotus or other plant; the mane of a lion or horse *(केशर)*
केसरी :	A maned lion, a lion *(केशरिन्)*
केसरो :	The filament of a lotus or other plant
केसवो :	Name of Vishnu *(केशव)*
केस :	Hair *(केश)*
केसो :	See *को*
केतकी :	The tree Pandanus Odoratissimus *(केतकी)*
केतनं :	A sign or device on banner: a banner: a dwelling or house *(केतन)*
केतवं :	Gamling; fraud, deceit *(कैतव)*
केतु :	A sign by which an object may be recognised; a banner *(केतु)*
केटुभं :	The ritual the kalpa as it is called as one of the Vedangas *(कैटभ)*
केतुमाला :	A lambent flame depicted as resting on the head of Buddha and answering to our halo *(केतु + माला)*
केवलकप्पो : (adj)	All, whole, entire *(केवल + कल्प)*
केवली :	One who is accomplished *(केवलिन्)*
केवलो : (adj)	Only, mere, alone, exclusive: all, entire, whole, complete *(केवल)*
केवट्टो :	Fisherman *(कैवर्त)*
केयूरं :	A bracelet or bangle worn on the arm *(केयूर)*
खचितो :	In-laid *(खचित)*
खादको :	One who eats *(खादक)*
खादनं :	Eating; food *(खादन)*
खादनियो :	Eatable *(खादनीय)*
खादति :	To eat, to clear *(खाद्)*
खदिरो :	The tree ocacia catechu *(खदिर)*
खादिता :	One who eats *(खाद + तृ)*

खादितब्बको : (adj) Eatable *(खाद + तव्य + क)*

खादितो : Eaten *(खादित)*

खग्गो : A sword: a rhinoceros *(खड्ग)*

खगो : A bird *(खग)*

खज्जा : See *(खो)*

खज्जभोज्जं : Various kinds of food *(खाद्य + भोज्य)*

खज्जकं : Various kinds of food *(खाद्य + भोज्य)*

खज्जति : To be eaten *(खाद्यते)*

खज्जो : That can be eaten or chiewed *(खाद्य)*

खज्जु Itching, seratching *(खर्जु)*

खज्जूरी : Wild date palm tree, phoenix sylvestris *(खर्जूरी)*

खलग्गं : First fruits of the threshing floor *(खल + अग्र)*

खलं : A threshing floor

खलति : To stumble, to fall *(स्खल्)*

खलीनो, नं : The bite of a bridle *(खलीन)*

खलितं : Stumbling, fall: error, failing, fault *(स्खलित)*

खल्लाटो : Bald *(खल्वाट)*

खलो : Mischievous, vile *(खल)*

खलो : A threshing floor; oil-cake, paste *(खल)*

खलोपी : A pot

खलु : Indeed, truly *(खलु)*

खलुङ्को : A sort of horse

खं : The air, the sky *(ख)*

खमनं : Patience, forbearance *(क्षम + अन)*

खमनो : (adj) patient, forbearing *(क्षम + अन)*

खमापेति : To forgive; to apologize: to propitiate: to cause to beg pardon *(क्षमयति)*

खमति : To endure, to have patience; to forgive; to be permitted; to be approved, to approve or command itself *(क्षम्)*

खम्भकतो : Having one or both hands resting on the hip *(स्कम्भ + अ + कृत)*

खमो : Patient; enduring, forgiving, durable: suitable, favourable : able *(क्षम)*

खाणलयो : See *मुहुत्तो*

खनापेति : To cause to be dug; to cause to be intered

खनति :	To dig *(खन्)*
खण्डाखण्डं, :	In pieces *(खण्ड + खण्ड)*
खण्डिकं	
खण्डनं :	Dividing, breaking *(खण्डन)*
खण्डफुल्लो : (adj)	Broken *(खण्ड + फुल्ल)*
खण्डेति, खण्डन :	To divide, to break *(खण्ड)*
खन्धादिसो :	Like the skandhas *(स्कन्ध + दृश्)*
खन्धकं :	See *विनयो*
खन्धावारो :	A stockade; a fortified camp; an army *(स्कन्धवार)*
खन्धिको :	Carried on shoulders *(स्कन्धि + क)*
खन्धो :	The God skanda *(स्कन्द्)*
खन्धो :	The shoulder: the turn of a tree: Quantity one of the five elements of being *(स्कन्ध)*
खण्डिच्चं :	State of being broken *(खण्डित + य)*
खण्डो :	Broken, fragmentary, imperfect *(खण्ड)*
खनेति :	See *खनति*
खनित्ति :	A spade or hoe *(खनित्र)*
खानित्तिको :	One who digs *(खनित्र + इक)*
खञ्जनो :	A wagtail *(खग्जरीट)*
खञ्जत्तं :	Lameness *(खञ्ज + त्व)*
खञ्जो :	Lame *(खञ्ज)*
खञ्जति :	See *(खनति)*
खणो :	Moment; a brief measure of time: leisure, right moment: opportunity *(क्षण)*
खन्तब्बो :	See *खनति*
खन्ति :	Patience, longsuffering, forebearance, endurance *(क्षान्ति)*
खन्तिमा :	Patient, forebearing *(क्षान्तिमन्त्)*
खन्तो :	Patient, enduring *(क्षान्त = क्षम्)*
खाणु :	The stump of a tree
खाणुको, कं :	The stump of a tree
खानुमा :	Having stumps
खरादिया :	A proper noun
खारको :	Alkali, potash soda: a bud: name of a tree *(क्षारक)*
खरणं :	Pouring, flowing *(क्षरण)*
खरति :	To flow, to stream *(क्षर)*
खारी :	A measure of grain containing about three bushels *(खारी)*

खरो : Solid, sharp, severe, hoarse, rough, harsh *(खर)*

खारो : Salty, alkaline *(क्षार्)*

खटको : The fist *(खटक)*

खातं : Pond or tank *(खात = खन्)*

खति : Digging, excavating *(from खन्)*

खतो : Dug, excavated

खत्ता : A door-keeper; a charioteer *(क्षत्रृ)*

खत्तं : A kshatriya *(क्षत्र)*

खत्तियमहासालो : A wealthy kshatriya *(क्षत्रिय + महा + सार)*

खत्तियो : A kshatriya, a warrior; nobleman *(क्षत्रिय)*

खत्तुं : Adverb forming multiplicative numerals *(कृत्वस्)*

खांयति : To be known, to be seen, to appear *(ख्यायते = रव्या)*

खायिको : Eating *(खादिन् + क)*

खायितो : Eaten *(खादित)*

खायो : An abode; diminution, loss, decay; phthisis, end, destruction *(क्षय)*

खेदनं : Suffering *(खेदन)*

खेदो : Affliction, suffering, weariness *(खेद)*

खेलो : Saliva, phlegm *(खेट)*

खेमि (adj) **:** Safe, tranquil *(क्षेमिन्)*

खेमो (adj) **:** Safe, secure, prosperous, peaceful *(क्षेम)*

खेपको : Throwing, letting fall *(क्षेपक)*

खेपनं : Throwing *(क्षेपण)*

खेपेति : To throw, to spend, to pass *(क्षेपयति = क्षिप्)*

खेपो : Throwing, abuse, contempt, blame *(क्षेप)*

खेतकं : A shield *(खेटक)*

खेत्ताजीवो : A husbandman, farmer, cultivator *(क्षेत्र + आजीव)*

खेत्तं : Landed property: cultivated field; a wife, the body; place, region, domain, extent *(क्षेत्र)*

खिड्डा : Play, sport *(क्रीडा)*

खिज्जति : To be afflicted *(खिद)*

खिलजातो : (adj) Stubborn *(खिली + भूत)*

खिलो : Stubborness, obstinacy, waste or follow land *(खिल)*

खिलो : A pin, a stake *(कील)*

खीणबीजो : Whose germ of existence has withered, whose karma is exhausted, an Arhata *(क्षीण + वीज)*

खीणपुनव्भवो : One for whom rebirth has come to an end, an Arhata *(क्षीण + पुनर् + भव)*

खीणासवो : One in whom human passion is extinct, an Arhata *(क्षीण + आस्त्रव)*

खिन्नो : Tired, distressed *(खिन्न = खिद्)*

खीणो : Decreased, decayed, ceased, died out *(क्षीण = क्षि)*

खिपनं : Throwing *(क्षिप् + अन)*

खिपति : To throw, to discharge to shoot *(क्षिप्)*

खिपति : To sneeze *(क्षिव्, क्षीवू, क्षीबू, क्षुं)*

खिपितकं : A sneeze

खिप्पो : (adj) Quick, speedy *(क्षिप्र)*

खीरं : Milk *(क्षीर)*

खीरण्णवो : The mythical ocean or sea *(क्षीर + अर्णव)*

खीरापको : Drinking milk *(क्षीरप + क)*

खीरिका : A sort of dali-tree Buchanania Latifolia *(क्षीरिका)*

खीरोदक, खीरोदो : Water from the milk ocean *(क्षीर + उदक)*

खितो : Exhausted *(क्षित = क्षि)*

खित्तो : Thrown; darted *(क्षिप्त = झिप्)*

खीयनं : Being angry, complaining, murmuring

खीयति : To waste away, to be exhausted, to come to an end: to be angry, to complain *(क्षीयते = क्षि)*

खो : Indeed *(खलु)*

खोभेति : To shake, to agitate, to stir-up *(क्षोभयति = क्षुभ्)*

खोमो : Flaxen *(क्षौम)*

खोण्डो : Lame *(खोड)*

खोपन : See *खो*

खुदा : Hunger *(क्षुधा)*

खुद्दघण्टिका : A fringe of bell used as ornaments *(क्षुद्रघण्टिका)*

खुद्दजन्तु, न्तुको : A worm *(क्षुद्र + जन्तु)*

खुद्दको : Small *(क्षुद्रक)*

खुद्दं : Honey *(क्षौद्र)*

खुद्दानुखुद्दको : Small and trifling *(क्षुद्र + अनु + क्षुद्र + क)*

खुद्दो : Small, vile, low, poor, miserable *(क्षुद्र)*

खुदितो : Hungry *(क्षुधित)*

खुज्जो : Hump backed, crooked *(कुब्ज)*

खुलुखुलुकरको : Making a scraping noise

खुप्पिपासा : Hunger and thirst *(क्षुध + पिपासा)*

खुप्पिपासितो : (Adj) Hungry and thirsty *(क्षुधपिपासित)*

खुरग्गं : Hall in which the heads of Buddhist-priest were shaved *(क्षुर + अगार)*

खुरको : Name of a tree *(क्षुरक)*

खुरप्पो : An arrow with a horse-shoe head *(क्षुरप्र)*

खुरति : To cut, to scratch *(क्षुर्, खुर्)*

खुरो : A razor; a sharp-blade *(क्षुर)*

खुरो : The hoof of a horse or ox *(खुर)*

ख्ख : See *खो*

ख्या : Indication, sign *(ख्या)*

ख्यातो : Known, famous *(ख्यात = ख्या)*

किब्बिधानं : Rules of Krit affixes *(कृत् + विधान)*

किब्बिसं : Fault, demerit, sin *(किलिष)*

किचको : A sort of Bamboo arundo kaska *(कीचको)*

किच्चाधिकरणं : A question or case that arises in connection with the performance of ecclesiastical duties or rites *(कृत्य + अधिकरण)*

किच्चकारो : Performing services or duties *(कृत्य + कर)*

किच्चाकिच्चानि : Duties great and small, all sorts of duties *(कृत्य + कृत्य)*

किच्छो : (adj) Difficult, troublesome, wearisome, labourious, painful *(कृच्छ्)*

किच्चो : That ought to be done *(कृत्य)*

कीदी : Like what ? *(कीदृश्)*

कीदिक्खो : Of what sort ? *(कीदृश्)*

कीकी : The blue jay *(किकि)*

किल : So they say *(किल)*

किळा : Sport, amusement, play *(क्रीडा)*

किलमनं : Fatigue *(क्लम् + अन्)*

किलमथो : Fatigue *(क्लमथ)*

किलमति : To be tired, worn out, troubled, exhausted *(क्लम्)*

कीळनं : Playing, sport *(क्रीडन)*

किलज्जो : A mat, matting *(किलिज्ज)*

किलन्तो : Wearied, exhausted *(क्लान्त् = क्लम)*

किलासो : A contagious complaint, dry leprosy *(किलास)*

कीळति : To play, to sport *(क्रीड)*

किलेसो : Sin, depravity, corruption, human-passion, moral defilement, lust *(क्लेश्)*

किलिन्नो : Wet *(क्लिन्न + क्लिद्)*

किलिस्सति : To suffer, to be injured; to be depraved *(क्लिश्)*

कीळितं : See *कीळति*

कीलितो : Bound *(कीलित = कील्)*

किलिट्ठो : Afflicted, suffering: depraved; sinful, polluted, vicious: soiled: dirty: contradictory *(क्लिष्ट = क्लिश्)*

कीलो : A pin; a stake *(कील)*

कीलोमकं : This word is *(क्लीमन् + क)*

किं : Why? Pray! What! *(किम्)*

किमङ्ग : (adv) Far more *(किम् + अङ्ग)*

किमपि : Far more *(किम् + अपि)*

किमत्थो : What need? *(किम् + अर्थ)*

किमि : A worm, an insect *(कृमि)*

किमिजो (adj) **:** Produced by a worm; silken *(कृमिज)*

किंनामो, किन्नामो : (adj) Having what name *(किम् + नामन्)*

किंनिमित्तो (adj) **:** Having what mark? *(किम् + निमित्त)*

किंपच्चया : By means of what? *(किम् + प्रत्ययात्)*

किंपमाणो (adj) **:** How large? of what dimensions? *(किम् + प्रमाण)*

किंम्पुरिसो : A class of demigods in the service of kuvera *(किम् + पुरुष)*

किंसण्ठानो (adj) **:** Having what shape? *(किम् + संस्थान)*

किंसु (adv) **:** How? *(किम् + स्विद्)*

किंसु (neut. pron.) **:** What *(किम् + स्विद्)*

किंसुको : The tree Butea frondosa *(किंशुक)*

किमु : How much more! *(किम् + उ)*

किमुता : How much more! *(किम् + उत)*

किंबदन्ती : Report, rumour *(किंवदन्ती)*

किंम्वादी (adj) : Saying what? holding what doctrine? *(किम + वादिन्)*

किंम्यथा (adv.) : How? *(किम् + यथा)*

किणाति : To buy *(क्री)*

किंञ्चनं : Anything, something; moral defilement, sin, clinging to the world, attachment *(किंचन)*

किञ्चापि : However much, although *(किंचिद् + अपि)*

किञ्चेति : To crush, to trample

किञ्चि (adv) : A little, rather *(किंचिद्)*

किञ्चिकं : A small thing, any trifle

किञ्चिमत्तं : A little, some trifle *(किंचिद् + मात्र)*

किञ्जिक्खो : A filament, especially of the lotus *(किञ्जल्क)*

किङ्कारणा (adv) : On account of what? Why?

किङ्करणीयं : Business, job *(किम् + करणीय = कृ)*

किङ्करो + **किङ्कारो** : A servant *(किंकर)*

किङ्किणी : A small bell *(किङ्किणी)*

किङ्किणीकं + **को** : A small bell *(किङ्किणिक)*

किङ्किरातो : Name of a plant *(किंकिरात)*

किण्णं : Ferment, yeast *(किण्व)*

किन्नामो : See Kimnamo

किन्नरो : A class of semigods in the service of Kuvera *(किंनर)*

किन्निमित्तो (adj) : Having what mark? *(किम् + निमित्त)*

किन्नु : See *को, किं*

किन्ति (adv) : How? Pray! *(किम् + इति)*

किपिलो : An ant *(पिपील)*

किपिल्लिको : An ant *(पिपीलिक)*

किरा (adv) : They say: its said *(किल)*

किरणो : A ray of light *(किरण)*

किरातो : A man of a tribe of out caste hillmen or aborigines *(किरात)*

किरीटो + **टं** : A diadem *(किरीट)*

किरिया + **किरियं** : Action, performance, work, deed *(क्रिया)*

किरो : A parrot *(कीर)*

किसलयं : A sprout, a shoot *(किसलय)*

किस्मिचि : *See Koci*

किसो : (adj) Thin, emaciated; small, poor, mean *(क्लिश्)*

किसोरो : A colt *(किशोर)*

किस्सा : See *को*

कित + कितो : A grammatical term, a krit affix *(कृत्)*

कितको : A word formed with a krit affix *(कृत् + अक)*

कितवो : A gambler; a cheat, a rogue *(कितव)*

कितो : Bought *(क्रीत = क्री)*

कीटो : A worm, an insect *(कीट)*

कित्तको (adj) **:** How much? How great? How many?

कित्तनं : Mention, report *(कीर्तन)*

कित्तावता (adv) **:** How far? to what extent? In how many ways?

कित्तेति : To proclaim, to celebrate, to publish, to announce, to propound, to call *(वृत्)*

किटुं : Growing corn, the crop of the ground *(कृष्ट = कृष)*

कित्ति : Fame, renoun; report, rumour *(कीर्ति)*

कित्तिमा (adj) **:** Renowned *(कीर्तिमन्त्)*

कित्तिमो (adj) **:** Artificial, factitious, false *(कृत्रिम्)*

कित्तिसद्दो : Fame reputation *(कीर्ति + शब्द)*

कीवा (adv) **:** How? how much? *(कियन्त्)*

को (Interr. pron.)**:** Who? which? what? of what sort? *(किम्)*

कोच्चं : A comb: some sort of couch

कोचि + कोचिद् : Any, some *(किम् चिद्)*

कोदण्डं : A bow *(कोदण्ड)*

कोधनो (adj) **:** Angry, passionate *(क्रोधन)*

कोधेति : To make angry *(क्रोधयति = क्रुध)*

कोधो : Anger, wrath *(क्रोध)*

कोहञ्ञं : Hypocrisy, deceit *(कुहन + य)*

कोजवो : A goat's hair, cover-let of fine workmanship

कोकनदं : The red lotus *(कोकनद)*

कोकासको : The red lotus

कोकिलो : The Indian cuckoo *(कोकिल)*

कोको : A wolf *(कोक)*

कोलाहलो + लं : Uproar, tumult, shouting, screaming *(कोलाहल)*

कोलकं : Black-pepper: a particular perfume *(कोलक)*

कोलं + कोलो : The jujube fruit *(कोल)*

कोलंबो : A pot

कोलावल्ली : A sort of pepper: Piper chaba *(कोलवल्ली)*

कोलय्यो : Of noble family *(कोलेय)*

कोली : The jujube tree *(कोली)*

कोलितो : A name of apostle Moggallana *(कोलित)*

कोमलो (adj) **:** Soft *(कोमल)*

कोमारभच्चो : A proper-name *(कौमारभृत्य)*

कोमुदी : Moonlight *(कौमुदी)*

कोणागमनो : Name of one of the twenty four Buddhas

कोणको : A corner *(कोण + क)*

कोनामो (adj) **:** Having what name?

कोञ्चो + कोञ्चा : A heron *(क्रौंच)*

कोण्डञ्ञो : Name of one of the twenty four Buddhas *(कौण्डिण्य)*

कोणो : A corner or angle : a bow or a quill for musical instrument : the point of a sword *(कोण)*

कोपेति : To make angry, to annoy, to offend: to disturb, to spoil: to throw into confusion *(कोपयति = कुप्)*

कोपी (adj) **:** Warthful *(कोपिन्)*

कोपीनं : Pudenda : improper act: a cloth to cover Pudenda *(कोपिन्)*

कोप : Anger, ill temper *(कोप)*

कोरकं + को : A flower, bud *(कोरक)*

कोसज्जं : Indolence, sloth *(कौसीद्य)*

कोसल : Name of a country and its people *(कोसल)*

कोसल्लं : Skill, proficiency, knowledge, mastery *(कौशल्य)*

कोसलो (adj) **:** Belonging to kosala *(कोसल + अ)*

कोसम्बको (adj) **:** Belonging to the kausamba country *(कौशाम्ब + क)*

कोसम्बी : Name of the capital of the Kausamba Country *(कौशाम्बी)*

कोसफलं : Bolellium, a fragrant gum *(कोश + फल)*

कोसेय्यो (adj) **:** Made of silk *(कौशेय)*

कोसी : See *को*

कोसी : The sheath of a sword *(कोशी)*

कोसिको : Bolellium, a fragrant gum *(कौशिक)*

कोसिनारो : Belonging to Kusinara

कोसियो (adj) : Silken *(कोश + य)*

कोसियो : Indra: an owl *(कौशिक)*

कोसो : A shout, a call; a measure of length, equal to 600 yards *(क्रोश)*

कोसो + कोसं : A sheath: a bud: treassure: a testicle *(कोश)*

कोसोहितो (adj) : Sheathed, hidden *(कोश + अवहित = धा)*

कोटरावनं : Proper name *(कोटरावण)*

कोटरो + रं : The hollow of a tree *(कोटर)*

कोटि : Point, tip, end, extremity, top, summit, length; emmence, exceeds; ten-million *(कोटि)*

कोटिल्लं : Crookedness, deceitfulness *(कौटिल्य)*

कोटिप्पकोटि : One of the high-numerals followed by twenty one ciphers *(कोटि + प्र + कोटि)*

कोटिप्पत्तो (adj) : Having reached the end or summit, having fully accomplished or attained; perfectly attained, perfect *(कोटि + प्राप्त = आप्)*

कोट्टको (adj) : Breaking, cutting

कोट्टनं : Pounding, cutting

कोट्टापेति : To cause to be pounded

कोट्टेति : To strike, to break, to pound, to cut *(कुट्ट)*

कोट्ठागारं : A store-room, store house *(कोष्ठ + आगार)*

कोट्ठागारिको : A treasurer or store-house keeper *(कोष्ठागार + इक)*

कोट्ठको : A room: a store-room *(कोष्ठ + क)*

कोट्ठं : A granary *(कोष्ट)*

कोट्ठासयो (adj) : Contained in the intestine *(कोष्ठ + आशय)*

कोट्ठासो : A part, a portion, a share : portion, lot, destiny

कोट्ठो : A Granary; a store-room; the abdomen: a room: a closet *(कोष्ठं)*

कोट्ठु : A jackal *(क्रोष्टु)*

कोट्टिमो (adj) : Smoothed, beaten (?) *(कुट्टिम)*

कोट्टिमो + मं : A floor or pavement made of pounded stones *(कुट्टिम)*

कुट्टो (adj) : Breaking *(कुट्ट)*

कोटूहलं : *See* Kutuhalam

कोटुम्बरं : A sort of cloth

कोविदो : Knowing, acquainted with, skilled, wise *(कोविद)*

कोविळारो : A sort of ebony, Bauhinia Variegata: a tree in the Devaloka *(कोविदार)*

क्रिया : Action, act, performance *(क्रिया)*

कु : The earth *(कु)*

कु : A pronomical base found in interrogatives

कुब्बानो : Doing, making *(कुर्वाण)*

कुब्बरो : The pole of a carriage *(कूबर)*

कुब्बति : *See करोति*

कुबुद्धि (adj) **:** Weak-mind: foolish *(कुबुद्धि)*

कुच्छा : Blame; contempt *(कुत्सा)*

कुच्छनं : Contempt *(कुत्सन)*

कुच्छि : The belley, the womb, cavity, hollow; interior *(कुक्षि)*

कुच्छितो (adj) **:** Contemptible, vile, bad *(कुत्सित)*

कुच्छिट्ठो (adj) **:** Contained in the abdomen *(कुक्षि + स्थ)*

कुचो : The female-breast *(क्रुच)*

कुदाचनं (adv) **:** Ever, sometimes *(कदा + चन)*

कुदारो : A bad-wife *(कु + दार)*

कुदासो : A bad-servant *(कु + दास)*

कुद्दालिको : One who digs with a kudala *(कुद्दाल + इक)*

कुद्दालं + लो : A spade *(कुद्दाल)*

कुड्डं : A wall *(कुडा)*

कुद्धो : Angry; indigrant *(क्रुद्ध = क्रुध्)*

कुदिट्ठि : Septism, unbelief, heresy *(कु + दृष्टि)*

कुद्रूसो : A sort of grain

कुडुबो : A measure of capacity equal to a forth of pattha *(कुडव)*

कुडुमलो : An opening bud *(कुड्मल)*

कुगन्धि (adj) **:** Ill-smelling *(कु + गन्धि)*

कुगेहं : Bad-house *(कु + गेह)*

कुहको (adj) **:** Deceitful, cheating *(कुहक)*

कुहं (adv) **:** When? Whither? *(कुह)*

कुहना : Deceit, hypocrisy *(कुहना)*

कुहनो (adj) **:** Deceitful, hypocritical *(कुहन)*

कुहरं : A hole, a cavity *(कुहर)*

कुहेति : To deceive *(कुह)*

कुहिं (adv) : Where? Whither? *(कुह)*

कुहिञ्चनं (adv) : Anywhere, somewhere *(कुह + चन)*

कुहिच्चि (adv) : Anywhere, to any place *(कुह + चिद्)*

कुज्झति : To be angry *(क्रुध)*

कुजो : A tree *(कुज)*

कुक्कु : A measure of length

कुक्कुच्चको (adj) : Remorseful, sensitive *(कौकृत्य + क)*

कुक्कुच्चं : Misconduct: remorse: doubt: moroseness, querulousness, restlessness *(कौकृत्य)*

कुक्कुच्चायति : To feel remorse

कुक्कुहो : A osprey

कुक्कुलो : Hot ashes, embers

कुक्कुरो : A dog *(कुक्कुर)*

कुक्कुटो : A cock *(कुक्कुट)*

कुक्कुट्ठको : A sort of bird

कुलाचलो : Principal mountain *(कुल + अचल)*

कुलजो : Of good family *(कुलज)*

कुलको : Of good family *(कुलक)*

कुलालो : A bird of the falcon tribe

कुलालो : A potter *(कुलाल)*

कुलं : A flock, a herd, a multitude: family, species: a house, a building, lineage, good family, nobility *(कुल)*

कूलं : A slope, a bank *(कूल)*

कुलटा : An unchaste woman *(कुलटा)*

कुलत्थ : A kind of vetch, Dolichos, uniflows *(कुलत्थ)*

कुलवा : Belonging to a high family *(कुलवन्त्)*

कुलावकं : A nest *(कुलाय + क)*

कुलिको (adj) : Belonging to a family *(कुलिक)*

कुलीनको : A thorough bred horse *(कुलीनक)*

कुलीनो (adj) : Belonging to a family: of good or noble family *(कुलीन)*

कुलीरो : A crab *(कुलीर)*

कुलिसो + सं : Indra's thunderbolt *(कुलिश)*

कुलित्थि : A woman of good family: a lady *(कुल + स्त्री)*

कुल्लो : A winnowing basket: a raft *(कुल्य)*

कुलुपको, कुलुपगो : A family friend: a confident *(कुल + उपग)*

कुमारको : A child, a youth: a royal infant or youth: a prince *(कुमारक)*

कुमार : A child: a youth: a prince: skunda the God of war *(कुमार)*

कुम्भकं : The mast of a ship *(कुम्भक)*

कुम्भकारो : A potter *(कुम्भ + कार)*

कुम्भण्डो : Demons, supernatural beings: name of a plant *(कुम्भाण्ड)*

कुम्भथूनं : A drum or similar musical instrument

कुम्भी : A pot: name of a plant *(कुम्भी)*

कुम्भिको : Containing a kumbha-measure *(कुम्भ + इक)*

कुम्भीलो : A crocodile or alligator *(कुम्भीर)*

कुम्भो : A water-pot, a pitcher, one of the frontal lobes of an elephant which swell in the utting season a measure of capacity *(कुम्भ)*

कुमिनं : Tunnel-shaped basket, fish-net

कुम्मासो : Sour gruel *(कुल्माष)*

कुम्मो : A tortoise *(कूर्म)*

कुमुदं : White water-lily: one of the high numerals followed by 105 ciphers *(कुमुद)*

कुमुदिका : Name of a plant *(कुमुदिका)*

कुणालो : The Indian Cuckoo *(कुणाल)*

कुणपो + पं : A corpse *(कुणप)*

कुञ्चनादो, कोञ्चनादो : The roaring or trumpting of an elephant

कुञ्चिका : A key *(कुञ्चिका)*

कुञ्चितो : Bent, crooked *(कुञ्चित = कुच्)*

कुण्डको : The red powder which adheres to the grain of rice under the husk

कुण्डल : Ring, an earring, an ear-ornament *(कुण्डल)*

कुण्डली : Having rings *(कुण्डलिन्)*

कुन्दं : Jasmine multiforum *(कुन्दा)*

कुण्डं : A jar, a water-pot *(कुण्ड)*

कुण्डति : To heat *(कुण्ड्)*

कुण्डिका : The water-pot of an ascetic *(कण्डिका)*

कुण्डो : An iguana or Ichene umon *(कुण्ड)*

कुणि : Having a crooked limb *(कुणि)*

कुञ्जरो :	An elephant *(कुञ्जर)*
कुञ्जो + कुञ्जं :	A place overgrown with creeping plants *(कुञ्ज)*
कुङ्कुमं :	Saffron, Crocus salivus *(कुङ्कुम)*
कुङ्कुमो :	Dyed with saffron *(कुङ्कुम)*
कुन्नदी :	A very small river *(कु + नदी)*
कुन्तलो :	Hair *(कुन्तल)*
कुन्तनी :	A curlew
कुण्थो (adj) **:**	Slow, lazy *(क्रुण्ठ)*
कुन्तो :	A lance or spear *(कुन्त)*
कूपको :	The mast of a ship *(कूपक)*
कुपितो :	Angry, enraged excited *(कुपित = कुप्)*
कूपो :	A pit; a well: the mast of a ship *(कूप)*
कुप्पं :	Any metal except gold or silver, as copper, zinc etc. *(कुप्य)*
कुप्पनं :	Being angry
कुप्पति :	To be angry, to be disturbed, shaken, agitated, thrown into confusion *(कुप्)*
कुपुरिसो :	A bad-man *(कु + पुरुष)*
कुपुत्तो :	A bad-son *(कु + पुत्र)*
कुरं :	Boiled rice *(कूर)*
कुरण्डको :	A sort of' Amaranth *(कुरण्डक)*
कुरङ्गु :	An antelope *(कुरङ्गु)*
कुररो :	Sea-eye or Osprey *(कुरर)*
कुरवीको :	A fine-voiced bird
कुरु :	From Karoti
कुरू :	Name of a people *(कुरू)*
कुरुमानो :	From 'Karoti' formed upon 'Kurute'
कुरुन्दि :	Name of one of the three great collection of Atthakatha
कुरुङ्गो :	A sort of deer
कुरूरो (adj) **:**	Cruel; hard: severe: formidable *(क्रूर)*
कुरूते :	*See करोति*
कुरुविन्दो :	A ruby *(कुरुविन्द)*
कुसा :	A rein, bridle *(कुशा)*
कुसग्गं :	The lip of a blade of kusa grass *(कुश + अग्र)*
कुसलकम्मपथो :	Way of virtuous action or merit *(कुशल + कर्मन + पथ)*

कुसलाकुसलं : Good and bad *(कुशल + अकुशल)*

कुसलता : Skill, knowledge *(कुशलता)*

कुसलत्तं : Skillfulness *(कुशल + त्व)*

कुसली (adj) **:** Prosperous, meritorious *(कुशलिन्)*

कुसलो (adj) **:** Skilful, expert, clever, lucky, happy, prosperous good, right, virtuous, meritorious *(कुशल)*

कुसेसयं : Water-lily or lotus *(कुशेशय)*

कुसि : One of the four cross-seams of the robe of a Buddhist-monk

कुसिनारा : The capital of the Mallas, in India *(कुशिनगरी)*

कुसीतो (adj) **:** Slothful, inert, indolent *(कुसीद)*

कुसो : A blade of grass: the sacrificial grass *(कुश्)*

कुसुब्भ : A small pond, a puddle *(कुज्वभ्र)*

कुसूलो : Granary *(कुशूल)*

कुसुमं : The flower: the menses *(कुसुम)*

कुसुम्भं : Safflower, carthamus timetorius *(कुसुम्भ)*

कुटधारिका : A maid-servant *(कुट + धारिका)*

कूटागारं : A pagoda or a building with a peaked roof or pinnacles: a room at the top of a palace: a Belvedere, attic: a funeral hearse, a catafalque *(कूट + आगार)*

कुटजो : The plant Wrighlia antidysentica *(कूटज)*

कूटकं : A heap, a mound: a peak *(कूट + क)*

कुटन्नटं : The plant, cyperus Rotindus *(कुटन्नट)*

कूटसिम्बली : A variety of the silk-cotton-tree *(कूट + शल्मली)*

कूटस्सो : A vicious horse *(कूट + अश्व)*

कूटट्ठो (adj) **:** Continuing unattested, inchargeable, permanent *(कूटस्थ)*

कूटट्टो : A false suit or action at law, one supported by fake or frivolous evidence *(कूट + अर्थ)*

कुटेत्थ : *कूटो एत्थ*

कुठारी : An axe *(कुठारी)*

कुथो + कुथं : A woollen blanket *(कुथ)*

कुटी : A hut, a cabin, a house, a tent, shed *(कुटी)*

कुटिका : A hut or tent *(कुटिका)*

कुटिलो (adj) **:** Crooked, shifty, deceitful *(कुटिल)*

कुटिम्बं : *See* Kutumba

कुटीरं : A box, a kennel *(कुटीर)*

कुतो (adv) : Whence? how? much less *(कुतस्)*

कुटो + कुटं : A water-pot *(कुट)*

कुटो + कूटं : Top, summit, peak: a leap, a mass, a multitude: a sledge-hammer; a trap: deceit; deception, falsity, fraud: a part of a plough *(कूट)*

कूटो (adj) : False, fraudulent, lying *(कूट)*

कुटोचि (adv) : From any place *(कुतस् + चिद्)*

कुत्र (adv) : Where? *(कुत्र)*

कुत्तकं : A woollen carpet

कुत्था (adv) : Where? *(कुत्र)*

कुत्थं : Leprosy, the plant costus speciosus *(कुष्ठ)*

कुट्ठी : A laper *(कुष्ठिन)*

कुत्तिमो (adj) : Artificial *(कृतृम)*

कुतूहलं – कोतूहलं : Eagerness, desire, passion: vehemance, voilence: excitement, tumult *(कुतूहलू, कौतूहल)*

कुटुम्बं, कुटिम्बं : Family: family property: family estates wealth *(कुटुम्ब)*

कुटुम्बी : The head of a family: a landed proprietor, a man of property *(कुटुम्बिन्)*

कुटुम्बिको, कुटिम्बिको : Same as last *(कुटुम्बिक)*

कुवलयं : The water lily *(कुवलय)*

कुवं (adv) : Where? *(क्व)*

कुवेणी : A funnel–shaped wicker-basket for catching fish *कुवेणी*

कुबेरो : A name of Vessavana *(कुबेर)*

क्व (adv) : Where? Whither *(क्व)*

क्वचि (adv) : Somewhere: sometimes: in some cases: in some places *(क + चिद्)*

क्वत्थो : What need of ? *(कः + अर्थ)*

L

लब्भा : Allowable, possible *(लभ्य)*

लब्भनेय्यो (adj) **:** Obtainable

लब्भति : To be taken: to be obtained: to be received: to be permitted *(लभ्यते = लभ्)*

लब्भो : Obtainable; proper, right, suitable, admissible *(लभ्य = लभ्)*

लाभा : See *लाभो*

लाभग्गं : Highest gain *(लाभ + अग्र)*

लभनं : Taking, receiving, acquisition *(लभन)*

लभति : To obtain, to get, to acquire: to met with, to fix: to receive; to take: to obtain permission: to allow; to receive an opportunity, to get a chance: to be able *(लभ्)*

लाभि (adj) **:** Possessed of *(लाभिन्)*

लाभो : Gain; receipts; receiving; obtaining; acquisition *(लाभ)*

लाबु : A pumpkin *(लाबु)*

लबुजो : The tree artocarpus lacucha *(लकुच)*

लच्छति : See *लभति*

लद्धा : Ger from Labhati *(लब्धा)*

लद्धब्बो : That ought to be received or obtained *(लब्धव्य = लभ्)*

लद्धको (adj) **:** Delightful, pleasing *(लब्ध + क)*

लद्धि : Religious belief: wrong views: heresy *(लब्धि)*

लद्धिको : Heretical, schismatic *(लब्धि + क)*

लद्धो : Taken, obtained, received *(लब्ध = लभ्)*

लद्धं : See *लभति*

लग्गापेति : To cause to be hung up

लग्गति, लगति : To adhere, to stick fast, to hang from *(लग्)*

लग्गेति, लगेति : (caus) To fasten, to tie, to hang up

लग्गो : Attached, tied, adhering *(लग्न = लग्)*

लगितो : Adhering *(लगित = लग्)*

लगुळो : A club, a mallet *(लगुड)*

लहु (adj) **:** Light; quick: vain: frivolous, flighty: trifling, insignificant: beautiful delightful *(लघु)*

लहु, लहुं (adv) **:** Quickly; surely, certainly *(लघु)*

लहुको (adj) : Light, trifling *(लघु + क)*

लहुता : Lightness, buoyancy *(लघुता)*

लहुट्ठानं : Bodily, vigour *(लघु + उत्थान)*

लज्जा : Shame, modesty, timidity *(लज्जा)*

लज्जानं : Being ashamed *(लज्ज + अन)*

लज्जति : To be ashamed *(लज्ज्)*

लज्जी (adj) : Feeling ashamed, modest, quiet, well-conducted *(लज्जा + इन्)*

लज्जितो (adj) : Ashamed, shameful *(लज्जित)*

लाजो + लाजा : Fried-grain; parched corn *(लाज)*

लकारो : The letter L *(ल + कार)*

लकारो : A part of a ship

लाखा : Lac, an animal dye *(लाक्षा)*

लखं : A mask: a target: a lac or 100,000 *(लक्ष)*

लक्खणं : Mask, sign, symptom, characteristic: attribute, property, nature, quality: a definition: a grammatical rule: a lucky mark; a personal characteristic from which good fortune may be predicted; the art of fortune telling *(लक्षण)*

लक्खणञ्ञू (adj) : Knowing signs, skilled in predicting man's future from the marks on his future *(लक्षणज्ञ)*

लक्खणीयो (adj) : Distinguished, characterised *(लक्षणीय)*

लक्खञ्ञो (adj) : Auspicious, beautiful *(लक्षण्य)*

लक्खेति : To mark, to characterize, to distinguish, to discuss *(लक्ष)*

लक्खी : Prosperity, splendour, beauty, royal, power: Lakshmi, the Goddess of prosperity *(लक्ष्मी)*

लक्खितो : Distinguished, marked, renowned *(लक्षित)*

लकुण्टको : A dwarf

लाला : Saliva *(लाला)*

ललना : A woman *(ललना)*

लालनं : Dalliance, sport *(लालन)*

लालप्पति + लालपति : To lament *(लालायते = लप्)*

लालसा : Ardent desire *(लालसा)*

ललाटं : Fore-head *(ललाट)*

ललाति : To sport, to dolly *(लल्)*

लामको (adj) **:** Low inferior, vile

लम्बकण्णो (adj) **:** Having hanging ears or ears with long holes *(लम्बकर्ण)*

लम्बति : To drop, to fall; to hang down, to be suspended *(लम्बति)*

लम्बिको : Hanging, suspended *(लम्बिन् + क)*

लम्बितो : Suspended; hanging downwards *(लम्बित)*

लम्बो : Pendulous, long, large *(लम्ब)*

लञ्चनं : A mark, the seal of a letter *(लाञ्छन)*

लञ्छति + लञ्छेति : To seal *(लञ्छ्)*

लञ्छो : A mark, an imprint *(लञ्छ् + अ)*

लञ्चो : A present; a bribe *(लञ्च)*

लण्डं : The dung of animals *(लण्ड)*

लङ्गली : Name of a plant *(लाङ्गली)*

लङ्घति : To disregard, to step over, to jump over *(लङ्घ)*

लङ्घेति : To jump over, to lift-up *(लङ्घ)*

लङ्घि : A bolt or bar *(लङ्घि)*

लङ्का : Ceylon *(लङ्का)*

लङ्कादीपट्ठो : Living in Ceylon *(लङ्काद्विप + स्थ)*

लङ्कादीपो + पं : Island of Ceylon *(लङ्का + द्वीप)*

लङ्किको : Belonging to Ceylon *(लङ्का + इक)*

लङ्किन्दो : King of Ceylon *(लङ्का + इन्द्र)*

लङ्किस्सरो : King of Ceylon *(लङ्का + इश्वर)*

लपको : One who fawns or intrigues *(लप् + अक)*

लपनजो : A tooth *(लपन + ज)*

लपनं : Speaking: the mouth *(लपन)*

लपायेति : To cause to talk or beg

लपति : To talk; to prattle: to mutter; to whine; to lament *(लप्)*

लपयति : To talk, to prattle, to whine: to beg

लापयति : See *लपति*

लपितं : Talk, voice *(लपित = लप्)*

लापो : A sort of quail Perdix chenensis *(लाब, लाव)*

लापु : See *(अलापु)*

लासनं : Dancing *(लासन)*

लसति : To shine, to sport *(लस)*

लसी : Brains

लसिका : The fluid which lubricates the joints *(लसिका)*

लसुनं : Garlic *(लशुन)*

लता : Creaper: a branch *(लता)*

लाति : To take *(ला)*

लत्तकं : Lac, a red animal dye *(लक्तक)*

लट्ठि , लट्ठिका : A staff, a stick: an offshoot, a plant *(यष्टि, यष्टिका)*

लटुकिका : The diminutive Indian quail *(लट्वका + इका)*

लावको : A reaper *(लावक)*

लवनं : Cutting, reaping *(लवन)*

लवणं : Salt *(लवण)*

लवङ्गं : Clove *(लवङ्ग)*

लवनो (adj) **:** reaping *(लवन)*

लावेति : To cut, to reap *(लावयति = लू)*

लायति : To reap *(लू)*

लयो : A brief measure of time *(लय)*

लेड्डु : A clod of earth *(लेष्टु)*

लेहति : To lick *(लिह)*

लेखा : A line, a streak, a scratch *(लेखा)*

लेखको : A secretary *(लेखक)*

लेखनं : Writing: a letter *(लेखन)*

लेखेति : To write, to delineate *(लेखयति = लिख्)*

लेखो : Writing, manuscript, inscription: a letter epistle: a drawing, delineation *(लेख)*

लेखयं : Writing *(लेख्य = लिख)*

लेणं : A rock cavern, a cave: retreat, refuge, Nirvana *(लयन)*

लेपनं : Smearing, plastering *(लेपन)*

लेपो : Plaster, mortar *(लेप)*

लेप्यं : Plastering, modelling in clay *(लेम्य)*

लेसो : A bit, a little *(लेश)*

लेसो : A trick, a stratagem

लय्यो : To be licked or lapped, or sipped *(लेह्य = लिह्)*

लिच्छवी : A race of Indian princes, also called Vajji's *(लिच्छवि)*

लिखनं : Writing *(लिखन)*

लिखापेति : To cause to be written: to cause to be cut

लिखति : To inscribe; to write; to scratch *(लिख्)*

लिखितको (adj) **:** Written *(लिखितक)*

लिखितो : Scratched, written: inscribed *(लिखितक = लिख्)*

लिक्खा : A measure of weight *(लिक्षा)*

लिकोचको : The plant alangium flexapetalum

लिकुचो : A sort of bread-fruit, artocarpus Lacucha

लीला : Play, spot, dalliance *(लीला)*

लीळहा : Ease, grace, playfirllness, facility, adroitness, skill proficiency, mastery *(लीढा = लिह्)*

लिम्पनं : Smearing, plastering *(लिप)*

लिम्पति : To smear, to daub, to plaster, to stain *(लिप्)*

लिङ्गं : A mark, sign, characteristic: pudendum, gender, sex *(लिङ्ग)*

लिङ्गवा (adj) **:** Having marks or characteristicks *(लिङ्ग + वन्त्)*

लिङ्गि (adj) **:** Having gender *(लिङ्गिन्)*

लीनो : Attached, adhering *(लीन = ली)*

लिपि : Writing, script *(लिपि)*

लिप्पति : See Limpati

लित्तो : Smeared, plastered *(लिप्त = लिप्)*

लीयति : To adhere *(ली)*

लोभनीयो (adj) **:** Connected with covetousness *(लोभनीय)*

लोभो : Covetousness, desire, cupidity, greed *(लोभ)*

लोचनं : The eye *(लोचन)*

लोद्दो : The tree symplocos Raccmosa *(लोभ)*

लोहगुळो : An iron or metal ball *(लोह + गुड)*

लोहजं : Brass, bronze *(लोहज)*

लोहकारो : A black-smith *(लोह + कारक)*

लोहकुम्भी : An iron cauldron: name of a lake in hell *(लोह + कुम्भी)*

लोहं : Agallochum *(लोह)*

लोहपिट्ठो : A heron *(लहि + पृष्ठ)*

लोहितको (adj) **:** Red *(लोहितक)*

लोहितङ्को : A ruby *(लोहित + अङ्क)*

लोहितपाणि (adj) **:** Red-handed, bloody, murderous, destroying life whether animal or human *(लोहित + पाणिन्)*

लोहितो (adj) **:** Red *(लोहित)*

लोहितुप्पादको : One who has committed the crime of shedding the blood of Buddha

लोहितुप्पादो : The crime of wounding supreme Buddha so as to drop blood *(लोहित + उत्पाद)*

लोहो + लोहं : Iron, copper, brass: any metal *(लोह)*

लोकधम्मता : The vicissitudes of life, the vanity of worldly things *(लोक + धर्म + ता)*

लोकधम्मो : World conditions *(लोक + धर्म)*

लोकधातु : A world or sphere *(लोक + धातु)*

लोकाधिपतेय्यं : Influence of the world *(लोक + आधिपतेय्या)*

लोकगरू : Teacher of the world, an epithet of Buddha *(लोक + गुरु)*

लोकग्गो : Chief of the world i.e. Buddha *(लोक + अग्र)*

लोकक्खयिका : *See* Akkhayika and Lokayatam

लोकामिसं : Temptation of the world, pleasures of senses *(लोक + आमिष)*

लोकनाथो : Protector or Saviour of the world, an epithet of Buddha *(लोक + नाथ)*

लोकन्तरिको (adj) **:** Belonging to the lokantaram or space between three *(लोक + अन्तर + इक)*

लोकपालो : Guardian of the world *(लोल + पाल)*

लोकविदू (adj) **:** Knowing the universe, a common epithet of a Buddha *(लोक + विद्)*

लोकायतं : Controversy on fabulous or absurd points casuistry *(लोकायत)*

लोकेसो : Brahman *(लोक + ईश)*

लोकियो (adj) **:** Common, popular: worldly, earthly, temporal *(लौक्य)*

लोको : The universe; the world: the inhabitants of a world or region; mankind: a being, a creature *(लोक)*

लोकुत्तरो (adj) **:** Transcending the world, supernatural, spiritual *(लोक + उत्तर)*

लोलता : Longing, eagerness *(लोल + ता)*

लोलो (adj) **:** Tremulous; desirous, longing: greedy: unsteady, agitated *(लोल)*

लोलुपो (adj) **:** Desirous, covetous, greedy *(लोलुप)*

लोमहंसनं : Horripilation or bristling of the hair of the body caused by astonishment or fear or delight *(लोमन् + हर्षण)*

लोमहंसनो (adj) **:** Causing horripitation, astounding, stupendous *(लोमहर्षण)*

लोमहंसो : Horripiltation *(लोमन् + हर्ष)*

लोमहट्ठजातो (adj) : Having the hair of the body erect with wonder or fear, terrified, astounded, thunderstruck *(लोमन् + हृष्ट = हृष + जात = जन्)*

लोमं : The hair of the body *(लोमन्)*

लोमसो (adj) : Hairy *(लोमश)*

लोमी (adj) : Having hair *(लोमन् + इन्)*

लोणं : Salt *(लवण)*

लोणिको (adj) : Relating to salt, having a salt taste *(लावणिक)*

लोपो : Cutting off; in grammar elision, a pocope *(लोप)*

लुड्डको : A huntsman, a sportsman *(लुब्धक)*

लुद्धो : Greedy, covetous *(लुब्ध = लुभ्)*

लुद्दो (adj) : Cruel, muderous *(लुब्ध = लुभ्)*

लूखो (adj) : Rough; unpleasant; hard, harsh *(रुक्ष, लूक्ष)*

लुलायो : A buffalo *(लुलाय)*

लुनाति : To cut, to reap *(लू)*

लुञ्चति : To pull up or out *(लुञ्च)*

लूनो : Cut, reaped *(लून = लू)*

लुपनं : Cutting off *(लुप + अन्)*

लुप्यति : To be elided *(लुप्यते = लुप्)*

लूता + लूतिका : A spider *(लूता + लूतिका)*

लुत्तो : Cut off, elided *(लुप्त = लुप्)*

लूयति : To be cut or reaped *(लूयते = लू)*

M

मा : The moon *(मास्)*

मा : Not, do not (*Prohibitive Particle*) *(मा)*

मच्छा : Good-soil *(मृत्सा)*

मच्छबन्धो : A fisherman *(मत्स्य + बन्ध)*

मच्छको : A fish *(मत्स्यक)*

मच्छण्डी : Inspissated juice of the sugar-cane *(मत्स्यण्डी)*

मच्छरायति : To be envious *(मत्सर)*

मच्छरी (adj) **:** Envious, niggardly *(मत्सरिन्)*

मच्छरियं + मच्छेरं : A vice, niggardliness, selfishness, envy, churlishness *(मात्सर्य)*

मच्छरो (adj) **:** Niggardly, envious, grudging *(मत्सर)*

मच्छिको : A fisherman *(मात्सिको)*

मच्छो : A fish *(मत्स्य)*

मच्चो : Mortal *(मर्त्य = मृ)*

मच्चो (adj) **:** Maternal *(मातृ + य)*

मच्चु : Death, yama *(मृत्यु)*

मच्चुधेय्यं : The realm of Death *(मृत्यु + धेय = धा)*

मादनं : Delighting: clover *(मादन)*

मदनीयो (adj) **:** Intoxicating *(मदनीय)*

मदनो : Kama, the God of love; the plant Vanguiera spinosa *(मदन)*

मद्दा : Name of a country and its inhabitants *(मद्र)*

मद्दलो : A sort of drum *(मर्दल)*

मद्दनं : Rubbing, grinding, crushing, trampling *(मर्दन)*

मद्दति : To rub, to compress, to crush, to trample, to destroy *(मृद्)*

मद्दवो (adj) **:** Flaccid, withered *(मार्दव)*

मधु (adj) **:** Sweet, pleasant, nice honey *(मधु)*

मधुब्बतो : A honey-bee *(मधु + व्रत)*

मधुच्छिट्ठं : Wax *(मधुच्छिष्ट)*

मधुद्दुमो : The tree Bassia latifolia *(मधु + द्रुम)*

मधुकरो : A bee *(मधुकर)*

मधुकरो (adj) **:** Sweet *(मधुकर)*

मधुको (adj) **:** Sweet *(मधुक)*

मधुलट्ठिका : Liqorice *(मधु + यष्टिका)*

मधुलीहो : A bee *(मधुलिह्)*

मधुमेहो : Diabetes *(मधु + मेह)*

मधुपो : A bee *(मधु + प)*

मधुरको : The Jivaka plant *(मधुरक)*

मधुरसा : A grape; the plant sanseveria Roxburghinia *(मधु + रस)*

मधुरस्सरो : A sweet voice *(मधुर + स्वर)*

मधुरत्तं : Sweetness *(मधुर + त्व)*

मधुरो (adj) **:** Sweet, agreeable *(मधुर)*

माधुरो (adj) **:** Belonging to the town of Madhura

मध्वासवो : Wine made from the flowers of Bassia Latifolia *(मधु + आसव)*

मादी (adj) **:** Like me *(मादृश्)*

मदिरा : Spirituous liquor *(मदिरा)*

मादिसो + मारिसो (adj) **:** Like me, such as I *(मादृश)*

मदीयो (adj) **:** Mine *(मदीय)*

मदो : Intoxication; pride, enjoyment: the juice that flows from an elephants temples when in rut *(मद)*

मादो : Pride *(माद)*

मगध : Name of a people and country: southern Behar *(मगध)*

मागधको + मागधिको (adj) **:** Belonging to Magadha *(मागध)*

मागधो (adj) **:** Belonging to Magadha *(मागधक)*

मगसिरं : Name of a Nakkhatta *(मृगशिरस्)*

मागसिरो, मग्गसिरो : Name of a month *(मार्गशिर)*

मागविको : A deer-stalker; sportsman; huntsman *(मृगयस + इक)*

मग्गामग्गो : The right and wrong way *(मार्ग + अमार्ग)*

मग्गना + नं : Research, tracing out *(मार्गण)*

मग्गति + मग्गेति : To trace out, to seek *(मार्ग)*

मग्गट्ठो (adj) **:** Walking in one of the four paths *(मार्ग + स्थ)*

मग्गिको : A traveller *(मार्गिक)*

मग्गो : Road: path: track: passage: urethra *(मार्ग)*

मग्गुरो : A sort of fish *(मद्गुर)*

मधा : Name of a Nakkhatta *(मधा)*

माघातो : Non-slaughter, interdiction of slaughter *(मा + घात)*

मघवा : Indra *(मघवन्)*

माघो : Name of a month *(माघ)*

माघ्यं : The blossom of the many flowered jasmine *(माघ्य)*

मगो : A deer or antelope *(मृग)*

महा (adj) **:** Great *(महा)*

महा : Great, a Vedic adjective much used as a substitute for *महत्* in the formation of compound noun and adjectives

महाअट्ठकथा : The great commentary *(महा + अर्थ + कथा)*

महाबलं : Great strength *(महा + बल)*

महाबलो (adj) **:** Strong, mighty *(महा + बल)*

महब्बलं : Great strength; a strong force, a great army *(महत् + बल)*

महाबलो (adj) **:** Having great strength, powerful, might *(महत् + बल)*

महाब्भयं : Great fear, horror *(महद्भय)*

महाभद्दकप्पो : The great auspicious cycle *(महा + भद्र + कल्प)*

महाभयं : Great fear *(महा + भयं)*

महाभिनिक्खेमनं : The great retirement *(महा + अभिनिष्क्रमण) क्खे*

महाभोगो (adj) **:** Wealthy; having a great hood (cobra) *(महा + भोग)*

महाभूतो + तं : A principal element *(महा + भूत)*

महाबोधि : The great Bo-tree *(महा + बोधि)*

महाब्रह्मा : The archangel Brahman, also called Brahma Sahampati *(महा + ब्रह्मान्)*

महाचगो (adj) **:** Munificent *(महा + त्याग)*

महच्छणो : A great festival *(महत् + क्षण)*

महादानं : Great gifts or charity *(महा + दान)*

महादरो : Anguish *(महा + दर)*

महादयो (adj) **:** Very compassionate, all merciful *(महा + दया)*

महद्धनो (adj) **:** Wealthy *(महत् + धन्)*

महाधिति (adj) **:** Having great fortitude or perseverance *(महा + धृति)*

महादीपो : Great island *(महा + द्वीप)*

महागणी : Having crowds of diciples or followers *(महागण + इन्)* frequently used of eminent divines or apostles

महग्गतो (adj) **:** Enlarged, extensive, great, lofty *(महत् + गत = गम्)*

महग्घसो (adj) **:** Eating much, highly fed *(महत् + घस्)*

महग्घियो (adj) : Costly *(महार्घ्य)*

महग्घो (adj) : Of great value, costly, valuable *(महा + अर्घ)*

महागुणो (adj) : Having great qualities, virtuous *(महा + गुण)*

महाहसो : Loud laughter, a horse-laugh *(महा + हास)*

महाहवो : War *(महा + आहव)*

महाजनिको (adj) : Belonging to the people *(महाजन + इक)*

महाजनो : The people, the public, the populaee, mankind, a great number of people, a multitude *(महा + जन)*

महाकन्दो : Garlic *(महा + कन्द)*

महाकप्पो : See Kappo *(महा + कल्प)*

महाकारुणिको : (adj) Very compassionate *(महा + कारूणिक)*

महाकस्सपो : Name of a famous apostle of Buddha, who was president of the Mahasangiti *(महा + काश्यप)*

महाकथानं : One of the high numerals or followed by 133 cipher

महाकुलं : A high-family, a noble family *(महा + कुल)*

महाकुलो (adj) : Belonging to a high or noble family *(महा + कुल)*

महल्लकत्तं : Old age, seniority *(महल्लक + त्व)*

महल्लको (adj) : Oldage; spacious, large, broad, big *(महल्लक)*

महल्लो (adj) : Old *(महल्ल)*

महामच्चो : A chief minister *(महा + अमात्य)*

महामग्गो : A high-road *(महा + मार्ग)*

महामही : The earth *(महा + मही)*

महामहो : A great festival, pomp, festivity *(महा + मह)*

महामाता : Grand-mother *(महा + मातृ)*

महामति (adj) : Wise *(महा + मति)*

महामत्तो : A king's minister or companion, a great noble at court *(महा + मात्र)*

महामेघो : A storm of rain, a thunderstorm *(महा + मेघ)*

महामुखो (adj) : Having a big month *(महा + मुख)*

महामुनि : A great sage or philosopher *(महा + मुनि)*

महानदी : A great river *(महा + नदी)*

महानागो : A great elephant; a state elephant; a great snake or cobra: a great Naga; an eminent person; a leader, a king; a bold warrior, a champion *(महा + नाग)*

महानं : A kitchen *(महा + अनस्)*

महानामो : Name of a plant: name of the author of Mahavamsa *(महा + नामन्)*

महानसं : A kitchen *(महानस्)*

महानिब्बानं : Nirvana *(महा + निर्वाण)*

महानिलो : A gate of hurricane *(महा + अनिल)*

महानिसा : Midnight *(महा + निशा)*

महानिसंसो : Great advantage, great blessing *(महा + आनिसंक्ष)*

महण्णवो : The great ocean *(महा + अर्णव)*

महन्तता : Greatness, bigness

महन्ततरो (adj) **:** Greater, superior, bigger

महन्तो + महं + महा (adj) **:** Great, large, big, eminent: much excessive: excellent *(महत्)*

महानुभावता : Great power

महानुभावो (adj) **:** Powerful, mighty *(महानुभाव)*

महापञ्ञता : Great wisdom *(महा + प्रज्ञ + त्व)*

महापञ्ञो (adj) **:** Having great wisdom, wise, learned *(महा + प्रज्ञा)*

महापराधो (adj) **:** Very guilty, criminal *(महा + अपराध)*

महापरिच्चागो : *See* Pariccago

महापरिनिब्बानं : Greatest attainment of Nirvana: it also means death of Buddha *(महापरिनिर्वाण)*

महापातकं : A great sin, a crime *(महा + पातक)*

महापथो : A high-road *(महा + पथ)*

महप्फलो (adj) **:** Very fruitful; having great reward *(महत् + फल)*

महापुञ्ञो (adj) **:** Possessing great virtue or merit *(महा + पुण्य)*

महापुरिसो : A great man, an eminent man, a man born to greatness *(महा + पुरुष)*

महारहो (adj) **:** Valuable, costly *(महा + अर्ह)*

महाराजा : A great king *(महा + राजन्)*

महारञ्ञ : A great forest *(महा + अरण्य)*

महारट्ठं : Siam *(महा + राष्ट्र)*

महारोरुवो : Name of one of the eight Narkas or hells *(महा + रौरव)*

महासद्धो (adj) **:** Having great faith *(महा + श्रद्धा)*

महासद्दो : A great noise, a loud shout *(महा + शब्द)*

महासहा : Globe amaranath, Gomphrena globosa *(महासहा)*

महासालो : A man of great wealth and position, a magnate *(महाशाल)*

महासमणो : The great ascetic, the great philosopher, an epithet of Buddha *(महा + श्रमण)*

महासम्मतो : The Great Elect *(महा + सम्मत = मन्)*

महासरो : A great lake *(महा + सरस्)*

महासत्तो : A noble or excellent man: Bodhisatta *(महा + सत्व)*

महासावको : A great disciple *(महा + श्रावक)*

महासिरा : A tondon *(महा + सिरा)*

महातण्हो (adj) **:** Lustful *(महा + तृष्णा)*

महाथेरो : A great or eminent thera *(महा + स्थविर)*

महाथूपो : The great Dagoba in Anuradhapur *(महा + स्तूप)*

महति : To revere, to worship *(मह्)*

महति : *See* Mahanto

महातिमि : Name of a mythical fish of vast size *(महा + तिमि)*

महत्ता (adj) **:** Great souled, magnanimous *(महा + आत्मन्)*

महत्थिको (adj) **:** Productive of great good; very advantageous *(महा + अर्थ + इक)*

महावग्गो : *See विनय*

महावंसो : The great dynasty *(महा + वंश)*

महावनं : A great forest *(महा + वन)*

महावाटो : A great pit

महाविहारो : Great monastery *(महा + विहार)*

महाविरेको : Cholera *(महा + विरेक)*

महावीरो : A might man, a great man *(महा + वीर)*

महायसो (adj) **:** Illustrious *(महा + यशस्)*

महेसक्खत्तं (adj) **:** Power, eminence, superiority

महेसक्खो (adj) **:** Possessing great authority or influence; eminent *(महा + ईश + आख्या)*

महेसी : Great stage *(महर्षि)*

महेसी : A queen *(महिषि)*

महेसित्तं : Queen-ship *(महिषि + त्व)*

मही : The earth, the ground: place: land: name of a river *(मही)*

महिच्छता : Lust, desire *(महा + इच्छा + ता)*

महिच्छो (adj) **:** Lustful *(महा + इच्छा)*

महिद्धिकता : Magical power

महिद्धिको + यो : (adj) Possessing supernatural power, miraculous: magical *(महा + ऋषि + क)*

महीधरो : A mountain *(मही + धर)*

महिका : Frost *(महिका)*

महिला : A woman *(महिला)*

महीलता : An earth-worm *(मही + लता)*

महिंसकमण्डलं : The Andhra-country *(महिषक + मण्डल)*

महिनधरो : A mountain *(मही + धर)*

महिन्दो : Indra; Mahindra, a great Buddhist Missionary *(महा + इन्द्र)*

महीपालो : A king *(मही + पाल)*

महीपति : A king *(मही + पति)*

महीपो : A king *(महीप)*

महीरुहो : A tree *(मही + रुह)*

महिसमण्डलं : The Andhra country *(महिष + मण्डल)*

माहिसको : Belonging to buffaloes *(माहिषक)*

महिसो : A buffalo *(महिष)*

माहिसो (adj) **:** Belonging to buffaloes *(माहिष)*

महिस्सरो : Vishnu *(महा + ईश्वर)*

महिस्सरो : A king *(मही + ईश्वर)*

महीतलं : The ground *(मही + तल)*

महितो : Revered, worshipped *(महित = मह)*

महीयते : To be revered

महो : A festival *(मह, महस्)*

महोदधि : The sea *(महा + उदधि)*

महोघो : A torrent, a flood *(महा + ओघ)*

महोघो (adj) **:** Having a mighty stream *(महा + ओघ)*

महोरगो : A great snake, a Naga *(महा + उरग)*

महोसधं : Dry ginger, the plant alivisa *(महा + ओषध)*

महुस्सवो : A great festival *(महा + उत्सव्)*

मज्जं : Spirits, wine, liquor *(मध)*

मज्जनं : Intoxication, pride

मज्जनं : Rubbing, polishing *(मार्जन)*

मज्जपो (adj) **:** A drunkard; one who drinks strong drinks *(मद्य + प)*

मज्जारो : A cat *(मार्जार)*

मज्जति : To be joyous; to be intoxicated *(मद्)*

मज्जति : To polish; to rub *(मृज्)*

मज्झगतो (adj) **:** Being in the midst of: *(मध्य + गत = गम्)*

मज्झगो (adj) **:** Being in the midst of : going among *(मध्यग)*

मज्झन्हो + ण्हो : Mid-day *(मध्य + अन्ह)*

मज्झन्तिको : Midday *(मध्य + अन्त + इक)*

मज्झत्तता : Impartiality, moderation, indifference *(मध्यस्थ + ता)*

मज्झत्तो (adj) **:** Impartial, neutral *(मध्यस्थ)*

मज्झिमदेसो : The central region, Central India *(मध्यम + देश)*

मज्झिमो (adj) **:** Central middle, mean, moderate, of medium size *(मध्यम)*

मज्झो + मज्झं : Middle, centre, interior; the waist *(मध्य)*

मज्झो (adj) **:** Middle, central *(मध्य)*

मकरन्द : The nectar of a flower *(मकरन्द)*

मकरो : Name of a mythical fish or sea-monster *(मकर)*

मसको : A mosquito *(मशक)*

मक्कटको : A spider *(मर्कटक)*

मक्कटो : A monkey *(मर्कट)*

माक्कवो : The shrub Eclipta prostrata *(मार्कव)*

मक्खणं : Smearing oil *(म्रक्षण)*

मक्खापेति : To cause to be anointed

मक्खेति : To smear, to anoint, to rub out *(म्रक्ष्)*

मक्खी (adj) **:** Conacaling one's vices *(म्रक्ष् + इन्)*

मक्खिका : A fly; a bee *(मक्षिका)*

मक्खितो : Smeared, anointed, stained, soiled *(म्रक्षित = म्रक्ष्)*

मक्खो : Conancaling one's vices, hypocrisy *(म्रक्ष्)*

मकुलो + लं : An opening bud; a knob *(मकुल)*

मकुटो + टं : A crest, diadem, topknot *(मकुट, मुकुट)*

माला : A wreath, a garland; a necklace: a flower: a row: a line *(माला)*

मालागुळो : A bouquet of flowers *(माला + गुड)*

मालागुणो : A garland of flowers *(माला + गुण)*

मालाकारो : A gardener *(माला + कार)*

मालको : A circular enclosure, yard, terrace, a consecrated enclosure *(माल + क)*

मलं : Dirt, filth; exorement, stain taint; fault, defect; impurity sin: rust *(मल)*

मलतरं : A greater or worse taint *(मल + तर)*

मालती : The great flowered jasmine *(मालती)*

मलयजो : Sandal-wood

मलयो : A mountainous in the Dekkan: a mountainous dist in Ceylon of which adam's peak is in the centre; a garden, a park: a jungle *(मलय)*

माली (adj) **:** Having a garland or row *(मालिन्)*

मालिका : A garland, double jasmine *(मालिका)*

मालिको : A gardner, a florist *(मालिक)*

मलीमसो (adj) **:** Dirty, polluted, stained *(मलीमष्)*

मलिनीभवति : To be stained *(मलिनी + भू)*

मलिनीकरोति : To stain, to pollute *(मलिनी + कृ)*

मलिनो (adj) **:** Dirty; dark; brown, black *(मलिन)*

मल्लको : A cup

मल्लिका : Arabian Jasmine *(मल्लिका)*

मल्लिको : A sort of goose with brown legs and bill *(मल्लिको)*

मल्लो : A professional wrestler: name of a people *(मल्ल)*

मालो : A pavilion, a pagoda *(माल)*

मालूरो : The tree Egle Marmelos *(मालूर)*

मालुतो : Wind, air *(मारूत)*

मालुवा : A creeper

माल्यं : A flower, a garland of flowers *(माल्य)*

मं, मम, ममं : *See अहं*

ममको (adj) **:** Mine

मामको (adj) **:** Mine, my own; treating as one's, loving *(मामक)*

ममायति : To be attached or devoted to *(ममाय्)*

ममायितो : Concerning, belonging to oneself, own

मम्मच्छेदको (adj) **:** Breaking the joints: *(मर्मन् + छेदक)*

मंसं : Flesh, meat *(मांस)*

मानदो (adj) **:** Inspiring: a term of respect *मानद*

मनक्कारो : Acute consciousness of pain, or pleasure

मनं : See Mano

मनं (adj) **:** A little *(मनाक्)*

मानं : Measuring, a measure *(मान)*

मानना + नं : Honouring, reversing, offering *(मानना, मानन)*

माननीयो + निप्पो : (adj) Honourable, venerable *(माननीय)*

मनापो (adj) **:** Pleasing, pleasant, charming, pretty *(मनआप)*

मनासो : *See* Mano

मानसं : The mind: intention: purpose *(मानस्)*

मनसि : See Mano

मनसिच्चति : To wish, to desire *(मनसि + इष्)*

मनसिकारेति : To fix the attention *(मनसि + कारयति + कृ)*

मनसिकारो : Attention *(मनसि + कार)*

मनसिकरोति : To mind, to attend, to pay attention to, to bear in mind, to think about, to pounder, to fix the mind on to take to heart *(मनसि + कृ)*

मनसिकतो : Attended to, bore in mind, pondered *(मनसि + कृत)*

मानसिको (adj) **:** Mental *(मानसिक)*

मनसो : *See* Mano

मानसो : Lust *(मानस)*

मनस्सी (adj) **:** Sensible, intelligent, clever, prudent *(मनस्विन्)*

मानत्तं : This is the name of some sort of punishment attached to the commission of a Sanghadisesa offence *(मान + त्व)*

मानवा (adj) **:** Proud *(मानवन्त)*

माणवको : A student: a young man or a Brahmin *(माणवक)*

मानवी : A woman *(मानवी)*

माणविका : A young girl, a girl-student *(माणविका)*

मानवो : Mankind *(मानव)*

माणवो : A youth, a boy: especially a young Brahmin *(माणव)*

मनायतनं : The mind *(मनस् + आयतन)*

मञ्चाधारो : A bed-stead *(मञ्च + आधार)*

मञ्चको : A bed *(मञ्चक)*

मञ्चो : A bed *(मञ्च)*

मण्डब्बो : Patronymic from Mandu *(माण्डव्य)*

मन्दभाणी (adj) **:** Speaking little *(मन्द + भाण + इन्)*

मन्दगामि (adj) **:** Slowly marching *(मन्द् + गामिन्)*

मण्डकप्पो : *See* कप्पो

मन्दाकिनी : A name of the akasaganga or ecclestial rivers: a name of one of the great lakes of Himvanta *(मन्दाकिनी)*

मण्डलग्गो : A crooked sword; a sabre *(मण्डल + अग्र)*

मण्डलं : A disk, a circle; a circuit, circumference; a district comprising number of villages; a region, a province; a heap; a multitude *(मण्डल)*

मण्डलमालो : A circular house with a peaked roof; a pavillion *(मण्डल + माल)*

मण्डली (adj) **:** A circle, a disk *(मण्डली)*

मण्डलिकं : Anything round, a circle or globle *(मण्डल + इक)*

मण्डलिस्सरो : A ruler, a sovereign *(मण्डल + ईश्वर)*

मण्डनं : Adornment, an ornament *(मण्डन)*

मण्डनो (adj) **:** Adorning *(मण्डन)*

मण्डपं : A roofed open hall, generally built for a temporary purpose, a pavillion *(मण्डप)*

मण्डापेति : To cause to be adorned

मन्दारवो : Erythrina fulgens *(मन्दारव)*

मन्दारो : A name of the western mountain behind which the sun sets *(मन्दार)*

मण्डेति : To adorn, to decorate *(मण्ड)*

मन्दीभावो : Slackening, dulling *(मन्दी + भाव)*

मन्दिरं : A house, an edifice: a town *(मन्दिर)*

मण्डितो : Adorned *(मण्डित)*

मन्दो : Slow: stupid: dull: small: low: slight: weak *(मन्द)*

मण्डो : Scum *(मण्ड)*

मण्डुकण्टको : A Mandu thorn, supposed to destroy a tree or plant piecered with it

मण्डूको : A frog *(मण्डूक)*

मनेसिका : One of the amusements forbidden to a Bhikkhu, guessing the thoughts of others *(मनस् + एष् + इका)*

मानेति : To honour, to revere *(मानयति = मन्)*

मङ्गलिट्ठका : Foundation stone *(मङ्गल + इष्टक)*

मङ्गलो (adj) **:** Auspicious, lucky: joyous festive; belonging to state occasions *(मङ्गल)*

मणि : A gem, a jewel: a waterpot *(मणि)*

माणि : Proud, thinking, fancying *(मानिन्)*

मणिबन्धो : The wrist *(मणि + बन्ध)*

मानिका : A weight = four Donas *(माणिका)*

मणिकं + को : A waterpot *(मणिक)*

मणिक्खन्धो : A magic jewel *(मणि + स्कन्ध)*

मणिलक्खणं : Telling a person's fortune from the jewels in his possession *(मणि + लक्षण)*

मणिमयो (adj) **:** Made of jems or jewelled *(मणिमय)*

मनिन्द्रियं : The mind, the intellect *(मनस् + इन्द्रिय)*

मणिसप्पो : A sort of venomous snake *(मणि + सर्प)*

मानितो : Honoured *(मानिन् + मन्)*

मनित्तं : *See* Mannati

मञ्जरी : A sprout, a compound pedicle *(मञ्जरी)*

मञ्जेट्ठो (adj) **:** Light red *(मञ्जीष्ठ)*

मञ्जीरो : A foot ring, bangle *(मञ्जीर)*

मञ्जिट्ठा : Bengal madder *(मञ्जिष्ठ)*

मञ्जु (adj) **:** Beautiful, lovely, delightful *(मञ्जु)*

मञ्जुसा : A basket, or casket *(मञ्जूषा)*

मञ्जूसको : Name of a eclestial flower *(मञ्जूषक)*

मङ्क (adj) **:** Troubles, restless, disturbed, put out, irritable, annoyed, angry-fretful, discontented *(मङ्)*

मञ्ञति : To think, to suppose, to imagine, to consider; to esteem, to know, to believe, to understand *(मन्)*

मनो + मनं : The mind, the intellect, the thoughts, the heart *(मनस्)*

मानो : Pride, arrogance, variety, honour, respect *(मान)*

मनोभू : Kama, the God of love, Indian Cupid *(मनोभू)*

मनोदुच्चरितं : Sin of the mind or thoughts *(मनस् + दुस् + चरित)*

मनोहरो (adj) **:** Striking, beautiful, charming, captivating *(मनोहर)*

मनोमय (adj) **:** Springing from the mind, caused by the mind *(मनो + मय)*

मनोपुब्बङ्गमो (adj) **:** Having mind for its predecessor, following upon, one resulting from the mind or thoughts, caused by the mind *(मनस् + पूर्व + गम)*

मनोरमो (adj) **:** Pleasant, delightful, beautiful *(मनोरम)*

मनोरथो : Wish, desire *(मनस् + रथ)*

मनोसेट्ठो (adj) **:** Governed by the mind, founded on the mind *(मनस् + श्रेष्ठ)*

मनोसिला : Redgar or red arsenic, vermillion *(मनस् + शिला)*

मन्ता : Wisdom

मन्तब्बो : To be thought, to be considered *(मन्तव्य = मन्)*

मन्तभाणी (adj) **:** Speaking wisely

मन्तधरो (adj) **:** Versed in the Mantras *(मन्त्र + धर)*

मन्तणं : Deliberation, consultation, resolution *(मन्त्रण)*

मन्तेति : To consult, to deliberate, to discuss; to talk, to converse *(मन्त्र्)*

मन्थनी : A churn *(मन्थनी)*

मन्थानो : A churning-stick *(मन्थान्)*

मन्थरो : Stupid, slow *(मन्थर)*

मन्थो : A churning-stick: a sort of rice-cake *(मन्थ)*

मन्ती : A councellor, a minister *(मन्त्रिन् + इन्द्र)*

मन्तो : Deliberation resolution, council, design, plan, artifice: Vedic hymns: a sacred text: a mystic verse; a charm, an incantation *(मन्त्र)*

मन्तुं + मन्त्वा : *See मञ्ञति*

मनुजाधिपो : A king *(मनुज + अधिप)*

मनुज : A man *(मनुज)*

मानुन्नकं : Beauty, charm *(मानोज्ञक)*

मनुन्नो (adj) **:** Beautiful, pleasing, delightful *(मनोज्ञ)*

मानुसको (adj) **:** Human *(मानुषक)*

मानुसो (adj) **:** Human *(मानुष)*

मनुस्सको (adj) **:** Human *(मनुष्य + क)*

मनुस्सत्तं : Man's condition, humanity *(मनुष्यत्व)*

मनुस्सो : Human being, a man *(मनुष्य)*

मापको : Causing to appear by supernatural

मापेति : To make, to prepare: to cause to appear by supernatural power, to create *(मापयति = मा)*

मारधेय्यं : The realm of Mara or Death, Sansara or continued existence *(मार + धेय = धा)*

मारजी : Conqueror of Mara, epithet of Buddha *(मार + जित्)*

मारको : A slayer *(मारक)*

मरम्मो (adj) **:** Burmese

मरणं : Death *(मरण)*

मरणं : Killing, Slaughter *(मारण)*

मरणसति : Recollection of death, meditation on death *(मरण + स्मृति)*

मारापेति : To cause to be killed, to put to death

मरति, मीयति, मिय्यति : To die *(मृ)*

मारत्तं : State of being Mara, Maraship

मारेति : To destroy, to kill, to murder *(मारयति + मृ)*

मरिचं : Pepper *(मरिच)*

मरीचि : A ray of light: mirage *(मरीचि)*

मरीचिका : Mirage *(मरीचिका)*

मारिचिको (adj) **:** Prepared with pepper, peppered *(मारिचिक)*

मारिसो (adj) **:** Madiso

मारिसो : A venerable person: the plant amaranthus polygamus *(मरिष)*

मारितो : See Mareti

मरियादा : A boundary, limit: relitude good conduct *(मर्यादा)*

मरो : Death *(मर)*

मारो : Death: killing: the tempter, the Evil Principle *(मार)*

मरु : A sandy desert: a mountain *(मरु)*

मरु : A deva *(मरुत्)*

मारूतो : Wind *(मारूत)*

मसक्कसारो : A name of Indra's city

मासको : A bean or vetch: a weight: two ganjas, a coin of low value *(माषक)*

मसारगल्लं : A precious stone: a sort of cats-eye *(मुसारगत्व)*

मसारको : A sort of bed

मसि : Soot, ink *(मषि)*

मासो : A sort of kidney-bean; a coin=Masaka *(माष)*

मासो + मासं : A month *(मास)*

मस्सु : The beard *(श्मश्रु)*

मसुर : A sort of lentil *(मसुर)*

माता : Mother or maternal grandmother *(मातृ)*

मातब्बो : To be measured *(मातव्य = मा)*

मतको (adj) **:** Dead, belonging to the dead *(मृतक)*

मातलि : Name of a character of Sakka or Indra *(मातलि)*

मातामहो : Maternal grandfather *(मातामह)*

मतङ्गजो : An elephant *(मतङ्गज)*

मातङ्गो : An elephant; low-caste person *(मातङ्ग)*

मातापेत्तिभरो (adj) **:** Supporting ones parents *(मातृ + पितृ + भर)*

मातापेत्तिको (adj) **:** Belonging to father and mother *(मातृ, पितृ + क)*

मातापितरो : Parents *(मातापितृ)*

मतपीतिको : One whose father is dead *(मत + पितृ + क)*

मातरा : *See माता*

मथनं : Churning, crushing *(मथन)*

मथति : To churn; to stir up, to agitate: to crush, to destroy *(मथ्)*

मति : Mind; intelligence: thought: imagination: knowledge: wisdom: wish: advise *(मति)*

माति : See *माता*

माती : A conduit, canal

मातिका : A canal for irrigation: a conduit, watercourse: heading, outline, sketch: text: list: table of contents *(मातृका)*

मतिमा (adj) **:** Sensible, intelligent, wise *(मतिमन्त्)*

मातितो (adj) **:** On the mother's side *(मातृ + तस्)*

मातियो (adj) **:** Maternal *(मातृ + य)*

मतो : Having died: dead *(मृत + मृ)*

मतो : Thought, considered; believed: understood; known *(मत = मन्)*

मत्ता : Measure, quantity: right or suitable quantity, modernation: little: greatness, importance *(मात्रा)*

मत्तकासिनी : A charming woman *(मत्त + काशिनी)*

मत्तकं : A substitute for mattam

मत्तं : This word is used only as the latter part of a compound with the meaning "measure, quantity" or exact quantity or "exact time, as soon as *(मात्रा)*

मत्तञ्ञू (adj) **:** Moderate, temperate *(मात्र + ज्ञ)*

मत्तञ्ञूता : Moderation *(मात्र + ज्ञ + ता)*

मत्तासिता : Moderation in eating, temperance *(मात्र + आशिन् + ता)*

मत्तेय्यता : State of being a mother, maternity *(मातृ + एय + ता)*

मत्तेय्यो (adj) **:** Maternal *(मातृ + एय)*

मत्थको + कं : The head: top; summit, end: excellence, eminance *(मस्तक)*

मत्थलुङ्गं : The brain *(मस्तुलुङ्ग)*

मट्ठो + मट्टो : Polished, cleansed, pure *(मृष्ट = मृज्)*

मत्थु : Whey *(मस्तु)*

मत्तिका : Earth, loam, clay, mud *(मृत्तिका)*

मत्तिकामयो : Earthen *(मृत्तिका + मय)*

मत्तिको : Consisting of one syllable *(मात्रिक)*

मत्तिको : Maternal *(मात्रिक)*

मत्तियो : Maternal *(मातृ + य)*

मत्तो : Intoxicated, drunk: mad, furious: excited: glad, joyful *(मत्त् = मद्)*

मट्टो : *See (मट्ठो)*

मातु : *See माता*

मातुच्छा : Mother's sister, aunt *(मातृष्यसृ)*

मातुगामो : Woman kind; a woman, a female *(मातृ + ग्राम)*

मातुघातको : A matricide *(मातृ + घातक)*

मातुघातो : Matricide *(मातृ + घात)*

मातुजो (adj) **:** Born of a mother *(मातृ + ज)*

मातुको (adj) **:** Having a mother *(मातृक)*

मातुलानी : A mother's brother's wife- aunt

मातुलुङ्गो : The citron tree *(मातुलुङ्ग)*

मातुया : *See माता*

मया, मयं : See *अहं*

माया : Illusion, phanton, deceptive appearance, deceipt; jugglery, magic: name of Buddha's mother *(माया)*

मायावी (adj) **:** Deceiptful, hypocritical: subject to illusion: deluded *(मायाविन्)*

मह्यं, मयि : See *अहं*

मयो (adj) **:** Made of, consisting of *(मय)*

मायो (adj) **:** Measuring *(माय)*

मायु : Bite, gall *(मायु)*

मयूखो : A ray of light *(मयूख)*

मायूरिको : A peacock-hunter *(मायूरिक)*

मयूरो : Peacock *(मयूर)*

मायूरो (adj) **:** Belonging to peafowl *(मायूर)*

मे : A substitute for the instru dat and gen. cases of *अहं (मे)*

मेचको (adj) **:** Black, dark blue *(मेचक)*

मेधा : Intelligence *(मेधा)*

मेधगो : Quarrel, strife

मेधङ्करो : Name of a Buddha *(मेधा + कर)*

मेधा (adj) **:** Intelligent, wise *(मेधाविन्)*

मेधो : Sacrifice *(मेध)*

मेदिनी : The earth *(मेदिनी)*

मेदो : Fat: serious secretion that spreads among the muscular fibres *(मेदस्)*

मेघवण्णो (adj) **:** Cloud- coloured *(मेघ + वर्ण)*

मेघो : A cloud, storm, rain *(मेघ)*

मेहनं : Membrum virile *(मेहन)*

मेहो : Urine, urinary disease *(मेह)*

मेज्झो (adj) **:** Pure *(मेध्य)*

मेखला : A zone, a girdle *(मेखल)*

मेलको : Assemblage *(मेलक)*

मेण्डो : A ram; a groom *(मेण्ड)*

मेनिको : A fisherman *(मैनिक)*

मेरयं : Intoxicating liquor, spirits, rum, arrack *(मैरेय)*

मेरु : Mt. Meru-a vast mountain occupying the centre of each cakkavala *(मेरु)*

मेसो : A ram: the zodiacal sign aries *(मेष)*

मेतब्बो : To be measured

मेथुनो : Relating to sexual intercourse *(मैथुन)*

मेत्ता : Friendliness, goodwill, kindness, love, charity *(मैत्री)*

मेत्ताभावना : Development of friendly feelings and goodwill towards all living beings *(मैत्र + भावना)*

मेत्तेय्यो : Name of a Bodhisatta; who is to be the next Buddha *(मैत्रेय)*

मेत्ती : Friendship, goodwill, love *(मैत्री)*

मेत्तो (adj) **:** Friendly, kind, benevolent *(मैत्री)*

मेत्यं : Friendship *(मैत्र्य)*

मेय्यो : To be measured; measurable *(मय = मा)*

मिच्छा : Falsely, wrongly *(मिथ्या)*

मिच्छाचारी : Living wrongly; behaving wrongly *(मिथ्याचार + इन्)*

मिच्छाचारो : Wrong conduct or living *(मिथ्या + आचार)*

मिच्छादिट्ठि : Wrong views, false doctrine scepticism, heresy, unbelief *(मिथ्या + दृष्टी)*

मिच्छादिट्ठि (adj) : Heretical *(मिथ्या + दृष्टि)*

मिच्छदिट्ठिको (adj) : Holding false doctrine, heretical, unbelieving, pagan *(मिथ्या + दृष्टि + क)*

मिच्छादिट्ठिता : False doctrine, heresy *(मिथ्या + दृष्टि + ता)*

मिच्छासङ्कप्पो : Wrong resolve *(मिथ्या + संकल्प)*

मिच्छत्तं : Wrongness, falsity, wrong conduct *(मिथ्या + त्व)*

मिद्धं : Sleepiness, drowsiness, somuolence, topor, stupor *(मिद्ध)*

मिद्धी (adj) : Sleepy, drowsy, torpid *(मिङ्घ + इन्)*

मिगबन्धिनी : A hunting net *(मृगबन्धिनी)*

मिगादनो : A hyena *(मृगादन)*

मिगदायो : A deer park *(मृग + दाव)*

मिगाधिभू : King of beasts, the lion *(मृग + अधिमू)*

मिगमदो : A musk *(मृग + मद)*

मिगमातुका : A sort of antelope *(मृग + मातृका)*

मिगतण्हिका : Mirage *(मृगतृष्णिका)*

मिगवो : Hunting, deerstalking, the chase *(मृगष्ण्)*

मिगव्यधो : The chase *(मृग + व्यध)*

मिगी : A doe *(मृगी)*

मिगिन्दो : King of beasts, the lion *(मृग + इन्द्र)*

मिगो : A deer or antelope: an animal, a game *(मृग)*

मिहितं : A smile *(स्मित = स्मि)*

मिलक्खो + **मिलक्खको** : A barbarian, outcaste, a hillman, one of the aborigines *(ग्लेच्छ्)*

मीलति : To wink *(मील्)*

मिलातो : Withered, faded: languid, faint *(म्लान = म्लै)*

मिलायति : To longuish, to fade, to wither *(म्लै)*

मीव्हं : Excrement *(मीढ = मिह)*

मिलिन्दो : Menander—king of the yonakas whose theological discussions with the great Buddhist divine Nagasena from the subject of the well-known Pali-work Milindapanha

मिलिती : Mixed, conjoined *(मिलित)*

मिननं : Measuring, surveying

मिनाति : To measure, to gauge, survey *(मा)*

मिञ्जा + **मिञ्जं** : Marrow; pith; kernel of a fruit or vegetable *(मज्जा)*

मिञ्जकं : Marrow; pith; kernel of a fruit or vegetable *(मज्जा + क)*

मीनो : A fish; zodiacal sign *(मीन)*

मिस्सको (adj) **:** Mixed; combined *(मिश्रक)*

मिस्सति : To be mixed *(मिश्र)*

मिस्सेति : To mix *(मिश्र)*

मिस्सीभूतो (adj) **:** Mixed, joined, associated with *(मिश्रीभूत)*

मिस्सो (adj) **:** Mixed *(मिश्र)*

मितभाणी (adj) **:** Speaking in moderation, a moderate talker *(मित + भाण + इन्)*

मिथिला : Capital of Videhas *(मिथिला)*

मिथो + मिथु (adv) **:** Mutually, reciprocally, with each other, together, privately *(मिथस्)*

मिथुनं : A couple *(मिथुन)*

मितो : Measured, reckoned: moderate *(मित = मा)*

मित्तद्दु + वित्तदु (adj) **:** Injuring one's friends, treacherous, perfidious *(मित्रद्रुह)*

मित्तदुभी, मित्तदुभिको (adj) **:** Injuring one's friends, treacherous *(मित्रद्रोहिन)*

मित्तदूभो, मित्तदूभको : Treacherous *(मित्रद्रुह)*

मित्तवा : Having friends *(मित्रवन्त्)*

मित्तो : A friend *(मित्र)*

मीयति : To be measured *(मीयते = मा)*

मीयति + मिय्यति : See *मरति*

मोचनं : Release, removing *(मोचन)*

मोचेता : One who liberates *(मोचयितृ)*

मोचेति : To be liberate; to release; to loose: to detach *(मोचयति = मूच्)*

मोचो : The plantain or banana *(मोच)*

मोदको : Sweet-meat; ferment *(मोदक)*

मोदनं : Rejoicing *(मोदन)*

मोदङ्गिको : One who plays the mutinga *(मृदङ्ग + इक)*

मोदति : To rejoice *(मुद्)*

मोग्गल्लानो : Name of a famous apostle of Buddha, one of the aggasavakas = name of a Pali-grammarian who lived in the 12th century *(मौद्मल्यायन)*

मोघो : Useless, vain, foolish *(मोघ)*

मोहितो : Infatuated, deluded *(मोहित = मुह्)*

मोहो : Fainting, loss of consciousness, ignorance, error, folly, infatuation *(मोह)*

मोक्खचिंक : Acrobatic feats

मोक्खति : *See मुञ्चति*

मोक्खो (adj) **:** Principal, pre-eminent *(मौख्य)*

मोक्खो : Release, arhatship, nirvana *(मोक्ष)*

मोलेय्या : Name of a people *(मौलेय)*

मोलि : Top-knot of a hair: chignon: a crest; diadem aigrette *(मौलि)*

मोमूहो (adj) **:** Silly, mad *(मोमुघ)*

मोनं : Silence *(मौन)*

मोनेय्यं : Moral Perfection

मोरो : A peacock *(मयूर)*

मोसको : A thief *(मोषक)*

मोसलिको (adj) **:** Armed with a club *(मुसल + इक)*

मोसो : Theft, robbery *(मोष)*

मुब्बा : The creeper sanseviera zeylancia *(मूर्वा)*

मुचलिन्दो : The tree Barringtonia acutangula : name of a Naga king *(मुचिलिन्द्)*

मुच्चनं : Being released

मुच्चति : *See मुञ्चति*

मुच्छा : Fainting; swooning, faintness *(मूर्च्छा)*

मुच्छना : A musical note, the seventh part of the scale *(मूर्च्छना)*

मुच्छनं : Fainting *(मूर्च्छन)*

मुच्छति : To become faint *(मूर्छति)*

मुदा : Joy, pleasure *(मुदा)*

मुद्दा : Seal, a signet: a seal-ring stamp *(मुद्रा)*

मुद्देति : To stamp

मुधा : In vain: gratis, for-nothing *(मुधा)*

मुदिताभावना : Feeling of kindliness *(मुदिता भावना)*

मुदितो : Pleased, glad *(मुदित = मुद्)*

मुदु (adj) **:** Soft: mild: weak: blunt, slow *(मृदु)*

मुदुको : Soft *(मृदु + क)*

मुदुता : Softness, impressibility *(मृदुता)*

मुग्गरिनो : Armed with a club *(मुद्गर + इक)*

मुग्गरो : A hammer, mallet, club *(मुद्गर)*

मुग्गो : A sort of kidney bean *(मुद्ग)*

मूगो (adj) **:** Dumb *(मूक)*

मुहु + मुहुं (adv) **:** Momently, repeatedly *(मुहुर)*

मुहुत्तिको : An astrologer *(मुहूर्त + इक = मौहूर्तिक)*

मुहुत्तो : A moment, a while *(मुहूर्त)*

मुखाधानं : The bit of a girdle *(मुख + आधान)*

मुखं : The mouth: the face: front: entrance: commencement: brim: means, cause *(मुख)*

मुखपाठो : Verbal recital *(मुख + पाठ)*

मुखरता : Garrulity *(मुखरता)*

मुखरो (adj) **:** Scurrilous: garrulous, noisy *(मुखर)*

मुखवाससो : Mouth perfume: a fragrant substance used to make the breath smell sweet *(मुख + वास + क)*

मुखोदकं : Water to rinse the mouth with *(मुख + उदक)*

मुखुल्लोकको (adj) **:** Looking in a person's face, cheerful willing: said of a good servant

मुख्यो (adj) **:** Chief *(मुख्य)*

मुक्को : Another form of mutto *(मुल्क)*

मुकुलो + मुकुलं : A bud *(मुकुल)*

मुकुरो : A mirror *(मुकुर)*

मूला : See *मलं*

मूलकं + को : Raddish *(मूलक)*

मूलंको (adj) **:** Having its root or origin in: springing from *(मूलक)*

मुळालो : The stalk of lotus *(मृणाल)*

मूलं : A root: lowest part: base, foundation: origin, source, commencement: front, foremost, first: cause: nearness: sum: amount: mass: price, money: capital, principal *(मूल)*

मूळहो : Foolish: ignorant: deceived: erring, astray: misguided, infatuated;. perplesed, confused *(गूढ : मूह)*

मूल्यं : Wages, price *(मूल्य)*

मुनाति : To gain knowledge of, to learn, to know *(मन्)*

मुधापेति : To cause to be released

मुञ्चति : To loose, to release: to dismiss: to give up: to abandon, to omit: to send forth *(मुच्)*

मुण्डच्छडो : A sort of house *(मुण्ड + च्छद्)*

मुण्डकं : Tonsure *(मुण्डक)*

मुण्डको : A shaveling *(मुण्डक)*

मुण्डनं : Tonsure *(मुण्डन)*

मुण्डेति : To shave *(मुण्ड)*

मुण्डिको (adj) **:** Shaven, bald *(मुण्डिन् + क)*

मुण्डो : Shaved, bald, bare *(मुण्ड)*

मुङ्गुसो : The mungoose or ichueumon

मुनि : A sage, an inspired man, a holy ascetic, a saint *(मुनि)*

मुनिन्दो : Chief of sages : an epithet of Buddha *(मुनि + इन्द्र)*

मुनिस्सरो : Chief of sages : Buddha *(मुनि + ईश्वर)*

मुञ्जायनो, मुञ्जानो : A common name patronymic from Munja *(मौञ्जायन)*

मुञ्जो : A sort of grass, from the fibre of which the Brahmanical string is made = a sort of fish *(मुञ्ज)*

मुरजो : A sort of drum, a tambourine *(मुरज)*

मुसा : (adv.) Falsely *(मृषा)*

मूसा : A erucible *(मूषा)*

मूसाभणिता : A liar *(मूषा + भण् + तृ)*

मुसली : (adj) Armed with a club *(मुसालिन्)*

मुसलो + मुसल : A club or pestle *(मुसल)*

मुसति : To steal; to rob: to plunder *(मुष्)*

मुसावादि : Lying; speaking falsely *(मृषा + वादिन्)*

मुसावादो : Lying, falsehood *(मृष + वाद)*

मूसिको : A mouse, a rat *(मूषिक)*

मुति : Intelligence: understanding *(मति)*

मुतिमा : Sensible, intelligent, wise *(मतिमन्त्)*

मुतिङ्गो : A small drum, a labour *(मृदङ्ग)*

मुतो : Thought, supposed, considered *(मत = मन्)*

मुत्ता : A pearl *(मुक्ता)*

मुत्तागुणो : A string of pearls *(मुक्ता + गुण)*

मुत्ताहारो : A string or necklace of pearls *(मुक्ता + हार)*

मुत्तकामयो : Made of pearls *(मुक्ता + का: मय)*

मुत्तं : Urine *(मूत्र)*

मुत्तमयो : Made of pearls *(मुक्ता + का + मय)*

मुत्तामुत्तं : A weapon which is both missile and non-missile as a bludgeon *(मुक्त + अमुक्त)*

मुत्तावली : A string of pearls *(मुक्ता + आवली)*

मुट्ठसच्चं : Forgetfulness, bewilderment

मुट्ठासति (adj) **:** Forgetful, careless, inattentive, unconscious, bewildered

मुट्ठि : The fist : a handful, a smith's hammer *(मुष्टि)*

मुत्ति : Deliverance; release; Nirvana *(मुक्ति)*

मुत्तिकं : A pearl *(मुक्त + इक)*

मुत्तो : Released: delivered: free from: discharged: shot *(मुक्त = मुच्)*

मुह्यति : To faint: to be perplexed; bewildered: infatuated *(मुह्)*

म्यायं : Me ayam

N

न : (Negative particle), Not *(न)*

नभं + नभो : The sky, the air *(नभस्, नभ)*

नाभि : The navel: the nave of a wheel; centre *(नाभि)*

नच्चको (adj) **:** Dancing *(नृत्य + क)*

नच्चं : Dancing, nautch; acting, pantomine; acrobatic, performance *(नृत्य)*

नच्चति : To dance *(नृत्)*

नचिरो (adj) **:** Not long, short *(नचिर)*

नदति : To sound, to make a noise with the voice, to shout, to roar *(नद्)*

नद्धो : Bound, fastened, covered *(नद्ध = नह्)*

नादेय्यो : Belonging to a river, fluviatile *(नादेय)*

नदी : A river *(नदी)*

नदीमातिको : (adj) Watered by rivers, provided with rivers *(नदीमातिक)*

नदित्तं : *See नदति*

नादो : Sound, noise: cry, shout, roar *(नाद)*

नागबला : The shrub uraria lagopodisides *(नागबला)*

नागदन्तको : A peg fastened into the wall to hang things upon *(नागदन्तक)*

नागदीपो : A large island said to be inhabited by Nagas, and visited by Buddha when he introduced his religion among the Nagas *(नाग + द्वीप)*

नागलता : The betel-vine, Piper Betel *(नाग + लता)*

नागमालिका : The iron-wood tree *(नाग + मालिका)*

नागराजा : King or a chief of Nagas: said of noble elephant *(नाग + राजन्)*

नगर : A town or city: a fortified town, a fortress or citadel *(नगर)*

नगरी : A town or city *(नगरी)*

नागरिको (adj) **:** Belonging to a town: urbane, civilised *(नागरिक)*

नागरी : Belonging to a town *(नागर)*

नग्गो (adj) **:** Naked *(नग्न्)*

नागी : A female Naga *(नागी)*

नागिन्दो : A Naga king *(नाग + इन्द्र)*

नगो : A mountain: a tree *(नग)*

नागो : A serpent: a cobra or hooded snake; an elephant: the iron-wood tree, a chief *(नाग)*

नहानं : Bathing *(स्नान)*

नहानियो (adj) **:** Used for bathing: ablutionary *(स्नानीय)*

नहापको : A bath attendant *(स्नापक)*

नहापनं : Bathing a person, attending him at the bath *(स्नापन)*

नहापेति : To cause to bathe *(स्नापयति = स्ना)*

नहापितो : A barber *(नापित)*

नहारु : A tendon, a muscle *(स्नायु)*

नहातको : One whose spiritual instructions are complete *(स्नातक)*

नहातो : Bathed, washed, cleansed, pure *(स्नात = स्ना)*

नहायति : To bathe *(स्ना)*

नहि : *See* न

नहुत्तं : A vast number, or 1 followed by 28 ciphers

नज्जा : Nadi *(नदी)*

नखो, नखं : A nail of the finger or toe *(नख)*

नक्खत्तं : A star: a constellation: an asterism in the moon's path, a lunar mansion; festival *(नक्षत्र)*

नक्को : A crocodile *(नक्र)*

नाको : Heaven *(नाक)*

नकुलो : A mungoose *(नकुल)*

नलकारो : A basket maker *(नल + कार)*

नालं : Not sufficient, not able

नालं : A tubular or hollow stalk–that of the water-lily a tube: a tubular vessel *(नाल)*

नलमीनो : A sort of fish *(नल + मीन)*

नलाटं : The fore-head *(ललाट)*

नाळी, नाली : A hollow stalk: a tube: a pipe: an artery: a measure of capacity *(नाडी, नाली, नालि)*

नाळिका : A tube, pipe, hollow cylinder *(नाडिका)*

नाळिकेरो : A coconut tree *(नारिकेर, नाडिकेल, नारिकेल)*

नाळिकोदनं : A nali–measure of rice *(नाडी + क + ओदन)*

नलिनं : A lotus flower *(नलिन)*

नालिन्धमो : A gold-smith *(नाडिधम)*

नलिनी : A pond *(नलिनी)*

नालिपट्टो : A covering for the head, a cap

नाळीवणं : A fistula, an ulcer *(नाडी + व्रण)*

नलो, नळो : A kind of reed *(नल, नड)*

नं : *See* So

नाम : By name: indeed *(नाम)*

नामध्येय्यं : Name, appelation *(नामन् + धेय = धा)*

नमक्कारो : Veneration, reverence; worship *(नमस्कार)*

नामको (adj) **:** Bearing the name of: named *(नामक)*

नामं : A name: a noun *(नामन्)*

नामरूपं : Name and form: mind and body: individual *(नामन् रूप)*

नमस्सा : Reverence, veneration, worship *(नमस्या)*

नमस्सति : To honour, to pay attention to, to revere, to venerate, to worship *(नमस्य)*

नमति : To bow to, to be inclined *(नम्)*

नामतो (adj) **:** By name *(नामतस्)*

नामत्थु : *See नामो*

नामवा (adj) **:** Bearing the name of *(नामन् + इन्)*

नमेति, नमयति, नामेति : To bend *(नमयति = नम्)*

नामी (adj) **:** Bearing the name of *(नामन् + इन्)*

नामिको : Bearing the name of

नामितो : Bent *(नामित = नम)*

नम्मदा : River Narbada *(नर्मदा)*

नमो : Salutation, reverence, honour *(नमस्)*

नमुचि : Name of a Mara *(नमुचि)*

नाना (adv) **:** Various, different, away from *(नाना)*

ञानदस्सनं : Insight given by knowledge *(ज्ञान + दर्शन)*

नानाधिमुत्तिको : (adj) Having various dispositions or inclinations *(नाना + अधिमुक्ति + क)*

ञानं : Knowledge *(ज्ञान)*

ननन्दा : Husband's sister *(ननान्दृ)*

नानप्पकारतो (adj) **:** In many ways *(नाना + प्रकार + तस्)*

नानप्पकारेन (adj) **:** In many ways *(नाना + प्रकार)*

नानाप्पकारो + : Of various sorts *(नाना + प्रकार)*
नानाप्पकारको (adj.)
नानारूपो : (adj.) Various, diverse *(नाना + रूप)*
नानता : Variety, diversity *(नाना + ता)*
नानातो : (adv) In various ways *(नाना + तस्)*
नानत्तं : Diversity *(नानात्व)*
नानाविधो : (adj) Of various sorts *(नाना + विधा)*
नन्दा : Name of a pleasure - lake in Indra's Heaven *(नन्दा)*
नन्दनं : Gladdening: name of a garden in Indra's heaven
नन्दति : To enjoy: to rejoice: to be pleased *(नन्द्)*
नन्देति : To cause to delight or rejoice *(नन्दयति)*
नन्दि : Joy *(नन्दि)*
नन्दी : A leathern thong or strap *(नङ्धी)*
नन्दी (adj) : Rejoicing in *(नन्दिन्)*
नन्दियावट्टो (adj) : Turning auspiciously, turning to the right *(नन्दि + आवर्त)*
नङ्गलं : A plough *(लाङ्गल)*
नङ्गुट्ठं : The tail of an animal
ञानी : Learned *(ज्ञानिन्)*
नानिकामसेय्या : Uncomfortable bed *(न + निकाम + शय्या)*
नञ्ञो : *See* न *(Na)*
नानो : *See* नाना *(Nana)*
ननु : A word generally used in questioning where an affirmative answer is expected *(ननु)*
ञापको (adj) : Informing, declaring *(ज्ञापक)*
ञापनं : Information, declaration *(ज्ञापन)*
ञापेति : To make known, to declare, to tell, to inform, to teach, to show, to inform *(ज्ञापयति = ज्ञा)*
नप्परूपो (adj) : Abundant *(न + अल्प + रूप)*
नपुंसको (adj) : Of neuter gender; of no sex *(नपुंसक)*
नाराचो : An iron weapon of some sort, an arrow or light javelin *(नाराच)*
नराधमो : Vilest of men *(नर + अधम)*
नराधिपो : A king *(नर + अधिप)*
नारदो : Name of one of the 24 Buddhas *(नारद)*
नरको : Hell *(नरक)*

नारको : A person suffering in hell *(नारक)*

नारङ्गो : An orange-tree *(नारङ्ग)*

नरासभो : Chief of men an epithet for Buddha *(नर + ऋषभ)*

नरसीहो : Lion amongst men: greatest of men *(नर + सिंह)*

नरवरो : Greatest of men, an epithet of Buddha *(नर + वर)*

नारी : A woman *(नारी)*

नरिन्दो : A king *(नर + इन्द्र)*

नरिस्सरो : A king *(नर + इश्वर)*

नरो : A man *(नर)*

नारो (adj) **:** Belonging to a man, human *(नार)*

नासा : The nose *(नासा)*

नासनं + नासना : Destruction, ruin *(नाशन)*

नासङ्गं : A sin involving expulsion from priest hood *(नाशन + अङ्ग)*

नासापुटो : A nostril *(नासा + पुट)*

नासावातो : The breath of the nostrils *(नासा + वात)*

नासेति : To cause to disappear, to destroy, to ruin, to expel from priest *(नाशयति = नश्)*

नासिक : The nose: a nostril *(नासिका)*

नासितो : Destroyed: demolished: ruined: expelled from the priesthood *(नाशित = नश्)*

नासो : Disappearance; destruction; ruin; death *(नाश्)*

नास्स : Not to him; not to her: should not be

नस्सरत्तं : Impermanence *(नश्वरत्व)*

नस्सति : To be lost, to disappear, to perish *(नश्)*

ञाता : One who knows *(ज्ञातृ)*

ञातब्बो : That ought to be known, perceptible *(ज्ञातव्य = ज्ञा)*

नाटकित्थि : A dancing girl *(नाटक + स्त्री)*

ञातकित्थि : A female-relative *(ज्ञातक + स्त्री)*

नटको : A dancer; an acrobat *(नटक)*

नाटको : A dancer or mime a drama *(नाटक)*

ञातको : A relative, kinsman *(ज्ञात + क)*

नटनं : Dancing, gymnastics, pantomine *(नटन)*

ञातय्यो (adj) **:** To be known *(ज्ञातव्य = ज्ञा)*

नाथो : A protector, a seviour; lord, master, chief *(नाथ)*

ञाति : A relative, a kinsman *(ज्ञाति)*

नातिदूरे (adv) : Not far off *(न + अति + दूरे)*

नटो : A dancer, an acrobat *(नट)*

ञातो : Known, ascertained *(ज्ञात = ज्ञा)*

नत्ता : A grandson, a descendant *(नप्त्)*

नत्तकं : Dirty or tattered clothes *(नक्तक)*

नत्तको : A dancer *(नृत + क)*

नट्टं : Dancing *(नृत = नृत्)*

ञात्तं : Knowledge *(ज्ञात्र)*

नत्तमालो : The plant Pongamia Glabra *(नक्त माल)*

नत्तनं : Dancing *(नर्तन)*

नत्थि : There is not

नत्थिकवादो (adj) : Holding nihilist views, sceptic *(नास्तिक + वाद)*

नत्थिता, नत्थितं : Non-existence *(नास्तिता नास्तित्व)*

नट्ठो : Lost, destroyed, ruined *(नष्ट = नश्)*

नत्थु : The nose

ञत्ति : Announcement, declaration *(ज्ञप्ति)*

ञत्तो : Made known, announce *(ज्ञप्त = ज्ञा)*

ञत्तो (adj) : Near

नत्तुतं : Grandsonship *(नप्त + त्व)*

ञातुं, ञत्वा : *See* जानाति

नाट्यं : Scenic art, the drama *(नाट्य)*

नव : Nine *(नवन्)*

नावा : A ship, a boat *(नौ)*

नवगुणं : Nine attributes *(नवन् + गुण)*

नवकतरो : Newer, younger *(नवक + तर)*

नवक्खत्तुं : Nine times *(नवन् + कृत्वस्)*

नवको (adj) : New, young, junior *(नवक)*

नवमालिका, नवमल्लिका : Arbian jasmine *(नवमालिका + नवमल्लिक)*

नवमो (adj) : Ninth *(नवम्)*

नवङ्गो (adj) : Having nine members or divisions *(नवन् + अङ्ग)*

नवनीतं, नोनीतं : Butter *(नवनीत)*

नावनीतो (adj) : Resembling butter *(नावनीत)*

नवप्पभेदो (adj) : Nine-fold *(नवत् + प्रभेद)*

नवरियो (adj) : Irresistible *(न + वार्य = वृ)*

नवविधो (adj) : Nine-fold *(नवन् + विधा)*

नाविको : A sailor, a pilot, a helmsman *(नाविक)*

नवो (adj) : Recent, new, fresh, young *(नव)*

नवुति : Ninety *(नवति)*

नाय : *See* सौ

नायकत्तं : Lordship *(नायक + त्व)*

नायको : A chief, a lord *(नायक)*

नयनं : Leading, bringing, the eye *(नयन)*

नयति + नेति : To lead, to conduct, to guide, to bring, to trace: to ascertain: to infer *(नी)*

ञायति : *See* जानाति

नयतो (adv) : By implication, inferentially *(नय + तस्)*

नयेनं : *See* नयो

नायेति : *See* नयति

नह्यनं : Binding

नह्यति : To bind *(नह्)*

नयिमे : *See* न

नयो : Leading, guidance: conduct: prudent conduct, prudence policy, polity: way, manner, means, mode, method: inference, logical deduction *(नय)*

नायो : Method, manner, means, suitable manner, propriety, right conduct, justice *(न्याय)*

ने : *See* सो

नेदीयो, नेदिट्ठो (adj) : Nearer, very near, nearest *(नेदीयस् नेदिष्ठ)*

नेगमो : Townsman; trader; produce *(नैगम)*

नेकधा (adv) : In many ways *(नैकधा)*

नेकको (adv) : Many *(नौक + क)*

नेकतिको (adv) : Fallacious *(नैकृतिक)*

नेकायिको (adv) : Versed in four Nikayas *(निकाय + इक)*

नेक्खम्मं : Forsaking, separating from: giving up the world, developing oneself to the ascetic life, entering the priesthood; self abnegation, giving up all pleasures

नेक्खो : *See* निक्खो

नेको (adv) : Several, many *(नैक)*

नेळो : Blameless, innocent *(न + एनस्)*

नेमि : The circumference of a wheel *(नेमि)*

नेमिन्धरो : Name of one of the Kulacalas *(नेमि + धर)*

नेमित्तको : One who predicts the future from bodily signs or omens: a fortune-teller: necromancer *(निमित्त + क camp नैमित्तिक)*

नेमित्तो : A fortune teller *(नैमित्त)*

नेपच्चं : Adornment of the person, dressing up: costume of an actor *(नेपथ्य)*

नेपक्कं : Prudence, discrimination

नेपुञ्ञं : Cleverness *(नैपुण्य)*

नेरञ्जरा : Name of a river flowing through Magadha *(नैरञ्जना)*

नेरयिको : One suffering in hell, an inhabitant of one of the hells *(नैरयिक)*

नेरु : A name of Mt. Meru

नेरुत्तिको : An etymologist or philologist *(नैरुक्तिक)*

नेसादो : A hunter; an aboriginal tribe *(नैषाद्, निषाद)*

नेसज्जिकङ्गं : Precept enjoining a sitting posture *(निषधा + इक + अ)*

नेसं : *See सो*

नेता : A guide, a leader, a commander-in-chief *(नेतृत्व)*

नेति : *See नयति*

नेत्तं : The eye; a kind of cloth *(नेत्र)*

नेत्तिको : One who makes conduits for irrigating rice-fields *(नेत्र + इक)*

नेत्तिंसो (adj) **:** Merciless *(निस्त्रिंस)*

नेव : *See* न + एव

नेवन्तनान्तवादो (adj) **:** Holding the doctrine that the universe is neither finite nor infinite *(नैव + अन्त + न + अन्तत + वाद)*

नेवसञ्ञानासञ्ञा : Neither consciousness nor unconsciousness *(नैव + सञ्ज्ञा + न + असञ्ज्ञा)*

नेवसञ्ञानासञ्ञी : (adj) One who is in a state of semi-consciousness

नेवसेक्खनासेक्खो : One who is neither a Sekha nor an Asekha viz. unconverted man *(नैव + शैक्ष + न + अशैक्ष)*

नेवासिको (adj) **:** Inhabiting; dwelling in *(निवास + इक)*

नैय्यायिको : A dialectician, an adherent of the Nyaya philosophy *(नैयायिक)*

नैप्पो : To be led, to be inferred *(नेय = नी)*

ञेय्यो : That should be known; cognisable, ascertainable *(ज्ञेय = ज्ञा)*

नि : A preposition with the meaning downwards

नि : Before, a vowel, a preposition meaning outwards

निबद्धं (adj) **:** Continually, constantly, always *(निबद्ध = बन्ध)*

निबन्धनं : Binding, bonds: cause, motive *(निबन्धन)*

निबन्धति : To bind, to continue *(नि + बन्ध्)*

निबन्धो : Binding, continuance, perseverance *(निबन्ध)*

निब्बाहको (adj) **:** Accomplishing *(निर्वाहक)*

निब्बहति : To remove *(निस् + वह or वृहं)*

निब्बं : The caves of a roof *(नीव्र)*

निब्बानं : Extinction, destruction, annihilation: Nirvana annihilation of being: arahatship or final sanctification *(निर्वाण)*

निब्बनथो (adj) **:** Free from desire or human passion *(निस् + वन + थ)*

निब्बन्धति : To press hard *(निस् + बन्ध्)*

निब्बनो (adj) **:** Free from desire or human passion

निब्बापको (adj) **:** Extinguishing, destroying

निब्बापेति (caus) **:** To extinguish, to destroy, to put an end to, to sooth, to pacify, to delight, to annihilate *(निर्वापयति = बा)*

निब्बसनो (adj) **:** No longer worn, cast off *(निस् + वसन)*

निब्बति + निब्बायति : To be extinguished, to attain Nirvana to cease to exist, to be annihilated *(निस् + बा)*

निब्बत्तनं : Springing up, growing, being born: being re-born at death in another world, causing to arise, producing *(निर्वर्तन)*

निब्वत्तति : To spring up, to be born, to be produced, to grow, to arise: to be reborn after death in another world *(निस् + वृत्)*

निब्बत्तेति (caus) **:** To cause to rise, to produce *(निर्वर्तयति = वृत्)*

निब्बत्ति : Birth, rebirth, after-death in another-world *(निवृत्ति)*

निब्बत्तो : Spring-up, arisen; born: re-born in a new existence *(निवृत्त = वृत्)*

निब्बायति : *See निब्बति*

निब्बेधको (adj) **:** Penetrating, discreminating *(निस् + वेधक)*

निब्बेधेति : To pierce *(निस् + व्याधयति = व्यध्)*

निब्बेधो : Penetration *(निस् + वेध)*

निब्बेदिको (adj) : Connected with disgust or dissatisfaction *(निर्वेद + इक)*

निब्बेमतिको (adj) : Unanimous, consentment *(निस् + विमति + क)*

निब्बेसो : Payment, wages *(निर्वेश)*

निब्बेठनं : Unwinding, explanation *(निस् + वेष्टण)*

निब्बेठेति : To untwist, to unwind, to unravel; to explain: to say, to reject *(निस् + वेष्ट्)*

निब्भरो (adj) : Excessive, ardent *(निस् + भर)*

निब्भरो (adj) : Free from fear or danger, *(निस् + भय)*

निब्भोगो (adj) : Deprived of enjoyment, miserable *(निस् + भोग)*

निब्बिचिकिच्छा : (adj) Free from doubt *(निस् + चिकित्सा)*

निब्बिदा (adj) : Disgust with worldly life, aversion *(निस् + विद् + आ)*

निब्बिज्झति : To pierce, to transfix, to wound *(निस् + व्यध्)*

निब्बिकारो (adj) : Free from perturbation or emotion *(निस् + विकार)*

निब्बिक्खेपं (adv) : Clearly, without confusion *(निस् + विक्षेप)*

निब्बिन्दति : To be disgusted, to be wearied of the vanity of life *(निस् + विद्)*

निब्बिण्णो : Disgusted, wearied *(निर्विण = विद्)*

निब्बिरियो (adj) : Powerless, weak *(निस् + वीर्य)*

निब्बिसति : To find, to obtain, to enjoy *(निस् + विश्)*

निब्बिसेवनो (adj) : Not self, indulgent, self-denying *(निस् + वि + सेवन्)*

निब्बिसो (adj) : Free from poison *(निस् + विष)*

निब्बुद्धं : Close struggle, wrestling

निब्बुति : Peace, tranquility, calm, serenity of mind, happiness, Nirvana *(निर्वृति)*

निब्बुतो : Free from care or passion, serene, calm, peaceful, tranquil, happy: annihilated (having attained Nirvana), dead *(निर्वृत = वृ)*

निभासो : Appearance *(नि + भास् + अ)*

निभो (adj) : Like, resembling *(निभ)*

निबोधति : To know, to learn *(नि + बुध्)*

नीचकुलं : Any one of low origin *(नीच + कुल)*

नीचकुलीनो (adj) : Coming from a low family

नीचतरो (adj) : Rather low *(नीच + तर)*

नीचयो : Heap, store, accumulation *(निचय)*

निच्चलो (adj) **:** Firm, steady, quiet, at rest, immovable, unchangeable *(निस् + चल)*

निच्चमानको (adj) **:** Unwilling, reluctant *(न + इच्छमान = इष् + क)*

निच्छन्दो (adj) **:** Free from wish or desire *(निस + च्छन्द)*

निच्छारको (adj) **:** Putting out, emitting *(निश्चारक)*

निच्छरति : To come or go out, to proceed *(निस् + चर्)*

निच्छयो : Determination, resolution, decision: conviction *(निश्चय)*

निच्छिनति : To ascertain; to decide, to resolve: to investigate, try: inquire into *(निश्चि)*

निच्छितो : Convinced, having ascertained *(निश्चित)*

निच्चित्तो (adj) **:** Without thought or mind *(निश्चित)*

निच्चो (adj) **:** Perpetual, lasting, constant *(नित्य)*

निचितो : Piled up, accumulated *(निचित)*

नीचो (adj) **:** Low: mean: base *(नीच)*

निचुलो : The tree Barringtonia aculangula *(निचुल)*

निदाघो : A hot season; heat, drought; sweat *(निदाघ)*

निदहति, निदेति, निधेति : To put down, to lay aside, to deposit, hide, to bury: to enshrine *(निधा)*

नीडं : *See* *निड्ड*

निदानं : Primary source, origin, cause: cause of a disease: introduction *(निदान)*

निदस्सनं : Pointing out, indicating, designation: example, illustration: sight view *(निदर्शन)*

निदस्सेति : To point out, indicate, show, tell, set-fourth, communicate, advise *(निदर्शयति = निदृश्)*

निद्दा : Sleep, slumber, sloth *(निद्रा)*

निद्दालू (adj) **:** Sleepy, drowsy, sluggish, slothful *(निद्रालु)*

निद्दरो (adj) **:** Free from suffering *(निर्दर)*

निद्दासीली (adj) **:** Drowsy, slothful *(निद्रा + शील + इन्)*

निद्दायनं : Sleeping, sleepy

निद्दायति : To sleep *(निद्रा)*

निद्दायिता : One who sleeps, drowsy, slothful *(निद्रै + तृ)*

निद्दयो (adj) **:** Merciless, cruel *(निर्दय)*

निद्देसो : Pointing out, designation, specification, description, showing forth *(निर्देश)*

निड्ड : A nest

निद्धमति : To remove, get rid of *(निर्ध्मा)*

निद्धनो (adj) **:** Poor, needy *(निर्धन)*

निद्धारणं : Singling out, separating, specifying one of the many causes

निद्धोतो : Washed *(निर्धौत)*

निद्धूनकं : Throwing about the hands in eating

निद्दिसति : To point out, specify, mention, enumerate declare, to describe, to narrate, explain *(निर्दिश)*

निद्दोसो (adj) **:** Faultless, guiltless *(निर्दोष)*

निद्दुक्खो (adj) **:** Free from suffering, Sootheless *(निर्दुःख)*

निधानगो (adj) **:** Treasured up *(निधान + ग)*

निधनं, नो : Death *(निधन, निधनस्)*

निधानं : Depositing, enshrining: a receptacle, treasury: store, wealth treasure *(निधान)*

निधानवा (adj) **:** Worth treasuring up: precious *(निधान + वन्)*

निधाय + निधेति : See *निधति*

निधि : A depository: treasure *(निधि)*

निधायति : See *निधेति*

निधुरो : A bracelet

निदिद्धिका : A sort of prickly nightshade *(निदिग्धिका)*

निगच्छति : To enter, come into: to undergo *(निगम्)*

निगदति : To tell, declare, recite explain *(निगह)*

निगादो : Speech, recitation *(निगद, निगाद्)*

निगलो : A chain, fetter *(निगड)*

निगमनं : Deduction *(निगमन)*

निगमो : The Veda: a market town *(निगम)*

निगण्ठो : A naked ascetic *(निर्ग्रन्थ)*

निग्गच्छति : To go out, depart, proceed or come forth from *(निर्गम)*

निग्गाहको : One who rebukes: one who coerce or oppresses *(निग्राह + क)*

निग्गहणो (adj) **:** Free from attachment

निग्गहनं : Censure, chastisement *(निग्रहण)*

निग्गहेस्सति : See *निग्गण्हाति*

निग्गहीतो : Restrained, confined, held-back: rebuked, punished *(निगृहीत)*

निग्गहो : Restrained, subduing, rebuke, censure, punishment, degradation *(निग्रह)*

निग्गमनं : Exit, departure *(निर्गमन)*

निग्गमो : Going forth, departure: an issue, out-let *(निर्गम)*

निग्गन्धो (adj) **:** Inoderous: sweet: free from bad smell *(निर्गन्ध)*

निग्गण्हनं : Restraint *(निग्रह)*

निग्गण्हाति : To restrain, coerce, subdue: to rebuke, humble: to chastise, degrade *(निग्रह)*

निग्गतो : Gone-out: departed *(निर्गत)*

निग्गह्यवादी (adj) **:** One who censures another for his faults instead of winking of them

निग्घोसो : Noise, uproar *(निर्घोष)*

निग्गुम्बो : (adj) Free from bushes, clear, even *(निर्गुल्म)*

निग्गुण्डी : Name of a shrub *(निर्गुण्ड)*

निग्गुणो (adj) **:** Devoid of good qualities, bad *(निर्गुण)*

निघण्डु : A collection of names or vocabulary, a lexicon in which the words classed according to subjects and not alphabetically *(निघण्टु)*

निघातेति : To kill, destroy *(निघातयति)*

नीघो : Grief, suffering, woe

निग्रोधो : The banyan or Indian fig tree *(न्यग्रोध)*

निगूहितो : Covered, concealed *(निगूहित = गुह्)*

निहन्ति : To put down: to settle, to put an end to: to strike down, destroy *(निहन्)*

नीहारको (adj) **:** Carrying away *(निर्हारक)*

नीहरणं : Removal, taking out, expulsion *(निर्हरण)*

नीहरति : To draw out, release, take out, carry away, remove, dismiss *(निर्ह)*

नीहारो : Way, manner *(निर्हार)*

नीहारो : Fog: frost *(नीहार)*

निहतो : Struck down, destroyed, ruined: put an end to, decided, settled *(निहत)*

निहटो + निहतो : Removed, taken-away *(निर्हत)*

निहीनको (adj) **:** Low, vile *(निहीन + क)*

निहिनो : Low, vile, bare, contemptible *(निहीन)*

निहितो : Laid down: treasured up *(निहीत)*

निहीयति : To deteriorate, perish, decay *(निहीयते = निहा)*

निजिगिंसना : Covetousness

निजिगिंसति : To wish to take, try to get: covet *(नि + जिहीर्षति)*

निजिगिंसति (adj) **:** Covetous, rapacious *(नि + जिहीर्ष + तृ)*

निज्जलो (adj) **:** Without water, dry *(निर्जल)*

निज्जरो (adj) **:** Free from decay: not growing old *(निर्जर)*

निज्जटो (adj) **:** Disentagled *(निस् + जटा)*

निज्झामतण्हिको : A class of Pretas, wandering about the world of men tormented with perpetual thirst

निज्झानं : Sight: insight: intuition: perception *(निध्यान)*

निज्झापेति : To give to understand

निज्झरो : A caseade *(निर्झर)*

निज्जीबो (adj) **:** Lifeless *(निर्जीव)*

निजो (adj) **:** Own *(निज)*

निकामं (adj) **:** Willingly, voluntarily *(निकामम्)*

निकामेति : To long for, care for *(निकम्)*

निकामो : Desire *(निकाम)*

निकण्णिकं : To whisper into ear *(नि + कर्ण + इक)*

निकन्ति : Desire, wish *(नि + कान्ति)*

निकरो : A multitude, quantity *(निकर)*

निकसो : A touch stone: a whet-stone *(निकष)*

निकति : Baseness, dishonest, fraud *(निकृति)*

निकतो : Base, dishonest, wicked *(निकृत)*

निकटो (adj) **:** Near *(निकट)*

निकट्ठे (adj) **:** In the neighbourhood, near: shortly, soon *(निकृष्ट)*

निकायो : A multitude, assemblege: a collection: a class, order, group: an association, fraternity, congregation a house, dwelling *(निकाय)*

निकेतनं : A house, habitation *(निकेतन)*

निकेतो : A house, dwelling, home *(निकेत)*

निखनति : To dig into, to bury *(निखन्)*

निखिलो (adj) **:** Entire, all *(निखिल)*

निकिट्ठो : Low, vile, out-cast *(निकृष्ट)*

निक्कड्ढति : To cast-out, expel, dismiss *(निष्कृष्)*

निक्कामी (adj) **:** Free from kama to desire *(निष्काम)*

निक्कम्मो (adj) **:** Without occupation *(निष्काम)*

निक्कङ्खा : Absence of doubt, certainty *(निस् + शंका)*

निक्कङ्खो (adj) **:** Free from doubt *(नि + शंक)*

निक्कसावो (adj) **:** Free from impurity or sin *(निस् + कषाय)*

निक्केसो (adj) **:** Bald *(निष्केश)*

निक्खमनं : Going out, or away, departure *(निष्क्रमण)*

निक्खमति : To go out, to set out, start, go-forth, go away depart *(निष्क्रम्)*

निक्खमो : Going-out, exit *(निष्क्रम)*

निक्खन्तो : Gone-out, departed *(निष्कान्त)*

निक्खेपो : Putting down, depositing, rejection *(निक्षेप)*

निक्खिको : A royal-treasurer or mint-master *(नैष्किक)*

निक्खिपनं : Putting-down *(निक्षिपण)*

निक्खिपति : To put down, throw down: to lay or throw aside: to lay up, deposit, keep *(निक्षिप्)*

निक्खित्तो : Put down, thrown down: laid aside: deposited *(निक्षिप्त)*

निक्खो + निक्खं : A golden ornament for neck or breast: gold, a weight of gold equal five suvannas *(निष्क)*

निक्किलेसो (adj) **:** Free from kilesa *(निष्क्लेश)*

निक्कसज्जो (adj) **:** Overturned, upside down *(निस् + कुब्जित)*

निकुब्वति : To deceive, cheat, defraud *(निकृ)*

निकुज्जति : To attach importance to, to lay at heart

निकुञ्जो, जं : A thicket, a bower *(निकुञ्ज)*

नीलत्तं : Dark blue-colour, blueness *(नील + त्व)*

निलयो : A dwelling, habitation, nest *(निलय)*

नीली : The indigo plant *(नीली)*

नीालिका : Name of an acqualic plant *(नीलिका)*

नीलिनी : The indigo-plant *(नीलिनी)*

निलीयति : To settle-down, alight: to lurk, hide *(निली)*

निल्लज्जो (adj) **:** Shameless *(निर्लज्ज)*

निल्लेहकं : Licking *(निस् + लेह + क)*

निल्लोपो : Plundering *(निस् + लुप् + क)*

नीलो (adj) **:** Black : dark blue: dark green *(नील)*

नीळो + नीळं : A nest: a haunt, receptacle *(नीड)*

निमन्तनं : Invitation *(निमन्त्रण)*

निमन्तेति : To invite, offer

निम्बो : Nimb tree *(निम्ब)*

निमीलेति : To close the eyes *(निमील)*

निमित्तं : A sign, mark, token, omen: cause, reason: pudendum *(निमित्त)*

निम्मद्दनं : Crushing subduing *(नि + मर्दन)*

निम्मद्देति (caus) **:** To crush, subdue, overcome

निम्मक्खिको (adj) **:** Free from flies *(निर्मक्षिक)*

निम्मलो (adj) **:** Stainless, pure, innocent *(निर्मल)*

निम्मंसो (adj) **:** Fleshless *(निर्मांस)*

निम्मानं : Measuring: forming, making, creation, fabrication *(निर्माण)*

निम्मन्थ्यो (adj) **:** To be stirred or rubbed *(निर्मन्थ्य)*

निम्माता : A maker, creator *(निर्मातृ)*

निम्मातापितिको : (adj) Without father or mother: orphan *(निस् + मातापितृ + क)*

निम्माथितो : Agitated *(निर्मथित)*

निम्मिनाति + निम्मायति : To form, make, fashion, build, to create, cause to appear by supernatural power *(निमा)*

निम्मितो : Made, fashioned, created *(निर्मित)*

निम्मोको : The slough or cast off skin of a snake *(निर्मोक)*

निमुग्गो : Sunk, immersed *(निमुग्र)*

निमुज्जति, निम्मुज्जति : To sink, dive, plunge *(निमज्ज, निर्मज्ज)*

निनादवा (adj) **:** Noisy *(निनाद + वन्त्)*

निनदो, निनादो : Noise *(निनद, निनाद)*

निन्दा : Blame, rebuke, reproach: to despise *(निन्द्)*

निन्दति : To blame, to reproach: to despise *(निन्द्)*

निङ्गो : A sort of deer *(न्यङ्कु)*

निन्नादी (adj) **:** Resounding

निन्नादो : Noise, sound *(निस् + नाद्)*

निन्नगा : A river *(निन्नगा)*

निन्नाहुत्तं : One of high numerals : followed by 35 ciphers *(निस् + स्नुत)*

निन्नं : Depth, low ground: the sea the deep *(निम्न)*

निन्नामेति : To put out as the tongue *(निस् + नामयति = नम्)*

निन्नयो : Certainty *(निर्णय)*

निन्नेजको : A washerman *(निर्णेजक)*

निन्नो (adj) **:** Deep, lowlying *(निम्न)*

निपच्चाकारो : Subjection, inferiority, servitude, service *(निपत्य + आकार)*

निपच्चति : To be laid-down, settled, determined *(निपत्यते)*

निपज्जति : To lie down *(नि + पद्यते = पद्)*

निपको (adj) **:** Prudent, wise *(निपक)*

निपानं : A trough near a well *(निपान)*

निपन्नो : Lying down *(नि + पन्न = पद्)*

निपातनं : Causing to descend; striking: flying down or about *(निपातन)*

निपतति : To fall down, to descend: to rush or fly about *(निपत्)*

निपठो + निपाठो : Reading, studying *(निपठ, निपाठ)*

निपाति (adj) **:** Flying down or about, wandering *(निपातिन्)*

निपातो : Falling down, descending *(निपात)*

निपीयति : To be drunk in, imbided

नीपो : The tree Nauclea, Cadamba, a species of Asoka tree *(नीप)*

निप्पच्चयो (adj) **:** Unprovided wish requisites, destitute *(निस् + प्रत्यय)*

निप्पज्जति : To be accomplished, effected, to succeed: to ripen *(निष्पद्)*

निप्पक्को (adj) **:** Boiled, infused *(निष्पक्क)*

निप्पञ्ञो (adj) **:** Unwise, foolish *(निस् + प्रज्ञ)*

निप्पपञ्चो (adj) **:** Free from delay: free from the conditions, such as lust, pride anger, which delay a man in his spiritual progress *(नष्प्रपञ्च)*

निप्पपो (adj) **:** Sinless *(निष्पाप)*

निप्पावो : Winnowing, clearing *(निष्पाव)*

निप्पेसिको : A juggler *(नैष्पेषिक)*

निप्फादनं : Accomplishment *(निष्पादनं)*

निप्फादेति : To accomplish, effect, settle, bring to a successful termination, perform, produce, procure *(निष्पादयति)*

निप्फलो (adj) **:** Fruitless, useless, without reward, unprofitable *(निष्फल)*

निप्फन्नो : Arisen, produced: formed, effected, accomplished: springing from, made *(निष्पन्न)*

निप्फातितो : Ruined, destroyed *(निष्पातित)*

निप्फत्ति : Perfection, accomplishment *(निष्पत्ति)*

निप्पीळेति : To importune, vex

निप्पीतिको (adj) **:** Free from active joy *(निस् + प्रीति + क)*

निप्पुरिसो (adj) **:** Without men, without people *(निष्पुरूष)*

निपुणो (adj) **:** Clever, skilled, sharp, intelligent: delicate, subtle abstruse *(निपुण)*

निरब्बुदं : A vast number or 1 followed by 63 ciphers

निरब्बुदो (adj) **:** Free from boils or tumours: free from heresy (said of religion) *(निस् + अर्बुद)*

निरग्गलो (adj) **:** Unobstructed *(निरर्गल)*

निराहारो (adj) **:** Without food, fasting *(निराहार)*

निराकति : Rejection, contradiction *(निराकृति)*

निराकुलो (adj) **:** Clear, undisturbed, tranquil *(निराकुल)*

निरालम्बो (adj) **:** Having no prop.: unsupported *(निरालम्ब)*

निरालयो (adj) **:** Free from attachment or desire *(निस् + आलय)*

नीरं : Water *(नीर)*

निरामयो (adj) **:** Healthy *(निरामय)*

निरामिसो (adj) **:** Free from worldly taint, disinterested, pure *(निरामिष)*

निरन्तरो (adj) **:** Without interstices, compact, dense, solid coarse *(निरन्तर)*

निरपराधो (adj) **:** Innocent, free from fault or error *(निरपराध)*

निरपेक्खो, पेखो (adj) **:** Disregarding *(निरपेक्ष)*

निरासको (adj) **:** Free from desire *(निस् + आशा + क)*

निरसनं : Rejection *(निरसन)*

निरासङ्को (adj) **:** Without apprehension, safe: without hesitation *(निराशङ्क)*

निरसनो (adj) **:** Fasting *(निरशन)*

निरासयो (adj) **:** Free from desire *(निस् + आशय)*

नीरसो (adj) **:** Sapless, juiceless: tasteless, insipid, nasty *(नीरस)*

निरासो (adj) **:** Free from desire *(निस् + आशा)*

निरातङ्को (adj) **:** Free from disquiet, safe, peaceful *(निस् + आनङ्क)*

निरतो : Pleased, delighted in *(निरत)*

निरत्थको, निरत्थो (adj) **:** Vain, unmeaning, useless, unprofitable *(निरर्थक, निरर्थ)*

निरवसेसो (adj) **:** Without a residue, complete *(निरवशेष)*

निरवो (adj) : Noiseless, silent *(नि + रव)*

निरयपो : Name of one of the guardians of hell *(निरय + प)*

निरयो : Hell *(निरय)*

निरोधो : Cessation, annihilation: Nirvana: obstruction impeding *(निरोध)*

निरोगो : Healthy *(निरोग)*

निरोजो (adj) : Tasteless, insipid *(निस् + ओजस्)*

निरुदको (adj) : Free from water, waterless *(निरुदक)*

निरुद्धो : Destroyed, brought to an end: annihilated: dead *(निरुद्ध)*

निरुज्झति : To cease, perish, be destroyed, annihilated

निरुपभोगो (adj) : Useless, unattractive *(निरुपभोग)*

निरुपधि : *See* उपधि

निरुपकारो (adj) : Useless *(निस् + उपकार)*

निरुस्सुक्को (adj) : Careless, indifferent, idle *(निस् + औत्सुक्य)*

निरुत्ति : One of the vedangas, explanation of difficult Vedic words: artificial explanation of the meaning of words *(निरुक्ति)*

निसा : Night *(निशा)*

निसदा + निसदो : A grandstone or milestone nether

निसादी (adj) : Lying down, resting *(निषादिन्)*

निसादो : The first of the seven musical notes of the Hindu gamut *(निषाद)*

निसग्गो : Natural state, nature *(निसर्ग)*

निसज्जा : Sitting, session *(निषद्या)*

निसाकारो : The moon *(निशाकर)*

निसामनं : Seeing, observing, attending to, listening *(निशमन)*

निसामेति : To attend, to listen to, hear, observe, mind, be careful of *(निशामयति)*

निसम्पकारी (adj) : Acting with care or attention, circumspect *(निशम्य + कारिन्)*

निसानाथो : The moon *(निशानाथ)*

निसन्ति : Careful, attention or observation *(नि + शम् + ति)*

निसेधनं : Prevention *(निषेधन)*

निसेधेति (caus) : To prevent, prohibit, put a stop to, dissuade *(निषेधयति)*

निसेधो : Prevention, prohibition, restraint *(निषेध)*

निसेवति : To attach oneself to, serve, wait upon, follow, embrace practice: to resort to, inhabit *(निषेव्)*

निसीदनं : Sitting, a mat to sit on

निसीदति : To sit down: alight: settle down *(निषद्)*

निसिन्नको (adj) **:** Seated *(निषणक)*

निसिन्नो : Seating, setting, perched *(निषण)*

निसीथो : Midnight *(निशीथ)*

निस्नेहो (adj) **:** Without love, indifferent *(निस्नेह)*

निसद्दो (adj) **:** Noiseless, silent *(निःशब्द)*

निस्सग्गियो (adj) **:** That should be rejected, given up, abandoned; to be forfeited

निस्सग्गो : Giving up, surrendering *(नि + सर्ग)*

निस्सज्जनं : Giving up, forfeiture

निस्सज्जति : To give-up, abandon, surrender, forfeit

निस्सक्कनं : Going out

निस्सको : A name of the ablative (Grammatical term)

निस्संसयो (adj) **:** Certain, undoubted *(नि, संसय)*

निस्सन्दे : Consequence or result *(निःस्यन्द, निस्यन्द)*

निस्सनो : Sound, noise *(निस्वन)*

निस्सरणं : Departure, going out: exit, egress, outlet; outcome, result: escape from sansara, salvation *(निःसरण)*

निस्सारणं : Expulsion *(निःसारण)*

निस्सारणीयो : Connected with expulsion *(निःसारणीयो)*

निस्सरति : To depart, escape *(निःसृ)*

निस्सारो (adj) **:** Sapless: vain, unsubstantial; non-existant *(निःसत्व)*

निस्सावो : The scum or water of boiling rice *(निःस्त्राव)*

निस्साय : Leaning upon, or towards, dependent upon: close to near by: on account of, by reason of, through, for

निस्सयदो : One who gives protection *(निःश्रय)*

निस्सयति : To depend on, belong to *(नि + श्रि)*

निस्सयो : That on which anything depends or rests, refuge, shelter, help, protection, resource, requisite, necessary

निस्सेणी : Ladder, stairs *(निःश्रेणि)*

निस्सेसो (adj) **:** Complete, all, entire *(निःशेष)*

निस्सीलो (adj) **:** Irreligious *(निस् + शील)*

निस्सीमो (adj) **:** Outside the boundary *(निः सीमन्)*

निस्सिरीको (adj) **:** Unfortunate, ill-fated, inglorious *(निःश्रीक)*

निस्सितको : A pupil, adherent

निस्सितो : Inhabiting: placing or stationing oneself in: having recourse to, dependent on, inherent in, connected with, resting on

निस्सोको (adj) **:** Free from sorrow *(निःशोक)*

निसूदनं : Destroying, slaughter *(निसूदन)*

नितम्बो : The swell of the loins, the buttocks; the swell or slope of a mountain *(नितम्ब)*

नीतत्थो : Natural meaning *(नीत + अर्थ)*

नीति : Guidance, management, practice, conduct: habit, institutions: propriety, right conduct, prudent council, statemanship, polity *(नीति)*

नीतिमा (adj) **:** Prudent, politic *(नीतिमत्)*

नीतो : Led, inferred *(नीत)*

नीत्तचो (adj) **:** Free from bark *(निस् + त्वच्)*

नित्तलो (adj) **:** Spherical *(निस्तल)*

नित्तण्हो (adj) **:** Free from desire or lust *(निस् + तृष्ण)*

निट्ठा : Completion, accomplishment, perfection: end, conclusion: ascent, ascertainment: disappearance, destruction *(निष्ठा)*

नित्थद्धो (adj) **:** Paralysed, slittened *(निस्तब्ध)*

निट्ठानं : Accomplishment, completion *(निष्ठान)*

निट्ठापेति : To complete, finish, accomplish *(नि + स्थापयति)*

नित्थरणं : Release, escape *(निस्तरण)*

नित्थरति : To get across, get over, get clear of, escape from *(निस्तृ)*

निट्ठाति : To terminate, be finished or completed, to come to an end *(नि + स्था)*

नित्थिण्णो : Passed through, escaped from *(निस्तीर्ण)*

निट्ठितो : Completed, finished, accomplished, ended *(निष्ठित)*

निट्ठुभति : To spit out *(निष्ठीव्)*

नित्थुनाति : To bewail *(नि + स्तन्)*

निदुरो (adj) **:** Harsh, hard *(निष्ठुर)*

नित्थुसो (adj) **:** Without husks *(निस्नुष)*

निवहो : A multitude, quantity *(निवह)*

निवापो : Oblation to the manes of deceased relative; offering to Petas: offering, charity, alms: ration, allowance, bhatta: provision, food *(निवाप)*

निवारणं : Keeping off, warding off: preventing *(निवारण)*

नीवरणं : Obstacle, hindrance *(निस् + वृ + अन)*

निवारेता : One who keeps off

निवारेति : To keep off, ward off: to restrain, hinder, prevent, stop *(निवारयति)*

निवारो : Prevention *(निवार)*

नीवारो : Wild rice or paddy *(नीवार)*

निवासनं : Clothing, an undergarments *(निवासन)*

निवासनं : Dwelling *(निवासन)*

निवासेति : To put on, dress, wear (especially of an undergarment *(निवासयति)*

निवासेति : To cause to dwell

निवासी (adj) **:** Dwelling *(निवासिन्)*

निवासो : Residence, dwelling, abode, station, night-quarters *(निवास)*

निवातो : Lonliness, humility

निवत्तनं : Turning back: refutation *(निवर्तन)*

निवत्तति : To turn back, return, depart, to stop, halt: to cease, desist *(निवृत्)*

निवत्थो : Dressed, clothed: put on, worn

निवत्ति : Turning back: returning, stopping *(निर्वति)*

निवत्तो : Returned, turned back:recoiling: stopped, ceased *(निवृत्त)*

निवेदनं : Informing, announcement *(निवेदन)*

निवेदेति : To make know, inform, announce, report, relate *(निवेदयति)*

निवेदी (adj) **:** Making known, informing *(निवेदिन्)*

निवेसनं : Resting-place, residence, dwelling *(निवेशन्)*

निवेसेति : To cause to enter, to introduce, to place: to cause to settle or dwell: to fix, place, establish: to found, build *(निवेशयति)*

निविसति : To settle, encamp *(निविश्)*

निविट्ठो : Encamped, settled, established, fixed on, devoted; married *(निविष्ट)*

निवुतो : Surrounded, hemmed-in, obstructed *(निवृत)*

निवुत्थो : Inhabited

नियामको (adj) **:** Curbing, governing, restraining, guiding *(नियामक)*

नियमनं : Restraining, regulation *(नियमन)*

नियमेति : To restrain: to fix: to prescribe: ordain *(नियमयति)*

नियमो : Ascertainment, certainty: restraint, training, self-imposed, religious observance: voluntary performance of a meritorious act *(नियम)*

नियामो : Way, manner *(नियाम)*

नियन्ता : One who restraints, guides or governs *(नियन्तृ)*

नियति : Fate, luck, destiny *(नियति)*

नीयति, नीयाति : *See नियति, निय्याति*

नियतो : Fixed, certain, self-controlled, temperate *(नियत)*

नियो (adj) **:** Own *(निज)*

नियोगो : Injunction, appointment, order *(नियोग)*

नियोजनं : Appointment, ordinance, bidding, enjoining *(नियोजन)*

नियोजनिको (adj) **:** One who orders or urges *(नियोजन + इक)*

नियोजेति : To appoint, commission, enjoin, ordain, decree, urge *(नियोजयति)*

नियुरो : A bracelet

नियुत्तो : Attached or appointed to *(नियुक्त)*

निय्यादेति, नीयादेति : To give back, restore: to hand over, give up *(निर्यत्)*

निय्यमो : *See नियमो*

निय्यानं : Setting out, departure, marching *(निर्याण)*

निय्यानिको (adj) **:** Leading to salvation *(निर्याण + इक)*

निय्यातनं : Return of a deposit, gift *(निर्यातन)*

निय्यातेति : *See निय्यादेति*

निय्यति, नीयति : To be led, carried along, led away *(नीयते)*

निय्याति, नीयाति : To go out, depart, escape: to fall out, result, conduct, lead to, conduce tend *(निर्या)*

निय्यूहो : A chaplet, crest: a clothes peg: exudation of trees as sap, gum: a door gate *(निर्यूह)*

नो : A substitute for some of the cases of the plural of the pronoun of the first person *(नस्)*

नो : no *(नो)*

नोनीतं : *See नवनीतं*

नु : Pray ! I wander *नु*

नुदको (adj) **:** Dispelling, putting away *(नुद् + अक)*

नुदनं : Repulsion, rejection *(नुद् + अन्)*

नुदति : To remove, dispel, avert, reject, put-away *(नुद्)*

नुदो (adj) **:** Dispelling *(नुद्)*

नून (adj) **:** Surely : perhaps I suppose *(नूनम्)*

नुन्नो : Thrown, cast, dismissed, impelled *(नुन्न)*

नूपुरो : An anklet *(नूपुर)*

नुतन (adj) **:** New, fresh *(नूतन)*

नुति : Praise *(नुति)*

नुतो : Praised *(नुत)*

नुट्ठभति : See *(निट्ठभति)*

नुत्तो : Thrown *(नुत्त)*

न्यासो : A deposit, pledge, mortgage: multitude, assemblage *(न्यास)*

O

ओभग्गो : Broken *(अवभग्न)*

ओभासति : To shine *(अवभास्)*

ओभासति, अवभ : To speak, to address *(अवभाष्)*

ओभासो, अवभ : Lustre, radiance, light: appearance, manifestation : reach, range: a hint *(अवभास)*

ओचिक्खति : To point out, draw attention to *(अवचक्ष्)*

ओचिनति : To gather, pick *(अवचि)*

ओदहनं : Depositing, stowing away

ओदहति : To pit in, to deposit: to attend, apply *(अवधा)*

ओदकन्तिको : A deep pit or hole in the earth

ओदक (adj) **:** Belonging to water-watery, aqueous *(ओदक)*

ओदनं, नो : Boiled rice *(ओदन)*

ओदनिको : A cook *(ओदनिक)*

ओदातो : White: pure, clean, clear *(अवदात)*

ओधि : Limit, limitation: district, division *(अवधि)*

ओधिसो (adj) **:** At the end of a period, ultimately *(अवधि + शस्)*

ओदिस्सा : A ger, from दिश् with अव - meaning expressly

ओदुम्बरो (adj) **:** Belonging to the udumbara tree *(ओदुम्बर)*

ओगच्छनं : Going out

ओगधो (adj) **:** Belonging to, connected with, contained in *(अव + गाध)*

ओगाहति, ओगाहेति : To dive, plunge into, enter *(अवगाह)*

ओगाहो : Plunging into, wading fording *(अवगाह)*

ओगाळ्हो : *See (ओगाहति)*

ओगमनं : Going down, setting *(अवगम् + अन)*

ओगह्य : *See (ओगाहति)*

ओघो : Flood, inundation, torrent, overflow: multitude, quantity *(ओघ)*

ओगिलति : To swallow *(अवगृ)*

ओगुण्ठितो : Covered, veiled, wrapped-up *(अवगुण्ठित)*

ओहारणं : Removing

ओहारेति : To remove *(अवहृ)*

ओहारी (adj) : Dragging down *(अवहार + इन्)*

ओहाय : *See* *ओजहति*

ओहितो : Put in, deposited: put down, laid aside *(अवहित)*

ओहीयति : To be left *(अवहीयते)*

ओजा : Strength, sap of life, vitality: sap, juice *(ऊर्ज्)*

ओजदीपो : A name of Ceylon *(ऊर्ज + द्वीप)*

ओजहति : To leave, forsake, abandon, renounce *(अवहा)*

ओजवा (adj) : Juicy, succulent, sweet luscious *(ऊर्जस्वत्)*

ओजो : Light, splendour: strength, vigour *(ओजस्)*

ओकं : Water *(उदक)*

ओकप्पनीयो (adj) : Becoming, suitable, proper

ओकारो : Vileness, worthlessness

ओकासलोको : World or realm of space *(अवकाश + लोक)*

ओकासो, अवकासो : Place, room, space: interval, occasion, opportunity: leave, permission: leisure, cause *(अवकाश)*

ओकिरणं : Sprinkling

ओकिरति : To sprinkle *(अव + कृ)*

ओक्काको : A proper name *(इक्ष्वाकु)*

ओक्कमनं : Descent

ओक्कमति : To descend, step down: to disembark: to fall into, enter or come into *(अवक्रम्)*

ओक्कन्ति : Descent, falling upon *(अवक्रान्ति)*

ओक्कन्तो : Descended, entered: embarked *(अव + क्रान्त)*

ओक्कस्सा : Having dragged away, abducted *(अवकृष्)*

ओक्कट्ठो : Lowered, low *(अवकृष्ट)*

ओक्खित्तो : Cast-down, lowered *(अवक्षिप्त)*

ओलग्गितो : Hanging down *(अव् + लगित्)*

ओलम्बको (adj) : Hanging *(अवलम्बक)*

ओलम्बति : To hang down *(अवलम्ब)*

ओलम्बो : Something hanging, an appendage *(अवलम्ब)*

ओळारिको (adj) : Large, great: gross: coarse: material *(ओदारिक)*

ओलिगल्लो : A dirty pool near a village

ओलोकनं : Looking, looking at *(अवलोकन)*

ओलोकेति, : To look, see at, behold, look-down upon: to look for, await watch: to consider, regard *(अवलोक)*
ओलोकति, अवलोकेति

ओलुम्पिको (adj) **:** Belonging to a raft *(उडुप + इक)*

ओमको (adj) **:** Low, inferior, vile *(अवमक)*

ओमसति : To revile, to reproach *(अव + मृश्)*

ओमसवादो : Scornful, contemptous, reproachful speech *(अवमृश + अ + वाद्)*

ओमञ्चति : To take off, unloose, remove *(अवमुच्)*

ओमुत्तेति : To make water upon *(अवमूत्र)*

ओनद्धो, अवनद्धो : Covered, bound *(अवनङ्घ)*

ओणमति : To stoop, to bow *(अवनम्)*

ओनन्धनं : Tying, entangling

ओनन्धति : To cover, to bind *(अवनह्)*

ओणतो : Bent, stooping *(अवनत)*

ओञ्ञातो, अञ्ञातो : Low-born *(अव + ज्ञात)*

ओनवीसतिवस्सो : (adj) One who is there twenty years old i.e. under age for ordination

ओणीतो : Drawn out, removed *(अव + नीत)*

ओपधिको : (adj) Belonging to Upadhi *(औपगव्)*

ओपम्मं : A simile, comparison, mataphor, analogy *(औपम्य)*

ओपनयिको : (adj) Conducive *(उपनय + इक)*

ओपपातिको : (adj) Accidental, phenomenal, apparitional *(उपजात + इक)*

ओपरज्जं : The office of sub-king: royalty *(उपराज + य)*

ओपसमिको : (adj) Leading to quiet or ceassation *(उपशम् + इक)*

ओपसिलेसिको : Relating to immediate contract, containing, embracing *(औपश्लेषिक)*

ओपतितो : Fallen down *(अव + पतित)*

ओपवह्यो : (adj) Intended for riding on *(औपवाह्य)*

ओपायिको : (adj) Proper, fit, right *(उपाय + इक, औपयिक)*

ओपनाति : To winnow, sift: metaphorically, to expose, lay-bear, faults of others *(अव + पू)*

आपुञ्जति : To heap or collect to-gether *(अव + पुञ्ज्)*

ओरब्भिको : A butcher *(औरंभ्रिक)*

ओरं : See *ओरो*

ओरमत्तको : (adj) Belonging to the present life, mundane, sublinary *(अवर + मात्र + क)*

ओरम्भागियो : (adj) Belonging to the lower part: belonging to the Kamabhava *(अवरम् + भाग + य)*

ओरपारं : The hither and further side *(अवार + पार)*

ओरससूनता : Own-sonship *(औरस + सुनु + ता)*

ओरसो : Legitimate, own *(औरस)*

ओरसो : (adj) On this side *(अवार + शस्)*

ओरिमो : (adj) On this side *(अवारतस्)*

ओरिमो : (adj) Hither, on this side *(अवार + इम)*

ओरो : (adj) Below, less: posterior, later: hither, on this side *(अवर, आवार)*

आरोधो : Harem, Seraglio, apartments of the royal ladies *(अवरोध)*

ओरोहणं : Descent *(अवरोहण)*

आरोहति, ओरुहति : To descend; to disembark *(अवरुह)*

ओरोपनं : Taking down, removal *(अवरोपण)*

ओरोपेति : To cause to descend, take down, put down *(अव + रोपयति)*

ओसोदेति : To cause to sink, to depress *(अवसादयति)*

ओसधं : a herb: a herb used in medicine; medicine or drug *(औषध)*

ओसधि : a herb, plant, annual *(ओषधि, औषधी)*

ओसधिसो : a moon *(ओषधीश)*

ओसक्कति : To draw back, refuse; to give way; retreat

ओसानं, अवसानं : End, conclusion *(अवसान)*

ओसापेति : To finish, complete (caus. *अवसो)*

ओसारणा, णं : Restoration of a priest who has been temporarily secluded from brother priests as a penance for an offence

ओसरति, अवसरति : To go to, resort, repair, approach *(अव + सृ)*

ओसीदनं : Sinking

ओसीदापनं : Causing to sink

ओसीदति : To settle down, to sink, to decline *(अवसद्)*

ओसिञ्चति : To sprinkle *(अवसिच्)*

ओसो : Beam, ray *(ओष)*

ओस्सज्जति, ओस्सजति : To give up, relinquish, renounce *(अवसृज्)*

ओसुमिको (adj) : Relating to heat *(उष्मन + इक)*

ओतरणं, अवतरण : Descent, entrance into, going down into *(अवतरण)*

ओतारणं : Causing to descend *(अवतारण)*

ओतरति, अवतरति : To descent, to disembark; to depart, to betake oneself to, go to, enter *(अवतृ)*

ओतारो, अवतारो : Descent; entrance; a landing-place; a defect; a fault *(अवतार)*

ओततो : Covered, overspread overgrown *(अवतन)*

ओतिंण्णको (adj) : One who descends

ओतिण्णो, अवतिण्णो : Gone down, descended; disembarked; having entered *(अवतीर्ण)*

ओत्तापी (adj) : Fearful of sinning, conscientious *(उत्ताप + इन्)*

ओत्तप्पं : Fear of sinning, shrinking from sin, having a tender conscience, conscientiousness

ओट्ठजो (adj) : Labial *(ओष्ठ + ज)*

ओत्थरति, अवत्थरति : To spread, to cover; to scatter; to overspread, pervade *(अवस्तृ)*

ओट्ठो : The lip *(ओष्ठ)*

ओट्ठो : A camel *(उष्ट्र)*

ओवादको (adj) : Admonishing *(अववाद + क)*

ओवदति : To admonish, exhort, edify, advise, instruct *(अववद्)*

ओवादो : Admonition, exhortation *(अववाद)*

ओवरको : An inner room, store room *(अव + वृ + अक)*

ओवट्ठो : Rained down *(अव + वृष्ट)*

ओविच्झति : To pierce, annoy *(अव + व्यध्)*

P

प : A preposition used in composition with verbs and their derivatives *(प्र)*

पा : *प्राक्*

पबलत्त : Power *(प्रबल + त्व)*

पबलो (adj) **:** Strong, mighty *(प्रबल)*

पबन्धो : A continuous series: a narrative: literary composition, fiction *(प्रबन्ध)*

पब्वजनं : Embracing asceticism; becoming a Buddhist monk *(प्रव्रज् + अन)*

पब्बाजनं : Banishment; causing to become a Buddhist monk, ordination *(प्रव्राजन)*

पब्बजति : To go forth; to exile oneself: to give up the world: to embrace ascetic life to become a Buddhist Monk; to take the robe, to take orders *(प्रव्रज्)*

पब्बजितता : State of being an ascetic or Buddhist monk, or nun *(प्रव्रज्या)*

पब्बज्जता : State of being a Buddhist monk *(प्रव्रज्य + ता)*

पब्बजो (adj) **:** Made of bulrushes *(पर्वन् + ज)*

पब्बं : A knot or joint in a branch or creeper; or in a crane or reed or in grass; certain days of lunar month, the full and change of moon etc. *(पर्वन)*

पब्बतायति : To act like a mountain

पब्बतेय्यो (adj) **:** Belonging to mountains *(पार्वतेय)*

पब्बतो : A mountain *(पर्वत)*

पब्भारो : A cave in a mountain *(प्राग्भार)*

पभा : Light, radiance *(प्रभा)*

पभङ्गुणं : Breaking up, disolution destruction, decay, corruption *(प्रभञ्जन)*

पभङ्करो (adj) **:** Light-giving i.e. the sun *(प्रभा + कर)*

पभासति : To talk, to prate *(प्रभाष्)*

पभासेति : To illumine *(प्रभासयति)*

पभासो : Shining, illumination *(प्रभास)*

पभास्सरो (adj) **:** Shining, bright *(प्रभास्वर)*

पाभतं : Money, price; a present *(प्राभृत)*

पभाति : To begin to down *(प्रभा)*

पभातो : Become clear, or light *(प्रभात)*

पभवति : To spring up, arise, originate, to be able *(प्रभू)*

पभवो : Production, birth; origin, source, cause, place where an object is to perceived, birth-place *(प्रभव)*

पभावो : Powers, might, majesty, dignity *(प्रभाव)*

पभेदनं : The juice that flows from an elephant's temples when in rut *(प्रभेदन)*

पभेदो : Difference, distinction; sort, kind *(प्रभेद)*

पभिज्जति : To be split, to be broken up, to perish *(प्रभिद्यते)*

पभू (adj) **:** Able, powerful *(प्रभु)*

पभुति : Commencement *(प्रभृति)*

पभुति (adv) **:** Since, after, subsequently to *(प्रभृति)*

पभुत्त : Lordship *(प्रभूत्त्व)*

पबोधनं : Walking, arising; instruction *(प्रबोधन)*

पबोधेति : To arouse, to set going, to give rise to *(प्रबोधयति)*

पबोधो : Awakening, enlightenment, instruction *(प्रबोध)*

पबुज्झति : To wake up, rouse oneself; to be awake, to watch, to be vigilant *(प्रबुध्यते)*

पचा : Ripeness *(पच् + आ)*

पाचा : Cooking, digesting *(पाचा)*

पाचको : A cook *(पाचक)*

पचालको (adj) **:** Shaking, swinging *(प्रचालक)*

पचलायिका : Nodding, dozing *(प्रचलाय् + इका)*

पचलो (adj) **:** Shaking, trembling *(प्रचल)*

पचनं : Cooking *(पचन)*

पाचनं : A goad *(प्राजन)*

पचण्डति : To be furious *(प्र + चण्ड्)*

पाचनो (adj) **:** Causing to ripen, or came to perfection *(पाचन)*

पचापेति : To cause to be cooked

पाचरियो : A pupil, Teacher's Teacher *(प्राचार्य)*

पचति : To cook, to dress food; to digest; to be tormented in hell *(पच्)*

पच्चाभासति : See *पटिभासति*

पच्चाचिक्खति : To reject, repudiate, disallow *(प्रत्याचक्ष्)*

पच्चादेसो : Rejection, refusal *(प्रत्यादेश)*

पच्चागच्छति : To return *(प्रत्यागम्)*

पच्चागमनं : Return *(प्रत्यागम्न)*

पच्चाग्धो (adj) **:** New *(प्रत्यग्र)*

पच्चाहरति : To bring back, take back *(प्रत्याह्)*

पच्चाहारो : Drawing back, refusal, objection; restrain of the Dragons, abstraction *(प्रत्याहार)*

पच्चाजायति : To be born, to be reborn in a new existence *(प्रति + आ + जान)*

पच्चक्खानं : Rejection, denial, refusal *(प्रत्याख्यान)*

पच्चक्खाति : To reject, refuse, deny, disallow, repudiate abandon *(प्रत्याख्या)*

पच्चक्खो (adj) **:** Perceptible to the senses, visible, evident, present *(प्रत्यक्ष)*

पच्चक्कोसनं : Recrimination

पच्चक्कोसति : To revile in return, to recriminate *(प्रत्याक्रुश)*

पच्चामित्तो : An enemy, adversary *(प्रत्यमित्र)*

पच्चनं : Being tormented

पच्चङ्ग : Miner limb, minor requisites *(प्रति + अङ्ग)*

पच्चनीको (adj) **:** Opposite, adverse, hostile *(प्रत्यनीक)*

पच्चञ्जनं : Anointing *(प्रत्यञ्जन)*

पच्चञ्ञसि : See *पटिजानाति*

पच्चन्तं (adv) **:** Finally *(प्रति + अन्त)*

पच्चन्तिमो : Bordering on, adjacent, skirting *(प्रत्यन्त + इम)*

पच्चन्तो (adj) **:** Bordering on, adjacent, skirting *(प्रत्यन्त)*

पच्चनुभोति : To enjoy one by one *(प्रत्यनुभ्)*

पच्चपादि : See *पटिपज्जति*

पच्चरी : A raft

पच्चारोचेति : To say in return *(प्रति + आ + रोचयति)*

पच्चासा : Expectation, desire, hope *(प्रत्याशा)*

पच्चासिंसति : To desire, long for, look for, expect *(प्रति + आ + शंसी)*

पच्चस्सोसि : See *पटिसुणाति*

पच्चति : See *पचति*

पच्चत्तं (adv) **:** Singly, severally, individually *(प्रत्यात्प्रम्)*

पच्चत्थरणं : A cushion or carpet to sit on: the cushion or bedding of a couch *(प्रत्यास्तार)*

पच्चत्थिको (adj) : Hostile, adverse *(प्रत्यर्थिक)*

पच्चवेक्खनं : Looking at, consideration, contemplation *(प्रत्यवेक्षण)*

पच्चवेक्खति : To look at, regard, consider, contemplate *(प्रत्यवेक्ष)*

पच्चयाकारो : A compound of the adverb *(प्रत्यक + कार)*

पच्चायिको (adj) : Trustworthy *(प्रात्ययिक)*

पच्चयो : Belief, conviction, trust, faith, ground, motive; cause; a requisite or necessary; in grammar an affix *(प्रत्यय)*

पच्चेको (adj) : Each one, single; several *(प्रत्येक)*

पच्चेति : To return, to come back upon *(प्रती)*

पच्चा (adv) : Behind, back, afterwards; westwards *(पश्चा, पश्चात्)*

पच्छाबन्धो : A nautical term designating a large oar used by way of rudder.

पच्छाभागो : Hind or after part *(पश्चात् + भाग)*

पच्छाभत्तं : After a meal, after the noon day meal, in the afternoon *(पश्चात् + भक्त)*

पच्छाभत्तिको (adj) : One who eats afterwards *(पश्चत् + भक्त + इक)*

पच्छाभावो : Posterity *(पश्चात् + भाव)*

पच्छाजातो (adj) : Born afterwards, junior *(पश्चात + जात)*

पच्छामुखो (adj) : Looking Westwards *(पश्चात् + मुख)*

पच्छानिपाति (adj) : One who retires to rest after another *(पश्चात् + निपातिन्)*

पच्छानुतापनं : Remorse *(पश्चात् + अनुतापन)*

पच्छासमणो : A junior priest who accompanies a senior priest when he leaves the monastery to beg alms or to make a journey and walks behind at a short distance *(पश्चाच्छक्रमण)*

पच्छातापो (adv) : Remorse, repentance *(पश्चाताप)*

पच्छतो (adv) : After, behind, back *(पश्च + तस्)*

पच्छेदनं : Cutting off removal *(प्रच्छेदन)*

पच्छि : A basket

पच्छिज्जति : To be cut off, to be destroyed; to be cut short, to cease *(प्रच्छिद्)*

पच्छिमो (adj) : Hindarmost; last; western *(पश्चिम)*

पच्छिन्नो : *See पच्छिज्जति*

पच्चोरुहति : To come down again *(प्रत्यवरुह्)*

पच्चोसक्कति : To retreat

पच्चुदावत्तति : To retreat *(प्रति + उद् + आ + वृत्)*

पच्चुद्धरो : Some formally ceremony gone through when a priest was presented with a robe

पच्चुग्गच्छति : To go out, to set out, to go to meet *(प्रत्युद्गमं)*

पच्चुग्गमनं : Going forth to meet a guest as a sign of respect *(प्रत्युद्गमन)*

पच्चुहो : An obstacle *(प्रत्यूह)*

पच्चुपकारो : Service in return, requital *(प्रत्युपकार)*

पच्चुपट्ठापेति : To obtain, provide *(Cans. प्रति + उप + स्था)*

पच्चुपट्ठितो : Approaching emminent, present *(प्रति + उप + स्थित्)*

पच्चुप्पन्नो : Existing, ready, present *(प्रत्युत्पन्न)*

पच्चूसो : Morning, dawn *(प्रत्यूष)*

पच्चुत्तरं : Reply *(प्रत्युत्तर)*

पच्चुत्तरति : To be take oneself to *(प्रत्युत्त)*

पच्चुट्ठानं : Rising from one's seat as a mark of respect to a visitor *(प्रत्युत्थान)*

पच्चुट्ठाति : To rise from one's seat as a token of respect: to rise in the morning; to rise in another place reappear *(प्रत्युत्था)*

पचेस्सति : *See पचिनति*

पाचेति : *See पचति*

पाचेति : To drive *(प्र + अन्)*

पाची : The east *(प्राची)*

पाचीनो (adj) **:** Eastern *(प्राचीन)*

पचिता : A cook *(पच् + तृ)*

पचितो : *See पचति*

पाचित्तियो (adj) **:** Requiring expiation, expiatory *(प्राय + चित्ति + य)*

पचुरो (adj) **:** Much, many, frequent *(प्रचुर)*

पदा : See *पादसि*

पदभाजनं : A sort of commentary, separating words of a sentence, analysing and explaining them, a scholium *(पद + भाजन)*

पदभाणको : One who recites or preaches the scripture *पदभाणक*

पदभाणं : Reciting or preaching the scripture *(पद् + भाण)*

पदचेतियं : A holy foot-print, a miraculous foot print left on the ground by a holy-man, as a Buddha or arahat and ever afterwards treated with veneration *(पद + चैत्य)*

पादगण्ठि : The ankle *(पाद + ग्रन्थि)*

पादग्गं : The point of the foot *(पादाग्र)*

पदगो : a foot soldier *(पदग)*

पदहति : To strive, to exert *(प्र + दह)*

पादकटको : An anklet or foot bangle *(पादकटक)*

पदक्खिणो, णा, णं : A mode of reverental salutation by walking round a person, keeping the right side turn to him *(प्रदक्षिण)*

पदको : One aquainted with words, an etymologist *(पदक)*

पादको (adj) **:** Having feet *(पादक)*

पदालेति : To cleave, break, burst open; to destroy *(प्रदाल)*

पदं : Stride, step: foot-print, trac, track, vestige, mark; a foot: footing: station, site place: office, rank, appointment: abode, home, lot: Nirvana: business matter, thing; subject, occassion, cause: a part, portion, a quarter or line of a stanza; a word; a sentence *(पद)*

पादमूलं : The sole of the foot, the foot *(पादमुल)*

पदानं : Giving, imparting *(प्रदान)*

पादङ्गुट्ठो : The great-toe *(पादाङ्गुष्ठ)*

पदानुगो (adj) **:** Following in the foot steps of, attendant on *(पदानुग)*

पादपरिचारिका : A wife *(पादपरिचारिका)*

पादफोटो : A tumour on the foot *(पाद + स्फोट)*

पादपीठं : A foot stool *(पादपीठ)*

पादपो : A tree *(पादप)*

पदरो : Splitting, rending, a crevice or chasm in the earth: *(प्रदर)*

पदसा : See *पदो*

पादासि, पादा : He gave (*aorist from प्रदा)*

पदसो (adv) **:** Sentence by sentence; word by word; step by step; by degrees *(पद + शस्)*

पादसो (adv) **:** For the worth of Pada *(पाद + शस्)*

पदस्सेति : To show *(प्रदर्षयति)*

पदाग्रतब्बो : To be given or presented *(प्रदातव्य)*

पादतलं : The sole of the foot *(पादतल)*

पदाति : A pedestrian, peon, foot soldier *(पदाति)*

पादतो (adv) **:** At or by the feet *(पादतस्)*

पदट्ठानं : A proximate cause *(पदस्थान)*

पदत्थो : Meaning of a word *(पद + अर्थ)*

पदवी : A road *(पदवी)*

पद्धति : A road, a line *(पद्धति)*

पदेसनं : A present, gift *(प्रदेशनं)*

पदेसो : A place, spot, region, district, country *(प्रदेश)*

पधानं : A king's chief companion or minister; exertion, energetic effort, striving *(प्रधान)*

पधानियङ्ग : Quality to be striven after *(प्रधानीस + अंङ्ग)*

पधानो (adj) **:** Principal, chief, pre-eminent, excellent *(प्रधान)*

पधारितो : Considered, understood *(प्रधारयति)*

पदिको : A pedestrian, a foot soldier *(पदिक)*

पदीपको (adj) **:** Illuminating, illustrating, explaining *(प्रदीपक)*

पदीपेति : To kindle *(प्रदीपयति)*

पदीपेय्यं : That which is connected with lighting, lamps and their accessories *(प्रदीप् + एय)*

पदीपो : A lamp: an enlightener *(प्रदीप)*

पदिस्सति : To be seen

पदो : Giving, bestowing *(प्रद्)*

पदो : The foot, a sentence *(पद्)*

पादो : A foot, a hill at the foot of a mountain; a ray of light; a quarter *(पाद)*

पदोदकं : Water for washing the feet *(पादोदक)*

पदोसो : Fault, corruption, sin; twilight, evening *(प्रदोष)*

पादू : A shoe *(पादू)*

पादूदरो : A snake *(पादोदर)*

पादुका : A shoe, a slipper *(पादुका)*

पदुमकं : A lotus ornament in architectural decoration *(पद्मक)*

पदुमिनी : A lotus plant, a lotus pond *(पद्मिनी)*

पदुमो + मं : A lotus, lotus-flower: name of a hell; one of the high numerals; 1 followed by 119 ciphers *(पद्म)*

पदुमुत्तरो : Name of one of the twenty-four Buddhas *(पद्मोत्तर)*

पदुस्सनं : Deterioration, corruption, difement *(प्रदूषण)*

पदुस्सति : To be corrupt, to sin; to sin against, to offend

पदुट्ठो : Corrupt, wicked *(प्रदुष्ट)*

पगब्भो (adj) **:** Bold, daring; audacious, impudent, forward *(प्रगल्भ)*

पगे : In the morning, at dawn, early *(प्रगे)*

पगेवा, पग +

एवा (adj) **:** Much more, a fortiori *(प्रागेव)*

पग्गहेससि : *See पग्गण्हाति*

पग्गहो : Energy, striving *(प्र + ग्राह)*

पग्गण्हाति : To hold out, stretch forth; to favour, befriend, to strain, exert; to persevere, continue; to take hold of, grasp *(प्रग्रह)*

पघानो : A covered terrace before a house *(प्रघण, प्रघाण)*

पग्घरणं : Oozing, trickling, fluidity

पग्घरति : To ooze, trickle flow *(प्र + घृ)*

पगुम्बो : Forest, jungle, thicket *(प्र + गुल्भ)*

पगुणना : Knowing by heart, familiarity with *(प्रगुण + ता)*

पगुञ्ञं : Familiarity with, experience *(प्रगुण + य)*

पगुणो (adj) **:** Straight, plain; familiar, well-known, known by heart *(प्रगुण)*

पहंसति : To strike

पहानं : Leaving, abandonment, getting rid of, rejection *(प्रहाण)*

पहाराडो : Name of an asura

पहरणं : Striking a weapon *(प्रहरण)*

पहरति : To strike, to hurt, to assail *(प्रहृ)*

पहारो : Striking, hitting; a stroke, blow, shot; a yama or watch of four hours *(प्रहार)*

पहासो : Loud laughter *(प्रहास)*

पहस्सति, पहातब्बो : *See पजहति*

पहारो : Struck, smitten, wounded, hurt *(प्रहृत)*

पहट्ठो : Glad, delighted *(प्रहृष्ट)*

पहाय : See *पजहति*

पहायि (adj) **:** Forsaking, abandoning *(प्र + हायिन्)*

पहेणकं + पहिणकं : An offering, a present, especially food *(प्रहेणक)*

पहिणति + पाहेति : To send *(प्रहि)*

पहीनो + पहीयति : *See पजहति*

पहितो : *See पहिणति*

पहो (adj) **:** Dismissing *(from प्रहा)*

पहोनको (adj) **:** Competent, adequate, sufficient

पहोति : To be able, competent, useful : to be effectual, to suffice *(प्रभू)*

पाहुणेय्यो (adj) **:** Worthy of being guests, worthy of hospitality *(पाहुण + एय)*

पाहुणो : A guest *(प्राहुण)*

पहुतो : Much, abandant, large, sufficient, considerable *(प्रभूत)*

पजा : Progeny, descendants, race, family; creature, living being: people, mankind *(प्रजा)*

पजहति : To foresake, abandon, give up, renounce, get rid off, escape from *(प्रहा)*

पजानं : Knowledge *(from प्रज्ञा)*

पजाननं : Knowing, understanding, discernment

पजानाति : To know, understand, discern, distinguish, find-out *(प्रज्ञा)*

पजापति : A name of the Hindu-Brahman; a name of Mara; the Hindu God Prajapati *(प्रजापति)*

पजप्पो : Muttering, murmuring, complaint *(प्रजल्प)*

पाजेति + पाचेति : To drive *(प्र + अज्)*

पाजिता : A driver, charioteer *(प्राजितृ)*

पज्जलति : To burn, blaze *(प्रज्वल्)*

पज्जं : A verse *(पद्य)*

पज्जरको (adj) **:** Febrile *(प्र + ज्वर + क)*

पज्जो : A path, road *(पद्य)*

पज्जो (adj) **:** What belongs to or is suitable to the feet *(पाद्य)*

पज्जोतको : Illumining *(प्र + द्यूत + अक)*

पज्जोतति : To shine brightly *(प्रद्युत्)*

पज्जोतो : Light, lustre, splendour, brilliancy; a lamp *(प्रद्योत्)*

प्रज्जुन्नो : A cloud *(पर्जन्य)*

पकप्पेति : To plan design, appoint *(प्रकल्पयति)*

पकरणं : Dissertion, exposition, literary composition, work book *(प्रकरण)*

पकारो : Sort, kind, way, manner *(प्रकार)*

पाकारो : An encircling wall, inclosure, fence *(प्राकार)*

पकरोति : To make, perform *(प्रकृ)*

पकासको (adj) **:** Explaining, illustrating, making known *(प्रकाशक)*

पकासनं : Illumination; illustrating, explaining; making known, exposition, publication *(प्रकाशन)*

पकासनीयो (adj) **:** To be explained *(प्रकाशनीय)*

पाकसासनो : A name of Sakka or Indra *(पाकशासन)*

पकासति : To be visible, to become known *(प्रकाश्)*

पकासो (adj) **:** Manifest, known, public *(प्रकाश)*

पकति : Original or natural form, origin: natural state: pudendum muliebre: the seven rajjangas or constituent elements of state; the crude or uninflected form of a word *(प्रकृति)*

पकतिजो (adj) **:** Springing from nature *(प्रकृतिज)*

पाकटीकतो (adj) **:** Manifested *(प्रकटीकृत)*

पकतिको (adj) **:** Natural, original, ordinary: in its original state, sound, healthy *(प्राकृतिक)*

पकतो : Made *(प्रकृत)*

पाकटो (adj) **:** Clear, evident, manifest, public, well-known, renowned *(प्रकट)*

पाकट्ठानं : A kitchen *(पाकस्थान)*

पाकट्ठो : Pre-eminent, excellent, prominent, high *(प्रकृष्ट)*

पखुमं + पम्हं : An eye-lash *(पक्ष्मन्)*

पकिण्णको (adj) **:** Miscellaneous *(प्रकीर्णक)*

पकिरियो : The plant Guilandina Bondue *(प्रकीर्य)*

पकित्तेति : To proclaim *(प्रकृत्)*

पक्कमति : To set out, start: to depart, go away *(प्रक्रम्)*

पक्कमो : Departure, flight; beginning *(प्रक्रम्)*

पक्खबिळालो : A flying fox *(पक्ष + विडाल)*

पक्खलति : To stumble, trip, stagger *(प्रख्खल)*

पक्खालेति : To wash, to cleanse *(प्रक्षालयति)*

पक्खन्दन : Leaping, springing *(प्रस्कन्दन)*

पक्खन्दति : To spring-forwards *(प्रस्कन्द्)*

पक्खन्दी (adj) **:** Bold, braggart *(प्रस्कदिन्)*

पक्खन्दिका : Diarrhea, dysentery *(प्रस्कन्दिका)*

पक्खन्तरो (adj) **:** Belonging to the opposite party, changing one's mind *(पक्ष + अन्तर)*

पक्खपासो : The planks of a ceiling

पक्खपातित्तं : Partisanship *(पक्षपातित्य)*

पक्खतो (adv) **:** On the side of *(पक्ष + तस्)*

पक्खत्तं : Partisanship *(पक्षत्व)*

पक्खेपनं : Putting or throwing *(प्रक्षेपण)*

पक्खेपो : Throwing-in, insertion, interpolation *(प्रक्षेप)*

पक्खी : A bird *(पक्षिन्)*

पक्खिको (adj) **:** Belonging to a party or faction *(पाक्षिक)*

पाक्खिको : A fowler *(पक्षिन् + क)*

पक्खिपति : To throw or put-in: to insert; add; interpolate *(प्रक्षिप्)*

पक्खियो (adj) **:** Siding with, belonging to a party *(पक्ष्य)*

पक्खो : A wing: feathers of an arrow: a side, party, faction: a partisan, adherent: multitude, host: half a lunar-month, a fortnight *(पक्ष)*

पक्खो : A cripple

पक्को : Cooked: heated: ripe: decaying, ripe for destruction *(पक्व)*

पक्कोसना : Summons

पक्कोसति : To call, summons, send for *(प्रकुश्)*

पक्को : See *(खिरपको)*

पाको : Cooking, ripeness, maturity, accomplishment, fulfilment, result *(पाक)*

पकोपो : Effervescence, abullition, anger, fury *(प्रकोप)*

पकोति : One of the high numerals = a hundred billions *(प्रकोटि)*

पकोट्ठो : The fore-arm *(प्रकोष्ठ)*

पकुज्झति : To be angry *(प्र + क्रुध्)*

पकुप्पति : To be angry *(प्रकुप्)*

पळच्चरं : Old clothes, rags *(पटच्चर)*

पलगण्डो : A mason *(पलगण्ड)*

पालको : A keeper, guardian *(पालक)*

पलालो + पलालं : Straw *(पलाल)*

पलं : *See फलं*

पलभेति : To cheat, trick, deceive *(प्रलभ्भ)*

पालनं : Guarding, keeping, maintaining *(पालन)*

पलण्डु : An onion *(पलाण्डू)*

पलापेति : To cause to go away, escape; to drive away, put to flight

पलपितं : Idle-talk *(प्रलपित)*

पलापो : Chaff of corn *(प्रलाप)*

पलापो : Prattle, nonsense *(प्रलाप)*

पलासादो : A rhinoceros *(पलाश + अद्)*

पलासं, सो : A leaf *(पलाश)*

पलासो : The tree Butea frondosa, the colour-green *(पलाश)*

पलातो : See *पलायति*

पलायनं : Flight *(पलायन)*

पलायति : To run away, flee, retreat *(पलायति)*

पलयो : Destruction, dissolution; death, destruction of a universe at the end of a kappa *(प्रलय)*

पलेति : *See पलायति*

पालेति : To guard, keep, preserve, maintain, observe *(पालयति)*

पालि : A line, row, range; a ridge, bank, cause-way; a sacred text: a passage in a text *(पालि)*

पालिभद्दो : The kimcuka tree: Butea frondosa *(पालिभद)*

पालिबोधो : Obstacle, hidrance, drawnback, impediment *(पालिबोध)*

पालिबुद्धनं : Hindering

पालिबुद्धति : To hinder

पालिच्चं : Hoariness, greyness of hair *(पालित्य)*

पलिधो : An iron-beam or bar for fastening up a door; an obstacle, hindrance *(परिघ)*

पळिगुण्ठितो : Entangled *(परि + गुण्ठ)*

पालिका : *See पालको*

पालिका : Having lines or ridges *(पालि + क)*

पलिपन्नो : Said in Payoga Siddhi, to be another form of paripanno

पलिपथं : A miry road, slough, guamire *(परि + पथ + अ)*

पलितो : See *फलितो*

पालितो (adv) **:** According to the text or words of scriptures *(पालि + तस्)*

पालितो : Preserved, guarded, maintained *(पालित)*

पलिवेठनं : Surrounding, encumberance *(परिवेष्टन)*

पालिवेठेति : To wrap up, clothe, cover, surround, encircle, encumber, fetter *(परिवेष्ट)*

पल्ललं : A small tank, pool *(पल्वल)*

पल्लङ्को : Couch, bed, sofa, divan, thrown; a litter, pallanquin *(पर्यङ्क)*

पल्लत्थिका : Sitting on the hams, squatting, lolling *(पर्यस्तिका)*

पल्लवो + पल्लवं : A sprout, shoot, spray *(पल्लव)*

पालो : A guardian, keeper *(पाल)*

पलोभनं : Allurement, temptation *(प्रलोभन)*

पलोभेति : To allure, tempt, seduce *(प्रलोभयति)*

पलुज्जति : To fall down, crumble *(प्ररुज्)*

पमा : True knowledge *(प्रमा)*

पमदा : A handsome woman, or a woman in general *(प्रमदा)*

पमादवा (adj) **:** Remiss, indifferent *(प्रमादवत्)*

पमद्दनो (adj) : Crushing, destroying *(प्रमर्दन)*

पमादी (adj) : Negligent, slothful *(प्रभादिन)*

पमदो : Pleasure *(प्रमद)*

पमादो : Carelessness, remissness, indifference, sloth, indolence, delay *(प्रमाद)*

पमज्जनं : Indifference, beedlessness

पमज्जति : To delay, waste one's time: to be negligent, heedless, indifferent, slothful, remiss: to be tempted *(प्रमद्)*

पामं : Scab, herpes *(पामन्)*

पमाणको (adj) : At the end of a compound *(प्रमाणक)*

पमाणं : Measure, rate, scale, standard, dimensions size, weight; rule sanction, authority warrant; a decider; cause; motive *(प्रमाण)*

पामाणिको (adj) : Forming a measure or standard *(प्रमाणिक)*

पमाता : Knowing well, competent to judge, an authority *(प्रमातृ)*

पमत्तो : Slothful, indolent, careless, reckless, indifferent; tempted *(प्रगत्त)*

पमया : Having measured

पम्हं : See *पक्खुमं*

पमिति : Correct knowledge, certainty *(प्रमिति)*

पमोचनं : Deliverance *(प्रमोचनं)*

पमोचेति : See *पगुञ्चति*

पमोदना : Joy *(प्रमोदन)*

पमोदति : To rejoice *(प्रमुद्)*

पमोदो : Joy, happiness *(प्रमोद)*

पमोहनं : Delusion, infatuation *(प्रमोहन)*

पामोज्जं + **पामुज्जं** : Joy, delight, bliss, happiness *(प्रमोद + य)*

पमोक्खति : See *पमुञ्चति*

पमोक्खो : Release, deliverance *(प्रमोक्ष)*

पामोक्खो (adj) : Principal, chief, eminent *(प्रमख + य)*

पम्पको + **प्पम्पटको** : A loris

पंसु : Dust, dirt, earth, soil *(पांसु)*

पंसुकूलिको (adj) : One who wears clothes made of rags taken from a dust hill *(पांसुकूलिक)*

पमुच्चति : *See पमुञ्चति*

पमुदितो : Please, glad *(प्रमुदित)*

पमुदो : Joy *(प्रमुद्)*

पामुज्जं : See *पामोज्जं*

पामुख्रो (adj) **:** In front of, facing; first, chief, principal *(प्रमुख)*

पमुक्को : See next

पमुञ्चति : To emit, utter, to loose, release; to cast off *(प्रभुच्)*

पमुस्सति : To leave behind, forget, lose *(प्रमुष्)*

पमुट्ठो : See last

पमुत्तो : See *पमुञ्चति*

पमुह्यति : To be bewildered, to swoon *(प्रमुह)*

पुन (adv) **:** Now, further; but, on the other hand, on the contrary, however *(पुनर्)*

पाणभूतो : A living being, creature *(प्राणभूत)*

पानागारं : A tavern *(पानागार)*

पाणघातो : Destroying life, killing *(प्राण + घात)*

पणको : Name of a water-plant

पाणको : A small creatue, worm or insect *(प्राणक)*

पानकूपो : A drinking-well *(पान + कूप)*

पनाली + पणाली : Water course, gutter, drain *(प्रनाली, प्रणाली)*

पानं : Drinking; draught; drink, beverage; enjoyment *(पान)*

पाणं : See *पाणो*

पणमति : To bend, be bent or inclined *(प्रणम्)*

पणामो : Bending, salutation *(प्रणाम)*

पाणसमो (adj) **:** Dear as one's life; greatly beloved *(प्राणसम्)*

पनसो : Jack or bread fruit tree, artocarpus integrifolia *(पनस)*

पाणातिपातो : Taking the life of a living creature, destroying life, killing *(प्राणातिपात)*

पणतो : See *पणमति*

पाणविको : One who plays the Pramava

पाणवो : A small drum or tabor *(प्रणव)*

पनायं : *पन + अयं* Pana-ayam

पणयो : Affection, confidence; solicitation *(प्रणय)*

पञ्च : Five *(पञ्चन्)*

पञ्चबलं : The five forces

पञ्चचक्खु : The five sorts of vision *(पञ्चन् + चक्षुस्)*

पञ्चदस : Fifteen *(पञ्चदशन्)*

पञ्चदसी : Day of full or new moon (fifteenth day of half month) *(पञ्चदशी)*

पञ्चधा (adv) **:** In five ways, five-fold *(पञ्चधा)*

पञ्चधम्मं : Five things or conditions *(पञ्चन् + धर्म)*

पञ्चगुणं : Five qualities as rewards of virtue *(पञ्चन् + गुण)*

पञ्चाहं : Five days *(पञ्चाह)*

पच्चाहिको (adj) **:** Lasting five days

पञ्चज्झानिको (adj) **:** One who practices the five Jhanas *(पञ्चन् + क + ध्यान + इक)*

पञ्चकामं : Five modes of desire or pleasure

पञ्चकिलेसं : Five kilesas or evil passion

पञ्चक्खन्धं : The five skandhas

पञ्चक्खत्तुं (adv) **:** Five times *(पञ्चकृत्वस्)*

पञ्चको (adj) **:** Consisting of five, five in a number *(पञ्चक)*

पञ्चाला : Name of a warrior tribe in the north of India *(पञ्चाल)*

पञ्चालिका : A doll, a puppet *(पञ्चालिका)*

पञ्चमको (adj) **:** Fifth *(पञ्चमक)*

पञ्चम (adj) **:** Fifth *(पञ्चम)*

पञ्चानन्तरियकम्मं : Five sins which bring with them immediate retribution *(पञ्चन् + आनन्तर्य + कर्मन्)*

पञ्चानेत्तो (adj) **:** Having five sorts of vision *(पञ्चन् + नेत्र)*

पञ्चाङ्ग : Five qualities *(प्रञ्चाङ्ग)*

पञ्चाङ्गिको (adj) **:** Having five members or divisions, five-fold

पञ्चपञ्चसो (adj) **:** In sets of five each *(पञ्चन् + पञ्चन् + शस्)*

पञ्चपतिट्ठितं : Setting down or fixing of five things *(पञ्चन् + प्रति + स्थित्)*

पञ्चसतं : Five hundred *(पञ्चशत)*

पञ्चसतिको (adj) **:** Consisting of five hundred

पञ्चसिखो : A proper-name, one of the Gandhabbas *(पञ्चशिख)*

पञ्चसीलं : The five precepts of or five branches of moral practice *(पञ्चन् + शील)*

पञ्चसीलवा (adj) **:** One who keeps the five precepts

पञ्चसो (adv) **:** By fives *(पञ्चशस्)*

पञ्चवग्गियो (adj) **:** Belonging to a group of five *(पञ्चवर्ग + य)*

पञ्चविधो (adj) : Five fold *(पञ्चविध)*

पञ्चविसति : Twenty five *(पञ्चविशति)*

पञ्चायुधं : Five sorts of weapons *(पञ्चन् + आयुध)*

पञ्चिन्द्रियं : See *इन्द्रियं*

पण्डको : A eunuch *(पण्डक)*

पण्डरो : White, pale, yellowish *(पाण्डर)*

पण्डवो : A son or descendant of Pandu: name of a mountain *(पाण्डव)*

पाण्डिच्चं : Scholarship, learning, erudiction *(पाण्डित्य)*

पण्डितको : A pendant *(पण्डितक)*

पण्डितता : Learning, skill, wisdom *(पण्डितता)*

पण्डितो (adj) : Learned, skill, clever, wise

पण्डु (adj) : Light, yellow *(पाण्डु)*

पणेति : To bring, perform, execute *(प्रणी)*

पङ्गु + पङ्गुलो (adj) : Lame, crippled *(पङ्गु + पङ्गुल)*

पण्हि, पाष्णि : The heel *(पाणि)*

पण्हि (adj) : Variegated *(पृश्नि)*

पञ्हो : A question *(प्रश्न)*

पाणि : The hand, a wooden hand or trowel *(पाणि)*

पाणी : A living being, a sentiment being, a creature animal, man *(प्राणिन्)*

पणिदहति, पणिधेति : To long for, wish for, pray for, resolve, aspire to: to direct, stretch *(प्रणिधान)*

पणिधानं : earnest resolve, aspiration, prayer *(प्रणिधान)*

पणिधि : Wish, resolve, aspiration, prayer *(प्रणिधि)*

पाणिग्गहो : Marriage *(पाणिग्रह)*

पाणिघो : One who strikes with the hand; one who plays the tabor or any similar instrument *(पाणिघ)*

पणिहितो : Resolved, determined, intent *(प्रणिहित)*

पाणिहितो (adj) : Kind to living beings, benevolent *(प्राणिहित)*

पाणिमत्तो (adj) : As much as can be held in the hand *(पाणिमात्)*

पाणिमुत्तं : A missile weapon *(पाणिमुक्त)*

पाणिपतति : To prostrate oneself *(प्रणिपत्)*

पणिपातो : Prostration *(प्रणिपात)*

पाणिस्सरं : A sort of music *(पाणि + स्वर)*

पाणितलं : The palm of the hand *(पाणितल)*

पाणितो : Accomplished; excellent; eminent, exhalted; sweet nice *(प्रणीत)*

पाणिवादो : One whose uses an instrument played with the hand as a drum or tambourine *(पाणिवाद)*

पणियो (adj) **:** Saleable *(पण्य)*

पाणियो (adj) **:** Same meaning as panigho *(पाणि + य)*

पाणियो (adj) **:** Drinkable *(पानीय)*

पञ्जलिको (adj) **:** Holding up the clasp hands in token of respectful salutation *(प्राञ्जलिक)*

पञ्जरं + रो : A cage or frame *(पञ्जर)*

पङ्केरुहं : A lotus *(पङ्केसह)*

पङ्को, पङ्क : Mud, moral impurity, sin *(पङ्क)*

पञ्ञा : Wisdom, intellect, reason *(प्रज्ञा)*

पन्नगो : A snake *(पन्नग)*

पण्णाकारो : A present

पण्णं : A leaf; a written leaf, an epistle *(पर्ण)*

पञ्ञाणं : Knowledge, wisdom, intelligence; mark, sign *(प्रज्ञान)*

पञ्ञापको (adj) **:** Appointing, declaring *(प्रज्ञा + अक)*

पञ्ञापनं : Appointment, declaration

पञ्ञापेति : To make known, declare, proclaim, appoint *(प्रज्ञापयति)*

पन्नरस् + पण्णरस : Fifteen *(पञ्चदशन्)*

पन्नरसमो, : Fifteenth *(पञ्चदशम, पञ्चदश)*

पन्नरसी : The fifteenth day of the half month, the day of the full or new moon *(पञ्चदशी)*

पन्नरसिको : Belonging to the 15th day of the half month

पञ्ञास, पञ्ञासं, : Fifty *(पञ्चाशत्)*

पन्नास :

पन्नासकं A collection of fifty *(पञ्चाशक)*

पन्नसाला : The hut of an ascetic made of branches and leaves a hermitage *(पर्णशाला)*

पञ्ञातो : Known, famous *(प्रज्ञात)*

पञ्ञत्ति, पन्नत्ति : Making known, manifestation, declaring, enactment, ordinance, precept, regulation *(प्रज्ञप्ति)*

पञ्ञात्तो : See *पञ्ञापेति*

पञ्ञवा (adj) : Wise *(प्रज्ञावत्)*

पञ्ञायनं : Manifestation, appearing *(प्रज्ञायन)*

पञ्ञायति : To be known, to be perceived, to appear, to exist; to be well-known, to be renowned *(प्रज्ञायते)*

पन्नो : Fallen, gone *(पन्न)*

पञ्ञो (adj) : Wise, intelligent *(प्रज्ञ)*

पन्नुविसति : Twenty-five

पणो : A bet, stake; wages, hire: a sum of money: wealth, property: trade, shop

पाणो : Breath; life; vitality; a living being, a creature; energy; vigour; strength *(प्राण)*

पन्थिको : A traveller

पन्थो : A road *(पथिन्)*

पन्ति : A row, range, line, series *(पंक्ति)*

पन्तो : Border; verge, end *(प्रान्त)*

पनुदनं : Removal

पनुदनो (adj) : dispelling

पनुदति : To remove, drive away, reject *(प्रणुद)*

पन्नुन्नो : Put away, removed, dispelled *(प्रणुन्न)*

पाणुपेतो (adj) : Possessed of breath; living *(प्राण + उपेत)*

पण्यं : A ware, commodity; traffic *(पण्य)*

पपा : A shed on the road side where travellers are supplied with water *(प्रपा)*

पापभिरूता : Fear of sinning *(पाप + भीरू + ता)*

पपदो : The lip of the foot, toes *(प्रपद)*

पापको (adj) : Evil, bad, wicked, sinful *(पापक)*

पापमित्तता : Friendship or association with sinners, evil communications *(पाप + मित्र + ता)*

पापनं : Attainment *(प्रापण)*

पपञ्चेति : To linger, tarry, delay *(प्रपञ्चयति)*

पपञ्चो : Diffuseness, prolixity, delay *(प्रपञ्च)*

पापतमो (adj) : Most sinful *(पाप + तम)*

पपतनं : Falling down *(प्रपतन)*

पापतरो (adj) : Most sinful, worse *(पापतर)*

पपतति : To fall down, to fall from *(प्रपत्)*

पपातो : A precipice, declivity *(प्रपात)*

पापेति : See *पपुणाति*

पापी : Sinful *(पापिन्)*

पपिच्छता : State of having sinful desires *(पाप + इच्छा)*

पापिच्छो (adj) **:** Having sinful desires *(पाप + इच्छा)*

पापिमा (adj) **:** Sinful *(पाप्मन्)*

पापिस्मिको (adj) **:** More sinful, very sinful *(पापीयस् + इक)*

पपितामहो : The paternal great grand father *(प्रपितामह)*

पापितो : See *पापुणाति*

पापियो (adj) **:** Worse, wicked *(पापीयस्)*

पापिय्यसिका : See *तस्सापापिय्यसिका*

पापो (adj) **:** Evil, bad, wicked; sinful *(पाप)*

पप्फासं : The lungs *(पुफ्फुस)*

पप्पोठेति : To shake, strike, knock

पप्पोति : See *पापुणाति*

पापुणनं : Attainment

पापुणाति, पापुणोति पप्पोति : To attain, reach, arrive, obtain, find *(प्राप्नोति = प्राप्)*

पपुन्नागो : The tree cassia Tora *(प्रपुन्नाट)*

पपुप्फकं : An arrow tipped with a flower *(प्र + पुष्पक)*

पपुरणं + पापुरति : See *पारुपनं + पापुरति*

पपुत्तो : A grand-son, descendent *(प्रपुत्त)*

परा : Preposition with the meaning "away", "aside", "back" much used in composition with verbs and their derivatives *(परा)*

परभागो : Superiority, pre-eminence *(परभाग)*

परभतो : Indian cuckoo *(परभृत)*

पराभवो : Decay, loss, ruin: discofiture, humiliation, contempt *(पराभव)*

परचित्तं : The mind of another *(पर + चित्त)*

परदारिको : An adulterer *(पारदारिक)*

परदारो : Another man's wife, neighbour's wife *(परदार)*

पराधिनो (adj) **:** Dependent on another; subject *(पराधीन)*

पारदो : Quick silver *(पारद)*

परागो : The pollen of a flower *(पराग)*

पारगु + गो (adj) : One who has crossed to the other side, who has passed beyond escaped from : one who is accomplished or versed in *(पारग)*

परहिंसा : Injuring another, cruelty *(पर + हिंसा)*

परहितं : The good or welfare of others *(परहित)*

पराजयो : Defeat: losing at play or in a lawsuit *(पराजय)*

पराजेति, पराजयति : To conquer, overcome, defeat: to be conquered, succumb *(पराजि)*

पाराजियो (adj) : Meriting expulsion

पराजितो : See *पराजेति*

परकतो (adj) : Done or made by another *(पर + कृत)*

परकियो (adj) : Belonging to another *(परकीय)*

परक्कमति : To put forth one's strength, exert oneself, strive *(पराक्रम)*

परक्कमो : Energy, exertion, striving *(पराक्रम)*

परकुलं : The family of another, a neighbour's family or house *(पर + कुल)*

पारलोकिकं : The next-world, another world *(पारलौकिक)*

परलोको : Another worlds or next world *(परलोक)*

परं : See *परो*

पारं : The further or opposite shore of a sea or bank of a river; Nirvana, as being the goal reached by the pilgrim, crossing the ocean of existence *(पार)*

परमाणु : A practicle or atom *(परमाणु)*

परामसनं : Touching, handling

परामसति : To touch, rub, stroke, seize, handle *(परामृश्)*

परामासो : Touch, contact, being affected with *(परामर्श)*

परमत्ता : The pali from of the non-Buddhist term *(परमात्मन्)*

परमत्थो : Best or highest sense, the truth, reality, completeness, perfection *(परमार्थ)*

परामत्थो : Touched, handled, taken hold of: affected, touched, actuated, influenced *(परामृष्ट)*

परमायु : The longest period of life *(परमायुस)*

पारमी, पारमिता : Completeness, perfection, highest state

पारंमुखो : Having the face averted, averse from, a voiding regardless of *(परान्मुखं)*

परमो (adj) : Highest, first, best, greatest, chief, principal, extreme, exceeding *(परम)*

परम्परा : Series, row, succession, lineage *(परम्परा)*

पारम्परियं : Traditional instruction, tradition *(पारम्पर्य)*

परम्परो (adj) : Successive, repeated *(परंपर)*

पारङ्गतो (adj) : Versed or accomplished in *(पारं + गत)*

परनिम्मितो (adj) : Created or brought into being by others *(पर + निर्मित)*

परन्तपो (adj) : Tormenting others *(परन्तप)*

पारापारं : The hither and further, shore, the far bank and near bank *(पारापार)*

पारापातो : A dove, piegeon *(पारापत)*

परपुट्ठो : The kokila or Indian cuckoo *(परपुष्ट)*

परस्सपदं : A grammatical term, the active or transitive verb *(परस्मैपद)*

परसुवे (adv) : The day after to-morrow *(परश्वस्)*

परतीरं : The opposite shore *(पर + तीर)*

परतो (adv) : Further, afterwards, beyond *(परतस्)*

परत्था (adv) : Elsewhere, in another world, hereafter *(परत्र)*

परत्थो : The advantage of another, the public good *(परार्थ)*

परवादो : The gossip; public rumour *(परवाद)*

परायनं : Final end or aim, chief object, destiny, rest, support

परायनो (adj) : Attached to, dependent on, supported by *(परायण)*

परायत्तो (adj) : Dependent on another, subservient *(परायत)*

परे : See *पारो*

परेतो : Dead, destroyed, ruined *(परेत)*

पारेवतो : A dove or piegeon

परि : Around or about *(परि)*

परिबद्धो : Bound to-gether *(परिबद्ध)*

परिबाहिरो (adj) : External *(परि + बाह्य)*

परिब्बाजको : A wandering religious mendicant, priest (Buddhist), pilgrim *(परिव्राजक)*

परिब्बाजति : To wander about, to lead the life of a religious mendicant, to renounce the world and become Buddhist monk *(परिव्रज्)*

परिब्बाजिका : Female ascetic or pilgrim; a Buddhist nun *(परिव्राजिका)*

परिब्बाजो : Same as *परिब्बाजको (परिव्राज)*

परिब्भमनं : Revolving, circumference *(परिभ्रमण)*

परिब्भमति : To walk round; to describe a circle round *(परिभ्रम्)*

परिबूळ्हो : Surrounded, accompanied attended;attended by in strength or in great numbers, strengthened by strong, furnished with, proprietor of *(परिवृढ)*

परिभण्डं : A girdle, zone, belt, ring *(परि + भाण्ड)*

परिभासा, परिभासनं : Censure, abuse *(परिभाषा, परिभाषण)*

परिभासनं : Light, lustre *(परिभास + अन्)*

परिभासति : To censure, revile, defame *(परिभाष्)*

परिभतो : Nourished *(परिभृत)*

परिभवो : Disrespect, contempt, humiliation, contumely *(परिभव)*

परिभिन्दति : To split, to create division *(परिभिद्)*

परिभोगिको (adj) **:** Belonging to use or enjoyment *(परिभोग + इक)*

परिभोगो : Enjoyment, use, possession; partaking of, eating *(परिभोग)*

परिभुञ्जनं : Enjoying

परिभुञ्जति : To enjoy, use, possess, partake of; to eat; to wear *(परिभुज्)*

परिभूतो : Despised disregarded *(परिभूतो)*

परिभूत्तो : See *परिभुञ्जति*

परिचारको : An attendant, servant *(परिचारक)*

परिचरणं : Serving *(परिचरण)*

परिचरति : To attend, minister to, serve, honour *(परिचर्)*

परिचरिया : Service ministration, honour *(परिचर्या)*

परिचारी : Attendance, service, honour *(परिचार)*

परिचयो : Acquaintance *(परिचय)*

परिच्चा : During encircled, grasped, perceived, understood, known *(परित्य)*

परिच्चागी (adj) **:** Forsaking *(परित्यागिन्)*

परिच्चागो : Abandonment, renunciation, sacrifice, expenditure, liberality *(परित्याग)*

परिच्चजति : To surrender, sacrifice, expend, bestow in charity *(परित्यज्)*

परिच्छदो : A cover, covering *(परिच्छद्)*

परिच्छत्तको : The coral tree; Erythmia Indica, a tree in Indra's heavens *(परि + च्छत्र + क)*

परिच्छेदो : Division, separation, discrimination; exact determination, definition; exact discerment, decision, judgment; limit, boundary, termination, extent; division, section, region; chapter of a book *(परिच्छेद)*

परिच्छिन्दति : To limit, define, mark out, discriminate, determine, fix, accurately *(परिच्छिद्)*

परिचितो : Heaped up, accumulated *(परिचित)*

परिचुम्बति : To cover with kisses *(परिचुम्ब्)*

परिदहनं : Putting on

परिदहति, परिदहेति, परिधेति, परिदधाति : To put on *(परिधा)*

परिदाहो : Burning; pain, suffering *(परिदाह)*

परिडह्यति : To be scorehed *(परिदह्यते)*

परिद्दवो : Lamentation *(परि + द्रव)*

परिदेवना : Lamentation *(परिदेवना)*

परिदेवति, वेति : To wail, lament *(परिदिव)*

परिदेव : Lamentation, wailing *(परिदेव)*

परिधावति : To run about *(परिधाव)*

परिधि : Circumference, circle, halo *(परिधि)*

परिदीपको (adj) **:** Illustrating, explaning *(परि + दीप् + अक)*

परिदीपनं : Illustration, explanation *(परि + दीप् + अन)*

परिदीपेति : To illustrate, explain, describe *(परि + दीप्)*

परिगलति : To sink down, to slip off *(परिगल्)*

परिगणेति : To calculate *(परिगण)*

परिगण्हनं : Comprehension

परिगण्हाति : To take hold of, grasp, carry along with one, embrace, include, surround, take possession of, possess occupy; to treat kindly *(परिग्रह)*

परिग्गाहको (adj) **:** Including, occupying *(परिग्राह + क)*

परिगहेत्वा, परिग्गहीतो : See *परिगण्हाति*

परिग्गहो : Occupation, possession, dependents, belongings, household, a wife; taking in, embracing, including: grace; favour, kindness, reverence *(परिग्रह)*

परिगूहति : To conceal *(परि + गुह)*

परिहानं : Deterioration, falling off *(परिहाण)*

परिहानी : Decrease, decay, diminution, loss, falling off *(परिहानी)*

परिहानियो (adj) **:** Connected with or causing decay, or loss

परिहापेति : To abandon, set aside; to diminish *(परिहापयति)*

परिहारकं : An armle *(परिहारक)*

परिहरणं : Keep up, keeping in existence *(परिहरण)*

परिहरति : To move, advance, move round; to keep up; keep going; to keep, practice use; to attend, tend; take care of, preserve, honour; to embrace, surround *(परिह्)*

परिहारिको (adj) **:** Keeping, preserving, cherishing

परिहारो : Attention, care honour, pomp, state, ceremony, rite; keeping, preserving, guarding; forsaking; avoidance *(परिहार)*

परिहासो : Jest, pleasantry *(परिहास)*

परिहायति : To decay, waste, diminish, fall away, deteriorate; to be deprived of, to suffer loss

परिहीनो : Fallen away from, waisted, decayed, perished, deficient, waiving *(परिहीण)*

परिजाननं : Knowledge, ascertainment

परिजानाति : To perceive, learn, know exactly *(परिज्ञा)*

परिजनो : Attendants, suite *(परिजन)*

परिजपति : To whisper mutter, practice, divination *(परिजप्)*

पारिजातको : The coral tree or Erythrina Indica *(पारिजातक)*

परिजिण्णो : Worn with age, decrepit, decayed *(परिजीर्ण)*

परिजुञ्ञं : Decay, loss *(परि + जूर्ण + य)*

परिकम्मं : Preparation, preparatory, proceedings or ceremony; getting ready by clearing, cleaning etc.; dressing cleansing or perfuming the body *(परिकर्मन्)*

परिकप्पो : Inclination, determination *(परिक्लप् + अ)*

परिकरो : A girdle *(परिकर)*

परिकथा : Story, exposition *(परिकथा)*

परिखा : A trench, ditch *(परिखा)*

परिकीरणं : Strewing about *(परिकृ + अन)*

परिकित्तेति : To declare, publish *(परिकृत्)*

परिक्कमनं : A path or approach to or round a house *(परिक्रमण)*

परिक्खको (adj) **:** Investigating, examining *(परीक्षक)*

परिक्खारो : Surrounding, retinue; decoration; furnishing; requisite; utensil; apparatus, furniture, household stuff *(परिष्कार)*

परिक्खति : To inspect; investigate *(परिक्ष्)*

परिक्खतो : Prepared, adomed *(परिष्कृत)*

परिक्खयो : Loss, ruin, decay, destruction *(परिक्षय)*

परिक्खेपो : Surrounding, enclosure fence, covering, circumference, boundary *(परिक्षेप)*

परिक्खीणो : Decayed, wasted, exhausted, extinct, destroyed *(परिक्षीण)*

परिक्खिपति : To throw over or around, to surround, to go round, encircle; to put into *(परिक्षिप्)*

परिळाहो : Burning, fever; grief, pain, distress *(परिदाह)*

परिमद्दनं + **परिमद्दो** : Crushing, Kneading; rubbing the body, shampooing *(परिमर्दन, परिमर्द)*

परिमद्दति : To go beyond, excel *(परिमृद्)*

परिमज्जति : To touch, stroke, handle; to cleanse, polish *(परिमृज्)*

परिमलो : Fragrance *(परिमल)*

परिमाणं : Measure, extent, duration *(परिमाण)*

परिमण्डलो (adj) : Circular, round, spreading around, covering, entirely *(परिमण्डल)*

परिमारेति : To cause to die

परिमसति : To touch, stroke *(परिमृश्)*

परिमेय्यो : Measurable *(परिमेय)*

परिमितो : Measured, limited, moderate *(परिमित)*

पारिमो (adj) : Further, opposite *(पार + इम)*

परिमोचनं : Release

परिमुच्चति : To be released, escape *(परिमुच्चते)*

परिमुखं (adv) : In front, before *(परिमुखम्)*

परिमुत्ति : Release (*from परिमुच्*)

परिणाहो : Breadth, extent, compass *(परिणाह)*

परिणमति : To stoop *(पणिम्)*

परिणामो : Change, alteration, issue, extent, termination: digestion *(परिणाम)*

परिणतो : Ripe, mature *(परिणत)*

परिनायको : Governor, chief, prince *(परिणायक)*

परिनयो : Marriage *(परिणय)*

परिनेति : To lead, guide, rule *(परिणी)*

परिनिब्बानं : Attainment of Nirvana, extinction: annihilation *(परिनिर्वाण)*

परिनिब्बानिको (adj) : Tending or conducive to Nirvana

परिनिब्बापेति : To cause to attain Nirvana

परिनिब्बाति, : To be extinguished; to attain Nirvana or the extinction of being; to attain arhatship *(परि + निर्वा)*

परिनिब्बायी (adj) **:** One who attains Nirvana or the extinction of being *(परि + निर्वा + इन्)*

परिनिब्बुतो : Extinguished, extinct: having attained Nirvana or annihilation of being, dead *(परि + निर्वृत)*

परिनिट्ठितो : Accomplished *(परिनिष्ठित)*

परिञ्ञा : Exact knowledge, ascertainment *(परिज्ञा)*

परिञ्ञातो : Well understood, exactly known *(परिज्ञात)*

परिञ्ञेय्यो : See *परिजानाति*

परिपाचनियो (adj) **:** Bringing to maturity, completing, achieving *(परिपाचन)*

परिपाचेति : To bring to maturity, to perfect, complete

परिपक्को : Fully ripe *(परिपक्व)*

परिपाको : Maturity, perfection *(परिपाक)*

परिपालेति : To protect, guard *(परिपालयति)*

परिपण्हाति : To weigh, compare, consider

परिपन्थो : An obstacle in the way, hindrance, annoyance, danger, misfortune *(परि + पथिन्)*

परिपतति : To fall down *(परिपत्)*

परिफन्दति : To tremble quiver, throb, totter *(परिस्पन्द्)*

परिप्लवो (adj) **:** Unsteady, wavering *(परिप्लव)*

परिप्फरति : To fill, cause to be pervaded by *(परि + स्फर्)*

परिप्फोसको (adj) **:** Besprinkled, moistered, all round

परिप्फुटो : Filled in every part, permeated, pervaded *(परिस्फुट)*

परिपुच्छा : Questioning, interogation *(परिपृच्छा)*

परिपुच्छति : To question, inquire about *(परिपृच्छ)*

परिपुच्छिता : One who questions, or inquires *(परिप्रछ + तृ)*

परिपूण्णो : Perfect: complete: fulfilled *(परिपूर्ण)*

परिपूरको (adj) **:** Fulfilling *(परिपूरक)*

परिपूरति : To be completely full: to be full-filled, to become perfect *(परिपृ)*

पारिपूरी : Accomplishment, fulfilment, perfection

परिरक्खति : To preserve, retain, maintain, keep-up *(परिरक्ष्)*

परिरुन्धति : To be set, plot against *(परि + रुध्)*

परिसा : Assembly, suite, congregation, company *(परिषद्)*

परिसज्जो (adj) : Belonging to an assembly *(परिषद्य)*

परिसक्कनं : Going about

परिसक्कति : To go about

परिसमत्तो : Finished *(परिसमाप्त)*

परिसंबाहति : To stroke, rub *(परि + सवाह्)*

परिसंवुतो : Restrained or guarded in all sides *(परि + संवृत)*

परिसन्देति : To drench *(परि + स्यन्दयति)*

परिसङ्का : Suspicion, misgiving *(परिशङ्क + आ)*

परिसङ्कति : To suspect *(परिशङ्क)*

परिसन्नो : Drenched *(परि + स्यन्न)*

परिसप्पति : To run to and fro, to creep about *(परिसृप्)*

परिसरो (adj) : Neighbourhood, border *(परिसर)*

परिसति : See *परिसर*

परिसिञ्चति : To sprinkle all over, bathe *(परिषिच्)*

परिसोधेति : To purify *(परिशोधयति)*

परिस्सजति : To embrace *(परिष्यञ्ज्)*

परिस्समो : Fatigue, exertion *(परिश्रम, परिश्राम्)*

परिस्सङ्गो : Embrace *(परिष्वङ्ग)*

परिस्सावनं : A water strainer *(परिस्त्रावण)*

परिस्सावेति : To strain or filter

परिस्सयं : A danger, risk

परिसुद्धि : Purity, perfection, freedom from blame, innocence *(परिशुद्धी)*

पारिसुद्धो : Pure, clear, innocent, holy; perfect, intact *(परिशुद्ध)*

परिसुस्सति : To dry-up, waste away *(परिशुष)*

परितापनं : Tormenting, afficting

परितापो : Heat, fever, inflammation: anguish, grief, suffering *(परिताप)*

परितस्सना : Fear, hesitation

परितस्सति : To treamble, be afraid *(परि + त्रस्)*

परितस्सी (adj) : Trembling *(परित्रासिन्)*

परितो (adv) : Around, on everyside, everywhere *(परितस्)*

परितोसनं : Satisfying *(परितोषण)*

परितोसेति : To satisfy, please, gratify *(परितोषयति)*

परितोसिको (adj) : Gratifying, rewarding *(परितोष + इक)*

परित्ता + परित्तं : Protection, defence

परित्ताभो (adj) : Of minor brilliancy *(परित्ताभ)*

परित्तको (adj) : Lesser, small, limited, brief *(परित्त + क)*

परित्तानं : Protection, defence, warding off *(परित्राण)*

परित्तासो : Fear, dread, anxiety *(परित्रास)*

परित्तसुभो (adj) : Of lesser beauty *(परीत्त + शुभ)*

पस्तितं : Smallness

परित्तो : Small, brief, limited *(परीत्त)*

परिवच्चं : Preparation

परिवादिनी : A lute of seven strings *(परिवादिनी)*

परिवादो : Censure, reproach, accusation, detraction *(परिवाद)*

परिवज्जनं : Forsaking, avoidance *(परिवर्जन)*

परिवज्जेति : To avoid, abstain from, reject, forsake, put away *(परिवर्जयति)*

परिवण्णेति : To describe, to praise *(परिवर्ण)*

परिवारको (adj) : Accompanying, forming, retinue

परिवारेति : To surround, escort, accompany, attend-upon *(परिवारयति)*

परिवारो : Covering: a scabbard: encourage, retinue, following, pomp *(परिवार)*

परिवसति : To dwell *(परि + वसति)*

परिवासेति : To put on a robe so as to cover the whole body *(परि + वासयति)*

परिवासितो : Perfumed

परिवासो : Living apart, being put under restraint, one of the acclesiastical punishments *(परिवास)*

परिवातो : Blown up *(परि + वात)*

परिवत्तकं : An embrace *(परिवृत्त)*

परिवत्तनं : Inverting, changing: exchange, barter *(परिवर्तन)*

परिवत्तति : To turn, to turn round, to be changed; to place oneself; to be whirled about; revolve *(परिवृत्त्)*

परिवत्तेति : To turn over, roll; to change; to repeat; to exchange *(परिवर्तयति)*

परिवट्टब्बो : That must dwell apart *(परि + वस्तव्य)*

परिवत्तो : Change, exchange, return *(परिवर्त)*

परिवट्टो : Circle, succession, revolution *(परिवर्त)*

परिवेणं : A hermits cell, the cell or hut, forming a monk's private chamber in a Buddhist monastery

परिवेसनं + ना : Distribution of food: attendance: surrounding *(परिवेषण)*

परिवेसो : A halo round sun or moon *(परिवेष)*

परिवेठेति : To envelope *(परिवेष्ट्)*

परिविमंसति : To examine, search

परिविसति : To present, offer food, wait upon *(परिविष्)*

परिवितक्केति : To reflect *(परि + वि + तर्क)*

परिवितक्को : Thought, reflection *(परि + वि + तर्क)*

परिवुतो : Surrounded, accompanied *(परिवृत)*

परिवुट्ठो + त्थो : Dwelt apart

परियादानं : Taking up, using up, finishing *(पर्यादा + न)*

परियादाति : To seize, lay hold of *(पर्यादा)*

परियङ्को : Another form of Pallnko

परियन्तक (adj) **:** Discriminating accurate *(पर्यन्त + वत्)*

परियन्तो : Boundary, border, limit, term, end *(पर्यन्त)*

परियापन्नो : Included, contained, belonging to *(परि + आ + पन्न = पद्)*

परियापुणानि : To learn thoroughly, to learn by heart *(पर्याप)*

परियाति : To attend on, serve *(परिया)*

परियत्तं (adj) **:** Voluntarily *(पर्याप्तं)*

परियत्ति : Adequacy, sufficiency, fullness, plenitude, learning by heart: that which is learnt by heart—the text of Buddha's word, the Tiptaka *(पर्याप्ति)*

परियत्तो : Able, sufficient; learnt by heart, mastered *(पर्याप्त)*

परियायो : Succession, order; turn, a synonym; opportunity; way, manner; a cause: teaching: exposition: a surrounding wall *(पर्याय)*

परियेसको (adj) **:** One who seeks *(पर्येष + अक)*

परियेसना : Search *(पर्येषणा)*

परियेसति : To search, seek for, seek out *(पर्येष्)*

परियेसि (adj) **:** Seeking *(पर्येष् + इन्)*

परियेट्ठि : Search *(परिर्येष्टि)*

परियोदानं : Cleansing *(परि + अवदान)*

परियोदपनं : Cleansing, purification

परियोदपेति : To cleanse, purify *(परि + अव + दै)*

परियोदातो : Cleansed, pure *(पर्यवदात)*

परियोगाल्हो : Dived into *(परि + अव + गाढ)*

परियोनन्धति : To cover envelope *(परि + अव + नह्)*

परियोसानं : Termination *(पर्यवसान्)*

परियोसितो : Concluded *(पर्यवसित)*

परियुट्ठितो : Arisen; possessed *(परि + उद् + स्थित्)*

परो (adj) **:** Distant, further: opposite; other, different, adverse; subsequent, highest, pre-eminent *(पर)*

परो (adv) **:** Beyond, more than *(परस्)*

परोदति : To burst into tears *(प्ररूद्)*

परोक्खो (adj) **:** Invisible, imperceptible *(परोक्ष्)*

परुळ्हो : Grown up, increased *(प्ररुद्)*

परुपघाती (adj) **:** Injuring others, cruel *(पर + उपघातिन्)*

परुपघातो : Injuring others, cruelty *(पर + उपघात)*

पारुपनं + पारुपणं : Dressing, putting on a garment; a covering mantle, clock, upper robe *(प्रावरण)*

पारुपति, पापुरति : To dress or put on an outer garment *(प्रावृ)*

परुपवादो : Reproaching others *(पर + उपवाद)*

पारुतो : See *पारूपति*

पसादको (adj) **:** Causing serenity or happiness: converting to Buddhist faith *(प्रसादक)*

पसादनं : Gratification, favour *(प्रसादन)*

पसादनीयो (adj) **:** Causing happiness *(प्रसादनीय)*

पसादापेति : To cause to be gratified

पसादवा (adj) **:** Delighted, pleased, having faith in *(प्रसादवत्)*

पसादेति : See *पसिदति*

पसाधनं : Decoration; ornament; parure; wearing ornaments *(प्रसाधन)*

पसाधेति : To put on, wear ornaments *(प्रसाध्)*

पासादिको (adj) **:** Pleasing, engaging amiable, gracious *(प्रासादिक)*

पसदो : The spotted antelope *(पृषत)*

पसादो : Brightness, clearness; favour, grace; refreshing joy; serenity of mind : faith *(प्रसाद)*

पासादो : A building errected on high foundations and approached by means of steps, a terrace tower; palace, mansion *(प्रासाद)*

पसहति : To use force, overcome, subdue, opress *(प्रसह)*

पसखा : A branch or twig *(प्रशाखा)*

पसाखो : The abdomen and thighs *(प्रशाख)*

पासको : A die *(प्रासक)*

पसमति : To allay *(प्रशम्)*

पसंसा : Praise *(प्रशंसा)*

पसंसनं : Praising, commendation *(प्रशंसन्)*

पसंसति : To praise, to declare *(प्रशंस्)*

पसंसी (adj) **:** Praising *(प्रशंसिन्)*

पासण्डिको (adj) **:** Heretical *(पाषण्डिक)*

पासण्डो : Hertical *(पाषण्ड)*

पसङ्गो : Attached, being addicted to *(प्रसङ्ग)*

पासनि : See *पण्हि*

पसन्नता : Clearness, serenity *(प्रसन्नता)*

पसन्नो : See *पसीदति*

पासाणो : A stone, a rock *(पाषाण)*

पसरणं : Spreading, being streched out *(प्रसरण)*

पसारेति : To stretch out, spread out, expand, exhibit, expose *(प्रसारयति)*

पसरो : Spreading, extension *(प्रसर)*

पसतो : A measure of capacity; palm streched out and hollowed as if to hold liquid *(प्रसृत)*

पसत्थो : Praised, asteemed, good, excellent *(प्रशस्त)*

पसवति : To beget, generate; to give birth to *(प्रसु)*

पसवो : See *पसु*

पसवो : Bringing forth; generating, production; a flower, fruit *(प्रसव)*

पसह्यो : Force, voilence *(प्रसह्य)*

पसेनदि : Name of a king of Kosala, a contemporary of Buddha *(प्रसेनजित्)*

पसिब्बकं + को : A bag, sack *(प्रसेवक)*

पसीदति : To be clear, serene, tranquil: to be content, satisfied, pleased, glad; to be favourable or gracious; to rejoice in, take pleasure in; to have faith in, to believe, be converted *(प्रसद्)*

पसिद्धि : Fame *(प्रसिद्धि)*

पसिद्धो : Notorious; celebrated *(प्रसिद्ध)*

पासिको : Connected with snares, using snares, caught in snares *(पाशिक)*

पसिति : A fetter *(प्रसिति)*

पासो : A noose, string, snare, fetter *(पाश)*

पस्सद्धि : Calming down, calmness, repose, tranquillity *(प्रश्राब्धि)*

पस्सम्भति : To calm down, be quiet *(प्र + श्रम्भ्)*

पस्सनं : Seeing

पस्ससति : To expel the breath, exhale *(प्र + आ +श्वस्)*

पस्सासो : Exhaled breath *(प्र + आ + श्वस्)*

पस्सति : To see, look, behold, observe: to see with the mind, learn, know, understand: to discover, find, meet-with *(पश्)*

पस्सावी (adj) **:** Seeing

पस्सावो : Urine *(प्रस्राव)*

पस्सो + पस्सं : Side, flank *(पार्श्व)*

पसु : Cattle; an animal, beast: a goat *(पशु)*

पसूति : Birth, bringing forth: childbirth, delivery *(प्रसूति)*

प्रसूत्तिका : That has brought forth, that has had a child *(प्रसूतिका)*

पसुतो : Intent upon, devoted to, seeking *(प्रसित = सि)*

पसूतो : Engendered, born; delivered *(प्रसूत)*

पसुत्तो : Sleeping *(प्रसुत्त)*

पातव्वो : Drinkable *(पातव्य)*

पटग्गि : Fire in return *(प्रति + अग्नि)*

पटहो : A battle-drum Kettle drum *(पटह)*

पताका : A banner or flag *(पताका)*

पटको : Cotton cloth *(पटक)*

पातालं : The lower regions: Naga-world, submarine fire *(पाताल)*

पटलं : A covering; coating: membrane, film: catarract of the eye: roof thatch: a heap, multitude, quantity *(पटल)*

पाटली : The trumpet flower, Bignomia Suaveolens *(पाटली)*

पटलिका : A woollen coverlet thickly woven with flowers *(पटल + इका)*

पाटलिपुत्तं + त्तकं : Name of a city in Magadha *(पाटलिपुत्रक)*

पाटलो (adj) **:** Light, red, pink *(पाटल)*

पतनं : Falling *(पतन)*

पतङ्गो : A bird *(पतङ्ग)*

पटङ्गो : A flying insect, moth, beatle, grass-hopper *(फडिङ्ग)*

पतानि (adj) **:** Spreading, extending *(प्रतानिन्)*

पातञ्जलि (adj) **:** Having the hands clasped *(पातञ्जलि)*

पतन्तो : A bird *(पनत्)*

पटन्तो : The skirt or seam of a garment *(पट + अन्त)*

पतापनो : Name of one of the eight Hells *(प्रतापन)*

पतावव्वा (adj) **:** Burning, scorching *(प्रतापवत्)*

पतापो : Heat; splendour, majesty, dignity *(प्रताप)*

पतापी (adj) **:** Burning, schorching *(प्रतापिन्)*

पतारणं : Elevation; aggrandisement *(प्रतारणा)*

पातरासो : Morning meal: breakfast *(प्रातराश)*

पतारेति : To mislead, deceive *(प्रतारयति)*

पतति : To fall, alight *(पत्)*

पतत्तं : A wing *(पतत्र)*

पाटवं : Skill *(पाटव)*

पातव्यता : Injuring, destroying

पतयो : *See पति*

पाटेक्कं (adv) **:** Singly, severally *(प्रत्येक + य)*

पातेति : *See पतति*

पाठा : The plant Clypea Hernandifolia *(पाठा)*

पठद्धि : A throughfare, street

पाठको : One who reads or recites; studies *(पाठक)*

पठमज्झानिको (adj) **:** Connected with the first Jhanas *(प्रथम + ध्यान + इक)*

पठमकप्पिको (adj) **:** Belonging to the commencement of a Kalpa *(प्रथम + कल्प + इक)*

पठमको (adj) **:** First, previous *(प्रथमक)*

पठमो (adj) **:** First, foremost; earliest, previous, principal, chief, best *(प्रथम)*

पठति : To read, recite *(पठ)*

पठवी, पथवी, : The earth *(पृथिवी, पृथ्वी)*

पुथुवी + पुथवी

पथावी : A traveller *(पथ + आविन्)*

पाठेति : To cause to read, to teach *(पाठयति)*

पाथेय्यं : Provisions for a journey *(पाथेय)*

पथिको : A traveller *(पथिक)*

पाठीनो : The fish Silurus Boalis *(पाठीन)*

पथो : Path, road, way, course, reach *(पथ)*

पाठो : Reading, recitation, text, passage of a text *(पाठ)*

पति : Master, owner, chief, ruler; husband *(पति)*

पटि (Prep) **:** Towards : back, in return: against *(प्रति)*

पटी : Coarse-cloth, canvas *(पटी)*

पाति : To protect *(पा)*

पाती : A vessel, dish, bowl *(पात्री)*

पटिबद्धो : Bound, obstructed, dependent *(प्रतिबद्ध)*

पटिबाहनं + **पटिबहो** : Warding off; repulsion

पटिबाहति + **पटिबाहेति** : To put away, reject, avert, repel *(प्रतिवाह)*

पटिबलो (adj) : Able, adequate, competent *(प्रतिबल)*

पतिब्बता : Devoted or faithful wife *(पतिव्रता)*

पटिभागो : One who belongs to the opposite side, an enemy *(प्रतिभाग)*

पतिभानं : Understanding, intelligence; wisdom; readiness: confidence of speech; promptitude; wit *(प्रतिभावान)*

पटिभानवा (adj) : Possessed intelligence or ready wit *(प्रतिभानवत्)*

पटिभासति : To address in return or reply *(प्रतिभाष्)*

पटिभाति : To appear, to be evident, to occur or present itself, to the mind *(प्रतिभा)*

पटिभयो (adj) : Terrible, fearful *(प्रतिभय)*

पटिभायुत्तो (adj) : Bold, ready, confident *(प्रतिभा + युक्त)*

पटिभोगो : A surety, sponsor *(प्रतिभोग)*

पटिभू : A surety *(प्रतिभू)*

पटिबिम्बं : Reflection, counterpart, image *(प्रतिबिम्ब)*

पटिबिम्बितो : Reflected, image *(प्रतिबिम्बित)*

पटिबोधो : Awaking *(प्रतिबोध)*

पटिबुज्झति : To awake *(प्रतिबुध्)*

पटिच्च : Following from anything as a necessary result; by means of, on account of, by reason of, through, by

पटिच्चसमुप्पादो : Origination as a necessary result from an antecedent cause, chain of causation

पटिच्छादको (adj) : Covering, Concealing *(प्रतिच्छद् + अक)*

पटिच्छादनं : Concealment *(प्रतिच्छद् + अन)*

पटिच्छादनियं : The flavour of meat

पटिच्छादेति : To cover, conceal, keep secret, deny, to clothe oneself *(प्रतिच्छद्)*

पटिच्छादि (adj) : Covering, protecting *(प्रतिच्छद् + इन)*

पटिच्छदो : Covering, shelter *(प्रतिच्छद् + अ)*

पटिच्छन्नो : *See पटिच्छादेति*

पटिच्छापेति : To cause to receive, to deliver to, entrust to

पटिच्छति : To receive, take *(प्रतीष्)*

पटीचि : The west *(प्रतीची)*

पटिचिक्खति : To resolve *(प्रतिचक्ष्)*

पटिचोदेति : To blame, reprove *(प्रतिचुद्)*

पटिददाति + पटिदेति : To give in return, to restore *(प्रतिदा)*

पतिदानं : Restitution, restoration *(प्रतिदान)*

पटिदण्डो : Retribution *(प्रतिदण्ड)*

पटिदस्सेति : To cause to see again *(प्रतिदर्शयति)*

पटिदेसेति : To confess *(प्रतिदेशयति)*

पतिदेवता : Devoted wife *(पतिदेवता)*

पतिदिस्सति : To be seen with, visit

पतिदिवसं (adv) **:** Daily *(प्रति + दिवस)*

पाटिएक्को + पाटियेक्को (adj) **:** Individual separate *(प्रत्येक + य)*

पतिगण्हाति : To take, receive, accept; to welcome, recognise, assent *(प्रतिग्रह)*

पटिग्गाहको (adj) **:** Receiving a recipient *(प्रतिग्राहक)*

पटिग्गहणं : Acceptance, receiving *(प्रतिग्रहण)*

पटिग्गहेत्वा : *See पटिगण्हाति*

पटिग्गहीता : One who receives *(प्रतिगृहीतृ)*

पटिग्गहीतो : Received, assented to, admitted, approved *(प्रतिगृहीत)*

पटिग्गहो : Acceptance, receipt *(प्रतिग्रह)*

पटिघातो : Concussion; warding off, repulsion *(प्रतिघात)*

पटिघो + घं : Anger, hatred *(प्रतिघ)*

पटिघोसो : Echo *(प्रति + घोष)*

पतिजिणाति : To agree, persuit, approve *(प्रतिगृ)*

पटिहन्ति : To strike, wound: ward off *(प्रतिहन्)*

पटिहरणं : Striking in return *(प्रतिहरण)*

पटिहरति : To strike in return *(प्रतिहृ)*

पाटिहारियं, पाटिहेरं + पाटिहीरं : A miracle, portent *(प्रातिहार्य)*

पटिहारो : Carrying back: a door; a door keeper *(प्रतिहार)*

पटिहतो : *See पटिहन्ति*

पटिजग्गनं : Watching over

पटिजग्गति : To watch over, guard, look after, tend, take care of *(प्रतिजागृ)*

पटिजानाति : To acknowledge, confess, recognise; to approve, consent, promise: to profess, assent, maintain: to discern, perceive *(प्रतिज्ञा)*

पटिका : White woollen cloth *(पटिका)*

पाटिका : A stone step at the entrance of the house

पटिकम्मं : Treatment, cure; repair, redress, atonement *(प्रतिकर्मन्)*

पटिकङ्खति : To expect, await, desire *(प्रतिकाङ्क्ष)*

पाटिकङ्खी (adj) **:** Expecting, hoping for, desiring *(प्रतिकाङ्क्ष + इन्)*

पाटिकङ्खो : To be expected

पटिकारको (adj) **:** Requiting *(प्रति + कारक)*

पटिकारो : Repair, amends; atonement, remedy *(प्रतिकार)*

पटिकरोति : To repair, make amends for *(प्रतिकृ)*

पटिकस्सनं : Drawing back *(प्रति + कर्षण)*

पटिखमापितो : Forgiven in return

पटिकिट्ठो : Inferior, low, vile *(प्रतिकृष्ट)*

पटिक्कमनं : Stepping backwards, retreat: a hall with seats of distinction *(प्रतिक्रमण)*

पटिक्कमति : To step backwards, retreat, depart: to return *(प्रतिक्रम्)*

पटिक्कमो : Going back, reverse order *(प्रतिक्रम्)*

पटिक्खेपो : Opposing, refusing *(प्रतिक्षेप)*

पटिक्खिपति : To oppose, to refuse, to reject *(प्रतिक्षिप्)*

पटिक्कोसनं : Reviling ; scorn

पटिक्कोसति : To blame, revile, scorn *(प्रति + क्रुश्)*

पतिक्कूलो (adj) **:** Contrary; disagreeable *(प्रतिकूल)*

पतिक्रिया : Giving medicine: counteracting: remedying *(प्रतिक्रिया)*

पतिकुलं : Husband's family *(पति + कुल)*

पतिकुट्ठो : Miserable, vile *(प्रतिकुष्ट)*

पटिलभति : To obtain; receive; to regain *(प्रतिलभ्)*

पटिलाभो : Obtaining, attainment, aquisition *(प्रतिलाभ्)*

पटिलद्धो : *See पटिलभति*

पटिलेखनं : A letter sent in reply *(प्रति + लेखन)*

पटिलोम : Contrary, reverse, in reverse order *(प्रतिलोम)*

पटिमा : Image, picture, figure *(प्रतिमा)*

पटिमग्गो : A confronting road *(प्रति + मार्ग)*

पतिमण्डितो : Adorned, decorated *(प्रतिमण्डित)*

पतिमानेति : To revere *(प्रतिमानयति)*

पतिमन्तेति : To discuss in argument, to reply to, refute *(प्रतिमन्ता)*

पतिमासेति : To explore, search *(प्रति + मृश्)*

पटिमोचेति : *See पटिमुञ्चति*

पातिमोक्खं : Name given to a collection of the various sikkhapadas contained in the Vinaya, beginning with the four Parajikas and ending with the 75 Sekhiyadhammas It's a sort of criminal code for the Bhikkhus

पटिमोक्खो : A sort of remedy

पटिमुखो (adj) **:** Opposite, at hand, present *(प्रतिमुख)*

पटिमुक्को : Fastened, tied: clothed, accounted *(प्रतिमुक्त)*

पटिमुञ्चति : To put on, fasten, bind *(प्रतिमुच्)*

पतिंवरा : A woman who chooses her husband *(पतिंवरा)*

पटिनन्दति : To express gratification, to welcome *(प्रतिनन्द्)*

पटिनिधि : Image, likeness *(प्रतिनिधि)*

पटिनिस्सग्गो : Forsaking, getting rid off *(प्रति + निस् + सर्ग)*

पटिनिस्सज्जेति : To forsake, renounce *(प्रति + निस् + सर्ग)*

पटिनिस्सट्ठो : Forsaken : having forsaken *(प्रति + निस् + सृष्ट)*

पटिनिवत्तति : To turn back again, to return *(प्रतिनिवृत्)*

पटिनिवेदेति : To bring back news, announce

पटिञ्ञा : Agreement, promise, vow *(प्रतिज्ञा)*

परिञ्ञातो : Asserted; admitted; acknowledged: promised *(प्रतिज्ञात)*

पटिपाभतं : A present or gift in return *(प्रति + प्राभृत)*

पटिपदा : Ingress, access, way, step, course, practice conduct: the first day of a lunar fortnight *(प्रतिपद्, प्रतिपदा)*

पटिपदं (adv) **:** Step by step, in due order *(प्रतिपदम्)*

पटिपादनं : Imparting, giving, informing, declaring *(प्रतिपादन)*

पटिपादेति : *See पटिपज्जति*

पटिपादो : That which supports the bed-stead *(प्रति + पाद)*

पाटिपदो (adj) **:** Belonging to the first— day of Lunar fortnight *(प्रतिपद + अ)*

पटिपज्जति : To enter upon, walk upon; to follow, embrace, regulate once, life, live, act, practice: enter upon, obtain *(प्रतिपद)*

पटिपाकतिको (adj) : Restored or set right again *(प्रति + प्राकृतिक)*

पटिपक्खत्तं : Opposition *(प्रति + पक्षत्व)*

पटिपक्खो : An opponent, enemy; hostility *(प्रतिपक्ष)*

पटिपणामेति : To bend down again

पटिपन्नो : *See पटिपज्जति*

पटिपथो : Confronting road *(प्रति + पथ)*

पटिपाटि : Order, succession *(प्रति + पाटी)*

पटिपत्ति : Conduct, practice, performance, occupation: religious duties or practice, moral conduct: attainment: acquisition: knowledge: ascertainment *(प्रतिपत्ति)*

पटिपीळनं : Pressing, pinching *(प्रतिपीडन्)*

पटिप्पस्सम्भनं : Subsidence

पटिप्पस्सम्भति : To be calmed, quieted, to subside, to come to an end *(प्रति + प्र + श्रम्भ्)*

पटिपुच्छा : Question in return *(प्रति + पृच्छा)*

पटिपुच्छनं : Questioning in return *(प्रतिप्रच्छ + अन)*

पटिपुच्छति : To inquire, question: to put a question in turn *(प्रतिप्रछ्)*

पटिपुच्छिता : One who inquires *(प्रतिप्रच्छ + तृ)*

पटिपुग्गलो : A person equal to another, a rival *(प्रति + पुद्गल)*

पटिपूजेति : To honour in return *(प्रति + पूज्)*

पटिराजा : Hostile king, royal adversary *(प्रतिराज)*

पतीरयं : A shore, bank *(प्रतीर)*

पटिरवो : Echo *(प्रतिरव)*

पतिरुपको (adj) : Resembling, counterfeiting *(प्रतिरुपक)*

पतिरुपं : A counterfeit *(प्रतिरुप)*

पतिरुपो : Suitable, fit, proper, right, good *(प्रतिरुप)*

पतिसल्लाणं : Solitude, retirement for the purpose of meditation, seclusion, privacy *(प्रतिसंलयन)*

पतिसल्लीणो : Secluded, retired, abstructed, plunged in meditation *(प्रति + सम् + लीन)*

पटिसामनं : Putting away

पटिसम्भिदा : Discrimination, analysis

पटिसामेति : To set in order, put away

पटिसंहरति : To draw back; to fold; to change *(प्रतिसह)*

पटिसम्मज्जति : To sweep over again *(प्रति + समृज्)*

पटिसम्मोदनं : Friendly greeting in return

पटिसमो (adj) : Equal to *(प्रतिसम)*

पटिसंवेदेति + **वेदियति** : To feel experience, enjoy, perceive

पटिसंवेदी (adj) : Experiencing, feeling, enjoying *(प्रतिसंवेदिन्)*

पटिसंविदितो : Having informed *(प्रति + सम् + विदित)*

पटिसंयुत्तो + **सञ्ञुत्तो** : Connected with *(प्रति + सम् + युक्त)*

पटिसञ्चिक्खति : To agree with oneself, to consider, revolve a matter in mind *(प्रति + सम् + चक्ष्)*

पटिसन्दहति : To be re-born, to transmigrate *(प्रतिमघा)*

पटिसन्धिको (adj) : At the end of a compound as a substitute for last

पटिसङ्खानं : Reflection, contemplation *(प्रतिसङ्खा + न)*

पटिसन्धि : Entering the womb in a new existence, conception, re-birth, transmigration *(प्रतिसंधि)*

पटिसङ्खरणं : Restoration, repairs

पटिसङ्खारणं : Causing to be repaired

पटिसङ्खारो : Restoration, repairs

पटिसङ्खरोति : To restore, repair, mend *(प्रतिसंस्कृ)*

पटिसङ्खाति : To reflect, meditate *(प्रतिसङ्खा)*

पटिसङ्खतो : Restored, repaird *(प्रति + सम + कृत)*

पटिसञ्ञत्तो : *See परिसम्युतो*

पटिसन्थरति : To be favourably disposed to, to be interested in *(प्रति + सम् + स्तृ)*

पटिसन्थारो : Friendly greeting, welcom, kindness, affection, friendliness *(प्रति + संस्तार)*

पटिसरणं : Refuge, help, defence, protector *(प्रति + शरण)*

पटिसाराणीयो : It seems to be p. f p. from the caus of *(प्रतिस्मृ)*

पटिसारी (adj) : Trusting in, leaning on *(प्रतिसारिन्)*

पटिसासनं : A message in return or reply *(प्रतिशासन्)*

पटिसत्तु : An enemy *(प्रतिशत्रु)*

पटिसायनीयो : To be tasted or partaken of or enjoyed *(प्रति + स्वादनीय)*

पटिसेधनं : Preventing, stopping *(प्रतिषेधन)*

पटिसेधेति : To keep or ward off: to Prevent, prohibit restrain *(प्रतिषेधयति)*

पटिसेधो : Prohibition *(प्रतिषेध)*

पटिसेवनं : Practising

पटिसेवति : To receive, to practice *(प्रति + सेव)*

पटिसिब्बति : To sew, embroider *(प्रति + सिव्)*

पटिसिद्धो : Forbidden *(प्रतिषिद्ध)*

पटिसोतं (adj) **:** Against the stream *(प्रतिस्त्रोतस्)*

पतिस्सा : Amenability, assent, obedience

पतिस्सतो : Recollecting, thoughtful *(प्रति + स्मृत्)*

पटिस्सावी (adj) **:** Assenting, ready, willing *(प्रति + श्राविन्)*

पटिस्सवो : Assent, promise *(प्रतिश्रुव)*

पतिस्सयो : A house, dwelling, asylum *(प्रतिश्रय)*

पटिसुणाति : To assent, promise *(प्रतिश्रु)*

पतिसुञ्ञा : A widow *(पति + शून्य)*

पटितित्थो : A landing place on the opposite bank of the river *(प्रति + तीर्थ)*

पतितो : Fallen; fallen in battle, slain: gone, got rid off *(पतित)*

पतीतो, पतितो, पटितो : Known, established, true; famous, pleased delighted *(प्रतीत)*

पतितो : *See पातेति*

पतिट्ठा : Fixity, strength, resting place, stay, help, home, asylum *(प्रतिष्ठा)*

पतिट्ठहति : *See पतिट्ठाति*

पतिट्ठानं : Fixing, establishment *(प्रतिष्ठान)*

पतिट्ठापको : One who establishes

पतिट्ठापनं : Fixing, setting up *(प्रतिष्ठापन्)*

पतिट्ठापिताता : Fact of having been established *(प्रतिष्ठापित + ता)*

पतिट्ठाति + पतिट्ठाहति : To stand fast or firmly, to be established, to fix oneself, to be set to be set up, to stay, *(प्रतिष्ठा)*

पतिट्ठितत्तं : Fact of being established *(प्रतिष्ठित + त्व)*

पटिवचनं : Answer, rejoinder *(प्रतिवचन)*

पटिवदति : To answer, retort *(प्रतिवद्)*

पटिवादो : Retort, recrimination *(प्रतिवाद)*

पटिवाक्यं : Reply *(प्रतिवाक्य)*

पटिवाणं : Opposition, resistance *(प्रति + वाण)*

पटिवाणी (adj) **:** Resisting

पटिवसति : To live, dwell *(प्रतिवस्)*

पटिवातं (adv) **:** Against the wind *(प्रतिवातम्)*

पटिवत्ता : One who answers or contradicts *(प्रति + वक्तृ)*

पटिवत्तं : *See वत्तं*

पटिवट्टेति : To roll something against, knock, strike

पतिवत्तियो : That can be subverted

पटिवेदेति : To make known, announce, assist *(प्रतिवेदयति)*

पटिवेधो : Penetration, comprehension, attainment *(प्रति + वेध)*

पटिविभत्तो : Distributed with partiality or favour *(प्रतिविभज्)*

पटिविद्धो : Penetrated, acquired *(प्रति + विद्ध)*

पटिविदितो : Known, ascertained *(प्रति + विदित)*

पटिविज्झानं : Penetration; comprehension

पटिविज्झति : To cleave, split: to penetrate, comprehend, acquire, master, learn *(प्रतिव्यध्)*

पतिविलग्गितो : Stuck, entangled

पटिविंसो : Portion, Share

पटिविनेति : To repress, subdue *(प्रति + वि + नी)*

पटिविनोनं : Removal,

पटिविनोदेति : To remove, dismiss, dispel *(प्रति + वि + नुद्)*

पटिविरति : Abstinence from *(प्रतिविरति)*

पटिविरतो : Abstaining from *(प्रति + वि + रत)*

पटिविरुद्धो : Opposed, hostile *(प्रति + वि + रुद्ध)*

पटिविस्सको (adj) **:** Neighbouring *(प्रतिवेश or प्रतिवेश्यन् or प्रतिवेश्य + क)*

पटियादेति : To prepare, make ready, provide *(प्रतियातयति)*

पटियत्तो : Prepared, made ready: dressed *(प्रति + यत्त)*

पाटियेक्को : *See पाटिएक्को*

पाटो + पाटं : Cloth; a cloth or garment *(पट)*

पातो : Falling, fall; a cast, throw; discharge *(पात)*

पातो : Before a vowel sometimes Patar (adv) at dawn, early, to-morrow morning *(प्रातर)*

पतोदकं : Poking or tickling *(प्रतोदक)*

पतोदो : A goad *(प्रतोद)*

पटोलो : A species of cucumber

पत्तब्बो + पत्तब्बको : Attainable *(प्राप्तव्य)*

पत्तचीवरं : Bowl and robe *(पात्र + चीवर)*

पत्तधम्मो (adj) **:** One who has mastered the truth *(प्राप्त + धर्म)*

पत्तगाहो (adj) **:** Holding a bowl *(पात्र + ग्राह)*

पत्तकल्लं : Timeless, seasonableness *(प्राप्तकाल + य)*

पत्तकालो : Right moment, seasonable time *(प्राप्तकाल)*

पट्टको : A cloth *(पट्टक)*

पत्तं : A wing; a leaf; or petal *(पत्त)*

पट्टनं : A port; seaport *(पट्टन)*

पत्तङ्ग : Red sandal *(पत्ताङ्ग)*

पत्तानीकं : Infantry *(पत्ति + अनीक)*

पत्तपिण्डिकङ्गं : This is the sixth Dhutanga precept and enjoins eating from one vessel only *(पात्र + पिण्ड + अङ्ग)*

पत्तपूरो : A bowlful *(पात्र + पूर)*

पत्तपूटं : A small basket made of leaves *(पत्र + पुट)*

पत्तयानो : A bird *(पत्र + यान)*

पत्तेय्यो (adj) **:** Obtainable *(प्राप्त + एय)*

पत्थना : Desire, request, prayer, aspiration, hope, resolve *(प्रार्थना)*

पट्ठानं : Setting out, departure, march of an army or assailant; origin, cause *(प्रस्थान)*

पट्ठपेति : To set going, set on foot, establish furnish provide *(प्रस्थापयति)*

पत्थरति : To spread, strew: to overspread, pervade *(प्र + स्तृ)*

पत्थरो : A flat surface *(प्रस्तर)*

पत्थतो : Spread, streched *(प्रस्तृत)*

पत्थावना : Introduction; dramatic prologue *(प्रस्तावना)*

पट्ठाय : Setting out from, beginning from, since, after, from

पत्थेति : To wish for, aspire to, pray for *(प्रार्थ)*

पत्थिवो : A king *(पार्थिव)*

पत्थो : A weight and measure of capacity; a table-land on the top of a mountain *(प्रस्थ)*

पत्थो (adj) **:** Secluded, solitary *(प्रास्त)*

पत्ति : A foot soldier; going, walking *(पत्ति)*

पत्ति : Obtaining, acquisition, attainment, gain, advantage *(प्राप्ति)*

पत्ती : An arrow *(पत्रिन्)*

पट्टिका : A slip, a lablet; a bandage, ribbon *(पट्टिका)*

पत्तिको (adj) : Going on foot *(पत्तिक)*

पत्तिपत्तो (adj) : Having obtained the highest-gain *(प्राप्ति + प्राप्त)*

पत्तो : Obtained, reached; having reached *(प्राप्त)*

पत्तो : A bowl–a Buddhist monk's begging-bowl or alms-bowl *(पात्र)*

पट्टो : Ship, ribband, tablet, plate, slab; a cloth, bandage, turban *(पट्ट)*

पत्तोदकं : Water to wash a bowl with *(पात्र + उदक)*

पत्तुं : *See पापुणाति*

पत्तुण्णं : Wove silk cloth *(पत्तोण)*

पटु (adj) : Sharp; skilful; sensible; wise; healthy *(पटु)*

पातु : Before a vowel Patur (adv) evidently, manifestly *(प्रादुस्)*

पातुभवति : To become visible or manifest, to appear, to arise, to spring into existence *(प्रादुर्भू)*

पटुभावो : Skill *(पटु + भाव)*

पातुभावो : Appearance, manifestation, apparition, arising *(प्रादुर्भाव)*

पतुज्जा : Having struck off

पातुकरणं : Production, manifestation *(प्रादुष्करण)*

पातुकरोति : To produce, manifest *(प्रादुष्कृ)*

पातुं : *See पिवति*

पातुर : *See पातु*

पत्वा : *See पापुणाति*

पावा : A city of Mallas, near Rajagaha *(पावा)*

पावचनं : The word of Buddha or the holy scriptures *(प्रवचन)*

पावदति : To speak out, express *(प्रवद्)*

पवड्धति : To grow, increase *(प्रवृध्)*

पवादी : A disputant *(प्रवादिन्)*

पवादो : Disputation, litigious language, defamation *(प्रवाद)*

पवहणं : A ship's boat *(प्रवहण)*

पवाहेति : To cause to be carried by stream

पवाहो : Current, stream: course or stream of action, occupation *(प्रवाह)*

पवज्जति : To be played, or sounded

पावकि : An epithet of skanda or Kartikkeya *(पावकी)*

पावको : Fire *(पावक)*

पवक्खति : He will tell, declare, recite

पवालो + लं : A sprout or germ *(प्रवाल)*

पवाळो + ळं : Coral *(प्रवाड)*

पवनं : Side of a mountain, declivity, height *(प्रवण)*

पवनं + पावनं : Purification; winnowing *(पवन, पावन)*

पवनो : Air, wind *(पवन)*

पवारणा : Invitation; prohibition; name of a certain festival *(प्रवारणा)*

पवारेति : To cause to choose, to give a person his choice, to invite, to offer: to join in the festival *(प्रवारयति)*

पवरो (adj) **:** Chief, best, noble, excellent *(प्रवर)*

पवारो : A woollen cloth *(प्रवार)*

पावारो : A cloak or mantle *(प्रावार)*

पवासी (adj) **:** Living abroad or away from home *(प्रवासिन्)*

पवासो : Absence from home *(प्रवास)*

पवस्सति : To rain *(प्रवृष्)*

पवाति : To diffuse, a scent *(प्रवा)*

पवात्तं : A draught of air, breeze *(प्रवात)*

पवत्तां : One who informs, points out *(प्रवक्तृ)*

पवत्तनको (adj) **:** Bringing about, producing, promoting *(प्रवर्तन + क)*

पवत्तनं : Behaviour, conduct, procedure *(प्रवर्तन)*

पवत्तति : To arise, begin, take place; to start, set out, to roll or flow onwards; to become, be exist, to go on, proceed, to be kept up *(प्रवृत्)*

पवट्टति : To revolve, whirl round *(प्रवृत्)*

पवत्तेति : To cause to arise or to flow onwards, or to proceed to set going, to set on foot, establish, produce, make, originate, begin *(प्रवर्तयति)*

पवट्टेति : To throw back, turn-aside, to set rolling, to roll *(प्रवर्तयति)*

पवत्ति : Flow onwards; going on, affairs, occurance, incident proceeding; news tidings practice, conduct; beginning setting on foot, establishment; being, existence *(प्रवृत्ति)*

पवत्तितो : Setting going, established, made *(प्रवर्तित)*

पवत्तो : Starting, proceeding, setting out, begun, set on foot, kept going; kept up; going on, being, existing, settled, fixed *(प्रवृत्त)*

पवायति : To be wafted abroad *(प्रवा)*

पवेच्चति : To give

पवेदेति : To make known, tell, utter *(प्रवेदयति)*

पवेधति : To tremble *(प्रव्यथ्)*

पवेक्खति : *See पविसति*

पवेणी : A long braid of hair; a coloured woollen cloth used for a saddle or housings: series, succession line; tradition, custom, usage *(प्रवेणि)*

पवेसनं : Entrance *(प्रवेशन)*

पवेसेतिः *See पविसति*

पवेसोः Entrance *(प्रवेश)*

पावेय्यको (adj) **:** Belonging to Pava *(पावा + य + क)*

पविधातुं : To place, appoint *(प्रविधा)*

पविचयो : Investigation *(प्रविचय)*

पविच्छाति : To throw down *(प्रव्यध्)*

पवीणो (adj) **:** Clever, skilful *(प्रवीण)*

पवीरो : Heroic; best *(प्रवीर)*

पवीसनं : Entrance *(प्रवेश)*

पविसति : To enter *(प्रविश्)*

पविस्सिलेसो : Separation *(प्रविश्लेष)*

पविट्ठोः *See पविसति*

पवित्तो (adj) **:** Sacred, ho1y *(पवित्र)*

पविवेको : Retirement, solitude, seclusion *(from प्र + वि + विच्)*

पविवित्तो : Separated, detached, retired, secluded *(प्रविविक्त)*

पवो : Purification, winnowing grain *(पव)*

पवुच्चति : To be spoken of, to be called or termed

पवुद्धो : *See पवद्धति*

पावुसो : The rainy season; a sort of a fish *(प्रावृष)*

पावुस्सको (adj) **:** Belonging to the rainy season *(प्रावृष्य + क)*

पवुत्तो : Spoken to, told *(प्र + उक्त)*

पायको : One who drinks *(पायक)*

पयामो : Length *(प्रयाम)*

पायासो : Rice boiled in milk, milk rice *(पायस)*

पयाति : To go, proceed, advance *(प्रया)*

पयतो : Pure *(प्रयत)*

पयातो : Gone, departed *(प्रयात)*

पायेति : *See पिवति*

पायी : Drinking *(पायिन्)*

पयीरूदाह : To utter *(परि + उद् + आह = अह्)*

पयिरुपासति : To sit beside, attend on, associated with, serve honour *(पर्युपास्)*

पयो, पयं : Water: milk *(पयस्)*

पायो : Drinking *(पाय)*

पायो : Abandance *(प्राय)*

पायो (adv) **:** Abundantly *(प्रायस्)*

पयोधरो : A cloud; a women's breast *(पयोधर)*

पयोदो : A cloud *(पयोद)*

पयोगो : Practice, use, usage; means, instrumentality; motive, occasion, object *(प्रयोग)*

पयोजनं : Appointment, command, direction, advantage, use, need; object, aim *(प्रयोजन)*

पयोजेति : To perform, practice, conduct, carry on; to instigate cause, direct, command: to employ, suborn, hire *(प्रयोजयति)*

पायु : The anus *(पायु)*

पायुञ्जति : To yoke, harness; to employ, appoint; to practice, behave *(प्रयुज्)*

पयुत्तको (adj) **:** Employed, hired, suborned *(प्रयुक्त + क)*

पय्यको : Paternal great-grandfather *(प्र + आर्यक)*

पय्येसना : Search *(पर्येषणा)*

पे : *See पेय्यालं*

पेच्च : Having departed, after-death, in the next world or existence, hereafter *(प्रेत्य)*

पेखा + पेक्खा : Wish, desire, expectation *(प्रेक्षा)*

पेखी (adj) **:** Desiring, looking for, awaiting *(प्रेक्षिन्)*

पेखुणं : A wing

पेक्खा : *See पेखा*

पेक्खति : To look at, to hold, observe, watch with expectation, to look out for; expect *(प्रेक्ष्)*

पेळा : A basket *(पेडा)*

पेलको : A hare

पेलवो (adj) **:** Delicate,tender *(पेलव)*

पेमं : Love; affection: kindness: joy, pleasure *(प्रेमन्)*

पेमनीयो (adj) **:** Affectionate

पेसकारो : A weaver *(पेशस् + कार)*

पेसलो (adj) **:** Beautiful, delightful, amiable; skilful *(पेशल)*

पेसनं : Sending, dispatching; message, dispatch *(प्रेषण्)*

पेसेति : To send *(प्रेषयति)*

पेसी : A piece of flesh or meat *(पेशी)*

पेसिका : Rind or shell *(पेशिका)*

पेस्सं : Servitude *(प्रैष्य)*

पेस्सिको : A servant *(प्रैष्य + इक)*

पेस्सो : A messenger, servant, slave, hireling, menial *(प्रेष्य)*

पेसुञ्ञं + पेसुणेय्यं : Back-biting, slander, evil speaking *(पैशुन्य + पिशुन + एय)*

पेटको : A basket *(पेटक)*

पेतो : Dead, departed *(प्रेत)*

पेत्तेय्यता : Paternity

पेत्तेय्यो (adj) **:** Paternal *(पितृ + एय)*

पेत्तिको : Paternal, ancestral *(पैतृक + पैत्र्य)*
+ पेत्तियो (adj)

पेत्तिविसयो : The Preta realm or world

पेय्यालं : This word answers to our Etcetera, or to the dotted line used, when words are intentionally omitted. It's etymology is exceedingly doubtful

पेय्यावज्जं : Kindwordedness, kindness of language

पेय्यो : *See पिवति*

पेय्यी (adj) **:** Beloved, dear *(प्रेयस्)*

फग्गवो : A sort of pot herb

फग्गुणो : The month of Phalguna *(फाल्गुण)*

फलकं + को : A board, slab; a shield *(फलक)*

फलं : A certain measure or weight *(पल)*

फलं : A fruit; grain; crop; produce: result; consequence: reward, profit, advantage: a testicle *(फल)*

फालनं : Splitting, bursting

फालापेति : To cause to be split or torn

फलाफलं + लानि : Wild fruits, berries

फलारामो : Fruit garden, orchard *(फल + आराम)*

फलति : To split asunder, break open, burst; to bear fruit *(फल्)*

फलवा (adj) **:** Bearing fruit *(फलवत्)*

फालेति : To split, cut, severe, break open *(फालयति)*

फली : Bearing fruit *(फलिन्)*

फलिको + का : Crystal, quartz *(स्फटिक)*

फलिनो (adj) **:** Bearing fruit *(फलिन)*

फलितो (adj) **:** Bearing fruit or crop: fruitful; broken; grey grey-haird *(फलिन + फलित)*

फल्लति : To bear fruit

फालो : A ploughshare *(फाल्)*

फलु : A knot or joint in a reed *(परु)*

फन्दनो (adj) **:** Palpitating, trembling, agitated, unsteady *(स्पन्दन्)*

फन्दति : To throb, palpitate, tremble, struggle *(स्पन्द)*

फणी : A snake *(फणिन्)*

फणिज्जको : The plant Samirana *(फणिज्झक)*

फणिन्दो : A hooded snake, cobra *(फणीन्द्र)*

फाणितं : The inspissated juice of the sugar-cane, raw sugar, molasses *(फाणित)*

फणो : The hood of a cobra or snake

फरणं : Pervading *(स्फरण, स्फुरण)*

फरसु : A hatchet, axe *(परशु)*

फरति : To flash, shine forth; to thrill or dart through, to pervade; to diffuse, send-forth, emit

फारुसकं : Name of one of Indras groves *(पारुषक comp पारुष्य)*

फरुसो (adj) **:** Harsh, unkind, fierce, savage; rough, rugged; severe, cruel *(परुष)*

फस्सनं : Contact *(स्पर्शन)*

फस्सेति : *See फुसति*

फस्सितो : A derivative of *स्पृश्*

फस्सो : Touch, contact *(स्पर्श)*

फासु (adj) **:** Enviable, agreeable, pleasant, easy, comfortable *(फासु)*

फासुका : A rib *(पार्शुका or पर्शुका)*

फासुको (adj) : Pleasurable, agreeable, comfortable

फासुलिका : A rib

फाति : Increase, growth *(स्फाति)*

फेग्गु : Empty, vain, poor *(फल्गु)*

फेनीलो : The soap plant, sapindue Detergencs *(फेनिल)*

फेणो : Foam, froth *(फेन)*

फीतो : Prosperous *(स्फीत)*

फोटो : A swelling, boil, tumour *(स्फोट)*

फोट्ठब्बं : *See फुसति*

फुलिङ्गं : A spark *(स्फुलिङ्ग)*

फुल्लितो : Blossoming

फुल्लो : Expanded, blown; split, broken *(फुल्ल)*

फुसना : Touching, attaining *(स्पृश + अन)*

फुसति : To touch; to reach *(स्पृश्)*

फुसितो : *पृषत*

फुस्सितो (adj) : Flowered, blossoming

फुस्सो : Name of a Nakkhatta; name of a month; name of a Buddha *(पुष्य)*

फुटनं : Tearing, bursting *(स्फुटन)*

फुटो (adj) : Thrilled, pervaded

फुट्ठो : *See फुसति*

पि : *See अपि*

पिबति : *See पिवति*

पिच्चिला : The silk cotton-tree, Bombax Heptophyllum *(पिच्छिला)*

पिचु : Cotton *(पिचु)*

पिचुलो : The tanarisk tree *(पिचुल)*

पिदहनं + पिधनं : Covering, closing, fencing; sheath; a lid; cover *(पिधान)*

पिदहति : To cover; to shut, close; to guard *(पिधा)*

पिधानं : *See पिदहनं*

पिहा : Desire, envy *(स्पृहा)*

पिहकं : The spleen *(प्लिहन् + क)*

पिहेति : To desire, to envy *(स्पृह)*

पिहितो : *See पिदहति*

पिको : The Indian Cuckoo *(पिक)*

पीळा : Pain, suffering: wrong, injury *(पीडा)*

पिळका : A boil, pimple, pustule *(पिडका)*

पिलक्खो : The wave-leaved fig tree– ficus Infeetoria *(प्लक्ष)*

पीळनं : Pressing or weighing on: oppresson *(पीडन)*

पिलन्धनं : Wearing or putting on an ornament; ornament parure

पिलन्धति : To put on or wear, to deck oneself *(पिनह्)*

पिलवो : A kind of duck *(प्लव)*

पीळेति : To press, crush, weigh upon; to vex, to opress, ravage, harass, hurt *(पीड)*

पिल्लको : A child or the young one of an animal

पिलोतिका : A cloth, bandage *(प्लोत + इका)*

पीलु : The tree careya arborea *(पीलु)*

पिलुवती : To float *(प्लु)*

पिम्सापेति : To cause to be ground, or bruised or crushed

पीणनं : Satisfaction

पिनासो : Cold in the head, catarrha *(पीनस)*

पिण्डचारिको (adj) **:** Going about in search of alms *(पिण्ड + चारिन् + क)*

पिण्डको : Incense, myrrh *(पिण्डक)*

पिण्डनं : Rolling together, forming into a lump *(पिण्डन)*

पिण्डपातिको : One who keeps the Pindapatikanga *(पिण्डपातिक)*

पिण्डपातो : Food received in the alms bowl of a Buddhist monk *(पिण्डपात)*

पिण्डेति : To roll into lump; to assemble *(पिण्ड)*

पिण्डि : A lump, mass *(पिण्डि)*

पिण्डिका : The nave of a wheel *(पिण्डिका)*

पिण्डियालोपो : Morsels of food, broken, meat *(पिण्डि + आलोप)*

पिण्डो : A lump, ball, mass; uniting, putting to gether; a lump of food, morsel; food given in alms: sustenance, livelihood the body *(पिण्ड)*

पीणेति : To gratify, cheer, regale, please *(प्रीणयति)*

पिङ्गलो (adj) **:** Reddish yelow, brown, tawny *(पिङ्गल)*

पिङ्गो (adj) **:** Brown, tawny *(पिङ्ग)*

पिञ्जं : A feather of a peacock's tail, a peacock's tail or train, a wing *(पिच्छ्)*

पिञ्जरो (adj) **:** Yellow, tawny *(पिञ्जर)*

पीनो : Fat, bulky *(पीन)*

पिपासा : Thirst *(पिपासा)*

पिपासितो : Thirsty *(पिपासितं)*

पिप्फलं : Scissors, shears

पिप्फली : The wave-leaved fig tree, long pepper *(पिप्पली)*

पिप्फलो : The sacred fig tree, ficus Religiosa *(पिप्पल)*

पिसाचो : A class of demons, a globia, sprite *(पिशाच)*

पिसङ्गो : Brown, tawny *(पिशङ्ग)*

पिसितं : Flesh *(पिशित)*

पिस्सा : *पि, अस्सा (from अयं)*

पिसुनो (adj) **:** Back-biting, calumnious, malicious *(पिशुन)*

पिता : Father; a name of a Hindoo Brahma *(पितृ)*

पिटकत्तयं : The three baskets or treasures, a name of Buddhist Scriptures *(पिटक + त्रय)*

पिटको : *See तिपिटकं*

पितको (adj) **:** Yellow *(पीतक)*

पितामहो : A grandfather; a name of a Hindoo Brahma *(पितामह)*

पीतनको : The heg-plum, Spondias Mangifera *(पीतनक)*

पीतनो : Yellow orpiment *(पीतन)*

पितरा, पितरो : *See पिता*

पीतसालो : The tree terminalia Tomentosa *(पीतशाला)*

पीठकं : A chair, stool *(पीठक)*

पीठं : A chair, stool, bench; the counter of a shop *(पीठ)*

पिठरो : A pot or pan *(पिठर)*

पिठससप्पी : A cripple *(पीठसर्पिन)*

पीठिका : A bench, stool; a platform, frame-work *(पीठिका)*

पिठीयति : Is covered, is hindercd

पिति : *See पिटा*

पीति : Drinking *(पीति)*

पीति : Joy, delight *(प्रीति)*

पीति (adj) **:** Drinking *(पीतिन्)*

पितितो (adv) **:** In the father's side *(पितृतस्)*

पीतो (adj) **:** Yellow *(पीत)*

पीतो : Drunk, swallowed *(पीत)*

पीतो : Delighted *(प्रीत)*

पित्तं : Bile, the bilious humour *(पित्त)*

पिट्ठको : A cake made of flour, a meal *(पिष्टक)*

पिट्ठं : *See पिट्ठो*

पिट्ठं + पिट्ठी : The back; the hinder part; the surface, top *(पृष्ठ)*

पिट्ठिका : Grits, porridge *(पिष्टिका)*

पिट्ठिको (adv) **:** From the back, from behind, behind

पीट्ठो : Ground, crushed *(पिष्ट)*

पित्तिको : Bilious *(पैत्तिक)*

पितु + पितुन्नं : *See पिता*

पितुच्छा : Father's sister, aunt *(पितृषसृ)*

पीत्वा : *See पिवति*

पीवरो (adj) **:** Fat, bulky *(पीवर)*

पिवासति : To be thirsty *(पिपासति)*

पिवति + पिबति : To drink, imbibe, swallow, drink-in, enjoy, feast upon *(पा)*

पियदस्सी : Name of one of the twenty four Buddhas *(प्रियदर्शिन्)*

पियको : A kind of spotted dear; Nanclea cadamba; termivalia Tomantosa *(प्रियक)*

पियालो : The Piyal tree, *Buchanania Latifolia* *(प्रियाल)*

पियंवदो (adj) **:** Speaking kindly, affable *(प्रियवादिन्)*

पियायति : To be fond of, to be devoted to, honour

पियो : An oar

पियो (adj) **:** Dear, beloved; agreeable, pleasant; kind, loving *(प्रिय)*

पीयूसं : Ambrosia *(पीयूष)*

प्लवङ्गमो + प्लवङ्गं : A monkey *(प्लवङ्गम + प्लवङ्ग)*

प्लवति : To float; to soar; to spring; to vibrate, hover *(प्लु)*

प्लव : A raft, float *(प्लव)*

पो : Guarding, ruling *(प)*

पोक्खरं : A lotus, Nelumbium Speciosum; the tip of an elephant's trunk: water: the body: the head of a drum *(पुष्कर)*

पोक्खरणि : A lotus-pond, tank; reservoir *(पुष्करिणी)*

पोक्खरसातको : Name of a bird *(पुष्कर + साद + क)*

पोक्खरता : Beauty *(पुष्कर + ता)*

पोक्खरो : The body of a lute *(पुष्कर)*

पोङ्खानुपोङ्खं (adv) **:** Shot after shot

पोणो : Sloping *(प्रवण)*

पोनोभविको (adj) **:** Connected with re-birth in another existence *(पौनर्भविक)*

पोराणो + : **पोरणको** (adj)	Ancient, primeval, former *(पौराण + क)*
पोरिसं :	Manliness, the height of a man with his arms extended over his head *(पौरष)*
पोरिसो + **पोसो** :	A human being, a man, a person *(पौरुष)*
पोरो (adj) :	Belonging to a town: urbane: polite *(पौर)*
पोरोहिच्चं :	The office of a Purohita *(पौरोहित्य)*
पोरोहितो :	A Purohita or priest *(पौरोहित)*
पोसको (adj) :	Nourishing *(पोषक)*
पोसनं :	Nourishing *(पोषण)*
पोसति :	To feed, nourish, support, cherish, bring up *(पुष्)*
पोसावनं :	Supporting, cherishing
पोसो :	*See पोरिसो*
पोटगलो :	The grass Sacctirum Spontaneum *(पोटगल)*
पोतको :	The young of any animal *(पोतक)*
पोथनं :	Beating
पोथेति :	To strike, beat *(पोथयति)*
पोथेति :	To speak many languages
पोठेति :	To crack: snap; to knock, to throw *(स्फोटयति)*
पोठिलो :	A proper name
पोथुज्जनिको + : **पुथुज्जनिको** (adj)	Belonging to an unconverted person
पोतिका :	*See पोतको*
पोतो :	The young of an animal: a boat, ship *(पोत)*
पोत्थकारो :	A modeller in clay *(पुस्त + कार)*
पोत्थको + **कं** :	A manuscript, a book; working in clay, modelling etc. *(पुस्तक)*
पोत्यालिका :	A doll or puppet
पोत्थं :	Plastering, working in clay, modelling *(पुस्त)*
पोट्ठपादो :	Name of a month *(प्रोष्टपाद)*
पुब्बाचरियो :	Ancient teacher, scholar of previous times *(पूर्व + आचार्य)*
पुब्बद्धो :	Upper-part *(पूर्वार्ध)*
पुब्बजो :	Older, elder *(पूर्वज)*
पुब्बको :	Former, accompanied by *(पूर्वक)*
पुब्बङ्गमो (adj) :	Going before, preceding, prior: leading, chief *(पूर्वङ्गम)*

पुब्बण्हो : Forenoon, morning *(पूर्वाण्ह)*

पुब्बण्णं : A name given to the seven Dhannas, rice etc. *(पूर्व + अन्न)*

पुब्बन्तो : Beginning, the east *(पूर्वान्त)*

पुब्बापरो (adj) **:** First and last, preceding and following, successive mutual *(पूर्वापार)*

पुब्बवुत्तको (adj) **:** Before mentioned *(पूर्व + उक्त + क)*

पुब्वो : Pus, matter *(पूय)*

पुब्बो : First, foremost, eastern; earlier, former, preceding; ancient, customary: at the end of a compound means preceded by, attended by, accompanied by *(पूर्व)*

पुब्बुत्तरो (adj) **:** North-eastern *(पूर्वोत्तर)*

पुब्बुट्ठायी (adj) **:** An epithet of a faithful servant - one who rises earlier than his master; getting up from his seat when he sees his master approach *(पूर्व + उत्थायिन्)*

पुच्छा : Questioning, a question *(पृच्छा)*

पुच्छको (adj) **:** Asking *(पृच्छक्)*

पुच्छनं : Asking, inquiring *(पृच्छन्)*

पुच्छति : To ask, to question, to ask about or for *(प्रच्छ्)*

पुच्छो + पुच्छं : A tail *(पुच्छ)*

पुचिमन्दो : The Nimba-tree *(पिचुमन्द)*

पुग्गलिको (adj) **:** Connected with an individual

पुग्गलो : An individual or person as opposed to a multitude or class; a creature, being, man *(पुद्गल)*

पूगो : A multitude; the arcea nut-tree *(पूग)*

पूजा : Attention, care; veneration; offering *(पूजा)*

पूजको (adj) **:** Honouring *(पूजक)*

पूजना : Veneration *(पूजन)*

पूजेति : To honour, revere; to honour with, to present with: to offer; present *(पूज्)*

पुक्कसो : A man of the Pukkusa caste *(पुक्कस)*

पुळवो : A worm, maggot

पुलिनं : Sand bank; island of alluvial formation in a river *(पुलिन)*

पुल्लिङ्गं : Male sex: masculine-gender *(पुलिङ्ग)*

पुलोमो : The asura Vepacitta *(पुलोम)*

पुमा : A male, a man *(पुंस्)*

पुन, पुनो : Before a vowel Punar and Punad (adv)–again, anew, afresh; back: after that, next, further, moreover *(पुनर्)*

पुनब्बसु : Name of a Nakkhatta (पुनर्वसू) –also name of one of Gautama Buddha's earliest converts

पुन्नभवो : Renewed existence, re-birth, transmigration *(पुनर्भव)*

पुन्ननवा : Hogweed, medicinal plant *(पुनर्नव)*

पुनप्पुनं + न (adv) **:** Again and again, repeatedly *(पुनर् + पुनर्)*

पुनरुत्तो + रुत्तको (adj) **:** Repeated *(पुनरुक्त)*

पुनाति : To purify *(पू)*

पुञ्छनं : Wiping, cleaning; a towel *(प्रोञ्छन्)*

पुञ्छति : To wipe *(प्रोञ्छ्)*

पुण्डरिकं : A white lotus flower; one of the Buddhist high numerals, one followed by 112 ciphers *(पुण्डरिक)*

पुण्डरिकिनी : A pond of white lotuses *(पुण्डरिक + इन्)*

पुण्डरिको : A fragrant kind of mango; a tiger *(पुण्डरिक)*

पुङ्गवो : A bull; at the end of a compound, best, chief *(पुङ्गव)*

पुञ्जो : Heap, mass, multitude *(पुञ्ज)*

पुङ्खो : The feathered part of an arrow *(पुङ्ख)*

पङ्कोकिलो : *See (पुमा)*

पुन्नागो : The tree Rottleria Tinetoria *(पुन्नाग)*

पुन्नमा : The day or night of a full moon *(पूर्णमा)*

पुन्नपंसुको : See *पुमा*

पुञ्ञता : Meritoriousness, merit, good works *(पुण्यता)*

पुञ्ञवा (adj) **:** Meritorious, righteous; fortunate *(पुण्यवत्)*

पुण्णो : Full, fulfilled, complete, entire *(पूर्ण)*

पुञ्ञो (adj) **:** Good, virtuous: just, rightcous, meritorious, pure, holy *(पुण्य)*

पुनो : *See पुना*

पूपियो : A cake-seller, confectioner *(पूप + य)*

पूपो : A cake, sweet-meat *(पूप)*

पुप्फं : A flower; the menses *(पुष्प)*

पुप्फनं : Flowering

पुप्फति : To blossom *(पुष्प्)*

पुप्फवति : A menstruous woman *(पुष्पवती)*

पुप्फी (adj) : Bearing flowers *(पुष्पिन्)*

पुरा (adv) : Formerly, previously, in a former existence *(पुरा)*

पुरक्खरोति : To put in front, to make a person one's leader, to follow, revere, honour *(पुरस्कृ)*

पूरको (adj) : Filling, completing *(पूरक)*

पूरळासो : A sort of offering made by Brahmins *(पुरोडास)*

पूरं : A town, city, fortress; a house *(पुर)*

पूरणं : Filling *(पूरण)*

पूरापेति : To cause to be filled

पुरस्सरो (adj) : Going in advance *(पुरःसर)*

पुरातनो (adj) : Ancient, pristine *(पुरातन)*

पूरति : To be filled, to get full; to be fulfilled *(पूर्यते = पृ)*

पुरतो (adv) : Before, in front, in the presence of *(पुरतस्)*

पुरत्था (adv) : In front; first and foremost: on the east: formerly *(पुरस्तात्)*

पुरत्थतो (adv) : Eastward

पुरत्थिमो (adj) : Eastern *(पुरस्तात् + इम)*

पुरट्ठितो (adj) : Standing before *(पुरस् + स्थित)*

पुरे : Loc from Puram

पुरे (adv) : Formerly, previously, first, originally: in front, before *(पूरस्)*

पुरेभत्तं : Before the morning meal *(पूरस् + भक्त)*

पुरेचारि (adj) : Preceding, leading *(पुरस् + चारिन्)*

पुरेचारिको (adj) : Leading

पुरेचरो (adj) : Leading *(परस + चर)*

पुरेद्वारं : Front-door *(पुरस् + द्वार)*

पुरेगामी (adj) : Preceding, leading *(पुरोगामिन्)*

पुरेक्खारो : Precedence, preference, deference *(पुरस्कार)*

पुरेतरं (adv) : Forward, further, infront; before, sooner *(पुरस्तर)*

पूरेति : To fill, to complete, to fulfill, to attain *(पूरयति)*

पुरी : A town *(पुरी)*

पुरिमको (adj) : Previous

पुरिमो (adj) : Former, preceding, foremost, first, eastern *(पुरस + इम)*

पुरिन्ददो : A name of Sakka or Indra

पुरिसाजञ्ञो : This word means A man of noble birth, a superior, distinguished man

पुरिसत्तं : Manhood, virility *(पुरुष + त्व)*

पुरिसो : A man: a person; individual, an attendant *(पुरुष)*

पुरितो : *See पुरेति*

पूरो (adj) **:** *Full (पूर)*

पूरोहिच्चं : *See पोरोहिच्चं*

पूरोहितो : A Brahmin who is a king's domestic chaplain *(पुरोहित)*

पुरुत्तमं : A noble or splendid city *(पुर + उत्तम)*

पुटभेदनं : A town *(पुटभेदन)*

पुटकं : A small basket made of a rolled leaf *(पुटक)*

पुथग : *See पुथु*

पुथक्कातब्बो (adj) **:** That ought to be separated *(पृथक् + कर्तव्य)*

पुथवी : *See पठवी*

पुथु : And before a vowel sometimes Puthag– (adv) separately, without, except *(पृथक्)*

पुथु (adj) **:** Broad, extensive, great, big: abundant, numerous *(पृथु)*

पुथुभूतो (adj) **:** Separated *(पृथक + भूत)*

पुथुभूतो (adj) **:** Become great: become numerous *(पृथु + भूत)*

पुथुगत्तता : Discrimination *(पृथगात्मता)*

पुथुज्जनिको : *See पोथुज्जनिको*

पुथुज्जनो : A man of lower classes, or of low character; a common or ordinary man, one who is yet unconverted as opposed to one who has entered the paths, a worlding, natural or unsatisfied man *(पृथग्जन)*

पुथक्करणं : Separation *(पृथक्करण)*

पुथुको : A child; rice in the ear *(पृथुक)*

पुथुलो (adj) **:** Broad, large *(पृथुल)*

पुथुलोमो : A fish *(पृथुरोमन)*

पुथुवासनं : A large seat or chair *(पृथ्वासन = पृथु + आसन)*

पुथवी : *See पठवी*

पुटी : A vessel, cup *(पुटी)*

पूटि (adj) **:** Stinking, foul, putrid *(पूति)*

पूटिको : Stinking, foul *(पूतिक)*

पूटो + पूटं : A cup, vessel, basket *(पुट)*

पूतो : Clearified, clean, pure *(पूत)*

पुत्तदारो : Son and wife, wife and child *(पुत्रदार)*

पुत्तको : A little son: a beloved son *(पुत्रक)*

पुत्तत्तं : Sonship *(पुत्र + त्व)*

पुट्ठो : Nourished

पुत्तिको (adj) **:** Connected with sons *(पुत्र + इक)*

पुत्तिमो (adj) **:** Having sons *(पुत्र + इस)*

पुत्तियति : To treat as a son *(पुत्रीयति)*

पुत्तियो (adj) **:** Relating to or connected with sons *(पुत्रिय)*

पुत्तो : A son, a child *(पुत्र)*

पूवको : A cake *(पूप + क)*

पूविको : A cake seller, confectioner *(पूप + इक)*

पूवोः A cake, sweatmeat *(पूप)*

पूयो : Pus *(पूय)*

R

रचना :	A literary production, composition *(रचना)*
रचति :	To prepare, compose *(रच्)*
रचयिता :	Composer, author *(रचयितृ)*
रच्छा :	A street *(रथ्या)*
रदनो :	A tooth *(रदन)*
राधितो :	Accomplished, performed *(राधयति)*
रदो :	A tooth *(रद)*
रगा :	Name of one of Mara's daughter
रागो :	Dyeing, dye: colour; human passion, evil desire, greed, attachment, vest *(राग)*
रहदो :	A deep pool, a lake *(हद्)*
रहसि :	*See रहो*
रहस्सो (adj) :	Secret, private *(रहस्य)*
रहितो :	Deprived of, without *(रहित)*
रहो :	Solitude, secrecy, privacy *(रहस्)*
राहु :	Name of an asura, who is supposed to cause eclipse by taking the sun and moon into his mouth; the ascending mode of the moon *(राहु)*
राहुल :	Name of Gautama Buddha's son *(राहुल)*
राजा :	A king, a prince, a ruler, a governor *(राजन्)*
राजाभिराजा :	King of kings *(राजाधिराज्)*
राजभोग्गो :	A king's servant or minister, courtier *(राजन् + भोग्य)*
राजधम्मो :	Duty of a king *(राजधर्म)*
राजधानी :	A capital or Royal city *(राजधानी)*
राजगहं :	Name of the capital of Magadha *(राजगृह)*
राजगहिको (adj) :	Belonging to Rajgriha
राजगेहो :	A palace *(राजगेह)*
राजघरं :	A palace *(राजन् + गृह)*
राजहंसो :	A sort of goose or swan *(राजहंस)*
राजककुधभण्डं :	Symbol of royalty *(राजन् + ककुद + भाण्ड)*
रजक्खो (adj) :	Having defilement or passion *(रजस्क)*
रजको :	A washerman *(रजक)*

राजको : A king *(राजक)*

राजकुलं : A royal family; royal palace or household: a court of justice *(राजकुल)*

राजाणा : Royal authority or punishment, inflected by the king *(राजन् + आज्ञा)*

रजनं : Colouring dye *(रजन)*

राजङ्गणं : The court or guadrangle in a royal palace, a palace yard *(राजाङ्गण)*

रजनी : Night *(रजनी)*

रजनीयो : Lustful *(रजनीय)*

राजञ्ञो : A Kshatriya *(राजन्य)*

राजानुराजं (adv) **:** From king to king, during succession of kings *(राजन् + अनु + राजन्)*

रजापथो : A narrow dark place *(रजस् + पथ)*

रजापेति : To cause to be dyed

राजपुत्तो : A king's son, a prince *(राजपुत्र)*

राजरूक्खो : The tree, Cassia fistula

रजस्साला : A menstruous woman *(रजस्वला)*

रजतं : Silver *(रजत)*

रजति : To colour, dye *(रञ्ज्)*

राजति : To shine *(राज्)*

राजत्तं : Royalty *(राजन् + त्व)*

राजायतनं : Name of a tree, apprantly an umbrageous one *(राजन् + आयतन्)*

राजि : A streak, line, row *(राजि)*

राजिलो : Stupid *(राजिल)*

राजिनी : A queen *(राज्ञी)*

राजीत्थि : A royal lady *(राजन् + स्त्री)*

रज्जं + राजियं : Sovereinty, royalty, monarchy, government; kingdom empire, country *(राज्य)*

रज्जङ्गं : Requisites of regal administration *(राज्याङ्ग)*

रज्जु : A rope, sting *(रज्जु)*

रज्जुको : A sting

रजो + रजं : Dust, dirt; the poller of flowers; human passion, impurity moral defilement, the menstrual flow *(रजस्)*

रजोहरणं : Water *(रजस् + हरण)*

राजोरोधो : Royal harem; a lady of the royal harem *(राजन् + अवरोध)*

रजोवज्जलं : Dust and dirt

राजुलो : An amphisbana, a sort of lizard without legs *(राजिल)*

राजूनं + राजुसु : *See राजा*

राजुय्यानं : A royal garden *(राजन् + उद्यान)*

रक्खा : Protection *(रक्षा)*

रक्खको (adj) **:** Protecting, guarding *(रक्षक)*

रक्खनको : One who guards *(रक्षण + क)*

रक्खनं : Protection, defence *(रक्षण)*

रक्खसो : A Rakshasa, demon, ogre *(राक्षस्)*

रक्खति : To protect, guard; to ward off; to keep, preserve: to beware of, guard against *(रक्ष्)*

रामणेय्यको (adj) **:** Delightful *(रमण + एय + क)*

रामणीयकं : Delightfulness *(रमणीयक)*

रमणीयो (adj) **:** Delightful, beautiful *(रमणीय)*

रमणो : Pleasing, charming *(रमण)*

रमति : To enjoy oneself, to delight in *(रम्)*

रम्भा : A banana or plantain tree, name of an Apsara *(रम्भा)*

रम्मको : A name of the month Citta *(रम्यक)*

रम्मो : Agreeable, beautiful *(रम्य)*

रामो : Joy, delight *(राम)*

रंसि : *See रस्मि*

रंसिमा (adj) **:** Radiant *(रश्मित्)*

रन्धं : A hole, cavity; a fault, defect *(रन्ध्र)*

रन्धेति : To make subject to; to hurt; destroy *(रन्धयति)*

रणोजि (adj) **:** Victorious in battle *(रणे + जित्)*

रङ्गो : Colour, paint; theatre, play-house *(रङ्ग)*

रञ्जनं : Dyeing, delighting; red sandal-wood *(रञ्जन)*

रञ्जेति : To dye redden, to illuminate; to gratify, charm; to conciliate *(रञ्जयति)*

रङ्कु : A species of deer *(रङ्कु)*

रञ्ञा + रञ्ञो : *See (राजा)*

रणो : Sin, turmoil; battle, war *(रण)*

रसग्गसा : A nerve of sensation *(रस + ग्रस)*

रसको : A cook *(रसक)*

रसालो : Sugar-cane *(रसाल)*

रसना : The tongue *(रशना)*

रसना : A woman's zone *(रशना)*

रसनं : Taste, flavour *(रसन)*

रसातलं : The infernal region or lower world *(रसातल)*

रसवती : A kitchen *(रसवती)*

रासि : A heap, quantity; a sign of the zodiac *(राशि)*

रसिको (adj) **:** Spirited, witty *(रसिक)*

रसितं : Thunder *(रसित)*

रस्मि + रंसि : A rope, a rein, a bridle; ray of light *(रश्मि)*

रसो : Sap, juice, best part or extract of a thing, essence, sweetness; liquid, fluid: juices of the body; quicksilver; flavour, taste *(रस)*

रस्सो (adj) **:** Short *(हस्व)*

रतनं : A jewel; a precious or desirable thing *(रत्न)*

रतनिको (adj) **:** A ratana in length

रथाचारि : A charioteer *(रथ + आचारिन्)*

रथानीकं : A array of chariots *(रथानीक)*

रधरेणु : A very minute measure of weight, a mite *(त्रसरेणु)*

रथारोहो : One who fights from a chariot *(रथारोह)*

रथेसभो : A king

रथिका : A carriage road or street *(रथिक)*

रथो : A car, two-wheeled carriage, chariot *(रथ)*

रति : Pleasure, love, attachment; sexual intercourse *(रति)*

रतिमा : Having pleasure in *(रतिमत्)*

रतो : *See* रमति

रत्तक्खी + : **रत्तक्खो** (adj) With blood shot eyes, grim, fearful *(रक्ताक्षिन, रक्ताक्ष)*

रत्त : Night *(रात्र)*

रत्तञ्ञु (adj) **:** Experienced *(रात्र + ज्ञ)*

रत्तपा : A leech *(रक्तप)*

रट्ठं : Kingdom, realm, country, land, district *(राष्ट्र)*

रत्ति :	Night *(रात्रि)*
रट्ठिको + रट्ठियो:	An inhabitant *(राष्ट्रिक, राष्ट्रिय)*
रत्तिंदिवो :	A day and a night *(रात्रिंदिन)*
रत्तो (adv) :	By night *(रात्री)*
रत्तो :	Coloured, dyed: red, agitated or inflamed by passion; fond of, attached to *(रक्त)*
रवा :	Noise *(from रु)*
रवति :	To cry, make a noise *(रु)*
रवि :	The sun *(रवि)*
रवो + रावो :	Noise, cry, shout *(रव, राव)*
रे (Interj) :	Heigh! hallow! *(रे)*
रेखा :	A line, streak *(रेखा)*
रेणु :	Dust, pollen *(रेणु)*
रेवती :	Name of a Nakkhatta *(रेवती)*
रिपु :	An enemy *(रिपु)*
रिरी :	Brass *(रिरि)*
रिते (adv) :	Except, without *(ऋते)*
रित्तको (adj) :	Empty *(रिक्तक)*
रोचनो :	Shining *(रोचन)*
रोचति :	To appear good, please *(रुच्)*
रोदनं :	Weeping *(रोदन)*
रोदति + रुदति :	To weep, wail *(रुद्)*
रोधंमं :	A bank or dam *(रोधस्)*
रोधनं :	Obstructing *(रोधन्)*
रोधो :	Stopping, obstruction *(रोध)*
रोगी (adj) :	Sick, ill *(रोगिन्)*
रोगो :	Disease *(रोग)*
रोहि :	The tree *Andersonia Rohitaka (रोहि)*
रोहिणी :	A red cow, name of a Nakkhatta *(रोहिणी)*
रोहितो :	A kind of deer *(रोहिष)*
रोहितको :	The tree *Andersonia Rohitaka (रोहितक)*
रोहितो (adj) :	Red *(रोहित)*
रोमं :	The hair on the body of men and animals *(रोमन्)*
रोमञ्चो :	*Horripilation (रोमाञ्च)*

रोण्णं : *See (रुण्णं)*

रोपनं : Planting *(रोपण)*

रोपेति : To set up; to put in the ground, plant, sow *(रोपयति)*

रोरूवो : Name of a Naraka *(रौरव)*

रोसको (adj) : Wrathful *(रोषक)*

रोसनेय्यो (adj) : Capable of being enraged; irritable

रोसनो (adj) : Angry *(रोषण)*

रोसेति : To annoy *(रोसयति)*

रोसो : Anger *(रोष)*

रुच्चनको (adj) : Pleasing, satisfying

रुच्चनं : Choice, pleasure

रुच्चति : *See रोचति*

रुचि : Light, splendour, ray; desire; inclination, pleasure, preference *(रुचि)*

रुचिमा (adj) : Brilliant *(रुचि + तृ)*

रुचिरो (adj) : Brilliant, beautiful, agreeable *(रुचिर)*

रुदति : *See रोदति*

रूद्धो : Obstructed *(रुद्र)*

रुद्धो : Furious *(रुद्र)*

रूधिरं : Blood *(रूधिर)*

रूहति : To grow up, flourish *(रुह)*

रूहो (adj) : Growing *(रुह)*

रुजा : Disease, pain *(रुजा)*

रुजति : To cause: pain *(रुज्)*

रूक्खको : A small tree *(वृक्षक)*

रूक्खमूळिको (adj) : One who lives at the foot of a tree

रुक्खवा (adj) : Having trees; wooded *(वृक्ष + वत्)*

रुक्खो : A tree *(वृक्ष)*

रुक्खो : Rough, cruel *(रुक्ष्)*

रुन्धति + रुन्धीति : To restrain, shut up *(रुध्)*

रूण्णं : Weeping, lamentation

रूपकं : A figure, image, representation *(रुपक)*

रूपं : Form, figure, shape; image, representation; the body; in grammar a verbal or nominal form; beauty; natural state, characteristic *(रूप)*

रुपवा (adj) :	Having form, beautiful *(रुपवत्)*
रूपि :	Silver
रूपी :	Having beauty and form *(रूपिन्)*
रुपिका :	An image, statute
रूपियं :	Silver, bullion *(रुप्य)*
रूप्पनं :	Being formed
रुपुपजीविनी :	A harlot *(रुपोपजीविनी)*
रुरु :	A sort of deer *(रुरु)*
रुतं :	Cry, noise *(रुत)*
रुट्ठो :	Enraged *(रुष्ट)*

S

स : Own

स : *See (सो)*

स : A prefix much used in the first part of compound adjectives and adverbs and generally conveying the idea of possession or similarity *(स)*

सा : A dog *(श्वन्)*

सवल (adj) **:** Variegated, mottled *(शवल)*

सब्बभुम्मो : A universal monarch *(सर्व + भूमि + अ)*

सब्बदा : Always *(सर्वदा)*

सब्बधि (adv) **:** Everywhere, on everyside, in every respect

सब्बको (adj) **:** All, every *(सर्वक)*

सब्बङ्गपच्चङ्गि (adj) **:** Provided with greater or less requisites of or members, complete in all parts

सब्बञ्जहो (adj) **:** Leaving everything

सब्बञ्ञू (adj) **:** Omniscient *(सर्वज्ञ)*

सब्बञ्ञुता + ञ्ञूता : Omniscience *(सर्वज्ञता)*

सब्बसो (adv) **:** Wholly, altogether, from beginning to end, throughout *(सर्वशस्)*

सब्बथा : In everyway, throughly *(सर्वथा)*

सब्बथत्ता (adv) **:** In every way *(सर्वथा + त्व)*

सब्बतो (adv) **:** From every side *(सर्वतस्)*

सब्बत्तता : Identification of all beings with oneself i.e. universal goodwill *(सर्व + आत्मन् + ता)*

सब्बत्था + सब्बत्र : (adv) Everywhere *(सर्वत्र)*

सब्बत्थकं (adv) **:** Everywhere

सब्बावा (adj) **:** Entire

सब्भि : *See सन्तो*

सब्भूतो (adj) **:** Real, true *(सद्भूत)*

सब्बो (adj) **:** All, every; whole, entire *(सर्व)*

सभा : An assembly; a hall, court, mansion; a court of justice *(सभा)*

सभागो (adj) **:** Common, shared by all, identical *(स + भाग)*

सभागो : Own share *(स्व + भाग)*

सभाजनं : Courtesy *(सभाजन)*

सभत्तो (adj) **:** Accepting an invitation to a meal

सभावो : Natural state, nature *(स्वभाव)*

सभायं : A hall of assembly

सभिक्खुको (adj) **:** Containing monks *(स + भिक्षु + क)*

सभोगो : Wealthy *(स + भोग)*

सभ्यो (adj) **:** Polite, well-bred, refined *(सभ्य)*

सब्रह्मचारी : One who practices religious duties in association with others, fellow student, fellow priest *(सब्रह्मचारिन्)*

सब्रह्मको (adj) **:** Including the Brahma world *(स + ब्रम्हन् + क)*

सच्चकारो : Retification; pledge, earnest *(सत्यकार)*

सच्चकिरिया : Truth, act, asseveration *(सत्य + क्रिया)*

सच्चापनं : Ratification of a bargain *(सत्यापन)*

सच्छन्दो (adj) **:** Self-willed *(स्वछन्द)*

सच्छिकरोति : To bring before one's eyes, to see face to face, realize, experience, attain

सच्चो (adj) **:** True *(सत्य)*

सचे (Indee) **:** If *(स + चेतु)*

सचेतनो (adj) **:** Conscious, animate, rational *(सचेतन)*

सचित्तं : One's own mind or heart or thoughts *(स्व + चित्त)*

सचिवो : A minister, statesman *(सचिव)*

सदा (adj) **:** Always *(सदा)*

सदाचारो : Good-manners, right or virtuous conduct *(सदाचार)*

सदनं : A house *(सदन)*

सादानो (adj) **:** Having attachment to the world, worldly, unconverted *(स + आदान)*

सदारो : One's own wife *(स्वदार)*

सादरो (adj) **:** Reverential; affectionate; enthusiastic *(सादरो)*

सदातनो (adj) **:** Perpetual *(सदातन)*

सदत्थो : One's own advantage or good *(स्व + अर्थ)*

सद्दहति : To believe have faith *(श्रत् + धा)*

सद्दलो (adj) **:** Grassy *(शाद्वल)*

सद्दनं : Making a noise *(शब्दन्)*

सद्धा : Faith *(श्रद्धा)*

सद्धालू (adj) **:** Believing *(श्रद्धालु)*

सद्धं : Alms offered to Petas *(श्राद्ध)*

सद्धं : Indeclinable with the sense of Anukulya

सद्धम्मो : Good doctrine, true religion, the true faith, the religion of Buddha; good condition *(सत् + धर्म)*

सद्धायिको (adj) **:** Trustworthy *(श्रद्धा + इक)*

सद्धिं (adv) **:** With *(सार्धम्)*

सद्धिविहारी + विहारीको : A fellow or brother priest, one who lives at the same monastery with another *(सार्धम + विहारिन + विहारिक)*

सद्धो (adj) **:** Faithful, believing *(श्रद्धा)*

साद्धो, साध्दंयो + साधियो : Practicable *(साध्य)*

सद्दो : Word, sound, noise, voice *(शब्द)*

सद्दूलो : A leopard *(शार्दूल)*

सादेति : *See सिदति*

सदेवको (adj) **:** Together with the Devas or devaworld *(स + देव + क)*

सदेविको (adj) **:** Accompanied by his queen *(सदेविक)*

साधको (adj) **:** Accomplishing *(साधक)*

सधम्मी (adj) **:** Practicing similar duties *(सधर्मिन्)*

साधनं : Accomplishment, effecting; materials *(साधन)*

सधनो (adj) **:** Rich *(सधन)*

साधारणो (adj) **:** Common, joint, general *(साधारण)*

साधेति : To accomplish, to effect, to prepare *(साधयति)*

साधिय्यो : Better *साधियस + सांधिक*

साधिट्ठो : Best

साधु : Good; excellent, right, proper; reputable, well-born *(साधु)*

साधुकं (adv) **:** Well, thoroughly *(साधु + क)*

साधुकारो : Approval, congratulations *(साधु + कार)*

साधुतरो (adj) **:** Better *(साधु + तर)*

सादिक्खो + सारिक्खो (adj) **:** Similar *(सदृश)*

सदिसता + सदिसत्तं : Similarly *(सदृशता + सदृशत्व)*

सदिसो : Similar, like *(सदृश्)*

सादिस्सं : Resemblance *(सादृश्य्)*

सादियति : To be willing, like, acquiesce, accept, persuit

सादो : Taste *(स्वाद्)*

सादु (adj) **:** Sweet, agreeable *(स्वादु)*

सदुमं : A house *(सद्मन्)*

सगब्भो : A uterine brother *(सगर्भ)*

सागला + सागलं : Name of the capital of king Milinda *(शाकल)*

सगन्धको (adj) **:** Fragrant *(सगन्ध + क)*

सगणो (adj) **:** Having a retinue; attended by an army *(सगण)*

सगारवो (adj) **:** Respectful *(स + गौरव)*

सागरो : An ocean *(सागर)*

सगाथको (adj) **:** Containing gathas *(स + गाथा + क)*

सग्गो : Abandonment; natural state, nature; making, creating, chapter, section *(सर्ग)*

सग्गो : Heaven, paradise *(स्वर्ग)*

सग्गुणो : Good quality *(सद्गुण)*

सगोत्तो : A kinsman *(सगोत्र)*

सह (adv) **:** With, together with *(सह)*

सहभावो : Endurance *(सहभाव)*

साहचरियं : Association *(साहचर्य)*

सहधम्मिको (adj) **:** Practising the same religious duties *(सहधर्मिन् + क)*

सहधेनुको : Accompanied by a cow *(सह + धेनु + क)*

सहगामी : Accompanying *(सहगामिन्)*

सहजाति : Name of a town in India *(सहजात)*

सहजातो (adj) **:** Born at the same time *(सहजात)*

सहजीवी (adj) **:** Living with *(सह + जीविन्)*

सहजो : Uterine brother *(सहज)*

सहकारो : A sort of fragrant mango tree *(सहकार)*

सहं : Power *(सह्, सहस्)*

साहं : *See* सो

सहम्पति : An epithet of Mahabrahma

सहनं : Endurance *(सहन)*

सहसा : Hastily, arbitrarily *(सहसा)*

साहसं : Voilence; punishment, fine *(साहस)*

साहसिको (adj) **:** Voilent, cruel ferocious *(साहसिक)*

सहस्सधा (adv) **:** In a thousand ways *(सहस्रधा)*

सहस्सं : A thousand *(सहस्र)*

साहस्सिको (adj) **:** Belonging to a thousand, casting a thousand *(सहस्र + इक)*

सहति : To bear, endure, resist, overcome *(सह्)*

सहत्थो : One's own hand *(स्वहस्त)*

सहव्यता : Companionship

सहायको : A companion, ally, friend *(सहायक)*

सहायता + सहायत्तं : Companionship *(सहाय + त्व)*

सहायो : A companion, ally, friend *(सहाय)*

सहेतुको (adj) **:** Having a cause *(सहेतुक)*

सहिरिको (adj) **:** Modest *(स + हीका)*

सहितो (adj) **:** Endowed with, accompanied by; united *(सहित)*

सहो (adj) **:** Enduring *(सह)*

सहोदको (adj) **:** Containing water (सह + उदक)

साहु (adj) **:** Good

सजलो (adj) **:** Water *(सजल)*

सजनो : Kinsman *(सजन)*

सजति : To cling *(सज्ज्)*

सजाति : Of the same class or species
+ सजातिको
+ सजतियो (adj)

साजीवं : Rule of life, precept governing the monastic life of the Buddhist priests *(स + आजीव)*

सजीवो (adj) **:** Alive; living with *(सजीव)*

सज्जनं : Decking, equipping *(सज्जन)*

सज्जनो : Well-born, respectable, good, virtuous *(सज्जन)*

सज्जति : *See सजति*

सज्जेति : To prepare, equip, deck *(cav सज्ज्)*

सज्झं + सज्झु : Silver

सज्झायति : To repeat, release, read aloud *(स्वाध्याय)*

सज्झायो : Repitition, rehearsal *(स्वाध्याय)*

सज्झु : *See सज्झहं*

सज्जो (adj) : Diligent

सज्जो : The sal tree, shorea Robusta *(सर्ज)*

सज्जो (adj) : Prepared, ready, equipped, decorated *(सज्ज्)*

सज्जु, सज्जुकं(adv) : Instantly, immediately, quickly, suddenly

सज्जुलसो : Resin *(सर्जरस्)*

सकबलो (adj) : Containing a mouthful, full *(स + कवल)*

साकच्छा : Conversation

सकदागामी (adj) : Returning once *(सकृदागामिन्)*

सकलो : All *(सकल)*

सकलो + सकलं : A potsherd; a portion *(शकल)*

साकल्यं : Totality *(साकल्य)*

सकरणीयो (adj) : Having duties to perform *(स + करणीय)*

साकारो : With its characteristics *(साकार)*

साकासो (adj) : Near *(सकाश)*

सकटं : A cart, waggon; a measure of capacity, a cart load *(शकट)*

साकटानो : A proper name *(शाकटायन)*

साकटिको (adj) : Belonging to a cart *(शाकटिक)*

सकत्ता : One's ownself *(स्वक + आत्मन्)*

सकस्थो : One's own object or advantage *(स्वक + अर्थ)*

साकेतं : Name of the city of Ayodhya *(साकेत)*

सखा : Companion, friend *(सखा)*

साखा : Branch *(शाखा)*

साखल्यं : *See सखिलो*

सखी : A female friend *(सखी)*

साखी : A tree *(शाखिन्)*

सखिलो (adj) : Friendly *(सखि + ल)*

सकिं (adv) : Atonee; simultaneously *(सकृत)*

सकिञ्चनो (adj) : Having something, wealthy *(स + किंचन)*

सकियो (adj) : Own *(स्वकीय)*

साकियो, सक्यो, सक्को + : Name of the princely family to which Gautama Buddha belonged *(शाक्य)*

सक्का : *See सक्को*

सक्कच्चं (adv) : Respectfully, attentively, carefully, zealously, thoroughly

सक्कारो : Hospitable reception, hospitality, honour, festival *(सत्कार)*

सक्करोति : To receive hospitality, to honour, revere *(सत्कृ)*

सक्कतञ्ञु (adj) **:** Acquainted with the Sanskrit language *(संस्कृत + ज्ञ)*

सक्कति : To go

सक्कति : *See सक्कोति*

सक्कतो : Entertained, honoured *(सत्कृत)*

सक्कतो + सक्कटो : (adj) Sanskrit *(संस्कृत)*

सक्कतं : Shakraship *(शक्र + त्व)*

सक्कायो : Own body or person *(स्व + काय)*

सक्खरा : A potherd; gravel; clayed or brown sugar, juggery, sugar *(शर्करा)*

साक्खरप्पभेदो (adj) **:** To-gether with the distinction of letters *(स + अक्षर + प्रभेद)*

सक्खि, सक्खिस्सति : *See सक्कोति*

सक्खी : A witness *(साक्षिन्)*

सक्को : Shakra or Indra *(शक्र)*

सक्को : Able; possible

सक्कोति + सक्कति + सक्कुणाति : To be able or competent

सको (adj) **:** Own *(स्वक)*

साको + साकं : A pot herb *(शाक)*

सकुब्बं : *See सा*

सकुणग्धी : A kind of hawk *(शकुन + घ)*

सकुणी + सकुणीको : A bird *(शकुनि + शकुनि + क)*

साकुणीको : A fowler *(शाकुनिक)*

सकुणो : A bird *(शकुन)*

सकुन्त : A bird, the Indian vulture *(शकुन्त)*

साक्यपुत्तिको + पुतियो : Belonging to the Shakya prince *(शाक्य + पुत्र + इक)*

साक्यो : *See साकियो*

साला : A house, hail, room *(शाला)*

सलभ : A grasshopper or moth *(शलभ)*

सलाभो : One's own advantage, self gain *(स्व + लाभ)*

सलाका : A peg, slip, bit of wood; a blade or sprout *(शलाका)*

सालाकियं : A branch of surgery *(शालाक्य)*

सलक्खणं : *See सामञ्ञो*

सलं : A porcupine quill *(शल)*

सालपण्णी : The shrub *Hedysarum gangeticnm (शालपर्ण)*

सलाटु (adj) **:** Unripe *(शलाटु)*

सळायतनं : The six organs of sense *(षडायतन)*

सालेय्यो (adj) **:** Fit for rice *(शालेय)*

सालि : Rice, especially, hill Paddy *(शालि)*

सालिका : The Mayna bird, *Gracula Religiosa (शारिका)*

सलिलं : Water *(सलिल)*

सल्लहुको (adj) **:** Light *(सं + लधु + क)*

सल्लकत्तियं + कं : The art of the surgeon or physician

सल्लकत्तो : A surgeon or physician *(शल्य + कर्तृ)*

सल्लकी : The tree Boswellia Thurifera *(शल्लकी)*

सल्लक्खं : Distinguishing, testing *(संलक्षण)*

सल्लखेति : To observe, perceive, distinguish, consider, intend *(संलक्ष्)*

सल्लको : A porcupine *(शल्यक)*

सल्लं : A javelin; an arrow; a stake, a splinter *(शल्य)*

सल्लपति : To talk with *(संलप्)*

सल्लापो : Conversation *(संलाप्)*

सल्लवेज्जो : A surgeon or physician *(शल्य + वैद्य)*

सल्लेखियं + सल्लेखो : Scartching out, erasing

सल्लीनो : Bent together, cowering, depressed *(संलीन)*

सल्लो : A javelin, arrow, stake; a porcupine *(शल्य)*

सालो : The tree shorea, Robusta; a tree in general *(शाल)*

सालो : A brother-in-law *(श्याल)*

सालोहितो : A blood or near kinsman, sapinda

सालूकं : Root of the water-lily *(शालूक)*

साळुरो : A dog

सम् : With, together *(सम्)*

सं (Indee) **:** Happily *(शम्)*

सं : See *सो*

समा : A year *(समा)*

सामा : See *सामो*

समभिसिञ्चति : To sprinkle or inaugurate as a king *(सम् + अभि + सिच्)*

समभिवाड्ढेति : To encourage *(समभिवर्धयति)*

समभिवाही (adj) **:** Leading up together *(सम् + अभि + वाहिन्)*

समाचरणं : Good manners *(समाचरण)*

समाचरति : To follow, practice; to act, behave *(समाचर्)*

समचारी (adj) **:** Living tranquilly *(शम + चारिन्)*

समचरिया : Living tranquilly *(शम + चरिया)*

समाचारो : Conduct, manners *(समाचार)*

सम्मच्छति : To sit down *(समास्)*

समच्छिन्नो : Cut off *(समाच्छिद्)*

सामच्चो (adj) **:** Accompanied by ministers of state *(सामात्य)*

समाचिण्णो : Practiced, performed *(समाचीर्ण)*

समाचितो : Overspread *(समाचित)*

समाचित्तता : Equanimity *(समचित्तता)*

समादहति : To put to-gether *(समाधा)*

समादानं : Undertaking; acquiring *(समादान)*

समादपेति : *See समादियति*
+ समादाय

समाधि : Agreement, peace, reconciliation; tranquility, self-cocentration, calm *(समाधि)*

समधिगच्छति : To attain *(समधिगम्)*

समाधिजो (adj) **:** Originating in self-absorption *(समाधि + ज)*

समाधिको (adj) **:** Connected with self-absorption *(समाधी + क)*

समाधिट्ठहति : To practice resolutely *(समाधिष्ठा)*

समाधियति : *See समादहति*

समादिन्नत्तं : Fact of having been undertaken

समादिसति : To indicate, to command *(समादिश्)*

समादियति : To take away; to take upon oneself: solemnly undertake *(समादा)*

समागच्छति : To assemble; to associate with *(समागम)*

समागच्छो : Assembly; intercourse, society *(समागम)*

सामग्गी : Concord *(सामग्री)*

समग्गो (adj) **:** All, entire; friendly, harmonious, reconciled *(समग्र)*

समाहरति : To collect to-gether *(समाहृ)*

समाहारो : Collection *(समाहार)*

समाहितो : Steadfast, firm, fixed; tranquil, attentive, established in *(समाहित)*

समजातिको (adj) : Of equal birth, of the same caste *(समजाति + क)*

समाजिको : A member of an assembly *(समाजिक)*

समज्जा : An assembly *(समज्या)*

समाजो : An assembly *(समाज)*

समाकड्ढति : To pull along; to attract; entice *(समाकृष्)*

समाकिण्णो : Covered, crowded *(समाकीर्ण)*

समको (adj) : Equal, same, similar *(सम + क)*

समाकुलो (adj) : Covered, filled *(समाकुल)*

समलङ्करोति : To adorn splendidly; decorate *(सम + अलं + कृ)*

समालपति : To speak *(समालप्)*

सामलता : The creeper Ichnocarpus *(श्यामलता)*

सामलो (adj) : Brown, dark *(श्यामल)*

समं : See *समो*

सामं : Conciliation; name of one of the three Vedas *(सामन्)*

समणको : A bad or contemptible, ascetic *(श्रमण + क)*

सामणको (adj) : Belonging to a monk or Buddhist priest, monachal, sacerdotal *(श्रमण + क)*

समनं : Stopping, suppression *(शमन)*

समणमचलो : Shramana Rock-an epithet of the Sotapanna

समनन्तरा + तरं (adv) : Immediately after

समानत्तता : Impartiality, feeling towards others as towards oneself *(समान + आत्मन् + ता)*

सामणेरो : A Buddhist monk in dicons orders, a novice, neophyte *(श्रमण + ण्य)*

समानेति : To bring to-gether; put to-gethcr: to assemble, compare *(समानी)*

समङ्गी (adj) : Possessing, endowed with *(सम् + अङ्ग + इन्)*

समणी : *See समणो*

समञ्ञा : Name, designation, term *(समाज्ञा)*

समन्नागतो : Endowed with *(समन्वा + गत)*

सामञ्ञं : Shramanship, state of being an ascetic or a Buddhist priest *(श्रमण + य)*

सामञ्ञता : Shramanship

समन्नेसति : To seek *(समन्विष्)*

सामञ्ञेव : Of one's own accord

सामञ्ञो (adj) **:** General, universal, common *(सामान्य)*

समणो : An ascetic, a Buddhist ascetic or monk, a Buddhist priest *(श्रमण)*

समानो (adj) **:** Similar, equal, same *(समान)*

समानो : Being

समन्तो (adj) **:** Entire, all *(समन्त)*

सामन्तो : Neighbouring, bordering *(सामन्त)*

समनुबन्धति : To start to-gether in pursuit *(समनु + बन्ध)*

समनुभासना : Addressing

समनुभासति : To join in addressing a person *(समनु + भाष्)*

समनुग्गाहियमानो : Being taken up

समनुञ्ञतो : Approved, allowed *(समनुज्ञात)*

समनुपस्सना : Consideration

समनुपस्सति : To see, perceive *(समनुद्दश्)*

समनुसासति : To direct, rule, exhort *(समनुशास्)*

समनुयुञ्जियमानो : Being inquired about

समन्वितो : Possessed of *(समन्वित)*

समापज्जति : To come into, enter upon, undergo, attain *(समापद्)*

समापनं : Conclusion, completion *(समापन)*

समापत्ति : Attainment *(समापत्ति)*

समापेति : To complete, conclude *(समापयति)*

समप्पेति : To put, deposit, fix; to consign, commit, deliver; to give back *(समर्पयति)*

समारभति : To begin, undertake *(समारभ्)*

समारको (adj) **:** Including the Mara world *(स + मार + क)*

समारम्भो : Undertaking; injury, instruction *(समारम्भ)*

समरो + रं : Battle *(समर)*

समारुहति : To ascend *(समारुह)*

समसमो (adj) : Exactly the same *(सम + सम)*

समासन्नो : Near *(समासन्न)*

समासेथ : Associate with the good

समासेति : To abbreviate, condense

समास : An abridgement *(समास)*

समास्सासेति : To console, encourage: to relieve; refresh *(समाश्वासयति)*

समस्यति : To be compounded (in gram) *समस्यते*

समता : Sameness, equality *(समता)*

समतलं : A level surface *(सम + तल)*

समथो : Tranquility, calm, quietude; cessation

समतिक्कमति : To cross over *(समतिक्रम्)*

समतिक्कमो : Rising above, getting beyond *(समतिक्रम)*

समतिंस : *See समो*

समतित्थिको (adj) : Said of the ganges when quite brimming

समतिविज्झति : To penetrate *(समति + व्यध्)*

समत्तं : Equality *(सम + त्व)*

समत्थनं : Allaying disputes *(समर्थन)*

सामत्थियं : Strength; ability, competence *(सामर्थ्य)*

समत्थो (adj) : Fit, able, adequate, competent, strong; significant *(समर्थ)*

समत्तो : Concluded; complete, entire, all *(समाप्त)*

समवट्ठितो : Ready *(समवस्थित)*

समवायो : Combination; union; multitude *(समवाय)*

समवेपाकिनी (adj) : Promoting good digestion (From *समवैपाकीन्*)

समवेति : To be united *(समवे)*

समव्हयो : A name *(समाहुय)*

सामयिको (adj) : Temporarily *(सामयिक)*

समयो : Agreement, combination; multitude; season; time; custom, rule, religious obligation; order precept; religious belief, doctrine *(समय)*

समायोगो : Combination, multitude *(समायोग)*

सम्बद्धो : *See सम्बन्धति*

सम्बाधेति : To oppress, afflict *(सम्बाध्)*

सम्बाहनं : Rubbing the body, shampooing *(संवाहन)*

सम्बाहति : To rub, shampoo *(संवाह्)*

सम्बहुलो (adj) : Many *(सम + बहुल)*

सम्बलं : Provision for a journey *(शम्बल)*

सम्बन्धनं : Binding *(सम्बन्ध् + अन)*

सम्बन्धति : To bind *(सबन्ध)*

सम्बन्धो : Connection, relationship, kinship *(सम्बन्ध)*

सम्बरी : Jugglery *(शाम्बरी)*

सम्बरो : Name of an Asura *(शम्बर)*

सम्भग्गो : Broken *(सम्भग्न)*

सम्भज्जति : To be broken *(सम्भज्यते)*

सम्भमो : Confusion, excitement; fear *(संम्भ्रम)*

सम्भारो : Preparation; materials; necessaries, constituent parts, element *(सम्भार)*

सम्भासा + **सम्भासनं** : Conversation *(सम्भाषा, सम्भाषण)*

सम्भत्तो : Devoted, faithfully attached *(सम्भक्त)*

सम्भावना + **नं** : Honour, fame; imagination, idea, reflection *(सम्भावनं)*

सम्भवति : To arise, be produced, spring from; to meet with *(सम्भू)*

सम्भवो : Production, birth: origin, cause: union, semen *(सम्भव)*

सम्भेदो : Confluence of two rivers; difference *(सम्भेद्)*

सम्भिन्नो : Broken, interrupted *(सम्भिन्नो)*

सम्भीतो : Terrified *(सम्भीत)*

सम्भोगो : Sensual enjoyment; happiness; use *(सम्भोग)*

सम्भू : Progeny *(सम्भु)*

सम्भूञ्जति : To eat with *(सम्भुज्)*

सम्भूतो : *See सम्भवति*

सम्बोधि : Perfect knowledge or enlightenment; perception of the truth, attainment of Buddhaship; Buddhahood *(सम् + बोधि)*

सम्बोज्झङ्गो : *See बोज्झङ्गो*

सम्बुद्धो : Thoroughly known or understood; one who is thoroughly enlightened, has discovered the truth, a Buddha *(सम्बुद्ध)*

सम्बुज्झनं : Knowing thoroughly *(from सम्बुद्ध)*

सम्बुको : A bivalve-shell *(शम्बुक)*

समेच्च : Having acquired, learnt, known *(समेत्य = समे)*

समेक्खितो : Considered, reflected upon *(समीक्षित् or समा + ईक्षित)*

समेन : *See समो*

समेति : To meet to-gether: to harmonise: to be equal to; correspond with *(समि)*

समेति : *See सम्मति*

समेतो : Brought into contact with, connected with, possessing *(समेत)*

संहननं : Striking, destroying *(संहनन)*

संहरति : To collect; to fold, up *(संह)*

संहारो : A compilation, abridgement *(संहार)*

संहति : Assemblage, mass *(संहति)*

संहतो : Firm, well-knit, compact *(संहत)*

संहितो : *See सन्दहति*

समी : The tree acacia suma *(शमी)*

सामि : Half: blambly *(सामि)*

सामी : Lord, master, owner: husband *(स्वामिन्)*

सामीचि : Correctness, propriety, proper or respectful act or duty

समिद्धि : Success; prosperity *(समृद्धि)*

समिद्धो : *See समिज्झति*

समिधा : Fire-wood *(समिध्)*

समिज्झनं : Success, accomplishment

समिज्झति : To succeed, prosper, take-effect *(समृध्)*

समिक्खं : Investigation *(समीक्ष)*

सामिको : Lord, master, husband *(स्वामिक)*

समिंसु : *See समेति*

सामिनी : *See सामी*

समिञ्जति : To be moved, tremble, falter *(समिङ्ग)*

सामीपगो (adj) **:** Approaching *(समीपग)*

सामीपको : At the end of a compound

समीपट्ठो (adj) **:** Standing near *(समीपस्थ)*

सामीपिको (adj) **:** Proximate

समीपो (adj) **:** Near *(समीप)*

समीरणो : Air, wind: name of a plant *(समीरण)*

समीरति : To be moved *(समीर्)*

समीरो : Air, wind *(समीर)*

सामिसो (adj) **:** Having food *(स + आमिष)*

समितं : *See समेति*

समितत्तं : State of being quelled or removed *(शमित + त्व)*

समिति : Union; an assembly *(समिति)*

समितो = शमित : *See सम्मति*

सम्म : A term of familiar address used by equals or by a superior to an inferior, my good sir!

सम्मा : The pin of a yoke *(शम्या)*

सम्मा : Fully, thoroughly, accurately, rightly, properly well, really, truely *(सम्यक)*

सम्मदति : To trample *(सम्मृद्)*

सम्मदेति : To intoxicate, exhilarate *(सम्मद्)*

सम्मदो : Exhilaration *(सम्मद्)*

सम्मग्गतो (adj) **:** Walking rightly, living a blameless life *(सम्यक् + गत)*

सम्मज्जनं : Sweeping *(सम्मार्जन)*

सम्मज्जनी + सम्मुज्जनी : A broom *(सम्मार्जनी)*

सम्मज्जति : To sweep *(सम्मार्जति)*

सम्मानं + सम्माननं : Honour, veneration *(सम्मान + सम्मानन)*

सम्मन्नति : To agree to, decide, resolve; to sanction, approve, select *(सम्मन्यति)*

सम्मन्तेति : To consult to-gether *(सम्मन्त्र्)*

सम्मापासो : *See यागो*

सम्मप्पधानं : Right exertion *(सम्यक + प्रधान)*

सम्मसति : To seize, grasp *(सम्मृश्)*

सम्मासति : *See सति*

सम्मति : To be appeased or calmed; to cease *(शम्)*

सम्मतो : *See सम्मन्नति*

सम्मत्तं : Correctness, truth *(सम्यक्त)*

समट्ठो : *See सम्मज्जति*

समत्तो : Delighting in, intoxicated with *(सम्मत्त)*

समिञ्जेति : To bend back or together: double-up

सम्मिस्सो (adj) **:** Mixed *(सम्मिश्र)*

सम्मोदति : To agree with, be in harmony with, be friendly with *(सम् + मुद्)*

सम्मोहो : Bewilderment, infatuation, error *(सम्मोह)*

सम्मोसो : Confusion

सम्मुखता : Presence, confrontation *(सम्मुख + ता)*

सम्मुखो (adj) **:** Face to face with, in the presence of *(सम्मुख)*

सम्मळ्हो : *See सम्मुह्यति*

सम्मुञ्जनी : *See सम्मज्जानी*

सम्मुति : Consent, authorization; permission; choice, selection; general consent or use *(सम्मति)*

सम्मुह्यति : To be stupefied, bewildered, paralysed *(सम्मुह्)*

समो : Tranquility *(शम)*

समो : Toil, fatigue *(श्रम)*

समो (adj) **:** Even, level; like, similar, same; equal; upright, just, impartial; full, complete, entire *(सम)*

सामो (adj) **:** Black, dark *(श्याम)*

समोधानं : Combination *(समवधान)*

समोधानेति : To join, connect

समोकिरति : To spinkle all over *(समवकृ)*

समोरुह्य : Having descended

समोसरणं : Union junction

समोसरति : To come together *(समव + सृ)*

समोतरति : To descend, disembark *(समवतृ)*

सम्पदा : Success, happiness, blessing; successful attainment; success in obtaining; attainment, possession *(सम्पद्)*

सम्पदालेति : To cleave, rend

सम्पदानं : Giving *(सम्प्रदान)*

सम्पादनं : Effecting, accomplishment, preparing, obtaining *(सम्पादन)*

सम्पादनीयो : To be prepared or effected *(सम्पादनीय)*

सम्पादेति : *See सम्पज्जति*

सम्पधूपायति : To send forth clouds of smoke *(सम्प्र + धूप)*

सम्पटुट्ठो : Impure, wicked *(सम्प्रदुष्ट)*

सम्पग्गहो : Favour, patronage *(सम्प्रग्रह् + अ)*

सम्पहंसा + सम्पहंसनं : Satisfaction, pleasure, approval

सम्पहंसेति : To gladden, delight; to express approbation of a person, to praise *(सम्प्रहर्षयति)*

सम्पहारो : Wounding; strife, battle *(सम्प्रहार)*

सम्पजञ्ञं : Consciousness, intelligence *(सम्प्रजन्य)*

सम्पजानो : Knowing, understanding, conscious

सम्पज्जलितो : Kindled, burning *(सम्प्रज्वलित)*

सम्पज्जति : To turn out, happen: to succeed, prosper; to be obtained, fall into any one's possession *(सम्पद्)*

सम्पकम्पति : To tremble, be shaken voilently *(सम्प्रकम्प्)*

सम्पकासितो : Displayed *(सम्प्रकाशित)*

सम्पकिण्णो : Strewn; crowded *(सम्प्रकीर्ण)*

सम्पक्खदनं : Leaping forward, aspiration *(सम्प्र + स्कन्द्+ अन)*

सम्पालेति : To protect, keep *(सम् + पालयति)*

सम्पापको (adj) **:** Causing to obtain, bringing, procuring

सम्पापुणाति : To attain; to come to, find, meet with *(सम्प्राप्)*

सम्परायिको (adj) **:** Relating to the future state *(साम्परायिक)*

सम्परायो : Futurity, the future state, future life, the next world *(सम्पराय)*

सम्परिवारेति : To surround *(सम्परिवारयति)*

सम्परिवत्तति : To roll oneself, grovel; to turn over, revolve *(सम्परिवृत्)*

सम्पसादनं : Making serene, tranquillization

सम्पसीदति : To be tranquilized, re-assured *(सम्प्रसद्)*

सम्पस्सति : To behold, discern, see clearly *(सम्पश्यति)*

सम्पति (adv) **:** Now *(सम्प्रति)*

सम्पटिच्छनं : Assent

सम्पटिच्छति : To assent, agree; to accept, receive, take *(सम्प्रतीष्)*

सम्पटिग्गहो : Favourable reception, welcome *(सम्प्रतिग्रह)*

सम्पातो : Fall, descent *(सम्पात)*

सम्पत्ति : Success, prosperity, glory, magnificence, beauty; successful, attainmcnt, *(सम्पत्ति)*

सम्पत्तो : *See सम्पापुणाति*

सम्पवङ्को : A friend, companion

सम्पवारेति : To cause to refuse (*Caus सम्प्र + वृ)*

सम्पवत्तनं : Causing to proceed *(सम्प्रवर्तन)*

सम्पवत्तेति (Caus) **:** To set going *(सम्प्रवर्तयति)*

सम्पवेधति : To be shaken violently *(सम्प्रव्यथ)*

सम्पवेधि (adj) **:** Shaky, loose

सम्पयातो : Gone away *(सम्प्रयात)*

सम्पयोगो : Union *(सम्प्रयोग)*

सम्पयुत्तो : Connected with, dependent on, resulting from *(सम्प्रयुक्त)*

सम्फप्पलापो : Frivolous talk

सम्फस्सो : Contact *(संस्पर्श)*

सम्फुल्लितो (adj) **:** In full blossom

सम्फुसति : To come in contact with, touch *(संस्पृश्)*

सम्पिण्डति : To be added together *(सम्पिण्ड)*

सम्पियो (adj) **:** Friendly *(सम्प्रिय)*

सम्पूजेति : To venerate *(सम्पूज्)*

सम्पूण्णो + सम्पूरितो : Filled, full *(सम्पूर्ण, सम्पूरित)*

सम्पुटो : A box, casket *(सम्पुट)*

संरहितो : Deprived or devoid of *(सम् + रहित)*

संरक्खनं : Preservation *(संरक्षण)*

संरम्भो : *See सारंभो*

संरावो : Uproar *(संराव)*

संसदो : Session, assembly *(संसद + अ)*

संसग्गो : Connection, conjunction, association *(संसर्ग)*

संसहो (adj) **:** Able *(सम् + सह)*

संसन्दति : To run together, unite, associate *(सम् + स्यन्द्)*

संसन्नो : Distressed, weak *(संसद्)*

संसप्पति : To creap along *(संसृप्)*

संसरणं : Transmigration *(संसरण)*

संसरति : To go through continually, to transmigrate *(संसृ)*

संसारो : Passing through a succession of births, continued existence, transmigration *(संसार)*

संसति : To proclaim *(शंस्)*

संसट्ठो : Joined, associated; living in society *(संसृष्ट)*

संसत्तो : Adhering *(संसक्त)*

संसयो : Doubt *(संशय)*

संसेदो : Sweat, moisture, vapour *(सम् + स्वेद)*

संसेवनं + संसेवो : Attending on, asseociating

संसब्बिनं : Entwinning

संसिब्बति : To entwine, entangle *(सम् + सिब्)*

संसितो : *See संसरति*

संसूचको (adj) **:** Indicating *(संसूच् + अक)*

संसुद्धो : Pure *(संशुद्ध)*

समुब्बहति : To pull out *(समुद्दह्)*

समुब्भवो : Springing up, production *(समुद्भव)*

समुच्चयो : Collection, accumulation *(समुच्चय)*

समुच्छेदो : Extirpation *(समुच्छेद)*

समुच्छिद : To extirpate: to break off, put an end to *(समुच्छिद्)*

समुच्चिनति : To select, appoint *(समुच्चि)*

समुदाचरति : To treat, behave towards; to lay claim to *(समुदाचर्)*

समुदाचारो : Behaviour, practice *(समुदाचार)*

समुदागमो : Beginning *(समुदागम)*

समुदाहटो : Got ready; brought forward

समुदयो : Rise, origin, commencement: origination, cause: multitude *(समुदाय)*

समुदायो : Quantity, entirely *(समुदाय)*

समुद्धटो : Entirely removed, extirpated *(समुद्धृत)*

समुद्दिट्ठो : Pointed out, illustrated *(समुद्दिष्ट)*

समुद्दो : A sea *(समुद्र)*

सामुद्दो (adj) **:** Marine *(सामुद्र)*

समुदेति : To arise *(समुदि)*

समुग्गहीतो : Accepted, understood

समुग्गतो : Arisen *(समुद्गत)*

समुग्घातो : Removal

समुग्गो : A box, basket *(समुद्ग)*

समूहनं : Removal *(सम् + उद् + हन्)*

समूहेति : To bring to-gether, assemble

समूहो : Multitude, assemblage, aggregation, mass *(समूह)*

समूज्जलितो + **समुज्जलो** (adj) **:** Blazing, resplendent

समुज्झितो : Abandoned *(समुज्झित)*

समुक्कंसति : To elevate, exalt *(समकृष्)*

सामुक्कंसिको (adj) **:** Originally discovered

समूलको (adj) **:** Roots of all *(समूल + क)*

समुल्लपनं : Speaking with

समुन्नदति : To utter loud cries *(समुन्नद्)*

समूपब्बूळ्हो : Conflict *(समुपवृंह)*

समुपगच्छति : To come to *(समुपागम)*

समुपमो (adj) **:** Resembling *(सम् + उपम)*

समुपसोभितो : Splendidly adorned *(समुप + शोभिन)*

समुपट्ठति : To serve, supply *(समुपस्था)*

समुपेति : To approach, meet *(समुपेत)*

समुप्पादो : Arising, production, origination *(समुत्पाद)*

समुप्पन्नो : Arisen, produced *(समुत्पन्न)*

समुस्सयो : Accumulation, the body *(समुच्छ्य)*

समुस्सेति : To raise, lift up *(समुच्छृ)*

समुत्तेजेति : To stir, excite, fill with delight

समुट्ठहति : To rise up, to come to life again *(समुत्था)*

समुट्ठानं : Rising, origination *(समुत्थान)*

संवच्छरो + रं : A year *(संवत्सर)*

संवच्छरो (adj) **:** An astrologer *(सांवत्सर)*

संवदन : One of the magic arts forbidden to Buddhist priest *(संवदन)*

संवद्धनं : Causing to grow *(संवर्धन)*

संवद्धितो : Reared, fostered, brought up; enlarged; grown-up; flourishing *(संवर्धित)*

संवद्धो : Brought up, grown-up, flourishing *(संवृद्ध)*

संवण्णना : Explanation, commentary; description; praise

संवण्णेति : To describe, explain, praise *(संवर्ण)*

संवरणं : Covering *(संवरण)*

संवरी : Night *(शर्वरी, शत्वरी)*

संवरो : Closing, restraint *(संवर)*

संवसथो : A village *(संवसथ)*

संवसति : To live, pass one's time; to hire with *(संवस्)*

संवासो : Living with *(संवास)*

संवत्तनिको (adj) **:** Conducive to

संवत्तति : To lead, conduce *(संवृत्)*

संवट्टो : The destruction of a kappa *(संवर्त)*

संवेदितो : Admonished *(संवेदित)*

संवेगी : Quick, vehement *(संवेग + इन्)*

संवेगो : Agitation, emotion, grief *(संवेग)*

संवेजनं : Agitating, alarming

संवेजेति : To agitate, cause emotion, or alarm *(संवेजयति)*

संवेठेति : To wrap *(संवेष्टयति)*

संविभागो : Partition, distribution *(संविभाग)*

संविभजति : To divide *(संविभज्)*

संविदहति : To dispose, fix, arrange, direct, appoint, assign, accomplish *(संविधा)*

संविधानं + संविदहनं : Appointment *(संविधान)*

संविग्गो : Excited, agitated, alarm, vexed, grieved *(संविग्न)*

संविहितो : *See संविदहति*

संविज्जति : To exist, to be found *(संविद्यते)*

सविज्जति : To be moved, or agitated *(संविज्)*

संवीनो : Surrounded, shut-in *(संवीन)*

संवोहारो : Business, traffic *(संव्यवहार)*

संवुणाति + णोति : To cover *(संवृ)*

साम्यं : Equality, equipoise *(साम्य)*

संयमो + सञ्ञमो : Restraint, self-control, abstivence, sobriety *(संयम)*

संयमो + सञ्ञमो : Tied, fastened; restrained, self-controlled *(संयत)*

संयत्तिको : A voyaging merchant; sea-trader *(सांयत्रिक)*

संयोगो + सञ्ञोगो : Union, bond: connection: association: society *(संयोग)*

संयोजनं + संञ्ञोजनं : Bond, attachment *(संयोजन)*

संयोजेति : To put to-gether, prepare *(संयोजयति)*

संयुगं : Strife *(संयुग)*

संयुत्तो + सञ्ञुत्तो : Joined, connected *(संयुक्त)*

सनाभिको (adj) **:** Having a nave *(स + नाभि + क)*

सनं (adj) **:** Always *(सनत्)*

साणं : Hempen-cloth, coarse-cloth *(शाण)*

सनामको (adj) **:** Having a name *(सनामक)*

सनन्तनो (adj) **:** Perpetual, ancient, primeveal

सञ्चरणं : Wandering about, uniting *(सञ्चरण)*

सञ्चरति : To go about, wander; to meet, unite *(सञ्चर्)*

सञ्चरिका : A female passenger *(सञ्चारिका)*

सञ्चरित्तं : Going backwards and forwards, acting as, go between

सञ्चरो : Defile, passage *(सञ्चर, सञ्चार)*

सञ्चयो : Accumulation, quanlity *(सञ्चय)*

सञ्चेतना : Thought,intention

सञ्चेतनिको (adj) **:** Intentional

सञ्चेतेति : To be aware, intend *(सञ्चेतयति)*

सञ्छादेति : To cover, hide *(सञ्छद्)*

सञ्छिन्न : Cut *(सञ्छिन्न)*

सञ्चिच्च : Intentionally, consciously, purposely *(सञ्चिन्त्य, सञ्चित्य)*

सञ्चिनति : To accumulate *(सञ्चि)*

सञ्चूण्णो : Crushed, shattered

सन्दहति + सन्धेति : To connect; to get ready, arrange *(सन्धा)*

सन्दालेति : To break

सन्दानं : A cord *(सन्दान)*

सन्दनो : A war chariot *(स्यन्दन)*

सण्डास : A smith's tongs

सन्दस्सनं : Showing, exhibition *(सन्दर्शन)*

सन्दस्सेति : To show, teach

सन्दति : To flow *(स्यन्द्)*

सन्दट्ठो : Bitten, compressed *(सन्दष्ट)*

सन्देहो : Doubt, accumulation *(सन्देह)*

सन्देसो : News, message, communication *(सन्देश)*

सन्धानितो (adj) **:** Bound *(सन्धिनित)*

सन्धारेति : To hold back, repress; bear, carry *(सन्धारयति)*

सन्धाता : One who joins or reconciles *(सन्धातृ)*

सन्धावति : To run through, traverse *(सन्धाव्)*

सन्धाय + सन्धेति : *See सन्दहति*

सन्धि : Junction; union; agreement: a joint of the body *(सन्धि)*

सन्धुपायति : To smoke *(सम् + धुप्)*

सन्दिद्धो : Smeared *(सन्दिग्ध)*

सान्दिट्ठिको (adj) **:** Visible, actual. belonging to this life *(सान्दृष्टिक)*

सन्दिट्ठो : Seen *(सन्दृष्ट)*

सन्दो (adj) : Thick, coarse *(साद्र)*

सण्डो + सण्डं : An assemblage of totuses *(शण्ड)*

सण्डो : A multitude *(षण्ड)*

सन्दोहो : An assemblage *(सन्दोह)*

सनेमिको (adj) : Having a felly or tire *(सनेमि + क)*

सङ्गाहको (adj) : Compiling *(संग्राहक)*

सङ्गाहेसि, सङ्गहितो : *See सङ्गण्हाति*

सङ्गाहिको (adj) : Including, embracing *(संग्राहिन + क)*

सङ्गहो : Taking, collection; conjunction, assemblage; a compilation, abridgement; favour, kindness *(संग्रह)*

सङ्गाहो : Collecting, taking *(संग्राह)*

सङ्गामजी + जितो : Victorious in battle *(संग्रामजित्)*

सङ्गम्म : Having assembled or united with

सङ्गमो : Meeting: intercourse, connection, association *(संगम)*

सङ्गामो : Conflict, battle *(संग्राम)*

सङ्गण्हाति : To take, to sieze, collect: to compile: to abridge: to contain, embrace, include: to treat kindly, favour, conciliate, provide for the welfare of, help, protect *(संग्रह)*

सङ्गणी : One of the books of the Abhidhamma is named Dhammasangani means something "enumeration of conditions"

सङ्गणिका : Communication, association *(सं + गण + इका)*

सङ्गरो : Calamity; war; promise *(सङ्गर)*

सङ्गति : Union, intercourse *(संगति)*

सङ्गतो : Meeting, associating or uniting with *(संगत)*

सङ्गायनं : Rehearsing

सङ्गायति : To chant; rehearse *(सगै)*

सङ्घभत्तं : Food belonging to a community of monks as opposed to food belonging to an individual monk *(संघ + भक्त)*

सङ्घभदो : Causing divisions or schisms among the priesthood; one of the Abhithanas *(संघ + भेद)*

सङ्घभोगो : Maintenance of priests *(संघ + भोग)*

सङ्घादिसेसो (adj) : Requiring a Sanghkamma at every stage *(संघ + आदि + शेष)*

सङ्घकम्मं : An act of ceremony performed by a chapter of priests assembled in solemn conclave *(संघ + कर्मन)*

सङ्घारामो : A Buddhist monastery *(संघ + आराम)*

सङ्घटनं : Junction *(संघट + अन)*

सङ्घाटी : One of the three robes of a Buddhist monk *(संघाटी)*

सङ्घटितो (adj) **:** Struck, sounded *(संघतित)*

सङ्घातो : Assemblage, multitude: killing, hurting: name of one of the eight principal hells *(संघान)*

सङ्घाटो : One of the perpendicular timbers of the house: junction

सङ्घट्टति : To knock against, or together *(संघट्ट)*

सङ्घी (adj) **:** Having a crowd of disciples *(संघ + इन्)*

सङ्घिको (adj) **:** Belonging to, or connected with the priesthood *(संघ + इक)*

सङ्घो : A multitude, assemblage; the assembly of Buddha's Priests, the priesthood, clergy, church: a fraternity of priests: a chapter of priests *(संघ)*

संघुट्ठो : Sounded, resounding *(संघुष्ट)*

सङ्गीति : Chanting together *(संगीति)*

सङ्गितो : *See सङ्गायति*

सङ्गो : Attachment, bond, tie *(सङ्ग)*

साङ्गो (adj) **:** Together with its angas or divisions *(साङ्ग)*

सण्हो (adj) **:** Smooth; soft, gentle, mild: delicate: minute, subtle, abtruse *(श्लक्ष्ण)*

सानि : *See सो*

साणि : A curtain, screen, tent *(शाणी)*

सणिकं (adj) **:** Slowly, softly; gently, gradually

सणि (adj) **:** Same as above *(शनैस्)*

सनितो : Sounding *(स्वनित)*

सञ्जननं : Producing *(संजनन)*

सञ्जाननं : Perceiving

सञ्जानाति : To think, suppose, recognise, perceive, comprehend, to call name *(संज्ञा)*

सञ्जनितो : Arisen, produced *(संजनित)*

सञ्जाति : Birth, origin

सञ्जायति : To arise, be produced or born *(संजन)*

सञ्झा : Evening *(संध्या)*

सञ्जीवो (adj) **:** Alive *(संजीव)*

सङ्का : Doubt, uncertainty *(शङ्का)*

सङ्कड्ढति : To collect *(संकृष्)*

सङ्कलनं : Addition *(संकलन)*

सङ्कमति : To go, pass on *(संक्रम्)*

सङ्कमो : Difficult, progress *(संक्रम)*

सङ्कम्पति : To tremble *(संकम्प्)*

सङ्कनीयो : *See संकति*

सङ्कप्पेति : To will, determine, arrange *(संकल्पयति)*

सङ्कप्पो : Resolve: determination *(संकल्प)*

सङ्करो : Confusion *(संकर)*

सङ्कारो : Dust, sweeping, rubbish *(संकार)*

सङ्कासो (adj) **:** Resembling *(संकाश)*

सङ्कस्सं : Name of a town in India *(साङ्काश्य)*

सङ्कस्सरो (adj) **:** Anxious, hesitating

सङ्कठा : Conversation *(संकथा)*

सङ्कति : To hesitate, doubt, suspect *(शङ्क्)*

सङ्कतीरं : A dust heap *(सम् + कटीर)*

सङ्कटो : Narrow *(संकट)*

सङ्केतो : Engagement, appointment, rendezvous *(संकेत)*

सङ्का + संङ्खया : Calculation, number, sum: numerals: understanding, reason, intelligence *(संख्या)*

सङ्कला, लं, लो : A chain *(शृंखला)*

सङ्कलिका : A chain

सङ्कारक्खन्धो : *See next*

सङ्खारो : Constructing preparing, perfecting, embellishing; aggregation; matter; karma: the skandhas *(संस्कार)*

सङ्खाति : To calculate, reckon *(संख्या)*

संङ्खतो : Put together, agreegated, organised, made, wrought, built, created, perfected, embellished: cooked, dressed, compounded *(संस्कृत)*

सङ्खातो + सङ्खयातो : Reckoned, numbered; considered, called, named, estimated; learnt *(संख्यात)*

सङ्खयो : Loss, destruction; end *(संक्षय)*

सङ्खेपो : Abridgement, abstract *(संक्षेप)*

सङ्खेय्यो : Calculable *(संख्येय)*

सङ्खिपति : To shorten, abridge *(संक्षिप्त)*

सङ्खो + संङ्ख : A shell; conch-shell: a conch triumpet the frontal bone, the anckle bone *(शङ्ख)*

सङ्खोभो : Commotion *(संक्षोभ)*

सङ्खोभति : To be shaken or agitated *(संक्षुभ)*

सङ्खया, सङ्खयातो : *See सङ्खा + सङ्खत्तो*

सङ्खयानं : Calculation *(संख्यान)*

सङ्खी : Anxious *(शंकिन्)*

सङ्किलेसो : Impurity *(संक्लेश)*

सङ्किलिस्सति : To be impure, deprived, sinful

सङ्किण्णो : Confused, crowded; of mixed caste, impure *(संकीर्ण)*

सङ्किरणं : Collecting to-gether

सङ्कितो : Anxious, alarmed *(शङ्कित)*

सङ्कु : A stake or stumps: a javelin *(शङ्कु)*

सङ्कुचति : To contract, draw together *(संकुच्)*

सङ्कुलो (adj) **:** Crowded; confused, contradictory *(संकुल)*

सङ्कुप्पो : That can be shaken

सञ्ञा : Sense, consciousness, perception; intellect, thought: sign gesture: name *(संज्ञा)*

सन्नद्धो : *See सन्नह्यति*

सन्नाहो : Armour, mail *(सन्नाह)*

सन्नकट्टु : The tree Buchanania Latifolia *(सन्नकद्रु)*

सञ्ञाक्खन्धो : *See सञ्ञा*

सन्नामेति : To restrain

सञ्ञमो : *See संयमो*

सञ्ञाणं : Perception; sign, monument *(संज्ञान)*

सञ्ञापनं : Pacifying *(सज्ञापन)*

सञ्ञापेति : *See सञ्जानाति*

सञ्ञतो : *See संयतो*

सञ्ञतो, सञ्ञत्तो : *See सञ्जानाति*

सञ्ञाय, सञ्ञायति

सन्नह्यति : To bind, fasten *(सन्नह)*

सन्नेति : To mix, knead *(सन्नी)*

सञ्ञी (adj) **:** Conscious, perceiving, thinking, imagining *(संज्ञिन्)*

सन्निभो (adj) **:** Resembling *(सन्निभ)*

सन्निचयो : Piling up, accumulation, hoarding *(सन्निचय)*

सन्निधानं : Proximity *(सन्निधान)*

सन्निधापेति : To bring about, cause to come to pass *(सन्निधापयति)*

सन्निधी : Proximity, presense, visibility *(सन्निधि)*

सन्निधीयति : To be combined

सन्निहितो : Stored up *(सन्निहित)*

सन्निकासो (adj) **:** Resembling *(सन्निकाश् + अ)*

सन्निक्खेपो : Placing

सन्निनो (adj) **:** Bent, inclined *(सम् + निम्न)*

सन्निपतति : To assemble, meet to-gether *(सन्निपत्)*

सन्निपातो : Union, collection, assemblage; assemble, congregation *(सन्निपात)*

सन्निरुम्हति + **सन्निरुम्भति :** To impede, restrain, block

सन्निसज्जा : Sitting to-gether

सन्निसिदति : To subside, to be quiet *(सन्निषद्)*

सन्निस्सितो : Connected with devoted to

सञ्ञितो (adj) **:** Called, named *(संज्ञित)*

सन्निट्ठानं : Conclusion, consummation, ascertainment, resolve

सन्निवासो : Living with, association

सन्निवेसो : Construction, preparation; station, encampment *(सन्निवेश)*

सन्नियोजेति : To appoint, enjoin, command *(सन्नियोजति)*

सन्नो : *See सीदति*

सञ्ञोगो, सञ्ञोजनं + **सयुत्तो :** *See संमि*

सानो : A dog *(श्वान)*

साणो : A touchstone; a grindstone *(शाण)*

सन्तज्जेति : To menace, abuse *(संतर्ज)*

सन्तानो : Spreading; extension; lineage; name of a tree in heaven *(सन्तान)*

सन्तापनं : Burning up *(संतापन)*

सन्तापेति : To burn, scorch, inflame, torment *(संतापयति)*

सन्ताप : Burning, fire; torment *(संताप)*

सन्तप्पेति : To satisfy *(संतर्पयति)*

सन्तरवाहिरो (adj) **:** Inside and out

सन्तरति : To be in haste, to be agitated, to trouble *(संत्वर)*

सन्तासेति : To terrify *(संत्रासयति)*

सन्तासी (adj) **:** Trembling, fearful *(संतास + इन)*

सन्तता : Goodness

सन्ततं (adv) **:** Continually *(संततम्)*

सन्तति : Extention, continuity, duration, lineage *(संतति)*

सन्तत्तो : Scorched *(संतप्त)*

सन्तवा : Tranquil *(शान्त + वत्)*

सन्थागारं : A royal rest-house; a building at which kings transacted business when travelling in provinces *(संस्था + आगार)*

सण्ठहति, सण्ठाति : सन्तिट्ठति To stand, to remain *(संस्था)*

सन्थम्भति : To restrain oneself *(संस्तम्भ्)*

सन्थानं : Appeasing *(शान्त्वन्)*

सण्ठानं : Form, figure, mark; position, station *(संस्थान)*

सण्ठापनं : Arranging, fixing *(संस्थापन)*

सन्थरति : To spread, strew *(संस्तृ)*

सन्थारो : A layer, a stratum; a couch *(संस्तर, संस्तार)*

सन्थवो : Acquaintance, intimacy, friendship *(संस्तव)*

सण्ठिति : Position, stratum *(संस्थिति)*

सण्ठितो : *See सण्ठहति*

सन्थुतो : Praised *(संस्तुत)*

सन्ति : *See अत्थि*

सन्ति : Calm, tranquility, peace; Nirvana; bliss; pacification: settlement *(शान्ति)*

सन्तिको (adj) **:** Near *(स + अन्तिक)*

सन्तिट्ठति : *See सण्ठहति*

सन्तो : *See सम्मति*

सन्तो : Wearied *(श्रान्त)*

सन्तो : Being; good; wise; *(सत्)*

सन्तोसो : Contentment, happiness *(संतोष)*

सन्तुस्सको (adj) **:** Contented *(संतुष्य + क)*

सन्तुस्सति : To be satisfied, pleased, happy *(संतुष)*

सन्तुट्ठि : Contentment, satisfaction, happiness *(संतुष्टि)*

सान्त्वं : Conciliation *(शान्त्व)*

सानु : Table-land *(सानु)*

सानुचरो (adj) **:** To-gether with, followers or dependents *(स + अनुचर)*

सपचो : A pariah, out-caste *(श्वपच)*

सपदानं : Beggin regularly

सापदेसो (adj) **:** Figurative *(स + अपदेश)*

सपदि (adv) **:** Instantly *(सपदि)*

सापदो : A beast of prey-tiger *(श्वापद)*

सपाको : A pariah, Candala *(श्वपाक)*

सपनं : An oath *(शपन)*

सपरत्थो : One's own good and the good of others *(स्व + पर + अर्थ)*

सपरिवारो (adj) **:** Accompanied by an escort or attendants *(सपरिवार)*

सपरियन्तो (adj) **:** Limited *(स + वर्यन्त)*

सापतेय्यं : Property, wealth *(स्वापतेय)*

सपथो : An oath *(शपथ)*

सपति : To swear, revile *(शपू)*

सपत्तो : Hostile *(सपत्न)*

सापेक्खता : Longing *(सापेक्ष + ता)*

सफलो (adj) **:** Bearing fruit *(सफल)*

सफं : A horse's hoof *(शफ)*

सफरी : The fish cyprius sophore *(शफरी)*

सपिण्डो : A near kinsman *(सपिण्ड)*

सापो : Curse, abuse *(शाप)*

सप्पभो : Brilliant *(सप्रभ)*

सप्पच्चयो (adj) **:** Having a cause *(सप्रत्यय)*

सप्पाणको (adj) **:** Containing insects or animals *(स + प्राणक)*

सपञ्ञो (adj) **:** Wise *(स + प्रज्ञा)*

सप्पटिभागो (adj) **:** Resembling *(स + प्रतिभाग)*

सप्पटिभयो (adj) **:** Dangerous, beset with fear *(स + प्रतिभय)*

सप्पायो (adj) **:** Desirable, advantageous, beneficial *(स + प्राय)*

सप्पि : Clearified butter or ghee *(सर्पिस्)*

सप्पीतिको (adj) **:** Joyful *(स + प्रीति + क)*

सप्पो : A snake *(सर्प)*

सप्पुरिसो : A good or pious man *(सत्पुरुष)*

सपुरिसो (adj) **:** Accompanied by attendants *(स + पुरुष)*

सपुत्तो (adj) **:** To-gether with his son *(सपुत्र)*

सरभङ्गो : Indistinctness of the voice or broken articulation *(स्वरभङ्ग)*

सरभञ्ञं : A particular mode of reciting or intoning sacred composition *(स्वर + भण् + य)*

सरभो : A sort of deer *(शरभ)*

सरभु : Name of a river *(सरयु)*

सराभ्यासो : Archery *(शराभ्यास)*

सरभू : A lizard

सारद्धो : सु + आरद्धो

सारदिको (adj) **:** Autumnal *(शारदिक)*

सरदो : The year: autumn, the two months succeeding the rains

सारदो (adj) **:** Autumnal *(शारद्)*

सारागो (adj) **:** Affection, passion *(संराग)*

सरहस्सो (adj) **:** Along with the Upanishadas *(सरहस्य)*

सराजको (adj) **:** Including the king *(सराजक)*

सारज्जं : Modesty, timidity, shyness

सरको + कं : A drinking vessel *(सरक)*

सरलो : The tree Pinus Longifolia *(सरल)*

सरं : *See* सरो

सारम्भो : Clamour, angry talk *(संरम्भ)*

सारम्भो (adj) **:** Accompanied with danger or injury *(स + आरम्भ)*

सारमेय्यो : A dog *(सारमेय)*

सरणं : Remembrance *(स्मरण)*

सरणं : Refuge, protection, salvation; Nirvana; a protector; a house, home; killing *(शरण)*

सारङ्गो : The bird Cuculus Melanolencus: a deer *(शारङ्ग)*

साराणीयो : Used when exchanging of compliments

सरासनं : A bow *(शरासन)*

सरसि : *See* सरो

सरसी : A large pond *(सरसी)*

सारसो : The Indian crane *(सारस)*

सरस्वती : The name of a river *(सरस्वती)*

सारता : Reality, strength *(सारता)*

सारथी : A charioteer, coachman *(सारथि)*

सरति + सुमरति : To remember *(स्मृ)*

सरटो : A chameleon *(सरट)*

सारत्थो : Essential or true meaning *(सार + अर्थ)*

सारत्तो : Impassioned, inflamed with desire *(संरक्त)*

सरवो : Noisy *(स + रव)*

सरावो : A shallow-cup, saucer *(शराव)*

सरव्यं : A target *(शरव्य)*

सारेति : *See सरति*

सारि : A piece or man at chess, draughts *(सारि)*

सारी : Going *(सारिन्)*

सारिबा : Name of a plant *(शारिवा)*

सरिक्खो : Resembling *(सदृक्ष)*

सारिफलको : A chess-board *(शारिफलक)*

सारिपुत्तो : A famous apostle and a contemporary of Gautama *(शारिपुत्र)*

सरीरं : The body *(शरीर)*

सरीरी : An animal, man *(शरिरीन्)*

सारीरिका (adj) **:** Corporeal *(शारीरिक)*

सरिता : One who remembers

सरिता : A river *(सरिता)*

सरितो : Flowing, running *(सरित)*

सरो (adj) **:** Flowing, going *(सर्)*

सरो : An arrow *(शर)*

सरो : Sound, voice: a musical tone; a vowel *(स्वर)*

सरो + सरं : A large sheet of water or lake *(सरस्)*

सारो : Essence, substance, choicest part, pith, marrow: main point, real truth; strength, vigour: wealth *(सार)*

सरोरुहं : A lotus *(सरोरुह्)*

सरुपं : Own form, natural state, nature *(स्वरूप)*

सरोपो : Resembling *(सरूप)*

सारूप्पो (adj) **:** Fit, proper, suitable in conformity with *(सरूप + य)*

सस्सकं (adv) **:** Certainly

ससको : A hare, a rabbit *(शसक)*

ससनं : Slaughter *(शसन)*

सासनं : Order, command: message: epistle; instruction: discipline: scriptures: Buddhist religion or dispensation *(शासन)*

ससङ्खारिको : *See सङ्खारो*

ससङ्को : The moon *(शशाङ्क)*

सासङ्को (adj) **:** Dangerous *(स + आशङ्का)*

सासपो : A mustared-seed *(सर्षप)*

सासति : To command *(शास्)*

ससेनको (adj) **:** Accompanied by an army *(ससेन + क)*

ससी : The moon *(शसिन्)*

ससीसो (adj) **:** Together the head *(स + शीर्ष)*

सस्नेहो (adj) **:** Loving *(सस्नेह)*

ससो : A hare *(शस)*

सासो : Asthama *(श्वास्)*

सस्सं : Corn in the field, crop *(शस्य)*

सस्समणब्राह्मणो : (adj) To-gether with monks and Brahmins *(स + श्रमण + ब्राह्मण)*

सस्सामिको (adj) **:** Having a master *(स + स्वामिक)*

सस्सतिको (adj) **:** Eternal *(शाश्वतिक)*

सस्सतो (adj) **:** Perpetual, eternal *(शाश्वत)*

सस्सिरीको (adj) **:** Auspicious, glorious, blessed *(सश्रीक)*

सस्सू : Mother-in-law *(श्वश्रू)*

ससुरो : Father-in-law *(श्वशुर)*

सतभिसजो : Name of a Nakkhatta *(शतभिषज्)*

सातच्चं (adj) **:** Constantly, perserveringly *(सातत्य)*

सतकं : A hundred *(शतक)*

सतक्खत्तं : A hundred times *(शतकृत्वस्)*

साटको + कं : Cloth: a cloth, an inter-garment, tunic, cloak *(शाटक)*

सातकुम्भं : Gold *(शतकौम्भ)*

सतं : *See सन्तो*

सतं : A hundred *(शत)*

सतमूली : Asparagus Racemosus *(शतमूली)*

सतपदी : A Cealipede *(शतपदी)*

सतपत्तो : The Indian-crane *(शतपत्र)*

सतरंस्मी : The sun *(शत + रस्मि)*

साततिको (adj) : Preserving *(सतत + इक)*

सततो (adj) : Continual *(सतत)*

सतवङ्को : A sort of fish *(शत + वक्र)*

सतावरी : Asparagus Racemosus *(शतावरी)*

सतेरता : Lighting *(शतह्रदा)*

साठेय्यं : Craft, treachery

साठिलो (adj) : Crafty, treacherous

सठो (adj) : Crafty, treacherous, fraudulent, wicked *(शठ)*

सति : Recollection; active state of mind, fixing the mind strongly upon any subject, attention, attentiveness, thought, reflect, consciousness *(स्मृति)*

सति, सती : *See सन्तो*

साति : Name of a Nakhatta *(स्वाति)*

साटी : An upper robe, mantle, cloak *(शाटिका)*

सतिको (adj) : Belonging to a hundred, consisting of a hundred, costing a hundred *(शतिक)*

सतिमा (adj) : Of rententive memory, or active mind, thoughtful reflecting *(स्मृतिमत्)*

सतिपट्ठानं : Fixing the attention, earnest meditation

सातिरेको (adj) : Excessive *(स + अतिरेक)*

सातिसयो (adj) : Excessive *(सतिशय)*

सतिविनयो : Name of one of the adhikarana samathas *(स्मृति + विनय)*

सतो : Recollecting, mindful, attentive, thoughtful, conscious *(स्मृत)*

सातो : Joyful *(शात)*

सत्तं : A sacrifice; munificence, liberality *(सत्र)*

सत्ता : Seven *(सप्तन्)*

सत्ता : Existence

सत्तदसा : *See सत्तारस*

सत्तधा (adv) : In seven ways, in seven pieces *(सप्तधा)*

सत्तगुणो (adj) : Seven-fold *(सप्तन् + गुण)*

सत्ताह : A week *(सप्ताह)*

सत्ताहिको (adj) : Belonging to a week, hebdomadal

सत्तकं :	A collection of seven *(सप्तक)*
सत्तक्खत्तुं (adj) :	Seven times *(सप्तन् + कृत्वस्)*
सत्तला :	A sort of jasmine *(सप्तला)*
सत्तलोको :	World of sentient being *(सत्व + लोक)*
सत्तं :	Substance, thing; form, body; sentient being: strength: breath, life *(सत्त्व)*
सत्तमो (adj) :	Best, excellent *(सत्तम)*
सत्तमो (adj) :	Seventh *(सप्तम)*
सत्तपण्णो :	The tree Echitcs Scholaris *(सप्तपर्ण)*
सत्तरस :	Seventeen *(सप्तदशन)*
सत्तत्ति :	Seventy *(सप्पति)*
सत्तट्ठ :	Seven or eight *(सप्तन् + अष्टन्)*
सत्तावासो :	Abode of beings *(सत्व + आवास)*
सत्था :	A teacher, master *(शास्तृ)*
सत्थकं :	A small weapon *(शस्त्रक)*
साट्ठकथो (adj) :	To-gether with the commentary
सात्थको (adj) :	Useful, profitable *(सार्थक)*
सत्थं :	A weapon, word; iron, steel *(शस्त्र)*
सत्थं :	A treatise book; a science or art *(शास्त्र)*
सत्थि :	*See सत्ति*
सत्थि :	The thigh *(सक्थि)*
सट्ठि :	Sixty *(षष्टि)*
सात्थिका :	*See सात्थको*
सत्थो :	A troop, a caravan *(सार्थ)*
सात्थो (adj) :	To-gether with the meaning *(सार्थ)*
सट्ठो (adj) :	Sixtieth *(षष्ट)*
सत्थु :	*See सत्था*
सत्थु :	*See सत्तु*
सत्थुको (adj) :	Belonging to a teacher *(शास्तृ + क)*
सट्ठयं :	Villany, fraud *(शाठ्य)*
सत्ति + सत्थि :	Ability, power; an iron spear, javelin *(शक्ति)*
सत्ति :	A knife *(शस्त्री)*
सत्तो :	Being, a creature, animal, sentient being, man *(सत्त्व)*
सत्तो :	Able, strong *(शक्त)*

सत्तो : *See सजति*

सत्तु : An enemy *(शत्रु)*

सत्तु : Barley meal or flour generally, also a cake made of meal *(शक्तु)*

सत्तुको : An enemy *(शत्रु + क)*

सावज्जो (adj) **:** Censurable, faulty, wrong, sinful *(सावद्य)*

सावको : A hearer, listener, pupil; a disciple *(श्रावक)*

सवलि (adj) **:** Wrinkled *(सवलि)*

सवणं : Hearing, the ear *(श्रवण)*

सवणं : Flowing *(स्त्रवण*

सवनीयो (adj) **:** Pleasant to hear *(श्रवणीय)*

सवण्को : A sort of a fish *(स + वक्र)*

सवनो : Name of a Nakkhatta *(श्रवण)*

सावनो : Name of a month *(श्रावण)*

सावसेसो (adj) **:** Imperfect, incomplete *(सावशेष)*

सवति : To flow *(स्त्रु)*

सावत्थी : Name of a town in India, the capital of Kosala *(श्रावस्ती)*

सावेता : One who informs *(श्रावय + तृ)*

सावेति : *See सुणोति*

सव्हयो (adj) **:** Called, named *(साहूय)*

सविभत्ति : Having inflections *(स + विभक्ति)*

साविका : *See सावको*

सविञ्ञाणको (adj) **:** Possessed of intelligence or consciousness, animate *(स + विधान + क)*

सावित्थि : The vedic verse Savitri

सवो : Flowing, dripping *(स्त्रव)*

सावो (adj) **:** Dark brown, bay *(श्याव)*

सवुपादिसेसो : *See उपदिसेसो*

सव्यो (adj) **:** Left, on the left hand *(सव्य)*

सायको : An arrow, a sword *(सायक)*

सयं : Oneself, by oneself; spontaneously *(स्वयम्)*

सायं : *See (सायो)*

सायमासो : Evening meal, supper *(सायम् + आश)*

सयम्भू (adj) **:** Self-produced, self-sufficient, independent *(स्वयंभु)*

सयम्पभो (adj) : Self-resplendent *(स्वयंप्रभ)*

सयंवरा : A maiden who chooses a husband *(स्वयंवरा)*

सयनं + सेनं : Lying, sleeping: a bed, a couch *(शयन)*

सायण्हो : Evening *(सायाह्)*

सयनिग्गहं + सयनिधरं : A sleeping room, bed-chamber *(शयनगृह)*

सायनियो : See *सायति*

सयज्जातो : Spring up spontaneously *(स्वयंजात)*

सयङ्कतो (adj) : Made by onself *(सयंकृत)*

सयानो : *See सयति*

सयथु : Swelling *(श्वयथु)*

सयति + सेति : To lie down *(शी)*

सयति : To go, to take refuge *(श्रि)*

सायति : To taste *(स्वद्)*

सह्यति : The part

सायी (adj) : Lying *(शायिन्)*

सायिका : Lying, sleeping *(शयिका)*

सयो (adj) : Lying, sleeping *(शय)*

सायो : Evening *(साय)*

सेचेति : To cause to sprinkle *(सेचयति)*

सेदजो (adj) : Sprung from moisture *(स्वेदज्)*

सेदितो : Steamed, heated *(स्वेदित)*

सेदो : Sweat, moisture, boiling steam *(स्वेद)*

सेहि : *See सो*

सेखरिको : The plant Achyranthes Aspera *(शैखरिक)*

सेखरो : A crest, chaplet *(शेखर)*

सेखियो (adj) : Connecting with training *(शैक्ष्य)*

सेखो : One who is under training *(शैक्ष)*

सेको : Sprinkling *(सेक)*

सलनं : Noise, shouting

सेलेय्यं : Benzoin *(शैलेय)*

सेलियो (adj) : *शैल्य*

सेलो (adj) : Rocky *(शैल)*

सेलु : The tree Cordia Myxa *(शेलु)*

सेम्हं + सेम्हो : Phlegm, the phlegmatic humour *(श्लेष्मन्)*

सेम्हिको (adj) **:** Phlegmatic, produced by phlegm *(श्लैष्मिक)*

सेना : An army *(सेना)*

सेनं : *See सयनं*

सेनानी : A general *(सेनानी)*

सेनापच्चं : Post of general or commander in chief *(सेनापत्य)*

सेनापति : A general or commander-in-chief *(सैनापति)*

सेनासनं : *See सयनं*

सेनि + सेणी : A line, row; a multitude, community; a guild of artisans *(श्रेणि, श्रेणी)*

सेनियो (adj) **:** Belonging to an army *(सैन्य)*

सेनो : A hawk *(श्येन)*

सेपण्णी–सेपण्णिका : Name of two sorts of plants *(श्रीपर्ण, श्रीपर्णिका)*

सेफालिका : Name of a plant *(श्रीफलिका)*

सेरेय्यको : The plant, Barleria Cristata *(सैरेयक)*

सेरी (adj) **:** Self willed *(स्वैरिन्)*

सेसको (adj) **:** Remaining, omitted *(शेष + क)*

सेसेति : To omit, leave *(शेषयति)*

सेसो (adj) **:** Remaining *(शेष)*

सेतच्छदो : A goose *(श्वेतच्छद्)*

सेतच्छत्तं : A white parasol or umbrella, an emblem of royalty: kingship, royalty *(श्वेतच्छद्)*

सेतम्बो : A sort of mango *(श्वेत + आम्र)*

सेतङ्गो (adj) **:** White bodied *(श्वेत + अङ्ग)*

सेतट्ठिका : Bright or mildew *(श्वेत + अस्थि + क)*

सेथिल्लं : Looseness *(शैथिल्य)*

सेनि : *See सयति*

सेतीभो : A white elephant *(श्वेत + इभ)*

सेतो (adj) **:** White *(श्वेत)*

सेट्ठता : Superiority, eminence *(श्रेष्टता)*

सेट्ठि : Ashes

सेट्ठि : Foreman of a guild: a cashier, treasurer: a wealthy merchant *(श्रेष्टिन्)*

सेट्ठो (adj) **:** Best, excellent, eminent, supreme *(श्रेष्ट)*

सेतु : Bridge, embankment dike, causeway: a cause *(सेतु)*

सेवा : Service *(सेवा)*

सेवको (adj) **:** Serving, following, devoted to *(सेवक)*

सेवालो : The aquatic plant Vallisneria *(शेवाल)*

सेवना + नं : Service, following, practicing, devotion to *(सेवन)*

सेवति : To serve, follow, practice; to resort to, to use, enjoy *(सेव्)*

सेय्या : Lying, sleeping: a bed, couch *(शय्या)*

सेय्यथा (adj) **:** As, just as

सेय्यो : Better, excellent *(श्रेयस्)*

सिब्बनं : Sewing *(सीवन)*

सिब्बनी : Desire *(सीवनी)*

सिब्बति : To sew, stich *(सिव्)*

सीदनं : Sinking

सीदति : To sink, subside, settle; to be dejected, despond, yield, give way *(सद्)*

सिद्धन्तो : Religious belief *(सिद्धान्त)*

सिद्धत्थो : While mustard: Gautama Budda's name when a prince *(सिद्धार्थ)*

सिद्धि : Formation, accomplishment: success, prosperity *(सिद्धि)*

सिद्धो : *See सिज्झति*

सिगालो : A jackal *(श्रिगाल)*

सिग्गु : The tree Hyperanthera Moringa *(शिग्रु)*

सीधो (adj) **:** Quick, swift *(शीघ्र)*

सीहलो (adj) **:** Sinhalese *(सिंहल)*

सीहो : A lion *(सिंह)*

सिज्झति : To be accomplished, take place, succeed; to be practiced or established or in use *(सिध्)*

सीकरो : Drizzling rain *(शीकर)*

सिंकता : Sand *(सिकता)*

सिखा : Peak, point, summit; crest, top-knot; flame *(शिखा)*

सिखण्डको : A tuft or lock of hair *(शिखण्डक)*

सिखण्डी : A pea-cock *(शिखण्डिन्)*

सिखण्डो : A tuft or lock of hair; peacock's tail *(शिखण्ड)*

सिखरं + रो : A peak, top; the point of a sword *(शिखर)*

सिखरी : A tree, a mountain *(शिखरिन्)*

सिखी : Fire; a peacock; name of Buddha *(शिखिन्)*

सिक्का : A string by which a weight is suspended; the strings of a balance; the strings of a kaya *(शिक्या)*

सिक्खा : Learning, study, training *(शिक्षा)*

सिक्खनं : Training, learning, study

सिक्खति : To learn, train oneself *(शिक्ष्)*

सिला : A stone, rock *(शिला)*

सीलब्बत्त : Religious practice or rites *(शील + व्रत)*

सिलाभू : A sort of snake *(शिला + भू)*

सिलाघ : Praise *(श्लाघा)*

सिलाधति : To praise *(श्लाघ्)*

सीलं : Nature, character; moral practice, piety, morality; a moral precept *(शील)*

सिलामयो (adj) **:** Made of stone *(शिलामय)*

सीलामयो (adj) **:** Consisting of moral conduct, virtuous *(शील + मय)*

सिलासनं : A stone seat or throne *(शिलासन)*

सिलत्थम्भो : A stone-pillar *(शिला + स्तम्भ)*

सीलवा (adj) **:** Observing the sila precepts, moral, virtuous *(शीलवत्)*

सिलेसिति : To embrace

सिलेसो : Embrace; union *(श्लेष)*

सिलेसुमो : Phlegm *(श्लेष्मन्)*

सीली (adj) **:** Having a habit or disposition *(शील + इन्)*

सिलिट्ठो : Adhering, connected *(श्लिष्ट)*

सिलोको : Fame; a verse, a stanza *(श्लोक)*

सिलुच्चयो : A mountain *(शिलोच्चय)*

सिलुत्तो : A rat, snake

सीमा : A boundary, limit *(सीमा)*

सीमन्तिनी : A woman *(सीमन्तिनी)*

सीमन्तो : A boundary, a mood of parting the hair *(सीमन्त)*

सिम्बली + सिम्बालो : The silk cotton tree Bombax, Heptaphyllum

सिंसपा : The tree Dalbergia Sisu *(शिंशपा)*

सिनानं : Bathing, washing *(स्नान)*

सिञ्चति : To sprinkle *(सिच्)*

सिन्धवो (adj) : Belonging to Sindha *(सैन्धव)*

सिन्धु : The sea, occean; the Sindha country *(सिन्धु)*

सिन्धु : A river *(सिन्धु)*

सिन्धुरो : An elephant *(सिन्धुर)*

सिन्दी : Name of a tree

सिन्दुरं : Red lead *(सिन्दूर)*

सिन्दुवारो : The tree Vitex Negundo *(सिन्दुवार)*

सिनेहको : An intimate friend *(स्नेह + क)*

सिनेहितो (adj) : Lustful, connected with desire or coveteousness *(स्नेहित)*

सिनेहो + स्नेहो : Friendship, affection, love: lust, desire *(स्नेह)*

सिनेरू : A name of Mount Meru

सिङ्गकं : A horn *(शृङ्गक)*

सिङ्गं : A horn; peak, summit; height, dignity, pre-eminence *(शृङ्ग)*

सिङ्गारो : Love, sexual passion *(शृङ्गार)*

सिङ्घाणीका : Mucus of nose *(सिंहाणक, सिंघाणक)*

सिङ्घाटकं : A place where four roads meet *(शृङ्गाटक)*

सिङ्घाटो : Name of a plant *(शृङ्गाट)*

सिङ्गी (adj) : Horned *(शृङ्गिन)*

सिङ्गी : A kind of gold: name of a plant *(शृङ्गी)*

सिङ्गिवण्णो (adj) : Gold-coloured

सिङ्गिवेरं : Ginger

सिनिद्धो : Oily, greasy; smooth, glossy; affectionate *(स्निग्ध)*

सीपदं : Elephantiasis of the leg *(श्लीपद्)*

सिप्पं : A mechanical art; a fine art; a piece of work; a job; skill, proficency *(शिल्प)*

सिप्पी : An artisan, artificer *(शिल्पिन्)*

सिप्पी : A pearl oyster

सिप्पिको + यो : An artisan, artificer *(शिल्पिक + शिल्प + य)*

सिरा : A nerve, tendon; a vein, artery *(शिरा)*

सिरं, सिरसा : *See सिरो*

सिरी : Fortune, prosperity; a name of Lakshmi; majesty, royalty; a magnificence, glory *(श्री)*

सिरिंसपो : A snake; any creeping thing, as a centiped, chameleon *(सरीसृप)*

सिरीसो : The tree Acacia, Sirisa *(शिरिष)*

सिरो + सिरं : The head; top of a tree; acme, elevation *(शिरस्)*

सीरो : A plough *(सीर)*

सीसको : A substitute for Sisa at the end of a compound

सीसं : Lead *(सीस)*

सीसं : The head; front *(शीर्ष)*

सीसतो (adv) **:** Head ways, towards the head; carried on the head

सिसिरो (adj) **:** Cold *(शिशिर)*

सिस्सको : A pupil *(शिष्य + क)*

सिस्सानुसिस्सकं : (adv) From pupil to pupil; through a succession of pupils *(शिष्य + अनु + शिष्य + क)*

सिस्सो : A pupil *(शिष्य)*

सीता : A furrow *(सीता)*

सितब्भो : Camphor *(सिताभ्र)*

सीतलो (adj) **:** Cold, cool *(शीतल)*

सीतालु (adj) **:** Chilled *(शीतालु)*

सितं : A smile *(स्मित)*

सिथिलो (adj) **:** Loose, flabby, bending, yielding *(शिथिल)*

सीतिभूतो (adj) **:** Cold, calm, tranquil, impossible *(शीतीभूत)*

सितो : White *(सित)*

सितो : Bound

सितो : Clinging, devoted to; resting upon *(श्रित)*

सीतो : Cold, cool *(शीत)*

सित्थं + सित्थकं : Bees wax; a lump of boiled rice *(सिक्थ, सिक्थक)*

सित्तो : *See सिञ्चति*

सीतुन्हो : Cold and heat *(शीत + उष्ण)*

सिवा : A jackal *(शिवा)*

सीवत्थिका : A carnel house; place where dead bodies are thrown to rot away instead of being burned

सिवी : Name of a people *(शिवि)*

सिविका : A litter, palanquin *(शिविका)*

सिवो : Auspicious, happy, fortunate *(शिव)*

सिया : *See अत्थि*

स्नेहो : *See सिनेहो*

सो (adj) : Own *(स्व)*

सो : He, this; that

सोब्भं : A hole; an excavation containing water; pool; pond *(श्वभ्र)*

सोब्भानु : The ascending mode *(स्वर्भानु)*

सोभो : Splendour, radiance, light; beauty *(शोभा)*

सोभग्गं : Auspiciousness, fortune, prosperity *(सौभाग्य)*

सोभञ्जनो : The tree Hyperanthera Moringa *(सौभाञ्जन)*

सोभणो (adj) : Shining, resplendent, beautiful, good *(शोभन)*

सोभति : To shine, to be radiant or beautiful *(शुभ्)*

सोचनं : Mourning, sorrow *(शोचन)*

सोचति : To mourn *(शुच्)*

सोच्चेयं : Purification *(शौचेय)*

सोच्चेयो : A washerman *(शौचेय)*

सोचिको : A tailor *(सौचिक)*

सोदको (adj) : Containing water *(सोदक)*

सोदरियो : A uterine brother *(सोदर्य)*

सोदरो : A uterine brother *(शोदर्य)*

सोधको : One who cleanes *(शोधक)*

सोधनं : Cleansing *(शोधन)*

सोधनी : A broom *(शोधनी)*

सोधेति : *See (सुज्झति)*

सोगन्धिकं : The white lily; one of the high numerals or, followed by 91 ciphers *(सौगन्धिक)*

सोगतो (adj) : Belonging to the Sugata, Buddhist *(सौगात)*

सोहदो : A friend *(सौहृद)*

सोहज्जं : Friendship *(सौहृद्य)*

सोहिच्चं : Satiety *(सौहित्य)*

सोकरो (adj) : Swinish *(सौकर)*

सोकवा (adj) : Sorrowful *(शोकवत्)*

सोखियं : Happiness *(सौख्य)*

सोकी (adj) : Sorrowful *(शोकिन्)*

सोको : Sorrow, grief, mourning *(शोक)*

सोळस : Sixteen *(षोडशन्)*

सोळसकं : A collection of sixteen

सोळसक्खत्तुं : Sixteen times *(षोडशन् + कृत्वस्)*

सोळसमो (adj) **:** Sixteenth *(षोडश)*

सोमनस्सं : Satisfaction, enjoyment, joy *(सौमनस्य)*

सोमवक्को : The tree Acacia Catechu *(सोमवल्क)*

सोमवल्लिका : Name of a plant *(सोमवल्लिका)*

साम्मो (adj) **:** Beautiful, pleasing *(सौम्य)*

सोमो : The noon, Soma Juice *(सोम)*

सोनको : The tree Celosanthes Indica *(सोणक)*

सोण्डा : A tavern; an elephants trunk *(शुण्डा)*

सोण्डी + सोण्डिका : A natural tank, in a rock, a rocky pool

सोण्डिको : A distiller and seller of Spirituous liquors *(सौण्डिक)*

सोण्डो : An elephant's trunk *(शुण्ड)*

सोण्डो (adj) **:** Addicted to drink; intoxicated *(शौण्ड)*

सोणी : The buttock *(श्रोणी)*

सोणितं : Blood *(शोणित)*

सोण्णं + स्वण्णं : Gold *(स्वर्ण)*

सोणो, सूनो, सानो, स्वानो, सुवानो : A dog *(श्वान)*

सोणो (adj) **:** Red, crimson *(शोण)*

सोपचारं (adj) **:** Accompanied with civility, deferential *(सोपचार)*

सोपकारो (adj) **:** Useful, helpful *(सोपकार)*

सोपानं : Stairs, staircase *(सोपान)*

सोफो : Swelling *(शोफ)*

सोप्पं, सोप्पनं, : Sleep *(स्वाप)*

सुपिनं : Dream *(स्वप्न)*

सोरब्भो : A name of Kuvera *(सौरब्भ्य)*

सोरच्चं : Tenderness, sympathy *(सोरत)*

सोरस : *See सोळस*

सोसानिको (adj) **:** Visiting a cemetry

सोसेति : *See सुस्सति*

सोसो : Drying up: phthisis *(शोष)*

सोता : A hearer *(श्रोतृ)*

सात्तं : The ear or organ of hearing *(श्रोतस्)*

सातं + सोतो : Stream, flood, current *(स्त्रोतस्)*

सोतापन्नो : One who has entered the stream; one who has attended the first grade of Sanctification, a converted man *(स्त्रोतस् + आपन्न)*

सोतापत्ती : The state of a Sotapanna, conversion, sanctification *(स्त्रोतस् + आपत्ति)*

सोतवे : *See सुणोति*

सोथो : Swelling *(शोथ)*

सोतो : *See सोतं*

सोत्थानं : Blessing, prosperity

सोत्थि, सुवत्थि : Health, welfare, blessing, happiness *(स्वस्ति)*

सोत्थि : That woman

सोस्थिको, : A Brahmin *(श्रोत्रिय)*
सोत्थिको + सोत्थियो

सोतुं : *See सुणोति*

सोतुनं : *See सोता*

सोवचस्सं + : Meekness
सावचस्सता

सोवग्गिको (adj) **:** Connected with the Devaloka, tending to heaven

सोवण्णिको (adj) **:** Belonging to gold *(सौवर्णिक)*

सोवण्णो (adj) **:** Golden *(सौवर्ण)*

सोविदल्लो : An attendant on the harem *(सौविद्दल)*

सोवीरम : Sour, gruel, vinegar *(सौवीर)*

सु, सुदं, अस्सु : A particle used, generally in asking questions, but sometimes also in narration *(स्विद्)*

सुबहु (adj) **:** Very much, a great many *(सुबह)*

सुब्बचो + सुवचो : (adj) Compliant, meek *(सुवचस्)*

सुब्बतो (adj) **:** Virtuous, pious devout *(सुव्रत)*

सुब्बत्तं : Good practice, piety *(सु + वृत्त)*

सुब्बुट्ठि : Abundance of rain *(सु + वृष्टि)*

सुभद्दो : Name of Gautama's last convert: name of a renegade monk who tried to stir up schism among the priests immediately after Gautama's death

सुभगो : Agreeable, beloved, amiable *(सुभग)*

सुभकिण्हो + **किण्णो** + **किण्णको** : Entirely lustrous *(शुभ + कृत्स्न)*

सुभरो (adj) : Easily supported by others, frugal *(सुभर)*

सुभासुभो (adj) : Good and bad *(शुभाशुभ)*

सुभिक्खो (adj) : Having abandance of food; fertile *(सुभिक्ष)*

सुभो (adj) : Radiant, lustrous; beautiful; good; auspicious, happy *(शुभ)*

सूचनं : Indicating, exhibiting *(सूचन)*

सुचरितो (adj) : Well done, right, good *(सुचरित)*

सुच्चन्नो (adj) : Well covered or roofed *(सु + छन्न)*

सूचेति : To indicate, show; to inform against, betray *(सूच्)*

सुचि (adj) : Bright, clear, pure, clean, white *(शुचि)*

सूचि : A needle *(सूचि)*

सूचिमा (adj) : Pure *(शुचिष्मत्)*

सुचिरं (adv) : For a very long time *(सूचिरम)*

सुचित्तो (adj) : Much variegated or ornamented *(सुचित्र)*

सुदं : *See सु*

सूदनं : Destruction *(सूदन)*

सुदन्तो (adj) : Thoroughly subdued or tamed *(सुदान्त)*

सुदस्सनो (adj) : Beautiful *(सुदर्शन)*

सुदस्सी (adj) : Seeing well *(सु + दर्शिन)*

सुदस्सो (adj) : Easily seen, obvious *(सुदर्श)*

सूदति : To distil, flow, exude *(सूद)*

सुदत्तो : A name of Anathapindika *(सुदत्त)*

सुद्धाजीवी (adj) : Living a pure life *(शुद्ध + आजीव + इन्)*

सुद्धन्तो : Woman's apartments, harem *(शुद्धान्त)*

सुद्धावंसता : Purity of lineage *(शुद्ध + वंश + ता)*

सुद्धावासो : Pure abode *(शुद्ध + आवास)*

सुद्धि : Purity, purification; Nirvana *(शुद्धि)*

सुद्धो : *See सुज्झति*

सुद्धोदनी : Son of Suddhodana, an epithet of Gautama Buddha

सुद्धोदनो : Name of a king of Kapilvatthu–the father of Gautama Buddha *(शुद्धोदन)*

सुद्दो : A shudra *(शूद्र)*

सुधा : Ambrosia or Nectar; white-wash, cement, chunam, stucco *(सुधा)*

सुधम्मा : Name of Sakka's hall of justice *(सुधर्मा)*

सुधासी : A deva or angel *(सुधा + आशिन्)*

सुद्धी (adj) : Wise *(सुधी)*

सूदो : A cook *(सूद)*

सुद्दसो (adj) : Very difficult to see, invisible *(सु + दुर्दृश्)*

सुदुज्जयो (adj) : Very difficult to conquer or win *(सुदुर्जय)*

सुदुत्तरो (adj) : Very difficult to cross, to escape from *(सुदुस्तर)*

सुगहणो (adj) : Well held, light *(सु + ग्रहण)*

सुगहितो : *See सुग्गहितो*

सुगन्धि, सुगन्धो (adj) : Fragrant *(सुगन्धि, सुगन्ध)*

सुगति : Happy condition, being reborn in heaven, heaven, svarga *(सुगति)*

सुगति (adj) : Reightous *(सुगति)*

सुगतो (adj) : Who walks well, happy, blest *(सुगत)*

सुग्गहितो + **सुगहितो** (adj) : Grasped tightly *(सुगृहित)*

सुग्गति : *See सुगति*

सुहृदयो (adj) : Friendly *(सु + हृदय)*

सुहृदो : Friendly, affectionate *(सुहृद)*

सुहज्जो : A friend *(सुहृद् + य)*

सुहितो (adj) : Satiated *(सुहित)*

सुहुजो : *See सूजु*

सुहुट्ठितो (adj) : Clearly arisen *(सु + उत्थित)*

सुजा : A sacrificial ladle *(स्त्रुच्)*

सुजा : Name of the wife of Sakka *(शु + ज)*

सुजम्पति : Husband of Suja, a name of Sakka

सुजनो : A good man *(सुजन)*

सुजाति : Of high family *(सुजात)*

सुजीवो (adj) : Easy to live *(सुजीव)*

सुज्झति : To be pure *(शुध्)*

सूजु + **सुहुजु** (adj) : Very upright, conscientions *(सु + ऋजु)*

सुकन्दको : An onion *(सुकन्दक)*

सूकरिको : A boar-hunter *(सूकर + इक)*

सूकरो (adj) : Easy, feasible *(सुकर)*

सूकरो : A hog, a boar *(सूकर)*

सुकती (adj) : Fortunate *(सुकृतिन्)*

सुकतो + टो (adj) : Good, virtuous *(सुकृत)*

सुखावाही : A well-trained horse *(सुख + आवाह + इन)*

सुखावहो (adj) : Bringing happiness *(सुखावह)*

सुखविहारी (adj) : Having a feeling of ease or serenity *(सुख + विहारिन)*

सुखायति : To be pleased, contented *(सुखायते)*

सुखेधितो (adj) : Delicate

सुखेसी (adj) : Seeking pleasure or ease *(सखैषिन्)*

सुखेति : To make happy *(सुखयति)*

सुखी (adj) : Happy, blest; healthy *(सुखिन्)*

सुखितो (adj) : Happy, blest; pleased, contended; healthy *(सुखित)*

सुखो (adj) : Blest, happy; delightful, pleasant; easy *(सुख)*

सुखुच्चारणं : Facility of pronunciation, euphony *(सुख + उच्चारण)*

सुखुमालो + सुकुमारो (adj) : Youthful, tender, delicate, soft, graceful *(सुकुमार)*

सुखुमो (adj) : Small, minute; subtle; accurate; delicate, exquisite *(सूक्ष्म)*

सुखुपपत्ति : Blissful birth *(सुख + उपपत्ति)*

सुक्कं : Semen *(शुक्र)*

सुक्कं : *see* *सुक्को*

सुक्कवारो : Friday *(शुक्रवार)*

सुक्खति : *See* *सुस्सति*

सुक्खो (adj) : Dry, dried up *(शुल्क)*

सुक्को : White, bright, pure, good *(शुल्क)*

सुको + सुवो : A parrot *(शुक्र)*

सुकुमारो : *See* *सुखुमालो*

सुलभो (adj) : Easy to obtained or meet with *(सुलभ)*

सूलं + सुलो : Any sharp pointed instrument, a pike, lance, stake; severe pain, colic, rheumatism *(शूल)*

सूळारो (adj) : Magnificient *(सु + उदार)*

सूली : A name of Siva *(शूलिन्)*

सुमना : The great flowered jasmine *(सुमना)*

सुमनकूटो : Adam's peak, a mountain a Ceylon

सुमानसो (adj) : Joyful *(सु + मानस)*

सुमनो (adj) : Satisfied, happy *(सुमनस्)*

सुमनोहरो (adj) : Very charming *(सुमनोहर)*

सुमनोरथो (adj) : Having pious wishes *(सु + मनोरथ)*

सुमरति : *See सरति*

सुमति (adj) : Wise *(सुमति)*

सुमेधसो + **सुमेधो** (adj) : Wise *(सुमेधस्)*

सुमेरू : Mount Meru *(सुमेरू)*

सुमो : The moon *(सुम)*

सुंसुमारो : A crocodile *(शिशुमार)*

सुमुत्तो (adj) : Happily released *(सु + मुक्त)*

सूणा : A slaughter-house *(शूना)*

सुनखो : A dog *(शुनक)*

सुणाति : *See सुणोति*

सुन्दरो (adj) : Beautiful; good *(सुन्दर)*

सुण्हा + **सुणीसा** + **हुसा** : A daughter-in-law *(स्नुषा)*

सुनिसन्नकं : The pot herb Marsilia Quadrifolia *(सुनिषणक)*

सुङ्क + **सुङ्को** : Tax, tribute, revenue *(शुल्क)*

सुञ्ञागारं : An empty place where there are no houses or pupil *(शून्यागार)*

सुञ्ञातो (adj) : Empty, void

सुञ्ञो (adj) : Empty, void, deprived of *(शून्य)*

सुणो : A dog *(शुन)*

सूनो : *See सोणो*

सुणोति + **सुणाति** : To hear *(श्रु)*

सूनु : A child, a son *(सूनु)*

सुपक्को (adj) : Thoroughly ripe *(सुपक्व)*

सुपण्णो : A Garuda *(सुपर्ण)*

सुपन्थो : A good road *(सु + पथ)*

सुपति : To sleep *(स्वप्)*

सुपिनं : *See सोप्पं*

सूपो : Soup, broth, sauce, condiment, the gravy of curry and rice *(सूप)*

सुप्पबुद्धो (adj) : Wide awake, vigilant *(सुप्रबुद्ध)*

सुप्पगब्भो (adj) : Very bold *(सु + प्रगल्भ)*

सुप्पसन्नो (adj) : Very joyful or full of faith *(सुप्रसन्न)*

सुप्पतिको (adj) : Overjoyed *(सुप्रतीत)*

सुप्पतिट्ठितो (adj) : Firmly established; well-placed *(सुप्रतिष्ठित)*

सुप्पटिविद्धो (adj) : Thoroughly understood *(सुप्रतिविद्ध)*

सुप्पो + सुप्पं : A winnowing basket *(शूर्प)*

सुरा : Spirituous liquor *(सुरा)*

सुरभि (adj) : Fragrant *(सुरभि)*

सुरम्मो : Very delightful *(सुरम्य)*

सुरतं : Sexual intercourse *(सुरत)*

सूरतो : Compassionate, tender *(सूरत)*

सूरत्तं : Heroism *(शूरत्त्व)*

सूरत्तो (adj) : Very red *(सुरक्त)*

सूरी (adj) : Wise *(सूरिन्)*

सुरियो : The sun *(सूर्य)*

सुरो : A deva, deity *(सुर)*

सूरो : A hero, valiant man; the sun *(शूर)*

सुरुचिरो (adj) : Resplendent *(सु + रुचिर)*

सुरुङ्गा : A mine, pit *(सुरुङ्गा)*

सुरूपी (adj) : Handsome *(सुरुप + इन्)*

सुरुपो (adj) : Handsome *(सुरूप)*

सुरूसुरू : A word imitative of the sound made when curry and rice is eaten hastily

सुसमा : Exquisite beauty *(सुषमा)*

सुसानको : A Candala employed in a susana

सुसानं : A cemetery or charnel house, an inclosed ground in which bodies are buried *(शवसान)*

सुसवी : The plant Momordica Charantia *(सुशवी)*

सुसेनो : The karamadda tree *(सुषेण)*

सुसी : A hole in the ground *(शुषी)*

सुसीलो (adj) : Moral, vartuous *(सुशील)*

सुसिप्पिको : A skillful workman *(सु + शिल्पिक)*

सुसिरो (adj) : Full of holes, perforated *(शुषिर)*

सुस्सनं :	Desication
सुस्सरता :	Melodiousness of voice *(सुस्वर + ता)*
सुस्सति :	To be dried up, waste away *(शुष्)*
सुस्सवनं :	Good news *(सु + श्रवण)*
सुस्सुसा :	Desire to hear, obediance, attention, service *(शुश्रूषा)*
सुस्सूसति :	To listen, attend *(शुश्रूयते)*
सुस्सुते :	To be heard
सुस्सुतो (adj) **:**	Well-known *(सुश्रुत)*
सुसु :	A boy, lad *(शिशु)*
सूसू :	A noise made to frighten away a bird
सुसुको :	A child or youth; an alligator or crocodile; the Gangetic porpoise *(शिशुक)*
सुतवा (adj) **:**	Learned in religion; mighty in the scriptures *(श्रुतवत्)*
सुति :	Dozing *(स्त्रुति)*
सुति :	Hearing; the ear, sound; report, rumour; tradition; the Veda; in music one of the twenty-two quarter tones or intervals *(श्रुति)*
सूति :	Birth, chldbirth *(सूति)*
सुतो :	A son *(सुत)*
सुतो :	Flowing, dripping *(स्रुत)*
सुतो :	Heard; renowned *(श्रुत)*
सूतो :	A charioteer; a bard, poet-laureate *(सूत)*
सुत्तं :	A string, thread; a portion of the Buddhist scriptures; a rule, aphorism *(सूत्र)*
सुत्तन्तिको (adj) **:**	Versed in the Sutta Pitaka
सुतन्तो :	A sutta *(सूत्र + अन्त)*
सुत्तसो (adj) **:**	Sutta by sutta *(सूत्र + शस्)*
सुत्थिरो (adj) **:**	Firm *(सुस्थिर)*
सुट्ठितो (adj) **:**	Well-established, firm *(सुस्थित)*
सुट्ठु (adj) **:**	Well; exceedingly *(सुष्ठु)*
सुत्ति :	A pearl oyster *(शुक्ति)*
सुत्तिको (adj) **:**	Belonging to a thread *(सौत्रिक)*
सुत्तो :	Sewn, stiched *(स्यूत)*
सुत्तो :	Asleep *(सुप्त)*
सुत्वा :	*See सुणोति*

सुवचो (adj) : *See सुव्वचो*

सुवानयो : Easily led *(सु + आनय)*

सुवण्णो (adj) : Of good colour, bright, brilliant; of good mien or complexion, comely *(सुवर्ण)*

सुवानो : *See सोणो*

सुवत्थि : *See सोत्थि*

सुवे : *See स्वे*

सुवीरो : Name of Sakka's son *(सुवीर)*

सुवुपसन्तो (adj) : Thoroughly calmed *(सु + उपशान्त)*

सुवुट्ठिका : Abundance of rain *(सु + वृष्टि + क)*

सूयति : *See सुणोति*

स्वागतं + सागतं : Welcome, salutation *(स्वागत)*

स्वाहं : *See सो*

स्वाक्खातो (adj) : Well-told or shown or taught *(सु + आख्यात)*

स्वण्णं : *See सोण्णं*

स्वानो : *See सोणो*

स्वप्पो (adj) : Very little or few *(स्वल्प)*

स्वस्सा : *सो + अस्सा*

स्वातनो (adj) : Belonging to tomorrow *(श्वस्तन्)*

स्वे + सुवे (adv) : To-morrow *(श्वस्)*

स्वेवा : *सो + एव*

स्याग्रट्ठं : Siam

T

तब्बंसिको (adj) : Belonging to that race *(तद् + वंश + इक)*

तब्बण्णना : The commentary there on *(तद् + वर्णना)*

तब्भेदो : A variety there of *(तद् + भेद)*

तब्बिपरीतो (adj) : Contrary to it, the opposite of it *(तद् + विपरीत)*

तब्विसेसो : A variety there of *(तद् + विशेष)*

तचसारो : A bamboo *(त्वच् + सार)*

तच्चको : A carpenter *(तक्षक)*

तच्चं : Truth, reality *(तथ्य)*

तच्चनी : A hatehat chip-axe *(तक्षनी)*

तच्छति : To pare, cut, slice, chop, hew *(तक्ष्)*

तचो : Skin, bark, rind

तद : *See सो*

तदा (adv) : At that time, then *(तदा)*

तदहे + **तदहु** (adv) : On that day *(तद्हस्)*

तदाकारो (adj) : Of that appearance, similar *(तद् + आकार)*

तदामिना : Know this also, hereby

तदानि (adv) : Then *(तदानीम्)*

तदनरूपो (adj) : Suitable there to *(तद् + अनुरूप)*

तदञ्ञो (adj) : Different from it *(तदन्य)*

तदन्तरे (adv) : In the man time *(तद् + अन्तर)*

तदन्वयो (adj) : Following it, connected there with *(तद् + अन्वय)*

तदात्तं : That time *(तदात्व)*

तदत्थं : On that account *(तदर्थम्)*

तदवसरि : *See सो*

तदव्हयो (adj) : Having that name *(तद् + आहूय)*

तादि (adj) : Like that, such *(तादृश्)*

तदिदं : *See सो*

तादिक्खो (adj) : Such *(तादृक्ष)*

तादिसको (adj) : Such

तादिसो (adj) : Such *(तादृश्)*

तदुभयां : Both of them *(तद् + उभय)*

तदूपियो (adj) : Suitable, corresponding

तगरं : The shrub Tabernaemontana coronaria and a fragrant powder obtained from that *(तगर)*

तग्घ (adv) **:** Certainly, verify, truely

तहं, तहिं (adv) **:** There

तज्जनी : The fore-finger *(तर्जनी)*

तज्जनीयकम्मं : Name of one of the Sanghakammas *(तर्जनीय + कर्मन्)*

तज्जरी : A measure

तज्जाति : Such and such a race *(तद् + जाति)*

तज्जेति : To threaten, revile, blame, scold, frighten *(तर्जयति)*

तक्कालं : At that time *(तक्कालम्)*

तक्कं : Butter-milk *(तक्र)*

तक्कारी : The tree sesbania Oegypliea *(तर्कारी)*

तक्करो (adj) **:** Doing that *(तत्कर)*

तक्करो : A thief *(तस्कर)*

तक्कसिला : The city of Takshashila in the Punjab *(तक्षशिला)*

तक्कता : One who does that *(तद् + कर्तृ)*

तक्किको : One who reasons, a logician, a philosopher *(तार्किक)*

तक्कितो : Thought, reasoned *(तर्कित)*

तक्को : Thought, reflection, reasoning *(तर्क)*

तक्को : Date-fruit

तक्कोलं : Bdellium, a particular sort of perfume made from the berry of the kakkola plant *(कक्कोल)*

तालग्गं : Top of a palmyra tree *(ताल + अग्र)*

तळाक : A pond, pool, lake *(तडाक)*

तलं : Surface, level, plane; lowerpart, base *(तल)*

ताळनं : Striking *(ताडन)*

ताळेति : To strike, beat;to strike a musical instrument *(तड्)*

ताली : The tree coryph Taliera; musical measure; *(ताली)*

तालिसं + स : Forty *(चत्वारिशत्)*

तल्लञ्छनं : Mark or imprint there of *(तद् + लाञ्छन्)*

तालो : The fan plam, palmyra; a measure, the short span; a musical instrument of metal struck with the hand or a stick, gong, cymbal *(ताल)*

ताळो : A key *(ताल)*

तालुजो (adj) : Palatal letters *(तालु + अ)*

तलुणो (adj) : Tender, delicate *(तरुण)*

तं : *See सो*

तं : *See त्वं*

तमालो : The tree xantochymus Pictorius *(तमाल)*

तम्बको : Name of a plant *(ताम्रक)*

तम्बो (adj) : Coppery, red *(ताम्र)*

तम्बुली + लं : The betel vine, piper betel and its leaf which is chewed *(ताम्बूली)*

तमो + तमं : Darkness, gloom; in the Sankhya philosophy one of the three Gunas *(तमस्)*

ताणं : Defence, shelter, refuge; Nirvana *(त्राण)*

तनयो : A son *(तनय)*

तन्दि : Drowsiness, sloth *(तन्द्री)*

तण्डुलीयो + लेय्यो : The plant amaranthus Polygonoides *(तण्डुलीय)*

तण्डुलो : Rice husked and winnowed and ready for boiling *(तण्डुल)*

तण्हा + तसिणा : Lust, desire, human-passion *(तृष्णा)*

तण्हक्खयो : Extinction of desire; Arahataship or Nirvana *(तुष्णाक्षय)*

तण्हङ्करो : Name of a Buddha *(तृष्ण + कर)*

तञ्ही : *See सो*

तङ्खणं + तङ्खणे : (adj) At that moment, instantly, at once *(तत्क्षण)*

तङ्खणिको (adj) : Momentary

तङ्खो : A stone-mason's chisel *(टङ्क)*

तन्नामको (adj) : Having that name or the same name *(तद् + नामक)*

तञ्ञेव : *See त्वं*

तन्निन्नो (adj) : Strong inclination towards a thing

तनोति : To stretch *(तन्)*

तन्तं : A thread; main point; a literary work, religious treatise *(तन्त्र)*

तन्ति : A string, line, cord; the string of a lute; a sacred text *(तन्ति)*

तन्तु : A thread *(तन्तु)*

तनु (adj) : Thin, slender, delicate; small, slight *(तनु)*

तनुजो : A son *(तनुज)*

तनुको (adj) : Small, thin *(तनुक)*

तनुत्तं : Smallness, thinness *(तनुत्व)*

तापनं : Tormenting, self, mortification *(तापन)*

तपनीयं : Gold *(तपनीय)*

तपनो : The sun; name of a hell *(तपन)*

तापसो : A hermit, ascetic *(तापस)*

तपस्सी : A mendicant, pauper; a religious ascetic or hermit *(तपस्विन्)*

तपति : To burn, blaze; to shine, be brilliant, to scorch, torment *(तप्)*

तापिञ्चो + **तापिञ्जो** : The plant Xanthochymus Pictorius *(तापिञ्छ् तापिञ्ज्)*

तपो, तपं : Religions austerity; self mortification; religious duties, moral practice, piety, virtue, devotion *(तपस्)*

तप्पब्भारो : *See तन्निन्नो*

तपच्चया (adv) : On account of that *(तद् + प्रत्ययात्)*

तप्पनं : Being satisfied, saliety, gratification *(तर्पण)*

तप्पनं : Torment

तप्परो (adj) : Subsequent; deligent, devoted *(तत्पर)*

तप्पति + **तप्पेति** : *See तपति*

तप्पेति : To satisfy, refresh *(तर्पयति)*

तप्पोणो : *See तन्निन्नो*

तप्पुरिसो : In gram, name of a particular sort of samasa *(तत्पुरूष)*

तारा : The star, planet, the pupil of the eye *(तारा)*

तरच्छो : A hyena *(तरक्ष)*

तरहि (adv) : Then *(तर्हि)*

तारका : A star, the pupil of the eye *(तारका)*

तरलं : Rice gruel

तरलो (adj) : Trembling, unsteady *(तरल)*

तरणं : Carrying over *(तरण)*

तरङ्गो : A wave *(तरङ्ग)*

तरणी : A boat *(तरणी)*

तारापथो : The sky *(तारापथ)*

तरति : To cross, traverse, get beyond, escape from *(तृ)*

तरति : To be hurried or flurred, tremble *(त्वर्)*

तरवो : *See तरू*

तरि : A boat *(तारि)*

तरो : A boat, a raft *(तर, तरस्)*

तारो (adj) **:** Shrill, high (of a musical sound) *(तार)*

तरु : A tree *(तरू)*

तरुणो (adj) **:** Young, fresh, new *(तरुण)*

तसरो : A shuttle *(त्रसर)*

तसति : To tremble, to be afraid of *(त्रस्)*

तसिण्ह : *See तण्डा*

तस्मा : *See सो*

तसो (adj) **:** Moving, movable *(त्रस)*

तस्सनं : Thirst *(तर्षण)*

तस्सपपिय्यसिका : Name of one of the adhikaranasamathas *(तस्य + पापीयस् + इका)*

तात : *See तातो*

तटं : *See तटो*

तटतटायति : To rattle, rustle *(from तटतट)*

तथा (adv) **:** So thus; also *(तथा)*

तथभावो : Thuth

तथागतो : A sentient being; a Buddha *(तथागत)*

तथरिव : *See तथा*

तथारुपो (adj) **:** Of such a description, such; suitable, appropriate, adequate *(तथारूप)*

तथतो (adj) **:** As it is, rightly, correctly, truly

तथत्तं : Being so, such a state of things *(तथात्व)*

तथेव : *See तथा*

तथूपमो : *See उपमा*

तटी : *See तटो*

ततियो (adj) **:** Third *(तृतीय)*

ततो : *See तनोति*

ततो (adv) **:** From that place, thence, thereform; from that time; thereafter; subsequently; further, moreover *(ततस्)*

तटो, तटी, तटं : A shore or bank *(तट, तटी)*

तातो : *See तायति*

तातो : Respected, dear *(तात)*

तत्र + तत्थ (adv) **:** There; thither; in that case, now, here; in that; therein *(तत्र)*

तत्तको (adj) **:** Burning *(तप्त + क)*

तत्तको (adj) **:** As many, as great

तत्थ : *See तत्र*

तत्तो : *See तपति*

तत्कं : Essence, reality *(तत्व)*

तव, तवं : *See त्वं*

ताव (adv) **:** At once; now, just; realy, indeed, still *(ताव)*

तावता (adv) **:** So far, to that extent, on that account *(तावता)*

तावतको (adj) **:** So many, so much, so great, so long *(तावत् + चक्र)*

तावतिहं : *See यावतिहम*

तावतिंसो (adj) **:** Belonging to thirty three

तया : *See त्वं*

ताय, तायं : *See सो*

तायति : To protect, preserve, save *(त्रा)*

तयी : The three Vedas *(त्रयी)*

तयो : three *(त्रयो)*

तयोदस : Thirteen *(त्रयोदशन्)*

ते : *See सो + त्वं*

तेभातिको (adj) **:** Consisting of three brothers *(त्रि + भ्रातृ + क)*

तेभूमको (adj) **:** Belonging to three stages of being *(त्रिभूस + क)*

तेचिवरिको (adj) **:** Wearing three robes *(त्रेचीवरिक)*

तेधा (adv) **:** In three ways *(त्रेधा)*

तेजनं : An arrow, shaft *(तेजनं)*

तेजस्सी (adj) **:** Bright, glorious *(तेजस्विन्)*

तेजेति : To sharpen *(तेजयति)*

तेजो, तेजं : Flame, heat, fire; light; brilliancy, spendour; majesty, dignity, prestige, glory, fame; influence, efficacy, power *(तेजस्)*

तेकालिको (adj) **:** Relating to the three times, past, present, future *(त्रेकालिक)*

तेकिच्छो (adj) **:** Curable

तेलकं : A little oil *(तैलक)*

तेलं : Oil from Tila-seeds *(तैल)*

तेलस, तेरस : Thirteen *(त्रयोदशन्)*

तेलिको : An oil manufacturer *(तैलिक)*

तेमनं : Wetting *(तेमन)*

तेमासं : Three months, a quarter *(त्रिमास + अ)*

तेमेति : To wet, moisten

तेना : *See सो*

तेपिटको (adj) **:** Belonging to the Tipitaka *(त्रिपिटक + अ)*

तेत्तिंस, तेत्तिंसति : Thirty three *(त्रयस्तिंशत्)*

तेविज्जो (adj) **:** Possessed of three Vijjas *(त्रैविध)*

तेवीस, तेवीसति : Twenty three *(त्रयोविंशति)*

थबको : A cluster of blossoms, bunch of flowers *(स्तवक)*

थद्धो : Firm, hard, solid, dense; obstinate, stolid, stubborn *(स्तब्ध)*

थकनं : Covering, a lid *(स्थगन)*

थकेति : To cover, conceal, stop up *(स्थगयति)*

थलजो : Land born *(स्थलज)*

थालकं = थालं :

थलं + थली : Land; ground *(स्थल, स्थली)*

थालं : A metal bowl or bason; a plate, dish *(स्थाल)*

थलट्ठो (adj) **:** Standing on dry grounds *(स्थलस्य)*

थली : *See थलं*

थाली : A cooking pot, boiler, kettle *(स्थाली)*

थामवा : Resolute *(स्थामन् + वन्)*

थम्भकरि : Rice *(स्तम्बकरि)*

थम्भो : A clump of grass, a bush, thicket; a post, pillar: column: the post to which an elephant is tied: stupor, insensibility *(स्तम्ब + स्तम्भ)*

थामो : Strength

ठानं : Standing, stopping, halting: place, spot, situation: station, state, condition: place, post, office, appointment rank: dignity: point, matter; subject, topic, proposition, thesis, thing: basis, source, origin, cause, reason *स्थान*

थानन्तरं : A particular post, a certan office, an office, appointment *(स्थान + अन्तर)*

थनपो, थनपायी : A suckling, infant *(स्तनप + पायिन्)*

ठानसो (adv) **:** Casually, necessarily *(स्थान + शस्)*

ठानाठानं : Right and wrong place or site *(स्थान + अस्थान्)*

थण्डिलसायिका : Sleeping on the bare-ground *(स्थण्डिलशायिन् + इका)*

ठानिको (adj) **:** Holding the place of *(स्थानिक)*

थनितो (adj) **:** Holding, thundering *(स्तनित)*

ठानियो (adj) **:** Based upon *(स्थानीय)*

थञ्ञं : Mother's milk *(स्तन्य)*

थानो : Female breast *(स्तन)*

ठापनं : Placing *(स्थापन)*

ठपनीयो : That should be set aside

थपति : A carpenter *(स्थपति)*

ठापेति, ठपियति : *See तिट्ठति*

थरू : The hilt of a sword *(त्सरु)*

ठस्सति, ठातुं, ठत्वा : *See (तिट्ठति)*

थावरियं : Security *(स्थावर + य)*

थावरो (adj) **:** Stationary, fixed: stable, firm, strong *(स्थावर)*

थविका : A purse

ठायी (adj) **:** Lasting, living *(स्थायिन्)*

थेनेति : To steal *(स्तेन्)*

थेनो : A thief *(स्तेन)*

थेरियो (adj) **:** Belonging to theras *(स्थाविर + व)*

थेरो : An oldman; a Buddhist monk of a certain standing, a senior priest, an elder *(स्थाविर)*

थेतो (adj) **:** Firm, trustworthy

थेवो : A *drop of water (स्तेप् + अ)*

थेय्यं : Theft *(स्तेय)*

थी : A woman *(स्त्री)*

थीनं : Idleness, sloth, dullness *(स्त्थान)*

थिरो (adj) **:** Firm, hard, solid, strong, immovable, permanent, lasting *(स्थिर)*

ठितको (adj) **:** Standing up *(स्थितक)*

ठितत्तं : Remaining firm: continuance *(स्थित + त्व)*

ठिति : Durability, stability, continuation, existence, life *(स्थिती)*

ठितिको (adj) **:** Lasting, continuing, living on, existing

ठितो, ठीयती : *See तिट्ठति*

ठो (adj) : Standing, staying *(स्थ)*

थोकको (adj) : Small, brief, slight

थोको (adj) : Small, short, slight *(स्तोक)*

थोमनं : Praise *(स्तोमन)*

थोमेति : To praise *(स्तोमयति)*

थोमो : Praise *(स्तोम)*

थूलो, थूल्लो (adj) : Big, large, thick, coarse, clumsy, stupid *(स्थूल)*

थूणा : A pillar, column, post *(स्थूणा)*

थूपो : A conical heap, a pile, a mound; a conical or bell-shaped shrine containing a retic, a dagaba, cetiya, tope *(स्तूप)*

थूसो : Husk of grain *(तुष)*

थुति : Praise, thanks *(स्तुति)*

थुतो : Praised *(स्तुत)*

ति : *See इति*

ति : *See तयो*

तिब्बो (adj) : Sharp, keen; acute, intense, excessive, severe *(तीव्र)*

तिभागो (adj) : Consisting of three portions *(त्रि + भाग)*

तिभवं : Three forms of existence *(त्रि + भव)*

तिभूमको (adj) : Three storied *(त्रि + भूम +क)*

तिचीवरं : The three robes *(त्रि + चीवर)*

तिदण्डं : The three staves of a Brahmin ascetic *(त्रिदण्ड)*

तिदसो : A deva *(त्रिदश)*

तिधा (adj) : In three ways of parts *(त्रिधा)*

तिदिवो : The dava world or heaven *(त्रिदिव)*

तिगावुतं : Three leagues *(त्रि + गव्यूति)*

तीहं : Three days *(त्र्यह)*

तीहि : *See तयो*

टीका : A Pali commentary on an atthakatha, a scholium, gloss *(टीका)*

तिकं : A triad, three *(त्रिक)*

तिखिणो, तिक्खो : Sharp: pungent, fiery, acrid: acute, clever *(तीक्ष्ण)*
तिण्हो (adj)

तिकिच्छा : The practice of medicine, curing, healing *(चिकित्सा)*

तिकिच्छको : A physician *(चिकित्सक)*

तिकिच्छति : To treat medically, to cure *(चिकित्सति)*

तिक्खत्तुं : Thrice *(त्रि + कृत्वस्)*

तिलक्खणं : Three characteristics *(त्रि + लक्षण)*

तिलको : Name of a tree: a moade or freckle: a seetarial mark on the forehead

तिलिच्चो : A sort of snake *(तिलित्स, तिलिच्छ्)*

तिलो : The sesamum plant; the seed of sesamum Indicum *(तिल)*

तिलोकं : The three worlds *(त्रिलोक)*

तिमंण्डलं : Three circles *(त्रि + मण्डल)*

तिम्बरू, तिम्बरूसको : The Tinduka tree

तिमि, तिमिन्दो, तिमङ्गलो : Names of certain fish of enormous size, that haunt the oceans, between kutackalas *(तिमि; तिमि, इन्द्र, तिमिंगिल)*

तिमिरं : Darkness *(तिमिर)*

तिमिरायितत्तं : Gloominess *(तिमिरायते + त्व)*

तिमिसं : Darkness *(तमिस्त्र or तमस्)*

तिमिसिका : A very dark night *(तमिस्त्र with इक)*

तिंस, तिंसति : Thirty *(त्रिशत्)*

तिंसो (adj) **:** Thirtieth *(त्रिंश)*

तिनं : Grass, herb, wead *(तृण)*

तिणवत्थारको : Name of one of the adhikaranasamathas *(तृण + अवस्तार + क)*

तिणवो : A sort of drum

तिनयनं : Three eyes *(त्रिनयन)*

तिन्दुको : The tree Diospyros Embryopteris *(तिन्दुक)*

तिण्हो : *See तिखिणो*

तीणी : *See तयो*

तितिसो : The tree Dalbergia Onqeinensis *(तिनिश)*

तिण्णो : *See तरति*

तिन्तिणी : The tamarind tree

तिन्तो : Wet

तिणुक्का : A torch made of a wisp of hay or dry grass *(तृणोल्का)*

तिपदक्खिणं : The padakkhina thrice repeated *(त्रि + प्रदक्षिणा)*

तिफलं : Three fruits *(त्रिफल)*

तिपिटकं : Three Baskets or Treasuries, a name of the Buddhist Scriptures *(त्रिपिटक)*

तिपु : Tin, lead *(त्रपु)*

तिपुता : White Teori, convalvulus Turpenthum *(त्रिपुटा)*

तिरच्छानो : An animal, beast

तीरं : A shore, bank *(तीर)*

तीरणं : Deciding

तिरत्तं : Three nights or three days *(त्रिरात्र)*

तीरेति : To accomplish, finish, decide *(तीरयति)*

तिरीटको : The tree Symplocos Racemosa *(तिरीट + क)*

तिरियं (adv) **:** Across *(तिर्यक)*

तिरो (adv) **:** Across, beyond, over, on the other side *(तिरस्)*

तिरोधानं : A curtain, cover, lid, veil *(तिरोधान)*

तिरोकरणी : A curtain or screen *(तिरस्करिणी)*

तिरोकरिय्यति : To be veiled *(Pass तिरस्कृ)*

तिरोक्कारो : Disrespect, blame, abuse *(तिरस्कार)*

तिसरणं : The three refuges *(त्रिशरण)*

तिसतो (adj) **:** Numbering three hundred *(त्रिशत)*

तिसिङ्ग : Three horns or peaks *(त्रिशृङ्ग)*

तिस्सो : *See तयो*

तिथि : A lunar day *(तिथि)*

तितिक्खति : To bear, endure, belong-suffering *(तितिक्षते)*

तित्तको (adj) **:** Bitter *(तिक्तक)*

तित्थकरो : A sect founder; religious teachers *(तीर्थकर)*

तित्थं : A landing place, or bathing place in a river or tank, a ghat: a landing place on the sea-coast, a harbour: a Guru or precaptor: the usual way, right way: a piece of water: religious belief *(तीर्थ)*

तिट्ठति–ठाति : To stand, stand aside: be expected or omitted, remain behind; to stay, stop, remain: to dwell, continue, abide, last, endure, remain constant, live, exist, be *(स्था)*

तित्थियो : An adherent of a heretical sect or system of philosophy, a sectarian, heretic, unorthodox believer *(तीर्थ्य)*

तित्ति : Saliety, fulness *(तृप्ति)*

तित्तिको (adj) **:** Brimful *(सम + तृप्ति + क)*

तित्तिरो : The francoline partrige *(तित्तिर)*

तित्तो : Satisfied, full *(तृप्त)*

तिवग्गो : Three objects of life viz. Dhamma, kamo and artho, Religion, pleasure and wealth *(त्रिवर्ग)*

तिवङ्गिको (adj) **:** Having three angas *(त्रि + अङ्ग + इक)*

तिविधो (adj) **:** Threefold *(त्रिविध)*

तिविज्जा : Three branches of knowledge *(त्रिविद्या)*

तिवुता : White teori, convolvulus Turpethum *(त्रिवृत्)*

तियामा : Night *(त्रियामा)*

तियासीति : Eighty three *(त्र्यशीति)*

तोमरिको : A spearman

तोमर, रं : A lance, spike *(तोमर)*

तोरणं : An arch, gateway, pandal or triumphal arch used on state occasions *(तोरण)*

तोसो : Satisfaction, joy *(तोष)*

तोयगो (adj) **:** Floating on water *(तोय + ग)*

तोयं : Water *(तोय)*

तु : A particle, never used at the beginning of a sentence, which may be rendered by "now" "but" "indeed" *(तु)*

तुच्छो (adj) **:** Empty, vain *(तुच्छ)*

तुदम्पति : Husband and wife

तुदित्थ : He qnawed, pierced

तुहिनं : Dew frost *(तुहिन)*

तुज्जति : To be struck, pierced, poked

तुला : A balance, pair of scales: resemblance, equality a beam or rafter: a measure of weight *(तुला)*

तुलेति : To weigh, measure; to consider, weigh with the mind *(तूल, तुल)*

तुलिका : A painter's brush or pencil *(तुलि + का)*

तुलिका : A mattress *(तूलिका)*

तुलियो : A flyig fox

तूलो + तूलं : Cotton *(तूल)*

तुल्यो (adj) **:** Similar, equal *(तुल्य)*

तुम्बी : The gourd laqenaria vulgaris *(तुम्बी)*

तुम्बो : A sort of water-vessel with a spout; a measure of grain *(तुम्ब)*

तुम्हादिसो (adj) : Like you

तुम्हे : *See* *त्वं*

तुण्डं : A beak, snout etc. *(तुण्ड)*

तुण्डिलो (adj) : *तुण्डिल*

तुङ्गो : High, prominent *(तुङ्ग)*

तुण्ही (adv) : Silently, without speaking *(तूष्णीम)*

तूणी, तूणो, : A quiver *(तूणी, तूण, तूणीर)*
तूणीरो, रं

तुन्नं : A suture, a patch *(तुन्न)*

तुन्नवायो : A tailor *(तुन्नुवाय)*

तुण्णो : Quick *(तूर्ण)*

तुरगो, तुरङ्गो : A horse, courser *(तरग, तुरङ्ग)*

तुरितो : Hastening, hurried, eager, swift *(त्वरित)*

तुरियं : A musical instrument *(तूर्य)*

तुरक्खो : Indian incense *(तुरूष्क)*

तुसिता : Name of the angels inhabiting the fourth Devaloka *(तुषित)*

तुसो : Substance, wealth

तुस्सति : To be satisfied, pleased, joyful *(तुष्)*

तुत्तं : A pike used to guide the elephant, a goad *(तोत्र)*

तुट्ठि : Satisfaction, joy, happiness *(तुष्टि)*

तुट्ठो : *See* *तुस्सति*

तुटुभं : The trishtubh metre

तुव : *See* *त्वं*

तुवटं (adj) : Quickly

तुवट्ठति : To lie down

त्वं, तुवं : Thou *(त्वम्)*

त्वेव : *(इति एव)*

त्यहं, त्याहं : *See* *इति, त्वं*

U

उ, उद : A preposition only used as the first of part of a compound, generally conveying the idea upward or "above" or "away" *(उद्)*

उब्बहति : To raise up to remove, drive away *(उद्वह्)*

उब्बाहिको : Rules for expulsion of, schismatic priests

उब्बट्टनं : Shampooing the body *(उद्वर्तन)*

उब्बत्तेति : To tear up, tear out *(उद्वर्तयति)*

उब्बेधो : Height *(उद् + वेध)*

उब्बेगो : Agitation; excitement, anxiety *(उद्वेग)*

उब्बेजनियो (adj) **:** Causing alarm, agitating *(उद्वेजनीय)*

उब्भं : *See* उद्धं

उब्भारो : *See* उद्धारो

उब्भतो : Thrown up, thrown out *(उद्धुत)*

उब्भावेति : To produce, use *(उद्भावयति)*

उब्भवो : Birth, origination *(उद्भू)*

उब्भिदं : Kitchen salt *(उद्भिद)*

उब्भिज्जति : To burst upwards, to spring up out of the ground, to sprout, germinate *(Pass उद्भिद्)*

उब्भूतो : Born, produced *(उद्भूत)*

उब्वी : The earth *(उर्वी)*

उब्बिजति : To be afraid of *(Pass उद्विज्)*

उब्बिल्लापितो : Unduly elated, puffed up

उब्बिनयो : Wrong or false Vinaya *(उद + विनय)*

उभतो (adv) **:** On both sides, in two ways *(उभ + तस्)*

उभयतो (adv) **:** On both sides *(उभयतस्)*

उभयत्था (adv) **:** In both places *(उभयत्र)*

उभयो (adj) **:** Both *(उभय)*

उभो : Both

उच्च (Indecl.) **:** Above, high *(उच्च)*

उच्चालेति : To irritate

उच्चालिङ्गो : A caterpillar

उच्चं (Indecl.) **:** High *(उच्चैस्)*

उच्चारणं : Utterance, pronunciation *(उच्चारण)*

उच्चारेति : To raise aloft, lift up *(उच्चारयति)*

उच्चार : Excrement *(उच्चार)*

उच्चता : Elevation *(उच्चता)*

उच्चतरो (adj) **:** Higher *(उच्चतर)*

उच्चति : *See वत्ति*

उच्चतो (adv) **:** According to height, in height *(उच्च + तस्)*

उच्चातुं : To raise, lift

उच्चावचो (adj) **:** Various, irregular *(उच्चावच)*

उच्चायो : Accumulation *(उच्चय)*

उच्छादनं : Destruction; rubbing the body with perfume *(उत्सादन)*

उच्छङ्गो : The hip, flank, haunch: the lap *(उत्सङ्ग)*

उच्छेदो : Extirpation, annihilation *(उच्छेद)*

उच्छिन्दति : To cut off, extirpate, destroy *(उच्छिद्)*

उच्छितो : Lofty, exalted *(उच्छृत)*

उच्छिट्ठो : Left, rejected, impure *(उच्छिष्ट)*

उच्छु : Sugar cane *(इक्षु)*

उच्चिनति : To choose, select: to pick up *(उच्चि)*

उच्चो (adj) **:** High, tall *(उच्च)*

उचितो : Suitable, convenient *(उचित)*

उद (Indecl) **:** Or, on the other hand *(उत)*

उदब्बहति : To draw out, derive *(उद् + आ + वृह)*

उदबिन्दु : A drop of water *(उद्बिन्दु)*

उदच्छिदो : *See उच्छिन्दति*

उदधि : The sea *(उदधि)*

उदग्गो (adj) **:** High, delighted *(उदग्र)*

उदहारको : One who makes conduits for water *(उदहार + क)*

उदाहरणं : An example, instance *(उदाहरण)*

उदाहरति : To utter, recite: to command *(उदाह)*

उदाहारो : Utterance *(उदाहार)*

उदाहु (Indecl.) **:** Or *(उताहु)*

उदकं : Water *(उदक)*

उदकुम्भो : A water pot *(उदकुम्भ)*

उदानं : Upward aspiration, enthusiastic or joyous utterance, expression of intense feeling in words *(उदान)*

उदानेति : To breathe forth, make a joyous utterance *(caus. उदन्)*

उदपानो : A well *(उदपान)*

उदरं : The belly, stomach *(उदर)*

उदरावदेहकं : To eat to satiety

उदरियं : The stomach *(उदर्य)*

उदारो : *See उळारो*

उदासीनो (adj) **:** Indifferent, neutral *(उदासीन)*

उदायिभद्दो : Name of the son of Ajatasattu

उदयो : Rise, beginning, appearance: the eastern mountain behind which the sun rises *(उदय)*

उद्दालो : The tree Cassia fistula *(उद्दाल)*

उद्दलोमी : A woollen coverlet with a fringe at each end

उद्दानं : Binding *(उद्दान)*

उद्दापो : Foundation of a wall *(उद्दाप)*

उद्देसको (adj) **:** Appointing, arranging *(उद्देसक)*

उद्देसिकधातु : Illustrative or commemorative retic, name of one of the three classes of relics or memorials of Buddhas

उद्देसितो : A lumbar room, store

उद्देसो : Prescription, ordinance; enunciation, recitation: region, period, oceasion *(उद्देस)*

उद्धच्चं : Being puffed up, vanity, pride *(औद्धत्य)*

उद्धच्छिद्दको : Skylight *(उर्ध्व + छिद्र + क)*

उद्धदेहिकं : Funeral obsequies *(और्ध्वदेहिक)*

उध्द्रागामी (adj) **:** Going upwards *(ऊर्ध्वगामिन्)*

उद्धगति : Going up, ascent *(उर्ध्वगति)*

उद्धग्गिको (adj) **:** Having spiritual progress for its end or object *(ऊर्ध्व + अग्र + इक)*

उद्धगो (adj) **:** Pointing upwards, standing on end *(ऊर्ध्व + अग्र)*

उद्धको : A kind of drum *(ऊर्ध्वक)*

उद्धलोको : The world above, heaven *(ऊर्ध्वलोक)*

उद्धं, उब्भहं (adv) **:** Upwards: up: above: after *(ऊर्ध्वम्)*

उद्धम्भागियो (adj) **:** Belonging to the upper part *(ऊर्ध्वम् + भाग + य)*

उद्धम्मो : Wrong or false Dharma, perverted doctrine *(उद् + धर्म)*

उद्धंसति : To be thrown or scattered upwards *(उद् + ध्वंस्)*

उद्धंसोतो : One who ascends the stream (of existence) *(उर्ध्वम् + स्त्रोतस्)*

उद्धमुखो (adj) **:** Upturned *(ऊर्ध्वमुख)*

उद्धमूलो (adj) **:** Having the roots upwards *(ऊर्ध्व + मूल)*

उद्धनं : An oven

उद्धङ्गमो (adj) **:** Going upwards, ascending *(ऊर्ध्वम् + गम)*

उद्धपदो (adj) **:** Heels upwards *(ऊर्ध्वपाद)*

उद्धरणं : Drawing out *(उद्धरण)*

उद्धरति : To draw out, lift up: raise *(उद्धृ)*

उद्धारो : Pulling out: debt *(उद्धार)*

उद्धतो : Puffed up, haughty *(उद्धत)*

उद्धटो : *See उद्धरति*

उद्धो, उब्भो (adj) **:** Raised, errect, high *(ऊर्ध्व)*

उद्धमायति : To be blown up, and hence to be swollen

उद्धुतो : Shaken *(P.P.P. उद्धू)*

उद्धुयति : To be driven away

उद्दिसति : To point out, to declare; to determine, appoint; to recite *(उद्दिश्)*

उद्दो : Name of an animal *(उद्र)*

उदेति : To rise *(उदि)*

उदीचि : The North *(उदीची)*

उदिक्खति : To look at, survey; to see, perceive *(उदीक्ष्)*

उदीरणं : Uttering, saying *(उदीरण)*

उदीरेति : To utter, speak, say *(उदीरयति)*

उदितो : Risen, arisen: high *(उदित)*

उद्रेको : Vomiting *(उद्रेक)*

उद्रीयनं : Bursting or splitting open

उदुक्खलं : A mortar *(उदूखल)*

उदुम्बरो : The tree ficus Glomerata *(उदुम्बर)*

उग्गच्छति : To rise, ascend: to depart, come back *(उद्गम्)*

उग्गहणं : Taking or lifting up; learning acquisition *(उद्ग्रहणं)*

उग्गहेतब्बो : *See उग्गण्हाति*

उग्गहितो

उग्गहो : Learning, acquisition *(उद्ग्रह)*

उग्गमनं : Rising, ascent: arising, origin, production *(उद्गमन)*

उग्गमी, उग्गम्म : *See उग्गच्छति*

उग्गमो : Rising up *(उद्गम)*

उग्गण्हाति : To raise, lift, pick up: to learn, acquire by study *(उद्ग्रह)*

उग्गारो : Spitting out, vomiting *(उद्गार)*

उग्गति : Ascent, appearance *(उद्वति)*

उग्गतो : *See उग्गच्छति*

उग्गत्थनं : A sort of Ornament

उग्घरति : To ooze *(उद् + घृ)*

उग्घाटनं : The rope and bucket of a well *(उद्घाटन)*

उग्घाटेति : To open, unfasten; to reveal, make known *(उद्घाटयति)*

उग्घटितञ्ञु (adj) **:** Understanding what is revealed *(उद्घाटनज्ञ)*

उग्घोसेति : To shout out, proclaim *(उद्घोषयति)*

उग्घोसो : Proclaimation *(उद्घोष)*

उग्गिलति : To vomit *(उद्गृ)*

उग्गिरणं : Spewing, vomiting

उग्गो (adj) **:** Voilent, severe, cruel, sharp *(उग्र)*

ऊहा : Life

उहदेति : To be foul with excrement *(उद + हद्)*

ऊहनं : Arrangement, synthesis *(ऊहन)*

ऊहतो : Destroyed *(उद् + हत)*

उहङ्कारो : An owl

उज्जलनं : Lighting or burning (of a lamp) *(उज्वलन)*

उज्जलति : To flash up, shine *(उज्ज्वल्)*

उज्जलो (adj) **:** Blazing, flashing; bright, beautiful *(उज्ज्वल)*

उज्जेनी : The city of Onjein *(उज्जयनी)*

उज्झग्गिका : Loud laughter

उज्झानं : Taking offence, captiousness

उज्झापनको (adj) **:** One who stirs up another to discount, makes him murmur, or repine

उज्झति : To abandon; to throw *(उज्झ्)*

उज्झायति : To be irritated, annoyed, to be offended, to murmur

उज्जोतनं : Illumination, glorification

उज्जोतो : Light, lustre *(उद्योत)*

उजु + उज्जु (adj) **:** Straight, direct: straight-forward, honest, upright *(ऋजु)*

उजुको (adj) **:** Straight, direct, right *(ऋजुक)*

ऊका, ऊको : A louse; a weight of seven likkhas *(यूक)*

उखा : A boiler, cooking vessel *(उखा)*

उक्का : A torch, firebrand; a meteor *(उल्का)*

उक्कड्ढति : To cast out, remove *(उत्कृष्)*

उक्कलापो + उक्ललपो : Sweepings, rubbish

उक्कमनं : Stepping, aside, passing *(उत्क्रमण)*

उक्कमापेति (caus) **:** To cause to step aside or get out of the way

उक्कंसेति : To exalt *(उत्कर्षयति)*

उक्कंसो : Excess; excellence: exaltation *(उत्कर्ष)*

उक्कण्ठति : To regret, pine, be unhappy, distressed, discontented *(उत्कण्ठ)*

उक्कारो : Dung, excrement

उक्कासति : To hem, clear the throat *(उद् + कास)*

उक्कट्ठा : Name of a town

उक्कट्ठो : High, eminent; exceeding, excessive: excellent, superior *(उत्कृष्ट)*

उक्खलि : A pot to boil rice in

उक्खेपको (adj) **:** One who excommunicates *(उत्क्षेपक)*

उक्खेपनं : Excommunication *(उत्क्षेपण)*

उक्खेपनीयो : Excommunication-like

उक्खेपो : Lifting, raising *(उत्क्षेप)*

उक्खिपति : To throw upwards, raise, lift: to get rid of: eject *(उत्क्षिप्)*

उक्खित्तका : Tucking up the rob *(उत्क्षिप्त + का)*

उक्कोचो : A bribe *(उत्कोच)*

उक्कोटनं : Perverting justice

उक्कोटेति : To disturb what is settled, to open up again a question that has been set at rest *(उत्कोटयति)*

उक्कुज्जनं : Setting up again

उक्कुज्जेति : To set up again, what has been overturned

उक्कुसो : An osprey *(उत्क्रोश)*

उक्कुटिको (adj) **:** Sitting on the mams, squatting, crouching, kneeling *(उत्कटुक)*

उक्कुट्ठि : Crying out, shouting *(उत्क्रुश + ति)*

उक्लापो : *See उक्कलापो*

उळारो : Great: lofty: noble, excellent, eminent *(उदारो)*

उल्लङ्घति : To leap up *(उल्लङ्घ)*

उल्लपति : To lay claim to, assert oneself the owner of *(उद् + लप्)*

उल्लसितो : Shinning *(उल्लसित)*

उल्लित्तो : Smeared *(उद् + लिप्त)*

उल्लोचो + चं : A canopy, awning *(उल्लोच)*

उल्लोकेति : To look up, look at *(उद् + लोक्)*

उल्लोल : A wave, surge *(उल्लोल)*

उळु : A lunar mansion *(उडु)*

उलूको : A owl *(उलूक)*

उळम्पो-पं : A raft *(उडूप)*

उळङ्को : A ladle *(उदङ्क)*

उलुपी : A porpoise *(उलुपिन)*

ऊमि : A wave *(ऊर्मि)*

उम्मा : Flax *(उमा)*

उम्मद्दापेति : To cause to be rubbed

उम्मादेति : To madden *(उन्मादयति)*

उम्मादो : Madness, distraction, mental aberration *(उन्माद)*

उम्मग्गो : An underground waterrcourse, a main *(उन्मार्ग)*

उम्मज्जनं : Shampooing the body *(उन्मार्जन)*

उम्मारो : A threshold

उम्मत्तो, उम्मत्तको : (adj) Mad, out of one's mind, in a state of mental aberration *(उन्मत्त; त्तक)*

उम्मीलेति : To open

उम्मुज्जा : Emerging

उम्मुज्जति : To emerge, rise out of *(उन्मज्ज्)*

उम्मुकं : A fire-brand *(उल्मुक)*

उम्मुक्खो (adj) **:** Expecting, awaiting *(उन्मुख)*

उम्मूलेति : To root up *(उन्मूलयति)*

ऊनको (adj) **:** Deficient *(ऊनक)*

उन्दुरो : A *rat (उन्दुर)*

उण्हीसो + सं : A crest, diadem : crown : a turban : part of a staircase *(उष्णीव)*

उण्हो (adj) **:** Hot *(उष्णं)*

उण्णा + उण्णं : Wool, hair between the eye-brows *(ऊर्ण)*

उञ्ञा : Contempt *(अवज्ञा)*

उन्नदति : To shout or roar *(उन्नद्)*

उन्नलो : Evil disposed

उन्नमति : To ascend, rise up *(उन्नम्)*

उन्नमो : Elevation, height *(उन्नम् + अ)*

उण्णनाभि : A spider *(उर्णनाभि – ऊर्णनाभ)*

उण्णतं : A sort of ornament

उन्नति : Haughtiness *(उन्नति)*

उन्नतो : Raised, high *(उन्नत)*

उन्नो : Wet *(उन्न)*

ऊनो (adj) **:** Deficient, less *(ऊन)*

उपा : Below, less *(उप)*

उपभोग्गो : To be enjoyed *(उपभोग्य)*

उपभोगो : Enjoyment *(उपभोग)*

उपचरितो : Served *(उपचरित)*

उपाचरियो : A teacher's successor

उपचारो : Approach, entrance, neighbourhood: a present, offering; attention, civility; practice, conduct *(उपचार)*

उपचयो : Accumulation, increase *(उपचय)*

उपच्चका : Land at the foot of mountain *(उपत्यका)*

उपच्छेदो : Cutting off, stopping

उपच्छिन्दति : To cut off, interrupt, bring to an end *(उप + छिद्)*

उपचिका : White ant

उपचिनति : To heap up, accumulate *(उपचि)*

उपदा : A present *(उपदा)*

उपादानं : Firewood, fuel; clinging to existence, attachment *(उपादान)*

उपादानीयो (adj) **:** Connected with attachment, sensual

उपदट्ठा : A supervisor *(उपदृष्ट)*

उपादाय : *See उपादियति*

उपद्दवो : Accident, misfortune, distress, oppression *(उपद्रव)*

उपद्धो (adj) **:** Half; partial *(उप + अर्ध)*

उपद्दुतो : Distressed, annoyed, oppressed *(उपद्रुत)*

उपदेसो : Instruction, direction *(उपदेश)*

उपधानं : Putting under; supplying, imposing; a pillow, cushion *(उपधान)*

उपधारेति : To consider, reflect, investigate, search with the mind, look out for, ascertain *(उपाधारयति)*

उपधावति : To run after, run-up to *(उपधाव्)*

उपधि : A wheel; the body; a substratum of being *(उपधि)*

उपदिसति : To command, advise *(उपदिश्)*

उपादिसेसो (adj) **:** Having the skandhas remaining

उपदिस्सति : To be seen, discovered *(उपदृश्यते)*

उपदिट्ठो : *See उपदिसति*

उपादियति : To take hold of; to cling to the world; to have attachment *(उपादा)*

उपदुस्सति : To be angry, revengeful *(उप + दुष्)*

उपगा : *See उपेति*

उपगच्छति : To come to, approach, visit, reach; to undergo, suffer; to undertake, begin; to enter upon *(उपगम्)*

उपागच्छति : To come to; arrive at, reach *(उपागम्)*

उपगमनं : Approaching *(उपगमन)*

उपगमो : Approaching, entering upon etc. *(उपगम)*

उपगायति : To sing *(उपगै)*

उपघातनं : Hurting

उपघातो : Hurting, injuring *(उपघात)*

उपघट्टितो : Knocked against *(उप + घट्ट)*

उपगो (adj) **:** Going to, entering; entering on, undergoing *(उपग)*

उपगूहनं : Embracing, an embrace *(उपगूहन)*

उपगूळ्हो : Embraced *(उपगूढ)*

उपहच्च : *See उपहन्ति*

उपाहना : A shoe, sandal *(उपानह)*

उपहननं : Hurting, injury

उपहन्ति : To injure, vex, impair *(उपहन्)*

उपहारो : A complimentary present to a superior; an oblation to a deva *(उपहार)*

उपाहारो : Bringing forward, adding *(उपाहार)*

उपहतो : *See उपहन्ति*

उपजनेति : To produce *(उपजनयति)*

उपजापो : Suggesting treason; sowing disunion *(उपजाप)*

उपजीवनं : Maintainance *(उपजीवन)*

उपजीवति : To subsist by *(उपजीव्)*

उपजीवी (adj) **:** Subsisting by *(उपजीविन्)*

उपज्झायो + उपज्झो : A spiritual preacher or preceptor *(उपाध्याय)*

उपकड्ढति : To drag down *(उपकृष)*

उपकण्णं : Into the car *(उपकर्णम्)*

उपकप्पनं : Preparation, fabrication *(उकल्पन)*

उपकप्पति : To serve or profit *(उपक्लृप्)*

उपकारको (adj) **:** Benefiting, helping *(उपकारक)*

उपकरणं : Help, benefit, service, instrument; implement; furniture, apparatus *(उपकरण)*

उपकारी (adj) **:** Benefiting *(उपकारिन्)*

उपकारिका : A benefactress; the foundation of a wall *(उपकारिका)*

उपकारो : Help; advantage, benefit, use, service: helper; benefactor *(उपकार)*

उपकट्ठो : Near, approaching *(उप + कृष्ट)*

उपक्कमालालि : To devise plans, manoevre

उपक्कमति : To approach, come: to begin *(उपक्रम्)*

उपक्कमो : Beginning *(उपक्रम)*

उपक्खरो : A part of a carriage *(उपस्कर)*

उपक्खतो + टो : Got ready, prepared *(उपस्कृत)*

उपक्किलेसो : Depravity, sin: molestation, distress

उपक्किलिट्ठो : Stained, depraved *(उप + क्लिष्ट)*

उपक्कोसो : Blame *(उपक्रोश)*

उपक्कुट्ठो : Blamed, reproached *(उप् + क्रुश्)*

उपलद्धि : Acquisition, knowledge *(उपलब्धि)*

उपलक्खणं : Syneedoche *(उपलक्षण)*

उपलक्खेति : To look at, regard, note *(उपलक्ष्)*

उपलिम्पति : To smear, defile *(उपलिप्)*

उपलो : A stone, rock *(उपल)*

उपमा : Similarity; equality; comparison: a similitude, simile, illustration, figure, allegory, parable *(उपमा)*

उपमानं : Resemblance *(उपमान)*

उपमाता : A wet-nurse *(उपमातृ)*

उपनाहो : Enemity *(उपनाह)*

उपनामेति : To offer; present: to place close to: hold out to *(उपनामयति)*

उपनह्यति : To tie or wrap up *(उपनह्)*

उपनायिको (adj) **:** Referring or belonging to *(उपनायिक)*

उपनेति : To present, bestow; to bring to, to conduce *(उपनी)*

उपाङ्गं : A minor limb or section *(उपाङ्ग)*

उपनिबन्धनं : Fastening, attachment

उपनिबन्धति : To attach *(उप + नि + बन्ध्)*

उपनिधि : A deposit, pledge *(उपनिधि)*

उपनिघंसति : To rub up against *(उप + नि + पृष्)*

उपनिज्झानं : Meditation

उपनिक्खिपति : To deposit, lay up *(उपनिक्षिप्)*

उपनिसा : Cause ; means ; likeness

उपनिसीदति : To sit beside or in the presence of *(उप + नि + सद्)*

उपनिस्साय : Near, close to

उपनिस्सयो : Basis, ground work

उपनीतो + उपनिय्यति : *See उपनेति*

उपनीतो : Led away *(उपनीत)*

उपञ्ञासो : An exordium *(उपन्यास)*

उपञ्ञातो : Found out learnt; known *(उपज्ञा)*

उपन्ति (adv) **:** Before, in the presence of *(उप + अन्ति)*

उपन्तिको (adj) **:** Close to, adjoining *(उपन्तिक)*

उपन्तो (adj) **:** Adjoining *(उपान्त)*

उपपदो : Conformity, accordance

उपपज्जति : To come to, attain, be produced, be reborn *(उपपद्)*

उपपारमी : Minor perfection

उपपरिक्खा : Investigation *(उपपरीक्षा)*

उपपरिक्खति : To investigate, ascertain *(उप + परि + ईक्ष्)*

उपपति : A paramour *(उपपति)*

उपपत्ति : Birth, rebirth *(उपपत्ति)*

उपपीळको (adj) **:** Oppressive *(उपपीड् + अक)*

उपराजा : A viceroy *(उपराज)*

उपरज्जं : Post of viceroy, viceroyalty *(उप + राज्य)*

उपरमनं : Cessation *(उपरमण)*

उपरमति : To cease *(उपरम्)*

उपारम्भो : Being angry with a person *(उप + आ + रभ्)*

उपरति : Cessation *(उपरति)*

उपरतो : Having ceased or desisted; deseased, dead *(उपरत)*

उपरवो : Noise and bustle *(उपरव)*

उपरि (adv) **:** Above, upon, over upwards, beyond, further *(उपरि)*

उपरिमो (adj) **:** Uppermost, over-head *(उपरि + म)*

उपरितनो (adj) **:** Upper *(उपरितन)*

उपरित्तं : Superposition *(उपरि + त्व)*

उपरोधो : Obstacle; detriment *(उपरोध)*

उपरुज्झति : To be stopped, to cease, be annihilated *(Pass उपरुध्)*

उपरूपरि (adv) **:** Higher and higher, one above another *(उपरि + उपरि)*

उपसग्गो : Trouble, misfortune, danger; preposition *(उपसर्ग)*

उपसाखा : A minor branch *(उपशाखा)*

उपासको : A pious Buddhist not in orders, a devout or faithful layman, lay devotee *(उपासक)*

उपसमनं : Appeasing *(उपशमन)*

उपसंम्भ्यानं : The outer garment, the cloak *(उपसंव्यान)*

उपसंम्हरति : To bring to-gether *(उपसंहृ)*

उपसंम्हितो : Accompanied or furnished with *(उपसंहित)*

उपसम्मति : To grow calm; to cease; to be settled *(उपशम्)*

उपसम्पदा : Taking, obtaining, acquiring; priest orders *(उपसंपद् + आ)*

उपसम्पज्जति : To attain, enter on, take upon oneself; to reach, approach *(उपसंपद्)*

उपसंवसति : To take up one's abode in *(उप + सं + वस्)*

उपासनं : Attendance, service, homage *(उपासन)*

उपासनं : Archery *(उपासन)*

उपसङ्कमनं : Approaching

उपसङ्कमति : To go to, approach *(उपसंक्रम्)*

उपसन्तो : *See उपसम्मति*

उपसप्पति : To approach *(उपसृप्)*

उपासति : To attend, honour, serve, revere *(उपास)*

उपसेवा : Service, honouring *(उपसेवा)*

उपसेवति : To serve, to honour: to practice, frequent *(उपसेव्)*

उपसेवी (adj) **:** Serving, frequenting *(उपसेविन्)*

उपासिका : *See उपासको*

उपसोभेति : To adorn *(उपशोभयति)*

उपस्सग्गो : *See उपसग्गो*

उपस्सट्ठो : Oppressed, beset, ruined *(उपसृष्ट)*

उपस्सयो : Asylum, dwelling *(उपाश्रय)*

उपस्सुति : Listening to *(उपश्रुति)*

उपसुस्सति : To dry up *(उपशुष्)*

उपतापेति : To vex, torment *(उपतापयति)*

उपतिस्सो : A name of Sariputta *(उपतिष्य)*

उपतिवत्तो : Escaped from

उपट्ठहनं + उपट्ठहति : *See उपट्ठानं + उपट्ठाति*

उपट्ठाको : A servitor, personal attendant *(उपस्थायक)*

उपत्थम्भनं : Supporting *(उपस्तम्भन)*

उपत्थम्भति : To support, prop *(उपस्तम्भ)*

उपत्थम्भो : Stay, support, prop, help, encouragement *(उपस्तम्भ)*

उपट्ठानं + उपट्ठहनं : Waiting on, attendance, service, keeping near, readiness *(उपस्थान)*

उपट्ठापको (adj) **:** A teacher *(उपस्थापक)*

उपट्ठापनं : Providing etc. *(उपस्थापन)*

उपट्ठाति, उपट्ठहति : To serve, wait on, attend, minister to, support; to be ready; to be present *(उपस्था)*

उपट्ठायिका : A female disciple *(उपस्थायिक)*

उपवादको (adj) **:** Blaming

उपवादना : Blame *(उपवद्)*

उपवदति : To blame *(उपवद्)*

उपवादो : Blame *(उपवाद)*

उपवहति : To bring about *(उपवह)*

उपवनं : A park *(उपवन)*

उपवण्णेति : To describe fully *(उपवर्ण)*

उपवसति : *See उपोसथो*

उपवासो : Temporary abstinence for a time from all wordly enjoyment, fasting, self-mortification, penance *(उपवास)*

उपवस्सं (adj) : At the approach of the rainy season *(उप + वर्ष)*

उपावत्तो : Refraining *(उपावृत्त)*

उपवेसनं : Sitting down *(उपवेशन)*

उपवीणेति : To play the lute to a person *(उपवीणयति)*

उपवीणो : The neck of a lute *(उप + वीणा)*

उपविसति : To sit down *(उपविश्)*

उपवुत्थो : *See उपोसथो*

उपयमो : Marriage *(उपयम)*

उपयानं : Approaching *(उपयान)*

उपायनं : A present *(उपायन)*

उपायासो : Desperation, despair *(उप + आयास)*

उपयाति : To go to, to approach *(उपया)*

उपायो : Means of success, expedient, stragtegem *(उपाय)*

उपयोगो : Employment, use *(उपयोग)*

उपेच्च : *See उपेति*

उपेक्खा, उपेक्ख : Indifference to pain and pleasure, equanimity resignation, stoicism *(उपेक्षा)*

उपेक्खको (adj) : Resigned, patient *(उपेक्षक)*

उपेक्खति : To be indifferent, stoical *(उपेक्ष)*

उपेति : To go to approach, enter, undergo, incur *(उपे)*

उपोग्घातो : An example *(उपोद्धात)*

उपोसथिको (adj) : Fasting, keeping the Uposatha vows; belonging to the Uposatha

उपोसथो : The Buddhist Sabbath or fast-day: fasting abstinence from sensual pleasure: monastic ceremony of reading the Patimokkha *(उपवसथ)*

उपोसथो (adj) : Belonging to the Uposatha *(उपवसथ + अ)*

उप्पब्बजति : To leave the priesthood, throw off the robes *(उद् + प्रव्रज)*

उप्पादनं : Production, causing *(उत्पादन)*

उप्पादेति : *See उप्पज्जति*

उप्पादो : Springing up, appearance, birth: an omen *(उत्पाद)*

उप्पज्जनको (adj) : Arising, being born

उप्पज्जनं : Arising

उप्पज्जति : To arise, originate, be produced, be born, appear *(उत्पद्)*

उप्पक्कमो : An expedient

उप्पलं : The blue lotus; a water lily: one of the high numerals or 1 followed by 98 ciphers *(उत्पल)*

उप्पलिनी : An assemblage of blue lotuses *(उत्पलिनी)*

उप्पण्डेति : To ridicule *(उद् + पण्ड्)*

उप्पन्नो : *See उप्पज्जति*

उप्परिक्खति : To investigate *(उद् + परि + ईक्ष्)*

उप्पाटनको (adj) **:** Rooting out *(उत्पाटन + क)*

उप्पतनं : Springing up, arising: jumping up *(उत्पतन)*

उप्पतति : To fly or rise up into the air: to spring upwards, to jump *(उत्पत्)*

उप्पाटेति : To root out, tear out, tear off *(उत्पाटयति)*

उप्पथो : Wrong road, error, sin *(उत्पथ)*

उप्पत्ति : Arising, birth, production *(उत्पत्ति)*

उप्पीळेति : To press together *(उत्पीड)*

उरब्भो : A ram *(उरभ्र)*

उरचक्कं : An iron wheel which forms an instrument of a torture in one of the hells *(उरस + चक्र)*

उरच्छदो : Mail armour *(उरश्चद्)*

उरगो : A snake; a Naga *(उरग)*

उरणो : A ram *(उरण)*

उरसिलोमो (adj) **:** Hairy - breasted

उरो, उरं : The breast, chest *(उरस्)*

उरत्थलं : The breast *(उर:स्थल)*

उरु (adj) **:** Large: excellent, eminent *(उरु)*

उरु : Sand

ऊरु : Thigh *(ऊरु)*

उरुवेला : Name of a town in the Magadha country *(उरुविल्वा)*

उसभं : A measure of twenty yatthis

उसभो : A bull:name of one of the notes of the Hindu gamut: best, eminent (at the end of a compound) name of a drug *(ऋषभ)*

ऊसरो (adj) **:** Saline *(ऊषर)*

ऊसवा (adj) **:** Saline *(ऊष + वत्)*

उसीरो + रं : The fragrant root of andropogon Muricantum *(उशीर)*

उस्मा : Heat *(उष्मन्)*

ऊसो : Salt-ground *(ऊष)*

उस्सदो : Protuberance *(उत्सद्)*

उस्सहति : To be able; to endeavour *(उत्सह्)*

उस्साहो : Strength, effort, endeavour *(उत्साह)*

उस्सङ्कि (adj) **:** Distrustful, anxious *(उद् + शङ्किन्)*

उस्सनो : Increased, extensive, prevalent, rife, intense *(उत्सन्न)*

उस्सङ्कितो (adj) **:** Distrustful; anxious *(उद् + शङ्कित्)*

उस्सापेति : To lift up, raise, exalt *(caus उच्छ्रि)*

उस्सारणं : Driving away *(उत्सारण)*

उस्सवो : Festival, merry-making, holiday *(उत्सव)*

उस्सावो : Hoar-frost dew *(अवश्याय)*

उस्सिञ्चति : To bale out, exhaust *(उत्सिच्)*

उस्सीसकं : A pillow, the head of a bed *(उच्छीर्षक)*

उस्सोळ्हि : Exertion

उस्सुक्कं : Zeal, energy, hardwork: eagerness, longing *(ओत्सुक्य)*

उस्सुको (adj) **:** Zealous, eager, active, energetic *(उत्सुक)*

उस्सूरसेय्या : Sleeping after the sun-rise *(उत्सूर + शय्या)*

उस्सुस्सति : To become dried up *(उच्छुष)*

उसु : An arrow *(इषु)*

उसुमा : Heat *(उष्मन्)*

उसूया, उसूय्या : Envy, jealousy, detraction *(असूया)*

उसूयति, उसुय्यति : To be envious, jealous, disconted *(असूयति)*

उत्रसो : Alarmed *(उत्रस्त)*

उत्तमो (adj) **:** Best, highest, chief, excellent, eminent, supreme, first-rate *(उत्तम)*

उत्तंसो : A chaplet; an earring *(उत्तंस)*

उत्तानो : Lying on its back, supine: shallow; open, evident, clear, easy *(उत्तान)*

उत्तापेति : To heat *(उत्तापयति)*

उत्तरति : To cross over, escape from *(उत्तृ)*

उत्तरी (adj) **:** Superior, highest, best *(उत्तरिन्)*

उत्तरिं (adj) **:** Beyond, above: furthur, besides, more, longer

उत्तरितरो (adj) **:** Superior, better, higher, more eminent *(उत्तरतर)*

उत्तरीयं : An outer garment, cloak, scarf *(उत्तरीय)*

उत्तरो (adj) **:** Higher, high, superior, upper: northern, subsequent *(उत्तर)*

उत्तसति : To be alarmed *(उत्त्रस्)*

उत्तासो : Terror *(उत्त्रास)*

उत्तत्तं : Dried flesh *(उत्तप्त)*

उट्ठहनं : *See उट्ठानं*

उट्ठहति, उट्ठाति : To rise, stand-up, get up: to arise, be produced, to rouse or exert oneself, to be aetive *(उत्थ)*

उट्ठानं, उट्ठाहनं : Rising, standing up: rise, origin: exertion manly vigour

उट्ठानव (adj) **:** Strenous, active *(उत्थानवत्)*

उट्ठापनं : Rising exhorting *(उत्थापन)*

उट्ठापेति, उट्ठाय : *See उट्ठहति*

उट्ठायी : *See पुब्बुट्ठायी*

उट्ठितो : *See उट्ठहति*

उट्ठभति : To spit out *(उद् + ष्टिव)*

उत्ति Speech, utterance *(उक्ति)*

उत्तिण्णो : *See उत्तरति*

उत्तिट्ठे : *See उट्ठहति*

उत्तो : *See वुत्तो*

उतु : Season time; season of the year: the menses *(ऋतु)*

उतुजो (adj) **:** Produced by the season *(ऋतु + ज)*

उतुनी : A menstruating woman

उय्यामो : Exertion *(उद्याम)*

उय्यानं : Going forth; a royal garden or pleasure grounds *(उद्यान)*

उय्याति : To go out or forth *(उद्या)*

उय्योधिकं : A sham fight

उय्योगो : Setting out, departure; near approach of death, decay *(उद्योग)*

उय्योजनं : Inciting, instigation

उय्युञ्जति : To exert oneself *(उद्युज्)*

उय्युतो : Striving, busy *(उद् + युत)*

उय्युत्तो : *See उय्युञ्जति*

V

व : *See इव*

वा (conj) **:** Or *(वा)*

वचा : Orris root *(वचा)*

वाचा : Word saying; speech *(वाचा)*

वाचको (adj) **:** Speaking, expressing *(वाचक)*

वाचालो (adj) **:** Talkative *(वाचाल)*

वचम्यमो : A muni or Sage *(वचस् + यम्)*

वचना, नं : Recitation, reading, teaching, declaring *(वाचन)*

वचनं : Speaking, saying, declaring; enjoying, injunction; advice; word, speech, utterance, expression; sentence, passage, text *(वचन)*

वचनीयो, वाचापेति : *See वत्ति*

वचसा : *See वचो*

वाचसिको (adj) **:** Connected with speech, verbal *(वचस् + इक)*

वचसो (adj) **:** At the end of a compound a substitue for *वचस् (वचस)*

वच्चं : *See वच्चो*

वच्छको : A calf *(वत्सकं)*

वच्छलो (adj) **:** Affectionate *(वत्सल)*

वच्छतरो : A bullock, steer *(वत्सतर)*

वच्छति : See *वसति*

वच्छायनो, वच्चानो : A proper name *(वात्स्यायन्)*

वच्छो : a calf *(वत्स)*

वच्चो, वच्चं : Lustre; form: excrement *(वर्चस्)*

वाच्चो, वाचेति : *See वत्ति*

वची : Speech, words *(वच् + ई)*

वाचिकं : News *(वाचिक)*

वाचितो : *See वत्ति*

वचो : Speech, words, saying; advise, injunction, order *(वचस्)*

वादको (adj) **:** Playing (music) *(वादक)*

वदनं : The mouth, the face; speech, utterance *(वदन)*

वादनं : Playing on a musical instrument, music *(वादन)*

वदानीयो (adj) **:** Bountiful

वदञ्ञु (adj) **:** Bountiful: affable *(वदन्य)*

वदति, वदेति : To speak, say: to declare, proclaim *(वद्)*

वद्दलिका : Rainy weather *(वार्दल + इका)*

वड्ढकि : An artisan, carpenter, mason *(वर्धकि)*

वड्ढको (adj) **:** Augmenting, enlarging *(वर्धक)*

वड्ढमानको (adj) **:** Growing *(वर्धमानक)*

वद्धमयो (adj) **:** Leathern *(वध्र + मय)*

वड्ढनं : Increase, enlargement *(वर्धन)*

वड्ढनो (adj) **:** Augmenting *(वर्धन)*

वद्धतरो : *See next*

वड्ढति : To grow, increase, multiply; to prosper *(वृध्)*

वड्ढि : *See वुद्धि*

वड्ढितो, वद्धो : *See वड्ढति*

वदेति, वादेति : *See वदति*

वधको (adj) **:** Murderous *(वधक)*

वधति : To strike, to kill *(वध)*

वधो : Killing, slaughter, murder, assassination: striking *(वध)*

वधु : Bride, a young wife; a girl: a daughter-in-law

वधुका : A daughter-in-law *(वधुका)*

वादी (adj) **:** Saying, speaking, asserting, holding doctrine; disputing, arguing *(वादिन्)*

वादिको (adj) **:** At the end of a compound a substitute for vadi

वादितं : *See वदति*

वादित्तं : A musical instrument; instrumental music *(वादित्र)*

वादित्तं : *वादित्व*

वदो (adj) **:** Speaking sensibly *(वद)*

वादो : Speaking, speech, talk: assertion: controversy, discourse, doctrine, creed: belief, heresy

वग्गति : To jump *(वल्ग्)*

वग्गियो (adj) **:** Belonging to a class *(वर्ग्य)*

वग्गो : A class, troop, multitude, company, tribe, party *(बर्ग)*

वग्गु (adj) **:** Beautiful, pleasant *(वल्गु)*

वागुरिको : A sportsman using nets *(वागुरिक)*

वहा :	A river *(वहा)*
वाहनं :	Carrying; a vehicle; an animal used in riding *(वाहन)*
वाहसो :	A boa constrictor or python *(वाहस)*
वहति :	To carry, transport, draw; to bear along; carry off; to experience, possess *(वह)*
वाही (adj) **:**	Carrying *(वाहिन्)*
वहो (adj) **:**	Carrying *(वह)*
वाहो :	A bearer, leader; a horse, a vehicle; a cart; a measure of capacity *(वाह)*
वजति :	To go, to walk *(व्रज्)*
वजिरो + रं :	The thunderbolt of Indra; diamond, admant, a stone which bores gems *(वज्र)*
वज्जं :	A musical instrument *(वाद्य)*
वज्जं :	That which should be avoided, fault, sin *(वर्ज्य)*
वज्जनं :	Avoiding, forsaking, escaping *(वर्जन)*
वज्जनियो :	That should be shunned, improper *(वर्जनीय)*
वज्जति :	*See वदति*
वज्जेति :	To avoid, abstain from, renounce, escape, leave out, pass over, expect; to remove dispel *(वर्जयति)*
वज्झा :	Execution *(वध्या)*
वज्झो :	To be killed or destroyed, meriting death *(वध्य)*
वज्जी :	Name of a people, the Licchavi princess *(वृजि)*
वजो :	A cow-pen *(व्रज)*
वाजो :	The feather of an arrow *(वाज)*
वाकं :	Bark of a tree *(वल्क)*
वाकरा :	A net of snare *(वागुरा)*
वक्कलं, लो :	Bark garment worn by ascetics *(वल्कल)*
वक्कं :	The kidney *(वृक्क)*
वक्कङ्गो :	The ruddy goose *(वक्राङ्ग)*
वाक्करणं :	Talk, assertion *(वाच् + करण)*
वक्खति :	*See वत्ति*
वक्को :	Crooked *(वक्र)*
वको :	A wolf *(वृक)*

वकुल : The tree Mimusops Elengi *(वकुल)*

वाक्यं : A speech, a sentence *(वाक्य)*

वळबानलो : A submarine-fire at the south pole *(वडवा + अनल)*

वळभामुखं : A hollow or pool

वळभि : A roof *(वडभि)*

वालधि : A horse's or cow's tail *(बालधि)*

वाळगाही : A snake charmer *(व्यालग्राहिन्)*

वालग्गं : The tip of a hair *(बालाग्र)*

वलाहको : A cloud *(वलाहक)*

वालहत्थो : A horse's tail *(बालहस्त)*

वलजो : A sort of fish

वालं : Water *(वार्)*

वाळमिगो : A tiger, leopard or other beasts of prey *(व्यालमृग)*

वलञ्जको (adj) **:** Using, frequenting

वलञ्जनं : Use, resorting to

वलञ्जेति : To use, to resort to, to spend

वलञ्जो : Use expenditure; a mark: resorting to: frequenting *(अब + लञ्ज)*

वळवा : A mare *(वडवा)*

वालवेधि : An archer who can hit a hair *(बाल + वेधिन्)*

वालवीजनी : A fan made of a yak's tail, a chowrie *(बाल + बीजनी)*

वलयितो (adj) **:** Encircled *(वलयित)*

वलयं, वलयो : A bracket, ring, circle *(वलय)*

वली : A fold of the skin, wrinkle; a line, streak *(वलि)*

वालिका : Sand *(बालिका)*

वलीमुखो : A monkey; wrinkled face *(वलीमुख)*

वलिरो (adj) **:** Squint-eyed *(वलिर)*

वलितो (adj) **:** Wrinkled *(वलित)*

वलित्तचो (adj) **:** Wrinkled skin *(वलि + त्वच्)*

वल्लभो (adj) **:** Beloved *(वल्लभ)*

वल्लकी : An Indian Lute *(वल्लकीं)*

वल्लरी : A compound pedicle a bunch, a cluster *(वल्लरी)*

वल्ली : A creeper, creeping plant *(वल्ली)*

वल्लिभो : The plant Kumbhanda

वल्लूरो, रा, रं : Dried flesh *(वल्लूर)*

वालो : Hair of the head; hair of animals; the hairy tail of an animal *(बाल)*

वाळो : A snake; a beast of prey *(व्याल)*

वालुका : Sand *(वालुका)*

वामदेवो, वामको : *See इसि*

वमनं : Vomitting; an emetic *(वमन)*

वामनो : Dwarfish *(वामन)*

वमथु : Vomitting *(वमथु)*

वमति : To vomit; to eject, discharge *(वम्)*

वामतो : On the left side, to the left *(वाम + तस्)*

वम्मं : Armour *(वर्मन्)*

वम्मिको, कं : An ant-hill *(वल्मिक)*

वम्मितो : Wearing armour *(वर्मित)*

वमो : Vomitting *(वम)*

वामो (adj) **:** Left; reverse; opposite; beautiful *(वाम)*

वंसागतो (adj) **:** Come down from father to son, hereditary *(वंशागत)*

वंसजो (adj) **:** Belonging to a race *(वंशज)*

वंसक्कमो : Lineage, pedigree *(वंशक्रम)*

वंसवण्णं : The veluriya gem *(वंश + वर्ण)*

वंसिको : A flute-player, piper *(वांशिक)*

वंसो : A bamboo; a file; race family, lineage; dynasty; hereditary custom, tradition *(वंश)*

वनचरको : A forester *(वनचर + क)*

वनचरो : Wandering in the forest *(वनचर्)*

वनं : A wood, forest, water *(वन)*

वणो, वणं : A sore, wound, boil *(व्रण)*

वानं : Sewing *(वानं)*

वानं : Desire, lust *(वानं)*

वनन्तो : The edge or skirt of a forest *(वनान्त)*

वानपत्थो : A Brahmin of the third order, an anchorite *(वानप्रस्थ)*

वनप्पति, वनस्पती : A tree bearing fruit but without apparent blossoms; any tree *(वनस्पति)*

वनराजी : A tract of forest; an open glade or ride in a forest *(वनराजि)*

वानरो : A monkey *(वानर)*

वनसण्डो : A forest, wood *(वन + षण्ड)*

वनस्पति : *See वनप्पति*

वनथो : The undergrowth in a forest, brushwood, shrubs, saplings: desire, lust *(वनथ)*

वनवासो : Name of a country, according to Vijesiha it is Thibet *(वनवास)*

वञ्चको (adj) **:** Deceitful *(वञ्चक)*

वञ्चनं : Deception, illusion *(वञ्चन)*

वञ्चेति (caus) **:** To deceive, clude, delude *(वञ्चयति)*

वन्दाका : A parasitical plant *(वन्दाका)*

वन्दना,-नं : Salutation, paying, reverence; veneration, homage *(वन्दना, वन्दन)*

वन्दनीयो (adj) **:** Deserving homage *(वन्दनीय)*

वन्दापनं : Causing to-do homage

वन्दति : To salute, make obeisance, pay homage to, revere venerate *(वन्द्)*

वन्दि : A prisoner *(वन्दि)*

वन्दि : A bard, panegyrist *(वन्दिन्)*

वानेय्यं : The fragrant grass Cyperus Rotundus *(वानेय)*

वङ्गो : Bengal *(वङ्ग)*

वङ्गो : Discolouration of the face: a entaneous complaint *(व्यङ्ग)*

वाणी : Voice, speech *(वाणी)*

वनिब्बको : A beggar, mendicant, pauper *(वनीपक)*

वाणिजको : A trader *(वाणिज)*

वणिज्जा : Trade *(वणिज्जा)*

वणिप्पथो : A trading town, mart; trade *(वणिकपथ)*

वनिता : A woman *(वनिता)*

वणितो (adj) **:** Wounded, bruised *(व्रणित)*

वञ्झो (adj) **:** Barren, sterile *(बन्ध्य)*

वञ्जुलो : The ratan, calamus rotang *(वञ्जुल)*

वङ्को (adj) **:** Crooked, bent: cunning, dishonest

वण्णदासी : A prostitute *(वर्ण + दासी)*

वण्णकं : Paint, rouge *(वर्णक)*

वण्णना : Description, narration: explanation, a comment, commentary *(वर्णना)*

वण्णवा (adj) : Having colour, having beauty *(वर्णवत्)*

वण्णवदी (adj) : Eulogizing, a panegyrist *(वर्णवादिन्)*

वण्णेति : To depict, describe; to praise, applaud, approve; to explain, comment upon *(वर्ण)*

वण्णी (adj) : Having colour, having the appearance of *(वर्णिन्)*

वण्णो : Appearance, form, figure: colour: sort: kind: tribe, caste: complexion: beauty: praise, fame, a letter, vowel, syllable: quality, property *(वर्ण)*

वञ्ञो (adj) : Sylvan *(वन्य)*

वण्णु : Sand

वणो : *See वणं*

वण्टं : A stalk *(वृन्त)*

वन्तासिको : Name of a sort of Peta–eating what has been vomitted *(वान्ताशिन् + क)*

वन्तासो : One who has renounced all desires, an Arahata *(वान्त + आशा)*

वन्तो : *See वमति*

वपा : The serous secretion or fat that spreads among the muscles *(वपा)*

वपनं : Sowing *(वपन)*

वपति : To sow: to shave *(वप्)*

वापि : *See वा*

वापी : A reservoir, lake, tank *(वापी, वापि)*

वापितो : Sown *(वापित)*

वापो : Sowing *(वाप)*

वप्पो : Sowing; the bank of a river *(वप्र)*

वपु : The body *(वपुस्)*

वारवाणं, णो : A woman's jacket or bodice *(वारवाण)*

वरदीपो : The glorious isle viz. Ceylon *(वर + द्वीप)*

वरदो : An epithet of Buddha, as having shown the way to Nirvana–lit, giver of the boon *(वरद)*

वराहरो : Bringing the boon *(वर + आहर)*

वराहो : A boar, wild hog: an elephant *(वराह)*

वरको : The bean Phaseolus Trilobus *(वरक)*

वराको (adj) : Wretched, miserable *(वराक)*

वराको : A pot, jar

वरं : *See वरो*

वारणं : Resistance *(वारण)*

वरङ्गं : The head, the female pudenda *(वराङ्ग)*

वराङ्गना : A noble or beautiful woman *(वराङ्गना)*

वरञ्ञु : One who has discovered Nirvana, an epithet of Buddha *(वर + ज्ञ)*

वरणो : A surrounding wall, rampart; the tree Cartaeva Roxiburghii *(वरण)*

वारणो : An elephant; the Hatthilinga bird *(वारण)*

वरपञ्ञो (adj) **:** A noble-wisdom, epithet of Buddha *(वर + प्रज्ञा)*

वरारोहा : A noble lady

वरासन : An excellent seat, chair of state *(वरासन)*

वरतरो (adj) **:** Better, more, excellent *(वरतर)*

वरत्ता : A strap, thong *(वरत्रा)*

वारत्तिको (adj) **:** Bound with a thong *(वरत्रा)*

वरवण्णिनी : An excellent woman *(वरवर्णिनी)*

वारेति : *See वुणाति*

वारि : Water *(वारि)*

वारिदो : A cloud *(वारिद)*

वारिजं : A lotus *(वारिज)*

वारिजो : A fish *(वारिज)*

वारिमग्गो : An issue from a sluice, watercourse *(वारि + मार्ग)*

वारितो : *See वुणाति*

वारित्तं : Avoidance

वारिवाहो : A cloud *(वारिवाह)*

वारियति : *See वुणाति*

वरो : Choosing, appointing; a boon, blessing, favour *(वर)*

वरो (adj) **:** Exellent, best, precious, noble *(वर)*

वारो : Time, oceasion: turn, day of the week *(वार)*

वारुणी : Spirituous liquor *(वारुणी)*

वरुथो : A wooden ledge or fender round a chariot *(वरुथ)*

वसा : A barren cow: an obedient wife *(वशा)*

वसा : Serum, marrow of the flesh, fat *(वसा)*

वसभो : A bull *(वृषभ)*

वासचुण्णं, ण्णकं : Toilet perfume *(वास + चूर्ण)*

वासागारं : A bed-room *(वास + अगार)*

वसगो (adj) **:** Subject, obedient *(वशग)*

वसलो : An outcaste, pariah; a low person, reprobate *(वृषल)*

वसं : *See वसो*

वासना : Impression of mind from past good or evil actions and producing pain or pleasure *(वासना)*

वसनं : Dwelling *(वसन)*

वसनं : Cloth, clothes, clothing *(वसन)*

वासनं : Perfuming and decorating the person *(वासन)*

वासन्ती : The creper Gaertura Racemosa *(वासन्ती)*

वसन्तो : One of the seasons, spring *(वसन्त)*

वसति : To dwell, stay, live, abide, spend time *(वस्)*

वसति : Dwelling, residence: a dwelling place, abode *(वसति)*

वसवत्ती (adj) **:** Bringing into subjection *(वशवर्तिन्)*

वासव : A sakka or Indra *(वासव)*

वासयोगो : Toilet powder *(वास + योग)*

वसेन : *See वसो*

वासेति : *See वसति*

वासेट्ठो : Name of a Rishi: a proper-name *(वासिष्ठ)*

वासी (adj) **:** Having the sense under control *(वाशिन्)*

वासि : A razor *(वासि)*

वासी : An axe, adze, hatchet *(वाशी)*

वासी : Dwelling *(वासिन्)*

वसीभावो : Subjection: self-control, subjugation of the senses *(वशी भाव)*

वसीभूतो (adj) **:** Subjected, self controlled *(वशीभूत)*

वसीकरोति : To bring into subjection *(वशीकृ)*

वसिकता : Subjection

वसिको (adj) **:** Subject to *(वशिक)*

वासिको : Dwelling, inhabiting *(वासिन् + क)*

वासितको (adj) **:** Perfumed *(वासित + क)*

वसितो, वासितो : *See वसति*

वासितो : Scented *(वासित)*

वासिट्ठो : A proper-name *(वासिष्ठ)*

वसो, वसं : Wish, desire: will, authority, power, influence, control, mastership, ownership *(वश)*

वासो : Pefrume *(वास)*

वासो : Clothing, cloth *(वास)*

वासो : Dwelling, staying, stopping, living; an abode, habitation, lodging, house *(वास)*

वस्सकम्मं : One of the low arts giving virility *(वर्ष + कर्मन्)*

वस्सं : *See वस्सो*

वस्सनं : Rain *(वर्षण)*

वस्सानो : The rainy season

वस्ससतं : A century *(वर्षशत)*

वस्सति : To utter a cry (of an animal)

वस्सति : To fall, pour down, rain *(वृष)*

वस्सवरो : A eunuch *(वर्षवर)*

वस्सवासिको (adj) **:** Connected with spending the rainy season

वस्सिकी : Great flowered jasmine

वस्सिको (adj) **:** Belonging to the rainy season: belonging to a year *(वर्षिक, वार्षिक)*

वस्सो : A he-goat *(बस्त)*

वस्सो, वस्सं : Rain, a year *(वर्ष)*

वस्सुपनायिका : Entrance upon lent or commencement of vassa residence *(वर्ष + उपनायिका)*

वस्सोकसारा : A name of Sakka's city

वसु : A class of Hindu gods *(वसु)*

वसु : Wealth; a gem *(वसु)*

वासुदेवो : The Hindu god Krishna *(वासुदेव)*

वसुधा : The earth *(वसुधा)*

वासुकि : The king of snakes *(वासुकि)*

वसुमति : The earth *(वसुमति)*

वसुन्धरा : The earth *(वसुंधरा)*

वत (indecl.) **:** O! ah! alas! indeed, verily *(वत)*

वातावाधो : Rheumatism *(वात + आबाध)*

वातधातको : The tree Cassia fistula *(वात + घातक)*

वटाकारो : A cord

वाटको : Enclosure, circle *(वाट + क)*

वतं : *See वतो*

वातमिगो : A swift antelope *(वातमृग)*

वातण्डं : Elephantiasis of the scrotum *(वाताण्ड)*

वातपानं : A window *(वात + पान)*

वतवा (adj) **:** Devout, observant of religious duties *(व्रत + वत)*

वातायनं : A window *(वातायन)*

वठरो : Bulky, gross *(वठर)*

वति : A fence *(वृति)*

वाति : *See वायति*

वातिको (adj) **:** Rheumatic *(वातिक)*

वातिङ्गणो : The egg-plant Solanum Melongena *(वातिंगण)*

वतो, वतं : Observance, practice, habit: religious duty or act, rite *(व्रत)*

वटो : The banyan or Indian fig tree *(वट)*

वत्रभू : A name of Indra

वत्ता : One who says or tells: one who speaks sensibly *(वक्तृ)*

वात्ता : Rumour, news *(वार्त्ता)*

वत्तब्बो : *See वत्ति*

वट्टका : A quail *(वर्तका)*

वात्ताकी : The egg plant *(वार्ताकी)*

वत्तं : The mouth, face *(वक्त्र)*

वत्तं, वट्टं : *See वत्तति*

वत्तनं : Livelihood, subsistence: going on, continuing to exist *(वर्तन)*

वत्तनी : Abiding, living: a road *(वर्तनी)*

वत्तापको (adj) **:** Causing to take place

वत्तापेति : *See वत्तति*

वत्तारो : *See वत्ता*

वत्तति : To begin: to proceed: to go on, to be carried on, to take place: to stay: remain: to exist: to occupy oneself with, practice: to conduce, tend: to prevail, be customary

वट्टति : To behave, to be right

वत्थगुह्यं : Pudendum *(वस्त्र + गुह्य)*

वत्थकं : A cloth, garment *(वस्त्र + क)*

वत्थं : Cloth: clothes: raiment *(वस्त्र)*

वत्थि : The abdomen, the bladder *(वस्ति)*

वत्थिको (adj) : Belonging to cloth *(वस्त्र + इक)*

वत्थीयति : To wish for clothes

वत्थु, वत्थुं : Substance; object, thing, matter: occasion, cause; plot or subject, story, narrative *(वस्तु)*

वत्थु : A site, building ground, floor *(वास्तु)*

वत्थुलं, वत्थुलेय्यकं : A plant–Chenopodium album

वत्थुं : See *वसति, वत्थु*

वत्थुत्तयं : The three objects viz. Buddha, law and church *(वस्तु + त्रय)*

वत्थुविज्जा : A magic art by which the proper site for a building etc. is ascertained the Scienee of building-Sites *(वास्तु + विद्या)*

वत्ति : To speak, to say: to speak to, address *(वच्)*

वट्टि, वट्टी : A fringe; a rim, brim: a wick: a lump, ball *(वर्ति, वर्ती)*

वट्टिका : A thong: a wick: a rim: a lump: ball: pill *(वर्तिका)*

वत्तो : Shaven *(उप्त)*

वत्तो, वट्टो : Round see *वत्तति*

वट्टो : Expenditure *(वर्त)*

वट्टो : Rained–see *वस्सति*

वट्टुलो : Circular *(वर्तुल)*

वत्तुं : *See वत्ति*

वटुमं : A road *(वर्त्मन्)*

वत्वा : *See वत्ति*

ववकट्ठो : Withdrawn, secluded *(व्यवकृष्ट)*

ववत्थानं : Fixing *(व्यवस्थापन)*

ववत्थापेति : To place, fix, settle; establish *(व्यवस्थापयति)*

ववत्थितो : Fixed, arranged, appointed *(व्यवस्थित)*

वायमति : To struggle, strive, endeavour *(व्यायाम्)*

वायामो : Toil, fatigue, exertion, effert, contention *(व्यायाम)*

वायनं : Weaving(*from वे*)

वायापेति (caus) : To cause to be woven (*caus वे*)

वयप्पत्तो, वयसा : *See वयो*

वायसारि : An owl *(वायसारि)*

वायसो : A crow *(वायस)*

वयस्सो : A friend *(वयस्य)*

वायति, वाति : To blow; to breathe forth; emit; to be emitted *(वा)*

वयट्ठो (adj) : In the prime of life, young *(वय = स्थ)*

वयो : *See व्ययो*

वयो, वयं : Youth, prime of life: any period of life, age *(वयस्)*

वायु, वायो : Air, wind *(वायु)*

वे (particle) : Indeed, truely, verily *(वै)*

वेभारो : Name of a mountain

वेभस्सं : Bullying or threatening language

वेभूतियं : Slander

वेदगु (adj) : Knowing the vedas *(वेद + ग)*

वेदल्लं : Name of one of the nine angas or divisions of the Buddhist scriptures according to matter

वेदना : Feeling, sensation, perception; pain, suffering *(वेदना)*

वेदनाक्खन्धो : The second khandha, sensation *(वेदना + स्कन्ध)*

वेदनं : Sensation *(वेदना)*

वेदनत्तनं : Sensation

वेदनट्टो (adj) : Agonised *(वेदना + स्थ)*

वेदङ्गं : A vedanga *(वेदाङ्ग)*

वेदनीयो, वेदयितं, वेदेति : *See विदति*

वेदेहो (adj) : Belonging to the Videhas *(वैदेह)*

वेधति : To tremble, quake *(व्यथ्)*

वेधवेरो : The son of a widow *(वैधवेय)*

वेधि (adj) : Trembling *(व्यथि)*

वेधी (adj) : Piercing, shooting, hitting *(वेधिन्)*

वेधो : Piercing *(वेध)*

वेदि, वेदी : An altar; a bench; a ledge, cornice, caves *(वेदि, वेदी)*

वेदी (adj) : Knowing *(वेदिन्)*

वेदिका : A bench; a cornice, caves *(वेदि + का)*

वेदिसो (adj) : Belonging to the town of Vidisa *(वैदिश्)*

वेदितब्बो : *See विदति*

वेदो : Knowledge: pleasure, emotion, excitement: a Hindu Veda *(वेद)*

वेगी : A courier *(वेगिन्)*

वेगो : Impetus, impulse, shock, attack: speed, velocity; stream: impulse of the mind, emotion; passion *(वेग)*

वेहगमनं : Coming through the air *(विह + आगमन)*

वेहप्फलो : Name of the inhabitants of the tenth Brahmaloka *(वृहत्फल)*

वेहासट्ठो (adj) **:** In the air

वेहासयो : The air, sky

वेहासो : The air, sky, heaven

वेजयन्तिका : Name of a tree *(वैजयन्तिका)*

वेजयन्तो : Name of the palace of sakkas *(वैजयन्त)*

वेज्झं : A target *(वेध्य)*

वेज्जो : A physician *(वैद्य)*

वेकल्लं : Deficiency *(वैकल्प)*

वेला : Time, shore, boundary; multitude *(वेला)*

वेल्लितो : Shaken, trembling: crooked *(वेल्लित)*

वेळु, वेणु : A bamboo, reed: a flute *(वेणु)*

वेळुमयो (adj) **:** Made of bamboo *(वेणु + मय)*

वेळुरियं : A precious stone, perhaps lapis lazuli *(वैदूर्य)*

वेळुवनं : A bamboo-grove: a name of monastery presented by king Bimbisara to Gautam Buddha *(वेणु + वन)*

वेमज्झं : The middle, centre *(वि + मध्य)*

वेमतिको (adj) **:** Inconsistent, variable *(विमति + क)*

वेमातिको (adj) **:** Born of a different mother

वेमत्तं : Difference *(विमात्र)*

वेमो : A loom *(वेम)*

वेनतेय्यो : A Garuda *(वैनतेय)*

वेणविको : A flute-player *(वैणविकं)*

वेनयिको (adj) **:** Versed in the Vinaya *(वैनयिक)*

वैनेय्यो : Tractable, that can be converted

वेणि : A woman's hair, simply platted without ornament *(वेणि)*

वेणिको : A lute-player *(वैणिक)*

वेणो : A worker in Bamboo or wicker work *(वैण)*

वेणु : *See* वेळु

वेणुधमो : A flute-player *(वेणध्म)*

वेणुकारो : A bamboo or wicker worker *(वेणु + कार)*

वेपचित्ति : Name of an asura *(विप्रचित्ति)*

वेपाकी : *See* समवेपाकी

वेपनं, वेपथु, वेपो : Trembling, tremor *(वेपन, वेपथु, वेपस्)*

वेपुल्लं : Development abundance *(वैपुल्य)*

वेरज्जको (adj) **:** Belonging to various provinces or kingdoms *(वि + राज्य + क)*

वेरं : Wrath; anger; hatred; sin *(वैर)*

वेरमणी : Abstinence

वेरवसिको (adj) **:** Hatred or revenge *(वैर + वश + इक)*

वेरी (adj) **:** Hating, hostile, revengeful *(वैरिन्)*

वेरिवा : An enemy *(वैरिन् + वन्)*

वेरोचनो : The sun *(वैरोचन)*

वेसाखो : Name of a month, April, May *(वैशाख)*

वेसाली : Name of a town in the Licchavi country *(वैशाली)*

वेसालिको, यो(adj) **:** Belonging to Vesali

वेसनं : Inequality *(विषम + अ)*

वेसारज्जं : Confidence *(वैशारद्य)*

वेसायी : A name of yama

वेसयिको (adj) **:** Belonging to a sphere of action *(वैषयिक)*

वेसी, वेसिया : A harlot *(वेश्या)*

वेसियानो : A Vaisya

वेस्मं : A house *(वेश्मन्)*

वेसो : Dress, apparel, equipment; disguise *(वेश)*

वेस्सभू : Name of a Buddha *(विश्वभू)*

वेस्सामित्तो : Name of a Rishi *(वैश्वामित्त)*

वेस्सानरो : Fire *(वैश्वानर)*

वेस्सन्तरो : Name of a king who was the Bodhisattva in the last birth but one *(विश्वान्तर)*

वेस्सवणो : A name of Kuvera *(वैश्रवण)*

वेस्सो : A Vaisya *(वैश्य)*

वेताळं : A magic art

वेतालिको : A bard whose duty it is to awaken a king at dawn with music and song *(वैतालिक)*

वेतनं : Hire, wages *(वेतन)*

वेतनिको : A hired servant; labourer *(वैतनिक)*

वेतरणी : The river of hell *(वैतरणी)*

वेतसो : The ratan reed, Calamus Rotang *(वेतस)*

वेठको (adj) : Surrounding, enveloping *(वेष्टक)*

वेठनं : Surrounding enveloping; a turban, diadem: an envelope, wrap *(वेष्टन्)*

वेठेति : To surround, encompass, envelope, wrap, clothe *(वेष्टयति)*

वेठो : Surrounding etc. *(वेष्ट)*

वेत्तं : A stick, staff *(वेत्त)*

वेवचनं : A synonym

वेवण्णियं : Change, diversity *(वैवर्ण्य)*

वेवण्णो (adj) : Various, different *(वि + वर्ण)*

वेव्याबाधिको : An adj. formed from vyabadho

वेव्यग्घो (adj) : Belonging to a tiger *(वैयाघ्र)*

वेय्याकरणं : Answer; exposition, explanation, exegesis *(वैयाकरण)*

वेय्याकरणो-णीको : A grammarian *(वैयाकरण)*

वेय्यावच्चं : Service or duty performed by an inferior for a superior *(व्यावृत + य)*

वेय्यावटिकं : Same meaning as last *(व्यावृत + इक)*

वि : A preposition used in composition with verbs and their derivatives, frequently with the sense of separation, difference, opposition *(वि)*

विब्भमनं : Roaming

विब्भमति : To roam, wander *(विभ्रम्)*

विब्भमो : Whirling; agitation, hurry, flurry, amorous dalliance *(विभ्रम)*

विभा : Light, lustre *(विभा)*

विभागो : Division *(विभाग)*

विभजनं : Division, sharing with others

विभजति : To divide, apportion; to distinguish, go into details, be minutely accurate *(विभज्)*

विभङ्गो : Division; distinction, determination, explanation *(विभङ्ग)*

विभासा : An alternative *(विभाषा)*

विभाति : To glitter *(विभा)*

विभत्ति : In gram, inflection of nouns and verbs; declension; conjugation *(विभक्ति)*

विभत्तो : *See विभजति*

विभावनं : Making clear; ascertainment *(विभावन)*

विभावरी : Night *(विभावरी)*

विभावेति : To understand clearly *(विभावयति)*

विभावी (adj) **:** Wise *(विभाविन्)*

विभवो (adj) **:** Power, prosperity, majesty, splendour, property, wealth *(विभव)*

विभवो : Absence or cessation of existence, non-existence, Nirvana *(वि + भव)*

विभावो : Condition or sentiment of the body or mind *(विभाव)*

विभेदनं : Division *(विभेदन)*

विभेदिका : The Palmyra tree

विभिन्नो : Scattered, divided, at variance *(विभिन्न)*

विभीतको, की, कं : Beleric myrobolan *(विभीतक)*

विभु : A lord, ruler *(विभु)*

विभूसनं : Adornment *(विभूषण)*

विभूसितो : Adorned *(विभूषित)*

विभूति : Splendour, dignity *(विभूति)*

विबोधनं : Awakening *(विबोधन)*

विबुद्धि : Enlightenment

विबुधो : A learned or wise man: a deva *(विबुध)*

विचक्खनो (adj) **:** Knowing, wise, discerning, sensible, skilful *(विचक्षण)*

विचारको : One who investigate, a judge *(विचारक)*

विचरणा, णं : Investigation, doubt *(विचारण)*

विचरति : To walk or go about *(विचर)*

विचारो : Investigation, examination *(विचार)*

विचयो : Research, investigation *(विचय)*

विच्छा : Succession *(वीप्सा)*

विच्छड्डेति : To throw away *(वि + च्छृद्)*

विच्छिद्दकं : One of the Asubha Kammatthanas, obtained by the contemplation of a corpse fissured from decay *(वि + च्छिद्र + क)*

विच्छिको : A scorpion *(वृश्चिक)*

विच्छिन्दति : To break off, interrupt *(विच्छिद्)*

विच्चुतो : Fallen down *(विच्युत)*

विचेय्यो : Accompanied with discrimination *(विचेय)*

वीचि : A wave; leisure *(वीचि)*

विचिकिच्छा : Doubt, uncertainty *(विचिकित्सा)*

विचिकिच्छति : To doubt, hesitate *(विचिकित्सति)*

विचिनति : To seek, search, investigate, examine; togather, collect *(विचि)*

विचिन्तको (adj) **:** Devising, finding out

विचिन्तेति : To think, consider, imagine *(विचिन्त्)*

विचिति : Examination *(विचिति)*

विचितो : Separated

विचित्रो, विचित्तो (adj) **:** Variegated, painted, ornamented, embroidered *(विचित्र)*

विचुण्णो : Crushed

विदड्ढता : Gallantry, wit *(विदग्धता)*

विदहति : To allot, assign, appoint, fix, order, prescribe; to provide, practice *(विधा)*

विदालनो (adj) **:** Breaking up

विदालेति (eaus) **:** To break open, split, rip up

विदारणं : Rending *(विदारण)*

विदारितो : Rent, split *(विदारित)*

विदारो : Tearing *(विदार)*

विदति : To know, ascertain *(विद्)*

विदत्थि : A span of twelve angulas *(वितस्ति)*

विद्दसु (adj) **:** Skilled, wise

विद्देसि : An enemy *(विद्वेषिन्)*

विद्देसो : Anemity, hatred *(विद्वेष्)*

विद्धंसनं : Crushing, destruction

विद्धंसेति, सापेति : To crush, destroy, overthrow, scatter; disperse *(विध्वंसयति)*

विद्धंसो : Demolition *(विध्वंस)*

विद्धस्तो : Broken, fallen to pieces *(विध्वस्त)*

विद्धो : *See विज्झति*

विद्दुमो : Coral *(विद्रुम)*

विदेहा : Name of a people *(विदेह)*

विधा : Pride *(विधा)*

विधमनं : To scatter, dispel *(विध्मा)*

विधानं : Arrangement, disposal, assignment: act: performance; precept, rule, ceremony, rite *(विधान)*

विधवा : A widow *(विधवा)*

विधावति : To run about *(विधाव्)*

विधाय, विधेय्यो : *See विदहति*

विधि : Rule, precept; ceremony; destiny, luck *(विधि)*

विधीयति : *See विदहति*

विधो : Form, measure, hind, sort; part, fold *(विध)*

विधु : The moon *(विधु)*

विधूनति : To shake *(विधू)*

विधूपनं : A fan

विधूपितो : Scattered, destroyed

विधुरं : Absence, seclusion *(विधुर)*

विदिसा : An intermediate point of the compass *(विदिश्)*

विदितो, विदित्वा : *See विदति*

विडजो : A name of Indra *(विडोज)*

विदू (adj) **:** Knowing, skilled: wise *(विदु, विद, विद्)*

विदुरो (adj) **:** Wise *(विदुर)*

विदूसितो : Corrupted *(विदूषयति)*

विद्वा (adj) **:** Wise *(विद्वस्)*

विगच्छति : To depart *(विगम्)*

विगाहति, विगाहेति : To plunge or wade into, to enter *(विगाह)*

विगमो : Departure, dispelling *(विगम)*

विगरहति : To reproach, rebuke, censure *(विगर्ह्)*

विगतो : *See विगच्छति*

विगह्य : *See विगाहति*

विग्गहको (adj) **:** Quarrelsome

विग्गहवा (adj) **:** Having the form of: handsome *(विग्रहवत्)*

विग्गहो : The body; the strife: in gram resolution of a word into its elements, analysis *(विग्रह)*

विग्घो : An abstacle *(विघ्न)*

विघासादो : One who eats the remains of food

विघासो : Remains of food, broken meat, scraps, orts (*from विघस्*)

विघाटनं : Overthrow, removal

विघाटेति : To overthrow, remove, batter down

विघाटो : Destruction, annoyance, vexation, opposition *(विधान्)*

विगुण्ठितो : Arrested, foiled *(वि + गुण्ठ्)*

विहगो : A bird *(विहग)*

विहाहिसि : *See विहरति*

विहङ्गमो (adj) **:** Going through the air, flying *(विहंगम)*

विहङ्गो : A bird *(विहंग)*

विहञ्ञति : To be vexed, grieved, afflicted *(विहन्यते)*

विहरति : To dwell, sojourn, live *(विह्)*

विहारी (adj) **:** Dwelling, living *(विहारिन्)*

विहारियो (adj) **:** Living *(विहार + य)*

विहारो : Rambling, roaming, recreation: a Buddhist monastery or convent: state of life, condition: stopping, staying, sojourn, living, abiding, dwelling *(विहार)*

विहतो : *See विहञ्ञति*

विहत्थो (adj) **:** Perplexed *(विहस्त)*

विहाय : *See विजहति*

विहायसा (adj) **:** Through the air *(विहायसा)*

विहायसो : The air, sky *(विहायस)*

विहायितं : A gift *(विहायित)*

विहेसा : Annoyance, vexation, weariness, fatigue

विहेसको (adj) **:** Annoying, troubling, wearying

विहेठको (adj) **:** Harassing *(विहेठक)*

विहेठनं : Harassing, hurting *(विहेठन्)*

विहेठेति : To annoy, harass, hurt

विही : Rice, paddy *(व्रीहि)*

विहिंसा : Hurting, injury, cruelty

विहिंसति : To hurt, injure *(विहिंस्)*

विहीनो : *See विजहति*

विहितो : *See विदहति*

विजहति : To leave, forsake, relinquish, reject *(विहा)*

विजभ्भति : To rouse oneself, display activity *(विजृम्भ्)*

विजाननं : Knowing

विजानं : Understanding

विजानाति : To discern, distinguish, be wise, perceive, learn, understand, know exactly, find out ascertain *(विज्ञा)*

विजनी : A fan

विजनो : Lonely, deserted *(विजन)*

विजाता : *See विजायति*

विजाटनं : Disentangling

विजटेति, विजटापेति : To comb out, disentangle; metaphorically, to unravel, explain

वीजति : To fan a person *(वीज्)*

विजयनं : Bringing forth, delivery

विजायति : To bring forth young *(विजन्)*

विजयो : Victory, triumph; name of the first aryan coloniser and soverign of Ceylon *(विजय)*

विजेति, विजिनति : To conquer, master, triumph over *(विजि)*

विजिगुच्छति : To loathe *(वि + जुगुप्स्)*

विजिननं : Conquering

विजितावी (adj) **:** Victorious *(विजित + विन्)*

विजितो : *See विजेति*

विजीवितो (adj) **:** Dead *(विजीवित)*

विज्जा : Knowledge, learning, scholarship, science; wisdom *(विद्या)*

विज्ज : *See विदति*

विज्झनं : Piercing

विज्झति : To pierce, perforate: to strike, hit, break through; to hurt, wound; to shoot with an arrow *(व्यध्)*

विज्झायति : To burn out; go out, be extinguished

विज्जोतति : To shine *(विद्युत्)*

विज्जु, विज्जुता : Lightening *(विद्युत्)*

विज्जुल्लता : Forked, lightening *(विद्युल्लता)*

विज्जुता : *See विज्जु*

विकचो : Blossing *(विकच)*

विकालो : Afternoon, evening; wrong time *(विकाल)*

विकङ्कतो : Name of a plant *(विकङ्कत)*

विकप्पना : Apportioning, assignment

विकप्पनं : Option, alternative; decision *(विकल्पन)*

विकप्पेति : To apportion, assign *(विकल्पयति)*

विकप्पो : Option, uncertainty: thinking over, considering *(विकल्प)*

विकारो : Change, alteration; perturbation; wrong state of mind *(विकार)*

विकरोति : To alter *(विकृ)*

विकसा : Bengal madder *(विकसा)*

विकसति : To expand, blossom *(विकस्)*

विकासी (adj) **:** Illumining, delighting *(विकाशिन्)*

विकती : Change; emotion, anger, : sort, kind: altered form, product *(विकृति)*

विकतिका : A woollen coverlet embroidered with figures of lions tigers

विकतो : Changed *(विकृत)*

विकटो (adj) **:** Changed, altered *(विकट)*

विकिरणं : Dispersing; investment of money *(विकिरण)*

विकिरणो (adj) **:** Dispersing, spending, squandering *(विकिरण)*

विकिरति : To scatter, sprinkle, spread-abroad to overwhelm *(विकृ)*

विक्कमो : Advancing, walking; strength, heroism, prowess *(विक्रम)*

विक्कन्तो : Stepping, walking; heroic *(विक्रान्त)*

विक्कयी ,विक्कयिको : A vendor *(विक्रयित्, विक्रयिक)*

विक्कयो : Sale *(विक्रय)*

विक्केता : A vendor *(विक्रेतृ)*

विक्केय्यो : Saleable, for sale *(विक्रेय)*

विक्खालनं : Washing

विक्खालेति : To wash *(विक्षालयति)*

विक्खम्भनं : Obstructing, stopping *(विष्कम्भण)*

विक्खाम्भितो : Obstructed, stopped *(विष्कम्भित)*

विक्खम्भो : Diameter *(विष्कम्भ)*

विक्खायितकं : One of the asubha kammatthanas

विक्खेपो : Scattering, confusion; perplexity, puzzle, disorder of mind *(विक्षेप)*

विक्खिपति : To scatter *(विक्षिप्)*

विक्खोभेति : To agitate *(विक्षोभयति)*

विक्किणाति : To sell *(विक्री)*

विकोपनं : Injuring

विकोपेति : To cause or suffer to be injured

विकुब्बतं : Assuming a different form by supernatural power, magical or miraculous transformation

विकूजति : To chirp, warble *(विकूज)*

विलग्गो : Fastened *(विलग्न)*

विळम्बनं : Disguise, masquerade *(विडम्बन)*

विलम्बति : To loitter, tarry *(विलम्ब्)*

विलङ्गं : The plant Erycibe Paniculata *(विडङ्ग)*

विलपति : To lament, wail; to talk, idly, to lie *(विलप्)*

विलापो : Lamentation *(विलाप)*

विलासो : Sport, pastime; dalliance; charm, beauty *(विलास)*

विलयो : Destruction *(विलय)*

विलेखितो : Smooth

विलेखो : Perplexity *(विलेख)*

विलेपनं : Toilet perfume *(विलेपन)*

विलिम्पति : To smear, to anoint *(विलिप्)*

विलीनो : Clinging, adhering *(विलीन)*

विलीवकारो : A basket maker

विलोचनं : The eye *(विलोचन)*

विलोकनं : Looking, a look *(वितोकन)*

विलोकेति : To look at, look-over, examine *(विलोक्)*

विलोळेति : To stir, move about *(विलोडयति)*

विलोमयति : To disarrange, invert

विलोमो : Against the grain, reversed different, wrong *(विलोम)*

विलोपको (adj) **:** Pillaging, larcenous

विलोपो : Plunder, pillage *(विलोप)*

विलुम्पति : To plunder *(विलुप्)*

विलूनो : To cut off *(विलून)*

विमट्टूत्थो : Scent arising from the trituration of perfumes *(विमर्दोत्य)*

विमलो (adj) **:** Pure, clear, spotless *(विमल)*

वीमंसा : Investigation, examination, trial *(मीमांसा)*

वीमंसनं : Trying, testing *(मीमांसन)*

वीमंसति : To think over, consider, reflect upon; to examine, investigate, try, test

विमानं, नो : A pagoda or palace of seven stories; the abode of Deva, a eclestial mansion: a residence, abode *(विमान)*

विमनो (adj) : Perplexed, distressed *(विमनस्)*

विमति : Perplexity, doubt *(विमति)*

विमट्ठो : Soft *(विमृष्ट)*

विम्हापेति : To astonish *(विस्मापयति)*

विम्हयो : Astonishment *(विस्मय)*

विम्हितो : Astonished, amazed *(विस्मित)*

विमोचनं : Release *(विमोचन)*

विमोहको (adj) : Bewitching, deluding

विमोखो : Deliverance, release, escape, salvation; release from human passion, Arhatship; release from existence, Nirvana or annihilation *(विमोक्ष्)*

विमुखो (adj) : Averted, neglectful *(विमुख)*

विमुञ्चति : To release, to given up, to spend *(विमुच्)*

विमुत्तायतनं : Point of emancipation *(विमुक्ति + आयतन)*

विमुत्ति : Release, emancipation, Arhatship, Nirvana or annihilation *(विमुक्ति)*

विमुत्तो : Released, emancipated *(विमुक्त)*

विमुह्यति : To be confused or bewildered *(विमुह्)*

विना (adj) : Without, except *(विना)*

वीणा : The Indian lute *(वीणा)*

विनामेति : To bend about, twist *(विनामयति)*

विनन्धति : To encircle, cover *(वि. नह्)*

विनासेति : *See विनस्सति*

विनासी (adj) : Destructive *(विनाशिन्)*

विनासो : Loss, destruction, ruin *(विनाश)*

विनस्सति : To be lost; to perish, be destroyed *(विनश्)*

विनता : The mother of Carulas *(विनता)*

विनतको : Name of one of kulacalas *(विनत + को)*

विनायको : A spiritual teacher a Buddha *(विनायक)*

विनयनं : Instruction, conversion *(विनयन)*

विनयो : Putting away; avoidance; subduing, conversion, training, discipline; name of a portion of the Buddhist Scriptures *(विनय)*

विन्दनो : Fighting, getting

विन्दति : *See विदति*

विनेति : To remove, put away; subdue, conquer, restrain; to instruct, educate, train *(विनी)*

विनिबन्धो : Bondage

विनिच्छयो : Investigation, trial; ascertainment, decision *(विनिश्चय)*

विनिच्छिनति : To investigate, try; to judge, decide, determine *(विनिश्चि)*

विनिधाय : Having deposited *(विनिधाय)*

विनिग्गमो : Departure *(विनिर्गम)*

विनिग्गतो : Departing; free from *(विनिर्गत)*

विनीलको (adj) **:** Purple, black and blue *(विनील + क)*

विनिम्मुत्तो, विनिमुत्तो : Released; discharged *(विनिर्मुक्त)*

विनिपातिको (adj) **:** This term is applied to beings belonging to the four apayas *(विनिपात + इक)*

विनिपातेति : To do away with, destroy *(विनिपातयति)*

विनिपातितो : Fallen down *(विनिपतित)*

विनिपातो : State of punishment or suffering *(विनिपात)*

विनीतो : *See विनेति*

विनीवरणो (adj) **:** Unbiassed

विनिवट्टति : To roll back *(विनिवृत्त्)*

विनिवेठनं : Unwrapping, explaining, refuting *(विनिवेष्ट + अन)*

विनिविज्झति : To pierce, through and through *(विनि व्यध्)*

विञ्जो : The Vindhya mountain range *(विन्धय)*

विञ्ञाणं : Intelligence, knowledge; consciousness; thought, mind *(विज्ञान)*

विञ्ञाणञ्चायतनं : Realm of infinity of intelligence, name of the second Arupabrahmaloka, it is so called because the beings who inhabit it are filled with the idea that Vinnana is infinite *(विज्ञान + आनन्त्य + आयतन)*

विञ्ञाणट्ठिति : Station or abode of intelligence *(विज्ञान + स्थिती)*

विञ्ञापनो (adj) **:** Informing, instructing *(विज्ञापन)*

विञ्ञापेति : One who informs

विञ्ञापेति : *See विजानाति*

विञ्ञत्ति : Information, intimation: intimation of a want, asking *(विज्ञप्ति)*

विञ्ञाय, विञ्ञेय्यो : *See विजानाति*

विञ्ञुता : Intelligence

विनोदको (adj) **:** Dispelling

विदोनं : Dispelling, removal *(विनोदन)*

विनोदेति : To dispel, put away, get rid of *(विनोदयति)*

विपच्चनीको (adj) **:** Hostile *(वि + प्रत्यनीक)*

विपच्चति (pass) **:** To be cooked, scorch etc. *(विपच्चते)*

विपाचेति : To work oneself upto indignation, to be indignant, angry, annoyed *(विपाचयति)*

विपज्जति : To fail, to perish *(विपद्)*

विपाकी (adj) **:** Having a result *(विपाकिन्)*

विपक्खिक (adj) **:** Opposite

विपक्खो (adj) **:** Opposite; hostile *(विपक्ष)*

विपाको : Result, product, consequence; good result, fruit, profit, reward; evil result, retribution *(विपाक)*

विपल्लासो, विपरियासो : Reversal, change *(विपर्यास)*

विपन्नो : *See विपज्जति*

विपरामोसो : High-way robbery

विपरावत्तो : Reversed, changed *(विपरा–वृत्त)*

विपरिणामेति (caus) **:** To transform oneself

विपरिणामो : Change, reverse

विपरिणतो : Changed *(वि–परि–नत)*

विपरीतो : Reversed, opposite, contrary, different, changed; wrong false *(विपरीत)*

विपरियासो : *See विपल्लासो*

विपरिययो : Reversal, change *(विपर्यय)*

विपस्सको (adj) **:** Contemplating; endowed with

विपस्सना : Seeing clearly, spiritual insight

विपस्सति : To see clearly, to obtain spiritual insight *(विदृश्)*

विपस्सी (adj) **:** Seeing clearly, wise *(वि + पश्च + इन्)*

विपातेति (caus) **:** To crush *(विपातयति)*

विपातिका : An abscess on the foot *(विपादिका)*

विपत्ति : Misfortune; failure *(विपत्ति)*

विपेक्खति : To stare about *(विप्रेक्ष्)*

विपिनं : A groove, wood *(विपिन)*

विपिट्ठिकरोति : To throw behind one *(वि + पृष्ठ + कृ)*

विपोथेति : To bruise *(वि + पोथयति)*

विप्पजहति : To abandon, give up *(वि + प्र + हा)*

विप्पकारो : Change of state, impropriety *(विप्रकार)*

विप्पकतो : Imperfectly executed, left unfinished *(विप्रकृत)*

विप्पकट्ठको (adj) : Distant *(विप्रकृष्टक)*

विप्पकिरति : To scatter *(विप्रकृ)*

विप्पक्खितो : Scattered about *(वि + प्रक्षिप्त)*

विप्पलद्धो : Disappointed, deceived *(विप्रलब्ध)*

विप्पलम्भेति : To mock, delude *(विप्रलम्भयति)*

विप्पलपति : To chatter, talk, nonsense; to lament *(विप्रलप्)*

विप्पलापो : Wrangling *(विप्रलाप)*

विप्पमुञ्चति : To cast off, free onself from *(विप्रमुच्)*

विप्पनट्ठो : Ruined, sunk, lost *(विप्रणष्ट)*

विप्पसीदति : To become calm or serene *(विप्रसद्)*

विप्पटिसारी (adj) : Remorseful

विप्पटिसारो : Remorse, regret, repentance *(विप्रतिसार)*

विप्पवसति : To go abroad, leave home, be away from home, be absent *(विप्रवस्)*

विप्पवासो : Absence *(विप्रवास)*

विप्पविद्धो : Pierced, through and through *(विप्रविद्ध)*

विप्पबुत्थो : *See विप्पवसति*

विप्पयोगो : Separation *(विप्रयोग)*

विप्फन्दति : To struggle, writhe *(विष्पन्द्)*

विप्फन्दत्तं : State of writhing *(विष्पन्द् + त्व)*

विप्फरणं : Thrilling, pervading *(विस्फर; विस्फुर)*

विप्फारिको (adj) : Pervading, spreading, diffusing

विप्फुलिङ्ग : A spark of fire *(विस्फुलिङ्ग)*

विप्फुरणं : Another form of above

विप्फुरति : To vibrate, wave, flash *(विस्फुर)*

विप्पो : A Brahmin *(विप्र)*

विपुब्बकं : One of the asubhakammatthanas, obtained by the contemplation of a festering corpse *(वि + पूय + क)*

विपुलो (adj) : Large, great, broad, extensive *(विपुल)*

विरचितो : Made, composed *(विरचित्)*

विराधेति : *See विरज्झति*

विरागो : Absence of desire or human passion; Arhatship; Nirvana *(विराग)*

विरहितो : Bereft of, exempt from *(विरहित)*

विराजति : To shine, be conspicuous, or eminent *(विराज्)*

विराजेति : See next

विरज्जति : To be displeased, disgusted, to loathe *(विरज्यति)*

विरज्झति : To fail, go wrong, miss; lose *(विराध्यति)*

विरजो (adj) : Free from corruption or human passion *(विरजस्)*

विरलञ्जनो (adj) : Thinly peopled *(विरल + जन)*

विरलो (adj) : Delicate, fine *(विरल)*

विरमणं : Abstaining

विरमति : To abstain, refrain, desist *(विरम्)*

विरति : Abstinence *(विरति)*

विरतो : *See विरमति*

विरत्तो : *See विरज्जति*

विरवति : To cry aloud, shout, cry out; to rattle; jingle *(विरु)*

विरवो, विरावो : Crying, shouting, clamour *(विरव, विराव)*

विरेचनं : Purging, a purgative *(विरेचन)*

विरेक : Purging, diarrhoea *(विरेक)*

विरियं : Strength, vigour, energy, fortitude, effort, exertion, dignity, influence *(वीर्य)*

विरियवा (adj) : Energetic *(वीर्यवत्)*

वीरो (adj) : Strong, mighty, heroic *(वीर)*

विरोचन (adj) : Shining *(विरोचन)*

विरोचति : To shine, be brilliant or splendid, to be eminent, conspicuous *(विरुच्)*

विरोधनं : Opposition, contradiction *(विरोधन)*

विरोधी (adj) : Opposing, obstructing, adverse *(विरोधिन्)*

विरोधितो : Rendered hostile *(विरोधित)*

विरोधो : Opposition; contradiction, inconsistency, enemity *(विरोध)*

विरोधोत्ति : Contradiction, quarrel *(विरोधोक्ति)*

वीरु : A spreading creeper *(वीरुध्)*

विरुद्धो : *See विरुज्झति*

विरुधनको (adj) **:** Growing

विरुज्जति : To fall to pieces, to decay

विरुज्झनं : Being obstructed

विरुज्झति : To be obstructed, annoyed, disturbed, troubled *(विरुध्यते)*

विरुळिह : Growth, increase (from *विरूह)*

विरुळहो : Grown, blossoming *(विरुढ)*

विरूपक्खो : Name of the Regent of the west, and chief of the Nagas *(विरुपाक्ष)*

विरुपो (adj) **:** Deformed, monstrous, ugly *(विरूप)*

वीसा : *See विसं*

विसभागो (adj) **:** Not common to all, different, dissimilar

विसदत्तं : Purity *(विशद + त्व)*

विसधरो : A snake *(विषधर)*

विसदो (adj) **:** Pure, white; clear, manifest *(विशद्)*

विसादो : Dejection *(विषाद)*

विसहति : To be able, to dare, to venture *(विषह)*

विसज्ज, विसज्जेति : *See विस्सज्जति*

विसकण्ठकं : A sort of sugar

विसाखा : Name of a Nakkatta: name of a celebrated female saint, a contemporary and disciple of Buddha *(विशाखा)*

विसल्लो (adj) **:** Free from pain or grief *(विशल्य)*

विसालो (adj) **:** Wide, extensive, great *(विशाल)*

विसं : Poison, venom *(विष)*

वीसं : Twenty *(विंशत्)*

विसमो (adj) **:** Uneven, unequal; unjust, lawless, wicked *(विषम)*

विसंवादको (adj) **:** Deceiving, lying

विसंगदेति (caus) **:** To break one's word to a person, deceive, disappoint *(विसंवादयति)*

विसंवादो : Deceiving, disappointing *(विसंवाद)*

विसंयोगो, विसञ्ञोगो : Separation, disjunction *(विसंयोग)*

विसंयुत्तो, विसञ्ञुतो : Separated, detached *(विसंयुक्त)*

विसाणं : A horn, elephant's tusk *(विषाण)*

विसङ्खारो : Destruction, annihilation *(वि + संस्कार)*

विसङ्खित्तो : Destroyed, annihilated *(विसंस्कृत)*

विसञ्ञीभूतो (adj) : Unconscious, swooned away *(वि + सञ्ज्ञा + भूत)*

विसञ्ञिता : Unconsciousness, syncope *(विजञ्ज्ञिन् + ता)*

विसञ्ञो (adj) : Unconscious *(वि + सञ्ज्ञा)*

विसञ्ञोगो, विसञ्ञुत्तो : *See (विसंयि)*

विसफलता : Unprofitableness *(वि + सफल + ता)*

विसप्पनं : Spreading *(विसर्पण)*

विसारदो (adj) : Bold, confident, ready, self-possessed: wise skilled *(विशारद्)*

विसारी (adj) : Spreading *(विसारिन्)*

विसरो : A multitude *(विसर)*

वीसति : Twenty *(विंशति)*

वीसतिमो (adj) : Twentieth *(विंशतिम)*

विसटो, विसतो : Spread, diffused *(विसृत)*

विसट्ठि : Emission *(विसृष्टि)*

विसत्तिका : Desire, lust *(विषक्त + इका)*

विसयि : An organ of sense *(विषयि)*

विसयो : District, region, country; realm, domain, range, sphere, scope: an object of sense *(विषय)*

विसेसको : A sectarial mark on the forehead *(विशेषक)*

विसेसनं : Distinguishing *(विशेषण)*

विसेसञ्ञु (adj) : Knowing distinctions, discerning, critical *(विशेषज्ञ)*

विसेसेति (caus) : To distinguish, define, specify *(विशेषयति)*

विसेसो : Distinction, discrimination, speciality, specification; sort, kind; peculiar merit, advantage, excellence, superiority *(विशेष)*

विसेस्सो : Principal, chief *(विशेष्य)*

विसिब्बति : To unsew, unpick *(वि + सिन्)*

विसीदति : To be afflicted *(विषद्)*

विसिखा : A street, road, an arrow *(विशिखा)*

विसीलो (adj) : Immoral *(विशील)*

विसिट्ठो : Superior, excellent *(विशिष्ट)*

विसीवनं : Warming oneself

विसीवेति : To warm oneself

विसोधनं : Cleansing; emending *(विशोधन)*

विसोधेति : *See विसुज्झति*

विसोको (adj) **:** Free from sorrow *(विशोक)*

विसोसेति : *See विस्सुस्सति*

विस्सग्गो : In the phrase bhattavissaggam karoli which seems to make a meal ; donation ; distribution

विस्सज्जना : An answer, reply

विस्सज्जनं : A gift *(विसर्जन)*

विस्सज्जति : To send forth, emit, throw, shoot : to let go, dismiss: to answer: to leave: forsake: to spend

विस्सक्कमो : Name of the celestial architect, a deva of the catummaharajika heaven, who acts as an architect and artist to the devas *(विश्वकर्मन्)*

विस्सं : Smell like raw-meat *(विस्न)*

विस्समनं : Resting

विस्समति : To cease from toil, rest, repose *(विश्रम्)*

विस्सम्भो : Trust, confidency, intimacy *(विश्रम्भ)*

विस्साणनं : Gift, donation *(विश्राणन)*

विस्सन्दति : To flow, well up, overflow *(विस्यन्द्)*

विस्सरति : To forget *(विस्मृ)*

विस्सरो : Out cry *(विस्वर)*

विस्ससति : To confide in, trust to *(विश्वस्)*

विस्सासिको (adj) **:** Intimate, confidential, trusty *(विश्वासिक)*

विस्सासियो (adj) **:** Confidential, trustworthy *(विश्वास्य)*

विस्सासो : Intimacy, confidence, trust *(विश्वास)*

विस्सत्थो : *See विस्ससति*

विस्सट्ठो : *See विस्सज्जति*

विस्सवति : To ooze *(विस्रु)*

विस्सो (adj) **:** Whole, entire *(विश्व)*

विस्सुस्सति : To be dried up *(विशुष)*

विस्सुतो : Renowned *(विश्रुत)*

विसूचिका : Cholera *(विसूचिका)*

विसुद्धयति : To become bright or clear

विसुद्धि : Purity, holiness, rectitude, correctness; Nirvana *(विशुद्धि)*

विसुज्झति : To be cleansed, to be pure *(विशुध्)*

विसूकं : A show, spectacle, worldly amusement

विसुं (adv) **:** Separately, individually

विटभी : The fork of a tree

विटच्छिका : Scabies *(विचर्चिका)*

विटच्छितो : Planned, smoothed

वीतद्दरो (adj) **:** Fearless

वितक्कनं : Reasoning *(वितर्कण)*

वितक्केति : To reason argue, consider, reflect *(वितर्क)*

वितक्को : Reflection, thought, argument, reasoning *(वितर्क)*

वीतमलो (adj) **:** Pure, clear, spotless *(वीतमल)*

वितण्डा : Frivolous or captions discussion *(वितण्डा)*

विटङ्को, कं : A dove-cot, aviary *(विटङ्क)*

वितञ्ञति : To be spread, diffused

वितानो, नं : Spreading, expansion; multitude; a canopy, awning *(वितान)*

विटपी : A tree *(विटपिन्)*

विटपो : The fork of a tree: a clump, thicket *(विटप)*

वीतरागो (adj) **:** Free from human passion, Arhata *(वीतराग)*

वितरणं : Donation, gift; abandoning, escaping from *(वितरण)*

वितरति : To continue, to go through; to perform *(वि + तरति)*

वितथो (adj) **:** False, unreal *(वितथ)*

वितितो : Extended, diffused, overspread *(वितितो)*

वीथि : A row, line; a road; a bazzar, street *(वीथि)*

वीथिको (adj) **:** Substitute for Vithi at the end of a compound

वीतिहारो : A long footstep, stride *(व्यतिहार)*

वीतिक्कमति : To exceed, transgress *(व्यतिक्रम्)*

वीतिक्कमो : Going beyond bonds, transgression, sin *(व्यतिक्रम)*

वीतिनामनको (adj) **:** Spending one's time, living

वीतिनामेति : To spend or pass the time, to live: to wait

वितिण्णो : *See वितरति*

वीतिपतति : To fall away, transgress *(वि – अतिपत्)*

वीतिसारेति : To remind mutually *(विअति – स्मारयति)*

वीतिवत्तो : Having passed, exceeded, past

वीतो : *See वियति*

वीतो : Devoid of, free from *(वीत)*

वित्तं : *See विदति*

वित्थम्भनं : Instability (from *विष्टम्भ्)*

वित्थारेति : To expand, detail *(विस्तारयति)*

वित्थारिको (adj) **:** Extended, diffused *(विस्तार + इक)*

वित्थारो : Width, breadth; extention; amplification, detail *(विस्तार)*

वित्थासि : This is an aor from *(वित्रस्)*

वित्थतो : Extended, wide *(विस्तृत)*

वित्थिण्णो : Extensive, large *(विस्तीर्ण)*

वित्ति : Joy; feeling, sensation *(वित्ति)*

वितूदति : To strike, sting *(वितुद्)*

विवदनं : Causing separation

विवदति : To dispute quarrel *(विवद्)*

विवादतो : *व्यवदात*

विवादो : Dispute, contention; litigation *(विवाद)*

विवाहनं : Getting a husband for a girl

विवाहो : Marriage *(विवाह)*

विवज्जेति : To forsake, to avoid *(विवृज्)*

विवण्णकं : Dispraise, reviling, contempt *(विवर्ण + क)*

विवण्णो (adj) **:** Discoloured, wan *(विवर्ण)*

विवरं : A hole, hollow, fissure, eleft: gap, interstice, an empty space, vaccum; recess, core; a flaw, defect *(विवर)*

विवरणं : Explanation, comment *(विवरण)*

विवरति : To open *(विवृ)*

विवसो (adj) **:** Unrestrained, independent *(विवश)*

विवटो : *See विवरति*

विवत्तच्छद्दो, च्छद्दो : (adj) One by whom the veil is rolled away *(विवृत्त + छद्मन् + छदं)*

विवत्तं : Part of the dress of a Buddhist priest; turning round the other way, rolling back *(विवृत्त)*

विवत्तं : Absence of Vatta or transmigration, Nirvana *(वि-वृत्त)*

विवत्ति : To roll on or round, revolve *(विवृत्)*

विवट्टो : Beginning again, renovation *(विवर्त)*

विवेचनं : Investigation *(विवेचन)*

विवेचेति : To separate, seclude *(विवेचयति)*

विवेकजो (adj) **:** Caused by seclusion or detachment *(विवेकज)*

विवेको : Separation, seclusion; discrimination *(विवेक)*

विवेच्चा : Separating oneself from *(विविच्य)*

विविच्चति : To separate oneself, retire

विविच्छा : Said to mean doubt

विविधो (adj) **:** Various; manifold *(विविध)*

विवित्तो : *See विविच्चति*

विय : *See इव*

वियग्गो, वियञ्जनं, वियाकासी : *See व्याग्गो, व्यञ्जनं, व्याकरोति*

वीयति, विय्यति : *To be woven*

वियोगो : Separation, disumion; absence, deprivation ; loss, death *(वियोग)*

वियोजेति : To separate *(वियोजयति)*

वियूहति : To remove, take out, disengage *(व्यूह)*

वियुत्तो : Separated *(वियुक्त)*

वियति : *See वीयति*

वो : *See त्वं*

वोच : *See वत्ति*

वोच्छिज्जति : To be cut off *(व्यवच्छिद्यते)*

वोदानं : Purification, purity

वोदापनं : Purification

वोदपेति : To purify

वोहरति : To give currency to, use: express *(व्यवह)*

वोहारिको : A royal officer, skilled in the law, a magistrate *(व्यावहारिक)*

वोहारो : Practice, custom, law: lawsuit: business, trade: common use, currency: current speech, vernacular, current appellation, name *(व्यवहार)*

वोकारो : Worthlessness: the khandhas: difference

वोकिण्णो : Separated from *(व्यवकृ)*

वोमिस्सको (adj) **:** Miscellaneous *(वि-अव-मिश्रक)*

वोरोपेति : To deprive of *(व्यवरोपयति)*

वोसानं : End, consummation

वोसासति : To give orders: act authoritatively *(वि. – अव + शास्)*

वोसितो : Ended, accomplished

वोस्सग्गो : Relinquishment, relaxation; gift, donation

वोस्सजनं, : Relinquishment

वोस्सज्जनं

वोस्सज्जति : To relinquish *(अवसृज् or व्यवसृज्)*

वोस्सकम्मं : Making a man a eunuch

वुच्चति : *See वत्ति*

वुद्धि, वुड्ढि : Increase, growth; prosperity, advantage *(वृद्धि)*

वुद्धिमा (adj) **:** Prosperous *(वृद्धिमत्)*

वुद्धो, वुड्ढो : *See वड्ढति*

वुळहति : *See वहति*

वुणाति : To restrain, prevent *(वृ)*

वूपकट्ठो (adj) **:** Distant, removed

वूपसमनं : Suppressing, cessation, extinction

वूपसमापनं : Suppression

वूपसम्मति : To be assuaged or quieted, or suppressed, to cease, be extinguished *(वि–उपशम्)*

वूपसमो : Pacification, suppression, cessation

वुसितवा : Dwelling, residing *(उषित + वत् + विन्)*

वुसितावी (adj) **:**

वुसितो : *See वसित*

वुसो : A bull *(वृष)*

वुस्सति : *See वसति*

वुतपदनं : Point of conduct

वुति : Enclosure, fence *(वृति)*

वुत्तको (adj) **:** A substitute for Vutto at the end of a compound

वुत्तं : *See वत्तति*

वुत्तन्तो : Tidings *(वृत्तान्त)*

वुत्तरि : *See उत्तरि*

वुत्तसिरो : *See वुत्तो*

वुत्तो : *See वत्ति*

वुट्ठहति, वुट्ठानं : *See उट्ठि*

वुट्ठि : Rain *वृष्टि*

वुट्ठितो : *See उट्ठहति*

वुत्थो : *See वसति*

वुत्ति : Conduct, behaviour, manner; business; profession, livelihood; in poetry, measure, rhythm, metre; explanation, gloss *(वृत्ति)*

वुत्तो : Shaven *(उप्त)*

वुत्तो : *See वत्तति, वत्ति*

वुह्यति : To be carried *(उह्यते)*

व्यावाधेति : To oppress, injure

व्याभङ्गी : A kaja or pole for carrying burdens

व्याधि : Sickness, malady, diseases: the plant Costus Speciosus *(व्याधि)*

व्याधितो (adj) **:** Sick ill *(व्याधित)*

व्यधो : Piercing *(व्यध्)*

व्याधो : A huntsman, deer-hunter *(व्याध)*

व्यग्घीनसो : A hawk

व्यग्घो : A tiger *(व्याघ्र)*

व्याग्गो, वियग्गो : (adj) **:** Bewildered *(व्यग्र)*

व्याहरति : To utter *(व्याहृ)*

व्याकरणं : Explanation, exposition; declaration, answer; utterance, response, oracle, prediction, grammar *(व्याकरण)*

व्याकरोति : To expound, explain: declare, call, name: to answer: to give a response, predict, prophesy *(व्याकृ)*

व्याख्या : A comment, gloss *(व्याख्या)*

व्याकुलो (adj) **:** Bewildered, agitated *(व्याकुल)*

व्यम्हं : A celestial mansion

व्यामिस्सो (adj) **:** Mingled *(व्यामिस्त्र)*

व्यामो, व्यामो : A fathom of about 6 feet, being the distance between the tips of the fingers of the two hands when the arms are extended *(व्याम)*

व्यञ्जनं, व्यञ्जनं : A consonant; a letter, syllable, word; the words or letters as opposed to the sense: sign, mark, characteristic: sauce, condiment, curry *(व्यञ्जन)*

व्यञ्जीयति : To be expressed, indicated

व्यन्तिकरोति, : व्यन्तिकरोति To abolish, remove, get rid of, destroy *(वि – अन्तिकृ)*

व्यापदो, व्यापदो : Wish to injure, malevolence, hatred, fury *(ब्यापाद)*

व्यपगच्छति : To depart, be dispelled *(व्यपगम्)*

व्यापज्जति, : To be malevolent *(व्यापद्)*
व्यपज्जति

व्यापको, : Pervading *(व्यापक)*
व्यापको (adj)

व्यापनं, व्यापनं : Pervading, penetration *(व्यापन)*

व्यापन्नो : *See व्यापज्जति*

व्यापारेति : To employ, suborn, incite *(व्यापारयति)*

व्यापारो, व्यापारो : Occupation, business, profession, exertion, action, work *(व्यापार)*

व्यापेति : To pervade, permeate, fill *(व्यापयति)*

व्यापी (adj) **:** Pervading, extending *(व्यापिन्)*

व्यारोसना, : Anger, hatred
व्यरोसना

व्यसनं, व्यसनं : Misfortune; unhappiness, destruction, loss: bad habit, sin *(व्यसन)*

व्यसनी (adj) **:** Meeting with ruin, unfortunate *(व्यसनिन्)*

व्यसत्तो, व्यसत्तो : Attached to pleasure, covetous etc. *(व्यासक्त)*

व्यासो : Diffusion *(व्यास)*

व्यत्तयो : Contrariety, opposition, reversal *(व्यत्यय)*

व्यत्तो, व्यत्तो : Evident, manifest: perspicuous: wise, learned *(व्यक्त)*

व्यवधानं : Covering, screen *(व्यवधान)*

व्यवनुज्ज : Having dispeller

व्यावटो : Covered, obstructed *(व्यावृत)*

व्यवायो : Coition *(व्यवाय)*

व्ययो, वायो : Loss, perishing, decay; expenditure *(व्यय)*

व्यूहो, व्यूहो : An array of troops; a host, multitude; a street closed at one end *(व्यूह)*

Y

याचको, याचनको : A beggar *(याचक, याचनक)*
याचना : Asking, begging *(याचना)*
याचतिः To ask, beg, entreat *(याच्)*
यद : *See यो*
यदा (adv) **:** When, whenever *(यदा)*
यदासन्नो (adj) **:** Is One of the eleven descriptions of karma
यदि (indeel) **:** If *(यदि)*
यादी (adj) **:** Of which sort *(यादृश्)*
यदिच्छा : Self-will, independence *(यदृच्छा)*
यदिच्छकं : Whatever one wishes *(यद् + इच्छ्क)*
यदिच्छितो (adj) **:** Whatever is desired
यदिदं (adj) **:** Namely, that is to say *(यद् + इदम्)*
यादिक्खो (adj) **:** Of what sort, like what or which *(यादृक्ष)*
यादिसो (adj) **:** Same as last *(यादृश्)*
यदिवा : *See यदि*
यग्घे (indecl) **:** An exclamation used in addressing a person
यागो : A sacrifice *(याग)*
यागु : Rice gruel *(यवागु)*
यहिं (adv) **:** Where, wherever
याजको : A sacrificing priest *(याजक)*
यजति : To sacrifice, make an offering, to give alms *(यज्)*
यजनं : Sacrifice *(यजन)*
याजि : An institutor of sacrifice *(याजि)*
यज्जेवं : *See यदि*
यज्जु : The Yajurveda *(यजुस्)*
यजुब्बेदो : The Yajurveda *(यजुर्वेद)*
यकनं : The liver *(यकृत्)*
यक्खिनी : A female yakkha *(यक्षिनी)*
यक्खो : Name of a certain superhuman beings *(यक्ष)*
यं : *See यो*
यामकालिको (adj) **:** Last for a watch *(याम + काल + इक)*
यमकं : A pair, a couple *(यमक)*
यमको : Double, twin *(यमक)*
यमलं : A pair *(यमल)*

यमं : A pair *(यम)*

यमतग्गि : Name of a Rishi *(जमदग्नि)*

यम्हा : *See यो*

यमो : Restraint, temperance, moral duty; a pair or couple; name of the sovereign of the internal region

यामो : Restraint, a watch of three hours; name of the inhabitants of the deva worlds *(याम)*

यमुना : The river Jamuna *(यमुना)*

यानकं : A cart, carriage, car *(यानक)*

यानं : Going, proceeding; a conveyance, vehicle, carriage, car *(यान)*

यञ्चे : *See यो*

यानिकतो (adj) **:** Used as a vehicle

यङ्कारणा (adv) **:** Because *(यत्कारणात्)*

यञ्ञदेव : *See यो*

यञ्ञङ्गो : The Glomerous fig-tree *(यज्ञाङ्ग)*

यञ्ञो : A Brahmanical sacrifice *(यज्ञ)*

यन्नून : *See यो*

यन्तं : Implements, appliance, machine, engine *(यन्त्र)*

यापनं : Living, maintainance *(यापन)*

यापेति : *See याति*

याय्ययानं : A palanquin *(याप्ययान)*

यसस्सी (adj) **:** Famous *(यशस्विन्)*

यसस्सिवा (adj) **:** Surrounded by eminent men *(यशस्विन् + वत्)*

यसवा (adj) **:** Famous *(यशस् + वत्)*

यस्मा : *See यो*

यसो : Fame, renown, reputation, honour *(यशस्)*

यसोधरा : Name of wife of Siddhattha, before he became Buddha *(यशोधरा)*

यातना : Torment *(यातना)*

ययत्तो : *See यतो*

यथा (adv) **:** As, like, how, when *(यथा)*

यथाबलं (adv) **:** According to one's power or means, to the best of one's ability *(यथाबलम्)*

यथाभिरन्तं (adv) **:** As long as one likes

यथाभुच्चो (adj) : Real *(यथाभूत + य)*

यथाभूतं (adv) : According to the reality, rightly, truly, correctly *(यथाभूतम्)*

यथाबुड्ढं (adv) : According to seniority *(यथावृद्धम्)*

यथाघम्म (adv) : Equitably, legally, righteously *(यथाधर्म)*

यथाधम्मो : Just award, righteous punishment *(यथा + धर्म)*

यथाधोतो (adj) : Washed, clean *(यथा + धौत)*

यथागतो (adj) : As contained in a book, as written *(यथागत)*

यथाह : As he has said *(यथा + आह)*

यथाहि : *See यथा*

यथाकालं (adv) : As long as possible *(यथाकालम्)*

यथाकम्मं (adv) : According to one's Karma or actions *(यथा + कर्मन्)*

यथाकरो (adj) : Acting in which way *(यथा + कर)*

यथाक्कमं (adv) : In due order, successively *(यथाक्रमम्)*

यथालङ्कतो (adj) : All decorated as he was, without changing his state *(यथा + अलंकृत)*

यथामतो (adj) : As if dead, like a dead man *(यथा + मृत)*

यथानाम : *See यथा*

यथाञायं (adv) : Rightly fitly *(यथान्यायम्)*

यथानुरूपो (adj) : Suitable, commensurate *(यथा + अनुरूप)*

यथानुसिट्ठं (adv) : According to instructions, in accordance with what has been taught *(यथा + अनुशिष्ट)*

यथापेमं (adv) : Out of love or affection *(यथा + प्रेमन्)*

यथाफासुको (adj) : According to comfort, pleasant

यथापि : *See यथा*

यथारहं (adv) : According to worth or station: properly, satisfactorily, correctly, appropriately, duely *(यथार्हम्)*

यथारिव : *See यथा*

यथारुचिं (adv) : According one's taste or wish, as one likes, at will

यथारुचितो (adj) : As liked, pleasant *(यथा + रुचित)*

यथारुचिया (adv) : As one likes; at pleasure

यथारूपो (adj) : Of that kind, which, such *(यथारूप)*

यथासद्धं (adv) : According to faith, in faith *(यथाश्रद्धम्)*

यथासको (adj) : Each his own, respective *(यथास्व + क)*

यथासङ्खं (adv) : According to number or order, respectively *(यथासंख्यम्)*

यथासन्थतिङ्गं :	This is the 12th Dhutanga precept *(यथा + संस्तृत + इक + अङ्ग)*
यथासत्ति, : **यथासत्तिया** (adv)	According to one's ability *(यथा + शक्ति, यथाशक्त्या)*
यथासुखं (adv) :	As one likes, at pleasure, comfortably, at one's ease *(यथासुखम्)*
यथातथो (adj) :	Real, true *(यथातथ)*
यथत्त + यथत्ता : (adv)	Rightly, exactly *(यथा + त्व)*
यथाट्ठानं + ठानं :	Former or original place *(यथास्थान)*
यथावज्जं :	Mimicry of a person's defects *(यथा + वर्ज्य)*
यथावेजं :	As quickly as possible *(यथा + वेग)*
यथाविधिं (adv) :	Duly, fitly *(यथाविधि)*
यथाविहितो (adj) :	As appointed, regular *(यथा + विहित)*
यथावुत्तो (adj) :	As above mentioned *(यथा + उक्त)*
यथविदं, यथेदं : (adv)	As: so that *(यथा + इदम्)*
यथेव :	*See यथा*
यथिच्छितं (adv) :	To one's liking, to one's heart content *(यथेप्सितम्)*
यति :	A pious ascetic, a Buddhist monk *(यति)*
यति :	Caesura *(यति)*
याति :	To go; to go away; to undergo *(या)*
यतो (adv) :	From what, from whom: in as much as since, because: from the time when *(यतस्)*
यतो :	Restraint, temperate *(यत)*
यातो :	*See यति*
यत्र :	Since, as much as
यत्थं (adv) :	Where, in which place, wherein, whereon, whither *(यत्र)*
यात्रा :	A march or expedition; livelihood *(यात्रा)*
यत्तको (adj) :	However much, of whatever size
यत्थ :	*See यत्र*
यट्ठि :	A staff, stick, pole; a stem, stalk; a measure of length *(यष्टि)*
याव, यावं (adv) :	Until, while, as long as, in order that *(यावत्)*
यावदत्थं (adv) :	As much as required *(यावदर्थम्)*
यावदे :	*See याव*

यावदिच्छकं (adv) : As much as desired *(यावत् + इच्छा + क)*
यावजरा (adv) : Until old age *(यावत् + जरा)*
यावजीवं (adv) : As long as life lasts, all one's life
यावजीविको (adj) : Life-long
यावको : Lac *(यावक)*
यावमहन्तो (adv) : However big *(यावत् + महत्)*
यवनपुप्फं : Name of a perfume *(यवन + पुष्प)*
यावञ्चिदं : *See* याव
यावन्तो : As many as
यवसो : Pasture, fodder *(यवस्)*
यावता (adv) : As far as, in as much as, because *(यावता)*
यावतको (adj) : As long, as far, as much, as many
यावततियं (adv) : Up to the third time *(यावत् + तृतीय)*
यावतायुकं (adv) : As long as life should last *(वाचता + आयुस् + क)*
यावतिहं (adv) : As many days as
यवो : Barley *(यव)*
यायी (adj) : Going *(यायिन्)*
येभुय्यसिका : Name of one of the Adhi-karanasamathas
येभुय्यता : Abundance, preponderance
येभुय्यो (adj) : Abundant, numerous
येन : *See* यो
येनकामं (adv) : Wherever, one likes, at will *(येन + काम)*
येनकम्मं (adv) : Where one's karma leads *(येन + कर्मन)*
येनिच्छकं (adv) : Wherever one likes *(येन + इच्छा + क)*
येव : *See* इव
यो : Who, what, which; he who; whoever *(यद्)*
योब्बनं योब्बञ्ञं : Youth *(यौवन)*
योधि : A warrior *(योधिन्)*
योधो : A warrior, soldier *(योध)*
योगक्खेमो : Security: Nirvana *(योगक्षेम)*
योग्गा : Training, practice *(योग्य)*
योग्गं : A conveyance, carriage *(योग्य)*
योग्गो (adj) : Worthy, proper fit, adapted *(योग्य)*
योगी : An ascetic *(योगिन्)*

योगो : Junction, union; method, means, plan, device; application, endeavour, diligence, devotion, mental concentration; connection, attachment; relation, order, series, in gram, a rule, aphovism *(योग)*

योजनं : Junction, union: a measure of length four gavuta *(योजन)*

योजनिको (adj) **:** A yojana in extent *(यौजनिक)*

योजनियो (adj) **:** A yojana in length or height *(योजन + अ)*

योजेति : *See युज्जति*

योनको : *See योनो*

योनि : The womb; the vagina; source, origin, material cause; a class of beings: form of birth on existence: knowledge or wisdom *(योनि)*

योनिजो : Born from the womb, born of a mother *(योनिज)*

योनिसो (adv) **:** Casually, really, wisely *(योनि + शस्)*

योनो, यवनो, यनको (adj) **:** Foreign, barbarian; Ionian, Greek *(यवन–यवनक)*

योत्तं : The tie of the yoke of a plough *(योक्तु)*

युद्धं : *See युज्झति*

युगलं : A pair, couple *(युगल)*

युगं : A pair, couple: a generation, an age of the world *(युग)*

युगन्धरो : *See कुलाचलो*

युगन्तो : The end of a Kappa *(युगान्त)*

युगपत्तो : Mountain ebony *(युगपत्र)*

युगो + युगं : The yoke of a carriage or plough *(युग)*

युज्जति : *See युज्जति*

युज्झति : To fight, make war *(युध्)*

युज्जति : To turn one's attention to, be zealous, active, devote oneself *(युज्)*

यूनो (adj) **:** Young

यूपो : A pillar, column: a sacrificial post: a pasada *(यूप)*

यूसो, यूसं : Juice *(यूष, जूष)*

यूथिका : A sort of jasmine *(यूथिका)*

यूथो, यूथं : A herd of animals *(यूथ)*

यूतो : Furnished or fitted with; yoked, harnessed *(युत)*

युत्तको (adj) **:** Worthy, proper, right *(युक्त + क)*

युत्ति : Use; application; aptness, fitness, propriety; an emblem *(युक्ति)*

युत्तो : Yoked, joined, connected, attached; right, fitting; possessing, used, adopted, performed, engaged in, devoted to, versed *(युक्त)*

युवा (adj) **:** Young *(युवत्)*

युवानो (adj) **:** Young

युवराजा : A crown prince, associated with the king in the Government *(युवराजन्)*

युवति : *See युवा*

व्याहं, व्यायं : *See यो*

Addenda

अब्भाहतो :	Afflicted
अभिधारेति (caus) **:**	To raise up aloft, to hold up
अभिदोसिको (adj) **:**	Belonging to the evening
अभिजनेति (caus) **:**	To call into existence, to produce
अभिण्हसो (adv) **:**	Frequently
अभिनिब्बुतो :	Calmed
अभिप्पकिण्णो :	Completely strewn or spread
अभिप्पसन्नो :	Greatly pleased
अभिरवति :	To sound loudly
अभिसम्भवो :	Meeting with, finding, getting
अभिसम्बुज्झनं :	Attaining Buddhahood
अभिसन्दति :	To trickle, flow
अभिस्सज्जना :	Being angry
अभित्थुनति :	To praise, laud
अभितुन्नो :	Struck down
अभिवस्सति :	To pour down
अभिविजिनति :	To conquer
आभूजनं, आभूजो :	Bending, turning
अभूमि :	Wrong place
अचिरट्ठायी (adj) **:**	Of short duration
अद्धुवो (adj) **:**	Impermanent
आधारकं :	A seat, stool
अधिपातेति (caus) **:**	To knock off, remove
अधिवाहनो (adj) **:**	Carrying or conveying to
अधोकतो (adj) **:**	Knocked down, upset
अधोसिरो (adj) **:**	Head downwards
अदिस्समानो (adj) **:**	Invisible
आगमनीयो :	That should be attained
अगारी :	A householder
अहेतुको :	One who does not believe in the cause, an infidel
आहुति :	Offering, oblation
आहूय :	Havingsummoned

अजपालो :	A goathered
अजरामरो (adj) :	Free from decay and death
अज्झायको (adj) :	Engaged in study
अज्झोगहेति :	To plunge into, enter
अकामको (adj) :	Unwilling
अक्खित्तो (adj) :	Not blamed, not reviled, blameless
अक्कुट्ठो :	Reviled, cursed
आकोट्टेति :	To beat, knock
अलङ्कम्मनियो (adj) :	Suitable for coition
अममो (adj) :	Covetous, unselfish
आमन्तना :	Taking leave
आमोदितो :	Pleased, delightful
अमोघो (adj) :	Unfailing, unerring
अनभिज्झितो (adj) :	Not coveted
अनभिस्सरो (adj) :	Not a master, powerless
अनगारी अनगारिया :	Homeless state
अञ्ञातो (adj) :	Undistinguished, unrecognised
अनपेक्खो (adj) :	Indifferent
अनरहा :	One who is not an Arhata
अनावटो (adj) :	Unobstructed, unlimited
अनावत्ति :	Non-return
अनिट्ठो (adj) :	Unpleasant
अञ्ञाता :	One who learns or understands
अञ्ञत्थत्तं :	Variation, contraiety
अनोवादको (adj) :	Not listening to admonition, untutored
अन्तकं :	Extremely, border

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BOOK II

PALI DICTIONARY

(into English Marathi, Gujarathi and Hindi)

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		(Marathi)	(Gujarathi)	(Hindi)
अ :	Used only as an inseparable prefix	–	–	–
आ : (prep.)	Until : as far as	*जोपर्यंत; पावेतो*	*ज्या सूधी, त्यां सूधी*	*जब तक, जब तक*
अकटञ्ञू :	Ungrateful	*अकृतज्ञ*	*कृतघ्न*	*कृतघ्न*
अकटञ्ञू : (adj)	Knowing Nirvana, an epithet of an araha	*अर्हतांचे गुण वाचक विशेषण*	*अर्हत माटे उपयोगमा लेवाय जेवा गुणनाम*	*अर्हतके लिये उपयोगमे लेने योग्य विशेषण*
अकटञ्ञुला : (f)	Ingratitude	*कृतध्नपणा*	*कृतध्नता*	*अकृतज्ञता*
अकटङ्कथी : (adj)	Free from doubt	*नि:संशय, निश्चय*	*निस्संदेह नि:शंक*	*निस्संदेह*
अङ्कयो :	A sort of tambourine	–	*खंजरी वाडकानु डफ*	*झांज लगा हुवा डफ, खँजडी*
अकणो : (adj)	Free from kana viz rice freed from the red coating which underlies the husks	*भातावरचे टरफळ काढल्यानंतर जो तांदूळ निघतो तो*	*फोतरा अथवा छीलका वगराना चोखा*	*छीलका या भूसा हटाया हुवा चावल*
अकतो + : **अकटो :** (adj)	Not done; left undone; not made; natural, not artificial; not cultivated waste	*न केलेला, असाधित, विस्कळीत अकृत्रिम, अंगचा, अनौरस, जोपासणे; खर्चणे, नांगरणे, उधळ, उडविणे*	*पायमल थई गयेलु; कर्यासिवायनु कुदरित, स्वाभावित अकृत्रिम; न खेडेलु; उजाड बतावु*	*न करा हवा, नही बनाय हुवां स्वाभाविक, नैसर्गिक, सामान्य; खेत नही जोतना; निसार, भ्रष्ट*

		(Marathi)	(Gujarathi)	(Hindi)
अकनिट्ठो + : **अकनिट्ठको** (adj)	Greatest, Highest	*थोरला, मोठा, उच्च. उन्नत, श्रेष्ठ*	*मोटु, प्रौढ, जोरावर, उंचु, महान, विस्तृण*	*विशाल, बडा. उच्च, उंचा प्रतिष्ठित, श्रेष्ठ*
अकप्पियो : (adj)	Unsuitable, improper, wrong	*अयोग्य, नालायक, अनुचित, गैरवाजवी, अपराध, जुलूम, नुकसान*	*अनुचित, अयोग्य, अघटित गलित, खोटु*	*अयोग्य, अनुचित अशुद्ध, अधर्म*
अकम्मको : (adj)	Intransitive of Verbs	–	–	–
अकरणं :	Not doing, omission abstuning from	*टाळाटाळ, वगळणे वर्ज्य, वाचून राहणे*	*त्याग, गफलत, लोप, वर्जवु, मुकी देवुं, थी दूर रहेवु*	*त्याग, भूल, लोप, अलग रहना*
अकरी :	See करोति	–	–	–
अकल्लो : (adj)	Impossible	*अशक्य, असंभवनीय, असाध्य*	*अशक्य, असंभवीत, अघटमान*	*असाध्य, दुष्कर, असंभवनीय*
अकल्लं :	Disease, illness	*आजार, रोग, दुखणे*	*दरद, पीडा, बीमारी, मांधु*	*रोग, बीमारी, व्याधी*
अकत्वा :	See *करोति*	–	–	–
अका :	See *करोति*	–	–	–
अकामो : (adj)	Unwilling	*नाकबुल, नाखुष, नाराजी*	*नाखुष, नाराज, असंतोषी*	*विमुख अनीच्छुक*
अकारणेन : (adv)	Without cause, unreasonably, unjustly	*विनाकारण, असमंजसपणाने, गैरवाजवी, अयोग्य रितीने*	*कारण विना; अमथुं गैरवाजवी रिते, अन्यायथी*	*बगर कारण, बुद्धिविपरीत अन्यायसे*

		(Marathi)	(Gujarathi)	(Hindi)
अकारियो : (adj)	That ought not to be done, That may not or can not be done	*न करणे, ते केलेले बरे; ते करणें अशक्य*	*न थवु जोयिये, न करवुं जायिये*	*नहिं करना चाहिये, नहिं होना चाहिये*
अकारो :	The Vowel A	*स्वर–अ*	*स्वर–अ*	*स्वर–अ*
अकालिको : (adj)	Without delay immediate	*विलंब लावणे, टाळा देणे, साक्षात संबंधाचा, तत्कालिक, जवळचा*	*विलंब करवो, ढील करवी, पासेनु, नजीकनुं, तात्कालीक साक्षात्*	*विलंब करना, समय बिताना, अति समीपका*
अकालो :	Unseasonableness, wrong time	*अकालिक, असमयोचित*	*अयोग्य अवसरनु, अकालिक*	*कुसमयका. असामयिक, बेमौसीम*
अकिच्चो : (adj)	That ought not to be done wrong	*न केले पाहिजे असे, अन्याय, जुलूम, नुकसान*	*नहिं करवुं जेवुं, गलित, उधु खोटुं*	*वैसा न करना चाहिये था; अनुचित, अयोग्य, अधर्म*
अकिञ्चनो : (adj)	Having nothing poor, destitute	*अकिंचन, गरिब, दळिद्री, कंगाल, निराश्रित*	*गरिब, कंगाल, तंगी पाडवी*	*दरिद्र, हीन, अभाग, निराश्रय, विहीन*
अकिञ्चि : (adv)	Not a little much, considerably	*पुष्कळ, बराचं*	*घणु, वधारे, पुष्कळ*	*बहुत, अत्यंत, विशेषरूप से, अति*
अकिरियो : (adj)	Unpractical, useless, foolish	*निरर्थक, निरूपयोगी, अकारण, अक्कलशून्य, अविचारी, मूर्ख*	*अमथु, नकामु, निरर्थक, मूर्ख*	*अकुशल, निरर्थक, निष्फल, व्यर्थ, निर्बुद्ध, बेवकूफ*
अकिलासु : (adj)	Diligent	*उद्योगी, मेहनती, दक्ष, तत्पर*	*उद्योगी, मेहनतु*	*उद्योगी, परिश्रमी*

		(Marathi)	(Gujarathi)	(Hindi)
अकुताभयो : (adj)	Quite safe	*निर्भय, बिनधोक, सुरक्षित*	*सहिसलामतपणे, निर्भयपणे*	*सुरक्षित, भयरहित*
अकुप्पो : (adj)	fixed, immovable sure, certain	*घट्ट, न हालणारा, स्थिर, अढळ, अचल, खचित, निश्चित*	*द्रढ, जडेलु, ठरवेलु, अचल, स्थावर, भरोसादार, जरुर, चोक्कस, मुकरर*	*स्थापित, अचल, अटळ, दृढ, स्थिर, निश्चित, अवश्य*
अकुसलकम्मं : *कर्म,*	Evil action, bad works	*दुष्ट, खराब, कुकर्म, दुष्कृति,*	*दुष्ट कार्य, खराब काम,*	*अधर्मी, निंदित कर्म, बुरा*
	demerit	*दुष्कर्म, दोष, व्यंग, पाप*	*दोष, अपयश, भूल*	*कुकार्य, अवगुण, दोष, न्युनता*
अकुसलकम्पपथो :	Course or path of sinful action Sinful course	*दुष्कर्माचा मार्ग, दुष्ट वागणूक पातकी गति*	*पापमार्गे जवु, दुष्कर्म*	*कुपथ, दुष्ट मार्ग*
अकुसलधातु : (f)	Element of sin, Sinful principle	*पातकी तत्त्व, पातकी कर्म पापी सिद्धांत*	*पापी, कुकर्णी, पातकी हेतु*	*पापी सिद्धांत*
अकुसलमूलं :	Root of principle of sin, evil principle	*वाईट दुष्ट अथवा अपायकारक तत्त्व*	*पापी, खराब, मूलतत्त्व अथवा सारा*	*अधर्म, निंदित, हेतु, तत्त्व या सार*
अकुसलवितक्को :	Sinful thought	*दुष्ट विचार, वाईट कल्पना, पापीतर्क*	*दुष्ट विचार अथवा संकल्प*	*पापी बुद्धि*
अकुसलसङ्कप्पो :	Sinful resolve	*पाप बुद्धी, पाप वशता, दुष्टपणा*	*पापपरायण रिते, कुकर्मपण*	*पापपूर्णता, दुष्टता*
अकुसलसञ्ञा : (f)	Sinful idea	*पापी, कल्पना अथवा हेतू*	*कुकर्मी, पापी विचार, अथवा कल्पना*	*पापी या दुष्ट भावना या विचार*

		(Marathi)	(Gujarathi)	(Hindi)
अकुसलो : (adj)	Unskilled, unable, bad, evil, sinful, unhealthful	*अनाडी, अडाणी, असमर्थ, वाईट अथवा पापी, अपायकारक, बाधक*	*अकुशल, अशक्य, पापी कुक्रर्म, रोग, बिमार, रोग वाळु*	*बिनाचातुरीके, अनिपुणता, अयोग्य, पापी, घातकी, असमर्थ*
अक्कमणं :	Stepping upon, walking upon	*पाय ठेवणे, चालणे वर्तणे*	*कदम भरवुं, पगलो भरवुं, चालवुं, डगला भरवा*	*पेर रखने की जगा, चलना, टहलना*
अक्कमति :	To step upon, mount upon, tread upon, walk upon	*चढणें, तुडविणे, च्या मागून जाणे, अनुकरण करणे*	*सवार थवुं, ना उपर बेसवुं, कचरी नाखवुं, ना उपर थईने चालवुं*	*चढना, उपर को जाना, चलना, अनुकरण करना*
अक्कन्तो :	Stepped upon, mounted upon	*चढलेला, वर चढलेला*	*उपर चढेलु*	*उपर चढा हुवा*
अक्को :	The sun; the plant swallow, wort or Aselepias Giqantea	*सूर्य, रवि : एका झाडाचे नाव*	*रवि, सूर्य, झाडनुं नाम*	*रवि, सूर्य, पेड़ का नाम*
अक्कोच्छि :	See *अक्कोसति*	–	–	–
अक्कोधनो : (adj)	Not angry, not passionate, mild	*अक्रोध, अकोप, क्षुब्ध, शांत, सौम्य, न रागवणारा,*	*अक्रोध, भलु, सालस, नम्र*	*अतीव्र, अक्रोधी, अकोपी, सुकुमार, दयाळु*
अक्कोधो : (adj)	Freedom from wrath, mildness, conciliation	*अक्रोध, नम्रतापूर्वक, शांत; मन मळवणे, मन धरणी*	*क्रोधा विनानु, घुसावाळु नरमाश, भलमण, नम्रता, मन मेळवी लेवु ते, मिलाप*	*रोषविना, क्रोधरहित; कोमल, दयाळुता, सांत्वन, अनुरंजन*

		(Marathi)	(Gujarathi)	(Hindi)
अक्कोसति :	To abuse, to revile	*शिव्या देणे, निंदीणे*	*बदवोई करवी, निंदा करवी*	*गालि देना, बुरा कहना, निंदा करना*
अक्कोसनं :	Reviling, abusing; curse, imprecation	*निंदिणे, कुटाळणे, शिवीगाळ, शाप, तळतळाट*	*निंदा करवी, भुंडुं बोलववुं, शाप देवो, बद दुवा*	*बुरा कहना, निंदा करना, गाली देना, शाप;*
अक्कोसो :	Abuse, reviling	*शीव्या देणे, कुटाळी करणे*	*निंदा करवी, गाळी अपवी*	*गालि गलोच करना, निंदा करना, निंदा, अपवाद*
अखण्डो : (adj)	Unbroken, intact, entire	*न मोडलेला, अखंड, अभंग*	*अखंड, आखुं, पुरु, तमाम*	*बिना तुटा हुवा, अखंड, संपूर्ण*
अखातं :	A natural pond or tank	*पुष्करिणी, तलाव, तळे, टाकी*	*तळावडुं, टाकी*	*तडाग, सरोवर, तालाब, वाबली*
अखिलो : (adj)	All = entire	*सर्व, अखंड*	*आखुं, संपूर्ण*	*सकल, पूरा, कूल : पुरा, समग्र*
अक्खको :	The collar bone	*गळयाजक्ळील हाड*	*हसडीनुं हडकु*	*हँसिया, हॅसुलि*
अक्खं :	An organ of sense, the eye	*इंद्रिय, डोळा, चक्षू*	*इंद्रिय, डोळो, आंख*	*इंद्रिय, अँखुवा, चक्षू*
अक्खणा (f) **:**	Lightening	*वीज, विद्युत, बिजली*	*विद्युत, बिजली*	*बीजलि, विद्युत*
अक्खणो :	Wrong moment or occasion, Unfavorable time	*प्रतिकूल वेळ अथवा अवसर, प्रयोजन, अनिष्ठ क्षण*	*प्रतिकूल अथवा अशुभ क्षण, पल, प्रसंग*	*प्रतिकूल क्षण, अवसर, प्रसंग*
अक्खतम :	Fried grain	*तळलेले दाणे*	*तळलेलु अन्नाज*	*भुना हुवा दाना, या लावा*
अक्खन्ति : (f)	Ill-will, grudge, envy	*दुष्टभाव, द्वेष, इर्षा, असूया, हेवा करणे*	*इर्षा करवी, स्पर्धा करवी*	*इर्षा, असंतोष, अनिच्छा दिखलाना, स्पर्धा*

		(Marathi)	(Gujarathi)	(Hindi)
अक्खदस्सो :	A judge	*न्यायाधीश, परिक्षक, निवाडा करणारा*	*न्यायाधीश, काजी, मुनसफ, गुणज्ञ*	*न्यायधीश, परिक्षक, गुणदोषज्ञ*
अक्खदेवी : (m)	A dicer, gambler	*जुगारी पैजेने खेळणारा,*	*जुगार, जूतं रमणार*	*पासा खेलनेवाला, जुवा खेलनेवाला जुआरी*
अक्खधुत्तो :	A dicer, gambler	*जुगारी*	*जुगारी*	*जुआरी*
अक्खप्पभेदो :	Distinction of letters, etymological science	*शब्द व्युत्पत्ति शास्त्र*	*शब्द व्युत्पत्ति शास्त्र*	*शब्द व्युत्पत्ति शास्त्र*
अक्खयो : (adj)	Undecaying, unfailing, endless	*अक्षय, अविनाशी, अनश्वर अपार, निरंतर*	*अविनांशी, अमर, बेहद्द, हमेशनुं*	*नष्ट न होने वाले, निश्चित, अपतनशील, अनंत, निरंतर*
अक्खरसो : (adv)	Letter by letter	*अक्षर न् अक्षर*	*अक्षर*	*अक्षर और अक्षरे*
अक्खरं :	The imperishable or Eternal	*अनाध्यंत, शाश्वत, अक्षय*	*अक्षय, अविनाशी, कायम, अनंत, नित्यनुं*	*अनश्वर, अविनाशी, नित्य*
अक्खरं, : अक्खरो	A letter of the alphabet	*अक्षर*	*अक्षर*	*अक्षर*
अक्खाता : (m)	One who tells, repeats or relates, one who proclasims or preaches, a teacher	*जो निवेदन करतो अथवा सांगतो अथवा शिकवतो अथवा उपदेश करतो तो शिक्षक, उपदेशक*	*जो मुढे कहेछे ते माणस अथवा जो कथन करेछे ते अथवा जो उपदेश, बोध करेछे ते, शिक्षक अध्यापक*	*जो फीर फीर कहेता है या प्रकट करता है या अध्यापन सिखलाना है वह अध्यापक, शिक्षक*

		(Marathi)	(Gujarathi)	(Hindi)
अक्खाति :	To tell, to relate, to announce, to proclaim, to teach, to preach	*सांगणे, निवदणे, प्रसिद्ध करणे शिकवणें, धर्माचा उपदेश करणे, परिचय देणे*	*कहेवुं, जणावुं, वर्णन करवुं, जाहेर करवुं; प्रसिद्ध करवुं, बोध करवुं, उपदेश करवुं शिकक्वुं भणावु*	*कहना, बतलाना, प्रकट करना, प्रकाशित करना, अध्यापन करना सिखलाना, परिचित कराना, धर्म उपदेश देना*
अक्खातो :	Told related, announced procliamed, preached, reported, called, named, denominated	*सांगितलेले, निवेदलेले, जाहीर केलेले, उपदेशिलेले, निवेदलेले, बोलाविलेला, नाव दिलेला, विशेष नाव असलेला*	*कहेलुं, जणावुं, जाहेर थयेलु खबर करेलुं, बोलावेलु, अभिधान अपेलु, संज्ञा अपेलु*	*कहा हुवा सो, प्रकट या प्रकाशित किया हुवा सो: जिसके बारेमे उपदेश किया हुवा है सो: विज्ञापन या इत्तिला दिया हुवा, बुलाया हुवा नाम दिया हुवा, वर्णन किया हुवा*
अक्खानं :	Telling, recitation telling tales or legends	*सांगणे, म्हणणे, पाठ अथवा कविता म्हणणे, गोष्टी अथवा कथा सांगणे*	*म्होढे बोली जवुं ते : वार्ता या कथा कहेवुं*	*कहेना, कथन, वर्णन, प्रगट करना, कहानी कहेना*
अक्खायता : (f)	Imperishableness endlessness	*अक्षयी, अनश्वेर्यता, अपार, निरंतरता, अनंतता, अमरपणा*	*अचलता, अविनाशी, अपारत्व, अमर्याद*	*अनंतता, अमरत्व, अविनाशत्व*
अक्खायति :	To be prroclaimed, to be reported	*जाहीर करवून घेणे, दवंडी पिटवून घेणे, निवेदन करविणे*	*जाहेर करवावुं, लोकोने जणाववुं, हकिकत निवेदवी*	*घोषणा करना, विज्ञापन करना, इत्तीला दिया*
अक्खायिका : (f)	A tell, Story	*अख्यायिका, अख्यान, वृत्तांत, कथा*	*आख्यान, कथा, कहानी*	*कथा, कहानी, जीवनी*

		(Marathi)	(Gujarathi)	(Hindi)
अक्खायी : (adj)	Telling, relating announcing	*सांगत असलेले, प्रसिध्द होत असलेले*	*कहेववुं, जणाववुं, जाहेर करववुं*	*कहेना, बतलावा*
अक्खि : (n)	The eye	*डोळा, चक्षू*	*आंख, नेत्र, डोळो*	*चक्षु, आँख, आखु, अँखुवां*
अक्खिको :	A dice player	*जुगारी*	*जुगारी*	*पासा खेलने वाला*
अक्खिगं :	The eyelashes	*डोळयाच्या पापणीचे केस*	*पापण*	*वरोनी*
अक्खो :	A die : The plant Terminalia Bellerica : a weight equal to two & half Masakas : the axle of a wheel	*रंग, कलप, झाडाचे नाव, अडीच माशाएवढे वजन, चाकाचे आंस*	*रंग, वर्ण, झाडनु नाम, अढाई माशा जेटलो वजन, वे पैयडाने जोडणारी गज,*	*रंग, वर्ण, रंगनेका द्रव्य, पेडका नाम, अढई माशा जितना वजन, धुरा जीसपर पहिया घुमती है*
अक्खोहिणी : (f)	A complete army, one of the high numerals = 10,000,000 or 1 followed by forty two ciphers	*फौजा, लष्कर*	*लष्कर, सैन्य, फौज*	*सेना*
अगच्छति :	To come, to approach, to arrive, to return	*जवळ येणे, पोहोंचणे, पावणे पुनरागमन करणे*	*आववुं, पासे आवी पहोचवुं, पाछुं मोकलवुं अथवा देवुं*	*आना, समीप जाना, पहुंचना, वापस करना*
अगति : (f)	wrong course, evil course or state, misfortune	*अन्यायाचा मार्ग, वाईट मार्ग दुर्गति, दुर्भाग्य, दुर्दैव*	*अशुध्द मार्ग, दुर्भाग्य, दुर्दैव*	*अनुचित मार्ग, निंदित रस्सा अभाग्य, दुर्गति*

		(Marathi)	(Gujarathi)	(Hindi)
अगति : (f)	Wrong course, civil course, or state misfortune	*अनितीचा मार्ग, अयोग्य : गैरशिस्त, वाईट गति, (अगति, दुर्गति) दुर्दैव, अरिष्ट*	*गलित मार्गः दुष्ट गति खराब हालत, दुर्भाग्य कमनशीब*	*अनुचित गति, (मार्ग); अयोग्य कुमार्ग : निंदित अवस्था, अभाग्य, दुर्गति*
अगतो : (adj)	Not gone to; not attained	*अगत, न गेलेलाः असिद्धि*	*न मेळवी शकाय, जेवुं : प्राप्त न थयेलुं*	*अपुरा : अयोग्य*
अगतो : (adj)	Not gone to; not attained	*न गेलेला : न संपादलेला*	*नही गयेलो, मेळवेलुं नथी*	*नहीं गया हुवा, नहीं प्राप्त हुवा*
अगदो :	Medicine, drug, medicament	*औषध, दवा*	*औषध, दवा*	*औषधि, दवा*
अगन्धको : (adj)	Devoid of perfume	*दुर्गंध*	*गन्धु*	*बदबु, बिना सुगन्धका*
अगन्धको : (adj)	Devoid of perfume	*सुगन्ध विरहीत*	*सुगन्ध रहित*	*सुगन्ध रहित*
अगरु : (adj)	Light, not heavy, unimportant, not disagreeable	*हलका, तुच्छ, नापसंत*	*हलकु : नापसंद बिन जरुरी*	*हलका : तुच्छ, अप्रिय*
अगरु : (adj)	Light, not heavy, unimportant, not disagreeable	*हलका, बिन महत्त्वाचा, पसंत, प्रिय*	*हलका, बीन जरुरी, पसंत, अनुकूल*	*हलका, अप्रसिध्द, तुच्छ, रुचिकर, प्रिय*
अगलु : (n)	Aloe wood or Aquilaria Aqallochum	–	–	–

		(Marathi)	(Gujarathi)	(Hindi)
अगा :	See Eti			
अगाधो : (adj)	Bottomless, unfathomable	*अगाध*	*अगाध, अथांग*	*अगाध*
अगाधो : (adj)	Bottomless, unfathomable	*अगाध, अपरंपार, गहन*	*अगाध*	*अगाध*
अगामको : (adj)	Without villages, uninhabited	*वसतिहीन, उजाड*	*वसतिहीन*	*न बसा हुवां*
अगामको : (adj)	Without villages, uninhabited	*गांवांशिवाय, उजाड*	*गामडा विनानुं, रहेवा जेवुं नथी*	*गाँव विनाका; न बसा हुआ*
अगाखो :	Want of respect, disregard	*अनादर, अपमान*	*अनादर, अपमान, बेपर्वाई*	*तिरस्कार करना, अनादर*
अगाखो :	Want of respect, disrespect, disregard	*अपमान, अनादर, अव्हेर*	–	*अनादर, उपेक्षा (तिरस्कार)*
अगाखो : (adj)	Disrespectful, disregarding	*अपमानाचा, अमयदिचा, अनादरणीय*	*असभ्य, अमर्याद बेपरवाई*	*असभ्य, निरपेक्ष*
अगारिको :	A house holder layman	*घरंदाज, गृहस्थ, कोटीतला मनुष्य, सामान्य मनुष्य*	*गृहस्थाश्रमी, संसारी*	*गृहस्वामी, सामान्य मनुष्य*
अगारिको :	One who lives in a house, a house holder, a layman	*घरंदाज, मालक, भिक्षुक नव्हे तो म्हणजे गृहस्थ*	*गृहस्थाश्रमी, संसारी*	*गृहस्वामी, सामान्य मनुष्य या गृहस्थी*

		(Marathi)	(Gujarathi)	(Hindi)
अगारियो :	A house holder, a layman	*गृहस्थ*	*कुटुंब काबिलावालो माणसं*	*गृहस्वामी, सामान्य आदमी*
अगारियो :	A house holder, a layman	*गृहस्थ*	*गृहस्थाश्रमी जो भिक्षु नथीं*	*गृहस्थ*
अगुणो :	Bad quality, badness	*वाईट, दुर्गुण*	*दुर्गुण*	*दुर्गुण*
अगुणो :	Bad quality, badness	*अवगुणो, अवलक्षण, ओंगळ, वाईट, बाधक*	*अधर्म, खराब जातनुं बगडेलु*	*दुर्गण, दुष्ट*
अगो :	A mountain, a tree	*पर्वत, झाड*	*पर्वत, डुंगर, पहाड*	*पर्वत, पहाड़, दरक, झाड़*
अगो :	A mountain, a tree	*पहाड, झाड*	*पहाड, झाड*	*पहाड, पेड़*
अगोचरो :	That which ought not to frequented, wrong sphere, improper or sinful place	*वारंवार न घडणे अथवा न जाणे लायक जागा, अयोग्य जागा अनुचित जागा*	*वारंवार न जवुं एवी जग्या, अयोग्य जग्या*	*वारंवार न जाना, अयोग्य जगा अनुचित जगा*
अगोचरो :	That which ought not to be gone to, or frequented, wrong sphere, improper or sinful place or object	*जेथे वारंवार जाऊ नये ते, अयोग्य, वावगा. भलता, अनुचित जागा अथवा नालायक, गोचर किंवा व्यक्ति*	*जे जग्याये वारंवार जवुं नही जोइ, अन्यायी, गेरव्याजबी, अनुचित जग्या अथवा वस्तु*	*जीस जगहपर बारबार नही जाना चाहिये, अनुचित (अयोग्य) जगा अथवा पदार्थ या व्यक्ति*
अग्गजो : (adj)	First born, eldest	*सर्वांत वडील*	*सर्वथी मोटु*	*जेठा, वय मे सबसे बडा*

		(Marathi)	(Gujarathi)	(Hindi)
अग्गजो : (adj)	First born, eldest	*आग्र जन्म, सर्वांत पहिल्यांदा जन्मलेला, जेष्ठ*	*प्रथम जन्मेलुं, सर्वथी मोटु*	*अगला पैदा हुवा, जेठा (सबसे बडा)*
अग्गञ्ञो : (adj)	Chief, leading Principal	*अग्रेसर म्होरक्या, मुख्य मार्गदर्शक, प्रधान*	*मुख्य अगेवानी करवी, आगेवान*	*प्रधान पुरुष, नायक, मुखिया, मार्गदर्शक, अग्रसर होना, प्रमुख*
अग्गञ्ञो : (adj)	Chief, leading, Principal	*मुख्य अग्र, मार्ग दर्शविणारा, प्रधान*	*मुख्य, मोटामां मोटुं, आगेवान*	*मुख्य, अग्र, प्रधान*
अग्गता : (f)	Superiority, height, perfection	*श्रेष्ठत्व, प्राधान्य, सिध्दता*	*श्रेष्ठता, सिध्दता*	*श्रेष्ठता, प्रधानता, सिध्दी*
अग्गता : (f)	Superiority, height, perfection	*प्राधान्य, प्राबल्य, उन्नति, थोरवी, प्राविण्य, नैपुण्य*	*श्रेष्ठता ऊचपणुं संपूर्णता*	*विशिष्टता, श्रेष्ठता, उन्नति, सिद्धि*
अग्गतो : (adv & prep)	Before, in front of, in the presence of	*पुढे, समोर, देखता, समक्ष*	*आगळ, सामे, सन्मुख*	*आगे, सामने, सन्मुख*
अग्गतो : (adv & prep)	Before, in front of, in the presence of	*पुढे, समोर, देखता, समक्ष*	*आगळ, सन्मुख सामने, रूबरु मा, हाजरीना*	*आगे, सामने, सन्मुख (प्रत्यक्ष)*
अग्गप्पत्तो : (adj)	Having attained perfection, reaeched the height	*सिध्दि मिळवून पूर्णता, पूर्ण सिध्दी प्राप्त करून*	*पूर्णता, प्रवीणता*	*सिध्दि, पूर्णता, शिखर पर पोहंचना*
अग्गप्पत्तो : (adj)	Having attained perfection reached the height	*नैपुण्य मिळवून, उन्नति मिळवून उच्च पदाला पाहोचून*	*प्रवीणता मेळववी, उंची जग्याये पहोचवुं*	*प्रवीणता मिला के, शिखरपर पहोचकर*

		(Marathi)	(Gujarathi)	(Hindi)
अग्गबीजो : (adj)	Propagated by ships or cutting	*परंपरेनें चालविणें चा प्रसार करणें*	*प्रचार करवुं*	*परंपरा बढाना*
अग्गबीजो : (adj)	Propagated by Ships or cuttings	*कापलेल्या तुकड्याच्या मदतीने पसरविणें*	*फाटेला तुकडाथी प्रचार करवो*	*फटा हुवा तुकडेसे फैलाना*
अग्गमहेसी : (f)	The chief wife of a King or queen consort	*मुख्य (पहिली) पत्नी अथवा राणी, लग्नाने झालेली पत्नी–पट्टराणी*	*मुख्य धर्मपत्नी, राजमहिषी*	*मुख्य (प्रधान) धर्मपत्नी, रानी*
अग्गमहेसी : (f)	The chief wife of King queen consort	*पट्टराणी, महीषि*	*राजराणी, महीषि*	*महाराणी, दुलारी*
अग्गमं :	House, apartment	*घर, दिवानखाना, खोली*	*महान, कोटडी, दिवानखानु*	*मकान, घर, कमरा*
अग्गसावको :	Chief disciple	*मुख्य चेला, मुख्य अनुयायी*	*मुख्य चेलो*	*मुख्य चेला*
अग्गसावको :	Chief Disciple	*मुख्य, प्रधान शिष्य, अनुयायी*	*प्रधान चेलो, शिष्य*	*प्रधान चेला*
अग्गहेति : (Cous)	To Seize, to take	*बळकावणे, घेणे*	*पंकडवुं, धरवुं लई लेवुं*	*छीन लेना, पकडना, लेना*
अग्गहेति : (Caus)	To Seize, to take	*बळकावणें, जबरदस्तीने घेणें*	*झालवुं, बळात्कारे लई लेवुं*	*छीन लेना, ग्रहण करना*
अग्गळो, अग्गळं : **अग्गला :** (f)	A Wooden bolt or pin for fastening door	*खीळ, अडसर, कडी (कोयंडा)*	*अडगरो*	*द्वार बंधिनी, सिटकीनी, कुंडा*

		(Marathi)	(Gujarathi)	(Hindi)
अग्गळो, अग्गळं : **अग्गल :** (f)	A Wooden bolt or pin for fastening a door	*लाकडी खीळ, दरवाजा घट्ट बंद करण्याचा खुंटा (खुंटी)*	*मोटो खीलो : दरवाजो सज्जड रीते बंध राखवा माटेनुं टाकणी*	*अर्गला, दरवाजा जकडनेकी खुंटी*
अग्गि : (m)	Fire Sacrificial fire; The deity of fire	*अग्गि : यज्ञाचा अग्नि*	*अग्नि, यज्ञ*	*अग्नि, यज्ञा*
अग्गि : (m)	Fire; Sacrificial fire; The deity of fire	*अग्नि : यज्ञीय आग, अग्नि-देवता*	*अग्नि : यज्ञने लगतीनी अग्नी : अग्नि देवता*	*अग्नि, यज्ञ संबंधी आग : अग्नि देवता*
अग्गिक्खन्धो :	Mass of fire: blazing or faming fire (figuratively of a person of brilliancy and distinction)	*तेज, चकचकीत, प्रतिष्ठा, नावलौकिक, प्रख्यात*	*तेज, प्रताप, प्रख्यात*	*चमक दमक, श्रेष्ठ*
अग्गिक्खन्धो : (used figuratively of a person of brilliancy & distinction)	Mass of fire: blazing, or faming fire	*देदीप्यमान, जळजळीत फणफणीत*	*तेज, झगझगित*	*देदीप्यमान, प्रज्वलित*
अग्गिनि : (m)	Fire	*अग्नि*	*अग्नि*	*आग*

		(Marathi)	(Gujarathi)	(Hindi)
अग्गिनि : (m)	Fire	*अग्नि*	*अग्नि*	*अग्नि*
अग्गिमन्थो :	Name of a plant, the Premma Spinrsa			
अग्गे : (adv.)	Before, infront	*पुढें : समक्ष : समीर*	*आगळ : सामने*	*आगे : सामने*
अग्गो : (adj)	First, foremost, Chief	*मुख्य, प्रमुख, अग्रेसर, उत्कृष्ट*	*सौथी, आगळनुं उत्तम, परमश्रेष्ठ*	*सर्वोत्तम, प्रधान*
अग्गो : (adj)	First, foremost, Chief prominent	*आद्य, आदि : अग्रेसर, सर्वात पुढचा, मुख्य विशेष*	*पहिलो, आद्य, मुख्य, श्रेष्ठ, उत्तम*	*प्रथम सर्वोत्तम, प्रधान मुख्य :*
अग्गं :	See aggo			
अग्गं :	House, hall, Apartment	*घर, दिवाणखाना, खोली, दालन*	*घर, दीवानखानुं, कोटडी, ओरडो*	*घर, दीवानखाना, कमरा, दालान*
अग्यागारं :	See aggi			
अघोसो : (adj)	In Grammer hard consonants. The letters in Pali are *क, ख, च, छ, ट, ठ, त, थ, प, फ,* & *स*			
अघं :	Evil Sinful, grief, Suffering	*दुष्ट, पापी, दु:ख, शोक*	*पापी, दुष्ट, दु:ख, पीडा*	*दुष्ट, नीच, पापी, दु:ख, पीडा क्लेश*
अघं :	Evil, sin, grief Suffering	*दुष्कर्म, पाप, दु:ख, शोक*	*पापी, पाप, दु:ख, वेदना, उदासी, व्यथा*	*पाप, घातक, शोक, दु:ख क्लेश*

		(Marathi)	(Gujarathi)	(Hindi)
अघं :	The sky : The air	*आकाश, वातावरण, हवा*	*आकाश, हवा, वायु*	*आकाश, ऋतु, वायुमंडल*
अघं :	The sky, The air	*आकाश, आभाळ, हवा*	*आकाश, हवा*	*आकाश, हवा*
अग्धको : (adj)	Having the value of, worth	*योग्यता, मान, किंमत लायकी*	*मूल्य गणवुं, योग्यता*	*मूल्य योग्यता, महत्त्व*
अग्धको : (adj)	Having the value of, worth	*योग्यता, लायकी, मोल, आदर*	*मूल्य, योग्यता*	*मूल्य, योग्यता, उचित*
अग्घति :	To be worth, to cost	*मोल, किंमत*	*किंमत, भाव*	*मूल्य, दाम*
अग्घति :	To be worth, to cost	*किंमत असणें, ऐपत असणें*	*लायक, किंमत लागवी*	*उचित दाम ठहराना*
अग्घनको : (adj)	Of the value of, costing	*किंमत*	*किंमत, भाव*	*दाम, मूल्य, व्यथ*
अग्घनको : (adj)	Of the value of : costing, worth	*किंमतीचा, योग्यतेचा, ऐपतवाला*	*मूल्यवान, योग्यता, लायक किंमती*	*दाम का, असली किंमत्, आदर करनेलायक, विचारणीय*

		(Marathi)	(Gujarathi)	(Hindi)
अग्घापेति :	To get valued or appraised	*किंमत ठरविणे*	*किंमत ठरावी*	*मूल्य ठहराना*
अग्घियं :	A respectful oblation	*धार्मिक दान आहुति, अर्पण*	*अर्पण, बलिदान*	*आहुति, नैवेद्य*
अग्घियं :	A respectful oblation	*आदरणीय, समर्पण*	*आदरशील, समर्पण*	*सन्मानपूर्वक आहुति देना*
अग्घो, :	Price, cost, value,	*मोल, किंमत*	*किंमत*	*मूल्य, दाम*
अग्घं	a mode of worship or reverence consisting in an oblation of rice	*धार्मिक विधि, तांदूळ अर्पण करून पूजा करणे*	*चोखा आहूतिमा आपीने पूजा करवी*	*चावलसे आहुति दे कर पूजा करना*
अग्घो :	Price, cost, value,	*किंमत*	*किंमत*	*मूल्य, दाम*
अग्घं :	a mode of worship or reverence consisting in an oblation of rice etc.	*एक प्रकारचे पूजन अथवा वंदना, ज्यांत तांदूळ अर्पण करतात*	*एक जातनुं पूजन अथवा नमन जेमा चोखानी आहुति अर्पण करे छे*	*एक प्रकार के पूजन या नमस्कार जिसमें तण्डुलकी आहुति देते हैं*
अङ्कितो : (P.P.P.)	Marked, adorned, furnished, supplied with	*खूण, निशाणी केलेले, अलंकृत, साजरा, भूषविलेला, सुसज्ज केलेला.*	*अवलोकवु, चिन्ह करेलु, निशाण करेलु, याणगारवेलु, पुरु पाडवु, आपववुं*	*चिन्हित, लक्ष किया हुवा, सुशोभित, श्रृंगारना, सजा हुवा, जुहाना*
अङ्कुरो :	A shoot a sprout	*अंकुर, पल्लव, मोड, कोंब*	*अंकुर, पल्लव,*	*अंकुर*

		(Marathi)	(Gujarathi)	(Hindi)
अङ्कुसो :	A hook to guide an elephant with	*अंकुश*	*अंकुश :*	*अंकुश*
अङ्को :	A mark, the flank or side	*अंक, चिन्ह, खुण, निशाण, कटी, पार्श्वभाग, बाजू*	*निशाणी, चिन्ह कुख. पेडु, बाजु, पासु,*	*अंक, पार्श्व, कुक्षी, किनारा, भुज, पुसलीका, भाग*
अङ्कोलो :	The plant, algangium, Hexapelatum	– –	– –	– –
अङ्ग : (Interj.)	Oh! Indeed!	*अरे, खरोखर*	– –	– –
अङ्गजातं :	Membrum vivile	– –	– –	– –
अङ्गणं :	A court, a yard, lust impurity, sin	*अंगण, परसूं, वासना, तृष्णा, हाव, अशुद्धता, विटाळ, पाप, अपराध, गुन्हा,*	*आंगणु, चौक, लोभ, तृष्णा, दुर्बुद्धि, अपवित्रता, पापं, अपराध, कुकर्म, दुराचारण, दुष्कर्म,*	*आँगन, लालसा, मलिनता, अपवित्रता, घातक, पाप (दोष, अपराध)*
अङ्गति :	To go	*जाणे, चालणे, सरसावणे*	*चालवु, जवुं, सिधाववुं*	*चलना, जाना, घुमना, बढाना*
अङ्गदं :	A bracelet	*कंकण, बांगडी, चुडा*	*कंगण, बंगडी, पोची,*	*पहुँची, कंगन, बाजुं,*
अङ्गना : (f.)	A woman	*स्त्री, अंगना*	*स्त्री, नारी, महिला, बैरी*	*स्त्री, नारी, दासी. (चेटी)*

		(Marathi)	(Gujarathi)	(Hindi)
अङ्गविक्खेपो :	Gesticulation	*हावभाव, अंगविक्षेप, हातवारे*	*चाळा, हावभाव, अभिनय, अंगचेष्टा*	*चेष्टा, हावभाव*
अङ्गविज्जा : (f.)	One of the low arts enumerated in Brahma Jala Sutta, progrostication of a person's future from the appearance of his body	*ब्रम्हजाल, सुत्तांत, वर्णन केलेली एक हलक्या दर्जाची विद्या, मनुष्य शरीराच्या बाह्यस्वरूपावरून भविष्य कथन करणे.*	*आसक्ति बगरनुं.* – –	*आसक्ति या अनुराग बिनाका* – –
अङ्गहारो :	Gesticulation	*हावभाव, अंगविक्षेप*	*चाळा, हावभाव, अंगचेष्टा, अभिनय*	*चेष्टा, हावभाव*
अङ्गानुसरी : (adj.)	Pervading the limbs	*अक्यवांत भिनलेला (व्यापलेला)*	*अवयवमा व्यापक*	*अवयवमे घुमनारा (व्यापक)*
अङ्गारो :	Charcoal, live coal, embess	*कोळसा, निखारे*	*लाकडानो बनेलो कोयलो, अंगार*	*लकडी का कोयला अंगारा, चिनगारी*
अङ्गी : (adj.)	Having limbs : having parts or divisions	*अवयव अथवा, भाग असणे*	*अवयव, भाग, अंश, हिस्सो, वाळुं, विभागेलु –*	*अंग, अवयव या भाग होना, हिस्सा, विभाग या खंड होना*
अङ्गीरसो :	A name of the Buddha name of a Rishi	*बुद्धाचे एक नाव, एका ऋषिनु नाम*	*भगवान बुद्धनु एक नाम, एक ऋषिनु नाम*	*भगवान बुद्धके एक नामः एक मुनिका नाम*
अङ्गुट्ठो :	The thumb	*आंगठा*	*अंगुठा*	*अंगुठा*

		(Marathi)	(Gujarathi)	(Hindi)
अङ्गुत्तरनिकायो :	Name of the fourth division of the Suttapitakas	*सुत्तपिटकाच्या चौथ्या भागाचे नाव*	*सुत्तपिटकना चौथा भागनु नाम*	*सुत्तपिटकके चौथे हिस्से का नाम*
अङ्गुलिको : (adj.)	Belonging to a finger, an inch in length	*बोटाचा भाग, एक इंच लांबीचा*	*आंगळी साथेनुं, आंगळीने जोडेलुं, एक इंच लंबाईमा*	*अंगुली का भाग, या अंगुली से मिलाया हुवा विस्तार, एक इंच लंबाई में*
अङ्गुलिमुद्रा :	A signet ring	*शिक्का अथवा मुद्रा असलेली आंगठी*	*छाप अथवा मुद्रिका वाळी बीटी*	*अंगुठी जिस पर मोहर खुदी हो*
अङ्गुली : (f.)	A finger	*बोट*	*आंगळी*	*अंगळी*
अङ्गुलीयकं :	A finger-ring	*बोटांची (तील) आंगठी*	*आंगळी, अंगुष्टी, विंटी, मुद्रिका बाळी*	*अंगुली, अंगुठी (मुँदरी)*
अङ्गुलं :	A fingers breath - an inch	*एका बोटा एवढी रूंदी – एक इंच*	*आंगळी जेडलु एक इंच*	*अंगुली विस्तार या चौडाई – एक इंच*
अङ्गुल्याभरणं :	A finger - ring	*आंगठी, मुद्रा*	*विंटी*	*अंगुठी*
अङ्गो :	The name of a country, Bengal	*एक देशाचे (प्रांताचे) नांव बंगाल*	*एक प्रांतनुं नाम, बंगाल*	*मुलखका नाम, बंगाल*
अङ्गं :	A limb, a member the body, a portion, division, a means, a cause, a requisite, a quality, attribute	*अवयव, अंग, भाग, गात्र, शरीर, काया, भाग, भेद, वाटा, अंशु, खंड हिस्सा, हेतु, निमित्त, साधन, सामग्री, ऐपत, कारण जरूरीचा, गुण, धर्म, ताकद, विशेष गुणधर्म*	– –	– –

		(Marathi)	(Gujarathi)	(Hindi)
अड्ढतेय्यो , : **अड्ढतिय्यो** (adj.)	Two and half	*अडीच*	*अढाई*	*अढाई*
अड्ढयोगो :	Name of a sort of house	– –	– –	– –
अड्ढुड्ढो : (adj)	Three and half	*साडेतीन*	*साडा त्रण*	*साडेतीन*
अड्ढो : (adj.)	Wealthy, rich	*श्रीमंत, धनवंत, धनीक*	*श्रीमंत, धनवान, पैसादार*	*धनाढ्य*
अचलो : (adj.)	Firm, steady, immoveable	*घण, निर्धाराचा, अढळ, द्दढ, स्थिर, खंबीर, नेटाचा*	*मजबूत, कठण, द्रढ, सज्जड, स्थिर, कायमी, अचळ, स्थावर*	*ठोस, स्थायी, निश्चल, द्दढ, स्थिर, बराबर, अचल, स्थिर*
अचिन्तेय्यो : **अचिन्तियो :** (adj.)	Beyond the reach of thought or reason, inconceivable, incomprehensible, infinite	*असंभाव्य, गहन, अपरंपार, अनाघन्तः अगम्य*	*अभावनीय, गहन, अचिन्त्य, गूढ, दुर्लभ, अपार, बेसुमार,*	*अकल्पनीय, अचिन्त्य, अगम्य, अपरिमित*
अचिण्णो : (P.P.P.)	Practised, performed, sanetioned, enjoined	*आचरलेला, सिद्धीस, नेलेला, संपादलेला, मंजूर केलेला, पसंत, कर्तव्य बजावून*	*टेब पाडी, मंजूर करेलो, काम बजाववी, ताकीद, हुकुम आपवो*	*पुरा अभ्यास करके, प्रयोग करके, मंजूर करा हुवाँ, आज्ञा करके, उपदेश करके*
अचिरप्पभा : (f.)	Lightning	*विद्युत, वीज*	*बिजळी, विद्युत*	*बिजली, विद्युत*
अचिरवती : (f.)	Name of a river in India	– –	– –	– –

		(Marathi)	(Gujarathi)	(Hindi)
अचिरो : (adj.)	Short, brief	*तोकडा, अल्प, लहान थोडा, उणा, संक्षिप्त*	*टुकुं : थोडुं : संक्षिप्त :*	*अल्प, छोटा, कम, संक्षिप्त*
अचेतनो : (adj.)	Unconscious, insensible, senseless	*बेशुद्ध, बेसावध, अचेतन, भानरहित*	*अचेत : बेसावध : बेशुद्ध : बेहोष :*	*अचेत, मूर्छा, बेहोष*
अचेलको : (adj.)	Unclothed, naked	*दिगंबर, उघडा, नंगा*	*वस्त्रहीन : उघाडुं : खुल्लु : नग्न :*	*नग्न, वस्त्रहीन*
अच्चगमा :	See Htigaechati	– –	– –	– –
अच्चगा :	See Aceeti	– –	– –	– –
अच्चति :	To offer, to make religious offering : to honour, to revere	*पूज्य भावनेने देणे, वाहणे, भक्तिभावानें अर्पण करणें, गौरव करणे, मान देणे, सत्कार करणे*	*सूचववुं, देवुं, मागणी करवुं, धार्मिक भावथी पूजा करवी, इज्जत वधारवी, मान आपवुं सत्कार करवो,*	*दाम लगाना, भक्ति से अर्पण करना, प्रतिष्ठा करना, उपाधि देना, पूजा करना, सत्कार करना,*
अच्चन्तो : (adj.)	Exceeding, excessive, endless	*अधिक, जास्त, अतिशय, अनंत, अपार*	*बेशुमार, बेहद्द, अनंत, हंमेशनुं,*	*अधिक, अत्यन्त, निरंतर, अनन्तः*
अच्चन्तं : (adv.)	Very exceedingly	*अत्यंत पराकाष्ठेचा, अतिरिक्त, अतिशय*	*पुष्कळरीते अतिशय*	*अति : अत्यन्त :*
अच्चना : (f.)	Offering, worship	*अर्पण, पूजा, देऊं केलेले, आराधना, उपासना*	*नैवेद्य, भेट, अर्पण, आराधना, पूजा*	*अर्पण : बलि : पूजा : आराधना : उपासना :*

		(Marathi)	(Gujarathi)	(Hindi)
अच्चनीयो :	That ought to be offered,	*अर्पण करण्यालायक*	– –	– –
अच्चनिय्यो :	worthy of being offered	– –	– –	– –
अच्चम्बिलो : (adj.)	Very sour	*अत्यंत आंबट पदार्थ, अतिशय तुसडा, खट्याळ*	*घणुं, आंबट, खाटुं, बहु रिसाळ, चिढियुं,*	*अत्यन्त चिडचिडा, बहोत खट्टा अति रूक्ष*
अच्चयो :	Passing away, lapse, death, transgression, offence, sin	*मृत्यु, नष्ट होणे, स्खलन, निसटणे, च्युति, नाश, मरण, उल्लंघन करणे, पातक, अकर्म, अपराध करणे*	*मृत्यु, अंत, स्खलन, भुल, कसुर, मोत, उल्लंघन, भंग, दुराचरण, गुन्हो*	*मरना, मृत्यु, चूक, गिराव, बीतना, मरण नाश, उल्लंघन, अपराध, पाप*
अच्चादहति :	To put upon or cover	*धारण करणे, झांकणे घालणे, आरोप करणे, परिधान करणे, आच्छादणे*	– –	*वस्त्र पहिरना, कपडे से ढाकना इच्छा, आकांक्षाविना*
अच्चायनं :	Putting upon	*परिधान करून, वर घालून*	*वस्त्र पहेरीने,*	*वस्त्र पहिरकें*
अच्चायिको : **अच्चेको :** (adj.)	Irregular, accidental, unexpected, out of the usual course or line pressing, urgent	*बेशिस्त, अशास्त्र, आगंतुक, आकस्मित, अनपेक्षित, अकल्पित, नेहमीपेक्षा अपूर्व, दुर्मिळ, निकडीचा, जरूरीचा*	*अनियमित, आकस्मिक ओचिंतु नहिं धारेलुं, असाधारण, अगत्यथी*	*अव्यस्थित, आकस्मिक, अचानक, हमेशासे विलक्षण, असामान्य, अति आवश्यक*
अच्चरद्धो : (adj.)	Very eager very strenuous	*अतिशय उत्सुक, उतावळा, अतिश्रमाने, पुष्कळ मेहनतीने*	*बहु चातुर, वधारे प्रबळ, घणो आग्रही, बहु उद्योगी*	*अत्यन्त उत्सुक, उत्कट, अति उत्साही, उद्योगी*

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अच्चासन्नत्त :	Too great proximity	*अत्यंत लगतचा,*	*अत्यंत समीपता,*	*बहुत निकटता,*
अच्चासन्ने :	Too near	*फार सलगीचा, थोरला संसर्ग*	*मोटी नीकटता,*	*अति समीपका सम्बध*
(adv.)		*जवळचा, अतिशय समीप,*	*अति नजीकनुं, बहु समीपनुं*	*पास में, बहोत समीप.*
		फार नजीकचा		
अच्चि :	A ray of light,	*सूर्य किरण, उजेड, प्रकाशित*	*दीवानो किरण, अजवाळुं*	*दीपकके किरण, रोशनी,*
(m.f.n.)	a sunbeam, : flame	*भाग, ज्वाला, जाळ, कोप*	*रोशनी, सूर्यनुं किरण,*	*सूर्य किरण, ज्वाला,*
			आग, भडको	*दीप्ति*
अच्चितो :	Reversed, honoured	*आदरणीय, पूज्य मानलेला,*	*गौरवेलो, मान आपेलो*	*प्रतिष्ठित, पूजनीय,*
(P.P.P.)		*प्रतिष्ठित*		*आदरणीय*
अच्चिमा :	Fire	*अग्नि, आगटी, शेकोटी*	*अग्नि, आग, हुताशन*	*अग्नि, ज्वाला*
(m.)				
अच्चुक्कट्ठो :	Very high,	*उदात्त, प्रगल्भ, प्रौढ, कुलीन,*	*प्रौढ, जोरावर*	*प्रतिष्ठित, श्रेष्ठ,*
(adj.)	Too high	*धिप्पाड, चढा, पहाडी*	*बळवान, कुलीन*	*उच्चता*
अच्चुग्गतो :	Raised,	*वाढविलेला, चढलेला, उन्नति*	*उंचे चढाववुं,*	*बढा हुवाँ, बना हुवाँ,*
(adj.)	elevated,	*भरभराट झालेला, प्रसिद्ध,*	*उन्नत, प्रौढ*	*उन्नत, उत्तम पद पर*
	lofty	*वैभवशाली*		*नियुक्त, श्रेष्ठ, प्रसिद्ध*
अच्चुतो :	Immovable,	*अचल, अढळ,*	*अचल, स्थावर,*	*अचल, अटल,*
(adj.)	everlasting	*स्थावर, नित्य सिद्ध*	*मिल्कत,*	*स्थावर, नित्य,*
	eternal	*अनादि, शाश्वत*	*हमेशनुं, कायम*	*अनंत, अनादि*

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अच्चुण्हो : (adj.)	Very hot	*अति उष्ण, अतिशय तापट, दु:सह होईल असे करणे*	*घणु धगधगतुं, तपीजाय तेवा मिजाजनुं, तामसी स्वभावनुं*	*बहोत उष्ण (गरम) अति क्रोधी*
अच्चुळारो : (adj.)	Magnificent	*उमदा, भव्य, शोभिवंत, तेजस्वी*	*भव्य, शोभायमान, तेजस्वी*	*दैदीप्यमान, शोभमान, तेजस्वी*
अच्चेति :	To pass beyond, to traverse, to sur-pass, overcome, to conquer, to pass away	*पलिकडे जाणे, मनावर न घेणे, फिरणें, प्रवास करणें, चढ करणे, जय, पराभव करणे, हस्तगत करणे, मरणे*	*पेली बाजू निकळी जवुं, चढीआत थवुं, अधिक थवुं, जीतवुं, वश करवुं, हिरावुं, जीतवुं, नाश पामो*	*सीमा से बाहर जाना, बढकर होना, घुमना, आरपार जाना, बढना, अतिक्रमण, जीतना, विजय करना, मरना*
अच्चोक्कट्ठो : (adj.)	Very low, too low	*अत्यंत नीच, हलका, ठेंगणा, मंद, उदासीन, अधम, दुष्ट, छिचोर, फार अशक्त*	*पुष्कळ, नीचुं, ठिंगणु, हीणु, उदास*	*बहोत, अत्यंत नीच, उदास, मन्द, धीमा, गहरा, नीचा*
अच्चोदातो : (adj.)	Very low, very white	*अत्यंत पांढरा*	– –	*बहोत सफेद*
अच्छति :	To stay, to remain, to settle down	*टिकाव धरणे, टिकणे, मुक्काम करणे, राहणें, स्थिर होणें, शांत – स्वस्थ होणे*	*रहेवुं, रोकावुं, पडाव, निवासुं स्थायि थवुं*	*रोकना, थाँमना, रहना, ठहरना, स्थिर होना, स्थापित करना*
अच्छन्नो : (P.P.P.)	Covered hidden	*पांघरलेला, आच्छादलेला, लपलेला, छपविलेला*	*ढांकेलु, संताडेलुं, छुपु*	*ढंका हुवा, छिपा हुवा*

		(Marathi)	(Gujarathi)	(Hindi)
अच्छम्भी : (adj.)	Undaunted, undismayed	*निर्भय, धीट, धैर्य, हिम्मत असलेला, बेडर*	*निडर, निर्भय, नही घबराय ते*	*साहसी, निर्भीक, अनुत्साही*
अच्छरा : (f.)	A celestial nymph	*अप्पसरा*	*अप्पसरा, परी*	*अप्पसरा*
अच्छरा : (f.)	A moment, the snapping of a finger	*क्षण, पळ, बोट मोडणे*	*क्षण, पळ, घडी, टचाका फोडवा*	*क्षण, पल, अंगुली चटकाना*
अच्छरियो : (adj.)	Wonderful, marvellous, extraordinary, astonished	*आश्चर्यजनक, विलक्षण, अदभूत, विशेष, थक्क, चक्क*	*आश्चर्यजनक, लोकोत्तर, अद्‌भूत, विस्मयकारक, आचंबो पमाडे तेवुं, विस्मीत, थक्क*	*विलक्षण, आश्चर्यजनक, असाधारण, अद्‌भूत, चकित, विस्मित,*
अच्छादनं :	Covering, lid, curtain, cloth, clothes	*आच्छादन, आडपडदा: झांकण, ढांकण, वस्त्रें, कपडालत्ता*	*ढांकी देवुं, आच्छादित करवुं, आच्छादन, ढांकण, पडदो, लुगडुं, पोशाक, वस्त्र*	*ढकना, ओढना, आच्छादन, पर्दा, पहिरने के वस्त्र*
अच्छादेति :	To put on	*परिधान करणे, घालणें*	*लुगडा पेहरवा*	*वस्त्र पहिरना*
अच्छि : (n.)	The eye	*डोळा, नेत्र, चक्षु*	*आंख, नजर*	*आँखे, चक्षु*
अच्छिन्दति :	To take away, to remove, to remove forcild, to rob, to plunder	*नेणे, नागविणे, दूर करणे, निवारणे, काढून टाकणे, जोराने खेचणें, लुबाडणे, छिनावणे, लुटणे*	*लई लेवुं, दूर करवुं, स्थळ बदलवुं, जोरथी खसडवुं, खसवुं, लुटवुं, छीनवी लेवुं, बळात्कारपूर्वक लई लेवुं*	*अलग करना, हटाना, दूर करना, जोर से खीचना, लूटना, चुराना, डाका डालना*

		(Marathi)	(Gujarathi)	(Hindi)
अच्छिद्दो :	Uninjured,	*सुरक्षित, अक्षत, शाबूद,*	*सहीसलामत,*	*घाव या चोट न लगा हुआ,*
(adj.)	intack,	*जसाचा तसा, अव्यंग,*	*साबुद,*	*अखंड, निपुण,*
	perfect,	*प्रवीण, पारंगत,*	*पुरतुं, परिपूर्ण,*	*परिपूर्ण, निर्दोषी,*
	faultless	*निर्दोष, निरपराधी*	*निर्दोष*	*निरपराध*
अच्छिन्नो :	Taken away,	*काढून घेतलेला, निवारलेला,*	*लई लिधेलुं ते,*	*अलग करा हुआ,*
(P.P.P.)	removed,	*काढलेला, दूर नेलेला,*	*खसेडेलुं ते,*	*दूर करा हुआ,*
	robbed and stolen	*लुबाडलेला, हिराचून घेतलेला,*	*छानामाना लई,*	*बहिष्कार करा हुआ,*
		चोरून नेलेला	*लेधेलुं ते*	*चुरा हुआ, लुटा हुआ,*
अच्छेको :	Unskilful,	*अकुशल, अडाणी,*	*अशिक्षित, अणघड,*	*विना चातुरीके, अज्ञानी*
(adj.)	ignorant,	*अजाणता, अज्ञानी,*	*अज्ञानी,*	*निर्बुद्धि, भद्दा, बेढङ्गा*
	clumsy	*बेढब, ओबडधोबड*	*बुद्धं, कढंगु*	*निष्कपट*
अच्छेरो :	This is a contracted form	– –	– –	– –
(adj.)	of acchariya, it must have passed through an intermediate form acchariya			
अच्छो :	Clear,	*स्पष्ट, निरभ्र, शुद्ध,*	*स्वच्छ, शुद्ध, निर्मळ,*	*स्पष्ट, मेघहीन,*
(adj.)	transparent	*स्वच्छ, पारदर्शक*	*पारदर्शक, आरपार*	*नि:सन्देह, पारदर्शक*
अच्छो :	A bear	*अस्वल, रीस*	*रींछ*	*रीछ*
अजगरो :	A boa constrictor	*अजगर, मोठा साप*	*अजगर*	*अजगर*

		(Marathi)	(Gujarathi)	(Hindi)
अजञ्ञं :	A portent of nature	*अनिष्ट सूचक घटना (धरणीकंप वगैरे)*	*अनिष्ट सूचक घटना*	*अशुभ लक्षणकी घटना*
अजति :	To go	*जाणे, चालणे*	*चालवुं, जवुं*	*चलना, जाना*
अजपालकं :	The plant costus specisus	– –	– –	– –
अजळो : (adj.)	Not stupid, not an idiot	*बुद्धिवान, हुशार, चलाख*	*हुशियार, चालाख*	*हुशार, बुद्धिवान, प्रवीण*
अजा : (f.)	A She - goat	*बकरी*	*बकरी*	*अजा, बकरी*
अजातसत्तु : (m.)	Name of a king of Magadha, a contemporary and convert of Buddha	– –	– –	– –
अजिका : (f.)	A She - goat	*बकरी*	*बकरी*	*अजा, बकरी*
अजिनपत्ता : (f.)	A bat	*वाघुळ*	*वाघोळ*	*चमगाड पक्षी*
अजिनप्पबेणी : (f.)	A counterpane or rug made of skin sewn together	*चामड्याचे तुकडे एकत्र शिवून तयार केलेली चादर*	*चामडाना टुकडा एकठा (भेगा करीनो) सिवडावीने तयार करेली चादर*	*चमडेके टुकडे एकसाथ सिलके बनाई हुई चद्दर*
अजिनयोनि : (m.)	An antelape	*मृग*	*मृग*	*मृग*

		(Marathi)	(Gujarathi)	(Hindi)
अजिरं :	A court, a yard	*राजकचेरी, अंगण, पटांगण*	*राज्य मंदिर चोक, अंगण*	*राजगृह, राजसभा, आंगन*
अजिनसाटी : (f.)	A garment of skin worn by an ascetic	– –	– –	– –
अजिनं :	The hide of an animal specially of the black antelope	*काळ्या माळवीटाचे चामडे, कातडे*	*हरणनु, चामडु*	*पशुका चमडा, हरिण का चमडा*
अजिम्हो : (adj.)	Straight, honest	*सरळ, प्रामाणिक, इमानी*	*सिधु, प्रामाणिक, सरळ, इमानदार, सत्यता*	*बिना मोडका, सिधा, सरल, सच्चा, निष्कपट*
अजी : (f.)	A she goat	*बकरी*	*बकरी*	*बकरी, अजा*
अजेय्यो : (adj.)	Invisible, impregnable	*अजेय, अजिंक्य, दुसाध्य*	*अजय, अजित, असाध्य*	*अजेय, न जीते जाना योग्य, दुर्जय*
अजेळकं : **अजेळका** (pl. masc)	Goats and Sheep	*बकन्या आणि मेंढ्या*	*बकरो आणि मेंढु*	*बकन्या और मेष*
अजो :	He goat	*बकरा*	*अज, बकरा*	*अज, बकरा*
अज्ज : (adv.)	To - day, now	*आज, आता, एव्हां*	*आज, हमणा, आ वखते*	*अभी, अब, आजके दिन*

		(Marathi)	(Gujarathi)	(Hindi)
अज्जतग्गे : (adv.)	From this day, hence forth	*येथून पुढे, इथ:पर*	*हवे पछी, आज पछी, भविष्यमा*	*अबसे, इसके बाद*
अज्जतनो : (adj.)	Of to-day, of the present time, contemporary, modern	*याच काळांतील, समकालीन, आधुनिक, नूतन, आर्वाचिन*	*तात्कालीन, समकालीन, आधुनिक, नूतन*	*वर्तमान कालका, सामकालीक, समवयस्क, आधुनिक, प्रस्तुत*
अज्जुको :	Name of a plant, the white parnsa	– –	– –	– –
अज्जुनो :	The tree Terminalia, arjuna	– –	– –	– –
अज्झक्खो :	A superintendent	*देखरेख करणारा*	*देखरेख वाळो, अध्यक्ष, कारभारी*	*अध्यक्ष, निरिक्षक*
अज्झगमा :	See *अधिमच्छति*	– –	– –	– –
अज्झगा :	See *अधिते*	– –	– –	– –
अज्झत्तं : (adv.)	Relating to the individual, within the individual, internally, subjectively	*व्यक्तित्वाला लागून किंवा धरून, आतून, आतल्या बाजूस, कर्त्या संबंधी, अधिकरण संबंधी*	– –	*व्यक्ति संबंधी, अंतरिक, भितरी ओर, चेतना संबंधी*
अज्झत्तिको : (adj.)	Relating or belonging to the individual or self, personal, internal, subjective	*व्यक्तिच्या लगतचा असणारा, व्यक्ति विषयक मनांतील*	– –	– –
अज्झत्तं :	Individual thought, an object of sense, an object for the mind to dwell upon, sphere or province of intent thought	*चिंतन, मनन, कल्पना, तर्क मनांतील योजना, मनोदय, भावना, एकाग्र चिंतनाचा विषय अध्यात्मिक*	*चिंतन अथवा एकाग्रता जेना लीधी थाय एवो विषयो, जेना उपर मननु वळण होय ते*	*आत्म चिंतन, ध्यान करनेका विषय, मनन करनेका उद्देश्य, एकाग्र चित्तता*

		(Marathi)	(Gujarathi)	(Hindi)
अज्झभासि :	See अधिभासति	– –	– –	– –
अज्झागतो : (P.P.P.)	Having approached, come into the presence of	*जवळ जाणे, समक्ष, प्रत्यक्ष*	*पासे जवुं, सामे जवुं, सन्मुख*	*समीप जाना, सन्मुख, सामने*
अज्झाचरति :	To practice, to perform, to enjoin	*परिपाठ, व्यवहार साधणे, पूर्ण करणे, बजावणे, हुकूम करणे*	*टेव पाडवी, अभ्यास करवो, करवुं, बजाववुं, बनाववुं, हुकूम आपवुं*	*अभ्यास करना, उघम करना, जीविका करना, विधान करना, आज्ञा देना*
अज्झाचारो :	Transgression, excess, offence	*उल्लंघन, अमर्याद, अपराध, आज्ञा भंग*	*उल्लंघन, अमर्याद, अपराध*	*अत्याचार, उल्लंघन, अपराध, दोष*
अज्झाचिण्णो :	Enjoined	*अनुज्ञा*	– –	– –
अज्झापनं :	Instruction	*अध्यापन, उपदेश, सूचना*	*सूचना, उपदेश, सलाह*	*उपदेश, आज्ञा*
अज्झापनं : (caus)	To instruct, to teach	*पढविणें, शिकवणें, उपदेशिणें, बोध करणें,*	*बोध करवुं, सूचना अपवी शिकववुं, भणाववुं*	*पढाना, शिक्षा देना, सूचना करना, समझाना, अध्यापन करना, उपदेश देना*
अज्झापन्नो : (P.P.P.)	Fallen into, having incurred, or become guilty of	*पतित, नीतिभ्रष्ट, दोषी, आपराधी, गुन्हेगार*	*पतित, पापभ्रष्ट, गुन्हेगार, अपराधी*	*गिरा हुवा, अपराधी, दोषी*
अज्झायो :	Reading, a chapter, section	*अध्याय, प्रकरण, स्कंध, विभाग*	*अध्याय, प्रकरण, विभाग*	*अध्याय, स्कंध, भाग, परिच्छेद, प्रकरण*
अज्झारामो :	A garden	*उद्यान, उपवन*	*उद्यान, उपवन, पुष्पवन*	*बाग, बगीचा*

		(Marathi)	(Gujarathi)	(Hindi)
अज्झारोपेति : (caus.)	To cause, to ascend, to raise, to transfer, to apply	*आरोहन करणें, वर जाणें, उदय होणें, स्थलांतरी नेणें, उपाय योजनें, विनंती करणें, लक्ष लावणें*	*चढववु, उंचे जवुं, उचकी लवुं, उभु करवुं, बदलवुं, जग्या बदलवुं, चोपडवुं, लगाडवुं*	*आरूढ करना, बढाना, चढाना, उपर जाना, उठाना, उन्नति करना, अपना अधिकार दुसरेको देना*
अज्झारोहो :	Name of a fabulous sea - mouster	– –	– –	– –
अज्झावसति :	To inhabit, to dwell in	*वास्तव्य करणें, वस्ती करणें, राहणें*	*वास करवो, रहेवुं, वसवुं*	*निवास करना, बसना*
अज्झावसथो :	A house, dwelling	*घर, गृह, राहण्याची जागा*	*घर, मकान*	*मकान, घर*
अज्झासयो :	Intention, meaning, thought, inclination, wish	*इरादा, इंगित, अभिप्राय, उद्देश, योजिलेला, कल्पीत, मनोदय, भावना, कल, झोक, मनाची ओढ, प्रवृत्ति, इच्छा*	*हेतु, विचार, अर्थ, खुलासो, संकल्प, झुकाव, प्रवृत्ति धारण, इच्छा, मननु वळण*	*अभिप्राय, आशय, अर्थ, विचार, ध्यान, झुकाव, प्रवृत्ति धारण, ख्याल, अभिलाषा*
अज्झासेति :	To lie or rest upon	*च्या शिरावर पडणे, आराम, विश्रांति, विसावा*	*ना आधारे रहेवुं, आराम, चैन, शांति, निश्चलता, स्थिरता*	*लेटना, पडे रहना, स्थिर होना, शांति देना, विश्राम करना*
अज्झेसति :	To request, to invite	*विनंती करणे, आमंत्रणे, पाचारणे*	*अर्ज, विनंती, प्रार्थना, याचना, आमंत्रण आपवुं*	*प्रार्थना करना, बुलाना, निमंत्रण करना, निवेदन*

		(Marathi)	(Gujarathi)	(Hindi)
अज्झेसना :	Request,	*अर्ज, विनंती,*	*विनंती, मागणी, आमंत्रण,*	*प्रार्थना, इच्छा,*
(f.)	Invitation,	*आमंत्रण, याचना,*	*मानथी बोलावु ते,*	*विनती, निमंत्रण,*
	solicitation	*विनवणी, प्रार्थना*	*प्रार्थना, विनवणी*	*बुलावा*
अज्झोकासो :	The open air,	*उघड्यावर, उघडी जागा,*	*खुली जग्या,*	*घरके बाहरकी खुली वायु,*
	The open space	*आकाश*	*अवकाश, काळ*	*खुला स्तान, अवकाश*
अज्झोगाळ्हो :	Plunged, sunk,	*बुडलेला, पडलेला, निमग्न,*	*डुबेलुं, तल्लीन थयेलु,*	*डुबा हुवा, गीरा हुवा,*
(P.P.P.)	immersed	*गर्क, गुंग*	*लीन करेलुं*	*गोतेमें पडा हुआ*
अज्झोत्थरति :	To overwhelm,	*दडपणें, दाबणें, आच्छादणें,*	*दबावी नाखवुं, दाटी देवुं,*	*कुचल डालना, व्याकूल करना,*
	to overspread	*वेढणें, ग्रासणें*	*पाथरववुं, पसरववुं*	*घबडाना, फैलाना, छीतराना*
अज्झोत्थातो :	Overwhelmed	*दडपलेला, बुडविलेला, निमग्न*	*दबावी नाखेलुं, दाटी दिधेला,*	*व्यग्र, व्याकुल, घबराया हुआ*
अज्झोसानं :	Being bent upon,	*कल, अर्ज, विनंती,*	*निश्चय वाळो, अर्ज,*	*झुका हुआ, प्रार्थना पत्र,*
(P.P.P.)	application, cleaning to	*चिकटणे*	*विनंती, चोवुं, वळवी रहेवुं*	*चपकना*
अज्झोसितो :	Bent upon,	*कल असलेला,*	*निश्चित थयेलु,: चोटेला,*	*झुका हुवा,*
(P.P.P.)	cleaning to	*प्रेमाने चिकटलेला*	*वळगी रहेलुं*	*चपका हुवा*
अज्झोहटो :	Eaten,	*खाल्लेले, गिळंकृत केलेले,*	*खादेलुं, गळी गयेलुं*	*खा जाना, खाया हुआ,*
	Swallowed	*मटकावलेले*		*निगला हुआ*
अज्झोहरणं :	Eating	*जेवणे, खाणे*	*खई जवुं, जमवुं*	*खाना, भोजन करना*

		(Marathi)	(Gujarathi)	(Hindi)
अज्झोहरति :	To eat, to swallow	*चावणे, जेवणे, गिळणे, गडप करणे*	*खावुं, जगवुं, गट्ट करवुं, गळी जवुं*	*खाना, पी लेना, लीलना*
अज्झोहारो :	Swallowing, eating	*गिळणे, भोजन करणे, खाणे*	*गळी जवुं, खावुं*	*लीलना, पी लेना*
अञ्ञतमो : (adj.)	One of several, a certain	*अनेका पैकी एक, निर्विवाद, खचित, निश्चित, अमूक, किती एक*	*अनेक माथी एक मुकरर, चोकस, बेशक*	*कही एक, अवश्य, निश्चित*
अञ्ञतर : (adv.)	Without, except, besides	*शिवाय, बाहेर, गाळून, वगळून, खेरीज, वांचून, आणखी, खेरीज*	*वगर, सिवाय, विना, उपरांत, वधारामा*	*बिना, वाहर, रहित, सिवाय, अतिरिक्त, औरभी*
अञ्ञतरो : (adj.)	One, a certain, some : some other, another	*एक, कोणी एक, कांही, कांही एक, अन्य दुसरा, वेगळा, निराळा*	*एक, कोइ एक, मुकरर, चोकसं, थोडुं, केटलुंक, अन्य, बीजु*	*एक कोई, निश्चित, कुछ, अमुक, दुसरा, अन्य*
अञ्ञथ :	Elsewhere, in another case	*अन्य ठिकाणी, अन्यत्र, दुसन्या स्थितीत*	*कोइपण बीजे स्थळे, अन्य स्थळमा*	*और कही*
अञ्ञथत्ता : (adv.)	Differently	*वेगळ्या अथवां निराळ्या पद्वतीने*	*जुदी जुदी रिते*	*भिन्न प्रकारसे*
अञ्ञथा : (adv.)	In another way, differently, otherwise	*अन्य मार्ग, वेगळा मार्ग, निराळा, भिन्न, अन्यथा, एरवी*	*जुदी जुदी रीते अन्यथा*	*भिन्न प्रकारसे दुसरे प्रकारसे, अन्यथा*
अञ्ञदत्थु : (adv.)	Surely, certainly, truly	*निस्संशय, खचित, खात्रीने, खरोखर, खरे पाहिले असता*	*खरेखर, नक्कीपणे, खात्रीपूर्वक, चोक्कस रिते*	*नि:संदेह, आवश्यक, इमानसे, सचमुच*

		(Marathi)	(Gujarathi)	(Hindi)
अञ्ञमञ्ञनं : (adv.)	Mutually, towards, each other	*एकमेकांस, परस्परांच्या द्वारे*	*अरस परस रिते, आपस आपसमा, अन्यने तरफ*	*आपसमे, परस्पर, अन्योनके विषयमें, परस्पर संबंधमे*
अञ्ञमञ्ञो :	Each other, one another	*परस्पर, एकमेक*	*अन्य, बिजु कोई*	*अन्योन्य, परस्पर*
अञ्ञवादको : (adv.)	Talking, irrelerantly, prevaricating	*अनादरपूर्वक बोलणे, अपमान-कारक भाषा, धरसोडपणानें बोलणे, वचनशब्द बदलणे*	*अप्रासंगिक वात करवी, बेमोडे बोलवुं, बेवचनी थयुं*	*असंगत बकवास, वाक्छल*
अञ्ञसत्थुउद्देसो :	Adopting another teacher	*दुसरा गुरु स्वीकारणे, दुसरा मार्ग, अनुसरणें*	*बीजो गुरु स्वीकारवुं*	*दुसरा गुरु आंगि करना, दुसरा मार्ग स्वीकारना*
अञ्ञा : (f.)	Knowledge, perfect knowledge, arahattaphals	*ज्ञान, विद्वता, पैनुण्य, निष्णात ज्ञान, अर्हतफल*	*ज्ञान, माहिती, पूर्ण ज्ञान, अर्हफल*	*ज्ञान, विद्या, परिचय, निपुण, अखंड, अर्हतफल*
अञ्ञाणं :	Ignorance	*अज्ञान, अजाणपणा*	*अज्ञानता, आजाणपणुं*	*अज्ञान, अविधा*
अञ्ञातको : (adj.)	Not related, not a kinsman	*असंबंधी, आप्तलग, नातेवाईक नसलेला*	*संबंध न होय ते*	*असंबंध*
अञ्ञातको : (adj.)	Unknown, unrecognizable	*अनोळखी, अपरिचित, अजाण, अगोचर, अप्रसिद्ध*	*अजणतुं*	*न जाना हुआ, अज्ञात, न पहिचानने योग्य*
अञ्ञातब्बो :	That ought to be known or learnt	*ते शिकलेच पाहिजे*	*भणवुज जोइये*	*पढाना चाहिये, अभ्यास करने योग्य है*
अञ्ञातवेसवा : (adj.)	In disguise	*अज्ञातवासी, वेषांतर, गुप्त, गुढ*	*वेषांतर, छुपो वेश*	*वेश बदला हुआ*

		(Marathi)	(Gujarathi)	(Hindi)
अञ्ञाति : (m.)	Not a relative	*असंबंधी, नात्याचा नसलेला*	*असंबंधी*	*संबंधी नही*
अञ्ञातुं :	See आजानाति	– –	– –	– –
अञ्ञातो :	Unknown, unrecognised, in disguise	*अनोळखी, अज्ञात, वेश पालटलेला*	*बिन माहितगार अजाणितुं, वेषांतर मा*	*न जाना हुआ, अज्ञात, बिना पहिचानका, छुपा हुआ*
अञ्ञातो :	Known, understood	*अवगत, समजलेला, अध्याहृत*	*जानवुं, ओळखितो, जाणेलुं*	*जाना हुआ, प्रसिद्ध, बोध किया हुआ, सुचित किया हुआ*
अञ्ञातो : (adj.)	Not related, not a kinsman	*आप्त नसलेला, असंबंधी, जाती बाहेरील, गोतवळी बाहेरचा*	*असंबंधी*	*असंबंधी*
अञ्ञादा : (adv.)	At another time	*कधीं तरी*	*फरथी कोई, वखते*	*किसी समय, फिर कभी*
अञ्ञादिसो : (adj.)	Different	*अन्य, वेगळा, इतर दुसरा*	*जुदु - जुदु नोखुं*	*अन्य, भिन्न, पृथक*
अञ्ञाय :	See *आजानाति, अञ्ञो*	– –	– –	– –
अञ्ञायमानो : (adj.)	Unrecognised	*अनोळखी*	*अजाणीतो*	*अज्ञात, बिना पहिचानका*
अञ्ञासि :	See *आजानाति*	– –	– –	– –
अञ्ञो : (adj.)	Other, otherthan, different from	*दुसरा, अन्य, खेरीज, वेगळा, निराळा, भिन्न*	*बीजुं, अन्य, जुदु, नोखुं, विविध*	*अन्य, दुसरा, विपरीत, अन्य, भिन्न*

		(Marathi)	(Gujarathi)	(Hindi)
अञ्ञोञ्ञो : (adj.)	Mutual	*अन्योन्य, परस्परांचा, एकमेकांचा*	*आपस आपसनुं, अंदर अंदरनु*	*परस्पर, अन्योन्य*
अञ्चति :	To honour	*सन्मानणें, गौरविणें, सत्कारणे*	*मान अपावुं, गौरव स्थापवुं, इज्जत वधारवी*	*सन्मान करना, प्रतिष्ठा करना*
अञ्जति :	To anoint, to smear	*लावणें, चोळणें, अभिषेक करणें, चोपडणें, माखणें*	*लगाडवुं, अभिषेक करवो, लेप करवो, लपेटवुं*	*तेल लगाना, राज्याभिषेक करना, लिपना*
अञ्जनं :	A collyrium applied to the eye - lashes to darked them	*अंजन, काजळ*	– –	*अंजन, सुरमा*
अञ्जलि : (m.)	The hollow of the joined hands : a respectful salutation by raising the joined hands to the fore-head	*ओंजळ, नमस्कार करणे*	– –	*अंजली, नमस्ते*
अञ्जसं :	A road	*मार्ग, रस्ता, वाट,*	*रस्तो, मार्ग, पंथो,*	*मार्ग, पथ, रास्ता, सड़क*
अण्डकं :	A birds egg	*पक्षाचे अंडे*	*पक्षीनुं इंडु, बैदा*	*पक्षीयों का अंडा*
अण्डजो : (adj.)	Oniparous	*अण्डज*	*अण्डज*	*अण्डज*

		(Marathi)	(Gujarathi)	(Hindi)
अण्डूपकं :	A roll of cloth to serve as a stand for a vessel	*चुंबळ, भांडे ठेवण्यासाठी केलेली कापडाची गुंडाळी*	– –	– –
अण्डं :	An egg, a testicle	*अंड, आंड*	*इंडु, बैदा, आंडवो, वृषण*	*अंडा, अंडकोष*
अणु :	Small, minute, subthe	– –	*नानुं, थोडुं, अल्प, हलकुं, झीणुं, सूक्ष्म, बारीक झीणुं, पातळुं, बारीक झीणुं, बारीक पोतवाळुं*	*अल्प, थोड़ा, छोटा, क्षुद्र, निर्बल, तुच्छ, सूक्ष्म, क्षुद्र, ब्योरेवार, धूर्त, चतुर, सूक्ष्म बुद्धि विलक्षण, अतिसूक्ष्म, मर्मज्ञ*
अण्णवो :	The see, the ocean	*समुद्र, दर्या, महासागर*	*दरियो, महासागरो*	*समुद्र, सागर*
अण्णो :	Water	*पाणी*	*जल, पाणी, उदक*	*जल, पानी, झील*
अन्तकिरिया : (f.)	Bringing to an end, putting an end to	*शेवटास आणणें, पर्यवसान करणें, तडीस नेणें,*	*अंत लाववो, छडासुधी लावुं, समाप्त करवुं*	*रोकना*
अन्तको :	Death	*मृत्यु, मरण*	*मोत, मरण, नाश, अन्त*	*मरण, मृत्यु, नाश*
अन्तगतो : (P.P.P.)	Gone into, being in, continued in	*आंत गेलेला, आंत असलेला, समाविष्ट केलेला, साठविलेला*	– –	– –
अन्तगुण :	The mesentry	*आंतड्यांची पिशवी*	– –	*अन्नपेशी, आँत का पुट्ढा*
अन्तमको : (adj.)	Final, last	*अंतिम, शेवटला, अंत्य*	*अत्यं, पाठळनुं, छेल्लुं, आखरनुं*	*अन्तिम, निर्णीत, आखिरी, अन्त, पिछला*

		(Marathi)	(Gujarathi)	(Hindi)
अन्तमसो : (adj.)	Even	*सपाट, सारखा, साफ, एक सारखा, सम, शांत*	*सपाट, सरखुं, सिध्धुं*	*चौरस, सम, भी*
अन्तर : (adv. prep)	Within, between among, in	*आंत, मध्यें, दरम्यान, मधून, पैकी*	*मां, अंदर, मध्ये, नी बच्चे, बन्नीने बच्चे*	*भीतरी ओर, अन्तरमे, बीचमे, मध्यमे, तुलना मे, अंदर*
अन्तरकप्पो :	See *कप्पो*	– –	– –	– –
अन्तरन्तरा : (adv.)	From time to time, at intervals	*वेळोवेळां, अंतरानें, कधीं कधीं, मधून मधून*	*समय समयपर, दरम्यानो गाळो, आंतरो अवकाशशिमा*	*समय समय पर, अन्तरसे, अवकाशसे*
अन्तरन्तरे : (adv.)	From time to time, at intervals	*वेळो वेळी, मधून मधून*	*वचलो गाळो, दखनं, वखतपर*	*समय समय पर, अन्तरसे, अवकाशसे*
अन्तरन्तरेन : (adv.)	In the intervals of, among between	*मधल्या काळांत, अवधित, फुरसत, मध्यें, आंत, दरम्यान*	*वचलो, वखत, आंतरो, फुरसत, मध्य मा, मध्ये, बन्नेभी, बच्चे*	*अंतरमे, आवकाशसे, तुलनामे, मध्यमें, अन्तरमे, परस्पर*
अन्तरधानं :	Disappearance, covering	*अंतर्धान, अद्दश्य, आच्छादन, झांकण, पडदा*	*अद्दश्य थवुं ते, आच्छादन, ढांकण*	*अदर्शन, ढकना, ओढना, चादरा*
अन्तरधायति : (Pass.)	To vanish, to hide onself	*अंतर्धान पावणें, नाहींसा होणें, स्वत:ला लपविणे,*	*अंतध्यान थई जवुं, पोताने संताडवुं, छुपी रहेवुं*	*अंतर्धान होना, लुप्त हो जाना, स्वयंको छुपाना*
अन्तरधायेति : (caus.)	To cause to disappear, to render invisible	*अद्दश्य करणें, अपरोक्ष*	*अद्दश्य करवुं, परोक्ष करवुं, अगोचर थवुं*	*अद्दश्य करना*
अन्तरभोगिको :	A village headman, subordinate chieftain	*खेडेगांवांतील मुख्य पाटील, लहानसा सरदार (नायक, सेनापति)*	*पटेल, उतरता दर्जानो सरदार*	*गांवका मुख्य अधिकारी (मुखिया), छोटासा सेनापति*

		(Marathi)	(Gujarathi)	(Hindi)
अन्तरवस्सं :	See *अन्तो*	– –	– –	– –
अन्तरवीठी				
अन्तरवासको :	An under - garment	*आंतील वस्त्र*	*भीतरनुं वस्त्र*	*अंतरस्थ वस्त्र*
अन्तरहितो :	Vanished,	*अंतर्धान झालेंला, अद्दश्य*	*अंतर्धान थई जवुं, अद्दश्य थवुं,*	*अंतर्धान हुआ, नष्ट हुआ,*
(P.P.P.)	disappearing, hidden	*झालेला, लपलेला, छपलेला*	*अलोप थवुं, संताडेलु, छुपेलुं*	*छीपा हुआ*
अन्तरा :	Between,	*मध्यें, दरम्यान,*	*नी बच्चे, मध्यें,*	*मध्यें, बीचमें, अन्तरमे,*
(adv. & Prep.)	on the way	*आंत : वाटेंत*	*मार्गपर, रस्ताउपर*	*मार्गपर, रास्तेपर*
अन्तरापरि :	Technical name for one of	*पांच अनगामि पैकी एकाचे*	– –	*पांच अनगामिमे से*
निब्बायी :	the five sorts of Anagami	*सांकेतिक नांव*		*एक का सांकेतिक नाम*
(m.)				
अन्तरायिको :	Causing an obstacle,	– –	*अडचण, विरोध, हे खुत,*	*विघ्न, बाधा,*
(adj.)	impending,		*विघ्न, प्रतिबंध, उत्पन्न करवुं,*	*प्रतिबंध करना,*
	injiurious		*पैदा करवुं, अडचन करवी,*	*प्रतिबन्ध करना,*
			हरकत करवी, अवरोध करवो,	*रोकना, पीडाकर,*
			गुण प्राप्त करवुं, .. राबाकर्ता,	*हानिकारक*
			दु:खकारक	
अन्तरारति :	To run into danger	*धोक्यात जाणें,*	*भावना, नांखवुं, बीक मां*	*धोकेमे जाना,*
		जोखीम घेणें,	*माखवुं संकटमा पडवुं*	*आपत्तिमे बढना*
अन्तरितो :	Hidden	*लपविलेला, गुप्त,*	*संताडेलु,*	*गुप्त, छिपाना,*
(P.P.P.)		*आच्छादित*	*गुप्त, ढांकेलुं*	*छिपा हुवा*

		(Marathi)	(Gujarathi)	(Hindi)
अन्तरीपं :	An island	*बेट, द्वीप*	*बेट, टापू, द्वीप*	*टापू, द्वीप*
अन्तरीयं :	An under garment	*अन्तरीय, अंगाबरोबरचे वस्त्र,*	*भीतरनुं कपडुं*	*भीतरी पोशाक*
अन्तरे :	Between, among,	*मध्यें, आंत, दरम्यान,*	*बन्नेनी बच्चे, अंदर, मध्ये,*	*मध्यमें, बीचमें, अन्तरमें,*
(prep.)	during, while,	*पर्यंत, आंतल्याबाजूस*	*सुधीमा, दरमीआनमा,*	*तुलनामें, जबतक, भीतरी*
	within, in		*ते अस्सामा, मां, अंदर*	*ओर, अन्तरमे, भीतर, अन्दर*
अन्तरेन :	Between,	*मध्यें, अन्तराने, वगळून,*	*नी बच्चे, मध्यें, बच्चेनी,*	*बीचमें, अन्तरमें*
(prep.)	except	*शिवाय, विना*	*बच्चे, सिवाय, बिना बगर*	*सिवाय, बिना*
अन्तरं :	Interior, included space,	*आंतीला, आंतचा, अंतर्भूत*	*अंदरनु, अंतरस्थ, समावेली,*	*अंतस्थ, भीतरी, अंतर्गत,*
	midst, interval,	*जागा (अंतर) मध्यें, अंतर,*	*जग्या, मध्यें, बचमा, दरम्यान,*	*स्थान, बीचमे, अंतर,*
	opportunity, instant,	*अवकाश, अवधि, प्रसंग,*	*गाळो, अवकाश, अंतर, प्रसंग,*	*अवकाश, समय, क्षण,*
	difference, other,	*अवसर, तात्कालिक, वर्तमान,*	*अवसर, तत्पर, उतावलु,*	*तत्काल, अवशेष, भेद,*
	peculiarity, a hole, an	*फरक, भेद, अंतर, विशेषत:*	*तफावत, भिन्नभाव, बीजु,*	*अन्य, भीन्न, विलक्षणता,*
	inner garment, the heart	*खांच, छिद्र, बीळ, खळगा,*	*अन्य, विशेषत:, विलक्षणता,*	*छीद्र, बील, अन्तर,*
	or mind	*आंतील वस्त्र, मन, चित्त,*	*काणु खाडो, अंदरनु,*	*वासीक, मन, चित्त, बुद्धि*
		अंत:करण	*वस्त्र, अंत:करण, दिल, चित्त*	
अन्तलिक्खं :	The sky,	*आकाश, आभाळ, अंतरिक्ष,*	*आकाश, अस्मान,*	*आकाश*
	the air	*हवा, वायु*	*आभ, हवा, वायु*	*वायु, मंद पवन*
अन्तवण्णो :	A Sudra	*शूद्र*	*शूद्र :*	*शूद्र*
अन्तिकं :	Vicinity	*निकट, समीप, जबळ,*	*निकटमा, पडोशमा, सानिध्य*	*समीप, पडोसमे*
अन्तिनो :	Final,	*शेजारचा शेवटचा, शेवटील,*	*आखरनुं, पाछळनुं*	*अन्तिम, आखिरका,*
(adj.)	last	*अंतिम*	*पछेल्लुं*	*पिछला*

		(Marathi)	(Gujarathi)	(Hindi)
अन्तेपुरिको : (adj.)	Belonging to a royal harem	*रंगमहेला लगतचा*	*राजानुं जनानखाननुं लगतनुं*	*राजाके अन्तःपुर लगतका*
अन्तेपुरं : (adj.)	Royal precincts, palace, ladies apartments in the palace, harem gynecum	*राजकीय हद्द, राजमहाल, राजमहालातील स्त्रीयांचे दालन, अंतःपुर, जनानखाना, रंगमहेल*	*राजकीय सीमा राजमहेल, राजमहेलमां राणीनुं ओरडो, अंतःपुर, जनानो*	*राजकीय, राजभवन, महेल, अन्तःपुर, जनानाखाना*
अन्तेवासिको :	A pupil	*शिष्य, चेला, विद्यार्थी, डोळ्यातील बाहुली*	*शिष्य, विद्यार्थी, चेलो,*	*शिष्य, विद्यार्थी, छात्र आँखकी पुतली*
अन्तेवासी :	A pupil	*शिष्य, विद्यार्थी, छात्र चेला, डोळ्याची बाहुली*	*शिष्य, विद्यार्थी, चेलो, डोळो*	*शिष्य, विद्यार्थी, छात्र आँखकी पुतली*
अन्तो : **अन्तं :**	End, limit, boundery, proximity side, destruction, death, lowest, inferior, interior	*अंत, शेवट, मर्यादा, हद्द, बांध, लगतची, सानिध्य, नाश, संहार, घात, लय, हानि, मृत्यु, मरण, खालचा, हलक्या दर्जाचा, आंतील, आंतचा*	*अंत छेडो, सीमा, हद्द मर्यादा, अवधी, समीपता, निकटता, नाश, पायमाली, मोत, मरण, अंत, नीची पदवीनुं, अंतरनु, अंतस्थ*	*शेष, सीमा, अवधि, हद्द, मर्यादा, समीपता, निकटता, सीमा प्रान्त, नाश, क्षय, मृत्यू, सबसे नीचेका, हीन, अन्तस्थ, भीतरी*
अन्तो, अन्तरा : (adv. & prep)	Within, in, inside	– –	*मां, अंदर मध्ये, अंदर, अंदरखी बाजुमा*	*भीतरी ओर, अन्तर में, बीचमे, भीतर में, बीच, अन्दर, द्वारा, भीतरी भाग, भीतरी, भीतरी की ओर*
अन्तोकप्पो :	See *कप्पो*	– –	– –	– –

		(Marathi)	(Gujarathi)	(Hindi)
अन्तोगधो : (adj.)	Contained in, being among	– –	*समानवुं, मवडाववुं, समावेश करवो, धारण करवुं, अंदर मध्ये मां, थवुं होवुं*	*रखना, धरना, लपेटना, बराबर होना, बीच में, मध्यमें, तुलनामें*
अन्तोभावो, : **अन्तोघरं, अन्तोजातो, अन्तोठितो**	See last	– –	– –	– –
अन्तं :	An intertine, the bowels	*आंतडें, आंतडी*	*आंतडु*	*अन्त्र, अँतडी*
अन्तं :	See *अन्तो*	– –	– –	– –
अदनं :	eating	*खाणे, जेवणे, चापणे,*	*खाई जवुं, भक्षण करवुं*	*खा जाना, भोजन करना*
अदस्सनं :	Not seeing, not meeting with, disappearance, not showing, concealment	*न पाहता, न भेटता, अद्दश्य, अंतर्धान, न दर्शविता, न दाखवता, झाकणे, छपवणी, मुप्तता*	*न जोवुं, न मळवुं, न भेटवुं, अलोप, अद्दश्य, संताडवुं ते*	*नहीं देखना, नही भेटना, अद्दश्य होना, अंतर्धान, असूचिता, छिपाव*
अदासी :	See Dadit	– –	– –	– –
अदासो :	Not a slave, a free man, a freed man	*गुलाम नसलेला, स्वतंत्र मनुष्य, दासत्वांतून मुक्त केलेला मनुष्य*	*गुलाम नथी, स्वतंत्र, स्वाधीन माणस*	*दास नहीं, स्वतंत्र मनुष्य*
अदिनट्ठो : (adj.)	Not seen, unseen	*न दिसणारा, अद्दश्य*	*नहि जोयेलुं, अद्दश्य*	*न देखा हुआ, अद्दश्य*

		(Marathi)	(Gujarathi)	(Hindi)
अदिति : (f.)	The mother of Gods	*आदि पुरुषांची जननी (माता)*	*परमात्मानी मा, माता (जननी)*	*देवताओकी माता, जननी*
अदिनादायी : (m.)	One who takes what is not given, a thief	*जे दिलेले नाहीं तें घेणारा, चोर*	*जे नहि आप्पुं होय ते लेनार, चोर*	*जो नही दिया वह लेनेवाला, चोर*
अदिन्नादानं :	Taking what is not given, appropriation, thefe	*जे दिलेले नाहीं ते घेणे, आपलासा करणे, चोरी*	*जे नहि आपेलुं होय ते लेवुं, खाई जवुं ते, चोरी*	*जो नही दिया वह लेना, अपनाना, चोरी*
अदिन्नो : (adj.)	Not given	*जे दिलेले नाहीं ते*	*जे आपेलु नथी ते*	*जो नही दिया हुवा वह*
अटुक्खमसुखा : (f.)	Indifference, Insensibility, Indifference to pair or pleasure	*औदासिन्य, उदासीन वृत्ति*	*उदासीनता*	*उदासीनता*
अटुक्खमसुखा : (f.)	Indifference, insensibility, indifference to pair or pleasure	*अनास्था, औदासीन्य, बधिरत्व, बेसावधपणा, यातना, दु:ख, पीडा – यांची बेपरवाई, सुख, आनंद यांची बेपरवाई,*	*उदासीनता, बेपरवाई, असावधपणुं, दु:ख अने सुख नी बेपरवाई*	*उदासीनता, उपेक्षा, अचेतना, मूर्च्छा, पीडा या क्लेश से या अभिलाषसे अभाव*
अटुमं :	See Amu	– –	– –	– –
अदो : (adj.)	Eating feeding on	*खाणें, पोसणें, चारणें*	*खावुं, जमवुं, खवरावुं*	*खाना खिलाना, पालना*

		(Marathi)	(Gujarathi)	(Hindi)
अदो : (Adj.)	Eating, feeding on	*आहार, पोषण, पालन*	*जमवुं, खावुं भरण – पोषण करवुं*	*खाना, खिलाना, पालना.*
अदोसो :	Not an offence, absence of guilt	*अन्याय, अपराध नाही, निष्पाप, निर्दोष*	*अपराध नथी, दोष नथी*	*अपराध नहीं, निरपराध, निर्दोष*
अदोसो :	Absence of hatred or anger	*वैरचा अभाव क्रोध, राग, कोप*	*वेर विनानुं क्रोध, गुस्सा, कोप*	*निद्वेष, क्रोध, कोप*
अदोसो :	Not an offence, absence of guilt	*निर्दोष, निरपराध*	*निर्दोष, निरपराधी*	*निर्दोष*
अदोसो :	Absence of anger or hatred	*अद्वेष, अवैर*	*अद्वेष, अवैर*	*अद्वेष, अवैर*
अदुं :	See adum	– –	– –	– –
अद्दकं :	Green ginger	*आलें*	*अद्रक*	*अद्रक*
अद्दक्खि , अद्दस :	See Passati	– –	– –	– –
अद्दब्बो : (Adj.)	Immaterial, abstract	*निराकार, अमूर्त, पृथक, विशेष पदार्थापासून निराळा*	*निराकार, अमूर्तिमान, निराळुं, गहन, गुढ*	*आध्यात्मिक, अमूर्तिमान, आदर्श, अव्यावहारिक*
अद्दा : (f.)	Name of one of the Nakkhattas	– –	– –	– –

		(Marathi)	(Gujarathi)	(Hindi)
अद्दि : (m.)	A mountain	डोंगर, पर्वत, पहाड	पर्वत, पहाड	पर्वत, पहाड
अद्दो : (Adj.)	Wet, moist	ओलावा, आर्द्र, दमट, ओलसर	भीनुं, भींजायेलुं, शरदीवाळुं	आर्द्र, गीला
उद्धगतो : (Adj.)	One who has made a long journey advanced in years, aged	ज्याने फार दूरची मुशाफीर केलेली आहे. पुष्कळ लांब रस्ता चाललेला आहे, वयोवृद्ध	जेमने बहु लांबो प्रवास करेलुं छे ते, वृद्ध	जिसने बहोत दूर तक भ्रमण करा है वह : वयोवृद्ध, बुड्ढा.
अद्धगो : (m.)	A traveller	उतारू, प्रवासी	प्रवासी, पंथी, मुसाफर	पथिक, यात्री
अद्धनियो : (Adj.)	Lasting, going on continuing	टिकाऊ, स्थिरस्थायी, चाल, गति, प्रयाण, चालवीत राखणे, चालू ठेवणे	टिकाऊ, चिरस्थायी, चालवुं, चालु राखवुं	नित्य, स्थिर : चलता रखना : स्थायी
अद्धमासो : + **अड्ढ**	Half a month, a fortnight	अर्धमास, पंधरवडा	अर्ध मास, पखवाडीयुं	आधा महिना अधमास, पक्ष
अद्धरत्तो :	Mid-night	मध्यरात्र, अर्धरात्र	अधीरात	आधीरात
अद्धा : (m.)	A road, distance, time	मार्ग, रस्ता, वाट, अंतर, पल्ला, समय, अवधि, संधी, प्रसंग	रस्तो, मार्ग, छेटुं, अंतर, वखत, समय, मुदत, काळ	सडक, रास्ता, मार्ग, अंतर, भेद, काल, अवधि, अवस्था, समय
अद्धा : (Adv.)	Truely, certainly, surely, evidently	वस्तुत:, खचीत, खात्रीने, साफ, स्पष्ट	वास्तविक रीते, चोक्कस, बेशक, खात्रीपूर्वक, स्पष्ट रीते, खुल्ली रीते	वस्तुत:, सचमुच, अवश्य, नि:संन्देह, प्रत्यक्ष रूप से

		(Marathi)	(Gujarathi)	(Hindi)
अद्धानं :	A road, a long distance, a long time	*मार्ग, वाट, दीर्घ अंतर, लांबचा पल्ला, फार अवधि, दीर्घ काळ*	*रस्तो, मार्ग, स्थळ बच्चेनु लंबु अंतर, घणो समय तक*	*मार्ग, रास्ता, दूर तक, भेद, चिरकाल तक*
अद्धिको : (Adj.)	Journeying: travelling	*भ्रमण, पर्यटन, प्रवास, मुशाफरी*	*प्रवास, पर्यटन, मुसाफरी, देशाटन*	*यात्रा, भ्रमण, घूमना, पर्यटन*
अद्धो, अड्ढो : (Adj.)	Half, halved	*अर्धा, समसमान*	*अरधुं, अडधुं, अडधो, अइध*	*आधा आधा आधा करना*
अन्दु : (m.)	A chain	*साखळी, रांग, परंपरा*	*सांखळ*	*जंजिर, श्रृंख्ला*
अन्दुको :	An elephants foot chain	*हत्तीच्या पायाला बांधण्याची साखळी*	*हत्तीना पगे बांधवानी सांखळ*	*हाथी के पैर को बांधने की जंजीर*
अधमण्णो :	A debtor	*रिणको, देणेकरी*	*करजदार, ऋणी*	*देनदार, ऋणी*
अधम्मिको : (Adj.)	Irrelegious, impious, wicked	*अधर्मी, अनाचारी, भ्रष्ट, धर्मनिंदक, दुष्ट, पापी*	– –	*अधर्मी, भक्तिहीन, भ्रष्ट, दुष्ट*
अधमो : (Adj.)	Lowest, very low, meanest, vile, contemptible, incomplete, imperfect	*अधम, अगदी नीच, हीन, तुच्छ, क्षुल्लक, तिरस्करणीय, अपूर्ता, अधुरा*	*नीच, हलकुं, अधम, तुच्छ, दुष्ट, धिक्कारवा जोग, अधुरूं, अपूर्ण, काचुं*	*अधम, नीच, क्षुद्र, तुच्छ, दुष्ट, घृणित, अपूर्ण, अधूरा*

		(Marathi)	(Gujarathi)	(Hindi)
अधम्मो :	Wrong, injustice,	*अनीतीचा, खोटा,*	*गलित, ऊधुं,*	*अनुचित, अयोग्य,*
	unlawfulness,	*अन्याय, अधर्म,*	*अन्याय, अधम,*	*अन्याय, अधर्म*
	false, doctrine,	*बेकायदेशीपरपणा,*	*गेरव्याजवीपणु,*	*असत्यऊ मिथ्या – पंथ,*
	irreligion,	*असत्य धर्म*	*बनावटी, कृत्रिम,*	*(सिद्धान्त)*
	impiety,	*तत्त्वे, अनाचार*	*सिद्धांत, ईश्वरनिंदा,*	*अभक्ति, पाप*
	unrighteousness	*धर्मनिंदा, अभक्ति, अधार्मिक*	*अभक्ति, दुष्ट, अप्रामाणिक*	
अधरो :	Lower,	*हलका, कमी,*	*नीचे नुं,*	*नीचे का, धीमा*
(Adj.)	inferior	*खालचा, निरस*	*उतरतां दरज्जा नुं*	*न्यून, अनुत्तम*
अधरोट्ठो :	The lower lip	*अधर, ओष्ट, खालचा ओठ*	*नीचलना होठ, अधर*	*नीचा ओठ*
अधि :	Above,	*वर, उपरि, पेक्षा,*	*ऊपर, मयाळे,*	*ऊपर, ऊंची ओर,*
(Prep.)	over,	*उंच, पलीकडे,*	*ना करतां बधारे,*	*बढकर, आरपार,*
	superior to	*वरिष्ठ, श्रेष्ठ, अधिक*	*श्रेष्ठ, उत्तम, विशिष्ठ*	*आगे की ओर, अधिक*
अधिकतरो :	Greater,	*थोर, महात्मा*	*महान, मोटुं,*	*बडा, अधिक,*
(Adj.)	superior	*अधिक श्रेष्ठ*	*उत्तम, विशिष्ठ*	*असामान्य, बढकर, श्रेष्ठ*
अधिकतो :	A superintendent,	*देखरेख करणारा*	*देखरेख राखनारा*	*निरीक्षक*
(P.P.P.)	overseer			
अधिकरणसमथो :	Setting questions,	*शंका निवारणे,*	*सवालना (शक)*	*संदेहका निर्णय करना,*
	or cases that have arisen	*वादविषय निकाल*	*निवाडो करवो*	*विवाद का विषय*
		(निवाडा करणे)		*स्थिर करना*

		(Marathi)	(Gujarathi)	(Hindi)
अधिकरणी : (f.)	A smiths quvil	*लोहाराचा ऐरण*	*लुहारनो ऐरण*	*लोहारकी निहाई*
अधिकरणं :	Relation : reference	*संबंधी, विषयी*	*संबधी, तुलना*	*संबंधी*
अधिकारो :	Office, authority,	*अधिकार, सत्ता; कार्य,*	*अधिकार, होद्दो, काम, कार्य,*	*अधिकार, पद,*
	function, act :	*कर्म, कामना, अपेक्षा,*	*क्रिया, अभिलाषा, इच्छा,*	*कर्तव्य, काम, आकांक्षा,*
	desire, resolve :	*निश्चय, संकल्प,*	*निश्चय, संकल्प,*	*अभिलाषा, निश्चय,*
	chapter, section :	*धर्मोपदेशकांची मंडळी, वर्ग*	*धर्मोपदेशकनुं मंडल, वर्ग*	*किसी संप्रदाय काम*
अधिकिच्च :	Refering to,	*संबंध असणे,*	*संबंध होवो,*	*उदेश्य करना,*
(ger.)	relating to	*लागू होणे, पडणे*	*लागु पडवुं,*	*सम्बन्ध रखना*
अधिको :	Exceeding,	*अधिकार, वरचढ,*	*अधीक,*	*अधिक, बहुत,*
(Adj.)	surpassing,	*पराकाष्ठेचा,*	*अतिशय, घणुज,*	*अति बढकर*
	more than, better than,	*अधिक चांगला,*	*अधिक थवुं,*	
	superior	*श्रेष्ठ, उत्तम*	*वधारे,*	
अधिकोट्टनं :	A chopping block,	*शिरच्छेदाचा ठोकळा*	*जेनापर माथुं मुकीने कापवामां*	*काटते वखत सिर रखने के*
	exeentioner's block		*आवतुं हतु ते लाकडानुं ढीमचुं*	*लिये बनाया हुवा कुन्दा*
अधिगच्छति :	To enter upon,	*आरंभ करणे,*	*शरूं करवुं,*	*आरंभ करना,*
	to reach,	*सुरवात करणे, शिरणे,*	*पहोंचवुं, मळववुं,*	*पहुंचना*
	to attain,	*पोहोचणे, संपादणे*	*प्राप्त करवुं,*	*प्राप्त करना,*
	to acquire	*साधणे, मिळवणे*	*संपादन करवुं*	*पूर्ण करना*

		(Marathi)	(Gujarathi)	(Hindi)
अधिगतो : (P.P.P.)	Having attained or arrived at, attained, aequired	*संपादून, प्राप्त करून, साधून*	*आवी पहोंचीने, प्राप्ति, लाभ, मेळववुं, संपादवुं*	*पहोंच कर, प्राप्त करके*
अधिगमनं :	Obtaining, attainment, arriving at attainment of ariahatta, final sanctification	*मिळवणे, संपादणूक, सिद्धि, पोहोचणे, अर्हत पदाला पोहोचणे, अंतिम अंत:शुद्धि*	*मेळवीनें, प्राप्ती, आवी पहोंचवुं, दाखल थवुं, अर्हतपद सुधीं पहोचवुं आखरनुं प्रायश्चित (पापमुक्ति)*	*प्राप्त करके, प्राप्ति : तक पहुंचना, अर्हत पदतक पहुंचना, अन्तिम शुद्धि*
अधिगमो :	Attainment, study, reading	*अध्ययन, व्यासंग, अभ्यास*	*अभ्यास, अध्ययन*	*अध्ययन, अभ्यास, व्यवसाय*
अधिग्गहीतो : (P.P.P.)	Taken occupied by, in possession of	*घेतलेला, नेलेला, ताब्यांत घेतलेला व्यापलेला*	*लीधेलुं, कबजे, लेवुं, मालकी, मेळववी*	*लीया हुवा, व्याप्त किया हुवा, प्राप्त करना*
अधिचित्तं :	Lofty thought or contemptation	*उच्च विचार, थोर भावना, कल्पना, चिंतन, मनन*	*प्रौढ विचार, ध्यान, समाधि*	*उन्नत विचार, मनन, चिन्तन*
अधिच्चका : (f.)	Land or plateau on a mountain	*उंचवट्यावरील मैदान*	*पहाड उपरना सपाट प्रदेश*	*पहड उपरकी चौरस भूमि*
अधिच्चसमुप्पन्नो : (Adj.)	Uncaused, sprung into existence without a cause	*निष्कारण, अकारण, निरर्थक उत्पन्न झालेला (अस्तित्व)*	*बिनाकारण, अमथुं, वगर हेतु ये, निर्माण थयुं होय ते*	*अकारण, निष्कारण, जो कारण, हेतु बिना उत्पन्न हुआ हैं*

		(Marathi)	(Gujarathi)	(Hindi)
अधिट्ठहति, :	To stand on :	*तिष्टत उभा राहणे,*	*उभा रहेवुं, वास करवो,*	*स्थिर रहना, रोकना,*
अधिट्ठाति,	to stay is remain firm in,	*स्थिरावणे, नेटाने टिकणे,*	*मक्कस रहेवुं, वसवुं*	*ठोस रहना, निवास करना,*
अधितिट्ठति	to inhabit, to appoint,	*वस्ती करणे, ठरवणे, नेमणे,*	*मुकरर करवुं,*	*स्थापित करना, स्थिर करना*
	to fix, to determine, to resolve,	*स्थापणे, निर्णय करणे,*	*मजबूत बनाववुं,*	*निग्रह करना, आज्ञा देना,*
	to will, to command,	*हुकूम करणे, वाहून घेणे,*	*निश्चय करवो, फरमाववुं,*	*समर्पन करना,*
	to devote, oneself to,	*अभ्यास, वहिवाट राखणे,*	*समर्पण करवुं,*	*अभ्यास करना,*
	to practice, to perform,	*करणे, हाती घेणे,*	*टेव पाडवी,*	*पुरा करना,*
	to undertake, to be set upon,	*मनाचा बळकट,*	*संपादन करवुं,*	*आरम्भ करना,*
	to fix the mind upon,	*निश्चय करणे,*	*चित चोटाडवुं,*	*निश्चय करना,*
	dwell upon	*धरून, चिकटून बसणे*	*विवेचन करवुं*	*चित स्थिर करना*
अधिट्ठानं :	Resting place,	*विश्रांतीचे स्थान,*	*आरमनुं स्थान,*	*निवास स्थान,*
	staying stopping,	*थांबून,*	*अटकाववुं, रोकवुं,*	*अबरोध करके,*
	appointing,	*स्थिरावून,*	*नेमववुं,*	*ठहराके,*
	fixing,	*नेमून,*	*स्थिर करवुं,*	*नियुक्त करके,*
	appointment,	*स्थिर करून,*	*नीमणुक,*	*स्थिर करके,*
	order,	*नेमणूक,*	*फरमान, हुकम,*	*आज्ञा, नियुक्ति,*
	determination,	*अनुक्रम, पद्धति, नियम,*	*निश्चय,*	*क्रम, आज्ञा, नियम,*
	resolution,	*निश्चय, निर्धार,*	*ठराव करवो*	*प्रतिज्ञा, निर्धारण,*
	resolve	*निग्रह*		*निश्चय*

		(Marathi)	(Gujarathi)	(Hindi)
अधिट्ठायको :	Superintendent,	*देखरेख पाहणारा,*	*देखरेख राखनार,*	*निरीक्षक, अध्यक्ष,*
	director	*मुख्य अधिकारी*	*अध्यक्ष सूचवनार अधिकारी*	*अधिकारी*
अधिट्ठितो :	Appointed,	*नेमलेला,*	*नीमववुं,*	*नियुक्तित,*
(P.P.P.)	fixed,	*स्थिर,*	*स्थापववुं,*	*स्थापित,*
	determined,	*निश्चित,*	*निश्चित करवो,*	*निश्चित,*
	willed	*इच्छित*	*इच्छववुं*	*इच्छित*
अधित्थि :	Relating to a woman,	*स्त्री संबंधी*	*स्त्री संबंध मा*	*स्त्री संबंधमे*
(Adv.)	with reference to a woman			
अधिनाथो :	Lord,	*धनी,*	*अमीर, धणी, मालिक,*	*स्वामी, महाराज,*
	chief governor	*अधिकारी,*	*मुख्य, राज्य चलावनार,*	*मुख्य, प्रधान, शासक,*
		अधिपति (इलाख्याया)	*मोटो अमलदार,*	*राज्याधिकारी,*
अधिपच्चं :	Sovereignty	*अधिपत्य, स्वामित्व,*	*अधिराज्य,*	*प्रभुत्व,*
	lordship,	*राज्य सत्ता,*	*हकुमन,*	*अधिकार,*
	supreme rule	*पराकष्ठेचा अंमल*	*सर्वोपरी अंमल (सत्ता)*	*अतिश्रेष्ठ शासन*
अधिपति :	Lord,	*अधिपति, स्वामी,*	*अधिपति,*	*स्वामी,*
(m.)	chief,	*प्रमुख, आधिराज्य,*	*स्वामी, मालिक,*	*प्रधान,*
	sovereign,	*धनी,*	*मुख्य,*	*मुख्य,*
	master	*मालक*	*महाराजाधिराज*	*गुरु*

		(Marathi)	(Gujarathi)	(Hindi)
अधिपन्नो :	Caught,	*धरलेला, पकडलेला,*	*पकडी लेवुं,*	*पकडा हुवां*
(P.P.P.)	seized,	*हिरावलेला,*	*झडपवुं,*	*छीन लीया हुवां*
	assailed	*हल्ला केलेला*	*हुमलो करवो*	*आक्रमण किया हुवा*
अधिपो :	Lord,	*स्वामी, महाराज,*	*धानी,*	*मालिक,*
	king,	*राज्यकर्ता,*	*राजधिराज,*	*राज्य करने वाला,*
	ruler,	*मालक,*	*राज्य करवा वालो,*	*राजाधिराज,*
	master	*धनी, अधिपति*	*मालिक*	*स्वामी*
अधिप्पायो :	Intention,	*अभिप्राय,*	*अभिप्राय,*	*अभिप्राय,*
	wish,	*उद्देश,*	*इच्छा,*	*आशय,*
	meaning,	*इरादा, इच्छा,*	*अर्थ, हेतु,*	*इच्छा, विचार,*
	thought	*विचार, कल्पना*	*विचार चिंतन*	*कल्पना*
अधिप्पेतो :	Meaut,	*उद्देशणे, उद्देशाने,*	*मनमा होवुं, धारेलुं,*	*नियुक्त करा हुवा,*
(P.P.P.)	intended,	*इराद्याने, अभिप्राय असलेला,*	*नक्की करेलुं,*	*अभिप्राय रखते हुवा, इच्छित*
	desired	*अपेक्षित*	*ईच्छेलुं*	
अधिभवनं :	Subjection	*ताबेदारी, अधीनता,*	*अधीनता, हुकमदारी,*	*अधीनता, वश्यता*
		दास्य, पारतंत्र्य	*पराधीनता*	
अधिभासति :	To address,	*संबोधून बोलणे,*	*कहेवुं, भाषण करवुं,*	*निवेदन करना,*
	to speak to	*सांगणे,*	*बोलवुं, वदवुं*	*बोलना, व्याख्यान देना,*
		भाषण करणे		*उच्चारण करना*

		(Marathi)	(Gujarathi)	(Hindi)
अधिभू : (m.)	Lord, master, chief, king	*स्वामी, मालक, धनी, अधिपति, नायक, मुख्य, राजा, भूपाल*	*स्वामी, मालीक, धणी, मुख्य, श्रेष्ठ, राजा, भूपाल, भूपति*	*स्वामी, गृहपति, प्रधानं, प्रमुख, नायक, राजा, भूपाल*
अधिभूतो : (P.P.P.)	Overcome mastered	*पराभूत, जिंकलेला, निपूण, हस्तगत करणे*	*जितेला, ताबे राखेला*	*जीतना, पूर्ण ज्ञान प्राप्त करा हुवाँ*
अधिमत्तो : (Adj.)	Excessive	*अधिक*	*अतिशय*	*अधिक*
अधिमत्तं : (Adv.)	Exceedingly, excessively	*अधिक, अतिशय*	*घणुंज, अतिशय,*	*विशेष करके, अधिक होना, बढना*
अधिमानो :	Undue confidence, undue estimate of oneself	*बेसुमार भरंवसा, स्वत: विषयी अमर्याद विश्वास*	*घणो विश्वास, पोताना उपर घणु विश्वास*	*अनुचित विश्वास, खुद्दका मूल्य निरूपण अधिक करना*
अधिमुच्चति : (Pass.)	To be inclined to, intent upon, have confidence or faith in : to be resolved, determined	*कडे कलणे, झुकणे, मग्न, तत्पर, विश्वास, भरवंसा निश्चय करणे*	– –	*झुकना, झुकाना, उत्सुक, तत्पर, साहस, विश्वास, श्रद्धा, दृढ निर्णय*
अधिमुत्ति : (f.)	Inclination, disposition, intention, resolution, resolve, will, confidence, faith	*आकांक्षा, मनाची ओढ, स्वभाव, शील, इरादा, निग्रह, संकल्प, मनोदय, विश्वास*	– –	*झुकाव, प्रवृत्ति, स्वभाव, आशय, प्रतिज्ञा, निश्चय, इच्छा, विश्वास, श्रद्धा*

		(Marathi)	(Gujarathi)	(Hindi)
अधिमुत्तो : (P.P.P.)	Inclined, disposed, intent upon, resolved for bent upon	*झुकलेला, प्रवृत्त, मग्न, निग्रह, निश्चय*	*वलणवाळुं, निश्चयी*	*झुका हुआ, निग्रह, निश्चित*
अधिमोक्खो :	Steadfastness, determination, certainly, confidence faith	*निश्चय, निग्रह, निर्धार, दृढ विश्वास, श्रद्धा*	*द्रढता, चोक्कस विचार, निश्चय, भरोसो, श्रद्धा*	*स्थिरता, निश्चय, संकल्प दृढ विश्वास, श्रद्धा*
अधिरोहिणी : (f.)	A ladder	*शिडी, निसण*	*सीडी, निसरणी*	*निश्रयिणी (निसेनी)*
अधिवचनं :	Denomination, designation, name, appellation	*निर्देशन, नाव, संज्ञा, पंथ, संकेत शब्द*	*संज्ञा, नामकरण, योजना, अभिधान, नाम*	*संज्ञा, जाति, नाम, पदवी, अभिधान*
अधिवत्थो : (P.P.P.)	Dwelling, residing	*राहतो, वस्ती करतो.*	*वास करवो, वतनी थवुं*	*बसता हैं, निवास करता हैं*
अधिवसति :	To dwell in, to inhabit	*वास करणे, वस्ती करणे*	*वसवुं, रहेंवुं*	*निवास करना, बसना*
अधिवासनं :	Consent, assent acceptance	*अनुमति, सम्मति, स्वीकार*	*हा पाडवी, स्वीकार करवो*	*सहमत होना, सम्मति, स्वीकार*

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अधिवासेति :	To consent, to assent,	*मान्य करणे, स्वीकारणे,*	*कबुल करवुं, संमति आपवी,*	*स्वीकारना,*
	to comply with, to bear with,	*संभाळणे, वागवणे,*	*स्वीकार करवुं, संभाळ करवो:*	*सम्मति देना,*
	to accept, to approve, to favour,	*मेहरबानी करणे,*	*मान्य करवुं,*	*सहायता देना, संभालना,*
	to receive favourably,	*अनुकूल होऊन स्वीकारणे,*	*कृपा करवुं,*	*कृपा करना,*
	to accept with resignation,	*नम्रतेने स्वीकारणे,*	*अनुकूलताथी लेवुं,*	*सादर स्वीकारना,*
	to bear, to endure	*सहन करणे, सोसणे*	*सहेवुं*	*सहन करना*
अधिवासो :	Dwelling, residence,	*वास, वस्ती,*	*निवास, आवास स्थान,*	*निवासस्थान, वास,*
	consent, acceptance	*अनुमति, ग्रहण*	*मळता थवुं*	*स्वीकार, सम्मति*
अधिवासो :	Perfuming the person	*अंगाला (शरीराला) अत्तर लावणे*	*शरीरने सुगंधीदार करवुं*	*शरीर को सुगन्धित करना*
अधिसक्करो :	Honour,	*सत्कार, स्वागत,*	*आदर, गान,*	*सम्मान, आदर,*
	hospitality,	*आतिथ्य, मेजवानकी,*	*अतिथि सत्कार,*	*आतिथ्य, सत्कार,*
	festivity	*उत्सव*	*आदरभाव, उत्सव*	*उत्सव*
अधिसेति :	To lie down upon,	*लवंडणे, विराम,*	*सूईजवुं, आरामना,*	*लेट जाना, पड रहना,*
	to lie, to rest,	*विसावा करणे, झोपणे,*	*माटे आडा पडवुं,*	*सोना, विश्राम करना,*
	to sleep, to inhabit	*स्वस्थ पडणे, वस्ती करणे*	*आराम लेवो, वसवुं*	*निवास करना*
अधीते, :	To read,	*वाचणे, अध्ययन करणे,*	*अध्ययन*	*अध्ययन,*
अधीयते	to study	*शिकणे,*	*अभ्यास करवुं, वाचवुं,*	*अभ्यास करना, पढना,*
		विचार-मनन करणे	*ध्यान करवुं*	*चिन्तन करना*

		(Marathi)	(Gujarathi)	(Hindi)
अधीतो :	Learned, read,	*जाणता, विद्वान,*	*विद्वान, पढेलो,*	*पढा, लिखा, विद्वान*
	having learned or read	*अध्ययनी, पढीक, वाचलेला*	*जाणकार*	
अधीनो :	Subject dependent,	*हुकुमांतला, अधीन,*	*आधीन, गुलामी जेवुं,*	*अधीन, आश्रित,*
(Adj.)	servile	*आश्रित, परतंत्र, ताबेदार*	*आश्रित, ताबेदार*	*दास का*
अधीरो :	Confused,	*भांबाक्लेला, गोंधळलेला,*	*मुंझाई गयेला,*	*व्याकुलतासे, भ्रमपूर्वक,*
(Adj.)	embarrased,	*पेचांत पडलेला,*	*गभरावुं, सपडायेला,*	*घबडा हुवा,*
	limid,	*भितरा, भ्याड, चंचल,*	*भीरूं,*	*डरपोक, चंचल,*
	irresolute	*अधीर*	*अस्थिर, ढचुपचुं*	*अस्थिर*
अधुना :	Now,	*आतां, आतांच,*	*अधूना, हमणां*	*अब, अभी*
(Adv.)	just now	*इतक्यात*		
अधुनागतो :	Just arrived,	*इतक्यातच पोहोचलेला,*	*अधुना आवी पहोंच्या*	*अभी पहोंचा हुवा,*
(Adj.)	newly come	*नुक्ताच आलेला*	*थोडीबार अगाउथीज आवेलुं,*	*हालमें आया हुवा*
अधो :	Under, underneath,	*खाली, खालच्या जागी,*	*नीचे,*	*नीचे, तले,*
(Adv. & Prep.)	below, down,	*खालती, पालथा,*	*हेठण,*	*नीचे के ओर,*
	low down	*अगदी खाली*	*तले*	*नीचे तल मे*
अधोगामी :	Going downwards,	*उतरता*	*नीचे उतरवुं*	*नीचे को सरकता हुवा*
(Adj.)	descending			
अधोठितो :	Standing below,	*खाली उभा असलेला,*	*नीचे स्थिर बेसाडेलुं*	*नीचे खडा हुवा*
(Adj.)	situated below	*खाली बसलेला*		*नीचे स्थापित*

		(Marathi)	(Gujarathi)	(Hindi)
अधोभागो :	The lower part	*खालचा भाग*	*नीचलनो भाग,*	*नीचे का भाग*
अधोभुवनं :	The lower region, patala, the naga world	*पाताळ, नर्क*	*पाताळ, नर्क*	*पाताळ, यम लोक*
अधोमुखो : (Adj.)	Looking downwards with the head bent down	*खाली मस्तक (मुख) झुकवुन पाहणारा*	*माथुं नीचे वळवीने जोवुं*	*सीर नीचे झुकाकर देखना*
अधोसाखो : (Adj.)	Having the branches downwards	*फांद्या खाली लोंबत असलेला*	*नीचे लटकती हुवी डालीया छें ते*	*नीचे झुकी हुई डाली हैं वह*
अन्धकारो :	Darkness	*अंधार, अंधकार, अज्ञान*	*अंधकार*	*अंधेरा, अज्ञान*
अन्धकियो : (Adj.)	Belonging to the Andra Country	*आंध्र देशाचा भाग*	*आंध्र देशाना भाग*	*आंध्र देसका भाग*
अन्धको : (Adj.)	Belonging to the Andhra Country	*आंध्र देशाचा भाग*	*आंध्र देशाना भाग*	*आंध्र देसका भाग*
अन्धतमं, : अन्धतमो	Thick darkness	*काळोखमेट, निबिड अंधार*	*घणो अंधकार (अंधेरा)*	*घना, गाडा – अंधेरा*
अन्धबालो : (Adj.)	Silly, stupid, doting	*वेडसर, खुळसट, बावळा, अजागळ, मंद, सुस्त, वेडा, भुलून*	*नादान, भोळुं, जड, मुर्ख, टपका मुकवा*	*भोला, निर्बुद्धी मंद, सुस्त*
अन्धभूतो : (Adj.)	Blind, in darkness, uneulightened	*अंध, अविचारी, अज्ञान, अंधार, अबोध, असुसंस्कृत*	*अंधळु, आंध, अंधकार, शामता, प्रकाशहीन, अज्ञान*	*अंधा, अज्ञान, अंधकारमय, अंधेरा, ज्ञानहीन*

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अन्धो : (Adj.)	Blind	*आंधळेपणा, अंधत्व, अविचार*	*अंध, अंधळु*	*अंधा, अंधकारमय*
अनक्खातो : (Adj.)	Not described, ineftable	*कथन न केलेला अनिर्वाच्य, अर्वाच्य, अवर्णनीय*	*बोलाय नही तेवुं, अवर्णनीय, अकथनीय*	*वर्णन न कीया हुवा, अवर्णनीय, अकथनीय*
अनक्खिको : (Adj.)	Without eyes, sightless	*आंधळा, नेत्ररहित*	*अंध, अंधळु*	*सूर, आंधा*
अनगारिको :	One who does not live in a house, an ascetic or Buddhist priest	*घराबाहेर राहणारा, संन्यासी, विरक्त बौद्ध भिक्खु*	*घरना बाहेर रहेवालो, संन्यासि, वानप्रस्थ, मुनि, बौद्ध भिक्खु*	*मकानके बाहर रहिनेवाला, संन्यासी, बौद्ध भिक्खु*
अनगारिया :	The houseless life an ascetic, asceticism, the life of a Buddhist priest	*संन्याश्याचे जीवन, तपश्वर्या, वैराग्य, बौद्ध भिक्षुंचे जीवन*	*मुनीनो जीवन, संन्यास, वैराग्य, बौद्ध भिक्षुनुं जीवन*	*संन्यासीका जीवन चरित्र, संन्यास, वैराग्य, बौद्ध भिक्षुका जीवन*
अनग्घको : (Adj.)	Priceless, invaluable	*अमोल, अमोलिक*	*अमूल्य मोंघुं, अणमोल*	*अमूल्य, अनमोल*
अनघो :	Priceless, invaluable, inestimable, precious, costly	*अमोल, अमूल्य, बहुमोली*	*अमोल, मोंघुं*	*अमूल्य, बहुमूल्य,*

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अनघो : (Adj.)	sinless, blameless, pure	*निर्दोष, निष्कलंक, शुद्ध*	*निरपराधी, निष्कलंक, निरदोष निर्मळ, स्वच्छ, साफ, चोखुं,*	*निर्दोष, निष्कलंक, निर्मल, शुद्ध*
अनङ्गणो : (Adj.)	Free from lust or impurity pure	*पापवासना नसलेला, मलिनता, अशुद्धता, पवित्र, निष्कलंक, निर्दोष, निर्मळ*	*पापसक्ति वगरनुं, मलिनता, अपवित्रता, निर्मळ, साफ*	*विना लालसा, अपवित्रता, स्वच्छ, निर्मल*
अनच्छरियो : (Adj.)	Not wonderful	*आश्चर्यकारक नसलेला*	*आश्चर्यकारक न होय जेवुं*	*निलक्षण या अदभूत नही*
अनच्छो : (Adj.)	Not clear, turbid	*गदळ, राड, गढूळ*	*गंधु, मेलु*	*गँधला, गांढा, पंक युक्त*
अनञ्ञो : (Adj.)	Without another, alone	*एकटा, एकाकी, दुसरा कोण नसलेला*	*एकलु, मात्र, फक्त*	*एक अकेला*
अनत्ता : (m.)	Not a self, not a soul	*अनात्म*	*अनात्म*	*अनात्म*
अनत्ताधीनो : (Adj.)	Not one's own master, dependent	*पराधीन, परावलंबी, आश्रित*	*ताबेदार*	*पराधीन, अवलंबी, आश्रित*
अनति :	To breathe, to live	*जिवंत असणे, जगणे, गुजारण करणे, उदरनिर्वाह करणे*	*जीववुं, रहेवुं, गुजारन चलाववुं*	*जीना, निर्वाह करना*

		(Marathi)	(Gujarathi)	(Hindi)
अनत्तो :	Without individuality,	*खोटा, कृत्रिम, स्वत्व नसणे,*	*प्रत्येकता वगरनु,*	*आत्माभिमान बिना,*
(Adj.)	unreal	*व्यक्तित्व शिवाय*	*असत्य, खोटु*	*असार*
अनन्तरो :	Immediately following,	*लागलचं पुढे,*	*ताबडतोब, तरतज,*	*निम्न लिखीत, आगला,*
(Adj.)	next	*तात्कालीक*	*लगोलगनु, जोडावुं*	*तत्क्षणका आगामी समीपका*
अनन्तरं :	Immediately after,	*लागलीचं नंतर,*	*तरतज, ताबडतोब,*	*तात्कालीक,*
(Adv.)	next	*जेंव्हाच्या तेंव्हाच,*	*तात्कालीक, लागेलगनुं*	*तत्क्षण बादमे, उसीदम :*
		पुढला, येता, आगामी	*पासेनुं*	*आगामी, प्राय: समीप का*
अनन्तो :	Endless, eternal;	*निरंतर, अपार, अनंत :*	*अनंन, आगाध,*	*निरंतर, अंनत, सनातन,*
(Adj.)	boundless,	*सनातन, शाश्वत, असंख्य,*	*अपार*	*नित्य, अवधिरहित*
	infinite	*अपरंपार, अमर्याद*		*निस्सीम, अपरिमित*
अनन्थोंको :	Unmeaning,	*निरर्थक,*	*मूर्खो*	*अनर्थक,*
(Adj.)	senseless,	*निर्बुद्ध,*	*बेवकूफ*	*असंगत,*
	foolish	*असमंजस, मूर्खपणाचा*		*निर्बुद्धि, बुद्धिहिन*
अनत्थो :	Foolish,	*मूर्ख, वृथा, व्यर्थ,*	*मूर्खो, व्यर्थ,*	*निबुद्ध, व्यर्थ,*
(Adj.)	vain	*निरर्थक, अभिमानी, गर्विष्ठ*	*मिथ्या, निरर्थक*	*वृथा, निरर्थक*
अनत्थो :	Disadvantage,	*हानि, अपाय, वाईट, दुष्ट*	*खोट, नुकशान, खराब,*	*हानि*
	evil,	*पापी, अरिष्ट, दुर्दैव,*	*पापी, दुष्ट, कमनसीब,*	*निंदीत, दुष्ट,*
	misfortune,	*दुर्भाग्य, विपत्ति, अन्याय,*	*दुर्भाग्य, दुर्दैव,*	*अभाग्य, दुर्गति,*
	injury	*अपाय, अपराध, हानि*	*खराबी, नाश*	*अपकार, अनिष्ट*

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अनधिको : (Adj.)	Without additions or superfluities, not redundant	*अनाधिका, अतिरेक अथवा गरजेपेक्षा अधिक नसलेला, फालुत नसलेला*	*वधारा पडतु न होय, फालतु न होय*	*अधिकता नहीं, अतिरिक्त नहीं*
अनधिवरो :	An epilhet of a Buddha (without a superior)	*बुद्धाविषयी गुणवाचक विशेषण*	*बुद्धनी संज्ञा, बुद्धनु गुणनाम*	*बुद्ध विषयक विशेषण*
अननुच्छविको : (Adj.)	Unsuitable, unworthy, improper	*अयोग्य, असंगत, न शोभेसा, अनुचित*	*अनुचित, अयोग्य*	*अयोग्य, अनुचित, नीच, अशुद्ध*
अननुस्सुतो : (Adj.)	Unheard	*अश्रुत, न ऐकिलेला*	*न सामळेलुं*	*अश्रुत, अज्ञात*
अननो : (Adj.)	Free from debt	*ऋणमुक्त, कर्ज नसलेला*	*ऋणमुक्त,*	*ऋणमुक्त, कर्जसे बरी*
अनपायी : (Adj.)	Not departing, lasting	*अमर (न जाणारा) कायमचा, टिकाऊ, चिरस्थायी*	*गत थवु, टकाऊं, चिरस्थायी*	*बीदा हुवा नही सो, स्थायी, स्थिर*
अनपेरवी : (Adj.)	Free from desire	*अनासक्त, अनपेक्ष, अनिच्छ, निष्काम*	*इच्छा वगर, अभिलाषा वगर,*	*अनिच्छ, अभिलाषा बिना*
अनप्पको : (Adj.)	Much, great, considerable	*महान, थोर, मोठा, प्रशंसनीय, योग्य, बराच*	*घणु, वधारे, पुष्कळ, महान, मोटुं, विस्तीर्ण मननीय, पूजनीय*	*प्रचुर, बहुत, अत्यंत, विशाल, बडा, स्तूल, भारी, असामान्य, मान्य, अधिक पूज्य*

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अनप्पो : (Adj.)	Much, great, numerous, many	*महान, थोर, मोटा, विपुल, बहुत, पुष्कळ*	*घणु, वधारे, महान, मोटुं, पुष्कळ, बहु*	*बहुत, अत्यंत बडा, स्तूल, अनेक*
अनभिज्झा : (f.)	Absence of covetousness or desire	*निर्लोभी, अभिलाषा अथवा इच्छा नसलेला*	*लालची वगरनु, निर्लोभी*	*लालची विनाका*
अनभिरति : (f.)	Dissatisfaction, affliction, sorrow	*असंतोष, असमाधान दु:ख, क्लेश, त्रास*	*असंतोष, अतृप्ति, नाखुषी, दु:ख, पीडा, कष्ट, शोक, खेद*	*असंतोष, अतृप्ति, दु:ख, क्लेश, आपत्ति, शोक, खेद, व्यथा*
अनभिरद्धि : (f.)	Anger, wrath rage	*राग, क्रोध, आवेश, संताप, कोप*	*क्रोध, रिस, घुस्सो, कोप*	*कोप, क्रोध, रोष, उत्पात*
अनमतग्गो : (Adj.)	Without beginning or end	*उगम, प्रारंभ आणि शेवट नाही असे, उगम आणि अंत नसेलेले*	*आरंभ आणि अंत वगरनु*	*उग्दम या आरंभ या सीना रहित*
अनयो :	Sin, wrong, distress misfortune	*अपराध, पाप, कुकर्म अन्याय, जुलूम, दु:ख, दुर्दशा, मानसिक दु:ख, दुर्दैव, दुर्भाग्य, अरिष्ट*	*पाप, दुराचारण, कुकर्म, खोटूं, गलित, दु:ख, पीडा, कमनशीब, दुर्देव, दुर्भाग्य*	*पाप, अन्याय, अधर्म, अयोग्य, पीडा, दुर्गति, अभाग्य*
अनरियवोहारो :	Unworthy practice	*अयोग्य आचरण, न शोभेसे वर्तन*	*अयोग्य, व्यवहार*	*अयोग्य, संप्रदाय, निर्गुण, आचरण*

		(Marathi)	(Gujarathi)	(Hindi)
अनरियो :	Not noble, not venerable, mean dishonourable, low	*अकुलीन, अयोग्य, अपूज्य, नीच, हलका, अधम, बेअब्रु, हलक्या दर्जाचा, अप्रतिष्ठित, अनार्य*	*अकुलीन, अप्रौढ, खानदान वगरना, अपूज्य, अपवित्र, अधम, हलकुं, तुच्छ, अमाननीय, अपमानकारक, नीच, हलका कुटुंबमा उछरेलो*	*अंकुलीन, अशिष्ट, अपूज्य (आदरणीय नही सो) अधम (नीच), तुच्छ, क्षुद्र, अपमानयुक्त, नीच, अप्रतिष्ठित*
अनरो :	Other than human	*अमानुषी, अनर (मनुष्य प्राणी नाही अशापैकी)*	*अमानुषी, मनुष्याना जेवुं नथी*	*(अमनुष्यत्व) मनुष्य जाति का नहीं (अनर)*
अनलो :	Fire	*अग्नि, ज्योत, विस्तव*	*अग्नि, हुताशन, आंच*	*अग्नि, ज्वाला, भभक*
अनवज्जता : (f.)	Blamelessness	*निर्दोष*	*निर्दोष, निष्कलंक*	*अनिंधता*
अनवज्जो : (Adj.)	Blameless, harmless, not sinful	*निर्दोष, निरुपद्रवी, निष्पापी, पापी*	*निर्दोष, निरपराधी, बिनगुन्हेगार, निष्पापी*	*निर्दोष, निष्कलंक, निरपराध, निष्पापी*
अनवट्ठिति : (f.)	Unsteadiness	*चंचलता, अस्थिरता, चलबिचलता*	*अस्थिरता, चंचलता*	*अस्थिरता, अद्दढता*
अनवतत्तो :	See अनोतत्तो	– –	– –	– –
अनवयो : (Adj.)	Perfectly, acquainted with, versed in	*संपूर्ण माहितगार, निष्णात, वाकबगार*	*संपूर्ण जाणीता करवुं, बाकेफगार बनावबुं, निपुण, चतुर*	*संपूर्ण रूपसे जानना, परिपूर्ण जानना, कुशल, निपुण और प्रवीण*

		(Marathi)	(Gujarathi)	(Hindi)
अनवरतं : (Adv.)	Incessantly	*सततचा, निरंतर*	*निरंतर, सतत,*	*नित्य, सतत*
अनवसेसो : (Adj.)	Without any remaining, all, every one, the whole	*अवशेष नसणारा, शिल्लक नसलेला, सर्व कांही, प्रत्येक, एकूण एक, अखंड, सारा, समग्र, पूर्ण, सगळा*	*वधु न होय जेवुं, बाकी न रहेवुं, सर्व आंखु तमाम, सगळुं, अखंड*	*बचा न हुवा, सकल, पूर्ण, पूरा, प्रत्येक व्यक्ति, संपूर्ण, पूरा,*
अनवस्सवो :	Not flowing - in, non - influx	*ओघ किंवा प्रवाह नसलेला*	*प्रवाह न होय ते*	*प्रवाह, बवाह नही जीसे*
अनवस्सुतो :	See अवस्सुतो	– –	– –	– –
अनसनं :	Fasting	*उपवास, उपोषण, अन्नावाचून असणे*	*अन्ननो त्याग करवो, वर्जन करवुं*	*लंघन, अनाहार, आहार न करना*
अनस्सवो : (Adj.)	Disobedient	*आज्ञा मोडणारा, आज्ञाभंजक*	*आज्ञा भंग करनान*	*आज्ञा उल्लघंन करनेवाला*
अनळसो : (Adj.)	Industrious, diligent	*उद्योगी, मेहनती, दक्ष, तत्पर*	*उद्योगी, मेहनतु*	*उद्योगी परिश्रमी व्यवसायी*
अनाकुलो : (Adj.)	Untroubled, quiet, peaceful	*स्थिर, अचल, शांत, निवांत*	*शांतिवालु, शांत, स्थिर, शांत*	*अनुद्विघ्न, कष्ट न दिया हुवा, स्थिरता, शांति, विश्राम, शांत, निष्कंटक*

		(Marathi)	(Gujarathi)	(Hindi)
अनागतो : (Adj.)	Not come, not arrived, future	*आगमन न झालेला, येणारा, भावी*	*नो आवी पहोंच्या, आगमन न थयेलुं, हवे पछीनुं, भविष्य समयनो*	*न आया हुवा (आनेवाला) भविष्यकालका*
अनागमनं :	Not returning	*परत न येणे, न उलटणे*	*पाछु न आवुं, अथवा जवुं*	*वापस न लोटना*
अनागामिफलं :	Fruition of the statue of अनागामी	*अनागामी स्थितीची प्राप्ति अथवा साफल्य*	*अनागामी अवस्थानुं फळ अथवा अनुभव*	*अनागामी अवस्था का आनंद या सुख*
अनागामिमग्गो :	Path of one who does not return	*जो परत फिरत नाही अशाचा मार्ग*	*पाछा नही करे एवानु रस्तो*	*जो वापस नहीं लोटता है वहकी मार्ग*
अनागामी : (m.)	One who does not return	*ज्याचे पुनरागमन होत नाही तो*	*पाछु न आवुं*	*फिर नही आता वह, फिर नही पलटना*
अनागारो : (Adj.)	Houseless, homeless	*घराशिवाय*	*घरबिनाका*	*घरसिवायनु :*
अनाचरियको : (Adj.)	Without a master or a teacher, self taught	*शिक्षक अथवा अध्यापका शिवायचा, स्वतंत्र शिकलेला*	*शिक्षक वगर भणेलुह पोतानाज प्रयत्नथी आगळं वधेलुं*	*गुरु बिना का, अध्यापक बिना का खुदके महीनतसे बढा हुवा*
अनाचारो :	Bad conduct, bad manners	*वाईट, दुष्ट वागणूक अथवा वर्तन, बाधक अथवा नुकसान-कारक रीति, चाल, पद्धति*	*खराब अथवा दुष्ट वर्तणूक अथवा रितु, चाल*	*बुरा या दुष्ट आचरण, बुरी चाल*
अनाबुरो : (Adj.)	Healthy	*निरोगी*	*निरोगी, आरोग्य*	*स्वस्थ, आरोग्यकर*

		(Marathi)	(Gujarathi)	(Hindi)
अभिज्झा :	Covetousness *(अभिध्या)*			
अधिवचनं :	Designation, appellation, name *(अधि + वचन)*	*निर्देश, हुद्दा, पदवी, नांव संकेत शब्द*	*पदवी, हुद्दा*	*पदवी, नाम, (चिन्ह) उपाधि*
अच्चति :	To offer : to honour : to revere *(अर्च)*	*समर्पण ; सन्भानणें गौरवणें*		
अधिट्ठितो :	appointed, fixed, determined willed *(अधिष्ठित = स्था)*	*नेमलेला, ठरविणे, वायदा करणें*		*नियुक्त करना, निर्धारित करना*
अभिजातिको :	(adj) Belonging to origin or race *(अभिजाति + क)*			
अभिजातो :	Well born, noble: learned, wise *(अभिजात = जन्)*			
अभिजाति :	Origin, race, birth *(अभि + जाति)*			
अभिजप्पनं :	Muttering Spells, incantation *(अभि + जल्पन)*			
अभिकिरति :	To overwhelm, to cover *(अभि + कृ)*			
अधिगच्छति :	To enter upon, to reach, to acquire *(अधि + गम्)*	*मिळविणे, पोहोंचणें*	*मेळवुं*	*मिलाना, पोहोचना*

		(Marathi)	(Gujarathi)	(Hindi)
अधिच्चसमुप्पन्नो :	(adj) Uncaused			
अधिगमनं :	Obtaining, attainment, arrining at	*हेतु साध्य होणें, प्राप्त,*		
अधिगमो :	Attainment : Study	*प्राप्ति संपादिलेला गुण : कलाकौशल्य*		
अधिकरणं :	Relation; reference : circumestance Subject; cause : a matter of dispute difficulty : suit, trial *(अधिकरणं)*	*मिळविणे, पोहोंचणें*	*मेळवुं*	*मिलाना, पोहोचना*
अधिगतो :	Having attained or, arrived at *(अधिगत + गग्)*	*साधणें पोहोंचणें*		
अधिग्गहीतो :	Taken; occupied by, in possession of *(अधि + गृहीत = ग्रह)*	*ताब्यांत घेणे*		
अधिकरणसमथो :	Settling questions or cases that have arisen *(अधिकरण + शमथ)*			
अधिकारो :	Office, authority : function desire : chapter	*अधिकार (अधिकार)*		
अधिकारिको :	An official *(अधिकार + इक)*		*अधिकारी*	
अभिजनो :	Race, tribe, family *(अभिजन)*			

		(Marathi)	(Gujarathi)	(Hindi)
अभिजानाति :	To know, to learn, to ascertain : to perceive : to admit to acknowledge *(अधि + ज्ञा)*	–	–	–
अभिहटो :	Brought *(अभि + हत = हृ)*	–	–	–
अभिहितो :	Called, named : Spoken, said. *(अभि + हित = धा)*			
अभिहन्ति :	To bring to : to acquire, to gain *(अभि + हृ)*	–	–	–
अभिगीतो :	Song or recited to *(अभिगीत = गै)*	–	–	–
अभिवसति :	To dwell in, to inhabit *(अधि + वस्)*	*राहणें, वसति करणें*	*रहेवुं*	*निवास करना*
अभिघातो :	Striking, concussion *(अभिघात)*	–	–	–
अभिकतो :	A Superintendent, Overseer *(अभिकृत = कृ)*	*देखरेख करणारा*	–	–
अभिसोभितो :	Adorned, beautiful, resplendent *(अभि + शोभित = शुभ्)*	–	–	–

		(Marathi)	(Gujarathi)	(Hindi)
अभिसित्तो :	Besprinkled (अभि + सित्त = सिच)	–	–	–
अभिसिञ्चति :	To Sprinkte, to inaugurate a king by Sprinkling by Sprinkling of holy water *(अभि + सिच्)*	–	–	–
अच्चन्तो : (adj)	Excessive : endless *(अत्यन्त)*	*पुष्कळ, अमर्याद*	–	–
अधिभूतो :	Over come, mastered *(आधी + भूत = भू)*	*प्राविण्य, पार पाडणें*	–	–
अभिधानप्पदीपिका :	Lamp of nouns This is a name of a well-known Vocabulary of Pali-nouns, compiled on the model of Amarkosha by the grammarian moggallana of at the end of the 12th century. *(अभिधान + प्रदीपिका)*	–	–	–
अधिवासनं :	Consent, assent acceptance *(अधि + Caus वस् + अन)*	*स्वीकारणें, संमति देणे, मान्यता*	–	*स्वीकारना, संमति*
अभिक्कन्तो :	Handsome, beautiful; excellent, good *(अभि + कान्त + कम्)*	–	–	–

		(Marathi)	(Gujarathi)	(Hindi)
अचेतनो : (adj.)	Unconscious, Senseless	*बेहोष मूर्च्छा, बेशुद्ध*	*बेहोष, बेसुद*	*बेहोष*
अच्चुतो : (adj)	Immovable : everlasting	*नित्यं, शाश्वत, अनंतकाळपर्यंत*	–	–
अचेलको : (adj.)	Unclothed, naked *(अ + चेल + क)*	*नग्न*	*नंगा*	*नंगा*
अच्चुण्हो : (adj.)	Very hot *(अति + उष्ण)*	*गरम, फार उष्ण, उष्मा, तिखट*	–	–
अच्चुळारो : (adj.)	Magnificant *(अति + उदार)*	*भव्य, छानदार*	*भव्य*	*शानदार, खुबसुरत*
अच्चोक्कट्ठो : (adj.)	Very low *(अति + निच)*	*नीच्, कनिष्ट, ठेंगा*	–	–
अच्चुक्कट्ठो : (adj.)	Very high *(अति + उत्कृष्ट)*	–	–	–
अच्चुग्गतो : (adj.)	Raised, elevatedhide *(अति + उदत = ग)*	*उत्कृष्ट, उच्च*	–	–
अदोसो :	Absence of hatred or anger *(अ + द्वेष)*	*द्वेषा शिवाय अवैर*	–	–

		(Marathi)	(Gujarathi)	(Hindi)
अच्छो :	A bear *(ऋक्ष)*	*रिस्, अस्वल*	–	–
अधिच्चका :	Land or plateau on mountain *(अधित्यका)*	–	–	–
अच्चि :	A ray of Light, a sunbeam, : flame *(अर्चि + अर्चिस्)*	*किरण, ज्वाला*	–	–
आगामिको : (adj.)	Coming, approaching *(आगामिक)*	*पुढे येणारा*	–	*आगामी*
अदित्तो :	Blazing, burting *(अक्षप्त + तिप)*	*जळजळीत, भडका, चमक*	–	*प्रज्वलित, जलना*
आदियति :	To recive : to obtain, to take to heart to attend to *(आ + दीयते = दा)*	*संपादणें, भिळविणें*	–	*प्राप्त करना, प्रवृत्त होना*
आदिप्पति :	To blaze, to burn, to glow *(आ + दीप्)*	*भडकाणें, चमकणें, जळणें*	–	*प्रभा, चमक, प्रज्वलित, तपना*
आगामी : (adj.)	Coming, future (आ + गामिन्)	*भावी, यावयाचे*	–	*आगामी, आनेवाला*
अच्छिद्दो : (adj.)	Uninjured, intact Perfect, farlturs *(अ + छिद्र)*	*संपूर्ण*	–	–

		(Marathi)	(Gujarathi)	(Hindi)
अच्छिन्दति : (adj)	To take away, to remove, to rob, plundes *(आ + छिद्)*	*हिसाकावून घेणें, लुटणें*	–	–
अधिभू :	Lord, master, chief, king *(अधिभू)*	*धनी, मालक, प्रमुख, ईश्वर, खावंद,*	*मालिक, धनी*	*मालिक, खावंद, सरकार, अमीर*
अधिभवनं :	Subjection *(अधि + भवन)*	*आधीनता, ताबेदारी*	–	–
अधि : (Prep.)	Above, over, Superior to *(अधि)*	*वर, श्रेष्ठ*	*उपर, बडो*	*उपर, बडा*
अधिभासति :	To address, to speak to *(अधि + भाष)*	*संबोधणें*	–	–
अधरोट्ठो :	The lower lip *(अधरोष्ठ)*	*ओठ*	*होठ*	
अच्छि :	The eye *(अक्षि)*	*डोळा*	*अख*	*अख*
अब्भोक्किरणं :	Covering, bedceking *(अभि + अव + किरण)*	*आच्छादन, पडदा, झांकण*	–	–
आगमनं :	Coming, arriving, return : approach *(आगमन्)*	*पोहोंचणे, आगमन, प्रवेश*	–	*पहुंचना, आगमन, प्रवेश*

		(Marathi)	(Gujarathi)	(Hindi)
अधिवासेति :	To cousent to, comply with, to approve, to beav to endure *(अधि + वस्)*	*मानणें, स्वीकारणें, कबूल करणें, सोसणे*	–	*स्वीकारना, मानना, भोगना, सहनकरना*
अगाधो : (adj.)	Unfathomable *(अ + गाध)*	*अगाध*	–	*अगाध*
अद्धमासो + : अड्ढ	A fort night *(अर्ध + मास)*	*पंधरवडा, अर्धमास*	*पंधरदाडा*	*पंधेरादिन*
अच्चन्तं : (adv)	Exceedingly : very *(अत्यन्तम्)*	*अत्यंत, अतिशय*	*बहु, घणु*	*बहोत*
अद्धानं :	A long distance, a long time	*दूर, पुष्कळ अवधि, अनंत काळ*	*आछु*	*आगे*
अद्दि :	A mountain *(अद्रि)*	*पर्वत, पहाड*	*पहाड*	*पहाड, पर्वत*
अधित्थि :	Reference to a woman *(अधि + स्त्री)*	–	–	–
अधिट्ठहति, : अधिट्ठति, अधिटिट्ठति	To stand on, to stay to inhabit : to practice, to be set upon *(अधि + स्था)*	*उभा राहणे, पास करणे, स्थिर करणे*	–	*रोकना, सहारा देना, मन लगाना*

		(Marathi)	(Gujarathi)	(Hindi)
अच्चनीयो + : निय्यो	Worthy of being offered *(अर्चनीय)*	*वंदनीय, पूज्य*	–	–
अदिन्नो : (adj)	Not given	*न दिलेले*	–	–
अदिति :	The mother of the Gods *(अदिति)*	–	–	–
आदितो : (adv)	From the beginning : fire	*सुरवात, पहिल्यापासून, आरंभ*	–	*आरंभ, उड्गम, पहिलेसे*
आदिसति :	To show, to point out, to tell *(आ + दिश्)*	*निर्देशणे, सांगणे*	*वतावुं, केहकं*	*दिखलाना, बतलाना*
अच्छिन्नो :	Taken away, removed stolen *(आ + छिन्न = छिद्)*	*दूर नेणे*		
अच्चितो :	Revered, honoured, *(अर्च)*	*पूज्य मानणे*		
अच्चिमा :	Fire *(अर्चिमन्त्)*	*आग, जाळ, अग्नि, ज्योत*	*आग*	*आग*
अच्चोदातो : (adj.)	Very white *(अति + अबदात = दै)*	*पांढरा शुभ्र, सफेद*	–	*सफेद*

		(Marathi)	(Gujarathi)	(Hindi)
अभिसवनं :	Oozing trickling, flowing *(अभि + स्रवण)*	–	–	–
अधीतो :	Learned, read *(अधि + इ)*	*शिकलेला, पढीक*	*पढेला, भणेला*	*विद्वान, पंडीत*
अच्चना :	offering, worship *(अर्चना)*	*अर्पण, पूजा*	–	–
अधिट्ठानं :	Resting place, appointment staying, determination *(अधिष्टान)*	*जागां, नेमणूक, स्थापना, निर्धार*	*जागा, नेमणूक*	*नियुक्ति, स्थापना, निर्धार*
अच्छो : (adj)	Clear, transparent *(अच्छ्)*	*पारदर्शक, प्रकाशभेद्य*	–	–
अच्चारद्धो : (adj)	Very eager : very strenuous *(अति + आरब्ध = रभ्)*	*उत्सुक*	–	–
अच्चासन्नात्तं :	Too great proximity *(अति + आसन्न = सद् + त्व)*	*सान्निध्य*	*नजीकनुं*	–
अच्छेरो : (adj)	Contracted form of accharing *(अर्जना)*	–	–	–
अच्छेको : (adj)	Unskiltul, ignorant, clumsy *(अ + छेक)*	*अडाणी, बेढब*	–	–

		(Marathi)	(Gujarathi)	(Hindi)
अच्छरियो : (adj)	Wonderful : astonished marvellous *(आश्चर्य)*	*आश्चर्य*	*आश्चर्य*	*अजब*
अच्छति :	To stay, remain, to settle down *(आस्)*	*शांत होणे, स्थिर होणे*	–	*खामोश होना : रहेना*
आधारो :	A support : a receptacle, a basin a round the foot of a tree to a retain water *(आधार)*	*आधार*	*आधार*	–
अधरो : (adj)	Lower, inferior *(अधर)*	*खालचा, हलक्या दर्जाचा*	–	–
अच्छरा :	A celestial nymph *(अप्सरम्)*	*अप्सरा, परी*	–	–
अच्छरा :	A moment; the snapping of finger; twinkling of an eye *(अक्षर)*	*क्षण*	–	–
अच्छन्नो :	Covered, hidden (आ + छन्न = छद्))	*ढाकलेला, लपलेला,*	–	–
अच्छम्भी : (adj)	Undaunted, undismayed *(आ + स्तम्भ + इन्)*	*निर्भय*	–	–

		(Marathi)	(Gujarathi)	(Hindi)
अगम्म :	Having come to, having gone to, Having arrived at, by means of, on account of; according to, for the sake of *(आ + गम्य =)*	*पोहोचल्यावर, मुळे, बरहुकूम*	–	–
अधीते, अधीयते :	To read, to study *(अधि + इ)*	*वाचणें, पढणें*	*वाचुं, पदुं*	*पढना, समझाना, खोजना*
अधिट्ठायको :	Suprintendent, director *(अधिष्ठायक)*	*मुख्य अधिकारी, अध्यक्ष, देखरेख करणार*	*अध्यक्ष, अधिकारी*	*संचालक, अधिकारी, अध्यक्ष*
अब्भुग्गच्छति :	to approach; to go to meet; to ascend, to go up *(अभि + उद् + गम्)*	*पोहोचणें, जवळ जाणें, चढणें*	–	–
अब्भोकासिको : (adj)	Living in the open air or in an open unsheltered space *(आभ्यवकाशिक)*	–	–	–
अब्भुग्गतो :	Having approached, gone to meet: Ascended *(अभि + उद् + गत = गम)*	–	–	–
अभिण्हं : (adv)	Repeatedly *(अभीक्षणम्)*	–	–	–

		(Marathi)	(Gujarathi)	(Hindi)
अभिञ्ञेय्यो : (adj)	That ought to be known *(अभि + ज्ञेय += ज्ञा)*	–	–	–
अभिनेति :	To bring to, conduct to *(अभि + नी)*	–		–
अभिनयो :	A dramatic representation *(अभीनय)*	–	–	–
आगमेति : (Caus)	To cause to come : to Communicate, to impart, to Wait *(अ + गमयति + गम्)*	*कळविणें, देणें, वाट पाहणें*	–	*कहना, देना, ठहरना*
अगदो :	Medicine, drug, medicament *(अ + गद्)*	*औषध*	*दवा*	*दवा*
अगामको : (Cadj)	Uninhabited *(अ + ग्राम = क)*	*वसतिहीन*	–	*न वसा हुवा*
अगलु :	Aloe Wood *(अंगुरू)*	–	–	–
आगहितो :	Seied, held : pulled *(आ + गृहीत = ग्रह)*	*बळकाविलेले, ओढलेले*	–	*छीन लेना, खींचा हुवा*
अधिकतरो : (adj)	Greater, superior *(अधि + कतर)*	*मोठा, श्रेष्ठ*	*बडा, मोटा*	*बडा*

		(Marathi)	(Gujarathi)	(Hindi)
अदो : (adj)	Eating, feeding on *(अद)*	*जेवणें, पोट भरणें*	*जमवुं, जमाडवुं*	*खाना, खिलाना*
अद्दितो :	Afflicted oppressed *(अर्दित = अर्द)*	*दुखविलेला*	–	–
अद्दो : (adj)	Wet, moist *(आर्द्र)*	*ओलसर, आर्द्र*	*भिगु*	*गिला*
आदेति :	To take : to sieze : to receive *(आ + दयते = दय्)*	*घेणें, बळकाविणें*	–	–
आदेसको : (adj)	Telling, informing *(आदेशक)*	*सांगणें, कळविणें*	*केवु*	*कहेना*
आदेसो :	Information : direction order, injunction *(आर्द्र)*	*बातमी, सूचना*	*खबर*	*खबर*
अच्चम्बिलो : (adj)	Very sour *(अति + अम्ल)*	*अति आंबट*	*बहु खट्टा*	*बिहोत खट्टा*
अच्चगा :	See aceeti *(अच्चेति)*	–	–	–
अच्चगमा :	See *(अतिगच्छति)*	–	–	–

		(Marathi)	(Gujarathi)	(Hindi)
अच्चधानं : (adj)	Putting upon *(अति + आ + धा + नं)*	–	–	–
अच्चदहति : (adj)	To put upon or over *(अति + आ + धा)*	*ओढणें, ढाकणें*	*ओढवुं*	*ढकणा*
आचरियो :	A teachers : a professor : a scholar *(आचार्य)*	*आचार्य, गुरुजी, पंडित, विद्वान*	–	–
आचारो :	Conduct : practice : good manners *(अति + अम्ल)*	*वर्तन*	*वर्तन*	–
आचरति :	To live, to act, to perform, to treat, to practise *(आ + चर)*	*करणें, वागणें, आचरणें*	–	–
अचामो :	Scum of boiling rice *(आचाम)*	*शिजणाया भातावरची खळ भाताची खरवड*	–	–
अचलो : (adj)	Firm, steady, immovable *(अ + चल)*	*अढळ, स्थिर, निश्चयी*	–	–
आचमनं : (adj)	Rinsing the mouth, washing, cleansing *(आचमन)*	*गुळणी करणें, चुळ भरणें, धुणें*	*कोगळा करवुं, धुवु*	*कोगळां करना, धोना*

		(Marathi)	(Gujarathi)	(Hindi)
अभ्यासो :	Near *(अभ्याश)*	*जवळ*	*नजीक*	*नझीक*
अभ्यासो :	Repetition, practice	*अभ्यास*	*अभ्यास*	–
अद्धो + अड्ढो : (adj)	Half *(अर्ध)*	*आरधा*	*अर्धु*	*अरधा*
अड्ढो : (adj)	Wealthy, rich *(आढ्य)*	*श्रीमंत, धनाढ्य*	*श्रीमंत, पैसावाला*	*रहीश, पैसावाला*
अद्धिको : (adj)	Journeying, travelling *(अध्वन् + इक)*	*प्रवास करणें*	–	–
अड्ढयोगो :	Name of a sort of house *(अर्थ + योग)*	–	–	–
अद्धरत्ते :	Midnight *(अर्ध + रात्र)*	*मध्यरात्र*	–	–
अड्ढतय्यो + : **अड्ढतियो** (adj)	Two & a half *(अर्ध + तृतीय)*	–	–	–

		(Marathi)	(Gujarathi)	(Hindi)
अद्धनियो : (adj)	Lasting, going on continuing *(अध्वन् + य)*	*टिकाऊ, चिरस्थायी*	*टकाऊ*	*टकना*
अप्रेमानो : (adj)	Undeu confidence, undeu estimate of oneself *(अधि + मान)*	*गर्व, अभिमानो*	–	–
अधिमत्तं : (adj)	Exceedingly, excessively *(अधि + मात्र)*	*अतिशय, अमर्याद*	*घणु*	*बहोत*
अधिमत्तों : (adj)	Excessive *(अधि + मात्र)*	*अतिशय*	–	–
अधिवासो :	Perfuming the person *(अधिवास)*	*सुगंध लावणें*	*सुगंध लागावुं*	*सुगंधित करना*
अधिवत्थो :	Residing *(अधि + वस्)*	*राहाणें*	*रहवुं*	*रहना*
अधिकिच्च :	Referring to, relating to *(अधिकृत = कृ)*	*लागू होणें*	–	–
अधिमोक्खो :	Steadfastness, determination certainty, confidence, faith *(अधि + मोक्ष)*	*निर्धार, निश्चय, विश्वास*	–	–
अधिको : (adj)	exceeding, surpassing *(अधिक)*	*जास्त, अधिक*	*जास्त, वधारे*	*बहोत*

		(Marathi)	(Gujarathi)	(Hindi)
अधिकोट्टनं :	A chopping block, executioner's block *(अधि + कुट्ट)*	*ठोकळा*	–	–
अदिन्नादानं :	Taking what is not given appropriation, theft *(अध्वन् + इक)*	*चोरी करणें*	–	*अपनाना, चोरी करना*
अधिप्पेतो : (adj)	Meant, intended, desired *(अधि + प्र + इत = इ)*	*उद्देश, इरादा असणे*	–	*उद्देश करना, सुचित करना*
अदिन्नादायी :	A thief, One who takes what is not given	*चोर*	*चोर*	*चोर, तस्कर*
अदीनवो : (adj)	Distress suffering, evil, guilt, disaduantage *(आदीनव)*	*दुष्ट, मानसिक दु:ख, विपत्ति, पापी*	*दु:ख, क्लेश, पीडा, दुष्ट*	*क्लेश, पापी,*
आदिको : (adj)	Beginning with, first initial *(अदिक)*	*पहिला, प्राथमिक, प्रारंभ*	*पहिलो*	*आदिका, प्राथमिक, प्रारंभ*
आदिमो : (adj)	First, initial *(आदिम)*	*पहिला, प्राथमिक*	–	*आदिका, प्राथमिक*
आदिच्चो :	The Sun *(आदित्य)*	*सूर्य, रवि*	*सूर्य*	*सूर्य*
आदिच्चपथो :	The sky, the heaven *(आदित्य + पथ)*	*आकाश, स्वर्ग*	*आकाश, स्वर्ग*	*आकाश, स्वर्ग*

		(Marathi)	(Gujarathi)	(Hindi)
आदिब्रम्हचरियं : (adj)	Fundamental morality as opposed to the details of practice to ritual *(अदि + ब्रह्म + चर्य)*	–	–	–
आदिच्चबन्धु :	A name of Buddha as a member of a family of the solar race *(आदित्य + बन्धु)*	*बुध्दाचे एक नाव सूर्याच्या कुटुंबा संबंधी*	–	–
आदि :	Beginning, starting point *(आदि)*	*सुरवात, प्रारंभ*	–	*आरंभ, उद्गम*
आढयो : (adj)	Well-born, belonging to a wealthy family *(आढ्य)*	*कुलवंत, श्रीमंत*	*कुलीन, श्रीमंत*	*कुलीन, ऐश्वर्यसे*
अधुना : (adv)	Now, just now *(अधुना)*	*आतांच*	–	*अब, अभि*
अधुनागतो : (adj)	Just arrived, newly come *(अधुना + आगत)*	*मुक्कामी पोहोचणें*	–	*पहुंचना*
अधोसाखो : (adj)	Having the branches downwards *(अधस् + शाखा)*	–	–	–
अधोठितो : (adj)	Standing below, situated below *(अधस् + स्थित्)*	*खाली बसलेला*	*नीचे बनेलु, करेलु*	*नीचे स्थापित*
अदस्सनं :	Not seeing, not meating with, disappearance concealment *(अ + दर्शन)*	*अंतर्धान, गुप्तता*	–	–

		(Marathi)	(Gujarathi)	(Hindi)
आदो :	A locative of *(आदि)*	–	–	–
आदाता :	One who takes *(आदातृ)*	*घेणे*	–	–
आदातब्बो : (adj)	That ought to be taken *(आदातण्य)*	–	–	–
आदायी : (adj)	Taking *(आ + दायिन्)*	–	–	–
आदाति + : **आददाति** (adj)	to take = to recieve, to sieze *(आ + दा)*	*स्वीकारणे, मिळवणें*	–	–
अद्दा :	Name of one of the Nakkhattas *(आर्द्रा)*	–	–	–
अद्दाब्बो : (adj)	Immaterial, abstract *(अ + द्रव्य)*	*निराकार, गौण*	–	–
अद्दक्खि + : **अद्दस**	See *पस्सति*		–	–
अद्दकं :	Green ginger *(आर्द्रक)*	*आलं*	*अद्रक*	*अद्रक*
अद्धा : (adj)	Truely, certainly, surely, evidently *(अद्धा)*	*खरोखर, निःसंशय*	*खरेखर*	*सच्च*

		(Marathi)	(Gujarathi)	(Hindi)
अद्धा : (adj)	A Road ; distance : time *(अध्वन्)*	*मार्ग, अवधि, काळ, अंतर*	*मार्ग, बखत्*	*रास्ता, वखत्*
अद्धगू :	A traveller *(अध्वग)*	*प्रवासी, वाटसरू*	*मुसाफीर*	*मुसाफीर*
अद्धागतो : (adj)	One who has made a long journey, Aged *(अध्वन् + गत = गम्)*	*वयस्कर, म्हातारा*	*बुढ्ढो*	*बुढ्ढा*
अधिपति :	Lord, sovereign, master *(अधिपति)*	*मुख्य, प्रधान, मालिक, राजा*	–	–
अभिभूतो :	Overcome, overpowered, subdued, vanquisled *(अभि + भूत + भू)*	–	–	–
आभिधम्मिको : (adj)	Connected with or versed in the Abhidhamma *(अभि + धर्म + इक)*	–	–	–
अभावो :	Non existence : Absence *(अ + भाव)*	*नास्तिक, अभाव, उणीव*	–	–
अभिच्छा :	Desire, longing *(अभि + इच्छा्)*	–	–	–

		(Marathi)	(Gujarathi)	(Hindi)
अभिभवनं :	Overcoming, vanquishing *(अभिभवन)*	–	–	–
अब्बति :	To go *(अर्ब)*	–	–	–
अभिहारो :	Bringing, offering *(अभिहार)*	–	–	–
अब्भाचिक्खति :	To accuse, to slander, to calumniate *(अभि + आ + freq ख्या)*	–	–	–
अब्भकं :	Talc, Mica *(अभ्रक)*	*अभ्रक*	*अभ्रक*	–
अब्बणो : (adj)	Unwounded *(अ + व्रण)*	*वणरहित*	–	–
अब्भागमनं :	Approaching, going to visiting *(अभ्यागमन)*	*जवळ जाणें*	–	–
अब्भाक्खानं :	Accusation slander, calumny *(अभ्याख्यानं)*	*निंदा*	–	–
अभिधानं :	Name, appellation, noun *(अभिधान)*	–	–	–

		(Marathi)	(Gujarathi)	(Hindi)
अभिभासितो :	Illumined *(अभि + भास)*	–	–	–
अभिभासति :	To speak to, address *(अभि + भाष्)*	–	–	–
अभिभवति :	To overcome : to attain, to master, to surpass *(अभि + भू)*	–	–	–
अभिभायतनं :	Place or region of the vanquisher *(अभिभू + आयतन)*	–	–	–
अच्छादेति :	To put on *(आ + छद्)*	*कपडे घालणें*	*कपडा पेरवुं*	*कपडा पेहना*
अभिभवो :	Bring, overcome, defeot *(अभिभव)*	–	–	–
अच्छादनं :	Covering; lid; curtain; clothes *(आच्छादन)*	*आच्छादन, ढांकण, पडदा*	*ढाकणुं, कपडुं, पडदा*	*ढकणा*
अच्चेति :	To traverse : to surpaess : to conquer or overcome *(अति + इ)*	*जिंकणें*	*जीत*	*जीत*

		(Marathi)	(Gujarathi)	(Hindi)
अच्चायिको + :	Irregular, Accidental :	*अनियमित, अचानक, जरूरी*	–	–
अच्चेको (adj)	Pressing, urgrnt			
अच्चयो :	Passing away, lapse of time, deaath, offence, sin *(अत्यय)*	*मृत्यू, गुन्हा : कालगति*	–	–
अभिगमनं :	Approaching *(अभिगमन)*	–	–	–
अधिसेति :	To lie upon : to lie, to sleep : to inhabit *(अधि + शेते = शी)*	*पडणें, झोपणें, राहणें*	*लेटवानुं, रहेवानुं*	*लेटना, फलना, आश्रित होना*
अभिधातब्बो : (adj)	That ought to be declared *(अभि + धातव्य = धा)*	–	–	–
अब्भुदीरितो :	Uttered *(अभि + उद् + ईरित = ईर्)*	*उच्चारणें, बोलणें, म्हणणें*	–	–
अभिभायतनं :	Place or region of the vanquisher *(अभिभू + आयतन)*	–	–	–
अभिभू : (adj)	Overcoming, mastering, vanquishing, surpassing *(अभि + भू)*	–	–	–
अदासो : (adj)	Not a slave, a free man : freedman *(अ + दास)*	*स्वतंत्र, स्वाधीन*	–	–

		(Marathi)	(Gujarathi)	(Hindi)
आदासो + :	A mirror *(आदर्श)*	*आरसा*	*शिसा*	*आयना, शिसा*
अदासि :	See *ददाति*	–	–	–
आदरो :	Esteem, regard : respect, affection, devotion *(आदर)*	*आदर*	*आदर*	–
आदानं :	Taking appropriating, seizing : desire, attachment, clinging to the world *(आदान)*	*बळकावणें, पकडणें, अभिलाषा, इच्छा,*	*आशा, इच्छा*	*उमीद, तमन्ना*
आदरणीयो : (adj)	Estimable, deserving of respect *(आदरणीय)*	*माननीय, पूजनीय*	*माननीय, पूज्य*	–
अदनं :	Eating *(अदन)*	*खाणें, जेवणें*	*जमवुं, खावुं*	*खाना*
अदा :	See *ददाति*	–	–	–
अचिरो : (adj)	Short, brief *(अ + चिर)*	*संक्षिप्त, थोड्या अवधीचा*	–	–
आचितो :	Heaped up, collected *(आ + चित = चि)*	*पुष्कळ साठविलेले*	*घणु भेगु करेलु*	–

		(Marathi)	(Gujarathi)	(Hindi)
अचिरप्पभा :	lightening *(अचिर + प्रभा)*	*वीज*	–	–
अचितेय्यो + : **अचिन्तियो** (adj)	Inconceivable, incomprehensible, infinite *(अ + चिन्त् + एय + य)*	*अमर्याद, असंख्य*	–	–
अधिपन्नो :	Caught, seized : assailed *(अधि + पन्न = पद्)*	*पकडले जाणें, हल्ला होणें*	–	–
आधिपतेय्यं :	Influence, rule, supremacy *(अधिपति + एय)*	*प्राधान्य, वशिला, अज्ञात शक्तिवा परिणाम*	–	–
अधिसक्कारो :	Honour, hospitality, festivity *(अधि + सत्कार)*	*आदरसत्कार, मान, मौज, उत्सव*	–	*सन्मान, उत्सवकाल, प्रसन्न*
अधिरोहिणी :	A ladder *(अधिरोहिणी)*	*शिडी, निसन, दादर*	*शिडी, पगथिया*	*निश्रयिणि (निसेनी)*
अधिवासो :	Dwelling, residence : Consent acceptance *(अधिवास)*	*वास, वास्तव्य, मान्यता*	*निवासस्थान, मकान*	*निवासस्थान, मान्यता, मकान*
अधो : (adv, + prep.)	Under, below, down, low down *(अधस्)*	*खाली, ताब्यांत*	*नीचे, काबुमा*	*नीचे, कम, आधीन*
अधीरो : (adj)	Confused, embarrassed, timid, irrsolute *(अ + धीर)*	*गोंधळ, भ्याड, बुजट*	–	*घबडना, व्याकुल करना, दरपोक*
अधिपो :	Lord, king, master, nuler *(अधि)*	*महाराज, यजमान, स्वामी*	–	–

		(Marathi)	(Gujarathi)	(Hindi)
अधोमुखो : (adj)	Looking downwards, with head bent down *(अधस् + मुख)*	–	–	–
अदोसो :	Not an offence, absence of guilt *(अ + दोष)*	*निर्दोष, निष्पापी*	–	–
अधोगमो : (adj)	Descending *(अधस् + गम)*	–	–	–
अदिट्ठो : (adj)	Unseen *(अदृष्ट = दृश्)*	*अदृष्ट*	*अदृश्य*	*अदृश्य*
अधोगामी : (adj)	Descending *(अधस् = गामिन्)*	*खाली जाणें*	*नीचे जावुं*	*नीचे आना*
आधूतो :	Shaken *(आधूत = धू)*	*हलविलेला*	–	*दिलाना*
अधोभुवनं :	The lower region, the Naga world, Patala *(अधोभुवन)*	*पाताळ, नरक*	*नरक*	*पाताळ*
अधोभागो :	The lower part *(अधम् + भाग)*	*खालचा भाग*	*नीचेनुं भाग*	*नीचेका भाग*

		(Marathi)	(Gujarathi)	(Hindi)
अदुक्खमसुखा :	Indifference to poin, insenibility *(अ + दु:ख + सुख)*	*बेपर्वाई, समता*	–	*उपेक्षा, समभाव*
अभिमानो :	Pride, wisdon *(अभिमान)*	–	–	–
आगच्छति :	To come, approach, to arrive, to retusu *(आ + गम्)*	*पोंचणें, जवळ जाणें, येणे*	–	*समीप जाना, वापस लोटणां*
अगा :	See *इति*	–	–	–
आबद्धो :	Fastened, joined : united, attached *(आ + बद्ध = बन्ध)*	*जोडलेले, बांधलेले*	*बंधेलु*	*बांधेला*
अदुं :	*See अमु*	–	–	–
अभया :	The plant Terminalia citrina *(अ + भय)*	–	–	–
अभावो :	Non, existance, absence *(अ + भाव)*	*अभाव*	–	–
अभिख्या :	Name, beauty, splendour, glitter *(अभिख्या)*	–	–	–
अभवो :	Decrease, decay, misfortune *(अ + भव)*	*न्हास, उतरता, पाया, तूट*	–	–

		(Marathi)	(Gujarathi)	(Hindi)
अभयो : (adj)	Fearless *(अ + भय)*	*अभय*	–	–
अभिरति :	Delighting in, delight *(अभिरति)*	*आनंद मानणें*	–	–
अभिरतो :	Devoted to, delighting in *(अभिरत् = रम्)*	–	–	–
अभिरामो :	Delightful *(अभिराम)*	–	–	–
अभिराजा :	A Supreme king *(अभि + राजन्)*	–	–	–
अभिरम्मो : (adj)	Delightful *(अभि + रम्य = रम्)*	*रम्य*	–	–
अभिरूतं :	Sound *(अभिरूत = रू)*	*आवाज, ध्वनि*	–	–
अभिरमति :	To delight in *(अभि + रम्)*	–	–	–
अभिरूपो : (adj)	Beautiful, handsome *(अभिरूप)*	*सुंदर*	–	*खुबसुरत*

		(Marathi)	(Gujarathi)	(Hindi)
अभिरुहति, अभिरूहति :	To ascend, to mount	*चढणें*	–	–
अभिरोहति (adj)	*(अभि + रुह)*			
अभिसज्जति :	To be angry : to scold	*रागावणें*	–	–
अभिसद्दहनं :	Firm faith or belief	*विश्वास, श्रध्दा*	–	–
अभिसद्दहति :	To have firm faith, believe fully *(अभि + श्रत् + धा)*	*पूर्ण विश्वास*	–	–
अभिसम्बोधि :	Perfect understanding infallible knowledge *(अभि + सम् + बोधि)*	–	–	–
अभिसमेति :	To penetrate, comprehend, gain a full knowledge of *(अभि + सम् + आ + इ)*	*संपूर्ण ज्ञान प्राप्त करणें*	–	–
अभिसम्बुज्झति :	To gain perfect knowledge of *(अभि + सम् + बुध)*	–	–	–
आभिसमाचारिकं :	Minor duties *(अभि + समाचार + इक)*	*लहानसहान कर्तव्ये (सेखिय धम्मं)*	–	–
अभिसमयो :	Penetration, comprehension, clear understanding *(अभि + समय)*	–	–	–

		(Marathi)	(Gujarathi)	(Hindi)
अभिसम्बुद्धो :	Perfectly known, enlightened *(अभि + सम् + बुद्ध = बुध्)*	–	–	–
अभिसम्भुणोति +: णाति	To obtain *(अभि + सम् + भृ)*	*मिळविणें*	–	*मिलाना*
अभिसन्धि :	Intention *(अभिसंधि)*	*मतलब, बेत*	–	–
अभिसारिका :	A woman who carries on an intrigue *(अभिसारिका)*	–	–	–
अभिसङ्करणं :	Preparing, forming, effecting : pergeting : accumulation *(अभि + सम् + कृ + अन)*	–	–	–
अभिसङ्गो :	Curse, imprecation *(अभिषङ्ग)*	*शाप*	–	*गालि*
अभिसम्मतो :	Fully approved : honoured, prized *(अभि + सम् + मत = मन्)*	–	–	–
अभिसम्परायो :	Future state, futurity *(अभि + संपराय)*	*भविष्यकाल*	–	–

		(Marathi)	(Gujarathi)	(Hindi)
अभिसन्देति :	To rain upon, to drench *(अधि + स्यन्द्)*	–	–	–
अभिसंयुतो :	Fitted out, equipped *(अभि + सम् + युत = यु)*	*तयार*	–	–
अभिसन्नो :	Rained on, drenched *(अभि + स्यन्न = स्यन्द्)*	–	–	–
अभिसङ्करोति :	To prepare, to form, to offcet, to perfect *(अभि + सम् + कृ)*		–	–
अभिसङ्गारो :	forming, effecting, perketing : accumulation of karma, merit & demerit : idea, conseption fancy *(अभि + संस्कार)*	–	–	–
अभिराधेति : (Caus)	To content to Satisfy *(अभि + राधयति)*	–	–	–
अभिसङ्कतो :	Prepared, formad : well-made, perfected *(अभि + सम् + कृत = कृ)*	–	–	–

		(Marathi)	(Gujarathi)	(Hindi)
अभिपूजेति :	To offer, to present with *(अभि + पूज्)*	–	–	–
अभिपत्थेति :	To desire, to long for, to pray for *(अभि + प्र + अर्थ)*	–	–	–
अभिपीळितो :	Oppressed, afflicted *(अभिपीडित = पीड़)*	–	–	–
अब्भोकासो :	The open air : an open space *(अभि + अवकाश)*	*रिकामी जागा*	–	–
अभिञ्ञो : (adj)	Knowing, converscrnt with *(अभिज्ञ)*	*तज्ज्ञ*	–	–
अभिञ्ञातो :	Known, well-known, distinguished, remarkable *(अभि + ज्ञान = ज्ञा)*	–	–	–
अभिन्नो : (adj)	Undivided, not different, identical *(अ + भिन्न = भिद्)*	–	–	–
अभिनिमन्तेति :	To invite = to present with *(अभि + नि + मन्त्र्)*	*आमंत्रणे*	–	–
अभिधम्मो, : **अभिधम्मं**	Higher doctrine transcendental doctrine, metaphysics	–	–	–

		(Marathi)	(Gujarathi)	(Hindi)
अभिलित्तो :	Smeared : stained, polluted *(अभि + लिंप्त = लिप्)*	–	–	–
अभिलेपनं :	Smearing : pollution *(अभि + लिप)*	–	–	–
आभाकरो :	The Sun *(आभा + कर)*	*सूर्य, प्रभाकर*	–	*सूरज*
आभरणं :	Ornament, decoration *(आभरण)*	*आभूषणें, अलंकार, शोभा, जवाहरात*	–	–
अभब्बो : (adj)	Unable *(अ + भष्य = भू)*	*असमर्थ*	–	–
अभब्वता :	Nonliability : inability *(अभव्य + ता)*	*असामर्थ्य, नालायकी*	–	–
अब्बुतो : (adj)	Undisciplined	*अशिस्त*	–	–
आभा :	Splendour, radiance, light *(आभा)*	*शोभा, कांति, तेज*	–	*रोशनी*

		(Marathi)	(Gujarathi)	(Hindi)
अब्बुदं :	One of the high numerals followed by fifty-six ciphers : a canker, stain : sore *(अर्बुद)*	–	–	–
अभिक्कमति :	To go forward, to advance, to approach *(अभि + क्रम्)*	–	–	–
अभिनिवेसा :	Adhering to : inclination to *(अभिनिवेश)*	–	–	–
अभिनिविसति :	To settle down : to devote oneself to *(अभि + नि + विश्)*	–	–	–
अभिनिसीदति :	To sit down *(अभि + नि + सद्)*	–	–	–
अभिलावो :	Cutting, reaping *(अभिलाव)*	–	–	–
अधमण्णो :	A debtor *(अधमर्ण)*	*देणेकरी, ऋणकों*	–	–

		(Marathi)	(Gujarathi)	(Hindi)
अभिक्कन्तो :	Advanced : having approached *(अभि + क्रान्त = क्रम्)*	–	–	–
अधम्मिको : (adj)	Irreligious, wicked	*अधार्मिक, दुष्ट*	–	दुष्ट
अधम्मो :	Wrong, injustice, unlawfulness : false dectrine : unrighteousness	*अन्याय, अयोग्य, अनैतिक*	–	–
आभतो :	Brought, carried, conveyed *(आ + भृत = भृ)*	*वाहणें, पोंचविणें, नेणे*	–	–
अधमो : (adj)	Lowest, very low : vile : incomplete imperfect *(अधम)*	*नीच*	*नीच*	–
अभिगच्छति :	To go to, to approach *(अभि + गम्)*	–	–	–
आबज्झहती :	To be bound *(आ + बध्यते = बन्ध्)*	*बांधले जाणे, बंधन*	–	–
अभिलापो :	Speaking to, talking *(अभिलाप)*	–	–	–

		(Marathi)	(Gujarathi)	(Hindi)
आबाधो :	Illness, sickness disease *(आबाध)*	*आजार*	*बिमारी*	*बिमारी*
अभिलासी : (adj)	Desirous *(अभिलाषिन्)*	–	–	–
अभिलंक्खितो :	Marked, characterised, distinguished *(अभिलक्षित = लक्ष)*	–	–	–
अभिक्खणं :	Repeatedly *(अभीक्षणम्)*	–	–	–
अभिलभति :	To obtain receive *(अभि + लभ्)*	–	–	–
अभिनीहरति :	To turn, to direct *(अभि + निस् + हृ)*	–	–	–
अभिनिब्बत्तो :	Reborn in another existence *(अभि + निस् + वृत्त = वृत्)*	–	–	–
अभिनिब्बत्तति :	To be reborn in another existence *(अभि + निस् + वृत्)*	–	–	–
अभिनिब्बति :	Re-birth in another existence *(अभि + निवृत्ति)*	–	–	–

		(Marathi)	(Gujarathi)	(Hindi)
अबद्धमुखो :	foul-mouthed, scurrilous *(अबद्ध + मुख)*	*अभद्र मुख*	–	–
अभिभवो :	Being over-come defeat *(अभिभव)*	–	–	–
अभिमत्थति :	To grind to crush *(अभि + मथ्)*	–	–	–
अब्भानं :	Rehabilitation of a priest who has undergone parivasa for an expiable offence *(अभि + आयन)*	–	–	–
अभिनिक्खमति :	To go out, to depart *(अभि + निस् + क्रम)*	–	–	–
अभिनीहारो :	Earnest wish or aspiration *(अभि + निस् + हार)*	–	–	–
अभिनादेति :	To fill with noise *(अभि + नादयति = नद्)*	–	–	–
अभिनन्दति :	To be pleased with, to approve of, to welcome, to, rejoice at, to delight in *(अभि + नन्द्)*	–	–	–
अभिठानं :	Crime, deadly sin *(अभि + स्थान)*	–	–	–

		(Marathi)	(Gujarathi)	(Hindi)
आचिनति :	To heap up, to accumulate	*संग्रह करणें*	*भेगु करवुं*	*एकठ्ठा करना*
आचिक्खति :	To tell, to announce : to show, inform	*जाहीर करणें*	–	–
आचिक्खनं :	Telling, Showing	*सांगणें, दाखवणें*	*केवुं, बतावुं*	*कहेना, बताना*
आचिण्णो :	Practiced, performed : Sanctioned enjoined *(आचीर्ण = चर्)*	*आचरणें, करणें*	–	–
अभितोसेति : (caus)	to gratify, to reward *(अभि + तोषयति = तुष्)*	–	–	–
अभित्थवति :	To praise *(अभि + स्तु)*	–	–	–
अभित्थरति :	To make haste *(अभि + त्वर)*	–	–	–
अभित्थुतो :	Praised *(अभि + स्तुत = स्तु)*	–	–	–
अभिवादनं + अभिवादना :	Respectful Salulation	–	–	–
अभिवड्ढति :	To increase, to grow *(अभि + वृध्)*	*वाढणें*	*बढणा*	–

		(Marathi)	(Gujarathi)	(Hindi)
अभिवदति :	To say, to declare *(अभि + वद्)*	–	–	–
अभिवादेति :	To salute, to greet *(अभि + वादयति = वद्)*	–	–	–
अभिवदनं :	Respectful salutation *(अभि + वन्द्)*	–	–	–
अभिविजति + जेति :	To overcome, to conquer *(अभि + वि + जि)*	*जिंकणे*	–	–
अभिवन्दति :	To salute respectfully	–	–	–
अभिविनयो :	Higher discipline the subtleties and Vinaya *(अभि + विनय)*	–	–	–
अभिवुद्धि :	Increase, growth, prosperity *(अभि + वृद्धि)*	*वाढ, भरभराट*	–	–
अभियाति :	To approach, to attack *(अभि + या)*	*पोचणें*	–	–
अभियाचति :	To entreat, to ack, to request *(अभि + याच्)*	*विनंती करणें*	–	–

		(Marathi)	(Gujarathi)	(Hindi)
अभियोगो :	Charge, accusation	*आरोप*	–	–
अभिक्कन्तो :	Withered, exhausted *(अभि + क्लान्त + क्लम्)*	–	–	–
अभिनिक्खमनं :	Going out, departing; retiring from the world to devote oneself to an ascetic life *(अभि + निष्कमण)*	–	–	–
आभाति :	To shine *(आ + भा)*	*शोभणें, चकचकणें*	–	–
अभिनिम्मिनं :	Creating	–	–	–
अभिनिपज्जति :	to lie down *(अभि + नि + पद्)*	–	–	–
आभस्सरो : (adj)	Shining, radiant *(आ + भास्वर)*	*तेजस्वी, चमकणारा (चकचकीत)*	–	–
आभिमुख्यं :	Front direction, towards *(आभिमुख्य)*	–	–	–
अबद्धमुखो :	Foul mouthed *(अबद्ध + मुख)*	*दुर्गंधि तोंड किंवा मुख*	–	–
अत्रद्धो :	Not bound, senseless, unmeaning *(अ + बद्ध = बन्ध)*	*निरर्थक*	–	–

		(Marathi)	(Gujarathi)	(Hindi)
अब्भासो :	Repetition, practice *(अभ्यास)*	–	–	–
अब्भत्थं :	Setting, declining, perishing *(अभि + अस्त)*	–	–	–
अब्भानुमोदनं :	Rejoicing, thanks giving, praise *(अभि + अनु + मुद + अन)*	*मौज करणें, समारंभ*	–	*खुषी मनाना, दावत*
अब्भन्तरो : (adj)	Internal, inner *(अभ्यान्तर)*	*आतील*	*अंदरनु*	*भितरका*
अब्भञ्जनं :	Anointing *(अभि + अञ्जन)*	*लावणें, चोळणें*	*लगाडवुं, चोळवुं*	*लगाना*
अब्भन्तरं :	Interval, interior *(अभ्यन्तर)*	*अन्तर*	*अंदरनु*	*अंदर*
अभिनीलो : (adj)	Very black *(अभि + नील)*	–	–	–
अभिञ्ञा :	Become cognisant of *(अभिज्ञाय = ज्ञा)*	–	–	–
अभिन्नको :	Not schismatic, orthodox; *(अ + भिन्न = भिद + क)*	–	–	–

		(Marathi)	(Gujarathi)	(Hindi)
अभिञ्ञा :	Higher Knowledge, Supernatural knowledge or faculty *(अभिज्ञा)*	–	–	–
अभिञ्ञाणं :	Sign, token *(अभिज्ञान)*	–	–	–
अभिधीयति : (pass)	To be declared, to be pointed out *(अभि + धीयते = धा)*	–	–	–
अभिधेय्यो : (adj)	To be declared, pointed out denoted, meant *(अभिधेय = धा)*	–	–	–
अब्बहती :	To take away, to remove *(आ + बृह)*	–	–	–
अब्बं :	One of the high numerals, one followed by seventy-seven ciphers *(अर्थ)*	*अब्ज*	–	–
अबलं :	Weakness *(अ + बल)*	–	–	–
अब्भेति :	To restore, a priest who has been degraded for an offence *(अभि + आ + इ)*	–	–	–
अबलो :	Weak *(अबळ)*	*अशक्त*	*नबळो*	*कमजोर*

		(Marathi)	(Gujarathi)	(Hindi)
अभिमुदा :	Joy *(अभि + मुदा)*	–	–	–
अभिरूहनं :	Ascending, mounting *(अभि + रुह + अन)*	*चढणें*	–	–
अभिमुखो : (adj)	Facing towards, opposite *(अभिमुख)*	–	–	–
अभिरुचितो :	Pleasing, agreeable, liked *(अभिरुचित = रूच्)*	*मनपसंत*	–	–
अभिमङ्गलं :	High feslival, solemnity *(अभि + मङ्गल)*	–	–	–
आभोगो :	Fulness, plenty, thought, reflection *(आभोग)*	*मुबलक, विपुल*	–	–
अभिमद्दितो :	Crushed, trampled, over thrown *(अभि + मर्दित = मृद)*	–	–	–
आभुजी :	Name of a tree Bhujpatra *(आ + भुज + ई)*	–	–	–
अभयं :	Safety : protection from danger *(अ + भय)*	–	–	–

		(Marathi)	(Gujarathi)	(Hindi)
अभूतो : (adj)	That has not been that is not false *(अ + भूत = भू)*	–	–	–
आभुजति :	To bend, to turn in *(आ + भूज)*	*वाकणें*	–	–
अधिप्पायो :	Intention wish, meaning, thought	*इच्छा, विचार*	*इच्छा*	*इच्छा*
अब्भं + अब्भो :	A cloud; sky : atmosphere *(अभ्र)*	*ढग, आकाश*	*बादल, आकाश*	*बादल*
अभिनिक्खमो :	Going out : retiring from world for ascetic purpose *(अभि + निष्कम)*	–	–	–
अभिनिलीयति :	To hide oneself, to lie hid *(अभि + नि + ली)*	–	–	–
अभिनिप्फादेति :	To effect, to accomplish, to succeed *(अभि + निस् + पद्)*	–	–	–
अभिनिन्नामेति :	To turn, to direct *(अभि + निस् + नम्)*	–	–	–
अब्भुज्जलनं :	Spittit fire (a juggler's trick) *(अभि + उद् + ज्वलन)*	*धगधगणारी ज्योत किंवा आग*	–	–

		(Marathi)	(Gujarathi)	(Hindi)
अभिनिम्मिनाति : + **अभिनिम्माति**	To create, to cause to appear by supernatural power *(अभि + निस् + मा)*	–	–	–
अब्भुतधम्मो + धम्मं :	A mysterious phenomenon or condition *(अद्भुत + धर्म)*	*अद्भुत चमत्कार*	–	–
अब्भुतो : (adj)	Hidden, mysterious, wonderful : astonished *(अद्भुत)*	*गूढ*	–	–
अब्बोच्छिन्नो : (adj)	Unbroken *(अ + वि + अब + च्छिन्न)*	*अभंग, अखंड*	–	–
अब्भुतो :	The Marvellous *(अद्भुत)*	*अद्भुत, आश्चर्यकारक, चमत्कारिक*	–	–
अभासनं :	Silence *(अ + भाषण)*	*मौन*	–	–
आबाधिको :	affected with illness *(आबाध + इक)*	*आजारी*	*बिमार*	*बिमार*
अब्भाकुटिको : (adj)	unfrowning, genial *(अ + भ्रकुटि + क)*	*चिडखोर नाही म्हणजे आनंदी*	–	–
अभिलासो :	Desire *(अभिलाष)*	*अभिलाषा, ईच्छा*	–	*तमन्ना*

		(Marathi)	(Gujarathi)	(Hindi)
अभितो : (adv)	Near, in the presence of, on both sides *(अभितस्)*	–	–	–
अभितत्तो :	Scorched *(अभि + तप्त)*	–	–	–
अभिस्सवनं :	fowing, dripping *(अभि + स्रवण)*	–	–	–
अभिसुणोति :	To hear, to listen to *(अभि + श्रु)*	–	–	–
अभिसङ्गो :	Attachment *(अभिष्वङ्ग)*	–	–	–
अभिसेको :	Sprinkling *(अभिषेक)*	–	–	–
अभिसेचनं :	Sprinkling: inauguration of a king *(अभिषेचन)*	*अभिषेक*	–	–
अभिसेचेति :	To cause to be sprinkled or inaugurated *(अभि + सेचयति = सिच्)*	–	–	–

		(Marathi)	(Gujarathi)	(Hindi)
अभितप्पेति :	To satisfy thoroughly *(अभि + तर्पयति = तृप)*	–	–	–
अधिमुत्ति :	Inclination, disposition : intention, will, confidence, faith, *(अधि + मुक्ति)*	*मनाचा कल, बेत, इच्छा*	–	–
अधिमुच्चति :	To be determined : intent upon : have faith in *(अधि + मुच्यते)*	*निर्धार किंया निश्चय करणें*	–	–
अधिनुत्तो :	Inclined, disposed, intent upon, resolved for, bent upon *(अधि + मुक्त = मुच)*	*संकल्पित, निश्चित*	–	–
अधीनो : (adj)	Subject, dependent, servile *(अधिन)*	*परस्वाधीन, ताबेदार*	–	–
आधिपच्चं :	Sovereignty, lordship supreme rule *(आधिपत्य)*	*मुख्य अधिकार, अधिराज्य*	–	–
अधिनाथो :	Lord, chief, governer *(अधि + नाथ)*	*धनी, प्रमुख*	–	–

		(Marathi)	(Gujarathi)	(Hindi)
अनाथपिण्डिको :	Feeds the poor. Surname of an emiment disciple of Buddha : his name was Sudatta	*गोरगरिबांना पोसणारा, अन्न वगैरे पुरविणारा :* भगवान *बुद्धांचा अत्युच्च आणि थोर असा शिष्य – सुदत्त नावाचा*	*गरिब माणसनो भरण पोषण करनार – भगवान बुद्ध ना एक प्रख्यात शिष्य. सुदत्त नामना.*	*गरिब और दुर्बल लोगों को भोजन करानेवाले, सहाय्य देनेवाला : भगवान बुद्ध के परम श्रेष्ठ अनुयायी. जिनका नाम सुदत्त था.*
अनाथो :	Helpless, forlorn, destitute	*दुर्बल, दुबळा, अनाथ, निराधार, निराश्रित*	*निराधार, निराश्रय, निराश्रित*	*अनाथ, अनाश्रित, निराश्रय*
अनादरियं :	Disregard, disrespect, unkindness	*अनादर, अवमान, अपमान, अकृपाळू, अप्रिय, निर्दय, कठोर*	*बेपर्वाई, उपेक्षा, अपमान, अनादर, अमर्यादा, अकृपाळू कठोर, निर्दय, क्रूर*	*उपेक्षा करना, अनादर, अशिष्टता, निर्दयी, क्रूर*
अनादरो : (adj.)	Disrespectful, careless, reckless, bold	*अपमानकारक, निष्काळजी, बेपर्वा, अविचारी, धाडसी, बहादूर, हिंमतवान, साहसिक निर्भिड.*	*बेमर्याद, असभ्य, बेपर्वा, बेफिकीर, गाफेल, बेदरकार,*	*असभ्य, अशिष्ट, असावधानी, साहसी, पृष्ट*
अनादरो :	Disregard, disrespect, conempt, carelessness, indifference	*अनादर, अपमान, अवमान, आज्ञाभंग, तिरस्कार, धिक्कार बेपर्वाई, अनास्था, गफलत, निष्काळजीपणा.*	*बेपर्वाई, अनादर, धिक्कार, अपमान, अवगणना, बेकाळजी, बेतमा, अनपेक्षा*	*अनादर, तिरस्कार, घृणा, उपेक्षा, असावधानी, उदासिनता, अपक्षपात*

		(Marathi)	(Gujarathi)	(Hindi)
अनादानो : (adj.)	Free from attachment or desire	*आसक्ती नसलेले, अनासक्ती अनिच्छ, अनपेक्ष*	*अनासक्ति, अनिच्छ*	*अनुराग सिवाय (अनासक्ती) इच्छा, आकांक्षाविना*
अनानियन्तो : (adj.)	Without minding, without attending.	*निश्चित, बेहरकत, लक्ष न देता, हजर न रहाता, निष्काळजी*	*चित्त अथवा ध्यान बगर, ध्यानसिवाय, गैरहजर*	*बुद्धि बिना, ध्यान सिवायका.*
अनापत्ति : (adj.)	Free from guilt, innocent	*निरपराधी, निष्कलंक, निर्दोषी*	*निर्दोष, निरपराधी, गुन्हा, विनानु, निष्कपटी*	*निर्दोष, निरपराधी, निष्कलंक, अदोष*
अनापत्तिको : (adj.)	Free from guilt	*निष्पापी, निर्दोषी, निरपराधी*	*निर्दोष, निरपराध*	*निरपराधी, निर्दोष, निष्कपट*
अनापुच्छा :	Without asking, Leave without permission.	*परवानगी शिवाय, आज्ञे शिवाय, रजे शिवाय.*	*रजा बगर, परवानगी बगर, आज्ञा बगर.*	*अनुमति बिना, आज्ञा बिना*
अनामयो : (adj.)	Free from illness, healthy	*निरोगी, आरोग्य, तन्दुरस्ती*	*निरोगी, तंदुरस्ती*	*आरोग्यकर*
अनामिका : (f.)	The ring finger	*आंगठा सोडून, हाताचे तिसरे बोट, करंगळी जबळील बोट,*	*तिजी आंगळी*	*हातकी बीचली अंगुली*
अनारतो : (adj.)	Continual	*नित्य, निरंतर, सतत*	*सतत, नित्य, निरंतर*	*सतत, निरंतर*
अनालयो : (adj.)	Free from desire or attachment	*आसक्ति नसणे, अथवा अनासक्ति*	*आसक्ति बगरनुं.*	*आसक्ति या अनुराग बिना*

		(Marathi)	(Gujarathi)	(Hindi)
अनावटद्वारता : (f.)	Not closing the door against another accessibility, openhandedness	*सुगम, सुलभ, सहज, सवधर, उदार, हाताचा सुटा*	*सुगमता, सगवडता, उदार.*	*प्रवेश, समीप, पहुंच, मार्ग, उदार, दानी.*
अनाविलो : (adj.)	Clear, pure, untroubled, serene	*निरभ्र, स्वच्छ, साफ, उघड, निर्मळ, पवित्र, शांत, संथ.*	*स्वच्छ, शुद्ध, निर्मळ, चोखुं, पवित्र, शांत, स्वस्थ.*	*विमल, चमकीला, स्वच्छ, शुद्ध, पवित्र, निर्मल अनुद्विघ्न, शांत, स्थिर.*
अनासका : (f.)	Fasting	*अन्नावाचून राहणे – असणे, उपवास, उपोषण, निरशन*	*अनशन व्रत पाळवु अपवास, उपवास*	*उपवास, अनाहार.*
अनासवो : (adj.)	Free from human passion.	*मनोविकार (राग, कोप, क्रोध) पासून मुक्त*	*मनोधर्म (क्रोध, घुस्सो, प्रेम) थी मुक्त, अनासक्त*	*मनोभाव (प्रेम, क्रोध, लालसा) विरहित*
अनाहारो : (adj.)	Without food, fasting	*अन्नावाचून राहणे, उपोषण, उपवास करणे, निराहार*	*उपवास करवा, अन्ननो त्याग करवो. अनशन व्रत पाळवु*	*उपवास करना, आहार न करना*
अनिकट्ठो :	One of the king's body guard, a life gaurdsman	*राजाचा एक रक्षक*	*राजानो रक्षक, अंगरक्षक*	*नरपति का शरीररक्षक, प्ररक्षक, भूपालकका प्राणरक्षक, शरीररक्षक*
अन्च्चिता : (f.)	Impenmance, instability, mortality, death	*अनित्यता, अस्थैर्यता, मनुष्यत्व, मर्त्यत्व, मृत्यु.*	*अशाश्वतता, चंचलता, नाश, मृत्यु, मरण, अनित्यता, अद्दढता, मोत, अंत.*	*अनित्यता अशाश्वतता, अस्थिरता, नशत्व, चंचलता, अस्थिरता, मरण, मृत्यु, नाश*

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अनिच्चो : (adj.)	Not lasting, transitory perishable.	*अटिकाऊ, नाशवंत, क्षणभंगुर, क्षणिक*	*टकाऊ, नहि ऐकं, चिरस्थायी नही ऐकं, क्षणिक, क्षणभंगुर, अनित्य, नाशवंत, अस्थिर, नाशपामे ऐकं, मरी जाय तेनुं नाशवंत*	*अनित्य, अस्थिर, क्षणिक, भंगुर, नाश होने योग्य.*
अनिच्छितो : (adj.)	Not desired, disliked, unpleasing	*अनिच्छ, नावड, अप्रिय, नापसंत*	*अप्रिय, अरूचकर, नापसंद, खुशीकारक नहीं एकं, आनंद प्रमाडे नहीं तेवुं,*	*अनिच्छिता, अप्रिय, अरोचक*
अनिदस्सनं :	The unseen, Nirvana	*न दिसणारा, अदृष्ट, निर्वाण*	*अदृश्य, अदृष्ट*	*अदृष्य, न देखा हुवा*
अनिप्फलो : (adj.)	Not fruitless, not without reward	*सफल, लाभकारक बक्षीस, देणगी, मोबदला*	*सफल, लाभदायक, इनाम, बक्षीस अपवा, जेवुं*	*सफल, पुरस्कार देने योग्य पारितोषक, प्रतिफल देने योग्य*
अनिब्बिद्धो : (adj.)	Not traversed, not a thoroughfare	*न ओलांडणे (लेला), न तुडविलेला, अरहदारीचा रस्ता,*	– –	*आरपार न जानेका रस्ता, आरपार जाना मना है ऐसा मार्ग अथवा रस्ता असामान्य सडक*
अनिमित्तो :	See निमित्त	– –	– –	– –
अनिमिसो : (adj.)	Not winking the eyes.	*डोळा न मिचकावणे, डोळा न मारणे*	*पलकारो नहीं करवुं,*	*पलक मारना नही, चक्षु संकोचना नही,*

		(Marathi)	(Gujarathi)	(Hindi)
अनिस्सतो : (adj.)	Uncertain doubtful	*संदिग्ध, बिनभरंवशाचा, साशंक, संशयास्पद, अनिश्चित*	*अनिश्चित, अचौकस शकविनानुं*	*अनिश्चित, संदिग्ध, संदेह युक्त, स्पष्ट*
अनियमो :	Uncertainty	*अनिश्चित, अनिश्चय, संदेह, संशय*	*अनिश्चय, संदेह*	*अनिश्चय, अनिर्णय*
अनिलो :	Wind	*वारा, हवा, वायु*	*पवन, हवा, वायुं,*	*हवा, साँस, वायु (पवन) वायुरोग*
अनिसम्मकारी : (adj.)	Acting inconsiderately, or recklessly.	*अविचाराने वागणे, बेपर्वाईने, निर्धास्तपणे वागणे*	*अविचारार्थी वर्तववुं. बेपरवायीथी काम करवु,*	*अविवेकी – प्रमत्त – असावधानी व्यवहार करना,*
अनिस्सयो : (adj.)	Without supplies, baren, desolate.	*पुरवठा अथवा बेगमी शिवाय, नापीक, ओसाड, व्यर्थ, निर्जन, उध्वस्त*	*उजाड, शुष्क, अफळ*	*संचय बिना, व्यर्थ, निष्फल, निर्जन, असहाय*
अनिस्सामनको : (adj.)	Not envious	*मत्सर भाव नसणे, हेकेखोरपणा नसणे*	– –	*ईष्यलि नही*
अनीको, : **अनीकं :**	An army, a host	*लष्कर, फौज, सैन्य, झुंड*	*लश्कर, सैन्य, फोज, टाळकुं, समुह*	*सैन्य, सेना, समुदाय*
अनीतिको : (adj.)	Free from distress or Calamity	*दुर्दशा, दु:ख विपत्ति, या पासून मुक्त*	*अपदा बगरनुं, विपत्ति वगननुं*	*पिडा बिनाका, निदु:ख : दुर्भाग्य बिनाका*
अनीधो : (adj.)	Free from suffering, uninjured, scathless	*दु:खरहित, बेनुकसान, नुकसानी न झालेला*	*दु:ख, पीडी सिवायनु, संकट वेदना व्यथा वगरनु: सही सलामत, सोबुत अतिशुद्ध*	*क्लेश अथवा पीडारहित, चोट न लगा हुवा हानि रहित*

		(Marathi)	(Gujarathi)	(Hindi)
अनुं : (adv. & Prep.)	After, under : less than : for : according to : along : again : in consequence of	– –	*त्यो पछीनुं पाछळ, पछी नीचे तले. आधीबस्तं वधारे ओछुं थोडुं नानुं उतरतु वास्ते काजे बदले खातर प्रमाणे अनुसार लांबु अने लांबु आगळ अने आगळ फरीथी बीजीवार एकवखत वधारे, परिणता, फळ, अर्थ कार्य.*	*पीछे अनुसरणमें, बाद में विषयमें अनुसार पदमे नीचा, नीचे तले कम आधीन न्यून, अल्प, कम अल्प मात्रामें, छोटा अंश, वास्ते लिये हेतुसे निमित्त विषयमें उद्देश्य से, अनुसार समान/बराबर साथसाथ, एक ओरसे दुसरी ओर ओरतवू फिर और भी अतिरिक्त विपरीत इस कारण से इस हेतु से*
अनुबन्धति :	To follow, to pursue : to wait upon, minister to :	– –	*पाछळ जनुं–चालक अनुयायी थवुं, ताबे थवुं, नी पाछळ पडवुं, बी पाछळ मंडवुं केडो लेवो, शह जोवी खोटी थवु वाट जोवी. बरदास करवी सेवा करवी चाकरी उठाववी कारभार करवो.*	*आश्रय करना, अनुकरण करना, पीछा करना, अनुकरण करना, आज्ञा मानना, अनुकरण करना, पीछा करना, शिकार करना, खोजना, प्रतीक्षा करना, ठहरना, राह देखना स्थिर रहना, नौकरी करना, अनुकरन करना, सहायत देना, सेवा करना, प्रबंध करना.*

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अनुबन्धो :	Uninterrupted succession : *consequences.*	– –	*अटकाववुं नहीं बंध पाडवु नहीं क्रम अनुक्रम हार एक पछि एक आववुं ते : परिणाम फळ हांसल अर्थ कार्य.*	*अबाध्य, निविघ्न, अभंग, अनुक्रम, परम्परा श्रेणी पंक्ति वंश उत्तराधिकार फल परिणाम महिमा प्रभाव*
अनुभवति :	To feet,	– –	*लागवुं स्पर्श करवो, जणावुं*	*स्पर्श का अनुभव करना,*
अनुभोति :	to enjoy : to partake of : to obtain, is receive.		*देखवुं भागेववुं मोज शोक माणेवा, अनुभववुं लाभ लेवो, भाग लेवो, भागीदार थवुं, सामेल थवुं, सामेल होवुं मिळववुं, प्राप्त करवुं, संपादन करवुं, लेवुं, स्वीकारवुं, अंगीकार करवो, पामवुं आंगता स्वागता करवो परोणागत करवो.*	*मालूम करना, दया करना उपभोग करना आनंद लेना चैन करना अंश बाँटना हिस्सेदार होना प्रतिपादन करना, प्राप्त स्वीकार करना (लेना), प्रवृत्त होना, सामना करना, सत्कार करना, आदर करना, सुनना मिलाना*
अनुभवनं :	Pantaking of, enjoyment	– –	*भाग लेवो, भागीदार थवुं, सामेल थवुं, सामेल होवुं, सुख भोग आनंद, मौजमजा, विलास विहार.*	*अंश बाँटना, हिस्सेदार होना आनंन्द उपभोग*

		(Marathi)	(Gujarathi)	(Hindi)
अनेकधा : (adj.)	In many ways	*अनेकदा, अनेक मार्ग, अनेकरित्या अनेक तन्हा.*	*घणा मार्ग, दिशा, पंथ.*	*सर्वथा, बहुत मार्ग, अनेक पद्धति, उपाय.*
अनेकविधो : (adj.)	Of many sorts, various	*अनेकविधि, अनेक तन्हा, तन्हेतन्हेचा, चित्रविचित्र*	*अनेक प्रकारना, अनेक तन्हेनुं नानाविध विवध.*	*अनेक प्रकार, अनेक रिति, अनेक रंगका.*
अनेकसो : (adv.)	In many ways	*अनेक प्रकारे.*	*अनेक रास्ता.*	*अनेक मार्ग, अनेक उपाय.*
अनेको : (adj.)	Several, many: manifold, various	*अनेक, पुष्कळ कित्येक बहुविध, विविध, अनेक प्रकारचा*	– –	*अनेक, भिन्न, कई एक, अनेकरूप तथा आकार का : अनेक रंगका.*
अनेजो : (adj.)	Free from desire	*अनिच्छ, अनपेक्षा*	*अभिलाषा वगेरनुं*	*इच्छा या आशा बिनाका*
अनेन :	See	*अयं*	– –	– –
अनेसना : (f.)	Impropriety	*अनौचित्य, अयोग्यता, नालायकी, असम्यपणा.*	*अयोग्यता, नालायकी, अयुक्ति, अयोग्यपणुं*	*अयोग्यता, अश्लीलता, असभ्यता*
अनेसनो : (adj.)	That should not be sought or desired, improper	*ची इच्छा अथवा याचना न करणे, अयोग्य, अनुचित गैरवाजवी*	– –	– –

		(Marathi)	(Gujarathi)	(Hindi)
अनेळमूगो : (adj.)	Not deaf or dumb	*मुका अथवा बहिरा नसलेला*	*बेहेरूं करवु-बनाववुं, मुंगु वाचा विनानुं,*	*बहिरा, गुँगा (मुका), वाक् शक्ति हिन.*
अनोकं :	Being houseless, freedom from attechment to the world	*घराबाहेर, घर सोडून गेलेला, अनासक्त, निरीच्छ, कशाही प्रकारची आसक्ति नसलेला.*	*घरबार विनानुं, सांसारिक बातोसे अलिप्त दुनियासां प्रेम मियात प्रीति वगरनो, प्रीति स्नेह आसक्ति, स्वतंत्रता छूट*	*गृह संसार त्याग कर गया हुआ अनासक्ति, अनुराग बिनाका स्वतंत्रता, स्पष्टता*
अनोतत्तो :	Name of one of the seven	– –	– –	– –
अनवतत्तो :	great lakes	– –	– –	– –
अनोत्तप्पं :	Absence of tear of sinning recklessness, hardness of heart	*अभय : कुकर्माचा अभाव (सत्क्रीया), अविचारीपणा, मनाचा कठिणपणा, हृदयाचा कठोरपणा.*	*निडरता, कुकर्म, गाफेलपणुं, बेफिकराई हृदयनी दयाहीनता, असावधपणुं, अंतकरणनी, मजबुताई.*	*असावधानी, हृदयकी कठोरता, बेफिकराई चित्तकी कठीणाई*
अनोत्तपी : (adj.)	Reckless fearless of sinning	*अविचारी, धाडसी, निर्भिड, बेपरवा.*	*बेदरकार, बेपरवा गाफेल, नीडर पाप करवानी हिंमत, बहादुर.*	*असावधन, प्रमत्त, घृष्ट, पापसे निर्भय, अपराधसे नि:शंक.*
अनोमो : (adj.)	High, illustrius, lofty	*प्रशस्त, वरिष्ठ, कुलीन, प्रख्यात, नामांकित, प्रसिद्ध, कीर्तिमान.*	*मोटुं, उंचु, प्रौढ : प्रसिद्ध, नामदार, प्रख्यात, विख्यात उन्नत.*	*उँचा स्थानका, श्रेष्ठ, प्रख्यात, प्रसिद्ध, उन्नत, विभवयुक्त, घमण्डी.*
अनं :	A cart	*खटारा, छकडा, रेकला*	*गाडु, रेंकडी.*	*सग्गड, छकडा.*

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अन्ना : (f.)	A mother	*आई, माता, जननी,*	*मा, माता, मादर.*	*जनना, माता.*
अन्नं :	Food, boiled rice	*अन्न, भक्ष्य, भात.*	*खोराक, अन्न, भोजन, भात*	*अन्न, उबाळा हुवा चावल*
अबद्धमुखो : (adj.)	Foul mouthed; sewrilous	*तोंडाचा फटकळ : तोंडाळ : नीच : अश्लील.*	*गाळो आपे तेवुं : नीच.*	*अश्लील : नीच.*
अबद्धो : (adj.)	Not bound : unmeaning, senseless.	*असमंजस, मूर्ख, गैरसावध : निरर्थक.*	*मूर्ख : समजूति, सिवायनुं : अर्थ विनानुं.*	*असंगत : अनर्थक : निर्बुद्ध.*
अबबं :	One of the high numerals, representing 10,000,000	*अब्ज.*	*अब्ज.*	*अब्ज.*
अबलं :	Weakness	*अशक्तता : कमकुवत, दोष : व्यंग.*	*नबळाई : अशक्ति, बुद्धिमंदपणुं निर्बलता.*	*असामर्थ्य, दुर्बलता, दोष.*
अबला : (n.)	A woman	*अबला : नारी : स्त्री*	*नारी : महिला : स्त्री.*	*स्त्री, नारी, दासी (चेटी).*
अबलो : (adj.)	Weak	*दुर्बल : कमअक्कल, कमजोर : निर्जीव*	*कमजोर : नबळुं : काचो*	*अशक्त : दुर्बल : धीमा : मन्द :*
अब्बणो : (adj.)	Unwounded	*जखम-दुखापत न झालेला, अक्षत, अछिन्न.*	*अखंडीत : अछिन्न : सलामत जखम, यथा सिवायनुं*	*घायल न किया हुवा.*
अब्बेदि :	To go	*जाणे, चालणे.*	*जवुं : चालवुं.*	*चलना : जाना : घुमाना :*
अब्बुतो : (adj.)	Undisciplined	*अशिक्षित : कच्चा*	*बीन केळवायेलुं : काचुं*	*अशिक्षित*

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अब्बुदं :	One of the high numerals 10,000,000	10,000,000	– –	– –
अब्बोच्छिन्नो : (adj.)	Unbroken	*अखंड : अभंग*	*अखंड : आखु.*	*अखंड, विना टूटा हुआ.*
अब्बहति :	To take away, To remove	*घेऊन जाणे, निवारणे, दूर करणे, काढून टाकणे, स्थलांतर करणे.*	*छिनवि लेवुं, पडावी लेवुं, दूर करवुं, खसेडवुं, एक जग्याथी बीजि जग्याये बदलवुं, स्थलांतर करवुं.*	*अलग करना, दूर करना, स्थान बदलना, हटाना.*
अभब्बता : (f.)	Non-liability, inability	*असमर्थता, अशक्ति*	*असामर्थ्य, अशक्यता.*	*असामर्थ्य, अशक्ति*
अभब्बो : (adj.)	Unable, not liable	*असमर्थ, अपात्र*	*असमर्थ*	*असमर्थ, अयोग्य.*
अभया : (f.)	The plant, Terminalia, Citrina	– –	– –	– –
अभयो : (adj.)	Fearless	*निर्भय, आशंक, बेपर्वा*	*नीडर, हिंमतवान*	– –
अभयं :	Safety, protection from danger	*निर्भयता, सुरक्षितता, आश्रय, धोक्यापासून बचाव.*	*सहीसलामती : निर्भयता : भयथि रक्षण, बचाव.*	– –
अभवो :	Decrease, Delay, misfortune	*क्षय, नाश, दुर्दैव, तूट, दुर्भाग्य, आपत्ति.*	*ओछुं, कमी करवुं, घटवुं, नाश, क्षीणता, दुर्दैव, दुर्भाग्य*	– –

		(Marathi)	(Gujarathi)	(Hindi)	
अभावो :	Non-existence, absence	*नास्तित्व, अभाव, गैरहजेरी, पश्चात.*	*नास्तित्व, अभाव, गैरहजिरी*	–	–
अभासनं :	Silence	*मौन, शांतता, अभाषण*	*शांति, खामोशि.*	–	–
अभिकामी : (adj.)	Desirous	*अभिलाषी*	*अभिलाषी*	–	–
अभिकिरति :	To overwhelm, To cover	*दाबणे, बुडविणे, झांकणे, लपविणे.*	*दबावी नाखवुं, ढांकी देवुं, ओढाडवुं.*	–	–
अभिक्कन्तो : (P.P.P.)	Withered : exhausted	*सुकलेला, कोमेजलेले, थकलेला.*	*म्लान थयेलुं, सुकेलुं, थांकी गयेला.*		
अभिक्कन्तो : (P.P.P.)	Handsome, beautiful, excellent, good.	*रूपवान, देखणा, सुंदर, उत्कृष्ट श्रेष्ठ, मंगल, चांगला, हित.*	*रुपालुं, मनोहर, सुंदर, खुपसुरत, श्रेष्ट, सरस, हित.*	–	–
अभिक्कन्तो : (P.P.P.)	Advanced having approched	*सुधारलेला, आगाऊ दिलेला, पुढे सरसावलेला, जवळ जाऊन*	*सुधारेलो, अगाऊथी आपेला, उंची पायरीचे चढाववुं, नजीकमा गयेला.*	–	–
अभिक्कमति : (P.P.P.)	To go forward, To advance, To approach.	*पुढे येणे, जाणे, सरसावणे, सुधारणे, जवळजाणे, येणे, पोहोंचणे.*	*पासे जवुं, उन्नति करवी, आवे पहोंचवुं*	–	–
अभिक्कमो :	Advancing : Advance.	*वाढ, सुधारलेला, संवृद्धि*	*उन्नति थवी, वृद्धि.*	–	–
अभिक्खणं : (adj.)	Repeatedly	*वारंवार*	*वारंवार*	–	–

		(Marathi)	(Gujarathi)	(Hindi)
अभिख्या :	Name,	*कीर्ति,*	*कीर्ति,*	– –
(f.)	beauty,	*सौंदर्य, शोभा,*	*शोभा,*	
	splendour,	*कांति*	*कांति,*	
	glitter	*चमकणे, लकाकी*	*झगझगाट*	
अभिगच्छति :	To go to	*जवळ येणे, जाणे,*	*पासे जवुं,*	– –
	To approach	*पोहोंचणे.*	*पहोंचवुं,*	
अभिगमनं :	Approaching	*जवळ येणे.*	*नजीकमा जवुं,*	– –
अभिगीतो :	Sung, Recited.	*सुरावर गाणे, पाठन :*	*गावुं, म्होंढेथी कहेलुं*	– –
(P.P.P.)		*पाठ केलेले*		
अभिघातो :	Striking, cuncussion	*आघात करणे, मारणे, हल्ला*	*मारवुं, टोकवुं, घा करवुं,*	– –
(f.)		*करणे, धक्का.*	*आंचको.*	
अभिच्छा :	Desire :	*इच्छा, आशा, अपेक्षा*	*इच्छा, अभिलाषा, मरजी*	– –
(f.)	longing.			
अभिजप्पनं :	Muttering spells :	*जप पुटपुटणे,*	*जप बडबडवुं,*	– –
	Incantation	*मंत्र जपणे.*	*मंत्र जपवुं.*	
अभिजति :	Origin,	*मूळ, आरंभ,*	*मूळ, आरंभ,*	– –
	Race,	*वंश, जात,*	*वंश, जात,*	
	Birth.	*उत्पत्ति*	*उत्पत्ति, शुरूआत.*	
अभिजातिको :	Belonging to,	– –	– –	– –
(adj.)	origin or race			

		(Marathi)	(Gujarathi)	(Hindi)	
अभिजातो : (P.P.P.)	Well-born, noble, learned, wise	*अभिजात, कुलीन, जाणता, बुद्धिवान, शहाणा, पंडीत, शिकलेला.*	*अभिजात, कुलीन, समजुं, बुद्धिवान, पंडीत,*	–	–
अभिजानाति :	To know, To learn, To ascertain, To perceive, To admit, To acknowledge	*जाणणे, शिकणे, माहिती करून घेणे, इंद्रियांनी जाणणे, बोध करून घेणे, कबूल करणे, मान्य करणे, जाणणे, आभार मानणे.*	*जणावुं, शिखवुं, जाणवुं, खबर पडवी, खात्री करवी, कबुल करवुं, स्वीकारवुं, आभार मानवो.*	–	–
अभिजानो :	Race, Tribe, family.	*वंश, परंपरा, जात, टाळी, कुटुंब परिवार.*	*वंश, कुळ, जात, टोळी, कुटुंब*	–	–
अभिज्झा : (f.)	Covetouseness	*लोभी, हाव.*	*लालसा, लोभी.*	–	–
अभिज्झालू : (adj.)	Covetous.	*लोभी.*	*लालसु*	–	–

		(Marathi)	(Gujarathi)	(Hindi)	
अभिञ्ञा : (gen.)	Having known, become cognisant of :	*ज्ञान असलेला, माहितगार, वाकबगार.*	*समजण, जाणीतुं, वाकेरुं*	–	–
अभिञ्ञा : (f.)	Higher knowledge transcendent or supernatural knowledge or faculty.	*प्रवीणता, विद्वता अलौकिक ज्ञान : शक्ति*	*असाधारण विद्वता, अलौकिक ज्ञान, शक्ति*	–	–
अभिञ्ञाणं :	Sign : Token	*चिन्ह, लक्षण खूण, यादगिरी*	*लक्षण, चिन्ह यादगिरी, निशाणी.*	–	–
अभिञ्ञेय्यो : (adj.)	That ought to be known : or that can be known.	*ते माहित असलेच पाहिजे. ते जाणणे शक्य आहे.*	*ते जाणवुं.*	–	–
अभिञ्ञो : (adj.)	Knowing conversant with	*बाकबगार, निपुण, प्रवीण.*	*माहितगार, प्रवीण, जाणवुं.*	–	–
अभिठानं :	Crime, deadly sin.	*पातक, अपराध, गुन्हा दुष्कर्म, घोर पाप.*	*गुन्हा, अपराध, घोर पातक, दुकर्म, दुराचरण*	–	–
अभितत्तो : (P.P.P.)	Scorched :	*होरपळलेला, पोळलेला.*	*बाळी मुकेला दाझी गयेला.*	–	–
अभितपोति : (caus.)	To satisfy thoroughly.	*पूर्ण समाधान करणे, शंका, संशय निवृत्ति करणे.*	*सारी रीते संतुष्ट करवो समाधान करवुं*	–	–
अभितो : (adv.)	Near, in the presence of : on both sides	*जवळ, थोडक्यात, समीप, समक्ष, पुढें, दोन्ही बाजूने दोन्ही पक्ष, काठ.*	*पासे, समीप, आशरे, रूबरु, बने तरफेणुं, वने पक्ष तरफथी*	–	–

		(Marathi)	(Gujarathi)	(Hindi)
अभितोसेति :	To gratify :	*तृप्त करणे, संतोषविणे,*	*तृप्त करवुं, आनंदित करवुं*	– –
(caus.)	To reward.	*बक्षीस, इनाम देणे.*	*बक्षीस आपवुं, बदलो वाळवों*	
अभित्थरति :	To make haste	*त्वरा करणे.*	*उतावळ करवी*	– –
अभित्थवति :	To praise	*स्तवणे : वाखाणणें.*	*वाखाणवुं, प्रशंसा करवीं*	– –
अभित्थुतो : (P.P.P.)	To praised	*स्तुत्य : वाखाणलेला*	*वखाणेलुं, तारीफ करेलुं*	– –
अभिदोसो :	Evening	*सांज : संध्या : सायंकाळ.*	*सांज, संध्या, सायंकाळ.*	– –
अभिधम्मिको : (adj.)	connected with abhidhamma : versed in or studying the abhidhamma.			– –
अभिधम्मो :	Higher doctrine :	– –	– –	– –
अभिधम्मं :	Transcendental doctrin : metaphysics	– –	– –	– –
अभिधातब्बो : (adj.)	That ought to be declared or named	– –	– –	– –
अभिधानप्प दीपिका : (f.)	Camp of Nouns : name of a well known vocabulary of Pali nouns, complled on the model of amarkosha by the grammarian Moggattana at the end of the 12th century.	– –	– –	– –

		(Marathi)	(Gujarathi)	(Hindi)	
अभिधानं :	Name : appellation : noun	*नांम, नांव, संज्ञा, कीर्ति*	*नाम, संज्ञा, कीर्ति, अभिधान*	–	–
अभिधीयति :	To be declared, to be pointed out.	*प्रकाशित करणे, निवेदन करणे, दर्शविणे.*	*जहेर करवुं, साफ कहेवुं*	–	–
अभिधेय्यो : (adj.)	To be declared : pointed out : denoted : meant.	*प्रगट करणे, दाखवणे, दर्शवणे, अर्थ असणे*	*जणाववुं, बताववुं अर्थ होवों, सूचन करवुं*	–	–
अभिनदति :	To roar	*गरजणे, आरोळी मारणे.*	*गर्जना करवी, आरडवुं*	–	–
अभिनन्दति :	To welcome :	*अभिनंदन करणे,*	*अभिनंदन करवुं,*	–	–
	To rejoice at :	*सन्मान करणे, आनंद,*	*सन्मान करवुं,*		
	To delight in :	*खुषी मानणे,*	*आनंदित बनवुं,*		
	To approve of :	*मंजूर करणे, मान्य करणे*	*मंजूर करवुं,*		
अभिनयो :	A dramatic representation	*अभिनय*	*अभिनय*	–	–
अभिनवो : (adj.)	Quite new : new	*अभिनव अगदी नवं, ताजे,*	*अभिनव, नवुं, ताजुं*	–	–
अभिनादेति :	To fill with noise	*गोंगाट*	*घोंघाट*	–	–
अभिनिक्खमति :	To go out : To depart :	*निघून जाणे*	*चाल्या जवुं*	–	–
अभिनिक्खमनं :	Going out : departing :	*निघून जाणे,*	*जवुं, चाल्या जवुं*	–	–
	retiring from the world to devote oneself to an ascetic life :	*निवृत्त होणे*	*निवृत्त थवुं*	–	–
अभिनिक्खमो :	Going out : from the world to devote oneself to an ascetic life :	*जाणे, निघून जाणे, निवृत्त होणे*	*जवुं, चाल्या जवुं निवृत्ति थवुं*	–	–

		(Marathi)	(Gujarathi)	(Hindi)
अभिनिनामेति :	To turn, to direct	*फिरवणे मार्ग दर्शवणें*	*फेरववुं, पलटवुं, मार्ग देखाडवो*	– –
अभिनिपज्जति :	To lie down	*लवंडणे, आडवा होणे,*	*आडा पडवुं, सूईजवुं*	– –
अभिनिप्फादेति : (caus)	To effect : to accomplish : to succeed.	*साधणे, करणे, पार पाडणे, अनुसरणे, यश मिळवणे, सफल होणे*	*साधवुं, करवुं, पार पाडवुं, अनुसरवुं, आबाद थवुं*	– –
अभिनिब्बत्तति :	To be reborn in another existence	*पुनर्जन्म*	*पुनर्जन्म*	
अभिनिब्बत्ति : (f.)	Re-birth in another existence	– –	– –	– –
अभिनिब्बत्तो : (P.P.P.)	Re-borne in another existence	– –	– –	– –
अभिनिमन्तेति :	To invite, to present with	*आमंत्रणे बक्षिस देणे*	*बोलाववुं, आमंत्रण आपवुं, बक्षिस आपवी*	– –
अभिनिम्मिनाति :	To create	*निर्माण करणे*		– –
अभिनिम्माति :	To cause to appear by supernatural power	*सृष्टि उत्पन्न करणे*	*सृष्टि उत्पन्न करवी*	– –

		(Marathi)	(Gujarathi)	(Hindi)	
अभिनिम्मिनं :	Creating	*उत्पत्ति, उत्पन्न करणे, निर्माण करणे*	*उत्पत्ति पैदा करवुं*	–	–
अभिनिलीयति :	To hide oneself : to lie hide	*लपणे, लपून बसणे*	*संताडवुं, संताडीने बेसवुं,*	–	–
अभिनिविसति :	To settle down : To devote oneself to	*स्थिर होणे, अर्पणे, समर्पणे*	*स्थिर करवुं, थवुं, अर्पण, समर्पण करवुं*	–	–
अभिनिवेसो :	Adhering to : inclination to :	*चिकटणे, लगटणे, कल, ओढ, झोक*	*चोंहोंरवुं, मननुं वळण, झोक*	–	–
अभिनिसीदति :	To sit down	*खाली बसणे*	*निचे बेसवुं*	–	–
अभिनीलो : (adj.)	Very black	*अत्यंत काळे, अंधकार*	*काळुं, अंधकारवाळुं*	–	–
अभिनीहरति :	To turn : to direct	*फिरवणे, वळवणे : मार्ग दाखवणे*	*फरवुं, फेरववुं, मार्ग देखाडवो*	–	–
अभिनीहारो :	Earnest wish or aspiration	*अंत:करणापासूनची इच्छा, महत्वाकांक्षा*	*खरा अंत:करणवाळी इच्छा, महत्वाकांक्षा*	–	–
अभिनेति :	To bring to : conduct to	*आणणे, घेऊन येणे वाट दाखवणे*	*लई जवुं, दोरी जवुं*	–	–
अभिन्नको : (adj.)	Not schismatic, Orthodox	*धर्मभेद अथवा पंथभेद न करणारा, धर्मभोळा, श्रद्धालू*	*चालता धर्ममा, भेद न पाडवा वालो, धर्मयुस्त, जुना रीत रिवाजने अवलंबीने काम करनार.*	–	–

		(Marathi)	(Gujarathi)	(Hindi)	
अभिन्नो :	Undivided :	*अभिन्न, अखंड,*	*अभिन्न, अखंड,*	–	–
(adj.)	not different,	*फरक नसलेला,*	*सरखुं, अभेद*		
	indentical	*एकरूप, सारखा*			
अभिपत्थेति :	To desire :	*इच्छा धरणे,*	*इच्छवुं,*	–	–
	to long for :	*आतुरता, उत्कंठा,*	*आतुरता राखवी,*		
	to pray for :	*प्रार्थना, अर्जी करणे*	*प्रार्थना करवी*		
अभिपीळितो :	Oppressed :	*पोळलेले, गांजलेले,*	*हेरान थयेला*	–	–
(P.P.P.)	afflicted	*पीडलेले, दु:खित*			
अभिपूजेति :	To offer :	*अर्पण, सादर,*	*अर्पण करवुं, देवुं,*	–	–
	to present with	*नजर, बक्षिस देणे*	*भेट आपवी*		
अभिभवति :	To overcome :	*जिंकणे, प्राप्त करणे,*	*जय मेळवूं,*	–	–
	to attain :	*संपादणे,*	*प्राप्त करवुं,*		
	to master :	*अधिकार गाजविणे,*	*संपादन करवुं,*		
	to surpass	*श्रेष्ठ होणे, चढ करणे*	*चढीआता थवुं*		
अभिभवनं :	Overcoming :	*जिंकणे,*	*जीत्तवुं, वश करवुं,*	–	–
	vanquishing	*पराभव करणे,*	*फत्तेह मेळववी,*		
		पराजित करणे	*पराजय करवो*		
अभिभवो :	Being overcome,	*सर करणे,*	*पराजय, हार*	–	–
	defeat	*पराभव करणे, पराजय.*			

		(Marathi)	(Gujarathi)	(Hindi)
अभिभायतनं :	Place or region of the vanquisher	– –	– –	– –
अभिभासति :	To speak to : to address :	*संबोधून बोलणे, भाषण, पत्ता लिहिणे*	*कहेवुं, भाषण करवुं, सरनामुं करवुं*	– –
अभिभासितो : (P.P.P.)	Illumined	*प्रकाशित, सुशोभित :*	*प्रकाशित करेलुं, शणगारेलुं*	– –
अभिभू : (adj.)	Overcoming: mastering: vanquishing: surpassing	*पराकाष्टेचा, श्रेष्ठ, मागे टाकणारा*	*प्रवीणता, हठाची शकाय तेवुं अधिक थवुं, ना करतां श्रेष्ठ बनवुं*	– –
अभिभूतो : (P.P.P.)	Overcome: overpowered subdued vanquished	*पराभूत, जिंकलेला, निग्रह केलेला, वश झालेला*	*पराभूत थयेला, वश थयेला*	– –
आभेमङ्गलं :	High festival solemnity	*महोत्सव, विधि, गांभीर्य*	*मोटुं तहेवारनुं, गांभीर्य, धार्मिक विधि*	– –

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अभिमत्थति :	To grind : to crush	*दळणे, पिसणे, चुरडणे, जमीनदोस्त करणे*	*दळवुं, कचरी नाखवुं, चूर्ण करवुं, जमीनदोस्त करवुं*	– –
अभिमानो :	Pride : wisdom	*अभिमान, गर्व, शहाणपण, बुद्धि*	*अभिमान, गर्व, डहापण, बुद्धि*	– –
अभिमुखो : (adj.)	Facing towards : opposite	*अभिमुख, समोर, समक्ष, विरूद्ध, उलटा, पलिकडचा*	*अभिमुख, सामुं, विरोधी, उलट*	– –
अभिमुख्यं :	Front, directions towards	*आघाडी, पुढचा, दिशेकडे*	*आगलो भाग, दिशा सामेनु*	– –
अभिमुदा : (f.)	Joy	*आनंद, हर्ष, उल्हास*	*आनंद, हर्ष*	– –
अभियाचति :	To entreat : to ask : to request	*विनवणे, विनंती करणे, अर्ज करणे, याचणे, मागणे, प्रार्थना करणे.*	*विनंती करवी, आजीजी करवी, अरज गुजारवी, सवाल पुछवो, मागवुं*	*प्रार्थना, विनंती करना, माँगना, अर्ज करना*
अभियाति :	To approach : to attack	*जवळ जाणे, पोहोंचणे, हल्ला करणे, अंगावर जाणे, आक्षेप करणे*	*पासे जावुं, आवी पोहोचवुं, चढाई करवी : हुमलो करवो : लडवुं*	*समीप जाना, आक्रमण करना, दोष लगाना, धावा करना*

		(Marathi)	(Gujarathi)	(Hindi)
अभियोगो :	Charge : accusation	*आरोप, हल्ला, आळ, अपवाद*	*आरोप, तोहमत, सोपेलु काम, सुप्रत करेली, जबाबदारी*	*आक्रमण, सौंपना, दोषारोपण, अपराध*
अभिरति : (f)	Delighing -in : Delight	*रम्य, रमणीय*	*रमणीय, खुषीकारक*	– –
अभिरतो : (P.P.P.)	Delighting in : devoted in	*अर्पित, आसक्त*	*अर्पण करेलुं, आसक्त थयेलु*	– –
अभिरमति :	To delight in	*रमणे, आनंदविणे, संतोषविणे*	*खुषी करवुं आनंद करवुं :*	– –
अभिरम्मो : (adj.)	Delightful	*रमणीय, आनंदकारक*	*मनोरंजक, आनंदजनक*	– –
अभिराजा : (m)	Supreme king	*राजाधिराज, सर्व राजात श्रेष्ठ*	*राजाधिराज, सर्वोत्तम*	– –

		(Marathi)	(Gujarathi)	(Hindi)	
अभिराधेति : (caus)	To content to satisfy	*समाधानी, संतोषी, संतोष मानणे, खात्री करणे*	*संतुष्ट, समाधान करवुं, संतोष पामवों, पमाडवो*	–	–
अभिरामो : (adj.)	Delightful	*उल्हासपूर्वक रम्य*	*खुषीकारक, मनोरंजक*	–	–
अभिरूचितो : (P.P.P.)	Pleasing: agreeable : liked	*मनोरंजक, सुखकारक, मान्य, अनुकूल, समान*	*सुखकारक, माफक, अनुकूल, गमवुं, समान*	–	–
अभिरूतम :	Sound	*अव्यंग, निरोगी, ध्वनी, आवाज*	*निरोगी, मजबूत, अवाज, घोंघाट*	–	–
अभिरूपो : (adj.)	Beautiful: Handsome	*रूपवान, मनोहर, देखणा*	*रूपाळु, मनोहर खुबसुरत*	–	–
अभिरूहति :	To ascend	*वर जाणे, उगवणे*	*ऊंचे जवुं*	–	–
अभिरोहति :	To mount	*उन्नति*	*उपर चढवुं उन्नति थवी*		

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अभिरूहनं :	Ascending: mounting	*चढणे, उदय होणे, आरूढ होणे*	*चढवुं, उदय थवो, सवार थवु, ना उपर बेसवुं*	–	–
अभिलक्खितो : (P.P.P.)	Marked, Characterised Distinguished	*प्रख्यात, लक्षण असलेला, तारतम्य पाहून, निराळा केलेला, नामांकित*	*प्रख्यात, विशेष लक्षण बतावेला, नामांकित*	–	–
अभिलभति :	To obtain, to receive	*मिळवणे, घेणे, स्वीकारणे*	*मेळववुं, प्राप्त करवुं, लेवुं, स्वीकारवुं*	–	–
अभिलापो :	Speaking to : talking:	*बोलणे, उच्चारणे, सवाल, संभाषण*	*बोलवुं, उच्चारवुं बात करवी*	–	–
अभिलावो :	Cutting: reaping	*कापणे, कापणी करणे*	*कापवुं कापणी करवी*	–	–
अभिलासी :	Desirous	*अभिलाषी*	*अभिलाषी*	–	–
अभिलासो :	Desire	*अभिलाषा, इच्छा*	*अभिलाषा, इच्छा*	–	–

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अभिलित्तो : (P.P.P.)	Smeared : stained, : polluted	*लेप केलेला, कलंकीत, भ्रष्टलेला*	*लेप करवुं, कलंकीत, भ्रष्ट*	–	–
अभिलेपनं :	Smearing : pollution	*लिंपणे, माखणे, भ्रष्ट करणे*	*चोपडवुं, भ्रष्टता*	–	–
अभिवड्ढति :	To increase : to grow	*वाढवणे, चढणे, अधिक होणे, विस्तार होणे, उत्पन्न करणे*	*विस्तार पामवुं, मोटा थवु, फेलाववुं, वधारवुं, उत्पन्न करवुं, उछेरवुं*	–	–
अभिवदति :	To. say : to declare	*बोलणे, समजणे, खात्रीने सांगणे, स्पष्ट, साफ सांगणे, निवेदणे, मत जाहीर करणे,*	*बोलवुं, कहेवुं, जबाब देवो, जाहेर करवुं, साफ कहेवुं, जणाववुं*	–	–
अभिवन्दति :	To salute respectfully	*वाकून मुजरा करणे, आदराने नमस्कार करणे*	*आदरपूर्वक वंदन करवो*	–	–
अभिवन्दनं, :	Respectful salutation	*आदराने अभिवंदन करणे*	*मर्याद पूर्वक नमन*	–	–
अभिवादनं : **अभिवादना** (f.)	Respectful salutation	*आदरयुक्त अभिवादन, नमस्कार, जोहार*	*आदरशील नमन, प्रणाम, सलाम*	–	–
अभिवादेति :	To salute respectfully to greet	*मर्यादेने नमस्कार, वंदन करणे, नमूना मुजरा करणे, अभिवंदन करून कुशल प्रश्न करणे.*	*मानथी, आदरपूर्वक प्रणाम करवो, अभिवंदन करवुं, भेटवुं*	–	–

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अभिविजयति, :	To overcome,	*जय मिळविणे, पराभव करणे,*	*जीतवुं, वश करवुं*	–	–
अभिविजेति :	to conquer	*जिंकणे, हस्तगत करणे*	*हरावुं, फत्तेह मेळववी*		
अभिविनयो :	Higher discipline, the subtleties or refinements of Vinaya	*उच्च (उदात्त) प्रकारची शिस्त (शिकवणूक), विनय पिटकांतील बारीक (सूक्ष्म) भेद व मार्मिक गूढ.*	*प्रौढ केळवणी, शिस्त.*	–	–
अभिवुद्धि : (f.)	Increase, growth, prosperity	*वृद्धि, चढ, विस्तार, उत्पत्ति, भरभराट, उत्कर्ष, भाग्य, समृद्धि*	*वृद्धि, उन्नति सफलता, सौभाग्य*	*वृद्धि, वधारो, आबादी, वैभव*	
अभिसङ्कतो : (P.P.P.)	Prepared, formed, well-made, perfected	– –	– –	–	–
अभिसन्नो : (P.P.P.)	Rained on : drenched	*पाऊस पडलेला, पाण्याने, पावसामुळे चिंब झालेला*	*बरसाद थयेला, पलाळीनें भींजवी नांखवुं*	–	–
अभिसङ्करणं :	Preparing : forming : effecting : perfecting : accumulation	*तजवीज करणे, तयार करणे, बनवणे, बांधणे, संपादणे, प्रवीणता, निपुणता, साठा, संचय*	*लायक बनाववुं, तैयार करवुं बनाववुं, रूप आपवुं, करवुं, पार पाडवुं, संपूर्ण करवुं, संचय, संग्रह*	–	–
अभिसङ्करोति :	To prepare : to form : to effect : to perfect :	*तयार करणे, बनणे, वळणे, प्रवीण होणे*	– –	–	–

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अभिसङ्खरो :	Forming : effecting : perfecting accumulation of Karma, merit and demerit : idea, conception, fancy	*पूर्व संस्कार, संचित कर्म, लायकी, योग्यता, गुणदोष, भावना, विचार हेतु*	– –	–	–
अभिसङ्गो :	Attachment	*आसक्ति, जप्ती*	*आसक्ति, जप्तीं*	–	–
अभिसज्जति :	To be angry : to scold : to be angry with :	*रागांवणे, खडसावणे, धमकावणे*	*गुस्से थवुं, क्रोधायमान थवुं, धमकाववुं, ठपको देवो*	–	–
अभिसङ्गो :	Curse : imprecation	*शाप, तळतळाट, त्रास*	*शाप, बद्दुवा, गाळी*	–	–
अभिसन्देति : (caus.)	To rain upon : to drench	*पावसाप्रमाणे पडणे, गळणे, चिंब भिजणे*	*वरसाद पडवो, पलाळीने भींजवी नाखवुं*	–	–
अभिसद्दहति :	To have firm faith : to believe	*विश्वास ठेवणे, सत्य मानणे*	*विश्वास राखवो, साचुं मानवुं*	–	–
अभिसद्दहनं :	Firm faith : belief	*श्रद्धा, भाव, विश्वास, भरंवसा, धर्म*	*श्रद्धा, विश्वास, भरोंसो, ईतवार, पथ, धर्म,*	–	–
अभिसन्धि : (m.)	Intention	*इरादा, उद्देश, हेतु*	*अभिप्राय, हेतु, ख्याल, धारण*	–	–
अभिसमयो :	Penetration, comprehension, clear understanding	*कुशाग्र बुद्धि, भेदन, समावेश, समज, बोध, ग्रहण करणे, आकलन शक्ती, समजूतदार*	*तीक्ष्ण, कुशाग्र बुद्धि, समावेश, समजवुं, ग्रहणशक्ति*	–	–
अभिसमाचारिकं :	Least duties, minor duties	*कनिष्ट, सर्वात लहान, कर्तव्ये, किरकोळ कामे*	*अल्प कर्तव्य, लघु कार्य*	–	–

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अभिसमेति :	To penetrate, comprehend, gain a full knowledge of	*अर्थभेद, मर्मभेद करणे, समजणे, आकळणे, संपूर्ण ज्ञान संपादणे*	*अर्थ ग्रहण करवो, समजी लेवुं, ध्यानमां लेवुं, ज्ञाननो लाभ करवो*	–	–
अभिसम्परयो :	Future state, futurity	*भविष्यकाल, उत्तरकाल*	*भविष्यकाळ, आवतो समय,*	–	–
अभिसम्बुज्झति :	To gain perfect, knowledge of	*संपूर्ण ज्ञान प्राप्त करणे*	*संपूर्ण ज्ञान प्राप्त करवुं, मेळववुं*	–	–
अभिसम्बुद्धो : (P.P.P.)	Thoroughly understood : perfectly known : enlightened, knowing fully	*पूर्णपणे अवगत, पूर्ण परिचित, जगप्रसिद्ध, प्रबुद्ध, ज्ञानी, कुशल, चतुर*	*सारी रीते जाणीतो, बधी रीतनुं ज्ञान घरावनार पूर्ण परिचित*	–	–
अभिसम्नोधि : (f)	Perfect understanding : infallible knowledge	*संपूर्ण समजूत, अस्खलित ज्ञान*	*पूर्ण समजशक्ति, निभ्रांत ज्ञान, अस्खलित ज्ञान*	–	–
अभिसम्भुणोति, अभिसम्भुणाति :	To obtain	*मिळवणे, संपादणे, प्राप्त होणे*	*संपादन करवुं, मेळववुं प्राप्त करवुं*	–	–
अभिसम्मतो : (P.P.P.)	Fully approved : honoured : prized	*मंजूर केलेला, मान्य झालेला, गौरवलेला, किंमती*	*मान्य करेलुं, मंजूर थयेलुं, गौरव करेलुं, इज्जत राखवुं*	–	–
अभिसवनं :	Oozing : trickling, : flowing :	*पाझरता (पाघळ), स्त्राव, झिरपणे, ओधळ, अस्खलित, सरळ वाहणारा*	*झरवुं, गळवुं, टपकवुं ओघ, प्रवाह, ओगळवुं*	–	–

		(Marathi)	(Gujarathi)	(Hindi)	
अभिस्सवनं :	Flowing : dripping	*वाहणारा, प्रवाह, टपकणारा*	*प्रवाह, टीपु टीपु गळवुं*	–	–
अभिसारिका : (f.)	A woman who carries on an intrigue	*कारस्थान करणारी स्त्री*	*कारस्थान करनार नारी, कावत्रुं करनार स्त्री*	–	–
अभिसिञ्चति :	To be sprinkle, to inaugurate a king by sprinkling with sacred water	*चहूकडे शिंपडणे, पवित्र पाणी शिंपडून राज्याभिषेक करणे.*	*सिंचवुं, रेडवुं*	–	–
अभिसित्तो : (P.P.P.)	Be sprinkled : inaugurated a king	*चहुकडे शिंपून, राज्याभिषेक केला*	*चारो तरफ छाटेलुं*	–	–
अभिसुणोति :	To hear : to listen to :	*ऐकणे, बातमी कळणे, लक्ष देणे, मनावर घेणे*	*साभळवुं, श्रवण करवुं, लक्ष पूर्वक कान देवा,*	–	–
अभिसेको :	Sprinkling	*सेचन, प्रोक्षण*	*भथरावव्वुं ते*	–	
अभिसेचति :	To cause, to be sprinkled : inaugurated	*शिंपणे, शिंपडणे, प्रारंभ करणे, समारंभाने सुरवात करणे.*	*छाटवुं, बेरवुं, सिंचन करवुं, विधिपूर्वक आरंभ*	–	–
अभिसेचनं :	Sprinkling : inauguration of a king	*अभिषेक, सिंचन, राज्याभिषेक*	*सिंचन करवं*		
अभिसोभितो : (P.P.P.)	Adorned : beautified : resplendent	*सुशोभित, भूषित केलेला, चकचकीत*			

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अभिसंयुतो :	Fitted out :	*सज्ज,*	*सज्ज, तैयार थयेला,*	–	–
(P.P.P.)	equipped :	*सजवलेला, तयार, लायक*	*लायक करेला*		
अभिहटो :	Brought	*आणलेला*	*लाववुं*	–	–
अभिहनति :	To assail : to strike	*हल्ला करणे*	*हुमलो करवो, लडवा माडवुं,*	–	–
अभिहरति :	To bring to :	*आणणे,*	*लावी आपवुं,*	–	–
	to aquire :	*संपादणे, पैदा करणे,*	*संपादन करवुं,*		
	to gain :	*प्राप्त करणे*	*प्राप्त करवुं,*		
अभिहारो :	Bringing:	*घेऊन,*	*लाववुं,*	–	–
	offering	*अर्पण, समर्पण, भेट*	*अर्पण, भेट*		
अभिहितो :	Called, named,	*बोलाक्लेला, नावे ठेवणे,*	*नाम आपेलुं, आगाऊ*	–	–
	spoken, said Calamity	*कथित, पूर्वोक्त*	*बोलेलुं, उपर कहेलुं,*		
अभिण्हं :	Repeatedly	*वारंवार*	*वारंवार*	–	–
(adj.)					
अभूतो :	That has not been,	*खोटा, बनावट, चुकीया*	*खोटुं, झटुं, अप्रमाणिक*	*झूठा, खोटा, बनावटी*	
(adj.)	that is not : false				
अब्भकं :	Talc	*अभ्रक, भस्म*	*अबरख*	*अब्रक*	
अब्भक्खानं :	Accusation,	*आरोप, चुगली,*	*गुन्हा, चुगली, आरोप,*	*अपराध, दोष,*	
	slander,	*निंदा, तोहोमत,*	*निंदा, आळ*	*अपवाद, अपयश,*	
	Calumny	*आळ, नालस्ती*		*निंदा, आक्षेप*	

		(Marathi)	(Gujarathi)	(Hindi)
अब्भुग्गच्छति :	To approach,	*जवळ येणे, जाणे,*	*पासे जवुं,*	*पास जाना,*
	to go to meet	*पोहोंचणे, चढणे,*	*आवी पहोंचवुं,*	*मिलने के लिये जाना;*
	to ascend,	*उदय होणे,*	*चढवुं, उदय थवो,*	*चढ़ना, बढ़ना,*
	to go up	*उगवणे, वर जाणे*	*उन्नति थवी*	*उपर चढना (उन्नति)*
अब्भुग्गतो :	Having approached	*जवळ जाऊन,*	*नजीकमा जवुं,*	*समीप जाकर,*
(P.P.P.)	gone to meet,	*भेटण्यास जाऊन,*	*मळवा जवुं,*	*भेंट के लिये, गया हुआ,*
	ascended	*वर चढून.*	*चड्यो*	*ऊपर चढा हुआ.*
अब्भुज्जलनं :	Spitting fire	*आग फेकणे*	*आग फेकवी*	*ज्वाला, आग फेंकना,*
अब्भञ्जनं :	Anointing	*उटणे, अभिषेक, अभ्यंग*	*लेपन करवुं, लगाडवुं, चोपडवुं ते, अभिषेक करवुं ते,*	*अभिषेक,*
अब्भन्तरो :	Internal	*आतला, मनातला*	*वास्तविक,*	*आन्तरिक,*
(adj.)	Inner	*देशातला*	*खरू, अंदरगत, अंदरनु,*	*भीतरी, अन्तरस्थ*
अब्भन्तरं :	Internal :	*मधला काळ, अंतर,*	*आंतरो, दरम्यान,*	*अंतर, अवकाश,*
	Interior :	*अवकाश, फुरसत,*	*अवकाश, फुरसद,*	*अन्तस्थ, भीतरी,*
	A certain measure	*आतील, माप,*	*अंदरनुं,*	*नाप,*
		मर्यादा, अनुमान	*मंहेनुं, माप*	*मर्यादा अनुमान*
अब्भत्थं :	Setting :	*न्हास पावणे,*	*अस्त पामवुं,*	*नाश, अस्त,*
	declining :	*मावळणे,*	*नाश, लय पामवुं,*	*अन्त,*
	Perishing	*अस्त,*	*उतरती अवस्था,*	*अस्वीकारना,*
		उतरती कळा,	*ना पाडवी,*	*लय,*
		नाश, मरणे	*क्षय थवुं*	*समाप्त होना*

		(Marathi)	(Gujarathi)	(Hindi)
अब्भनुमोदनं : (n.)	Rejoicing: thausgiring: praise :	*आनंद उत्सव, आभार प्रदर्शक, स्तुति, वाखाणणी*	*आनंद, खुशाली, उत्सव, धन्यवाद आपवो वखाण, स्तुति*	*आनंद, धन्यवाद देना, स्तुति करना*
अब्भाकासिको : (adj.)	Living in the open air or in an open unsheltered	--	--	--
अब्भाकुटिको : (adj.)	Unfrowning: genial	*अनुकूल, आनंदी, मनमिळाऊ*	*अनुकूल, आनंदी*	*आनन्दी, सुखप्रद*
अब्भागमनं :	Approaching: goint to : visiting:	*नजीक जाणे, येणे प्रयाण, भेटण्यास जाणे, येणे*	*नजीकमा जवुं, मळवा माटे जवुं भेटवा जवुं*	*समीप जाना, प्रवेश करना, जाना, मुलाखत, मिलनेके लिये जाना.*
अब्भाचिक्खति :	To accuse : to slander : to calumniate	*दोषणे, बेअब्रू करणे, नालस्ती करणे, आळ घेणे*	*दोष काढवो, निंदा करवी, दूषण, लांछन लगाडवुं, आल मूकवुं.*	*दूषित करना, अपराधी ठहराना, कलंक लगाना, निंदा करना*
अब्भानं :	Rehabilitation of a priest who has undergone parivasa or peninenee for on	--	--	--

		(Marathi)	(Gujarathi)	(Hindi)
अब्भासो : (n.)	Repetition : practice : reduplication	*घोळणे, अभ्यास, व्यवहार, दुप्पट करणे*	*गोखवुं, अभ्यास, टेव, वारंवार, व्यवहार बेवडुं करवुं ते*	*पुनरूक्ति, दोहराव, अभ्यास, आचरण, व्यवहार*
अब्भुतधम्मो : **अब्भुतधम्मं :**	Mysterious or Supernatural phenomenon or condition	*अदभूत धर्म अलौकिक धर्म, गहन धर्म*	*अलौकिक धर्म, असाधारण, गहन धर्म*	*अलौकिक, उद्भूत, गहन, धर्म*
अब्भुतो :	The marvellous	*चमत्कारिक, अद्भुत, विलक्षण*	*अदभूत, विलक्षण*	*आश्चर्यजनक, अद्भूत*
अब्भुतो : (adj.)	Hidden : mysterious wonderful : astonished	*गूढ, गहन, अजब, आश्चर्यावह, विस्मित*	*गूढ, गहन, अजब, ताजुब जेवुं, आश्चर्यकारक*	*छिपा हुवाँ, गहन, विलक्षण, विस्मित, चकित*
अब्भुदीरितो : (P.P.P.)	Uttered	*उच्चारलेला*	*कहेलुं, जाहेर करेलुं, उच्चारेलुं*	*कहेना, उच्चार करना,*
अब्भेति :	To restore a priest who has been degraded	– –	– –	– –

		(Marathi)	(Gujarathi)	(Hindi)
अब्भोकासो :	Open space	*मोकळी जागा*	*खुली जग्या*	*खुली जागा*
अब्भोक्किरणं :	Covering : Bedecking :	*झाकण, आच्छादणे, वेष्टन, सजवणे, सजावट*	*ढांकण, ओढाडवुं शणमात करवुं ते, सुशोभित करवुं ते.*	*ढकना, ओढना, चादरा, सजाना*
अब्भं :	A cloud	*ढग, कालिमा*	*बादलुं, नभ*	*मेघ, बादल,*
अब्भो :	The sky : air, atmosphere	*वातावरण, हवा, वायु, आकाश*	*आकाश, आस्मान, हवा, वातारण*	*आकाश*
अभ्यासो : (adj.)	Near	*जवळील, समीपस्थ, शब्दाला मूळाला धरून असलेला.*	*पासेनुं, नजीकनुं, समीपनुं*	*समीप, निकट, पास में ठीक अनुमान*
अभ्यासो :	Repetition : practice	*अभ्यास, संवय, परिपाठ, प्राघात, पठन, पुनरावृत्ति*	*अभ्यास, प्रचार, पुनरावृत्ति, व्यवहार, टेव*	*अभ्यास, आचरण, व्यवसाय, संप्रदाय, पुनरूक्ति, आवृति*
अभग्गो :	Wrong way, wrong path	*चुकलेला अथवा उलटा अथवा विपरीत मार्ग*	*खोटो मार्ग उंधो मार्ग*	*बुरा या कुमार्ग*
अमच्चो :	A companion, a king's minister a privy councillor	*सोबती, सहवर, राजाचा मंत्री अथवा अमात्य, सल्लागार*	*साथी, मित्र, सोबती, राजानु प्रधान, दिवाण कारभारी सल्लाहकरी*	*मित्र, सहचर, संडगी साथी राजाका मंत्री राजदूत उपदेशक*

		(Marathi)	(Gujarathi)	(Hindi)
अमज्जपो : (adj.)	Abstinence	*मितोपभोग, अल्पाहार, वर्ज करणे, संयम*	*त्याग, संयमान*	*संयम, शराब न पिना*
अमट्ठो : (P.P.P.)	Touched Handled	*हातात घेतलेला, हात लावलेला, हातात धरलेला*	*हाथथी पकडवुं, हाथे अडवुं*	*छुवा हुवा, हाथमे पकडा हुवा.*
अमतपो :	One who drinks nectar Deva or God	*अमृत पिणारा देव, परमेश्वर*	*अमृत पिवावाळो देव, ईश्वर*	*अमृत पिनारा देव, देव, ईश्वर*
अमता : (f.)	Emblic myrobalan	– –	– –	– –
अमति :	To go	*जाणे, चालणे, सरसावणे, पोचणे*	*जवुं, चालवुं, सिधाववुं, पलायन थवुं*	*चलना, जाना, प्रस्थान करना, घुमाना*
अमति : (adj.)	Foolish, mad	*अक्कलशून्य, अविचार, मूर्ख, वेडा, खुळा, कावलेला*	*बेवकूफ, मूर्ख, कमअक्कलवालो, गांडो*	*निबुद्ध, उन्मत्त, भ्रांत चित्त कावलेला*
अमतो : (adj.)	Eternal, everlasting	*शाश्वत, अनाध्यंत, सनातन, चिरकाल टिकणारा, नित्य, अनतं.*	*कायम, हमेषनु, नित्यनुं, सदाकालनुं*	*नित्य, सनातन, अमर, अनंत*

		(Marathi)	(Gujarathi)	(Hindi)
अमतं :	Neetar or Ambrosia, drink of the Gods	*अमृत*	*अमृत*	*अमृत.*
अमत्तञ्ञू : (adj.)	Immoderate, intemperate	*अमर्याद, अमित, अतिशयित, अपरिमित, बेसुमार*	*अतिशय, परिमित, बेहद्द, घणुज, अत्यंत, बेसुमार*	*अत्यंत, अपरिमित, असंयमी, अतिभोग*
अमत्तं :	A pitcher, vessel	*घागर, मडके, पात्र, भांडे, वाहिनी*	*घडो, वासण, ठाम, पात्र,*	*कलश, घडा, मटका पात्र, पिपा.*
अमधुरो : (adj.)	Sour, bitter	*आंबट, खट्याल, कडु, कटु*	*खाटु, आंबट, कडवुं*	*खट्टा, चटपटा, चिडचिडा, कडुबा, कठोर, तीक्ष्ण*
अमनसिकारो :	See *मानसिकारो*	– –	– –	– –
अमनापो : (adj.)	Unpleasant, disagreeable	*अप्रिय, नापसंत, विषम*	*नापसंद, प्रतिकूल, उलटू*	*अप्रिय, अरूचिकर*
अमनुस्सो :	Demon or evil spirit	*पिशाच, राक्षस, यक्ष*	*दैत्य, भूत, असूर, दानव, पिशाच*	*भूत, पिशाच, दानव, राक्षस*
अमरावती : (f.)	Name of Indra's city	*इंद्र नगरी, इंद्र पुरी*	– –	– –
अमरो :	A deva or God	*परमेश्वर, देव, ईश्वर*	*परमात्मा, अविनाशी, देव, जगदीश*	*परमेश्वर, देव, देवता*
अमलो : (adj.)	Pure,clean, spotless, white	*स्वच्छ, निर्मळ, चोख, निष्कलंक, शुद्ध, पांढरा, सफेद.*	*स्वच्छ, साफ, चोक्खु, शुद्ध, निर्मल, डाग वगरनु, निष्कलंक, सफेद, ढोळु.*	*निर्दोष, निर्मल, पवित्र, स्वच्छ, अभिश्रीत, सफेद, श्वेत.*

		(Marathi)	(Gujarathi)	(Hindi)
अमा : (adj.)	With, present with, near	*जवळ, नजीक, समीपस्त, सहीत निशी.*	*पासेनु, नजीकनु, समीपतु, साथे सहित, संगाते, थकी, वडे*	*समीप, निकट, पासमे, साथ ओर, तरफ*
अमानुसो (adj.)	Not human, in human, demonical, more than human, super human, celestial, spritual	*निर्दय, क्रूर, राक्षसी, मनुष्यांच्या कतृत्वापलिकडील, स्वर्गीय, दिव्य, आध्यात्मिक, आत्मस्वरूप*	*निर्दय, क्रूर, दैत्यनुं, आध्यात्मिक, अलौकिक, अमानुष, स्वर्गीय, दिव्य.*	*क्रूर, निर्दय, पिशाचग्रस्त मनुष्य, शक्तिके बाहर, निराकार, पारलौकिक, धार्मिक, पवित्र, दिव्य, स्वर्गीय, आध्यात्मिक, दैवी.*
अमावासी, : आमावासी (f.)	The day of the new moon	*अमावास्या*	*अमास*	*अमास*
अमितो : (adj.)	Boundless immense	*अपरंपार, अमर्याद, अपरिमित, अवाढव्य, अफाट*	*अमाप, अगाध, घणुज, बेहद्द, अत्यंत.*	*अवधि रहित, अमित, बहोत बडा*
अमित्तो :	An enemy	*शत्रु, वैरी, प्रतिपक्षी*	*शत्रु, बैरी*	*शत्रु, बैरी, प्रतिपक्षी*
अमिलातो :	The plant Globe Amarnath or Gomphrena Globosa	– –	– –	– –
अमु :	See	– –	– –	– –
अमुको :	This, that	*अमुक, हा, ही, हे, तो, ती, ते.*	*आ, ते, ए, जे, ते*	*यह, वह, जो दुसरा.*
अमुख्यो : (adj.)	Not principal Secondary	*अप्रधान, गौण (मुख्य नसलेला)*	*मुख्य नहीं येवु, गौण, द्वितिय, कोटीनुं*	*अमुख्य, अप्रधान*

		(Marathi)	(Gujarathi)	(Hindi)
अमुतो : (adj.)	See *मुतो*	– –	– –	– –
अमुत्तो : (adj.)	Not shot or darted	*बरची, भाला, अंकुर (अंकुरणे उद्भवणे प्रेरणे, अस्त्र फेकणे)*	*फेकेलुं, बिन्धवुं*	*बरछी, उगा हुवा*
अमुत्र : (adj.)	In that place these : in another world, in another state of existence, hereafter.	– –	– –	– –
अमुलको : (adj.)	Unreal, unfounded, faise : unpaid	*खोटा, कृत्रिम, निराधार, अवास्तविक, चुकीया, असत्य, अप्रामाणिक, न फेडलेला*	*खोटु, असत्य, बनावटी, निराधार, निर्मूल, बनावट, कृत्रिम, पैसा न अप्या होय तेवुं.*	*असत्य, असार, निराधार, निर्मूल, खोटा, झूटा, कृत्रिम, मिथ्या, मूल्य न दिया हुवा*
अमूलो : (adj.)	Without payment unpaid	*न फेडलेला*	*बिन चुकवेली, पैसा न अप्या तेवुं*	*मूल्य न दिया हुवा, ऋण न चुकाया हुवा*
अमूळविनयो :	See *विनयो*	– –	– –	– –
अमो : (adj.)	Raw, uncooked	*कच्चा, कोवळा, हिरवा*	*काचु, अपक्व*	*पक्व, अधुरा, कच्चा.*
अमोहो :	Absence of ignorance or error, correct knowledge	*अज्ञानाचा अभाव, बिनचूक माहिती, शुद्ध ज्ञान.*	*अज्ञाननो अभाव, ज्ञान, माहिती, ओळखाण.*	*अज्ञानका अभाव, शुद्ध ज्ञान.*

		(Marathi)	(Gujarathi)	(Hindi)
अम्बट्ठा : (f.)	The plant clypea Hernandifolia	– –	– –	– –
अम्बति :	To go	– –	– –	– –
अम्बरं :	The sky, the cloth	*आकाश, आभाळ, वस्त्र, कापड*	*आकाश, अस्मान, कपडु, लुगडुं*	*आकाश, ऋतु, वस्त्र, कपडा.*
अम्बा : (f.)	A mother	*आई, जननी कापड, वस्त्र*	*मा, माता, मादर.*	*मा, माता.*
अम्बाटको :	The hog plum. spondias magifera	– –	– –	– –
अम्बिलो : (adj.)	Sour, acid	*आंबट, आंबूस*	*खाटु, आंबट, खटाश*	*खट्टा, चटपटा, चिडचिडा, वृक्ष*
अम्बु : (n.)	Water	*पाणी*	*पाणी, जल*	*जल, पाणी*
अम्बुजाकरो :	A pond or tank	*तलाव, पुष्करिणी, तळे, टाकी*	*होज, कुंड, तलाव, टांकु, सरोवर*	*तडाग, सरोवर, बावली, तलाव.*
अम्बुजिनी : (f.)	A lotus lake	*कमळाची फुले असलेले सरोवर.*	*कमलनुं तलाव*	*कमलके फुलका जील*
अम्बुजो :	A fish	*मासा, मच्छी*	*मछली, मत्स्य*	*मछली, मत्स्य*
अम्बुजं :	A lotus	*कमळ, पद्म*	*कमल, पंकज*	*पद्म, कमलिनी.*

		(Marathi)	(Gujarathi)	(Hindi)
अम्बुधरो :	A cloud	*अभ्र, मेघ, ढग*	*बादलु, नभ, टोळु*	*मेघ, बादल, घटा*
अम्बुनिधी : (m.)	Sea, ocean	*समुद्र, सागर, दर्या*	*समुद्र, दरियो, महासागर*	*सागर, समुद्र*
अम्बो :	The mango tree - Magnifera Indica	*आंब्याचे झाड*	*केरीनु झाड*	*आमका पेड*
अम्भो :	A stone, pebble	*दगड, धोंडा, शिला, गारगोटी, खडा*	*पत्थर, शिला, पाषाण, कांकरो, मरडीयो*	*पत्थर, ढेला, रत्न, कंकड*
अम्भो : Interj.)	Oh ! I say !	*अरं ! मी म्हणतो.*	*अरेरे ! हुं कहुंछुं.*	*अरे ! मै कहता हुँ.*
अम्भोजं :	A lotus flower	*पद्म, कमल*	*पंकजं, कमल, कुमूद*	*कमल, पद्म,*
अम्म :	Mother ! Daughter ! Lady ! Madam ! used by a son or daughter to a mother, By a father to his daughters. By a grandfather to his grand daughter. By a Brahmin to a young lady of rank. By a merchant to a lady.	*आई, जननी, माता*	*मा, मादर, मातृ*	*माता, जनना*
अम्मणं :	A canoe, a measure of capacity equal to eleven Donas	*होडकें, तराफा* – –	*होडी, होडकु*	*नांव, डोंगी*

		(Marathi)	(Gujarathi)	(Hindi)
अम्मा : (f.)	Mother	*आई, माता, जननी*	*मा, मादर, मातृ*	*माता, मा, जननी*
अम्ह :	See *अत्थि*	– –	– –	– –
अम्हमयो : (adj.)	Made of stone, stony	*दगडी, पाषाणमय*	*पत्थरमय, पत्थरवाळु*	*शिलामय, पथरीला*
अम्हादिसो : (adj.)	Like us	*आमच्या सारखा दिसणारा, सद्दश, समान, तुल्य*	*हमारा जेवुं, हमारा सरखुं*	*हम लोगो समान*
अम्हि :	See *अत्थि*	– –	– –	– –
अम्हं, अम्हाकं, : **अम्हे** etc.	See *अहं*	– –	– –	– –
अलकनंदा : (f.)	A city of Kuvera	– –	– –	– –
अलक्को :	A mad dog, name of a tree	*पिसाळलेला कुत्रा*	*दिवानुं अथवा हडकायु कुतरो*	*उन्मत्त या पागल कुत्ता*
अलक्खी : (f.)	Bad luck, misfortune	*कमनशीब, दुर्देव, अरिष्ट*	*कमनशीब, दुर्भाग्य, दुर्देव*	*अभाग्य, दुगर्ति*
अलगद्दो :	A snake, serpent	*साप, सर्प*	*साप, सर्प*	*साप, सर्प*
अलग्गता : (f.)	Detachment, freedom from attachment to the world, freedom from human - passion	*अलगता, विषय, पराङ्मुखता, विरक्तता*	*विषय भावना वगरनुं मनोविकार शिवाय*	*अलगाव, विरक्तता, मानवी भाव विरहित*

		(Marathi)	(Gujarathi)	(Hindi)
अलङ्कतो :	Adorned, decorated, embellished	*अलंकृत, शोभायुक्त साजरा, भूषविलेला*	*शोभिवंत, शणगारेलु*	*सुशोभित बनाया हुवा, सजा हुवा, अलंकृत किया हुवा*
अलङ्करणं :	Decoration	*सजवणे, अलंकार*	*अलंकार, शोभा, भूषण, शणगार*	*अलंकार, सजावट*
अलङ्करोति :	To adorn, to embellish, to decorate	*सुशोभित करणे, सजविणे, श्रृगारंणे*	*शणगारवु, सुशोभित करवुं, सुंदर बनाववु*	*अलंकृत करना, सजाना, सुशोभित करना*
अलङ्करो :	Ornament, decoration, trinkets, Ornaments, Rhetorical fingers or rhetone.	*अलंकार, शोभा दागिना, भूषण नग, अलंकारविद्या शास्त्र, वाक्‌चातुर्य*	*आभूषण, अलंकार शोभा, हलकी किंतनुं धरेणु अलंकार शास्त्र, वाक्‌चातुर्य.*	*अलंकार, आभूषण श्रृंगार, कमदामकी वस्तू अलंकार शास्त्र*
अलज्जी : (adj.)	Shamless, bold rebellious	*निर्लज्ज, बेरड, निलाजरा, धीट उद्धट, बंडखोर*	*असभ्य, उद्धत, निर्लज बेमर्याद, हिंमतवान, साहसिक लोफानी, हुल्लडखोर*	*निर्लज, साहसी उपद्रवी, राजद्रोही*
अलत्तको :	lee, a red animal dye	*लाख*	*लाह*	*लाख*
अलत्तो :	Lac	*लाख*	*लाख*	*लाख*
अलत्थ :	See *लभति*	– –	– –	– –
अलद्धा :	See *लभति*	– –	– –	– –
अलमबुसा : (f)	Name of a certain Apsanas or goddess	– –	– –	– –

		(Marathi)	(Gujarathi)	(Hindi)
अलसन्दा : (f.)	Alexandria a city in the Yona country	– –	– –	– –
अलसो : (adj.)	Idle, lazy, slothful, lanquid	*आळस, सुस्त, आळशी, मंद, जड, म्लान, उदास*	*सुस्त, आळसु, नवरू, न कामु, मंद, ढिलुं, खिन्न, शिथिल*	*निरुद्योगी, आलसी, सुस्त, शिथिल, मंद, निर्बल*
अलहुको : (adj.)	Heavy	*भारी, जड, दु:सह*	*बोजवाळुं, वजनदार*	*भारी, अधिक, प्रंचड*
अलातं :	Firebrand	*आगलाव्या, कोलीत*	*बळतु, लाकडु, उमाडीयु, कज्जाळु*	*लुआठी*
अलापु, लापु : (neut.)	A gourd, a pumpkin	*भोपळा*	*कोवळुं*	*लौकी, कद्दु*
अलाबु : **लाबु :**	A long gourd : a pumpkin	*भोपळा*	*कोळू*	*कद्दु, लौकि*
अलाभो :	Not getting : loss detriment, injury	*अलभ्य, हानि, अपाय, नुकसान, तोटा, अपकार, अन्याय, अपराध, जुलूम,*	*नुकसान, हानि, टोटो, हार, बिघाड, नाश, धक्को*	*हानि, घाटा, अपकार, अनिष्ट,*
अलि : (m.)	A bee	*मधमाशी, भुंगा*	*मधुमाखी*	*भ्रमर, मधुमक्खी*
अलिको : (adj.)	Disagreeable, unpleasant, untrue, false	*अप्रिय, नापसंत, विषम, खोटा असत्य, मिथ्या, अनृत*	*नापसंद, प्रतिकूल, असत्य, खोटु, बेवफा*	*अप्रिय, असत्य मिथ्या, झूठा*

		(Marathi)	(Gujarathi)	(Hindi)
अलिन्दो :	A terrace or Verandah outside a house	*ओटा, गच्ची, माळवद*	*अगासी, धाबु, ओटलो चोतरो*	*चबुतरा, बरामदा*
अलेखो :	A drawing, painting, picture	*चित्र, रूपरेखा, तसबिर, रंगाचे चित्र, देखावा, वर्णन*	*चित्रकाम, आलेखान, छबी, चित्रकला, तसबीर.*	*चित्र विद्या, चित्र लेखन, प्रतिमा*
अलोभो :	Absence of covetousness or desire	*अलोभी, निर्लोभी, अभिलाषा नसणे.*	*लालसा बगैरनुं*	*बिना लालसा*
अलं : (adv.)	Fit, able, adequate, sufficient, hold ! enough !	*योग्य, लायक, कर्तबगार, अनुरूप, पुरा, पुरेसा हा ! हा ! हा !*	*समर्थ, शक्तिवान, पुरतु.*	*योग्य, प्रविण, निपुण, तुल्य, पर्याप्त, ठहरो, पर्याप्त, उचित.*
अल्लापो :	Speaking to, talking	*बोलणे, वदणे, कथन करणे*	*बोलवुं, कहेवुं, वदवुं*	*बोलना, वार्तालाप करना, व्याख्यान करना*
अल्लियति :	To be attached, to adhere, to be bent upon	*शी अनुरूक्त असणे, चिंकटलेला असणे, बिलगणे, लगटणे, तोल अथवा कल असणे.*	*जोडवुं, बांधवुं, संयोग करवो, चोटवुं, वळगी हरेवुं, निश्चय थयेलो*	*मित्रताका संबंध, चपकना, दृढ होना, एक चिज उपर ध्यान देना.*
अल्लीनो : (P.P.P.)	Attached adhering	*चिकटून बसणे, आसक्ति एकनिष्ठता*	*जोडेलु, चोटेलुं, वळगेलुं*	*अनुरक्त, असक्त, चिपका हुवा, दृढ हुवा*
अल्लो : (adj.)	Wet moist	*ओला, भिजलेला, आद्र, दमट*	*भिनु, पल्लाळवुं*	*भिगा, गिला, आद्र, तर, नम.*
अहन्कारो :	Selfishness, pride, arrogance	*अहंकार, गर्व*	*अहंकार, गर्व*	*अहंकार, गर्व*

		(Marathi)	(Gujarathi)	(Hindi)
अहतंः	A new cloth or garment,	*नवीन वस्त्र*	*पस्त, कपडा*	*पोशाक, लबादा*
अहतं :	A new cloth or garment, before it is washed	– –	– –	– –
अहमहमिका : (f.)	Conceit of superiority, arrogance, eqosim	*अहंकार, उद्धट, मगरूर अहंता*	*अभिमान, अहंकार, अहंभाव*	*अहंकार, गर्व, अभिमान, स्वार्थ*
अहमहमिका : (f.)	Conceit of superiority, arrogance, eqosim	*अहंकार, मोठेपणाचा अधिकार, अहंपणा*	*उपरीपणनो, अभिमान, अहंकार, अहंभाव*	*प्रधानता का अहंकार, गर्व, स्वार्थ, आत्मवाद*
अहह : (Interg.)	Alas ! Oh !	*हाय हाय*	*हाय, अफसोस ओह, अरे*	*हाय, आह ओह*
अहहं :	One of the high numerals, 10,000,000	– –	– –	– –
अहासि :	See Harate	– –	– –	– –
अहि : (m.)	Snake	*सर्प, साप*	*सर्प*	*साँप, सर्प*
अहिगुण्ठिको :	A snake charmer	*गारूडी*	*मदारी*	*गारूडी*
अहितुण्ठिको :	A snake charmer	*गारूडी*	*मदारी*	*गारूडी*
अहितो : (adj.)	Bad, prejudicial	*नुकसान कारक, अहित करणार*	*नुकसान कारक*	*हानिकारक*

		(Marathi)	(Gujarathi)	(Hindi)
अहिरिका : *(f.)*	Shamelessness	*बेशरमपणा*	*बेशरमपणू*	*निर्लज्जता*
अहिरिको : (adj.)	Shameless	*निर्लज्ज, कोडगा*	*असभ्य, उद्धट*	*निर्लज्ज*
अहिंसको : (adj.)	Not injuring others, harmless, humane	*निरूपद्रवी, निर्दोष, दयाळु*	*इजा न करे तेवुं दयाळु*	*निर्दोष, निरपराधी, दयाळु, परोपकारी*
अहिंसनं :	Not injuring others, humanity	*निरूपद्रवी, दयाळू*	*नुकसान नई करे येवुं*	*निरपराधी, दयाळु*
अहिंसा : (f.)	Not killing, not voilence, humanity, kindness	*हत्या, विरोध, अहिंसा, दया, माणुसकी, ममता, दयाळु*	*अहिंसा, माणसाई, मनुष्यत्व, माया, भलाई, कृपा सहानुभूति*	*हत्या न करना, अहिंसा, दया, कृपालुता सुजनता,*
अहेसुं :	See Holi	– –	– –	– –
अहो : (Interj.)	Oh ! ah ! Alas !	*अरेरे, हाय, हाय*	– –	*आह, अरे, हाय*
अहोरत्तो : **अहोरत्ति** (f.)	A day & night	*अहोरात्रि*	*दहाडो, रात*	*दिनरात*
अहोसि : **अहु,** **अहुवा,**	See *होति*	– –	– –	– –

		(Marathi)	(Gujarathi)	(Hindi)
अहं :	A day	*एक दिवस*	*एक दिवस दहाडो*	*एक दिन*
अहं : (pers pron.)	I, myself	*मी, स्वतः*	*हुं, मे, मारु*	*मै, स्वयं, अपना*
अहंकारो :	Selfishness, pride, arrogance	*स्वार्थी, मतलबी, अहंकार, गर्व*	*स्वार्थी, अभिमान अहंकार,*	*स्वार्थी, अभिमान, गर्व, अहंकार*
अन्हो : **अण्हो**	Day	*दिवस*	*दहाडो*	*दिन, दिवस*
अळासे : (adj.)	Crooked	*वाकडा, तेढा, कपटी*	*वळेलु, वांकु*	*टेढा, कुटिल, बदसुरत*
अंसु : (m & n)	A thread, a bit of thread a filament, a ray, a sunbeam	*दोरा, धागा, सूत, तंतु, सूत्र, किरण.*	*दोरो, सूतर, तंतू, किरण, तेज*	*दोरा, दागा, तंतु, सूत्र, किरण, प्रभाव, सूर्य किरण*
अंसुकं :	Cloth, fine cloth	*कापड, वस्त्र, सुरेख कपडा*	*कपडुं, लुगडुं*	*कपडा, वस्त्र*
अंसुमाली : (m.)	The sun	*सूर्य, रवि*	*सूरज, दिवाकर, भास्कर*	*रवि, सूर्य, दिनकर*
अंसो :	A part, portion, share, a period of time	*भाग, विभाग, अंश, हिस्सा, तुकडा, समय, कालमान, मुदत, अवधि*	*भाग, अंश, हिस्सो : वखत, काळ, समय*	*अंश, विभाग, टुकडा, भाग, हिस्सा*
अंसो, अंसं :	The shoulder	*खांदा*	*खंबो, बांध*	*कन्धा*

		(Marathi)	(Gujarathi)	(Hindi)
आकङ्खति :	To wish, to desire, to long for	*इच्छिणे, लुब्ध होणे, खंतावणे*	*अभिलाषा राखवी, इच्छवुं, स्पृहा करवी*	*लालसा करना, लोभ करना या चाहना*
आकङ्खा : (f.)	Desire, longing	*इच्छा, अपेक्षा, आशा, उत्कंठा*	*इच्छा, मर्जी, अभिलाषा*	*इच्छा, आकांक्षा, आशा, अभिलाषा*
आकड्ढति :	To draw towards, to drag along	*जवळ ओढणे, खेचणे, फरफट पाडणे*	*सामे खेचवुं, घसडवु*	*पास खीचना, शक्ति लगाकर खीचना*
आकड्ढनं :	Drawing, attraction	*ओढणे, आकर्षण, मोहक शक्ति*	*आकर्षण शक्ति*	*खीचना, आकर्षण, प्रलोभन*
आकप्पो :	Decent or elegant, attire, ornament embellishment, disguise	*उचित अथवा सुरेख सुशोभित पोषाख, अलंकार, दागिने, भूषण, सजावट, वेष बदलणे, किंवा वेषांतर*	*लायक, सुशोभित, पोषाख, अलंकार, शोभा, श्रृंगार, वेषांतर*	*उचित या सभ्य या सुरूप या सुंदर या वेष, वस्त्र, अलंकार, आभूषण, सजावट वेष बदलना या छुपाना*
आकरो :	A multitude mien, a mine	*जमाव, मेळा, भरणा, खाण, सुरूंग*	*समुदाय, मेळो, समुह, खाण, सुरंग*	*समुह, समाज, झुंड, आकार खान, सुरंग, खाई,*
आकारो :	Appearance, mine, countenance, form, sign, token, way; manner, means, cause, reason object, purpose, a constituent, part of the body	*स्वरूप, हजेरी, आकार, चेहरा, मुद्रा, रूप, आकृति, बांधा, चिन्ह, खूण, दाखल, गति, तन्हा, प्रकार, रीति, पद्धती, उद्देष्य, हेतु, तर्क, आशय, शरीराचा एक भाग*	*हजरी, डौल, रुप, आकृति, मुद्रा, आकारो, चिन्ह, लक्षण, निषाणी, यादगिरी, कारण, हेतु, प्रयोजन, धारणा, इरादो, मतलब, सरिरनो एक अवयव अथवा भाग*	*आकार, दिखावट, आकृति, ढंग, मुख, सौंदर्य, संकेत, चिन्ह, लक्षण, स्मारक, मार्ग, पथ, पद्धति, रिती, उपाय, प्रकार, सूचित करना, कारण, हेतु, तर्क, युक्ति, प्रयोजन, उद्देश, आकांक्षा, शरीरका एक भाग*

		(Marathi)	(Gujarathi)	(Hindi)
आकारो :	The vowel 'a'	*स्वर आ*	*स्वर आ*	*स्वर आ*
आकासट्ठो : (adj.)	Standing or staying in the sky, resting in space	*आकाशातील*	*आकाशमा*	*आकाश में बसे हुवे*
आकासान ञ्चायतनं :	Realm of infinity of space	*अनंत जागा (अवकाश, आकाश)*	*अनंतता, आपारपणु (अवकाश जग्या, काळ)*	*अनंतता (अवकाश)*
आकासि :	See *करोति*	– –	– –	– –
आकासो :	The sky, air, heavens, the open space in air	*अवकाश, आकाश, आस्मान, स्वर्ग, परलोक*	*आकाश, स्वर्ग, जन्नत*	*आकाश, स्वर्ग, परमेश्वर*
आकिञ्चञ्ञं :	Poverty, destitution, nothingness, void	*दारिद्र, गरिबी, हिनता, अभाव, रिकामी, रिता, पोकळ, निरर्थक*	*दरिद्रता, कंगाली, निराधारपणु तंगी, अभाव, शून्यता, थालु, शून्य*	*दरिद्रता, निर्धनता, दीनता, अभाव, निराश्रयता, निर्धनता अभाव, शून्यता, शून्य, हिन, रिक्त*
आकिञ्चञ्ञायतनं :	The Realm of nothingness	*अभावाचे राज्य*	*शून्यतानु राज्य*	*अभाव, राज्य प्रदेश*
आकिण्णो :	Crowded confused troubled	*गर्दी असलेला, ठेचून भरलेला, गोंधळलेला, घाबरलेला, इजा करणे*	*भीड, गर्दी, गभरावविं, मुझंवविं, मुशकेली मा*	*भीड भाड का भ्रमपूर्वक, व्याकूलतासें, कष्ट देना या होना*
आकिरति :	To scatter, to sprinkle	*पसरविणे, उधळणे, शिंपडणे, शिंताडणे*	*वेरविं, भमरावविं, छाटवु*	*फैलाना, बिखेरना, छिडकना, धोना*

		(Marathi)	(Gujarathi)	(Hindi)
आकुञ्चितो : (P.P.P.)	Bent, curved	*वाकडा, झुकलेला, तोललेला, वळलेला*	*वाक लाळुं, वळेलु, बाकु*	*झुका हुवा, बाका हुवा, तेढा, घुमा हुवा*
आकुलो : (Adj.)	Crowded, confused, troubled, perplexed, distressed	*खच्चून भरलेला, गोंधळलेला, धांदललेला, दु:खविलेला, गुंतविलेला, दु:खी, कष्टी, व्यग्र*	*भीड, मुझांवूं जवुं, घबारावुं, मुष्केलीमा, उपद्रवमा, भुलावमा, दु:खी, हेराण*	*व्याकुल, संभ्रात, भीडभाड का, कष्टी, दु:खी, अव्दिग्न, दु:खित, पिडीत*
आकोटापेति : (Caus.)	To cause, to be smoothed *(आ + त्कुट)*	– –	– –	– –
आकोटेति : (Caus.)	To beat, to beat down	*मारणे, पराभव करणें*	*मारवु, ठोकवुं, प्रहार करवो, वगाडवुं*	*पीटना, मारना, कूट कर चर करना, पराजीत करना*
आक्ख्य :	Frequent in the Simhalese MSS	– –	– –	– –
आखु : (m.)	A rat or mouse	*उंदिर*	*उंदर*	*चुव्हा, मुषक, मुसा*
आख्या : (f.)	Name	*नाम, संज्ञा, लौकिक*	*नाम, संज्ञा, अभियान*	*नाम, किर्ती, संज्ञा,*
आख्यातो : (P.P.P.)	Said, announced, told	*उक्त, जाहीर केलेले, सांगितलेले*	*कहेलुं, बोलेलुं, जाहेर करेलुं, प्रसिद्ध थयेलुं, जणावेलुं*	*कहा हुवां, प्रकाशित करा हुवां*
आख्यायिका : (f.)	A tale, story, legend	*आख्यान, कथा, वृत्तांत, हकीगत, आख्यायिका, चरित्र*	*कथा, कहाणी, आख्यान, वार्ता, वृत्तांत, गाथा*	*कथा, कहानी, जीवनी, वृत्तांत, कहानी, उपाख्यान, पौराणिक कथा, गाथा*

		(Marathi)	(Gujarathi)	(Hindi)
आगच्छति :	To come, to approach, to arrive, to return	*येणे, जवळ जाणे, पोहोचणे, पुनरागमन, परत फिरणे*	*जवु, पासे जवुं, जावी पोहचवुं, पाछुं, मोकलवुं*	*जाना, समीप जाना, पहुंचना, आ जाना, पलटना, वापस आना*
आगन्तु : (Adj.)	Coming, arriving, occasional, adventitious, incidental	*आगान्तुक, आकस्मीक, क्षुल्लक*	*प्रसंगो पातनु, प्रासंगिक*	*आकस्मिक, अनित्य, प्रासंगिक, अनावश्यक*
आगन्तु : (Adj.)	Coming, arriving, occasional, adventitious, incidental	*आगामी, आगन्तुक, बाहेरचा, नैमित्तिक*	*आवी पोहोंचवुं, प्रासंगिक, ऐकाऐक, प्रसंगोपातनुं*	*आगामी, प्रासंगिक, समयनुसार, आकस्मिक, अनित्य, अनावश्यक*
आगन्तुक : (Adj.)	Coming, arriving, adventitious, incidental, foreign	*आगान्तुक, परकीय, अयोग्य*	*प्रासंगिक, पारकुं, परायु*	*अनित्य, प्रासंगिक, अयोग्य, परदेशी*
आगन्तुको : (Adj.)	Coming, arriving, adventitious, incidental, foreign	*आगामी, आगन्तुक, परकीय, परदेशी*	*आवी पोहोंचवुं, ऐकाऐक, प्रसंगोपातनुं, पारकुं*	*आगामी, प्रासंगिक, आकस्मीक, भिन्न, विदेशी*
आगतो : (P.P.P. **आगच्छति**)	Having come having arrived, having returned, having attained, contained in, existing in, found in	*मुक्कामी पोहोचून, प्राप्त करून, परत करून, फेडून, समाविष्ट, अस्तित्वात असलेला*	*आवी पोहचवो, मेळवावुं, प्राप्त करववुं, समावेलु, अस्तित्वमा थयेलुं, मळेलुं, शोधि काढेलुं*	*आ कर, पहुंचने बाद, वापस करके, चुका कर, पलट कर, पा कर, लपेटा हुवा, जीवन स्थिती*
आगतो : (P.P.P.)	Having come, having arrived, having returned, having attained, contained in, existing in, found in	*येऊन, पोहोचून, परतून, परत फिरून, संपादून, साधून, साठवलेला, अस्तित्वांत येऊन, स्थापून*	*आवी पोहोंचीनें, पाछा आवुं प्राप्त करववुं, संपादन करववुं, समाववुं, अस्तित्व धरावुं, स्थापववुं*	*आ कर, पहुंच कर, वापस आ कर, प्राप्त करके, रख कर, अस्तित्व, स्थिर करके*

		(Marathi)	(Gujarathi)	(Hindi)
आगमनं :	Coming, arriving, return, approach	*परत येणे, पुनरागमन, पोचणे*	*पासे जवुं, नजीकमा जवुं, पाछु देवुं*	*समीप जाना, वापस जाना, चुकना*
आगमनं :	Coming, arriving, return, approach	*आगमन, पोहोचलेला, पुनरागमन, प्रवेश*	*आववुं, आगमन, प्रवेश*	*आना, पा लेना, पलटा, पुनरागमन*
आगमेति : (Caus. **आगच्छति**)	To cause, to come, to communicate to, to impart, to wait	*निवेदन करणे, कळविणे, देणे, अर्पणे, प्रतिक्षा करणे*	*जाणववुं, निवेदन करवुं, अपवुं, दान तरिके अर्पण करवुं, प्रतिक्षा करवुं*	*कहना, देना, भाग देना, समाचार देना, प्रतिक्षा करना*
आगमेति :	To cause, to come, to communicate to, to impart, to wait	*येणे, पोहोचणे, घडुन येणे, कळविणे, जाणविणे, देणे, दान करणे, खोळंबून राहणे, बसणे*	*आववुं, जणाववुं, निवेदन करवुं, विदित करवुं, राह जोवी, वाट जोवी*	*आना, कहना, देना, फैलाना, सूचित करना, राह देखना, ठहरना*
आगमो :	Advent, arrival, income, influx, knowledge, sacred books, the Buddhist scriptures, Doctrine religion	*येणे, आगमन, अंतप्रवाह, ज्ञान, पवित्र पुस्तक, धर्म ग्रंथ, धर्मतत्त्व, धर्म-सिद्धांत*	*आगमन, अंतप्रवाह, ज्ञान, पवित्र पोथी, धर्मग्रंथ, सिद्धांत*	*आगमन, प्रवाह, ज्ञान, बोध, पवित्र किताबे, धर्म पुस्तक, शिक्षा, मत, धर्म*
आगमो :	Coming, advent, arrival, income, influx, knowledge, sacred book, Buddhist scriptures, Doctrine religion	*आगामी, पोहोचणे, प्राप्ति, अदा, अंत:प्रवाह, ज्ञान, परिचय,. पवित्र, धार्मिक ग्रंथ, बुद्धलोकांचे धार्मिक ग्रंथ, तत्वे आणि धर्म*	*आगमन, आवक, आमदनी, अंत:प्रवाह, ज्ञान, विद्या, पवित्र चोपडी, बौद्ध लोकनी धर्मपुस्तक, सिद्धांत, धर्म*	*आगामी, आगमन, आय, आमदनी, अन्तर्प्रवेश, ज्ञान, परिचय, धार्मिक पुस्तक, बौद्धजनोका धर्म पुस्तक, मत, पंथ, धर्म*

		(Marathi)	(Gujarathi)	(Hindi)
आगम्म :	Having, arrived, having gone to, having come to by means of, on account of, according to, for the sake of,	*जाऊन, येवून, च्या द्वारे, त्यामुळे, प्रमाणे, अन्वये, च्यासाठी, च्याकरिता*	*ना थी, मतलब थी, ने लीधे, ने लईने, अनुसार, मुजब खातर*	*वजह से, प्रकारसे, वास्ते, अनुसार, वास्ते, लिये*
आगम्प : (Gert)	Having come to, having gone to, having arrived, having returned, by means of, on account of, according to, for the sake of, on behalf of,	*येवून, जाऊन, पोहोचून, परत येऊन, द्वारे, च्यामुळे, वरहुकूम, कारणासाठी, मुळे, करिता*	*आवीने, जईने, पाछा आवीने, नाथी ने लीधे, नं लईन, अनुसार, मुजब, मतलबथी, माटे*	*आ कर, जा कर, वापस लोट कर, कारणसे, वास्ते, लिये, तदनुसार, निमित्त*
आगहितो : (P.P.P.)	Seized, hold, pulled	*धरलेले, ओढलेले, पकडलेले*	*पकडेलुं, खेचेलुं*	*धरा हुवां, पकडां हुवां, खेचा हुवां*
आगहितो : (P.P.P.)	Seized, hold, pulled	*बळकावलेला, धरलेला, ओढून घेतलेला*	*एकदम पकडेलुं, झालेलुं*	*छिन लिया हुआ, पकडा हुआ, खींचा हुआ,*
आगामिको : (Adj.)	Coming, approaching	*जवळचा,*	– –	*प्रवेश, योग्य*
आगामिको : (Adj.)	Coming, approaching next	*आगामी, जवळचा,*	*आगामी, ते पछीनुं*	*आगामी, समीप का*
आगामी : (Adj.)	Future, coming	*भावी, आगामी*	*भविष्यनुं, आगामी*	*भविष्य काल, आगामी*

		(Marathi)	(Gujarathi)	(Hindi)
आगारं :	A house, a building, an apartment, a hall	*घर, गृह, इमारत, खोली, दालन*	*घर, मकान, निवास, इमारत, ओरडो, कोटडी, दिवानखानुं*	*मकान, भवन, कोठी, कमरा, दालान*
आगारं :	A house, a building, an apartment, a hall	*घर, इमारत, खोली दिवाणखाना*	*घर, मकान, इमारत, कोटडी, ओरडो, दिवानखानुं*	*घर, कोठी, कमरा, दीवानखाना*
आगिलायति :	To be tired, to ache	*थकणे, दमणे, दुखणे, वेदना*	*थकी जवुं, श्रमीत थवुं, दु:ख थवुं, पीडा थवी*	*थका हुवा, दरद होना, पीडा होना*
आगिलायति :	To be tired, to ache	*थकणे, दुखणे,*	*थाकी जवुं, पीडा थवी*	*थकना (थकावट), पीडा (दु:ख) होना*
आगु : (n.)	Sin, guilt, offence, crime	*पाप, अपराध, अन्याय, गुन्हा*	*अपराध, गुन्हो*	*अपराध, रोष*
आगु : (n.)	Sin, guilt, offence, crime	*पाप, दोष, अपराध, गुन्हा आघात*	*पाप, दोष, अपराध, गुन्हो*	*पाप, अपराध,*
आघाटनं :	Slaughter-house, shambles, place of execution	*कत्तलखाना, खाटकांचा बाजार, देहान्त शिक्षेची जागा*	*कसाई खाना, खाटकी बजार, फांसी देवानी जग्या*	*वध स्थान, कसाई खाना, फांसी देनेकी जागा*
आघातनं :	Slaughter - house, shambles, place of execution	*कत्तल घर, खाटीकखाना, फांशी देण्याची जागा*	*कसाईखानुं, खाटकीवाडो, फांसी अपे ती जग्या*	*कसाई खान, वधस्थान*
आघातुको : (Adj.)	Injuring, hurting	*नुकसानी करणे, जुलुम करणे, दुखवणे, आघात*	*माढुं लगाडवुं, दुखाववुं, इजा करवी*	*आघात, घाव, पीडा देना*

		(Marathi)	(Gujarathi)	(Hindi)
आधातुको : (Adj.)	Injuring, hurting	*दुखापत करणारा, दुखवणारा, आघात करणारा*	*वगाडवुं, इजा करवी, दु:ख देवुं*	*दुसरेको अपाय देना (करना) आघात करना*
आघातो :	Anger, ill-will, hatred, malice	*राग, क्रोध, द्वेष, वैर*	*क्रोध, द्वेष, वैर, धिक्कार*	*क्रोध, कोप, द्वेष, घृणा, ईर्ष्या*
आघातो :	Anger, ill - will, hatred, malice	*राग, क्रोध, द्वेषबुद्धि, वैर द्वेष,*	*क्रोध, कोप, वेर, द्वेष, अदावत*	*क्रोध, कोप, द्वेष, घृणा, ईर्ष्या*
आचमनं :	Rinsing the mouth, washing, cleansing	*चूळ भरणे, धुणे, विसळणे, भिजवणे, धुऊन टाकणे*	*म्हों पाणीसे खंखाळवुं, धोवुं, पाणीथी साफ धोवुं, बिछळवुं*	*मुह पाणीसे धोना, धोना, माईन, शुद्ध करना*
आचरति :	To live, to act, perform, to treat, to practice	*वागणे, राबणे, उदरनिर्वाह, उपजिविका करणे, सिद्धिस नेणे – करणे, वागवणे, वागणे, उपचार करणे, आचरणे, पढविणे, संवयीने करणे*	*काम करवुं, आचरवुं, गुजारन चलाववुं, जीववुं, संपादन करवुं बजाववुं, बरदास करवी, चर्चा करवी, अभ्यास राखवो*	*जीना, निर्वाह करना, कार्य करना, संपादन करना, अनुकरण करना, विधान करना, अभ्यास करना, उद्यम करना, प्रबन्ध करना*
आचरियो :	A teacher, a scholar, a professor	*गुरु, अध्यापक, पाठक, पंडीत, विद्यार्थी, शिष्य*	*गुरु, अध्यापक, महेताजी, शिष्य, विद्यार्थी, आचार्य, पाठक*	*अध्यापक, शिक्षक, विद्यार्थी, छात्र, विद्वान, विश्वविद्यालय का पाठक/अध्यापक*
आचामो :	Scum of boiling rice	*पेजेवरची तवंग*	*कांजी उपरनो तवंग*	*माँड*
आचारो :	Conduct, practice, right conduct good manners	*वर्तन, आचार, वागणूक, शुद्ध आचार, सरळ वर्तन, चोख वागणूक*	*योग्य वर्तणूक, व्याजवी आचार, भली चाल, सारी ढब*	*आचरण, अभ्यास, व्यवहार, उचित आचरण, उत्तम, योग्य रीति, (चाल ढंग)*

		(Marathi)	(Gujarathi)	(Hindi)
आचिक्खति :	To tell, to announce, to point out, to show	*सांगणें, जाहीर करणें, दर्शविणें, दाखवणें, सुचवणें,*	*जाहेर करवुं, खबर आपवी, कहेवुं, देखाडवुं*	*बतलाना, निवेदन करना, प्रकट करना, दिखलाना*
आचिक्खनं :	Telling, showing	*सांगत होता, दाखवणें, सुचवणें, दर्शवणें*	*जणाववुं, निवेदन करवुं, देखाडवुं, बताववुं*	*कहता था, सूचित करता था*
आचितो : (P.P.P.)	Heaped up, collected	*सांचवलेला, एकत्रित केलेला, गोळा केलेला*	*संग्रह करेलुं ते, गंज, भेगुं करेलुं ते*	*इकट्ठा करा हुवाँ, संग्रहीत*
आचिनति :	To heap up, to accumulate	*रास करणें, साचविणें, जमा करणें*	*संचय करवो, ढगलो करवो, ऐकठुं करवुं*	*इकट्ठा करना, ढेर लगाना, धन संचय करना*
आजञ्ञो : (Adj.)	This is another form of *आजानीयो* with the same meaning	– –	– –	– –
आजाननं :	Knowing, understanding	*जाणून, बुद्धिपुर:सर समज, अक्कल*	*जाणी जोईने, समज, ज्ञान*	*ज्ञानपूर्वक, जान बूझकर, ज्ञानशक्ति बुद्धि*
आजानामि :	To perceive, To understand, To learn, To know	*जाणणें, समजणें, शिकणें, जाणणें*	*जणवुं, जणावु, समजवु, शिकवुं, भणवुं*	*जानना, समजना, सिखना पढना*
आजानेय्यो, : **आजानीयो** (Adj.)	Of good bread or race	*खानदानी वंश, जाति, कुल*	*खानदान वंश, कुल*	*खानदानी वंश, जाति, कुल*

		(Marathi)	(Gujarathi)	(Hindi)
जाजि : (f.)	Battle or strife	*लढाई, युद्ध, झोंबी, झटापट, भांडण*	*लढाई, युद्ध, कज्जो, तंटो*	*युद्ध, संग्राम, कलह*
आजीवको :	One belonging to, a Hindu seek of naked ascetics, a religious, mendicants	*आजीवक*	*आजीवक*	*आजीवक*
आजीवनं :	Livelihood or subsistence	*उपजीविका, चरितार्थ, उदरनिर्वाह*	*गुजराण, उपजिविका, निर्वाह*	*जीविका, वृत्ति, प्राणयात्रा*
आजीवी : (Adj.)	Living	*उदरनिर्वाह, जगणे*	*गुजारो*	*जीना*
आज्जवं :	Rectitude	*सरळपणा, प्रामाणिकता*	*सरळपण, प्रामाणिकता, निती*	*सच्चाई, सदाचार*
आढ्यो : (Adj.)	Belonging to a wealthy family, well born of good family	*श्रीमंत घराण्यातील कुलीन, चांगल्या कुटुंबातला*	*श्रीमंत कुटुंबनो ते, कुलीन, सारा परिवारमा थी*	*धनाढ्य कुलका, कुलीन, अच्छे कुलमे पैदा हुवा*
आणत्ति : (Adj.)	Command, injunction, ordinance	*आज्ञा, स्वामित्व, हुकूम, ताकीद, कायदा, विधि, कर्म*	*हुकूम, आज्ञा, ताकीद, नियम, कानून, ठराव*	*आज्ञा, प्रभुत्व, आदेश, आशा, नियोग, विधि, नियम*
आणत्तो :	Commanded, enjoined	*हुकूम आज्ञा बजाविलेला, ताकीद दिलेला*	*फर्मावेलुं, आज्ञा करवी, ताकीद आपवी*	*आज्ञा दिया हुवा*
आणा : (f.)	An order, a command, authority	*आज्ञा, व्यवस्था, हुकूम, क्रम, अधिकार, सत्ता*	*हुकूम, आज्ञा, व्यवस्था, फर्मान क्रम, पद्धति, रिति, हुकूम, सत्ता, अधिकार, अख्वत्यार*	*आज्ञा, नियम, विधि, फर्मान, अधिकार, शक्ति*

		(Marathi)	(Gujarathi)	(Hindi)
आणापनं :	Ordering, commanding	*हुकूम सोडणें, आज्ञा देणें*	*हुकूम, आज्ञा, फर्मान हुकूमत चलाववी, हुकूम करवो, फर्मावुं*	*आज्ञा देना, फरमाना*
आणापेति :	To order, to command	*आज्ञा करणे, देणे, फरमाविणे, हुकूम करणे*	*हुकूम अपवो, आज्ञा अपवी, फर्मावुं*	*आज्ञा देना, प्रबंध करना*
आणि : (f.)	The pin of a wheel axle a linch-pin, a peg or pin	*चाकाच्या आंसाची खीळ, चाकाची खीळ, खुंटी, टांचणी*	*पैडानी खीली – खोलो, खुंटी, खुंटो, मेख, टांकणी, खीली मेख*	*धुरे पर लगी हुई कील जो पहिये की गिरने से रोके रहती है। कीला, खुँटी, सूईरापान, आलीपान, खुंटी, सूई*
आदरणीय : (Adj.)	Estimable, deserving of respect	*मान्य, योग्य, आदरणीय*	*सन्मान लायक, आदर योग्य, उचित*	*मान्य, आदरणीय, पूज्य, गौरव योग्य*
आदरो :	Esteem, regard, respects, interest, care, devotion, affection	*आदर, बहुमान, प्रतिष्ठा, पूज्यबुद्धि, आस्था, कळकळ, खबरदारी, भक्ति, आसक्ति, ममता, माया*	*आदर, किंमत, मानवुं, लागणी, पूज्य बुद्धि, काळजी, दरकार, संभाळ, काळजी, आसक्ति, अनुराग*	*आदर, सम्मान, मान, प्रतिष्ठा पक्षपाती, स्वार्थ दृष्टीसे, चिन्ता, सावधानी, निष्ठा, अनुराग, आसक्ति,*
आदातब्बो : (Adj.)	That ought to be taken	*ते घेतलेच पाहिजे*	*पेलुं लेवुं जोईये*	*वह लेनाही चाहिये*
आदाता : (m.)	One who takes	*जो कोण घेऊन जातो तो*	*जो कोण लई जाय*	*जो कौन लेता है वह*

		(Marathi)	(Gujarathi)	(Hindi)
आदाति, :	To take, to receive,	*घेणें, स्वीकारणें, अंगीकारणें,*	*लेबु, स्वीकारवुं, बलत्कारे*	*लेना, स्वीकारना, छीन लेना,*
आददाति :	to seize, to take away	*हिरावून घेणें, अलग करणें,*	*लई लेवुं*	*जप्त करना, अलग करना*
आदानं :	Taking, appropriating,	*अंगीकार, ग्रहण करणें,*	*झपाटमां पडववु, पचावी*	*पकडाना, अंगीकार करना,*
	seizing, attachment,	*गिळंकृत करणें, बळकावणें,*	*पाडवुं, बलत्कारे लई लेवुं,*	*अपनाना, स्वायत्ती करण, छीन*
	clinging to the world,	*आसक्ति, संसार, प्रपंच,*	*जप्त करवुं, आसक्ति,*	*लेना, अनुराग, आसक्ति,*
	desire, Taking what is	*इहलोक यांना कवटाळणे,*	*दुनिया, जगत ने बळगवुं*	*संसार, प्रपंचको चिपकना,*
	not given	*अपेक्षा, कामना, चोरणें*	*चोरववुं*	*इच्छा, अभिलाष, चोरना*
आदायी : (Adj.)	Taking	*घेऊन, मोहक*	*लई ने*	*लेकर, मनोहारी, रम्य*
आदासो :	A mirror	*आरसा*	*आरिसो, दर्पण*	*आईना, दर्पण*
आदि : (m.)	Beginning, starting - point	*प्रारंभ, सुरवात*	*शुरु करवुं, आरंभ, प्रारंभ करवो ते*	*आरंभ, उद्‌गम*
आदिको : (Adj.)	Beginning with, first, initial	*सुरवाती पासून, आरंभी, आदि, प्राथमिक*	*आरंभीथी, आद्य, पहेलुं, शुरुआतनुं*	*आरम्भ से, उद्‌गमसे, प्रथम, आदिका*
आदिच्चपथो :	The sky, the heavens	*आकाश, स्वर्गलोक, अस्मान*	*आकाश, आस्मान, स्वर्ग*	*आकाश, स्वर्ग*
आदिच्चबन्धु : (m.)	Kinsman of the sun - a name of Buddha as a member of a family of the solar race	*सूर्य गोत्रातील (सजातीय), बुद्ध नाव सूर्यवंशावळीपैकी आहे*	*सूर्यनो कुटुंब गांथी, बुद्ध नाम सूर्य वंशावळी मांथी छे*	*सूर्य परिवारमेसे, बुद्ध नाम, सूर्यवंशमेसे है*
आदिच्चो :	The sun	*सूर्य*	*सूर्य,*	*सूरज*

		(Marathi)	(Gujarathi)	(Hindi)
आदितो : (Adj.)	From the beginning, first	*सुरवात पासून, आद्य पूर्व, मुख्य*	*आरंभथी, पहेलुं, आद्य*	*आरम्भसे, आगला प्रथम*
आदित्तो :	Blazing, burning	*झगझगीत, दैदीप्यमान*	*तेज, प्रकाश*	*दैदीप्यमान*
आदित्तो : (P.P.P.)	Blazing, burning	*झळझळीत, तेज, धगधगीत*	*अजवाळुं, तेज, दाह, दाज*	*प्रज्वलित, तेज, परितप्त (जलना)*
आदिप्पति :	To blaze, to burn, to glow	*भडकणे, जाळ होणे, प्रदीप्त होणे*	*भडकवुं, बळवुं, दीपवुं*	*भभकाना, जलना, प्रज्वलित करना*
आदिब्रह्मचरियं :	Primary or fundamental morality as opposed to the details of practice and ritual	*मूलभूत आणि आवश्यक अशी नीति अथवा धर्माचरण, आचरण आणि संस्कार विधिच्या उलट अथवा विरूद्ध*	*आधारभूत अने मूळ नीति अथवा सदाचरण, विधि, संस्कार थी विरूद्धं*	*प्रारंभिक अथवा सारभूत निततत्व, आचार और संस्कार विधिसे विरूद्ध*
आदिमो : (Adj.)	First, initial	*प्रारंभीचे, आदि, आद्य*	*पहेलुं, आरंभनुं*	*आदिका, प्रथमका*
आदियति :	To take, to receive, to obtain, to take to heart	*घेणें, स्वीकारणें, मिळविणें, प्राप्त करणें,*	*लेवुं, स्वीकारवुं, मेळववुं, संपादन करवुं.*	*मिलाना, लेना, स्वीकार करना, प्राप्त करना*
आदियति :	To take, to receive, to obtain, to take to heart, to attend to	*घेणें, स्वीकारणें, मिळवणें, संपादणें, मनाला लावून घेणें, काळजी घेणें, आत मन घालणें,*	*लेवुं, स्वीकारवुं, पागवुं, प्राप्त करवुं, मेळववुं, मनमां राखवुं, लागी आववुं, ध्यान आपवुं*	*लेना, स्वीकार करना, प्रतिपादन करना, हृदयकू लगा लेना, ध्यान लगाना.*
आदिसति :	To show, to point out, to tell	*दाखवणें, दर्शवणें, सांगणें*	*बताववुं, देखाडवुं*	*बतलाना, दिखलाना*

		(Marathi)	(Gujarathi)	(Hindi)
आदीनवो :	Distress, suffering, evil result or consequence, evil guilt, sinfulness, disadvantage	*व्यथा, दु:ख, क्लेश, दुष्परिणाम, गुन्हा, अपराध, पापी, पातकी, हानी, नुकसान*	*दु:ख, पीडा, दुष्ट परिणाम, फळ, गुन्हो, अपराध, दुराचरण, नुकशान, गेरफायदो*	*क्लेश, पीडा, दु:ख, पुष्परिणाम, नीचता, दुष्ट, अपराध, पातक, हानि, असुविधा*
आदेति :	To take, to seize, to receive, to obtain	*घेणें, स्वीकारणें, बळकावणें, हिरावून घेणें, आदरातिथ्य करणें, मिळवणें, संपादणें*	*लेवुं, पकडवुं, धरवुं, झालवुं, स्वीकारवुं, केळववुं, संपादन करवुं*	*लेना, पकडना, छीन लेना, स्वीकारना, सत्कार करना, प्राप्त करना*
आदेसको : (Adj.)	Information, direction, order, injunction	*आदेश, बातमी, दिश दाखवणें व्यवस्था, हुकूम, ताकीद*	*सूचना, खबर, दिशा, हुकूम, आज्ञा*	*आदेश, बातमी, आज्ञा, दिशा*
आदेसको : (Adj.)	Telling, information	*सांगणें, कळविणें, बातमी*	*कहेवुं, निवेदन करवुं, समाचार, खबर*	*कहना, समाचार देना, सूचना*
आदो :	A locative of *आदि*	– –	– –	– –
आदो :	A locative of adi	– –	– –	– –
आधारो :	A prop, support, stand, a basin round the foot of a tree to retain water : a receptacle locative in Grammer	*आधार, टेंका, आश्रय, झाडाभवती पाणी राहण्यासाठी केलेले कुंड (खळें), पात्र*	*आधार, टेको, थांबलो, आश्रय, झाडने आसपास पाणी राखवा माटे बन्धायेलुं कुंड, भंडार*	*आधार, खम्भा, सहारा, उंचा चबुतरा, झाडके चारो ओर पाणी रोकने के लिये बनाया हुवा भांड (कुण्ड), पात्र, बर्तन,*

		(Marathi)	(Gujarathi)	(Hindi)
आधिकारिको :	An official office bearer.	*अधिकारी, कामगार, हमाल (कचेरीत काम करणारा)*	*अधिकारी, कचेरीमा काम करवा वालो दूत*	*अधिकारी, कर्मचारी, गृह काम करनेवाला नौकर.*
आधिपतेय्यं :	Influence, rule, Supremacy	*कर्तुत्व शक्ति, अधिकार, श्रेष्ठत्व, प्रभुत्व*	*सत्ता, अधिकार, ऐश्वर्य,*	*शक्ति, सामर्थ्य, अधिकार, श्रेष्ठता, प्रभुत्व*
आधुतो : (P.P.P.)	Shaken	*हालवलेला*	*ध्रजबी देवुं, हलाववुं,*	*कंपना, हिलाना,*
आनञ्चं :	Infinity, immensity, boundlessness	*अपार, अनंतता, अपरंपार, अमर्याद, अगाध*	*अनंतत्प, अपारणपणु, अगाध*	*अनंतता, महत्व, अपधिरहित*
आनन्तरिको : (Adj.)	Uninterrupted	*अभंग, न मोडलेला, अतुटक*	*बांध पाड्या वगरनुं*	*अबाध्य, अभंग*
आनन्दनं :	Friendly greeting, Welcome	*स्वागत, अभिनंदन, अभिवादन*	*अभिनंदन स्वागत*	*अभिनंदन, अभिवादन, स्वागत, शुभ, सुखद*
आनन्दो :	Joy, delight, happiness : Name of a famous disciple of Buddha : name of a fabulous Seamonster	*आनंद, हर्ष, उल्हास, संतोष, सुख, भगवान बुद्धांचा नामांकित अनुयायी, अतिशय मोठा पाण्यात रहाणारा प्राणी*	*आनंद, हर्ष, उल्हास, सुख, कल्याण, भगवान बुद्धनो विख्यात चेला, बहुत मोटु जनावर,*	*आनंद, हर्ष, सुख, भगवान बुद्धके प्रसिद्ध शिष्य, बडे आकारका अद्‌भूत पशु*
आननं :	The mouth	*तोंड, मुख*	*म्हों, वदन, मुख*	*मुख, छिद्र*

		(Marathi)	(Gujarathi)	(Hindi)
आनयनं :	Bringing near escorting	*जवळ नेणें, समीप नेणें, संरक्षणाकरितां बरोबर जाणे*	*पासे जवुं, नजीक लेवुं, भोमिओ, मार्गदर्शक*	*समीप लेना, पास जाने, रक्षाके लिये साथ देना*
आनण्यं :	Freedom from debt	*कर्ज नसलेला, अऋणी*	*करज नही*	*ऋण नही जिसको*
आनापानं :	Inspiration respiration	*श्वास ओढणे, श्वासोश्वास*	*श्वासोश्वासनी क्रिया, श्वासोच्छ्वास*	*उच्छवास, श्वासोछ्वास*
आनापेति :	To cause to be brought, to send for	*बोलावणे, बोलविणे पाठविणे*	*ने तेढी गंगा ववु, ने तेढा ववु, आमंत्रण करवु*	*बुलाना, बुलवाना*
आनायो :	A net, a fish - net	*जाळे, पाश, मासे पकडण्याचे जाळे*	*जाळ, पाश, माछली पकडवा माटे जाळुं*	*फंदा, जाल, मच्छी पकडनेका जाला*
आनितो :	Brought, conveyed	*आणलेले, नेलेले, पाठविलेले, जाहीर केलेले*	*लई आवुं, लावी आपवुं, पहोचडावेल, कहेबडाववुं*	*ले आना, ले जाना सन्मुख करना, पहुंचाना*
आनिसंसो :	Advantage, profit, good result, blessing, reward, merit	*लाभ, फायदा, किफायत, संधि कल्याणकारक अथवा हितावह परिणाम (फळ पर्यवसान); आशिर्वाद, कृपा, देणगी, मोबदला, पुण्याई, भलाई, उत्तमता, लायकी, योग्यता*	*फायदो, लाभ, हित, कल्याण, उत्तम परिणाम, सारुं फळ, सुख, आशिर्वाद, भले गुण, दुवी कृपा, इनाम, बक्षीस, गुण योग्यता, लायकी, इनाम बक्षिस बदलो पारितोषिक, पुण्य धर्म फळ बदलो*	*सुविद्या, महत्व, बडाई, लाभ प्राप्ति, संतोषप्रद, परिणाम, सुचित फल, आशिर्वाद, कृपा, प्रतिफल, पारितोषक, गुण, योग्यता, ईश्वरकी कृपा, प्रतिफल, दक्षिणा, श्रेष्ठता*

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आनुभाववा : (Adj.)	Possessing power, gifted with, supernatural power	– –	*राखवुं होवुं, कबजामा राखवुं, मालीक होवुं, भगववुं, शक्ति, जोर, बळकौवत, सत्ता, अधिकार अमल देवताई असाधारण अलौकिक सत्ताबळ – अधिकार अंमल बक्षिस आपवी नजराणुं आपवुं बुद्धि आपवी*	*अधिकार रखना, धारण करना, प्राप्त करना पूर्ण करना, शक्ति सामर्थ्य योग्यता विभव प्रभुत्व अधिकार राज शक्ति, प्रकृति विरूद्ध (अमानुषी) अलौकिक अद्‌भूत शक्ति सामर्थ्य (बल) योग्यता, विभव, प्रभुत्व अधिकार, दान देना (Gift)*
आनुभावो :	Dignity, authority, powers, might supernatural power, efficacy	– –	*मननी मोटाई प्रतिष्ठा प्रताप प्रभाव सत्ता अधिकार अखत्यार सत्ता शक्ति जोर, बळ कौवत, अधिकार अमल जोर बळ शक्ति ताकाद देवताई असाधारण अलौकिक शक्ति सत्ता अधिकार गुण बळ असर प्रभाव*	*महत्व प्रताप गौरव (प्रतिष्ठा) शक्ति (प्रभुत्व) अधिकार प्रभाव प्रमाण प्रवीण मनुष्य शक्ति सामर्थ्य योग्यता विभव प्रभुत्व अधिकार शक्ति बल पराक्रम सामर्थ्य अलौकिक अद्‌भुत शक्ति प्रभाव आधकार योग्यता प्रभाव (सामर्थ्य) गुण*

		(Marathi)	(Gujarathi)	(Hindi)
आनेज्जं :	Immovability, Impossibility	*अढळ, अचलता, अचर, वेदनारहित*	*अचळपण, स्थिरता, सुख दु:ख लागे नही तेवु, अचेतन पणुं जडता*	*स्थिरता, दु:ख न सहेन, योग्य*
आनेति :	To bring, to bring home, to fetch, to prourse, to carry, to convey	*आणणे, धरी आणणे, जाऊन आणणे, मिळविणे, घडवून आणणे, पैदा करणे, नेणे पाहून नेणे, वाहणे, नेणे.*	*लाववुं, लावी अपवुं आपवुं अपजवु मनमा ठसाववुं साबीत करवु जईन लाववुं भेळववुं संपादन करवुं, सांधवु, लई जवुं जणाववु पहोचडेववुं कहेडाववुं पाडी लेवुं, लई जवु पहा चाडवुं जणाववुं कहेवडाववु*	*लाना, घर ले आना, जाकर लाना, निकालना, उपार्जन करना फैलना, उत्पन्न कर देना ले जाना, प्रतिपादन करना लाना, बदलना पहुँचाना ले जाना, प्रतिपादन करना (देना)*
आनं :	Inhaled air, inhalation, inspired breath	*श्वासोश्वास, श्वास*	*श्वास, दम*	*उछ्श्वास, साँस, श्वास लेना*
आबज्झति : (Pass.)	To be bound : fettered, held fast	*बिडी घातलेला, बांधून घेणे, बांधणी करणे, घट्ट धरलेला.*	*निगडीत, बंधायेलुं, सज्जड पकडायेलुं बेडीमा पडेलुं*	*बाँधना, बेडीसे बंधा हुवा, पकडना*
आबद्धो : (P.P.P.)	Fastened, joined, united, attached	*जप्त केलेला, आसक्त, जोडलेला, संयुक्त, एकत्रित, जखडलेला*	*बंध वेसाडेळुं, बद्ध एकत्र करलुं, जडयुं, चोटाडेलुं,*	*बन्धा हुवा, मिला हुवा, संयुक्त*

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आबाधिको : (Adj.)	Affected with illness : ill, sick	*आजारी, अयोग्य, रोगी, अस्वस्थ, वीट, कंटाळा आलेला*	*आजारी, मांदु, असम्य, माठुं, अस्वस्थ,*	*बीमारी, बुरा, अस्वस्थ*
आबाधो :	Illness, sickness	*दुखणें, आजार, रोग, विकार, मळमळ (ओकारी)*	*बीमारी, मांदगी, मोल, आवती होय तेवुं, असुख,*	*बीमारी*
आभतो : (P.P.P.)	Brought, carried, conveyed	*आणलेला, आणला, वाहून नेलेला, पोहोंचविलेलें*	*लाव्युं, लावी, आपवुं, कहेवडाववुं, पहोंचाडवुं,*	– –
आभरणं :	Ornament, decoration	*अलंकार, भूषण, शोभा, सजावट*	*अलंकार, भूषण, शोभा, शणगार,*	*अंलकार, आभूषण, सजावट, श्रृंङ्गार*
आभस्सरो : (Adj.)	Shining, Radiant	*चकचकीत, तेजस्वी, देदीप्यमान*	*झळकतुं, तेजस्वी, प्रकाशित,*	– –
आभा : (f.)	Splendour, Radiance, light	*शोभा, तेज, चकाकी, प्रकाश*	*शोभा, तेज, प्रकाश, झगझगाट,*	*तेज, कान्ति, प्रकाश, प्रभा*
आभाकरो :	The Sun	*सूर्य, सूर्यप्रकाश, ऊन*	*सूर्य, सूरज, सूर्यनो ताप, तडको*	*सूर्य, धूप*
आभाति :	To shine	*चकाकणें, चमकणें, प्रकाशणें, शोभणें, गाजणें*	*प्रकाशवुं, शोभायमान करवुं झगझगवुं*	– –

		(Marathi)	(Gujarathi)	(Hindi)
आभुजति :	To bend to, to turn in	*लववणें, वळवणें, वांक देणें, फिरवणें, उपयोगी कामी लावणें, पालटणें*	*वाकवुं, वळवुं, फेरववुं, उलटाववुं, बदलवुं,*	*झुकाना, घुमना, मोडना, बदलना, पलटना, उलटना, नई रीति में लगाना*
आभूजी : (f.)	Name of a tree - Bhojpatra	*भोजपत्राचे झाड*	*भोजपत्रनुं झाड*	*भोजपत्रका झाड*
आभोगो :	Fulness, plenty thought, rufectim	*पूर्णता, भरपूर, रेलचेल, विपुलता, विचार, मनन, चिंतन, तर्क, भावना, मनोदय*	*भरपूर, भरेलुं, पुष्कळ, घणुज, विपुलता, समृद्धि, मनन, विचार, ध्यान, संकल्प, अभिप्राय*	*संपूर्ण, पूरा, प्रचुरता, बहुतायत:, विचार, भावना, ध्यान, बुद्धि*
आम : (Intenj.)	Indeed, truely, yes	*वास्तविक, खरोखर, खचित, यथार्थ, इमानी, खरं, सात्विक,*	*खरोखर, खच्चित, वास्तुत, वास्तविक रिते, बराबर हा*	*वस्तुत:, यथार्थमे, सचमुच, इमानदारीसे, सचाईसे, हाँ हुँ:*
आमको : (Adj.)	Raw, uncocked	*कच्चा, कोवळा,*	*भले, ठीक, काचु, अपकव*	*अपक्कव, अधुरा, कच्चा*
आमण्डो :	The castor oil - plant	*एरंडाचे झाड*	*एरंडो*	*रेडीका पेड*
आमन्तणं :	Calling, speaking to, addressing	*निमंत्रण करणें, बोलणें, वदणें, कथन करणें, संबोधणें*	*बोलाववुं, कहेवुं, वदवुं, भाषण करवुं*	*बोलना, कहेना, उच्चारण करना, निवेदन करना*
आमन्ता : (Intej.)	Yes, certainly	*नि:संशय, होय, खरोखर*	*हा, भले, ठीक, चोक्कस रिते, खात्रीपूर्वक*	*हाँ, हुँ, अवश्य, नि:संदेह*
आमन्तेति :	To address, to speak to, to call	*संबोधून बोलणें, मानपत्र देणे*	*बोलवु, कहेवूं, भाशण करवु,*	*बोलना, नाम लेना, चिल्लाना कहेना. निवेदन करना*

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आमयो :	Sickness, ill-health to greet	*रोग, विकृति, व्याधि, आजार, दुखणे*	*मांधु : मांदगी : आजारी पणु :*	*अस्वस्थ, रोगी, बुरा, व्याधि*
आमलको :	Emblic myrobalan	– –	– –	– –
आमलको : (f.)				
आमलकं :				
आमसनं :	Touching, handling	*स्पर्श करणारा, ला हात बोट लावणे, ची वाटाघाट करणे*	*स्पर्श करवुं, हाथथी पकडवुं, वपराश, हाथमा लेवु ते*	*स्पर्श करना, छुना, हाथ का कार्य*
आमिसं :	Flesh, meat,	*मांस, मांसाहार, आहार, भोग*	*मांस, गोस, खोराक अन्न,*	*मांसहार, अन्न, आहार,*
आमिसो :	food object of enjoyment bait, lust, desire	*वस्तु, आमिष, मोल, भूल, लोभ, आशा, आस्था, इच्छा*	*भोगनी वस्तु, खोराक अपि ललचाववुं, लोभ, मोह, आकर्षण, पापसक्तिः इच्छा, अभिलाषा*	*उपभोगकी चीझ, ललचाना, लोभ, प्रलोभन, लालसा, इच्छा, अभिलाषा*
आमुत्तो : (P.P.P.)	Dressed, accoutrements for battle	*लष्कर पोशाख केलेला*	*गोठववुं लष्करी पोषाख करेलु*	*आभूषित, अलंकृत फौजी पोशाखसे सज्जा हुवा*
आमोदना : (f.)	Rejoicing	*आनंद, हर्ष, आनंदाचे प्रदर्शन*	*हर्ष पामवुं*	*आनंदकर*
आमोदो :	Pleasure, joy, A strong perfume, fragrance	*आनंद, सुख, मौज, उल्हास, हर्ष, घमघमीत, सुवासिक, सुगंध*	*मोज, आनंद, ऐषाराम, हर्ष, सुवास, सुगंध*	*आनंद, संतोष, हर्ष, उग्र गंध, सुगंध, खुषबु*
आलका :	The city of kuvera	*कुबेर नगरी*	*कुबेर नगरी*	*कुबेर नगर*

		(Marathi)	(Gujarathi)	(Hindi)
आलपति :	To speak to, to address	*बोलणें, वदणें, संबोधणें, लिहिणें*	*बोलवुं, कहेवुं, भाषण करवुं*	*बोलना, व्याख्यान करना, निवेदन करना, उच्चारण करना, मार्ग दिखलाना*
आलपनं :	Speak to, addressing The vocative case	*वदणें, बोलणें, संबोधणें*	*बोलवुं, कहेवु, वदवुं, कहेवुं, भाषण करवुं*	*बोलना, वार्ता, आलाप करना, निवेदन करना.*
आलम्बति :	To lean upon, to take hold of	*रेलणें, कलणें, झुकणें, टेकणें, ठेवणें, धरणें*	*आधार, टेको, लेवो, पकडी लेवुं*	*सहारा देना, आश्रित होना, झुकना, टेक लगना, पकड*
आलम्बनं : आलम्बणं	Support, an object sense	*आधार, अवलंबणं, टेका, आश्रय, इंद्रिय*	*आधार, टेको इंद्रिय*	*सहारा, टेका, इंद्रिय,*
आलम्बो :	Support, object of sense	*टेका, आधार, संभाळणे, आश्रय, पालन, इंद्रिय*	*टेका, आधार, निर्वाह, इंद्रिय*	*संभालना, पोसना, अवलंब, आश्रय, सहार, इंद्रिय*
आलयो :	Dwelling, house, abode, longing, desire, attachment, lust	*घर, वसतिस्थान, आशा, इच्छा, अपेक्षा, आसक्ति, हाव, तृष्णा*	*वास, मकान, घर, स्पृहा, उत्कंठा, अभिलाष, मर्जी, आसक्ति, दुबुद्धि, पापासक्ति,*	*निवासस्थान, घर या मकान, उत्कंठा, अभिलाष, लालसा, इच्छा, आकांक्षा, अनुराग*
आलवालकं :	A basin or trench round a tree to retain water	*झाडाभवती पाणी रोकण्या-साठी केलेला चर*	*झाडने आसपास खोदेली खाई*	*पेड़ के चारो तरफे बनाई होई खांई या परिखा जिसमे पानी रुका जाता है*
आलसियं आलस्यां, आलस्सं	Idleness, sloth	*आलस्य, आळशी, सुस्ती, रिकामटेकडा*	*आळसु, नवरु, नकामु*	*आलसी, निर्द्योगी*

		(Marathi)	(Gujarathi)	(Hindi)
आलानं :	A stake or post to which an elephant is tied	*हत्तीला बांधण्यासाठी खुंटी*	– –	– –
आलापो :	Speaking to, addressing, speech	*बोलणें, वदविणें, भाषण, संबोधणें, वाणी*	*कहेवुं, भाषण करवुं, भाषण, व्याख्यान, वाचा*	*बोलना, व्याख्यान देना, भाषण देना, भाषण, व्याख्यान*
आलि : (f.)	A woman's female friend, a line, a dike, an embankment	*मैत्रिणी, बांध, धरण, खंदक, बंधार*	*सहेली, निक, बांध, बाळ*	*सहेली, खाई, बांध, बाँवर*
आलि : (m.)	A scorpion	*विंचू*	*विंछि, वृश्चिक*	*वृश्चिक, विच्छ*
आलिखति :	To draw, delineate	*चित्र रेखाटणें, रेखणें*	*खोचवुं, ताडवुं, आलेखवुं वर्णन करवुं*	*खीचना, नकाशा खीचना*
आलिङ्गति :	To embrace, to enfold	*आलिंगणें, स्वीकारणें, अंगिकारणें, मानणें, लपेटणें*	*भेटवुं, आलिंगन करवुं*	*आलिंगन करना, लपेटना, अंगिकार करना*
आलिङ्गनं :	An embrace	*आलिंगन, मिठ्ठी*	*आलिंगन, भेटो*	*आलिंगन*
आलिङ्गो :	A small drum	*ढोल, मृदंग*	*नगारु, पडदं*	*ढोल, दुदुंभी, नगाडा*
आलिम्पापेति : (caus.)	To cause to be anointed	*तेल अथवा उटणे चोळलेला, अभिषिक्त*	*तेल लगाडपुं अभ्यंग करावो*	*राज्याभिषेक करा हुवा, तेल लगाया हुवां*
आली : (Adj.)	Free from attachment or desire	*विषय परांग, मुखता, आसक्ति*	*अनिच्छा*	*अलगाव*

		(Marathi)	(Gujarathi)	(Hindi)
आलुलति :	To agitate, to disturb, confuse	*खवळणें, चळवळ करणें, घाबरे करणें, त्रास देणें, क्रम मोडणें, ढवळणे, गोंधळ करणें, घोटाळा करणें, गोंधळविणे.*	*हलाववुं, घबरावुं, उष्केरवुं, बेचेन अथवा हेराण करवुं, गोंगाट करवुं, तोफान मचाववुं, गुणववुं, घबरावु, मुझाईववुं*	*हिलाना, हलचल मचाना, व्याकुल करना, क्षुब्ध करना, गडबड करना.*
आलोकनं :	Seeing, looking	*पाहणें, अवलोकन*	*जोवु, निहाळवुं, अवलोकवुं,*	*देखना, परिक्षा करना*
आलोकसन्धि : (n.)	A window	*खिडकी*	*बारी, खिडकी*	*रोशनीदान, खिडकी, वातायन झरोक*
आलोकितं :	Looking at, regarding, seeing	*पाहणें, अवलोकणें, मानणें, लक्षपूर्वक पाहणें*	*जोवुं, निहाळवुं, दरकार राखवी, गणकारवुं*	*देखना, ध्यानसे देखना, आदर करना, मानना*
आलोको :	Sight, look, light	*दृष्टी, नजर, देखावा, चेहरा, मुद्रा, सुरत, चर्या, रुप, प्रकाश, उजेड, तेज, कांति, ज्योत, दिवा*	*दृष्टी, देखाव, तमासो, दर्शन जोवुं, निहाळवुं, अहाबाळु, दिवो, तेज, प्रकाश, रोशनी*	*दर्शन, दृष्टी, देखना, प्रकाश, प्रभा, रोशनी, दिपक*
आलोपो :	A fragment, a bit, a morsel a mouthful of rice or other food taken up with the hand, a lump or ball of food	*तुकडा, खांड, कुटका घास कण*	*टुकडो, अंश, भाग, विभाग कुळीयो*	*खंड, अंश, टुकडो*
आलोळापेति : (caus.)	To cause to be mixed or jumbled up together	*ढवळणें, घालमेल करणें, गोंधळणें.*	*गोटाळो करववुं, घालमेल करववु*	*मिलावट करा हुवा*

		(Marathi)	(Gujarathi)	(Hindi)
आलोळेति :	To mix, to shoke or stir together, to jumble, to confuse	*मिसळणें, भेळणें, हलविणें, ढवळणें, गोंधळ, धांदलणें, उलथा पालथ करणें*	*भेळववुं, मेळववुं, हलाववुं, उठाववुं, घालमेल करवी, मुंझाई जवुं, मुंझववु*	*मिलाना, संयुक्त करना, मिश्रित करना, उकसाना, हिलाना, मंथन करना, मिलावट करना, व्याकुल करना*
आह :	To say to speak, to call, to tell	*वदणें, बोलावणें, सांगणें*	*बोलवुं, बुलावुं, कहेवुं, वदवुं*	*बोलना, बुलाना, कहना*
आहच्च :	See Ahanati	– –	– –	– –
आहच्चापादो : **आहच्चापादको :** (Adj.)	Name of a particular sort of bed or chair, one of the leg which can be easily removed by drawing out a pin	*हे नाव ----- एक प्रकारचा पलंग अथवा खुर्ची ज्याचा एक पाय, त्याचीच एक खुंटी काढून अलग करता येतो, त्याचे आहे*	*एक जातनी खुर्शी अथवा पलंग, जेनो पग, एक खीली निकालवाथी*	*यह नाम ----- एक जातकी कुर्सी या चारपाई जिसका एक पैर उसकी एक खील निकालनेसे आसनसे अलग हो सकता है*
आहच्चो : (Adj.)	To be brought forward, to be adduced, removable	*पुढे आणणें, काढावया जोगा*	*आगळ लाववुं, खात्रीपूर्वक कहेलुं, लई जई शकाय तेवुं*	*आगे करना, आगे खीचना बढाना, सुचित करना, हटाने योग्य*
आहच्चो : (Adj.)	To be brought forward, to be adduced, removable	*पुढे आणलेला, दाखवलेला काढण्यासारखा*	*आगे लई आवुं, खात्रीपूर्वक कहेवुं, खसेडी शकाय तेवुं*	*आगे लाया हुवा, सुचित किया हुवा, हटाने योग्य*

		(Marathi)	(Gujarathi)	(Hindi)
आहटो : (P.P.P.) **(आहरति)**	Brought, carried, obtained	*आणलेला, नेलेला, संपादलेला, मिळवलेला*	*लाववुं, उपडी लीधेलुं, मेळवेलुं*	*लाया हुवा, मिलाया हुवा, प्राप्त किया हुवा*
आहतो : (P.P.P.) **(आहनति)**	Struck, stamped	*मारलेला, ठसविलेला*	*मारववुं, प्रहार थयेलुं*	*मारना, पिटना, ठप्पा लगा हुवा*
आहनति :	To strike, to throw, to beat, to pound, to reach	*मारणें, फेकणें, पाडणें, पोहचणें.*	*मारळवुं, पीटवुं, फेकवुं, पोहचवुं*	*मारना, पीटना, फेकना, पहुँचना*
आहनति :	To strike, to throw, to beat, to pound, to reach	*आघात करणें, फेकणें, मारणें, ठेचणें, पोहोंचणें*	*प्रहार करवुं, फेकवुं, मारवुं, ठोकवुं, पहोंचवुं*	*पीटना, उछलना, मारना, कुटना, पहुँचना*
आहरणं :	Bringing, accomplishing	*घेणें, आणणें, तडीस नेणें, संपादणें*	*लाववुं, पार पाडवुं, पुरु करवुं*	*लाना, पूर्ण करना, सिद्ध करना*
आहरणं :	Bringing, accomplishing	*आणतो, संपादून, मिळवून*	*लाववुं, समाप्त करीने, पार पाडववुं*	*ले आना, पूर्ण करके*
आहरति :	To bring, to fetch, to take, to plunder, to tell, to relate	*आणणें, जाऊन आणणें, घेणें, लुटणें, सांगणें, कथणें, लुबाडणें.*	*लाववुं, लावी आपवुं, लेवुं, लुटवुं, कहेवुं*	*लाना, ले आना, देना, लुटना, चुराना, कहेना, वर्णन करना*

		(Marathi)	(Gujarathi)	(Hindi)
आहरो : (Adj.)	Bringing	*आणणे*	*लाववुं, लई आवुं*	*लाना, लेना*
आहवनीयो : (Adj.)	Sacrificial	*यागा संबंधाचा अग्नि*	*यज्ञनो, यज्ञने लगतु*	*यज्ञ संबंधी*
आहवो :	War, battle	*युद्ध रणसंग्राम*	*युद्ध, लढाई*	*युद्ध, लढाई*
आहारो :	Food, nourishment, cause	*आहार, भोजन, कारण, निमित्त, हेतु*	*भोजन, खुराक, कारण, हेतु*	*आहार, भोजन, कारण निमित्त*
आहावो :	A through or watering place by a fountain or well	*कुंड, टाकी (पाणी साठवण्यासाठी)*	*कथरोट, थाळी*	*कठौता*
आहिण्डति :	To roam, to wander	*हिंडणें, भटकणें*	*रखडवु, भटकवुं*	*घुमना, भटकना*
आहितग्गि : (n.)	One ofters sacred fire	*अग्नि देणारा*	*पवित्र अग्नि देवावाळो*	*पवित्र अग्नि देनेवाला*
आहितो : (Adj.)	Bad, prejudicial	– –	– –	– –
आहु :	See Aha	– –	– –	– –
आहुनेय्यो : (Adj.)	Sacrificial, Worthy of offering, worshipful	*आराधनीय, यज्ञाचा, यागाचा*	*पूजनीय, आराधनीय यज्ञने लगतु*	*पूजनीय, आदरणीय, यज्ञ बलिदान संबंध*

		(Marathi)	(Gujarathi)	(Hindi)
आहंसु :	See Aha	– –	– –	– –
आळको :	Certain measure of capacity	– –	– –	– –
आळकम	the stake or post to which an elephant is tied			
आळम्बरो :	A drum, pride, arrogance	*ढोल, कानाचा पडदा, गर्व, अहंकार, ताठा, तोरा, अभिमान, उद्धटपणा*	*ढोल, नगारु, पडधं, मगरूरी, गर्व, अभिमान, अहंकार*	*नगडा, दुदुंभी, ढोल, गर्व, अभिमान*
आळविको : (Adj.)	Dwelling in forest	*जंगलात राहणे*	*अरण्यमा रहेवुं*	*जंगलमें रहेना*
आळवी : (f.)	Name of a city in India	– –	– –	– –
आळारिको :	A cook	*स्वैपाकी, आचारी*	*रसायो, रांधनार*	*रसोईयादार*
आळाहनं :	Cremation ground, cemetry	*दहनभूमि, कबरस्थान*	*स्मशान, कबरस्तान*	*श्मशान, कब्रिस्तान*

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BOOK III

PALI GRAMMAR

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The Pali Grammar

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Section 1

ALPHABETS or वर्ण 41

वर्णविचार (Orthography)

1. (i) **सरा** (**स्वर** in Sanskrit) or Vowels in Pali are eight in number viz :—
अ a, **आ** a, **इ** i, **ई** i, **उ** u, **ऊ** u, **ए** e, **औ** o. Out of these **अ, इ, उ** are short or **रस्स (ह्रस्व)**, and **आ, ई, ऊ** are long or **दीघ (दीर्घ); ए** and **ओ** are diphthongs.

(ii) Consonants or **ब्यंजना** are Thirty-three :-

(a)	**क** ka;	**ख** kha;	**ग** ga;	**घ** gha;	**ङ** na (**कवग्गो**)
	च ch;	**छ** cha;	**ज** ja;	**झ** jha;	**ञ** na (**ववग्गो**)
	ट ta;	**ठ** tha;	**ड** da;	**ढ** dha;	**ण** na (**टवग्गो**)
	त ta;	**थ** tha;	**द** da;	**ध** dha;	**न** na (**तवग्गो**)
	प pa;	**फ** pha;	**ब** ba;	**भ** bha;	**म** ma (**पवग्गो**)
	य ya;	**र** ra;	**ल** la;	**व** va;	**स** sa; **ह** ha; **ळ** la;

(b) The above consonants are classified into two categories – hard and soft.

(i) The last three consonants in each group and **य, र, ल, व, ह** and **ळ** together are the twentyone soft consonants.

(ii) The first two consonants in each group and **स** together are the eleven hard consonants.

(iii) **ङ, ञ, ण, न, म** – are nasal

(iv) **संयुक्त व्यंजन :–** Conjunct Consonants.
क्क kka; **क्ख** kkha; **क्य** kya; **क्रि** kri; **क, क्व** kva:
ख्य khya; **ख्व** khva; **ग्ग** gga; **ग्घ** ggha; **ग्र** gra;
ङ्क, ङ्क nka; **ङ्ख, ङ्ख** nkha; **ङ्ग, ङ्ग** nga; **ङ्घ, ङ्घ** ngha;
च्च cca; **च्छ** ccha; **ज्ज्ज,** jja; **ज्झ** jjha; **ञ्ञ** nna; **ञ्ह** nha;
ञ्च, ञ्च nca; **ञ्छ** ncha; **ञ्ज, ञ्ज** nja; **ञ्झ** njha; **ट्ट** tta;
ट्ठ ttha; **ड्ड** dda; **ड्ढ** ddha; **ण्ण** nna; **ण्ट** nta; **ण्ठ** ntha;
ण्ड ndha; **त्त** tta; **त्था** ttha; **त्व** tva; **त्र** tra; **द्द** dda;
द्ध ddha; **द्र** dra; **द्व** dva; **ध्व** dhva; **न्त** nta; **न्थ** ntha;
न्द nda; **न्ध** ndha; **न्न** nna; **न्ह** nha; **प्प** ppa; **प्फ** ppha;
ब्ब bba; **ब्भ** bbha; **ब्य** bya; **ब्र** bra; **म्प** mpa; **म्फ** mpha;
म्ब mba; **म्भ** mbha; **म्म** mma; **म्ह** mha; **य्य** yya;
य्ह yha; **ल्ल, ल्ल** lla; **ल्य** lya; **ल्ह** lha; **व्ह** vha; **स्स** ssa;
स्म sma; **स्व** sva; **ह्म** hma; **ह्व** hva; **ळह** lha.

(iii) **अनुस्वार** or **निग्गहिता** i.e - **म्र** pronounced as **अहं** and written as Ahan.

(iv) **विसर्ग** (:)

(v) There are no vowels **ऋ, ॠ, ऌ, ॡ, ऐ** and **औ** nor are there the consonants **श** and **ष** in Pali. **स** substitutes **श** and **ष** in Pali.

(v) All Pali words end with vowels, e.g.:—

दण्डिन् = **दण्डी** in Pali.

An inherent **अ** is present in all consonants.

2. Pronounciation; **च, ज,** and **झ** are respectively pronounced as in **चहा, झिम्मा** and **झकास.**

3. Mode of writing certain words.

गंगा = **गङ्गा** **पंडित** = **पण्डित** **लिंप** = **लिम्प**

पंच = **पञ्च** **अंध** = **अन्ध**

4. Mode of writing numbers.

१०१ = **एकाधिकं सतं; एकत्तुर सतं**

२२८ = **अट्ठविसति द्विसतं**

१२० = **वीसति अधिक सतं**

Section 2

भाषानियम (Rules of Change)

(A) Vowel Changes :–

1. ऋ is changed to, अ, इ, उ, e.g. :–
   (i) घृत = घत (Ghee); कृत = कत (done); गृह = गह (house) मृत = मत (dead).
   (ii) ऋषि = इसि; ऋद्धि = इद्धि; धृति = घिति (courage); मृग = मिग (deer)
   (iii) ऋतु = उतु; ऋजु = उजु (straight); ऋषभ = उसभ (an ox); वृषभ = बुसभ (ox)
2. अ is changed to इ, उ, ए, आ.
   (i) चंद्रमा = चन्दिमा
   (ii) असूया = उसूया (hatred)
   (iii) एकशय्या = एकसय्या
   (iv) अलका = आलका
3. आ is changed to अ, उ.
   संमार्जनी सम्मुज्जनी (broom)
4. इ is changed to उ, ए, अ.
   (i) इषु = उसु (arrow): इक्षु = उछु (Sugarcane)
   (ii) निषाद = नेसाद; विमध्य = वेमज्झ
   (iii) पृथिवी = पठवी
5. उ is changed to अ, इ, ओ.
   (i) गुरु = गरु
   (ii) पुरूष = पुरिस
   (iii) प्रामुख्य = पामोक्ख; शुण्डा = सोण्डा (Trunk) :
6. ए is changed to ओ.
   द्वेष = दोस
7. ऐ is changed to ए, इ.
   वैशाख = वेसाख
   ऐश्वर्य = इस्सरिय (riches)
8. ओ is changed to उ.
   होत्र = हुत्त (offerings to god)
9. औ is changed to ओ, उ, आ, अ.
   (i) औषध = ओसध
   (ii) मौक्तिक = मुत्तिक; औत्सुक्य = उत्सुक
   (iii) गौरव = गारव (respect)
   (iv) सौम्य = सम्म (friend)
10. The visarga (:) preceded by अ is changed to उ after अ and is dropped after other vowels e.g. :–
    बुद्धाः = बुद्धा; मतिः = मति; श्वश्रू = सस्सू

(B) Consonantal Changes :–

I. (i) क changed to ख
   कील = खाल (nail); शुनक = सुनख
   (ii) ग changed to क – तडाग = तळाक (bottom)

घ changed to ह – लघु = लहु (small)

(iii) ड changed to ळ – गुड = गुळ (jaggery)

– क्रीडा = कीळा (game)

ट changed to ळ – स्फटिक = फळिक

द changed to ळ – दोहद = दोहळ

(iv) ढ changed to ळ्ह – आषाढ = आसाळ्ह

(v) प changed to फ – परशु = फरसु (axe)

(vi) भ changed to ह – प्रभु = पहु (almighty)

(vii) य changed to व – आयुध = आवुध

(viii) र changed to ल – मारुत = मालुत (air)

(ix) ल changed to न – ललाट = नलाट (forehead)

(x) श, ष changed to छ, स – शावक = छापक

– आकाश = आकास

(xi) ध changed to ह – रुधिर = रूहिर (blood)

(xii) ह changed to ध or भ – इह = इध (here)

– मित्रद्रोही = मित्तदूभी

II. Conjunct-consonantal changes :–

1. A long vowel is made short when followed by a conjunct, consonant or an anuswara.

(i) मार्ग = मग्ग; मार्जार = मज्जार (cat)

ईश्वर = इस्सर (god); पराक्रम = पराक्कम

(ii) a) शालाम् = सालं; नदीम् (–) = नदिं

(iii) b) when the anuswara on short vowels is dropped the latter are lengthened

सिंह = सीह; दंष्ट्रा = दाठा;

संदंश = संडास

(c) when long vowel has an anuswara becomes short :–

सनातन = सनंतन (old)

(d) when a long vowel is accompanied with anuswara, it becomes short :–

मांस = मंस (meat)

2. (i) The first member of a conjunct consonant(संयुक्त जोडाक्षर) in a sanskrit word is dropped in its Pali form and the remaining member is doubled e.g. :–

भुक्त = भुत्त; शब्द = सद्द.

(ii) If the first member of a conjunct consonant, so doubled, is the second letter of a class (वग्ग), it is changed to the first letter of the same class; and if it is the fourth, it is changed to the third :–

अर्थ → अथ्थ → अत्य as भू is the second letter of the तवग्ग.

दुग्ध → दुध्ध → दुद्ध – milk

लुब्ध → लुध्ध → लुद्ध – greedy

(iii) The remaining first member of a conjunct consonant is

not doubled at the beginning of a word e.g. :–
स्खलित → **खलित** (mistake)
Nor is it doubled after a niggahita or anuswara e.g. :–
संत्रास → **संतास** (fear)
This doubling is optional in a compound e.g. :–
पञ्ञाय सहितो → **सपञ्ञो** or **सप्पञ्ञो** (wise)

(iv) **य** is doubled after **ए**; e.g. **गेयम्** → **गेय्यं** (song); **पेयम्** → **पेय्यं** (drink)

(v) When **म्, न्, य्,** or **द्** stands as the last member of a conjunct consonant, it is dropped and the remaining member is doubled Rule (i) is superseded by this and by the subsequent rule (vii) e.g. **युग्म** → **युग्ग** (pair); **स्मृति** → **सति** (rule iii) (recollection); **नग्न** → **नग्ग; सौम्य** → **सोम्म, ध्वंस** → **धंस,** (destruction).
Exception :– When **म्, न्, य्, व्** are combined with **ह ,** this change does not take place. e.g. **सह्य** → **सय्ह** (bearable).

(vi) **म** is not dropped in the conjunct consonants **ल्म** and **न्म** e.g. **उन्माद** → **उम्माद; कल्माष** → **कम्मास** (spotted); **जाल्म** → **जमो** (a rogue); **निम्न** → **निन्न** (deep). **स्म** is either ratained or changed to **म्ह** e.g. **भस्म** → **भस्म; तस्मिन्** → **तम्हि** (in it) **उष्मा** → **उस्मा** (heat).

(vii) **र्** whether the initial or final member of a comjunct consonant is dropped and the remaining member is doubled. e.g. **मार्ग** → **मग्ग; वर्ण** → **वण्ण; चक्र** → **चक्क; दरिद्र** → **दळिद्द;** exceptions **आदर्श** → **आदास** (mirror); **दीर्घ** → **दीघ; शीर्ष** → **सीस** (the head)

(viii) **र्य** is changed to **रिय** and the preceding vowel if long is made short. e.g. **आचार्य** → **आचरिय;** → **वीर्य** → **विरिय** (effort) **भार्या** → **भरिया; सूर्य** → **सूरिय; आर्य** → **अरिय** → **अय्य.**

(ix) **र्ह** is hanged to **रह;** e.g. **अर्हत** → **अरहति.** (deserves), **गर्हति** → **गरहति** (censures). **अन्तर्हित** → **अन्तरहित** (concealed).

(x) **इ** is inserted between the two members of a conjunct consonant whose final member is **ल.** e.g. **क्लेश** → **किलेसो** (torture); **ग्लान** → **गिलान** (ill); **म्लान** → **मिलान** (faded).

(xi) Similarly **इ** is inserted between the two members of the conjunct consonants in the words **ज्या; ह्री; स्यात्; चैत्य; वज्र; ह्यस; श्री** etc.:–
ज्या → **जिया** (Bow - string)); **ह** → **हीरो** (shame); **स्यात्** → **सिया** (may be); **चैत्य** → **चेतिय** (tample); **वज्र** → **वजिर** (Diamond); **ह्यस्** → **हिय्यो** (yesterday); **श्री** → **सिरी** (prosperity).

(xii) **व्** in combination with another consonant is changed to **ब** e.g. **सर्व** → **सब्ब; काव्यं** → **कब्बं.**

(xiii) **त्य्, यू, ध्य्** and **स्त** are respectively changed to **च्, ज्, झ्** and **थ्** at the beginning and to **च्च्, ज्ज्, ज्य्, त्थ्** – in the middle of the words. e.g. **त्याग** → **चाग; नृत्य** → **चच्च;** → **मय** → **मज्ज; द्युति** → **जुति; ध्यान** → **झान; प्रथमध्यानम्** → **पठमज्झानं; स्तामन्** → **धाम** (strength).
Exception : **उद्यान** → **उय्यान** (garden).

(xiv) **स्थ्** and **ष्ठ्** are changed to **ठ्** and **ट्** according to their position in a word. e.g. :– **स्थान** → **ठान;** → **गृहस्थ** → **गहट्ठ; काष्ठ** → **कट्ठ** (**ष्ठ्** is changed to **ट्**, whenever it is either in the middle or end of a word).

(xv) **थ्य्, श्व, त्स्** and **प्स** are changed to **च्छ** e.g. :– **तथ्य** → **तच्छ** (truth); **आश्चर्य** → **अच्छरिय; पश्चिम** → **पच्छिम** (behind); **वत्स** → **दच्छो** (calf); **अप्सरा** → **अच्छरा.**

(xvi) **ष्क्, स्क्** and **क्ष्** are changed to **ख** or **क्ख्** according to their position in a word e.g. :– **शुष्क** → **सुक्ख; दुष्कर** → **टुक्खर; स्कन्ध** → **खन्धो; नमस्कार** → **नमक्कार; भिक्षु** → **भिक्खु; क्षीर** → **खीर; क्षय** → **खय;** (when at the beginning **क्ष** is changed to **ख**, and **छ**, when at the end or middle it is changed to **क्ख**) **क्षमा** → **छमा : इक्षु** → **उच्छु** (Sugar-cane)

(xvii) **स्प्** and **ष्प्** are changed to **फ्, प्प्** and **प्फ्, प्प** respectively. e.g. **स्पन्दनम्** **फन्दनं; वनस्पति** → **वनप्पति; पुष्प** → **पुप्फ; चतुष्पद्** → **चतुप्पद्.**

(xviii) **न्य्, ण्य्** and **ज्ञ्** are changed to **ञ्** or **ञ्ञ** e.g. **न्याय** → **ञाय; कन्या** → **कञ्ञा** (when in the middle or at the end); **अरण्य** → **अरञ्ञ; श्रामण्य** → **सामञ्ञ; ज्ञान** → **ञाण; पज्ञा** → **पञ्ञा; कृतज्ञ** → **कतञ्ञु** Conjunct consonants mentioned in Rules xiii to xviii, preceded by anuswara undergo those changes which they would do at beginning of words, e.g. **कांक्षा** → **कंखा.**

(xix) **ष्ण** is changed to **ण्ह** e.g. **उष्ण** → **उण्ह; कृष्ण** → **कण्ह; उष्णीय** → **उण्हीस** **पार्ष्णि** → **पण्हि.**

(xx) **अब** changed to **ओ** e.g.; **व्यवहार** → **वोहार; जवण** → **लोणी** Salt.

(xxi) **व्य** changed to **व** e.g.; **व्यायाम** → **वायाम; व्यवस्था** → **ववट्ठा**

(xxii) **श्न** changed to **ञ्ह** e.g.: **प्रश्न** → **पञ्ह**

III. Ending Consonants

(i) a consonant is dropped at the end of a word. e.g. :– **भगवान्** → **भगवा.**

(ii) But the ending **म्** and ending **त्** or **द्** of a pronoun are substituted by an anuswara e.g. :– **बुद्धम्** → **बुद्धं** (to Buddha); **एतत्** → (**द**) → **एतं** (this, that).

(iii) The ending visarga (:) or **स्** or **र्** preceded by **अ** is changed to **ओ**, together with the preceding **अ;** and is dropped when preceded by other vowels. e.g. **सर्वतः** → **सब्बतो; बुद्धाः** → **बुद्धा; रुचिः** → **रुचि; भिक्षु** → **भिक्खु.**

(iv) Ending **द्** of a pronoun **(सब्बनाम)** or in an **उपसर्ग** (prefix or suffix) and at the end **र्**, often reappear when followed by vowels. e.g. :– **एतं + अहोसि = एतदहोसि** (this happened); **ताव + एत्थ = तावदेत्थ** (also); **पातो + एव = पातरेव, पातोऽव.**

(v) **य्, व्, म्, त्,** and **द्** → are often inserted as revivals from sanskrit forms or by analogy to such insertions.

सकि + एव = सकिदेव; पुन + एव = पुनरेव, पुनदेव, याव + अत्थं = यावतत्थं

Section 3

शब्दविचार (Etymology)

Parts of speech :–

In pali there are eight parts of speech as in English though the Pali Grammarians do not classify them in the same way. Their general classification is :–

I. Nouns **(नाम)** :– This group includes substantives, pronouns and adjectives. Pronouns are simple pronouns when they stand alone in a sentence, and admit of all genders as they stand for every person or thing which are in different genders. Pronouns become adjectives when they qualify other nouns. Pronouns have no vocative forms. Adjectives in Pali are treated like nouns because they take all the inflections of the nouns and are declinable. Almost all pronouns become adjectives when they are used before a substantive of the same gender, number and case. As the adjectives qualify nouns, which are of different genders and numbers, they must agree with their substantives in gender, number and case.

Nouns are divided into five classes, viz. :–

(i) **नामनाम** = Substantives and proper nouns (includes common, proper and abstract nouns).

(ii) **सब्बनाम** = Pronouns.

(iii) **समासनाम** = Compound nouns formed by combination of two or more words. e.g. **राजपुत्त.**

(iv) **पद्धितनाम** = Derivatives from nouns or Secondary Derivatives are formed from a substantive or a primary derivative (verbal derivative) by adding another suffix to it. e.g. **नावा** (ship) + **इका** (in the meaning of engaged) = **नाविक** (sailor).

(v) **कितकनाम** = Verbal derivatives otherwise called Primary Derivative, are formed from the verbal root itself by adding suffixes. e.g. **दा** (To giver) + **(अक** = **दायक** (giver); **नी** (to lead) + **तु** = **नेतु** (leader). About 75% of Pali nouns are derived from Sanskrit.

A. As in English, in **Pali there are** three genders and two numbers.

(i) Gender **(लिंग)**

(i) Masculine = **पुल्लिङ्ग**

(ii) Feminine = **इत्थिलिङ्ग**

(iii) Neuter = **नपुंसकलिङ्ग**

(ii) Number **(वचन)** (i) Singular = **एकवचन**

(ii) Plural = **बहुवचन**

B. Nouns in Pali are declined in eight cases according to their gender and termination. Eight cases **(विभक्ति)** namely :–

(i) **पठमा (प्रथमा)** = Nominative, denotes the *subject* or **कर्ता.**

(ii) **दुतिया (द्वितीया)** = Accusative, denotes the *object* or **कर्म.**

(iii) **ततिया (तृतीया)** = Ablative of agent and of instrument, denotes the person or thing *with* or *by* whom something is performed. **कारण, साधन.**

(iv) **चतुत्थी (चतुर्थी)** = Dative, the person *to* whom or *for* whom something is given **संप्रदान** (to, at, towards).

(v) **पञ्चमी (पंचमी)** = Ablative of separation **अपादान.**

(vi) **छट्ठी (षष्ठी)** = Genitive or possessive in English. **संबंध.**

(vii) **सत्तमी (सप्तमी)** = Locative shows the place, in, on, upon, at, etc. **अधिकरण.**

(viii) **आलपन (संबोधन)** = Vocative is used to address person.

The inflections or case endings vary according to gender and number e.g., masculine words or stems ending in A **(अ)** declined as follows :–

Masculine Nouns ending in A **(अ)**. We may take Buddha and decline it thus :–

Case	Singular (Terminations)	Plural (Terminations)
Nominative **(पठमा)**	**बुद्धो** (ओ)	**बुद्धा** (आ)
Accusative **(दुतिया)**	**बुद्धं** (म्)	**बुद्धे** (ए)
Instrumental **(ततिया)**	**बुद्धेन** (एन)	**बुद्धेहि, बुद्धेभि** (एहि, एभि)
Dative **(चतुत्थी)**	**बुद्धाय, बुद्धस्स** (आय, स्स)	**बुद्धनं** (नं)
Ablative **(पञ्चमी)**	**बुद्धम्हा, बुद्धस्मा, बुद्धा,** (म्हा, स्मा, आ)	**बुद्धेहि, बुद्धेभि** (एहि, एभि)
Genitive **(छट्ठी)**	**बुद्धस्स** (स्स)	**बुद्धानं** (आनं)
Locative **(सत्तमी)**	**बुद्धे, बुद्धस्मिं बुद्धम्हि,** (ए, स्मिं, म्हि)	**बुद्धेसु** (एसु)
Vocative **(आलपन)**	**बुद्ध, बुद्धा** (आ)	**बुद्धा** (आ)

Masculine nouns ending in इ and उ are declined differently. So also feminine and neuter nouns are declined differently depending on their endings.

WORDS IN GROUPS

II. Nouns (नाम) :– **Nons** in the following groups are shown with their nominative singular endings in order to help the student in finding their respective genders. The words ending in 'O' are masculine; most of those ending in 'a' (आ) are feminine : those ending with 'N' (अनुस्वार) are neuter. The adjectives are given in their stems with the figure 3 after them, in order to indicate that they should be declined according to the gender number and case of their substantives. Neutral nouns are shown by 'nt'.

1. Human Beings, मनुस्सा

Boy, दारको, कुमारो
Brahman, ब्राह्मणो
Cripple, पीठसम्पी (m)
Dwarf, वामनो
Enemy, अरि, सपत्तो
Eunuch, पण्डको
Fool, बालो, मुळ्हो
Friend, मित्तो
Girl, दारिका, कुमारी
Hermit, तापसो
Infant, थनपो
King, राजा, भूपति (m)
Lord, सामी, अधिपति (m)
Low-caste-man, चण्डालो
Maiden, युवती, तरुणी (f)
Man, पुरिसो, मनुस्सो
Master, सामी, पभू (m)
Millionaire, सेट्ठी (m)
Miser, लुद्धो, मच्छरी
Mystic, योगी (m)
Monk, मुनि, समणो
Nun, समणी, भिक्खुणी (f)
Nurse, धाती (f)
Old-man, महल्लको
Old-woman, महल्लिका
Prince, राजपुत्तो
Princess,, राजधुता
Queen, राजिनी, महेसी (f)
Servant, सेवको
Warrior, खत्तियो
Widow, विधवा
Widower, मतभरियो
Wise man, पण्डितो
Woman, इत्थी, वनिता, नारी
Young man, तरुणो, युवा (m)
Young woman, तरुणी, युवती (f)

2. Persons according to their occupations

Actor, नटो
Artisan, सिप्पि (m)
Artist, चित्तकारी
Author, गन्थकारो
Baker, पूपकारो
Barber, नहापितो
Blacksmith, कम्मारो
Book-binder, पोत्थकसिबको

Broker, **कयविक्कयिको**
Butcher, **मामविको, पसुघातको**
Caravan-leader, **सत्थवाहो**
Carpenter, **वड्ढकी**, (m)
Carter, **साकटिको**
Charioteer, **रथाचरियो, सारथी** (m)
Cheat, **वञ्चको, सठो**
Chemist, **रसायनिको**
Clerk, **लेखको**
Compositor, **वण्णयोजको**
Confectioner, **पूपियो**
Cook, **सुदो**
Cow-herd, **गोपालो**
Cultivator, **कस्सको**
Dancer, **नटो : नत्तको**
Dealer in carpets, **पादारिको**
Dealer in cloth, **वत्थिको**
Dealer in furniture, **दारूभण्डिको**
Dealer in liquor, **मज्जविक्कयी**
Dealer in medicine, **ओसधिको**
Dealer in oil, **तेलिको**
Dealer in perfume, **गन्धिको**
Dealer in swine, **सूकरिको**
Dealer in wood, **कट्ठिको**
Driver, **पाजको**
Drunkard, **सुरासोण्डो**
Dyer, **रञ्जको**
Elephant-keeper, **हत्थिगोपको**
Engineer, **यन्तसिप्पी** (m)
Farmer, **कस्सको**
Fisherman, **केबट्टो**
Fish-monger, **मच्छिको**
Foreman, **कम्मन्तनायको**
Fortune-teller, **झक्खणिको**
Fowler, **साकुणिको**
Gambler, **अक्खधुत्तो**
Gamester, **जूतकारो**
Gardener, **उय्यानपालो**
Garland-maker, **मालाकारो**
Gate-keeper, **द्वारपालो**
Goat-herd, **अजपालो**
Gold-smith, **सुवण्णकारो**
Grass-dealer, **टिणहारको**
Harlot, **गणिका**
Hireling, **भटको**
Horse-keeper, **अस्सगोपको**
Hunter, **ब्याधो, लुद्दो**
Jockey, **अस्साचरियो**
Juggler, **इन्दजालिको**
Labourer, **कम्मकारो**
Lawyer, **नीतिवेदी** (m)
Lutanist, **वेणिको**
Mason, **इट्ठकवड्ढकी**, (m)
Mathematician, **गणको**
Merchant, **वाणिजो**
Messenger, **दूतो, सासनहारो**
Musician, **वादको**
Orator, **कथिको**
Painter, **वण्णालेपको**
Pedlar, **कच्छपुटो**
Physician, **वेज्जो**
Player, **कीळको**
Potter, **कुम्भकारो**
Preacher, **देसको**
Printer, **मुद्दापको**
Publisher, **पकासको**
Rice-merchant, **तण्डुलिको**
Scavenger, **पुक्कुसो**
Sculptor, **सिलावड्ढकी**, (m)
Shepherd, **मेण्डपालो**
Shoe-maker, **उपाहनिको**
Shoe-keeper, **आपणिको**
Singer, **गायको**
Slave, **दासो** (m), **दासी** (f)
Stationer, **लिपिभण्डिको**
Surveyor, **भूमिमापको, रज्जुगाहको**
Tailor, **तुण्णवायो**
Tanner, **चम्मकारो**
Teacher, **आचरियो, सिक्खापको**
Thief, **चोरो**

Trainer of horses, **अस्सदमको**
Turner, **चुन्दकारो**
Warrior, **योद्धो**
Washerman, **रजको, धोवको**
Weaver, **पेसकारो**

3. Relations, जातका

Aunt, (maternal uncle's wife) **मातुलानी** (f)
(paternal uncle's wife) **चुल्लमाता**
Blood relation, **सालोहितो**
Brother, **भाता** (m)
Brother-in-law, **कालो**
Child, **दारको**
Cousin, (Paternal aunt's son), **पितुच्छापुत्तो**
Cousin, (paternal uncle's son), **मातुच्छापुत्तो**
Cousin (maternal uncle's son), **चूलपितुपुत्तो**
Daughter, **धीता**
Daughter-in-law, **सुणीसा**
Elder-brother, **जेट्ठभाता**
Elder-sister, **जेट्ठभगिनी**
Father, **पिता** (m)
Father-in-law, **ससुरो**
Father's sister, **पितुच्छा**
Grand-father, **अय्यको; पितामहो**
Grand-mother, **अय्यिका; मातामही** (f)
Grand son, **नत्ता** (m)
Great-grand-father, **मय्यको**
Great-grand-mother, **पय्यिका, मातामही** (f)
Great-grand-son, **पनत्ता** (m)
Husband, **पति, भत्ता** (m)
Husband's brother, **देवरो**
Maternal Uncle, **मांतुलो**
Mother, **माता, अम्मा**
Mother in-law, **सस्सु** (f)
Mother's sister, **मातुच्छा**
Nephew, (sister's son), **भगिनेय्यो**
Nephew, (Brother's son), **भातुपुत्तो**
Niece, (Sister's daughter), **भागिणेय्या**
Niece (Brother's daughter), **भातुधीता**
Paternal uncle, **चूलपिता** (m)
Sister, **भगिनी** (f)
Sister in-law, **ननन्दा**
Son, **पुत्तो**
Son-in-law, **जामाता** (m)
Wife, **भरिया**
Younger-brother, **कणिट्ठभाता** (m)
Younger-sister, **कणिट्ठभगिनी** (f)

4. Members, Organs and Component parts of the body; सरीरावयवा च एव कोट्ठासा

Abdomen, **वत्थि** (nt)
Ankle, **गाप्फको**
Anus, **गुडं**
Arm, **बाहु** (m)
Arm-pit, **कच्छो**
Artery, **धमनी** (f)
Back, **पिट्ठि** (f)
Back bone, **पिट्ठिकण्टको**
Belly, **कुच्छि** (mf)
Bile, **पित्तं**
Blood, **लीहितं, रुधिरं**
Body, **कायो; सरीरं**
Bone, **अट्ठि** (nt)
Bowels, **अन्तं**

Brain, मत्थलुङ्गं
Breast उरो
Breast of Woman, धनो
Cheek, कपोलो
Chin, चुबुकं
Collar-bone, अक्खको
Crown of the head, मुद्धा (m)
Ear, कण्णो; सोतं
Elbow, कप्परो
Excrement, बच्चं
Eye, अक्खि; नयनं
Eye-brow भमुका
Eye-lash, पखुमं
Face, आननं; बदनं
Fang, दाठा
Fat, मेदो
Female-organ, योनी (f)
Finger, अङ्गुलि (f);
Little finger, कणिट्ठाङ्गुलि (f)
Flank, पस्सं
Flesh, मंसं
Foot, पादो
Fore-head, ललाटो, नलाटो
Fore-finger, तज्जनी (f)
Hand, हत्थो, पाणि (f)
Hair, केसो; On the body लोमं
Head, सिसं
Heart, हृदयं
Heel, पण्डि, (f)
Hip, जघनं; कटि (f)
Jaw, हनुका
Kidney, वक्कं
Knee, जाणु (m)
Knot of hair, धम्मिल्लो
Leg, पादो
Lip, ओट्ठो, दन्तावरणं
Liver, यकनं
Lungs, पफ्फासं
Lymph, वसा
Marrow of the bone, अट्ठिमिञ्जा
Mesentery, अन्तगुणं
Nail, नखो
Neck, गीबा
Nerve, सिरा
Nipple, चूचुकं
Nose, नासा, धाणं
Outer-skin, छवि (f)
Palm, हत्थतलं
Phlegm, सेम्हं
Pleura, किलोमकं
Pupil of the eye, अक्खितरा
Pup पूयो
Rib, फसुका
Saliva, खेलो
Semen virile, सुक्कं
Shank, जन्घा
Shoulder, अंसकूटो
Sinew, नहारु (m)
Skin, तचो
Skill, सीसकपालो
Snot, सिङ्घाणिका
Sole, पादतलं
Sweat, सेदो
Synovial fluid लसिका
Tear, अस्सु (nt)
Thigh, ऊरु (m)
Thumb, अङ्गुट्ठो
Toe, पादाङ्गुलि (f)
Tooth, दन्तो
Urine, मुत्तं

5. Victuals,आहारा

Barley, **यवो**
Bean, **मासो**
Beaf, **गोमंसं**
Beverage, **पानं**
Bread, **गोधुमपूपो**
Butter, **नोनीतं**
Butter-milk, **ताक**
Clearified butter, **घतं**
Cake, **पूवो; पुपो**
Candy, **खण्डो**
Chillies, **मरिचं**
Coffee, **कॉफी** (f)
Corn, **धञ्ञं**
Cummin-seed, **जीरकं**
Curd, **दधि** (nt)
Curry, **व्यञ्जनं**
Curry-stuffs, **कटुकभण्डं**
Drink, **पानकं**
Fat, **वसा**
Fish, **मच्छो;**
Dried fish, **सुक्खमच्छो**
Salted-fish, **लोणमच्छो**
Flour, **पिट्ठं**
Fried-flour, **सत्तु** (m)
Food, **भोजनं, आहारो**
Hard food, **खादनीयं**
Soft food **भोजनीयं**
Garlic, **लसुणं**
Ghee, **घतं**
Gingilly, **तिलं**
Grain, **धाञ्ञं**
Gram, **चनको**
Green-peas, **मुग्गो**
Honey, **मधु** (nt)
Jaggery, **गुळो**
Kernel, **मिञ्जा**
Liquor, (distilled) **सुरा**
(Fermented), **मेरयं**
Meat, **मंसं;**
Dried meat, **वल्लूरं**
Essence of meat, **मंसरसो**
Milk, **खीरं**
Molasses, **फणीतं**
Mustard, **सिद्धत्थो**
Mutton, **एळकमंसं**
Oil, **तेलं**
Onion, **पलण्डु** (m)
Paddy, **वीही** (m)
Pepper, **कोलकं**
Pork, **सूकरमंसं**
Rice, **तण्डुलं;**
Rice-boiled, **ओदनो; भत्तं**
Rice-gruel, **यागु** (f)
Salad, **उत्तरिभङ्गो; सालवो**
Salt, **लवणं, लोणं**
Sesame, **तिलं**
Sweetmeat, **खज्जकं**
Syrup, **पानं; पानकं**
Tamarind, **चिञ्च**
Tea, **चहा**
Treacle, **फाणीतं**
Turmeric, **हळिद्दि** (f)
Venison, **मिगमंसं**
Vinegar, **बिलङ्गो**
Wine, **मुद्दिकासवो**
Yam, **कन्दो; आलुवो**

Adjectives

Boiled, **सेदित**
Cooked, **पक्क, पचित**
Fried, **भज्जित**
Roasted, **अङ्गारपक्को**

6. Vegetable, Fruits and Nuts, साका फलाफलानी च

Ash pumpkin, कुम्भण्डो
Banana, कदलिफलं
Bitter-gourd, काखेल्लो
Bread-fruit, लबुजं
Brinjal, वाटिङ्गनो
Cabbage, गोळपत्तं
Coconut, नाळिकेरं
Cucumber, ककारी (f)
Dates, खज्जूरी (f)
Egg-fruit, वाटिङ्गनो
Fig, उदुम्बरं
Fruit, फलं
Gourd, लाबु (nt)
Sanke-gourd, पटोलं
Grape, मुद्दिका
Horse-radish, सिग्गु (nt)
Jujube, बदरं
Jack-fruit, फनसं
Ladies-finger, भण्डाकी (f)
Lotus-root, मुळालं
Mango, अम्बं
Mangosteen, मधुतिम्बरू (nt)
Marmelo, बेलुवं
Nut, फलं
Orange, अम्बीरं
Palmyra nut, तालफलं
Papaw, वातकुम्भफलं
Pineaplle, मधुकेतकी; बहुनेत्तफलं
Pumpkin yellow पीतकुम्भण्डो
Radish, मूलको
Rhubarb, तम्बको
Rose-apple, जम्बू (f)
Sugar-cane, उच्छु (nt)
Water-melon, वल्लिभो
Wood-apple, कपित्थं

Adjectives usually used for qualifying these nouns

Fresh, अभिनव
Ripe, पक्क
Unripe, आमक

7. Garments and Ornaments, वत्थाभरणानी

Bangle, वलयं; Armlet, केयूरं
Anklet, नूपुरो
Belt, कायबन्धनं
Blanket, कम्बलं
Bracelet, वलयं, कटकं
Calico, कप्पासिकं
Chaplet, सेखरो
Cloth, वत्थं; for bathing, उदकसाटिका
fibre-cloth, खोमं;
woolen-cloth, कम्बलं
Collar, जीवेय्यं
Crest-gem, चुळामणी (m)
Crown, किरिटं
Diadem, उण्हीसं
Ear-ring कुण्डलं
Garland, माला
Garment, साटकं
Inner garment, अन्तरवासको
Lower garment, निवासनं
Upper garment, उत्तरीयं; उत्तरासङ्गो
Girdle, कटिबन्धनं
Girdle of a woman, मेखला
Handkerchief, हत्थपुञ्छनं
Hat, नाळिपत्तो; सीसावरणं
Hem (of a garment), दसा
Jacket, कञ्चुको
Necklace हारो; जीवाभरणं
Ointment fragrant, विलेपनं
Overcoat, दीघकञ्चुको
Perfume, सुगन्धो

Perfuming, **वासनं**
Pin, **सलाका**
Rag, **नन्तकं**
Ring, **अङ्गुलिमुद्दा**
Signet, **मुद्दिका**
Sandals, **उपाहनं**
Scent, **गन्धसारो**
Shoe, **पादुका**
Silk, **कोसेय्यं**
Smoking pipe, **धूमनेत्तं**
Soap, **नहानीयं**
String of pearls, **मुत्तावली** (f)
Toilet powder, **वासचुण्णं**
Toilet-box, **वासकरण्डो**
Towel, **मुखपुञ्चनं**
Turban, **सीसवेठनं**
Umbrella, **छत्त**
Veil, **मुखाबरनं**
Walking stick, **कत्तरयट्ठि** (f)
Watch, **होरालोचनं**

8. Parts of a house and building materials

गेहङ्गा, गेहोपकरणानी च

Barn, **कोट्ठं**
Bathing closet, **नहानकोट्ठको**
Beam, **तुला**
Bed-room, **सयनिधरं**
Board, **फलको**
Bolt, **अग्गलं**
Brick, **चयनिट्ठका**
Cement, **काळचुण्णं**
Compound, **अङ्गणं**
Dining-room, **भोजनसाला**
Door, **द्वारं**
Door-frame, **द्वारबाहा**
Drawing-room, **पटिक्कमनं**
Eaves, **निम्बं**
Garage, **रथसाला**
Gate, **द्वारकोट्ठको**
Granary, **कुसूलो**
Hall, **साला**
Hearth, **उद्धनं**
Hinge, **द्वारावट्टको**
House, **घरं; गेहं**
Inner room, **ओवरको**
Key, **कुञ्चिका**
Key-hole, **कुञ्चिकाविवरणं**
Lavatory, **वञ्चकुटि** (f)
Lime, **सेतचुण्णं**
Mortar, **चयनलेपो**
Pillar, **थम्भो**
Pinnacle, **कूटागारो**
Rafter, **गोपानसी** (f)
Roof, **छदनं**
Room, **गब्भो**
Sand, **वालुका**
Stable, **अस्ससाला**
Stair, **सोपाणो**
Store, **उद्दासितो**
Terrace, **वेदिका**
Threshold, **उम्मारो**
Timber, **कट्ठंन; दारु** (nt)
Top-plate, **पक्खपासो**
Upper-floor, **पासादतलं**
Verandah, **आलिन्दो**
Wall, **भित्ति** (f)
Wall-plate, **सङ्घाटो**
Window, **वातपानं**
Window-shutter, **कवाटं**
Window with a balcony, **सीहपञ्जरो**
Women's apartment, **इत्थावगरं, ओरोधो**

9. Things that are in a house, गेह भण्डानी

Ash, चारिका
Basket, पिटकं
Bag, पसिब्बको
Bed, मञ्चो
Bed sheet, मञ्चत्थरणं
Bench, निसीदनफलको
Betel-server, तम्बुलपेळा
Bottle, नाळिका
Box, मञ्जुसा
Broom, सम्मपञ्जनी (f)
Brush, बालण्डूपको
Carpet, कोजवो
Chair, पीठं
Charcoal, अङ्गारो
Corn measure, नाळि (f)
Couch, मल्लण्को
Cup, कसको
Desk, लेखणफलको
Dish, थालि (f)
Fire, अग्गि (m)
Fire-brand, अलाटं
Fire-place, उद्धनं
Fire-wood, दारु (nt)
इन्धनं
Furniture, दारुभण्डं
Glass-bottle, काचतुम्बो
Glass-ware, काचभण्डं
Hand-basket, पच्छि (f)
Jar, (big) अरञ्जरो
Jug, कुण्डिका
Knife, सत्थं, छुरिका
Ladle, डब्बि (f)
Lamp, पदीपो
Lamp-wick, दीपवट्टी (f)
Leathern bag, भस्ता
Lid, पिटानं
Lid for a pot, सरावो
Mat, किलञ्जो
Mirror, आदान्नो
Mortar, उदक्खलो
Mosquito net, मकसावरणं
Needle, सुचि (m)
Pestle, मुसलो
Pillow, विम्वाहनं
Pillow-case, चिमिलिका
Plate (to eat from), कंसो
Pot, चाटि (f)
Pot-stand चुम्बटकं
Purse, पसिब्बको
Rattan chair, भद्दपीठं
Rope, रज्जु (f)
Scales, तुला
Scissors, कत्तरिका
Seat, आसनं
Sewing machine, सिब्बनयन्तं
Sieve, पिट्ठचालिका
Spittoon, खेलमल्लको
Spoon, कटछु (m)
Stone to grind on, निसदो
Stone to grind with निसदपोतो
Table, भोजनफलको
Thong, वरत्ता
Thread, सुत्तं; तन्तु (m)
Threstiold, उम्मार (m)
Tray, कंसाधरो
Vessel, भाजनं
Clay-vessel, आमित्तिकं
Bronze-vessel, कंसभाजनं
Water-pot, घटो
Winnowing basket, सुप्पो

10. Trees and vines, रुक्खलता

Areca palm, पूगो
Bamboo, वेळु; वेणु (m)
Banyan, निग्रोधो
Bark, तचो
Bassia, मधुको
Betel-vine नगलता
Branch, साखा
Bud, मकुलं
Buhch, मञ्जरी (f)
Cassia fistula, राजरुक्खो
Cedar खदिरो
Champae, चम्पको
Cluster, थबको
Coconut palm, नाळिकेरो
Coral-tree, किंसुको
Cotton-plant, कप्पासी (f)
Date-palm, खज्जूरी (f)
Ebony, काळसारो
Fig-tree उदुम्बरो
Flower, पुप्फं; कुसुमं
Fork (of a tree), विटपो
Grape-vine मुद्दिका
Holy fig, अस्सत्थो
Ironwod tree, नागरुक्खो
Joint, पब्बं
Leaf, पत्तं : पण्णं
Lotus, पदुमं
Mango-tree, अम्बो
Marmello, बेलुवो
Margosa, निम्बु
Marshy date-palm, हिन्टालो
Palmyra-palm, तालो
Pandanus, केतकी (m)
Parasite-plant, वन्दाका
Pericarp, कण्णिका
Plant, गच्छो; लत्थि (f)
Plantain-tree, मोची; कडलितरु (m)
Red-lotus, कोकनंद
Reed, नळो
Root, मूलं
Rose-apple tree, जम्बुरुक्खो
Sal-tree, सालो
Sandal-wood, चन्दनं
Shrub, गुम्बो
Silk-cotton tree, सिम्बली (m)
Sprout, अङ्कुरो
Stalk, वण्टं
Talipot palm, ताली (f)
Tree, रूक्खो; तरु (f.)
Hallow of a tree, कोटरो
Trumpet-flower-tree पाटली (f)
Trunk, खन्धो
Twing, पसाखा
Vine, लता
Water-lily, उप्पलं
White-water-lily, कुमुदं
Wood apple-tree, कपित्थो
White lotus, पुण्डरीकं

11. Medicinal Herbs and drugs, भेसज्जमुआदीनी

Aloe-wood, अगरु (m)
Aloe-perfotiala, अमिलातो
Asafocetida, हिङ्गु (m)
Asparagus, सतावरी (f)
Babreng, विलङ्गं
Beeswax, मधुरित्थं
Bdellium, गुग्गुळु (m)
Camphor, कप्पूरं
Cardamom, एळा
China-rose, जयसुमन
Citron, मातुलुङ्गो
Clitoria, गिरिकण्णी (f)
Cloves, लवङ्गं
Collyrium, अञ्जनं

Corrander, धानियं
Ginger, सिङ्गिवेरं
Gum, निय्यासो
Jasmine, जातिसुमनां
Lead-work, अग्गिसञ्ञितो
Liquorice, मधुलट्ठिका
Mace, जातिकोसो
Musk, कत्थूरिका
Myrobalana belerica: विभीटकी (f)
Plyrobalana Emblica, आमलकी (f)
Yellow myrobalana, हरीटकी (f)
Yutmeg, जातिफनं
Onis root, गोलोमी (f)
Prickly mightshade, निदिद्धिका
Red lead, चिनपपिट्ठं
Rasin, पक्खधुपो
Rock-salt, सिन्धवो
Sacrificial Grass, कुसो
Saffron, कुङ्कुमं
Sulphur, गन्धकं
Swallow wort, अक्को
Thorn-apple, उम्मत्तो
Wax, सित्थकं
Yellow-pigment, हरितलं

12. Animals, तिरच्छाना

Bear, अच्छो
Beast, पसु (m)
Beast of prey, वालो
Beast of burden, वाहकपसु
Bitch, सुनखी (f)
Boa, अजगरो
Buffalo, महिसो
Calf, वच्छो, पोतको
Camel, ओट्ठो
Cat, बिळालो
Cattle, गो (m)
Chamelcon, ककण्टको
Cobra, नागो
Colt, किसोरो, हयपोतो
Cow, गावी (f)
Crab, कुळीरो
Dear, मिगो; female, मिगी (f)
Dog, सुनखो
Donkey, गद्रभो
Elephant, हत्थि; करी (m)
She-elephant हत्थिनी (f)
Elk, गोकण्णो
Female of an animal, धेनु (f)
Flying fox, पक्खविळालो
Fox, सिगालो
Frog, मण्डूको
Goat, एळको, अजो
Hare, ससो
Hide, चम्मं
Hoof, खुरो
Horn, सिन्ग
Hump, ककु (m)
Hyena, तरच्छो
Iguana, गोधा
Leopard, दीपि (m)
Lion, सीहो
Lioness, सीही (f)
Mare, बळवा
Mongoose, नकुलो
Monkey, वानरो
Ox, गोणो
Pig, सूकरो
Porcupine, सल्लो
Quadruped, चतुप्पदो
Ram, मेण्डो
Rat, आखु (m)
Rat-snake, घरसप्पो
Rhineeros, खग्गविसाणो
Scorpion, विच्छिका
Serpent, सप्पो; अहि (m)

Shark, **मकरो**
Tiger, **ब्याग्धों**
Tortoise, **कुम्मो**
Turtle, **कच्छपो**
Viper, **गोनसो**
Wolf, **वको**

13. Birds and Insects, पक्खिनो, खुद्दजन्तवो च

Ant, **पिपीलिका; किपिल्लिका**
Red-ant, **तम्बकिपिल्लिका**
White-ant, **उपचिका**
Ant-hill, **बम्मिको**
Bat-large, **जतुका**
Bat-small **वग्गुलि** (f)
Beak, **मुखतुण्डं**
Bee, **मधुकरो, अलि** (m)
Blue jay, **किकी** (m)
Bug, **मण्कुणो**
Carpenter-bee, **भमरो**
Centipede, **सतपदी** (m)
Cock, **कुक्कुटो**
Crane, **बको**
Crest, **चीरी** (f)
Crow, **काको**
Crow-she **काकी**
Curlew, **कोञ्चा**
Dove, **कपोतो**
Drake, **कादम्बो**
Eagle, **गरुळो**
Egg, **अण्डो**
Feather, **पत्थं, पेखुणं**
Flea, **उप्पातको**
Fly, **मक्खिका**
Goose, Ruddy, **चक्कवाको**
Grass hopper, **सलभो**
Gracula religiosia, **साळिका**
Hawk, **सेनो**
Hen, **कुक्कुटी** (f); **पक्खिधेनु** (f)
Herd, **यूथो**
Heron, **कण्को**
House-lizard, **घरगोळिका**
Indian-cuckoo **कोकिलो**
Locust, **पतङ्गो**
Leach, **जालूका**
Louse, **ऊका**
Mosquito, **मकसो**
Nest, **कुलावको**
Isprey, **कुक्कुहो**
Owl, **उळूको**
Parrot, **सुको, सुवो**
Peacock, **मयूरो**
Peacock's tail, **ब्ररिहं**
Pheasant, **वनकुक्कुटो**
Pigeon, **पारावती**
Raven, **काकोली**
Serpent's body, **भोगो**
Serpent's slough **निम्मोको**
Serpent's fang, **सम्पदाठा, आसी** (f)
Sparrow, **चातकी**
Spider, **उण्णनाभी** (m)
Swan, **हंसो**
Venom, **विसं**
Vulture, **गिज्झो**
Wing, **पक्खो**
Worm, **किमि, कीटो**

14. Gems and Minerals, रतन खणीजानी

Brass, **रीरी** (f) **आरकूटो**
Bronze, **कंसो**
Cats-eye, **वेळुरिपं**
Copper, **तम्बो**
Coral, **पवालं**
Diamond, **वजिरं**

Emerald, मरकटं
Gem, मणि (m)
Gold सुवण्णं, Bullion, हिरञ्ञं
Iron, अयो; कालायसं
Lapis, lazuli, नीलमणि (m)
Lead, तिपु (nt)
Pearl, मुत्ता
Plumbago, अब्भकं
Quick silver, पारदो
Ruby, लोहितङ्को
Sapphire, इन्दनीलो
Silver, रजतं
Topaz, फुस्सरागो

15. The Universe, लोकधातु

Cloud, वलाहको
Cold, सीतं
Comet, धूमकेतु (m)
Constellation, नक्खत्तं
Darkness, अन्धकारो
Dew, तुहिनं
Eclipse of the moon, चन्दग्गाहो
Eclipse of the sun, सुरियग्गाहो
Fire, अग्गि (m)
Hail-storm, करका
Heat, उण्हं
Heaven, देवलोको; सग्गो
Hell, निरयो
Ice, हिमं
Light, आलोको
Lightening, विज्जु (f)
Meteor, उक्कापातो
Moon, चन्दो; moon-beams चन्दिकं
Planet, गहतारा (f)
Rain, मेघो, वस्सं, वुट्ठि
Rain-bow, इन्दधनु (nt)
Rising of the moon, चन्दोदय
Rising of the sun, सुरियोदयो
Rotation, परिब्भमणं
Sky, आकासो, नभं
Snow, तुहिनं
Snow-storm, हिमपातो
Summer, गिम्हान, निदा
Thunder, थनितं; Thunder-bolt असनि (f)
Water, जलं, उदकं
Wind, वातु; वायु (m)
World, लोको
Zodiac, रासिचक्कं

16. The earth, पठवीं

Antartic zone, विनतको
Arctic zone, करवीको
Cave, गुहा
City, नगरं, पुरं
Content, महादीपो
Country, रट्ठं, जनपद
Desert, कन्तारो
Dust, धूलि (f)
Empire, अधिरज्जं
Field, खेत्तं
Forest, वनं, अरञ्ञं
Garden, आरामो, उय्यानं
Gravel, सक्खरा
Ground, भूमि (f)
Island, दीपो
Kingdom, रज्जं
Land, थलं
Market town, निगमो
Mine, आकरो
Metropolis, राजधानी (f), अग्गनगरं
Mountain, पब्बतो; Peak, गिरिसिखरं
Mud, पङ्को, कललं

North-pole, सुदस्सनो
North-temperate zone, ईसधरो
Path, मग्गो
Precipice, पफातो
Province, पदेसो;
Sub-province, उपपदेसो
Rugged land जङ्गलो
Rock, सेलो
Sand, सिकता, वालिका
Site for a building, घरवत्थु
Soil, मत्तिका
South-pole अस्सकण्णो
South temperate zone, नेमिन्धरो
Stone, सिला, पासाणो
Swamp, अनुपो
Table-land, सानु (m)
Valley, उपच्चका
Village, गामो

17. Water-Storage and Water-ways, जलासया, जलमग्गा च

Bank (River's), तीरं, कूलं;
across, पारं; Near, ओरं
Bathing place, नहानतित्थं
Billow, कल्लोलो
Boat, दोणी (f), नावा
Ship's boat, पोटो
Bubble, बुब्बुलं
Canal, जलमातिका
Cause, खुद्दकदोणी (f)
Cascade, निज्झरो
Captain of a ship; नियमको
Conch सङ्खो
Cyclone, वेरम्भवातो
Engineer of a ship, यन्तिको
Drain, परिखा
Favourable wind, अनुकूलवातो
Ferry, तित्थं
Fish, मीनो; Fish-hook, वलिसं
Fish-trap, कुमिनं
Flood, ओघो; Great flood, महोघो
Foam, फेणं
Lagoon, लोणी (f)
Lake, सरो, तळाको, Small lake फल्लं
Lotus-pond, अम्बुजिनी (f)
Man-of-war युद्धनावा
Mast, कूपको
Merchant-vessel, वाणिजनावा
Net, जालं
Oar, आरित्तं
Ocean, समुद्दो, सागरो
Opposite wind, विरूद्धवातो
Oyster, सिप्पिका
Pilot, कण्णधारो
Pond, पोक्खराणी (f)
Pool, सोब्भो; Rocky-pool सोण्डी
Raft, उळुम्पो
River, नदी (f)
Mouth of a river, नदीमुखं
Rudder, गोटविसो
Sail, लकारो
Sailor, नाविको
Salt-water, खारोदकं
Ship, नावा
Shore, वेला
Suice, जलनिग्गमो
Stream, कुन्नदी (f)
Submarine, अन्तोदकनावा
Tank, वापी (f), जलासयो
Torrent, जलधारा
Vallisneria, सेवालो
Voyage, समुद्दगमनं
Water-drop, थेवो
Water-fall, निज्झरो
Wave, उमि (f); तरङ्गो
Well, कूपो
Whirl pool, आवट्टो
Yatch, लकारनावा

18. Public Places and such other buildings in a country, महाजनिकट्ठानानि

Bank, धनागारं
Barber's shop, नहापितसाला
Barrack, योधनिवासो
Carpenter's shed, वट्टकीसाला
Cemetery, सुसानं
Church, देवायतनं
College, विज्जालयो
Factory, कम्मन्तसाला
Flower garden, पुप्फारामो
Granary, धञ्ञागारं
Hospital, आरोग्यसाला
Hotel, भोजनागारं
Jail, बन्धनागारं
Law-court, विनिच्छयसाला; अधिकरणट्ठानं
Lunatic asylum, उम्मत्तालयो
Market, आपणो
Orchard, फलारामो
Park, उय्यानं
Pharmacy, भेसज्जागरं
Photographic Studio, छायारूपसाला
Playground, केळिमण्डलं
Pleasure-garden, उय्यानं
Police-station, भटागारं
Post-office, सन्देसागारं
Pottery, कुम्भकारसाला
Printing office, मुद्दङ्कनालयो
Prison, कारा
Race-course, अस्समण्डलं
Railway-station, धूमरथनिवत्तनं
Rest-house, विस्सामसाला
Sanitorium, सोत्थिसाला
School, पाठसाला
Smithy, कम्भारसाला
Surgery, सल्लकत्तालयो
Tavern, पानकन्दिरं
Technical school, सिप्पायतनं
Temple, विहारो; अस्समो
Theatre, नच्चसाला
University, निखिलविज्जालयो
Warehouse, भण्डागारं
Weaving hall, पेसकारसाला

19. Things and persons in a city, नागरिकवत्थूनी पुग्गला च

Bastion, उद्दापो
Chosen beauty of a town, नगरसोभिनी (f)
City-gate, नगरद्वारं
City-wall, पाकारो
Citizen, नागरिको
Clock-tower, घटिकाथम्भो
Council-chamber, मन्तिसभा
Crossing of roads, चच्चरं
Customs office, करग्गाहालयो
Education office, अज्झापनकिच्चालयो
Gate-way, बहिद्वारं
Inner-city, अन्तेपुरं
Light house, पदीपागारो
Mayor, नगरगुट्टिको
Moat, दिग्घिका, परिखा
Municipality, नगरसभा,
Members of Municipality नगरसभिको
Museum, अब्भुतवत्थुनिचयो
Palace, राजमन्दिरं
Royal-bed, सिरिसयनं
Royal-chamber, सिरीगब्भो
Royal-garden, राजुय्यानं

Royal-treasury, **राजकोसो**
Scavanger, **नगरसोधको**
Secretariat, **महालेखकालयो**
State elephant, **मङ्गलहत्थी**
State-chariot, **राजरथो**
State horse, **मङ्गलस्सो**
Street, **वीधि; रच्छा**
Town-hall, **सन्थागारो**
War-office, **युद्ध-किच्चालयो**
Watch-tower, **अट्टालको**

20. Government, रज्जपालनं

Ally, **मित्तसेना**
Ammunition, **युद्धोपकरणानी**
Archer, **धनुद्धरो**
Armour, **कवचो, सन्नाहो**
Armoured, **सन्नद्ध** (pp)
Army, **युद्धसेना**
Army of elephants, **हत्थिसेना**
Hostile army, **सत्तुसेना**
Army of troops, **सेनाब्युहो**
Arrow, **सरो; कण्डो**
Artillery, **नाळियन्तसेना**
Banner, **पताका**
Battalion, **अणीकं**
Battle, **युद्धं**
Battle axe, **कुठारी** (f)
Battle field, **युद्धभूमि** (f)
Baynet, **महाछूरिका**
Body-gaurd, **अणीकटो**
Bow, **धनु** (nt)
Cavalry, **अस्ससेना**
Camp, **खन्धावारो**
Cannon, **महाअग्गिनाळी** (m)
Chamberlain, **सिरिसयनपालको**
Constable, **राजभटो**
Consul, **राजानुयुत्तो**
Councillor, **मन्ति** (m);
Privy-councillor, **सचिवो**
Crown-prince **युवराजा** (m)
Dagger, **छूरिका**
Defeat, **पराजयो**
Disunion, **भेदो**
Emblem of Royalty, **राजककुथमण्डानी** (nt)
Emperor, **अधिराजा** (m)
Empress, **अधिराजिनी** (f)
Envoy, **राजदूतो**
Fighting, **युन्झनं**
General, **सेनापति** (m)
Government agent of a province
मण्डलि
Handle of a sword, **थरु** (m)
Head of the army, **अग्गसेनापति** (m)
Head of the public works, **कम्मिकामच्चो**
Hero, **वीरो, महायोद्धो**
Infantry, **पदाति** (m)
Killing, **हननं**
King, **नरपति** (m)
Kingdom, **रज्जं, विजितं**
King's command, **राजाणा**
King's command sword-bearer
असिग्गाहको
Lord Chancellor, **अक्खदस्सामच्चो**
Minister, **अमच्चो**, of education **अजझापनामच्चो**, - of health, **सोख्यामच्चो**
Navy, **नाविकसेना**
Parasol, **सेतच्छत्तं**
Peace, **सामं**
Prime Minister, **महामच्चो**
Punishment, **दण्डो : कारणा**
Queen, **राजिनी** (f)
Quiver, **सरकलापो**

Rebel, **दामरिको**
Retreat, **पच्चोसक्कनं**
Revenue, **करोः बलि** (m)
Rifle, **अग्गिणाली** (m)
Royal, **राजकीय** (3)
Royal-seal, **राजमुद्दा**
Secretary of state, **महालेखकामच्चो**
Sheath, **कोसी** (f)
Sheriff, **जनमदभोजको**
Shooting, **विज्झनं**
Siege, **अवरोधनं**
Soldier, **युद्धभटो**
Spear, **हेति** (f)
Spy, **चरपुरिसो**
Sting of a bow, **जिया**
Sword, **खग्गो, असि** (m)
Swordsman, **खग्गधरो**
Throne, **सीहासनं**
Viceroy, **उपराजा** (m)
Victory, **जयो**
Violence, **जलक्करो, हठो**
War, **युद्धं**
War-cry, **युद्धघोसो**
War-chariot, **युद्धरथो**
Weapon, **आयुध**

21. Litigation, अधिकरणं

Abusing, **अक्कोस**
Bail, **पाटिभोगो**
Barrister at law, **अधिनीतिवेदी** (m)
Be-heading, **सीसच्छेदो**
(The) Bench, **विनिच्छथासनं**
Coercion, **वलक्कारो**
Command, **आणा**
Complaint, **कोदना**
Condemned, **वज्झप्पत्त** (3)
Confiscation, **राजायतकरणं**
Confiscation of one's whole' estate, **सब्बस्सहरणं**
Corporal punishment, **कारणा**
Crime, **अपराधो**
Culprit, **अपराधीः साहसिको**
Dacoity, **गामघाटो**
Defendant, **चुदितको**
District Court, **दिसाधिकरणं**
Evidence, **सक्खि** (nt)
Execution, **वधो, घातनं**
Executioner, **वधको**
False-witness, **कूटसक्खिको**
Highway robbery, **विपरामोसो**
Imprisonment, **बन्धनं, कारापक्खिपनं**
Interpreter, **भासानुवादको**
Intimidation, **परिभासनं**
Judge, **अनुविज्जको, विनिच्छयामन**
Judgement, **विनिच्छयो**
Law-court, **अधिकरणताला**
Lawsuit, **अट्टं**
Lawyer, **नीतिवेदि** (m)
Litigant, **अट्टकारो**
Magistrate, **धम्माधिकारी** (m)
Murder, **मनुस्सघातो**
Petition, **आयाचनपण्णं**
Place of execution, **आघातनं**
Plaintiff, **चोदको**
Plunder, **अच्छिन्दं**
Police-court, **उपदिसाधिकारणं**
Prisoner, **बधनागरिको**
Privy-council, **राजाधिकरणं**
Punishment, **दण्डो, वधो**
Supreme court, **सेट्ठाधिकरणं**
Theft, **चोरियं, थेय्यं**
Trial, **अनुविज्जनं**
Witness, **सक्खिको,** - Box, **सक्खिप**
Violence, **साहसं**

22. Vehicles, वाहनानी

Aeroplane, **ब्योमयानं**
Axle, **अक्खो**
Bridle, **मुखाधानं**
Carriage, **रथो**
Cart, **सकटो**
Chariot, **अस्सरथो** - body,
रथपञ्जरो - rug,
रथअत्थरो - pole,
धुरो
Charioteer, **सारथी**
Driver, **पाजिता** (m) - of an elephant
हत्थारोही
Elephant-rug, **हत्थत्थरो**,
– Hook to quiet an elephant,
तूत्तं – trappings for an elephant,
हत्थिकप्पनो
Fender of a carriage, **वरूथो**
Flect horse, **जधनो**
Horse of good breed, **आजानीयो**
Horse rug, **अस्सत्थरो**
Horse trappings, **अस्सकप्पनो**
Horse-shoe, **खुराबरणं**
Untrained horse, **खुळङ्को**
Well trained horse, **वीनीअस्सो**
Linch pin, **अक्खग्गकीलो**
Litter, **सिपिका**
Maker-cart, **सयंवट्टको**,
Motor-cycle, **विज्जुचक्कयुगं**
Mule, **अस्सतरो**
Nave (of a wheel), **नाभि**
Nose-rope, **कुसा**
Palnquin, **दोला**
Push-cycle, **चक्कयुगं**
Railway train, **धूमरथो**
Reins, **रथरस्मि** (t)
Rickshaw, **हत्थवट्टको**
Rim (of a wheel), **नेमि** (f)
Saddle, **अस्सकच्छा**
State-carriage, **फुस्सरथो**
Tram-car, **विज्जुरथो**
Wheel, **चक्कं**
Whip, **कसा**
Yoke, **युगं**

23. Diseases and medical treatment, रोगा च एव पतिकारा च

Ailment, **रुजा** - in ears
कण्णरोगो, — of joints
पब्बवाताबाधो
Alkaline solution, **खारं**
Anointing, **अब्भञ्जनं**
Antidote, **विसहरणं**
Asthma, **सासो**
Appendicite, **अन्तगण्ठिकाबाधो**
Attendant to the sick, **गिलानुपट्ठाको**
Beneficial, **सप्पाय (३)**
Biliousness, **पित्तब्भमो**
Boil, **गण्डो**
Catarrin, **पिनासो**
Chemical compound, **रसायनं**
Cholera, **विसूचिका**
Colic, **वातसूलं**
Collyrium, **रसञ्जनं**
Consumption, **कासो**
Cough, **उक्कासनं**
Decoction, **कसायो**
Diabetes, **बहुमुत्तरोगो**
Disease, **व्याधि** (m); **रोगो**
Doctor, **वेज्जो; भिसक्को**
Dysentery, **अतिसारो**
Bilious dysentery, **लोहितपक्खन्दिका**
Elephantiasis, **सीपदं**
Enteric fever, **सन्निपातजरो**
Epidemic, **सङ्घटिकरोगो**

Epilepsy, **अपमारो**
Excess of wind, **वातकोपो**
Eye-diseases, **अक्खिरोगो**
Fainting, **मुच्छा**
Fever, **जररोगो** malarial, **विसवात**
Fistula, **भगन्दरा**
Headache, **सीसरुजा**
Health, **आरोग्यं**
Hemorrphoids, **लोहितारिसं**
Hiccough, **हिक्कारो**
Indigestion, **अजिण्णकं**
Inflammation, **दाहो**
Influenza, **सेम्हरोगो**
Insanity, **उम्मादो**
Itch, **कच्छु, कण्डु** (f)
Jaundice, **पण्डुरोगो**
Leprosy, **कुट्ठं,**
White leprosy, **सङ्खकुट्ठं**
Medical treatment, **तिकिच्छा**
Medicinal, **ओसधीय (3)**
Medicine, **भेसज्जं**
Ointment, **आलेपो**
Optician, **अक्खिवेज्जो**
Patient, **रोगी, गिलानो**
Paralysis, **पक्खघातो**
Physician, **भिसक्को**
Pharmacy, **भेसज्जागारो**
Pill, **गुळिका, वाटिका**
Plague, **अहिवातकरोगो**
Purgative, **विरेचनं**
Purged, **विरित्त** (P.P.)
Rheumatism, **वातरत्तं**
Surgeon, **सल्लकत्तो**
Surgery, **सल्लकत्तियं**
Surgical operation, **सल्लकम्मं**
Sickness, **गिजञ्ञ**
Sickroom, **गिलानसाला**
Small-pox, **मसूरिका**
Steam-bath, **सेदकम्मं**
Swelling, **सोफो**
Swoon, **मुच्छा**
Tooth ache, **दन्तरोगो**
Urinary-disease, **मेहो**
Venom, **विसं**
Venereal disease, **उपदंसो**
Vomiting, **वमनं**

24. Stationery and Printing, लिपिभण्डानि मुद्दापनञ्च च

Black-board, **काळफलको**
Book, **पोत्थकं**
Compilation, **सङ्गण्हनं; सङ्कलनं**
Composing, **वण्णयोजना**
Compositor, **वण्णयोजको**
Desk, **लेखनफलको**
Editing, **गन्थसोधना**
Envelope, **सासनावरणं**
Fountain-pen, **नाळलेखनी** (f)
Ink, **लेखनकसटो**
Ink-stand, **कज्जलाधारो**
Letter, **लेखनं, सासनं, अक्खरं**
Line, **पन्ति, रेखा**
Metrical composition, **पज्जवन्धो**
News-paper, **पवत्तिपत्तं**
Note-paper, **सासनपत्तं**
Ola, **तालपण्णं**
Page, **पिट्ठं**
Paper, **काकचपण्णं**
Pen, **लेखनी** (f)
Pen-nib, **लेखनीमुखं**
Pen-holder, **लेखनीधरो**
Pencil, **अब्भकलेखनी** (f)
Periodical, **कालिकसङ्गहो**
Poem, **कब्बं, पज्जं**
Printer, **मुद्दापनं**
Printing press, **मुद्दायन्तं**
Proof, **सोध्यपण्णं**

Proof-reader, **वण्णसोधको**
Ruler, **उजुरेखको**
Scribe, **लेखको**
Seal, **मुद्दा**
Sealing-wax, **जतु** (nt)
Signature, **हत्थलञ्छनं**
State, **सिलापत्थरो**, - Pencil, **सिलालेखनी**
Straight line, **उजुरेखा**
Writing, **लिखनं : लिपि**

25. Tools and Implements, आयुधोपकरणानि

Adze, **वासि** (f)
Anvil, **अधिकरणी** (f)
Awl, **आरा**
Axe, **फरसु**, (m)
Bellows, **गग्गरी**, (f)
Boring, **विनिविज्झनं**
Breaking, **भिन्दनं**
Carpenter's line, **काळसुत्तं**
Chisel, **निखादनं**
Chopping, **तच्छनं**
Crow-bar, **खणित्ती** (f)
Crucible, **मूसा**
Cutting, **चिन्दनं**
Digging, **खणनं**
File, **लोहखादको**
Hammer, **कूटं**
Iron-chain, **अयोदामो**
Loom, **वेमो**
Mallet, **कट्ठहत्थो**
Mammotty, **कुद्दालो**
Mowing, **लायनं**
Nail, **आणि** (f)
Pingo, **काजो**, basket, **सिक्का**
Pick-axe, **टाङ्को**
Piners, **सण्डासो**
Plough, **नाङ्गलं**, Ploughing, **कसनं**
Plough-share, **फालो**
Pole of a plough, **नङ्गलीसा**
Plumet, **ओलम्बको**
Razor, **खुरं**
Saw, **ककचो**
Shuttle, **तसरो**
Sickle, **दात्तं**
Sledge-hammer, **महाकूटो**
Splitting, **फालनं**, **विदारणं**
Trowel, **करणी** (f)
Vice, **कट्ठपीळको**
Weaving, **वायनं**
Whetstone, **निकसो**
Wimble, **आरहत्थो**

26. Buildings and other things in a monastery, विहारङ्गा समणपरिक्खारानी च

Alms hall, **दानसाला**
Altar, **पूजासनं**
Belfry, **घण्टात्थम्भो**
Bell, **घंण्टा**
Bo-tree, **बोधिरुक्खो**
Bowl, **पत्तो**
Buddhist-monk, **भिक्खु** (m)
Chapter house, **सीमाघरं**
Devotee, **भत्तिमा** (m)
Devotion, **सद्धा**
Doctrine, **धम्मो**
Elderly monk, **थेरो**
Enlightened one, **बुद्धो**
Faithless, **असद्ध** (3)
Image, **पटिमा**
Image-house, **पटिमाधरं**

Library, पोत्थकालयो
Monastery, विहारो, आरामो
Monks' quarters, पण्णसाला
Missionary, धम्मदूतो
Novice, सामणेर
Pagoda, चेतियं
Platform around a bo-tree, बोधिङ्गणं
Platform around a pagoda, चेतिङ्गणं
Preacher, देसको
Preaching, देसना
Preaching hall, धम्मसाला
Pulpit, धम्मासनं
Relic casket, धातुकरण्डो
Religious book, धम्मपोत्थको
Water-strainer, परिस्सावनं
Yellow-robe, चीवरं, कासाय

27. Musical Instruments, तुरियभण्डानी

Conch-shell, सङ्खो
Cymbal, घनं
Dance, नच्चं; - ing, नच्चनं
Drum, भेरि (f); - Stick, भेरिदण्डो
Sounding of a drum, भेरिवादनं
Flute, धमनवंसो
Flute-player, वेणुधमो
Harmony, लयो
High-tone, तारो
Low-tone, मन्दसरो
Lutanist, वेणिको
Lute, वीणा
– Belly of a lute, पोक्खरो
– Bow of a lute, कोणो
– Neck of a lute, उपवीणो
Music, वादितं, नच्चगीतं
Musical note, सरो
Musician, वादको
Tabor, मुदिङ्गो, मुरजो
Trumpet, सुसिरं

A[2] PRONOUNS

Pronouns are words used, to replace nouns or substantives, to avoid repitition. The word Pronoun means "for a noun" or "instead of a noun". Pronous admit of all genders, as they stand for every person or thing which are in different genders. They are also*declined as nouns*, with the only difference that *there is no Vocative forms*. They are classified into various groups by the English Grammarians, but for our purposes, we will restrict to only the important groups, viz :-

I. (1) Personal Pronouns :

(i) First personal – "Amha" **अम्ह (अस्मद्)**

(ii) Second personal – "Tumha" **तुम्ह (युष्मद्)**

(m.f.n.) : – Thou, you.

(iii) Third personal – "Ta" **त(तद्)**(m): when used as a demonstrative pronoun, meaning 'that', it is declined differently in three genders.

No. (i) and (ii) are declined similarly in all the three genders.

(2) Relative Pronouns :

Relative Pronouns :- Such as 'who', 'which', 'that', so called because they relate or refer to a noun, which has gone before. These are declined like nouns ending in **अ** (m,n.) or **आ** (f) with some differences. In the declension of masculine Pronouns, the Nominative and Accusative plural termination is**ए;** terminations for the Dative and Genitive plural are**एसं, एसानं;** while in the singular the following terminations are absent :– **आय** of Dative, **आ** of the Ablative and **ए** of the Locative.

In the neuter gender, the pronouns are declined like masculine nouns with slight change in Nominative and Accusative plural their terminations being **ए** or **आनि.**

The feminine base is formed by adding**आ** to the masculine base and are declined like**कञ्ञा.**

There are no vocative forms.

(3) Demonstrative Pronouns :

This, that, those, etc. words used to point out the object or objects to which they refer.

त (that)–declined in these genders with certain changes; addition of prefix इ to त gives इत (that or this) which is also declined like त.

इम (this)–

II. Some important Pronouns and Pronominal terms :

A, An, एक (in singular it means 'one'; in plural it means 'some')

All, सब्ब, सकल (3)

Another, अञ्ञ अपर (3)

Both, उभय (plural only: 3)

Certain, अञ्ञतर (3)

Each other, अञ्ञमञ्ञं

Everybody, सब्बेव

Everyone, सब्बे

He, सो

Her, तं (acc.), तस्सा (gen.)

Him, तं

His, तस्सं

I, अहं

It, तं

Me, मं, ममं

My, मम मय्हं

No one, न कोचि [suffix चि (चित्) added to interrogative pronoun]

Other, अञ्ञ इतर, पर (3)

Some, एकच्च [in the singular एक means 'one' or 'a, an' in plural it means 'some' 'certain' (3.)]

Somebody, कोचि

Somebody else, अञ्ञो कोचि

That man, इसो [prefix "e" added to सो– nominative singular of त (that)]

That woman, इसा

That thing, इतं

These men, इमे

These women, इमा

These things, इमानि

Their, तेसं (m, nt), तासं (f)

Them, ते m, ता (f), तानि (nt)

This man, अयं } इम = This : Nominative forms.

This woman, अयं }

This thing, इमं, इदं– Nom. Neut, forms of इम = This

Thee, तं, त्वं

Thine, तव, ते, तुय्हं

Those men etc., ते

Those woman, इता, ता

Those things, इतानि, तानि

Us, अम्हे

We, मयं

What, किं ?

Whatsoever, यं किञ्चि

Western, अपर

Eastern, पुब्बा

Which (of the two), कतर (3), कतम

Which, who, को, किं (from क) य

Whosoever, यो कोचि

Whom, कं ? (Nom. Sin. of क Neu.)

Whose, कस्स (क m; nt)

You, तुम्हे

Your, तुहाकं

III. Sentences wherein some of the above listed Pronominals are used.

1. What is the use of water to me ? किं मय्हं वारिना ?।
2. The Buddha tells this story about a monk. इदं वत्थुं बुद्धो एकं भिक्खुमारब्भ कथेति ।
3. I have three bows. मम ताणि धनूनि होन्ति ।
4. What is the use of medicine to one not diseased ? अब्याधितस्स किं भेजज्जेन ? ।
5. You bind the cow with a rope. त्वं रज्जुया धेनुं बन्धसि ।
6. You throw sugar into the gruel. तुम्हे यागुयं सक्खरं खिपथ ।
7. Good men live together in mutual satisfaction. सप्पुरिसा तुट्ठिया अञ्ञमञ्ञं संपसन्ति।
8. Gold is the best of all metals. सुवण्णं सुब्बासु धातुसु सेट्ठं।
9. Both are degraded by nature; both do not see the duty. उभो पकतिया चुता, उभो धम्मं न पस्सन्ति।
10. He tells me a story. सो मय्हं वत्थुं कथयति।
11. What is the use of a bow without arrows ? सरेहि विना किं धनुना?।
12. We bring fuel and grass from the forest below. अम्हे दारूं च तिणं च अरञ्ञा आहराम।

13. They sprinkle the king with water from three conchshells. **ते तीहि सङ्खेहि भूपं सिञ्चति ।**

14. He throws dust in my eye. **सो मम चक्खुस्मिं रजं खिपति ।**

15. Fie upon that acquisition of fame and wealth, Oh Brahmin, which (implies) a maintenance (livelihood) in degradation and in an impious living. **धिरत्थु तं यसलाभं धनलाभं च ब्राह्मण । या वुत्ति विनिपातेन अधम्मचरणेन वा ।**

16. The physician wraps your nose with cloth. **वेज्जो तव (तुम्हं) नत्थुं (नासिकं) वत्थेन पलिवेठेति ।**

17. The girls throw dust at one another for amusement. **कञ्ञायो केळिया अञ्ञमञ्ञं रजं (धूलिं) खिपन्ति ।**

18. You remember the strength of the lord of monkeys. **तुम्हे वानरिन्दस्स सत्तिं अनुस्सरथ ।**

19. You strive for the aquisition of wealth. **तुम्हे धनलाभाय वायमथ ।**

20. I wish to go to the garden. **उय्यानभूमिं गन्तुं इच्छामि ।**

21. You too, O ascetic, plough and sow and eat after ploughing and sowing. **त्वंऽपि समण, कसस्सु च वप्पसु च कसित्वा च वपित्वा च भुञ्जसु ।**

22. May you and your bride live happily. **त्वञ्च तव वधू च सुखेन वुत्थ ।**

23. There is the father, O Rahula, go and ask for the inheritance. **सो ते राहुल जनको, गच्छसु दायज्जं याचाहि ।**

24. Let all things be happy and contended. **सब्बे सत्ता सुखिता च सुहिता च होन्तु ।**

25. Let us go to the younder mountain and eat jambu fruit. **अम्हे परिमं पब्बतं गच्छाम जम्बूनि च खादाम ।**

26. We shall describe the powers of the former Buddhas. **पुब्बेसं बुद्धानं आनुभावं अम्हे वण्णेस्साम ।**

27. Who is your teacher whose Doctrines do you like ? **को ते आचरियो, कस्स वा धम्मं रोचेसि ? ।**

28. He is the son of Bindusara. **एसो बिन्दुसारस्स पुत्तो ।**

29. This novice will be the master of this house. **अयं सामणेरो इमस्स गेहस्स सामिको भविस्ससति ।**

30. Letters come from all towns on the same day. **एकदिवसमेव सब्बेहि नगरेहि पण्णानि आगच्छन्ति।**

31. Who is your father ? **को ते जनको ?**

32. You will not get anything from me, go to another. **तुवं मे किंचि न लभिस्ससि परं गच्छ।**

33. Those elders have (got) other pupils. **अमूसं थेरानं अञ्ञे माणवका होन्ति।**

34. A certain physician brings the root of a certain tree. **अञ्ञतरो वेज्जो कस्सचि रूक्खस्स मूलं आहरति।**

35. I shall live in that cottage. **अहं तायं कुटियं वसिस्सामि।**

36. This is the chariot in which I shall sit to-morrow. **अयो सो रथो यस्मिं अहं स्वे निसीदिस्सामि।**

37. Speak what you like. **यं इच्छसि तं ब्रूहि।**

38. From what city has the messenger come? **कस्मा नगरा दूतो आगतो ?**

39. The way of wealth is one and the way of deliverance is another. **अञ्ञो धनस्स मग्गो, अञ्ञो च मुत्तिया मथो।**

40. All trees and all the creepers are in blossom in the summer. **निदाघे सब्बे च रूक्खा, सब्बा च लता पुप्फिता होन्ति।**

41. See this fruit of faith and character. **सद्धाय सीलस्स च इदं फलं पस्स।**

42. This house is mine, that place is yours and the cottage is hers. **इदं घरं मदीयं, अमु पासादो तावको, सा कुटि च तदीया।**

A[3] ADJECTIVES

Adjectives are describing words and add something to the meaning of a noun i.e., they qualify the nouns. Hence they are treated as nouns and carry all the infletions of the nouns. As the adjectives qualify nouns which are of different genders and numbers, they must agree with their substantives in gender, number and case. Roughly they could be classified thus (according as their derivations–from) :–

(1) Pronouns becoming adjectives when used before a substantive of the same gender, number and case – *Pronominal adjectives.*

(2) Adjectives formed, from verbal bases. They are also called participles. Like verbs they are divided into Present, Past, and Future Tenses; and each group is divided into Active and Passive voices. Becoming adjectives, they are declined in all the genders–*Verbal Adjectives* or *participles.*

(3) *Adjectival Nouns* are often used as adjectives : they become substantives when they stand alone in the place of person or the thing they qualify. They are decline in all genders.

(4) *Adjectives proper*, qualify nouns and must agree with their substantives in gender, number and case.

II. Verbal Adjectives or Participles (Declinable)

1. Present Participles

Going, **गच्छन्त**

Cooking, **पचन्त**

Doing, **करोन्त**

Walking, **चरन्त**

Running, **धावन्त**

Bathing, **नहायन्त**

Laughing, **हसन्त**

Eating, **भुञ्जन्त**

Sleeping, **सयन्त**

Seeing, looking at, **पसन्त**

Sitting, **निसीदन्त**

Carrying, **हरन्त**

Buying, **किणन्त**

Standing, **तिट्ठन्त**

Bringing, **आहरन्त**

Living, residing, **विहरन्त**

Selling, **विक्किणन्त**

Giving, **ददन्त**

Crying, **रोदन्त**

2. Past Participles

Gone, **गत**

Come, **आगत**

Made, done, **कत**

Told, said, **वुत्त**

Broken, **भिन्न**

Descended, **ओतिण्ण**

Brought, **आहट**

Beaten, **पहट**

Carried, **हट**

Dead, **मत**

Slept, **सुत्त, सयित**

Stood, **थित**

Sat, **निसिन्न**

Lived, **वुत्थ**

Bitten, **दट्ठ**

Cooked, **पक्क, पचित**

Received, **लद्ध**

Bought, **कीत**

Eaten, **भुत्त**

Worshipped, **वन्दित**

Killed, **हत**

Cut, **छिन्न**

Enraged, **कुद्ध**

3. Some adjectival nouns (Masculine ending in 'u')

Rich, **धनवन्त**

Powerful, **बलवन्त**

Sun, **भानुमन्तु**

The exalted one, fortunate, **भगवन्तु**

Wise, **पञ्ञवन्तु**

Famous, **यसवन्तु**

Mindful, **सतिवन्तु**

Intelligent, **बुद्धिमन्तु**

Fortunate, **पुञ्ञवन्तु**

Of high caste, **कुलवन्तु**

Fruitful, **फलवन्तु**

Possessor of ice, snowy, **हिमवन्तु**

Possessor of eyes, **चक्कमन्तु**

Virtuous, **सीलवन्तु**

With many relations, **बन्धुमन्तु**

4. Adjectives as such

Small, **खुद्दक**

Big, large, **महन्त**

Long, **दीघ**

Short, **रस्स**

High, tall, **उच्च**

Low, vulgar, **नीच**

Medium, **मज्झिम**

Few, a little, **अप्पक**

Many, much, **बहु, बहुक**

Umpire, **आम**

Ripe, **पक्क**

Young, **दहर**

Elderly, old, **महल्लक**

Wide, broad, **वित्थत**

White, **सेत**

Blue, **नील**

Red, रत्त
Black, काल
Yellow, पीत
Shallow, उत्तान
Deep, गम्भीर
Rough, coarse, खर
Soft, मुदु

Bald, खल्लाट
Blind, अन्ध
Blind of one eye, काण
Deaf, बधिर
Dumb, मूग

Azure, मन्दनील
Black, काळ
Blue, नील
Brown, पिङ्गल
Dark-brown, कण्हपीत
Green, हरित
Grey, घूसर
Light-red, अरुण
Multi-coloured, कम्मास
Orange-coloured, पीतरत्त
Pink, पाटल

Bad, असुन्दर, अभद्दक
Bad-smelling, दुग्गन्ध
Belonged, आयत्त
Beautiful, सुन्दर, सरूप
Bent-down, ओनत
Big, महन्त
Blunt, अतिखिण

Foolish, young, बाल
Wise, पण्डित
Powerful, बलवन्तु
Feeble, दुब्बल
Beautiful, सरूप
Handsome, दस्सनीय

Insane, उम्मत्त
Lame, खञ्ज
Poor, दळिद्द
Rich, धनवन्तु
Squint-eyed, वलिर

Red, रत्त, लोहित
Tawny, कपिल
Yellow, पीत
Yellowish white, पण्डुवण्ण
Astringent, केसाव
Bitter, तित्त
Pungent, कटुक
Salt, लवण
Sour, अम्बिल
Sweet, मधुर

Bold, निब्भय
Brave, वीर
Bright, पभस्सर, भासुर
Broad, वित्थत
Charitable, अलुद्ध
Cheerful, सुमन
Circular, चक्काकार

Clean, निम्मल, सुद्ध
Close, समीप, आसन्न
Coarse, कक्कस
Cold, सीतल
Composed of mind, समाहित
Concealed, गत्त, पतिच्छन्न
Covered, छन्न
Crooked, वङ्क, कुटिल
Cruel, दुट्ठ, कुरीर
Deep, गम्भीर
Despised, निन्दित, वम्भित
Dim, निप्पभ, मलिन
Dirty, किलिट्ठ
Distant, दूर
Distracted, असमाहित
Dry, सुक्ख
Egg-shaped, अण्डाकार
Empty, तुच्छ
Eternal, सस्सतिक
Even, सम
Excellent, पणीत, अतिसुन्दर, विसिट्ठ
Exposed, विवट, अनावट
Extreme, अच्चन्त
Fair, सोभन
Famous, विस्सुत
Fat, थूल
Few, कतिपय
Fine, सुखुम
Foolish, दन्ध, मन्दबुद्धिक
Fortunate, धञ्ञ, सुभग
Friendly, अविरूद्ध, सुहृद, अनुकूल
Full, पुण्ण, सम्पुण्ण
Globular, गोलाकार
Good, सुन्दर, भद्दक
Great, महन्त, उत्तम
Greedy, लुद्ध, महिच्छ
Gross, ओळारिक
Haggard, किस
Handsome, सरूप
Heavy, भारिय
Hard, थद्ध
High, उच्च
Honest, अवङ्क, उजु
Hostile, विरूद्ध
Hot, उण्ह
Ignoble, अधम, नीच
Immovable, अचल, थावर
Impermanent, अनिच्च
Kind, कारूणिक
Lazy, अलस
Less, ऊन
Light, सल्लहुक
Little, सुद्दक, परित्त
Long, दीघ, आयत
Loose, सिथिल
Low, नीच

Many, बहुक

Mean, हीन

Moderate, मज्झिम, मत्तञ्ञू

More, अधिक

Movable, जङ्गम, चल, पारिहारिय

Much, पहूत

New, अभिनव

Noble, पवर, उत्तम

Octagonal, अट्ठंसिक

One's own, सक, साकीय

Old, पुराण

Opened, विवट, अनावट

Other, पर, अपर

Permanent, निच्च, थावर

Praised, अभित्थुत

Pure, परिसुद्ध

Respected, मानित, बहुमत

Rotten, पूटिक

Round, वट्टल, वट्ट

Sad, दुम्मन

Semi-circular, अद्धचक्कार

Shallow, उत्तान

Sharp, तिखिण

Short, रस्स

Skilful, पटु, दक्ख

Small, खुद्दक

Smooth, सिनिद्ध, मट्ठ

Soft, मुदु

Square, चतुरस्स

Straight, उजु

Sublime, सुखुम

Sweet, मधुर

Sweet-smelling, सुगन्ध

Thick, घन

Thin, तनु

Timid, भीरूक

Tringular, तिकोणक

Ugly, विरूप, असोभन

Unclean, मलिन, असुद्ध

Uneven, विसम

Unknown, अपाकट, अपञ्ञात

Unfortunate, दुक्खित, भाग्यहीन

Unfriendly, दुहद, विरूद्ध

Virtuous, सुसील

Vicious, दुस्सील

Well-known, विस्सुत, सुपाकट

Weighty, भारिय, गरूक

Wet, तिन्त, अल्ल

Wise, पञ्ञवन्तु

Wounded, वणित

Young, वरुण

B. VERBS

I. Verb– आख्यात is an integral and important part of speech; verbs are divided into groups called धातुगण. In Pali there are seven Conjugations, though some Grammarians mention ten as in Sanskrit. Each group has one or more conjugational signs (विकरण), which come between the root (धातु) and the verbal termination (प्रत्यय), Thus the base or अंग of a verb is formed by the combination of the root (धातु) with its conjugational sign, to which is added the verbal termination, as for instance:–

पच् + ति = पच् + अ + ति = पचति = cooks.

The Pali Grammarians represented roots with an ending vowel as गम, वस etc. and not as गम् or वस्, as in Sanskrit. But the end अ of a root is dropped when the conjugational sign is added. Before the first conjugational sign अ), the penultimate short and the ending vowel take their गुण, अ has no गुण or strengthening. The गुण of इ, ई, is ए; and of उ, ऊ, is ओ. Thus :– नी (to carry) is a root + अ conjugational sign + ने + अ. भू (to be) + अ = भो + अ → भवति, ∴ ओ followed by अ becomes अब and thus भू → भवति.

Root-groups (धातुगण) with their signs according to Pali-course.

1st	Conjugation	–	a, अ, भुवादिगण
2nd	Conjugation	–	m : a, अनुस्वार : अ : रुधादिगण
3rd	Conjugation	–	ya : य, दिवादिगण
4th	Conjugation	–	no : nu : una : स्वादिगण
5th	Conjugation	–	na, णा : कियादिगण
6th	Conjugation	–	o, yira : ओ, यिर : तनादिगण
7th	Conjugation	–	e, aya : ए, अय : चुरादिगण

Number of roots are included in the first and the seventh group. Pali verbs are conjugated, in three Tenses, two Voices, two Numbers and three Persons :–

1. Tenses or काल

(i) Present tense – **वत्तमानकाल**

(ii) Past tense – **अतीतकाल**

(iii) Future tense – **अनागतकाल**

2. Voices or प्रयोग

(i) Active – **कत्तुकारक (कर्तरि)** : a transitive verb that represents its subject as acting, is in Active Voice. Here the Subject or **कत्ता** takes Nominative and the Object **कम्म** is in Accusative **(दुतिया)**, and the verb takes the same gender and/number as the Subject – e.g., **अहं बुद्धं नमामि; सा बुद्धं नमति; तुम्हे बुद्धं नमथ.**

(ii) Passive Voice – **कर्मणि प्रयोग.**

A *Transitive verb,* that represents its subject as being *passively acted upon,* is in Passive Voice. The sign of the Passive Voice is **य** (ya) irrespective of the conjugation, and is added directly to the root. The final **अ** of a root is dropped and the remaining ending consonant and the **य** of the Passive undergo the necessary changes (according to rules of change).

In the Passive Voice, in a sentence, the subject **(कर्ता)** takes the Instrumental **(ततिया)** Case and the Object **(कर्म)** takes the Nominative Case, and the verb takes the same person and number as that of the Object :

The Attanopade **(आत्मनेपद)** terminations are frequently used in the Passive Voice; but it is optional.

Examples of Verbs in Passive Voice :–

करीयति = is done or made

कसीयति = is ploughed

देसीयति = is preached

आहरीयति = is brought

हरीयति = is carried

आकड्ढीयति = is dragged or drawn

दीयति = is given

मारीयति = is killed

वन्दीयति = is worshipped

किणीयति = is bought

बन्धीयति = is tied

विक्किणीयति = is sold

भासीयति = is told

धोवीयति = is washed

भुग्जयति = is taken

(iii) Impersonal Construction, **भावे प्रयोग**

In this construction the Subject takes Instrumental Case and the verb always is in third person single.

Examples :– **कर्तरि – नरोगच्छति**

भावे – नरेन गम्मते

3. Persons :– (i) Third Person – **पठम पुरिस**

(ii) Second Person – **मज्झिम पुरीस**

(iii) First Person – **उत्तम पुरीस**

4. Numbers **वचन** :–(i) Singular

(ii) Plural

5. Padas :– (i) **परम्मैपद** – more commonly used

(ii) **आत्मनेपद** –rarely met with in literature except in poetry and in the Passive Voice.

The Padas have their own verbal terminations.

6. Moods – The manner in which a verb is used to express an action is called Mood.

(i) Imperative Mood – **आज्ञार्थ** –This mood is used to express command, prayer, advise, wish, blessing or proposal.

(ii) Potential Mood – **विध्यर्थ** – This Mood expresses probability, command, wish, prayer, hope, advise and capability. It is used in conditional or hypothetical sentences in which one statement depends on another as its reason or condition.

(iii) Conditional – **संकेतार्थ (कालातिपत्ति)** – The Conditional Mood is used in those hypothetical sentences in which the non-

performance of action is implied :– e.g., **सचे देवो वस्सिस्स धञ्ञं च तिणं च उप्पज्जिस्स** – when it rains then there will be corn and grass.

Each mood has its own verbal termination depending on the number and person.

Verbs in Groups, नानाख्यातपदा

Present 1st Singular	Past Participle (declinable)	Absolutive (The Gerund)
Abuses, **अक्कोसति**	**अक्कुट्ठ**	**अक्कोसित्वा**
Ails, **रूजति**	–	**रूजित्वा**
Anoints, **अञ्जति**	**अञ्जित**	**अञ्जित्वा**
Appears, **पञ्ञायति**	**पञ्ञात**	**पञ्ञायित्वा**
Ascends, **आरूहति**	**आरूळ्ह**	**आरुय्ह**
Assembles, **सन्निपतति**	**सन्निपतित**	**सन्निपतित्वा**
Associates, **सेवति, भजति**	**सेवित, भजित**	**सेवित्वा, भजित्वा**
Attempts, **उस्सहति**	–	**उस्सहित्वा**
Awakes, **पबुज्झति**	**पबुद्ध**	**पबुज्झित्वा**
Awakens, **पबोधेति**	**पबोधित**	**पबोधेत्वा**
Balances, **तुलेति**	**तुलित**	**तुलेत्व**
Bathes, **नहायति**	**नहात**	**नहायित्वा**
Bears, **वहति**	**वहित, वुळ्ह**	**वहित्वा**
Beats, **पहरति**	**पहट**	**पहरित्वा**
Becomes, **भवति, होति**	**भूत**	**भवित्वा, हुत्वा**
Becomes established, **पतिट्ठति**	**पतिट्ठित**	**पतिट्ठाय**
Becomes full, **आपूरति**	**आपुण्ण**	**आपूरिय**
Becomes purified, **विसुज्झति**	**विसुद्ध**	**विसुज्झित्वा**
Begs, **याचति**	**याचित**	**याचित्या**
Begins, **आरभति**	**आरद्ध**	**आरब्ध, आरभित्वा**
Behoves, **वट्टति**	–	–

Believes, सद्दहति,	सद्दहित,	सदहित्वा,
बिंस्ससति	विस्सत्थ	विस्ससित्वा
Binds, बन्धति	बद्ध	बन्धिय
Bites, दसति	दट्ठ	दास्सित्वा
Blows (wind), वायति	वायित	वायित्वा
(with mouth), धमति	धन्त	धमित्वा
Breaks, भिन्दति	भिन्न	भिन्दिय
भञ्जति	भग्ग	भञ्जिय
Brings, आहरति	आहट	आहरित्वा
Brings-up, पोसेति	पोसित	पोसिय
Buries, निखणति	निखात	निखणित्वा
Burns (v.i.) दाय्हति	दड्ढ	डय्हित्वा
(v.t.) दहति	दड्ढ	दहित्वा
Buys, किणाति	क्रीत	किणित्वा
Carries, हरति	हट	हरित्वा
Ceases, निक्ततति,	निवत्तित	निवत्तिय
निरूज्झति	निरूद्ध	निरूज्झित्वा
Collects, ओचिणाति	ओचित	ओचिनित्वा
उपचिनाति	उपचित	उपचिनित्वा
Combines, संयोजेति	संयुत्त	संयोजेत्वा
Comes, आगच्छति	आगत	आगन्त्वा, आगम्म
Comes-in, पविसति	पविट्ठ	पविसित्वा
Comes-into-existence, उप्पज्जति	उप्पन्न	उप्पज्जित्वा
Comes-out, निक्खमति	निक्खन्त	निक्खम्म
Composes, रचयति	रचित	रचयित्वा
Conceals, गोपेति	गुत्त	गोपेत्व
पटिच्छादेति	पटिच्छन्न	पटिच्छादिय
Concentrates, समादहति	समाहित	समादहित्वा
Covers, छादेति	छन्न, छदित	छदित्वा, छादिय
Creates, मापेति	मापित	मापेत्वा,
निम्मिणाति	निम्मित	निम्मिणित्वा

Cries, रोदति	–	रोदित्वा
Crosses (a stream), तरति	तिण्ण	तरित्वा
Cures, तिकिच्छति	तिकिच्छित	तिकिच्छिय
Cuts, छिन्दति	छिन्न	छिन्दित्वा
Dances, नच्चति	–	नचित्वा
Decides, निच्छेति	निच्छित	निच्छिय
Decorates, मण्डेति	मण्डित	मण्डेत्वा
अलङ्करोति	अलङ्कत	अलङ्करित्वा
Defeats, पराजेति	पराजित	पराजिय
Deprives of, वोरोपेति	वोरोपित	वोरोपिय
Descends, ओरूहति	ओरूळ्ह	ओरुहित्वा, ओरूय्ह
Dies, मरति	मत	मरित्वा
Digest, जीरेति	जिण्ण	जीरेत्वा
Digs, खणति	खत	खणित्वा
Disappears, अन्तरघायति	अन्तरहित	अन्तरघायित्वा
Disputes, विवदति	विवदित	विवदित्वा
Divides, भाजेतिः	भाजित	भाजेत्वा
विभजति	विभत्त	विभजिय
Does, करोति	कत	कत्वा, करित्वा
Drags, आकड्ढति	आकड्ढित	आकड्ढित्वा
Dries, (v.t.) सुक्खापेति	सुक्खापित	सुक्खापेत्वा
(v.i.) सुस्सति	सुक्ख	सुस्सित्वा
Drinks, पिवति	पीत	पिवित्वा
Dwells, वसति	वुत्थ	वसित्वा
Dwindles, परिहायति	परिहीन	परिहायित्वा
Eats, भुञ्जति, अस्नाति	भुत्त, असित	भुञ्जिय,
अदति	–	अदित्वा
Emerges from water, उत्तरति	उत्तिण्ण	उत्तरित्वा
Enshrines, निदहति	निदहित, निहित	निदहित्वा
Enters, पविसति	पविट्ठ	पविसित्वा

Establishes, (v.t.) पतिट्ठापेति,	पतिट्ठापित	पतिट्ठापिय
(v.i.) पतिट्ठति	पतिट्ठित	पतिट्ठाय
Exists, पवत्तति	पवत्त, पवत्तित	पवत्तेत्वा
Falls, पतति	पतित	पतित्वा
Fears, भायति	भीत	भायित्वा
Feels, वेदेति	वेदित	वेदियित्वा
Fights, युज्झति	युज्झित	युज्झित्वा
Fills (v.t.), पूरेति	पूरित	पूरेत्वा
(v.i.) पुरति	पुण्ण	पूरित्वा
Flees, पलायति	पलात	पलायित्वा
Flies, उड्डेति	उड्डित	उड्डीयत्वा
Floats (v.i.) वुय्हति	वूळ्ह	वुय्हित्वा
(v.t.) प्लावेति	प्लावित	प्लावेत्वा
उप्प्लवति	उप्प्लवित	उप्पलवित्वा
Flows, पग्घरति	पग्धरित	पग्धरिय
सन्दति	सन्दित	सन्दित्वा
Folds, संहरति	संहट	संहरित्वा
Follows, अनुगच्छति	अनुगत	अनुगन्त्वा
Forbears, सहति	सहित	सहित्वा
अधिवासेति	अधिवासित	अधिवासेत्वा
Forgets, पमुस्सति	पमुट्ठ	पमुस्सित्वा
Forgives, खमति	खन्त	खमित्वा
Forsakes, चजति,	चत्त	चजित्वा
पजहति,	पजहित	पहाय, पजहिय
जहाति	जहित	जहित्वा
Gets, लभति,	लद्ध	लद्धा, लभित्वा
अधिगच्छति	अधिगत	अधिगन्त्वा
Gives, ददाति, देति	दिन्न	दत्वा, ददित्वा
Gives in charge, निय्यादेति	निय्यादित	निय्यादेत्वा
Goes, गच्छति, याति	गत, यात	गन्त्वा
Goes ashore, पारं गच्छति	पारङ्गत	पारङ्गत्वा
तरति	तिण्ण	तरित्वा
Goes out, निक्खमति	निक्खन्त	निक्खम्म
Governs, अनुपालेति	अनुपालित	अनुपालेत्वा

Grows, (v. i.) वड्ढति	वुड्ढ	वड्ढित्वा
(v. t.) वड्ढेति	वड्ढित	वड्ढेत्वा
Grows up, रूहति	रूळ्ह	रूहित्वा
Hangs, (v. i.) ओलम्बति	ओलग्ग	ओलम्बित्वा
(v. t.) ओलम्बेति	ओलम्बित	ओलम्बेत्वा
Happens, सिज्झति	सिद्ध	–
Hears, सुणाति, सुणोति	सुत	सुत्वा, सुणित्वा
Heats, तापेति	तापित, तत्त	तापेत्वा
Honours, पूजेति, मानेति	पूजित, मानित	पूजेत्वा, मानेत्वा
Identifies, सन्तीरेति	सन्तीरित	सन्तीरेत्वा
Illuminates, ओभासेति	ओभासित	ओभासेत्वा
जोतेति	जोतित	जोतेत्वा
Imitates, अनुकरोति	अनुकत	अनुकरित्वा
Imprisons, रोधति	रोधित	रोधिय
Interprets, अनुवादेति	अनुवादित	अनुवादेत्वा
Interrogates, पुच्छति	पुट्ठ, पुच्छित	पुच्छित्वा
अनुविज्जति	अनुविज्जित	अनुविज्जित्वा
Interrupts, उपच्छिन्दति	उपच्छिन्न	उपच्छिज्ज
Is, भवति, अत्थि	भूत	भवित्वा
Is able, सक्कोति	–	सक्कुणित्वा
Judges, तीरेति	तीरित	तीरेत्वा
विनिच्छेति	विनिच्छित	विनिच्छय
Jumps, पक्खन्दति	पक्खन्त	पक्खन्दित्वा
Keeps, थापेति	थापित	थापेत्वा
Kills, मारेति	मारित	मारेत्वा
घातेति	घातित	घातेत्वा
हनति	हत	हन्त्वा
Kindles, जालेति	जालित	जालेत्वा
Knits, गन्थेति	गन्थित	गन्थेत्वा
Knows, जानाति	ञात	ञात्वा
Laments, विलपति	–	विलपित्वा
Laughs, हसति	हट्ठ	हसित्वा
Lays aside, निक्खिपति	निक्खित्त	निक्खिपित्वा
Leads, नेति	नीत	नेत्वा, नीत्वा

Learns, उग्गण्हाति	उग्गहित	उग्गहेत्वा, उग्गण्हिय
Lifts up, उच्चारेति	उच्चारित	उच्चारेत्वा
उक्खिपति	उक्खित	उक्खिपित्वा
Lives, जिवति	–	जीवित्वा
Looks, पस्सति	दिट्ठ	पसित्वा
ओलोकेति	ओलोकित	ओलोकिय
Manifests, पातुभवति	पातुभूत	पातुभवित्वा
Measures, मिणाति	मित	मिणित्वा
Moves, चलति	चलित	चलित्वा
Nurses, आपादेति	आपादित	आपादेत्वा
Observes, रक्खति	रक्खित	रक्खिय
पटिपज्जति	पटिपन्न	पटिपज्जित्वा
Obtains, अधिगच्छति	अधिगत	अधिगन्त्वा
Opens, विवरति	विवट	विवरित्वा
Oppresses, पीळेति	पीळित	पीळेत्वा
Originates, उप्पादेति	उप्पादित	उप्पदित्वा
निब्बत्तेति	निब्बत्तिति	निब्बत्तेत्वां
Perishes, विनस्सति	विनट्ठ	विनस्सित्वा
Plays, कीळति, रमति	रत	कीळित्वा, रमित्वा
Pleases, तुस्सति	तुट्ठ	तुस्सित्वा
Ploughs, कसति	कट्ठ	कसित्वा
Pounds, कोट्टेति	कोट्टित	कोट्टित्वा
Praises, अभित्थवति	अभित्थुत	अभित्थविय
Preaches, देसेति	देसित	देसेत्वा
Prepares, सज्जेति	सज्जित	सज्जेत्वा
Prints, मुद्देति	मुद्दित	मुद्देत्वा
Promises, पटिजानाति	पटिञ्ञात	पटिजानित्वा
पटिस्सुणाति	पटिस्सुत	पटिस्सुत्वा
Protects, पालेति	पालित	पालेत्वा
Prevents, निवारेति	निवारित	निवारेत्वा
Purifies, विसोधेति	विसोधित	विसोधेत्वा
सम्पसादेति	सम्पसादित	सम्पसादिय
Purges, विरेचेति	विरित्त	विरेचेत्वा
Pushes away, पनुदति	पनुदित	पनुदित्वा
Rains, वस्सति	वट्ठ	वस्सित्वा
Raises, उट्ठापेति	उट्ठापित	उट्ठापेत्वा

Reads, पठति	पठित	पठित्वा
Recites, सज्झायति	सज्झायित	सज्झायित्वा
Regains, पटिलभति	पटिलद्ध	पटिलभित्वा
Remembers, अनुस्सरति	अनुस्सरित	अनुस्सरित्वा
Resolves, अधिट्ठाति	अधिट्ठित	अधिट्ठाय
Returns (v.i.) पटिनिवत्तति	पटिनिवत्त	पटिनिवत्तित्वा
पच्चांगच्छति	पच्चागत	पच्चागन्त्वा
Rises, उट्ठाति	उट्ठित	उट्ठाय
Roars, नदति	–	नदित्वा
Runs, धावति	–	धावित्वा
Says, वदति	वुत्त	वत्वा
भासति	भासित	भासित्वा
कथेति	कथित	कथेत्वा
Seeks, गवेसति	गवेसित	गवेसित्वा
परियेसति	परियेसित	परियेसिय
Sees, पस्सति	दिट्ठ	पस्सित्वा, दिस्वा
Sells, विक्किणाति	विक्किंत	विक्किणित्वा
Sends, पेसेति	पेसित	पेसेत्वा
Sets fire, झापेति	झापित	झापेत्वा
Sews, सिब्बति	सिब्बित	सिब्बेत्वा
Shakes, कम्पेति	कम्पित	कम्पेत्वा
चालेति	चलित	चालेत्वा
Shines, विरोचति	विरोचित	विरोचित्वा
ओभासति	ओभासित	ओभासित्वा
Shoots, विज्झति	विद्ध	विज्झित्वा
Shows, दस्सेति	दस्सित	दस्सेत्वा
Shuts, पदहति	पिहित	पिदहित्वा
Sings, गायति	गायित	गातित्वा
Sinks, (v.i.), निमुज्जति	निमुग्ग	निमुज्जित्वा
Sits, निसीदति	निसिन्न	निसीदिय
Sleeps, सयति	–	सयित्वा
निद्दायति	–	निद्दायित्वा
Smells, घायति	घायित	घायित्वा
Sows, ककचेर, छिन्दति	छिन्न	छिन्दित्वा

Spends, विस्सजेति	विस्सट्ठ	विस्सज्जेत्वा
Spreads, (v.i.) पत्थरति	पत्थट	पत्थरित्वा
(v.t.) वित्थारेति	वित्थत	वित्थारेत्वा
Springs up, उब्भिज्जति	उब्भिन्न	उब्भिज्ज
Stands, तिट्ठति	ठित	ठत्वा
Steals, चोरेति, थेनेति	चोरित, थेनित	चोरित्वा, थेनेत्वा
Strews, विकिरति	विकिण्ण	विकिरित्वा
Strings, आवुणति	आवुत	आवुणित्वा
Stumbles, पक्खलति	पक्खलित	पक्खलित्वा
Swallows, गिलति	गिलित	गिलित्वा
Sweeps, सम्मज्जति	सम्मट्ठ	सम्मज्जित्वा
Swoons, मुच्छति	मुच्छित	मुच्छित्वा
Takes, आदाति	आदिन्न	आदाय, आदियित्वा
गण्हाति	गहित	गहेत्वा, गण्हिय
Takes down, ओतारेति	ओतारित	ओतारेत्वा
ओरोपेति	ओरोपित	ओरोपिय
Tastes, सायति	सायित	सायित्वा
Teaches, उग्गण्हापेति	उग्गण्हापित	उग्गण्हापेत्वा
सिक्खापेति	सिखापित	सिखापेत्वा
Thinks, चिन्तेति	चिन्तित	चिन्तेत्वा
Threatens, तज्जेति	तज्जित	तज्जेत्वा
Throws, खिपति	खित्त	खिपित्वा
Touches, फुसति	फुट्ठ	फुसित्वा
Trains, सिक्खापेति	सिक्खापित	सिक्खापिय
दमेति	दमित	दमिय
Translates, परिवत्तेति	परिवत्तित	परिवत्तेत
Trembles, कम्पति	कम्मित	कम्पित्वा
Turns, वट्टेति	वट्टित	वट्टेत्वा
Understands, बुज्जति	बुज्झ	बुज्झित्वा
Unfolds, पसारेति	पसारित	पसारिय
Vomits, वमति	वमित	वमित्वा
Waits for, आगमेति	–	आगमेत्वा
Walks, चरति	–	चरित्वा
Wanders, आहिण्डति	–	आहिण्डित्वा

Washes, **घोवति**	**घोत**	**घोवित्वा**
Wears on, **निवासेति**	**निवत्थ**	**निवासेत्वा**
Weaves, **विनाति**	**वीत**	**विनित्वा**
Wins, **जिनाति**	**जित**	**जिनित्वा**
Wishes, **इच्छति**	**इच्छित**	**इच्छिय**
Wraps, **वेठेति**	**वेठित**	**वेठेत्वा**
Writes, **लिखति**	**लिखित**	**लिखित्वा**
Yokes, **योजेति**	**युत्त**	**योजेत्वा, योजिय**

III. The Participles धातुसाधितें

The participles are either *verbal adjectives*, agreeing with the qualified nouns in gender, number and case or *indeclinables.* As usual with verbs they are classified according to tenses, as present, past and future: The *Future Participle* is less commonly met with. The *Past Particple is the declinable past passive participle* and is formed by **त** or **इत** to the root. The Pali Past Participles, listed above, are all from the Sanskrit forms directly, with modification. *The past participles are used as adjective and are declined* like **बुद्ध** (m); **फल** (n); **कञ्ञा** (f): The *Indeclinable Past Participle* also called the *Absolutive* (Pali-Course) or *the Gerund* (English Grammar) are formed by adding **त्वा** to the root. They are dealt with under Nipata or **अव्यय.** The *Infinitive of purpose* is the same thing as **तुमन्त अव्यय** and is indeclinable.

(1) Present Participles : Addition of **अन्त** or **मान** to a root forms Present Participle (masculine) and are declined **भगवन्त; बुद्ध.**

गम – गच्छ + अन्त = गच्छन्त; गच्छ् + मान = गच्छमान

दद – वद् + अन्त = वदन्त; वद + मान = वदमान

कंख – कंख् + अन्त = कंखन्त; कंख + मान = कंखमान

लभ – लभ् + अन्त = लभन्त; लभ + मान = लभमान

रुद – रोद् + अन्त = रोदन्त; रोद + मान = रोदमान

सुप – सुप् + अन्त = सुपन्त; सुप + मान = सुपमान

दा – दद् + अन्त = ददन्त, देन्त; दद + मान = ददमान

हा – जह् + अन्त = जहन्त; जह + मान = जहमान

कुध – कुज्झ् + अन्त = कुज्झन्त; कुज्झ + मान = कुज्झमान

युध – युज्झ् + अन्त = युज्झन्त; युज्झ + मान = युज्झमान

सु – (श्रु) सुण् + अन्त = सुणन्त; सुण + मान = सुणमान

सक (शक्) सक्कोन्त =

पुच्छ – पुच्छ् + अन्त = पुच्छन्त; पुच्छ + मान = पुच्छमन

मर – मर् + अन्त = मरन्त; मर + मान = मरमान

भुंज – भुंज् + अन्त = भुञ्जन्त; भुञ्जमान

कर – (कृ) कर् + अन्त = करोन्त

गह – गण्ह + अन्त = गण्हन्त; गण्ह + मान = गण्हमान

वि + की – विक्किरण् + अन्त = विक्किणन्त; विक्किण + मान = विक्किणमान

चुर – चोरय् + अन्त = चोरयन्त; चोरय + मान = चोर + अन्त = चोरेन्त

कथ – कथय् + अन्त = कथयन्त; कथे + अन्त = कथेन्त;

कथय + मान = कथयमान

Addition of **अती, अन्ती माना,** to the verbal root forms Feminine Present Participle :–

गम – गच्छ् + अती = गच्छती; गच्छन्ती; गच्छमाना
वद – वद् + अती = वदती; वदन्ती; वदमाना
कख – कंख् + अती = कंखती; कंखन्ती; कंखमाना
लभ – लभ् + अती = लभती; लभन्ती; लभमाना

Thye are declined like, **गच्छती, गच्छन्ती**

The neuter Present Participle is formed by adding **अन्त** and **मान** to the root and is declined like **फल**.

(2) The Future Participle, not very common, is formed by inserting **इस्स** between the verbal base **(धातुङ्ग)** and the termination **अन्त** or **मान** of the Present Participle, e.g. :–

पच + इस्स + अन्त = पचिस्सन्त = who will be cooking
पचिस्समान =
– Masculine forms.

पच + इस्स + अती = पचिस्सती; पचिस्सन्ती
– Feminine forms

पत + इस्स + अन्त = पचिस्सन्तं = पचिस्सन्तं फलं, a fruit about to fall
– Neuter forms.

(3) The declinable Past Participles are often referred as declinable *Past Passive Participles.* They are formed by adding **त** or **इत** to the verbal

root. For convenience and easy understanding a list of Past Participles with their genders are given below :–

Root	Masculine Gender	Feminine Gender	Neuter Gender
गम	गतो	गता	गतं
नम	नतो	नता	नतं
पुच्छ	पुच्छितो, पुट्ठो	पुच्छिता, पुट्ठा	पुच्छितं, पुट्ठं
दिस	दिट्ठो	दिट्ठा	दिट्ठं
नी	नीतो	नीता	नीतं
ठा, तिट्ठ	ठितो	ठिता	ठितं
हन	हते	हता	हतं
पा	पीतो	पीता	पीतं
लभ	लद्धो	लद्धा	लद्धं
गह	गहितो	गहिता	गहितं
कर	कतो	कता	कतं
आ + रभ	आरद्धो	आरद्धा	आरद्धं
दा	दत्तो, दिन्नो	दत्ता, दिन्ना	दत्तं, दिन्नं
आ + रूह	आरूळ्हो	आरूळ्हा	आरूळ्हं
ओ + लोक	ओलोकितो	ओलोकिता	ओलोकितं
खाद	खादितो	खादिता	खादितं
खिप	खित्तो	खित्ता	खित्तं
चर	चरितो, चिण्णो	चरिता, चिण्णा	चरितं, चिण्णं
छिद	छिन्नो	छिन्ना	छिन्नं
ञा	ञातो	ञाता	ञातं
धोव	धोवितो	धोविता	धोवितं
न्हा	नहातो, न्हातो	नहाता, न्हाता	नहातं, न्हातं
बुद्ध	बुद्धो	बुद्धा	बुद्धं
भास	भासितो	भासिता	भासितं
मर	मतो	मता	मतं
मुच	मुत्तो	मुत्ता	मुत्तं
याच	याचितो	याचिता	याचितं
रक्ख	रक्खितो	रक्खिता	रक्खितं
वस	वसितो, वुसितो	वुसिता, वुसिता	वसितं, वुसितं

(4) The Potential Passive Participles are used to denote some action which is fit or proper to be done e.g., the students should get up at dawn **माणवकेहि पच्चूसकाले उट्ठितब्ब**. Here the subject must be in the instrumental while the participle must agree with the object in gender, number, and case. If there is no object then the participle must be in Neuter, Nominative, Singular e.g. :–

रक्ख – रक्खितब्ब, रक्खनीय, रक्खिय

वंद – वन्दितब्ब, वन्दनीय, संदिय (वन्य)

छिद – छेतब्ब, छेदनीय, छिन्दितब्ब

सु – सोतब्ब, सुणितब्ब, सवणीय

कथ – कथयितब्ब, कथेतब्ब, कथनीय

पूज – पूजयितब्ब, पूजेतब्ब, पूजनीय, पुज्ज

IV. Some adverbial phrases, interjections and addressing forms.

Ah ! Alas ! **हा, अहो**
Anyhow, **येन केनचि आकारेन**
By how much, **कित्तावता**
By this much, **एत्तावता**
For a long time, **चिराय**
Hail ! **जयतु!**
In many places, **बहुत्थ**
In one place, **एकत्थ**
In one way, **एकधा**
In two ways, **द्विधा**
In three ways, **तिधा**
In four ways, **चतुधा**
In five ways, **पञ्चधा**
In six ways, **छधा**
In seven ways, **सत्तधा**
In eight ways, **अट्ठधा**
In nine ways, **नवधा**
In ten ways, **दसधा**
Twice, **द्विक्खतुं**
Four times, **चतुक्खत्तुं**
Six times, **छक्खत्तुं**
Twenty times, **वीसतिकखत्तुं**
Thousand times, **सहस्सक्खत्तुं**
How many times, **कतिक्खत्तुं ?**
Well done, **साधु ! सधु !**
What else, **अञ्ञं किं ?**
In hundred ways, **सतधा**
In many ways, **बहुधा**
In how many ways, **कतिधा**
In every way, **सब्बधा**
In both ways, **उभयथा**
In another way, **अञ्ञथा**
In the other way, **इतरथा**
In another place, **अञ्ञदा**
In both places, **उभयत्थ**
In another day, **अञ्ञदा**
In the presence of, **सम्मुखा**
In the absence of, **परम्मुखा**

Look here, **इङ्ध**

Methinks, **मञ्ञे**

My dear, **भो, अम्मो, आवुसो, सम्म, मारिस**

Revered Sir, **भन्ते, भदन्ते**

Sir, **सामि, अय्ये**

Shame, **धि! धिरत्थु**

Thrice, **तिक्खत्तुं**

Five times, **पञ्चक्खत्तुं**

Ten times, **दसक्खत्तुं**

Hundred times, **सतक्खत्तुं**

Many times, **बहुक्खत्तुं**

My Lord, **देव**

Adverbs of Time, कालभेदा

Afternoon, **अपरण्हो**

Afterwards, **पच्छा**

Always, **सदा, निच्चं** (Ind.)

Dawn, **अरूणो, अरूणोदयो**

Day, **दिवसो**

Day after to-morrow, **परनसुवो** (Ind.)

Day before yesterday, **परहीयो** (Ind.)

Day time, **दिवसकालो**

One day, **एकदा** (Ind.)

Early morning, **पच्चूसो**

Evening, **सायं**

Fast-day, **उपोसयो**

Formerly, **पुब्बे, पुरा** (Ind.)

Fore-noon, **पुब्बण्हो**

Fortnight, **अद्धमासो, पक्खो**

Fullmoon day, **पण्णरसी** (f)

Future, **अनागतो**

Hour, **घटिका**

Mid-day, **मज्झण्हो**

Midnight, **निसीथो**

Minute, **मुहुत्तो, खणो**

Month, **मासो**

Morning, **पभातो,**

In the morning, **पातो**

Moment, **खणो**

Night, **रत्ति** (f)

First watch of night, **पठययामो**

Last watch ofnight, **पच्छिमयामो**

Middle watch of night, **मज्झिमयामो**

New-moon-day, **अमावसी** (f)

Now, **इदानि** (Ind.)

Rainy-season, **वस्सनो**

Season, **उतु,** (m, f)

Second, **अच्छरा**

Spring, **वसन्तो**

Summer, **गिम्हानो**

Time, **कालो**

Past time, **अतीतो**

Present time, **पच्चुप्पन्नो**

To-day, **अज्ज** (Ind.)

To-morrow, **सुवे** (Ind.)

Week, **सत्ताहो**

Winter, **हेमन्तो**

Year, **सरदो, संवच्छरं**

Yesterday, **हीयो, हिय्यो**

V. General Conversation, साधारण सल्लापो।

1. Do you know Pali ? त्वं पालिभासं जानासि?।
2. I know a little; अहं थोकं जानामि।
3. Are you able to converse in Pali ?
   सक्कोसि त्वं पालिभासाय सल्लपितुं?।
4. Yes, I am able to converse a little :
   आम, थोकं सल्लपितुं सक्कोमि।
5. What is your name ? युय्हं नामं किं? किंमो नामेसि?।
6. My name is Vijayabahu; अहं विजयबाहू नामो म्हि।
7. Where do you live ? त्वं कथं वससि?।
8. I live in Colombo; अहं कोळम्बनगरे वसिमि।
9. What is your age ? तुय्हं आयुप्पमाणां कित्तं?।
10. My age is fifteen मय्हं आयुप्पमाणं पण्णरस।
11. How old are you ? कतिवस्सोसि त्वं (आयुना)?।
12. I am twenty years old; अहं वीसति वस्सोऽम्हि।
13. Where do your parents live ?
    तुय्हं मातापितरो कुहिं वसन्ति?।
14. They too live in Colombo now ?
    ते पि इदानि कोळम्बनगरे येव वसन्ति।
15. Do you have brothers and sisters too ?
    तुय्हं भातु भगिनीयो पि सन्ति?।
16. Yes, I have four brothers and two sisters :
    आम, मय्हं चत्तारो भातरोच द्वे भगिनियो च सन्ति।
17. What do your brothers do ? तव भातरो किं करोन्ति?।
18. One of them is a merchant, the second one is a clerk and the other two still attend schools;
    तेसु एको वाणिजो, दुतियो लेखको, द्वे ताव पाठसालासु उग्गण्हन्ति.।
19. What do you like to be ? त्वं किं कम्म कातुं इच्छसि?।
20. I like to be a carpenter; अहं एको बड्ढकी भवितुं इच्छामि।
21. When did you come here; कदा त्वं इध आगतो सि?
22. I came here yesterday; हीयो हं इध आगगिंच्छ।

1. Who are you ? को सि त्वं?
2. I am a farer; अहं एको पथिको।
3. Where do you come from ? कुतो त्वं आगच्छसि?
4. I come from India; अहं इन्दुदेसतो आगच्छमि।
5. For what purpose have you come ? त्वं किं कातुं आगतो सि?
6. I want to sell some goods; अहं भण्डानि विक्किणितुं इच्छामि।
7. Why did you come here; कस्मा इध आगतो सि?।
8. I came here to talk to you; तया सद्धिं सल्लपितुं आगतो म्हि।
9. What is your father ? को तुय्हं पिता?
10. My father is the merchant Mahanama; मम पिता महानाम वाणिजो
11. Who is your friend and acquaintance here ?
    को इध तव मित्तो वा सन्दि ट्ठो वा?
12. The mayor of this city is a friend of mine;
    इध नगरगुत्तिको मय्हं मित्तो होति।
13. Where do you work ? कत्थ त्वं कम्मं करोसि?
14. I work in a post office; अहं एकस्मिं सासनगारे कम्मं करोमि।
15. Where do you go from here ? इतो त्वं कुहिं गच्छसि?
16. I will go to another town from here; अहं इतो अञ्ञं अगरं गमिस्सामि
17. Do you like this place ? पियायसि त्वं इदं ठानं?
18. I may like this place if it is not to hot;
    पियायेय्यम इदं ठानं सच्चेदं नाच्चुण्हंभवेय्य।
19. When will you go home ? कुदा त्वं सकट्ठानं गमिस्ससि?
20. I will go home when I get enough money;
    यदि पहोणकं मूलं लभिस्सामि, तदाऽहं गमिस्समि।
21. How much money have you now with you ?
    कित्तकं मूलंऽदानि तव सन्तिके अत्थि?।
22. I have fourteen rupees and fifty cents;
    चुद्दस रूपियानि अड्ढारूपियञ्च च मम सन्तिके सन्ति।

Orders and Advice

1. Ring the bell; घण्ठं वादेहि।
2. Bring my watch here; मम होरालोचनं इध आहार।
3. Call that man here; तं पुरिसं इध पक्कोसाहि।

4. Wash your feet; **तुय्हं पादे धोवाहि।**
5. Do not go in the Sun; **आतपे मा गच्छाहि।**
6. Do not drink intoxicants; **मज्जं मा पिव।**
7. Fold my silk dress; **मम कोसेय्यच्छादनं संहराहि।**
8. Give this begger some rice; **इमस्स याचकस्स थोकं तण्डुलं देहि।**
9. Send that boy to fetch a pen; **लेखणिं आनंतुं तं दारकं पेसेहि।**
10. Be always obedient to your parents;
    सदा मातापितुन्नं वचनकरा भवथ।
11. Do not ridicule elders; **मा वुद्धानं परिहासं करोथ।**
12. Never tell lies; **मा कदाचि पि मुसा भणथ।**
13. Do not kill living beings; **मा जीविनो जीविता वोरोपेथ।**
14. Pay respect to all religious teachers; **सब्बेसं समणानं गारवं करोथ।**
15. Keep company with virtuous friends; **कल्याणमित्ते सेवथ।**
16. Do not keep company with friends who have fallen into voice; **पापमित्ते मा भजथ।**
17. Do not steal even a needle that belongs to others; **मा परसन्तकं सूचिमत्तं पि थेनेथ।**
18. Do not tease animals; **तिरच्छानगते मा हिंसथ।**
19. Do not try to find others faults; **मा परेसं छिद्दानि गवेसथ।**
20. Find out your own faults and avoid them;
    अत्तनो वज्जानि गवेसेत्वा तानि पजहथ।

Conversation with a school boy

1. Why did you not come yesterday ? Or why were you absent yesterday ?
   कस्मा त्वं हीयो न आगतो सि?।
2. Yesterday I went with my father to a funeral;
   हीयो ऽहं पितरा सद्धिं मतकट्ठानं अगमिं।
3. Where are your books and writing material ?
   कुहिं तव पोत्थका लेखनभण्डानि च?।
4. I came here having left them on the desk in the school;
   तान ऽ हं सालब्भन्तरे लेखनफलके ठापे त्वा आगतो ऽ म्हि।
5. Why do you come late to-day ?
   कस्मा त्वं अज्ज चिरायित्वा आगच्छसि?।

6. Being unable to cross the bridge as it was broken down, I am late; अन्तरामग्गे सेतुनो भिन्नता तरितुं असक्कोन्तो चिरायिं।
7. What did that boy say to you ? सो दारको तुय्हं किं कथेसि?।
8. He said he could not buy the necessary books as he had no money; निमूलत्ता इच्छिते पोत्थके किणितुं नासक्खि ति सो वदि।
9. Why did he send for you ? कस्मा सो तं पक्कोसि?।
10. He has send for me because he wished to get a book from me ; मम सन्तिका एकं पोत्थकं लद्धुं इच्छन्तो सो मम पक्कोसि।
11. How many books did you buy ? कति पोत्थका कीता तया?।
12. I bought four books; मया चत्तारो पोत्थका कीता।
13. How much did you pay for them; तेसं अत्थाय कित्तकं मूलं दिन्नं तया?
14. I gave eight rupees and twenty five cents; अट्ठ रूपियानि पञ्चवीसति-सतभागे च अहंअदासिं।
15. Can you run quickly; सक्कोसि त्वं सीघं धावितुं।
16. I am not able to run very fast; अहं अतिसीधं धावितुं न सक्कोमि।
17. Was it done by him in your presence ? कतं इदं तेन तुय्हं सम्मुखे?।
18. No; it was done by him in the presence of two other students; न; अञ्ञेसं द्विन्नं सिस्सस्स सन्तिके तेन इदं कतं।
19. If it is so how do you know this ? यदि एवं, कथं त्वं इदं जानासि?।
20. They told me that he did so; सो तथ करी ति ते मं वदिंसु।
21. When will your father return ? युय्हं पिता कदा पच्चागमिस्सति?।
22. He will return from there day after tomorrow; परसुवे सो ततो आगमिस्सति।
23. Did you tear the leaves of this book ? त्वं इमस्स पोत्थकस्स पत्तानि दालेसि नु?
24. I did not; I was writing my copy; न अहं लिपिपरिचये अक्खरानि लिखन्तो निसीदिं।
25. Do you write with steel nibs ? अयलेखनीमुखेहि नु तुम्हे लिखथ?।
26. We write with quill pens; मयं पत्तनाळा-लेखनीहि लिखाम।
27. What did your teacher teach you yesterday ? किं तुम्हाकं आचरियो हियो उग्गण्हापेसि।

28. He taught us geography of India;

सोऽम्हाकं भारत भूमिवित्थारं उग्गण्हापेसि।

29. As my slate is broken I shall buy another to-morrow;

मम सिलापत्थरस्स बिन्नता सुवेऽहं अञ्ञ किणीस्सामि।

30. Did he give you that book ? **सो तं पोत्थकं तुय्हं अदसि नु?।**

31. No, it was given by him to his sister;

न तेन सो अत्तनो भगिनिया दिन्नो।

32. I cannot give you the book, for it is not mine;

मम अनायत्तत्ता तं पोत्थकं तुय्हं दातुं न सक्कोमि।

33. Having been expelled from the school the boy returned home;

पाठसालाय निक्कड्ढितो सो सिस्सो अत्तनो गामं पच्चागमासि।

34. If you wish to be successful in the future, learn while you are young;

अनागते अभिवुद्धिं पत्तुं इच्छन्ता, दहरकाले सिप्पुग्गहणं करोध।

Conversation between two farmers

1. Good morning; **सुप्पभातं।**
2. It is good of you to have come here; **सुन्दरं तया कतं इध आगच्छन्तेन।**
3. I hoped that you would come as I was anxious to meet you;

अहं तया समागन्तुं इच्छन्तो तब आगमनं पच्चासिंसन्तु वसिं।

4. Why have you been away so long ?

कस्मा त्वं चिराय इध नागतो सि?

5. I could not go anywhere for about a month as I was ill;

गेलञ्ञेन आभिभूतोऽहं एक मासमत्तं कत्थचि पि गन्तुं नाखक्खिं।

6. Was your harvest fruitful ? **तव सस्सं निप्फन्नं वा नो वा?।**
7. My crop was destroyed by an excess of water, only a small quantity is left unharmed;

अधिक जलेन मम सस्सं विनस्सि; थोकं एव अविसिट्ठं अहोसि।

8. What about your own crop ? **का भवती सस्से पवत्ति**
9. At first, some cattle broke the fence and ate the young plants, and then the remainder died of drought;

पठमं गावो वत्तिं भिन्दित्वा तरुणासस्सं खादिंसु, अथावसिट्ठं अनोदकेन मिलायि।

10. If it is so how will you feed your family ?

यज्जेवं, कथं त्वं अत्तनां कुटुम्बं पोसेतुं सक्कोसि?

11. I will earn my living by selling pot-herbs brinjals, pumpkins, etc;

अहं साकपण्णाणि च भण्डाकीकुमीण्डादीनि च विक्किणित्वा जीविकं कप्पेस्सामि

12. Are there many orange trees in your garden;
सन्ति वब उय्याने बहु जम्बीररुक्खा?
13. There are twenty trees in my garden;
वीसति रुक्खा मम उय्याने रोपिता होन्ति।
14. How many fruits do you gather from those trees in one crop ?
एकस्मिं वारे तेहि कित्तकानि फलानि ओचिनासि?।
15. I get about two thousand fruits in one crop :
एकस्मिं फलवारे द्विसहस्समत्तानि फलानि लभामि।
16. When do you wish to plough your field;
कदा तव खंत्तं कसितुं इच्छसि?।
17. I will plough it when I get oxen and plough :
यदा गोणे च नाङ्गलानि च लभिस्सामि तदाऽहं कसिस्सामि।
18. How many mowers do you need in reaping ?
लायने कित्तका लायका इच्छितब्बा?।
19. Ten reapers with ten scythes will be able to reap my harvest ;
दस लायका दसहि दात्तेहि मम स्ससं लायितुं सक्खिस्सन्ति।
20. Having heaped them on the threshing floor, how many oxen do you need for threshing ?
खले रासीकत्वा कतीहि गोणेहि मद्दापिस्ससि?
21. Having got them threshed by eight oxen and having removed straw and chaff, I will bring home the grain after getting it dried :
अट्ठाहि गोणेहि मद्दापेत्वा पलालं उध्दरित्ता भुसं पप्फोटेत्वा सुक्खापेत्वा च धाञ्ञं गेहं आनेस्सामि।

Conversation between two merchants

1. Welcome ! Please sit down here;
स्वागतं भवतो ! निसिदाह इमस्मिं आसने।
2. How are you getting on ? **कथं तव सरीरप्पवत्ति?।**
3. Thank you; I am quite well; **थुति अत्थु; अहं अच्चन्तनिरोगी विहरामि।**
4. Are your wife and children well and happy ?
तव पुत्त-दारा पि निरोगा सुखिनो।
5. Yes, they too are in good health and contented; **एवं, ते पि अप्पावाधा चेव सन्तुट्ठा च।**
6. How much did you get this month by selling your goods ?
इमस्मिं मासे भण्डविक्कयेन कित्तको लाभो लद्धो भवता?।

7. There was no gain but only loss, as I had to sell my goods at less than the cost price;

कीतमूलतो पि ऊनामूलेन विक्किणितत्ता मय्हं हानि येव अहोसि न वड्ढि1।

8. What goods did you buy from Persia ?

पारसिका - देसतो कानि भण्डानि तया कीतानि?।

9. I went there with a carvan andbrought many carpts with the aid of Camels;

अहं सत्यवाहेन सध्दि तत्थ गन्त्वा बहूनि अनग्धकोजवानि ओट्ठेसु ओरोपेत्वा आनेसिं।

10. At what price do you want to sell your carpets ?

एकं कोजवं कित्तकेन मूलेन विक्किणितुं इच्छसि?।

11. I will sell them at double the cost;

कीतमुलतो दिगुणेन मूलेन विक्किणिस्सामि।

12. I have heard that a merchant-uessel arrived in the harbour yesterday;

एक वाणिजनावा हीयो पट्ठनं आगता ति सुतं मया।

13. Yes, I went to the harbour and gave some money in advance to buy goods from there;

एवं, अहं नावातित्थं गन्त्वा ततो भण्डं गहेतुं सच्चकारं अदासिं।

14. To-morrow I will have them brought to my shop in ten carts; **सुबे अहं दसहि सकटहि तानि भण्डानि मम आपणं आहरापेस्सामि।**

15. I am inclined to buy the whole lot;

अहं सब्बं भण्डरासिं किणितुं इच्छामि।

16. A hundred mangoes could be had in a rupee;

सतं अम्बफलानि एकेन रूपियेन केतुं सक्क।

17. How much did you pay for this blanket

एतस्स कम्बलस्स अत्थास कित्तकं तया दिन्नं?।

18 I gave ten rupees and fifty cents;

अहं दसरूपियानि पण्णास - सतभागे च अदासिं।

C. PARTICLES :–

C. Particles :— Avyaya (अव्यय) in Pali, is a group of words consisting of

(i) Conjunctions
(ii) Prepositions
(iii) Indeclinable past participles ending in त्वा, त्वान, य
(iv) Infinitives.

They are usually divided into two broad classes viz., (I) Prefix or उपसग्गा (ii) Indeclinable particles or निपात.

I. Prefix or उपसग्गा are put before verbs and substantives to modify their meaning. They are put before verbal root whereby sometimes the quality and meaning of the word is completely changed e.g. :–

गच्छति = goes; उप + गच्छति = goes near;
आ + गच्छति = comes

सर (स्मृ) - recall; वि + सर = विस्सरति = to forget

तर = Swim; ओ + तर = ओतरति = descend or get down

More than one or two prefix could be put before a verbal root, e.g.,

वि + आ + करोति = व्याकरोति = explains

अधि + आ + वसति = अज्झावसति = lives

सं + उत् + आ + चरति = समुदाचरति = addresses or practices.

A list of the more common उपसग्गा :–

Prefix	Meaning, अर्थ	Verb, क्रिया
अति	Beyond, over	अतिक्कमति, अतित्तति
अधि	Over, upon above	अधिगच्छति (goes over or acquires or grasps)
अनु	After	अनुसरति (follows)
		अनुस्सरति (remembers)
अप	Away, insult	अपभासति (criticizes)
		अपमञ्ञति (insults)
		अपनयति (to remove away)
		अपचायति (worships)
अभि	Towards, oppose	अभिमुखं, अभियाति (attacks)
ओ (अव्)	Down, contempt	ओतरति (descends)
आ	Upto, until	आगच्छति (comes)
		आहरति, आनयति (brings)

उद	Up, out	उतिट्ठति (gets up) उत्तरति (ascends)
उप	Near, nearby	उपसंकमति (comes near) उपराजा (viceroy)
नि (निस्)	Down, away, less	निसीदति (sits down) निपतति (falls down) निग्गच्छति (goes away) निम्मक्खिक (fly-less)
नी (निर्)	Out	नीरहति (takes out)
प (प्र)	Begin, shine forth	पयाति (starts), पज्जलति (प्रज्व) shines forth पवादो (a theory or hypothesis)
पटि, पति	back, in-return	पच्चागच्छति (comes back), पटिपुच्छति (asks in return), पटिक्खपो (प्रतिक्षेप) refusal.
परा	return	परापतति (returns) पराजयति (defeats) पराक्कमति (strives)
परि (पलि, पळि)	Surrounding	परिधावति (runs about) पलिवेठेति (wraps round)
वि	Oppose, differ apart	विवाद (quarrel) विवसन्ति (lives separately) विभजति (divides) विहरति (lives)
सं (सम्)	Together	संवसन्ति (live together) संवादो (conversation)

II. Indeclinable particles or निपात *or* अव्यय :—

This group includes conjunctions, prepositions, indeclinable past participles, indeclinable participles, infinitives. Words which have no gender, no number and no case, are all निपात or अव्यय.

(a) List of particles or **निपात** *or* **अव्यय** *:–*

1. How, **कथं–**
   What, **किंसु, कच्चि, किं**
   Really, **ननु**
   Isn't that so, really, **नु**
2. Without, besides, **विना, अन्तरेन, रिते**
3. Doubt, sorry, **अहो**
   What, where of, **किमु**
   Or, **उदाहु, किमुत**
4. Nipatas indicating time,
   Now, **अधुना, इदानि, इतरहि**
   When, **यदा**
   Then, **तदा**
   To-day, **अज्ज**
   To-morrow, **सुवे (श्वः)**
   Dayafter to-morrow, **परसुवे (परश्वः)**
   Yesterday, **हिय्यो (ह्यः)**
   Evening, **सायं**
   Morning, **पातो**
   Day-time, **दिवा**
   Day-break, **पगे**
5. Vocative Nipatas
   Superiors, **भन्ते**
   O, you, **अरे, रे, भी**
   For servants, **जे**
   For Sraman, **आबुसो**
6. As, when, **यथा**
   That, that way, **तथा**
   Thus, **एवं**
   As it were, **सेय्यथा**
   As, **यथरिव**
   Thus, **तथरिव**
7. Because, **यतो**
   That's why, **ततो**
   Owing to, Because of **निस्साय**
   With reference to, about, **संधाय**
8. No, **न, नो, मा**
   Otherwise, **नोच**
   Enough, **अलं**

All prepositions except **ठपेत्वा, धिरत्थु, नमो, विना,** are placed after the nouns. Prepositions govern their objects in different cases as indicated below :

(a) The Accusative – **याव** until; **आरब्भ, उद्दिस्स, निस्साय, सन्धाय, पटिच्च** with reference to, about; **धि, धिरत्थु** fie upon!

(b) The Instrumental – **अलं** enough of; **किं** what is the use of ? (Interrogatively); **वट्टति** it is proper for; **सक्का**, it is possible for; **सद्धिं, सह** with.

(c) **नमो** governs the dative.

(d) **पट्ठाय** (from) governs the ablative; **याव** is used with the ablative optionally : **विना** (without); governs the accusative, the instrumental or the ablative.

(e) The genitive, **अधो** under; **अन्तरे, अन्तो** in, among; **उद्धं, उपरिं** on, upon above; **ओरं** on this side; **पारं** beyond; **हेट्ठा** below, under; **वट्टति**.

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B) Terminations **त्वा, त्वान, तून, य** when put after a verbal root, we get **त्वान्त अव्यय** *or Indeclinable Past Participle or the Gerund.* Before the addition of **त्वा**, the root undergoes the same changes as before **तब्ब;** e.g. **पचित्वा** having cooked, **विज्झित्वा** after piercing, **खिपित्वा, कथत्वा, कथयित्वा, हारापे - पयित्वा** etc; **य** optionally takes the place of **त्वा**; generally in cases where an **उपसग्ग** is prefixed to the root, as **उपट्ठहित्वा** or **उपट्ठाय** having approached; **अनुभवित्वा** or **अनुभूय; उपेत्वा** or **उपेच्च** having approached; **प्र + विश्** = **प्रविश्य.**

Some roots with their Gerund; Indeclinable Past Participles (Absolutive)

कीळ + इ + त्वा = कीळित्वा; कीळ + इ + त्वान = कीळित्वान;

कीप्ळ + इ + तून = कीळितून = Having played.

खिप = खिपित्वा, खिपित्वान, खिपितून = Having thrown.

पिव = पिवित्वा, पिवित्वान, पिवितून = After drinking or having drunk.

वस = वसित्वा, वसित्वान, वसितून = Having lived or living.

धोव = धोवित्वा, धोवित्वान, धोवितून = After washing.

चिन्त = चिन्तयित्वा, चिन्तयित्वान, चिन्तयितून = After having thought or after thinking,

छिद् = छिन्दित्वा, छिन्दित्वान, छिन्दितून = After cutting.

भुज = भुञ्जित्वा, भुञ्जित्वान, भूञ्जितून = After eating.

ठा = ठत्वा, ठत्वान = Having stood or standing.

गह = गहेत्वा, गहेत्वान, गहेतून = Bringing with.

पीळ = पीळयित्वा, पीळयित्वान, पीळयितून = torturing or having tortured.

C) Terminations **तुं, तवे, ताये** when added to a root we get **तुमन्त अव्यय;** they are usually used to express purpose of a verb or **क्रिया**. *These forms are also called the Infinitive of Purpose :–*

कीळ = कीळितुं, कीळितवे, कीळिताय = for playing

पठ = पठितुं पठितवे, पठिताये = for studying

चर = चरितुं, चरितवे, चरिताये = for wandering about

रूद = रोदितुं, रोदितवे, रोदिताय = for crying

पस्स = पस्सितुं, परिस्तवे, परिसताये = for seeing

जि = जेतुं, जेतवे, जेताय = for conquering

नी = नेतुं, नेतवे, नेताये = for carrying

roots with उपसग्ग] प + हर = पहरितुं, पहरितवे, पहरिताये = for beating
नि + कम = निक्खमितुं, निक्खमितवे, निक्खमिताये = for going

III. Indeclinables And adverbs, निपाता

Above, उपरि, उद्धं.
Across, तिरो, तिरियं.
After (that), पच्छा, अत्थ.
After a long time, चिरेन.
Again, पुन.
Again and again, पुनप्पुनं.
All-round, समन्ततो.
Almost, मनं, केवलकप्पं.
Also, अपि, चापि.
Although, तथापि.
Always, सततं, सदा.
And, च, अपि.
As, यथा, तथा.
As far as, याव, ताव.
As follows, सेय्यथीदं
Aside, एकमन्तं.
At first, ताव, पठमं.
Because,, यतो, यस्मा, तस्मा.
Before (in front), पुरतो.
Before (formerly), पुरा, पुब्बे
Before long, अचिरं.
Before-hand, पगेव, पटिगच्चेव.
Behind, पच्छतो.
Below, अधो, हेट्ठा.
Between, अन्तरा.
But, तथापि.
Certainly, अद्धा, वे, हवे, कामं, जातु.
Constantly, अभिण्हं
Eastwards, पुरत्थ.
Either or, वा, अथवा, उदाहु
Else, अपि च.
Elsewhere, अञ्ञत्थ.
Enough, अलं.
Ever, सदा, सब्बदा.
Every where, सब्बत्थ.
Exactly, यथातथं.
Except, विना.
Far less, किमङ्ग
Frequently, अभिक्खणं.
From afar, दूरतो.
From here, इतो.
From there, ततो
From where, कुतो.
Grattis, मुधा.
Hastily, सहसा.
Hence, इतो, एत्तो.
Hence forth, इतो पभुति.
Here, इधा, अत्र, एत्थ, इह.

How, कथं ?
However, यथा कथञ्चि
How much, कित्तकं, कीव
If, सचे, यदि
In, अन्तो
Indeed, खलु
Instantly, सज्जु
Is not, ननु ?
Just, एव
Just as, यथ, रिव
Like, विव, इव
Likewise, तथेव
More and more, भीयो
Mostly, येभुय्येन
Namely, सेय्यथीदं
Never, न कदाचि
No, न, नो
No where, न, क्कुचि
Do not, मा
Often, अभिण्हं
Once, सकिं
Oneself, सयं, सामं
Or, उदाहु, अथवा
Outside, बहि
Otherwise, अञ्ञथा
Perhaps, अप्पेव
Properly, सम्मदेव
Rather, किञ्च
Rightly, सम्मा
Secretly, रहो
Seldom, कदाचि, करहचि
Shortly, अचिरं
Silently, तुण्हि
Slowly, सनिकं
So, तथा
So far, तावता
So long, तावता
So long as, याव किवं
Soon, खिप्पं, सीघं, आसु, तुवतं
Strictly, दळ्हं
Surely, अवस्सं, एकन्तेन
Then, तदा
Thence, ततो
There, तत्थ, तत्र, तहिं
Therefore, तस्मा, तन
Through, अन्तरेन
Tightly, गाळ्हं
Together, एकज्झं
Together-with, सह येव
Until, याव, ताव
Upon, उपरि
Very much, अतिविय, अतीव
Well-nigh, मनं
What, किं
What if, यन् नून
When, कदा ?
Whence, कुतो
Whenever, यदा
Where, कुहिं, कुत्र ?
Wherever, यत्थ कत्थचि
Wherefore, यस्मा
Whether, कच्चि
Why, कस्मा ?
With, सह, सद्धिं
Without, विना, ठापेत्वा
Wrongly, मिच्छा
Yes, आम, एवं

Sentences showing use of various Particles :–

Hail to the Buddha ! Fie upon the Evil Spirit ! **नमो बुद्धाय, धिरत्थु मार।**

A quarrel arises among the crows about the bones; **अट्ठीनि निस्साय काकानं कलहो उप्पज्जति।**

Enough of honey and curds to me; I have requirement of fire wood; **अलं मे मधुना दधिना च; दारूना मे अत्थो।**

There lives a hare under a cluster of palms; **तत्थेको ऽ ससो तालगच्छस्स हेट्ठा वसति।**

The monkeys go daily beyond the Ganges ; **वानरा पच्चहं गंगाय पारं गच्छन्ति।**

The bearers of load return with fuel; **भारहारका दारूहि सद्धिं पच्चागच्छन्ति।**

What is the use of water to me ? **किं मय्हं वारिना।**

The Brahmin throws ghee over the fire; **ब्राह्मणो अच्चिस्स उपरि सप्पिं पक्खिपति।**

It is not proper for a man a tell an untruth ; **असच्चं नरस्स न वट्टति।**

It is not possible for a hare to give sesamums to a Brahmin ; **ससेन ब्राह्मणाय तिलानि दातुं न सक्का।**

The Buddha tells this story about a monk : **इदं वत्थुं बुद्धो एक भिक्खुमारब्भ कथेति।**

Hares do not eat anything without grass ; **तिणं विना ससा न खादन्ति।**

What is the use of bow without arrows ? **सरेहि विना किं धनुना ?**

We bring fuel and grass from the forest below : **अम्हे दारूं च तिणंच अरञ्ञा आहराम।**

Birds fall down on the ground with speed; **सकुणा वेगेन भमियं निपतन्ति।**

Good man live together in mutual satisfaction; **सप्पुरिया तुट्ठिया अञ्ञमञ्ञ** (mutual) **संवसन्ति।**

The Elephantess of Udena runs in the sand, like lightening; **उदेनस्स करेणु वण्णुयं विज्जु विय धावति।**

A man who possesses the four virtues of lord of the monkeys, viz. truth, justice, courage and charity, overcomes all difficulties; **यस्सेते चतुरो धम्मा वानरिन्द यथा तव। सच्चं धम्मो धिति चागो दिट्ठं सो अतिवत्तति॥**

A crocodile used to live inthe Ganges ; **सुंसुमारो गङ्गाय विहरति।**

The physician wraps your nose with cloth ; **वेज्जो तव नासिकं वत्थेन पलिबेठेतिं**

A serpent takes out its head from the hallow ; **नागो सीसं सुसिरस्मा नीहरति.**

You remember the strength of the monkeys ; **तुम्हे वानरिन्दस्स सत्तिं अनुस्सरथ।**

The splendour of the Doctrine shines forth in four quarters; **धम्मस्स रूचि चतूसु दिसासु पकासति।**

The cow jumps up from the ground ; **धेनु भूमिया उप्पतति।**

The elephantess ascends from the deep pit; **करेणु निन्नाय कासुया उत्तरति।**

The student should inform his teacher everything that he has done, seen or heard personally; **यं यं अत्तना कतं वा दिट्ठं वा सुतु वा सब्बं तं आचरियस्स आरोचेतब्ब।**

The elder monk Mahatissa, went to the court yard of the temple in the evening, saw the moon-light, turned his face towards the temple, became full of joy, jumped up in the air and stood firmly at the great temple : **महातिस्सत्थेरो सायं चेतिय चेतियट्ठणं गन्त्वा चंदालोकं दिस्वा चेतियाभिमुखो हुत्वा पीतिं** (joy) **उप्पादेत्वा आकासे उप्पतित्वा महाचेतिये पतिट्ठासि।**

I am not allowed to go to the monastery at my liking or to hear the Doctrine or to offer gifts; **अहं अत्तनो रुचिया विहारं वा गन्तुं धम्मं वा सोतुं दानं वा दातुं न लभामि।**

Do not allow this child to go anywhere ; **दारकस्स कत्थचि गत्तुं मा देथ।**

The pupil must get up early, must put off his shoes, must give the tooth-pick to the preceptor, and must arrange his seat; **अन्तेवासिना कालस्ससेव उट्ठाय, उपाहना ओमुञ्चित्वा, आचरियस्स दन्तकट्ठं दातब्बं, आसनञ्च पञ्ञापेतब्ब।**

If the place becomes dirty, it should be swept; सचे सो देसो उक्लापो होति सम्मज्जितब्बो।

The Son of the banker covered the street, constructed a pandal, and began drinking wine surrounded by a large company ; सेट्ठिनो पुत्तो वीथिं आवरित्वा, मण्डपं कारापेत्वा महाजनेन परिवुतो सुरं पातुं आरद्धो।

The messenger saw that the sage had gone to the Pandva mountain after taking his alms round and after going out the city; and he informed this to the king ; स मुनि पिण्डाय चरित्वा नगरा निक्खम्म, पण्डव उपगता ऽ ति दिस्वान दूतो आगन्वा. राजिनो पटिवेदयि।

If a man does not get friends that are better than him and that are worthy of friendship, then he should live alone, like a king who lives alone after abandoning the kingdom which is conquered (by others); सेट्ठे समे सेवितब्बे सहाय अलद्धा, राजा ऽ व विजितं रट्ठं पहाय एको चरे।

One should not take resort to sinful friends, should not utter false words, should not drink wine, and should not cause destruction of life ; पापका मित्ता न भजितब्बा, मिच्छा वाचा न वचनीया, मज्जं न पेय्यं, पाणातिपातो च न कातब्बो।

I shall not be allowed to renunciate by my parents ; मातापितरो मय्हं पब्बजितुं न दस्सन्ति।

Whatever is thought by the mind should be spoken out by the tongue; यं किञ्ची मनसा चिन्तितं सिया, तं वाचाय वत्तब्ब।

If the western dusty wind blow, the western windows should be closed; सचे पच्छिमा सरजा वाता वायेय्युं, पच्छिमा वातपाना थाकेतब्ब.

If the store house is dirty it should be swept ; सचे कोट्ठको उक्लापो होति, सम्मजितब्बो।

Charities should be given commandments should be observed, and fast should be kept; दानानि देय्यानि (दातब्बानि), सीलानि रक्खितब्बानि, उपोसथो च करणीय।

The crane, catching the fish, carrying it to the great lake, tearing it down and taking its life, ate it; वको मच्छं गण्हित्वा, तं महातळाकं नेत्वा (हरित्वा), तं फालेत्वा, जीवितक्खयं पापेत्वा अखादि।

Some boys went to a garden to steal fruit, but the gardener came and beat them; केचि बाला फलानि चोरेतुं उय्यानं गता, उय्यानपालो पन आगम्म ते पहरि।

The boys said "O Sir, do not beat us, not a single fruit has been stolen by us." वाला अवोचुं, "अय्य मा नो पहरि, एकमपि फलं अम्हेहि न खादितं" ति.

It is not proper to insult a good man and not possible to insult a wicked man ; सुजनं अपमञ्ञितुं न वट्टति, दुट्ठं अपमञ्ञितुं च न सक्का.

They having approached the king prayed him to release the deer; ते राजानं उप्पेच (उपसंकमित्वा, उपसंकम्म, or उपेत्वा), मिगं मोचयितुं तं पत्थेसु.

So long as the peacock had not been seen by the residents, the crow was fed by them ; रट्ठवांसीहि अदिट्ठे मोरे, काको तेहि पुट्ठो (पोसितो).

The grass is eaten and the water is drunk by the cow ; धेनुना तनं खादित च उदकंच पिवितंच।

The cows have been milked and sent to the pasture ; धेनुयो दुब्द्धा, गोचरं च पहिता.

The sick monks should attend upon one another ; गिलानेहि भिक्खूहि अञ्ञमञ्ञं उपट्ठातब्बं.

Our money has been wrested, our country conquered and parents have been killed by you ; त्वया अम्हाकं चमू च अच्छिन्ना, रट्ठं च जितं, मातापितरो च मे मारिता.

Section 4

1. Cardinals – Number – संख्या

1 = एकं.
2 = द्वे.
3 = तयो, ति.
4 = चतु (चत्तारो).
5 = पञ्च.
6 = छ.
7 = सत्त.
8 = अट्ठ.
9 = नव.
10 = दस.
11 = एकादस.
12 = द्वादस, बारस.
13 = तेळस, तेरस.
14 = चुद्दस, चतुद्दस.
15 = पण्णरस, पञ्चदस.
16 = सोळस.
17 = सत्तरस, सत्तदस.
18 = अट्ठारस, अट्ठादस.
19 = एकूनवीसती. (f)
20 = वीसती.
21 = एकवीसती.
22 = द्वावीसती, बावीसती.
23 = तेवीसती.
24 = चतुवीसती.
25 = पञ्चवीसती.
26 = छब्बीसती.
27 = सत्तावीसती.
28 = अट्ठावीसती.
29 = एकूनतिंसती.
30 = तिंसती.
31 = एकातिंसती. (f)
32 = द्वात्तिंसती.
33 = तेत्तिंसती.
34 = चतुत्तिंसती.
35 = पञ्चतिंसती.
36 = छत्तिंसती.
37 = सत्ततिंसती.
38 = अट्ठतिंसती.
39 = एकूनचत्ताचाळीसती.
40 = चत्ताळीसति.
41 = एकचत्ताळीसति.
42 = द्विचत्ताळीसति.
43 = तेचत्ताळीसति.
44 = चतुचत्ताळीसति.
45 = पञ्चचत्ताळीसति.
46 = छत्ताळीसति.
47 = सत्तचत्ताळिसति.
48 = अट्ठचत्ताळिसति.
49 = एकूनपण्णासा.
50 = पण्णासा, पञ्चासति.
51 = एकपण्णासा.
52 = द्वेपण्णासा.
53 = तेपण्णासा.
54 = चतुपण्णासा.
55 = पञ्चपण्णासा.
56 = छपण्णासा.
57 = सत्तापण्णासा.
58 = अट्ठपण्णासा.
59 = एकूणसट्ठि.
60 = सट्ठि.
61 = एकसट्ठि.
62 = द्वासट्ठि, द्विसट्ठि.
63 = तेसट्ठि, तिसट्ठि.
69 = एकूनसत्तति.
70 = सत्तति.
71 = एकसत्तात.

72 = द्वासत्तति, द्विसत्तति.
73 = तेसत्तति, तिसत्तति.
79 = एकूनासीति.
80 = असीति.
81 = एकासीति.
82 = द्वेअसीति, द्वियासीति.
84 = चतुरासीति.
89 = एकूननुवति.
90 = नवुति.
92 = द्वानवुति, द्विनवुति.
93 = तेनवुति, तिनवुति.
96 = छन्नवुति.
99 = एकूनसतं.
100 = सतं.
200 = द्विसतं.
300 = तिसतं.
400 = चतुसतं.
500 = पञ्चसतं.
600 = छसतं.
900 = नवसतं.
1,000 = सहस्सं.
2,000 = द्विसहस्सं.
10,000 = दससहस्सं.
100,000 = सतसहस्सं, लक्खं.
10,00,000 = दसलक्खं.
100,00,000 = सतलक्खं, कोटि (f).
10,00,00,000 = दसकोटि (f).
100,00,00,000 = सतकोटि.
101 = एकधिकसतं.
108 = अट्ठुत्तरसतं.
110 = दसत्तरसतं.
150 = दियड्ढसतं.
250 = अड्ढतेय्यसतं, तियड्ढसतं.
1,500 = पञ्चसताधिकसहस्सं, दियड्ढसहस्सं.
/4 = पादो. ¾ = अड्ढुड्ढो.
1½ = अड्ढ.

2. Ordinals, – कमसंख्या

First, पठम (adj)
Second, दुतिय (adj)
Third, ततिय (adj)
Fourth, चतुत्थ (adj)
Fifth, पञ्चम (adj)
Sixth, छट्ढ (adj)
Seventh, सत्तम (adj)
Eighth, अट्ठम (adj)
Ninth, नवम (adj)
Tenth, दसम (adj)
Eleventh, एकादसम (adj)
Twelfth, द्वादसम (adj)
Thirteenth, तेरसम (adj)
Fourteenth, चुद्दसम (adj)
Fifteenth, पञ्चदसम (adj)
Sixteenth, सोळसम (adj)
Seventeenth, सत्तरसम (adj)
Eighteenth, अट्ठारसम (adj)
Nineteenth, एकूनवीसतिम (adj)
Twentieth, वीसतिम (adj)
Thirtieth, तिंसतिम (adj)
Fourtieth, चत्ताळीसतिम (adj)
Fiftieth, पञ्चासतिम (adj)
Sixtieth, सट्ठितम (adj)
Seventieth, सत्ततिम (adj)
Eightieth, असीतिम (adj)
Ninetieth, नवतिम (adj)
Hundredth, सतम (adj)
Hundredth, सतम (adj)

The numerals, allmost all of them take all the genders, with the following difference :–

(i) **एक, ति, चतु** take all genders but are declined differently in each gender

(ii) **द्वि, पञ्च, छ, सत्त, अट्ठ, नव, दस** are declined alike in all genders but only in the plural.

(iii) **एकूनवीसति** to **नवनवुति** are declined in the singular number and feminine gender only, whatever be the gender of the substantive qualified. The cardinals are treated as ordinary adjectives.

(iv) **सत** and **सहस्स** may either be used in the neutre gender, or plural in the singular number agreeing only in case with the qualified substantives or as ordinary adjectives agreeing in all respects. For multiples of **सत** and **सहस्स,** Prefix the word indicating the multiplicator and treat the compound as an adjective e.g. **अट्ठसता माणवका।**

(v) Multiplicative adverbs are formed by adding **क्खतुं** to the numerals in the sense of so many times e.g. **द्विक्खतुं** = twice : The word for 'once' is **सकदा** or **सकिं.**

(vi) Suffix **घा** may be used after numerals in the sense of ways, times, fold etc. **एकधा** - once, **द्विधा** - of two kinds : **तिधा** - in three ways.

(vii) **सो** is a distributive adverbial suffix e.g. **एकसो** = one by one; **सतसो** = by hundreds ; **बहुसो** in numbers.

(viii) **मत्त** is added to numerals in the sense of 'only' turning them into adjectives e.g. **चतुमत्ता खत्तिया** - only four warriors.

(ix) any number plus one-half is expressed by prefixing **अड्ढ** to the consecutive higher number.

(x) To give the distributive sense a numeral is repeated e.g. **एकेक** = each one.

Section 5

Syntax

(1) Position of words in a sentence : A sentence may contain any number of words, but a verb must necessarily be there i.e. a sentence must have two portions viz.

(i) the subject कत्ता

(ii) the predicate क्रिया

पुरिसो सयति is a complete sentence, पुरिसो being the subject and सयति the predicate. सयति being an intransitive verb does not take object, but transitive verbs must necessarily have an object (कर्म); therefore a sentence formed with transitive verb consists of three portions, e.g. :

पुरिसो (कत्ता), रूक्खं (कर्म), छिन्दति (क्रिया)

(2) In the above sentence, the subject comes first, object second and the predicate last (In an English sentence the object must come after the predicate). But there are no definite rules about the order of the words in a Pali sentence.

(3) Addressing words are very often placed first, in a sentence e.g.

(i) भन्ते, इमस्मिं सासने कति धुरानि?

(ii) So also with आसुसो

(iii) So also with भोति

(4) Interrogation is expressed by using interrogative adverbs.

(a) Pronouns or particles at the beginning of a sentence :– When there is an interrogative word in a sentence, the addressing word, if there be any, takes the second or last place.

(i) किं कथेसि, भातिका ?

(ii) अप आवुसो, अम्हाकं सत्तारं जानासि ?

(iii) किं पन, भन्ते, इदानि पि दिन्ने लभिस्सन्ती ?

(iv) कुहिं यासि, उपासक ?

(v) कहं गतों सि, आवुसो ?

(vi) को तत्थ वसति ?

(vii) कस्मा, सो सप्पो एतं न डसि

(b) Interrogation is also expressed by placing the verb first, in a sentence, followed very often by the particle नु. :– पस्सथ नु तुम्हे, भिक्खवे, अमुं महन्तं अग्गिक्खन्धं ?

(5) Words of assent are also placed at the beginning of a sentence. Addressing words in such sentences are placed next to the assenting words, e.g. :– **आम, सम्म, इदानाहं विहारं गन्त्वा थेरं दिस्वा आगतोम्हि**

(6) Extension of predicate, be it a single word, a phrase, or a clause is placed before the verb.

(7) The conditional particles **सचे, यदि** and the interjections are placed at the beginning of a sentence.

(8) Copulative **च** and disjunctive **वा** and the conditional **चे** are never placed at the beginning of a sentence.

(9) The following indeclinables are used correlatively :-

(i) **यथा; तथा** (as : so)

(ii) **याव; ताव** (as longas : until)

(iii) **यदा; तदा** (when : then)

(iv) **यत्थ; तत्थ** (where : there)

(10) Words qualifying the subject or object, generally come before the subject or object respectively.

Adverbs come before the verbs, but the adverbs of time always come first in a sentence.

(11) An adjective must agree with the noun it qualifies in gender, number and case.

(12) A relative pronoun must agree with its antecedent in gender, number and person.

(13) *Concord*.

(i) The Predicate must agree with the subject in number and person.

(ii) When there are several subjects of different persons and one verb in a sentence, the verb is put in the first person plural; and should there be no subject of the first person, the verb is put in the first person plural.

(iii) One subject may have more than one finite verb.

(iv) When there are more than one subject connected with, **च** in a sentence, the verb must be in plural.

(v) When an action of many is the same, but if some of them are introduced by one of the particles **सह, सद्धिन्** or **समं** or with the instrumental case, the verb follows the subject which is in the nominative.

(vi) When the subject is a collective noun the verb takes the singular form.

Section 6

General conversation - about animals, birds and insects.

1. Dogs watch over their masters' houses at night. सुनखा रत्तियं अत्तनो सामिकानं गेहानि रक्खन्त।
2. People catch elephants and bring them from forests, tame them and get their work done by them. मनुस्सा अरञ्ञतो हत्थी बन्धिवा, आनेत्वा, दमत्वा अत्तानं किच्चानि कारापेन्ति।
3. Horses, harnessed to the carriages, run with them through the streets. रथेसु योजिता अस्सा ते आकड्ढन्ता विथियासु धावन्ति।
4. The donkey is able to bear a heavy burden. गद्दभो बहुं भारं वहितुं सक्कोति।
5. Camels, loaded with many goods, are able to go through the desert where there is no water. उट्ठा बहूनि भण्डानि आदाय निरूदककन्तारे गन्तुं समत्था होन्ति।
6. Having climbed the tree, the monkey destoyed the nests of the bird. वानरो रूक्खं ओरूहित्वा पक्खीनं कुलावके विनासेसि.
7. The cat chased the squirrel to the foot of the tree. विळालो कलन्दकं गण्हितुं रुखमूलं धावि।
8. Hunters hunt deer and bring their flesh to be sold in the town. ब्याधा मिगे विज्झित्वा मंसं विक्किणितुं नगरं आहरन्ति।
9. While eating grass the hare saw a man and ran away frightened. तिणं खादन्तो ससो एकं मनुस्सं दिस्वा भीतो पलायि।
10. The cow likes to allow her calf to suck, and does not wish to be milked by others. गावी सकं वच्चं पायेतुं इच्छति, न पन ऽ अञ्ञेहि खीरस्स दुहनं।
11. People take the honey by force which is made with much difficulty by the bees, with the pollen gathered from flowers. मधिकरेहि पुप्फरेणवो आहरित्वा किच्छेन कतं मधुं मनुस्सा बलक्कारेन गण्हन्ति।

12. The parrot pierced the mango with its beak and sucked its juice. सुवो मुखतुण्डेन अम्बफलं विज्झित्वा तस्सा रसं पिवि।

13. White ants bring a small quantity of earth at a time and gradually build a big ant-hill. उपचिका थोक-थोकं मत्तिकं आनेत्वा अनुक्कमेन महन्तं वम्मिकं करोन्ति।

14. Mosquitoes worry people by bitting them and sucking their blood. मकसा मनुस्से डसित्वा लोहितं पिवन्ता ते पीळेन्ति।

15. In order to catch insects the spider spreads the web made by itself. उण्णनाभि खुद्दजन्तवो गहेतुं अत्तना कतं जालं पत्थरति।

16. Ants prepare their homes by digging the earth. पिपीलिका भूमिं खणित्वा तासं वसनट्ठानं पतियादेन्ति।

17. Attracted by the glare grasshoppers fly into the fire and die there. सलभा अग्गिं दिस्वा तस्स वण्णेन मोहिता तत्थ पतित्वा मरन्ति।

18. The pigeons sat on the roof of the house and cooed. पारावता गेहस्स छदने निसीदित्वा रविंसु।

19. Many crows flew up and perched on the branches. बहु काका आकासं पक्खन्दित्वा रुक्खसाखासु निलीयिंसु (निसीदिंसु)।

20. Hawks kill small birds and eat them. सेना खुद्दक-पक्खिनो मारेत्वा खादन्ति

21. There are ten swans and twenty cranes in that lake. तस्मिं तळाके दस हंसा विसति बका च सन्ति।

22. Buffaloes like to wallow in dirty water. महिसा सपङ्के जले निमुज्जितुं इच्छन्ति।

23. Snakes devour rats, but they (the snakes) are killed by the mungooses. सप्पा उन्दरे गिलन्ति तथा पि ते नकुलेहि मारीयन्ति।

24. The venom of the scorpion is in its tail, but serpents have their venom at the root of their fangs. विच्छिकानं विसं नङ्गुट्ठे होति, सप्पानंम पन विसं दाठामूले।

25. Musk is obtained in certain kind of deer which live in the Himalayan region. कत्थूरिका हिमवन्ते वसन्तिया एकाय मिगजातिया लब्भति।

About Trees, Fruits, Flowers, etc.

1. There are many hundred thousands of coconut trees in Ceylon. लङ्कायं अनेक सतसहस्ससङ्खा नाळिकेररूक्खा संविज्जन्ति।
2. Some people plait coconut leaves and thatch their houses with them. एकच्चे तेसं पत्तानि वायेत्वा तेहि गेहानि छादेन्ति।
3. They draw the sap from the flowers and make intoxicants out of it. तेसं पुप्फेहि रसं गहेत्वा मज्जानि सम्पादेन्ति।
4. They condense the sap by heating it with fire and make treacle and jaggery with it. पुप्फरसं अग्गिना तापेत्वा घनं कत्वा फाणितं गुळज च सम्पादेन्ति।
5. They obtain milk and oil from the kernel of the nuts. फलेहि खीरं तेलञ्च च लभन्ति।
6. The water in the young coconut is sweet and cool. तरुणनळिकेरानं जलं मधुरञ्चचे ऽ एव सीतलञ्च च।
7. The boys brought down unripe mangoes by throwing sticks at them. दारका दण्डानि खिपित्वा (दण्डेहि पहारित्वा) आमानी अम्बानी पातेसुं।
8. Jack-fruit, bread-fruit and bananas are found in tropical countries. पनसानि लबुजानि कदलिफलानि च उण्हाधिकरट्ठेसु सम्भवन्ति।
9. Grapes and apples grow in countries where there is a mild climate. मुद्दिका महाबदरा च समसीतुण्हेसु देसेसु जायन्ति।
10. Nut-meg and mace are found in the same fruit. जातिफल-जातिकोसा एकस्मिं ये फले सम्भवन्ति।
11. Of all kinds of sandalwood the red is the most valuable. चन्दनेसु रत्तचन्दनं महग्घतम।
12. Cardamoms are a kind of small seed which have a pungent taste. एळा ति एका कटुकरसा खुद्दक बीजजाति।

13. The jujubes of Ceylon are smaller than those of India. लङ्काय बदरानि जम्बुदीपे बदरेहि खुद्दकतरानि होन्ति।

14. The father brought grapes and oranges, and divided them amongst his sons and daughters. पिता मुद्दिकानि जम्बीरानि च आहरित्वा अत्तनो पुत्त-धीतरानं भाजेत्वा अदासि।

15. Dates are imported to Ceylon from foreign countries. महाखज्जरीफलानि विदेसेहि लङ्कं आहरीयन्ति।

16. The boys bought some ripe marmelos and gave them to their sisters. दारका पक्कानि बेलुवानि किणित्वा तेसं भागिनीनं अदंसु।

17. Prince Siddharth was born under a sal tree; he became Buddha at the foot of a bo-tree. सिद्धत्थकुमारो सालरूक्खमूले जातो, अस्सत्थरूक्खमूले बुद्धो भवि।

18. Bring cucumbers and snake-gourds from the market and prepare curries. आपणतो कक्कारीफलानि पटोलानि च आहरित्वा व्यञ्जनानि सम्पादेहि।

19. Champak flowers have an agreeable smell, but the flowers of pentapets phoenicea are without any smell. चम्पकपुप्फानि मनुञ्ञगन्धानि होन्ति; जयसुमनपुप्फानि निग्गन्धानि।

20. The timber of the iron-wood tree is very hard, its flowers are exceedingly sweet scented. नागरूक्खस्स दारू अतिथद्धं, पुप्फानि अतिसयेन सुगन्धानि।

21. The varana tree looks like a dead tree when its leaves have fallen. वरणरूक्खो पत्तानं गलितकाले सुक्खरूक्खो विय पञ्ञायति।

22. Betel and arecanuts, constantly used for chewing by the Indians, are unknown in European countries. जम्बुदीपिकेहि मुखवासत्थाय निच्चसेवितानि तम्बूलानि पुगानी च युरोपीयरट्ठेसु अञ्ञतानि।

About a dwelling house

1. Open the door and the windows of room. मम गब्भे द्वारे वातयनानि विवराहि ।
2. She asked him to prepare mutton for breakfast. पातरासत्थाय एळकमंसं पचाही 'ति' सा तं वादि.
3. The servants covered the table with a cloth and set plates and spoons on it. सेबको भोजनफलकं अत्थरित्वा तत्थ कंसे चे कटच्छु च थापेसि।
4. Do you like yam. त्वं कन्दे भुञ्जितुं इच्छामि ?
5. No, like curd. न, अहं दधि भुञ्जितुं इच्छामि.
6. The children shouted 'we like to drink milk'. 'मयं खीरं पिवितुं इच्छाभा' इति दारका उन्नदिंसु.
7. One person said the taste of mutton-curry was not palatable. मंसव्यञ्जनस्स रसो न सुन्दरो ति एको वदि ।
8. Bring me some salt and fresh butter quickly. थोकं लवणं नोनीतं च सीघं आहराहि ।
9. Standing on the threshold of the kitchen, the mistress of the house called the cook. घरणी रसवतिया उम्मारे ठत्वा सूदं आमन्तेसि।
10. Every morning the servant women sweep the comopunds and remove the dirt. दासियो सब्बदा पातो गेहङ्गनानि सम्मज्जित्वा कचवरं अपनेन्ति।
11. The girl put rice into a pot, placed it upon the fire and kindled the fire. दारिका पातियं तण्डुले पक्खिपित्वा उद्धनं आरोपेत्वा अग्गिं जालेसि।
12. The maiden will scrape the coconut with a scraper and extract the juice by squeezing it. तरुणी सण्हकरणीया नालिकेरमिञ्जं सण्हं कत्वा मद्दित्वा रसं गण्हिस्सति ।
13. The master told the attendant to spread a bed-sheet on the bed and put some pillows on it. मञ्चे अत्थरणं अत्थरित्वा बिम्बोहनानि थापेही ति सामिको उपट्ठाकं आह ।
14. Having done so, he spread a mat before the bed and put a carpet upon the mat. सो तथा कत्वा मञ्चस्स पुरतो किलञ्जं पत्थरित्वा तस्स ऽ ऊपरि एकं कोजवं पि अत्थरि.
15. The house holder said that the furniture in the house should be taken out and cleaned. गेहे दारुभण्डानि बहि नीहरित्वा सोधेतब्बानी ति गहपति अवदि ।
16. He bought bricks, tiles and timber in order to build a new house. सो नवं गेहं कारेतुं गिञ्जका च चदनिट्ठका च दारुसारानि च किणी।

17. Masons raised the walls, and carpenfers did the wood work, so that the building was soon completed. इट्ठवड्ढकिनो भित्तियी चिनन्ता दारुवड्ढकिनो दारूकम्मं करोन्ता सीघं एव ऐहं निट्ठापेसुं।

18. The daughter locked the door, and taking the key with her, went to the well for a bath. धिता द्वारं पिदहित्वा कुञ्चिकं आदाय नहानत्थाय कूपं अगमासि।

About a City

1. Cities generally have ramparts, moats, gates and watch-towers. नगरानि पन बहुसो पाकार-परिखा-गोपुर ट्टालेहि युत्तानि होन्ति।

2. In them are many streets and lanes, gardens and houses of many description. तेसु बहू खुद्दक महन्ता वीथियो, उय्यानानि नानाविघघरानि च सन्ति।

3. The streets of a city are crowded with horses, carriages, carts and pedestrains. नगरवीथियो अस्सेहि रथेहि सकटेहि पथिकेहि च आकिण्णा होन्ति।

4. When the horse races are held rich and poor assemble in large numbers at the race course. अस्सधावने वत्तमाने बहवो धनवन्ता निद्धना च अस्समण्डले समोसरन्ति।

5. In the evenings drunkards get together at taverns and drink intoxicants. सुरासोण्डा सायण्हेसु पानमन्दिरेसु सन्निपतित्वा मज्जं पिवन्ति।

6. The municipal authorities get water from distant places to fill the reservoirs and distribute water among citizens through pipes. नगरपालिका दूरट्ठानतो उदकं अनेत्वा जलासये पूरेत्वा नाळमग्गेहि नागरिकानं उदकं भाजेन्ति।

7. In cities there are prisons surrounded with massive walls. नगरेसु महन्तेहि पाकारेहि परिक्खित्ता बन्धनागारा सन्ति।

8. To-night they will drive in a carriage to the theatre and watch the performance. ते अज्ज रत्तिया अस्सरथेन नच्चसालं गन्त्वा नच्च ओलोकेस्सन्ति.

9. Those who come from foreign countries visit the museum. परदेसेहि आगच्छन्ता एकन्तेन कुतूहलसालं पस्सितुं गच्छन्ति।

10. Travelling by tram-car the compositor arrived at the printing press. वण्णयोजको विज्जुरथेन गन्त्वा मुद्दण्कनालयं सम्मापुणि।

11. In the evening the sons and daughters of the rich, accompanied by their friends, walk in the parks. धवनन्तानं पुत्त धीतरो सायण्हेसु अत्तनो अत्तनो सहायेहि सद्धिं उय्यानेसु अहिण्डन्ति।
12. More than twenty thousand people come by train to anuradhapure on *Poson* full-moon days. जेट्ठपुण्णमियं वीसतिसहस्साधिका मनुस्सा धूमरथेहि अनुराधपुरं आगच्छन्ति।
13. The kings palace and the palatila buildings of the ministerse are situated in the heart of the city. रञ्ञो च ऽ एव राजामच्चानञ् च पासादा नगरस्स मज्झभागे पतिट्ठिता।
14. Sentinels shut the city gates at night and take their stand on the watch tower. रत्तियं नगरद्वारानि थकेत्वा आरक्खका अट्टालेसु तिट्ठन्ति।
15. When people die in the city their relations carry the corpses to a cemetery and either cremate or bury them. अन्तोनगरे मनुस्सेसु मतेसु तेसं ञातका मतसरिरानि सुसानं नेत्वा झापेन्ति पि, (भूमियं) निखणन्ति पि।
16. Scavengers and potters live in the suburbs outside the city. नगरसोध का कुम्भकारादयो च नगरतो बहि उपनगरेसु वसन्ति।
17. During the night the streets of the cities are illuminated with electric lights or some other kind of lights. रत्तियं नगरवीथियो विज्जुप्पदीपादीहि आलोकिता, होन्ति।
18. Our mayor will go round the city at about four o'clock this evening. अम्हाकं नगरगुत्तिको अज्ज चतुघटिकायं नगरं पदक्खिणं करिस्सति।
19. On Monday the king accompanied by a large retinue and harem will visit the pleasure garden outside the city. राजा महता परिबारेन ओरोधेन च सह चन्दवारे नगरतो उय्यानं गमिस्सति।
20. It is rumoured that a prisoner had murdered the jailor by striking him with a cudgel. एको वज्झप्पत्तो कारापालकं मुग्गरेन पहरित्वा मारेसी ति सूयते।

Government affairs

1. The kings orders should not be voilated. राजुनं आणा न अतिक्कमितब्बा।
2. Those who break the law receive various punishments. ये राजानं अतिक्कमन्ति ते नानाकारेहि दण्डनं लभन्ति।
3. In olden days, soldiers, wearing defensive armour and carrying shields and other weapons, fought with swords, javelins, bows and so forth. पुब्बे पन योधा सन्नाहसन्नद्धा फलकावुधहत्था असि-सत्ति-धनुआदीहि युज्झिंसु।

4. Now they mostly fight with fire-arms. इदानि ते बहुसो अग्गिप्पहरणेहि युज्झन्ति।
5. The armies of the kings of old consisted of four divisions, namely, war elephants, cavalry, war-chariots, and infantry. पोराणराजूनं युद्धसेना हत्थि-अस्स-रथपत्तिवसेन चतुरङ्गिनी अहोसि।
6. At present, artillery has taken the place of war elephants. इमस्मिं काले हत्थिसेनाये ठाने नाळियन्तसेना तिट्ठति।
7. Having built fortresses at many places in Ceylon, King Dutthagamini fought against the Tamils. दुट्ठगामिनी महाराजा लङ्कायं नानाठानेसु खन्धावारे बन्धित्वा दमिळेहि युज्झि।
8. A rebel named Tiya, having collected an army with the wealth plundered from the shrines, made havoc in Ceylon. तीयो नाम दामरिको चेतियानि भिन्दित्वा धनं गहेत्वा सेनं संहरित्वा लङ्कायं महन्तं विलोपं अकासि।
9. Two thousand two hundred years ago an emperor called Dharmasoka ruled India. इतो द्विसताधिकानं द्विन्नं वस्ससहस्सानं उपरि धम्मसोको नाम राजाधिराज जम्बुदीपं पालेसि।
10. The ministers sit in the council-chamber to discuss the affairs of Government. अमच्चा मन्तिसभाय सन्निपतित्वा रज्जकिच्चानि मन्तयन्ति।
11. The general led his army to the battle-field. चमुपति अत्तनो सेनाय युद्धाभूमिं अगमासि।
12. The allied army retreated to their own quarters when the hostile army advanced. यदा सत्तुसेना अब्भुय्यासि तदा मित्तसेना सकं खन्धावारं पच्चुय्यासि।
13. King Prasenjit defeated the army of Ajatasatru the king of Magadha, and captured him alive. राजा पसेनदि मगधरञ्ञो अजातसत्तुनो सेनं पराजेत्वा तं जीवगाहं गण्हि।
14. A battle-ship carrying a large number of mariners from China reached Colombo harbour while sailing west wards. एका युद्धनावा चीपरट्ठो बहु नाविकयोधे गहेत्वा पच्छिमदिसं गच्छन्ति कोळम्बतित्थं पापुणि।
15. The envoys who started from Japan on the second day after the new moon of the month of *Citra*, reached Siam on the 14th of the same fortnight. जपान-दसेतो चित्तमासस्स सुक्कपक्खे दुतियायं निक्खन्ता राजदूता तस्मिं येव पक्खे चतुद्दसियं स्यामरट्ठं सम्पापुणींसु।
16. Once an insane woman attempted to nurder the premier of Italy.

एकदा एका उम्मत्तिका इटालिरट्ठे महामच्चं उस्सहि।

17. The constables chased after a culprit for about a league in order to catch him. राजभटा एकं सहसिकं गहेतुं कोसपत्तं अनुबन्धिंसु।

18. Village headmen often take bribes; they oppress the weak and help the rowdies. गामभोजका बहुसो लञ्छं गण्हन्ता दुब्बले पीळेन्ति, चण्डानं अनुबलं देन्ति।

19. The judge reprehended the mudaliyar who brought a false charge against a villager. विनिच्छयामच्चो एकस्मिं गामिके कूटट्ठकारकं जनपदभोजकं तज्जेसि।

20. When a governor visits a certain place, the inhabitants there put up pandals etc., to receive him. मण्डलिस्सरे यं किञ्चि पदेसं गच्छन्ते तप्पदेसवासिनो तोरणादयो उस्सापेत्वा तं सम्पटिच्छन्ति।

21. Before the great war the spies of the German Emperor were in all parts of the world. महासङ्गामतो पुब्बे जर्मन-अधिरञ्ञो चरपुरिसा सब्बरट्ठेसु वसिंसु.

22. The son of the king's religious adviser married the daughter of the Secretary of State. पुरोहितस्स पुत्तो महालेखकस्स धीतरा विवाहं करि.

23. During the great war, while sailing from sea to sea a man-of-war, named Emden sank a great number of trading vessels. महाहवे वत्तमाने एम्डन-नामा एका युद्धनावा समुद्देसु चरन्ति बहू वाणिजनावायो ओसीदापेसि.

24. The crown-prince took steamer at Colombo and arrived in London after twenty days voyage. युवराजा कोळम्बतित्थे नावं अभिरूहित्वा वीसतिदिनेहि समुद्दं तरित्वा लंडन नगरं सम्पापुणि.

25. On Wednesday the king with his ministers will go to see an array of tropps. राजा अमच्चेहि परिवुतो बुधवारस्स सायण्हे सेनाव्यूहं पस्सितुं गमिस्सति.

26. Some Chinese air-men flying in aeroplanes destroyed many Japanese war-planes by dropping bombs on them. एकच्चे चीनभटा व्योमयानेहि गन्त्वा गुळप्पहरिणानि पतेत्वा जपानरट्ठिकानं ब्योमयानानि विनासेसुं।

27. Modern warriors are able to destroy many lives by spreading poisonous gases. वत्तमानिका योधा विसधूमानि विस्सज्जेत्वा बहूनि जिवितानि विनासेतुं सक्कोन्ति।

28. The victorious army takes possession of the ammunition horses etc. of the defeated army. जयग्गाहिका सेना पराजिताय सेनाय युद्धोपकरणानि अस्सोदयो च अत्तनो सन्तके करोन्ति।

About Buddhist Monasteries

1. In former days there were thousands of monasteries in India, such as Jetavana and Veluvana, each containing several hundreds of monks. पुरा जम्बूदीपें अनेक भिक्खुसताकिण्णा जेतवन वेळुवनादयो विहारसहस्सानि अहेसूं।

2. At present all the olden monasteries in mid-India are in ruins, and even the eight of a Buddhist monk is rare. इदानि पन मज्झिमदेसे सब्बे पोराणकविहारा नट्ठा, भिक्खूनं दस्सनं पि दुल्लभं जातं।

3. There are many thousands of monasteries and a great number of monks in Burma and Siam which lie to the east of India, in Ceylon to the south of it, and in China and Japan to the north east of it. जम्बुदीपस्स पुरत्थिमतो मरम्मस्यामरट्ठेसु च, दक्खिणतो लङ्कादीपे च, पुरत्थिमुत्तरतो चीन-जपान ट्ठेसु च इदानि अनेकसहस्सा विहारा बहू भिक्खवो च सन्ति।

4. In olden days there were no Pagodas and image houses within the monasteries; even now in Siam and Burma they are mostly separated from the monasteries. पुरा सङ्घारामेसु चेटिय-पटिमाघ्रा नाहेसुं; इदानि पि स्याम-मरम्मरट्ठेसु सङ्घारामा बहुसो तेहि विसुं येव होन्ति।

5. In Ceylon each monastery possesses a pagoda, an image-house, a bo-tree and a preaching hall. सीहळीदीपे पन ऽ इदानि एकेस्मिं सङ्घारामे एकं चेतियं, पाटिमाघरं, एक्रको बोधिरूक्खो, एकेका धम्मसाला च विज्जति।

6. The residence of the monks is called a vihara. भिक्खुनं वासागारो विहारो नाम।

7. Image-house is where there are images of the Buddha and the chief disciples, and paintings depicting the life of the Buddha. बुद्ध-महासावक-पटिमादयो पतिट्ठापेत्वा कतं बुद्धचरित-पटिसंयुत्त-चित्तकम्मयुत्तं पटिमाघरं ति वुच्चति।

8. A pagoda or dagoba is a counical structure, made of stone, brick, etc. enshrining some relies of the Buddha. सरीरधातुआदयो निदहित्वा भूपाकारेन सिला-इट्ठकादीहि कतं चेतियं नाम।

9. The monks prepare a dye, pour it in a wooden vessel and then dye their robes, in it. **भिक्खू रजनं पचित्वा रजनदोनियं आसिञ्चित्वा तत्था चीवरानि पक्खिपित्वा रजन्ति।**

10. The (the monks) having donned their robes and taken their bowls, go round the villages collecting alms and come to refectories to partake of it. **ते चीवरानि पारूपित्वा पत्ते गहेत्वा गामेसु पिण्डाय चरित्वा आसनसालायो आगन्त्वा भुञ्जन्ति।**

11. To-morrow is a full moon-day, therefore we shall go early to the temple to take the eight precepts. **सुवे पुण्णमी, तस्मा मयं पातोऽव आरामं गन्त्वा अट्ठङ्गसीलं समादियिस्साम।**

12. When people assemble in the preaching hall, a preacher will sit on the pulpit and with a fan in his hand will deliver a sermon. **मनुस्सेसु धम्मसालाय सन्निपतितेसु एका धम्माकथिको धम्मासने निसीदित्वा विजनिं गहेत्वा धम्मं देसेस्सति।**

13. The people having listened to the dhamma, will offer flowers, lights and incense to the Buddha. **मनुस्सा धम्मं सुत्वा पुप्फ-दीप-धूपादीहि वुद्धं पूजेस्सन्ति।**

14. Books written on ola leaves may last more than a thousand years provided they are well preserved. **तालपण्णेसु लिखितगन्था यदि सुगोपिता भवेय्युं वस्ससहस्साधिकं पि कालं अविनट्ठा पवत्तेयुं।**

15. The Budhist scriptures written on olas are found in many Buddhist monasteries in Ceylon. **लङ्कायं बहुसु विहारेसु तालपण्णलिखिता सोगत-धम्मपोत्थका संविज्जन्ति।**

16. But now there are few persons who write on talipot-leaves as there is an abundant supply of printed books. **यथा इदानि मुद्दित पोत्थकानं सुलभताय तालपण्णलिखने युत्त मन्दा।**

17. Monks and novices get up early, sweep the yards around the pagoda and the other shrines, remove the withered flowers from the altars and wash them; thus they daily perform their duties. **भिक्खु-सामणेरा पातो ऽ व ऽ वुट्ठहित्वा चेतियङ्गणादीनि सम्माज्जित्वा पुप्फासनेसु मिलातमाला अपनेत्वा तानि धोवित्वा पतिदिनं वत्तं करोन्ति।**

18. After that having worshipped the Buddha, they partake of some food; then some novices learn text by heart, somelearn the religious texts and grammar from their teachers. **ततो पच्छा बुद्धवन्दनं**

कत्वा यं किञ्चि आहार भञ्जित्वा एकच्चे सामणेरा गन्थे वाचुगते करोन्ति, एकच्चे आचरियानं सन्तिका धम्म-सत्थुग्गहणं करोन्ति।

19. Before sunset they again do such of minor duties as the sweeping of yards; then they attend on and do obeisance to their elders; and during the first part of the night they recite what they have learnt. सायण्हे पि सम्मज्जनादीनि निट्ठापेत्वा थेरूपट्ठानं कत्वा रत्तिया पठमयामे वाचुग्गतगन्थे सज्झायन्ति।

Section 7
General Information

Days and months, दिवसा मासा च

Sunday, रविवारो
Monday, चन्दवारो
Tuesday, कुचवारो
Wednesday, बुधवारो
Thursday, गुरूवारो
Friday, सुक्कवारो
Saturday, सनिवारो

January, फुस्सो
February, माघो
March, फग्गुणो
April, चित्तमासो
May, वेसाक्को
June, जेट्ठमासो
July, आसाळ्हो
August, सावणो
September, पोट्ठपादो
October, अस्सयुजो
November, कत्तिको
December, मागसिरो

Measures and Weights, मानतुलनानि.

7	Grains	=	One Inch, अंङ्गुलं
9	Inches	=	One Span, विदत्थि, (f)
2	Spans	=	One Cubit, रतनं, हत्थो
4	Cubits	=	One fathom, व्यामो, धनु (nt)
500	Fathoms	=	One League, कोसो, गावुतं
4	Leagues	=	One Yojana, योजनं

Measuring of Corn

4	Pasatas	=	1 पत्थ (m)
4	Patthas	=	1 नाळि (f)
4	Nalis	=	1 दोण (m)
4	Donas	=	1 मानिका
4	Manikas	=	1 खरी (f)
10	Kharis	=	1 कुम्भ (m)
2	Kumbhas	=	1 वाह (m)

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BOOK IV

BOUDDHA POOJA PATHA

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बौध्द पूजा पाठ

डॉ. भी. रा. आंबेडकर

भारतीय बौध्दजन समिति पुस्तकमाला
पुष्प १ लें

प्रथम प्रकाशन : वि. रा. रणपिसे, ८९/३, शिवाजी नगर, पुणें
भारतीय बौध्द जन समिति, ९१५६ किं. ८ आणे (५० पैसे)

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प्रस्तावना

बौध्दधर्माच्या प्रसाराबद्दल लोकांमध्यें ज्या दिवसापासून आतुरता उत्पन्न झाली आहे त्या दिवसापासून बौध्दधर्म म्हणजे काय, व त्याचें वाङ्मय काय आहे, व कोठें कायमिळते, यासंबधानें भारतीय जनतेमध्यें अतिशय मोठे कुतुहल दिसून येते.

कांहीं वर्ग कुतुहलाच्या मर्यादेपलिकडे गेलेले दिसतात. त्यांना बौध्द धर्माच्या वाङ्मयापेक्षा बौध्दधर्मांत पूजापाठ कशाप्रकारें होते, हें जाणून घेण्याचे एक वेडच लागलें आहे. आम्हांला बौध्दधर्माचा पूजापाठ कसा असतो यासंबंधीं कांहींतरी वाङ्मय द्या, असा सारखा तगादा लागून राहिला आहे. माझ्या शारीरिक अस्वस्थतेमुळें त्यांची जिज्ञासा पुरी करणे आतापर्यंत मला शक्य झालें नाहीं. तशांत बौध्दधर्मांतील तत्त्वज्ञानापेक्षां बौद्धधर्मांतील पूजापाठ याचा या देशांत अगदीच लोप झाला आहे. त्या कारणांमुळें या प्रश्नासंबंधीं बौध्दर्धांतील पूजापध्दति व त्यासंबंधीं गाथा कोठेंच उपलब्ध नाहीं. त्या फक्त ज्या देशामध्यें बौध्दधर्म आज प्रचलित आहे, तेथेंच मिळू शकतात.

१९५० सालीं मी सिलोनला गेलो असतांना त्या काळांत याच विषयावर भर देऊन या गाथा मी संग्रहित केल्या व माझें मित्र श्री. गुणतिलके यांना गावयास लावून त्याचे रेकार्ड बनवलें. येथें आल्यानंतर कांहीं बौध्द भिक्षूंच्या महाय्यानें या गाथामध्यें भर टाकली. आज बहुतेक सर्व गाथा या पुस्तकांत एकत्रित झाल्या आहेत, असें म्हणावयास हरकत नाहीं. येथील महाराष्ट्रीय लोकांना या गाथा समजण्यास सुलभ जाव्या म्हणून पाली गाथेचे मराठी भाषांतर एका वाजूस दिलें आहे.

हें पुस्तक "भारतीय बौध्द जन समिती" हिच्या तर्फे प्रसिध्द केलें जात आहे. या पुस्तकावरील माझें सर्व हक्क त्या समितीस दिले आहेत. जो कोणी या हक्कांचे कोणत्याहि तन्हेने उल्लंघन करील त्याच्यावर कायदेशीर इलाज केला जाईल, असा इषारा देण्याची आवश्यकता वाटतें. कारण या देशामध्यें असें लुच्चे लोक आहेत कीं, ते कानामात्रा बदलून दुसन्यांचें पुस्तक आपलेंच आहे म्हणून प्रसिध्द करतात. यानंतर "बौध्द संस्कार पाठ" या नांवाचें दुसरें पुस्तक याच मालेतर्फे प्रसिध्द केलें जाईल.

डॉ. भी. रा. आंबेडकर

२६, अलिपूर रोड,
सिव्हिल लाईन्स, दिल्ली.
दि. २४-२-५६

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	पाठ				पृष्ठ
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मराठी भाषांतर –	**मूळ पाली–**
त्या भगवान बुध्दाला माझे नमन असो, जो अर्हत (जीवन मुक्त) सम्यक (संपूर्ण) सम्बुध्द (जागृत) आहे	नमो तस्स भगवतो अरहतो सम्मासम्बुद्धस्स ।
त्या भगवान बुध्दाला माझे नमन असो, जो अर्हत (जीवन मुक्त) सम्यक (संपूर्ण) सम्बुध्द (जागृत) आहे	नमो तस्स भगवतो अरहतो सम्मासम्बुद्धस्स ।
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तीन अनुसरणें	**सरणत्तयं**
मी बुद्धाला अनुसरतो	बुद्धं सरणं गच्छामि ।।
मी त्याच्या धर्माला अनुसरतो	धम्मं सरणं गच्छामि ।।
मी त्याच्या संघाला अनुसरतो	संघं सरणं गच्छामि ।।
दुसन्यादा मी बुद्धाला अनुसरतो	दुतियम्पि, बुद्धं सरणं गच्छामि ।।
दुसन्यांदा मी त्याच्या धर्माला अनुसरतो	दुतियम्पि, धम्मं सरणं गच्छामि ।।
दुसन्यांदा मी त्याच्या संघाला अनुसरतो	दुतियम्पि, संघं सरणं गच्छामि ।।
तिसन्यांदा भी बुद्धाला अनुसरतो	ततियम्पि, बुद्धं सरणं गच्छामि ।।
तिसन्यांदा मी त्याच्या धर्माला अनुसरतो	ततियम्पि, धम्मं सरणं गच्छामि ।।
तिसन्यांदा मी त्याच्या संघाला अनुसरतो.	ततियम्पि, संघं सरणं गच्छामि ।।

पांच शीलें	पञ्चसीलानि।
१. मी जीवहिंसेपासून अलिप्त राहण्याची प्रतिज्ञा करतों.	पाणातिपाता वेरमणी-सिक्खापदं समादियामि ।।१।।
२. मी चोरी करण्यापासून अलिप्त राहण्याची प्रतिज्ञा करतों.	अदिन्नादाना वेरमणी-सिक्खापदं समादियामि ।।२।।
३. मी कामवासनेच्या अनाचारापासून अलिप्त राहण्याची प्रतिज्ञा करतों.	कामेसु मिच्छाचारा बेरमणी - सिक्खापदं समादियामि ।।३।।
4. मी खोटें बोलण्यापासून अलिप्त राहण्याची प्रतिज्ञा करतों.	मुसावादा वेरमणी-सिक्खापदं समादियामि ।।४।।
५. मी मद्य, मादक तसेंच इतर सर्व मोहांत पाडणान्या मादक वस्तूंच्या सेवनापासून अलिप्त राहण्याची प्रतिज्ञा करतों.	सुरा-मेरय-मज्ज-पमादट्ठाना वेरमणी-सिक्खापदं समादियामि ।।५।।

तीन रत्नांना वंदन १. बुध्वास	तिरतन - वन्दना १. बुध्द वन्दना
अर्हत् (जीवन्मुक्त) सम्यक् (संपुर्ण) सम्बुद्ध (जागृत) विद्या व आचरणांनी युक्त, सुगति ज्याने प्राप्त केलेली आहे. सर्वश्रेष्ठ, दमनशील पुरूषांचा सारथि व आधार देणारा देव व मनुष्य वाचा गुरू, असा भगवान् बुध्द आहे.	इतिपि सो भगवा अरहं, सम्मासन्बुध्दो, विज्जा - चरण सम्पन्नो, सुगतो, लोकविदू, अनुत्तरो, पुरिस-दम्मसारथी, सत्धा देव-मनुस्सानं, बुध्दो भगवा' ति ।
अशा या बुध्द भगबंवाबे जन्मभर अनुसरण करण्याचा मी निर्धार करीत आहे.	बुध्दं याव जीवितं सरणं अच्छामि
मला दुसम्या कोणाचाही आसरा नाहीं, फक्त बुध्द माझा सर्वश्रेष्ठ आधार आहे. ह्या सत्य उच्चारानें माझें जय मंगल होवो ।।१।।	नत्थि मे सरणं अञ्ञं, बुध्दो मे सरणं बरं । एतेन सच्चवज्जेन, होतु मे जय मंगलं ।।१।।
बुध्दाच्या पवित्र चरणधुळीला मस्तक वांकवून भी वंदन करतों. बुध्दाच्यासंबंधी माझ्या हातून कांहीं दोष घडला असला तर त्याबद्दल तो बुध्द भगवान मला क्षमा करो ।।२।।	उत्तमंगेन वन्दे' हे, पादपंसु वरूत्तमं बुध्दे यो खलितो दोसो, बुध्दो खमतु तं ममं ।।२।।
ह्या लोकीं निरनिराळया प्रकारचीं जीं अनेक रत्नें आहेत, त्यापैकी कशानेंही बुध्दाची बरोबरी होणार नाहीं. त्या रत्नानें माझें कल्याण होवो ।।३।।	यं किञ्चि रतनं लोके, विज्जति विविधा पुथु । रतनं बुध्दसमं नत्थि, तस्मा सोत्थि भवन्तु मे ।।३।।
ज्यानें (ज्ञानप्राप्त झालेल्या) पूज्य बोधिवृक्षाखाली बसून मार (कामदेव) ह्याचा त्याच्या अफाट सेनेसह पराभव केला, अनंत ज्ञान प्राप्त करून ज्यानें बुध्दत्व प्राप्त करून घेतलें, जो सर्व जगांत श्रेष्ठ अशा बुध्दाला भी नमस्कार करतों ।।४।।	यो सन्निसिन्नो वरबोधिमूले, मारं ससेनं महतिं विजेत्वा । संबोधिमागच्छि अनंतञाणो, लोकुत्तमो तं पणमामि बुध्दं ।।४।।

धर्म वंदना	२ धम्म - वन्दना
भगवंतानें ज्या धर्मांचा सुंदर उपदेश केला, ज्याचें सत्यत्व येथेंच डोळ्यांसमोर पाहता येतें. जो धर्म आपलें फळ ताबडतोब देतो. कोणीही ज्याचा अनुभव घ्यावा, जो निर्वाणाकडे घेऊन जातो हा सिध्दांत विज्ञानांच्याद्वारे स्वत: अनुभवून पाहतां येतो ।।११।।	स्वाक्खातो भगवतो धम्मो सन्दिट्ठीको अकालिको एहिपस्सिको ओपनायिको पच्चत्तं वेदितब्बो विञ्ञूहीति'
अशा या धर्माचे जन्मभर अनुसरण करण्याचा मी निर्धार करीत आहे.	धम्मं यावजीवितं सरणं गच्छामि ।
मी दुसन्या कोणाला शरण जाणार नाहीं; दुसन्या कोणाचा आधार मी घेणार नाहीं; 'बुध्दधर्मच माझा एकमेव आधार आहे. ह्या सत्य उच्चारानें माझें जय मंगल होवो ।।१।।	नत्थि मे सरणं अञ्ञं, धम्मो मे सरणं वरं । एतेन सच्चवज्जेन, होतु मे जयमंगलं ।।१।।
सर्व दृष्टींनीं श्रेष्ठ असलेल्या ह्या बुध्द धर्माला मी मस्तक नम्र करून वंदना करतों. धर्मासंबंधीं माझ्याकडून कांहीं दोष घडला असेल, तर तो धर्म त्याबद्दल मला क्षमा करो ।।२।।	उत्तमंगेन वन्दे' हं धम्मं च, तिविधं वरं । धम्मे यो खलितो दोसो, धम्मो खमतु तं ममं ।।२।।
ह्या लोकीं जीं निरनिराळीं अनेक रत्नें आहेत, त्यापैकीं एकानेंही बुध्द धर्माची बरोबरी केली जाणार नाहीं-ह्यामुळें माझें कल्याण होवो ।।३।।	यं किंचि रतनं लोके, विज्जति विविधा पुथु । रतनं धम्मसमं नत्थि, तस्मा सोत्थि भवन्तु मे ।।३।।
हा बुध्द धर्म एक असा सरळ मार्ग आहे कीं जो शांतिकारक, उत्तम मार्गाकडे घेऊन जाणारा अष्टांगांनी युक्त तसेंच लोकांना सुख देणारा आहे. त्या धर्माला मी नमस्कार करती ।।४।।	अष्ठङ्गिको अरियपथो जनानं, मोक्खप्पवेसो उजुको' व मग्गो। धम्मो अयं सन्तिकरो पणीतो, निय्यानिको तं पणमामि धम्मं ।।४।।

मराठी भाषांतर–

३. संघ वंदना

भगवंताचा शिष्यसंघ सन्मार्गावर आरूढ आहे. भगवंताचा शिष्यसंघ सरळ मार्गावर आरूढ आहे. भगवंताचा शिष्यसंघ ज्ञानाच्या मार्गावर आरूढ आहे. भगवंताचा शिष्यसंघ उत्तम मार्गावर आरूढ आहे. भगवंताचा शिष्यसंघ अशा नररत्नांचा आहे कीं ज्यानीं वरील चारी जाड्या व आठ संतपदांची प्राप्ती करून घेतली आहे. हा संघ म्हणजे निमंत्रण देण्यास पात्र, स्वागत करण्यास योग्य, दक्षिणा देण्यास योगय, तसेंच जगांत सर्वश्रेष्ठ पुण्यक्षेत्रमय आहे. असा हा संघ नमस्कार करण्यास योग्य आहे. मी जन्मभर अशा संघाचें अनुसरण करीत आहें.

मला दुसरा कशाचाही आधार नहीं. बुध्दाचा शिष्यसंघच माझा सर्वश्रेष्ठ आधार आहे. ह्या सत्य वचनाने माझें जयमंगल होवो ।।१।।

तिन्ही प्रकारांनी श्रेष्ठ असलेल्या ह्या संघाला मी मस्तक वांकवून प्रणाम करतों. संघासंबंधीं जर माझ्याकडून कांहीं दोष घडला असेल तर तो संघ मला त्याबद्दल क्षमा करो ।।२।।

ह्या लोकीं जीं निरनिराळीं अनेक रत्नें आहेत, त्यापैकीं एकाच्यानेंही संघाची बरोबरी होणार नाहीं. त्याच्यामुळें माझें कल्याण होवो ।।३।।

संघ विशुध्द, श्रेष्ठ, दक्षिणा देण्यास योंय, शत इंद्रियांचा, सर्व प्रकारच्या मलापासून अलिप्त, अनेक गुणांनी युक्त तसाच निष्पाप आहे. अशा ह्या संघाला मी प्रणाम करतों ।।४।।

मूळ पाली

३. संघ वंदना।

सुपटिपन्नो भगवतो सावकसंघी, उजुपटिपन्नो भगवतो सावकसंघो, ञायपटिपन्नो भगवतो सावकसंघो, सामीचिपटिन्नो भगवतो सावकसंघो, यदिदं चत्तारि पुरिस-युगानि, अट्ठ पुरिस-पुग्गला, एस भगवतो सावकसंघो, आहुणेय्यो, पाहुणेय्यो, दक्खिणेय्यो, अञ्जलि-करणीयो अनुत्तरं पुञ्ञक्खेत्त लोकस्साति।

संघं याव जीवितं सरणं गच्छामि।
नत्थि मे सरणं अञ्ञं, संघो में सरणं वरं।
एतेन सच्चवज्जेन, होतु मे जयमंगलं ।।१।।

उत्तंमेगन बन्दे' हे, संघं च तिविधोत्तमं।
संघे यो खलितो दोसो, संघो खमतु तं ममं ।।२।।

यं किंचि रतनं लोके, विज्जति विविधुं पुथु।
रतनं संघसमं नत्थि, तस्मा सोत्थि भवन्तु मे ।।३।।

संघो विसुध्दो वरदक्खिणेय्यो,
सन्तिन्द्रियो सब्बमलप्पहिनो।
गुणेहि नेकेहि समिध्दिपत्तो,
अनासवो तं पणमामि संघं ।।४।।

मराठी भाषांतर –

पूजा

मुदींद्राच्या श्रीपादकमलांची पूजा मी ह्या सुंदर, सुगंधी, दोरा घातलल्या फुलांच्या हारानें करितों ।।१।।

ह्या कुसुमांनींमी बुध्दाला पूजितो.ह्या पुण्यानेंमला निर्वाण प्राप्त होईल. हें फूल जसें कोमेजतें तसें माझें शरीर निवाशाकडे जाईल. ।।२।।

अंधाराचा नाश करणान्या, दाट आणि चक्क प्रकाश देणान्या ह्या दिव्यानें अज्ञानांधकाराचा नाश करणान्या त्रिलोक्यदीप बुध्दाची मी पूजा करितों. अनेक प्रकारचीं सुगंधी द्रव्यें मिसळलेल्या ह्या गंधानें मी ज्याचें शरीर व मुख सुगंधी आहेत अशा तथागताची पूजा करितों ।।३।।.

पूजा

बुध्द धर्म व संघ ह्यांना–लंका, जंबुद्विप, स्वर्गलोक, नागलोक, ह्यांमधील स्तूपांमधून बुध्दाच्या शरीरांतील जितके अवशेष स्थापित आहेत, त्या सर्वांना मी प्रणाम करतों ।।४।।.

सगळया दाही दिशांमधून जितकीं बुद्धाचीं रूपें आहेत, तसेच बुध्दाच्या शरीराचे केश वगैरे अवशेष स्थापिलेले आहेत त्या सर्वांना मी नमस्कार करतो. ।।५।।

सर्व ठिकाणीं वसविलेल्या चैत्यांना, बुध्दशरीरच्या अवशेषांना, बोधिवृक्षाला मी वंदन करितों. हीं सदैव बुध्दाचींच रूपें आहेत. ।।६।।

मूळ पाली–

पूजा

वण्ण – गन्ध – गुणोपेतं यं तं कुसुमसन्ततिं।
पूजयामि मुनिन्दस्स, सिरीपादसरारुहे ।।१।।

पूजेमि बुध्दं कुसुमेन' नेन पुञ्ञेन मेतेन
लभमि मोक्खं
पुप्फं मिलायति यथा इदं मे, कायो तथा याति
विनाससभावं ।।२।।

घनसारप्पदित्तेन, दिपेन तमधंसिना।
तिलोकदीपं सम्बुध्दं, पूलयामि तमोनुदं।
सुगंधि–काय–वदनं, अनन्त–गुण–गंधिना।
सुगंधिना' हं गन्धेन, पूजयामि तथागतं ।।३।।

बुध्दं धम्मं च संघं सुगततनुभवा धातवो धातुगब्भे।
लंकायं जम्बुदीपे तिदसपुरवरे नागलोके च थूपे ।।४।।

सब्बे बुध्दस्स बिम्बे सकलदसदिसे केसलोमादिधातुं
वंदे।
सब्बेपि बुध्दं दसवलतनुजं बोधीचेत्यं नमामि ।।५।।

वन्दामि चेमियं सब्बं सब्बठानेसु पतिट्ठतं।
सारीरिक–धातु महाबोधिं बुध्द–रूपं सकलं
सदा ।।६।।

मराठी भाषांतर –

सर्व सुख गाथा

सारे प्राणी सुखी होवोत, सर्वांचे कल्याण होवो. सर्वांना हिताचा मार्ग सापडो, कोणालाही दु:ख न होवो ।।१।।

जीं भूतें (मृतात्मे) पृथ्वीवरून किंवा अंतरीक्षांतूनयेथें जमलीं आहेत तीं सर्व भूतें समाधानी होवोत आणि लक्ष देऊन बोलणें ऐकोत ।।२।।

म्हणून सर्व भूतांनो ऐका, मानवी प्रजेवर प्रेम करा. जे तुमच्या हिताकरीतां अहो रात्र आपला बळी देतात त्यांचे जागरूकपणें रक्षण करा. ।।३।।

मूळ पाली–

सब्बसुखगाथा

सब्बे सत्ता सुखी होन्तु, सब्बे होन्तु च खेमिनी।
सब्बे भद्राणि पस्सन्तु, मा कञ्चि दुक्खमागमा ।।१।।

यानी' ध भूतानी समागतानि भुम्मानि वा
यानि व अन्तलिखे।
सब्बेव भूता सुमना भवन्तु अथों'पि सक्कच्च
सुणन्तु भासितं ।।२।।

तस्मा हि भूता निसामेथ सब्बे मेत्तं करोथ मानुसिया
पजाय।
दिवा च रत्तो च हरन्ति ये बलिं, तस्मा हि ने रक्खथ
अप्पमत्ता ।।३।।

मराठी भाषांतर –

धर्म पालन गाथा

कोणतेहि पाप न करणें, पुण्य संपादणें,
स्वचित्ताची शुध्दी करणें, हें बुध्दाचे सांगणें ।।१।।

चांगल्या प्रकारें धर्म आचरावा, वाईट प्रकारें नाहीं.
या लोकीं आणि परलोकीं धर्मचारी सुखानें
झोप घेतो ।।२।।

पुष्कळ बोलण्यानें धर्मधर होत नसतो. जो थोडकें
शिकून धर्माचा प्रत्यक्ष अनुभव घेतो आणि धर्माची
हेळसांड करीत नाहीं तोच 'धर्मधर' होतो ।।३।।

मूळ पाली–

धम्मपालनगाथा

सब्बपापस्स अकरणं कुसलस्स उपसम्पदा।
सचित्तपरियोदपनं एतं बुध्दान सासनं ।।१।।

धम्मं चरे सुचरितं न तं दुच्चरितं चरे।
धम्मचारी सुखं सेति अस्मिं लोके परम्हि च ।।२।।

न तावता धम्मधरो यावता बहु भासति।
यो, च अप्पम्पि सुत्वान धम्मं कायेन पस्सति।
स वे धम्मधरो होती यो धम्मं न प्पमज्जति ।।३।।

मराठी भाषांतर –

मूळ पाली–

रतन सुत्त

जे भूमिगत किंवा अन्तरिक्षांतील प्राणी ये थें जमले असतील त्यांना मी निवंती करतो कीं, आपण तथागताला (बुध्दाला) नमस्कार करूं; येणेंकरून तुमचें कल्याण होईल. ।।१।।

यानीध भूतानि समागतानि। भुम्मानि वा यानि' व अन्तळिखे । तथागतं देवमनुस्सपूजितं । बुद्धं नमस्साम सुवत्थि होतु ।।१।।

जे भूमिगत किंवा अन्तरिक्षांतील प्राणी ये थें जमले असतील त्यांना मी विनंती करतो कीं, ज्याला सर्व मनुष्य आणि देवहि पूज्य मानतात. त्या तथागताच्या धर्माला आपण नमस्कार करूं; येणेंकरून तुमचें कल्याण होईल. ।।२।।

यानीध भूतानि समागतानि। भुम्मानि वा यानि' व अन्तळिखे । तथागतं देवमनुस्सपूजितं । धम्मं नमस्साम सुवत्थि होतु ।।२।।

जे भूमिगत किंवा अन्तरिक्षांतील प्राणी येथें जमले असतील, त्यांना मी असें म्हणतों कीं, ज्याला सर्व मनुष्य आणि देवहि पुजतात त्या तथागताच्या संघाला मनस्कार करूं; येणेंकरून आमचें कल्याण होईल. ।।३।।

यानीध भूतानि समागतानि। भुम्मानि यानि' व अन्तळिखे । तथागतं देवमनुस्सपूजितं । संघं मनस्साम सुवत्थि होतू ति ।।३।।

भूमिगत किंवा अन्तरिक्षांतील जे प्राणी येथें जमलें असतील ते सर्व प्राणी आनंदित होवोत, आणि हें सुभाषित आदरपूर्वक ऐकोत ।।४।।

यानीध भूतानि समागतानि। भुम्मानि वा यानि' व अन्तळिखे। सब्बे च भूता सुमना भवन्तु अथो च

म्हणून हे सर्व प्राण्यांनो, हें ऐका. मनुष्यजातीवर प्रेम करा.रात्रंदिवस मनुष्य तुमची जोपासना करतात. म्हणून त्यांचे तुम्ही सावधानपणें रक्षण करा.।।५।।

तस्मा हि भुता निसामेथ सब्बे। मेत्तं करोथ मानुसिया पजाय। दिवा च रत्तो च हरन्ति ये बलिं। तस्मा हि ने रक्खथ अप्पत्ता ।।५।।

इह किंवा परलोकी जें धन असेल, किंवा स्वर्गति जें अत्तम रत्न असेल, तें आमच्या तथागताच्या तोडीचें अरणार नाहीं. बुध्दाचें ठायीं वसणारें हैं उत्तम रत्न आहे. ह्या रत्नाचें स्मरण केल्यानें तुमचें कल्याण होईल. ।।६।।

यं किञ्चि वित्तं इध वा हुरं वा। सग्गेसु वा यं रतनं पणीतं न नो असं अत्थि तथागतेन। इदं पि बुद्धे रतनं पणीतं। एतेन सच्चेन सुबत्थि होतु ।।६।।

ज्या निश्चल मनाच्या शाक्यमुनीनें तृष्णाक्षयमय, विरागमय, अमर असा जो उत्तम धर्म जाणला, त्याच्यासारखा दुसरा नाहीं. धर्माचे ठायी वसणारे हें उत्तम रत्न आहे. ह्या रत्नाचें स्मरण केल्यानें तुमचें कल्याण होईल. ।।७।।

स्वयं विरागं अमतं पणीतं। यदज्झगा सक्यमुनी समाहितो न तेन धम्मेन समत्थि किञ्चि। इदं पि धम्मे रतनं पणीतं एतेन सच्चेन सुवत्थि होतु ।।७।।

मराठी भाषांतर –	मूळ पाली–
ज्या शुध्द समाधीची बुध्दश्रेष्ठानेंप्रशंसा केली. जिला ताबडतोब फळ देणारी म्हणतात, त्या समाधी सारखी दुसरी नाहीं. धर्माचे ठायीं वसणों हें उत्तम रत्न आहे. ह्या रत्नाचें रमरण केल्यानें तुमचें कल्याण होईल ।।८।।	यं बुध्दसेट्ठो परिवण्णयि सुर्चि, समाधिमानन्तरिकञ्ञमाहु। समाधितो तेन समो न विज्जति, इदंऽपि धम्मे रतनं पणीतं। एतेन सच्चेन सुवत्थि होतु ।।८।।
सज्जनांना पसंत ज्या आठ' व्यक्ति, ज्यांच्या चार जोड्या होतात. ते सुगताचे श्रावक पूजनीय होत; त्यांग दिलेलें दान महत्फलदायक होतें, संघाचे ठायीं वसणारें हें उत्तम रत्न आहे. ह्या रत्नाचे स्मरण केल्यानें तुमचें कल्याण होईल. ।।९।।	ये पुग्गला अट्ठ सतं तसत्था। चत्तारि युगानि होन्ति। ते दक्खिणेय्या सुगतस्स सावका। एतेसु दिन्नानि कहप्फलानि। इदं ऽ म्पि संघे रतनं पणीतं। एतेन सच्चेन सुवत्थि होतु ।।९।।
जे सर्वस्वाचा त्याग करून दृढ माननें गौतमाच्या पंथांत प्रवेश करतात, ते प्राप्तव्य प्राप्त करून आणि अमृताचें अवगाहन करून अनायासें मिळविलेल्या शांतीचा उपयोग घेतात. संघाचे ठायी वसणारें हें उत्तम रत्न आहे. ह्या रत्नाचें स्मरण केल्यानें तुमचें कल्याण होईल. ।।१०।।	ये सुप्पयुत्ता मनसा दळहेन। निक्कामिनो गोतमसासनम्हि। ते पत्तिपत्ता अमतं विगय्ह। लध्दा मुधा निब्बुतिं भुञ्जमाना। इदं ऽ पि संघे रतनं पणीतं। एतेन सच्चेन सुवत्थि होतु ।।१०।।
नगरद्वारासमोर पृथ्वींत (खोल रोवून) उभारलेला स्तम्भ जसा चारही बाजूंच्या वा:यांनीं हालत नाहीं. तसा जो चार आर्यसत्यें विचारपूर्वक जाणतो तो सत्त्यपुरूष आहे. असें मीं म्हणतों. संघाचे ठायीं वसणारें हें उत्तम रत्न आहे. ह्या रत्नाचें स्मरण केल्यानें तुमचें कल्याण होईल. ।।११।।	यथिन्दखीलो पठविं सितोसीया चतुब्भि वातेहि असम्पकम्पियो। तथ्पमं सप्पुरिसं वदमि यो अरियसच्चानि अवेच्च पस्सति। इदं ऽ पि संघे रतनं पणीतं। एतेन सच्चेन सुवत्धि होतु ।।११।।
जे गंभर-प्रज्ञानें (बुध्दानें) उत्तम रितीनें उपदेशिलेल्या चार आर्यसत्यांची भावना करतात. ते जरी कितीहि बेसावधपणें वागले तरी आठवा जन्म घेत नाहींत. संघाचे ठायीं वसणारें हेउत्तम रत्न आहे. ह्या रत्नाचें रमरण केल्यानें तुमचें कल्याण होईल. ।।१२।।	ये अरियसच्चानि विभावयन्ति गंभीरपञ्ञेन सुदेसितानि। किञ्वापि ते होन्ति भुसप्पमत्ता। न ते भवं अट्ठमं आदियन्ति। इदं ऽ पि संघे रतनं पणीतं। एतेन सच्चेन सुवत्थि होतु ।।१२।।

मराठी भाषांतर –

सम्यक् दृष्टी प्राप्त झाल्याबरोबर तो (वरच्या पैकीं एक) दहात्मद्दष्टि, कुशंका व व्रत उपासासारख्या एखाद्या गोष्टीवर असलेला विश्वास. या तीन गोष्टी सोडून देतो. चार दुर्गतींपासून मुक्त होतो व सहा गोष्टी त्याच्या हातून घडणें असंभवनीय होतें. संघाचे ठायीं वसणारें हें उत्तम रत्न आहे. ह्या रत्नाचें स्मरण केल्यानें तुमचें कल्याण होईल. ।।१३।।

जर त्याच्या कडून कोयेनें, वाचेनें किंया मनानें कांहीं पाप घडेल, तर तें तो कदापि झांकून ठेवणार नाहीं. असलें कृत्य (निर्वाण) पद ज्यानें पाहिलें आहे. अशाच्या हातून होणें शक्य नाहीं. संघाचें ठायीं असलेलें हें उत्तम रत्न आहे. ह्या रत्नाचें स्मरण केल्यानें तुमचें कल्याण होईल. ।।१४।।

उन्हाळयाच्या पहिल्या महिन्यांत जसा एखादा वनगल्म साग्र प्रफुल्लित व्हावा, तद्वत् बुद्धानें निर्वाणगामी परमश्रेष्ठ धर्म लोकहितार्थ उपदेशिला. बुध्दाचें ठायीं असलेलें हें उत्तम रत्न आहे. ह्या रत्नाचें स्मरण केल्यानें तुमचें कल्याण होईल. ।।१५।।

श्रेष्ठ, श्रेष्ठज्ञ, श्रेष्ठद, श्रेष्ठ आणणारा, अनुत्तर अशा बुध्दानें श्रेष्ठ धर्म उपदेशिला आहे. बुध्दाचे ठायीं असलेलें हें उत्तम रत्न आहे. ह्या रत्नाचें स्मरण केल्यानें तुमचें कल्याण होईल. ।।१६।।

ज्याचें जुनें कर्म क्षीण झालें आहे व नवें उत्पन्न होत नाहीं, जे भावी जन्माविषयी निरपेक्ष, ते क्षीणबीज आणि उत्पत्तिच्छन्द विरहित धीर पुरुष ह्या प्रदीपाप्रमाणें निर्वाण पावतात. संघाचे टायीं असलेलें हें उत्तम रत्न आहे. ह्या रत्नाचें स्मरणकेल्यानें तुमचें कल्याण होईल. ।।१७।।

मूळ पाली–

सहावऽ रस दस्सनसंपदाय, तयस्सु धम्मा जहिता भवन्ति।
सक्कायदिठ्ठि विचिकिच्छितं च सीलब्बतंया ऽ पि यदात्थि किञ्चि।
चतूहपायेहि च विप्पमुत्तो। छ चभिठानानि अभब्बो, कातुं।
इदं ऽ पि संघे रतनं पणीतं। एतेन सच्चेन सुवत्थि होतु ।।१३।।

किञ्वापि सो काम्मं करोति पापकं, कायेन वाचाउद चेतसा वा।
अभब्बो सो तस्य पटिच्छदाय, अभब्बता दिठ्ठपदस्स वुत्ता।
इदं ऽ पि संघे रतनं पणीतं। एतेन सच्चेन सुवत्थि होतु ।।१४।।

वनप्पगुम्बे यथा फुस्सितग्गे, गिम्हानमासे पठमस्मि गिम्हे।
तथूपमं धम्मवरं देसयि, निब्बानगार्मि परमं हिताय।
इदं ऽ पि बुध्दे रतनं पणीतं। एतेन सच्चेन सुवत्थि होतु ।।१५।।

वरो, वरञ्ञू, वरदो, वरांहरो, अनुत्तरो धम्मवरं अदेसयि।
इदं ऽ पि बुध्दे रतनं पणीतं। एतेन सच्चेन सुवत्थि होतु ।।१६।।

खीणं पुराणं नवं नत्थि सभवं, विरतचित्ता आयतिके भवस्मिं
तेखीणबीजा अविरूळिहछन्दो, निब्बन्ति धीरा यथा ऽ यं पदीपो.
इदं ऽ पि संघे रतनं पणीतं, एतेन सच्चेन सुवत्थि होतु ।।१७।।

जप

ओम मणि पद्मे हुं।

१९९८

शासकीय फोटाझिंको मुद्रणालय पुणे - ४११००१

DR. BABASAHEB AMBEDKAR
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Part Two

- Socio-Political, Religious Activities

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- Speeches

.... I take my vow that I shall lay down may life in defence of our land.

Babasaheb Dr. B.R. Ambedkar

(14th April 1891 - 6th December 1956)

"For I am of the opinion that the most vital need of the day is to create among the mass of the people the sense of a common nationality, the feeling not that they are Indians first and Hindus, Mohammedans or Sindhis and Kanarese afterwards, but that they are Indians first and Indians last. If that be the ideal then it follows that nothing should be done which will harden local patriotism and group consciousness." —(P. No. 66)

—Dr. B. R. Ambedkar

DR BABASAHEB AMBEDKAR WRITINGS AND SPEECHES

VOL. 17

PART ONE

DR. B. R. AMBEDKAR AND HIS EGALITARIAN REVOLUTION

PART ONE

STRUGGLE FOR HUMAN RIGHTS

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DR. BABASAHEB AMBEDKAR
WRITINGS AND SPEECHES
VOL. 17

PART ONE

DR. B.R. AMBEDKAR AND HIS EGALITARIAN REVOLUTION

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STRUGGLE FOR HUMAN RIGHTS

Edited by

HARI NARAKE *DR. M. L. KASARE*

N. G. KAMBLE *ASHOK GODGHATE*

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Kumari Selja

Minister for Social Justice and Empowerment
& Chairperson, Dr. Ambedkar Foundation

MESSAGE

Babasaheb Dr. B.R. Ambedkar, the Chief Architect of Indian Constitution was a scholar par excellence, a philosopher, a visionary, an emancipator and a true nationalist. He led a number of social movements to secure human rights to the oppressed and depressed sections of the society. He stands as a symbol of struggle for social justice.

The Government of Maharashtra has done a highly commendable work of publication of volumes of unpublished works of Dr. Ambedkar, which have brought out his ideology and philosophy before the Nation and the world.

In pursuance of the recommendations of the Centenary Celebrations Committee of Dr. Ambedkar, constituted under the chairmanship of the then Prime Minister of India, the Dr. Ambedkar Foundation (DAF) was set up for implementation of different schemes, projects and activities for furthering the ideology and message of Dr. Ambedkar among the masses in India as well as abroad.

The DAF took up the work of translation and publication of the Collected Works of Babasaheb Dr. B.R. Ambedkar published by the Government of Maharashtra in English and Marathi into Hindi and other regional languages. I am extremely thankful to the Government of Maharashtra's consent for bringing out the works of Dr. Ambedkar in English also by the Dr. Ambedkar Foundation.

Dr. Ambedkar's writings are as relevant today as were at the time when these were penned. He firmly believed that our political democracy must stand on the base of social democracy which means a way of life which recognizes liberty, equality and fraternity as the principles of life. He emphasized on measuring the progress of a community by the degree of progress which women have achieved. According to him if we want to maintain democracy not merely in form, but also in fact, we must hold fast to constitutional methods of achieving our social and economic objectives. He advocated that in our political, social and economic life, we must have the principle of one man, one vote, one value.

There is a great deal that we can learn from Dr. Ambedkar's ideology and philosophy which would be beneficial to our Nation building endeavor. I am glad that the DAF is taking steps to spread Dr. Ambedkar's ideology and philosophy to an even wider readership.

I would be grateful for any suggestions on publication of works of Babasaheb Dr. Ambedkar.

(Kumari Selja)

Collected Works of Babasaheb Dr. Ambedkar (CWBA)

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Mantralaya, Mumbai 400 032.
Date : 29th August 2003

सत्यमेव जयते

MAHARASHTRA

FOREWORD

It gives me immense pleasure to write foreword to this 17th volume of Writings and Speeches of Dr. Babasaheb Ambedkar. I consider it my privilege to see that Govt. of Maharashtra have undertaken the task to publish the Writings and Speeches of Dr. Babasaheb Ambedkar. To publish these volumes means to boost up the renaissance and the Government of Maharashtra has every reason to take pride in carrying out this noble task.

Dr. Ambedkar was determined to bring revolutionary changes in the national life of India. We all know that, in India there existed a traditional social set up which was held under the tentacles of caste-ridden graded inequality for centuries together. It was like pond of stagnant water. Dr. Ambedkar wanted to bring a complete change in social, economic and political life of the Indian Society. He experienced that, his millions of people were deprived of even basic human rights. He fought relentlessly for these rights till his last breath and succeeded in securing them. Social justice was the corner stone of his movement. He was the harbinger of human rights.

He believed that democracy was not only a form of Government, but it was essentially a form of society. He wanted a society based on democratic values. He gave a gallant fight against orthodoxy to obtain these rights. He is the pioneer of democracy in India. The Constitution is the core of our national life. He always insisted upon egalitarian society. It was his conviction that political, social and economic changes can be brought about only through Constitutional means.

Unlike other great thinkers of the world, Dr. Ambedkar was not an abstract thinker. He participated actively in political and social activities. Being the Chairman of the Drafting Committee, he burned the midnight oil to draft our Constitution. Through this Constitution, he endowed the human rights to all those who were exploited and deprived of the basic rights. During his tenure as a Labour Minister his work for the upliftment of labour class is invaluable and unparalleled.

Dr. Ambedkar's life is a saga of his relentless struggle against the orthodox society. The society was based on the impregnable citadel of conservatism, inequality, injustice and exploitation. His approach was based mainly on social justice. He proved to be the liberator and saviour for the millions of Indian people. He believed that, his countrymen would some day realize that, the country is always greater than the person.

This volume envisages his vital role in nation building. He was associated with all the historical events like South Borough Commission, Simon Commission, Round Table Conference, 1935 Act, Cripps Mission, Cabinet Mission etc. He proved his metal in drafting the revolutionary document *i.e.* 'Constitution of India'. The Constitution has been hailed by many great statesmans and scholars. They see the Constitution as the Foremost Social Document. Through this Constitution he laid down the foundation of democracy. It was his conviction that, Political democracy should be strengthened with social and economic democracy. Dr. Ambedkar emphasized on national integration and secularism. Dr. Ambedkar strongly insisted upon the need of National Integration. Without social union political unity is difficult to be achieved. If achieved, it would be as precarious as a summer sapling liable to be uprooted by the gust of hostile wind.

The Editorial Board comprises of Shri Hari Narke, Shri N. G. Kamble, Dr. M. L. Kasare, Prof. Ashok Godghate, who have been imbibed with the spirit of Ambedkarism and are committed to the cause. I am aware of their zeal to work. Despite heavy odds and personal inconveniences they have collected, collated the scattered material and gave the proper shape for the appropriate presentation in the form of the present volume. But for their commitment, singular devotion and high sense of duty, it

would have been extremely difficult to complete the task on hand. I am impressed by their tremendous tenacity and due diligence. I have every reason to be proud of them. I consider it my duty to congratulate each one of them for the successful accomplishment. I am extremely happy that this volume No. 17 of Writings and Speeches of Dr. Babasaheb Ambedkar is going to see the light of the day.

(Sushilkumar Shinde)
Chief Minister

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PREFACE

I am extremely happy to see that the 17th volume of Writings and Speeches of Dr. Babasaheb Ambedkar is being published by the Govt. of Maharashtra. It was our sincere desire that people not only from India but outside the country should be benefited by the noble thoughts of Dr. Ambedkar. It was stupendous task to publish the literature of Dr. B. R. Ambedkar.

Indian society was a gradation of Castes forming an ascending scale of reverence and descending scale of contempt, where there was no scope for the establishment of egalitarian society. The liberty, equality and fraternity are fundamentals for the democratic form of Government. He was a pragmatic, political, intellectual and spiritual leader for millions. Dr. Ambedkar was a creator of an integrated society through the Constitution. He laid emphasis on allround development of the Indian society. He fought for social justice throughout his life.

He was convinced that, the education alone is a grand panacea to all social ills. He did not leave any stone unturned to imbibe the importance of education. He stressed the need of higher education. He started a new era by establishing Educational Institutions. He had firm belief that as the body needs food, the mind needs thoughts which only can be realized through education. His ideas about education were crystal clear in comparison to his contemporaries. He was of the firm opinion that the education alone can help in building modern India. My mind is filled with a sense of gratitude towards this great man who guided the humanity to create homogenous society. In publishing his writings and speeches I feel, I have tried to repay part of the debt we owe to him.

I am associated with the Editioral Board comprising of Shri Hari Narke, Shri N. G. Kamble, Dr. M. L. Kasare and Prof. Ashok Godghate who are of high caliber and drawn from diverse fields. With their rich experience and personal involvement in this noble task, the Govt. of Maharashtra have

been able to meet the aspirations of millions of people who have been eagerly waiting for the present volume. I am deeply impressed by their commitment and due diligence to the mission. I am also aware of the difficulties they encountered in the matter of gathering the relevant material for the present volume. On behalf of the Govt. of Maharashtra and myself as the President of Source Material Publication Committee. I place on record a word of appreciation and commendation to the members of the Editorial Board.

(Prof. Laxman Dhoble)
Minister for Higher Education

EDITORIAL

It is with utmost pride and pleasure we place the Seventeenth Volume of the source material on Babasaheb Dr. B. R. Ambedkar in the hands of people of India and abroad who, with their undiminished reverence, devotion and dedication, have patronized earlier volumes of Dr. B. R. AMBEDKAR WRITINGS AND SPEECHES, published by the Department of Higher Education, Government of Maharashtra, Mumbai.

The present volume contains the literature related to the movements of Chawdar Tank Mahad, Kalaram Temple Entry *Satyagraha,* Nasik, the documents recounting the role of Dr. Ambedkar in Round Table Conference, London and the documents narrating the Poona Pact. Dr. Ambedkar's important speeches, statements and press interviews delivered at numerous places in India and abroad on diverse subjects are incorporated. In addition to this the documents reporting the formation of political parties, Educational Institutions and various other organizations with their constitutions is the speciality of this volume.

The laws of Manu ordained the lowest status to the Depressed Classes. In general, there is no connubial and commensalisms between Caste Hindus and the Untouchables leading to quarantine which the Untouchables have never been allowed to cross. The dumb victims of the Hindu social order have been made to suffer silently. The humiliations, indignities and atrocities were heaped on them. In the early twenties of the twentieth century Dr. B. R. Ambedkar emerged as a promising leader to break the centuries old shackles and liberate the Untouchables from the age-old bondage of the Hindu Society. Chhatrapati Shahu Maharaja of Kolhapur, while addressing the Untouchables on March 21,1920 expressed, "You have found your saviour in Ambedkar. I am confident that he will break your shackles. Not only that, a time will come when, so whispers my conscience, Ambedkar will shine as a front-rank leader of all India fame and appeal." Dr. Ambedkar derived inspiration from Mahatma Jotirao Fule, he described him as "the Greatest Shudra of Modern India, who made the lower classes of Hindus conscious of their slavery to the higher classes and who preached the gospel that, for India social democracy was more vital than independence from foreign rule."

Through the liberation movements such as Mahad *Satyagraha* (1927) and Kalaram Temple-entry-struggle (1930), Dr. Ambedkar attempted to change the Hindu mindset. The aim of Mahad *Satyagraha* was to unfurl "the banner of equality" and to smash the "steel frames of the caste system". December 25,1927 was a 'Red letter' Day in the annals of history, when Manu-smruti was consigned to flames as a symbolic protest against the unjust social order. It need to be mentioned that graded inequality is the fundamental principles of the Hindu social order which nurtures the spirit of social separation and segregation. Promotion of discriminative attitudes among the innumerable castes and sub-castes generates perpetual caste conflicts and mutual hatred. In short, the pernicious principle eats into the vitals of the society. Dr. Ambedkar retorted communal people who criticized Mahad *Satyagraha* by declaring that, the *Satyagraha* was to end the special privileges enjoyed by the caste Hindus. He said that if Bal Gangadhar Tilak would have born as an Untouchable, he would not have declared "*Swaraj* is my birthright" but, would have proclaimed that restoration of human dignity and eradication of Untouchability as his primary duty. He further claimed, had Lenin born in India, he would have first fought to eradicate Untouchability and then would have taken up the programme of revolution.

Dr. Ambedkar's brainstorming, striking and thought provoking speeches at the Round Table Conferences bear ample testimony to his depth of knowledge, through grasp over subject, immense power of logic, tremendous tenacity and capacity to put across his point of view in a cogent, comprehensive, crystal clear and convincing manner. He roared like a lion at the Round Table Conference causing flutter in the political circles in India and England. The power in Britain were made to see reason and understand the dire necessity to ameliorate the conditions of the Depressed Classes who for centuries were mercilessly thrown into the quagmire of social segregation, political deprivation, economic destitution and perpetual subjugation. He proved himself worthy of the nomination to the Round Table Conference. Dr. Ambedkar's pursuit of his theory of Separate Electorate was opposed tooth and nail by Mahatma Gandhi. Dr. Ambedkar thwarted the sinister design of the Hindu delegates to barter the interest of Depressed

Classes to Muslims and Sikhs. With a redoubled vigor Dr. Ambedkar impressed upon the conference to recognize the fact that Depressed Classes were not a part of Hindu society and hence deserved Separate Electorates and due share in power for their political advancement. Dr. Ambedkar strongly pleaded for urgent settlement of the problem of Depressed Classes, as he felt that it was a part of the general political settlement, which must not be left to the shifting sands of sympathy and the goodwill of the rulers of the future. Dr. Ambedkar pleaded for parity and not charity.

The Communal Award declared by J. Ramsay Mac Donald, the then Prime Minister of Great Britain, conceded Separate Electorates to the Depressed Classes, was the crowning glory of the splendid and stupendous work done by Dr. Ambedkar at the Round Table Conference. On account of his magnificent, learned and unparallel contribution to the Round Table Conference in the spheres of social, political and constitutional reforms, Dr. Ambedkar was acclaimed as the uncrowned king of the Depressed Classes. But, opposition and fast unto death by Mahatma Gandhi led to "Poona Pact". The crux of the Poona Pact was Separate Electorates granted by the Communal Award which were ultimately withdrawn and the method of Joint Electorates was introduced with the principle of reservation of certain seats for Depressed Classes in the Central as well as the Provincial Assemblies. The Poona pact was the result of an agreement generously and graciously agreed by Dr. Ambedkar to save the life of Mahatma Gandhi, although he knew that it was no splendid gesture on the part of Caste Hindus.

The advent of Dr. Ambedkar on the political horizon at the time when the transfer of power was on cards gave fillip and encouragement to the Depressed Classes of India to advance their cause with greater vigour for legitimate and adequate share in power. Despite innumerable hurdles, political setbacks, socio-cultural shackles, Dr. Ambedkar with his limited trusted lieutenants like Rao Bahadur R. Shrinivas, Rao Bahadur N. Shivraj, Dadasaheb B. K. Gaikawad, Jogendranath Mandal, Hardas L. N., Khusru-e-Deccan B.S. Venkat Rao, B.H. Subbaiah, Eli Vadapally, Nandanar Hari, Justice R.R. Bhole, B. H. Varale, D.G. Jadhav, Barrister B. D. Khobragade, B. C. Kamble, R. D. Bhandare, Subhedar V. M. Sawadkar, S. A. Upshyam, Dr. P. J. Solanki, R. D. Dolas,

G. M. Jadhav Madkebuwa, D. L. Patil, Pt. Rewaram Kawade, Shantabai Dani, H.D.Awale, D. T. Rupwate, Pyarelal Kuril, G. T. Parmar etc. waged a relentless war against his adversaries in Hindu social order for social equality, human dignity and politico-economic empowerment.

The Hindu reform which Dr. Ambedkar dreamed through the Hindu Code Bill met with a steel resistance from the Hindu orthodoxy. Dr. Ambedkar realised that, thousands year old mental twist of the Caste Hindus would be impossible to untwist. Hence Dr. Ambedkar resolved to renounce Hinduism. He fulfilled his Yeola pledge of 1935 by embracing Buddhism in 1956 at Nagpur along with his five lakh faithful followers. After the conversion, Dr. Ambedkar remarked, "I am overjoyed, I am exalted. I feel I have been liberated from the hell." Dr. Ambedkar opted Buddhism because it was built on the foundations of liberty, equality, fraternity, morality and professes scientific, rational and humanistic outlook. The principal aim of Buddhism is to emancipate suffering humanity. He undertook the stupendous task of reviving and spreading the gospel of the Lord Buddha. Dr. Ambedkar exhorted the downtrodden to take refuge in Buddha and propagate Dhamma. It is worth mentioning that even while selecting a religion for himself and his followers, Dr. Ambedkar chose "the least harmful way for the country." After embracing Buddhism Dr. Amberdkar said: "It is the greatest benefit I am conferring on the country by embracing Buddhism, as Buddhism is a part and parcel of Bhartiya Culture. I have taken care that conversion will not harm the traditions, the culture and history of this land". Thus Dr. Ambedkar proved himself to be hardcore Nationalist and patriot. He is reported to have said, "I confess I have many quarrels with caste Hindus over some points but, I take my vow that I shall lay down my life in defence of our land."

Dr. Ambedkar was the great lover of books. One of the main intentions behind building the 'Rajgruha' in Dadar, Bombay, was to make arrangement for books which he purchased in huge quantity. As an ardent educationist as he was, and a professor himself, Dr. Ambedkar strongly advocated the spread of universal education among Depressed Classes who were denied the same for centuries. Denial of education has thrown the Depressed Classes

into the morass of ignorance, a slough of despond, perpetual bondage and eternal deprivation. According to Dr. Ambedkar, education is not only the birthright of every human being but also a weapon of social change. Dr. Ambedkar was a great intellectual of International repute, orator, erudite scholar and prolific writer. The range of his writings includes economics, sociology, law, constitution, anthropology, political science, religion etc. He was a rare specimen of politician armed with high academic qualifications. The People's Education Society that Dr. Ambedkar founded in 1945 along with dozens of institutions functioning thereafter at Mumbai, Aurangabad, Mahad, Sholapur, Nanded etc. testify his significant contribution to the field of education. The products of these institutions have occupied positions of prestige and power in fulfillment of Dr. Ambedkar's vision. It is noteworthy that Dr. Ambedkar persuaded Lord Linlithgow, the then Viceroy of British India, to sponsor few Scheduled Caste students for prosecuting their higher studies in foreign Universities. The views and efforts by Dr. B.R. Ambedkar on education is the part of this volume.

Dr. Ambedkar realised that the problem of the Untouchables was a political problem. To put it in his own words: "Essentially, it is a problem of a quite different in nature, it is a problem of securing liberty and equal opportunity to a minorities at the hands of the hostile majority, which believes in the denial of liberty and equal opportunity and conspires to enforce its policy on the minority. Viewed in this light the problem of Untouchables is fundamentally a political problem."

In order to realize the political goals Dr. Ambedkar felt the need for a separate political identity. He therefore, established Independent Labour Party on August 15, 1936, and contested general election under the Government of India Act, 1935. The success achieved by the Independent Labour Party singly was commendable. Out of 17 candidates of the Independent Labour Party 14 got elected for Bombay Provincial Assembly. Similarly some candidates of Independent Labour Party were also elected in other provinces. They were: Dr. B. R. Ambedkar, B.K. Gaikwad, R. R. Bhole, D. G. Jadhav, B. H. Varale, G. G. Bhatankar, K. S. Sawant, J. H. Aidale, P. J. Roham, V. A. Gadkari,

A. V. Chitre, G. R. Ghatge, S. V. Parulekar, D. W. Raut. In April 1942 he wound up the Independent Labour Party and founded the All India Scheduled Castes Federation with Rao Bahadur N. Shivaraj as its President. As the Second General Election in 1957 was approaching Dr. Ambedkar felt the need to invigorate the democratic forces in India. He, therefore, declared his intention on 10th December 1955 to form a new political party called the "Republican Party of India". He desired to make it open to all those who accepted three guiding Principles- liberty, equality and fraternity.

Dr. Ambedkar proved beyond any shadow of doubt that a person from the lowest rung of the society, if given an opportunity, can even surpass the most meritorious of the privileged class. Undoubtedly, Dr. Ambedkar not only fulfilled the expectations of Indians in producing the best Constitution of the world but also proved to be an able, efficient administrator and great visionary. He was a versatile personality, a profound scholar, a valiant crusader and an enlightened parliamentarian.

Dr. Ambedkar brought a new awakening and a sense of social significance and confidence among the deprived, dispossessed and Depressed Section of the society. His untiring crusade against Cruel Caste regime enraged the Orthodoxy and irked the moderates. However, that did not deter Dr. Ambedkar from his noble goal of liberating his fellowmen from slavery and misery. He, thus, became a nightmare to Caste Hindus, Jawaharlal Nehru; the first Prime Minister of India said that Dr. Ambedkar was a symbol of revolt against all the oppressive features of Hindu Society. As far back as in 1936 Mahatma Gandhi remarked, "Dr. Ambedkar is a challenge to Hinduism, whatever label he wears in future, Dr. Ambedkar is not the man to allow himself to be forgotten".

Dr. Ambedkar was a nationalist and patriot to the core. In the Constituent Assembly, he remarked, "We must be determined to defend our independence to the last drop of blood." Although Dr. Ambedkar was an indomitable fighter, he never deviated from the democratic norms. He bitterly opposed civil disobedience and other unconstitutional means. According to him, "Democracy is a form and method of Government whereby revolutionary changes

in the economic and social life of the people are brought about without bloodshed." Therefore, he never threw his lot with those who adopted violent and unconstitutional means. According to him, the unconstitutional means are the grammar of anarchy. He advised, "We must abandon the method of civil disobedience, non co-operation and *Satyagraha*. When there no way left for constitutional methods for achieving economic and social objective, there was a great deal of justification for unconstitutional methods. But where constitutional methods are open, there can be no justification for these unconstitutional methods."

He expressed his firm belief and said "Constitution is not a mere lawyer's document, it is a vehicle of life, and its spirit is always the spirit of the age". The greatness of his life and mission indicates conspicuously, his prophetic zeal and burning love for suffering humanity made a deep impression on his contemporaries.

He expressed his grave concern regarding the mentality of Indians. In his Radio talk he said, "Indians today are governed by two different ideologies. Their political ideal set out in the preamble of the Constitution affirms a life of liberty, equality and fraternity. Their social ideal embodied in their religion denies them."

Constitution of India has abolished the Untouchability. But what Dr. Ambedkar had visualized, "If social conscious is such that it is prepared to recognize the rights which law chosen to enact, rights will safe and secure. But if the fundamental rights are apposed by the community, no law, no parliament, no judiciary can guarantee them in the real sense of the word," appears to be true.

He warned the countrymen saying "I have hopes that my countrymen will some day learn that the country is greater than the man". He emphasized on social unity for strengthening the roots of democracy in this country. He cautioned Indians, "Democracy in this country is like a summer sapling. Without social unity, the roots of sapling cannot be strengthened. If social unity is not achieved this summer sapling of Democracy, will be rooted out with gust of summer wind." Further he gave clarion call to the Indians to learn that, the democracy is a top dress on Indian Soil, which is essentially undemocratic. We have to cultivate good

relations between man and man based on fraternity, which is the corner stone of our Constitution. It was his glorious fight for ushering in India a social and economic democracy. He envisaged the cohesive social order based on equality and justice *i.e.* social, economic and political. His aim was to realize the ideal of one man one value in all walks of life *i.e.* Social, Economic, and Political.

He said, "I am of the opinion that the most vital need of the day is, to create amongst the people the sense of a common nationality, a feeling not that they are Indians first and Hindus, Mohammedans or Sindhis and Canaree afterwards, but they are Indians first and Indians last." Justice, Krishna Iyer rightly calls Dr. Ambedkar, as a 'creative iconoclast'. He was designated as 'constitution maker and an institutions breaker.' Dr. Ambedkar was not a abstract thinker. He always lived in the world of action. He was one of the very few Indians, who had done Yeomen services to restructure the Indian society on the most egalitarian and humanitarian principles. He was harbinger of new social order in India. Among his contemporaries, he was perhaps the most highly learned man in public life, in any part of the world.

Dr. Ambedkar, "the jewel of Nehru Cabinet", was posthumously conferred "Bharat Ratna", the highest civilian award under our Constitution, for the outstanding role he played as a maker of modern India.

Dr. Ambedkar stands as a man of documentation. The incidents, speeches, interviews, schemes, proposals and ideas connected with him are incorporated in this Volume.

We have tried to incorporate the material related to Dr. Ambedkar from various sources, some of the related material has been translated from Janata (Marathi) Weekly. Some of the material for the present Volume has been drawn from "Vol. 1 of Source Material on Babasaheb Ambedkar and the movement of Untouchables" since it was essential and relevant concerning to the subject. However the references have been given to the sources as the original material is available with the publication committee. The Constitutions of various political parties, institutions founded by Dr. Ambedkar, are incorporated in this Volume.

We believe that the present Volume will make the people to understand and appreciate the revolutionary role played by Dr. Ambedkar in eradication of Untouchability, establishing the parliamentary democracy, reconstruction of the Indian Society based on the triple gem-liberty, equality and fraternity, and revival of Buddhism in India.

As the material collected for the instant Volume was so voluminous, that was decided to present it in three parts. These parts are as under.

PART-I: Struggle for Human Rights-

(i) Mahad Stayagraha

(ii) Dr. Ambedkar - Mahatma Gandhi Meetings

(iii) Role of Dr. B. R. Ambedkar in bringing the Untouchables on the Political-Horizon of India and laying a Foundation of Indian Democracy

(iv) Kalaram Temple entry Satyagrah, Nasik and Temple entry movement

(v) Movements

PART-II: Political Activities-

(i) Articles and notes

(ii) Cabinet Mission

(iii) Building of nation and democracy

(iv) Institutions, Organizations and their constitutions.

PART-III : Speeches

This unique project has received constant encouragement and flinching co-operation from the Government of Maharashtra, which 'proves its commitment to spread the thoughts and philosophy of Babasaheb Ambedkar. It is heartening to note that the material published so far has been of immense use not only to the thinkers and research scholars, but even common people in India and abroad.

Volume No. 17 was published during the last days of Vasant Moon, Officer on Special Duty and Editor. However some flaws were noticed immediately and hence the volume was not circulated.

The decision to correct these flaws was taken by the Publication Committee. During the process, it was noticed that the abundant

material is available related to this Volume. This material is searched, classified and incorporated along with original material and is being published in three parts instead of original one part. Today this volume entirely is in new form.

Shri Sushil Kumar Shinde, Hon'ble Chief Minister of Maharashtra, is well known for his concern for upliftment of the deprived and disadvantaged sections of the society. In his political career spanning several decades, Hon'ble, Shinde had done yeomen service to the welfare and upliftment of the weaker sections. Despite multifarious governmental activities and pressing problems, Hon'ble Chief Minister has taken keen interest in reviewing the progress of this unique project from time to time and offered useful suggestions for effective presentation. He is a source of strength to us. We are deeply indebted to him. We, therefore, place on record our deep sense of gratitude.

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Prof. Shri Laxmanrao Dhobale, Hon'ble Minister for Higher Education, Government of Maharashtra is the President of Dr.Babasaheb Ambedkar Source Material Publication Committee. As the head of the Source Material Committee, Hon'ble Dhobale has brought luster and dignity to the proceedings, and took active part in its deliberations. He came out with practical suggestions for proper functioning of the committee. As the Executive Head of the Department of Higher Education, Hon'ble Dhobale, nurtured the committee with tender care, caution and extended all the help expected from him. He deserves our respectful and grateful thanks.

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of the conditions of Scheduled Castes and Scheduled Tribes. He has a vast and rich parliamentary experience. As a revolutionary and purposeful politician, Shri Gawai Saheb is respected by one and all. Shri Gawai Saheb has brought glory to the Source Material Committee. On many occasions he presided over the meetings of the committee, when the President was busy with urgent governmental work. He has been a source of inspiration to the members of the Editorial Board. As an elderly figure, he richly deserves our grateful thanks.

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Hari Narke

Dr. M. L. Kasare

N. G. Kamble (I.P.S. Retd.)

Prof. Ashok Godghate

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SECTION I

MAHAD SATYAGRAHA

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MAHAD SATYAGRAHA* NOT FOR WATER BUT TO ESTABLISH HUMAN RIGHTS

'The Sun of self-respect had now arisen in the sky and the clouds of oppression had begun to flit away. The Depressed Classes began to look up. And we now come to a momentous event in the life of Dr. B. R. Ambedkar. That event was a march on Mahad. This had its origin in the important resolution of the Bombay Legislative Council moved by S. K. Bole and adopted by the Bombay Government. In pursuance of the Bole resolution passed in 1923 and reaffirmed with a slight change in 1926, the Mahad Municipality had thrown open the Chawdar Tank to the Untouchables. However, the resolution of the Municipality remained a mere gesture in that the Untouchables had not exercised their right owing to the hostility of the caste Hindus.

It was, therefore, decided by the Kolaba District Depressed Classes to hold a Conference at Mahad on March 19 and 20, 1927. The leaders of the Conference had notified Dr. Ambedkar the date of the Conference in the first week of the previous month. Arrangements for the Conference were made with care by Surendranath Tipnis, Subhedar Savadkar and Anantrao Chitre. For the past two months workers and leaders had trodden hills and dales in the vicinity and had roused the Depressed Classes to the importance of the Conference. As a result, boys of fifteen to old men of seventy from far and near plodded distances of over hundred miles with bundles containing pieces of bread hanging from their shoulders and reached Mahad. About ten thousand delegates, workers and leaders of the Depressed Classes from almost all the districts of Maharashtra and Gujarat attended the Conference.

Every care had been taken, every convenience was provided, and every means was adopted to make the Conference a success. Water worth rupees forty was purchased from the Caste Hindus to satisfy the needs of the Conference, for water was not available to the Untouchables at the place of the Conference.

Dr. Ambedkar rose to deliver his presidential address to the half-clad, embarrassed, earnest men and women and began it in his simple, short and forceful sentences. With a strange

*Resisting injustice with soul force.

agitation in his voice he described the conditions of Dapoli where he had received the first rudiments of education and said that one was attracted to the place where one passed one's childhood and the beautiful scenery surrounding it deepened one's love for such a place. He recalled the days of his childhood and said : "There was a time when we, who are condemned as Untouchables, were much advanced, much ahead in education compared with communities other than the advanced classes. This part of the country was then pulsating with the action and authority of our people."

With great earnestness he then delivered a message to his people which echoed throughout the hills, dales and villages of Maharashtra. Declaring that the demilitarisation was one of the causes of their downfall, he said : " The military offered us unique opportunities of raising our standard of life and proving our merit and intellect, courage and brilliance as army officers. In those days Untouchables could also be headmasters of military schools and compulsory primary education in the military camps was very effective and wholesome." "It is nothing less than a betrayal and a treachery," he went on, "on the part of the British to have closed the doors of the army to the Untouchables who had helped them establish the Indian Empire while their home Government was at grips with the French during the Napoleonic War."

Then in an inspiring tone he said : "No lasting progress can be achieved unless we put ourselves through a three-fold process of purification. We must improve the general tone of our demeanour, re-tone our pronunciations and revitalise our thoughts. I, therefore, ask you now to take a vow from this moment to renounce eating carrion. It is high time that we rooted out from our mind the ideas of highness and lowness among ourselves. Make an unflinching resolve not to eat the thrown-out crumbs. We will attain self-elevation only if we learn self-help, regain our self-respect, and gain self-knowledge." He further urged his people to agitate against the Government ban on their entry into the Army, Navy and Police, and impressed upon them the importance of entering Government services and of education. Turning to the question of Mahars, he tweaked their self-respect by telling them

The Historical Chawdar Tank at Mahad

This Conference is held to unfurl the banner of *Equality* and thus may be likened to the National Assembly in France convened in 1789.

— Dr. B.R. Ambedkar

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that it was utterly disgraceful to sell their human rights for a few crumbs of bread, and appealed to them fervently to do away with the humiliating, enslaving traditions, to abandon their Vatans and seek forest lands for agricultural pursuits. In conclusion, in a moving tone he said: "There will be no difference between parents and animals if they will not desire to see their children in a better position than their own."

The Conference passed resolutions on important subjects. By one resolution the Conference appealed to the Caste Hindus to help the Untouchables secure their civic rights, to employ them in services, offer food to Untouchable students, and bury their dead animals themselves. Lastly, it appealed to Government to prohibit the Untouchables by special laws from eating carrion, enforce prohibition, provide them with free and compulsory primary education, give aid to the Depressed Classes hostels and make the 'Bole Resolution' a living reality by enjoining upon the local bodies, if necessary, to proclaim section 144 of Indian Criminal Procedure Code at their places, for its enforcement.

On the first day, a few caste Hindu spokesmen, local as well as outsiders, made speeches justifiying the rights of the Depressed Classes and promised them help. The Subjects Committee, which met that night, decided, after taking the sense of the leaders of the upper classes who attended the Conference, that the Conference should go in a body to the Chawdar Tank and help the Depressed Classes to establish their right to take water. Next morning the Conference called upon two caste Hindu spokesmen to support the resolution regarding the duties and responsibilities of the Caste Hindus. Excluding the clause regarding inter-caste marriage, they both supported the resolution.

In pursuance of the resolution of the Mahad Municipality which in 1924 had declared to have thrown open its Tank to the Depressed Classes, it was now decided to take water from the Tank and establish the right of the Untouchables. The delegates accordingly began to march peacefully in a body to the Chawdar Tank to assert their right of taking water from the Tank. And now the momentous event, great in its magnitude and far-reaching in its consequences, was taking place. Anti-slavery, anti-caste,

anti-priest. Dr. Ambedkar, who represented the awakened spirit of the Untouchable Hindus, was marching towards the Tank from which the Muslims and Christians took water along with the so-called touchable Hindus, but from which the Untouchable Hindus who worshipped the Hindu Gods, stuck to the same Hindu religion through ages past, were, although their throats parched with thirst, not allowed to take even a drop of water.

Thus, led for the first time in their history by a great leader of their own, the Untouchables were marching to vindicate their rights. They all displayed discipline, energy and enthusiasm. The march wended its way through the streets of Mahad and terminated at the Chawdar Tank. Dr. Ambedkar himself was now standing on the verge of the Tank. Enlightened among the enlightened, the equal of any erudite man on earth, a Hindu of noble aspirations, yet unable even to take water from a public watercourse or to read in a public library in Hindustan, the land of his birth and faith, was now defying the arrogance of the tyrants, exposing the baseness of a people who boasted that their religion treated even animals with forbearance, but who treated their co-religionists worse than cats and dogs.

Dr. Ambedkar took water from the Tank and drank it. The vast multitude of men followed suit and vindicated their right. The processionists then returned peacefully to the pandal.

Two hours after this event, some evil-minded caste Hindus raised a false rumour that the Untouchables were also planning to enter the temple of Veereshwar. At this a large crowd of riffraff armed with bamboo sticks collected at street corners. All orthodox Mahad was up in arms and the whole town at once became a surging mass of rowdies. They said that their religion was in danger, and strangely enough they clamoured that their God, too, was in danger of being polluted ! Their hearts fluttered, their hands shivered, and their faces were ablaze with anger at this humiliating challenge.

Enraged at this misconstrued outrage on their religion and at the thought of defilement of the temple of Veereshwar, the caste Hindus dashed into the pandal of the Depressed Classes Conference. Many of the delegates were at that time scattered in

small groups in the city. Some were busy packing and a few were taking their meals before dispersing for their villages. The majority of the delegates had by now left the town. The rowdies pounced upon the delegates in the pandal, knocked down their food in the dust, pounded the utensils and belaboured some before they knew what had happened. There was utter confusion in the pandal. Up-till now the orthodox had lost their conscience. They now showed signs of losing their senses !

Untouchable children, women and delegates, who were strolling in the streets of Mahad, were frightened at the sudden sweep of this event. Stray individuals amongst them were beaten. They had to run into Muslim houses for shelter. The local Mamlatdar and the Police Inspector, who failed to check the rowdies, saw Dr. Ambedkar in this matter at four O'clock in the evening at the Travellers Bungalow where Dr. Ambedkar and his party were staying during the days of the Conference. "You control others, I will control my people," said Dr. Ambedkar to the officers, and he hurried to the scene with two or three of his lieutenants. In the street a batch of rowdies mobbed him, but he calmly tried to soothe them by telling that there was no desire nor any plan on their part to enter the temple. He went ahead, saw things for himself and returned to the Bungalow. Up to this moment about twenty persons from the Untouchables were seriously wounded. A doctor was sent for. He came. He jeered at them for their "ill-timed" adventure and dressed their wounds !

The rowdies then began patrolling the main streets and assaulting members of the Depressed Classes who were in stray batches on the way to their villages. But the most reprehensible part of their conduct was that they sent messages to their henchmen to punish the delegates of the Conference in their respective villages. In obedience to this mandate assaults were committed on a number of Mahar men and women either before or after they had reached their villages.

Meanwhile, this news of the brutal attack on the delegates spread like wild fire. When Dr. Ambedkar returned to the bungalow, he saw about a hundred men impatiently awaiting his

orders, their eyes literally blazing with fire and their hands itching for retaliation and revenge. Their leader, however, appealed for peace and discipline. There was hushed silence for a while. A word of provocation from Dr. Ambedkar would have turned Mahad into a pool of blood and destruction. The number of delegates still lingering in the town, in the pandal and in the Bungalow together could have easily outnumbered the hooligans and battered down their skulls. Hundreds among the Untouchables were men who had seen, fought, and moved actively in the theatres and battles of the First World War.

But discipline was wonderfully maintained at the behest of their leader. They set their faces against the aggressors. Their struggle was non-violent and constitutional. They did not dream of breaking the law. Thus a more serious riot was averted. At nightfall all the delegates left for their respective villages. Dr. Ambedkar with his lieutenant, Anantrao Chitre, left the bungalow as it was booked by a Government Officer from that evening, and took up his residence in the police station rooms. He completed his inquiry into the riot and returned to Bombay on 23rd March.

Policemen appeared on the scene after the storm was over. They arrested some of the orthodox rowdies as trespassers. Out of the nine orthodox Hindu heroes, five who were found to be most valorous, were, afterwards on June 6,1927, sentenced by the District Magistrate to four months' rigorous imprisonment. Dr. Ambedkar was not far from truth when he remarked that had not the chief officers in the District been non-Hindus, justice would not have been administered impartially to the Untouchables. Under Peshwa rule, he said, he would have been trampled to death by an elephant. And it was the Peshwa rule under which Untouchables were not allowed to enter the city of Poona during certain hours by day-time, and when they were admitted at other times they had to walk in the city with earthen pots hanging from their necks to spit into."[1]

[1]: Keer, Pp. 69-71,73-77.

Mahad Conference-Report By 'The Bombay Chronicle'

A Conference of the Depressed Classes of the Kolaba District was held at Mahad on the 19th and 20th instants [*i.e.* of March 1927] under the Presidentship of Dr. B. R. Ambedkar, Bar-at-Law. The attendance of the Depressed Classes was over 2,500 and great enthusiasm prevailed. But the work of the Conference was severely marred by a riot, the responsibility for which rests entirely upon the upper class Hindu residents of the town of Mahad. On the first day of the Conference after the President had delivered his address, several Upper Class Hindus addressed the Conference assuring the Depressed Classes that, they were willing to help them in all ways and urging that the Depressed Classes should not cultivate hatred of the Upper Class Hindus. In pursuance of this the Subjects Committee drafted a resolution among others laying down what the Upper Class Hindus should do for the uplift of the Depressed Classes. In the Subjects Committee attention was drawn by some people to the fact that there was a great difficulty at Mahad for the Depressed Classes in obtaining water for drinking purposes and that this difficulty was felt not only by the resident Depressed Classes of Mahad but also by the Depressed Classes from villages who resorted to Mahad for private business or for the purposes of Government work. So great was the scarcity that water worth Rs. 15 had to be bought each day to satisfy the needs of the Conference. The Municipality of Mahad had sometime ago passed a resolution declaring the tanks in the city to be open to the public but as it had not placed a board there, people feared to resort to them. The Subjects Committee, therefore, decided after taking the sense of the upper classes who attended the Conference in this matter, that the Conference should go in body to the Chawdar Tank and help the Depressed Classes in establishing their right to take water.

A False Rumour

When, therefore, the Conference met on the morning of the 20th, and the first resolution which declared what the Upper Classes should do for the Depressed Classes was put before the Conference by members of Depressed Classes the President requested Messrs Purushottam Prabhakar Joshi and Govind

Narayan Dhariya [as representatives of the upper classes] to speak on the resolution. With the exception of one clause in the resolution dealing with inter-marriages they both accepted the resolution. Having thus assured itself that there was general support behind it the Conference when the Session was over, went in body to the said tank. The procession was a most peaceful one and everything passed off quietly. But after about two hours some evil minded leaders of the town raised a false rumour that the Depressed Classes were planning to enter the temple of Vireshwar, whereupon a large crowed of riff raffs, all armed with bamboo sticks were collected. The crowd soon became aggressive and the whole town at once became a surging mass of rowdies who seemed to be out for the blood of the Depressed Classes.

Twenty Wounded

The Depressed Classes were busy in taking their meal before dispersing to their villages. When a large part of them had left the town the rowdies entered the kitchen where the Depressed Classes were taking their food. There would have been a regular battle between the two forces; but the Depressed Classes were held back by their leaders and thus a far more serious riot was averted. The rowdies finding no occasion for provocation began patrolling the main street and assaulting the members of the Depressed Classes who in stray batches were passing along on their way to their villages and committed trespass in the houses of several Depressed Class people and gravely assaulted them. In all, the number of wounded, among the Depressed Classes is supposed to be as large as 20. In this the attitude of the Depressed Classes was commendable whereas the attitude of many of the Upper Classes was unworthy. The Depressed Classes assembled vastly out-numbered the Upper Classes. But as the object of their leaders was to do everything in a non-violent and absolutely constitutional manner they set their faces against any aggression on the part of the Depressed Classes. It speaks a great deal in favour of the Depressed Classes that although the provocation given to them was immense they kept their self-control. The Mahad Conference has shown that the Upper Classes are not willing to allow the Depressed Classes to enjoy such elementary civic rights as taking water from public water-courses.

The most reprehensible part of the conduct of the Upper Caste Hindus in Mahad and Kolaba District was that messages were sent immediately to the different villages asking the upper class people there to punish the delegates of the Conference as soon as they returned to their respective villages. In obedience to this mandate assaults were committed on a number of Mahars returning from the Conference either before or after they reached their villages where the Depressed Classes have the disadvantage of being overwhelmingly out-numbered by the Upper Caste Hindus. The leaders of the Depressed Classes have appealed to the authorities for protection and the District Officials includding the D. S. P. are making enquiries on the spot. It must, however, be stated that if the Resident Magistrate had not allowed two precious hours to pass without doing anything the riot would have probably been averted."

"Thus ended the first big, open Conference of the Depressed Classes in Maharashtra and their first public attempt to assert their civic rights. This Conference was a great and momentous event, the opening of an epoch in the history of Hindustan. It was an event which changed both Dr. Ambedkar's personal life and the current of social and national reorganization.

Under the leadership of their saviour, the down-trodden, the dehumanised and dumb millions opened a new chapter in the annals of India. They not only voiced their age-long grievances but also took on themselves energetically to mitigate them. They now summoned up courage and showed the right spirit in standing boldly and shaking off the dust from their feet and faces.

The struggle inaugurated by their educated leaders gripped their minds and enkindled the flame of self-respect and self-elevation. They now smarted under the insults and humiliations inflicted upon them at Mahad. They applied their minds to self-improvement and self-culture as never before. As a result of this Conference, the Untouchables gave up eating carrion, skinning carcasses, and stopped begging for crumbs.

And what happened to the Chawdar Tank that was declared to have been desecrated by the touch of untouchable Hindus ? The orthodox and reactionary Hindus called a meeting at the temple of

Veereshwar to consider the question of the purification of the tank. They had a remedy for purifying any damned and polluted earthly thing. To them a mixture of cow-dung, cow-urine, curd and water was the potent remedy for all manner of pollution. Accordingly water in one hundred and eight earthern pots was taken out from the tank. These pots full of curd, cow-dung, milk and cow-urine were dipped in the tank in the midst of air-rending *Mantras* uttered by Brahmin priests, the elect. It was then declared that water was purified for the use of the caste Hindus. Of course, Mohammadans and Christians had nothing to do with the act or process of purification. For, in their eyes human touch did not pollute water. They used the water of the tank as before without any interruption.*

The news of the so-called purification of the Chawdar Tank lacerated the hearts of the Depressed Classes, and so deep was the wound on Dr. Ambedkar's heart that he grew indignant and decided to launch a *satyagraha* struggle for the vindication of his people's rights. Some feared that this 'impatient' remedy was worse than the disease. Dr. Ambedkar, in a mood of righteous indignation, replied that mere spread of education and exposition of the scriptures would not be able to root out that age-long diesease. The disease, he said, was deep-rooted and merely dressing it with bandages of knowledge or ingenuous schemes would not cure it. Deadly diseases required drastic remedies.

Accordingly, it was announced on June 26, 1927, in the *Bahishkrit Bharat* that those members of the Depressed Classes who wanted to wash out the stigma of pollution attached to their whole class by the Mahad Hindus by their act of purification of the Tank, and who wanted to denounce the act of assaults committed on their representatives for having taken water from the Chawdar Tank, should enlist themselves at the office of the

*See Appendices-I, II and III.

Bahishkrit Hitakarini Sabha in Bombay. It was declared that the *satyagraha* struggle was to be launched under the auspices of the said institution."[1]

Police Report of Agitational Programme of Dr. Ambedkar :

I

"The Depressed Classes at Mahad : Protest of Bombay Untouchables against the atrocities inflicted on.....

Bombay City S. B., July 4, 1927.—Under the auspices of the *Bahishkrit Hitakarani Sabha,* a public meeting of the Depressed Classes was held at the Cowasji Jehangir Hall on the evening of July 3 to protest against the hardships inflicted on the Untouchables of Mahad in Kolaba District. Dr. Bhimrao Ramji Ambedkar, Bar-at-Law, presided over an audience of about 1,000 people.

Speeches were made by the president, Ragoba Narayan Vanmali, Mahadeo Abaji Kamli, Sitaram Namdeo Shivtarkar, Nirmal Limbaji Gangavane, Gitanand Brahmachari and Samant Nanji Marwari, condemning the treatment meted out to their brethren in Mahad by the Higher Classes. They decided, in order to carry on a peaceful agitation against this treatment, to enlist volunteers and collect funds. They would first have a conference at Mahad after the *Diwali* holidays and then it would be decided to start *Satyagraha* in order to enforce their rights as citizens. A resolution to this effect was passed.

Another resolution was passed requesting the Government to establish a separate department to deal with the grievances of the Depressed Classes as was done in Madras.

An appeal for funds was made by the speakers and about Rs. 350 were collected. A dozen people consented to become volunteers for the *Satyagraha* movement when it is started."[2]

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[1] : Keer. Pp. 77, 79, 89-90.

[2] : Bombay Secret Abstract, dated 16th July 1927.

II

"Satyagraha of Untouchables at Mahad

"At a conference of Mahars, Mangs, Bhangis, etc., held at Mahad in Kolaba District in March last, the delegates were prohibited by orthodox people from using the water of the village tank and the prohibition is reported to have resulted in a criminal case against those who took the law into their own hands. Since this incident there has been some excitement among the Untouchables of Bombay in which Dr. Bhimrao Ramji Ambedkar, Bar-at-Law, has been taking the lead.

In connection with this, a meeting of about a thousand Untouchables was held at Sir Cowasji Jehangir Hall under the presidency of Dr. B. R. Ambedkar on the afternoon of October 30. The president explained the facts which led to the incident at Mahad and which compelled the Untouchables to stand up for the protection of their rights. A resolution was passed by which it was decided to hold a conference at Mahad on December 25 in order to establish their right of using water at the public tank and in the event of any prohibition to launch a *Satyagraha* movement. About Rs. 570 were collected at the meeting. There was also a suggestion from the audience to launch a similar compaign in connection with a temple at Amravati in the middle of November." [1]

[1] : Source Material Vol. I, P. 13.

III

No. H/3447

dated 22nd December 1927.

"To,
The D. S. P.,
Kolaba, Alibag.

Sir,

Reference.—Para 868 of the B. S. A. current.

In this connection a meeting of the Depressed Classes was held on the night of 21st instant when Dr. B. R. Ambedkar, Bar-at-Law presided over an audience of about 250 people. The President, Sambhaji Santoji Waghmare, Nimandarkar, Kholwadekar and Junnarkar made speeches advising the people to join the *Satyagraha* Movement which is coming off on the 25th instant at Mahad in connection with the prohibition against the Untouchables' use of the water tank.

I have & c.

(Sd.)
D. C. P., S. B.
22nd December 1927."[1]

"Meantime, the Mahad Municipality revoked on August 4, 1927, its resolution of 1924 under which it had declared the Chawdar Tank open to the Depressed Classes. Dr. Ambedkar accepted the challenge and on September 11, at a public meeting in Damodar Hall, Bombay, a committee was formed to devise ways and means to make the struggle for re-establishing the right of the Depressed Classes to the Mahad Tank a success, and to fix the dates and details. Four days afterwards the committee met at Dr. Ambedkar's office and announced December 25 and 26, 1927, as the dates for offering the *satyagraha*.

The day of the proposed Conference and the *satyagraha* at Mahad was drawing near. Mahad began to stir again. The opponents of the struggle held a meeting on November 27, 1927, at the Veereshwar Temple to formulate a plan to flout the attempts of Dr. Ambedkar and the Depressed Classes to take water from

[1] : Source Material, Vol. I, Pp. 13-14.

the Chawdar Tank. But owing to the presence of the sympathisers of the Depressed Classes the meeting ended in pandemonium. Some Poona Hindu leaders tried to dissuade the caste Hindus from opposing the struggle, but to no purpose.

The District Magistrate visited Mahad on December 7, and the leaders of both the sides discussed the question with him. He asked the caste Hindus to have recourse to law and refused to issue an order prohibiting the Untouchables from taking water from the Chawdar Tank. The leaders of the orthodox section. therefore, filed a suit against Dr. Ambedkar, Shivtarkar and Krishnaji S. Kadam and Ganya Malu Chambhar of Mahad— leaders of the Depressed Classes—on December 12, 1927, in the Civil Court at Mahad and asked for the issue of a temporary injunction. The Court issued a temporary injunction on December 14, against the defendants pending the decision of the suit. Accordingly notices were served on Dr. Ambedkar, Shivtarkar and Krishnaji S. Kadam, prohibiting them and all the Depressed Classes or on their behalf these three leaders from going to the Chawdar Tank or from taking water from the Tank until further orders. The orthodox and reactionary forces shrewdly enough forced on Dr. Ambedkar a fight on two fronts. On the one side was standing an indifferent foreign Government and on the other was the caste Hindu section headed by the Orthodox Brahmins." [1]

Text of Temporary Injunction in Chawdar Tank Case

ORDER

"This is an application asking the Court to grant to the applicants a temporary injunction restraining the opponents from going to the Chawdar Tank or taking water therefrom. The applicants have, on 12th 1927, filed in this Court, Regular Suit No. 405 of 1927, for obtaining a Declaration that the said Chawdar Tank is of the nature of private property of the touchable classes only and that the Untouchable Classes have no right to go to that tank nor take water therefrom and also for obtaining a perpetual injunction restraining the Defendants from doing any of these acts.

[1] :Keer, Pp. 90 and 97-98.

The applicants, by this application pray that pending the disposal the suit, a temporary injunction may be issued against the Defendants. The application states, among other things, that hundreds of years since the tank has been in the exclusive enjoyment of the touchable classes only, that on 19th March 1927. a number of persons of the Untouchable classes led by Defendant, all of a sudden entered the tank, washed their hands and faces with the water and thus contaminated it, that in consequence of this contamination the touchable classes could not take water from the tank for over 24/25 hours *i.e.* until the water was purified, at a great cost, by performing ceremonies laid down by the Hindu *Shastras,* that great hardship was thus caused to the touchable classes, that the Untouchable classes have issued a manifesto proclaiming their intention of again entering the Tank and taking water therefrom, that if they are allowed to do that, the touchable classes will be debarred by the *Shastras,* from using the water of the Tank, that serious hardship would thus result to them and that if a temporary injunction as asked for is not granted and the Defendants allowed to contaminate the water of plaintiffs even if they finally succeed in the suit would not reap the benefit of the decree.

The application is supported by the affidavits of several persons besides Plaintiff No. 1. Plaintiffs have also produced with exhibit 4, a notice issued by the Municipality against one Divakar Joshi (one of the persons making an affidavit) calling upon him to repair his stone Dhakkas (dams) which adjoined the side of the Chawdar Tank, and also a deed of partition of Dharap family alleged to be more than a hundred years old. This deed contains a reference to the Pal of the tank as being one of the properties partitioned. Both these documents raise a 'Prima facie' presumption of the tank being private property.

The question now is, whether it would be more just to grant a temporary injunction to refuse it. The law regarding temporary injunctions is contained in order 39 of the Civil Procedure Code. Rule of this order is as follows :—Where in any suit it is proved by affidavit or otherwise (a) that any property in dispute in suit, is in danger of being wasted, damaged or alienated by any party to the suit, or wrongfully said in execution of a decree or (b) that the

Defendant threatens, or intends, to remove or dispose of his property with a view to defraud his creditors, the Court may by order grant a temporary injunction. Clause (b) has obviously, no application to the present case. The present case appears to come within clause (a).

Here is a Tank which has, for years since, been in the exclusive enjoyment of the touchable classes. The manifesto issued over the signatures of the Defendant1 and other also shows that the Untouchable classes were upto now under the impression that they had no right of access to the tank. It thus appears that the tank has been until now in the exclusive enjoyment of the touchable classes. The question now is, whether the ends of justice would be better met by disturbing this old state of things or by allowing it to continue until the rights of the parties have been finally decided.

The principles governing temporary injunctions have been summarised under part 2 of Mulla's Commentary on the Civil Procedure Code, 8th edition page 892. One of these is that the Court must see that there is a bonafide contention between the parties. About this there appears to me to be very little doubt. The second principle is, "on which side, in the event of success, will lie the balance of inconvenience if the injunction does not issue." To me it appears that the balance of inconvenience will lie, and lie very heavily, on the side of the Plaintiffs if an injunction is not issued. The point is so clear that I do not think I need labour it at all.

If the Defendants are allowed to enter the tank and thus (according to the religious notions of the Plaintiffs) contaminate the water and render it until for further use, a large section of the population will be put to hardship and inconvenience which will be so severe that only those living in places where there are no copious supply of water, can realise it. On the other hand, the Defendants will not be put to any inconvenience what so ever, if they are asked to forbear from exercising what they consider to be their right, until the first decision to the suit. This course appears to me not only just and equitable, but the only right course under the circumstances in order to maintain the *status quo,* which, it is imperative to do. Vide the remark appearing at I. L. R. 46, Calcutta, page 1030, it is also contended

by the applicants (Plaintiffs) that if a temporary injunction as asked for is not granted and the water of the tank is allowed to be contaminated, irrepairable injury would result to the Plaintiffs. Taking into consideration, how sensitive the touchables classes generally are on this point, both on account of their religious susceptibilities, as well as the wide gulf which has existed between the two communnities from time immemorial, I am inclined to attach very great weight to this condition. I have no doubt that the spread of education will, in course of time, materially alter these conditions and bring the two communities in a clear and friendly contact with each other and that Untouchability will be a thing of the past. But as things at present stand, I am bound to attach great weight to the sentiment of the applicants who feel that, the injury that will sustain if the water is allowed to be contaminated, will be that it would not admit of being adequately compensated by damages.

Taking all these circumstances into consideration, I think I would be failing in duty if I were not to refuse the injunction prayed for. It is a very painful duty that I am called upon to perform, but the call of duty leaves no room for choice. I therefore order that a temporary injunction as asked for, with notice be issued.

14-12-27. (Sd.)—G. V. Vaidya " [1]

On the side of Depressed Classes "Elaborate preparations for holding the Conference were made. As no Hindu landlord allowed the use of his land for the pandal, a site for the Conference was secured with great difficulty from a Muslim. As the local merchants refused to have any dealings with the men connected with the Conference, the Reception Committee had to purchase corn and other materials from out-side, sufficient to last for ten days. Anantrao Chitre managed the work very efficiently. Subhedar Ghatge was entrusted with the food arrangement and maintenance of order and discipline. All the Chief Government Executives of the District gathered at Mahad on December 19. Police were posted on all sides of the Chawdar Tank. Delegates and spectators began to pour in

[1] : Khairmode, Vol. 3, Pp. 234—237.

Mahad from December 21. The District Magistrate visited their camp every day to dissuade the delegates from the proposed *Satyagraha*.

With a batch of two hundred delegates and leaders, Dr. Ambedkar left Bombay on the morning of December 24. The next day they got down at noon at Dasgaon, five miles off Mahad. There, with anxious faces, an army of 3,000 *satyagrahis* awaited their leader. When they saw their leader, they greeted him with tumultuous applause.

After the reception, the Police Superintendent handed over a letter from the District Magistrate to Dr. Ambedkar, requesting him to see the District Magistrate at his Mahad office without loss of time. Dr. Ambedkar, with one of his lieutenants, Sahasrabudhe, hurried to his office. The District Magistrate in a swift and soft tone advised, argued and pressed for the postponement of the struggle ; but the leader did not see eye to eye with the Chief Executive of the District. It was however, agreed that he should be given an opportunity to address the Conference. In the meanwhile, the procession of the delegates had left Dasgaon and accompanied by police officers, it reached Mahad at half past two in the afternoon, singing songs which were punctuated by sky-rending slogans. The vast crowd entered the pandal amidst shouts of 'Shivaji Maharaj ki Jai'. In the pandal proverbs hanging from pillars displayed inspiring immortal truths. In front of the gate there was a pit.

After his interview with the District Magistrate, Dr. Ambedkar hastened to the pandal and had his lunch in the company of his common followers. He refused to have any special food.

The Conference commenced its proceedings at four-thirty in the evening. Messages from several prominent persons wishing the *satyagraha* success were read out. Then the leader rose to address the Conference amidst deafening cheers, shouts and slogans raised by a mammoth gathering of fifteen thousand people. A majority of them had no clothes to their backs. Their old turbans were torn, their chins were unshaven; but their sunburnt faces shone with a peculiar enthusiasm and hope. The vast audience calmed down, and Dr. Ambedkar began his speech in a low, dignified but forceful voice."[1]

[1] : Keer, Pp. 98-99.

"Dr. Ambedkar's Plea for Abolition of Social Disabilities

Following is a summary of the Presidential address of Dr. B. R. Ambedkar, M.A., Ph.D., D.Sc., Bar-at-Law, M.L.C.. delivered at the *Satyagraha* Conference at Mahad (District Kolaba) held on the 25th December 1927.

Welcoming the *Satyagrahis* on behalf of the *Satyagraha* Committee, of which he is the president, Dr. Ambedkar reminded them of the unfortunate ending of the Conference held at the same place in March last when a number of their fellow delegates had been ill-treated and assaulted by the so-called Caste-Hindus for committing the offence *of* drawing the water from a Public Tank named "*Chawdar*". Nobody prevented the members of the Depressed Classes from using the water of the tank, but some ringleaders took it into their heads to punish the delegates of the Conference after the event and incited the mob to commit assaults on them. Some of the offenders were prosecuted, convicted and sentenced to four months' imprisonment.

Continuing Dr. Ambedkar said : "Had the caste-Hindus admitted the right of the Depressed Classes to use the tank, this *Satyagraha* would not have been necessary. Unfortunately, however, the Caste-Hindus at this place are obstinate in their attitude and refuse to admit the right of the Depressed Classes to use the Public Tank which is open to persons of all castes including Mahomedans and other non-Hindus. The irony of the situation is that although the cattle owned by the so-called Untouchables are allowed to go, their owners, who are as good human beings as the other people, are prohibited from going to the tank.

The Hindus are known for their humanitarian sentiments and their regard for animal life is proverbial. Some section do not kill even poisonous reptiles. The Hindus maintain a large army of *Sadhus* and able-bodied beggars, and believe that they acquire merit by feeding and clothing them and giving them cash for indulging in luxuries. The Hindu philosophy teaches the doctrine of an all-pervading soul, and the *Geeta* exhorts them to make no distinction between a Brahmin and a Chandal.

The question therefore arises why the Hindus having such traditions of charity and humanity and possessing such grand philosophy should behave so heartlessly towards their fellow human beings and in such unreasonable ways. In the reply to this question lies the real significance of this Conference. The Hindu Community is set in the steel-frame of the caste system, in which one caste is lower than another in social gradation involving particular privileges, rights, inhibitions and disabilities with regard to each caste. This system has created vested interests which depend upon maintaining the inequalities resulting from the system.

The so-called Caste-Hindus are bitterly opposed to the *Panchamas* (person belonging to the fifth class, the Depressed Class) using a public tank not because they really believe that the water will be thereby spoiled or will evaporate if Mahars and others use the tank, but because they are afraid of losing their superiority of caste and of equality being established between the former and the latter. We are resorting to this *Satyagraha* not because we believe that the water of this particular tank has any exceptional qualities, but to establish our natural rights as citizens and human beings.

Struggle for Equality

This Conference is held to unfurl the banner of *Equality* and thus may be likened to the National Assembly in France convened in 1789. Our Conference aims at the same achievement in social, religious, civic and economic matters. We are avowedly out to smash the steel-frame of the caste-system.

Low Aim Is A Crime

Some men may say that this should be satisfied with the abolition of Untouchability only, leaving the caste-system alone. The aim of abolishing Untouchability alone without trying to abolish the inequalities inherent in the caste-system is a very low aim. Let us remember "not failure but low aim is a crime". Let us probe the evil to its very roots and be not satisfied with mere palliatives to assuage our pain. If the disease is not rightly diagnosed the remedy will be useless and the cure may be postponed.

Not only Untouchability and restrictions regarding intercaste-dining must be removed, but inter-marriages among the Hindus of various castes must be made common. This alone will lead to the establishment of true-equality. Even supposing that the stigma of Untouchability is wiped out, what will be the status of the present Untouchables. At the most they will be treated as '*Shudras*'. And what are the rights of the '*Shudras*'? The '*Smrities*' treat them as mere zealots and the '*Smrities*' are the guides of the caste Hindus in the matter of gradations in the caste system. Are you willing to be treated as '*Shudras*'?. Are you willing to accept the position of zealots ? Are you prepared to leave your fate in the hands of the upper class ?

Self-Help

That the caste-system must be abolished if the Hindu Society is to be reconstructed on the basis of equality, goes without saying. Untouchability has its roots in the caste-system. They cannot expect the *Brahmins* to rise in revolt against the caste-system, because that system confers on them certain special privileges and they will not willingly give up their privileged position and the present supremacy in the hierarchy of Hinduism as based on *Smrities*. It would be too much to expect them to resign all their privileges as the '*Samurais*' of Japan did. Also we cannot rely upon the Non-Brahmins and ask them to fight our battle. Many of them are still enamoured of the caste-system and are tools in the hands of the Brahmins, and most of these others who resent the supremacy of the Brahmins are more interested in levelling down the Brahmins than in levelling up the suppressed classes. They too want a class of people on whom they can look down and have the satisfaction of not being quite the under-dogs of the Society. This means that we ourselves must fight our battles, relying on ourselves. We are the most downtrodden classes in the country. Services in the army, police and public offices are practically closed to us. We are debarred from following a number of trades and professions and we have been reduced to utter economic helplessness. All this is due to the Untouchability and the lowest social position to which we have been relegated. Should we fail to assert our rights as human beings and citizens we shall have to remain fallen forever.

A Real Service to the Nation

Ours is a movement which aims at not only removing our own disabilities, but also at bringing about a social revolution, a revolution that will remove all man-made barriers of caste by providing equal opportunities to all to rise to the highest position and making no distinction between man and man so far as civic rights are concerned. If we achieve success in our movement to unite all the Hindus in a single caste we shall have rendered the greatest service to the Indian nation in general and to the Hindu community in particular. The present caste-system with its invidious distinction and unjust dispensations is one of the greatest sources of our communal and National weakness. Our movement stands for strength and solidarity; for equality, liberty and fraternity. We wish to carry on our movement as peaceful as we can. However, our determination to remain non-violent will to a large extent depend upon the attitude of our opponents. We are not the aggressors and our oppressors for generations should accuse us of aggression a strange thing. We refuse to be controlled and bound by the *'Shastras'* and *'Smrities'* composed in the dark ages and base our claims on justice and humanity." [1]

Thereafter "Mr. G. N. Sahastrabuddhe, a Brahmin, read extracts from *Manusmriti* those portions which related to the treatement to be meted out to the *Sudras*.

Burn Manusmriti

The first resolution passed ran as follows :—

Taking into consideration, the remarks in the *Manusmriti* and such other books which are most vulgar and which most flagrantly violate the human rights, this meeting condemns them emphatically and as an expression of that condemnation resolves to burn them and makes the following declaration of rights to form the basis of reconstruction of Hindu Society.

The declaration stated that all Hindus should be considered as one of *varna* and should be recognised and called as such and law should be enacted prohibiting the use of class words as Brahmin, Kshatriya etc.

[1] : The Indian National Herald, dated 28th December 1927.

24B Blank

A place at Mahad where Manusmriti was brunt

The bonfire of *Manusmriti* was quite intentional. We made a bonfire of it because we view it as a symbol of injustice under which we have been crushed across centuries.

—Dr. B. R. Ambedkar

blank

Another resolution urged that a competitive examination be held for the admission of persons to the Hindu priesthood and that licenses be issued only to the successful candidates.

The speeches were mainly denunciations of Brahmins and Brahminism. Mr. Mandlik asked permission to address the meeting but the President refused permission.

Mr. D. V. Pradhan, a touchable also supported the burning of the *Smriti*.

The ceremony of burning the *Smriti* * then took place and the conference concluded for the day."[1]

" The bonfire of the *Manusmriti* by Dr. Ambedkar and his followers on 25th December 1927, anticipated this age. While speaking of bonfire of *Manusmriti*; Dr. Ambedkar in an interview with T. V. Parvate in 1938, said "The bonfire of *Manusmriti* was quite intentional. We made a bonfire of it because we view it as a symbol of injustice under which we have been crushed across centuries. Because of its teaching, we have been ground down under despicable poverty and so we made the clash, staked all, took our lives in our hands and performed the deed." [2]

"The Collector, the Superintendent of Police and 100 armed police were present. In the night *harikirtan* composed by an "Untouchable" and hitting at Brahmins was enthusiastically sung.

Collector's Letter

Second day's proceedings of the Conference began on the morning of the 26th. Dr. Ambedkar read a letter from the Collector which said that it was the desire of Government that the "Untouchables"should obey the injunction of the Civil Court. Government were always sympathetic to the cause of the Untouchables and were willing to advance their cause in every lawful way and help them to establish their right of access to places of public utility. But, in view of the temporary injunction granted, Government were helpless and desired that the Untouchables should not embark on *Satyagraha* at this moment.

* Manusmriti.

[1] : The Indian National Herald, dated 31st December 1927.

[2] : Parvate, Pp. 58-59.

The whole Conference converted itself into Subjects Commitee when Dr. Ambedkar reviewed the whole situation and advised the delegates to embark on *Satyagraha* against the Civil Court's injunction provided the delegates were prepared for the consequences of their action and to undergo imprisonment and other sufferings in a cheerful and voluntary manner.

The sense of the Conference was strongly in favour of the advice to embark on *Satyagraha* immediately and the President had difficulty in getting a hearing for any speaker who was for postponement of *Satyagraha*.

More Than 3,000 Volunteers Sign Pledge

Dr. Ambedkar then suggested that to gauge correctly the intensity of feeling, those delegates who were in favour of *Satyagraha* should be asked to give their consent in writing for practicising *Satyagraha*. Accordingly, the registration of delegates willing to practice *Satyagraha* was commenced and within one hour, 3,884 delegates had registered their names as ready to offer *Satyagraha*.

The Collector was informed that the Conference was in favour of *Satyagraha* on hearing which the Collector expressed a desire to address the Conference personally.

Collector Addresses Conference

The *Satyagraha* Conference assembled at 5-30 p.m. when Mr. Hood, the Collector, accompanied by the Superintendent of Police attended the Conference. The Collector addressed the meeting in Marathi. Mr. Hood said : "I know why you have all gathered in this Conference. I know also that if I advised you to defer *Satyagraha* you would all very much regret it as you have been preparing for this for the last three months. You all, however, know that the Bombay Legislative Council has passed a resolution to the effect that the "Depressed" Classes be admitted to the public tanks and schools and that the Bombay Government have instructed accordingly and have also advised the Local Board to do the same. The Government are quite willing, Mr. Hood said to admit them to the tank but 10 days ago there has taken place a new development. The touchables have filed a suit against the "Untouchables" contending that the tank was a private one and a temporary injunction has been granted in their favour.

"I am speaking to you as the Collector of the district and I wish to assure you on behalf of the Government that the Government are on the side of "Untouchables" and to tell you that the Government and I, are your friends. I regret very much to see that some of you intend to offer *Satyagraha* by disobeying the order of the court. This action, I consider, will be very harmful, I advise you to prepare your case and fight it constitutionally and legally. I sincerely hope that the decision may be in your favour."

Mr. Jawalkar who had come in the morning said he had come to the Conference to deliver the message of the Non-Brahmin party namely that the "Untouchables" should obey the injunction of the court and offer *Satyagraha* after the decision of the court.

Subhedar Ghatge and other speakers said they had come there to offer *Satyagraha* against the touchables and not against the Government."[1]

"The Collector was then led by Dr. Ambedkar out of the pandal. Till seven in the evening, speaker after speaker supported the launching of *Satyagraha,* and those who uttered discordant notes were booed and heckled. Dr. Ambedkar again adjourned the discussion till the next morning.

At night the chief men gathered together, held discussions and decided to postpone the struggle in view of the case pending before the court, but it was also decided to march in procession winding its course around the tank. Accordingly, this decision was notified to the District Magistrate.

On the morning of December 27, Dr. Ambedkar rose to withdraw the first resolution on the struggle and to move another resolution amidst breathless silence, asking the Conference to postpone the struggle. He was on the horns of a dilemma. It was now the psychological moment to curb the enthusiasm of the delegates and pin it down. He tactfully began to deal with the critical situation. He said in an appealing tone to the delegates, who had by now grown restless and frantic : "You are a brave people. The people who are prepared to lay down their lives for the vindication of their just rights are sure to prosper. But the

[1] : The Indian National Herald, dated 31st December 1927.

moment now has come when you should think twice before you strike the blow. You know well that the *Satyagraha* movement started by Gandhi," he proceeded, " was backed up by the people as it was against a foreign domination. Our struggle is against the mass of Caste Hindus and naturally we have little support from outside. Taking these facts into consideration. I feel, we should not antagonise the Government and put it on the side of our opposition. It is not beneficial either."

"Do not suppose," asserted the leader, "that if you postpone the issue humiliation will be its concomitant. As regards my position, I assure you I am prepared to face the three-fold danger-breaking of an order, being charged with a breach of rules governing the conduct of a lawyer and the possibility of imprisonment. My brothers," he sofetly concluded, "you rest assured that a postponement of this struggle will not mean that we have given up the struggle. The fight will go on till we establish our claims to this Tank." [1]

Satyagraha postponed

As a result of deliberations, the following resolution was adopted :—

'Taking into consideration the fact that the touchable classes of Mahad by obtaining a temporary injunction from the Civil Court at the last hour against the "Depressed" Classes bring them into conflict with the Government which had yesterday morning resolved to offer *Satyagraha* have after listening to the Collector and after taking into consideration the assurance given by him in the open Conference that the Government have every sympathy for the Depressed Classes in the struggle for equal rights resolved that *Satyagraha* be postponed till the decision of the Civil Court." [2]

[1] : Keer, Pp. 102-103.

[2] : The Indian National Herald, dated 31st December 1927.

"The Conference agreed. The delegates immediatly formed themselves into a procession and started volunteers with slogans, boards and placards were pacing slowly. The procession reached the Tank and took its round. And what were the Caste Hindus doing ? The streets were deserted. They had shut their houses and the Orthodox Hindus were wriggling with excruciating venom in their hearts. After one hour and a half, the procession returned to the pandal about noon without any mishap." [1]

"DR. AMBEDKAR AT RAIGARH

"Untouchables" Bathe in Ganga Sagar Tank

A correspondent writing under date January 5 in "*Kolaba-Samachar* of Pen, says" After the conclusion of the *Satyagraha* Conference Dr. Ambedkar proceeded to Raigarh, the famous fortress and the capital of Shivaji, in company of about a hundred Untouchables. He encamped in the Raigarh *Dharmashala* and the watchmen of that place, one Yesu Shedge, a Mahratta by caste and maintained by the *Dharmashala* Committee, looked after the requirements of the visitors. He asked them not to touch the waters of the Gangasagar Tank. He suggested that if they wanted to take bath, they could do so in another tank nearby, specially built for the Untouchables. Dr. Ambedkar and others, however, "defiled" the waters of the " Gangasagar."

The correspondent adds that this has led to great excitement among the Mahrattas of the Raigarh valley, most of whom are *sepoys* in the army, the valley being a good recruiting field." [2]

Comments

"Commenting editorially on this episode, "*Kolaba-Samachar"* in its issue for January 7 refers to the methods followed by Dr. Ambedkar pointing to a suggestion made in its columns that Government should see its way to prosecute Dr. Ambedkar and his followers. The paper sets its face against the suggestions on the ground that Indians must do as much as possible to settle their own quarrels and should never invite Government of their own accord, to interferes." [3]

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[1] : Keer P. 104.

[2] : The Bombay Chronicle dated 12th January 1928.

[3] : Kolaba-Samachar, dated 7th January 1928.

"Maharashtra's Mind

For some weeks past Dr. Ambedkar and the *Satyagraha* Conference of Untouchables at Mahad have been the subject of much adverse comment not only in the Orthodox Hindu Press but also in journals that are definitely committed to the removal of Untouchability. Most of the Marathi journals came under the second variety and may generally speaking be divided into three classes, *viz,* N. C. O., Responsivist and Non-Brahman. The principal points that these journals make in their attacks against Dr. Ambedkar and his friends are (1) his alleged excess of burning the *Manusmriti,* and (2) his alleged acquiescence in the Kolaba Collector's order to stop *Satyagraha*. In the whole controversy there are many other charges and countercharges made against either party, but they are not very material. Dr. Ambedkar has now published in "*Bahishkrit-Bharat*" quite a lengthy account of the Conference and met the charges made against him. He does not fight shy of the first accusation against him and defends it by saying that in as much *Manusmriti* ordains and sanctifies the age-long oppression and exploitation of the Untouchable Hindus by the socalled High-Class Hindus, this main source of present day Hindu law deserves to be burnt. While meeting the second charge, Dr. Ambedkar takes the wind out of the sails of his opponents when he states that no gagging order was ever passed against and therefore there never arose any question of disobeying it. All that he did, he was pursuaded to postpone the *Satyagraha* to a later day by the Collector of Kolaba and he did entirely in the interests of the *Satyagrahis* and the Untouchables. He leaves perfect liberty to his critics to say anything against him on this distinct ground." [1]

" The case, Hindu versus Untouchables regarding ownership of Chawdar Tank was fixed for hearing on 12th January 1928 in the Court of Second Class Sub-Judge; Mahad. Dr. B. R. Ambedkar started preparation for pleading the case. He wrote a letter on 24th January 1928 to Advocate Markand Dattatraya Vaidya to

[1] : The Bombay Chronicle, dated 27th February 1928.

obtain certain documents and also to attend the Court. He specifically asked Mr. Vaidya to obtain a copy of an affidavit filed by a Brahmin priest namely Mr. Pandurang Bhaskar Shashtri Palaye on 30th January 1928 in favour of Dr. B. R. Ambedkar and other quoting the various quotations from the scriptures. The letter is as under :

BHIMRAO R. AMBEDKAR Damodar Hall, Parel
M. A., Ph. D., D. Sc, Bombay, 12
Bar-at-law 24-1-28
Member, Legislative Council.
Bombay.
My dear Vaidya,

I am (in) receipt of your letter of the 12th. I notice that the Court is anxious to have the injunction order argued earlier i.e., before the 5th Feb. Well, I propose to come on Thursday the 2nd of Feb. to argue the matter.

I am sending herewith forms of affidavits which you will please prepare in due form and have them declared in time. You may find some difficulty in getting a Mahomedan butcher (I must have a butcher) to make the affidavit. But if you will see the police Sub-Inspector of Mahad and request him on my behalf, I am sure he will oblige you a copy of an affidavit by a Brahmin priest supporting us which will be declared here.

Give sufficient notice to the Defts, in time of the date and also give them copies of affidavits, so that they would have no cause for complaint. Give my regards to Surba. Let me have your reply by Monday the 30th of January at the latest, informing me if everything is ready for the 2nd of Feb.

With my very best regards I am,

Yours sincereley

Sd/-B. R. Ambedkar" [1]

[1] : Khairmode, Vol. 3, Pp. 239, 244, 245.

Following is the article by P. R. Lele about Mahad Satyagraha—

"Untouchables will renew Satyagraha

The Untouchable's *Satyagraha* of the famous *Chawdar Tank* of Mahad had to suspend their *Saryagraha* in view of a temporary injunction granted by the Sub-Judge of Mahad restraining Dr. B. R. Ambedkar and others from taking water out of that tank. At that time i.e. December last they had to rest satisfied with holding a Conference and giving emphatic expression in several ways to their resentment against the tyranny of Caste-Hindus.

The delegates and visitors of that Conference organised a huge procession and impressed their strength on the minds of the tyrants. Thereafter Dr. Ambedkar with a select party went round the Mahad Taluka and even to the Raigarh Fort. About his visit to Raigarh, I refrain from saying anything inasmuch as Dr. Ambedkar is contemplating or probably has started legal proceedings against certain papers which are alleged to have given misleading reports.

The tour of this party created a sensation in Mahad Taluka, as a repercussion of which even Mussalmans of a certain villages in the vicinity certain papers who are alleged to have given misleading reports.

Interim Injunction Dissolved

Now the Sub-Judge of Mahad has dissolved the interim injunction. I have not got a copy of the judgement on the interlocutory notice but have definite information that it is a considered and pretty long one.

The Judge has hinted that he was misled when he granted the interim injunction and has virtually expressed sorrow for having been instrumental to what may be called the continuation of an insult and a sore. More than this must not at this stage be said as the main case is still subjudice. For the time, however, this is a distinct victory of a just cause. The assertion of civil rights by the so-called Untouchables can now be made without involving the risk of being jammed in between the judiciary on the one side and the orthodoxy on the other.

In the great *Guruka Bagh* struggle there was at least the wholehearted and unanimous sympathy of the public with the Sikh *Satyagrahis*. In the Mahad affair it was not so. The leaders of the Orthodox Hindus refused to listen to the words of advice of the bosses of Poona or even of the *Hindu Sabhawalas*. Those same leaders though discomfited and repulsed, would not take up a strong attitude in favour of the Mahar *Satyagrahis* when it came to the actual assertion of rights. What had to be postponed can now be taken up again.

The Next Campaign

And it is going to be taken up again, this time with far less risk and far greater chances of success. After the return of Dr. Ambedkar, who had been to Mahad for the case, after delivering his well-informed budget criticism, a public meeting was held in the Damodar Thakarsey Hall, Parel, on Sunday 26th instant.

Dr. Ambedkar in a lucid speech explained the situation as it existed on that day and told his followers to consider the earliest date on which to launch the campaign again. The meeting was attended by more than a thousand members of the Depressed Classes. The hall was packed and on the dais were a few Caste-Hindu Friends of the so-called Untouchables besides a majority of prominent members of the latter classes.

The majority of speeches were by these and were full of sincerity and devotion to their leader Dr. Ambedkar. One of the speakers spoke with the greatest impression because he was amongst those who were assaulted by Caste-Hindus sometime in March last when the first attempt was made to take water from the now famous tank.

At that time it was recklessly circulated that hides were washed in the tank and this assaulted gentleman being a cobbler by caste the story was taken up and a wanton assault was perpetrated on him. As another speaker explained water was actually drawn by him and the assault went vicariously to that other gentleman, whose name is Rajbhoj and who was humourously called Bhoj Raja. One could clearly see life in the meeting of Sunday last.

Within A Month

To see them and to say they were Untouchables would be absurd. All the same in the eyes of the orthodox they were so. They have not only to cure themselves of Untouchability but have to uplift the orthodox who are immersed in the slough of prejudice. Their struggle is an essentially patriotic and essentially human struggle.

With such a huge dead weight the nation cannot rise. So long as equal elementary rights are not conceded and assured to them, Hinduism shall stand shackled and manacled. In asserting their rights and in raising themselves, these warriors of the so-called Untouchable classes are raising the country and the Hindu religion. Dr. Ambedkar is now busy organising the next campaign in right earnest. It has been decided to start it within a month probably on the Hindu New Year's Day when every Hindu house-holder flies a flag. The leaders of these Depressed Classes propose to fly their flag of "equal human rights to all" on that day and, God willing, they will do it." [1]

This is an article by D. V. Pradhan about Mahad *Satyagraha*—

"TRIUMPH OF JUSTICE

When in March last, Dr. Ambedkar led the Untouchables to the Chawdar Tank at Mahad, the orthodox section of the Caste Hindus lost their sleep, appetite and all over the "Sacrilege" and mercilessly belaboured the poor unsupported Untouchables while they were returning from the tank. Soon after, criminal proceedings were taken against the rowdies and they were punished for disturbing the public peace. Every effort was made by these so-called "Protectors" of the religion to oppose the Untouchables from coming near the tank and they were encouraged in their action by the orthodox press. It was to assert their right of ordinary human privileges, the Untouchables launched the *Satyagraha* Movement, and in December last, a conference of about 10,000 assembled and unanimously resolved to march on to the tank. But the Orthodox Caste Hindus who smelt this resolve

[1] : The Indian National Herald, dated 28th February 1928.

by their nose got a temporary injunction from the sub-judge of Mahad against the Untouchables using the tank of the ground that it was the private property of one Mr. Chowdhari and the touchable classes. Having secured this respite from the authorities, the touchables thought that they had gained the upper hand at the expense of the Government and the Untouchables. Dr. Ambedkar at once saw through the game, but decided to postpone *Satyagraha* till the civil suit was disposed of. The suit came for hearing on 23rd February 1928 before Mr. Vaidya, the sub-Judge of Mahad, and Dr. Ambedkar by his lucid exposition not only got the injunction cancelled but also convinced the judge the *bona-fide* of their right to use the public tank. Since the ban has been removed, the tank is now to be open for public use as per the resolution of the Bombay Legislative Council.

Satyagraha to be Launched

Now, in a public meeting held on Sunday the 26th February, in Bombay, attended by about 2,000 people, it was resolved to relaunch the *Satyagraha* at Mahad. The *Satyagraha* Committee is meeting shortly, and the exact date will be announced shortly.

Those who are following and studying the Untouchable Movement in this part of the country under the leadership of Dr. Ambedkar can very safely and boldly say that the movement is cosmopolitan in character. It is not simply for the opening of the tank for public use, but a movement of this kind with its manifold activities is directly paving the way for the evolution of the national movement for asserting their ordinary privileges of citizenship. It was only recently that Dr. Ambedkar announced his intention to open khadi centres for the Untouchables and thus help the great constructive programme blessed by Mahatmaji, with Khaddar on body and *Satyagraha* in mind against all evils, this movement is bound to succeed.

One word to my friends. As every good movement has to pass through various stages of obstacles and it will have to meet the friendly foes as well open foes-of whom the former are more dangerous-so also this *Satyagraha* has to face all the obstacles put on the way and come out triumphant at last. I only appeal to my friends that in facing these hardships from friends or foes, they

should not lose under any circumstances their courage, patience and persevarance but carry on the struggle to the successful end in all humility by peaceful and non-violent means.

May God give the strength to my suffering brethren and wisdom to the cast Hindus." [1]

Sub-Judge, Mahad, dissolved Mahad injunction—

Chawdar Tank-No Private Property Magistrate Regrets Grant of Injunction

"I cannot conclude this order without expressing my regret at the inconvenience and hardship caused to the defendants by the injunction granted by me, temporary though it was, and at having been instrumental in heaping one more wrong upon a community already labouring under the most cruel and unjust social wrongs. I dissolve the injunction issued by me". So said the Sub-Judge while dissolving the injunction against Dr. Ambedkar and others.

It will be remembered that Dr. Ambedkar and others who went to offer *Satyagraha* at Mahad in the matter of taking water from the famous Chawdar tank were prevented from doing so by the injunction granted by Mr. G. V. Vaidya, Sub-Judge, Mahad, as applied for by Mr. Pandurang Raghunath Dharap and others, who claimed that the tank concerned was their private property. It is understood that Dr. Ambedkar and others, as also a number of caste Hindu people have decided to offer *Satyagraha* again. Probably they may restart the campaign on the first day of the Hindu New Year, i.e. about three weeks after, as the injunction against them has now been dissolved on the ground that the said tank is "Government municipal property."

Why Injunction was granted

Delivering judgment of February 23rd the Sub-Judge observes. "The injunction had been granted on the *prima facie* presumption that the *Chawdar Tank* in suit was of the nature of private property. I have now to see whether on the evidence that is now produced for Defendants, that presumption stands or not. That presumption has, in my opinion, been strongly rebutted by the evidence now placed by the Defendants before me."

[1] : The Bombay Chronicle, dated 2nd March 1928.

While examining the evidence, the sub-judge relies on copies of extracts from Revenue Records and certain other documents like applications from several people to the Municipality for special use of the water of the tank and definitely expresses the view. "All these papers strongly go to prove that the Chawdar Tank in suit is Government Property vesting in the Municipality and not private property of particular individuals as alleged by the Plaintiffs."

Conclusive Evidence

Continuing the judge says : "The presumption that the tank in suit is Municipal property is further strengthened by the fact that in the embankment of the tank, there are slabs of stones in two places bearing inscriptions engraved on them. On the application of Defendant's pleader, a Commissioner was appointed to visit the place and in the presence of the Court and the pleaders for both sides, to make facsimile of these inscriptions. This was done in the presence of the Court and Messrs Joshi and Sathe for Plaintiffs and Mr. Vaidya for the Defendants. Slab marked serial No. 2 bears a clear inscription of the words Municipality Mahad 1899 engraved in Marathi. On slab No. 1 some words are clearly visible while the others appeared to have been tampered with by some one and this tampering appeared to be quite fresh.

Plaintiff's Slender Case

As against all this evidence, plaintiffs rely upon the deed of partition (Ex. 45) of the Dharap family. In the face of all the evidence above referred to the mere fact that years ago, some members of the Dharap family effected, as between themselves a partition of the embankment in front of their house, does not signify much nor does the notice Ex. 44 given by the Municipality to one Diwakar Joshi to repair the embankments built by him in front of his house, as they were in a dilapidated condition and were rendering the water of the tank insanitary, signify much. It in no way constitutes an admission of Plaintiffs' right to the tank itself.

"No Special Preserve"

Whatever may be the final decision of the suit on its merits, I am, for the present, thoroughly satisfied, that the *Chawdar Tank* in suit is Government Municipal property and not the private property of particular individuals as alleged by Plaintiffs. The question then is whether plaintiffs have a right to exclude Defendants from enjoyment thereof. The answer is obviously "No". In the case of such property there cannot be any reservation in favour of a particular class of community, and the Defendants have as much a right to its enjoyment as the Plaintiffs have. No question of irreparable injury therefore arises. In this case the property being Municipal property and the Defendant having as much a right to use it as the Plaintiffs, their exercise of that right cannot be said to cause any injury to Plaintiffs.

Lame Arguments of Plaintiffs' Counsel

It is argued for the Plaintiffs by their learned pleader Mr. Virkar that on their own admission, the Defendants have not up to now enjoyed the use of the tank in suit. But, when once it is shown that the property is not private but public and open to all members of the public, the mere non-user of the tank by the Defendants during howsoever long a term of years cannot in any way derogate from their title. I am satisfied from the evidence produced before me that the tank in suit is not the private property of the Plaintiffs, but that it is Government Municipal property, and the Defendants have as much a right to its enjoyment as the Plaintiffs have and that any interference with the exercise of such right would be wholly illegal.

I cannot conclude this order without expressing my regret at the inconvenience and hardship caused to the Defendants by the injunction granted by me, temporary though it was, and at having been instrumental in heaping one more wrong upon a community already labouring under the most cruel and unjust social wrongs. I dissolve the injunction issued by me." [1]

[1] : The Bombay Chronicle, dated 3rd March 1928.

Following is the Police Report of the meeting held at Bombay after dissolution of injunction—

"**Untouchables and Satyagrah at Mahad**

A public meeting of the Depressed Classes was held at Damodar Thakersey Hall on February 26th when G. N. Sahasrabudhe presided over an audience about 500 people.

Dr. B. R. Ambedkar, who was the principal speaker, said that as the Sub-Judge of the Mahad Court had dissolved the interim injunction against him and the *Satyagraha* Party, he would leave the question of resuming *Satyagraha* to the discretion of the *Satyagraha* Committee of Bombay.

Views expressed by "Indian National Herald" after cancellation of injunction—

"COMMON HUMAN RIGHTS

The Sub-Judge of Mahad having dissolved the temporary injunction issued by him against Dr. Ambedkar and other leaders of the Depressed Classes, the latter, it is understood, propose to assert their civic right to draw water from the public tank at Mahad. When in March last members of the Depressed Classes, who had previously met in a conference at the place, attempted to approach the tank they were roughly handled by the "higher" Caste Hindus, a few Chamars sustaining severe injuries. The leaders of these "higher" Caste Hindus then sought an injunction under section 144 Cr. P. C. from the District Collector, on the ground that the attempt of the "Untouchables" to take water from the tank, in contravention of the existing customary ban on them would spell danger to public peace.

The Collector, refused to take any action. They then applied to the Sub-Judge and succeeded in obtaining from him a temporary injunction against the leaders of the "Untouchables" and consequently the contemplated *Satyagraha* and march to the tank in a body with a view to draw water from it in defiance of the "Higher" Castes, had to be abandoned. Now, however the Sub-Judge has dissolved the injunction, declaring himself satisfied from the evidence that "any interference with the exercise of such

right would be wholly illegal." That the so-called Higher Castes have absolutely no legal right to prevent any member of the public, from drawing water from a tank which is not private property and which they themselves must be fully aware is a Municipal Tank, would be admitted by any man; who is not blinded by caste prejudices. If the local Municipal authorities had any doubts in the matter the same has been set at rest by the resolution of the Bombay Legislative Council passed in September 1926, declaring that all Municipal Tanks, wells and *Dharmashalas* should be thrown open to all classes of public without any distinction. It is inconceivable that any section of the community, because of their own notions of personal "superiority" in point of caste, should be entitled to prevent any other section from benefiting from the amenities provided from public funds. Such a notion deserves to be knocked on the head, not only in the interests of the oppressed and suppressed classes, but also, and much more, in the interests of the so-called superior classes themselves. Such treatment of fellow beings besides being wholly inquitous and unjustifiable is bound to have very undesirable consequences for the "Higher" Castes, for sooner or later the oppressed classes must come by the rights, human, civic and political, so long unjustly denied to them and then their exacerbated feelings might lead them to turn the tables on their former oppressors.

The alienation of the sympathy of a section of the Depressed Classes towards the national movement ought also to be a sufficient warning against the perpetuation of the present deplorable conditions. Let us hope that when in a few days Dr. Ambedkar and his fellow castemen proceed to Mahad to assert their right to draw water from the public tank there, not only will there be no opposition, but a cordial welcome will await them from the "Caste" Hindus. Such a consummation would go a long way to heal the wounds cruelly infllicted on their fellowmen."[1]

[1] : The Indian National Herald, dated 6th March 1928.

Mahad Satyagraha changed the social attitudes of some Caste Hindus. Following is one of the examples—

"Do away with Castes
All Caste Dinner in Bombay

An all caste dinner was held under the auspices of the Samaj-Samata-Sangh (Social-Equality-League) on the 5th instant in the Damodar Thakersey Hall, Parel.

About 150 persons of different castes including 50 so-called Untouchables attended the dinner. Mr. D. V. Naik, Editor of the *Brahman-Brahmanetar,* and vice-president of the League, welcomed the guests saying that such dinners were organised by the League to be away with caste barriers that separated and disintegrated the Indian nation in general and Hindu society in particular. It was only through free intercourse and inter dining, he added, that the evils of the caste system would be destroyed, and that a new society based on equal status would be developed. They had all gathered there, he proceeded, not on account of inevitable necessity (*Apad-Dharma*), but with a definite purpose and full knowledge and determination to break the intolerable shackles of the rigid system which disapproved and prohibited such sanctions of love and brotherhood.

The League under the able guidance of its learned President Dr. Ambedkar, he assured, the guests, would always welcome and help those who would, with unique courage in both hands, come forward to free themselves and the nation from the present inhuman caste-ridden society.

Mr. A. B. Kolhatkar, the Editor of the *Sandesh* eulogised the work of the League, pointing out the significance of such functions. He said the Hindu society was like a clock of sand where the Brahmins till then had the upper hand but now the time had come when they should ungrudgingly make room for the other castes and especially for the so-called Untouchables. He further believed that if the present abuses of all sorts-political, social and religious were to be eradicated, that could only be done through the instrumentality of a new Shivaji, to be born among the so-called Untouchables.

Mr. V. B. Karnik, the Secretary of the Bombay Maharashtra Youth Mandal drew attention to a resolution passed by it, aiming at the abolition of the inquitous system of castes and the differences made on grounds of religion and sect by organising inter-caste dinners and encouraging inter-caste marriages and promised that the Mandal would always give its whole-hearted support to the League, which was already in the field in such national work.

Mr. M. R. Menon, said that he had come there to wish Godspeed to Dr. Ambedkar in the righteous work he had undertaken of procuring for the the so-called Untouchables the most elementary human right of drinking water from a public tank at Mahad."[1]

"In spite of Government Resolution, Untouchables were not allowed to draw water in 1932, the Bombay Government instituted a Committee consisting of Symington, I. C. S., and Zakeria Maniyar, to inquire into the condition of the Depressed Classes in the Nasik District. One of the chapters of the report revealed that in that District there were as many as eleven hundred District Local Board wells from which the Untouchables were not allowed to draw water in spite of the Government Resolution of 1923."[2]

In the mean time a legal struggle in between Caste Hindus and Depressed Classes was going on in various Courts. Following is the abstract of these incidents.

"**Appeal Heard in Thana District Court**

Thana, March 20.

Mr. B. N. Sanjana, District Judge, Thana, heard to-day an appeal filed by Pandurang Waman dharap and others of Mahad against the judgement of Mr. Vaidya, Subordinate Judge, Mahad, dissolving an interim injunction granted by him previously against the Mahad Untouchables for bidding them from using the *Chawdar Tank*.

[1] : The Indian National Herald, dated 15th March 1928.

[2] : Keer, P. 197.

The District Judge passed orders granting a interim injunction restraining the respondents, from using the declaratory suit filed by the touchables in the Mahad Civil Court." [1]

"Kolaba, March 3.—The Bombay Chronicle of March 2, published the following :—"A meeting was held on Sunday, February 26, in Bombay, attended by about 2,000 people. It was resolved to re-launch the *Satyagraha* at Mahad. The *Satyagraha* Committee is meeting shortly and the exact date will be announced shortly." [2]

"Satyagraha at Mahad : Re-starting of.....

Vide para 309. Kolaba, March 17.—There has been several reports lately that the Mahad *Satyagraha* is to be re-launched on March 22; but this has been personally denied by Dr. Ambedkar who has promised to give a fortnight notice before re-launching it." [3]

"488. Vide para 52, Kolaba, March 24.—In the appeal against the order of the Sub-Judge, Mahad, regarding the Chawdar Tank, the District Court, Thana, has passed an order prohibiting an Untouchables from entering the Tank, pending the final decision of the suit regarding the Tank." [4]

The Sub-Judge of Mahad Hon. V. R. Saraf gave judgement in favour of the respondents Dr. B. R. Ambedkar and others on 8th June 1931, since the appellants caste Hindus could not prove their ownership of the tank. Thus Chawdar Tank was declared as public and open to the Untouchables also.

The Caste Hindu Appellants preferred an appeal against the Judgement in the District Court of Thana. The Second Assistant Judge Hon. S. M. Kokani decided the case in favour of the Respondents Dr. B. R. Ambedkar and others on 30th January 1933.

[1] : The Indian National Herald, dated 22nd March 1928.

[2] : Bombay Secret Abstract dated 17th March 1928, para, 309.

[3] : Bombay Secret Abstract dated 31st March 1928, para, 428.

[4] : Bombay Secret Abstract dated 7th April 1928.

Thereafter the Caste Hindu Appellants again preferred an appeal in the Hight Court, Bombay. This case lingered for four years. Lastly Justic Broomfield and Justice Wadia rejected Caste Hindus' appeal on 17th March 1937 since they could not prove their ownership of land of Chawdar Tank.

The Judgement of the High Court, Bombay reads as under :

"APPEAL No. 462 OF 1933 FROM APPELLATE DECREE

Narhari Damdoar Vaidya; and the others

(Original Plaintiffs Nos. 2 to 6).....Appellants.

versus

Dr. Bhimrao Ramji Ambedkar, Member of Joint Parliamentary Committee, London; and others.

(Original Defendants).....

Respondents.

Second Appeal against the decision of S. M. Kaikini, Esquire, Second Assistant Judge at Thana in Appeal No. 32 of 1931.

Mr. V. B. Virkar for the Appellants,

Counsel Mr. S. V. Gupte, with Mr. B. G. Modak for Respondent No. 1.

17th March 1937

Coram :—Broomfield N. J. and Wadia J. J.

Oral Judgement Per Broomfield N. J.:—

The appellants, on behalf of the caste Hindus of the town of Mahad, sued the respondents, who represented the so-called 'Untouchables' for a declaration that the Chawdar Tank near the town belongs to them and that they alone have a right to use It and the respondents are not entitled to use it, and for an injunction against the respondents not to use it. The claim to ownership is not now persisted in and it is conceded that, as found by the trial court, the tank belonged to Government under the provisions of Section 37 of the Land Revenue Code and has now vested in the Municipality of Mahad under Section 50 of the District

Municipalities Act. It is also conceded now that the caste Hindus are not entitled to exclusive user of the tank as against all the world, since Mohamedans may and do use it. It is contended nevertheless that the appellants have the right to use it themselves and to exclude the 'Untouchables' from it, and this right is said to be based on immemorial custom.

The Trial Judge found that the plaintiffs have proved a longstanding custom (he does not describe it as immemorial) of using the tank water to the exclusion of the 'Untouchables.' He held however that the custom conferred no legal right upon the plaintiffs because 'mere user of a public tank by one class and non-user by another would not clothe the class making the user with any legal rights or rights of ownership.' On appeal, the Assistant Judge confirmed the finding that the caste Hindus have not proved that they have any legal right to exclude the 'Untouchables.' He has relied to some extent on a judgement of Sir Sadashiv Ayar V. Vaithilinga, a case not reported apparently in the authorised reports but to be found in 1913 Mad. W. N. 247 and 18 Indian cases 979; but his main reason seems to be that he held that the custom is not shown to be immemorial.

The Chawdar Tank is a small lake or large pool; between four and five acres in extent, on the outskirts of the town. It is surrounded on all sides by municipal roads beyond which are houses occupied by caste Hindus (and a very few Mohamedans), and the owners of these houses also own in many cases strips of land on the edge of the tank, *ghats* or flights of steps to get to the water and the masonry embankments along the sides. There are no houses of 'Untouchables' anywhere near. It is not known how old the tank is, except that it is admittedly not less than 250 years old. There is no evidence as to its origin. It is not even clear that it is artificial. The Trial Judge took the view that it was 'a natural excavation in the bed of the earth, of course repaired and remodelled by human agency.' If this is so—and the point was not disputed in the argument before us—it is probably many centuries old. The water supply comes from the monsoon and a few natural springs. The population of the town Mahad is between seven and eight thousand, of whom less than 400 are 'Untouchables.' The Municipality was established in 1865, but

there is no evidence available, at any date on the record of this case, as to the early history of the town or as to the time when the side was first inhabited.

The Plaintiffs have examined a number of witnesses, many of them old inhabitants, whose evidence may be said to have established that within the period of living memory the tanks has been used exclusively by the Caste Hindus (and a few Mohamedans) and has never been used by the 'Untouchables'. It is in fact admitted that the latter never used it, before the year 1927, when a campaign against the doctrines of 'Untouchability' was carried out by defendant No. 1, and some of the 'Untouchables' went and drank water as a protest. They were assaulted and beaten by the caste Hindus and there were criminal prosecutions which led to the present suit. As there is no record of any attempt having been made by the 'Untouchables' to use the tank before that, there is no evidence of any positive acts of exclusion. What is provided is user by one party and absence of user by the other. This was due, no doubt to any accidental causes but, to the mutual acceptance of the doctrine of 'Untouchability' which until recent years was not openly challenged.

The learned Assistant Judge comments on the fact that there is no evidence of the exclusion of the 'Untouchables' in pre-British times, nothing to show that the exclusion of exclusive user was in force in the days of the Maratha rule or the Musalman rule. It is of course not always necessary to produce evidence going back beyond the memory of living persons. On proof of enjoyment for a period, even less than that, the Courts have frequently felt justified in holding, in the absence of evidence, to the contrary that a custom has existed from time immemorial. Nor, of course, is it necessary in case of this kind to have evidence of positive acts of exclusion of one party by the other. There could be no such evidence as long as the enjoyment of the caste Hindus was not challenged, and it would not be likely to be challenged as long as the doctrine of 'Untouchability' prevailed and was accepted. But a custom proved to have existed during the period of living memory can only be presumed to have existed from before the period of legal memory in case where conditions may be assumed to have been permanent and stable so that it is reasonable to infer

that what has happened during the period covered by the evidence has also happened from time immemorial. This is where the plaintiffs' case in our opinion breaks down. As long as conditions were at all similar, as long as the houses of the Caste Hindus have surrounded the tank, (which is not necessarily very long as the tank is on the outskirts of the town and the land around it would not likely be occupied until after considerable expansion of the original settlement) it may be safely presumed that the practice was the same as at present. It would not be safe to presume, however, that conditions have been similar for a period long enough to establish the alleged custom. The Konkan has had a chequered history, even in comparatively modern times, and to suppose that the Caste Hindus have been in a position to exercise exclusive control over this large natural reservoir situated as it is, from time immemorial, would be contrary to reasonable probability.

In this connection some of the observation of Sir Sadashiv Ayar in Mariappa V. Vaithilinga are very instructive. He cites a saying of Manu; 'Waters are pure as long as a cow goes to quench her thirst in and they have a good scent, colour and taste,' and he points out that the *Shastric* writings 'Make a distinction between rivers, tanks and other receptacle which are more easily contaminated and where purification by time, atmospheric conditions and movement of the water is much more difficult.' The learned Judge suggests that the dictates of the Hindu religion would not require any elaborate precautions against the pollution of water in a large open tank, and he was dealing with a tank in a village site considarably smaller than the Chawdar Tank at Mahad. The doctrine of 'Untouchability' therefore does not appear to go far enough to lend very much support to the appellants' case and it is doubtful whether any attempt would be made to secure exclusive user of the water until such time as the tank came to be surrounded by the houses of the caste Hindus.

This is the only case to which our attention has been drawn dealing with a claim to exclude 'Untouchables' from the use of a watering-place of this description. The temple-entry cases, e. g. Anandrav N. Shankar, (1883) I. L. R., 7 Bom. 323, and Sankaralinga V. Rajeswara, (1908) I. L. R,, 31 Mad. 236, P. C,

are not really on all fours. In such case long practice acquiesced in by the other castes and communities may naturally give rise to a presumption of dedication to the exclusive use of the higher castes, and may throw upon the 'Untouchables' the burden of proving that they are among the people for whose worship a particular temple exists. No such presumption of a lawful origin of the custom can be said to arise here.

We therefore agree with the learned Assistant Judge that the appellants have not established the immemorial custom which they allege. Had they succeeded on this point it might have been necessary to consider whether the custom were unreasonable or contrary to public policy (though strictly speaking, it was not pleaded in the lower courts). It would certainly have been necessary to consider the legal effect of the vesting of the Chawdar Tank in the Municipality, and the question whether in any case the appellants could be granted any relief in this suit in which the legal owner is not a party. But as it is not necessary to decide these questions in the view we take of the case, and as they have not been very fully or effectively argued, we prefer to express no opinion.

Appeal dismissed with costs.

The seal of the	By order of the Court
High Court at	Sd/- R. S. Bavdekar,
Bombay.	Registrar
	Sd/-
High Court Appellate	For Deputy Registrar"
Side certified copy	the 28th day of June 1960.[1]
Bombay.	

The words of Dr. B. R. Ambedkar that "Lost rights are never regained by begging, and by appeals to the conscience of the usurpers, but by relentless struggle" have been proved by Mahad *Satyagraha*.—Editors.

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[1] : Khairmode, Vol. 3, Pp. 258-263.

SECTION II

DR. AMBEDKAR—MAHATMA GANDHI MEETINGS

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1

I HAVE NO HOMELAND

In the third week of July 1931, the names of the delegates to the second session of the Round Table Conference were announced. Dr. B. R. Ambedkar and Mahatma Gandhi were invited to attend the Conference in London. It was not decided as yet whether Mahatma Gandhi would attend the Round Table Conference. Naturally all eyes were focussed on Manibhuvan at Bombay where Mahatma Gandhi was staying. Gandhiji wanted to sound Dr. Ambedkar as to his demands. So Gandhi wrote Ambedkar,

"Dr. Mr. Ambedkar,

I would come to see you to-night at 8 p.m. if you can spare that time. I would gladly come over to your place if it is inconvenient for you to come.

Bombay : Yours Sincerely

6-8-31. M. K. Gandhi." [1]

"Dr. Ambedkar had just arrived from Sangli, and was running a temperature. He wrote in reply that he would himself go to Gandhi at eight O'Clock that night. But in the evening the temperature soared to 106; so Dr. Ambedkar sent a message that he would come after the fever abated.

Subsequently, Ambedkar went to meet Gandhi on August 14, 1931 at Manibhuvan, at two in the afternoon. A batch of his lieutenants, Deorao Naik, Shivtarkar, Pradhan, Bhaurao Gaikwad and Kadrekar accompanied him. When Dr. Ambedkar was shown in to the third floor, Gandhi was busy talking with his partymen and eating some fruits. The Doctor and his party bowed to Gandhi and sat on a blanket.

In the characteristic way which Gandhi observed in dealing with non-Muslim and non-European leaders and representatives, he did not look at first for a while at Dr. Ambedkar and kept chatting with Miss Slade and others. Dr. Ambedkar's men now feared that a little more indifference on the part of Gandhi, a

[1] : Ratnakar Ganvir, Ambedkar-Gandhi: Teen Mulakhati (Marathi), P. 9.

collision would follow. Just then Gandhi turned to Ambedkar whom he saw for the first time, and, after formal question, he switched on to the main topic.

GANDHI : Well, Doctor, what have you to say in the matter ?

AMBEDKAR : You called me to hear your views. Please tell me what you have to say. Or you may please ask me some questions and I shall answer.

GANDHI : (*with a staring look at Ambedkar*): I understand that you have got some grievances against me and the Congress. I may tell you that I have been thinking over the problem of Untouchables ever since my school days—when you were not even born. You may perhaps be knowing what enormous amount of efforts I had put in to incorporate this problem in the programme of the Congress and make it a plank of the Congress platform. The Congress leaders opposed it on the plea that it was a religious and social question and as such it should not be mixed with political ones. This is not all. The Congress has spent not less than rupees twenty lakhs on the uplift of the Untouchables. And it is really surprising that men like you should offer opposition to me and to the Congress. If you have to say anythig to justify your stand, you are free to do so.

AMBEDKAR : It is true, Mahatmaji, that you started to think about the problem of Untouchables before I was born. All old and elderly persons always like to emphasize the point of age. It is also true that because of you the Congress Party gave recognition to the problem. But let me tell you frankly that Congress did nothing beyond giving formal recognition to this problem. You say the Congress spent more than rupees twenty lakhs on the uplift of the Untouchables. I say it was all waste. With such a backing I could have effected an astounding change in the outlook and economic conditions of my people. And in that event it would have been imperative for you to see me long before. But I tell you that the Congress is not sincere about its professions. Had it been sincere, it would have surely made the removal of Untouchability a condition, like the wearing of khaddar, for becoming a member of the Congress. No person who did not employ Untouchable women or men in his house, or rear up an

Untouchable student or take food at home with an Untouchable student at least once a week should have been allowed to be a member of the Congress. Had there been such a condition, you could have avoided the ridiculous sight where the President of the District Congress Committee was seen opposing the temple entry of the Untouchables !

You might say that Congress wanted strength and therefore it was unwise to lay down such a condition. Then my point is that Congress cares more for strength than for principles. This is my charge against you and the Congress. You say the British Government does not show a change of heart. I also say that the Hindus have not shown a change of heart in regard to our problem, and so long as they remain adamant we would believe neither the Congress nor the Hindus. We believe in self-help and self-respect. We are not prepared to have faith in great leaders and Mahatmas. Let me be brutally frank about it. History tells that Mahatmas, like fleeting phantoms, raise dust, but raise no level. Why should the Congressmen oppose our movement and dub me a traitor ?

Dr. Ambedkar now grew animated. His face flushed and eyes glowed. He paused for a moment and then continued in a bitter, indignant tone.

AMBEDKAR : Gandhiji, I have no homeland.

GANDHI : (*taken aback and cutting him short*) : you have got a homeland, and from the reports that have reached me of your work at the Round Table Conference, I know you are a patriot of sterling worth.

AMBEDKAR : You say I have got a homeland, but still I repeat that I am without it. How can I call this land my own homeland and this religion my own wherein we are treated worse than cats and dogs, wherein we cannot get water to drink ? No self-respecting Untouchable worth the name will be proud of this land. The injustice and sufferings inflicted upon us by this land are so enormous that if knowingly or unknowingly we fall a prey to disloyalty to this country, the responsibility for that act would be solely hers. I do not feel sorry for being branded as a traitor ;

for the responsibilities of our action lie with the land that dubs me a traitor. If at all I have rendered any national service as you say, helpful or beneficial, to the patriotic cause of this country, it is due to my unsullied conscience and not due to any patriotic feelings in me. If in my endeavour to secure human rights for my people, who have been trampled upon in this country for ages, I do any disservice to this country, it would not be a sin; and if any harm does not come to this country through my action, it may be due to my conscience. Owing to the promptings of my conscience I have been striving to win human rights for my people without meaning or doing any harm to this country.

The atmosphere turned grim. Faces changed colour. Gandhi was growing restless. He wanted to give a turn to Dr. Ambedkar's talk. Just then Dr. Ambedkar asked him the most pertinent question which was the object of the interview.

AMBEDKAR : Everybody knows that the Muslims and the Sikhs are socially, politically and economically more advanced than the Untouchables. The first session of the Round Table Conference has given political recognition to the Muslim demands and has recommended political safeguards for them. The Congress has agreed to their demands. The first session has also given recognition to the political rights of the Depressed Classes and has recommended for them political safeguards and adequate representation. According to us that is beneficial to the Depressed Classes. What is your opinion ?

GANDHIJI : I am against the political separation of the Untouchables from the Hindus. That would be absolutely suicidal.

AMBEDKAR (*Rising*): I thank you for your frank opinion. It is good that I know now where we stand as regards this vital problem. I take leave of you.*

Dr. Ambedkar left the hall, his face beaming with a fiery resolve to fight out the issue with all his might and to win human rights for his down-trodden people.

* The Navyug—Ambedkar Special Number, 13 th April 1947.

The interview thus ended in a grim atmosphere. Gandhi was the boss of Indian politics, the dictator, the uncrowned king of the Indian masses, who were dazed and electrified by his dynamic actions. To answer Gandhi back was to incur permanent displeasure and to create undying bitterness. And that too a Hindu leader doing it was a thing beyond Gandhi's imagination ! But the die was cast. The spark of opposition was ignited. The interview sounded the beginning of a war between Gandhi and Ambedkar.

It is, however, surprising to note here that Gandhi thought that Ambedkar was not a Harijan. Till he went to London he thought he was some Brahmin who took deep interest in Harijans and therefore talked intemperately.*

Following is the press report of the meeting.

"**Dr. Ambedkar Sees Mr. Gandhi**

Dr. Ambedkar, leader of the Depressed Classes, saw Mr. Gandhi on Friday afternoon. He tried to impress on Mr. Gandhi his point that the Congress had not so far done anything tangible for the Depressed Classes and that Mr. Gandhi was under a delusion in imagining that the Depressed Classes were solidly behind him as the representative of the people. Mr. Gandhi did not admit that the Congress had not done anything or was not doing anything for the Depressed Classes. Dr. Ambedkar eventually left without convincing Mr. Gandhi or being convinced by him."[1]

"Dr. Ambedkar on Mr. Gandhi's Folly

Dr. B. R. Ambedkar, the Depressed Classes delegate, who had a frank talk with Mr. Gandhi on the previous day about his attitude towards the Depressed Classes, interviewed by a representative of *The Times of India,* said : "To place the interests of Bardoli above those of India and refuse on that account to go to England to take part in the deliberations of the Round Table Conference seems to me to be the height of folly. To bother about the petty tyrannies of village officers and to be unmindful of the bigger problem, the settlement of which will enable us to exercise control on those very officers, is a thing which I cannot understand."

* The Diary of Mahadeo Desai, Vol. I, Navajivan Publishing House, P. 52.

[1] : The Times of India, dated 15th August 1931.

Dr. Ambedkar was somewhat sure about particular reply which Mr. Gandhi had given him in an interview on the previous day. He said he had asked Mr. Gandhi in anticipation of his going to the R, T. C. whether he was prepared to accept the decision of the Conference that the Depressed Classes should be given political recognition in the new constitution and like other minorities, should be given political safeguards and adequate representation in the legislatures. Dr. Ambedkar complained that Mr. Gandhi refused to uphold that view and said that if he went to the Round Table Conference he would tell them that the conference might do what they liked, but in his opinion the suggestion was absolutely suicidal so far as the Depressed Classes were concerned." [1]

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[1]. The Times of India, dated 17th August 1931.

2

WHY I SHOULD BE PROUD OF THAT RELIGION.....

"At the Ballard Pier, Dr. B. R. Ambedkar received a telegram from Gandhi asking him to see the latter in Yeravda Jail. Dr. Ambedkar wired back to Gandhi that he would see him on his return from Delhi. The next day Dr. Ambedkar received a wire from Dr. Ba Maw of Rangoon which said : "Burma anti-separatist leaders proceeding to Delhi next week to meet Indian leaders during the Assembly session. They are anxious to discuss Burma constitutional situation with you and other leaders. We, therefore, request you to meet the deputation in Delhi on 4th and 5th February. Kindly wire your Delhi address to enable us to get in touch with you there. Reply U Chit Hlaing, 80, Hermitage Rd., Rangoon,—U Chit Hlaing and Dr. Ba Maw." Several congratulatory messages were received in Dr. Ambedkar's office from all quarters of the country. One of them was from the Thiya Yuvajan Samaj of Ernakulam, congratulating their great leader gratefully on the bold fight he gave at the Round Table Conference for the rights and liberties of the Depressed Classes and the people of the Native States.

Immediately Dr. Ambedkar left Bombay for Delhi to attend the informal meeting of delegates to the Round Table Conference convened by the Viceroy. After his return from Delhi, he wired to Gandhi that he would be able to see him on the 4th February. Gandhi informed Dr. Ambedkar by wire on February 3 : "Wire just received tomorrow 12-30 will suit—Gandhi." It is clear that Dr. Ambedkar could not meet the Burma delegation in Delhi as he wanted to see Gandhi in Yeravda Jail on February 4, 1933.

Accompanied by S. N. Shivtarkar, Dolas, Upasham, Kowly, Ghorpade and Keshavrao Jedhe, Dr. Ambedkar entered Yeravda Jail at 12-30, on February 4. In a happy mood Gandhi got up and welcomed the visitors. After a while, the conversation turned to the question of temple entry. Gandhi requested Dr. Ambedkar to lend his support to Dr. Subbarayan's Bill and that of Ranga Iyer. Dr. Ambedkar flatly refused to have anything to do with

Subbarayan's Bill, since the Bill did not condemn Untouchablility as a sin. It only said that if a referendum favoured the temple entry, temples should be thrown open to the Depressed Classes, but said nothing of their right to worship the deity in the temples.

He told Gandhi that the Depressed Classes did not want to be *Shudras* in the order of the caste system and added that he honestly could not call himself a Hindu. Why, he asked, he should be proud of that religion which condemned him to a de-graded position. If that system was to continue, he had no use of the benefits of the temple entry.

Gandhi said that according to him the caste system was not a bad system. He continued : "Let the touchable Hindus have an opportunity to expiate their sins and purify Hinduism. Do not be indifferent to this question. *Sanatanists* and Government would take advantage of this. If this reformation takes place, the Untouchables would rise in society."

Dr. Ambedkar differed from Gandhi. He was convinced that if the Untouchables made progress in the economic, educational and political fields, temple entry would follow automatically." [1]

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[1] : Keer, Pp. 226-227

3

WHAT MORE GANDHI EXPECTED FROM THE SANATANISTS ?

"Dr. B. R. Ambedkar decided to sound Gandhi on the question of the panel and primary elections of the Depressed Class candidates in the light of the coming constitution of India. He was in a hurry to make preparations for his departure to London. Yet he had to attend meetings, to attend courts or dispose of the cases, to make arrangements for domestic affairs, and to select books. Accompanied by Mr. More, Shinde, Gaikwad and Chavan, he saw Gandhi on April 23, 1933 in Yeravda Jail. Gandhi and Ambedkar sat in chairs under the mango tree and Mahadev Desai sat nearby with a note book and pencil.

At first Dr. Ambedkar said that the method of panel would be expensive and told Gandhi that candidates from the Depressed Classes, who would contest the general election, should have secured at least 25 per cent of the votes of the Depressed Classes in the primary election. Gandhi replied that he would give consideration to the matter and would inform him about his reaction to his London address. Gandhi, then, gave a bunch of flowers to Dr. Ambedkar and diverted the conversation to the question of removal of Untouchability and said that the *Sanatanists* were decrying him (Gandhi) as a devil, Daitya. Dr. Ambedkar asked Gandhi what more he expected from the *Sanatanists* ! Gandhi caught the thread and said that the leader of the Depressed Classes himself was not pleased with his work. In the end Gandhi asked Ambedkar about the date of his return from London. Dr. Ambedkar replied that it would be about August 1933. Gandhi wished Dr. Ambedkar *bon voyage* and the interview ended." [1]

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[1]. Keer, P. 238.

4

TO TAKE LEGAL STEPS AGAINST HIGH CASTE HINDUS WHO HARASSED UNTOUCHABLES

" Talk with Dr. Ambedkar

"Dr. B. R. Ambedkar and members of his group had a lengthy talk with Mahatma Gandhi at Mani Bhuvan on Saturday, the 16th June 1934 morning on the question of the progress of the *Harijan Movement* has done since Gandhiji launched the campaign against Untouchability.

Gandhiji, it appears, told the deputationists that his tour in more than 200 villages had impressed him with the fact that the movement against Untouchability was making rapid progress and the evil is slowly dying away.

Dr. Ambedkar is stated to have a different view from this view and said that Gandhiji's presence in a village or place, created an abnormal atmosphere as the presence of a saint or *sadhu* would do, and people temporarily forget the difference. Gandhi was, therefore, not in a position to judge the exact situation.

He is also stated to have suggested to Gandhiji that the *Harijan* Board should render financial assistance to *Harijans* to take legal steps against High Caste Hindus who harassed the former.

Gandhiji is stated to have replied that persuasion was the best method of removing the evil and that the question of giving legal aid would have to be considered by the Board.

One of the members of the deputation is stated to have asked Gandhiji whether the *Harijan* Board would be in existence after August 7 ? upto which time Gandhiji is under a vow to take part only in non-political activities. The same member asked Gandhiji, if he had received any divine inspiration as to his future action.

Gandhiji replied that he had received none so far and restored, "If you want you can as well receive inspiration from God."

Ambedkar Deputation

The members of the Deputation led by Dr. Ambedkar who met Mahatma Gandhi on Saturday were :—

Mr. G. V. Naik
Dr. P. G. Solanki
Mr. Amritrao Khambe, and
Mr. Baburao Gaikwad." [1]

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[1] : The Bombay Chronicle, dated 17th June 1934.

SECTION III

ROLE OF DR. B. R. AMBEDKAR IN BRINGING THE UNTOUCHABLES ON THE POLITICAL HORIZON OF INDIA AND LAYING A FOUNDATION OF INDIAN DEMOCRACY

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ROLE OF DR. B. R. AMBEDKAR IN BRINGING THE UNTOUCHABLES ON THE POLITICAL HORIZON OF INDIA AND LAYING A FOUNDATION OF INDIAN DEMOCRACY

"In the Government of India Act of 1919, there was a provision which had imposed an obligation on his Majesty's Government to appoint at the end of ten years a Royal Commission to investigate into the working of the Constitution and report upon such changes as may be found necessary. Accordingly, in 1928 a Royal Commission was appointed under the Chairmanship of Sir John Simon. Indians expected that the Commission would be mixed in its personnel. But Lord Birkenhead who was then the Secretary of State for India was opposed to the inclusion of Indians and insisted on making it a purely Parliamentary Commission. At this, the Congress and the Liberals took great offence and treated it as an insult. They boycotted the Commission and carried on a great agitation against it. To assuage this feeling of opposition it was announced by His Majesty's Government that after the work of the Commission was completed representative Indians would be assembled for a discussion before the new constitution for India is settled. In accordance with this announcement representative Indians were called to London at a Round Table Conference with the Representatives of Parliament and of His Majesty's Government."[1]

"In order to ease the troubled situation in India, the British Government decided to re-examine and revise the Act of 1919. So it announced the appointment of the Indian Statutory Commission better known as the Simon Commission after Sir John Simon, its Chairman. The Commission consisted of two Peers and four Commoners to work under Sir John Simon, who was a great Parliamentarian, and it was declared that the proposals framed in the light of this Commission's recommendations would be submitted to a Joint Select Committee at Westminster before which Indian witnesses would be examined.

[1] : Writings and Speechs Vol. 9, P. 40

The Simon Commission came on its first visit, and landed at Bombay on February 3, 1928, to commence the work of re-examination of the Indian problem as declared in the Act of 1919. Its non-Indian character offered an affront to almost all Indian parties. The Congress Party decided to boycott the Commission at every stage and in every form. So, on its arrival, the Simon Commission was greeted with black flags, curses and placards with the slogan "Go back, Simon!" Congressmen staged hostile demonstrations on a nation-wide scale, and the police had to open fire at some places. This black welcome was also extended later to the Commission during its second visit in the winter of 1928-29.

Meanwhile, the All Parties Conference convened by the Congress Party met in February and later in May 1928, and appointed a Committee under Pandit Motilal Nehru to draft a *Swaraj* Constitution for India. The Nehru Committee worked from June to August 1928 and drafted a Constitution.*

It mainly aimed at closing the Muslim breach. As regards the Depressed or Suppressed Classes, the Nehru Report said : "In our suggestions for the Constitution we have not made any special provision for the representation of the 'Depressed' Classes in the legislatures. This could only be done by way of special electorates or by nomination." But as these two methods were considered harmful and unsound, the Committee said that they were not going to extend either principle. They observed that their Declaration of Rights would be a panacea for all the ills affecting the Depressed Classes.** The attitude of the Congress Party towards the problem of the Untouchables will be clearer when one notices that the Congress Working Committee issued invitations to all prominent Muslim, Parsi, Christian, Sikh, Anglo-Indian organisations and even the

* For comment by Dr. B. R. Ambedkar, see editorial of 'Bahishkrit Bharat' dated 18th January 1929—Editors.

** All Parties Conference Report, 1928, Pp. 59-60.

Non-Brahmin institution and the Dravida Mahajana Sabha, but not to the Depressed Classes Institute led by Dr. Ambedkar or for that matter any Depressed Class Institution. It may be recalled that ten years before this Dr. Ambedkar had given evidence before the Southborough Commission.

To co-operate with the Simon Commission the Central Government appointed a Committee for all British India, and every Legislative Council elected its Provincial Committee to work with the Simon Commission. On the Bombay Provincial Committee was selected Dr. Ambedkar along with other Members by the Bombay Legislative Council on August 3, 1928.

The proceedings and tours of the Simon Commission lit up the Indian political firmament, and along with other forces it brought to the front the force, intellect and vitality of Dr. Ambedkar.

Eighteen Depressed Class Associations gave evidence before the Commission and placed their memorandum before it. Sixteen of them pleaded for Separate Electorates for the Depressed Classes. On behalf of the Bahishkrit Hitakarini Sabha Dr. Ambedkar submitted a memorandum to the Simon Commission demanding Joint Electorate with reservation of seats for the Depressed Classes.*

The Madras Central Adi-Dravida Mahajana Sabha demanded nomination for the Depressed Classes. The Bombay Provincial Non-Brahmin Party in its memorandum recommended Separate Electorate and reserved seats for the Depressed Classes. The Muslim League reiterated its demands for separation of Sind, creation of a new Province in the N. W. F., Separate Elecrorate for Muslims and residuary power for the Provinces in the federal constitution.

On October 23, 1928, the Simon Commission, the Central Committee and the Bombay Provincial Committee examined Dr. Ambedkar in Poona.** The British Labour leader, Major Atlee,

*See Writings and Speeches, Vol. 2. Pp. 429, 458.

** *Ibid,* Pp. 459-89.

who later became the Prime Minister of Britain, was a member of the Simon Commission. Attlee asked Dr. Ambedkar some pertinent question in the course of the Doctor's examination.

The work of the Simon Commission continued till the winter. The Provincial Committees were also drafting their own reports. The Committee appointed by the Bombay Legislative Council to co-operate with the Simon Commission after hearing both official and non-official evidence relating to the constitutional problem, submitted later their report on May 7,1929.*

Dr. Ambedkar, who fundamentally differed with the Committee, did not sign that report and submitted a separate report containing his own views and recommendations on May 17, 1929.* Referring to the demand for the separation of Karnatak, he said he was opposed to the separation of Karnatak from the Bombay Presidency because "the principle of one language one province is too large to be given effect to in practice. The number of provinces that will have to be carved out if the principle is to be carried to its logical conclusion shows in my opinion its unworkability". "For I am of the opinion," declared the patriot in Dr. Ambedkar, "that the most vital need of the day is to create among the mass of the people the sense of a common nationality, the feeling not that they are Indians first and Hindus, Mohammedans or Sindhis and Kanarese afterwards, but that they are Indians first and Indians last. If that be the ideal then it follows that nothing should be done which will harden local patriotism and group consciousness."

As regards the separation of Sind which had assumed tremendous significance in those days, he said it was a sectional demand, a part of a large scheme designed to make the communal majority of the Muslims a political majority in five provinces. "The scheme," he warned the nation, "is neither so innocent nor so bootless as it appears on the surface." He asserted that the motive that lay behind the scheme was undoubtedly a dreadful one involving the maintenance of justice

* See Writings and Speeches, Vol. 2. Pp. 315-401.

and peace by retaliation and had stemmed from the principle that the best way of keeping peace was to be prepared for war. To support his conclusions he quoted the address delivered to the Muslim League Session at Calcutta by the Gandhian nationalist Muslim leader, Maulana Azad, in which the Muslim leader said : "There would be nine Hindu Provinces as against five Muslim Provinces and whatever treatment Hindus accorded to the Muslims in the nine provinces, Muslims would accord the same treatment to the Hindus in the five provinces. Was not this a great gain ? Was not a new weapon gained for the assertion of Muslim rights?" This is a searchlight on the Gandhian nationalist Muslim leaders.

Dr. Ambedkar then dealt with the Muslim demand for Separate Electorates. He described how different people in Europe lived under a common Government in proximity of each other without objecting to a common electorate. He observed : "It does not seem to be sufficiently known that India is not the only country where the Mohammedans are in a minority. There are other countries in which they occupy the same position. In Albania, the Mohammedans form a very large community. In Bulgaria, Greece and Rumania they form a minority and in Yugoslavia and Russia they form a large majority. Have the Mohammedan communities there insisted upon the necessity of separate communal electorates ? As all students of political history are aware, the Mohammedans in these countries have managed without the benefit of Separate Electorates : nay, they have managed without any definite ratio of representation assured to them. The Mohammedan case in India, therefore, overshoots the mark in my opinion and fails to carry conviction." The communal representation, he said, was so fundamentally wrong that to give in to sentiment in its case would be to perpetuate an evil.

Dr. Ambedkar further said: "Although I am for securing special representation for certain classes, I am against their representation through Separate Electorates. Territorial Electorates and Separate Electorates are the two extremes which

must be avoided in any scheme of representation that may be devised for the introduction of a democratic form of Government in this undemocratic country. The golden mean is the system of joint electorates with reserved seats. Less than that would be insufficient, more than that would defeat the ends of good Government."

The report, viewed in the context of principles, theories and personalities then prevailing, was as rationalistic as it was patriotic. It had both a balance and a ballast. When it was published, it derived spontaneous eulogy from Dr. Ambedkar's inveterate foes, obstinate critics and the hostile press. Dr. Ambedkar was found overnight to be a great politician, a great patriot, a diamond in the abysmal coal-mine of the Untouchables, a statesman of rare gift. Like a meteor and a mentor, he emerged as one of the great political minds of his generation. Thus this Report bound him to the active destinies of his country! It will be a sure guide to historians."[1]

As stated above Dr. B. R. Ambedkar had submitted his separate report containing his own views and recommendation. The Summary of Recommendation is below :

"SUMMARY OF RECOMMENDATIONS

SECTION I

There should be no separation of Karnatak or Sind from the Bombay Presidency.

SECTION II

Chapter 1.—There should be complete responsibility in the Provincial executive subject to the proviso that if members of the Legislature resolve to make it a reserved subject effect shall be given to their resolution.

[1] : Keer, Pp. 114-117, and 121-23.

Chapter 2.—Under no circumstances should the executive be made irremovable. There shall be no communal representation in the executive. Ministers should be amenable to courts of law for illegal acts. The constitution should provide for the impeachment of Ministers. There should be joint responsibility in the executive. The executive should be presided over by a Prime Minister and not by the Governor.

Chapter 3.—The Governor should have the position of a constitutional head. He should have no emergency powers.

SECTION III

Chapter 1.—There should be adult franchise.

Chapter 2.—The Legislature should be wholly elective. All class and Communal Electorates should be abolished except for Europeans. Reserved seats should be provided for Mohamedans, Depressed Classes and Anglo-Indians and to the Non-Brahmins only if the franchise continues to be a restricted one.

Chapter 3.—The Legislature should consist of 140 members. Of these Mohamedans should have 33 and the Depressed Classes 15. The under-representation of certain districts and the over-representation of others should be rectified on the basis of population. There should be a Committee to adjust seats between different classes and interests. The requirement of a residential qualification for a candidate should be removed.

Chapter 4.—Lucknow Pact is not a permanent settlement and cannot prevent consideration of the question arising out of it afresh and on their own merits.

Chapter 5.—There should be no second chamber in the Province.

Chapter 6.—The Legislature should have the power of appointing and removing the President, of defining its privileges and regulating its procedure Sections 72D and 80C of the Government of India Act should be removed from the Statute.

The Legislature should have the power to move "a motion of no confidence". The Legislature should have the power to alter the constitution subject to certain conditions.

SECTION IV

Chapter 1.—There should be Complete Provincial Autonomy. The division of functions between Central and Provincial should be reconsidered with a view to do away with the control of Central Government now operating through the system of previous sanction and subsequent veto.

Chapter 2.—Within the limits fixed by the functions assigned to the Provincial Government the relations between that Government and the Home Government should be direct and not through the medium of the Central Government. Section 2 of the Government of India Act should be deleted as it obscures the position of the Crown in relation to the governance of India.

SECTION V

There should be a distinct Provincial Civil Service and the Secretary of State should cease altogether to perform the function of a recruiting agency. His functions regarding the Services may be performed by a Provincial Civil Service Commission or by an officer acting conjointly with the Public Service Commission of India. Indianisation of Services should be more rapid. Its pace should vary with the nature of the different departments of State. Indianisation should be accompanied by a different scale of salary and allowances. In the course of Indianisation of the services arrangement should be made for the fulfilment of claims of the backward classes."[1]

17th May 1929 Dr. B. R. AMBEDKAR

[1] : Writings and speeches, Vol. 2, Pp. 400-01.

"At long lost the report of the Simon Commission came out in may 1930. The Commission disregarded the meaning and aim of Indian nationalism and its forces. It recommended a continuation of Separate Electorate in Indian elections far want of any agreed pact among the Indian political parties : It was the opinion of the Commission that the Nehru Report was not an agreed solution."[1]

In order to discuss the future political Constitution of India the Government decided to hold Round Table Conferance at London. It was necessary that the Depressed Classes must at the critical junture assert themselves and make it clear to the power that be as to what safeguards and guarantees the future Constitution of India must contain for the protection of their civic rights. With this view it was decided in consultation with Dr. B. R. Ambedkar to bring out people from the difference provinces of India together for the purpose of the discussion. Accordingly the All India Depressed Classes Congress was convened at Nagpur under the Presidentship of Dr. B. R,, Ambedkar on 8th/9th August 1930. On 8th August 1930 Dr. Ambedkar spoke of the Indian problem in the context of British Imperialism or world affair keeping in view the safeguards and guarantees to be provided to the Depressed Classes in the proposed Constitution of India.

"As declared, the British Government convened a Round Table Conference in London consisting of the representatives of India, the British Government and the British Political parties to frame a Constitution for India with a view to satisfying the demands of the people of India.

The Round Table Conference consisted of eighty-nine Members, out of which sixteen were representatives of the three British parties, fifty-three Indian Members of the delegation representing various interest except the non-co-operting Congress, and twenty of the Indian States. Amongst the invitees were thirteen eminent Hindu liberal leaders including Sir Tej Bahadur Sapru, M. R. Jayakar, Sir Chimanlal Setalvad, Srinivas

[1] : Keer, P. 139.

Sastri and C. Y. Chintamani. Representing the Muslims, were H. H. the Aga Khan, Sir Muhamed Shafi, Mohomed Ali Jinnah, and Fazlul Huq, while Sardar Ujjal Singh represented the Sikhs, Dr. B. S. Moonje, the Hindu Mahasabha, K. T. Paul, the Indian Christians, Rulers of Alwar, Baroda, Bhopal, Bikaner, Kashmir, Patiala and Sir Akbar Hydari, Sir C. P. Ramaswamy Aiyar, Sir Mirza Ismail represented the Indian States. Sir A. P. Patro and Bhaskarrao V. Jadhav represented other interests; Dr. Ambedkar and Rao Bahadur Srinivasan represented the Depressed Classes. Dr. Ambedkar received the invitation to the Round Table Conference through the Viceroy on September 6, 1930. The Round Table Coference was indeed a great event in the history of both India and England. But to the Untouchables in particular it was an epoch-making event in their history; for, it was at this Conference that they were being invested along with other Indians with the right to be consulted in the framing of the Constitution for India. Their voice was to echo for the first time in the history of two thousand years, and more so in the governance of their Motherland.

Dr. Ambedkar left Bombay for London on October 4, 1930, by the *s.s. Viceroy of India*. The atmosphere in the country was not congenial to his departure. The whole country was in a turmoil. Congressmen hated, abused and cursed those leaders who co-operated with the British Government in solving the Indian problem in their own honest way. The situation was so tense and fraught with danger that Dr. Ambedkar wrote from Aden, on October 8, to Shivtarkar, his secretary and trusted lieutenant, that he was very anxious for their safety. He warned them to be on their guard in their walks and talks and to avoid all work at night. He asked him to lock the office of the party with an iron bar across it and to watch the movements of a certain Depressed Class leader in Bombay who was at loggerheads with their organization.

Dr. Ambedkar found the political atmosphere in England much sympathetically inclined to the problem of the Depressed Classes. On his arrival, he immediately began to contact Britain's important political party bosses in connection with the problem of the Depressed Classes. Yet he was anxious to know

by cable from India about the new list of the members nominated to the Bombay Legislative Council and about the judgment of the Court on the Chawdar Tank Case.

The curtain was raised on November 12, 1930. Keen interest was evinced by the British public in the opening of the Round Table Conference. Approaches to the House of Lords, the avenue of the Conference, were thronged by spectators. His Majesty the King-Emperor appeared. Inaugurating the Conference, he said : "More than once the Sovereign has summoned historic assemblies on the soil of India, but never before have British and Indian statesmen and Rulers of Indian States met, as you now meet, in one place round one table, to discuss the future system of Government for India and seek agreement for the guidance of my Parliament as to the foundations upon which it must stand." The King-Emperor concluded by expressing a hope : "May your names go down to history as those of men who served India well". After the King-Emperor had withdrawn from the House, Ramsay MacDonald was unanimously elected Chairman of the Round Table Conference. A labour leader and author of *The Government of India,* he expressed Britain's determination to solve the Indian problem, and said that they were at the birth of a new history.

The Round Table Conference was not a Constituent Assembly entrusted with the work of drafting a Constitution. It was a gathering of Indian and British statesmen who were not to take decisions by votes. The sense of the Conference on the main issues which came up before it for consideration was to be ascertained and noted.

The venue of the Conference thereafter shifted to St. James' Palace. During the course of a general discussion which took place from 17th November to 21st November, Sapru, Jayakar. Moonje, Jinnah, the Maharaja of Bikaner and Dr. Ambedkar made very sincere and impressive speeches. In his lucid and appealing style the guide, friend and philosopher of the Conference, Sir Tej Bahadur Sapru, said : "India wants and is determined to achieve, a status of equality—equality with all the three members of the British Commonwealth—an equality which will give it a Government not merely responsive to, but responsible to the popular voice."

The Maharaja of Bikaner identified himself and the princely order with the aspirations of British India and declared that the Princes were prepared to federate of their own free will with self-governing Federal British India. This was a surprise to all. This declaration of Federation was also endorsed by the Maharaja of Patiala and the Nawab of Bhopal.

The Muslim Members welcomed an All-India Federation : but with great vigour they pressed for a status for the North-West Province equal to that of the other Provincial units of British India and for the creation of a separate province of Sind.

Jayakar, in his deep and sweet flow of speech, asked for a declaration of Dominion Status, and added: "If you give India Dominion Status today, in the course of a few months the cry of independence will die of itself. If, on the other hand, we return empty-handed from our labours in the Conference, it will be the surest way of raising in volume and in intensity this demand for independence."

Dr. Moonje, following the Maharaja of Patiala, refuted all the arguments of Lord Peel and told the Conference how the British Government had crushed Indian shipping, cotton and other industries. He added that the British belief that they would put down the National Movement of Civil Disobedience by a display of force was erroneous ; the time had passed.

N. M. Joshi pleaded for more rights for the labourers in the new constitution. Sir Mirza said that the future constitution should be based on federal basis. Sir C. P. Ramaswami Iyer opined that the future constitution should be worth living under. Then, after two or three speakers, rose a man, stout, sober and confident, with scintillating eyes and tight lips. Arisen from the lowest rung to the height by dint of his mental and moral force alone, he sat there in the assembly of the princes and potentates, legal celebrities and great brains representing great thrones, jahagirs, institutions and interests. He represented the poorest of India's poor who were half-fed, half-nude and dumb ! What would he say now ? How would he say it ? There was in the Assembly the prince who had financed his education. There was one amongst them who was

his teacher in the school. All eyes were rivetted upon the speaker. He was not the least agitated. He knew his mind; he knew what to say and how to say it. Except the Premier MacDonald and Joshi none from that August Assembly had seen poverty in its crudest and ugliest form. There were highlights in the Conference, Pundits and literateurs, but he was the only leader who had attained the highest degree in the academic world, the Doctorate in Science. This man was Dr. Ambedkar, the leader of the suppressed humanity in India.

At the outset, Dr. Ambedkar declared that in speaking before the Conference, he was placing the viewpoint of one-fifth of the total population of British India—a population as large as the population of England or France—which was reduced to a position worse than that of a serf or a slave. He then declared to the surprise of all that the Untouchables in India were also for replacing the existing Government by a Government of the people, for the people and by the people. He said that this change in the attitude of the Untouchables to British rule in India was surprising and a momentous phenomenon. And justifying his stand, he observed with a rise in his voice and a glow in his eyes : " When we compare our present position with the one which it was our lot to bear in Indian society of pre-British days, we find that, instead of marching on, we are marking time. Before the British, we were in the loathsome condition due to our Untouchability. Has the British Government done anything to remove it ? Before the British, we could not draw water from the village well. Has the British Government secured us the right to the well ? Before the British, we could not enter the temple ? Can we enter now? Before the British, we were denied entry into the Police Force. Does the British Government admit us into the force ? Before the British. we were not allowed to serve in the Military. Is that career now open to us ? To none of these questions can we give an affirmative answer. Our wrongs have remained as open sores and they have not been righted, although 150 years of British rule have rolled away."

"Of what good is such a Government to anybody ?" he asked the Conference. At this the British representatives looked at one another. There was a stir among the Indian representatives. "It was a Government," continued Dr. Ambedkar, "which did realize that the capitalists were denying the workers a living wage and decent conditions of work and which did realize that the landlords were squeezing the masses dry, and yet it did not remove social evils that blighted the lives of the down-trodden classes for several years. Although it had," he proceeded, "the legal powers to remove these evils, it did not amend the existing code of social and economic life, because it was afraid that its intervention would give rise to resistance." He threrefore, declared : We must have a Government in which the men in power will give their undivided allegiance to the best interests of the country. We must have a Government in which men in power, knowing where obedience will end and resistance will begin, will not be afraid to amend the social and economic ' code of life which the dictates of justice and expendiency so urgently call for."

Dr. Ambedkar upheld the demand for Dominion Status, but expressed doubts as to whether the Depressed Classes would be heir to it unless the political machinery for the new constitution was of a special make. While making that constitution, it should be noted, he observed, that the Indian society which was formed with an ascending scale of reverence and a descending scale of contempt and was a gradation of castes, gave no scope for the growth of the sentiment of equality and fraternity, and the intelligentsia which came of the upper strata and conducted political movements had not shed its narrow particularism of castes. Hence he asserted : "We feel nobody can remove our grievances as well as we can, and we cannot remove them unless we get political powers in our own hands. I am afraid the Depressed Classes have waited too long for time to work its miracle!"

Referring to the Indian deadlock, he recalled the memorable words of Edmund Burke whom he called the greatest teacher of political philosophy that " the use of force is but temporary"

Concluding his brilliant speech, he sounded a great warning to the British Government and to those who were engaged in the "battle of wits" in the Conference : I am afraid it is not sufficiently realized that in the present temper of the country, no constitution will be workable which is not acceptable to the majority of the people. The time when you were to choose and India was to accept is gone, never to return. Let the consent of the people and not the accident of logic be the touchstone of your new constitution, if you desire that it should be worked." * #

The fearless tone and the bold criticism in the speech had a wonderful effect upon the Conference. The frankness and fearlessness with which Dr. Ambedkar lucidly put the facts before the Conference impressed the delegates immensely, and they congratulated him on his brilliant speech. It created a good impression upon the British Premier. The *Indian Daily Mail* described this speech as one of the finest bits of oratory during the whole Conference. One man in the Conference was extremely pleased with his speech. He returned to his kingly residence full of admiration, satisfaction and high appreciation; and with joyful tears in his eyes, he told his princely wife that their efforts and the money they had spent on the speaker of the day were all realised. It was an achievement, a glorious success ! This admirer was nobody else than His Highness the Maharaja of Baroda who invited Dr. Ambedkar to a special dinner given by him in London to his choice friends. It was a strange freak of destiny that Gaekwad and Ambedkar should meet after years of estrangement in a melodramatic situation.

The effect of this powerful speech of Dr. Ambedkar was tremendous on the newspapers also. The English newspapers and pressmen devoted their attention to the leader of the Depressed Classes and English statesmen, like Lord Sydenham, O'Dwyer and others, who had bitterly criticized Dr. Ambedkar's Nagpur speech in the *Spectator,* were now thoroughly convinced that Dr. Ambedkar was a nationalist; and so they began to whisper

* Indian Round Table Conference, 1930-31, Proceedings Pp. 123-29.

#Speeches of Dr. B. R. Ambedkar in R.T.C. See Dr. Babasaheb Ambedkar Writings and Speeches Vol. 2—Editors.

that he also was one of the revolutionary leaders of India. Some of the English statesmen confidentially asked A. B. Latthe whether Dr. Ambedkar belonged to the revolutionary camp. And this inquiry on the part of the British statesmen was not unexpected. It may be recalled how the British secret police had taken a full search of Dr. Ambedkar when he landed in Britain, in 1917 from America.

During the early period of the Conference, there was an attempt made by the Liberal leaders—Sapru, Sastri and Satalvad, to reach an agreement with the Muslim delegates on the communal question. The Hindu delegates held meetings at the residence of Sir Cowasji Jehangir under the Chairmanship of Sastri to discuss the possibility of a compromise with the Muslim delegates. Moonje and Jayakar expressed the view that such a settlement would be possible after the grant of Dominion Status. The Liberal leaders—Jayakar, Moonje and Ambedkar held parleys with the Nawab of Bhopal, the Aga Khan, Jinnah and others at the residence of the Nawab of Bhopal, but the talks broke down over the Muslim demand for separation of Sind which was solidly opposed by Moonje and Jayakar. Besides, the Muslim leaders were not prepared to grant the same proportion of reserved seats to the Hindus and Sikhs in Muslim majority Provinces as they asked for themselves in others Provinces.

After the general discussion in the plenary session, the Conference appointed nine sub committees and Dr. Ambedkar found himself a Member of almost all the important subcommittees except the Federal Structure Committee. He served on the Minorities Sub-Committee, the Provincial Sub-Committee and the Services Sub-Committee with the great luminaries from India and England. In the course of the discussion on the report of the Provincial Sub-Committee, Dr. Ambedkar supported Chintamani's view that it was absolutely unnecessary and undesirable to have a Second Chamber in any province in India.

While the report of the Defence Committee was being discussed, Dr. Ambedkar pleaded that the recruitment to the Army should be upon to all Indians consistently with the considerations of efficiency and the possession of the necessary qualifications.

The most important work Dr. Ambedkar did to achieve his goal was the preparation of the Declaration of Fundamental Rights, safeguarding the cultural, religious and economic rights of the Depressed Classes. He prepared the scheme with great labour and statesmanship, and submitted it to the Minorities Subcommittee for being included in the future constitution of India. The title of the scheme was : 'A Scheme of Political Safeguards for the Protection of the Depressed Classes in the Future Constitution of a self-governing India." [1]

The text of the Memorandum alongwith its background framed by Dr. B. R. Ambedkar is as follows—Editors.

"On the 12th November 1930, His late Magesty King George V formally inaugurated the Indian Round Table Conference. From the point of view of Indians the Round Table Conference was an event of great significance. Its significance lay in the recognition by His Majesty's Government of the right of Indians to be consulted in the matter of framing a constitution for India. For the Untouchables it was a landmark in their history. For, the Untouchables were for the first time allowed to be represented separately by two delegates who happened to be myself and Dewan Bahadur R. Srinivasan. This meant that the Untouchables were regarded not merely a separate element from the Hindus but also of such importance as to have the right to be consulted in the framing of a constitution for India.

The work of the Conference was distributed among nine Committees. One of these Committees was called the Minorities Committee to which was assigned the most difficult work of finding a solution of the Communal question. Anticipating that this Committee was the most important committee the Prime Minister, the late Mr. Ramsay Mac Donald, himself assumed its chairmanship. The proceedings of the Minorities Committee are of the greatest importance to the Untouchables. For, much of what happened between the Congress and the Untouchables and which has led to bitterness between them will be found in the proceedings of that Committee.

1 : Keer, Pp. 144-153.

When the Round Table Conference met the political demands of communities other than the Untouchables were quite well known. Indeed the Constitution of 1919 had recognized them as statutory minorities and provisions relating to their safety and security were embodied in it. In their case the question was of expanding those provisions or altering their shape. With regard to the Depressed Classes the position was different. The Montagu-Chelmsford report which preceded the Constitution of 1919 had said in quite unmistakable terms that provision must be made in the Constitution for their protection. But unfortunately when the details of the Constitution were framed, the Government of India found it difficult to devise any provisions for their protection except to give them token representation in the legislatures by nomination. The first thing that was required to be done was to formulate the safeguards deemed necessary by the Untouchables for their protection against the tyranny and oppression of the Hindus. This I did by submitting a Memorandum to the Minorities Committee of the Round Table Conference. To give an idea of the safeguards that were formulated by me, I reproduce below the text of the Memorandum:—

A Scheme of Political Safeguards for the Protection of the Depressed Classes in the Future Constitution of a self-governing India, submitted to the Indian Round Table Conference.

The following are the terms and conditions on which the Depressed Classes will consent to place themselves under a majority rule in a self-governing India.

Condition No 1:

EQUAL CITIZENSHIP

The Depressed Classes cannot consent to subject themselves to majority rule in their present state of hereditary bondsmen. Before majority rule is established then emancipation from the system of Untouchability must be an accomplished fact. It must not be left to the will of the majority. The Depressed Classes must be made free citizens entitled to all the rights of citizenship in common with other citizens of the State.

(A) To secure the abolition of Untouchability and to create the equality of citizenship, it is proposed that the following fundamental right shall be made part of the Constitution of India.

FUNDAMENTAL RIGHT

U.S.A. Constitution amendment XIV and Government of Ireland Act 1920, 10 & 11 Geo. V. Ch. 67. Sec. 5 (2).

"All subjects of the State in India are equal before the law and possess equal civic rights. Any existing enactment, regulation, order, custom or interpretation of law by which any penalty, disadvantage, disability is imposed upon or any discrimination is made against any subject of the State on account of Untouchability shall, as from the day on which this Constitution comes into operation, cease to have any effect in India."

This is so in all Constitutions. See Prof. Keith's remarks in Cm. 207, p.56.

(B) To abolish the immunities and exemptions now enjoyed by executive officers by virtue of Sections 110 and 111 of the Government of India Act 1919 and their liability for executive action be made co-extensive with what it is in the case of a European British Subject.

Condition No. 11 :

FREE ENJOYMENT OF EQUAL RIGHTS

It is no use the Depressed Classes to have a declaration of equal rights. There can be no doubt that the Depressed Classes will have to face the whole force of orthodox society if they try to exercise the equal rights of citizenship. The Depressed Classes therefore feel that if these declarations of rights are not to be mere pious pronouncements, but are to be realities of everyday life, then they should be protected by adequate pains and penalties from interference in the enjoyment of these declared rights.

(A) The Depressed Classes therefore propose that the following sections should be added to Part XI of the Government of India Act 1919, dealing with Offences, Procedure and Penalties:—

(i) Offence of Infringement of Citizenship.

U.S. Statutes At Large. Civil Rights protection Acts of April 9, 1868, and of March 1, 1875—passed in the interest of the Negroes after their emancipation.

"*Whoever denies to any person except for reasons by law applicable to persons of all classes and regardless of any previous condition of Untouchability the full enjoyment of any of the accommodations, advantages, facilities, privileges of inns, educational institutions, roads, paths, streets, tanks, wells and other watering places, public conveyances on land, air or water, theatres or other places of public amusement, resort or convenience whether they are dedicated to or maintained or licensed for the use of the public shall be punished with imprisonment of either description for a term which may extend to five years and shall also be liable to fine.*"

(B) Obstruction by orthodox individuals is not the only menace to the Depressed Classes in the way of peaceful enjoyment of their rights. The commonest form of obstruction is the social boycott. It is the most formidable weapon in the hands of the Orthodox Classes with which they beat down any attempt on the part of the Depressed Classes to undertake any activity if it happens to be unpalatable to them. The way it works and the occasions on which it is brought into operation are well described in the Report of the Committee appointed by the Government of Bombay in 1928 "to enquire into the educational, economic and social condition of the Depressed Classes (untouchables) and of the Aboriginal Tribes in the Presidency and to recommend measures for their uplift." The following is an extract from the same :—

Depressed Classes and Social Boycott

"102. Although we have recommended various remedies to secure to the Depressed Classes their rights to all public utilities we fear that there will be difficulties in the way of their exercising them for a long time to come. The first difficulty is the fear of open violence against them by the Orthodox Classes. It must be noted that the Depressed Classes form a small minority in every village, opposed to which is a great majority of the orthodox who are bent on protecting their interests and dignity from any supposed invasion by the Depressed Classes at any cost. The danger of prosecution

by the Police has put a limitation upon the use of violence by the orthodox classes and consequently such cases are rare.

"The second difficulty arises from the economic position in which the Depressed Classes are found to-day. The Depressed Classes have no economic independence in most parts of the Presidency. Some cultivate the lands of the Orthodox Classes as their tenants at will. Others live on their earnings as farm labourers employed by the Orthodox Classes and the rest subsist on the food or grain given to them by the Orthodox Classes in lieu of service rendered to them as village servants. We have heard of numerous instances where the Orthodox Classes have used their economic power as a weapon against those Depressed Classes in their villages, when the latter have dared to exercise their rights, and have evicted them from their land, and stopped their employment and discontinued their remuneration as village servants. This boycott is often planned on such an extensive scale as to include the prevention of the Depressed Classes from using the commonly used paths and the stoppage of sale of the necessaries of life by the village Bania. According to the evidence sometimes small causes suffice for the proclamation of a social boycott against the Depressed Classes. Frequently it follows on the exercise by the Depressed Classes of their right to the use of the common-well, but cases have been by no means rare where a stringent boycott has been proclaimed simply because a Depressed Class man has put on the sacred thread, has bought a piece of land, has put on good clothes or ornaments, or has carried a marriage procession with the bridegroom on the horse through the public street.

"We do not know of any weapon more effective than this social boycott which could have been invented for the suppression of the Depressed Classes. The method of open violence pales away before it, for it has the most far reaching and deadening effects. It is more dangerous because it passes as a lawful method consistent with the theory of freedom of contact. We agree that this tyranny of the majority must be put down with a firm hand, if we are to guarantee the Depressed Classes the freedom of speech and action necessary for their uplift."

In the opinion of the Depressed Classes the only way to overcome this kind of menace to their rights and liberties is to make social boycott an offence punishable by law. They are therefore bound to insist that the following sections should be added to those included in Part XI, of the Government of India Act 1919, dealing with offences, Procedure and Penalties.

I. OFFENCE OF BOYCOTT DEFINED

(i) *A person shall be deemed to boycott another who—*

This and the following legal provisions are bodily taken from Burma Anti-Boycott Act, 1922, with a few changes to suit the necessities of the case.

(a) *refuses to let or use or occupy any house or land, or to deal with, work for hire, or do business with another person, or to render to him or receive from him any service, or refuses to do any of the said things on the terms on which such things should commonly be done in the ordinary course of business,* or

(b) *abstains from such social, professional or business relations as he would, having regard to such existing customs in the community which are not inconsistent with any fundamental right or other rights of citizenship declared in the Constitution ordinarily maintain with such person,* or

(c) *in any way injures, annoys or interferes with such other person in the exercise of his lawful rights.*

II. PUNISHMENT FOR BOYCOTTING

Whoever, in consequence of any person having done any act which he was legally entitled to do or of his having omitted to do any act which he was legally entitled to omit to do, or with intent to cause any person to do any act which he is not legally bound to do or to omit to do any act which he is legally entitled to do, or with intent to cause harm to such person in body, mind, reputation or property, or in his business or means of living, boycotts such person or any person in whom such person is interested, shall be punished with imprisonment of either description which may extend to seven years or with fine or with both.

Provided that no offence shall be deemed to have been committed under this Section, if the Court is satisfied that the accused person has not acted at the instigation of or in collusion with any other person or in pursuance of any conspiracy or of any agreement or combination to boycott.

III. PUNISHMENT FOR INSTIGATING OR PROMOTING A BOYCOTT

Whoever—

(a) *publicly makes or publishes or circulates a proposal for,* or

(b) *makes, publishes or circulates any statement, rumour or report with intent to, or which he has reason to believe to be likely to, cause* or

(c) *in any other way instigates or promotes the boycotting of any person or class of persons, shall be punished with imprisonment which may extend to five years, or with fine or with both.*

Explanation.—An offence under this section shall be deemed to have been committed although the person affected or likely to be affected by any action of the nature referred to herein is not designated by name or class but only by his acting or abstaining from acting in some specified manner.

IV. PUNISHMENT FOR THREATENING A BOYCOTT

Whoever, in consequence of any person having done any act which he was legally entitled to do or of his having omitted to do any act which he was legally entitled to omit to do, or with intent to cause any person to do any act which he is not legally bound to do, or to omit to do any act which he is legally entitled to do, threatens to cause such person or any person in whom such person is interested, to be boycotted shall be punished with imprisonment of either description for a term which may extend to five years or with fine or with both.

Exception :—It is not boycott

(i) *to do any act in furtherance of a* bona fide *labour dispute,*

(ii) *to do any act in the ordinary course of business competition.*

N.B.—*All these offences shall be deemed to be cognizable offences.*

Condition No. III

PROTECTION AGAINST DISCRIMINATION

The Depressed Classes entertain grave fears of discrimination either by legislation or by executive order being made in the future. They cannot therefore consent to subject themselves to majority rule unless it is rendered impossible in law for the legislature or the executive to make any invidious discrimination against the Depressed Classes.

It is therefore proposed that the following Statutory provision be made in the constitutional law of India :—

"It shall not be competent for any Legislature or executive in India to pass a law or issue an order, rule or regulation so as to violate the rights of the Subjects of the State, regardless of any previous condition of Untouchability, in all territories subject to the jurisdiction of the dominion of India,

(1) to make and enforce contracts, to sue, be parties, and give evidence, to inherit, purchase, lease, sell, hold and convey real and personal property,

(2) to be eligible for entry into the civil and military employment and to all educational institutions except for such conditions and limitations as may be necessary to provide for the due and adequate representation of all classes of the subjects of the State.

(3) to be entitled to the full and equal enjoyment of the accommdations, advantages, facilities, educational institutions, privileges of inns, rivers, streams, wells, tanks, roads, paths, streets, public conveyances on land, air and water, theatres, and other places of public resort or amusement except for such conditions and limitations applicable alike to all subjects of every race, class, caste, colour or creed,

(4) to be deemed fit for and capable of sharing without distinction the benefits of any religious or charitable trust dedicated to or created, maintained or licensed for the general public or for persons of the same faith and religion,

(5) to claim full and equal benefit of all laws and proceedings for the security of person and property as is enjoyed by other subjects regardless of any previous condition of Untouchability and be subject to like punishment, pains and penalties and to none other.

Condition No. IV

ADEQUATE REPRESENTATION IN THE LEGISLATURES

The Depressed Classes must be given sufficient political power to influence legislative and executive action for the purpose of securing their welfare. *In view of this they demand that the following provisions shall be made in the electoral law so as to give them—*

(1) Right to adequate representation in the Legislatures of the Country, Provincial and Central.

(2) Right to elect their own men as their representatives—

(a) *by adult suffrage, and*

(b) *by separate electorates for the first ten years and thereafter by joint electorates and reserved seats, it being understood that joint electorates shall not be forced upon the Depressed Classes against their will unless such joint electorates are accompanied by adult suffrage.*

N.B.—Adequate Representation for the Depressed Classes cannot be defined in quantitative terms until the extent of representation allowed to other communities is known. But it must be understood that the Depressed Classes will not consent to the representation of any other community being settled on better terms than those allowed to them. They will not agree to being placed at a disadvantage in this matter. In any case the Depressed Classes of Bombay and Madras must have weightage over their population ratio of representation, irrespective of the extent of representation allowed to other minorities in the Provinces.

Condition No. V

ADEQUATE REPRESENTATION IN THE SERVICES

The Depressed Classes have suffered enormously at the hands of the high caste officers who have monopolized the Public Services by abusing the law or by misusing the discretion vested in them in administering it to the prejudice of the Depressed Classes and to the advantage of the Caste Hindus without any regard to justice, equity or good conscience. This mischief can only be avoided by

destroying the monopoly of caste Hindus in the Public Services and by regulating the recruitment to them in such a manner that all communities including the Depressed Classes will have an adequate share in them. For this purpose the Depressed Classes have to make the following proposals for statutory enactment as part of the constitutional law :—

(1) There shall be established in India and in each Province in India a Public Service Commission to undertake the recruitment and control of the Public Services.

(2) No member of the Public Service Commission shall be removed except by a resolution passed by the Legislature nor shall he be appointed to any office under the Crown after his retirement.

(3) It shall be the duty of the Public Service Commission, subject to the tests of efficiency as may be prescribed,

(a) to recruit the Services in such a manner as will secure due and adequate representation of all communities, and

(b) to regulate from time to time priority in employment in accordance with the existing extent of the representation of the various communities in any particular service concerned.

Condition No. VI

REDRESS AGAINST PREJUDICIAL ACTION OR NEGLECT OF INTERESTS

In view of the fact that the Majority Rule of the future will be the rule of the orthodox, the Depressed Classes fear that such a Majority Rule will not be sympathetic to them and that the probability of prejudice to their interests and neglect of their vital needs cannot be overlooked. It must be provided against particularly because, however adequately represented the Depressed Classes will be in a minority in all legislatures. The Depressed Classes think it very necessary that they should have the means of redress given to them in the Constitution. It is therefore proposed

that the following provision should be made in the Constitution of India :—

British North America Act, 1867. sec. 93.

"In and for each Province and in and for India it shall be the duty and obligation of the Legislature and the Executive or any other Authority established by Law to make adequate provision for the education, sanitation, recruitment in Public Services and other matters of social and political advancement of the Depressed Classes and to do nothing that will prejudicially affect them.

"(2) Where in any Province or in India the provisions of this section are violated an appeal shall lie to the Governor-General in Council from any act or decision of any Provincial Authority and to the Secretary of State from any act or decision of a Central Authority affecting the matter.

"(3) In every such case where it appears to the Governor-General in Council or to the Secretary of State that the Provincial Authority or Central Authority does not take steps requisite for the due execution of the provisions of this Section then and in every such case, and as far only as the circumstances of each case require the Governor-General in Council or the Secretary of State acting as an appellate authority may prescribe, for such period as they may deem fit, take remedial measures for the due execution of the provisions of this section and of any of its decisions under this Section and which shall be binding upon the authority appealed against.

Condition No. VII

SPECIAL DEPARTMENTAL CARE

The helpless, hapless and sapless condition of the Depressed Classes must be entirely attributed to the dogged and determined opposition of the whole mass of the orthodox population which will not allow the Depressed Classes to have equality of status or equality of treatment. It is not enough to say of their economic condition that they are poverty-stricken or that they are a class of landless labourers, although both these statements are statements of fact. It has to be noted that the poverty of the Depressed Classes is due largely to the social prejudices in consequence of which many an accupation for earning a living is closed to them. This is a fact which differentiates the position of the Depressed Classes from that of the ordinary caste labourer and is often a source of trouble between the two. It has also to be borne in mind that the forms of tyranny and oppression practised against the Depressed Classes are

very various and the capacity of the Depressed Classes to protect themselves is extremely limited. The facts, which obtain in this connection and which are of common occurrence throughout India, are well described in the Abstracts of Proceedings of the Board of Revenue of the Government of Madras, dated 5th Nov. 1892, No. 723, from which the following is an extract:—

"134. There are forms of oppression only hitherto hinted at which must be at least cursorily mentioned. To punish disobedience of Pariahs, their masters—

(a) Bring false cases in the village court or in the criminal courts.

(b) Obtain, on application, from Government waste lands lying all round the paracheri, so as to impound the Pariahs' cattle or obstruct the way to their temple.

(c) Have mirasi names fraudulently entered in the Government account against the paracheri.

(d) Pull down the huts and destroy the growth in the backyards.

(e) Deny occupancy right in immemorial sub-tenancies.

(f) Forcibly cut the Pariahs' crops, and on being resisted, charge them with theft and rioting.

(g) Under misrepresentations, get them to execute documents by which they are afterwards ruined.

(h) Cut off the flow of water from their fields.

(i) Without legal notice, have the property of sub-tenants attached for the land-lords' arrears of revenue.

"135. It will be said there are civil and criminal courts for the redress of any of these injuries. There are the courts indeed; but India does not breed village Hampdens. One must have courage to go to the courts; money to employ legal knowledge, and meet legal expenses; and means to live during the case and the appeals. Further most cases depend upon the decision of the first court; and these courts are presided over by officials who are sometimes corrupt and who generally, for other reasons, sympathize with the wealthy and landed classes to which they belong.

"136. The influence of these classes with the official world can hardly be exaggerated. It is extreme with natives and great even with Europeans. Every office, from the highest to the lowest, is stocked with their representatives, and there is no proposal affecting their interests but they can bring a score of influence to bear upon it in its course from inception to execution."

There can be no doubt that in view of these circumstances the uplift of the Depressed Classes will remain a pious hope unless the task is placed in the forefront of all governmental activities and unless equalization of opportunities is realized in practice by a definite policy and determined effort on the part of Government. *To secure this end the proposal of the Depressed Classes is that the Constitutional Law should impose upon the Government of India a statutory obligation to maintain at all times a department to deal with their problems by the addition of a section in the Government of India Act to the following effect:—*

"1. Simultaneously with the introduction of this Constitution and as part thereof there shall be created in the Government of India a Department to be in charge of a Minister for the purpose of watching the interests of the Depressed Classes and promoting their welfare.

"2. The Minister shall hold office so long as he retains the confidence of the Central Legislature.

"3. It shall be the duty of the Minister in the exercise of any powers and duties conferred upon him or transferred to him by law, to take all such steps as may be desirable to secure the preparation, effective carrying out and co-ordination of measures preventative of acts of social injustice, tyranny or oppression against the Depressed Classes and conducive to their welfare throughout India.

"4. It shall be lawful for the Governor-General—

(*a*) *to transfer to the Minister all or any powers or duties in respect of the welfare of the Depressed Classes arising from any enactment relating to education, sanitation, etc.*

(*b*) *to appoint Depressed Classes welfare bureaus in each province to work under the authority of and in co-operation with the Minister.*

Condition No. VIII

DEPRESSED CLASSES AND THE CABINET

Just as it is necessary that the Depressed Classes should have the power to influence governmental action by seats in the Legislature so also it is desirable that the Depressed Classes should have the opportunity to frame the general policy of the Government. This they can do only if they can find a seat in the Cabinet. The Depressed Classes therefore claim that in common with other minorities, their moral rights to be represented in the Cabinet should be recognized. With this purpose in view *the Depressed Classes propose* that in the Instrument of Instructions an obligation shall be placed upon the Governor and the Governor General to endeavour to secure the representation of the Depressed Classes in his Cabinet."[1]

"Dr. Ambedkar despatched some copies of this Declaration of Fundamental Rights to his followers in India, asked them to hold meetings in different cities in support of the demands presented to the Minorities Sub-Committee by the Depressed Class representatives, and instructed them to send copies of the resolutions to Ramsay MacDonald, stating that those demands were the irreducible minimum for willing co-operation of the Depressed Classes : otherwise they would not consent to any constitution for self-government. Accordingly, a number of wires poured into the office of the British Premier from all parts of India."[2]

Similarly, the provisions for a settlement of the communal problem put forward jointly by Muslims, Depressed Classes, Indian Christians, Anglo-Indians and Europeans in the form of memorandum, was submitted to the Minorities Committee. The text of memorandum reads as follows : Editors.

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[1] : Proceedings of the Sub-Committee No. III (Minorities) Pp. 168-176.

[2] :Keer, P. 153.

"Provisions for a settlement of the communal problem put forward jointly by Muslims, Depressed Classes, Indian Christians, Anglo-Indians and Europeans

Claims of Minority Communities

1. No person shall by reason of his origin, religion, caste or creed be prejudiced in any way in regard to public employment, office of power or honour, or with regard to enjoyment of his civic rights and the exercise of any trade or calling.

2. Statutory safeguards shall be incorporated in the Costitution with a view to protect against enactments of the Legislature of discriminatory laws affecting any community.

3. Full religious liberty, that is, full liberty of bellief, worship observances, propaganda, associations and education shall be guaranteed to all communities subject to the maintenance of public order and morality.

No person shall merely by change of faith lose any civic right or privilege, or be subject to any penalty.

4. The right to establish, manage and control, at their own expense, charitable, religious and social institutions, schools and other educational establishments with the right to exercise their religion therein.

5. The Constitution shall embody adequate safeguards for the protection of religion, culture and personal law, and the promotion of education, language, charitable institution of the Minority Communities and for their due share in grants-in-aid given by the State and by the self-governing bodies.

6. Enjoyment of civic rights by all citizens shall be guaranteed by making any act for omission calculated to prevent full enjoyment an offence punishable by law.

7. In the formation of Cabinets in the Central Governnment and Provincial Governments, so far as possible, members belonging to the Musalman community and other minorities of considerable number shall be included by convention.

8. There shall be Statutory departments under the Central and Provincial Government to protect Minority Communities and to promote their welfare.

9. All communities at present enjoying representation in any Legislature through nomination or election shall have representation in all Legislatures through Separate Electorates and the minorities shall have not less than the proportion set forth in the Annexure but no majority shall be reduced to a minority or even an equality. Provided that after a lapse of ten years it will be open to Muslims in Punjab and Bengal and any minority communities in any other Provinces to accept Joint Electorates, or Joint Electorates with reservation of seats, by the consent of the community concerns. Similarly after the lapse of ten years it will be open to any minority in the Central Legislature to accept Joint Electorates with or without reservation of seats with the consent of the community concerned.

With regard to the Depressed Classes no change to Joint Electorates and reserved seats shall be made until after 20 years' experience of Separate Electorates and until direct adult suffrage for the community has been established.

10. In every Province and in connection with the Central Government a Public Service Commission shall be appointed, and the recruitment to the Public Services, except the proportion, if any, reserved to be filled by nomination by the Governor-General and the Governors, shall be made through such Commission in such a way as to secure a fair representation to the various communities consistently with the considerations of efficiency and the possession of the necessary qualifications. Instructions to the Governor-General and the Governors in the Instrument of Instructions with regard to recruitment shall be embodied to give effect to this principle, and for that purpose, to review periodically the composition of the services.

11. If a Bill is passed which, in the opinion of two-thirds of the members of any Legislature representing a particular community affects their religion or social practice based on religion, or in the case of fundamental rights of the subjects if one-third of the members object, it shall be open to such members to lodge their objection thereto, within a period of one month of the Bill being passed by the House, with the President of the House who shall forward the same to the Governor-General or the Governor, as the

case may be, and he shall thereupon suspend the operation of that Bill for one year, upon the expiry of which period he shall remit the said Bill for further consideration by the Legislature. When such Bill has been further considered by the Legislature and the Legislature concerned has refused to revise or modify the Bill so as to meet the objection thereto, the Governor-General or the Governor, as the case may be may give or withhold his assent to it in the exercise of his discretion, provided further that, the validity of such Bill may be challenged in the Supreme Court by any two members of the denomination affected thereby on the grounds mat it contravenes one of their fundamental rights.

Special Claims of Musalmans

A. The North-West Forntier Province shall be constituted a Governor's Province on the same footing as other Provinces with due regard to the necessary requirements for the security of the Frontier.

In the formation of the Provincial Legislature the nomination shall not exceed more than 10 per cent of the whole.

B. Sind shall be separated from the Bombay Presidency and made a Governor's Province similar to and on the same footing as other Provinces in British India.

C. Musalman representation in the Central Legislature shall be one-third of the total number of the House, and their representation in the Central Legislature shall not be less than the proportion set forth in the Annexure.

Special Claims of the Depressed Classes

A. The Constitution shall declare invalid any custom or usage by which any penalty or disadvantage or disability is imposed upon or any discrimination is made against any subject of the State in regard to the enjoyment of civic rights on account of Untouchability.

B. Generous treatment in the matter of recruitment to Public Service and the opening of enlistment in the Police and Military Service.

C. The Depressed Classes in the Punjab shall have the benefit of the Punjab Land Alienation Act extended to them.

D. Right of Appeal shall lie to the Governor or Governor-General for redress of prejudicial action or neglect of interest by any Executive Authority.

E. The Depressed Classes shall have representation not less than set forth in the Annexure.

Special Claims of the Anglo-Indian Community

A. Generous interpretation of the claims admitted by Sub-Committee No. VIII (Services) to the effect that in recongnition of the peculiar position of the community special consideration should be given to the claim for public employment, having regard to the maintenance of an adequate standard of living.

B. The right to administer and control its own educational institutions, *i.e.,* European education, subject to the control of the Minister.

Provisions for generous and adequate grants-in-aid and scholarships on the basis of present grants.

C. Jury rights equal to those enjoyed by other communities in India unconditionally of proof of legitimacy and descent and the right of accused persons to claim trial by either a European or an Indian Jury.

Special Claims Of The European Community

A. Equal rights and privileges to those enjoyed by Indian-born subjects in all industrial and commercial activities.

B. The maintenance of existing rights in regard to procedure of criminal trials, and any measure or bill to amend, alter or modify such a procedure cannot be introduced except with the previous consent of the Governor-General.

Agreed by—

HIS HIGHNESS THE AGA KHAN (Muslims),
DR. AMBEDKAR (Depressed Classes),
RAO BAHADUR PANNIR SELVAM (Indian Christians),
SIR HENRY GIDNEY (Angol-Indians),
SIR HUBERT CARR (Europeans).

ANNEXURE

REPRESENTATION IN LEGISLATURES

Figures in brackets=Population basis 1931 figures and depressed percentages as per Simon Report.

Stength of Chamber		Hindus			Muslims	Christians	Sikhs	Anglo-Indians	Tribal etc.	Europeans
		Caste	Depressed	Total						
Census ALL India (1931)										
		(47.5)	(19)*	(66.5)	(21.5)					
Upper ..	200	101	20	121	67	1	6	1	..	4
Lower ..	300	123	45	168	100	7	10	3	..	12
		(48.9)	(13.4)	(62.3)	(34.8)					
Assam ..	100†	38	13	51	35	3	..	1	..	10
		(18.3)	(24.7)	(43)	(54.9)					
Bengal ..	200	38	35	73	102	2	..	3	..	20
		(67.8)	(14.5)	(82.3)	(11.3)					
Bihar and Orissa	100	51	14	65	25	1	..	1	3	5

* Represents percentage in Governor's Provinces of British India.

† Population figures exclude Tribal Areas.

ANNEXURE—contd.

REPRESENTATION IN LEGISLATURES

Figures in brackets=Population basis 1931 figures and depressed percentages as per Simon Report.

Stength of Chamber		Hindus			Muslims	Christians	Sikhs	Anglo-Indians	Tribal etc.	Europeans
		Caste	Depressed	Total						
		(68)	(8)	(76)	(20)					
Bombay ..	200	88	28	116	66	2	..	3	..	13
On Sind being separated weightage of Musalmans in Bombay to be on the same footing as to the Hindus in the N.W.F.P.										
		(63.1)	(23.7)	(86.8)	(44)					
C.P. ..	100	58	20	78	15	1	..	2	2	2
		(71.3)	(15.4)	(86.7)	(7.1)	(3.7)				
Madras ..	200	102	40	142	30	14	..	4	2	8
		(15.1)	(13.5)	(28.6)	(56.5)		(13)			
Panjab ..	100	14	10	24	51	1.5	20	1.5	..	2
		(58.1)	(26.4)	(84.5)	(14.8)					
U.P. ..	100	44	20	64	30	1	..	2	..	3

Sind and N.W.F.P. Weightage similar to that enjoyed by the Musalmans in the Provinces in which they constitute a minority of the population shall be given to the Hindu minority in Sind and to the Hindu and Sikh minorities in the N.W.F.P.

Explanatory Memorandum to the said Memorandum

1. The suggested details for community representation have not been agreed by the Hindus or the Sikhs, but the full representation claimed by the latter in the Central Legislature is provided for.

2. The proposed distribution of seats for the different minorities constitutes a whole scheme and the detailed proposals cannot be separated one from another.

3. This distribution of seats follows the principle that in no case is the majority community to be reduced to the position of a minority of even equality.

4. No representaion is provided for Commerce, Landlords, Industry, Labour, etc. It being assumed that these seats are ultimately communal and that communities desiring special representation for these interests may do so out of the communal quota.

5. The allowance of 33½ per cent representation to Muslims in the Central Legislature is based on the assumption that 26 per cent shall be from British India and at least 7 per cent by convention out of the quota assigned to the Indian States.

6. In the Punjab the suggested common sacrifice by the Muslims, Caste Hindus and the Depressed Classes, would permit of a weightage of 54 per cent, being given to the Sikhs, giving them representation of 20 per cent, in the Legislature.

7. The proposals may be taken as being acceptable to well over 115 millions of people, or about 46 per cent of the population of India." *

The British Premier tried in his own way to bring the Indian delegates to a frame of mind for a settlement. The Premier's daugther gave a party to choice delegates. The Maharaja of Baroda,

*This appeared as appendix III in the original proceeding of the Federal Structure Committee and Minorities Committee, Pp. 1394-99.

Dr. Ambedkar, Sir Mirza Ismail, Jinnah, Tambe and few others attended it. The British Premier took some of the delegates to his country home at Chequers. They had a talk there relating to the Indian problem, but there, too, they could not come to a settelment.

The Minorities Sub-Committee submitted its report to the Conference. The last paragraph of that report recorded that "the Minorities and Depressed Classes were definite in their assertion that they could not consent to any self-governing constitution of India unless their demands were met in a reasonable manner."

Like Joshi, Jadhav and Paul, Dr. Ambedkar dissented from the proposals of the Franchise Sub-Committee as in their opinion the proposals were inadequate, and they pleaded for immediate introduction of adult franchise. In the written speech, which he could not make for want of time, Dr. Ambedkar warned the British Government that it would be betraying the Depressed Classes if by limiting the franchise the Labour Government left them to the mercy of those who had taken no interest in their welfare.

Such was his sincerity and devotion to the problem and to the welfare of his people that Dr. Ambedkar worked day and night, sought interviews, gave interviews, supplied information, and even addressed a meeting of some Members of the British Parliament to acquaint them fully with the problem of the Untouchables. He took every opportunity of contributing articles to foreign journals, of issuing statements to the foreign press and of addressing meetings in London with the sole object of exposing the intolerable humiliations and unbelievable suffering under which the Depressed Classes were groaning in India for ages. In appeal after appeal to the Press he said that the cause of the Untouchables in India needed the support of the enlightened world. He, therefore, urged that it was the sacred duty of the people at large to help the solution of their problem on the basis of humanity!

The result was that the world came to know for the first time that the fate of the Untouchables in India was worse than that of the Negroes in America. The appeal moved some of the British leaders and consequently a deputation consisting of some Members

of the British Parliament such as Miss Eleanor, Miss Ellen, Norman Angle and a few others, waited on Lord Sankey and pleaded for investing the Depressed Classes with franchise, and for removing their disabilities. Lord Sankey promised that in their proposed political set-up they would be placed with the other classes and masses of India. Some of the British papers, however were hostile to Dr. Ambedkar because he said, "I do not oppose the move for Dominion Status" * He said that he, too did not mind their indifference or opposition to his cause.

Dr. Ambedkar's profound study, great industry and conquering intellect created a tremendous impression upon the delegates and the British statesmen. He inspired respect as well as hatred in different circles. The *Indian Daily Mail* reporter observed: "Dr. Ambedkar pointed out that he had a mandate to see that no responsible Government was established, unless it was at the same time, accompanied by a truly representative Government. He voiced a fear that the proposed form of Government would be one of the masses by the classes and his protest found much echoing sympathy in the Labour and Liberal Parties of Great Britain."

After recording the reports of the different Sub-Committees, the Round Table Conference adjourned on January 19, 1931. This was followed by a debate on India in the House of Commons. During the course of the debate, one voice echoed the grievances of the Depressed Classes. It was Issac Foot who was a man of broader sympathies. Referring to the disabilities of the Untouchables, he said, "If we do not establish safeguards for their protection, their blood may cry out against us. If I had any advice to give to future Governors, it will be 'Let your main concern be for these people.' They may be defenceless now, but one day they will be strong. As there is justice upon the earth, there is no bank

* Dr. Ambedkar's letter 19th December 1930.

that can keep back for ever the accumulated sufferings of these people. The real test of the progress of India twenty years hence will be 'what have you done for these people ?" This speech was an eloquent tribute to Dr. Ambedkar's ceaseless work in London.

Before leaving London, Dr. Ambedkar expressed his opinion on the work of the Round Table Conference in a letter to his secretary Shivtarkar that although he was in two minds as to the outcome of the Conference, he was confident that it had laid the foundation of the self-government of India. Viewed in this light the Conference was a success. Yet viewed from another angle, he observed that the foundation had more of sand than mortar.* Hence the foundation was not strong enough. But so far as the rights of the Depressed Classes were concerned, it was a tremendous success, he added.

The notable contribution of this session of the Round Table Conference to Indian political thought was the evolution of the conception of a United India. Another solid outcome was the definite emergence of the Depressed Classes in the political picture of India, and more important was the brilliant and moving exposition of their insufferable conditions by Dr. Ambedkar before the bar of world opinion. Owing to disagreement on the question of seats, which the different communities sought to secure in the proposed legislatures, and on the system of election whether separate or joint electorates with reserved seats should be employed, the Conference was adjourned. Besides, it must have been thought that taking any vital decision at that time was like reckoning without hosts ; for Congress, the major political party of India, had not participated in the proceedings. Dr. Ambedkar left for India, embarking at Marseilles on February 13, 1931."[1]

* Dr. Ambedkar's letter, 21st January 1931.

[1] :Keer, Pp. 154-157.

" DEPRESSED CLASSES AND FUTURE CONSTITUTION

Dr. B. R. Ambedkar, who also arrived in Bombay on Friday the 27th February 1931 morning was given an enthusiastic reception at Ballard Pier by a *battalion of the Ambedkar Seva* Dal Interviewed by a representative of *The Times of India* he made the following statement:" The Round Table Conference is to my mind a triumph of statesmanship. It would be an idle pretence to say that there are no defects in the Constitution as outlined by the Conference, but in my opinion they are not of a vital character. Even assuming the contrary to be the truth there is yet time and opportunity for all those who believe in a peaceful solution of the Indian problem to step in and improve the framework. My greatest disappointment arises from the fact that the Constitution as outlined by the Conference is most undemocratic in as much as it is based on a very restricted franchise. It is a great pity that Mr. Gandhi, judging from the reports of his pronouncement on the results of the Conference, seems to have entirely lost sight of this aspect of the Constitution and is laying stress on elements which, I venture to think, are the most trivial and the most transient. Those of us who represented the Depressed Classes and labour fought for adult suffrage and although we failed, because all other parties played false to their position as signatories to the Nehru Report. I for one have been living in the hope that when Mr. Gandhi comes to lay down his terms of settlement he will see to it that the Constitution to which he will be a party will be a thoroughly democratic one.

If Mr. Gandhi fails us in our efforts to secure political power to the common man and woman in India, I would not hesitate to call his act as the greatest betrayal of trust and his campaign of civil disobedience as the worst exploitation of the masses for the service of the classes. In view of the fact that Mr. Gandhi's political philosophy is not known to many it may be advisable for those leaders of the masses who count themselves among his followers and disciples to ask from him a declaration of his views on the question of adult suffrage before they give him any further support in his campaign of civil disobedience."

The Minority Problem

"The most important problem is, of course, the minority problem. Without a solution of this problem there can be no liberty for India. Unfortunately the Conference failed to solve this problem. But a solution must be found before any further steps can be taken in the direction of political reform. He does not seem to have been realised in India that the Conference has virtually made the grant of political power dependent upon an agreed solution of the majority problem. Regarding the question of the Depressed Classes whom Mr. R. M. Srinivasan and myself represented at the Conference, I am glad their place in the future Constitution of India is secure and their disabilities will be non-existent"[1].

"Just at this time the names of the delegates to the second session of the Round Table Conference were announced in the third week of July. Dr. Ambedkar, Sastri, Saprti, Jayakar, Setalvad, Malaviya, Sarojini Naidu, Gandhi, Mirza Ismail, Jinnah, Ramaswami Mudaliar and others were invited to attend the Conference in London. Dr. Ambedkar was purposely dropped out from the Federal Structure Committee at the first session of the Round Table Conference. His patriotic mind and his fearless advocacy for the common man and democracy had given the Britishers an offence. But this time he was selected on the Federal Structure Committee, which was vitally connected with the drafting of the new Constitution for India.

Congratulations were showered from all quarters of India and even from England on Dr. Ambedkar. Newspapers from the opposite camp also began to appreciate his patriotism, his love for democracy and his anxiety for the welfare of the common man. The *Kolaba Samachar,* a district paper of note, which was hostile to him in matters of social reforms, expressed a debt of gratitude to Dr. Ambedkar for the patriotic service he had rendered to the country in the Chirner Trial. It recalled his services at the time of the visit of the Simon Commission and at the first session of the Round Table Conference ; and it added that Dr. Ambedkar was a true patriot and would fight to break the shackles of the country and help Others do so at the second session of the Round Table Conference."[2].

[1] : The Times of India, dated 28th February 1931.

[2] : Keen P. 163.

The *Indian Daily Mail,* in its issue dated 21st July 1931, congratulating the Doctor upon his nomination to the Federal Structure Committee, paid a glowing tribute to Dr. Ambedkar.

It said : "I congratulate Dr. Ambedkar upon his invitation. Dr. Ambedkar made a tremendous impression at the Round Table Conference and his speech at the opening session was one of the finest bits of oratory delivered during the whole Conference. His final attitude to the Sankey report was that of' one who does not approve but also who does not object. ' He pointed out that he had a mandate to see that no responsible Government was established unless it was at the same time, accompanied by a truly representative Government. He voiced a fear that the proposed form of Government would be one of the massses by the classes, and his protest found much echoing sympathy in the Labour and Liberal Party of Great Britain. On the other hand Dr. Ambedkar will not play the old fashioned minority game. He is a patriot and is vitally interested in securing self-government. In the future discussions, which will centre round the franchise of the senate and" the Federal Assembly, this brilliant representative of the Depressed Classes is certain to play a most important part."[1].

The Sunday Chronicle in its issue dated 26th July 1931. under the initials A.T.T., appreciating the services of Dr. B. R. Ambedkar as a true nationalist, said ; "One of the delegates nominated to the Federal Structure Committee is my friend Dr. Ambedkar. When he was in London last year attending the R.T.C. I saw a good deal of him. At heart a true nationalist he had to put up a stem fight against the persuasive coquetry of the British diehards who are anxious to win him over to their side and at the same time his task was made more difficult by his anxiety to retain his brother delegate Rao Bahadur Srinivasan within the Nationalist fold. At the Chesterfield Gardens, time and again, he complained that Sir Tej Bahadur was giving more to the Princes in the process of give and take. But he admitted that Sir Tej had to manouvre through a very difficult situation."[2].

[1] : Reprinted, Ganvir, Ambedkar-Gandhi : Teen Mulakhati, (Marathi) Pp.6-7.

[2] : Ibid. Pp. 7-8.

"The Kesari and several other news-papers expressed satisfaction at the nomination of Dr. Ambedkar. Congratulating the Doctor and N. M. Joshi, the Journal of the Servants of India Society observed : "Being drawn from the humble ranks of the society. one representing the labour classes and the other Depressed Classes, they are necessarily strangers to 'high politics' as they are understood in this country. They have the simple faith of the simple folk whose cause they have espoused, and they will not be deterred by the superior smile of the eminent personages surrounding them, from insisting on the literal application of certain principles which they have been taught to hold as inviolable." A little before this the London representative of the *Free Press Journal,* a leading nationalist daily in Bombay, in his reply to Miss Mayo had eulogised the services which Dr. Ambedkar had rendered at the first session of the Round Table Conference, and said that Dr. Ambedkar was a fearless, independent and patriotic-minded leader whose fearlessness was unbearable to both Hindus and Muslims, and that his opening speech at the first session of the Round Table Conference was the best speech in the whole proceedings of the Conference.

It was not decided as yet whether Gandhi would attend the Round Table Conference. Naturally all eyes were focussed on Manibhuvan at the Malabar Hill in Bombay, owing to the mysterious suspense created by Gandhi's stagecraft and statecraft. In the bustle and hurry Gandhi wanted to sound Ambedkar as to his demands. So Gandhi wrote to Ambedkar on August 6, 1931, informing him that he would come to see the latter at eight o'clock that night if Dr. Ambedkar could spare the time. Gandhi added that he would gladly come over to Dr. Ambedkar's residence, if it was inconvenient to Dr. Ambedkar to come to him."[1].

Accordingly the meeting between Ambedkar and Gandhi was held on August 14, 1931, at Manibhuvan, at two in the afternoon.

"SEGREGATING UNTOUCHABLES

Dr. Ambedkar, the Depressed Classes leader, who saw Mr. Gandhi before he sailed by the *Mooltan* to take part in the Round Table Conference, is said to have told the Mahatma a few hometruths

[1] :Keer;Pp. 163-64.

about the insincere attitude of the Congress towards the grievances of Untouchables. What *can* the poor Mahatma do when the whole country simply believes in Untouchability ?"[1]

The next day was Saturday, August 15, 1931. Almost all the Round Table Conference delegates were to sail for London by the *S. S. Mooltan*. The Ballard Pier at Bombay presented a picturesque appearance on the day. From princes to paupers all soils of people were present at the Pier. Friends, admirers, followers and devotees assembled to wish *bon voyage* to their Princes and heroes. One leader who received a great ovation as soon as he got down from the car was Dr. Ambedkar. Over two thousand volunteers had collected on the road outside and greeted him as he arrived at the Mole Station with shouts of "Dr. Ambedkar ki jai" and "Long live Dr. Ambedkar ".[2]

"On boardship Dr. Ambedkar came across Sir Prabhashankar Pattani, who asked him about the outcome of the latter's interview with Gandhi. Sir Prabhashankar told Dr. Ambedkar that as he had left the hall in the middle of the interview, he was not in the know of its outcome or end. Dr. Ambedkar, who got the clue from the strange note in the voice of the Knight, asked him why he had left the hall in the middle. The Knight said bitingly that according to Hindu scriptures a gentleman should quit the place where a detractor reviled a good man, if the hearer could not cut out the tongue of the detractor on the spot. Dr. Ambedkar was all the more tickled by the growing insensible temper of the Knight and, without any sign of irritation on his face, asked him what punishment was prescribed by Pattani's Hindu scriptures for a rank hypocrite and an abject flatterer. At this crack of the whip Pattani got wild and asked Dr. Ambedkar what he meant by such a brutal attack. Dr. Ambedkar replied that he meant what the knight understood and added that Gandhi should be freed from the grip of abject flatterers like him. The Police Commissioner, Wilson, intervened, and a further scene was averted. The Knight must have left a wiser man. Indeed, the world would be no less benefited, if all its great men turn introspective and get themselves rid of the flattering functions of men surrounding them !

[1] : The Times of India, dated 18th August-1931.

[2] : Keer:Pp. 168-169.

Sarojini Naidu and Malaviya, who were to go by the same steamer, cancelled their passages, as Gandhi had not yet decided about his departure. In the interview which Dr. Ambedkar gave on the steamer he referred to Gandhi's refusal to go the Round Table Conference and said it was the height of folly to place the interests of Bardoli above those of India. "to bother about petty grievances and to be unmindful of bigger problem the settlement of which will enable him to exercise control over those very officers is a thing which I cannot understand."

Ambedkar was now deeply thinking of Gandhi's decision to oppose his demands. So he sent a message to his people in India through his secretary to hold meetings to denounce the attitude of Gandhi towards their claims. From Suez he wrote another letter to Shivtarkar asking him to send copies of the Memorandum which he had submitted to the Minorities Sub-Committee of the first session of the Round Table Conference. He also asked him to send with Rao Bahadur R. Srinivasan the leather bag which he had left behind.

On the steamer, Jayakan the Maharaja of Rewa and other leaders expressed their satisfaction at the imposing sight of the Samata Seva Dal of the Depressed Classes. Shaukat Ali was glad ; Dr. Moonje was pleased and even expressed his hidden joy that in spite of the failure of the Hindu Mahasabha to raise such a disciplined volunteer corps, there was one organization of the Untouchable Hindus to stand face to face with the Muslim volunteers ! Moonje even congratulated Dr. Ambedkar on his being the leader of the Untouchables, who were conscious enough to know Dr. Ambedkar's services to their cause, and added that they were not indifferent and ungrateful, like the Caste Hindus, who knew not their benefactors !

On reaching London on August 29, Dr. Ambedkar was down with influenza and suffered terribly from vomiting and diarrhoea. The illness sapped his energy, so much so that he wrote to Shivtarkar that his health was on the brink of a crisis. From Monday, September 7, he began to feel better but weakness still lingered. All the time he advised Shivtarkar not to utter a word about his illness to his wife. One thing weighed on his mind. Defeated at the Mahad Sub-judge's Court the Orthodox

Hindus had appealed to the District Court at Thana, and the judgment of the District Judge at Thana was due. He asked Shivtarkar to inform him about it as soon as it was delivered.

In the meanwhile, Gandhi, Vallabhbhai Patel, Jawaharlal Nehru and Sir Prabhashankar Pattani met the Viceroy at Simla where the differences were patched up, and Gandhi left for Bombay to catch the earliest steamer to go to London. Gandhi, alongwith Sarojini Naidu, Pandit Mataviya, and his party, sailed for England on August 29, and reached London on September 12, 1931,

The second session of the Round Table Conference commenced on September 7,1931. This time the personnel of the Conference was enlarged by including a few more delegates such as Sir Muhamed Iqbal, the Muslim League President : Dr. S. K. Dutta. the Christian representative ; G. D. Birla, the great financier ; Pandit Malaviya, a *Sanatani* reformer ; Sarojini Naidu, the Nightingale of India ; and Sir Ali Imam. The outstanding feature of this session was the presence of Gandhi's enigmatic personality. The first session of the R. T. C. was 'Hamlet' without the Prince of Denmark !

Shortly before the Conference met, a change had come over-Britain. The Labour Government was replaced by a National Government, the Prime Minister, Ramsay MacDonald, remaining in the saddle as before. The Secretary of State for India, Wedgwood Benn, was replaced by Sir Samuel Hoare. Conservative leaders like Churchill vehemently opposed the proposed transfer of power to India.

The main work of the Round Table Conference was to be done in the Federal Structure Committee and the Minorities Committee. The Conference was to re-examine and amplify the reports prepared by the corresponding Committees of the first session of the Round Table Conference. Mahatma Gandhi made his first speech in the Conference on September 15, 1931, in the Federal Structure Committee. He claimed that the Congress represented all Indian interests and classes. He told the Conference that the Congress represented the Muslims because it had Muslims as Presidents and Muslims as members of its

Working Committee. It represented the Depressed Classes because removal of Untouchability was a plank on the political platform of the Congress. Gandhi told the Princes that Congress stood for States also inasmuch as "even now the Congress had endeavoured to serve the Princes of India by refraining from any interference in their domestic and internal affairs". The Congress represented women, Gandhi observed, because Congress had Dr. Annie Besant and Sarojini Naidu as Presidents. And because he was the sole representative of the Congress, it followed that he was the sole representative of the Indian nation !

Dr. Ambedkar sensed from this speech of Gandhi in what direction the wind was blowing. Dr. Ambedkar made his first speech in the Federal Structure Committee on the same day. He told the Princes that the Federal Structure Committee could not blindly give to the State what they wanted. This put the Maharaja of Bikaner on his legs, and he replied that nor could the States sign a blank cheque either. Dr. Ambedkar, emphasizing his point, said that before a State was allowed to join the Federation, it must prove that it had the necessary resources and the capacity to give its citizens a civilized life, and the main condition laid down by Dr. Ambedkar was that the States' representatives to the Federal Assembly should be chosen by election and not by nomination. It was his confirmed opinion that nomination made the Executive irresponsible to the Legislature giving a false appearance to the outside world that the Legislature was working normally on the basis of a majority rule. He added that the principle of nomination was against the principle of responsible Government. As regards the demand of the landlords for special representation, he said that they should not be given special representation as they sided with the orthodox, and thereby defeated the ends of freedom and progress. Obviously, this was the first and best speech made in defence of the rights of the States' people.

These strong views gave a shock to the Princely Order, the landlords and their benefactors, who favoured the view of the Princes that their representatives to the Federal Assembly should be selected by nomination. The result was that every speaker devoted some part or other of his speech to refuting or supporting Dr. Ambedkar's speech as a majority of them thought that his views were radical and revolutionary.

The next day Gandhi expressed his views that the Round Table Conference delegates were not the chosen ones of the nation, but chosen ones of the British Government. Not that Gandhi was not aware of this before his departure to London. But he now began to twit the delegates. Regarding Dr. Ambedkar's views on States' representation on the Federal Legislatures, Gandhi said that while his sympathies were, broadly speaking, with Dr. Ambedkar, his reason was wholly with Gavin Jones and Sir Sultan Ahmed, who echoed the views of the Princely Order. Gandhi favoured the proposal for Federation, but supported the standpoint of the Princes as against the States' people, saying : "Here we have no right, in my humble way, to say to the States what they should do and what they shall not do !"

Gandhi then turned to the pivotal problem that was haunting the delegates. He referred to the problem of special representation claimed by the different communities, and said : "The Congress has reconciled itself to special treatment of the Hindu-Muslim-Sikh tangle. There are sound historical reasons for it, but the Congress will not extend that doctrine in any shape or form. I listened to the list of special interests. So far as the Untouchables are concerned, I have not yet quite grasped what Dr. Ambedkar has to say, but of course, the Congress will share the onus with Dr. Ambedkar of representing the interests of the Untouchables. The interests of the Untouchables are as dear to the Congress as the interests of any other body or of any other individual throughout the length and breadth of India. Therefore, I would most strongly resist any further special representation."

This was nothing but a declaration of war, Ambedkar observed, by Gandhi and by the Congress against the Untouchables. "With this declaration by Mr. Gandhi," he added, "I knew what Mr. Gandhi would do in the Minorities Committee which was the main forum for the discussion of this question."

On September 18 Ambedkar rose and asked Gandhi in the Federal Structure Committee whether the views placed by Gandhi regarding the Federal Legislature and the formation of the Federal Executive were his own or those of the Congress. When Diwan Bahadur, Ramaswami Mudaliar stated that the public servants,

who constituted the Political Department, were as conscientious and fair as any other body of public servants anywhere in India or outside. Dr. Ambedkar at once asked him why then he wanted responsible Government at all if that was so. In his speech Pandit Malaviya pleaded for patience and courtesy to be shown to the Princes and observed that had Government utilized all resources and spent sufficient money on promoting primary education among the people, he was sure the words Depressed Classes would have been a matter of history by that time. Dr. Ambedkar at once pointed out his own case and said that in spite of his education he was still an Untouchable. In the course of his speech Sir Akbar Hydari, while replying to Dr. Ambedkar, said : "Speeches like those of Dr. Ambedkar, if I may say so, do not sufficiently appreciate the realities of the situation." Upon this Dr. Ambedkar answered back : "I have never been guilty of not appreciating realities."

While discussing the formation of the Federal Constitution, nobody referred to the time-limit for initiation of Federation. It was Dr. Ambedkar who lifted the veil by saying : "I do not know that there would be any British Indian who would like to put the establishment of responsible Government in cold storage untill the Princes make up their minds to enter into the Federal Government of India."

During these discussions in the Federal Structure Committee there were flashes, exchanges of views, reviews of the constitutional history of the world and ideas about Free India. Dr. Ambedkar's speeches on those topics were full of information, interest and valuable suggestions. The politician, the barrister, the constitutionalist, the professor, the defender of the downtrodden millions and the friend of the States people profoundly inpressed the Conference with different facets of his erudition.

By now the third week of September 1931 was over. The Minorities Committee was to commence its work on September 28. On the eve of this session, Gandhi's son, Devdas Gandhi, saw Dr. Ambedkar at his residence, and an interview was fixed between Gandhi and Dr. Ambedkar at the residence of Sarojini Naidu between 9 and 12 p.m. Accordingly, Dr. Ambedkar saw

Gandhi and placed his cards on the table. But Gandhi did not open his mind and said that he would consent to Dr. Ambedkar's demands if others agreed.

The Minorities Committee met for the first time on September 28, 1931. The Premier admitted that the problem of minorites in India had baffled them all. He observed that some of the delegates had suggested that Government should arbitrate as the delegates themselves had failed to agree, but he opined that the arbitration would probably be unacceptable to some of them. Upon this the Aga Khan said that Mahatma Gandhi was going to see the Muslim delegates that night and so he asked for an adjournment. Seconding the Aga Khan, Malaviya wished that the general discussion might stand over.

Dr. Ambedkar was in the know of the secret talks that were going on between the Muslim leaders and Gandhi regarding the Hindu-Muslim agreement. So referring to the motion for adjournment, he said : "As far as the Depressed Classes are concerned, we have already presented our case to the Minorities Sub-Committee last time. The only thing which remains for me to do is to put before this Committee a short statement suggesting the quantum of representation which we want in different Legislatures."

He himself had heard with great pleasure, Dr. Ambedkar continued, that further negotiations were going to take place for the settlement of the communal issue. He further obvserved:" But I would like to make this matter absolutely plain at the start. Those who are negotiating ought to understand that they are not plenipotentiaries at all; that whatever may be the representative character of Mr. Gandhi or the Congress people, they certainly are not in a position to bind us—certainly not. I say that most emphatically in this meeting." And concluding his speech with a warning, he said : "I want to say most emphatically that whoever claims weigthtage and whoever is willing to give that weithtage he must not give it—he cannot give it—out of my share." Upon this the Chairman, MacDonald said : "Dr. Ambedkar's position has been made absolutely clear, in his usual splendid way. He has left no doubt at all about it."*

* Proceedings of Federal Structure Committee & Minorities Committee, p. 527.

On October 1 Mahatma Gandhi again asked for a week's adjournment. He told the Committee that he was being closeted with Muslim leaders of various groups. At this Dr. Ambedkar got up and said that he did not wish to create any difficulty in arriving at such a settlement, but wanted to know whether or not the Depressed Classes would be represented on that formal Committee. Gandhi replied in the affirmative. Dr. Ambedkar thanked Gandhi for this, and turning to the delegates, explained : "Mahatma Gandhi told us on the first day that he spoke in the Federal Structure Committee that as a representative of the Indian National Congress he was not prepared to give political recongnition to any community other than the Muslims and the Sikhs. He was not prepared to recognize the Anglo-Indians, the Depressed Classes and the Indian Christians. I do not think that I am doing any violence to etiquette by stating in this Committee that when I had the pleasure of meeting Mahatma Gandhi a week ago and of discussing the question of the Depressed Classes with him and when we, as Members of the other minorities, had the chance of talking with him yesterday in his office, he told us in quite plain terms that the attitude that he had taken in the Federal Structure Committee was his full and well-considered attitude."

Dr. Ambedkar, then thundered that if the Depressed Classes were not going to be recognized in the future constitution of India, as was done by the Minorities Sub-Committee during the first session of the Round Table Conference, he would neither join that particular Committee nor whole-heartedly support the proposition for adjournment. Sir Herbert Carr, Dr. Dutt and others welcomed the adjournment.

The discussions between Gandhi and the Muslim leaders went on for a week. The newspapers declared that the discussions had reached an encouraging stage. It was reported that Gandhi had conceded to the Muslims their fourteen points, accepted that the residuary powers be vested in federating provinces, allowed the Muslims majority in the Punjab and in Bengal, and had offered the Muslims a blank cheque. The talks, however, failed on the Sikh-Muslim question.

On October 8 Gandhi announced, with deep sorrow to the Minorities Committee, his utter failure in securing an agreed solution of the communal question through informal conversations amongst and with the representatives of different groups. He said that the causes of failure were inherent in the composition of the Indian Delegation, and that they were almost all not elected representatives of the parties or groups whom they were presumed to represent nor were those whose presence was absolutely necessary for an agreed solution. He, therefore, moved for an adjournment of the meeting *sine die*. Dr. Ambedkar took up the challenge and stood to reply to Gandhi. He said that Gandhi was guilty of a breach of understanding according to which it was agreed the previous night that none of the delegates was to make any speech or any comment that would cause exasperation.

Dr. Ambedkar's vitriolic tone began to rise. He thundered: "What distaurbs me, after hearing Mr. Gandhi, is that instead of confining himself to his proposition, namely, that the Minorities Committee should be adjourned *sine die,* he started casting reflections upon the representatives of the different communities who are sitting round this Table. He said that the delegates were the nominees of Government, and that they did not represent the views of their respective communities for whom they stood, we cannot deny the allegation that we are nominees of the Government, but speaking for myself, I have not the slightest doubt that even if the Depressed Classes of India were given the chance of electing their representatives to this Conference, I would all the same, find a place here. I say therefore, that whether I am a nominee or not, I fully represent the claims of my community. Let no man be under any mistaken impression as regards that."

The Mahatma has been claiming, "Dr. Ambedkar proceeded" that the Congress stands for the Depressed Classes, and that the Congress represents the Depressed Classes more than I or my colleagues can do. To that claim I can only say that it is one of the many false claims which irresponsible people keep on making although the persons concerned with regard to those claims have been invariably denying them.'* Dr. Ambedkar thereupon showed how he had

* Proceedings of Federal Structure Committee & Minorities Committee, p. 534.

received from the farthest Untouchable corner of India—from the places which he had never visited and from the men he had never seen—telegrams supporting the stand taken by him. He then told the Committee that either the Committee should solve the problem or the British Government should undertake its solution. In his utter disappointment and fear he said that the Depressed Classes were not anxious about the transfer of power under the present circumstances, but if the Government wanted to transfer power, it should be accompanied by such conditions and by such provisions that the power should not find itself into the hands of a clique, into the hands of the oligarchy, or into the hands of a group of people whether Mohammedans or Hindus; the solution should be such that the power should be shared by all communities in their respective proportions.

The Prime Minister appealed to the Delegates not to attribute causes to any method by which they had been elected or to their own personal shortcomings. He asked them to face the facts and asked them whether the problem existed in India or not. The speech of the Premier was rather pungent in tone and some called it ingrate, full of bitter sideshafts against Gandhi.

Dr. Ambedkar's vigorous propaganda did not stop here. He wrote from London, on October 12, a letter to The Times of India throwing light on the whole episode. "We are, however, reliably informed," he wrote, "that in carrying his negotiations with our Muslim friends, Mr. Gandhi demanded that as one of the conditions for his accepting their fourteen points, they should oppose the claims of the Depressed Classes, and the smaller minorities." "To say in public," Dr. Ambedkar observed with his caustic ruthlessness," I will agree if all others agree, and then to set out to work in private to prevent others from so agreeing by buying off those who are willing to agree, is, in our opinion, a piece of conduct unbecoming a Mahatma and to be expected only from an inveterate opponent of the Depressed Classes. Mr. Gandhi is not only not playing the part of a friend of the Depressed Classes, but he is not even playing the part of an honest foe."

In his letter home Dr. Ambedkar foretold that the Round Table Conference would end in a fiasco, and in his opinion Gandhi was responsible for that failure. According to Dr. Ambedkar, Gandhi's partiality, discriminating conduct in solving the problem of the minorities, his equivocal manner of dealing, his absolute disregard for the other representatives, the insults he inflicted upon them—all these qualities did not help Gandhi to solve the problem tactfully, Dr. Ambedkar further observed that Gandhi's diabolical way of playing one community against another was now quite clear ! His undemocratic mental set-up, Dr. Ambedkar concluded, had given a rude shock to a man like Harold Laski, and Congress leaders, like Vithalbhai Patel. were murmuring disapproval of Gandhi's mishandling the situation !

Gandhi's hostility to the demands put forth by Dr. Ambedkar had wide repercussions and reaction in the quarters of the Untouchables all over India. The All-India Depressed Classes Conference. under the presidentship of Rao Bahadur M. C. Rajah, at its Gurgaon session, declared that Gandhi was misrepresenting the case of the Untouchables, and strongly denounced the claim made by Gandhi that the Congress had been taking care of the Untouchables from the beginning and had championed the cause of the Untouchables. "I say," said Rajah, the President of the Conference, "that these statements are untrue."

The Conference supported the demands put forth by Dr. Ambedkar and declared that no constitution would be acceptable to the Depressed Classes which did not include in it the system of Separate Electorates for the Depressed Classes. Messages requesting Dr. Ambedkar not to put faith in Gandhi and in the Congress were sent to Dr. Ambedkar in hundreds by the Depressed Classes leaders and associations from all parts of India, and by public meetings and conferences held at Tinnevelly, Robertson (Madras), Lyallpur, Karnal, Chidambaram, Calicut, Banaras, Kolhapur, Yeotmal, Nagpur, Chanda, Kanpur, Kamptee, Belgaum, Dharwar, Nasik, Hubli, Ahmedabad, Tuticorin, Colombo and at several other places.

These vociferous cablegrams demonstrated who was the real representative of the Depressed Classes. Gandhi, no doubt received a few cables, but they were insufficient to meet the queries which Gandhi was pestered with in his talks and discourses at

different places in London. Such was the powerful effect of Dr. Ambedkar's fighting propaganda that Gandhi was really nonplussed, and his assumed guardianship of the Untouchables lay exposed !

This exposure became more pronounced at this juncture by the temple entry movement launched by the Depressed Classes in India, at Nasik and at Guruvayur. The revival of *Satyagraha* at Nasik gained a tremendous momentum. Five thousand volunteers poured in Nasik. Dr. Ambedkar's devoted lieutenant, Bhaurao Gaikwad, Depressed Classes leaders like Rankhambe, Patitpavandas and trusted lieutenant Deorao Naik, fought out the struggle, exposing the Orthodox Hindus and the pretended sincerity of the Hindu leaders in their true perspective. The shame was so carping that Dr. Moonje appealed from London to the Hindus not to deny these civic and religious rights to their kith and kin at their own peril. The gates of the Kalaram Temple were closed as was done during the previous *Satyagraha*.

Dr. Ambedkar was happy over this timely support from his people in exposing the caste Hindu behaviour. He sent a message to his people from London.*

The Nasik *Satyagraha* was carried on with unique enthusiasm and determination. Mass meetings were held, and big procession were taken out. Several volunteers and leaders were arrested. They bravely courted imprisonment and faced jail. The News in the *London Times* about these arrests and the developments of the *Satyagraha* added to the weight of Dr. Ambedkar's say.

After the clash with Gandhi, Dr. Ambedkar took part in the discussions on the Fiscal system which was adumbrated by the Sub-Committee for the Federal Government. He made a very thought-provoking and illuminating speech on the composition of the Federal Court in which, Jinnahh, Jayakar, Lord Sankey and

* See Pp 192-193, of this part.

Lord Lothian, too, took much interest, and he was asked to clarify some of his points.

In spite of this heavy work, Dr. Ambedkar was very busy giving private interviews and explanations, issuing statements and counter-statements and making speeches at different instiutions in London in support of his stand at the Round Table Conference. His speech at the Institution of International Affairs proved very effective in demolishing Gandhi's platform. Those who were puzzled by Gandhi's extreme opposition to the demands of the Depressed Classes ran to Dr. Ambedkar to seek clarification of his stand. Miss Muriel Lester, with whom Gandhi was staying, saw Dr. Ambedkar who explained his standpoint to her. A common friend of Ambedkar and Gandhi invited both the leaders to tea and tried to reconcile them. Ambedkar admitted that Gandhi had done work for the uplift of the Untouchables in his humanitarian way and was striving to abolish Untouchability : but they differed fundamentally on the question.

By the end of October 1931 elections were held in Britain and the Tories came into power. As regards the defeat of the Labour Government, Dr. Ambedkar said that their programme was too scientific to be understood by the labourer and average Britisher. In one of his letters Dr. Ambedkar said that the Depressed Classes leaders, who supported Gandhi, did not understand that Gandhi was opposed not only to the Special Electorate but also to the Special Representation for the Depressed Classes : otherwise the problem would have been solved long before." [1]

In addition to the first memorandum submitted to the Minorities Sub-Committee at the first session of the Conference, the supplementary Memorandum dated 4th November 1931 was submitted Jointly by Dr. B. R. Ambedkar and Rao Bahadur R. Shrinivasan. The Supplementary Memorandum reads as follows:—Editors.

1: Keer, Pp. 169-181.

"Supplementary Memorandum on the Claims of the Depressed Classes for Special Representation By Dr. Bhimrao R. Ambedkar and Rao Bahadur R. Srinivasan

In the Memorandum that was submitted by us last year dealing with the question of political safeguards for the protection of the Depressed Classes in the Constitution for a self-governing India. and which forms Appendix III to the printed volume of Proceedings of the Minorities Sub-Committee, we had demanded that Special Representation of the Depressed Classes must form one of such safeguards. But we did not then define the details of the Special Representation we claimed as being necessary for them. The reason was that the proceedings of the Minorities Sub-Committee came to an end before the question was reached. We now propose to make good the omission by this supplementary memorandum so that the Minorities Sub-Committee, if it comes to consider the question this year, should have the requisite details before it.

I. Extent of Special Representation

A. *Special Representation in Provincial Legislature—*

(i) In Bengal, Central provinces, Assam, Bihar and Orissa, Punjab and the United Provinces, the Depressed Classes shall have representation in proportion to their population as estimated by the Simon Commission and the India Central Committee.

(ii) In Madras, the Depressed Classes shall have twenty two percent representation.

(iii) In Bombay—

(a) In the event of Sind continuing to be a part of the Bombay Presidency the Depressed Classes shall have sixteen per cent representation.

(b) In the event of Sind being separated from the Bombay Presidency the Depressed Classes shall enjoy the same degree of representation as the Presidency Muslims, both being equal in population.

B. Special Representation in the Federal Legislature—

In both Houses of the Federal Legislature the Depressed Classes shall have representation in proportion of their population in India.

Reservations

We have fixed this proportion of representation in the Legislatures on the following assumptions:—

(1) We have assumed that the figures for the population of the Depressed Classes given by the Simon Commission (Vol. I. P.40) and the Indian Central Committee (Report, P. 44) will be acceptable as suffciently correct to form a basis for distributing seats.

(2) We have assumed that the Federal Legislature will comprise the whole of India, in which case the population of the Depressed Classes in Indian States, in Centraly Administered Areas, and in Excluded Territories, besides their population in Govrnor's Provinces, will form very properly an additional item in calculating the extent of representation of the Depressed Classes in the Federal Legislature.

(3) We have assumed that the administrative area of the Provinces of British India will contiune to be what they are at present.

But if these assumptions regarding figures of population are challenged as some interested parties threaten to do, and if under a new census over which the Depressed Classes can have no control, the population of the Depressed Classes shows a lower proportion, or if the administrative areas of the Provinces are altered, resulting in disturbing the existing balance of population, the Depressed Classes reserve their right to revise their proportion of representation and even to claim weightage. In the same way, if the All-India Federation does not come into being, they will be willing to submit to readjustment in their proportion of representation calculated on that basis in the Federal Legislature.

II. Method of Representation

1. The Depressed Classes shall have the right to elect their representatives to the Provincial and Central Legislatures through Separate Electorates of their voters.

For their representation in the upper House of the Federal or Central Legislature, if it is decided to have indirect election by

members of the Provincial Legislatures, the Depressed Classes will agree to abandon their right to Separate Electorates so far as their representation to the Upper House is concerned subject to this: that in any system of proportional representation arrangement shall be made to guarantee to them their quota of seats.

2. Separate Electorates for the Depressed Classes shall not be liable to be replaced by a System of Joint Electorates and reserved seats, except when the following conditions are fulfilled:—

(a) A referendum of the voters held at the demand of majority of their representatives in the Legislatures concerned and resulting in an absolute majority of the members of the Depressed Classes having the franchise.

(b) No such referendum shall be resorted to until after twenty years and until universal adult suffrage has been established.

III. Necessity of Defining the Depressed Classes

The representation of the Depressed Classes has been grossly abused in the past inasmuch as persons other than the Depressed Classes were nominated to represent them in the Provincial Legislatures, and cases are not wanting in which persons not belonging to the Depressed Classes got themselves nominated as representative of the Depressed Classes. This abuse was due to the fact that while the Governor was given the power to nominate persons to represent the Depressed Classes, he was not required to confine his nomination to persons belonging to the Depressed Classes, since nomination is to be substituted by election under the new constitution, there will be no room for this abuse. But in order to leave no loophole for defeating the purpose of their Special Representation we claim—

(i) That the Depressed Classes shall not only have the right to their own Separate Electorates, but they shall also have the right to be represented by their own men.

(ii) That in each Province the Depresed Classes shall be strictly defined as meaning persons belonging to communities which are subjected to the system of Untouchability of the sort

prevalent therein and which are enumerated by name in a schedule prepared for electoral purposes.

IV. Nomenclature

In dealing with this part of the question we would like to point out that the existing nomenclature of Depressed Classes is objected to by members of the Depressed Classes who have given thought to it and also by outsiders who take interest in them. It is degrading and contemptuous, and advantage may be taken of this occasion for drafting the new constitution to alter for official purposes the existing nomenclature. We think that they should be called "Non-Caste Hindus", "Protestant Hindus", or "Non-Conformist Hindus" or some such designation, instead of "Depressed Classes". We have no authority to press for any particular nomenclature. We can only suggest them, and we believe that if properly explained the Depressed Classes will not hesitate to accept the one most suitable for them.

We have received a large number of telegrams from the Depressed Classes all over India supporting the demands contained in this Memorandum."*

"While the session was going on, His Majesty the King-Emperor gave a reception to the Indian Delegates on November 5. It was arranged that a few Members should speak at the party. Gandhi was present bareheaded. He was clad in his customary loin-cloth and wore sandals. The king-Emperor asked Dr. Ambedkar about the condition of the Untouchables in India, and when he heard the harrowing tales from Dr. Ambedkar who narrated them with his flowing heart, eloquent eyes and scintillating face, he shuddered. The king-Emperor then inquired of Dr. Ambedkar cordially about his father and the place of his education, and how he had achieved academic eminence." [1]

*: For previous memorandum see. Appendix to Proceedings of the Minorities Sub-Committee of the First Session of the Conference. This Supplementary Memorandum dated 4th November 1931 is printed as Appendix VII in the original proceedings at Pp. 1409-11.

[1]: Keer, p. 181.

"When the British Premier saw that there was no unanimous solution to the Minorities problem, he asked all the Members of the Minorities Committee to sign a requisition authorising him to settle the communal problem and to pledge themselves to accept his decision. Gandhi singned this pledge alongwith other Members. Dr. Ambedkar did not sign this requisition as he believed in the justice of his demands. The Prime Minister then adjourned the Conference on December 1. Just before this requisition Dr. Ambedkar had a talk with Gandhi at the residence of Sir Mirza Ismail. Gandhi suggested a novel method to win the support of Dr. Ambedkar. He said that if the Untouchable candidates failed in the general election held on the basis of joint electorates without reservation of seats, the Depressed Classes should prove their *bona fides* in a Court of Law."[1]

After the adjournment of the 2nd Round Table Conference, various Comments were made by the different people and the press. The Comments are as follows :

"Mr. T. A. Raman a well known Journalist from India was travelling back to India. One of the fellow passenger told Mr. T. A. Raman that if he even murdered anybody it would be Dr. Ambedkar"[2] 'Subodha Patrika' weekly in its issue dated 15th November 1931 said :

"We fail to understand Mahatma Gandhi's stand with respect to the demands of the Depressed Classes. To say the least, it is unreasonable and extremely irritating. If there is any community that needs the fullest protection it is that of the Untouchable classes. The Muslims and the Sikhs are well protected and 'Their avowed fears as a contemporary puts it' are but a mask for winning a privileged position in the commonwealth. Now we ask, is it right for Mahatmaji to yield to the false claims of the stronger communities and turn down the Untouchable ? It is no use quibbling ; if Mahatma Gandhi's attempts to solve the communal problem have been futile so far, he is to blame also. Unpalatable though Dr. Ambedkar's outbursts may be, they are intelligible, if not well-grounded. It is no use taking shelter behind the so-called Congress mandate which is to all practical purposes, as elastic as Gandhiji would like to have it. We feel that the Congress has been

[1] : Keer, Pp. 190-191.

[2] : *Ibid.* P. 183.

tinkering with the removal of Untouchability, Why, otherwise, we ask that the Nehru Committee was not made to include as much as a representative of the Depressed Classes ?"

"If any firm decision on the problem of minorities is going to take time and therefore freedom is also being delayed, then initially provincial autonomy would be acceptable. This was how Gandhiji without consultation of his friends conveyed his acceptance to the British Prime Minister. The disclosure of this private conversation raised a storm among Indian delegates. Dr. Sapru, Jaykar representing Progressive Hindus and Dr. Munje, Malviya etc. representnting Hindu Mahasabha were also terror-striken. They tried to verify Gandhiji's statements. Induial Yagnik, who was a Brahmin and had long association with Gandhiji, had gone to London as special reporter of Sunday Advocate'. He wrote in the 'Sunday Advocate' dated 6th December 1931 thus :

'Gandhi Accepts provincial Autonomy. But I venture to state that Gandhi has already delivered himself bound hand and foot into the kindly arms of the British rulers. I referred somewhat casually last week to Gandhi's secret pact with Lord Lothian to agree to provincial autonomy as a first instalment of the new scheme of self-government for India. Of course, Gandhi had shrewdly hedged this agreement with the condition that representative of the self-governing Provinces and States should eventually be invited to form a Constituent Assembly which would be authorised to draft the new Federal Constitution for India. I understand that Government naturally did not agree to this condition. But they shrewdly seized on this agreement of Gandhis', and gave it as wide a currency as possible of course, in an unofficial manner. Of course moderate politicians like Tej Bahadur Sapru and Mr. Jaykar were awfully enraged on hearing of these conversations and engaged in a very hot tussle with Gandhi. Mr. Jaykar, I am told, was particularly wild with the Congress plenipotentiary, and Gandhi is reported to have hotly replied that he was quite free to do what he liked, and he was perfectly sure of getting the Congress to agree to what ever he pleased. When the matter leaked out, however into the press, Gandhi naturally did his best to wriggle out of this secret understanding as Government had of course not agreed to the condition which formed an integral part of his agreement. But if you read between the lines of the special interview that Gandhi

gave to the News Chronicle on this subject, you would be quite convinced that Gandhi, while expressing his desire for the immediate establishment of 'independence'—which amounts of course to partnership with Britain and the maintenance of the imperialistic link with India, he practically gives himself away by admitting-though more by implication than explicity in so many words-the substantial difficulties in the immediate inauguration of a Federal Constitution in India."[1]

Dr. B. R. Ambedkar left London, and embarking at Marseilles, on January 15, 1932, reached Bombay on January 29.

"Dr. B. R. Ambedkar has prepared a set of answers to the questionnaire issued by the Franchise Committee and copies of the same are being circulated among various individual members and mushroom associations of the Depressed Classes community. Space has been left at the beginning of every paragraph to fill up the blanks with the names of the Association, or individuals.

Stereotyped Replies

The hundreds of the Stereotyped replies to the questionnaire circulated repeat.

"The ..... (the blank space is to be filled up by the name of the Association) is of opinion that the Depressed Classes cannot secure representation in the general electorates. Much less can they secure representatives of their own choice. Even if there was adult suffrage. The reasons are as follows :—

> "(a) In every territorial constituency the Depressed Classes are in minority of the population and will be a minority of voters in the electorate much too small to win a seat for themselves."
>
> "(b) Owing to social prejudices no voter of the Higher Caste will vote for the Depressed Classes candidates."
>
> "(c) On the other hand owing to economic dependence on the higher castes and the religious and social influence of the Higher Classes voters may be led to vote for a high caste

[1] : Ganvir, Ambedkar Gandhi : Teen Mulakhati, Pp. 22-23.

candidates as against a candidate of his own Class. No Depressed Class man has ever been elected to the Council, on the support of High Castes."[1]

"Dr. Ambedkar immediately left for Delhi to take part in the proceedings of the Franchise Committee headed by Lord Lothian. On his way to Delhi, he was enthusiastically received at every station by the Depressed classes; especially the functions held at Nasik, Igatpuri, Deolali, Manmad, Bhusaval and Jhansi stations were colourful and imposing.

In the early days of February the Franchise Committee visited Bihar. The Depressed Classes greeted Dr. Ambedkar with great enthusiasm at every place. The Committee then moved to Calcutta *via* Patna. Depressed Class leaders of his persuasion, while giving evidence before the Franchise Committee, supported the scheme of separate electorates as they feared that in the System of Joint Electorates with reserved seats the candidates of the Depressed Classes would be at the mercy of the majority of electorates, and in order to win their votes they would have to ponder to their prejudices, or there would be every possibility of the seats being occupied by the stooges of the majority community. It was observed by many leaders of the Depressed Classes that if the Joint Electorates were to work successfully, that pre-supposed broad-mindedness on the part of the majority community. It was their view that such a favourable atmosphere did not exist then."[2]

"Letter to Mr. Gavai

In the mean time, in this regard Dr. B. R. Ambedkar wrote a letter to Mr. G. A. Gavai, M.L.C.. General Secretary, All-India Depressed Classes Association. The letter is as follow—

Patna, February 13

I was expecting you at Lucknow and also at Patna and was wondering why you had not turned up at either of these places till I got your letter. I am sorry to read that your illness preventing you from making the trip.

[1]: The Bombay Chronicle, 23rd February 1932.

[2]: Keer, Pp. 194-195.

I am sending you a copy of the Memorandum containing my views which I am sending you for your information. You will notice from the last paragraph in the Memorandum that our Committee 'cannot' and therefore your Committee 'cannot' discuss the communal question. The Prime Minister's letter and the Questionnaire issued by the Committee makes this clear and Chairman of our Committee has given a ruling on this question both at Delhi and Lucknow which is in accord with this view. Therefore you must tell your 'Committee' that they cannot discuss this question and if they insist, you should refuse to discuss it."

"Change of Views

Your separate minute instead discussing Separate *Vs.* Joint Electorates should simply say that you refuse to discuss it because it is outside the terms of the Committee. I know your Association has got a Questionnaire. There is just one thing I must point out. I was shocked to find that Mr. Rajah has changed his opinion and is now advocating Joint Electorates. I hope your Association will not follow him in this policy which is suicidal in every way. But if it does then you must lake the consequences of a permanent breach between us and a war 'amongst' ourselves which I am trying to avoid at any cost. So don't persist in it. I am glad to have the assurance that you won't do anything without my knowledge and consent. I have written out a detailed set of answers to the Franchise Questionnaire. I will send you a copy as soon as they are typed.

I am sending a statement of my answers to the Questionnaire for your use and also a copy of the revised Questionnaire. You will see that the Communal question is altogether eliminated." [1]

"Now another trouble brewed for Dr. Ambedkar. Dr. Moonje made a pact with M. C. Rajah on the basis of reserved seats and joint electorates. Rajah submitted to the British Premier his memorandum telegraphically giving details of his pact with Dr. Moonje. This pact put Dr. Ambedkar in an awkward position. It may be recalled that it was Rajah who had cabled to

[1] : The Bombay Chronicle, dated 7th April 1932.

Dr. Ambedkar and supported his demand for Separate Electorates, saying that Gandhi evidently did not know their woes, and therefore he had tried to force Joint Electorates down the unwilling throats of the Depressed Classes. Originally, the Rajah Party stood for Joint Electorates with reserved seats. But he changed sides. Rajah was the only Depressed Class Member in the Central Assembly, and he was not invited to the Round Table Conference. Perhaps grieved at this omission from the Round Table Conference, or greatly perturbed by Gandhi's professed claim to represent the Depressed Classes, he had dropped the idea of Joint Electorates and insisted on Separate Electorates. And now he reverted to the original demand."[1]

"Misleading Information

Mr. Gavai has taken an early opportunity to issue the following statement to members of Depressed Classes. Certain misleading information is being circulated to you that the Indian Franchise Committee cannot discuss the question of the system of electorates with individuals or associations that submit memoranda to it on behalf of the Depressed Classes. This is very misleading. For in the questionnaire sent by the Committee under the item representation of Depressed Classes in paper 2, it is clearly stated what specific proposals would one make to secure representation of the community in the legislature.

Those Model Answers

Moreover, I would suggest that our associations would be well advised to send in their own views with reference to their own provinces irrespective of model answers prepared by others. In view of coming changes in the Constitution of India as declared by the Prime Minister on 1st of December 1931 that complete provincial autonomy will be given to provinces. It is very necessary that our community, should also keep pace with the times and so we should reconsider the decision which we had arrived at before the statement of the Prime Minister referred to above."[2]

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[1] : Keer, Pp. 195-196.

[2] : The Bombay Chronicle, dated 27th February 1932.

"The Franchise Committee met at the Viceregal Lodge. Dr. Ambedkar, on behalf of the Depressed Classes, pleaded for the incorporation in the Indian Penal Code or in the future constitution, of a punishment for the instigation or promotion of boycott against the Depressed Classes which prevented them from the free enjoyment of the fundamental rights. The Franchise Committee accepted the suggestion.

When the news of the Rajah-Moonje pact was out, the Bengal and Assam Depressed Class leaders denounced Rajah for his swing to the System of Joint Electorates with reserved seats, and supported the demands put forth by Dr. Ambedkar. M. B. Malik, M.L.A., President, Bengal Depressed Class Association ; the President, U.P. Adi-Hindu Association ; the President, All-Assam Depressed Class Association ; the President, Adi-Dharma Mandal, Punjab ; the President, Depressed Class Aid Society, Delhi ; all denounced Rajah and endorsed the demands put forth by Dr. Ambedkar.

It was in April 1932 that the Nasik Satyagraha entered its third stage, and its leaders Bhaurao Gaikwad and Rankharnbe were arrested. News about their arrest was wired to Dr. Ambedkar the same day, *i.e.* the April 14, 1932. The extreme opposition of Chintamani, Bakhale and Tambe, the Hindu Members of the Franchise Committee, to the demand of the Depressed Classes for Separate Electorates had created bad blood between them and Dr. Ambedkar. They were not even on speaking terms with Dr. Ambedkar. Amid such tense atmosphere Dr. Ambedkar informed his secretary that he was sorry he could not deal with two situations at the same time. He was of the opinion that the problem of political rights was more important than the problem of temple entry ; and therefore it was unwise and dangerous to deviate from that work to which he had devoted himself heart and soul.

In a letter written from Simla, Dr. Ambedkar said that it was very imperative to see the British Premier in London before the latter gave his decision on the communal issue. He, therefore, asked his trusted lieutenants to see whether it was possible to collect money for the proposed voyage without disclosing the reasons. He had also written to the Aga Khan, who was then in London, seeking his

advice in the matter and asking him about the possibility and possible date of the Premier's decision on the communal issue. In another letter written during the same week, Dr. Ambedkar poured his disgust upon the Hindu Members of the Franchise Committee and said that he hated their frame of mind which allowed them to be self-centred and aggressive inside their own camp and cowardly and yielding outside. He wrote that he was utterly disgusted with their selfish and thoughtless attitude and that he would try to keep himself away from Hindu Society. He was working under mental and physical pressure. In addition, he was suffering from diarrhoea.

In April the Bengal Namashudra Association held its 14th Annual Session at the Albert Institute Hall, Calcutta, under the presidentship of Dr. Kalicharan Mandal. The session unanimously endorsed Dr. Ambedkar's demands. Denouced the newspapers which unjustly criticized Dr. Ambedkar's stand, and declared that the Congress attitude to their problem was unsympathetic and impractical.

The Franchise Committee finished its business on May 1,1932; but, as lord Lothian desired to have some discussion with him on some vital points, Dr. Ambedkar stayed for a day or two more. The Franchise Committee drafted its report giving detailed proposals on which to face the revision of Franchise, and distribution and demarcation of the constituencies for the new legislatures, Central and Provincial. As Dr. Ambedkar differed from the Hindu Members of the Comittee, he submitted to the Committee a separate note. One of the most important decisions of the Committee was on the exact definition of the term Depressed Classes. The Indian Legislature Committee in its decision in 1916, Sir Henry Sharp, the Educational Commissioner under the Government of India, and the Southborough Franchise Committee had all grouped the Depressed Classes with the aboriginals or Hill Tribes, Criminals or with others, but now the Lothian Franchise Committee said that they were of the opinion that the term should be applied only to those who were Untouchables. This was clearly Dr. Ambedkar's victory as he had insisted in his note to the Committee that the test of Untouchability "must be applied in its notional sense as Untouchability in its literal sense has ceased to obtain."[1]

[1] : Keer Pp. 196-198

On May 26 Dr. Ambedkar left for England to see the British Prime Minister and other Cabinet Ministers before the decision on the communal issue was announced. He left by the Italian steamer, *ss. Conte Roso*. The news about his departure was kept a closely guarded secret as he had enjoined upon his men not to divulge it to anybody. Still a representative of the Bombay Chronicle screwed it out of some source and cast a revealing light upon Dr. Ambedkar's new move. Dr. Ambedkar travelled first class, carried very little luggage, and expected to return by the end of August 1932.

It was true that the sudden change in Rajah's attitude worried Dr. Ambedkar much, and the Lothian Committee's findings also were not much favourable to him. He thought that this was the moment which came once in an age. He therefore resolved to do his utmost and to stake his all. He was confident that his presence in London would add weight to his demands. In the letters written home, on his way to London, he expressed poignant anxiety for the safety of his press which, he feared, the thoughtless Caste Hindus from the Congress camp might burn down. He instructed Shivtarkar to procure a new room and to remove the boxes of new books or to keep them in safety elsewhere. All the while the thought of the safety of his books haunted his mind. Dr. Ambedkar reached London on June 7, 1932. In a week he saw every big British official and all Cabinet Ministers in connection with his mission and pleaded his case with heart and soul. He presented to the British Cabinet a representation consisting of twenty-two typed pages. But he could not say anything just then about the outcome of his efforts. He said that discussions were held and decisions were taken at a very high level; and it was in the air that the Depressed Classes in the Provinces of Bombay, Madras and C.P would get Separate Electorates. By June 14 he had done everything possible to achieve his end and wanted to return. But, as some of his supporters wished him to prolong his stay, he decided to stay for a month more for convalescing in a German Sanatorium conducted by Dr. Moller at Dresden, so that he could run to London if necessary. Dr. Ambedkar was in need of money. The indefinite period of his stay was causing him worry in matters of health and expense. So he asked Shivtarkar to make some arrangements for a remittance, if possible.

By the middle of July, Dr. Ambedkar recovered his health, left Dresden, and stayed for a week in Berlin which was then witnessing the energence of Hitler. From Berlin he wrote that he would travel to Vienna and catch the steamer Gange at Venice. But this time, he said, he should not be worried with the formalities of a reception and welcome. Such is human nature. One pines for what one has not got. When Dr. Ambedkar left for foreign lands, during his student days, no one took note of his departure and arrival. But since the days of the Round Table Conference his departure and arrival had been made the occasions for public send-offs and receptions by thousands of his devotees as well as by pressmen. Dr. Ambedkar arrived in Bombay on August 17." [1]

"On the 17th August 1932 the dicision of the British Prime Minister on the communal question, was announced. That part of the decision which relates to the Untouchables is produced below :—

Communal Decision by His Majesty's Government 1932.

In the statement made by the Prime Minister on 1st December last on behalf of His Majesty's Government at the close of the second session of the Round Table Conference, which was immediately afterwards endorsed by both Houses of Parliament, it was made plain that if the communities in India were unable to reach a settlement acceptable to all parties on the communal questions which the Conference had failed to solve, His Majesty's Government were determined that India's contitutional advance should not on that account be frustrated, and that they would remove this obstacle by devising and applying themselves a provisional scheme.

2. On the 19th March last His Majesty's Government, having been informed that the continued failure of the communities to reach agreement was blocking the progress of the plans for the framing of a new Constitution, stated that they were engaged upon a careful re-examination of the difficult and controversial questions which arise. They are now satisfied that without a decision of at least some aspects of the problems connected with the position of minorities under the new Constitution, no further progress can be made with the framing of the Constitution.

[1] : Keer Pp. 202-204.

3. His Majesty's Government have accordingly decided that they will include provisions to give effect to the scheme set out below in the proposals relating to the Indian Constitution to be laid in due course before Parliament. The scope of this scheme is purposely confined to the arrangements to be made for the representation of the British Indian communities in the Provincial Legislatures, consideration of representation in the Legislature at the Centre being deferred for the reason given in paragraph 20 below. The decision to limit the scope of the scheme implies no failure to realize that the framing of the Constitution will necessitate the decision of a number of other problems of great importance to minorities, but has been taken in the hope that once a pronouncement has been made upon the basic questions of method and proportions of representation the communities themselves may find it possible to arrive at *modus vivendi* on other communal problems, which have not received the examination they require.

4. His Majesty's Government wish it to be most clearly understood that they themselves can be no parties to any negotiations which may be initiated with a view to the revision of their decision, and will not be prepared to give consideration to any representation aimed at securing the modification of it which is not supported by all the parties affected. But they are most desirous to close no door to an agreed settlement should such happily be forthcoming. If, therefore, before a new Government of India Act has passed into law, they are satisfied that the communities who are concerned are mutually agreed upon a practicable alternative scheme, either in respect of any one or more of the Governors' Provinces or in respect of the whole of the British India, they will be prepared to recommend to Parliament that the alternative should be substituted for the provisions now outlined.

5. Members of the "Depressed Classes" qualified to vote will vote in a general constituency. In view of the fact that for a considerable period these classes would be unlikely, by this means alone, to secure any adequate representation in the Legislature, a number of special seats will be assigned to them as shown in the table. These seats will be filled by election from special

constituencies in which only members of the "Depressed Classes" electorally qualified will be entitled to vote. Any person voting in such a special constituency will, as stated above, be also entitled to vote in a general constituency. It is intended that these constituencies should be formed in selected areas where the Depressed Classes are most numerous, and that, except in Madras, they should not cover the whole area of the Province.

In Bengal it seems possible that in some general constituencies a majority of the voters will belong to the Depressed Classes. Accordingly, pending further investigation, no number has been fixed for the members to be returned from the Special Depressed Class Constituencies in that Province. It is intended to secure that the Depressed Classes should obtain not less than 10 seats in the Bengal Legislature.

The precise definition in each Province of those who (if electorally qualified) will be entitled to vote in the Special Depressed Class Constituencies has not yet been finally determined. It will be based as a rule on the general principles advocated in the Franchise Committee's Report. Modification may, however, be found necessary in some Provinces in Northern India where the application of the general criteria of Untouchability might result in a definition unsuitable in some respects to the special conditions of the Province.

His Majesty's Government do not consider that these Special Depressed Classes Constituencies will be required for more than limited time. They intend that the Constitution shall provide that they shall come to an end after 20 years if they have not previously been abolished under the general powers of electoral revision referred to in paragraph 6." [1]

"According to this Award, the Depressed Classes were granted separate seats in the Provincial Assemblies and the right of double vote under which they were to elect their own representatives and to vote also in the general constituencies.

The next day, after his arrival, Dr. Ambedkar wrote a very important letter to Sir Samuel Hoare asking him to clear the meaning of the last part of the paragraph nine of the Award as there was some doubt about it among some of the members of the Depressed Classes. He further wrote that it was impossible for him to make the Depressed Classes accept the Award with the

[1] : Writings and Speeches Vol. 9, Pp. 79-82.

proviso attached to it, and concluded his letter by saying that "pending the arrival of your reply I will try to hold the storm of indignation that is bursting over my head from the Depressed Classes from all parts of India from bursting in public." [1]

Dr. B. R. Ambedkar has issued the following statement from Bombay, on Tuesday the 23rd August 1932, on the Communal Award :—

"No one expected the Communal Award to be everything to everybody and I myself was prepared for some variations in the proposals made by me and my Colleague Rao Bahadur Srinivasan at the Round Table Conference on behalf of the Depressed Classes. But the Communal Award has ruthlessly scaled down their representation in the Provincial Legislatures to quite insignificant proportions. The result is that the Communal Award creates positive grievances by refusing to them adequate representation.

"1 see no justification for this enormity. What has, however, shocked me most is the denial of the right to representation to the Depressed Classes of the Punjab. Knowing as I do the conditions of the Depressed Classes in that Province, I have no hesitation in saying that comparatively speaking their social condition is really worse than that of their fellows in other Provinces of Northern India. Their case for Special Representation was the strongest.

"What reasons His Majesty's Government had for depriving this most deserving class of their seat, I am unable to see unless it be to satisfy the claims of the most turbulent and vociferous sections in that Province. This injustice becomes most flagrant when it is realized that the Indian Christians and the Anglo-Indians without a tithe of the population of the Depressed Classes and without any shadow of social grievances have been provided for with special seats two for the former and one for the latter. These injustices I fear will make the All-India Depressed Classes Federation which is to consider the question averse to the acceptance of the award."[2]

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[1] : Keer, P.204.

[2] : The Free Press Journal, dated 24th August 1932.

Back to India Gandhi was arrested on January 4. Gandhi had not given up his fight for tying the Untouchable Hindus to the caste Hindus in politics. In early March, he informed the British Cabinet from Yeravda Jail that he would resist with his life the separation of the Untouchable Hindus from the Caste Hindus. And when the Communal Award was declared, granting Separate Electorates to the Untouchables, he declared his resolve to fast unto death if the separate electorates for the Depressed Classes were not abolished. Yet on principle, he had no word to say against Separate Electorates being conceded to the Christians, Muslims and Sikhs.

On one more count Gandhi's resort to a fast unto death against the grant of Separate Electorates to the Depressed Classes was not justifiable either." [1]

In this regard, Dr. Ambedkar said,

"Mr. Gandhi found that his threat had failed to have any effect. He did not care that he was a signatory to the requisition asking the Prime Minister to arbitrate. He forgot that as a signatory he was bound to accept the award. He started to undo what the Prime Minister had done. He first tried to get the terms of the Communal Award revised. Accordingly, he addressed the following letter to the Prime Minister:—

YERAVDA CENTRAL PRISON,

August 18,1932.

DEAR FRIEND,

"There can be no doubt that Sir Samuel Hoare has showed you and the Cabinet my letter to him of 11th March on the question of the representation of the Depressed Classes. That letter should be treated as part of this letter and be read together with this.

"I have read the British Government's decision on the representation of minorities and have slept over it. In pursuance of my letter to Sir Samuel Hoare and my declaration at the meeting of the Minorities Committee of the Round Table Conference on

[1] : Keer, Pp. 204-05

13th November, 1931, at St. James' Palace, I have to resist your decision with my life. The only way I can do so is by declaring a perpetual fast unto death from food of any kind save water with or without salt and soda. This fast will cease if during its progress the British Government, of its own motion or under pressure of public opinion, revise their decision and withdraw their scheme of communal electorates for the Depressed Classes, whose representatives should be elected by the general electorate under the common franchise, no matter how wide it is.

"The proposed fast will come into operation in the ordinary course from the noon of 20th September next, unless the said decision is meanwhile revised in the manner suggested above.

"I am asking the authorities here to cable the text of this letter to you so as to give you ample notice. But in any case, I am leaving sufficient time for this letter to reach you in time by the slowest route.

"I also ask that this letter and my letter to Sir Samuel Hoare already referred to be published at the earliest possible moment. On my part, I have scrupulously observed the rule of the jail and have communicated my desire or the contents of the two letters to no one, save my two companions, Sardar Vallabhbhai Patel and Mr. Mahadev Desai. But I want, if you make it possible, public opinion to be affected by my letters. Hence my request for their early publication.

"I regret the decision I have taken. But as a man of religion that I hold myself to be, I have no other course left open to me. As I have said in my letter to Sir Samuel Hoare, even if His Majesty's Government decided to release me in order to save themselves from embarrassment, my fast will have to continue. For, I cannot now hope to resist the decision by any other means ; and I have no desire whatsoever to compass my release by any means other than honourable.

"It may be that my judgment is warped and that I am wholly in error in regarding Separate Electorates for the Depressed Classes as harmful to them or to Hinduism. If so, I am not likely to be in the right with reference to other parts of my philosophy of life. In that case, my death by fasting will be at once a penance for my error and a lifting of a weight from off these numberless men and women who have childlike faith in my wisdom. Whereas if my judgment is right, as I have little doubt it is, the contemplated step is but due to the fulfilment of the scheme of life which I have tried for

more than a quarter of a century, apparently not without considerable success.

I remain,
your faithful friend,
M. K. Gandhi."[1]

This proves the contradiction of Mahatma Gandhi with regard to question of Depressed Classes.

Meanwhile Sardar Vallabhbhai Patel met Gandhiji in Yerwada Jail on September 6,1932 and discussed the issue with him.*

"As was natural, Gandhi's announcement threw the country into a state of consternation. Public appeals were made to Gandhi and the Government, statements were issued to the Press, and prayers were offered. Leaders like Dr. Rajendra Prasad said that Hinduism was on its trial. There was confusion and nervous strain in all Hindu circles ; not because the caste Hindus and their leaders felt ashamed of their cruelty to the Depressed Classes, but because the life of their political hero, their political liberator, was at stake. The traditional tragic trend in the character of the Hindus got the upper hand and they got panicky.

Pandit Malaviya declared from Simla his intention to hold a conference of Hindu leaders in Bombay on September 19 to resolve the deadlock and save the life of the Mahatma, and informed Dr. Ambedkar about it by wire. For to save the life of the Mahatma it was necessary to alter the British Premier's Award, and to amend it, it was necessary to get the approval of Dr. Ambedkar who had wrested these privileges for the Depressed Classes. Naturally, all eyes turned to Dr. Ambedkar as a man of the moment. It was a cruel irony of fate that the leaders and the Press that had refused to recognise Dr. Ambedkar as the leader of the Depressed Classes were now compelled to recognise his leadership of and spokesmanship for the Depressed Classes. He now became the cynosure of the whole country.

Dr. Ambedkar knew the significance and magnitude of the crisis arisen out of Gandhi's fast unto death. Gandhi had hurled a most dangerous and fatal weapon at him. He prepared himself for repelling the weapon. He had an interview with the Governor of Bombay in Poona."[2]

The hurried departure of Dr. B. R. Ambedkar, the champion of Separate Electorates, from Bombay to Poona on Sunday morning to interview the Governor of Bombay, on the eve of the Conference

[1] Writings and Speeches, Vol. 9, Pp. 82-83.
[2] Keer, Pp. 205-206.
* See appendix-IV

convened in Bombay today to persuade the representative of the "Depressed Classes" to give up the scheme of Separate Electorates and save Mahatma Gandhi's life has caused considerable speculation in the city.

The Doctor left for Poona in the morning and after a long conversation with the Governor of Bombay returned to Bombay in the evening.

"Will you attend tomorrow's Conference ?" asked our representative.

To this question Dr. Ambedkar stated that beyond the telegraphic communication that he had received from Pandit Malaviya he had received no formal invitation for the Conference up to now but if he received an invitation he would by all means attend the Conference.

In a statement, issued in the evening Sunday the 11th September 1932, Dr. Ambedkar reiterates his conviction that Separate Electorates are in the interests of "Depressed Classes" and repeats that Mahatma Gandhi must first put forward his proposals to enable the Doctor then to play his own cards."[1]

"I do not care these political stunts." declared Dr. B. R. Ambedkar.

"This threat of Mr. Gandhi." he continued, "to starve himself to death is not a moral fight but only a political move. I can understand a person trying to negotiate with his political opponent on equal terms by giving him credit for honesty, but I will never be moved by these methods."

"My decision stands and if Mr. Gandhi wants to fight with his life for the interests of the Hindu Community the Depressed Classes also will be forced to fight with their lives to safeguard their interests.

In reference to the view expressed by Mr. M. C. Rajah, that if Dr. Ambedkar would agree to give up his demand for Separate Electorates and accepted Joint Electorates with reservation of seats the situation could be saved. Dr. Ambedkar said that he would not agree to it." [2]

Mr. Gandhi wrote a letter addressed to the Government of Bombay on 15th September 1932 showing the reasons as to why he had

[1] : The Bombay Chronicle dated 11th September 1932. (Issue may be of 12th September 1932.—Editors.)

[2]: The Bombay Chronicle, dated 14th September 1932.

taken the decision to go on a fast unto death. The said letter was sent to the press for publication on 21st March 1932. In the said letter he said;

"My fast has a narrow application. The Depressed Classes question being predominently a religious matter, I regard it as specially my own by reason of life-long concentration on it. It is a sacred personal trust which I may not shirk."[1]

In this regard Dr. Ambedkar, clarifying his position, wrote a letter to The Times of India, the letter is as follows—

To the Editor of "The Times of India",

Sir,

I am surprised to read in to-day's newspaper that some eight public meetings are to be held under the auspices of the Emergency Committee in different parts of the City to pass a resolution asking the public to compel the British Government to change their policy regarding the Communal Award in so far as it affects the Depressed Classes. The obvious object of this resolution is to mobilise public opinion against the special arrangement provided in the Premier's Award for the representation of the D. C.

Since Mahatma Gandhi declared his resolve of self-immolation over this question, negotiations have been going on between some prominent Hindu leaders and myself, I was invited to attend a meeting of the Emergency Committee yesterday evening which I did. During the time I was at the meeting no reference was made to any such programme or any such resolution having been contemplated to be placed at public meeting. Had the draft resolution been brought to my notice at yesterday's meeting, I would have certainly objected not only to the wording of the resolution but also to the very idea of holding any public meetings pending the outcome of the negotiations that are proceeding. In fact, it was understood that no propaganda of any kind was to be carried on by either party. This consideration prevented me from holding meetings or starting propaganda in favour of the Communal Award, in spite of a lot of pressure from the members of my party.

[1]: Khairmode, Vol.5, P. 26

These public meetings which the Emergency Committee proposes to hold and the resolution to be moved, but a provocative challenge to me and to my party. Those who have been carrying on negotiations with me cannot carry on their propaganda against me and at the same time hope for an amicable settlement as the result of the negotiations. It must be either negotiations or straight fight. Both cannot go together. If the other party insists on their right to carry on propaganda, they will have no right to blame me if my party also decided to carry on propaganda against them.

B.R. AMBEDKAR.

Bombay, September 18, 1932."[1]

"On the eve of the Conference of the Hindu leaders, Dr. Ambedkar issued a statement to the Press in which he said : "So far as I am concerned, I am willing to consider everything, though I am not willing to allow the rights of the Depressed Classes to be curtailed in any way. It is no use holding a conference in a vacuum or discussing things without any specific data." He frankly related this to a deputation of the Depressed Classes from Ahmedabad, and also in his interview with the Indian multi-millionaire, Seth Walchand Hirachand. He told them that Gandhi could have discussed his proposal with the British Premier ; since he was not putting forth any proposal, he alone was to blame.

Visitors, leaders and friends began to call upon Dr. Ambedkar. One of such early visitors was Thakkar who had served with him on the State Committee. He came to talk the matter over. Dr. Ambedkar to whom time was knowledge and a precious thing said that he was very busy studying an important criminal case and therefore asked Thakkar how much time he would require. Thakkar replied that he would require an hour or so. Dr. Ambedkar said that he would give five minutes. Thakkar asked for more. The interview ended with an algebraic brevity, and Dr. Ambedkar went in. Thakkar, however, saw Dr. Ambedkar again the next day. A furious campaign was launched against Dr. Ambedkar." [2]

[1] : The Times of India of 19th September 1932.

[2] : Keer: Pp. 206-07.

On the eve of the Conference of the Hindu leaders i.e. on 19th September 1932, Dr. B. R. Ambedkar issued another statement to the Press. Following is the full text of the Statement.—Editors.

"I need hardly say that I was astounded to read the correspondence between Mahatma Gandhi, Sir Samuel Hoare and the Prime Minister,* which was published recently in the Papers, in which he has expressed his determination to starve himself unto death" till the British Government of its own accord or under pressure of public opinion revise their opinion and withdraw their scheme of communal representation for the Depressed Classes. The unenviable position in which I have been placed by the Mahatma's vow of self-immolation can easily be imagined.

It passes my comprehension why Mr. Gandhi should stake his life on an issue arising out of the communal question which he, at the Round Table Conference, said was one of a comparatively small importance. Indeed to adopt the language of those of Mr. Gandhi's way of thinking the communal question was only an appendix to the book of India's constitution and not the main chapter. It would have been justifiable if Mr. Gandhi had resorted to this extreme step for obtaining independence for the country on which he was so insistent all through the R. T. C. debates. It is also a painful surprise that Mr. Gandhi should single out Special Representation for the Depressed Classes in the Communal Award as an excuse for his self-immolation. Separate Electorates are granted not only to the Depressed Classes, but to the Indian Christians, Anglo-Indians, Europeans as well as to the Mohamedans and the Sikhs. Also Separate Electorates are granted to land-lords, labourers and traders. Mr. Gandhi had declared his opposition to the Special Representation of every other class and creed except the Mohamedans and the Sikhs. All the same Mr. Gandhi now ellooses to let every body else, except the Depressed Classes retain the Special Electorates given to them.

* See, Writings and Speeches, Vol. 9, Pp. 77-87.

The fears expressed by Mr. Gandhi about the consequences of the arrangements for the representation of the Depressed Classes are in my opinion purely imaginary. If the nation is not going to be split up by Separate Electorates to the Mohamedans and the Sikhs, the Hindu Society cannot be said to be split up if the Depressed Classes are given Separate Electorates. His conscience is not aroused if the nation is split by the arrangements of Special Electorates for classes and communities other than the Depressed Classes.

I am sure many have felt that if there was any class which deserved to be given special political rights in order to protect itself against the tyranny of the majority under the *Swaraj* constitution, it was the Depressed Classes. Here is a class which is undoubtedly not in a position to sustain itself in the struggle for existence. The religion to which they are tied, instead of providing for them an honourable place brands them as lepers not fit for ordinary intercourse. Economically it is a class entirely dependent upon the High-Caste Hindus for earning its daily bread with no independent way of living open to it. Not only every path of progress is closed to them by reason of the social prejudices of the Hindus but there is a definite attempt all throughout the Hindu Society to bolt every possible door so as not to allow the Depressed Classes any opportunity to rise in the scale of life. Indeed it would not be an exaggeration to say that in every village the caste Hindus, however devided among themselves, are always in a standing conspiracy to put down in a merciless manner any attempt on the part of the Depressed Classes who form a small and scattered body of an ordinary Indian citizen.

In these circumstances it would only be fair for all right minded persons admit that for a community so handicapped, some share of statutory political power is a paramount necessity to succeed in the struggle for life and to protect itself against organized tyranny.

I should have thought that a well-wisher of the Depressed Classes would have fought tooth and nail for securing to them as much political power as might be possible in the new Constitution. But the Mahatma's ways of thinking are strange

and are certainly beyond my comprehension. He not only does not endeavour to augment the scanty political power which the Depressed Classes have got under the Communal Award, but on the contrary he has staked his very life in order to deprive them of what little they have got. This is not the first attempt on the part of the Mahatma to completely dish the Depressed Classes out of political existence. Long before there was the Minorities Pact, the Mahatma tried to enter into an agreement with the Muslims in order to defeat the claims of the Depressed Classes. He offered to the Muslims all the 14 claims which they had put forth on their behalf, and in return asked them to join with him in resisting the claims for Social Representation made by me on behalf of the Depressed Classes.

It must be said to the credit of the Muslim delegates, that they refused to be party to such a black act, and saved the Depressed Classes from what might as well have developed into a calamity for them as a result of the combined opposition of the Mohamedans and Mr. Gandhi.

I am unable to understand the ground of hostility of Mr. Gandhi to the Communal Award. He says that the Communal Award has separated the Hindu Community. On the other hand Dr. Moonje, a much stronger protagonist of the Hindu cause and a millitant advocate of its interests, takes a totally different view of the matter. In the speeches which he has been delivering since his arrival from London, Dr. Moonje has been insisting that the Communal Award does not create any separation between the Depressed Classes and the Hindus. Indeed, he has been boasting that he has defeated me in my attempt to politically separate the Depressed Classes from the Hindus. I am sure that Dr. Moonje is right in his interpretation of the Communal Award although I am not sure that the credit of it can legitimately go to Dr. Moonje. It is therefore, surprising that Mahatma Gandhi, who is a Nationalist, and not known to be a communalist, should read the Communal Award in so far as it relates to the Depressed Classes in a manner quite contrary to that of a communalists like Dr. Moonje. If Dr. Moonje does not sense any separation of the Depressed Classes from the Hindus in the Communal Award the Mahatma ought to feel quite satisfied on that score.

In my opinion the Communal Award should not only satisfy the Hindus, but also satisfy those individuals among the Depressed Classes such as Rao Bahadur Rajah, Mr. Baloo or Mr. Gavai who are in favour of Joint Electorates. Mr. Rajah's fulminations in the Assembly have amused me considerably. An intense supporter of Separate Electorates and the bitterest and the most vehement critic of caste Hindu tyranny, now professes faith in the Joint Electorates and love for the Hindus. How much of that is due to his natural desire to resusciate himself from the oblivion in which he was cast by his being kept out of the Round Table Conference and how much of it is to his honest change of faith, I do not propose to discuss.

The points on which Mr. Rajah is harping by way of criticism on the Communal Award are two; One is that the Depressed Classes have gained lesser number of seats than they are entitled to on the population basis, and the other is that the Depressed Classes have been separated from the Hindu fold.

I agree in his first grievance, but when the Rao Bahadur begins to accuse those who represented the Depressed Classes at the R. T. C. for having sold their rights, I am bound to point out what Mr. Rajah did as a member of the India Central Committee. In that Committee's report the Depressed Classes were given in Madras 10 seats out of 150; in Bombay 8 seats out of 114; in Bengal 8 seats out of 200; in U. P. 8 seats out of 182; in Punjab 6 seats out of 150; in Behar and Orissa 6 out of 150; in C. P. 8 out of 125 and in Assam 9 seats for the Depressed Classes and the indigenous and primitive races out of 75. I do not wish to overburden this statement by pointing out how this distribution compares with the population ratio. But there can be no doubt that this meant a terrible under-representation of the Depressed Classes. To this distribution of seats Mr. Rajah was a party. Surely, Mr. Rajah, before he criticises the Communal Award and accuses others, should refresh his memory of what he accepted as Member of the Indian Central Committee on behalf of the Depressed Classes without any protest. If the population ratio of representation was to him a natural right of a Depressed Classes and its full realisation was a necessity for their protection, why did not Mr. Rajah insist upon it in the Central Committee when he had an opportunity to do so ?

As to his contention that in the Communal Award, the Depressed Classes have been separated from the caste Hindus, it is a view to which I cannot subscribe. If Mr. Rajah has any conscientious objection to Separate Electorates, there is no compulsion on him to stand as a candidate in the Separate Electorates. The opportunity to stand as a candidate in the General Electorate as well as the right to vote in it are there, and Mr. Rajah is free to avail himself of the same. Mr. Rajah is crying at the top of his voice to assure to the Depressed Classes that there is a complete change of heart on the part of the Caste Hindus towards the Depressed Classes. He will have the opportunity to prove that fact to the satisfaction of the Depressed Classes, who are not prepared to take his word by getting himself elected in the General Constituency. The Hindus who profess love and sympathy for the Depressed Classes, will have also an opportunity to prove their bona-fides by electing Mr. Rajah to the legislature.

The Communal Award, therefore, in my opinion satisfied both those who want Separate Electorates and those who want Joint Electorates. In this sense it is already a compromise and should be accepted as it is. As to the Mahatma, I do not know what he wants. It is assumed that although the Mahatma is opposed to the system of Separate Electorates he is not opposed to the system of Joint Electorates and Reserved Seats. That is a gross error. Whatever his views are to-day, while in London he was totally opposed to any system of Special Representation for Depressed Classes whether by Joint Electorates or by Separate Electorates. Beyond the right to vote in a General Electorate based upon Adult Suffrage, he was not prepared to concede anything to the Depressed Classes by way of securing their representation in the legislatures. This was the position he had taken at first. Towards the end of the R. T. C. he suggested to me a scheme which he said he was prepared to consider. The scheme was purely conventional without any constitutional sanction behind it and without any single seat being reserved for the Depressed Classes in the Electoral Law.

The scheme was as follows :—

Depressed Class candidates might stand in the General Electorate as against other High-Caste Hindu candidates. If any Depressed Class candidate was defeated in the election he should file an election petition and obtain the verdict that he was defeated because he was an Untouchable. If such a decision was obtained, the Mahatma said he would undertake to induce some Hindu members to resign and thus create a vacancy. There would be then another election in which the defeated Depressed Class candidate or any other Depressed Class candidate might again try his luck as against the Hindu candidates. Should he be defeated again he should get similar verdict that he was defeated because he was an Untouchable and so on "*adinfinitum*." I am disclosing these facts as some people are even now under the impression that the Joint Electorates and Reserved Seats would satisfy the conscience of the Mahatma. This will show why I insist that there is no use of discussing the question until the actual proposals of the Mahatma are put forth.

I must, however, point out that I cannot accept the assurances of the Mahatma that he and his Congress will do the needful. I cannot leave so important a question as the protection of my people to conventions and understandings. The Mahatma is not an immortal person, and the Congress, assuming it is not a malevolent force, is not to have an abiding existance. There have been many Mahatmas in India whose sole object was to remove Untouchability and to elevate and absorb the Depressed Classes; but every one of them has failed in his mission. Mahatmas have come and Mahatmas have gone. But the Untouchables have remained as Untouchables.

I have enough experience of the pace of reform and the faith of Hindu reformers in the conflicts that have taken place at Mahad and Nasik, to say that no well-wisher of the Depressed Classes will ever consent to allow the uplift of the Depressed Classes to rest upon such treacherous shoulders. Reformers who in moments of crisis prefer to sacrifice their principles rather than hurt the feelings of their kindred, can be of no use to the Depressed Classes.

I am therefore bound to insist upon a Statutory Guarantee for the protection of my people. If Mr. Gandhi wishes to have the Communal Award altered, it is for him to put forth his proposals and to prove that they give a better guarantee than has been given to us under the Award.

I hope that the Mahatma will desist from carrying out the extreme step contemplated by him. We mean no harm to the Hindu Society when we demand Separate Electorates. If we choose Separate Electorates we do so in order to avoid the total dependence on the sweet will of the caste Hindus in matters affecting our destiny. Like the Mahatma we also claim our right to err, and we expect him not to deprive us of that right. His determination to fast himself unto death is worthy of a far better cause. I could have understood the propriety of the Mahatma contemplating such extreme step for stopping riots between Hindus and Mohamedans or between the Depressed Classes and the Hindus or for any other national cause. It certainly cannot improve the lot of the Depressed Classes. Whether he knows it or not the Mahatma's act will result in nothing but terrorism by his followers against the Depressed Classes all over the country.

Coercion of this sort will not win the Depressed Classes to the Hindu fold if they are determined to go out. And if the Mahatma chooses to ask the Depressed Classes to make a choice between Hindu faith and possession of political power I am quite sure that the Depressed Classes will choose political power and save the Mahatma from self-immolation. If Mr. Gandhi coolly reflects on the consequences of his act I very much doubt whether he will find this victory worth having. It is still more important to note that the Mahatma is releasing reactionary and uncontrollable forces, and is fostering the spirit of hatred between the Hindu Community and the Depressed Classes by resorting to this method and thereby widening the existing gulf between the two. When I opposed Mr. Gandhi at the R, T. C. there was a hue and cry against me in the country and there was conspiracy in socalled nationalist press to represent me as a traitor to the nationalist cause, to supress correspondence coming from my side and to boost the propaganda against my party by publishing exaggerated reports of meetings and conferences, many of which

were never held. "Silver bullets" were freely used for creating divisions in the ranks of the Depressed Classes. There have been also a few clashes ending in violence.

If the Mahatma does not want all this to be repeated on a larger scale, let him for God's sake, reconsider his decision and avert the disastrous consequences. I believe the Mahatma does not want this. But if he does not desist, in spite of his wishes these consequences are sure to follow as night follows the day.

Before concluding this statement, I desire to assure the public that although I am entitled to say that I regard the matter as closed I am prepared to consider the proposals of the Mahatma. I however, trust the Mahatma will not drive me to the necessity of making a choice between his life and the rights of my people. For I can never consent to deliver my people bound hand and foot to the Caste Hindus for generations to come."[1]

"The declaration of the fast unto death by Mr. Gandhi made the people learn more about the condition of the Untouchables and opened their eyes for a while to the passions that were seething in the bosom of the Untouchables. The people, the Press and patriots were roused to a realisation that there was a blot on their society. There was an endless talk about Dr. Ambedkar in every political party, in every social circle and in every religious institution. He was flooded with telegrams and letters, some threatening his life, some appealing to his conscience, and some supporting his stand.

As declared, the Conference of the Hindu leaders was held amidst this tense situation at the spacious Hall of the Indian Merchants' Chamber on September 19, 1932, under the presidentship of Pandit Madan Mohan Malaviya. Dr. Ambedkar and Dr. Solanki were seated just near the President's chair. Rajah and Dr. Moonje came to the Hall arm-in-arm."[2]

Among those present were : Rajendraprasad, C. Rajgopalachari, Pandit Kunzaru, T. Prakasham, Dr. Chauthiram, Swami Satyanand, Mr. Aney, G. A. Gawai, Mr. Shivraj, Mr. Jagannathan, Mr. Dharmalingam, Mr. Mandal, Sir Chunnilal,

[1] : Janata, dated 24th September 1932.

[2]: Keer, P. 208.

Hirachand Walchand, Sir Setalwad, Sir Madgaonkar, Sir Purushottamdas, Shri Deodhar, Mr. Natrajan, Rao Bahadur Vaidya, Dr. Deshmukh, Dalvi, Subhedar, Seth Birla, Mr. Karandikar, Dr. Savarkar, Shivatarkar, P Balu, Nikalje, Kamaia Nehru, Perani Captain, Moshon Captain, Sau. Awantikabai Gokhale, Mrs. Annapurnabai Deshmukh, Ratanben Mehta, Miss Natrajan.

In order to save the life of Mahatma Gandhi, Pandit Madan Mohan Malviya, the President of the meeting suggested that a solution acceptable to both the sides should be found out.

On the request of Pandit Malviya, Dr. B. R. Ambedkar rose to speak. He stated his views in a candid manner. He said,

"Looking at the objective of this Conference, I do not feel the need of calling such a Conference. In order to oppose our demands, Mahatma Gandhi has started fast unto death. It is natural that everybody would like to save the valuable life of Mahatma Gandhi. But Gandhiji should have put some concrete alternative proposal before staking his life. Having considered the present situation, I feel that without any clear alternative proposal from Gandhiji, all efforts towards negotiations would be in vain. And to be frank, there is nothing left to be decided. Unless we know what really is in the mind of Gandhiji, all the repeatative deliberations of this Conference are not going to yield any result. To whatever length this Conference may deliberate I am not in a position to find any solution before I know what really is in the mind of Gandhiji and I tell you bluntly that I am not at all bound to proposals coming from the convenors of this conference or any of the leaders, I shall consider the opinion only of Mahatma Gandhi. Unless I know his proposal how can I give my opinion ? Bring his proposal first and then I shall think over it. And I make it clear in the beginning itself that any proposal from Gandhiji should be brought by the representatives of the caste Hindus from among you and that I shall not accept any proposal brought forward by an Untouchable leader on behalf of Gandhiji. I shall not sacrifice the rightful demands of my people just in order to save the life of Mahatma Gandhi."[1]

Here, this Conference adjourned for the day.

[1] : Janata, dated 24th September 1932.

"On Monday, September 20, 1932 at 12 O'clock noon Mahatma Gandhi started his fast unto death. A committee was formed to have negotiations in the matter. The committee consisted of Sir Tejbahadur Sapru, Bar. Jaikar. Pandit Madan Mohan Malviya, Mathuradas Wasanji as representatives of the high Caste Hindus. Dr. B. R. Ambedkar was invited for the meeting. In the Conference Sir Chunnilal put forward the following views on behalf of Mahatma Gandhi before the Committee members.

They were :

1. Mahatma Gandhi opposed to the decision of awarding Separate Electorates for the Untouchables.

2. He is not fully agreeable to the Joint Electorates as well as for the reserved seats. However, he would not object if the All Hindu Conference at Mumbai would take a specifice decision for the reserved seats but it would not mean that he necessarily agrees with it. If at all any fact is agreed upon he may probably give his consent.

Dr. Ambedkar rose to speak after listening the proposals of Mahatma Gandhi. His speech was really very forceful and touching to the heart. He said,

"Today in the negotiations in this difficult situation, I am in more strange position than all others. Unfortunately, in these peaceful negotiations I appear to be acting as villain for the protection of just demands of my people. I am willing to suffer to any extent in order to get fulfilled the just demands of my people.

I tell you I shall not deter from my pious duty, and betray the just and legitimate interests of my people even if you hang me on the nearest lamp-post in the street. The question faced today is not to be solved by succumbing to emotions, but by constitutional means as it involves the countless brethren who

have been suffering in the slavery for ages. Adherence only to conscience will not be of any help here. Looking at the nature of the proposal of Mahatma Gandhi, it will take some more time to think. However this Conference, through a resolution should convey to Mahatma Gandhi to postpone his fast for 10-12 days.

But the President Pandit Madan Mohan Malviya stated that it would not be possible in any circumstances. Consequent upon this Dr. Ambedkar did not agree to give up the Communal Award."[1]

"The Conference then adjourned till two in the afternoon, next day, the 21st September. But immediately the leading members of the Conference went to Birla House and there Sir Tej Bahadur Sapru evolved a scheme of Primary and Secondary elections for the reserved seats. According to it the Depressed Classes themselves were to select for every seat a panel of not less than three candidates and then out of those three chosen candidates one was to be selected by the Joint Electorate of the Caste Hindus and the Depressed Classes." [2]

"After a lengthy discussion, Dr. Ambedkar said that there could be a settlement provided the additional concessions in regard to the Award were given to make good the loss which would be caused due to giving up the Award. The representatives of the Congress assured that they would think over the proposal. Pandit Malviya suggested to form a small committee in this regard. Accordingly the Committee consisting of Tej Bahadur Sapru, Barister Jaikar, Pandit Malviya, Mathuradas Wasanji and Dr. Ambedkar was formed and these names were ' intimated to the Conference.

Accordingly Dr. Ambedkar prepared the charter of demands and put up before the Committee at 10 p.m. on 20th September 1932 in Birla Bhavan. The text of the same is as follows."[3]

[1]: Janata, dated 1st October 1932.

[2]: Keer, P. 209.

[3]: Janata, dated 1st October 1932.

The Charter of demands made on the eve of Mahatma Gandhi's fast

"Part One :—Representation in the Legislature.

(A) The Depressed Classes shall have the following number of seats in the provincial Legislatures :—

			As per award
Madras	.....	30 out of 215	18
Bombay	.....	16 out of 200	10
Bengal	.....	50 out of 250	10
Punjab	.....	10 out of 175	9
U. P.	.....	40 out of 228	12
Behar & Orissa	.....	20 out of 175	7
C. P &Berar	.....	20 out of 112	10
Assam	.....	11 out of 108	4

(B) The method of election to those seats shall be by Joint Electorates and Reserved seats, provided that for the first ten years in 18 single constituencies in Madras, in 10 single Constituencies in Bombay, Central Proviences and Bengal, in 4 single Constituencies in Assam, in 7 single constituencies in Behar and Orissa, in 5 single constituencies in Punjab and in 12 single constituencies in U. P. there shall be held before the General Election a Primary Election of the voters of the Depressed Classes for electing 2 persons to constitute a panel who thereafter shall contest on behalf of the Depressed Classes in the Joint Electorate.

After Ten years

(C) After the first 10 years the system of Primary Election shall cease to be in operation and all seats without exception shall continue to be filled by direct election on the system of Joint Electorates and Reserved Seats.

(D) The right of the Depressed Classes to Special Representation through Joint Electorates and Reserved Seats shall be continued to them for a further period of 15 years. After the said period the matter shall be settled on the basis of referendum to the voters of the Depressed Classes.

(E) The right of the Depressed Classes to Special Representation in both Houses of the Central Legislature shall be recognised on a population ratio on the same terms and in the same manner as is provided for in the case of the Provincial Legislatures.

(F) There shall be Adult Suffrage at least for the Depressed Classes. The franchise of the Depressed Classes shall be the same for the Provincial and the Central Legislatures.

Part Two : Local Boards

1. The Depressed Classes shall be allowed representation in all the Provinces in all Municipalities, Local Boards, District and Taluka, Village Unions, School Boards of Punchayats and any Local Body now existing or to be constituted in the future on the population basis.

2. In all Public Services, Central and Local, the Depressed Classes shall be guaranteed appointments according to their population ratio as a minimum subject to qualifications as may be laid down for the same. Provision shall be made for reaching the quota by relaxing the statutory rules that may be in existence in matters other than educational qualifications.

3. In every province out of the Educational Grant a sum equivalent to the population ratio of the Depressed Classes in that province shall be ear-marked as a minimum for providing educational facilities to the Depressed Classes.

4. There shall be a provision in the Constitution allowing the Depressed Classes the right to Appeal to the Governor and the Viceroy for any neglect of their interest in the matter of education, sanitation, recruitment in Public Services, etc., on the same terms and in a manner provided in the Constitution of Canada, Section 93." [1]

"Sir Tej Bahadur Sapru evolved a Supreme of Primary and Secondary electors for the reserved seats. Thereupon Dr. Ambedkar said that he would consult his colleagues and come back within two hours with his proposal—Dr. Ambedkar returned at night and told them that he would accept the proposal, but demanded a much larger number of seats than the British Premier's Award had given them."

[1] : Janata, dated 24th September 1932.

"The leaders accepted his suggestion; and Jayakar, Sapru, Birla, Rajagopalachari and Dr. Rajendra Prasad left for Poona by the midnight train on Tuesday.

On September 21 Gandhi was removed at noon to the courtyard just near the entrance of Yeravda Jail, and Sardar Patel and Gandhi's Secretary Pyarelal were allowed to sit near his cot. At noon Sapru telephoned to Dr. Ambedkar from Poona asking him to come to Poona immediately."[1]

"Dr. Ambedkar in the interview with the *Times of India,* before leaving for Poona on Wednesday the 21st September 1932 said : "I have received a message from Poona telling me that Mr. Gandhi wishes to see me and Mr. Rajah with regard to the proposal which I submitted to the Committee appointed by the Conference last night".

"I have accepted the invitation but I have made it clear that I will have nothing to do in the way of negotiation with Mr. Rajah and his party, and if Mr. Gandhi wishes to talk with them, he should do so separately. My reason for saying this is that the dispute is really between me and my party on the one hand and Mr. Gandhi on the other".

"Besides I do wish to mark my emphatic disapproval of the policy of the Congress and the Hindu Mahasabha of creating leaders for the Depressed Class for their own purposes and by there own propaganda and then trying to foist them on the Depressed Classes. In this there is nothing personal against Mr. Rajah. I am starting to-night."

Another Visit to Yeravda

Sir Tej Bahadur Sapru and Mr. Jayakar who arrived in Poona by train visited Mr. Gandhi on Wednesday in the jail at 7-30 a.m. and remained in Conference with him until after 10 a.m. On leaving they said that they anticipated returning again tomorrow morning.

[1] : Keer. P210.

A Statement issued after the interview says :—

The deputation consisting of Sir Tej Bahadur Sapru, Mr. Jayakar, Mr. Rajagopalachari, Babu Rajendra Prasad and Mr. G. D. Biria had a long interview with Mr. Gandhi this morning when they explained to him the scheme which had been evolved at yesterday's consultations. The interview proved to be quite hopeful, but Mr. Gandhi reserved his final opinion until he had held further consultations in the matter with friends including Dr. Ambedkar and Mr. M. C. Rajah.

The deputationists are, therefore, staying behind at Poona for another day. Sir T. B. Sapru, with whom the scheme originated, was very hopeful that it would be acceptable to Mr. Gandhi and that thus a solution of the problem would be found. The deputationists found Mr. Gandhi well and quite cheerful." [1]

"Dr. Ambedkar left by the midnight train.* On the same day Rajah and Malaviya, too, left Bombay for Poona.

On Thursday morning, i.e. on 22nd September 1932, Gandhi had a talk with Dr. Rajendra Prasad and Rajagopalachari and said he did not like that election to some of the reserved seats should be both by primary and secondary election system and to some only by Joint Electorates. He said the primary and secondary election system should be applied to all seats alike. This was related to Dr. Ambedkar at the National Hotel. Again the atmosphere became heated. Some of the leaders suggested that in the meanwhile they should send a cable to the British Premier requesting him to cancel the Separate Electorates for the Depressed Classes."[2]

On the same day "at 9 A.M. Sir Tejbahadur Sapru and Bar. Jaikar met Dr. Ambedkar at National Hotel and apprised him about the above facts." [3]

"But Dr. Ambedkar stoutly and pointedly told them that he would be prepared to lose separate electorates which the British Premier had invested them with, provided he was given a concrete

[1] : The Times of India, dated 22nd September 1932.

[2]:Keer,P. 210.

[3] : Janta, 1st October 1932.

* Dr. Ambedkar was accompanied by Dr. Sotanki—Editors.

picture of the substitutes and added that he was not a man to run after a mirage. The atmosphere of dullness gave place to grim despair. At noon Jayakar, Sapru and Malaviya saw Gandhi in the Jail. They were followed by P. Baloo and Rajah, who promised Gandhi that they would secure an agreement that would satisfy him.

Late in the evening Dr. Ambedkar, accompanied by Jayakar, Birla, Chunilal Mehta and Rajagopalachari, went to meet Gandhi in the jail. It was the gravest political crisis. When the party entered the prison court, Gandhi was lying on a white iron-cot with a jail mattress on it, under the thick shade of a low mango tree, and Sardar Patel and Sarojini Naidu sat near Gandhi. Near the cot were bottles of water, sodabicarb and salt.

When Dr. Ambedkar approached the cot, there was an echoless silence and a breathless eagerness. Would the entangling silence move Dr. Ambedkar ? Jayakar had foretold that Dr. Ambedkar's intransigence would collapse when he saw Gandhi. Would the entrancing sadness in the atmosphere deepened by the twilight inveigle Dr. Ambedkar ? Dr. Ambedkar was now in the presence of the enveloping personality of Gandhi who had cast his spell on powerful men and drowned them in the flood of his magnetic mysticism. Amidst the fierce whirlwind raging outside the jail and the entangling silence prevailing inside, Dr. Ambedkar was calm and collected. A lesser man would have been buried alive in such a cyclone of happenings. Dr. Ambedkar loved his people more than his life and cared more for the happiness of his people than for his own.

Gandhi was weak. He lay in his bed. The talk began. Sapru narrated to Gandhi the whole story. Malaviya put the Hindu point of view. Then in a soft, slow flow Dr. Ambedkar began. He said in a low voice:" [1]

"Mahatmaji, you have been very unfair to us." "It is always my lot to appear to be unfair," replied Gandhi, "I cannot help it."

[1] :Keer, Pp. 210-12.

The interview was protracted and Dr. Ambedkar did most of the talking, while Gandhi lay weak and still in his bed. "I want my compensation," Dr. Ambedkar urged repeatedly. "I am with you in most of the things you say," assured Gandhi, "but you say you are interested in my life."

Dr. Ambedkar :— "Yes, Mahatmaji, I am. And if you devote yourself entirely to the welfare of the Depressed Classes, you would then become our hero."

Gandhi :— "Well, if you are interested in my life, you know what you have got to do to save that life. Your position, from what you tell me, is like this. You want adequate price and compensation before you can agree to forgo what you have already secured under the Premier's decision. You say that the double system of voting proposed by you gives sufficient scope to the other party to rise, while the seats to be filled under the Panel System are designed to satisfy the aspirations of your group. What worries me, however, is this. Why do you propose the Panel System only for some seats ? Why do you not propose it for all the seats ? If the panel system is good for one section, it should be good even for the whole of the Depressed Classes. That is how I regard the question. You are 'Untouchable' by birth, but I am now going to make, what might appear as an astounding claim for a man in my position, I am an 'Untouchable' by adoption, and as such more of an 'Untouchable' in mind than you. Any scheme that is really good should subserve the interests not of this group or of that, but of the Depressed Class as a whole. That is the criterion by which I judge this scheme. My first suggestion to you is that, if the Panel System is good for any section of the Depressed Classes, it should be extended to all the Depressed Class seats. I cannot stand the idea that your community should either in theory or in practice be separated from me. We must be one and indivisible. As I have told the other friends, I feel no difficulty in accepting your scheme of electing a panel for a few seats. I want to make a present of it to you for all the seats. I confess I do not like the scheme as it stands. It will divide your community, and would give my life to prevent that, just as I am giving my life to prevent the disruption of the whole Hindu Community. (Epic Fast Pp. 209-210)" [1]

[1] : Reprinted, Khairmode, Vol. 5-Pp. 45-46.

"Dr. Ambedkar accepted Gandhi's suggestion. The interview ended, and the leaders started to settle other details regarding the number of men in the panel, number of total seats in the provincial assemblies, duration of the primary system, duration of the reserved seats and distribution of posts."[1] (The Epic Fast. Pp. 209-10)."

When Dr. Ambedkar and Dr. Solanki saw Mr. Gandhi, they were accompanied by most of the leaders then present in Poona.

"Friday, the 23rd September, dawned. For hours hot discussions raged over the number of candidates required to make the panel. Then there was the question of seats. Dr. Ambedkar demanded 197 seats in the Provincial Assemblies and the leaders reduced the number to 126. Negotiations dragged on. Hours rushed by. After ten hours of discussion, some points were referred to Gandhi and he upheld Dr. Ambedkar's points. But still the negotiations seemed to break down on the question of duration of primary election and referendum to decide the duration of reserved seats. Dr. Ambedkar said that the system of Primary Election should terminate at the end often years; but he insisted that the question of reserved seats should be settled by referendum of the Depressed Classes at the end of further fifteen years. The leaders' opinion was that the evil of reserved seats and separation would be perpetuated by making its removal dependent upon the will of the Depressed Classes. Dr. Ambedkar's insistent demand for a referendum at the end of twenty-five years created a furore among the caste Hindu circles. Dr. Ambedkar frankly told them that he refused to believe that Untouchability would be no more in the next twenty years or so, and therefore he said that faced with the sword of Damocles, the Caste Hindus would be compelled to change their inhuman attitude to the Untouchables" [2]

" ... Dr. Ambedkar desired Gandhi to agree to a referendum of ten years. Gandhi was slightly better and he spoke very slowly but deliberately. "Your logic is irrefutable," he said. "But let the referendum be at the end of five years. Surely, five years is a sufficient period to prove the bona-fides of the Caste

[1] : Keer, P. 212.

[2] : Keer, Pp. 212-213.

Hindus. But if you insist on postponing the referendum further, I would begin to suspect that what you want is not to test the bona fides of the Caste Hindus but time only to organize the Depressed Classes for an adverse referendum." He made an impassioned appeal for mutual trust, confidence, and goodwill. He described how from the age of twelve, his whole being had rebelled against the very idea of regarding any fellow human being Untouchable and how since then he had led a ceaseless crusade against the evil. "You have a perfect right to demand cent per cent security by the statutory safeguards," he told Dr. Ambedkar, "But, from my fiery bed, I beg of you not to insist upon the right. I am here to-day to ask for a reprieve for my Caste Hindu brethren. Thank God, their conscience has been roused. If you proceed to wrest from them cent per cent security by the statutory means, then it will interrupt the process of heart-cleansing and self-purification that is fast taking place among them. The particular injustice, for a while, to the Untouchables might be checked, but the taint in Hinduism would remain. After all, Untouchability is but a symptom of that deep-seated taint. And, if Hinduism is not completely purged of it, it will assert itself again and again in various ways and continue to poison our entire social and political fabric. I entreat you, therefore, not to deprive Hinduism of a last chance to make a voluntary expiation for its sinful past. Give me the chance of working among the Caste Hindus. That is but fair. If you ask for ten or fifteen years, then it is no chance at all. Hindus must give a good account of themselves within five years or not at all. For me, therefore, the five-year limit of referendum is an absolute matter of conscience. There should be a referendum, but not at the end of any period longer than five years. Tell your friends that I am adamant on this point. I may be a despicable person, but when truth speaks through me I am invincible. "(Epic Fast, Pp. 211—212)." [1]

"The interview ended, and leaders started to settle other details regarding the number of men in the panel, number of total seats in the Provincial Assemblies, duration of the primary system, duration of reserved seats and distribution of posts." "This meeting took place at the residence of Raja Bahadur Shivlal Motilal."

[1]: Reprinted. Khairmode, Vol. 5, Pp. 47-48.

"It was now four in the evening. News came in that Gandhi's health had taken a serious turn, and he was fast losing strength. Gandhi's son, Devdas Gandhi, with tears in his eyes, described the condition of his father to Dr. Ambedkar and entreated him not to hold over the agreement by pressing for a referendum. At last it was decided to refer this matter to Gandhi. Ambedkar with selected leaders saw Gandhi in the jail at nine o'clock that night. Gandhi approved of the idea of referendum, but said it should take place after five years. Gandhi's voice had now sunk to a whisper. The Jail Doctors intervened and stopped further conversation. The leaves of the mango tree above refused to move. It was a breathless silence. The visitors had to return. Dr. Ambedkar was not prepared to give up his point. His will-power was on the strain. Letters threatening his life came in showers." [1]

Here is one such letter :

"Dr. Ambedkar,

If you do not accept to Mahatma Gandhi's demand within four days, your life will be in danger. If you want to save your life, you should accept Gandhiji's demand and help ending his fast immediately. This is a warning to you. If you do not give up your vehemence, you will be killed."

Signed by Haribhai K. Bhat,
A member and worker of BPEE" [2]

Murderous looks were cast at him in the street, and some of the leaders insanely reviled him behind his back."

Further, a secret plan to kill Dr. Ambedkar by some youth from touchable classes of Poona was reported by 'Janata' (24-9-32, P. 8), thus:

"Dr. Ambedkar's life in danger !

Secret Meeting of Poona students Murder threat"

Poona, Dt. 23-9-32, 8 P. M.

[1]:Keer,P.213.

[2]: Janata, dated 1st October 1932.

(By Special Reporter of Janata)

"Two days are over. Negotiations are continuously going on. Various experiments of pressurising Dr. Ambedkar are going on. The students following the Gogate cult which had shot at the Governor, are known to be secretly planning. It is also being said that if Dr. Ambedkar is removed from the scene, things would settle and Gandhiji's life would be saved. When Dr. Ambedkar was informed of this, he laughed at it. Probably his fearless laugh indicated that he was not afraid of such a death. However, the local Untouchable community is worried about the safety of Dr. Ambedkar and they are keeping an alert. Even if there happens a slightest injury to Dr. Babasaheb Ambedkar, there would be a grave situation. Thousands of Untouchable youth would be ready to make any sacrifice for him. All are feeling a concern that there should not be such a violent end to Gandhiji's oath." [1]

"The leaders who went to see Mahatmaji at 9-30 p.m. came out after a comparatively short while looking exhausted but cheerful. Dr. Ambedkar was heard to remark "Gandhiji is on my side."

"The leaders are meeting again in conference at 8 o'clock on Saturday morning and will see Gandhiji shortly afterwards. Prevalent opinion is that complete agreement is now within reach. And unless a miraculous piece of ill-luck intervenes, Saturday noon must enable Poona to flash out the happy news of a difinite settlement.

Differences on questions of major importance have almost been surmounted and have been reduced to an almost theoretical difference on the question of a referendum of the Depressed Classes at a distant future date. It is considered likely that the leaders may agree to a referendum to be taken after 10 years.

[1]: Janata, dated 24th September 1932.

Among the points agreed upon are stated to be the following :—

1. A panel of 4 for election to each seat.

2. A single vote.

3. The total number of seats in all Provincial Councils to be reserved for Depressed Classes would be between 150 to 155 as against 71 allowed by the Communal Award.

The Conference, which had met at Pandit Malaviya's place, early in the morning, after a non-stop sitting of over thirteen hours, came to an end at 9-30 p. m., after which Pandit Malaviya, Sjt. C. Rajagopalachari, Mr. Jayakar, Dr. Sapru, Dr. Ambedkar and others left hurriedly for Yeravda jail.

The Conference attracted anxious crowds at Malaviyaji's place. Even when the leaders rose at 9-30 p. m., no hope of settlement to-night was entertained.

Leaders are racing against time, and lunch after dinner today went side by side with discussions.

While they looked serious and absorbed earlier, boisterous laughter was heard emanating from behind the walls in the evening.

The Conference of caste Hindus and Depressed Class Leaders commenced at 9 o'clock this morning at Malaviya's residence behind closed doors. The Conference, it is understood, covered much ground and came to a settlement on questions of panel for election, and basis of representation except in the United Provinces, though the final word on the matter is still unsaid.

Regarding panels, it is stated that a panel of four has been fixed as against Dr. Ambedkar's understood demand for two and Gandhiji's suggestion for five.

To anxious queries by pressmen late in the evening, Dr. Sapru replied : "discussions are so far satisfactory, and we propose to sit through it even in the night."

Dr. Ambedkar after the Conference stated :—

"The situation is hopeful. Differences of crucial character are few, and there are chances of agreement. Gandhiji is feeling weak owing to the fast but carried on the conversation with us for over fifteen minutes." [1]

"On Saturday morning discussions were resumed. The question of the total number of seats was decided by granting 148 seats to the Depressed Classes in the Provincial Assemblies, and it was also decided that 10 per cent of the seats of the Hindus from British India in the Central Assembly should be given to the Depressed Classes. And then discussion was held for hours on the question of referendum which baffled the solution as before. As nobody would agree to Dr. Ambedkar's demand, he thought it proper to see Gandhi once again in the matter. So, accompanied by Dr. Solanki and Rajagopalachari, he went to Gandhi. Gandhi told Ambedkar that his logic was irrefutable; but he said mere statutory guarantee would not root out the disease. He, therefore, entreated Ambedkar to give a last chance to Hinduism to make a voluntary expiation for its sinful past and added that there should be a referendum but not at the end of any period longer than five years. "Five years or my life," said Gandhi with a tone of finality.

Returning to the place of discussion, Dr. Ambedkar said that he was not prepared to yield on the point of the period of referendum which should be, he averred, not less than ten years. After an hour or so they decided to make the agreement without the condition of referendum attached to it ! Rajagopalachari explained it to Gandhi in the jail at three in the afternoon. Gandhi said it was excellent and gave his consent. Rajagopalachari returned posthaste to 1, Ramkrishna Bhandarkar Road, Shivlal Motilal's Bungalow, and amidst rejoicings announced that Gandhi had blessed the agreement. It took them no time to draft the agreement. Amidst an atmosphere of joviality, freshness and chat, the agreement was signed at five in the evening on Saturday, 24th September, and it went down to history as the Poona Pact.

[1]: The Free Press Journal, dated 24th September 1932.

On behalf of the Depressed Classes, Dr. Ambedkar signed it; and on behalf of the caste Hindus, Pandit Madan Mohan Malaviya signed it." [1]

"Text of Poona Pact

The following is the text of the agreement:—

(1) There shall be seats reserved for the Depressed Classes out of the general electorate seats in the Provincial Legislatures as follows :

Madras 30; Bombay with Sind 15; Punjab 8; Bihar and Orissa 18; Central Provinces 20; Assam 7; Bengal 30; United Provinces 20; Total 148.

These figures are based on the total strength of the Provincial Councils, announced in the Prime Minister's decision.

(2) Election to these seats shall be by Joint Electorates subject, however, to the following procedure :

All the members of the Depressed Classes, registered in the General Electoral Roll in a constituency, will form an Electoral College, which will elect a panel of four candidates belonging to the Depressed Classes for each of such reserved seats, by the method of the single vote; the four persons getting the highest number of votes in such primary election, shall be candidates for election by the General Electorate.

(3) Representation of the Depressed Classes in the Central Legislature shall likewise be on the principle of Joint Electorates and reserved seats by the method of primary election in the manner provided for in Clause 2 above, for their representation in the Provincial Legislatures.

(4) In the Central Legislature, eighteen per cent of the seats allotted to the General Electorate for British India in the said legislature shall be reserved for the Depressed Classes.

(5) The system of primary election to a panel of candidates for election to the Central and provincial legislatures, as hereinbefore mentioned, shall come to an end after the first ten years, unless terminated sooner by mutual agreement under the provision of Clause 6 below.

[1]: Keer, Pp. 213—214.

(6) The system of representation of the Depressed Classes by reserved seats in the Provincial and Central legislatures as provided for in Clauses 1 and 4 shall continue until determined by mutual agreement between the communities concerned in the settlement.

(7) Franchise for the Central and Provincial Legislatures for the Depressed Classes shall be as indicated in the Lothian Committee Report.

(8) There shall be no disabilities attaching to any one on the ground of his being a member of the Depressed Classes in regard to any elections to local bodies or appointment to the Public Services. Every endeavour shall be made to secure fair representation of the Depressed Classes in these respects, subject to such educational qualifications as may be laid down for appointment to the Public Services.

(9) In every province out of the educational grant, an adequate sum shall be earmarked for providing educational facilities to the Members of the Depressed Classes." [1]

"Before signing the pact, the representatives of Untouchables from Madras insisted that they would not allow Rao Bahadur Rajah and his followers to sign the pact. And, if at all they were allowed, Dr. Ambedkar and his followers would not sign the pact. Accordingly Dr. Ambedkar and his followers signed the Pact. Thereafter Dr. Ambedkar was requested to make arrangement to obtain the signatures of Mr. Rajah and his followers. After lengthly discussions, it was decided that they would be allowed to sign the pact at the end of the document and in their individual capacities. Accordingly they signed. But it was a matter of great surprise that although Mr. Rajah had to sign at the end of the document, he interpolated his signature in between the signatures of Jaikar and Sapru." [2]

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[1]: Writings and Speeches, Vol. 9, Pp. 88—89.

[2]: Janata, dated 1st October 1932.

"Signatories to Poona Pact, 24-9-1932, (Epic Fast, Pp. 153-154)

(1)	Madan Mohan Malaviya	(12)	B. S. Kamat
(2)	Tej Bahadur Sapru	(13)	G. K. Deodhar
(3)	M. R. Jayakar	(14)	A. V.Thakkar
(4)	B.R. Ambedkar	(15)	R. R. Bakhale
(5)	Shrinivasan	(16)	P. G. Solanki
(6)	M. C. Rajah	(17)	P. Baloo
(7)	C. V. Mehta	(18)	Govind Malaviya
(8)	C. Rajagopalachari	(19)	Devdas Gandhi
(9)	Rajendra Prasad	(20)	Biswas
(10)	G. D. Birla	(21)	P. N. Rajbhoj
(11)	Rameshwar Das Birla	(22)	Gavai G. A.
		(23)	Shankarlal Bankar

While signing the pact, "Rajagopalachari was so much overjoyed that he exchanged his fountain-pen with Dr. Ambedkar.

The following signatures were added in Bombay at the final sitting of the Hindu Conference on September 25 :—

(1)	Lallubhai Samaldas	(10)	P. Kodandrao
(2)	Hansa Mehta	(11)	N. V. Gadgil
(3)	K. Natarajan	(12)	Manu Subhedar
(4)	Kamakoti Natarajan	(13)	Avantikabai Gokhale
(5)	Purushottamdas Thakurdas	(14)	K. J. Chitalia
(6)	Mathuradas Vassanji	(15)	Radhakant Malaviya
(7)	Walchand Hirachand	(16)	A. R. Bhatt
(8)	H.N. Kunzru	(17)	Colam
(9)	K. G. Limaye	(18)	Pradhan" [1]

[1]: Reprinted, Khairmode, Vol. 5, Pp. 56—57.

Immediately the contents of the Pact were cabled to the British Cabinet, wired to the Viceroy, and also handed over to the Secretary of the Bombay Governor by each party separately, and next morning the leaders returned to Bombay to ratify the Pact. At 2 p. m. the leaders held a meeting at the Indian Merchants' Chamber Hall." [1]

While reporting the meeting called for confirmation of Poona Pact, "The Bombay Chronicle" wrote, Pandit Madan Mohan Malaviya was in chair. He, in his speech thanked all those who helped in materialising the Poona Pact. He specially thanked Dr. Ambedkar without whose help emergence of Poona Pact would have been difficult. Now the entire responsibility is on the shoulders of Hindus to bring the pact in practice.

Sir Tej Bahadur Sapru, Sjt. Rajgopalachari spoke on this occasion. Mr. Mathuradas, Vissonji Khimji moved the resolution.

Mr. Mathuradas Vissonji Khimji moved the resolution ratifying the Poona Pact."[2]

At this meeting the following resolution was passed :—

"This Conference confirms the Poona agreement arrived at between the leaders of the Caste Hindus and Depressed Classes on September 24, 1932, and trusts that the British Government will withdraw its decision creating Separate Electorates within the Hindu Community and accept the agreement in full. The Conference urges that immediate action be taken by Government so as to enable Mahatma Gandhi to break his fast within the terms of his vow and before it is too late. The Conference appeals to the leaders of the communities concerned to realize the implications of the agreement and of this resolution and to make earnest endeavour to fulfil them.

"This Conference resolves that henceforth, amongst Hindus, no one shall be regarded as an Untouchable by reason of his birth, and that those who have been so regarded hitherto will have the same right as other Hindus in regard to the use of public wells, public schools, public roads, and all other public

[1]: Keer, P. 214.

[2]: The Bombay Chronicle, dated 26th September 1932.

institutions. This right shall have statutory recognition at the first opportunity and shall be one of the earliest Acts of the *Swaraj* Parliament, if it shall not have received such recognition before that time.

"It is further agreed that it shall be the duty of all Hindu leaders to secure, by every legitimate and peaceful means, an early removal of all social disabilities now imposed by custom upon the so-called Untouchable Classes, including the bar in respect of admission to temples." [1]

Mr. Sapru said, "Dr. Ambedkar faught and fought valiantly for the cause which he represented and he promised to be a good fighter in the future life of the country.

Speaking in support of the resolution confirming the Poona Pact Dr. B. R. Ambedkar who was greeted with cheers when he rose, declared :

"I believe it is no exaggeration for me to say that no man a few days ago was placed in a greater dilemma than I was. There was placed before me a difficult situation in which I had to make a choice between two difficult alternnatives.

There was the life of the greatest man in India to be saved. There was also for me the problem to try and safeguard the interests of community which I was in my humble way trying to do at the Round Table Conference according to my light. I am happy to be able to say that it has become possible through the co-operation of all of us to find a solution so as to save the life of the Mahatma and at the same time consistent with such protection as is necessary for the interests of the "Depressed" Classes in the future. I think, in all these negotiations a large part of the credit must be attributed to Mahatma Gandhi himself. I must confess that I was immensely surprised, when I met him, that there was so much in common between him and me. (cheers)

In fact, any disputes whenever they were earned to him and Sir Tej Bahadur Sapru has told you that the disputes that were carried to him were of a very crucial character. I was astounded to see that the man who held such divergent views from mine at

[1]: Writings and Speeches, Vol. 9, P. 103.

the Round Table Conference came immediately to my rescue and not to the rescue of the other side. I am very grateful to Mahatma for having extricated me from what might have been a very difficult situation.

My only regret is why did not Mahatma take this attitude at the Round Table Conference ? If he had shown the same consideration to my point of view, it would not have been necessary for him to go through this ordeal. However, these are things of the past. I am glad that I am here now to support this resolution.

Since the question has been raised in the newspapers as to whether this Agreement will have the support of the whole "Depressed" Classes community, I should like to make it clear that so far as I am concerned and so far as the party which stands with me is concerned and I am sure I am also speaking for the other friends who are present here that we will stand by the Agreement. Let there be no doubt about this.

Our only concern is this, whether the Hindu Community will abide by it. (voices : Oh yes, we will) We feel that the Hindu Community unfortunately is not an integral whole but, if I may say so, a federation of small communities. I hope and trust that the Hindus on their side will look upon this document as sacrosanct and work in an honourable spirit.

There is just one thing that I would like to say. I am very much obliged to all friends who took part in the negotiations, but I should like particularly to mention Sir Tej Bahadur Sapru and Mr. C. Rajagopalachari. Without Sir Tej Bahadur probably it, would have been difficult to carry through many of the points. I must confess that as the result of my experience of him for the last two years at the Round Table Conference that if there is any man in India who is above all communal prejudice it is Sir Tej Bahadur. His sense of fairness and justice is always a relief to all the minorities who hanker for securing some safeguards in the new Constitution.

I must also mention my friend Rajagopalchari. He came to our rescue when we were almost at a breaking-point, and had it not been for his ingenuity probably the Agreement would not

have come into being. I must also thank Pandit Malaviya for the courtesy and forbearance that he showed in the hot exchange of words and acrimonious debates that went on during all these negotiations.

The change that has been brought about in the Communal Award has been brought about by the insistence of the view that Separate Electorates are injurious to the national interests. I must confess that I remain unconvinced of that argument. I can quite understand that for a majority representation Separate Electorates are harmful but I still remain unconvinced that for minority representation Separate Electorates are an evil.

I do not believe that Joint Electorates are going to be the final solution for the problem of absorbing the "Depressed" Classes in the Hindu Community.

Any electoral arrangement, I believe, cannot be a solution of the larger social problem. It requires more than any political arrangement and I hope that it would be possible for you to go beyond this political arrangement that we are making today and devise ways and means whereby it would be possible for Depressed Classes not only to be part and parcel of the Hindu Community but also to occupy an honourable position, a position of equality of status in the community.

So long as the "Depressed" Classes an ignorant lot, not imbued with a sense of self-respect, it was possible for them to accept the social status that was given to them by Hindu law, but as they get education they will begin to smart under these social Laws and there is a great danger of their seceding from Hindu Society. I beg of you to bear that in mind and hope that you will do the needful in the matter."

Rao Bahadur M. C. Rajah further supported the resolution. He said that he clearly saw a change of heart among the caste Hindu and that was why he supported the Agreement. He had no doubt at all that the Agreement will have the unstincted support of all the "Depressed" Class people in the country.

Mr. C. Rajgopalachari moved a vote of thanks to the chair.

Pandit Malaviya announced that he was going to communicate with Mahatmaji regarding the fast declared by Sjt. Keiappan to establish the right of the "Depressed Class' people to enter the Gurvayur temple in Malabar.

Among those present at the Hindu leaders' Conference of Sunday were : Sir Tej Bahadur Sapru, Sir Lallubhai Samaldas, Sir Purushottamdas Thakurdas, Sir Chunilal Mehta, Sir Govind Madgaokar, Mr. M. R. Jayakar, Pandit Hridaynath Kunzru, Mr. G. K. Deydhar, Mr. B. N. Karanjia, Mr. K. Natarajan, Rao Bahadur M. C. Rajah, Dr. Ambedkar, Mr. P. Baloo, Mrs. D. G. Dalvi, Miss Natarajan, Mrs. Hansa Mehta, Mrs. Avantikabai Gokhale, Mr. B. S. Kamat, Mr. Manu Subedar, Mr. G. D. Birla, Mr. D. P. Khaitan, Mr. B. F. Bharucha, Dr. Solanki, Dr. Choitram Gidwani, Lady Chimanlal Setalvad, Mr. Walchand Hirachand, Mr. B. J. Deorukhkar, Mr. C. Rajagopalachari, Mr. Devadas Gandhi, Mr. T. Prakasam and Babu Rajendra Prasad." [1]

His Majesty's Government announced on September 26, 1932 that it would recommend to Parliament the endorsement of the Poona Pact.

On Monday the 26th September 1932, the Hon'ble Mr. H. G. Haig, Home Minister, made his statement in the Central Legislative Assembly :

"Statement Re. Communal Award. The Honourable Sir, C. P. Ramaswami Aiyar (Leader of the House) : Sir, will you allow me to request you to make a departure from the usual practice at question time as a very important statement has to be made by my Honourable Colleague, the Home Member, and I am sure the House will agree with me when they hear the statement that this departure is well justified. Will you allow us to do so ?

Mr. President (The Honourable Sir Ibrahim Rahimtoola): What is the statement ?

The Honourable Sir C. P. Ramaswami Aiyar : The Honourable Home Member desires to make a statement about the Communal Award and the decision of His Majesty's Government with regard to the Communal Award in relation to the Depressed Classes.

[1]: The Bombay Chronicle, dated 26th September 1932.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): As a special case, the Chair will allow the statement to be made at this stage.

The Honourable Mr. H. G. Haig (Home Member) : In accordance with your permission, Sir, I will read to the House a Statement issued by His Majesty's Government this morning in connection with the agreement reached at Poona on Saturday afternoon. His Majesty's Government have learnt with great satisfaction that an agreement has been reached between the leaders of the Depressed Classes and of the rest of the Hindu Community regarding the representation of the Depressed Classes in the new legislatures and certain other matters affecting their welfare. In place of the System of General Constituencies combined with Special Depressed Class Constituencies contained in the Government Communal Award of 4th August last, the agreement provides for General Constituencies with which seats are reserved for Depressed Classes subject to important conditions as to the manner in which the reserved seats are filled. The Government, in their Award which was given in the absence of agreement between the communities, were solely concerned in relation to the Depressed Classes to provide adequate securities that the interests of these classes should be observed by the new legislatures. As representatives of the Depressed Classes and other Hindus acting together believe that the scheme now forwarded by them to His Majesty's Government is adequate for the purpose, the Government, in accordance with the procedure which they laid down in paragraph 4 of their Award, will recommend to Parliament, in due course, the adoption of the clauses of the agreement dealing with representation in the Provincial Legislatures in place of the provision in paragraph 9 of the Award (Applause).

It will be understood that the total number of general seats including those reserved for the Depressed Classes under the agreement will, in each Province, remain the same as the number of general seats plus the number of special Depressed Classes seats provided for in His Majesty's Government's decision.

His Majesty's Government note the agreement deals also with certain questions outside the scope of their award of August 4th. Clauses 8 and 9 deal with general points, the relisation of which will be likely to depend in the main on the actual working of the constitution. But His Majesty's Government take note of these clauses as a definite pledge of the intentions of the Caste Hindus towards the Depressed Classes.

There are two other points outside the scope of their Award : (1) The agreement contemplates that the franchise for the Depressed Classes should be that recommended by the Franchise (Lord Lothian's) Committee. It is obvious that the level of the franchise for the Depressed Classes (and indeed for Hindus generally) must be determined at the same time as that for other communities is being settled, and the whole subject is under consideration by His Majesty's Government—(2) The agreement also provides for a particular method of electing Depressed Classes representatives for the Legislature at the Centres. This, again, is a subject outside the terms of this Award which is under investigation as part of the whole for election for the legislature at the Centre, and no piecemeal conclusion can be reached. What has been said on these two points should not be regarded as implying that His Majesty's Government are against what is proposed in the agreement, but that these questions are still under consideration. To prevent mis-understanding, it may be explained that the Government regard the figure 18 per cent, for the percentage of British India general seats at the Centre to be reserved for the Depressed Classes as a matter for settlement between them and other Hindus. (Applause).[1]*

"In the evening prayers were said in the Prison yard. Kasturba then handed Gandhi orange juice, and he broke his fast about half-past five amidst a gathering of some two hundred disciples and admirers, poet Tagore, Sarojini Naidu, Sardar Patel and Swarup Rani Nehru being conspicuous."[2]

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[1]: (The Legislative Assembly Debates-Official Report—Volume V. 1932, Pp. 1307-1308, Monday, 26th September, 1932)."

Reprinted, Khairmode, Vol. 5, Pp. 57-59.

[2]: Keer, P. 215.

* For comments on Round Table Conference and Poona Pact—See appendix-V

I Responded to the call of humanity and Saved the Life of Mr. Gandhi.

In this regard Dr. B. R. Ambedkar said,

"The story of this fact has been told by Mr. Pyarelal in a volume which bears the picturesque and flamboyant title of "The Epic Fast," The curious may refer it. I must, however, warn him that it is written by a Boswell and has all the faults of a Boswelliana. There is another side to it, but there is neither time nor space to present it here. All I can do is to invite attention to the statement* I issued to the Press on the eve of Mr. Gandhi's fast exposing his tactics. Suffice it to say that although Mr. Gandhi declared a fast unto death, he did not want to die. He wanted very much to live.

The fast nonetheless created a problem, and that problem was how to save Mr. Gandhi's life. The only way to save his life was to alter the Communal Award which Mr. Gandhi said hurt his conscience so much. The Prime Minister had made it quite clear that the British Cabinet would not withdraw it or alter it of its own, but that they were ready to substitute for it a formula that may be agreed upon by the Caste Hindus and the Untouchables. As I had the privilege of representing the Untouchables at the Round Table Conference, it was assumed that the assent of the Untouchables would not be valid unless I was a party to it. The surprising fact is that my position as the leader of the Untouchables of India was not only not questioned by Congressmen but it was accepted as a fact. All eyes naturally turned to me as the man of the moment or rather as the villain of the piece.

As to myself it is no exaggeration to say that no man was placed in a greater and graver dilemma than I was then. It was a baffling situation. I had to make a choice between two different alternatives. There was before me the duty, which I owed as a part of common humanity, to save Gandhi from sure death. There was before me the problem of saving for the Untouchables the political rights which the Prime Minister had given them. I responded to the call of humanity and saved the life of Mr. Gandhi

* See Pp. 143-150 of this part-Editors.

by agreeing to alter the Communal Award in a manner satisfactory to Mr. Gandhi. This agreement is known as the Poona Pact.

The terms of the Pact were accepted by Mr. Gandhi and given effect to by Government by embodying them in the Government of India Act. The Poona Pact had produced different reactions. The Untouchables were sad. They had every reason to be. There are, however, people who do not accept this. They never fail to point out that the Poona Pact gave the Untouchables larger number of seats than what was given to them by the Prime Minister in his Communal Award. It is true that the Poona Pact gave the Untouchables 148 seats, while the Award had only given them 78. But to conclude from this that the Poona Pact gave them more than what was given by the Award is to ignore what the Award had in fact given to the Untouchables.

The Communal Award gave the Untouchables two benefits :—(i) a fixed quota of seats to be elected by separate electorate of Untouchables and to be filled by persons belonging to the Untouchables ; (ii) double vote, one to be used through Separate Electorates and the other to be used in the General Electorates.

Now, if the Poona Pact increased the fixed quota of seats it also took away the right to the double vote. This increase in seats can never be deemed to be a compensation for the loss of the double vote. The second vote given by the Communal Award was a priceless privilege. Its value as a political weapon was beyond reckoning. The voting strength of the Untouchables in each constituency is one to ten. With this voting strength free to be used in the election of caste Hindu candidates, the Untouchables would have been in a position to determine, if not to dictate, the issue of the General Election. No caste Hindu candidate could have dared to neglect the Untouchable in his constituency or be hostile to their interest if he was made dependent upon the votes of the Untouchables. Today the Untouchables have a few more seats than were given to them by the Communal Award. But this is all that they have. Every other member is indifferent, if not hostile. If the Communal Award with its system of double

voting had remained the Untouchables would have had a few seats less but every other member would have been a member for the Untouchables. The increase in the number of seats for the Untouchables is no increase at all and was no recompense for the loss of Separate Electorate and the double vote. The Hindus, although they did not celebrate the Poona Pact, did not like it. Throughout their commotion to save Mr. Gandhi's life there was definite current of conscious feeling that the cost of saving his life may be great. Therefore, when they saw the terms of the Pact they very definitely disliked it, although they had not the courage to reject it. Disliked by the Hindus and disfavoured by the Untouchables, the Poona Pact was given recognition by both parties and was embodied in the Government of India Act." [1]

After the Poona Pact, Third Round Table Conference was held at England. Dr. B. R. Ambedkar left India on 7th November 1932 to attend this Conference. Gandhi's fast and Poona Pact were the issues of debate everywhere. One of the comments about Dr. B. R. Ambedkar is as follows :

"On boardship many important passengers talked about the Poona Pact and about Gandhi's fast that had rocked the Indian world. The fast had impressed them tremendously. One of the European passengers pointing to Dr. Ambedkar, said to his friend : "This is the young man who is writing new pages of Indian history." [2]

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[1]: Writings and Speeches, Vol. 9, Pp. 87-90.

[2]: Keer, P. 220.

SECTION IV

KALARAM TEMPLE ENTRY SATYAGRAHA, NASIK AND TEMPLE ENTRY MOVEMENT

BLANK

CONCENTRATE ENERGY AND RESOURCES ON POLITICS AND EDUCATION

"In the history of India the year 1930 was a year of action and reaction. It brought forth a new line of thinking and a new angle of approach; new measures of represssion and new methods of rapprochement. Better still, it was the age of *Satyagraha*. It was in this year that Mahatma Gandhi as the generalissimo of the Congress inaugurated his great movement for the liberation of the country on March 12, 1930, and transformed the whole country into a theatre of passive resistance, vast crowds facing battalions of mounted police, rounds of firing and terms of jail life.

Ten days before the Dandi March of Gandhi, Ambedkar, the father of Indian social unrest, launched his temple entry movement at Nasik. Preparations for this movement had been going on for over three months. Dr. Ambedkar was guiding, inspiring and organising it from Bombay through his letters and lieutenants. The Depressed Classes at Nasik had formed a *Satyagraha* Committee and through its Secretary, Bhaurao Gaikwad, informed the Trustees of the famous Kalaram Temple that they would launch *Satyagraha,* if the Trustees did not throw the temple open to the Untouchable Hindus before a particular date. Simultaneoulsy, a clarion call was issued to the Depressed Classes to come to Nasik to assert their right of worshipping Shree Rama in the said temple. In response to this call of the *Satyagraha* Committee, about 15,000 volunteers and representatives assembled in a specially erected pandal in the Depressed Classes locality at Nasik. Notable among those present were Deorao Naik. Rajbhoj, Pradhan, Shivtarkar, Patitpavandas and B.G. Kher.

At last the day of action dawned. It was Sunday, March 2, 1930. In the morning at ten, a Conference was held under the Presidentship of Dr. B. R. Ambedkar in the pandal to consider the situation and adopt ways and means for launching the *Satyagraha*." [1]

"Dr. Ambedkar put forward a thought-provoking speech about the entry of Kalaram Temple. He said, today, we are about to

[1]: Keer P. 136.

enter the Temple. But the entry in the Temple would not solve the whole problem. Our problem is comprehensive. It is political, social, religious, economic, educational etc. The issue of Kalaram Temple entry is a appeal to the Hindu mind. The high caste Hindus deprived us from the far ages. Whether the same Hindus are willing to grant our humanitarian rights will be the question raised from this Temple entry *Satyagraha*. Whether the Hindu mind is willing to accept us as human beings, this is the question to be tested through this *Satyagraha*. The high caste Hindus looked down upon us and treated us even worse than cats and dogs. We wish to know whether those very Hindus would give us the status of man or not. This *Satyagraha* will provide answer to this question. This *Satyagraha* is one of the efforts for bringing about a change of heart among the high Caste Hindus. Hence the success of this effort depends on the Hindu mind-set.

Our real problem is not going to be solved by the entry into the Ram Temple. It will not bring about any radical change in our life. But this is a test to judge the high caste Hindu mind. Whether the Hindu mind is willing to accept the elevated aspirations of the new era that "man must be treated as man ; he must be given humanitarian rights ; human dignity should be established "is going to be tested. In order to achieve this goal, we have launched this *Satyagraha*. The main question is whether the high caste Hindus are going to consider these aspects and act accordingly.

We know that in this temple resides God made of stone. By having a mere glance at him or by worshiping him, our problem will not be solved completely. Millions of people might have visited this temple and have had a glance at the god uptill now. But who would say that their basic problem was solved by this act? We know this. But our *Satyagraha* today is an effort to bring about a change of heart among the Hindus. With this principled position we are launching this *Satyagraha*." [1]

[1]: Dr. Babasaheb Ambedkaranchi Patre (Marathi); Shankarrao Kharat, Pp. 46, 47. English Translation by Editors.

"At noon the Conference adjourned and again met at half past one.

At three in the afternoon, the congregation divided itself into batches of four extending itself over a mile-long procession. It was the biggest procession in the history of Nasik. At the head played a band after the military style redolent of the association of many of the Depressed Class members with military life. Then followed a batch of scouts. Behind them walked about 500 women *Satyagrahis* showing a revolutionary change in their outlook; and they were followed by a multitude of processionists enthused with an exalted spirit, but walking with a full sense of discipline, order and determination. As soon as the procession came up to the eastern gate of the temple, the District Magistrate, the Police Superintendent and the City Magistrate moved towards the gate of the temple. As all the gates of the temple were closed, the processionists proceeded to the Godawari Ghat. There the procession transformed itself into a meeting.

At eleven O'clock that night the leaders again discussed the issue in all its aspects and decided to launch a non-violent struggle before the gates of the temple. This historic struggle thus commenced on the morning of March 3,1930. The first batch of 125 men and 25 women was posted at the four gates of the temple, and over 8,000 enlisted *Satyagrahis* were awaiting their turn. But the gates of the temple were closed and barricaded. While the *Satyagrahis* squatted at the entrance, chanting hymns and singing bhajans, crowds of Untouchables numbering over 3,000 gathered in their vicinity; but the police were on the alert and kept them on the move. A strong force of armed police was posted at each gate. Two First Class Magistrates were on duty at the place since early morning to meet any emergency. Reynalds, the Police Superintendent, had shifted his office to a tent pitched right in front of the temple.

The touchables, too, were precluded from entering the temple as the gates remained closed, and their leaders were deliberating behind closed doors to find a way out of the impasse. A difficult situation would have developed had the gates been opened to the Caste Hindus.

At night, a public meeting of the citizens of Nasik was held under the Presidentship of Dr. Kurtakoti, the Shankaracharya, but it ended in pandemonium due to the predominance of the orthodox people. The *Sanatanists* by now had got panicky and rowdy. They pelted the meeting with stones and shoes. It was felt that even Rama himself would be thrown aside, if he were to fell the orthodox Hindus to throw open the temple to the Untouchables !

The *Satyagraha* struggle continued for about a month. April 9 dawned. It was the day of the chariot procession of the image of Rama. A compromise was patched up between the Caste Hindus and the Untouchables. It was decided that strong men from both sides should draw the chariot. Thousands of people assembled at noon near the main gate of the temple to see the sight. Dr. Ambedkar, with his choice gymnasts, stood near the gate. But before they could touch the chariot, they were engaged in broils by the riotous element of the Caste Hindus, and the Caste Hindus ran away with the chariot, as secretaly planned, through a street, narrow, thorny and inconvenient on either side, and the mouth of which was guarded by armed police. A daring Bhandari youth by name Kadrekar broke the cordon of the armed police who were awaiting orders to fire, and in a movement crowds of Untouchables pursued the chariot amidst showers of stones and captured it. Dangerously wounded, Kadrekar fell down in a pool of blood. Dr. Ambedkar was protected by his men and as the umbrellas that protected his person were shattered, he too, received minor injuries. There was free fighting between groups of Untouchables and Caste Hindus all over the city.

This *Satyagraha* provoked considerable ill-feeling in the minds of the orthodox Hindus throughout the District. As a result of this tension children of the Untouchables were thrown out schools, roads were closed to them, and necessaries of life were denied to them in the market because they claimed equal rights with all other Hindus. Untouchables in several villages were maltreated. Despite these sufferings, the struggle at Nasik was earned on. Attempts were being made to persuade both the parties to reach a compromise. Dr. Moonje and Dr. Kurtakoti the Shankaracharya,

were trying to reach a settlement. The great multi-millionaire Birla also saw Dr. Ambedkar in Bombay in the middle of April 1930. But so firm was the resolve of the Depressed Classes that orthodox Hindus had to keep the famous temple closed for a whole year and the agitation continued." [1]

Dr. B. R. Ambedkar had written two letters to His Excellencey Governor of Bombay regarding the problems created by the bureaucracy during Kala Ram Temple entry *Satyagrah* at Nasik.

The letters are as follows : Editors.

"BHIMRAO R. AMBEDKAR, Damodar Hall Parel,
M.A., Ph. D., D. Sc, Bombay-12.
Bar-at-law, 24th March 1930.

Member, Legislative Council,

Bombay.

May it please your Excellency,

I am extremely obliged to Your Excellency for the letter of the 13th of March 1930 in reply to my telegram giving an assurance that Government proposed to act impartially in the dispute between the touchables and the Untouchables, which is centered in the *Satyagraha* at the Kala Ram Temple at Nasik. I have honour to bring to Your Excellency's notice at recent development in the situation which seems to be fought with the greatest danger. On the day on which the *Satyagraha* was started, we purposely ommitted to blocade the entrance to the house of the *Pujari* of the temple assuming that it would not be used by the public for the purpose of going into the temple and obtain *Dev Darashan*. But of late this entrance has become a public passage and the public in Nasik is using it to go into the temple. If this is allowed, it will entirely frustrate the principal object of the *Satyagraha*. To prevent this, the District Superintendent of Police and the District Magistrate were approached by the *Satyagraha* Committee to discuss the question and to communicate to them the intention of the *Satyagraha* Committee to blocade that private entrance to the general public and permit only the members of family of the *Pujari*.

[1]: Keer, Pp. 137, 138.

The District Magistrate, however, refused to see the members of *Satyagraha* Committee and turned them away with a chit stating that he will remove those who will start *Satyagraha* at the door of the *Pujari*. It is not for me to say whether such a conduct on the part of a District Officer is wise. What I wish to point out to Your Excellency is that if the attitude of the Collector is to prevail, it will immediately provoke a conflict between the Government and the Depressed Classes. Our real contest is with the touchable Hindus and I have been avoiding every circumstance which would leave the touchable Hindus out and make the *Satyagraha* a matter between Government and the Depressed Classes. Indeed this could have been done on the first day by our refusal to make *Satyagrahis* stand outside the barricades and insist on forcing through the Police guards for seating them next to the temple gates. This we did not do simply because we did not wish to make it a fight between ourselves and the Government. But it would be inevitable if the Government to depart from its original intention of remaining impartial by permitting the *Pujari* to permit to use his private entrance as a public passage and thereby be a party to the frustration of our object. Under no circumstances can we permit this new stunt of the *Pujari* and tolerate his rendering our *Satyagraha* futile even if it brought us into conflict with Government. I am writing this to inform Your Excellency of the situation as it is developing and to give a chance for the reconsideration of the attitude of the District Magistrate before of the *Satyagraha* Committee addressed to me and also a copy of the chit sent to them by the District Magistrate with which he turned them away when they called upon him,

I have seen the place myself last Saturday and I am quite convinced that the fear expressed and the danger to the *Satyagraha* which is apprehended are real.

I beg to remain,
Your Excellency's Most Obedient Servant,
(Sd) B.R.Ambedkar."[1]

[1]: Khairmode. Vol. 3; Pp. 321—323.

Second letter:—

"BHIMRAO R. AMBEDKAR,
M.A., Ph. D., D. Sc,
Bar-at-law,
Member, Legislative Council,
Bombay.

Damodar Hall Parel,
Bombay-12.
11th April 1930.

To,

His Excellency the Rt. Honourable Sir,
Frederick Sykes, P. C, G. C. I. E.,
G. B.E.,K. C.B.,C.M.G.,
Governor of Bombay,
Bombay.

May it please Your Excellency,

The Government of Bombay must have received a report from the District Magistrate of Nasik on the riot that took place there between the touchables and the Untouchables on the 9th instant. I feel it necessary to submit to Your Excellency my reversion of the riot.

Origin of the Riot :—According to the practice of the Kala Ram Temple at Nasik, the *Rath* (carriage of the God Ram) was to be taken out in the procession through the city. I was asked by Inspector Karnik (one of the Police Officers on duty at the Kala Ram Temple) what attitude I proposed to adopt the connection with the *Rath* procession. I told him that if equal treatment was accorded to Untouchables I had no objection to the *Rath* being taken out and I also specified the nature of the equality of treatment. I had stipulated for stating that I would insist upon two things—

(1) That the Untouchables will participate in dragging the *Rath* alongwith the touchables, and (2) the Untouchables will offer *Puja* to the Idol in the *Rath*. Mr. Karnik then left and turned with the District Magistrate. The District Magistrate told me that my conditions were accepted by the touchable Hindus and that the touchables would bring the *Rath* to the main door of the temple

and after they had dragged it for 10 feet from the gate the Untouchables could join, and together with the touchables join carrying by holding the rope fastened to the *Rath,* and questioned me whether I had any objection to the *Rath* procession, to which I replied 'I had none' and in order to help the cause of peace I went out of my way to sort out about 50 out of a 5,000 Untouchables and told them that they alone want to take part in the dragging of the *Rath*. Accordingly the *Rath* was brought out to the temple gate by the touchables. But the touchables who wanted to decieve both the Untouchables and the Police Officers did two things—(1) the touchables held the rope so close to one another that no room was left for the Untouchables to join in, and (2) the touchables instead of stopping the *Rath* at-the temple gate, as previously agreed to, began to run away with it so as to give no chance to Untouchables to catch the rope and participate in carrying the *Rath*. This menacure to violate the most important condition in the agreement naturally enraged the feelings of the Untouchables. But the immediate cause of the fight was the action of the Police Sepoys a great majority of whom were Caste Hindus, they at once started to assualt those Untouchables who were struggling to hold a bit of the rope. The fight was started by the Caste Hindu Police who openly took the side of the touchable Hindus.

The batch of 50 Untouchables was thus subjected to an assault from two-sides. The touchable Hindus who had held the rope were brushing them away and preventing them from taking a position near the rope and when the Untouchables were struggling to take a position the caste Hindu Police were charging with their batons and butt-ends of their rifles.

Seeing their men assualted in this way the rest of the Untouchables followed the *Rath* with which the touchables were running away at a terrific speed. Seeing that the crowd of the Untouchables pursuing the *Rath* had come very near it, the touchables abandoned *Rath* on the road and went to adjoining field and began to throw a volley of stones on the crowd of Untouchables who were standing on the road.

The road was lined on one side by barbed wire and on the other side by cactus, and consequently the Untouchables could not

escape from the volley of stones as a result of which many of them were injured. The peaceful conduct of the Untouchables is evidenced from the fact that there is not a single casualty reported from among the touchable Hindus.

Extent of the mischief done :— The crowd of the touchable Hindus when they were dispersed from the Field wherefrom they were throwing stones went to the camp of the *Satyagraha* Committee, pulled down the tent, smashed bicycles of volunteers, stoned the motor belonging to one of the members of the Committee and stoned the women who were in the charge of the kitchen and caused injuries to small children straying about.

From there it went to the bank of the river where they found some Untouchable men, women and children who could not leave the bank of the river and join the main body of the Untouchables at the temple gate on account of the fact there was no one to take charge of their bullocks and carts, they were brutally assaulted, their belongings were burnt and some were thrown into water.

According to the information given to me this attack resulted in the death of one man. Very little help was given to these unfortunate Untouchables on the bank of the river. The main body of the Untouchables could not go to their rescue because they were stopped from moving from their place and the police cordon was placed around them and as most of the Police force was engaged in keeping custody of the main body of the Untouchables at the gate, very few were left to give aid to those Untouchables who became victims to the attack on the bank.

Attitude of the Police :—I must, however, guard myself against creating the impression that I have any complaint to make against the Police Officers. On the contrary, I have not the slightest hesitation to say that they have done their duty. I wish particularly to mention the names of Inspectors-Shelke, Nagarkar and Karaka for their splendid work in the most trying circumstances arising out of the *Satyagraha*.

My complaint is against the Sepoys who took sides and who exhibited their caste prejudice by assaulting respectable Untouchables in a most wanton fashion. Their names and numbers will be submitted to their superiors and I trust Your Excellency will direct disciplinary action against them.

Policy of District Magistrate :—I regret to say that I was not satisfied with the policy of the District Magistrate in connection with the *Satyagraha* of the Untouchables. In my last letter I had informed Your Excellency how a private door of the house of the *Pujari* was being used by the public as an entrance to the temple and how our *Satyagraha* was being frustrated thereby.

The District Magistrate did not pay any regard to our contention and on the Ramnavami Day not only allowed the public to use the private entrance of the *Pujari* in complete disregard of our contention but prohibited our *Satyagrahis* to sit as usual at the adjacent public way the barricade from which was removed to provide exit to the touchable Hindus entering by the private door. As a result 18 Untouchables out of 300 who offered *Satyagraha* were arrested on the Ramnavami Day.

After the riot of the 9th, the District Magistrate proposed to me that I must stop the *Satyagraha* or else he will withdraw the Police. His proposal was considered by the *Satyagraha* Committee and was rejected and I think rightly. Nothing could be a greater disaster to movement of the Untouchables than the stopping of the *Satyagraha* at this juncture. The touchable Hindus would gain the impression that any slight use of the force is sufficient to crush the movement of the Untouchables.

Under the circumstances I or *Satyagraha* Committee can allow such an impression to go round. Only on this, if on no other account, we must continue our *Satyagraha*. Regarding the withdrawal of the Police, I wish the Government of Bombay to realise fully the implications thereof.

To my mind it means that the Government is not willing to use the power it has under its command to help people who are struggling for their rights to win them. Such a power is good for nobody and the Depressed Classes may then be justified in joining hands with those who are speaking for a change. I hope that the Government of Bombay will give proper directions to the District Magistrate on this point.

I learn from the 'Times of India' of today's date that the District Magistrate has promulgated an order under Section 144 Cr. P. Code

and prohibited people coming from near the Kala Ram Temple. I do not know if this order contemplates the prevention of our *Satyagrahis* from sitting at the temple doors as they have been doing heretofore.

I most respectfully submit to Your Excellency that there is a chance (I use this word advisedly as I do not know the opinion of the *Satyagraha* Committee) of this order being respected only if the District Magistrate gives an assurance that the temple doors will remain closed during the period stated in his order and that the private door of the Priest will not remain open to the public.

As I have made clear in my last letter, the fight is between touchables and the Untouchables and I have no desire to bring the latter into the conflict with the Government.

I am anxious to have an interview with Your Excellency to discuss the situation personally and if Your Excellency is inclined to grant one I am available till 2 p.m. tomorrow.

Awaiting the favour of Your Excellency's early reply,

I remain,

Your Excellency's Most Obedient Servant,

Sd/- B. R. Ambedkar."[1]

"Win Freedom By Your Own Efforts"

Dr. Ambedkar's Advice to Trichur People

Calicut, June 17, 1931.

Dr. Ambedkar of Bombay in the course of a letter to the organiser of the Temple Entry *Satyagraha,* Trichur, says "Would advise you not to depend upon Congress help. It won't help you in this matter. Its help would not redound to your credit. Want our people win freedom by their own efforts."[2]

[1]: Khairmode, Vol. 3; Pp. 323-328.

[2]: The Bombay Chronicle, dated 18th June 1931.

"Dr. AMBEDKAR'S ADVICE

Nothing could be more natural on the part of Doctor Ambedkar than to suggest that the organisers of the Temple Entry *Satyagraha* at Trichur should not take the help of the Congress in their campaign. For, otherwise, the task of misrepresenting the Congress would be rendered still more difficult. And then, secondly, one cannot be expected to surrender one's "*raison d'etre*". Doctor Ambedkar's letter is nothing mope than a very intelligible struggle for existence.

Blessings to Nasik Satyagrahis From London

Bombay, November 2, 1931

The General Secretary, Nasik Temple Entry *Satyagraha* Committee, has received the following message from Dr. Ambedkar from London :—

"I regret very much not to have been able to write to you in reply to the letter you sent me some time ago containing the interview you had with the Commissioner. I have been so much taken up with the question of minorities which as you know has become much more difficult owing to the attitude of Mr. Gandhi that I have had no minute to spare :—

As anticipated by you I did get a letter from the Commissioner C. D. asking me to advise you people to stop the Nasik *Satyagraha*. I have not replied to him but I am going to do so by this mail. I am going to tell him that we cannot stop. So you may tell our people to go on. We must hot take our orders from the Government just as we must not take them from the Orthodox Hindus.

We have trusted Government long enough

We have trusted the Government long enough to remove "Untouchability". But it has not lifted its finger to do anything in the matter and it has no right to ask us to stop. We must take the burden on our shoulders and do what we can to free ourselves from this course at any cost. If the Government does not help us, it must not at least hamper our just cause. It is no use telling us that we must not create ill-feeling between different classes and communities. This appeal by Government should be addressed to all the communities and not to us alone. It should specially be addressed to those communities who are in the wrong and who are sinning in the matter.

"My people don't need me"

You may publish a translation of this in handbills and broadcast them among our people. I have been reading the telegrams regarding the struggle at Mukhed between our people and the castemen. I am glad to find that our people are prepared at all costs to carry on the fight to a success. I congratulate them on their splendid resolve. I see that you are starting *Satyagraha* on the 5th November. I hope you have made the best preparation. I am sorry. I am not there to help you. But I know that our people are now alive to their problem and that they do not need me every time.—A.P." [1]

The situation prevailing in Nasik during the *Satyagraha* was reported in the Times of India as follows : Editors.

"No Right to bathe in the Sacred Kunds,

Nasik enduring decisions against Untouchables.

(From our Correspondent.)

Nasik, June 6, 1932.

'On the whole I believe that Untouchables have neither the right to approach the four *Kunds* (bathing pools) nor to bathe in them. Therefore, under Section 147 (3) of the Cr. P. Code, I hereby prohibit all Mahars, Mangs, Chamars, Dheds, Bhangis and other Untouchables from exercising their alleged right of proceeding to and bathing in Lakshmana, Dhanushya, Ram and Sita *Kunds,* until they obtain from a Civil Court an order entitling them to bathe there.' Thus observes Mr. L. N. Brown, District Magistrate of Nasik in the order passed today in connection with the inquiry instituted into the dispute between the *Sanatanists* and Untouchables in which the latter claim the right to proceed to and bathe in the Sacred *Kunds*.

Dealing with the question of Irish Bridge Sandhwa located near the Ram *Kund,* the Magistrate says that it appeared that this Sandhwa is used by the pilgrims doing the Pradakshina (a religious ceremony) or the Sacred *Kunds*. Its use as a thoroughfare is secondary. It is, I think, a fair deduction from the evidence

[1]: The Bombay Chronicle, dated 3rd November 1931.

that respectably dressed Christians and Mahomedans have been allowed to cross the Sandhwa. But this evidence is not strictly relevent to the present case which is concerned with the rights of Untouchable Hindus. It has not been proved that Hindu Untouchables have any right to use this Sandhwa.' [1]

When the *Temple-Entry-Satyagraha* was going on a move was forced to get the temple-entry legalised by the Government. The background of the issue is as follows :

The Temple-entry movement in India received a setback when the Courts of law held that entry in the temples by the Untouchables was illegal being against the established custom. Such judicial pronouncements turned out to be stumbling blocks in the way of social reform undertaken by Mahatma Gandhs. Against this backdrop efforts were afoot to bring about legislation to overcome that barrier. Therefore, several Bills were intended to be introduced in the Central Legislature as well as the Provincial Legislatures. Of the bills mentioned above, the most important were those of Dr. Subbaroyan's Temple-Entry Bill and Ranga Iyer's Untouchability Abolition Bill.

Dr. Subbaroyan's Temple-Entry Bill was intended to undo the wrong done by the Courts of Law and sought to amend the Madras Religious Endowments Act. The Bill, however, was approved by the *Sanatoria* Hindus prominent of them being Pandit Madan Malaviya, Konda Venkatappaiah and S.T. Ramanuja Iyengar, Srinivasa Iyengar. However, Dr. Subbaroyan's Temple-Entry Bill in the Madras Council was refused permission on the ground that it was far-reaching in implication for enactment by a Provincial Legislature. Afterwards Ranga Iyer drafted a second Bill based on Dr. Subbaroyan's which the Viceroy permitted to introduce it in the Central Assembly, subject to the same qualification as in the case of his forerun Bill.

His Excellency Lord Wellington the Viceroy, for its introduction in the Central Legislative Assembly subject to the condition that the Government of India did not commit themselves to accepting its principles and that the fullest opportunity would be given to every section of the Hindu Community to express an

[1]: The Times of India. 7-6-1932, Reprinted, Khairmode, Vol. 3; Pp. 351-352.

opinion on its provisions. Mahatma Gandhi pleaded with the Viceroy by his letter dated February 1, 1933 that the Government of India was bound to support these two Legislative measures in view of the Resolution dated September 25, 1932 passed by the Caste Hindus at Bombay which formed part of the Poona Pact.

Mahatma Gandhi saw that the Ranga Iyer's Bill should be supported by everyone. He sent out an appeal to the Hindu Members of the Central Legislative Assembly. He utilised the services of C. Rajagopalachari, who, according to him, was 'a better lobbyist', to enlist support for the Bills. He advised him not to take to heart, "Dr. Ambedkar's explosion, the Government's decision and Malaviya's opposition." G. D. Birla and Devdas Gandhi were appointed to canvass support for the Bills. When the Bills had come to the stage of appointment of a Select Committee, the British Government had taken a decision to dissolve the Assembly and order election. Terrified at the thought of facing the electorate, there was a sudden *volte-face* on the part of the members who favoured the Bills. The mover of the Bills Ranga Iyer was deeply hurt and came up heavily on C. Rajagopalachari stating that he had gone back "like a crab". He added: "Had they gone on with the Temple-Entry Bill or the Untouchable question, they would have lost many votes, for it is not a popular issue and, therefore, "they have run away for their own convictions and playing every trick to come back to the Legislature with as large a number as possible."

Against this background, two great stalwarts-Mahatma Gandhi and Babasaheb Ambedkar-met at Yeravada Prison on February 4, 1933.

(For the details of the meeting between Dr. Ambedkar and Gandhiji see Section II under the title "Dr. Ambedkar-Mahatma Gandhi Meetings.—Editors.)

After this meeting Dr. B. R. Ambedkar issued a statement wherein he expressed his views regarding the Temple Entry Bill. Following is the statement:

Statement on Temple Entry Bill
14th February, 1933

"What was the attitude of the Untouchables to this movement for Temple entry ? I was asked by Mr. Gandhi to lend my

support to the movement for Temple entry. I declined to do so and issued a statement on the subject to the Press. As it will help the reader to know the grounds for my attitude to this question I have thought it well to set it in full. Here it is !

Although the controversy regarding the question of Temple Entry is confined to the *Sanatanists* and Mahatma Gandhi, the Depressed Classes have undoubtedly a very important part to play in it, in so far as their position is bound to weigh the scales one way or the other when the issue comes up for a final settlement. It is, therefore, necessary that their viewpoint should be defined and stated so as to leave no ambiguity about it.

To the Temple-Entry Bill of Mr. Ranga Iyer as now drafted, the Depressed Classes cannot possibly give their support. The principle of the Bill is that if a majority of Municipal and Local Board voters in the vicinity of any particular temple on a referendum decide by a majority that the Depressed Classes shall be allowed to enter the temple, the Trustees or the Manager of that temple shall give effect to that decision. The principle is an ordinary principle of Majority rule, and there is nothing radical or revolutionary about the Bill, and if the *Sanatanists* were a wise lot, they would accept it without demur.

The reasons why the Depressed Classes cannot support a Bill based upon this principle are two : One reason is that the Bill cannot hasten the day of temple-entry for the Depressed Classes any nearer than would otherwise be the case. It is true that under the Bill, the minority will not have the right to obtain an injunction against the Trustee, or the Manager who throws open the temple to the Depressed Classes in accordance with the decision of the majority. But before one can draw any satisfaction from this clause and congratulate the author of the Bill, one must first of all feel assured that when the question is put to the vote there will be a majority in favour of Temple Entry. If one is not suffering from illusions of any kind one must accept that the hope of a majority voting in favour of Temple-Entry will be very rarely realised, if at all. Without doubt, the majority is definitely opposed to-day—a fact which is conceded by the author of the Bill himself in his correspondence with the Shankracharya.

What is there in the situation as created after the passing of the Bill, which can lead one to hope that the majority will act differently ? I find nothing. I shall, no doubt, be reminded of the results of the referendum with regard to the Guruvayur Temple. But I refuse to accept a referendum so over weighted as it was by the life of Mahatma Gandhi as the normal result. In any such calculations, the life of the Mahatma must necessarily be deducted.

Secondly, the Bill does not regard Untouchability in temples as a sinful custom. It regards Untouchability merely as a social evil not necessarily worse than social evils of other sorts. For, it does not declare Untouchability as such to be illegal. It's binding force is taken away, only, if a majority decides to do so. Sin and immorality cannot become tolerable because a majority is addicted to them or because the majority chooses to practise them. If Untouchability is a sinful and an immoral custom, then in the view of the Depressed Classes it must be destroyed without any hesitation even if it was acceptable to the majority. This is the way in which all customs are dealt with by Courts of Law, if they find them to be immoral and against public policy.

This is exactly what the Bill does not do. The author of the Bill takes no more serious view of the custom of Untouchability than does the temperance reformer of the habit of drinking. Indeed, so much is he impressed by the assumed similarity between the two that the method he has adopted is a method which is advocated by temperance reformers to eradicate the evil habit of drinking, namely, by local option. One cannot feel much grateful to a friend of the Depressed Classes, who holds Untouchability to be no worse than drinking. If Mr. Ranga Iyer had not forgotten that only a few months ago Mahatma Gandhi had prepared himself to fast unto death if Untouchability was not removed, he would have taken a more serious view of this curse and proposed a most thoroughgoing reform to ensue its removal lock, stock and barrel. Whatever its shortcomings may be from the stand point of efficacy, the least that the Depressed Classes could expect is for the Bill to recognise the principle that Untouchability is a sin.

I really cannot understand how the Bill satisfies Mahatma Gandhi, who has been insisting that Untouchability is a sin ! It certainly does not satisfy the Depressed Classes. The question whether this particular Bill is good or bad, sufficient or insufficient, is a subsidiary question.

The main question is : Do the Depressed Classes desire Temple Entry or do they not ? This main question is being viewed by the Depressed Classes by two points of view. One is the materialistic point of view. Starting from it, the Depressed Classes think that the surest way for their elevation lies in higher education, higher employment and better ways of earning a living. Once they become well placed in the scale of social life, they would become respectable and once they become respectable the religious outlook of the orthodox towards them is sure to undergo change, and even if this did not happen, it can do no injury to their material interest. Proceeding on these lines the Depressed Classes say that they will not spend their resources on such an empty things as Temple Entry. There is also another reason why they do not care to fight for it. That argument is the argument of self-respect.

Not very long ago there used to be boards on club doors and other social resorts maintained by Europeans in India, which said "Dogs and Indians" not allowed. The temples of Hindus carry similar boards today, the only difference is that the boards on the Hindu temples practically say : "All Hindus and all animals including dogs are admitted, only Untouchables not admitted." The situation in both cases is on a parity. But Hindus never begged for admission in those places from which the Europeans in their arrogance had excluded them. Why should an Untouchable beg for admission in a place from which he has been excluded by the arrogance of the Hindus ? This is the reason of the Depressed Class man who is interested in his material welfare. He is prepared to say to the Hindus, "to open or not to open your temples is a question for you to consider and not for me to agitate. If you think, it is bad manners not to respect the sacredness of human

personality, open your temples and be a gentleman. If you rather be a Hindu than be gentleman, then shut the doors and damn yourself for I don't care to come."

I found it necessary to put the argument in this form, because I want to disabuse the minds of men like Pandit Madan Mohan Malaviya of their belief that the Depressed Classes are looking forward expectantly for their patronage.

The second point of view is the spiritual one. As religiously minded people, do the Depressed Classes desire temple entry or do they not ? That is the question. From the spiritual point of view, they are not indifferent to temple entry as they would be, if the material point of view alone were to prevail. But their final answer must depend upon the reply which Mahatma Gandhi and the Hindus give to the question namely : What is the drive behind this offer of temple entry? Is temple entry to be the final goal of the advancement in the social status of the Depressed Classes in the Hindu fold ? Or is it only the first step and if it is the first step, what is the ultimate goal ? Temple entry as a final goal, the Depressed Classes can never support. Indeed they will not only reject it, but they would then regard themselves as rejected by Hindu Society and free to find their own destiny elsewhere. On the other hand, if it is only to be a first step in the direction they may be inclined to support it. The position would then be analogous to what is happening in the politics of India to-day. All Indians have claimed Dominion Status for India. The actual constitution will fall short of Dominion Status and many Indians will accept it. Why ? The answer is that as the goal is defined, it does not matter much if it is to be reached by steps and not in one jump. But if the British had not accepted the goal of Dominion Status, no one would have accepted the partial reforms which many are now prepared to accept. In the same way, if Mahatma Gandhi and the reformers were to proclaim what the goal which they have set before themselves is for the advancement of the Social Status of the Depressed Classes in the Hindu fold, it would be easier for the Depressed Classes to define their attitude towards Temple

Entry. The goal of the Depressed Classes might as well be stated here for the information and consideration of all concerned. What the Depressed Classes want is a religion, which will give them equality of social status. To prevent any misunderstanding, I would like to elaborate the point by drawing a distinction between social evils which are the results of secular causes and social evils which are founded upon the doctrine of religion. Social evils can have no justification whatsoever in a civilised society. But nothing can be more odious and vile than that admitted social evils should be sought to be justified on the ground of religion. The Depressed Classes may not be able to overthrow inequities to which they are being subjected. But they have made up their mind not to tolerate a religion that will lend its support to the continuance of these inequities.

If the Hindu religion is to be their religion, then it must become a religion of Social Equality. The mere amendment of Hindu Religious Code by the mere inclusion in it of a provision to permit temple entry for all, cannot make it a religion of equality of social status. All that it can do is to recognize them as national and not aliens, if I may use in this connection terms which have become so familiar in politics. But that cannot mean that they would thereby reach a position where they would be free and equal, without being above or below any one else, for the simple reason that the Hindu religion does not recognise the principle of equality of social status : on the other hand it fosters inequality by insisting upon grading people as Brahmins, Kshatrias, Vaishyas and Shudras, which now stand towards one another in an ascending scale of hatred and descending scale of contempt. If the Hindu Religion is to be a religion of social equality then an amendment of its code to provide temple entry is not enough. What is required is to purge it of the doctrine of *Chaturvarna*. That is the root cause of all inequality and also the parent of the Caste System and Untouchability, which are merely forms of inequality. Unless it is done not only will the Depressed Classes reject Temple Entry, they will also reject the Hindu faith. *Chaturvarna* and the Caste System are incompatible with the self-respect of the Depressed Classes. So long as they stand to be it cardinal doctrine the Depressed Classes must continue to be looked upon as low.

The Depressed Classes can say that they are Hindus only when the theory of *Chaturvarna* and Caste System is abandoned and expunged from the Hindu *Shastras*. Do the Mahatma and the Hindu reformers accept this as their goal and will they show the courage to work for it ? I shall look forward to their pronouncements on this issue, before I decide upon my final attitude. But whether Mahatma Gandhi and the Hindus are prepared for this are not, let it be known once for all that nothing short of this will satisfy the Depressed Classes and make them accept Temple Entry. To accept temple entry and be content with it, is to temporise with evil and barter away the sacredness of human personality that dwells in them.

There is, however, one argument which Mahatma Gandhi and the reforming Hindus may advance against the position I have taken. They may say : "acceptance by the Depressed Classes of Temple Entry now, will not prevent them from agitating hereafter for the abolition of *Chaturvarna* and Caste. If that is the view, I like to meet the argument right at this stage so as to clinch the issue and clear the road for future developments. My reply is that it is true that my right to agitate for the abolition of *Chaturvarna* and Caste System will not be lost, if I accept Temple Entry now. But the question is on what side will Mahatma Gandhi be at the time when the question is put. If he will be in the camp of my opponents, I must tell him that I cannot be in his camp now. If he will be in my camp he ought to be in it now.

B. R. Ambedkar."

"Almost all the Depressed Class leaders of Dr. Ambedkar's persuasion, endorsed the views of their leader. Srinivasan, Premtai and Malik upheld the views of their leader.

Gandhi issued a statement in reply in which he stated : "I am a Hindu, not merely because I am born in the Hindu fold, but I am one by conviction and choice. There is no superiority or inferiority in the Hinduism of my conception. But when Dr. Ambedkar wants to fight *Varnashram* itself, I cannot be in his camp, because I believe *Varnashram* to be an integral part of Hinduism." [1]*

[1]: Keer, P. 230.

* Comment on Temple Entry Campaign See Appendix-VI.

Regarding the above mentioned *Satyagraha* Dr. Ambedkar explained his stand in the following letter addressed to Bhaurao Gaikwad.

BHIMRAO R. AMBEDKAR, Rajgriha Colony.
M. A., Ph. D., D. Sc, Dadar, Bombay 14.
Barrister-at-law., J. P., M. L. C. 3-3-34

My dear Bhaurao,

I am in receipt of your letter of the 23rd Feb. It is very kind of you to have asked me for my views on the propriety of the Depressed Classes launching upon a *Satyagraha* at the Kala Ram Temple in Nasik on the coming Ram Navami Day. I have no position in saying that such a move would be quite uncalled for and should not merely be suspended but should be stopped altogether. This may appear strange and surprising coming as it does from one who was the author of the *Satyagraha*. But I am afraid to declare this change of front. I did not launch the temple entry movement because I wanted the Depressed Classes to become worshippers of idols which they were prevented from worshipping or because I believed that temple entry would make them equal members in and an integral part of the Hindu Society. So far as this aspect of the case is concerned I would advise the Depressed Classes to insist upon a complete overhauling of Hindu Society and Hindu theology before they consent to become an integral part of Hindu Society. I started temple entry *Satyagrha* only because I felt that was the best way of energising the Depressed Classes and making them conscious of their position. As I believe I have achieved that purpose I have no more use for temple entry. I want the Depressed Classes to concentrate their energy and resources on politics and education and I hope that they will realise the importance of both.

Your sincerely,
Sd/-B. R. Ambedkar."[1]

Accordingly the *Satyagraha* was stopped immediately. —Editors

[1]: Khairmode, Vol. 3; Pp. 357-358.

"WHY NASIK TEMPLE *SATYAGRAHA* WAS GIVEN UP

"No Longer Needed"

Nasik, November 19, 1934

Before a mammoth gathering of over 15,000 members of the Depressed Classes who assembled at Vinchur on the occasion of the 11th day death ceremonies of the late Mr. Dhondiba Runkhambe of Vinchur. Dr. Ambedkar made an important political pronouncement. He said he had been repeatedly asked why the Kalaram Temple Entry Movement had been suspended for the last two years. The only reason, he explained was that such a move was no longer needed. This, he said, may appear strange and surprising, coming as it did from the author of the temple entry *Satyagraha*.

The Temple Entry Movement, he explained, was started because he felt that was the best way of energizing the Depressed Classes and making them conscious of their position. He believed that: he had achieved that purpose and therefore he had no more use for temple entry.

Instead he strongly advised the Depressed Classes to concentrate their energy and resources on politics. Since in the coming Reforms they would be called upon to play an important part in moulding their own political future and, thus, their own standard.

Concluding, he paid warm tributes to the Nasik Temple Entry *Satyagrahis* who he said, had not only awakened their brethren and made them realise their true position in Hindu Society but had also aroused deep sympathy towards the Depressed Classes throughout the civilised world. He also stressed the necessity of educating their children."[1]

[1]: The Times of India, 21st November 1934.

Dr. Ambedkar has expressed his views on this subject in his book 'What Congress and Gandhi have done to the Untouchables' wherein he says,

"Here was an opportunity for Mr. Gandhi to advance his Anti-Untouchability campaign. He could have proposed that if a Hindu wishes to enroll himself as a member of the Congress he should prove that he does not observe Untouchability and that the employment of an Untouchable in his household should be adduced in support of his claim in this behalf and that no other evidence would be allowed to be tendered. Such a proposal could not have been impracticable for almost every Hindu, certainly those who call themselves high Caste Hindus, keeps more than one servant in his household. If Mr. Gandhi could make the Hindu accept spinning and boycott as franchise for membership of the Congress he could also make acceptable the employment of an Untouchable in a Hindu household a franchise for membership of the Congress. But Mr. Gandhi did not do it.

After 1924 till 1930 there is a complete blank. Mr. Gandhi does not appear to have taken any active steps for the removal of Untouchability or got himself interested in any activity beneficial to the Untouchables during his period. While Mr. Gandhi was inactive the Untouchables had started a movement called the *Satyagraha* movement. The object of the movement was to establish their right to take water from public wells and to enter public temples. The *Satyagraha* at the Chawdar Tank situated in Mahad, a town in the Kolaba District of the Bombay Presidency, was organised to establish the right of the Untouchables to take water from public watering places. The *Satyagraha* at the Kala-Ram Temple situated in Nasik, a town in the Nasik District of the Bombay Presidency, was organised to establish the right of the Untouchables to enter Hindu temples. There were many minor *Satyagrahas*. These were, however, the two principal ones over which the efforts of the Untouchables and their opponents, the Caste Hindus, were concentrated. The din and noise caused by them were heard all over India. Thousands of men and women from the Untouchables took part in these *Satyagrahas*. Both men and women belonging to the Untouchables were insulted and beaten

by the Hindus. Many were injured and some were imprisoned by Government on the ground of causing breach of the peace. This *Satyagraha* movement went on for full six years when it was brought to a close in 1935 at a Conference held in Yeola in Nasik District in which the Untouchables as a result of the adamantine attitude of the Hindus in refusing to give them equal social rights resolved to go out of the Hindu fold. This *Satyagraha* movement was no doubt independent of the Congress. It was organised by the Untouchables, led by the Untouchables and financed by the Untouchables. Yet the Untouchables were not without hope of getting the moral support of Mr. Gandhi. Indeed they had very good ground for getting it. For the weapon of *Satyagraha*—the essence of which is to melt the heart of the opponent by suffering—was the weapon which was forged by Mr. Gandhi, and who had led the Congress to practise it against the British Government for winning *Swaraj*. Naturally the Untouchables expected full support from Mr. Gandhi to their *Satyagraha* against the Hindus the object of which was to establish their right to take water from public wells and to enter public Hindu temples. Mr. Gandhi however did not give his support to the *Satyagraha*. Not only did he not give his support, he condemned it in strong terms.

In this connection reference may be made to two novel weapons for redressing human wrongs. Mr. Gandhi claims exclusive credit for forging and perfecting them. First is *Satyagraha*. Mr. Gandhi has put into action this weapon of *Satyagraha* many a times against the British Government for the removal of political wrongs. But Mr. Gandhi has never used the weapon of *Satyagraha* against Hindus to get them to throw open wells and temples to the Untouchables. Fasting in another weapon of Mr. Gandhi. It is said that there have been altogether 21 fasts to the credit of Mr. Gandhi. Some were for the sake of Hindu-Muslim unity and quite a number as atonements for the immoralities committed by the inmates of his *Ashram*. One was against the order of the Government of Bombay refusing to give the work of a scavenger in the goal to a prisoner by name Mr. Patwardhan although he demanded it. In these 21 fasts there is not one undertaken for the removal of Untouchability. These are very significant facts.

In 1930 came the Round Table Conference. Mr. Gandhi joined the deliberations of the Conference in 1931. The Conference was concerned with a vital question of framing a constitution for a self-governing of India. It was unanimously held that if India was to be a self-governing country then the government must be a government of the people, by the people and for the people. Everybody agreed that only when a government is in a real sense a government by the people that it could be a government of the people and for the people. The problem was how to make it a government by the people in a country rent into communities, majorities and minorities, who are charged not merely with social cleavages but also with social antagonisms. Having regard to these circumstances it was agreed that in India there was no possibility of government by the people unless Legislature and the Executive were framed on the basis of communal representation.

The problem of the Untouchables loomed large at the Conference. It assumed a new aspect. The question was : Should the Untouchables be left as they were to the tender mercies of the Hindus or should they be given the means to protect themselves by extending to them the principle of communal representation ? The Untouchables strongly objected to be left to the pleasure of the Hindus and demanded the same protection as was given to the other minorities. The contention of the Untouchables was accepted by all. It was just and logical. They contended that the chasm between the Hindus and Muslims. between Hindus and Sikhs, between Hindus and Christians is nothing as compared with the chasm between the Hindus and the Untouchables. It is the widest and the deepest. The chasm between the Hindus and the Muslims is religious and not social. That between the Hindus and the Untouchables is both religious and social. The antagonism arising out of the chasm existing between Hindus and Muslims cannot spell political disaster to the Muslims because the relationship between the Hindus and the Muslims is not that of master and slave. It is one of mere estrangement. On the other hand, the chasm between Hindus and the Untouchables must spell political disaster for the Untouchables because the relationship between the two is that of master and slave. The Untouchables contended that the attempts

to close the gap between them and the Hindus by means of social process had been tried for ages. They had all failed. There was no hope of their success. Since power is being transferred into the hands of the Hindu majority they must have political safeguards of the same sort as, if not better, than those conceded to the Muslims and other minorities.

Here was an opportunity to Mr. Gandhi to show his sympathy to the Untouchables by lending his support to their demand and thereby strengthen their power of resistance against the tyranny and oppression of the Hindus. Instead of showing his sympathy, Mr. Gandhi used every means in his power to defeat them. He made a pact with the Muslims with a view to isolate the Untouchables. Failing to win the Musalmans to his side, he went on a fast unto death to compel the British Government to withdraw their decision to give to the Untouchables the same political rights as given to the Muslims and other minority communities. When the fast failed and Mr. Gandhi was obliged to sign a pact—called the Poona Pact—which conceded the political demands of the Untouchables he took his revenge by letting the Congress employ foul electioneering tactics to make their political rights of no avail." [1]

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[1]: Writings and Speeches, Vol. 9, Pp. 246-249.

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SECTION V

OTHER MOVEMENTS

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1

I AM A MAN OF CHARACTER

"Subhedar Ramji Maloji, father of Bhimrao Ambedkar passed away on February 2, 1913. Bhimrao Ambedkar was now left to stand on his own feet. His insatiable thirst for knowledge and the spur of ambition made him restless. He was now in no mood to return to his job in Baroda. His short stay there had been unhappy. At last another chance came his way in June 1913. The Maharaja of Baroda*, at this juncture, thought of sending some students to the U.S.A for higher studies at Columbia University."[1]

"While H. H. Maharaja was at Bombay, Bhimrao met him at the Malbar Hill Palace in order to apprise him of the inconvenience faced by him in service and residental facilities while at Baroda. H. H. Maharaja was already knowing almost everything about Bhimrao. Without mentioning a single word about the inconvenience faced by Bhimrao, H. H. Maharaja was discussing various subjects with him. Bhimrao gave his considered opinion on whatever questions the H. H. Maharaja asked. After about half an hour discussion the H. H. Maharaja asked him to come tomorrow at the same time. Since H. H. Maharaja did not speak anything about the complaints Bhimrao had made felt unhappy.

The Next day, H. H. Maharaja asked which subject would he like to study. Bhimrao replied, Sociology, Economics and especially Public Finance.

H. H. Maharaja : What will you do by studying these subjects ?

Bhimrao : The study of these subjects would give me clues for improving the depressed condition of my society and I shall undertake the work of social reforms on those lines.

H. H. Maharaja : (Laughingly) But you are going to serve us, is't it ? Then how are you going to study, serve and also do the social service ?

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* His Highness Maharaja Sayajirao Gaikwad was born on March 1, 1863. His coronation took place on December 28, 1881. The Maharaja breathed his last on February 6, 1939, at his Jai Mahal Palace in Bombay.

[1]: Keer, Pp. 24-26.

Bhimrao : If H. H. Maharaja gives me due opportunity, I shall manage to do all the things.

H. H. Maharaja : I have been thinking on the same lines. I am thinking sending you to America will you go?

Bhimrao : Yes Sir.

H. H. Maharaja : Now you can go. Send an application of foreign proposed study to our Academic Officer asking for a scholarship and inform me accordingly."[1]

"He advised him to apply for one of the scholarships which his State had advertised. He did so, and the Maharaja decided to send Bhimrao along with three other students for higher education. Bhimrao was called to Baroda. On June 4,1913, he signed an agreement before the Assistant Minister for Education of the Baroda State, agreeing to devote his time to studying the prescribed subjects and to serve for ten years the Baroda State after completion of his studies."[2]

The Memorandum of Agreement is as follow:

"Memorandom of Agreement made the fourth of June 1913, between the Government of His Highness the Gaekwad of Baroda, on the one part, and Mr. Bhimrao R. Ambedkar, B. A., an inhabitant of Baroda* on the other part.

It is agreed between the Government of His Highness the Maharaja Gaekwad and Bhimrao R. Ambedkar as follows :—

(1) Mr. Ambedkar Bhimrao R. undertakes to proceed to America to be trained up Finance and Sociology in the Columbia University, New York, and to obtain the Master's degree in Economics, Finance and Sociology, staying there for a period of two years or more as may be hereafter considered necessary. During the period he shall stay under general supervision of Dr. H. C. Pumpus.

[1]: Khairmode, Vol. l, Pp. 63-64.

[2]: Keer, P. 26.

* Should be 'Bombay' See Appendix VII for other details also.

(2) Mr. Bhimrao Ambedkar will not devote any time to the study of other subject or subjects to the detriment of his study of those mentioned in the agreement without the consent of His Highness' Government.

(3) He shall submit quarterly reports of his conduct and progress to the Minister of Education, Baroda State, through the Educational Authorities under whom he may be studying or through Dr. H. C. Pumpus under whose care he may be placed and shall abide by the insrtuctions that may be sent to him from time to time.

(4) He will receive before departure Rs. 500 for his outfit.

(5) For his onward journey from Bombay to America His Highness' Government will provide second class passage by a French or German Steamer. He will also be provided with the same for the return journey, if he returns after successfully finishing the subject or subjects as mentioned in clause I or if he is compelled by sickness to return, under a Medical Certificate, before the completion of his studies. He will also receive second class railway and boat fare and actual expenses for bona-fide journeys made in connection with his studies.

(6) Mr. Ambedkar will receive from the date of his starting from Bombay an allowance of £ 230 (two hundred and thirty pounds) per annum, and in addition the Government will pay all expenditure.

—Incomplete—one Page missing—

A. C. Joshi

Bhimrao R. Ambedkar

(on Eight Annas Stamp)

Signed and attested before me this day on fourth of June 1913.

G.M. Shah

Assistant Minister of Education,

Baroda State.

On behalf of Government."[1]

[1]: Rattu : Little known facts of Dr. Ambedkar, Pp. 227-228.

"Expenditure incurred on behalf of Mr. B. R. Ambedkar*

IN AMERICA

Rs.	As. P.	
1,373	12-0	Outfit, 3 month's scholarship from 15-6-13 and Railway fare from Baroda.
5900-0		Passage
3,828	0-0	Scholarship from 15-9-13 to 14-6-14 and books, fees, etc. Bill No. 843/25-4-14
6,912	3-7	Scholarship from 15-6-14 to 14-9-15 and books, fees, etc. Bill No. 898/28-7-16
3,651	7-10	Scholarship from 15-9-15 to 14-6-16 and books, fees, etc. Bill No. 1831/31-3-18

IN ENGLAND

4,078	9-8	Scholarship from 15-6-16 to 14-6-17 Bill No. 1831/31-5-18 educational expenses and passage."
20,434-0-6		[1]

"The Baroda State officials in their flaming zeal to guard the interests of the Maharaja and to control the finances of the State, took extraordinary steps in insisting on the repayment of the scholarship amount of Rs. 20,434.05p.[2] by Dr. Ambedkar, without, however, the knowledge of Maharaja.

Dr. Ambedkar was, no doubt, committed to repay the money the Baroda State had spent on his behalf for prosecuting studies abroad but situated as he was he had not sufficient money to live on much less to spare anything to his credits. Under the circumstances he expressed his inability to return the money spent by the State much as he wished to do. As such he humbly requested the Baroda State Government officials to give him time till he was in a position to pay

* For other details, see Appendices VII, VIII and IX

[1]: Rattu: Little known facts of Dr. Ambedkar, P. 229

[2]: Slight difference between two figures-Editors.

Dr. Ambedkar's letter to Mr. Pandit, on the Baroda State Government's move to file a suit for the recovery of the amount. Written in his own magnificient way and style give a very interesting reading. The same is reproduced verbatim :

Private Damodar Hall.

B. R. Ambedkar Parel, Bombay

9-12-1924

Dear Mr. Pandit,

Thank you very much for your letter of the 6th instant. I have very carefully noted the contents of the same. If you had seen my previous correspondence with the Baroda Government you would not have found much necessity to remind me of my obligations to the State. For, I have written to them many a times that whatever be the legal relations between me and the Baroda State I hold myself bound to pay the money the State has spent on my behalf. And believe me that if I had the money with me here and now I would have discharged my obligations without a moment's delay. For I long to feel that I am free to say that I want to say regarding the treatment the Baroda Government has given to me and of which you seem to be entirely unaware. But situated as I am I have not sufficient to live on much less to spare anything to my credits. You say that I am now "established" in Bombay and that you don't see any difficulty why I should not fulfil my obligations. It is rather difficult to understand what you mean by the word "established". If you mean that I am earning by heaps I am sorry to tell you that you are entirely mistaken. You seem to forget that I am only a Barrister struggling to get work. First of all there is the fact that I am only year old in practice. Secondly there are all the caste prejudices which are rampant in this profession and which I have to face at every step in my onward march. The struggle

for me is the bitterest possible and I am therefore obliged to take things lying very low indeed. Under the circumstances I am for the present unable to return the money spent by the State much as I wish to do. If the Baroda Government interprets my inability to pay as an unwillingness to pay then the way for them is to go to Court, get a decree and execute it if they think that it will be really to their advantage. It may be true that if matters go to court then the name of the community will suffer. On the other hand it is my belief that if the community were to know as it will in the course of the suit the way in which I have behaved towards the Baroda Government, I am sure there will be nothing which it shall have to be ashamed of on my account. On the other hand I have no doubt that in the mudslinging that will follow the contemplated suit some mud will stick to His Highness and to the Baroda State of which both shall have to be ashamed.

Of course it will be better if all this were avoided. But the only way in which it can be avoided is by the Baroda Government giving me time till I am in a position to pay. The Baroda Government don't seem to know me sufficiently well. I have once shown them that I am a man of character. If I had not had sufficient character I would never have returned at Baroda. I had immeasurable offers to enter British service who would have thrown them away except by a man of character ? They only know me as an independent fellow. But they forget it is only a man of character who can be independent.

Be that as it may I hope you will understand that I am most anxious to meet my obligations to the State and if I cannot do it immediately it is only because I am hard up. The moment I am in easy circumstances you may depend upon it that I will commence to repay. More than this I cannot for the present say or do. My real object which I have disclosed to repay it to the University of Bombay and to request the University to

establish Scholarships for Depressed Class boys out of that sum in the name of the Maharaja of Baroda. The money was spent on me as a member of the Depressed Classes and in my view it should not go to the private use of the State but should be utilized for the benefit of the Depressed Classes. But as the State has been acting in such a commercial way I submit I do not think it would appreciate my plan.

With this I leave it to you to judge between me and the Baroda State.

I have not misunderstood the spirit in which you have written to me and I trust you will not misunderstand the spirit in which I have replied to you.

Hoping to hear from you occasionally.

I am,

Yours sincerely,

(B. R. Ambedkar)"[1]

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[1]: Rattu : Little known facts of Dr. Ambedkar, Pp. 21-24.

2

INSTEAD OF A STATUE, A PUBLIC LIBRARY WILL BE THE BEST MEMORIAL OF SIR MEHTA

"This is the earliest letter of Dr. B. R. Ambedkar sent for publication while he was a student of Columbia University, New York, U.S.A. in 1916. A proposal to erect a statue of Sir Pherozshah Mehta was mooted in the city of Bombay to be erected in front of the Municipal Office. Dr. Ambedkar having learnt this through the newspapers, considered it a most trivial form of memorial of a great man. According to him the memorial should have utility to the society especially for spreading the knowledge. He, therefore, proposed a memorial in the form of a public library in memorium of Sir Pherozshah Mehta. This letter may be found instructive and guiding even to-day to the Indian people who have craze for erecting statues of illustrious personalities." [1]—

"**The Late Sir Pherozshah Mehta**

To,

The Editor of 'The Chronicle'

Sir,

You will agree with me when I say that in a country like India so badly situated socially, economically and politically, the paramount need of the hour is for honest leaders to take upon themselves the enormous task of regeneration. Such leaders were found in the persons of the late Messrs Gokhale and P. M. Mehta, both of whom were entitled to everlasting gratitude for the zeal and sacrifice with which they represented our cause. Their identification with the people and the latter's repose in them were so complete that their sudden death seemed for a while as though it was all nature's trick.

It is to their lasting credit that they grappled with many of our problems, solved a few of them and left the rest for us to face. But our feelings for the work done by them have completely set aside our feelings of the future work to be done by us- so much is our devotion to them. And it is quite natural that we should be more concerned about raising fitting memorials for those who have

[1]: Lokrajya : Dr. Babasaheb Ambedkar Special Number, April 16, 1981, P.33.

unremittingly exerted themselves in our behalf than about meeting the problems that confront us to-day.

The Indian papers so far to hand indicate that the memorial of Mr. Gokhale is to take the form of establishing branches of the Servants of India Society at various places, while that of Sir P. M. Mehta is to stand in the form of a *statue* before the Bombay Municipal Office.

Permit me to say that individually I regard this particular form of Sir P. M. Mehta memorial to be very trivial and unbecoming to say the least.

I have been at pains to understand why his memorial cannot be in a form which will not only be a true memorial of him, but will be of permanent use to posterity.

As combining these two purposes, I would suggest that in my humble opinion the memorial of Sir P. M. Mehta should be in the form of a public library in Bombay to be called "Sir Pherozshah Mehta Library."

It is unfortunate that we have not as yet realized the value of the library as an institution in the growth and advancement of a society. But this is not the place to dilate upon its virtues. That an enlightened public as that of Bombay should have suffered so long to be without an up-to-date public library is nothing short of disgrace and the earlier we make amends for it the better.

There are some private libraries in Bombay operating independently by themselves. If these ill-managed concerns be mobilized into one building, built out of the Sir P. M. Mehta memorial fund and called after him, the city of Bombay shall have achieved both these purposes. As to the funds for the purchase of books and management of the library on modern lines, I trust there will be many generous souls to endow it.

As a student in one of the biggest universities of the U.S.A. I am thoroughly convinced of the place a library has in the intellectual and social development of a people and being painfully conscious of its lack in the city of Bombay, I take this opportunity of urging on the Bombay public of what I think can be the fittest and, most lasting memorial of the greatest hero of modern Indian history.

Being 10,000 miles away from India it takes time to get home-news. Consequently, I am a little late in submitting my proposal, but better late than never.

Yours etc.
Bhimrao R. Ambedkar
Livingston Hall, Columbia University,
New York City, U.S.A."[1]

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[1]: Bombay Chronicle : Tuesday, 28th March, 1916.

Reprinted in Lokrajya : Dr. Babasaheb Ambedkar Special Number April 16, 1981, Pp. 33-34.

3

PUBLIC BODIES SHOULD HELP CANVASSER

This is an authority letter of Dr. B. R. Ambedkar issued to a Canvasser-Editors.

|| Jai Bhavani ||

Bhimrao R. Ambedkar,
M.A., Ph. D., D. Sc,
Bar-at-Law.
Member, Legislative Council,
Bombay.

Damoder Hall,
Pareal, Bombay,
4-7-1927.

This is to certify that the bearer Shankardas Narayandas Barve is a worker of the Bahishkrit Hitkarini Sabha, an organization established for the uplift of the Depressed Classes and a canvasser for the 'Bahishkrit Bharat' a paper which stands for safeguarding the interests of the Depressed Classes.

His duty is to travel from place to place in the presidency in the cause of the Depressed Classes to deliver lectures and exhort them to strive for their betterment. It is requested that, the public bodies should help him as far as possible.

Sd./- B.R. Ambedkar.[1]

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[1]: Khairmode, Vol. 6, Pp. 217-218.

4

BHAURAO PATIL'S INSTITUTION DESERVES SUPPORT

This is a remark made by Dr. B.R. Ambedkar in the Visit Book of the hostel run by the institution of the Great Social Reformer and Educationist Karmavir Bhaurao Patil at Satara—Editors.

"I am extremely happy to have been able to pay this visit to the Hostel. It is an unique institution and deserves support of every man who cares for the best interests of this nation. Every credit is due to my friend Bhaurao Patil. I am paying Rs. 20/- to this institution.

Satara:

29-07-1928 Sd./- B. R. Ambedkar."[1]

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[1]: Khairmode, Vol. 4, P. 14.

5

COMPLAINT AGAINST ME IS ABSOLUTELY UNFOUNDED

"Denies Statement alleged to have been made before Commission.

Dr. B. R. Ambedkar has sent us a lengthy statement from which we take the following material points :—

My attention is drawn to the statement appearing in your issue of 6th instant in which the President of the Sholapur Municipality has given publicity to the resolution of the Municipality strongly repudiating the implied suggestion in my evidence to the statement that the grant to the Depressed Classes Hostel at Sholapur was stopped as a repercussion of Hindu-Moslem riot and explaining the facts that led to the stoppage, of the grant.....

The complaint against me seems to be based upon the supposition that, in the course of my evidence before the Simon Commission, I stated that the grant given to the Depressed Classes Hostel at Sholapur was deliberately discontinued by the Municipality because the Depressed Classes of Sholapur had refused to help the Higher Class Hindus during the Hindu-Moslem riots in 1925 which the Municipality holds is an untrue statement.....

My reply to the statement by the Municipality is that its complaint against me is absolutely unfounded and is based upon a deliberate misreading of my evidence.....

I am sure, every fair-minded man would agree that in my evidence I have never stated that the grant was stopped because the Depressed Classes refused to aid the Caste Hindus in the Hindu-Moslem riot. On the contrary I have clearly stated that I did not know what the cause was.....

I wish the Municipality had stopped with vilifying me for the implication that, it thinks, arises from the statement made by me on the course of my evidence. It goes a step further and tries to give what it considers to be the true reasons for the stopping of the grant

to the Hostel. The statement says that the President "noticed serious irregularities in the subscription book and called for account books and the Society having refused the grant was stopped." I am sorry to have to use strong language but I must state that all these statements are issues of untruth for which there is no mitigation.

Now the real facts are these :—The Hostel at Sholapur was opened in 1925. The Municipality gave a grant from the commencement of the Hostel. For the two years 1925 and 1926 the grant was paid regularly without any hitch. There was no inspection nor was there any examination of the accounts of the institution. The Municipality was satisfied with the audited accounts of the institution. But the attitude of the Municipality, which came into existence after the elections in 1927 and particularly of the President, Dr. V. V. Mulay, underwent a complete change. It so happened that the Chairman of the School Board paid a surprise visit to the Institution in the beginning of the year, 1927, in the course of which he inspected the hostel and examined the accounts. As usual he wrote out his remarks in the Visit Book stating that the accounts were kept in the best manner possible. *The copy of the said remarks was forwarded by the Superintendent to the President.*

But that gentleman, instead of being pleased, showed by his subsequent conduct as though his plan was foiled by the favourable remarks of the Chairman of the School Board. For, immediately afterwards he demanded from the Superintendent by his letter dated 19th March 1927 to produce the accounts of the institution for the years 1925 and 1926. To this a reply was sent by the Superintendent that the old books of account were sent to the Head Office in Bombay and were destroyed after the close of the year and that the books of the current year were available and were offered for examination.

In the meantime the Municipality appointed a Sub-Committee consisting of Mr. Buwalal Vakil, Vice-Chairman of the School Board and Mr. Shivlal Appa Deshmukh, Member of the School Board to examine the accounts. This Committee composed of the

President's men who were far from being well disposed to the institution, after examining the accounts reported on 2nd May 1927 that the accounts were kept in the best possible manner and that they could say nothing against the Hostel. The report was submitted to the Municipality.

Such a favourable report by his own men against an institution which he intensely disliked instead of changing the attitude of the President only served to exasperate him so much so that he still insisted upon producing books of accounts for the past years of 1925 and 1926. He was given from the Head Office the only reply that could be given namely that the old books of accounts of the Society are examined by auditors whose certified accounts are submitted and should be accepted and that current accounts are open for inspection to the Municipality at any time. Thereafter the Administrative Officer of the Municipality examined the accounts and certified that there was nothing wrong about them. This seems to have put the President to shame. For, thereafter he gave up his demand for producing the old books of accounts and intimated to the Superintendent that he would be content if the account books of the current year were produced before him. This was done and the President, I am glad to say, could find nothing against the institution. Disappointed at every stage to disqualify the institution on the ground of mismanagement the President at the time of the last budget meeting of the Municipality brought forth the proposal that the grant to the institution be stopped. But the allegations he then made against the institution were known to be false and malicious and were treated by the Municipal Councillors with the contempt they deserved ..... All except one Councillor united in sanctioning the grant over the head of the President. It will thus be seen that far from the grant having been discontinued, the Municipality has in fact sanctioned the grant in its budget holding the allegation of its own President unworthy of belief. What has really happened is that the President after the grant was sanctioned refused to pay it out on the ground that the reply of the Society regarding the showing of accounts was not satisfactory.

Now I don't understand how the reply of the Society can be deemed to be unsatisfactory. The Society has always been ready to show the accounts of the current year. Regarding the production of accounts of the past years, the reply given by the Society is the only reply that can be given. For who on earth can produce books of years past ? The demand is not only unreasonable but is perverse and can be met by no Society. From this, every fair minded man will see how the Municipality and its President in trying to expose, be it remembered, not a lie, in fact, but an implied lie have ended in giving publicity to issues of lies unmiligated by any extenuating circumstances whatsoever.....

Damodar Hall, B. R. AMBEDKAR" [1]

Parel, December 8, 1928.

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[1]: The Indian National Herald, dated 10th December 1928.

6

FORWARDING LETTER

BHIMRAO R. AMBEDKAR
M.A., Ph.D., D. Sc,
Barister-at-law,
J.P.,M.L.C.

RAJGRIHA
NEW DADAR,
BOMBAY-14

Dear Sir,

Your special correspondent in India wrote to me that you wanted a statement of my views on the Report of the Joint Parliamentary Committee on Indian Reforms for publication in the Manchester Guardian. In accordance therewith, I am sending alongwith this a statement of my views. I am sorry, I have not been able to compress my statement within 1200 words prescribed by you and the statement exceeds the limit by about 300 words. In view of the importance of the subject and the necessity of complete clarity, I have to make a special request to let the statement appear in full without curtailment.

Thanking you for the same.

I remain,

Yours faithfully,

B. R. Ambedkar

To, The Editor, Manchester Guardian.

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Surwade, Vol. 1, Pp. 146-47
Date is not available.

7

PAY MORE ATTENTION TO ECONOMIC, EDUCATIONAL AND SOCIAL IMPROVEMENT RATHER THAN TEMPLE ENTRY

"Poona, October 18, 1932

Dr. B. R. Ambedkar came to Poona yesterday and spent some time in the Legislative Council but did not disclose to anybody the fact that he had been given permission to visit Mr. Gandhi in Yeravda Jail. In the evening, however, he made use of this permit and spent almost an hour and a half with Mr. Gandhi. Letter he left for Sawantwadi on professional business. He will return to Bombay on October 26 and hopes to sail for England on November 7.

Dr. Ambedkar is of opinion that the Round Table Conference will not begin before November 22 as it will be impossible for many delegates to be present in London by November 12. While it is difficult to draw a line between politics and social welfare in the present situation between Caste Hindus and the Depressed Classes, it is understood that politics proper were banned under the terms of the permit and that therefore the Poona Pact was not dealt with to any extent.

Dr. Ambedkar, however, placed before Mr. Gandhi his views on the future constitution of the Anti-Untouchability League, its Provincial and District Committees and its general progress. He took up the matter of the composition of the committees and expressed very firmly his opinion that there should be a majority of Depressed Classes people on these committees. He was of opinion that their voice must be predominant and that nothing must be done which might prove unpalatable to them. If the uplift work was to proceed satisfactorily the Caste Hindus must assist the Depressed classes people to work out their own salvation and not attempt to uplift them by inducing them to follow the ideals of the Caste Hindus in every way.

Special Census

He also drew Mr. Gandhi's attention to the proposal of the League to arrange for a special census of the Depressed Classes people in India and pointed out to the Congress leader that such a proceeding was unnecessary.

Mrs. Sarojini Naidu was present during the interview and Mr. Gandhi and those who met Dr. Ambedkar after the interview appear to have received the impression that Mr. Gandhi favoured Dr. Ambedkar's proposal regarding the composition of the Anti-Untouchability League Committees.

Mr. Gandhi is "perfectly fit" according to the latest news from Yerawda and Dr. Ambedkar has told his friends that the Congress leader is full of life and is completely restored to normal health.

ECONOMIC INEQUALITIES

Dr. Ambedkar's Advice to his Community

"There certainly is a general slackening off in the Anti-Untouchability Movement," said Dr. Ambedkar in an interview. "But, as the movement only dealt with the spectacular removal of the ban against Untouchables entering temples and with inter-dining, I am greatly perturbed over this fact. That with spectacular certainty, they caused much ill-feeling between the people and brought them no substantial advantage.

"The attention of the Anti-Untouchability League and workers in the same cause should be directed more to the economic, educational and social improvement of the Untouchables rather than to temple entry and inter-dining. Public opinion should be mobilised by them to throw open wells and to admit Untouchable children to public schools."

Referring to Belgaum district where a request had been received from the Depressed Classes people themselves for the constrution of a separate well, he said that the Board should not grant such a request. Untouchables should insist on their right to draw water from the general public wells. He suspected that in this case there might be some interested party influencing them."[1]

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[1]: The Times of India, dated 19th October 1932.

8

NOTHING CAN EMANCIPATE THE OUTCASTES EXCEPT THE DESTRUCTION OF CASTE SYSTEM

"Mahatma Gandhi started newspaper named 'Harijan' on February 11, 1933, to propogate the cause of the Untouchables. Dr. B. R. Ambedkar on this occasion stated."[1]

"I cannot give a message."[2]

"The out-caste is a by-product of the caste system. There will be outcastes as long as there are castes. Nothing can emancipate the outcastes except the destruction of caste system. Nothing can help Hindus and ensure their survival in the coming struggle except the purging of Hindus faith of this odious and vicious dogma."

"In reply Gandhi said that many educated Hindus held this view; but he was not able to share it."[3] "Untouchability is the product not of the caste system, but of the distinction of high and low, that has crept into Hinduism and is corroding it. The attack on Untouchability is an attack upon this high and lowness."[4]

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[1]: Keer, P. 227

[2]: Kuber, B. R. Ambedkar, P.47

[3]: Keer, P. 227

[4]: Kuber, B. R. Ambedkar, P.47

9

DEPRESSED CLASSES AGAINST SECOND CHAMBERS

Dr. Ambedkar on Joint Parliamentary Committee Report Provision for Better Representation Demanded

"While it is a matter of great satisfaction to me and to the Depressed Classes that the Poona Pact has not been disturbed by the Joint Parliamentary Committee. I must point out that the Depressed Classes have been unjustly treated by the changes introduced by the J. P. C. in the matter of representation in the Provincial Second Chambers and in the Upper Chamber of the Federal Assembly". Thus writes Dr. B. R. Ambedkar in a statement of his views on the Joint Select Committee's report in so far as it relates to the Depressed Classes.

Dr. Ambedkar continues :—

The Depressed Classes opposed the establishment of the Second Chambers in the Provinces. They were deemed unnecessary under the Montague-Chelmsford reforms. They were not recommended by the Simon Commission. They are condemned by all the political organisations of India. In the opinion of the Depressed Classes they constitute a retrograde step and will prove a hindrance to the progress of the country.

The Composition

The second ground of the opposition of the Depressed Classes to the Second Chambers arises from the Composition of these Second Chambers. It is obvious that in some of the Provinces in which Second Chambers are instituted, is there any seat reserved for the Depressed Classes? Special provision is made for the representation of Muslims, Europeans and Indian Christians in these Provincial Second Chambers. But in no Province is any such provision made for the Depressed Classes. The Depressed Classes of Bombay, Madras, and the United Provinces are left to get such representation as they can out of the general seats in a straight election fight with High Caste Hindu candidates.

If there was any chance of the Depressed Classes winning seats in an open fight against Caste Hindu candidates there would have been no necessity for the Poona Pact. It is therefore obvious that there will be no representatives of the Depressed Classes in the Second Chambers in these Provinces. In Bengal and Bihar it is provided that 27 out of 65 in the former and 12 out of 30 in the latter will be elected, by the method of the single transferable vote, by members of the Provincial Lower House.

Insufficient Seats

This opens up a possibility for the Depressed Classes in these two Provinces to secure representation in the Second Chambers. On a closer study of the facts it will, however, be clear that in Bihar there will be no probability because the depressed classes seats in the Provincial Lower House (15 in 152) will not be sufficient to give them the necessary quota, and in Bengal 30 in a house of 250 will hardly give them a quota for one seat.

Not only will there be no seat for the Depressed Classes in any of the Provincial Second Chambers, but on account of the franchise, they will not be able even to influence the elections to the Second Chambers.

Need of Reserved Seats

The J. P. C. seems to have given no thought to these adverse effects, its proposals were calculated to produce on the representation of the Depressed Classes in the Second Chambers. In connection with its franchise proposals the committee observes that "the qualifications above indicated will also apply to candidates, but special provision may be necessary in the case of women and the Depressed Classes." That special provision will be necessary is beyond doubt. But what I wish to point out is that a differential qualification in favour of the Depressed Classes' candidate will be of no avail if the franchise of the voters remains uniform. Indeed, differential qualification in favour of Depressed Classes' voters will not help them to win in elections unless seats are reserved for them.

The Position of the Depressed Classes in regard to their representation in the Federal Upper House has also undergone a complete change for the worse. Under the White Paper proposals the

electorates for the Federal Upper House was the Provincial Lower House and the elections were to be by the proportional system and the method of the single transferable vote. As in the Provincial Lower Chambers, the Depressed Classes were represented in sufficiently large numbers to give them the necessary quota to get one member of their own class elected at any rate in eight or nine Provinces, the Depressed Classes were sure of eight or nine seats in the Federal Upper House. This prospect has now been completely destroyed by the change in the system of election to the Federal Upper House proposed by the J.P.C.

Electoral Colleges

As I have pointed out, there will be no representatives of the Depressed Classes in the Provincial Second Chambers, which are to serve as electorates to the Federal Upper House in those Provinces where the legislatures are bicameral. Turning to the proposed electoral colleges in the Provinces, which will be unicameral, and examining their composition, it will be seen that there are no provisions for special electoral colleges for the Depressed Classes as there are for Sikhs and Muslims. Nor is any special provision similar to that made for Indian Christians, Anglo-Indians, and Europeans.

In regard to the constitution of special electoral colleges in unicameral Provinces the committee observes "The question of special provisions for the Depressed Classes among the General Seats requires special consideration especially in relation to the Central Provinces.

If special provision is necessary for the Depressed Classes of the Central Provinces why is special provision not necessary for the Depressed Classes in other unicameral Provinces? And if special provision is necessary for Depressed Classes in the Unicameral Provinces why is not special provision necessary in bicameral provinces ? The condition of the Depressed Classes is the same all over the country and it cannot be said that the position of the Depressed Classes in the Central Provinces is worse than that of their fellows in other parts of the country.

Against Vital Interests

In omitting thus to provide for their representation has J.P.C. acted against the vital interests of the Depressed Classes ? I would like to remind His Majesty's Government that the consent of the Depressed Classes to the transfer of power to Indians was conditional upon adequate provision being made for their representation in the legislatures of the country under the new constitution. I had made this abundantly clear in my speech as the representative of the Depressed Classes at the Plenary Session of the First Round Table Conference. This omission to provide for the representation of the Depressed Classes in the Second Chambers, Provincial and Federal, is also contrary to the considered views of all those who have dealt with the problem.

I am sure that the sentiments of the Prime Minister on which the Depressed Classes have been relying were intended to be earned out in the framing of the new constitution, but the J. P. C. failed to respect these sentiments, with the result that the interests of the Depressed Classes in the matter of representation in the Second Chambers, Federal and Provincial, have been flagrantly neglected. I must, therefore, say that it would not be possible for the Depressed Classes to give their support to the scheme of reforms, and I hope that His Majesty's Government will modify the proposals of the J.P.C. so as to safeguard the interests of the Depressed Classes in the matter of representation in the Second Chambers, Federal and Provincial. I am sorry to say that it would not be possible for the Depressed Classes to give their support to the scheme of reform if these proposals stand as they are."[1]

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[1]: The Times of India, dated 15th January 1935.

10

REMOVE BASIS OF 'SMRITI' RELIGION

Nasik, November 28.

"Owing to the lowering of franchise the Caste Hindu masses will secure the real power under the new constitution but they are opposed to social reform. They will be extremely unwilling to change the existing custom and usage. My grievance is especially against them and not against the social reformers. Even the Congress candidates will not be able to win the elections if they declare that, if elected, they will enact legislation for abolishing Untouchability. I challenge the Congress to seek election on this mandate."

The above is the gist of the interview between Dr. Ambedkar and the deputation, elected by the Nasik Progressive Hindus at a meeting held on October 26, 1935.

The Nasik Progressive Hindus have now issued an authoritative statement summarising the interview.

The deputation, says the statement consisting of five progressive Caste Hindus, headed by Mr. R. G. Pradhan, former M.L.C., waited upon Dr. Ambedkar at his residence on November 10 and the interview which lasted over three hours, was of a cordial, friendly and frank nature.

Progressives' Views

At the outset, the deputationists placed before Dr. Ambedkar the following resolutions adopted by the Nasik Hindu Progressive Citizens in a conference presided over by Shri Shankaracharya (Dr. Kurtakoti). The resolution runs thus : (A) "The question regarding public temples, public places of pilgrimage and *thirtas* being extremely controversial and outside the sphere of immediate practical achievement, every possible effort should be made to bring about a change of public opinion with regard to that question. (B) Barring the above question except to the extent of bringing about a change of public opinion with regard to, continuance and unflinching efforts should be made both

individually and collectively by propaganda, constructive work and in other ways for securing for the *Harijans,* freedom to reside and settle in localities inhabited by *non-Harijan* Hindus for abolishing Untouchability in public places, such as wells, schools, *dharamshalas* and hotels and in general for doing away with Untouchability in the Hindu society with regard to all other matters."

Mr. Pradhan expressed the deputationists deep respect and love for Dr. Ambedkar and declared that they were anxious to solve the problem arising out of Dr. Ambedkar's speech at Yeola with his cooperation and consultation.

Mr. Pradhan said that they all desired to dissuade Dr. Ambedkar. from changing his religion, Mr. Pradhan conveyed Shri Shankaracharya's deep affection for Dr. Ambedkar.

"Remove Basis of 'Smriti' religion"

Dr. Ambedkar's Demand

In the course of the interview, which lasted over three hours, Dr. Ambedkar said: "Whatever may be the metaphysical basis of a religion, those religious principles upon which depend the ethical system and the social practices of a people must be considered to be the principal element of that religion. Though Hinduism is based on the conception of Absolute *Brahma* the practices of the Hindu community as a whole are founded on the doctrines of inequality as pronounced in *'Manusmriti'*. Some people think that religion is not essential to society. I do not hold this view. I consider the foundation of religion to be essential to the life and practices of society. At the root of the Hindu Social System lies *Dharma* as prescribed in *'Manusmriti'*. Such being the case I do not think it possible to abolish inequality in the Hindu Society unless the existing foundation of the *'Smriti'* religion is removed and a better one laid in its place. I, however, despair of the Hindu Society being able to reconstruct on such a better foundation."

Referring to the position of *Harijans* in the coming constitution, Dr. Ambedkar said that the cause of removal of Untouchability and of social reform would not advance with the help of the legislatures under the new constitution.

About abjuring the Hindu religion, Dr. Ambedkar declared: "Personally, I have made up my mind to change my religion. I am not able to tell you today what other religion I will accept. But I do not intend to secure any personal gain by the change of religion. It is not a personal question and I desire to carry with me the whole Untouchable community at all events the majority of that community, I do not want it to be split up by some joining one religion or sect and other another. From the point of view of the interests to my community it is necessary that it should be united with and absorbed into some powerful and living community. It is my intention to make this movement for change of religion an all India one. If my community does not follow me then I will alone change my religion. This may take at least four or five years and you will have this period for doing what you can. Before the final decision is made we shall of course consider what success your efforts may have met with. I admit the work before you is tremendous. But if it cannot be accomplished except after a very long period we are not prepared to wait for such a length of time."

New Sect

Referring to the offer made by Dr. Kurtakoti, regarding his creation of a new order and throwing it open to the Untouchables in common with others on equal footing and status, Dr. Ambedkar said : "I shall not undertake the responsibility of starting a new sect nor will I advise my community to join it. Let Dr. Kurtakoti start the sect if he so desires and let it spread among the 'touchables' and then we shall think over it. I cannot say today what the *Harijans* will think of it if it is established. Their attitude towards it will depend upon its numerical strength and upon the extent to which it will promote the uplift of the *Harijan* community. We shall consider whether to join it or not just as we may consider whether or not to join any other sect, but such a sect must be of a living religion

There are some difficulties in the way of our accepting *Buddhism*. I think that the *Harijan* community should be completely absorbed into some powerful community. It has decided not to join the *Arya Samaj*. We shall consider the question of joining the *Sikh religion*.

Referring to the attitude of *Harijans* towards the *Harijan Sevak Sangh,* Dr. Ambedkar declared : *"The Harijan Sevak Sangh* is not likely to advance the cause of the abolition of Untouchability. That *Sangh* is merely a wing of the Congress."

Dr. Ambedkar, continuing, said: "Democracy is not suitable to India and popular Government will not do for her. India wants a dictator, a Kemal Pasha or a Mussolini. I had hoped that Mr. Gandhi would attain the position of dictator, but I am disappointed. My complaint is not that Mr. Gandhi is a dictator, but that he is not. I feel the greatest respect for Kemal Pasha, it is he that has made Turkey into a powerful nation. If there are any people with whose religious sentiments and practices it is extremely risky to interfere, they are the Muslims. But Kemal Pasha has done it with success. Without a leader of the stamp of Kemal Pasha, there will be no salvation for India. But in the circumstances, it is impossible to get such a dictator in social and religious matters and hence I despair of the future of India."

Younger Generation

Referring to the attitude of the younger generation and the *Harijans* Dr. Ambedkar is said to have declared: "I am not hopeful of the younger generation which seems to be more predisposed to pleasure seeking and not possessing much of idealism and is not likely to produce men of ideals, principles and actions like Ranade, Tilak or Gokhale. This also fills me with despair.

"In brief, being born in the Untouchable community, I deem it my first duty to strive for its interest and my duty to India as a whole is secondary. I have strong religious sentiment according to my own conception of religion, but I have no faith in Hinduism and I hate hypocrisy. I have therefore, decided to renounce Hinduism, but I do not intend to do so immediately as I want to carry my community with me. The *Harijan* army is not marching today and it is watching and waiting for a suitable opportunity. In the meanwhile, the 'touchables' may go on making their efforts on the lines chalked out by you."[1]

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[1]: The Times of India, dated 30th November 1935.

11

HINDUS SHOULD NOT BE INDIFFERENT TO CONVERSION OF DEPRESSED CLASSES

Regarding conversion, "Dr. B. R. Ambedkar consulted his colleagues from different provinces in the matter of choosing the proper religion for conversion. He had now decided to embrace Sikhism. His friends and colleagues felt that Dr. Ambedkar should seek the support of the Hindu Sabha leaders in their conversion to Sikhism; for, the Hindu Sabha leaders believed that Sikhism was not an alien religion. It was an off-spring of Hinduism and therefore the Sikhs and the Hindus intermarried and the Sikhs were allowed to be members of the Hindu Mahasabha.

Accordingly, Dr. Moonje, the spokesman of the Hindu Mahasabha, was invited to Bombay. In the presence of two other friends, Dr. Ambedkar had a talk with Dr. Moonje at Rajgriha, on June 18, 1936, at half past-seven that night. Dr. Ambedkar cleared all issues and had a free talk with Dr. Moonje. Next day the purport of Dr. Ambedkar's views was reduced to a statement and was given to Dr. Moonje who approved of it personally."[1]

The following is the statement:—

The Hindus cannot afford to be indifferent to the movement of conversion which is gaining ground among the Depressed Classes. It would undoubtedly be the best thing from the standpoint of the Hindus if the Depressed Classes were to be persuaded to drop the idea of conversion. But if that is not possible, then the Hindus must concern themselves with the next move which the Depressed Classes will take, because their move is bound to have serious consequences upon the destiny of the country. If they cannot be persuaded to stay, the Hindus must help if they cannot lead them, to embrace a faith which will be least harmful to the Hindus and to the country.

It seems very unlikely that the Depressed Classes will formulate a new religion. Most probably, they will embrace one of the existing faiths. At any rate the Hindus can well proceed on that assumption. The first question is what is the faith that the Depressed Classes are likely to embrace? Obviously, the one most advantageous to them.

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[1]: Keer. P. 277.

There are three faiths from among which the Depressed Classes can choose. (l) Islam, (2) Christianity and(3) Sikhism. Comparing these three, Islam seems to give the Depressed Classes all that they need. Financially, the resources behind Islam are boundless. Socially, the Mohammedans are spread all over India. There are Mohammedans in every Province and they can take care of the new converts from the Depressed Classes and render them all help. Politically the Depressed Classes will get all the rights which Mohammedans are entitled to. Conversion to Islam does not involve loss of such political rights as the right to special representation in the Legislatures, right to services, etc. Christianity seems equally attractive. If Indian Christians are too small numerically to provide financial resources necessary for the conversion of the Depressed Classes, the Christian countries such as America and England will pour their immense resources in if the Depressed Classes show their readiness to embrace Christianity. Socially, the Christian community is numerically too weak to render much support to the converts from the Depressed Classes but Christianity has the Government behind it. Politically, Christianity will give them the same rights which Islam gives. Like the Muslims, Indian Christians are also recognised by the Constitution for special representation in the Legislature and in the services. Compared to Christianity and Islam, Sikhism has few attractions. Being a small community to forty lakhs, the Sikhs cannot provide the finance. They are confined to the Punjab and as far as the majority of the Depressed Classes are concerned, the Sikhs can give them no social support. Politically, Sikhism is at a positive disadvantage as compared with Islam or Christianity. Outside the Punjab, the Sikhs are not recognised for special representation in the Legislature and in the services.

The second question is, looking at these three alternative faiths purely from the standpoint of the Hindus, which is the best—Islam, Christianity or Sikhism? Obviously Sikhism is the best. If the Depressed Classes join Islam or Christianity, they not only go out of the Hindu religion but they also go out of the Hindu culture. On the other hand, if they become Sikhs they remain within the Hindu culture. This is by no means a small advantage to the Hindus.

What the consequences of conversion will be to the country as a whole is well worth bearing in mind. Conversion to Islam or Chistianity will denationalise the Depressed Classes. If they go to Islam the number of Muslims will be doubled and the danger of Muslim domination also becomes real. If they go to Christianity, the numerical strength of Christians becomes five to six crores. It will help to strengthen the hold of the British on this country. On the other hand, if they embrace Sikhism they will not harm the destiny of the country but they will help the destiny of the country. They will not be denationalised. On the contrary they will be a help in the political advancement of the country. Thus it is in the interest of the country that the Depressed Classes, if they are to change their faith, should go over to Sikhism.

The third question is, if it is in the interest of the Hindus, that the Depressed Classes should go over to Sikhism, are the Hindus prepared to make Sikhism as good an alternative to the Depressed Classes as Islam or Christianity is? If they are, then obviously they must try to remove the difficulties which lie in the way of Sikhism, as compared with Islam and Christianity. The deficiencies are financial, social and political. The Hindus cannot help Sikhs to remove the social difficulty. But they can certainly help the Sikhs to remove the financial and political difficulties. Of these, it is most urgent to remove the political difficulty, because it might become an obstacle in the way of the Sikhs. The solution of the political difficulty is fortunately a very small matter. All that is necessary is to add to the list of Scheduled Castes in each Province, other than the Punjab, the word 'Sikh' as that of a person from the Depressed Classes who becomes a convert to Sikhism will not lose his political rights, that he would have had if he remained a Depressed Class. Under the Communal Award, communities have been given the liberty to agree to any change in the Award and the government has bound itself to alter the Award in accordance with the agreement.

This change can, therefore, easily be brought about if the Hindus so desire by mutual agreement with the Depressed Classes. This does not involve any radical change in the Poona Pact. It does not

require any apportionment of seats. The seats assigned to the Depressed Classes under the Poona Pact will remain the same. The only change that will be introduced is that non-Sikh Depressed Classes and the Depressed Classes who have gone to Sikhism will both be free to compete. It merely removes a difficulty from the Depressed Classes who become Sikhs.

Those Hindus who might oppose this suggestion must answer the following questions :

1. The seats assigned to the Depressed Classes under the Poona Pact cannot come back to the Hindus. They will go to the Muslims or Christians if the Depressed Classes become Muslims or Christians because if by conversion of the Depressed Classes the population of the Muslims or Christians increases then the Muslims and Christians are bound to ask for increased representation in the legislature. Thus, if these seats are to go, why not allow these seats to go to the Sikhs ?

2. If under the Constitution the Depressed Classes cannot lose political rights by becoming a Muslim or a Christian why should a Depressed Class on becoming a Sikh be made to lose his political rights? This is placing a premium on conversion to Islam and Christianity, and penalty on conversion to Sikhism. This is driving the Depressed Classes to the Muslim or Christian folds. Is it in the interest of the Hindus to allow this to be so?

3. It may be that the Depressed Classes will not lose their political rights by becoming converts to Sikhism, because even under the Poona Pact the Scheduled Castes Order-in-Council, their rights to special representation is not made dependent upon their professing the Hindu religion. Their representation is made dependent upon their being members of certain castes and tribes. But why give the Sikhs cause for complaint and create bad blood against the Hindus?

4. The proposal to add Sikhs to the list of Scheduled Castes in the different provisions for political recognition cannot be said to be strong proposal. On the other hand, not to give such a recognition would appear queer.

If Sikhs in the Punjab can be recognised for political purposes, why should Sikhs in other provinces not be so recognised?

If the Depressed Classes of the Punjab can not lose their rights on becoming Sikhs, why should the fate of the Depressed Classes in other Provinces on becoming Sikhs be made different?"

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For reaction on this statement by Dr. Moonje, Mr. Raja, Mahatma Gandhi and others see Appendix- X.—Editors.

12

RIGHTS NOT AFFECTED IN THE EVENT OF CONVERSION

"Talk of the possibility of the Depressed Classes having to forego their political privileges under the Poona Pact in the event of their leaving the Hindu Community is discounted by Dr. B. R. Ambedkar, who regards it as a Congress stunt to frighten him and his party from contesting the elections.

"I have evidence in my possession to show that it is a Congress stunt calculated to frighten me and my party from contesting the forthcoming elections and to coerce us into remaining within the Hindu fold."

This is Dr. Ambedkar's reaction to the reports current in the city that the resolutions of the Yeola and Bombay conferences of the Depressed Classes and Dr. Ambedkar's own declared intention to renounce Hinduism must militate against the enjoyment by the Depressed Classes of the privileges secured under the Poona Pact.

Dr. Ambedkar is inclined to laugh at these reports as they are, in his opinion, based on ignorance of the constitutional position and of the provisions of the Communal Award as amended by the Poona Pact.

The original provision of the Communal Award in respect of the Depressed Classes was that they should vote in the general constituencies, but in order to ensure adequate representation to them special seats were to be allotted to them the basis of this provision was a separate electroate for the Depressed Classes.

The Poona Pact, briefly put, substituted joint electorates with the Hindu community for separate electorates for the Depressed Classes. In order to ensure that the representatives of the Depressed Classes carried the confidence of their community with them, a device for a primary election by the community itself was evolved; the electorate of the joint Hindu community was to make its choice from among the panel of four candidates for each seat selected by the voters on the list of the Depressed Classes.

Poona Pact: Hindus' Contention

The main point urged by the Hindu community now is that the circumstances in which the Poona Pact was evolved presumed without doubt that the Depressed Classes would remain as part of the Hindu community. Mr. Gandhi's fast, which was solely responsible for the Pact, was undertaken in order to prevent the dismemberment of the Hindu community, which it was feared would result from the allotment of a separate electorate to the Depressed Classes.

It is argued that the Hindu community has made sacrifices under the Poona Pact and has surrendered some of the seats allotted to it under the original Award solely with the object of allaying the fears of the Depressed Classes and retaining them within the Hindu fold.

Since then, however, a section of the Depressed Classes under the leadership of Dr. Ambedkar has resolved to renounce the Hindu faith. The Bombay Mahar Conference, for instance, resolved that after thorough consideration the conference:—

(*a*) "declares that a change of religion is the only remedy for the Mahar community to attain equality and freedom,

(*b*) "assures Dr. B. R. Ambedkar, their accredited leader, that the community is prepared to change its religion *en masse,* and

(*c*) "urges on the Mahar community, as a preliminary step towards the change of religion, to refrain henceforth from worshiping Hindu deities to put a stop to the observance of Hindu festivals and to put a stop to visiting Hindu holy places."

Orthodox View

This resolution, according to orthodox Hindu opinion, leaves no doubt as to the intentions of the Mahars *vis-a-vis* the Hindu community and they cannot therefore complain if they are denied the electoral privileges conceded to them by the Hindus on the implicit understanding that they would remain Hindus.

In other words, as a Congress leader said recently, "they cannot have it both ways. Either they are Hindus and enjoy the privileges

under the Poona Pact, or they cease to be Hindus and forfeit those privileges."

Invited to explain the position from his point of view. Dr. Ambedkar, in an exclusive interview with a representative of *The Times of India,* repudiated the suggestion that the Hindu community had made any sacrifices to the Depressed Classes.

"It is wrong to presume that the orthodox Hindus have surrendered any seats in favour of the Depressed Classes. In fact there is no such thing as a Hindu seat or a Hindu constituency, there is only a general constituency," he said.

According to Dr. Ambedkar, the constitution does not recognise a Hindu constituency, although there are separate constituencies for Muslims, Europeans, Anglo-Indians, Sikhs (in the Punjab), etc. The general constituency includes not only the Hindus, but also the Parsis, Jews, Jains, Buddhists and a number of other communities. The concessions, if any, granted to the Depressed Classes under the Poona Pact are from the general constituency and not from the "Hindu Constituency "for such a thing does not exist. It was not mentioned in the Communal Award nor in the Poona Pact, nor even in the Government of India Act, 1935, which is to govern the franchise and electoral procedure.

Classification of Constituencies

Too Late to Question Issue

It is too late in the day, argued Dr. Ambedkar, to enter into the justification or otherwise of the classification of Constituencies adopted by the Government of India Act. "There it is and has to be followed. Even in the Punjab, where the Muslims are in a majority and the Hindus in a minority, the former have a separate electorate and the latter a general Constituency," he added.

Thus, Dr. Ambedkar maintains, it is" incorrect and mischievous to affirm that the Hindus have made a sacrifice, for it may well be said that the numerous other communities who comprise the general constituency have made the so-called concession to the Depressed Classes.

The next important point made by Dr. Ambedkar is that religion has nothing to do with the political adjustments contemplated in the Communal Award, the Poona Pact and the Government of India Act of 1935, The Europeans constituency included Europeans, whatever their religious persuasion; so also the Anglo-Indians. It is only in regard to the Muslim Community that the political classification follows the religious grouping. Within the general constituency itself, there is no commonness of religious faith serving as the basis of the enjoyment of the political rights conferred on those who come under that electoral category.

Franchise Adjustments

In other words, franchise adjustments have been based on the membership of a community rather than adherence to any religious persuasion. The original classification of "Depressed Classes" has now been changed into "Scheduled Castes" and it refers only to a branch of a community, viewed socially and economically, not from the religious standpoint.

Assuming for argument's sake that there is an element of religion in these classification, renunciation of religion or declaration of loss or lack of faith in a set of tenets does not miliate against the enjoyment of any attendant political right, says Dr. Ambedkar.

It may be a different matter if a member of the Depressed Classes gave up Hinduism and actually embraced another religion, say, Islam or Christianity.

Then, and only after such conversion, will he come under the political group assigned to the adherents of such a religion; then and then only can he be compelled to forfeit the rights attaching to the membership of the Hindu Community.

What if a Hindu is not an ardent believer in the Vedas ? asks Dr. Ambedkar. There are many Hindus in India today who are only Hindus in name and who do not observe the countless religious rites and formalities which go to make a Hindu. Do they cease to be Hindus on that account ? And; what is the standard by which one is to measure the extent of a Hindu's faith in his religion ?

Insistence of Rights

Intention to leave a religious sect born of disgust with current practices or injustice does not sever one's connection with the religion which he is nominally believed to profess.

"Surely, not all the present day Christians are true Christians. What about the Sunday parades in Europe where people who do not believe in Christianity or are indifferent or are rationalists demonstrate in front of Churches on Sunday morning ? They, too, are nevertheless Christians in the eyes of the State.

"You may call me a statutory Hindu if you like," said Dr. Ambedkar humorously," but I wilt insist on my political lights irrespective of the depth of my religious fervour."

To support his contention Dr. Ambedkar cites two instances from the Punjab, where two sections of Depressed Classes have been classified as "Scheduled Castes" in spite of the proved fact that they are not Hindus. The instances mentioned are those of *Ad Dharmis and Ramdasis*. The first of these have gone out of their way formally to intimate to Government that they are not Hindus, and yet they have been classed under "Scheduled Castes" in the general constituency.

The Punjab Census Report of 1931 says :

"The most notable feature of the present census from the stand-point of return of religion has been the adoption of the term '*Ad Dharmi*' by numberous *Chamars and Shudras* and other Untouchables. A new instruction to the religion was given this year, namely, 'Persons returning themselves as *Ad Dharmis* should be recorded as such.'

"The Punjab *Ad Dharmis Mandal* had petitioned the Punjab Government before census operations started in 1930, representing that the Depressed Classes should be permitted to return *Ad Dharmis* as their religion at the time of the census, as they were the oborigines of India and while the Hindus kept them at a respectable distance, they did not believe in the Hindu religion. The President of the Punjab *Ad Dharm Mandal* was informed that a clause was

being provided in the Census Code requiring that persons returning their religion *as Ad Dharm* would be recorded as such. *Ad Dharm* literally means original or ancient religion."

A Negative Attitude

According to Dr. Ambedkar, the dispute over the *Ad Dharmi* agitation became so serious that several murders were committed. However that may be, the *Ad Dharmis* have been classified as "Scheduled Castes" in the general constituency, notwithstanding their unequivocal declaration that they are not Hindus.

In the case of himself and his followers, Dr. Ambedkar points out, the attitude is negative in respect of Hinduism and not yet positive adherence to any other faith.

Similarly, the *Ramdasis* are Sikhs by religion, but they have been classified under "Scheduled Castes" in the general constituency. All of which, according to Dr. Ambedkar, goes to show that religion has nothing to do with electoral classifications have gone exactly contrary to the religious grouping.

Thus, while Dr. Ambedkar does not recognise the Hindus' right to complain or challenge the Depressed Classes' privileges by virtue of the Poona Pact, he affirms that his community's political rights are unaffected by intended or even impending renunciation of Hinduism."[1]

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[1]: Times of India : dated 24th July 1936.

13

CONVERSION MOVEMENT SANS SELFISH MOTIVE

Dr. Ambedkar's comments on Rao Bahadur M. C. Rajah's statement against conversion of the Untouchables:

At the outset I would like to say that to send this correspondence to the newspapers for publication, is in itself an indecent act on the part of Mr. Rajah. Dr. Moonje had clearly mentioned at the end of his letter that till the final decision regarding conversion, this letter might be treated as personal and confidential. It cannot be believed that this fact did not come to the notice of Mr. Rajah. Mr. Rajah should have sought the permission of Dr. Moonje before releasing the correspondence to the press. This act on the part of Mr. Rajah is ill-becoming of a decent man.

The Untouchables may choose Sikhism for conversion. This fact is known to many of my Hindu friends and such members of the Untouchable community as are seriously interested in the question of conversion of the Untouchables.

The correspondence regarding the possibility of the Untouchables embracing Sikhism, which took place between Rao Bahadur M. C. Rajah and Dr. Moonje has been published in the newspapers. I have gone through it.

There is no reason for Rajah to rejoice that he had exposed some great secret of Dr. Ambedkar. I do not attach any importance to the letters of Mr. Rajah. *In* my opinion Rajah commands little respect among the Untouchable masses nor do his views regarding conversion have any worth or value. Had I felt that his views had any value at all, I would have co-operated with him to change his mind.

Ignoring Rao Bahadur Rajah, Rao Bahadur Srinivasan and I were invited to the Round Table Conference to represent the Untouchables. This led to heart-burning and animosity against me in the mind of Rajah who has since then been constantly criticising and opposing me.

I am trying to serve my people. Mr. Rajah has been opposing me and finding fault with my work. At the same time he has developed the art of self-advertisement through the medium of newspapers. I do not attach much importance to this question but I fail to understand why the movement to renounce Hinduism and the desire on the part of the Untouchable masses to embrace any other religion launched by them should hurt Mr. Rajah ? If Mr. Rajah does not want to renounce the Hindu religion, nobody will force him to do so and for this reason he has no right to comment on it. Mr. Rajah says, "I will live as a Hindu and die as a Hindu." He is quite free to do so. But 1 would like to tell him one thing, that in making use of his proficiency in issuing statements to press, he has been exhibiting his love for the Hindu religion but until he converts himself to some other religion he will continue to live as a 'Pariah' and die as a 'Pariah'. He must bear in mind the fact that the stigma of Untouchability attached to him due to his caste is not likely to be effaced even a bit if he continues to remain within the Hindu fold. It is nonsensical to say that conversion should be done only for spiritual reasons. I would like to ask Mr. Rajah whether it is only for the reasons 'spiritual' that he wants to remain within the fold of Hinduism. If he has no ambition other than spiritual satisfaction why should he bother about the material and political benefits accruing from the reservation of seats in the legislature ? If he is so keen on living as a Hindu and dying as a Hindu, why does he aspire for reserved seats ?

Mr. Gandhi and Mr. Malaviya, I believe, have no moral courage to say anything against the conversion of the Untouchables. They have failed to honour the promises they had made at the time of signing the Poona Pact.

Mr. Gandhi says that he has failed to understand my stand; I would also say that it is difficult for me to understand his language and action. According to him, 'upliftment of Untouchables is an independent question'. If this kind of language which is used by Gandhiji is used by one saint or another, perhaps, he can comprehend it better, but for an ordinary mortal like me, who is governed by ordinary principles of society in everyday life, this Mahatmatic language of Gandhi has no meaning. Gandhi says that religion is

not a commodity to be bartered. My reply is that it is not fair on the part of Gandhi to give expression to this kind of view at this distant date. At the time of the Poona Pact, Mr. Gandhi himself accepted the principle of give and take. Gone are the days when those who are struggling for achieving the basic human rights to satisfy their hunger and ordinary basic needs like bread and water could be hood-winked to live, merely for attaining spiritual peace.

Gandhi says that the Untouchables are bartering away their religion, but he must bear in mind that the conversion movement has not been launched with any selfish motive or for any personal benefit. According to Gandhi, 'Hindus should do (repentance) *prayschit* themselves and voluntarily endeavour to eradicate Untouchability. Untouchables themselves need not do anything for the removal of Untouchability and their own upliftment. The Untouchables should simply sit with folded hands and pray, 'O' ! Lord, grant the Hindus wisdom, and courage, and light, so that they may be forgiven for their evil deeds. Let their sins be forgiven and grant them the knowledge and strength to reform their society.' This is the pious advice of Gandhiji to the Untouchables. These pious platitudes can do no good to anybody, nor can they solve any problems. No sane person can ever agree to such a proposal. This sounds more like the advice tendered by an idiot to the people living in an area effected by a plague epidemic. "Brothers, halt and listen to me ! Do not be afraid of the disease. The Municipal Committee members will have to repent one day for the dereliction of duty on their part; some plan will surely be chalked out for the eradication of the plague. Meanwhile, you must wait and see. Do not be in a hurry to leave home and hearth." Whatever wisdom you find in this advice, the same kind of advice has been tendered by Gandhi to the Untouchables in his statements.

Shri Rajagopalachari, it seems, has another fit of anger. This aged house-holder has developed a kind of indigestion owing to excessive use of acidic explitives which he is in the habit of coining. He has labelled this conversion movement as 'satanic.'

If the Untouchables have been seriously thinking of embracing Sikhism, the followers of Hinduism should think for themselves and decide whether this step on the part of the Untouchables is

really satanic. I feel that those Hindus who feel concerned about the future of Hinduism must be wondering whether this great Hindu Brahmin Rajagopalachari, is really a man out of his senses to call conversion to Sikhism 'satanic.'

In fact, if this accusation of being 'satanic' is to be levelled against any person, it is Dr. Moonje who without any respect for propriety published the personal and confidential correspondence. But I do not wish to say any more on this subject.

Shankaracharya Dr. Kurtakoti, and other prominent Hindu leaders have favoured the idea of Untouchables embracing Sikhism. In fact, it is these leaders who have propagated the idea of Untouchables embracing Sikhism... and also prevailed on me to do so. I fell for the idea mainly because I too feel I have some responsibility towards the future of Hindu culture and civilisation. Hindus are free to decide, after reading my views about the correspondence published in the newspapers, whether the policy decided by Mr. Gandhi, Mr. Rajah and Mr. Rajagopalachari about the conversion of the Untouchables to Sikhism is of the advantage to Hindu Society or not.

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Statement of Dr. Ambedkar published in the Janata (Marathi) dated 15th August 1936.

14

THE INDEPENDENT LABOUR PARTY : A SOURCE FOR BETTERMENT OF THE DEPRESSED CLASSES

On 14th January 1937, Dr. B. R. Ambedkar reached Bombay from London. The Journalist from Times of India had interviewed Dr. Ambedkar. The interview is as follows : Editors.

Dr. Ambedkar said that he visited Europe purely for reasons of health and he stayed most of the time in Vienna and Berlin. He was in London only for a week. He had no conversation of a political nature with any one in London.

Asked if he had come to any decision regarding his intention to leave the Hindu fold, he said that the decision still remained, although he had not finally made up his mind which new faith he should embrace.

Dr. Ambedkar said that his immediate concern was the ensuing elections to the Bombay Legislative Assembly and he would devote himself to the election campaign. The Independent Labour Party, which he had started, would work for the betterment of the political and social condition of the Depressed Classes in the Legislature, and he was sanguine that all the candidates put up on behalf of his Party would come out successful in the elections.

Dr. Ambedkar was given a rousing reception on arrival. More than a thousand Khaki-clad volunteers belonging to the Social Equity League lined up the entire route from Ballard Pier Station to Alexandra Dock No. 18, cheered him as he passed.

Most of the candidates put up by the Independent Labour Party of which Dr. Ambedkar is the founder, for the ensuing elections to the Bombay Legislative Assembly were present on the wharf to meet him. Among them were B. K. Gaikwad (Nashik District), Mr. PrabhakarRoham (Ahmednagar), Mr. B. H. Varale (Belgaum), Mr. R. R. Bhole (Poona), Mr. B. J. Sawadkar, Mr. S. G. Tipnis (Kolaba), Mr. G. R. Ghatge (Ratanagiri), Mr. R. E. Bhatankar (Thana) and Mr. V. A. Gadkari.[1]

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[1] : The Times of India, dated 15th January 1937

Reprinted : Khairmode, Vol. 7, Pp. 57-59.

15

CIVIL LIBERTIES OF INDIANS

"It is interesting that for him Untouchability and exploitation were a violation of civil liberties, not in the conventional sense, but because of the breach of the dignity of whole communities. His reply to the Secretary of the Civil Liberties Union, Dr. K. B. Menon, way back in June 1937, makes meaningful reading ;

Bhimrao R. Ambedkar	'Rajgriha'
M.A., Ph.D.,D.Sc,	Dadar, Bombay - 14
Barrister-at-Law.	8th June 1937

Dear Mr. Menon,

I am in receipt of your letter No. 998 of the 19th of May 1937 and also your post card asking me to sign the manifesto, on behalf of the Indian Civil Liberties Union to be read as a message from India at the conference on civil liberties in India to be held in London. I did not know of your letter till I came to Bombay on the 25th May, and hence could not reply to it earlier.

I have read the manifesto and I am sorry I cannot subscribe to it. You have condemned the Frontier Policy of the Government of India. I do not see how it can be a matter of *Civil Liberties of Indians*. On the other hand, you make no mention of the systematic tyranny and oppression practised by Caste Hindus against the Untouchables, which is undoubtedly a matter of Civil Liberties of Indians.

Yours Sincerely,

B. R. Ambedkar."[1]

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[1] Justice V. R. Krishna Iyer, Exordium P. VII.

16

IN ANY OTHER COUNTRY SUCH A MINISTER WOULD HAVE BEEN DISMISSED

To the Editor,

The Times Of India

Sir,

Following close upon the action of the Home Minister of Bombay in suspending the sentences passed upon two gamblers by the High Court; there comes the news of the action taken by the Home Minister of the C.P. in remitting the Sentences passed by the Court of the Judicial Commissioners upon a person by name Jaffer Hasan who was condemned to three years, rigorous imprisonment on a charge of rape upon a girl of 14 years. The conviction took place in 1936. The accused had only undergone one year's imprisonment so that he has been given a remission of two years.

I think that this act of the Congress Minister in the C. P. is a most shameless act, for which I can find no parallel. What does the Hindu public which is so blindly supporting the Congress, think of these acts ?

I would not have troubled you with this letter if the matter concerned the Caste Hindus—not that it would not have been a grave thing if the girl was a Caste Hindu girl, but because the Hindus have cultivated a religious faith that no party other than the Congress and no man other than the Mahatma can bring them salvation ! They have placed their destiny in the hands of one party and have refused to examine the acts of those in whom they trust. If they come to grief, it is their fault. But the girl belongs to the Depressed Classes. She is *Chambhar* by caste. It is because of that I feel deeply concerned. We are destined to be in a minority. We can only criticise. We can never hope to control.

What hope have the Depressed Classes of fair play and justice if such acts as those of the Home Minister in the C. P. are tolerated by the Hindu public, are endorsed by the Prime Minister and

overlooked by the Mahatma ? I am sure in any other country such a Minister would have been dismissed. But, is this not to be expected in India? The Mahatma owes the Depressed Classes an explanation as to how he and his Prime Minister can justify this reprehensible act of their Minister.

B.R. Ambedkar."[1]

Bombay

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[1] : The Times of India : Dated 19th March 1938.

17

SOCIALISTS NOW INACTIVE

"On his arrival in Bombay, on 21st May 1938 in the course of an interview, Dr. B. R. Ambedkar expressed great satisfaction at the growing support of the people to his Party and their grateful appreciation of his efforts towards abolishing their serfdom.

He said that in its own way his Independent Labour Party was striving to redeem its election pledges, but if the Congress Ministry refused to give relief through constitutional methods, and if people's faith in it was thus lost, the alternative was obvious. He, however, was surprised at the attitude of the Socialists, who, he said, had been all those years shouting for the confiscation of all Zamindari lands and the abolition of the capitalist system, but now inactive when a concrete Bill was brought forward to put an end to the Khoti system."[1]

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[1] : Keer, P.310.

18

LET SUCH INSTITUTIONS GROW INTO BIG LIBRARIES

Dr. B. R. Ambedkar's remarks in the Visitor's Book of the Rajwade Sanshodhan Mandal, Dhulia (Maharashtra) on 18th June 1938— Editors :

"As who has spent some six or seven years in various libraries of Europe and America I was greatly pleased to go round the collection of manuscripts and paintings of the Rajwade Sanshodhan Mandal. As compared with the European Libraries this of course is indeed a very small place. The responsibility for this, however, does not lie on those who have given birth to the institution. It is to be hoped that the new government will pay adequate attention to such institution and see that they grow into big libraries. I wish this institutions every success.

18 6-1938 **Sd/B. R. Ambedkar**

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19

A BILL TO CONTROL AND REGULATE MONEY-LENDING

BY

Dr. B. R. AMBEDKAR,

M.A., Ph. D., D. Sc., Bar-at-Law.

INDEPENDENT LABOUR PARTY PUBLICATIONS

No. 2

1938 Price 1/-Anna

Bill No. of 1938.

A Bill to Control and Regulate Money-Lending

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This is the text of the Bill which gives details about money-lending. The Bill was prepared in the year 1938— Editors

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Bill No. of 1938

A Bill to Control and Regulate Money-Lending

Whereas it is expedient to prescribe by law the duties and obligations of persons carrying on business as money-lenders and to control and regulate the same.

It is hereby enacted as follows :—

Chapter I.

Preliminary

Short title, extent and commencement

1.(1) The Act may be called the Bombay Money-lenders Act, 1938.

(2) It shall apply to the whole of the Province of Bombay and shall come into force on a date not being later than one year after the passing of this Act as the Government may by notification in the Official Gazette appoint.

Definitions

2. In this Act unless there is anything repugnant to the subject or context—

(i) "Authorised name" and "Authorised address" means respectively the name under which and the address at which a money-lender is authorised by a license granted under this Act to carry on the business of moneylender.

(ii) "Business name" means the name or style under which any business of money-lending is carried on whether in partnership or otherwise.

(iii) "Debtor" means any person against whom a moneylender has a claim in respect of a loan.

(iv) "Interest" means and includes any amount in kind, cash, service or in any other form and by whatsoever name called, in excess of the principal, paid or rendered, or payable or renderable to a money-lender in consideration of, or otherwise in respect of a loan.

(v) "Loan" means an advance made whether of money or in kind at interest and shall include an undertaking given in respect of past liability and any transaction which in substance is a loan.

(vi) "Money-lender" includes every person who carries on the business of lending money or who advertises or announces himself or holds himself out in any way as carrying on that business and shall include a pawnbroker; but it shall not include—

(a) any society registered under the Co-operative Societies Act, 1912, and the Provident Insurance Societies Act, 1912,

(b) any corporate body, incorporated by a special enactment to lend money in accordance with such special enactment,

(c) Government or any person authorised by it to lend money on its behalf and

(d) any person, who merely because in the course of and for the purpose of his business lends money if he is bona fide carrying on

(i) the business of banking or insurance, or

(ii) any other business the primary object of which is not money-lending.

(vii) "Payment" or "Re-payment" means and includes any amount paid or re-paid in kind, cash or service rendered.

(viii) "Person" includes a company and a firm.

Explanation I. For the purpose of duties and liabilities of a money-lender, "Company" shall include the managing agents or managing directors and in the case of a Firm all partners of the Firm.

Explanation II. Where in a money-lending business a minor or a person not competent to contract has an interest the word "person" includes the person responsible for the management of the business.

(ix) "Prescribed" means prescribed by rules made under this Act.

(x) "Principal" means in relation to a loan the amount actually advanced or lent to the debtor.

(xi) "Secured debt" means a loan for which the moneylender holds a mortgage, charge or lien on the property of the debtor or any part thereof as a security for that loan.

(xii) "Unsecured debt" means any loan other than a secured loan.

Provisions of this Act not affected by laws, customs or contracts.

3. The provisions of this Act shall apply notwithstanding anything contained in any other law or custom or usage having the force of law or any contract to the contrary.

Chapter II.

Licensing of Money-lenders.

4. No person whether individually or otherwise or whether for himself or for another or for himself and another shall carry on the business of money-lending unless he takes out annually a "Money-lender's License" (in this Act referred to as the Licensee) in respect of every address at which such business is being carried on.

Name in which license to be taken out.

5. A money-lender's license shall be taken out by a moneylender in his own name and shall be void if taken out in any other name :

Provided that where a person is carrying on the business of money-lending not in his own name but under a business name the license shall also show such business name and the authorised address at which such business is carried on;

Provided further that where the business of money lending is earned on by a firm or by a company the license shall be taken out

in the name of the firm or in the name of the company and where it is carried on in the name of a minor or a person who is otherwise incompetent to contract in the name of such person.

Particulars to be stated in license.

6. (1) The license shall disclose in the case of a firm the names of its partners, in the case of a company the names of the managing agents or managing directors and in the case of a minor or a person incompetent to contract the name of the person or persons responsible for or appointed to carry on the business.

(2) The license shall also state the authorised address in respect of which the license is granted.

Necessity of certificate for license.

7. (1) No person shall be deemed to be entitled for a license unless he holds a certificate (in the Act referred to as certificate) and a license shall not be granted except to a person who holds a certificate granted in accordance with provisions of this Act.

(2) A separate certificate shall be required in respect of every separate license.

Particulars to be stated in certificate.

8. Every certificate granted to a person shall show his true name and the address at which he intends to carry on money-lender's business irrespective of the question whether he intends to use the certificate for securing a license for himself, or for another, or for himself and another or for a firm or for a company.

Authority competent to grant certificate.

(1) Any Magistrate or other Officer especially invested by Government in this behalf with jurisdiction in the area in which the money-lender's business is to be carried on, may, on application made in the prescribed form, grant to a person a certificate of eligibility.

(2) On receipt of an application for the grant of certificate, the Officer shall post up a complete copy of the application in a conspicuous place in his office and shall take no proceedings thereon for fifteen days from the date of such exhibition.

(3) Any person shall be entitled to oppose the grant of a certificate to the applicant and in case the application is opposed, the Officer shall be bound to hold an inquiry and either grant or reject it.

(4) Nothing in this section shall limit the power of the Officer to reject the application even though it is not opposed.

Grounds for refusing certificate.

10. A certificate shall not be refused except on one or more of the following grounds-

(i) that satisfactory evidence has not been produced of the good character of the applicant,

(ii) that satisfactory evidence has been produced that the applicant, or any person responsible or proposed to be responsible for the management of his business as a money-lender is not a fit and proper person to hold a certificate,

(iii) that the applicant, or any person responsible or proposed to be responsible for the management of his business as a money-lender, is by order of a Court disqualified for holding the license,

(iv) that the applicant has not complied with the provisions of any rules made under this Act with respect to an application for a certificate.

Recording of reasons for refusal.

11. When any authority who has power to grant a certificate refuses to do so it shall record its reasons in writing for such refusal.

Appeal against order of refusal.

12. Any person aggrieved by an order of refusal to grant a certificate may appeal to the Sessions Judge and the decision of the Sessions Judge in this respect shall be final.

Authority competent to grant license

13. Subject to the provisions of this Act any Officer authorised by Government in this behalf may, on application made in the prescribed form and on payment of the prescribed fee, grant to the holder of a certificate, a license.

Duration of license.

14. Every license shall expire on the 31st December in every year.

Fee for license.

15. There shall be charged on every money-lender's license a fee of Rs. 50/- or if the license be taken out not more than six months before the expiration thereof, Rs. 30/-.

Penalty for breach of provisions regarding license.

16. Whoever—

(a) takes out a money-lender's license in any name other than his own name, or

(b) carries on business as a money-lender without having a proper license authorising him to so do, or

(c) being licensed as a money-lender, carried on business as such in any name other than his authorised name, or at any place other than his authorised address, or

(d) enters into an agreement in the course of his business as a money-lender with respect to the advance or repayment of money, or takes any security for money, in the course of his business as a money-lender, otherwise than in his authorised name, shall be punishable with fine of not less than Rs. 100/-.

Provided that on a second or subsequent conviction of any person for an offence under this sub-section the court may, in lieu

of or in addition to ordering the offender to pay the penalty aforesaid, sentence him to imprisonment of either kind for a term not exceeding three months.

Chapter III

Suspension and Revocation of license.

Suspension etc. of license on conviction

17. Where any person, being the holder of a license is convicted of any offence under this Act, the court

(i) (a) shall order that the license held by that person be either suspended for such time as the court thinks fit or revoked, and

(b) shall also declare any such person to be disqualified for obtaining a license for such time as the court thinks fit,

(ii) shall cause particulars of the conviction and of the order made under sub-clause (i) of this section to be endorsed on every license held by the person convicted or by any other person affected by the order, and

(iii) shall cause copies of these particulars to be sent to the authority by whom the certificate was granted and also to the officer by whom the license was granted.

Appeal against order of suspension and revocation

18. Whether by order of a court a license held by any person is suspended or revoked or any person is disqualified for obtaining license, he may, whether or not he is the person convicted, appeal against the order of his conviction, and the appellate court may, if it thinks fit, pending the appeal, defer the operation of the order.

Production of license when directed by court

19. (1) Any lincense, required by a court for endorsement in accordance with the foregoing provisions of this Act, shall be produced by the holder in such manner and within such time as may be directed by the court.

(2) Any person, who, without reasonable cause, makes default in producing any license as required, shall in respect of each offence, be liable on conviction to fine not exceeding five rupees for each day during which the default continues.

Chapter IV

Mode of carrying on business.

Prohibition of advertisements circular of money-lending

20. (1) A money-lender shall not, for the purpose of his business as such issue or publish or cause to be issued or published any advertisement, circular, business-letter, or other similar document-

(a) containing an invitation to borrow or,

(b) containing expressions which might reasonably be held to imply that he carries on banking business.

(2) Any money-lender who acts in contravention of the provisions of sub-section (i) of this section shall be liable on conviction to a fine not exceeding Rs. 100/- in respect of each offence.

Prohibition against employment of agents

21. (1) No money-lender or any person on his behalf shall employ any agent or canvasser for the purpose of inviting any person to borrow money or to enter into any transaction involving the borrowing of money from a money-lender, and no person shall act as such agent or canvasser, or demand or receive directly or indirectly any sum or other valuable consideration by way of commission or otherwise for introducing or undertaking to introduce to a money-lender any person desiring to borrow money.

(2) Any person who acts in contravention of the provisions of sub-section (1) of this section shall be liable on conviction to simple imprisonment for a term not exceeding three months or to a fine not exceeding one hundred rupees or both.

Penalty for breach of Sec. 20 and 21

22. When it is shown that a money-lending transaction was brought about by a contravention of any of the provisions of *Section 19 and 20, the transaction shall, notwithstanding that the money-lender was duly licensed under this Act, be void, unless the money-lender proves that the contravention occured without his consent or connivance.

Agreement for payment by borrower of costs, charges etc. void

23. Any agreement between a money-lender and a borrower or intending borrower for the repayment by the borrower or intending borrower to the money-lender of any sum on account of costs, charges or expenses incidental to or relating to the negotiations for or the granting of the loan or proposed loan shall be void and if any sum is paid to a money-lender by a borrower or intending borrower on account of any such costs, charges or expenses, that sum shall be recoverable as a debt due to the borrower or intending borrower or in the event of the loan being completed, shall, if not so recovered, be set off against the amount actually lent and that amount shall be deemed to be reduced accordingly ;

Provided that it shall not be unlawful for a money-lender to charge the debtor with an amount not exceeding half the amount due on account of stamp duty and registration fee payable in respect of any document evidencing the transaction.

Chapter V

Duties of Money-lender

Transaction to be reduced to writing

24. (1) After the commencement of this Act every contract for the repayment of the loan or for the payment of interest on the loan and for security of the loan shall be evidenced by a memorandum in writing signed by the borrower personally.

(2) The memorandum shall be in the prescribed form and shall contain all the terms of the contract and shall in particular show—

(a) the date on which the loan was made,

* Section number might be 20 and 21.—Editors

(b) the amount of the loan,

(c) the nature of the consideration,

(d) the interest,

(e) the nature of the security taken, and

(f) where the loan wholly or partly superseeds the previous loan, the particular loan and the security therefor, if any.

Copy of memo to be supplied to debtor

25. A copy of every such memorandum shall be delivered to the borrower within seven days from the date of the contract by the lender.

Transaction in contravention of Sec. 23 or 24 void

26. A contract or security in which it is proved that the memorandum was not signed by the borrower before the money was lent or before the security was given as the case may be or that a copy thereof was not sent to the borrower within seven days of the making of the contract as provided *section 24 be inserted of this Act, shall be void.

Agreement to pay compound interest void

27. Any contract made after the commencement of this Act for the loan of money by a money-lender shall be void in so far as it provided directly or indirectly for the payment of compound interest or for the rate of interest being increased by reason of any default in the payment of sums due under the contract, and he shall not be entitled to any interest:

Provided that provision may be made by any such contract that if default is made in the payment upon the due date, of any sum payable to the money-lender under the contract, whether in respect of principal or interest, the money-lender shall be entitled to charge simple interest on that sum from the date of the default until the sum is paid, at a rate not exceeding the rate payable in respect of the principal apart from any default, and any interest so charged shall not be reckoned for the purpose of this Act as part of the interest charged in respect of the laon.

* Section '23 or' be inserted.—Editors

Chapter VI

Method of keeping Accounts

Money-lender to give pass-book to debtor

28. Every money-lender shall give to his debtor a pass-book provided by Government and shall enter therein every payment made by the debtor or to the debtor and authenticate the same by his signature.

Money-lender to supply annually a statement of debtor's account.

29. Every money-lender shall deliver to hi s debtor and such other persons from whom he is entitled to claim payment of the debt, on or before the 31st January of every year, a statement of his accounts in respect of the debt in such form as may be prescribed by Government, upto the 31st December of the previous year authenticated by his signature.

Money-lender not entitled to sue during default

30. A money-lender, who fails to comply with the provision of section 28, shall not, as long as the default continues, be entitled to sue for or recover any sum due under the contract on account either of principal or interest, and interest shall not be chargeable in respect of the period of the default.

Penalty for default

31. A money-lender who contravenes the provision of section 28 or 29 shall be liable to a fine not exceeding Rs. 100/-.

Accounts to be kept in books obtained from Government

32. Every money-lender shall obtain from Governemnt on payment of such fees as may be prescribed, such books of accounts as may be necessary for him for the purpose of recording his transactions as a money-lender and shall regularly record and maintain accounts of all his transactions relating to the loans made and security for such loan, if any, in such account books, containing such details and in such script and numerals and in such ink as may be prescribed by Government from time to time.

Production of books of account used during the year for authentication.

33. (1) On or before the 31st January in each year every money-lender shall produce before the licensing officer all the books of account used by him in the previous year.

(2) The licensing officer shall thereupon sign and date in the case of running accounts the first and last entries on either side of each book and in the case of a ledger the first and last entries of each account in the ledger.

(3) The licensing officer shall also enter after the last entry in the running account particulars of the books issued to the money-lender in the previous year but not used by him in that year.

Entries in books not in accordance with Sec. 31 and 32*, inadmissible in evidence.

34. Notwithstanding anything contained in the Indian Evidence Act, 1872, no entry in any book, register or record relating to any loan or security therefor shall be admissible as evidence in any suit or proceedings for a money-lender unless it is contained in a book supplied by Government under the provisions of section 32 of this Act and reorded in the manner prescribed by the said section and in the case of an entry which relates to a previous year authenticated as provided by section 33.

Chapter VII

Suits and Proceedings

Jurisdiction of Small Causes Court excluded

35. Notwithstanding anything contained in the Provincial or Presidency Small Causes Court Act, no suit by or against a moneylender in respect of any claim arising out of any money-lending transaction shall be cognizable by a court of Small Causes unless that claim is in respect of a single transaction and such transaction is not directly or indirectly connected with earlier transactions between the parties or persons through whom they claim.

* It may be 32 and 33 - Editors.

Particulars of license to be given in the plaint

36. (1) Every plaint by a money-lender shall contain the particulars of the license held by him at the time when the transaction in the suit was entered into;

(2) If a money-lender without lawful excuse fails to comply with the provisions of sub-section (i) of this section the court shall order him to pay to the defendant the cost of the suit.

Interrogatories to be delivered to money-lender

37. (1) In any suit or proceedings for accounts or for the recovery of money lent or advanced if the person lending or advancing the money denies that he is a money-lender the court shall deliver to such person interrogatories for the purpose of ascertaining-

(a) whether he either alone or in conjunction with or in the name or through the agency of any other person or persons or corporation, made any and if so what loan or loans or advances within a reasonable time before and after the date of the transaction in suit or proceedings and if so,

(b) whether he or any and if so on what occasion or occasions, lent or advanced money under any name other than his own name and;

(c) whether he has been registered as a money-lender under his own or any other or what name as a money-lender and if so when.

(2) The provisions of Order 11 of the Code of Civil Procedure, 1908 shall apply to such interrogatories.

Power of Court to re-open certain transactions

38. Where in any suit or proceedings instituted after or pending at the time when this Act comes into force the transaction discloses that–

(a) the interest is excessive, or

(b) the transaction is as between the parties therein, unconscionable,

the court shall exercise one or more of the following powers, namely—

(i) re-open the transaction, take an account between the parties and relieve the debtor of all liability in respect of any excessive interest,

(ii) notwithstanding any agreement, purporting to close previous dealings and create a new obligation, re-open any account already taken between them and relieve the debtor of all liability in respect of any excessive interest, and if anything has been paid or allowed in account in respect of such liability, order the money-lender to re-pay any sum which it considers to be re-payable in respect thereof,

(iii) set aside either wholly or in part or revise or alter any security given or agreement made in respect of any loan, and if the money-lender has parted with the security, order him to indemnify the debtor in such manner and to such extent as it may deem fit.

Certain transactions not to be re-opened

39. In the exercise of the powers conferred by section 38 the court shall not—

(i) re-open any agreement purporting to close previous dealings and to create a new obligation which has been entered into by the parties or any person from whom they claim at a date more than twenty years from the date of the transaction, or

(ii) do anything which affects any decree of a court.

Explanation.—In the case of a suit brought on a series of transactions for the purposes of clause (i)of section 38 the expression "transaction" means the first of such transactions.

Rate of interest when deemed excessive.

40. For the purposes of section 37, interest shall be deemed to be excessive if—

(i) in the case of an unsecured loan it is at a rate in excess of three times,

(ii) in the case of a loan secured by a second or subsequent mortgage it is at a rate in excess of two and a half times,

(iii) in the case of loan secured by a first mortgage or pledge it is at a rate in excess of one and a half times,

the Bank rate of the Reserve Bank or of the Imperial Bank or the Bank of Bombay, as the case may be, at the date of the loan or transaction.

Mode of taking account

41. The account under section 37 shall be taken in accordance with the following rules, that is to say—

(i) separate accounts of principal and interest shall be taken,

(ii) in the account of the principal there shall be debited to the debtor such money as has from time to time been actually received by him from the money-lender and the price of goods, if any, sold to him by the moneylender as part of the transaction,

(iii) in the account of the principal there shall not be debited to the debtor any accumulated interest which had been converted into principal at any settlement of account or by any contract made in the course of the transaction,

(iv) in the account of interest there shall be debited to the debtor monthly simple interest on the balance of principal for the time being outstanding at a rate agreed between the parties but in no case exceeding the rates specified in section 38,

(v) all moneys paid by or on account of the debtor to the money-lender or on his account, and all payments in kind, all profits, service or other advantages of every

description received by the money-lender in the course of the transaction shall be credited first in the account of interest and when any payment is more than sufficient to discharge the balance of interest due at the time it is made, the residue of such payment shall be credited to the debtor in the account of the principal.

Explanation.—Where for purposes of accounting it is necessary to estimate in terms of money the value of any profits, services or advantages received by the moneylender including profits, rents and other advantages of property in the possession of the money-lender held by him as a security for the loan, the same shall be determined in accordance with the market rates prevailing on material dates or with the aid of assessors appointed by the court or failing which by the court in its own discretion,

(vi) the accounts of principal and interest shall be made upto the date of instituting the suit and the aggregate of the balance due on both such accounts against the debtor on that date shall be deemed to be the amount due at that date, except when the balance appearing due on the interest account exceeds that appearing due on the principal account, in which case double the latter balance shall be deemed to be the amount then due.

Power to direct payment of amount due on mortgage decree by instalments.

42. The court may, at any application of a judgement-debtor, after notice to the decree-holder, direct that the amount of any decree passed before or after the commencement of this Act, in respect of a loan, including any decree in a suit relating to a mortgage by which a loan is secured shall be paid in such number of instalments and subject to such conditions on the dates fixed by it as, having regard to the circumstances of the judgement-debtor and the amount of the decree, it considers fit.

Decree may direct payment of amount due on mortgage by instalment.

The court may at the time of passing the decree in any suit relating to a mortgage by which any loan is secured order that payment of any amount decreed in such suit, shall be made by instalments notwithstanding anything to the contrary contained in any contract between the money-lender and the person to whom the loan was advanced.

Court to estimate the value of judgement-debtor's property.

44. When an application is made for the execution of a decree by the attachment and sale of the judgement-debtor's property, the court executing the decree, shall, notwithstanding anything contained in the Code of Civil Procedure, 1908, hear the parties to the decree and estimate the value of such property and of that portion of such property the proceeds of the sale of which it considers will be sufficient to satisfy the decree.

Only sufficient portion of judgement debtor's property to be sold.

45. Notwithstanding anything contained in the Code of Civil Procedure, 1908, the proclamation of the intended sale shall include only so much of the property the proceeds of the sale of which the court considers will be sufficient to satisfy the decree and such property shall not be sold at a price lower than the price specified in the said proclamation.

Saving of power of court under Usurious Loans Act.

46. Except as is otherwise provided by this Act nothing herein contained shall affect the powers of a Court under the Usurious Loans Act, 1918.

Contract for payment outside the Province void.

47. Any contract entered into between a money-lender and his debtor in respect of a loan advanced after the commencement of this Act providing for the payment of the amount due on such loan at any place outside the province of Bombay shall be void.

Agreement to pay arrears of interest void.

Any agreement entered into by a debtor to pay any arrears of interest due on a loan shall be void.

Chapter VIII.

Proceedings in respect of offences

All offences cognizable.

49. All offences under this Act shall be cognizable and shall be triable by any Magistrate.

Appeals from convictions or acquittals.

50. An order of conviction or acquittal passed under this Act in respect of any offence under this Act shall be appeallable in the same manner as if it was an order passed under the Code of Criminal Procedure, 1898.

Chapter IX.

Supplemental

Power to make rules.

51. (1) It shall be lawful for Government to make rules prescribing-

(a) the form of the certificate and the license to be granted to the money-lender,

(b) the procedure to be followed in making applications for certificates and licenses,

(c) the authorities empowered to grant licenses and certificates, to issue books of accounts, pass books, memorandum and their form,

(d) procedure in respect of appeals from orders passed under the provisions of this Act,

(e) the form of account books, pass books and the method of authentication,

(f) the forms of the annual statements of accounts to be submitted by the money-lender to his debtor,

(g) fees for the supply of account books, pass-books etc.,

(h) charges payable by the debtor to the money-lender in respect of loans.

(2) Before any such rules are made under this section a draft thereof shall be laid before each chamber of the legislature for a period of not less than 21 days during the session of the chamber, and if either chamber before the expiration of the said period passes a resolution against the draft or any part thereof, no further proceedings shall be taken thereon, but without prejudice to the making of a new draft rule.

Statement of Objects And Reasons

This Bill is intended to control and regulate the business of money-lending. For that purpose it provides–

Firstly- *(i)* that no money-lender shall carry on the business of money-lending unless he has taken out a license and that license shall not be granted to any person who does not posses a certificate of good character;

(ii) that the license issued to a money-lender shall be liable to be suspended or revoked if he is found guilty of breach of any duty imposed upon him by this Bill.

Secondly- *(i)* the bill provided that all loans made by a moneylender whether secured or unsecured shall be evidenced by writing signed by the borrower;

(ii) that a money-lender shall give a pass-book to the borrower in which all transactions between them shall be entered by the money-lender;

(iii) that annualy the money-lender shall send to the borrower a statement of his accounts;

(iv) that charging of compound interest or other costs shall be illegal.

Thirdly- the Bill lays down the mode of keeping accounts by the money-lender. It requires :

(i) that the money-lender shall keep his accounts in the books obtained by Government;

(ii) that at the end of every year he shall produce his books before a government official, who shall initial the first and last entries in such books;

(iii) that no books of accounts shall be admissible in

evidence in any suit or proceedings unless they are kept in conformity with these rules.

Fourthly-the bill contains provisions regarding suits between a money-lender and a borrower. It lays down :–

(i) that such suit shall not be triable by the Small Causes Court unless it is in respect of a single transaction;

(ii) that the court may re-open certain transactions if the interest is excessive or if the transaction is unconsciousnable;

(iii) that interest shall be deemed to be excessive if it exceeds a certain level fixed in relation to the Bank rate;

(iv) that accounts between a money-lender and a borrower shall be taken in accordance with certain rules which are embodied in the D. A. R. Act;

(v) that in the execution of a decree against a borrower the court may grant instalments and sell only such amount of property of the borrower as may be sufficient, satisfaction of the decree.

Fifthly- The bill makes void any contract for payment of the loan by the borrower outside the Province the object being to prevent a money-lender from defeating the provisions of this Act.

B. R. Ambedkar

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Reprinted from a booklet printed at Shree Laxmi Narayan Press, 364. Thakurdwar, Bombay.

20

I SHALL STAND FOR PRINCIPLE AND WILL FIGHT ALONE FOR IT

Ahmedabad, October 22.1938.

"I do not believe any progress has been made by the Congress Ministry of Bombay by bringing in the Trade Disputes and Tenancy Bills. We have fundamental differences with the Congress for years. We are not fighting for offices in the province, but we fight for our rights."

Thus observed Dr. Ambedkar who came here this morning in an interview with the pressman.

Continuing, he said "if I join hands with the Congress today, I can have what I like, but our case is entirely different. I do not care if the whole of my community differs from me and join the Congress, but I shall stand for principle and will fight alone for it."

Referring to Mr. Jinnah, he said, "Mr. Jinnah is totally carrying the Muslims on the wrong path. I do not understand what differences he has with the Congress. If the League really stands for the interests of the Minorities, I welcome Mr. Jinnah to join hands with other sections who differ from the Congress, and make a united front of all these sections against the Congress. The Muslim League, to my mind, is fighting for elections and ministry.

Mr. Jinnah on one side is fighting with the Congress, while on the other side he intends to come to a pact with the Congress, which is entirely meaningless. Appeal to him to learn a lesson from the Poona pact."[1]

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[1] The Bombay Chronicle : dated 22nd October 1938.

21

MINISTRY SEEMS TO BE INTOXICATED WITH POWER

Bombay, Thursday.*

'In the name of the working class of Bombay, in the name of Law and Order and in the name of decent administration of the province I demand an impartial and public inquiry into the scandalous mismanagement of the protest strike by the police department under the control of the Hon. Mr. Munshi. I demand a public inquiry into the absolutely uncalled for firing and lathi charges to which the police repeatedly resorted' said Dr. B. R. Ambedkar leader of the Independent Labour Party in the course of a statement to the Press.[1]

'What has come over the Congress Ministry, asked Dr. Ambedkar, 'that it should not be able to manage a single day's strike without resorting to such disgraceful terror.'

'There were strikes that lasted for days and weeks and months in the past. There was one that lasted for seven and a half months with processions and meetings and demonstrations every day. There were no such lathi charges and firing during the whole of this period.'

'Today under Congress Raj we cannot have a single day's strike without repression and terrorism being let loose. That i s what the Congress has come to.'

The Press

What about the press, the press that stood for freedom and rights of workers and championed their cause as long as the Congress needed their help ?

Today that press is resorting to lies and falsehoods and distortions and suppression of facts that must make the British and Anglo-Indian journal blush with shame.

1: Free Press Journal, dated 9th November 1938. i.e. Wednesday.

* The 3rd November 1938.

'The Protest Strike is condemned as having fallen flat, that it was a fiasco, that the workers defied the orders of their leaders. Those who went on strike were supposed to have been 'intimidated' 'bullied' 'terrorised' 'coerced' and so on'.

People are familiar with these words. But so far they used to come from a press that was considered anti-national. Today they come from Congress and pro-Congress press. That is the tragedy. That is the grim reality we have to face.

'I ask these journals, what has happened to your Truth and Non-violence, what has happened to your common decency ?'

'As far as the workers are concerned they cannot be misled by this or any other propaganda. They were witnesses to the gigantic demonstrations of protest against the Trades Disputes Bill. They know what mighty success the strike has been.'

Ministry Warned

'Let the Congress Ministry and Congress leaders remember this one fact very clearly, that every lathi charge that has been directed on the workers, every shot that has been fired on members of the working class will echo and re-echo in this city and this presidency for weeks and months to come.'

'Those lathi charges and firing will be echoed and re-echoed during the forth-coming Municipal Elections from a hundred platforms and in a hundred meeting. Those lathi charges and firing are going to cost the Congress much more than its leaders seem to realise today.

'Those outrages on our right and our freedom will be heard in the farther most corners of this province in the remotest villages of this presidency.

'The Congress Ministry seems to be intoxicated with power. They seem to be ignorant of the one great lesson of democracy that mighty majority in parliaments and legislatures are swept off overnight by a single incident by single miscalculated step. But that lesson will be driven home during

the Bombay Municipal Elections, it will be driven home when the Government face the electorate again.

'I have not the slightest doubt that it will be driven home with a deadly effect.'

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22

INJUSTICE TO TILLERS OF SOIL

Analysis of Prakasam Committee's Recommendations

Dr. B. R. Ambedkar, Leader of the Independent Labour Party, has issued the following statement:—

I have read the recommendations of the Prakasam Committee on conditions in zamindari areas. While the view that the zamindar is no more than an assignee of revenue may be justified, the stand that the Committee has taken that no tenancy rights for the actual cultivator can accrue in lands belonging to proprietors of the soil is neither legally correct, nor just to the cultivator, nor conducive to the sound development of the agricultural economy.

It is legally incorrect, because grades of proprietary rights grown during that last century and have been recognised in law in all tenancy legislations. It is unjust to the cultivator, because the purpose of fixing a low rent or revenue is to leave a wide surplus for him and to provide him with a living income, to improve his farm and tide over scarcity years, and not to create a large number of smaller zamindars to enrich themselves both at the expense of the zamindar and the cultivator.

It is against the interests of agriculture, because proprietary interests ought not be allowed to exploit land as a property for rack-renting the cultivator as against its conservation for use for agricultural purposes.

The report of the Prakasam Committee is nothing more than an assessment of the distribution of the rack-rent collected from the cultivators among the superior holders.

MR. PRAKASAM'S RECENT REPLIES TO A QUESTION IN THE LEGISLATURE THAT TENANCY LEGISLATION WILL NOT BE UNDERTAKEN IN RAYATWARI AREAS BECAUSE RAYATWARI HOLDERS ARE PROPRIETORS OF THE SOIL SHUTS OUT ALL HOPES OF ANY GOOD COMING TO THE CULTIVATOR FROM THE CONGRESS MINISTRY.

I have no doubt that the Scheduled Class representatives in Madras will not be a party to any legislation which, in the name of proprietary rights, creates a new class of rent receivers. And I think that any support given by them to any such legislation would be grave betrayal of the interests of the cultivator."[1]

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[1]: The Bombay Chronicle : dated 18th January 1939.

23

DR. AMBEDKAR CHALLENGES GWYER AWARD

"Since February 1939 trouble had been brewing in the Rajkot State where a strong agitation was going on for political reforms. Defeated and disappointed by Subhas Bose's election to the Presidentship of the Congress, Gandhi hurried to Rajkot apparently to settle the State problem, but with an inward desire to create a crisis just at the time of the Tripuri Congress Session over which Subhas Bose was to preside. Dr. Ambedkar was urgently called by the local Depressed Classes to intervene in the dispute regarding their non-inclusion in the Reforms Committee of the State. He therefore, left by air for Rajkot and on the evening of April 18, saw the ruler, the Thakor Saheb, and at night addressed a meeting of the Depressed Classes, urging them to carry on their struggle for political rights.

The next morning he had a talk with Gandhi for forty-five minutes on the question of representation for the Harijans on the Reforms Committee. He stated in an interview at Rajkot that he could not discuss in detail all the points with Gandhi, as the Mahatma had a sudden temperature. He, however, revealed that the suggestion that his, alternative proposal should be submitted to a constitutional expert like Sir Tej Bahadur Sapru was not acceptable to Gandhi. At last Gandhi failed in his attempt to effect a change of heart by his non-violent methods and resorted to coercive methods by appealing to the Viceroy to intervene. Gandhi, the apostle of the principle of change of heart and non-violence, himself publicly confessed that his non-violence had not yet been developed to the fullest power, and so he left Rajkot, to quote his words, with hopes cremated and body shattered.

Accordingly, a few days thereafter Sir Maurice Gwyer, the Chief Justice of the Federal Court, gave an Award on the disputes in the State of Rajkot. Dr. Ambedkar challenged the interpretation of the word "recommend" given by Sir Maurice Gwyer. He stated that Gwyer had given his decision on the footing that "There is

no conclusive precedent for the purposes of the present reference." Dr. Ambedkar quoted two authorities in support of his assertion, *Knolt* vs. *Cottee,* and *Johnson* vs. *Rowlands"*[1]

Following are the stage to stage details : Editors.

I

"HARIJAN REPRESENTATION IN COMMITTEE

Dr. Ambedkar's Telegram to Gandhiji

Dr. B. R. Ambedkar, Leader of the Independent Labour Party, has sent the following telegram to Mahatma Gandhi :—

"Would like knowing if Rajkot Depressed classes get representation on the Reforms Committee."[2]

II

"ANOTHER CLAIM FOR SEAT

Dr. Ambedkar's Wire to Virawalla

The Muslim Deputationists to-day denied that the negotiations had broken down and added that they will be seeing Gandhiji again to-night. Meanwhile they are in communication with a prominent Muslim League leader in Bombay to receive instructions.

The Girasyas and Bhayats whose claim for representation on the Reforms Committee have not been accepted are waiting in a deputation on the Thakore Saheb to-night.

The latest claimant for a seat on the Reforms Committees are some members of the Depressed Classes in Rajkot. Dr. Ambedkar has wired to Durbar Virawalla to-day "hope you won't forget your State representation to Depressed Classes on your Reforms Committee as already promised."

The First Member of Rajkot Council has handed over the above telegram to Gandhiji.

1: Keer, pp 322-323.

2: The Bombay Chronicle, dated 14th April 1939.

On behalf of the Thakore Saheb Durbar Virawalla has sent the following telegram to Dr. Ambedkar : "Your wire has been communicated to His Highness. I am directed to say that in spite of His Highness' desire and keenness Mr. Patel is not likely to recommend any representative of the Depressed Class. If you so desire, His Highness will willingly grant an interview to discuss with you how the Depressed Classes could be helped. "—A. P."[1]

III

"DR. AMBEDKAR AS STATE GUEST

(From Our Correspondent.)

Rajkot, April 18.

Dr. Ambedkar arrived from Bombay this morning by air and was received by some Girasias at the aerodrome. He was taken to the state guest house in a state car.

Khwaji Hassan Nizami who also arrived with Dr. Ambedkar was received at Anandkunj by Mahatmaji this morning and had a talk with Mahatmaji for an hour.[2]

IV

"DR. AMBEDKAR SEES THAKORE

(From Our Correspondent.)

Rajkot, April 18.

Dr. B. R. Ambedkar who arrived here this morning in order to study the Harijan problems is returning to Bombay tomorrow. The Doctor interviewed the Thakore Saheb to-night and will see Gandhiji tomorrow.

In the evening prominent Muslim leaders and Bhayats met him and discussed how their negotiations with Gandhiji for representation of their interest in the Reforms Committee broke down.

1: The Bombay Chronicle, dated 15th April 1939.

2: The Bombay Chronicle, dated 19th April 1939.

Dr. Ambedkar was also closeted with Mr. Virawalla this evening.

It is understood that Dr. Ambedkar will issue a note on the Rajkot question in the light of his discussions with various communities in Rajkot."[1]

V

"DR. AMBEDKARS ALTERNATIVE

Rajkot April 19.

Dr. B.R. Ambedkar, in an interview to the "United Press" stated that he came here not at the invitation of the Rajkot Durbar, but at the invitation of the local Depressed Classes who requested his intervention in the dispute regarding their non-inclusion in the Reforms Committee.

"The first thing I did on my arrival", he said, "was to ascertain from the Durbar whether they were prepared to have on the Committee a person who was the accredited representative of the Depressed Classes.

Alternative Proposal

"I saw Gandhiji this morning at 11-30 but unfortunately, I could not discuss in detail all the points since he had got sudden temperature. However, I discussed with him an alternative proposal of submission of the formation of the new constitution to a person like Sir Tej Bahadur Sapru or Sir Shivaswami Iyer or any other equally well versed man in constitutional law, before all the classes of the State could put their cases. Gandhiji could not agree to this, his argument being that such a report should be final."

Dr. Ambedkar left for Bombay this evening by train—United Press."[2]

1: The Bombay Chronicle, dated 19th April 1939.

2: The Bombay Chronicle, dated 20th April 1939.

VI

"DR. AMBEDKAR CHALLENGES GWYER AWARD

Quotes Cases to Show "Recommendation" Is Not Command

Dr. B. R. Ambedkar, in a legal analysis of the Gwyer Award says :—

The award given by Sir Maurice Gwyer on the dispute between the Thakore Saheb of Rajkot and Mr. Vallabhbhai Patel over the interpretation of the word "recommend" is not only of importance to the parties to the dispute but to the general public at large.

The parties to the award being bound by the award the question whether that interpretation is right or wrong may not be of much use to them. The same cannot however be said of the public. To them the question is still full of interest. It is true that the award is not a decision of a court of law. Yet it has behind it all the authority of so great a name as that of Sir Maurice Gwyer.

Last Word With Sardar

For an intelligent appreciation of such principles it is necessary in the first place to state what the contention of the Thakore Saheb was and how it was disposed off by Sir Maurice Gwyer.

Sir Maurice Gwyer sums it up thus, "The gist of Thakore Saheb's argument is contained in the following sentence in the written case submitted on his behalf. 'It is obvious that the word "recommend" itself clearly indicates that it (each name) is to be considered and it was open to the Thakore Saheb to reject any of the names on the ground, for instance, that any one of the names recommended was not a suitable person, was incapable or undesirable'. This contention Sir Maurice Gwyer has not upheld.

He says, "In my opinion the true construction is that the Thakore Saheb undertakes to appoint the persons whom Mr. Vallabhbhai Patel may recommend and that he does not re-serve to himself any discretion to reject those whom he does not approve. He is no doubt entitled to criticise the recommendations and to urge reasons for reconsidering them, but, unless it can be shown that any of the

persons recommended is neither the subject nor the servant of the State, Mr. Vallabhbhai Patel is to have the "last word".

Two Objections

The ground for this conclusion and for the rejection of the Thakore Saheb's contention by Sir Maurice Gwyer are two. To use the words of Sir Maurice Gwyer himself, the first ground is that "no such proposition (as is contended for by the Thakore Saheb) can be based simply upon, the use of the word "recommend" which in itself does not necessarily imply anything of the kind. It may take its colour from the context and accordingly, all the circumstances of the case must be taken into account."

The second ground is that the Thakore Saheb had not reserved to himself the power to consider the recommendation and therefore he had no discretion to reject the persons recommended by Mr. Vallabhbhai Patel. Sir Maurice Gwyer has referred to the case Rex-*vs*-Governors of Christs' Hospital reported in (1917) I. K. B. 19. But, he does not rely upon it. He makes it quite clear as to why he refers to it. He says, "I only refer to them for the purpose of showing that there is no single principle which regulates cases where one person recommends and another appoints." Indeed he has proceeded to give his decision on the footing that there is no conclusive precedent for the purposes of the present reference . . . ."

Precedent And Principle

With due deference I venture to say that there is a well established principle supported by a precedent which could be invoked in deciding this reference. Knott-*vs*-Cottee (2 Phil 192 equal to 41 E. R. 915) *i.e.* the precedent I have in mind. The facts of the case can be very briefly stated.

'A' made a Will and appointed his wife, one Mr. Cottee and one Mr. Ibbettson executors and trustees and he also appointed these three as the guardians of his children. Further 'A' recommended that if his wife should die before his son should attain twenty-one. or before his daughters attain that age or marry, the surviving guardian or guardians should place his children, or such of them as should then be minors under the care of his cousin Mary

Prior. 'A's' wife died and the children were placed under the care of Mary Prior by Mr. Cottee the surviving executor and testamentary guardian. The case proceeded on the assumption that the word recommend meant that a binding trust was created on the testamentary guardians so that Mr. Cottee was bound to appoint Mary Prior as the person to take care of the children.

Inherent Powers

The issue was this .... Did the recommendation take away all the powers of control belonging to Mr. Cottee as the testamentary guardian ? In deciding this issue the Lord Chancellor (Lord Denman) said...." I have had frequent opportunities of considering the effect of words of recommendation. One was in a recent case in this Court, where the question was whether a recommendation by the testator, that a certain person should be employed as receiver and manager of his property, gave that person any legal interest.

Another case was of Shaw *vs*. Lawless where the House of Lords laid it down as a rule which I have since acted upon, that, though recommendation may in some cases amount to a direction and create a trust, yet that, being a flexible term, if such a construction of it be inconsistent with any positive provision in the Will. It is to be considered as a recommendation, and nothing more.

In that case, the interest supposed to be given to the party recommended was inconsistent with other powers which the trustees were to exercise; and those powers being given in unambiguous terms, it was held that, as the two-provisions could not stand together, the ..... flexible term was to give way to the inflexible term." Accordingly it was held that notwithstanding the fact that the recommendation was binding it did not take away the powers of control of Mr. Cottee as a testamentary guardian, over the children.

Not Binding Direction

The case is no doubt one relating to trust. But a trust is only another name for legal obligation and whether one speaks of recommendation creating a trust or creating a legal obligation it is

just the same. That being so the case is relevant because it enunciates a very important rule relating to the interpretation of the word 'recommend'. As one can see from the judgment of Lord Denman the rule is that the word 'recommend' cannot be interpreted to mean a binding direction from which there is no escape if such an interpretation becomes inconsistent with the exercise of certain other positive powers vested in the person to whom the recommendation is made.

Now in the case of Thakore Saheb *vs.* Vallabhbhai can it not be said that the position of the Thakore Saheb is the same as that of Mr. Cottee ? Can it not be further said that like Mr. Cottee the Thakore Saheb also in his capacity as the Crown possesses certain positive powers? Such as the power to appoint, reject or dismiss any person to or from any place, if it is right to say that the Thakore Saheb stands in the same position at that of Mr. Cottee then how can one escape the conclusion that the rule to be applied in deciding the case of Thakore Saheb *vs.* Vallabhbhai is the rule laid down in Knott *vs.* Cottee ?

Another Authority

There is also another authority Johnson *vs.* Rowlands (17 L. J. Ch 438) which can be usefully referred to in this connection. In this case the question was the interpretation of the word recommend as used in a Will. In the Will the testator had said, "I gave the same (a certain amount of money) to be disposed off in such a way as she shall think proper. But I recommend to her to dispose of ½ of it to her own relations." The legatee did not dispose of the ½ to her own relations as recommended by the testator. Question was whether she could depart from the recommendation. The Court held that she could. To use the language of the judgement 'recommendation' may mean command. But it cannot mean command if it is inconsistent with the legal and equitable power of . the person to whom the recommendation is made to depart from the recommendation.

It is true that the language of the letter written by the Thakore Saheb is different from the language of the Will in the Johnson *vs.* Rowlands. But supposing the letter written by the Thakore Saheb

to Mr. Vallabhbhai Patel had been written in these terms: "We have a right to constitute the committee in a way like. But you should recommend to us names of seven persons to be appointed on the committee and we shall appoint them." It is true that in the Thakore's case there is an agreement between him and Vallabhbhai while there was no such agreement between the legatee and her relations in Johnson *vs.* Rowlands. We are not however considering the question whether the agreement is binding on and enforceable against the Thakore Saheb which is made by him in his capacity as the Crown. That is a different question and raises important issues.

The Absent Phrase

The issue with which we are concerned is what is meant by the word 'recommend' and on this issue the case of Johnson *vs.* Rowlands seems to be on all fours with the case of Thakore Saheb *vs.* Vallabhbhai Patel. The absence of the words "we have a right to constitute the Committee in any way we like" in the letter of the Thakore Saheb to Vallabhbhai cannot, I submit, make any difference. Such words must be deemed to be present in every document executed by him as the Sovereign Ruler of Rajkot. Whether they are actually there or not the positive power of constituting the Committee at his pleasure in an inseparable incident of his position and run with him as part of the prerogative of the Crown. Nor does the fact that the Thakore Saheb in his letter did not reserve to himself the power to reject the recommendation of Mr. Vallabhabhai affect the situation.

The question is not whether the Thakore Saheb has reserved for himself the power to reject. The question is whether there is anything in the word 'recommend' which can be said to take away the Thakore's inherent powers of rejection which are always with him and which it was not necessary for him to save by any express stipulation. If this is so, the word 'recommend' cannot be given an interpretation different from the one given to it in these two cases.

Positive Powers

In this as in the other two cases there are on the one hand positive powers of the Thakore Saheb which is an inflexible term and on the other there is recommendation which is always a flexible term. That being so according to the rule the flexible term must give way to the inflexible term. That is to say 'recommend' cannot mean direct or bind.

The case reported in (1917) I. K. B. 19 referred to by Sir Maurice Gwyer seems to be in conflict with the two cases I have referred to. But on a closer examination it will be seen that there is no conflict and the case is easily distinguishable. In 1917 I.K.B. 19 the appointing authority, was 'just' an appointing authority and no more. It had no positive powers which could be said to be in danger of being nullified by interpreting the word . . . . . 'recommend' to mean a binding direction.

The rule as laid down in the two cases referred to by me seems to be that where there exist positive powers which are capable of being exercised independently, the word recommend cannot mean a binding direction, but where there are no positive powers it may have that meaning. In the two cases referred to by me there were positive powers and therefore the decision was that recommendation did not mean binding direction.

In the case referred to by Sir Maurice Gwyer there were no positive powers and therefore it was held that recommendation could mean a binding direction. The case of Thakore Saheb *vs.* Vallabhbhai is one which in my opinion falls in the class under which the two cases cited by me fall and not under the class of cases reported in (1917) L K. B. 19."[1]

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[1] The Bombay Chronicle : dated 2nd May 1939.

24

I AM ANXIOUS MORE THAN MR. JINNAH...

"Dr. Ambedkar To join Muslim Celebration Deliverance Day": Support of Many Parsis.

Dr. B.R. Ambedkar, leader of the Independent Labour Party, has decided to join in the celebration of "Deliverance Day" on Friday next.

A number of Parsis have, already expressed their eagerness in their individual capacity, to cooperate with Mr. M. A. Jinnah, President of the All India Muslim League, in making the day a success.

The sub-committee appointed by the Parsi Community a few months ago at a meeting held at Sir Cowasjee Jehangir Hall to protest against the Congress policy of prohibition will consider on Tuesday, the invitation extended to it to participation in the observance of "Deliverance Day". The sub-committee consists of nearly 50 leading Parsis including Mr. M. P Khareghat, President of the Parsi Panchayat, Sir Cowasjee Jehangir, Sir H. P. Mody and Sir Byramjee Jeejeebhoy.

Dr. Ambedkar, in a talk with a representative of this Paper on Monday said:

"Eversince The Times of India published my cryptive reply to its representative only last week, supporting Mr. Jinnah's appeal for the observance of "Deliverance Day", I have had numerous inquiries from friends as well as foes to explain what I meant. I am, therefore, obliged to explain my position.

"When I read Mr. Jinnah's statement, I felt ashamed to have allowed him to steal a march over me and rob me of the language and the sentiments which I more than Mr. Jinnah, was entitled to use.

"Harijans' Position"

"Whatever anyone may say with regard to the tyranny alleged to have been practised by the Hindus over the Muslims during the

Congress regime no one can entertain any doubt as to the position of millions of Untouchables who had the misfortune to be ruled by the Congress Government in this province in common with some others. If Mr. Jinnah and the Muslims can prove five out of 100 cases of oppression, I am prepared to place 100 out of 100 cases before any impartial tribunal, I, therefore, am anxious more than Mr. Jinnah can ever be, for the appointment of a Royal Commission to investigate the cases of tyranny and oppression by the Congress Government.

"Although the oppressors, so far as the Untouchables are concerned, are Hindus, I can assure my Hindu friends that this is not an Anti-Hindu move, it is Anti-Congress, and, therefore, purely political. If attack on the Congress is interpreted by the Hindus as an attack on them, they have to thank themselves then for the consequences. It proves two things, that the Congress is a Hindu body and that the Hindus are attached to the Congress and are not prepared to put that organization on its trial."[1]

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[1]: The Times of India, Tuesday, 19-12-1939, P-9
Reprinted : Khairmode, Vol. 9, Pp. 12-13.

25

WHEN BUDDHA STOPPED ANIMAL SACRIFICES, COWS WERE SANCTIFIED BY THEM

"Untouchability Was Punishment For Sticking to Buddhism" Brahmins' Adaptability

A novel theory on the origin of Untouchability was expounded by Dr. B. R. Ambedkar, Leader of the Independent Labour Party, in the course of a talk with our representative.

Untouchability, it may be mentioned, is an institution or social practice that is the exclusive property of India and does not exist anywhere else in the world. In more than one sense it is an institution that is unnatural and runs counter to human psychology and social forces. The reasons for the origin of Untouchability that can carry conviction, therefore, must be such as will override all social and psychological considerations.

According to Dr. Ambedkar, Untouchability is of comparatively recent origin and could not possibly have existed in *Vedic* times or for centuries after that period. There is certainly no mention of Untouchability anywhere in the *Vedas*. How did it come into existence then ?

Semi-Tribal State

Dr. Ambedkar pictures a period when some of the people had only recently settled down to agricultural life while others were in a nomadic state moving about from place to place with their flocks of sheep and cattle.

The former with their encumbrances of landed property, houses, crops, etc., and higher state of civilisation than that of the pastoral tribes naturally did not want their peaceful life to be disturbed by the pastoral tribes. Nor were they a match for the pastoral tribes who were not burdened with any immovable property and were for obvious reasons physically hardier and more robust.

To guard their property against the depredations of the wandering tribes therefore the agricultural villages engaged the services of

men from the pastoral class whose tribes had been broken up by internecine wars. These men were allotted pieces of land and houses just outside the villages and their main duty—as is their main duty today—was to maintain law and order.

This duty of defending the villages against pastoral tribes they discharged for generations. The relations between the villagers proper and the protectors of the villagers living on the village fringe were normal human relations without any conception of Untouchability. How did it come in then ?

For that, according to Dr. Ambedkar, we have to look to the rise of Buddhism in India.

Buddhism, says Dr. Ambedkar, swept the land as no physical conqueror had ever done in India's history. Within a few generations almost the entire country especially the masses and the trading classes went over to Buddhism.

Brahminism was in the grip of mortal fear. In fact, it would have been wiped out had it not been for the shrewd adaptability of the Brahmins who were prepared to throw overboard every social and religious institution which they had championed for centuries and on which they had flourished for ages if only *Brahminism* could be saved. What did the Brahmins do ?

Mass Appeal of Buddhism

There were three cardinal teachings of *Buddha* that appealed to the masses. His gospel of social equality, his demand for the abolition of the *"Chaturvarna"* system, his doctrine of non-violence and his condemnation of elaborate religious ceremonials and sacrifices which impoverished the masses and created among them a repugnance for religious ceremonies.

The Brahmins of this period, according to Dr. Ambedkar, were far from being vegetarians. They were the most gluttomous meat eaters, sacrificing cows and other animals by thousands, presumably to pacify the Gods, but really to pacify their own greed for meat.

Truth Behind Vedic Sacrifices

The Brahmin demand for meat on such an unbounded scale impoverished the peasants who had to find the cows for the sacrifices and were consequently deprived of milk and its by-products, which were their staple means of livelihood.

The proof of the limits to which these blood sacrifices had been carried on can be found even to this day in the lurid descriptions of the ceremonials in the *Vedas* which show but scant regard for any sort of humanitarian considerations. And so when *Buddha* came out preaching abolition of animal sacrifices and religious ceremonials the masses to whom the new doctrines appealed both economically and ethically eagerly accpeted them and scrapped *Brahminical* teachings.

How did *Brahminism* save itself from the surging tide of *Buddhism* ? It straight-way gave up all the sacrificial and ceremonial part of *Hinduism*. The cow that was slaughtered so far was, to outbid *Buddha,* covered with the highest sanctity.

The meat-eating *Brahmin* became a strict vegetarian. Wine bibbing came to an end. *Hinduism* assumed a puritanical covering.

Compromise with Kshatriyas

In order to prevent the *Kshatriyas* going over to *Buddhism* the *Brahmins* offered them equality with themselves. There is actually a verse in one of the religious book, apart from scores of other references, observed Dr. Ambedkar, wherein it is stated that just as two policemen have to stand on two sides of a prisoner to prevent his escape so also have the *Brahmins* and *Kshatriyas* to act together to prevent the *Vaishyas* and *Shudras* getting out of their hands.

How Cow became Sanctified

The cow being sanctified, sacrificial ceremonials brought to an end and a large number of other *Buddhist* teachings being incorporated in Hinduism, the masses who had gone over to *Buddhism,* were slowly weaned back. The one great teaching

that the Brahmins did not accept was the theory of equality and abolition of the *"Chaturvarna"* caste system. But they did one thing. They, for the time being, put the *Kshatriyas* on the same level as themselves, relegated the Gods of *Brahmin* birth to the background, installed *Kshatriya* Gods in their places and came to other time-serving compromises.

Unexpected Development

A development of a most unexpected nature which would have been utterly abhorrent to *Buddha* took place in the process of *Brahminical* campaign of accommodation and compromise. Sacrifice of cows was stopped by *Buddha*. The animal was sanctified by the *Brahmins*. The Hindu society in general accepted the sanctification and stopped killing of cows. So did the present-day Untouchables. But the Untouchables being too poor to use fresh meat or beef at any time continued their age-old practice of eating the carcasses of dead cows.

Neither *Buddha* nor the *Brahmins* had forbidden consumption of carcasses. The ban was only against slaughtering live cows. But the present day Untouchables had committed one great crime. Being the poorest of the poor and socially on the lowest wrung of ladder they stuck to *Buddhism* the longest. It required a mighty big force exerted over a long period of years to bring them round. When nothing else would work, social ostracism and Untouchability were applied.

Their practice of eating dead cows was exploited against them. It was something that naturally repelled the Hindu mind. It was obnoxious. The *Brahmin* could use the situation to his advantage without much difficulty. And so Untouchability was imposed on the entire class. It was really a punishment for sticking to *Buddhism* when others had deserted it. And so Untouchability continues today in spite of education and all modern ideas of freedom and social equality."[1]

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[1] The Bombay Chronicle : dated 24th February 1940.

26

MAHARS HAVE BEEN MARTIAL PEOPLE

The *Mahars* have been a martial people. The army of the East India Company which successfully fought against the army of the Peshwa was recruited from the *Mahars*. The last battle between the Peshwa and the British was faught at Koregaon in the Poona district. There is a column at Koregaon raised by the British to commemorate the battle. On the column are inscribed the names of the soldiers who fell in the battle on the side of the British. Nine out of ten names are of *Mahars*. The recruitment of the *Mahars* continued upto 1892 and in all the wars, the *Mahars* have proved their martial qualities. All of a sudden the recruitment of *Mahars* was stopped in 1892. Ever since the *Mahars* have nursed a grievance against the British Government for what they regarded as very ungrateful conduct. There is much justification for this grievance for there can be no doubt that without the help of the Untouchables the British would never have been able to conquer India.

The *Mahars* carried on a great agitation against their banishment from the Army. But it bore no fruit. It was during the war of 1914 that the British Government under necessity lifted the ban and raised one *Mahar* battalion. It was raised at the fag end of the war and the battalion had no apportunity to go on war service and show its mettle. It was posted in Waziristan in the North-West Frontier Province, and it is on record while almost every battalion stationed in the N.W.F. lost some rifles and ammunition to the Pathans, who are in the habit of raiding ammunition and rifle depots to arm themselves, the Pathans did not succeed in stealing a single title or a single cartridge from the *Mahar* battalion. It was expected that the British Government, having re-enfranchised the *Mahars* for Military puiposes, would continue the *Mahar* battalion and add to it more *Mahar* battalions. But instead the British Government on the excuse of economy, disbanded the *Mahar* battalion. This caused great bitterness in the minds of the *Mahars*. When the present war came, the *Mahars* hoped that their turn would come. But the steps taken by the British Government in the early stages of the war only added insult to injury. The *Mahars* were only wanted

for labour corps and not for the combatant ranks. The labour corps is safer than the combatant ranks, but the *Mahars* wanted to join the combatant ranks.

One of the banalities of the British Government in India is this distinction between martial and non-martial classes. Nothing has been more disastrous. It is a pity that so great a catastrophe as the war was necessary to force the British Government to give up this senseless distinction. It is stated that Government have directed to raise a *Mahar* battalion. The credit must go to H. E. the Governor of Bombay. On my making it a grievance he took up the matter with the Central Government and brought it to a successful issue. I appeal to the *Mahars* to take advantage of this apportunity; both for their sake as well as the sake of the country and also appeal to the British Government to keep faith with the *Mahars* and not to disband them from the army after the war is over.

Bombay : **(Dr.) B. R. Ambedkar**"[1]

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[1]: The Times of India, dated 18th June 1941.

27

REPRESENTATION RELATING TO THE GRIEVANCES OF THE WATANDAR MAHARS, MANGS ETC.

"The Bombay Government levied additional taxes on the Mahar Vatans. Dr. B. R. Ambedkar had been fighting that problem since 1927. But now instead of relieving the poor from the serfdom, the Government added salt to their injuries by the levy of additional taxes. The Mahars, Mangs and Vethias in Maharashtra and Karnatak met in Conference at Haregaon, District Ahmednagar in the middle of December 1939 to voice their grievances under the Presidentship of Dr. Ambedkar."[1]

On 16th December 1939 addressing the Conference of 20,000 Mahars, Mangs and Vethias, Dr. B.R. Ambedkar assured that he would submit the representation to the Government relating to their grievances. Accordingly he prepared and submitted the representation, dated 14th July 1941 which is as follows :—Editors.

To

HIS EXCELLENCY SIR ROGER LUMLEY
G.C.S.I.E., T.D., GOVERNOR OF BOMBAY.
MAY IT PLEASE YOUR EXCELLENCY.

I beg to submit the following representation relating to the grievances of the Watandar Mahars, Mangs and Vethias, known as Inferior Village Servants, in this Presidency, for favour of Your Excellency's kind consideration and necessary action—

1. These grievances arise out of the new policy initiated by the Government of Bombay relating to the Watandars called Inferior Village Servants. They affect them in two vital matters, namely :—

(i) Heavy reduction of their remuneration, and

(ii) Substantial increase of their Duties.

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[1]: Keer, Pp. 330-331.

2. In the matter of their remuneration the new policy proceeds on the assumption that the remuneration to the village Mahavs was excessive and that the same should be reduced. This was directed to be done either by imposing *Judi* (a levy in cash) upon their *Inam* lands where none existed before or by increasing the *Judi* in cases where the same was already being levied.

3. In the matter of their duties the Government of Bombay issued Government Resolution No. 7420/33 in the Revenue Department, dated 13-9-1938, in which they have set out the duties which the Mahars, Mangs and Vethias will hereafter be required to perform the duties specified in the Resolution number 19 in all.

4. To protest against the injustice of this policy a Conference of the Mahars, Mangs and Vethias was held at Haregaon in the Ahmednagar district on 16th November* 1939 under my Presidentship. In that Conference certain Resolutions were passed. These Resolutions were forwarded to Your Excellency for favourable consideration and issue of necessary order by Your Excellency's Government. For ready reference I have annexed hereto copies of the said Resolutions as Appendix I.

5. These Resolutions were also placed by Mr. B. K. Gaikwad, M.L.A., at a meeting of the Backward Class Board held on 7th June 1940. Copy of the proceedings of the meeting relating to these items are hereto annexed as Appendix II.

6. With great respect I am constrained to say that the Government have so far not given their proper consideration to the resolutions passed by the said Conference. More than a year and a half has elapsed since I forwarded the resolutions and yet there has been no modification of the policy of the Government either in the matter of the levy of the *Judi* or in the matter of revision of the long and onerous list of obligatory duties required to be performed by the Inferior Village Servants. On the contrary, the policy of collecting *Judi* has been going on apace and even pots and pans of poor and indigent families of the Inferior Village Servants are being attached under the process of the Court and many of these families have been rendered quite destitute.

* Month should be read as December— Janata : 9th and 23rd December 1939.

It is for these reasons that I am submitting this Memorial to Your Excellency with fervent hopes that Your Excellency will be pleased to give this matter your most careful, kind and sympathetic consideration and grant the much-needed and long-awaited relief to the Inferior Village Servants.

I. Reduction of Remuneration

7. First, I propose to deal with the question of the levy of *Judi*. This policy is for the present made applicable to the *Inam* lands of the Mahars only. It may be extended to others in course of time. In the matter of the levy of *Judi* on the *Inam* lands of Mahars, I do not know the precise reasons which have led Government to embark upon the policy of reducing the remuneration of the Mahars. They are, however, understood to be two.

8. In the first place the increase in *Judi* is sought to be justified by Government on the ground that there has been a reduction in the number of Officiating Mahars. It is said that this policy of reduction in remuneration by an increase of *Judi* on the *Inam* lands held by the Mahars is only a consequence of the policy of reducing the number of Officiating Mahars.

9. At the outset I wish to draw Your Excellency's attention to the fallacy underlying this reason. As a matter of fact there has been no reduction in the actual number of the Officiating Mahars at all either in general or in any particular village. The number of Officiating Mahars has remained the same. What has, however, happened is that the Watan Registers were corrected and brought in accord with facts. At one time in the Watan Register of every village the number of Officiating Mahars shown was very large. The Mahars did not object to it and that for two reasons. In the first place the number shown on the Register was a nominal one and the actual number on daily duty was much smaller. Secondly, it was in the interest of a Mahar to have his name shown in the Register in as much as it served as a proof to show that he was a Watandar, entitled to Watan office as well as to Watan property. When owing to the self-respect movement started by the Mahars, there grew up an antagonism in every village between the Mahars and the Villagers. The Village Officers started making misuse of the Watan Register and called for service the full quota of the Mahars mentioned in

the Register, although not one-tenth of the registered number was ever before required for service. The Taluka Officers sided with the Village Patil and demanded the whole number of Mahars, specified in the Register to be their duty for all time. This practically meant a conscription of the whole Mahar population of the village for Government service. The Mahars refused to submit to this extortionate and unjust demand, as it was impossible for the whole lot of the Mahars mentioned in the Register to be on duty for all time as the income of the *Inam* land assigned to them was not adequate for the maintenance of them all and a large majority were obliged to eke out their livelihood by doing odd jobs. The Watandar Mahars therefore carried on an agitation for the correction of the Watan Registers by a reduction in the number of Officiating Mahars. In this, they succeeded and the number of Mahars was reduced. But as I have said this is no reduction in the number of Officaiting Mahars. It is only a correction of a wrong Record. To call it a. reduction is either to forget facts or to misunderstand them. What has happened is the correction of an incorrect Watan Register. That being the case I cannot understand how Government can, on that account, justify their policy of making reduction in the remuneration of the Mahars by the levy of a *Judi* or an increase in the *Judi*.

10. Assuming, however, that there has been a reduction in the number of Officiating Mahars an assumption not justified by fact I respectfully submit that it is not easy to understand how Government can, on that account, proceed to reduce their remuneration by the levy of *Judi* or by an increase in the *Judi*. In adopting this course it appears to me that no or little consideration has been given to an important circumstance which has a great bearing on the question at issue, namely, that Watan property falls in a special class and although it may be called remuneration, the rule of "no work no salary" or "so much work, so much pay" has never been applied by Government in dealing with Watandars and their Watans.

11. In this connection I wish to draw Your Excellency's attention to the following facts showing how other Watandars have been treated by Government under similar circumstances. When the British took possession of this part of the country they found

that the Maratha Government had made a very prodigal use of its power of alienating the right of the State to claim assessment in favour of private individuals and had created a very large class of alienated lands popularly called *Inams,* the holders of which were designated as Inamdars and Watandars. These *Inams* fell into four classes namely (1) Personal, (2) Devasthan, (3) Political and (4) Non-Political and were all hereditary *Inams*. From the point of view of service these *Inams* fell into two classes : (A) *Inams* which formed a remuneration for service to the State and (B) *Inams* which were gifts and for which no service was required to be rendered to the State. The Personal and Devasthan *Inams* belonged to the class of non-service *Inams,* while Political and Non-Political *Inams* belonged to the class of Service *Inams*.

12. During the first 23 years of the British Rule (1818-1841) the enormous extent of the claims made by individuals to hold lands as *Inam* was not realised by the British Government. It was in 1941 that the question of examining these claims was taken up. In 1943 a Committee of two was appointed to inquire into the alienated lands of the Southern Maratha Country. The inquiry by the Committee appointed in 1843 proceeded for a period of nine years, till 1852, when the Committee was transformed into the Inam Commission and its proceedings were given a legal status by Act XI of 1852. By this Act, Government were empowered to appoint Inam Commissioners with Assistant Commissioners "to investigate the titles of persons holding or claiming against Government the possession or enjoyment of *Inams* or *Jahagirs,* or any interest therein, or claiming exemption from the payment of land Revenue." The operations of the Commission were very slow and did not extend to Gujarat. It was finally decided to abolish the system of inquiry by the Commission and to substitute for it a system of "Summary Settlement" to be extended over the whole Presidency. This system of Summary Settlement was carried into effect by two Acts, namely, Act II of 1863 which applied to the so-called "New Provinces" of the Deccan, Khandesh and Southern Maratha country, and Act VII of 1863 which was applied to the so-called "Old Provinces" of Gujarat and the Konkan,

(A) NON SERVICE *INAMS*

13. The terms of the Summary Settlement Acts applied only to two classes of *Inams* (1) Personal and (2) *Devasthan Inams, i.e.,* to Non-Service *Inams*. The main principles underlying the Settlement Acts were as follows :—

(a) The conversion of all Personal *Inams* (also spoken of as *Warshasans*) whether adjudicated by the Inam Commission or not, into transferable freehold.

(b) The imposition of a quit rent or *Nazarana* upon such lands on account of such conversion the amount of which was fixed :

(i) By Act II of 1863 at 4 annas for every rupee of the full assessment, plus a *Nazarana* equal to an additional one anna in the rupee, and

(ii) By Act VII of 1863, at 2 annas in the rupee without *Nazarana*.

14. The extent of the annual loss which Government has suffered on account of the relinquishment of its right to full assessment by the settlement effected by these Acts was by no means small as will be clear from the following figures :-

Annual Loss to Government on Non-Service Inam Lands held as Personal and Devasthan Inams

Division	Assessment on alienated lands less quit rents (*Judi*)			
		Rs.	a.	p.
I Northern Division	...	1,26,529	15	1
II Central Division	...	2,86,292	2	3
III Southern Division	...	2,02,827	3	6
	Total : Rs.	6,15,649	4	10

15. As stated before the terms .of the Summary Settlement Act applied only to Non-Service *Inams, i.e.,* to Personal *Inams,* and *Devasthan Inams* only. They did not apply to Service Inams, *i.e.,* the Political *Inams* and Non-Political *Inams*. They were expressly excluded from their operation and reserved for separate treatment.

(B) SERVICE *INAMS*

16. (I) *Political Inams :* These *Inams* comprised the class of *Inams* called "*Jehagirs*" and "*Saranjams*." They were grants made by the State for the performance of Civil and Military services, or for the maintenance of the personal dignity of nobles and high officials who had rendered services to the State in the past. A settlement of these Political *Inams* was effected by the British Government on the principle of settlement in the case of Personal *Inams, viz.,* they were continued hereditarily for one or more generations according to the date at which the original grant had been made, although they were exempted from the obligation to render service to Government. The result is that these *Saranjamdars* are receiving grants in the form of Cash Allowances from Government Treasury without rendering any service whatsoever to Government. The loss sustained by Government on account of *Saranjams* is represented by the Cash Allowances paid to the *Saranjamdars* annually from the Government Treasury. The following table shows the annual loss suffered by Government on this account :

Annual Loss to Government on Account of *Saranjams*

District	Cash Payment to *Saranjamdars*		
	Rs.	a.	P-
Poona	34,091	11	11
Sholapur	10,651	13	9
Ahmednagar	30,590	12	5
Satara	25,447	9	3
Khandesh	38,714	5	5
Bijapur	11,738	12	1
Nasik	47,037	10	4
Belgaum	32,875	12	4
Ratnagiri	1,079	2	3
Kolaba	1,655	10	6
Dharwar	30,091	0	3
Southern M.C.	3,378	15	1
Satara Political Agency ..	158	8	0
Total ..	2,67,501	11	7

17. There are altogether 104 *Saranjamdars* in the Presidency. This means that each *Saranjamdar* is receiving annually Rs. 2,500 on an average without rendering any service to Government. I might mention that out of the 104 *Saranjamdars,* 54 are Brahmins, 38 are Marathas, 7 are Musalmans, 3 are Kayasthas. 1 is a Paradeshi Rajput and 1 is a Mahar.

18. (*II*) *Non-Political*—The holders of Non-Political *Inams,* included (1) the District Officers and (2) Village Officers, who were employed by the Peshwas in the matter of Revenue collection and Administration.

(1) DISTRICT OFFICERS :

19. The District Officers formed a class which comprised the old hereditary officials known as Desais, Deshmukhs, Deshpandes etc; who constitued the Taluka agency of the Peshwa Government for the collection of the Revenue and which was replaced by the British Government by the agency of *Mamlatdars* and *Mahalkaris.* The principle adopted for making a settlement with them was that of "Commutation of Service" by which they were allowed to retain the greater part of their allowances, a levy of some amount varying from 3 to 8 annas only in the rupee being made as commutation and also as a cure for possible defect of title.

20. The annual loss sustained by Government on account of this settlement with the District Officers is given below :—

Annual Loss to Government on Service Inam Lands held by District Officers whose Offices have been abolished

Division		Assessment on lands less quit Rent		
		Rs.	a.	p.
I Northern Division	Rs.	1,04,753	1	9
II Central Division	Rs.	3,16,602	7	9
III Southern Division	Rs.	3,93,189	15	8
	Total Rs.	8,14,545	9	2

(2) VILLAGE OFFICERS

21. The Village Officers were divided into the following sub-divisions :-

(i) Those useless both to Government and to the Community.

(ii) Those useful to the Village Community.

(iii) Those useful to Government.

22. *Those useless both to the Government and to the Community*—This Class of *Inams* comprised of village servants such as the *Potdar,* who, besides being a village Silversmith used to assay all the money paid, either to Government or to individuals or the *Chaugula,* who was a kind of Assistant to the Patel and also had care of the Kulkarni's record. On the commutation of their *Inams,* lands held by this class of servants were settled on the following terms :—

(i) In the Old Provinces – the full survey assessment was imposed.

(ii) In the New Provinces – half of the full survey rate was taken.

In both areas, the lands were converted into transferable freehold.

23. *Those useful to the Village Community*—This class of *Inam* comprises village servants, such as Kumbhars, Sutars, etc., who still perform services to the village community. The settlement arrived at in their case was as follows :-

(i) In the Old Provinces – The lands held were assessed at either half or quarter of the Survey assessment according as the service performed was more or less useful to the community.

(ii) In the New Provinces - The land held was assessed at quarter the assessment.

The lands of this class of Village Officers being held subject to service, were made non-transferable.

24. The annual loss sustained by Government on account of the settlement made with this class of village servants will be clear from the figures given below :-

Annual Loss to Government on Service Inam Lands held by Village Servants useful to Community on account of Commutation is shown below :

			Rs.	a.	p.
I Northern Division	...	Rs.	79,177	0	0
II Central Division	...	Rs.	72,343	5	1
III Southern Division	...	Rs.	64,256	15	3
	Total	Rs.	2,15,777	4	4

25. *Village Officers useful to Government* – These comprised the following three classes (1) Patil, (2) Kulkarni and (3) Mahar.

26. In the case of these Village Officers they were not released from the obligation to serve. There was no commutation effected with them as was done in the case *of* other hereditary Officers for the obvious reason that they were an essential part of the administrative machinery. They were as much indispensable to the British as they were to the Peshwa Government which preceded it.

27. From this survey the following facts emerge :-

(i) The Holders of Personal and *Devasthan Inams* do not render any service to the State. They are allowed by the British Government to retain the grants made to them by the Peshwa Government and enjoy the same from generation to generation without any obligation as to service. The loss to Government on their account comes annually to Rs. 6,15,649-4—10.

(ii) The holders of Political *Inams* have been relieved by the British Government from the obligation to serve the State. But the emoluments assigned to them have been continued. Their descendants are enjoying these emoluments from generation to generation. The loss suffered by Government on their account comes annually to Rs. 2,67,501-11-7.

(iii) The District officers of the Peshwa Government, the Desais and Deshpandes render no kind of service to the British Government. Their *Inam* lands, which were granted to them by the Peshwa Government as remuneration for services, have been continued to them by the British Government subject to a small deduction in the form of a *Judi*. This was not merely a pension to those with whom the settlement was made by the British Government for lifetime. It has also become a hereditary pension to their descendants who could lay no kind of claim to such a grant. Here again the amount of annual loss is Rs. 8,14,545-8-4.

(iv) The Village Servants who had become useless both to the village community as well as to Government were freed from the obligation to serve. But their emoluments were not wholly resumed. They retained their *Inam* lands and in some cases paid full assessment and in others only half of the assessment.

28. These instances will show that the Government of Bombay has always treated *Watan* and *Inam* property as falling in a special class. It has never regarded it as a mere matter of remuneration for service and even in cases where it bore the character of remuneration it never applied the principle of " no work no pay."

29. The policy now adopted in the case of levying *Judi* on the Mahar Watan lands is a complete departure for which there is no precedent.

30. To prove the utter inequity and injustice of treating Watan property of Mahars as mere remuneration I beg to draw attention to the Kulkarni Watan. The Kulkarni Watan fell in the class of Watans belonging to village Servants useful to Government which class included three Watans that of (1) the Patil, (2) the Kulkarni and (3) the Mahar. The Kulkarni Watan as a hereditary Watan continued up to 1914. In 1914 by Government Resolution No. 5070, dated 30th May 1914, the Kulkarni Watan was commuted and the Kulkarni was relieved of the obligation to

render service to Government. The terms on which this commutation took place were as follows :-

(1) Payment in perpetuity to the representative Watandars, their heirs lineal, collateral, or adopted so long as any male heir to Watan lineal, collateral or adopted shall be in existence, of cash allowance equal to one-third of the *Akarni* (remuneration for collecting land revenue) and the *Potgi* paid for the year 1913-14.

(2) Continuance to the present holders and their heirs, lineal or adopted, so long as any male heir, lineal, collateral or adopted shall be in existence of all Watan lands subject to the payment of existing *Judi* and when this amount is less than full assessment, an additional amount not exceeding one sixteenth of the full assessment subject to the condition that the additional levy together with the existing *Judi* shall not exceed the amount of full assessment on the land for the time being.

(3) The land will remain liable to the provision of sections 10, 11, 11A and 12 of the hereditary Village Offices Act, but may be excluded from the operation of the above sections by the Collector.

(4) The continuance of the cash allowance as also the Watan lands is made subject to the continuance of the holders as faithful subjects of the British Government.

(5) A fractional part of a rupee is to be compulsorily purchased at twenty times its value and when the fractional part is annas 14 or more the recipient may purchase at twenty times the difference to make the rupee.

31. Of all the Watandars, the Kulkarni has been given the benefit of the most favoured nation clause. He is relieved from the obligation to serve. He does not serve, yet he retains his land which is subject only to *Judi* and is allowed to receive in perpetuity l/3rd of the *Akarni* and *Potgi* payable to him by Government in 1913-14. Besides, although the right of the Kulkarni to serve hereditary was liquidated by Government under

the scheme of commutation, still Government has, by its Resolution, given him a preferential right to be employed as a *Talati,* an agency created by Government to replace the Kulkarni.

32. Now the question that I would like to raise is this : If the principle or policy on which Government rely is " no service no pay" or "as much service so much pay," why is it that the said principle was not applied by the British Government in the case of (i) *Warshasandars,* (ii) *Inamdars* and *Jahagirdars,* (iii) Hereditary District Officers, (iv) other Village Officers and (v) the *Kulkarnis,* who have all been relieved from the obligations to serve but who have been allowed to retain a substantial portion of their emoluments ? Comparing the treatment given to the other Watandars and particularly the treatment given to the Kulkarni, the treatment given to the Mahars stands in a cruel contrast. The limit of discrimination against the Mahars cannot go beyond. Why is this principle applied only to the Mahars ? What is the explanation of this invidious discrimination ? I confess my inability to find any. On the contrary, I venture to suggest that the principle sought to be applied to the Mahars is a wrong principle and that the policy adopted in dealing with the other Watandars was the right principle. According to the law prevalent under the Peshwa Government, Watan property was not only heritable but it was also alienable. So that a Watandar could alienate his office as well as his Watan property. Watan property was of the nature of private property and a Watandar was its owner who could do with it as he could with his own. This was the law upto 1827 when the Bombay Government by Regulation XVI of 1827 declared for the first time the Watan property as inalienable and forbade its alienation by any sole incumbent of the office or any co-sharer of such office out of the family for a term exceeding his life time.

33. That being the view of Watan property it can be said that Government could not have acted otherwise than it did without giving great violence to the sentiment which prevails in the country among Watandars in the matter of the Watan lands. My respectful contention is that *Maharki Watan* is in no sense distinguishable from other Watans and if in the commutation of these Watans Government has not applied the policy of "no

service no pay," or the policy of "so much work, so much pay" there is no justification why it should be applied to the *Maharki Watan*.

34. Another reason advanced for the increase of *Judi* is the necessity of making better provision for the remuneration of another class of Inferior Village Servants. In his letter No. LA 26-F, Revenue Department, dated 11th November 1938,addressed to Mr. B.K. Gaikwad, M.L.A., Mr. M. J. Desai Esq., I.C.S., Deputy Secretary to the Government of Bombay, Revenue Department, in justification of increased *Judi,* states :-

> "3. The standard minimum remuneration of a Mahar in the Central Division is land of which the *nuksan* is Rs. 10/- to Rs. 20/-. according to the size of the village or cash allowance from Rs. 50/- to Rs. 100/-. There are still many inferior village servants who do not get even this remuneration. Provision of increased emoluments for badly paid inferior village servants has been proceeding steadily. One source from which it has been made has been the reduction of the emoluments of those whose remuneration is considerably in excess of the scale."

35. From this extract it becomes clear that one reason and perhaps the real reason for reducing the remuneration of the Mahars by increasing the *Judi* is to make provision for the better remuneration of other Inferior Village Servants. There can be no doubt that all Inferior Village Servants are grossly ill-paid and the Mahars are no better paid than other Inferior Village Servants having regard to the duties they have to perform. But assuming that there is a case for increasing the remuneration of other Inferior Village Servants, I must respectfully submit that the policy adopted by Government for carrying it out is worse than that of robbing Peter to pay Paul and is contrary to the declared policy of Government and to the provisions of the Watan Act.

36. In the matter of increase of *Judi* there are several Government Resolutions which lay down the terms and conditions under which Government have reserved the right to increase the *Judi* all of which have been referred to, summarised

and explained by Col. W. C. Anderson, Survey and Settlement Commissioner N. D. in his letter to the Chief Secretary to Government, Revenue Department, dated 23rd July 1877 and which is printed as Appendix IV (c) in vol. II of the Bombay Survey Settlement Manual by R. G. Gordon, I.C.S., at pp. 496-505.

37. It appears that there was some doubt with regard to the principle underlying this Resolution of the Bombay Government No. 6141 of 1st November 1875 in which the position of the Government with regard to the increase in *Judi* was laid down. Colonel Anderson felt it necessary to explain the same. The Explanation given by him in para 4 of his letter is reproduced below :-

> "4. The principle of the Government Resolution No. 6141of the 1st November 1875 is clear - it was intended to hold the emoluments of the *Watan* applicable to the last rupee to the remuneration of the Officiator as fixed from time to time, *but it was not desired to make money out of the surplus emoluments* (of a Watan)....." *(Italics mine).*

38. So far as the Survey Settlement Manual goes there has been no subsequent Resolution by Government disputing this interpretation of the Resolution of 1875 as given by Col. Anderson. Nor has there been any Resolution modifying the terms of the Resolution of 1875, that being so the Resolution of 1875 and its interpretation by Col. Anderson stand as the last and final pronouncement by the Government on the question of increase of *Judi.* I, therfore, submit that I am justified in saying that the present increase in the *Judi* of the *Maharki Watan* lands to remunerate other Watandars is a direct violation of the Resolution referred to above.

39. The Resolution lays down two distinct limitations on the power to increase *Judi,* namely : (1) that *Judi* shall not be increased for making *i.e.,* for general finance of the Government and (2) and that *Judi* will be increased only if it becomes necessary to increase the remuneration of the Officiator. The main question that arises is : - Is increase of *Judi* on the *Maharki Watan* for increasing the remuneration of the Mahar Officiators? If it was, I concede that no objection to its increase on *Maharki* lands could be taken. But it is not. Admittedly the increase of

Judi on Maharki lands is intended to provide increase of remuneration to Bhills, Ramoshis and other Inferior Village Servants. Now by no stretch of imagination or by any far-fetched construction of the law relating to Watans can it be said that the Bhills, Ramoshis and other Inferior Village Servants Officiators who are officiating for the Mahar Watandars of a village.

40. In launching upon this policy of increasing *Judi* to provide better remuneration for Bhills, Ramoshis and other Inferior Village Servants, it seems to have been forgotten that under the Watan Act each Watan is a distinct and a separate Watan; that separate emoluments are attached to separate Watans; that the benefits of these separate emoluments are separately enjoyable only by families who are Watandars of that Watan and that a Watandar of a Watan cannot transfer his right to hold office and his right to the Watan property to any person who is not a Watandar of the same Watan. A *Patilki Watan* is separate from a *Maharki Watan* and both were separate from the *Kulkarni Watan* when it was in existence. A Patil could not transfer his right in the Patilki Watan to a Mahai ; nor a Mahar his to a Patil. That the *Judi* on the Watan land could be increased only to pay an increase in the remuneration of the Officiator officiating for the Watandars of the same Watan is a mere corollary of the rule of law that any transfer of a Watan property to a person who is not a Watandar of the same Watan is illegal. It could not have been possible for Government to levy an increase *of Judi* on Patilki Watan to pay the Mahars. It could not have been possible for Government to levy a *Judi* on Kulkarni Watan to pay the Patil. For the same reason I submit that that is not open to Government to tax the *Maharki Watan* lands to pay for Bhills, Ramoshis and other Inferior Village Servants.

41. On the grounds stated above I have no hesitation in saying that this levy of *Judi* is the most arbitrary and illegal act on the part of Government.

42. In this connection I would like to place before Your Excellency the state of affairs which exists in some parts of this Presidency in the matter of the remuneration of the Mahars. The remuneration of the Mahars comes from three sources : (1) *Inam* Land, (2) *Baluta* from the villagers which is an annual payment in kind made by the villager to the Mahar and (3) cash payment

from the Government Treasury. The first and the last are not to be found in each district. There are many districts in which the Mahars have no *Inam* land and no cash allowance. It is only the second, namely, the *Baluta* which is found all over the Presidency and forms the principal mode of remuneration to the Mahars. The number of such villages is by no means small. In Belgaum District there are 317, in Bijapur District there are 543, in Dharwar District there are 572 and in Sholapur there are 463 villages in which there are no lands and in which the main source of income is *Baluta* to be collected from the villagers. The same is the condition in the Thana, Kolaba and Ratnagiri Districts. This list of villages wherein *Baluta* is the only source of remuneration to the Mahars is not a complete list. But from the data available it is clear that while in some villages the Mahars are mainly dependent upon *Baluta,* in other villages they are entirely dependent upon it for their remuneration.

43. With regard to the *Baluta* as a mode of remunerating the Mahars, I would like in the first place to draw Your Excellency's attention to the vicious character of this mode of remuneration. The Mahars are Government servants, Government takes service from them; but for their remuneration Government refers them to the villagers. Such a system of treating Government servants will be deemed to be very strange, if not disgraceful. The practice is certainly unbecoming to any Government which calls itself civilised.

44. This vicious system *of Baluta* results in stark injustice to the Mahars in the matter of their remuneration. Government takes into its calculation the payment of *Baluta* by the villagers to the Mahars in fixing the total remuneration of the Mahars. But it is the universal experience that the Mahars never get the *Baluta.* The reason is obvious. The relations between the Mahars and the villagers are never cordial. There is no village where there is no conflict between the Mahars and the villagers. Often it happens that the relation between the Mahars and the villagers remain friendly and the Mahars work for the whole year for the villagers as well as for Government in the hope that they will get their *Baluta* from the villagers. But something happens just at the

harvest season which creates strained relations between the Mahars and the villagers, with the result that the villagers refuse to pay the Mahars their *Baluta*. Coupled with their natural desire to evade the payment of *Baluta* is this state of enmity between the Mahars and the villagers which is a feature common to all villagers in the Presidency and which is responsible for the failure of *Baluta* system. The result is that the Mahar works in the hope of getting the *Baluta* but never gets it. The Mahar has no power to compel payment of Baluta. He is a minority in the village and is entirely dependent upon the village. In this conflict it is he who has to suffer. What makes this injustice so unbearable is the conduct of the Government officers, who take service from the Mahars, but who never help them to recover the Baluta from villagers. There is provision in law whereby the Revenue authorities have power to convert the *Baluta* into cash payment and recover the same from the villagers along with the land revenue and pay it to the Mahars. But a large majority of the Government officers have consistently refused to use these powers to relieve Mahars from this injustice for the fear of annoying the villagers.

45. The *Baluta* system at one time applied to all the village -servants. It applied to the Patil and the Kulkarni as well as to the Mahars. But Government discontinued the *Baluta* system so far as the Patil and the Kulkarni were concerned from the year 1844 and substituted in its place the system of cash payment from Government Treasury. The reason given was that the Patil and Kulkarni might—by force of the authority they possessed—recover from the villagers more than their quota of *Baluta*. If this reason was a good reason for abolishing the system of payment through *Baluta* to the Patil and the Kulkarni the reason for not applying it to the Mahars is a better reason. If the Patil and Kulkarni were strong enough to recover more the Mahars are too weak to recover any. Government seems to have considered only the interests of the villagers. They have never considered the interests of the Mahars. If they had, they would have abolished so precarious a system of remuneration as *Baluta* for the Mahars as well or would have made some provision for securing prompt payment of the *Baluta* to the Mahars. It is wrong for Government to have left the Mahars to be paid by a third party

like the villagers between whom and the Mahars had no direct contractual relation exists and at the same time not prepared to exercise any pressure to see that payment is made by the third party.

46. The question is, therefore, pertinent. The Patil is not asked to depend on *Baluta*. The Kulkarni, while he was a village servant, was also not made to live on *Baluta*. Why then is the helpless Mahar alone asked to serve Government and look for the payment to the villagers with no legal means open to him for its enforcement ? It is time that Government did justice by taking the responsibility of remunerating the Mahars on its own shoulders.

47. As to the cash payment as a source of remuneration, the sums fixed by Government as remuneration to Mahars are the paltriest that can be conceived of. They were fixed somewhere about 1869. Remunerations of other Government servants fixed in those days have since been increased considerably from time to time. In fairness and justice to the Mahars it cannot be denied that an increase in their remuneration is long overdue.

II. INCREASE OF DUTIES OF INFERIOR VILLAGE SERVANTS.

48. The Government of Bombay have passed Government Resolution No. 7420/33 of the Revenue Department dated 13-9-1938 containing a list of duties to be performed by Mahars, Mangs, Vethiyas in this Presidency which impose upon them an intolerable burden and which it is impossible for these Watandars to bear. The duties prescribed in the Government Resolution came in for a good deal of angry criticism in the Haregaon Conference. The Resolutions passed in the Conference, which are appended to this Memorial, state the objections of the Inferior Village Servants to the duties prescribed by Government.

49. The contention of these Watandars is that they should not be called upon to perform duties listed at item Nos. 1, 3, 5, 9, 13 and 19 without payment of extra remuneration in the form of daily wages of not less than annas eight whenever they are called upon to perform these duties. In this I am sure, there is justice on their side. I have received several complaints from the Watandars of this Province that the Village and the Taluka

officers require the Watandars to render private service to them, such as taking a private chit to distant village, under the pretext that such service also falls under one or other of the above mentioned items. In this connection, I further beg to state that almost all Government Officers are paid Travelling and Subsistence Allowances whenever they go outside their headquarters and, therefore, it is in the fitness of the things that these Watandars, who are also Government servants, should also be given proper allowance whenever they are asked to go outside their village to compensate them for the extra expenditure they have to incur.

50. With regard to Duty No. 2 mentioned in the Government Resolution referred to above, these Watandars say that it should be confined to call the *Khatedars* by *"Bataki"* or *"Davandi"* and should not be extended to running several times after the recalcitrant *Khatedars*. In this connection, I may bring to Your Excellency's kind notice that in several instances the Watandars have to expose themselves to the risk of being assaulted and entangled by the recalcitrant *Khatedars*. In order to avoid all such contingencies, the only solution is the one proposed above.

51. With regard to Duty No. 7 mentioned in the Government Resolution referred to above which compels the Watandars to give to the village officers information about births and deaths in a village, they claim exemption. For the reasons stated below these Watandars should be exempted from doing this duty and the persons concerned should be compelled to give information of births and deaths to the Village Patil as is done in all Municipal Areas. Sometimes the Watandars boycotted by the so-called touchable villagers and are not allowed to enter the village, In such cases, it becomes impossible for the Watandars to get the necessary information, especially about births and deaths in the village and the Watandars, in consequence, are punished with a fine for no fault of their own.

52. Duty No. 15 of the said Resolution calls upon the Watandars to remove unclaimed dead bodies. In my opinion this is a duty to be discharged by the Police. The Watandars, therefore, should be exempted from performing that service.

III. CONCLUSION

53. In conclusion, I beg to state that the grievances referred to in this Memorial are crying for redress. I have no complete information regarding the amount of *Judi* so far recovered from the Mahars. From the figure relating to Nasik district which have been supplied to me it appears that in the Nasik district alone the amount of *Judi* levied on *Maharki* lands so far under the new policy comes to about Rs. 2,201-4-11 per year. This has produced a great tension and I am afraid that if the grievances are not redressed the *Watandar Mahars* may go on a strike as per last resolution of the Haregaon Conference. I had advised them to suspend action in the hope that Government will alter their policy and do justice to them. But nothing has so far been done. I, therefore, request Your Excellency to treat this question as urgent and redress the wrong which is being done to these Watandars by the new policy launched by Government. If the Mahar Watandars affected by this policy go on a strike or come in conflict in the matter of the recovery of *Judi* by attachment of their property which I hear is going on in some places, the responsibility thereof will be on Government alone, inasmuch as the Mahar Watandars will have ground to say that they have tried to get their grievances redressed by constitutional means and failed.

54. I would respectfully urge that the policy adopted by Government in dealing with the Inferior Village Servants should be suspended. The issues involved are very large and controversial. They cannot be settled by the executive action of Your Excelllency's Advisers, however competent they be. They can be settled only by the vote of the Legislature after all sides had the opportunity of putting their case. This is not possible now owing to the suspension of the Legislature. But the question is an old one and can wait for its solution. I am sure that the Mahars and other Inferior Village Servants will prefer to wait for a just and agreed solution.

'RAJGRIHA' DADAR,
HINDU COLONY,
BOMBAY - 14
14th July 1941

I beg to remain,
Yours Excellencey's
most obedient servant,
B. R. AMBEDKAR.

APPENDIX I

Resolutions Passed at the Haregaon Conference

Resolution No. 1 :-

This Conference of Watandar Mahars and Mangs, Vethias and other Inferior Village Servants strongly protests against the policy of enhancing *Judi* on Mahar Inam lands recently brought into operation in the Province under which an addition to the *Judi* out of all proportion has been made on already poverty-stricken Watandar Mahars and Mangs and demands that the same policy be withdrawn immediately and the levy made thereunder be cancelled inasmuch as the said policy is contrary to the underlying principles of the Hereditary Village Offices' Act and is also harsh and unjust.

Resolution No. 1 A :-

This Conference resolves that the G. R. No. 7420/33, R. D. dated 13th September 1938, containing a list of duties to be performed by the Mahars and Mangs imposed an intolerable burden which it is impossible for the Watandars to bear. This Conference is of opinion that these Watandars should not be called upon to perform duties listed as item Nos. 1, 3, 5, 9, 13 and 19 without the payment of extra remuneration in the form of daily wages of not less than annas eight whenever they are called upon to perform these duties.

Resolution No. 1 B :-

This Conference is of opinion that these Watandars be exempted from discharging duty No. 15 for the same is in the opinion of the Conference the duty of the Police.

Resolution No. 1 C :-

This Conference is of opinion that the duty No. 2 should be confined to call villagers by *Bataki* and not be extended to running after several times after a recalcitrant villager.

Resolution No. 2 :-

This Conference is of opinion that the *Maharki Watan* be commuted on the same principles as were made applicable to the

Watan of the village servant useful to the community by Mr. Gordon in 1863 and they be relieved from the obligation to render service to the Government and the village community.

Resolution No. 3 :-

This Conference wishes to bring to the notice of Government that there are innumerable villages in the Presidency where the Mahars are compelled to render the services free of cost. The Conference further asserts the necessity and urgency of Government assuming the responsibility for ensuring the payment of remuneration to the Inferior Village Servants. The Conference takes this opportunity to warn Government that if no steps are taken within six months in this direction, this Conference will be constrained to advise such Mahars to refuse to render any services to Government.

Resolution No. 4 :-

This Conference recommends to the Government to appoint a Committee consisting of the Representatives of Watandar Mahars in the Provincial Legislature to revise the orders of the suspension and fines passed by the Revenue Officers of this Province and give effect to such order in accordance with the decisions of this Committee.

Resolution No. 5 :-

This Conference authorises the members of the Scheduled Class in the Bombay Legislative Assembly to wait upon His Excellency the Governor of Bombay to represent the grievances of the Watandar Mahars and the Mangs expressed in this Conference.

Resolution No. 6 :-

This Conference appoints a Committee of the following gentlemen to give necessary effect to the Resolutions passed by the Conference and further this Conference empowers the Committee to advise and take such action as may be necessary in furtherance of the object of the resolution.

APPENDIX II

Extract from the Proceedings of 23rd Backward Class Board Meeting held in the II Advisor's Room, Secretariat, Bombay, on 7th June 1940 at 11 a.m.

Resolution No. 6 :-

This Board strongly protests against the policy enhancing Judi on *Mahar Inam* lands recently brought into operation in the Province of Bombay under which an addition to the *Judi* out of all proportion has been made on the already poverty-stricken Watandar Mahars, Mangs and Vethiyas and demands that the same policy be withdrawn immediately and the levy made thereunder be cancelled as much as the said policy is contrary to the underlying principle of the Hereditary Village Offices' Act, and is also harsh and unjust. Mr. B. K. Gaikwad's proposal No. 2 was discussed and adopted with slight modification as Resolution No. 7. As regards the rate of payment of daily allowance, it was suggested that a Mahar or Vethiya should be given a daily allowance of annas 6 whenever he is sent out of his village to perform Government duties.

(Mr. B. K. GAIKWAD)

Resolution No. 7 :-

This Board resolves that the Government Resolution No. 7420/ 33 of the Revenue Department, dated 13-9-1938, containing a list of duties to be performed by Mahars, Mangs, Vethiyas, impose upon them an intolerable burden which is impossible for these Watandars to bear. This Board is, therefore, of opinion that these Watandars should not be called upon to perform duties listed at item Nos. 1,3, 5, 9, 13 and 19 without payment of extra remuneration in the form of daily wages of not less than annas six whenever they are called upon to perform these duties.

(a) The Board is of opinion that Watandars be exempted from discharging duty No. 15 as it is, in the opinion of the Board, a duty that should be discharged by the Police.

(b) The Board is of opinion that No. 2 should be confined

to call the Khatedars by "Bataki" or "Davandi" and not be extended to running several times after recalcitrant *Khatedars*.

(c) The Board is of opinion that the Watandar Mahars, Mangs, Vethiyas be exempted from discharging duty No. 7 and the persons concerned should be compelled to give information of births and deaths to the Village Patil as is done in all Municipalities.

(Mr. B.K. GAIKWAD)

Resolution No. 8 :-

This Board wishes to bring to the notice of Government that there is innumerable villages in the Province of Bombay where the Mahars, Mangs and Vethiyas are compelled to render Government services without any remuneration.

This Board, therefore, strongly recommends to Government that no services should be demanded from the Inferior Village Servants without giving them proper and adequate remuneration.

APPENDIX III

Inferior Village Servants

Duties of

GOVERNMENT OF BOMBAY

REVENUE DEPARTMENT

Resolution No. 7420/33

Bombay Castle, 13th September 1938.

Government Memorandum, No. 7420-F/33, dated the 27th January 1938 to the Commissioner, N. D / C. D / S. D

Letter From the Commissioner, N.D., No. W. T. N. 1062, dated the 25th February 1938.

Letter From the Commissioner, CD., No. W. T. N. 2/27, dated the 22nd March 1938.

Letter From the Commissioner, S.D., No. W. T. N. 860, dated the 26th April 1938.

RESOLUTION :–Requests have frequently been made to Government to have the duties of Inferior Village Servants useful to Government defined so that they may know exactly what is required of them and not be made to render personal services to Government officers. Orders have been issued in paragraph 5 of Government Circular Memorandum, Political and Reforms Department, No. 1581/34, dated 25th August 1937, that no personal service should be accepted by Government servants without payment. The statement attached hereto describes the duties of the different classes of Inferior Village Servants.

2. The Oriental Translator to Government should be requested to translate the Statement into Gujarati, Marathi, Kanare and Urdu and to furnish the translations to the Manager, Government Central Press, for printing. The Manager should supply-printed copies of the translations to the Collectors in accordance with their requirements, which should be communicated direct

to him within one month of the date of this resolution. Copies of the printed translations should be supplied to every Talati and Patil. A copy should also be placed prominently in every village *chavdi*. In villages where there are no *chavdis* the copies should be displayed in some other public place.

3. The cost of printing the translations should be debited, for the purpose of press proforma account, to the head "25 General Administration."

By order of the Governer of Bombay.

M. J. Desai,

Deputy Secretary to Government.

Accompaniment to Government Resolution, Revenue Department, No. 7420/33, dated 13th September 1938

STATEMENT SHOWING LISTS OF THE DUTIES OF DIFFERENT CLASSES OF INFERIOR VILLAGE SERVANTS

Duties of Mahars, Dheds, Vethias, Bhangis and Madhavis

(1) To carry Government remittances to the Sub-treasury.

(2) To call the villagers at the chavdi to pay Government dues.

(3) To carry the village *daftar* to and from the taluka kacheri.

(4) To keep a watch on government money and office records at the village and on property attached for recovery of Government dues.

(5) To take Government tapal to and from the taluka office and to take Government post officers on tour, where there are facilities for transport.

(6) To accompany village officers and touring officers at the time of crop and boundary mark inspection, and to show roads to officers and other travellers.

(7) To take news of births and deaths to village officers.

(8) To carry distrained moveable property to the village *chavdi*.

(9) To summon persons on whom notices, etc., are to be served and assist the Police Patil in serving summonses issued by Magistrates, Police, etc.

(10) To carry chains and cross-staff, plane table and other instruments of the measurers to the field for Government work.

(11) To accompany the Police Patil and Police at the time of the night round where there are no *jaglyas* appointed to do the work.

(12) To publish Government orders in the village by beat of drums.

(13) To take impounded cattle to the kacheri for auction when necessary.

(14) To assist the vaccinator in collecting children for vaccination.

(15) To help in the disposal of unclaimed dead bodies found in a village and to help the police in the removal of dead bodies for *post-mortem* examination wherever called upon by the police to do so.

(16) To help the Police Patil in case of accidental deaths and fires and outbreaks of epdemics and epixootics.

(17) To report movements of members of the criminal tribes and criminals and to assist the police in investigation of and prevention of the commission of crimes,

(18) To keep guard over prisoners in the Police Patil's custody.

(19) To set up camp offices in the village.

Duties of Ramoshis or Ravanias and Vartanias

(1) To be present at the chavdi at the time of the collection of the land revenue.

(2) To accompany Mahars or Dheds carrying remittance to the taluka headquarters.

(3) To render assistance to Government officers on duty in the village for Government work.

(4) To watch property attached for recovery of Government dues.

(5) To call villagers in the collection season when necessary.

(6) To do a round at night and help the police in patrolling on night duty in the arrest of criminals, in the detection of crime and at the time of inquests on accidental deaths.

(7) To assist in the prevention of the commission of thefts and other offences.

(8) To report the movements of criminal tribes and notorious criminals to the Police Patil and about criminal offences and accidents, etc.

(9) To carry the daftar of village officers.

(10) To assist the village officers at the time of the recovery of land revenue.

(11) To accompnay the village officers at the time of the crop inspection.

(12) To Keep guard over persons in the custody of Police Patil.

Duties of Chaugulas and Naikwadis

(1) To carry the daftar of the village officers.

(2) To assist the village officers at the time of the recovery of the land revenue.

(3) To accompany the village officers at the time of the crop inspection.

(4) To keep the village *chavdi* clean and light the lamps there.

Duties of Jaglyas

(1) To keep watch at night, to find out all arrival and departures, to observe strangers and to report all suspicious persons to the Police Patil.

(2) To trace a thief by footsteps.

(3) To assist the police in the investigation of crime.

(4) To accompany remittances from the village to the taluka.

(5) To accompany village officers at the time of crop and boundary marks inspection.

Duties of Talbadas and Kolis

(1) To clean the *chavdi* by sweeping and cowdunging it and to light lamp in it.

(2) To assist village officers in the work of crop and boundary marks inspection.

(3) To make *bandobast* when Government officers camp in the village so far as the public duties of these officers require it.

Duties of Samadis or Walikars, Talwars, Holkars and Ugranis

(1) To help the village officers in the collection of Government revenue.

(2) To help the Police Patil in serving summonses, etc., issued by magistrates and the police.

(3) To keep watch over the village records and public money, or *"Muddemal"* in cases when there is occasion for it to be done at the village.

(4) To excort the remittances of treasury or money to the taluka or mahal sub-treasury.

(5) To carry the post of the village and touring officers from place to place where there are no other facilities for its transport.

(6) To do night patroling in the village.

(7) To keep guard over prisoners in the Police Patil's custody.

(8) To show the way to touring officers from village to village where there are no roads, at walking pace, to the minimum extent necessary to give adequate directions.

(9) To report information about births and deaths to the Police Patil.

(10) To call villagers to the village chavdi when they are required for Government work.

(11) To accompany village officers and other officers on field inspections.

(12) To assist vaccinators in collecting children for vaccination.

(13) To carry village records from village to taluka and *vice versa*.

(14) To assist village officers when on tour in the village in the performance of their public duties.

(15) To keep the village *chavdis* clean.

(16) To set up camp offices in the village.

Duties of Barkers

(1) To keep the village *chavdi* clean.

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28

I SHALL BE MORE DEADLY AGAINST THE BRITISHERS THAN HINDUS IF.....

The Viceroy constituted the Defence Council of India on 27th July 1941. There were Eight Indians out of total thirteen members. Dr. B. R. Ambedkar was one of the members of the Council. He expressed his views about the evil policies of Britishers—Editors.

"I have directed for these many years bitter and virulent attacks on Hindu Society and its numerous evils, but I can assure you that I shall direct attack a hundred-fold more bitter, more virulent, more deadly against the Britishers than I have done against Hindus if my loyalty is going to be exploited for crushing my own people and taking away from them last dry bone from which they draw their sustenance."

(Ten Years To Freedom, Pp. 58-59)[1].

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[1]: Quoted, Khairmode, Vol. 9, P. 130.

29

EXCLUSION OF DEPRESSED CLASSES FROM VICEROY'S COUNCIL AS AN OUTRAGE AND BREACH OF FAITH

Bombay, Thursday*

"Depressed Classes regard their exclusion from the Viceroy's reconstituted Council as an outrage and breach of faith," says Dr. B. R. Ambedkar, Leader of the Depressed Classes in a cable addressed to the Secretary to State for India, Mr. L. S. Amery.

The cable adds: "Your flouting of 60 million Depressed Classes altogether and giving 43 per cent representation to Muslims, which is nearly equal to that of Hindus, is astounding. Government appears to have been mortgaged to some communities only.

After solemnly recognising the Depressed Classes as an important distinct element in the Indian national life after insisting that their consent to constitutional changes is essential after exploiting their co-operation in war, their exclusion from the Council bespeaks of want of good faith on your part.

Protesting in the interest and name of the Depressed Classes, personally I have never asked, depended or had support from the British. I can do without it in future. You are absolutely free in your choice.

I want justice for the Depressed Classes. I warn you that the Depressed Classes are not prepared to surrender their right to representation in the Council. I strongly urge you to recognise the same. Adding one member to the Council cannot hurt."

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The Free Press Journal: dated 1st August 1941.

*31st July 1941.

30

CONFERENCE OF ALL LEADERS OF THE DEPRESSED CLASSES ALL OVER INDIA

Bombay, September 26, 1941

"The "United Press" learns that a decision to mobilise all forces of the Depressed Classes in the country under one political body which will speak with authority and represent the interests of the sixty millions population of the Depressed Classes in Maharashtra held in Bombay yesterday, Dr. B. R. Ambedkar, Leader of the Community, and Mr. P. N. Rajbhoj, President of the All-India Harijan Political Conference, were among others present.

It was decided at the meeting, the "United Press" further learns, to hold a conference of all leaders of the Depressed Classes all over India under the guidance of Dr. Ambedkar for the purpose during the last week of October either at Bombay or at Poona. Mr. Rajbhoj was appointed convener of the proposed conference, exact date and venue of which will be announced after consultation with Depressed Classes leader.

It is further learnt that the proposed body of the Depressed Classes will be a permanent one on the lines of other political bodies like the Muslim League or the Hindu Mahasabha.—United Press."[1]

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[1]: Bombay Chronicle, dated 27th September 1941.

31

Dr. AMBEDKAR AND THE JEWISH PEOPLE

"Fifty years ago in a special interview with the editor of a monthly Jewish publication in Bombay (The Jewish Advocate, November 1941), one of the India's most respected leaders expressed openly his admiration for the pioneering efforts of the Jews in Palestine "in respect of the Social order that was being created there" (in Palestine) as he said.

It was none other than the "Father of Indian Constitution" and the Leader of the Depressed Classes in India, Dr. Ambedkar.

Dr. Ambedkar whose centenary is being celebrated all over the world, was among the few. In the Indian National Movement who was aware of and consequently sympathised with, the Jewish National Movement in Israel (then Palestine under British rule).

To understand the specialities Dr. Ambedkar had with the Jewish people one should read his article "Moses and His Significance " published in the Bombay Sentinel probably the same year, 1941. In this masterpiece of a short essay about the Biblical Leader Moses, Dr. Ambedkar exposes to the roots of his special attitude towards the Jewish people. Due to its importance, I feel it is only appropriate to reprint it once again.

"The story of the Jews told in the Old Testament is a moving tale. It has few parallels. It is told in a simple but thrilling language. The pathos inherent in the subjugation and ultimate emancipation of the Jews cannot, but affect the emotions of those who are as depressed as the Jews were in Egypt in the days of Pharaoh. But the heart of every one who is working for emancipation of a depressed people is bound to go to Moses, the man who brought about the emancipation of the Jews."

"What did Moses not do for the Jews ? He led them out of Egypt, out of bondage, he laid the foundation for their religion

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Dr. Ambedkar was interviewed by Glora Becher, Consul of Israel in Bombay—Editors.

by bringing the Ten Commandments from Mount Sinai. He gave them laws for social, civil and religious purpose and instructions for building the tabernacle."

"What did Moses not suffer at the hands of the followers "? When the children of Israel left Egypt and were pursued and attacked by the army of Pharaohs they were sore and said unto Moses, 'Because there were no graves in Egypt, has thou taken us away to die ?' It has been better for us to serve the Egyptians than that we should die in wilderness."

"The marching Israel came to Elim and camped there. There was not sufficient water for them all. They all shouted, give us water wherefore is this that thou hast brought us out of Egypt to kill us and our children and our cattle with thirst ? They were ready to stone him because there was no water."

"Moses went up to Mount Sinai and delayed to come down. Immediately the Jews went to Aaron and said unto him. 'Make for us Gods, which shall go before us; for as for this Moses the man that brought us out of the land of Egypt,' we woe not what has become of him."

Even his leadership was challenged. The Old Testament records that Miriam and Aaron spoke against Moses because of the Ethiopian woman he had married and they said, "Hath the Lord indeed spoken only by Moses ? Hath he not spoken also by us ? Yet Moses bore their calumny, their abuse, tolerated their impatience and served them with the fullness of his heart.

"As the Old Testament truly says : 'There arose not a Prophet since in Israel like unto Moses, whom the Lord knew face to face'. Moses was not merely a great leader of the Jews. He is a leader whose birth, any downtrodden community may pray for."

"Whatever interest others may have felt in the story of the exodus and the leadership of Moses they have been to me a source of perennial inspiration and hope."

"I believe that just as there was a land of promise for the Jews, so the Depressed Classes must be destined to have their land of promise. I trust that just as the Jews reached their land of promise, so will be the Depressed Classes in the end reach their land of promise."

"I see in the present day condition of the Depressed Classes of India a parallel to the Jews in their captivity in Egypt. In Moses I see a leader whose infinite love for his people has given undaunted courage to face hardships and bear calumny."

"I confess that if any thing sustains me in my efforts to emancipate the Depressed Classes, it is the story of Moses undertaking the thankless but noble task of leading Jews out of their captivity."

It is only natural that the Jewish people have always looked at Dr. Ambedkar and his life's work with absolute admiration. His struggle for the weakest sector of society has found an echo in the hearts of those who for many hundreds of years since their expulsion from their "Promised land"—Israel—were suffering from discrimination and persecution just becasue of being different from the majority around.

We in Israel are till today proud of Dr. Ambedkar's support in our struggle for rebuilding our national home in Israel.

(*Courtesy : News from Israel*)." [1]

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[1]: Praja bandhu, dated 30th December 1991.

32

I AM NOT LEAST INTERESTED IN FORMATION OF MINISTRY

Bombay, Saturday*

"I am not in the least interested in the formation of Ministry in Bombay", said Dr. B. R. Ambedkar in an interview to a representative of the "Chronicle", referring to a New Delhi message of November 25, in this connection. The message suggested that during his stay in New Delhi next week, Dr. Ambedkar was expected to meet the Viceroy "presumably" in connection with the formation of Ministry in Bombay on the lines of Orissa.

"There is absolutely no foundation for this suggestion", added Dr. Ambedkar.

The news as contained in the New Delhi message that "certain individuals have already seen the Viceroy" in connection with Ministry formation does not seem to have any basis. An attempt at Ministry formation is necessarily to be preceded by feelers with a view to find out possible weak spots in the Congress Party. There is no indication of any attempt so far in the matter of weaning away any of the members of the Congress Legislature Party.

That Orissa will never be repeated in Bombay is the opinion expressed in Congress Circles. A prominent member of the Congress Legislature Party said that he had not the least doubt about the solidarity of the party."[1]

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*The 29th November 1941.

[1]: The Bombay Chronicle : dated 30th November 1941.

33

HINDUISM IS POLITICAL IDEOLOGY AS THE SAME CHARACTER AS.....

Dr. B. R. Ambedkar in a statement says :—

General Chiang Kai-Shek has made an appeal to the British Government to give the people of India without waiting for any demands on their part real political power as speedily as possible. But he has not given any solution of the difficulties which have come in the way of such a consummation. The diffculty is caused by the Congress not accepting the fundamental feature of the August Declaration made by the Viceroy that the future Constitution of India must have the consent of certain important elements in the national life of India. Equally, the difficulty is due to the British Government not realizing what its responsibility is. The Congress cannot expect any sane person who knows anything about conditions in India to agree to the Government of the country being placed in the hands of the Hindu majority, simply because it is a majority. The Congress chooses to forget that Hinduism is a political ideology of the same character as the Fascist and or Nazi ideology and is thoroughly anti-democratic. If Hinduism is let loose—which is what Hindu majority means—it will prove a menace to the growth of others who are outside Hinduism and are opposed to Hinduism. This is not the point of view of Muslims alone. It is also the point of view of the Depressed Classes and also of the non-Brahmins.

Only Antidote

I think it is possible for the British Government to make a declaration in terms on the following lines :—

(1) That it is proposed to raise India to the status of a Dominion Status within three years from the date of peace,

(2) That for the speedy consummation of that end, the elements in the national life of India will be required to produce an agreed solution of their constitutional difference within one year from the date of the signing of the armistice,

(3) That failing agreement the British Government would submit the dispute to an International Tribunal for decision, and

(4) That when such decision is given the British Government shall undertake to give effect to it as a part of the Dominion Constitution for India.

Such a declaration must satisfy all reasonable people. As far as I am able to see, it meets Mr. Jinnah's point of view and the point of view of the Depressed Classes that there must be an agreed solution of the communal problem. It also meets the Congress point of view that no element in the national life of British India should be allowed the power to veto the birth of a Dominion Consitution. The arguments that we are in the midst of the war is no argument against making the declaration. Indeed, it is an argument in favour of it.

Harijan-Muslim Bone of Contention

Should the declaration be accompanied by a National Government ? It would be better if it could be done. But there is a diffculty for which Mr. Jinnah is making two demands : (1) One is ultimate, namely Pakistan; (2) The other is immediate, namely 50 per cent representation in the Cabinet.

l can quite understand the demand for Pakistan when Mr. Jinnah says that the Muslims are a nation, I feel no reason to quarrel. When Mr. Jinnah says the Muslims must have Pakistan because they are a nation, I say have it, if you do not thereby run away with a large belt of Hindu population, who on your own theory are of different nationality.

With regard to Pakistan I feel like pointing out that Mr. Jinnah seems to be counting his chickens before they are hatched, and reckoning without the host.

The N. W. F. is the most integral part of this Pakistan. Mr. Jinnah must admit that he is not the host of the N. W. F. The host is Khan Abdul Ghaffar Khan. Without his consent, there could be no Pakistan. Rather than carry on a whirlwind propaganda in favour of Pakistan, Mr. Jinnah should spend his time and energy in converting Khan Abdul Ghaffar Khan. That is, however, a matter for Jinnah to consider. As I said, I can understand Pakistan.

Monstrous

But I cannot understand this demand for 50 per cent representation for the Muslim community. Nor can I see how this immediate demand of 50 per cent is related to the ultimate demand of Pakistan. I am sure this demand of the Muslim League is a monstrous thing and I have no doubt that Lord Linlithgow has done the greatest service to India by putting it down.

I am definitely of opinion that no National Government ought to be established in India as an interim measure, if it means conceding to Mr. Jinnahhis claim for 50 per cent. After all, I cannot believe that the National Government can do more in the matter of war effort than what is being done. India simply cannot do more, her capacity has not been developed. The fault lies entirely with the British Government. They had chosen not to develop the resources of India in peace time and it has therefore become impossible for the Government or the National Government to do more than what is being done. If she had been fully developed she could have defended the Empire. She cannot now defend herself. She must, indeed she is compelled to look to England to defend her from the impending Japanese invasion ; such is her helpless condition. The appointment of an Indian—as a Defence Member may be good, but is that enough ? Without the means of defence at his disposal, what an Indian Defence Minister can do it is difficult to understand.

I should have thought that the wiser course for Indians would be to ask England to send out to India the means of defence, which she is hoarding for her own safety. Therein lies the immediate interest of India and therein also lies the duty of England.—A. P."[1]

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[1]: The Bombay Chroricle, dated 26th February 1942.

34

WE ARE A SEPARATE ELEMENT IN THE NATIONAL LIFE

A journalist from London, Mr. Bevarali Nikolas interviewed Dr. B. R. Ambedkar when he became a member of the Viceroy's Executive Council. Mr. Beverali recorded his interview in his book "Verdict on India" published in the year 1944. The personal observations that were revealed in the interview about Dr. Ambedkar are as follows : Editors.

'A man of about fifty, waiting for me in a wicker chair on the veranda of his house. Bulky, dynamic. Very charming manners, but nervy, inclined to fiddle with his shoe-laces. Seemed to be on his guard, as though ready to parry taunts from all directions. Well after all it's only to be expected.

So runs an extract from my diary.

The man is Doctor Ambedkar. And in a moment we shall see what it is 'only to be expected.'

Dr. Ambedkar is Labour Member in the Government of India. and **one of the six best brains in India.** He is the Cavour School of Statesman, an implacable realist. When he speaks in public he is galvanic, creative, an almost embarrasingly to the point. To comparing a Hindu Chart with a fusillade of pistol shots.

As a result, he is one of the best hated man in India.

And why is it 'only to be expected,' this nervousness—this suggestion that he would be ready to take offence ?

Because Dr. Ambedkar, in the eyes of most of the 180 million Caste Hindus is 'Untouchable'. A person to bring pollution if his Mayfair dinner jacket should happen to brush against their dhoties. A creature from whose touch the extreme orthodox must fly as though he were a paper, a mouster whose slightest contact compels them to precipitate themselves into the nearest bath-tube,

to soap and pray, and pray and soap, and soap and pray, so that the filth of Dr. Ambedkar (M. A. London)* the shame of Dr. Ambedkar (high honours at Columbia University) the plague and scourge of Dr. Ambedkar (special distinction at Heidelberg) should be washed for ever from their immaculate and immortal souls.' (P. 30)

Dr. Ambedkar said to me : 'The keynote of my policy is that we are not a sub-continent of the Hindus but a separate element in the national life.'

'Gandhi says to us 'Trust us-trust the Caste Hindus !' I reply 'We will not trust you, for you are our hereditary enemies.'

'In every village there is a tiny minority of Untouchables. I want to gather those minorities together and make them into majorities. This means a tremendous work of organisation-transferring populations, building new villages. But we can do it, if only we are allowed.' (P. 40.)

'We are as staunchly nationalist as any of the Congress. But we do not want the British to quit India till our rights are safeguarded. If they do, our fate will be mere terrible than the fate of any of the oppressed people of Europe.'

(Verdict on India, P. 41)[1]

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*Dr. Ambedkar obtained degrees of M. A. and Ph. D. from the Columbia University and not from London, but he obtained his degree of D.Sc. from London University.—Editors.

[1]: Quoted : Khairmode, Vol. 8, Pp. 36-39.

35

SCHEDULED CASTES SETTLEMENT BE MADE AT PAR WITH BANTUS

"*Hyderabad (Deccan),* April 22, 1946 : The view that the demand of the Scheduled Castes for separate villages was not an encroachment on the rights of any party, was expressed by Dr. B. R. Ambedkar, Labour Member of the Government of India, in an interview.

Dr. Ambedkar said that there were large areas of cultivable waste land lying untenanted in the country which could be set apart for the settlement of Scheduled Castes. Government could form a trust to give effect, to the proposal.

Objection, he thought, would come only from those who had been accustomed to using the Scheduled Castes as a source of labour which was available to do all the unclean jobs and who could be forced to work at the cheapest wage-rate. They would like to perpetuate this slavery. Because of intolerable condition under which the Scheduled Castes lived in Provinces like Bombay and Madras, it was necessary to have separate villages for them.

Dr. Ambedkar explained that the village being a social and not an economic unit of society, there was no need to fear an economic strangulation of these separate villages. The product of these areas would be sent to places where it would be welcomed.

Asked if the demand applied to the Pakistan areas, Dr. Ambedkar said that it did. At present there was nothing concrete about Pakistan. The question of setting up separate villages would arise when it took concrete shape.

The position of the Scheduled Castes, he said, was analogous to that of the *Bantu* and other tribes of South Africa. He did not see why provision should not be made in the future Indian Constitution to safeguard the interests of the Scheduled Castes in the same way as was done in the South African Constitution in the case of the *Bantus*.—A.P. I."[1]

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[1] : The Times of India : dated 23rd April 1946.

36

HINDUS ALWAYS REGARDED SCHEDULED CASTES AS 'OUTSIDE THE PALE' OF HINDU SOCIETY

"In an exclusive interview given to 'Globe' at Bombay on 20th November 1946, shortly after his return from England where he had been representing the case of India's 50,000,000 Untouchables, Dr. Bhimrao Ramji Ambedkar said he had found no reason to modify his statement made in London when he drew a gloomy picture of the Indian political scene and forecast a dismal future of the country until they were laid by a real coalition representing all important elements of their national life.

Asked if he considered it advisable in view of Mr. Jinnah's latest statement and the unsatisfactory state of the country to postpone the meeting of the Constituent Assembly which is fixed for December 9, Dr. Ambedkar said, "The question to my mind is whether the Constituent Assembly would have any moral authority behind it if the Muslims absent themselves from the Constituent Assembly. If the Muslims decide to absent themeselves, I don't know that the Constituent Assembly could do anything if it met on the 9th or any other subsequent date.

WOULD CARRY NO WEIGHT

"Unless the Hindus presume that the Constitution framed by themselves is likely to be accepted by the British Government merely because the session in which they met was called the Constituent Assembly," he continued, "I don't see any hope that the formulations by a Constituent Assembly, which consists of Hindus only, would carry any weight."

To the question, "Do you envisage any concrete fundamental basis on which a settlement can be brought about between the major political parties, including the Scheduled Castes, as represented by the Scheduled Castes Federation ?" Dr. Ambedkar replied, "The basis for a settlement between the Scheduled Castes and the other major political parties — that

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Jaibhim (Weekly), Madras, 25th December 1946.

is the Hindus and Muslims—is not at all difficult if there is good sense and right sense in the Congress.

SCHEDULED CASTES WANT POLITICAL SAFEGUARDS

"All that the Scheduled Castes want are political safeguards, over which there can hardly be any dispute," he continued, "The principal demand of the Scheduled Castes is that they must have separate electorates, the reason being that without Separate Electorates, all other political safeguards that might be granted to them are useless.

"The Muslim League, so far as I understand, has no objection to separate electorates for the Scheduled Castes. The only objecting party is the Congress which represents the Hindu point of view, and if the Congress could agree to Separate Electorates there will be no reason for any non co-operation between the Congress and the Scheduled Castes."

CONGRESS - LEAGUE UNBRIDGEABLE DIFFICULTIES

"The question of a settlement between the Congress and the Muslim League stands on a different footing." Dr. Ambedkar continued, "The differences between them to-day are very wide-almost unbridgeable. The League wants to out up the country and the Congress is opposed to it. I am unable to say how this gulf can be closed and I must leave that question to the Congress and the Muslims League to decide among themselves although the Scheduled Castes, as Indians, are not only interested in the terms of the settlement but are deeply concerned in it."

Globe's next question was, "In the interests of unity and understanding can you suggest separate representation for the Scheduled Castes ; is it not possible to have reservation for those sections of the Scheduled Castes who do not owe political allegiance to the Congress by means of proportional representation ?" Replying, Dr. Ambedkar said, "I have already said that if the Congress is agreeable to give the Scheduled Castes the right to be represented in the Legislature, in the Executive, in the Services, then it must, in all honesty, grant separate electorates. Because a separate electorates would alone guarantee to the Scheduled Castes the possibility of their electing to the Legislature, members of their own who could be treated

at all times to fight in the Legislature and in the Executive whenever they did anything which had the effect of nullifying the rights granted to the Untouchables.

BOUND BY PARTY DISCIPLINES

"To grant political safeguards to the Scheduled Castes without granting separate electorates is a fraud which is bound to have the effect of giving by one hand and taking away with the other.

"It will be noticed that the Congress has been able to elect on its ticket representatives of the Scheduled Castes all throughout India in the different Provincial Legislatures." Dr. Ambedkar continued, " And yet not one of them ever asked a question, moved a resolution or tabled a motion in order to ventilate the grievances of the Scheduled Castes. The reason is that the representatives of the Scheduled Castes elected on the Congress ticket are bound hand and foot by the party discipline of the Congress, and have no freedom of action.

"It would be much better not to have representation at all than to have such representation in the Legislature." he added.

PROPORTIONATE REPRESENTATION

"With regard to the question whether proportionate representation will be a solution of this dispute, I might say that I have considered the question and I find that it will not work because if we keep the number of members of the Legislature within the bounds now prescribed or which may be regarded as reasonable, nowhere will the Scheduled Castes, be able to have the quota of voter necessary to have their own men elected in the Legislature."

Dr. Ambedkar next answered the question, "Is it not possible for the Scheduled Castes to merge themselves into the Hindu community on the basis of a charter of common rights, privileges and removal of all social disabilities ?"

"The question of a merger of the Scheduled Castes into the Hindu community is really dependent upon the wishes of

the Hindu community." he replied. "The Untouchables have always wished for it and have tried for it, but they have never succeeded in changing the attitude of the Hindus who have always regarded them as 'outside the pale' of Hindu Society.

HINDU ABSORPTION A DREAM

"It is because the Scheduled Castes have come to realise that the assimilation or absorption of the Scheduled Castes into the Hindu community is a vain hope and is only a dream that they have decided to ask for separate electorates.

"If the Hindus can absorb the Scheduled Castes not in the superficial manner in which they want to do by opening temples and canteens, but in the real and substantial sense of the term assimilation, namely inter-marriage and inter-dinning, the Untouchables are always prepared and ready for it.

"It is the Hindu who must convince the Scheduled Castes that when he talks about the merger of the Scheduled Castes into the Hindu fold he means the removal of the bar against intermarriage and inter-dinning.

"Another aspect of the same question," continued Dr. Ambedkar, "is that in the opinion of the Scheduled Castes their merger into Hindu society would become possible easier only when the Untouchables rise to the same social status which is occupied by the Hindus. In the present degraded condition, no Hindu however great a social reformer may be, will consent to dine with an Untouchable or inter-marry with him, but if, as an effect of the political rights, the Untouchables become better educated, more advanced and begin to occupy the posts of officers and administrators in the State, the chances of intermarriage and inter-dinning between them and the Hindus would be much greater.

IGNORANCE, OBSTINACY

"From this point of view the political safeguards which the Untouchables want are in no sense in conflict with the desire of the Hindus to absorb and assimilate them. Because the Untouchables have Separate Electorates it is difficult to understand

why the Hindus should find any difficulty in absorbing them socially in their fold. It can't prevent them from having intermarriage or inter-dinning and, therefore, the whole attitude of the Congress towards the demand of the Scheduled Castes for separate representation is marked by ignorance and obstinacy."

Commenting on a recent statement made by Rev, Gordon Livingston in which he suggested Untouchables should embrace Christianity rather than Islam, Dr. Ambedkar made the following observations :

HINDUISM'S SHORTCOMINGS

"The thinking section among the Untouchables are convinced that Hinduism, as it exists today, does not furnish to the Untouchables the sort of spiritual home and social communion which religion is intended to furnish to men.

"Secondly, the thinking portion of the Scheduled Castes is of the opinion that it is not easy to uproot humanity as one can uproot and transplant from one soil and to another. It is a difficult operation and cannot be treated as adventure. It has to be a planned action which would take time to formulate and carry out.

"Thirdly, the Untouchables feel that probably–although they have grave doubts in the matter–Hinduism in the course of time will so reform itself that it may become acceptable, and the Untouchables are, therefore, prepared to stay on where they are, provided that during the interval the Untouchables get enough political safeguards so as to withstand the cruelty oppression and injustice that is inherent in Hinduism and from which they have been suffering all these ages, and from which they apprehend they will suffer more than they have if the Hindu majority obtains calumniated political power in its own hands such as would be the case if India become completely independent. If the Hindus refuse to recognise this situation, and does not grant the Untouchables political safeguards they want, I have no doubt that conversion to some other religion by the Untouchables would become an emergent issue.

WHICH RELIGION FOR UNTOUCHABLES ?

"Fourthly, although the thinking portion of the Scheduled Castes are agreed to leave Hinduism I cannot say that there is complete agreement as to which religion they should embrace. The matter is still open.

"Finally, with regard to the question whether Christians should accept the 50,000,000 Untouchables into their fold without a period of preparatory training (as suggested by Rev. Livingston), I should like to say that those who make that objection do not seem to realise that the conversion of the Untouchables would be the only instance in history of a real conversion. Today religion among Christian as well as Non-Christians, is a mere matter of inheritance. The Christian inherits his father's property and along with it his father's religion. He never stops to contrast Christianity with other religions and make his own judgement as to its spiritual value. And historically conversions of Christianity have always been mass conversions and conversions on grounds which had nothing to do with the realisation of the spiritual value at all of the Untouchables convert they will be converted on a thorough examination of different religions and their spiritual and social value. Let nobody, therefore, have any qualms of conscience that the conversion of the Untouchables is anything like a commercial proposition. It is not. If the conversion of the Untouchables brings them any advantages apart from those of a spiritual and social character, they are incidental advantages and not criminal inducement." Globe."[1]

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[1] : Jai Bheem (Weekly), Madras, dated 25th December 1946.

37

SCHEDULED CASTES' CASE TO BE PRESENTED BEFORE U. N. O.

"Bombay, Jan. 17, 1947.

The Working Committee of the All-India Scheduled Castes Federation adopted a resolution today, seeking to submit to the United Nations Assembly the case of "the sufferings of the Scheduled Castes in India against the Hindus for their acts of social, economic and political tyranny." The Committee concluded its two-day session held under the Chairmanship of Mr. N. Shivraj, President of the Federation.

The Committee approved the memorandum prepared by Dr. B. R. Ambedkar, for submission to the UNO and directed the President of the Federation to take early steps to submit the case formally to the Secretary of the UNO and to organise a delegation of the Federation for the purpose.

The memorandum among other complaints added that the "tyranny and the constant and shameless resort to violence by Hindus, makes the position of the Scheduled Castes far worse than the position of Indians in South Africa." The memorandum also complains of the "failure of the British Government to give protection and do justice to the Scheduled Castes" and requests the intervention of the UNO for "necessary international action".

With regard to the problems arising out of the framing of the future Constitution of India, the Working Committee declared in another resolution that the Federation stood for "a United India and a strong Central Government." The Federation according to the resolution "would be prepared to accept the proposals of the Cabinet Mission regarding Grouping in order to secure the co-operation of all parties and to arrive at a peaceful solution of India's constitutional problems."

EQUALITY SHOULD BE THE BASIS OF THE CONSTITUTION

The resolution stated that the Federation stood for liberty and equality as the fundamental basis for a future Indian Constitution. "While fighting for the cause of the Scheduled Castes

and without detriment to that cause" the Federation supported the "just and necessary demands of all minorities irrespective of the communities to which they belong."

The Working Committee also expressed the opinion that "it was in the interest of India that she should be satisfied with Dominion Status and accept it for a term of years which was without prejudice to the right of Independence for India."

MEMORANDUM TO MINORITIES' COMMITTEE

The Working Committee also approved another memorandum prepared by Dr. B. R. Ambedkar who is a member of the Constituent Assembly. This memorandum suggests safeguards for the Scheduled Castes in the future Constitution of India.

The Working Committee directed the representatives of the Federation in the Constituent Assembly to insist that "the ultimate sanction for the Constitutional Safeguards should be lodged in the Central Government" and emphasised that "Separate Electorates were the only way of guaranteeing real repesentation of the Scheduled Castes in the Legislatures without which all other safeguards were sure to be only paper safeguards."

The Committee also passed a resolution condoling the death of Mr. B. J. Deorukhkar, Member of the Bombay Municipal Corporation and two other Scheduled Castes workers from Andhra, Messers Hari and Dr. Dharmanna.

Dr. Ambedkar, in an interview to the Press, explained the resolutions passed by the Working Committee of the Federation and asserted that the UNO had jurisdiction over the issue to be submitted by eight crores of Scheduled Castes in India, inasmuch as the UNO had jurisdiction over the case of Indians in South Africa. He said that he was in communication with the leader of Negroes in the United States, Paul Duabois, who, according to Dr. Ambedkar, was submitting the case of Negroes in U.S.A., before the U.N.O. Paul Duabois, Dr. Ambedkar stated, was the founder President of the Negroes Association in U. S. A. who was fighting for political, economic and social rights of Negroes in that country.*

*Some words in this sentence are illegible—Editors.

Dr. Ambedkar, referring to the "sufferings of the Scheduled Castes" in India, compared them with the condition of Negroes in U. S. A. who, he said, "are as much tyrannised by the White Americans as Scheduled Castes are by Caste-Hindus."

Discussing the problem of framing the future Constitution of India, Dr. Ambedkar said that he had an ingenious method of preventing the formation of an executive of a majority community belonging to one party disregarding completely the interests and susceptibilities of a minority community belonging to another party. He refused to disclose the details of his scheme, but said that under the present Constitution, the major community belonging to one party took possession of the administration in a Province, "thus imposing the worst form of tyranny on a minority community." The helplessness of the minority community, when the major community makes a monopoly of the executive of the Government in the Province should be prevented by a statutory provision in any future Constitution of India," he said. He added that he stood for coalition Governments formed by representatives of both major and minor communities in different Provinces and also at the Centre.

Dr. Ambedkar reiterated his view that India under the present circumstances should be satisfied with Dominion Status. "My approach to the question of Indian Independence is purely from the stand point of defence of the country and I firmly believe that India is not well equipped at present to defend herself alone without the help of Britain," he declared. " If the Constituent Assembly adopts my method, India could have the help of the British Army stationed in India without British control over that army, he concluded." [1]

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[1] : Jai Bheem, dated 26th January 1947.

38

I FAIL TO UNDERSTAND ATTLEE'S STATEMENT

Dr. Ambedkar, former Member of the Viceroy's Executive Council and leader of the Scheduled Castes in an interview with Globe when asked for his reactions to Mr. Attlee's statement on India, said "I have not studied it. In fact, I fail to understand the statement,"

Continuing, Dr. Ambedkar said : "There is not a single point in the statement on which I can put my finger and say that it is clear to me. Nothing is explicit in the statement. Perhaps my intelligence is so limited that I fail to know what the statement is about."

In reply to the question whether the Scheduled Castes Sikhs were part and parcel of the All-India Scheduled Castes Federation, and if so, what was their motive in joining the League's demonstration against the Punjab Government. Dr. Ambedkar said : "I have no idea as to whether they are part of the Scheduled Castes Federation. The question will be better answered by the Sikhs themselves in the Punjab"—Globe.[1]

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[1] : Reprinted, Jar Bheem, dated 16th March 1947.

39

SECURE ADEQUATE SAFEGUARDS FOR THE UNTOUCHABLES

Dr. B. R. Ambedkar expressed his thoughts regarding the safeguards for Scheduled Castes in the letter addressed to Jogendra Nath Mandal. Letter follows : Editors.

"CONFIDENTIAL

BHIMRAO R. AMBEDKAR 'RAJGRAHA'

M.A., Ph.D., D.Sc, Dadar, Bombay-14

Barrister-at-Law

Bombay-2nd June 1947

My dear Mandal,

Your letter of the 30th May, 1947 was delivered to me by Mr. Meshram yesterday. I am sorry that for the whole of last month owing to severe pain in my left leg I have been confined to bed and disabled from taking any active interest in public affairs. I wish to come to Delhi on the 4th by air to attend the Union Constitution Committee to which I have been appointed. But that depends upon my fitness to move. In case I am still advised by Doctors not to move, I shall let you know my views about the question of partition of Bengal. I have always felt that the British have refused to recognise the Scheduled Castes as a separate and independent entity. The Scheduled Castes were incapable of doing anything precisely with regard to the question of partition. They could neither force partition nor could they prevent partition if it was coming. The only course left to the Scheduled Castes is to fight for safeguards either in a United Bengal or a Divided Bengal. I also hold the view that the Muslims are not greater friends of the Scheduled Castes than the Hindus and that if the Scheduled Castes should by their own circumstances are destined to live in a minority whether a Hindu Bengal or a Muslim Bengal, the only one course is to fight for safeguards for every possible emergency. It is possible for the reasons you have mentioned that the Scheduled Castes in Eastern Bengal

will elect to stay where they are even when partition comes. I have of course told the Hindus that in case there is partition they shall have to agree to reserve some land in Western Bengal for the Scheduled Castes of Eastern Bengal when the Damodar Valley Project matures and more land is made available for cultivation and in case the Scheduled Castes of Eastern Bengal express a desire to migrate to Western Bengal. This is however a somewhat remote possibility. In the meantime I agree that you should work in allianee with the League and secure adequate safeguards for them, I am not quite so hopeless as you are with regard to the attitude of the Hindus in Evelock to give political safeguards to the Scheduled Castes. There isn't a chastened mind. In so far as I am able to judge I think they will agree to almost all the safeguards that we want. The only thing they will insist on is some modified form of Separate Electorates. The Muslim League however, will be ready to give to the Scheduled Castes Separate Electorates more probably because they themselves want Separate Electorates for their own community. So far as the Eastern Bengal Scheduled Castes are concerned that no doubt is an advantage.

You have asked me to let you have what demands you should put up before the Muslim League. I have formulated a set of demands in my Memorandum which has been printed and circulated to the Members of the Minorities Committee. I am sending a copy of it to you for your information. In my view that Memorandum contains all that we need for our protection, not only in Eastern Bengal but in every Province in India. I think you should make this Memorandum the best use in your negotiations with the Muslim League. Of course, you are free to add to it any new safeguard for our people in Eastern Bengal which you think there are some special circumstances which call for such safeguards.

I have been already apprised of the plight of the *Satyagrahis* in Lucknow Jail. I am sending two of my representatives to Lucknow in order to inspect and state the condition of the *Satyagrahis* in Jail. I have also referred to the Prime Minister. U. P. Of course, our own people having thrown a challenge to

the Government of U. P. in the form of a *Satyagraha,* prestige release the *Satyagrahis*. But if some agreement is reached with regard to our safeguards in the Minorities Committee, I should, of course, make their immediate release a part of the bargain.

With Kind regards,

Yours sincerely,

Sd/- B. R. AMBEDKAR

Hon'ble Mr. J. N. Mandal,

Law Member to the Govt. of India,

NEW DELHI."[1]

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[1] : Khairmode, Vol. 8, Pp. 164—166.

40

INDIAN CENSUS

Dr. B. R. Ambedkar expressed his opinion on Indian Census on 26th October 1947, as follows : Editors.

"The Census of India has over a number of decades ceased to be an operation in demography. It has become a Political affair. Every community seems to be attempting to artificially argument its numbers at the cost of some other community for the sake of capturing greater and greater degree of political power in its own hands. The Scheduled Castes seem to have been made a common victim for the satisfaction of the combined greed of the other communities who through their propagandists or enumerators are able to control the operations and the results of the Census."[1]

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[1] : Khairmode, Vol. 10, P. 22.

Place is not mentioned—Editors.

41

SCHEDULED CASTES IN PAKISTAN SHOULD COME OVER TO INDIA

New Delhi, November 27th, 1947.

"The Nizam deserves no sympathy in opposing union with India. I am anxious that no person from the Scheduled Castes brings disgrace upon the community by siding with one who is an enemy of India," says Dr. B. R. Ambedkar, Minister for Law, in a statement extending to them an open invitation to migrate to India. issued today.

Regarding the status of his followers in Pakistan, Dr. Ambedkar mentioned that the Muslim League and its President had sided the Scheduled Castes only when it suited them and in view of the wrongs perpetrated on them, he suggested that they too should come over to India from Pakistan.

Dr. Ambedkar felt that the number of Scheduled Castes in India was so large and well-organised, they could not fail to influence the Government of the day.

He added : "I have received innumerable complaints from the Scheduled Castes from Pakistan and Hyderabad asking me to do something to relieve them from the distress in which they have been placed as a consequence of the policy adopted by Pakistan and Hyderabad towards them. In Pakistan, they are not allowed to come over to India and they are being forcibly converted to Islam. In Hyderabad also they are being forcibly converted to Islam in order to increase the strength of the Muslim population there. Further, there is a regular campaign carried on by the Ittehad-ul-Muslimeen by burning the houses of the Untouchables in order to strike terror into the hearts of the Scheduled Castes of Hyderabad so that they may never join the movement for responsible Government in Hyderabad and compelling Hyderabad to join the Indian Union.

Open Invitation

"All I can do is to invite them to come to India. For, the condition of the Scheduled Castes in India is as it is in Pakistan. In

India they are being tyrannized by the Caste Hindus in all parts of the country. While in Pakistan they are subjected to forcible religious conversion, in Hindustan they are subjected to forcible political conversion. They are compelled to be members of the Congress and if they refuse to become members they are boycotted and their lives made impossible. There have been cases particularly in the U. P. where the tyranny and oppression against the Scheduled Castes have been carried to the length of burning them alive. The tyranny and oppression that is being practised upon the Scheduled Castes in East Punjab by the the Sikhs and Jats who have come from West Punjab have been equally unbearable. The administration which is entirely by Caste Hindus has done nothing to render them the slightest assistance.

Notwithstanding the gloomy prospect for the Scheduled Castes who are in India, I would like to tell the Scheduled Castes who happen today to be impounded inside Pakistan to come over to India. The Congress party has weakened the political safeguards necessary for the Scheduled Castes under the new Constitution to such an extent as to make them worse than useless. Nonetheless, our numbers are so great that if we are well-organised, we cannot fail to influence the Government of the day.

Muslims Are not Friends

It would be fatal for the Scheduled Castes, whether in Pakistan or in Hyderabad, to put their faith in the Muslims or the Muslim League. It has become a habit with the Scheduled Castes to look upon the Muslims as their friends simply because they dislike the Hindus. This is a mistaken view. The Muslims wanted the support of the Scheduled Castes but they never gave their support to the Scheduled Castes. Mr. Jinnah was all the time playing a double game. He was very insistent that the Scheduled Castes were a separate entity when it suited him but, when it did not suit him he insisted with equal emphasis that they were Hindus. The Muslims and the Muslim League, charged as they are with the passion to make the Muslims a governing class as quickly as possible, will never give consideration to the claims of the Scheduled Castes. This I speak from experience.

As regards conversion, we Scheduled Castes must look upon it as a last resort forced upon them by violence. And even to those who are converted by force and violence, I say that they must not regard themselves as lost to the fold for ever. I pledge my word that if they wish to come back I shall see that they are received back into the fold and tressed as brethren in the same manner in which they were treated before their conversion.

"The Scheduled Castes of Hyderabad should under no circumstances side with the Nizam and the Ittehad-ul-Muslimeen. Whatever the tyranny and oppression which the Hindus practise on us, it must not warp our vision and swerve us from our duty. The Nizam deserves no sympathy in opposing Union with India. In doing this he is acting against his own interest. He does not realize that his own dynastic rights would be much safer if they were guaranteed by the Union Constitution which would have the sanction of 90 per cent of the Hindus of India than they would be if he relied on the Ittehad-ul-Muslimeen. I am anxious that no person from the Scheduled Castes bring disgrace upon the community by siding with one who is an enemy of India." A.P.I."[1]

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[1] : The National Standard, dated 28th November 1947.

42

SCHEDULED CASTE REFUGEES NEGLECTED

After partition, in Bengal and in Punjab, communal clashes between Hindus and Muslims arose on a scale never experienced in the past. Both the communities suffered badly. But the ill-effects of that dissension were felt even by a large number of Untouchables living in those areas, Dr. B. R. Ambedkar had received a number of letters describing sufferings undergone by the Untouchables by the Hindus, Muslims, Sikhs and Jats. He, therefore, wrote a letter (dated 18th December 1947) to the Prime Minister Jawaharlal Nehru, informing him of the sufferings of the Untouchables and requesting him to give relief to the Scheduled Caste refugees—Editors.

"New Delhi,

The 18th December 1947.

My dear Shri Jawaharlal,

I have been receiving so many complaints from the Scheduled Castes evacuees who come over from Pakistan to India as well as from those who have been looked up by the Pakistan Government and prevented from coming over to India. I feel that the time has come for me to draw your attention to their sufferings. For the purpose of giving you an idea of what is happening and what is required to be done, I am setting out below the causes of their sufferings and the measures that should be adopted to remove them.

I

(1) The Pakistan Government are preventing in every possible way the evacuation of the Scheduled Castes from their territory. The reason behind this seems to me that they want the Scheduled Castes to remain in Pakistan to do the menial job and to serve as landless labourers for the land holding population of Pakistan. The Pakistan Government is particularly anxious to impound the sweepers whom they have declared as persons belonging to Essential Services and whom they are not prepared to release except on one month's notice.

(2) The organisation known as the M.E.O. has been of some use in helping the Scheduled Castes refugees who are anxious to evacuate. I, however, understand that the Pakistan Government is not permitting the M.E.O. to get into direct touch with the Scheduled Castes who want to evacuate. Consequently, the process of evacuating the Scheduled Castes is going very slowly, and in some places it is at a standstill. I am also told that the M.E.O. is going to be closed very soon. If this happens then the evacuation of the Scheduled Castes from Pakistan would be quite impossible.

(3) What is necessary to do is :—

(i) to ask the Pakistan Government not to place any obstacles in the way of the evacuation of the Scheduled Castes,

(ii) to allow the M.E.O. to get into direct touch with Scheduled Castes and wish to evacuate,

(iii) to maintain the M.E.O. till all the Scheduled Castes are evacuated.

(4) So far the Ministry of Relief and Rehabilitation has appointed only one officer from the Scheduled Castes to West Punjab. But other Provinces of Pakistan such as N. W. F. P., Sind and Bhawalpur are left over and for which no such officer has been appointed. The Ministry should be directed to make appointments to these areas forthwith to that special officers could tour the Pakistan area and find out the places where the Scheduled Castes are prevented by the Pakistan Government from coming over.

II

With regard to those Scheduled Castes who have come over from Pakistan to Eastern Punjab, they have also sent their complaints. They are far more numerous than those coming from persons who are impounded in Pakistan. I have their gist below :—

(i)

(1) The Scheduled Castes evacuees who have come to Eastern Punjab are not living in the refugees camps established by the

Government of India. The reason is that the officers in charge of these refugees camps discriminate between the Caste Hindu refugees and the Scheduled Caste refugees.

(2) It appears that the Relief and Rehabilitation Department has made a rule that it is only that refugees who are staying in the Relief Camps can receive rations, clothing, etc. On account of their not staying in the Refugee Camps for the reason mentioned above, the Scheduled Castes refugees are not getting any relief. This is a great hardship.

(3) As discrimination cannot be prevented, it is necessary to modify the rule so that the Scheduled Caste refugees living outside the camps should also be entitled to relief in the same way and to the same extent as refugees living in camps.

(ii)

(1) In the allotment of lands made by the Government of Eastern Punjab the interests of the Scheduled Castes are completely overlooked. The administration of Eastern Punjab being entirely in the hands of the Caste Hindus, there is nobody either to take a personal interest in the rehabilitation of the Scheduled Castes evacuees nor is there any agency appointed by the Government of India especially charged with the duty of bringing to the notice of the Eastern Punjab Government that the interests of Scheduled Castes are overlooked.

(2) It is, therefore, essential that there should be a number of officers appointed by the Government of India to work in East Punjab charged with the special duty of seeing that the allotment of land is fairly made and that the Scheduled Caste refugees get their legitimate share.

(3) I have given to the Honourable Mr. Neogy a list of persons for being appointed for this purpose who, so far as I know, are best qualified to carry out this work.

(4) (a) It is a notorious fact that the Sikhs and the Jats who occupy a very prominent position in East Punjab are compelling the Scheduled Castes who are residents of East Punjab to evacuate their original homes in order to appropriate their houses or their

landed property. The Scheduled Castes are unable to obtain any redress from the tyranny and oppression practised upon them by the Sikhs and the Jats to carry out their purposes for the simple reason that the Magistracy and the Policy in East Punjab are wholly manned by the Sikhs and Jats who quite naturally protect the wrong doers who are their Kith and Kin and pay no attention to the complaints of the Scheduled Castes.

(b) It is, therefore, absolutely essential that the Government of East Punjab should be compelled to recruit at least 300 Scheduled Castes in their Civil Police. It was recently published in the newspapers that the East Punjab Government had recruited some 300 Scheduled Castes in their Police Force. On enquiry I found that this recruitment has been made for the purpose of the Frontier Constabulary and not for the ordinary Civil Police Force. What the Scheduled Castes need for the purpose of their protection is recruitment to the Civil Police of East Punjab. I am informed that the Civil Police Force of East Punjab does not include even a single Scheduled Caste person.

(5) (a) The Land Revenue system of East Punjab divided the residents of village into two classes *Zamindars* and *Kaminas*. In the category of the *Zamindar* are included those families who have an exclusive right to own land situated inside the village boundary. The *Kaminas* have no right to buy or to own land situated in the village of which they are residents. Even the sites on which their houses are situated belong to the *Zamindars,* with the result that the *Zamindars* if they combine can compel the *Kaminas* to leave the village by asking them to remove their houses. This rule places the *Kaminas* of every village at the mercy of the *Zamindars*. The Scheduled Castes in all the villages in East Punjab are classed as *Kaminas* and are therefore living in complete servitude of the *Zamindars* of the village.

(b) It is, therefore, necessary that the East Punjab Government should be called upon to abolish this distinction by altering their Land Revenue system and making it similar to the Ryotwari System under which all villagers are placed on equal footing so far as the capacity to own land is concerned.

(6) (a) In the Province of East Punjab there operates what is called the Land Alienation Act which is intended to protect the agriculturists from the money lenders. But there cannot be slightest doubt that it is a most vicious piece of legislation inasmuch as it contains a definition of Agriculturist which is communal and not occupational. According to this law. a person is an agriculturist if he belongs to a community which is declared by the Government as an agricultural community. The old Punjab Government took particular care not to declare the Scheduled Castes as an agricultural community although every member of the Scheduled Castes is either a cultivator of land or an agricultural labourer. The result is that the Scheduled Castes in East Punjab are debarred from buying or acquiring landed property and are compelled to lead the life of landless labourers dependent upon the Hindu, Sikh and Jat landowners for their livelihood. This is a cruel piece of legislation and I think ought not to be allowed to remain on the Statute Book.

(b) The East Punjab Government should be to amend the definition of the term 'agriculturist' and make it occupational so that everybody who earns his livelihood by agriculture irrespective of his caste and creed becomes an agriculturist entitled to own and acquired landed property.

I have enumerated all the difficulties of the Scheduled Castes which have been brought to my notice and the remedies, which I think, if adopted, will remove them. Some of the remedies lie in the hands of the Government of India and the rest in the hands of the Government of East Punjab. There can be no question of applying such remedies as lie in the hands of the Government of India if it has the will to do so. Even with regard to those remedies which lie in the hands of the Government of East Punjab, the Government of India need not feel helpless. For, since the Government of India is paying the cost of rehabilitation, it has a moral right to compel the Government of East Punjab to adopt particular measure which the Government of India thinks necessary for a fair and equal treatment of all classes of people. That is the reason why I have not hesitated to include for action by the

Government of India such remedies as lie in the hands of the Government of East Punjab. So far all care and attention has been bestowed by the Government of India on the problem of the Muslims. The problem of Scheduled Castes has either been supposed not to exist, or deemed to be so small as not to require special attention. Although some people do not like to mention the problem of the Scheduled Castes nonetheless those of us who are concerned with the Scheduled Castes know that: the problem exists and it is such more acute than the problem of the Muslims. Many a times I had thought of drawing the attention of the public to the neglect by the Government of India of the problem of the Scheduled Caste refugees both in Pakistan and in India. For obvious reasons I have refrained from doing so. Owing to your pre-occupation with other matters, I have made no complaint regarding your silence about this question. But I am afraid time has come when I must insist upon your giving personal attention to this problem by issuing directions to the Minister for Relief and Rehabilitation and to the Minister without Portfolio to relieve the Scheduled Castes of their sufferings either by adopting the remedies I have suggested in this letter or by devising better remedies to effectuate the purposes I have set out. I shall be grateful if you will give this matter your immediate attention.

Yours sincerely,

(Sd/)—B.R. AMBEDKAR.

The Hon'ble Pandit Jawaharlal Nehru,
Prime Minister of India,
New Delhi."[1]

Pt. Jawaharlal Nehru responded to the abovementioned letter thus :

"Prime Minister,
India.

P.M.
New Delhi,
The 25th December 1947.

My dear Dr. Ambedkar,

I have your letter of the 18th December about the evacuation of Scheduled Caste people from Pakistan to India.

[1] : Reprinted, Khairmode, Vol. 10, Pp. 26-32.

We have been trying our utmost to help in the evacuation of the Scheduled Castes from Pakistan, notably Sind, where they have been prevented from coming away. Our High Commissioner there is in continuous contact with this problem.

As regards the other problems raised by you they have to be dealt with by the East Punjab Government. We shall certainly advise them in the matter and see to it that every help is given to the Scheduled Caste evacuees.

We have had some difficulty in dealing with the East Punjab Government in regard to many matters chiefly because the multitude of the problem it faces. I shall gladly give my personal attention to this subject and am requesting the Minister without Portfolio to look into this matter specially.

Yours Sincerly,

(Sd/—) Jawaharlal Nehru.

The Honourable Dr. B. R. Ambedkar."[1]

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[1] : Reprinted, Khairmode, Vol. 10, Pp. 32-33.

43

GOVERNMENT SHOULD BE IMPARTIAL

The pitiable plight of the Untouchables coming from Eastern Punjab was becoming worse day by day. To get the solution to this problem officials from the Untouchables were to be appointed in the Relief and Rehabilitation Department. Hence Dr. Ambedkar wrote a letter to Hon'ble Mr. K. C. Neogy, Minister for Relief and Rehabilitation, New Delhi. The letter is as follows.—Editors.

"*Personal* New Delhi,
23rd March 1948.

My dear Neogy,

You will recall that you wanted me to recommend the names of some special workers who could be employed under your Department for helping the Scheduled Caste refugees who have come over from Western Punjab to Eastern Punjab in the matter of their rehabilitation. I gave you a list of persons who could be employed for this work. I do not know what you have done with regard to the names contained in the list. There are, however, two persons whom I recommended and whom you have appointed, and about whom I propose to write to you in this matter. They are Messrs B. K. Gaikwad and R. S. Jadhav. Both of them have been complaining to me that they are given no work at all and that they are wasting their time. They also reported to me that they were called over by Mr. Shevakram Karamchand who is the Director of the Harijan Section of your Department and who cross questioned as to their views on the general politics of this country. The impression left upon them, which they conveyed to me, is that the Government of India is not prepared to employ people because they do not belong to the Congress. It seems to me absurd, if not mischievous, for Government to insist that its employees should have the same political opinion as the Party in power, and I am sure that you do not share the view-point expressed by Mr. Shewakram Karamchand. What I am concerned about is that these two men who have been retained are not given the work for which they were

recruited. Mr. Karamchand told them in the course of the interview that the persons recommended by the Harijan League were thoroughly incompetent and were of no use for the sort of work they were expected to do and that the persons belonging to the Scheduled Castes Federation were the most competent, and yet these men are not given the responsible work for which they were recruited merely because their political opinions are distasteful to this gentleman. I am, therefore, driven to ask you whether you intend to give them any responsible piece of work for which they are fitted. If you are not prepared to do that I think it is only right that you should discontinue their service and allow them to return to their places and do the social work that they had been doing. I am sorry I have to write to you in this very direct fashion, but when one's patience is exhausted one has no other way.

With kind regards.

Yours sincerely,

Sd/—B.R. Ambedkar.

Honourable Mr. K. C. Neogy,

Minister for Relief and

Rehabilitation,

New Delhi."[1]

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[1] : Reprinted, Khairmode, Vol. 10, Pp. 34-35.

44

BE YOUR OWN LIGHT !

"On a balmy evening in May 1950, two gentlemen seated themselves on a bench in Bombay's Cuffe Parade and proceeded to hold a conversation. One of them was the architect of the Indian Constitution Dr. Bhimrao Ramji Ambedkar. The other was noted writer Mulk Raj Anand, author of 'The Untouchable'.

Forty years later, Dr. Anand recalls the illuminating conversation with the Messiah of the downtrodden.

Mulk Raj Anand : Namaskar, Dr. Ambedkar !

B. R. Ambedkar : I prefer the Buddhist greeting—Om mani padmaye ! May the lotuses awake.

MRA : I agree. How thoughtless we are ! We inherit words without questioning their meaning ! Of course, namaskar means I bow before you . . . . .

BRA : That perpetuates submission ! May the lotuses awake is a prayer for enlightenment!

MRA : Indeed, old habits die hard. We adopt them unthinkingly . . . . .

BRA : In everything.

MRA: Come to think of it, one is not born stamped Hindu ! Or

Muslim ! or Christian! Hindu parents give their child a name during the naming ceremony ! Sanctified by a priest reciting verses in Sanskrit, which the child does not understand. A sacred thread is put on his body. And to and behold the boy is a Hindu !

BRA : Idiocy !

MRA : If you by mean the Greek word, idiot-going round and round in circles !

BRA : One must question all old habits, ideas, practices. Education should encourage the new young to ask the teacher, one new question a day . . . . .

MRA : The best way to teach teachers ! They often don't know what is not in the text book. As a matter of fact, even in one's mature youth, one can only grow by asking questions. I learnt this from Henri Bergson's book Creative Evolution. I was in difficulties about various philosophical problems after reading Hegal, Kant and Descartes. Bergson said : One can heighten consciousness by questioning every philosophical proposition . . . . .

BRA : Buddha argued with Brahmins about every one of their beliefs. They had degraded whole people as outcastes. They said, God had ordained you varnas—Brahmins, Kshatriyas, Vaishyas, Shudras. Buddha asked : What about man himself—the individual ? Because a man is born in a family which handles corpses of dead cattle, he is condemned to be an Untouchable. All forest people are junglis to the Hindus . . . . .

MRA : Rejected !

BRA : Indeed ! Everyone who works with hand was, and is, rejected. Those who skin animals! Those who carry dung! Those who do menial labour on the land ! All branded and bonded forever ! After five thousand years it is still worse ! An Untouchable can't enter a temple even if he has a bath before he goes there ! He can't draw water from the village well—he must take it from the filthy pond outside the village ! He can't graze his cattle on the landlord's land. He is dirty because he cleans dirt. Always considered impure ! An animal can be touched, not an Untouchable . . . . .

MRA : As a member of the Constituent Assembly have you been able to assert the rights of the individual ? I see that your committee gives fundamental rights—the right of the individual to freedom. But we see that you have also conceded the right to property as a fundamental right Does not the right to property give a decisive advantage to those who have inherited wealth ? So the poorest of the poor, the Untouchable will always be at a disadvantage.

BRA : In our Constitution, we have put forward the ideal of a secular, socialist democracy... If every one can have the right to till the land from the State tenancy rights then equality of privilege

can be assured and there need be no exploitation. So far Untocuhables and even many Caste Hindus and Muslims do not have tenancy rights. All these landless peasants are mere hands.

MRA : Then the right to work should have been recognised as a fundamental right.

BRA: I was only one of the members of the drafting committee.

MRA : So you became a lamb before the lions ! BRA : I bleated good deal ! I am now roaring !

MRA : As a lawyer, you know how the judges will always decide in favour of the high caste, upper class Hindus.

BRA : Of course, the only Non-Brahmin in our Government of Pandit Jawaharlal Nehru fought hard against the night to own property being a fundamental right .... But Babu Rajendra Prasad felt that Nehru wanted to make India into Russia. The Caste Hindus, therefore, only conceded the other rights of man as directive principles .... to be fought for in Parliament.

MRA : Which would be weighted in favour of men of property.

BRA : The socialists can win a majority one day. And ask for redress. Any how, the outcastes and tribals have been declared Scheduled Castes. They will be given certain privileges to uplift them—like reservation for admission to schools and colleges and scholarships.

MRA : The Caste Hindus will always resent reservation.

BRA : We must organise ourselves. Arouse the disinherited to fight. There are more outcastes than Caste Hindus—if we include the Muslims who are also regarded as Untouchables by the casteists. And the tribal people. Together, with the socialists they can abolish ownership of private property ! No landlords, no tenants ! No landless labourers !

MRA : State capitalism might also prove to be dangerous. You know what Stalin has done in Russia. Imposed a set of bureaucrats on the people in the name of Communism !

BRA : Of course, we must protect the individual from invasion of his rights from other individuals. Liberty of the person must always be a primary concern. That was in my mind when I urged for fundamental rights.

MRA : If that was in your mind then you might urge Parliament to revise fundamental rights. We must fight against both State capitalism and Private capitalism. You know how the vast majority of people everywhere are subject to the will of the employers.

BRA : Indeed, liberty so far seems to be the liberty of the landlord to increase rent. The capitalist always wants to reduce wages and increase hours of work. Capitalism is a dictatorship of private employer.

MRA : The fundamental rights—right to life, liberty and happiness—remain a dream .....

BRA : The new young must go on fighting. They can change the Constitution.

MRA : This may not be possible without upturnings like the 1789 revolution in France.

BRA : Strange to hear this from you ! I thought that by making Gandhi the liberator of Untouchables in your novel, you have been converted to non-violence.

MRA : I could not live up to the Mahatma's ideal. We had to face Hitler and Mussolini. I went to Spain and joined the International Brigade. Though I fainted at the sight of blood in a clinic and was asked to opt out.... But one had to take sides in the second world war. A poet called the so-called war for freedom of the democracies against fascism, the fight for a "half lie" against a "big lie."

BRA: You know, though the Mahatma was all for the Harijans, he did not get up his beliefs in the Varnashram dictated by the Bhagwad Gita ..... By calling them sons of Hari, the supreme God, he thought he was exalting them. In fact they were left at the lowest levels.

MRA : Is that why you have adopted Buddhism as your religion ?

BRA : May be that was the chief consideration. Also by remaining a Scheduled Castes citizen, one accepts the status of the outcaste. I have felt the faith of the Buddha, which does not believe in the Hindu God Brahma aspires for human beings, man and women, to be free of dogmas. Obscure myths and legends ! One can pursue knowledge ! One can disown casteist heroes of the Hindus like God King Ram, the avatar of Vishnu ! And many other sentimental myths of Hinduism.

MRA : Indeed, I find the Buddha's hunches far more plausible than the guesses of the Brahmins. He was the first existentialist of the world. He cried out. Dukha, dukha, dukha ! The Hindus were always for make-beliefs. God is ananda. A consolation prize for beggars who ask the feudal Lord God for favours by offering gifts of flowers, bribes of garlands and fruits !—via the priests.

BRA : That is why most priests have big bellies.

MRA : What is your message for the rejected ?

BRA: I say to the Untouchable : Be a lion ! Hindus sacrificed goats before the image of Kali. You be your own light '*atta deep bhav !*'

MRA : Like the Buddha said to Ananda : Be a lamp unto yourself !...."[1]

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[1] : Dr. Mulk Raj Anand, An eminent writer and author of "The Untouchable"—Tribal World, April, 1991, P. 13.

Reprinted, Rattu Remembrances of Dr. B. R. Ambedkar. Pp. 110—114.

45

HINDUISM IS THE LATEST DEVELOPMENT OF SOCIAL THOUGHT IN INDIA

"Bombay, Wednesday*

Dr. B. R. Ambedkar, Minister for Law, Government of India, who arrived in the city from Delhi this evening declined to comment on reports about his *conversion to Buddhism*.

Dr. Ambedkar told pressmen that he intended to start a college at Ahmednagar on the lines of the Siddhartha College. The College which will give instruction in both Arts and Science subject will be started before July next, he stated.

He is leaving for Poona tonight and returning to the city tomorrow evening.

He said, as one interested in the subject, he had been collecting pieces of information as to the causes leading to the birth and fall of *Buddhism in India*.

Dr. Ambedkar was of the opinion that the significance of *Buddhism* would not be understood unless the exact circumstances which gave birth to it were understood. He disagreed with most people who were under the impression that the religion of India had all along been Hinduism "Hinduism is the latest development of social thought in India," he declared.

Causes of Decline

Turning next to the causes which led to the decline of *Buddhism,* Dr. Ambedkar refuted suggestions made by many people in India that *Buddhism* was destroyed by the dialectic of Shankaracharya. "This is contrary to facts as *Buddhism* existed for many centuries after his death."

Dr. Ambedkar believed that *Buddhism* faded away in India because of the rise of *Vaishnavaitism* and *Saivaism*. Another cause was the Muslim invasion of India. "When Allauddin marched into Bihar, he killed over 5,000 *Bhikkus*. The remaining

*The 3rd May 1950.

Buddhist monks fled to neighbouring countries like China, Nepal and Tibet. Efforts were subsequently made by *Buddhists* of India to raise another priesthood in order to revive *Buddhism*. But these failed as by then 90 per cent of *Buddhists* had embraced *Hinduism*.

Answering the question why *Hinduism* survived in India and *Buddhism* had died, Dr. Ambedkar said, "this religion is difficult to practise while *Hinduism* is not."—P.T.I.[1]

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[1] : The Free Press Journal, dated 4th May 1950.

46

SCHEDULED CASTES' EMANCIPATION —DRAFT MANIFESTO—

"An Executive Committee Meeting of All India Scheduled Castes Federation was held at the Residence of Dr. B. R. Ambedkar at New Delhi on 6th Oct. 1951 to decide the Election Manifesto."[1]

In that meeting a decision was taken, not to have alliance with Congress, Hindu Maha Sabha, R.S.S., Communist Party and Jan Sangh. The power to have the alliance with other Politicat Parties was delegated to the adhoc committee comprising Dr. B. R. Ambedkar, N. Shivraj and Bapusaheb Rajbhoj. It was also decided that the *adhoc* Committee would take the appropriate decisions.

"The emphasis was given to make the 'Samata Sainik Dal' of 'Scheduled Castes Federation' stronger and effective."

"The manifesto prepared by 'Scheduled Castes Federation' was approved unanimously. The press wrote columns after columns speculating about the proposed manifesto. Indians and Western Journals welcomed the manifesto released on 7th October 1951 which was unique, unparalled and outspoken."[2]

The copies of manifesto were circulated to the representatives of news papers well in advance. Accordingly the leading news paper 'The Times of India' dated October 3rd, 1951 reacted under the above title which is as follows :—

"... Seeking to fight the battle against poverty on two fronts, the Federation, it is understood, will advocate birth control to limit population and urge measures for increased and intensified agriculture and industrial production. The Federation considers rapid industrialization as very essential but is of a view that agriculture would continue to be the foundation of Indian economy. As regards administration, the Federation will press for the creation of linguistic provinces. It will insist on stringent action against corruption and black-marketing in all phases of life, particularly against Ministers or Officers who are corrupt. The Federation will advocate reduction of expenditure in the army, re-levy of the salt tax, abolition of prohibition

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[1] : Khairmode, Vol. 10, P. 147.

[2] : Janata, October 13th, 1951.

and nationalisation of Insurance. As regard the foreign policy, the manifesto is expected to emphasize that India's first duty should be to herself. It will urge the reversal of the present policy which is stated to have converted India's friends into her enemies and the prevailing antagonism between the United States and India, is mentioned as an instance ....."[1]

To the Men and Women of India who are expected to think before they vote. To the men and women of India who are expected to believe that public good should come before selfish gain.

ELECTION MANIFESTO
OF THE
SCHEDULED CASTES FEDERATION

Scheduled Castes Federation is an All-India Political Party of the Scheduled Castes, established by the Scheduled Castes. In the following pages an attempt is made to set out (1) its Principles, (2) its Policy, (3) its Programmes and (4) its terms of Co-operation with other political parties.

by Dr. B. R. Ambedkar

[1]: The Times of India, dated 3rd October 1951, under title—'Scheduled Castes' Emancipation : Draft Manifesto'

Reprinted, Khairmode, Vol. 10, P. 147.

Principles of the Party

1. The attitude of the Party in public affairs will be governed by the following principles :-

(1) It will treat all Indians not only as being equal before the law but as being entitled to equality and will accordingly foster equality where it does not exist and uphold it where it is denied.

(2) It will regard every Indian as an end in himself with a right to his own development in his own way and the State as only a means to that end.

(3) It will sustain the right of every Indian to freedom- religious, economic and political– subject to such limitations as may arise out of the need for the protection of the interests of other Indians or the State.

(4) It will uphold the right of every Indian to equality of opportunity subject to the provision that those who have had none in the past shall have priority over those who had.

(5) It will keep the State ever aware of its obligation to make every Indian free from want and free from fear.

(6) It will insist on the maintenance of liberty, equality and fraternity and will strive for redemption from oppression and exploitation of man by man, of class by class and of nation by nation.

(7) It will stand for the Parliamentary System of Government as being the best form of Government both in the interest of public and in the interest of the individual.

2. There are two considerations which should be borne in mind in assessing the implication and sincerity behind these principles. The first consideration is that these principles though adopted by the Federation are for the benefit of all the down-trodden humanity in India. The Federation in that sense cannot be accused of being a communal organization. It may be that it is not open to all, nonetheless it is out to serve all and co-operate with all who prove worthy of co-operation.

3. There may not be anything new in the Principles of the Scheduled Castes Federation. They will be found in the manifestoes of most political parties. But there are two considerations which distinguish the Federation from other Political Parties. The first consideration is that the principles of the Federation are not adopted by the Federation merely to look politically respectable or merely to delude the voters. They are natural to the Federation. They are borne out of the social condition of the Scheduled Castes. The Scheduled Castes Federation cannot exist without adopting these principles and without holding up to those principles and living up to them. The principles of the Scheduled Castes Federation are the life book of the Scheduled Castes Federation. They are not the external marks of a political faith. They are the outward register of the inward feeling. They are not cloak worne for the purpose of winning the election. Many parties may adopt these principles. But no party can be so true to the principles as the Scheduled Castes Federation. This is the second consideration in valuing the principles of the Federation.

The Policy of the Party

4. The policy of the Party will be to try to give effect to the principles set out above. The policy of the Party is not tied to any particular dogma or ideology such as Communism, or Socialism, Gandhism, or any other ism. The Party will be ready to adopt any plan of social and economic betterment of the people irrespective of its origin and provided it is consistent with its principles. Its outlook on life will be purely rational and modern, emperistic and not academic.

The Programme of the Party

I. Old Problems

5. The programme of any Political Party in India must be integrally connected with the legacy left by the British. The legacy of the British has its credit side, and also its debit side. On the credit side must be reckoned (1) a uniform system of law, (2) a uniform system of justice, and (3) a uniform system and administration. On the debit side must be reckoned (1) maintenance of the archaic

social system prevalent among the people of the country, (2) maintenance of the privileged class in education and in the Services, both Civil and Military, (3) complete neglect of the Untouchables, of the Backward Classes and of the Tribal People, (4) impoverization of the country.

A. Problem of Raising the Backward Classes

6. The Scheduled Castes Federation will fight for the raising of the Backward Classes, the Untouchables and the Tribal people both in the matter of Education and Services. This will receive topmost priority in the plan of action by the Federation and will be treated as fundamental. Neither delay or want of means will be allowed to stand in the way of carrying this part of the Programme into effect. The sort of Education which the Scheduled Castes Federation has in mind with regard to these classes is not primary education, not even Secondary Education. What it has in mind is advanced education of such high order, both in this country and outside, which will enable these classes to fit themselves for taking hold of administration. Similarly, in the matter of services, the Scheduled Castes Federation will insist on reservation, subject to minimum qualifications, so long as these classes are not able to find their place in the Civil and Military services of the country. Today there is rampant a worst sort of communalism in the Civil and Military services of the country by the higher classes. The services have become the monopoly of a few communities. When the lower classes are trying to break this monopoly by demanding that they who are at present excluded from services, are decried as communalists. The Scheduled Castes Federation will not allow this perverted logic to stand in the way of the non-privileged classes in the way of the fulfilment of their demand for occupying their rightful place in the affairs of this country.

7. The Scheduled Castes Federation believes that the gulf between the higher classes and the lower classes in this country is already very great. This gulf has already created a good deal of enmity between them. The murders, arsons and loot that were committed by members of the lower classes against members of the higher classes in 1948 in certain parts of India after the murder of Mr. Gandhi shows how deep rooted this enmity is.

The Scheduled Castes Federation is firmly of opinion that to remove the cause of this enmity is to give the lower classes the higher education and to open to them the door of services is the only solution of this problem. The artificial distinction between higher classes and lower classes based on birth must come to an end soon. But it cannot come to an end except by raising the lower classes to the level of the higher classes in the matter of education.

B. The Problem of Poverty

8 (7) The economic condition of India has been described by the Planning Commission in very realistic terms. It says :-

(i) The population of the Indian Union (excluding Jammu and Kasmir) has increased from 235.5 million in 1901 to 356.9 million in 1951—an increase of about 52 per cent over the half-century. The rate of increase for the first two decades was relatively low, but it has risen since then. Between 1921 and 1931, the increase was 11 per cent; for 1931-41, it was 14.3 per cent; and, for 1941-51, it was 13.4 per cent.

(ii) There has been very little change in the occupational structure, despite considerable development of industries. In 1911, about 71 per cent of the working population was engaged in agriculture. For 1948, the National Income Committee puts this figure at about 68.2 per cent. Agriculture affords employment for only a part of the year, so that a large proportion of the workers engaged in this occupation are more or less idle for the rest of the year. There is thus a great deal chronic underemployment in the country.

(iii) Sown area per person has shown a steady tendency to decline. For British India, sown area per person went down from 0.88 acre in 1911-12 to 0.72 acre in 1941-42. For 1948, i.e., after partition, the estimated sown area per person in the Indian Union works out at 0.71 acre. Evidence as to the trend of yields per acre is not

conclusive. From some of the published figures available, it would appear that in respect of certain food crops, at any rate, the trend has been downward. It is difficult to assess the over-all trend of productivity in agriculture, but the broad picture that emerges suggests conditions of stagnation in this respect.

8. The Problem of poverty is thus a double edged problem. From one point of view it is a problem of more production both in Agriculture and in Industry. From another point of view, it is a problem of controlling the excessive growth of population. Both sides are equally important. The Scheduled Castes Federation proposes to fight the battle against poverty on both the fronts.

9. For the purpose of reducing population, it would advocate an intensive propaganda in favour of birth-control among the people. It will advocate the opening of birth control clinics in different parts of the country. It regards the growing rate in the increase of population in the country so grave an evil that it would not hesitate to advocate more drastic methods of controlling it.

10. For the purpose of increasing production, the Scheduled Castes Federation will not be bound by any dogma or any pattern. The Pattern of industrial enterprise will be a matter regulated by the needs of the time and circumstances. Where national undertaking of an industry is possible and essential, the Scheduled Castes Federation will support national undertaking. Where private enterprise is possible and national undertaking not essential, private enterprise will be allowed. Looking at the intense poverty of the people of this country no other consideration except that of greater production and still greater production can be the primary and paramount condition. A pre-conceived pattern of industry cannot be the primary or paramount consideration. The remedy against poverty is more production and not the pattern of production. Once reservation, the Scheduled Castes Federation must however make. Any scheme of production must in the view of the Scheduled Castes Federation remain subject to one overriding consideration namely that there should be no exploitation of the working classes.

11. While the rapid industrialisation of the country is very essential in the opinion of the Federation agriculture is bound to remain the foundation of India's economy. Any scheme of increased production which does not take into account the re-construction of Indian agriculture is doomed to disappointment.

12. The Federation holds that for increased production in agriculture the following plan must be adopted :—

(i) Agriculture must be mechanised. Agriculture in India can never become prosperous so long as the method of cultivation remains primitive.

(ii) To make mechanised farming possible, cultivation on small holdings must be replaced by large farms.

(iii) To increase the yield, there must be provision for adequate manuring and for the supply of healthy seeds.

13. It is not possible for the average agriculturist to adopt this plan and work upon it. He has no means to bear the cost involved in the plan. The Scheduled Castes Federation believes that the plan should be put into effect by the State. The first item in this plan should be the responsibility of the State. The State should supply all the mechanized equipment to the farmer on hire and at a rental to be recovered along with the land revenue.

14. With numerous small holdings, the problem of creating large scale farms becomes very difficult. But the problem must be solved either by introducing Co-operative farms or collective farms.

15. Although India is an agricultural country, there are a vast number of people who are just landless labourers, who are ekeing out a miserable living and who are exploited by cultivators and majority of whom are Untouchables and other backward classes. There is no need why this body of landless labourers should be left to their fate resulting in their misery

and in the poverty of the country. This is all the more regretable because the situation is not beyond remedy. In this connection the following figures relating to available land in India are very instructive :

Total Geographical area	811	million acres.
Total area under agriculture	577	million acres
Total area under forest	84	million acres
Cultivable waste	93	million acres
Uncultivable waste	93	million acres
Current fallow	62	million acres
Net land under agriculture	244	million acres

From these figures it is quite clear that there are 93 million acres of land which is cultivable waste and which can be brought under cultivation. Surely, it cannot be beyond modern science to reclaim this vast amount of cultivable waste land and make it available for cultivation. The Scheduled Castes Federation will take up this question.

16. The prosperity of the agriculturist must depend upon the maintenance of forest belts spread over the country. Without forests belts proper degree of rainfall will not be assured and agriculture in India will continue to be the gamble in rain as it has always been in the past. The Federation would urge for more and more afforestation of the uncultivable waste land.

17. Agriculture in the narrow sense of the term can never be a profitable persuit. It must be supplemented by subsidiary industries which are called cottage industries. But no cottage industry worth the name will be possible without an adequate supply of electricity. Generation of electricity is in the opinion of the Scheduled Castes Federation the foundation of economic prosperity of India and the Scheduled Castes Federation will strive for the realization of the river valley projects, the purpose of which is to produce irrigation, to produce electricity and to stop floods.

18. Just as land has been neglected so also landless labourers have been neglected. The Federation will reserve land out of uncultivated land or reclaimed land for the

benefit of landless labourers and will also introduce for them the principle of minimum wages.

II. New Problems

19. So far the manifesto has dealt with the way the Scheduled Castes Federation proposes to deal with the old problems which the British left as a legacy to India. Since Independence, new problems have come up. They fall into two divisions–

(A) Problems of Internal Administration, and

(B) Problems of Foreign Relations

A-Problems of Internal Administration

20. Among the problems of Internal Administration the glaring ones are :–

(i) The Problem of Linguistic Provinces;

(ii) The Problem of restoring purity of Administration ;

(iii) The Problem of Control and Black-marketeers;

(iv) The Problem of Inflation and the distress due to rising cost of living.

21. The Problem of Linguistic Provinces is most urgent. The quarrels within linguistic units in the States of Madras, Madhya Pradesh and Bombay have made it impossible for democracy to work. There must be social peace among various linguistic units if our constitution is to work on purely political considerations. For that purpose Linguistic States is the only remedy. The Federation will press for the creation of Linguistic States.

22. . The Scheduled Castes Federation believes that corruption in administration is wholly the creation of the Congress. The Congress imply does not believe in punishing the corrupt. Charges have been made by members of the Congress itself against congress ministers of corruption and graft not in one State but in many states. The Congress High Command did not even think it necessary to make inquiries. Instead of making inquiries into these charges

and punishing the guilty Ministers the Congress High Command has suppressed those who have made such charges thereby openly protected the corrupt and the dishonest. When Ministers at the top are corrupt how could officers below fail to be corrupt ? The Federation will urge stern action against ministers or officers who are corrupt and raise the standard of administration which has fallen so low during and owing to the Congress regime.

23. The problem of control and Black-marketeers is also the result of the close association between the Congress and Big Business. The Congress throughout its life has been financed by Big Business and is reared upon the support of Big Business. From what has recently been revealed to be happening in the State of U. P. this association between the Congress and Big Business bids fair to continue. Congress is prepared to sell Big Business power in exchange for election fund and Big Business is ready to buy power by giving money to Congress to run its election. Much of the remedy lies in the hand of the Voter himself. If he realizes that he must not support a candidate who is backed by Big Business he will greatly help to solve the problem. The Federation which is miles away from Big Business will see to it that the Big Business does not run the Government of country.

24. The problem of inflation seems to have come to stay. It is allowed to despoil the life of the people. It has never been given the consideration it deserves. The Federation will press for its immediate solution.

B- Problems of Foreign Policy

25. It is a fact that on the date of India's Independence all nations were the friends of India and wished her well. Today the situation is just the reverse. India has no friends. All nations are her adversaries, if not actual enemies. This ghastly change in the situation is the result of the Foreign Policy of the Congress Government. This change of front by foreign nations towards India within the last three years is due to India's policy regarding Kashmir, regarding the admission of Communist China in the United Nations Organisation and in regard to the Korean War.

26. On the Kashmir issue, the policy adopted by the Congress Government is not acceptable to the Scheduled Castes Federation. This policy if continued will lead to a perpetual enmity betwen India and Pakistan, and the possibility of war between the two countries. The Scheduled Castes Federation believes that it is essential for the good of both countries that they should be good and friendly neighbours. For this purpose the proper policy to adopt towards Pakistan should be based upon two considerations. (1) There should be no talk about the annulment of the partition of India. Partition should be accepted as a settled fact not to be reopened and that the two countries to continue as two separate sovereign States. (2) That, Kashmir to be partitioned– the Muslim area to go to Pakistan (subject to the wishes of the Kashmiries living in the Valley) and the non-Muslim area consisting of Jammu and Ladhak to come to India.

27. This policy has the best chance of producing friendly relations between the two countries, and the Scheduled Castes Federation will press for its acceptance.

28. The other centre of our foreign policy which has made other nations our enemies is China. India is made to fight her battle for entry in the United Nations Organisation as a permanent member thereof. This is an extraordinary thing. Why should India fight the battle of China when China is quite capable of fighting her own battle? This championing of the cause of Communist China by India has been responsible for the prevailing antagonism between India and America with the result that it has become impossible for India to obtain financial and technical aid from America.

29. We refused Dominion Status. We became an Independent Country. Subsequently we agreed to remain in the British Commonwealth– and yet out relations with the other countries is not at friendly.

30. In our foreign policy we have not been able to make a distinction beetween Capitalism and Parliamentary Democracy. The dislike of Capitalism is understandable. But we take care that

we do not weaken Parliamentary Democracy and help Dictatorship to grow. It would be like throwing the baby out of the bath but in emptying it of dirty water.

31. India's first duty should be to herself. Instead of fighting to make Communist China a permanent member of the U. N. O. India should fight for getting herself recognised as the permanent member of the U. N. O. Instead of doing this, India is spending herself in fighting the battle of Mao as against Chaingkai Shek. This quixotic policy of saving the world is going to bring about the ruination of India and the sooner this suicidal foreign policy is reversed the better for India. Before championing the cause of Asiatic countries, India must strive every nerve, must seek every aid to make herself strong. Then only will her voice be effective. This will be the line of Foreign Policy that the Scheduled Castes Federation will pursue.

III. Question of Resources :

33. Programme is not a mere matter of words or ideas. If it is to be put into action, it is necessary to find the necessary finance. Nobody will take a Party's programme seriously unless and until the Party is able to show how it is going to foot the bill.

34. Although the amount required for the programme set out by the Federation is by no means small, the financial problem is not unmanagable. The Scheduled Castes Federation suggests the following ways of raising finances for the development of the country :-

(i) Reduction of Expenditure over the Army.

(ii) Re-levy of the Salt tax.

(iii) Abolition of prohibition and the saving of Excise Revenue,

(iv) Nationalisation of Insurance.

35. The total revenues of the Government of India are about Rs. 350 crores out of this the Army is eating up more than 50 per cent of the Revenues or nearly Rs. 180 crores per annum. This is a colossal expenditure on defence in a country where people are dying of starvation. On the basis of the settlement of the Kashmir issue in the way suggested in the Manifesto and the change in the

foreign policy and creation of friendly relations with other foreign nations, there should be no risk in reducing the defence expenditure by Rs. 50 crores per year.

36. There is no reason why the levy of the Salt tax should not be resumed. The giving up of the levy of the Salt tax was a concession to mere sentiment. It has not made Salt cheap. Instead salt has become very dear. The only thing that has happened is that the State has lost a valuable source of revenue which used to produce Rs. 11 crores of revenue per year and which has seriously handicapped the State in advancing the development of the country. The incident of the tax on the people will be nothing even if it is levied at a rate which will produce Rs. 30 crores per year.

37. Prohibition is sheer madness. Its progress must not only be arrested but it must be immediately abolished. It has produced more evils than those it was intended to stop. Manufacture of liquor has become a cottage industry. Formerly only men drank liquor. Now women and children also drink because liquor is manufactured in every home in the presence of women and children. It has produced more crime and worst soil of demoralisation of the lower classes.

38. From the point of view of conserving the resources of the State it is a huge waste. The excise revenue of Part 'A' States in 1945-46 was Rs. 51.67 crores. In 1950-51, it was 25.23 crores. The Budget estimates for 1951-52 is 24.95 crores. The figures for 1945-46 includes the prepartitioned Punjab and Bengal. Nevertheless, broadly the statement can be made that the loss on account of prohibition in part 'A' States is of the order of Rs. 25 crores a year. This does not, however, take into account the possible rise in excise revenue that might have taken place in the absence of prohibition.

39. For Bombay, excise revenue in 1946-47 was Rs. 9.74 crores. In 1950-51, it was 1.20 crores and the budget estimates for 1951-52 is 1.05 crores. The loss in excise revenue thus works out of about Rs. 8.7 crores a year.

40. The excise revenue in Madras was Rs. 16.80 crores in 1945-46. It declined to .50 crores in 1950-51. For 1951-52 the budget estimate is .36 crores. The loss in excise revenue in consequence of prohibition thus works out at Rs. 16 crores.

41. In the U. P. excise revenue in 1947-48 was Rs. 7.06 crores. For 1950-51, it was Rs. 5.93 crores and the budget estimate for 1951-52 is Rs. 5.84 crores. The loss thus works out at Rs. 1.2 crores.

42. The excise revenue in Madhya Pradesh, Punjab and Bengal also shows some fall.

43. The loss in excise revenue for Bombay and Madras alone works out at almost Rs. 25 crores which is also the approximate decline in the excise revenue in part 'A' States taken together.

44. These figures are incomplete. They do not contain any data for part 'B' States. For they are not available. They also do not contain any data if the expenditure on enforcement in consequence of the adoption of the policy of prohibition.

45. From the point of equity, there is no justification for prohibition. The cost of prohibition is borne by the general public. Why should the general public be made to pay the cost of reforming a lakh or two of habitual drunkards who could never be reformed ? Why should the general public be made to pay the cost of prohibition when the other wants of the public such as eduction, housing and health are crying for remedy? Why not use the money for development plans? Who has greater priority, the Drunkard or the Hungry ? There are pertinent questions to which there is no answer except arrogance and obstinacy. Whatever happens, the policy of prohibition must be reversed and this colossal waste of public money should be put a stop to and the resources utilised for advancing general welfare.

46. As regards nationalization of Insurance it is the most profitable source of money as the following figures show :–

Total number of Insurers registered in 1950 under the Insurance Act	339
Total number of Life Insurance Policies effected in 1949	33,03,000
Sum Insured	7,39,49,00,000
Annual Income by way of Premium	37,18,00,000
Total Invested in Government Securities as required	8,64,16,000
Expenses of Management	29.2 per cent of the premium income.

47. From these figures it will be seen that the total money in the hands of the Life Insurance Companies per annum is 37 crores. Unlike Bank deposits they are not demand deposits. Not being demand deposits they can be easily invested in long term development projects. It is true that Insurance Companies invest their monies in Government Securities so that it may be said that in the last resort it is the Government which gets the Insurane money. But this is no answer to nationalization of Insurance. For the amount invested in Government Securities is very small, 9 crores out of 37 crores. Secondly, Government has to pay interest on these securities which is a needless burden on the tax-payer. Thirdly, Insurance Companies eat up annually 29 p.c. of the income from premium which came to 11 crores out of 37 crores for the year 1949. This is intolerable waste of money. All this could be stopped by nationalization.

48. The Scheduled Castes Federation will not only press for nationalization of Insurance ; it will make Insurance compulsory for all State and Private Employees. Compulsory Insurance will give security to the individual and funds for the Government for further development.

49. To sum up under the scheme set out by the Federation the available resources for the development of the country will come to-

(1)	From the Army Budget	..	Rs. 50 crores
(2)	From the Salt Revenue	..	Rs. 30 crores
(3)	From Excise	..	Rs. 25 crores
(4)	From Life Insurance	]	Figures not available.
(5)	From compulsory Insurance of State and Private Employees	]	

50. The sources indicated can be depended upon to provide enough funds for the development of the country.

IV. Co-operation between Scheduled Castes Federation and other Political Parties

51. Mere Organization does not make a party. A party means a body of people who are bound by principles. Without principles a party cannot function as a party for in the absence of principles there is nothing to hold the members of it together. A party without principles is only a caravanserai. The Scheduled Castes Federation will not, therefore, ally itself with a Political Party which has not laid down its principles and whose constitution does not demand a pledge from its members to stand by those principles and whose principles are not in antogonism with these of the Federation.

52. It is not enough to have political ideals. What is necessary is the victory of ideals. But the victory of ideals can be ensured only by organized parties and not by individuals. For these reasons the Federation will not support independent candidates who belong to no party except in exceptional cases.

53. Secondly, the Scheduled Castes Federation would like to work in co-operation with the Backward Classes and the Scheduled Tribes. For they are more or less in the same position as the Scheduled Castes. These classes unfortunately have not developed that degree of political consciousness which the Scheduled Castes have by reason of political and social activity of the Scheduled Castes Federation during the last twenty years. The Constitution of Free India has made the Backward Classes, the Scheduled Tribes and the Scheduled Castes virtually the masters of the country.

Hitherto the minority of Caste Hindus have made themselves the rulers of the country. The fear of the Scheduled Castes Federation is that the Backward Classes and the Scheduled Tribes by reason of their want of consciousness may fall a prey to the minority of Caste Hindus and continue to be their slaves instead of becoming masters of their own. The Scheduled Castes Federation's first concern is to help these Classes to get on their feet. If they so wish, the Scheduled Castes Federation would be prepared to change the name and call itself the Backward Classes Federation so as to include both sections in a common organization. If this is not possible, the Scheduled Castes Federation would be ready and willing to forge a working alliance with such organizations.

54. As regards other Political Parties, the Scheduled Castes Federation's attitude can be easily defined. The Scheduled Castes Federation will not have any alliance with any reactionary Party such as the Hindu Mahasabha or the R. S. S.

55. The Scheduled Castes Federation will not have any alliance with a Party like the Communist Party the objects of which are to destroy individual freedom and Parliamentary Democracy and substitute in its place a dictatorship.

56. The Scheduled Castes Federation does not believe in totalitarianism and, therefore, will not join a political party which is already totalitarian and which will not permit an opposition party to grow.

57. The Scheduled Castes Federation is equally opposed to the growth of multiplicity of Political Parties. The ideal of the Scheduled Castes Federation is to have two parties. That alone can give stability to the State and Freedom to the individual. The Federation will strive to bring about a two party system in this country. Such an ideal, however, does not seem to be realizable within the short time available from now and the coming general election. For the moment what is possible is to form an All India Party consisting not of individual members but of different political parties as units all having a common basis in Political principles and bound by common

descipline but each having its own autonomy in the matter of its internal organization and the setting up of candidates on some agreed basis and reciprocal obligation to support one another's candidate subject to a committee of approval. In short, the Party should be some what on the lines of the British Labour Party which is a Federal Party.

58. The Scheduled Castes Federation is prepared to be a unit of such a Federal Party if Parties such as the K.M.P. Party, the Socialist Party, the Justice Party and where no such Parties exist other Parties on the following terms and conditions :

(i) Every Party to such an alliance must have its principles set out in clear terms;

(ii) The principles of such a Party should not be opposed to the principles of the Scheduled Castes Federation;

(iii) The Party seeking alliance must pledge its support for the social and economic uplift of the Scheduled Castes;

(iv) The Party must agree to permit the Scheduled Castes Federation to function as an autonomous unit within the Federal Organization in the matter of its internal affairs; and

(v) The Party must not be affiliated to any Party which is not recognized by Federal Party as a unit of its own.

59. With regard to individuals who seek the aid of the Scheduled Castes Federation in Election they would be required to become Associate Members of the Federation and sign a pledge to the effect that they accept the principles, the policy, the programme and the descipline of the Federation.

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RESIGNATION NOT DUE TO ILLNESS

Dr. Ambedkar's statement, New Delhi, October 12,1951.

Dr. B. R. Ambedkar said here to-day that he had not resigned on grounds of illness.

In a Statement he said that in his letter of August 10 last, to the Prime Minister, he had referred to his illness but had not mentioned it as a ground for his resignation. He had mentioned it is a ground for getting higher priority for the Hindu Code. In their letter of resigntion of September 27 last, he had not mentioned illness as a ground for his resignation.

"How anybody can spell out from those two letters that I resigned because of my health, I am unable to understand. I knew that attempts were being made to give such an impression, that is why I wanted to make a statement in the House so that nobody should be under any false impression."

The former Law Minister expressed surprise over the question about his statement in Parliament on his resignation having been raised against at 6 p. m. yesterday. After reading the press reports of what had happened in the House in his absence, he found that some confusion had been created in the minds of the members by what was said by the Prime Minister and the Deputy Speaker.

"Unfortunately," Dr. Ambedkar said, "the Prime Minister did not inform me that he was going to raise the question in the evening at six O' clock. If he had told me of his intention to do so, I would have certainly been present in the House to hear what he had to say, and offer my explanation there. But I received no such intimation from him and consequently was not present in the House.

"I, therefore, think it necessary to clarify the position. I have not been able to understand what exactly the Prime Minister wanted to gain by reading the correspondence between him and me. I can only guess. If the impression which the Prime Minister seems to be desirous of creating by reading the correspondence was that the ground for my resignation was my illness, it is not difficult to dispel that conclusion."

Propriety of Reading out Dr. Ambedkar's letters

Mr. Kamath's Query in Parliament,

New Delhi, October 12 : The propriety of the Prime Minister's reading out to Parliament last evening the letters exchanged between Dr. Ambedkar and himself, without taking the permission of the former and without informing him, has raised in Parliament this morning by Mr. H. V. Kamath.

Soon after Dr. Ambedkar had taken his seat in the front bench amidst cheers. Mr. Kamath raised this question and asked whether Dr. Ambedkar would be permitted to make a statement commenting on the correspondence. The Deputy Speaker said that every member should speak for himself. He pointed out that he had fixed 6 p. m. last evening as the time Dr. Ambedkar to make the statement. At that time Dr. Ambedkar was not in his seat and the Prime Minister wanted to read out certain relevant papers and permission was given. No particular notice need be given to any member.

Clarifying his position, Dr. Ambedkar said that when he left the Chamber in the morning, he was quite sure that he had left the impression on the House and the Chair that he was not prepared to make a statement at 6 p.m. He was not saying that he felt injured by the Prime Minister's reading out the correspondence at 6 p.m. "knowing fully well that I had stated clearly in the morning that I was not going to obey your observations and make the statement at 6 p.m."

Dr. Ambedkar added :—

"Whether it was justifiable for the Prime Minister to have read out the letters or not is a matter I leave to the Prime Minister and yourself, because I have other channels open to me for correcting wrong impressions".

Closing the incident the Deputy Speaker said. It is always open to a member to change his mind and make the statement especially when once I had fixed 6 p. m. as the time for the statement."[1]

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[1] : The Times of India, dated 11-10-1951, the dates '11' seems to be incorrect—Editors.

Reprinted: Khairmode, Vol. 10, Pp. 119-121.

48

ALLIANCES WITH OTHER PARTIES WHOSE OBJECTIVES ARE NOT OPPOSED TO THOSE OF FEDERATION

Patna, November 7, 1951. (PIT)

Dr. B.R. Ambedkar, Leader of the Scheduled Castes Federation, told the Press Trust of India in an interview today that his party would seek to fight the elections not only in alliance with the Socialist Party but any other party whose objectives did not run counter to those of the Federation.

Dr. B. R. Ambedkar had a talk with Mr. Jay Prakash Narayan, the Socialist leader, today for about an hour. The talks are believed to have centred round the question of an election alliance.

Dr. B. R. Ambedkar said that his party would not in any case align with the Communist Party "for the plain reason that I do not believe in Communism,"

Asked if he would prevent his party from aligning with the Communist Party simply because he was personally opposed to Communism, Dr. Ambedkar said : "I am not going to be a slave to my party so long as I and my party agree, we work together else we go our own way. I do not live on politics and I do not propose to live on politics."

Dr. B. R. Ambedkar added, however, that on the question of Communists there was no difference of opinion between him and his party.

More Time

Dr. Ambedkar said that he had along been opposed to the holding of the elections hastily. In his opinion at least one year's time should have been given to the people between the passing of the People's Representation Act and the actual holding of elections to enable them to prepare themselves.

If he had time he would have exerted himself for forming a single party opposed to the Congress on Unitary or Federal basis. The provincial branches of the Federation, Dr. Ambedkar said, had been left free to enter into election alliances with other parties whose objectives were not opposed to those of Federation.

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The Chronicle, dated 8th November 1951.

49

NO MAN SHOULD BE THE JUDGE IN HIS OWN CASE

New Delhi. December 10. 1951.

Dr. Ambedkar, former Law Minister of India, and the Chief Architect of the Constitution, today appeared in the Supreme Court, as a practising lawyer. He would be shortly arguing the petitions of some *Zamindars*.

Mr. P. R. Das, who was advancing his arguments almost thought today, at one stage made a reference to Dr. Ambedkar's presence in the Court. He told the Court that a particular phrase existed in the draft constitution but was later deleted at the instance of Dr. Ambedkar.

"Dr. Ambedkar" said Mr. Das, "is here. Your Lordship must call upon him to explain why those words were deleted". (Loud Laughter).—UPI."[1]

New Delhi, March 6.*

Dr. Ambedkar, continuing his arguments before the Supreme Court, on behalf of the Uttar Pradesh *zamindars,* said that the State should not be the judge in determining the amount of compensation to be paid to the *zamindars*.

Relying on American doctrines, Dr. Ambedkar said that according to jurisprudence no man should be the judge in his own case.

Dr. Ambedkar was challenging the Uttar Pradesh *zamindars* and Estate Abolition Act on behalf of some *zamindars* petitioners.

To a question from the Chief Justice as to what should be the remedy if State fixed the compensation, the counsel said that the Court should declare the compensation fixed by the State as arbitrary.

Dr. Ambedkar said that the question of fixing compensation should be referred to an independent body and not to the State itself who sought to acquire the private properties.

"The compensation fixed by the Uttar Pradesh Government was illusory and they would not get anything at all after the entire amount of debt was paid from the amount", he added—P.T.I."[2]

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[1] : The Free Press Journal, dated 11th December 1951.

[2] : The Free Press Journal, dated 5th March 1951,

*One of the date seems to be incorrect—Editors.

50

ELECTION PETITION

The 1st General Elections in India were declared in the year 1952. Dr. B. R. Ambedkar wanted alliance with like-minded political parties. In Maharashtra there was a talk for electoral alliance with the 'Peasants and Workers Party' and the Socialists. Mr. Jayaprakash Narayan and Mr. Ashok Mehta contacted Dr. Ambedkar through Acharya Donde, who met him at Delhi.

The alliance between Scheduled Castes Federation and Socialist Party took place and Dr. B. R. Ambedkar filed his candidature for the House of People from Bombay City North Constituency as a Reserved Candidate. The Election was held on 3rd January 1952.—Editors.

"BOMBAY RESULTS SHOCKING

Inquiry Urged

New Delhi, January, 5th, 1952.

Dr. Ambedkar, former Law Minister of the Government of India, who is contesting the reserved seat from Bombay north, to the House of the People, said today that the results of the elections in Bombay City, so far declared, came as a great surprise and shock to the citizens of Bombay.

In a statement issued today, Dr. Ambedkar said, the Congress show in the city was comparatively very poor. He claimed that the polling was heavily in favour of the Socialists and the Scheduled Castes Federation.

"How the overwhelming support of the public of Bombay could have been belied so grossly is really a matter for inquiry by the Elections Commissioner" he said.—P. T. I."[1]

"AMBEDKAR, MEHTA FILE ELECTION PETITION

New Delhi, April 24, 1952

Dr. B. R. Ambedkar, former Union Law Minister, and the Socialist leader, Mr. Ashok Mehta, have filed a joint election petition before the Chief Election Commissioner to set aside the election to the House of the People from the Bombay City North Parliamentary constituency, and declare it illegal.

[1] : The Time of India, dated 6th January 1952.

This double-member constituency was the seen of a strong contest in which eight candidates, including Mr. S. A. Dange, Communist leader, took part.

The Congress nominees, Mr. V. B. Gandhi, and Mr. N. S. Kajrolkar (Scheduled Caste) were elected in the contest.

The election petition enumerates a number of grounds on which, it wants the election to be declared void.—P. T. I."[1]

"**Dr. Ambedkar submitted his election petition on 21st April 1952 to the Election Commission.**

IN THE MATTER OF THE REPRESENTATION OF THE PEOPLE ACT, 1951

Election Petition under Section 81 to set aside the Election to the House of the People from the Bombay City North Constituency held on the 3rd day of January 1952.
Before the Election Commission,

NEW DELHI

(1) Bhimrao Ramji Ambedkar, aged 60 of Bombay Inhabitant residing at Rajgriha, Hindu Colony, Dadar, without the Fort of Bombay.

(2) Ashoka Ranjitram Mehta, aged 39 of Bombay Inhabitant residing at 3, Dadystth Street, near Babulnath Temple without the Fort of Bombay.

} Petitioners.

Vs.

(1) Shripad Amrit Dange aged 52 of Bombay Inhabitant residing at Shah Nivas, Muncipal House No. 3, Kohinoor Road, Dadar, without the Fort of Bombay.

[1]: The National Standard, dated 25th April 1952.

(2) Gopal Vinayak Deshmukh, aged 56 of Bombay Inhabitant residing at 39, Peddar Road without the Fort of Bombay.

(3) Vithal Balkrishna Gandhi, aged 55 of Bombay Inhabitant residing at 23, Dwarkadas street, Khatau Building, within the Fort of Bombay.

(4) Keshav Balkrishna Joshi, aged 49 of Bombay Inhabitant residing at P. 165, Shivaji Park, Road No. 6. Mahim, without the Fort of Bombay.

(5) Narayan Sadoba Kajrolkar, aged 56 of Bombay Inhabitant residing at 187 Suparibaug Road, Parel, without the Fort of Bombay.

(6) Nilkanath Baburao Paruiekar, aged 57 of Bombay Inhabitant residing at 157, Princess Street, without the Fort of Bombay.

(7) Dattatray Ramchandra Gharpure, aged 62 of Bombay Inhabitant residing at Topiwala Mansion, 386, Sandhurst Road, without the Fort of Bombay.

(8) Ramchandra Sadoba Kajrolkar, aged 42 of Bombay Inhabitant residing at 185, Suparibaug Road, Parel, without the Fort of Bombay.

(9) Shantaram Sawalram Mirajkar, aged 49 of Bombay Inhabitant residing at Abdul Kadar Chambers, Municipal House No. P.L, 180, St. Xavier's Street, Bhoiwada Police Station Area, without the Fort of Bombay.

Respondents.

To,

The Election Commission,

New Delhi.

THE HUMBLE PETITION OF THE PETITIONERS ABOVE NAMED RESPECTFULLY SHEWETH :

1. That the Petitioners were candidates for election to the House of the People from Bombay City North constituency at the Elections to the House of the People held on the 3rd January, 1952.

2. That the Petitioners' names were duly enrolled in the electoral roll and the Petitioners thus became eligible to stand as candidates from the said Constituency to the House of the People.

3. That the Petitioners duly filed their nomination papers as candidates from the Bombay City North Constituency. The Petitioners' nominations were duly accepted on 27th November, 1951. The Respondents 1 to 9 were the other candidates to the House of the People from the same Constituency as that of the Petitioners. The Respondent Nos. 7, 8 and 9 withdrew their candidature within the time allowed for such withdrawal.

4. That the said Bombay City North Constituency, as a plural member Constituency, has a right to elect two members to the House of the People. Out of the two seats to be filled in by Election in the said Constituency, one seat is general and the second one is reserved for the Scheduled Castes. Every voter in this Constituency has subject to the restriction prescribed in Section 63 (1) of the Act, two votes as there are two members to be elected; Section 63 (1) of the Representation of the People Act, 1951 (Act No. XLIII of 1951) expressly lays down that no elector shall give more than one vote to any one candidate.

5. That the election at the polling stations in the Bombay City North Constituency was held on the 3 rd January, 1952.

6. That the counting of votes polled by the various candidates commenced on the 7th January 1952 and the same was completed on the 11th January 1952.

7. That the result of the election of the said Parliamentary Constituency was declared by the Returning Officer on 11th January to be as follows :—

(i) That the Petitioners 1 and 2 polled respectively 1,23,576 and 1,39,741 votes;

(ii) That the Respondent Nos. 1,2, 3, 4, 5, and 6 polled 96,755; 40,786; 1,49,138; 15,195; 1,38,137 and 12,560 votes respectively;

(iii) That the Respondent No. 5 was elected to the reserved seat and the Respondent No. 3 was elected *to* the remaining seat from the said Constituency; and

(iv) That it was further declared by the Returning Officer that the total number of valid votes polled in the said Constituency was 7,15,888 and that the total number of invalid votes was 74,333;

8. That the Petitioners rely on the declaration of the result made by the Returning Officer, a copy whereof is hereto annexed and marked A.

9. That the result of the said election was published in the Gazette of India (Extra ordinary) Part-I Section I, dated 26th January 1952, at page 130. The respective returns of election expenses have been duly lodged with the Returning Officer under Rule 112 of the Representation of the People (Conduct of Election and Election Petitions) Rules, 1951, by the Petitioner No. 1 on 10th March 1952 and by the Petitioner No. 2 on 7th March 1952.

10. The Petitioners say that the Returning Officer has declared at the counting of the votes that the candidates who contested the election had obtained several double votes which the Returning Officer had to cancel as being null and void. The Petitioners say that

as a result of the inspection it was found that such invalid votes found in the ballot boxes of the Petitioner Nos. 1 and 2 and of the Respondent Nos. 1, 2, 3,4, 5 and 6 and cancelled as being double votes, are as shown below :—

Petitioner	No. 1	--	2,921
Petitioner	No. 2	--	5,597
Respondent	No. 1	--	39,165
Respondent	No. 2	--	6,634
Respondent	No. 3	--	10,881
Respondent	No. 4	--	1,168
Respondent	No. 5	--	6,892
Respondent	No. 6	--	1,025
	Total	--	74,333

The Petitioners will rely on the records in proof of this statement.

The Petitioners submit that in the aggregate 74,333 ballot papers had been rejected and not counted at all as being void by the Returning Officer for the aforesaid reason.

11. The Petitioners submit that at several polling stations of the aforesaid Constituency the voters to whom double voting papers were issued, did not, in thousands of cases, distribute the same as required by Section 63 (1) of the said Act, and their failure to comply with the provisions of Section 63 (1) of the said Act resulted in the said ballot papers being declared to be void and wholly worthless in respect of the election held in the said Constituency.

12. The Petitioners say that the aforesaid large number of double votes being void votes, has been the result of corrupt practice of undue influence on the part of the Respondent Nos. 1 and 2 within the meaning of Section 123 (2) of the Representation of People Act, 1951, at the election as set out below and that the said corrupt practice has vitiated the entire election and has rendered the same void.

13. The Petitioners say that the Respondent Nos. 1 and 2 during their election campaign carried on a fierce, virulent and malicious propaganda by leaflets, handbills and press statements and by speeches at public meetings held in the constituency and induced and illegally exhorted the voters to cast both their votes in favour of each of them in direct contravention of the provisions of Section 63 (1) of the Act. The Petitioners say that due to the aforesaid propaganda carried on by the Respondent Nos. 1 and 2. amongst the voters in the Constituency, the electors were falsely induced to give more than one votes to the same candidate by placing both the ballot papers issued to them in the same ballot box and thereby contravening the said section of the said Act and defeating the purpose and policy underlying it.

14. (i) In a printed Marathi pamphlet addressed to and distributed amongst the voters in the said Bombay City North Constituency at the instance of the Respondent No. 1 or his agents and/or supporters, the Respondent No. 1 was described as the most capable leader of all, to lead the People's Front in the House of the People. The voters were exhorted therefore, to cast both their votes in favour of the said Respondent No. 1 avoiding to tell the voters whether voting in the manner suggested would benefit Respondent No. 1. A copy of the English translation of the relevant portion of the said handbill is annexed hereto the marked B.

(ii) A Marathi weekly paper entitled 'Yugantar' printed at Bombay gave instructions to the Bombay voters in its issue dated 29th December 1951 at page 4, columns 1, 2 and 3 whereby the voters receiving two ballot papers were, *inter alia,* falsely instructed and exhorted to drop both the ballot papers in the box with picture of the Engine pasted on it i.e. into the ballot box of the Respondent No. 1 again avoiding to tell the voters whether voting in the manner suggested would benefit Respondent No. 1. The Yugantar is an organ of the Communist Party of which the Respondent No. 1 was a nominee for the Parliamentary seal. A copy of the English translation of the said instructions is annexed hereto and marked C.

(iii) Similarly in leaflet in Marathi issued over the signature of the Respondent No. 1 described as the United Front of the Leftist

candidate for the House of the People from the said Bombay City North Constituency. It was stated, *inter alia,* that if the voters wanted their candidate to be elected they should cast both their votes for the Respondent No. 1. The Respondent No. 1 stated further that the waste of one of the two votes did not in any way violate democracy because according to the Respondent No. 1 giving of a vote by the non-Scheduled Castes voters to a candidate for the seat reserved for the Scheduled Castes is itself against the interests of democracy of the Scheduled Caste voters. Then referring particularly to the Petitioner No. 1 the Respondent No. 1 stated in the said pamphlet that as the Petitioner No. 1 as a Scheduled Caste candidate, was according to the Respondent- entitled to contest both the seats, it was desirable that the Respondent No. 1 must take both the votes for himself and that all those who wanted to make United Front of Leftist nomination successful, should give both their votes to the 'Engine' (the symbol of the Party on whose ticket the Respondent No. 1 stood for election). A copy of the English translation of the said leaflet is annexed hereto and marked D.

15. In a press statement published by the Respondent No. 2 in the Marathi Weekly in Bombay entitled Vividh Vritta, in its issue of the 30th December 1951 under the caption, '*Bombay City North Constituency Parliamentary Election Trap', 'Warning to the Voters'* the Respondent No. 2 warned the voters in this Constituency, where a reserved seat for the Scheduled Castes is provided, that a virtual trap to enable the two Scheduled Castes candidates to capture both the seats had been laid by the Petitioner No. 1, who beings to the Scheculed Castes. The Respondent No. 2 further stated in the said statement that in order to escape the trap, the voter should cast his votes as he himself wanted to without paying any heed to any party or pact and completely disregarding, what he conveys, "the influence of self seeking leaders." He still further added that "that alone would be his duty", meaning thereby that the voters should cast both their votes to a candidate other than the Petitioner No. 1 if they wanted to avoid the Petitioner No. 1, who belonged to Scheduled Caste being elected with the Respondent No. 5 who also belonged to the Scheduled Castes, and thereby the Scheduled Castes candidates carrying both the seats and

the non-Scheduled Castes community going unrepresented. An English translation of the said statement issued by and on behalf of the Respondent No. 2 is hereto annexed and marked E.

16. Then again the said Marathi Weekly, the Vividha Vritta, sponsoring the cause of the Respondent No. 2, published a statement under the caption *'Ruse in Voting',* in its issue dated 30th December 1951 at page 1 column 5 wherein it is stated, *inter alia,* that both the votes can be dropped in the box of a Caste Hindu candidate and that voting in this manner is in no way illegal. It is further stated that voters have complete freedom to cast both their votes for one candidate alone. An English translation of statement referred to in this para is hereto annexed and marked F.

17. The Petitioners say that the Respondent Nos. 1 and 2 in view of what is contained in the foregoing parts 13,14,15,16 of this Petition not only misled the voters but also played upon the communal feeling of the Caste Hindu voters; the Respondent No. 2 particularly raising the communal feeling of the Caste Hindu voters by creating a fear complex in them that their interest would be in jeopardy if they distributed their votes as required by law.

18. The Petitioners say that the Respondent Nos. 1 and 2 not only did create an alarm in the mind of the Caste Hindu voters in the said Bombay City North Constituency but failed to explain the provisions of Section 54 of the Act, which prescribes how the results of election are to be determined and declared.

19. In the aforesaid manner the Respondent Nos. 1 and 2 mispresented the law and misled the Caste Hindu voters into believing that in any and every circumstance it was probable for the Scheduled Castes candidates to get themselves elected to both the seats to the exclusion of Caste Hindu community candidates.

20. The Petitioners say that in the aforesaid manner the Respondent Nos. 1 and 2 practised deception on the Caste Hindu voters and willfully and fraudulently induced them cast both their votes in their favour.

21. The Petitioners submit that in view of what is stated in the foregoing paras, the Respondent Nos. 1 and 2 have by themselves their Agents and other persons acting for and on their behalf, exercised undue influence during their election campaign preceding the side election inasmuch as they actively interfered with the free exercise of the electoral right of the voters within the meaning of Section 123 (2) of the Act and that the election on that account has not been a free election within the meaning of Section 100 (i) (a) of the said Act.

22. The Petitioners further say that the Respondent Nos. 1 and 2 knew that they could not derive any benefit to themselves by their propaganda to appropriate both the votes to themselves. All the same they persisted in the said propaganda because they were actuated by the malicious motive to injure the prospects of the Petitioner Nos. 1 and 2.

23. The Petitioners submit that the large number of double votes cast by the voters in favour of the Respondent Nos. 1 and 2 as herein above stated in para 10 is evidence of the fact that the undue influence exerted by the Respondent Nos. 1 and 2 in the said Constituency has extensively prevailed at the Election.

24. The Petitioners therefore say that the election has not been a free election by reason of the corrupt practices of undue influence which extensively prevailed at the election, and that hence the said election should be declared wholly void.

25. That Petitioners have deposited Rs. 1,000 with the Reserve Bank of India in favour of the Secretary of the Election Commission as security for the costs of the Petition as required by Section 117 of the Representation of the Peoples Act, 1951. The original receipt showing that the said amount has been deposited in hereto annexed and marked G.

26. That this Petition is accompanied by a list of the particulars of the corrupt practices committed by the Respondent Nos. 1 and 2 signed and verified as required by Section 83 (2) of the Representation of the People Act, 1951 and is hereto annexed and marked H.

27. That this Petition is being presented within the time allowed under Rule 119 (b) of the Representation of the People (Conduct of Election and Election Petitions) Rules, 1951, 11th March 1952 being the date on which the time for lodging of the return of expenses under sub-rule (1) of Rule 112 of the said Rules expired.

28. The Petitioner No. 2 craves leave to submit any other Petition on grounds other than those advanced in this Petition.

Your Petitioner, therefore, pray :–

(a) that an Election Tribunal be appointed for the trial of the Petition;

(b) that the election to the House of the People from the Bombay City North Parliamentary Constituency held on 3rd January 1952 be declared wholly void;

(c) that the Petitioners' costs of this Petition be provided for; and

(d) that Petitioners may have such further and other reliefs as the nature of the case may require and for the purpose aforesaid all such orders may be passed and directions given including scrutiny of votes as may be deemed necessary and proper.

(Sd) B.R.Ambedkar

(Sd) Ashoka Mehta

(Petition drawn by)

(Mr. N. C. N. Acharya,

Advocate O. S.)

(Sd) Kothare & Co.

Attorneys for the

Petitioners.

We, (1) Bhimrao Ramji Ambedkar and (2) Ashoka Ranjitram Mehta of Bombay Inhabitants residing respectively at Rajgriha, Hindu Colony, Dadar, and 3, Aadyseth Street near Babulnath Temple without the Fort of Bombay do solemnly declare that what

is stated in paras 1 to 9 and 11 to 26 of the foregoing Petition is true to our own knowledge and that what is stated in para 10 is stated on information and belief and we believe the same to be true.

Solemnly declared by)
Bhimrao Ramji Ambedkar)
the Petitioner No. 1)
above named at Bombay)
aforesaid this 21st day)
of April 1952.)

(Sd.)B.R. Ambedkar

Before me
(Sd.) H. K. Patel
Presidency Magistrate,
XI Court, Kurla, Bombay
21-4-1952.

Seal

Solemnly declared by)
Ashoka Ranjitram Mehta)
the Petitioner No. 2)
above named at Bombay)
aforesaid this 21st day)
of April 1952.)

(Sd) Ashoka Mehta

Before me
(Sd.) H. K. Patel
Presidency Magistrate,
XI Court, Kurla, Bombay
21-4-1952."[1]

Seal

[1]: Khairmode, Vol. 10, Pp. 269-280.

Use of Agents at General Elections

Dr. Ambedkar's Plea.

"Anything which causes a disturbing effect on the minds of voters amounts to undue influence and interference. If a candidate carries on propaganda to frighten voters then he has caused interference and obviously disturbed the minds of voters. If he conceals an important point of law from the electorate he commits a fraud on voters or brings about undue influence on them. And to tell voters to act contrary to the electoral law is corrupt practice.

There were some of the points of law Dr. B. R. Ambedkar submitted to the Election Tribunal, composed of Mr. N. J. Wadia, Chairman, Mr. M. K. Lalkaka, and Mr. G. P. Murdeshwar at the resumed hearing of his petition and that of the Socialist Leader, Mr. Ashoka Mehta, complaining of malpractices at the last General Elections from the Bombay City North Constituency, on Friday.

Dr. Ambedkar, who appeared in person, argued at length on the question of agency at elections and touched on propaganda some of the candidates had made through newspapers and pamphlets and went on to prove that those publications had amounted to undue influence with particular reference to Section 123 (2) of the Representation of the People's Act.

UNDUE INTERFERENCE

He pointed out the difference between the English and the Indian law and said that the former particularised undue interference while the latter only used the word in a general sense.

He referred to the statements published by and on behalf of Mr. S. A. Dange, the Communist candidate, and Dr. G. V. Deshmukh, the Independent candidate, and said that by asking voters to cast both their votes in favour of one candidate they had caused undue influence on them. One of the four witnesses previously examined had admitted that Mr. Dange knew that the Left United Front which supported his candidature to Parliamentary seat, had issued leaflets, but at no stage had he intervened and asked the Front to stop the issuing of the leaflets, he said.

The petitioner contended that Mr. Dange was responsible for his agents' doings. The *Ugantar,* a Marathi weekly, had in an

hesitant manner admitted that it was an organ of the Communist Party and that the two members of the Front in their evidence had also admitted that they had made propaganda to support the candidature of Mr. Dange. On the basis of the submission, he said, there could be no doubt that they were Mr. Dange's agents.

Dr. Ambedkar tried to trace the relationship between *Vividh Vritta,* a Sunday Marathi weekly, and Dr. Deshpande (Deshmukh), and said that the statement the respondent had published in the paper was not to enlighten voters. In fact, it was given to that particular newspaper and to no other and this, in his contention, proved that there was a link between the paper and the respondent.

..... At this stage, Dr. Deshmukh stood up and requested the tribunal that Dr. Ambedkar might be asked to address his question. "I am not asking you any question. In fact, you have raised them and I am only trying to answer them," was Dr. Ambedkar's reply which caused laughter in the Court room.

Earlier Mr. K. V. Chitre, Registrar of Siddharth College and an agent of Dr. Ambedkar gave evidence.

The hearing will be continued on Monday."

(The Times of India, 4-10-1952)[1]

"PROPAGANDA FOR WASTAGE OF VOTES IS ILLEGAL"

Dr. Ambedkar's Plea In Election Dispute

It was a gross perversion of law to arouse communal feelings among the electorate by frightening it that it would go unrepresented if it distributed votes, declared Dr. B. R. Ambedkar, arguing his petition before the Election Tribunal, composed of Mr. N. J. Wadia, Chairman, Mr. M. D. Lalkaka and Mr. G. P. Murdeshwar, at the Small Causes Court, Bombay, on Monday.

He was referring to the communal propaganda that had been carried on in the Bombay City North Constituency by Dr. G. V. Deshmukh, who, he said, was the leader of the Independent Candidates' Group, comprising 17 candidates.

"I cannot find worse propaganda than this," said Dr. Ambedkar, and added "Because of the realisation of the psychology of Caste Hindus, who did not want Untouchables to occupy important posts

[1] Khairmode, Vol. 10, Pp. 298-299.

in the legislature, a special provision was made for Scheduled Castes in the Montague - Chelmsford Reforms. There is a similar provision in the Representation of the People's Act also."

..... The petitioner contended that Dr. Deshmukh has conceded the provisions of Section 54 of the Act from the electorate while the Communist candidate, Mr. S. A. Dange, by preaching the nullification of Section 63, had set the law at naught. He charged both the respondents with adopting corrupt practices and unduly influencing the voters.

DISPOSAL OF VOTES

Dr. Ambedkar submitted that the disposal of one of the two votes was not left to the wishes of voters or, for that matter, of candidates. The disposal of the second vote was regulated by Section 79 (d) which, he said, gave the electorate the option to vote or not to vote as voting was not compulsory in India. He raised the following points (1) A voter was free to exercise his electoral rights; (2) He could go to the polling booth and receive both his ballot papers and distribute them; (3) He could use one of them and return the other to the Presiding Officer; (4) To use one ballot paper and destroy the other was illegal and an offence according to Section 136(e) (f);(5)To cast one ballot paper in the ballot box and take the other with him would be illegal, according to Section 135, and (6) To insert both the ballot papers in one box was also illegal, according to Rule 25 (1) and a violation of the Act.

He stated that Section 100 clearly stated that "an election shall be set aside on the ground of corrupt practices extensively prevailing," and asked if the Tribunal did not consider the 74,333 votes wasted as the result of the perverse propaganda to be a large figure. "I lost my seat by 13,000 votes. I am not very presumptuous, but out of the 39,000 votes wasted by Mr. Dange, I would certainly have got a large number had it not been for the crucial propaganda of his and that of Dr. Deshmukh," he said.

"CHAPTER OF MISALLIANCE"

Mr. A. S. R. Chari, counsel for Mr. Dange, described the petitions of Dr. Ambedkar and Socialist leader, Mr. Ashoka Mehta, as the closing chapter of misalliance between the Socialists and the Scheduled Castes Federation. He said the petitioners' own witness

Mr. Bapurao Jagtap, had told the Tribunal that the Left United Front had requested the petitioners "with folded hands" to join the Left United Front, a request they had refused only because they overestimated their strength.

Mr. Chari said that there was no legal obligation on a voter to use both his votes as he could either vote or refrain from voting for a candidate in accordance with the clauses of Section 63 of the Act. His arguments were: That the persuasion to vote only one candidate, or not to vote for any one candidate, did not constitute interference with the free exercise of the will of the voters according to the definition of "undue influence." That any of the acts of Mr. Dange or any other candidate, did not come within the definition of "corrupt practice" as set out in the Representation of the People Act. That what Mr. Dange had done was only to persuade the voter and he had a right to do so. That the petitioners had filed their petitions only to provide a plausible excuse for their defeat before their supporters; and that the defeat of the petitioners in the last election was due to their arrogant refusal to join hands with the Left United Front which wanted to fight the Congress and the communal elements.

UNDUE INFLUENCE

Mr. T. R. Kapadia, counsel for V. B. Gandhi corroborating Mr. Chari's argument, said that the petitioners had failed to prove who had exerted undue influence on voters. He asked whether the respondents alone were guilty of that charge or whether the petitioners were also equally guilty of it.

Dr. Deshmukh, after obtaining consent "from -the Tribunal that he might be allowed to address it in place of his advocate, said that all parties were responsible for corrupt practices at the last elections. He admitted that the editor of "Vividh Vritta", a Marathi weekly, was not only his agent but also his intimate friend.

Hearing will be continued on Wednesday.

The respondents are Mr. S. A. Dange, Dr. G. V. Deshmukh, Dr. V. B. Gandhi, Mr. K. B. Joshi, Mr. N, S. Kajrolkar and Mr. N. B. Parulkar.

Mr. S. S. Kavalekar and Mr. Madhusudhan Vyas, instructed by Kothare and Company appeared for Mr. Ashoka Mehta; Mr. A. S. R. Chari and Mr. T. S. Hegde for Mr. Dange; Mr. Pandit for Dr. G. V. Deshmukh and Mr. T. R. Kapadia for Dr. Gandhi and Mr. Kajrolkar."[1]

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[1]: The Times of India : dated 7-10-1952
Reprinted Khairmode, Vol. 10, Pp. 300-302.

51

COMMUNISTS IN MAHARASHTRA

American Journalist Mr. Seling S. Harrison interviewed Dr. B. R. Ambedkar on 21st and 28th February and 9th October 1953 on the topic of weaknesses of the Communists State of Maharashtra. The interview is as follows: Editors.

Dr. B. R. Ambedkar, who organised Mahars as a political force, accounted similarly for Communist weakness in Maharashtra :

"The Communist Party was originally in the hands of some Brahmin boys—Dange and others. They have been trying to win over the Maratha community and the Scheduled Castes. But they have made no headway in Maharashtra. Why ? Because they are mostly a bunch of Brahmin boys. The Russians made a great mistake to entrust the Communist movement in India to them. Either the Russians didn't want Communism in India—they wanted only drummer boys —or they didn't understand"[1]

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[1] : Ambedkar on Communism in India — quoted in the book, India : The Most Dangerous Decades, by Seling S. Harrison. Pp.190-91.

Quoted : Khairmode, Vol. 11, P. 164.

52

STARVING PEOPLE ASK FOR BREAD

Hyderabad Government proposed to allot lands to Scheduled Caste people. Hon. Minister Andhra Pradesh Shri Bindu told this decision to Dr. B. R. Ambedkar at the time of his visit to Delhi. Dr. Ambedkar asked Hon. Bindu to send copy of that order as early as possible. Government of Hyderabad had taken back possession of the land which was allotted to Scheduled Castes. In protest of this the Scheduled Castes started. *Satyagraha*. 1700 people were arrested. Dr. Ambedkar wrote a strong letter to Hon. Bindu that the Government should handover the ownership of lands to the Scheduled Castes then only he will advise Scheduled Castes to withdraw the *Satyagraha*. The said letter is as follows : Editors.

26, Alipur Road, Delhi

Dated the 6th Nov. 1953.

Dear Mr. Bindu,

When we met in Delhi you promised to send me copies of the decision taken by the Hyderabad Government in regard to the grant of land to the Scheduled Castes. It is now more than a week but have not sent me the copies.

From the newspapers it appears that about 1700 men and women belonging to the Scheduled Castes in the Aurangabad district have been arrested and sent to jail for offering *Satyagraha* for the return of their lands which were granted to them and which were afterwards resumed.

I do not know what the intention of the Government is. Perhaps it is to prosecute them and send to jail. If this happens it would be a great tragedy. It cannot redound to the credit of the Government to prosecute starving people and send them to jail because they ask for bread. I think you ought to release them, the law having been vindicated.

If the orders that your cabinet has passed are satisfactory from our point of view I may intervene and ask the Scheduled Castes to drop the *Satyagraha*.

I shall be grateful for an early reply.

Yours Sincerely,

(Sd.) B. R. Ambedkar.

Shri Bindu,

Minister for Home Affairs,

Hyderabad State,

HYDERABAD"[1]

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[1] : Khairmode, Vol. 11, Pp. 67-68.

53

BUDDHIST SEMINARY TO BE STARTED IN BANGALORE

"Dr. B. R. Ambedkar, M. P., said in Bombay on Tuesday* that a *Buddhist* seminary would be started in Bangalore as a preliminary steps to spreading *Buddhism* in India.

Dr. Ambedkar, who has declared his intention to embrace *Buddhism* recently, said in an interview with P. T. I. that the *Rajpramukh* of Mysore had donated a five-acre plot which was situated in between the two well-known centres of learning, the *Raman* Institute and the Indian Institute of Science.

He said as a result of his two visits to Burma recently, all help—financial and technical—from the world *Buddhist* Mission and the *Buddha Sasana Council,* had been promised.

Dr. Ambedkar revealed that he had approached successfully for financial help to many people in the country and he would also shortly set out with the begging bowl for public contributions.

Training Preachers

With the money forthcoming, Dr. Ambedkar said, the seminary would be ready in about two year's time. The main object of this institution would be to train preachers for propagating *Buddhism* among the common folk, he said.

Dr. Ambedkar said that students would be admitted to the seminary without consideration of caste, creed or nationality and would undergo courses in comparative study of religions and other allied subjects. He believed that no one could uphold *Buddhism* truly without studying the other religions also scientifically.

Dr. Ambedkar said the seminary would also have a press where *Buddhist* literature would be printed. A group of eminent scholars from all over the world would be engaged in translating *Buddhist* texts in *Pali* and other languages into English and they would be published by the seminary, he said.

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*The 11th January 1955.

A large library with books on religion and philosophy would be another feature of the seminary. There would be also temples and classrooms and dormitories for students, teachers research scholars.

He also said that an essay competition, with prizes worth Rs. 10,000 would be announced shortly."[1]

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[1] : The Times of India, dated 12th January 1955.

54

BUDDHISM DISAPPEARED FROM INDIA DUE TO WAVERING ATTITUDE OF THE LAITY

Dr. B. R. Ambedkar, in his letter to D. Wali Sinha, General Secretary. Maha Bodhi Society, Calcutta, on 16th February 1955 expressed his opinion about Dhamma Diksha.

Following is the letter.—Editors.

"I have been of the opinion that the conversion of the laity is not conversion at all. It is only a nominal thing. The so-called Buddhist laity besides worshipping the Buddha also continued to worship other Gods and Goddesses which were set up by the Brahmins to destroy Buddhism. Buddhism disappeared from India largely of this wavering attitude of the laity. If hereafter Buddhism is to be firmly established in India the laity must exclusively be tied up to it. This did not happen in the past because in Buddhism there was a ceremoney for initiation into the *Sangh* but there was no such ceremony for initiation into the *Dhamma,* In Christianity there are two ceremonies. (1) Baptism which is initiation into the Christian religion, (2) Ordination of the priest. In this respect the new movement for the propagation of Buddhism in India must copy Christianity. To remove this dangerous evil in Buddhism I have prepared formula which I call *Dhamma Diksha.* Every one who wishes to be converted to Buddhism shall have to undergo through ceremony. Otherwise he will not be regarded as a Buddhist."[1]

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[1] : Khairmode, Vol. 12 First Edition—July 1992, Pp. 24-25.

55

I'M PREPARED TO SAVE YOUR LIFE PROVIDED.....

"During the first three months of 1955, Maurice Brown and Francis Watson of British Broadcasting Corporation, London, visited India, travelling, interviewing and recording some of those they knew could contribute, recorded their memories and opinions of Mahatma Gandhi. The extracts below contain in brief the text of interview they had with Dr. B. R. Ambedkar. To maintain a link the opinions of a few others have also been retained.

Narrator : We are on the heights now, with the saint, the Mahatma.

B. R. Ambedkar : He was never a Mahatma. I refuse to call him Mahatma, you see. I never in my life called him 'Mahatma'. He doesn't deserve that title. Not even from the point of view of morality.

Narrator : Opposition. Opposition from Dr. Ambedkar, political" leader of the Scheduled Castes of India, the Untouchables. Gandhi wanted Untouchability to be dissolved by bringing the scheduled castes within the fold of Hinduism and removing all their disabilities. Dr. Ambedkar wanted protection for them as a separate community, which to Gandhi seemed morally wrong and politically dangerous. It was a very stern fight, leading in the end to one of Gandhi's most celebrated fasts.

B. R. Ambedkar : Oh of course, he bargained and bargained ; I said, nothing doing. I'm prepared to save your life, you see, providing you don't make hard terms but I'm not going to save your life at the cost of the life of my people. I always say that as I met Mr. Gandhi in the capacity of an opponent I've a feeling. I knew him better than most other people, because he had opened his real fangs to me, you see, and I could see the inside of the man.

Narrator : But one didn't have to be an opponent to be wary of the idea of a Mahatma. J. B.Kripalani, the Indian Socialist leader, was not an opponent. He was a follower from 1917 until Gandhi's death.

J. B. Kripalani : He repudiated the idea of superman, he repudiated the idea of his becoming a Mahatma. He even said that if he were such a Mahatma, it would not be possible for us to understand him. Fundamentally, I believe, Gandhiji's message was social, political, economic, and not spiritual in the sense in which spirituality is understood. I would say that we had enough of Gods and supermen. Gandhi was good enough as a man.

Dhirendra Mohan Datta : I never thought that Mahatma Gandhi was typically Indian.

Narrator : Dr. Datta is a well known philosopher now living at Santiniketan, the educational institution of Rabindranath Tagore which is now a University.

Dhirendra Mohan Datta : To modern Hindus, he was their very ideal, the very ideal which they could follow with their European education and their European background and so on they could very easily sympathize with the Hindu ideals. But the orthodox Hindus thought that he was betraying ..... that his Hinduism was not real Hinduism.

B. R. Ambedkar : He was absolutely an orthodox Hindu.

Narrator : Dr. Ambedkar thinks so. So did many but not all Muslims. Some of them felt that Gandhi's attitude to Untouchability distinguished him.

H. N. Brailsford : He once put it in this way, that he represented eighty-five per cent of the Indian people. Well, that was a bit of an exaggeration, because he never did represent more than a mere fraction of the Muslims. But when it came to the rest, Hindu and Sikhs and even Untouchables, then his boast was correct.

Narrator : It was, at all events, sincere. Most deeply of all, he felt the cause of the Untouchables to be his own. Brailsford had some private talks with him about this.

H. N. Brailsford : He spoke with a passion that meant, I think that he was suffering under a terrible sense of vicarious guilt. He knew how abominably his people, the Hindu Nation, had treated these outcasts ; and he was determined, just for that reason, that it should be his people, the Hindu Nation, that put matters right.

Narrator : Gandhi's own attempt to put matters right was at that time a new campaign, a new passion. Dr. Verrier Elwin was with him a few months earlier in India, almost at the start of things.

Verrier Elwin : Yes, that was in 1931, and when I went with him to a temple which belonged to a leading mill-owner in Ahmedabad, and Gandhi took a party of Untouchable children into the temple. I still remember the faces of the orthodox priests when this happened, they didn't like it at all, but afterwards Gandhi had a meeting and in the course of it he said that in future the Untouchables should be called the children of God, the Harijans, by which name they've been known ever since.

Narrator : But there was a new and formidable face at the Round Table Conference. Dr. Ambedkar, born an Untouchable, had pulled himself up by his own gifts and character, and didn't want any Caste Hindu to do penance for him.

B. R. Ambedkar : Give us a separate electorate, you see.

Narrator : Dr. Ambedkar was direct and implacable. Even afterwards he never changed towards Gandhi.

B.R. Ambedkar : All this, talk about Untouchability was just for the purpose of making the Untouchables drawn into the Congress, that was one thing, and secondly, you see, he wanted that the Untouchables should not oppose his movement of *Swaraj*. I don't think beyond that he had any real motive of uplift.

Narrator : But Gandhi's motives were strong enough, after he had gone back to India, to be tested in the great fast at Poona. He was prepared for it, Pyarelal remembers, amid the conflicts of the London Conference.

Pyarelal Nayar : He said he would not sell the vital interests of the Untouchables even for the sake of India's independence, but he knew that separate electrorates were not good for the vast mass of Untouchables. He said, therefore, that he would resist it even if he were alone, with his life. At that time again, nobody thought what it would ultimately result in."[1]

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[1] : B.B.C.—Talking of Gandhiji, Orient Longmans, Bombay, Calcutta and Madras. Script and Narration by Francis Watson, Production by Maurice Brown, Pages 9, 10, 16, 78 and 79.

Reprinted : Rattu, Reminiscences and Rememberance of Dr. B. R. Ambedkar, Pp. 159-162.

56

A POLITICAL PARTY DOES NOT EXIST FOR WINNING ELECTION BUT FOR EDUCATING, AGITATING AND ORGANIZING THE PEOPLE

A meeting of the Working Committee of Scheduled Castes Federation was called by its President Dr. B. R. Ambedkar on 21st August 1955 which was held at Jairaj House, Bombay.

In this meeting the Constitution of Scheduled Castes Federation which was printed in January 1955 was discussed. Some amendments to the various articles were suggested and accepted.

The Report of this Working Committee along with amendments is as follows—Editors.

The Working Committee of the All India Scheduled Castes Federation, Jairaj House, Bombay.

The following members of All India Working Committee of the S. C. F. were present at the meeting of the Working Committee called by the President, Dr. B. R. Ambedkar, M. A., Ph.D.,D.Sc, LL.D., D. Litt., Bar-at-Law, Member of Council of States on 21st August, 1955 at 4 p. m. at Jairaj House, Colaba, Bombay :

1. Dr. B.R. Ambedkar,
2. Shri Rajabhau Khobragade (Madhya Pradesh)
3. Shri A. Ratnam (Madras)
4. Shri Haridas Awode (Nagpur, Madhya Pradesh)
5. Shri J. C. Adimugam (Mysore)
6. Shri J. S. Bansode (Madhya Bharat)
7. Shri C. M. Arumugam (Mysore)
8. Shri Nilam Singh Gill (Pepsu)
9. Shri B. S. More (Aurangabad)
10. Shri R. D. Bhandare (Bombay)

11. Shri Hardas Asharwar (Vindhya Pradesh)
12. Shri G. T. Parmar (Gujarat)
13. Shri B.K. Gaikwad (Maharashtra)
14. Shri A. G. Pawar (Maharashtra)
15. Shri V. Doraswami (Mysore)
16. Shri M. G. Velu (Madras)
17. Shri W. S. Kamble (Berar)

Dr. B. R. Ambedkar : "Friends, we are meeting after a long time. There are various reasons why we did not meet earlier. As far as I am concerned, you know that I am not keeping good health. What I have noticed is that you have not learnt to carry on the work of S. C. F. without me. The time has come that you must be able to carry on the work even if I am not present. I should be a sort of consultant. Wherever there is any difficulty you can consult me at any time". After these preliminary remarks the various resolutions were taken up for discussion.

Resolution No. 1 : This meeting of the Working Committee confirms the Selection by the last Working Committee of Dr. Babasaheb *alias* B. R. Ambedkar as the President of the Federation.

Proposed by : A, Ratnam (Madras)

Seconded by : G. C. Arumugam

Supported by : B. K. Gaikwad

The resolution was carried unanimously.

Dr. B. R. Ambedkar : There are some old members who have expressed some doubts as to whether the S. C. F. should continue or not. But I am of the opinion that as long as the problem of Untouchability remains the S. C. F. should continue to function. The question may arise as to whether we should work in co-operation with any other party at the time of election. But you know what is our experience when we have worked in co-operation with other parties. But such question will be considered at the proper time. For the time being we should consider this question of continuing our S. C. F.

Resolution No. 2: "The Working Committee of the All India Scheduled Castes Federation is aware of the defeat which the Federation has suffered at the last election. The Working Committee, however, is in no way discouraged by it. Such defeats are usual and normal. A Political Party does not exist merely for the sake of winning election. A Political party exists for the sake of educating, agitating and organising the people. This work the Federation has done beyond doubt and beyond measure.

This meeting of the Working Committee desires to state emphatically that the S. C. Federation cannot be wound up until the problems arising out of Untouchability are not solved.

Proposed by : Shri H. D. Awode

Seconded by ; Shri M. J. Velu

The resolution was earned unanimously.

Resolution No. 3 : "This meeting of the Working Committee of the S. C. F. regrets that the Election Commission was wrong in declaring the S.C.F. not to be an All India Party. Whether a party is an All India Party or not must be determined by the number of votes cast in its favour and not by the number of seats won by it. In calculating the number of votes cast the Election Commission failed to take into consideration that all the second votes of the Scheduled Castes voters were cast in favour of the Socialist Candidates on account of the Election Pact between the S.C.F. and the Socialist Party while the Socialist Party voters did not give their votes to the S. C. candidates. If the votes cast by the S. C. voters in favour of the Socialist candidates were added to the votes cast by the S. C. voters in favour of the S. C. candidates, the total number of votes polled by the Federation would be far greater than the votes polled by the Socialist Party.

This Working Committee, therefore, urges upon the Election Commission to restore the status of an All India Party which was given to it at the first election.

Moved by : Shri A. G. Pawar (Maharashtra)

Seconded by : Shri V. Doraswami (Mysore)

This resolution was carried unanimously.

Resolution No. 4 : The following amendment to the Constitution as drafted by the President are made :

Amendment to article I : The clause 2 after the figure 1957 add the words" or such other date as may be appointed by the Central Executive ".

Amendment to article II : Adopt the following sub-clause as the sub-clause No. VII after the Sub-Clause No. VI, Sub-Clause No. VII reads as follows : "To issue literature and to conduct printing presses. Delete sub-clause III, IV, V and VI which are printed twice as they being the printers' mistakes.

Amendment to article VI: (i) Remove hyphens from clauses 3,4, 5,6. 7, 8, 9 and 10.

(ii) After clause 10 add the following clause as the clause No. 11.

"The number of members of the Village Committee, Taluka Committee, District Committee and the State Committee shall be as determined by the State Federation Committee of each State with the consent of the Central Committee.....

Amendment to article VII : (1) In sub-clause II of the clause I, after the word "Federation" add the word "and Regional Secretaries."

(2) Delete the sub-clause No. IV which is after the sub-clause No. V. It is printed twice.

Amendment to article VIII : (1) In clause 1 drop the hyphen in the second line after the words "consist of".

(2) In sub-clause 4 add "The" before the word "President."

(3) After sub-clause 5 add the following :

"6. The President shall appoint Regional Secretaries for different regions not exceeding five in number".

(4) After clause 7 add the following :

"8. The Regional Secretaries shall do the work of organising the Federation within their jurisdiction and shall perform such

other duties as the President. The President may prescribe and shall keep the President and General Seceretary informed".

Amendment to article X : For the word "bi-annually" in clause 1, line two, add the words "Every two years".

Amendment to article XIV : In sub-clause No. 5 last line read the word "Offices" in place of officers so as to read "access to all offices".

Amendment to article XVII : In clause No. 4 line No. 2 delete the words "States Federation" and substitute therein the "All India Committee of the Federation".

Amendment to article XXIII : In sub-clause 2, in fifth line delete the word "District" and substitute the word "State" therein.

Amendment to article XXVI : (1) In sub-clause 1 delete the word "triangle" and substitute the word "Rectangle" therein.

(2) In the same sub-clause add "11 Stars" after the words "Consists of".

All these above amendments were put to vote and were carried.

Resolution No. 5 : "This meeting of the Working Committee adopts the Constitution for the All India Schedule Castes Federation and declares that the Federation shall be bound by it".

At this stage Dr. Babasaheb explained that the Constitution has become bulky one. Some portion of it, therefore can be transferred to "Standing Orders" so that the Constitution may be small one.

The resolution was carried unanimously.

Resolution No. 6 : This meeting of the Working Committee is of the opinion that the provision for the reservation of seats for the Scheduled Castes in Parliament, in State Assemblies, in Municipalities and District and Local

Boards be done away with immediately even before the next election".

Moved by : Shri A. G. Pawar and

Seconded by : Shri A. Ratnam.

This resolution was carried unanimously.

Resolution No. 7.—(1) This meeting of the Working Committee of the Scheduled Castes Federation expresses its resentment against the Planning Commission for not having consulted the Federation to assist the Commission in devising ways and means for solving the problem of the Untouchables.

(2) This meeting of the Working Committee of the Federation is of the opinion that in Planning Commission's proposals there is none which would abolish Untouchability or remove the poverty of the Untouchables.

(3) This meeting of the Working Committee of the Federation is convinced that it is the village system which is based on compulsory co-existence between Untouchables and Caste Hindus which is at the root of Untouchability and the poverty of the Untouchables.

(4) When two parties decide to co-exist it is important that each should understand the other's mind and mental attitude. Behind what he says we could have some idea of what and how he thinks. What constitutes the Communal mind ? How does it work and react ? Has it got recognisable corporate existence ? And, if so, is there a discernible pattern to be studied ; and what can we learn from it ? Where, indeed, do we begin ?

It is our failure to study the caste Hindu reaction and to look below the surface of statements and propaganda that has been responsible for our past mistakes. The kind of Caste Hindu mind with which we must be concerned is not to be found in Caste Hindu (but behind the iron curtain).

(5) It is the confirmed opinion of the Working Committee that this system of co-existence must be done away with.

(6) This, in the opinion of the Working Committee, can be done by establishing separate villages exclusively of Untouchables who are now living scattered in small groups under the sovereignty of caste Hindus.

(7) The Working Committee, therefore, urges upon the Planning Commission to reserve all cultivable waste-land, to make barren land cultivable and let colonies of Untouchables settled on such land.

(8) The Working Committee is of the opinion that to raise the necessary finance that salt tax be re-levied".

Moved from the Chair, Dr. Babasaheb explained that he was thoroughly convinced in his mind that so long the Scheduled Castes live with the Caste Hindus our people will not live the life of freedom and liberty, free from oppression of the Caste Hindus. The Madras Govt, wanted to build new cherries for the Scheduled Castes but he was strongly opposed to this idea. He did not want that Untouchability should be made permanent by building new cherries. He wanted them to be burnt.

This resolution was carried unanimously.

Resolution No. 8.—(1) The Working Committee of the Federation is sorry for the deaths that have taken place in the Goa *Satyagraha*. The Committee is, however, of the opinion that *Satyagraha* is not proper means of achieving the liberation of Goa.

(2) As understood by the Committee in *Satyagraha, Satya* is common ground to both. The difference is only on *Agraha*. In such a situation *Satyagraha* of the Gandhian type is possible and may be tried. But where there is no agreement of *Satya, Satyagraha* of the Gandhian type is a futility. The Working Committee cannot, therefore, advise the Scheduled Castes to join the Goa *Satyagraha*.

(3) Working Committee of the Federation is of the opinion that Goa must become a part of India and that the Portuguese must quit. There are three ways of achieving this object. (1) purchase, (2) lease, or (3) War. If Government is not prepared to accept any one of these three ways it is

the duty of the Govt, to tell the people what other weapon it has".

Dr. Babasaheb explained that the *satyagraha* can be between two parties who agree on the "Truth" . The only difference between the parties is on *Agraha*. The British people could give freedom to India because both the British people and the Indians had agreed that the Indians have the right of Self-Government. In fact this principle of self Government was enunciated by Macaulay as far back as 1833. Macaulay said that the Indians were not barbarions. The Indians have a distinct civilization and culture of their own. They, therefore, should be given the right to govern themselves. But in the case of Goa the Portugues Government did not agree on the question of freedom of Goa. *Satyagraha,* therefore, as a weapon of liberating Goa is not only useless but dangerous. I cannot allow our people to be exposed to bullets and massacre. If we are given guns, we will fight. We, therefore, want to pass the above resolution.

The resolution was carried unanimously.

Resolution No. 9.—"This meeting of the Working Committee is not satisfied with the foreign policy of the country. It is neither calculated to strengthen the parliamentary system of Government nor the defence of the country".

After this resolution was carried, the President announced that he has appointed Shri Rajabhau Khobragade as the General Secretary of the All India Scheduled Castes Federation.

Resolution No. 10.—Resolution congratulating Shri Khobragade was passed.

The Chairman was thanked for guiding the deliberations of the Working Committee.

All members of the Working Committee were also thanked.

This Working Committee of the Scheduled Castes Federation further resolved that the President be empowered to draft a resolution on Linguistic Provinces embodying the following points :—

(1) The States be so divided as to maintain a Unity of the Country.

(2) The administrative languages should be English and Hindi.

(3) Bombay should belong to the United Maharashtra.

(4) Hyderabad City should be a second capital of India making it a Governor's province.

(5) Hyderabad State be divided into different Linguistic Units.

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57

A LETTER TO JAWAHARLAL NEHRU REGARDING THE BOOK 'BUDDHA AND HIS DHAMMA'

Dr. B. R. Ambedkar had written a letter, on 14th September 1956 to Pandit Jawahadal Nehru regarding a book on "The Buddha and his Dhamma". It is as follows : Editors.

My dear Panditji,

I am enclosing herewith two copies of a printed booklet showing the Table of Contents of a book on "The Buddha and His Dhamma" which I have just finished. The book is in the press. From the table of the contents you will see for yourself how exhaustive the work is. The book is expected to be in the Market in September 1956. I have spent five years over it. The booklet will speak for the quality of the work.

The cost of printing is very hevy and will come to about Rs. 20,000. This is beyond my capacity and I am, therefore, canvassing help from all quarters.

I wonder if the Government of India could purchase about 500 copies for distribution among the various libraries and among the many scholars whom it is inviting during the course of this year for the celebration of the Buddha's 2500 years' anniversary.

I know your interest in Buddhism. That is why I am writing to you. I hope that you will render some help in this matter.

Yours sincerely,
(Signed) B. R. AMBEDKAR.

Pt. NEHRU'S REPLY

Pandit Jawaharlal Nehru had responded to the letter of Dr. B. R. Ambedkar. He expressed his inability to purchase the Book "Buddha and His Dhamma". He referred this to Dr. Radhakrishnan, the Chairman of Buddha Jayanti Commttee. Following is the reply by Pt. Jawaharlal Nehru : Editors.

Shri Jawaharlal Nehru,
Prime Minister of India,
NEW DELHI.

No. 2196-PMH/56.
NEW DELHI
September 15, 1956.

My dear Dr. Ambedkar,

Your letter of the 14th September.

I rather doubt if it will be possible for us to buy a large number of copies of your book suggested by you. We had set aside a certain sum for publication on the occasion of the Buddha Jayanti. That sum has been exhausted and, in fact, exceeded. Some proposals for books relating to Buddhism being financed by us had, therefore, to be rejected. I am, however, sending your letter to Dr. Radhakrishnan, the Chairman of the Buddha Jayanti Committee.

I might suggest that your book might be on sale in Delhi and elsewhere at the time of the Buddha Jayanti celebrations when many people will come from abroad. It might find a good sale then.

Yours sincerely,
(Signed) JAWAHARLAL NEHRU.

Dr. B. R. Ambedkar,

26, Alipur Road, Civil Lines,

DELHI.

Dr. S. Radhakrishnan informed on phone to Dr. B. R. Ambedkar expressing his inability to do anything in this regard.

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Khairmode, Vol. 12, Pp. 39-40.

58

BHIKHUS SHOULD SERVE THE BUDDHA BY BECOMING PREACHERS OF HIS DHAMMA

"Dr. B. R. AMBEDKAR,

M.A., Ph.D., D.Sc, LL.D., D.Litt., Barrister-at-Law,

Member, Council of States

26, ALIPORE ROAD, CIVIL LINES, DELHI

Dated the 30th October 1956.

My dear Valisinha,

Thank you very much for your letter of 25th October 1956. It certainly was a great event and the crowd that came forward for conversion was beyond my expectation. Thank the Buddha it all went well.

I am glad you realize that having begun the task well we have to look to its continued progress in the future. We have to consider ways and means of imparting knowledge of Buddhism to the masses who have accepted His Dhamma and will accept it on my word. We should no doubt train large number of workers to teach Dhamma to the people, but the best agents for carrying out the same are the Bhikkus. They would carry a great deal of prestige with them which no layman could do.

The Bhikkus in my judgement ought to be very happy to find out that a large task awaiting them has been done. The only difficulty with the Bhikkus is that they don't care to learn the language of the people. I am afraid the Sangh will have to modify its outlook and instead of becoming recluses they should become like the Christian missionaries the social workers and social preachers. As I told you today they are neither Arhans nor useful members of the society. This fact must be hammered into them and make them realize that they could serve the Buddha well by becoming preachers of His Dhamma.

I like your idea of opening a sort of the logical seminar where Bhikkus and non-Bhikkus could be taught the fundamentals of Buddhism and make to learn the different languages of India so that they could be sent to the different parts.

So far as my reading of the mind of the Indian youth is concerned it is very difficult to make them turn to learn the monestic ideals. The best way is that we can create like Japanese married priests like the protestant Christians have done. For that we shall have to find means for their support during their educational period and after they go out public life as priests.

The conversion ceremony in Bombay will probably take place in December, most probably during the X'mas holidays so that many people could have travel facilities which they would not otherwise get. I shall let you have the exact date after consulting my Bombay people.

I hope you are giving full publicity to the Nagpur ceremony, in the Maha Bodhi Journal. I would like you to particularly mention the following points :

1. that on the first day some three lakhs and eighty thousand people became converts to Buddhism. As many people arrived after the ceremony was over a second ceremony was held on the next day as the first item in the programme.
2. that there was another conference at Chanda on 16th October 1956 which was held in the evening. There also another conversion ceremony was held and some 3 lakhs of people were converted.
3. According to the news item in yesterday's paper there was again a conversion ceremony held at Akola after I came away and more than 2000 people were converted.
4. That a Marathi paper called 'Navyug' has published some fine photographs of the crowd that attended conversion ceremony at Nagpur.
5. That I am receiving letters from all corners for conversion.

If you are issuing a special number of Mahabodhi Society Journal and desire, to obtain photographs I can help you to obtain the same. Please let me know.

With reference to your querry as to our tour programme I am told a copy of the same has already been sent to you. You will know from it when I shall be in Sarnath.

Yours Sincerely,
(Sd.) (**Dr. B. R. Ambedkar**)

Shri D. Valisinha,
General Secretary,
Maha Bodhi Society of India,
4-A, Bankim Chatterjee Street,
(College Square), Calcutta-2."[1]

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[1] : Mahabodhi ; May 1957, Number 5, P. 226.

59

I BELIEVE, MY PEOPLE WILL SACRIFICE EVERYTHING TO ESTABLISH BUDDHISM IN INDIA

"Dr. B. R. Ambedkar and Mrs. Ambedkar accompanied by Mr. B. H. Varale and Dr. Mavalankar left for Nepal to participate in the World Buddhist Conference scheduled to take place on the 17th November 1956.

While leaving for Nepal, on November 13th, 1956, Mr. Y. C. Shankaranand Shastri very respectfully enquired at the Air Port, New Delhi, "Baba Saheb, in view of your failing health how far will it be possible for you to tour India to propagate the Dhamma ?" Baba Saheb felt slightly irritated but strongly asserted, for the task like propagation of Buddhism I am not at all ill. I am prepared to utilise every moment of my remaining life for the great task of revival and propagation of Buddha's Dhamma in Bharat.

"I am going to administer "Deeksha" to lakhs of people in Bombay in the month of December. The kind of great revival meeting took place in Nagpur on the 14th October 1956 will also be arranged in Bombay where millions of people will be converted to Buddhism. Conversion meeting like the one which took place in Nagpur will also be organised in other cities of India."

"Not only the people treated as Untouchables but all people, irrespective of caste or religion, who believe in the teachings of the Buddha should participate in this Deeksha ceremony and embrace Buddhism."

During the course of conversation with people present there, Baba Saheb Ambedkar strongly asserted, "It is very wrong to believe that Buddha is incarnation of Vishnu. This is a false and mischievous propaganda". The preachers of this diabolical theory are none other than the followers of Brahminism. Their sole aim is to maintain the stratification based on inequality and mutual hatred in order to maintain their hold on the society. I have been

struggling throughout my life to abolish this evil practice of division based on caste and mutual hatred. In reality, I feel guilty of starting late the work of revival of Buddhism in India. But even then I hope and believe that my people who, sacrificing their own comforts, have been faithfully following me. I hope and I trust they will continue to struggle sincerely to propagate the Buddha Dhamma in India."[1]

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[1] : Prabuddha Bharat : dated 17th Nov. 1956. Translated by Bhagwan Das

APPENDICES

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APPENDIX—I

BRUTE FORCE WILL NOT SUSTAIN UNTOUCHABILITY

—MAHATMA GANDHI

This is the article that appeared in Young India regarding the Mahad *Satyagraha*.

"UNTOUCHABILITY AND UNREASON

A correspondent from Mahad writes :

It gives me much sorrow to let you know that there was riot on the 20th of March last between touchables and Untouchables at Mahad. There was held a conference of the Colaba District Depressed Classes on the 19th and 20th ultimo. The meeting was quite successful. But whilst the crowd was dispersing, Mr. A. V. Chitre of the Social Service League of Bombay told the people as they were thirsty and as the sun was very hot that they could go to the public tank and drink water. There were some who tried to dissuade the men from going to the tank. But Dr. Ambedkar, the President decided to march the men to the tank. Even the police inspector could not feel the gravity of the situation, and instead of stopping the crowd from proceeding to the tank, went with them. The tank is situated in the midst of the Brahmin locality. As however no one was aware that the Untouchables were going to the tank there was no disturbance, and hundreds of them quenched their thirst at the tank with cries of "*Hara Hara Mahadev*". Meanwhile the touchables came to the scene and they watched the incident with rage. The crowd of Untouchables then went back to the pandal for their meals. Within an hour of this the Mahad public was suddenly awakened by the wild cry of *Gurava* and they were told that the Untouchables were thinking of entering the temple of Vireshwar.

It was a false cry; but in no time the temple was filled by an infuriated mob of touchables who had sticks in their hands. The poor Untouchables had no intention whatsoever of going to the temple. But the touchables finding no

Untouchable attempting to enter the temple practically ran amuck, went to the bazar and began to beat any Untouchable they came across in the street. All the while this beating was going on the part of the touchables, not one Untouchable offered any resistance. A few touchables who sympathized with the Untouchables tried to protect them; but the furious mob would not be checked. They even rushed into the huts of shoe-makers and such others and beat them severely. The helpless Untouchables ran wildly for help; but none was offered by the shopkeepers. The Untouchables who were in the pandal were derided by the touchables for not coming out in the open to fight. There were nearly 1,500 of the former in the pandal and if they had offered to fight there would have been a great calamity and Hinduism would have been disgraced. Dr. Ambedkar justified the advice that he had given on the strength of the resolution that was passed in the Bombay Legislative Council and on the opinion expressed by the Mahad Municipality that the Untouchables were lawfully entitled to take water from public tanks and wells.

Mahatma Gandhi expressed his views on *Satyagraha* and the problem of Untouchability in the Hindu Society, thus :

I have omitted from the correspondent's letter several passages giving further details. But the letter appears to me to be genuine and does not in any way appears to be an over-estimate. Assuming then that the incident is correctly reported there can be no question about the unprovoked lawlessness on the part of the so-called higher classes. For, it should be remembered that it was not the drinking of water at the tank which had brought together the "touchables" to the temple but the false report that the Untouchables were wanting to enter the temple. But one can hardly expect sanity to exist side by side with unreason. Untouchability itself has no reason behind it. It is an inhuman institution. It is tottering and it is sought to be supported by the so-called orthodox party by sheer brute force.

The so-called Untouchables have brought the question a step nearer solution by their exemplary self-restraint under most provoking circumstances. Had they retaliated it would have been perhaps difficult to distribute the blame. As it is, the blame is all on the side of the "touchables." Brute force will not sustain Untouchability. It will bring about a revulsion of feeling in favour of the suppressed classes. It is a sign of the times that there were at least some "touchables" who tried to defend the poor Untouchables. One could wish that there were many more in Mahad. Silent sympathy on such occasions is not of much use. Every Hindu, who considers the removal of Untouchability to be of paramount importance, should on such occasions prove his sympathy by publicly defending the supressed classes and having his own head broken in defending the helpless and the downtrodden.

I cannot help thinking that Dr. Ambedkar was fully justified in putting to test the resolutions of the Bombay Legislative Council and the Mahad Municipality by advising the so-called Untouchables to go to the tank to quench their thirst. No incident of this character should pass by unnoticed on the part of associations like the Hindu Mahasabha interested in this reform. Let them investigate the statements made by my correspondent and if they can be substantiated, let them condemn the action of the "touchables." There is nothing like the growth of enlightened public opinion for eradicating everything evil, which Untouchability undoubtedly is."

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[1] : Young India, dated 28th April 1927.

Reprinted, Ganvir, Mahad Samata Sangar. Pp. 246-248.

APPENDIX—II

MAN'S INHUMANITY TO MAN

(*By M. K. Gandhi*)

"In another column will be seen an extract from Navajivan of a most disgraceful case of calculated inhumanity of a medical man towards the dying wife of a member of the suppressed class in a Kathiawad village. Sjt. Amritlal Thakkar who is responsible for giving the details of the case has withheld the names of the place and parties for fear of the poor suppressed class school-master being further molested by the medical man. I wish however. that the names will be disclosed. Time must come when the suppressed class people will have to be encouraged by us to dare to suffer further hardships and tyranny. Their sufferings are already too great for any further sufferings to be really felt. Public opinion cannot be roused over grievances that cannot be verified and traced to their sources. I do not know the rules of the Medical Council in Bombay. I know that in other places a medical practitioner, who refused to attend before his fees were paid, would be answerable to the Council and would be liable to have his name removed from the Council's list and be otherwise subject to disciplinary action. Fees are no doubt exactable; but proper attendance upon patients is the first duty of a medical practitioner. The real inhumanity, however, if the facts stated are true, consists in the practitioner refusing to enter the Untouchable's quarters, refusing himself to see the patient, and refusing himself to apply the thermometer. And if the doctrine of Untouchability can ever be applied in any circumstances, it is certainly applicable to this member of the profession which he has disgraced. But I am hoping that there is some exaggeration in the statement made by Sjt. Thakkar's correspondent and, if there is none, that the medical practitioner will himself come forth and make ample amends to the society which he has so outraged by his inhuman conduct.

READ, REFLECT AND WEEP

There is a school for the children of the suppressed classes in a village in Kathiawad. The teacher is a cultured, patriotic man belonging to the *Dhedh* or Weaver (Untouchable) class. He owes his education to the compulsory education policy of His Highness the Gayakwad and had been doing his little bit for the amelioration of his community. He is a man of cleanly habits and refined manners, so that no one can recognise him as belonging to the Untouchable class. But because he had the fortune or misfortune of teaching the children of his own community in a conservative village in Kathiawad, everyone regards him as an Untouchable. But unmindful of that he had been silently working away. There are some moments, however, when the most patient man living under intolerable conditions may give vent to agony and indignation, which are evident in the following letters from the schoolmaster. Every little sentence in it is surcharged with pathos. 'I have purposely omitted the names of the village and all the people mentioned in the letter, lest the schoolmaster should come into further trouble."

Namaskar. My wife delivered a child on the 5th instant. On the 7th she was taken ill, had motions, lost her speech, had hard breathing and swelling on the chest, and her ribs were aching painfully. I want to call in doctor but he said, 'I will not come to the Untouchable's quarters. I will not examine her either.' Then I approached the Nagarsheth, and the Garrsia Durbar, and requested them to use their good offices for me. They came and on the Nagarsheth standing surety for me for the payment of Rs. 2 as the doctor's fee, and on condition that the patient would be brought outside the Untouchable's quarters, he consented to come. He came, we took out the woman who had a baby only two days old. Then the doctor gave his thermometer to a Musalman who gave it to me. I applied the thermometer and then returned it to the Musalman who gave it to the doctor. It was about eight O'clock, and having inspected the thermometer in the light of a lamp, he said : 'She has pneumonia and suffocation'. After this the doctor left and sent medicine. I got linseed from the market and we are applying linseed poultice and giving her the

medicine. The doctor would not condescend to examine her, simply looked at her from a distance. Of course I gave Rs. 2 for his fee. It is a serious illness. Everything is in His hands !

The light in my life has gone out. She passed away at 2 O'clock this afternoon.

II

Comment is needless. What shall one say about the inhumanity of the doctor who being an educated man refused to apply the thermometer except through the medium of a Musalman to purify it, and who treated an ailing woman lying in for two days worse than a dog or a cat ? What shall one say of the society that tolerates this inhumanity ? One can but reflect and weep.

A. V. Thakkar,

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Young India, dated 5th May 1927.

APPENDIX—III

"ORTHODOXY RUN MAD

Alleged Barbarous Treatment of "Untouchable" Crime of Being Mahars

Mr. Keshavaji Ranchhodji Vaghela from Ahmedabad has informed Dr. B. R. Ambedkar, President, *Bahishkrit Hitkarini Sabha* as follows :

One Bapoorao Laxman and his brother Kaurao have been residents of Ahmedabad during the last six years. They used to mix with some people from the Deccan belonging to Maratha Caste. Kaurao's two sons *viz.* Damoo and Laxman used to take part in the *Bhajan* parties of the Marathas. The latter, however, recently came to know that the brothers Damoo and Laxman were Mahars by caste and in order to ascertain this, two Mahars employed on the parcel train between Surat and Ahmedabad were specially called to identify Damoo and Laxman. After it was ascertained, they were called at a *Bhajan* party at Kalupur, Bhanderi Pole, at midnight on the 11th instant. Asked as to what caste they belonged to, Damoo and Laxman replied that they were *Somvanshis.* This reply enraged the Marathas who freely abused them for having defiled their persons and places. The Mahar brothers were also assaulted by the Maratha. One of the brothers had a gold ring on his person. It was forcibly taken away from him and sold for Rs. 11. Out of this amount Rs. 6 was paid to the Mahars who had been called from Surat to identify the brothers. Damoo and Laxman entreated the Marathas to allow them to return to their homes, but the latter refused to do so unless a fine Rs. 500 was paid. On the Mahar brothers pleading their inability to pay such a heavy sum, one of the Marathas suggested that the Mahar brothers should be fined only Rs. 125. But then one of the Marathas opposed the proposal for fine saying that they should not be satisfied with fine, but should punish the Mahars severely for their crime of concealing their caste. Having decided upon the course, the Mahar brothers were detained and at about 9 O'clock in the morning they were subjected to barbarous indignities. Their mustaches in the left side and eyebrows on the

right side were shaved, their bodies besmeared with soot mixed in oil and also with dirt, garlands made of old shoes were put around their necks, and one of them was asked to hold a broom in his hand and the other to hold a placard on which it was written that the punishment was metted out to the culprits for venturing to touch high caste people. The Mahar Brothers were taken in procession consisting of about 75 people, a drum being beaten in the front.

A complaint has been lodged with the Police by the said two Mahar brothers. The accused in their statement have admitted that Damoo and Laxman were treated in the alleged manner, but pleaded that the complainants had willingly agreed to undergo the punishment. Obviously Damoo and Laxman were helpless when they were abused, assaulted and threatened with severe punishment and actually subjected to barbarous indignities. This case has created a great sensation among the people belonging to the so-called Untouchable castes and efforts are being made to give proper legal aid to the complainants."[1]

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[1]: The Bombay Chronicle, dated 25th February 1928.

APPENDIX—IV

GANDHI-VALLABHBHAI MEETING ON EVE OF POONA-PACT

On September 6,1932 in Yervada Jail the discussion proceeded on these lines :

"*Vallabhbhai Patel* : What do you think will these people (British Government) do ?

Gandhiji : I still feel that they will release me on or before 19th. It will be the limit of wickedness if they let me fast, let no one know about it and then say that I did what I as a prisoner ought not to have done, and that they could do nothing about it. I do not say that they cannot go that far, only then they will find it necessary. And they certainly are not the people to go farther than it is necessary.

V. Patel : Then what will you do ?

Gandhiji : The fast cannot commence on 20th. We cannot stick to the 20th."

V. Patel : Does it mean then that we have got time till the new Constitution is drawn up ? or that you can give a longer notice to the people and the Government ?

Gandhiji : Yes, but that depends on how much the people will allow me to do after I get out. I cannot tell what the situation will be. I may have no idea of the kind of letter I may have to write. But I shall have to consider every party—the Hindu Society, the *Antyajas,* the Government, the Muslims. It will be necessary for the Hindus to hold meetings along with the *Antyajas* at every place and reject this thing. The

Government has done this thing as a Christian Government and hence I shall have to tell both the Government and the Christians the same thing that as Christians they cannot do this thing. Let our *Swaraj* come into being, then they may influence the *Antyajas* in any way they like, but they should not divide us today. I had said this to the Muslims even in England. I shall say the same thing here also. I shall explain to the Hindu Society that now the *Antyajas* have no choice but to turn Muslims or Christians.

Mahadev Desai : Among the people who will come also be the Christian friends and they will say to you that before accusing the Government, you should accuse your self. Why does Hindu society regard the *Antyajas* as Untouchables ?

Gandhiji : That is upto me to explain. That is not difficult thing. We can say to them : "Allow us to settle our problems ourselves, why do you interfere ? After we have set about managing our own affairs, you may do what you like. Why do you divide us and then argue over things ? To-day the *Antyajas* have either to turn to Muslims or to you. The question of women is similar to that of *Antyajas*. But women are not Untouchables. Even if they wish to become Untouchables, men will go and sit on their beds. They cannot be separated from even by having a separate electorate. To-day the *Antyajas* have been separated permanently. What would be the outcome of it ? There

> would be internal strife. There are people like ... He would collect bad characters in the community and get them to attack Hindus, poison wells and do other things." [1]

Bapuji wrote a letter to H. S. L., Polak in which he gave clear account of the circumstances leading to the fast. This is what he wrote :

"You seemed to have missed the very core of the fast. You have to go back to my speech at the Minorities Committee. It was not a prepared speech. The end of it came irresistibly. The fast was an inevitable result of that solemn declaration. I little knew how that declaration was to find fulfilment. I say that the declaration was from God and so was the fulfilment. If it was so, all argument is useless. If it was a hallucination, friends who believe it to be such are bound to drive home the truth to me with all the love and persistence they can summon to their assistance.

"Everything that happened since confirms me in the opinion that the fast was a God-given trust. Not the Premier but Sir Samuel Hoare through whom the message of the fast had necessarily to go. But if you had followed all the statements I have made and even my letter to the Premier you would have seen that the fast was addressed to the millions who had faith in me, and who had surrounded me with their undying affection whenever I went to their midst. They understood the fast with all its implications without any argument. For them, the political part of it was trivial; internal reform was everthing.

"You ask why it was not administered ten years ago. The answer is; God did not call me to. He comes to wake you up when you least expect him. His ways are not our ways. You will, of course, believe me when I say that I had then the same capacity for sacrifices that I seem to have now." [2]

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[1] : Government of India, The Collected Works of Mahatma Gandhi, Ministry of Information and Broadcasting, New Delhi, Vol. 11, Pp. 457-458.

[2]: *ibid,* volume LI, Pp. 252-253.

All the above reprinted, Busi Dr ; Pp. 188-190.

APPENDIX—V

COMMENTS ON ROUND TABLE CONFERENCE AND POONA-PACT

1

Joint Select Committee of Parliament:

"Communal Award And Poona Pact"

The Committee are definite in their opinion that communal representation is inevitable at the present time. They describe as well-thought out and well-balanced the arrangement for the composition of Provincial Assemblies embodied in the Communal Award.

As regards the Poona Pact, the Committee express the view that in their opinion the original proposals of His Majesty's Goverment were a more equitable settlement of the general communal question, and more advantageous to the Depressed Classes in their present stage of development. But, since the Pact has been accepted as an authoritative modification of the Award, the Committee are clear that it cannot now be rejected. They are however, disposed to think that if by agreement some reduction were made in the number of seats reserved for the Depressed Classes in Bengal, possibly with a compensatory increase in the number of their seats in other Provinces, the working of the new Constittuion in Bengal would be facilitated." (A Summary of the Report of the Joint Select Committee of Parliament on the proposals contained in the White Paper on Indian Constitutional Reforms, page 4, dated 22nd November, 1934.)[1]

2

Joachim Alwa stated in his book "Men and Supermen of Hindustan" :

"He (Dr. B. R. Ambedkar) just became bold and literally adopted Spencer's maxim 'Be bolde ! be bolde and ever more be bolde !' He learnt that by daring and reckless courage, great fears & weaknesses are removed. He was most powerfully

[1] : Reprinted, Khairmode, Vol. 5. Pp. 65-66.

tempered and pampered with undue attentions. Mahatma Gandhi had also an unparalleled record of service on behalf of the Depressed Classes whom he chose to be respectfully addressed as 'Harijans.' But the Doctor would brook no rivals. He would not tolerate no one else occupying the pedestal. Being the product of abnormal social and economic conditions in which Indian Society had abysmally let itself down, Dr. Ambedkar deliberately cultivated an abnormal individuality. (Men & Supermen of Hindustan, page 20).

'Dr. Ambedkar's request to Ramsay MacDonald to settle the Communal ratios in the Legislature led to his discomfiture in the life of the turbulent politician, The Doctor cried at the gate of the Yeravada Jail—

I trust that I will not be driven to the necessity of making a choice between Gandhi's life and the rights of my people. I can never consent to deliver my people bound hand and foot, to the Hindus for generations. I don't care even if a hundred Mahatmas are sacrificed. Mahatmas are not immortal creatures. You are all free to hang me from the nearest lamp-post..... The Mahatma declared to the Doctor 'I am proud of you. I have always listened to your speeches breathlessly.' (Men & Supermen of Hindustan, P. 22)" [1]

3

An Author Writing Under Pen-Name

A Student of Public Affairs, in his book "Has Congress Failed ? " expressed his views as under : "Not even his most ardent supporters will claim that Mr. Gandhi's participation in that Conference was a success. Communal differences were holding up progress on all sides and the Minorities Sub-Committee finally was obliged to report failure to reach a settlement. Mr. Gandhi consistently refused to consider any proposal for separate electorates for any community except the Mohammedans, the Sikhs and the Europeans, and as regards the Depressed Classes he insisted that they were Hindus and must be kept within

[1] : Reprinted, Khairmode, Vol. 4. Pp. 168-169.

the Hindu fold. Dr. Ambedkar was led by this unyielding attitude into a definite demand for separate electorates for the Depressed Classes."—P. 55)[1]

4

Dr. M. R. Jaikar stated in his Autobiography that :

" ... his (Mahatma) attitude at the Indian Round Table Conference in England drove the minorities to adopt the notorious Minorities Pact. He denied to the Depressed Classes even a single seat by reservation except through the medium of the Congress. Later he fasted in India against Prime Minister MacDonald's award comparatively a more blanced arrangement than the later, "Poona Pact" which had to be accepted at the point of the bayonet as it were. The effect of this pact was deeply deplored in Bengal by leaders who had been Gandhiji's loyal followers before." (The Story of My Life, Vol. One, Pp. 361-62) "[2]

5

On the occasion of the Birth day of Pandit Jawaharlal Nehru, the book entitled "A Bunch of Old Letters" was published. The book includes a letter by Mr. Edward Thompson who wrote it on 6th December 1936, wherein he stated,

"I never thought Gandhi wrong until the Round Table Conference, when he was both arrogant and irrelevent. Perhaps he should not have come at all. But having come, he was unjustified in refusing to regard the other Indians, many of the men who had paid a price for their opinions, as men entitled to be consulted by him and regarded as friends engaged in a common endeavour and hope." (P. 208)" [3]

6

Mr. Glorne Bolten stated in his book 'The Tragedy of Gandhi' :

"The truth is that Mr. Gandhi was lost in London, and the old assurance and reliance was deserting him. Day after day-in the Conference which he had come to detest-he faced the

[1] : Khairmode, Vol. 4 P. 173.

[2]: *ibid,* P. 173.

[3]: *ibid,* Pp. 173-174.

Mohammedan delegates who would yield none of their demands. Day after day Dr. Ambedkar came into greater prominence. He spoke for the 'Untouchables' and every speech on the welfare of India whether from a Conservative or a Socialist-would contain references to the tragic flight of the 'Untouchables'. It was a sentimental rather than a practical concern. Mr. Gandhi, by representing the Untouchables, would have drawn eulogies from almost every one in England-but now Dr. Ambedkar had destroyed this platform. He so opposed the Mahatma that the public began to believe that two personalities dominated the Conference, Mr. Gandhi and Dr. Ambedkar. Nothing could have been further from the truth. To begin with, Mr. Gandhi was not dominating the Conference nearly enough. He spoke over after Sir Samuel Hoare, when he came to like more and more, had spoken in favour of indirect election. Mr. Gandhi agreed with him entirely and he proceeded to elaborate his Panchayat Scheme whereby villages elect their representatives, a group of village-representatives elect their district representative and a group of district-representatives elect the representative for legislature. It is a system which while weakening Conservative fear, meets the Congress demand for adult suffrage. Indian Liberal delegates were warm in their approval. "Within a week," one of them said, "Gandhi will have the Conservatives at his feet." He never spoke in this fashion again, instead there was a wrangle with Dr. Ambedkar. At first Mohammedans seemed to enjoy the Mahatma's discomfiture, but in time every delegate was wishing that Dr. Ambedkar would show Mr. Gandhi the courtesy to which his personal eminence certainly entitled him."

(The Tragedy of Gandhi, pages 266-267)

"Henceforward Bow and Knights bridge were not to be the only centres for Conference plotting. Representative Mohammedans, Europeans, Anglo-Indians, Untouchables met together. In a very short period of time they had drawn up a Minorities Pact to which representatives of the Minorities with the notable exception of the Sikh leader, Sardar Ujjwal Singh, appended his signature. Mr. Benthall sent Mr. Gandhi a copy of the pact and a courteous, if rather buoyant explanatory letter. Dr. Ambedkar met Mr. Gandhi's gaze at St. James with an almost defiant smile. There were but two obvious courses open to

Mr. Gandhi. One was to accept the division of the Minorities with whatever grace he could. The other was to rally the great Hindu majority to his side to speak not as the sole representative of Congress but as the spokesman of all the Hindus, the orthodox Hindu Mahasabha included. Mr. Gandhi's eyes trenched swiftly down the clauses of the Pact. He saw at once that the Pact indicated the truculent attitude which Dr. Ambedkar had adopted. for separate electorates were generously bestowed upon the Untouchables. Obvious courses were not for Mr. Gandhi. If hitherto he had been uncertain of his mission in London he knew now that it was his duty to do. He would save the Untouchables from their leader. He called Sir Samuel Hoare. He even called Mr. Ramsay MacDonald by whom he was impressed, with the vehemence of his views.

Mr. Gandhi would speak of nothing else. "Separate Electorates to the Untouchables" he declared in a speech, "will ensure them bondage in perpetuity. The Musalmans will never cease to be Musalmans by having Separate Electorates. Do you want the 'Untouchables' to remain 'Untouchables' for ever ? And however lightly the Indian Liberal may regard Mr. Gandhi's views on Federation, he has a healthy respect for his views on minorities. A Minorities Pact falls short of a general agreement and because it provided the hostility of the orthodox Hindus and the Sikhs more particularly because it roused the anger of Mr. Gandhi. The Pact died the day it was born. Its demise was promptly acknowledged by the British and Indian delegates alike. The Communal settlement, as everyone now admitted, would have to be impressed by the British Government.

(The Tragedy of Gandhi, Pp. 277—278) " [1]

7

Dhananjay Keer, biographer said,

"The Poona Pact thus vibrated the whole country and had repercussions throughout the world. It proved once more that Dr. Ambedkar whom in pre-Poona pact days the Congress leaders and the press refused to recognise as the leader of the Depressed

[1] : Khairmode, Vol. 4, Pp. 170—172.

Classes, came out as the accredited leader of the Depressed Classes all over India. In the new arrangement both the sides had to lose something. The Caste Hindus had to grant 148 seats instead of 71. The Depressed Classes lost their chance of bending the Caste Hindu leaders to their will as the Depressed Classes were under the Award entitled to elect their own representatives to the Assemblies separately, and besides they were to vote in general constituencies with the Caste Hindus in electing the Caste Hindu representatives. Now the Caste Hindus got the power to elect the representatives of the Depressed Classes. By a resolution at its Delhi Session on September 26, the Hindu Mahasabha also ratified it.

The third thing that was proved was that whenever the Mahatma in Gandhi got the upper hand of the politician in Gandhi, he performed the marvel of making simple things complex and complicated ! At the Round Table Conference the Mahatma in Gandhi dominated the politician in him; and the Mahatma shook the world, but the politician failed. At Yeravda the politician in Gandhi became successful and the Mahatma was defeated ! So effective and crushing was the victory of Gandhi that he deprived Dr. Ambedkar of all the life-saving weapons and made him a powerless man as did Indra in the case of Karna. Dr. Ambedkar was justified in saying that had Gandhi shown enough resilience at the Round Table Conference in the matter of the problem of the Depressed Classes, the Mahatma would not have been required to go through the ordeal. The ordeal was of Gandhi's own making.

The Poona Pact closed an epoch. But did the war, which had been declared at Manibhuvan on August 14, 1931,* come to an end ? Or was it a second battle and the war was to continue even after the truce ?" [1]

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* See Pp. 51-56 of this part-Editors.

[1] :Keer, Pp. 215-16.

APPENDIX—VI

DR. AMBEDKAR IS NOW PUTTING MR. GANDHI TO AN ACID TEST

This is the letter from one the readers of The Times of India, which was published in The Times of India regarding temple entry campaign

"DR. AMBEDKAR'S BOMB

Test For Mr. Gandhi

To the Editor of "The Times of India "

Sir,

Your Poona correspondent is quite right. Dr. Ambedkar has thrown a "live bomb into the centre of the temple entry campaign machinery." It is something much more than that. It is a bomb (a country made one) dropped into the Congress Camp. We must never forget that Congress is almost dead, and this temple-entry campaign is simply an interesting effort to put life into a corpse. From the outset, Dr. Ambedkar has warned us that this whirlwind propaganda by Mr. Gandhi and his Congress was at bottom only a "political stunt". He is now putting Mr. Gandhi to an acid test. There are two questions before us (1) Is the Mahatma serious about this temple entry questions, or is it a mere gesture ? (2) Would the opening of temples alone raise the status of the Depressed Classes ? That Mr. Gandhi is not really serious about the question of temple entry is proved from his own confession that "he never enters these temples himself". Indeed, Mr. M. K. Acharya, the great orthodox Hindu leader, reminded us last week in a speech at Surat that: Mr. Gandhi himself had never worshipped in any temple and he knew very little of the principles of rules and regulations of temple worship." All orthodox Hindus like Mr. Acharya, who have faithfully supported Mr. Gandhi for 20 years, have now forsaken him and Congress.

Mr. Acharya has issued a challenge to Mr. Gandhi ; "Why does not Mr. Gandhi found temples of his own and see if all Hindus, including Untouchbles, will go and worship in them?" No one can say that Mr. Gandhi lacks moral

courage. But he cannot accept Mr. Acharya's challenge because the Mahatma is an astute politician. And this is a question of political strategy and not a purely religious question. Mr. Acharya forgets that the Mahatma has often told us : "Most religious men I have met are politicians in disguise. I, however, who wear the guise of a politician, am at heart a religious man. My religion is my politics (Autobiography). He has always subordinated religion and principle to policy and politics. It is impossible to exaggerate the injury he has inflicted upon his country in general and upon Hinduism in particular. Look at the Poona Pact, entered into in haste ; there is now a countrywide feeling that it was grossly unfair to Caste Hindus. Mr. Gandhi stampeded the country into an unjust settlement. He is now again trying to stampede the country to do something for *Harijans* which they do not really want."

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[1]: Source Material, Vol. 1 Pp. 107-108.

APPENDIX -VII

DR. AMBEDKAR WANTED AN EXTENSION IN AMERICA

Bhimrao Ramji Ambedkar January 16, 1915

35. *Vide paragraph 1103 of 1913—S. B.,* Bombay, January 16th—The Censor writes :* The following letter passed through from Minister of Education, Baroda. d/o No. 509, dated 8th January 1915, to B.R. Ambedkar. Esquire B. A., 554 West 114th Street, New York :—

"Inform him that 'proposals will be submitted to His Highness the Maharaja Saheb to grant you an extension in continuation of the one already sanctioned,' and that the result will be communicated."

Bhimrao Ramji Ambedkar January 30, 1915

81. *Vide paragraph 35 Baroda, January 25th—The Assistant Resident writes :* "Bhimrao Ramji Ambedkar is a Parwari **a resident of Bombay who was sent by the Gaekwad to America to study Finance and Sociology. He figures in the Baroda Service List as a Military Probationer, but has done no military training and was apparently appointed in order to draw pay. He was sent to America in June 1913 and it is believed that he is still there. A certificate of identity was given to him."

Bhimrao Ramji Ambedkar February 13, 1915

107. *Vide paragraph 81 Bombay, February 8th*—Bhimrao Ramji Ambedkar is a Mahar by caste, native of Ambed, Taluka Dapoli, District Ratnagiri. He is a graduate of the Bombay University having passed his B. A. Examination from the Elphinstone College. He then joined the Baroda State Service and in 1913 was sent to America by the Baroda State to study Economics. He left Bombay per S. S. Sardegna on the 15th June 1913.

It appears that Ambedkar had asked for an extension of his stay in America for two years more within which time he expects to finish his studies.

●●

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*Abbreviations : S. B.—Special Branch.

** For the meaning of the word 'Parwari' see article by Dr. B. R. Ambedkar under the title 'The Mahar : who were they and how they became the Untouchables.' on Pp. 137—150 in Part II of this Volume.—Editors.

APPENDIX -VIII

FOR THE PRESENT DR. AMBEDKAR MUST WORK AS A PROBATIONER IN ACCOUNTS DEPARTMENT

LETTER FROM GOVERNMENT OF BARODA

"Government of Baroda,
No. 744
Huzur Cutchery
Baroda, 7th June 1918.

My dear Sir Narayanrao,

In reply to your letter of the 5th ultimo, enclosing Mr. Ambedkar's, I write this to say that the papers were submitted to His Highness the Maharaja Sahab and he has been pleased to order that Mr. Ambedkar should join Baroda service on the salary that was agreed to be given to him when he left for America. If that is inadequate, his request for improved salary will be considered after a while. *For the present*. In view of his conduct which His Highness is constrained to remark has not proved worthy of his education or trust reposed in him. His Highness is not disposed to give him more liberal terms. His Highness has always been taking a (good) deal of interest in the welfare of Mr. Ambedkar's community and has spent large sums of money on Mr. Ambedkar himself. Could not be under these circumstances have set an example of probability and straight-forwardness even at some loss and discomfort to himself, particularly when he was promised better prospects in course of time ?

As regards his request for professional work in the College, His Highness will consider the question when there is a vacancy provided he is found fit for those duties. For the present, he must work as a Probationer in the Accounts Department.

Since Mr. Ambedkar is not in a position to furnish requisite security for repayment of the money spent over his education in the event of his relinquishing service, he will have to submit for a period of 5 years to a deduction of 15 p.c. of his pay which will be

kept as deposit under the rules with the liability of forfeiture, if he left service again. But as a special case, His Highness has ordered that so long as this deduction reduction reduces his emoluments to less than the contracted initial salary, he may be given a proportionate increase from the date of his joining.

Lastly, as a special case the Maharaja Sahab has permitted Mr. Ambedkar to stay in the Guest House for the present and has asked for plan Estimates at an early date for a house to be built for him.

Your Sincerly,
Manubhai Mehta.

Sir H. G. Chandawarkar,
Redder (Peddar) Road,
Malabar Hill, Bombay."[1]

●●

[1]: Rattu : Little known facts of Dr. Ambedkar, Pp. 230-231.

APPENDIX -IX

TAKE EARLY ACTION TO REPAY YOUR DEBT

"K. E. D. S.F. No. 43 No. 8088 of 1919-20
TELEGRAPHIC ADDRESS Office of the Educational Commissioner,
"EDUCATION, BARODA". Baroda, 13th/14th May 1920

From
A. B. Clarke, esquire, B. A. (Cantab),
The Educational Commissioner,
Baroda State, Baroda.

To,
Dr. B.R. Ambedkar,
The Sydenham College of
Commerce and Economics, Bombay.

Subject: Repayment of debts.

Sir, I have the honour to invite your attention to my letter No. 4675, dated 24th January 1920* and a subsequent reminder No. 6121, dated 18th March 1920* on the subject quoted above and to request that you will be good enough to expedite the matter and to take early action to repay your debt to the State.

I have the honour to be.
Sir,
Your most obedient servant,
A.B.Clarke.

Commissioner of Education,
Baroda State"[1]

●●

*Letter not available—Editors.

[1] : Rattu : Little known facts of Dr. Ambedkar, P. 232.

APPENDIX - X

REACTIONS ON THE STATEMENT DATED 19-6-1936 ISSUED BY DR. B. R. AMBEDKAR ON CONVERSION

I

Dr. Moonje's Letter to Mr. Rajah

Dr. Moonje wrote the following letter dated. New Delhi 30th June 1936 to Rao Bahadur M. C. Rajah :—

"Dear Sir,

On urgent calls from Bombay friends and also from Shreeman Seth Jugal Kishore Birla with the concurrence of Dr. Ambedkar, I had occasion to go to Bombay on the 18th instant. There Dr. Ambedkar had long conversations with me for three days. Eventually a fomula for amicable settlement of his revolt against Hinduism was drafted. Dr. Ambedkar entirely agrees with it.

The formula is as follows :—

> "If Dr. Ambedkar were to announce his decision that he and his followers are prepared to embrace Sikhism in preference to Islam and Christianity and that he shall honestly and sincerely co-operate with the Hindus and the Sikhs in propagating their culture and in counteracting the Muslim movement for drawing the Depressed Classes into the Muslim fold, the Hindu Mahasabha will be prepared, in view of their having agreed to remain within the Hindu Culture, to make an announcement that it will not object:—
>
> (1) To the conversion of the Depressed Classes to Sikhism;
>
> (2) To the inclusion of the Neo-Sikhs in the list of the Scheduled Castes; and
>
> (3) To the enjoyment by the Depressed Classes of the political rights of the Poona Pact by free competition between the Non-Sikhs and the Neo-Sikh Depressed Classes as provided for under the Poona Pact."

From Bombay I have come here just this morning for consultation on it with friends before formally putting it before the Hindu Mahasabha for its consideration. I am trying to see Pandit Malaviyaji and if possible also H. H. the Maharaja of Patiala. It is a very delicate matter. I have, therefore, to request you to kindly think over it and let me have your opinion in the matter. Until we decide one way or the other, the matter will be kept strictly private and confidential.

Awaiting your reply.

Yours Sincerly,
(Sd./—) B. S. Moonje.

P. S.—"I am enclosing also a copy of the statement of his case handed over to me by Dr. Ambedkar for your perusal. Please let me have your reply to my Nagpur address."[1]

II

"Mr, Rajah's Reply to Dr. Moonje

I have already expressed my view about Dr. Ambedkar's proposal that the Depressed Classes should give up Hinduism and embrace some other religion. I make a distinction between conversion—which is a spiritual change and migration from one community to another for social, economic and political reasons.

Dear Dr. Moonje, you will excuse my saying that you view the whole problem of Depressed Classes, in view of Dr. Ambedkar's proposal, as one of the communal migration and not as a religious problem. One would expect the President of the Hindu Mahasabha to view it as a religious problem and not merely as a political problem, without even looking at it as a social and economic problem. One can understand your concern if as President of the Hindu Mahasabha you placed the spiritual welfare of the Depressed Classes first and foremost and thought of the social and economic welfare next and lastly thought of them as a political factor. Your solicitude for the place of the Depressed Classes in the political scheme not only exposes the interested

[1] : The Bombay Chronicle, dated 8th August 1936.

nature of your concern for these classes, but is like placing the cart before the horse. One would expect you as President of the Hindu Mahasabha to ameliorate the social condition of the Depressed Classes by removing civic and social disabilities of these classes, not to speak of securing for them the right of worship in Hindu temples on an equal footing with other worshippers, and to further the Harijan movement started by Gandhiji all over the country. Instead of doing this, what is it, that you are doing ? You are dissecting the Depressed Classes and affiliating them religiously to the Sikhs while retaining them politically as Hindus.

The whole thing seems to me not to be conceived in the interest of the Depressed Classes but on the other hand to be planned in the communal interests of the Hindus and the Sikhs. We are not sheep and cattle to be bartered away in this fashion, driven from one political fold to another as a result of a bargain between the leaders of different communites. We want to remain so solid community moving of our own accord in the direction of progress and this we can best do by not throwing away our birth rights as Hindus but by remaining within Hinduism and changing it so as to make it more comfortable not only to our communities which are suffering from similar liabilities, though our hardships are greater and more palpable. It is not our purpose to weaken the Hindu community but to strenghthen it by reforming it from within. We do not wish to be pawns in the game of communal conflicts and competition.

Your proposal involves of electoral fortunes of Hindus, Sikhs and Muslims. If you want us to shift religion from the Hindu fold, we shall have to choose religion between the Sikhs and the Muslims who are the bidders for our communal migration, wrongly called conversion. Why should we antagonise and stand arrayed against Muslims? They are our brothers as much as the Sikhs and the Hindus. If the Depressed Classes all to become Sikhs and call themselves Neo-Sikhs, it will create all over the India a Sikh-Hindu-Muslim problem, as in the Punjab, made move complicated by the fact that the so-called Neo-Sikh belongs to the Depressed Class even among Sikhs.

This question of conversion or the communal migration as a move of the political chess board does not disturb us much in South India. We are content to work under the Poona Pact, partly as a separate electorate and partly with a joint electorate preserving our status with the Hindus both religiously and politically. I would therefore be no party even to the political manipulations which are proposed in your letter. I would urge the Hindu Mahasabha to address itself to the task of making easy for the Depressed Classes to stay within Hinduism and Hindu Society instead of arranging for the ticket for entering them to some far off destination. As the question you raise is likely to rouse a lot of discussion. I reserve to myself the right to publish my reply when the occasion arises.

III

Rajah Backed

Mr. C. Rajagopalchari writing to Rao Bahadur Rajah said :—

> "I have your note and enclosures. I read through the Correspondence. I would not be too strong language to call the whole thing a diabolical proposal. I am glad, you have sent the correspondence to Mahatmaji. I am glad, you have replied in the terms you have done and summarily rejected the Idea."[1]

IV

RAJBHOJ REPLIES TO DR. AMBEDKAR

Poona Pact Benefits not for Runaways from Hinduism

"The Poona Pact does not make any provision for converts from Hinduism, and even if some of the Harijan community embraced Sikhism or any other religion in a body, it is not within the power of the Poona Pact signatories to retain for those converts any of the advantages secured under it," says Mr. P. N. Rajbhoj, Harijan leader and Secretary of the All India Depressed Classes league, in a statement on Dr. Moonje's plan. Mr. Rajbhoj adds that the Poona Pact was specially intended to give the utmost concession to

[1] : The Bombay Chronicle, dated 8th August 1936.

the members of the Depressed Classes, so that they remained an integral part of the Hindu-fold. There was no question of applying it to those that left or were leaving the *Hindu-fold*.

Dr. Ambedkar never once raised the question of conversion at the time of the Pact. I think the cry is now raised to secure more concessions, says he.

Logical Absurdity

Proceeding, Mr. Rajbhoj asks if new converts from Hinduism are to be given the benefits derived under the Poona Pact why not the old converts who may for political, if not religious, reasons want them ? He says that there are large number of Depressed Classes who have embraced other faiths, but have not been able to throw off the disabilities attached to the Harijan Community, and mentions the case of the Christians in some parts of Madras. Why should concessions and benefits obtained by those who laboured under disadvantages and difficulties be given to those who did not want those disadvantages, but only the benefits of the labours of others.

The Poona leader adds, "the formula is a vicious formula and will lead to more complications and endless trouble. It should not be accepted by the Hindus or by anybody. We are Hindus or not Hindus. If we elect to remain within the Hindu-fold, we are entitled to our right and privileges as Hindus, and once we leave the Fold, we can have no claim."

Refuting the statement that the Hindus have not made any sacrifice by accepting the Poona Pact, Mr. Rajbhoj says that instead of the 71 seats given to the Depressed Classes under the Communal Award, the Pact gave them 148 seats. Concluding Mr. Rajbhoj asserts that the conversion idea has no universal appeal among the Harjijan community. Even in Maharashtra only the Mahars favoured such a view, but the Chamars were solidly opposed to any conversion. There was no support to the idea in other provinces and he was surprised how the Hindu leaders were involved into it."[1]

[1] : The Bombay Chronicle, dated 15th August 1936.

V

Mahatma Gandhi's Views

Mahatma Gandhi's letter to Mr. Rajah dated 26th July 1936:—

'I have no difficulty about giving general endorsement to your letter to Dr. Moonje. I do not at all understand Dr. Moonje's or Dr. Ambedkar's posititon. For me removal of Untouchability stands on a footing all its own. It is to me a deeply religious question. The very existence of our religion depends on its voluntary removal by *Savarna* Hindu in the spirit of repentence. It can never be a question of barter to me. And I am glad you take nearly the same position that I do' (The Annual Register, Vol. II, July—December 1936, page 276-279)."[1]

VI

Telegram from Pandit—M. M. Malaviya, dated 30th July 1936 to Rao Bahadur M. C. Rajah:— "Thanks for the copy of your letter to Dr. Moonje. I agree with you."—A. P.[2]

VII

The Munje—Rajah Pact[3]

Splitting Depressed Classes

Sir, though Dr. Munje[4] and the Hindu Mahasabha have been unable to wipe out the blot of Untouchability from Hinduism and thus to make the Hindu Organisation strong and compact, they have succeeded in trapping a leader of the Depressed Classes with a view to causing a split in the ranks of those classes. The Munje-Rajah Pact is being boosted by the Congress and Mahasabha organs, and it is being represented to the gullible public that the pact is being

---

[1] Khairmode, Vol. 6, Pp. 191—193.

[2] The Bombay Chronicle—8th August 1936.

[3] **The Munje-Rajah Pact**—Rao Bahadur M. C. Rajah, a Depressed Classes leader from Madras and Dr. B. S. Munje, President of Hindu Mahasabha had discussions on the basis of reserved seats and Joint Electorates in Delhi. They made a pact which is known as The Moonje-Rajah Pact.

[4] **Dr. B. S. Munje**—He was President of Hindu Mahasabha, Delegate, Indian Round Table Conference.

supported by the majority of the Depressed Class people. In fact. the Munje-Rajah Pact is being strongly denounced by all most all the accredited leaders and leading organisations of the Depressed Classes in the country. The Congress and Mahasabha organs have, however, made a conspiracy to suppress all news about the vehement opposition, the pact is evoking,

It was Rao Bahadur M. C. Rajah,[1] who was strongly in favour of separate electorates when Dr. Ambedkar was advocating joint electorates and reserved seats, and it was through pressure from Mr. Rajah and the Depressed Class Organisation in the Madras Presidency, that Dr. Ambedkar had to set his personal views aside and to make a demand for separate representation at the Round Table Conference. He received support in his demand from Mr. Rajah, who in a speech only some weeks back gave his opinion that the salvation of the Depressed Classes lay only in Separate Electorates. His latest somersault was a surprise to all. He entered in to a Pact for joint electorates and reserved seats with the leader of Hindu Mahasabha without consulting the other leaders and the responsible organisations in the Depressed Classes in the different provinces. Nor, has he given any reason justifying his new policy. The fact Dr. Ambedkar was greeted with a rousing reception and was supported in his demand for separate representation by thousands of people recently at Madras itself, is sufficient to prove that Rao Bahadur Rajah lacks support even in his own Presidency. The evidence which is being given before the Franchise Committee also proves beyond dispute that an overwhelming majority of the Depressed Classes is in favour of Separate Electorates.

The Bombay Congress and Mahasabha organs have given out that Mr. B. J. Deorukhkar has sent a memorandum to the Franchise Committee signed by over five thousand people belonging to the Depressed Classes in support of the Munje-Rajah Pact. It has,

[1] **Rao Bahadur M. C. Rajah**—A Depressed Classes leader from Madras. President of All India Depressed Classes Association. Member of Madras Legislative Council. Member in the Central Assembly.

however, been discovered that, this is nothing but fiction. The fact is that a few set replies to the questionnaire issued by the Franchise Committee have been forwarded in the name of certain insignificant bodies, the numerical strength of which is quite negligible. Mr. Deorukhkar represent himself and at the most some people belonging to his sub-section of the Chambhar Community *viz.* the Dabholi Chambhars, who constitute but a small fraction of the so-called Untouchable community in Maharashtra.

We challenge the Congress and Mahasabha people and their friends in the Depressed Classes to prove their majority in a public meeting especially held for the purpose. So long as they are not prepared to do this the claims of the Congress and Mahasabha organs should be treated with the contempt they deserve.

Divakar Pagare (Mahar)
K.G. Chandorkar (Chambhar)[1]

●●

[1] : Surwade, Vol. 1 Pp. 143—144.

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Vol. 17
Dr. B. R. Ambedkar and his Egalitarian Revolution

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- Struggle for Human Rights

Part Two

- Socio-Political, Religious Activities

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- Speeches

Religion in the sense of morality, must therefore, remain the governing principle in every society.

Babasaheb Dr. B.R. Ambedkar

(14th April 1891 - 6th December 1956)

"The danger is that the frontiers between Pakistan and India that are likely to emerge from the labours of the Boundary Commission, however, satisfactory they may be from the standpoint of the communities immediately affected, will be most unsatisfactory from the point of view of India.

If my fears come true and the boundary drawn by the Commission is not a natural one, it needs no prophet to say that its maintenance will cost the Government of India very dearly and it will put the safety and security of the people of India in great jeopardy. I hope, therefore, that late as it is, the Defence Department will bestir itself and do its duty before it is too late." —(P. No. 357)

—Dr. B. R. Ambedkar

DR. BABASAHEB AMBEDKAR WRITINGS AND SPEECHES

VOL. 17

PART TWO

DR. B . R. AMBEDKAR AND HIS EGALITARIAN REVOLUTION

PART TWO

SOCIO-POLITICAL, RELIGIOUS ACTIVITIES

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WRITINGS AND SPEECHES
VOL. 17
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DR. B.R. AMBEDKAR AND HIS EGALITARIAN REVOLUTION

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Edited by

HARI NARAKE *DR. M. L. KASARE*

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Kumari Selja

Minister for Social Justice and Empowerment
& Chairperson, Dr. Ambedkar Foundation

MESSAGE

Babasaheb Dr. B.R. Ambedkar, the Chief Architect of Indian Constitution was a scholar par excellence, a philosopher, a visionary, an emancipator and a true nationalist. He led a number of social movements to secure human rights to the oppressed and depressed sections of the society. He stands as a symbol of struggle for social justice.

The Government of Maharashtra has done a highly commendable work of publication of volumes of unpublished works of Dr. Ambedkar, which have brought out his ideology and philosophy before the Nation and the world.

In pursuance of the recommendations of the Centenary Celebrations Committee of Dr. Ambedkar, constituted under the chairmanship of the then Prime Minister of India, the Dr. Ambedkar Foundation (DAF) was set up for implementation of different schemes, projects and activities for furthering the ideology and message of Dr. Ambedkar among the masses in India as well as abroad.

The DAF took up the work of translation and publication of the Collected Works of Babasaheb Dr. B.R. Ambedkar published by the Government of Maharashtra in English and Marathi into Hindi and other regional languages. I am extremely thankful to the Government of Maharashtra's consent for bringing out the works of Dr. Ambedkar in English also by the Dr. Ambedkar Foundation.

Dr. Ambedkar's writings are as relevant today as were at the time when these were penned. He firmly believed that our political democracy must stand on the base of social democracy which means a way of life which recognizes liberty, equality and fraternity as the principles of life. He emphasized on measuring the progress of a community by the degree of progress which women have achieved. According to him if we want to maintain democracy not merely in form, but also in fact, we must hold fast to constitutional methods of achieving our social and economic objectives. He advocated that in our political, social and economic life, we must have the principle of one man, one vote, one value.

There is a great deal that we can learn from Dr. Ambedkar's ideology and philosophy which would be beneficial to our Nation building endeavor. I am glad that the DAF is taking steps to spread Dr. Ambedkar's ideology and philosophy to an even wider readership.

I would be grateful for any suggestions on publication of works of Babasaheb Dr. Ambedkar.

(Kumari Selja)

Collected Works of Babasaheb Dr. Ambedkar (CWBA)

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VOL. 17
PART TWO

SECTION—I
ARTICLES, MESSAGES, PREFACES ETC.

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1

RELIGION AND PRIEST BE BROUGHT UNDER PROPER CONTROL

By

Dr. B. R. Ambedkar, M. A., Ph. D., D. Sc, Bar-at-Law., M. L. C.

While at Belgaum I heard of the movement started by some of the Parsis in Bombay to found an association, the prime object of which shall be the abolition of priesthood as a caste. The object of such a body has only to be stated for the vast majority of the young educated people of India to accept it with alacrity. I do not feel called upon to discuss the ways of the Parsi Mobeds. But my Parsi friends may rest assure that the Hindu priestly classes stand in no way superior ethically, educationally or otherwise to the average member of the Parsi priesthood.

A Clog on the wheel

The counts in the indictment against the hereditary Hindu priests are numerous and appalling. He is a clog on the wheel of our civilization. Man is born, he weds, becomes the father of a family and then in time dies. All along the priest shadows him like an evil genius. Deviation from draconian rules prescribed by him according to the *Shastras* and *Smritis* of his own making is punished with a terror which 99 per cent are unable to withstand. Ostracism or casting out man from Society is the weapon fashioned by the Devil himself. This the priest wields with ruthless, relentless and inexorable vigour. I must admit the officiating Brahmin is a miserable specimen of humanity as a rule. He knows it just as well as we do. He practises the shame of being a middleman between the unseen powers and the helpless man and makes a living by it. Philosophers may well ask, is this class reprobate at heart ? But whatever be the answer to the question this parasite living upon and eating into the vitals of Society can no longer be permitted to function without check or control. We in India might take a leaf out of the English reformation and bring both the religion and the priest under proper control and prevent its rank and wild growth.

A heroic task

There is also a great necessity for effective legislation against superstitious practices prevalent among the masses. They find their support in the priest. Wasteful offerings to gods and goddesses, long mourning and multiple ceremonies at births, deaths and marriages, insensate caste dinners are some of the senseless and meaningless practices in which the priest delights. Be it an occasion of joy like wedding or sorrow like death, it is equally availed of by the priests, many of whom pray, as one of the Parsi correspondents, has excellently shown, in order to be able to prey on their victims. I say the Catalogue of the evils of priesthood is really appalling. Its final eradication can only be kept in view as an ideal but we cannot start a month too soon in initiating our righteous campaign. I cordially welcome the measures concerted by some of the leading Parsis. It is really surprising how much priest-ridden the Parsi community is. It has been estimated by some Parsi friends that for one year after his death, a dead Parsi is economically a heavier burden on the poor family than a living one. A Parsi newspaper recently gave the instance of a man who while living could hardly afford an aluminium tumbler. But when he died the priest insisted that a silver goblet should be employed in his funeral ceremony. I quote this to show that with their keen practical wisdom the Parsis have very appropriately taken the lead in initiating measures for ridding India of the evil of priest-craft and I have no doubt that all enlightened Hindus, Mahomedans and Christians will join this heroic and noble task of cleansing priestdom, the weight of which they are certainly far less fitted to bear than their Parsi brethren".[1]

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[1] The Bombay Chronicle, dated November 8, 1929.

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THOUGHTS ON THE REFORM OF LEGAL EDUCATION IN THE BOMBAY PRESIDENCY

By

Dr. B. R. Ambedkar, M. A., Ph. D., D. Sc, Bar-at-law., Principal, Government Law College, Bombay.

The Legal Profession in the Presidency of Bombay consists of diverse elements. There is difference of status and there is difference of training. There are six different classes of Legal Practitioners in the Presidency viz ;

1. Barrister-at-Law, 2. Advocates (O. S.), 3. Advocates (A. S.) of the Bombay University, 4. Advocates (A.S.) of the Bar Council, 5. Solicitors, and 6. Mukhtyars, who have the right to practise in the Courts in the Bombay Presidency. The extent of legal training which is required from these six classes of practitioners varies considerably. The Barrister's legal training extends over three years plus one year in Chambers. The Advocate (A.S.) of the Bombay University is a graduate of Bombay University who has had a compulsory training in Law extending over two years in a recognised Institution. Thus, in all he spends six years after his matriculation before he becomes entitled to practise. The Advocate (A.S.) of the Bar Council is, unlike the Advocate (A.S.) of the Bombay University, only a Matriculate and is not required to undergo compulsory training in Law in any recognised Institution and entitled to appear for the Bar Council Examination without any interval being allowed to pass. The Advocate (O.S.) is an LL.B. like the Advocate (A.S.) and he has had altogether five years of legal training. After an interval of two years after taking his LL.B. degree, he appears for the Examination of the Advocate (O.S.). He does not even then become entitled

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College Notes

We, however, note with satisfaction that Mr. Fyzee has handed over charge to no less a person than Dr. Ambedkar. A lawyer of repute, he is a close student of Economics, an authority on Constitutional Law and a personality known throughout India and elsewhere. To write more about him would be otiose. Expecting much from our Principal we shall not embarrass him now. We prefer to wait and see.

to practise unless, in addition, he spends one year reading in the Chambers of a senior practitioner, thus spending altogether nine years from his Matriculation. The Solicitor is required to be either a B. A. or an L.L.B. before he signs Articles with a firm of solicitors. His examination is held three years after he has signed his Articles. His previous training, therefore, is either seven years if he joins the firm as a B. A. or nine years if he joins it as an LL.B. At the lowest rung of the ladder is the Mukhtyar. He need have no training in Law nor is he required to pass any qualifying test. The situation is further complicated by the existence of two other circumstances. First is the existence of different authorities having the right to examine candidates appearing at the Law Examinations. So far as the two classes of Advocates (A.S.) are concerned, there are two different authorities which have the right to examine. One class is examined by the Bombay University and the other by the Bar Council. With regard to the Advocate (O.S.) and the Solicitors, the examining body is the High Court. It must be noted that none of these examining bodies undertakes the responsibility of teaching those whom they examined. The second circumstance which adds to the complexity of the situation is the difference of status among the legal practitioners in the Presidency. The Advocates (O.S.) and the Barristers have the whole field open to them. They can practise in any Court and on either side of the High Court though they can only plead and cannot act. The Advocate (A.S.) is restricted so far as the High Court is concerned to the Appellate Side. But he can plead as well as act. The Solicitor, on the other hand, can practice anywhere and so far as the High Court is concerned, on the Original Side he can only act while on the Appellate Side he can act as well as plead.

That, there should be such a diversity is the matter of qualifications, in the matter of Examinations and in the matter of Status among persons practising the same profession is a very unfortunate fact. But while it may be admitted that all this is very unsatisfactory and even deplorable, I do not think it can be argued that all this constitutes a problem. Because I am not convinced that the system complicated and illogical as it produces any injurious results. That, there are anomalies in the situation is beyond

doubt ; but there are anomalies also in other Departments of Education. To take only two examples, one from the Medical and the other from the Engineering Profession. The University of Bombay has instituted a course of Medical studies on the passing of which a person becomes entitled to the M. B. B. S. Degree. Parallel to it and alongside, there is the L.C.P.S. course conducted by the Government on the completion of which a person becomes entitled to a Diploma. The University of Bombay has prescribed a course of Engineering at the end of which the Degree of B.E. is conferred on the successful candidates. The Victoria Jubilee Technical Institute has also a Course of Engineering at the end of which the student gets a Diploma. Both the person who gets the University Degree as well as the person who gets his Diploma in Medicine or Engineering practise the profession and find employment both under Government and also outside Government. No one complains about this because each class finds a place that is suited to its training. This is exactly what happens in the Legal Profession if one cares to understand the way it functions. The Mykhtyars are confined to Criminal Courts of the lowest order and take up petty cases. The Advocate (A.S.) of the Bar Council who has become an eyesore to many practitioners practise in the Mofussil Courts of Sub-Judges and Sub-Divisional Magistrates in Taluka. It is the Advocate (A.S.) and the Advocate (O.S.) who alone practise in the District Courts and the High Court. Turning our attention to the way in which the profession functions in practice it cannot be said that there is anything very seriously wrong with the system for Legal Education. That the system is complex and asymmetrical is true but mere complexity and absence of symmetry can not be taken to constitute a problem especially when by the law of gravitation so to say each person settles down to the position and the class of work which is but commensurate with his training.

Assuming that there is a problem, it is necessary to make certain distinctions to avoid confusion of the issue. The problem of overcrowding of the Legal Profession must be separated from the problems of legal education. It would be indefensible both from the stand-point of education and also from the stand-point of social justice to frame a scheme of Legal Education on a basis which would make legal profession the preserve of the few. The question

what sort of Legal Education should be given so as to produce an efficient lawyer is a purely educational question and must be settled by the Educationist without being influenced by what might ultimately happens if the number who took to law as a profession was so great that it exceeded the point of saturation. Another distinction which I think must be made is this : the question of Legal Education has no inherent connection with the question whether the Institutions charged with legal instruction should be whole-time or part-time. It is possible to conceive and to frame a system of legal education tolerably good and easily workable with a Law School or a Law College working part-time.

With these preliminary observation, I address myself to the considerations of the problem of reform of legal education. There are four questions that emerge for consideration :–

1. At what stage of his education student should be permitted to commence his study of Laws ?
2. What should be the period for a complete course of legal education ?
3. What subjects should be curriculum for a complete course of legal education include ?
4. How should the Law College be organised so that the curriculum prescribed is dealt with in the most efficient manner ?

Question No. 3 seems to me to be pivotal. On a correct answer to this question depends the solution of the remaining three questions. The best approach to the subject is furnished by the reports made from time to time by the Examiners appointed by the Bombay University at the LL.B. Examination containing the impressions formed by them of the work of candidates. The perusal of these reports will show that the examiners have along emphasised the following defects in the work of the examinees.

1. The absence of any indication of a correct understanding of the fundamental principles underlying the laws which he is required to study.
2. Absence of any grounding in general knowledge.
3. Want of orderly presentment of the subject ?
4. Absence of any sense of relevancy of the answer given to the question asked.
5. Absence of any sense of precision in stating facts, arguments and opinions.

6. Inability to express in clear language what the student has in his mind.

These are undoubtedly very serious defects in a student of Law and something must be done to remove them. How can these defects be removed ? We must first of all understand what these defects are due to. In my opinion these defects are due to two things, viz. a faulty curriculum and a faulty method of instruction.

From the educationist's point of view the study of Law requires a study of certain other auxiliary subjects without which the study of Law alone would be incomplete equipment for the practice of the Profession. What these auxiliary subjects should be will not be difficult to enumerate if we remember that a lawyer must have a legal mind. In the opinion of a keen observer whom Augustine Birrell quotes approvingly in his Obiter Dicta, a legal mind chiefly displays itself by illustrating the obvious, explaining the evident and explatiating on the common place. Disregarding for the moment, the quip conveyed in the observation, I think it contains an important bit of truth in so far as it suggests what the real business of a lawyer is. According to the observation, the business of a lawyer is to argue. So important a part does argument play in a lawyer's business that I am prepared to say that argument is the summum bonum of a lawyer's being. The essential requisites for the development of the argumentative ability are :

a. A knowledge of the individual and how he functions in society.
b. A knowledge of the working of the human mind.
c. A mind trained to drawing logical inferences.

In addition to those fundamental requirements of argumentative ability, there are other requisites, purely ornamental but none-the-less necessary, of grace of language and of orderly presentment. To put it in concrete terms, a lawyer's training apart from the study of law must include the study of the following subjects: (1) Sociology, (2) Psychology, (3) Logic, (4) Rhetoric and the art of public speaking, and (5) Command over language. None of these subjects form a part of the present curriculum of the Law course. The first step, therefore, is to reform the curriculum and to see that these subjects are included in it.

If the curriculum is expanded in the way suggested, then it seems to me that the one and the only answer to the second question namely what should be the period for a complete course of legal education is that it cannot be a two years' course as it is now. It must be more than two years. What exactly should the period be is a question on which there might be a difference of opinion. In my view, the period should be four years. I would divide this course of four years into two periods each of two years. At the end of the first two years, there is to be an examination to be held either by the University or by some other body appointed for the purpose, which examination to be called the First LL.B. Exmination. At the end of second two year's period, there is to be another examination held by the same authority and to be called the second LL.B. examination.

I will next deal with the question of dividing the curriculum between the first LL.B. and the Second LL.B. under my scheme. The course of the First LL.B. should include the following subjects :–

1. Sociology and Psychology. 2. Logic and Rhetoric. 3. English. 4. Law of Contracts. 5. Legal Philosophy and Legal Maxims. 6. Constitutional Law. 7. Government of India Acts. 8. Law of Crimes and Criminal Procedure.

The Course for the second LL.B. will include the course of study now prescribed for the First and the Second LL.B; minus Constitutional Law, the Government of India Acts, the Law of Crimes and Criminal Procedure and Contract which are under my scheme transferred to the First LL.B. I would, however, like to add the following Acts to the curriculum of the second LL.B. :–

(1) Provincial and Presidency Small Cause Court Acts, and

(2) Bombay Civil Courts Act.

I am not in favour of omitting the study of Civil and Criminal Procedures as is suggested in some quarters from the course of Collegiate studies especially as under my scheme there would be ample time for their study.

Having given my views on the questions relating to the course of studies and the period of studies, I take the consideration of the

first question, namely, at what stage of his education, a student may be permitted to commence his study of law. I have no hesitation in saying that it should begin immediately after he passes his matriculation. I am driven to this conclusion by my inability to answer satisfactorily to myself the following two questions :–

(1) Why should the study of law be regarded as a postgraduate study.

(2) Does the undergraduate curriculum gone through by a boy in an Arts College gives him the training which is necessary as a preliminary for making him an efficient lawyer and the want of which has been a matter of constant complaint by the Examiners.

With regard to the first question, it may be pointed out that in the Bombay University no Degree in any Scientific subject, such as Engineering, Medicine, Chemistry and Physics is treated as a postgraduate Degree requiring the passing of the B.A. as a condition precedent for being admitted to the Degree Course. Why Law alone should be treated as an exception, I can see no good ground for justification. Secondly, what the boy studies during his four years in an Arts College for obtaining B.A. Degree. *Ex-Hypothesis* has been found as of no material benefit to him in the study of Law. It is the consideration of the matter from this point of view which has forced me, as I have said, to come to the conclusion that Law should not be treated as a post-graduate study but should be treated as a graduate study commencing right after the matriculation. There is nothing so inherently or particularly good in the present-day graduate course of the Bombay University which can be said to add to the make-up of a good lawyer as to compel us to hold that it must be a necessary prerequisite for the commencement of the study of Law. I may mention in passing that the Barrister's course is not a post-graduate course.

There is a view that a student may be permitted to take to legal studies after the Intermediate. The suggestion is a good one in so far as it implies a return to the old system when law was not regarded

as a post-graduate study. Nonetheless in my view to adopt this suggestion would be a mistake and for two reasons. Experience has shown that a B. A. is not good enough. With this experience behind us, it seems to me somewhat odd to think that if we descend to the lower and inferior strata of the Intermediate, we could turn out a more finished product from the Law College than we do now when we draw our raw material from the higher and better strata of the B.A. If B.A. is not good enough, I cannot understand how it can possibly be maintained that the Intermediate would be better. Secondly, why leave the boy even though it be for two years in the hands of an Arts College which does not give him the preliminary training necessary for Law. If the boy is deficient in his preliminary training, why not take him in your own hands from the very commencement and give him the training? Why send him for two years to an Arts College which does not profess to give a course of instruction designed for the ultimate benefit of a lawyer ?

I see three distinct advantages in my proposal of allowing a student to commence the study of law immediately after the Matriculation :

1. The first advantage to which I attach the greatest value is this. At present, a student who joins the Law Course has not the fixed objective of studying law for the purpose of qualifying himself for the profession. He comes there merely for the purpose of adding one more string to his bow. It is his last refuge to which he may or may not go for shelter. Probably, he comes to the Law College because he is unemployed and does not know for the moment what to do. Due to this unsteadiness in purpose, there is no seriousness in the Law student and that is why his study of Law is so haphazard. It is, therefore, necessary to compel him to stick to it. A boy, who is a B.A., cannot have this fixity of purpose, because as a B.A. he has other opportunities in life open to him. My scheme has the advantage of compelling the boy to make his choice at the earliest

stage at which every one in this country is required to make a choice of his career.

2. The second advantage of my proposal lies in its combination of economy and efficiency. A boy will be able to complete his legal education within 4 years. This is a saving of two years over the present system. The alternative suggestion also requires six years. From the standpoint of poorer students, it has no advantage over the present system. From the standpoint of training, I venture to say that the existing system as well as the alternative suggested by the Committee suffer in comparison with mine. The existing system allows only two year for the study which is undoubtedly very inadequate. The alternative scheme allots three years. But my scheme provides four full years. From the standpoint of efficiency, it is, therefore, superior to both.

3. The third advantage is that it will introduce a process of selection. Those who have not the definite object of entering the profession will be weeded out. Only those with the definite object will join. It will, thus, held to prevent the overcrowding of the profession.

There is only one objection which may be urged against it by some with whom I have discussed it. It is that a Matriculation student will not be able to follow lectures in law. My reply to this is twofold. My friend, Mr. S. C. Joshi, M. A., LL.B., Advocate of the Bombay High Court, assures me that there is no substance in the objection. He is conducting the classes for the Bar Council's Examination for the last several years with great credit as the results show. He has had first-hand experience of teaching Law to Matriculates and I attach much importance to his opinion in this connection. My second reply is that under my scheme, the course for the LL.B. is of two years and the study of Law need not commence from the first year. It may commence in the second.

Coming to the last question of the reorganisation of the Law Colleges, this question was considered by a Committee appointed in 1898 as also by another Committee appointed in the year 1915

known as Chandavarkar Committee and the proposal was rejected. I confess, I have a prejudice against the proposal of making the Law College whole-time. It is a fact that many of the students who are studying law at present are working during the day to earn their living. Indeed, Legal Education would not be possible to many a student and if he was not in a position to earn his living while he is studying. And if the total course of study were to extend over a period of six years as it happens today, I would still oppose the proposal of a full-time College. No educationist would be justified, in my opinion, in devising his scheme of education in such a manner as to impose upon the parent the burden of maintaining a student for six years assuming that there are no failures. But in view of the fact that my scheme requires only four years for the completion of the course and also in view of the fact that the boy is to be taken in hand in a somewhat immature state, I have brought myself as a matter of sheer necessity to favour the proposal of full-time College.

With regard to the staff of the College, I would organise it in two Divisions– the Tutors and the Professors. I am anxious that the actual teaching of Law should be done by persons drawn from the practising members of the Profession. In the absence of any touch with the practising members of the profession, a student in the Law College is likely to get into the academic groove so to say. He must be given a bias in favour of the practical. Only contact with the practising members can give a practical bias to his training. The professors, therefore, should not be required to be permanent members of the staff. Only the Principal and the Tutors should be permanent members of the staff. The work of the Tutors should be to give tuition to the boys and to coach them up, while the Professors and the Principal will do the lecturing.

The object of dividing the staff into two classes is primarily to remove the defects in the method of instruction. The faults in the method of instruction now in vogue will be obvious to any one who has any experience of teaching in Law College. Under the present system, the share which the student takes in his own legal Education consists merely in taking notes of lectures delivered by the Professors. This system at the most acquaints the students with the

provisions of the different Acts. But it is doubtful whether the system of mere lecturing affords a sufficient training of the student's mind so as to enable him to apply legal principles to the complicated series of facts which arise in practice. There is also nothing in the system which can compel the student to follow up the lectures by reading the text-books prescribed with the result that student reads nothing till a few days before the date of the examination, when in order to work out the huge arrears he resorts to the notes and the cram books.

There are different views as to the proper method of giving instruction in Law. Some prefer the case method; others prefer the text-book method, supplemented by lectures. No one can dogmatise as to which of the two is the correct method. Methods of instruction must, of course, be left generally to the discretion of the individual members of the Teaching Staff. But, I believe that some positive direction is necessary to the teaching staff to being to its notice the fact that the present system is faulty and that it is necessary to introduce some change in the method, which will demand a larger share of intellectual effort from the student and which will, while instructing him, also train him. I am of opinion that instead of mere lecture there should be a combination of lecturing work and tutorial work; unless the tutorial method is used to supplement the method of lecturing, there is not much hope of the new college producing a new and a better class of lawyers.

The reform in the system of legal Education should in my view be accompanied by reforms in three other directions :–

(1) All the different Examination in Law should be abolished and should be replaced by one Examination common to all practitioners and the distinction between Advocate (A.S.) and Advocate (O.S.) in so far as it is founded in difference in Examination should be done away with. If the distinction is to be retained, it should be founded on the choice of the practitioner who should be called upon to make his decision at the time he applies for the Sanad whether he would practise as an Advocate (A.S.) or as an Advocate (O.S.) or as a Solicitor.

(2) There must be one common Examining Body. As a part of this scheme of re-organisation, I think a Council of Legal Education for supervising Legal Education and also for conducting Examination in Law should be established. The body should consist of the following :–

(i) Representatives of the University.

(ii) Representatives of the Judges of the High Court.

(iii) Representatives of the Bar.

(iv) Representatives of the Professors of Law Colleges.

(v) Representatives of the Public.

I am not prepared to hand over the function of the Examination to the Bar Council. There is a danger of the Council developing the Trade Union mentality. It would be fatal to the whole system of the Legal Education if such a mentality became an operative force in the conduct of Examination. Already the system of Examination has resulted in killing all interest in the study of Law. Care should be taken to see that there is no aggrevation of this unfortunate result.

(3) The granting of the Sanad should not merely depend on the mere passing of the Examination. It should be made dependent upon the passing on three conditions. :–

(a) The holding of a Degree in Law.

(b) Reading in Chambers of a senior for one year and passing of an Examination in the Law of Pleading and the Ethics of the Profession. And in addition

(c) (i) in the case of a person who wishes to take the Sanad of an Advocate (O.S.) the passing of an Examination in High Court Rules (Original Side).

(ii) in the case of a person who wishes to take the Sanad of an Advocate (A.S.) the passing of an Examination in the Appellate Side Rules of the High Court.

(iii) in the case of a person who wishes to take the Sanad of a Solicitor the passing of an Examination in (a) High Court Rules (Original and Appellate Side) and (b) Conveyancing.

(d) Production of a certificate of good moral character.

There is no justification left for the existence, diversities and anomalies when the system of education is made common to all and is extensive enough for any class of practitioners.

With respect to the question of practical training in the Chambers of a Senior Lawyer it is necessary to mention the following points which arise for consideration :

(1) Are there facilities for training ?

(2) What would happen if no senior lawyer was prepared to admit a law student in his Chambers for training or those that were prepared demanded exorbitant fees ?

All these points must be settled if the test of training is to be practicable. With regard to point No.1, I cannot be absolutely certain. But, I think it is possible to find a sufficient number of Seniors in Bombay and in the District Towns to provide facilities for practical training. On the second point I am sure that unless the High Court was prepared to compel a Senior to admit student to his Chamber for training the system would fail. The habit of not showing the tricks of the trade to one who may be possible rival and the fear that the student while under training will get into touch with the clients and will run away with some of them is so ingrained in the mind of the Seniors that I am sure, they will never consent to take student in their Chambers unless they are compelled to. In relation to third point I think

the High Court should lay down the fees for training in Chambers. Otherwise, the fees are likely to be prohibitive which would have the result of making the legal profession the preserve of the rich.[1]

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[1] Govt. Law College magazine : Vol. VII; No. 1 ; January, 1936.

3

DR. AMBEDKAR'S REPLY TO SIR S. RADHAKRISHNAN

The Survival Theory

" Professor Radhakrishnan once said that there was one argument to prove the greatness of Hindus and that was : it had survived the shakes of time, it still existed whereas other ancient cults and creeds had been dead long ago.

In reply to this argument Dr. Ambedkar says:—

"I fear that this statement may become the basis of a vicious argument that the part of survival is a proof of fitness to survive. It seems to me that the question is, not whether a community lives or dies ; the question is, on what plane does it live. There are different modes of survival. But all are not equally honourable. For an individual as well as for a society there is a gulf between merely living and living worthily. To fight in a battle and to live in glory is one mode. To treat a retreat, to surrender and live the life of a capture is also a mode of survival. It is useless for the Hindus to take comfort in the fact that he and his people have survived. What he must consider is what is the quality of that survival. If he does that, I am sure he will cease to take pride in the mere fact of survival. The Hindus have been living a life of continuous defeat and what appears to them to be life everlasting is not living everlastingly. It is a mode of survival of which every right-minded Hindu, who is not afraid to own up the truth will feel ashamed." [1]

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[1] Published in 'The Lamp' dated 25th June 1936; quoted in : Khairmode. Vol. 6. P. 266.

4

AND THE LORD SAID UNTO—

Reports of Cases Argued and Determined Before The Lords Of the Privy Council, 1829-31

By Jerome Wm. Knapp, Barrister-At-Law, Vol. I.

[A note Contributed by Dr. B. R. Ambedkar]

The case *In re justices of the Supreme Court of Judicature,* which is reprinted below was decided on the 14th of May 1829. It would, however, be a mistake to suppose that the case is of antiquarian interest merely because it is 107 years old. The case is not only of interest to students of History but it is also of interest to students of Law and to the general public as well. Students of History know the jealousy and the hatred that subsisted between the Officers of the East India Company and the Officers of the crown during the period of Double Government that preceded the Mutiny. The reader of the *Memoirs of Sir Edward West* will recall how a Governor appointed by the East India Company contrived to have a duel with a Judge of the Supreme Court appointed by the King. To the student of History the case is of interest because it illustrates the length to which this jealousy and hatred between the officers of the Company and the officers of the King had gone in those old days. To the student of Law the case though old is of great and present-day importance. The issue raised in the case was whether the Supreme Court established in Bombay had a right to issue a Writ of *Habeas Corpus* against a person not residing within its original local Jurisdiction. That the decision had relation to the powers of the Supreme Court which has ceased to exist does not lessen the importance of the case to the student of present day Law because although the Supreme Court has ceased to exist the power of the present High Court to issue the writ of *Habeas Corpus,* outside its original local Jurisdiction is a question which can be answered only by reference to the powers which once belonged to the Supreme Court. This is so because according to the Letters Patent the High

Court has only such powers as once belonged to the Supreme Court. To know the powers of High Court one must know the powers of the Supreme Court. Sir John Grant, the Chief Justice of the Supreme Court was driven to make the application to the Privy Council which became the subject matter of the decision because the Government of Bombay refused to execute his writs. Although the general question– whether the law should provide that the Executive shall be bound to carry out the orders of the Judiciary was not a question directly in issue yet there could hardly be a question of greater importance from the standpoint of the general public. In any Political Constitution the Judiciary is the weakest organ as compared to the Legislature and the Executive. It depends upon the Legislature for the powers it possesses and upon the Executive for the carrying out of its orders. The Executive generally respects the orders of the Judiciary and carries them out. It is true that in the case reported, the Judiciary had no authority to issue a Writ and, therefore, the Executive was justified in refusing to carry it out. But an occasion may arise where an Executive out of spite or out of contumacy refuses to execute the Writ of the Judiciary. Should that happen Justice will remain hung up in the air and a grave public question might arise involving menace to the life, liberty and property of the citizen. These observations are suggested by reason of the contrast which one finds between the provisions in the New Government of India Act, of 1935 relating to the obligation of the Executive to carry out the Writs of the Federal Court or the High Court and analogous provisions in the Constitution of the United States and the erstwhile German Republic which served as an interlude between the fall of the Kaiser and the rise of Hitler. It would certainly be a profitable study to pursue this matter and the curious will naturally do so.

(See overleaf the Judgment referred above)

By Petition from Bombay

In Re The Justices Of The Supreme Court Of Judicature
(14th May, 1829)

The Supreme Court of Bombay has no power to issue a writ of *habeas corpus* except when directed to a person resident within those local limits wherein it has a general jurisdiction, or to a person out of those limits who is personally subject to its jurisdiction [1 Knapp, 58].

The Supreme Court has no power to issue a writ of *habeas corpus* to the gaoler or officer of the native court such officer having no power to discharge persons imprisoned under the authority of a native court [1 Knapp, 58].

The Supreme Court is bound to notice the jurisdiction of a native court without having it set forth specially in the return to a writ of *habeas corpus* [1 Knapp, 59].

This case arose on the petition of Sir John Peter Grant, Knight, only surviving justice of the Supreme Court of Judicature at Bombay. It stated that by letters patent of the 8th of December*, in the fourth year of the present reign, his Majesty was pleased to grant, direct, ordain and appoint, that there should be within the settlement of Bombay a Court of Record, which should be called the Supreme Court of Judicature at Bombay; and did thereby create, direct and constitute the said Supreme Court of Judicature at Bombay to be a Court of Record, and that the same should consist of, and be holden by and before, one principal Judge, who should be and be called the Chief Justice of the Supreme Court of Judicature at Bombay, and two other judges, who should be and be called the puisne Justices of the Supreme Court of Judicature at Bombay.

And that the said Chief Justice and the said puisne Justices should severally and respectively be, and they were all and every of them thereby appointed to be, Justices, and conservators of the peace, and coroners, within and throughout the settlement of Bombay, and the town and island of Bombay, and the limits thereof, and the factories subordinate thereto, and all the territories

[* 1823. The text of the charter is given in Morley's Dig. Vol. II., P. 638. The constitution and powers of the High Court of Bombay are now defined by letters patent of Dec. 28, 1865 (State. R. and O. Rev. Vol. IV., P, 108), issued in pursuance of the Indian High Courts Act, 1861 (21 and 25 Viet. 104)]

which then where, or thereafter might be, subject to or dependent upon the Government of Bombay aforesaid, and to have such jurisdiction and authority as his Majesty's justices of his Majesty's Court of King's Bench had and might lawfully exercise within that part of Great Britain called England, as far as circumstances would admit.

And that the said Supreme Court of Judicature at Bombay should have and use, as occasion might require, a seal bearing a device or impression of his Majesty's royal arms; and that all writes, summonses, precepts, rules, orders, and other mandatory process to be used, issued or awarded by the said Supreme Court of Judicature at Bombay, should run and be in the name and style of his Majesty, and be sealed with the seal of the said Supreme Court.

And that the King by the said letters patent constituted and appointed Sir Edward West, Knight, then recorder of Bombay, to be the first Chief Justice, and Sir Ralph Rice, Knight, then recorder of Prince of Wales's Island, and Sir Charles Harcourt Chambers, Knight, to be the first puisne Justices of the said Supreme Court of Judicature at Bombay.

And the King did further direct, ordain and appoint a certain jurisdiction to apperatin to the said Supreme Court of Judicature, for the hearing and determining of suits and actions arising in the territories subject to or depending upon the said Government, subject to certain provisos, exemptions, and declarations in the said letters patent mentioned, and did appoint a certain form of proceeding for the commencing, prosecuting, hearing and determining such civil suits and actions, and for the awarding and issuing of execution on the judgements pronounced therein.

And that the King was also pleased to grant, ordain and appoint, that the said Supreme Court should be a court of equity, and have equitable jurisdiction over the persons in the said letters patent described, and should be a court of oyer and terminer, and gaol delivery in and for the town and island of Bombay, and the limits thereof, and the factories subordinate thereto, and also a court of ecclesiastical jurisdiction within and throughout the town and island of Bombay and the limits thereof; and further, that the said Supreme Court should be a Court of Admiralty in and for the said

town and island of Bombay and the limits thereof, and the factories subordinate thereto, and all the territories which then were or thereafter might be, subject to or dependent upon the said Government.

And that the said Sir R. Rice, Knight, resigned the off ice of senior puisne Justice of the said Supreme Court of Judicature at Bombay, in November 1827, when the said Sir C. H. Chambers became senior puisne Justice thereof; and the said Sir R. Rice having resigned his office, the petitioner was by letters patent of the 30th of August 1827, appointed one of the puisne Justices of the said Supreme Court in his room; and that he took his seat as such at Bombay, on the 9th day of February 1828.

And that the said Chief Justice Sir Edward West departed his life on the 18th of August 1828; and that on the 3rd day of October in that year a letter was addressed :

> "To Sir C. H. Chambers, and the petitioner, as puisne Justices of the Supreme Court of Judicature, dated Bombay Castle, 3rd October 1828, and signed, by John Malcolm, the Governor; T. Bradford, Lieutenant-General, Commander of the Forces; J. J. Sparrow, and John Romer, the Second and Third Members of the Council."

Which letter was of the following tenor :

Honourable Sirs :

"We are quite aware that we transgress upon ordinary forms in addressing this letter to you; but the circumstances under which we are placed will, we trust, justify this departure from usage, and our knowledge of your private and public characters leads us to hope, that what we state will be received in that spirit, in which it is written; and that, notwithstanding your strict obligations to fulfil every part of your high and sacred duty as British Judges, you will, on this extraordinary occasion, deem yourselves at liberty to consider as much the objects, as the rules of the Court over which you preside; and viewing the intention of the Legislature in its institution, as directed to the aid and support of the Government instructed with the administration of this Presidency, you will, for a short period, be induced by our representations to abstain from

any acts (however legal you may deem them) which, under the measures, we have felt ourselves compelled to take and which we deem essential to the interests committed to our charge, must have the effect of producing open collision between our authority and yours, and by doing so, not only diminish that respect in the native population of this country which it is so essential to both to maintain, but seriously to weaken, by a supposed division in our internal rule, those impressions on the minds of our native subjects, the existence of which is indispensable to the peace, prosperity and permanence of the Indian empire. This conclusion refers to a variety of circumstances which we are equally forbid from explaining as you are from attending to such explanation; but we deem it necessary to state our conviction of the truth of what we have asserted, expecting that it may have some weight with you as connected with the preservation of that strength in the Government, which in all our territories, and particularly those we have so recently acquired, is the chief, if not the only power we posses for maintaining that general peace, on the continuance of which the means of good rule, and of administering law under any form must always depend.

"2. In consequence of recent proceedings in the Supreme Court, in the cases of Moro Ragonath [1 Knapp, 8] and Bappoo Gunness [1 Knapp, 11], we have felt compelled, for reasons which we have fully stated to our superiors, to direct that no further legal proceedings be admitted in the case of Moro Ragonath; and that no returns be made to any writs of *habeas corpus* of a similar nature to those recently issued and directed to any officers of the provincial courts, or to any of our native subjects not residing in the island of Bombay.

"3. We are quite sensible of the deep responsibility we incur by these measures, but must look for our justification in the necessity of our situation. The grounds upon which we act have exclusive reference to considerations of civil Government and of State policy; but as our resolution cannot be altered until we receive the commands of those high authorities to which we are subject, we inform you of them; and we do most anxiously hope, that the considerations we have before stated may lend you to limit

yourselves to those protests and appeals against our conduct in the cases specified, that you may deem it your duty to make, as any other conduct must, for reasons already stated, prove deeply injurious to the public interests, and can, under the resolution taken and avowed by Government, produce no result favourable either to the immediate or future establishment of the extended jurisdiction you have claimed. A very short period will elapse before an answer is received to the full and urgent reference we have made upon this subject; and we must again express our hope, that even the obligations under which we are sensible to act, are not so imperative as to impel you to proceedings which the Government has thus explicitly stated its resolution to oppose.

"We have the honour to be, etc. etc."

The petition then stated, that on Monday the 6th October instant, the Supreme Court being assembled for the despatch of its judicial business, Sir C. H. Chambers caused this letter to be read to the court by the clerk of the Crown; after which the petitioner concurring with Sir C. H. Chambers in opinion regarding both the form and the substance of the communication, the court directed that the clerk of the Crown should inform the Chief Secretary to the Government of the Presidency, by letter, that the said letter had been received, and that the Judges could take no notice thereof.

That it was the intention of the said Sir C. H. Chambers and the petitioner to have laid before his Majesty, in an humble petition, the circumstances which were therein above set forth, and most dutifully and submissively have to be sought his Majesty's royal protection against what they agreed in considering a most unconstitutional and criminal attempt, on the part of those armed with the whole power, civil and military, of the Presidency, to approach the Supreme Court of Judicature within the same, not by their humble petition, or by motion, by themselves or their counsel, in open court, the only way in which the law, for the wisest purposes, permitted his Majesty's Judges to be addressed, but by means of such covert and private communication, as was strictly forbiden by the forms reared by the wisdom of ages, for the intrenching their persons against the danger and even the pollution of undue solicitation or menace, and this for the declared purpose of inducing the Judges, notwithstanding their most sacred

obligations to God, to the King, and to themselves, to refuse to administer justice according to what they should deem to be law, in compliance with such notions as those who had thus approached them might from time to time entertain of what they should call State policy.

That, while a petition to the above effect was preparing to be transmitted to England, Sir Charles Harcourt Chambers, then acting as Chief Justice of the said Supreme Court, suddenly died on the 13th of October 1828.

The petition then proceeded at considerable length to explain the motives that influenced the petitioner and his colleague during these proceedings to impugn the conduct of the Governor and Council, and to show the benefit of the Supreme Court having the power to issue the writ of *habeas corpus* in the manner they claimed. It ultimately prayed, that it might therefore please His Majesty to take the premises into his Royal and most gracious consideration, and to give such commands concerning the same as to His Majesty's Royal wisdom should seem meet, for the due vindication and protection of the dignity and lawful authority of His Majesty's Supreme Court of Judicature at Bombay.

The case of Moro Ragonath [1 Knapp, 5] which is allued to in the petition may be thus briefly stated; on the 25th of August 1828, writ of *habeas corpus ad subjiciendum,* directed to Pandoorung Ramchander for the production of the body of Moro Ragonath, his ward, was moved for before Mr. Justice Grant, the petitioner, at his chambers, on the affidavit of Dinkar Gopal Dew, which stated that Moro Ragonath had been confined for nearly a year, and was still kept in confinement by Pandoorung Ramchander against his will, and under circumstances attended with great hardship and cruelty. This motion was opposed by the Advocate General, on the ground that Pandoorung Ramchander and Moro Ragonath were natives, residing at Poona, and not amenable to the jurisdiction of the Supreme Court. The granting of the writ was postponed for various reasons until the 30th of August, during which time additional affidavits were put in, and in these it was stated that Moro Ragonath having made his escape from Pandoorung Ramchander on the 12th of July, was retaken and sent back again to his custody by persons acting under the order and by the directions of John

Andrew Dunlop, esq.,a British-born subject, and a Provincial Magistrate at Poona. After considerable discussion, the writ was ordered to issue, and was made returnable to the Court on the 15th of September then next, it was translated by order of the Court into the Mahratta language, and duly served on Pandoorung Ramchander. A return was made and filed to this writ in these terms :–

"I, Pandoorung Ramchander Dumdurre, am the relation and friend of the Peishwah. I never in my life have been the servant of the English Government, or of the English. At the time the Company's Government took this country, they gave me word I should live without fear or molestation. Depending upon that, I remained in Poona; and as for my grandson, Moro Ragonath, I am his grandfather; he was placed under my care, that I might take care of him according to the usual custom. He, the said boy, is fourteen years old; for that reason, according to the Shaster of the Hindoos, he is without knowledge; he is bound to behave agreeably to the orders of the person under whose charge he lives; and further, it is necessary to take care of the property and wealth of the boy; more than this, there is nothing, and there is nothing more done (by me to him,) than by those to whose care a boy is delivered, or the usual orders of seniority in a Hindu's family. Should I by any chance do more or less, the same being made known to the Adawlut at Poona, it would be immediately stopped. After Moro Ragonath's grandmother died, he was delivered into my charge, according to the rule, and I agreed to undertake that charge, in order that my grandson's wealth might not be ruined. Without the leave of those by whose authority I took the charge upon my head, I cannot relinquish it. Dated 10th of September 1828, 1st of Bhadrapad Sood Shalabar 1750, the name of the year being Surodharee."

This return was objected to on two grounds; firstly, that there was no return, *"paratum habeo corpus ;"* secondly, that no reason was stated to excuse the disobedience, but that the writ ought not to have issued, which was a reason the Court ought not to receive; and an attachment against Pandoorung Ramchander was moved for. The Judges took time to deliberate on the question, and on the 29th of September they delivered their judgement, that a writ of *alias habeas corpus* should issue, returnable on the 10th of October then next.

The case of Bappoo Gunness [1 Knapp 6] came before the Supreme Court on an application for a writ of *habeas corpus ad subjiciendum,* to the head gaoler of the gaol at Tannah, directing him to produce the body of Bappoo Gunness, then a prisoner in his custody. The writ was granted on the affidavit of one Babool Ranjee, stating that he had applied to the gaoler for a copy of the warrant under which Bappoo Gunness was confined, and that it had been refused to him. The writ issued on the 10th, and was made returnable on the 19th of September 1828. A return to it was made by the nazir of the court of Adawlut of the northern Konkan, and the gaoler to whom the writ was directed in these terms:– "That before the coming in of the writ, Bappoo Gunness was taken and detained in our custody by virtue of a certain order in writing of the Adawlut Court of the zillah of the northern Konkan, in the Mahratta language, and in the following form:" which was set out, and stated in effect that Bappoo Gunness having been found guilty of embezzlement, was sentenced to two years imprisonment, and a fine of 350 rupees, or in default of payment of that sum to a year's additional imprisonment. The body of the prisoner not having been produced on the 19th, the Judges would not suffer the return to be read, and directed an attachment to issue against the gaoler. On the 26th the attachment was set aside on payment of the costs, at the instance of the Advocate-General, and Bappoo Gunness having been brought into Court, the return was read, and held insufficient, because the authority of the Adawlut Court was not stated in it; four days time was allowed to amend it, the prisoner being in the mean while committed to the gaol at Bombay. The return was not amended within that time, the Advocate-General stating to the Court that the reason why it had not been amended, was because Government would not suffer the authority of the Provincial Courts to be questioned; and Bappoo Gunness was discharged from custody.

Denman, (Common Serjeant,) and *Alderson,* for the Petitioner,–It is perfectly clear that the Supreme Court of Judicature possesses the power of issuing a writ of *habeas corpus* directed to all the King's subjects, of whatever description, resident within the territories of Bombay, in order to set free the body of any of the King's subjects detained by them.

The Supreme Court of Bombay derives its several powers from the charter by which it was constituted, in pursuance of the Act of the fourth of the present King [Dec. 8, 1823. See Morley's *Dig*. Vol. II. p. 638]. The original necessity of granting those powers to the Courts of Law in our East Indian possessions arose out of the complaints of oppression, and the disputes of persons in authority there, which at different times during the last reign were brought before the Company and Parliament in this country.

One of the resolutions adopted on this important subject at a meeting of the Court of Proprietors, on the 10th of May 1773, was, "that an application should be made for a new charter of justice, to enable the Company to add to each of the Mayors Courts at the three Presidencies, and to the Courts of the Governors and Councils as Courts of Oyer and Terminer, a barrister to act as recorder, to extend the powers of the Mayors Courts." The additional words of the resolutions are most remarkable on the present occasion : "and particularly to introduce the privilege of the *habeas corpus* into India." It is remarkable, too, that in a petition presented to the House of Lords in the same year, the East India Company stated, "that the most effectual provision of all others to prevent oppression which was recommended by the Company *viz*. that of the *habeas corpus,* whereby men might know of what crime they were accused, and by whom imprisoned, was omitted."

The Supreme Court of Judicature at Calcutta was opened on the 22nd of October 1774, from which period, for a long course of years, writs of *habeas corpus* were regularly issued; most of them apparently to native subjects, and not to those who by way of distinction are called British subjects residing in those territories. On the 16th of January in the year following a motion was made for a *habeas corpus* to the keeper of a place called the prison of the Dewanee Cutcherree, to bring up a person confined there, and the writ was ordered to issue. It should be observed, that by the 13th Geo. III. c. 63 [The Regulating Act, 1773], the King's Court had no more jurisdiction in Calcutta over natives or others, except as a Court of Oyer and Terminer and Gaol Delivery, than in any other part of the dominions of the Crown of England within the Presidency, and that the Zemindary Courts of the Company continued to exercise a jurisdiction over natives in Calcutta, just as the

Zemindary Courts do at the present time. Those Courts are exclusive, as to the complaints, suits and actions against natives not in the employment or service of the Company, or of a British subject, and not brought before the Court of Oyer and Terminer and Gaol Delivery. On the 17th of January a return was made to a *habeas corpus* which had been granted to a person of the name of Golum Hider, to produce *Sum ju,* a female infant of eleven years of age, stating that the child was voluntarily under his care, and not underrestraint. On the 19th of January of the same year a writ was issued to Jona Mullick, keeper of the prison of the Dewanee Adawlut in Calcutta, to bring up the body of Banchuram Roy. That writ was objected to by counsel on Saturday the 21st of January, inasmuch as it issued on the statute of Cha. II., and was not marked *per statum*. It was answered by the Chief Justice that the writ might be considered as at common law. A motion then was made for quashing the writ, because the common law of England did not extend to India, or at least to no other than British subject: but this motion was rejected by the court; for on January the 31st a return was made to the writ, and the doctrine was by consequence denied. But when, on the 2nd of March in the same year, the return was read again, stating the imprisonment to be in a civil suit for debt, by order of the Court of Dewanee Adawlut, the Supreme Court at Calcutta proceeded to inquire whether that court, which undoubtedly possessed a competent jurisdiction in many cases, possessed in it that which was then under discusson. The plaintiff was a British subject, and the defendant his *gomastah* or steward, and therefore in the employment of a British subject; both parties were amenable to the jurisdiction of the Supreme Court, and neither of them within that of the Dewanee Adawlut. The keeper of the prison being in court to make his return, the prisoner was discharged. The Supreme Court thus exercised its authority in determining that the return did not bring the prisoner within the jurisdiction of the inferior court.

Again, on the 28th of March 1775, a return was made by Jona Mullick, keeper of the gaol of Fousdary Adawlut, to *habeas corpus,* to bring up the body of one Seremani there confined. On the 23rd of December in the same year a writ of *habeas corpus,* directed to Warren Hastings, esquire, the Governor-General, to bring up the body of Joseph Pavessi, was returned in court, the return being

made by the Governor-General himself, without the slightest intimation of objection, and the said Pavessi was discharged, the Governor-General having declined to state as true, in an amended return, a necessary fact which he had only on report. Pavessi had been taken up in order to be sent out of India contrary to law, he being not a British subject.* It appears, therefore, that at that early period the reform of the Indian Governments, and the superintendence of the English law over the settlement, were considered synonymous; and one great object contemplated by the Company itself, was the introduction of the writ of *habeas corpus,* authorizing any man deprived of his personal freedom to compel the party who imprisoned him to show that he did so by authority of law.

At Calcutta, various instances of the same kind might be cited, and others have occured at Madras. The importance of the writ of *habeas corpus* has been strongly and justly felt. Whatever Act was passed, and whatever charter was granted, subject to whatever limitation of powers, there was no exception to that writ, and no limitation of its sphere in any of those statutes or charters.

But the writ of *habeas corpus* was expressly given to the Supreme Court of Calcutta by the letters-patent of the 13th Geo. III. **,they conferred upon that court "such jurisdiction and authority as our Justices of the Court of King's Bench have and may lawfully exercise within that part of Great Britain called England, as far as circumstances will admit." The writs of *habeas corpus* issued under that power do not appear to have been questioned in any manner which could raise a doubt as to their authority. The erection of the Supreme Court of Bombay has reference to the powers given to the Supreme Court of Calcutta. The 4th Geo. IV.(c. 71), indeed gives His Majesty the power by

*This and the preceding cases appear to have been quoted from a pamphlet published in October 1828, at Bombay, and entitled "Proceedings of the Governor and Council at Bombay towards His Majesty's Supreme Court of Judicature." They are there stated to have been extracted from MS., notes made by one of the Judges appointed at the first establishment of the Supreme Court at Calcutta.

**[The text of the charter is given in Morley's Dig. Vol. II., p. 549. The constitution and powers of the High Court of Calcutta are now defined by letters patent of Dec. 28,1865 (Stat. R. and O. Rev. Vol. (iv,) p. 82), issued in pursuance of the Indian High Courts Act, 1861 (24 and 25 Viet. C. 104)]

charter or letters patent, "to erect and establish a Supreme Court of Judicature at Bombay, with full power to exercise such civil, criminal, admiralty, and ecclesiastical jurisdiction, both as to natives and British subjects, and to be invested with such powers and authorities, privileges and immunities, for the better administration of the same, and subject to the same limitations, restrictions, and control, in the said town and island of Bombay and the limits thereof, and the territories subordinate thereto, and within the territories which then were or thereafter might be subject to or dependent upon the Government of Bombay, as the Supreme Court of Judicature at Fort Williams in Bengal, by virtue of any law then in force and unrepealed, did consist of, was invested with, or subject to, within the said Fort Williams, or the places subject to or dependent upon the Government thereof; provided always, that the Governor and Council at Bombay, and the Governor-General at Fort Williams aforesaid, should enjoy the same exemption, and no other, from the authority of the Supreme Court of Judicature to be there erected, as were enjoyed by the said Governor-General and Council at Fort Williams aforesaid for the time being, from the jurisdiction of the Supreme Court of Judicature there." That is the only proviso for the exemption of the Governor and Council of Bombay; but the Governor-General and Council of Fort Williams are not only exempted from the jurisdiction of the Court, *but have by the 21st Geo. III, the power of exempting others also from its jurisdiction by their order in writing; which approaches very nearly to the latter in question.

In pursuance of this Act of 4th Geo. IV. [c. 71] His Majesty erected the Supreme Court of Judicature at Bombay, by his Letters Patent [Morley's *Dig*. Vol. II. p. 638]. By these letters he gave to it various powers and authorities which are exercised by his ordinary

*21st Geo. 3, c. 70,s 2. "If any person or persons be impleaded in any action or process, civil or criminal, in the said Supreme Court, for any act or acts done by order of the said Governor-General and Council, in writing, he or they may plead the general issue, and give such order in evidence; which said order, with proof that the act or acts done have or has been done according to the purport of the same, shall amount to a sufficient justification of the said acts, and the defendant shall be fully justified, acquitted and discharged from all and every suit, action and process whatsoever, civil or criminal in the said Court".

By section the third of the same Act it is provided, that with respect to such order of the Governor-General and Council as shall extend to any British subject or subjects, the court shall have and retain as full and competent jurisdiction as if the Act had never been made.

writs in the Kingdom of England; and he thought proper to limit the extent of its civil jurisdiction, of its ecclesiastical jurisdiction, and of its jurisdiction as a Court of Oyer and Terminer; but these are the only respects in which he limited, as to the extent of territory, those powers which the court was to possess. The clause limiting the civil jurisdiction is in these words [clause 28]: "And we do further direct, ordain and appoint, that the jurisdiction, powers, and authorities of the said Supreme Court of Judicature at Bombay shall extend to all such persons as have been heretofore described and distinguished in our charters of justice for Bombay by the appellation of British subjects, who shall reside within any of the factories subject to or dependant upon the Government of Bombay." It thus states, that all the jurisdiction, powers, and authorities of the Supreme Court of Bombay are to extend to those persons; but it cannot mean that the general jurisdiction of the court extends to no others. But if the whole of the article be read thus, "That the jurisdiction, power, and authority of the Supreme Court of Bombay shall extend to (and that the said court shall be competent and effectual, and shall have full power and authority to hear and determine all suits and actions whatsoever against) any of our said subjects distinguished," etc.; it would then apply only to the civil jurisdiction alone, as to suits and controversies, and have no reference to any limitation on the other jurisdiction of the court. In like manner the Court of Equity is to extend over all the same persons as those who have civil suits. So again, in speaking of the criminal jurisdiction, the charter [clause 44] authorizes and empowers the said Supreme Court to "inquire, hear, and determine of all treasons, murders, felonies, misdemeanors, etc. committed by any of the King's subjects in any of the territories subject to or dependent upon the Government of Bombay." Now, if all the powers of the court had been previously limited by the clause of the charter granting the civil jurisdiction to subjects residing within the factories, this clause would be inconsistent with it. It, therefore, shows that limitation not to extend to all its powers and authorities, but to its civil jurisdiction alone. The result is then, that first, all the general powers of the Court of King's Bench throughout a district including Poona and Tannah, the places in question, are given to the Supreme Court; then a civil authority is given, limited to a smaller district; and then other jurisdiction are given it, limited in the same manner.

The language of this charter thus becomes as intelligible as the principle on which it rests. The native subject shall not have his contract interpreted by a foreign law; but it equally imports him, whether contending with another native, or with a British-born subject, to be secured from that invasion of individual liberty, without which no justice of any kind can be obtained. The distinction is manifest between the ordinary objects of civil and criminal justice, and the high prerogatives vested in the Crown for the immediate protection of all its subjects. The powers which belong to His Majesty by virtue of his royal station, to be exercised by him through his Judges in the Court of King's Bench, exist in conquered countries as well as those to which he succeeded when he came to the Crown. They cannot be taken from him, but by his own concurrence with the two other branches of the Legislature, in words which can leave no doubt of the intention to make so great a sacrifies.

In these letters patent there is also this proviso [clause 45]: "That the Supreme Court shall not be competent to try any indictment or information against the Governor-General and others who are specified, except in particular cases." Now the power of granting a criminal information is not involved in that of trying actions and indictments; yet the proviso clearly implies, that in all cases excluded from it under the circumstances there directed, the Supreme Court might hear a motion for a criminal information.

It was only in the year 1827 (R. V. Wright, 1827, Morley's Dig. Vol. I. p. 120) that Sir Charles Grey had occasion to give a judgement, which proves the opinion of that learned Chief Justice on the subject. A motion was made for a criminal information against a variety of persons who had obstructed a Sheriff's officer in executing the process of the court. Some of the parties complained of were native subjects not open to the ordinary jurisdiction; no indictment could have been preferred against them. But the others were British subjects, or those employed by British subjects, who clearly would not fall within the exception. Sir Charles Grey expressly recognizes the distinction which we have drawn. "A question had been made, whether the Court possessed authority to grant a criminal information against Mendy Ally Khan, as it had been said that he was not subject to this jurisdiction, as he was not an inhabitant. In his own opinion, however (the opinion of the Chief Justice of Bengal), the question

of the jurisdiction of the court should not be entertained. There were two distinct powers of jurisdiction vested in the court, that of Oyer and Terminer and of the Court of King's Bench. The former was limited; but the latter was not, but extended throughout all the Provinces under this Government. It was his opinion, that the Supreme Court possessed authority to grant information anywhere in the Company's territories, for any act for which the Court of King's Bench could issue one in England. The Court had a complete power of punishing any native, foreigner, or other person whosoever, contempt or violent obstruction of the process of the court, in the same way as the Court of King's Bench. It would be perfectly anomalous to say that it did not possess the power of punishing that by the more deliberate mode of information, which could be effected by the mere summary process of attachment. He could not confine it to that question, seeing that they possessed the jurisdiction of the Court of King's Bench. He did not know that the Court might enter into a criminal information against any person whatever. He should state, however, that such an authority should be executed sparingly, and with caution. This would set the question of the grounds of the criminal information at rest, as their jurisdiction over Mendy Ally Khan did not depend on his being an inhabitant of Calcutta." He then proceeds to say, "that as some of those persons were not subject to indictment, and those subject to it were the least guilty parties, he would not grant a criminal information, but thought it better to leave it altogether to an indictment."

In this passage the power to try indictments is clearly separated, both from the right to issue attachment for contempt, and from that of granting criminal informations. Indictment can be tried by the Supreme Court only in its character of a Court of Oyer and Terminer, and its power to try them is bounded by the terms of the exception; but the power of punishing contempt is inherent in all courts. The power of proceeding by criminal information is inherent in the Court of King's Bench and is transferred, without limitation as to persons, by the terms of the charter to the Supreme Court.

Numerous cases might be drawn from the books, if authority were wanted, to inform your Lordships that, that power does exist

in the manner described. In Bourn's case, Cro. James, p. 543, "Montague, Chief Justice, said that the privilege of the Cinque Ports, that the King's writ runs not there, is to be intended between party and party, but no such privilege can be against the King : and this writ (a writ of *habeas corpus*) is a prerogative writ which concerns the King's justice to be administered to his subject; for the King ought to have an account why any of his subjects are imprisoned; and it is agreeable to all persons and places, and no answer can satisfy it but to return the clause with *paratum habeo corpus,* etc.; and this writ hath been awarded out of this court to Calais, and all other places within the Kingdom, and to dispute it is not to dispute the jurisdiction, but the power of the King and His Court, which is not to be disputed; and of this opinion were all the other justices;" This doctrine of Lord Chief Justice Montague is fortified by precedents of the King's writ having been awarded to Calais and other places within the dominion of the Crown of England, and has been fully recognized by the Courts in a variety of cases between that time and this. Lord Mansfield, in the case of Cowle, 2 Burrow's Reports, p. 834, laid it down that the King's writ must be said to run in all places throughout his dominions, but that this was not the case with all writs; and therefore, when he came to lay down the rule in that case, his Lordship directed it to be entered that writs of *venire facias* do not run in the town of Berwick; but he decided also, that the high prerogative writs arising out of a different source have a much more extensive operation. Now these high prerogative arise out of the natural allegiance the subject owes to the King, and the protection which that allegiance requires of the King for the subject? This is the principle which is stated in Calvin's case in 7th Report (1), *viz.,* that allegiance is the duty of the subject, and that protection is the duty of the King. Whenever therefore the subject owes allegiance, the King owes protection. Now can it be contended that in the case of any conquered country annexed to his Majesty's dominions the inhabitants of that country do not owe him allegiance? If they do, it must follow that the King must owe them protection, and that protection is to be, as in the present instance, given, by his issuing by virtue of his prerogative his writ of *habeas corpus,* that he may know whether they are lawfully imprisoned or not; or his writ of *certiorari,* that he may know whether any

proceedings which have been commenced against them are conformable to the law; or his writ of prohibition, that he may keep the respective courts throughout his dominions in the due exercise of their duties; or his writs of *mandamus,* that he may oblige persons to do such acts as they are bound to perform. Therefore, when the King grants to a particular court, by virtue of the authority of an Act of Parliament, these powers arising out of his prerogative, the court has them in their full extent, unless he limits them, either as to extent of territory, or in some other way. Here the King has granted the same powers as the King's Bench exercises in England, to be exercised by the Supreme Court of Bombay throughout a territory including the places to which these writs have been sent. It may be true, that the natives of India are not within the jurisdiction of the Supreme Court for the purpose of suing one another for private matters of dispute; that certain writs known to our law would not run as between party and party, and yet that the prerogative writs of the Crown being restrained by no clause in the charter, nor taken away by the direct words of an Act of Parliament, the sole power sufficient for that purpose must remain in the Crown, and exercised by that court to which the constitution has assigned so high and inestimable an authority.

In the early part of his able argument in the Court of Bombay, the Advocate-General of Bombay referred to the celebrated Patna case, in the year 1777, before Sir Elijah Impey, and from his expressions, endeavoured to infer that the Court had no jurisdiction over the natives in a case like the present (Patna, Appendix, No. 17, Judgement of Sir, E. Impey, in the case of *Nadarah Begum* v. *Behader Beg).* "In this country, the gross body of the people are not, and only certain persons answering particular descriptions are, objects of the King's laws or of the jurisdiction of this court. As therefore there are other laws and other courts, such as they are, to whom the bulk of the natives are amenable, and we were not anxious to extend our jurisdiction, we have suffered these pleas to the jurisdiction to be pleaded as freely as any other plea," etc. On this doctrine great stress was laid by Mr. Dewar: but Sir Elijah Impey's authority was not wanted in support of the fact, that natives

are exempt from the jurisdiction of the Supreme Court. The question still comes round. What jurisdiction is here contemplated? Is it that jurisdiction to issue high prerogative writs, which cannot be abolished without positive enactment; or is it that jurisdiction to decide those controversies between party and party, which the law designates by the name of suits and actions ? Sir Elijah must have referred to the latter in the case where he permitted please to the jurisdiction to be freely pleaded.

It was then argued, that because this Act of the 21st Geo. 3, cap. 70, enacted (section 11) that "Governor-General and Council should cause the name, description and place of usual abode and all natives employed in the service of the East India Company, in the offices therein mentioned, to be entered in a book or books to be alphabetically disposed," that those precautions would hardly have been taken to ascertain what natives should be subject to the jurisdiction, if all natives without exception were. But in a limited sense of the word, we have no objection to admit that certain classes alone are within the jurisdiction. The registry of all the persons described is equally desirable for this purpose, whether our argument in favour of its embracing all in its more liberal sense, be well or ill founded.

Having spoken of the high prerogative writs in general, we proceed to speak of the writ of *habeas corpus* in particular. In the year 1818 the doctrines held concerning that writ were examined by Lord Eldon, in Crowley's case, 2nd Swanston, p. 1. A person had been committed by commissioners of Bankrupt for not answering satisfactorily, a motion was made for a writ of *habeas corpus* in vacation, and the question whether he possessed such a power was discussed by him with great care. He found a case in point decided by Lord Chancellor Nottingham (Jenkes's case, 1676, 6 How St. Tr. 1189); but he resolutely overruled that decision when he found it inconsistent with the principles of the law of England. He treated it there as known law, that no man's liberty should be invaded without the supreme legal authority having power to pronounce immediately on the reason of that restraint; and that this prerogative of the King might be called into action at any time, and could not be affected by general words in a statute.

The case of Moro Ragonath (1 Knapp, 8) gave rise to the extraordinary interference of the Governor and Council of

Bombay. In that case, although a writ of *habeas corpus* issued, the body was not brought into court, nor any return made to the writ, though a strange, anomalous, questionable document, came from the person to whom it had been sent. The fact stated in that document, if true, might have been returned to the court, and the cause, if sufficient, would have been admitted by the court. If appeared too on the proceedings that the person to whom the writ was directed had obtained the authority of Mr. Dunlop, a Justice of Peace of that part of the world, to keep Moro Ragonath in custody, and we apprehend may well be considered as an agent employed by Mr. Dunlop, and thus answering the narrowest description of those within the jurisdiction.

It is a much less daring presumption than the fiction in the law, that any person brought before the Court of Common Pleas by *habeas corpus* is a privileged person; and therefore Lord Eldon and Mr. Justice Blackstone commend the Common Pleas for presuming the party arrested to have their privilege when they knew he had not, because the law cannot endure that a man under unjust imprisonment shall return to it.

It can hardly ever indeed happen that a person in the Indian territory should be imprisoned without the intervention of English subjects properly so called.

The gaoler, in almost every case, is a native; all the officers of the native courts are natives; but the authority of the native courts is almost always under the control of English subjects. Servants of the East India Company preside over their jurisdictions. It would require a great deal of ingenuity, and a most remarkable concurrence of circumstances to find any person imprisoning another, and not acting under the employment of British subjects.

The letter-missive to the Supreme Court (1 Knapp, 4) assumes to repeal the letters patent granted by the King in respect of all except those residing within the island of Bombay, or such as have been employed by the British authorities; it claims to refuse the execution of writs directed to any officer of the Provincial Courts; and in conformity with this assumption of power by the government were its proceedings in the case of Bappoo Gunness (1 Knapp, 6).

The Counsel then proceeding to comment on the terms of the letter of the Governor and Council to the Judges.

The Lord Chancellor (Lord Lyndhurst) observed, "What we have met here for is to ascertain the jurisdiction of the Supreme Court of Bombay. The object is discussion of what their power is."

The prerogative of issuing writs of *habeas corpus* is inherent in the Crown, and can only be abolished by express words and none such are found in the charter. Such writs are issuable by the law of England from the Court of King's Bench, and they run into any dominions under the sway of the English Crown. Such writs have frequently issued from the English Supreme Courts at the several Indian Presidencies, which have all the powers of the English King's Bench vested in them by Act of Parliament. Certain restrictions are imposed on the jurisdiction of the Supreme Court with regard to the persons subject to it; but those must be applied, by a reasonable construction, to its ordinary operations as a Court of Oyer and Terminer and of Gaol Delivery, not extended to the power of issuing those high prerogative writs which are indispensable for the safety of all the liege subjects of the Crown when urgent necessity demands immediate and decisive inter-position. But even if the subjects purely native could not be questioned for the imprisonment of a fellow subject, still the agents of those courts which act under British Judges are manifestly excluded from the pretended exemption.

The celebrated statute of *habeas corpus* (31 Car. II. c.2) is intituled, "An Act for the better securing the liberty of the subject, and for prevention of imprisonment beyond the seas;" and in *The King* v. *Cowle (R.* v. *Cowle,* 1759, 2nd Burr. 835), it is stated, that the power of the King's Bench in England extends to the granting writs of this description directed to persons in the colonies, though the necessity for issuing them had not then occured. That the court has such a power, appears from the authority of Lord Mansfield [*King* v. *Cowle,* 2nd Burrows (835)], and from the fact that writs of this description have issued into all the dominions of the Crown of England. They may, and do, extend, therefore, beyond the limits of the ordinary civil jurisdiction of the court here; and so in India the Supreme Court may have this jurisdiction throughout all the conquered territories, though its civil jurisdiction be limited to Bombay alone. The duty of the Court of King's Bench in England,

in such cases, has been most correctly stated by Lord Coke, in his description of the authority of the Court of King's Bench (Co. Instit. pt. 4, cap. 7); "For the pleasure of God and the quiteness of our subjects, to save our conscience and to keep our oath, by the assent of our great men and other of our Council, we have commanded our Justices that they shall from henceforth do even law and execution of right to all our subjects, rich and poor, without having regard to any person, without letting to do right for any letters or commandment which may come to them from us, or any other, or by any other cause". If the Court of King's Bench in England would not have neglected to do right for any letters the King of England might send to them, it is too much to expect that the Judges of the Supreme Court of Bombay should, without remonstrating receive from the Governor and Council of that Settlement a letter or commandment interfering with the upright and conscientious discharge of their judicial functions.

Bosanquet and Spankie (Serjeants) for the East India Company.– It is obvious, from the words of the Act of the 4th of his present Majesty, that the intention was not to give any jurisdiction to the Supreme Court at Bombay within the territories subject to Bombay, beyond that exercised by the Supreme Court within the Presidency of Fort Williams. In one respect, it will be found that the jurisdiction given by the charter carrying into effect the objects of that Act is less.

But, for the present, let us suppose that the authority conferred is to the full extent the same as that conferred on the Supreme Court of Fort Williams. The great principle of the jurisdiction of the new courts which were established in India by the 13th of Geo. III. (Morley's Dig. Vol. II., p. 549) was this, that so far as locality was concerned in the town of Calcutta, there was conferred an unqualified territorial jurisdiction over all the inhabitants. There is another jurisdiction, not so extensive in its effects, though reaching throughout the dominions subject to the Presidency, applicable to the designated classes of persons. The two things are most perfectly distinct; and we admit that so far as the privileges and authorities of the Court of King's Bench in England can be applied, either to the localities of Calcutta or Bombay, or to the designated classes, the

jurisdictions may be conceded; but it does not follow that they should have in the territory at large a jurisdiction, either to attach upon individuals not of the designated class, or to control the proceedings of other courts of a distinct authority. The distinction appears to have been wisely and considerately adopted by the Legislature. At Fort Williams, at Madras, and Bombay, the English law had prevailed for at least a century. It had prevailed, at all events, from the charter of Geo. I. (1726 : 13 Geo. I). It was known as the existing law there antecedently to the year 1774 : persons had been tried and condemned under the local jurisdiction of Calcutta for forgery and other crimes created by English status. Those who came to those towns, which were a kind of English colonies, came to the English law: they came to a place where they could no more evade the jurisdiction than men who come to England have a right to be tried by the law they leave behind them. The other class was a class who became subject, by their own acts, the servants of the Company, or British subjects, etc. etc.; who by voluntarily entering into those services rendered themselves subject to the jurisdiction of the King's Courts. It was the policy of the law to leave those persons out of the local limits and of the designated classes, in point of jurisdiction, to be governed by their own law; and the exception was an exception to which they subjected themselves; and this is the view taken of the subject in the speech of Sir Elijah Impey in the House of Commons [Parliamentary History, Vol. 26 (1341-1416)].

The power enjoyed by the native or provincial court, is a power possessed by them long antecedent to the British conquests in India, and which exists, except where it has been altered by the legislative authority, which the British Parliament does not directly exercise, but which it has confided to the Governor General in Council. Thus all persons not subject to the King's Courts are living under their own laws, under the authority of the British Legislature, and may be considered, to many purposes, as a separate nation under a different government. What is the power of the Court of King's Bench supposed to be? The King himself formerly exercising his sovereign authority in the *aula regis,* which he now exercises by that court, still called the Court of our Lord the King before the King himself. The whole administration is derived from the ancient *aula regis,* the centre of all judicial authority; and all the

King's courts are subject, without exception or distinction, to the control of the Court of King's Bench. But the laws of England are not the laws of India. There is a code of laws which the King has thought fit, by the consent of his Parliament, to continue or enact and which are not the King's laws in the sense that the laws of England are. There is therefore no analogy between the circumstances. The Courts in England are all drawn from the same source, they all flow in the same channel, they all apply to the same persons. But the laws in India are derived from a different source; they attach upon different classes of men; they have nothing in common with the laws of England. To confer upon the English courts of law existing locally in Calcutta or Bombay a control over the native laws and courts, would be a species of anomalous judicial administrtion, which we trust will never be sanctioned by the British Legislature.

Previous to the estalishment of the Supreme Court in the year 1773, there were Mayors Courts at Calcutta, Madras and Bombay. The statute of 13th Geo. III. (c. 63) authorized the institution of a Supreme Court only at Calcutta. The language of that Act, and the charter founded upon it, gave rise to various discussions. Certain circumstances, which have been treated as precedents on the other side, took place previous to the 21st Geo. III. (c.70); but according to the best information which we have received, no instance is to be found since the passing of the 21st Geo. III. in 1781 (c.70), in which an attempt has been made by the Court at any one of the three Presidencies, to issue a writ of *habeas corpus* of the description now contended for.

The statute of the 13th of Geo. III. (cap. 63) in the year 1773 provides (sect. 13) that his Majesty shall have power to erect a Supreme Court at Fort William, and a proviso to this effect is added (sect. 14): "That the said new charter, and the jurisdiction, powers and authorities to be thereby established, shall not may extend to all British subjects who shall reside in the Kingdom or Provinces of Bengal, Bihar, and Orissa, or any of them, under the protection of the said United Company; and the same charter shall be competent and effectual, and the Supreme Court of Judicature therein and thereby to be established shall have full power and authority to hear and determine all complaints against any of his Majesty's subjects,

for any crimes, misdemeanors, or oppressions committed, or to be committed, and also to entertain, hear and determine any suits or actions whatsoever against any of his Majesty's subjects in Bengal, Bihar, and Orissa, and any suit, action or complaint against any person who shall, at the time when such debt, or cause of action, or complaint shall have arisen, have been employed by or shall then have been directly or indirectly in the service of, the said United Company, or of any of his Majesty's subjects."

Whatever obscurity or ambiguity may be found in particular clauses or expressions of this charter, or of the Act of Parliament, we apprehend that the court which was established was not a court of general jurisdiction throughtout all the Provinces, in the nature of the Court of King's Bench, with certain exceptions, but a court of local and limited jurisdiction, with an extended jurisdiction, in certain cases, over certain descriptions of persons. This undoubtedly is a most material distinction in principle. It has been universally understood, that these are courts of limited and local jurisdiction, having a general jurisdiction within those local limits, not only over British subjects, but over all the native subjects, Mahommedans and Hindus as well as Christians, in all matters criminal and civil; subject to a proviso that the persons of different religions should be judged according to their respective religions, in certain cases; and that beyond these limits the courts shall have a certain jurisdiction over certain persons described to be British subjects, and persons in the service either of the East India Company or of other British subjects.

The next material proviso (sect. 16) is, "That the Supreme Court shall hear and determine any suits or actions of any of his Majesty's subjects against any inhabitant of India, residing in Bengal, Bihar, Orissa, or any of them, upon any contract or agreement in writing, where the cause of action shall exceed the sum of 500 current rupees, and where the said inhabitant shall have agreed in the said contract that in case of dispute the matter shall be heard and determined in the said Supreme Court." This is certainly a very extraordinary provision to be introduced into an Act which is supposed to establish a court of general jurisdiction.

*The Act of 13th Geo. III. (c.63), and the charter founded upon it, gave rise to various disputes, arising, among other things, out of the issuing of the writ of *habeas corpus;* in cosequence of which the Act of 21 Geo. III. cap. 70, was passed for the purpose of removing doubts with respect to persons subject to the jurisdiction of the Supreme Court. The writ of *habeas corpus* had been issued to persons who were owners of land; and it was contended that any person who held the land and who paid rent, but had no other occupation connecting him with the East India Company, was to be considered as a person within the service of the East India Company, and as such within the general jurisdiction of the court. It has been said that applications were made on the part of the East India Company that provison should be made in the Act, giving power to issue the writ of *habeas corpus*. To what particular descriptions of persons the direction of such writs was intended to be confined is not stated; but if the subject was brought under the consideration of Government, and yet no clause was introduced in the Act of 21st Geo. III. (c. 70), then we have the less reason to suppose it was the particular intention of the Legislature to give the authority contended for. Certainly it is not expressly given, but the persons to whom writs of *habeas corpus* are said to have been addressed are expressly excepted from the jurisdiction of the Court in the 9th and 10th sections of that Act, which says, generally, that natives under the circumstances therein particularized shall not be subject to the jurisdiction of the court on account of those circumstances; thereby clearly assuming, that but for those circumstances as natives, they would not be subject to the jurisdiction of the court. And then a clause is added, "that for more perfectly ascertaining those natives who should be subject to the jurisdiction of the Supreme Court, the Governor General and Council should cause the name, description, and place of usual abode, of all natives employed in the service of the East India Company, with certain exceptions, to be entered in a book or books alphabetically disposed."

*For a short and entertaining, although perhaps not a very impartial account of these disputes, see Mill's History of British India, Book 5th, Chapter 6th.

How, then, was this matter understood soon after the passing of the 21st Geo. III. (c.70)? Out of the transactions which took place between the year 1773 and the year 1781, various accusations arose against the individuals occupying certain high stations, and among others, there was a charge against the Chief Justice of the Supreme Court, Sir Elijah Impey, who made his defence in the House of Commons, in a speech which was afterwards printed in the shape of a separate publication, and is correctly copied in the 26th Volume of the Parliamentary History (1341-1416). "The charter," says Sir Elijah Impey, at page 1358 of that work, "has given a criminal jurisdiction, not local and territorial, over the Provinces, but personal, over pan of the inhabitants, answering to certain descriptions; but the jurisdiction given over the inhabitants of Calcutta is universal, that being a territorial jurisdiction throughout the whole town of Calcutta." The object of the learned Judge upon this occasion was different from that which is now the subject of consideration; for it became important for him to show that the jurisdiction in Calcutta was a general jurisdiction, and that the jurisdiction in the Provinces was not a general jurisdiction. "The first, as to the Provinces at large, is new, and was introduced by that charter. All the laws of England established by that charter I admit to be new, as to them, and only to be supported by the authority of that charter; but with regard to the town of Calcutta, the operation of the statute was different. Long before the erection of the Supreme Court in 1774, there had existed in Calcutta courts in the nature of Oyer and Terminer and Gaol Delivery, administering the criminal laws of England with a territorial jurisdiction over Calcutta. The 13th Geo. III. (c. 63) abolished these courts to make room for the Supreme Court. It gave to the Supreme Court the power of trying the same crimes, with a territorial jurisdiction co-extensive with that of the old court."

It has been intimated that the jurisdiction now contended for has been enforced at Madras. Such a jurisdiction is at variance with the doctrine stated by Sir Thomas Strange, Chief Justice of Madras in the year 1802, in the first Volume of his Reports (Notes of Cases at Madras), page 135, *Nagapah Chitty* v. *Rachummah and another*. He there says, "It has been truly observed, that it is impossible to argue in this court from any analogous cases of jurisdiction in the courts at home. Those courts being by their constitution, according

to their respective modes and purposes of proceeding, the great depositaries of the universal justice of the realm, and as such, in every instance in which it is attempted to withdraw a case from their cognizance, bound to see, distinctly and unequivocally, that a jurisdiction adequate to the object in view exists elsewhere. If that be not stated so as to appear to the court, a plea to the jurisdicton fails, and the jurisdiction remains. But it is different here, because, though coordinate in its nature with those courts so far as its jurisdiction attaches, the jurisdiction of this court is limited with regard to persons not being British subjects." This passage, we apprehend, bears on the very subject under consideration here. Though there are words in this charter giving to the court the authority of the Court of King's Bench, it is the nature of the authority which is described, and not the extent of the jurisdiction. The extent of the jurisdiction is limited by other clauses; but the nature of the authority which the Judges are entitled to exercise where they have jurisdiction, whether within the local limits in respect of the inhabitants generally, or beyond the local limits in respect of British subjects, for English purposes, and administering English law, is in the nature of the authority exercised by the Court of King's Bench in England. "Generally speaking," adds Sir Thomas Strange (page 136), "it is restricted with regard to the natives (whether wisely or not is not for us to consider) to the inhabitants of Madras, and the plea therefore very properly confines itself to these facts; upon which the court is fairly called upon to say, whether the defendants, being natives, can be considered as inhabitants of Madras for the purpose of being subject to our jurisdiction upon the present bill. It is said in many cases, *boni judicis est ampliare jurisdictionem*. If for *jurisdictionem* be read (as was always read by Lord Mansfield) *justitiam,* it is a noble maxim. If an object and matter of jurisdiction exists, it is indeed the part of a Judge so far as circumstances may admit, to administer an enlarged and amplified justice, embracing the interests of all parties and all the bearings of the case in any other sense of the maxim. It seems to me that the strength of every jurisdiction consists mainly in a temperate admeasurement of it by those in whom it is vested; and that so far from its being the duty *boni judicis ampliare,* it becomes none more than Judges to set to others in power a different

example, instead of, by overstrained constructions, and upon fanciful imaginations, to be outstepping the bounds set by their commission. Neither are we to presume that justice will not be done, though this court, sustaining the plea, should decline the office of rendering it."

There are various passages to be found in different statutes which strongly show, not, perhaps, the entire exemption of the natives of India from the jurisdiction of the Supreme Court, but that the authority of the Supreme Court was never intended to embrace them; and that they were never comprehended within that extensive authority which was given to the Supreme Court with respect to British subjects.

Your Lordships will find in the 53rd of Geo. III., cap. 155, a long list of offences created in various clauses, all of which are introduced by words importing in clear terms the distinction between the local and personal jurisdiction of the court. At section 114, after reciting that it "was expedient that the stealing securities for the payment of money within the East Indies should be made felony," and so on, it enacts, that if any person or persons within the "local limits of the criminal jurisdiction of any of his Majesty's courts at Fort William. Fort Saint George, Bombay, or Prince of Wales's Island, or if any person or persons, personally subject to the jurisdiction of any of the said courts at any place in the East Indies :" so that the distinction between the local jurisdiction the court, and the personal jurisdiction of the court, is very distinctly recognized, and that there may be persons within the local limits of the jurisdiction who are not personally subject, acknowledging a distinction between the local and the personal jurisdiction.

A question then arises whether a native who is an officer of a Provincial Court, a Gaoler, for instance, and who as such may be considered as a person in the service of the East India Company, is subject to have an *habeas corpus* directed to him in his character of Gaoler, for the purpose of bringing up a native prisoner in his custody before the Supreme Court at Bombay. If we are right in supposing that there never has been any intention of giving to the Supreme Court a control over the proceedings of the Provincial Courts, if a regular succession of appeals has been established from

the Provincial Courts up to the highest appellate tribunal and in cases of sufficient magnitude to justify it to your Lordships at this Board, passing by the Supreme Court, and proceeding in a course of judicature entirely distinct from that of the Supreme Court, it is a most important question whether the course of proceeding is to be entirely evaded, on a ground very similar to that acted upon between 1773 and 1781. At that time certain natives, because they held land, or because they were employed in certain transactions, were contended to be within the language of the Act of Parliament and charter, which subjected persons in the service of the East India Company to the jurisdiction of the Supreme Court. Let it be admitted for the argument that the gaoler of a Provincial Court stands in the character of a person in the service of the Company and that he would be liable, as such, to have an *habeas corpus* directed to him, if he, as an individual, detained any person in his custody. Does it, therefore, follow that his character as a servant of the Company would give a right to the court to direct an *habeas corpus* to that person, to bring up a person in his custody as a prisoner of the local court? Does it give a right to the Supreme Court to examine into the constitution of the court (for this has been asserted), and to review its proceedings ? It has been said the court must have before it all the regulations and laws by which the Provincial Court was constituted, whether such court be a part of the original establishment of the Mogul Government not yet altered, or whether it be a new court established under the authority given by Parliament to the Government to make regulations. All this, according to the doctrine contended for, must be brought before the court in the shape of a return, for the Supreme Court to judge, first, whether the Provincial Court has been legally constituted, its proceedings have been properly conducted. We humbly apprehend, that it is manifest from the whole tenor of the Acts of Parliament and charter, that no such jurisdiction was intended to be given. In the Regulating Act of 21st George III. (c. 70), Section 23, it is enacted "that the Governor General and Council shall have power and authority from time to time to frame regulations for the Provincial Courts and Councils." Here is a distinct legislative recognition of these Provincial Courts. A similar power is given to the Governments of Madras and Bombay to regulate the proceedings of the Provincial Courts of their Presidencies, and all those

regulations are subject to the revision of his Majesty in Council. They are all directed to be transmitted to the Secretary of State, and if not altered, they become the law of the provinces by which those courts are governed. It is quite clear, therefore, that the Legislature has distinctly recognized the existence of those courts, the manner in which they are to be regulated, and the law by which they are to be governed. The regulations for the government of the provinces require no registration in the Supreme Court; while those which bind the inhabitants of Calcutta, Madras, and Bombay, and all British subjects, must be registered in and approved by these courts.

Then we come to this section, (sec. 24) ; "That no action for wrong or injury shall lie in the Supreme Court against any person whatesoever exercising a judicial office in the country courts, for any judgement, decree, or order of the said court, nor against any person for any act done by or in virtue of the order of the said court." So that although a native should be in the service of the East India Company as an officer of a provincial court, and although a British subject should be a Judge of such a court, for acts done in such court, no action lies against him. The same language is to be found in the charters; but although no action is allowed to try whether the act was legal or not in the Supreme Court, yet it is contended that the legality of the proceedings may be examined through the medium of an *habeas corpus*. This appears an extraordinary argument; and seeing that there is no provision to that effect in any of the Acts, we venture to submit that there is no ground for issuing the writ.

We will now consider the charter recently granted to Bombay (*Morley's Dig.,* Vol. II., P. 638). This charter contains a clause on which the whole question turns, and but for which there would be no ground of argument. The clause (clause 10) runs thus : "That the said Chief Justice and the said puisne Justices shall, severally and respectively, be, and they are, all and every of them, hereby appointed to be Justices and Conservators of Peace, and coroners, within and throughout the settlement of Bombay, and the town and island of Bombay, and the limits thereof and the factories subordinate thereto, and all the territories which now are, or hereafter may be, subject to or dependent upon the Government of Bombay aforesaid, and to have such *jurisdiction and authority* as our Justices of our Court of King's Bench have and may lawfully

exercise within that part of Great Britain called England, as far as circumstances will admit." Now, is it possible to construe this section otherwise than as saying that they are to be Justices and Conservators of Peace throughout the Presidency of Bombay, and to have such jurisdiction and authority *secundum subjectam materiam* ? that is, as such Justices and Conservators of Peace as the Justices of the King's Bench, who we know are Justices of Peace, have and may exercise in that character throughout the whole realm of England, as far as circumstances will admit. Unquestionably, the Judges of the Supreme Court are so with respect to ail British subject throughout the provinces; and as such, the jurisdiction they have is of the nature of the jurisdiction which is possessed by the Judges of the King's Bench when acting as Justices and Conservators of Peace.

It is insisted, however, that by this clause all the powers of the Court of King's Bench in England are granted to the Supreme Court at Bombay, not merely throughout the settlement of Bombay, but throughout the territories subject to the Presidency of Bombay, unlimited in any manner whatever with respect to persons; and that the Court of King's Bench has authority to issue such a writ to any part of the provinces subject to the different Presidencies of India; a position into which it is not necessary to enter at large, but which, we apprehend, is founded upon an expression in one of Lord Mansfield's judgements (Cowle's Case, 2nd Burrows, P. 856), in which he mentions, "the plantations". In that very judgement, however, his Lordship says he does not recollect or know of any instance of a writ of *habeas corpus* having been issued to such dominions. Applications, he says, had been made to this Board upon the subject, and we all know that this Board has a general superintendence in matter of law over the colonies. If, therefore, an affidavit should be laid, before the court, in which some individual was bold enough to swear to circumstances giving a *prima facie* jurisdiction to it, according to the doctrine contended for, an individual imprisoned at the foot of the Himmalayah Mountains must be brought from thence to the Court of King's Bench at Westminster, provided that the Court of King's Bench should think fit to issue a writ. It is said that the court possessed this power, and

it was exercised when Calais was in the possession of this country. Of that there is no doubt. Calais sent members to Parliament, and at one period the law of England prevailed there. It is not necessary, however, to enter into this question.

We understand that a learned dissertation was made in the court below, founded on the doctrines of Lord Hale, in which a distinction is made betwen the *jura summi imperii* and the *jura mixti imperii* or *potestas jurisdictionis* (Hale's Analysis of the Civil Part of the Law of England, section 6th); and it was contended that though the Supreme Court has no jurisdiction in the ordinary sense of that word, that is no civil jurisdiction over natives; that is it has not criminal jurisdiction; that it has not equitable jurisdiction, that it has not that ecclesiastical jurisdiction; that it has not Admiralty jurisdiction, yet that it has a *potestas* to be exercised over all the subjects of the King.* Now it is remarkable, that in almost every part of this charter but that now under consideration, the words "power, jurisdiction, and authority" are to be found; but in this particular clause the word "power" is not found. It is very singular, that where so much is built upon the term power, as distinct from jurisdiction, the word expressing power should not be found. But what is jurisdiction as distinguished from power ? and what jurisdiction is this which is meant to be exercised ? In the Pandects, lib, ii, tit, 1, the nature of jurisdiction is fully discussed, and one of the commentators gives a definition of it in a single line, *"jurisdictionest notio quae jure magistratus competit."***

*Sir Peter Grant, in his judgement in the court below, after mentioning the distinction drawn by Lord Hale between *the jura summi imperii* and mixti *imperii,* proceeded to state Lord Coke's description of the Court of King's Bench, 4th Instit. cap. 7; and observed. "The third description of power possessed by this court has reference to the supreme ministerial authority which is lodged in it, altogether separate and distinct from its judicial jurisdiction or the power it exercises in the trying of cases, whether in the first instance or by way of appeal: being a sovereign *potestas imperii,* expressly described by Lord Coke as a power to correct errors and misdemeanors judicial; not by the way of trying, hearing, and determining, as in pleas of the Crown, but by issuing the prerogative and mandatory writs of the Crown; as of *habeas corpus, prohibition, mandamus,* and by bailing any person for any offence whatsoever."

**Cujacil paratitla in Pandecta, lib, ii, tit. 1: jurisdiction's proprie notio est quae jure magistratus competit, quae enim maridata a magistrateu, aut a lege specialiter magistratui delegata est, non jure suo competit; officio quidem magistratrus continetur sed jurisdictione non continetur.

It is said that the Supreme Courts are Courts of King's Bench, with all the authority of the King's Bench. In Wales the jurisdiction to the Court of Great Sessions is given by the 34th and 35th of Henry VIII, c. 28, nearly in the same words. They have been introduced too into the charters of the Courts of almost all his Majesty's colonies, and are, indeed, a general formula, of which the most extensive import must be qualified by the specific provision by which it is accompanied.

It is worth while to observe also, that a clause (sec. 4) of a similar description is to be found in the charter given to the Supreme Court at Fort William (Morley's Dig. ii., P. 551); and that clause is taken from a clause in the charter of the 26th Geo. II. page 446, of the charters of the Company, and which ordains directs, establishes and appoints, that "the Governor or President and Council of Fort William in Bengal for the time being, shall be Justices of Peace, and have power to act as Justices of Peace, and as Commissioners of Oyer and Terminer and general Gaol Delivery; and that they, or any three or more of them (whereof the Governor or President, or in his absence the senior of the Council then residing at Fort William aforesaid, to be one) shall and may hold sessions of the peace, and of Oyer and Terminer and Gaol Delivery respectively, in and for the said town or factory of Calcutta, at Fort William in Bengal, and other the factories subordinate thereto, and do all such other acts as Justices of Peace and Commissioners of Oyer and Terminer and Gaol Delivery, with such powers, jurisdictions, and authorities, and under such regulations and restrictions, as are herein before given, granted, limited, and appointed, concerning Justices of Peace and Commissioners of Oyer and Terminer and Gaol Delivery for the said town of Madraspatnam." The clause respecting Madras is found at page 430, and is in these words: "We do give and grant unto the said Company and their successors and do by these presents will, ordain, establish, and appoint, that the Governor or President and Council of Fort Saint George aforesaid for the time being, shall be Justices of Peace and have power to act as Justices of Peace in and for the said town of Madraspatnam, and in and for Fort Saint George, Fort Saint David, Vizapatam, the factories on the coast of Sumatra, and all other the factories

subordinate to Fort Saint George aforesaid, in the same or the like manner, and with the same or the like power as Justices of Peace constituted by any Commission or letter patent under our great seal of Great Britain, for any county, city, or town corporate in that part of our said kingdom called England, do or may exercise such office." It was right, when a Supreme Court was constituted, that the Judges of that court should also be declared to be justices and Conservators of Peace throughout the whole extent in which they had occasion to act at all, either in their ordinary jurisdiction, or their more extended jurisdiction; and it was then natural, that instead of giving to the Judges a jurisdiction assimilated to that of Justices of Peace by their commission, they should have a power as Conservators and Justices of Peace, of the nature possessed by the Judges of the Court of King's Bench, and such appears to be the manifest intention of this section.

It has been, too, contended on the other side, that the Supreme Court has the power of issuing all the mandatory writs of the Crown to all the courts, of whatever description, within the territories subject to the Presidency of Bombay. If that power existed under the former general clause, why does the charter proceed, after establishing Courts of Request and Quarter Sessions, "to grant and ordain that all the said Courts, and Justices and other Magistrates appointed for the town and island of Bombay, and the factories subordinate thereto, shall be subject to the order and control of the Supreme Court of Judicature, in such sort, manner and form, as the inferior courts and Magistrates of England are by law subject to the order and control of our Court of King's Bench; to which end the said Supreme Court is empowered and authorized to award and issue a writ or writs *of mandamus, certiorari, procedendo,* or error" (clause 59; Morley's Dig. ii., P. 677). Where was the use of this clause, giving the court this jurisdiction with respect to certain courts to be erected within the local limits of Bombay, if it had a general jurisdiction over every court established within the limits of the territories subject to the Presidency. The Court indeed had a further jurisdiction in its character of a Court of Oyer and Terminer.

In the statute of 34 Geo. III., chap. 52, which was the Charter Act preceding the last, a power is given to the Governor General of

Bengal to issue commissions of the peace in His Majesty's name, and to appoint Justices of Peace for the Province and Presidency, island, town and factory of Bombay, and the places belonging or subordinate thereto : and a clause is added, (sec. 153) declaring "that all convictions, judgements, orders, and other proceedings, which shall be had, made or pronounced by or before any Justice or Justices of Peace within any of the British settlements or territories in India, out of the court of Oyer and Terminer within and for the same, shall and may be removed by writ of *certiorari* into the court of Oyer and Terminer and Gaol Delivery, of and from the same Presidency, al the instance of any of the parties thereby affected or aggrieved."

A similar provision is also made with respect to convictions before the Zillah Magistrates, by the 53rd of the late King, in cap. 155, Sec. 105 by which a power of removing them by *certiorari* is given in the court of Oyer and Terminer of the Presidency. Now it is a maxim, that where the power of issuing the writ of *certiorari* is not expressly taken away, it exists by common law in the Court of King's Bench; and to oust their jurisdiction it must be taken away expressly. But here it is not the question of taking it away; but the question is of giving it expressly, and whether it would have existed at all unless so given. The Judges of the Court of Oyer and Terminer at Bombay are the Judges of the Supreme Court: but they do not take this superintending authority over the Zilla Courts *qua* Supreme Court; but a special authority is given to them for that purpose to issue a *certiorari* out of the Court of Oyer and Terminer. This tends strongly to show that the Supreme Court, as such, does not possess the power which is contended for.

Lord Tenterden.– "The conviction of the Justices of Peace may be removed by *certiorari* into the Supreme Court of the Presidency."

Into the Court of Oyer and Terminer, that court being constituted of the same persons. But the authority is not given to them as Judge of the Supreme Court, but as Justices of Oyer and Terminer.

The charter of Bombay does not suppose it confers an universal criminal jurisdiction, for it constitutes a court of Oyer and

Terminer and Gaol Delivery, to enable the court to exercise criminal jurisdiction. The power of civil jurisdiction is given specifically :– The persons to be subject to the jurisdiction are specifically pointed out. A general jurisdiction over the Provinces can never be supposed to be given unqualified, and with all the privileges and prerogatives of the Court of King's Bench. The Supreme Court is a civil court and a court of equity; and according to the rules of construction applied on the other side you give all, and then you give a portion; you give all the jurisdiction; you give as it were the whole estate, and then you dole out in detail these little beneficial legacies. Those who have already obtained the whole, are to have, under this rule of construction, something less than the whole.

With respect to Moro Ragonath (1 Knapp, 8), however, it is impossible to contend that such a power could have been given to the Supreme Court of Bombay as was attempted to be exercised in his case. He was residing at Poonah. It was wanted to remove a cause into the court of Bombay. A *habeas corpus* was granted on an affidavit, and a person of high rank, nearly related to the deposed family, was called upon to bring up the body of a boy of whom he was the natural guardian, but who it was stated was then unduly detained in his custody. The question arises immediatley, how was he subject to this jurisdiction? If he had resisted, and a scuffle ensued, how could an attachment have been issued against those who disobeyed the writ? By this power of issuing an attachment you give a local jurisdiction, which by the regular prescribed terms of the charter does not exist. If the party disobeying is of the designated class subject to the jurisdiction of the Supreme Court, he ought to be registered : this man was not registered, and therefore there seems to have been no jurisdiction at all in the Court to have issued the writ : and he never could have been guilty of contempt in disobeying it. Even the Roman Emperor tells his subjects they are not bound to obey where the Judge exceeds the limits of his territorial jurisdiction: Pand, lib. 2. tit. 1. sec. 20. *"extra territorium judicenti impune non paretur."*

With respect to the case of Bappoo Gunness (1 Knapp, 11), a writ of *habeas corpus* was directed to the gaoler of the Provincial

Court. If such jurisdiction in issuing the writ is allowed, every person acting under the authority of the Court on receiving such a writ, must bring up the body to the Presidency, or state in detail the reasons of the detention, by whom made, and so on. How could such officers state the circumstances with such precision as to obviate objection ? A return to a *habeas corpus* drawn at Delhi or Poonah would be found extremely deficient according to our forms. Those who framed these laws could never have overlooked that consideration, and it is clear they never intended to let in such a state of things at all.

It may be important to call your Lordships' attention to this circumstance, that provision is made in various Acts for the establishment and regulation of the Provincial Courts with a course of appeal. By the 37th Geo. III cap. 142, sec. 8, the regulations of the Governor General affecting the natives are to be formed into a code, and published in all the native languages, that the natives may know what is the law to which they have to look. This was a measure first adopted by the late Marquis Cornwallis, and found to be so highly beneficial that it was adopted by the Legislature, and made part of the law of the country.

There is a regular establishment of Provincial Courts, with a succession of appeals from the lowest court to a court of the highest appellate jurisdiction, both in criminal and in civil matters, established at the several Presidencies. The Court of Suddur Dewany Adawlut is the highest court of appeal in India in civil, as the Court of Suddur Nizamut Adawlut is the highest court of appeal in criminal cases. Both these courts are recognized by the 53rd Geo. III. (c. 155). A provision is also made for an appeal to His Majesty in Council, in cases above the value of £5000 from the Court of Appeal in India, passing by the Supreme Court. At Bombay, the numerous regulations concerning the Courts of Justice have with great labour and care been lately reviewed, and formed into a code. This code was published in 1827, and clearly shows that as much pains have been taken for the protection of the subject, to enable him to obtain redress from any injury which he may sustain from Provincial Courts or Magistrates in the territories of Bombay, as in any part of His Majesty's dominions. With respect to the improper

detention of persons, there are particular regulations, all which the Magistrates are bound by their oaths to carry into execution; and if they act corruptly they are subject to be proceeded against in the Supreme Court, for which there is a special provision by statute. In Regulation XII, the manner in which the senior Magistrate is to superintend all subordinate officers is pointed out, and by Regulation XIII, the Judge is bound to visit all the gaols, for the purpose of ascertaining whether persons are unlawfully detained there; he is to visit both the criminal and civil gaols, to notice to the officer concerned erroneous judgements, and to forward cases, if necessary, to the Suddur Foujdaree Adawlut for revised decision.

It is not intended to say that a man who is in the service of the Company as an officer of a Provincial Court is therefore exempted from the jurisdiction of the Supreme Courts in matters where he acts as an individual; but it is declared, that if he detains any person by the orders of the Provincial Court he is subject to no action for such an act, nor is the Judge subject to an action. The only proceeding against him in the Supreme Court is by information, in case of corruption. When a person is detained under the orders of the courts in the Provinces the Supreme Court cannot order such person to be brought up for the purpose of investigating his case. That court has no such superintending jurisdiction over the courts in the Provinces as that which Lord Coke in his fourth Institute states the Court of King's Bench to possess, by virtue of which it superintends and restrains the excesses of all the inferior jurisdictions of the country. Such an authority has not been given to the Supreme Court, and consequently the issuing of the writ of *habeas corpus* in the *cases* mentioned in the petition were illegal acts.

Mr. Denman, in reply.–The Supreme Court at Bombay is made a Court of Oyer and Terminer, it has also the jurisdiction of the Court of King's Bench in England, and it is as incident to that court that the present power is claimed.

It has express power (clause 59, Morley's Dig. ii. p. 677) over the Court of Requests and the Court of Quarter Sessions, "to issue

writs of *mandamus, certiorari, procedendo,* or error, and to punish any contempt thereof, or wilful disobedience thereunto, by fine and imprisonment". Now the question is asked, why the charter should give these particulars if they were already included in the general grant. Is this, then, the first time that in all the rolls of English Acts of Parliament an unnecessary power can be shown to have been created, or express terms to have been used, where they were superseded by clear implication, or that the figure of speech called tautology can be detected ? Unless the argument is pushed to that extent it is plainly worth nothing; and that it cannot be fairly pushed to that extent the experience of every session demonstrates.

But if this clause proves any thing it proves a great deal too much. The only writs enumerated in it are those of *mandamus, certiorari, procedendo,* and error. There is no mention of *habeas corpus in* this charter; yet it is stated on all hands that writs of *habeas corpus* have constantly issued; and if not, the *certiorari* for removing convictions and orders of Magistrates would be of little value. Why set aside the judgement against a man who has been convicted by a Justice, if the man is himself to remain in gaol, and the writ of *habeas corpus* cannot rescue him ?

It is admitted that within Fort William in Bengal the Supreme Court of Calcutta is authorized to issue writs of *habeas corpus* ; therefore within the territories of Bombay, as described in the fourth of his present Majesty (4 Geo. iv. c. 71), the same power must exist in this Supreme Court.

It is to be a court for all "the town and island of Bombay, and the limits thereof, and the factories subordinate thereto, and within the factories which now are, or hereafter may be, subject to or dependent upon; "with such powers as are given within Fort William in Bengal aforesaid, or the places subject to, or dependent upon, the Government thereof" (clause 10, Morley's Dig. ii. p. 645).

Thus appointed, they form a Supreme Court, which is "to have such jurisdiction and authority as our Justices of our Court of King's Bench have and may lawfully exercise within that part of Great Britain called England, as far as circumstances will admit" (clause 10). Here is a court with all the powers which the Court of

King's Bench possesses in this country. Then where is the exception which is to prevent its jurisdiction from attaching in any particular case ? We find it affecting actions, suits and indictments: as affecting criminal information, writs of *habeas corpus,* and the other high prerogative writs, it is nowhere to be found.

The single decision of Sir Thomas Strange (*Nagapah Chitty* v. *Rachummah*) has no relation to our question. A person that was not within the jurisdiction of the court at Madras had been actually brought within it by a fraudulent process of law.

The Chief Justice there decided (1 Strange's Madras Cases, p. 135), "That as where a native has been brought for some purpose to Madras by Government, against his will, and a third party, not concerned in bringing him here, attempts to take advantage of his being within the limits, to hold him to the jurisdiction, it seems to be agreed it is not to be permitted; much less ought it to be so in a case, where they were brought here, in their necessary defence against the injurious act of the plaintiff, of the consequences of which he would now take advantage to fix them, contrary to the maxim that no man should take advantage of his own wrong."

The whole effect, then, of the only case cited is this; that in a civil suit between individuals, where the defendant was clearly not within the jurisdiction, unless the plaintiffs fraudulent proceeding brought him within it, such a proceeding should not endure to the benefit to the wrong-doer and the prejudice of the party wronged.

It is truly stated, that no clause has expressly given the power of issuing mandatory writs; but as the existence of that power is unquestionable, since it has been always exercised, and can be traced to no origin but the erection of a Supreme Court with all the functions of the English King's Bench, we have here another proof, that the words erecting it are more than a mere formula, and have received their full effect. The statute of the 21st Geo. III. (c.70) is said to have made a difference not easily comprehended; for if its object really was to prevent the 13th Geo. III. (c. 63) from having so extensive an operation, the change would have been brought about by a plain enactment.

No judgement was delivered in this case, but the report of the Privy Council, which was affirmed by His Majesty, was.

"That the writs of *habeas corpus* were improperly issued in the two cases referred to in the said petition.

"That the Supreme Court has no power or authority to issue a writ of *habeas corpus* except when directed either to a person resident within those local limits wherein such court has a general jurisdiction, or to a person out of such local limits, who is personally subject to the civil and criminal jurisdiction of the Supreme Court.

"That the Supreme Court has no power or authority to issue a writ of *habeas corpus* to the gaoler or officer of a native court as such officer, the Supreme Court having no power to discharge persons imprisoned under the authority of a native court.

"That the Supreme Court is bound to notice the jurisdiction of the Native Court, without having the same specially set forth in the return to a writ of *habeas corpus* ."

NOTE :– Before this decision had been pronounced, the Supreme Court at Bombay had closed under the following circumstances. No return having been made on the 10th of October 1828 to the writ *alias habeas corpus* directed to Pandoorang Ramchunder, a *pluries habeas corpus* was ordered to issue, returnable immediately, and marked in the penalty of 10,000 rupees. To this writ also no return was made; and on the 23rd of February 1829, Mr. Justice Grant ordered an attachment to issue against Pandoorang, and that it should be directed to the Governor and Council, in order that they might execute it by such person or persons as they might depute for that purpose; he also directed a letter to be sent at the same time to the Secretary of Government to explain the reasons of the Court acting in this manner, and enclosing copies of the affidavits and proceedings in the case. Upon the receipt of this letter and writ, the Secretary replied, that it was the intention of the Government to persist in the line of conduct

expressed in the letter of the 3rd of October 1829, until they received orders from their superiors in England. After this reply, Mr. Justice Grant, on the 1st of April 1829, declared that the Court had ceased on all its sides, and that he would perform none of the functions of a Judge until the Court had received an assurance that its authority would be respected, and its process obeyed, and rendered effectual by the Government of the Presidency. *Asiatic Register,* vol. 28, p. 351, *et seq*.

[The letter patent, under which the existing High Courts in India were constituted, and which were issued under the Indian High Courts Act, 1861 (24 and 25Vict. c. 104), are dated severally as follows: Calcutta, 28th Dec. 1865; Madras, 28th Dec. 1865; Bombay, 28th Dec. 1865; North-Western Provinces, 17th March 1866. The letters patent are set out at length in Stat. R. and O. Rev. vol. iv. pp. 82-131. As to the jurisdiction of the High Courts, see Ilbert, *Government of India,* pp. 241-255. See also the same work, pp. 387-405 (application of English law to natives of India); pp. 406-463 (British jurisdiction in Native States).]

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5

UNTOUCHABLE WORKERS OF BOMBAY CITY

By G. R. Pradhan, Ph.D.

With a Foreword by Dr. B. R. Ambedkar, M. A., Ph. D., D. Se., Bar-at-Law, J.P.

FOREWORD

This treatise is a thesis which the author wrote in fulfilment of the requirements prescribed by the University of Bombay for the degree of Doctor of Philosophy in Arts. That was as accepted by the University, should constitute sufficient recommendation in favour of its merits and no such thing as a Foreword from me should have been thought necessary by the Author. I do not know why the Author feels the necessity of a word from me. Probably, that I do from the community whose life has been the subject-matter of this investigation is the reason which has led him to call upon me to write a Foreword and I gladly respond to his invitation.

The author has studied the life of the Untouchables in the City of Bombay under various heads and thus gives quantitative idea of the extent of the overcrowding, the earnings, employment, debts, etc. that prevails among the Untouchables. He has collected data which is certainly valuable. In any statistical investigation the question that arises is whether the cases studied are typical or not. The average to be normal, the cases investigated must be typical. There is no reason to suppose that his cases are not typical. It may, therefore, be taken that the picture of the life of the Untouchables he has given, is a true picture.

This study would have been of greater value if it had been a comparative study contrasting the social condition of the Untouchables with that of the Caste-Hindus. But that it is not. Such a study was all the more necessary in view of the opinion on the one hand and caste Hindus on the other, if it is proved that the Untouchable does not suffer by reason of his Untouchability. But if on comparison it is found that the Untouchable suffers in his earning, in his employment and in other respects in a competitive

society as aganist a caste Hindu and if this disadvantage is attributable to no factor other than Untouchability, then it will have to be admitted that the case for conversion was strong. But all that must await as comparative study. Such a study will have to be undertaken some day either by the author of this book or by someone else if the present study is to be a useful guide for understanding why the conclusions drawn by the author are what they are; and whether the differences if any in the condition of the touchables and Untouchables is due to any such social factor as Untouchability. As a preliminary to such an effort the booklet must be welcomed.

Rajgrih, Dadar **B. R. Ambedkar**[1]

10-2-1938.

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[1.]: Karnatak Publishing House, Bombay, 1938.

6

IS GANDHI A MAHATMA ?

Is Gandhi a Mahatma ? I am sick of this question. There are two reasons why this question annoys me. Firstly, I hate all the Mahatmas and firmly believe that they should be done away with. I am of the opinion that their existence is a curse to the nation in which they are born.

The reason why I say so is because they try to perpetuate blind faith in place of intelligence and reason.

Secondly, I do not know what exactly people understand by the word Mahatma.

Even then since the Editor of the 'Chittra' seems to be so adamant on getting a reply from me, I have decided to make earnest efforts to answer this question.

Generally speaking according to an ordinary Hindu in order to pass as Mahatma a person must have three things, namely his robe, his character and his particular doctrine. If these qualities are taken as a criterion for judging a Mahatma then in the eyes of ignorant and uneducated persons who look towards other for salvation Mohandas Karamchand Gandhi can be called a Mahatma. It is very easy for anybody to become a Mahatmas in India by merely changing his dress. If you are wearing an ordinary dress and leading an ordinary life even if you perform extraordinary noble deeds, nobody takes any notice of you. But, a person who does not behave in normal manner and shows some peculiar trends and abnormalities in his character, he becomes a saint or a Mahatma. If you put on a suit or ordinary dress and do something, people would not even like to look at you. But if the same person discards his clothes, run about naked, grows long hair, abuses people and drinks dirty water from the gutters, people fall at his feet and begin to worship him. In these circumstances if Gandhi becomes Mahatma in India there is nothing surprising. Had these things been practised in any other civilised country, people would have laughed at him. To a casual observer Gandhi's teachings appear to be very sweet and appealing. Truth and Non-violence

are very noble principles. Gandhi claims to preach *'Satya'* (Truth) and *'Ahimsa'* (non-violence) and people have so much liked it that they flock around him in thousands. I fail to understand why do they do so. Is it not a fact that thousands of years ago Lord Buddha gave the message of truth and non-violence to the world. No body except an ignorant fool or congenital idiot would give credit to Gandhi for originality in this matter. There is nothing new in the pronouncement that 'Truth and Non-violence' are necessary for the preservation of human civilisation. There is nothing new that Gandhi has added to the maxim. As I have already stated earlier Lord Buddha taught these principles thousands of years ago. Had Gandhi thrown some light over the intricate problems arising from the experiment of 'Truth and Nonviolence' this would have added luster to his Mahatmaship and the world would have remained under gratitude for ever. World is anxiously waiting for the solution of the two riddles, namely how to uphold the noble principle, of 'truth' and under what circumstances should violence be considered a 'right action'. Lord Buddha preached that attitude towards 'Truth' and 'Non-violence' should be pragmatic. What answer Jesus Christ would have given to this question, unfortunately we have no means to know. Perhaps Pilate did not allow him time enough, to answer this question. Has Gandhi answered this question? I do not find it anywhere. If we study his teachings and sermons we find that he is trading on other pepole's capital. 'Truth' and 'Non-violence' are not his original discoveries. When I seriously study Gandhi's character, I become exceedingly convinced that cunningness is more evident in his character than the seriousness or sincerity. According to me his actions can be likened to a base coin. His politeness is like the politeness of Urea Heap, case of the characters in the famous English novel 'David Copperfield'. He has managed to keep himself in the forefront by means of cunning and inherent shrewdness. A person who has faith in his capacity and character faces the realities of life in a bold and manly manner. He has no need to keep a dagger up his sleeve, Napolean always charged from the front. He did not believe in treachery and never attacked from behind. Treachery and deceit are the weapons of the weak. Gandhi has always used these weapons. For many years he had been declaring himself to be a humble disciple of Gokhale. Thereafter he had been admiring Tilak for many years. Afterwards he hated Tilak also. Everybody knows this. Everybody knows that unless he used the name Tilak for

raising funds he could not have collected 1,000,0000 for *Swarajya* Fund. Forgetting his personal relation and leaving aside other considerations, like a shrewd politician he attached the name of Tilak to the Fund.

Gandhi was staunch opponent of Christian religion. In order to please the Western world he often quoted from the Bible in times of crisis. In order to understand the working of his mind I have two other instances to quote.

During the Round Table Conference he told people, "I shall not raise any objection against the demands presented by the representatives of the Depressed Classes". But, as soon as the representatives of the Depressed Classes people placed their demands, Gandhi quietly forgot about the assurances given by him. I call it a betrayal of the people belonging to the Depressed Classes. He went to the Moslems and told them that he would support their 14 demands if they in turn opposed the demands placed by the representatives of the Depressed Classes. Even a scoundrel would not have done this. This is only one instance of Gandhi's treachery.

Nehru Committee's Report was presented in the open session of the Congress for discussion. Some amendments were to be made in the Report. All of you must be knowing about it. Mr. Jayakar was hired by Mr. Gandhi to oppose these amendments. These amendments were very vehemently opposed by Mr. Jayakar and his supporters. This is known to many people. But what were these amendments and why so were these forcefully opposed ? Not many people know the background of these amendments. I came to know about the opposition of Jayakar. (It is a fact I have no reason to question the truth about it) from people who had opposed the amendments. All this was made known by Pandit Motilal Nehru, and Mr. Jinnah who was betrayed by Mr. Gandhi. The corrections which were proposed to be made in the Nehru Committee Report were suggested by Mr. Jinnah for the benefit of his community. But, when Gandhi came to know about it, he thought, a great deal more had been given to the Moslems by Pandit Motilal Nehru than what he wanted to give originally.

In order to humiliate Pt. Motilal Nehru he vehemently opposed these proposals. Hindu-Moslem hostility is the result of the deceitful action on the part of Gandhiji.

The man who was considered to be a friend of the Untouchables and the Moslems betrayed the cause of the very same people whose cause he claimed to be a champion. This immensely pained me. There is an old saying which benefits the occasion (Bagal mein chhurri Munh mein Ram) : 'God's name on the lips and dagger under the armpit.' If such a person can be called a Mahatma, by all means call Gandhi a Mahatma. Accoding to me, he is no more than a simple Mohandas Karamchand Gandhi.

I have given more than what the Editor of the 'Chittra' demanded. I must have told a great deal more than what the readers of the Chittra can digest.

Apart from the incidents quoted herein, there are two more things that I shall tell and then close. The age of Ranade, Gokhale, Agarkar and Tilak and the movements started by them were different from the Gandhi age. Their age was the age of knowledge. There is absolutely no doubt about it. Gandhi's age can be called the '*Tamo Yug*' of India. The politics of Agarkar and Tilak was based on honesty and truth. It was not hollow and noisy. But the politics of Gandhi is hollow and noisy. It is the most dishonest politics in the history of Indian polity. Gandhi was the man responsible for eliminating morality from politics and instead introduced commercialism in Indian politics. Politics has been denuded of its virtue. 'When the salt has lost its savour, wherewith you shall salt it', asked Jesus Christ of the pharisees. How to get rid of the pernicious saintly idiosyncracies of Gandhiji in Indian public life is the second and most important question. If the Hindu India does not realize it today, it will take a long time to retrace its steps. Majority of the Indian population is illiterate, ignorant and uncivilised. This may not be the fault of the people. The privileged few of the society have deliberately kept the masses ignorant and illiterate. As a matter of fact it is impossible to fight against the Mahatma on the strength purely of logic and rationalism. It is fight between intellectualism against miracles and idiosyncracies.

Reason alone cannot wipe off the hypnotic effect of Mahatmic miracles. In these circumstances I would like to offer some suggestions. In order to put an end to the activities of the Mahatma, other Mahatmas should come forward to take active part in Indian public life and set up a political wing of their own. There is no *dearth* of the Mahatmas in India. Upasani Buva, Dada Maharaj, Mehar Baba, Narayan Buva Kedgaonkar are some of the famous names. Numerous saints and '*Mahatmas'* are present in India. They know the art of befooling and ensnaring the innocent people. True, the number of their followers is far less than followers of Gandhiji but their incapacity or lack of ability alone cannot be the reason for that. They have the ability and the strength to attain freedom along with the salvation for their Hindu masses. There are many reasons why they have not been able to know this. Owing to his dual policy and duplicity of character Gandhiji was able to succeed in creating a following by promising to attain spiritual and political liberation for all. I believe that if Uspani Buva, Narayan Maharaj etc. adopt the methods of Gandhiji undoubtedly they too would be able to establish the wing which can effectively face the blind followers of Gandhi. In this lies India's salvation. Having a number of parties in the country will be beneficial to this country at least for the time being. If an organisation is set up with these aims and objects, it would be able to serve the same purpose as was served by the *Apsaras* of the *puranas* namely the annihilation of their adversaries. And if this dose not happen and this organisation remains reactionary even then its existence would be useful. In this way, at least the pernicious creed of fascism which is spreading its tantacles all around will be stalled. I believe that if a Mahatma comes and places his Manifesto stating in a straight forward manner that he can achieve salvation, perhaps India will attain intellectual liberation. This is not a joke. This is no vilification or criticism of anybody. I am writing it with all the seriousness that I can command.

Will the Hindus by changing the minds of the Mahatmas like Dada Maharaj, Meher Baba or Narayan Buva try to serve India ?

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This article was published originally in Chittra (Marathi), Dipavali Special Number, 1938.

7

APPEAL FOR PURSE TO MARATHI SCHOLAR

Dr. Ambedkar states that it has been decided to give a purse to the wellknown Marathi scholar Mr. J. R. Ajgaonkar on his 60th birthday by his friends and admirers.

Dr. Ambedkar adds to say that the study of the old literature which Mr. Ajgaonkar made his life's mission has not yielded him any great return.

In his successful attempts to enrich the Marathi literature, it is found that the old scholar has been left poor and helpless, on the threshold of his 61st year. Some very regrettable domestic calamity, some time back, make it all the more necessary for the lovers of Marathi literature, to stand by the veteran scholar and help him in his time of need.

Dr. Ambedkar requests the public to send their contributions to the Purse as early as possible.

Sd/— B. R. Ambedkar

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[1]:Bombay Chronicle, dated 14th July 1939.
Date is not mentioned-Editors.

8

KNOWLEDGE IS POWER IN EVERY FIELD OF LIFE

Message to The Marhatha First Annual Journal

(" Marhatha " Special Number)

Ambedkar School of Politics, Poona

Estd. 30th July 1944

" Study, Service and Sacrifice "

MESSAGE

I have always held that Knowlege is Power in every field of life. The Scheduled Castes will not attain their goal of freedom and liberty until they drink deep of all knowledge. J trust, 'Ambedkar School of Politics, Poona' will make an honest attempt in that direction. The Marhatha First Annual Journal is a good attempt and I wish them all luck.

Sd/— B. R. Ambedkar

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Date of the publication is not available—Editors.

9

CONGRESS ATTEMPTS TO BYPASS UNTOUCHABLES

One of the most important days in the history of Indian politics was the 12th November 1930, the day on which late Majesty King George the 5th, formally inaugurated the Indian Round Table Conference. From the view point of the Indians it was an important incident; for the first time it recognised the right of Indians to be consulted in framing the constitution of their country. For the Untouchables it was a landmark in their history. They too were for the first time recognised to be represented separately by two delegates, the late Mr. Shrinivasan and my humble self. The Indian National Congress was the only body which did not take part in this Conference. The work of the Conference was distributed in nine committees, one of them being the Minorities Committee.

The Act of 1919 which emphasised necessity of protection of the Depressed Classes, actually did nothing. It was just a theoretical assertion. I, therefore, submitted a memorandum in which I pleaded for the following :-

(1) Equal citizenship for the Depressed Classes,

(2) Free enjoyment of equal right,

(3) Protection against Discrimination,

(4) Sufficient political power for the Depressed Classes to influence the legislative and executive action for the purpose of securing their welfare, which included-

(a) right to adequate representation in the Legislature, and

(b) right to elect their own men,

(i) by adult suffrage, and by

(ii) separate electorate for the first ten years, and there after by joint electrorates with reserved seats,

(5) Adequate representation in the services. It was emphasized to establish a Public Service Commission in all the provinces whose duties would be :

(a) to recruit the services in such a manner as to secure due and adequate representation of all the communities, and

(b) to regulate from time to time priority in employment in accordance with the existing extent of the representation of the various communities in any particular service concerned,

(6) Redressing against prejudicial action or neglect of interest,

(7) Special Departmental care, and

(8) Fair representation according to their population in the Cabinet.

Now let us ask what happened to these demands of the Untouchables ? We must turn to the report made by the Minorities Committee to the Round Table Conference. Items 16 and 18 tell us the determined attitude of the Depressed Classes in securing separate electorate for themselves. In brief, it was unanimously agreed that the Untochables were entitled to be recognised as a separate element in the political life of India. Here we must not forget that the unanimous agreement on the point of the separate recognition of the Untouchables was made possible only in the absence of the Indian National Congress.

To turn to the Second Round Table Conference we find that the Congress had its full representation in it. Every one was looking forward to the Congress to lead the Conference to success. Unfortunately, Mr. Gandhi was chosen to represent the Indian National Congress. A worse person could not have been found to guide the destiny of India. He presented a curious picture of a man, who in many cases would terrify the Conference to resist in every way any compromise which he regarded below his principle, though others would regard it absolutely as a prejudice and in other cases he would remain silent on the points of vital importance which was considered as a matter of principles by others. On 15th September 1931, Mr. Gandhi made his first speech in which he said that the problem of the Untouchables is not at all. He referred to the activities of the Social Conference, about which we know that the Congress did not allow this body to hold its annual session under the pandal of the Congress, merely because Mr. Tilak

had threatened to burn the pandal if it was allowed to be used by the Social Conference party. On 17th September 1931 in the Federal Structure Committee Mr. Gandhi fulminated the following words :

"Of course, the Congress will share the honour with Dr. Ambedkar of representing the interests of the Untouchables. They are as dear to the Congress as the interests of any other body or of any other individual throughout the length and breadth of India. Therefore, I could most strongly resist any further special representation."

Indeed, this was nothing but the declaration of war by Mr. Gandhi and the Congress against the Untouchables. He was making his plans to bypass the Untouchables and to close the problem by bringing about a settlement between the Hindus, Muslims and the Sikhs. It was being done quite confidentially. Knowing that this was a mischievous move I got up and said, "I should like to say that I have already presented our case to the Minorities Sub-Committee last time. But I do want to say most emphatically that whoever claims it, he cannot give it out of my share. I want to a make that absolutely plain." On this point Mr. Gandhi remained silent and went on contemplating about the pact between the Hindus, Muslims and the Sikhs. Mr. Gandhi failed to achieve success in this pact. He cut a sorry figure when he said that the failure in achieving the success was owing to the fact that the representation of the delegates was defective as all the delegates were nominated by the Government. This was an indirect challange to the authenticity of the representation made by me as the delegates of the Untouchables, Mr. Gandhi insisted that he was the sole champion of the Depressed Classes. To answer the challenge of Mr. Gandhi I said, "Even if the Depressed Classes of India were given a chance of electing their representatives to this Conference, I would all the same find a place here. I say, therefore, whether I am a nominee or not, I fully represent the claims of my community." In the course of my speech I also showed them a telegram which I had then received, the telegram was sent by a man whom I had never met, it was also sent from a place where I had never gone too. Not only this, telegrams after

telegrams poured in the Conference all in my support, it was a defeat for Mr. Gandhi, who was now forced to keep quiet and accept the inglorious defeat of so glaring a claim.

Thus is the old story of the end of all the efforts of the Minorities Committee to bring about a solution of the communal problem. It would not be an exaggeration to say that the main purpose of Mr. Gandhi in going to the Round Table Conference was to oppose the legitimate demands of the Untouchables. Mr. Gandhi would not mind the separate electorate of the Muslims or the Sikhs, but when the Untouchables ventured to be recognised as a separate entity, he made the bitterest condemnation of their demands. Mr. Gandhi had no logic, he had no principles. He had only the 'agony of his soul' which morally forced him to utter out those pious sentences against the Untouchables. He never dared to oppose the Muslims in the same sarcastic language. How could he ? He dared to oppose the demands of the Untouchables only because he anticipated that those Untouchables who were unpaid slaves of the Caste Hindus were being dragged out of the bond of slaverly, which in other words meant that the Caste Hindus would have to be bereft of the honorary serf who had added to their dignity for times unknown.

Although the Congress has been beating the drums of her most representative character, this incident plainly showed that the Congress was nothing but another name for the Caste Hindus. That is why we see the Congress more alert on the point of segregation of the Untouchables from the rest of the Caste Hindus. Had this objection been raised by any other body it would have been considered legitimate. But what axes had the Congress to grind when she talks on behalf of the Untouchables? Does this not mean that the Congress is apparently a Hindu body. The problem of the Untouchables was the problem of the Caste Hindus and the Congress was not a Hindu organisation, then why should she put her nose into the problem which was quite foreign to her own sphere ? She only wanted to lull the Untouchables into sleep for another thousand years by not allowing the legitimate rights for the Untouchables.

The Congress centred all its energies towards the neglect of the Untouchables. They approached the Muslims and devised a Scheme to bypass the Untouchables. Mr. Gandhi agreed to the fourteen points of the Muslims on the condition that they would not support the Untouchables and would withdraw their support to them. But thanks to the noble sense of humanity in the Muslims they rejected this offer made by the Congress and thus did not agree to isolate the Untouchables. In the Franchise Committee the Congress made another attempt to by-pass the Untouchables. Strange as it may appear some of the witnesses said that there were no Untouchables at all. This shows that how the Congress can conspire in a cold and calculated manner against the Untouchables out of pure Selfishness and do indirectly what he cannot do directly.[1]

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[1] : Jai Bheem : dated March 12, 1946.
Reprinted-Khairmode, Vol. 8, Pp. 43-48.

10

I DO NOT SHARE DEFEATIST MENTALITY

Message

The Scheduled Castes Federation lost the last general Elections.* Consequent upon its defeat some have deserted it, some have lost faith in it. I do not share this defeatist mentality. To win seats in Election is not the ideal of the Federation. To win seats for the Federation is only a means to an end. The end is to serve the people for whom it is established. So long as the problem remains, the Federation will continue in one form or the other.

The defeat of the Federation is to be welcomed. For it has helped to drive away the most undesirable element that had entered the Federation. Those who remain in Federation have greater responsibility falling upon them. To them my message is that after the defeat the Federation may appear like a weather worn tree, but it is certainly not dead at the roots.

(Sd.)

B. R. Ambedkar[1]

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* Held in 1946.

[1] : Jai Bheem : dated March 12, 1946.

Reprinted : Khairmode, Vol. 8, P. 48

11

OUR STUDENT SHOULD LEARN AND LEAD

A Message by Dr. Ambedkar to The All India Scheduled Castes Students, Federation Conference

Nagpur 25-27th Dec. 1946

The second conference of the 'All India Scheduled Castes Students' Federation' was held at Nagpur from 25th to 27th December 1946 with the aim of framing the constitution for the Federation*. The foundation of this organization was laid on 12th May 1945 with the First Conference at Bombay.

Dr. B. R. Ambedkar had a desire to attend this Conference to be held at Nagpur, but due to his prior appointments, he could not. However, he advised Mr. Jogendranath Mandal, Law Member, Interim Government of India to be the chairperson of this students' conference at Nagpur.

This Conference was a historic one. It was arranged within a very short period. The reception committee was formed on 16th December 1946 and the Conference was held between 25th and 27th Dec. 1946. In spite of this short period there were about three thousand boys and five hundred lady student delegates from all over India. The other visitors were about thirty thousand. The delegates from Bombay, UP, C. P. & Berar, Madras, Bengal, Hyderabad and Delhi were accommodated at Chokhamela Kanya Shala, New Colony, Nagpur.

This Conference was held in a spacious ground at Kasturchand Park in a nicely decorated pandal. Mr. Jogendranath Mandal was the President of the Conference. The huge crowd of forty thousand people greeted him at Nagpur Railway Station at 6.30 p. m. on 25th Dec. 1946. The 'guard of honour' was presented by ' Samta Saanik Dal' and 'National Muslim Guards'. He was also welcomed by leaders of Scheduled Castes Federation, Muslim League and Government Officials.

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* See Appendix—1

Message

" 2, Western Court,
New Delhi,
20-XII-1946.

My dear Gedam,*

I am very sorry that owing to my many pre-occupations I was not able to write to you earlier.

I am very glad to know that you have decided to hold a session of the All Indian Scheduled Castes Students' Federation separately from the Session of the All India Scheduled Castes Federation. It is a wise decision with which I entirely agree.

I have spoken to the Hon'ble J. N. Mandal. He is coming definitely to preside over your Conference. I wish I could come. But unfortunately this does not seem possible. I am, however, sending my good wishes for the success of the Conference. Our boys should learn two things. Firstly, to prove that given the opportunities they are inferior to none in intelligence and in capacity. Secondly, to prove that they are not merely to tread the path of personal happiness but to lead their community to be free, to be strong and to be respected.

If the Conference can inculcate upon the minds of our students these two objectives, it will have amply justified its existence. I am sure it will.

With kind regards,

Yours Sincerely,
B. R. AMBEDKAR."[1]

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* T. V. Gedam, General Secretary, C. P. & Berar Scheduled Castes Students' Federation.

[1] : Chahande V. D. ; Report of the Conference

12

Dr. BABASAHEB AMBEDKAR'S MESSAGE TO 'MARATHA MANDIR'

I could never have persuaded myself to believe that I was in any way qualified to give a message to the Maratha community as to what ideals and objectives it should pursue. Since I have been pressed by the organizers of the Maratha Mandir to say a few words stating my view as to what the Marathas seeking the advancement of their community may usefully do, I have agreed to respond to their wishes.

I am convinced that the Marathas-and this applies to every Backward Community-must attend to two things-to Politics and Education if they wish to avoid suppression. A community can keep afloat only if it is able to maintain a controlling influence on the State. However a minority community can maintain its supremacy in Society by having a controlling influence on the State, is well illustrated by the position of the Brahmins in India. Controlling influence on the State is essential because without it, it is not possible to give a direction to the policy of the State and progress depends upon the policy of the State.

It is equally essential to attend to education. It must, however, be borne in mind that what counts in the struggle for position between different communities, is not mere education but higher education. By higher education I mean education which will qualify a Maratha to hold what is a strategic post– a post from which he can survey, control and protect persons of his community from injustice. Here again the case of the Brahmin community is in point. The Brahmin Community is able to maintain itself against all odds, against all oppositions, it is due to the fact that strategic posts are held by Brahmins.

That being my view, I must say that Maratha Mandir would not be serving the community if it spent its energy on the easier tasks of spreading primary education or secondary education. The Governments of many Provinces in India have been planning for the spread of Primary education and many people in India are feeling a sense of satisfaction and even gratitude. I confess that this move for the spread of Primary education leaves me cold. Far from creating any enthusiasm in me, I look upon it as a snare. I cannot forget–I regret that most people are not even aware that the caste

system in India, the difference between the high and the low, between the Brahmins and the Non-Brahmins has lasted for centuries and bids fare to last for many more centuries, it is due to the educational disparity between the Brahmins and the Non-Brahmins. This disparity is not going to be removed by the spread of Primary education. The disparity in social position between Brahmin and Non-Brahmin can be removed only by adopting a policy of education whereby some Non-Brahmins will be so highly educated that they will destroy the monopoly of strategic posts which the Brahmins now have. I am of opinion that this duty of educating Non-Brahmins upto the stage necessary to qualify them for strategic posts, should be undertaken by the State. If the State does not do it, the Maratha Mandir should.

There is another point I like to mention. The middle class as compared with the aristocracy and the lower classes have certain faults which are the faults of that class all over the world. The middle class has not the generosity of the aristocracy to tolerate the advance of the lower classes. And it does not possess the idealism of the lower classes. This makes the middle class the enemy of both the classes. It hates the aristocracy because of its superior status. It hates the lower classes because it does not like it to rise equal to itself. The Maratha are the middle class of India and any one who has worked with them, will know that they have the faults of the middle class outlined above. There are two ways for the Marathas to proceed : one to join their superiors and to prevent the lower classes rising to the level or to join with the lower classes and destroy to those who are the superiors of both. There was a time when they joined the lower classes. Recently they have joined the higher classes. It is not for me to say which is the right path for them to follow. There is no doubt about it that the destiny of not only of others but of the Marathas themselves must depend upon which of the two roads they will choose. That must be left to the wisdom of the Leaders of the Marathas of which there appears to be great dearth.

(Sd.)

B. R. Ambedkar.[1]

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[1] Magazine Maratha Mandir's special Number, March 23, 1947.

13

NOT TO STOP UNTIL THE UNTOUCHABLES RECOVER MANHOOD

(Dr. Ambedkar's Message to the Readers of Jai Bheem)

" You have asked me to send you a message on my 55th birthday for your Special Number. It is an unfortunate fact that in India the political leader is placed on the same footing as the Prophet. Outside India, people celebrate the birthday of their Prophets. It is only in India that the birthdays of both Prophets as well as the politicians are celebrated. It is a pity that it should be so. Personally, I do not like the celebration of my birthday. I am too much of a democrat to relish man-worship which I regard as perversion of democracy. Admiration, love, regard and respect for a leader, if he deserves them, are permissible and should be enough for both, the leader and the followers. But worship of the leader is certainly not permissible. It is demoralising to both. But I suppose this is all beside the point. Once a political leader is placed on the same footing as the Prophet, he must play the role of the Prophet and give a message to his followers in the same way as Prophet did.

What message can I give to the Untouchables ? I cannot give them a message but I can tell them a tale from Greek Mythology and point out the moral. This tale is contained in a Homeric Hymn addressed to the Greek Goddess Demeter. This Hymn to Demeter relates how the great Goddess, in the course of her wanderings in search of her daughter, came to the court of Keleos. No one recognised the Goddess under the borrowed form of a humble wet-nurse ; and Queen Metoneira entrusted to her care her latest born child the infant Demophoon, afterwards known as Tripltolemos.

Every evening, behind closed doors, while the household was asleep, Demeter took little Demophoon out of his comfortable cradle and with apparent cruelty, though moved in reality by a great love and desires of bringing him eventually to

the state of Godhood, laid the naked child on a glowing bed of embers. The child, Demophoon endures the fiery charcoal, he gathers strength from the ordeal. Something Superhuman is fostered in him, something robust, something beyond all hope glorious. But Metoneira becoming anxious, says the legend, burst suddenly one evening into the room where the experiment was being carried on and guided by her mistaken fears, thrust aside the goddess at her work of foregoing the superman, pushed away the embers and took away the child with the result that she saved the child but lost the Superman and eventual God".

What does this tale teach ? To my mind, it teaches that greatness can be achieved only by struggle and sacrifice. Neither manhood nor Godhood can be obtained without going through the ordeal of fire. Fire purifies, fire strengthens, so does struggle and suffering. No down-trodden man can achieve greatness unless he is prepared for struggle and suffering. He must be ready to sacrifice the comforts and even the necessities of the present for building up his future. To use the language of the Bible for the race of life all are called but only few. are chosen. Why ? The reason is obvious. Most down-trodden men fail to achieve greatness in this race of life because they have not the courage nor the determination to sacrifice the pleasures of the present for the needs of their future.

Can there be a better and a greater message than what is contained in this legend ? I can find one. It is the best and the most appropriate message I can think of for the Untouchables. I am aware of their struggle and their sufferings. I am aware that in their struggle for liberty they have suffered more than I have. With all this, I can give them no other message. My message is struggle, and more struggle, sacrifice and more sacrifice. It is struggle and struggle alone without counting the sacrifices or sufferings that will bring their emancipation. Nothing else will.

The Untouchables must develop a collective will to rise and resist and must believe in the sacredness of their task and develop a command determination to achieve their goal. Their

task is so great and the purpose so noble that as Untouchables should join in a prayer and say :

"Blessed are they who are alive to the duty of raising those among whom they are born. Blessed are they who vow to give the flower of their days, their strength is of soul and body and their mite, to further the campaign of resistance to slavery. Blessed are they who resolve-come good, come evil, come sunshine, come tempest, come honour, come dishonour - not to stop until the Untouchables have fully recovered their manhood".[1]

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[1] : Jai Bheem, Madras, Dr. Ambedkar's Birthday Special Number, April 13, 1947.

14

PREFACE TO ‘ THE ESSENCE OF BUDDHISM ’— THIRD EDITION

The author of this book was Prof. P. Lakshmi Narasu. While I have great pleasure in introducing this book to the public I confess that I had not met the author and known very little about his personal life. I have tried to obtain whatever details that could be gathered about his personal life and literary work. For this purpose, I have found Dr, Pattabhi Sitaramayya to be the source. He knew Prof. Narasu personally and was a friend of his. I give below the main facts in the life of Prof. Narasu as given to me by Dr. Pattabhi.

Prof. P. Lakshmi Narasu, B.A., was a prodigy of the last century. He was a graduate in Physics from the Madras Christian College. From being a tutor and demonstrator, he rose to the position of an Assistant Professor by 1897 and was given full charge of Physics and Chemistry for the B. A. classes in 1898-99, during the absence of Prof. Moffatt, the permanent Professor of Physics on leave. Prof. Moffatt was a raw youth who was appointed to the professorship over the head of Prof. Narasu who had already won his distinction in Physics in the sphere of wireless telegraphy – which in the nineties of the last century as yet in its infant stage of progress. During the years 1898 and 1899 Prof. Narasu, as he used to be called in those days, was already an Examiner in Physics and Chemistry — both for B. A. and M. A. Examinations. Prof. Narasu was particularly strong in Dynamics. Once when an alteration arose over the correctness of a question in Dynamics, Prof. Wilson, a hot-headed Englishman who was Professor of Chemistry in the Presidency College, Madras and Chairman of the Board of Examiners in Physics and Chemistry, questioned the correctness of the view expressed by Prof. Narasu regarding some problem in Dynamics. Prof. Narasu took up the challenge at once. ‘ Do you want to teach me, Mr. Narasu’ asked the arrogant Wilson to which in reply Prof. Narasu retorted -after working out the problem — ‘ I am glad I am teaching Prof. Wilson something in Dynamics.’ The incident is of interest to us fifty years after its occurrence, because it shows

that Prof. Narasu was an Iconoclast. Prof. Narasu was a Social Reformer. He fought caste to the best of his ability and raised the standard of Revolt against its tyranny in Hinduism, so early as in the nineties of the 18th century. He was a great admirer of Buddhism and gave courses of lectures on the subject week in and week out. He was highly popular with his students over whom he exercised a magical personal influence so as to broaden their outlook and widen their visions. His sense of self-respect, both personal and national was of a high order and he did not stand the arrogance and sense of self-superiority of his European colleagues to whom he was always ready to give their due in the domain of scholarship but at whose hands he would not take insults lying down.

Prof. Narasu's eminence as an Educationist did not take long to obtain general and widespread recognition and era long he was promoted to the Principalship of the Pachiappa's College.

Prof. Narasu was a highly public-spirited citizen and took active part in the organization of a body known as the ' National Fund and Industrial Association' under whose auspices, petty donations were being collected with which aid was rendered to students who desired to go abroad for advanced technical education. Japan was the country which attracted the young man of the day and it was their ambition to learn the technique of various small industries and manufactures - notably - soap making, enamelling and paints manufacture and so on. But the Professor's one sin was social reform and in Buddhism he found his solace. He was one of the earliest to discern the evils of the caste system, early marriages and prohibition of widow marriage and it was then considered in Reform Circles a matter for gratification that one of his brothers was a practical Social Reformer, having married a widow. That was the era when Christian Missionaries were not only countenancing the social reform movement but viewed it with high favour as marking a half-way house between orthodox Hinduism and conversion to Christianity. It did not take long for them to change their views and look upon such progressive movements as constituting a real hindrance to proselytization. Prof. Narasu was the stalwart of the 19th century who had fought European arrogance with patriotic fervour, orthodox Hinduism with iconoclastic zeal, heterodox Brahmins with nationalistic vision and aggressive

Christianity with a rationalistic outlook - all under the inspiring banner of his unflagging faith in the teachings of the Great Buddha.

In recent times many people from different parts of India have been asking me to recommend a good book on Buddhism. In responding to their wishes, I felt no hesitation in suggesting Prof. Narasu's book. For, I think that it is the best book on Buddhism that has appeared so far. Unfortunately, the book has been out of print for a long time. I, therefore, decided to reprint it so that the desire of those who have an interest in the teachings of Buddhism may have in their hand a text which is complete in its treatment and lucid in its exposition. I must thank the representatives of the old firm of Varadachari and Co., Madras, who held the copy right of the original publication for permission to reprint the book.

In writing this foreword to this reprint, it was my intention to deal with some of the Criticisms which have been levelled against the teachings of Buddha by his adversaries—past and present. I have given up that intention for two reasons. In the first place, my health will not permit me to engage myself in this task. Secondly, I am myself working on a Life of Buddha and I think that I could deal with this matter better in my own work wherein I could do more justice to it than in a foreword to another man's work. I have taken this decision more especially bacause I am sure that the reader of Prof. Narasu's book will not suffer in any way as a result of my decision.

B. R. Ambedkar.[1]

"RAJ GRAHA,"

HINDU COLONY, DADAR,

BOMBAY 14.

10 th March 1948.

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(First edition 1907, Second edition 1912)

1 : Third edition 1948 by Thacker and Co. Ltd, Rampart Row, Bombay.

15

INDIA'S ANCIENT PAST GAVE PLACE TO PESSIMISM

' RASHTRA RAKSHA KE VAIDIK SADHAN ' BY SWAMI VEDANANDA TEERTHA

PREFACE

I am asked to write a Preface to the booklet by Swami Vedananda Teertha. Owing to pressure of work I had declined to accede to the request of the author. But as he has been insisting on my writing a few words, I have agreed to do so. The author's plea is that free India should adopt as its religion the gospel preached by the Vedas which is scattered all over the Vedas and which he has collected together in one place in this booklet. I do not know that the book will become the gospel of new India. But I can say that the book is not merely a wonderful collection of statements drawn from the Religious Books of the ancient Aryans but it brings out in a striking manner the vigour of thought and motion which prevailed among the ancient Aryans. What the book shows is that there is nothing in it of that pessimism among the ancient Aryans which dominates the modern Hindus. The work would have been of greater value if the author had considered why the positivism and optimism of India's ancient past gave place to the pessimism of later days. I hope that the author will deal with this problem at some later stage. In the meantime it is no small contribution to our knowledge that the theory that world is *Maya* is a new invention. It is from this point of view that I commend this booklet.

B. R. Ambedkar [1]

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[1]: Swami Vedananda Teertha (1892-1956)—*Rashtra Raksha Ke Vaidik Sadhan*—1948

16

THE MEANING OF THE WORD 'RECEIPT'

The point at issue is the meaning to be given to the word *receipt* occuring in clause (2) of Article 198. Does it mean receipt by the Secretariat of the Legislative Council or does it mean by receipt by the *Legislative Council* ? The distinction is of course important because it determines the starting point of the period of limitation which is fourteen days for a money Bill. The matter is referred to the Goverment of India for opinion because there is a difference of opinion between the R.L.A. and the Advocate General of Bihar, the R.L.A. upholding the former interpretation and the Advocate General the latter.

There are three contentions relied upon by the R.L.A. :—

(1) Clause (2) of Article 198 speaks of 'Fourteen days from the date of its receipt.'

(2) There is a difference between the language used in clause (2) (b) of Article 197 and that used in clause (2) of Article 198.

(3) The delay that may occur in getting through a money Bill if the contention of the Advocate General of Bihar was accepted as valid.

I will deal with these contention seriatum.

Taking up the first contention of the R.L.A. I find his argument is vitiated by his failure to note the following points-

(1) The R.L.A. picks out the words 'its receipt of the Bill' from clause (2) of Article 198 and builds up his argument. He contends that in using the words 'its receipt' the intention of the Constitution was only to provide for a vicarious receipt by the Secretariat of the Upper Chamber and not actual receipt by the Chamber. But the altogether omits to take into account the words 'transmitted to the Legislative Council for its recommendations' which also occur in clause (2) and

which in opinion are the key words of the clause. The words 'its receipt' by themselves are quite unimportant. Their meaning must be derived by reading them in conjunction with the words 'transmitted to the Legislative Council for its recommendation.' So read they cannot mean receipt by the Secretariat.

(2) The R.L.A. has not taken into consideration the provisions of clauses (3) and (4). He relied upon clause (5) to justify the result. But he forgets that clause (5) becomes operative only when the steps laid out in clauses (3) and (4) of Article 198 have been gone through by the Legislative Council. Clauses (3) and (4) require that the Council has been in Session and has had an opportunity to consider the Bill.

The rule of construction adopted by the R.L.A. is not a sound rule of construction. The correct rule relevant to the issue is the rule known as *ex vicerius actus*. It has the authority of no less a person than Coke. Says Coke: "The office of a good expositor of an Act of Parliament is to make construction on all the parts together, and not of one part only by itself..... It is the most natural and genuine exposition of a Statute to construe one part of a Statute by another of the same Statute, for the best expresseth the meaning of the makers " (Quoted in Craie's, P. 95).

The Second contention of the R.L.A. is founded on difference in the language in clause (2) (b) of Article 197 and clause (2) of Article 198. It is true that difference in language exists. It is also true that difference in language can be relied upon by interested parties as an argument in support of the contention that the intentions in two cases are different. As against the argument of the R.L.A. I wish to urge the following considerations–

The original language of clause (2) (b) of Article 197 was the same as that of clause (2) of Article 198. Altogether four drafts of Article 197 were presented to

the Constituent Assembly. In the first three the language was the same as in Article 198. I have ascertained these facts from the records of the Constituent Assembly. In these circumstances various questions arise. Why was the language of Article 198 not changed when the language of Article 197 was changed ? What was the reason for changing the language of article 197 (2) (b) ? Was the language changed because the original intenion underlying Article 197 (2) (b) was changed ? Or was it because the intention was the same but it was fell that the new language expressed the same *old* and original intention better ? Is it difficult to give any definite answer to these questions? As far as my recollection goes we changed the language of Article 197 not because we changed our original intention but because it was felt that the changed language expressed our original intention better. In any case the argument based on difference in language is not at all decisive.

I realize that for a pedant this may not dispose of the argument based on difference of language. For it is possible to turn back and say if your intention in Article 198 was the same as in 197 (2) (b) why did you not follow suit and change its language when you changed the language of Article 197 (2) (b) and bring it in line ? To this argument my reply is very simple. It is wrong to argue that in every case difference of language means difference of intentions. For it is a well accepted proposition that the intention may be the same though it is experssed in different words. In this connection I would like to quote the following extract from Craie's on Statute Law :

> "But although, as has been said, this presumption is generally to be made, and "it is certainly to be wished", as the Judicial Committee said in Casement v. Fulton (i), "that, in framing statutes, the same words should always be employed in the same sense"; still, there are many instances to be found of the Legislature departing from language previously used for the purpose of conveying a

certain meaning without intending to depart from that meaning. "When the Legislature," said Blackburn, J., in R. V. Buttle (k), "change the words of an enactment, no doubt it must be taken *prima facie* that there was an intention to change the meaning." This, however is not necessarily so, for we find, as a matter of fact, that, as Blackburn, J. observed in Hadley v. Perks (1), "in drawing Acts of Parliament, the Legislature, as it would seem, to improve the graces of the style, and to avoid using the same words over and over again, constantly change" the words without intending to change the meaning. Thus, in Re Wright (m), Mellish, L.J., said, with regard to the departure in the Bankruptcy Act, 1869, from the language used in the repealed Bankruptcy Act, 1849; "Every one who is familiar with the present Act knows that the language of the former Acts has been very much altered in many cases where it could not have been intended to make any change in the law." In Actt.-Gen. V. Bradlaugh (n), it was contended that the word "made" in the expression in the Parliamentary Oaths Act, 1866, "the oath shall be made," was to be construed as if it were different from the word "taken". "But," said Brett, M. R., "it seems to me, looking at the Preamble, and at the manner in which the word is used, that the word 'made' has precisely the same effect as if it were "taken".

In Monteith *v*. McGavin (o), Lord Cottenham said that "when Parliament provides for a particular mode of proceeding in one particular case, and makes no such provision in another case, it must not, as a general rule, be assumed that this arises from mere negligence or inattention in the framers of the Act." But, as Brett M. R. said in Nottage *v*. Jackson (p), "persons who draw Acts of Parliament will sometimes use phrases that nobody else uses; consequently we do sometimes meet with expressions in statutes which we are compelled to believe were introduced, not for any specific purpose, but in consequence of the slovenliness of the draftsman." Thus, in R. *v*. Buttle (q), the question was whether, when 26 & 28 Vict. c. 29, s. 7, enacted that "no statement made by

any person in answer to any question put by [certain] commissioners shall, except in cases of indictments for perjury, be admissible in evidence in any proceeding," the expression "indictments for perjury" applied to perjury in general, or only to perjury committed before the commissioners. It appeared that a previous statute has contained a similar provision, but that the expression used in that statute was "indictments for perjury committed in such answers"; consequently it was argued that the Legislature intended a change of meaning by this change of words. It was held, however that to put upon the expression used in the later statute the meaning contended for would be subversive of one of the most important principles of the common law, and that it must be supposed, therefore, that there was no reason at all for altering the language used by the earlier statute, and that, as Kelly, C. B., said, "whoever framed the statute did it in a slovenly way, and showed great want of care in drawing it." So also, if it appears that the older statute contains words of surplusage, these words may very well be left out in subsequent Act without there being any intention on the part of the Legislature to alter the law. "It appears to me," said Mellish, L. J., in Re Wood (r) "that the framers of this [later] Act thought it would be an improvement to omit words as to intent in the cases where it was not necessary to prove such an intent, the words being then surplusage and misleading; and I think they may have very properly left out without in any way altering the law."

With regard to his third contention I must say that I am not at all impressed by it. There are two causes of delay that may be apprehended. Delay is caused by the Council though in Session and in receipt of the Bill. Delay is caused by the Council not being in Session when the Bill is transmitted. No delay beyond fourteen days can take place at the hands of the Council nor can any harm be done to the Assembly if it does take place. For there is a penalty for it and which is provided for in clause (5). Delay following upon the Council not being in session at the time when the Bill is transmitted cannot be due to any fault of the Council. It is those who are responsible to advise the Governor to call a Session of the Council are responsible for such delay. If they wish to get the benefit of clause (5) they should call the Session of the Council immediately and give it fourteen days and avoid delay. It is in their power. But

they cannot have it both ways. To permit them the discretion to call or not to call the session of the Council and at the same time to allow them to take the benefit of clause (5) is not only to give them the freedom to cheat one House of the Legislature but to play a fraud upon the Constitution. This is exactly what the Bihar Government has done. When a money Bill is transmitted to the Upper Chamber it is the duty of the Government to call a Session of the Council and it is a matter which is entirely and exclusively with its power. If it does not do so it cannot take advantage of clause (5) of Article 198.

For these reasons I agree with the view taken by the learned Advocate General of Bihar and reject the view of the learned R.L.A.

I have dwealt with the arguments of the R.L.A. at such a considerable length only out of respect for him. Otherwise I would have summarily rejected it. The point to my mind is not at all abstruse. It is so plain that a man having nothing more than common-sense could have understood that the intention of the framers of the Constitution was. What the Government of Bihar has done is a deliberate and calculated act of fraud. I refuse to believe that what it has done is done out of want of understanding. I cannot help saying that the Government of Bihar has descended to the low level of a common cheat. I feel so strongly about it that I do not mind my sentiments in this respect being conveyed to the Bihar Government.

Before I conclude I would like to raise a question which is solely for the consideration of the Law Department. We are getting a large number of references from State Government for advice on disputed points arising out of the Constitution. We entertain these references and give our advice. That advice is followed and becomes part of the Constitutional usage. I wonder if we are acting wisely in doing this. Would it not be better to leave the parties to act as they think and take their chance in Court ? For as pointed out by Craie's (Statute Law, p. 140) usage becomes an important element in the interpretation of a Statute. By our advice we set up a usage and thereby support a particular interpretation which in the absence of it may not be supportable and if our advice is wrong we become

responsible for a wrong interpretation. Perhaps the practice is a long standing practice and I realize that it is difficult to discontinue it. All the same it is well to remember the length to which our responsibility in these matters does go.

B. R. Ambedkar

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As regard to this article, the then officer on special Duty, Dr. Babasaheb Ambedkar Source Material Publications Commitee, noted that the papers were found in the record received by the Government from the Administrator General, Maharashtra State in 1979. This note is signed by Dr. Ambedkar.

—Editors.

17

BUDDHA AND FUTURE OF HIS RELIGION

I

Out of the many founders of Religion, there are four whose religions have not only moved the world in the past, but are still having a sway over the vast masses of people. They are Buddha, Jesus, Mahommed and Krishna. A comparison of the presonalities of these four and the poses they assumed in propagating their religions reveals certain points of contrast between the Buddha on the one hand and the rest on the other, which are not without significance.

The first point which mark off Buddha from the rest is his self-abnegation. All throughout the Bible, Jesus insists that he is the Son of God and that those who wish to enter the kingdom of God will fail, if they do not recognise him as the Son of God. Mahommed went a step further. Like Jesus he also claimed that he was the messenger of God on earth. But he further insisted that he was the last messenger. On that footing he declared that those who wanted salvation must not only accept that he was a messenger of God, but also accept that he was the last messenger. Krishna went a step beyond both Jesus and Mahommed. He refused to be satisfied with merely being the Son of the God or being the messenger of God; he was not content even with being the last messenger of God. He was not even satisfied with calling himself a God. He claimed that he was '*Parameshwar*' or as his followers describe him "*Devadhideva*" God of Gods. Buddha never arrogated to himself any such status. He was born as a son of man and was content to remain a common man and preached his gospel as a common man. He never claimed any supernatural origin or supernatural powers nor did he perform miracles to prove his supernatural powers. The Buddha made a clear distinction between a *Margadata* and a *Mokshadata*. Jesus, Mahommed and Krishna claimed for themselves the *Mokshadata*. The Buddha was satisfied with playing the role of a *Margadata*.

There is also another distinction between the four religious teachers. Both Jesus and Mohammed claimed that what they taught was the word of God and as a word of God what they taught was infallible and beyond question. Krishna was according to his own assumption a God of Gods and therefore what he taught being a word of God, uttered by God, they were original and final and the question of infallibility did not even arise. The Buddha claimed no such infallibility for what he taught. In the *Mahaparinibbana Sutta* He told Ananda that His religion was based on reason and experience and that his followers should not accept his teaching as correct and binding merely because they emanated from Him. Being based on reason and experience they were free to modify or even to abandon any of his teachings if it was found that at a given time and in given circumstances they do not apply. He wished, His religion not to be encumbered with the dead wood of the past. He wanted that it should remain evergreen and serviceable at all times. That is why He gave liberty to His followeres to chip and chop as the necessities of the case required. No other religious teacher has shown such courage. They were afraid of permitting repair. As the liberty to repair may be used to demolish the structure they had reared. Buddha had no such fear. He was sure of his foundation. He knew that even the most violent iconoclast will not be able to destroy the core of His religion.

II

Such is the unique position of Buddha. What about his religion ? How does it compare with those founded by his rivals ?

Let us first compare Buddhism with Hinduism. In the short space available the comparison must be limited to a few important points indeed only to two.

Hinduism is a religion which is not founded on morality. Whatever morality Hinduism has it is not an integral part of it. It is not imbeded in religion. It is a separate force which is sustained by social necessities and not by injunction of Hindu religion. The religion of the Buddha is morality. It is imbeded in religion. Buddhist religion is nothing if no morality. It is true that in Buddhism there is no God. In place of God there is morality. What God is to other religions morality is to Buddhism.

It is very seldom recognised that He propounded a most revolutionary meaning of the word *"Dhamma"*. The Vedic meaning of the *word "Dharma"* did not connote morality in any sense of the word. The *Dharma* as enunciated by the Brahmins and as propounded in the *Purvamimansa* of Jamini meant nothing more than the performances of certain *karmas* or to use terminology of the Roman religion observances. *Dharma* to Brahmins meant keeping up of observances, i.e. *Yagans, Yagas* and sacrifices to Gods. This was the essence of the Brahmanic or Vedic Religion. It had nothing to do with morality.

The word *Dhamma* as used by the Buddha, had nothing to do with rituals or observances. In fact he repudiated the *Yagas* and *Yagnas* as being essence of religion. In place of *Karma* he substituted morality as the essence of *Dhamma*. Although the word *Dhamma* was used by Brahmanic teachers as well as by the Buddha, the content of both is radically and fundamentally different. In fact, it might be stated that the Buddha was the first teacher in the world who made morality the essence and foundation of religion. Even Krishna as may be seen from Bhagvat Geeta was not able to extricate himself from the old conception of religion being equivalent of rituals and observances. Many people seem to be lured by the doctrine of *Nishkam Karma* other wise called *Anasaktiyoga* preached by Krishna in the Bhagvat Geeta. It is taken to mean in Boyscout sense of doing good without the expectation of reward. This interpretation of the *Nishkam Karma* is a complete misunderstanding of what it really means. The word *Karma* in the phrase *Nishkam Karma* does not mean, action in the generic sense of the word *Kanna* meaning 'deed'. It is used in its original sense in which it is used by the Brahmins and Jamini. On the point of observances there is only one point of difference between Jamini and the Bhagvat Geeta. The observance which used to be performed by the Brahmins fell into two classes :

(*i*) *Nitya Karmas and*

(*ii*) *Naimitika Kaunas*

The *Nitya Karmas* were observances which were enjoined to be performed regularly for which reasons they were

called *Nitya* and as a matter of religious duty, for which there was not to be any expectation of reward. On that account they were also called *Nishkam Karmas*. The other category of *Karmas* was called *Naimitika* that is to say they were performed whenever there was occasion, that is, whenever there was a desire to perform them and they were called *Kamya Karmas* because from their performance some benefit was expected to come. What Krishna condemned in the Bhagvat Geeta was *Kamya Karmas*. He did not condemn *Nishkama Karmas*. On the other hand he extolled them. The point to be borne in mind is, even for Krishna religion did not consist of morality. It consisted of *Yagnas* and *Yagas* through of the *Nishkama Karmas* category.

This is one point of contrast between Hinduism and Buddhism. The second point of contrast lies in the fact that the official gospel of Hinduism is inequality. The doctrine of *Chaturvarna* is the concrete embodiment of this gospel of inequality. On the other hand Buddha stood for equality. He was the greatest opponent of *Chaturvarna*. He not only preached against it, fought against it, but did everything to uproot it. According to Hinduism neither a *Shudra* nor a woman could become a teacher of religion nor could they take *Sannyasa* and reach God. Buddha on the other hand admitted *Shudras* to the *Bhikkhu Sangha*. He also admitted women to become *Bhikkhunis*. Why did he do so? Few people seem to realise the importance of this step. The answer is that Buddha wanted to take concrete steps to destroy the gospel of inequality. Hinduism had to make many changes in its doctrines as a result of an attack made by Buddha. It gave up *Himsa*. It was prepared to give up the doctrine of the infallibility of the Vedas. On the point of *Chaturvarna* neither side was prepared to yield. Buddha was not prepared to give up his opposition to the doctrine of *Chaturvarna,* That is the reason why Brahmanism has so much more hatred and antagonism against Buddhism than it has against Jainism. Hinduism has to recognise the force of the Buddha's arguments against *Chaturvarna*. But instead of yielding to its logic Hinduism developed a new philosophic justification for *Chaturvarna*. This new philosophic justification is to be found in the Bhagvat Geeta. Nobody is able to say for certain what the

Bhagvat Geeta teaches. But this much is beyond question that the Bhagvat Geeta upholds the doctrine of *Chaturvarna.* In fact it appears that this was the main purpose for which it was written. And how does the Bhagvat Geeta justify it ? Krishna says that he as God created the system of *Chaturvarna* and he constructed it on the basis of the theory of *Guna - Karma*-which means that he prescribed the status and occupation of every individual in accordance with his innate *gunas* (or qualities). Two things are clear. One is that this theory is new. The old theory was different. According to the old theory the foundation of *Chaturvarna* was the authority of the Vedas. As the Vedas were infallible so was the system of *Chaturvarna* on which it rested. The attack of the Buddha on the infallibility of the Vedas had destroyed the validity of this old foundation of *Chaturvarna.* It is quite natural that Hinduism which was not prepared to give up *Chaturvarna* and which it regarded as its very soul should attempt to find for it a better foundation which the Bhagvat Geeta proposes to do. But how good is this new justification given by Krishna in the Bhagvat Geeta ? To most Hindus it appears to be quite convincing, so convincing that they believe it to be irrefutable. Even to many non-Hindus it appears to be very plausible, very enticing. If the *Chaturvarna* had depended only on the authority of the Vedas I am sure it would have long disappeared. It is the mischievous and false doctrine of the Bhagvat Geeta which has given this *Chaturvarna*-which is the parent of the caste-system-apparently a perpetual loss of life. The basic conception of this new doctrine is taken from the Sankhya philosophy. There is nothing original about it. The originality of Krishna lies in applying it to justify *Chaturvarna.* It is in its application that the fallacy lies, Kapila, the author of the Sankhya system held that there is no God, that God is necessary only because matter is believed to be dead. But matter is not dead. It is active. Matter consists of three *Gunas : Raj, Tamas and Satva. Prakriti* appears to be dead only because the three *gunas* are in an equilibrium. When the equilibrium is disturbed by one of the *gunas* becoming dominant over the other two, *Prakriti* becomes active. This is the sum and subtance of the Sankhya philosophy. There can be no quarrel with this theory. It is perhaps true. It may therefore be granted that each

individual as a form of *Prakriti* is made up of the three *gunas*. It may even be granted that among the three *gunas* there is a competition for dominance of one over the other. But how could it be granted that a particular *guna* in a particular individual which at one time—say at the time of his birth-happens to dominate his other *gunas* will continue to dominate them for all times, till his death? There is no ground for this assumption either in the Sankhya philosophy or in actual experience. Unfortunately neither Hitler nor Mussolini were born when Krishna propounded his theory. Krishna would have found considerable difficulty in explaining how a signboard painter and a bricklayer could become dictators capable of dominating the world. The point of the matter is that the *Prakriti* of an individual is always changing because the relative position of the *gunas* is always changing. If the *gunas* are ever changing in their relative position of dominance there can be no permanent and fixed system of classification of men into *varnas* and no permanent and fixed assignment of occupations. The whole theory of the Bhagvat Geeta therefore falls to the ground. But as I have said the Hindus have become infatuated by its plausibility and its "good look" and have become slaves of it. The result is that Hinduism continues to uphold the Varna system with its gospel of social inequality. These are two of the evils of Hinduism from which Buddhism is free.

III

Some of those, who believe that only the acceptance of the Gospel of Buddha can save the Hindus are filled with sorrow, because they do not see much prospect of the return or revival of Buddhism in India. I do not share this pessimism.

In the matter of their attitude to their religion, Hindus today fall into two classes. There are those who hold that, 'all religions are true including Hindu' and the leaders of other religions seem to join them in this slogan. There cannot be a thesis more false than the thesis that all religions are true. However this slogan gives the Hindus, who have raised it, the support of the followers of other religions. There are Hindus who have come to realize that there is something wrong with their religion, the only thing is that they are not ready to denounce it openly. This

attitude is understandable. Religion is a part of one's social inheritance. One's life and dignity and pride are bound up with it. It is not easy to abandon one's religion. Patriotism comes in "My country" right or wrong. "My religion" right or wrong. Instead of abandoning it the Hindus are finding escape in other ways. Some are consoling themselves with the thought that all religions are wrong, so why bother about religion at all. The same feeling of patriotism prevents them from openly embracing Buddhism. Such an attitude can have only one result. Hinduism will lapse and cease to be a force of governing life. There will be void, which will have the effect of disintegrating the Hindu Society. Hindus then will be forced to take a more positive attitude. When they do so, they can turn to nothing except Buddhism.

This is not the only ray of hope, there are hopes coming from other quarters also.

There is one question which every religion must answer. What mental and moral relief does it bring to the suppressed and the downtroddon ? If it does not, then it is doomed. Does Hinduism give any mental and moral relief to the millions of Backward Classes and the Scheduled Castes ? It does not. Do Hindus expect these Backward Classes and the Scheduled Castes to live under Hinduism which gives them no promise of mental and moral relief ? Such an expectation would be an utter futility. Hinduism is floating on a volcano. To-day it appears to be extinct. But it is not. It will become active once these mighty millions have become conscious of their degradation and know that it is largely due to the social philosophy of the Hindu religion. One is reminded of the overthrow of Paganism by Christianity in the Roman Empire. When the masses realized that Paganism could give them no mental and moral relief they gave it up and adopted Christianity. What happened in Rome is sure to happen in India. The Hindu masses when they are enlightened are sure to turn to Buddhism.

IV

So much by way of comparison between Hinduism and Buddhism, how does Buddhism, and in comparison with other non-Hindu Religions? It is impossible to take each of these non-Hindu Religions and compare with Buddhism, in detail.

All I can do is to put my conclusions in a summary form. I maintain that:—

(i) That society must have either the sanction of law or the sanction of morality to hold it together. Without either, society is sure to go to pieces.

In all societies, law plays a very small part. It is intended to keep the minority within the range of social discipline. The majority is left and has to be left to sustain its social life by the postulates and sanction of morality. Religion in the sense of morality, must therefore, remain the governing principle in every society.

(ii) That religion as defined in the first proposition must be in accord with science. Religion is bound to lose its respect and therefore becomes the subject of ridicule and thereby not merely loses its force as a governing principle of life, but might in course of time disintegrate and lapse, if it is not in accord with science. In other words, religion if it is to function, must be in accord with reason which is merely another name for science.

(iii) That religion as a code of social morality, must also stand together another test. It is not enough for religion to consist of a moral code, but its moral code must recognise the fundamental tenets of liberty, equality and fraternity. Unless a religion recognises these three fundamental principles of social life, religion will be doomed.

(iv) That religion must not sanctify or ennoble poverty. Renunciation of riches by those who have it, may be a blessed state, but poverty can never be. To declare poverty to be a blessed state is to pervert religion, to perpetuate vice and crime, to consent to make earth a living hell.

Which religion fulfils these requirements ? In considering this question it must be remembered that the days of the Mahatmas are gone and the world cannot have a new Religion. It will have to make its choice from those that exist. The question must therefore be confined to existing religions.

It may be that one of the existing religions satisfies one of these tests, some two. Question is — Is there any religion which

satisfies all these tests ? So far as I know, the only religion which satisfies all these tests is Buddhism. In other words Buddhism is the only religion which world can have. If the new world—which be it realised is very different from the old-must have a religion—and the new world needs religion far more than the old world did—then it can only be religion of the Buddha.

All this may sound very strange. This is because most of those who have written about Buddha have propagated the idea that the only thing Buddha taught was *Ahimsa*. This is a great mistake. It is true Buddha taught *Ahimsa*. I do not want to minimise its importance. For it is a great doctrine. The world cannot be saved unless it follows it. What I wish to emphasize is that Buddha taught many other things besides *Ahimsa*. He taught as part of his religion, social freedom, intellectual freedom, economic freedom and political freedom. He taught equality, equality not between man and man only, but between man and woman. It would be difficult to find a religious teacher to compare with Buddha, whose teachings embrace so many aspects of the social life of people, whose doctrines are so modern and with main concern to give salvation to man in his life on earth and not to promise it in heaven after he is dead!

V

How could this ideal of spreading Buddhism be realised ? Three steps appear to be quite necessary.

First : To produce a Buddhist Bible.

Second : To make changes in the organisation, aims and objects of the *Bhikkhu Sangha*.

Third : To set up a world Buddhist Mission.

The production of a Bible of Buddhism is the first and foremost need. The Buddhist literature is a vast literature. It is impossible to expect a person who wants to know the essence of Buddhism to wade through the sea of literature. The greatest advantage which the other religions have over Buddhism is that each has a gospel which every one can carry with him and read wherever he goes. It is a handy thing. Buddhism suffers for not

having such a handy gospel. The Indian *Dhammapada* has failed to perform the function which a gospel is expected to. Every great religion has been built on faith. But faith cannot be assimilated if presented in the form of creeds and abstract dogmas. It needs something on which the imagination can fasten—some myth or epic or gospel—what is called in journalism, a story. The *Dhammapada* is not fastened around a story. It seeks to build faith on abstract dogmas.

The proposed gospel of Buddhism should contain (i) a short life of Buddha (ii) The *Chinese Dhammapada* (iii) Some of the important Dialogues of Buddha and (iv) Buddhist Ceremonies, birth, initiation, marriage and death. In preparing such a gospel the linguistic side of it must not be neglected. It must make the language in which it is produced live. It must become an incantation instead of being read as narrative or an ethical exposition. Its style must be lucid, moving and must produce an hypnotic effect.

There is a world's difference between a Hindu *Sannyasi* and a *Buddhist Bhikkhu*. A Hindu *Sanyasi* has nothing to do with the world. He is dead to the world. *A Bhikkhu* has everything to do with the world. That being so the question arises, what was the purpose for which the Buddha thought of establishing the *Bhikkhu Sangha* ? What was the necessity for creating a separate society of *Bhikkhus* ? One purpose was to set up a society which would live up to the *Buddhist* idea embodied in the principles of Buddhism and serve as a model to the laymen. Buddha knew that it was not possible for a common man to realize the Buddhist ideal. But He also wanted that the common man should know what the ideal was and also wanted there should be placed before the common man a society of men who were bound to practise His ideals. That is why He created the *Bhikkhu Sangha* and bound it down by the rules of *Vinaya*. But there were other purposes which He had in his mind when He thought of founding the *Sangha*. One such purpose was to create a body of intellectuals to give the laymen true and impartial guidance. That is the reason why He prohibited the *Bhikkhus* from owning property. Ownership of property is one of the greatest obstacles in free thinking and application of free thought.

The other purpose of Buddha in founding the *Bhikkhu Sangha* was to create a society the members of which would be free to do service to the people. That is why He did not want the *Bhikkhus* to marry.

Is the *Bhikkhu Sangha* of today living up to these ideals ?

The answer is emphatically in the negative. It neither guides the people nor does it serve them.

The *Bhikkhu Sangha* in its present condition can therefore be of no use for the spread of Buddhism. In the first place there are too many *Bhikkhus*. Of these a very large majority are merely *Sadhus* and *Sanyasis* spending their time in meditation or idleness. There is in them neither learning nor service. When the idea of service to suffering humanity comes to one's mind every one thinks of the Ramakrishna Mission. No one thinks of the Buddhist *Sangha*. Who should regard service as its pious duty the *Sangha* or the Mission? There can be no doubt about the answer. Yet the *Sangha* is a huge army of idlers. We want fewer *Bhikkhus* and we want *Bhikkhus* highly educated, *Bhikkhu Sangha* must borrow some of the features of the Christian priesthood particularly the Jesuists. Christianity has spread in Asia through service—educational and medical. This is possible because the Christian priest is not merely versed in religious lore but because he is also versed in Arts and Science. This was really the ideal of the *Bhikkhus* of olden times. As is well known the Universities of Nalanda and Taxila were run and manned by *Bhikkhus*. Evidently they must have been very learned men and knew that social service was essential for the propagation of their faith. The *Bhikkhus* of today must return to the old ideal. The *Sangha* as is composed cannot render this service to the laity and cannot therefore attract people to itself.

Without a Mission Buddhism can hardly spread. As education requires to be given, religion requires to be propagated. Propagation cannot be undertaken without men and money. Who can supply these ? Obviously the countries where Buddhism is a living religion. It is these countries which must find the men and money at least in its initial stages. Will these ? There does not seem to be much enthusiasm in these countries for the spread of Buddhism.

On the other hand time seems quite propitious for the spread of Buddhism. There was a time when religion was part of one's own inheritance. At one time a boy or a girl inherited the religion of his or her parent alongwith the property of the parent. There was no question of examining the merit and virtues of religion. Sometimes the heir did question, whether the property left by the parents was worth taking. But no heir was there to question whether the religion of his or her parents was worth having. Time seems to have changed. Many person throughout the world have exhibited an unprecedent piece of courage with regard to inheritance of their religion. Many have, as a result of the influence of scientific enquiry, come to the conclusion that religion is an error, which ought to be given up. There are others who, as a result of the Marxian teaching, have come to the conclusion that religion is opium which induces the poor people to submit to the domination of the rich and should be discarded. Whatever be the causes, the fact remains, that people have developed an inquiring mind in respect of religion. And the question whether religion is at all worth having and if so which religion is worth having, are questions which are uppermost in the minds of those who dare to think about this subject. Time has come, what is wanted is will. If the countries which are Buddhist can develop the will to spread Buddhism the task of spreading Buddhism will not be difficult. They must realize that the duty of a Buddhist is not merely to be a good Buddhist, his duty is to spread Buddhism. They must believe that to spread Buddhism is to serve mankind.[1]

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[1] : Magazine 'Maha Bodhi': Maha Bodhi Society Journal, Culculta ; Vaishak Number, Vol. 58, May 1950.

18

THE RISE AND FALL OF THE HINDU WOMAN : WHO WAS RESPONSIBLE FOR IT ?

In the journal of the Maha Bodhi for March 1950 there appeared an article on "The Position of Women in Hinduism and Buddhism" *by Lama Govinda. His article was a rejoinder to an article which had appeared in Eve's Weekly of January 21, 1950, and in which the Buddha was charged as being the man whose teachings were mainly responsible for the downfall of women in India. Lama Govinda did his duty as every Buddhist must in coming forward to refute the charge. But the matter cannot be allowed to rest there. This is not the first time such a charge is made against the Buddha. It is often made by interested parties who cannot bear his greatness, and comes from quarters weightier in authority than the writer an Eve's Weekly can claim. It is, therefore, necessary to go to the root of the matter and examine the very foundation of this oft repeated charge. The charge is so grave and so vile that the readers of the Maha Bodhi will, I am sure, welcome further examination of it.

Such a charge against the Buddha can be supported on two grounds only -

The first possible ground may be the reply which the Buddha is reported (in Chapter V - *Mahaparinibbana Sutta*) to have given to a question put to him by Ananda. It reads as follows :

"9. How are we to conduct ourselves, (asked Ananda)
with regard to womankind ?
As not seeing them, Ananda.
But if we should see them,
what are we to do ?
Not talking, Ananda.
But if they should speak to us,
Lord, what are we to do ?
Keep wide awake, Ananda."

* See Appendix—II.

There is no denying that the passage in question is to be found in the text of the *Mahaparinibbana Sutta* as published by the Oxford University Press. The point, however, is not whether the passage exists or not. The point is that if any argument is to be built upon this passage, is it not necessary to prove that the text is original and genuine and not a latter interpolation by the *Bhikkhus* ?

Any one who knows the central teachings of the Buddha is quite bewildered after reading the Sutta Pitaka as we find it now wrapped about by the mythical drapery, disfigured by additions of purely Brahmanic ideas entirely foreign to the original Buddhist thought and distorted by the twists and turns given to it by monastic ideas intended to enforce monastic ideals. So much so that one is inclined to join in wonder with Mrs. Rhys Davids[1], and ask :-

> "Where in these pages of (the *Sutta Pitaka)* is Gotama? How much of them, how little, is a blend of (it may be) original saying clearly or confusedly reproduced, of fillings by ages of successive narrators, of memory-schemes drawn up by teachers, not teachers of the multitude but of orally learning pupils, of efforts, often clumsy, by editors to set down in writing much that had long been more fluently told ? And all of them, narrators, teachers, editors, were men whose choice of ideals of life differed from that of the rest of the world, differed the more in proportion as they were sincerely not of the world as well as not in it. Through this distorting medium he has to read, and ask himself which sayings, put into the mouth of a certain accredited 'teacher and way-shower" of truth, are likely to have come from such a man as he is recorded to have been ?"

There is therefore nothing very extravagant in the suggestion that this passage is a later interpolation by the Bhikkhus. In the first place the Sutta Pitaka was not reduced to writing till 400 years had passed after the death of the Buddha. Secondly, the Editors who compiled and edited them were Monks

[1] : Preface (xiii) to Kindred Sayings, Vol. II.

and the Monk Editors compiled and wrote for the Monk. The statement attributed to the Buddha is valuable for a Monk to preserve his rule of celibacy and it is not unlikely for the Monk Editor to interpolate such a rule.

There are two other considerations which go to support the suggestion that this passage is a later interpolation.

(1) Firstly, from the Table given in the introduction to this *Sutta* (to be found on page 72 of the Digha Nikaya, part II, in the S.B.B. Series, by Davids) it will be noticed that great many of the passages which occur in this *Sutta* also occur in other *Suttas*. It is important to note that this passage does not occur in any other *Sutta* notwithstanding the fact that they contain so many other passages from this *Sutta*.

(2) Secondly, from page XXXVIII of the introduction to this *Sutta* (published in Vol. XI of the S.B.E. by Davids) it appears that there exists a Chinese version of this *Sutta*. But this Chinese text also does not contain this particular passage.

Let us go further and apply the test of probability. Was there any reason why Ananda should have asked such a question? Was it in keeping with the known relations of Buddha with women ? There is evidence to show that such a question could not have been asked by Ananda and that if such a question had been asked, the Buddha could not have given such a reply. The conduct of Ananda and of the Buddha toward women as reported in the *Pitakas* is so contrary to the possibility of such a question being raised and such an answer being given.

On the point as to whether there was any necessity for Ananda to ask such a question it is relevant to note that in the same Chapter of the *Mahaparinibbana Sutta,* only a few *gathas* removed from those quoted above, the Buddha describes how sweet was Ananda and how he was loved by all. Out of them I quote below the two following *gathas*—

"16. Brethren, there are these four wonderful and marvellous qualities in Ananda.

If, brethren, a number of the brethren of the Order should come to visit Ananda, they are filled with joy on beholding him; and if Ananda should then preach the truth to them, they are filled with joy at the discourse; while the company of brethren is ill at ease, brethren, when Ananda is silent.

If brethren, a number of the sisters of the Order..... or of devout men, ... or of devout women, should behold him; and if Ananda should then preach the truth to them, they are filled with joy at the discourse; while the company of sisters is ill at ease, brethren, when Ananda is silent."

From this it is clear that it was usual for Ananda to meet women, not only sisters but devout women who were not members of the Order. He used to see them, meet them and talk to them. Why then should Ananda have asked such a question ? The Buddha knew that the women used to meet Ananda. He raised no objection before. Why should he have thought of interdicting and forbidding all contact with women ? The whole passage is so unnatural that it must be regarded as a later monastic interpolation.

There is another instance in the life of Ananda which stands in stark contrast with the passage in the *Mahaparinibbana Sutra*. As is well known, in the first *Sangiti* (Council) five complaints were made against Ananda. They were :—

(1) that he failed to ask which parts of the *Vinaya* were in the opinion of the Buddha the lesser parts for which he gave authority to the *Sangha* to alter and amend;

(2) that he stepped on the Robe of the Lord during retreat when sewing it;

(3) that he caused the body of the departed Lord to be saluted first by women so that it was soiled by their tears ;

(4) that he did not ask the Lord to live for a cycle, and

(5) that he was principally instrumental in getting women admitted to the *Sangha*.

To all these charges Ananda pleaded guilty. Whether he should have pleaded guilty or not is another matter. What is of interest is the third charge. For it has great relevance to the issue in question. Why did Ananda allow women to touch the body of the Master if the advice given by him as mentioned in the *Mahaparinibbana Sutta* is true as a fact ? Would he so flagrantly and knowingly disobey the advice given by the Buddha a few minutes before?" The answer must be in the negative. What follows from this negative answer ? What follows is that the Buddha had not given such an advice as is alleged against him. For if he had given such an advice, Ananda could not have acted contrary to it. It therefore stands to reason that no such advice had been given by the Buddha.

Let us now consider the question from the side of the Buddha. Would it have been natural for the Buddha to give such a reply ? The answer to this question must depend upon Buddha's course of conduct towards women. Did the Buddha avoid meeting women as is suggested by the advice he is reported to have given to Ananda? Where are the facts ?

Two examples at once come to mind. One is that of Visakha. She was one of the eighty chief disciples of the Buddha with the title of "Chief of Alms-givers'. Did not Visakha at one time go to hear Buddha preach ? Did she not enter his monastery ? Did the Buddha act towards Visakha in the manner he directed Ananda to act towards women ? What did the *Bhikkhus* present at the meeting do? Did they leave the meeting?

The second instance that comes to one's mind is that of Amrapali of Vaisali. She went to see the Buddha and gave him and his monks an invitation for a meal at her house. She was courtesan. She was the most beautiful woman in Vaisali. Did the Buddha and the *Bhikkhus* avoid her ? On the other hand they accepted her invitation-rejecting the invitation of the Licchavis who felt quite insulted on that account- and went to her home and partook of her food.

Other examples are not wanting. The *Nandakovada Sutta*[1] tells of Mahaprajapati Gotami having brought five hundred alms-women with her to the Buddha when he was staying at Sravasti with a request that he should instruct them in the Doctrine and Discipline. Did the Buddha run away from them ?

The *Samyutta Nikaya*[2] reports that Kokanada, daughter of Pajjuna, when the night was far spent shedding radiance with her effulgent beauty over the whole *Mahavana,* came into the presence of the Buddha when he was staying at Vaisali.

The reports of frequent visits of Queen Mallika, wife of King Pasenajit, to the Buddha for religious instructions are scattered in the *Pitakas*.

From these instances it is clear that the Buddha did not shun women and women were not afraid of going to the Buddha.

It is true that the Buddha did advise[3] the Bikkhus not to make it a habit to visit families of lay disciples for fear of human weakness yielding to frequent contacts with women. But he did not forbid such visits nor did he express any disdain about women as such.

It is also true that the Buddha was dreadfully keen in maintaining celibacy. He was painfully aware of the fact that, to use his own words,[4] "Women doth stain life of celibacy". But what did he advise ? Did he advise the *Bhikkhus* to shun all contact with women ? Not at all. He never put any such interdict. Far from doing any such thing what he did was to tell the *Bhikkhus* that whenever they met any women, do *ye* call up the mother-mind, the sister-mind, or the daughter-mind[5] as the case may be *i.e.* regard a woman as you would your own mother, sister or daughter.

The second possible ground which an opponent of the Buddha can rely upon in support of the accusation is the opposition of the Buddha to women joining the *Sangha* and in making the *Bhikkhuni Sangha* (when he ultimately allowed it) subordinate to the *Bhikkhu Sangha*. Here again a further analysis of the situation is necessary. Why did the Buddha oppose the

[1] : Majjima Nikaya II. P. 309.

[2] : Vol. I P. 40.

[3] : Anguttara Nikaya III P. 190.

[4] : Samyutta Nikaya I. P. 53.

[5] : Kindred Saying IV, P. 68.

demand of Mahaprajapati to take *parivraja* (ordination) ? Did he oppose it because he was of opinion that women were a low class whose admission would lower the status of the *Sangha* in public esteem ? Or did he oppose it because he was of opinion that women intellectually and morally were incapable of realizing the ideal of His Doctrine and His Discipline? The second of these two questions was definitely put to the Buddha by Ananda in the course of the argument when he found the Buddha somewhat adamant. The Buddha gave an unequivocal answer leaving no room for doubt or dispute. He said that women were fully capable of realizing His Doctrine and His Discipline and that was not the reason why he refused their demand for taking *parivraja.* It is clear from this that the Buddha did not regard woman as inferior to man either in point of intellect or character. That he opposed the admission of women because he held them in low esteem and feared that they might lower the prestige of the *Sangha* is an argument which is hardly worth mentioning. For if that was his feeling he would never have admitted them at all.

To the argument that he made the *Bhikkhuni Sangha* subordinate to the *Bhikku Sangha,* the answer in question behind this arrangement there was no consideration as to superiority or inferiority, what lay behind this arrangement were consideration of purely practical character. In admitting women to be *Parivrajikas* (nuns) the Buddha had to face two questions. Should there be only one *Sangha* for men and women ? He decided to have two separate *Sanghas.* He was afraid that in a confraternity of men and women *Parivrajakas* the rule of celibacy would be completely lost. While therefore admitting women, he thought, it was necessary to use his own words, a dyke between them by creating two separate organisations. Having decided to create two separate organisations he was faced with another question. If there are to be two separate *Sanghas-* one for men and one for women- were they to be quite independent and separate organisations or was there to be some sort of inter-relation between the two ?

On the first issue no other decision was possible except that the women's *Sangha* should be separate from the men's *Sangha.*

This was an inevitable consequence which followed from the Rule of celibacy which was binding on both. The Buddha knew what a great force the sex instinct is with life of both man as well as woman. To use the Buddha's own words it is this instinct which drives a man in woman's bondage and a woman in man's bondage. This force, if given an opportunity to have its full force, the rule of celibacy could not last for a minute. To save the rule of celibacy he had to organise two separate *Sanghas*.

To take up the second issue : was any decision possible other than the one the Buddha took ? The women who joined his faith were raw women. They had to be instructed in His Doctorine and they had to be trained in His rules of Discipline. Who could undertake this task ? To whom else could He have entrusted this work ? To none except the male *Bhikkhus* of his Order. For they were already instructed in His Doctrine and trained in His Discipline. And this is what He did. Now what was the relationship that was forged between the *Bhikkhus* and *Bhikkhunis* by entrusting the work of instruction of the latter to the former ? This is a necessary question to raise. Without it the explanation of the insubordination of the *Bhikkhuni Sangha* to the *Bhikkhu Sangha* does not become quite clear. The obvious answer to this question is that by entrusting the work of training the *Bhikkhunis* to the *Bhikkhus,* their relationship became one of teacher and pupil. Now does not the relationship of teacher and pupil involve some authority for teacher over the pupil and some submission or subordination on the part of the pupil to the teacher ? What more did the Buddha do ?

In this connection it is useful to compare the relationship between monasteries and nunneries in the Christian Church. Are not the nunneries subordinate to the monasteries ? Of course they are[1]. Can anybody therefore say that Christianity treats women as inferior to men ? Why then should a different interpretation be put upon the arrangement made by the Buddha for regulating the relations between the *Bhikkhus* and *Bhikkhunis?*

So far as the *Sutta Pitaka* is concerned there is absolutely no ground for the charge that the Buddha had a prejudice against women and was for ever exhorting men to beware of them.

[1] : See Article "Nuns" in the Catholic Encyclopaedia, Vol. XI. P. 164.

II

Let us pass from particular instances to the general attitude of the Buddha towards women in general. Did the Buddha hold women in low esteem ? I am sure that whoever reads references to women by the Buddha which occur in the sacred literature of the Buddhists will be convinced that far from doing anything which would have the effect of degrading the woman, the Buddha all along tried to ennoble woman and to elevate her. Let me give a few illustrations in support of this view.

The birth of a daughter has been from ancient past regarded as a calamity by the people of India generally. Did the Buddha share this sentiment ? His attitude towards this question was quite the contrary to the traditional view as is illustrated by this advice to King Prasenajit. Once King Prasenajit was visiting the Buddha at Sravasti in Jeta's garden. A messenger from the Royal Palace came and informed him that his wife Queen Mallika had given birth to a daughter. On hearing this news the King went off his colour and looked sad and dejected. The Buddha noticed this change on his face and asked him for the cause of it. On being informed of it the Buddha said,[1] "Why be sorry? A woman child, O Lord of men, may prove even a better offspring than a male. For she may grow up wise and virtuous... The boy that she may bear may do great deeds and rule great realms..."

In answer to a question as to why some families rise and others decay, the Buddha is reported to have told the *Bhikkhus* that[2] —

> "Whatsoever families, monks, having attained greatness of possessions fail to last long, because they seek not for what is lost, they repair not the decayed, they eat and drink to excess, they put in authority a woman or a man that is immoral. Whatsoever families.. fail to last long all of them do so because of these four reasons or one or other of them.
>
> "Whatsoever families, monks, do last long, all of them do so because they seek for what is lost, repair the decayed, eat and drink in moderation, and put in authority a virtuous woman or

[1] : Samyutta Nikaya : Vol. I, P. 110.

[2] : Anguttara Nikaya : Vol. II, Pp. 254-255.

man. Whatsoever families... do last long, all of them do so because of these four reasons or one or other of them."

In describing to the *Bhikkhus* what happens when a Monarch "who rolls the wheel, *i.e.,* who is destined to be a *Chakravarti* (world monarch) appears in the world, the Buddha is reported to have told the monks that[1]—

> "Whenever such a monarch appears there is the appearance of the seven treasures: the treasure of the Wheel, the Elephant, the Horse, the Jewel, the Woman, the House-father, and the treasure of the Heir Apparent."

On another occasion the Buddha, speaking of the value of a woman to the world, said,[2]

> "Woman is the commodity Supreme because (as the commentator adds) she is of indispensable utility, or because through her *Bodhisattvas* and world rulers take birth."

How can a person in whose view the birth of a daughter was not an occasion for sorrow and might well be an occasion of joy, who held the view that those families are saved from a downfall which place a woman in authority over their affairs, who had no hesitation in describing woman as one of the seven Treasures and a thing of supreme value, be described as a hater or despiser of woman ? These statements are typical of the general sentiments entertained by the Buddha towards womankind. Can anybody say that they are calculated to bring the woman into ridicule and contempt ?

III

Those who see a social wrong in the Buddha placing the *Bhikklumis* under the authority of the *Bhikkhus* do not realize what a revolutionary act it was on the part of the Buddha to have allowed women to take *Sannyas* or *Parivraja* (Monkhood). Under the Brahamanic theory women had already been denied the right to acquire knowledge. When the question of *Sannyas*

[1] : Anguttara Nikaya : Vol. V. P. 83.

[2] : Samyutta Nikaya : Vol. I. P. 62.

came they did to the Indian woman another wrong. As a matter of history *Sannyas* was not an ideal of the Brahmins who worshipped the Vedas and who, for a long time, refused to recognise the *Upanishadas* as sacred literature. *Sannyas* was the ideal of the *Upanishadas* and the end of *Sannyasa* was to realize the *Upanishadic* doctrine that the *Atman* is *Brahma*. The Brahmins were dead opposed to the life of *Sannyas*. Ultimately they yielded but subject to certain conditions. One of the conditions was that women (and *Shudras)* were not to be eligible for *Sannyas*.

It is important to understand the reason why the Brahmins debarred woman from taking *Sannyas* because it helps to understand the attitude of the Brahmins towards woman which was in sharp contrast with that of the Buddha. The reason is stated by Manu. It reads as follows : —

IX. 18. Women have no right to study the Vedas. That is why their *Sanskars* (rites) are performed without *Veda Mantras*. Women have no knowledge of religion because they have no right to know the *Vedas*. The uttering of the *Veda Mantras* is useful for removing sin. As women cannot utter the *Veda Mantras* they are as untruth is.

Although Manu was later than the Buddha, he has enunciated the old view propounded in the older *Dhanna Sutras*. This view of the women was both an insult and an injury to the women of India. It was an injury because without any justification she was denied the right to acquire knowlege which is the birthright of every human being. It was an insult because after denying her opportunity to acquire knowldege she was declared to be as unclean as untruth for want of knowledge and therefore not to be allowed to take *Sannyas* which was regarded as a path to reach *Brahma*. Not only was she denied the right to realize her spiritual potentiality she was declared to be barren of any spiritual potentiality by the Brahmins.

This is a cruel deal with women. It has no parallel. As Prof. Max Muller[1] has said, "However far the human may be from the Divine, nothing on the earth is nearer to God than man, nothing on earth more Godlike than man". If this is true of man why is this not true of woman ? The Brahmins had no answer.

[1] : Hibbert lectures on Religion, Page 379.

By admitting women to the life of *Parivrajika,* the Buddha, by one stroke, removed both these wrongs. He gave them the right to knowledge and the right to realize their spiritual potentialities alongwith man. It was both a revolution and liberation of women in India. To quote the words of Prof. Max Muller : —

"The history of India teaches us that the galling fetters of the old Brahmanic law were broken at last, for there can be little doubt that we have to recognise in Buddhism an assertion of the rights of individual liberty, and more particularly, of the right of rising above the trammels of society, of going, as it were into the forest, and of living a life of perfect spiritual freedom, whenever a desire for such freedom arose."

This freedom which the Buddha gave to the women of India is a fact of far greater importance and out-weighs whatever stigma which is said to be involved in the subordination of the *Bhikkhunis* to the *Bhikkhu Sangha.* This was not an empty freedom. It was freedom which they keenly enjoyed and sang about "O free indeed! O gloriously free am I....." sang Mutta[1] - a *Bhikkuni,* who was a Brahmin girl. Mettika, another *Bikkhuni,* also a Brahmin girl, sang -".... so sit I here upon a rock. And over my spirit sweeps the breath of liberty[2]."

As Mrs. Rhys Davids Says-[3]

"To gain his freedom mobility ..... they, like their later Christian sisters, had laid down all social position, all domestic success, they had lost their world. But in exchange they had won the status of an individual in place of being adjuncts, however much admired, fostered, and sheltered they might, as such, have been. 'With shaven head, wrapt in their robe'-a dress indistinguishable, it would seem, from the swathing toga and swathed undergarments of the male religieuxs - the Sister was free to come and go, to dive alone into the depths of the wood, or climb aloft."

[1]: Psalms of Sisters No. XI.

[2]: *ibid No.* XXIV.

[3]: Preface to Therigatha.

In allowing women to become *Bhikkhunis* the Buddha not only opened for them the way to liberty, he also allowed them to acquire dignity, independent of sex. To her freedom she could, in the words of Mrs. Rhys Davids :

"Wed the other austere joy of being recognized, at least by her brother *Arahants,* 'as a rational being, without reference to sex. As such she breathed the spiritual atmosphere, she shared the intellectual communion of that religious aristocracy called in the *Pitakas, Ariyas,* with whom she claimed that power of seeing all things as they really are' which the Buddhist called being awake.

'How should the woman's nature hinder Us-us Ariyas says Soma, a Bhikkhuni[1] :

"What can that signify to one in whom

Insight doth truly comprehend the Norm ?

To one for whom the question doth arise :

Am I a woman in such matters, or

Am I a man ? or what not am I, then ?

To such an one is Mara fit to talk !"

This is not all. The Buddha in allowing women to become *Bhikkhunis* he opened them the way to equality with man. As observed by Mrs. Rhys Davids[2] "It is true that the *Bhikkunis* were technically appointed juniors in perpetuity to the *Bhikkhus.* It is equally clear that, by intellectual and more eminence, a *Theri* might claim equality with the highest of the fraternity. In the Psalms an instance occurs, in xxx, vii, where Bhadda associates herself in spiritual attainment with the great Kassapa, successor, as head of the Order, to the Founder himself. In this connection it should be noted that the Buddha did not place any premium on virginity as such. He kept his way open to all classes of women— married, unmarried, widows and even to prostitutes. All could acquire merit, freedom, dignity, an equality along with man."

[1] Psalms No. XVI.

[2] Preface to Therigatha P. P. XVI-XXVII.

IV

There can be no doubt that there has been an utter downfall in position of women in India from what it once was. One cannot say much about the part they played in ancient time in state-craft. But there is no doubt that they did occupy a very high position in the intellectual and social life of the country.

That at one time a woman was entitled to *upanayan* is clear from the *Atharva Veda* where a girl is spoken of as being eligible for marriage having finished her *Brahmacharya*. From the *Shrauta Sutras* it is clear that women could repeat the *Mantras* of the *Vedas* and the women were taught to read the *Vedas*. Panini's *Ashtadhyay* bears testimony to the fact that women attended *Gurukul* (College) and studied the various *Shakhas* (Sections) of the *Veda* and became expert in *Mimansa*. Patanjali's Maha Bhashya shows that women were teachers and taught Vedas to girl students. The stories of women entering into public discussions with men on most abstruse subjects of religion, philosophy and metaphysics are by no means few. The story of public disputation between Janaka and Sulabha, between Yajnavalkya and Gargi, between Yajnavalkya and Maitrei and between Sankaracharya and Vidyadhari shows that Indian women in pre-Manu's time could rise to the highest pinnacle of learning and education.

That at one time women were highly respected cannot be disputed. Among the Ratnis who played so prominent a part in the coronation of the King in Ancient India was queen and the King made her an offering' as he did to the others. Not only the King elect did homage to the Queen he worshipped his other wives of lower castes[2]. In the same way the King offers salutation after the coronation ceremony to the ladies of the chiefs of the *Srenies* (guilds)[3].

This is a very high position for women in any part of the World. Who was responsible for their fall ? It was Manu, the Law Giver of the Hindus. There can be no other answer. To leave no room for doubt, let me quote some of the laws made by Manu regarding women and are to be found in the *Manu-Smriti*.

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[1] Jaiswal—Indian Polity, Part ii P. 16.

[2] *ibid* P. 17.

[3] *ibid* P. 82.

II. 213. It is the nature of women to seduce man in this (world). For that reason the wise are never unguarded in (the company of) females.

II. 214. For women are able to lead astray in (this) world not only a fool, but even a learned man, and (to make) him a slave of desire and anger.

II. 215. One should not sit in a lonely place with one's mother, sister or daughter; for the senses are powerful, and master even a learned man.

IX. 14. Women do not care for beauty, nor is their attention fixed on age; (thinking), '(It is enough that) he is a man', they give themselves to the handsome and to the ugly.

IX. 15. Through their passion for men, through their mutable temper, through natural heartlessness, they become disloyal towards their husbands, however, carefully they may be guarded in this (world).

IX. 16. Knowing their disposition, which the Lord of creatures laid in them at the creation to be such, (every) man should most strenuously exert himself to guard them.

IX. 17. (When creating them) Manu allotted to women (a love of their) seat and (of) ornament, impure desires, wrath, dishonesty, malice and bad conduct.

This shows how low was woman in the opinion of Manu. The laws of Manu against women are of a piece with this view.

Women are not to be free under any circumstances. In the opinion of Manu :—

IX. 2. Day and night women must be kept in dependence by the males (of) their (families), and if they attach themselves to sensual enjoyments, they must be kept under one's control.

IX. 3. Her father protects (her) in childhood, her husband protects (her) in youth, and her sons protect (her) in old age; a woman is never for independence.

IX. 5. Women must particularly be guarded against evil inclinations, however trifling (they may appear); if they are not guarded, they will bring sorrow on two families.

IX. 6. Considering the higher duty of all castes, even weak husbands (must) strive to guard their wives.

V. 147. By a girl, by a young woman, or even by an aged one, nothing must be done independently, even in her own house.

V. 148. In childhood a female must be subject to her father, in youth to her husband, when her lord is dead to her sons; a woman must never be independent.

V. 149. She must not seek to separate herself from her father, husband, or sons; by leaving them she would make both (her own and her husband's) families contemptible.

Woman is not to have a right to divorce.

IX. 45. The husband is declared to be one with wife, which means that there could be no seperation once a woman is married.

Many Hindus stop here as though this is the whole story regarding Manu's law of divorce and keep on idolizing it by comforting their conscience with the thought that Manu regarded marriage as sacrament and therefore did not allow divorce. This of course is far from the truth. His law against divorce had a very different motive. It was not to tie up a man to a woman but it was to tie up the woman to a man and to leave the man free.

For Manu does not prevent a man from giving up his wife. Indeed he not only allows him to abandon his wife but he also permits him to sell her. But what he does is to prevent the wife from becoming free. See what Manu says :—

IX. 46. Neither by sale nor by repudiation is a wife released from her husband.

The meaning is that a wife, sold or repudiated by her husband, can never become the legitimate wife of another who may have bought or received her after she was repudiated. If this is not monstrous, nothing can be. But Manu was not worried by considerations of justice or injustice in framing his law. He wanted to deprive women of the freedom they had under the Buddhistic regime. Manu was outraged by licence and in putting a stop to it he deprived her of her liberty.

A wife was reduced by Manu to a level of a slave in the matter of property.

IX. 416. A wife, a son and a slave, these three are declared to have no property; the wealth which they earn is (acquired) for him to whom they belong.

When she becomes a widow Manu allows her maintenance, if her husband was joint, and a widow's estate in the property of her husband, if she was separate from his family. But Manu never allows her to have any domination over property.

A woman under the laws of Manu is subject to corporal punishment and Manu allows the husband the right to beat his wife.

VIII. 299. A wife, a son, a slave, a pupil, and a younger brother of the full blood, who have committed faults, may be beaten with a rope or a split bamboo.

Under Manu a woman had no right to knowledge. The study of the Veda was forbidden to her by Manu.

II. 66. Even for a woman the performance of the *Sanskaras* are necessary and they should be performed without uttering the *Veda Mantras*.

Offering sacrifices according to Brahmanism formed the very soul of religion. Manu forbids women from performing sacrifices. Manu ordains that :

XI 36-37. A woman shall not perform the daily sacrifices prescribed by the Vedas. If she does it, she will go to hell.

To disable her from performing such sacrifices Manu prevents her from getting the aid and services of a Brahmin priest.

IV. 205-206. A Brahmin must never eat food given at a sacrifice performed by women. Sacrifices performed by women are inauspicious and not acceptable to God. They should, therefore, be avoided.

Finally, a word regarding the ideal of life, Manu has sought to place before a woman. It had better be stated in his own words :-

V. 151. Him to whom her father may give her, or her brother with the father's permission, she shall obey as long as he lives and when he is dead, she must not insult his memory.

V. 154. Though destitute of virtue, or seeking pleasure elsewhere, or devoid of good qualities, yet a husband must be constantly worshipped as a God by a faithful wife.

V. 155. No sacrifice, no vow, no fast must be performed by women, apart from their husbands; if a wife obeys her husband, she will for that reason alone be exalted in heaven.

Then comes the choicest texts which form the pith and the marrow of this ideal which Manu prescribes for women : -

V. 153. The husband who wedded her with sacred *Mantras,* is always a source of happiness to

his wife, both in season and out of season, in this world and in the next.

V. 150. She must always be cheerful, clever in the management of her household affairs, careful in cleaning her utensils, and economical in expenditure.

This the Hindus regard as a very lofty ideal for a woman !!!

As though to put a coping stone on his edifice of disabilities of women Manu declared a new rule that killing a woman was only an *Upapataka* i.e. it was a minor offence.

XI. 67. Liquor, slaying women, *Sudras, Vaishyas,* or *Kshatriyas,* and a theists (are all) minor offences.

One can quite understand why Manu should have said that the killing of a *Sudras, Vaishya or a Kshatriya* was only an *Upapataka*. He was trying to establish that the Brahmin was superior to all these and only the killing of a Brahmin was *Mahapataka*. But why did he not apply the same rule to women ? Only because a woman, in the eyes of Manu, was a thing of no value.

In the face of these quotations can anybody doubt that it was Manu who was responsible for the degradation of women in India ? Most people are perhaps aware of this. But they do not seem to know two things. They do not know what is peculiar in Manu. There is nothing new or startling in the Laws of Manu about woman. They are the views of the Brahmins ever since Brahmanism was born in India. Before Manu they existed only as a matter of social theory. What Manu did was to convert what was a social theory into the law of the State. The second thing they do not know is the reason which led Manu to impose these disabilities upon women, *Sudras* and women were the two chief sections of the Aryan Society which were flocking to join the religion of the Buddha and thereby undermining the foundation of Brahmanic Religion. Manu wanted to stem the tide of women flowing in direction of Buddhism.

It is for this that Manu imposed these disabilities upon women and crippled them permanently. Those who doubt this might well consider the following injunctions contained in Manu Smriti —

V. 88. Funeral rites and obsequies which are performed on the death of a person shall be withdrawn (i.e, shall not be performed) from those who are born out of intermixture, from those who are addicted to asceticism and from those who have ended their lives by committing suicide.

V. 89. They shall also be withdrawn from women who have joined a heretic sect, who have too freely. who have injured a child in their womb or their husband and those who drink wine.

This injunction is among others aimed at (1) those who are addicted to asceticism and (2) women who have joined a heretic sect. In this injuction asceticism refers to *Parivrajakas* i.e. those who have abandoned their homes and taken to *Sannyas* and, in referring to a heretic sect, there is no doubt that Manu has in mind the Buddhist religion. It is therefore clear that when Manu declares that no funeral rites and obsequies shall be performed, for an ascetic or a woman who has joined a heretic sect, what Manu does is to prohibit performance of funeral rites and obsequies of a member of a family-whether male or female-who has joined the Buddha's religion. In other words he wants them to be treated as though they were disaffiliated and ho longer belonged to the family. Manu was the greatest opponent of the Buddhist religion. This is the secret of the many inequities which he heaped upon women. For he knew that if the home is to be protected against the invasion of Buddhism it is the woman who must be put under restraint. And he did it. All responsibility for the decline and fall of woman in India must be fastened upon Manu and not upon the Buddha.

In the compass of a few pages I have endeavoured to present the story of the Rise and fall of the Hindu woman. I have also endeavoured to offer an explanation as to who was the author of their fall and why he brought it about. I hope that the

unprejudiced and the impartial will realize that it was not the Buddha who can be held responsible for the tragedy. If anything the Buddha endeavoured to ennoble the woman it was to raise her to the level of man.[1]

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[1]: Magazine— 'Maha Bodhi' May-June 1951, Vol. 59, Pp. 137-151.

19

SAINTS' LITERATURE CAN HELP TO MORAL REARMAMENT OF MAN

I am happy to know that there has come into existence the Eknath Research Society in Aurangabad. In my young days I was very fond of the literary works of the Maharashtra Saints and I can say how great a contribution the reading of this literature can make to the moral rearmament of man. I wish the Society every success and can promise all help from the People's Education Society.

Aurangabad, Sd./- **B. R. Ambedkar.**

2-9-1951.

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[1.] Reprinted : Khairmode, Vol. 10, p. 143.

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OUTLINE

A PEOPLE AT BAY

BY

B. R. AMBEDKAR

M. A., Ph. D., D. Sc.,

Barrister-at-Law.

Author of Annihilation of Caste

"RAJGRAHA"

DADAR

BOMBAY-14.

A PEOPLE AT BAY

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THE MAHARS : WHO WERE THEY AND HOW THEY BECAME THE UNTOUCHABLES ?

In this paper, I propose to raise these questions, and attempt to give an answer to them which in my judgment are most appropriate answers. These questions are : (1) Who are the Mahars ? (2) Why do they live outside the village ? and (3) Why have they been classed as Untouchables ?

* * *

I

Who are the Mahars ?

Mr. Wilson derived the word 'Maharashtra' from the word 'Mahar' and suggested that Maharashtra meant the country belonging to the Mahars. This derivation of the term Mahars is sought to be supported on the analogy of 'Gujarashtra' the country of the Gujars and 'Saurashtra' the country of the Sauraj. An objection is taken to this derivation of the term Mahar on two different grounds, the one objection rests upon the view that the term Maharashtra does not mean the country of the Mahars but that it means the great country. The second objection that is raised to this derivation is based upon the view that the Mahars who are at present so fallen in their social status that it could not be supposed that they at any time in the course of history have had so exalted a position as to be the ruler of the country. It is my view that this derivation put forth by Mr. Wilson is unsupportable for two very different reasons. The first reason which leads me to reject the derivation suggested by Wilson may be formulated in the following terms : It is obvious that if Maharasthra meant the country of Mahars, it is obvious that the Mahars as a community distinct from the rest of the population must have been in existence from very ancient times and must have been known in history, by that name. Now is there any evidence to show that the Mahars are as a community known to history by the name Mahars ? Confining ourselves to the Bombay Presidency the three principal communities which comprise the Untouchable classes are: (1) The Mahars, (2) The Chambhars, and

Note : The Ms. of the paper did not contain title—Editors.

(3) The Mangs. Of these the Mahars form by far the largest group. It is extraordinary to find that while Mangs and Chambhars are known in history as existing communities, there is no-where any mention of the Mahars as a community. Reaching back to Manu he mentions certain classes which in his time were recognised as Untouchable Communities. Among them the Chambhars are specifically mentioned as an Untouchable Community. The Mangs are not mentioned by Manu. That is probably because Mangs were not to be found in the territory which was known to the author of the *Manusmriti*. But there is ample evidence in the Buddhist literature that the Mangs who therein referred to as Matangas existed as a separate community bearing a name which became well known to all. But neither in the *Manusmriti* nor in the Buddhist literature is there any mention of the Mahars as a community. Not only is there mention of the Mahars in this ancient lore but even the later *Smritis* of quite modern times make no reference to the Mahars as a community. Indeed upto the advent of the Muslims, one does not meet with the word Mahar. One finds it mentioned only once in the *Dnyaneshwari* which is 1100 A.D. Before him the name Mahar is simply non-existent. What are we to suppose ? Was there no such community as the Mahars in the ancient times before *Dnyaneshwari* ? Or, are we to suppose that there existed a community but then it was known by some other name ? Whichever the case is the non-existence of the name Mahars militates strongly against the view of Mr. Wilson. If the term Mahar was not known, much less could it become the basis of a name given to the country.

The second reason which leads me to reject the view of Mr. Wilson is based upon the considerations arising out of the totems which one finds existent in the Mahar community. Mr. Wilson's hypothesis if taken to be correct must necessarily lead to the conclusion that the Mahars are an aboriginal race inhabiting the country before the entry of *Aryans* in the country now known as Maharashtra. I feel certain that such a conclusion is untenable for reasons which I am sorry to say, have not been fully appreciated by those who allege that the Mahars belong to the aboriginal classes of this Province. As a first step in the chain of reasoning, I am depending upon in support of my view, I would like to point out one notable fact and it is this—there are no Marathas where there are no

Mahars and wherever there are Mahars there are Marathas also. This link is not a mere matter of accident, that the link is integral, is supported by another piece of evidence which is also usually overlooked by students of ethnology. Now it is well known that the Marathas have a clan organisation. They have what they call their '*Kuls'*: and they have also what is called a totem. The importance of the *'Kul'* and the totem will be obvious to every student of ethnology. A common *'Kul'* and a common totem are indicative of kinship. Bearing this in mind a comparison of the '*Kul'* among the Mahars and the Marathas yields a very significant result.

(The Table mentioned below is not found in the M. S.—Editors)

A glance at the table would show that there is no *'Kul'* among the Mahars which does not exist among the Marathas and there is no '*Kul'* among the Marathas which is not to be found among the Mahars. If anthropology can be relied upon in support of the proposition that the common *'Kul'* is indicative of kinship then the Mahars and the Marathas form a kindred community and the Mahars could not be rejected as an aboriginal community unless one is also prepared to go to the length of saying that the Marathas also are an aboriginal community.

Whether the Marathas are an *Aryan* or a *Non-Aryan* community is a question on which there is no unanimity. Risley held the view that the Marathas were not *Aryans*: and he rested his conclusions mostly on anthropometric measurements. Others have challenged this view and concluded that the Marathas are *Aryans* and have sought to meet the anthropometric objections of Risley by the argument that there were two waves of the *Aryan* invaders and the Marathas belonged to the Second. That is the reason why their anthropometric measurements do not tally with those taken as standard by Risley. The second hypothesis seems to derive some support from the fact that in ancient times Maharashtra was called *'Ariake'* on the ground that the *Aryans* formed the predominent population and also because in the Karnatak the Maratha is still called '*Arer Mated'* (The Aryan Man).

Be that as it may, there is no question that the Mahars are not an aboriginal people. In addition to what has been stated in support

of this proposition there are other land-marks and survivals which can be relied upon in support of this view. The first thing to which attention must be drawn is the fact that a great number of the *'Kul'* which indicate the status of a Rajput are also to be found among the Mahars. In the quarrels that have taken place between the Brahmins on the one hand and the Marathas on the other on the issue whether the latter were *Kshatriyas* or not, the test sought to be applied was whether the *'Kul'* of the claimant was one of the 96 *'Kuls'* which were admittedly belonged to the Rajputs in whose status as *Kshatriyas* was beyond question. Now if this test was applied to the Mahars, there could be no question that the Mahars would have to be pronounced as belonging originally to the Rajput that is to say to the *Kshatriya* class. It is suggested that the Mahars have been appropriating the *'Kuls'* of the Rajputs since very recently with the idea of improving their social standing. That evidently is a mistake. There is a long tradition among the Mahars that they belong to what is called the *'Somavansh'* which is one of the two branches of the *Kshatriyas,* that the Mahars have had these *'gotras'* from long past and have not appropriated to them in recent times is clear from the fact that as long ago as the Court of Enquiry held by the Brahmins into the status of the last Maratha King of Satara, namely Pratapsing whom the Brahmins refused to recognise as a *Kshatriya.* One party of the Brahmins who favoured the side of Pratapsing contended that as the Bhonsale *Kul* was one of the 96 *Kuls* of the Rajputs, and as the Rajputs were recognised as *Kshatriyas,* Pratapsing must be propouned as a *Kshatriya.* The other side in reply to this contention propounded a conundrum. It contended that if that argument was sound, all the Mahars would have to be pronounced as *Kshatriya* because they too had *'Kuls'* like those of the Rajputs. Apart from the validity of the view as a test, the fact remains that the *Kuls* which the Mahars have appropriated is no new phenomenon. This is one consideration in support of the view that the Mahars are not aboriginals.

The second consideration in support of this view is the word of salutation which is peculiar to the Mahars. The word of salutation used by the Mahars is *Johar.* This word is undoubtedly a corrupt form of the Sanskrit word *'Yoddhar'.* It is well-known that

in ancient Vedic times the Brahmins and the *Kshatriyas* had adopted separate words of salutation. The Brahmins said *'Namaskar'* : the *Kshatriyas* said *'Yoddhar'*. It is difficult to conceive that the Mahars should have been allowed to use the term *'Yoddhar'* as a word of salute if they were a body of low class ; or if they were aboriginals particularly because the word of salute among the Chamars and the Mangs is quite a different word having not the remotest connection with the status of the *Kshatriya*. The Mangs used the word *'Furman'* which seems to be a corruption of the word *'Farman'* meaning 'command'. The Chamars used the word *'Duffarao'* a word of which I am unable to give the derivative : but the fact remains that only the Mahar Community uses as its word of salutation the word *'Johar'* which as I have stated above was a word which was in exclusive use by the *Kshatriyas* as a word of salutation. There is no doubt that the Marathas too at one time used the term *'Johar'* as a word of salutation. It was in vogue during apart of Shivaji's rule; and even Shivaji in the one and the only letter admitted to have been signed by him in his own hand and addressed to Maloji Ghorpade has used the word *'Johar'* as the word of salutation. It is well-known that the Marathas since after Shivaji began to use *'Ram Ram'* in place of *'Johar'* as a word of salutation. It is curious that the Mahars did not follow suit. Why the Mahars continued to use the word *'Johar'* even when the Marathas had given it out and why were they allowed by the State to continue *'Johar'* when the State enforced *'Ram Ram'* on all others, are questions which require some elucidation. But the fact remains that *'Johar'* is indicative of the status of a *Kshatriya*.

There is one other matter to which attention must be drawn because it militates against the view which I am supporting namely that the Mahars are not aboriginals and that they really belonged to the Maratha community and at one time were reckoned as *Kshatriyas*. The fact is the custom prevalent among the Mahars of burying the dead body when as a matter of theory and practice the Marathas and the *Kshatriyas* have the custom of burning the dead. The existence of this custom of burying the dead must be admitted but to admit the existence of the custom is not to admit the

form of the conclusion that is sought to be derived from it. In the first place, there are indications that this custom of burying the dead is not original. But the original custom among the Mahars was to burn the dead seems to be supported by the fact that even though the Mahars bury the dead they still carry with them to the cemetery cinders and burning coal in an earthen pot along with the corpse.

There must have been some purpose for such an act and there could be no conceivable purpose except to use the fire for burning the dead. Why the custom of burning the dead gave place among the Mahars to the custom of burying the dead, it is difficult to give a precise reason. But it seems that the burying of the dead was a custom which was enforced upon the Mahars at some later date when the Mahars had become fallen in the status and classed as Untouchables. Considerable support can be found for this view from what the *Padma-Puran* contains. It is stated in the *Padma-Puran* that certain communities were prevented from burning their dead because burning the dead was a privilege of the three regenerate classes. If this is correct then the custom of burying the dead could not outweigh the everwhelming evidence which goes to show that the Mahars are not aboriginals and they might as well have been in times past part of the Marathas by race *and Kshatriyas* by status.

II

Why do they live outside the Village ?

It is notorious that the Mahars live outside the village. This is a fact which it is difficult to sense at any rate for foreigners for the reason that the village is generally built on an open site without any indication of its boundaries. But two things demonstrate incontrovertibly that the Mahars are reckoned as being outside the village. Every villager makes a distinction between the village as such and the *Maharwada* meaning thereby that the *Mahar-Wada,* that is to say the settlement of the Mahars is not within what is meant by the village. A more occular demonstration is afforded wherever village has its wall. Wherever a village has had a well known in vernacular as *'Gavkus'* it will be noticed that the settlement of the Mahars is always outside the wall. Now this fact read in the light of what has been said in this paper in connection

with the first question gives considerable significance to the second question. If the Mahars are not an aboriginals race why are they treated as the reject of the society, and made to live outside the village community. The most natural answer which strikes one as being a true answer is what one finds in the injunctions contained in the code of Manu. Speaking of the *Chandal,* Manu lays down that he should be compelled to live outside the boundary of a village. Generalising from what Manu has said about the *Chandal* it might be guessed that what was said by him of the *Chandals* was imposed upon all similar classes by the Hindu Rulers in all its rigour. On a deeper consideration I find that this cannot be the answer to the question raised. What Manu has stated is not so much the original command of the law-giver. What Manu has done in my judgment is to recognise what had happened as a result of the forces operating during the historical period and made the real his ideal because it suited the purpose he had in mind. The answer to the question must be looked for in quite a different direction. The direction in which a true answer can be found lies in my view in the field of study which relates to the period when a pastoral Community became a settled community. It must be a matter of common knowledge to all students of the growth of civilization that the form of the wealth of the community was the chief determining factor in determining the habits. The pastoral people never settled anywhere but lived a nomadic life imigrating from place to place because their wealth consisted in sheep and cattle and the sheep and cattle moved from place to place those owned it also moved whenever their wealth carried them. A community which had learned the art of cultivating the land and valuing its produce gave up their nomadic life and settled at one place undoubtedly because their wealth consisted of immoveable property namely land. Now this process whereby nomadic life gave place to a settled life has been a long drawn out process : A process in which some roamed about and some were settling down. It must also be well known to students of early history of human civilization that all social life in those early days was organised into tribes and these tribes were often at war with one another. Now in the light of these considerations one must reach back to the beginning when communities or tribes began to cease to be nomadic and became settled and imagine what must be the

needs which they must have felt as the most supreme needs of the earth. Here was a tribe which had settled down and formed a settlement now spoken of as village. It is possessed of gray com. It is possessed of sheep and cattle. On the other hand, it is surrounded by tribes which are nomadic and which are casting covetous eyes on the grain and the cows and the sheep which it owns. Obviously the first and the foremost question to such a settled tribe would be to protect itself against the raids and invasions of the nomadic tribes. How could they protect themselves? How could they provide this protection ? Obviously they themselves cannot engage in constant warfare whether defensive or offensive for the protection either of their corn or of their cattle. For their energy is all absorbed in the pursuit of agriculture, an occupation to which they are new and for which they have to depend upon their own manual labour. The only way they could protect themselves is to look to their tribal chief. But how could the tribal chief protect his tribe which is settled and engaged in tilling the soil assiduously that it can find neither time nor men from its own who would take up arms on its behalf. The tribal chief must, therefore, look to some other source for raising a force to act under his command in defence of his tribe against the invasions of the nomads. From what quarters can the tribal chief secure recruits for his defence force. Obviously from one source. Here not very far there are tribal wars going on. One tribe waging a war against another tribe. In this warfare a tribe is routed and the men belonging to one tribe are broken up by defeat and parties of them small disheartened and fearful of their own safety are moving about in search of a safe place. How excellent would it be both for the chief of the settled tribe and the broken men of a defeated tribe if destiny would bring them together. The chief of the settled tribe would get the force he needs to protect his tribe without disturbing the occupation of the tribe. The men of the broken tribe would get an assured subsistence in return for service to the village community and also get the chieftain's protection. But having got the men from the broken tribe next question for the tribal chief to consider is where to settle these men. They could not be allowed to settle in the midst of the settled community because they belonged to a different tribe, and were not kindred. Only kindred could live within the settlement of the tribe.

Obviously the only way by which the chieftain could settle the broken men of another tribe whom he needs as a force to be employed in defence of the settled community was to settle them beyond the limits of the settlements made by his tribes. This is the process which alone can explain in my judgment why the Mahars live outside the limits of the village. The Mahars are broken men of tribes which in primitive times were warring with one another. They were taken hold of by the chief of the settled community namely the Patil of the village and were allowed to settle on the confines of his village. They did for him the duty of watch and ward, and were given in return certain sites. There is nothing strange in the Mahars living outside the village limits. There is nothing in that fact which can signify that they belonged to a lower status and that on that account they were made to live outside the village limits, that they were brought to the village by the village headman for the defence of his community and that they were made to live outside their village limits not because they were of a low status but because they belonged to another tribe is a conclusion which can be supported by reference to what has happned in Wales or Ireland. A study of the Brehon Laws of Ireland which gives the tribal organisation of the Irish discloses that the Irish too had their village community which was a settled community and on the borders of the settlement of the community there lived a body of people who were known as Boairs. The Boairs were remnants of a broken tribe which were brought by the village chieftain for service under him and in the interest of the protection of the community. Exactly the same state of affairs existed in the Wales villages known as Gwelleys. Every Gwelley had a body of strangers settled on his confines. They were called Alltud. They too were parts of a broken tribe brought by the chieftain of the Gwelley for the protection of the Gwelley. This is in my judgement the only satisfactory answer to the question. The question, however, remains as to why the Mahars continued to live as a separate community when in Ireland and in Wales the Alltuds and the Boairs in course of time ceased to remain distinct communities, and became absorbed in the general mass of the village population. The answer to this question is not difficult. It is that, it was the development of the system of caste and Untouchability which has prevented this fusion. But this of course raises by anticipation the third and the last question which is raised for discussion in this paper.

III

Why are the Mahars classed as Untouchable ?

The origin of Untouchability is to be sought in the struggles of Brahminism against Buddhism. This is a strange answer to the question but there is no doubt that it is the true answer. In order to make matters clear it is necessary to explain the principles for which Buddhism stood. It is unnecessary to go into all the details. It would be sufficient to state that one of the things which Buddha opposed most strenuously was *Yadnya* which was the chief and principal form of religion of the *Aryans*. The *Yadnya* involved the sacrifice of the cow.

The cow was the most important animal in the *Aryan* economy. The whole system of agriculture depended upon the cow. The cow gave milk which formed the chief sustenance of the people and the cow gave birth to bullocks which served as animals necessary for the cultivation of the land. Although the Buddha's objections to the *Yadnya* were based on philosophical grounds the common mass of the people whose intellect could not travel beyond the realities of life gathered round the banner of Buddhism because they could see that it was intended to save the cow from the incessant slaughter to which that animal was subjected by the Brahmins for sacrificial purposes. The cow, therefore, became at first an object of special consideration and lastly of veneration. The Brahmins whose supremacy was seriously jeopardised by the people refusing to consent to the sacrifice of the cow had to devise some means whereby they could win back the heart of the masses who had gone over to Buddhism. How did the Brahmins do this ? The reverence of the cow created by the Buddhist religion had gone so deep down into the minds of the people that it was impossible for the Brahmins to do anything else to do except to give up their *Yadnya* and begin instead to reverence and worship the cow as the Buddhists did. But that was not enough. The Brahmins in their struggles against Buddhism were not actuated by any pious motive of religious consideration. They were actuated by a purely political motive namely to regain the power and prestige they possessed over the masses and which had been transferred to the Buddhist *Bhikkhus*. They knew that if they were to gain any ascendency over the Buddhist, they must go a step further

than the Buddhists had gone, and they did go a step further, and proclaimed that not only they shall kill the cow but they shall not kill any animals or destroy any living creature. The origin of the vegetarianism prevalent among the Brahmins is to be found in the strategical move which the Brahmins of the past took as a means of out-bidding the Buddhists.

Along with this, one other thing must be borne in mind. Before the Buddhist times and upto the period of Asoka beef was a food common to all classes, the *Brahmins,* the *Kshatriyas,* the *Vaishyas* and the *Shudras.* There is nothing repugnant in that. The cow was just an animal as the sheep or the goat or the deer was. Consequently, although the population was divided into four classes, the four classes did not differ in the matter of their food, and particularly all ate beef. The only difference probably was that some ate meat of animals that were slaughtered. This was possible for those who could afford to buy. The rest who were poor were used to eat the flesh of dead animals either because the well-to-do did not care to use it as food. It is quite conceivable also that the village chieftain gave the carcasses of dead cows and dead animals to the men belonging to the broken tribes who had settled on the confines of the village by way of remuneration for the services which they rendered to the settled community. Without doing any voilence to truth, one could say that, before the Asoka period so, far as the eating of the cow's flesh was concerned, there was no difference whatsoever. All ate cow's meat. The only difference that existed was this namely that the village people ate slaughtered meat while those living outside the village ate the flesh of the dead cow. This difference must be noted, it had no religious or social significance. It was just the difference of the rich and the poor connotation. After the Buddhist times and especially in the period of Asoka an important change takes place. Cow-killing was either given up voluntarilty or was stopped by the State. The result was a sharp difference arose. The villages ceased to eat beef becasue they lived on slaughtered meat and as the slaughter being stopped thay ceased to eat beef. The broken tribe-men who lived on the border continued to eat the flesh of the dead cow. It was unnecessary to prohibit them because it did not involve the *Himsa* of the cow. Now, this division namely those who did not eat beef at all and

those who did was not a mere economic difference. It was a difference which gave rise to religious considerations. The killing of the cow had become a notion which from the point of view of religion has become repugnant. And a class which dealt with the dead cow also became a repugnant class. Untouchability has its origin in this notion of repugnance. And that notion of repugnance is based upon the reverence or irreverence to the cow. The Brahmins who out of consideration of their own self-interest agreed to reverence the cow and worship it. It went so far as to treat any class which had anything to do with the cow in a manner incompatible with reverence to the cow, Untouchable are not worthy of association.

That, this is the origin of Untouchability and that this is the reason why Mahars have come to be regarded as Untouchables can be seen if any one who cares to prove into the subject and to find out what are the special pursuits of these communities in India who have misfortune of being treated as Untouchable communities. An enquiry into the subject would show that all-over India the Untouchables perform certain duties which are common to them. These duties relate to the carrying of the dead cow, skinning the carcass, eating the flesh, selling the bones etc. There is no exception to this proposition. It applies in all cases and to all provinces. Why there should be such close association between the dead cow and Untouchability ? Why do the two go together ? My answer is they go together because one is the cause of the other. Untouchability has arisen out of the repugnance of the Hindu community, which as a result of Buddhism developed a reverence of the cow, towards those who have not ceased to eat the cow. The Mahars had not ceased to eat the dead cow and consequently became the object and victims of this repugnance.

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The three questions profounded in this paper have now been answered. There, however, remains one more question and it is this : Why were the Mahars called Mahars ?

Many have attempted to give a definition but of all the definitions the one given by Doctor Bhandarkar seems to be the correct one. According to Dr. Bhandarkar, the word Mahar is a

corruption of the word *Mrut* Ahar-those who live on dead meat. It accords with what has been stated above in discussing the question of the origin of Untouchability. But in this connection there arise two other subsidiary questions. One is why was this particular feature of the Mahars, life taken as a basis for so designating them. The answer to this has already been given but it may be summarised here because it goes to strengthen the correctness of the derivation of the term Mahar. As I have already said the eating of the cow's flesh was at one time so universal that nobody ever cared to note the fact. Even when some ate slaughtered meat and some ate dead meat the difference had only economic significance but no religious or social significance. But when all had given up eating cow's meat those who continued to eat presented a difference which was noticeable to the naked eye and significant to the religious mind. It is, therefore, natural that the difference so obvious and so signficant should have been made by the rest of the population a basis of designating that class. But this derivation of the term Mahar creates a difficulty which must be grappled with. If this is the correct definition of the term and if these are the reasons why it came into vogue, it must have come into operation when the difference became sharp and significant. What was the name by which the Mahars were known in history before they began to be called as Mahars ? That the name Mahar is a new name admits of no doubt because it does not occur anywhere either in literature or history before the time of Dnyaneshwar. This, however, makes the other question more important namely what was the name by which they were called before the name, Mahar became their common name. Now, it is well-known that the Mahars are also called *Parwari*. This name has never gone out of name, and has continued to exist side by side with their name Mahar, although the name Mahar became more prominent. But in times past the name *Parwari* was more prominently used than the name Mahar. For instance, during the time of East India Company, Mahars were very largely employed in the Company's army as soldiers and officers. In their caste columns they were all designated as *Parwaris*. There is, therefore, no question that the Mahars had this their other name. And I venture to say that this was the name by which the Mahars were called before the name Mahar came into being.

That this name *Parwari* is a very ancient name is proved by the fact that it occurs in Ptolemy's. He uses the word *'Pauravardi'* which probably is a misspelling or mispronounciation of the word *Parwari**. What does the word *Parvari* mean ? It is, of course, a difficult question to answer. For all that one knows it means dependence which is the root meaning of the word *'Pariwar'* of which *'Parwari'* appears to be corruption. The broken tribes even undoubtedly dependent for their means of livelihood upon the village community and the village community might very appropriately designated by the descriptive name *'Parwari'* those broken tribe men who were strangers to the community but were dependent upon it. It might be mentioned here that the term *'Parwari'* which was in vogue was not confined to what is known as the Mahar community. It was used in a general sense. As there is documentary evidence to show that at any rate it included also the community which is now known as the Mang community. The term *'Parwari',* therefore, seems to have been applied to all men who came and settled as strangers to the village community. Not only the term *'Parwari'* is a composite term but the term Mahar is also a composite term and does not connote a common origin. The Mahar community appears to be composite community and includes within it a strata which is high in origin and a strata which is low in origin. This is indicated by the different *'Kuls' of* the Mahars. Those whose *'Kuls'* fall within the 96 belong to the higher strata, those whose *'Kuls'* do not fall within them fall in the lower strata. But a common name Mahar which has been in existence for the last so many hundred years has produced in them a consciousness of kind which has destroyed any notions of high or low. But it is just as well for students of ethnology that what is now known as Mahar community is in its origin a conglomeration of broken parts of different tribes who had nothing in common except that they were the *'Parwaris',* that is, the dependents of the village community.

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*The word 'Parwari' has been used in a Government letter of state of Baroda also. For the same see Appendix No. VII on Page No. 472 in Part 1 of this Volume.—Editors.

22

REPUBLICAN PARTY STANDS FOR LIBERTY, EQUALITY, FRATERNITY AND JUSTICE

As per the decision of Dr. B. R. Ambedkar regarding conversion, he proclaimed in May 1956 that he would embrace the Buddhism in October 1956. Simultaneously he was concretly thinking of forming a new political party based on the Principles enshrined in the Constitution of India.

Formation of 'Independent Labour Party' in 1936, 'Scheduled Castes Federation' in 1942 and the decision to establish Rupublican Party of India, explains his strenuous exertion to bring his vision into reality through an ideal political party.

In order to give shape to his foresight, Dr. B. R. Ambedkar decisively prepared a Blue Print of the Republican Party of India. The Marathi translation of the Blue Print by Mr. D. T. Rupwate was later on published in 'Prabuddha Bharat: Republican Party Establishment issue - 1957' under the title 'Open letter of Parampujya Dr. Babasaheb Ambedkar to the Indians regarding formation of Republican Party of India.'

The blue print contains five chapters as under :

Chapter-1 : How a movement becomes a Political Party ?

Chapter-2 : Conditions precedent for the successful working of democracy.

Chapter-3: Why Parliamentary Government needs an opposition Party ?

Chapter-4 : What is a Party ?

Chapter-5 : Aims and Objects of the Party.

Accordingly the news about the formation of 'the Republican Party of India' appeared in the issue of 'Janata' dated 10th

December 1955. In this regard he made a correspondence with his likeminded contemporaries like Dr. Ram Manohar Lohia.

The Executive Committee of the Scheduled Castes Federation was held on 30th September 1956 at the residence of Dr. B. R. Ambedkar at New Delhi. Dr. Ambedkar presided over the meeting. As per resolution No. 2 passed in the meeting, it was unanimously decided that by dissolving the Scheduled Castes Federation, the new political party having name 'Republican Party' be established.[1]

Dr. B. R. Ambedkar addressed a Press Conference on 13th October 1956, at Nagpur wherein he categorically stated that he had already drafted Constitution of the Republican Party.[2].

Editors-R. Chandidas, Ward Morehouse, Leon Clark and Richard Fontera—of the volume 'India Votes' mentioned the distinctive features of the Republican Party as follows :

"REPUBLICAN Party of India is an All India Political Party founded by Late Dr. Babasaheb Ambedkar who was the great political thinker, great social revolutionary, and the great Constitutional expert. He dedicated his life to the cause of reconstructing the Indian society based on liberty, equality and fraternity. The Republican Party of India dedicates itself to this great task:

Republican Party of India Stands for Parliamentary Democracy.

1. The Republican Party of India will stand for the Parliamentary system of Government as being the best form of Government both in the interest of the public and in the interest of the individual.

Secularism uphold

2. The Republican Party of India upholds the secular character of the State."[3]

1. Prabuddha Bharat: 6th and 13th Oct. 1956.
2. Prabuddha Bharat: Dr. Ambedkar : Convertion to Buddhism, Special Number, 27th October 1956.
3. India Votes, P. 85.

Following is the text of Blue Print—

Chapter 1

How a Movement Becomes a Political Party

Indian Congress was established in 1885. Upto 1947 it worked as a movement for the achievement of Indian Freedom. It had no defined goal to start with. It began with the demand for good government. After some time it changed its goal. It defined it as self-government. British Political thinking divided it as self-government into two (1) Dominion Status and (2) Independence. By Dominion Status was meant independence with loyalty to a Common King. By Independence was meant independence without loyalty to the King.

For some time the Indian Congress was agreeable to Dominion Status. But a very short while, the Indian Congress in a very dramatic way passed in 1930 a resolution in favour of Independence which it got in 1947.

Upto this time the Congress was like an army recruited not for the purpose of carrying on Parlimentary Democracy but for the purpose of carrying on political warfare against a foreign government. Seeing this Mr. Gandhi very wisely suggested that the Congress be dissolved and the new political parties on party lines be formed for conducting the Government. But the leaders of the Party were ready in their tents with their clothes to take in their hands the reins of Government. They refused to listen to Mr. Gandhi's advice. Ordinarily after peace the army which has fought the way is dissolved. For the simple reason that during a war standards of recruitment are lowered and everybody good, bad and indifferent is allowed to join. In the case of India the army is not only dissolved but is allowed to capture the Government.

We have had ten years experience of the Congress Government. One can say that it is not very credible. Time has come when Mr. Gandhi's advice be taken seriously and we proceed to form another party which would work as an Opposition Party.

Chapter 2

This Chapter consists of the text of Dr. B. R. Ambedkar' s address delivered at Pune on Monday, the 22nd December 1952* under the title, "Conditions precedent for the successful working of Democrary.—Editors.

Chapter 3

Why Parliamentary Government needs an opposition Party ?

Parliamentary Democracy cannot work without the people of educated public opinion. Both Government and Parliament to act rightly must know what public opinion is.

To make it clear, it is necessary to make a distinction between education and propaganda. Government by Propaganda is quite a different thing from Government by Education. Propaganda means presentation of the pros of the matter. Education means Government after hearing pros and cons.

If it is necessary to have both pros and cons presented to the people with regard to any matter calling for the decision of Parliament, then it is obvious that there must be two parties, one party presenting the pros and the other cons, with the existence of party there is nothing but dictatorship. To avoid dictatorship there is a necessity for a second party. This is a crucial matter. People are more concerned with good administration than with good laws. Laws may be good but its administration may be bad.

Whatever the administration of laws turns out to be good or bad depends upon the freedom of officer who is appointed to administer it. When there is only one party, the officer is at the mercy of his political chief called the Minister. The Minister's existence depends upon pleasing the voters and often the Minister is required to force the officer to do wrong to benefit the voters. If there was an opposition party, such action of the Minister would be exposed and the mischief stopped.

* Since the speech is published on Pp. 472-486 in Part 3 of this Volume the text is not reproduced here.

Next perhaps to good administration what people want is freedom of speech and the freedom from arrest. When there is an opposition party, there is freedom of speech and freedom of action. They are in danger when there is no opposition. For no one can raise the question why a particular person is stopped from speaking or prevented from not moving to his destiny.

These are the grounds why an opposition party is necessary. In all countries where there is Parliamentary Government the opposition is recognized as a political institution.

In England and Canada the opposition is a legally recognized body, and Parliament in both countries pays the leader of the opposition a salary so that he can carry out his Parliamentary duties without difficulties.

Chapter 4

What is a party ?

Party is like an army. It must have :—

(1) A Leader who is like a Commander-in-chief.

(2) An Organisation which includes—

(i) Membership (ii) A ground plan (iii) Discipline.

(3) It must have principles and policy.

(4) It must have programmes or plan of work.

(5) It must have tactics and strategy *i.e.* it must plan when to do what and how to reach its goal.

To put in simple terms it is an association of voters with certain objects.

(1) To promote the formation and development of a Party Organisation and foster party through it.

(2) to disseminate party principles through the press and by means of lectures, speeches, literature etc.

(3) to serve as a basis of united political action by the formation of a political party to represent the members of the association in the Legislature to be called the Republican Party.

Chapter-5

Aims and Objects of the Party

1. The Preamble to the Constitution of India says—WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a SOVEREIGN DEMOCRATIC REPUBLIC and to secure to all its citizens :

JUSTICE, Social, economic and political;

LIBERTY of thought, expression, belief, faith and worship.

EQUALITY of status and of opportunity; and to promote among all; Fraternity assuring the dignity of the individual and the unity of the Nation :

IN OUR CONSTITUENT ASSEMBLY THIS twenty-sixth day of November 1949, do HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION.

To realise the aims and objects set out in the Preamble namely JUSTICE, LIBERTY, EQUALITY and FRATERNITY WOULD constitute the aims and objects of the REPUBLICAN PARTY.

These being the aims and objects of the Party, the attitude of the Party in public affairs will be governed by the following principles :—

(1) It will treat all Indians not only as being equal before the law but as being entitled to equality and will accordingly foster equality where it does not exist and uphold it where it is denied.

(2) It will regard every Indian as an end in Himself with a right to his own development in his own way and the State as only a means to that end.

(3) It will sustain the right of every Indian to freedom, religious, economic and political-subject to such limitations as may arise out of the need for the protection of the interest of other Indians or the State.

(4) It will uphold the right of every Indian to equality of opportunity subject to the provision that those who have had none in the past shall have priority over those who had.

(5) It will keep the State ever aware of its obligations to make every Indian free from want and free from fear.

(6) It will insist on the maintenance of liberty, equality and fraternity and will strive for redemption from oppression and exploitation of man by man, of class by class and of nation by nation.

(7) It will stand for the Parliamentary System of Government as being the best form of Government both in the interest of public and in the interest of the individual."

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23

'BUDDHA AND HIS DHAMMA' ONE OF THE THREE

"The Preface to Buddha and His Dhamma' was written by Dr. B. R. Ambedkar on March 15,1956, in his own splendid way, in long hand, running into 13 long sheets. Thrice he changed pens to complete it. To make it abundantly clear-leaving no scope for a doubt, concluding para of the 'Preface' reproduced hereunder, bear testimony to what has been stated.

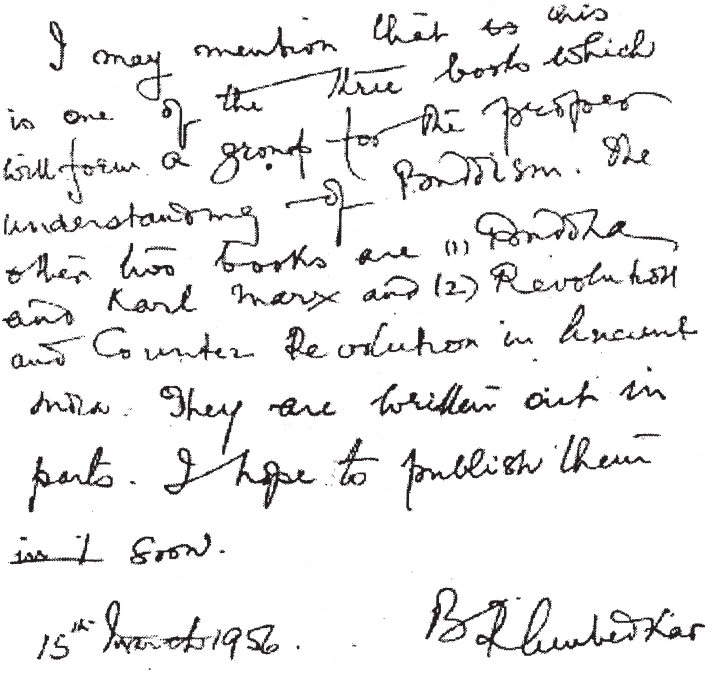
I may mention that to this
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will form a group for the proper
understanding of Buddhism. The
other two books are (1) Buddha
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and Counter Revolution in Ancient
India. They are written out in
parts. I hope to publish them
in 1 soon.

15th March 1956. B R Ambedkar

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15th March 1956. (Sd.) B. R. Ambedkar"[1]

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[1] : Rattu Nanakchand : Last few years of Dr. Ambedkar, P. 197.

24

TRAINING SCHOOL FOR ENTRANCE TO POLITICS

Editorial Note

In 1962, a resolution was moved by Prof. K. T. Shah in the Parliament whether there should be any formal qualifications for the members of Parliament and State Legislatures. The Members felt that there should be some minimum eduational qualifications. But such a prescription would deprive a large number of people from contesting. On this, Dr. Ambedkar, as Minister of Law, suggested that instead of any formal qualifications, the contestants should have knowledge (*Pradnya*) and Charater (*Sheel*). Relevant extract of his speech is as follows :

"However, I suppose those who have supported his resolution have correctly interpreted his mind and taking into account the various speeches that have been made in support of Prof. Shah's Resolution, it appears that many members who are keen about adding some qualification other than those mentioned in the Constitution have in their mind some kind of an educational qualification. But none of them has been very precise : none of them has given me any idea as to what is the standard of education that they would like to prescribe in order that the candidate may become lawfully entitled to stand.

Now it seems to me that education can hardly be the sole qualification for membership of this House. If I may use the words of Buddha, he said that man requires two things. One is *Gyan* and the other is *Sheel*. *Gyan* without *Sheel* is very dangerous : it must be accompanied by *Sheel,* by which we mean character, moral courage, ability to be independent of any kind of temptation, truthful to one's ideals. I did not find any reference to the second qualification in the speeches I have heard from Members who have supported Prof. Shah. But even though I myself, am very keen to see that no Member enters this August Assembly, who does not possess *Sheel* in adequate degree, I find it extremely difficult to find any means or methods to ensure that valuable qualification.

Coming to the question of education, I do not wish to be understood that I regard ignorance to be a virtue : let that be quite clear. I regard education to be a very necessary qualification for possessing that degree of competence which is very necessary for the performance of one's duty. In this House there are people who, although they are not educated, are very competent to voice the grievances of the class whom they represent. I am sure about it. A more educated person would not be able to discharge that function, because he does not know and does not have that experience. But my friends who come from these classes and with whom I have naturally very great sympathy do not realise that what is more necessary for bringing relief to the class of people whom they represent is not merely making speeches in this House but to suggest remedies for the removal of their grievances. To make speeches and to ventilate grievances is a very easy matter but to formulate remedies is a very difficult matter. It requires education and therefore education even from the standpoint of the backward classes, scheduled classes or tribal areas is a very necessary ingredient. How can we ensure it ? When I examined the suggestion that there ought to be some kind of educational qualification, I found that a proposition which is very good in theory or in its academic aspect cannot be given effect to without producing other evils. That is my difficulty. Where will you fix the standard? Will you say that only B. As. should be qualified to be Members of this House? Supposing you do that, what is the result ? Members probably might know that there are many people who are educationally and intellectually far more competent than any graduate, although they have never been inside any college or university. There are any number of them. Are you going to shut out these people who have privately educated themselves, who are equally competent or better than B.As. or M.As., merely because they have not been able to obtain a certificate from a university ? I think that would be a very unfortunate result.

Take another consequence. In this country education is in the lowest grade. Not only that is so but for some reason which all of us know, education has not been universally spread among all the communities in this country. There are communities which are highly educated and there are communities where education is very, very low. Supposing you make B. A. or even matriculation as a standard, are you not making the membership of this House to be a monopoly of the few ? I fear that will be the consequence, supposing you lower down your standard, say, for instance, to the fourth standard, to the study of the three 'R's. or to literacy in order that no community may be excluded from the opportunity of sending its members to this House. Is that qualification any good ? It is of no value at all.

Therefore, my submission is this, that it is a good thing. I am not going to outcry the feeling that there ought to be some education in Members who come to represent their various constituencies in this House. But I just cannot see how you can give legal effect to it. Therefore, my suggestion is that this is a matter which had better be left to the people themselves, or to the political parties who will run the Government. I have no doubt about it that if the political parties, for their own particular purposes, do not attend to this matter, people themselves in course of time will attend to it. People are not going to allow persons who cannot discharge their functions properly in this House to be continued and returned for ever. They want results. They want their welfare to be attended to, and I am sure about it that they will realise that the only instrumentality through which they can achieve this purpose is to send good men to this House. Therefore, I think the proper course is to leave the matter to the people."[1]

Dr. Ambedkar was very much aware that although the elected candidates may have knowledge and character, but still, they need to possess a training of parliamentary legislative procedures. With this thought lingering in his mind, he proposed to establish a 'Training School for Entrance to Politics.'

[1] : Writings and speeches, Vol. 15, Pp 189-191.

In order to invigorate the democratic forces in India and to bring new blood in his proposed Republican Party, Dr. B. R. Ambedkar established 'The Training School for Entrance to Politics' in July, 1956. Dr. Ambedkar was the Director and Shri S. S. Rege was the Registrar. The school was meant for those who cherished the ambition of joining the legislature and it was the first of its kind in the country. He insisted that the new comers must develop oratory in order to put forth their views on various subjects like Economics, Political, Social and Parliamentary procedural matters.

He was in search of a principal with a good personality, wellversed in the subject, having a good delivery on an attractive personality. He was convinced that the reputation of the school greatly depends upon the ability and speaking capacity of the teacher. The school started with 15 students and worked from July, 1, 1956 to March 1957.

Dr. Ambedkar planned to deliver lectures on oratory in the month of December 1956 for the students of this school. But due to untimely demise he could not visit the school.[1]

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[1]: Keer, Pp. 491-492 and Rege, Pp. 80-81.

SECTION II

DR. B. R. AMBEDKAR ON CABINET MISSION AND TRANSFER OF POWER

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CABINET MISSION AND TRANSFER OF POWER

Editorial—Note

"The patriotic upsurge emanated from the I.N.A. Revolt and their Trials, the Revolt raised by the Royal Indian Naval Ratings and the Royal Indian Air Force seemed to break down the imperial structure. It was a clear indication that the Indian army was feeling and experiencing the pangs of freedom. Politics and nationalism had reached their ranks and magnetized their hearts. The Britishers knew that it was no longer possible for them to keep India in bondage. So on March 15, 1946, the British Prime Minister, Clement Atlee, acknowledged India's right to attain full independence within or even without the British Commonwealth and said that they would not allow a minority to place their veto on the advance of the majority.

The British Premier sent out a delegation of three Cabinet Ministers, Sir Stafford Cripps, A.V. Alexander and Lord Pethick Lawrence who was then the Secretary of State for India, to discuss with Indian party leaders on the spot the question of resolving the political deadlock. The British Cabinet delegation* reached New Delhi on March 24, 1946."

"Dr. Ambedkar was authorised by the Scheduled Castes Federation to place memorandum before the Cabinet Mission and plead the Scheduled Castes' case with all force and insight. He emphasised the need of a provision in the Constitution for the election of Depressed Classes candidates through Separate Electorates and demanded adequate representation in the Central and Provincial Legislatures, in the Central and Provincial Executives, in the Public Services and the Public Service Commissions, Federal as well as Provincial. Dr. Ambedkar also urged for earmarked sums for the education of the Scheduled Castes and stressed the need of new settlement for them.

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* For role of the British Cabinet Mission see Appendix-III.

[1] : Keer, P 378.

On May 16, 1946, the Cabinet Mission for the final solution of the Indian deadlock, anounced their scheme in the form of a 'State Papers' which contemplated a Formal Union of India with three groups of Provinces, a plan for Interim Government, and the formation of Constituent Assembly, the members of which were to be elected as a communal basis by the Provincial Legislatures and the representatives of the States joining the Union. The State Paper, however, had no reference to the demands of the Scheduled Castes as put forth by Dr. Ambedkar.'[1]

Dr. B.R. Ambedkar made strenuous efforts to secure the Constitutional Rights in the proposed Constitution for the Scheduled Castes. All these are depicted in the following documents which are self explanatory—Editors.

[1] : Jatav; Dr. Ambedkar's Role in National Movement, Pp 184-185.

1

PROPOSAL FOR REPRESENTATION OF SCHEDULED CASTES IN THE EXECUTIVE COUNCIL

NEW DELHI, 7 JUNE 1945.

Dear Lord Wavell,

I am grateful to you for asking me in my capacity as the leader of the Scheduled Castes to be a member of the Conference which you propose to call in furtherance of your proposal for the Indianisation of the Executive Council. I told you, for reasons which I need not repeat here, that I am unable to accept your offer. Thereupon you desired me to name a substitute. Though I have expressed my disapproval with your proposals, I do not wish to deny you such help as you may derive from the presence of a Scheduled Castes representative in your Conference. I am, therefore, prepared to suggest a substitute. Judging on the suitability of various names that occur to me, I cannot think of any other name than that of Rao Bahadur N. Sivaraj., B.A., B.L. He is the President of the All India Scheduled Castes Federation and is also a member of the Central Legislative Assembly and of the National Defence Council. If you like, you may invite him to the Conference as a representative of the Scheduled Castes.

2. There is one other matter to which I feel I must draw your attention right now. It relates to the extreme inadequacy of the representation given to the Scheduled Castes in His Majesty's Government's proposals for the reconstitution of the Executive Council. Five seats to 90 millions of Muslims, one seat to 50 millions of Untouchables and 1 seat to 6 millions of Sikhs is a strange and sinister kind of political arithmetic which is revolting to my ideas of justice and common sense. I cannot be a party to it. Measured by their needs, the Untouchables should get as much representation as the Muslims, if not more. Leaving needs aside and taking only numbers the Untouchables should get at least

three. Instead, they are offered just one in a Council of fifteen. This is an intolerable position.

This is a matter to which I drew your attention at the meeting of the Executive Council held on the 5th June when you explained His Majesty's Government's proposals to the Council. At the meeting of the 6th morning you replied to the criticisms offered by Members of Council the previous evening on the merits of the proposals. I naturally expected that you would also deal with the point I had raised. But to my great surprise you completely ignored it and made no reference to it whatever. It could not be that I was not emphatic enough. For I was more than emphatic. The conclusion I draw from your omission to refer to it is that either you did not think the matter to be of sufficient importance to deserve your notice or that you thought that I had no intention beyond lodging a protest. It is to remove this impression and to tell you in quite unmistakable terms that I propose to take definite action if His Majesty's Government fail to redress the wrong. Therefore I feel the necessity of writing this letter.

I would not have felt as hurt as I do if such a proposal had come from the Congress or the Hindu Mahasabha. But it is a decision by His Majesty's Government. Even the general Hindu opinion is in favour of increased representation to the Scheduled Castes both in the Legislature and in the Executive. To take the proposals of the Sapru Committee as an indication of general Hindu opinion, the proposal of His Majesty's Government must be admitted to be retrograde. For this is what the Sapru Committee has said:—

> "the representation given to the Sikhs and Scheduled Castes in the Government of India Act is manifestly inadequate and unjust and should be substantially raised. The quantum of increased representation to be given to them should be left to the Constitution making Body.
>
> "Subject to the provisions of clause (b) the executive of the Union shall be a composite cabinet in the sense that the following communities shall be represented on it, *viz.*—

(i) Hindus, other than Scheduled Castes.

(ii) Muslims.

(iii) Scheduled Castes.

(iv) Sikhs.

(v) Indian Christians.

(vi) Anglo-Indians.

"(b) The representation of these communities in the executive shall be, as far as possible, a reflection of their strength in the Legislature."

I may add that two of my Hindu colleagues in the Executive Council have in the memorandum they have presented to you this morning* expressed that the representation given to the Scheduled Castes in His Majesty's Government's proposals is inadequate and unfair. What shocks me (is) that His Majesty's Government with all their profession of being trustees for the Scheduled Castes and contrary to their repeated declarations should have treated their wards in such an ill-liberal, unfair and unjust manner and far worse than enlightened Hindu opinion would have done. I feel it, therefore, my bounden and sacred duty to oppose the proposal by every means at my command. The proposal means a deathknell to the Untouchables and will have the effect of liquidating their efforts over the last 50 years for their emancipation. If His Majesty's Government notwithstanding its many pronouncements wish to hand over the fate of the Untouchables to the tender mercies of Hindu-Muslim combine, His Majesty's Government may well do it. But, I cannot be a party to the suppression of my people. The conclusion to which I have come is to ask His Majesty's Government to redress the wrong and to give to the Untouchables at least 3 seats in the new Executive Council. If His Majesty's Government is not prepare(d) to grant this, then His Majesty's Government should know that I cannot be a member of the newly-constituted Executive Council,

*See No. 482. (Transfer of Power).

even if I was offered a place in it. The Untouchables have been looking forward to a full recognition of their political rights for some time past. I have no doubt that they will be stunned by the decision of His Majesty's Government. And I would not be surprised if the whole of the Scheduled Castes decided as a matter of protest not to have anything to do with the new Government. I am sure their disillusionment will bring about a parting of the ways. This is what I anticipate will be the result of His Majesty's Government's proposals, if they are not revised. So far as I myself am concerned, my decision is made. I may be told that this is not the final shape of things. This is only an interim arrangement. I have been long enough in politics to know concessions and adjustments more (once) made grows into vested rights and how wrong settlements once agreed upon become precedents for future settelement. I cannot, therefore, allow grass to grow under my feet. If I have capacity to judge aright, I visualize that the distribution of seats though it begins as a temporary arrangement will end by becoming permanent. Rather than be left to regret towards the end, I feel I must lodge my protest against it at the very beginning.

It may well be that His Majesty's Government may not mind my eclipse and even the eclipse of the Scheduled Castes from the future Government of India: nor regret the consequent parting of the ways between the British Government in this country and the Scheduled Castes. But I believe it is only fair that His Majesty's Government should know what I have to say about the subject. I have, therefore, to request you to communicate to His Majesty's Government my proposal for increase in the representation of the Scheduled Castes in the Executive Council and the course of action I propose to take if the proposal is rejected by them.

I am,

Yours sincerely,
DR. B.R, AMBEDKAR

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(Wavell Papers, Political Series, April 1944-July 1945 pt. I, Pp. 207-209)

2

MEMORANDUM SUBMITTED TO THE CABINET MISSION

"The Britishers knew that it was no longer possible for them to keep India in bondage. So on March 15,1946, the British Prime Minister, Clement Attlee, acknowledged India's right to attain full independence within or even without the British Common Wealth and said that they would not allow a minority to place their veto on the advance of the majority.

The British Premier sent out a delegation of three Cabinet Ministers, Sir Stafford Cripps, A.V. Alexander and Lord Pethick Lawrence who was then the Secretary of State for India to discuss with Indian party leaders on the spot the question of resolving the Political dead lock. The British Cabinet delegation reached New Delhi on March 24th, 1946, numerous interviews, high level discussions and delicate deliberations took place in the Viceregal Lodge.

Amidst this atmosphere two representatives of the Minority Communities were interviewed by the mission on April 5, 1946. They were Dr. B.R. Ambedkar and Master Tara Singh. Dr. Ambedkar placed a memorandum before the commission....."[1] The Memorandum is as follows :

All - India
Scheduled Castes Federation

MEMORANDUM

Submited By

Dr. B. R. Ambedkar

TO THE

CABINET MISSION

ON

5th April 1946

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[1] : Keer, Pp. 378-379.

Resolution of the Working Committee of the All-India Scheduled Castes Federation passed at its meeting held in Delhi on 2nd April 1946

Part I

General

1. The Working Committee of the All-India Scheduled Castes Federation at its meetings held in Delhi on 2nd April 1946, having given its best consideration to the question of helping the Cabinet Mission to achieve the purpose which it has in view, namely, to make India a self-governing country :

Resolves to place before the Mission its considered views on the problem of how best to achieve the said purpose in a manner which will not merely grant freedom to the Hindu majority but will also free the minority communities and Scheduled Castes in particular from the tyranny of the majority community, which not being political is not liable to be altered and which being communal is a majority fixed for ever.

2. The Working Committee, cannot refrain from repudiating the insinuation made against the Scheduled Castes that they have been putting a veto on the political advancement of India. In the opinion of the working Committee there can be no doubt that responsibility for holding up political advancement of India lies entirely upon the majority community which has arrogantly and unjustifiably claimed to itself the right to determine what safeguards the minority communities and in particular the Scheduled Castes should have and has never cared, indeed has always avoided to produce its blue print of the safeguards for the minority communities and for the Scheduled Castes. All that the Scheduled Castes have done is to insist - and will not hesitate to do so in future - firstly, upon the inclusion of proper safeguards in the Constitution itself for the protection of their rights and liberties and secondly, upon the acceptance by the majority of their right to determine the nature and character of the safeguards they want.

3. The Working Committee thinks it unnecessary to state to the Mission that this stand taken by the Scheduled Castes has been accepted by His Majesty's Government as just and binding upon them as will be seen from the pledges given to the Scheduled Castes by the reprenestatives of His Majesty's Government from time to time in unequivocal terms and which are set out in Appendix I to this Resolution. The Working Committee trusts that the Mission, in the final conclusions that may be reached as a result of the negotiations it has launched upon, will not depart from the pledges given to the Scheduled Castes and will not, in their hurry to settle, allow any other party to dictate to the Scheduled Castes what safeguards they should have.

4. Before proceeding to set out its views on the various issues arising out the purpose of the Mission, the Working Committee desires to draw the attention of the Mission to the results of the Primary elections which have recently taken place in different Provinces, especially because these elections have conclusively proved that the All-India Scheduled Castes Federation is the only organisation, which can claim to speak for the Scheduled Castes of India, and that neither the Congress nor any of the mushroom organisations has any right to speak on their behalf.

PART II

VIEWS ON FINAL CONSTITUTION FOR FREE INDIA

5. In regard to the final Constitution of a free India, the Working Committee of the Federation desires to make it plain to the Mission that the Scheduled Castes will never accept any Constitution which does not contain the following safeguards :

(i) True and adequate representation in all the Legislature-Central and Provincial;

(ii) True and adequate representation in all the Executives-Central and Provincial ;

(iii) Provision for election through separate electorates ;

(iv) Adequate representation in the Public Services ;

(v) Adequate representation on the Public Service Commission—Federal and Provincial;

(vi) Provision of adequate sum in the annual budgets of the Provincial and Central Government for the higher education of the Scheduled Castes ; and

(vii) Provision for new and separate settlements.

6. Without in any way minimising the importance and necessity of any of the foregoing safeguards, the Working Committee regards (1) the provision for separate electorates, (2) provision for adequate representation in the Legislature, in the Executive and in the Services and (3) provision for new and separate settlements, as the most fundamental.

7. As regards the provision for separate electorates, the Working Committee invites the attention of the Mission to the following facts :-

(i) This demand is not a new demand. It was put forth at the Round Table Conference by the representatives of the Scheduled Castes.

(ii) Mr. Gandhi had strongly opposed it. But notwithstanding his opposition, His Majesty's Government felt convince of the necessity of Separate Electorates for the Scheduled Castes, and by their Communal Award of 1932, did grant to the Scheduled Castes Separate Electorates.

(iii) Before the system of Separate Electorates could come into operation Mr. Gandhi declared that he would fast unto death if the Separate Electorates granted to the Scheduled Castes were not withdrawn and did actually enter upon such a fast. The Scheduled Castes under the pressure of Mr. Gandhi's fast—untodeath were coerced into giving up their Separate Electorates.

(iv) The Poona Pact, which took the place of the Communal Award, (1) has saddled the Scheduled Castes with two elections : (a) Primary and (b) Final, the former through Separate Electorates and the latter through Joint Electorates, and (2) has placed the small number of Scheduled Caste voters in joint constituencies at the mercy of a vast number of Caste Hindu voters.

(v) The results of the final elections, as compared with those of the primary elections which are set out in Appendix II, have conclusively proved that the System of Joint Electorates and reserved seats has made a mockery of the right given to the Scheduled Castes to send their true representatives to the Legislature and is a fraud upon the Scheduled Castes.

8. If the Scheduled Castes have not been able to send a single candidate to the Provincial Legislatures, who is elected by the votes of the Scheduled Castes and who can therefore be said to be the true representative of the Scheduled Castes, it is because the joint electorates in which seats have been reserved for the Scheduled Castes have, by reason of the enormous disparity in the voting strength of the Scheduled Castes and the Caste Hindus, become rotten boroughs from the point of view of the Scheduled Castes and pocket boroughs from the point of view of Caste Hindus, who have been able to put up Scheduled Caste candidates, wishing to be their tools and get them elected in the Joint Electorates exclusively with Caste Hindu votes.

9. Having regard to the bitter experience of the System of Joint Electorates which the Scheduled Castes have had in the past, the Working Committee desires to convey to the Mission the deep seated conviction of the Scheduled Castes that the need of restoring Separate Electorates has become paramount, as they believe and rightly that Separate Electorates form the only guarantee against the nullification by the Caste Hindus of their constitutional safeguards and that without Separate Electorates no amount of political safeguards will be of any avail to the Scheduled Castes.

10. On the question of provision for adequate representation in the Legislature, Executive and Services, the Working Committee condemns out-right the offer of token representation often made to the Scheduled Castes and expresses its strong opposition to the grant of weightage to other minorities which cannot but deprive the Scheduled Castes of their due share. The Working Committee wishes to emphasize the fact that the Scheduled Castes form the third important element in the national life of India and that they will not be satisfied unless they are given substantial representation in accordance with their need and their numbers.

The Working Committee would be happy if it could convey to the Mission the horror the Scheduled Castes feel at the mere thought of Police and Revenue Services, manned as they are entirely by Caste Hindus, who are oppressing, tyrannising and discriminating against, the Scheduled Castes even when they are working under the British Government, deriving further support for their acts of tyranny and oppression from a Legislature and an Executive dominated by Caste Hindus. Unless provision is made for, a substantial representation of the Scheduled Castes in the Legislature, Executive and Public Services, there can be no safety to the Scheduled Castes, surrounded as they will be by an indifferent Legislature, a Pro-Hindu Executive and an anti-Scheduled Caste Policy.

11. As to the provision for separate settlements, it is the considered opinion of the Working Committee that :-

(a) The existing village system has the effect of making the Scheduled Castes in the villages slaves of the Caste Hindus. And if notwithstanding that the Penal Code does not recognize slavery, the Scheduled Castes in every village all over India are in fact the slaves of the Hindus, it is because of the village system. Indeed, a more effective method of enforcing slavery upon the Untouchables could not have been devised.

(b) The existing village system under which everyone knows who is a touchable and who is an Untouchable, has the effect of making Untouchability permanent. Indeed, a more effective method of making Untouchability permanent could not have been found.

(c) Under the village system —

(i) The Scheduled Castes are not allowed to live inside the village. They have to live on the outskirts. They are not allowed to take water from the village well. They are not allowed to send their children to the village schools. No barber in the village will shave them. They are a community apart, with no son of communion with the Caste Hindu residents of the village.

(ii) They have no independent means of livelihood. They own no land. There is no avenue open to them for earning an independent living. The Hindu village is the only market they have. But no Hindu can buy from them. A majority of them live by begging food from their Hindu patrons in the village. They form a mass of landless labour, utterly destitute, a class of hereditary paupers, waiting to eke out such livelihood as they can from such employment and on such wages as the Hindu landowners may give.

(iii) They have to do forced labour day in and day out on pain of being driven away from their quarters by the Hindu landholders, who look upon them as a cheap labour force, on which all of them can draw, and are, therefore, always ready to combine against the Scheduled Castes.

(iv) They have to live a life of degradation, dishonour and ignomy from generation to generation. It is a state of eternal perdition. They cannot wear clean clothes, they cannot wear ornaments, they cannot eat rich food, they cannot sit on a chair in the presence of a Hindu and they must do all the dirty jobs.

(v) The tyranny of the village Hindus upon the Scheduled Castes is so great and has become so pervasive that as the last election has shown, the Scheduled Castes cannot even exercise their right to vote for a candidate of their choice, if the Hindu villagers do not like him.

(vi) The village system makes any progress on the part of Scheduled Castes impossible inasmuch as it enables the Hindus to use that most formidable weapon of social boycott with which they always threaten the Scheduled Castes and which they use to hold them down and compell them to abandon any act or movement however beneficial it may be from the point of view of the Scheduled Castes, if it happens to offend Hindu interests or Hindu sentiments.

12. So long as this village organisation remains unbroken, there can be no doubt that the Scheduled Castes will continue to remain the Untouchables, subject to the tyranny and oppression of the Caste Hindus and will never be able to enjoy free, full and honourable life. The Working Committee has, after long and mature deliberation, come to the conclusion that for the better protection of the Scheduled Castes from the tyranny and oppression of the Caste Hindus, which may assume vast magnitude under *Swaraj,* which is only another name for Hindu *Raj,* and to enable the Scheduled Castes to develop to their fullest manhood, to give them economic and social security, as also to pave the way for the removal of Untouchability, radical change must be made in the village system if the Scheduled Castes are to be freed from the ills from which they are suffering for so many centuries at the hands of the Hindus. Realising the necessity of a change being made in the village system, the Working Committee holds that it is imperative to make provision in the Constitution of India along the following lines : -

(i) The Constitution should provide for the transfer of the Scheduled Castes from their present habitations and form separate Scheduled Castes villages, away from and independent of Hindu villages.

(ii) For the settlement of the Scheduled Castes in new villages a provision should be made in the Constitution for the establishment of a Settlement Commission,

(iii) All Government land, which is cultivable and which is not occupied, shall be handed over to the commission to be held in trust for the purpose of making new settlements of the Scheduled Castes.

(iv) The Commission should be given the right to purchase new land from private owners in fulfilment of the scheme of settlement of the Scheduled Castes.

(v) The Constitution should impose an obligation upon the Central Government to grant to the Settlement Commission a minimum sum of Rupees five crores per annum to enable the Commission to carry out their duty in this behalf.

PART III

Treaty Between India And H. M. G.

13. The Working Committee has given its best consideration, to the proposal of a treaty between Free India and His Majesty's Government. The Working Committee understands that the idea behind the Treaty is to give protection to the minorities and to other interests to whom His Majesty's Government has given pledge, even after India has become independent. The Working Committee while appreciating the intention behind the proposal of a Treaty, is unable to follow how it is possible to have such a Treaty overriding the Constitution, having regard to the fact that India is to be a free and independent country, and if the Treaty is not to override the Constitution, of what good can it be to the minorities. The Working Committee has come to the conclusion that the Scheduled Castes would prefer to have their safeguards embodied in the Consitution instead of being set out in a treaty, which has no binding force.

PART - IV

Constituent Assembly

14. The Working Committee is definitely of opinion : -

(i) That the Constituent Assembly is unnecessary and incompetent for dealing with purely constitutional questions.

(ii) That the Constituent Assembly will be useless for dealing with communal questions, for no minority will be prepared to accept the decisions of the majority.

(iii) That the Constituent Assembly would be open to corrupt practices and it will give a free hand to a strong and wealthy party to buy members of the Scheduled Castes to vote - with them.

(iv) That in the Constituent Assembly, the Scheduled Castes would be completely out-numbered and they cannot, therefore, have any effective say in its decisions.

For these reasons, the Working Committee is opposed to the project of a Constituent Assembly.

PART V

Views On Interim Government

15. No interim Government shall be acceptable to the Scheduled Castes unless and until the following conditions precedent are fulfilled : -

(i) That provision is made for proper representation of the Scheduled Castes in the Central Legislative Assembly by the abolition of the nominated official block and filling the seats thus rendered vacant by the nomination of sufficient number of Scheduled Castes representatives.

(ii) That provision is made for representation of the Scheduled Castes by allotting to them in the Executive Council not less than half the seats that may be allotted to the Muslims.

(iii) That no alteration, which will adversely affect the Scheduled Castes, shall be made in the Government of India Resolution of 1943 regarding representation of the Scheduled Castes in the Public Services without the consent of the Governor General.

(iv) That the financial provision made by the Government of India for the higher education of the Scheduled Castes shall not be abrogated or modified to the prejudice of the Scheduled Castes without the consent of the Governor General.

(v) That the principles underlying the safeguards for the Scheduled Castes in the Final Constitution of a Free India are accepted in advance by the Parties, as was stated by Lord Wavell in his letter of 15th August 1944 to Mr. Gandhi.

PART VI

Views On Pakistan

16. The Working Committee is aware of the demand for Pakistan. The Scheduled Castes are deeply concerned in the issues involved in this demand. The Working Committee, however, feels that no useful purpose would be served by expressing the views of the Scheduled Castes thereon at this stage and prefers to reserve its views till it is known that there is no escape from it.

APPENDIX I

Pledges And Pronouncements

1. "The authors stated that the Depressed Classes also should learn the lesson of self-protection. It is surely fanciful to hope that this result can be expected from including a single member of the community in an assembly where there are sixty or seventy Caste Hindus. To make good the principles of paras, 51, 152, 154 and 155 of the Report we must treat the outcaste more generously. We think there should be in each council enough representatives of the Depressed Classes to save them from being entirely submerged, and at the same time to stimulate some capacity for collective action. In the case of Madras, we suggest that they should be given six seats; in Bengal, the United Provinces and Bihar and Orissa, we would give them four; in the Central Provinces and, Bombay two and elsewhere one. In these respects we think that the Committee's report clearly requires modification."

—Extract from the Fifth Despatch of the Government of India dated 23rd April, 1919 on the Report of the Southborough Committee on Franchise.

2. "Nor must forget the essential necessity in the interests of Indian unity, of the inclusion of the Indian States in any Constitutional scheme.

I need refer only to two of them—the great Muslim minority and the Scheduled Castes—there are the guarantees that have been given to the minorities in the past; the fact that their position must be safeguarded, and that those guarantees must be honoured."

—Extract from the speech made by Lord Linlithgow, at the Orient Club, Bombay, on January 10, 1940.

3. "These are two main points which have emerged. On these two points, His Majesty's Government now desires me to make their position clear. The first is as to the position of the minorities in relation to any future Constitutional scheme

It goes without saying that they (H. M. Government) could not contemplate the transfer of their present responsibilities for the peace and welfare of India to any system of Government whose authority is directly denied by large and powerful elements in India's national life. Nor could they be parties to the coercion of such elements into submission to such a Government."

—Extract from the Statement by Lord Linlithgow on 8th August 1940.

4. "Congress leaders ..... have built up a remarkable organization, the most efficient political machine in India..... if only they had suceeded, if the Congress could in fact speak, as it professes to speak, for all the main elements in India's national life, then however advanced their demands, our problem would have been in many respects far easier than it is to-day. It is true that they are numerically the largest single party in British India, but their claim in virtue of that fact to speak for India is utterly denied by very important elements in India's complex national life. These others assert their right to be regarded not as more numerical minorities but as separate constituent factors in any future Indian policy. The foremost among these elements stand the great Muslim community. They will have nothing to do with a constitution framed by a constituent assembly elected by a majority vote in geographical

constituencies. They claim the right in any constitutional discussions to be regarded as an entity against the operations of a mere numerical majority. The same applies to the great body what are known as the Scheduled Castes who feel, in spite of Mr. Gandhi's earnest endeavours on their behalf, that as a community, they stand outside the main body of the Hindu community which is represented by the Congress."

—Extract from the speech by The Rt. Hon'ble Mr. L. S. Amery, Secretary of State for India, in the House of Commons on August 14, 1940.

5. "3. Without recapitulating all the * ..... reasons in detail, I should remind you that His Majesty's Government * ..... at time made it clear;

(a) That their offer of unqualified freedom after the cessation of hostilities was made conditional upon the framing of a Constitution agreed by the main elements of India's national life and the negotiation of the necessary treaty arrangements with His Majesty's Government.

(b) That it is impossible during the period of hostilities to bring about any change in the Constitution by which means alone a "National Government" such as you suggest could be made responsible to the Central Assembly.

The object of these conditions was to ensure the fulfilment of their duty to safeguard the interests of the racial and religious minorities, of the Depressed Classes and their Treaty obligations to the Indian States,"

—Extract from the letter by Lord Wavell to Mr. Gandhi, dated 15th August, 1944.

* Illegible

Appendix II

Constituency	Primary Election		Final Election	
	Votes cast in favour of Congress Candidate	votes cast in favour of Federation Candidate	Votes cast in favour of Congress Candidate	Votes cast in favour of Federation Candidate
I - Bombay City				
1. Bombay (Parel, Byculla)	2,096	11,096	43,456	39,498
2. Bombay City (North and Suburban)	2,088	12,899	59,646	42,510
II - Central Provinces				
1. Nagpur - Umrer	270	1,933	Results of the Final Elections not available	
2. Hinghanghat - Wardha	342	1,339		
3. Bhandara -Sakoli	976	3,187		
4. Yeotmal-Darwa	514	452		
III - Punjab				
1. Karnal	519	1,691	Non - Congress returned unopposed	
2. Ambala-Simla	1,392	6,509	10,503	7,533
3. Hoshiarpur (West)	641	6,577	16,307	19,134
4. Jullundar	775	7,750	18,018	21,476
5. Ludhiana - Ferozpore	812	5,986	24,352	Figures not available

Appendix II — Contd.

Constituency	Primary Election			Final Election	
	Votes cast in favour of Congress Candidate	votes cast in favour of Federation Candidate	Other	Votes cast in favour of Congress Candidate	Votes cast in favour of Federation Candidate
IV - Madras					
1. Amalapuram	2,683	10,540	2,321		
2. Coconada	1,411	7.590	...		
3. Bandar	4,914	12.182	11,442		
4. Guddappah	3,482	1,360	...		
5. Penukonda	2,564	2,567	...	Results not known	
6. Thiru-vannomala	1,960	1,874	...		
7. Tindivanam	2.785	2,679	209		
8. Mannar - gudi	2,893	No candidate	6,505		
9. Pollachi	2,430	791	337		
10. Namakal	2,336	2,069	...		

***Note* : -** In the Primary Election a voter has only one vote while in the Final Election a voter has as many votes as there are seats. Except in the Madras Presidency where the distribution system is compulsory, in all other Provinces the voter is free to distribute his votes as he likes.

Appendix III

Relative strength of Caste Hindu voters and Scheduled Caste voters in Constituencies in which seats are reserved for Scheduled Castes in Bombay Province

	Name of the General Constituency	Total of voters	Total of General voters	Total of Scheduled Caste voters
1.	Bombay City North & Bombay Sub - urban Dist.	2,10,268	1,67,002	34,266
2.	Bombay City (Byculla and Parel)	1,70,511	1,52,991	28,520
3.	Kaira District	1,46,584	1,39,266	7,318
4.	Surat District	90,435	85,670	4,765
5.	Thana South	72,416	67,749	4,667
6.	Ahmadnagar South	82,989	75,607	7,382
7.	East Khandesh East	1,01,486	91,377	10,109
8.	Nasik West	1,11,969	99,271	12,698
9.	Poona West	91,368	77,389	13,979
10.	Satara North	1,05,352	94,200	11,152
11.	Solapur North-East	74,296	64,583	9,713
12.	Belgaum North-East	97,725	79,422	18,303
13.	Bijapur North	69,478	60,485	8,993
14.	Kolaba District	1,07,638	1,02,637	5,001
15.	Ratnagiri North	36,531	33,002	3,329

***Note:* -** In the above table, General voters mean Caste Hindu voters. This table shows how the Scheduled Caste voters are vastly out numbered by the Caste Hindu voters and how impossible it is for the Scheduled Caste voters to win the reserved seat in the joint electorate by dint of their voting strength, even if everyone of the Scheduled Caste voter were to come to poll. Exactly the same sort of situation exist in other Provinces.

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DR. AMBEDKAR'S INTERVIEW WITH CABINET MISSION

Cabinet Mission interviewed Dr. B. R. Ambedkar as a representative of the All India Scheduled Castes Federation. Similarly, Mr. Jagjiwan Ram, Mr. Radhanath Das and Mr. Prithvi Singh Azad were also interviewed as representatives of All India Depressed Class League—Editors

"Dr. Ambedkar was interviewed on behalf of the Scheduled Castes Federation. In reply to an enquiry as to the method of representation of Scheduled Castes in the constituent assembly he said that he did not want a constituent assembly at all. It would be dominated by the Caste Hindus and the Scheduled Castes would be no more than a small minority which would always be outvoted. All the assurances of protection which His Majesty's Government had given to the minorities would go by the board.

His own proposal was that the tasks envisaged for the constituent assembly should be divided into two classes, namely (a) constitutional questions properly so called, *e.g.* the relation between the legislature and the executive and their respective composition and functions, and (b) communal questions. Matters under (a) should be referred to a commission presided over by an eminent constitutional lawyer from Great Britain or the U.S.A. The other members should be two Indian experts and one representative each of the Hindu and Muslim Communities. The terms of reference should be the Government of India Act of 1935 and the Commission should be required to recommend what changes should be made in the Act as it stood. Matters under (b) should be referred to a conference of the leaders of the different communities. If the conference failed to arrive at an agreed solution, His Majesty's Government should make an award.

Dr. Ambedkar claimed that, before they left, the British must ensure that the new constitution guaranteed to the Scheduled Castes, he elementary human rights of life, liberty and the pursuit of happiness, and that it restored their Separate Electorates and gave

them the other safeguards which they demanded. The Secretary of State suggested that Indian politics had been dominated by two issues, the question of winning independence from British rule and the Hindu-Muslim problem. Once these were out of the way, party divisions would probably on economic issues. Surely the Scheduled Castes would have a better chance of securing their rights by allaying themselves with the left wing than by relying on British, who were about to hand over power. Dr. Ambedkar reiterated that so long as there were joint electorates Scheduled Caste voters would be so few that Hindu candidates could safely ignore their wishes. Caste Hindus would never support Scheduled Caste candidates. Separate Electorates were fundamental, without them the Scheduled Castes would never have their own representatives."[1]

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[1] : The Transfer of Power in India, Pp. 243-44. Quoted, Khairmode, Vol.8, Pp. 62-64.

For interviews of Jagjivan Ram, Radhanath Das and Prithvi Singh Azad, see Appendix No. IV.

4

A NOTE ON THE MEETING BETWEEN DR. B. R. AMBEDKAR AND FIELD MARSHAL VISCOUNT WAVELL

Dr. B. R. Ambedkar submitted a memorandum to the Cabinate Mission on Policy of Schedule Castes Federation on 5th April 1946 and a meeting was held on the same day at 12 noon between Dr. B. R. Ambedkar and Cabinate Mission including Field Marshal Viscount Wavell. After the meeting a note was prepared which is as follows.—Editors.

Secret

Dr. Ambedkar said that he had little to add to the memorandum, of which copies had been supplied to the Delegation, giving the text of the resolution passed by the Working Committee of the All India Scheduled Castes Federation at its meeting on April 2nd. Paragraph 5 of this memorandum contained a list of safeguards which were largely designed to secure to the Scheduled Castes adequate representation in Government and the Public Services. The Federation would never accept any constitution in which these were not included.

On the question of Pakistan, Dr. Ambedkar doubted whether Muslims as a whole would really be benefited by the new State. So many of them would have to remain in Hindustan and would be unwilling or unable to migrate.

He wondered whether Pakistan, was a permanent or a passing mood on the part of the Muslims. Quite probably it would pass. But it was impossible to wait and see and the Muslim demand had grown so strong that it had become necessary to meet it somehow. In his book on the subject he had proposed that this dilemma should be resolved by an adaptation of the solution which Mr. Asquith had propounded in 1920 for the Irish problem. Mr. Asquith had suggested that Ulster should be separated from the rest of Ireland for six years; but that a council consisting of representatives of both parts of the country should be established to deal with matters of common concern during this period. At the end of the six years Ulster would have had to choose whether

to remain separate or to reunite with Southern Ireland. Similarly, Dr. Ambedkar had proposed that Pakistan should be given independence for ten years, at the end of which it would be known whether it was an economic proposition. He admitted that if the people of Pakistan then wished to join up with Hindustan they would be in a weak position to negotiate and all the bargaining counters would be on the other side. During the ten-year period there might be a common council, but it would be purely consultative and would have no executive power. Any All-India Central Government to which the Muslims could, in their present mood, be brought to agree would be so weak as to be useless. There were many other fissiparous tendencies besides the Muslim demand for Pakistan, and the only Central Government worth having would be a strong one which could hold the country together.

In reply to an enquiry on the method of representation of the Scheduled Castes in the Constituent Assembly, Dr. Ambedkar said that he did not want a Constituent Assembly at all. It would be dominated by the Caste Hindus, and the Scheduled Caste members would be no more than a small minority which would always be outvoted even if a three-quarters or a two-thirds majority were required for the Assembly's decisions. All the assurances of protection which His Majesty's Government had given to the minorities would go by the board. Moreover, there would be an immense amount of corruption in the Assembly-members would be bought over to vote against the interests of their communities.

His own proposal was that the tasks envisaged for the Constituent Assembly should be divided into two classes, viz :—

(a) Constitutional questions properly so-called, *e.g.* the relations between the Legislature and the Executive and their respective composition and functions. There was no great controversy about these matters which did not excite the emotions. To deal with them was beyond the mental capacity of the type of man whom Provincial Assemblies might be expected to send up, and was a job for experts.

(b) Communal questions.

Questions under the first of these headings should be referred

to a commission presided over by an eminent constitutional lawyer from Great Britain or the U.S.A. The other members should be two Indian experts and one representative each of the Hindu and Muslim communities. The terms of reference of the Commission should be the Government of India Act of 1,935 and they should be required to recommend what changes should be made in the Act as it stood.

Questions under (b) should be referred to a conference of the leaders of the different communities. If the conference failed to arrive at an agreed solution, His Majesty's Government would have to make an award. This would no doubt be accepted if it Were reasonable.

Dr. Ambedkar then described the position of the Scheduled Castes today. It was estimated that they numbered sixty million, though this figure was probably inaccurate, firstly, because there were no reliable statistics for the States and, secondly, because the census had become mixed up with politics. All these people were subject to very serious disabilities. In the villages they were without land and were virtually the slaves of the Caste Hindus. As an instance of the power of the latter, he said that when some Untouchables had escaped from their villages to take up well-paid work under the Military authorities, the Caste Hindus had managed to force them back to work for them. Owing to the preponderance of Caste Hindus in the Subordinate Police and Revenue Services the Government was already, from the point of view of the Untouchables, not a British but a Hindu one. An example has been the recent arrest of 100 of their boys in Bombay for throwing stones at Mr. Gandhi, when the police had also taken the opportunity to do considerable damage in the Scheduled Caste area of the city.

Politically, although the Scheduled Castes like the other communities, had been granted Separate Electorates in 1932, they had virtually been deprived of them, be the Poona Pact. Instead, they had got the system of double elections which meant that in

the second election, in which all the Hindus voted, the Caste Hindus could *nullify* the result of the first election in which Untouchables were the only voters. He referred to the figures appended to the Working Committee's resolution of April 2nd which showed, firstly, that in many cases the Congress Scheduled Caste candidates, though outvoted by the Federation candidates in the primary elections, had beaten them in the final elections : and, secondly, how small was the number of Scheduled Caste voters in comparison with the total of general voters. Even so, Congress had resorted to loot and arson to ensure the success of their condidates; he produced a volume of photographs to show what they had done.

The Central Legislature had been in existence since 1919, yet no questions were ever asked, resolutions moved or anything else done with the object of helping the Scheduled Castes.

In the Indian States the position of the Scheduled Castes was especially bad. There were even certain foods which they were not allowed to eat. In the representative institutions which were now being established in certain States, no community had been given separate representation except the Muslims. The Political Department should have taken greater interest in these constitutional experiments, and should have seen to it that the Scheduled Castes were given separate electorates. The Delegation should see the President of the All-India Scheduled Castes States Conference.

The Scheduled Castes had been the earliest source of man-power for the East India Company's army, and so it was with their help that the British had conquered India. They had been the friends of the British ever since. Yet the British had never consciously and deliberately helped them, though since 1892 they had given enormous help to the Muslims.

He thought that if India became independent it would be one of the greatest disasters that could happen. Before they left, the British must ensure that the new constitution guaranteed to the Scheduled Castes the elementary human rights of life, liberty and the pursuit of happiness, and that it restored their Separate Electorates and gave them the other safeguards which they

demanded. At present disillusionment was driving his followers towards terrorism and communism. He was on trial with them for the efficacy of constitutional methods.

Lord Pethick-Lawrence said that up to now Indian politics had been dominated by two issues, the question of winning independence from British rule and the Hindu-Muslim problem. Once these were out of the way party divisions would probably be on economic issues. Surely the Scheduled Castes would have a better chance of getting their rights by allaying themselves with the left wing than by relying on the British who were about to hand over power. In reply Dr. Ambedker reiterated that so long as there were joint electorates, Scheduled Caste voters would be so few that Hindu candidates could safely ignore their wishes. Caste Hindus would never support Scheduled Caste candidates. Admittedly under the present system they had to vote for the Untouchables in the final elections; but their object in doing so was never to favour their own candidate but merely to outvote the candidate put up by his own Federation. Separate Electorates were fundamental, since without them the Scheduled Castes would never have their own representatives.

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The Transfer of power Vol. VII, No. 58, pp.-144-147.

5

SEPARATE SETTLEMENTS FOR UNTOUCHABLES

Dr. B. R. Ambedkar submitted a memorandum to the Cabinet Mission demanding separate settlement of villages for Untouchables. In his press interview he clarified his views on this issue—Editors.

"The view that the demand of the Scheduled Castes for separate villages was not an encroachment on the rights of any party, was expressed by Dr. B. R. Ambedkar, Labour Member of Government of India, in an interview.

Dr. Ambedkar said that there were large areas of cultivable waste land lying untenanted in the country which could be set apart for the settlement of Scheduled Castes. Government could form a trust to give effect to the proposal.

Objection, he thought, would come only from those who had been accustomed to using the Scheduled Castes as a source of labour which was available to do all the unclean jobs and who could be forced to work at the cheapest wage rate. They would like to perpetuate this slavery. Because of intolerable conditions under which the Scheduled Castes lived in provinces like Bombay and Madras, it was necessary to have separate villages for them.

Dr. Ambedkar explained that the village being a social and not an economic unit of society, there was no need to fear an economic strangulation of these separate villages. The produce of these areas would be sent to places where it would be welcome.

Asked if the demand applied to the Pakistan areas Dr. Ambedkar said that it did. At present there was nothing concrete about Pakistan. The question of setting up separate villages would arise when it took concrete shape.

The position of the Scheduled Castes, he said was analogous to that of the *Bantu* and other tribes of South Africa. He did not see why provision should not be made in the future Indian constitution to safeguard the interest of the Scheduled Castes in the same way as was done in the South African Constitution in the case of the *Bantus* —

A.P.I."

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[1] : Jai Bheem : 7th May 1946.

6

PROTEST LETTER AGAINST THE PROPOSALS OF CABINATE MISSION

Bhimrao R. Ambedkar,
M.A. Ph.D., D.Sc, Barrister-at-law,
Member, Governor General's
Executive Council.

22, Prithviraj Road,
New Delhi,
Dated, 3rd May 1946.

Dear Lord Wavell,

The omission on the part of the Cabinet Mission to invite a representative of the Scheduled Castes to their Conference in Simla has given rise to many misgivings in the minds of the Scheduled Castes as to how the Cabinet Mission proposes to dispose of their demand for constitutional safeguards. As the situation is critical, I like to acquaint you with the reactions of the Scheduled Castes in this connection.

The omission to invite a representative of the Scheduled Castes to the Simla Conference is capable of many explanations. One explanation that appears to me to be plausible is that the demands of the Scheduled Castes are such that they do not require the consent of other parties inasmuch as they do not trench upon their legitimate rights. This is certainly so at least with regard to three of their demands, namely, (1) separate electorates, (2) proper representation in the Central Executive, and (3) undertaking from parties to accept certain general principles in regard to the safeguarding of the interest of the Scheduled Castes in the future constitution as a condition precedent for an interim Government.

That the demands of the Scheduled Castes do not require the consent of other parties is a view which I had urged very strongly upon the Mission in the course of my interview on the 5th of April 1946.

The demand for Separate Electorates by a Majority Community as is the case of Muslims in the Punjab, N.W.F. Province, Sind and

Bengal, stands on a different footing from the demand for Separate Electorates by a Minority Community such as the Scheduled Castes. A demand for Separate Electorates by a Majority Community must require the consent of the Minority Community. But the demand for Separate Electorates by a Minority Community can never be made dependent upon the wishes of the Majority Community. The Electorate is primarily a mechanism devised for protecting a Minority against the Majority. That being so, whether the Electorate should be joint or separate must be left entirely to Minority to determine on the ground that the Minority knows what is best in its own interest. The Majority can have no say in the matter and must really accept the decision of the Minority. Following this up, the Hindus can have very little to say as to whether the Scheduled Castes should or should not have Separate Electorates.

The demand of the Scheduled Castes for Separate Electorates does not adversely affect any other community, not even the Hindus. That is why this demand is accepted by all other Communities. The contention of the Hindus that the Scheduled Castes are Hindus and therefore cannot have a Separate Electorates is simply purile and misses the essential point that Separate Electorates is really a mechanism for the protection of the minorities and has nothing to do with religion. If any evidence of this is necessary, one could refer to the case of Europeans, Anglo-Indians and Indian Christians who are all one by religion yet each have a Separate Electorate.

If the Cabinet Mission took these facts and arguments into consideration there would be nothing unnatural if it accepted the contention of the Scheduled Castes that the consent of the Hindus is not necessary and that it was entirely a matter for the Cabinet Mission to decide, particularly when it has been proved that Joint Electorates have made representation of the Scheduled Castes a farce.

The second demand of the Scheduled Castes that their representation in the Interim Government should be 50% of the representation granted to the Muslims is also a demand for which the consent of the Hindus is not necessary before it could be

conceded. It is for the Mission to decide what representation the Scheduled Castes should have in the Central Executive having regard to their numbers and the weight of the disabilities they are suffering from and the lee-way they have to make to bring themselves in line with other advanced communities. You will remember that this question was raised by me at the time of the last Simla Conference and you were prepared to give two seats to the Scheduled Castes which was just a little less than 50 per cent offered to the Muslims.

There is nothing new in the third demand. It is merely a reiteration of your own view which you expressed to Mr. Gandhi in your letter of 15th August 1944. In para 5 of that letter you said :--

> "It is clear in these circumstances that no purpose will be served by discussion on the basis which you suggest. If, however, the leaders of the Hindus, the Muslims and the important minorities were willing to co-operate in a transitional Government established and working within the present constitution, I believe good progress might be made. *For such a transitional Government to succeed, there must, before it is formed, be agreement in principle between Hindus and Muslims and all important elements as to the method by which the new constitution should be framed."*

This principle which you enunciated must be presumed to have been made on behalf of His Majesty's Government and as such it must be binding on the Cabinet Mission. Consent of parties would seem to be quite unnecessary for the Mission to give effect to this principle, which is all that the Scheduled Castes have demanded.

If I may say so, these contentions have sufficient force to lead to the conclusion that Mission does not think that the consent of the Hindus is necessary before it can pronounce upon the demands of the Scheduled Castes and that this is why the Scheduled Castes have not been invited to sent their representatives to the Simla Conference.

But unfortunately this is not the only explanation that comes to one's mind. There is another explanation which is possible. It is that the Cabinet Mission regards an agreement between the Congress and the Muslim League enough to give them a clear line to proceed with the formation of the interim Constitution as well as for determining the machinery for shaping the future constitution of India without waiting to consider the case of the Scheduled Castes.

The Scheduled Castes are filled with anxiety as they do not know definitely what the plan of the Mission is. If the Mission has adopted the second plan, which may well be the fact, then I feel that I shall be failing in my duty if I did not lodge my protest against this betrayal of the Scheduled Castes and inform the Mission that they will be wholly responsible for the consequences that might ensue.

This letter is written by me in my capacity as a respresentative of the Scheduled Castes. It is addressed to you in your capacity as a Member of the Cabinet Mission. I shall be grateful if you will be so good to circulate it to your colleagues.

I am,

Yours Sincerely,

B.R. Ambedkar.

His Excellency Field Marshal
The Right Hon'ble Viscount Wavell of
Cyrenaica and Winchester, SIMLA.
G.C.B., G.M.S.I., G.M.I.E., C.M.G., M.C.,
Viceroy & Governor General of India

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Source ; Privately printed leaflet by Dr. Ambedkar.

7

LETTER TO A. V. ALEXANDER ABOUT THE PROPOSALS OF CABINET MISSION

Bhimrao R. Ambedkar,
MA. Ph.D., D.Sc., Barrister-at-law,
Member, Governor General's
Executive Council.

22, Prithviraj Road,
New Delhi,
Dated, 14th May 1946.

Dear Mr. Alexander,

It is a pity that your efforts to bring about a settlement between the Congress and the League should have failed. I know you deserve every sympathy and every gratitude. At the same time, I cannot help saying that the Mission's effort to settle reminds me of an old Baniya who being without a son to inherit his wealth married a young girl with the hope of begetting a heir. The bride conceived but the bridegroom was striken with a fell-disease. He, however, refused to die without having a look at the baby and would not wait for delivery which was far off. He was so impatient that he called the doctor, asked him to open the stomach of his wife and let him see whether it was a boy or a girl. The result of the operation was that both the baby and the mother died. If I may say so, the Mission wanted to do very much what the Baniya did. You may not be aware but there are many who, like me, feel that the Mission was engaged in bringing about a forced delivery earlier than the natural period of gestation.

2. To my mind, it is only right to say that the Hindus and the Muslims are today mentally incompetent to decide upon the destiny of this country. Both Hindus and Muslims are just crowds. It must be within your experience that a crowd is less moved by material profit than by a passion collectively shared. It is easier to persuade a mass of men to sacrifice itself collectively than to act upon a cool assessment of advantages. A crowd easily

loses all sense of profit and loss. It is moved by motives which may be high or low, genial or barbarous, compassionate or cruel, but is always above or below reason. The common sense of each is lost in the emotion of all. It is easier to persuade a crowd to commit suicide than to accept a legacy. It is not for me to advise you how you should proceed. The Mission has found greater wisdom and higher inspiration in the Bhangi Basti and in 10 Aurangazeb Road. I would be the last person to say anything in depreciation of such wisdom and inspiration. But I do think that if the Mission were not to exhibit the pathetic spectacle of an old man in a hurry, a phrase used by Chamberlain to describe Gladstone engaged in his campaign for Irish Home Rule and allow that in diplomacy is called 'Cooling period' they will find that they have an easier situation to deal with.

3. That is a matter for the Mission, for the major parties and those who have put their faith in the major parties. I am concerned in knowing how you propose to deal with the problem of the Untouchables and their demand for constitutional safeguards. In the official statement issued by the Mission on the last day of the Simla talks, it is said that the Mission will announce the next step it proposes to take within a few days after they return to Delhi. Obviously, the eyes of all the Scheduled Castes are turned towards this announcement. What the Mission will do will ultimately decide their fate. The decision of the Mission will either open to the Untouchables the path of life, liberty and pursuit of happiness or it will drive a nail in their coffin. The question being one of life and death it would not be wrong if I were to engage your attention for a few minutes with the problem of the Untouchables.

4. The problem of the Untouchables is a formidable one for the Untouchables to face. But fortunately it is simple to understand if only the following facts are borne in mind. The Untouchables are surrounded by a vast mass of Hindu population which is hostile to them and which is not ashamed of committing any inequity or atrocity against them. For a redress of these wrongs which are matter of daily occurrence, the Untouchables have to call in the aid of the administration. What is the

character and composition of this administration ? To be brief, the administration in India is completely in the hands of the Hindus. It is their monopoly. From top to bottom it is controlled by them. There is no Department which is not dominated by them. They dominate the Police, the Magistracy and the Revenue Services, indeed any and every branch of the administration. The next point to remember is that the Hindus in the administration are not merely non-social, they are positively anti-social and inimical to the Untouchables. Their one aim is to discriminate against the Untouchables and to deny and deprive them not only of the benefits of law, but also of the protection of the law against tyranny and oppression. The result is that the Untouchables are placed between the Hindu population and the Hindu-ridden administration, the one committing wrongs against them and the other protecting the wrong-doer instead of the victims.

5. Against this back-ground, what can *Swaraj* of the Congress variety mean to the Untouchables ? It only means one thing, namely, that while today it is only the administration that is in the hands of the Hindus, under *Swaraj* the Legislature and Executive will also be filled with Hindus. It goes without saying that *Swaraj* would aggravate the sufferings of the Untouchables. For, in addition to their having to face an hostile administration, the Untouchables will have to face an hostile or indifferent Legislature, a callous Executive and an administration uncontrolled and unbridled in venom and in harshness in its inequitious attitude towards the Untouchables. To put it differently, under *Swaraj* of the Congress variety, the Untouchables will have no way of escape from the destiny of degradation which the Hindus and Hinduism have fixed for them.

6. I hope this will give you some idea as to why the Untouchables have been insisting that the only way by which the Untouchables can prevent this *Swaraj* from becoming a calamity to them is to have their representatives in the Legislature so that they may keep on protesting against wrongs and injustices done to them by the Hindus, to have their representatives in the Executive so that they may make plans for their betterment and to have

representatives in the services so that the administration may not be wholly hostile to them. If you accept the justice of the demand of the Untouchables for constitutional safeguards, you will have no difficulty in understanding why the Untouchables want separate electorates. The Untouchables will be a minority in the Legislature. They are destined to remain a minority. They cannot overcome the majority which being communal in its making is, so to say, fixed and pre-ordained. All they can do is to place themselves in position to able to determine the terms on which they will be prepared to work with the majority and not be compelled to accept the terms prescribed by the majority, and secondly, if the majority refuses to work with them and declines to redress their wrongs, they would at least be free to utter their protest against the majority on the floor of the Legislature. How are the Untouchables to maintain their freedom to protest ? Only if their representatives in the Legislatures do not owe their election to the votes of the majority. This is the basis of their demand for separate electorates.

7. No safeguards are going to be of any value to the Untouchables unless the Untouchables get a separate electorate. Separate electorate is the crux of the matter. I have before me a copy of the representation submitted to the Cabinet Mission by three Congress Harijans who were interviewed by the Mission on the 9th April 1946. They were no better than the three tailors of Tooly Street who had the audacity to present an address to the Parliament saying: "We the people of England." Apart from this, it is instructive to note that there is no difference between the demands put forth by me on behalf of the Scheduled Castes Federation and the demands put forth by these Congress Harijans. The only difference that exists relates to the question of electorates. I do not know how you interpret the demands of the Congress Harijans. They are not really demands. They represent what the Congress is prepared to give to the Untouchables by way of political safeguards. This is not merely my understanding. It is my knowledge. For I have been informed by person who knows the mind of the Congress that if I was prepared to accept joint electorates, the Congress on its part would be quite prepared to concede all other demands of mine.

You must be wondering why should the Congress be prepared to concede all the demands of the Scheduled Castes and object only to one namely, separate electorates. There will be no wonder if you know what game the Congress is playing. It is a very deep game. Realising that there is no escape from giving the Untouchables some safeguards, the Congress wants to find out some way by which it can make them of no effect. It is in the system of joint electorates that the Congress sees an instrument of making the safeguards of no effect. This is the way Congress is insisting upon joint electorates. For joint electorates means giving the Untouchables office without power. What the Untounchables want is office with power. This, they can only get through separate electorates and that is why they are insisting upon it.

8. I believe the case in favour of separate electorates for the Scheduled Castes is a cast-iron case. Every other party except the Congress accepts it. The arguments in favour of separate electorates have been set out by me in my letter of 3rd May 1946 addressed to Lord Wavell which he must have shown to you and it is therefore unnecessary to repeat them here. The question is what the Mission is going to do with this demand of the Scheduled Castes. Are they going to make the Untouchables free from political yoke of the Hindus? Or, are they going to throw them to the wolves by favouring the system of joint electorates in order to make friends with the Congress and the Hindu majority whom it represents? The Scheduled Castes are entitled to ask His Majesty's Government that before the British abdicate, His Majesty's Government shall make sure that *Swaraj* does not become a strangle-hold for the Untouchables.

9. Allow me to say that the British have a moral responsibility towards the Scheduled Castes. They may have moral responsibilities towards all minorities. But it can never transcend the moral responsibility which rests on them in respect of the Untouchables. It is a pity how few Britishers are aware of it and how fewer are prepared to discharge it. British Rule in India owes its very existence to the help rendered by the Untouchables. Many Britishers think that India was conquered by the Clives, Hastings, Cootes and so on. Nothing can be a greater mistake. India was

conquered by an army of Indians and the Indians who formed the army were all Untouchables. British Rule in India would have been impossible if the Untouchables had not helped the British to conquer India. Take the Battle of Plassey which laid the beginning of British Rule or the battle of Kirkee which completed the conquest of India. In both these fateful battles the soldiers who fought for the British were all Untouchables.

10. What have the British done to these Untouchables who fought for them? It is a shameful story. The first thing they did was to stop their recruitment in the army. A more unkind, more ungrateful and more cruel act can hardly be found in history. In shutting out the Untouchables from the Army the British took no note that the Untouchables had helped them to establish their rule and had defended it when it was menaced by a powerful combination of native forces in the Mutiny of 1857. Without any consideration as to its effects upon the Untouchables the British by one stroke of the pen deprived them of their source of livelihood and let them fall to their original depth of degradation. Did the British help them in any way to overcome their social disabilities? The answer again must be in the negative. The schools, wells and public places were closed to the Untouchables. It was the duty of the British to see the Untouchables, as citizens, were entitled to be admitted to all institutions maintained out of public funds. But the British did nothing of the kind and what is worst, they justified their inaction by saying that Untouchability was not their creation. It may be that Untouchability was not the creation of the British. But as Government of the day, surely the removal of Untouchability was their responsibility. No Government with any sense of the functions and duties of a Government could have avoided it. What did the British Government do? They refused to touch any question which involved any kind of reform of Hindu society. So far as social reform was concerned, the Untouchables found themselves under a Government distinguished in no vital respect from those native Government under which they had toiled and suffered, lived and died, through all their weary and forgotten history. From a political standpoint, the change was nominal. The despotism of the Hindus continued as ever before. Far from being curbed by the British High Command, it

was pampered. From a social point of view, the British accepted the arrangements as they found them and preserved them faithfully in the manner of the Chinese tailor who, when given an old coat as a pattern, produced with pride an exact replica, rents and patched and all. And what is the result? The result is that though 200 years have elapsed since the establishment of the British Rule in India, the Untouchables have remained Untouchables, their wrongs remained unredressed and their progress hampered at every stage. Indeed, if the British Rule has achieved anything in India it is to strengthen and reinvigorate Brahmanism which is the inveterate enemy of the Untouchables and which is the parent of all the ills from which the Untouchables have been suffering for ages.

11. You have come here to announce that the British are abdicating. It cannot be wrong for an Untouchable to ask "to whom are you leaving this legacy of authority and power?" To the protagonist of Brahmanism, which means to the tyrants and oppressors of the Untouchables. Such a method of liquidating the British Empire in India need not raise any qualms of conscience among members of other parties. But what about the British Labour Party? The Labour Party claims to stand for the unprivileged and the down-trodden. If it is true to its salt, I have no doubt that it will stand by the sixty millions of the Untouchables of India and do everything necessary to safeguard their position and not allow power to pass into the hands of those who by their religion and their philosophy of life are unfit to govern and are, in fact, the enemies of the Untouchables. It will be no more than bare act of atonement on the part of the British for the neglect of the Scheduled Castes whose trustees they always claimed to be.

12. What has led me to unburden myself at such length is the anxiety caused by the apparent silence of the Mission over the question of constitutional safeguards raised by the Untouchables? This anxiety has been deepened by the attitude taken by the Mission towards the pledges given to the Untouchables and to the minorities by His Majesty's Government. The attitude of the Mission in regard to these pledges reminds one of Lord Palmerston who said, " We have no

permanent enemies; We have no permanent friends; we have only permanent interest." You can well imagine what a terrifying prospect it would present to the Untouchables if the impression was created that the Mission was adopting this Palmerston maxim as its guide. You came from the under-privileged classes of Great Britain and I have full faith that you will do your best to prevent a possible betrayal of the 60 millions of India's underprivileged. That is why I have thought of placing their case before you. If you will allow me to say, the Untouchables have got a feeling that they have no greater friend in the Mission than Yourself.

I am,

Yours Sincerely,

Dr. B.R. Ambedkar.

The Rt. Hon'ble Mr. A.V. Alexander,

C.H.M.P., Member, Cabinet Mission,

Viceroy's House,

New Delhi.

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Source ; Privately printed leaflet by Dr. Ambedkar.

8

LETTER TO LORD PETHICK-LAWRENCE REGARDING STATEMENT ISSUED BY CABINET MISSION.

"22, Prithviraj Road,

New Delhi,

Dated, 22nd May 1946.

Dear Lord Pethick-Lawrence,

In reading the statement issued by the Cabinet Mission I have found that on certain points there is much ambiguity. They are set out below :—

(1) Whether the term "minorities" in paragraph 20 of the statement includes the Scheduled Castes ?

(2) Paragraph 20 lays down that the Advisory Committee on the rights of citizens, minorities and tribal and excluded areas should contain full representation of the interests affected. Who is to see whether the Advisory Committee does in fact contain full representation of the interests affected ?

(3) Whether, in order to see that there is full representation of the interests affected, H.M.G. propose to reserve to themselves the right to add to the Committee by nomination of persons from outside the Constituent Assembly representing such interests ? The necessity for nomination from outside seems to be essential, for otherwise there is no other method for securing representation of tribal and excluded areas from within the Constituent Assembly. If the necessity for nomination is admitted, will the principle of nomination of members of the Scheduled Castes from outside the Constituent Assembly be extended to secure full representation of the Scheduled Castes on the Advisory Committee ?

(4) In paragraph 22 of the statement there is a provision for a treaty between the Union Constituent Assembly and the United Kingdom providing for certain matters arising out of the transfer of power. Will this proposed treaty include a provision for the protection of the minorities as was stipulated in the Cripps proposals? If Treaty is not to have such a provision, how does H.M.G. propose to make the decisions of the Advisory Committee binding on the Constituent Assembly ?

(5) The statement includes Europeans under the category of "General". From this it may be presumed that the Europeans will have the right to vote for the election of representatives to the Constituent Assembly. Are the Europeans entitled to put up Europeans as candidates for the election of the Constituent Assembly? This is not made clear in the Statement.

These are questions which require clarification. I shall feel grateful if you will be so good as to favour me with your answers to them. I am leaving Delhi tonight for Bombay. Any reply that you may like to make to the questions set out above may kindly be sent to my address in Bombay, which is given below.

Yours sincerely,

Dr. B.R. Ambedkar"[1]

Address: B. B. & C. I. Railway*,

Saloon No. 27, Central Station, Bombay.

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* Bombay - Baroda & Central India, Railway.

[1]: The Transfer of Power, Vol. VII, No. 359, Pp. 661-662.

9

CLARIFICATION BY LORD PETHICK - LAWRENCE TO DR. B. R. AMBEDKAR

"28th May 1946

Thank you for your letter of the 22nd May in which you ask for elucidation of certain points in the recent Statement.

You will appreciate that the object of the Delegation is to set up machinery whereby Indians can frame their own Constitution for an independent India. The object of our Statement is to provide a basis on which the parties can come together for that purpose and we hope that it will be accepted and worked by all concerned. We have limited our Statement to the minimum which seemed to us necessary for that purpose. Other matters which arise will fall to be decided by the Constituent Assembly.

It is certainly our intention that the term "minorities" in paragraph 20 of the Statement includes the Scheduled Castes. On the other hand, it will be for the Constituent Assembly itself to set up the Advisory Committee and we assume that it will desire that it should be fully representative.

It is not our intention to interfere with the Constituent Assembly. The personnel of the Advisory Committee is not however limited by our Statement to persons who are members of the Constituent Assembly.

I think your other questions are largely covered by the further Statement which was issued by the delegation on Saturday evening and of which I enclose a copy.

Mr. Alexander has asked me to acknowledge and thank you for your letter which you sent him recently. He is away from Delhi for a few days on a visit to Ceylon and will reply to you on his return."[1]

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[1] : The Transfer of Power, Vol. VII No. 399, p. 723.

10

AMBEDKAR FINDS CHAMPION IN CHURCHILL

"London, May 30. (Renter).—A pledge that the Conservative Party would do its utmost to protect the future of 60 million Untouchables "whose melancholy depression by their co-religionists constitutes one of the gravest features in the problems of the Indian sub-continent" is contained in a cable sent by Mr. Winston Churchill to Dr. Ambedkar, Member of the Viceroy's Executive Council.

Mr. Churchill adds : We shall take our stand on the broad principles set forth in the American Declaration of Independence that all men are born free and equal and entitled to life, liberty and the pursuit of happiness.

Dr. Ambedkar had cabled to Mr. Churchill stating : "The Cabinet Mission's proposals are a shameful betrayal of the cause of the 60 million Untouchables. The Untouchables all over India are greatful to you for your speech in parliament. The future of the Untouchables is very dark. We depend upon you for safeguarding their interests."[1]

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[1] : The Bombay Chronicle, dated 31st May 1946.

11

HINDU - SCHEDULED CASTES CLASHES IN BOMBAY

June 1, 1946

The situation in the Worli area where there have been frequent clashes between the Scheduled Caste members and Caste Hindus during the last four days, resulting so far in five killed and nearly seventy injured, is quiet this morning, strong police parties have been stationed all over the locality and mobile armed police are constantly patrolling the affected area. There were only three stray cases of assaults upto mid-day today.

Mr. B.G. Kher, Prime Minister of Bombay, is meeting Dr. Ambedkar, Leader of the Scheduled Castes this evening with a view to discussing with him how best to bring about normal conditions in the Worli area.

The last four days disturbances have affected the working of certain mills because many of the operatives abstained from attending work for fear of being stoned. Last night four mills had to give up night shift and this morning excepting one mill all the other mills worked with depleted staff.

State of Emergency proclaimed

A 'State of emergency' has been proclaimed by the Government of Bombay in the disturbed labour areas in Worli and Delisle Road where there have been clashes between Caste Hindu workers and Scheduled Class workers.

This gives wide powers to the police in handling the situation, particularly in the matter of rounding up of bad characters and externing them from the city limits.

One more person who had been admitted to hospital yesterday with a stab wound died today, thus bringing the total killed to 6.

Dr. Ambedkar Deplores Development

The Government of Bombay in the Home Department has decided on the immediate measures to put down law lessness in the Worli Chawls and Delisle Road with a stern hand.

While the Government has made up its mind in this respect non-official organisations like the Provincial Congress Committee, the Scheduled Castes Federation and local Hindu organisations have had consultations on the methods of restoring peace in the affected area.

This move follows an interview which Dr. B.R. Ambedkar, Labour Member, Government of India, had with Mr. Morarji Desai. Home Minister, Bombay Government and later with Mr. B .G. Kher, Prime Minister, this morning. During the interview, Dr. Ambedkar is understood to have deplored the developments in Worli and suggested certain measures to be taken to restore peace. He also assured the Ministers that he would advise his followers to remain peaceful and exercise more restraint on their part.

It is understood that Dr. Ambedkar, Mr. Nagindas T. Master and Mr. S.K. Patil, have decided to issue a joint statement appealing to Caste Hindus, Congress Workers and Scheduled Caste people of the locality to remain calm and make combined efforts to restore normal conditions.

The Home Minister is understood to have suggested to Dr. Ambedkar the appointment of Chawl Committees in Worli who should be held responsible for breaches of the peace and for the maintenance of peace. If things went out of hand, the Members of the Committees should be held resposible.

The Police authorities, under instructions from the Home Minister, are promulgating certain orders to meet the situation. The measures contemplated include round-up of all bad characters in the areas and emergency powers to be exercised if, the situation showed a tendency to deteriorate.

Up-to-date, in the four days agitation six persons have been killed and 70 injured and a large part of the mill area has been kept in a continued state of tension.

Mr. Rajbhoj's Statement

Mr. P.N. Rajbhoj, General Secretary of the All India Scheduled Castes Federation, after visiting the Worli Chawls in a statement said that the condition of many of his followers was extremely

difficult in the disturbed area. They dared not go to work in the mills for fear of being assaulted. Many of them had not taken even their rations for the week. He complained that police protection was not freely available to them, and that many innocent persons had been taken into custody.

Mr. Rajbhoj said that nearly 130 persons of his party had received injuries in the recent disturbances and two had died.

More Responsibility on Hindus Bombay Leaders Appeal to Masses

In a joint statement issued on June 3, on the disturbances in Worli and neighbouring labour areas Dr. B.R. Ambedkar, Mr. Nagindas T. Master and Mr. S.K. Patil stated that "Being a major community, a greater responsibility lies on the shoulders of the Hindus. The majority community is bound to exercise restraint even under provocation and prove to the minority community like the Scheduled Castes that it need have no fear in the matter of its life, liberty and property even though it refuses to see eye to eye with the majority community on political questions."

The statement says : "We have been deeply pained by the unfortunate incidents which are taking place in Worli, Naigaum and Delisie Road areas of the Bombay city between the members of the Scheduled Castes and Caste Hindus for some time part. The frequent skirmishes between these two sections of the people have already resulted in three dead and several injured. In our opinion there is no reason whatsoever why these two sections should go on attacking each other and thereby disturbing the peace of these localities. Even assuming that there is any cause for honest and even for strong differences of opinion on some point or the other, such erratic reprisals can decide nothing. There are other and more effective methods of settling disputes and securing justice. These acts of violence and bad temper only bring disrepute to the fair name of the city and inflict injury and even loss of life of the innocent. Although we have no desire to apportion the blame for the incidents that have occurred, we would like to emphasise that being a major community, a greater responsibility lies on the shoulders of the Hindus.

We strongly and emphatically condemn these senseless demonstrations of violence and earnestly appeal to the good sense of the parties concerned to cry halt to this mad behaviour. We trust that they will act towards one another as responsible citizens and resume their normal and peaceful avocations.—A.P."[1]

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[1] : Jai Bheem : June 11, 1946.

12

FEDERATION EXECUTIVE RESOLVES ON DIRECT ACTION

Cabinet Mission Ignored Unimpeachable Evidence

" In a two thousand word resolution, the working Committee of the All India Scheduled Castes Federation, calls upon His Majesty's Government and the Labour Party in England to take up the cause of the Scheduled Castes in right earnest and rectify immediately the worng done to them by the Cabinet Mission. "Failing this," says the resolution, the Working Committee feels, "that there will be no alternative for the Scheduled Castes but to resort to direct action". The resolution further says: "If circumstances require such a direct action to save the Scheduled Castes from the impending catastrophe, the working Committee will not hesitaste to ask the Scheduled Castes to do so."

The Working Committee of the A.I.S.C.F. met at "Raj Griha" the residence of Dr. B.R. Ambedkar, Labour Member, Government of India, on June 4, 1946 under the Presidentship of Rao Bahadur N. Sivaraj.

On the morning of 4th June the President drove to the Bomaby Central and met Dr. Babasahib Ambedkar in the Saloon. Federation workers from various parts of the country met the leaders and discussed with them on various subjects concerning the country and the community. They had informed the leaders about the untold sufferings and the unimaginable honors to which the Scheduled Castes are subjected to by the Caste Hindus.

At two o'clock in the afternoon the Working Committee sat for-discussion. Eleven out of 20 members of the Committee attended the meeting. These are five from Bombay, four from the Central Provinces and one each from Madras and the United Provinces. Dr. Ambedkar was present by special invitation. The meeting took up for consideration a report submitted by Mr. P.N. Rajabhoj, General Secretary of the Federation, on the general reactions of the Scheduled Castes People to the proposals of the

British Cabinet Mission. The report, it is learnt, expresses the dissatisfaction of the community in that they had not been given any representation in the proposed Constituent Assembly.

The Working Committee has passed ten important resolutions on the British Cabinet Proposals on the interim Government.

The Committee has demanded that Scheduled Castes, should have the right to be represented in the Legislatures through separate electorates, and that the constitution shall contain a provision making it obligatory on the part of the Government to undertake the formation of separate settlements for Scheduled Castes.

The Committee assures the Scheduled Castes that "there is no reason to be panicky and given courage and solidarity, their cause which is the cause of justice and humanity, is bound to triumph notwithstanding the machinations of their enemies."

The Working Committee has authorised the President to constitute a Council of Action charged with the duty of examining the lines of direct action and to determine the action most effective and fix the time for lauching it.

Copies of the Scheduled Castes' Federation's resolution are being forwarded to the Secretary of State for India and the Viceroy in New Delhi and Prime Minister Attlee and Mr. Churchill in London.

"In the event of their demand for such protection being turned down, the Committee has authorised the President, Rao Bahadur N. Sivaraj, to constitute a Council of Action to decide upon "the most effective means of direct action to get their demands conceded."

A spokesman on behalf of the Working Committee of the Scheduled Castes Federation explained that the Committee had focussed attention on the future constitutional settlement because they were more concerned with the ultimate statutory protection of the Scheduled Castes, rather than in the formation of the interim Government. He added: "We shall, however, be willing to co-operate with any one in the formation of the Interim Government, provided our co-operation is sought on honourable terms."

The spokesman stated that the Cabinet Mission had partially retrieved the prestige of the British Government by declaring, in their second statement, that the conclusion of the Indo-British treaty would be dependent on the rights of minorities being protected adequately. What the Secheduled Castes Federation demanded, however, was that suitable amendements be made here and now in the Cabinet Mission's proposals to ensure this. He could not see any difficulty in this being done just as in the case of the Muslims.

The Spokesman in conclusion explained that the direct action clause in the resolution would become operative only if the Federation failed to achieve its goal. There was no intention 10 take precipitate actions.

A.I.S.C.F's Ultimatum to the Cabinet Mission

[The following is the full text of the resolutions passed at the Working Committee Meeting of the All India Scheduled Castes Federation held at Bombay during the first week of June]

The Working Committee of the All-India Scheduled Castes Federation has taken into consideration (1) the first statement issued by the Cabinet Mission on the Constitution of India; (2) the Press interviews given by the Members of the Mission in amplification of their statement (3) the second statement made by the Cabinet Mission and (4) the correspondence between the Cabinet Mission and the Hon'ble Dr. B. R. Ambedkar. There are many points arising from the statement of the Cabinet Mission on which the Working Committee would like to state its views. For the present, the Working Committee prefers to deal with the plan of the Cabinet Mission for framing the future constitution of India in so far as it affects the Scheduled Castes.

2. The Working Committee has noticed with profound indignation that the Cabinet Mission has not mentioned the Scheduled Castes even once in the course of their statement of 5000 words. It is difficult to understand the working of the mind of the Cabinet Mission. The Mission could not have been unaware of the existence of the Untouchables, their disabilities, the tyrannies and oppression practised upon them day to day by the Caste Hindus all throughout India. The Cabinet Mission could,

not have been unaware of the pronouncement made by His Majesty's Government that Untouchables were separate from the Caste Hindus and constituted a distinct element in the national life of India. The Cabinet Mission could not have been unaware of the pledges given by His Majesty's Government that no constitution which had not the consent of the Scheduled Castes would be imposed upon them. The Cabinet Mission could not have been unaware of the fact that at the Simla Conference convened by Lord Wavell only a year ago the Scheduled Castes were given a separate representation from the Caste Hindus. Having regard to these circumstances, the Working Committee feels no hesitation in saying that in ignoring the Scheduled Castes in the manner in which it has done, the Cabinet Mission has brought the name of the British nation into disgrace and disrepute.

3. The Working Committee has noticed the statement made by the Cabinet Mission in the course of Press interview that they have made double provision for the representation of the Scheduled Castes in the Constituent Assembly and in the Advisory Committee. The Working Committee feels bound to say that these provisions are absolutely illusory and unworthy of serious consideration. In the plan set out by them, the Mission have not reserved any seat for the Scheduled Castes in the election by the Provincial Legislatures to the Constituent Assembly as they have done for the Sikhs and the Muslims. There is no obligation on the Provincial Legislatures to elect a specified number of Scheduled Caste members to the Constituent Assembly. It is quite possible that the Constituent Assembly may not have in it any representative of the Scheduled Castes. And even if a few representatives of the Scheduled Castes should find a place in the Constituent Assembly, they being elected by Hindu votes, they can never represent the true interests of the Scheduled Castes. As to the Advisory Committee, it cannot be substantially different from the Constituent Assembly. It will only be a reflection of the Constituent Assembly.

4. The Working Committee finds it extremely difficult to understand how the Cabinet Mission could how come to believe that they had mand enough and good provision for giving

effective voice to the Scheduled Castes in the Constituent Assembly and the Advisory Committee. Aboundant and incontrovertible evidence was presented to the Cabinet Mission to show that the real representatives of the Scheduled Castes are those who were elected in the primary elections for which the Scheduled Castes have separate electorates, that the present Scheduled Caste members of the Provincial Legislatures who fought the primary elections were at the bottom of the poll and that on account of the victious system of joint electorates the men who were at the bottom in the primary elections came to the top in the final elections only because of the Caste Hindu votes and that therefore the Scheduled Caste members of the Provincial Legislatures in no way represent the Scheduled Castes but are the tools of the Caste Hindus. Far from making double provision for representing the Scheduled Castes in the Constituent Assembly and the Advisory Committee, the Mission has without compunction ignored this unimpeachable evidence and without any justification committed the gravest act of treachery in leaving the Scheduled Castes to the mercy of the Hindus. The Working Committee desires to inform the Mission that the Scheduled Castes are not impressed either by their logic or by their sense of moral responsibility.

5. While the whole plan of the Cabinet Mission is mischievous in as much as it proposes to solve the minority problem by allowing freedom to the Muslim majority to dispose of the Non-Muslim minorities in the Muslim zone and to the Hindu majority to dispose of the Non-Hindu minorities including the Scheduled Castes in the Hindu zone. The Working Committee finds that the Cabinet Mission in framing its plan has show greater concern for the protection of the Muslim community but have paid no attention whatever for safeguarding the interests of the Scheduled Castes. In para 15 of their plan the Cabinet Mission have prescribed what matters are to be beyond the reach of the Constituent Assembly. The object behind this provision in para 15 is to prevent the domination of the Muslim community by the Hindu community. The fear which the Scheduled Castes have of the Hindu majority is far greater and far more real than the

Muslim community has or can have. The Scheduled Castes have been urging that the only effective protection they can have is representation through separate electorates and the provision for separate settlement. The Cabinet Mission was aware of these demands and all the evidence in support of them. Following the principle adopted by the Cabinet Mission to guarantee freedom from the domination of the Hindu majority in the manner referred to above it was possible for the Cabinet to lay down in the same para 15 a further limitation of the powers of the Constituent Assembly by laying down that the Scheduled Castes should have the right to be represented in the Legislature through separate electorates and to have a statutory provision for separate settlements as means of escape from the domination of the Hindu majority.

6. The Working Committee has noted that the Cabinet Mission has in its second statement, provided that the ratification of the Treaty between the United Kingdom and the Indian Constituent Assembly will be subject to proper safeguards being made for the protection of the minorities including the Scheduled Castes. The Cabinet Mission in its hurry to placate the Congress Party had not dared to include this provision in Clause 22 of its first statement although it had formed part of the Cripps proposals of 1942.

While the Working Committee is glad that the Mission has retrieved its position and saved the honour of the British people in whose name pledges were given to the Scheduled Castes, the working Committee demands that the plan of the Cabinet Mission should be amended in the following respects :—

(1) The following clauses should be added as clause (7) to para 15 of the Statement :—

"(7) The Scheduled Castes should have the right to be represented in the Legislatures through separate electorates."

(8) That the Constitution shall contain a provision making it obligatory on the Government to undertake the formation of separate settlements for the Scheduled Castes.

(2) Para 20 of the First statement should be so amended as to make those members of the Scheduled Castes who topped the polls in the last primary elections, members of the Advisory Committee and be allowed to elect five other representatives of the Scheduled Castes to the Advisory Council.

7. The Working Committee desires to inform His Majesty's Government and British Labour Party that they should take up the cause of the Scheduled Castes in right earnest and at once rectify the wrong done to them by the Cabinet Mission. Failing this, the Working Committee feels that there will be no alternative for the Scheduled Castes but to resort to direct action. If circumstances require, the Working Committee in order to save the Scheduled Castes from this impending catastrophy will not hesitate to ask the Scheduled Castes to do so.

8. The Working Committee is aware of the panic caused among the Scheduled Castes by the plan put forth by the Cabinet Mission. The Working Committee desires to tell the Scheduled Castes to maintain the courage and heroism they have shown in fighting the last elections against the Congress single handed and without resources in spite of the acts of violence, coercion and arson practised by the Congress and when every other party had shut its shop, and assures them that there is no reason to be panicky and given courage and solidarity, their cause which is the cause of justice and humanity is bound to triumph notwithstanding the machinations of their enemies.

9. The Working Committee hereby authorises the President to constitute a Council of Action charged with the duty of examining the lines of direct action and to determine the one most effective and fix the time for launching the same.

10. The Working Committee has noticed :

(1) the campaign of tyranny and oppression which is being carried on by Caste Hindus against the Scheduled Castes in villages and towns throughout the length and breadth of India for no other reason except that they fought the elections against the Congress, and which has caused many deaths and injuries;

(2) the shameful part which the police have been playing in siding with the Caste Hindus in belabouring and arresting innocent men and women from among the Scheduled Castes.

(3) the part played by the rationing shops in refusing to supply rations to the Scheduled Castes ;

(4) the conspiracy of silence observed by the newspapers who have never cared to condemn these outrages on innocent men and women.

(5) the utter indifference shown by the Provincial Government in protecting the lives and properties of the Scheduled Castes.

The Working Committee cannot help feeling that this conduct of the majority community proves beyond the shadow of a doubt how unworthy the Hindu community is to be trusted with power and that if the majority does not improve its morality the Scheduled Castes would be forced to protect themselves by every means open to them."[1]

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[1] :Jai Bheem dated, June 11 and 18, 1946.

13

REACTIONS TO THE BRITISH CABINET PLAN DR. AMBEDKAR'S PROTEST TO CHURCHILL

The Cabinet Mission published a "State Paper" on 16th May 1946 making no provisions for safeguarding the interest of the Untouchables. Dr. B. R. Ambedkar had taken serious note of it and written to Mr. Churchill to look into the matter. In response to the letter written by Dr. Ambedkar, Mr. Churchill responded positively. The letter written by Dr. B. R. Ambedkar is as under :Editors .

"Mr. Winston Churchill cited the American Declaration of Independence in promising that the Conservative Party "would do its utmost to protect the future of the 60,000,000 Untouchables in India".

"Replying to a protest from Dr. B. R. Ambedkar, Member of the Viceroy's Executive Council, that the British Cabinet Mission's Proposals for an Independent Indian Government were a shameful betrayal" of the cause of the Untouchables, the Opposition Leader told Dr. Ambedkar in a telegram : "We shall take our stand on the broad principles set forth in the American Declaration of Independence that all men are born free and equal and entitled to life, liberty, and the pursuit of happiness."

The text of Dr. Ambedkar's message ran : "The Cabinet Mission's proposals are a shameful betrayal of the cause of sixty millions of Untouchables. No representation in the Constitutent Assembly, no representation in the Advisory Committee, no protection by treaty, will mean handing over the Untouchables, bound hand and foot. Untouchables all over India are grateful to you for your speech in Parliament. The future of Untouchables is very dark. We depend upon you for safeguarding their interest."

Mr. Churchill replied, "You may ensure that the Conservative Party, will do its utmost to protect the future of sixty million Untouchables whose melancholy depression by their co-religionists constituted one of the gravest features in the problem of the Indian sub-continent. We shall take our stand on the broad principles set forth in the American Declaration of Independence that all men are born free and equal and entitled to life, liberty and the pursuit of happiness".[1]

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[1]: Jai Bheem dated 18th June 1946

14

I AM FIGHTING FOR RIGHTS OF SCHEDULED CASTES
TELEGRAM TO
PRIME MINISTER ATLEE-LONDON

The Cabinet Mission had recommended inadequate representation of Scheduled Castes in the interim Government for India. Dr. B. R. Ambedker sent a telegram to Mr. Atlee then Prime Minister of the Great Britain : Editors.

At time of last year's Simla Conference Viceroy on my protest and with consent of Home Government promised increase Scheduled Castes's representation in Interim Government to two seats in Council of fourteen stop I had demanded three stop Compromise I accepted two stop. New proposals interim Government announced yesterday give Scheduled Castes only one seat stop. This gross breach of solemn promise given after due deliberation stop. One seat most unfair stop Mission is treating sixty million Untouchables as being equal to four millions Sikhs, three million Christians in matter of representation stop Scheduled Caste nominee does not represent Scheduled Castes, is elected entirely by Hindu Votes and is creature of Congress stop Representation to Scheduled Castes Congressman is no representation to Scheduled Castes stop. It is representation to Congress stop Cabinet Mission heaping upon Scheduled Castes one wrong after another, bent on sacrificing them with view appease Congress and desrtoying their independent position in public life of country stop. Please intervene and redress wrong by directing Mission to give Scheduled Castes two seats to be filled by nominees of Federation which Mission knows alone represents Scheduled Castes stop Scheduled Castes insist on two seats or none stop. To avoid misunderstanding of my motive I like to state that I have no desire to be in Interim Government and will stand out stop I am fighting for rights of Scheduled Castes stop. Hope there is some sense of justice left in British Government—Dr. Ambedkar

Dr. B.R. Ambedkar,
22, Prithviraj Road,
New Delhi.

Dated 17-6-1946.

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[1]. Quoted, Khairmode, Vol. 8, P. 73 and LP&j. and LP& j/10/50: Pp 81-8 and Atlee Papers, University College, Oxford.

15

DOES THE INDIAN NATIONAL CONGRESS REPRESENT THE UNTOUCHABLES OF INDIA ?

Since the Cabinet Mission did not provide proper representation and safeguards to the Untouchables in its proposal, Dr. B. R. Ambedkar sent a memorandum to Mr. Atlee, Mr. Churchill and other Leaders of the Labour Party immediately after issuing the telegram. The text of this memorandum is as follows.....Editors.

A Critique of the Proposals of the Cabinet Mission for Indian Constitutional Changes in so for as they affect the Scheduled Castes

(Untouchables)

by

Dr. B.R. Ambedkar

The Cabinet Mission sent out to India by the Labour Government early this year to resolve the political deadlock in India set out a Scheme for the framing of the constitution by a Constituent Assembly. This Constituent Assembly is to be composed of representatives chosen by the members of the Provincial Legislatures by a single transferable vote. For the purpose of the composition of the Constituent Assembly the Cabinet Mission's Scheme has divided the members of the provincial legislatures into three categories (1) Muslims (2) Sikhs and (3) General, each with a fixed quota of seats. Each category has a Separate Electorate whereby the Muslim representatives of the Constituent Assembly will be elected by the Muslim members of the Provincial Legislature, the Sikhs by the Sikh members and the General by all the rest. The 'general' includes (1) Hindus, (2) Scheduled Castes, (3) Indian Christians, and (4) Anglo-Indians.

2. The Scheduled Castes of India were greatly surprised to find that they were lumped together with the Hindus. It has been declared time and again by His Majesty's Government that His Majesty's Government recognizes that the Scheduled Castes are separate element in the national life of India and that His Majesty's Government will not impose any constitution to which the Scheduled Castes are not willing party. The question is asked

why the Cabinet Mission recognized the Muslims and the Sikhs as separate elements and why they refused to give the Scheduled Castes the same status ?

In the debate that took place in Parliament on the 18th of July 1946 on the proposals of the Cabinet Mission, Sir Stafford Cripps, Mr. Alexander and Lord Pethick-Lawrence tried to defend themselves against this criticism, Their argument was two-fold :—

> (1) That, in the elections to the Provincial Legislature which took place in February last, the seats reserved for the Scheduled Castes were captured by the Congress and that this shows that the Scheduled Castes were with the Congress and trusted their destiny to the Congress i.e. the Hindus and that there was no ground for separating them.
>
> (2) That, there is to be an Advisory Committee on the minorities in which the Scheduled Castes will be represented and will have a voice in the framing of the safeguards necessary for them.

The second defence is worse than useless. The reasons are obvious. The status and powers of the Advisory Committee are not defined. The quantum of representation of the Scheduled Castes is not prescribed. The decisions of the Advisory Committee are left to be carried by a bare majority. Lastly, the Advisory Committee cannot be anything else than a mere reflection of the Constituent Assembly. The representatives of the Scheduled Castes in the Constituent Assembly all belong to the Congress Party and they do not represent the Scheduled Castes. They are, therefore, subject to the Mandate of the Congress Party. Those of them who will be put in the Advisory Committe will be subject to the same Party Mandate. They cannot put forth the real point of view of the Scheduled Castes either in the Constituent Assembly or on the Advisory Committee.

The principal line of defence used by the members of the Cabinet Mission in justification of their failure to give the Scheduled Castes separate and independent representation is that the Congress won the Scheduled Caste seats in the last election. Even, this line of defence cannot stand. It is true that in the *final* election the Congress did capture the Scheduled Castes seats. But the reply is

that this election results should not have been taken as the test for various reasons.

Firstly, the parties such as the Scheduled Castes who had co-operated with the British Government were at a discount with the people on that very account.

Secondly, the trial of the Indian National Army men which synchronized with the election placed the Congress at an advantage and other parties at a disadvantage. If the Indian National Army trial had not been staged at the time of the election the Congress would have lost completely, so low was its stock.

Apart from these two reasons why the election results should not have been as a test, there is a special reason why it should not have been taken to detemine whether the Congress did or did not represent the Scheduled Castes. That reason is that the final elevation for the Scheduled Castes seats is by a system of joint electorate in which the Hindus also vote. The Hindus vote being preponderent it is easy for the Congress to elect a candidate belonging to the Scheduled Castes standing for the Scheduled Castes seats *entirely* by Hindu votes. That the Scheduled Castes representative in Provincial Legislatures who stood on the Congress ticket were elected solely by Hindu votes and not by the votes of the Scheduled Castes is a fact which even the Cabinet Mission will not be able to deny.

The real test by which to determine whether the Congress represents the Scheduled Castes is to examine the results of the Primary Elections which preceded the Final Elections, for in the Primary Election the Scheduled Castes have a Separate Electorate in which the Hindus have no right to vote. The Primary Election, therefore, reflects the real sentiments of the Scheduled Castes. What does the result of the Primary Election show ? Does it show that the Scheduled Castes are with the Congress ?

The Scheduled Castes have been allotted 151 seats in the Provincial Legislatures. They are distributed among the different Provinces except Sindh and the North-West Frontier Province.

Primary Election is not obligatory. It becomes obligatory only if there are more than *four* candidates contesting for a seat.

In the last Primary Election which preceded the Final Election, Primary Election became obligatory in 40 constituencies out of 151.

They were distributed as follows :--

Madras	. .	. .	10
Bombay	. .	. .	3
Bengal	. .	. .	12
United province	. .	. .	3
Central Provinces	. .	. .	5
Punjab	. .	. .	7

There were no Primary Elections in the Provinces of Bihar and Orissa.

The results of the Primary Elections in the 40 constituencies are tabulated in the Appendix which accompanies this note. The results prove :—

(I) That, out of 283 candidates the Congress put up only 46 candidates on its ticket (*See* Table I) and out of 168 successful candidates had only 38 to its credit (*See* Table V)'.

(II) The object of a Party in entering into a Primary Election is to drive out all rival parties from the Final Election by putting up at least four candidates on its party ticket. Whether a party can put up four candidates on its ticket depends upon how much confidence it has in the voters to vote for its party ticket. The Congress has not ventured to put up more than *one* candidate in each constituency. This shows that the Congress had no confidence that the Scheduled Caste voters would vote for the Congress ticket. If there is any party which has ventured to put up four candidates for each it has contested, it is the Scheduled Castes Federation. (See Table II, Parts I, V, Columns 3 and 4).

(III) Measured in terms of votes cast in favour of the Congress it is proved beyond dispute that the Congress obtained only 28 per cent of the total votes polled in the Primary Election (*See* Table IV).

(IV) If there was not the temptation to get oneself elected in the final election with the help of the Hindu votes, the Independents would all be members of the Scheduled Castes Federation. On that assumption the Scheduled Castes Federation is the only party which represents the Scheduled Castes and the 72 per cent voting in favour of the Non-Congress Parties should be set out to its credit (*See* Table IV).

The members of the Cabinet Mission argued that Dr. Ambedkar's following was confined to the Scheduled Castes in the Bombay Presidency and the Central Provinces only.

There is no foundation for this statement. The Scheduled Castes Federation is functioning in other Provinces as well and it has won notable electoral success as great as in Bombay and the Central Provinces. In making this statement the Mission has failed to take account of the single victory Dr. Ambedkar secured in the election to the Constituent Assembly. He stood as a candidate from the Bengal Provincial Legislature Assembly. He secured 7 first preference votes and topped the poll so far as the general seats were concerned beating even Mr. Sarat Chandra Bose, the Leader of the Congress party. If Dr. Ambedkar has no influence outside Bombay and Central Provinces how did he get elected from Bengal? It must be further remembered that there are 30 seats for the Scheduled Castes in the Bengal Provincial Assembly. Out of the 30 as many as 28 were elected on the Congress ticket. Of the two who belonged to his party one fell ill on the day of election. This means that 6 Scheduled Caste members elected on the Congress ticket broke the Congress Mandate and voted for Dr. Ambedkar. This shows that even these Scheduled Caste members who belong to the Congress regard him as the leader of the Scheduled Castes. This is complete disproof of the statement made by the Mission.

The Congress has been so much encouraged by the surrender of the Mission that a letter addressed to the Mission the Congress has gone to the length of denying that the Scheduled Castes are a minority. This means that the Congress is not prepared to give the Scheduled Castes the same safeguards as they would to other minorities. The Mission has not repudiated this suggestion of the Congress. Herein lurks a great danger and it is necessary to pin down the Mission in the course of the debate and compel them to say if they do or do not regard the Scheduled Castes as a minority.

The Cabinet Mission have said in their proposals that before sovereignty is transferred Parliament will have to satisfy itself that the safeguards for Minorities are adequate. The Mission has

nowhere defined the machinery for examining the safeguards. Whether there would be a Joint Committee of the two Houses of Parliament to examine the minority safeguards has not been made clear. The Mission has not even stated that His Majesty's Government will exerecise its independent judgment in coming to its conclusion on the adequacy of the safeguards. It is necessary to have these matters defined because this provision was an afterthought with the Mission and did not form part of its original proposals which gives the impression that this was intended merely to act as a stop to the minorities.

Analysis of the Results of Primary Elections

Held in December, 1945

(Preliminary to the General Election in India Held in February 1946) for Choosing Candidates from the Scheduled Castes (Untouchables) for the Seats Reserved for the Scheduled Castes in the Provincial Legislatures of India

Note.-The Tables in this Analysis are prepared from official figures.

TABLE I

Parties which contested the Primary Election for seats reserved for Scheduled Castes shown Province-wise

Name of the party which put up Candidates to contest Primary Elections	The Number of Candidates put up by each Party in—						Total number of Candidates put up by the party in all the Provinces
	Madras	Bombay	Bengal	United Provinces	Central Provinces	Punjab	
1. Congress	10	3	13	11	5	4	46
2. Scheduled Castes Federation	35	6	8	9	12	none	70
3. Harijan League	none	none	none	1	3	none	4
4. No-Party Candidates (Independents)	5	9	76	3	8	52	153
5. Hindu Maha Sabha	none	none	1	1	none	none	2
6. Communists	6	none	1	none	none	none	7
7. Radical Democratic Party	none	none	1	none	none	none	1
Total ...	56	18	100	25	28	56	283

TABLE II

Parties which contested the Primary Election for seats reserved for the Scheduled Castes shown constituency-wise

PART I-MADRAS

Constituency in which Primary Election was contested	Total of Candidates who took part in the contest	Parties which fought the election and the number of candidates put up by each			
		Congress	Scheduled Castes Federation	Communists	No-Party Candidates (Independents)
1. Amlapuram	7	1	4	2	none
2. Coconada	5	1	4	none	none
3. Bandar	5	1	1	3	none
4. Cuddappa	5	1	4	none	none
5. Penukonda	5	1	4	none	none
6. Tirnvannamali	6	1	5	none	none
7. Tindivanam	6	1	5	none	none
8. Mannergudi	5	1	none	1	3
9. Pollachi	7	1	4	none	2
10. Nammakal	5	1	4	none	none
Total	56	10	35	6	5

PART II--BOMBAY

Constituency in which Primary Election was contested	Total of Candidates who took part in the contest	Parties which fought the election and the number of candidates put up by each		
		Congress	Scheduled Castes Federation	No-Party Candidates (independents)
Bombay City (North)	7	1	1	5
Bombay City	6	1	1	4
(Byculla& Parel) East Khandesh (East)	5	1	4	none
Total	18	3	6	9

TABLE II

PART III—BENGAL

	Constituency in which Primary Election was contested	Total Candidates who took part in the contest	Parties which fought the election and the number of candidates put by each					
			Congress	Scheduled Castes Federation	Hindu Maha Sabha	No-Party Candidates (Independents)	Communists	Radical democratic Party
1.	Hoogly ..	5	1	none	None	3	..	1
2.	Howrah ..	7	3	none	None	4	..	..
3.	Nadia ..	12	1	none	None	11	..	..
4.	Jessore ..	7	1	2	none	4	..	..
5.	Khulna ..	11	none	none	none	11	..	..
6.	Dinajpur ..	16	2	none	none	13	1	..
7.	Bogra ..	6	1	none	none	5	..	..
8.	Mymansing ..	7	1	none	none	6	..	..
9.	Faridpur ..	18	2	3	none	13	..	..
10	Bakergunj ..	6	none	3	1	2	..	..
11	Tipperah ..	5	1	none	none	4	..	..
	Total ..	100	13	8	1	76	I	1

TABLE II

PART IV—UNITED PROVINCES

Constituency in which Primary Election was Contested	Total of Candidates who took part in the contest	Parties which fought the election and the number of candidates put up by each				
		Congress	Scheduled Castes Federation	Harijan League	Hindu Maha Sabha	No-Party Candidates (Independents)
Agra City	11	1	5	1	1	3
Allahabad City	6	1	4	none	none	3
Almora	8	3	none	none	none	3
Total	25	5	9	1	1	9

PART V--CENTRAL PROVINCES

Constituency in which Primary Election was contested	Total of Candidates who took part in the contest	Parties which fought the election and the number of candidates put up by each			
		Congress	Scheduled Castes Federation	Harijan League	No-Party Candidates (Independents)
Nagpur-*cum* Sakoli	5	1	2	1	1
Hinganghat	6	1	2	1	2
Bhandara	5	1	3	1	none
Yeotmal	6	1	2	none	3
Chikhli	6	1	3	none	2
Total	28	5	12	3	8

PART VI-PUNJAB

Constituency in which Primary Election was contested	Total of Candidates who took part in the contest	Parties which fought the election and the number of candidates put up by each		
		Congress	Unionists	No-Party Candidates (Independents)
Gurgaon	10	..	1	9
Kurnal	10	1	..	9
Ambala	8	..	..	8
Hoshiyarpur	9	1	1	7
Jullunder	6	1	1	4
Ludhiyana	10	1	..	9
Lyalpur	6	..	..	6
Total ..	59	4	3	52

TABLE III

Showing Province-wise the Votes obtained by different Parties which contested the Primary Elections

Name of the Party	Votes secured by each Party in											
	Madras		Bombay		Bengal		United Provinces		Central Provinces		Punjab	
	aggregate	p.c.	aggregate	p.c.	aggregate	p.c.	aggregate	p.c.	aggregate	p.c.	aggregate	p.c.
1. Congress ..	27,838	33	5,333	14	56,848	32.7	4,101	41.8	1,131	10.7	8,298	17.6
2. Scheduled Castes Federation	30,199	36	28,489	74	21.129	12.2	3,093	30.5	8,685	82.8	nil	.53
3. Independents ..	4,648	4.5	3,814	10	83,869	47	1,773	18.8	551		24,618	
4. Harijan League ..	nil		nil		nil		370		113		nil	
5. Hindu Maha Sabha ..	nil		nil		760		452		nil		nil	
6. Unionists ..	nil		nil		nil		nil		nil		13,521	
7. Communists ..	20,814	25	nil		10,049	5.8	nil		nil		nil	
Total ..	83,499		37,636		1,72,655		9.789		10,480		46,437	

TABLE IV

Distribution of Total Votes polled in Primary Elections all through India and their distribution between Congress and Non-Congress Parties

Total Votes Polled throughout India in Primary Election	In favour of Congress Parties				In favour of Congress Parties							
	Congress	Harijan League	Total	PC.	Scheduled Castes Federation	Independents	Hindu Maha Sabha	Communists	Unionists	Radical Democratic Party	Total	P.C.
3,59,532	1,03,449	483	1,03,932	28	91,595	1,19,273	1,212	30,863	13,521	136	2,56,600	72

TABLE V

Number of Candidates who became successful in Primary Elections in different Provinces classified according to their Party Affiliations

	Name of the Party	Madras	Bombay	Bengal	U. P.	C. P.	Punjab	Total
1.	Congress ..	10	3	12	4	5	4	38
2.	Scheduled Castes Federation ..	24	5	6	5	11	none	51
3.	Independents ..	3	4	36	2	3	21	69
4.	Hindu Maha Sabha ..	none	none	1	1	1	....	3
5.	Harijan League ..	none	none	none	none	None	....	....
6.	Communists ..	3	none	1	none	None	....	4
7.	Radical Democratic Party ..	none	none	none	none	None	....	....
8.	Unionists ..	none	none	none	none	None	3	3
	Total ..	40	12	56	12	20	28	168

16

I AM A GREATER NATIONALIST THAN ANYBODY ELSE

" Dr. Babasaheb Ambedkar now gave a clarion call to his people to give battle for the cause of justice and humanity and to expose the machinations and conspiracy hatched against the rights of his people. He knew this was the last opportunity to assert the rights and will of his people; for he feared that a free India might revert to the old traditions and his people would be impoverished, neglected and ostracized from society and public services.

On June 29, 1946 a caretaker Government was announced and the British Mission left for London, leaving other details to be settled by the Viceroy.

The battle started on July 15, 1946, at Poona, synchronizing with the opening of the Poona session of the Bombay Assembly."[1]

Dr. Babasaheb Ambedkar in an interview with the A.P. A. on 17th July 1946 said,

"We like this country to progress as much as anybody else does. We do not want to stand in the way of that. All we want is that our position is safeguarded in the future India."

"To this end we will take part in every kind of struggle against the British proposals of May 16. If the Muslim Leauge starts any direct struggle against the British—I fully support the stand taken by the Sikhs at present—then they will also get our support in their action."

He also warned that the present *Satyagraha* movement by the representatives of the All India Scheduled Castes Federation in Poona would ultimately become a country wide struggle in the same "form of that launched by the Congress in August 1942."

"This is only the beginning of our struggle," Dr. Ambedkar said : "when the struggle is forced to take the form of the Congress movement, we will do every thing that the Congress had done in the August disturbances."

Dr. Ambedkar described the Scheduled Castes demonstrations now going on in Poona as a "Protest against the breaking of every sort of promise given to the Scheduled Castes by the British Government during the past 28 years."

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[1]: Keer, P. 381.

"Unless we secure recognition as a minority entitled to protection and safeguards in the Constitution, this struggle will continue elsewhere in a different form. Then it will be time for the Provinces to launch a countrywide struggle against the unjust proposals of the British Government."

Asked whether he had issued any directive to the Provincial organisations on the form they should adopt in carrying out demonstrations, Dr. Ambedkar replied : "we will leave it to the Provinces to adopt their own form of struggle. All these things cannot be discussed theoretically. Every Province has its own background and what may be effective form of struggle in one Province may not be suitable to another."

Dr. Ambedkar said it was the intention of the Federation to continue the demonstrations at Poona in the present form of sending small groups to offer *Satyagraha*. "The main difficulty against a large-scale struggle in Poona at present is rationing," Dr. Ambedkar added, "Otherwise, we would have had a very much bigger demonstration."

Asked whether he provisionally planned to offer *Satyagraha* in the near future, the leader of the Scheduled Castes replied, "It is not necessary for a General to be present on the battlefield. I have got trusted lieutenants who look after the struggle and certainly when the development of events necessitates my presence there and my taking part in the struggle, I will be on the scene.

"At present I get all the latest information on the struggle from a personal messenger despatched daily from Poona."

No Invitation from Gandhi

Dr. Ambedkar said he had tentatively planned to leave for Poona on Sunday "to see things personally". He said he had received no invitation from Mr. Gandhi or any top-rank Congressmen "to open talks for a settlement of the affair".

He added that the Federation, however, was willing to start negotiations with the parties concerned. Dr. Ambedkar continued : "I would like to point out clearly that the Scheduled Castes in this country think that Mr. Gandhi agreed to accept the long-term

proposals of the British Cabinet mainly on the ground that the British Ministers agreed to ignore the Scheduled Castes. That is what Mr. Gandhi found to be the greatest advantage in the long-term proposals notwithstanding their vicious character, of which Congress leaders themselves have spoken so much recently. The British Government have agreed to sacrifice the Scheduled Castes in order to win over Congress, and this I charge as absolute breach of faith, he asserted.

"We like this country to progress as much as anybody else does. We do not want to stand in the way of that. All we want is that our position is safeguarded in the future India."[1]

On 21st July 1946 a meeting of Untouchables was convened at Poona in Ahilyashram. After the meeting, Dr. Amebedkar addressed a Press Conference. The report of that Press Conference is as under: Editors.

Future of Scheduled Castes
Congress was asked for Blue-Print

Dr. B. R. Ambedkar, addressing a Press Conference in Poona today, demanded an open declaration from the Congress how they proposed to safeguard the interests of 60,000,000 Untouchables in the future Constitution of India. He asked for a blue-print and no promises in general terms.

The *Satyagraha* launched in Poona was only the beginning of a countrywide struggle to secure for the Scheduled Castes their just political rights. He claimed that the Poona *Satyagraha* was being conducted on a high moral plane and the non-violent behaviour of the whole mass of volunteers provided a lesson even to Mr. Gandhi who regarded himself as a 'graduate in *Satyagraha'*. He issued, however, a warning that when moral resources were exhausted they would look for 'other means' to register their protest.

Dr. Ambedkar was surprised that the Prime Minister, Mr. B. G Kher should have asked the question 'What have the Harijans to get against the Bombay Government ?' The answer was simple.

[1]: Reprinted—Jai Bhim : August 13, 1946, Pp-1 and 2

'Heirs to Power'

The Cabinet Mission had decided that the heirs to British power, authority and sovereignty in this country, were two communities only - the Muslims and the Caste Hindus. In the proposed constituent assembly all questions were going to be decided by the simple majority votes of the Caste Hindus alone. The British people had decided to quit India and their powers would be inherited by the Caste Hindus and the Muslims. Were the Scheduled Castes people then not entitled to ask the Caste Hindus what they proposed doing for the safety of 60,000,000 Untouchables.

Dr. Ambedkar claimed that the Bombay Government and the Bombay Legislative Assembly were part and parcel of Congress and the *Satyagraha* was intended as a protest against the Congress policy.

Dr. Ambedkar announced that he had no desire to launch *Satyagraha* in Muslim Provinces such as the Punjab and Bengal because 'we have no quarrel with the Muslims. They have assured us that our interest will be safeguarded'.

Indignantly repudiating that the *Satyagraha* movement was motivated by a sense of frustration, Dr. Ambedkar said that in the last election the Scheduled Castes had won cent percent. There would have been a frustration if the Scheduled Castes votes had voted for candidates put by the Congress. He was prepared to prove statistically that not even four per cent of the Scheduled Castes voted for Congress Harijans who had been returned entirely on the votes of Caste Hindus. He did not suffer from a sense of defeat. It was triumph that 90 per cent of the Scheduled Castes were behind his Federation.

Poona Pact

The Poona Pact which prevented true representatives of the Scheduled Castes from being returned to legislatures must go. It had resulted in disenfranchising 60,000,000 Untouchables. Even according to international law no treaty was final or sacrosanct as the Poona Pact had now become injurious to their cause, the Scheduled Castes were entitled to fight for its revision.

Before his return to Bombay this evening, Dr. Ambedkar addressed a very largely attended public meeting of Scheduled Castes in Poona, at which he said struggle would be continued 'to the bitter end.'

No fewer than 569 Scheduled Castes volunteers have so far been arrested and convicted in connection with the Poona *Satyagraha.* "[1]

What we ask for is justice and fair-play

Bombay, Wednesday*

The threat that he had many surprises up his sleeves and would, when the ' right' time came, unleash deadlier moral weapons to storm the citadel of the "Hindu Congress heirs to British power " was made by Dr. B. R. Ambedkar, President of the All-India Scheduled Castes Federation, in the course of a 60 minute chat with the "Bombay Chronicle" representative this evening.

No mock Show

Dr. Ambedkar said "I have not yet shown my full teeth. Do not imagine we are staging a mock-show at Poona. It is only the beginning of a struggle that would grow grimmer and fiercer day by day, ultimately rocking the entire country."

Giving a sample of the contents of his armoury, he observed, "For instance, I and my people might fast unto death!"

A hundred thousand ' *Satyagrahis* ' were ready to march to Poona, "If only the Premier of Bombay promised necessary rations." The struggle would take an All India shape shortly. Poona showed but a glimpse into the "tremendous potentialities" of his people.

Benefactor of Congress

Saying that he was in a way the benefactor of the Congress, Dr. Ambedkar claimed, it lay within his power to nullify the existence of that organisation totally. "Could not I and my community decide to become Muslim converts ? If I adopt Mr. Jinnah's religion I will not stand to lose in any measure and, indeed, he might nominate me as a Muslim member to the

[1]: The Times of India, dated 22nd July 1946 Reprinted—Khairmode, Vol .8, Pp. 96-98.

* The 26th July 1946

Executive Council. I have not taken that drastic step because I want to save the Congress from total degeneration," he averred.

"Why have I not embarked on that very drastic course ?" Dr. Ambedkar continued. "It is because I desire to give the Congress one more chance. The fight which we have inaugurated shows that my party has taken the line of least resistance."

He would himself participate in the *"Satyagraha"* at the opportune moment. At the present juncture the "General Staff" of the movement consisted only of a small nucleus of 'commanders'. As the supreme commanders and the 'confidence' of thousands of followers, Dr. Ambedkar did not deem it necessary for him to court arrest. "But", he said, "I am not afraid of jail life. Only, I do not believe in spectacular and unplanned action."

Asked what sort of blue-print he expected from the Congress, the Doctor answered : "What has the Congress done to us constructively in the last twenty years. They are now the inheritors of British power and domination. We have a right to ask them what they propose to do to us under the new Constitution. We do not place any trust in vague promises and platitudes. We want concrete proof of Congress sincerity to deal with us justly and fairly. Let them descend from the dizzy heights of phrase mongering to the the brass-tacks."

Plea For "Satisfactory Blue Print"

"Should the Congress issue a thoroughly satisfactory blue-print, would you be prepared to call upon your followers to join that body?" Dr. Ambedkar was asked next.

"Certainly not", he replied. "We are more radically inclined, socially and politically, than the Congress. We represent the poorest of the poor. We are sons of the soil, the true masses. As such, we cannot contemplate joining a psudo-socialist organization as the Congress."

However, if the Congress made a square deal to the Scheduled Classes, and was ready to launch on a "real" struggle for the resurgence of the country, he would unhesitatingly offer his co-operation.

Dr. Ambedkar denied he had said in his Poona Press Conference that his party had been given any assurances from the Muslim League in any form and on any issue. His unwillingness to start *'Satyagraha'* campaigns in the 'Muslim' Provinces proceeded from the premise that the Muslims had done no harm to the Scheduled Classes.

Votes Won But Seats Lost

In an allusion to the fate of the Scheduled Class candidates in the recent general election, he maintained that there was no real trial of strength. His men had won all the votes but lost the seats because *"Hindu"* votes helped to swamp their chances.

"We are fighting for our liberty, for our very existence," Dr. Ambedkar feelingly observed towards the end. "We, a large community, have been denied elementary justice for decades. We have been maltreated, our just demands bruised aside with contempt. No chord of sympathy has been touched from any quarter. What we ask for is justice and fair-play. Let us have it or, by God, the consequences would be terrible as none could picture."[1]

Baba Saheb ready to lead

In an interview to the Associated Press of India, Bhimrao Ambedkar said today that the Scheduled Castes Federation had been compelled to limit the number of *Satyagrahis* to very small numbers owing to the difficulty of feeding them, "We have been receiving telegrams and letters from all parts of India, and even from Burma and Malaya - offering to come to Poona to join the *Satygraha* movement. But the real difficulty is to provide them with food and accommodation. Owing to the rationing difficulties, "It is not possible". For the small batches of men who will from to-day onwards offer *Satygraha* by defying the District Magistrate ban on assembly within the precincts of the Assembly - all at Poona the Mushti Fund will cater. Apart from this, the men themselves have been requested to bring with them four or five days rations.

Dr. Ambedkar has told the organisers of the movement that he would himself be ready to proceed to Poona whenever they required him. "[2]

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[1]: The Bombay Chronicle, dated 25th July 1946.

[2]: Jai Bheem : August 13, 1946. p.7.

Lucknow starts Satyagraha, 140 arrested

More than 140 members of the Lucknow branch of the All-India Scheduled Castes Federation were arrested to-day when they resorted to mass *Satyagraha* as a protest against the Poona Pact.

Of the 140 Federation members arrested 80 were taken under custody near the Council House, and the rest from various parts of the city.

Restrictions under Section 144 Criminal Procedure Code were strictly enforced by the police.

Scheduled Castes to launch passive resistence General Secretary's Announcement

Members of the Scheduled Castes Federation and their followers will register their protest by launching a non-violent *Satyagraha* movement all over India* against what they describe as the injustice done to them in the Cabinet Mission's proposal, which ignored the existence of the Scheduled Castes as a separate political entity.

A beginning is to be made at Poona on July 15 during the session of the Bombay Legislative Assembly by violation of the order of the District Magistrate of Poona, prohibiting meetings, demonstrations and processions, along the area of half a mile from Council Hall and the Secretariat."[1]

General Secretary's Explanation

Explaining this decision in the course of a statement Mr. P.N. Rajbhoj, General Secretary of the Scheduled Castes Federation says 'the time has arrived to launch a passive resistance movement according to the resolution passed by the Working Commitee of the All India Scheduled Castes Federation on June 4, 1946 in Bombay. There is now no alternative for us but to resort to direct action. The circumstances require a struggle in order to save the scheduled castes from the impending Catastrophe.'

Mr. Rajbhoj adds that the British Government and their statement committed a breach of trust in ignoring the Scheduled Castes

* See appendix -V

[1]: Jai Bheem : August 13, 1946.

as a separate political entity and rejecting the demands made by Dr. Ambedkar and Rao Bahadur N. Sivaraj for political safeguards. "The Federation is, therefore, bound" he says, "to take direct action against the British Government. They cannot also forget the mischievous part which the Congress has played in this sordid affair. The Federation is convinced that the Congress has misused its position as the majority party and the eagerness of the British to placate the Congress forced them to deny the Scheduled Castes the status of a separate political entity. What has been done by the Cabinate Mission to the Scheduled Castes is the direct result of the Congress Machination and the Federation is, therefore, bound to take action against the Congress as well."

The Council of Action appointed in June to devise ways of launching a struggle will, Mr. Rajbhoj states, intimate the various Provincial components of the nature of the struggle each should embark upon. But in the meantime, the Bombay Provincial Scheduled Castes Federation has decided, he adds, to take the first step in the struggle by breaking the order of the District Magistrate Poona on July 15. Mr. Rajbhoj called upon all those who wish to participate in the movement to enrol themselves at the office of the Bombay Provincial Scheduled Castes Federation at Poona, where Mr. B. K. Gaikwad, President is in-charge. "[1]

In another press interview published in 'Jai Bheem' dated 16th September 1946. Dr. Ambedkar pointed out other view of which some of the points have resemblance with the views in the preview interviews—Editors.

Babasaheb explains purpose of *Satyagraha*

Dr. B. R. Ambedkar demanded in a Press interview that the Congress should issue a blue print explaining how they were going to dispose of the destiny of the 60 million Scheduled Castes of the Country. The purpose of the *Satyagraha* launched by the Scheduled Castes Federation in Poona, he explained, was to get answer from the Congress to this question and ask the Congress to make an open declaration of their plan to protect the interests of the Scheduled Castes in the future constitution of India.

[1]: Jai Bheem : August 13, 1946. Pp. 2-3.

Dr. Ambedkar said that the British Cabinet Mission had decided rightly or wrongly — the Scheduled Castes considered it wrongly and iniquitously — that the heirs to the British Power, authority and sovereignty in India were only two — the Muslims and the Caste Hindus. The Scheduled Castes had no quarrel with the Muslims, for they were prepared to make a declaration of their intentions towards the protection of the rights of the Scheduled Castes and there would be no *Satyagraha* in such Provinces where the Muslims were in power. The Congress, however, so far had been mute over this question. In the Constituent Assembly, the Congress would be in a majority of three fourths and they would decide the issues affecting the rights and interests of the Scheduled Castes by their majority vote. The Scheduled Castes were, therefore, entitled to get an answer from the Congress to their question.

Dr. Ambedkar said that if the Scheduled Castes were troubling the Bombay Government, it was because it was a part and parcel of the Congress machinery. Mr. B. G. Kher had suggested in his statement that the present *Satyagraha* was motivated by the sense of frustration on the part of the Federation because they had lost in the last elections, "Mr. Kher" Dr. Ambedkar said, "was free to attribute any motives, high or low, to the movement but he wanted to make it clear that so far as he was concerned, he would do nothing in politics or public life which he could not justify publicly." It was wrong, however, to say that a sense of frustration had been created in the minds of the Scheduled Castes. They had scored cent per cent victories though they had lost cent per cent seats.

"There would have been frustration if the Scheduled Castes had voted against our candidates, and for the Congress nominees. That would have been our ruination. But not over four per cent voted in favour of the Congress candidates who have been returned on Caste Hindu votes. That was not our defeat but triumph. But the fact that we lost these elections does not mean that we are going to lose them every time."

Turning to the demands of the Scheduled Castes, Dr. Ambedkar said, one of them was the abrogation of the Poona Pact. "Why should we not agitate against it?" he asked. "No treaty in the world is accepted as sacrosanct. The Poona Pact has resulted in

the political disenfranchisement of the very people in whose interests it was made. What we are asking for is that the deliberate opinion of one community should not be nullified by that of another community. In the primary elections, wherever held in the country no Congressman won against the Federation candidate. But in the general elections the candidates selected by the community were rejected and 'stooges' and 'tools' of another party came on top because of Caste " Hindu Votes." Dr. Ambedkar demanded that any arrangements made for the political protection of the community must be "full-proof and knave-proof."

Dr. Ambedkar appealed to those who had the interests of the masses in their heart to join the Scheduled Castes in their *Satyagraha* campaign. Independence might not necessarily mean freedom and liberty for all. The power might pass in the hands of a small junta who might subject the masses to a greater harassment than they had experienced before. "We are prepared" Dr. Ambedkar declared, "to carry on the struggle whether help comes or not to the bitterest end on moral plane. If moral resources are exhausted, then we shall resort to other methods. The liberty of a people is greater than the sanctity of the means employed to achieve it."[1]

Dr. Ambedkar exhorted his men to carry on the struggle to the bitter end. The Congress Harijan leaders, who always reaped the fruit of Ambedkar's labour and struggle, spoke against Ambedkar's agitation and supported those who always opposed Harijans' demands. It was like barking at one's own benefactor.

Gandhi, referring to this *Satyagraha,* wrote in *Harijan* that there was a parody of *Satyagraha* in the show staged by Ambedkar; and if the means were non-violent the cause was certainly vague.

The *Satyagraha* movement went on unabated for a fortnight, and its pressure forced the Government to abrogate their Poona Assembly Session. The Congress leaders felt the need for a rapprochement with Ambedkar. So S. K. Patil, Chief of the Bombay Provincial Congress Committee saw Dr. Ambedkar at the Siddharth College : and they both, accompained by N. M. Joshi, met Sardar Patel on July 27. The talks continued for an hour or so in

[1]: Jai Bheem : 16th September, 1946.

connection with the representation of the Scheduled Castes on the Constituent Assembly and the Poona *Satyagraha*. It seems they could not come to a settlement as on August 8, a Scheduled Caste procession led by prominent leaders of the Scheduled Castes such as Gaikwad and Rajbhoj marched to the meeting of the All-India Congress Committee which was holding its session at Wardha.

Sometime later, Ambedkar wrote to Sardar Patel that he considered the country greater than any individual howsoever great he might be. He also said that one could be a great nationalist without being a Congressman and added that he was a greater nationalist than any Congress leader. "[1]

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[1]: Keer p. 383

17

LETTER BY MR. ATTLEE TO DR. B. R. AMBEDKAR

Paris, 1st August 1946

My dear Ambedkar,

I have carefully considered your letter of July 1st and the papers enclosed.@

I am afraid that I cannot accept the view that the Cabinet Mission and the Viceroy were unjust to the Scheduled Castes. The reason why they have revised the policy followed at the Simla Conference of 1945 is, as you suggest, the result of the elections to the Provincial Legislatures, which were held last spring. The Mission made a careful study of the voting figures and I have examined them myself. We appreciate that there are grounds for the view that the present electroral system does not do justice to those Scheduled Caste candidates who are opposed to Congress. On the other hand, I do not find that the figures substantiate what you say about the achievements of candidates belonging to your Federation at the primary elections.* While I do not propose to go into the matter in detail here the facts are that Primary Elections were held in only 43 of the 151 seats reserved for the Scheduled Castes. Of these 43 Primary Elections, the Scheduled Castes Federation contested 22 and topped the poll in only 13.

@ On 1st July Dr. Ambedkar sent Mr. Attlee a lengthy letter with which he enclosed copies of recent correspondence, a memorandum, a speech and some other items. Dr. Ambedkar's letter was in continuation of a telegram he had sent to Mr. Attlee on 17th June and covered similar ground. For the telegram see page : 224

* Transfer of Power, Vol. VIII, No. 105, pp. 170-72.

* In his letter of 1st July Dr. Ambedkar wrote that : 'That results of the Primary Elections—herever they took place in India—proved that the candidates put up by the Federation came to the top and those put up by the Congress went down to the bottom.' L/P&J/10/50 ; f 81.

In your letter you make three specific requests.@ As regards the first, His Majesty's Government is anxious that the Constituent Assembly should have the fullest possible freedom of action consistent with the terms of the Cabinet Mission's Statements of May 16th and May 25th. We ourselves of course consider the Scheduled Castes to be an important minority which should be represented on the Minority Advisory Committee. But the declaration for which you ask could not be confined to the Scheduled Castes and would have to be a statement of all the elements who we consider should be included as Minorities in the Advisory Committee. Even though it would be only an expression of opinion on the part of His Majesty's Government, it would inevitably be interpreted as an attempt to interfere with the Assembly's freedom and as such would be likely to cause serious resentment. In these circumstances I cannot believe that such a declaration would be of value to the cause of the Scheduled Castes.

Turning to your second request, I do not find that my speech in the House of Commons on March 15th last contained the words which you attribute to me.† What I said was " We are very mindful of the rights of minorities and minorities should be able to live free from fear. " This remains the view of His Majesty's

@ These were :

(1) To state openly that His Majesty's Government holds that the Scheduled Castes are a minority within the meaning of paragraph 20 of the Cabinet Mission's Statement.

(2) That His Majesty's Government will see that satisfactory safeguards which will enable them to live free from the fear of the Majority are provided for the Scheduled Castes before it agree to sign the Treaty for cessation of sovereignty.

(3) That in the Interim Government the Scheduled Castes should have at least two representatives which should be the nominees of the Scheduled Castes Federation.

Ibid., : f 82.

†Dr. Ambedkar had noted that the Cabinet Mission had already made the point that there must be adequate provision for the protection of the minorities. His second request would be met if there were added to this statement the words : 'safeguards which will enable the Scheduled Castes to live free from the fear of the Majority. ' These were words, Dr. Ambedkar claimed, which Mr. Attlee himself had used in his speech on 15th March. *Ibid.*

Government, which found expression in paragraph 4 of the Cabinet Missions's Statement of May 25th. I do not consider that His Majesty's Government would be wise to make at this stage any further pronouncement elaborating what was said in that paragraph.

Your final request is that in the Interim Government the Scheduled Castes should have at least 2 representatives who should be nominees of the Scheduled Castes Federation. I regret that, I cannot hold out any hope of this being possible.

I was very glad to see that you had been elected to the Constituent Assembly.

C. R. A.

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18

PROTEST LETTER OF DR. AMBEDKAR TO MR. ATTLEE

"Rajgriha"

Dadar, Bombay 14

12th August 1946.

My dear Attlee,

Thank you for your letter of the 1st August 1946. I did not expect you to find time to reply to my letter of the 1st July 1946. I am therefore grateful to you for your having found time to let me know your views about the points that I had raised in my letter.

2. I am afraid I cannot accept your justification for the revision of the policy followed by His Majesty's Government in the Simla Conference of 1945 nor of the Mission's method of treating the Scheduled Castes. I cannot help saying that Mr. Alexander's statement in the House of Commons that the majority of the Scheduled Castes are with the Congress is an atrocious statement and has no foundation in truth. This is not only my view but the view of every Englishman in India. If you only consult Sir Edward Benthall who is now in England, I am sure he will support me.

3. With regard to the analysis you have given of the result of the achievements of the Federation in the Primary Election, all lean say is that you have misunderstood the situation and I am afraid no outsider who does not know the significance of the facts or the method of the election will be able to understand what they mean without proper explanation. The main ground of my charge against the Mission is that when the other side of the picture were (was) presented by the Congress, it was their bounden duty to have called me and to have asked for an explanation. This, the Mission did not do, which they were in justice bound to do. If I had failed to give them satisfactory explanation then they would have been justified in the conclusion to which they came. That the Mission was grossly misinformed is proved by my election to the Constituent Assembly from Bengal. The Cabinet Mission stated

in the House of Commons that my influence was confined to Bombay and C.P. How is it then that I was elected from Bengal? In connection with my election, I would like to impress upon you three facts : One is that I did not merely scrape through but I came at the top of the poll beating even Mr. Sarat Chandra Bose, the topmost Bengalee leader of the Congress Party. Secondly, I am in no way connected by communal ties with the Scheduled Castes community of Bengal. They are of different castes to which I do not belong. In fact the people of my caste do not exist in Bengal at all and yet the Bengalee Scheduled Castes supported me, so strongly that I was able to come first. Thirdly, though the Scheduled Castes in Bengal had been returned on the Congress ticket yet they broke the rule of their Party not to vote for anybody except for Congressmen and voted for me. Does this prove that I have no following in Bengal ? I am sure if the Cabinet Mission are honest in their conclusion, they ought to revise the erroneous opinion which they have expressed in the House of Commons and revise the view and give proper recognition to the Federation.

4. With regard to the status of the Scheduled Castes in the Minority Advisory Committee, I am glad to have an assurance that the British Cabinet considers the Scheduled Castes to be an important minority. I am afraid that I must again repeat that unless and untill the Cabinet Mission were to make a public declaration, this view will not help the Scheduled Castes. I say this because, as you will see, (in) the last letter which Maulana Abul Kalam Azad wrote to the Viceroy on behalf of the Congress before the negotiations broke down, he emphatically challenged the view that the Scheduled Castes were a minority. The Scheduled Castes fear that if this view is not corrected by the British Cabinet in time, the Scheduled Castes' case may not be considered in the Advisory Committee which is bound to be packed by Congressmen. The danger of their being relegated to the position of a social group within the Hindus as distinguished from a minority, appears to be most certain in view of the recent pronouncement of Mr. Gandhi who evidently thinks that he can now do anything he likes with the Scheduled Castes in view of the fact that the British Government have refused to lend them their support.

5. In these circumstances, I would press upon you to reconsider the matter and make a declaration that the Scheduled Castes are an important minority to avert a possible danger to their furture position in the new Constitution.

6. I am sorry to read that you cannot hold out any hope of the Schdduled Castes getting two seats in the Interim Government. I do not see any justification for this denial. Both on the ground of their numbers and also as compared to the assurance given at the time of the last Simla Conference of 1945, they are entitled to better treatment than is proposed to be given to the Sikhs and other smaller minorities. I should think that the claim made by me was more than justified.

With kind regards,

Yours sincerely,

B.R. AMBEDKAR.

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Transfer of Power, Vol. VIII, No. 142, Pp. 221-23.

19

WE MAY BE CONQUERED BUT WE SHALL NOT CAPITULATE

Dissatisfaction at "the inadequate representation" given to Scheduled Castes in the newly-constituted Interim Government at the Centre was expressed by Dr. B.R. Ambedkar, who is in Poona for the meeting of the Working Committee of the All-India Scheduled Castes Federation."[1]

"The Interim Government formed by the Viceroy is not entitled to claim either obedience or respect from the Scheduled Castes, in view of the attitude taken up by the Congress with regard to the representation of the Scheduled Classes in the Executive Council," said Dr. B.R. Ambedkar when interviewed on the formation of the Interim Government.

Dr. Ambedkar said : "There seems to be a studied conspiracy between the British Government and the Congress to reduce the Scheduled Classes to utter nonentity in the Executive Council. We think there is justification for Pakistan, but there is no justification for the Muslims to be given parity with the Caste Hindus, nor any justification for restricting the representation of the other minorities to four only, when one of them, namely the Scheduled Castes number more than 50 percent of the total population of the Muslims. The utmost the British Government had accepted so far as regards the claims of the Muslims was to give them weightage of 33, 1/3 per cent. Nothing has happened since then that they should have been granted increased representation. If the Muslims are justified to claim equality with the Caste Hindus, then there is more justification for the Scheduled Classes to claim at least 50 per cent of the representation given to the Muslims.

"In the Simla Conference", Dr. Ambedkar continued, "it was agreed by the Viceroy that they should have at least two seats, and the Scheduled Castes, although they pressed for three seats, were prepared to accept two for the interim arrangement. The

[1]: The Times of India, dated 26th August, 1946.

Congress was prepared to give two seats to the Scheduled Castes at that time. In the light of this it is certainly a matter of grave concern for the Scheduled Classes, whether they could co-operate with the new Interim Government sponsored by the Congress, when they know the Congress has done a glaring injustice to them. The Federation thinks that in view of the attitude now taken by the Congress in regard to representation to Scheduled Classes in the Executive Council this Government as constituted by the Viceroy is not entitled to claim either obedience or respect from the Scheduled Classes."

"More surprising than this", Dr. Ambedkar said, "is the acceptance by Mr. Jagjivan Ram of the offer made to him to join the Executive Council. When I sent a wire to the Prime Minister protesting against inadequacy of representation to the Scheduled Classes in the Executive Council, Mr. Jagjivan Ram himself issued a statement to the Press supporting the claim made by me on behalf of the Scheduled Classes for increased representation in the Executive Council. That, Mr. Jagjivan Ram should have accepted the invitation, notwithstanding the fact that the Congress has not agreed to increase representation to the Scheduled Classes, shows to what extent he can be expected to stand out for the rights of the Scheduled Classes. The occasion provides a very good test of the sincerity and honesty of men like Mr. Jagjivan Ram, who are inside the Congress and who are pretending they are representatives of the Scheduled Classes and can be depended upon to see that the Scheduled Classes are not let down by the Congress."

Referring to the movement started by the Federation Dr. Ambedkar said that their fight for the achievement of their legitimate rights would continue. "We may be conquered, but we shall not capitulate," he declared.[1]

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[1]: Jai Bheem : dated September 16, 1946.

20

LETTERS BY LORD PETHICK - LAWRENCE TO MR. ATTLEE, PRIME MINISTER

India Office,

3rd September 1946.

Secretary of State's Minute : Serial No. 48/46.

Prime Minister,

You asked for my view on Dr. Ambedkar's letter to you of the 12th August, 1946.

2. As regards his second paragraph you will find an analysis of the election results for the Depressed Classes in the memorandum which my Private Secretary sent to yours on the 26th July with the draft reply to Dr. Ambedkar's previous letter. Shortly, the facts are that in the Primary Elections which were contested, Congress polled more votes than Dr. Ambedkar's Organisation, while a still larger proportion were polled by Independent candidates who may or may not be supporters of Dr. Ambedkar. But apart from this, two-thirds of the seats were won by Congress unopposed. The figures are, of course, not conclusive but it is not justifiable to say that the First Lord's statement in the Commons has "no foundation in truth," though I think it was rather too positive.

3. As regards paragraph 3 of Dr. Ambedkar's letter, it was not stated in the House of Commons that his influence was confined to Bombay and Central Provinces. He is referring to the President of the Board of Trade's speech, in which the actual words used were " Dr. Ambedkar's Organization is somewhat more local in its character (than the Congress Organization) being mainly centred in Bombay and the Central Provinces". I have made enquiries as to what happened in the Bengal Election to the Constituent Assembly which is, of course, by proportional representation. Dr. Ambedkar got five first preference votes. Sarat Chandra Bose also received five first preference votes. The quota for election in Bengal was four votes. Naturally the Congress would organize their voters to secure as nearly as possible four first preferences for each of their

candidates. The phrase " top of the poll" has really no meaning in a proportional election. No-one denies that Dr. Ambedkar has influence among some of the Depressed Classses in Bengal. There are twenty five Scheduled Caste members of the Bengal Assembly, four of whom were returned as Independents and one as a Dr. Ambedkar candidate. I do not know whether all the Independents voted for Dr. Ambedkar in the Constituent Assembly election or whether he got some Anglo-Indian votes.

4. With regard to Dr. Ambedkar's paragraph 4, I am convinced that we cannot make a public declaration that we regard the Scheduled Castes as a minority who should be represented in the Minority Advisory Committee. It is correct, of course, that Congress do not regard them as a minority for the purpose of separate political representation, whereas we have always done so. But we are not in a position to secure that Dr. Ambedkar's organization is represented on the Minorities Advisory Committee.

5. I do not think it is really essential to send a reply to Dr. Ambedkar but should it seem to you more courteous to do so I attach a short draft.* In case you wish to see them, I attach also extracts @ from the speeches by the First Lord and the President of the Board of Trade in the Commons' Debate. My own speech contained a passage similar to the letter but rather shorter.

PETHICK-LAWRENCE. [1]

* Not printed.

@ Not printed.

[1]: The Transfer of Power, Vol. VIII, No. VIII, No. 250, Pp. 441-412.

II

India Office, 9th September 1946

Secretary of State's Minute : Serial No. 51/46

Prime Minister,

Your personal minute No. M. 296/46 of September 4th, @ regarding the representation of the Scheduled Castes on the Advisory Committee of the Constituent Assembly.

2. It certainly was the Mission's intention that the Advisory Committee should contain representation of the Scheduled Castes and I informed Dr. Ambedkar of this by a letter # I wrote to him in India. In the third paragraph of your reply to him of 1st August you explained to Dr. Ambedkar that, while H.M.G. themselves consider the Scheduled Castes an important minority which should be represented on the Minority Advisory Committee, they could not accede to his request for a public declaration to this effect, since any such declaration :

(a) would also have to specify all the other elements which H.M.G consider should be included as minorities in the Advisory Committee; and

(b) would be liable to be interpreted as an attempt to interfere with the Constituent Assembly's freedom of action.

3. The position, however, is that we have left the composition of the Advisory Committee to be decided by the Constituent Assembly and we cannot now prescribe it ourselves. I do not think we can be accused of misleading the House as the position was clearly stated in the President of the Board of Trade's speech on 18th July of which the relevant passage was attached to my Minute to you of 3rd September.‡

Transfer of Power, Vol. VIII, No. 288, Pp. 466-68.

@No. 253. (Refers to S. No. in The Transfer of Power.—Ed.

#No.399. Vol. VII (See P. 502.-Ed.).

‡ No.250. (See p. 515.— Ed.).

4. The controversy on the question whether the Scheduled Castes constitute a minority for the purpose of separate political representation or whether they should be classed with the Hindus has of course a long history. Gandhi has spent a large part of his life in propagating the latter view. But when I said, in paragraph 4 of my minute of September 3rd, that Congress did not regard the Scheduled Castes as a minority for the purpose of separate political representation, I had particularly in mind the passage in Azad's letter to the Viceroy of June 25th* (Some-weeks after our Statement of May 16th) to which Dr. Ambedkar has referred in both his letters @ to you. In this Azad said that Congress "repudiated the view that the Scheduled Castes are a minority and considered them as integral parts of Hindu society" (second paragraph on page 23 of Cmd. 6861). This statement had reference to the Viceroy's assurance to Mr. Jinnah # that he would consult the main parties before filling any vacancy among the seats in the Interim Government allotted to representatives of minorities. It was not altogether unnatural that Congress should regard the Scheduled Castes as their own responsibility and object to the Muslim League having a say in the appointment of a Scheduled Caste representative.

5. There is no positive reason to think that Congress will not wish to include in the Advisory Committee Scheduled Caste representatives in adequate numbers. They will be concerned to escape criticism both in India and abroad; and they are most anxious to win over to their own ranks, or at least to conciliate, as large a proportion as possible of the Scheduled Castes, if only to prevent them from allying themselves with the Muslim League. The Committee is to deal with the rights of *citizens* as well as with those of minorities, so that inclusion of Scheduled Castes representatives need not prejudice the question whether they are or are not a minority. On the other hand, there is no guarantee that Dr. Ambedkar or any other member of the Scheduled Castes who opposes Congress will secure a place on the Committee.

* Vol. VII. No. 603. (Transfer of Power).

@ *See* footnotes to No. 105 and No. 142. (Transfer of Power)

Vol. VII. No. 573. (Transfer of Power).

6. I still feel that we should not volunteer a pronouncement in response to Dr. Ambedkar's request for a public declaration that the Scheduled Castes are a minority within the meaning of paragraph 20 of the Mission's Statement of May 16th. To do so would almost certainly arouse a controversy with Gandhi which might result in Congress opposing their inclusion as a demonstration. Even if we did not say that the Scheduled Castes are a minority but only that they should be included on the Committee, our statement would arouse requests for a similar statement in favour of the Anglo-Indians and others, and would be interpreted as interference with the Constituent Assembly, which is what we are most anxious to avoid. There is no possibility that such a declaration would influence Congress to give the Scheduled Castes better treatment in the Advisory Committee than they would otherwise do, nor would it help Dr. Ambedkar, since it would refer simply to the Scheduled Castes, making no distinction between those who favour Congress and those who do not.*

PETHICK-LAWRENCE

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* Mr. Attlee noted on this Minute : 'No further action.' Attlee Papers, University College, Oxford.

21

THE CABINET MISSION AND THE UNTOUCHABLES

How the Cabinet Mission have Ignored the Untouchables ?

"Karachi, October 14, 1946,

Dr. B. R. Ambedkar, Scheduled Castes Leader and Former Member of the Viceroy's Executive Council, arrived in Karachi by air from Bombay on his way to London today.

Dr. Ambedkar said that he was proceeding on a political mission and would meet Mr. C. R. Atlee, Prime Minister, and Mr. Churchill and discuss Indian constitutional matters with them. He declined to be drawn into any further discussion or to clarify the details of his mission—A.P.I."[1]

Dr. B. R. Ambedkar prepared and carried following Memorandum for circulation—Editors.

"The Cabinet Mission in their Statement of 10th May set out their Interim and Long-term proposals for the solution of the political deadlock in India. The most galling and astounding feature of their proposals is their refusal to recognise the Untouchables as a separate and distinct element in the national life of India. The Mission has so completely ignored the Untouchables that not even once have they mentioned them in their long statement. To what extent the Cabinet Mission has gone in ignoring the Untouchables will be apparent from the following:—

(i) The Untouchables have not been given the right to nominate their representatives in the Cenral Executive as have been done in the case of the Sikhs and the Muslims. In the present Interim Government they have got two representatives of the Scheduled Castes neither of them owe any allegiance or obligation to the Scheduled Castes. One is nominated by the Congress and the other is nominated by the Muslim League.

(ii) In the interim Government, the Untouchables have not been given a fixed quota of representation as was done in the case of the Muslims. At the Simla Conference of 1945 it was

[1]: The Times of India, dated 15th October 1946.

agreed that Scheduled Castes should have at least two members in a Cabinet of 14. The reason for a change of front between 1945 and 1946 is not known.

(iii) They have not been given the right to separate representation in the Constituent Assembly. How the Cabinet Mission's decision constitutes a departure from established policy of H.M.G.

2. The decision of the Cabinet Mission has not only done a grave wrong to the Untouchables but it has registered a serious departure from the principles which have guided H.M.G. in its policy regarding Indian politics and regarding the position of the Untouchables.

(i) Before 1920, the Constitutional changes in the Government of India were made by the British Government on their own authority and in accordance with their own wishes.. It was for the first time, that in 1920 that the British Government decided to frame the Constitution of India in consultation with Indians. Accordingly, a Round Table Conference was called to which Indians were invited. Among the Indians, there were representatives of the Untouchables who were invited separately and independently of the Congress or of any other political party.

(ii) Mr. Gandhi, the Congress representative, at the Round Table Conference fought against the recognition of the Untouchables as a separate element in the national life of India and contended that they were part of the Hindus and were therefore not entitled to separate representation. The British Government over-ruled Mr. Gandhi and by their Award recognised that the Untouchables were a separate and distinct element in the national life of India and were therefore entitled to the same safeguards as the other minorities of India such as the Muslims, Indian Christians etc.

(iii) The British Government adhered to this principle in the Simla Conference which was held in June 1945. Among the Indians invited to that Conference, there was a representative of the Untouchables who again was invited separately and independently of the Congress or any other political party.

(iv) It may be said that in the Constituent Assembly which formed part of the Cripps proposals of 1942, there was no provision for separate representation of the Untouchables and that therefore, the present proposals of the Cabinet Mission cannot be said to mark a departure. The answer is that they do. In the Cripps Proposals of 1942, it is not that the Untouchables alone were not given separate representation. The fact is that no minority community was given separate representation in the Constituent Assembly. But in the Constitution of the Constituent Assembly of the Cabinet Mission, the Muslims and the Sikhs have been given separate recognition and separate representation which is denied to the Untouchables. It is this discrimination which constitutes the wrong of which the Untouchables are complaining.

3. The inequity of the proposals of the Cabinet Mission thus lies in the fact that it departs from the policy of recognising the Untouchables as a separate element in the national life of India and discriminates them by not recognising them while recognizing the Muslims and Sikhs.

How the Cabinet Mission's decision abrogates the pledges given by H.M.G to the Untouchables ?

4. The non-recognition of the Untouchables as a separate element by the Cabinet Mission is contrary to the pledges given to them by and on behalf of the British Government. The following are some of the pledges worth mentioning.

(i)

"Nor must we forget the essential necessity in the interests of Indian unity, of the inclusion of the Indian States in any Constitutional Schemes.

I need refer only two of them—the great Muslim minority and the Scheduled Castes—there are the guarantees that have been given to the minorities in the past ; the fact that their position must be safeguarded, and that those guarantees must be honoured."

—Extract from the speech made by Lord Linlithgow, at the Orient Club, Bombay on January 10, 1940.

(ii)

"These are two main points which have emerged. On these two points, His Majesty's Government now desire me to make their position clear. The first is as to the position of the minorities in relation to any future Constitutional Scheme . . . . . It goes without saying that they (H. M. Government) could not contemplate the transfer of their present responsibilities for the peace and welfare of India to any system of Government whose authority is directly denied by large and powerful elements in India's national life. Nor could they be parties to the coercion of such elements into submission to such a Government."

—Extract from the Statements by Lord Linlithgow on 8th August 1940.

(iii)

"Congress leaders . . . . . have built up a remarkable organization, the most efficient political machine in India... if only they had succeeded. If the Congress could in fact speak, as it professes to speak, for all the main elements in India's national life, then however advanced their demands, our problem would have been in many respect far easier than it is today. It is true that they are numerically the largest single party in British India, but their claim in virtue of that fact to speak for India is utterly denied by very important elements in India's complex national life. These others assert their right to be regarded not as mere numerical minorities but as separate constituent factors in any future Indian policy. The foremost among these elements stands the great Muslim community. They will have nothing to do with a Constitution framed by a Constituent Assembly elected by a majority vote in geographical constituencies. They claim the right in any constitutional discussions to be regarded as an entity against the operations of a mere numerical majority. The same applies to the great body what are known as the

Scheduled Castes who feel, in spite of Mr. Gandhi's earnest endeavours on their behalf, that as a community, they stand outside the main body of the Hindu community which is represented by the Congress."

—Extract from the speech by the Rt. Hon'ble Mr. L.S. Amery, Secretary of State for India, in the House of Commons on August 14, 1940.

(iv)

"Without recapitulating all these reasons in detail, I should remind you that His Majesty's Government at that time made it clear:—

(a) That, their offer of unqualified freedom after the hostilities was made conditional upon the framing of a Constitution agreed by the main elements of India's national life and the negotiation of the necessary treaty arrangements with His Majesty's Government;

(b) That, it is impossible during the period of hostilities to bring about any change in the Constitution by which means alone a "National Government" such as you suggest could be made responsible to the Central Assembly.

The object of these conditions was to ensure the fulfilment of their duty to safeguard the interest of the racial and religious minorities, of the Depressed Classes and their treaty obligations to the Indian states."

—Extract from the letter by Lord Wavell to Mr. Gandhi, dated 15th August, 1944.

5. The Cabinet Mission's proposal not to give separate representation to the Untouchables is not the result of their individual judgement arrived at on an honest examination of the relevant facts. On the other hand, what the Mission has done is to pamper to the prejudices of Mr. Gandhi. Mr. Gandhi is vehemently opposed to the recognition of the Untouchables as a separate element in the national life of India. He opposed their

recognition at the Round Table Conference. When he found that notwithstanding his opposition they were recognized as a separate element by the Communal Award of Mr. Ramsay Macdonald he threatened to fast unto death if the separate recognition of the Untouchables was not withdrawn. Again in 1945 at the First Simla Conference Mr. Gandhi raised his opposition when he found that H.M.G. had given separate recognition of the Untouchables. The Cabinet Mission were anxious to make a success of their proposals. That was not possible unless they could secure the consent of Mr. Gandhi. Mr. Gandhi demanded his price and mission gave it. That price was the sacrifice of the separate political existence of the Untouchables. Indeed one can go further and say that the proposals of the Cabinet Mission, so far as the minorities are concerned, are nothing but the reproduction of Mr. Gandhi's formula which he resounded at the Second Round Table Conference. Mr. Gandhi said that he would recognise only three communities for political purposes (1) Hindus, (2) Muslims and (3) Sikhs. The Mission's formula is a mere copy of Mr. Gandhi's formula. There is no other explanation.

III

Grounds urged by the Cabinet Mission in justification of its decision.

6. For justifying their decision not to recognise the Untouchables as a separate element the Cabinet Mission has relied upon the results of the elections to the Provincial Legislative Assemblies which took place in February 1948. In the course of the debate in Parliament on the Cabinet Mission's proposals which took place on 18th July 1946, the members of the Mission have tried to make out the following points :—

(i) That, in the election, the Congress captured all seats reserved for the Untouchables; that therefore the Congress represented the Untouchables. That being the case there was no justification for giving separate representation to the Untouchables.

(ii) That, the following of the All-India Scheduled Castes Federation and my own was confined only to Bombay and Central Provinces.

Futility of the grounds

7. These are monstrous propositions and will not stand close an honest scrutiny. The Cabinet Mission, to start with committed a great mistake in adopting the results of the election as a basis for assessing the representative character of the Congress. In doing so, the Mission failed to take into account the following circumstances :—

(i) The Hindu electorate was throughout the war intensely anti-British and although it did war work it did not do it willingly. The Congress Party which was anti-British and had non-co-operated with the war effort was a hot favourite of the Hindu electorate. The other parties particularly the Scheduled Castes suffered in the election because they were pro-British and had co-operated in the war effort.

(ii) Just before the date fixed for election, the Viceroy and the Commander-in-Chief staged the trial of the I.N.A. men. The Congress at once took up the cause of the I.N.A. men and made it an election issue. The trial was the principal factor which enhanced the influence of the Congress which was on the wane.

(iii) The issue over which the election was fought was Independence and Quit India. The nature of the future Constitution of India was never the issue. If it had been the issue the Congress would never have got the majority it did.

(iv) The Cabinet Mission did not take into account the open hostility shown by the Returning Officers and the Polling Officers—all of whom were Caste Hindus—against the Scheduled Caste candidates who were opposing the Congress. They went to the length of rejecting their nomination papers and refusing to issue ballot papers. The Cabinet Mission did not take into account the degree of terrorism and intimidation to which the Untouchable voters were subjected by the Caste Hindus on the ground that they were not prepared to vote for the Congress candidates. In the Agra City 40 houses of the Untouchables were burnt down. In Bombay one man from the Untouchable was murdered and in

the moffusil Untouchable voters in hundreds of villages were not allowed to go to the Polling stations. In Nagpur a Police Officer became so much of a partisan of the Congress that he fired without the permission of the Magistrate on a crowd of Untouchable voters just to frightern them away. There were innumerable such cases all over India.

8. If the Cabinet Mission had taken into account these circumstances they would have realized that the success of the Congress at the elections was due to purely advantageous circumstances. The results of the elections held under such circumstances should not have been taken as a justification for not giving separate representation to the Untouchables in the Constituent Assembly.

How the Mission adopted a false criterion for its decision.

9. The criterion adopted by the Mission to decide whether the Congress did or did not represent the Untouchables was how many seats reserved for Untouchables were won by the Congress in the Final Election. This criterion was a false criterion because the results of the final elections are beyond the control of the Untouchables. Under the Poona Pact the final elections are determined by the Hindu votes. The true criterion which the Mission should have adopted was to find out how the Untouchables voted, how many votes were cast in favour of the Congress and how many against the Congress. This can be judged from the results of the Primary elections only and not from the results of the Final elections. For in the Primary election only the Untouchables vote. If the results of the Primary elections are taken as a basis, the decision of the Cabinet Mission, would be found to be absurd and contrary to facts. For only 28 per cent of the votes polled in the Primary elections were cast in favour of the Congress and 72 per cent against it.

10. It is said if the Untouchables felt that they were not in the Congress they should have had a Primary election for every one of the 151 seats reserved for them. As a matter of fact, there were Primary elections for 43 seats only all throughout India. Why did the Untouchables not stage a Primary election for the rest of the 108 seats ?

The argument is absurd for the following reasons :—

(i) Primary election is not obligatory. It becomes obligatory only when there are more than four candidates contesting one seat. It is not realized that anyone who stands for Primary election must also face the necessity of having to stand for Final election. The inability of the Untouchables to bear the expense of double election make it very difficult to induce members of the Untouchable communities to stand for Primary election. The fact that there have been Primary elections only for 43 seats cannot be made the basis for the inference that the Untouchables do not claim to be separate from the Congress.

(ii) It is the Congress who must be asked as to why it did not put up 4 candidates in every consituency in the Primary elections. For if the Congress claims to represent the Untouchables, it should have put up more than 4 candidates on Congress ticket in every constituency and brought about Primary elections in each of the 151 constituencies and ousted every other party from coming into the Final election. The Congress did not do this. On the other hand, even in the 43 Primary elections, the Congress put up only one candidate in each constituency on the off-chance of his coming within the first 4 and then getting him returned in the Final Election with the Hindu votes. This shows that the Congress knew that the Untouchables had no confidence in the Congress.

(iii) It is only in 1937 that the Untouchables for the first time got their right to vote. It is only after 1937 that the Untouchables started organizing themselves for conducting elections. From the mere fact that Scheduled Castes Federation was outmatched by the Congress in the elections, it is wrong to conclude that the Untouchables are with the Congress. The Cabinet Mission ought to have made allowance from the unequal strengh of the Congress and the Scheduled Castes Federation in fighting elections drawing any conclusions adverse to the Federation from the results of the elections.

Futility of the grounds urged by the Mission in justification of their decision

11. The members of the Cabinet Mission argued that Dr. Ambedkar's following was confined to the Scheduled Castes in the Bombay Presidency and the Central Provinces only. There is no foundation for this statement. The Scheduled Castes Federation is functioning in other Provinces as well and it has won therein notable electoral successes, as great as, if not greater than, in Bombay and the Central Provinces. In making this statement the Mission has failed to take into account the single victory Dr. Ambedkar obtained in the election to the Constituent Assembly. He stood as a candidate from the Bengal Provincial Legislative Assembly. He topped the poll as the general seats were concerned, beating even Mr. Sarat Chandra Bose the Leader of the Congress Party. If Dr. Ambedkar has no influence outside Bombay and Central Provinces how did he get elected from Bengal? It must be further remembered that there are 30 seats for the Scheduled Castes in the Bengal Provincial Assembly. Out of the 80 as many as 28 were elected on the Congress ticket. Of the two who belonged to his party one fell ill on the day of the election. Notwithstanding this Dr. Ambedkar topped the poll. This could not have happened unless the Scheduled Caste members of Bengal elected on the Congress ticket had voted for him. It must also be remembered that Scheduled Castes in Bengal do not belong to the community to which Dr. Ambedkar belongs. This shows that even those Scheduled Caste members who belong to the Congress and who do not belong to his community regard him as the leader of the Scheduled Castes. This completely disproves the statement made by the members of the mission.

12. The member of the Cabinet Mission argued that for the sake of maintaining uniformity in the composition of the constituent Assembly they had to adopt in the case of the Untouchables the result of the Final elections as they had done in the case of the other communities. The argument is a form of special pleading which has no force. The mission knew the final election of the Muslims, the Indian Christians and the Sikhs was by separate electorates.

The Final election of the Scheduled Castes was not by separate electorates. Consequently, for the sake of uniformity the Mission should have taken the results of the Primary elections for giving representation to the Untouchables in the Constituent Assembly. The Mission was bound to do so because it was admitted by Sir Strafford Cripps in the debate that the system of election of the Untouchables as determined by the Poona Pact was iniquitious. Why did the Mission then adopt it as a basis for its decision ?

IV

What could be done to save the Untouchables from impending peril

13. The Cabinet Mission has by the Constitution of the Constituent Assembly left the Untouchables entirely at the mercy of the Caste Hindus who have an absolute majority in it. The Untouchables want the restoration of separate electorates given to them by the Communal Award by H.M.G. and the abrogation of the Poona Pact which was forced upon them by coercion practised by Mr. Gandhi through his fast unto death. This, the Hindus are bound to oppose. In reply to the criticism that they have been left to the mercy of the Hindu majority the Cabinet Mission has been advertising their proposal for an Advisory Committee on Minorities as a means of safeguarding minority rights. Anyone who examines the powers and Constitution of the Advisory Committee will know that the body is worse than useless.

(i) In its composition it is only a pale reflection of the Constituent Assembly. The Hindus will dominate it in the same way as they do the Constituent Assembly;

(ii) The fact that there will be a certain number of Untouchables in the Constituent Assembly as well as in the Advisory Committee elected by the goodwill of the Congress can be of no help to them for the Untouchable members of the Assembly and of the Committee are but the creatures of the Hindus;

(iii) The decisions on questions relating to the minority protection by the Advisory Committee are left to the bare majority which means that the decision will be taken by the Caste Hindus and imposed upon the minorities.

(iv) The decision of the Advisory Committee even if they are favourable are no more than recommendations. They are not binding on the Constituent Assembly.

14. The device of an Advisory Committee is thus a hoax if not a humbug and cannot be relied upon to counteract the mischief the Hindu majority may do to the cause of the minorities. The Hindu majority has singled out the Untouchables for their malicious intention and seems to be determined to deprive them of the right to claim the political safeguards which are due to a majority. This is apparent from the letter addressed by the Congress on 25th June 1946 (Item 21 in Cmd. 6861). In that letter the Congress has taken the stand that the Untouchables are not a minority. This is an astounding proposition. For according to Mr. Gandhi's own admission in his weekly called the Harijan of 21st October 1939 the Untouchables were the only real minority in India, The Congress has thus taken a complete somersault. The stand now taken by the Congress is contrary to the underlying principles of the Government of India Act, 1935, which recognizes them a minority. What mischief is contemplated by this somersault it is not possible to know. If the Congress does not regard the Untouchables to be a minority it is possible that the Constituent Assembly might refuse to give them the same safeguards which it might agree to give to the other minorities. The Advisory Committee cannot therefore save the Untouchables from peril.

15. Parliament must, therefore, intervene to see that the position of the Untouchables is not jeopardized. This Parliament must do, not merely because of the pledges it has given but also because of the fact that the discussions of the Constituent Assembly are not subject to ratification.

16. What can Parliament do ? The Untouchables would like that the wrong done to them in regard to the Interim Government be-redressed. They would like their quota fixed. They would like to be given the right to nominate their representatives to the Executive Council. These rights are not new claims. They are vested rights of the Untouchables which were recognized as late as the Simla Conference of 1945. They realize that this wrong it may be difficult to redress now. But if circumstances change and the

Government is reconstituted they expect Parliament to press H.M.G. to right this wrong.

17. Much can be done now to save the Untouchables from the injury which the Constituent Assembly, dominated by the Caste Hindus who are determined to deprive the Untouchables of their political safeguards may do. To prevent this mischief the following steps could be taken :—

I. Press H.M.G. to make a declaration that they regard the Untouchables as a minority.

This is essential in view of the stand taken by the Congress in its letter of the 25th June 1946 (Item 21 in Cmd. 6861). This is all the more necessary because the Viceroy in his reply to the Congress dated 27th June 1946 (Item 38 in Cmd. 6861) has avoided giving a specific denial to the contention of the Congress that the Untouchables are not a minority. If the Government is not pressed to make a declaration now the Untouchables will suffer in two ways :—

(a) The Constituent Assembly dominated by the Hindus will deny them the rights of the minority.

(b) H.M.G. will be free not to come to their rescue on the ground that they were not committed to regard the Untouchables as a minority.

II. Press for a declaration as to whether H.M.G. will institute machinery, if so of what sort, to examine whether the safeguards for minorities framed by the Constituent Assembly are adequate and real.

(a) In their Supplementary Statement dated 25th May 1946 (Cmd. 6835) the Cabinet Mission say :—

> "When the Constituent Assembly has completed its labours, His Majesty's Government will recommend to Parliament such action as may be necessary for the cessasion of sovereignty to the Indian People, subject only of two matters which are mentioned in the statement and which we believe, are not controversial, namely : adequate provision for the protection of the minorities (Paragraph 20 of the statement) and willingness to conclude a treaty with H.M.G. to cover matters arising out of the transfer of power (Paragraph 22 of the statement)".

The idea behind this paragraph is not quite clear. It is necessary to press H.M.G. to clarify their intention.

(b) If the words 'subject to' mean that H.M.G. reserve to themselves the right to examine the safeguards for the minorities framed by the Constituent Assembly in order to find out whether they are adequate and real it is necccessary to press H.M.G. to state what machinery they propose to institute for such an inquiry. The machinery of a Joint Parliamentary Committee with power to examine witnesses from minorities communities would be most appropriate. There is a precedent for it. A Joint Parliamentary Committee was appointed when the Government of India Act of 1935 was on the anvil. There would be nothing wrong in following the precedent in dealing with the report of the Constituent Assembly.

III. Press H.M.G. to declare if they will insist upon the Constitution framed by the Constituent Assembly containing clause circumscribing the power of the future Indian Legislature to do away with minority safeguard by bare majority.

(a) Neither the first Statement of the Cabinet Mission of May 16,1946 nor the Supplementary Statement of May 25,1946 deal with the question of providing against the Legislature of a Free India altering the Constitution and abrogating the clauses dealing with the protection of minorities. There is no use in Parliament introducing safeguards if these safeguards can be done away with by the Indian Legislature. The only safeguards against such action is to see that the Constitution framed by the Constituent Assembly contains clauses putting limitations on the Constituent powers of the Indian Legislature and prescribing conditions precedent to be fulfilled before alterations in minority safeguards are made. Such provisions exist in the Constitution of U.S.A. and Australia.

(b) Though this is a matter of vital importance to the minorities the Cabinet Mission has given no thought to the subject. It is necessary to press H.M.G. as to what they have to say on this question.

DR.B.R. AMBEDKAR"[1]

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[1]: Khairmode, Vol. 8, Pp. 124-139.

22

DR. AMBEDKAR'S MEMORANDUM

London, October 25

"Dr. B.R. Ambedkar sent letters last night to the British Prime Minister, the Secretary of State for India, Mr. Winston Churchill and other statesmen.

The letters requested interviews so that Dr. Ambedkar may state his case.

Others with whom he has communicated include Lord Templewood (formerly Sir Samuel Hoare), Lord Scarborough (formerly Sir Roger Lumley), Lord Linlithgow and Lord Salisbury.

Dr. Ambedkar last night told *Reuter's* political correspondent, "I have written also to various other friends who took part in the Round Table Conferences and know the conditions of the Scheduled Castes. I have prepared a memorandum analysing the figures for the primary elections with a view to showing that it is quite untrue to say that the Congress represents the Scheduled Castes."

The memorandum is being printed and copies will be given to the various statesmen approached.—Reuter."[1]

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[1]: The Times of India, dated 26th October, 1946.

23

DEMAND FOR "POLITICAL INDEPENDENCE"

London, November 1 (Reuter)

There is a possibility of the Scheduled Castes of India aligning themselves with the Muslim community if they do not receive separate representation in the new Indian Government, according to Dr. B. R. Ambedkar, leader of the Scheduled Castes, now in London.

Dr. B. R. Ambedkar was commenting to Reuter to-day upon a report from Toronto that Mr. Ameen Tareen, an Indian student at the Toronto University and a former Lahore journalist, stating that Dr. Ambedkar had advised his people to embrace Islam if they failed to obtain satisfaction. "I have not given advice to that effect," Dr. Ambedkar said. "But that situation may arise. Many of my people in India are seriously considering that question. We hope that the Congress and Mr. Gandhi will see light and agree to give the Untouchables political independence from the Hindus. It is a great pity that Mr. Gandhi had not been able to make the distinction.

"Personally, I feel that if Mr. Gandhi and the Congress give them political independence, there will be greater unity, "Co-operation and goodwill between the Hindus and the Untouchables," but if Mr. Gandhi and the Congress seek to bring the "Untouchables" under the political dominance of the Hindus and to make them political slaves of the Hindus, the 'Untouchables' would rebel and would endeavour to seek their salvation by joining some other community."[1]

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[1]: The Bombay Chronicle, dated 2nd November 1946.

24

CHURCHILL - AMBEDKAR TALKS

Dr. B.R. Ambedkar met Mr. Churchill and apprised him of the miserable conditions of the Untouchables in India. The press report of the talk is as under : Editors.

LONDON, November 4 : Dr. Ambedkar, the Scheduled Castes leader, said today, that he had expressed his views for separate representation of the Depressed Classes in the Provincial Government to Mr. Winston Churchill, leader of the British Conservative Party.

The meeting, he said, took place at Mr. Churchill's country home at Westerham, Kent, where he had lunch and spent the best part of the day with the war leader.' I found Mr. Churchill very sympathetic, 'he said.'[1]

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[1]: The Times of India, Wednesday, dated 6th November 1946, P. 5 Reprinted : Khairmode, Vol. 8, Pp. 139.

25

RESTORE THE SEPARATE ELECTORATES

During his stay at London Dr. B. R. Ambedkar addressed a meeting of the Conservative Indian Committee in the House of Commons which was attended by some Labour and Liberal MP's also on November 5th, 1946. Following is the report: Editors.

"LONDON : November 6 (U.P.I.): Dr. B.R. Ambedkar addressed yesterday a meeting of the Conservative Indian Committee in the House of Commons which was attented by some Labour and Liberal M Ps also. The press was not allowed and the talk which lasted nearly an hour was more or less off the record.

It is understood, however, that Dr. Ambedkar expressed his profound disappointment at the Cabinet Mission's work. He explained to the members present, the memorandum which was presented by him to Mr. Churchill and Lord Pethick-Lawarence which attempts to show that the Congress does not represent the Untouchables. He demanded the abrogation of the Poona Pact* signed by himself and Mahatma Gandhi and demanded the restoration of Separate Electorates as envisaged in Mr. Mac Donald's Communal Award.

Dr. Ambedkar has, however, little hopes of succeeding in his mission except in Mr. Churchill being returned to power.

The Labour Members questioned him closely which indicated that the party in "power is in no mood of raking up the whole communal issue." He was told, it is learnt, to adjust himself to the changed situation and try his luck in the Constituent Assembly."[1]

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* See appendix VI.

[1]: Bombay Chronicle, dated 7th November 1946. Reprinted : Khairmode, Vol. 8 Pp. 140-141.

26

DR. AMBEDKAR FEELS BRITISH WILL DO JUSTICE

London, November 7 (Reuter)

The belief that the British Government, if the occasion arose, would not hesitate to rectify any wrongs done to the Scheduled Castes, was expressed to Fraser Wighton, Reuter's Political Correspondent, in an interview tonight by Dr. B. R. Ambedkar, the Scheduled Castes Leader, who is flying back to India on Monday at the close of his mission to England.

Dr. Ambedkar, who came to protest at what he considers injustice that the Scheduled Castes have not been permitted to nominate their own representative to the Indian Provisional Government has seen all principal British Political Leaders, including the Prime Minister, Mr. Clement Attlee.

Dr. Ambedkar said that he was more than satisfied with the result of his visit to England. "I have found among all parties profound sympathy for the Scheduled Castes and their future," he said.

"This applies among all the parties and in all quarters", declared Dr. Ambedkar adding that he considered his visit had the effect of acquainting everyone in England of the peril in which Untouchables stand at the present moment having regard to the institution of the Constituent Assembly and the position they occupy in it.

I have no doubt that this question will not be forgotten or neglected by the various parties in Parliament whenever India comes up for discussion. That in itself is a great solace to the Untouchables, who all along were feeling that their case might go by the board."

Dr. Ambedkar added that he had met members of the Government and although it was natural that they should be hesitant to make any comments as to the future course of their action, he believed that if the occasion arose for their intervention, they would not hesitate to rectify any wrong done to the Untouchables.

Dr. Ambedkar said he was quite surprised to find that some of Mr. Gandhi's friends in London were critical of his attitude towards the Scheduled Castes. "In their opinion even if the Untouchables were Hindus, that in itself is not an objection to giving them separate electorates", he said. Mr. Attlee's knowledge of Indian situation impressed Dr. Ambedkar who thought that the Prime Minister was aware that the Scheduled Castes "needed to be looked after."

He also thought that "Mr. Churchill was very keen and desirous of seeing that the Scheduled Castes were protected* in any Constitution that might be framed."[1]

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* See appendix - VII.

[1]: The Bombay Chronicle, dated 9th November 1946.

27

ASCERTAIN WISHES OF MINORITIES

Dr. B. R. Ambedkar while returning from London to India was interviewed at Karachi air port on November 15, 1946. The following is the report: Editors.

KARACHI, November 15, 1946 :- The hope that before the passing of the Act in Parliament transferring sovereignty to India the British Government would take some definite steps to ascertain the real wishes of the minorities, including the Depressed Classes, was expressed by Dr. B. R. Ambedkar, in an interview here on his return from the United Kingdom.

Dr. Ambedkar urged the Congress even at this eleventh hour to grant the Depressed Classes separate political representation in order to ensure absolute peace between them.

He said that he discussed the Depressed Classes problems with the British Prime Minister and the Secretary of State for India as well as with Mr. Churchill, Mr. R. A. Butler, Lord Templewood, formerly Sir Samuel Hoare, who as Secretary of State for India piloted the India Act of 1935 and Lord Scarborough.

Dr. Ambedkar said that there was in Britain not only a great deal of sympathy but a general resentment that the Depressed Classes should have been ignored in the manner in which the Cabinet Mission had done. He added : The memorandum which I submitted and which contained an analysis of the figures of primary elections caused great surprise because the statement made by the members of the British Cabinet Mission in the Commons that the Congress represented the Scheduled Classes were absolutely disapproved by the figures. I am, therefore, quite certain that when the matter comes to be examined by Parliament at the time of the passing of the Act, transferring sovereignty, they will not be guided by the mere fact that the decision by Constituent Assembly with regard to minority safeguards is a decision arrived at by the majority and that some definite steps will be taken to ascertain the real wishes of the minorities concerned."

Asked whether he would participate in the Constituent Assembly, Dr. Ambedkar said he certainly would and added : "I

would act in a Constitutional manner to further our cause. After all constitutional means are exhausted, we shall then consider what other means we can adopt.,

Dr. Ambedkar left for Bombay by Air this afternoon."[1]

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[1]: The Times of India, Saturday, dated 16th November 1946. Reprinted : Khairmode, Vol. 8, P. 142-143.

28

"DAWN" ON AMBEDKARS POLITICAL MISSION TO ENGLAND

1st January, 1947

After a month of patent labour in Britain where he met leading members of the Govt. as well as of the opposition, Dr. Ambedkar, the Scheduled Castes leader, has returned to India where his main work lies. The trip to London was undertaken in order to place his community's case before the British Public in a realistic manner. Congress propaganda for the last several years has created a wrong picture of the existing divisions in the country and even the Cabinet Mission was taken in by its false presentation of facts.

The All India Scheduled Castes Federation is the representative organisation of the Community and Congress has come in as an interloper to disrupt the strength and solidarity of the organisation. The statement by the Cabinet Mission members in the House of Commons that the Congress represented the Scheduled Castes is correct only to the extent that this powerful political organisation backed up with its immense resources succeeded in capturing many seats reserved for the Scheduled Castes. That did not mean that the true representatives of the community have been returned to the various legislatures.

Dr. Ambedkar's immediate task in Britain was to demolish this myth and he has done it in the memorandum which he has submitted to the British political leaders. The memorandum itself has not been published but from the interview Dr. Ambedkar gave on his arrival in Karachi it is clear that he has gained some measure of success in his mission. He has established personal contacts with several leading personalities in Britain including Mr. Attlee and Mr. Churchill, and he speaks confidently that when the matter comes to be examined by the Parliament at the time of passing the Act transferring sovereignty some definite steps are sure to be taken to ascertain the real wishes of the Minorities as to the safeguards they need. It is also cheering to hear from the Doctor that there is not only a great deal of sympathy among the British Public for the Scheduled Castes' cause but also general resentment that the Cabinet Mission should have ignored the claims of the

community. Even among the labour party people the feeling is said to be growing whether after all what the labour Government has done for the solution of the Indian constitutional problem is the right thing to do. This is certainly a gain for once the British public gives up wishful thinking and faces the realities of the Indian situation, solution of the Indian problem should become less difficult.

Dr. Ambedkar insists on separate political representation for the Depressed Classes as the only means by which their dispute with the Congress can be settled and once this is granted, he thinks, there will be absolute peace between the Congress and the Scheduled Castes. As one who has suffered in his earlier days from Caste Hindu tyranny and ostracism he cannot easily be brought round to trust the Upper Classes among the Hindus nor can he safely place the destiny of his community to their tender mercies. Adequate statutory protection of their rights against Caste Hindu encroachments is a wise course that dictates his line of action. He says, he is wedded to constitutional means of seeking redress of his community's grievances and only after they have been exhausted will he look to other courses. Here is the olive branch extended to the Congress.

The Scheduled Castes leader has denied any secret pact between the Scheduled Castes Federation and the Muslim League. What pact secret or otherwise, can there be except that they are both alive to the common peril that faces them and the country by the in position of Caste Hindu Congress rule over this sub-continent ? The character and Composition of the Congress leadership is such that it has given grave fears among wide sections of the people and if the League and Scheduled Castes are drawn together, it is out of a realisation of the common danger and how best to face it in the general interest and well being of the people as a whole. The life of the Depressed Classes in this country has been that of slaves for ages and they are determined to end it. It is for them to decide as to how best they can do it and not for the Congress to dictate.

"Dawn"[1]

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[1]: Reprinted : Jai Bheem : 1st January 1947.

SECTION III

ON BUILDING OF NATION AND ITS DEMOCRACY

blank

1

PROVINCIAL AUTONOMY WITHOUT RESPONSIBILITY WOULD BE UNWISE

Dr. B. R. Ambedkar left for England on November 7, 1932. In an interview, as the time of his departure, he said that the establishment of Provincial Autonomy without responsibility at the Centre would be unwise and that he disliked the idea of Central responsibility for British India being made dependent upon an All-India Federation. As regards the Civil Disobedience Movement of Gandhi, he opined that it was not a rebellion as it could not oust the British Bureaucracy.

Keer, P. 219.

2

JOINT VS. SEPARATE ELECTORATES DR. AMBEDKARS VIA MEDIA

Minority in a Province to Decide Question

The Times of India reported Dr. B. R. Ambedkar's statement on this subject as saying that—

"The exchange of views and compliments between Pandit Madan Mohan Malaviya and Mr. Jinnah has once more revealed that there is no hope in the immediate future of the Hindus and Muslims agreeing to replace the Communal Decision of His Majesty's Government by a settlement based on mutual agreement. Pandit Malaviya has left the field by saying that for the present the two communities must work separately, I do not know how many will look with satisfaction at the prospect of the two communities working separately. To me at any rate it appears that working in separation must inevitably end in working in antagonism.

I am neither a Hindu nor a Muslim, and I make this proposal not as a Partisan but as a student of the problem.

Before I set forth the proposal, I should like to promise that the expression "minority" has been loosely used in the communal controversy and what is worse is that it is used without any reference to the Province or to the constituency in a Province in relation to which alone it can have any meaning in politics. In my view a community is a minority and is entitled to get protection as a "minority" only if it is a minority in the Province, or strictly speaking if it is a "minority" in the constituency. Except in relation to the Province or to the constituency a "minority" has no political significance.

A Suggestion

Staring from this basic point, on which I should like to lay the utmost emphasis I can, my proposal is to separate the two questions that are covered in the Communal Award, namely the question of seats and the question of electorates. These two questions are

separate questions and the considerations that have to be taken into account for their solution are quite different. Having separated the two questions, my advice to Hindus and to Muslims is to accept that part of the Communal Award which deals with the number of seats if not permanently, *Pro tem,* leaving it to be decided on some more equitable principle at some future stage. But with regard to the question of electorates let the Communal Award be modified by the acceptance by Hindus and Muslims of this simple proposition, that the question of electorates is a matter for the minority in the Province or strictly for a minorty in a particular constituency of the Province whether the election before the Central or Provincial Legislature and the majority should abide by the decision of the minority.

Minority Must Decide

If the minority wants separate electorates the majority should have nothing to say against it; equally if the minority wants joint electorates, the majority should be bound to accept their decision.

The proposal could be applied even in cases where there are many minorities and where they are not of a common mind on the issue of electorates. In such cases the minority which wants a separate electorate will have a separate register for itself, while the minority wishing to have a joint electorate will have a common register with the majority. Nothing could be better if the agreement accepted the principle that the decision in the matter of electorates is to rest with the minority in each constituency. But if that cannot be achieved, it would be some advance if an agreement could be arrived at on the basis that the decision as to the electorates is to be left to the minority in the Province.

By such an agreement the Muslim minorities in the Hindu majority Provinces like Bombay, Madras, the Central Provinces, the United Provinces, etc, will get separate electorates if they choose to have them. On the other hand, in the Muslim majority Provinces like the Punjab, Sind, Bengal and the N. W. F. Provinces

the Hindus will have joint electorates if they ask for them. The whole point of the proposal is to leave the question of the electorates to the decision of the minority. Separate or joint electorates are devised for the protection of the minority and the minority is the best judge as to which of these two will protect it best.

If the proposal is faulty in principle, it would, of course, deserve no consideration at the hands of either Mr. Jinnah or Pandit Madan Mohan Malaviya. But if the proposal is just and fair, as I believe it is, I hope Mr. Jinnah will have the courage to pass it upon his Co-religionists and Pandit Malaviya the wisdom to accept.

A Middle Stage

The proposal does not, of course, help in one sweep to realise the goal of the Congress and the Hindu Mahasabha to have joint electorates instituted in all the Provinces of India between Hindus and Muslims. But the proposal has the merit of establishing a middle stage between the extreme Congress and Hindu Mahasabha stand on joint electorates throughout and the extreme Muslim demand of separate electorates throughout. From this middle stage, at which there will prevail a mixed system of joint electorates in some Provinces and separate electorates in the rest, the journey to the final stage of joint electorates throughout will be rendered very easy. It is only the impatient idealists among the protagonists of joint electorates who will disapprove of the proposal."[1]

However, there were additional dimensions in the statement of Dr. B. R. Ambedkar, on the subject which were reported by the 'Janata'. The dimensions were ;

"The structure of the electorate is not an exclusive concern of the minority. It is a problem in constitution-making in which the whole nation has a stake. A national problem cannot be converted into a special preserve for the exclusive judgment of this or that part of it, by the mere assertion of some claim for protection supposed to be connected with it. Since uniformity on any question is impossible, the judgment of the majority has come to do duty as the nearest possible substitute to the will of the people, in a world of inevitable divergence in political tenets.

[1] : The Times of India, dated 9th April 1934.

To elevate the minority, only because it is a minority, to a pinnacle of power and prestige superior to that held by the majority, is the way to cut at the root of the very fundamental principle of democratic government. Political thought marches from precedent to precedent. An objectionable principle, once given quarter tends to surround itself with a sort of vested interest. With power secured from mere sufferance, it defies all attempts made to dislodge it. It is for this reason that temporary compromises, tolerated with the hope of being soon dispensed with, end by becoming formidable obstacles to progress.

No consideration can justify the setting up of a tyranny of the minority, or the relegation of the will of the majority to a status inferior to that of minority.

— Free Press"[1]

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[1] : Reprinted : Janata, dated 28th April 1934.

3

ASSURANCE WILL NOT BE LOSS TO GOVERNOR ; NOR IT WILL BE GAIN TO CONGRESS.

Bombay, April 8, 1937.

"Dr. B. R. Ambedkar, Barrister-at-Law, has issued the following statement on the constitutional *impasse* in India :

"Having lost the field to the Congress I did not think it necessary to express my views on the situation that has arisen, as a result of the refusal of the Governors to give an undertaking to the Congress leaders in terms of the All-India Congress Committee resolution. But as some friends pressed me to say what I think of the situation, I have persuaded myself to enter into the controversy.

I cannot understand why Congressmen blame the Governor for framing what are called interim Ministries, and I am somewhat surprised to find that Congressmen who are so unwilling to accept offices and whose programme was to wreck the Constitution, instead of having a sigh of relief at the installation of the interim ministries, should be so glamorous and indignant at the loss of the chance, that one begins to suspect that their cry of wrecking the Constitution was a mere pose.

Governor not to Blame

When a party which has a majority refuses to accept office, it is the duty of the Governor to offer it to those who can give him the assurance that they can secure the majority in the Legislature to support their policy. The persons to blame are not the Governors, but the men who have accepted offices. It is for those who have accepted offices to consider, whether they would not be held guilty of deceiving the Governor, should they fail to produce the necessary majority on the floor of the House. The Governors will come in for blame only if they were to use their special powers under the Constitution to keep in office ministers who have lost the confidence of the majority of the Legislature, because under the Instrument of Instructions issued to them, the Governors have been

enjoined to be studious so to exercise their powers, as not to enable their Ministers to rely upon their special powers in order to relieve themselves of the responsibilities, which properly belongs to ministers.

Situation not Arisen

That situation has not yet arisen, and before passing any criticism upon the action of the Governor, we have to wait and see what he does, when the Ministers who are now in charge are defeated by the adverse vote of the Legislature.

Assurance demand

The principal question, however, is whether the Congress was justified in asking an undertaking from the Governor before accepting office, to which they are by reason of their majority entitled to. It is admitted by Congressmen that they do not want an amendment of the Statute. It is the contention of Congressmen that the Governors could have given the undertaking they want, without in any way abrogating the provisions of the Government of India Act, and the question is whether such an undertaking can be given without the abrogation of the Statute.

King and Governor

Both Mr. Bhulabhai Desai and Mr. C. Rajagopalachari in championing the position taken by the Congress have stated in so many words that there is nothing in the Act to prevent the Governors from giving the undertaking and that if the Governors did not give the undertaking it was because they did not wish to give it.

The question we are concerned with, is whether without affecting the provisions of the Government of India Act, it is possible for the Governors to agree to suspend their special powers. The view taken by Mr. Bhulabhai Desai appeals to be founded on the belief that there is no difference between the special power given to the Governor under the Government of India Act and the veto powers of the King. But I contend that the power of individual judgment of individual discretion vested in the Governor is of a totally different character from the power of veto possessed by the King under the English Constitution.

The power of veto gives to the King the right to reject the advice of a Minister of his Cabinet that a certain course of action may be pursued. But it does not give the King the right to act in a particular way without the advice of a Minister to take responsibility for it.

The power of individual judgment and individual discretion not only gives the Governor the right to reject the advice of a Minister but it also gives him the right to act without the Minister's advice in support of that. In fact, contrary to the advice of the Minister, the King must have some Minister to support the action he proposes to take. The Governor need have no Minister to support the action he takes. That is the difference between the power of veto and the power of individual judgment.

Limited Ministry

Mr. Rajagopalachari's claim that the Ministers in India are entitled to the same treatment which Ministers under the Parliamentary system of popular government are entitled to, disclose a complete misunderstanding of the system of Government embodied in the Government of India Act. The system of Government embodies in the Government of India Act is a system of limited Ministry. It is not a system of limited monarchy. In a limited monarchy the authority of monarchy is limited by the power of the ministry. In the limited ministry system, the power of the ministers is limited by the authority of the Governor. If these distinctions which I have tried to point out, the distinction between veto power and individual judgment and the distinction between limited ministry and limited monarchy, are borne in mind, it will be easy to understand why the King can suspend his power of veto and the Governor cannot. The Governor cannot give up his special powers. Under the law, he is responsible for whatever is done by the Ministry should the action of the Ministry result in evil consequences. One may quarred with the constitution and insist that the responsibility should be on the Ministry and not on the Governor but one cannot ignore it. Taking the Constitution as it is and marking the difference that exists between it and the English Constitution, there is no question in my mind that the legal inability of the Governors to abandon their special powers is real and that they cannot have abdicated their functions without violation of the

Constitutional law which by their Instrument of Instructions they are bound to carry out. To put it in simpler form one can give up power if there is no responsibility, but, one cannot give up power, if there is responsibility.

The existence of special powers in my judgment could never be urged as a serious ground of objection to the working of the Constitution.

Mahatma's Reason

Mahatma Gandhi has given quite a different reason for demanding the assurance. The ground is so insubstantial that one wonders whether it could have been urged by any one who knows how constitutions are worked. He says : "a strong party with a decisive backing of the electorate could not accept to put itself in the precarious position of being all the time in dread of interference at the will of the Governor ;" self-respecting Minister conscious of his absolute majority. One would have thought that a Ministry conscious of its electoral strength instead of its electoral strength instead of cringing for an assurance would enter the field and defy the Governor and use their powers against him. "Surely if an undertaking is necessary at all, it is for a weak Ministry which has no electoral strength behind it to ask for it. An undertaking is not necessary for a strong Party like the Congress. Why are Congressmen begging for an assurance from the Governor of good behaviour. They can compel him to behave.

Governors can give Assurance

Could not the Governors have treated the Congressmen as we treat naughty children and stopped them from creating trouble by giving them an assurance for which they were crying? Reading the resolution of the A.I.C.C. and taking note of the fact that they were asking for an assurance in terms of that resolution. I believe that nothing would have been lost, if such an assurance had been given. It seems to me that as the Congress Ministers were giving an undertaking to act within the Constitution and this undertaking is quite explicit in their formula there was apparently no reason why the Governors should have refused to give the reciprocal undertaking that they would not exercise their special powers.

No Gain or Loss

But the question that I would like to ask all Congressmen is this. What is it that they would have gained if the Governor had given the undertaking in the terms of the A.I.C.C. resolution? It seems to me that the important question is who is to determine whether the occasion for the exercise of the Special Powers by the Governor had arisen or not. There would have been something achieved, if the Congressmen were asking for an undertaking that whether the occasion for the use of special powers had arisen or not was to be determined by the Cabinet. Such an undertaking would have been of real value, but such an undertaking was not demanded. The undertaking demanded by Congressmen was inconsequential, that in spite of it and without violating it, the Governor would have been left free to interfere on the plea that in doing a particular thing the Ministry was acting in such a manner that in his judgment the occasion for the use of Special Power had arisen. I have been therefore trying to find out what would have been lost by the Governor if he had given the assurance and what would have been gained by the Congressmen if the Assurance had been given."[1]

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[1] :The Bombay Chronicle, dated 9th April 1937.

4

IT IS PURELY A PARTY MOVE NO NATIONAL PURPOSE

"Dr. B. R. Ambedkar, leader of the Independent Labour Party in the Bombay Provincial Legislature, on behalf of himself and his party members, has written a letter to Mr. B. G. Kher, leader of the Congress Party, refusing to support the latter party in expressing disapproval of the appointment of the Council of Ministers by the Governor of Bombay.

In his reply, Dr. Ambedkar throws the blame for the present situation upon the Congress Party, for, in his party's opinion, the Congress demand for an assurance from the Governor is unnecessary and impossible.

The Governor's action in not calling the session of the Legislature, Dr. Ambedkar maintains, cannot at the moment be called into question. Such action will be unconstitutional only if six months elapse without the session being called.

The Constitution having now come into operation, Independent Labour Party thinks, that no extra-constitutional agitation by members of the Legislature should be launched upon unless all constitutional means have been tried and have failed.

This move of the Congress Party is intended to justify the Congress position, and to enhance its power and prestige, adds Dr. Ambedkar. It is purely a party move. It has no national purpose."[1] *

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[1] *The Times of India,* dated 17th May 1937.

* Jagjiwan Ram, President Bihar Prov. Depressed Classes Leage, Patna sent a letter dated 8th March 1937 to Dr. B. R. Ambedkar. may be perused at appendix-VIII

5

WE SHALL WAGE RELENTLESS WAR TO INTRODUCE ADULT FRANCHISE

"It is amazing that the Bombay Ministry holding office on the ticket of the Indian National Congress which has pompously announced the programme of framing the National Constitution through Constituent Assembly elected on the basis of adult franchise, should shirk its duty and responsibility on the question of adult franchise in the manner in which it is trying to do in the matter of Bombay Municipal Amendment Bill" said Dr. Ambedkar in the course of an interview with a "Sentinel" representative.

"Some of the members of the Lothian Committee for which the Congress never showed much love was prepared to introduce adult franchise throughout the entire Province "he said," and the only difficulty which came in their way was the scarcity of men to register votes on the polling day."

"The Congress Government which has been shouting for years past for adult franchise should have taken the first opportunity to introduce it in district and taluka boards and municipalities. But they have shirked this responsibility right at the start.

"As regards adult franchise for Bombay Municipality there should not have been any room for hesitation, if there is any place in the whole Presidency which is best fitted for "experiment" in adult franchise, it is Bombay. The standard of literacy is higher here than anywhere else. The people are more alive to public question than perhaps elsewhere. There are a host of other reasons why Bombay is the fittest place for introducing adult franchise. Yet the Congress Ministry brings forward a bill which contemplate adult franchise in 1942 and that on the condition that the Corporation would agree to it.

"As Mr. N. M. Joshi has said, it is an absurd condition. The Corporation is not going to commit suicide by voting for an electorate which will, to a large extent, wipe them out of existence.

Greatness can be achieved only by struggle and sacrifice. Neither manhood nor Godhood can be obtained without going through the ordeal of fire.

—Dr. B. R. Ambedkar

blank

WHATEVER THE POLICY OF THE CONGRESS GOVERNMENT, I AND MY PARTY, REPRESENTING THE MOST DOWNTRODDEN STRATA OF SOCIETY, WILL JOIN AND FURTHER ANY MOVEMENT THAT CAN SECURE ADULT FRANCHISE FOR THE CITY

On the floor of the Assembly we shall organise a relentless battle to secure this—the prime condition of democracy—and if possible force the hands of the Ministry to yield.

OUTSIDE THE ASSEMBLY WE SHALL HELP

IN THE ORGANISATION OF MEETINGS AND DEMONSTRATIONS TO MAKE THE MINISTRY REALISE THE FORCE OF PUBLIC DEMANDAND THE VALUE OF IMPLEMENTING PUBLIC PLEDGES AND PRINCIPLES.

I hope, however, that the Ministry will have the wisdom to realise the folly of introducing a bill of the nature they propose to do. I hope, before introducing it in the Assembly, they will remember their promises and pledges and make the necessary changes so as immediately to introduce adult franchise without having to wait till 1942 and for the consent of the Corporation." [1]

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1. : The Bombay Sentinel, dated 31st January 1938.

6

MOBILISE AGAINST FEDERATION TURNING POINT IN HISTORY OF NATION

Bombay, July 20, 1938.

"Federation is an issue on which all the progressive elements in the country should concentrate their strength, irrespective of party differences, so that the future of the country may not be endangered"

"This is a crucial moment and it demands the highest sacrifice from all," observed Dr. B. R. Ambedkar, Leader of the Independent Labour Party of Bombay, in the course of a statement to the "United Press," on the present controversy relating to Federation and the attitude of his party to it.

Congress and Federation

"At the present moment" continued Dr. Ambedkar, "the political issue of the highest national importance in this country is the acceptance or nonacceptance of the Federal Plan as embodied in the Government of India Act, 1935. The representatives of the British Government are straining every nerve to introduce Federation at the earliest possible date. Apparently the whole country is opposed to that part of the Government of India Act which relates to Federation. There are, however, different shades in the opposition and even the Congress Party which is committed to the rejection of the Federal Plan seems to be divided as regards the attitude the Congress should adopt in practice towards Federation. There are reasons to believe that most of the older leaders are not after all so uncompromising in their opposition as the wording of the resolutions passed on the subject from the Congress platform may lead some people to suppose and that to a few of them the introduction of Federation would be positively welcome.

"Further, on the strength of the past experience in such matters the fear may rightly be entertained that the older leaders of the party

will eventually succeed in silencing the opposition of the younger leaders either on the ground of accepting it for what it is worth or on the usual ground of accepting it for wrecking it. There is also circumstantial evidence to believe that in spite of all camouflage there have been recently secret negotiations in India as well as in England. It is, therefore, just likely that as the result of these negotiations the constitution will be subjected to some tinkering processs and then it will be declared as worthy of acceptance."

Turning Point

Referring to the policy of the Independent Labour Party Dr. Ambedkar said: "The Independent Labour Party feels that this is a turning point in the nation's life and that it is the duty of every party in the country to look at the question not from a party point of view but from a standpoint of the country. The reactionary nature of the Federal scheme in the Government of India Act is not properly and fully realised in many quarters. Most of the Indian politicians seem to be dissatisfed with the new constitution merely because it is halting and withholds full powers of self-government. Its dangers are not sufficiently realised by them. And in the case of these leaders the threat not to work the Constitution may be regarded as only bluff. I am afraid the majority of the Congressmen, or the majority of the leaders, for that matter belong to this category.

"The Independent Labour Party will never be a party to bartering away the country's freedom to grow to full nationhood, for the sake of a mess of pottage, by howsoever a big name it may be called. In the process of evolution, Federation may be inevitable, but certainly it is not the Federation which is envisaged in the new Constitution."

Defects in Federation

Referring to the grounds of criticisms against Federation by his party Dr. Ambedkar said : "The grounds of criticism may be divided into two groups (1) imperfections, and (2) inherent defects. The former include the preponderating representation given to the States, the represenation of the States through

nominations, the unequal distribution of financial burden between British India and the States, indirect elections to the Federal Assembly and the special responsibilities of the Governor-General. Under the latter the following may be mentioned: (1) treating Paramountacy as a reserved subject, (2) impossibility of securing full control over the army and (3) the impossibility of securing full control over finances. Although the imperfections are serious, they may disappear or be removed or mitigated in the course of time. Such is not the case with the inherent defects. These defects cannot be removed unless the whole Federal constitution is scrapped. Nobody need quarrel with a constitution because it has certain imperfections in it. These imperfections can be removed in practice by mutual understanding and experience shows that it is not impossible. If they are such that they cannot be removed in practice, they can be made good when the time for revision comes. But the case is totally different when the constitution is based upon principles which are defective and which cannot allow it to grow. The Federal Constitution is wrong in its conception and wrong in its basis."

"Deadly Poison"

Concluding Dr. Ambedkar said: "The introduction of the Federal Scheme in the Government of India Act deserves, in the opinion of the Independent Labour Party, to be resisted by every possible means. The Federal part of the new constitution must be shunned as a deadly poison. Should the Congress decided by a majority to fight the new constitution it shall have the full support of the Independent Labour Party. In case, however, the majority in the Congress be swayed by the reactionary element and Mr. Subhas Chandra Bose decides to stick to his guns, the Independent Labour Pary will join hands with his party. Our party will co-operate with the party or the combination of parties undertaking to fight the Federal part of the new constitution in every possible way."

United Press." [1]

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1. : The Bombay Chronicle, dated 21st July 1938.

7

DISTRIBUTIVE SYSTEM OF VOTING

Dr. Ambedkar's Opposition

Bombay, Thursday*

"Dr. B. R. Ambedkar, the Labour leader, has cabled to the Secretary of State for India and to Major Attlee, the Opposition leader, expressing opposition to the Untouchables to the proposed distributive system of voting.

The following is the text of the cable :—

Secretary of State for India, London.

On behalf of Untouchables I emphatically protest proposal to introduce distributive system of voting as antagonistic to spirit of Poona Pact.

AMBEDKAR.

Major Attlee, M. P.
House of Commons,
London.

"Opposed proposed Order-in-Council introducing distributive vote injurious to Untouchables.

AMBEDKAR." [1]

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* the 9th March 1939.

1. : The Free Press Journal, dated 10th March 1939.

8

GREAT BRITAIN MUST BE SUPPORTED

The views that India should support Great Britain in the War is expressed by Dr. B. R. Ambedkar, President of the Independent Labour Party, outlining the parties attitude, in a statement to the press—Editors

The Executive Council of the Independent Labour Party has authorised the President of the Party to issue the following statement defining the attitude of the Party towards the European War.

Ever since the War was declared, there has been a stream of statements flowing from representative Indians expressing their views as to the duty of Indians in this War. Although there is a preponderance of opinion that India should join the war on the side of Great Britain there is no enthusiasm. On the contrary, there is noticable quite a degree of hesitancy and unwillingness to throw in their lot with Great Britain. It is obvious that if help is to be rendered then there must be no lukewarmness or unfriendliness.

Between the lukewarm who are prepared to do no more than co-operate for the purpose only of inactive defence and the unfriendly anything except cause passive obstacle anything by way of real help will be neutralized. It is, therefore, necessary to enlist the support of all classes and sections, and for that it is necessary to examine and understand the reasons which are responsible for this want of enthusiasm.

Chamberlain's Lethargy

Analysing the causes of this want of enthusiasm it appears to the Independent Labour Party that it undoubtedly arises from the conduct of Great Britain and France in the past. Great Britain and France have been very slow in taking action against Germany.

Instead of putting down the aggression by Germany on the first available opportunity by collective action they have allowed Germany to commit acts of aggression one after the other and have pursued the policy of appeasing Germany of sacrificing the life and liberty of nations particularly Czecho-Slovakia whom it was their sacred duty to protect. Hitler has been allowed five victories and Poland may be his sixth.

The Independent Labour Party feels that he ought to have been dealt with long ago by the Powers who have now come forward to oppose him.

By their being ready to buy peace from Germany by sacrificing the life and liberty of smaller and weaker nations a great deal of the moral basis of this Call to Arms is lost.

The Independent Labour Party feels that wars are fought without and sincere desire to establish peace on just and lasting terms and to preserve the terms of peace from being trampled upon after it is made.

Three Essential Conditions

Great Britain and France never realized that while collective security is good it is not enough. In the 1914 war, there was nothing wanting in collective security. There was a great array of nations out to put down the aggressor and the aggressor was put down. But the aggressor rose again from his grave and is now on the top of every body.

This shows that mere victory is not enough to put down the aggressor. The Independent Labour Party feels that certain other precautions such as the following must be taken if war is to result in a lasting peace.

First:—Victory must result in a peace which is just.

Second :—Peace must be protected by collective action.

Third:—The Protagonists of peace must be prepared to vindicate any breach of the peace no matter where it occurs, near or far and no matter who is the victim of it.

Without these precautions it is not possible to put an end to war. Indeed, the Independent Labour Party is so strongly impressed by these considerations that it feels that as a preliminary step the Allies should forthwith establish a Council of the representatives of nations who are ready to fight on their side to determine the terms of peace and announce them to the world so that they may be known to all and also to the German people.

Nothing in the opinion of the Independent Labour Party can convince the world better of the justice of the Allies' cause than such an announcement. It will assure every one that the Allies'

claim is to have a just peace and are determined to maintain it when obtained. Only such a war can truely be said to be a war to end war. In such a war no some person can have any hesitation to join.

India And Empire Foreign Policy

There is one other defect in the situation which the Independent Labour Party thinks is responsible for this attitude of hesitancy on the part of Indians to help Great Britain. As the position stands to-day India is tied to the chariot wheels of the British Cabinet. The British Statesmen are free to pursue any kind of foreign policy and make any kind of international commitments. They are free to declare or not to declare war as they please and they are free to make any kind of peace they like. India has no voice in their foreign policy in declaring war nor in the making of peace.

If a particular foreign policy succeeds very little of its advantage comes to India. But if the policy leads to war then Indians are called upon to help in men and money.

India has no *'locus standi'* in the making of events that bring on war. She has no *locus standi*[1] in the making of terms which often instead of ending war only adjourn war. Her duty is to be present only when war is on. Such a position is, to say the least anomalous and unfair to a country like India.

Unquestionable Right

It is true that at the time of the Versailles Treaty Indian delegates were allowed to attest the terms of the Treaty. But it is no compensation to India to have the honour of attesting the peace terms when they are made. India has a greater claim to participate in the foreign policy of the British Empire and in the making of the peace terms than any dominion.

The Dominions have the right to be neutral. Consequently they are not bound to undergo the consequences of a war resulting from a particular foreign policy if they do not approve of the justness or propriety of the war. But India has no escape from any war which the British Cabinet chooses to involve themselves in. If India is to be committed to war or peace then she has an absolute right to be consulted, which sadly is not the case to-day.

Menace To All Nations

The Independent Labour Party has taken into consideration all these grounds of hesitancy. It cannot be denied that they have considerable weight in them. If the war was being fought just to save Poland they might have acquired more decisive force. For in the opinion of the Independent Labour Party there is not much virtue on the side of Poland. Poland has put democracy to death long ago. The treatment of Jews by Poland was not less cruel than the treatment accorded to them by the Germans. Poland, even in this emergency, was prepared to die rather than be saved with the help of Russia. But as the Independent Labour Party sees it the war is not fought merely for the sake of Poland.

The Polish issue is only an incident in the war. Nobody can deny that the war between Germany and Poland has a deeper significance and a wider range. It is a war in which 'Germany claims that she is not merely a nation, one among many, but that she must be acknowledged as a superior nation high above and over the rest, whose will he obeyed without question and that in case of disobedience she has the right to impose her will upon those who disagree with her by means of violence. Such a claim is a menace to all nations and not merely to Poland.

Insult To India

In a situation like this it is obvious that those nation who believe that all nations are equal, that each of them has equal right to live, pursue its happiness without being hampered by its fellows and * total of human civilization must combine to resist this preposterous claim.

The claim made on behalf of the German nation is an insult to other nations. But it is particularly obnoxious to India. It runs counter to aspirations and ambitions of the Indian people and is calculated to defeat and destroy them. India is aspiring to be a nation of self governing people and her ambition is that in spite of all difficulties she will not only attain that status but will strive to maintain that status.

When Germany insists that the Nordic race alone must dominate the word and that every other nation of another race must take a subordinate place, she throws a challenge to all other races.

* Few words are illegibles.

Having regard to the aspirations and ambitions of the Indian people and having regard to the fundamental conflict between them and the German, ideal India cannot avoid taking up the challenge of Germany, assert herself and show her readiness to vindicate her right to reach her destiny.

That being the view of what is involved in this war the Independent Labour Party has no hesitation in saying that this is war which the Indian people in their own interest should support and help Great Britain to prosecute the same.

Empty Phrase

The Independent Labour party is aware that there is also a certain degree of hesitancy on the part of other political parties. But that hesitancy is not based on principle, but is based on considerations of tactics. They want to make England's need India's opportunity, The Muslim League and the Hindu Mahasabha want to exploit this 'hour of need' to have the Communal balance of power in the Indian Constitution rectified in their favour. It is unnecessary to consider this sectional attitude.

The more important section is the section which wants to make England's hour of need India's opportunity for emancipation. It is difficult to understand what is meant by 'India's opportunity.'

If it means that India can now by her own inherent strength successfully dictate her own terms to Britain then every one must admit that 'India's opportunity' is only an empty phrase which has no substance in it. The Gandhian method of civil disobedience is too exhausting and no one wants to have a second exercise in it.

If it means that this is an occasion for Indians to invite some enemy of Great Britain to emancipate them from British domination then it is the greatest snare. Knowing that there is every possibility of the guest remaining here and becoming the host of the Indians, no Indian whose power of judgment is not submerged beneath an excess of emotion could regard such a move as wise and prudent.

No New Masters, Please !

The Indenpendent Labour Party believes that as far as one can visualize the near future, keeping one's feet on the firm ground of practical politics, the best thing for India is to remain within the British Commonwealth of nations and strive to achieve the status of equal partnership therein.

A good long part of the road to that status has already been covered. The part that remains is comparatively shorter and is also within reach. To give up this advantage in the hope of being emancipated by some supposed friend of India would be an act of folly if not of political suicide for the nation. There is no knowing what would be the fate of India under a new master. No same Indian can advise his countrymen to enter upon a policy so speculative and so uncertain if not disastrous, in its consequences.

Britain's Duty to India

While it is in the interest of the Indian people to co-operate with Great Britain in this war with Germany, the British also must recognise that they owe certain duties to India the fulfilment of which cannot long be postponed.

The first and foremost duty of the British towards India is to take steps to prepare Indians to defend their country.

India is a country which is exposed to attack from all sides. Yet to-day India is a most defenceless country in the world. By itself it has no resources to withstand any attack from land, sea or air. For its defence it is largely if not wholly dependent upon the aid of the British Army, British Navy and British Air Force. In the Round Table conference it was agreed that the defence of India was to be treated as the responsibility of India and yet nothing so far has been done to give effect to that principle. Much has been talked about opening Military Colleges and Indianizing the Officers' grades. The Independent Labour Party is frankly of opinion that these are the least parts of this business of training Indians to defend their country.

The most important part of it is to introduce compulsory Military Service in India for all persons within certain ages without distinction as to caste, class or creed. Such a policy alone can succeed in training Indians for the defence of their Country.

The magnitude of India's manpower is beyond measure. If it is given the requisite military training it is capable of defending not only India but it is capable of defending the whole of the British Empire from any aggressor, no matter how strong. It is, therefore, astonishing that British Government should not think of training the manhood of India for national defence. It is astonishing that Government should call Indians to become combatants only when the war is won and allow them to lapse into unserviceable non-combatants as soon as the war is over.

Compulsory Military Training

Why is the British Government not prepared to keep the Indian people in trim from a military point of view in peace as in war is a question which is asked on all sides. There is a feeling that the reason why the British do not wish to introduce compulsory Military training is that they cannot trust Indians with military training. Steps must be taken to remove such a suspicion. The British if they wish Indians to help them and defend them must learn to trust Indians and divert them to the access of military training. Only trust can beget trust.

Similarly recruitment for the Standing Army must be open to all communities and the distinction between martial and non-martial classes must be done away with. Indianization of the officers' grade must be worked out sincerely and fairly.

At present only sons of the rich can get admission in Naval and Military schools not because they constitute the right sort of material but they have the money to meet the high cost of training. In other words, the monopolization of the higher grades in the military service by the rich and by some specially chosen communities must be abandoned with a view to inspire trust and confidence in the British Government.

India's Status Within Empire

The second duty of the British towards India is to reassure her of the status she is to occupy in the British Empire the reluctance of the British Parliament to embody in the preamble to the Government of India Act that India is ultimately to occupy the status of a Dominion has caused much heart-burning.

The faith of many in the British has received a rude shock by realization of the fact that Parliament should have refused to give formal sanction to the declaration in favour of Dominion Status in 1935 which was made informally but authoritatively by Lord Irwin in 1929. The British must see that the doubts of India on this point are removed as early as possible. India cannot willingly and heartily fight for principles if she is not assured that the benefit of these principles would be extended to her, when the war is won.

This explains the position of the Independent Labour Party. The Independent Labour Party supports the appeal made by His Excellency the Viceroy to India to help British in this war for the reasons given in this statement.

The Independent Labour Party agrees that this is no time for making conditions. At the same time the Independent Labour Party believes that the British as well as the Indian should know and understand what they are fighting for and what they expect of each other."[1]

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1. : Vividh Vritta; 17th September 1939.

9

WISDOM AND STATESMANSHIP WILL DAWN TO PREVENT INDIA FROM BEING DIVIDED INTO TWO PARTS

As per message received on 6th October 1939, Dr. B. R. Ambedkar had been invited to see His Excellency Viceroy on Monday, the 9th October 1939.[1] Accordingly His Excellency the Viceroy granted interview to Dr. Ambedkar on the 9th October 1939. In addition, Mr. V D. Sawarkar, Sir Mohammad Yakub were also granted interviews.[2]

Thereafter Dr. Ambedkar issued the statement:

New Delhi, October 10, 1939.

"The minorities problem will never be solved unless Mr. Gandhi and the Congress give up their egoistic and insolent attitude towards persons and parties outside the Congress. Patriotism is not a monopoly of Congressmen and persons holding divergent views to the Congress have a perfectly legitimate right to exist and be recognised," declared Dr. B. R. Ambedkar in a statement to the Associated Press prior to his departure for Bombay this morning.

Dr. Ambedkar, who came to Delhi yesterday, had a long interview with His Excellency the Viceroy. He is understood to have fully acquainted His Excellency with the viewpoint of his community *vis-a-vis* the constitutional advance of India. In this connection, Dr. Ambedkar stated that the working of the Poona Pact had been far from satisfactory. In the absence of multimember constituencies the real representatives of the Scheduled Classes were not returned to the legislature. He intended to raise this question at the next revision, which he anticipated would be earlier than originally planned. Unless some method of securing the representation of the real..... representatives of the Scheduled Classes was found, he was afraid he would have to insist on separate electorates for his community.

1. : The Bombay Chronicle, dated 7th October 1939.
2. : The Bombay Chronicle, dated 10th October 1939.

Hindu-Muslim Problems

Referring to the Hindu-Muslim problem, Dr. Ambedkar said that he did not believe in the allegations that the Muslims were being tyrannized or terrorized in the Congress provinces. What the Muslims and the other minorities wanted today was a share in the Government of the country and a status of equality with governing classes. This was being denied by the Congress? which so far had refused to recognise any class or community outside its organisation.

Muslims, he said, had so far been wanting safeguards which meant that given the necessary protection they were prepared to live with the other communities. Today a demand had been raised to divide India into Hindu and Muslim India, and if this attitude was allowed to take hold of the masses, there was no hope of a united India. Today the solutions lay with fne Congress and' with the majority community, and what was required was large heartedness, statesmanship and the realisation of realities.

"Might Be too Late"

It might be too late tomorrow, said Dr. Ambedkar. The problem could be solved and must be solved. The problem was no longer that the minorities should be treated fairly and squarely. It was that the minorities must be made to feel that they were a part and parcel of the Government of the country. It had now become a question of dignity and self-respect.

Dr. Ambedkar concluded by saying that today he found it very difficult to dissuade his community from merging itself in some other larger community, but the continuance of the present attitude of the Congress might make his voice ineffective. The responsibility of driving away the Scheduled Classes to another fold would lie with the Congress. "I hope that wisdom and statesmanship will dawn on the Congress," he said, "in time to prevent India from being divided into two parts, and Scheduled Classes merging themselves with a powerful and influential minority."[1]

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1. : The Times of India, dated 11th October 1939.

10

VERY NEBULOUS PLAN

Dr. Ambedkar On Consultative Committee

Dr. B. R. Ambedkar, Leader of the Independent Labour Party has issued the following statement:—

At a meeting of the Executive Council of the Independent Labour Party held on the 21st October, under the Presidentship of Dr. B. R. Ambedkar, the following resolution was passed:—

The Executive Council of the Independent Labour Party confirms the statement issued on the situation arising out of the present war.

The Executive Council of the Party has taken into consideration the declaration made by H. E., the Viceroy on the 27th October.

In the opinion of the Council a better and a more satisfactory response with regards to the aspirations and demands of the people of India would have come from His Majesty's Government if the Congress had tried to bring about a unity between the different communities and sections in this country.

In view of the assurance given by H. E., the Viceroy that immediately after the close of the war His Majesty's Government will enter into consultations with representatives of communities, parties and interests, in framing modification in the Constitution of India and in view of the fact that His Majesty's Government have declared their adherence to Dominion Status as the goal of India and further in view of the fact that the development of the war may take such a turn that the question of defending India may become more important than the question of helping Great Britain the Executive Council feels that the present is not the proper occasion for withholding its co-operation from Great Britain.

In the opinion of the Council, however, the proposal regarding the formation of a Consultative Committee is unsatisfactory. Apart from the question that the proposed Committee will have no powers of any sort either to take

decisions of to give directions the Committee will be composed of a fluctuating body of people. The Council is of opinion that the panel system is the most objectionable feature of the proposal. Before, however, any final or considered view of the Party is expressed on the said proposal, it is necessary to have a detailed scheme with particular reference to the constitution, function, powers and scope of the proposed Committee.—A. P."[1]

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1. : The Bombay Chronicle, dated 24th October 1939.

11

WE CAN BE A NATION ONLY THROUGH SOCIAL AMALAGAMATION

Discussing the Congress and Muslim League View-point with a repesentation of their paper on monday the 5th February 1940 night, Dr. B. R. Ambedkar, Leader of the Independent Labour Party, said,

"I do not agree with Mr. Gandhi and the Congress when they say that India is a nation. I do not agree either with the foreign relations committee of the Muslim League when they say that Hindus and Muslims could not be welded together into a nation.

"My belief is" he continued "that we are not a nation. But my confident hope is that we can be a nation provided proper processes of social amalgamation are set forth."[1]

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1. : The Times of India, Tuesday, 6th February 1940 : Reprinted Khairmode, Vol, 9, P. 31

12

SUBHAS CHANDRA BOSE MEETS DR. B. R. AMBEDKAR.

At the time Subhas Bose, who was dethroned from the Congress Presidentship, was growing restless. He was trying to rally the Indian forces against the British power that was engaged in a life-and-death struggle in Europe. He came to Bombay and saw Jinnah, Ambedkar and Savarkar on July 22,1940.

Subhas Bose was deadly against the acceptance of the proposed Federation; and because Dr. Ambedkar was opposed to it he must have considered it a rallying point between them.

After their discussion on the issue of Federation, Dr. Ambedkar asked Subhas Bose whether he would put up his candidates in the elections against the Congress. He replied in the negative. Dr. Ambedkar then asked Subhas Bose what the positive attitude of his party would be to the problem of Untouchables. Bose had no convincing reply and the interview ended." [1]

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1. : Keer, P. 332.

13

MEANING OF THE CONGRESS DECISION

"Dr. Ambedkar on Mr. Gandhi's objections

To the Editor,
'The Times of India'

Sir, Two views are prevalent in Bombay about Mr. Gandhi's performance at the A. I. C. C. meeting held in Bombay.

One is that the performance of Mr. Gandhi was the cleverest something beyond the ken of ordinary mortal, and that by his performance Mr. Gandhi has avoided the turmoils of Civil Disobedience. To me both these views appear most astounding. That the public should form its views on such vital matters in such a fascile manner is a sad commentary upon his thinking capacity, especially of the Hindu public. I cannot see how Mr. Gandhi has by his project avoided Civil Disobedience. It is true Mr. Gandhi is asking for liberty to preach against the war, to tell people that they should not take part in the war or help it's furtherance either by supplying men or money. But what does this mean ? To my mind it means nothing else but Civil Disobediance of the Defence of India Act. How the Hindu public can interpret Mr. Gandhi's project as not amounting to Civil Disobedience is beyond my comprehension.

Very Baffling

What is, however, most baffling in the whole Situation is the audacity of Mr. Gandhi to call upon the Viceroy arid the absolute certainty of the Viceroy giving him an interview. A man with much less intelligence than Mr. Gandhi realise that nothing can be more riduculous than to go to the Viceroy to ask his permission to break the Defence of India Act. It cannot be beyond the knowledge of Mr. Gandhi that he is asking something far in excess of what has been conceded to conscientious objectors in England or America. All that conscientious objector has been given is that he will not be forced to join the combatant service He has not been given exemption from non-combatant service nor has he been given any liberty to preach against the war while war is going on. It cannot be beyond Mr. Gandhi to appereciate that while all

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Dr. AMBEDKAR'S PLAN TO SOLVE INDIAN CRISIS MUSLIM DEMAND CRITICISED

"General Chiang Kai-shek has made an appeal to the British Goverment to give the people of India, without waiting for any demands on their part, real political power as speedily as possible. But he has not given any solution of the difficulties which have come in the way of such a consummation," says Dr. B. R. Ambedkar in a statement to the Press.

The difficulty is caused by the Congress not accepting the fundamental feature of the August Declaration made by the Viceroy that the future constitution of India must have the consent of certain important elements in the national life of India. Equally, the difficulty is due to the British Government not realising what its responsibility is.

The Congress cannot expect any sane person who known anything about conditions in India to agree to the Government of the country being placed in the hands of the Hindus majority, simply because it is a majority. The Congress chooses to forget that Hinduism is a political ideology of the same character as the Fascist or Nazi ideology and is thoroughly anti-democratic. If Hinduism is let loose—which is what Hindu majority means—it will prove a menace to the growth of others who are outside Hinduism and are opposed to Hinduism. This is not the point of view of Muslims alone. It is also the point of view of the Depressed Classes and also of the Non-Brahmins.

Need To Share Power

The only antidote is to have a constitution in which political power is distributed among the various elements in the national life of British India. If India is to be made safe for democracy, some arrangement whereby power is shared directly—which is another name for checks and balances—shall have to be agreed upon before power is transferred from British to Indian hands. It is, therefore, quite proper for the British Government to tell Indians to produce an agreed solution of their constitutional differences before they demand any transfer of political power.

purpose. That the Congress is fighting for the cause of the country is humbug. The Congress is fighting to obtain the keys of power in its own hands. That the Congress is fighting for freedom of speech is equally humbug. The Defence of India Act has been in existence for one whole year. The toil it has taken is detailed by the recent report of the Civil Liberties Union. If Mr. Gandhi felt that the Defence of India Act had deprived the country of his liberty of speech, why did he not start his Civil Disobedience immediately after the Act was passed ? Why did he wait for a year ? Why this revolt after the Viceroy's statement that Government must now be carried on with the help of the representatives of the minorities and other parties in the country? There is no answer. The hardship caused by the Defence of India Act is only an excuse putforth by the Congress to clothe the torpedoing of the Viceroy's plans and to prevent the minorities and others from getting political power.

British Example

Such are the springs of Congress action. It may be good tactics and, if the Congress succeeds, it will provide additional proof that the British, having established a parliamentary system of Government will not risk being in the bad books of a party that is popular. But, is it statesmanship ? In this connection one is reminded of the action of Mr. Asquith in 1923. In the 1923 elections no—one party had a majority. The Conservatives had 255, Labour 191, and Liberals 158. As the Leader of the Liberals, three courses were open to Mr. Asquith : (i) to support the Conservatives; (ii) to support Labour; or (iii) to take office himself relying on Conservative support. Appeals were made to Mr. Asquith to enter into a compact with the tories and thereby prevent labour from getting office. But so far from being tempted by these suggestions Mr. Asquith was averse to any such plot. His reasons were first of all that it would be seriously harmful to the national interest and an incitement to class antagonism for the two middle-class parties to combine together to deprive Labour of an opportunity to rule. If Congress men deprive the minorities of their opportunity, they will, I hope realise that they are purchasing their victory at great cost. If they do not realise it now they will realise it when parties meet to revise the Constitution. By the action of

the Congress, two things have become abundantly clear. First, that British Parliamentary Government is unsuited in this country. Secondly, that anyone who leaves an important safeguard to a gentlemen's agreement for its guarantee will do so at his peril.

Dr. B. R. AMBEDKAR."[1]

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1. : The Times of India, dated 24th September 1940.

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But Mr. Amery thinks that there he can stop. Apart from the imputation which is attributed to him that he is only using the disagreement among Indian political parties as an excuse for with-holding the progress of India, it seems to me he entirely falls to understand his responsibilities. The British Government has not merely the right to call upon Indians to produce an agreed solution, but it has got the duty to settle the difference if Indians are not able to settle it themselves. The duty is cast upon the British Government by reason of the fact that the British Government denies to the Indian people one important final, and often the only means, of settling a constitutional deadlock. That means is no other than the means of war. Some will be shocked at this. But let no one forget that the English Revolution the French Revolution and the American Civil War are all instances when constitutional deadlocks had to be solved by war. The employment of this means, the British Government to the good of all interdicts. This means it must step in to decide a dispute which either by the recalcitrance or obstinacy of a party cannot be settled.

That being the case, the British Government cannot throw the responsibility of settting the constitutional difference on Indian shoulders as a final escape. It must recognise its ultimate responsibility in this matter. That being my view. I think it is possible for the British Government to make a declaration on the following lines:—

(1) That, it is proposed to raise India to the status of a dominion wihtin three years from the date of peace.

(2) That, for the speedy consummation of that end the elements in the national life of India will be required to produce and agreed solution of their constitutional difference within one year from the date of the signing of the armistice.

(3) That, failing agreement, the British Government would submit the dispute to an international tribunal for decision.

(4) That, when such a decision is given, the British Government shall undertake to give effect to it as part of the dominion constitution for India.

Such a declaration must satisfy all reasonable people. As far I am unable to see, it meets Mr. Jinnah's point of view and the point

of view of the Depressed Classes that there must be an agreed solution of the communal problem. It also meets the Congress point of view that no element in the national life of British India should be allowed the power to veto the birth of a dominion constitution. The argument that we are in the midst of the war is no argument against making the declaration. Indeed, it is an argument in favour of it.

The war effort depends on three things :—(1) Sense of urgency; (2) appreciation of the purpose of the war ; and (3) a concrete conception of how we expect to win the war—the need for a realistic and convincing plan. The entry of Japan in the war has brought to the Indians the required sense of urgency; at any rate, to those who think that working to save ourselves from immediate destruction is more important than the ultimate goal. The appreciation of the purpose of the war is wanting and a declaration by the British Government to withdraw its authority in favour of the Indian people will bring about that appreciation.

Should the declaration be accompanied by a National Government ? It would be better if it could be done. But Mr. Jinnah is making two demands. One is ultimate, namely Pakistan. The other is immediate, namely 50 per cent, representation in the Cabinet. I can quite understand the demand for Pakistan. When Mr. Jinnah says that the Muslims are a nation. I feel no reason to quarrel. When Mr. Jinnah says the Muslims must have Pakistan because they are a nation. I say, have it if you do not thereby run away with a large belt of the Hindu population who on your own theory, are of a different nationality.

With regard to Pakistan, I feel like pointing out that Mr. Jinnah seems to be counting his chickens before they are hatched and reckoning without the host. The N. W. F. is the integral part of this Pakistan. Mr. Jinnah must admit that he is not the host of the N. W. F. The host is Khan Abdul Gaffar Khan. Without his consent, there could be no Pakistan. Rather than carry on whirlwind propaganda in favour of Pakistan, Mr. Jinnah should spend his time and energy in converting Khan Abdul Gaffar Khan. That is, however, a matter for Mr. Jinnah to consider.

Pakistan Demand

As I said, I can understand Pakistan. But I cannot understand this demand for 50 per cent, representation for the Muslim community. Nor can I see how this immediate demand of 50 per cent is related to the ultimate demand of Pakistan. I am sure this demand of the Muslim League is a monstrous thing, and I have no doubt that Lord Linlithgow has done the greatest service to India by puting it down. I am definitely of opinion that no National Government ought to be established in India as an interim measure if it means conceding to Mr. Jinnah his claim for 50 per cent representation. After all, I cannot believe that the national Government can do more in the matter of war effort than what is being done.

India simply cannot do more. Her capacity has not been developed. The fault lies entirely with the British Government. They chose not to develop the resources of India in peace time, and it is therefore impossible for the Government or the National Government to do more than what is being done. If she had been fully developed, she could have defended the Empire. She cannot now defend herself. She must. Indeed, she is compelled to look to England to defend her from the impending Japanese invasion; such is her helpless condition.

The appointment of an Indian as Defence Member may be good but is that enough ? Without the means of defence at his disposal, what an Indian Defence Minister can do it is difficult to understand. I should have thought that the wiser course for Indian would be to ask England to sent out to India the means of defence which she is hoarding for her own safety. Therein lies the immediate interest of India and therein also lies the duty of England." A. P. [1]

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1. : The Times of India : February 27, 1942.

15

INDIANS DESTINY IS BOUND UP WITH THE VICTORY OF DEMOCRACY

"No one can expect consistency from Mr. Gandhi. But everybody did and had a right to expect a sense of responsibility from him. There can be no doubt that, Mr. Gandhi's present move to launch a mass movement is both irresponsible and insane," observed the Hon. Dr. B. R. Ambedkar, Labour Member, Government of India, to a representative of "The Times of India," prior to his departure to Delhi on Monday evening.*

Why does Mr. Gandhi not try the other method, namely, bringing about unity among all parties ? Why does he not call a conference of leaders of all the different parties to find out their demands and settle if there is any dispute?"

These questions were asked by Dr. Ambedkar. He added : "Duty requires that those who do not believe in Mr. Gandhi's movement must take steps to prevent his threatened action from taking shape."

"It is difficult to understand why Mr. Gandhi should think it necessary to enter upon so hazardous a plan of action at so perilous a time in the history of India, Dr. Ambedkar said.—

"To me some points are quite clear. As to India's reaching its political goal, no one can deny that the transfer of power from the British to the hands of Indians has been continuous and of late rapid—except those who affect a certain degree of passion for independence. Barring such passionate patriots, it can be said without exaggeration that the British *vis-a-vis* Indians are in the last ditch. That the British do not wish to enterench themselves in the last ditch and prevent the political advancement of India to its final goal is equally clear. If any proof was necessary, the Cripps Proposals are there. They conceded Independence and Constituent Assembly both of which have been the demands which the Congress has been making.

After the Cripps Proposals it is hard to believe Mr. Gandhi when he says that the British do not intend to transfer power to the hands of Indians. It is a positive and deliberate untruth.

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*The 27th July, 1942.

"That the Cripps Proposal have fallen through does not, to my mind, affect the fact that the British Government are committed to independence if Indians prefer it to Domminion Status.

Short-Sighted View

"One does not know what led the Congress to reject the Cripps Proposals even when they conceded Independence and Constituent Assembly. If the failure to transfer defence be the reason for starting a mass movement, I am sure very few will accept the soundness of so short-sighted view. In the first place the Congress claimed from the British only a declaration of their war aims and did not claim their implementation during the war. Secondly, there is no Indian politician so far as I know, competent to run the technical and military side of the Defence department. Indians have neglected to study this subject. In these circumstances, it is foolish to ask for Indian control of defence; for, such control when in the hands of an ignorant person can only be nominal. Thirdly, when all departments were transferred, as was contemplated by the Cripps Proposals, it was childish to quarrel over the non-transfer of the Defence Department. Any man with commonsense would know that the reserved department could not have held out on matters insisted upon by the transferred departments if they are necessary and reasonable. This is what had happened to the special powers of the Governors when the Congress took office in 1937. It is surprising that the Congress should have forgotten its own experience in this matter.

"I am clearly of the opinion that the Congress deserves on sympathy in this move for causing disorder. It has rejected the best opportunity it was given to serve the country. Looking at it from this point of view, I cannot see how this move, proposed to be taken by Mr. Gandhi, can be held to be in the interests of the country.

"It seems to me that Mr. Gandhi is merely trying to retrieve the prestige which he and the Congress have lost since the war started.

"The Congress can live with prestige in either of two ways. It can live by the glamour of direct action or it can live by the partronage which office gives. Mr. Gandhi compelled the Congress to give up office and he refused to be a party to direct action. The slump

caused in the Congress prestige by this do nothing, policy of Mr. Gandhi has been disastrous to Mr. Gandhi and to the Congress and this desperate game of Mr. Gandhi is intended to retrieve his position and to die covered with glory.

"This move may be the best way to serve the best interests of the Congress party. But it certainly is not the way to serve the country. At this juncture such a move is fraught with the greatest mischief and is sure to result in the greatest harm to the country.

"There are two ways open to the Congress party to further the political advancement of this country ; direct action by the Congress and united demand by all parties representing the different elements in the national life of the country. Mr. Gandhi and the Congress are very keen about the first. It is a stock plan. Except Mr. Gandhi, everyone knows that beyond a certain limit it is worse than useless and even when it succeeds because the British Government, unlike the Nazi Government are not addicted to the use of brute force and do not use unmoral means to suppress a moral cause. Mr. Gandhi will not admit it. That is only because he fortunately has no experince as to how the Nazis will deal with his mass Civil Disobedience. No doubt the Nazis will give Mr. Gandhi a very short shrift and prove that his plan of direct action can be put out of action at the very start.

Unity among Parties

"The question that agitates my mind is this : Why does Mr. Gandhi resort to his method of direct action carried on single-handed by the Congress when it is proved to be so inefficacious ? Why does he not try the other method, namely bringing about unity among all parties ? Why does Mr. Gandhi not call a conference of all leaders of the different parties to find out their demands and to settle if there is any dispute about them. This is a way worth trying. It is also a way of statesmanship and a way which will bring enduring peace among the communities. But Mr. Gandhi has never made such an attempt and I have never been able to understand his reasons for avoiding this way of solving the problem. To say that no settlement can take place while the British are there can, to my mind, mean only two things : that the leaders of the minority communities are tools in the hands of the British or that the Congress thinks it would be better to talk of communal settlement after the British

Government have withdrawn because the Congress than in charge of law and order will be in a better position to dictate to the minorities and force a settlement on its own terms. If it means the first, then it is a vile and wanton aspersion on the character of, the leaders of the minority communities. The Congress must drop this selfrighteous attitude and admit that even those who differ from it are as good patriots, if not better, Settlement of the communal problem, is, I am sure, rendered more difficult by such stupid and baseless allegations which the Congress and its Press have persistently indulging in against the leaders of the minority communities. If it means the second, then there is no doubt that the move is a deceitful one. In either case, it proclaims the bankruptcy of statesmanship on the part of Mr. Gandhi.

"Mr. Gandhi has not realised one thing which the sooner he realises the better. His most advertised political virtues were to bring about-Hindu-Muslim unity and to serve the Untouchables.

"After 20 years, neither the Muslims nor the Untouchables trust Mr. Gandhi. This is the greatest tragedy in his life.

"The sooner he realises this, the better. Even now Mr. Gandhi can call the leaders of the minorities for consultation. There is no use saying that they are making impossible demands : for, it is always open to Mr. Gandhi to call upon them to agree to refer the matter to international arbitration.

"The general public has no cause to support Mr. Gandhi in this move which is quite uncalled for. The minorties have no reason to join Mr. Gandhi for, he refuses to give them an assurance as to their safety and security under the new constitution in terms which are explicit and in a spirity which has all the hallmark of sincerity.

"We are living in such perilous times that our duty cannot end in merely expressing our disagreement with Mr. Gandhi. Duty requires that those who do not believe in his movement must take steps to prevent it from taking shape. In the C. D. movement of 1930, the Muslims and the Depressed Classes, although they did not participate in it, had observed a kind of benevolent neutrality towards it. The situation in 1930 was very different from what it is now. In the 1930 movement, there were only two possibilities. Either political power would have remained with the

British or it would have devolved upon Indians. There was no possibility of Japan or Germany stepping in and making itself the master of India. The possibility is now staring us in the face. It would be madness to weaken law and order at a time when the barbarians are at our gates, intending not merely to defeat the British but to enslave us for ever. There, in my mind, lies the great difference between the C. D. Movement of 1930 and the mass movement now threatened by Mr. Gandhi.

False Claim

"The Congress and Mr. Gandhi have been arrogating to themselves the right to speak in the name of the country. It is a false claim but nobody has cared to challenge it. That is because of the feeling that so long as the Congress was doing no harm to the interests of the country it was a matter of small moment whether it claimed to speak in the name of the nation or in the name of the party which it is. But when the Congress, being only a party, proposes to launch upon a policy which puts the safety, security and even the possibility of the independence of the country in jeopardy, it becomes the duty to other parties to drop the attitude of benevolent neutrality and oppose the Congress when it is throwing the country in chaos and inviting certain frustration of the realisation of the political destiny of this country which is so near at hand. I wish Indians to realise two things : first, that their destiny is bound up with the victory of democracy against Nazism and second, that once democracy wins nothing in the world can stop India to gain her freedom if Indians take care to unite themselves. I am sure Mr. Gandhi's move is quite uncalled for.

"If democracy wins, no one can stand in the way of India's freedom. The supreme task of Indians at the moment is to see that democracy wins. It is not out of love for principle that they should do so. It is our country's future that requires us to do it as our duty. Mr. Gandhi is an old man in a hurry. Indians should be careful not to do anything in a hurry which they will have to regret in leisure."

Dr. Ambedkar left Bombay on Monday night for New Delhi by the Frontier Mail. At Bombay Central, he was given a hearty send-off by nearly 400 persons, representing the Scheduled Classes, the Independent Labour Party, the Municipal Kamgar Sangh and various other organisations, and several personal friends and admirers."[1]

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1. : The Times of India, dated 28th July 1942.

16

HOW TO END INDIAN POLITICAL IMPASSE

"A plan for ending the political deadlock in India which would, at the same time, solve the knotty problems raised by the Pakistan issue and pave the way for the formation of a national government during the war was adumbrated by the Hon. Dr. B. R. Ambedkar, Labour Member, Government of India, in an interview to a representative of *Tire Times of India,* at Bombay, on Wednesday.*

"The Pakistan issue, he said, must be regarded as a preliminary issue. No steps can be taken for the framing of a constitution unless this issue is settled one way on the other. We have, hitherto, depended upon the leaders—Mr. Gandhi and Mr. Jinnah—to come to terms on this question, but they have failed. It seems to me now that the time has come when the decision of this issue must be taken by the people.

"I do not think Pakistan is an issue which the British Government can solve. It would not be right to ask them to do it, nor would it be justifiable for them to give a decision on it. The Pakistan issue is one of self-determination, and, as such, can be decided only by the people affected by it. If this position is accepted, it seems that an Act would have to be passed by Parliament called' The Indian Constitution Preliminary Provisions Act.'

Referendum of Muslims

In that Act provisions should be made for the following points:—

(*a*) a referendum of Muslims in the Pakistan areas exclusively to determine whether they want severnce of the predominantly Muslim areas from the rest of India; *(b)* a separate referendum exclusively of non-Muslims in Pakistan areas to determine whether they prefer to go into Pakistan or desire to remain in Hindustan; *(c)* if Non-Muslims decide by a majority not to go into Pakistan, a boundary commission to be setup to demarcate those districts in which Muslims predominate and those in which Non-Muslims predominate.

* The 12th May 1943.

A schedule should be prepared consisting of a list of the districts set apart by the boundary commission as being predominantly Muslim districts. This should be called the scheduled districts schedule.

After this is done, the next step is to permit the Muslims to decide by a referendum on one of the following alternatives:—

To consent to allow the scheduled districts to remain part of a united India for period of ten years at the end of which they may be permitted to sever the scheduled districts and to establish Pakistan; or to decide that the Scheduled districts be forthwith constitued into a separate state of Pakistan, and to permit the State of Pakistan, ant to permit the State of Pakistan to be amalgamated with Hindustan on a referendum to be taken after ten years on terms agreed upon by Pakistan and Hindustan.

Council of India

In case the Muslims should decide to have Pakistan forthwith there may be established a council of India having equal representatives from Hindustan and Pakistan to discuss matters of common concern. This Council will be dissolved, if, after ten years, the Pakistan State decides to amalgamate with Hindustan."

Dr. Ambedkar emphasised that the passing of the Act suggested by him need not be followed up immediately by a referendum. It could be taken after the war. The passing of the Act would have, in his view, a salutary effect on Hindus and Muslims, because both of them would know that whatever constitution came into existence, it would have the consent of the people. If matters could be brought to such a state, it would pave the way for the formation of a National Government during the war.

"I cannot see," Dr. Ambedkar concluded, "how a statute like this can be avoided. It shall have to be passed in any case, now or after peace, but necessarily before constitution making is taken in hand. So far as the first referendum is concerned it should be made dependent upon Muslims of legislatures of Pakistan provinces passing a resolution demanding separation."[1]

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1. : The Times of India, dated 13th May 1943.

17

JINNAH'S FEARS WILL HAVE TO BE ALLAYED

New Delhi, July 12, 1944.

"Welcoming the Rajagopalachari formula, as a sign of" Return to Sanity "Dr. B. R. Ambedkar, Labour Member, Government of India, in a Press interview said he nevertheless preferred his own scheme outlined in 1943, under which Pakistan would be tried as an experiment for ten years and if at the end of that period Mussalmans in Pakistan decided to amalgamate with Hindustan, they should be free to do so.

His scheme further contemplated an Act of the British Parliament, the setting up of a delimitation commission, and the holding of two plebiscites, first of Mussalmans to determine whether they wanted partition and second of Non-Muslims, to decide whether they would prefer to stay in Pakistan or go out of it.

Boundary Commission

If Non-Muslims decided to be in Pakistan, then the boundaries of Pakistan would be the present provincial boundaries, while if Non-Muslims declared themselves opposed to staying in Pakistan, a Boundary Commission would be set up to demarcate the predominantly Muslim district from predominantly Non-Muslim districts.

Dr. Ambedkar, however, welcomed Gandhiji's acceptance of the principle of the self-determination, but felt that it would have been much better if the offer was made by him and it would also have been better if the offer was unconditional and not subject to conditions such as joining in the demand for independence and for the establishment of full National Government.

Jinnah's Fears

Dr. Ambedkar could not see on what grounds Mr. Jinnah could turn down the offer. The fact that in a plebiscite Hindus might influence Muslims to secure their votes against Pakistan might be Mr. Jinnah's ground for rejection of the offer. But plebiscite was the only way in which a problem of this kind could be decided. Dr. Ambedkar knows of no case in history in which such a problem was decided without a plebiscite.

Will Congress Buy Off Muslims ?

"There are risks in a plebiscite," Dr. Ambedkar conceded, "but such risks Mr. Jinnah will have to take. Sincerity behind the offer is more important than the offer itself. Mr. Jinnah may well feel disinclined to accept the offer, knowing that Mr. Rajagopalachari and the Congress may have made it purely, as a matter of fact, to put him in the wrong and may simultaneously with the making of the offer have devised ways and means of buying the votes of Muslims. Mr. Jinnah may well ask Mr. Rajagopalachari if there was any truth in the disclosures made in his defamation case about his intention to offer Pakistan to Muslims and then to circumvent it by purchasing Muslims in Pakistan to negative the offer.

"Gandhiji will have to prove his sincerity behind the offer and also guarantee that Hindus would not prevent Muslims from giving free vote." [1]

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1. : Free Press of India dated 13th July 1944.

18

FIRST PROPOSAL ON CENTRAL IRRIGATION AND WATERWAYS ADVISORY BOARD

"The Labour Department formed an opinion that it would be preferable to create a Central Irrigation and Waterways Advisory Board. We want a Board constantly in being and having the necessary authority. Our idea of this Board could be that it should be composed as follows :

Chairman:—Waterways and Irrigation Commissioner to the Government of India. This officer would have to have experience of India and should therefore be a senior officer of the Indian Service of Engineers. He would have required knowledge both of waterways and irrigation, but the strength of the Board as an advisory body would be the collective strength of the Board and not the individual strength of the Chairman. (He would, however, in his individual capacity supervise the working of the Indian Waterways Research Institution.)

Members:—There would be 3 permanent members: 1. Waterways member 2. Irrigation member 3. Hydro-Electric member.

There would also be part-time members—e.g. the Chief Engineers of any Provinces when any matter concerning the Provinces was under consideration, the Agricultural Advisor to the Government of India when any agricultural matters were under consideration. Power would also be given to co-opt members for particular matters.

Note : This constitution leaves the Board without a member for gravity irrigation but it is probable that the Chairman would always have this knowledge.

The responsibilities of the Central Irrigation and Waterways Board would be :

1. A general responsibility for initiating, co-ordinating and pressing forward schemes of river and waterways control with a view to

(a) prevention of floods ;

(b) prevention of erosion ;

(c) prevention of waterlogging ;

(d) control of water for irrigation purposes;

(e) control of water for power purposes ;

(f) utilisation by cheap power provision of sub-soil water for irrigation ;

(g) dewatering by use of electric power of waterlogged areas ;

(h) regulation of flow of water for navigation purposes.

2. Preparation in consultation with Provincial Governments of water control schemes for all major waterways and preparation of project reports.

3. Organisation of procurement of statistical information regarding waterways, and organisation and control of subsoil water surveys.

4. Advice to the Government of India on the principles that should be laid down to govern the settlement of disputes between Provinces.

The Board would further require Consulting Engineers on such matters as—

(i) Dam construction;

(ii) Barrage construction.

H. C. Prior
Secretary
31.8.44

I agree. The only remark I have to make is whether it would not cause considerable delay if we were to consult the Provinces now. Can we not consult them at a later stage ?

B. R. Ambedkar
9.9.1944" [1]

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1. : Thorat, Pp. 150-151

19

BOTH ARE MAKING SERIOUS MISTAKE

"A large gathering of his followers and admirers was present at the Victoria Terminus to accord a reception to the Hon. Dr. Bhimrao R. Ambedkar, Labour Member, in the Viceroy's Executive Council, on his arrival by the Poona Express on Tuesday evening.*

Upon alighting on the platform Dr. Ambedkar was profusely garlanded by representatives of several Scheduled Castes and other Associations.

A Procession was then taken out in his honour which wended its way from the Station to Rajgrah at Dadar." [1]

"The Hon. Dr. B. R. Ambedkar, in an interview with a Representative of *The Times of India* on Wednesday,** stated that nothing but failure was expected of the Gandhi-Jinnah talks. "They did not meet each other, he said," with empty minds, but it is equally true that neither had an open mind."

The failure, in the opinion of Dr. Ambedkar, was due to among other causes, the obstinacy of both Mr. Gandhi and Mr. Jinnah, and the fundamental faults of the formula of Mr. Rajagopalachari. He added that no settlement of the Indian question could be considered complete without the consent of the Scheduled Castes. Neither Mr. Gandhi nor Mr. Jinnah was entitled to speak for them.

"I cannot believe," observed Dr. Ambedkar in his interview, "that Mr. Gandhi and Mr. Jinnah met to bring about a communal settlement. The adoption of Gujerati by Mr. Gandhi as a medium of communication with Mr. Jinnah when he asked for an interview was enough to make me feel that the talks would fail. Mr. Jinnah was too elated by the receipt of the letter to understand its implication. By writing it Gujerati, Mr. Gandhi, in his inimitable way, told Mr. Jinnah that he was only a Lohana, whose mother-tongue was Gujerati.

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* The 3rd October 1944.

** The 4th October 1944.

1. : The Bombay Chronicle : dated 4th October 1944.

Similarly, Mr. Jinnah knew that the formula of Mr. Rajagopalachari was different from the Lahore resolution of the Muslim League. Mr. Jinnah knew that Mr. Gandhi was seeing him in his personal capacity. Mr. Jinnah also knew that Mr. Gandhi was not going to him as a representative of Hindus. All these circumstances were quite contrary to the conditions upon which Mr. Jinnah was insisting before his debacle in Lahore.

Leaders' Obstinacy

"Failure was inevitable. If it was inevitable because of the obstinacy of the two men, it was also inevitable because of the fundamental faults in the C. R. formula. The formula is bad because it tied up the communal question with the political question. No political settlement, no communal settlement on which the formula proceeds. The formula did not offer a solution. It invited Mr. Jinnah to enter into a deal. It was a bargain—"If you help us in getting independence, we shall be glad to consider your proposal for Pakistan."

"The second fault in the C. R. formula relates to the machinery for giving effect to any agreement that may be arrived at. The agency suggested in the C. R. formula is the provisional Government.

"By consenting to the establishment of a provisional Government, the Muslim League would have executed its promise to help the Congress to win independence. But the promise of the Congress to bring about Pakistan would remain executory. Mr. Jinnah, who insists, and quite rightly, that the promises should be concurrent, could never be expected to agree to place himself in such a position.

"The second difficulty which Mr. Rajagopalachari has overlooked is what would happen if the provisional Government failed to give effect to the Hindu part of the agreement. Who is to enforce it? The provisional Government is to be a sovereign government; not subject to any superior authority. If it was unwilling to give effect to the agreement the only sanction open to the Muslims would be rebellion. To make the provisional Government the agency for forging a new Constitution for bringing about Pakistan nobody will accept. It is a snare and not a solution. The only way of bringing about constitutional changes will be through an Act of

Parliament embodying provisions agreed upon by the important elements in the national life of British India. There is no other way.

"There is a third fault in the C. R. formula. It relates to the provision for a treaty between Pakistan and Hindustan to safeguard what are called matters of common interest such as defence, foreign affairs and customs. Here again Mr. Rajagopalachari does not seem to be aware of obvious difficulties.

"One does not mind very much that the talks failed. What one feels sorry for is that the talks failed without giving us a clear idea of some of the questions about which Mr. Jinnah has been observing some discreet silence in his public utterances, though he has been quite outspoken in his private talks.

Questions to be clarified

"These questions are :—

(1) Is Pakistan to be conceded because of the resolution of the Muslim League ?

(2) Are the Muslims, as distinguished from the Muslim League, to have no say in the matter ?

(3) What will be the boundaries of Pakistan ? Whether the boundaries will be the present administrative boundaries of the Punjab and Bengal or whether the boundaries of Pakistan will be ethnological boundaries ?

(4) What do the words subject to such territorial adjustments as may be necessary which occur in the Lahore resolution mean ? What were the territorial adjustments the League had in mind?

(5) What does the word 'finally' which occurs in the last part of the Lahore resolution mean ? Did the league contemplate a transition period in which Pakistan will not be an independent and sovereign State ?

(6) If Mr. Jinnah's proposal is that the boundaries of eastern and western Pakistan are to be the present administrative boundaries, will he allow the Scheduled Castes, or, if I may say so, the Non-Muslims in the Punjab and Bengal to determine by a plebiscite whether they wish to be included in Mr. Jinnah's Pakistan, and

whether Mr. Jinnah would be prepared to abide by the results of the plebiscite of the Non-Muslims elements in the Punjab and Bengal ?

(7) Does Mr. Jinnah want a corridor running through the U. P. and Bihar to connect up Eastern Pakistan to Western Pakistan ? It would have been a great gain if straight questions had been put to Mr. Jinnah and unequivocal answers obtained."

After stating that the question of Pakistan was not an academic one and that discussion on it would have to be resumed. Dr. Ambedkar said : "the correspondence that passed between Mr. Gandhi and Mr. Jinnah suggests that Mr. Gandhi and Mr. Jinnah regard the Hindus and the Muslims as two necessary and proper parties to an agreement about Pakistan. It also suggests that Mr. Jinnah wants to have Pakistan with the provincial boundaries as they are and that without giving any say to the Non-Muslims in the Pakistan areas.

"I am bound to state that in proceeding on these assumption both Mr. Gandhi and Mr. Jinnah are making a serious mistake. Besides the Hindus and Muslims, the Seheduled Castes are a third necessary party. They are a necessary party to the dispute. Mr. Gandhi, nor the Congress, nor the Hindu Mahasabha is entitled to speak for them. Mr. Jinnah must know that he cannot be allowed to walk away with so large a population of the Scheduled Castes without their consent.

"As I am concerned in the question of Pakistan I must state my position that the Seheduled Castes could not be allowed to be included in Pakistan without their express consent either in the western zone or in the eastern zone, that consent being given expressly and in most positive terms such as a free referendum of their own."[1]

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1. : The Times of India : dated 5th October, 1944.

20

SAPRU IN THE WRONG

New Delhi, December 31st, 1944.

"Dr. B. R. Ambedkar in a statement in reply to Sir Tej Bahadur Sapru's reference to the question of Scheduled Castes co-operation with the Conciliation Committee says:—

"I cannot help being surprised that Sir Tej Bahadur Sapru seems to make a grievence of the fact that I refused to co-operate with this Committee. I should think that if anybody has a grievance, it is myself and not SirTej Bahadur Sapru.

"I have no doubt that in going about his business he started at the wrong end. If he wanted the different parties to the communal dispute to agree to appear before the Committee, it was not only desirable but necessary that, before finalising the personnel of the committees, he should have, in fairness show the list of the names to the leaders of the parties concerned and invited them to say whether they had any objections to those names. Instead of doing that, he first decides the personnel at his own sweet will and present the parties with a ' *fait accompli*,' leaving them to accept or reject it. To say the least of it, it is a very unfair, if not preposterous, way of appointing a Committee and expecting people to repose confidence in it.

Names Not Submitted

"When Sir Tej Bahadur Sapru approached me, he never gave me an inkling as to the sort of persons he was going to have in the Committee. We discussed only the general issue, namely, whether it was not desirable for an impartial body of people to consider the different demands put forward by different communities and to evaluate them and state which of those demands were reasonable and which were not. I certainly did expect that after that Sir Tej Bahadur Sapru would let me have the names of persons he intended to put on the Committee. He never did that.

"In these circumstances, if I told Sir Tej Bahadur, I was not satisfied with the personnal of the Committee and, therefore, I could not undertake to co-operate with it. I do not think I am in the wrong.

Simon Parallel

"Sir Tej, at any rate, cannot say that my attitude is unresponsible. Everybody knows how in 1929 Sir Tej himself took the lead in opposing and non-co-operating with the Simon Commission on the ground that the personnel of that Commission was not in accordance with the general sentiments of the people of this country.

"Sir Tej Bahadur Sapru while he mentioned the fact that I had declined to co-operate, did not mention the other portion of my letter in which I have stated that if he was prepared to reconstitute his Committee so as to give me satisfaction, I was still prepared to co-operate with him. Evidently, he thinks he can get on with the Committee by examining the literature and resolutions issued by the different communities setting out their demands and getting a miscellaneous crowd from the various communities to co-operate with him. He is, of course, welcome to do that. All I want to say is this, that he has made a grievance against me for which, I have no doubt there is no cause, and if there is a cause for it, he is solely responsible for it."—A. P."[1]

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1. : The Free Press of India, dated 1st January 1945.

21

CONTROL AND UTILISE THE MAHANADI TO THE BEST ADVANTAGE

LETTER BY DR. AMBEDKAR, CABINET MEMBER, LABOUR REGARDING HIRAKUND DAM

Letter by Dr. Ambedkar,

Department of Labour

Dear Lord Wavell,

Would you refer to paragraph 2 of your letter of the 20th January? I have had this matter examined by my Department in consultation with Finance Department. Khosla has reported that the Sambalpur Dam must definitely form part of the Mahanadi Scheme, that the geological report is satisfactory but that he is not yet able to estimate the cost or the revenue accruing from either the dam or the scheme as whole. He considers, however that it is so certain that the Sambalpur Dam will form part of the Mahanadi Scheme that it is quite legitimate to lay the foundation stone in March. The Finance Member is all in favour of schemes of this sort and does not consider that the laying of the foundation stone will involve any specific commitments though he considers—as I do—that if a decision to lay a foundation stone is taken we can authorise the Governor to state that the Government are determined to control and utilise the Mahanadi to the best advantage of the country and that in this matter the Provincial Government hopes to receive all reasonable support from, the Central Government provided that the project plans now under preliminary preparation show, as is expected that it is worth while to go on with the scheme,

In your letter you have said that we might perhaps aim at a decision early enough to enable Lewis to lay the foundation stone before he hands over charge. I think the only decision we can take is that we will assist Orissa in carrying forward the Mahanadi Scheme subject to the proviso indicated above. I think that this decision justifies us in going ahead with laying a foundation stone provided that with this assurance the Governor himself is prepared to do so from the Orissa angle.

My Department has shown this letter to Finance Department who agree with it.

Yours Sincerely,
B. R. Ambedkar
Member Labour
February 1946"[1]

His Excellency

the Right Honourable Viscount Wavell.

Dr. Ambedkar's this letter was in response to following letter by Viceroy Viscount WAVELL.

The Viceroy's House
20th January 1946

Dear Dr. Ambedkar,

It is very satisfactory that Madras and Orissa have been able to come to terms about the Machkund case. I have telegraphed to both the Governors asking them to see that the agreement is confirmed as soon as possible.

I understand from Menon that in the course of negotiations the desirability of making an early start with the Mahanadi scheme by the contruction of a dam at Sambalpur was mentioned. Orissa is a very poor and backward Province, and if it is technically sound to construct the Sambalpur Dam—a point on which I think we should be able to satisfy ourselves at once—I hope we shall be able, subject to Rowlands agreement, to go ahead almost immediately. You know my interest in water control and irrigation, and I should like to be kept in touch with progress. Perhaps we could aim at a decision early enough (if we decided to go ahead) to enable Lewis to lay the foundation stone before he hands over charge on the 31st March.

Yours sincerely,
Wavell

The Hon'ble
Dr. B. R. Ambedkar

1 Thorat, Pp 172-174.

22

WE MUST WORK IN INDIA FOR CREATING CO-OPERATIVE SPIRIT AMONG ALL PARTIES

"London, October 22, 1946. (Reuter)

In the course of an interview to Reuter's Correspondent on the Indian constitutional situation, Dr. Ambedkar said :

"It is quite definite that they are not friends, they are not even allies." He added, "We know people who are allies though not friends, but the Muslim League and the Congress Party have gone into the Provisional Government as adversaries. What can we expect ? One can hardly call that a coalition. It is really, in a sense, Government of one country by two nations"

Dr. Ambedkar said that this was not the time for party Government in India. "We are practically in the midst of a Civil war", he asserted. "You may not like to call it a civil war, but that is the spirit behind it. At this time there should be a real coalition Government consisting of all parties at the Centre just as you in Britain had during the war.

I think the coming ten years are so critical in the destiny of India that unless all parties work together we will not be able to put the country any way you like."

"We must remember that we shall have to create such a feeling in India," continued Dr. Ambedkar.

"Hereafter, there will be no such thing in India as section 93 of the Government of India Act of 1935. Section 93 was really a Constitutional brake upon anarchy, however, much it was hated by the people." Dr. Ambedkar said and added : "There will be no British troops. It is in the light of these circumstances that we must work in India for the purpose of creating that co-operative spirit among all parties and people that alone can help us in future."

Dr. Ambedkar confessed himself unhappy both about the present and the future. "After all," he asked, "What had we achieved and what is it that the future has in prospect?—two nations dividing the country geographically into three fragments."

"Which way does hope lie?" I asked Dr. Ambedkar.

"I have no idea," he answered, "but if I had arranged matters I would have proposed reintroduction of the Government of India Act of 1935."

"That Act," he said "presupposed a United India and it might have altered the communal part of the situation in a manner that would have given a greater protection to certain minorities who felt they did not have enough protection."

"Then I would have said, work for the United Constitution for ten years. At the end of ten years, have a Constituent Assembly and divide country any way you like."

"If the British had done that," declared Dr. Ambedkar, "they could have said our greatest achievement has been the unity of India, and although we have made many mistakes and done many wrongs, the unity we have achieved has more than compensated for the wrongs and errors of 150 years and we intended to handover the inheritance intact."

"I have come over on a political mission to see Prime Minister Clement Atlee, Mr. Winston Churchill, and others," Dr. Ambedkar said, " I want to put my point of view with what success I cannot say, as to the injustice the Cabinet Mission and the Labour Party have done to the Scheduled Castes. I think personally the Cabinet Mission was misinformed."

Now, concluded Dr. Ambedkar, "in the reconstituted Indian Provisional Government, we have the Labour Government instead of allowing the Scheduled Castes to be nursed by their own mother that is by having two representatives in the Cabinet appointed two wet-nurses in shape of Mr. Jinnah and Mr. Gandhi."

Dr. Ambedkar is having a memorandum printed setting out the case for the Scheduled Castes and will wait until this is ready before approaching political leaders."[1]

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1. : The Bombay Chronicle, dated 24th October 1946.

23

UNLESS THESE POINTS WERE CLEARED NO LEAD ON PARTITION ISSUE

New Delhi, April 27, 1947.

Dr. B. R. Ambedkar, President of the Scheduled Castes Federation, in an interview here today, said that the Federation had not come to any conclusion on the question of the partition of Bengal and the Punjab nor had it any desire to prejudge the issue.

If the Hindus wanted partition, he said, they would have to satisfy the Scheduled Castes on the following points :—

Firstly, what protection are the Hindus prepared to offer to the Scheduled Castes under the new Constitution as against what the Muslim League would be ready to offer? Secondly, where will the boundary line be drawn? Thirdly, will there be provision for an exchange of population? And fourthly, what provisions are the Hindus prepared to make for the economic rehabilitation of the Scheduled Castes who, as a result of division, will be left within the Muslim Zone and who will have been brought over to the Hindu Zone as a result of an exchange of population?

Unless these points were cleared, Dr. Ambedkar added, it would not be possible for the Federation to give a clear lead on the issue of the partition of Bengal and the Punjab.— A. P. I." [1]

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1. : The Times of India, dated 28th April 1947.

24

GOVERNMENT OF INDIA WILL NOT RECOGNISE ANY PRINCELY STATE AS SOVEREIGN INDEPENDENT

There was a move for declaring India as an Independent Sovereign Country and there was a question, what would be the position of the Princely States? The Princely States were of the opinion that they will also have Independent Sovereign States, as they are also under the control of British Govt. 'Travancore' and 'Hyderabad' were the main Princely States. The Cabinet Mission also upheld this view but Dr. B. R. Ambedkar opposed the view and issued a statement showing how the Cabinet Mission's view was wrong for the nation. He further stressed that all the Princely States should be merged in India, in the interest of the sovereignty of the country. The statement read as follows: Editors.

"The only way by which the Indian States can free themselves from Paramountcy is by bringing about a merger of sovereignty or suzerainty. This can happen only when the Indian States join the Indian Union as constituent units" says Dr. B. R. Ambedkar, former member of the Viceroy's Executive Council and a leading constitutional lawyer, in a statement opposing the declaration of independence by certain States. The Indian States, Dr. Ambedkar says, will be sovereign to the extent they are, but they cannot be independent so long as they remain under the suzerainty, as they must, of the Crown, if India becomes independent. The States should realise, he adds, that their existence as Sovereign Independent States will not be worth fine years' purchase. Dr. Ambedkar goes on, the basis of the claim made by the States for a right to declare themselves independent lies in the Statement of May 12, 1946 issued by the Cabinet Mission, in which they say that the British Government could not and will not in any circumstances transfer Paramountcy to an Indian Government which means that the rights of the States which follow from their relationship to the Crown will no longer exist, and that all the rights surrenderd by the States to the Paramount power will return to the States.

Mischievous Doctrine

The doctrine that Paramountcy cannot be transferred to an Indian Government, is a most mischievous doctrine, and is based

upon an utter misunderstanding of the issue involved. After the passing of the Statute of Westminster, which earned out Canada, Australia, South Africa, and Ireland as separate dominions, the Crown, in the exercise of it prerogative rights, acts on the advice of the Cabinet of the Dominion concerned. It is bound to do so. It cannot do otherwise, it follows that when India becomes Dominion, the Crown will be bound to act in the exercise of its prerogative rights; namely Paramountcy on the advice of the Indian Cabinet. The protogonist of the theory that Paramountcy cannot be transferred to the Government of India rely on the omission from the Government of India Act, 1935, of the provisions of Section 39 of the Government of India Act, 1833 (they were reproduced in Section 33 of the Government of India Act, 1915-19) according to which the civil and military Government of India (as distinguished from the civil and military Government of British India) is vested in the Governor-General-in-Council and argue that the omission is evidence in support of the conclusion that Paramountcy could not be transferred to an India Government.

Under the Constitutional Law of the Empire, it is only when a country has become a Dominion that it can claim the right to advise the Crown and the fact that before it becomes a Dominion the Crown was differently advised is no bar to its claim. The fact the Government of India was not in the past permitted to advise the Crown in the exercise of its rights of Paramountcy does not mean that there is any inherent constitutional incapacity which disentitles her from claiming the right to advise.

Paramountcy Cannot Lapse

So far as, I have dealt with one part of the Cabinet Mission's statement where they say that the Crown could not transfer Paramountcy to an Indian Government. According to the Cabinet Mission, Paramountcy will lapse. This is a most astounding statement and runs contrary to another well established principle of Constitutional Law. According to this principle, the King cannot surrender or abandon his prerogative rights. If the Crown cannot transfer Paramountcy, the Crown cannot also abandon it. The validity of this principle was admitted by the Privy

Council in the Queen vs Edulji Byramji case, decided in 1840 and reported in 5 Moore's Privy Council cases (p. 276) wherein they said (p. 294) that the Crown could not even by charter part with its prerogative. It is, therefore, obvious that the statement by the Cabinet Mission that the Crown will not exercise Paramountcy is contrary to the Constitutional Law by which the Empire is governed.

Ultimate Sanction

Again, a statute passed by the Parliament of Great Britain abrogating Paramountcy would be improposed. The reason is obvious. The army is the ultimate sanction for Paramountcy. This Army has been the India Army for which British India has paid all long. Without the aid of this powerful army maintained by British India and placed at the disposal of the Crown through the agent, the Viceroy and the Governor-General of India, the Crown would never have been able to build up and conserve the powers of Paramountcy. These powers are of the nature of a trust held by Crown for the benefit of the people of India, and it would be a gross abuse of power on the part of the British Parliament to pass a Statute distroying that trust.

Dr. Ambedkar, in conclusion, says, whatever the choice of the Indian States may be, the duty of the people of India is clear. On their behalf, the Interim Government should notify his Majesty's Government that the British Parliament has no right to pass any law, abrogating Paramountcy and that any clause to that effect in the forthcoming legislation, conferring Dominion States on India, should be treated by the people of India as repugnant to their sovereignty and, therefore, null and void, and to declare that the Government of India will never recognise any Indian State as Sovereign Independent. [1]*

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[1] : The Times of India, dated 18th June 1947

Reprinted : Khairmode, Vol. 8, Pp. 195-198.

* For comments on the Statement see Appendix-IX and X.

25

BERAR WILL REVERT TO NIZAM ON AUGUST 15

Dr. Ambedkar's Interpretation Of New India Bill

The treaty by which Berar was ceded to the British would lapse and the territory revert to the Nizam on August 15, when His Majesty's suzerainty over India would cease, said Dr. B. R. Ambedkar, referring to the replies given by Mr. V. P. Menon, Reforms Commissioner, at a press conference last week at Delhi.

"The view expressed by Mr. Menon, if it is correct, "Dr. Ambedkar added," would no doubt serve as a great solace to the people of Berar who have been anxiously waiting to know what their fate is going to be under the new dispensation.

"The question is : Is the view expressed by him correct? In my judgment, having regard to the provisions contained in section 7 of clause 2 of the Bill, the view expressed by Mr. Menon is quite untenable.

"Sub-section 1 (B) of section 7 says that as from the appointed date, that is, August 15, not only the suzerainty over India by His Majesty will lapse but all powers, rights, authority of jurisdiction exercisable by His Majesty in or in relation to Indian States by treaties, grants, usage, sufferance or otherwise will also lapse. What does this mean when applied to the treaty with regard to Berar ? Obviously, it means that the treaty by which Berar was ceded to the British will also lapse.

Clause 2 Applies to Berar

"If this construction of the clause is correct, then the effect of this sub-section is that on August 15 Berar will revert to the Nizam. To argue that this clause does not apply to Berar because Berar has not been specially mentioned is to read into the sub-section A limitation which is not there. The sub-section is so general that specific mention of Berar is unnecessary. Specific mention of Berar would be necessary only if the intention was to save it from the effect of the general clause and not otherwise. As there is no such saving clause, the sub-section as it stands must have full operation in Berar, as well as other territories belonging to Indian States and which

forms part of the British India by reason of treaty or agreement. One is, therefore, bound to say that Mr. V. P. Menon has missed the import of sub-section 1 (B) of section 7 and hereby created a wrong impression by his answers at the press conference.

Transfer of Territories

"It is equally incorrect to suggest as was done at the said conference by Sardar Patel that the position of Berar will stand as it is until a new agreement is made with the Nizam. The reason is that the standstill clause which is sub-clause (c) of sub-section (1) of section 7 makes a distinction between treaties and agreements which refer to transfer of territories and those which relate to arrangements regarding customs, transport, communications, posts and telegraphs or other like matters. It saves treaties of the latter class only. It does not save any agreement which relates to transfer of territory. The agreement relating to Berar is an agreement which relates to transfer of territory and as such is not saved from the general effect of sub-clause 1 (b) of section 7.

"Nobody would be more happy than myself if it was shown that the construction I put upon section 7 was wrong. All I want to say is that the people of India and the people of Berar should take note of section 7 as it stands and should have the matter cleared up by a direct question to the Prime Minister, Mr. Atlee, when the Bill comes up for discussion in the House of Commons."—A.P" [1]

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1. : The Times of India, dated 8th July 1947.

26

IF BOUNDARY DRAWN IS NOT NATURAL IT WILL PUT THE SAFETY AND SECURITY OF THE PEOPLE OF INDIA IN GREAT JEOPARDY

New Delhi, July 20, 1947.

Dr. B. R. Ambedkar, in a statement today said that the partition of the Punjab and Bengal was not a local problem to be left to the people of these two provinces, but an "All-India problem" for it involves the fixation of the Frontiers of Pakistan and India and must be determined primarily by "considerations of facility of defence and administration."

Dr. Ambedkar said : "From the reports of controversies going on in the newspapers regarding the fixation of the boundary line betwen the West Punjab and the East Pubjab and between West Bengal and East Bengal and of the gists of the memoranda submitted to the Boundary Commission by the Muslims and Non-Muslims, it becomes clear that the results of the Boundary Commission may be disastrous to the country.

"In the first place, the problem is treated as though it was local problem, to be left to the people of the Punjab and Bengal to fight among themselves. In the second place, the problem is regarded by the local people as one of land-grabbing. In this scramble for land, a frantic search is being made to find out Muslim enclaves in Non-Muslim areas and Non-Muslim enclaves in Muslim areas with a view to push the national boundaries backwards and forwards and to bring as many Muslims from Non-Muslim area to Muslim area and as many Non-Muslims from Muslim area to Non-Muslim area.

"Both these methods of approach are, to my mind, wrong and misleading. The shifting of national boundaries with reference to enclaves could have been justified if it was accepted that Pakistan and Hindustan should be homogeneous states. This has, however, not been the basis of partition, as is clear from the fact that neither the Congress nor the Muslim League has stipulated for transfer of population. No matter how the national boundaries are chopped and changed, a large number of Non-Muslims will remain in Pakistan and an equally large number of Muslims will remain in

India. Consequently, the attempt to shift boundaries merely to include more of one's fellow members is, I think, utterly misdirected.

Defence

Secondly, the problem would have been local, if Pakistan and India were not two Sovereign Independent States. The fact, however, is that they are, and each will have to defend itself against encroachment or invasion, should an occasion arise.

In this view of the matter, the partition of the Punjab and Bengal is not a local problem but an all-India problem, for it involes the fixation of the frontiers of Pakistan and India and must be determined primarily by considerations of facility of defence and administration.

In the light of these considerations, the Government of Pakistan and that of India would not only be the proper parties before the Boundary Commission, but they will be the necessary parties. The boundaries between Pakistan and India being the frontiers of India, it was for the Defence Department of the Government of India to have insisted that the Boundary Commission should have military officers as-assessors which is always done in the settlement of frontiers between two States.

Not only has the Defence Department of the Government of India failed to do so, it has not even cared to appear before the Boundary Commission to present the case from defence and administration points of view. It seems to have forgotten that the maintenance of the frontier will not be the responsibility of the East Punjab or West Bengal. From first to last, it will be the responsibility of the Government of India and it was, therefore, the primary concern of the Defence Department to have its say in the fixation of the frontiers.

Natural Boundaries

No one can deny that from the point of view of defence and administration, boundaries between Pakistan and India must be natural boundaries, *i.e.* they must run along a river or a

mountain. From the nature of contentions raised in the memoranda submitted to the Boundary Commission, it is clear that these factors will not receive the considerations they deserve.

They are slurred over and not even mentioned. The danger is that the forntiers between Pakistan and India that are likely to emerge from the labours of the Boundary Commission, however, satisfactory they may be from the standpoint of the communities immediately affected, will be most unsatisfactory from the point of view of India.

If my fears come true and the boundary drawn by the Commission is not a natural one, it needs no prophet to say that its maintenance will cost the Government of India very dearly and it will put the safety and security of the people of India in great jeopardy. I hope, therefore, that late as it is, the Defence Department will bestir itself and do its duty before it is too late." —A.P.I." [1]

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1. : The Free Press Journal, dated 21st July 1947.

27

INDIAN CITIZENS HAVE EQUAL RIGHTS BEFORE THE LAW

Dr. Ambedkar's interview with Alan Campbell:—

"Government House, New Delhi,
Saturday, 24th April, 1948"

"They and I dined tonight amid fairy-lights on the lawn of the Delhi Gymkhana Club. Our host was Shri Krishna (well-known Delhi political correspondent), who had collected an interesting party. The principal guest was Dr. Ambedkar, the Minister for Law, the Leader of the Untouchables, and a colourful personality in Indian politics over the past twenty years. He is now one of the principal figures associated with preparation of India's new Constitution which finally removes the stigma of Untouchability from the Statue book. As part of his emancipation, Dr. Ambedkar, himself is Untouchable, has only recently married a lady doctor who is a Brahmin. The custom of centuries cannot be uprooted overnight, and the event has caused quite a stir. His wife was with him this evening, but, as it is the custom with so many Indian ladies on social occasion had little to say.

Dr. Ambedkar himself was in expansive viewing, gave us a revealing analysis of some of the features of the new Constitution. He pointed out, instance, that the special powers reserved for the judiciary under its provisions were greater than enjoyed by the United States Supreme Court. As evidence of the enduring quality of the 1935 Act, said that some two hundred fifty of its clauses has been embodied as they stood into the new Constitution.

We had a discussion on Cabinet Government, Dr. Ambedkar referred to the complaint that the present system was working too slowly in India. He thought that where the matter of policy affecting two department was involved the issue should at once be settled as between the Ministers concerned. He comments the Ceddes proposals and the system of non-departmental Cabinet chiefs with groups of departmental deputies under them. He said he was sorry. Mountbatten was leaving before the Constitution was finally

passed. The Commonwealth issue, he felt, was likely to be decided outside the Constituent Assembly." (Mission With Mountbatten. Pp. 318-20 by Alan Campbell—Johnson).

"The Indian Constitution, which was under active preparation and discussion during Lord Mountbatten's term of office, is a synthesis of the great Western charters of liberty. The obvious hiatus between the vision of this document and the realities of Indian life does not destroy the validity of the vision. It represents a great tribute to the liberalising influence of British thought, and is a fundamental attack upon the aims and aspirations of communalism. The Indian Constitution offers fresh hope for the eighty million Untouchables, who under purely Hindu dogma were parials polluting food with their shadow, but are now Indian citizens with equal rights before the law. It is significant that one of the principal personalities in Nehru's Government, and as such a prominent personality in the preparation and sponsorship of the Constitution, is Dr. Ambedkar, the well- known leader of the Untouchables." [1]

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1. : Mission with Mountbatten, Pp. 361-362, by Alan Campbell-Johnson. Reprinted : Khairmode, Vol. 10, Pp. 36-38.

28

ONE OFFICIAL LANGUAGE FOR CENTRE AND PROVINCES

Bombay, October 15th, 1948. (API)

Dr. B. R. Ambedkar, India's Minister for Law, has expressed the opinion in a statement submitted to the Linguistic Provinces Commission, that the demand for the reconstitution of provinces on linguistic basis should be accepted but the Indian Union's Constitution should provide that the official language of every Province shall be the same as the official language of the Central Government.

It was only on that footing which was necessary to provide against the break-up of India's unity that he was prepared to accept the demand for linguistic provinces, Dr. Ambedkar said.

"A Linguistic Province produces what democracy needs *viz*- social homogeneity." Dr. Ambedkar said, "The reason why in a heterogeneous society democracy cannot succeed is because power, instead of being used impartially is used to the detriment of another."

Coming to the question of Maharashtra Province Dr. Ambedkar quoted figures showing its size and population, and said the figures left no doubt that Maharashtra would not merely be a viable Province, but a strong Province in point of area, population and revenue. He disapproved of the idea of sub-Provinces in Maharashtra, which would be a perpetual burden in normal times and a source of weakness in an emergency.

Replying at great length to several points made in recent newspaper articles against the inclusion of Bombay in the proposed Maharashtra Province, Dr. Ambedkar argued that Maharashtra and Bombay were not merely interdependent, they were really one and integral and severance between the two would be fatal to both. "If the Commission can accept the arguments urged for the separation of Bombay from Maharashtra, it must be equally prepared to recommend the separation of Calcutta from West Bengal." Dr. Ambedkar said, because "The Maharashtrians can at least claim that they have supplied labour if not capital for the trade and industry of Bombay; the Bengalis cannot even say this." [1]

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1. : The Sunday Chronicle, dated 17th October 1948.

29

INDIA AND THE BRITISH COMMONWEALTH

FINANCE MINISTER
INDIA

No. 8195-Of/48
New Delhi,
November 19, 1948.

My dear Ambedkar,

Many thanks for sending me your note on India and the British Commonwealth. I have read it with great interest as an able and lucid analysis of a difficult problem.

The note is being returned herewith.

Yours sincerely,
Sd/Illegible

The Hon'ble Dr. B. R. Ambedkar,
Minister for Law, Government of India,
New Delhi.

(See the note overleaf —Editors)

As regards this paper, the then Officer on Special Duty, noted that the paper was found in the record received by the Government from the Administrator General, Maharashtra State in 1979.

The Note of 'India and the British Commonwealth' was sent by Dr. Ambedkar to the Finance Minister of India, which was returned by him with a covering letter from the office. The signature is, however, illegible.—Editors.

India and the British Commonwealth

I. The Necessity for a Link

In considering the question of establishing a link between India and the British Commonwealth there are two questions which arise for decision. First is, should India sever all her connections with the British Commonwealth and assume the status of an independent Sovereign State ? The second is that if India is not to sever all her connections with the British Commonwealth, what should be the relationship between India and the British Commonwealth ?

2. On the first question there seems to be hardly any difference of opinion. Barring a few extremists, the majority are against India severing her connection with the British Commonwealth. It is not that only India is anxious to maintain this link, it is desired by the British Commonwealth. It is in the interest of the Commonwealth that India should not sever her connection with it. The link between India and the Commonwealth is vital to the Commonwealth. The defence of the Commonwealth depends upon its link with India. At the same time it would not do for India to adopt an attitude of indifference. For she too cannot do without link with the Commonwealth. There are two things which India needs and which are vital to her existence as a free country capable of shaping her destiny in her own independent way without dictation from outside and of having an effective voice in the affairs of the world. Free India cannot be free India unless she reaches this position. This position India cannot reach unless her industrialization becomes an accomplished fact and unless she develops in a military strength both adequate for defence as well as for offence. For achieving this objective India must obtain technical equipment which she has not and which she cannot get without outside help. Such outside help can come more readily from the British Commonwealth than from any other quarters. It is, therefore, in the interest of India that she should have a link with the Commonwealth.

II. National Status vs. Dominion Status

3. The solution of the second question is, however, not quite so easy. It raises many problems. India has achieved a national status. Should she exchange it for a Dominion Status ? This is

the first problem we have to tackle. From a purely formal point of view there need be no difficulty. Formally there is no difference between National Status and Dominion status. Dominion Status is not a subordinate status in any manner whatsoever. Each Dominion is not merely autonomous but independent and is equal in status to any other Dominion. In the scheme of the Commonwealth, the United Kingdom is only one of the Dominions. How autonomous and independent each Dominion is, will be found by reference to two events of recent occurance. One relates to South Africa. King Edward VIII continued to be the King of South Africa for two days after he had ceased to be the King of the rest of the Commonwealth. The other relates to Ireland. In the last war when all the Dominions were at war, Ireland decided to remain neutral. In my opinion no greater proof is necessary to show how real and how effective is the autonomy and independence of each Dominion. It is as good as National Status.

4. Question is, can India now accept Dominion Status after having acquired National Status ? I think it cannot. The reasons are obvious. They are both constitutional and psychological. The essentials of Dominion Status are three—(1) Recognition of common loyalty to the King, (2) Recognition of the King as the head of the Dominion acting through the Governor-General appointed by him, (3) Oath of allegiance to the King by members of Dominion Parliament. If the Constitution of every Dominion is examined, it will be found that these three elements are embedded in it.

5. The Draft Constitution for free India which is being considered by the Constituent Assembly does not recognize any of these elements. The preamble of the Draft Constitution describes India as a Sovereign Independent Republic. The use of the word "Republic" is incompatible with the King being at the head of the State. The Draft Constitution makes the President the head of the State and not the King. Nor is the President the Representative of the King. He is the representative of the Indian people. The oath to be taken by the members of Indian Parliament is not an oath of allegiance to the King but to the country and to the Constitution. Thus, the Draft Constitution is fundamentally different from what a Dominion Constitution is required to be. It requires every one of the three essential elements of a Dominion

Constitution. This is one difficulty in the way of India now accepting Dominion Status. To put the car in the reverse gear is always difficult. It is much more difficult to do so when the car has started running down hill.

6. The other difficulty is psychological. Can we adopt an alien King as our own ? Is there anything socially and culturally common between Indians and the people comprising the Dominions ? Even if the word 'British' was removed from its designation, the Commonwealth will still continue to be British in its loyalty and white in its colour complex. Can India feel at home in such a Commonwelath ? However, much one may like that India should maintain a link with the Commonwealth, there can be no doubt that India cannot be at home in the Commonwealth.

III. Amended Form of Dominion Status

7. If the link cannot be established by India becoming a Dominion in *de jure* sense of the term, what is the alternative ? The alternative suggested is that proposed in the British Nationality Act of 1948 and the Canadian Nationality Act of 1946. Section 1 of the act reads as follows :—

"British nationality by virtue of citizenship :—

(1) Every person who under this Act is a citizen of the United Kingdom and Colonies or who under any enactment for the time being in force in any country mentioned in the next following sub-section is a citizen of that country shall, by virtue of that citizenship, have the status of a British subject. Any person having the status aforesaid may be known either as a British subject or as a Commonwealth citizen and accordingly in this Act and in any other enactment or instrument whatever whether passed or made before or after the commencement of this Act, the expression 'Briish subject' and the expression Commonwealth citizen ' shall have the same meaning.

(2) The following are the countries hereinbefore referred to, that is to say, Canada, Australia, New Zealand, the Union of South Africa, Noewfound land, India, Pakistan, Southern Rhodesia and Ceylon."

Relevant sections of the Canadian Nationality Act are sections 4, 5 and 26 :—

"4. **Born before the commencement of the Act :—**A person, born before the commencement of this Act, is a natural born Canadian citizen :—

(a) If he was born in Canada or on a Canadianship and has not become an alien at the commencement of this Act; or

(b) if he was born outside of Canada elsewhere than on a Canadianship and his father, or in the case of a person born out of wedlock, his mother—

(i) was born in Canada or on a Canadianship and has not become an alien at the time of that person's birth, or

(ii) was, at the time of that person's birth, a British subject who had Canadian domicile,

if, at the commencement of this Act, that person has not become an alien, and has either been lawfully admitted to Canada for permanent residence or is a minor."

"5. **Born after the commencement of the Act**:— A person, born after the commencement of this Act, is a natural born Canadian citizen :—

(a) if he is born in Canada or on a Canadianship ; or

(b) if he is born outside of Canada elsewhere than on a Canadianship, and

(i) his father, or in the case of a child born out of wed-lock, his mother, at the time of that person's birth, is a Canadian citizen by reason of having been born in Canada or on a Canadianship, or having been granted a certificate of citizenship or having been a Canadian citizen at the commencement of this Act, and

(ii) the fact of his birth is registered at a consulate or with the Minister, within two years after its occurrence or within such extended period as may be authorized in special cases by the Minister, in accordance with the regulations."

"26. Canadian citizen a British subject :— A Canadian citizen is a British subject."

8. The scheme underlying these Acts is to create two categories of citizenship— (1) a Commonwealth citizen, and (2) a citizen of a particular Commonwealth. The acquisition of Commonwealth citizenship is automatic. Every person who is a citizen of a particular Commonwealth become, by reason of that fact, a Commomwealth citizen. It is said that if every Dominion did what the British and the Canadian Nationality Acts have done, it will be possible even for a Republic to be a member of the Commonwealth.

9. This proposal requires to be examined from three points of view before we can give our consent to it. Does this proposal make any change in the existing system of citizenship prevailing in the Commonwealth ? If the proposal does involve a change, does India gain or lose by this change ? Thirdly, even if India is desirous of having a link the Commonwealth can she accept this proposal consistently with the provisions contained in the Draft Constitution ?

10. The Commonwealth has suffered from three defects. One defect related to the conduct of its Foreign Affairs. Foreign Affairs have been the most fruitful source of war and yet they were mostly left to be conducted by the Government of the United Kingdom, with no active participation by the Dominions. It is true that the Dominions have the right to remain neutral. But that is no remedy, for it is a remedy which does not mend the Commonwealth. It puts an end to the Commonwealth. The second defect was that there was no remedy for the settlement of inter-dominion disputes. Dominions in relation to one another are not foreign countries. They therefore, cannot take their disputes to the Court of International Justice. And yet there has been no Tribunal to settle inter-dominion disputes. The third defect of the Commonwealth is that there was no common citizenship. A citizen of one dominion is not a citizen of every other Dominion. In fact the Commonwealth has been opposed to a Commonwealth citizenship. It insists that each Dominion shall be free to define who is to be its citizen and shall be free to say that the citizen of another shall not be its citizen. We are here concerned with the

third defect. Does the proposal make any change in this system ? As I see it, it makes no change. The Dominions will still continue to have the same right of defining who is and who is not their citizen which have today and will in future as in the past continue to exclude Indians resident in them from the rights of citizenship.

11. Thus India does not stand to gain or lose from this change *vis-a-vis* the Dominions. But India need not consider the case of the other Dominions for it may be taken for granted that they will never confer their citizenship on Indians and India, therefore, will never be called upon to admit them to her citizenship. But the case of India and United Kingdom is different. For under her Nationality Act she is prepared to recognize Indians as her citizens. She expects India to recognize her nationals to be the citizens of India. Can India afford to do so ? I am sure India cannot. The reason is obvious. Once a common citizenship is established between India and Great Britain, we shall not be able to discriminate between British and Indian for both will be citizens. We shall be going back to the provisions contained in sections 111 to 121 of the old Government of India Act, 1935, which prevented any such discrimination between British and Indian citizens, from which we have been trying to escape. It is, therefore, quite clear that Commonwealth citizenship is a dangerous method of making India a member of the Commonwealth.

12. Apart from the dangers involved in the proposal, can India accept it as a link between herself and the Commonwealth consistently with the provisions contained in the Draft Constitution to which I have already made a reference ? This solution of having a Commonwealth citizenship is recommended on the ground that it avoids reference to the King and this enables even Republics to remain members of the Commonwealth. But does it ? To dertermine this issue one must know what is meant by a Commonwealth citizen. Now citizenship is a matter of rights and duties. If a question is asked what are the rights of a citizen of a Commonwealth, one can easily answer it. The rights of a citizen of a Commonwealth are those that are conferred upon him by the

law of that particular Commonwealth of which he is a citizen. But what are the rights and duties of a Commonwealth citizen ? If this is a new and original concept having substance in it, then we should be able to find and answer to this question in the two Acts— defining nationality—British and Canadian. Both Acts are silent on the subject. A Commonwealth citizen is thus a bogus person with neither should to lose nor a body be kicked.

13. The term Commonwealth citizen is nothing but an empty phrase. It has no juristic content. As compared to it the citizenship of the United States, which is distinct from the citizenship of a State, is a real thing. It has certain privileges and immunites. But there are none which are attached to a Commonwealth citizen. Why then is the term Commonwealth citizen used ? What does it really stand for ? A reference to Section 1 of the British Nationality Act already quoted shows that it is only a substitute for the age old term "British Subject". Knowing this, can India accept this solution ?If a Commonwealth citizen is merely another name for a British citizen, he must owe allegiance to the King. And as I have pointed out, allegiance to a King is incompatible with a Republic. It is, therefore, clear that this solution—Commonwealth citizenship—cannot be accepted by India if India is to be a Republic.

IV. A New Approach

14. Having regard to her draft Constitution India cannot accept allegiance to the King, or Commonwealth citizenship as a method of remaining in the Commonwealth. We must find out some other way. It seems to me that the proper way to adopt is to follow the lines set out by De Valera in 1921 for the settlement of the Irish question. Those who have followed the controversy know that Mr. De Valera did not want Ireland to be a Constituent State of the Commonwealth having the symbols of a Dominion referred to in paragraph 4 of this note. He wanted Ireland to be an Associate State of the Commonwealth as a distinguished from a Constituent State of the Commonwealth. His conception of an Associate State of the Commonwealth was set out by him in a paper which in the history of Irish settlement is known as Document No. 2.

15. I reproduce the following parts of the Document for easy reference as well to give an idea of what Mr. De Valera meant by an Associate State:

"States of Ireland

1. That, the legislative, executive, and judicial authority of Ireland shall be derived solely from the people of Ireland.

Terms of Association

2. That, for purposes of common concern, Ireland shall be associated with States of the British Commonwealth, *viz* : The Kingdom of Great Britain, the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, and the Union of South Africa.
3. That, when acting as an associate the rights, status and privileges of Ireland shall be in no respect less than those enjoyed by any of the component States of the British Commonwealth.
4. That, the matters of "common concern" shall include Defence, Peace and War, Political Treaties, and all matters now treated as of common concern amongst the States of the British Commonwealth, and that in these matters there shall be "between Ireland and the States of the British Commonwealth" such concerted action founded on consultation as the several Governments may determine.
5. That, in virtue of this association of Ireland with the States of the British Commonwealth, citizen of Ireland in any of these States shall not be subject to any disabilities which a citizen of one of the component States of the British Commonwealth would not be subject to, and reciprocally for citizens of these States in Ireland.
6. That, for purposes of the Association, Ireland shall recognise His Britannic Majesty as head of the Association."

Here is a new way of establishing a link with the Commonwealth. Paragaphs 6, 5 and 4 call for a scrutiny :

Paragraph 6 :—This paragraph 6 can be easily dropped as being quite unnecessary for a link between the Dominions and the Associate State. De Valera himself when he gave effect to the principles underlying this Document by enacting the Executive Authority (External Relations) Act, 1936, dropped it.

Paragraph 5 :—We cannot accept paragraph 5 in the terms in which it stands. If it is found necessary to retain it, we must revise its language carefully. We must make a distinction between disabilities and privileges and immunities. While agreeing not to subject the citizens of the different Commonwealth residents in India to any disabilities, we must not allow them to claim the benefit of privileges and immunities which must be reserved to the citizens of India.

Paragraph 4 :—This paragraph of the Document is the most important part of the Document. It is the best part of the Document. It contains the definition of an Associate State and States clearly how and to what extent it is linked to the Commonwealth. This is enough for our purpose. Our Constitution will not permit us to have a closer link with the Commonwealth. Our needs will not permit us to have a looser link with the Commonwealth.

16. The question is whether association on these terms will be accepted as sufficient for India to be regarded as a member of the British Commonwealth of Nations. As I have stated the provisions of Document No. 2 were incorporated in the Irish Constitution when it was re-enacted in 1937. Question was raised whether with these changes, Ireland still remained a member of the British Commonwealth. In reply to this the British Government on the 30th December, 1937 issued the following statement—

> "His Majesty's Government in the United Kingdom have considered the position created by the new Constitution which was approved by the Parliament of the Irish Free State in June 1937, and came into force on December, 29th.
>
> "They are prepared to treat the new Constitution as not effecting a fundamental alteration in the position of the Irish Free State-in future to be described under the new Constitution as 'Eire' or 'Ireland'-as a member of the British Commonwealth of Nations.

"His Majesty's Government in the United Kingdom have ascertained that His Majesty's Government in Canada, the Commonwealth of Australia, New Zealand and the Union of South Africa are also prepared so to treat the new Constitution."

Having accepted Ireland as a member of the Commonwealth, the British Government is bound to do the same with regard to India especially when the terms in both cases are the same. Neither the British Government nor the Dominions can demand from us for associate membership which is all we need.

V-Nature and Advantages of the New proposal

17. By this new proposal the Commonwealth will consist of two sorts of States—(1) Constituent States, and (2) Associated States. The former will be the old Dominions with the King at the head. The latter will include countries like India who do not acknowledge the King at the head. The proposal has two advantages. It enables India to remain as Republic which she has resolved to be. It enables India and the Commonwealth to obtain reciprocal advantages in fields which are of vital importance to both. And lastly, it enables India to avoid the danger of giving recognition to the proposal of a Commonwealth citizenship which may involve equality of treatment of Indians and Britishers in matters of trade and commerce against which India has fought.

Vl-Clarification

18. While making India an Associate Member of the Commonwealth, we must not omit to make two things clear. One is that whether India is a member of the Commonwealth or not must not be made dependent upon the wishes of the Commonwealth. It must be determined entirely by any declaration made by India in this behalf. The other is that the dissociation of India from the Commonwealth must be left to be decided by any declaration made by India in this behalf. Anyone who has studied the case of Ireland will realize the importance of these clarifications. Ireland has been held to be a Dominion even when it was made clear by her in her Constitution that she did not want to be a Dominion. Ireland has not been allowed to go out of the Commonwealth on the ground that the other Dominions have not recognized her as a Foreign State.

19. This clarification has become urgent because of the recent decision of the King's Bench Division in Murry *v/s* Parkes (A.E.R.1942-Volume I. 558.) The question was whether Ireland was or was not a Dominion. The Lord Chief Justice held that Ireland was not a Dominion and gave two reasons in support of his decision—

(1) That, he was not aware that Eire had ever expressly exercised the right of secessions, and

(2) That, even if it had, the question would still remain whether secession by Eire could be effective unless and until the other members of the Commonwealth had recognized Eire as a Foreign State.

This is I have no doubt a very mischievous decision. There is in it more politics than Law. We must not, therefore, leave any shadow of doubt on the point that our entry into as well as our exit from the Commonwealth is a matter which entirely depends upon us and the wish and the consent of the Commonwealth is both unnecessary and irrelevant.

VII-Implementation

20. I now come to the question of implementation. There are two questions here which arise for consideration. The form of the declaration and the method of giving it a legal sanction. As to the form of the declaration, I put forth the following Draft—

"India is hereby declared to be an Associate member of the British Commonwealth for the purposes of such concerted action founded on consultation and free will in matters of common concern which shall include trade, commerce, defence, peace and war on the understanding that when acting as an associate rights, status, and privileges of India shall in no respect be less than those enjoyed by any of the other component States of the Commonwealth."

Such a declaration accompanied by clarifications on points mentioned above should suffice. If such a declaration is made, it does not seem to me to be necessary to amend the Preamble by the substitution of the word 'State' for the word 'Republic'. The word 'Republic' may stand.

21. The next question is of implementation. There are two ways of implementing it. One is by a treaty. The other is by introducing an Article in the Constitution. I prefer the latter mode.

22. This statement may appear to run counter to what is suggested by my amendment to the Preamble. I must confess that my attitude has undergone a change. This change is due to the new basis suggested for Dominion Status—namely Commonwealth Citizenship. I was in favour of Dominion Status because of the right it gave to each Dominion to define its Citizens. A common Citizenship seems to me to be dangerous to the economic independence of India. For it may result in taking away the liberty of India to protect her nationals against Commonwealth citizens. The original basis of Dominion Status—namely allegiance to the King—appears to me less dangerous than the new basis of Commonwealth citizenship.

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CONSTITUTION AND CONSTITUTIONALISM

THE CONSTITUTION OF INDIA
AN EXPOSITION OF ITS PRINCIPLES

Introduction : The Beginnings and the Growth of the Constitution.

PART I

Principles underlying the Constitutional System

Chapter 1. .. The Principle of Democracy.
Chapter 2. .. The Principle of Federalism.
Chapter 3. .. The Principle of Separation of Powers.

PART II

The Organs of the State

Chapter 4. .. The Legislature.
Chapter 5. .. The Executive.
Chapter 6. .. The Judiciary.

PART III

The Union and the States

Chapter7. .. Legislative Relations.
Chapter 8. .. Administrative Relations.
Chapter 9. .. Financial Relations.
Chapter 10. .. Emergency Relations.

PART IV

The State and the Citizen

Chapter 11. .. The Rule of Law.
Chapter 12. .. Right to Personal Freedom.
Chapter 13. .. Right to Freedom of Speech.
Chapter 14. .. Right of Public Meeting.
Chapter 15. .. Right of Association.
Chapter 16. .. Right of Free Movement.
Chapter 17. .. Right to hold Property.

The manuscript received contained only the Chapter Scheme of the book presented above and the two introductions which follow : Editors.

INTRODUCTION

The Nature and scope of Constitutional Law

In the pages that follow I have not reproduced the text of the Articles of the Constitution. Such a thing would have been in my judgment useless and unhelpful to the student who wants to have an overall idea of the provisions of the Constitution and the principles underlying it. What I have done is to select certain heads and assemble thereunder for discussion and exposition articles of the Constitution relevant to such heads. What those heads are will be clear from the Table of Contents. This is an analytical study of the Constitution which aims to give an objective picture of the Constitution and to set it in contrast with the provisions of the constitutions of other countries.

It is not unlikely that a reader may ask on what basis I have selected the heads for discussion. My answer is that these are the topics which are generally held to fall within the scope of Constitutional Law. This answer, however, raises other questions. What is meant by a Constitution ? What is the nature and scope of Constitutional Law ? Some explanation of the subject is, therefore, inevitable. It must, however, be very brief.

What is meant by the term Constitution ? The word constitution in its legal connotation means the act of establishing or of ordaining or the ordinance or regulation so established. According to Prof. Mc II wain :—

"In the Roman Empire the word in its Latin form became the technical term for acts of legislation by the emperor, and from Roman Law the Church borrowed it and applied it to ecclesiastical regulations for the whole Church or some particular ecclesiastical province. From the Church, or possibly from the Roman law-books themselves, the term came back into use in the later middle ages as applicable to secular enactments of the time."

For centuries the word Constitution always meant a particular administrative enactment. Much as it had meant to the Roman Lawyers. The word was used to distinguish such particular enactments from *Consuetudo* or ancient custom. It was not until 1610 the Constitution came to have the modern meaning, according to which it means the scheme of civil Government as defined by law ; in other words, the legal frame work of the State.

A hundred years later the word Constitution is seen to have taken on an additional and special meaning which goes much beyond the legal frame-work of the State. This is well indicated by Bolingbroke who, writing in 1733, said :—

"By Constitution, we mean, whenever we speak with propriety and exactness, that assemblage of laws, institutions and customs, derived from certain fixed principles of reason, directed to certain fixed objects of public good, that compose the general system, according to which the community hath agreed to be Governed."

Even this meaning of the word Constitution is still short of the modern meaning of the word Constitution. To-day the word means the fundamental law which determines the powers and duties of the different organs of Government in a State and to which they are subject. This meaning of the word Constitution was evidently brought out by Thomas Paine who argued that:—

> "A Constitution is not the act of a Government but of a people constituting a Government and a Government without a Constitution is power without right."

So much for the meaning of the word Constitution.

What is the nature and scope of Constitutional Law ? An easier way of understanding the nature of Constitutional Law is to know its scope. It would, therefore, be better to describe first the scope of it. The scope of Constitutional Law all over the world where democracy prevails includes all matters relating to the right claimed by the State against its citizens, *i.e.* (1) to make a law binding on all,

(2) to enforce the law and (3) to interpret the law and the rights claimed by the citizens against the State. If it is a composite State, i.e., a Federal State, then the scope of Constitutional Law would, in addition to those matters, include matters pertaining to the inter-relations between the Central Polity and the other polities making up the Federation, legal, executive and financial.

Given the scope what is the place of Constitutional Law in legal jurisprudence ? Prof. Holland calls it a part of the Public Law of the country. No one can deny that this is the correct view. His reasoning logically leads to that conclusion. Law as an enforceable rule of conduct relates to rights. When it relates to rights as between the citizens of the same State it is called Municipal Law. When it relates to two different States, it is called International Law. The Municipal Law of a State falls into two categories. One is called the Private Law and the other is called Public Law. Rights which may be enforced by one citizen against another fall under what is called Private Law. Rights which the State asserts against citizens to enforce against itself fall under what is called Public Law. Similarly in a federal organization the rights which the Centre has against the States necessarily belong to the field of Public Law. On no view they can be deemed to fall under Private Law.

In so far as Constitutional Law deals with the rights claimed by the State against another State or by the State against the citizens and the rights claimed by the citizens against the State, Constitutional Law must be admitted as a branch of Public Law. This explanation of the nature and scope of Constitional Law will justify why only certain heads have been selected for discussion and exposition. They are selected because their discussion offers the best method of exposing the Constitution as a part of the Public Law of India and bringing to light its special features.

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PEOPLE IN INDIA WOULD KNOW THEIR FUNDAMENTAL RIGHTS

Dr. B. R. Ambedkar, the Law Minister, Government of India, visited Hyderabad. He addressed a meeting held in the Boat Club, under the auspices of the Hyderabad Progressive Group on 24-5-1950. Certain questions were put to him by the correspondents and members of the audience in regard to the Constitution, Democracy, Untouchability etc.

Parliamentary Democracy in India

There are moments when I think that the future of Democracy in India is very dark. But, I do not want to say that I have not other moments when I feel that if all of us put our shoulders together and pledge ourselves to "constitutional morality" we should be able to build up a regular party system in which there could be liberty, equality and fraternity.

Fundamental Rights Embodied in The Constitution Of India

It is wrong to suppose that fundamental rights conferred absolute rights on the citizens. We have certain limitations on Fundamental Rights which are necessary for the safety of the State. While we drafted the Constitution, we took care to see that individual liberty was not unduly affected by limitation on fundamental rights.

The best guarantee of fundamental rights was to have a good opposition in Parliament, in which case the Government was bound to behave properly.

The second safeguard was legal. For instance, a Minister acted on reports submitted by the C. I. D. in arresting and keeping a person under the preventive detention. The question that arose was were the reports of the C. I. D. genuine. This is a difficult question to solve.

I should have thought that legal ingenuity ought to be able to find some way of imposing some restrictions or some limitations upon the power of the Minister to act upon such reports so that there is enough ground for taking executive action and that there is sound semblance of genuineness in the report submitted. If that is done, I think, then the Supreme Court is there as another safeguard.

India is now in a transitional stage. When the U. S. A. framed its Constitution and incorporated the fundamental rights therein, its people did not know what the nature, scope and limitations of those rights were. It was only after a long course of judicial decisions of the Supreme Court that the difficulties were settled, and the nature, scope and limitations of fundamental rights were all laid down. Similarly, I am sure that after a period of five or ten years, people in India would know their fundamental rights and what their Constitution meant for them.

Adult Franchise

Question : Why was adult franchise introduced in India all of a sudden and not gradually ?

Answer: I think the party in power was so much committed to the principle of adult suffrage that notwithstanding the fact that towards the end they began to feel somewhat doubtful about its utility, they could not go back to it.

Personally, I am not at all afraid of adult franchise. I am one of the few people who are very much in touch with the masses and I feel certain that there is no fear of adult suffrage being misunderstood or misrepresented in any way. The only difficulty I feel about adult suffrage is the capacity of the attenuated official machinery to carry out the entire polling of this vast mass of voters in the country. The only way by which that difficulty could be solved, in my judgement, is not to have election in all the constituencies in one day, but to spread them over a few days to enable the machinery to function efficiently.

Question : Is it a fact that in the meeting of Hyderabad Scheduled Castes Federation Working Committee it was decided to give an ultimatum to Caste Hindus that if they did not

stop harassing the Scheduled Castes and recognise their rights, the Scheduled Castes would take the matter to the UN?

Answer : There was no agenda for the meeting and no resolutions were passed.

It is always, however, open to any section of the people in any country to go to the Human Rights Commission, if it feels oppressed.

Untouchability

The problem of Untouchability in India is assuming an economic aspect now which formerly it did not.

I suppose that the lot the Untouchables in the country is better now than was the case five or six years ago, but they might have progressed better and quicker if certain impediments were not in their way.

On Having A Common Civil Code For All Communities

Question : Is it not possible to have a common civil code for all communities inhabiting India, like the Hindus, Muslims, Christains, Parsis etc?

Answer: It is not so easy to produce a civil code applicable to all in this country irrespective of caste or religion. Obviously it is quite clear we cannot import principles of justice from some country outside India denovo. We do not have a clean slate. We should take the Hindu Law, the Muslim Law, the laws governing the Christians and other communities and other acts and find out a common denominator. We can go to every community and try to tell them to accept the common denominator in the interests of uniformity of law.

But first of all, we should know our own law and what it is. For instance, the Hindu Law is a 'Jungle'. It must be codified so that people may have an idea about laws governing them before they can consider having a common code.

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WHAT I SAY IS THAT BE FIRM AND SINCERE

During the course of an interview on the 27th, Oct. 1951 at Jullunder, press correspondents asked Dr. B. R. Ambedkar, certain questions with regard to Kashmir, India's relation with Commonwealth etc. Answers given by Dr. B. R. Ambedkar are given below : —Editors.

Question : What is your opinion about the Kashmir problem ?

Answer : I fear that a plebiscite in Jammu and Kashmir may go against India. In order to save Hindu and Buddhist population of Jammu and Ladakh, from going to Pakistan, in such an eventuality, there should be zonal plebiscite in Jammu, Ladakh, and Kashmir.

Question : Why has Churchill come to power again in Britain ?

Answer : The defeat of the Labour Party was probably due to sudden emergence of Iranian Oil and Egyptian question.

The British general electorate probably thought that if the Labour Party came into power, Mr. Bevan would dominate, which meant that the defence of Great Britain would be weakened.

Question : What effect the return of conservative party will have on India ?

Answer: I do not think it will have any effect, except probably that Mr. Churchill may raise the question of sterling balances, and probably there may be some change in British attitude towards Pakistan. Mr. Churchill has not been very fond of Hindus in India, his sympathies naturally are with Pakistan.

Question : With Mr. Churchill in power, Do you think India should continue to remain in the Commonwealth ?

Answer: Are we in the Commonwealth ? I have not been able to understand our Prime Minister. In 1929 he insisted that India will not be satisfied with Dominion Status. In 1942, when the 'Quit India Movement' was started he was the man who opposed 'Quit India Movement' which attitude was opposed to the attitude taken in Lahore. When I framed the Constitution he strongly

objected to India becoming a Dominion and suddenly he went to London for talks and came back and made a declaration that India should be in the Commonwealth.

Question : But what do you think India should do at present ?

Answer : I cannot say anything. It is a very complicated question. India should do whatever is to her advantage. If the country thinks that it is not to her advantage to remain in the Commonwealth, she should go out. What I say is that be firm and sincere.

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NO USE ABOUT INDEPENDENT FOREIGN POLICY WITHOUT STRIKING POWER

"Dr. Ambedkar does not like journalists. He told them so at an informal meeting in Bombay on Saturday* When he was offered the Co-operation of the Press he rejected it.

Most of what he said was "off the record." He made it clear he felt that Mr. Nehru was dragging India headlong to ruin. Instead of poking our noses into other people's affairs, he suggested, we ought to isolate ourselves from the rest of the nations and build our collapsing economy. Dr. Ambedkar seems to be haunted by the threat of a Chinese invasion. China is on our doorstep and we cannot defend ourselves, he says. It is no use talking about an independent foreign policy without striking power.

Dr. Ambedkar is a formidable intellect. One cannot avoid being impressed by him even if one disagrees completely with his views. He puts his case clearly; he is prompt in replying to questions. He is a master of sarcasm."[1]

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* The 24th November 1951.

[1]: The National Standard, dated 25th November 1951

34

U. S. A. INCLINED TOWARDS PAKISTAN

"Dr. B. R. Ambedkar, Scheduled Castes' leader and former Union Law Minister, returned to Bombay by a T.W.A. Constellation on Saturday,* from the United States, after receiving an honorary degree of Doctor of Laws from Columbia University.

The degree was conferred on Dr. Ambedkar at a special convocation on June 5, for his contribution to the Indian Costitution."[1]

"Bombay, June 14, 1952 (PTI)

"Dr. B. R. Ambedkar, Scheduled Castes' leader, said here today that the general public of the U.S.A. was "more impressed by Pakistan and her policies than India. It was more favourably inclined towards Pakistan", he added.

Dr. Ambedkar, who had gone to America to receive the degree of LLD., from the Columbia University, was giving his impressions of the public opinion in America, as gathered from talks with various people in that country." [2]

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* The 14th June 1952.

[1:] The Sunday Standard, dated 16th June 1952.

[2:] The Bombay Chronicle, dated 15th June 1952.

35

RETAIN ENGLISH AT ANY COST

Aurangabad, July 3, 1953.

"Dr. B.R. Ambedkar, former Law Minister of India, has pleaded for the retention of English as the medium of instruction in colleges and universities at any cost.

In an interview, Dr. Ambedkar remarked that English was the richest of all languages and said: "I do not believe any other language in India including Hindi can be used instead of English in schools and colleges."

Dr. Ambedkar, who is the founder-chairman of the People's Education Society in Aurangabad, said that he would not allow either Hindi or the regional language to be the medium of instruction in the Aurangabad College. English, he added, would be the medium of instruction.

Talking of Indian languages, Dr. Ambedkar said that no other language could take the place of Hindi. He explained they had selected Hindi because of the fact it could expand.

However, he said, Hindi lacked "literature and depth," both of which the English language possessed.

To enrich Hindi, Dr. Ambedkar said, a Hindi Academy consisting of eminent men should be started and a vocabulary should be prepared.—UPI."[1]

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[1] : The National Standard, dated 4th July 1953.

36

.....ONE MAN'S TRAFFIC IN PUBLIC AFFAIRS

Editors of Kesari and Maratha, Poona wrote a letter to Dr. Ambedkar on 5-7-1954, to which Dr. Ambedkar replied on 15-7-1954. The reply of Dr. Ambedkar is as follows.—Editors.

26, Alipur Road,
DELHI.
15th July, 1954.

The Editor, The Kesari and the Maratha Office,
Poona-2.

My Dear Sir,

I have received your letter of the 5th July, 1954 asking me to state my views on certain questions mentioned therein. I am sorry to say, I could not deal with that letter while in Bombay as I was extremely busy with the affairs of the College. Immediately thereafter I had to go to Coonoor to deliver a lecture on the Indian Constitution to the Military Staff College. I returned therefrom only yesterday.

In the present day with one man's traffic in public affairs it is very difficult to maintain one's interest in the foreign affairs as the country is not prepared to listen to any view which does not concur with that of the Prime Minister. The same has been more or less the case with me and I may say that I have ceased to take the same degree of interest in the foreign affairs of the country which I used to take at one time. That being so I do not feel quite competent to deal with the subject you have raised.

With kind regards,

Yours faithfully,
(Sd.) B.R. Ambedkar.

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Reprinted: Khairmode, Vol. 11, p.69.

37

FLOOD-CONTROL USE OF ATOMIC POWER

By Dr. B. R. Ambedkar

Recently we have heard and read a great deal about floods in India and the methods of flood control. As a member of the Viceroy's Executive Council, I happened to be in charge of Irrigation. I then established a Department called the Irrigation and Navigation Commission, which I believe has been renamed River Control Board, Central Water Power Commission and so on.

These organisations have made proposals for flood control which appear in the press from time to time. It was expected that some sure remedy would be found by these organisations. But we now find that whatever the proposals their implementation has failed completely to control the floods. It has also been reported from Shillong that it is difficult, almost impossible, even for engineers to say what steps can successfully control the Brahamaputra floods, and that an experimental bund was constructed at a cost of Rs. 14,00,000 and that it has been washed away in the floods.

Embankments

We also hear that Government has given up the new idea of controlling floods by damming the rivers, and has gone back to the antiquated idea of embankments and of invoking therewith mass help for the job.

In this connection I would like to draw the attention of the Government of India and of the engineers concerned in the matter to a proposal which has been put forth by an eminent engineer and which has been published in a Bombay contemporary September 10, 1954, under the heading *Atomic Science to the rescue written by 'Observer.'*

The proposal to which I wish to draw attention is a simple one, namely using atomic power for flood control. On reading the statement in the paper, "Observer", I was greatly attracted to it and made enquiry as to who the author of this proposal was, I learnt that he is one Mr. C.S. Pillai. I discovered that he has been in the

civil engineering profession for more than thirty years, and has already had some experience in such work. He says that till the development of atomic research to its present stage, the most common methods revolved round science of bunds, embankments or revetments. Recent advances in the science of river-training, however, have brought new knowledge and techniques which could be employed with some effect in controlling the rivers which bring so much misery year after year. He further asserts that 'these methods and techniques may be utilised as stop-gap measures. But for permanent remedies we must look elsewhere.'

I questioned him to explain to me his permanent plan of controlling river floods. I reproduce below that he told me :

"The development of atomic science brings the hope that there is a permanent way. The river of sorrow can be brought under control, tamed and trained as we desire and serve our purposes by the application of what is known as nuclear fission. The application of this method will be easily understood by those who have worked out Ohm's Law of saturation, current and disruptive discharge and consolidation over the trajectories caused by the action of neutrons."

"How does this Ohm's Law work and what is its relation to atomic science ?"

Neutrons

"Atomic physicists can answer this question more fully. It is possible to produce today torrents of neutrons by nuclear reactors. These torrents of neutrons can be made to penetrate easily the fathoms of river water to regulate the water levels as well as the catchment areas. Thereby the flood flow can be controlled and regulated so as to serve our needs in irrigation and power projects. The rest of the flood water can be instantly evaporated.

"It may be asked why neutrons are so effective as probes of matter. The answer is simple. Neutrons have no electric charge. Unaffected by the clouds of negative charge with which electrons surround the atomic nuclei Neutrons pass easily through the depths of water and dredge the silt and sand and even scrap the rock-beds to any desired depth and discharge the entire stuff either

on both banks of the river or into the sea, according to our will, in a matter of days, if not of hours. In the process the river-beds are simultaneously consolidated as also the river-banks on the lines of the trajectories."

The problem of floods is a constantly recurring problem, and there cannot be a greater destructive force than this. In solving it Government should not depend solely upon the wisdom and scientific knowledge of their own officers.

It is their duty to welcome any suggestion coming from any quarter and examine it on its own merit. Safety lies in a multiplicity of proposals."[1]

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[1] : The Times of India, dated January 18, 1955.

38

STRONGLY OBJECT CREATION Of MONOLITHIC MONSTROUS STATES

Dr. B. R. Ambedkar issued telegram to Pandit Jawaharlal Nehru regarding formation of linguistic States. The telegram is as follows:—Editors

17-1-1956

TELEGRAM

Pandit Jawaharlal Nehru,

NEW DELHI.

Regret inability attend Parliament, Doctor strongly object my travelling to Delhi. Wanted to express my views in Parliament over issue of linguistic provinces. Being unable to do so. I am conveying views to you by this telegram. Am speaking on behalf of Federation. Federation like Bombay go Maharashtra but do not mind Bombay made separate State. However very strongly object creation of such monolithic monstrous States as U.P., Bihar, Maharashtra. Federation feels these States not only great danger to Central Government will also be great danger to minorities and Scheduled Castes. Federation wants U.P., Bihar be divided into three States. Maharashtra also be divided into three States. There be no protection to Scheduled Castes under aegies of State in which overwhelming majority is opposed to recognition of Scheduled Castes as human beings. I request you pay serious attention this question. Fear consequences might be very serious. Scheduled Castes are now without any political safeguard. In their desparation may take to any kind of violence.

Ambedkar.[1]

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[1]:Khairmode,Vol. 10, Pp. 56-57.

39

AMBEDKAR'S RECIPE FOR MAHARASHTRA

Voice of the People

The communications I have received indicate that the Maharashtrians are not quite satisfied with the proposals that I recently made in the Rajya Sabha over the Maharashtra-Bombay issue. They are afraid that in Bombay City they may not get the majority.

The Gujeratis, on the other hand, realise that with 15 per cent of Gujerati population in a house of 100 they would not have more than two to four seats. Both the communities will remain helpless and chafe at each other. I, therefore, make another suggestion.

The Maharashtra State, I suggest, should be divided into two States, one of which should consist of—(1) Greater Bombay ; (2) Thana district; (3) Colaba ; (4) Ratnagiri ; (5) Kolhapur and (6) Marathi-speaking parts of Surat district, Belgaum and Karwar districts. The dividing line is Sahyadri mountain.

The advantages of this division are :—(1) it can give Maharashtrians majority over Bombay through North Bombay ; (2) it is a separate cultural unit; (3) it is a separate linguistic unit and (4) the total area of this unit is 19,800 sq. miles with a total population of 9,067,413, which makes it a sizable State. The people are both maritime and martial.

I do not see why the Brahmins are insisting on United Maharashtra. Even then, there will be two rival claimants for power, Shri. B. S. Hiray and Shri Ramrao M. Deshmukh. Possibly, Dr. Punjabrao Deshmukh may have his own view.

There is another point which is raising dificulty and that relates to the capital of the second division of Maharashtra. The Deccan Brahmins want Poona, while the present Madhya Pradesh Brahmins want Nagpur. Others suggest the third alternative of the Legislature's session being held alternately at these two cities. I condemn all the three alternatives. I am sure that under the name of United Maharashtra we are not calling Peshwai back. I suggest

the capital of United Maharashtra be Aurangabad. Adjacent to it is Daulatabad which was the capital of Maharashtra until it was destroyed by the Muslims. It has a fine climate.

The question must be decided immediately. Whatever the Congress High Command may say, there is not the slightest chance of a Gujerati voting for a Maharashtrian candidate and the Maharashtrian voting for the Gujerati Candidate.

Dr. B. R. Ambedkar (New Delhi)"[1]

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[1] : The Free Press Journal, dated 31st May 1956.

SECTION IV

INSTITUTIONS, ORGANISATIONS AND THEIR CONSTITUTIONS

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1

BAHISHKRIT HITKARINI SABHA

Dr. Ambedkar organized a meeting on 9th March 1924 at Damodar Hall, Bombay, with objectives to establish a Central Institute which would place the grievances of the Untouchables before the Government and after many discussions, Central Institute was established. He proposed the name of the Institute as 'Bahishkrit Hitkarini Sabha' which was supported by all. The Vow of the Institute was decided "Educate, Agitate and Organize" and was approved unanimously.

Mr. Sir Chimanlal Harilal Setalvad, LL.,D. became the President of Bahishkrit Hitkarini Sabha and Mr. Never Nissim, J. P. was Vice President, Mr. Rustamji Jinwala, Solicitor, Mr. G. K. Nariman, Dr. R. P. Paranjape, Dr. V. P. Chavan, Mr. B. G. Kher, Solicitor, were included in the Committee. Dr. B. R. Ambedkar was the Chairman of the Managing Committee while Mr. S. N. Shivatarkar, Secretary and Mr. N. T. Jadhav was Treasurer. The Bahishkrit Hitkarini Sabha was established on 20th July 1924 and was registered under the Act XXI of 1860.

Dr. Ambedkar framed constitution of this institution. Following is the text of the constitution.— Editors.

BAHISHKRIT HITKARINI SABHA

(Registered under the Society Registration Act)

Rules of Constitution

Established

20th July 1924

Head Office

Damodar Hall, Parel

Bombay - 12.

Printed at the Co-operative Printing Press,
91, B, Parel Road, Near Venus Cinema,
Chinchpokli, Bombay-12.

BAHISHKRIT HITKARINI SABHA

Memorandum of Association

I. The name of the Society will be :—

"**Bahishkrit Hitakarini Sabha**"

II. Its activities will be confined to the Presidency of Bombay.

III. The Head Office of the Sabha will be situated in Bombay.

IV. The aims and objects of the Sabha will be—

(*a*) To promote the spread of education among the Depresses Classes by opening Hostels or by employing such other means as may seem necessary or desirable.

(*b*) To promote the spread of culture among the Depressed Classes by opening Libraries, Social Centers and Classes or Study Circles.

(*c*) To advance and improve the economic condition of the Depressed Classes by starting Industrial and Agricultural Schools.

(*d*) To represent the grievances of the Depressed Classes.

(*e*) To organize or help any club, association or any movement calculated to bring about the general enlightenment, social rise or economic betterment of the Depressed Classes.

(V) In pursuance of the above objects and for the purpose of carrying out the same:—

(1) To purchase, hire, lease or otherwise acquire any rights and privileges necessary or convenient for the purpose of the Sabha.

(2) To erect, construct, alter and maintain any building or buildings necessary or convenient for the purpose of the Sabha.

(3) To sell, improve, develop, exchange, lease, mortgage, dispose of, turn to account, manage or otherwise deal with all or any part of the property or rights and privileges of the Sabha.

(4) To accept donations or property for general or specific purposes of the Sabha on condition or conditions not inconsistant with the aims and objects of the Sabha.

(5) To amalgamate with or incorporate within itself any Society or Association with aims and objects similar to the aims and objects of the Sabha.

VI. The Government of the Sabha will be conducted by :

(i) Board of Trustees

(ii) Council of Management

(iii) Board of Control

appointed in accordance with the rules of the Sabha.

VII. At any meeting of the Board of Trustees, Council or Management and Board of Control, the quorum will consist of 10, 7 and 15 members of those bodies respectively. No quorum will be necessary for any adjourned meeting.

VIII. No member of the Board of Trustees, Council of Management and Board of Control will be entitled to any pecuniary benefit from the properties and funds of the Sabha by reason of its being such member of the Board of Trustees, Council of Management or Board of Control.

RULES

1. Any person either male or female who is above the age of 18 years will be eligible for membership of the Sabha.

2. Any person desirous of becoming a member of the Sabha may apply on the form of application provided for that purpose.

3. The Council of Management will have power to admit or refuse any application for membership.

4. The General Body of the Sabha will have power of dismissing any member of the Sabha for gross misconduct endangering the interest of the Sabha by a vote of 3/4 of the members present at the meeting.

5. The members of the Sabha will be classified as follows:

(i) Patrons : Those who pay Rs. 3,000 or more in one sum or in such suitable instalments as the Council of Management may approve of.

(ii) Supporters : Those who pay Rs. 2,000 or more in one sum or in such suitable instalments as the Council of Management may approve of.

(iii) Sympathisers: Those who pay Rs. 1000 or more in one sum or in such suitable instalments as the Council of Management may approve of.

(iv) Life Members: Those who pay Rs. 500 or more in one sum or in such suitable instalments as the Council of Management may approve of.

(v) Associate Members : Those who pay Rs. 200 or more in one sum or in such suitable instalments as the Council of Management may approve of.

(vi) Ordinary Members : These will be of the following classes :

A	:	Those	who	pay	Rs.	25	per Year
B	:	”	”	”	Rs.	10	” ”
C	:	”	”	”	Rs.	5	” ”
D	:	”	”	”	Rs.	3	” ”
E	:	”	”	”	Re.	1	” ”

Board of Trustees :

6. There will be 16 Trustees of the Sabha for life in whom will be vested all the immoveable and moveable property of the Sabha as well as all the funds of the Sabha in whatsoever form. Of these 16 at least 4 shall be residents of Bombay.

7. The Board of Trustees will be elected in the first instance by the General Body of the members of the Sabha. Any vacancy occurring in the Board of Trustees by death, resignation, incapacity or residence abroad will be filled up by a vote 3/4 of the General Body of the members of the Sabha assembled for that purpose within 6 months from the occurrence thereof.

8. The Board of Trustees will at all times contain a member or members of the Mahar, Chambhar, Mang and Dhed communities and shall be so constituted that it would have 4 Trustees from Konkan, 2 from Gujarat, 2 from Kanerese and 8 from other districts of the Bombay Presidency.

9. All property moveable and immovable and all funds will be held in the name of the Trustees.

10. The Council of Management will submit an annual Budget of Expenditure appropriated under convenient major and minor Heads with the Expenditure to be incurred thereon in the coming year and the same shall come into operation as passed by the Trustees. Provided that the Council of Management may submit supplementary budget at any time during the course of the year.

11. The Trustees will meet at least once a year within three months from the close of the previous official year of the Sabha for the purpose of passing the Annual Budget and will meet as often as may be necessary for passing supplementary budget on the requisition of the Council of Management. At all meeting of the Board of Trustees the majority vote will prevail.

12. At all Budget meeting of the Board of Trustees the Chairman of the Council, the General Secretary and the Treasurer will sit as additional members. Provided that none of them will have the right to vote unless they are themselves Trustees.

13. There will be previous notice of one month for every meeting of the Board of Trustees and for every meeting of the General Body of the members of the Sabha for the purpose of electing a Trustee.

14. The Trustees will have the right by a resolution duly passed, to delegate their powers to one or more of their members and to

authorise that certain properties and funds will be vested in or dealt with in the name of one or more of their members.

15. The Trustees will have the right of voting on any proposition or question by circular issued in that behalf by the General Secretary. All Resolutions so voted on by circular will be embodied in the minute book of the Board of Trustees.

16. The Trustees may choose from among themselves a chairman for their meeting from time to time who will sign the minutes of the meeting before the meeting is dissolved.

17. The Secretary of the Sabha will be ex-officio Secretary of the Board of Trustees and shall prepare the minutes of every meeting of the Board of Trustees.

Council of Management

18. The Council of Management will be the executive of the Sabha for the official year and will consist of 20 members of the Sabha constituted as follows:

(i) Four elected every year by the Board of Trustees from such among themselves as are residents at Bombay.

(ii) Twelve elected every year by the General Body of the Sabha.

(iii) Four co-opted every year by the 16 composed of (i) and (ii) from among the Depressed Classes members of the Sabha.

19. Any vacancy occurring in the Council of Management by death, resignation, incapacity or residence abroad of any member thereof will be filled up by the remaining members of the Council by a resolution duly passed at a meeting to be called for the purpose.

20. The Council will have the power :

(a) To hold and manage the funds and properties of the Sabha for the purpose of the Sabha on behalf of the Trustees of the Sabha.

(b) To hire, purchase or otherwise, acquire and dispose of properties and materials for the benefit of the institutions and activities of the Sabha in the name of the Trustees of the Sabha.

(c) To organize any activity or open any institution falling within the aims and objects of the Sabha.

(d) To abolish any institution or activity permanently or temporarily : provided that no Hostel will be abolished permanently or temporarily except by the vote of the 4/5th of the Trustees of the Sabha.

(e) To open or close Branches of the Sabha wherever and whenever it appears advisable to do so.

(f) To appoint the staff or other workers from time to time and fix their salary and terms of employment and to suspend and dismiss them when necessary.

(g) To frame, alter and amend bye-laws regulating the various activities of the Sabha and the conduct and management thereof and the bye-laws to framed will have the force of rules until the same are amended or abrogated by the Board of Control.

(h) To declare a vacancy if a Member of the Council fails to attend four meetings of the Council in succession.

(i) To maintain a regular list of all contributors.

(j) To arrange for the convening of the meeting of the General Body of the members of the Sabha and the meetings of the Board of Trustees and the Board of Control.

21. The Council will at its first meeting elect from its own members one Chairman, one General Secretary and one Treasurer. Besides these the Council may elect one or more of its members to act as Assistant Secretaries or Organizing Secretaries to be in charge of specific functions or activities. Any vacancies in the post of these office bearers occurring during the course of the year may be filled at the next ordinary monthly meeting by the remaining members of the Council by a resolution duly passed at a meeting to be called for the purpose.

22. The Chairman, General Secretary and Treasureres will be jointly responsible for the proper deposit and withdrawal of moneys belonging to the Sabha. They will deposit the moneys in the name of the Trustees of Sabha in the Bank or Banks appointed by the Council.

23. All withdrawals of money will be in strict conformity with the Budget and will be operated upon under the joint signatures of the Chairman, General Secretary and Treasurer.

24. The meetings of the Council will be ordinary or special.

25. All receipts and withdrawals of moneys of the Sabha shall be placed before the next ordinary monthly meeting of the Council.

26. Ordinary meeting of the Council will be held on or about the 15th of every month.

27. Any ordinary meeting adjourned for want of quorum will again meet on five days' clear notice on such day as the Chairman or in his absence, the General Secretary may fix.

28. Seven days' clear notice is necessary for the ordinary meeting of the Council and the agenda must be circulated with it.

29. The ordinary meeting of the Council will transact business as under:

(a) Reading of Minutes of the last meeting.

(b) Passing of montly statements of accounts and reports from the institutions, brances of the Sabha and of activities.

(c) Disposing of letters, proposals and other communications submitted by the Secretaries.

(d) Deciding upon questions relating to the general administration of the affairs and estate of the Sabha.

(e) Passing of bills and expenditure incurred.

(f) Any other business with the permission of the Chairman.

Special Meeting of the Council

30. The Chairman or Secretary may convene a special meeting of the Council at 3 day's notice.

31. Any four members of the Council may, by a written requisition to the General Secretary call for a special Meeting of the Council which will be Summoned by him within 10 days from the receipt of the requisition.

32. The requisition will specify its purpose and the same will be circulated along with the notice of meeting.

33. The rules as to quorum at an ordinary meeting will also apply to the special meetings of the Council.

Chairman

34. The Chairman will :

(a) Preside at all meetings of the Council and in case of equality of votes he shall have a casting vote in addition to his own as a member :

Provided that in the absence of the Chairman such member of the Council as may be voted to the chair will preside and will exercise such of the powers of the Chairman as pertain to the conduct of the meeting of the Council

(b) decide all questions of order and procedure at the meeting of the Council and his decision will be final

(c) sign all vouchers

(d) carry on all foreign correspondence of the Sabha

(e) communicate to the President and Vice-Presidents the minutes of the business transacted at the ordinary and special meetings of the Council.

General Secretary

35. The General Secretary will :

(a) be responsible for and be in charge of all the records of the Sabha

(b) convene all meetings of the Council, Board *of* Trustees and the Board of Control whenever necessary, according to Rules of the Sabha and will record minutes of proceedings of their meetings

(c) call for the monthly statements of accounts and other reports from the heads of institutions and brances of the Sabha and will record minutes of proceedings of their meetings

(d) carry on the home correspondence of the Sabha

(e) keep a proper register of the members of the Sabha with their proper addresses

(f) submit an annual report to the General Meeting of the Sabha.

Treasurer

36. The Treasurer will :

(a) receive all subscriptions and donations collected on behalf of the Sabha and pass receipts for the same

(b) keep regular books of accounts

(c) make all disbursements

(d) prepare and submit to the Council every year a statement of income and expenditure of the Sabha including statements of separate accounts of the various institutions properly audited by the Auditor appointed by the Sabha at the previous Annual General Meeting and forward the same to the Secretary for being annexed to the Annual Report of the Sabha.

Board of Control

37. The Board of Control will be the collective body of the Sabha and will consist of:

(a) The Trustees of the Sabha

(b) The workers of the Sabha

(c) Patrons

(d) Life members

(e) Sympathisers

(f) Associate members

(g) One representative of every Branch of the Sabha.

(h) The President, Vice-Presidents, the Chairman, General Secretary, Assistant Secretaries, Organizing Secretaries and the Treasurer.

38. The Board of Control will supervise the management of the affairs of the Sabha by the Council of Management whether or not it is in accordance with the rules and in case of any serious breach the President or any of the Vice-Presidents may call upon the Chairman of the Council to give proper explanation.

39. The President of the Sabha, of his own motion or at the written requisition of 10 members of the Sabha may call upon the Secretary to convene a meeting of the Board of Control which will be summoned within a month and a half from the receipt of the communication of the President in that behalf. The Council of Management will be bound by the resolution of the Board of Control on the matter in question, if passed by 2/3rd majority of the members present at the meeting.

40. There shall be previous notice of one month for every meeting of the Board of Control.

41. The President of the Sabha will preside at every meeting of the Board of Control. In his absence, any of the Vice-President present at the meeting may be voted to the Chair.

42. At all meetings of the Board of Control majority vote will prevail except when it is otherwise provided for by these Rules.

43. The General Secretary will be the ex-officio Secretary of the Board of Control and shall be responsible for recording the minutes of the preceedings of the Board which will be prepared and signed by the President before the meeting is dissolved.

General Body of The Sabha

44. There will be held every year in the month of February, a Meeting of the General Body of members of the Sabha.

45. The official year of the Sabha will close on the 31st December and the Annual General Meeting will be held every within two months after the close of the previous official year.

46. Only those members who have paid their subscription will be entitled to vote.

47. There will be a month's previous notice for the meeting of the General Body of the members of the Sabha.

48. The President of the Sabha will preside at the Annual General Meeting of the Sabha. In his absence any of the Vice-President who is voted to the chair may preside.

49. The following business shall be transacted at the Annual General Meeting :—

(a) To hear and adopt the Annual Report for the past year.

(b) To elect 12 members for the Council of Management for the coming year.

(c) To appoint an auditor for the coming year.

(d) To elect one President and Vice-Presidents, not more than six for the coming year.

50. These articles of association and Rules of Consitution may be altered, amended, repealed or added to at any time by a vote of the 4/5th of the members of the Sabha present at a meeting specially convened for that purpose, provided that the same alteration, amendment, repeal or addition shall not have any force unless it is approved of by 3/4th of the Trustees of the Sabha.

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Activities of the Bahishkrit Hitkarini Sabha at Bombay .—
See appendix—XI

2

DEPRESSED CLASSES INSTITUTE

Dr. B. R. Ambedkar had attended the First Round Table Conference at London, in the year 1930. During his stay, he drafted an appeal on behalf of the Depressed Classes Institutes to get the financial assistance from the Head of the Princly States for the upliftment of the Untouchables. As a result of his efforts he got the financial assistance. He did this work vigorously. Similarly at the time of Second Round Table Conference he drafted the appeal in November 1931 and distributed.

This is the text of an appeal.

Appeal
on behalf of
the Depressed Classes Institute

ORGANIZATION

The Depressed Classes Institute is an organization of the Depressed Classes which is conducted by members of the Depressed Classes in the interest of the Depressed Classes. The aim of the Institute is to raise the Depressed Classes from their present-day down-trodden condition to a status of social and political equality in Indian Society and to promote their economic welfare.

The Institute was established in June, 1925, and has been functioning since then. The Institute is intended to be an All Indian Organization with branches all over India. But owing to want of resources the activities of the Institute are confined to the Presidency of Bombay. The Institute functions through the agency of social workers who are pledged to work for the uplift of the Depressed Classes. They are mainly drawn from the Depressed Classes and are scattered over the various districts of the Presidency of Bombay. The activities of these social workers are* directed and co-ordinated by a managing Council of the leading members of the Depressed Classes at the headquarters of the Institute located in the city of Bombay.

Activities of the Institute

During the short period of five years which has elapsed since its establishment the work of the Institute has grown to such enormous proportions that it is impossible to give even a summary of it within the scope of this leaflet. All that can be done is to indicate the lines of activity undertaken by the Institute in pursuance of its aim, namely; the elevation of the Depressed Classes. These activities may be classified under the following heads :

(1) **Propaganda.** The Institute publishes a newspaper called Janata (The People) with the object of enlightening the Depressed Classes on their special problems and also on the general problems of the day in so far as they affect them. It educates them into a realization of their civic rights, ventilates their grievances and creates public opinion in favour of speedy redress. The guiding principle of the paper is equality. Until last month it was a fortnightly paper. It is now converted into a weekly. The Institute also publishes other literature from time to time on various subjects for the education of the Depressed Classes.

(2) **Civic Rights Campaign.** Although there are many cases in which the Law allows civic rights to the Depressed Classes there are a legion in which custom stands in the way of the Depressed Classes benefiting by them. One of the objects of the Institute being to secure to the Depressed Classes the enjoyment of their civic rights, the Institute has had to tackle all those cases in which there is no bar of law but in which the Hindu majority will not allow the Depressed Classes to enjoy those rights on the ground that such an act is an affront to their dignity and a transgression of the social status assigned by custom to the Depressed Classes in Indian Society. The complaints made to the Institute by members of the Depressed Classes regarding infringements of their rights are untold and the volume of work done by the Institute in this connection is beyond description, cases in which Depressed Classes were refused accommodation in a school, in a bus, in a ferry, or in a roadside inn, etc. Besides attending to individual cases of infringement of civic rights the Institute takes up what may be called test cases for ascertaining the exact legal position of the Depressed Classes as to their civic rights in relation to certain matters. Three years ago the Institute took the question of the right of the Depressed Classes to public water Courses and fought

a civil suit at an enormous cost, which was decided by the court of the First Instance in favour of the Depressed Classes. The High Caste Hindus have appealed against this decision and the matter is now pending in the Court of Appeal. The Institute is agitating for securing to the Depressed Classes a right of worship in the Temple and the Institute is also thinking of concluding the question by filing a test case in a Court of Law.

(3) **Redress of grievances**. Many of the grievances of the Depressed Classes arise from administrative action taken by the Departments of the Government. It must be borne in mind that the Public Service of India is overwhelmingly composed of the High Caste Hindus. Their antipathy to the Depressed Classes is notorious and the cases in which the administrative and even judicial officers have abused their powers by siding with the High caste Hindus in disputes between them and the Depressed Classes are by no means few. The Institute has paid special attention to this matter and has maintained a special establishment to make representations to Government on behalf of a member from the Depressed Classes aggrieved by an unjust order of a Department. The Institute has also taken upon itself, in many a case, the burden of an appeal to a higher judicial tribunal or has helped a private party to prosecute an appeal in cases of wrong done by the lower judiciary whenever the case was of general importance to the Depressed Classes and which was beyond the means of a private party.

(4) **Welfare Work.** One of the besetting sins of the Depressed Classes is their poverty. Nine-tenths of their poverty, however, is due to the fact that owing to untouchability, almost all the avocations of life have been closed to them. The Institute since its start has been trying strenuously to improve the economic condition of the Depressed Classes. In this connection it had to struggle hard for securing the enlistment of the Depressed Classes in the department of the State which are now closed to them. The efforts of the Institute have been remarkably successful. Not only have the Depressed Classes secured a larger enlistment in the various departments but they have also been able to get admission in departments which before this were closed to them on account of their Untouchability. Enlistment in the Police department may be cited as an instance in point. Another means by which the Institute has sought to improve the economic condition of the

Depressed Classes is to secure for them land so that they may work as independent farmers. There are many parts of the Bombay Presidency in which there is waste land. Government leases this waste land at a rental for anyone who cares to take it for cultivation. Before the Institute came into existence the whole of this Government waste land used to be given to caste Hindu farmers. Applicants from the Depressed Classes never got a single piece of this waste land from the Revenue Officials who had the power of disposal, the Institute has ever since its establishment, fought for the right of the Depressed Classes to get for cultivation, a fair share of this land and suceeded in getting the policy of the Government in regard to the disposal of such land modified by a favoured treatment proviso applicable to the Depressed Classes. It may now be said to the credit of the Institute that, by its efforts, quite a number of Depressed Classes families, which were earning their living as agricultural labourers, have risen to the status of independent farmers.

Need of the Institute

The principle needs of the Institute are three. *First* is the enlargement of its Printing Establishment. The Institute maintains a Printing Press of its own called the Bharat Bhushan Punting Press. The purpose in having a press of its own has been two-fold. One purpose was to have no difficulty in printing the newspaper 'Janata' which the Institute conducts and other propagnada literature which the Institute issues from time to time. The other and more important purpose was to make the Printing Press a source of income to finance the activities of the Institute. The Printing Press, however, far from being a source of income has been a burden to the Institute. The Printing Press being very small in its equipment., the Institute is not able to take either book-work or job-work at the competitive rates prevailing in the market, the cost of production on a small machine being relatively high. The Institute must either enlarge the equipment of the Press or do without the Press. The latter alternative is impossible under the present circumstances of India, for there is always the probability of a conspiracy among printers who are mostly caste Hindus to refuse to print a newspaper run by the Depressed Classes. *The second need of the* Institute is for a building of its own for its headquarters in Bombay. The Institute is, at present, not housed

under one roof. Its offices are scattered and are maintained in the private apartments of members in charge of the various activities. Housing the Institute in rented rooms has its own difficulties. The inability of the Institute to bear the expense is, no doubt, one of them. The difficulty of getting accommodation in flats on account of Untouchability and the liability of being asked to vacate at any moment on account of protest made by orthodox tenants are factors which often come in the way of the Institute getting decent accommodation for housing itself. Under the system of scattered offices co-operation and co-ordination of the various activities of the Institute have been difficult and the work of the Institute has been there by rendered inefficient. The *third need* of the Institute is to have whole time workers to carry on its activities. At present the Institute has only part-time workers who have undertaken to devote their spare time to carry on this work of social uplift. To them the work is largely labour of love. This is due to the fact that the Institute is unable to maintain a body of workers on full pay. This is the greatest drawback in the organization of the Institute and the relief value of the work of the Institute to the suffering among the Depressed Classes who stand in need of it is considerably diminished on account of the inevitable discontinuity and laxity arising from the fact that the workers are only spare-time workers. The only way of removing the drawback is the engagement of a body of regularly paid workers who will devote the whole of their time to social work.

Wanted £ 40,000

These three principle needs of the Institute for (1) *Press Fund* (2) *Building Fund,* and (3) *Maintenance Fund* are estimated to require a capital sum of £40,000. As is well known, much larger amounts have been subscribed in support of causes less urgent and perhaps less humane than that of Depressed Classes of India. The Institute, therefore, hopes that with the support of the philanthropic public, it will not be impossible to collect this amount. Like most other causes of humanity it is undoubtedly one which seeks to bring hope and light to a people who are stagnant and destitute and who arc struggling against the forces of darkness. But there is something in the cause of the Depressed Classes which gives it a pathos all its own. It is not the cause of humanity which is sung by reason of misuse of opportunities. It is the cause of humanity

which has been held down by the opponents in all stubbornness to a state of degradation and whose efforts to rise have been ruthlessly frustrated all along by orthodex Hinduism. This appeal in the interests of the Depressed Classes is not merely to Hindus or to Indians. It is made to all members of the British Empire whose prime liablility the Depressed Classes are. It is also an appeal to Europeans and to Americans as well. It is an appeal to all who look upon it as their duty to befriend and advance the cause of fallen, or what may be more appropriately called, "felled" humanity, and the Institute trust that this appeal will not go in vain. The sum needed is considerable. But it is not beyond the capacity of many if they joined to share the burden.

Last year this appeal succeeded in eliciting, within a very short time, the following donations :

1.	H. H. Sir Tukojirao Holkar ex-Maharaja of Indore		£	360
2.	H. H. the Nawab of Bhopal	... ...	£	200
3.	H. H. the Aga khan	... ...	£	175
4.	H. H. the Maharaja of Baroda	... ...	£	150
5.	H. H. the Maharaja of Bikaner	... ...	£	100
6.	H. H. the Maharaja of Kashmir	... ...	£	100
7.	H. H. the Maharaja of Patiala	... ...	£	100
8.	Sir Cowasji Jehangir	... ...	£	75
9.	Maharajadhiraj of Darbhanga	... ...	£	50
10.	The Chief of Sangli	... ...	£	25

All these donations are gratefully acknowledged and it is hoped that this generous response will be followed up by another more generous than the last.

B. R. AMBEDKAR,
President, Depressed Classes Institute.
Permanent Address
DAMODAR HALL,
PAREL,
BOMBAY 12,
November 1931. INDIA.

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*Reprinted from a leaflet printed at the Weardale Press, Ltd., 26, gordon Street, London, W.C.I, and Bedford.

3

INDEPENDENT LABOUR PARTY

Dr. B. R. Ambedkar, having discussed with his colleagues, formed a Political Party, called Independent Labour Party. Aim behind forming the party was to concentrate and solve the problems and grievences of the landless, poor tenents, agriculturists and workers. On this background Dr. Ambedkar was interviewed by the Times of India' wherein the explained the aims and objects of the party.

Following are the salient features of the Independent Labour Party—Editors.

INDEPENDENT LABOUR PARTY

Its formation And Its Aims

(Reprinted from the Times of India
15th August, 1936)

Independent Labour Party

Publications

No. 1

A new political party has been organised in Bombay for the purpose of contesting the elections in the Bombay Presidency under the new Constitution to both Chambers of the Legislature. It is known as the "Independent Labour Party" and has been formed by Dr. B. R. Ambedkar, the Depressed Classes leader.

It appears that originally Dr. Ambedkar's idea was to organise a party exclusively of the Depressed Classes. But its programme was specifically worded in terms of the needs of these Classes. But at the desire of his friends from other classes, he has consented to give a general name to the party and has worded the programme in more general terms. The Party is open to any one who wishes to stand for election on the Party ticket and work in the Legislature in accordance with the programme formulated for the purpose.

BROAD PROGRAMME

In an interview with a representative of the Times of India Dr. Ambedkar declared that having regard to the fact that the present was no time for the parties communally organised, he had in agreement with the wishes of his friends "broadened the name and also the programme of the Party so as to permit political co-operation between the other classes and the Depressed Classes." The nucleus of the Party would still be the fifteen members of the Depressed Classes. But members of the other classes were free to join the party.

Dr. Ambedkar added that the Depressed Classes possessed large voting strength in constituencies in which no seat was reserved for them, and it would be possible for them to place that voting strength at the disposal of any candidate, who cared to become a member of the Party.

He made it clear that the Party membership was open to persons of all creeds and communities, although the Depressed Classes votes could by reason of the law be made available to persons belonging to such communities and creeds as were included in the general electorate. Already some persons from other classes had expressed their willingness to join the Party, and other who cared to take advantage of that opportunity might corresponds with the Secretary of the Party at the office, of the Party.

Questioned what cohesion the Independent Labour Party would have, Dr. Ambedkar pointed out that the Party was not going to be a miscellaneous collection of members of the Legislature, who after getting elected, each on his own, would befriend one another in the Lagislature, and agree to vote together. The party would have its roots in the electorate, and its members would have fought the election as such, would have pledged to the electorate to uphold a common and clearly definded programme, and to be bound by the rules of discipline framed by the Party.

Open to All

Asked what prompted him to select that particular name for the Party, Dr. Ambedkar explained that the Party would be independent of every other political organisation, although it would be ready to co-operate with any other political party where co-operation was possible. The Party was a labour organisation in the sense that its programme was mainly to advance the welfare of the labouring classes. The Party believes in having correct ideology suited to the section of the people whose interests it regards as paramount. The word 'Labodur' is used instead of the words 'Depressed Classes', because labour includes the Depressed Classes as well.

AIMS OF PARTY

Working The Constitution Despite Defects

Explaining the programme of the Party, Dr. Ambedkar said that it had been formulated after mature consideration and in consultation with all those who were interested in it, so far as the new Constitution was concerned.

"The Party recognises that the new constitution is full of defects and falls much short of full responsible Government. The Party objects to serveral features of the Provincial Constituion, particularly the institution of the second Chamber. All the same, the party believes in working the Constitution. But while prepared to work the Constitution, the party will strive to see that the Special Emergency and Reserved Powers vested in the Governor, are not exercised in a manner which altogether nullifies the system of responsible Governments."

As regards the economic question

(1) "the Party will undertake to establish Land Mortage Banks, agriculturist producers', co-operative societies and marketing societies with a view to improving the productivity of agriculture.

(2) "The Party thinks that fragmentation of holdings which in the opinion of the party is a severe handicap in the way of the application of capital and improved methods of cultivation to agriculture and is therefore a direct cause of the poverty of the agriculturists.

Pressure of Population

"The Party, however believes that the fragmentation of holdings and the consequent poverty of the agriculturists are mainly due to the pressure of population on land, and unless the pressure is relieved by draining off the excess population subsisting on land, fragmentation will continue, and the condition of the agriculturists will remain as poverty-stricken as its is today. In the opinion of the party the principal means of helping the agriculturists and making agriculture more productive consists in the industrialisation of the Province. The party will, therefore, endeavour to rehabilitate old industries and promote such new industries as the natural resources of the Provinces will permit.

(3) "To raise the efficiency and the productive capacity of the people the Party will endeavour to undertake an extensive programme of technical education.

(4) "The Party accepts the principle of State Management and State Ownership of industry whenever it may become necessary in the interest of the people.

(5) "The Party willl endeavour to remove all obstacles to free and full life and to alter, amend or abolish any economic system which is unjust to any class or section of the people.

(6) "The Party will undertake legislation to protect agriculture tenants from the exaction and evictions by the landlords in general and in particular the tenants under (a) the Khoti System, and (b) the Talukadari System.

(7) "The Party will endeavour to provide for the workers, agricultural as well as industrial a minimum standard of living compatible with civilised life.

(8) "For the benefit of the industrial workers the party will endeavour to introduce legislation to control the employment, dismissal and promotion of employees in factories, to fix maximum hours of work, to make provision for the payment of adequate wages, for leave with pay, and as many amenities of life as possible, and to provide payment to the workers of bonuses, pensions of other provisions on retirements from active work, on account of old age or other incapacity. The party will also introduce a scheme of social insurance which will provide the workers against sickness, unemployment and accident. The party will endeavour to provide cheap and sanitary dwellings for the workers.

(9) "For the benefit of the agricultural workers the party will endeavour to extent to them the same benefits which it proposes to secure for the industrial workers with such modifications as circumstances may require.

(10) "The Party accepts the principle that it is the duty of the State to relieve unemployment, and the party will therefore endeavour to carry out this obligation by introducing schemes of land settlement and by starting public works to provide for the unemployed and the landless labourers.

(11) "The Party will undertake legislation to protect the debtor class from undue exactions, usurious delings and fraudulent transaction of the money-lenders and endeavour to tackle the problem of rural indebtedness.

(12) "The Party will undertake legislation to afford adequate protection to the lower middle class in the matter of house rents, in industrial centres in big cities and towns."

Taxation Problems

The attitute of the Party towards taxation is that "it believes that for the improvement in the well-being of the people every Government must undertake a large number of nation building activities and that these activities can be undertaken only when

Government has money in it treasury. This money can come mainly from taxation levied on the people. A prosperous Government is the best guarantee of good Government.

"The Party thinks that to preach reduction of taxation as a principle and to tell the people that the reduction of taxation even at the sacrifice to useful nation-building activities is in their interest, is to misguide the people and to deceive the poorer classes. This does not mean that the Party wishes to keep the system of taxation as it is. On the contrary the Party sees great objection to the system of taxation now in operation. The Party definitely recognises that the present system of taxation is unjust and weighs heavily on the poorer sections of the population. The Party will endeavour to rectify this inequity in the general system of taxation. The Party has great objections to the present system of leavying land revenue and it will undertake legislation to make it more equitable and more elastic."

SOCIAL REFORM

Legislation Plans

With regard to social reform :

(1) "The Party will undertake legislation for the advancement of all necessary social reform (i) to prevent social reformers from being outcasted by the orthodox and (ii) to penalise all forms of organised attempts at direct action such as terrorism and boycott to prevent individuals or classes from exercising the rights and liberties given to them by law.

(2) "The Party will undertake legislation to regulate the administration of all public charities with a view to preventing the mismanagement and misapplication of the charity funds and to secure the use of any surplus that may be left over to the advancement of such secular purposes as education etc.

(3) "The Party will undertake legislation to deal with the Problem of beggars and other destitute persons."

Rural Reconstruction

"The attitude of the Party towards rural reconsturction is :

(1) "The Party will endeavour to make village life cheerful by providing as many amenities of life as may be necessary for the object in view.

(2) "The Party will endeavour to improve village sanitation and housing by introducing a scheme of village planning some what on the lines of town-planning.

(3) "The Party will endeavour to establish village libraries, village halls, village radious and rotary cinemas in order to modernise the outlook of the village and to make him a progressive persons."

Education

In matters of education ;

(1) "The Party will give effect to the scheme of free and compulsory primary education.

(2) "The Party will undertake a scheme of adult education so as to make all people literate.

(3) "The Party will lay special emphasis on technical education.

(4) "The Party will endeavour to provide facilities for higher education in India and abroad by means of State aid to deserving persons from communities which are educationally backward.

(5) "The Party will undertake legislation to reorganise the university education in the Presidency by establishing regional universities and to make them teaching universities. The Party believes that this is the only remedy by which the course of examination which has blasted the intelligence and effort of the student population can be removed."

Administration

The altitude of the Party towards the administration is:

(1) "The Party will endeavour to see that the administration is good, efficient and free from corruption.

(2) "To secure the ends of good and efficient administration the Party will endeavour (i) to secure the separation of the Judiciary from the Executive and (ii) to amend the *Vatan* system in a way suited to modern conditions.

(3) "The Party will also endeavour to prevent the administration from becoming the monopoly of any single caste or community. Consistently with efficiency of administration the Party will endeavour to bring about a fair admixture of all castes and communities in the administration of the Presidency."

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Shri Laxmi Narayan Press, Bombay 2.

4

INDEPENDENT LABOUR PARTY: WIDE SUPPORT

Dr. Ambedkar on aim of Organisation

The growing influence of the party and the wide spread support it was receiving from the progressive elements in the Bombay Presidency and outside were emphasised by Dr. Ambedkar to a representative of 'The Times of India' prior to his depature for Geneva by the 'Lloyd Triestino Steamer Conte Verde' on Wednesday night.

The Independent Labour Party which was recently formed in Bombay has bright chances of success in the forthcoming elections to the new Provincial Legislature according to Dr. B. R. Ambedkar, Leader of Depressed Classes, who formed the party.

Dr. Ambedkar pooh-poohed the claim of the Congress that it would safeguard the interests of the masses and was emphatic that the "exploiters in the Congress will not allow it to work for the masses."

"I have been agreeably surprised to find that the publication or the aims and objects of the Independent Labour Party has aroused considerable interest among the General Public," said Dr. Ambedkar, referring to the numerous inquiries that were being made regarding the future programme of the party.

Branch in Central Provinces

"A Branch of the Party has already been formed in the Central Provinces," he added," In the Bombay Presidency, a large number of persons of different classes and communities have generously responded by joining the Party.

"The economic programme of the Party, as also its social and educational Programme, and the fact that the Party has not been organised on communal lines have met with wide acceptance. Although the Party is in its infancy, it is gaining wide-spread support from various progressive elements all over the Presidency."

Fundamental Differences

There were two fundamental differences between the programme and the policy of the Congress and that of the Independent Labour Party. The Congress wanted to capture the legislatures with a view to destroying the new constitution. The Independent Labour Party, on the other hand, wished to enter the legislatures in order to work that constitution for what it was worth.

The Congress claimed to safeguard the interests of the masses, so did the Independent Labour Party. But, added Dr. Ambedkar, the Independent Labour Party feels that by its very composition the Congress is not free to serve the masses. The Congress is a heterogeneous body composed of the exploiters as well as exploited, and it is quite certain that the exploiters in the Congress will not allow the organisation to work for the massess.

A combination of the exploiters and exploited might be necessary for the purposes of achieving political freedom, but to seek to form a common party consisting of exploited and exploiters for purposes of social reconstruction was to deceive the masses, continued the leader of the Depressed Classes.

Membership of Party

The Independent Labour Party, in Dr. Ambedkar's opinion did not want to increase its strength in the legislature by admitting anybody and everybody in its fold. The Party wanted to avoid being a collection of heterogeneous elements.

"Confining its membership to persons who accept its programme without reservation and who have on other affiliations," said Dr. Ambedkar, "the Party has decided to put up fewer candidates for the ensuring elections than it was possible for the party to do."

Although there was work to be done in the legislatures, in the view of his party there was much more important work to be done outside the legislatures in educating the masses, placing before them the correct ideology and organising them for political action through the legislatures.

Appeal to Public

Dr. B. R. Ambedkar thought that a party like the Independent Labour Party was necessary and appealed to all workers, peasants and the lower, middle classes to join it in large numbers and thus make it a mass organisation. He also stated that for the purpose of educating the masses and carrying on propaganda a committee consisting of eight persons had been appointed.

In addition to the candidates nominated to seats reserved for the Scheduled Castes, the Independent Labour Party has decided to put up for the present the following candidates for election to the Bombay legislature :—Mr. A. V. Chitre (Ratnagiri North), Mr. S. V. Parulekar (Ratnagiri South), Mr. S. G. Tipnis (Kolaba), Mr. V. A. Gadkari (Poona East), Mr. C. T. Ranadive (Thana South), and Mr. B. V. Pradhan (Khandesh East)."[1]

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The Times of India, Thursday, 12th November 1936

1: Reprinted : Khairmode, Vol. 7, Pp. 50-53.

5

I HAVE CHOSEN BOMBAY AS A PLACE FOR THE COLLEGE FOR THREE REASONS

Dr. B. R. Ambedkar submitted an application to the Government of India for a loan for setting up a college in Bombay. This is the text of the application—Editors

To,

The Hon'ble Sardar Sir Jogendra Singh,
Member-in-Charge of the Department of Education,
Health and Lands, New Delhi.

Sir,

I beg to submit this application to the Government of India for a loan without interest Rs. 6,00,000 (Rupees Six Lakhs) for setting up College in Bombay for the promotion of Education among the Scheduled Castes and pray that it may be favourably considered.

2. The Hartog Committee which was appointed in 1930 to examine the condition of education in India and its spread among the various communities summarized the position regarding the spread of education among the Scheduled Castes which were then called the Depressed Classes in the two following tables which are taken from its Report (page 220):—

TABLE—XCIV

Number of depressed classes (boys and girls) under instruction by stages and by provinces

Province (1)	Primary stage (2)	Middle stage (3)	High stage (4)	Collegiate stage (5)
Madras	224.873 (a)	2,647 (b)	..	47
Bombay	58,651 (a)	730 (c)	..	9
*Bengal	310,398	8,787	5,996	1,670
United Provinces ..	88,383	1,367	42	10
Panjab	14,284	914	110	Nil
Bihar & Orissa ..	24,574	52	7	Nil
Central Provinces ..	33,123	1,022	59	16

(a) Number in primary schools only.
(b) Number in middle and high stages.
(c) Number in primary, middle and high stages of secondary schools.

*In taking these figures for Bengal the Committee drew attention to the fact that they included class not 'depressed'.

TABLE—XCV

Pupils of the depressed classes in institution for girls by stages and provinces

Province	Primary stage	Middle stage	High stage	Collegiate stage
(1)	(2)	(3)	(4)	(5)
Madras	7,276	230	14	2
Bombay	5,739 (a)	159 (a)	1 (a)	Nil
*Bengal	28,086	49 (b)	5 (b)	3 (b)
United Provinces ..	2,204	8	1	Nil
Panjab	398	2	Nil	Nil
Bihar & Orissa ..	2,210 (c)	Nil	Nil	Nil
Central Provinces ..	521 (c)	3 (c)	Nil	Nil

(a) Includes aborigines, Hill and Criminal Tribes.

(b) Includes all backward classes.

(c) Number of girls in boy's school and Girl's schools.

3. This is a most deplorable state of affairs. Between 1929 and now some inprovement might have taken place although there is no exact data to measure the progress. But the fact that the Departments in the Government of India have not been able to fill the quota of the $8^1/_2$ p.c. of the vacancies reserved for the Scheduled Castes by the Government of India by its Resolution of 1943 due to insufficiency of qualified candidates is an indication that the condition of education among the Scheduled Castes reproted to be existing in 1929 has not materially altered during the interval.

4. From the point of view of raising the status of the Scheduled Castes and from the point of view of giving them social security from those elements in Indian Society which are hostile to them higher education particularly College education is more important to them than primary education. The welfare of the Scheduled Castes depends entirely upon a sympathetic public

service and that the public service if it is to be sympathetic must be representative of the different element in the national life of the country, and particularly of the Scheduled Castes. Further the representation of the Scheduled Castes in Public Services if it is confined to ministerial post can be of no use to the community in its struggle for uplift no matter how numerous are the posts that are given to them. Primary and Secondary education for a Scheduled Caste student may be good from the standpoint of providing a career for an individual. But it cannot raise the condition of the Scheduled Castes. The status and condition of the Scheduled Castes will be improved only when the representatives of the Scheduled Castes come to occupy executive posts as distinguished from ministerial posts. Executive Posts are strategic posts, posts from which a new direction can be given to the affairs of the State. The attainment of Executive post, it is obvious, requires a high degree of education. Consequently the primary aim in the education of the Scheduled Castes should be to make provision for those students who reach the College stage so that they may be able to complete it and thereby fit themselves for Executive posts.

5. There are a number of reasons why the Scheduled Castes students drop out when they have reached the College statge. The first and foremost reasons is their poverty, second is difficulty in getting admission in a College, third is absence of freeships and fourth is want of hostel accommodation. Some of these difficulties can of course be overcome by financial aid from Government. But there is one difficulty that cannot be solved by financial aid. It relates to admission in Colleges. Admission in Colleges are fixed in number either by University or by Government. Only a certain number of boys can be admitted. This creates a great difficulty in the way of the Scheduled Castes students who wish to pursue College education. This appears to be a general difficulty. But it hits hard the Scheduled Castes students far more than it does students of other Communities. This is due to the fact that College education is in Private hands, and most of the Colleges are run by private bodies which are communal in their organization and in

the matter of their staff. The outlook of the Colleges is on this account largely communal. This communal outlook has its effect on granting admissions. The result is students belonging to special communities or higher communities get preference in the matter of admissions and students belonging to the Scheduled Castes are either refused admissions on the ground that the numbers are full or are considered last when only a few vacancies are left. The situation has been considerably worsened by the influx of population in large towns where most of the Colleges are concertrated. The enormously increased number of students wanting to enter Colleges has made admission a matter of greater difficulty than it was before.

6. Such a situation cannot be allowed to continue. It must be remedied immediately. The only effective remedy seems to be to establish Colleges in Selected Centres which have the education of the Scheduled Castes as its primary aim. The other Communities do not mind this competition for the simple reason that most have got their own Colleges. This is true of other Minority communities such as Sikhs, Muslims, Indian Christians and Anglo-Indians, each of which" maintain under their control various Schools and Colleges in which the education of their communities receives first consideration. But the Untouchables having no such institution at their command suffer most from this competition for admission. 1 propose to make a beginning by starting a College in Bombay which will have such an aim and will endeavour to carry it through. According to my calculations it will require a sum of about Rupees Six Lakhs to set up such a College. In pre-war time it could have been done with a lesser amount. But having regard to the rise in the cost of material I do not think that the College could be stalled on anything less than this amount. As to the rasing of this amount it is impossible to expect the Scheduled Castes who are the poorest community in India to be able to raise this amount. I am therefore obliged to request the Government of India for a loan of the amount without interest to be repaid by suitable instalments. The properties of the proposed College will be mortgaged to Government as a security for the loan.

7. I mention below some important particulars about the proposed College in order to indicate how it will function :—

I. It will be managed by a duly constituted body registeredunder the Charitable Societies Act,

II. It will have two sides Arts and Science.

III. It will be non-Communal in as much as :

(i) It will be open to students of all Castes and creeds, only it will pay special regard to the educational interests of the Scheduled Castes students.

(ii) The teaching staff will be mixed staff. There will be no bar on the ground of race, religion or community.

(iii) Subject to the Regulations of the Universities in India it will be open to Scheduled Castes students of all Provinces without any kind of discrimination.

8. I have chosen Bombay as a place for the College for three reasons. Firstly, I propose to take upon myself the duties of the Manager of the College and also take part in teaching as soon as I am free from the responsibilities of my present office. In the initial stage I feel I must take these responsibilities on my own shoulders. This I can do better if the College is located in Bombay. Secondly, there is an acute need for more Colleges to provide College Education to the enormous number of students who have now congragated in Bombay and who cannot find admission in any of the existing Colleges. According to press reports applications for opening ten new Colleges are pending before the Senate of the University of Bombay which shows how vast in the number of students in want of admission. With the prospect of drawing a large number of these into the College I feel confident that the College will pave its way and there is every chance of the College showing profit. Thirdly, having been a professor of Economics in the Sydenham College of Commerce, Bombay, Principal of the Government Law College, Bombay, a Member of the Senate and Syndicate of the Bombay University I feel that 1 can get recognition for the proposed College more readily from the Bombay University than from a University outside that Province.

9. I have selected a site for the College with an approximate area of six acres. It belongs to the Bombay Municipality. It is the only site left in Bombay which can be regarded as suitable for a College. If I lose the site I shall have to abandon my project which will be a great valamity. I can proceed with the negotiations only on the assurance that I can raise funds which is I have said I can do only by way of loan from the Government of India. I do not proposed to draw the amount of loan immediately. It will remain with the Government of India. It will be drawn as and when need to draw arises.

10. As I am anxious to secure the site I shall be grateful if my application is granted without delay.

1st February 1945,
22, Prithviraj Road,
New Delhi.

I remain,
Yours faithfully,
(Sd.) B. R. Ambedkar.

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6

Memorandum of Association

of

THE PEOPLE'S EDUCATION SOCIETY MUMBAI

(Estd. 8th July, 1945)

Founder:
Dr. B. R. Ambedkar
M.A. Ph.D., D.Sc,
LL.D., (Columbia). D. Litt., (Osmania) Barrister-at-Law.

Head Office:
Anand Bhavan,
Dr. Dadabhai Naoroji Road,
Fort, Mumbai-400 023.

Registered under the Society's
Registration Act XXI of 1860. Registration No. 1375 of 1945-46 Date 9th July, 1945 and the Bombay Public Trust Act, 1950 (Bombay XXIX of 1950) Registration No. F 303 (Bom.) Dated : 2nd June 1953.

PEOPLE'S EDUCATION SOCIETY, MUMBAI.

Bard of Trustees

1. Shri K. B. Talwatkar (Trustee)
2. Hon'ble Shri K. H. Ranganath (Trustee)
3. Shri S. S. Rege (Trustee)

Members of the Governing Body

1. Dr. S. P. Gaikwad, G.C.A.M. (Chairman)
2. Shri S. S. Rege, B. A., Dip. LIB. Sc. (Dy. Chairman)
3. Shri K. B. Talwatkar, M. A., LL.M., S.E.M.
4. Dr. P. T. Borale, B. A., LL.B., Ph. D. (Law)
5. Shri M. S. Moray, B. A., LL.M.
6. Prof. S. K. Mohagaonkar, M.Com.
7. Hon'ble Shri K. H. Ranganath, B.Sc., B.L.
8. Padmashri Dr. M. L. Shahare, M.Sc., Ph.D.
9. Prof. S. L. Khot, M. A., LL.M.,
10. Prof. Arun M. Donde, M.A., LL.B., Ex. MLC.

Secretariate

Prin. D. J. Gangurde, M.Com., LL.M., Secretary

MEMORANDUM OF ASSOCIATION OF THE PEOPLE'S EDUCATION SOCIETY, MUMBAI.

Name and objects of the society

1. The society shall be called the People's Education Society and shall be managed and administered by the Buddhists.

2. The office of the Society shall be at Bombay or at such other place as may be decided from time to time.

3. The aims and objects of the society shall be :-

(a) To provide facilities for education, secondary, collegiate, technical, physical and the like;

(b) To start, establish, conduct and/or aid educational and Buddhist religious associations such as schools, colleges, vihars, hostels, libraries, playgrounds, Buddhist Institutes etc. at suitable places in the State of Maharashtra as well as any other parts of India;

(c) To provide facilities for education of the poor and the Buddhists;

(d) To create and foster general interest in education among the Scheduled Castes and Buddhists who are converted from amongst the Scheduled Castes and in particular to give them special facilities, scholarships and freeships for higher education;

(e) To promote science, Buddhist and other literature and fine arts and to impart useful knowledge in comparative studies of religion;

(f) To purchase, take on lease or otherwise acquire property for the Society and to invest and deal with the moneys of the Society in such manner as may from time to time be determined;

(g) to construct, maintain, rebuild, repair, alter, replace or reinstate houses, vihars, buildings or works for the purpose of the society;

(h) to sell, dispose off, improve, develop, exchange, lease, mortgage or otherwise alienate or deal with all or any property of the Society;

(i) to co-operate, or affiliate the Society or any Institution or Institutions run by or belonging to the Society with a view to securing further advancement of the aims and objects of the Society especially of Buddhists;

(j) to raise money with or without security for carrying out any of the propose, aims and objects of the Society;

(k) to procure the Society to be registered or recognized in any state in India;

(l) to do all other lawful things and acts as are incidental or conducive to the attainment of any of the aforesaid aims and objects.

II - Subscribers and patrons

4. Any person paying Rupees ten per year as subscription to the Society shall be eligible to be enrolled as a subscriber of the Society and shall be entitled to the privileges of the subscriber.

5. Any person paying a lump sum donation of Rs. 500 or more to the Society shall be eligible as a patron of the Society and shall be entitled to the privileges of a patron.

III - Control and management

6. The Sociey shall have :-

(i) A Governing Body;

(ii) A Bard of Trustees;

(iii) A General (originally managing) Council;

And

(iv) An Executive Committee for every College, Vihar, School or other institution or a group thereof as the Governing Body may decide for the Management of its affairs.

7. The Governing Body shall consist of eleven members. Out of these eleven not less than seven shall be persons from amongst the Buddhists who are converted from amongst the Scheduled Castes.

7. (a) The Governing Body shall have power to invite any person or persons to be *ex-officio* members of the Governing Body for per poses specified in a special resolution making such appointments. Such a person shall have no right to vote on any question which falls outside the scope or purpose for which he has been appointed.

Where any dispute arises as to whether the question falls within the scope or the purpose, the decision of the Chairman shall be final.

8. The Board of Trustees shall consist of three persons appointed by the Governing Body from among its own members. Of these, at least two shall belong to Buddhists converted amongst the Scheduled Castes.

9. All the properties and funds of the Society shall vest in the Board of Trustees, save as herein otherwise provided.

9. (a) The Board of Trustees shall have the rights to sue and be sued on behalf of the Society in respect of the properties and funds of the Society.

10. (1) There shall be a General Council to supervise and co-ordinate the work of all institutions of the Society. The General Council shall consists of not less than fifteen members nominated by the Governing Body. Out of these 15 members 11 shall be from the Governing Body of whom 8 shall be from the Buddhists who are converted from amongst the Scheduled Caste members of the Governing Body. The rest shall be from the subscribers and patrons.

(2) Unless otherwise provided by the Governing Body the head of every institution will be an *Ex-officio* member of the General Council.

(3) The Resolutions of the General Council shall be recommendatory only.

11. For every College, Vihar, School or Institution of the Society or a group thereof as Governing Body may decide there shall be an Executive Committee. The Executive Committee shall consist of not less than five and not more than seven members

appointed by the Governing Body, one of whom shall be the Dean or Principal of the College or School or Institution, the Registrar of the institution, not less than two from the Buddhists who are converted from the Scheduled Castes and one who in the opinion of the Governing Body is an Educationist.

12. The Chairman of the Governing body, who shall be Buddhist, shall be an *Ex-officio* member and Chairman of the Board of Trustees, General (Originally Managing) Council and all Executive Committees. He will be a member of these Bodies in addition to the number of members specified in the above clauses.

12. (a) (1) The Executive authority of the Society shall vest in Chairman.

(2) All deeds, documents and assurances requiring to be executed by or on behalf of the Society may be executed by the Chairman alone and shall be binding on the Society.

13. The supreme control and Governance of the Society, its institutions, its property and its funds shall be vested in the Governing Body.

14. The first members of the Governing Body shall be :-

1. The Hon'ble Dr. B. R. Ambedkar, M.A., Ph.D., D.Sc, Barrister-at-Law, New Delhi.
2. Rao Bahadur, N. Shivraj, B.A.,B.L., M.L.A., Madras.
3. Daulatrao Gulaji Jadhav, B.A., LL.B., Bombay.
4. Raja Ram Bhole, B.Sc, LL.B., Poona.
5. J. H. Subbiah, B.A., Secunderabad.
6. Hirjibhai Khushalbhai Patel, B.A., LL.B., Bombay.
7. G. T. Meshram, New Delhi.
8. Rao Bahadur S, K. Bole, Bombay.
9. M. V. Donde, B.A., Principal, Gokhale Eduction Society's High School, Parel, Bombay.
10. S. C. Joshi, M.A., LL.B., New Delhi.
11. M. B. Samarth, Barrister-at-Law, Bombay.

The Hon'ble Dr. B. R. Ambedkar shall be the first Chairman of the Governing Body and after him he shall always be a Buddhist.

15. The membership of the Governing Body and Board of Trustees may terminate either on death, incapacity, resignation or removal.

16. The term of the office of the members of the General (Originally Managing) Council and of the members of the Executive Committee other than the Dean or Principal and Registar shall be for three years unless terminated by death, incapacity, resignation or removal. A person whose term of office has expired will be eligible for renomination. The Dean or Principal and Registrar shall countinue as members of the Executive Committee so long as they hold office as Dean or Principal or Registrar.

17. The Governing Body shall have power to remove any member of the Governing body, of the Board of Trustees, of the General (Originally Managing) Council and of any Executive Committee from the body provided that three-fourth of the members of the Governing Body present at a meeting specially called for the purpose vote in favour of his removal.

18. The present Chairman of the Governing Body shall appoint or nominate his successor.

19. In case there is no valid nomination of the successor to the present Chairman, or the person so nominated refuses or fails to accept or ceases to hold the post of any reason whatsoever the Chairman shall be elected by the remaining members of the Governing Body.

20. Subject to the provision herein contained all vacancies in the Office of the other members of the Governing body, the Board of Trustees, the General (Originally Managing) Council or the Executive Committee shall be filled by the Governing Body provided that a vacancy of Buddhist converted from the Scheduled Castes member shall be filled by a person belonging to Buddhist who is converted from amongst the Scheduled Castes only and no other.

21. The Chairman of the governing Body shall be Executive Officer of the Governing Body and will act in consultation with the members of the Governing Body in matters of General Policy and finances.

22. (i) The Chairman may appoint a member of the Governing Body to act as the Deputy Chairman in his absence and delegate to him such authority as he may choose to do.

(ii) The Chairman may also appoint a person to act as the Secretary of the Society and prescribe in writing the duties of the Secretary, his salary and term of his office.

(iii) The Governing Body may also appoint from among themselves one member of the General Secretary of the Society. His term of office shall be three years.

23. The Governing Body may appoint necessary staff for carrying on its affairs and also for running its institutions, fix their scales or pay and service conditions and frame standing orders or rules for the guidance and directions of the staff, authorities and Bodies of the Society and may frame Regulations defining their functions, powers and duties.

24. For each college, Vihar, School or Institution or a group thereof as the Governing Body may decide, the Governing Body may appoint a Registrar.

25. Subject to the superintendence and control of the Chairman, the Registrar will work under the head of the institution. He will perform all the duties pertaining to the day to day administration of the institution in accordance with the standing orders and regulations of the Society.

IV - Funds of the Society

26. The funds of the society shall consist of grants, donations, subscriptions, fees, gifts, etc. received from time to time.

27. Secretary shall maintain proper books of accounts and other documents of the income and expenditure of the Society.

The accounts of the Society shall be periodically audited by the auditors recognised under the Indian Companies Act and appointed by the Governing Body.

28. The Governing Body shall appoint from amongst the members of the General Council and Executive Committee, or Committee, a Secretary who shall carry on the general work of the Council and of the Executive Committee or Committee respectively. The tenure of the office of the Secretary shall be three years.

29. An annual statement of receipts and expenditure of the Society shall be drawn up by the Secretary of the Society and a consolidated statement shall be kept at the Office of the Society and shall be opened at all times for inspection of the members of the Governing Body, Board of the Trustee, General (Originally Managing) Council and Executive Committee, Patrons and Subscribers.

V - General

30. The Governing Body and other Bodies shall discharge their duties and exercise their powers, authorities and functions in accordance with the Articles annexed to this Memorandum (Schedule - A).

31. The Governing Body shall have power to alter, amend, add or modify the said Articles as may be required by circumstances, provided always that such alteration, amendments, additions, or modifications shall not be inconsistent with the provisions of this Memorandum.

32. This Governing Body shall have power to alter, amend, add or modify this Memorandum save and except provision regarding the composition of the Governing Body, the Board of Trustees, the General (Original Managing) Council and the proportion of representation on each such body of the members of Buddhists who are converted from amongst the Scheduled Castes, the provision regarding the term of the office the first Chairman,

the ex-officio membership of the other bodies of the Chairman, contained in clauses 7, 8, 9, 10, 11, 12, 14, 20, and 21 there of provided that three-fourth of the members of the Governing Body present at the meeting specially called for the purpose vote for such alteration, amendment , addition or modification of the Memorandum,

Signed

B. R. Ambedkar.

S. K. Bole.

M.V. Donde.

S.C. Joshi.

M. B. Samarth.

D. G. Jadhav.

9th July, 1945. H. K. Patel.

SCHEDULE "A"

ARTICLES FOR THE MANAGEMENT AND ADMINISTRATION OF THE PEOPLE'S EDUCATION SOCIETY

1. These Articles shall be called the People's Education Society's Articles.

2. The Governing Body shall meet every six months to receive and consider reports from all institutions and bodies under its control. The other bodies shall hold their meeting once in a quarter and as often as may, from time to time, be necessary for the transaction of the business of the Society, its institutions, etc. as the case may be.

3. The Governing Body shall hold a meeting to be called the Annual General Meeting ordinarily in the month of April each

year, at which the General Secretary shall submit his annual Statement of Accounts and a report of the work and activities of the Society.

4. The Chairman of the Governing Body in his discretion or on a requisition of any three members may, at the time, summon a special meeting of the Governing Body, Board of Trustees, General Council or Executive Committee as the case may be for any cause that seems to him or them to be sufficient.

5. Notices, in writing, of every meeting whether general, special or adjourned shall be delivered or sent through post to each member ordinarily seven clear days before the date of the meeting. But in the case of an adjourned meeting the notice may be of such duration as the period between the date of the original and adjourned meeting will permit. A notice of a meeting shall ordinarily state and place, date and hour of the meeting and the work to be transacted and a notice of special meeting shall further state the specific matter to be discussed thereat.

6. The number of members required to constitute a quorum shall be four for each body for the time being.

The number of members required to constitute a quorum shall be half of the total number of each body for the time being.

6. (a) Every member of the Governing Body or of a Committee of an institution of the Society shall attend regularly the meeting of the Governing Body or of the Committee as the case may be and in the event of his inability to attend such a meeting he shall ask in writing for permission to be absent from the meeting.

7. If a quorum shall not have assembled within half an hour after the time appointed for any meeting the members or member present may adjourn. A meeting may be adjourned by the Chairman upon the adoption of a resolution to that effect. If at such adjourned meeting a quorum is not present the members present shall be a quorum.

8. The Chairman of the Governing Body shall preside at the meeting of those bodies. Each Body shall at its First meeting in April elect a Vice-Chairman for the year who shall preside in the absence of the Chairman. When both Chairman and the Vice Chairman are absent the members shall elect a Chairman for the meeting from among themselves.

9. Unless otherwise provided for in the Memorandum, every matter shall be determined by the majority of votes of the members present and voting on the question. The Chairman shall have a casting vote whether or not he shall have previously voted on the same question, but no member shall give more than one vote.

10. Any resolution passed by the Governing Body, General Council or Executive Committee may be rescinded or varied from time to time by the members at any other meeting of the Body concerned.

11. The Governing Body may, at any meeting, appoint a person or a Committee for making an enquiry or for transacting any business; but every act and proceeding of the person or the Committee shall be submitted to a meeting of the Governing Body for approval and, shall not be binding upon the Society until approved of by the Governing Body.

12. Each Body shall maintain a minute-book Record of entry into office of a member and of the proceeding of the meetings of Bodies shall be entered in the minute-book and shall be signed by the Chairman of the meeting either at the conclusion thereof or at some future time if they shall have been confirmed.

13. Full account shall be kept in proper books of account, to be provided for the purpose of all moneys received and paid respectively on account of the Society and of its institution such book of accounts shall be made up for each year and shall duly audited by qualified auditors, be examined and passed by the Governing Body at their ordinary meeting in the ensuing year or at some other meeting appointed for the purpose and shall thereupon be signed by the Chairman of the meeting.

14. A list shall be maintained of the subscribers and patrons of the Society.

15. An account for the purpose of the Society shall be open and kept with bankers selected by the Governing Body. Every sum of money received on account of the Society shall, without undue delay, be paid in to the credit of that account unless otherwise expressly ordered by the Chairman.

16. All cheques and orders for the payment of money shall be signed by the Chairman of the Governing Body or by a person or persons appointed in that behalf by the Governing Body.

Certified to be a correct copy of the Articles.
5th July, 1945.

B. R. Ambedkar
D. G. Jadhav
S. C. Joshi

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For Branches of the institution at various places, see Appendix—XII

7

APPEAL

BY

The Hon'ble Dr. B. R. Ambedkar,

M. A., Ph.D., D. Sc, Bar-at-Law.,
Member, Governor General's Executive Council.

On Behalf of

THE PEOPLES EDUCATION SOCIETY

THAT the Scheduled Castes, commonly known as the Untouchables, number about 50 millions is clear from the latest Census Report. That the education of the Scheduled Castes is at present in a very backward state all over India and that so far as higher education is concerned they are very far behind the higher classes are well-known facts. That the social and economic condition of the Scheduled Castes ail over India is deplorable is also an admitted fact. It is further realized by all that one of the reasons why the Scheduled Castes have not been able to overcome their difficulties and disabilities is the lack of education amongst them. From these facts, for the solution of the problem of the Scheduled Castes the need of a special organization devoted to this particular work will be fully recognised.

There being so far no such organisation, it was decided to establish the People's Education Society. The Society has been registered under the Registration of Societies Act, XXI of 1860 and is recognized by the Government of India. To promote higher education among the Scheduled Castes all over India is the chief aim of the Society as will be seen from its constitution.

The Society proposes shortly to open in Bombay a full-fledged College for degree courses in both branches, Arts as well as Science, and for pass as well as Honours Courses. The College is not a sectarian institution. It will be open to students of all communities and of all creeds from all Provinces and States. The staff of the College will be as far as possible cosmopolitan. The special feature of the College will be the particular care of the students of the

Scheduled Castes, who will be granted facilities in the matter of admissions, freeships, scholarships and hostel accommodation. The Governing Body of the Society desire to make the College a model institution for imparting higher education. The Society feels highly encouraged by the fact that its project of starting a College in Bombay has received the approval of the Government of India, who have been pleased to give very substantial aid in meeting the initial expenditure. They have agreed to pay to the Society a sum of Rs. 6 lakhs, half as a grant and half as a loan without interest for that purpose.

Owing to the abnormal prices of land, building materials and scientific and other equipment this sum will fall short of the actual requirements. The College will require at least Rs. 15 lakhs. After taking into account the amount provided by the Government of India it will be seen that there will still remain a large sum of Rs. 9 lakhs to be collected by way of donations. The Society, therefore, has to ask for substantial help from other quarters. The Society entertains high hopes and trusts that its appeal for financial help for successfully carrying out its project will receive sympathetic consideration from all those who are interested in the advancement of education is general and that of the Untouchables in particular.

There is a very large population of Scheduled Castes in some of the States and the Society, therefore, appeals to the Rulers of the States for extending to it a generous help in this matter. The Society would be glad to make special provision in the College for the Scheduled Castes students, as well as for the non-Scheduled Caste students, from the States and in particular to agree :

(1) to reserve a certain percentage for admission to the different classes in the College both on the Arts and Science side;

(2) to reserve accommodation in the hostels for students, which will be erected as part of the College building; and

(3) to reserve a certain number of freeships and scholarships.

The Society would be prepared to accept any other reasonable condition which a State making a donation might like to suggest.

The Society submits that, while the College will derive substantial help from such financial contributions, the States will also derive great benefit from the College, in that the Scheduled Caste subjects of the States will find in the College a special institution, charged with the duty of taking special interest in the education of the Scheduled Castes.

The Society, therefore, makes this earnest appeal to the Rulers of the Indian States* and requests them to help the Society by making generous contributions towards the materialization of the project and thereby afford the much-needed facilities for the advancement of higher education, to people of the Scheduled Castes in India and their Scheduled Castes subject in particular. The Society will be glad to furnish any other information that may be required in this connection.

26-11-1945 **B. R. AMBEDKAR**

22, Prithvi Raj Road,

New Delhi.

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Printed at, Delhi Press, New Delhi.

* The Maharaj of Baroda was again approached for financial assistance for establishing a College at Bombay for the benefit of the Depressed Classes. An Appeal in that connection was made by Mr. K. A. Keluskar, on behalf of Dr. Ambedkar—See Appendix XIII.

8

A SOCIAL CENTRE FOR THE UNTOUCHABLES IN BOMBAY

Dr. B. R. Ambedkar was continuously making efforts to generate the funds for the movement of Untouchables to bring the human dignity in terms of social equality to the Indian Community. He was planning to establish a Centre, so as to execute and monitor the activities of the Untouchables. He appealed probably in 1949, to the Princes and the people of India.—Editors.

To
The Princes and People of India
Funds for
A Social Centre for the Untouchables in Bombay
The Scheme needs Rs. 3,25,000/-
Won't You Help ?
An Appeal By
The Hon'ble Dr. B. R. Ambedkar, M.A., Ph.D., D. Sc,
Bar-at-Law,
Member, Governor General's Executive Council

The New Movement among the Untouchables

The down-trodden and degraded condition of the Untouchable-who number today 70 millions of India population—has been one of the major problems of India. The work of raising them to the level of other communities has engaged the attention of many Hindu reformer for ages past. But the phenomenon of the Untouchables taking upon themselves the responsibility of improving their own lot is quite a new one. It is their won struggle for equality and began only 25 years ago.

This struggle has passed through several stages and the movement has gathered strength in spite of repeated rebuffs and constant opposition. The message of self-reliance has reached even the lowest strata; the backwaters of out-of-the way villages and lonely hamlets have been stirred; and the sleepy hollows where once rank superstition, utter self-debasement and abysmal ignorance reigned are now throbbing with new life. The right spirit has

been roused and a real movement has been started. A tremendous force for raising the status both of the Untouchables and this country can be evoked if this movement based on self-respect and self-reliance is efficiently organised. It is on behalf of this social movement that I make the present appeal.

People not intimately acquainted with my activities may be surprised at my present move on behalf of a social movement. They have come to look upon me as a politician. As a matter of fact politics has never been my obsession. It has been my on and off activity. As a student of history I have been profoundly impressed by the view that however important political forces may be in the regeneration of a community, social, economic and moral forces are far more vital and that political forces are only a means to the social, economic and moral regeneration of a people. I have from the very beginning laid greater stress on social movement than on political movement. A very large part of 25 years of my public life has been mainly devoted to the cause of social uplift of the Untouchables. I mention this only to correct the impression that I am only a politician. For it is a wrong impression. I want the public to realize that I have played no insignificant part in giving momentum to the new movement and fostering its growth. In support of my statement I cannot do better than quote Mr. B. G. Kher, a Congressman and former Prime Minister of Bombay, who replying to my speech in the Bombay Legislative Assembly on the Ministers' Salary Bill on 23rd August, 1937 said :-

> "Further (Dr. Ambedkar) made a great deal of competency, a point about which there cannot be two opinions. I am obliged to the honourable member for referring to the competency of the personnel of this Cabinet and for giving us his true opinion. I have a very high opinion of his competency. I also know that he has been doing such service to the Depressed Classes as no one else has been able to do (Hear, hear). May I know from the honourable what salary he gets for this service ? I know that the service he has been rendering to the cause of the Depressed Classes cannot be bought by any amount of money - (Hear, hear). What

the honourable member is doing for the cause of his community cannot be measured by any amount of money. Competency does not depend at all on the salary that one may get. What pecuniary gain does my honourable friend get, may I know, for the very competent service that he is rendering to his community ?" *

I am glad to be able to relie on this reference to me from the Congress quarters. It shows that I have mainly devoted myself to social work in the past.

The Need for a Social Centre

It is my desire that the noble work to which Mr. Kher made reference should be put on a lasting foundation and I am sure that, that must be the view of all those interested in the cause of the Untouchables. There can be no two opinions that if movement is to succeed, it must have at its command three things, (1) a Central headquarter, (2) a well-trained body of devoted workers, and (3) financial stability. Only with these means the movement can be placed on a sound and permanent footing.

Of these three, the establishment of a Social Centre as Central Headquarter must be regarded as the most fundamental. For once a Social Centre is established it will help to co-ordinate all social activities necessary for keeping up the movement, under the scheme which I have framed. It will also provide income to meet the expenditure for running the social activities and maintain a body of devoted workers on full time salary basis.

Suitability of Bombay

There is no doubt that the Untouchables of every Province must have a Social Centre. Indeed it is my plan to provide one each. A beginning must however be somewhere and I have come to the conclusion that Bombay is a place where a beginning may well be made. The spearhead of this movement has been provided by Bombay. It is therefore, in the fitness of things that the foundations of a systematic and permanent organization should be laid in the city of Bombay. For these reasons I have selected Bombay to begin with. It is proposed to establish a Social Centre in Bombay which will serve not only as a model for social, economic and

* Bombay Legislative Assembly Debates 1937, Vol I, P. 272.

educational activities for the uplift of the Untouchables but also as a centre radiating new ideas and co-ordinating the different activities into a harmonious whole.

The scheme of the proposed Social Centre, an outline of which is given later on in this Appeal, will show that it contains all the elements necessary to make the Centre a popular resort for the Untouchables-based on the lines of Social Settlements existing in Western Countries - to raise their standard of social and cultural life by bringing about a wholesome change in their customs and general outlook on life. It will create unity of aim and action among them and place the work of social regeneration on a permanent footing. The main activities which the Untouchables themselves are carrying on at present in Bombay City can be brought together at this centre. The serious handicap caused by want of a suitable place where all the main activities of the Untouchables can be located will be removed by such a Centre.

Centre will be a Public Trust

The scope and functions of the Centre will be governed by a Registered Trust Deed and the funds will be managed by a Board of Trustees.

The aims and objects of the Centre will be those mentioned below :-

(a) Relief from distress and poverty.

(b) Advancement of education.

(c) Relief from tyranny and oppression.

(d) Securing and safeguarding civil rights and privileges.

(e) Eradication of social evils.

(f) Spread of general knowledge and enlightenment with a view to eradicating superstitious practices and beliefs.

(g) Securing and advancing social and religious well-being.

(h) Promoting organised effort for social and economic betterment.

(i) Securing legislative sanction to measures removing civil, social, economic and religious disabilities, disadvantages and discrimination.

(j) Securing the removal of Untouchability.

Functions and Activities of the Centre

The Centre proposes to maintain a body workers devoted to the cause of the Untouchables, whose activities will be so planned as to give full effect to the aims and objects of the Centre. Below is given an outline of the activities of the proposed Centre :-

1. Offices —

The workers carrying on the various activities hitherto meet and transact their work either in rented buildings or at their own dwelling places. With a view to affording facilities to these activities and to co-ordinating them at a central place, the offices of all such institutions will be accommodated at the Centre.

2. Quarters for the workers of the Centre —

Hitherto there has been a band of selfless voluntary workers who are engaged in carrying on the activities in their spare time. It is now contemplated to knit such workers together and give them a well-channelled scope to devote all their time and energy to the cause of the Untouchables and the removal of their grievances and handicaps.

3. Public Hall —

The necessity of a public hall for the Untouchables has been an acute one. It is intended to construct a fairly large hall accommodating an audience of about 2,500. The hall will be used for holding public meetings, women's and students' gatherings, recreational, educational and other social functions.

4. Library and Reading Room —

It is necessary to provide the Untouchables with facilities for the cultivation of their minds with a view to creating among them a sense of appreciation of ideas, art and broad human interests. It is also necessary to provide them with means of engaging their attention during leisure hours to something higher and nobler than is to be found in their drab, dreary life. For this nothing can be more efficacious to serve this objective than the institution of libraries in Untouchable quarters. This will be one of most important activities of the Centre. In addition to this it is

proposed to have a Central Library for students wishing to study the problems of the Untouchables. The problem of the Untouchables is vast enough to engage the energies and attention of many for years to come. There is, however, hardly any facility at present for studying the problem in its proper perspective and in all its manifold ramifications. It is therefore intended to collect the requisite material for such a study by establishing a well-equipped Library and a Reading Room at the proposed Centre.

5. Publications Branch—

The Untouchables are steeped in ignorance and superstition. The evil customs and usages practised by them are appalling. One of the most urgent necessities is to emancipate them from these evil customs and usages. The best way is to issue literature of the sort published by the Rationalist Association. For this purpose it is also proposed to maintain a small printing Press.

6. Volunteers Organization—

Thousands of Untouchables youths all over the country, markedly in the Bombay Presidency and the Central Provinces, have spontaneously formed themselves into organised bands of volunteers called the Samata Sainik Dal. The object of this movement is to inculcate the spirit of discipline and spread the message of the new era among the Untouchables. It is intended to centralise this all important activity and spread it to other parts of the country.

7. Propaganda Performances—

As in the case of the Samata Sainik Dal, a number of Untouchable youths in the Bombay Presidency have formed clubs and stage dramatic performances, at marriage celebrations and other religious and social functions at several places callings themselves Jalsa Mandals. These are amateur dramatic clubs giving performances of self composed plays depicting the evils of baneful social customs on improvised stage before illiterate villagers. It is intended to organise on a sound basis this very useful activity for dissolving old and disseminating new ideas among the masses and to guide it and make it more effective.

Cost of the Centre

According to the proposed plan the requirements of the Centre are detailed below :-

I.	Land - 156' × l32' about - 2,280 sq.yds. value (already taken on lease)	..	Rs. 37,000/-
	Ground rent per year	..	Rs. 2,200/-
II.	Structures :		
1.	Hall-Building consisting of a ground and two upper floors. Ground Floor :—Hall 120' x 62' (with 10' wide Verandah and gallery inside having seating accommodation for about 2,500 persons) Approximate cost.	..	Rs, 75,000/-
	Two Upper Floors:—32 single room tenements 16 on each floor.	..	Rs. 75,000/-
2.	East Wing Building :—Ground and 2 upper floors, 3 double room tenements on each floor -9 in all	..	Rs. 26,500/-
3.	West Wing Building : Ground and 2 upper floors, 3 double room tenements on each floor -9 in all	..	Rs. 26,500/-
4.	Front Building :— Ground and 2 Upper Floors :— Ground Floor :—Printing Press, Gymnasium and Office. Three Upper Floors :— Offices on the 1st floor and 13 double room tenements on each of the remaining 2 floors.	..	Rs. 85,000/-
	Total	..	Rs. 2,88,000/-
	Cost of Land	..	Rs. 37,000/-
	Grand Total	..	Rs. 3,25,000/-

The cost of the Centre is estimated at Rs. 3,25,000/-. The estimate is of course based on prices prevailing in normal times.

These stuctures are designed to serve a three-fold purpose. The first is to house all activities for the promotion of the well-being of the Untouchables under one roof in order to bring about co-ordination and prevent dissipation of effort. The second purpose is to provide a place for the Untouchables to which they can look as a centre of knowledge and inspiration, a place which will provide a meeting ground for the Untouchables for exchanging ideas, for performing social and religious function and act as a centre of culture in which they can take pride. The third and the most important purpose is to provide the Centre with a permanent source of income to maintain itself and to sustain its activities. Most of the buildings are intended and planned for being rented out. They will bring rent which will keep the Centre going and make it self-supporting.

An Appeal to the Princes and People of India

It is a universally recognised fact that the present condition of the Untouchables is the most serious blot, from the humanitarian point of view, on Hindu Civilization and constitutes one of the greatest obstacles to an all-round progress of the Indian nation. The problem needs all the courage, ingenuity, resources and organising power of all the parties concerned for its solution. In spite of the efforts of social reformers and politicians the progress hitherto achieved is far from satisfactory. In fact, it may be safely asserted, that only the fringe of the problem has so far been touched. The Untouchables, considered as a mass, are as backward as ever. Their aspirations for social, economic, educational and political advancement are thwarted at every step, and the habit of depending upon outside help which is being insidiously cultivated may render the Untouchables unfit to fight their own battles. The force which will sweep all the obstacles from their path and really emancipate them from their age-long bondage can, I am sure, come only from whithin. It is because this new movement of the Untouchables is a movement from within that I feel sure that will help and encouragement it will be a success.

It may be said that if the Untouchables are anxious to undertake the work of their salvation they should also take up the responsibility of financing it. I am glad to say that the Untouchables

of Bombay are fully alive to this aspect of their movement. They have already come forward to raise a fund for the building up of the Social Centre by per capita subscription. Every man and woman is prepared to make a contribution to this great cause. Some have already paid and many more will do so before long. But it is equally true that left to their own resources the Untouchables will not be able to raise the whole sum. It will be cruel to ask them to depend upon themselves. The task of building up the Centre cannot succeed without the help of the Princes and People of India. To tell the Untouchables to bear their-own burden may be correct. But will that be considerate ? Have the Princes and People of India no responsibility for the miserable lot of the Untouchables ? If they have is it right that they should refuse to help the Untouchables on the ground that the Untouchables desire to take up the work of their salvation upon themselves ? I am sure that the Princes and People of India have a better regard for the spirit of self-respect shown by the Untouchables than such an attitude would indicate. I am sure there is in them a more acute sense of righteous indignation against the inequities heaped upon the Untouchables and a keener desire to give them the means to enable them to overcome these inequities.

The uplift of the Untouchables must be a joint undertaking in which the Untouchables will supply the resolution and the inspiration for the movement, the sweat and the toil for the movement, and the Indian community must supply the money required for the movement. It is for this reason that I appeal to the Princes and People of India for financial help for the movement.

The Princes and People of India will not, I am sure, fail to realise what tremendous and irresistible force the elevation of the Untouchables will supply to the national regeneration and reconstruction of India. The Social Centre will of course so organise the Untouchables that they will be able to rise socially and culturally above their present level, attain the status of human beings and live on terms of social equality with the rest of the Indian Community. But I am sure that will not be the only benefit arising from the activities of the Social Centre. The Centre will make them active, true and patriotic citizens ready to stand by the cause of the country.

It is on these grounds that I am appealing to all to help me to build up of the Centre. It has become a truism that without raising the Untouchables the country cannot rise and that in their salvation lies the salvation of the country. I am tired of repeating truisms. The time for uttering truisms is gone. The time for action has come. Deeds and not words are wanted. My appeal to the Princes and People of India is made in all earnestness and I am confident that they will respond to it with large hearted generosity.

22, Prithviraj Road, *Sd/-* **B. R. Ambedkar**

New Delhi.

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CONSTITUTION OF ALL INDIA SCHEDULED CASTES FEDERATION

The All India Depressed Class conference was held between 17th to 20th July 1942 at Nagpur. Dr. B. R. Ambedkar attended this conference. A resolution was passed unanimously on 19th July 1942 to establish "All India Scheduled Castes Federation." ' All India Scheduled Castes Federation' and the Constitution was made public on 7th September 1942*

That Constitution was amended and finally published in January 1955 as under : Editors

**ALL INDIA SCHEDULED CASTES FEDERATION

CONSTITUTION

President:

B. R. Ambedkar,
M. A., Ph. D., D. Sc, LL. D., D. Litt.,
Barrister-at-Law,
Member, Council of States.

Address :
26, Alipore Road,
Civil Lines,
Delhi January 1955.

*Report of Depressed Class Conference. Nagpur Sessions. Third Session, Held on 18th, 19th and 20th July 1942, published on 7th September 1942, Annexure—No. 4, Pp. 109—121.

**Reprinted from the book printed by K. S. Arora at Thacker's Press, Oak Lane, Fort, Bombay.

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PART I

Date of Coming into Force

ARTICLE I

1. This Constitution may be called the CONSTITUTION OF THE ALL INDIA SCHEDULED CASTES FEDERATION.

2. It shall, except as specified in Parts IX and X come into force on the 1st of May, 1957.

PART II

Aims, Objects and Powers

ARTICLE II

1. The aims and objects of the Federation are :

(i) to organise the Scheduled Castes of India, to educate them and to agitate for their social, economic and political freedom and to make them strive for their well being and advancement;

(ii) to secure for them equality of opportunity and thereby enable them to achieve equal status with their fellow citizens in all walks of life ;

(iii) to engage itself in organising the Peasantry, the landless labourers and the workers in factories and other wage-earners ;

(iv) to undertake educational activities such as starting of Schools and teaching them arts and crafts;

(v) to undertake all activities for the moral and spiritual elevation of the Scheduled Castes: and

(vi) to keep a record of all cases of tyrannies and oppressions practised upon the Scheduled Castes in different parts of the Country.

2. The Powers of the Federation are :

(i) to purchase, take on lease or otherwise acquire property for the Federation and to invest and deal with the moneys of the Federation in such manner as may from time to time be determined ;

(ii) to construct, maintain, rebuild, repair, alter, replace or reinstate houses, buildings, or works for the purposes of the Federation;

(iii) to sell, dispose of, improve, manage, develop, exchange, lease, mortgage or otherwise, alienate or deal with all or any property of the Federation;

(iv) to raise money with or without security for carrying out any of the purposes, aims and objects of the Federation;

(v) to get the Federation registered or recognised in any pan of India; and

(vi) to do all other lawful things and acts as are incidental or conducive to the attainment of any of the aforesaid aims and objects.

PART III

Organisation : Local

ARTICLE III

***I Local Organisation* :**

1. For the purpose of organising the Scheduled Castes under the All-India Scheduled Castes Federation there shall be constituted the following local organisation :

(i) The Village Federation Committee;

(ii) The Taluka Federation Committee;

(iii) The District Federation Committee; and

(iv) The State Federation Committee.

Explanation : Federation Committees in cities with a population of more than two lakhs will have the status of a District Federation Committee.

2. A District means an area comprised in a constituency for a State Assembly.

II Central Organisation :

1. The Central Organisation of the All-India Scheduled Castes Federation shall consist of :

(i) The All India Committee of the Federation;

(ii) The Central Executive Committee of the Federation; and

(iii) The General Session or Special Session of the Federation.

2. All the Local Organisations and the Central Organisations shall be the Constituent Bodies of the Federation.

ARTICLE IV

1. Subject to the explanation herein below any person belonging to the Scheduled Caste, and

(i) whose name is on the voters' list; and

(ii) who accepts this Constitution shall be a member of the Federation and shall have a right to vote in the election to any of the Constituent Bodies of the Federation as may be Federation and shall have a right to vote in the election to any of the Constituent Bodies of the Federation as may be provided for by the Rules.

Explanations : (1) Any person belonging to the Scheduled Castes who is not a member of any other political or any social or religious organisations whose aims and objects are not approved of by the Central Executive Committe of the Federation and who has not by word or by conduct declined to be a member of the Federation shall be deemed to have agreed to be a member of the Federation and accept the Constitution.

(2) Voters' list means list of voters prepared by the State Government for a State Assembly Constituency.

(3) Scheduled Caste means a caste recognised as such by the Constitution of India.

2. Provision may be made by rules for associate member ship of the Federation and the privileges that may be conferred on them. An associate member need not be a member of the Scheduled Caste.

ARTICLE - V

1. The list of Scheduled Caste voters for the Assembly Election of a State shall be the register of members on which elections to the Constituent Bodies of the Federation shall be based.

2. Every such person shall be qualified to vote and shall also be qualified to stand for election unless disqualified by any of the rules made in that behalf by or under the authority of the Federation.

ARTICLE VI

1. For every State recognised by the Constitution of India as a State for the time being there shall be a State Federation Committee with its headquarters located in the capital of the State.

2. The Primary Unit of the All-India Scheduled Castes Federation shall be the Village Committee of the Federation.

3. The Village Federation Committee shall consist of— persons chosen by the Scheduled Castes voters in the village and who are members of the Federation.

4. The Taluka Federation Committee shall consist of— members chosen by members of the Village Federation Committee within the Taluka, in accordance with the quota fixed in the State Working Committee in proportion to the Scheduled Caste population of each village to the total Scheduled Caste population of the Taluka.

5. The District Federation Committee shall consist of— members chosen by the members of the Taluka Federation Committees within each district in accordance with the quota fixed by the State Working Committee in proportion to the Scheduled Caste population of each Taluka to the total Scheduled Caste population of the District.

6. The State Federation Committee shall consist of— members chosen by the members of the District Federation Committees within the State in accordance with the quota fixed by the State Working Committee in proportion to the Scheduled Caste population of each District to the total population of the State.

7. The Village Federation Committee shall elect a Chairman from among its own members. The Chairman shall nominate— members of the Village Federation Committee to constitute a Working Committee. Out of the members of the Working Committee the Chairman shall nominate one member to act as Secretary and another member to act as a Treasurer.

8. The Taluka Federation Committee shall elect a Chairman from among its own members. The Chairman shall nominate— members of the Taluka Federation Committee to constitute a Working Committee for the Taluka. Out of the members of the

Committee the Chairman shall nominate one member to act as Secretary and another member to act as Treasurer.

9. The District Federation Committee shall elect a Chairman from among its own members. The Chairman shall nominate—members of the Committee to constitute an Executive Committee for the District. Out of the members of the Committee he shall nominate one to act as Secretary and another to act as Treasurer. Where there is no District Federation the affairs of the District shall be managed by the State Executive Committee.

10. The State Federation Committee shall elect a Chairman from among its own members. The Chairman shall nominate—members of the Committee to constitute a State Working Committee. Out of the members of the Committee he shall nominate one to act as Secretary and another to act as Treasurer.

PART IV

Organisation : Central

ARTICLE VII

1. The Central Organisation of the Federation shall include the following :

(i) The President of the Federation;

(ii) The General Secretary of the Federation;

(iii) The Treasurer;

(iv) The All-India Committee of the Federation;

(v) The Central Executive Committee of the Federation;

(vi) The All-India Committee of the Federation; and

(vii) The Session or Special Session of the Federation.

ARTICLE VIII

1. The All India Committee of the Federation shall consist of—persons chosen by members of the State Federation Committees out of their members in accordance with the population of Scheduled Castes in each State to the total population of Scheduled Castes in India as determined by the Central Executive Committee.

2. There shall be a Session of the All-India Scheduled Castes Federation every two years. The President of the Session shall be chosen by the members of the State Federation Committees.

3. The President either *suo moto* or on the requisition by one-third of the States Federation of Committees will call for a special Session of the All-India Scheduled Castes Federation.

4. President shall preside over the Session of the Federation.

5. The President shall choose one person from each State Federation Committee to form a Central Executive Committee.

6. The President shall nominate one person out of members of the All-India Committee of the Federation, to act as General Secretary of the Federation.

7. The President shall nominate another person out of the members of the All-India Committee of the Federation to act as a Treasurer.

ARTICLE IX

1. The President of the Federation and members of the State Committees of the Federation shall constitute the All-India Committee of the Federation.

2. The President of the Federation shall be the President of the All-India Committee of the Federation.

3. The All-India Committee of the Federation shall arrange for the implementation of the programme of work laid down by the Session of the Federation and shall have powers to deal with matters and situations that may arise during its term of office.

4. The All-India Committee of the Federation shall have power to frame rules, not inconsistent with this constitution, for regulating all matter connected with the Federation which shall be binding on all subordinate Federation Committees.

5. The All-India Committee of the Federation shall meet as often as required by the Central Executive Committee, or on a joint requisition addressed to the Central Executive Committee by not less than 50 members. Such requisition shall specify the purpose for which the requisitionists desire a meeting of the All-India

Committee of the Federation. A requisitioned meeting shall be held within two months of the receipt of the requisition. At any requisitioned meeting, additional items of business may be brought up by the Central Executive Committee for consideration.

6. At all meetings of the All-India Committee of the Federation other than requisitioned meetings, as far as possible, four hours shall be alloted for consideration of propositions of which due notice has been given by the members of the All-India Federation Committee in accordance with the rules prescribed in that behalf.

7. The presence of twenty-five members shall be enough to form the quorum for a meeting of the All-India Committee of the Federation.

ARTICLE X

1. A General Session of the Federation shall ordinarily be held biannually at the time and place decided upon by the All-India Committee of the Federation or the Central Executive Committee.

2. The General Session of the Federation shall consist of :

(i) The President of the Federation;

(ii) The Ex-President of the Federation;

(iii) Members of the All-India Committee of the Federation;

(iv) Members of the Central Executive Committee; and

(v) Members of the Working Committee of the Village Federation, Taluka Federation, District Federation and State Federation.

3. (i) The Session shall consider resolutions recommended for adoption by the Subjects Committee in the first instance.

(ii) Thereafter, the Session shall take up any substantive motion not included in (i), but which forty delegates have, before the commencement of the day's sitting requested the President in writing to allow them to place before the Session provided, however that no such motion shall be allowed unless it has been previously discussed at a meeting of the Subjects Committee, and has received the support of at least a third of the members then present in the Subject Committee.

4. The State Federation Committee in whose jurisdiction the Session of the Federation is held, shall make such arrangements for holding the Session as may be deemed necessary and for this purpose shall form a Reception Committee which shall work under its general guidance and which may include therein persons who are not its members.

5. The Reception Committee shall elect its Chairman and other office-bearers from amongst its own members.

6. The Reception Committee shall collect funds for the expenses of the Session and shall make all necessary arrangements for the reception and accommodation of delegates. It may also make necessary arrangements for the visitors.

7. The receipts and disbursements of the Reception Committee shall be audited by an auditor or auditors, appointed by the State Federation Committee concerned, and the Statement of Accounts, together with the audit report, shall be submitted by the State Federation Committee to the Central Executive Committee not later than six months after the termination of the Session. Any surplus funds shall be divided equally between the All-India Committee of the Federation and the State Federation Committee.

ARTICLE XI

1. The All-India Committee of the Federation shall meet as the Subjects Committee under the Chairmanship of the President atleast two days before the Session. The Central Executive Committee or in case a new President has been elected before the Session and there is no Central Executive Committee appointed by him functioning, a Steering Committee to be nominated by him shall submit to the Subjects Committee the programme of work including draft resolutions, for the Session of the Federation. In preparing the draft resolutions it shall take into consideration there solutions recommended by the State Federation Committees and resolutions given notice of by members of the All-India Federation Committee.

2. The Subjects Committee shall proceed to discuss the programme and shall frame resolutions for being moved in the open session. As far as possible, four hours shall be alloted for the

consideration of propositions of which due notice has been given by the State Federation Committees or members of the All-India Committee of the Federation.

ARTICLE XII

1. A Special Session of the Federation shall be held in case the All-India Committee of the Federation so decides or a majority of the State Federation Committees by their resolutions, request the President of the Federation to convene such a special Session.

2. Such a Special Session shall be organised by the State Federation Committee of the State selected for the Session.

ARTICLE XIII

1. The Central Executive Committee shall appoint one of the members of the All-India Committee of the Federation to work as Returning Officer for the election of the President.

Provided that a General Secretary who is a candidate for Presidentship shall be disqualified for such an appointment.

2. Any member of the Federation may propose the name of any member for election as President of the Federation. The proposal must be seconded by three other members. Such proposal must reach the Returning Officer on or before the date fixed by the Central Executive Committee.

3. The Returning Officer shall publish the names of all persons so proposed and it shall be open to any person whose name has been so proposed to withdraw his candidature within seven days of the publication of the proposed names by writing to the Returning Officer to that effect.

4. After eliminating the names of those who have withdrawn, the Returning Officer shall immediately publish the names of remaining candidates and circulate them to the State Federation Committees. If after elimination there remains only one candidate, he shall be declared as duly elected as President of the next Session of the Federation.

5. On a date fixed by the Central Executive Committee, which shall not ordinarily be less than seven days after the final

publication of the names of contesting candidates, each person qualified to take part in the selection shall be entitled to record, for the selection of a President, his vote in the following manner:

(a) On the voting paper, which shall exhibit, the names of the candidates, the voter shall record his vote.

(b) Every voter shall have one vote.

(c) A simple majority shall be enough for the selection of the President.

(d) The State Federation Committee shall immediately forward the ballot box to the office of the All-India Committee of the Federation.

(e) As soon as may be, after the receipt of the ballot boxes, the Returning Officer, shall count the votes recorded for each candidate and a candidate who has secured a majority of the votes shall be declared elected as President.

(f) In the event of any emergency arising by reason of any cause, such as death or resignation of the President, elected as above, the Central Executive Committee shall forthwith fix a date for a fresh election as prescribed above. In case such procedure is not found possible by the Central Executive Committee, it shall convene a meeting of the All-India Committee of the Federation to elect a President.

(g) The President shall preside over the Sessions of Federation held after his election and during his term of office and he shall exercise all the powers of the Central Executive Committee when it is not in Session.

PART V

Duties, Functions and Powers of Office-Holders

ARTICLE XIV

1. The Central Executive Committee shall consist of the President of the Federation and twenty members, including a Treasurer and the General Secretary, who shall be appointed by the President. Ordinarily, members of the Central Executive

Committee will be appointed from amongst the members of the All-India Committee of the Federation but, in special cases a person who is not member of the All-India Committee of the Federation may be appointed, provided, however, that a person so appointed shall cease to be a member of the Central Executive Committee if he is not elected as a member of the All-India Committee of the Federation within six months of his appointment.

2. The quorum for a meeting of the Central Executive Committee shall be seven.

3. The Central Executive Committee shall be the highest executive authorty of the Federation and shall have the power to carry into effect the policy and programme laid down by the Federation and by the All-India Committee of the Federation and shall be responsible to the All-India Committee of the Federation. It shall be the final authority in all matters regarding interpretation and application in all matters regarding the provisions of this Constitution.

4. The Central Executive Committee shall place before every meeting of the All-India Committee of the Federation a report of proceedings of the previous meeting of the All-India Committee of the Federation, and also an agenda of business for the meeting and shall allot time for non-official resolutions of which due notice may have been given by the members of the All-India Committee of the Federation in accordance with the rules prescribed in that behalf.

5. The Central Executive may appoint one or more auditors, or inspectors or other officers to examine the records, papers and account books of all committees of the Federation and organisations. It shall be incumbent on all such committees and organisations to furnish all required information to the Auditors, Inspectors or other Officers and to give them access to all officers, accounts and records.

6. The Central Executive Committee shall have the power :

(i) to frame rules for the proper working of the organisation. Such rules shall as early as possible be placed for the consideration of All-India Committee of the Federation ;

(ii) to issue instructions not inconsistent with the Constitution and the rules in all matters not otherwise provided for;

(iii) to superintend, direct and control all local committees and subordinate committees as well as the Reception Committee ;

(iv) to take such disciplinary action as it may deem fit against the Chairmen or a Committee other than the All-India Committee of the Federation ;

(v) to meet any special situation, the Central Executive Committee shall have the power to take such action in the interest of the Federation as it may deem fit; provided, however, that if any action is taken, which is beyond, the powers of the Central Executive Committee as defined in this Constitution, it shall be submitted as early as possible to the All-India Committee of the Federation for ratification ;

(vi) to frame rules for maintaining discipline in the Federation and for disfranchising and enfranchising members.

7. The Central Executive Committee shall have the powers in special cases of difficulties to relax application of provisions of this Constitution without in any way violating the Constitution.

8. The Central Executive Committee shall have the accounts of the All-India Committee of the Federation audited annually by an auditor or auditors appointed by the All-India Committee of the Federation every year.

PART VI

Relation Between the Local Organisations and the Central Executive Committee

ARTICLE XV

1. Subject to the general control of the President, the General Secretary shall be in-charge of the office of the All-India Committee of the Federation.

2. The General Secretary shall be responsible collectively for the preparation and publication of a report of the proceedings of the Session of the Federation, including its audited accounts, as soon as possible after the Session.

3. The General Secretary shall prepare a report of the work of the All-India Committee of the Federation and the Central Executive Committee including an audited statement of accounts, for the period since the last submission of such report and submit the same to the first meeting of the All-India Committee of the Federation held before the Session of the Federation.

ARTICLE XVI

1. All moneys received for the Federation on behalf of the Central Organisation of the Federation shall be paid to the President and shall be held by him for the use of the Federation.

2. The Treasurer may obtain funds from the President for approved purposes.

3. The Treasurer or any one making any disbursement on behalf of the Federation shall secure a voucher for every item of expenditure incurred by him out of any funds that may be in his hands.

ARTICLE XVII

1. Subject to the control of the Central Executive Committee, every State Federation Committee shall ordinarily function through District Federation Committees.

2. Subject to the general supervision and control of the All-India Federation Committee, the State Federation Committee be in charge of the affairs of the Federation Committee within its own State.

3. An annual report of the work done by the local organisations of the Federation in the State including its audited balance sheet shall be submitted by the Chairman to the Central Executive Committee.

4. On failure of any State Federation to function in terms of this Constitution or in accordance with the direction of the State Federation, the latter may suspend the existing Committee and form an *ad hoc* Committee to carry on the work of the Federation in the State.

PART VII

Finance

ARTICLE XVIII

1. There shall be levied on each village committee of the Federation an amount to be paid annually to the Federation.

2. The levy shall be fixed by the Working Committee of the State in accordance with the Scheduled Castes population of the village which has accepted membership of the Federation.

3. It shall be the duty of the Chairman of the Village Federation Committee to send statement of accounts to the Chairman of the State Federation Committee.

4. The amount collected by the State Federation Committee shall be distributed as follows :

(1) One-eighth shall be allotted to the Village Federation Committee.

(2) One-eighth shall be allotted to the Taluka Federation Committee.

(3) One-eighth shall be allotted to the District Federation Committee.

(4) Five-sixteenth shall be allotted to the State Federation Committee.

(5) Five-sixteenth shall be allotted to the Centre.

5. Every member of the Central Executive Committee of the Federation and every member of the All-India Committee of the Federation whether elected, *ex-officio,* associate or nominated, shall pay an annual fee of Rs. 10 to the Federation.

6. Every member of the Working Committee of the Village Committee, Taluka Committee, District Committee and State Committee shall pay an annual fee of Rs. 5 per year to their respective Committees.

7. The fees due from members of the Central Executive shall form part of the revenues of the Federation. The fees due from members of the Village Committee shall form part of the Village Committee, from Working Committee of the Taluka shall go to the Taluka Committee, of the District to the District, from the Working Committee of the State to the State.

8. Members will not be permitted to take part in any proceedings to which they may otherwise be entitled to if they fail to pay their fees.

PART VIII

Election

ARTICLE XIX

1. The election to the Village Federation Committee, Taluka Federation Committees and the District Federation Committees and for the office of the Chairman shall be by simple majority.

2. The election to the All-India Committee of the Federation and for the office of the President shall be by simple majority.

ARTICLE XX

1. The office of a member of any Committee or Board or Tribunal constituted under this Constitution, shall be vacated by resignation, removal or death.

2. All vacancies shall, unless otherwise provided for, be filled in the same manner in which the vacating member was chosen and members so elected shall hold office for the unexpired term of the seat vacated.

3. In the absence of any provision to the contrary, a Committee or Board or Tribunal, once it is properly constituted, shall not become invalid by reason of any vacancy in it.

ARTICLE XXI

The term of every Committee, every Executive Committee and its office bearers shall be two years.

PART IX

Election Disputes

ARTICLE XXII

1. The State Federation Committee shall at its first general meeting, appoint by a majority of at least three-fourths of its members present and voting a State Election Tribunal consisting of not less than three and not more than five persons.

2. If any State Federation Committee fails to appoint a Election Tribunal as aforesaid, the Working Committee of the State shall appoint an Election Tribunal for that State.

3. Every State Election Tribunal shall hold office ordinariiy for two years but, in any event, shall continue to function till a new tribunal is appointed.

4. A member of an Election Tribunal shall not, while he is such member, hold any elective office in the Federation or stand as a candidate for any election.

5. The Central Executive Committee shall have superintendence over the State Election Tribunal.

6. The Central Executive Committee shall make rules for the conduct of business of the Election Tribunals. The State Election Tribunal may also make regulations not inconsistent with the rules made by the Working Committee for the conduct of business.

ARTICLE XXIII

1. There shall be an Election Tribunal for each State.

2. It shall be open to any candidate within a constituency to lodge a complaint, in accordance with the rules made in that behalf, in respect of any election in that constituency, before the State Tribunal within fifteen days of the declaration of the result of such election and the District Election Tribunal shall decide the complaint and communicate the decision to the parties concerned as expeditiously as possible.

3. Until an election is set aside by the Election Tribunal, the person elected shall be deemed to have been duly elected.

4. The State Election Tribunal shall on its own motion or on the motion of the State Federation Committee or on the motion of the party concerned, have the power to direct that any person found guilty of misconduct in connection with any election, maintenance of a register and the rolls of members, lodging of a false complaint or objection knowing it to be so, shall be disqualified from standing as a candidate for election or be expelled from the Federation for a period to be named.

5. Wherever fraudulent election is reported, the Working Committee concerned may enquire into such complaints and may take such action as may be deemed necessary.

ARTICLE XXIV

1. The State Federation shall each year at the first meeting after the 30th June appoint by a majority of at least three-fourths of its members present and voting, a State Returning Officer.

2. If any State Federation Committee fails to appoint a State Returning Officer as aforesaid the Central Executive Committee shall appoint a State Returning Officer.

3. The State Returning Officer shall conduct elections to all constituent bodies of the Federation in the State. He shall in consultation with the Executives of the State Federation and the District Federation Committees appoint District Returning Officers, Taluka Returning Officers and Village Returning Officers and such other officers for the proper conduct of elections in the State. He shall also perform such other functions allotted to him by the Central Executive Committee from time to time.

PART X

Selection of Candidates

ARTICLE XXV

1. The Central Executive Committee shall set up a Board consisting of the President and five other members, with the President as its Chairman for the purpose of selecting candidates for election to the Central and State Legislatures and shall frame rules in that behalf.

2. The Election Board shall invite Local Committees of the Federation to propose names. The Board shall prepare a list of candidates in the order based, support received by the candidates.

3. The Board in making its selection shall have regard to support received by the candidate. But it shall not be bound to elect the first.

4. The Central Election Board shall set up an Election Committee for each State to deal with the Elections to Local Bodies including selection of candidates and frame rules for the Committee.

5. The State Election Committee shall recommend candidates for Central and State Legislatures to the Central Election Board.

PART XI

Miscellaneous

ARTICLE XXVI

1. The flag of the Federation shall consist of stars against a blue cloth cut in triangle.

2. No person shall be a member of two organisations within Federation at one and the same time.

3. A federation Committee may delegate any of its powers smaller committee or an individual.

4. Population figures of the last available census shall be for all Federation purposes.

5. Where there is a question of the value of fractions, a fraction of one-half or more shall be treated as one, and less than one-half as zero.

6. Wherever in this Constitution, the word "vote" or any inflections occurs, it means or refers to a valid vote.

7. Any question or dispute arising under this Constitution regard to its provisions, contents, interpretation or the procedure laid therein, between any member and member, committee between committee *inter se,* shall be determined by the apropriate authority or authorities indicated in this Constitution, and if no such authority is indicated, by the Central Executive Committee. The decision of such authority shall be final and binding on all members and committees of the Scheduled Castes Federation, and shall not be liable to question by any of them in a Court of law.

PART XII

Amendment of the Constitution

ARTICLE XXVII

1. This Constitution can be amended, altered or added to only by two-thirds majority of All-India Committee of the Federation, and ratified by a majority of the State Federation.

2. The amendment whether by alteration or addition shall be circulated to the Chairman of the State Federation Committees in each State and obtain their decision in the matter.

3. The Committees shall decide the issue by simple majority.

4. On receipt of the decisions of the State Committees the President shall announce if the amendment is accepted or rejected.

PART XIII

Rules of Discipline

ARTICLE XXVIII

1. Any member of the Federation committing, any of the following acts shall be deemed to be guilty of indiscipline :

(i) To act contrary to the declared policy of the Federation.

(ii) To openly and publicly criticise the policy of the Federation.

(iii) To openly and publicly criticise any member of the Federation.

(iv) To form a group within the Federation to give support to any member with the object of challenging the authority of constitutionally elected leader of the Federation.

(v) To spread ill-feeling against any member or to carry on any campaign of vilification.

(vi) To obstruct the working of the Federation or any constituent body of the Federation.

(vii) To misappropriate the funds of the Federation.

(viii) To join a party or a group not recognised by the Federation.

(ix) To be an office-holder of the Federation and to misuse or to omit to use the powers of that office and thereby bring about the failure of the Federation.

(x) To undertake any activity outside the aims, objects and powers of the Federation.

(xi) To oppose the official candidate put up by the Federation in any election.

2. Any member guilty of any act of indiscipline shall be liable to punishment by the Chairman of the State Federation subject to an appeal to the Central Working Committee. The decision of the Central Working Committee shall be final.

3. Punishment for indiscipline may be :

(i) Expulsion from the Federation which may be permanent.

(ii) Suspension for a period from the Federation.

(iii) Removal from office.

(iv) Imposing of disability to hold office.

PART XIV

Transitory Provisions

ARTICLE XXIX

The President shall have the power to decide which Articles of the Constitution to be put into operation immediately.

Explanation : President in this part means the person who is at present the President of the Federation.

ARTICLE XXX

The President for the purpose of removing any difficulties particularly in relation to the transition from the present set up to the provisions of the Constitution shall have power to direct that the

Constitution during the transition period have effect subject to such adaptations, whether by way of modifications, addition or omission as he may deem to be necessary or expedient. The power of the President shall include the power to remove an office holder and nominate another in his place.

ARTICLE XXXI

Without prejudice to the generality of the foregoing provisions of Part X the President shall immediately reconstitute the State Federation, which is suspended or found to be not working properly.

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10

THE BUDDHIST SOCIETY OF INDIA

The Buddhist Society of India was registered by Dr. B. R. Ambedkar on 4th May 1955 in the office of the Registrar of Companies, Mumbai.

"On May 8th, 1955 at the function held at Nare Park, Bombay, he made a formal announcement of the establishment of this Society for propagation of Buddhism"[1] The constitution of the Society is as follows: Editors.

CONSTITUTION OF THE BUDDHIST SOCIETY OF INDIA

(As Registered By Dr. B. R. Ambedkar)

Registered on 4th May, 1955

Sd. Registrar of Companies,

Mumbai.

MEMORANDUM OF ASSOCIATION

---

1. The name of the Society :

   The name of the Society is THE BUDDHIST SOCIETY OF INDIA.

2. The objects of the Society :

   The aims and objects of the Society shall be :

   (1) To promote the spread of Buddhism in India.

   (2) To establish temples for Buddhist worship.

   (3) To establish schools and colleges for religious and scientific subjects.

   (4) To establish orphanages, hospitals and relief centres.

   (5) To start Buddhist Seminaries for the preparation of workers for the spread of Buddhism.

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1 : Janata : 14th May 1955.

(6) To promote comparative study of all religions.

(7) To undertake publication of Buddhist Literature and to issue leaflets and pamphlets for giving a true understanding of the Buddhist religion to the common mass.

(8) To create a new order of priests, if it becomes necessary to do so.

(9) To establish a press or presses for the purposes of carrying on the work of publication.

(10) To hold gatherings and conferences of the Buddists of India for common action and to establish fellowship.

3. The name, address and occupation of the President who is entrusted with the function of managing affairs of the Society are as under:—

NAME	ADDRESS	OCCUPATION
Dr. Bhimrao Ramji Ambedkar	26, Alipore Road, Civil lines, Delhi.	Bar-at-Law

The names of the members of the Society with their occupations and addresses

NAME	ADDRESS	OCCUPATION
(Sd.) Bhimrao Ramji Ambedkar	26, Alipore Road, Civil Lines, Delhi.	Barrister-at-Law
" Madhav G. Malvankar ..	68, Hughes Road, Bombay-7.	Medical Consultant
" C. S.Pillai ..	Mherwan Building, 2nd Floor, Sir P. Mehta Road, Bombay-1.	Architect
" Bhalchandra K. Kabir ..	59, Portuguese Church Road, Dadar, Bombay-28	Service
" Bhagawant Sayaji Gaikwad	Plot No. 10, Road No. 19. Khar, Bombay-21.	Service
" S. D. Gaikwad ..	Siddharth College. Anand Bhavan, Dr. D. Naoroji Road, Bombay-1.	Service
" Kashiram Vishram Sawadkar	B.D.D. Chawl No. 15, 'B', Room, No. 32, Naigaum, Bombay-14.	Service

The Buddhist Society of India

Rules and regulations governing the Constitution of the society :—

I. The name of the Society shall be THE BUDDHIST SOCIETY OF INDIA.

II. The registered office of the Society shall be situated in Bombay.

III. The objects of the Society shall be :—

(1) To promote the spread of Buddhism in India.

(2) To establish temples for Buddhist worship.

(3) To establish schools and colleges for religious and scientific subject.

(4) To establish orphanages, hospitals and relief centres.

(5) To start Buddhist Seminaries for the preparation of workers for the spread of Buddhism.

(6) To promote comparative study of all religions.

(7) To undertake publication of Buddhist literature and to issue leaflets and pamphlets for giving a true understanding of the Buddhist religion to the common mass.

(8) To create new order of priests, if it becomes necessary to do so.

(9) To establish a press or presses for the purposes of carrying on the work of publication.

(10) To hold gatherings and conferences of the Buddhists of India for common action and to establish fellowship.

IV. The powers of the Society shall be :—

(1) To receive donations and to collect funds for the society.

(2) To maintain priests.

(3) To sell or mortgage the property of the society for the purpose of the society.

(4) To own and hold property.

(5) To purchase, take on lease or otherwise acquire property for the society and to invest and deal with the moneys of the society in such a manner as may from time to time be determined.

(6) To construct, maintain, rebuild, repair, alter, replace or reinstate houses, buildings or works for the purposes of the society.

(7) To sell, dispose of, improve, manage, develope, exchange, lease, mortgage or otherwise alienate or deal with all or any property of the society.

(8) To co-operate, amalgamate or affiliate the society or any institution or institutions run by or belonging to the society with any other institution or society with a view to securing further advancement of the aims and objects of the society.

(9) To raise money with or without security for carrying out any of the purposes, aims and objects of the society.

(10) To do all other lawful things and acts as are incidental or conducive to the attainment of any of the aforesaid aims and objects.

V. MEMBERSHIP OF THE SOCIETY :

There shall be following classes of members of the society :—

(1) Members,

(2) Associate Members.

(1) CONDITIONS FOR MEMBERSHIP :

Who can be a Member :—

Any person who is duly initiated into the Buddhist religion by his having undergone the ceremony of Dhammadiksha as prescribed by the Society and has paid his annual subscription shall be eligible to be a member of the Society.

(2) ASSOCIATE MEMBERSHIP :

Who can be an Associate Member :

Any person who is sympathetic to the aims and objects of the Society and is not hostile to the Buddhist religion may be admitted as an Associate Member of the Society on paying the annual subscription.

(3) RESTRICTION OF MEMBERSHIP :

Provided that the President may in any particular case decide that any member notwithstanding his having undergone the ceremony of Dhammadiksha shall remain a probationer for such period as he may prescribe.

(4) A probationer and an Associate Member shall not be eligible to be a member of the Advisory Council and the General Council and shall have no right to vote.

VI. EXPLANATION :

The President may allow Corporation, Institutions and Associations to be members of the Society.

VII. MEMBERSHIP DUES :

Every member shall be bound to pay at least Re. 1 as membership fee per year whether he is a member or an associate member. Failure to pay fees in due time shall incure loss of membership as also right to vote unless such penalty is waived by the President.

VIII. PRESIDENT :

(1) The Society shall have a President. The term of the President shall be for his life.

(2) The first President of the Society shall be Dr. Bhimrao Ramji Ambedkar, M.A., Ph.D., D.Sc., Barrister-at-Law.

(3) The President shall appoint a Treasurer and Secretary. He will have right to prescribe their term of office.

(4) The President shall have power—

(i) to create such offices as may be necessary for carrying out the purposes of Society ;

(ii) to appoint to them such persons as he may deem fit; and

(iii) to assign duties and functions to persons carrying on the administration of the Society.

(5) The President shall have power to open centres at different places in India for carrying on the work of the Society and appoint workers and office bearers thereto.

IX. DUTIES OF SECRETARY AND TREASURER :

(1) It shall be the duty of the Secretary to correspond on behalf of the Society.

(2) It shall be the duty of the Treasurer to keep the accounts of the Society.

X. All monies belonging to the Society shall be kept in deposit with a Bank. The monies shall be drawn upon by the President for the purposes of the Society.

XI. MANAGEMENT :

(1) The affairs of the Society shall be managed by the President.

(2) All executive powers shall be vested in the President.

(3) There shall be constitued an Advisory Council to aid the President in the discharge of his duty.

(4) The Advisory Council consist often members. They shall be chosen by the members of the Society at every 5th year.

(5) The first members of the Advisory Council shall be nominated by the President.

(6) The Advisory Council shall meet as and when required by the President.

(7) The Agenda shall be prepared by the President.

(8) Any member may raise and question outside the Agenda, if permitted by the President.

(9) The resolutions of the Advisory Council be only recommendatory.

XII. GENERAL COUNCIL :

(1) There shall be a General Council of the Society. Every member shall be entitled to be a member of the General Council. It shall meet every two years and the President shall submit a report on the work done by the

committee. Every person who is a member but who is not on probation shall be entitled to be present at the General Meeting of the committee.

(2) The General Council shall have the power to remove the President from his office by a majority of three-fourths of the members present at the meeting on the ground that the President has been found guilty of defalcation or misconduct by a Court of Law.

XIII. AMENDMENTS OF THE CONSTITUTION :

(1) This Constitution may be amended if the following conditions are satisfied :—

(a) That the proposal is approved by two-third majority of the Advisory Council.

(b) The text of the proposed amendment is circulated to the members with a notice convening the meeting.

(c) The period of notice is not less than 3 months.

(2) No amendment shall be regarded as adopted unless two-thirds of the members present at the meeting in favour of it.

Certified to be the true copy of the rules and regulations of the Society.

Signatures—

(Sd.) (1) B.R. Ambedkar,

" (2) Madhav G. Malwankar,

" (3) C. S. Pillai.

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Published by : W. M. Godbole, Secretary General, All India Buddhist Dhamma Summit Convention, 224, Bajaj Nagar, Nagpur 440 010.

APPENDICES

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APPENDIX—I

"CONSTITUTION OF THE ALL INDIA SCHEDULED CASTES STUDENTS' FEDERATION

NAME

Article I.

(a) The name of the organisation shall be "All India Scheduled Castes Students' Federation. "

(b) The abridged name of the organisation shall be the "A. I. S. C. S. F."

(c) All the branch organisations must be named as such and such "Scheduled Castes Students' Federation."

Article II.

The Head quarter of the A. I. S. C. S. F. shall be with the General Secretary.

Aims and Objects

Article III.

The activities of the A. I. S., C. S. F. shall be guided with a view to :—

(a) Organise the Scheduled Castes Students of India into a compact body.

(b) Develop corporate life amongst them and to discard all activities and undertakings that accentuate caste consciousness among them.

(c) Safe-guard the interests of the Scheduled Castes Students of India.

(d) Create a cultural atmosphere amongst them by encouraging moral and intellectual education and by bringing them in touch with the cultural and political movement of the present day.

(e) Encourage physical culture in order to improve the health and physique of the Scheduled Castes Students.

(f) Safe-guard the interests of the Scheduled Castes people.

(g) Co-ordinate the activities of the Scheduled Castes Students for the welfare of the Scheduled Castes people and the country.

(h) Formulate public opinion in favour of the Scheduled Castes movement.

(i) Undertake all such matters, subject to the approval of the Working Committe, which may appropriately belong to the general sphere of the life of the Scheduled Castes Students.

Composition of Organisation

Article IV.

The A. I. S., C. S. F. shall consist of :—

(a) The Annual and Special Session of the A. I. S., C. S. F.

(b) The Council of the A. I. S., C. S. F.

(c) The Working Committee of the A. I. S., C. S. F.

(d) The Provincial Scheduled Castes Students' Federations affiliated to the A. I. S., C. S. F.

(e) The Indian Native States Scheduled Castes Students' Federations affiliated to the A. I. S., C. S. F.

(f) The branch organisations affiliated to the Provincial or Indian Native States Scheduled Castes Students' Federation, as the case may be.

Membership

Article V.

(a) Every Scheduled Castes Student shall be recognised as a member of the A. I. S., C. S. F.

(i) He or she pays the required membership fee and becomes a member of any of the Branch organisations affiliated to the A. I. S., C. S. F.

(ii) He or she has completed the 12th year of age or he or she is studying in middle school.

(iii) Make a declaration in writing that he or she believes in the aims and objects and abides by the rules and regulations of the A. I. S., C. S. F.

(b) Such a member shall be called an "ordinary member"

Article VI.

For the purpose of this constitution a 'Student' shall mean:—

(a) Any Scheduled Castes Student attached to any recognised or regular educational Institution.

(b) Any one who is not a student within the meaning of the subsection 'A' of the Article 6, but had rendered valuable help and services to its cause shall be eligible to be a member provided he or she pays an Annual Subscription of Rs. 5 (Rupees five only) subject to the clauses i, ii, iii of the subsection A, of the Article 5.

(c) Such a member shall be called "Associate Member" who shall be entitled to sit in the Working Committee and the Council of the A. I. S., C. S. F. without any power of voting and shall not be entitled to hold any office except that of the Treasurer.

Article VII.

Any office Bearer or Member of the A. I. S., C. S. F. if ceases to be a student during any official Session he or she shall be entitled to continue as such until the end of that session

Membership Fee

Article VIII.

(a) The membership fee for an ordinary member which shall be paid to the primary units of the recognised Provincial or Indian Native States Scheduled Castes Students' Federations, of which he or she shall be a member is annas four only per head per annum.

(b) Every member of the Council is to pay Rs. 2 (Rupees two only) per annum.

(c) Besides his or her Council Membership Fee, every member of the Working Committee is to pay Rs. 3 (Rupees three only) per annum.

(d) Every 'Associate Member' is to pay Rs. 5 (Rupees five only) per annum.

(e) Every delegate is to pay Rs. 3 (Rupees three only).

(f) Every member of the Reception Committee is to pay a Fee of Rs. 3 (Rupees three only).

(g) Every member is to pay his or her respective membership fee before exercising his or her right to vote.

Article IX.

(a) Only the Provincial and Indian Native States, Scheduled Castes Students' Federations will be directly affiliated to the A. I. S., C. S. F.

(b) The Provincial or Indian Native States Scheduled Castes Students' Federation shall decide which will form the Primary Unit of the organisation and shall be empowered to grant affiliation to their branch organisation.

Management

Article X.

(a) The management of the A. I. S., C. S. F. shall be vested in a Council consisting of the representatives of the Provincial and Indian Native States Scheduled Castes Students Federation.

Article XI.

Every branch Federation of the A. I. S., C. S. F. shall send representatives to the Council according to its roll strength in the ratio of 1 per hundred but in no case more than 15 representatives.

Article XII.

(a) The members of the Council shall hold office for one year but shall be eligible for re-election.

(b) The Working Committee shall place before the Council the annual reports and accounts of the A. I. S., C. S. F. and it shall be responsible to the Council for its policies and activities.

Article XIII.

(a) The Council shall at least meet twice a year preferably the first just after its formation and the last at the end of the session, just before the Annual and Special Session of the A. I. S. C. S. F.

(b) Except for the first meeting, at least one month's notice shall be necessary for calling any subsequent meetings of the Council.

(c) The General Secretary shall be responsible for calling the meeting of the Council, but in case he fails to do so, the responsibility devolves upon the Joint Secretaries.

Article XIV.

(a) The Working Committee shall consist of 15 to 17 (fifteen to seventeen) members, 3 reserved for Ladies and 3 for Native States; the President and General Secretary being the ex-officio members.

(b) 5 members of the Working Committee shall form the quorum.

(c) The members of the Working Committee shall be elected by the Council at its first meeting.

(d) 20 days' notice for an ordinary meeting and seven days' notice shall be deemed sufficient for an urgent meeting.

Article XV.

The organisation shall have one President, two Vice-Presidents, 1 General Secretary, 2 Joint Secretaries (one of them shall be elected from the Ladies), 1 Treasurer as its office bearers. Besides the above Working Committee there shall be eight more members.

Article XVI.

In case of necessity the Working Committee shall be entitled to co-opt any member or members not exceeding two.

Article XVII.

The Working Committee shall also be entitled to appoint non-members as members of its sub-committee, if the necessity of such sub-committee arises at all.

Article XVIII.

All branch organisations shall submit quarterly reports of their activities to their respective immediate superior Scheduled Castes Students' Federation.

Article XIX.

All vacancies in the Working Committee during the session shall be filled up by the Working Committee itself.

Article XX.

The Working Committee shall be responsible for the detailed management of the organisation.

Affiliation

Article XXI.

(a) The Provincial and Indian Native States Scheduled Castes Students' Federations shall be granted 'Affiliation' by the A. I. S. C. S.F.

(b) All primary Units and other superior organisations shall be granted 'Affiliation' in accordance with the constitution of their respective Provincial or Indian Native State Scheduled Castes Students' Federation.

(c) No cases of 'Disaffiliation' shall be decided by the Working Committee without reference and express sanction of the Council.

Affiliation Fee

Article XXII.

The Provincial Indian Native States Scheduled Castes Students' Federations are to pay Rs. 15 (Rupees Fifteen only) as affiliation fee to the A. I. S. C. S. F. and Rs. 25 (Rs. twenty five only) as contribution must be submitted to the All India Body per annum.

Conference

Article XXIII.

(a) The A. I. S. C. S. F. shall hold a Conference every year in the last week of December.

(b) The members of the Council shall be elected in this Conference and Annual Session by the votes of the Delegates.

(c) The Reception Committee shall be formed by the students of that locality where the Conference would be held.

(d) The place for holding Conference will be fixed by the Working Committee.

Article XXIV.

Every Provincial and Indian States Scheduled Castes Students Federation shall be entitled to send delegates to this Conference and Annual Session according to their roll strength in the ratio of three per hundred.

Article XXV.

All the money of the A. I. S. C. S. F. shall be deposited in a Bank to the credit of the A. I. S. C. S. F. through the Treasurer.

Article XXVI.

Ordinarily the expenditure shall have to be previously sanctioned by the Working Committee; but in emergency cases the General Secretary or in his absence the Joint Secretary or Secretaries may spend only any sum upto Rupees thirty without previous sanction, for which he or they will take sanction of the Working Committee afterwards.

Article XXVII.

The General Secretary or in his absence the Joint Secretaries shall be entitled to draw money from the Treasurer.

Discipline

Article XXVIII.

(a) No member of the A. I. S. C. S. F. shall be allowed to be a member or enjoy any sort of membership of any political organisation save that of the All India Scheduled Castes Federation.

(b) The Working Committee shall have the power to take disciplinary action against any member within its jurisdiction for :—

(i) Failure of the payment of the required subscription.

(ii) Betraying the policy of the Federation and the proceedings of the Council or the Working Committee.

(iii) Wilful infringement of the rules and regulations of the A. I. S. C. S. F.

(iv) Any other circumstances occuring not specially provided for these rules, which are likely to disturb the order or discipline of the A. I. S. C. S. F.

Sessions

Article XXIX.

The President of the Annual and Special Session shall be elected by the Council of the A. I. S. C. S. F. The Working Committee may, instead of convening a meeting for this purpose, obtain the name of the president in writing from the members.

Article XXX.

The Provincial and Indian Native States Scheduled Castes Students' Federations shall have their own Constitution. But these Constitutions must not contain anything contrary to the rules and regulations contained in the Constitution of the A. I. S. C. S. F.

Undefinied Powers

Article XXXI.

Powers not defined in the Constitution are vested in the Working Committee, which shall be used at its discretion relating to matters not provided in the Constitution.

Article XXXII.

The Constitution shall be subject to change only by the Two Third Majority of the members of the Council or by the bare majority of the Delegates in the open session."[1]

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[1] : The all India Scheduled castes Students' Federation Report of the Second Session, held at Nagpur on 25, 26 and 27 December 1946, published by V. D. Chahande on 2nd June 1947.

APPENDIX—II

"THE POSITION OF WOMEN IN HINDUISM AND BUDDHISM

(*A Rejoinder to an Article Published in "Eve's Weekly" on January 21, 1950, under the title "Our New Republic*")

Lama Govinda

"*In India, women were used to statecraft long before they ever did in Europe. The Ramayana and Mahabharata are full of instances of such women.*" These lines were prominently displayed in an article, published in Eve's Weekly on January 21,1950, under the title "Our New Republic.

Does the learned author of the article hint at the fact that Draupadi, the chief female character of the Mahabharata was gambled away by her husband, or rather husbands (because she had five) or that Sita, who had heroically rejected all advances of her captor Ravana, was rewarded with distrust and doubts in her purity, put to the fire-ordeal and banished in to the jungle ?

If the position of women in those days had been what the writer of the above-mentioned article would have us believe, then we wonder why Draupadi had never been given a chance to gamble away her five husbands, or Sita an opportunity to send her calumniators and doubters on the pyre or into the woods ?

It certainly would have been more correct in this connection to say that the Women of India in those times were used by statecraft.

As to the women of Europe, I cannot say whether they were lagging behind their sisters in India in this respect, but I am quite sure that when some of them got an opportunity to meddle with statecraft they were quick to make use of it.

If Queen Elizabeth had been in the place of Draupadi she would probably have executed her five husbands as she executed her unfortunate lover Lord Essex. But in my opinion Draupadi without statecraft was more lovable woman than Queen Bessie with all her political power and cunning.

Another figure in European history who might have been mentioned with advantage, is Empress Maria Theresa of Austria, who was both a loving mother of many children and an able ruler. And if we want to go into the earlier history of Europe, the Empress Theodora of Byzantium is perhaps the most striking example of a woman, who rose from the lowest position to that of supreme power. She started as a prostitute and ended as an Empress.

I do not think that this would be the ideal of Indian womanhood, just as I do not think that statecraft adds one inch to the dignity of a woman.

Even if it were true that in Indian women were used to statecraft, *long before* they ever did in Europe out author apparently was not able to find any historically varified instances of an earlier period then the Rani of Jhansi and Chandbibi, who both belong to the most recent epochs of India's history.

But the most astonishing statement of the article under review is that "*it was, alas, the Buddhist theory that seems to have first thrust women into the background.*"

What this "theory" is, has unfortunately not been revealed by the learned author, and though I have scrutinized the Budhist Sacred Texts and their teachings, I have found no special theory about women, but only about the human species in general. The Four Noble Truths, the Formula of Dependent Origination, and the Eightfold Path of Liberation make no distinction between man and woman.

All through Buddhist history it was a special feature of Buddhist Society that woman had a far more favourable position than in most Non-Buddhist countries. The fundamental equality of man and woman has been the lodestar of Buddhist Society from its earliest beginnings.

Anybody who has lived in Buddhist countries, be it Ceylon, Burma, Siam, Indo-China, Tibet, knows that the status of women is astonishingly high. Because the Buddhist wife does not look up to her husband as to a god, she is not expected to eat after her husband has finished his meal, or to immolate herself after her husband's death as an alternative to a life of utter dejection and privation. On the contrary, she is free to leave her husband if she

feels that she cannot live with him, and she does not become a social outcaste after her husband's death, but can re-marry if she desires so. Women may have their own affairs, in fact in Burma as well as in Tibet (of which countries I can speak of my own experience) women are perfect equals of men, socially as well as in respect of business affairs, and they often show more enterprise and ability than men, who gladly leave these things to their womenfolk.

Such a position of women in Buddhist society would hardly have been possible if, as the author of the article under review assert, "*the Buddha has a prejudice against women and was forever exhorting men to beware of them.*"

To accuse the Buddha, who certainly was the most broadminded, most liberal and tolerant of all the great teachers of the past, and who due to this was and still is revered far beyond the confines of India as no other of her sons,—to accuse such a Teacher of prejudice is certainly an extraordinary feat of misjudgment. If of all the great sages of India was only the Buddha who had a world wide appeal, it was His complete lack of any prejudice (how otherwise, could He be acclaimed and recognized as the Enlightened One ?) the universality of His outlook and His deep understanding of human nature, irrespective of caste, colour, or sex.

It was He, in fact who laid the foundations for the emancipation of women (who under the laws of Manu were in a very unfavourable position) as our learned author admits, thus contradicting his own previous statement that the Buddhists were the first to thrust women into the background. It was the Buddha who declared in unmistakable words that a woman has as great a chance to attain sainthood as a man.

This attitude of early Buddhism is confirmed by the fact that the Buddha on one occasion refused an invitation from princes, because He had already accepted that of a courtesan. The princes were shocked that a " frivolous woman like Amrapali should be thus honoured by the Buddha and tried to dissuade Him. But the Buddha stuck to his word, and Amrapali become one of His most praised woman, disciples. If he had harboured any prejudice against, women here would have been the opportunity to show it.

"*That the Buddha was forever exhorting meant to beware of women*", is one of those half-truths, which misled those who have not taken the trouble to read the Buddha's words in their context.

The Buddha did not exhort "men" in this case, but monks who had taken the vow of chastity in conformance with the ancient Indian *sanyasi* rule, accepted by Buddhist and Hindus alike. Nuns were equally exhorted to beware of men. The exhortation of the Buddha was therefore not due to a prejudice against women, but due to the knowledge of human weakness—in men and women alike.

Buddhist women were the first in India who made a substantial and independent contribution to the religious literature and who were recognized as equals to the best authors of their time. This is shown by the fact that the songs of the Buddhist Sisters (under the title "Therigatha") were given the honoured position of Canonical Scriptures and thus placed beside the words of the Buddha and His most prominent disciples.

Both Hinduism and Buddhism have produced great women, and instead of trying to find fault with the customs and teachings of the past and the sages, who proclaimed them in accordance with the needs of their time and the capacity of understanding of their hearers, we should strive to emulate those great souls among Indian women whose names have survived many a mighty empire, whose thoughts were higher than statecraft and whose hearts greater than the power of monarchs. The figure of Savitri, whose profound love and wisdom vanquished even the King of Death, will ever stand out as a symbol of the noblest qualities of womanhood. The voice of Maitreyi and Gargi are forever heard in the immortal dialogues of the Upanishads, and the songs of the saintly Buddhist Sisters will live in the hearts of Indian women like the devotional songs of Mirabai and the heroism of Padmini." [1]

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[1] : Appendix to the booklet published under title 'The Rise and Fall of the Hindu woman ; who was Responsible for it' ?

APPENDIX—III

THE CABINET MISSION

"On 19, February 1946, the day following the outbreak of the revolt, Lord Pethick Lawrence announced in the House of Lords that "in view of the paramount importance, not only to India and to the British Commonwealth, but to the peace of the world, of a successful outcome of discussions with leaders of Indian opinion, the British Government would send out to India a special mission of Cabinet Ministers consisting of the Secretary of State for India (Lord Pethick Lawrence), the President of the Board of Trade (Sir Stafford Cripps), and the First Lord of Admiralty (Mr. A. V. Alexander) to act in association with the Governor-General in this matter. A similar statement was made in the House of Commons by Mr. Clement Attlee."

The Cabinet Mission, headed by Lord Pethick Lawrence, arrived in India on 23, March 1946 to find a solution to the problem of India. Its activities and the following events may be understood, "in the background of the Labour Government's firm decision to quit India at a very early date after making the best possible arrangements for handing over power."[1] The negotiations with party leaders did not bring an agreed solution. On 16, May 1946, the Mission gave a Scheme of its own. After fully examining the question of Pakistan, it concluded that neither a larger nor a smaller sovereign State of Pakistan would provide an acceptable solution for the communal problem keeping in view other consideration also—like administrative, economic and military and those relating to communications and the Indian States, and that the creation of Pakistan could not be advised. But Muslim apprehensions that their culture and political and social life might be dominated by the Hindus, could not be ignord. As regards the Indian States, the view of the Mission was that with the attainment of independence by British India, paramountcy over them could neither be retained by the British Crown nor transferred to the new Government: yet the States were willing to Co-operate

[1] : Speeches and Documents of the Indian Constitution, Vol. 1, selected by Sir Maurice Gwyer and A. Appadorai, Introduction at P. Vii (1957).

in the new development of India. The precise form which their Co-operation would take must be a matter for negotiation during the building up of the new constitutional structure which might not be identical for all the States.

The Cabinet Mission then indicated the nature of a solution which would be just to the essential claims of all parties and bring about a stable and practicable form of constitution for all India. It recommended that the constitution should take the following basic form : (1) There should be a Union of India, embracing both British India and the States which should deal with the following subjects : foreign affairs, defence and communications, and should have the powers to raise the finances required for the above subjects. (2) The Union should have an executive and a legislature constituted from British India and States representatives. Any question raising a major communal issue in the lagislature should require for its decision a majority of the representatives present and voting of each of the two major communities as well as a majority of all the members present and voting. (3) All subjects other than the Union subjects and all residuary powers should vest in the Provinces. (4) The States would retain all subjects and powers other than those ceded to the Union. (5) Provinces should be free to form groups with executive and legislatures, and each group could determine the Provincial subjects to be taken in common. (6) The constitutions of the Union and of the groups should contain a provision whereby any Province by a majority vote of its Legislative Assembly call for a reconsideration the terms of the constitution after an initial period of ten years and at ten yearly intervals thereafter.

The Cabinet Mission proposed the following constitution making machinery to enable a new constitution to be worked out. In forming any assembly to decide a new constitutional structure, the first problem was to obtain as broadbased and accurate a representation of the whole population as was

possible. The most satisfactory method obviously would be by election based on adult franchise, but any attempt to introduce such a step now would lead to a wholly unacceptable delay in the formation of the new constitution. The only practicable course was to utilise the recently elected Provincial Legislative Assemblies as electing bodies. There were, however, two factors in their composition which made it difficult. First, the numerical strengths of Provincial Legislative Assemblies did not bear the same proporation to the total population in each Province. Secondly, owing to the weightage given to minorities by the Communal Award, the strengths of the several communities in each Provincial Legislative Assembly were not in proportion to their numbers in the Province. After a most careful consideration of the various methods by which these points might be corrected, the fairest and most practicable plan would be (a) to allot to each Province a total number of Castes proportional to its population, roughly in the ratio of one to a million, as the nearest substitute for representation by adult suffrage ; (b) to divide this Provincial allocation of seats between the main communities in each Province in proportion to their population ; (c) to provide that the representatives allocated to each community in a Province should be elected by members of that community in its Legislative Assembly. For these purposes it was sufficient to recognise only three main communities in India—General, Muslim and Sikh, the General community including all persons who were not Muslims and Sikhs. As smaller minorities would upon a population basis, have little or no representation, since they would lose the weightage assuring them seats in Provincial Legislatures, some arrangements, were suggested to give them a full representation upon all matters of special interest to minorities.

The Mission, therefore, proposed that there should be elected by each Provincial Legislative Assembly the following numbers of

representatives, each part of the Legislative Assembly (General, Muslim or Sikh) electing its own representatives by the method of proportional representation with single transferable vote.

Table of Representation

Section A

Province	General	Muslim	Total
Madras	45	4	49
Bombay	19	2	21
United Provinces	47	8	55
Bihar	31	5	36
Central Provinces	16	1	17
Orissa	9	0	9
Total	167	20	187

Section B

Province	General	Muslim	Sikh	Total
Punjab	8	16	4	28
North-West Frontier	0	3	0	3
Sind	1	3	0	4
Total	9	22	4	35

Section C

Province	General	Muslim	Total
Bengal	27	33	60
Assam	7	3	10
Total	34	36	70
Total for British India			292
Maximum for Indian States			93
Total			385

In order to represent the Chief Commissioners' Provinces, there would be added to Section A the member representing Delhi in the Central Legislative Assembly, the member representing Ajmer-Merwara in the Central Legislative Assembly and a representative to be elected by the Coorg Legislative Council. To Section B would be added a representative of British Baluchistan. The States would be given in the financial Constituent Assembly appropriate representation which would not, on the basis of the calculation of population adopted for British India, exceed 93, but the method of selection would have to be determined by consultation. The States would in the preliminary stage be represented by a Negotiating Committee.

The Cabinet Mission then proposed that representatives thus chosen should meet at New Delhi as soon as possible. A preliminary meeting would be held at which the general order of business would be decided, a chairman and other officers elected and an Advisory Committee on rights of citizens, minorities and tribal and excluded areas set up. Thereafter the Provincial representatives would divide up into Sections A, B and C, as indicated in the Table. These Sections would proceed to settle Provincial constitutions for the Provinces included in each Section and decide whether any group constitution should be set up for those Provinces and if so what Provincial subjects the group should deal with. Provinces should have power to opt out of groups. As soon as the new constitutional arrangements would come into operation, any Province might elect to come out of any group in which it was placed. Such a decision should be taken by the Legislature of the Province after the first general election under the new constitution. The representatives of the Sections and the Indian States should reassemble for the purpose of settling the

Union constitution. In the Union Constituent Assembly resolutions varying the provisions relating to the basic form of the constitution indicated above or raising any major communal issue would require a majority of the representatives present and voting of each of the two major communities. The Chairman of the Assembly would decide which resolutions raised major communal issue and, if so requested by a majority of the representatives of either of the major communities, consult the Federal Court before giving his decision.

The Cabinet Mission further proposed that the Advisory Committee on the rights of citizens, minorities and tribal and excluded areas would contain due representation of the interests affected and their function would be to report to the Union Constituent Assembly upon the list of fundamental rights, clauses for protecting minorities, and a scheme for the administration of tribal and excluded areas, and to advise whether these rights should be incorporated in the Provincial, the Group or the Union constitution.

The Cabinet Mission lastly proposed that the Governor-General would forthwith request the Provincial Legislature to proceed with the election of their representatives and the States to set up a Negotiating Committee. It would be necessary to negotiate a treaty between the Union Constituent Assembly and the United Kingdom to provide for certain matters arising out of the transfer of power." [1]

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[1] : Mittal J. K., Pp. 119-123.

APPENDIX—IV

INTERVIEWS OF JAGJIWAN RAM, RADHANATH DAS AND PRITHVI SINGH BEFORE CABINET MISSION

"Jagjivan Ram, Radhanath Das and Prithvi Singh Azad attended together as representatives of the All India Depressed Classes' League. They said that the League was opposed to any proposal which would impain the integrity of the country ; that, in its view, the division of India into Pakistan and Hindustan would not provide a solution to the minority problem but would produce fresh problems; that it was also opposed to the setting up of more than one constituent assembly. The new consitution should contain provisions for the safeguarding of the language, culture, etc., of the minorities and the rights and interests of the Scheduled Castes. With regard to the interim Government, the Depressed Classes' League was opposed to weightage being given to any community by depriving another community of its legitimate shares; but if it were decided to give weightage, the Scheduled Castes should also be given weightage. The interim Government should be responsible to the legislature the defence, finance, and foreign affairs should be handed over to the Cabinet, whose members should be elected by the various provincial legislatures. Special provision should be made for the representation of the minority communities, and Scheduled Castes members of the provincial assemblies should form an electoral college to select persons for inclusion in the Central Government.

Jagjivan Ram said that the difference between the Scheduled Castes Federation (led by Dr. Ambedkar) and the Depressed Classes' league was that, whereas the Federation held that the Scheduled Castes were not Hindus but a religious minority of their own, the League held that the Scheduled Castes masses considered themselves Hindus and that they had sacrificed much for the cause of Hinduism. The Depressed Classes League pressed for special representation in the legislature and in the services in order to enable the Scheduled Castes to raise themselves to the level of the rest of the country." [1]

(The transfer of Power in India, pp. 244-45).

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[1]: Quoted, Khairmode, Vol. 8, Pp. 64-65.

APPENDIX—V

POONA SATYAGRAHA

SATYAGRAHIS ARRESTED

Followers of the Scheduled Castes Federation in the Bombay Province launched their "non-violent *Satyagraha*" to-day in Poona to protest against the "injustice done to them by the British Cabinet proposal's which is the result of Congress machinations."

The first batch of six "*Satyagrahis*"— four women and two men — were arrested this morning opposite the Council hall for violating the Poona District Magistrate's order and staging a demonstration in front of the Council Hall. The arrested persons include Mrs. Shantabai Dani, a member of the Working Committee of the Scheduled Castes' Federation from Nasik, and Mrs. Gitabai Gaikwad, wife of Mr. B. K. Gaikwad, President of the Bombay Branch of the Federation.

Just before the Assembly session began these six *Satyagrahis* entered the Council Hall compound, evading the police who were guarding the entrances in the compound and immediately on entering took out black flags from their pockets and shouted slogans of "Down with British Imperialism." "Down with Congress" and "Scrap the Poona pact."

Two further batches of eight ladies and six men were later arrested at about 1 p. m. at the entrance of the compound wall.

Almost at the same time as the first batch of "*Satyagrahis*" were staging their demonstration, a big procession of Scheduled Castes, which stated with the intention of going to the Council Hall and breaking the District Magistrate's order, was being stopped near the War Memorial, on the Station Road at a chalk line marked to indicate the half mile distance from the Council Hall. According to the District Magistrate's order no procession is allowed in the area half a mile from the Council Hall.

The procession started at about 10 a. m. from the "*Satyagraha*" camp at Baba Jan Chowk and marched in files of four and five. It was headed by Mr. B. K. Gaikwad, President of the Bombay

Provincial Scheduled Castes Federation Mr. P. N. Rajbhoj, General Secretary of the Federation and Mr. R. R. Bhole, a former Member of the Bombay Assembly, Young girls and Women in the front carried black flags and the Federation flag. After wending its way along a circuitous route of about one and a half miles, the procession arrived at about 11 a.m. at the "boundary line" near the War Memorial.

Lathi armed police numbering over hundred and police officers, including Mr. E. A. Dodwell, A. S. P., Mr. J. Crone, Dy. S. P., and Mr. F. D. Roach, Dy. S. P., were waiting there and immediately stopped the procession.

The processionists squatted on the ground shouting Scheduled Castes Federation and other slogans. After remaining thus for about two hours, they decided to return back to the camp, and marched along the Wellesley Road back to the "*Satyagraha*" camp.

The processionists on arriving at the camp held a meeting and congratulated those who were arrested by the police.

Mr. P. N. Rajbhoj, addressing the meeting, said that a beginning of their "freedom struggle" had been made to-day. The scheduled Castes, he said, were fully awake and they would not rest till they achieve their end. To-day's *Satyagraha* was the beginning of a countrywide movement.

Mr. B. K. Gaikwad announced that the procession of "*Satyagrahis*" would be taken out tomorrow and every day thereafter.

The District Magistrate of Poona has issued an order to-day prohibiting carrying of sticks, knives, stones or any other missiles within the area under the Poona City Municipality, Poona suburban municipality and the Poona Cantonment Board. The order will be in force for seven days from July 15.

It is understood that the above precaution is being taken in order to avoid any untoward incidents and breach of peace and order which might happen due to the "*Satyagraha*" movement of the Scheduled Castes Federation."[1]

[1]: Jai Bheem, August 13, 1946, p. 7.

S. C. F. "*SATYAGRAHIS*" JAILED

One hundred and fourteen more Scheduled Castes *Satyagrahis,* who were arrested yesterday, were sent to jail today, bringing the total number of *Satyagrahis* under imprisonment since the commencement to 124.

Today's batch of 114 included 13 women who were asked to pay fine of Rs. 25 each or undergo in default 15 day's simple imprisonment. The women preferred to go to jail.

Of the 101 men *Satyagrahis,* 37 were awarded a fine of Rs. 30 or in default one month's simple imprisonment and the remaining 64 a fine of Rs. 50 or in default two months simple imprisonment. All of them refused to pay the fine.

The trial took place in the Yeravada Jail where the demonstrators were placed in custody.

A statement charging the British Government and Congress with having betrayed the interests of the Schedule Castes was read out in the court during the trial on behalf of the arrested.

The Congress, the statement said, which styed itself as a deomocratic body had betrayed their community at the time of the Poona Pact and also during the Cripps proposals and the British Cabinet proposals. The result of joint electorates agreed to by the Poona Pact were proved during the recent provincial elections when candidates having the Predominant support of Scheduled Castes were defeated and Congress "puppets" got elected on Caste Hindu votes.

The organisers of the *Satyagraha* also took out a procession from the *Satyagraha* Camp at Baba Jan Chowk. The procession was stopped by the police at the Railway Goods Depot on the Wellesley Road at a distance of half a mile from the Council Hall.

The processionists were addressed by Mr. G. H. Kale, M.L.A. (Bombay) who exhorted them to carry on their campaign till they won their fight. Mr. Kale said that he was in full sympathy with their demands.

More Arrests

The "*Satyagraha*" campaign launched by the Scheduled Castes Federation is continuing for the third day today. Batches of five and ten were seen shouting slogans and waving black flages opposite the Council Hall, in defiance of the orders of the Districts Magistrate.

The police had by 2 p.m. when the Assembly session began today, arrested about 50 demonstrators, including two women.

Fifth Day of *Satyagraha* Campaign

S. C. F. Volunteers Arrested

Restriction On Civil Liberty Deplored

Demonstration by the Scheduled Castes volunteers opposite the Council Hall were continued today the fifth day of the *Satyagraha* Campaign. Within an hour the police guarding the entrance to the Council Hall compound arrested nearly 70 volunteers.

Volunteers came in batches of four and five in drizzling rain and shouted slogans outside the compound of the Council Hall.

The trial was held this morning at the Yeravada Jail of the 122 *Satyagrahis* who were arrested yesterday for the defiance of the ban. The Additional City Magistrate sentenced all of them to pay fines ranging from Rs. 25 to Rs. 50 or in default to suffer simple imprisonment ranging from 15 days to 60 days. The 13 women volunteers came in for the lighter sentences.

The Federation leaders in Poona, Mr. B. K. Gaikwad, Mr. P. N. Rajbhoj and Mr. R. R. Bhole told the District Magistrate of Poona, at a meeting called by the Magistrate yesterday, that they could not accept any conditional offer for carrying on their *Satyagraha* and their protest against the injustice done to them by the British Government and the ban imposed by the Congress Government on taking out processions and staging demonstrations in an area of half a mile from the Council Hall would continue. The ban, they said, was a restriction on the cherished civil liberties of the masses.

Fresh batches of volunteers who have offered to take part in the *Satyagraha* are on their way to Poona from different parts of the province according to the organisers of the *Satyagraha*. They say

that there would be no paucity of volunteers for the *Satyagraha* and that they were prepared to continue their struggle till they achieved their aim.

Demonstrations Outside C. P.* Assembly

10,000 people including some 500 women, predominently members of the Scheduled Castes Federation held demonstrations outside the C. P. Assembly when it met today to elect its quota of 17 representatives to the Constituent Assembly. The demonstrators shouted "Boycott Constituent Assembly" Down with Congress Ministry," "Boycott Harijan M. L. A.'s and "Revoke the Poona Pact."

The demonstration was a protest against the Cabinet Mission's proposals and the demonstrators who carried black flags were peaceful.

"Times on India Debate"

Britain may, and indeed must do all in her power to ensure that the interests of the minorities are fairly represented before the Advisory Committee which the Constituent Assembly will appoint but a decision on the justice of their claims, in spite of Mr. Churchill's eloquent appeal yesterday, no longer rest with this country. British statesmen are fully entitled to press as the Secretary of State and other speakers did for generous treatment of such minority interests as organisation representing the Depressed Classes. But it is of the essence of Indian new status that the responsibility for settling this and other similar issues now rests with Indians themselves.

Insincerity of Cabinet Delegation

"I am surprised at the statement of Sir Stafford Cripps and Mr. Alexander with reference to the Scheduled Castes in the House of Commons," says N. Sivaraj, President of the All-India Scheduled Castes Federation, in a Press interview to-day.

He adds : Having committed the crime in conspiracy with the Congress of stabbing the Depressed Classes in the back and of

*Central Provinces.

completely annihilating them politically they want to cover it by committing the worse crime of misleading the British Parliament and the British Public by a misstatement of fact that a large majority of the Scheduled Castes are with the Congress. It has been established in the primary elections that the Scheduled Castes Federation alone commands the support of the Depressed Classes in spite of the many obstacles thrown by the Caste Hindus in its way. In their anxiety to appease the Congress and win it over for their own ends the Cabinet Delegation have quietly let the Depressed Classes down to whom all these years they have pledged protection and safeguards. I am prepared to submit to any finding by any impartial international tribunal as to whether the Scheduled Castes follow Dr. Ambedkar or Mr. Gandhi. Surely the Cabinet Delegation have not fallen a victim to the latest stunt of Mr. Gandhi in staying in Bhangi Colonies. I am rather tempted to say that the whole thing was a Prearranged affair between Mr. Gandhi and the Cabinet Delegation particularly Sir Stafford Cripps."[1]

II

NAGPUR-SATYAGRAHA

"Jai-Bheem" my name,

"S.C.F." my Caste,

"Dalitsthan" my abode

Sensational answers by C. P. *Satyagrahis*

243 members of the C. P. Scheduled Castes Federation including 6 women and 9 boys were arrested on 12th September 1946. Following their demonstration when the Central Provinces Legislative Assembly met to discuss the Provincial Budget in detail. The demonstrators adopted a novel method of answering the questions by Police Officers while their charge sheets were being prepared. They stated that "Jai Bheem" was their name, their caste was "Scheduled Castes Federation" and "Dalitsthan" was their residence.

[1] Jai Bheem, August 13, 1946, P. 8.

Arrests mounting

262 persons were arrested on the 13th in connection with the Scheduled Castes Federation's demonstrations. The arrested persons include 14 women and 9 boys. One demonstrator evaded police pickets, but was later arrested in the outer verandah of the Assembly Building when he was found loitering in a suspicious manner.

203 Arrests on the 4th September

Members of the Scheduled Castes Federation in Nagpur continued their *Satyagraha* on the 4th September for the second day on the seven roads leading to the C. P. Assembly Building. During the day 203 men and 20 women courted arrest having been stopped by the Magistrates and police officers from going towards the main entrances of Assembly building. All men and women who were arrested will be summarily tried for violation of order under Section 144 Cr. P. C. which is in force in Nagpur prohibiting taking out processions without licence. Eighteen minor boys who joined the *Satyagraha* were let off. Some of the men earned their small beddings to use the same in jail. Most of arrested men raised slogans accusing British Government and Congress Ministry of betraying interests of Scheduled Castes and praising Dr. Ambedkar, our leader.[1]

III

LUCKNOW *SATYAGRAHA*

U. P. Scheduled Castes Fight for Their Rights Police Lathi Charge on Peaceful *Satyagrahis*

Rajbhoj and Tilakchand Arrested

The *Satyagraha* started by the U. P. Scheduled Castes Federation took a serious turn when the Caste Hindu Policemen behaved indecently with the Untouchable women *Satyagrahis*. Conseuent

[1]: Jai Bheem, 16 September 1946, P. 7.

on the inhuman treatment towards the *Satyagrahis* in general and the women *Satyagrahis* in particular by the Congress ministry in Power Mr. Rajbhoj, the General Secretary of the All India Scheduled Castes Federation took up the lead of the *Satyagraha* movement and was arrested on the 18th April Mr. Tilakchand Kureel, President of the U. P. S. C. F. was also arrested. The news regarding the *Satyagraha* we had published in our last issue under U. P. S. C. F. *Satyagraha* diary. Here is a brief day to day report of the above *Satyagraha.*

April 14th, 1947

148 *Satyagrahis* were arrested with three leaders namely Dadasaheb Fullidasji, working committee member of the S. C. F. and Municipal Commissioner of Cawnpur, Mrs. Fullidas and Mr. Totaram, the President of the S. C. F. Women *Satyagrahis* entered into the Assembly chamber and made the working of the Assembly impossible for more than 15 minutes. The ladies were insulted, and fists were used to oust the ladies by the Caste-Hindu police. The bangles of the ladies were broken. The enraged women *Satyagrahis* slapped some of the intruders who were insulting them. The ladies went there with babies in their arms to offer *Satyagraha.* This news has been blackout completely by the Caste Hindu Papers in Lucknow. In this clash two women were injured.

Mr. Rajbhoj addresses the *Satyagrahis*

April 17th, 1947

The *Satyagraha* of the Scheduled Castes Federation of the U. P. entered into fourteenth day. One big batch, numbering one hundred, hailed from different districts, i.e. Jhansi, Agra, Hamirpur, and Lucknow, and 20 women *Satyagrahis,* with babies in their arms, courted arrest. While proceeding towards the Council House, the *Satyagrahis* were detained at Hussainganj and later on they were arrested.

Before the starting of the *Satyagrah,* the *Satyagrahis* were addressed by Mr. P. N. Rajbhoj, the General Secretary of the All India Scheduled Castes Federation at the *Satyagrah* camp in Ahiaganj under the presidentship of Mr. Tilakchand Kureel, the Chairman of the U. P. S. C. Federation. In the course of his

speech, the General Secretary narrated the pathetic and heart-rendering stories of social injustice by the Caste-Hindus under the direct nose of the Caste-Hindu Congress Ministry upon the innocent and the age-long-tyrannised Scheduled Castes people in the Hindu Villages. Quoting the instances of the inhuman tyranny, he told the audience that four people have been burnt in Aligarh district, 12 poor Scheduled Castes men were shot down in Meerut district, a number of houses were set on fire in Hardoi District and Jalwan District. Not a single day passes when these unfortunate Scheduled Castes people were not kicked or killed by the Caste Hindus. Still no M.L.A. of the Untouchables who claimed to represent their own community people did raise any voice in the Assembly. Their tongues have been sealed for ever. How a slave like Untouchable could speak against their tyranny of their own Hindu Masters? Any word from them might deprive them to get a seat in a Brahminic Swarga (Heaven). The number of M.L.A. was twenty. Still there was no voice against the inhuman treatment of Caste Hindus. The other day, the speaker continued, the women demonstrators from the Scheduled Castes were insulted and thrown away by the Hindus Congress Ministry police. A number of them were injured. Still no news appeared in the Caste Hindu paper. No action was taken against the offenders by the higher authorities. No M. L. A. of down trodden community moved any sort of adjournment motion in the Assembly. That was all the result of the "Poona Pact", which gave the joint electorate system in place of the Separate Electorates system to the Scheduled Castes who saved the life of Mr. M. K. Gandhi from his mischievous fast unto death in 1932. Time was a great factor. It would prove the justice before the educated world. Had any Caste. Hindu woman been assaulted by the same police, the Caste Hindu newspapers would have created a great habub and they would have moved the Heaven and the Earth.

The population on the Scheduled Castes people in U. P. was more than 33 percent Scheduled Castes People are represented in no Govt. Services in U. P. No representation in the Executive, Judiciary and in Educational departments. The condition of the

Scheduled Castes in India is worse than the Negroes in America and Jews in Germany and Palastine. The question was not concerned with a few only but it was concerned with crores of Untouchables in India. Concluding his speech he quoted the message of Dr. Ambedkar. He explained to the public that "The Scheduled Castes must resolve that in a Free India of the future they would be a ruling race. They should refuse to continue to play a role of subservience or accept a position in which they could be treated as servants to masters.

Tilakchand And Rajbhoj Arrested

April 18th, 1947

Today the *Satyagraha* was in it's fifteenth day. Mr. Rajbhoj, the General Secretary of the All India Scheduled Castes Federation, courted arrest with seventy five *Satyagrahis* hailed from Agra, Aligarh, Cawnpur, Tundala and Lucknow. The arrest of the chief Dictator Mr. Tilakchand Kuriel last night by the Government at *Satyagrah* camp encouraged the Scheduled Castes people in Lucknow and in the whole of the province. Hundreds are pouring into Lucknow to court arrest before the Council house. Even the ladies are not lagging behind the male *Satyagrahis*. There are instances where the Untouchable mothers are sending their sons, the sisters, are sending their brothers to court arrest.

Before the arrest Mr. Rajbhoj appointed Badalooram Sonkar from Cawnpur as the 2nd dictator of the *Satyagrah* of the U. P. in Lucknow.

Prior to his departure for courting arrest before the Council House, he gave the following message to the Scheduled Castes of the U. P. in particular and all over India in general.

"I may say that the treatment of the Australian Bushman by the colonisers that of the Negroes by the klu klux klan and of the Jows by the Nazis is less heinous than the sufferings of the Scheduled Castes who were subjected to in the name of religion caste and the like by the Hindus. It is nothing but a slow poisoning to us.

Is the lesson now clear to, us that for everything in the future we must depend on our own strength, resources and courage ? We have to fight our battles single handed; often times it may be a case of the Scheduled Castes versus the Rest. We have asked and asked and it was not given. We have knocked and knocked and was not opened. May be we have to break the doors open and take what we want and what is our due. Thus I foresee very difficult times ahead for our people.

To cope with this we must be united and strong of one mind and of one voice. I appeal to all our brethren, even those who stay away from us, to come together under one roof and to demand with one voice, and to fight together under one banner . . . . . .

But we must organise and unite. Fight on we must, and fight we will, fight every inch of the ground, fight along the line and every one that stands in our way. The present struggle in U. P. is to have the equal human rights in political, social and economic India. I had no idea of participating in the *Satyagraha* of the Scheduled Castes Federation of U. P. The inhuman treatment and insult to our women *Satyagrahis* before the Hindu-Congress Ministry compelled me to participate in this Holy Struggle. Until and unless the revenge of this insult is taken no Scheduled Castes people will sit silently. Now the time has come that under the leadership of the Reverred Dr. Ambedkar either we should die in achieving our final goal or do whatever we can. I appeal to the *Satyagrahis* to remain non-violent in their actions.

In the end I appeal to all the Scheduled Castes Federation branches except the U. P. S. C. F. not to send any batches to Lucknow as this *Satyagraha* will remain only until the present session U. P. Assembly. U. P. S. C. F. is alone strong enough to conduct the *Satyagraha* to the end."

April 19th, 1947

The 16th day of the *Satyagraha*.

Four batches from different parts courted arrest. First and second batches were arrested near Zanda Park and Ameenabad. Third and fourth batches which include four ladies were arrested near Kaisor Baugh. The batches were led by

Messrs Joharilal, Sewaram, Gopichand, Bijipat Ramjee Basti. The 'Harijan' Minister Mr. Girdharilal accompanied by the City Magistrate persuaded the *Satyagrahis* to stop *Satyagraha* but soon came to know what little respect he could command from his community people."[1]

S. C. Satyagraha Continues in U. P.

April 21st, 1947

Today the *Satyagraha* entered into 27th day. Upto this time 1285 *Satyagrahis* have been arrested. The *Satyagrahis* are pouring from different districts of the Province. Agra, Aligarh, and Cawnpore are laeding.

The first batch of 35 led by Mr. Kesarlal from Agra were arrested near the Chauk bazar. This batch includes 17 ladies also. When the *Satyagrahis* reached the Chauk Bajar, Police whose number was more than the *Satyagrahis,* made a lathi charge upon the non-voilent and peaceful *Satyagrahis,* as a result of which the Dictator Mr. Kesar Lal along with his daughter was seriously injured. One other *Satyagrahi* namely Mr. Baboolal also received serious injuries upon his head. He fell on the ground and became unconcious. The police removed him in that condition to the police station nearby. 2nd batch of 46 led by Sarvadanandji were arrested near the Kaisarbagh. Third and Fourth of 25 each were arrested near Aminabad. These batches were led by Mr. Rajaram and Ramjilal. Fifth batch of 23 were arrested near Lotuche Road. This was led by Mr. Walchandji from Agra.

There is a great resentment about the police lathi-charge amongst the Scheduled Castes people.

The news about the bad treatment and keeping Mr. Rajbhoj, the General Secretary of All India Scheduled Castes Federation, Mr. Tilakchand Kuriel the President of the U. P. Scheduled Castes Federation and other leaders like Mr. Gopichand from Agra and

[1] : Jai Bheem, 27 April 1947, P. 1 and 7.

Mr. Fullidas from Cawnpur, in C Class is causing provocation and resentment amongst the Untouchables of the Province. The Untouchables are now imagining the future Ramrajya in which they will be real slaves of the Caste Hindus.

April 22nd, 1947

Today there was a great commotion amongst the Scheduled Castes due to the lathi-charge of the Police on previous day near Chauk. The Assembly was reopened today after three day's adjournment. Instead of demonstrating in the city the Scheduled Castes *Satyagrahis* demonstrated before the Council House. The first batch of 30 including 7 ladies, led by Mr. Jodharam from Cawnpore were arrsted while on the way. The second batch of 32 of Agra led by Swami Harinandji were arrested before the Council House. Third batch of 40 including 4 women *Satyagrahis* were arrested near Hajaratganj. The main slogans of the *Satyagrahis* were the following :—

1. Down with the Caste Hindu-Congress !
2. Down with the Begar system !
3. Do or die, must have the Separate Electorates !
4. Down with the Pant Ministry !
5. Down with the 'Harijan M. L. A.s of the U. P. Assembly'!

It is very strange that the important news of our *Satyagraha* movement is not published by the Caste Hindu press. The statement issued by the General Secretary of All India Scheduled Castes Federation Mr. Rajbhoj, before his arrest, was also not published. All the leaders are kept in the C class. They are not allowed to read the news papers even. Let the Caste Hindu papers understand that by not publishing the news in their newspapers they cannot cow down the spirit of the Scheduled Castes. By doing in this way they are only cheating themselves and their own people. The day is reaching very fast when the common Hindu will be thrown into a great confusion to see the great bitter awakening of the Scheduled Castes people all over India.

The total number of arrests upto date is 1387 . Today the number of arrests was 102."[1]

U. P. S. C. F. Satyagaha

Mr. P. N. Rajbhoj Sentenced for 6 months R. I.

Lucknow, Saturday

Mr. P. N. Rajbhoj, Ganeral Secretary of the All India Scheduled Castes' Federation was convicted and sentenced yesterday to six months' imprisonment by the City Magistrate, Mr. B. D. Sanwal, under Section 138 IPC for defying the District Magistrate's order banning processions and causing apprehension of breach of peace.

Mr. Gopichand Pipal,

another Scheduled Caste Leader was sentenced to * months rigorous imprisonment on a similar charge.

Mr, Tilak Chand Kuril, President of the U. P. Scheduled Castes Federation, was directed by the Magistrate to furnish two sureties of rupees five hundred each to keep peace for six months.

"The Magistrate acquitted about sixty women and children who had been arrested in connection with the *Satyagraha* in Lucknow with a warning.—A.P.I."[2]

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[1]: Jai Bheem, 4th May 1947, P. 2.

[2]: Jai Bheem, 25th May 1947, P. 2.

* Figure is not traceable—Editors.

APPENDIX—VI

GANDHI DIS-FRANCHISED UNTOUCHABLES BY FORCING POONA PACT

BRITISH LEADERS SCATHING CRITICISM OF GANDHIAN TACTICS

Lord Winterton, speaking on the Scheduled Castes, status during the course of the debate on July 16th on *India Independence Bill* in the House of Commons said that one of the many evil things Mr. Gandhi had done to India was what he had succeeded in bringing about by the Poona Pact. Had it not been for his action, these people would have enjoyed a much better franchise than they did today, but Mr. Gandhi threatened to fast to death. If he again threatened to fast to death after the transfer, it would not be the affair of the Brithish Government.

It had been said that Britain left India a cockpit. Few people had done more than Mr. Gandhi to make it a cockpit, and he regretted that at this late hour Mr. Gandhi had shown no appreciation of the task which had been achieved by the British on the one hand, and Mr. Jinnah and Mr. Nehru on the other.

Another Prominent Conservative Leader Mr. Bucher who spoke on the problem of minorities in India observed,

"Scant attention has been given to minorties, especially in the Committee stage. It is virtually impossible to raise their case, Indeed it is very difficult to do so because this House is today deciding to transfer sovereignty, and power to Indians themselves.

"We are also deciding that independence shall take place before the actual Constitution making. That means that the Constituent Assemblies have it in their power to make the Constitution under which the minorities will have to live.

Dr. Ambedkar, leader of the Scheduled Classes, who has himself served the cause of self Government, has told me that it would be helpful if some reference could be made to his community.

"I, therefore, say I trust that when the new constitution is made full consideration will be given to the position of the Scheduled Classes themselves.

"It is sometimes said that Britain has not done enough for them. It is well known that Queen Victoria's original proclamation about our not interferring too much with the religion, and habits of the people has prevented the British from doing as much as they might desire.

"But in later years, by a variety of devices, we have attempted to improve these Scheduled Classes and mitigate the horrors of Untouchability.

"The Franchise Committee recommended an electorate which would have given the Schedule Classes an opportunity of looking after their own affairs.

Poona Pact

"Unfortunately the decisions of the Franchise Committee were abrogated by the Poona Pact, produced by one of Mr. Gandhi's longest fasts.

"I cannot now influence the decision of the Constitution making body, but it is quite clear that under the Poona Pact the Scheduled Castes did not get a chance of electing their ultimate representatives who would really represent their point of view.

"I hope that in part, or parts of India it may be possible to find an electoral system which will be more suitable for them."

After referring to other minorities, Mr. Butler said : "We trust that in the future India, the minorities, and the Europeans who stay there will find free, and fair opportunity, and happiness under the regime.

"But there are many other sections of opinion—minorities among the Muslims, cultivators who do not mix in the political life, and have not shouted or taken part in politics, but whose views are sometimes not quite the same as those who steal the thunder and appear before the footlights.

SOLICITUDE FOR PEOPLE

"At the inauguration of the Round Table Conference in the Royal Gallery of the House of Lords on November 12, 1933 the King's speech contained this passage:

"I have in mind the just claims of majorities and minorities, of men and women, of town dwellers and tillers of the soil, of landlords and tenants, of the strong and the weak, the rich and the poor, races, castes and creeds of which the body politics is composed. For these things I care deeply."

"For these people and these things," Mr. Butler concluded, "we care deeply. They are passing out of our immediate care. We are moved on this occasion and we wish those well who are assuming the Government and responsibility for the welfare of the Indian people."[1]

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[1]: Jai Bheem, dated 23rd July 1947.

APPENDIX—VII

UNDER-PRIVILIGED IN INDIA SOLD TO OPPRESSORS

CABINET PLAN EXPOSED IN COMMONS DEBATE

During his speech in the debate Mr. Churchill referred to the British Government's statement after the recent London talks and said:

"That, declaration appears to me to be the most important milestone in this long journey.

"The British Government owed special protection to the Muslims numbering 90,000,000 who comprised the majority of the fighting elements of India, and the Untouchables of anything from 40,000,000 to 60,000,000. They had been out witted and outmanoeuvred on this question. The pretence was put forward that they were a small part of the vast Hindu community not entitled to be considered as a minority community in Indian life.

"I must ask the Prime Minister to state the Government's view and intentions on this particular point. Are Untouchables to be considered as an entity by themselves entitled to consideration given to entities or are they merely to be used to swell the numerical size of those whom they regard as their oppressors ?"

CONSTITUENT ASSEMBLY

Turning to the character of the Constituent Assembly which, he said, was apparently to proceed to make a Republic for India and engage upon it at once. Mr. Churchill said, "They are dealing with the fortunes of all Indians, while a large part is not even to be represented."

Mr. William Cove (Labour) interjected : Is Mr. Churchill in favour of extending the franchise ?

Mr. Churchill : "Yes, Certainly" Mr. Cove laughs "I have always been in favour of extending the franchise. I believe in the will of the people. But I do not believe in perversion of the will of the people—actively organised and engineered minorities who having seized upon power by force or fraud or chicanery go forward and use that power in the name of vast masses with whom they have long lost all effective connection.

"But the Cabinet Mission's proposal of May for the setting up of the Constituent Assembly was essentially a proposal that the main political parties of India should meet and through their representatives endeavour to work out the proposed constitution."

Mr. Churchill, continuing, said, "It is still pertinent to inquire if His majesty's Government consider that their proposed conference of the Constituent Assembly has begun."

He added, "I feel bound to end on a positive conclusion although I will express it rather in terms of negation." (Government laughter).

"In all this confusion, uncertainty and gathering storm which those who have studied the Indian problem for long years might well have foreseen, there appear at the present time three choices—three proverbial choices—before the British Parliament.

"The first is to proceed with ruthless logic to quit India regardless of what may happen there. The second is failing a measure of agreement not now in sight, an impartial administration appointed by Parliament should be set up to maintain the fundamental guarantees of life, liberty and the pursuit of happiness to the hundreds of millions of humble folk who now stand in jeopardy, bewilderment and fear. The third course is to let the Indian communities go their separate ways as they desire in or out of the British Commonwealth, whatever happens."

CASTE HINDU DOMINATION

"One thing however there is that we must not do whatever happens: we must not allow British troops or British Officers in the Indian Army to become agencies and instruments of enforcing Caste Hindu domination upon 90,000,000 Muslims and 60,000,000 Untouchables, nor must the prestige or authority of the British power in India even in its sunset be used in partnership on either side of these profound and awful cleavages.

"For such a course to be used to enforce religious and party victory upon minorities of scores of millions would seem to combine the disadvantages of all the policies and lead us ever deeper in tragedy without giving us relief from our burdens, or liberation, however sadly purchased from moral and factual responsibility.

"It is because we feel that these issues should be placed bluntly and plainly before the British and the Indian peoples even amid their present distresses and perplexities that we thought it our bounden duty to ask for this debate." (Loud Opposition cheers).

MR. BUTLER EXPLAINS TORY STAND

Winding up for the opposition, Mr. R. A. Butler, former Under-Secretary of State for India, said that the opportunities he had of meeting Indian Statesmen convinced him that in the work he had done with them there were no statesmen of higher quality in the world. "There is therefore no difference of opinion about the goal we are setting before us. We (the opposition) have always said in the past that self-government for India can be achieved only under a constitution or constitutions framed by Indians to which the main elements in India's national life are consenting parties. That has been our first stand. Our second stand has been that we can only transfer our ultimate control over India to a Government or Governments capable of exercising it. We cannot hand over India to anarchy or to civi1 war. The Government's last statement on the Indian situation gives evidence of acceptance of the first of these obligations.

Mr. Butler added, "I welcome the Government's last statement and in particular the last part of it that it is not contemplated that any constitution will be forced on unwilling parts of country. I should, however, like clarification on one or two points. The statement refers to a large section of Indian population inhabiting parts of the country. These words are new to those of us who are versed in Indian affairs. Sir Stafford Cripps speaking in the debate used a rather different language, which I maintain is too narrow in its terms and there may be confusion in India if this matter is not cleard up.

"Sir Stafford Cripps said that if the Muslim League cannot be persuaded to come into the Constituent Assembly then parts of the country where they are in a majority cannot be held to be bound by the result, I do not think the Government ought to confine themselves solely to the Muslim League. It is much fairer to use the expression Muslims as a whole and I hope that the Minister replying today will confirm that the original sense prevails and that communities and elements are in question and not simply a League, a party of representative of a community."

Mr. Butler said, the Opposition was not thinking only of the Muslim community, but other minorities whose case had been put in Parliament and would be put again.

"In order that Britain's mission should be well, honourably and successfully discharged it seemed to be essential that a proper understanding should be established between Parliament and the Indian people. There was every reason why all points of view should be put clearly round the table and no facts left unfaced.

Mr. Buttler said that no section of Sir Stafford Cripps speech had been less convincing and more reprehensible than his skating over the manner in which Scheduled Castes representation had been introduced into the Assembly. He had never been able to understand the facile acceptance by the labour movement of the position in which the interests of poorest and most under-privileged section in India had been neglected and sold to their long-time oppressors and he was astonished that the Prime Minister had been able to lend himself to this bargain. The Government ought never to have accepted this positions.

Mr. Alexander (intervening):—Does Mr. Butler realise that in the provincial elections there was a very large proportion of Independent Scheduled Castes elected apart from other two categories he mentions and secondly, that we had to act in the way we did to deal with an urgent situation ?

Mr. Alexander continued, "Franchise is not merely the Poona Pact, but what the Government of 1935 put in the 1935 Act.

"Thirdly, would he suggest that we should go into an entirely new basis of new franchise and India wide compilation of new register and put off for a long time a possible new settlement ? Shall we not face those facts now ?"

SCHEDULED CASTES' REPRESENTATION

Mr. Butler: The first point about Independent members is certainly correct. From all opinions I have been able to gather in investigating this point, there is no doubt that the Scheduled Castes have been so terrorised by Congress discipline that many of them have decided to stand as Independents rather than take the label of the Congress.

Mr. Butler said that he did not think it right that the Scheduled Castes should be represented in the Assembly by representatives of the Congress. The Government were reposing most of their confidence for obtaining justice for the minorities on the Advisory Committee and he asked if the Committee's decisions about minorities would be embodied in the Constitution.

If a spirit of compromise and give and take was absent in India, the Government would be faced with a very serious situation but he trusted that if there was a breakdown, the Government would give a further lead. If a new initiative proved necessary, it would have to be towards simplification of the scheme and a clearer acknowledgment of British responsibilities in the period before a successful issue of the negotiations, there was still a chance of orderly solution, but it depended upon how determined the Government was and would be and how clearly it saw the dangers of the situation. "We cannot, at the moment, shuffle off our obligations. They remain and upon their adequate discharge, depends the future happiness of the Indian people," Mr. Butler concluded.

MR. ALEXANDER'S REPLY TO DEBATE

Mr. A. V. Alexander, Minister designate of Defence, replying to the debate, said, it was taking place in the most crucial hour in the history of India and its people, as well as the British Commonwealth. He asked responsible leaders of all parties in India to take note that the great majority of the speakers in the debate desired nothing more than that India should achieve her freedom on the basis of the good-will and co-operation of all concerned.

Replying to Mr. Churchill's question whether it was the Government's policy for the Depressed Classes to be treated as a separate political entity, Mr. Alexander said that in the Act of 1935 the Depressed Classes were treated as a separate political entity and whether or not any separation of that kind should be given to them in the new Assembly was a matter for the Constituent Assembly. The Government, he declared, did not consider it desirable or in the interests of the Depressed Classes that they should attempt to influence the Assembly in that matter. Their view was that provisions in the Constitution were the right methods for providing safeguards over the rights of minority elements.

He reminded the House of what the Cabinet Mission said namely that when the Constituent Assembly completed their labours the British Government would recommend to Parliament to take necessary action to enable the new Constitution to come into operation subject to two matters. One of them was adequate provision for the protection of minorities. Both the major parties had declared their intention of making proper provision for protection in the Constitution and the Government saw no reason to doubt that the Constituent Assembly would do so.

Mr. Alexander said that he agreed with Mr. Hugh Molson (Conservative) that it was the Government's intention that protection of minorities must be provided for in the Constitution. He added : "I understand that Dr. Ambedkar argued strongly for that during the Cripps Mission. In the last paragraph of our statement last week we made it clear we would not contemplate forcing upon an unwilling community anything they did not want. The Congress itself accepts that. In our statement of May 25 we have agreed to leave Constitution making to Indians provided we get proper protection for minorities. We want that in the Constitution. We shall adhere to our pledges to the Indian people."[1]

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1. : Jai Bheem, dated 1st January 1947.

APPENDIX—VIII

SECRET

1934/34 S. B.
Memo No.
39-Bihar-37*

THE BIHAR PROVINCIAL DEPRESSED CLASSES LEAGUE

It is learnt confidentially that Jagjiwan Ram, B. Sc. President, Bihar Prov. Depressed Classes League, Patna has sent a letter, dated 8th March 1937 to Dr. B. R. Ambedkar, Bar-at-Law, Rajgraha, Dadar, Bombay. The contents of which are given below :—

"UNITE AND ORGANISE"

Bankipur, Patna, the 8th March 1937.

No. 41

My dear Doctor Saheb,

I have your kind letter of the 3rd instant. If your brochure on caste has run out, kindly send one copy of it so that I may commence its translation.

As desired by you, I am sending a list of candidates who contested the election. I must admit that we made a pact with the Congress and as a result of the pact 9 persons of the League have been returned. They have signed the League pledge and also the Congress pledge with certain reservations. Perhaps you know that here in Bihar there is no organised party except the Congress. The minister of Local Self-Government *i.e.* Sir Ganesh Dutt Singh was trying to have his party but he could not organise it. We made the pact with the Congress at the eleventh hour *i.e.* on the 29th October 1936 and the nomination papers were to be filed by the 3rd November 1936. We the Depressed Classes have begun our movement very late here and have got little organisation. But the experience we have gained in the recent election goes to show that if we carry on our work for the coming

* BIHAR C I. DEPARTMENT SPECIAL BRANCH, Patna, dated the 10 March 1937. Copy of a Special Officer's report, dated 9th March 1937.

5 years, we can very well contest independently in the next election and with success.

You know Mr. Baldeo Prasad Jaiswal of Allahabad. He has come to Patna and wants to hold an All-India conference. Here it has been given in papers by him that the conference will be presided over by Diwan Bahadur Srinivasan and that you will attend the conference. I do not know the truth nor can I believe the man. Last year a conference was held at Lucknow and Mr. Jaiswal was the moving figure in convening the conference. I went all the way to Lucknow simply to see you but was greatly disappointed. Now he is seeking my help but openly I cannot help him and cannot give him any help in any way unless I know that you will attend the conference. This conference is to be held on the 9th, 10th and 11th April 1937. No person of Bihar is with him. He has his office located in a Catholic Church here and everything is being manoeuvred by missionaries.

The W. C. of the Depressed Classes League has decided to call a Provincial conference at Patna between 15th April and 15th May 1937 and it has also decided to invite you. But in case you are coming to attend the conference of Mr. Jaiswal, which I doubt, we will fix the date of our conference near about 12th April. Will you let me know as soon as you get this letter whether you will attend the conference convened by Mr. Jaiswal. One thing, he will not be able to have a gathering of more than one hundred Depressed Classes. He can, of course, invite thousands of Muhammamidans and Christians as he did at Lucknow. I take strong objection of this method. We should have genuine Depressed Classes conferences. Let me hear from you very early.

With regards.

Yours sincerely,
(Sd.) JAGJIWAN RAM.

List of Candidates who contested the election to Bihar Provincial Legislative Assembly

	Name and address	Ticket	Votes polled
1.	Jagjiwan Ram, Chandwa Arrah	D.C. League Congress	Uncontested
2.	Rambasawan Rabidas, Gopalganj, Saran	”	”
3.	Balgovind Bhagat, Bettiah, Champaran.	”	”
4.	Sheonandan Ram, V. Mansurpur, Champaran, P. O. Marwan, Dist. Muzaffarpur.	”	”
5.	Dr. Raghunandan,Pd., Sardar Hospital, Monghyr.	”	”
6.	Karu Ram, Teacher, St. Columbus Collegiate, Hazaribagh	”	”
7.	Ram Baras Das (Barsu Chamar) village Belthu, P. O. Shahkund, Dist. Bhagalpur.	”	754
8.	Mahabir Das Laluchak, P. O. Mirjanhat.	Ministerial	1,700
9	Bishuncharan Das Rabidas, Co-operative Society, Dist. Manbhum.	Purullia League Congress	1,964
	Versus		
	Gulu Dhoba, Village Mamurjore	Ministerial	2,300
10.	Jituram, Village Bansdih, P. O. Leshiganj, Dist Palamau.	League Congress	2,744
	Versus		
	Phaguni Ram, Clerk. Dist Board, Daltanganj, Dist Palamau.	Ministerial	532

List of Candidates who contested the election to Bihar Provincial Legislative Assembly—Contd.

	Name and address	Ticket	Votes polled
11.	Ram Prasad, General Secretary, D.C. League, Patna	League Congress	1,473
	Versus		
	Kalar Dusadh	Ministerial ..	511
12.	Sunder Pasi, Village Kesta, P.O. Dalsingsarai, Dist. Darbhanga.	Congress	Uncontested
13.	Keshwar Paswan, Village Bihta, P.O. Benipatty, Dist, Gaya.	”	”
14.	Sukhari Pasi, Chakand P.O. Dist, Gaya	”	”
15.	Bundi Pasi, P.O. Warsaliganj Dist, Gaya	”	3,555
	Versus		
	Dalip Dusadh	Ministerial ..	487
16.	Jaglal Choudhury, Swaraj Ashram, P.O. Ticcapatty Purnea.	Congress	4,789
	Versus		
	Jagtup Masuhar	Ministerial ..	1,769

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APPENDIX—IX

WHAT ABOUT THE STATES ?

"Dr. B. R. Ambedkar has given a timely warning to both the Indian States and the Interim Government. The States cannot have an existence apart from the Indian Union.

As a Constitutionalist, Dr. Ambedkar speaks with authority, when he asks the Interim Government to notify the British Government that the people of India will never recognise any Indian State as a Sovereign Independent State.

But something more than the letter of the law is necessary to restrain the States rulers from their folly and their peoples from its consequences.

What are the sanctions of the Interim Government in regard to a definite States policy ? The sanctions are fourfold : The will of the Indian people, the will of the States people, the prevailing influence of Democracy and the blind autocracy of the rulers.

It is a fact that not all rulers are against Democracy but then these rulers are for the Union.

Sir C. P. Ramaswami Aiyer grandiloquently said, "They that are not with us, are against us."

This should be the guiding rule of the Indian Union.

Sir C. P. Ramaswami's attitude, however, is transitory. He is himself a traveller through Travancore. He may stay a year, two years or five. But he must go. His claim to speak on behalf of Travancore is very slender. The matured wisdom of the Maharaja of Cochin is bound to carry weight with the sister State of Travancore, sooner rather than later.

More serious is the menace of Hyderabad, sprawling in the very centre of India, where no passing Premier but the ruling Prince himself bars the entrance into the Union.

The Nizam, let it not be forgotten, repudiates all the claims of Democracy. Even the representative institutions he has set up in his Dominions are a negation of Democracy. The legislature is vitiated by functional representation tainted with rank communalism. The Chief Minister is appointed and removed by the authority and at the whim of His Exalted Highness.

These things have been slurred over in the past. In the immediate future, there are so many obstacles in the path of the people of Hyderabad to the Indian Union.

The Congress leaders have expressed themselves adequately and more than adequately on the States position. There is no purpose served by banding words with this or that dewan.

They must address themselves to the task of implementing their words with strong, resolute action. The Indian States are part and parcel of India. The Union cannot permit them to exist within it as islands of isolation.

The people of the Indian States have declared themselves for the union. That decision must be given effect to immediately. There is no need to rely on either the British Viceroy or on the Princes for bringing about the re-union. In fact, it would be confusion of weakness if, in the face of so strong a case, the Congress leaders, felt that they needed to be helped to estabish their authority.

When the Consituent Assembly meets, it will have the bulk of the Indian States in it. This is an outstanding feature since the Chamber of Princes came into being, as it divides for the first time the Indian States, often miscalled the Princely Order, into those who are with the Indian Union and those who are against.

The Congress leaders and other nationalists must build upon that gain and develop enough strength to deal with recalcitrant Princes.

The need for swift action is there now that the Pakistan State is looming large on the horizon. Mr. Jinnah certainly does not let the grass grow under his feet nor does he allow it under the feet of others.

Mr. Jinnah's statement on the Sovereignty of the Indian States is a piece of gratuitous meddling.

Mr. Jinnah asked for his Pakistan State and he has got it. After that he has no more right to speak on the affairs of the Indian Union than has any other foreign ruler.

His attempt to stir up trouble in the Indian States is not an isolated instance of the *Quaid-e-Azam's* hankering after the status of an all India leader. He has according to one of his followers supported the cause of *Moplastan* on what grounds he only knows.

Mr. Jinnah speaks as an expert on Constitutional affairs. He would be well advised if he kept his special knowledge for the many Constitutional knots which need unravelling in the Pakistan Constituent Assembly.

Mr. Jinnah has to make up his mind. Either he functions as the prospective head of the Pakistan State or he assumes responsibility for working in the Union.

It is not as though Mr. Jinnah was given a charter to meddle in things that did not concern him. His party's unwillingness to stay in the Union has won it separation. It cannot now start sowing seeds of trouble in the rest of India.

The Congress must act *betimes*. The time for speeches will come later. The present position is bad enough in all conscience. It would be tragic if the Congress wakes up to discover that its over-optimism has added to its worries." [1]

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1. : The Free Press Journal, dated 5th June 1947.

APPENDIX—X

AMBEDKAR URGES STATES TO JOIN INDIAN UNION

Says Hyderabad move will lead to Balkanisation

Bombay, June 17, 1947 (A.P.I.)

"The only way by which the Indian States can free themselves from Paramountcy is by bringing about a merger of sovereignty or Suzerainty. This can happen only when the Indian States join the Indian Union as Constituent units, says Dr. B. R. Ambedkar former member of the Viceroy Executive Council and leading Constitution Lawyer in a two thousand words statement opposing the declaration of dependence by certain Indian States.

Dr. Ambedkar declares, 'The States should realise that their existence as Sovereign States will not be worth five years purchase. It is in the interests of the Princes themselves that they should join the Indian Union and become Constitutional monarchs.

To be independent and to hope to get recognition and protection from the United Nations Organisation, says Dr. Ambedkar, "is to live in one's own paradise." Dr. Ambedkar doubts if the United Nations Organisation will give recognition to the Indian States, ignoring the claim by India of Suzerainty over them.

But even if that happens Dr. Ambedkar affirms, the United Nations Organisation will never grant any assistance to an Indian State against external aggression or internal commotion without insisting upon the States first introducing responsible Government.

Dr. Ambedkar in conclusion says, "whatever the choice of the Indian States may be, the duty of the people of India is clear. On their behalf the Interim Government should notify His Majesty's Government that the British Parliament has no right to pass any law abrogating Paramountcy and that any clause to that effect in the forthcoming legislation, conferring Dominion Status on India, should be treated by the people of India as repugnant to their Sovereignty and, therefore, null and void, and to declare that the Government of India will never recognise any Indian State as a Sovereign Independent States."

In the course of the statement Dr. Ambedkar observes :

The announcement by Travancore and Hyderabad that they will declare themselves Independent Sovereign States on 15th August 1947, when India becomes a Dominion and the inclination shown by other States to follow their example has created a new problem which may trun out to be worse than the Hindu-Muslim problem as it is sure to result in the further Balkanization of India.

Basis of Claim

The basis of the claim made by the States for a right to declare themselves Independent lies in the statement of 12th May 1946 issued by the Cabinet Mission in which they say that the British Government could not and will not in any circumstances transfer Paramountcy to an Indian Government which means that the rights of the States which follow from their relationship to the Crown will no longer exist and that all the rights surrendered by the States to the Paramount power will return to the States.

The statement of the Cabinet Mission that the Crown could not transfer Paramountcy is obviously not a statement of political policy. It is statement of law the question is : Is this a correct statement of the Law as it applied to the States ?

"There is nothing original in the proposition set out by the Cabinet Mission. It is a mere repetition of the view propounded by the Butler Committee appointed in 1929 to examine the relationship between the Crown and the Indian States."

The doctrine that Paramountcy cannot be transferred to an Indian Government is a most mischievous doctrine and is based upon an utter misunderstanding of the issues involved.

Paramountcy Defined

The case against the position taken by the Cabinet Mission in regard to Paramountcy can be stated in the following propositions :

(I) Much of the mystery which surrounds paramountcy is due to the fact that most people do not understand what it stands for. Paramountcy merely is another name for what is called the

prerogative of the Crown. It is true that Paramountcy as a prerogative of the Crown differs from the ordinary preogative of the Crown in two respects :

(*a*) The basis of the ordinary prerogative of the Crown lies in Common Law as distinguished from Statute Law while the basis of the prerogative arising from Paramountcy lies in treaties supplemented by usage.

(*b*) The Common Law prerogative of the Crown extends to all the Subjects of the Crown resident in the King's dominions and over aliens temporarily resident therein while Paramountcy as a prerogative extends only over the Indian States. Paramountcy is no doubt a distinct part of the prerogative of the Crown. Notwithstanding these differences the fact remains that Paramountcy is prerogative of the Crown.

(II) Paramountcy being the prerogative of the King, the exercise of Paramountcy is, contrary to the general opinion, not subject to the rules of international law but is subject to that part of the municipal law of the British Empire which is called the Law of the Constitution.

(III) According to the principle of the Constitutional Law of the British Empire while the prerogative vests in the King, the King has no discretion in the exercise of his prerogative. The King cannot exercise it independently of the advice of his Ministers. He can exercise it only in accordance with the advice given to him by the Ministers.

Transfer of Paramountcy

"The different methods of disposing of Paramountcy adopted in the various acts passed by Parliament relating to the Government of India between 1833 to 1935 do not and cannot in any way affect the claim of the Indian people to advise the Crown in the exercise of Paramountcy. Under the Constitutional Law of the Empire, only when a country has become a Dominion that it can claim the

right to advise the Crown, and the fact that before it became a Dominion, the Crown was differently advised is no bar to its claim. Under the 1935 Act India was not granted responsible Government.

There remains for consideration the other part of their statement in which they say that the Crown will not transfer Paramountcy to an Indian Government. According to the Cabinet Mission, Paramountcy will lapse. This is a most astounding statement and runs contrary to another well established principle of the Constitutional Law. According to this principle, the King cannot surrender or abandon his prerogative rights. If the Crown cannot transfer Paramountcy the Crown cannot also abandon it.....

A question may be asked : What happens when India becomes independent ? The Crown disappears and the question of advising the Crown does not remain. Can Independent India claim to inherit the prerogative rights of the Crown ? For an answer to this question, one must look to the provisions of international law relating to Succession among States. Oppenheim admits that a Succeeding State can inherit certain rights of the Preceding State. From Hall's international law, it would appear that among other things property and advantages secured to it by treaty can be inherited by a Succession State. India will be a Succession State. Paramountcy is an advantage which is secured to it by treaty with the Princes. Independent India can therefore make a valid claim for the inheritance of Paramountcy."[1]

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1. : The Bombay Chronicle, dated 18th June 1947.

APPENDIX—XI

ACTIVITIES OF THE BAHISHKRIT HITAKARINI SABHA AT BOMBAY

I

"BAHISHKRIT HITAKARINI SABHA

Survey of Work Done

The annual general meeting of the *Bahishkrit Hitakarini Sabha* which is a Society for the uplift of the Depressed Classes, was held at its head office in the Damodar Thackersey Hall, Parel, Bombay, on 18th instant. The report of the work for the year 1925 disclosed that the work of the Sabha was threefold. In the matter of the education of the Depressed Classes the Sabha has been conducting a Hostel near Sholapur for 15 Students of the Depressed Classes taking secondary education, at a total cost of Rs. 2,669-0-8. Accommodation in the hostel is entirely free. In the first year of its existence the *Sabha* could not do much for the cultural and economic uplift of the Depressed Classes. However, the *Sabha* helped the Mahars of the villages in Nasik District to obtain redress of their grievances in *Watandari* matters. The financial statement for the year disclosed an income of Rs. 3,169-1-0 and expenditure of Rs. 2,938-13-6.

The Work Done

The Sabha has opened a library and reading room for the Depressed Classes in the Improvement Trust Chawl, Byculla. It has also organised a hockey club for young men of the Depressed Classes near Parel. An important organisation of students of the Depressed Classes known as the *Bahishkrit Vidyarthi Sammelan* has been organised by the *Sabha*. It is a kind of Depressed Classes Students' Brotherhood and it is conducting a Marathi monthly styled *Vidya Vilas* to which students of the Depressed Classes contribute articles. In the economic sphere, the *Sabha* has organised three co-operative credit societies for the Depressed Classes. The cost of the programme for the year 1926 is expected to reach Rs. 25,000 to Rs. 30,000.—A. P.

P. S. G.'s Office notes on a memorial from the Depressed Classes Institute. P. P. Case No. 34/6 of 1926 are put up below :—

Attention is specially invited to the portion marked A. in H. E.'s reply to the deputation at slip D.

(Sd.) M.C.B.

There are two requests made in this letter—

(1) That the Institute should be consulted by Government in all matters affecting the Depressed Classes in view of its being the central organisation.

(2) That H. E. may be pleased to become an Honorary patron of the Institute.

These requests may perhaps be referred to the Chief Secretary for his advice.

(Sd.) J. C. K.
1st July"[1]

II

"Below U. O. R. No.
Dated the 26th July 1926 read on 27th instant
from the General Department.

C.I.D.

27th July 1926

(1) Is the constitution of the Sabha laid down ? If so put up a copy.

(2) How many of the office bearers belong to the Depressed Classes ?

(3) What is the subscription and membership ?

(4) Please see the library at Clarke Road and report on the quantity and type of literature provided and to what extent it is being used by the Depressed Classes. Is it open to all or only to members of the Sabha ?

(5) Has the Sabha carried out any of its programme for the current year ?

(Sd.)"[2]

1: The Bombay Chronicle, 29th April 1926.

2: Source Material Vol. 1, P. 10.

III

"Sir,

With reference to the attached U.O.R. No. dated 26th July 1926 from the General Department and the D. C. P.'s instructions thereon, I beg to report as follows :—

1. The constitution of the Bahishkrit Hitkarani Sabha has been laid down in a printed booklet. Copy of which is attached.

2. The President and the six Vice-Presidents (flagged at B in the Annual Report) do not belong to the Depressed Classes. The Council of Management with Dr. Ambedkar as Chairman, consists of Depressed Classes.

3. Subscription is :—

A Class of those paying Rs. 25 per year or more.

B Class of those paying Rs. 10 per year or more.

C Class of those paying Rs. 5 per year or more.

D Class of those paying Rs. 3 per year or more.

E Class of those paying Re. 1 per year or more.

The membership mostly of the E Class is numbered at about 200. There are about 10 Associate Members who had paid Rs. 200 for the welfare of the Depressed Classes. They belong to the contractors' class but not the Depressed Class.

4. The Library at Clarke Road was opened about 4 months ago in a small room rented at Rs. 7-3-0 on the second floor of a chawl of the Bombay Improvement Trust at Clarke Road. It was a very dirty room with one broken bench, one broken cupboard containing no books, one table and one chair. On the table there were a few rags of old newspapers in a distorted condition. They had about 64 books, mostly Marathi books; some of them were issued to members and the others were kept in the two trunks belonging to the Social Service League.

The Social Service League has supplied 200 books kept in steel trunks each containing about 100 books. The library consists of books which are mostly social and religious but there are also some books in Marathi on *Swaraj* (political). About 10 to 12 members of the Depressed Classes come to the Library room on an average daily. It is open to all but others than the Depressed Classes do not

generally come to a place inhabited by the Depressed Classes. In short if any outsider were to visit the Library room, he will not notice that the room in question is being used for library purpose without being told so.

5. No noteworthy programme of work has been carried out. A student writes out a small paper and it is circulated to other students in manuscript.

The *Bahishkrit Hitkarani Sabha* was registered on 1st April 1926.

The P. Ps. re. the Sabha on record are put up.

D.C. P., S.B.
(Sd.)" [1]

9th August 1926,

"Returned with compliments.

2. This Sabha was the subject of my No. H-3447 of 9th March 1926 to the Private Secretary to His Excellency the Governor when it applied for permission to present an address to Lord Irwin on arrival.

3. A copy of the "rules of constitution" is attached. The membership of the Sabha is roughly 200 of whom all except about 10 belong to the E class. The so-called library is a room on the second floor of an Improvement Trust Chawl in Clarke Road. The books are mostly supplied by the Social Service League. A few papers are also supplied and the daily attendance averages 10 or 12. It is open to anyone but used almost exclusively by members of the Depressed Classes. The Sabha has practically no other activity to its credit.

4. Thus, though entirely free from objection, it cannot claim to be a representative institution. At the same time there is no other institution better qualified to represent the Depressed Classes and there would be no objection to consulting it if the point of view of the Depressed Classes on some subject were required.

5. Of the office-bearers all those on the Council of Management are members of the Depressed Classes.

(Sd.)

Commissioner of Police." [2]

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[1]: Source Material Vol. 1, Pp. 10-11.

[2]: U. O. R. No. H-3447, dated 11th August 1926.

APPENDIX—XII

PEOPLE'S EDUCATION SOCIETIE'S INSTITUTIONS AT BOMBAY, NEW BOMBAY, AURANGABAD, MAHAD, PANDHARPUR, DAPOLI, NANDED, PUNE AND BANGLORE

Colleges

1.	Siddharth College of Arts, Science & Commerce, Bombay.	:	1946
2.	Milind College of Arts, Aurangabad	:	1950
3.	Milind College of Science, Aurangabad	:	1950
4.	Siddharth College of Arts, Science & Commerce, Bombay.	:	1953
5.	Siddharth College of Law, Bombay.	:	1956
6.	Dr. Babasaheb Ambedkar College of Arts & Commerce, Aurangabad.	:	1963
7.	Dr. Babasaheb Ambedkar College of Arts, Science & Commerce, Mahad, Dist. Riagad.	:	1963
8.	Dr. Ambedkar College of Law, Aurangabad	:	1968
9.	Dr. Ambedkar College of Commerce & Economics, Wadala, Bombay.	:	1971
10.	Dr. Ambedkar College of Law, Wadala, Bombay.	:	1978
11.	PES College of Physical Education, Aurangabad.	:	1984
12.	Dr. Ambedkar College of Arts & Commerce, Yerwada, Pune.	:	1985
13.	PES English Medium School, Yerwada, Pune.	:	1985
14.	PES College of Engineering, Aurangabad.	:	19

Diploma Institute

15.	Siddharth Institute of Industry & Administration, Mumbai.	:	1967

High Schools

16.	Siddharth Night High School, Mumbai.	:	1947
17.	Milind Multipurpose High School, Aurangabad.	:	1955
18.	Matoshri Ramabai Ambedkar High School, Aurangabad.	:	1965
19.	PES's Secondary School & Jr. College, Navi Mumbai.	:	1978
20.	Nagsen High School & Jr. College, Nanded	:	1981
21.	Nagsen Vidyalaya Prathmikshala, Nanded	:	1981
22.	People's Education Society's English Medium K. G. School, Banglore.	:	1984
23.	PES's Primary Marathi School, Navi Mumbai.	:	19
24.	Milind Multipurpose Pre-Primary & Primary School, Aurangabad.	:	19
25.	Gautam Vidyalaya, Pandharpur, Dist. Solapur	:	19

Hostels

26.	Sant Gadge Maharaj Chokhamela Vidyarthi Vasatigriha, Pandharpur.	:	1949
27.	Siddharth Vihar Hostel, Wadala, Mumbai.	:	1964
28.	Subhedar Sawadkar Vidyarthi Ashram, Mahad, Dist. Raigad.	:	1978

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APPENDIX—XIII

A LETTER TO H. H. SAYAJIRAO GAIKWAD

New Delhi,
21st May 1946

Your Highness,

I should not ordinarily have ventured to trouble your Highness in a private matter, but the circumstances of the case are exceptional. Dr. Ambedkar has handed over to me the enclosed appeal for financial assistance for a project he has for founding a College in Bombay for the special benefit of the Depressed Classes. As Your Highness is aware, the Depressed Classes have nowhere to turn to for assistance in their desperate condition except to the Hindus of the higher castes ; nor can we entirely turn down such an appeal with grace since we cannot disclaim all responsibility for their present condition. The case is a deserving one, since education is the only effective way of uplifting the Depressed Classes morally and economically. Dr. Ambedkar himself remembers with gratitude all that he owes to the generosity of Your Highness' grandfather, and for this reason feels that he is still bound to Your Royal House by ties of obligation. He does not feel that he can venture to address you direct with a request for assistance, but since, I have the honour of knowing Your Highness personally, I have undertaken to bring this to your notice. The Government of India is giving a grant to the College, and several Princes have also promised donations, but funds are still badly needed to place the project on a proper footing. If Your Highness will very generously assist the scheme with a suitable donation, you will place both Dr. Ambedkar and his unfrotunate community forever in your debt.

Your Sincearely
K. A. Keluskar.

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Rattu Nanak Chand : Little known facets of Dr. Ambedkar. P. 233.

GOVERNMENT CENTRAL PRESS, MUMBAI

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